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SENATE—*Wednesday August 25, 1976*

The Senate met at 11 a.m. and was called to order by Hon. DALE BUMPERS, a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

"Dear Lord and Father of mankind,
Forgive our foolish ways;
Reclothe us in our rightful mind,
In purer lives Thy service find,
In deeper reverence, praise."

—JOHN GREENLEAF WHITTIER.

As we pray, deliver us O Lord, from all pretenses which pass for piety, from words mistaken for worship, from poses substituting for prayer, from religiosity without reality.

Preserve us from the hypocrisy of pretending to be better than we are and from the baser hypocrisy of pretending to be worse than we are. Help us to be ourselves—to come to Thee as we really are, praying "God be merciful unto me, a sinner!" and by faith may we receive Thy saving grace and renewal of life. Trusting in Thee, leaning on Thy strength, grasping Thy wisdom may we go forth to achieve great things for Thy kingdom.

In the Redeemer's name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 25, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DALE BUMPERS, a Senator from the State of Arkansas, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. BUMPERS thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, August 25, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

BOARD FOR INTERNATIONAL BROADCASTING

The second assistant legislative clerk proceeded to read sundry nominations for the Board for International Broadcasting.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Nominations confirmed today are printed in the RECORD at the conclusion of the Senate proceedings.)

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SKYJACKING ATTEMPTS

Mr. MANSFIELD. Mr. President, over the past several weeks, three skyjacking attempts, two directed at Israel and one against Egypt, have been thwarted. I wish to commend the Turkish Government for the way it handled and controlled the attempted hijacking at Istanbul, though I regret deeply the loss of four persons in the attempt, and especially that of Mr. Hal Rosenthal, an attaché on Senator JAVITS' staff, who was well known, and extremely favorably known, to many of us.

I also approve and applaud the action taken by the Government of Israel in achieving the release of that nation's nationals at Entebbe Airport in Uganda. It was an almost miraculous salvation but it was carried out in depth and with dispatch.

The latest skyjacking was an attempt against an Egyptair Boeing at Luxor Airport and, here again, I must commend the Government of Egypt for being able to bring about the release of the 96 passengers who were held as hostages, as well as the 5 crewmembers and also for the capture of the 3 gunmen who were responsible for the attempt.

Mr. President, it is time to face up on an international basis to these acts of terrorism. It is time to achieve world cooperation in enacting measures which will call for an agreement that no one involved in these skyjacking attempts should escape punishment. I would suggest, therefore, that the United States take the lead in placing a resolution before the United Nations, seeking to achieve an international accord in this area so that this type of terrorism could be alleviated to a degree and, if possible, renounced altogether. This may not be the only way or the best way to subject terrorism to the dictates of international law, but it is one way in which the matter could be faced up to on an international scale and the one place to do so, if it will, is in the United Nations.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Rhode Island (Mr. PELL) will be recognized for not to exceed 15 minutes.

SENATE RESOLUTION 521—SUBMISSION OF A RESOLUTION REGARDING A TREATY REQUIRING INTERNATIONAL ENVIRONMENTAL IMPACT STATEMENTS

Mr. PELL. Mr. President, the Geneva negotiations on a treaty to ban the use of environmental modification techniques in warfare have made considerable progress, and it is conceivable that a treaty could be submitted to the U.N. General Assembly for approval as early as this fall. This development is a great source of satisfaction to me, as these negotiations appear to have come about as a result of Senate Resolution 281, including a draft treaty, which I introduced in 1972.

With the entry into force of that treaty, a major step forward will have been taken to insure that the emerging sciences of environmental modification will be used solely for peaceful purposes to benefit mankind. But the dedication of most of the nations of the world to peaceful uses of environmental modification techniques—weather and climate modification for example—by itself will not insure that such techniques will be employed in such a way as not to cause harm to or even wreak devastation on another nation or on a global commons area such as the oceans even if there is no aggressive military motive involved.

Similarly, and perhaps more important, large-scale economic projects—for example, dams, canals, nuclear reactors, waste disposal systems, and the clearing of virgin jungle land for agricultural development—could have unintended or unforeseen effects of a significant nature beyond the borders of the countries in which these projects are being conducted. In the most extreme case, a nation may adopt a self-serving policy and undertake a project for nonmilitary purposes knowing full well that it could have disastrous environmental consequences for a neighboring country.

That is why I am introducing today a Senate resolution calling upon the President to take the initiative in proposing multilateral negotiations on a treaty which would require the preparation of an International Environmental Impact Statement for any activity which may reasonably be expected to have a significant effect on the environment of other nations or a global commons area.

In the draft treaty which accompanies my resolution, no activity likely to have a significant environmental impact outside the borders of the conducting state may go forward until the office of the United Nations Environment Program—UNEP—and any other affected party to the treaty have an opportunity to make their views known. Neither UNEP nor the government of an affected country could stop a state from conducting such an activity, but consultations would be required with a view toward considering the risks and advisability of the project and, if it goes forward, toward finding ways to prevent or minimize the adverse environmental consequences across international boundaries.

A treaty along the lines of the one I have suggested would establish the principle that environmental modification activities cannot be carried out without considering the consequences of such activity beyond a nation's own territory.

The need for such a treaty has already been foreseen in part in S. 3383, the National Weather Modification Policy Act of 1976, which passed the Senate on May 21 and of which I am proud to be a cosponsor. That act calls for the formulation of a national weather modification policy and program and would require the Secretary of Commerce to make recommendations for any legislation which may be required to implement such a policy and program "or for any international agreement which may be appropriate concerning the peaceful uses of weather modification." This act also states that it is the purpose of the Congress that one element in a national weather modification policy should be "to develop both national and international mechanisms designed to minimize conflicts which may arise with respect to the peaceful uses of weather modification."

More broadly speaking, the need for an international environmental treaty is based on the expectation that science and technology are going to be increasingly looked to for solutions to the problems of meeting the food, energy, resource, and transportation needs of a rapidly growing world population. Futurologists are already telling us that parts of the world are being transformed into postindustrial societies with "technotronic" economies far different from the kind of industrial economies we have known in the past. At least one eminent member of this fraternity, Herman Kahn, has stated recently that technology will make it possible for our planet to support a population of some 15 billion by the year 2176—or about four times the current world population—in reasonable comfort.

I am concerned, however, that the world will become so dazzled by and committed to technological solutions to problems without having a clear idea as to the totality and predictability of the effects which will be brought about in the environment. In an increasingly crowded and interdependent world, any misconceived or badly controlled application of technology is likely to have far reaching—and often uncertain—effects on many parts of the world.

Mr. President, I would now like to cite some examples of the kinds of activities—some far in the future, some of a more here-and-now nature—which ought to be carefully scrutinized and to which world opinion ought to be brought to bear.

The examples which I wish to cite fall roughly into six general categories: transportation, energy production, resource development including sources of energy, waste disposal, disaster prevention, and food production.

Under the first category, transportation, if new canals are to be built—and from time to time there is talk of new canals being built through Central America and across the Kra Isthmus shared by Malaysia and Thailand—thought must be given to the effects of the interchange of marine systems created by the new waterways. In building the Suez Canal, engineers and government officials apparently gave no thought to the effects of mingling Red Sea and Mediterranean marine life. The hybridization of Red Sea and Mediterranean sardines has, for example, produced a smaller, less commercially attractive species. Similar considerations are involved in contemplating the building of oil and gas pipelines in the Arctic, in jungles, and perhaps also on the sea bottom.

In the field of energy production, the location of a nuclear power plant near the border of another nation could, in the event of an accident or bad construction, cause radiation damage in the neighboring country or thermal pollution as water used for cooling is released into a lake, river, or estuary shared by several nations. Similarly, the construction of a dam to generate electricity could, as in the case of the Aswan Dam, greatly upset the marine ecology downstream. In the case of the Aswan Dam, the cutoff of nutrients flowing from the Nile into the Mediterranean has reduced the sardine catch in that sea to 3 percent of its pre-1965 level according to one authority.

The development of new mineral and energy producing resource supplies is proceeding apace. Deep sea mining for manganese nodules could begin on a large scale in the next 5 years, and the capacity for oil exploration companies to drill farther and farther out to sea is also increasing. But what changes will such activities create in the delicate ecologies of the deep seabed and the superjacent waters? Similar considerations are involved if mining is undertaken in Antarctica.

The disposal of wastes of all kinds, human as well as industrial, is going to be one of the major concerns of governments in the future as populations and economies expand. If a system of international environmental impact statements had been in effect 25 years ago, governments may have looked more seriously at alternatives to proposals to dump sewage at sea, chemicals into international rivers, and permit the construction of plants which rain acid on their neighbors.

Looking to the future, I am concerned about where the mounting radioactive wastes from nuclear powerplants are going to be dumped. I am also concerned about the consequences of the world's shipping fleets continuing to dump into the oceans the quantities of oil permitted under the 1954 Convention for the Prevention of Pollution of the Sea by Oil. The world's merchant marine fleet has grown from 14,600 vessels with a tonnage of 121,900,000 in 1954, when the pollution convention was adopted, to 22,900 vessels and 556,600,000 tons in 1975. A Soviet scientist working for the U.N. recently reported that an oil slick on a square mile of water may reduce evaporation by as much as 50 percent, and the reduction of evaporation caused by oil slicks may help to explain current drought conditions throughout the world. I fear, also, that supposed antidotes to air and water pollution may be developed, the use of which may result in the cure being worse than the disease.

Preventing natural disasters is an age-old quest of man who has employed both shamans and science in an effort to escape the destructiveness of storms, drought, earthquakes, and floods. While the possibility for dealing effectively with these phenomena is currently either nil or uncertain, storm-steering, the release of geological tensions and modulation of precipitation may be possible in the future, but the confinement of the results of such activities to one nation may be impossible.

Finally, vast modifications of the environment could take place as part of the effort to feed the world's hungry. As one eminent scientist said recently, "we have to find, in the next 25 years, food for as many people again as we have been able to develop in the whole history of man 'til now." The pressure of population growth could cause tropical nations to develop projects for the clearing of rain forests to create agricultural land without regard for what such activity might do to the ecology of an entire river valley in which many nations have an interest. A country in a dry region may, in an attempt to increase food production, be tempted to steal rain by seeding clouds which normally drop rain over other countries as well.

More ominously, projects may be undertaken to counter the impact on food production if the cooling trend which climatologists have detected continues. If they are correct in their predictions of a return to the cooler climate which prevailed in the 17th to the 19th century, within two decades a shorter growing season would drastically restrict grain production in the high latitude areas such as Canada, the Soviet Union, and Northern Europe; and more frequent monsoon failures in South and Southeast Asia would significantly reduce output there. According to a 1974 unclassified CIA report based on a study by the University of Wisconsin, India would have a major drought every 4 years and could support only three-fourths of her present population, China would have a major famine every 5 years, the Soviet Union would lose Kazakhstan for grain production, and Canada would lose over 50 percent in production capability and 75 percent grain in exports. Northern Europe would lose 25 to 30 percent of its present production. All told, as many as half a billion people could starve in the next two decades or so.

The recent droughts in the African Sahel region and in Western Europe have already generated speculation and anxiety about changes in the world's weather patterns. If nations perceive that the climatologists' predictions are correct, they may be tempted to take matters into their own hands and attempt to counteract the cooling trend and avoid the disastrous effects on their food production capability. One scheme to accomplish this is the melting of the polar ice cap. The ice that floats on the Arctic Ocean caps the vast moisture of that body and makes the polar area 20 degrees colder, because of reflected sunlight, than it would normally be if the ocean ice were melted. One way to melt the ice cap would be to divert southward the rivers in the Soviet Union that now bring fresh water, which freezes faster than salt water, into the Arctic Ocean.

The problem with such a scheme is that while the higher latitude areas of the world would be warmed, the totality of the effects produced are not known. For example, the entire grain production area of the Northern Hemisphere could be shifted substantially northward.

A more extreme approach to countering the cooling trend would be to melt continental glaciers which, unlike melting the Arctic Ocean ice cap, would add water to the ocean and flood coastal cities.

In proposing this treaty and requiring international environmental impact statements, it is my intent to raise international consciousness as to the threats to the environment inherent in the search for technological solutions to such problems as food, energy, and climate change. Now is the time to begin the process of establishing international rules of the game in the field of environmental modification. By requiring international environmental impact statements—in effect internationalizing the basic elements of the National Environmental Policy Act in this country—it is my hope that the need for further international agreements and institutions to protect the world environment will be demonstrated. In the meantime, it is my hope and intention that the requirement for international environmental impact statements will serve to make governments and corporations more cautious in proceeding with projects which have significant environmental effects and to give serious consideration to alternatives.

Mr. President, twice before in the past decade the Senate has reversed the normal constitutional procedures and adopted resolutions of mine calling upon the executive branch to negotiate treaties along the lines of draft texts included in those resolutions. In 1967 I introduced Senate Resolution 186 proposing a treaty governing the activities of nations in ocean space. Then in 1972 I introduced Senate Resolution 281 urging the administration to seek negotiations for a ban on the use of environmental modification techniques in warfare. Both were approved in the Senate by overwhelming margins.

The administrations of the day initially scorned both proposals but eventually came to recognize the merit in them. The ocean space resolution led to the conclusion in 1972 of a multilateral treaty banning the emplacement of nuclear weapons and other weapons of mass destruction on the seabed, and helped lead to the law of the sea negotiations which are still underway. Negotiations on a treaty banning environmental warfare began last year and have made considerable progress.

Today, I urge my colleagues to join me in a third effort. I also call upon the administration to be more receptive to this latest effort than its predecessors were to my earlier resolutions.

In conclusion, I would like to share with my colleagues a statement which EPA Administrator Train made during a May 5, 1976, Foreign Relations Committee hearing on the world environment. Although his remarks were unconnected with my current resolution, the treaty I am proposing is consistent with what he said. Mr. Train stated that:

> Increasing international cooperation on safeguarding our life support systems is an urgent necessity. The alternative is to sit back and wait for global disaster to overtake us. International environmental cooperation must be an integral part of American foreign policy.

Mr. President, I ask unanimous consent that the text of my resolution on a treaty to require international environmental impact statements be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, the resolution will be received and appropriately referred.

The resolution (S. Res. 521), which was referred to the Committee on Foreign Relations, reads as follows:

S RES. 521

Whereas there is a vast potential for human betterment through those projects, actions, and continuing activities that modify the earth (its land, its waters, and its atmosphere) in environmentally sound ways that are consistent with the earth's natural ecology and under careful controls designed to avoid or minimize any adverse environmental effects; and

Whereas there is potentially great danger to the world ecological system and to the well-being of individual nations if such activities are not controlled or conducted with sufficient regard to their potentially adverse effects on the physical environment or environmental interests of other nations or a global commons area;

Resolved, That it is the sense of the Senate that the United States Government should seek the agreement of other governments to a treaty along the following general lines.

"The Parties to this Treaty,

"Recognizing the vast potential for human betterment through those projects, actions, and continuing activities that modify the earth (its land, its waters, and its atmosphere) in environmentally sound ways that are consistent with the earth's natural ecology and under careful controls designed to avoid or minimize any adverse environmental effects; and

"Aware of the great danger to the world ecological system and to the well-being of individual nations if such activities are not controlled or conducted with sufficient regard to their potentially adverse effects on the physical environment or environmental interests of other nations or a global commons area,

"have agreed as follows:

ARTICLE I

"(1) No State shall undertake, nor permit to be undertaken, any major project, action, or continuing activity within its territory, the territory of another State, or upon any global commons area, as defined by conventional and customary international law, which may be reasonably expected to have a significant adverse effect on the physical environment or environmental interests of another State or States party to this Treaty or on a global commons area unless these activities are carried out in accordance with the provisions of this Treaty.

"(2) No State shall undertake, nor permit its nationals or others subject to its jurisdiction or control to undertake activities referred to in paragraph 1 unless such activities are carried out in accordance with the provisions of this Treaty.

"(3) Before authorizing an activity referred to in paragraph (1), a Party to this Treaty will ensure that an International Environmental Impact Statement regarding the potential adverse physical environmental effects of such activity is prepared and submitted to the United Nations Environment Program (UNEP) and to any other Party to this Treaty whose physical environment or environmental interests may be adversely affected by such activity, in cooperation with such party and/or UNEP. The Parties to this Treaty also agree to prepare such a Statement upon the request of UNEP or a potentially affected State.

"(4) The Party considering such an activity will not make a final decision to proceed until it has provided a reasonable opportunity for UNEP and any potentially affected State to make their views known as to the desirability of undertaking the activity. The Party considering the activity will also consult with UNEP and other concerned States with a view toward preventing or minimizing any adverse environmental consequences beyond the borders of the conducting State. Moreover, if the recommendation of UNEP or an affected State is negative, the States Party to this Treaty pledge themselves not to move ahead with the projected activity without prior international consultations in accordance with procedures to be recommended by UNEP.

"(5) In the event of an emergency affecting the safety of life or property, a Party may undertake a paragraph (1) activity before preparing an International Environmental Impact Statement or complying with the notification and consultation provisions (3) and (4) above. Any Party taking emergency action shall notify UNEP and other affected States forthwith that such emergency action is being taken. The Party claiming an emergency will also prepare an International Environmental Impact Statement as soon as possible after the activity is initiated, will provide a copy of the statement to UNEP and other potentially affected Parties, will give UNEP and such Parties the opportunity to comment, and will indicate what emergency conditions necessitated immediate action and what measures are being taken to assure that International Environmental Impact Statements will be prepared in a timely fashion in the future.

ARTICLE II

"The States Party to this Treaty shall have a compulsory obligation to settle any dispute between them relating to the interpretation or application of this Treaty, including the need for and adequacy of an International Environmental Impact Statement, by a decision of the International Court of Justice or any other mutually acceptable arbitral or judicial body if the Parties to the dispute fail to reach agreement on a bilateral basis within 90 days of notification to UNEP by a Party to this Treaty that a dispute exists.

ARTICLE III

"Five years after the entry into force of this Treaty, a conference of Parties shall be held at Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the preamble and the provisions of the Treaty are being realized. Such review shall take into account relevant technological developments and consider the need for any compensatory claims arrangements arising from damages to a nation's physical environmental or environmental interests resulting from activities of another State.

ARTICLE IV

"(1) Any Party may propose an amendment to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to this Treaty. Thereafter, if requested to do so by one-third or more of the Parties, the Depositary Governments shall convene a conference, to which they shall invite all the Parties, to consider such an amendment.

"(2) Any amendment to this Treaty shall be approved by a majority of the votes of all the Parties to this Treaty. The amendment shall enter into force for those Parties accepting the amendment upon the deposit of instruments of ratification by a majority of all the Parties.

ARTICLE V

"(1) This Treaty shall be of unlimited duration.

"(2) Each Party shall, in exercising its national sovereignty, have the right to withdraw from the Treaty upon 90 days notice to one or more of the Depositary Governments.

ARTICLE VI

"(1) This Treaty shall be open to all States for signature. Any State which does not sign this Treaty before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

"(2) This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America,   , and,   which are hereby designated the Depository Governments.

"(3) This Treaty shall enter into force after its ratification by one-fourth of the signatory States.

"(4) For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

"(5) The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Treaty, the date of its entry into force, and the date of receipt of any requests for conferences or other notices.

"(6) This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations."

ORDER OF BUSINESS

The **ACTING PRESIDENT** pro tempore. Under the previous order, the Senator from Maryland (Mr. BEALL) is recognized for not to exceed 15 minutes.

FEDERAL CRIMINAL PENALTY REVISION ACT OF 1976—S. 3769

Mr. BEALL. Mr. President, I am sending to the desk a bill which would, if enacted, have a dramatic impact on the ability of our Federal criminal justice system to shield society from the habitual, violent and professional criminals who prey upon millions of innocent men, women and children every year.

The Federal Criminal Penalty Revision Act of 1976 would: First, provide for pretrial detention of defendants in noncapital cases where the judge has reason to believe that the accused would represent a danger to any person or to the community if released; second, require strict mandatory minimum sentences for persons convicted of certain violent offenses, including double penalties for "repeat" offenders and additional mandatory sentences for crimes committed with firearms or other dangerous weapons; and, third, reinstate the death penalty for murder and certain other heinous crimes under very carefully prescribed circumstances.

Unfortunately, present Federal law allows far too many criminals to take full advantage of the system's failure to adequately isolate convicted felons from society; nor does it deter other would be criminals. In all too many cases, the convicted felon comes away with the distinct—and I believe correct—impression that crime does pay.

The burglar who gets off with a suspended sentence and probation for a second or third time has got to believe that he is in a very lucrative business—one where the pay is high, the hours are short, and the risk of the business failing is low enough to encourage his continuning. Or, as viewed by the more sophisticated criminal, the cost-benefit ratio is such that it is far more profitable to remain in the business than to find a legitimate line of work.

In short, many of these criminals know how to beat the system and, quite frankly, look upon the rest of society as a bunch of suckers—and we all know the line about never giving a sucker an even break. It is no wonder that law enforcement officials are calling our present mechanism revolving door justice. My bill is designed to provide Federal officials with better tools to stop that door from revolving.

Since the early 1960's, our society has been increasingly victimized because too much emphasis has been placed on unproven crime prevention theories which have centered more on the rights of criminal defendants than on the rights of you and me as the potential victims of crime. Indeed, it has been fashionable to treat murderers, rapists, and robbers as sick people forced into lives of crime—the implication being that society, not the criminal, is to blame.

Mr. President, I am the first to agree that we should do all we can to eliminate the root causes of crime—such as poverty, slum conditions and poor family relationships—and I have supported LEAA and related efforts to rehabilitate inmates and prepare them for meaningful employment when they are eventually released.

But, it is the responsibility of Government to protect all the people and to insure domestic peace and tranquility. Therefore, in addition to our social reform and rehabilitative efforts, it is incumbent upon us to adopt practical policies that offer some promise of results within a reasonably short period of time.

In the past year, I have personally walked the streets of high-crime areas in both Baltimore City and Montgomery County, Md. During our tours, conducted by police officials, I had a firsthand glimpse at the fear small shopkeepers and customers now have because of what seems to be an evergrowing criminal element. And, in each case, police have quickly pointed out that it is the repeat offender who is primarily to blame for both the fear of citizens and the statistical increase in crime.

Time after time police officials tell of arrests that have been made, only to have the same offenders back on the same streets committing the same crimes.

Last winter I sent out a State-wide poll asking my constituents what they thought were the 10 most important issues facing Americans. The highest rated issue, of the 120,000 responses we received, was crime. Twenty-six percent said crime was the No. 1 problem, and this over inflation, economy, energy and all the other vital problems facing our people. Clearly the public hue and cry is to do something about the problem.

Statistical evidence of the inability of the present system to deal with the problem is well documented. FBI statistics released today indicate that the number of serious crimes committed in the United States every year has risen from 3,363,700 in 1960 to an incredible 11,256,566 in 1975. This means that a serious crime is committed at the rate of one every 2.8 seconds. A more concise breakdown is as follows:

Type of crime	1960	1975	Percentage increase
Total crime index	3,363,700	11,256,566	334
Violent	286,890	1,006,284	350
Murder	9,060	20,505	226
Forcible rape	17,130	56,093	327
Robbery	107,570	464,973	432
Aggravated assault	153,140	484,713	316
Burglary	906,600	3,252,129	359

Perhaps these figures should more properly be referred to as "sadistics" because unmentioned in them are the countless horror stories involving death and suffering of our people. One "sadistic" in the 1975 crime report involved the plight of a young Washington, D.C., woman who, while walking the streets of Georgetown, was shot down for no reason at all. After the shooting she lost her job, underwent several critical operations which still left her partially crippled, and has been forced to beg for financial help. To make matters worse, she has also been subjected to the mental punishment of knowing that the persons who were arrested for the shooting were released on their own personal recognizance, disappeared, and were still at large the last I heard.

When discussing the problem of crimes committed by repeat offenders, no clearer example exists to illuminate the need for reform than the now famous "Sting" operation pulled off by the Washington Metropolitan Police Department and the FBI. Although all the results are not yet in, the Major Violators Section of the D.C. Police Department reports that of the 179 persons arrested in Sting I, 45 percent were already out on some form of conditioned release—that is, pretrial release, probation or parole—and 77 percent had previous arrest records in Washington, D.C. alone—collectively totaling an incredible 1,909 arrests. Since the famous "Sting celebration party," 49 of the arrestees have been rearrested on new charges—9 of them in Sting II—the "Got Ya Again" operation.

For those who argue that rearrest figures should not be used in determining recidivism rates, it is interesting to note that the evidence against the defendants was so overwhelming that the conviction rate has been 100 percent in the 79 cases which have gone to final disposition.

Since my bill will amend the U.S. Criminal Code, I think it is important to look at the results of a 4-year FBI followup study involving 62,236 Federal offenders released during 1972. This study revealed that 67 percent of those offenders released after serving their prison time were rearrested; of those persons released on parole, 71 percent repeated; and, 57 percent of those placed on probation repeated. By type of violent crimes, the percentages break down as follows:

	Percent
Burglary	81
Robbery	77
Forcible Rape	73
Murder	64
Narcotics	65
Weapons Crimes	65

While it is true that these figures do not reflect final dispositions, it should be kept in mind that "rearrest" statistics themselves understate the amount of crimes committed by these offenders since they are based on police detection, arrest, and submission of fingerprint cards.

More importantly, since only one arrest is made for every five crimes reported, it is safe to assume that many recidivists are never arrested for crimes committed by them. But, when an arrest is made, there is "probable cause" to believe that the arrestee has committed the crime.

I recognize, however, that for years statistical information on crimes committed by persons on conditional release was either nonexistent, incomplete, unassembled, or incompatible. In a 1971 speech, Chief Justice Warren Burger commented on what to do about the problem, stating:

> We cannot be sure of the answers because we do not know all the facts. The facts we need can be found only by a careful study in one or more sample jurisdictions to probe, case by case, name by name, and determine how many arrests have been made of persons who were on release pending trial on a prior charge. Only then will we know whether the Bail Reform Act needs reexamination and amendment.

In response to this need, organizations like the Institute for Law and Social Research—INSLAW—have developed and placed into operation computer based information systems which are expected to provide the necessary empirical information sought by the Chief Justice. As a matter of fact, I understand from Mr. Richard Velde, Administrator of LEAA that the INSLAW studies have already been of great value to the U.S. attorney's District of Columbia office in instantly identifying defendants on bail at the time of rearrests for new crimes and that extremely meaningful results are expected from the INSLAW study to be completed and released later this year.

Accordingly, I urge the Judiciary Committee, in its hearings on my bill, and any other bill dealing with recidivism, to fully utilize the final results of the LEAA sponsored projects such as the INSLAW study.

Mr. President, as I indicated, there are three major provisions in my bill: Pretrial detention; mandatory minimum sentences, and capital punishment. With respect to the first provision, section 3248 of title 18 of the United States Code provides that defendants charged with offenses punishable by death may be detained if the judge believes that no one or more conditions of release will reasonably assure that the person will not pose a danger to any other person or to the community. My bill would simply extend this provision to include certain violent offenses, including: First, firearm offenses; second, acts involving the intentional infliction of death or serious bodily injury; third, sexual assaults; fourth, arson, kidnapping, or burglary; fifth, loan-sharking; sixth, racketeering; seventh, drug trafficking; and, eighth, obstruction of justice by means of threats, injuries, or intimidation of prospective witnesses or jurors. Further, the pretrial provision is designed to coincide with the Speedy Trial Act of 1974.

Under present Federal law, in noncapital cases judges may only detain a defendant prior to trial to insure that he or she will not flee before trial. "Dangerousness" to an individual or to the community may not be considered. Title 18, section 3146, of the United States Code, does allow money bonds to be required to insure the defendant's appearance at trial. That section further provides that consideration be given the accused's family ties, his length of residence in the community and his employment record.

Despite these provisions, it is common practice, and common knowledge, that many judges, believing that a defendant would represent a danger to society if released prior to trial, will intentionally set a high money bond, hoping or knowing that the accused cannot raise enough money to meet bail. This method is successful in many cases, but is patently violative of the "excessive bail" clause of the 8th amendment of the U.S. Constitution. Legal writers have warned for years that some day a smart defense attorney is going to win an appeal on this issue thereby upsetting this entire illegal procedure. My bill would eliminate this eventuality.

In addition to being unconstitutional, the high money bond practice presents the trial judge with the dilemma of trying to justify the assertion that the defendant will flee if released. A violent criminal, no matter how dangerous, may have very close ties to the community and represent no threat of flight. Moreover, many career criminals are able to gain their freedom by pointing out to a judge for example that "he has had 20 prior arrests and has shown up for every one of his trials." The logic of this argument, convaluated as it may be, leaves judges powerless to do anything but grant pretrial release. The Beall bill will shore up this loophole in the present law and allow judges to keep the hardcore, violent criminals off the street where they cannot prey upon society and the witnesses who must testify against them.

The crimes covered under my mandatory sentencing scheme and the respective sentences are as follows:

Years of sentence

Crime	Not less than	Not to exceed
Loan sharking (18 U.S.C. 894)	2	20
Racketeering (18 U.S.C. 1951(a))	2	20
Rape (maritime and Federal territory) (18 U.S.C. 2031)	5	Life
Robbery (maritime and Federal territory) (18 U.S.C. 2111)	2	15
Robbery of U.S. property (18 U.S.C. 2112)	2	15
Bank robbery:		
(18 U.S.C. 2113(a)) (by force)	2	20
(18 U.S.C. 2113(b)) (without force)	2	10
(18 U.S.C. 2113(d)) (assault)	2	25
Controlled Substances Act:		
(Heroin crimes) (21 U.S.C. 841)	2	30
(21 U.S.C. 960)	2	15
Burglary:		
(Chapter 13 of title 18) (since "burglary" offenses are scattered through title 18 we leave the maximum sentence open ended)	2	--
Second degree murder (18 U.S.C. 1111)	15	Life

With only a few exceptions under Federal law, there are no definite increased sentences for the commission of second and subsequent offenses by violent and "career criminals." My bill would require that persons convicted of those violent offenses, outlined above, on second or subsequent charges shall be sentenced to imprisonment for a term which may not be less than twice the amount provided for as a mandatory minimum for first offenders.

Section 924 of title 18 of the United States Code currently makes it a separate crime to use or carry a firearm in or during the commission of any felony under U.S. law. For first offenders a penalty of not less than from 1 to 10 years may be imposed in addition to the base felony committed; that is, bank robbery. For second and subsequent offenders section 924 provides truly mandatory minimum sentences of from 2 to 25 years.

The Beall bill would amend section 924 by expanding the crime to include "destructive devices, or other dangerous weapons" in addition to the use of or carrying of "firearms," and it would provide the mandatory minimum sentences of from 1 to 10 years for first offenders of this section rather than giving the judge the added discretion to suspend the sentence or subsequently grant parole.

With respect to the other mandatory minimum provisions in the bill, imposition of such sentences shall not be suspended, and probation shall not be granted. Without this language judges would feel free to avoid the mandatory minimums by simply suspending sentences and placing violent and repeat offenders on probation. However, in an effort not to retard rehabilitation, the bill does not eliminate eligibility for parole except in repeat firearm and dangerous weapon cases.

The major provisions under the capital punishment sections are as follows:

First. The defendant would be eligible for the death penalty in certain cases where he is found guilty of treason, espionage, and murder.

Second. The procedure under which the death penalty would be imposed involves a two-stage—bifurcated—trial to determine the guilt or innocence of the defendant and, where guilt is found, the second stage, or second hearing, would be used to determine the existence or nonexistence of the aggravating and mitigating circumstances. If the facts presented in the special hearings show the existence of any aggravating factors and no mitigating factors the death penalty must be imposed.

Third. Aggravating factors include:

Felony murder;

Prior conviction of capital offense;

Previous convictions of two or more felonies involving serious bodily injuries to others;

Conduct which a defendant knew created a grave risk of death to another person;

Murders committed in especially heinous, cruel or depraved manner; that is, torture;

"Contract" killings and murders committed in expectation of remuneration; that is, inheritance of victim;

Assassinations of U.S. President, Vice President, and foreign heads of state; and

Public servants including law enforcement officers, firemen and detention facility employees.

Fourth. The finding of any one of the following mitigating factors would preclude implementation of the death penalty where the convicted defendant was:

Under 18 years of age

Mentally impaired

Under extreme duress

Involved in a relatively minor role; that is, an accomplice; and

Where the risk of causing death to another could not have been reasonably foreseen.

In the 1972 Supreme Court case of Fuhrman against Georgia, the Court ruled that a number of state death penalty statutes constituted "cruel and unusual punishment" under the eighth amendment to the U.S. Constitution. However, the Court did not rule the death penalty unconstitutional per se. Subsequently, at least 35 States passed new death penalty provisions in an effort to bring their laws into compliance with the Supreme Court ruling. In 1974 the Senate passed S. 1401, a bill substantially identical to the death penalty provision in my bill. On July 2, 1976, the Court handed down five decisions which overturned a number of State "mandatory" death penalty statutes, but specifically upheld the new Georgia statute that included procedures substantially the same as in S. 1401.

In finding that the death penalty is not unconstitutional per se, the Court looked to what it called objective indicia reflecting the public attitude to assess whether the contemporary view any longer accepts the particular punishment.

In view of the 35 State legislatures which have passed death penalties, and those States which can be expected to bring their laws in line with the recent Court decisions; and the Senate's passage of S. 1401, it appears that this criteria has clearly been met. In addition, 87 percent of those Marylanders who responded to a poll conducted by me this past winter favored capital punishment. So public sentiment is in favor of the proposal.

I believe that by reinstating the death penalty in certain narrowly drawn cases that we would go a long way toward meeting our responsibility to shield society from those who are literally getting away with murder. I recognize that no penalty, no matter how severe, will deter certain crimes, such as crimes of passion involving relatives and nonstrangers. However, I am convinced that the penalty will deter many others who, but for the fear of being executed themselves, would not refrain from certain acts of treason; premeditated murder; and, the commission of felonies which could foreseeably result in the death of others. The many studies on the deterrent issue are inconclusive on this point, but the opinion within law enforcement circles is heavily toward the position that it is a deterrent. This view is based on years of experience and I find it most convincing.

Clearly the time has come for Congress—including both Houses—to take action.

Mr. President, when we stop and think that in the time I have spoken on this legislation 535 serious crimes have been committed in the United States, including at least 1 murder, 154 burglaries, 3 rapes, 187 robberies, and 48 other violent crimes, I think we can all agree that the war against crime demands a great deal more of our time and efforts.

Mr. President, I ask unanimous consent that the full text of the bill I am introducing be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 207 of title 18, United States Code, is amended by inserting immediately after section 3146 the following new section:

"§ 3146A. Pretrial release of persons charged with violent offenses

"Any person charged with an offense (not punishable by death) involving an act of violence shall be treated in accordance with the provisions of section 3146 unless the judicial officer has reason to believe that no one or more conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the community. If such a risk of flight or danger is believed to exist, the person may be ordered detained. The provisions of section 3147 shall not apply to persons detained under this section.".

(b) Section 3156 (a) of chapter 207 of such title 18 is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon, and by adding at the end of such subsection the following new paragraphs:

"(3) The term 'act of violence' means—

"(A) the commission of any act involving the use of any firearm (as defined in section 921(a)(3) of this title), or other deadly or dangerous weapon;

"(B) the commission of any act involving the intentional infliction of death or serious bodily injury;

"(C) the commission of any act involving a sexual assault;

"(D) the commission of any act involving arson, kidnaping, or burglary;

"(E) the commission of any act involving the collection of extensions of credit by extortionate means prohibited by section 894 of this title;

"(F) the commission of any act involving the interference with commerce by means of actual or threatened force or violence or fear prohibited by section 1951 of this title;

"(G) the commission of any act involving the unlawful sale or distribution of a narcotic drug or depressant or stimulant substance (as defined in the Controlled Substances Act) if the offense is punishable by imprisonment for more than one year; or

"(H) the commission of any Act involving the obstruction of justice by means of threats, injuries, or intimidation of prospective witnesses or jurors under section 1503 or 1505 of this title; or

"(I) an attempt to commit any act described in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H).".

(c) Section 3146(a) of title 18, United States Code, is amended by deleting "Any person charged with an offense" and inserting in lieu thereof "Except as otherwise provided in section 3146A, any person charged with an offense".

(d) The table of sections for chapter 207 of such title 18 is amended by inserting immediately after the item relating to section 3146 the following new item:

"3146A. Pretrial release of persons charged with violent offenses.".

Sec. 2. (a) Section 3148 of title 18, United States Code, is amended (1) by designating the existing text thereof as subsection (a), and (2) by amending such section by deleting "A person (1) who is charged with an offense punishable by death, or (2)" and inserting in lieu thereof "A person, except as provided in subsection (b) or (c) of this section,".

(b) Section 3148 of title 18, United States Code, is amended by adding at the end thereof the following:

"(b) A person (1) who is charged with an offense punishable by death, or (2) who has been convicted of an offense involving an act of violence and is awaiting sentence, shall be detained unless the judicial officer finds by clear and convincing evidence that he is not likely to flee or pose a danger to any other person or to the community. Upon such a finding, the judicial officer shall treat the person in accordance with section 3146 of this title.

"(c) A person who has been convicted of an offense involving an act of violence and sentenced to a term of confinement or imprisonment and has filed an appeal or a petition for a writ of certiorari shall be detained unless the judicial officer finds by clear and convincing evidence that (1) the person is not likely to flee, (2) the person does not pose a danger to any other person or to the community, and (3) the appeal or petition for a writ of certiorari raises a substantial question of law or fact likely to result in a reversal or an order for a new trial. Upon such findings, the judicial officer shall treat the person in accordance with section 3146 of this title.".

Sec. 3. Section 13 of title 18, United States Code, is amended by striking out "and subject to a like punishment." and inserting a period and the following new sentence: "Whoever is found guilty of a like offense under the provisions of this section shall be subject to a like punishment except that in those cases in which a person is convicted of committing any act which, according to the laws thereof in force at the time, constitutes the crime of burglary, where at night, a person, with intent to engage in conduct constituting a crime, enters without privilege, or remains surreptitiously within, a dwelling that is the property of another, such person shall be sentenced to a term of imprisonment which may not be less than two years and which may be up to the maximum provided by law.

Sec. 4. (a) Section 894(a) of title 18, United States Code, is amended by deleting "shall be fined not more than $10,000 or imprisoned not more than 20 years, or both" and inserting in lieu thereof "shall be sentenced to a term of imprisonment of not less than two years or more than twenty years and, in addition thereto, may be fined not more than $10,000".

(b) The third paragraph of subsection (b) of section 1111 of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the second degree, shall be sentenced to a term of imprisonment which may not be less than fifteen years and which may be up to life imprisonment.".

(c) Section 1113 of title 18, United States Code, is amended by deleting "fined not more than $1,000 or imprisoned not more than three years, or both" and inserting in lieu thereof "sentenced to a term of imprisonment of not less than one year or more than three years and, in addition thereto, may be fined not more than $1,000".

(d) Subsection (c) of section 924 of title 18, United States Code, is amended to read as follows:

"(c) Whoever, while engaged in the commission of any offense for which he may be prosecuted in a court of the United States, knowingly possesses, displays, brandishes, or otherwise uses a firearm, destructive device, or other dangerous weapon, shall, in addition to the punishment provided for the commission of such offense, be sentenced to a term of imprisonment which may not be less than two years and which may be up to ten years. In the case of a second or subsequent conviction of a violation of this subsection, or in the case of a conviction under this subsection following a conviction of a State offense during the commission of which the defendant knowingly possessed, displayed, brandished, or otherwise used a firearm, destructive device, or other dangerous weapon, such defendant, with respect to such conviction under this subsection, shall be sentenced to a term of imprisonment which may not be less than five years and which may be up to twenty-five years. In no case shall the term of imprisonment imposed pursuant to this subsection run concurrently with any term of imprisonment imposed for the commission of such felony. Notwithstanding any other provision of law, the imposition or execution of any mandatory minimum sentence pursuant to this subsection shall not be suspended and probation shall not be granted, and chapters 309, 311, and 402 of this title shall not be applicable with respect to such sentence.".

(e) Section 1951 (a) of title 18, United States Code, is amended to read as follows:

"(a) (1) Whoever in any way or degree obstructs, delays or affects commerce or the movement of any article or commodity in commerce by robbery, or extortion (except such extortion which involves solely the obtaining of property from another, with his consent, under color of official right), or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be sentenced to a term of imprisonment of not less than two years or more than twenty years and, in addition thereto, may be fined not more than $10,000.

"(2) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by extortionate means involving the obtaining of property from another, with his consent, under color of official right, or attempts or conspires so to do, shall be fined not more than $10,000 or imprisoned not more than twenty years, or both.".

(f) Section 2031 of title 18, United States Code, is amended by striking out "imprisonment for any term of years or for life" and inserting in lieu thereof "shall be sentenced to a term of imprisonment which may not be less than five years and which may be up to life imprisonment".

Sec. 5. (a) Section 2111 of title 18, United States Code, is amended by striking out "shall be imprisoned not more than fifteen years" and inserting in lieu thereof "shall be sentenced to a term of imprisonment which may not be less than two years and which may be up to fifteen years".

(b) Section 2112 of title 18, United States Code, is amended by deleting "shall be imprisoned not more than fifteen years" and inserting in lieu thereof "shall be sentenced to a term of imprisonment which may not be less than two years and which may be up to fifteen years".

(c) The third paragraph of section 2113(a) of title 18, United States Code, is amended by deleting "or imprisoned not more than twenty years, or both" and inserting "and shall be sentenced to a term of imprisonment which may not be less than two years and which may be up to twenty years".

(d) The first paragraph of section 2113(b) of title 18, United States Code, is amended by deleting "or imprisoned not more than ten years, or both" and inserting in lieu thereof "and shall be sentenced to a term of imprisonment which may not be less than two years and which may be up to ten years".

(e) Section 2113(d) of title 18, United States Code, is amended by deleting "or imprisoned not more than twenty-five years, or both" and inserting in lieu thereof "and shall be sentenced to a term of imprisonment which may not be less than two years and which may be up to twenty-five years".

Sec. 6. (a) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841) is amended (1) by adding after the words "more than $25,000, or both.", the following sentence: "In the case of a controlled substance in schedule I which is the narcotic drug heroin, such person shall be sentenced to a term of imprisonment of not less than two years or more than fifteen years, and a fine of not more than $25,000."; and (2) by adding immediately before the period after the words "more than $50,000, or both" a comma and the following: "except that, if such violation involved a controlled substance in schedule I which is the narcotic drug heroin, such person shall be sentenced to a term of imprisonment of not less than two years or more than thirty years, and a fine of not more than $50,000.".

(b) Section 1010(b)(1) of the Controlled Substances Act (21 U.S.C. 960) is amended by adding after the words "not more than $25,000, or both." the following new sentence: "In the case of a controlled substance in schedule I which is the narcotic drug heroin, such person shall be sentenced to a term of imprisonment of not less than two years or more than fifteen years and a fine of not more than $25,000.".

Sec. 7. (a) Title 18, United States Code, is amended by adding immediately after section 3578 the following new sections:

"§ 3579. Increased sentence for repeat offenders

"(a) Whoever has been found guilty of an offense described in the provisions of section 13 relating to burglary as defined therein, section 894 (a), section 1111 relating to murder in the second degree, section 1113 relating to attempts to commit murder or manslaughter, section 1951 (a), section 2031, section 2111, section 2112, any provision of section 2113 (other than the provisions contained in the second paragraph of subsection (b) of such section), or section 401 (b) (1) (A) of the Controlled Substances Act, relating to the narcotic drug heroin in schedule I or the provisions of section 1010 (b) (1) of the Controlled Substances Act relating to the narcotic drug heroin in schedule I, and said person is found to be a repeat offender, pursuant to subsection (c) of this section, shall be sentenced to imprisonment for an appropriate term which may not be less than twice the amount provided as a mandatory minimum for such offense for such violation for which he was convicted and which may be up to the maximum provided by law for such violation. Otherwise the court shall sentence the defendant in accordance with the law prescribing penalties for such violation. The court shall place in the record its findings, including an identification of the information relied upon in making such findings, and its reasons for the sentence imposed.

"(b) Notwithstanding any other provision of this section, the court shall not sentence a repeat offender to less than any mandatory minimum penalty prescribed by law for such violation.

"(c) A defendant is a repeat offender for purposes of this section if the defendant has previously been convicted in courts of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof, for a violation of any provision within the purview of subsection (a) of this section committed on an occasion different from the alleged violation referred to in subsection (a), or has previously been convicted in any State court of a violation of a State law involving murder in the second degree, rape, robbery, burglary, aggravated assault, the commission of any offense while knowingly possessing, display, brandishing, or otherwise using a firearm, destructive device, or other dangerous weapon, or the commission of any offense involving the manufacturing, distributing, selling, dispensing, possessing, or importing of the narcotic drug heroin. A conviction shown on direct or collateral review or at the hearing to be invalid or for which the defendant has been pardoned on the ground of innocence shall be disregarded for purposes of this paragraph.

"§ 3580. Imposition and execution of sentence

"Notwithstanding any other provision of law, the imposition or execution of any mandatory minimum sentence pursuant to the provisions of section 13 (relating to burglary), section 894 (a), section 1111 (relating to murder in the second degree), section 1113, section 1951 (a) (1), section 2031, section 2111, section 2112, section 2113, or section 3579, of title 18, United States Code, or section 401 (b) (1) (A) or section 1010 (b) (1), of the Controlled Substances Act, shall not be suspended, and probation shall not be granted, and chapter 402 of this title shall not be applicable with respect to such sentence.".

(b) The analysis of chapter 227 of title 18, United States Code, is amended by adding at the end thereof the following:

"3579. Increased sentence for repeat offenders.
"3580. Imposition and execution of sentence.".

SEC. 8. Chapter 227 of title 18, United States Code, is amended by adding after section 3562 a new section 3562A, to read as follows:

"§ 3562A. Sentencing for capital offenses

"(a) A person shall be subjected to the penalty of death for any offense prohibited by the laws of the United States only if a hearing is held in accordance with this section.

"(b) When a defendant is found guilty of or pleads guilty to an offense for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered shall conduct a separate sentencing hearing to determine the existence or nonexistence of the factors set forth in subsections (f) and (g), for the purpose of determining the sentence to be imposed. The hearing shall not be held if the government stipulates that none of the aggravating factors set forth in subsection (g) exists or that one or more of the mitigating factors set forth in subsection (f) exists. The hearing shall be conducted—

"(1) before the jury which determined the defendant's guilt;

"(2) before a jury impanelled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury which determined the defendant's guilt has been discharged by the court for good cause;

"(D) review by a court of appeals of the original sentence to death has resulted in a remand for resentencing under this chapter; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the court and of the government.

"(c) At the sentencing hearing the court shall disclose to the defendant or his counsel all material contained in the presentence report, if one has been prepared, except such material as the court determines is required to be withheld to protect human life or to avoid impairment of the national defense. Any information in the presentence report that is withheld from the defendant and his counsel shall not be considered in determining the existence of the aggravating factors set forth in subsection (g) or the nonexistence of the mitigating factors set forth in subsection (f). Any information relevant to any of the aggravating factors set forth in subsection (g) may be presented by either the government or the defendant, if admissible under the rules governing the admission of evidence at criminal trials. Any information relevant to any of the mitigating factors set forth in subsection (f) may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials. The government and the defendant shall be given fair opportunity to rebut any information received at the hearing, and to present argument as to the adequacy of the information to establish the existence of any of the factors set forth in subsection (f) or (g).

"(d) The burden of establishing the existence of any of the aggravating factors set forth in subsection (g) is on the government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any of the mitigating factors set forth in subsection (f) is on the defendant, and is not satisfied unless established by a preponderance of the evidence. The factors set forth in subsection (f) shall be liberally construed.

"(e) The jury, or if there is no jury, the court, shall return a special verdict setting forth its findings as to the existence or nonexistence of the factors set forth in subsection (g) and subsection (f). If the jury or, if there is no jury, the court finds:

"(1) that one or more of the factors set forth in subsection (g) exists, and that none of the factors set forth in subsection (f) exists, the court shall sentence the defendant to death;

"(2) that none of the factors set forth in subsection (g) exists, or that one or more of the factors set forth in subsection (f) exists, the court shall not sentence the defendant to death but shall impose any other sentence authorized for such felony as provided by statute.

"(f) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in subsection (e) that at the time of the offense—

"(1) the defendant was under the age of eighteen;

"(2) the defendant's capacity to appreciate the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution;

"(3) the defendant was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution;

"(4) the defendant was an accomplice, the conduct constituting the offense was principally the conduct of another person, and the defendant's participation was relatively minor; or

"(5) the defendant could not reasonably have foreseen that his or her conduct in the course of the commission of the offense for which he or she was convicted would cause, or would create a grave risk of causing, death to another person.

"(g) If no factor set forth in subsection (f) is present, the court shall impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in subsection (e) that—

"(1) if the defendant is convicted of an offense under section 794 (espionage) or 2381 (treason) of this title—

"(A) the defendant has been convicted of another offense under one of those sections, committed before the time of the offense, for which a sentence of life imprisonment or death was authorized by statute;

"(B) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national defense; or

"(C) in the commission of the offense the defendant knowingly created a grave risk of death to any person; or

"(2) if the defendant is convicted of murder or of any other offense for which the death penalty is available if death results—

"(A) the defendant committed the offense during the commission or attempted commission of, or during the immediate flight from the commission or attempted commission of an offense under section 751, 794, 844(d), 844(f), 844(i), 1201, or 2381 of this title, or section 902(i) of the Act of August 23, 1958, as added by section 1 of the Act of September 5, 1961, and amended (75 Stat. 466, 49 U.S.C. 1472(i));

"(B) the defendant has been convicted of another Federal or State offense, committed either before or at the time of the offense, for which a sentence of life imprisonment or death was imposable;

"(C) the defendant has previously been convicted of two or more State or Federal offenses with a penalty of more than one year imprisonment, committed on different occasions before the time of the offense, involving the infliction of serious bodily injury upon another person;

"(D) in the commission of the offense the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense;

"(E) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(F) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(G) the defendant committed the offense as consideration for the receipt, or in expectation of the receipt, of anything of pecuniary value; or

"(II) the defendant committed the offense against

"(i) the President of the United States, the President-elect, the Vice President, or if there is no Vice President, the officer next in order of succession to the office of the President of the United States, the Vice-President-elect, or any person who is acting as President under the Constitution and laws of the United States;

"(ii) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(iii) a foreign official listed in section 1116 (b)(1) of this title, if he is in the United States because of his official duties; or

"(iv) a Federal public servant who is a United States official, a law enforcement officer or a fireman, or an employee of an official detention facility; or who is outside the United States for the purpose of performing diplomatic duties or other official duties relating to the functions of an embassy or consular post of the United States; and who is killed while engaged in the performance of his official duties, or because of an official action taken or to be taken or a legal duty performed or to be performed by him, or because of his status as a public servant."

Sec. 9. Section 34 of title 18, United States Code, is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

Sec. 10. Section 844(d) of title 18, United States Code, is amended by striking therefrom the words "as provided in section 34 of this title".

Sec. 11. Section 844(f) of title 18, United States Code, is amended by striking therefrom the words "as provided in section 34 of this title".

Sec. 12. Section 844(i), title 18, United States Code, is amended by striking therefrom the words "as provided in section 34 of this title".

Sec. 13. The second paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life."

Sec. 14. Section 1116(a) of title 18, United States Code, is amended by striking the words ", except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life".

Sec. 15. Section 1201 of title 18, United States Code, is amended by inserting after the words "or for life" in subsection (a) the words ", and if the death of any person results, shall be punished by death or life imprisonment".

Sec. 16. The last paragraph of section 1716 of title 18, United States Code, is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

Sec. 17. The fifth paragraph of section 1992 of title 18, United States Code, is amended by changing the comma after the words, "imprisonment for life" to a period and deleting the remainder of the section.

Sec. 18. Section 2113(e) of title 18, United States Code, is amended to read as follows:

"(e) Whoever, in committing any offense defined in this section, or in avoiding or attempting to avoid apprehension for the commission of such offense, or in freeing himself or attempting to free himself from arrest or confinement for such offense, kills any person, shall be sentenced to death. Whoever, in committing any such offense, or in avoiding or attempting to avoid apprehension for the commission of such offense, or in freeing himself or attempting to free himself from arrest in confinement for such offense, forces any person to accompany him without the consent of such person, shall be imprisoned not less than ten years, except that, if death results to such person so forced to accompany such defendant, the defendant may be sentenced to death.".

Sec. 19. The analysis of chapter 227 of title 18, United States Code, is amended by inserting after item 3562 the following new item:

"3562A. Sentencing for capital offenses.".

Sec. 20.

"§ 3742. Appeal from sentence of death

"In any case in which the sentence of death is imposed after a proceeding under section 3562A of chapter 227 of this title, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Such review shall have priority over all other cases. On review of the sentence, the court of appeals shall consider the record, including the entire presentence report, if any, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the findings under section 3562A(d). If the court of appeals finds that: (1) the procedures employed in the sentencing hearing were not contrary to law, or were contrary to law only in a manner constituting harmless error, and (2) the findings under section 3562A(d) were not clearly erroneous, or were clearly erroneous but the sentence was not affected, it shall affirm the sentence. If the court of appeals finds that the procedures employed in the sentencing hearing were contrary to law in a manner not constituting harmless error, it shall set aside the sentence and remand the case for redetermination of sentence in accordance with section 3562A. If the court of appeals finds that a finding under section 3562A(d) was clearly erroneous and that the sentence was affected by such clearly erroneous finding, it shall set aside the sentence and remand the case for imposition of a sentence other than death. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.".

Sec. 21. The analysis of chapter 235 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"§ 3742. Appeal from sentence of death.".

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. Pell). Under the previous order there will now be a period for the transaction of routine morning business not to exceed 15 minutes, with statements therein limited to 5 minutes each.

ORDER FOR THE RECOGNITION OF SENATOR JAVITS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on tomorrow, Thursday, after the joint leaders have been recognized and the distinguished Senator from Alabama (Mr. Allen) has been recognized for 15 minutes, the distinguished Senator from New York (Mr. Javits) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 13679—GUAM POWER AUTHORITY GUARANTEE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the action taken yesterday by the Senate with respect to H.R. 13679, the Guam power authority guarantee, be vitiated; that the Senate proceed to the consideration of the bill; and that the bill be considered as having been read the first and second time, and passed.

The reason is that we got into a mixup in considering this bill on yesterday, made the wrong moves, and this is an attempt, technically speaking, to correct what we did incorrectly last evening.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered; and the bill is passed.

MESSAGES FROM THE HOUSE

At 2:19 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed the following bills, each with amendments in which it requests the concurrence of the Senate:

S. 2548. An act to revise and extend the authorizations of appropriations in provisions of title XII of the Public Health Service Act relating to emergency medical services systems, and for other purposes; and

S. 3542. An act to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House insists upon its amendment to the amendment of the Senate to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Rodino, Mr. Brooks, Mr. Flowers, Mr. Sarbanes, Mr. Seiberling, Ms. Jordan, Mr. Mezvinsky, Mr. Mazzoli, Mr. Hughes, Mr. Hutchinson, Mr. McClory, Mr. Railsback, and Mr. Cohen were appointed managers of the conference on the part of the House.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 3650) to clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 366) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Rodino, Mr. Eilberg, Mr. Sarbanes, Mr. Seiberling, Mr. Railsback, and Mr. Fish were appointed managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 12987) to authorize appropriations for fiscal year 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, for carrying out title VI of the Comprehensive Employment and Training Act of 1973, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. ERLENBORN, Mr. DOMINICK V. DANIELS, Mr. DENT, Mr. O'HARA, Mr. PHILLIP BURTON, Mr. GAYDOS, Mr. BEARD of Rhode Island, Mr. HAWKINS, Mr. LEHMAN, Mr. MEEDS, Mr. QUIE, Mr. ASHBROOK, Mr. ESCH, and Mr. SARASIN were appointed managers of the conference on the part of the House.

The message also announced that the House has passed without amendment the bill (S. 3435) to increase an authorization of appropriations for the Privacy Protection Study Commission, and to remove the fiscal year expenditure limitation.

The message further announced that the House has passed the following bills and joint resolution in which it requests the concurrence of the Senate:

H.R. 1142. An act to amend the Internal Revenue Code of 1954 to provide for a distribution deduction for certain cemetery perpetual care fund trusts;

H.R. 1144. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of social clubs and certain other membership organizations;

H.R. 6521. An act to amend the Internal Reveune Code of 1954 to exempt from the excise tax imposed on trailers any trailer designed to be used with a light-duty vehicle for farming purposes or for transporting horses or livestock;

H.R. 7929. An act relating to the deduction of interest on certain corporate indebtedness to acquire stock or assets of another corporation;

H.R. 8046. An act to amend the Internal Revenue Code of 1954 to provide that the rental value of a parsonage furnished to the surviving spouse of a minister shall be excluded from gross income;

H.R. 10902. An act relating to the income tax treatment of securities which are acquired for business reasons and not as an investment;

H.R. 10936. An act to provide for the income tax treatment of amounts received on the sale of property the cost of which was deducted as a business expense;

H.R. 14681. An act to provide for termination of investment insurance issued by the Overseas Private Investment Corporation in any case in which the investor offers or makes a significant payment to an official of a foreign government for the purpose of influencing the actions of such government;

H.R. 14846. An act to authorize certain construction at military installations, and for other purposes;

H.R. 14973. An act to provide for acquisition of lands in connection with the international Tijuana River flood control project, and for other purposes;

H.R. 15068. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1976 in certain disaster areas in South Carolina and Georgia;

H.R. 15116. An act to amend the Federal-Aid Highway Act of 1976 to provide an obligation limitation for fiscal year 1977;

H.R. 15193. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes; and

H.J. Res. 519. A joint resolution to provide for the appointment of George Washington to the grade of General of the Armies of the United States.

At 4:15 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 2474. An act to amend the Internal Revenue Code of 1954 to provide refunds in the case of certain uses of tread rubber, and for other purposes;

H.R. 13828. An act to amend title 44, United States Code, to strengthen the authority of the Administrator of General Services with respect to records management by Federal agencies, and for other purposes; and

H.R. 14451. An act to amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes, and for other purposes.

HOUSE BILLS REFERRED

The following bills and joint resolution were read twice by title and referred as indicated:

H.R. 1142. An act to amend the Internal Revenue Code of 1954 to provide for a distribution deduction for certain cemetery perpetual care fund trusts; to the Committee on Finance.

H.R. 1144. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of social clubs and certain other membership organizations; to the Committee on Finance.

H.R. 6521. An act to amend the Internal Revenue Code of 1954 to exempt from the excise tax imposed on trailers any trailer designed to be used with a light-duty vehicle for farming purposes or for transporting horses or livestock; to the Committee on Finance.

H.R. 7929. An act relating to the deduction of interest on certain corporate indebtedness to acquire stock or assets of another corporation; to the Committee on Finance.

H.R. 8046. An act to amend the Internal Revenue Code of 1954 to provide that the rental value of a parsonage furnished to the surviving spouse of a minister shall be excluded from gross income; to the Committee on Finance.

H.R. 10902. An act relating to the income tax treatment of securities which are acquired for business reasons and not as an investment; to the Committee on Finance.

H.R. 10936. An act to provide for the income tax treatment of amounts received on the sale of property the cost of which was deducted as a business expense; to the Committee on Finance.

H.R. 14681. An act to provide for termination of investment insurance issued by the Overseas Private Investment Corporation in any case in which the investor offers or makes a significant payment to an official of a foreign government for the purpose of influencing the actions of such government; to the Committee on Foreign Relations.

H.R. 14846. An act to authorize certain construction at military installations, and for other purposes; to the Committee on Armed Services.

H.R. 14973. An act to provide for acquisition of lands in connection with the international Tijuana River flood control project, and for other purposes; to the Committee on Foreign Relations.

H.R. 15068. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1976 in certain disaster areas in South Carolina and Georgia; to the Committee on Agriculture and Forestry.

H.R. 15116. An act to amend the Federal-Aid Highway Act of 1976 to provide an obligation limitation for fiscal year 1977; to the Committee on Public Works.

H.R. 15193. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes; to the Committee on Appropriations.

H.R. 2474. An act to amend the Internal Revenue Code of 1954 to provide refunds in the case of certain uses of tread rubber, and for other purposes; to the Committee on Finance.

H.R. 13828. An act to amend title 44, United States Code, to strengthen the authority of the Administrator of General Services with respect to records management by Federal agencies, and for other purposes; to the Committee on Government Operations.

H.R. 14451. An act to amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes, and for other purposes; to the Committee on Government Operations.

REPORTS OF COMMITTEES

By Mr. CRANSTON (for Mr. HARTKE), from the Committee on Veterans' Affairs:

Without amendment:

H.R. 9811. An act to designate the Veterans' Administration hospital in Madison, Wisconsin, as the "William S. Middleton Memorial Veterans' Hospital" (Rept. No. 94–1163).

With an amendment:

H.R. 10394. An act to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes (Rept. No. 94–1164).

By Mr. EASTLAND, from the Committee on the Judiciary:

Without amendment:

H.R. 9153. An act granting the consent of Congress to the New Hampshire-Vermont Interstate Sewage Waste Disposal Facilities Compact (Rept. No. 94–1165).

By Mr. STONE, from the Committee on Interior and Insular Affairs:

Without amendment:

S.J. Res. 206. A joint resolution providing for a National Leadership Conference on Energy Policy to be held during 1977 (Rept. No. 94–1166).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Dorothy Parker, of Virginia, to be a Commissioner of the U.S. Parole Commission.

William C. Smitherman, of Arizona, to be U.S. attorney for the district of Arizona.

Donald I. Baker, of New York, to be an Assistant Attorney General.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Marion J. Callister, of Idaho, to be U.S. district judge for the district of Idaho.

BILL PLACED ON THE CALENDAR

The bill (H.R. 13372) to amend the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271), and for other purposes, was ordered placed on the calendar.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BEALL:

S. 3769. A bill to amend title 18, United States Code, to grant to courts power to deny pretrial release to persons charged with the commission of certain crimes of violence, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. PASTORE (for himself, Mr. RIBICOFF. Mr. GLENN, Mr. SYMINGTON, Mr. PERCY, Mr. JAVITS, and Mr. BAKER):

S. 3770. A bill to provide for more efficient and effective control over the proliferation of nuclear explosives by amendments to the Atomic Energy Act of 1954, as amended. Referred to the Joint Committee on Atomic Energy.

ADDITIONAL COSPONSORS

S. 2638

At the request of Mr. TOWER, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 2638, to preserve and protect the Espada Acequia Aqueduct in the vicinity of Six-Mile Creek, San Antonio, Tex.

S. 2910

At the request of Mr. SCHWEIKER, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 2910, to establish the National Diabetes Advisory Board.

S. 3427

At the request of Mr. BROOKE, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 3427, the Equal Opportunity Enterprise Act.

S. 3585

At the request of Mr. MCGOVERN, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 3585, the National Meals On Wheels Act.

SENATE CONCURRENT RESOLUTION 118

At the request of Mr. JACKSON, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of Senate Concurrent Resolution 118, relating to religious freedom in the Soviet Union.

AMENDMENT NO. 2196

At the request of Mr. BUCKLEY, the Senator from Texas (Mr. TOWER) was added as a cosponsor of amendment No. 2196, intended to be proposed to S. 2657, the Education Amendments of 1976.

SENATE RESOLUTION 522—SUBMISSION OF A RESOLUTION TO REFER A BILL TO THE COURT OF CLAIMS

(Referred to the Committee on the Judiciary.)

Mr. TOWER submitted the following resolution:

S. RES. 522

Resolved, That bill (S. 337) entitled "A bill for the relief of Viola J. Stewart, Lois Souby, Jane Robertson, and Norma Jean Ridgeway," now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal and equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimants.

AMENDMENTS SUBMITTED FOR PRINTING

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1976—S. 521

AMENDMENT NO. 2217

(Ordered to be printed and to lie on the table.)

Mr. JOHNSTON. Mr. President, today I am submitting an amendment, No. 2217, to S. 521, the Outer Continental Shelf Lands Act Amendments of 1976, which adds to this act the "coastal energy facility impact program." This program was the joint effort of the Commerce and Interior Committees and represents a compromise between the two committees. See CONGRESSIONAL RECORD, July 16, 1975, 23058, et seq. Pursuant to that agreement, the Commerce Committee included this provision in S. 586, the Coastal Zone Management Act Amendments of 1975 and the Interior Committee included this provision in S. 521, the Outer Continental Shelf Lands Act Amendments of 1975. The Senate passed each bill by an overwhelming majority—S. 586, by a 73-to-15 margin and S. 521 by a 67-to-19 margin. The House included a similar provision in their version of the Coastal Zone Management Act Amendments of 1975.

Unfortunately, in the final hours of the recent Coastal Zone Management Act conference, the conferees, in order to avoid a threatened Presidential veto, substantially altered this impact assistance program. This rather simple, streamlined program which both Houses had overwhelmingly approved was replaced with a bureaucratic nightmare which forces State and local governments to borrow money from the Federal Government; places huge discretion for disbursements in the hands of the Secretary of Commerce; severely limits the uses of the funds; and makes no provisions for those States which are presently suffering impacts due to OCS development.

My State for one, Mr. President, finds the President's program for impact assistance to be of little assistance indeed. I believe other States will soon come to the same realization.

Mr. President, in 1974, 74 percent of the total crude oil produced offshore in the United States was produced off the coast of Louisiana. Louisiana's offshore production represented 10 percent of the Nation's domestic crude oil production. In the same year, 92 percent of our Nation's offshore natural gas production and 15 percent of our Nation's total domestic natural gas production came from offshore Louisiana. Yet, that same year, Louisiana received in Federal mineral payments only $12 for each employee who worked on Federal lands—including the OCS—while Alaska received $36,745 per employee; Montana received $9,677 per employee; Oklahoma received $7,492 per employee; and Wyoming received $5,307 per employee. See, "The Impact of Oil and Gas Exploration, Development, and Production on the Outer Continental Shelf on Louisiana: Background and Methodology," Farber and Johnson, Louisiana Department of Conservation and State Planning Office, July 1976, pages 4 and 15. This obvious inequity in payments to States which are all bearing the burden of Federal mineral development is created because some of the Federal mineral resources lie under the sea rather than under dry land owned by the Federal Government. Under the President's restrictive program, Louisiana will receive little additional assistance.

Strangely, when the President recently vetoed S. 391, the Federal Coal Leasing Act, he stated that he nevertheless approved increasing Federal mineral royalty payments to the States from 37½ to 50 percent, even though the royalties are automatically paid to the States with no restriction on usage. Mineral royalty payments are not made to the States for OCS development. Of course, the Congress overwhelmingly overrode the President's veto, recognizing the need of the western coal States for impact assistance through increased Federal royalty payments.

Mr. President, development of the OCS is, along with development of our coal resources, this Nation's great hope for increased energy self-sufficiency in the immediate future. The President's impact assistance program as contained in the Coastal Zone Management Act Amendments of 1976 provides a hollow promise of relief to those States which are presently being and will in the future be impacted by development of our Outer Continental Shelf energy resources.

Mr. President, I urge the Senate to adopt this amendment to S. 521, thereby returning to the simple, fair and realistic impact assistance program this body has adopted twice previously.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 2217

SEC. 407. The Coastal Zone Management Act of October 27, 1972 (Public Law 92–538) is amended by redesignating sections 308 through 315 as sections 311 through 318, respectively; and by inserting immediately after section 307 the following:

"COASTAL ENERGY FACILITY IMPACT PROGRAM

"SEC. 308. (a) The Secretary of Commerce is authorized to make a grant to a coastal State, if he determines that such State's coastal zone has been, or is likely to be, impacted by the exploration for, or the development or production of, energy resources or by the location, construction, expansion, or operation of an energy facility. Such a grant shall be for the purpose of enabling such coastal State to study and plan for the economic, environmental, and social consequences which are likely to result in such coastal zone from exploration for and development or production of such energy resources or from the location, construction, expansion, or operation of such an energy facility. The amount of such a grant may equal up to 100 percent of the cost of such study and plan, to the extent of available funds.

"(b) The Secretary of Commerce is authorized to make a loan and/or a grant to a coastal State, if he determines, pursuant to subsections (d) and (e) of this section, that such State's coastal zone has been or is likely to be adversely impacted by exploration for or by development or production of energy resources or by the location, construction, expansion, or operation of an energy facility, if such adverse impact will result as a consequence of a license, lease, easement, or permit issued or granted by the Federal Government which permits—

"(1) the exploration for, or the drilling, mining, removal, or extraction of, energy resources;

"(2) the siting, location, construction, expansion, or operation of energy facilities by a lessee, licensee, or permittee; or

"(3) the siting, location, construction, expansion, or operation of energy facilities by or for the United States Government.

The proceeds of such a loan or grant shall be used for—

"(A) projects which are designed to reduce, ameliorate, or compensate for the net adverse impacts; and/or

"(B) projects which are designed to provide new or additional public facilities and public services which are made necessary, directly or indirectly, by the location, construction, expansion, or operation of such an energy facility or energy resource exploration, development or production.

The amount of such a loan or grant may equal up to 100 percent of the cost of such a project, to the extent of available funds.

"(c)(1) The Secretary of Commerce may make a grant to a coastal State for a purpose specified in subsection (b) of this section, if he determines that such State will suffer net adverse impacts in its coastal zone, as a result of exploration for, or development and production of, energy resources; as a result of the location, construction, expansion, or operation of an energy facility over the course of the projected or anticipated useful life of such energy facility; or as a result of exploration, development, or production activity.

"(2) The Secretary of Commerce may make a loan to a coastal State for a purpose specified in subsection (b) of this section, if the Secretary determines that such State will experience temporary adverse impacts as a result of exploration for, or development or production of, energy resources or as a result of the location, construction, expansion, or operation of an energy facility if such facility or such energy resource exploration, development or production is expected to produce net benefits for such State over the course of its projected or anticipated useful life. No such loan, including any renewal or extension of a loan, shall be made for a period exceeding 40 years. The Secretary of Commerce shall from time to time establish the interest rate or rates at which loans shall be made under this subsection, but such rate shall not exceed an annual percentage rate of 7 percent. The borrower shall pay such fees and other charges as the Secretary of Commerce may require. The Secretary of Commerce may waive repayment of all or any part of a loan made under this subsection, including interest, if the State involved demonstrates, to the satisfaction of the Secretary of Commerce, that due to a change in circumstances there are anticipated or resultant net adverse impacts over the life of an energy facility or energy resource exploration, development or production which would qualify the State for a grant pursuant to paragraph (1) of this subsection.

"(d) The Secretary of Commerce shall, by regulations promulgated in accordance with section 553 of title 5, United States Code, establish requirements for grant and loan eligibility pursuant to this section. Such requirements shall include criteria, which may include a formula, for calculating the amount of a grant or loan based upon the difference, to the State involved between the benefits and the costs which are attributable to the exploration for or development and production of energy resources or to the location, construction, expansion, or operation of an energy facility. Such criteria shall ensure that grants and loans under this section relating to impacts resulting from the exploration, development and production, and related energy facilities, shall receive first priority among competing applications. Such regulations shall provide that a State is eligible for a grant or loan upon a finding by the Secretary of Commerce that such State—

"(1) is receiving a program development grant under section 305 of the Coastal Zone Management Act of 1972 or is engaged in such program development in a manner consistent with the goals and objectives of this Act, as determined by the Secretary of Commerce, and is making satisfactory progress, as determined by the Secretary of Commerce, toward the development of a coastal zone management program, or that it has approved such program pursuant to section 306 of the Coastal Zone Management Act;

"(2) has demonstrated to the satisfaction of the Secretary of Commerce that it has suffered, or is likely to suffer, net adverse impacts, according to the criteria or formula promulgated by the Secretary of Commerce, and has provided all information required by the Secretary of Commerce to calculate the amount of the grant or loan; and

"(3) has demonstrated to the satisfaction of the Secretary of Commerce and has provided adequate assurances that the proceeds of such grant or loan will be used in a manner that will be consistent with the coastal zone management program being developed by it, or with its approved program, pursuant to section 305 or 306 of the Coastal Zone Management Act, respectively.

"(e) Within 180 days after approval of this Act, the Secretary of Commerce shall issue regulations prescribing criteria in accordance with this Act for determining the eligibility of a coastal State for grants pursuant to subsections (a), (b), and (c)(1) of this section, and regulations for determining the amount of such grant or loan, in accordance with the following provisions:

"(1) The regulations shall specify the means and criteria by which the Secretary of Commerce shall determine whether a State's coastal zone has been, or is likely to be, adversely impacted, as defined in this section, and the means and criteria by which "net adverse impact" and "temporary adverse impacts" will be determined.

"(2) Regulations for grants pursuant to subsection (a) of this section for studying and planning shall include appropriate criteria for the activities for which funds will be provided under such subsection, including a general range of activities for which a coastal State may request funds.

"(3) Regulations for grants and/or loans for projects pursuant to subsections (b) and (c) of this section shall specify criteria for determining—

"(A) the amounts which will be provided for such projects; and

"(B) guidelines and procedures for evaluating those projects which each coastal State considers to be most needed.

"(4) Regulations for loans shall provide for such security as the Secretary of Commerce deems necessary, if any, to protect the interests of the United States and for such terms and conditions as give assurance that such loans will be repaid within the time fixed.

"(5) In all cases, each recipient of financial assistance under this section shall keep such records as the Secretary of Commerce shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or *undertaking* in connection with which such assistance was given or used, and such other records as will facilitate an effective audit. The Secretary of Commerce and the Comptroller General of the United States, or any of their duly authorized representatives, shall until the expiration of 3 years after the completion of the project or undertaking involved (or repayment of a loan, in such cases) have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which, in the opinion of the Secretary of Commerce or the Comptroller General may be related or pertinent to any financial assistance received pursuant to this section.

"(6) In developing regulations under this section, the Secretary of Commerce shall consult with the appropriate Federal agencies, with representatives of appropriate State and local governments, commercial and industrial organizations, public and private groups, and any other appropriate organizations with knowledge or concerns regarding net adverse impacts that may be associated with the energy facilities affecting the coastal zone.

"(f) A coastal State may, for the purpose of carrying out the provisions of this section and with the approval of the Secretary of Commerce, allocate all or a portion of any grant or loan received under this section to (1) a local government; (2) an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966; (3) a regional agency; or (4) an interstate agency.

"(g) A coastal State which has experienced net adverse impacts in its coastal zone as a result of the development or production of energy resources or as a result of the location, construction, expansion, or operation of energy facilities prior to the date of enactment of this section is entitled to receive from the Secretary of Commerce grants or loans pursuant to subsections (a) and (b) of this section to the same extent as if such net adverse impacts were experienced after the date of enactment, and to the extent necessary to reduce or ameliorate or compensate for such net adverse impacts, within the limit of available funds. This subsection shall expire five years from the date of enactment of this section.

"(h) All funds allocated to the Secretary of Commerce for the purposes of this section, except those funds allocated to subsection (k), shall be deposited in a fund which shall be known as the Coastal Energy Facility Impact Fund. This fund shall be administered and used by the Secretary of Commerce as a revolving fund for carrying out such purposes. General expenses of administering this section may be charged to this fund. Moneys in this fund may be deposited in interest-bearing accounts or invested in bonds or other obligations which are guaranteed as to principal and interest by the United States.

"(i) In calculating the amount of a grant or loan, the Secretary of Commerce shall give adequate consideration to the recommendations of a Coastal Impacts Review Board. Such Board shall consist of two members designated by the Secretary of Commerce, one member designated by the Secretary of the Interior, and four members appointed by the President as designated by the National Governors' Conference. Such Board shall recommend the award of grants or loans upon a determination of net adverse impacts and following the procedures and criteria set forth in this section.

"(j) Nothing in this section shall be construed to modify or abrogate the consistency requirements of section 307 of the Coastal Zone Management Act.

"(k) The Secretary of Commerce shall, in addition to any financial assistance provided to, or available to, coastal States pursuant to any other subsection of this section, distribute grants annually in accordance with the provisions of this subsection. The moneys received under this subsection shall be expended by each State receiving such grants solely for the purpose of reducing or ameliorating adverse impacts resulting from the exploration for, or the development or production of, energy resources or resulting from the location, construction, expansion, or operation of a related energy family and/or for projects designed to provide new or additional public facilities and public services which are related to such exploration, development, production, location, construction, expansion, or operation, except that such grants shall initially be designated by each receiving State to retire State and local bonds if any, which are guaranteed under subsection (m) of this section: *Provided*, That, if the amount of such grants is insufficient to retire both State and local bonds, priority shall be given to retiring local bonds. Subject to the foregoing expenditure requirements, each coastal State shall be entitled to receive a grant under this subsection if such State is, on the first day of the fiscal year—

"(1) adjacent to Outer Continental Shelf lands on which oil or natural gas is being produced; or

"(2) permitting crude oil or natural gas to be landed in its coastal zone: *Provided*, That such crude oil or natural gas has been produced on adjacent Outer Continental Shelf lands of such State or on Outer Continental Shelf lands which are adjacent to another State and transported directly to such State. In the event that a State is landing oil or natural gas produced adjacent to another State, the landing State shall be eligible for grants under this subsection at a rate half as great as that to which it would be eligible in any given year if the oil were produced adjacent to the landing State. In the event that a State is adjacent to Outer Continental Shelf lands where oil or natural gas is produced, but such oil or natural gas is landed in another State, the adjacent State shall be eligible for grants under this subsection at a rate half as great as that to which it would be eligible in any given year if the oil or natural gas produced adjacent to that State were also landed in that State. Such States shall become eligible to receive such automatic grants in the first year that the amount of such oil or natural gas landed in the State or produced on Outer Continental Shelf lands adjacent to the State (as determined by the Secretary) exceeds a volume of one hundred thousand barrels per day of oil or an equivalent volume of natural gas. There shall be allocated for this purpose from the revenues derived from Outer Continental Shelf leases sufficient funds to provide such States with grants in the amount of 20 cents per barrel or its equivalent during the first year, 15 cents per barrel or its equivalent during the second year, 10 cents per barrel, or its equivalent during the third year, and 8 cents per barrel or its equivalent duing the fourth and all succeeding years during which oil or gas is landed in such a State or produced on Outer Continental Shelf lands adjacent to such a State: *Provided*, That (A) such funds shall not exceed $100,000,000 for the fiscal year ending June 30, 1976; $25,000,000 for the fiscal quarter ending September 30, 1976; $100,000,000 for the fiscal year ending September 30, 1977; and $100,000,000 for the fiscal year ending September 30, 1978; and (B) such funds shall be limited to payments for the first one and one-half million barrels of oil (or its gas equivalent) per day per State for the ten succeeding fiscal years. The amount of such grants to each such State in any given year shall be calculated on the basis of the previous year's volume of oil or natural gas landed in the State or produced adjacent to the State. For the purposes of this section, one barrel of crude oil equals six thousand cubic feet of natural gas.

"(l) There are hereby authorized to be allocated to the Coastal Energy Facility Impact Fund such revenues derived from Outer Continental Shelf leases not to exceed $200,000,000 for the fiscal year ending June 30, 1976, not to exceed $50,000,000 for the transitional fiscal quarter ending September 30, 1976, not to exceed $200,000,000 for the fiscal year ending September 30, 1977, and not to exceed $200,000,000 for the fiscal year ending September 30, 1978, as may be necessary, for grants and/or loans under this section, to remain available until expended. No more than 25 percent of the total amount appropriated to such fund for a particular fiscal year, not to exceed $50,000,000 per year, shall be used for the purposes set forth in subsection (a) of this section.

"(m) The Secretary of Commerce is authorized, subject to such terms and conditions as the Secretary prescribes, to make commitments to guarantee and to guarantee against loss of principal or interest the holders of bonds or other evidences of indebtedness issued by a State or local government to reduce, ameliorate, or compensate the adverse impacts in the coastal zone resulting from or likely to result from the exploration for, or the development of production of, energy resources of the Outer Continental Shelf.

"(n) The Secretary of Commerce shall prescribe and collect a guarantee fee in connection with guarantees made pursuant to this section. Such fees shall not exceed such amounts as the Secretary of Commerce estimates to be necessary to cover the administrative costs of carrying out the provisions of this section. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.

"(o)(1) Payments required to be made as a result of any guarantee pursuant to this section shall be made by the Secretary of the Treasury from funds hereby authorized to be allocated from the revenues derived from Outer Continental Shelf leases in such amounts as may be necessary for such purpose.

"(2) If there is a default by a State or local government in any payment of principal or interest due under a bond or other evidence of indebtedness guaranteed by the Secretary of Commerce pursuant to this section, any holder of such bond or other evidence of indebtedness may demand payment by the Secretary of Commerce of unpaid interest on and the unpaid principal of such obligation as they become due. The Secretary of the Treasury, upon investigation by the Secretary of Commerce, shall pay such amounts to such holders, unless the Secretary of Commerce finds that there was no default by the State or local government involved or that such default has been remedied. If the Secretary of Commerce makes a payment under this paragraph, the United States shall have a right of reimbursement against the State or local government involved for the amount of such payment plus interest at prevailing rates. Such right of reimbursement may be satisfied by the Secretary of Commerce by treating such amount as an offset against any revenues due or to become due to such State or local government under section 308(k) of this Act, and the Attorney General, upon the request of the Secretary of Commerce, shall take such action as is, in the Secretary's discretion, necessary to protect the interests of the United States, including the recovery of previously paid funds that were not applied as provided in this Act. However, if the funds accrued by or due to the State in automatic grants under section 308(k) of this Act are insufficient to reimburse the Federal Government in full for funds paid under this section to retire either the principal or interest on the defaulted bonds, the Secretary of Commerce's right of reimbursement shall be limited to the amount of such automatic grants accrued or due. Funds accrued in automatic grants under section 308(k) of this Act subsequent to default shall be applied by the Secretary of Commerce toward the reimbursement of the obligations assumed by the Federal Government.".

FEDERAL WATER POLLUTION CONTROL AUTHORIZATIONS—S. 3037

AMENDMENT NO. 2218

(Ordered to be printed and to lie on the table.)

Mr. TOWER. Mr. President, I am submitting today an amendment to the Federal Water Pollution Control Act which I feel is essential to implement a balanced program of wetlands protection, without the morass of Federal regulation which surrounds the present permit program of the Corps of Engineers.

The amendment, which will be offered to S. 3037, which is presently on the calendar, has the support of a number of cosponsors, from both sides of the aisle, and I want to say at the outset that I am grateful for their support on this issue.

From the date on which the Federal District Court for the District of Columbia ordered the Corps of Engineers to come up with a new permit system more compatible with the court's interpretation of the Federal Water Pollution Control Act, a great number of the Members of this body have been concerned over the implementation of that act.

Initially, some 25 Senators sponsored legislation to correct what they perceived as defects in the court's interpretation. This summer, 30 Senators wrote to President Ford requesting that phase II of the corps' regulations be postponed for enough time to allow the Senate to act on a House-passed measure, and to hopefully resolve the problems many of us see with the present law as interpreted by the courts.

In the House, Representative JIM WRIGHT of Texas offered an amendment designed to solve those problems, and his amendment was accepted by almost a 2-to-1 margin.

That amendment was a compromise between extreme positions taken by other Members of the House, and stands as a tribute to Mr. WRIGHT's perception and knowledge of the problem. The amendment which I offer today is identical to Mr. WRIGHT's language, and I am pleased to be able to introduce for the Senate's consideration this language.

Initially, it had been my thought, and that of a number of other Senators, that by simply, but precisely, defining the term "navigable waters," the issue of the act's interpretation could be solved. To the extent of insuring that the corps implements its mandate under the act in a manner consistent with its traditional role as a Federal agency, a redefinition is still the correct solution.

However, there remains a good deal more that must be done to alleviate the mess of redtape required by the corps' permit program.

After discussions with farmers, ranchers, foresters, water resource representatives, and land developers, it has become apparent that the corps must be able to grant general permits for those routine activities of minimal environmental impact, and that certain normal farm, ranch and forestry activities be excluded from regulation and permit requirement. Likewise, activities of maintenance of existing structures such as dams and causeways needs to be excluded from regulations in order to provide flexibility to those responsible for such maintenance.

The Tower-Wright amendment provides for these needs, and provides in addition critically needed protection for wetlands adjacent to navigable waters which would otherwise be without statutory protection.

For the first time, with the Tower-Wright amendment, wetlands will be specifically protected under the 404 program, with a clear congressional mandate which will insure their protection.

Additionally, the Wright amendment provided in the House, as does the Tower-Wright amendment in the Senate, for the corps to assume responsibility for those wetlands which are not adjacent to navigable waters, or otherwise within the corps jurisdiction, upon agreement between the Governor of a State and the corps.

This amendment provides further that for those States with active and responsible water pollution control agencies, the corps can delegate any of its wetlands protection duties, so long as the State program is adequate to provide the protection available from the corps.

In brief, this amendment allows the sharing of responsibility based on who can do the job best, and with the opportunity for the regulatory function to pass from Washington to the individual States at the discretion of the corps and the agreement of the States. Conversely, responsibility may flow to Washington in those cases where a State so decides.

The critical point to make, however, is that the jurisdictional limits of each level of Government—the Federal and the State—are clearly defined and understood. Decisions as to transfer of authority and responsibility can be made only with the consent of both the Federal and the State governments in a true sharing of regulatory power.

Mr. President, so that this amendment may be clearly understood by all my colleagues, I ask unanimous consent that a copy of my amendment and an abstract of its provisions be printed in the RECORD at the conclusion of my remarks.

Likewise, for the benefit of my colleagues, I would like the RECORD to show a copy of a list of those organizations, both private and public, which support my amendment. I must say, it is an impressive list of groups representing literally millions of Americans.

Those who support this amendment, which won such wide approval in the other body, share a concern that the authority of this Government, this Federal Government, has grown too large, and threatens to intrude into the private lives of citizens too much.

Those who support this amendment, from those who produce our food and fiber to those who build our homes and roads and cities, believe this is one time when we must say "stop" to the growth and expansion of government regulation and redtape.

This amendment, which was introduced and passed in the House by Mr. WRIGHT, and which I submit today, will address the concerns of the American people, and I would urge my colleagues to seriously consider it as the alternative to perpetuating a totally Federal regulatory system we now have.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 2218

On page 3, line 4, add a new section 4 as follows:

PERMITS FOR DREDGED OR FILL MATERIAL

SEC. 4. (a) Subsection (a) of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended by adding immediately after "navigable waters" the following: "and adjacent wetlands".

(b) Such section 404 is further amended by adding at the end thereof the following new subsections:

"(d)(1) The term 'navigable waters' as used in this section shall mean all waters which are presently used, or are susceptible to use in this natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high mark (mean higher high water mark on the west coast).

"(2) The term 'adjacent wetlands' as used in this section shall mean (A) those coastal wetlands, mudflats, swamps, marshes, shallows, and those areas periodically inundated by saline or brackish waters that are normally characterized by the prevalence of salt or brackish water vegetation capable of growth and reproduction, which are contiguous or adjacent to navigable waters subject to the ebb and flow of the tide, and (B) those freshwater wetlands including marshes, shallows, swamps, and similar areas that are contiguous or adjacent to other navigable waters, that support fresh water vegetation and that are periodically inundated and are normally characterized by the prevalence of vegetation that requires saturated soil conditions for growth and reproduction.

"(e) Except as provided in subsection (f) of this section, the discharge of dredged or fill material in waters other than navigable waters or adjacent wetlands is not prohibited by or otherwise subject to regulation under this Act, or section 9, section 10, or section 13 of the Act of March 3, 1899.

"(f) If the Secretary of the Army, acting through the Chief of Engineers, and the Governor of a State enter into a joint agreement that the discharge of dredged or fill material in waters other than navigable waters or adjacent wetlands of such State should be regulated because of the ecological and environmental importance of such waters, the Secretary, acting through the Chief of Engineers, may regulate such discharge pursuant to the provisions of this section. Any joint agreement entered into pursuant to this subsection may be revoked, in whole or in part, by the Governor of the State who entered into such joint agreement or, by the Secretary of the Army, acting through the Chief of Engineers.

"(g) In carrying out his function relating to the discharge of dredged or fill material under this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized to issue those general permits which he determines to be in the public interest.

"(h) The discharge of dredged or fill material—

"(1) from normal farming, silviculture, and ranching activities, including, but not limited to, plowing, terracing, cultivating, seeding, and harvesting for the production of food, fiber, and forest products;

"(2) for the purpose of maintenance of currently serviceable structures, including, but not limited to, dikes, dams, levees, groins riprap, breakwaters, causeways, and bridge abutments and approaches, and other transportation structures (including emergency reconstruction); or

"(3) for the purpose of construction or maintenance of farm or stock ponds and irrigation ditches, is not prohibited by or otherwise subject to regulation under this Act.

"(i) The discharge of dredged or fill material as part of the construction, alteration, or repair of a Federal or federally assisted project authorized by Congress is not prohibited by or otherwise subject to regulation under this Act if the effects of such discharge have been included in an environmental impact statement or environmental assessment for such project pursuant to the provisions of the National Environmental Policy Act of 1969 and such environmental impact statement or environmental assessment has been submitted to Congress in connection with the authorization or funding of such project.

"(j) The Secretary of the Army, acting through the Chief of Engineers, is authorized to delegate to a State upon its request all or any part of those functions vested in him by this section relating to the adjacent wetlands in that State if he determines (A) that such State has the authority, responsibility, and capability to carry out such functions, and (B) that such delegation is in the public interest. Any such delegation shall be subject to such terms and conditions as the Secretary deems necessary, including, but not limited to, suspension and revocation for cause of such a delegation."

"TOWER-WRIGHT" AMENDMENT ABSTRACT

1. The amendment adds Corps of Engineers jurisdiction over "adjacent wetlands" to the Federal Water Pollution Control Act.

2. It further adds new subsections d–j to Section 404 of the Act.

Sec. d defines navigable waters in the traditional sense, and as a result limits the Corps to its historical role and jurisdiction. Further, "adjacent wetlands" are defined.

Sec. e limits the regulation of dredging and filling activity in non-navigable waters except as provded in Sec. f below.

Sec. f provides that if the Governor of a state and the Secretary of the Army, acting through the Chief of Engineers, enter into an agreement, the Corps may assume regulatory authority over wetlands other than adjacent wetlands.

Sec. g authorizes the Chief of Engineers to issue general permits.

Sec. h provides that dredging and filling activity shall not be prohibited or otherwise regulated if the discharge emanates from:

Normal farming, ranching and forestry operations

Maintenance of currently serviceable structures such as dams, causeways, etc.

Construction and maintenance of farm stock ponds

Sec. i provides that a permit will not be required if the effects of dredge and fill discharges have been assessed in an environmental impact statement submitted to Congress in connection with the authorization for funding of the project (covers federal and federally assisted projects only)

Sec. j authorizes delegation by the Corps to the states of those functions vested in the Corps dealing with adjacent wetlands, provided the state has the authority, responsibility and capability to carry out those functions, and provided the delegation is in the public interest.

ORGANIZATIONS SUPPORTING THE "TOWER-WRIGHT AMENDMENT"

INDUSTRY AND USERS

1. American Concrete Paving Association.
2. American Farm Bureau Federation.
3. American Hotel and Motel Association.
4. American Institute of Steel Construction, Inc.
5. American Land Development Association.
6. American Mining Congress.
7. American National Cattlemen's Association.
8. American Paper Institute.
9. American Petroleum Institute.
10. American Pulpwood Association.
11. American Road Builders Association.
12. American Subcontractors Association.
13. Associated Builders and Contractors, Inc.
14. Associated Equipment Distributors.
15. Associated General Contractors of America, Inc.
16. Associated Landscape Contractors of America, Inc.
17. Building Owners and Managers Association International.
18. Ceilings and Interior Systems Contractors Association.
19. Concrete Reinforcing Steel Institute.
20. Council of Construction Employers, Inc.
21. Edison Electric Institute.
22. Georgia Kaolin Companies.
23. International Council of Shopping Centers.
24. Mechanical Contractors Association of America, Inc.
25. National Asphalt Pavement Association.
26. National Association of Electric Companies.
27. National Association of Home Builders.
28. National Association of Manufacturers.
29. National Association of Plumbing-Heating-Cooling Contractors.
30. National Association of Property Owners.
31. National Association of Realtors.
32. National Coal Association.
33. National Construction Industry Council.
34. National Contractors Association.
35. National Cotton Council
36. National Council of Erectors, Fabricators, and Riggers.
37. National Crushed Stone Association.
38. National Electrical Contractors Association.
39. National Environmental Development Association.
40. National Farmers Union.
41. National Forest Products Association.
42. National Grange.
43. National Parking Association.
44. National Peach Council.
45. National Realty Committee.
46. National Solid Wastes Management Association.
47. National Utility Contractors Association, Inc.
48. North Dakota Water Users Association.
49. Pacific Northwest Waterways Association.
50. Portland Cement Association.
51. Power and Communications Contractors.
52. Prestressed Concrete Institute.
53. Producer's Council, Inc.
54. Sheet Metal and Air Conditioning Contractors National Association.
55. Society of Industrial Realtors.
56. U.S. Chamber of Commerce.

LABOR

57. AFL-CIO, Building and Construction Trades Department.

LOCAL GOVERNMENT

58. High Plains Underground Water Conservation District No. 1.
59. Miami Conservation District.
60. National Association of Conservation Districts.
61. National Water Resources Association.
62. North Plains Water Conservation District No. 2.
63. River Authorities (Brazos, Guadalupe-Blanco, Lavaca-Navidad, Lower Colorado, Lower Neches Valley, Nueces, Sabine, San Antonio, and Trinity).
64. Southeast Colorado Water Conservation District.
65. Texas Water Conservation Association.
66. Texas Water Development Board.
67. Upper Colorado River Commission.

PROFESSIONAL

68. American Consulting Engineers Council.
69. American Institute of Architects.
70. American Society of Civil Engineers.
71. American Society of Landscape Architects.
72. National Society of Professional Engineers.
73. Society of American Registered Architects.
74. Water Resources Congress.

STATE GOVERNMENT

75. American Association of State Highway Transportation Officials.
76. Canal Authority of Florida.
77. Council of State Legislatures.
78. National Association of State Departments of Agriculture.
79. National Association of State Foresters.
80. National Governor's Conference.

MILITARY CONSTRUCTION AUTHORIZATIONS—H.R. 14846

AMENDMENT NO. 2219

(Ordered to be printed and referred to the Committee on Armed Services.)

Mr. MUSKIE. Mr. President, I submit an amendment to the military construction authorization, concerning the process of base realinements by the Department of Defense. Senators HATHAWAY, KENNEDY, MCGOVERN, ALLEN, MCINTYRE, CASE, SPARKMAN, EAGLETON, WILLIAMS and DURKIN have joined me in sponsoring this amendment. The Military Construction Authorization has been approved by the House and referred to the Senate Armed Services Committee. I am pleased that the committee will be reviewing the bill along with this amendment, which is designed to protect local communities from the devastating impact of sudden base realinement actions. President Ford vetoed an earlier version of the bill, but I am confident that the new language in the amendment provides guidance to local communities without interfering with the authority of the President. The amendment was carefully drafted with the assistance of Senator KENNEDY, Senator HATHAWAY and Senator MCGOVERN and many others including Senators who earlier supported President Ford's veto.

The amendment coordinates existing programs for base closures into a comprehensive process which should benefit all affected parties. The amendment brings together in a coherent manner activities which are already required by existing law and administrative directive in an effort to take the "wild card" element out of the existing system. What we propose is that local businessmen and local government officials should know as soon and as completely as possible the full meaning of a proposal for base closure or major realinement. They should know precisely what is proposed in order to evaluate the consequences and they should know what opportunities for positive adjustment are available. As it stands now the prospect of major economic loss associated with a base closure may hang over local people for months, during which the local businessman or town manager has no information and nowhere to turn for help.

The difficulties which many constituents face in attempting to respond to the proposal to cut back the force at Loring Air Force Base in Limestone, Maine, offer a good example of the need for this amendment. Maine people are frustrated and annoyed at what we might describe as a "presumption of administrative convenience." Federal bureaucrats seem to presume that Federal decisions and Federal priorities are by their nature more important than individual or local or even State problems and needs.

The unwillingness of the DOD and the President to make allowances for local economic adjustment problems and the language the President used to support his earlier veto illustrate the operation of the "presumption of administrative convenience" in favor of the Federal Government. Periods of review are described as arbitrary and unnecessary while the President claims the necessity, beyond any military emergency, to make changes, "if and when that becomes necessary."

Military departments are perhaps most accustomed to "the presumption of administrative convenience" because of the discipline and control so necessary in some of their affairs. This sort of discipline should not be allowed to spill over and taint their relations with community leaders and businessmen. Beyond the military, it is a phenomenon which infects every area of government and, I believe, is a major reason that people think the Federal Government is too big, and think at the same time that it should be doing more.

If I took this amendment to town officials and businessmen in Maine and asked whether the Federal Government should consult with community leaders regarding economic adjustment while approaching a decision to remove 250 or more civilians from the community, the response would be nearly unanimous support. I dare say any of my colleagues would encounter the same response. Yet, the generals over at the Pentagon claim that it is inconvenient for them and they will recommend a veto.

If we propose to restore confidence in the Federal system, we shall have to do more than eliminate waste and outdated programs. We shall have to be continually vigilant to assure that consideration of local problems is built into Federal programs and activities in every way possible. This amendment is a small step in that direction. I hope the President will help us take that step. I ask unanimous consent that the language of this draft provision be printed in the RECORD at this point.

There being no objection, the Amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 2219

SEC. 612. (a) Notwithstanding any other provision of law, no action may be taken prior to October 1, 1981, to effect or implement—

(1) the closure of any military installation;

(2) any reduction in the authorized level of civilian personnel at any military installation by more than one thousand civilian personnel or 50 per centum of the level of such personnel authorized as of March 1, 1976, or the end of the fiscal year immediately preceding the fiscal year in which the Secretary of Defense or the secretary of the military department concerned notifies the Congress that such installation is a candidate for closure or significant reduction, whichever occurs later; or

(3) any construction, conversion, or rehabilitation at any other military installation (whether or not such installation is a military installation as defined in subsection (b)) which will or may be required as a result of the relocation of civilian personnel to such other installation by reason of any closure or reduction to which this section applies;

unless—

(A) the Secretary of Defense or the Secretary of the military department concerned notifies the Congress in writing that such military installation is a candidate for closure or significant reduction; and then

(B) the Secretary of Defense or the secretary of the military department concerned complies with all terms, conditions and requirements of the National Environmental Policy Act, and then

(C) the Secretary of Defense or the secretary of the military department concerned submits to the Committees on Armed Services of the House of Representatives and the Senate his final decision to close or significantly reduce such installation and a detailed justification for his decision, together with the estimated fiscal, local economic, budgetary, environmental, strategic, and operational consequences of the proposed closure or reduction; and then

(D) a period of at least ninety days expires following the date on which the justification referred to in clause (C) has been submitted to such committees during which period the Secretary of Defense or the secretary of the military department concerned may take no irrevocable action to implement the decision.

(b)(1) upon announcement that any military installation is a candidate for closure or reduction as provided in subsection (a) (A) of this section, the Office of Economic Adjustment of the Department of Defense shall immediately begin consultation with the President's Economic Adjustment Committee and with other appropriate Federal agencies to determine what Federal programs may be available to assist communities that may be adversely affected by the proposed closure or reduction and to develop preliminary recommendations for—

(A) alternative productive uses of facilities which may become surplus to the needs of the Department of Defense if the military installation is closed or its operations are significantly curtailed; and

(B) alternative employment opportunities to replace those that will be lost if such installation is closed or its operations are significantly curtailed.

Such recommendations shall include proposed specific action which should be taken by agencies of the Federal Government to assist in avoiding economic hardship, and shall be submitted to the Committee on Armed Services of the House of Representatives and the Senate together with the justification required under subsection (a)(C) of this section.

(2) As soon as practical after any announcement is made under subsection (a) (A) of this section regarding closure or reduction, the Office of Economic Adjustment of the Department of Defense shall begin consultation with appropriate State and local officials, provide expert and technical assistance to such officials in the development and implementation of economic adjustment plans, and co-ordinate such plans with other Federal agencies.

(c) For purposes of this section, the term "military installation" means any camp, post, station, base, yard, or other facility under the authority of the Department of Defense—

(1) which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam; and

(2) at which not less than five hundred civilian personnel are authorized to be employed.

(d) For purposes of this section, the term "civilian personnel" means direct-hire permanent civilian employees of the Department of Defense.

(e) This section shall not apply to any closure or reduction if the President certifies to Congress that such closure or reduction was publicly announced prior to January 1, 1976.

On page 42, line 9, strike out "SEC. 612" and insert in lieu thereof "SEC. 613".

On page 42, line 17, strike out "SEC. 613" and insert in lieu thereof "SEC. 614".

On page 43, line 4, strike out "SEC. 614" and insert in lieu thereof "SEC. 615".

Mr. KENNEDY. Mr. President, I join my colleague Senator MUSKIE in recommending to the Armed Services Committee an amendment to the military construction authorization bill which establishes base realinement procedures.

The amendment consolidates practices now existing under law and administrative directive to assure an orderly decisionmaking process. It assures a process which the American people have a right to demand.

There are few Senators who can point to their own State where a greater number of reductions have occurred in military installations. The most destructive aspect of those actions was the failure to insure a full disclosure of the reasons for the action and the failure to permit the local communities adequate time or the necessary assistance to cope with those decisions.

This amendment, which replaces the provision that caused the veto of this bill, has been carefully drafted.

This amendment is an effort to meet the objectives of the original provisions of the vetoed measure while avoiding the pitfalls that prompted what I continue to believe was an unwarranted veto. However, recognizing the concern of many Senators, we have redrafted this amendment in a manner which meets the concerns expressed in the message from the President.

It does not infringe upon the prerogative of the President to decide on major base realinements. It does not significantly delay base closures or reductions. It does assure our constituents in areas affected by these base realinements that they will have a detailed justification of the action.

Those constituents have, and this Congress has, a right to know.

Specifically, what does this amendment provide? First, it requires that the Defense Department notify Congress when a military base is a candidate for closure or significant reduction. That is reasonable and fair.

Second, the amendment requires that the Defense Department comply with the Policy Act. That is not only reasonable, but it is now the law.

Third, the amendment requires that Congress be notified when a final decision is made by the Defense Department. That is reasonable and fair.

Fourth, the amendment requires that 90 days expire after the final decision is made, so that communities affected have some time to adjust. That is reasonable and fair.

And finally, the amendment requires that an existing structure within the Defense Department be used to plan and coordinate efforts toward economic adjustment. This provision does not make the Defense Department into a welfare agency. It simply requires that the Department provide vital information and technical assistance to local officials and other Federal agencies responsible for implementing economic adjustment programs. That, too, is both reasonable and fair.

Mr. President, the Commonwealth of Massachusetts has experienced firsthand the drastic consequences of ill-defined and erratic procedures in implementing base realinements.

The Commonwealth of Massachusetts has experienced firsthand the crippling economic consequences of inadequate leadtime and cooperation in preparing local communities to adjust to major base realinements and closures.

The people of the Commonwealth of Massachusetts have rightly demanded that I ask why.

And the people of Massachusetts have rightly demanded that I work to provide legislation to prevent this from happening again.

This amendment does not ask for much. At the very least, the people we represent are entitled to a rational and equitable explanation of Government decisions.

These provisions are not designed to cost the Federal Government money.

They are merely designed to adopt an open, adequate, and realistic approach to base realinements which would better serve the Nation.

EDUCATION AMENDMENTS OF 1976—S. 2657

AMENDMENT NO. 2220

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted an amendment intended to be proposed by him to the bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes.

AMENDMENT NO. 2222

(Ordered to be printed and to lie on the table.)

Mr. STONE submitted an amendment intended to be proposed by him to the bill (S. 2657), supra.

AMENDMENT NO. 2221

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON. Mr. President, I submit an amendment to S. 2657, and I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 2221

On page 322, between lines 6 and 7, insert the following new section:

AMENDMENT RELATING TO SEX DISCRIMINATION

SEC. 328. Section 901(a) of the Education Amendments of 1972 is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out "This" in paragraph (6) and inserting in lieu thereof "this";

(3) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon and the word "and"; and

(4) by adding at the end thereof the following new paragraph:

"(7) this section shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex."

On page 101 in the Table of Contents after item

"Sec. 327. Wayne Morse Chair of Law and Politics."

insert the following new item:

"Sec. 328. Amendment relating to sex discrimination.".

Mr. EAGLETON. Mr. President, this amendment seeks to deal with the Department of Health, Education, and Welfare's decision that schools may no longer sponsor father-son and mother-daughter events because they violate title IX of the Education Amendments of 1972.

I believe, and I feel sure that most of my colleagues would agree, that this was an absurd ruling. Enforcement of it is presently in abeyance, but I believe that the only sure remedy in this case is a legislative remedy.

The amendment I am offering would make absolutely clear that the provisions of title IX do not preclude school districts from sponsoring father-son and mother-daughter events, as long as the school provides opportunity for reasonably comparable activities for both sexes.

Mr. President, I would like to emphasize that this amendment is intended to cover the traditional father-son, mother-daughter activities which many schools now sponsor. I would further point out that the amendment would not allow grossly different activities and programs for father-son and mother-daughter events. If a school district sponsored a father-son football banquet, and the female students wished to hold an event for womens' sports, the school district would be obliged to sponsor a reasonably comparable event. It would not have to be identical, but it could not be grossly different.

On August 4, Senator FANNIN and 15 other Senators introduced an amendment, No. 2155, which also deals with this problem. However, Senator FANNIN's amendment simply exempts father-son, mother-daughter events from the provisions of title IX. This approach could allow school districts to restrict activities to males only, with no requirement that similar activities be provided for female students. I believe that the approach I have offered is far superior. It makes clear that HEW cannot restrict father-son, mother-daughter activities, while at the same time insuring that blatant sex discrimination is not perpetuated.

EXTENSION OF THE EXPORT ADMINISTRATION ACT—S. 3084

AMENDMENT NO. 2223

Mr. INOUYE submitted an amendment intended to be proposed by him to the bill (S. 3084) to extend the Export Administration Act of 1969, as amended.

AMENDMENT NO. 2224

(Ordered to be printed and to lie on the table.)

Mr. CHURCH. I am submitting an amendment to the Export Admininstration Act, S. 3084, that will require the Overseas Private Investment Corporation to terminate any insurance or reinsurance covering the foreign investment of an American firm that has offered, paid, or agreed to pay a bribe to a foreign government official or to influence the actions of a foreign government in connection with that investment.

I see no reason why the U.S. Government should be insuring the foreign investments of American companies against political risks such as expropriation by a foreign government if those companies willfully and knowingly jeopardize their own investments by corrupt practices.

A prime purpose of OPIC is to promote better commercial and political relations with developing countries. Bribery of foreign officials and illegal political payments are in direct contravention to those purposes. Such practices not only may destroy future business opportunities for American corporations, but can also do serious damage to U.S. foreign policy interests. By refusing to insure the investments of companies who indulge in such corrupt practices, we will make it clear that the U.S. Government does not support or condone those practices. And forcing the companies to bear the financial consequences of such actions may be the best way of discouraging them.

The House of Representatives has passed without opposition a bill containing the provisions that are in my amendment. The Senate, and specifically the Subcommittee on Multinational Corporations, has held extensive hearings on the political and commercial impact of the bribery of foreign governments by American corporations. The record is clear as to the widespread nature of these practices and the damage they do to our foreign relations. We know what the problem is; this amendment to the Export Administration Act provides at least a partial solution.

MOTION SUBMITTED FOR PRINTING

Mr. ALLEN submitted the following motion for printing:

Motion to concur in House Amendment to Senate Amendment to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, with an amendment.

I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8532, with an amendment as follows:

Strike Title III, that is,

On page 30, starting at the end of Section 4(b), strike all through Section 303(3) on page 35.

NOTICE OF HEARING

Mr. WILLIAMS. Mr. President, the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs will hold an additional day of hearings in connection with its study of the securities activities of commercial banks.

The hearing will be held on September 1, 1976, beginning at 10 a.m., in room 5302 of the Dirksen Senate Office Building.

NOTICE OF HEARING

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, September 1, 1976, at 9:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nomination: Harry W. Wellford, of Tennessee, to be U.S. circuit judge for the sixth circuit, vice William E. Miller, deceased.

Any person desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

The subcommittee consists of the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Nebraska (Mr. HRUSKA), and myself as chairman.

ADDITIONAL STATEMENTS

SEA OF RED INK

Mr. THURMOND. Mr. President, I remain convinced that one of the greatest causes of inflation is the unbridled Federal spending which has mushroomed in recent years.

Likewise, I feel that one of the greatest invasions into our personal freedoms is the uncontrolled growth of the Federal bureaucracy, with the attendant proliferation of regulations, paperwork, and Government control.

Mr. President, an editorial entitled, "Sea of Red Ink," appeared in the August 11, 1976, edition of the Anderson Independent, Anderson, S.C. This excellent editorial makes the point that we need to reduce Federal spending and eliminate unnecessary Government intervention in the business and private lives of our citizens.

I want to commend the editor of the Anderson Independent for the strong stand he has taken on this matter. I believe that this persuasive editorial merits the attention of my colleagues.

Mr. President, in order to share this timely and excellent editorial with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SEA OF RED INK

U.S. government growth is threatening to swamp the nation in a sea of red ink and to strangle it in bureaucratic red tape. This mixed metaphor may be overly simplistic economics, but in this combination Presidential election year and Bicentennial of our nation's birth it has never been more important for all of us to "see the red" and to support those public figures who stand for reduced government spending and the elimination of unnecessary government intervention into the ways we work and live:

The red ink is easy to document. In fiscal year 1967, the national debt was $341.3 billion. Because of a deficit every year except one since that time, the deficit total reached $544.1 billion in 1975 and is expected to reach $633.9 billion in 1976 and $719.5 billion in 1977. If citizens ran their household budgets the way Washington runs the federal budget, we would all go bankrupt.

Our country is being over-taxed, over-governed, over-regulated and over-whelmed. While the total number of employed people in the country dropped during 1975, federal, state and local payrolls rose by half a million persons. More than 60,000 federal workers are on the payrolls of regulatory agencies. There is no precise way to measure the regulatory burden on people and business, though it's estimated at over $60 billion a year.

A company that becomes inefficient and unwieldy soon corrects its mistakes or loses out to the competition. But inefficiency in government will go on unchecked until elected officials understand that we, the people, want a government that lives within its income and operates efficiently.

THE GENOCIDE CONVENTION AND CONSTITUTIONAL AUTHORITY

Mr. PROXMIRE. Mr. President, for over a quarter of a century the Genocide Convention has been in force among signatory nations. Despite support for ratification in this administration, in previous administrations, from various legal groups and prominent members of the bar, the United States has failed to ratify the treaty. Those in opposition to the treaty have raised various concerns over the years. While some of their concerns are legitimate, it has been my hope to dispel these fears and point out the necessity for ratification of this important document.

It has often been suggested that ratification would threaten the supremacy of the Constitution of the United States. Treatymaking power in our country is, of course, delegated to the President and Senate by article II, section 2, of our Constitution. These powers are limited, however, and may not usurp the authority of the Constitution as has been made evident in two separate Supreme Court decisions. Each decision has stipulated that no treaty may be considered binding if it conflicts with provisions of the Constitution.

Similarly, the statements of the New York State Bar Association Committee on International Law are further testimony of the compatibility of the Genocide Convention and the Constitution:

> No provision of any of these Conventions conflicts with express limitations in the Constitution of the United States. In fact, the conventions express limitations on the United States and the States which are already contained in our Constitution, and particularly in the Bill of Rights.

Mr. President, the legality of the conventions and the safety of constitutional authority are apparent. We should no longer hesitate to ratify the Genocide Convention and follow through on the commitment to basic human rights that our Founding Fathers made 200 years ago.

CZECHOSLOVAKIA: 8 YEARS OF OCCUPATION

Mr. SCHWEIKER. Mr. President, on Saturday, August 21, 1976, thousands of Americans of Czech and Slovak descent recalled the eighth anniversary of the Soviet invasion of Czechoslovakia. Seldom have the dangers of totalitarianism been so clearly demonstrated as on that tragic day of blatant aggression and complete disregard for the principles of international law. At a time when our foreign policy is under intense and much-needed scrutiny, it is appropriate and instructive to remember the many people still living under an oppressive government in Czechoslovakia and to rededicate ourselves to restoring human rights in Eastern Europe and throughout the world.

THE EFFECTS OF INFLATION ON FEDERAL EXPENDITURES

Mr. HUMPHREY. Mr. President, the Joint Economic Committee recently released an important report entitled, "The Effects of Inflation on Federal Expenditures." This detailed study, done at the request of Congressman RICHARD BOLLING, vice chairman of the Joint Economic Committee and chairman of its Fiscal Policy Subcommittee, was prepared by the Congressional Budget Office for use by the subcommittee. The study confirms some widely held beliefs about the effects of inflation on Federal expenditures, but it contradicts others.

As expected, the automatic reaction of Federal expenditures to inflation is smaller than the automatic reaction of Federal tax revenues to inflation. The study found that over 60 percent of all Federal expenditures increase explicitly with prices or implicitly through cost payments tied to the price level. As a result, a 1-percent increase in the price level—as measured by the CPI—automatically results in about a six-tenths of 1 percent increase in Federal expenditures.

Since almost all taxes are levied in current dollar terms and the personal income tax system is progressive, tax receipts rise faster than the rate of inflation. A 1-percent increase in the price level will bring about an automatic increase of approximately 1.2 percent in Federal tax revenues. These findings imply that there is an automatic tendency for the budget to move toward surplus during inflationary periods. This can create severe economic policy problems when inflation accompanies a slowdown in business activity as was the case in 1974.

An important conclusion of the study which has direct budget policy implications is the rejection of the belief that programs with no adjustment for inflation shrink in real terms as the price level rises. The study reports that from 1971 through 1975, spending on a large majority of these "nonindexed" programs has increased fast enough to leave their real size constant. This indicates that programs can be adjusted for inflation on a discretionary basis as well as automatically.

The table below summarizes the estimated inflation sensitivity of three types of Federal programs; automatically adjusted, semiautomatically adjusted, and unadjusted. "Inflation sensitivity" may be defined as the percent increase in the outlays caused by a 1-percent increase in prices. Two sets of estimates are given, one excluding and one including the inflation-induced capital gains on the public debt.

INFLATION SENSITIVITY OF FEDERAL EXPENDITURES, FISCAL YEAR 1976

	1975 outlays		Inflation sensitivity	
	Amount (billions)	Percent of total	Short run[1]	Long run[2]
Indexed programs	$89.7	27.6	1.04	1.04
Quasi-indexed programs:				
Capital gains excluded	113.6	35.0	1.22	3.67
Capital gains included			.85	1.00
Nonindexed programs	121.3	37.4	0	0
Total:				
Capital gains excluded	324.6	100.0	.71	1.57
Capital gains included			.58	.63

[1] 2 years.
[2] 3 or more years.

Mr. President, I ask unanimous consent that the study's summary be printed in the RECORD. Copies of the study are available either from the Congressional Budget Office or from the Joint Economic Committee.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

The level of federal expenditures is directly affected by the rate of inflation because cost-of-living escalator clauses are built into many entitlement programs and because cost increases for some other services automatically cause some other outlays to rise. Indirectly, the rate of inflation affects federal expenditures that are not explicitly adjusted for inflation in the current law, since either these expenditures must be increased to keep real outlays constant, or the real size of programs must be reduced as inflation erodes the purchasing power of fixed-dollar outlays.

Five-eighths of federal expenditures in fiscal year 1975 were for programs that are adjusted automatically for increases in the price level. Programs such as social security and federal employee retirement with explicit cost-of-living provisions represented 27.6 percent of total outlays, while programs that are adjusted on a cost basis (like medicare), or by less rigid indexation provisions (such as federal pay) make up an even larger share (35 percent) of federal expenditures. Apart from the effect of inflation on the rate of interest, the automatically adjusted part of expenditures is indexed on an approximately one-for-one basis; that is, a 1 percent increase in the price level induces an automatic 1 percent increase in these expenditures. Since these expenditures comprise about five-eighths of the total, a 1 percent increase in the price level induces about a 0.6 percent automatic increase in total federal expenditures.

This is not to say that the other three-eighths of the federal budget is necessarily eroded by inflation. Spending on a large majority of these "nonindexed" programs has increased fast enough to leave their real size constant. This indicates that programs can be adjusted for inflation on a discretionary basis as well as automatically. If these likely discretionary changes are included in the response of federal expenditures to inflation, then a 1 percent increase in the price level results in a 1 percent increase in current dollar federal expenditures.

The automatic response of expenditures to increases in the price level is less than the automatic response of tax receipts to these same increases. A 1 percent increase in the price level generates an automatic 0.6 percent increase in expenditures, but an automatic 1.2 percent increase in tax revenues. Thus inflation automatically reduces the federal deficit or increases the surplus, since automatic tax increases are not fully offset by automatic expenditure increases.

GOVERNMENT RETIREMENT BENEFITS

Mr. THURMOND. Mr. President, recently, one of South Carolina's most distinguished citizens, Phinizy Timmerman, wrote me concerning Government retirement benefits. Mr. Timmerman is one of South Carolina's most successful businessmen. He is the president and chief executive officer of the Graniteville Co. in Graniteville, S.C. He is also a member of the board of directors of 11 other corporations.

Mr. President, I believe that we, as Senators, would do well to listen to these words of warning which this very knowledgeable and experienced businessman has taken the time out of his busy schedule to write me. The matter which Mr. Timmerman addresses is one of the most critical facing our Nation today. If Congress does not take steps to insure the integrity of our Government's retirement funds, many who are now contributing to these funds will not receive benefits in the future.

Mr. President, I ask unanimous consent that the text of Mr. Timmerman's letter and an editorial from the Wall Street Journal, which he enclosed with his letter, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GRANITEVILLE CO.,
Graniteville, S.C., August 12, 1976.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR STROM: I enclose a copy of an article from a recent Wall Street Journal issue regarding government retirement benefits.

It certainly is disappointing to us to see Congress fail to take a position on pension reform at the federal level. I agree with this article that there is a drastic need for federal pension reform. We get awfully disappointed when we hear a lot of rhetoric and see little action taken on this subject.

It is also difficult for us to understand how we have two sets of guidelines—one, that federal employees can retire after 30 years' service at age 55, while in the private sector, normal retirement is at age 65. I wish we also could have indexing in our retirement plans, but we can't afford it.

I hope the new Congress will tackle this problem though I realize it will not be a popular one with the government employees, but those of us who work for the private sector feel this is an area that needs some prompt attention.

Federal salaries and benefits have risen so fast in the last few years that we in the private sector cannot compete with them except at the executive level.

We are having more and more controls and monitoring of our retirement benefits to see that they are actuarially sound and I am in full accord with this, but I think the same set of guidelines and funding principles should apply to federal pension programs as they do in the private sector.

Kindest regards,
Sincerely,
PHINIZY TIMMERMAN.

[From the Wall Street Journal, Aug. 10, 1976]

WASHINGTON'S GENEROUS PENSIONS

The House of Representatives last week failed to muster the two-thirds vote to expedite a bill to repeal the "kicker" that boosts federal pensions even faster than increases in the cost of living. The vote shows again how far Washington is from tackling real pension reform.

The "kicker" presumably will be repealed when the bill finally does come up through normal House procedures. The technicalities of the "kicker" are complicated, but if the Consumer Price Index goes up 3%, the pensions of retired federal workers must go up 4%. Since Congress approved this arrangement in 1969, the CPI has risen 52%, and benefits for approximately 2.5 million federal pensioners have risen almost 72%. The Congressional Budget Office estimates that elimination of the kicker would save $2.9 billion over four years.

We can think of no rational defense of this provision, yet until recently Congress had repeatedly failed even to get the repeal bill out of committee. Yet the "kicker" is only a tiny part of the total pension problem.

The biggest federal pension problem, as regular readers of these columns know, is the Social Security System, which has something like a $4 trillion actuarial deficit. But the same type of situation exists for Washington's direct employes. We're glad to see it getting some attention, most recently in an article in The New Republic, which placed the unfunded liabilities of federal employees' pension funds at $300 billion. It quotes the former chairman of the Presidential Commission on Executive, Legislative and Judicial Salaries as saying, "I think that the federal government's problems with pensions are as bad as New York City's—or worse."

The comparison with New York City is especially apt. The federal government is lavishing generous pension benefits on employes with the same disregard for fiscal integrity as did a succession of New York politicians. And just, as New York politicians brushed aside warnings that they were mortgaging the city's future, Congress and the Executive have turned a deaf ear to actuarial warnings that the federal pension system is headed for serious trouble. Apparently they feel, as did Gotham's politicians, that their successors can worry about the problem when they are safely out of office.

The problem essentially is that federal pension benefits are way out of line, by any realistic yardstick. Civil service employes with 30 years' service can retire at age 55 and proceed to draw full retirement benefits a full decade before their counterparts in private industry. Having been exempted from paying Social Security taxes that private employes typically pay, these retirees can then take jobs—as 40% of them do—that qualify them for Social Security benefits.

The pensions themselves are loaded with numerous special benefits like the "kicker." Consider disability. Private pension plans usually provide for disability requirement if the employe is unable to perform *any* job, the federal government permits disability retirement if the employe cannot perform his *current* job.

Consequently, notes The New Republic, a warehouse worker with a bad back can retire on disability rather than be transferred to a clerical job. It is not surprising, then, to learn that disability retirements in the civil service are approximately 50% higher than in most other systems. Robert Myers, former chief actuary of the Social Security System, describes it as "outrageous."

Yet what is even more outrageous than the disability ripoff is the failure of a supposedly reform-minded Congress to look for reforms everywhere but in its own back yard. It must share full blame with the Executive for taking the easy course of bowing to demands of federal employes today by creating a huge problem for the economy that their successors in public office will have to deal with tomorrow.

EMPLOYMENT AND UNEMPLOYMENT IN 1976

Mr. BELLMON. Mr. President, in the last 2 months, according to the best available figures, the unemployment rate increased from 7.3 percent in May to 7.5 percent in June and 7.8 percent in July. Unemployment is a situation which all of us abhor. We must reduce the social and economic wastes of unemployment.

The increases in the unemployment rate for the past 2 months are a source of concern, both for reasons of the social and economic costs they imply and because of the possibility that these increases are a precursor to further unemployment and recession. Because of the prominence of the unemployment rate in gaging the performance of the economy, it is of importance to investigate the factors underlying the behavior of the unemployment rate.

Mr. President, my comments concentrate on the behavior of the unemployment rate in the first 7 months of 1976. Underlying this behavior are two important, special factors. These are, respectively, the unprecedented growth of the labor force in 1976 and the seasonal adjustment procedure used by the Department of Labor.

The principal factor underlying the behavior of the unemployment rate was the unprecedented growth of the labor force in the first 7 months of 1976. The labor force has grown by 2.2 million persons, which is a 4.1 percent annual rate. On the basis of demographic considerations, the normal labor force growth is around 1.8 percent per year. Thus, the current expansion of the labor force is 128 percent greater than normal, that is, it is more than double the normal rate.

In the postwar era, the greatest absolute and percentage increases in the labor force occurred in 1972; 2.4 million persons entered, giving a growth rate of 2.9 percent. Through the first 7 months of 1976, 2.2 million persons have entered the labor force, giving an annual rate of growth of 4.1 percent.

In terms of employment so far this year, 2.6 million persons found jobs through July 1976. This is job creation at an annual employment rate of 5.1 percent. The highest previous rate of job creation was in 1973, when the rate of job creation was 3.3 percent and 2.7 million jobs were created.

These data are shown in the accompanying table.

Growth in labor force and employment

	Labor force		Employment	
	Number persons (million)	Annual rate (percent)	Number persons (million)	Annual rate (percent)
1972, year of greatest postwar labor force increase	2.4	2.9	2.6	3.3
1973, year of greatest postwar employment increase	2.2	2.5	2.7	3.3
7 months of 1976	2.2	4.1	2.6	5.1

Thus, although jobs are being created at a record pace, the high rate of entry into the labor force results in the unemployment rate not falling dramatically.

At present, there is no substantiated explanation for the dramatic increase in the labor force; there, however, is no shortage of hypotheses. But these hypotheses remain just that, namely, hypotheses for which there is no satisfactory documentation.

The principal group accounting for the unprecedented increase in both employment and the labor force is women, age 20 and over. Since December 1975, 1.2 million women, age 20 and over, entered the labor force and 1.2 million became employed. This translates into an annual rate of increase in the labor force of that group of 6.2 percent. The annual rate of job creation for that group is 6.8 percent.

The second factor influencing the behavior of the unemployment rate in 1976 is the seasonal adjustment procedure—census XII. New seasonal factors are estimated each January.

This seasonal adjustment procedure, which is applied to the raw employment and unemployment data in 1976, is influenced by the 1975 behavior of employment and unemployment. The very rapid increase in unemployment in the first 5 months of 1975 results in overstating the seasonal component for the early part of 1976, and correspondingly understating the seasonal component during the rest of the year. Thus, the unemployment rate tends to be understated in early 1976; and by the same token, the unemployment rate will be overstated the remainder of the year.

Mr. President, these dramatic increases in the labor force and, particularly in total employment are encouraging signs, ones which underscore the basic strength of the recovery.

AN OUTSTANDING CITIZEN

Mr. CHURCH. Mr. President, democracy always works best when informed citizens take an active role in the political process. Mercedes McCarter typifies the kind of concerned and dedicated citizen who makes democracy work. Her longstanding interest in current events and her exemplary enthusiasm for political affairs demonstrate a genuine concern for her community and country and a bold pioneer spirit of pursuing and realizing high ideals. This multitalented woman has given unstintingly of her time and energy to governmental and social endeavors. On July 29, 1976 the Gooding County Leader featured Mercedes McCarter in one of a series of articles about the women on Idaho's Camas Prairie. I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Gooding County (Idaho) Leader, July 29, 1976]

Camas Woman Has Political Lifestyle

(By Penelope Reedy).

Mercedes (Merdie) McCarter is one of the more active women on Camas Prairie. This year she was elected to attend, as a delegate, the 1976 Democratic Convention in New York City. Although she thought New York was terribly expensive, she found its people quite friendly and enjoyed her stay. Between sessions at the convention she found time to take in the Museum of Modern Art and the Circle Line boat tour around Manhattan as well as other sight-seeing.

In 1968 Merdie attended the Democratic Convention in Chicago as an alternate delegate. Her other political activities include serving as County Committee Woman for the Democratic Party and being elected to the State Party's Executive Board. She also worked as Eight County Coordinator for Senator Frank Church in his last Senatorial campaign.

Although her many political activities are very tiring and time consuming, she enjoys them very much.

Merdie was born in Weiser, Idaho. In fact, it happened that she was born in the same room as her father. As a child she lived in and around Portland, Oregon, spending summers on Camas Prairie with her aunt and uncle, Mr. and Mrs. Levard Hanson. She came permanently to the Prairie in 1958 when she married Joe McCarter, a local rancher who is also very active in State and National politics.

She loves country life—riding in the hills. "There's no telephone in the mountains, nothing to think about except the cows in front of you . . ." Merdie and her three children, Kate, Bill and Joan, take an active participation in the running of their ranch which is located near Corral, Idaho.

One of Merdie's most rewarding activities is her involvement in the 4-H program. She has been leader of the Camas County Livestock Club (Barnyard Brigade) for five years. Watching the kids grow and mature over the years gives her a special satisfaction.

Merdie has also served on the local Library Board which brought about the formation of a County Library, a project that has been greatly utilized and appreciated by the community. She was also on the original Board of Directors of the Camas County Historical Society.

Her other interests include playing the guitar, sewing and reading. She reads "everything from Agatha Christie to Solzhenitzen." She also reads history and historical novels.

Merdie and her husband, Joe, have done extensive remodeling on their home. They re-did the entire upstairs which included installing a bathroom. They carpeted and panelled their living room and remodelled the entire kitchen and dining area. Besides increasing the efficiency of space, the rooms have taken on a look of country charm and peace. The highlight of the dining area is a light fixture designed by Joe. It's made from metal and pieces of harness.

Merdie also enjoys group singing. At one time she was a member of a trio that sang at dances and other community functions.

About herself she says, "I'm not a gloom and doomer. I guess I'm an eternal optimist . . . there's lots to do if one can just find time to do it . . . no reason to be bored."

AUTOMATED CLEARINGHOUSES

Mr. TOWER. Mr. President, the July 26, 1976, issue of Payment Systems Action Report, a newsletter published by Payment Systems, Inc., contains a report on plans for a pilot interregional automated clearinghouse exchange, being developed by the National Automated Clearing House Association and the Federal Reserve. While I do not agree with all the viewpoints expressed in the article, I am bringing it to the attention of the Senate because it highlights some public policy questions which must be answered in the near future.

Electronic funds transfer systems are being developed rapidly across the country, and automated clearinghouses—ACH's—are an integral part of these systems. They have the potential for greatly increasing the efficiency of our Nation's payment systems, largely by reducing the use of checks and other paper items. ACH's are used for communications among financial institutions. For example, a corporation, after receiving its employee's permission, might make payroll disbursements by directing its bank to credit the accounts of the employees. The corporation's bank could then use an ACH to direct the financial institutions holding those accounts to credit them with the salary disbursements.

Alternatively, an insurance company, after receiving permission from its customers, might collect premium payments by directing its bank to debit the checking accounts of the customers. The bank could then use an ACH to direct the financial institutions holding the customers' accounts to debit those accounts.

The development of ACH's and other electronic funds transfer systems raises public policy questions such as the following: Should a given geographic area be served by only one system or should there be competing systems? Should all financial institutions have access to the new systems? What should be the role of the Government, or quasi-governmental bodies such as the Federal Reserve, in the development and/or operation of the new systems?

Mr. President, in order to alert the Senate to the emergence of these public policy questions, I ask that the July 26, 1976, issue of Payment Systems Action Report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NACHA/FEDERAL RESERVE SET PLANS FOR NATIONWIDE ACH "PILOT" EXCHANGE, ACTION EXPECTED TO STIR CONCERN AS IMPLICATIONS UNFOLD

Plans for a "pilot" inter-regional automated clearing house exchange, being developed quietly by the National Automated Clearing House Association (NACHA) and the Federal Reserve, is sparking concern in a number of quarters. At issue is whether a Fed-run switching network connecting ACHs across the nation ever would be dismantled once it has begun operating as a "pilot." An even more fundamental concern centers on the possibility that in the process of working out the functional operating requirements needed to move data from one ACH to another, the operating requirements themselves would end up prescribing major EFT policy.

At present, the NACHA-Fed plan calls for the central bank to operate a switching facility using the facilities of the Fed Wire to link ACHs on an experimental basis in six regions coast-to-coast—Atlanta, Boston, New Yorks, San Francisco, Cleveland and Dallas. As envisioned by the NACHA-Fed group, dubbed the Inter-regional ACH Exchange Task Force, the pilot would involve debits and credits generated by three or four nationwide corporations and originated on both the east and west coasts. A peak day volume of 20,000 items from each of the two geographic areas would be sought. Originally, the Federal Reserve Conference of First Vice Presidents had established implementation of the pilot by the end of 1976 as a Federal Reserve System objective; however, at a meeting of the task force earlier his month, it was recommended that start-up of the pilot ACH exchange be scheduled for the first quarter of 1977.

So far, the task force has carried on its negotiations privately, with no public disclosures. And, as bits and pieces of the plan have surfaced, motivations behind the proposal are being questioned by among others, bankers, the Administration's Office of Telecommunications Policy, the Privacy Protection Study Commission and even some senior Fed officials.

Major areas of concern cited are:

That operation by the Fed or any pilot switching mechanism will foreclose alternatives by the private sector as they become available.

That a Fed-run switch, once operational, would be difficult—if not impossible—to turn off.

That central policy issues would be molded to fit operational requirements, rather than operating procedures being determined by established policy.

That the so-called "pilot" ACH exchange network would prove to be the Fed's springboard into a full-blown nationwide money switch.

NACHA officials contend that the project truly is being structured as a pilot to iron our operational difficulties involved in the inter-regional exchange of ACH items, and they suggest that the issue has been blown out of proportion. At the same time, they concede that failure to disclose details of the evolving project may have led to the rising currents of concern.

Thomas K. McKnight, assistant general counsel of the White House Office of Telecommunications Policy, expressed grave concern that the "government appears to be moving forward without regard to the concerns of the private sector."

Declared Mr. McKnight: "Given the sensitivity of the project, for the Fed to scurry off and create a 'pilot' project without telling anyone or seeking advice leaves one with a single conclusion. It evidences a prominent effort by forces within the Fed to bring the central bank precipitously into a full-scale operational role in some major part of EFT."

American Bankers Association director of payments system policy Francis P. Curran insists that the inter-regional ACH exchange project is "in the early planning stages" and that those projecting grave concerns about a potential Fed takeover are "misinterpreting what is happening." Says Mr. Curran: "They are confusing plain vanilla ACH operations with something else."

In fact, according to the ABA staff official, the idea for an ACH exchange pilot project was conceived by NACHA, and the Fed was "reluctant to cooperate." He pointed out that the reason for the formation of NACHA was to facilitate the inter-regional exchange of data among automated clearing houses.

NACHA president H. L. (Ted) Baynes argues that operation of the pilot switching mechanism does not foreclose other alternatives. Indeed, he views the Fed's role (since it now operates all of the existing ACHs with the exception of those in New York and Chicago) as the "logical next step."

States Mr. Baynes, senior vice president of United Virginia Bankshares, Inc., Richmond: "My reaction is a splendid so what! It makes sense to have the Fed run the ACH exchange."

His reasoning suggests that the Federal Reserve, as fiscal agent for the U.S. Treasury Department, already runs a Congressionally-mandated ACH to make government payments. On this basis, an inter-regional ACH pilot could be justified on its own and would be fully legitimate. NACHA, though, asked the Fed to participate, says Mr. Baynes, and as such, he sees the Fed's action as a "show of good faith."

Other bankers, including some from New York's large institutions, oppose the Fed's involvement and warn that what is being billed as a "pilot" easily could be turned into a full-scale implementation plan to use the Fed Wire as the vehicle for inter-regional ACH exchange.

But, counters another: "It is endemic to New York and Chicago banks that anything the Fed does is wrong. For some of us other banks, somewhat smaller than those institutions, the Fed is needed for some services."

The argument also is lodged that the Fed's running of an ACH switch will preempt any similar service offering from the privately-managed Bank Wire II. Those favoring the Fed's involvement, on the other hand, contend that for all practical purposes, the reconstituted Bank Wire II will not be operating until the latter part of 1977. (The pilot ACH exchange, as planned now, would be well on its way by that time.)

Another concern is that the pilot ACH switch will be operated by the Fed on a cost-free basis to the various ACHs.

Although the ABA's Mr. Curran says that to his knowledge, no discussions about pricing and cost have been held, several Fed officials close to the project say the pilot would be run free to participants.

And Federal Reserve officers admit privately that in all probability, once an ACH switching system is put in place, it would not be taken down.

PROJECT OUTLINE

According to a preliminary project outline, the inter-regional ACH exchange pilot task force set the following working objectives:

Identify and/or validate all known problems associated with the exchange of inter-regional transactions in a commercial ACH environment.

Identify and document policy-related considerations for input to the Subcommittee on Electronic Payments.

Evaluate alternatives for, and make a recommendation of, a nationwide interregional ACH exchange schedule.

Conduct a pilot exchange of commercial ACH items between several Federal Reserve offices, including at least one branch office, with the active participation of the commercial sector.

Evaluate the impact of inter-regional ACH activity on Federal Reserve operations in terms of computer, communications and personnel resources.

Provide an interface between the Federal Reserve and NACHA for the coordination of inter-regional ACH exchange developmental efforts.

Identify and document enhancements to the ACH software which would facilitate inter-regional ACH exchange.

As mentioned above, it is planned that six Federal Reserve districts will participate in the pilot exchange (Boston, New York, Cleveland, Atlanta, Dallas and San Francisco). The project task force roughly includes, in addition to Federal Reserve representatives from these districts, two representatives of NACHA, a representative of the Fed Subcommittee on Communications, and a representative of the Board of Governors. Participation by these six ACHs is contingent upon final approval by each of the respective automated clearing house groups. Leading the pilot project task force is George Budd, assistant vice president of the Federal Reserve Bank of Atlanta.

The ACH movement in this country, slow to get started, now has become an entity to be contended with. As recently as early 1975, there were only four ACHs operating, and according to NACHA's latest tabulation, 27 ACHs are listed as members of the group and 23 of them are operational at this time.

These operating facilities are processing a combined volume of approximately 1 million debits and credits per month and by 1980, ACH volume is expected to approach 350 million transactions annually.

In addition, according to NACHA's expectations, by the end of this year, 90% of the nation will have the capacity of being served by operational ACH facilities.

Heading the list of the task's priorities has been to determine a pilot inter-regional ACH exchange schedule—specifically to develop a schedule which at the least establishes a deadline for delivery of items to a receiving ACH, the time frames for communication of original and remake files, as well as the timing of settlement functions.

LEGAL BASIS FOR PILOT

Because "live" payments are planned to be interchanged during the pilot, warranties must be established between the participating ACHs. NACHA has drafted a set of applicable rules, and approval for these will be sought from the Fed's Subcommittee on Electronic Payments at its August meeting. In addition, the Board has suggested issuing a staff letter to cover Federal Reserve actions during the pilot.

Earlier this year, NACHA adopted the preliminary rules governing inter-regional exchange of ACH entries, and the rules are scheduled to become effective in January, 1977. At the same time, successor ACH software is expected to be installed and in use on a national basis.

Among key provisions of the rules are the following:

A zero-dollar amount prenotification entry requirement by companies on all debit entries. For credit entries, prenotification will be required only at the time of initial conversion by a company, with the decision of whether to initiate prenotification for subsequent credit entries left to the discretion of the originating company.

Participating companies are required to notify customers at least seven days in advance before initiating debit entries that are different in date or amount from the preceding debit entry.

Customers are allowed to receive immediate re-crediting for erroneous debits up to 45 days after the entry is posed.

As noted in the task force's preliminary plans, the important volume estimates are those of total peak day pilot volume and the volume at the ACH which has the most total items set and received on the peak day. Such figures are difficult to estimate, because the corporate participants in the pilot have not been determined yet.

But, based on preliminary discussions with ACHs, the following estimates have been considered reasonable:

Total peak day pilot volume: 20,000 items.

Peak day high volume link New York-San Francisco: 6,000 items.

Highest single send and receive point: New York with 12,000 items.

According to the task force, it has been acknowledged that the pilot exchange will utilize the Federal Reserve Communication System Bulk Data capability for transmitting payment files between ACH sites.

The behind-the-scenes planning by NACHA and the Fed for an inter-regional ACH exchange "pilot" raises numerous other questions, among which is "if the program is, indeed, a pilot, why has a pre-determined cut-off date not been established?" A suggestion to this effect was brought up at the July meeting of the task force, but no termination date was set.

Moreover, the project is being undertaken without the Fed having issued its final amendments to Regulation J and without having published a much sought-after pricing policy.

There also is the question of accountability. The ACHs run by the Fed at this time are not subject to outside auditors.

Not the least of the questions surrounding the behind-the-scenes planning is why has it been handled "behind-the-scenes?" As often has been the case in the past, on this issue too, the Fed apparently has sought to maintain a zero profile.

Its efforts, though, in this regard, have failed. From some interested party, the Office of Telecommunications Policy learned of the plans for the pilot ACH exchange and has become especially curious about the role of the Fed in the endeavor. OTP's concerns are characterized as "exaggerated" and "out of proportion" by those involved with the ACH exchange pilot.

Are such concerns exaggerated? Time will tell. But OTP is not alone in its concern over the expanding role of the Fed and other governmental agencies in EFT developments. Among the regular Fed-watchers are the National Commission on Electronic Fund Transfers, the Department of Justice and the United States Congress.

Banks, their ACHs and the Fed may prefer to keep their planning sessions private, but when such efforts have national significance and involve major questions of public policy, it would seem wise for them to take the wraps off their deliberations on their own accord. Perhaps in such a manner, the participants could avoid what they describe as "exaggerations" and "gross misunderstandings" of their pilot plans.

THE GROWING PROBLEM OF PRODUCT LIABILITY

Mr. CULVER. Mr. President, the large number of claims and the high costs of settlements make adequate product liability insurance an absolute necessity for manufacturers. At the same time, spiraling premium costs make this insurance a luxury which numerous firms can ill afford. In the resulting squeeze many companies cannot find insurance at all while others have been forced to close their doors entirely. This problem is particularly acute for small businesses, especially those whose products have a long lifespan. And all indications are that the situation is deteriorating.

A practical solution to the problem of product liability insurance would be of benefit to far more than the firms immediately involved. It could produce lower prices for consumers who indirectly bear the costs of high insurance rates, greater equity in a compensation system which is all too often neither efficient nor fair, progress in our continuing effort toward safety in product design, as well as a sounder national economic structure.

I look forward to hearings by the Small Business Committee, one of which I will chair on September 10, which will examine the subject of product liability insurance. I am hopeful that these hearings will lead to a realistic and meaningful response to this complex problem.

In order to alert my colleagues to the nature and extent of this problem, I ask unanimous consent that recent reports on product liability insurance in business week and U.S. News & World Report be printed in the RECORD.

There being no objection, the reports were ordered to be printed in the RECORD, as follows:

INFLATION IN PRODUCT LIABILITY

Nissen Corp. Treasurer James M. Rogers recently received a startling quotation for a product liability insurance policy: For an annual premium of $400,000, the Cedar Rapids (Iowa) manufacturer of gym equipment could have $300,000 worth of protection.

In Worcester, Mass., Rice-Barton Corp., manufacturers of papermaking and textile machinery since 1837, has a different problem. It was notified a few months ago of claims by users of two of its presses for damages arising out of industrial accidents. One of the presses was built in 1895, the other in 1897. "We have no records going that far back, and these presses have probably been resold and modified many times. But we still may be liable," says Rice-Barton President Winship B. Moody.

The seemingly absurd insurance bid quoted to Nissen obviously is a consequence of the kind of problem Rice-Barton faces. These are stark examples of what more and more manufacturers see as a rapidly billowing crisis in product liability law. On the heels of a Commerce Dept. study released in April and concluding that the crisis is as great as that in the medical malpractice area, Commerce Secretary Elliot L. Richardson this week announced creation of a government task force to find remedies. Premiums for machine tool markers are estimated to have shot up more than 700% since 1968, more than 10 times the inflation rate. As a result, many manufacturers are being forced to self-insure.

COMPENSATION LAWS

One such company is Safeguard Manufacturing Co., of Woodbury, Conn., a maker of industrial safety equipment. Six years ago, Safeguard paid $1,200 in annual premiums. By 1974, the cost had risen to $37,000, and during that time the company was dropped in turn by five insurers. The best offer it has been able to get recently is $180,000 for a one-year policy, which the 14-person company with $500,000 in annual sales cannot support. Now, says President E. W. Plumb, "I'm self-insuring and praying a lot."

There is good reason to pray. Since 1970 Safeguard has had to pay $750,000 in judgments or settlements. The lowest claim was for $250,000. And right now, Safeguard is defending a $4 million claim that goes to the heart of the problem for industrial manufacturers. With increasing frequency, they are being held responsible for somebody else's mistakes.

PREMIUMS LEAPED 700 PERCENT SINCE 1968 FOR THE MACHINE TOOL MAKERS

The suit was brought by an employee who lost a hand in a 3-in. stroke press that was equipped with a Safeguard device that had been sold to the employer for use on a much larger press. The device is supposed to pull the operator's hand free from the machinery, but it failed to do so because the employer disregarded Safeguard's clear instructions on how to adjust the device for the smaller press, says Plumb. Nevertheless, the suit is directed against the manufacturers, not the employer.

That is because workmen's compensation laws prohibit employees from filing suit against negligent employers. First enacted in 1910, workmen's compensation—the earliest form of no-fault insurance—was intended to cut off the right to sue in return for immediate recompense to injured workers, regardless of who caused the accident. But the state statutes all place a ceiling on the amount that can be recovered, and those ceilings have not kept pace with inflation. In Massachusetts, for example, the loss of a hand is valued at $5,250. By contrast, a federal employee who loses a hand receives $126,692 under the Federal Employees Compensation Act.

With such low limits, employers have little economic incentive to hold down the accident rate by maintaining industrial equipment in top shape. Dr. Alvin S. Weinstein, professor of mechanical engineering and public affairs at Carnegie-Mellon University and principal investigator for a National Science Foundation study of technology and law, concludes that "workmen's compensation laws are a license for poor workplace practices."

EMPLOYERS' SHIELD

In the early 1960s, the courts found a way to get around the rigidities of the law—from the employee's perspective. In state after state, workers were permitted to sue manufacturers of the equipment causing the accidents. But with few exceptions, the courts have refused to permit manufacturers to countersue employers who negligently keep the equipment in poor condition. The courts consider workmen's compensation law as an absolute shield, barring suits against employers—either by employees or by anyone else.

But the law in many states practically guarantees that manufacturers of the equip*ment* will be sued. The workmen's compensation insurance carrier may sue the manufacturer in the name of the injured worker to recoup the insurance loss, no matter how the employer contributed to the injury.

Against this backdrop, manufacturers in a number of industries are beginning to lobby for new laws. E. H. Rosenberg, president of Thomson National Press Co., of Franklin, Mass., and founder of Retort Inc., a national lobbying organization, says the basic push is to make workmen's compensation law once again the sole remedy for injured workers. The labor subcommittee of the Senate Labor & Public Welfare Committee is drafting such an amendment to a pending workers' (changed from "workmen's" as a bow to women's lib) compensation bill. The bill itself would set federal minimum standards for various disability benefits. Another proposal would permit manufacturers to sue employers who violate Occupational Safety & Health Administration regulations. Although there is now enough support to ensure that some product liability provision will be written in, the bill itself is given little chance this year.

THE URGE TO SUE—GROWING HAZARD FOR BUSINESS

Lawsuits involving product safety are hitting more and more companies. Result: skyrocketing insurance costs, passed along in higher prices.

The near breakdown of the Government's plan to inoculate millions of Americans against a possible epidemic of swine flu underscores one of the fastest-growing problems facing industry—product liability.

That problem centers on a swelling tide of suits charging companies with making and selling faulty products that cause injuries or death to users.

"The issue is becoming as acute as the rash of malpractice suits besetting the medical profession," says an insurance executive.

So serious in the problem that some small companies have been forced out of business and others are being brought to the verge of bankruptcy.

Most concerns carry insurance against such suits. But in an increasing number of cases, such insurance is becoming prohibitively expensive or is being canceled because, insurers say, they are losing money.

In the case of swine-flu vaccine, insurance companies writing policies for drug manufacturers had feared a rash of unwarranted claims from people who may insist that they were harmed by the vaccine. A law passed by Congress on August 10 makes the Government responsible in any suits arising from the flu-immunization program.

RIPPLE EFFECT

Officials in Washington are getting stirred up as the liability problem spreads in many directions.

The Commerce Department has done an inch-thick study which notes that the average loss per claim in product-liability cases rose by 686 per cent over a recent eight-year period while the consumer price index went up by 60 per cent. Cost of defending suits now takes about 30 cents of each dollar of liability insurance written.

The White House summoned officials of several key industries to a product-liability conference earlier this year. Proposals for trying to cut down the number of suits were discussed, but no decisions were reached.

The Senate Small Business Committee has scheduled hearings September 8 and 10 on the difficulties small companies face in getting insurance. Says Senator John A. Durkin (Dem.), of New Hampshire: "The day may come when product liability will make medical malpractice seem like a small headache."

As recently as two decades ago, only a few product-liability suits were filed each year. By 1965, the annual total had reached 50,000. A few years later, it had soared to half a million. Now, according to industry estimates, the number is running at the rate of 1.5 million a year.

Why the surge?

"It's part of a changing way of life in America," says one legal authority. "In the past, people would settle for whatever a company's insurance provided. Now, they're impelled by a sort of 'sue syndrome' to try for a financial windfall through litigation."

Some insurance experts contend that the contingency-fee system pushes attorneys into urging clients to sue.

Then, too, courts in many States are taking a broader view of what a manufacturer can be held responsible for if a product becomes defective—perhaps at a time far distant from when it was originally shipped and installed in good working order.

The problem is posing a special threat to companies in some 20 key industries, according to the staff study made by the Commerce Department. Hardest hit are concerns making machinery, chemicals, toys, drugs, paints, sporting goods and health equipment.

Insurance bills of many companies are reaching prohibitive levels. A survey of 11 machine-tool concerns showed that their combined insurance premiums soared from $274,000 in 1968 to $1,980,000 in 1975.

A Minnesota machinery company with annual sales of 2 million dollars went out of business when its liability-insurance premium rose from $2,000 in 1970 to $200,000 last year.

Insurers say they are being forced to increase premiums because of skyrocketing settlements and jury awards. The casualty-and-liability-insurance industry suffered the worst underwriting losses in 1975 of any year on record. Some insurers now are simply refusing to write product-liability policies.

Says Frederick D. Watkins, president of Aetna Insurance Company: "The idea has taken hold that whenever someone suffers an injury, he or she is entitled to a large recovery, regardless of negligence or liability or, in fact, the ability of our economic system to absorb such costs—which it eventually must do."

Claims, settlements and judgments have reached staggering proportions.

A jury in South Carolina returned a verdict of $780,000 against an automobile maker and another defendant on a claim that the manufacturer was negligent in not adequately guarding the gear shift on one of its models.

A manufacturer of T shirts settled for $140,000 a claim involving burns on the chest and arms of an 11-year old boy; the T shirt ignited when the boy came in contact with a power line atop a pole that he had climbed without permission. Although the shirt manufacturer had complied with all federal rules under the Flammable Fabrics Act, the plaintiff contended the shirt was "dangerously flammable."

In Westchester County, N.Y., a jury awarded 1.2 million dollars to a 34-year-old woman who had been injured by a drug—the largest personal-injury award ever incurred in a jury case for injury not involving death.

More and more companies of all sizes are complaining that they are being sued for allegedly faulty machinery that may have been resold several times and modified or completely rebuilt since the day the product left the original manufacturer.

For instance, a machine manufacturer in the Northeast recently was slapped with damage claims on two of its products. One was made in 1895, the other in 1897. The company has virtually no production records on the machines, yet it is being held liable for injuries to employes of the present users.

An employe of one company lost his hand when a device that was supposed to protect him from injury failed to operate properly. The reason: His employer was using the safety device on the wrong-size machine, despite instructions from the manufacturer not to do so. The injured employe is suing the manufacturer—not his employer—charging that the device was faulty. At stake is a claim of 4 million dollars.

Says James A. Gray, executive vice president of the National Machine Tool Builders' Association:

"According to our members' records, 1 out of every 7 lawsuits involves a machine that is 40 years old And 1 out of every 4 involves a machine that is 30 years old. Almost all involve machines more than 20 years old. Many of them have been sold, resold, junked, resurrected from the junkyard and placed in operation in the plant of the employer of the person unfortunate enough to get permanently maimed."

DEFENSIVE EFFORTS

The Commerce Department study notes that various steps have been taken by manufacturers to try to reduce their exposure to suits and to transfer the added costs onto the prices of their products. These steps include product redesign and testing, recall and fitting of safety equipment on goods already sold, increased emphasis on safety engineering, and more-modest advertising claims.

There also are indications that some big companies are slowing up the pace of new-product development while they make sure that the innovations they plan to market have no potential product-liability problems.

A report by William H. Wallace, president of the Defense Research Institute—a trial lawyers' organization—says:

"Every company should consider establishing a design-review committee that will review all new products prior to marketing and re-evaluate older designs in light of the changing product-liability climate."

Following his department's study, Commerce Secretary Elliot L. Richardson announced the formation of an interagency task force to consult with members of the insurance business, legal experts and those manufacturing industries most seriously hit by the liability problem.

Recommendations from this group are not expected before early 1977. In the meantime, it appears that the growing urge to sue in the product-liability area will bring continued headaches for thousands of manufacturers—and higher prices for millions of consumers to offset the higher costs.

GODSPEED, GOVERNOR AND MRS. REAGAN

Mr. LAXALT. Mr. President, no matter what your political leanings I think it is widely acknowledged that following the Republican Convention just concluded in Kansas City, Kans., Gov. Ronald Reagan and his wife Nancy presented a picture of dignity and graciousness to the American people. This magnificent couple set an example which showed all that our democratic political system functions because, on the whole, it inspires the best within us.

This theme is captured eloquently and sensitively in a poem by Miss Mattie Richards Tyler a poet-editor of Washington. She is an award winning poet with a long history of published works. I commend her poem, "Godspeed, Governor and Mrs. Reagan," to my colleagues, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

GODSPEED, GOVERNOR AND MRS. REAGAN

(By Mattie Richards Tyler)

(As the Curtain Goes Down on the Republican Convention August 19, 1976)

The Convention is over, the vote has been taken—
Leaving the Delegates elated or shaken!
The Governor and his Lady met the grueling test,
In their 'finest hour' they gave their best.
His quest for President carried him far—
And he almost grasped his chosen star.
Many wondered what had really gone wrong—
As he stood addressing the tumultuous throng.
For here was a man, dynamic and gifted,
Whose eloquent language inspired and uplifted;
Here was a Governor (of California's great state)
Admired by millions . . . with defeat in his fate.
He spoke of his love for his native land,
Of faith in the system our forefathers planned,
Of the need for unity in every section—
And he showed no bitterness at his rejection.
Tears dimmed eyes, compassion touched hearts,
As the Reagans performed their difficult parts.
Her smile was a banner of strength unfurled,
His beautiful voice swept our listening world.
As Presidents come and Presidents go,
Politics take a strange course we know;
But those who heard Governor Reagan tonight
Were aware of a great man carrying the light.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

NATIONAL FOREST MANAGEMENT ACT OF 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 3091, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 3091) to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476) and the Act of June 4, 1897 (30 Stat. 35).

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Time for debate on this bill is limited to 2 hours, to be equally divided and controlled by the majority and minority leaders or their designees, with 1 hour on any amendment in the first degree and 20 minutes on any amendment in the second degree, debatable motion, appeal, or point of order.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that no time be taken out of the limited time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that Mr. George Dunlop of my staff, have the privilege of the floor, including any votes thereon, during consideration of S. 3091.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METCALF. Mr. President, I ask unanimous consent that Mike Harvey, Steve Quarles, Dan Dreyfus, Fred Craft, and Ted Orf, of the staff of the Committee on Interior and Insular Affairs, have the privilege of the floor during the consideration of and voting on S. 3091.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that Kit Caples, of my staff, have the privilege of the floor during the consideration of and voting on S. 3091.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

Mr. METCALF. With the time not to be charged to either side?

The PRESIDING OFFICER. Without the time to be charged to either side.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending bill is S. 3091.

Mr. HUMPHREY. I thank the Chair.

Mr. President, I yield to the Senator from Vermont.

Mr. LEAHY. I thank the Senator from Minnesota.

Mr. President, I ask unanimous consent that Miss Mary Sullivan and Mr. Leo O'Brien of my office be granted the privilege of the floor during consideration and votes on the National Forest Management Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that Mr. Robert E. Wolf, of the Congressional Research Service, be permitted to be present on the floor during consideration of S. 3091 and all rollcall votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. I also ask unanimous consent that Nelson Denlinger, of my staff, and the following members of the staff of the Committee on Agriculture and Forestry be permitted to be present on the floor during consideration of S. 3091, including all rollcall votes thereon: Carl A. Rose, James B. Giltmier, Steven A. Storch, William A. Taggart, and Stuart B. Hardy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Bill Moomaw, Walter May, and Art Monroe, of my staff, be permitted the privilege of the floor during debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, we are considering today S. 3091, the National Forest Management Act of 1976.

It deals with a major agency of the Department of Agriculture, the U.S. Forest Service, and with a major function of that agency, the administration of 187 million acres of forest and rangeland which exist in 44 States.

SUMMARY

The purpose of the bill is to establish procedures which assure that these lands are managed for their multiple uses and the sustained yield of the resources produced from them, as well as for the soil and water resources on these lands.

There is a sound statutory underpinning for the management of these 187 million acres, found in:

The Creative Act of 1891;

The Organic Act of 1897;

The 1908 Act dealing with payments to counties;

The Weeks Act of 1911;

The 1930 Knutson-Vanderberg Act;

The Multiple-Use Sustained-Yield Act of 1960;

The National Forest Roads and Trails Act of 1964;

The Wilderness Act of 1964; and

The Forest and Rangeland Renewable Resources Planning Act of 1974.

I might add, Mr. President, that in the four of these acts, starting with the Multiple Use Sustained Yield Act and through the Forest and Rangeland Renewable Resources Act, I have been deeply involved, either as author or cosponsor or floor manager.

TEN MAJOR REFORMS

The bill we are considering today amends seven of these statutes to bring greater coordination among them, and to promote more effective design and implementation of budgets affecting the National Forest System.

This bill will improve land planning practices on the public forest and rangeland.

It will improve the opportunity for the public to express its views by participating in developing programs and plans for these lands, by establishing and using advisory boards.

It will promote the better application of research in the management systems used on these public lands. It provides a plan for the use of interdisciplinary research, and the use of researchers.

The bill directs the Secretary of Agriculture to develop guidelines for environmentally sound forest practices and land management.

It establishes guidelines covering water, soil and wildlife, and it requires better practices for revegetating forest and rangeland.

The bill improves the planning for the forest transportation system, and calls for careful use of standards to assure that the cost of transportation, safety, and the impact of roads on lands are weighed so that roads are designed for intended uses, but not overdesigned.

The bill modernizes timber selling procedures.

It sets the policy for the harvest of timber to assure that the yield will be sustained at a high level in perpetuity.

The bill also modernizes the system of payments from National Forest receipts to the counties.

These are the ten major reforms in this bill. Taken together, they build on the framework of 80 years of conservation progress.

HOW SHOULD OUR NATIONAL FORESTS BE MANAGED?

The legislation before us represents the first time that the Congress has dealt directly with the management of these public resources. In this respect, it is historic legislation.

It deals with the question of who should manage the national forests. And the answer to that question is that they should be managed by professionals with public involvement.

While the Congress should set policy guidelines, and evaluate the stewardship of the professionals, forest management decision cannot be made from the Senate or House Chamber.

Our Nation is huge. Each temperature zone and each region are different. Wildlife populations and tree species vary from place to place.

It is impossible to treat the National Forest System as a homogeneous entity. If we were to prescribe in law those things which will happen on the forest floor throughout America, we would be doing a great injustice to nature and to the people of this country. The Committee on Agriculture and Forestry and the Committee on Interior and Insular Affairs worked diligently to develop a bill which recognizes and builds upon this diversity.

I underscore here, Mr. President, that two committees of the Congress worked in concert to develop this legislation.

We received strongly differing testimony that timber harvesting had to be substantially reduced on one hand, and, on the other, that it had to be substantially increased.

The committee adopted what we believe is a middle ground in order to insure that the Nation would always have adequate reserves of timber on its public lands.

To take a purely economic approach to the management of Federal timber could prove to be a serious mistake that would leave us without adequate reserves in future decades.

To reduce timber harvesting by 50 percent or more could prove to be an economic calamity of another dimension, grossly inflating wood and wood product costs, depriving people of decent housing and causing the loss of literally tens of thousands of jobs.

Mr. President, I might add there is an urgency for this legislation, because currently, there is more or less of a paralysis in the wood products industry and in timber harvesting, waiting to see what Congress is going to do. This has caused increases in prices, shortage of supplies, and loss of jobs. So we are looking at a piece of legislation here which tries to strike a balance between the economics of the timber industry on the one hand and sound ecological, environmental, and conservation practices on the other.

S. 3091 has been called clearcutting legislation by some people. But clearly it is much more than that. It is a Renewable Resources Management Act. On every issue in this bill, members of the two committees sought out the position which would best serve the broad public interest over the long term.

FROM LITIGATION TO LEGISLATION

At this point, I believe that it might be helpful to document chronologically why it became necessary for Congress to develop this legislation.

About 12 years ago, concerned citizens in Richwood, W. Va., complained to their district forest ranger about the unsightly logging practices in the Monongahela National Forest.

Unfortunately, the complaint was largely ignored by the Forest Service, and the logging continued without explanation to the local residents.

Clearcutting was prescribed for the Monongahela National Forest in 1964 based on the fact that it had so many fine timber growing sites and an annual rainfall of about 58 inches.

In 1971 the West Virginia Izaak Walton League attempted to get the attention of the Forest Service. This organization of sportsmen and conservationists filed a court action in which it alleged that the Service had violated the 1897 Organic Act.

Among other things, the Organic Act states that only those trees which were dead or mature could be harvested; all trees to be cut had to be marked; and all felled trees had to be removed from the forest .

We should note that the Organic Act was enacted at a time when there was virtually no forest science in the United States. Within only a few years after the Organic Act became law, forest research made major advances making obsolete that law's specific prescriptions.

In the Monongahela situation, the Forest Service seemed to lose sight of the need for public understanding of policies and the fact that the national forests are to be managed on a multiple use and sustained yield basis and in the public interest.

Further, we lacked the decisionmaking mechanism to allow the Forest Service to manage these resources on behalf of all possible uses. And the needed investments were being deferred on the 187-million-acre resource.

Congress became aroused. And the result was the enactment of the Forest and Rangeland Renewable Resources Planning Act of 1974. That law established a system of assessing the renewable resources on national forest system lands, and for using the data from the assessment to develop short-range and long-range program goals.

The first draft of this bill contained a provision which, if enacted, would have made the Monongahela case a moot issue. This provision was dropped from the final version of the 1974 bill.

On November 6, 1973, the district court ruled on behalf of the plaintiffs, stating that sales planned in the Monongahela National Forest were in violation of the Organic Act.

In August of 1975 the Fourth Circuit Court of Appeals upheld the district court's decision, even though the court pointed out that the Organic Act might be an anachronism in the light of modern forest science. The court indicated that if the law was no longer a good one, it was up to Congress to change it.

By November of last year, the administration indicated that it would not take the appeals court's decision to the Supreme Court, but instead would recommend legislation to remedy the situation.

As a result of the appeals court's decision, the Forest Service halted all but about 10 percent of the timber harvesting in the four affected States of the Fourth Judicial Circuit—West Virginia, Virginia, North Carolina, and South Carolina.

On December 23, 1975, the Federal District Court for Alaska adopted the conclusion of the Fourth Circuit and applied the Organic Act standards to an existing 50-year timber sale that was about half consummated.

During this period industry conservation and other groups began in-depth efforts to determine the best course of action.

THE CONGRESSIONAL RESPONSE

On February 4, Senator RANDOLPH introduced S. 2926 with a deep sense of feeling that what had happened in the Gauley Ranger district of the Monongahela National Forest during the 1960's must never happen again. Senator RANDOLPH's bill was highly prescriptive.

On March 1, I introduced S. 3091. Although I felt my bill was environmentally sound, it did not set down prescriptions on how each acre must be managed.

I felt that the unscientific and prescriptive Organic Act had gotten us into enough trouble.

By strictly adhering to the 1897 act, the Court of Appeals not only eliminated most possibilities for clearcutting, but it also eliminated a number of environmentally and economically sound practices which are necessary to grow and perpetuate trees for many purposes.

The strict interpretation of the 1897 act prohibited commercial thinning to improve the growth and vitality of tree species, or to open up the forest canopy to improve browse and nesting conditions for certain animals.

Based on the court's decision, the Department of Agriculture estimated that the volume of timber which could be harvested from the immature eastern national forests in the next few decades will be only 10 percent of previous harvest levels. In the western forests, the estimate was that the harvest would be reduced by half.

On March 15, 16, and 22, subcommittees of the Committee on Agriculture and Forestry and the Committee on Interior and Insular Affairs held hearings at which 89 witnesses presented their views. Dozens of others presented written testimony on my bill, that of Senator RANDOLPH, and an interim bill by Senators STEVENS and GRAVEL.

LATEST JUDICIAL DEVELOPMENT

Since the committees reported S. 3091, a district court judge in Texas has announced that, in addition to being in violation of the Organic Act, clearcutting, as practiced in the case before that court, was also in violation of the Multiple-Use Sustained-Yield Act.

Some may view this an isolated, misdirected judicial declaration. I do not feel it can be dismissed that easily. This latest development simply reinforces the need for Congress to speedily pass legislation providing for a complete management system of National Forest System lands.

The Forest and Rangeland Renewable Resources Planning Act and these amendments are intended to be fully compatible with the principles of the Multiple-Use Sustained-Yield Act, and, in fact, provide further direction in the implementation of that act.

The committee does not intend to exclude any particular silvicultural system, including clearcutting or other harvesting practices, in providing these guidelines, but rather to set forth considerations for the selection of the most appropriate system for any particular area of land. The committee was especially concerned that the selection of the system be based on research and experience to provide conditions for prompt regeneration and growth of desirable tree species in order to meet multiple-use objectives.

ACTION AFTER HEARINGS

Following the hearings, the chairman of the Subcommittee on Environment, Soil Conservation, and Forestry, Mr. EASTLAND, directed the staff to redraft S. 3091 to take into account testimony by witnesses, and the basic concerns embodied in Senator RANDOLPH's bill.

A revised version of the bill was reported to the Committee on Agriculture and Forestry. On April 27 and 29 and May 3 and 4, the Committee on Agriculture and Forestry and the Committee on Interior and Insular Affairs proceeded to mark up the bill. Chairman TALMADGE invited Senator RANDOLPH to join in these deliberations, and he participated fully in the debate. Both committees voted unanimously to report the bill.

DOES THE BILL MEET THE ISSUES SQUARELY?

The most difficult issue faced by the committees was how much timber should be harvested.

Some would have us authorize the Secretary of Agriculture to apply a policy that would allow rapid cutting of the old growth timber in the western national forests. Others would have us reduce drastically the rate of cutting by stretching out the old-growth reserves over cutting cycles that approach the physiological maturity of the trees.

The committee rejected both approaches. Under this bill the Secretary may not plan to accelerate the cut for two or three decades and then have it fall off sharply.

However, he may increase the cut to the extent that he has already acted to increase growth. This is a responsible, conservative position. The contention that this kind of harvesting pattern will result in the waste of billions of board feet of timber is without foundation.

But even more important, the bill charts a path for solid, fully supportable increases in the annual harvest at levels that can be maintained in perpetuity.

Some contend that a provision adopted by the committee would eliminate timber production as a management goal in the national forests of the Rocky Mountains and the Southwest. The facts are that not all of the low productivity forest lands are in these somewhat arid areas. Many of the national forests contain lands that are today growing less than half the timber that they are capable of growing in a multiple-use setting.

The committee language requires that all renewable resources, and this certainly includes timber, be managed on a multiple-use sustained yield basis. In essence, therefore, the thrust of both the sustained yield language in section 11 and the provision in section 5, dealing with marginal areas does not act to reduce the harvest of timber. They seek to assure sensible investments targeted at growing optimum levels of timber on lands that will return the investment.

For all lands, however, the multiple-use concept will permit and will require that a sound level of forest management be applied.

The committees also took steps to reduce the loss of millions of board feet of timber each year due to disease, fire, and the weather and because there are no roads available so that these trees can be salvaged.

The solution to this situation, as provided in S. 3091, is to adequately fund early construction of the road system needed for permanent multiple-use management.

The bill, in section 14, also provides for timber sales on National Forest System lands. Subsection (g) of that section provides for special emphasis on increasing utilization, including salvage, of forest products.

Specifically, the subsection authorizes the Secretary to require the purchasers of salvage timber to make deposits of money to cover the costs associated with the preparation, sale, and administration of such timber sales. It is the intent of this subsection to make funds directly available to the Forest Service to expedite and expand their salvage sales program.

As money is collected under this authority, it would immediately be made available to spend to offset the costs of such salvage sales. We believe that this subsection provides an approach to significantly improve forest utilization by increasing the salvage of insect-infested, dead, damaged, or down timber. The Secretary can move ahead rapidly to implement this provision following passage of the legislation.

In my view, the committees met the basic issues directly—having examined the history of the early acts of Congress—by affirming that the goal shall be continuity of supply and a high level of management and outputs for all renewable resources.

It was never contemplated that the national forests would be managed on an even flow basis. If it had been, the harvest levels would not have risen from less than one-half a billion board feet per year in the early 1900's to their present 10 to 11 billion board feet. And it certainly was not part of the policy that the methods of harvesting would purposely liquidate timber and break the continuity of supply. The committee bill thus continues the policy of increasing outputs for all resources on a sound conservation basis.

WHAT S. 3091 PROVIDES

S. 3091 contains a set of findings that place emphasis on the great complexity of management of our Nation's renewable resources. The findings, among other things, emphasizes the roles of research and private forestry, as well as public lands in meeting national wood fiber needs. And the key role of the U.S. Forest Service in providing leadership in managing and conserving national resources.

The bill requires the Secretary of Agriculture to report to the 1980 and subsequent assessments required by the Forest and Rangeland Renewable Resources Planing Act on the condition of our resource base and additional fiber potential from the national forests.

Insofar as the program required under the 1974 act is concerned, the Secretary must include recommendations which evaluate major Forest Service objectives to determine multiple use and sustained yield relationships of all renewable resources; recognize the need to protect and, if possible, improve soil, air, and water resources; and state national goals that recognize the interdependence of all renewable resources.

A major feature of this legislation is that the Forest Service is required to go public. The public must understand what is going on in the public forests—before something happens, not after the trees are cut.

S. 3091 sets up forest advisory commissions to provide public input in the Forest Service decisionmaking process.

The Forest Service will have to develop

interim forest management regulations within 120 days after the enactment of this bill, and final regulations within 2 years.

The bill also provides for a panel of non-Forest Service scientists to help make sure that those regulations are scientifically sound and that they follow the intent of the Congress.

The regulations are to include specifics on how all pertinent scientific disciplines will be used in developing management plans; the types of management plans that will be used; procedures to insure public participation; procedures to insure compliance with the National Environmental Policy Act of 1969; and management guidelines.

The bill also indicates to the Secretary of Agriculture what form those guidelines should take.

GUIDELINES

One set of guidelines will require that forest system lands be identified on the basis of their suitability for resource management. Inventory data must be obtained and methods must be provided for identifying special conditions or hazards to the various resources.

Guidelines also are required that will:

First, insure that the economic and environmental aspects of various methods of renewable resources management are consistent with the purposes of the Multiple-Use Sustained-Yield Act and 1974 Resources Planning Act;

Second, provide for the diversity of plant and animal communities based on land suitability and capability;

Third, recognize special or unique area requirements;

Fourth, recognize the need to protect soil, water, esthetic, and wildlife resources where conditions are critical for tree regeneration or where the size of a timber sale, cutting area or stand size and species composition are critical in terms of multiple-use impacts;

Fifth, specify how the interdisciplinary approach will be applied, including use of the expertise of affected State agencies; and

Sixth, prescribe appropriate systems of forest management; insure research and appropriate monitoring and evaluation of management systems; and discontinue or modify management systems which impair land productivity.

Other required guidelines for land management plans to achieve the goals of the renewable resource program relating to timber management are to:

First, provide that harvest levels will be determined only through the land management planning process;

Second, provide that harvest levels will be based on availability and suitability of lands for timber production;

Third, assure that timber production is not a management goal on lands where the estimated cost of production will exceed estimated economic returns; and

Fourth, insure that timber will be harvested from National Forest System lands only where:

Irreversible damage to soil, slope, or watershed conditions will not occur;

There is assurance that the lands can be adequately restocked within 5 years of harvest; and

Protection is afforded bodies of water with respect to water conditions and fish habitat.

In addition, the required guidelines for land measurement plans to achieve the goals of the renewable resource program relating to timber management are to insure that clear-cutting—including seed tree cutting, shelterwood cutting, and other cuts designed to regenerate an even-aged stand of timber—is used as a cutting method on national forest system lands only where:

First, clear-cutting is determined to be the optimum cutting method under the relevant land management plan;

Second, a comprehensive interdisciplinary review has been made;

Third, provision is made to blend the cuts with the terrain to the maximum extent practicable;

Fourth, cutting areas meet size limits, which will be set to meet conditions of specific regions and situations; and

Fifth, the cuts are carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and esthetic resources, and regeneration of the timber resource.

OMB REPORTING

If the President's budget request fails to request adequate funds to meet the purposes of the renewable resource program, as approved by Congress, the Director of the Office of Management and Budget will be required to appear personally before the appropriate congressional committees to explain such failure.

RESTORATION OF VEGETATIVE COVER

The Secretary of Agriculture is to report to Congress on the lands where vegetative cover has been removed, stating either the amount of funds needed for revegetation or that the lands do not need revegetation.

TRANSPORTATION SYSTEM

Except for needed permanent roads, roads constructed on National Forest System lands are to be designed with the goal of reestablishing vegetative cover within 10 years. All roads are to be designed to standards appropriate for the intended uses, considering safety cost of transportation, and impacts on land and resources.

NATIONAL FOREST SYSTEM

National Forest System lands are to be returned to public domain status only by an act of Congress.

PUBLIC PARTICIPATION AND ADVISORY BOARDS

Procedures are to be established for public participation and comment on standards, criteria, and guidelines applicable to Forest Service programs. Advisory boards are to be established, representing a cross section of interested individuals and groups, as the Secretary deems necessary to secure full information and advice on the execution of his responsibilities.

TIMBER SALES ON NATIONAL FOREST SYSTEM LANDS

The provision of the act of June 7, 1897, as amended, dealing with the authority for timber sales on National Forest System lands is repealed and new provisions are added.

Under the new provisions:

First, the Secretary of Agriculture may sell—at not less than appraised value—trees, portions of trees, or forest products located on National Forest System lands;

Second, all advertised timber sales are to be designated on maps and described in an available prospectus;

Third, timber sales contracts are to be for a period not to exceed 10 years, unless the Secretary finds that better utilization of the various forest resources, consistent with the Multiple-Use Sustained-Yield Act, will result from allowing a longer contract period;

Fourth, in general, all timber sales are to be advertised;

Fifth, designation, marking of trees when necessary, and supervision of tree harvesting are to be conducted by USDA employees; and

Sixth, Standards are to be established for the removal of trees and forest products to provide for the optimum practical use of wood material—including provisions for the salvage of insect-infected, dead, damaged, or down timber.

LIMITATIONS ON TIMBER REMOVAL

The Secretary of Agriculture is to limit timber sales from each national forest to a quantity not greater than the quantity which that forest can produce in perpetuity on a sustained-yield basis.

VALIDATION OF TIMBER SALES CONTRACTS

Timber sales made under existing law are validated. However, the Secretary of Agriculture is required to review the two 50-year contracts in Alaska and make them consistent with the purposes of the bill.

PAYMENTS TO STATES FOR SCHOOLS AND ROADS

The formula for paying a 25-percent share of national forest revenues to counties in which National Forest System lands are located is adjusted to minimize adverse impacts on the counties. The adjustment will result in the Forest Service rebating to the counties 25 percent of the total income from timber sales. Presently, deduction is made for collections for reforestation and allowances in timber contracts for permanent roads to be built by timber purchases.

ACQUISITION OF NATIONAL FOREST SYSTEM LANDS

The National Forest Reservation Commission is abolished and its functions transferred to the Secretary of Agriculture. The Secretary will report annually to Congress on all land purchases and exchanges relating to the National Forest System.

AMENDMENT TO THE KNUTSON-VANDENBERG ACT

The formula for allocating revenue for reforestation on harvested lands is changed to reflect current costs and to assure better multiple-resource treatment.

Mr. President, we will discuss this legislation in considerable detail, and I am confident that we will be able to resolve whatever differences we may have here in this highly complex situation.

In the simplest terms, the major provisions of the bill, which are the reform provisions, are the product of a very considerable amount of testimony, of legislative craftsmanship, and of careful work with the many groups that are vitally concerned about our timber resources.

It is the product of hard work by dedicated men like Senator BUMPERS, Senator METCALF, Senator MCCLURE, Senator TALMADGE, Senator STONE, the distinguished Presiding Officer, Senator JOHNSTON, Senator BELLMON, Senator HATFIELD, Senator HELMS, Senator ALLEN, Senator LEAHY, Senator HUDDLESTON, Senator GRAVEL, Senator HASKELL, and others. It is also the product of the distinguished senior Senator from West Virginia (Mr. RANDOLPH) who had a profound influence on our deliberations.

The distinguished senior Senator from West Virginia and I have been through many battles together, including the one to establish the Youth Conservation Corps. I deeply regret that we do not completely see eye-to-eye on this issue.

In 1908 Gifford Pinchot and Theodore Roosevelt put together a great conservation conference in Washington which included the Governors of 34 States.

The reason for the conference was clear. At that time much of the Nation's forests had been cut down; the best sites for water power and flood control had passed out of public ownership; and many of our richest supplies of minerals were being depleted.

That great convention issued a declaration of principles which said in part:

> We the Governors of the States and Territories of the United States of America, in Conference assembled, do hereby declare the conviction that the great prosperity of our country rests upon the abundant resources of the land chosen by our forefathers for their homes and where they laid the foundation of this great Nation.
>
> We look upon these resources as a heritage to be made use of in establishing and promoting the comfort, prosperity, and happiness of the American People, but not to be wasted, deteriorated, or needlessly destroyed.
>
> We agree that our country's future is involved in this; that the great natural resources supply the material basis on which our civilization must continue to depend, and on which the perpetuity of the Nation itself rests.
>
> We agree, in the light of facts brought to our knowledge and from information received from sources which we can not doubt, that this material basis is threatened with exhaustion. Even as each succeeding generation from the birth of the Nation has performed its part in promoting the progress and development of the Republic, so do we in this generation recognize it as a high duty to perform our part; and this duty in large degree lies in the adoption of measures for the conservation of the natural wealth of the country.
>
> We declare our firm conviction that this conservation of our natural resources is a subject of transcendent importance, which should engage unremittingly the attention of the Nation, the States, and the People in earnest cooperation. These natural resources include the land on which we live and which yields our food; the living waters which fertilize the soil, supply power, and form great avenues of commerce; the forests which yield the materials for our homes, prevent erosion of the soil, and conserve the navigation and other uses of our streams; and the minerals which form the basis of our industrial life, and supply us with heat, light, and power.

As this Congress writes legislation to govern the management of 187 million acres of national forests, it is making natural resource history that is being closely watched, even by other nations.

I hope and I trust that the debate on this issue will be in the spirit of the Declaration of the Conservation Conference of 1908.

Mr. President, a number of Senators have written letters to the Forest Service raising questions relating to S. 3091.

In order that those letters may become part of the public record so that the concern of these Senators may be visible and may be available, I shall ask unanimous consent that these letters be printed in the RECORD as I proceed to mention them.

Mr. President, following our report of this bill, a number of persons desired clarification from the Forest Service as to how certain provisions would be applied.

On July 21, my distinguished colleague from Idaho (Mr. CHURCH) wrote to the Chief of the Forest Service in connection with section 2(7) which deals with recycling of timber product materials. The committee intended that recycling be encouraged to assure it would be used if it were economic.

The letter of the Chief of the Forest Service expresses the committee intent.

I would note we are dealing with a finding, not a statutory requirement.

I ask unanimous consent that Chief McGuire's response to Senator CHURCH be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C. July 9, 1976.

Hon. FRANK CHURCH,
U.S. Senate.

DEAR SENATOR CHURCH: We appreciate the opportunity to comment on the proposed amendment to S. 3091, dealing with utilization of timber harvest residual material, which was described in your letter of June 21.

The amendment would broaden the seventh finding in section 2 of S. 3091 to address the need for research to achieve optimum economic use of timber harvest residual material, in addition to the present emphasis in the finding on the need for research in the use of recycled and waste timber product materials. We do not object to the proposed broadening of the findings; however, in our view, it is not necessary. We agree that research in the use of both recycled and residual material is desirable. We have authority to carry out such research, and the finding does not provide any new authority. The proposed broadening of the finding, which relates to residual material, is in an area where we already have active research programs.

The stated reason for the amendment is a concern that emphasis on recycling could have an adverse effect on markets for residual forest materials and thus have an adverse effect on efforts to improve forest utilization. Currently, there is a potential for displacing some markets for harvest and manufacturing residuals if there was a significant increase in recycling. It is clear that the relative economics of using residuals versus recycled materials would guide market decisions in such situations. Available evidence suggests, however, that both improved utilization and recycling will be needed to meet product needs in the upcoming decades. We do not believe that the finding as now contained in S. 3091 would result in an imbalance between utilization and recycling research.

We would be happy to discuss with you present research programs and additional opportunities in both the area of utilization and recycling.

Sincerely,

JOHN R. MCGUIRE,
Chief.

Mr. HUMPHREY. On July 2, Senator METCALF wrote to Chief McGuire in connection with clarifying section 5(d) (6) (iv). The response by the Chief of the Forest Service is in keeping with the intent of the committees. That there should be no problems that cannot be resolved in the development of guides and regulations. I ask unanimous consent that Senator METCALF's letter and the response by Chief McGuire be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., July 2, 1976.

Mr. JOHN MCGUIRE,
Chief, Forest Service, U.S. Department of Agriculture, Washington, D.C.

DEAR CHIEF MCGUIRE: In the mark-up of S. 3091, the Committees on Agriculture and Interior were interested in insuring that the results of intensified timber management practices are reflected in increased allowable harvests when there is reasonable assurance that the output is being or can be achieved, and that the programs for achieving these intensive management investments are reasonably assured of being continued. In order to achieve this objective, the Committees adopted Subsection 5(d) (6) (H) (iv) directing the Forest Service to prepare guidelines which provide that increases in allowable harvest based upon intensified management practices shall be made "only upon demonstration that such practices justify increased allowable harvests and that the outputs projected are being secured."

Please outline for me how the Forest Service would implement the guidelines if S. 3091 were enacted.

Very truly yours,

LEE METCALF,
Chairman, Subcommittee on Minerals, Materials and Fuels.

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., July 27, 1976.

Hon. LEE METCALF,
Chairman, Subcommittee on Minerals, Materials and Fuels, Committee on Interior and Insular Affairs, U.S. Senate.

DEAR SENATOR METCALF: This letter is in response to your July 2, 1976, request to outline how the Forest Service would implement guidelines required by Subsection 5(d) (6) (H) (iv) of S. 3091 if that legislation were enacted.

The Secretary of Agriculture is required to issue regulations setting guidelines for land management plans which:

"(iv) provide that increases in allowable harvests based on intensified management practices such as reforestation, thinnings, or tree improvement, shall be made only upon demonstration that such practices justify increased allowable harvests, and that the outputs projected are being secured."

Demonstration and secure are the key words in this subsection. We would consider the results of intensive management practices to be demonstrated if the following conditions are met:

(1) that projected outputs from the practices are supported by research or other evidence;

(2) that adequate funding to carry out the practices can be reasonably expected; and

(3) that the practices can be implemented on the ground.

Therefore, we interpret this subsection to allow increases in allowable harvest from intensive management practices at the time those practices are scheduled for treatment in approved management plans and the above conditions are met.

To insure that the projected outputs are being secured, guidelines would provide for control and monitoring procedures to be incorporated in the management plans. These procedures would provide for monitoring the intensive practices to assure that practices are carried out on schedule and that they produce the anticipated results. Allowable harvest levels would be adjusted appropriately if the practices were not accomplished during the planned period or if research or remeasurement of areas treated indicated that projected growth must be revised. To stablize the process, most adjustments would be made at the 10-year revision point.

This interpretation is supported in general by the Agriculture and Forestry Committee's Report No. 94–893 which, in the fifth paragraph on page 38, states, "The Committee bill is designed to insure that increases in harvest rates are instituted only when a sound basis exists for projecting future yields and when control and monitoring procedures are incorporated in the management plan to insure that practices are carried out on schedule and that they produce the anticipated results."

The assurance of adequate and continued funding to carry out scheduled treatments is a key factor in taking credit for increases in allowable harvest levels. We view the Forest and Rangeland Renewable Resources Planning Act as providing a framework to gain that assurance as a basis for assumed management levels for the purposes of Subsection 5(d) (6) (H) (iv).

We appreciate the opportunity to offer our interpretation of how one provision of S. 3091 would affect the management of the National Forests.

Sincerely,

John R. McGuire,
Chief.

Mr. HUMPHREY. I ask unanimous consent that a letter from Chief McGuire to Senator McClure, clarifying the intent of the Forest Service to implement sections 18 and 20 of the bill, and subsection (d) (6) (H) (ii), be printed in the Record.

Here too the Chief of the Forest Service, who participated in the committee consideration of the issues, states clearly how the language of the bill is intended to work.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Department of Agriculture,
Forest Service,
Washington, D.C., June 17, 1976.

Hon. James A. McClure,
U.S. Senate.

Dear Senator McClure: Your letter of June 9, 1976, asks for a statement of how the Forest Service would implement sections 18 and 20 of S. 3091 in order to minimize any increase in deficit sale offerings and our plans for placing priority on securing roads that lay lightly on the land. In addition, in your letter of June 10, you asked for our interpretation of subsection (d) (6) (H) (ii) of S. 3091 which pertains to determining "lands available and suitable for timber production."

Section 18 would amend the Knutson-Vandenburg Act of 1930 to allow the collection of current costs for sale area betterment and to expand the purposes for which funds collected from timber purchasers, thereunder, may be used. We do not foresee any impact from these changes on the economic viability of individual timber sales. The changes would not increase the number of deficit sales.

Deposits for sale area betterment are collected as part of the stumpage payment for the timber. It is our policy to establish the minimum price we will accept for a timber sale at a level which will insure that we have funds available to do needed reforestation work on the areas cut over and to provide at least a base level of return to the Treasury. Funds for other sale area betterment activities are collected only to the extent that the stumpage payments are adequate to cover their value. Thus, the increased work authorized under section 18 would only be funded when the total stumpage payments are adequate to provide the needed money. We would anticipate no change in this procedure with the adoption of this legislation.

Section 20 would amend the National Forest Roads and Trails System Act by deleting the proviso in section 4 which prohibits requiring the purchaser to pay for a higher standard road than needed to remove the timber from an individual sale. This proviso embodied in law the so-called "prudent operator" concept. The elimination of the proviso will permit roads to be placed in locations and built to standards which better serve present and future uses and will, in the long run, reduce the total expenditures necessary to develop an adequate road system.

Considered on its own, this provision, which authorizes the Forest Service to require construction of higher standard roads under a timber sale contract would appear to aggravate the problem of deficit sales. However, we believe that the overall result of the Renewable Resources Program and related budget requests will be to reduce the number of sales where the purchaser will not get full credit for road construction. It is clear that the bringing of purchaser credit for road construction under the authorization process as provided in the Forest and Rangeland Renewable Resources Planning Act establishes the intent of the Congress to more closely review the balance between methods used in financing road construction.

We plan to give high priority in the allocation of appropriated funds to areas where timber values are not adequate to bear the cost of road construction and where there is an established, dependent industry. The construction of access roads with appropriated funds will reduce the problem of deficit sales. Further, we would plan to use available funds to the extent feasible to augment purchaser construction in order to reduce deficits on individual sales.

Perhaps the most important impact of the bill on road construction is the emphasis which is placed on land management planning and the provision for public participation in the process. We view transportation planning as an integral part of this process, and thus we see increased attention to the proper planning of roads, including better selection of locations to serve multiple resource management needs and emphasis on appropriate choices of road standards. We would expect to complement improved transportation planning with strengthened controls over road design and construction in order to insure that roads are appropriate for the intended use and that the impact on the land and resources is evaluated in determining road locations and standards.

On the question of the interpretation of subsection (d) (6) (H) (ii), the Secretary of Agriculture is required to issue regulations setting guidelines for land management plans which:

"(ii) provide that the allowable harvests on National Forest System lands be based only on land available and suitable for timber production, and the harvest levels are reviewed and adjusted periodically;".

We consider National Forest System lands to be available for timber production when they have not been specifically withdrawn from timber production by congressional or administrative action. Congressional actions withdrawing lands would include classification of areas such as components of the National Wilderness Preservation System. Administrative actions precluding timber production would include the designation of special areas such as natural or archeological areas, and restrictions established in approved land management plans. There are also lands which are available for timber production but where specific congressional or administrative direction must be considered in determining the level of expected harvest. Such areas include wild and scenic rivers and national recreation areas designated by Congress or scenic areas established under Secretary's regulations. In addition, as you know we have, by administrative action, designated a number of areas as wilderness study areas. These lands are in a deferred status, and will be considered unavailable during the study period and any subsequent period of time necessary for congressional action. Other areas, which may have been inventoried as roadless, but which were not selected as wilderness study areas, are considered available; however, the specific allocation of these lands to various uses is being determined through land management planning.

Land would be considered suitable for timber production when it has the capacity to produce crops of industrial wood. Land would be considered suitable whether or not it is currently accessible. Permanently inoperable land would be excluded. In addition to these conditions which are currently in use, passage of S. 3091 would also require consideration of the factors set forth under subsections (d) (6) (H) (iii) and (iv) and (d) (6) (H) (i–iii) in judging whether land is suitable for timber production. These factors are now considered in land management and resource planning in determining whether and how timber harvests activity should be carried out. With regard to our interpretation of the effect of subsection (d) (6) (H) (iii), we refer you to our previous letter of June 9, 1976.

We appreciate the opportunity to offer our interpretation of how various provisions of S. 3091 would affect the management of the National Forests.

Sincerely,

John R. McGuire,
Chief.

Mr. HUMPHREY. On May 27, Senators McClure, Hatfield, and Bumpers wrote to Chief McGuire in connection with section 5(H) (iii) dealing with an economic test on National Forest Lands for timber production as a management goal.

The Chief's letter explains the discussion of the committee and the philosophy embodied in 5(H) (iii).

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate, Committee on
Interior and Insular Affairs,
May 27, 1976.

Mr. John R. McGuire,
Chief, Forest Service, Department of Agriculture, Washington, D.C.

Dear Chief McGuire: Attention has been directed since the reporting of S. 3091 to the Section 5(H) (iii) dealing with an economic test on National Forest lands for timber production as a management goal. Senator Talmadge, in a recent speech recognized this and said he would be receptive to a clarification of this section.

We feel it would be useful to get the Forest Service viewpoint on the problems associated with the section in its present form, along with suggestions for improvement.

The reason for this subsection was to assure that timber growing investments be economically justified. When this bill is considered by the full Senate it would help to have the following points addressed:

What will be the expected impact on the arid timber sites in the West and the ability of the Forest Service to sell timber as part of the management program for these lands under the present language?

In the absence of harvesting timber on these arid sites, what is the impact on other multiple use values as trees become old and die without the opportunity to be utilized?

Are there problems in developing economic data for any sort of economic test in the light of the volatile nature of the forest products prices?

There is language in the Forest and Rangeland Renewable Resources Planning Act of 1974 (P.L. 93–378) as well as the S. 3091 that deals with economic consideration. Can the economic and arid lands concerns both be addressed by revised language? If this is not possible, can the economic concerns be addressed by P.L. 93–378 and other language in the bill should it be proposed to strike Section 5(H) (iii) in its entirety?

It would be helpful to have an answer at your earliest convenience for study by the full Senate prior to floor action.

Sincerely,

James A. McClure,
Mark O. Hatfield,
Dale Bumpers,
U.S. Senators.

U.S. Department of
Agriculture, Forest Service,
Washington, D.C.

Hon. James A. McClure,
U.S. Senate

Dear Senator McClure: In reply to your letter of May 27, 1976, signed also by Senator Hatfield and Senator Bumpers, we would like to comment on subsection (d) (6) (H) (iii) of S. 3091 dealing with an economic test for timber production as a management goal on National Forest lands.

We believe there is adequate direction in existing law to ensure economic analysis of anticipated cost of investments as compared to anticipated benefits, and we recommend that subsection (d) (6) (H) (iii) be deleted. The Forest and Rangeland Renewable Resources Planning Act of 1974 in section 3, items (2) and (3), already specifically direct that the Renewable Resources Program contain such analysis. Section 3 provides that the Program shall include, but not be limited to—

"(2) specific identification of Program outputs, results anticipated, and benefits associated with investments in such a manner that the anticipated costs can be directly compared with the total related benefits and direct and indirect returns to the Federal Government;

"(3) a discussion of priorities for accomplishment of inventoried Program opportunities, with specified costs, outputs, results, and benefits; and".

We have established procedures to provide this analysis. Land management plans which are the subject of subsection (d) (6) (H) (iii) are developed as part of the Program and subject to the analysis contained in the Program.

In addition to our belief that subsection (d) (6) (H) (iii) is not necessary, we are concerned about the difficulties of describing in statute a separation of costs and benefits associated with one resource when joint costs and benefits associated with all resources are so frequently involved.

If subsection (d) (6) (H) (iii) is retained, we would interpret it as follows:

The general cost of multiple use management, such as providing access, protection, revegetation including reforestation, and administration would not be considered a cost of production for timber production purposes. A direct timber production cost would only be a single purpose expense, such as road access needed for timber purposes or the thinning of a stand of treees to increase timber production. Further, the Committee report states, "The Committee also excludes the economic cost of carrying trees for the rotation cycle." We interpret this statement to mean that direct costs would not be capitalized in comparing them to future value.

In your letter, you specifically raised the question of the impact of subsection (d) (6) (H) (iii). First, we do not believe it would act as a constraint on overall multiple use management. Second, we believe that it would prohibit establishing intensive timber production as a management goal on only a small percentage of National Forest System lands, these lands being of low productivity at high elevations or relatively arid lands. We would not expect that such a prohibition would significantly affect National Forest allowable harvests because such lands contribute so little to present harvest levels. This estimate is based on our understanding that general multiple use management costs would not be considered a direct timber production cost, that investment costs would not be capitalized, and that the initial harvest of a stand of trees would normally bear the costs of roading and revegetation including reforestation. In further response to your questions, we believe the economic analysis which would be required by subsection (d) (6) (H) (iii) as presently worded can be developed, even though it might duplicate or overlap existing analyses.

You also raised the question of the possible effect of letting certain trees become old and die without utilization. The provision of subsection (d) (6) (H) (iii) could limit the removal of some old growth trees for timber production purposes, but if such prohibition would result in a threat to other values by significantly increasing fire or insect and disease hazards or otherwise affect multiple resource values, we believe the trees could be removed in accordance with land management plans for affected areas.

In addition to the discussion of subsection (d) (6) (H) (iii) contained in the Committee reports, we note that the additional description which Senator Humphrey provided for the record on June 3, 1976, is in agreement with our understanding of the subsection. Although we do not anticipate any major problems in management based on our interpretation of subsection (d) (6) (H) (iii), we are aware that various groups have questioned the interpretation and effects of the subsection, and if retained the subsection could be a source of future controversy. For this and the reasons previously stated we would prefer that the subsection be deleted.

We would be happy to discuss the matter further with you if you desire.

Sincerely,

John R. McGuire,
Chief.

Mr. HUMPHREY. On June 7, Mr. George Craig of the Western Timber Association wrote to Chief McGuire asking for clarification as to how the Forest Service would implement subsection 14(c) if this bill is enacted. I ask unanimous consent that Mr. Craig's letter and Chief McGuire's response be printed in the Record at this point.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Western Timber Association,
San Francisco, Calif., June 7, 1976.

John McGuire,
Forest Service, USDA,
Washington, D.C.

Dear John: Our discussions of S. 3091 on Thursday and Friday of last week were helpful to our better understanding of your position on a number of difficult features of the bill. Further elaboration of your views regarding the last two sentences of subsection 14(c) are needed. We have believed the sentences should be stricken, and the forepart of the proviso therein should be amended by including at line 18. the words underlined in this reproduction of the subsection shown below:

(c) The length and the other terms of the contract shall be designed to promote orderly harvesting consistent with the principles set out in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended. Unless there is a finding by the Secretary of Agriculture that better utilization of the various forest resources (consistent with the provisions of the Multiple-Use Sustained-Yield Act of 1960) will result, sales contracts shall be for a period not to exceed ten years: Provided, That such period may be adjusted either in accordance with provisions included in contracts for sale of timber or at the discretion of the Secretary to provide additional time due to time delays caused by an act of an agent of the United States or by other circumstances beyond the control of the purchaser.

The Forest Service now exercises the option of including in contracts provisions governing timing of operations where special problems must be met; otherwise harvesting within the contract term is permitted with some flexibility in timing to the purchaser.

We noted that such flexibility is necessary because of changes in weather, markets, and other conditions. More harvesting occurs in order to meet rising demands during better market conditions. The government benefits from such adjustments in output because it receives higher stumpage rates in much of the West where contracts call for escalation of such rates with changes in product price. Disruptions to fight fires, problems with equipment, personnel and supply problems may also require changes in schedules. Flexibility is needed for the efficient use of timber, men and equipment.

Timber sale contracts currently require timber purchasers to file an operating schedule at the beginning of each operating season for each sale where activities are planned for that season. The schedule may be adjusted with reasonable notice to the Forest Service. There has been no evidence that this system is not working.

The last sentence in subsection 14 (c) would cause uncertainty as to whether or not a contract term may be extended at all for a variety of reasons for which extensions have been formerly allowed. The first sentence in the proviso authorizes a continuation of the present practice of providing more time when delays are caused by the Government or other circumstances beyond the control of the purchaser. Standard provisions of timber sale contracts now specify the conditions under which such additional time is provided. Continuation of this practice is desirable and should be extended to include other prerequisites qualifying the purchaser for receipt of additional time. Such other prerequisites in the past have included substantial progress in related road construction and removal of a stated percentage of the timber covered by the contract. Generally, these extensions in recent years have been limited to one year. Inclusion of these prerequisites in the contract language could permit all prospective purchasers to bid for the timber with a clear understanding of the qualifications for obtaining additional time.

As I understood your response, you believe that S. 3091 would mandate actions for which you now have authority, that there is some public feeling that operators are talking too much time, that a firm extension policy would be helpful in the future, and that our concern about uncertainty can be met in the regulations to be adopted pursuant to this section.

We recognize the need for legislation to meet the Monongahela problem, the difficulty of getting floor amendments in the Senate and the possibility that the problem could be reduced by well-prepared regulations. As you know, the Western States Forestry Task Force has recommended that the Congress change this feature of S. 3091 as reported.

John, we would appreciate a letter from you reiterating your intent and the nature of regulations we might expect. Such a letter we believe would be helpful both to the Western State Forestry Task Force and to the industry.

Sincerely,

GEORGE A. CRAIG,
Executive Vice President.

WASHINGTON, D.C., *June 25, 1976.*

Mr. GEORGE A. CRAIG,
Executive Vice President,
Western Timber Association,
San Francisco, Calif.

DEAR MR. CRAIG: Your letter of June 7, 1976, asks for elaboration of our views regarding the last two sentences of Subsection 14c of S. 3091, as amended. These sentences would require the purchaser of any sale of 2 years or more in duration to file an operating plan as soon as practicable after execution of the contract. Such plan and any revisions thereto would be subject to approval by the Secretary of Agriculture. Extensions of such contracts would be subject to a determination by the Secretary that the purchaser had diligently performed in accordance with the approved operating plan and that the extension would be in the public interest.

We believe the addition of this direction reflects a general concern by the Committee over the need to tighten control over timber sale operations to ensure that they are conducted in a businesslike basis. This subsection was one of several amendments offered by Senator Metcalf. There was no discussion of this particular direction during the markup, nor was it discussed in the Committee Reports.

As we told the Monongahela Task Force, we now have authority to require operating plans and to make them subject to Forest Service approval. Thus while mandating the exercise of that authority, the bill would give us no new authority in this area.

We recognize that there are many uncertainties involved in the purchase of National Forest timber. Acts of the Government, weather conditions, natural disasters, and other circumstances beyond the control of the purchaser all mandate changes in operating plans. For this reason, a "force majeure" provision has long been a standard feature of Forest Service timber sale contracts. We would expect to continue to utilize such provisions in contracts sold under provisions of S. 3091. Further, we would contemplate that circumstances warranting adjustments in the contract termination date under the "force majeure" provision would also serve as a basis for revision of the operating plan.

We also recognize that lumber, plywood, and other wood products are sold in highly volatile markets and that purchasers need reasonable flexibility to increase or decrease production in response to market conditions. We believe such flexibility can be provided in Regulations implementing this subsection.

The criteria set forth in our present extension policy area, in effect, a definition of diligent performance. As you know, we have agreed to include the extension criteria in the timber sale contract. We believe the same approach could be used in order to implement this direction and thus uncertainties as to what would be deemed diligent performance could be removed.

The requirement that the Secretary make a finding that an extension would be in the public interest requires no change in our current procedures. We have long held that discretionary actions in the administration of timber sale contracts must be determined to be in the public interest.

Implementation of the requirements of this subsection will require purchasers to give more attention to planning and scheduling future operations. Recognizing the uncertainties involved, we believe this additional effort may prove beneficial to both the purchaser and the Government in the long run. We believe that practical Regulations for implementing this direction can be developed.

Sincerely,

JOHN R. MCGUIRE,
Chief, U.S. Forest Service.

Mr. HUMPHREY. After the bill was reported, I received from Mr. George Craig of the Western Timber Association his interpretation of the nondeclining yield provisions of this bill. I asked Mr. McGuire to respond to Mr. Craig's allegations. Chief McGuire's response clearly shows that the analysis by the Western Timber Association does not reflect what the committee language provides nor does it reflect the clear understanding of the Forest Service.

At this point in the RECORD, I ask unanimous consent that Mr. Craig's letter, the critique, and the Forest Service reply be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Western Timber Association, San Francisco, Calif., prepared for August 1976 issue Forest Industries]

NONDECLINING YIELD NONSENSE—THE WASTE IS MEASURABLE AND GREAT

What's wrong with the Forest Service's current nondeclining yield policy for setting allowable timber harvest levels on the National Forests Why shouldn't Congress fix it into law?

"Waste" is the principal answer to such questions—waste of needed and usable old-growth timber, waste of the timber growth potential of much forest land because of overstocking.

"Inflexibility" is another answer—inflexibility which prohibits adjusting harvest levels to meet changing needs identified under the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA), inflexibility that would ignore anticipated changes in timber supplies from other lands.

The nondeclining yield policy prohibits harvesting any more timber in the current decade than can be expected to be harvested in any future decade from the same National Forest. Adoption of the policy in 1973 will mean that harvest levels on some National Forests will be reduced now to avoid a possible reduction in cut levels more than 100 years from now.

LARGE INVENTORY: SMALL RETURN

To illustrate the waste and to demonstrate some practical difficulties with the policy, the graphic description of a hypothetical 90,000 Ponderosa pine forest was prepared, using Walter Meyer's yield tables. The area has a timber growth potential that is average for this species.

If we assume that the forest is 200 years old and is well stocked because it has not suffered catastrophic damages, it will have a total inventory of 7,272 million board feet or 80 million board feet on each 1,000 acres. The annual growth will be 21.6 million board feet or about 0.003 percent of the inventory. The 6.3 million trees will be worth nearly $582 million at $80 per MBF.

DOUBLE GROWTH ON ONE-FOURTH INVENTORY

When this forest is eventually fully regulated on a 90-year rotation, it will have the inventory represented by the cross-hatched area. It shows the sawtimber volume per 1,000 acres ranging from nothing (in early stages of regrowth) to 45.6 million at the harvest age. The sawtimber growth by thousands of acres and by age classes is shown by the dark caps to the columns of inventory. The inventory for the 90-year-old timber, represented by the column on the right, is the sum of the annual growth on the entire area, and represents the sustained yield annual harvest for natural stands that have not received intensive management.

Under these assumptions, the inventory in the regulated forest will be 1,593 million board feet in 19.4 million trees. The net annual growth will be 2.86 percent of regulated inventory. The inventory will be worth $127.4 million at $80 per MBF.

Thus, the regulated forest will yield more than double the growth of sawtimber with an inventory of less than one-fourth that in the old-growth forest.

SUSTAINED YIELD ACHIEVEMENT INHIBITED

The forest manager constrained by the nondeclining-yield policy cannot convert to the regulated forest within a reasonable time. In this instance, he must reduce the timber inventory by more than 5½ billion board feet while also harvesting any net growth. He cannot cut on the average as much as 46 million feet per year. Without considering growth, it would take 125 years to reduce the inventory to the desired level.

The problem is evident from a comparison between the permitted 45.6 million cut level and the 80 million board feet on each of the 1,000-acre units that should be harvested each year to achieve regulation in 90 years.

The Multiple-Use Sustained-Yield Act of 1960 recognized the need for "achievement" of a regulated forest before reducing the cut to the sustained-yield level. The Forest Service should comply with the law in a reasonable fashion. Delaying the achievement of sustained yield for more than 200 years, as the Forest Service's current new plans do, is unreasonable, and a possible violation of the law.

Even the past policy of planning to spread the liquidation of the excess growing stock over the first full rotation caused much waste. Cut levels should be developed in response to Congressional direction under the RPA Program as noted earlier.

WASTE SHOULD END

Current practices are costly. For example, the newly approved plan for the Lassen National Forest will result in a reduction of more than 25 percent in the volume that can be sold in the next 25 years compared to a plan without the nondeclining yield policy. The Forest Service acknowledges that another one billion board feet would otherwise be potentially available on the Lassen to provide needed products, employment and income. At the end of the 25 years of a plan without nondeclining yield, the cut would not drop below the level planned for subsequent periods.

Rigid adherence to the policy will mean unnecessary reductions in current cut levels on a number of western National Forests, including the Umpqua Willamette, Hood and Olympic, among others.

There has been no good reason given for the nondeclining yield policy. The Forest Service agrees that past justifications based on community stability are generally inapplicable today. To this nonlawyer, Forest Service persistence in this self imposed policy suggests violation of the Administrative Procedures Act because the agency is being arbitrary and capricious.

The nondeclining yield policy is nonsensical. The Forest Service has done the Nation a disservice by not educating the Congress in this respect before now. It must act soon to avoid further waste from the nondeclining yield policy.

ALLOWABLE HARVEST CONCEPTS, TERMINOLOGY, AND LOGIC

Concepts—The conceptual rationale involved in calculating National Forest allowable harvest levels may be schematically represented as follows:

Schematic—Allowable harvest level concepts

Chart not reproduced in RECORD.

In general, the items listed as biologic parameters in the schematic are accepted as "givens" in the determination of allowable harvest levels. The existing forest (i.e., the "growing stock") and its productive capacity over time (i.e., the growth rates) are considered to be the "Forest capital stock." This Forest capital stock is manipulated through timber management activities to produce a sustainable allowable harvest level. The biologic parameters generally determine the productive potential of a Forest. The scheduling parameters act as the primary controls in determining how much of that productive potential will be output as utilizable wood fiber, and the timing and flow patterns of such outputs. The following sections summarize the essential effects on allowable harvest levels of the various scheduling factors.

Effects of Flow Constraints—

The current flow policy for National Forest allowable harvest calculations is generally referred to as "nondeclining even flow." This policy is stated in Emergency Directive #16 in the 2410 section of the Forest Service Manual. As part of the policy statement the manual directive quotes the portion of the Multiple Use-Sustained Yield Act which defines Sustained Yield as "the *achievement and maintenance in perpetuity* of high level annual or regular periodic output . . ." (italics added). The directive also states (in Item 5) that in calculating and expressing sustained yield levels, the objective will be "to establish a potential yield no higher than can be maintained from one decade to the next."

This directive was effective in May of 1973. Prior to that time, a less restrictive interpretation of the flow requirements under sustained yield was in force. This interpretation grew out of the classical forestry concepts of the regulated forest as the goal of forest management and the commonly used planning rationale of converting the present "unregulated" forests to a "regulated" condition during the first rotation.

The concept of the "regulated forest" was developed in Europe, principally by German Foresters, almost a century ago. In concept, it is a forest which has achieved equal distribution of age classes and standing volumes, the oldest of which is at rotation age. Such a forest would produce a perpetually sustainable and even flow of annual yields. To convert a less than regulated forest to the regulated forest condition through controlled harvests, a series of formulas were derived. Many refinements and variations in detail have been added, over the years, to these formulas but the essential principles of the process remain as follows:

Allowable Cut$=(Vp-Vd)/C+I$.

Where: $Vp=$Total volume of rotation and over rotation age timber.

$Vd=$Total volume of rotation aged and younger timber desired under a regulated condition.

$C=$Conversion period (usually equal to a rotation).

$I=$Total annual growth over the rotation.

Many of the currently effective allowable cuts for the National Forest of the Western Regions were calculated, using one variation or another of this formula method, with conversion to a regulated condition planting by the end of the first rotation. Commonly National Forests in the West have large proportions of their areas--and usually even greater proportions of their standing volumes—in over-rotation age timber. Calculations by formula methods envisioned strict even flow (without declines) through the first rotation, and seldom were calculated for periods of longer than one rotation. The 1969 Douglas Fir Supply Study was the first major study to make projections of yields well beyond the end of the first rotation period. The development of computerized allowable cut programs to simulate various forest growth and harvest regimes was instrumental in allowing this type of study to be reasonably accomplished.

The Douglas Fir Study results showed that with the then current rotations, management intensities and utilization standards, harvest levels could not be sustained after the first rotation. Shortening the rotations would aggravate the drop in yield at the end of the rotation for any current or shorter rotation, although substantially increasing the first rotation allowable cut levels. Management intensification would increase the level of yield immediately but the projections showed that under this flow regime, end of rotation drop would still occur. One of the results of this study was the revision of the flow policy to the present language of E.D. #16 which requires planners to look beyond the first rotation and set the calculated allowable harvest at levels which will not decline. The usual relationship between allowabe harvest levels calculated under these two different rationales on western National Forests having large old-growth inventories is diagramatically illustrated as follows:

(Chart not reproducible.)

The magnitude of the differences between the two allowable harvest levels will vary considerably on a forest-by-forest basis. The differences between the flow levels would tend to be greater as rotations were shortened—and it would tend to be less as the proportion of "old-growth" volume and area declined. So long as a forest contained an excess of "old-growth" (i.e., over rotation age timber), the differences between the flow patterns would exist, and the "drop off" characteristic of the Douglas Fir Supply Study flow would persist.

It will also be apparent that in an immature Forest containing little or no rotation age or older timber, there would be essentially no difference in the flow patterns resulting from application of these two flow policies. In such a forest, the first term in the allowable cut calculation equation would become a negative amount. Less than the "regulated" amount of nature timber would be available—and a portion of the growth would need to be retained over the conversion period to build growing stock to the desired level. This condition is common in the National Forests of the eastern United States. In such cases, the application of either flow rationale would produce flow patterns similar to that schematically illustrated as follows:

(Chart not reproducible.)

It should be emphasized that the preceding discussions have compared these flow rationales under the assumption that the other elements which affect allowable harvest levels were kept constant. In actual periodic calculations of allowable harvest, of course, this has never occurred. Land base constraints, management intensity levels, and utilization standards change significantly during the time (usually about 10 years) lapse between allowable harvest calculations. Changes in these elements of the calculation interact significantly with flow rationales—and it is difficult to impossible to discern, with any preciseness, what part of the resulting difference in allowable cut levels is attributable to each of the elements in the calculation.

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., August 24, 1976.
Hon. HUBERT H. HUMPHREY,
U.S. Senate.

DEAR SENATOR HUMPHREY: Your letter of August 6 asked for our analysis of the views set forth in the Western Timber Association's Forest Industries article on nondeclining yield waste anchored by George A. Craig, and for our review of S. 3091 language, as reported, concerning increase of harvest levels, intensity of management, and multiple-use benefits on a sustained-yield basis.

One of the key issues in the management of the National Forests is the determination of the level of allowable harvest. This received much attention during the period of timber shortage in 1968 and 1969, and was a key point in the Report of the President's Advisory Panel on Timber and the Environment, 1973. It has now become a major issue in the consideration of S. 3091, as reported.

The article attacks the even-flow policy, which is one of the management decisions used in determining allowable harvests, primarily on the basis of alleged "waste." The example used in the article was undoubtedly put together to illustrate and perhaps to magnify the described waste, enhancing that argument against the nondeclining or even-flow policy.

We agree that the nondeclining even-flow policy, as currently applied to National Forest timber management planning, and as interpreted in S. 3091 as reported, could result in short-term loss of potential harvest on some National Forests of the West. This loss could occur through mortality which cannot be harvested, and more subtly through loss of growth due to delays in converting old-growth stands into faster growing younger stands. This is the waste that Mr. Craig refers to in his article. However, in actual practice, the waste as illustrated has not, and hopefully will not occur on the National Forests because of the even-flow policy, particularly.

New timber management plans, which have been proposed under this policy, recognize the problem associated with extending the liquidation period of old-growth timber to achieve an even-flow of timber harvest. Much of the potential loss is mitigated through programs to increase mortality harvest, increases in intermediate harvests, especially in the old-growth stands that will not be regenerated in the near future, and priority scheduling of harvest cuts in the older high risk stands. Further, on many of the National Forests of the West, we have made considerable progress in the past 40-50 years in reducing the risk of mortality loss by scheduling initial entries in the high risk stands and harvesting the highest risk trees. This is especially true in the pine forests of the West, the species group used in Mr. Craig's illustration. Finally, growth and mortality losses—partially equated to waste—can and are further being reduced through programs of intensified forest management by accelerating the old-growth harvest rate, once intensified practices have been accomplished on-the-ground, thus ensuring future increases in forest growth.

We recognize that an element of waste is associated with nondeclining even-flow, even though much of the problem can be mitigated. However, it is important also to point out that even-flow is not a new planning concept and has many recognized advantages and supporters. This policy, when applied in National Forest timber management planning, results in harvest levels that can probably be sustained forever if the land base is not reduced. At time of replanning, a reduction in timber base for Wilderness or other purposes is likely to have less effect on the harvest level than would be the case for harvest schedules that liquidate the inventory more rapidly, as proposed in Mr. Craig's article. The method employing nondeclining even-flow tends to support income flows and community stability, and minimizes chances of community disruption caused by significant reduction or acceleration in timber harvest. Some supporters contend harvest schedules on an even-flow basis are also more environmentally acceptable, because an even-flow of timber output also provides assurance that the other forest resources will not be subjected to sudden potentially adverse changes or disruption. Thus, it is more consistent with the multiple-use and sustained-yield concepts.

We have examined Mr. Craig's paper in more detail in an analysis prepared by my staff. A copy of this paper is enclosed for your review.

It is our judgment that S. 3091, as reported, will permit National Forest timber harvest levels to increase to the levels projected in our Recommended Program submitted to the Congress under the Resources Planning Act. Such an increase could be achieved by the implementation of intensive timber management practices which are outlined in the Program and which are consistent with the congressional direction proposed in S. 3091. We are convinced that implementation of the Program will enhance multiple-use benefits from all renewable resources on a sustained-yield basis.

Sincerely,

JOHN R. MCGUIRE,
Chief.

Enclosure.

CRITIQUE OF G. A. CRAIG'S "NONDECLINING YIELD NONSENSE"

(By Robert C. Van Aken, Policy Analysis)

G. A. Craig in his article "Nondeclining Yield Nonsense" as published under the byline of the Western Timber Association has chosen to represent conditions on the National Forests with an example that is very atypical. In addition, he has interpreted the Multiple Use Sustained Yield Law in such a way that infers maximum growth of wood fiber on the National Forests overrides other objectives.

Use of an Unrealistic Example—

Craig refers to Walter Meyer's tables as the basis for his hypothetical example. I assume he is referring to USDA Bulletin 630 "Yield of Even-Aged Stands of Ponderosa Pine" by Walter H. Meyer. This publication is only representative of the most heavily stocked, even-aged Ponderosa Pine stands. The volumes and numbers of stems presented in the tables do not agree with the volumes and numbers of stems that are reported on existing inventories.

Most of the 200-year-old stands of Ponderosa Pine on National Forests in the West average less than 25,000 board feet per acre and much of it less than 15,000 compared to Craig's example of 80,000 plus board feet per acre. This average stocking level has been created by past practices of "risk" cutting which took overmature high risk trees out of the stands and caused the development of two or three age classes with lower volumes per acre. In addition, because of the way Meyer selected his sample, later research has demonstrated that these "normal" tables overstate the productivity of Ponderosa Pine. Many acres cannot reach this predicted stocking because of moisture deficiency and competition with grass and shrubs. Therefore, in many cases, Ponderosa Pine on the National Forests will be carrying more inventory in future stands than is being carried at this time, but not 80,000 board feet per acre.

Even in Douglas Fir on the west side of the Cascades the relationship of standing inventory to future inventory is not as depicted by Craig. National Forests currently average less than 45 MBF per acre on harvest sales on the west side of Region 6. These volumes can easily be secured in the future with reforestation using genetically improved stock, stocking level control through thinning, and fertilization where necessary. Therefore, the large area described as waste by Craig does not exist in real life.

Use of Misleading Graphics—

The graphics used by Craig are misleading. First, as noted, they misrepresent the relationship of standing inventory to future inventory. Second, they do not display the reason behind the present harvest level policy. If the Forest Service were to accelerate harvest of the old growth, then in 20 to 40 years industry would be facing a period when the National Forests would have insufficient inventory to maintain the accelerated harvest. There would follow a period of reduced outputs of timber. Further, the uneven age classes would complicate reaching higher future sustained yields for timber. In short, the adoption of Craig's recommended policy would delay attaining the benefits of a high level output on a sustained basis.

This set of graphs more accurately shows the relationship between the Craig proposal and the direction of Forest Service policy.

(Chart not reproducible.)

Improper Interpretation of Sustained Yield—

Craig states that "the Multiple Use Sustained Yield Act of 1960 recognized the need for achievement of a regulated forest before reducing the cut to the sustained yield level." There is no such wording in the law that supports this statement. Craig's interpretation and his hypothetical example infer the National Forests are established primarily for wood fiber production. This is an improper interpretation. The definition of sustained yield in the law is as follows:

"Sustained yield of the several products and services means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the National Forests without impairment of the productivity of the land."

Clearly, the yield for timber was not to be planned for reduction as Craig asserts. This means that on any National Forest no matter how productive for timber growing, there will be the need to recognize all management objectives. Scenic quality, fisheries management, and wildlife management are just a few objectives that will demand that maximum wood fiber production regimes be set at optimum levels. This will require rotations and stocking density adjustments that may differ from those that would be used for the single goal of maximum wood fiber growth. It will also result in forests that are complex and varied in stand structure instead of those envisioned in Craig's "tree for wood" situation. Because we already have natural forests in the West, the policy will help the Forest Service phase into the managed forest of the future by helping to limit the acreage impact of harvesting in any one decade to a level that is consistent with all National Forest goals, not just maximum wood fiber production.

Growth in Older Stands.—Craig argues that the Forest Service should accelerate the harvest now in order to increase growth, thereby adding to total and current wood supply. The present conversion policy has the goal of increasing total supply. Of necessity it sets current harvest levels in a manner consistent with levels of investment. Growth in future stands will be very similiar to growth in current stands unless the Government invests in genetically improved stock, precommercial thinning and fertilization. With these investments the Forest Service can provide higher harvest levels in the short and long run. However, these investments must continue throughout time.

Timber stands do sustain growth losses due to mortality of individual trees. This can be mitigated by controlling stocking through commercial thinning in younger stands and by salvage cutting in older stands. In general, the amount of mortality expressed in terms of volume, increases as stands grow older. Many of our most defective stands that were suffering high mortality have been converted to young growth stands. Therefore, on most National Forests net growth is showing considerable increases over past inventories. In addition, high mortality is often due to constraints other than limitations on the allowable cut. For example, two well known constraints are roadless areas where Forest Service cannot enter because of administrative limitations and areas where low return-to-cost relationships preclude harvesting.

Flexibility Is Desirable and It Exists.—It is correct that in certain situations such as epidemic outbreaks of Tussock Moth that the Forest Service has lost large volumes of timber to insects. There is flexibility to handle these critical situations. The 1897 law readily permits harvest of dead timber. As S. 3091 is upated, it assures the ability of the Forest Service to harvest volume in dead and dying trees above any currently effective harvest level set under a management plan for a forest. Under this bill, if enacted, and under current policy, subsequent adjustments would be needed to reconform harvest levels to the multiple use sustained yield level.

Entomologists, pathologists, and foresters can identify 20 to 30 years in advance where catastrophic losses are highly likely to occur. With more intensive management, action can be planned to keep losses at low endemic levels. With clear statutory direction to realize the full concepts of timber output capacity of the 1960 Multiple Use Sustained Yield Act, the Forest Service will be able to better define and reach goals. Flexibility is needed to avoid letting impending or foreseeable catastrophies reduce multiple use sustained yield outputs. Both expenses of sales programing revisions and control programs could be reduced by anticipating and managing these situations.

Conclusion.—Dr. Craig's basic thesis that there will be tremendous waste due to the current conversion policy is incorrect. He builds his case on nonrepresentative data and fails to recognize that there are other management objectives for the National Forests besides wood fiber production. While there is a need for some flexibility, in total, the current policy is a responsible, constructive policy for the National Forests. It ties the allowable harvest rate to the intensity with which the Forest Service manages young stands and recognizes Forest Service responsibility to supply timber in the long run as well as the short run.

Mr. HUMPHREY. Mr. President, first, I ask unanimous consent that the committee amendment be agreed to, and that the bill, as thus amended, be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER (Mr. JOHNSTON). Is there objection? The question is on agreeing to the committee amendment.

Mr. BUMPERS. Mr. President, reserving the right to object, and I will not object, but is one of the committee amendments No. 2209?

Mr. HUMPHREY. No. What we are doing here in this unanimous-consent request is to take the bill as it is presented now to the Senate and ask that the bill as it was designed in committee be considered as original text.

Mr. BUMPERS. I apologize to the Senator. I was not following it that closely. I understand now.

The amendment of the Committee on Agriculture and Forestry was agreed to as follows:

That this Act may be cited as the "National Forest Management Act of 1976".

FINDINGS

Sec. 2. The Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476; 16 U.S.C. 1601–1610) is amended by redesignating sections 2 through 11 as sections 3 through 12, respectively; and by adding a new section 2 as follows:

"Sec. 2. Findings.—The Congress finds that—

"(1) the management of the Nation's renewable resources is highly complex and the uses, demand for, and supply of the various resources are subject to change over time;

"(2) the public interest is served by the Forest Service, Department of Agriculture, in cooperation with other agencies, assessing the Nation's renewable resources, and developing and preparing a national renewable resource program, which is periodically reviewed and updated;

"(3) to serve the national interest, the renewable resource program must be based on a comprehensive assessment of present and anticipated uses, demand for, and supply of renewable resources from the Nation's public and private forests and rangelands, through analysis of environmental and economic impacts, coordination of multiple use and sustained yield opportunities as provided in the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528–531), and public participation in the development of the program;

"(4) the new knowledge derived from coordinated public and private research programs will promote a sound technical and ecological base for effective management, use, and protection of the Nation's renewable resources;

"(5) inasmuch as the majority of the Nation's forests and rangeland is under private, State, and local governmental management and the Nation's major capacity to produce goods and services is based on these nonfederally managed renewable resources, the Federal Government should be a catalyst to encourage and assist these owners in the efficient long-term use and improvement of these lands and their renewable resources consistent with the principles of sustained yield and multiple use;

"(6) the Forest Service, by virtue of its statutory authority for management of the National Forest System, research and cooperative programs, and its role as an agency in the Department of Agriculture, has both a responsibility and an opportunity to be a leader in assuring that the Nation maintains a natural resource conservation posture that will meet the requirements of our people in perpetuity; and

"(7) recycled timber product materials are as much a part of our renewable forest resources as are the trees from which they originally came, and in order to extend our timber and timber fiber resources and reduce pressures for timber production from Federal lands, the Forest Service should expand its research in the use of recycled and waste timber product materials, develop techniques for the substitution of these secondary materials for primary materials, and promote and encourage the use of recycled timber product materials.".

REPORT ON FIBER POTENTIAL

Sec. 3. Section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by adding at the end thereof a new subsection (c) as follows:

"(c)(1) The Secretary of Agriculture shall report in the 1980 and subsequent Assessments on the additional fiber potential in the National Forest System. The report shall include, but not be restricted to, forest mortality, growth, salvage potential, potential increased forest products sales, economic constraints, alternate markets, contract considerations, and other multiple-use considerations.

"(2) In developing the report, the Secretary shall provide opportunity for public input, and shall consult with other interested governmental departments and agencies.".

RENEWABLE RESOURCE PROGRAM

Sec. 4. Section 4 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by striking out the word "and" at the end of paragraph (3); striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and the word "and"; and by adding a new paragraph (5) as follows:

"(5) Program recommendations which—

"(A) evaluate objectives for the major Forest Service programs in order that multiple-use and sustained yield relationships among and within the renewable resources can be determined;

"(B) explain the opportunities for owners of forests and rangeland to participate in programs to improve and enhance the condition of the land and the renewable resource products therefrom;

"(C) recognize the fundamental need to protect and, where appropriate, improve the quality of soil, water, and air resources; and

"(D) state national goals that recognize the interrelationships between and interdependence within the renewable resources.".

NATIONAL FOREST SYSTEM RESOURCE PLANNING

Sec. 5. Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by adding at the end thereof new subsections (c) through (h) as follows:

"(c) The Secretary shall provide for public participation in the development, review, and revision of land management plans.

"(d) Within two years after enactment of this subsection the Secretary shall, in accordance with the procedures set forth in section 553 of title 5, United States Code, promulgate regulations, under the principles of the Multiple-Use Sustained-Yield Act of 1960, that set out the process for the development and revision of the land management plans, and the guidelines and standards prescribed by this subsection. The regulations shall include, but not be limited to—

"(1) specifying how the interdisciplinary approach, as required by subsection (b) of this section, will be implemented;

"(2) specifying the type or types of plans that will be prepared and the relationship of those plans to the Program developed pursuant to section 4;

"(3) specifying procedures to insure public participation, as required in subsection (c) of this section;

"(4) specifying procedures to insure that plans are prepared in accordance with the National Environmental Policy Act of 1969, including, but not limited to, the preparation of an environmental impact statement required under section 102(2)(C) of that Act;

"(5) specifying guidelines which—

"(A) require the identification of the suitability of lands for resource management;

"(B) provide for obtaining inventory data on the various renewable resources, and soil and water, including pertinent maps, graphic material, and explanatory aids; and

"(C) provide for methods of identify special conditions or situations involving hazards to the various resources and their relationship to alternative activities;

"(6) specifying guidelines for land management plans developed to achieve the goals of the Program which—

"(A) insure consideration of the economic and environmental aspects of various systems of renewable resources management, including the related systems of silviculture and protection of forest resources, to provide for outdoor recreation (including wilderness), range, timber, watershed, wildlife, and fish;

"(B) provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives;

"(C) recognize the requirements necessary to coordinate the uses on special or unique management areas;

"(D) recognize the need for special provisions to protect soil, water, esthetic, and wildlife resources where conditions are critical for tree regeneration within a reasonable period of time either by natural or artificial means, or where the size of a timber sale, cutting areas, or stand size and species composition are critical in terms of multiple-use impacts;

"(E) specify how the interdisciplinary approach, as required by subsection (b) of this section, will be implemented, including the manner in which the expertise of affected State agencies will be obtained and used in the preparation of land management plans;

"(F) prescribe, according to geographic area, forest types, or other suitable classifications, appropriate systems of silviculture which include, but are not restricted to, thinnings, harvesting of trees and products, regeneration, and other treatment methods;

"(G) insure research on and (based on continuous monitoring and assessment in the field) evaluation of the effects of each management system in use or proposed for use; and provide for the modification or discontinuation of a management system or method when research or evaluation establishes that a management system or method is producing impairment of the productivity of the land;

"(H)(i) provide that the amount of timber to be harvested from any National Forest System lands shall be determined only through the process of preparing land management plans;

"(ii) provide that the allowable harvests on National Forest System lands shall be based only on lands available and suitable for timber production, and the harvest levels are reviewed and adjusted periodically;

"(iii) identify the relative productivity of land for timber production and assure that timber production is not a management goal on lands where the estimated cost of production will exceed estimated economic return: *Provided*, That the estimated cost of production will include only direct timber production costs and not access, protection, revegetation and administration costs for multiple-use purposes; and

"(iv) provide that increases in allowable harvests based on intensified management practices such as reforestation, thinnings, or tree improvement, shall be made only upon demonstration that such practices justify increased allowable harvests, and that the outputs projected are being secured;

"(I) insure that timber will be harvested from National Forest System lands only where—

"(i) soil, slope, or other watershed conditions will not be irreversibly damaged;

"(ii) there is assurance that such lands can be adequately restocked within five years after harvest; and

"(iii) protection is provided for streams, streambanks, shorelines, lakes, wetlands, and other bodies of water from changes in water temperatures, blockages of water courses, and deposits of sediment, where harvests could seriously and adversely affect water conditions or fish habitat; and

"(J) insure that clearcutting (including seed tree cutting, shelterwood cutting, and other cuts designed to regenerate an even-aged stand of timber) will be used as a cutting method on National Forest System lands only where—

"(i) it is determined to be the optimum method to meet the objectives and requirements of the relevant land management plan;

"(ii) the interdisciplinary review has been completed and the potential environmental, biological, esthetic, engineering, and economic impacts on each sale area have been assessed, as well as the impact of the sale on nontimber resources and the consistency of the sale with the multiple use of the general area;

"(iii) clearcut blocks, patches, or strips are shaped and blended to the extent practicable with the natural terrain;

"(iv) there are established according to geographic areas, forest types, or other suitable classifications the maximum size limits for areas to be clearcut in one harvest operation, including provision to exceed the established limits after appropriate public notice and review by the responsible Forest Service officer one level above the Forest Service officer who normally would approve the harvest proposal: *Provided*, That such limits shall not apply to the size of areas harvested as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm; and

"(v) such cuts are carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and esthetic resources, and the regeneration of the timber resource; and

"(7) specifying guidelines to be followed in the preparation and revision of resource plans using an interdisciplinary review.

"(e)(1) In carrying out the purposes of subsection (d) of this section, the Secretary of Agriculture shall appoint a committee of scientists who are not officers or employees of the Forest Service. The committee shall provide scientific and technical advice and counsel on proposed guidelines and procedures to assure that an effective interdisciplinary approach is proposed and adopted. The committee shall terminate upon promulgation of the regulations, but the Secretary may, from time to time, appoint similar committees when considering revisions of the regulations. The views of the committees shall be included in the public information supplied when the regulations are proposed for adoption.

"(2) Clerical and technical assistance, as may be necessary to discharge the duties of the committee, shall be provided from the personnel of the Department of Agriculture.

"(3) While attending meetings of the committee, the members shall be entitled to receive compensation at a rate of $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(f) Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans. Those resource plans and permits, contracts, and other such instruments currently in existence shall be revised as soon as practicable to be made consistent with such plans. When land management plans are revised, resource plans and permits, contracts, and other instruments, when necessary, shall be revised as soon as practicable. Any revision in permits, contracts, and other instruments made pursuant to this section shall be subject to valid existing rights.

"(g) Land management plans and revisions shall become effective thirty days after completion of public participation and publication of notification by the Secretary as required under section 6(c) of this Act.

"(h) The Secretary shall, within one hundred and twenty days after the enactment of section 6(d) of this Act, adopt interim procedures to guide the land management planning process. Prior to the promulgation of the regulations required by section 6(d), management of National Forest System lands shall be in accordance with existing regulations and the interim guidelines when adopted. When necessary, land management plans will be revised as soon as practicable to be in accord with the guidelines specified in section 6(d).".

NATIONAL PARTICIPATION

SEC. 6. Section 8 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended—

(a) by striking out "sixty" in the second sentence of subsection (a) and inserting in lieu thereof the word "ninety"; and by striking out "sixty-day period" in the third sentence of subsection (a) and inserting in lieu thereof "ninety-day period".

(b) by striking out the period at the end of the second sentence of subsection (b) and inserting in lieu thereof the following: ", and the Director of the Office of Management and Budget shall appear before the Committee on Agriculture and Forestry, the Committee on Interior and Insular Affairs, and the Committee on Public Works of the Senate, and the Committee on Agriculture, the Committee on Interior and Insular Affairs, and the Committee on Public Works and Transportation of the House of Representatives to explain the failure to request a budget to meet the policies approved by the Congress.".

RESTORATION OF VEGETATIVE COVER

SEC. 7. Section 9 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by inserting at the end thereof the following new sentence: "On any forest or rangeland in the National Forest System where vegetative cover has been removed by man or natural causes, the Secretary of Agriculture, within a five-year period after such removal, shall report in writing to Congress either the amount of funds necessary to properly restore useful vegetative cover or that such lands are not in need of revegetation, except that areas which are to be used for specific purposes, such as rights-of-way, campgrounds, and reservoirs, or areas where permits or other provisions are made to assure revegetation shall be excluded from the requirements of this sentence.".

TRANSPORTATION SYSTEM

SEC. 8. Section 10 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by inserting "(a)" immediately before the words "The Congress" and inserting at the end thereof new subsections (b) and (c) as follows:

"(b) Unless the necessity for a permanent road is set forth in the forest development road system plan, any road constructed on land of the National Forest System in connection with a timber contract or other permit or lease shall be designed with the goal of reestablishing vegetative cover on the roadway and areas where the vegetative cover has been disturbed by the construction of the road, within ten years after the termination of the contract, permit, or lease either through artificial or natural means. Such action shall be taken unless it is later determined that the road is needed for use as a part of the National Forest Transportation System.

"(c) Roads constructed on National Forest System lands shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources.".

NATIONAL FOREST SYSTEM

SEC. 9. Section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by adding at the end thereof the following new sentence: "Notwithstanding the provisions of the Act of June 4, 1897 (30 Stat. 34; 16 U.S.C. 473), no land now or hereafter reserved or withdrawn from the public domain as national forests pursuant to the Act of March 3, 1891 (26 Stat. 1103; 16 U.S.C. 471), or any act supplementary to and amendatory thereof, shall be returned to the public domain except by an act of Congress.".

RENEWABLE RESOURCES

SEC. 10. Section 12 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by striking out the period at the end of that section and inserting in lieu thereof the following: "and on the date of enactment of any legislation amendatory or supplementary thereto.".

LIMITATIONS ON TIMBER REMOVAL; PUBLIC PARTICIPATION AND ADVISORY BOARDS

SEC. 11. The Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof new sections 13 and 14 as follows:

"SEC. 13. LIMITATIONS ON TIMBER REMOVAL.—(a) The Secretary of Agriculture shall limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis. However, the Secretary may exceed the quantity sales limitation from time to time in the case of any forest so long as the average sales of timber from such forest over any ten-year period do not exceed such quantity limitation. In those cases where a forest has less than two hundred thousands acres of commercial forest land, the Secretary may use two or more forests for purposes of determining the sustained yield.

"(b) Nothing in subsection (a) of this section shall prohibit the Secretary from salvaging timber stands which are substantially damaged by fire, windthrow, or other catastrophe.

"SEC. 14. PUBLIC PARTICIPATION AND ADVISORY BOARDS.—(a) In excercising his authorities under this Act and other laws applicable to the Forest Service, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs.

"(b) In providing for public participation in the planning for and management of the National Forest System, the Secretary, pursuant to the Federal Advisory Committee Act (86 Stat. 770) and other applicable law, shall establish and consult such advisory boards as he deems necessary to secure full information and advice on the execution of his responsibilities. The membership of such boards shall be representative of a cross section of groups interested in the planning for and management of the National Forest System and the various types of use and enjoyment of the lands thereof.".

CONFORMING AMENDMENTS TO THE FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT OF 1974

SEC. 12. The Forest and Rangeland Renewable Resources Planning Act of 1974 is amended as follows:

(a) Section 6(a), as redesignated by section 2 of this Act, is amended by striking out "section 3" and inserting in lieu thereof "section 4".

(b) Section 8, as redesignated by section 2 of this Act, is amended—

(1) by striking out "section 2" and "section 3" in the first sentence of subsection (a) and inserting in lieu thereof "section 3" and "section 4", respectively;

(2) by striking out "section 3" in subsection (c) and inserting in lieu thereof "section 4"; and

(3) by striking out "section 3" in the first sentence of subsection (d) and inserting in lieu thereof "section 4".

AMENDMENT TO THE ORGANIC ACT

SEC. 13. The twelfth undesignated paragraph under the heading "SURVEYING THE PUBLIC LANDS" in the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476), is hereby repealed.

TIMBER SALES ON NATIONAL FOREST SYSTEM LANDS

SEC. 14. (a) For the purpose of achieving the policies set forth in the Multiple-Use Sustained-Yield Act (74 Stat. 215, as amended) and the Forest and Rangeland Renewable Resource Planning Act of 1974 (88 Stat. 476, as amended), the Secretary of Agriculture may sell at not less than appraised value, trees, portions of trees, or forest products located on National Forest System lands.

(b) All advertised timber sales shall be designated on maps, and a prospectus shall be available to the public and interested potential bidders.

(c) The length and the other terms of the contract shall be designed to promote orderly harvesting consistent with the principles set out in section 6 of the Forest and Rangeland Renewable Resource Planning Act of 1974, as amended. Unless there is a finding by the Secretary of Agriculture that better utilization of the various forest resources (consistent with the provisions of the Multiple-Use Sustained-Yield Act of 1960) will result, sales contracts shall be for a period not to exceed ten years: *Provided*, That such period may be adjusted at the discretion of the Secretary to provide additional time due to time delays caused by an act of an agent of the United States or by other circumstances beyond the control of the purchaser. The Secretary shall require the purchaser to file as soon as practicable after execution of a contract for any advertised sale with a term of two years or more, a plan of operation, which shall be subject to concurrence by the Secretary. The Secretary shall not extend any contract period with an original term of two years or more unless he finds (A) that the purchaser has diligently performed in accordance with an approved plan of operation or (B) that the extension would be in the public interest.

(d) The Secretary of Agriculture shall advertise all sales unless he determines that extraordinary conditions exist, as defined by regulation, or that the appraised value of the sale is less than $10,000. If, upon proper offering, no satisfactory bid is received for a sale, or the bidder fails to complete the purchase, the sale may be offered and sold without further advertisement.

(e) The Secretary of Agriculture, under such rules and regulations as he may prescribe, is authorized to dispose of, by sale or otherwise, trees, portions of trees, or other forest products related to research and demonstration projects.

(f) Designation, marking when necessary, and supervision of harvesting of trees, portions of trees, or forest products shall be conducted by persons employed by the Secretary. Such persons shall have no personal interest in the purchase or harvest of such products and shall not be directly or indirectly in the employment of the purchaser thereof.

(g) Utilization standards and methods of measurement shall be established for the removal of trees, portions of trees, or forest products to provide for the optimum practical use of the wood material. Such standards shall reflect consideration of opportunities to promote more effective wood utilization, regional conditions, and species characteristics and shall be compatible with multiple use resource management objectives in the affected area. To accomplish the purpose of this subsection in situations involving salvage of insect-infested, dead, damaged, or down timber, the Secretary is authorized to require the purchasers of such timber to make deposits of money, in addition to the payment for the timber, to cover the cost to the United States for design, engineering, and supervision of the construction of needed roads and the cost for Forest Service supervision of the harvesting of such timber. Deposits of money pursuant to this subsection are available until expended to cover the cost to the United States of accomplishing the purposes for which deposited: *Provided*, That any portion of any deposit found to be in excess of the cost of accomplishing the purposes for which deposited shall be transferred to miscellaneous receipts.

VALIDATION OF TIMBER SALES CONTRACTS

SEC. 15. (a) Timber sales made pursuant to the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476), prior to the date of enactment of this Act are hereby validated, subject to the provisions of subsection (b).

(b) The Secretary of Agriculture is directed, in developing five-year operating plans under the provisions of existing fifty-year timber sales contracts in Alaska, to revise such contracts to make them consistent with the guidelines and standards provided for in the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, and to reflect such revisions in the contract price of timber. Any such action shall not be inconsistent with valid contract rights approved by the final judgment of a court of competent jurisdiction.

PAYMENTS TO STATES FOR SCHOOLS AND ROADS

SEC. 16. The sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908, as amended, and section 13 of the Act of March 1, 1911, as amended (35 Stat. 260, 36 Stat. 963, as amended; 16 U.S.C. 500), are each amended by adding at the end thereof, respectively, the following new sentence: "The term 'moneys received' shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.".

ACQUISITION OF NATIONAL FOREST SYSTEM LANDS

SEC. 17. (a) The National Forest Reservation Commission, established by the Act of March 1, 1911 (36 Stat. 961, as amended; 16 U.S.C. 513–516, 518), is abolished and all functions of the Commission are transferred to the Secretary of Agriculture.

(b) The Secretary of Agriculture shall prepare an annual report of all land purchases and exchanges relating to the National Forest System, and submit the report to the Congress as part of the report prepared in compliance with section 8(c) of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended. The report shall include an evaluation of the purchase price criteria and guidelines utilized by the Secretary of Agriculture for the purpose of forest land acquisition.

AMENDMENT TO THE KNUTSON-VANDENBERG ACT

SEC. 18. Section 3 of the Act of June 9, 1930 (46 Stat. 527; 16 U.S.C. 576b), is amended—

(a) by striking out the word "or" *immediately* before "(3)" in the first sentence thereof; and

(b) by striking out in the first sentence thereof the colon preceding the proviso and all that follows down through "three years" and inserting in lieu thereof the following: ", or (4) protecting and improving the future productivity of the renewable resources of the forest land on such sale area, including sale area improvement operations, maintenance and construction, reforestation and forest habitat management".

AMENDMENT TO THE ACT OF JUNE 12, 1960

SEC. 19. The Act of June 12, 1960 (74 Stat. 215; 16 U.S.C. 528–531), is amended by adding at the end thereof the following new section:

"SEC. 5. This Act may be cited as the 'Multiple-Use Sustained-Yield Act'."

AMENDMENT TO THE NATIONAL FORESTS ROADS AND TRAILS SYSTEMS ACT

SEC. 20. Section 4 of the Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 535), is amended by striking out the colon preceding the proviso and all that follows down through "be appropriate".

AMENDMENTS NUMBERED 2209, 2210, AND 2211

Mr. HUMPHREY, Mr. President, there are certain technical amendments which were introduced by me yesterday, and there is also one additional amendment which I shall present today.

The technical amendments I will call up by number are, first, amendment 2209.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to read the amendment.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that we consider these three technical amendments en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. I think it is agreeable to me, if the Senator will yield for further questions. Is one of these amendments in order to protect existing contract rights which are in the process of being prosecuted?

Mr. HUMPHREY. That is right.

I shall read what each amendment provides.

Amendment No. 2209 would authorize the Secretary to determine when and for what plans an environmental impact statement will be required, in addition to requiring the Secretary to insure that the plans are in accordance with the National Environmental Policy Act of 1969. It is essential, with the many levels and types of plans required in S. 3091, that the Secretary have statutory authority to prescribe in regulations when and for what plans the NEPA impact statement must be prepared. This provision will not enlarge or diminish the Forest Service's responsibilities under NEPA.

Amendment No. 2210 is a clarifying amendment. It will remove any possible confusion that may exist concerning the committee's intent that revisions in both present and future permits, contracts, and other instruments made pursuant to the act would be subject to valid existing rights. This amendment is necessary because it is important that the transition provision be clear and designed to prevent disruption of ongoing activities under valid existing rights.

Amendment No. 2211 is a technical amendment to accomplish the purpose of section 17(a) of S. 3091, the abolition of the National Forest Reservation Commission.

I ask that those amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. If I may, amendment 2209 is not designed to override NEPA in any way?

Mr. HUMPHREY. Absolutely not. To the contrary, I appreciate the Senator's concern.

We have one additional amendment which the Budget Committee has suggested. I send to the desk an amendment and ask that it be read.

The PRESIDING OFFICER. Did the Senator desire that this amendment be considered as part of the amendments to be considered en bloc?

Mr. HUMPHREY. I want the first three to be considered en bloc.

The PRESIDING OFFICER. Without objection, the first three amendments will be considered en bloc.

The question is on agreeing to the three amendments en bloc.

The amendments were agreed to as follows:

AMENDMENT No. 2209

On page 13, strike out lines 20 through 24 and insert in lieu thereof the following:

"(4) specifying procedures to insure that plans are prepared in accordance with the National Environmental Policy Act of 1969, including, but not limited to, direction on when and for what plans an environmental impact statement required under section 102(2)(c) of that Act shall be prepared;".

AMENDMENT No. 2210

On page 20, line 17, insert immediately after "in" the words "present or future".

AMENDMENT No. 2211

On page 31, strike out lines 5 through 9 and insert in lieu thereof the following:

SEC. 17. (a) The Act of March 1, 1911 (36 Stat. 961), as amended (16 U.S.C. 480, 500, 513–517, 517a, 518, 519, 521, 552, 563), is amended as follows:

(1) Section 4, as amended, is repealed.

(2) Section 5 is repealed.

(3) Section 6 is amended to read as follows: "The Secretary of Agriculture is hereby authorized and directed to examine, locate, and purchase such forested, cut-over, or denuded lands within the watersheds of navigable streams as in his judgment may be necessary to the regulation of the flow of navigable streams or for the production of timber. The examination for purchase of lands necessary to the regulation of the flow of navigable streams shall be made in cooperation with the Director of the Geological Survey who shall submit a report to the Secretary of Agriculture showing that the control of such lands by the Federal Government will promote or protect the navigation of streams. No deed or other instrument of conveyance of lands referred to herein shall be accepted or approved by the Secretary of Agriculture under this Act until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States for the purpose of preserving the navigability of navigable streams.".

(4) Section 7, as amended, is amended to read as follows: "When the public interests will be benefited thereby, the Secretary of Agriculture is hereby authorized, in his discretion, to accept on behalf of the United States title to any lands within the exterior boundaries of national forests acquired under this Act which, in his opinion, are chiefly valuable for the purposes of this Act, and in exchange therefor to convey by deed not to exceed an equal value of such national forest land in the same State, or he may authorize the grantor to cut and remove an equal value of timber within such national forests in the same State, the values in each case to be determined by him: *Provided*, That before any such exchange is effected notice of the contemplated exchange reciting the lands involved shall be published once each week for four successive weeks in some newspaper of general circulation in the county or counties in which may be situated the lands to be accepted, and in some like newspaper published in any county in which may be situated any lands or timber to be given in such exchange. Timber given in such exchanges shall be cut and removed under the laws and regulations relating to such national forests, and under the direction and supervision and in accordance with the requirements of the Secretary of Agriculture. Lands so accepted by the Secretary of Agriculture shall, upon acceptance, become parts of the national forests within whose exterior boundaries they are located, and be subjected to all provisions of this Act.".

(5) Section 9, as amended, is amended by striking out the following language in the first sentence: "the National Forest Reservation Commission and".

(6) Section 14, as amended, is repealed.

UP AMENDMENT NO. 372

Mr. HUMPHREY. I send an additional amendment to the desk and ask that the amendment be reported.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. HUMPHREY) propose unprinted amendment No. 372:

On page 30, line 15, strike out "The" and insert in lieu thereof "Beginning October 1, 1976, the".

Mr. HUMPHREY. Mr. President, this amendment was suggested by the Budget Committee so that there would not be any overlapping on payments. For example, the bill as it is written now says that the bill would become effective on the date of passage.

It is possible, but not very probable, that we could pass this bill, let us say, in the first week of September. If that were the case, there would be payments being made in fiscal 1976 that had already been made, so we would have additional unplanned payments.

This is a technical amendment which establishes fiscal year 1977 as the first year in which the revised schedule of payments to counties will take effect.

The payments for fiscal year 1976 have already been made. The Government is now in "transition quarter" that resulted from enactment of the new budget reforms. This technical amendment achieves the result that the committees intended when considering the bill, namely, that this provision would be prospective, not retroactive.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, as manager of the bill, I have presented the essentials of the bill, subject to further debate. There are some other amendments.

I yield the floor now to the Senator from Idaho who wishes to speak.

Mr. McCLURE. Mr. President, I yield 5 minutes to the Senator from Oregon (Mr. HATFIELD).

Mr. HATFIELD. Mr. President, I thank the Senator from Idaho and the Senator from Minnesota for yielding. I have a few comments I wish to make.

Mr. President, through its ownership of nearly 100 million acres of commercial timberland which constitute about 60 percent of our current softwood inventory, the U.S. Forest Service has a major role to play to insure adequate supplies of wood fiber. Recent court decisions pose the single greatest threat to wood supply in this country today.

These court decisions limit strictly the ability of the U.S. Forest Service to manage the national forests in a sound manner in order to meet our future needs. These rulings have interpreted in a literal way the provisions of the Organic Act of 1897. As we know, this law, which has now been outdated because of advances in forestry science over the last 80 years, is seen as compelling the Forest Service to harvest only dead or physiologically mature trees and requires that all trees to be cut must be marked.

While commonly referred to as the Monongahela or "clear-cutting decision," its impact goes much farther than West Virginia's Monongahela National Forest or the practice of clear-cutting. It places a severe restriction on the use of modern silvicultural practices in the national forests.

The immediate impact of the decision is felt primarily in West Virginia, Virginia, North Carolina and South Carolina. Timber sales, which were canceled after the decision, were resumed but at a staggering reduction of nearly 90 percent. Another Federal court decision, which has been applied to halt a sale in Alaska, is now spreading to other States. A third Federal court decision in Texas has complicated the issue even more. If applied nationally, these decisions could reduce the Forest Service sales program as much as 50 percent. This would mean a reduction of about 1.5 billion board feet per year or the material needed for 750,000 homes.

If economic catastrophe is to be averted, we must pursue legal remedies and work to enact legislation to deal with the present and potential problems of these court decisions. Legislation to amend the Organic Act must encourage the practice of modern forestry without tying the hands of professional foresters. This legislation should not proscribe silvicultural practices—different techniques must be used for different situations.

Rather than write a new prescription, we should be strengthening and reaffirming the policy already set by Congress. In 1960, Congress enacted the Multiple Use and Sustained Yield Act which directed the Secretary of Agriculture to "develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom." It determined that these uses included outdoor recreation, range, timber, watershed, and wildlife and fish purposes. In 1970, the National Environmental Policy Act was signed into law. Shortly thereafter, the Forest Service began to implement its Environmental Program which employed multidisciplinary teams to write environmental impact statements and oversee sales on all of the national forests.

In 1974, the Resources Planning Act—introduced by Senator Humphrey—was enacted. It provides the structure for full development of the national forests through management and funding beyond the horizon of a 1-year budget. This law should provide the best foundation we have ever had for sound, public forest management under the multiple-use concept. The legislation does not provide a mechanism which insures more money for forest management, as I would have preferred and included in my American Forestry Act, but it does make it more probable by providing a thoughtful process for developing the budget and for managing our forests.

In addition to this history of clear legislative policy direction, the Senate Public Lands Subcommittee held 8 days of hearings on forest management and the practice of clear cutting in 1971. Our subcommittee report found clear cutting to be one of several sound silvicultural practices. Furthermore, it included some clear guidelines for clear cutting on public lands. The Forest Service is presently operating under these protective guidelines. In addition as an outgrowth of those hearings, the Forest Service is now engaged in an extensive resources planning process for each forest, in addition to the NEPA process.

With this background in mind, I joined with Senator Humphrey and other colleagues in the original version of S. 3091. The original "Humphrey bill" was a straightforward proposal which would have stopped the cancerous spread of "Monongahela lawsuits." It deleted language in the outdated 1897 Organic Act. At the same time, the bill required the Forest Service to write and follow harvesting guidelines.

These guidelines are not inflexibly written into law. Rather, they are comprehensive guidelines tailored to "Geographic areas, soil types, various plant and animal associations and readily subject to improvement as new knowledge emerges to guide us toward our goals."

I believe that a tight legislative prescription, which must be designed to apply equally to all national forests from Puerto Rico to Alaska, is totally unworkable and totally unmanageable. We should not apply the same forestry methods to the old-growth Douglas-fir forests of the West as well as to the mixed hardwood forests of the Southeast. We should not and indeed we cannot legislate biological growth factors.

After extensive hearings and markup, a joint Senate committee reported an amended version of S. 3091. The committee-passed bill is different from the original Humphrey bill, but the basic approach is unchanged. The end result is a generally good compromise. I will put an end to "Monongahela lawsuits" which are closing our national forests. And it amends the 1897 Organic Act to permit the use of modern silvicultural practices, including controlled clear cutting.

It is not a perfect bill. There are still some areas of concern which should be eliminated or clarified. For instance, I do not see the need to legislate the economic test embodied in the so-called marginal lands provision. This type of analysis is current practice on Forest Service lands. This provision only adds confusion and uncertainty. There are other examples of excess. It seems unnecessary to lock into law a legislative definition of the very complicated concept of nondeclining yield.

Due to past experiences, we should recognize the importance of making an effort to simplify and clarify this bill. I would have preferred the less complex original version of S. 3091, but nevertheless I generally support this proposal. I urge my colleagues' favorable action on S. 3091.

I thank the Senator from Idaho and the Senator from Minnesota for this time.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that Bill Davis, Ned Massee, and Phil McGance, of my staff, be granted the privilege of the floor during the debate and any voting on amendments or on the bill S. 3091.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. McCLURE. Mr. President, I yield myself such time as I may consume.

Mr. President, the bill before us is, as the Senator from Oregon has so ably indicated, a bill under which the forest products industry can operate while at the same time establishing some reasonable guidelines for the administration of our national forests which all of the citizens of our country can support.

There is inherent in the definitions of multiple use a conflict of multiple demands upon the public resources. For those of us who live in Western States, it becomes a matter of intense interest, not just theoretical interest and not just an occasional interest but an every day interest, as the Senator from Montana (Mr. Metcalf) can testify.

One-third of my State is managed by the United States Forest Service. Two-thirds of the State is owned by the Federal Government. The Federal agency directions and management are of everyday interest and concern to us.

Just this last week we were confronted in my State with a devastating blow to the economy of one of our small communities as one of our timber companies had to announce the closing of a mill. The mill was closed because of the fact that there was no longer a sufficient amount of commercial timber available in the economic operating area of the mills that that company operates to keep all of the mills open. A portion of the problem, but not all of it, lies in the administrative restraints we have placed upon the use of public lands.

This is not a theoretical exercise for people whose livelihoods are tied up in that community. It is not simply a matter of theory for people whose entire lives have been spent in that community, whose homes have been built in that community, who now find no economic opportunities for themselves or their families, who find no economic market for the only investment they have. For a substantial number of people what happens to this legislation becomes a matter of intense personal concern to them. It is a matter of their own livelihood, a matter of the future of their families.

Mr. RANDOLPH. Will my colleague yield for a moment, Mr. President?

Mr. McCLURE. I yield.

Mr. RANDOLPH. I know the able Senator from Idaho has been intensely interested not only in this subject matter but has attempted also to bring a measure to the floor which would have, from his standpoint, much validity. I do want the record to indicate that the court decisions, at this point, have nothing to do with the State of Idaho or the operations of any lumbering within that State.

Mr. McCLURE. That is partly correct and partly not accurate because although the decision in the original Monongahela case is not within the circuit court which has jurisdiction over the State of Idaho, the decision, however, if applied nationwide would have very profound impact upon the State of Idaho.

Mr. RANDOLPH. But there is no application.

Mr. McCLURE. At the present time there is no application. However, the cases that were decided in the Alaska matter could also be applied in Idaho. The question, of course, lies in what will the Forest Service do in the administration of national policy when the court, without saying it applies only in one area of the United States, nevertheless restricts their activities in one area of the United States? Certainly, they are going to try to develop a comprehensive national policy that affects all of the

United States under a law as interpreted by the courts and mandated upon the Forest Service.

I do not believe we are going to see a national agency say, "All right, we will allow the interpretation of the law in this manner for one portion of the United States but not for the other portions of the United States."

Mr. RANDOLPH. Might I inquire further of the Senator?

Mr. McCLURE. Certainly.

Mr. RANDOLPH. As I understand it, the Senator is saying that there are some constraints within the Forest Service regardless of the court cases or decisions, which apparently have lessened the purchase of timber.

Mr. McCLURE. The Monongahela decision, as the able Senator knows, very definitely restricts the present operations or the customary operations in the forests, not only in the hardwood forests of the Eastern United States but in the softwood forests of the Western United States. The Tongass case and the other case in Alaska are in the circuit that affects all the west coast, including Idaho, in the intermountain region. So these court cases are a matter of direct application to us as well as the general application by the Forest Service.

Mr. RANDOLPH. I will not pursue the matter further except to say that the record should indicate that even though we deplore the unemployment and the stoppage of any milling operation, in the case that was mentioned by the Senator who is very knowledgeable in these matters, the closing was not due to a court decision.

Mr. McCLURE. I would say to the Senator that the closing of the mill to which I made reference was not a result of the decision. However, if the decision stands and is applied to all of the western forests of the United States, there will be dozens of communities affected in exactly that manner, not just one. There will be a number of communities in my State that will be affected that way, and literally dozens across the Western United States which will meet exactly the same fate this one community has already met for other reasons.

Mr. RANDOLPH. This gives me the opportunity to say the amendments that the Senator from West Virginia will offer are going to that very subject matter. We would hope that there would be no deterioration of the operations to which the Senator has made mention.

Mr. McCLURE. I understand the Senator from West Virginia seeks to apply that to the hardwood forests of the East without application to the coniferous forests of the West. That would solve a portion of our problems, certainly the problem that I have, with the decisions as they would apply in my State of Idaho and throughout the West.

The bill goes beyond simply dealing with the Monongahela decision to allow forest management practices. It attempts to deal with this very knotty problem of clearcutting upon all of our national forests.

The able Senator from Oregon made reference earlier to the report of the committee that was filed in 1971 setting forth guidelines for clearcutting, guidelines that were accepted by the industry, guidelines that were accepted by the Forest Service. In an effort to reduce the area of differences of opinion those guidelines have been written into this statute. Recognizing that the Senator from Oregon is correct that, in some ways, that applies a rigidity that may be less desirable than leaving it to administrative flexibility, nevertheless it is a far better answer than simply allowing the current condition under the Monongahela decision to go forward.

We are dealing with the art of legislative compromise. One of the areas that the bill raises, and upon which I have an amendment which I shall call up later, deals with the way, the manner, and the extent to which we build roads in the national forests. This remains a very difficult problem, and I know my great friend the Senator from Arkansas (Mr. BUMPERS) shares the concern that I have about the roadbuilding practices and what they have done to our national forest lands.

This is an area, incidentally, on which we have substantial agreement between the environmental groups and the timber industry, and not a total disagreement within the Forest Service, that roads have been overbuilt. They have been built to standards that were needlessly high, that cost too much, that had too great an impact upon the land, that degraded rather than protected the environment, and that cost the taxpayers more than they should have cost; and we find within the Forest Service some ambivalence about how they are going to answer that question. I will get into that a little further when I call up my amendment; but I think that is one area the bill has really not come to grips with in a manner that will solve the problem, and that will require some further discussion and refinement.

This bill also does not deal with one of the problems indirectly associated with clearcutting, which we will have to come to grips with eventually. Clearcutting is sometimes used as a silvicultural practice to allow a greater yield of fiber per acre of land. One way in which that is accomplished is by developing a substantial monoculture of like types of trees that will yield a substantial harvest in a given number of years. Associated with that is the practice in the industry of developing a so-called small-log cycle, in which they will harvest these trees while they are still vigorously growing, young trees, and no longer let them grow to maturity, as required under the act.

I think the public reaction to that practice will be somewhat akin to the public reaction to clearcutting, and some 20 or 30 years from now, when the public becomes thoroughly familiar with the practice, we will have a demand for the cessation of that practice. When that demand results in a change of management, either by administrative action or by way of legislation, there will be at that time imposed a substantially reduced sustained yield upon the same acres of land.

It is my opinion that we ought to recognize that probable future event now, and accommodate our management and our plans to that situation now, rather than wait until it occurs and have a relatively traumatic adjustment occur at that time. We still have greater flexibility in management than we will have at some time in the future, and I would prefer to see us address that question and attempt to compromise it and resolve it in the legislation now, rather than wait some 20 or 30 years when we have less flexibility, when adjustments will be more difficult to make and the effects on the economy will be greater.

I cannot help but note, too, as we go through this legislation, that one of the most vexing problems faced by the Western United States and our local communities has been solved in this legislation, and that is the question of payments to the counties. Any of us who live in the Western United States realize what has been done by the Government over the last 75 years, and at an accelerated pace in the last 40 years, in the payments to counties and the reduction of payments to counties, by administrative action and not by legislation. We solve that problem in this legislation. I think it is high time we did so. That is one of the most constructive things we can do to strengthen the economies of these rural communities, and I am extremely delighted with it.

As I say, I have two amendments which I shall call up later, one dealing with the question of roads, the other with the Bumpers economic viability management plan, which I am willing to call up either now or later.

Mr. HUMPHREY. Do it now.

Mr. McCLURE. Are there other Senators who wish to speak now?

Mr. HELMS. Mr. President, will the Senator yield to me?

Mr. McCLURE. I yield 10 minutes to the Senator from North Carolina.

Mr. HELMS. Mr. President, on three occasions I have addressed this body in support of S. 3091, and am pleased to do so again today. Since November of last year the Senate has been attempting to come to grips with the major question of how the national forests should be managed. In March, Senator HUMPHREY, a number of other Senators, and I introduced this legislation for the Senate's consideration. The bill was referred to both the Senate Committee on Agriculture and Forestry and to the Senate Committee on Interior. These two committees deliberated in 3 days of hearings and 4 days of joint executive sessions. The result of these joint committee efforts was an improved and tightly drawn, far-reaching measure which would govern forest management practices on our 155 national forests.

As the Senators know, the fourth circuit court of appeals, in what has come to be known as the Monongahela decision, sustained a ruling that the U.S. Forest Service was not following the timber harvesting prescriptions set forth in the 1897 Organic Act. Of course, it made no sense for specific silvicultural practices to be prescribed into law in the first place. The court at that time invited the Congress to set matters straight by enacting legislation which would modernize the statutes. The country has been anxiously awaiting such action for almost a year, and is desperate for a solution to the problem created by the intervention of the courts into forestry management.

Indeed, since the Monongahela decision, other judicial jurisdictions have issued similar rulings. Substantially reduced harvesting, in fact, entire elimination of harvesting of timber from national forests has been ordered in my own State of North Carolina, in South Carolina, Virginia, and West Virginia. And now, such rulings have spread to Alaska and Texas. Other cases are pending in Tennessee and on the west coast. Just 3 weeks ago a hearing was held on another case in Georgia. The judge in the fifth judicial circuit in Atlanta has indicated that he will make a final ruling as to a permanent injunction against harvesting of timber in national forests on September 1. The threat of the Monongahela decision now looms over the entire Nation, and it is imperative that the Congress provide legislative remedy in this session.

Already, many citizens and communities in the State of North Carolina, and in West Virginia, as well as Virginia and South Carolina are suffering severe economic hardship as a result of the Monongahela decision. The elimination of timber harvesting in the nine national forests in the region has resulted in a reduction of timber cutting of some 300 million board feet annually.

Mr. President, that is equivalent of shutting down 40 or 50 of the small privately owned mills which predominate there. Many of these mills are the economic mainstays of the numerous families in small rural communities in which they are located. It means the loss of hundreds of jobs in areas that offer little opportunity for employment. And it means uncertainty and hardship for the other small businesses which service the mills or depend on them for timber. These figures may not mean much in national terms—but for our people in the region they are statistics of economic strangulation for many small businesses and personal survival for the families that depend upon these enterprises for their livelihood.

The fact is, of course, that the whole Nation is about to suffer under the same burden. Besides the hundreds of thousands who will be thrown out of work—both directly and indirectly—by the absence of a sound national forest management policy which will permit a resumption of timber sales in our national forests, the resulting timber shortage will mean higher prices and greater pressures to use substitute materials for home construction and other products such as steel and plastics which are not now renewable resources in this country.

In a rising demand market, the competition for standing timber is great. Bidding for available stumpage will escalate, raising prices for all fiber products. Therefore, a resulting increase in the prices of all products made from wood is inevitable, and will, no doubt, jolt the entire economy in a devastating and frightening way—if this legislation is not passed today.

The environmental impact of our refusal to enact this bill is also unacceptable. Increasingly heavy demand on private forest land will result in premature cutting and overcutting on all available lands.

Indeed, without prompt congressional action, this Nation will suffer a timber supply crisis fully as disruptive as the fuel and energy crisis whose effects we still feel. It simply makes no sense for the Congress to permit and condone artificial and needless scarcities of products which are in such high demand by the consuming public. Until the Congress enacts legislation to insure a comprehensive and responsible forestry policy, every American will live under the threat that the court decisions which have already caused so much economic disruption will be etxended to all 155 of the Nation's national forests. These lands currently provide one-fourth of all the timber consumed annually in the United States, and 50 percent of that amount would be permanently eliminated from use. This means that we can expect a reduction of at least 25 percent in the Nation's total yearly supply of timber.

Mr. President, S. 3091 will go a long way toward providing a long-term solution to the very problems I have just described. I cannot emphasize strongly enough that the approach we take here is predicated upon the belief that it is necessary to address the broad spectrum of thinking which exists among all of those interested in the advancement of sound forestry practices. Most thoughtful Americans recognize the national forests for the treasure that they are. Environmentalists and timber users alike can join in support of the concepts contained in this bill.

The fact remains that we urgently need to enact a sound national forest policy which will provide long-term direction to improved timbering, reforestation, and conservation in a manner consistent with protecting our Nation's forests as great national resources of life and beauty for future generations of Americans.

Mr. President, I ask unanimous consent that a statement that would have been presented on this floor by the distinguished Senator from Kansas (Mr. DOLE) be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR DOLE

I support S. 3091, the National Forest Management Act.

NEED FOR TIMBER

The National Forests are an increasingly important source of construction lumber and other forest products. At the present time, the National Forests account for nearly ½ of the lumber and plywood produced in this country. Since these forests have more than 50% of the Nation's existing stock of softwood and sawtimber, it's certain that the management of this resource will have a major impact on the continued availability of adequate supplies of material for housing construction and other wood product needs.

For this reason I joined Senator Humphrey as a cosponsor of the National Forest Management Act when it was introduced in the Senate on March 5, 1976. Since then, the Committee on Agriculture and Forestry has held joint hearings with the Interior Committee on the whole question of forest management. The two committees heard nearly one hundred witnesses representing the full spectrum of informed opinion on the issue Following the hearings, the two committees met in joint session and unanimously reported an amended version of S. 3091.

BAN ON CLEAR-CUTTING

The National Forest Management Act merits our approval for several reasons. In the first instance, it resolves the serious economic problems posed by the so-called Monongahela Decision and other legal challenges to clear-cutting in the National Forests. The Monongahela Decision and related court actions elsewhere are based on a provision of the Organic Administration Act of 1897 which is inconsistent with modern forest management practices. S. 3091 repeals this outdated provision, thereby removing a serious threat to the lumber industry and to the millions of consumers who must depend on affordable forest products.

BETTER FOREST MANAGEMENT

But S. 3091 serves more than a remedial purpose. It also provides for better management of the National Forests. In particular, the bill provides for better resource evaluation and objectives consistent with the mandate of the Forest and Rangeland Renewable Resources Planning Act. It recognizes the need to protect and enhance soil and water quality. It reaffirms the multiple uses and purposes of the National Forests, and it strengthens the concept of 'sustained yield' which stipulates that the annual volume of harvested timber never exceed the annual growth of new timber.

At the same time, S. 3091 provides for more intensive timber management of three land classes making possible shorter rotations on these lands and resulting in larger timber yields on a sustained basis. As such, the bill succeeds in balancing environmental concerns with the legitimate interests of the timber industry and consumers.

CRITICISMS VOICED

To be sure, some environmental groups and some industry spokesmen have criticized S. 3091 as too permissive or too restrictive. Several of these criticisms seem well taken. For instance, the "even flow" provision contained in Section 11 may overly restrict the harvesting of old stand timber in some semi-arid regions of the country. The lack of a "prudent operator" clause may result in the costly overbuilding of some timber roads. Hopefully, these and other minor problems can be resolved through administrative regulations, if not by amendments offered today.

ACTION NEEDED NOW

I join with the Forest Service, the Society of American Foresters and the vast majority of the forest products industry in my conviction that whatever flaws this bill may contain, none are sufficiently serious to warrant the huge economic risks we will incur by failing to enact this legislation into law as soon as possible. Failure to act in the face of court ordered moratoria on clear-cutting may result in the closing of many small timber-related businesses. Tens of thousands of people engaged in the manufacture of forest products may lose their jobs. The prices for all wood products will certainly soar. Let's act now without further delay.

I conclude my remarks by thanking Senator Jesse Helms for his strong leadership in moving this legislation among the minority members of the Agriculture and Forestry

Committee. If this bill becomes law, it will be in large measure the result of Senator Helms timely and effective efforts.

Mr. HELMS. I thank the Senator from Idaho for yielding to me.

Mr. McCLURE. Mr. President, I reserve the remainder of my time.

Mr. METCALF. Mr. President, I strongly support S. 3091. It would enact into law much-needed guidelines for management of one of our Nation's most important assets—the 187-million-acre National Forest System.

S. 3091 was ordered reported by a unanimous vote of the Committee on Interior and Insular Affairs. One day earlier, the Committee on Agriculture and Forestry had reported it by unanimous vote.

I am pleased that S. 3091 draws heavily on the March 1972 report of the Public Lands Subcommittee on "Clearcutting on Federal Timberlands." I am also pleased that many of the concepts proposed by Senator RANDOLPH in S. 2926 are also incorporated into S. 3091.

Mr. President, the distinguished sponsor of S. 3091 (Mr. HUMPHREY) has already described the basic provisions of the bill. I will not repeat what he has said.

Rather, I would like to stress that S. 3091 is a carefully balanced bill. The two committees worked hard to provide basic management guidelines that clearly set out goals and objectives for the national forests. Under the Constitution, this is a basic responsibility of the Congress. At the same time, we worked hard to avoid making these guidelines overly restrictive or arbitrary. I believe that we succeeded.

One indication of this balance is that both the timber industry and the environmentalists are dissatisfied with the bill. Each side feels that S. 3091 goes "too far" in favor of the other. This leads me to conclude that we should leave it right where it is.

Finally, Mr. President, I would like to point out that representatives of the Montana timber industry have expressed to me their great concern over the provisions of subparagraph (H) (iii) of section 6(d) (6) of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by section 5 of S. 3091. The provision is on lines 15 to 22 of page 16 of the reported bill. The industry felt that this would severely restrict timber harvest from national forest lands in Montana.

The Chief of the Forest Service has written to several Senators about the impact of the provision. He stated that—

> First, we do not believe it would act as a constraint on overall multiple-use management. Second, we believe that it would prohibit establishing intensive timber production as a management goal on only a small percentage of National Forest System lands, these lands being of low productivity at high elevations or relatively arid lands. We would not expect that such a prohibition would significantly affect Natonal Forest allowable harvests because such lands contribute so little to present harvest levels. This estimate is based on our understanding that general multiple use management costs would not be considered a direct timber production cost, that investment costs would not be capitalized, and that the initial harvest of a stand of trees would normally bear the costs of roading and revegetation including reforestation.

In view of Chief McGuire's statement, I do not believe that Montana's timber industry will be hurt by this provision and I believe that this wise investment standard should be retained.

Mr. President, I urge the Senate to pass S. 3091.

Mr. BUMPERS. Mr. President, will the Senator from Minesota yield me a couple of minutes?

Mr. HUMPHREY. I yield the Senator from Arkansas 2 minutes on the bill.

Mr. BUMPERS. Mr. President, I am reluctant to take any more time on the bill, but for my own satisfaction, I feel compelled to say that many Senators have worked very hard to develop this bill. It has been said all too well that the real reason we are here is because of the court decision which stopped clearcutting, and also a lot of other cutting, under the Organic Act of 1897.

But my own personal feelings about the bill are that perhaps it is not stringent enough. We worked hard on the bill. I made some concessions. The Senator from Minnesota and the Senator from Idaho, and, I know, the Senators from Oregon and Washington have been subjected to a great deal of pressure on this bill. We have all tried to do our very best to represent all legitimate interests, both economic and environmental, in designing this bill.

My thought is that the people who were visionary enough to set up the National Forest Service in this country deserve our very best efforts to make sure the forests are preserved. The forests do not belong to the Government, and they do not belong to the forest industry. They belong to all the people of this country. I believe the people here today are proud of our national forests, and I know they want them preserved. They want the wildlife and the watersheds protected, but I am sure they recognize the timber must be cut. We have to have it. It supplies a great percentage of the timber needs of this country.

There are some provisions in this bill, as the Senator from Idaho has already pointed out, that are controversial, especially with the industry, but those provisions were placed in here for very specific purposes.

For example, the economic analysis that is required of the National Forest Service is put in there for a very simple reason: Do not cut the trees off the land unless it is economically feasible and advisable to do it. Do not cut the trees off the land if it is a marginal piece of land and it will cost more to replace the tree than you are getting off of it. No businessman would do that; why should the National Forest Service do it?

There are a lot of what are known as site 5 forest lands that are highly marginal and ought not to be cut.

Then, of course, we have the road credit, and I feel very strongly about that section of the bill because here is the way that works:

For hypothetical purposes let us say, the National Forest Service sells a tract of timber of 500 acres, and it is worth $100,000.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. HUMPHREY. Mr. President, I yield the Senator whatever additional time he requires.

Mr. BUMPERS. I thank the Senator very much.

The estimate value of the sale is $100,000. The Forest Service receives a bid. They ask the people who are bidding on the timber to build certain roads to certain specifications, plus so many dollars. In order to build the roads that the Forest Service thinks necessary, it is going to cost the builder $50,000. He bids the roads, plus $50,000.

The only problem with that hypothetical case is, as Senators know, the law provides that the local counties in which the forest is located receive 25 percent of those funds. I know that in my State of Arkansas and in Idaho, Minnesota, Oregon, Montana, and these other States that depend very heavily on the forests, the school districts are in many areas of my State totally dependent on the revenues they receive from these timber sales. In the past the Forest Service has not been giving them 25 percent of $100,000, which is the value of the timber, but 25 percent of the dollars, $50,000. In effect, the school districts have been subsidizing the roadbuilding in the national forest. It is not fair. Everyone on that committee agreed it is not fair, and we took care of that problem.

Finally, there is this question of the sustained yield that I know Senators from Oregon, Washington, and Idaho in particular are concerned about.

The Forest Products Association of America has put out a brochure saying that the sustained yield provision of this bill will mean that 180 million board feet of lumber in the 11 Western States will not be cut, and that has a value of something like $9 billion to $10 billion.

I have talked to the Chief of the Forest Service, Chief McGuire, repeatedly about this provision. As the Senator from Minnesota will recall, when we were deliberating that particular provision in committee, I asked Chief McGuire if it would help him to give him a 10-percent leeway one way or the other. He first said yes, it would, and then later he said: "No; I think we can live without it."

I talked to him as recently as yesterday in my office about this provision again. No one here wants to see 180 billion board feet of lumber rot and fall over. But the Forest Service has indicated that this will not be the case.

Second, I ought to make a point on the sustained yield provision which ought to be made repeatedly so that everyone understands it. If we massively cut all of the so-called mature timber that is ready to be cut, we are going to create a devastating economic cycle in the timber and lumber industry in this country. If we were to cut all the timber that they say is ready to be cut right now, it would have a devastating effect. The price of timber would be depressed and some companies would close, not because of the Monongahela case, but because of the depressed cost of timber.

I think the Forest Service is aware of that and is ready to work with industry to cut as much of the timber as they can in keeping with the jobs in the mills of those States, in keeping with what is good forest industry practices, and in keeping with the multiple-use concept which this body so wisely adopted in 1960.

There are other provisions of the bill which I would wish to talk about, but I do not want to take too much time on the bill. We need to get into the amendments. However, I wish to say that some of the things that were adopted and considered were slightly controversial.

Mr. HUMPHREY. Mr. President, I thank the Senator from Arkansas for his comments, particularly as they relate to sustained yield and the position of certain parts of the wood products industry. Many in the industry have told me we have a good bill. The fact is that this bill in no way threatens this industry. What it does do is to deny a policy that I would call "deficit forestry," to overcut timber now and flood the market and depress the market, and then subsequently be short in marketable timber and induce high prices. That is what happened to the Federal budget, and there is no sense in having that happen to our national forests.

Mr. JACKSON. Mr. President, as a Senator from a major timber producing State, I have been deeply concerned about the impact of recent Federal court decisions on planned timber sales from the national forests.

The Chief of the Forest Service has testified that should these Court decisions be applied nationwide, there would be a reduction of 50 percent in the volume of timber sold from national forest lands. Such a reduction would be disastrous for workers in the timber industry and for consumers. Lumber prices would rise sharply. Since wood is the largest single material cost in construction of a single-family house, this would make it even more difficult for people to own their own home. It would do further damage to an already depressed housing industry.

Thus, it is obvious that Congress must act to protect the jobs of thousands of American workers who harvest national forest timber and make the thousands of paper and lumber products derived from that timber.

At the same time, I believe that in enacting new policy guidelines, Congress must be very careful to protect all the resource values of our national forests. The Multiple Use and Sustained Yield Act of 1960 directs that our national forests be managed to provide for a variety of uses, including wildlife habitat, outdoor recreation, livestock forage and wilderness. In addition to timber production, millions of people visit our national forests every year to hike and enjoy the clear streams and beautiful vistas.

If all the values of our national forests are to be protected and enhanced, Congress must provide clear policy directives to assure that only the best forest management practices are used. It is particularly important that we stress the need for land use planning which uses all the many and varied skills applicable to forest uses.

I am aware that certain representatives of the timber industry feel that the guidelines for national forest management and timber harvest are too stringent. I am also aware that the Coalition to Save Our National Forests believes that the same provisions of the bill are too flexible and will allow the Forest Service to conduct business as usual. However, I believe that S. 3091 strikes a balance among all the many values of our national forests so that they can continue to supply a significant portion of the forest products needed by our economy without permanent damage to outdoor recreation, wildlife, watershed and other important uses.

Mr. President, I hope the Senate will approve S. 3091 so that the legal cloud over all national forest timber sales can be removed as soon as possible.

Mr. HUMPHREY. I thank the able Senator from Washington for his cooperation in producing a workable bill with a sound conversation underpinning.

Mr. RANDOLPH. Mr. President, I will request time if the manager of the bill gives me the opportunity.

Mr. HUMPHREY. Of course.

Mr. RANDOLPH. What is the time on the bill under the control of the Senator from Minnesota?

The PRESIDING OFFICER. The Senator from Minnesota has 33 minutes remaining. The Senator from Idaho has 43 minutes remaining.

Mr. RANDOLPH. It is the understanding that this is the bracket of time on the bill that is provided to Senators.

Mr. HUMPHREY. Yes, that is correct. There are 2 hours on the bill to be equally divided, but I am sure we can work out whatever time the Senator might need because he has been such an active participant in these discussions.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. McCLURE. As I understand the unanimous-consent agreement there is 1 hour permitted on each amendment. I understand the Senator from West Virginia has 5 amendments.

Mr. RANDOLPH. Possibly that number. I shall not indicate this would be the number presented.

Mr. McCLURE. If the Senator runs out of time, I am sure we can make some accommodations.

Mr. HUMPHREY. Does the Senator wish to offer an amendment, might I ask at this time, and use his time on that? If the Senator needs more time that can be provided.

Mr. RANDOLPH. I would rather make an opening statement if that is agreeable.

Mr. HUMPHREY. Fine.

Let me yield to the Senator.

Mr. McCLURE. How much time does the Senator desire?

Mr. RANDOLPH. Fifteen minutes.

Mr. McCLURE. I am happy to yield time.

Mr. HUMPHREY. We will divide the time.

Mr. President, I shall yield 7 minutes of our time.

Mr. McCLURE. I will yield 8 minutes of our time, and the Senator may have 15 minutes for his opening statement.

Mr. HUMPHREY. If he needs additional time he will get it.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 15 minutes.

Mr. RANDOLPH. Senators are very cooperative.

Mr. HUMPHREY. If the Senator needs more time he will get it. I want to cooperate with my colleague because he has worked so hard to bring us a good bill.

Mr. RANDOLPH. If I need more time I will get it.

That is more than I perhaps expected Senators to do. I am grateful.

Mr. President, the measure we are considering is not, as some Senators contend, the answer to the continuing controversy concerning forest management. Rather, it is a bill with insufficient guidelines. And I do not wish to be critical, but it is a bill that has been drafted, in substantial degree, or at least influenced by the timber industry—and there is nothing wrong with that—and the U.S. Forest Service. But I do wish the record to indicate that these have been the motivating forces that have worked in connection with the bill.

I hope that I am not misunderstood when I say that the bill in many instances is vague. Certainly, it is vague to the degree that the Forest Service could and in all probability will be subjected to litigation which will stop timber cutting in more areas than are now affected as a result of the Federal court decisions on the Organic Act of 1897.

Mr. President, we either face the issue squarely now and move to resolve what I believe to be existing controversies while at the same time permitting the harvesting of substantial amounts of timber, or we certainly will be faced in the very near future with this issue again in the Senate.

Two major bills were introduced to resolve, at least in degree, the problems that were created by the court decisions, which determined that the Forest Service was in violation of the Organic Act of 1897 that I have mentioned.

One bill was introduced by me with the cosponsorship of Senator McGee of Wyoming, Senator Stafford of Vermont, and Senator McGovern of South Dakota. This measure, which the four Senators have sponsored, was presented to the Senate on February 4. It is numbered S. 2926. It was designed to establish a comprehensive management policy on the national forest lands. That is what I think we have to come to grips with.

The other, S. 3091, introduced by Senator Humphrey who certainly has very complete knowledge of this subject matter and has addressed himself to it, is the measure that he presented in amended form in the Senate for discussion today.

Three days of hearings—and I do not wish to go back over matters that could perhaps be put in the Record—were held and should be mentioned.

This is an extremely complex issue.

The Committee on Agriculture and Forestry and the Committee on Interior and Insular Affairs were the joint committees that held the hearings. During the first 2 days of those hearings, testimony was limited to 8 minutes for public witnesses. Often, no Senators were present during the testimony. There were others who appeared only when the Forest Service presented testimony. I am not critical of my colleagues. Rather, I am only trying to picture the hearing situation.

Subsequently, the two committees conducted markups. They were given attention by Senator HUMPHREY and many other Senators, and some of the Senators who participated are in the Chamber. I do want to thank Senator TALMADGE, the chairman of the Committee on Agriculture and Forestry, for asking me to be present. That invitation was joined in by the ranking minority member, Senator DOLE.

I repeat that Senators were diligent in their attendance at the hearings and the markups, in degree. Without trying to draw attention too much to Senators who I think deserve my commendation besides those I have mentioned, I should like the RECORD to indicate that the Senator from Montana (Mr. METCALF), the Senator from Arkansas (Mr. BUMPERS), the Senator from Florida (Mr. STONE), the Senator from Alabama (Mr. ALLEN), and the Senator from North Carolina (Mr. HELMS) were very much a part of the discussion in both the hearing process and in the markup.

Approximately 30 percent of the bill I presented as of February 4 and joined in by my three colleagues is incorporated to some degree in S. 3091. The most important provision incorporated is the even-flow, sustained-yield concept, which I believe in very strongly. That is a major provision of the reported bill which is now being debated.

I say, in a very earnest way, that I believe that many small timber operators throughout the Appalachian region would truly be in a bind due to the Forest Service refusal to sell timber under the edict of the courts without some remedial legislation. It is essential that we pass responsible legislation which will alleviate—and this has been mentioned before by other Senators—the hardships which are now imposed.

I have studied this complex issue for the past 10 years. I have participated in many, many hearings. Those hearings at times had the leadership of the Senator from Idaho (Mr. CHURCH), the Senator from Wyoming (Mr. MCGEE), whom I have mentioned, and other Senators.

I believe that a Senator should say when he has a definite viewpoint. He must not modify it to the extent that he leaves the principle on which he first talks. My purpose, therefore, is to attempt to move forward with the forest management legislation which is both realistic and fair as regards the national forest lands of this country.

The charge is made that in our bill—the bill I have mentioned with the sponsorship of the other three Senators—is an attempt to limit professional foresters in prescribing what is best for a given stand or stands of timber. I say very quietly that this simply is not true. We seek to provide the professional with the needed flexibility to practice his or her profession without limiting those professionals to the rigid inflexibility of even-age management.

I must underscore the fact that it does not take a professional to clearcut. I am not one who in anywise could be an expert or a professional; but I, as a Senator—or any other Senator in this body—could go into a forest and mark the boundaries for a clearcut. The expertise comes into action when a decision must be made as to what timber is to be cut and what timber is to be left uncut.

The crux of the issue resulting from the decision in the Monongahela case is not necessarily over whether clearcutting is acceptable but whether even-aged management should be the policy on the general forest zone in eastern mixed hardwood forests. The record must be very clear on this point.

Some Senators—I doubt that there are many—may have witnessed large clearcut areas. I say to Senators that these areas can resemble—and one that I saw did resemble—the damage that a B–52 bomber could inflict while devastating the land we love. We do not desire the land to be desecrated.

Someone might say that there is no place for the lines of a poet in a debate of this kind. But I think that Joyce Kilmer understood the trees, as he expressed in these lines:

I think that I shall never see
A poem lovely as a tree.

A tree whose hungry mouth is prest
Against the earth's sweet flowing breast.

A tree that looks at God all day
And lifts her leafy arms to pray.

A tree that may in summer wear
A nest of robins in her hair,

Upon whose bosom snow has lain,
Who intimately lives with rain.

Poems are made by fools like me,
But only God can make a tree.

When I watch the devastation of clearcutting, I understand what is involved. The Forest Service would have us believe that there is no substantial soil and nutrient loss associated with clearcutting. Following a massive clearcutting on the Gauley range district in our Monongahela National Forest, the Cranberry River—a beautiful river, a river of brook trout, a magnificent stream—for a 7-week period; ran muddy as if it were a lowland stream and not a stream in the hills of West Virginia. I see that and I know that there is a substantial loss of the soil and a substantial loss of the nutrient within the land.

So my concern is that I do not believe we know what the long-range effects of clearcuts will be on the ability of the land to regenerate.

Due to the significant soil and nutrient loss I have spoken of and of which I presented specific example, I can say that it multiplies. Heavy machinery is used in clearcutting operations.

Heavy machinery is not used in uneven-aged management, implemented by selective cutting which we have had throughout the years in the East. The sheer weight of these machines has a harsh effect on the ground. The soil is crushed and then changed. Again, we do not know what the long-term effect of such massive devastation is to the future productivity of the soil.

When dealing with reform of a complex subject of this kind, many questions need to be raised and explored. Our national forests are important contributors to the Nation's supply of wood products, accounting for about 19 percent of the Nation's commercial forest land area. These forests contain the last major reserves of large-growth mature timber, accounting for about 50 percent of the total volume of softwood sawtimber. These forests' contributions to the annual timber harvest is much smaller, however. National forests do supply 25 percent of our national volume of softwood sawtimber and less than 1/20 of the hardwood harvest.

There are many private companies, Mr. President—and I am a believer, of course, in private companies—that own substantial amounts of timberland. But they have opted to hoard their own trees until markets and prices have improved. They are liquidating national forest land while preserving their own. So over cutting goes forward on national forest lands while private commercial lands grow in maturity and value and while we are ripping apart forests like the Monongahela National Forest—a forest that is contained wholly within the State of West Virginia. We have the George Washington National Forest, which is partially in our State and also in the State of Virginia. The Jefferson National Forest is also a forest which is partially in our State.

I wonder about the time.

The PRESIDING OFFICER (Mr. GARY HART). The Senator's 15 minutes have expired.

Mr. RANDOLPH. Does the Senator feel that I could, perhaps, have 3 or 4 additional minutes and not violate the time situation? I shall understand if he cannot give it to me.

Mr. HUMPHREY. I shall yield 3 additional minutes to my colleague.

Mr. RANDOLPH. And will my friend from Idaho yield some time?

Mr. McCLURE. I yield to the Senator 2 minutes.

Mr. RANDOLPH. That is 5 minutes. I promise—and of course, when a Senator promises to be brief, no one believes him—that I shall be very brief.

Many will ask about the impact of my proposal on lumber prices, on housing, and jobs. Studies by competent professionals, using the best available data, show that substantial increases in timber harvest have a relatively small effect on lumber prices. The reverse is also true. Even the most major reductions in the national forest cut contemplated would be expected to have less than a 10-percent effect on the price of the product, due to the compensating short-term effect on changes in private timber harvest and, of course, the imports as well.

Assuming what I would call a worst-case example of a 10 percent rise in wood prices, the increase in the price of a $40,000 home, including the furniture, would be less than $700 or about $2.20 in a monthly mortgage.

Employment from the timber industry is vitally important. Many areas which are heavily timbered are also heavily dependent on public timber sales for log supply. A decrease in timber supply from national forest lands would be made up from the private holdings. In addition, we do know that when we think of more effective harvesting of the timber, more jobs would be provided to replace the huge machinery of which I have spoken. Employment is virtually unaffected by any amendment that I propose to offer to this bill.

I submit that the pending legislation that we now are considering, ignores, in a certain degree, the central issue of what is a long-standing and complex controversy. The bill fails to cope with the major issues of waste resulting from the advance harvest of immature timber, the regeneration of a forest not in need of regeneration, and the adoption of a management system for administrative ease and expedience resulting in a curtailment of the productivity of forest resources.

I shall offer, presumably, the five amendments that I have, as indicated by the able Senator from Idaho, to S. 3091. Each amendment is designed to assure sound, realistic, fair, responsible forest management, in the Nation's interest. I am not a carping critic. I never have assumed that role. But, Mr. President, I am a realist and I understand the damage that is being wrought to the lands we love.

Again, I thank Senator Humphrey and Senator McClure for their giving to me extra time in general debate.

Mr. HUMPHREY. Mr. President, as we would expect, the distinguished Senator from West Virginia makes a very persuasive argument. He was deeply involved in the entire markup session of the bill that is now before us. I believe that he has indicated that around 30 percent of the bill, at least, is his own contribution. I might say that is a good lion's share for any one Senator to get in a bill. Even more we profited because we improved the bill to make it a conservation landmark. The Senator and I ended up on about equal terms. We are advancing with multiple-use and sound-sustained yield.

Let me note for the record that this bill, S. 3091, has 20 cosponsors. I ask unanimous consent that the names of each of the cosponsors be printed at this point in my remarks.

There being no objection, the names were ordered to be printed in the Record, as follows:

Mr. Humphrey, Mr. Eastland, Mr. Bayh, Mr. Church, Mr. Dole, Mr. Eagleton, Mr. Gravel, Mr. Hansen, Mr. Hatfield, Mr. Helms, Mr. Hollings, Mr. Huddleston, Mr. Johnston, Mr. McClure, Mr. McGovern, Mr. Metcalf, Mr. Packwood, Mr. Stevens, Mr. Stone, and Mr. Thurmond.

Mr. HUMPHREY. One of the cosponsors is Senator McGovern, who was on the original bill introduced by the Senator from West Virginia. He decided that he wished to be on the bill that is now before us as amended, S. 3091.

While there have been problems with clearcutting, the problems are not just due to the heavy machinery that is involved, because heavy machinery is a part of selective cutting as well. It all depends upon how the cutting is done, the proficiency or the efficiency of the management plan, harvesting system and forest cutting, along with the professional competence of those who are doing the work. The bill before us does lay out guidelines that are very specific and the report on the bill, starting on page 3 and going through page 4, gives us the information that I think the Members of the Senate would like to have. These guidelines, for example, relating to timber management:

(1) provide that harvest levels will be determined only through the land management planning process;

(2) provide that harvest levels will be based on availability and suitability of lands for timber production;

(3) assure that timber production is not a management goal on lands where the estimated cost of production will exceed estimated economic returns; and

(4) insure that timber will be harvested from National Forest System lands only where—

(a) irreversible damage to soil, slope, or watershed conditions will not occur;

(b) there is assurance that the lands can be adequately restocked within five years of harvest; and

(c) protection is afforded bodies of water with respect to water conditions and fish habitat. (Sec. 5)

d.

In addition, the required guidelines for land management plans to achieve the goals of the Renewable Resource Program relating to timber management are to insure that clearcutting (including seed tree cutting, shelterwood cutting, and other cuts designed to regenerate an even-aged stand of timber) are used as a cutting method on National Forest System lands only where—

(1) clearcutting is determined to be the optimum cutting method under the relevant land management plan;

(2) a comprehensive interdisciplinary review has been made;

(3) provision is made to blend the cuts with the terrain to the maximum extent practicable;

(4) cutting areas meet size limits, which will be set to meet conditions of specific regions and situations; and

(5) the cuts are carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and esthetic resources, and regeneration of the timber resource. (Sec. 5)

The Secretary is to appoint a temporary committee of scientists who are not officers or employees of the Forest Service. The committee shall provide scientific and technical advice and counsel on proposed guidelines and procedures to assure that an effective interdisciplinary approach is proposed and adopted.

So I would say that the committee very carefully faced the problems that come with forestry management, particularly the problems that are inherent in clearcutting. But I do believe it is important to note that the word "clearcutting," which seems to have a negative connotation, is an essential part of forestry management. Properly applied "clearcutting" is often the best forestry practice for certain forest situations.

I would also note that in the testimony given on this bill all the deans of the forestry schools of every school testified they were in support of S. 3091.

Now, these deans of the schools of forestry are not the lackeys of industry. They are professionals. They are scholars, and they supported the purposes and the principles and the language of S. 3091, the bill that is before us.

The PRESIDING OFFICER (Mr. Gary Hart). Who yields time?

Mr. McCLURE. Mr. President, I yield myself such time as I may consume.

I commend the Senator from Minnesota for the statement he has just made. Without any attempt at all to refute the concerns expressed by the able Senator from West Virginia in regard to the impact of clearcutting, I want to again point out that the provisions of this bill with respect to clearcutting are largely the result of the hearings that were conducted in 1971 and written in a report which was widely disseminated and which has been followed by the Forest Service and has been supported by the industry since that time.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. McCLURE. I would be glad to.

Mr. HUMPHREY. Those are generally referred to as the Church guidelines. The report is of the 92d Congress, 2d session, March 1972.

I think it was stated in the testimony before the committee and in the markup that the basic guidelines that are in there are what we call relevant, and incorporated in the guidelines that are in S. 3091.

Mr. McCLURE. The Senator is correct. I appreciate that addition to the record.

I think also it might be noted that certainly timber operations do have an impact on land. It is obvious that you do not go in and harvest trees without making any change. That by its very nature is a change in the condition of the forest that existed before you cut any trees.

But I think the Senator also would be very mindful of the fact that the impact of any natural resources recovery has some effect on the land, and in his State of West Virginia certainly the operations in coal mining have an impact upon the land.

While the Senator is concerned about the impact of clearcutting, he seeks to ban it, and it would be similar to my concern about overbuilding roads by attempting to solve that problem by banning the building of any roads. I do not seek to ban the building of roads. I seek to get a more rational policy for building roads, and I think this is what this bill does, not to confine in a straightjacket the operations in the forest, but seek to get a rational management policy that seeks to deal with the problem that the Senator from West Virginia has very legitimately raised.

The bill does do that.

Mr. HUMPHREY. Mr. President, may I make a correction? When I mentioned what we called the Church guidelines, I think actually they are referred to as the Church-Metcalf-Hatfield guidelines because it was a combination of the subcommittee, and I believe in giving credit where it is due.

Mr. McCLURE. I appreciate that. It gives a broader support as well. We might even indicate it was the report of the entire Public Lands Subcommittee of the Senate Interior Committee, to get as much support as we can to indicate it was not just our idea.

Mr. President, I have some remarks with regard to the allowable harvests that made some reference to some letters and some remarks that the Senator from Minnesota has already made.

Several concerns have been raised about section 5(d)(6)(H)(iv) which provide that increases in allowable harvest based on intensified management practices require "demonstration that such practices justify increased allowable harvests, and that the outputs projected are being secured."

Due to these concerns my distinguished colleague from Montana, Mr. METCALF, wrote a letter to Forest Service Chief John McGuire on July 2, 1976, and asked how section 5(d)(6)(H)(iv) would be implemented if S. 3091 were enacted. This letter and Chief McGuire's July 27 reply are a part of the record.

It is my understanding that for the purposes of subsection 5(d)(6)(H)(iv) "demonstration" need not occur on the particular area to which the intensified practices in question have been applied, but rather may be established by observation and research of comparable practices on comparable lands.

It is also my interpretation that the phrase "outputs projected are being secured" means that scheduled intensive management practices have been initiated and that it is reasonably certain that these practices will attain the anticipated growth responses.

Mr. President, my interpretation of section 5(d)(6)(H)(iv) and that expressed by Chief McGuire in his July 27 letter are consistent with the intent of the committee.

A number of concerns have been raised about section 5(d)(6)(H)(ii) which requires regulations setting up guidelines for land management plans which provide that allowable harvest be based only on land suitable and available for timber production. The intended meaning of the key words "suitable and available" should be clearly understood. In a letter of June 10, 1976, I asked Forest Service Chief John McGuire how this subsection would be interpreted.

Has this letter also been made a part of the RECORD by the Senator from Minnesota?

Mr. HUMPHREY. Yes.

Mr. McCLURE. And the reply of Chief McGuire also has been made a part of the RECORD, as I understand?

Mr. HUMPHREY. Yes, that is correct.

Mr. McCLURE. I think it is well established that national forest system lands are available for timber production unless they have been specifically withdrawn from timber production by statutory or administrative action. Statutory classification of national forest system lands as components of the national wilderness preservation system is a complete withdrawal from timber production. Scenic rivers and national recreation areas established by statute may be available for timber production but subject to specific restriction in respect to possible scope of harvest activities. Scenic areas established by Secretarial regulation and other areas specifically identified by administrative action of the Forest Service may have limited availability for timber production.

The Forest Service has designated a number of areas as wilderness study areas which it has placed in a deferred status and considers unavailable for timber production during the study period and any subsequent period of time necessary for congressional action. Other lands inventoried as roadless but not selected for wilderness study areas are considered available for timber production by the Forest Service.

The Forest Service considers land suitable for timber production when it has the capacity for the production of crops of industrial wood. Such land is considered suitable regardless of its current accessibility. Lands which are permanently inoperable are considered not suitable for timber production.

I would like to ask the senator from Minnesota whether my interpretation of subsection 5(d)(6)(H)(ii) and that of Chief McGuire is consistent with that of the committee in drafting this legislation?

Mr. HUMPHREY. May I respectfully reply that it is my understanding indeed that it is. We have had the cooperation, as the Senator knows, of the Forest Service in the development of the bill, and their response that we have placed in the RECORD, and to which the Senator referred in his comment, is consistent with the intent of the committee's and should, I think, assist in the proper administration and operation of the law.

Mr. McCLURE. I thank the Senator for his answer.

I think it is important that we recognize the critical nature of the land base assessment. In determining what is available for timber production.

The allowable cut which is calculated, upon which the annual sales are made, must depend upon what is included within the inventory of lands, as well as that of timber upon those lands, to determine what the allowable cut will be.

Mr. HUMPHREY. That, of course, goes back to the original Forest and Rangeland Renewable Resources Act.

The Senator's colloquy today, along with the data we have from the Forest Service, I think does a great deal to clarify the administration of the law.

Mr. McCLURE. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. Mr. President, I do not know whether there are amendments yet to be offered. I know the Senator from West Virginia had certain amendments.

Might I inquire as to whether or not the Senator from Idaho would like to offer one of his amendments?

Mr. President, I ask unanimous consent that we have a quorum call without the time coming from either party.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2215

Mr. RANDOLPH. Mr. President, I have an amendment No. 2215 at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH) proposes an amendment numbered 2215.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, following line 23, insert the following new section:

SEC. 12. In the administration of the national forests the Secretary shall give full consideration to all systems of silviculture, including uneven-aged as well as even-aged management, and shall insure that no single system dominates in the national forests, except that uneven-aged forest management primarily implemented by selection cutting shall be used in the eastern mixed hardwood forests.

Mr. RANDOLPH. Mr. President, this amendment has to do with uneven-aged management in the Eastern mixed hardwood forests.

West Virginia has one of the best mixed hardwood forests in the United States. Suffice it to say that we are an important hardwood producing State. In 1964, the U.S. Forest Service changed its management policy in Eastern mixed hardwood forests from uneven-aged management, primarily implemented by selection and group selection cutting, to what we call even-aged management, implemented by clearcutting. I underscore clearcutting.

The practice of clearcutting in the East is done for two reasons, the ease of administration, and for expediency. The fact that even-aged management was adopted for the principal areas of all of the national forests reveals that it was an administrative decision and not a professional decision emulating from professional foresters on the ground.

Even-aged management means inflexibility. If the productivity and yield of forests are to be maintained, we can only accomplish that through the application of professional skill. This cannot be accomplished through use of the nonreversible system of even-aged management.

The argument has been made that clearcutting in the East is necessary to regenerate the shade intolerant species. This, I believe to be false. An open forest canopy can be achieved by group selection cutting rather than by massive clearcuts.

Under the policy of uneven-aged management the professional may harvest a half dozen trees or less in an area of many, many trees. He may use group selection extensively or he may skip over areas of good growing stock or trees of great value for the preservation and protection of wildlife.

Research is very exact in recommending small openings of approximately one-fifth of an acre for certain species with the use of group selection not exceeding 2 acres for the majority of the situations that we find.

In the East, the three most valuable species are yellow poplar, oak, and black cherry. The poplar is found only at the lower elevations and can be regenerated very well in openings of much less than 2 acres. Forest researchers are consistent in their writings that each clearcut will produce less and less oak if fast growers are present on the site.

Neither do large openings provide ideal situations for regeneration of the black cherry that I mentioned.

The best situations for black cherry and the establishment of that type of tree, and its subsequent growth, are the narrow strip openings. In general, the width of these openings should approximate the height of the bordering trees from the larger openings. The dominant trees have a tendency to branch out and what we call fork, snap off and break during windstorms or even some types of hurricane force, and the seedlings are subjected to greater amounts of what we know in our area as frost damage.

When the policy of even-aged management is applied, the multiple-use concept is necessarily abandoned. Timbering is placed on a pedestal and the other multiple uses, which I believe are very, very important, are set down or relegated to what I call secondary positions.

I hope the manager of the measure now pending will feel there is merit in the amendment I have offered and hopefully will carry it to conference.

Mr. HUMPHREY. Mr. President, I am compelled to say, by the duties that I have as the manager of this bill, that this amendment was considered by both the Committee on Agriculture and Forestry and the Committee on Interior and Insular Affairs. It was brought up and discussed and it was rejected.

The amendment would prevent flexible management based on sound research by legislatively preferring one system for the eastern mixed hardwoods. Because the Secretary would have to insure that no single system dominate in the national forests, he would be acting in derogation of the statute to prescribe even-age management as a management system on the majority of the national forests unless he could show its effectiveness on the forest in each region or area. There is an inherent public prejudice in favor of uneven management for eastern forests.

I have been informed that it was brought to the attention of the committee at the time of our discussion that this has not been shown to be based on sound scientific evidence.

The amendment which the Senator presents is a prescription which truly does not meet the direction of the bill. The committees, having already reviewed this amendment, have voted upon it in the joint committees after careful review. It is, therefore, my view that the amendment should not be accepted and at the appropriate time, because I do not want to cut off the Senator from West Virginia, it is my intention to move to table the amendment.

I do this reluctantly. But I emphasize that our direction to the Secretary is to use the applicable system on the proper lands. So if the scientific evidence supports favoring a system of silviculture this can be done. We want ecologically effective resource management.

Mr. BUMPERS. Will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. BUMPERS. Let me say first of all the Senator from West Virginia has what I feel in my heart is a good amendment But let me say also I have been cognizant of what the Senator is concerned about regarding the hardwoods in my own State.

We have the Ozark National Forest in my State. I suppose my initial interest in this whole area stemmed from the fact that so much of our forests are being clearcut, either hardwoods or hardwoods and pines, and being put back in pines. It was this conversion process which caused me so much concern. I can see the national forests of this country becoming one gigantic pine tree farm. It was because of that that I had language added to the bill specifying that guidelines for land management plans be developed which "provide for diversity of plants and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives."

That specific language was put in there—and I am happy to make this record in this debate—to at least diminish the enthusiasm of the Forest Service for converting hardwoods to softwoods, and to encourage them strongly to allow mixed stands to replace mixed stands where they were taken out and to replace hardwoods with hardwoods or mixed stands instead of converting to softwoods.

In any event, the language says they must provide in their land use plans for a diversity of plant and animal communities based on the suitability and capability of the specific site.

There are instances in the world—and I have been told rightly or wrongly that the Black Forest is one of them—where the soil in some areas simply will reject a conversion. The indigenous plants adapt to the soil and when you try to change them sometimes the soil will accept the new plants and sometimes it will not. The problem that concerns me is that we might convert a piece of property today and the new species might grow. It might grow two more stands but ultimately, because the new plants are not compatible, the soil may very well reject that stand of trees and then we will be out of business.

But while I think, and know, certainly, the distinguished Senator from West Virginia's heart is in the right place, and he knows I share his enthusiasm for many of his amendments, I feel I must vote against the pending amendment. I have been assured by the Forest Service, and they have agreed that they have overindulged themselves in this conversion process, just as they have admitted that they have clear-cut tracts that are too large in many areas. They have assured me that they are very cognizant of what the Senator from West Virginia is talking about, and I am willing to give them a chance to correct the practice.

Mr. RANDOLPH. Mr. President, let me respond by saying that I believe the Senator from Arkansas is actually addressing the matter of conversion rather than forest management. As I present this amendment, I am thinking of the problems in the Eastern States, because the problems of forest management there are very, very different from the management problems in Western forests, and I believe we have a different type of management.

It is not the conversion situation to which I have addressed this amendment. Hopefully this will be covered in a subsequent amendment. I am now talking about forest management rather than the conversion to which the able Senator from Arkansas has addressed himself.

Mr. HUMPHREY. Mr. President, I just want to include at this point in our discussion what the bill does provide, along with what the Senator from Arkansas has stated as to one of the subsections of the bill.

S. 3091 does not contain a prescriptive finding for one management method being preferable to any other method. The bill requires: consideration of economic and environmental aspects of various management systems; recognition of the need for special provisions to protect soil, water, esthetic, and wildlife resources under prescribed conditions; prescribing, by geographic area, forest types, other suitable classifications, appropriate silvicultural systems; research and evaluation of the effects of the management system employed, and modification or discontinuation of the system if found to impair the productivity of the land; criteria for timber harvesting and specifically for clearcutting.

This amendment would insure that uneven-aged selection forest management would be used in the eastern mixed hardwood forests. The Secretary would consider all management systems for the forests of the rest of the country and would insure that no single management system is too predominant.

So we are really trying to write down guides for the specifics the Secretary will cover in his regulations. The language of the bill before us, I think, provides the flexibility which the Senator from Arkansas has indicated he believes is desirable.

Mr. BUMPERS. Mr. President, the Senator from Minnesota is correct; conversion is really not on all fours with the amendment of the Senator from West Virginia. It does touch it, but, to read what the Secretary is required to do in the land-use plan, he is also required to—

> . . . prescribe, according to geographic area, forest types, or other suitable classifications, appropriate systems of silviculture which include, but are not restricted to, thinnings, harvesting of trees and products, regeneration, and other treatment methods.

Here is the committee report on that specific language. It says:

> Subparagraph (F) of paragraph (6) requires guidelines to prescribe the appropriate silvicultural systems, according to geographic areas, forest types or other suitable classifications, to include, but not be limited to, thinnings, harvesting of trees and forest products, regeneration and other treatment methods.

Then, as to subparagraph (G) of paragraph (6), which follows that, the report says it—

> . . . calls for guidelines to insure research on and evaluation of each management system in use or proposed for use. The evaluation is to be based on continuous monitoring and assessment in the field. When such research or evaluation shows that a system or method of management is impairing land productivity, guidelines will provide that the system or method be modified or discontinued.

So while it is not as stringent, I know, as the Senator would like, it does at least partially address his concern and at the same time allow the Forest Service some flexibility. I might add, it is one of those things that, if anyone feels the management system is impairing productivity, they could challenge the Secretary's failure to modify or discontinue it.

Mr. RANDOLPH. Mr. President, if I may have the opportunity for this further comment, the Senator from Arkansas is very gracious to indicate that what I have said would perhaps have validity in connection with his earlier discussion.

I wish to state emphatically that I do not believe that we will be able to take care of the abuses which have occurred and which will recur if we do not have the language that I have proposed in the amendment which is now pending. That there is a difference of opinion on these matters I can well understand; but as I said at the outset in the remarks on the bill itself. I feel that we have inadequately attempted to patch up the situations that have been brought into focus. It is not enough. I think we have to meet these situations head-on as they develop and prescribe the forest management which is applicable in eastern hardwood forests as differentiated from the problems of the Western States.

We are constantly passing legislation here which handles a problem differently in one part of the country than the problem is handled in another.

I have no desire to speak further. I know we must move along in these matters. It would be my desire that Senators have the opportunity to vote either in approval or disapproval of the amendment that is pending; therefore, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HUMPHREY. Mr. President, I am going to move to lay the amendment on the table.

The PRESIDING OFFICER. Is there a sufficient second to the request for the yeas and nays? There is a sufficient second.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, I move that the amendment be laid on the table.

The PRESIDING OFFICER. That motion is not in order until the proponent's time is either used or yielded back.

Mr. HUMPHREY. Mr. President, I am prepared to yield back whatever remaining time I have. Is the Senator prepared to yield back his?

Mr. RANDOLPH. I have no desire to discuss the matter further.

The PRESIDING OFFICER. Does the Senator from West Virginia yield back the remainder of his time?

Mr. RANDOLPH. I yield back the remainder of my time.

Mr. HUMPHREY. I now move that the amendment of the Senator from West Virginia be laid on the table.

Mr. RANDOLPH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RANDOLPH. The order for the yeas and nays, will that apply to the motion to table, or to an up-or-down vote on the amendment?

The PRESIDING OFFICER. No, the yeas and nays were ordered only on the amendment, not on the motion to lay on the table.

Mr. HUMPHREY. I ask for the yeas and nays on the motion to lay on the table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUCKLEY. Mr. President, I am voting against the motion to table, not because I approve of the Randolph amendment, but because I disapprove of the practice of moving to table amendments that are germane and that ought to be allowed to be accepted or rejected on their merits.

As is the case with all rules of thumb in the political arena, I expect my own performance to be riddled with exceptions, especially when a vote against tabling a controversial matter would be interpreted as a vote in favor of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from West Virginia (Mr. RANDOLPH). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. BAKER). The Chair states that the parliamentary inquiry is not in order and the rollcall will continue.

The legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. The clerk will suspend momentarily.

Will Senators please take their seats and clear the well so we can hear the call of the roll?

The Senate will be in order.

The clerk may resume.

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. CLARK), the Senator from Iowa (Mr. CULVER), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

On this vote, the Senator from Washington (Mr. MAGNUSON) is paired with the Senator from Iowa (Mr. CLARK). If present and voting, the Senator from Washington would vote "yea" and the Senator from Iowa would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent due to a death in the family.

The result was announced—yeas 64, nays 25, as follows:

[Rollcall Vote No. 527 Leg.]

YEAS—64

Allen
Bartlett
Bellmon
Bentsen
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Cannon
Chiles
Church
Curtis
Eagleton
Eastland
Fannin
Fong
Ford
Glenn
Goldwater
Gravel
Griffin
Hansen
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Laxalt
Leahy
Mansfield
McClellan
McClure
McGovern
McIntyre
Metcalf
Montoya
Morgan
Moss
Muskie
Nunn
Packwood
Pearson
Percy
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Young

NAYS—25

Abourezk
Baker
Bayh
Beall
Biden
Buckley
Byrd, Robert C.
Case
Cranston
Durkin
Hart, Gary
Hart, Philip A.
Javits
Long
Mathias
McGee
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Williams

NOT VOTING—11

Brock
Clark
Culver
Dole
Domenici
Garn
Hartke
Magnuson
Mondale
Tunney
Weicker

So the motion to lay on the table was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. HATFIELD. Mr. President, I ask unanimous consent that Kathryne Bruner, of Senator FANNIN's staff, and Hazel Elbert, of Senator BARTLETT's staff, have the privilege of the floor during the discussion of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that Peter Chrumbus and Emory Sneeden, minority counsel of the Subcommittee on Antitrust and Monopoly, be granted the privilege of the floor during the discussion of the antitrust measure and any votes thereon.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that George Shanks, of my staff, be granted the privilege of the floor during the consideration of the pending measure.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, the distinguished Senator from West Virginia desires to be heard.

The **PRESIDING OFFICER.** The Senator from West Virginia is recognized.

Mr. RANDOLPH. Will the distinguished occupant of the chair give the count on the rollcall?

The **PRESIDING OFFICER.** The Chair advises the Senator from West Virginia that on the previous rollcall vote, on the motion to table the Randolph amendment, the yeas were 64 and the nays were 25.

Mr. RANDOLPH. Mr. President, I do not want to fold my tent and silently steal away, because the Senators understand that I shall be back. But there is a time to come back and there is a time to—not retreat, but to pause. I see the clear indication of the Senate in the matter of the vote that has just been announced. I have five amendments, and the one amendment which I felt was a good starting point, because it did come to grips with the need for management practice in the mixed hardwood forests of the East, as contrasted with the forest problems in the West, was an amendment that I hoped would have some substantial support in this body.

Mr. President, I respect the judgment of the Senate as the individual Senators vote their positions. I respect the collective judgment of the Senate. I realize that if I continue to offer amendmnts, the very nature of the amendments go directly to the general subject matter which I discussed in my remarks for some 18 minutes during general debate on the bill—we will lose. I do not desire to have an exercise in futility, as it were, as of the moment. But I do think that there will be a time when the membership—and again, I am not critical—will come to face these issues, as we have faced the problems of the control of air pollution, as we have faced the problems of the control of water pollution, as we have faced the problems of surface mining and as we have faced the problems of solid waste legislation.

There will come in this body, a time when we shall face the problem of the devastation that has been wrought and continues to be wrought in the national forests of this country. I repeat, because there are now Senators on the floor who were not here earlier, that in the Gauley Ranger District in West Virginia, I saw the results of clearcutting. I saw there a beautiful stream, the Cranberry River, a trout stream, a stream in our upper hill region, beautiful, pure—pristine, almost. It was the National Forest cutting operation in the Monongahela National Forest that made that river run muddy for 7 weeks. Then, when the arguments come that such a situation does not cause the degradation of the soil or the nutrients, that, of course, is not true. What I have been trying to do is to think in terms of the areas of the country that are different in terrain, that are different in the practices of conversion. As the able Senator from Arkansas has discussed, forest management, and other matters must go, necessarily, into the mix of all this problem which faces us.

I commend the Senators who have fashioned this bill, because they have done, as I deem it, what they believe to be best. Perhaps some 30 percent of the proposals that I made to the Committees on Agriculture and Forestry and Interior and Insular Affairs are incorporated in the bill. I am thankful, naturally, for that which has been done.

I said earlier—and I now repeat—and then I shall cease—that I believe that we must not work on the fringes of this problem, but we must go into the heart of the problem in the ways that these amendments would tend to have us go. But this is not the time, and I understand it. So we shall come back again, not with any malice, not with any agony of heart; only knowing that our purposes were right and that we shall move again, hopefully, toward the consideration of legislation at a later date that can incorporate, I trust, some of the very diligent work that has gone into the preparation of these amendments.

So, having talked too long, I say, Mr. President, that it is my desire to expedite the legislation to its finalization here in the Senate. I shall not offer the other four amendments. One was offered and a disposition has been made of that amendment by its tabling.

Mr. MUSKIE. Will the Senator yield, Mr. President?

Mr. RANDOLPH. Yes, I yield to my colleague from Maine.

Mr. MUSKIE. I am sorry I was not on the floor earlier to hear the debate. I commend the Senator for raising it. I share his concern about the consequences of indiscriminate clearcutting. I supported the motion to table, not because I disagree with his objective, but on the basis of my discussion with people who are interested in the forests of my State. I am persuaded that clearcutting can be a useful forest management tool if used with discrimination and with care.

I may change my view about that, but as I read the bill and noted the input of the distinguished Senator from West Virginia to some of the policy guidelines that were written into the bill, it seemed to me that there was general agreement on the part of the committee and the Senator from West Virginia, as well as myself, that we must have a careful policy guideline to the use of clearcutting—not only with respect to the national forests, of which we have very little in my State, but of our forests generally.

I am concerned that failure to recognize the limitations of clearcutting has done damage and can do greater damage. So I applaud the Senator from West Virginia for raising the question, for persisting in pointing out dangers, and he has done it in the kind of spirit that I have found typical of him.

Mr. RANDOLPH. I am appreciative of the comments of my colleague from Maine.

Mr. HATFIELD. Will the Senator yield?

Mr. METCALF. Will the Senator yield?

Mr. RANDOLPH. I believe the Senator from Oregon asked first.

Mr. HATFIELD. I am happy to yield to the Senator from Montana.

Mr. METCALF. I thank the Senator from Oregon. I shall be very brief.

The Senator from West Virginia has performed well in the consideration and discussion of this legislation. A good many of the amendments that he propounded were considered and adopted.

I think that he will agree that about a third of his ideas are incorporated into this bill. The only reason I am standing here today is that I am in accord with his statement that perhaps, as we go along, we are going to have to reconsider some amendments and think about them again, rethink them. And I hope that he will offer the amendments, not for a vote, but at least put them in the RECORD at this time so that, as we go forward, we shall know that these were under consideration and, in the future, we shall come back to them.

Mr. RANDOLPH. I thank my colleague from Montana. As I mentioned earlier in the debate, he made constructive additions and alterations to the measure before us.

I yield to my colleague from Oregon.

Mr. HATFIELD. Mr. President, I would like to just comment to the Senator from West Virginia that this bill has come out of a very interesting process of not just the refining of a single bill through the hearings and through the markup sessions but those hearings had really two major bills to be considered: One, introduced by the Senator from Minnesota (Mr. HUMPHREY), and the other introduced by the Senator from West Virginia (Mr. RANDOLPH). It was actually out of the hearing process of both of these bills that we discussed and debated, the public having its input, that this product came out today to the floor.

I think, therefore, the Senator from West Virginia must fully realize that, in part, he is a parent of this bill, along with those of the two committees which have the basic jurisdiction because the Senator from West Virginia not only participated in the hearings but participated fully and openly in the markup sessions. That, indeed, is itself a contribution.

The second point I would like to make is we have a bill here in which we are responding basically to an emergency, an emergency situation, created by the court decisions, the two, the three court decisions, and others that may follow, and I am sure the Senator from Minnesota, as the main sponsor of this bill, along with others of those of us who are cosponsors, recognizes that we are moving to meet this particular emergency which, in and of itself, indicates we must take a continuing view of this legislation once it is implemented.

We have not come up with a new piece of legislation but really an amendment to an existing law, which means we are in a continuing process of review and consideration and I believe the Senator from West Virginia might well, down the road, find what would be an appropriate occasion for reconsidering, not this particular amendment, but, perhaps, others that we have not thought of at this moment.

So I want to indicate my appreciation for the contribution made by the Senator from West Virginia and to say that I, for one, have an open mind and will be carefully reviewing and evaluating the implications and the impact of this bill once it becomes law to see wherein we may improve, modify, and, perhaps, the needs down the road may require us, to even change. So I want to thank the Senator from West Virginia.

Mr. RANDOLPH. I thank the Senator from Oregon for his generous words and for the counsel he gives me because this, of course, is taken in the spirit in which he gave it to me and in a spirit in which I return the appreciation for the counseling.

I had intended—it has been suggested by Senator Metcalf—and will now ask unanimous consent to have printed as a part of the consideration of this bill at the appropriate place, apparently now, the four amendments and comments that I would have made in support of those amendments.

There being no objection, the material was ordered to be printed in the Record, as follows:

Amendment No. 2216

On page 25, between lines 4 and 5 insert the following:

Sec. 14. (a) Except as otherwise provided in this section, the Secretary shall not cut or permit to be cut any trees in any national forest that are not dead, mature, or large.

(b) The Secretary may cut or permit to be cut trees in any national forest that are not dead, mature, or large, if such trees are cut for the purpose of thinning, improvement cutting, removing diseased or damaged trees, pest control, forest research and experimentation, removing trees to be used as Christmas trees, cull elimination, habitat improvement, or salvage: *Provided*, That the practices permitted by this subsection shall only be used to supplement the normal timber harvest of dead, mature, or large trees and may not be used as the dominant methods of harvesting the timber of any national forest: *And provided further*, That such practices may supplement, but shall not supplant, the basic management system used in eastern mixed hardwood forests, which system shall be uneven-aged management.

(c) The Secretary may also cut or permit to be cut trees that are not dead, mature, or large, if such trees are cut for the purpose of achieving an even distribution of age classes in southern pine forests.

(d) Clearcuts and even-aged cuts may include the cutting of trees that are not dead, mature, or large, but only if the stand of trees to be cut consists predominantly of dead, mature, and large trees.

(e) The Secretary shall promulgate rules and regulations for the cutting of timber under this section which shall be subject to public review. Such rules and regulations shall include provisions to assure that a stock of healthy, well-formed, large trees is maintained, well distributed throughout the national forests as seed sources and for additional value growth.

(f) For purposes of this Act, the term "mature" means that stage of a tree's life cycle when its bark, crown, size, and other visible indicators of age and vigor indicate the tree has reached the stage in its life and development during the preceding ten years at which its average annual growth rate in volume has peaked and begun to decline.

Prohibition on Harvesting of Immature Timber

Immature timber is to be found on lands of individual owners, commercial landowners and on public lands. Private companies do not desire to liquidate these valuable assets at a fraction of their potential value.

Louisiana-Pacific, for example, owns about 620,000 acres of timberland which could provide about 60 percent of its timber needs but is using more and more federal land timber and saving its own until prices increase.

Research data reveals that mixed hardwood species under 16 inches in diameter breast height produces no grade 1 timber. Hardwood trees are not considered to be economically mature until they have attained diameters of 20 inches and greater depending on species. The Germans consider this so important that they control this 20 inch lower limit by law.

Additionally, small trees produce very little volume. For example, an 11 inch tree usually averages some 60 board feet of lumber while a 23 inch tree will produce more than 600 board feet.

Furniture manufacturers, so dependent on quality hardwoods do not want small immature timber.

When an immature forest is harvested and generated, the new forest will be principally from stump sproutings while on the other hand when a mature forest is harvested the area will be regenerated from seed and seedlings. Research has shown that the production of high quality lumber from trees of stump origin is seriously impaired. Frequently decay in the stump carries over into the new tree and there is a tendency for two or three trees to form a clump.

At present there is nothing in law to guide the Forest Service in dealing with industry's pressure to harvest on shorter and shorter rotations (rotation is the cycle of growth, harvest and regrowth. Short rotation means growing and harvesting a succession of young or sapling trees). The Forest Service is currently guided by a self selected "economic" maturity guideline, i.e., when the tree has a marketable use it can be sold whether it be a sapling or a physiologically mature tree. A guideline of physiological maturity would involve longer rotation (a definition of physiological maturity can be when a tree's annual growth rate has reached its maximum mean annual increment and begun to taper off. For purposes of this amendment, the Forest Service would have tables indicating the general age by specie when the maximum increment is reached. These tables would take into account varying influences on growth in different areas—rainfall, temperature—which result in trees of the same specie and age being of different size and shape. The use of the word "general" would provide the latitude and flexibility for establishing physiological maturity in stands with mixes of species.) Many multiple use values are dependent on long rotations, wildlife, recreation, etc. In many instances, these resources and use are restricted if not lost altogether in short rotations or sapling silvicultures.

While it is true that sawtimber (timber capable of being sawed into lumber) is best provided by the physiologically mature tree and that therefore at present the interests of conservationists and industry coincide in support of long rotations, an increasing variety of wood fibre products, for instance, pulpwood, fibreboard, peeler logs (for plywood) are provided from very young trees (15 to 30 years old) in which the volume of wood fibre growth can still be increasing at dramatic rates every year. And forest product research has developed composite wood products that can substitute for a presently small but growing percentage of the uses of lumber from sawtimber size trees. As the use of these composite wood products (fibreboard, boards laminated from small pieces of wood, etc.) increase we would expect the industry to pressure the Forest Service increasingly towards short sapling rotations in many National Forest areas.

Thus to provide future sawtimber reserves and for the forest uses and resources which such longer rotations furnish we seek a guideline based on physiological maturity in the planning of timber harvest programs. The guideline we seek in law would not preclude a sapling silviculture where it is a best use of the forest such as in the pulpwood operations of certain National Forests in the North Central and Southeastern states. And the guideline would not affect continued harvesting of currently mature forests at present rates nor the improvement harvesting of immature trees. Nor would this definition tie up timber in exceedingly long rotations. The testimony of Dr. Peter Twight at the hearings noted that this definition of maturity could be satisfied for Douglas fir on a 60 year rotation, a considerably shorter term than the Forest Service currently applies to Douglas fir stands.

Amendment No. 2213

On page 29, between lines 18 and 19 insert the following new subsection:

(h) (1) No tree shall be cut or removed from any national forest after the date hereafter unless such tree has been properly marked and designated prior to sale except as provided herein.

(2) The Secretary shall designate all planned timber sales on maps which shall be available to the public prior to the sale of any timber from any national forest. Except as provided in subsections (c) and (d) hereof, the Secretary shall also mark prior to sale each tree that is to be sold and cut in such a manner that it can be identified after having been cut. All marking and designation shall be by persons designated by the Secretary and employed by the United States Forest Service.

(3) Any timber sale contract awarded by the Secretary prior to the date of this Act involving less than one hundred million board feet of timber in which the timber has been sold without marking of individual trees is hereby validated.

(4) The Secretary shall within six months of the date of this Act publish in the Federal Register standards for the marking and designating prior to the sale of the various type of clearcuts and even-aged cuts which will thereafter be permitted in the national forests. Such standards shall provide for—

(A) the identification of boundaries of the timber cut;

(B) the marking of individual trees the purchaser is required to leave standing; and

(C) at the option of the Forest Service the identification of timber which the purchaser is required to pay for.

Following promulgation of said standards, all timber removed from the national forest by clearcut or even-aged cut shall conform thereto.

(5) A tally of the timber cut and the timber to be left standing shall be made at the time of sale preparation. In the eastern mixed hardwood forests, the marker will tally to be left those large trees having a rate of volume growth anticipated to continue undiminished to the next cutting cycle.

MARKING AND DESIGNATING

This amendment has its thrust on the marking and designating of timber. Subsections (a) and (b) preserve the requirement of the Organic Act of 1897 that trees be both properly marked and designated prior to sale.

Subsection (c) provides for the validation of all but a very few of any existing contracts that may be illegal because of improper marking. Those not validated are the large 30–50 year contracts which, frankly cannot be validated without providing certain purchasers a long-term unfair advantage over the field of timber purchases.

Subsection (d) permits the Secretary to publish special rules for clearcuts so that every tree need not be marked.

Finally, subsections (e) and (f) provide for on-the-ground supervision of timber cutting and for tallies of timber cut as well as that to be left standing after timber sales.

The marking, designating and supervision of the cutting of timber is extremely important. It is reasonable to require, with certain exceptions, that each tree be marked prior to sale and in such a fashion that it can be identified after having been cut. Further, since the U.S. Forest Service is responsible for the management of Federal timberland, it is not unreasonable to require that the marking be done by employees of the Forest Service.

The amendment validates almost all existing contracts. There are a few contracts in excess of 100 million board feet which this amendment does not validate. They are so huge, however, involving sales of up to 8.75 billion board feet and covering up to a million acres of National Forest land. To validate such contracts would have the effect of vitiating the intended effects of reform legislation in large areas of the National Forest.

This amendment would make possible the accumulation of a forest inventory so that we may know the stands of timber existing throughout National Forests.

AMENDMENT No. 2212

On page 25, between lines 4 and 5, insert the following:

SEC. 14. (a) The Secretary shall manage the national forests located east of the one hundredth meridian in such a manner as to generally preserve the existing mixed hardwood forests therein. The conversion of any eastern mixed hardwood forest to a coniferous forest type shall only be permitted on acreage which the Secretary finds, after making an affirmative finding, has little substantial wildlife, recreational, watershed, esthetic, and economic values.

(b) Prior to permitting the conversion of any natural plant community of trees within any national forest to a different plant community, the Secretary shall make a finding whether such proposed conversion is consistent with the multiple use of the resources of the general area in which the conversion is to be carried out.

SPECIES TRANSFER

At present there are no legislative concerns regarding the practice of artificial species transfer by the Forest Service in the National Forests. Artificial species transfer is generally accomplished by a clearcut of hardwoods, herbicide applications, planting of softwoods and controlled burning in the generating softwoods to kill understory hardwood shoots. The purpose of artificial species transfer is to substitute the more economically valuable species for those species of lesser value. This does not mean that the Forest Service transfers to high priced specialty woods (walnut, hickory, etc.) but rather to those species which have the greatest variety of use and are the fastest growing. Those species having the greatest variety of uses and in which the most work has been done in selecting genetic strains that are the fastest growing are the softwoods—the pines. These species are used for lumber, plywood, pulp, etc. This *does not* mean that there are not many uses for hardwood—furniture, pulp, fibreboard, etc. These uses, however, are not as varied and hardwoods generally lack the homogeneity that provides for ease of milling.

In some forests there is a *natural* species transfer process with the hardwoods being an intermediate succession and the softwoods being a climax succession. Thus out in the Northwest the maple/alder succession comes in after a clearcut of the softwood firs. The climax evergreens follow after this hardwood succession. Also, the Forest Service points out that many present hardwood forests in the Southeast and Northeast were climax pine forests before initial commercial cuttings over one hundred to two hundred years ago. (This does not mean that softwood is universally a climax forest. In many forests, particularly in the East, the climax species were the hardwoods. The reason for this seems to be based on characteristics of the site such as soils as well as cover conditions—since the softwoods require generous doses of sunlight to generate, a heavy cover of hardwood growth could prevent the final stage of pines from coming in). It is important to understand this natural species transfer process because the Forest Service says that they are simply doing the work of Mother Nature in their artificial transfer process.

There has been heavy criticism of the Forest Service for their artificial transfer program in the East—particularly Arkansas, Alabama, Tennessee and North Carolina. There has also been criticism of the Forest Service in California for replacing the mountain Oaks with softwoods. The pressures to transfer are greatest in these states because there is a strong softwood timber industry. The roots of this public criticism lie in the appreciation of the various wildlife and birdlife populations which are dependent on hardwood forests and which disappear when there is a transfer to softwoods. Hardwood forests are also appreciated for their aesthetic qualities—fall foliage. And in states with little National Forest area these are important considerations when associated with a heavy visitor use of that area.

The issue is not should the Forest Service track Mother Nature—that is a false discussion. Since the Forest Service has the capability to manage to whatever end it wishes, the issue is what should those ends be. We do not seek a halt to artificial species transfer. We simply ask for a findings process to set forth all the values involved with regard to particular forest areas and some assurance that transfer will not be accomplished artificially where particularly rich hardwood forest values will be lost.

AMENDMENT No. 2214

On page 15, following line 9, insert the following:

"(E) insure that—

"(1) the Secretary shall administer operations in the national forests in a manner that protects the integrity and productivity of the soil of such forests; shall initiate and carry out such measures as may be necessary to prevent accelerated soil erosion, sedimentation, mass wasting, nutrient degradation, and site degradation of the national forests; and shall prohibit timber cutting and roadbuilding in any area of a national forest if such cutting or roadbuilding would result in significant soil erosion, mass wasting, sedimentation, nutrient degradation, or site degradation;

"(2) the Forest Service shall conduct its operations in such a way so as to protect the fish producing streams of the national forests from sedimentation, degradation of water quality and alteration of their banks and stream channels, thermal degradation and from other manmade disturbances adversely affecting population of native fish. Strips of timber designed so as to prevent stream disturbance shall be left along such streams and their tributaries at all times. The national forests shall be managed to preserve or enhance the natural populations of fish and wildlife species, whether or not rare and endangered. The Secretary shall provide for the review on the ground in advance of all timber sales by competent fish and wildlife biologists in the employ of the Secretary; and

"(3) the Secretary shall conduct timber management in the national forests in such a way as to preserve the natural diversity of forest types and species. In this regard, the Secretary shall take affirmative action to preserve habitats and populations of the native species of plants and animals found in the national forests, and shall devote special attention to the preservation of the habitats and populations of native plants and animals whose habitats and populations are diminishing."

SOIL, FISH, AND WILDLIFE

This amendment is designed to protect the integrity of the soil on National Forest lands and to assure that timber operations do not adversely affect fish and wildlife.

The Secretary is required to initiate measures to prevent accelerated soil erosion, sedimentation, mass wasting, nutrient degradation, and site degradation of National Forests. Timber harvesting is prohibited as is roadbuilding in any area of a National Forest if such cutting or roadbuilding would result in significant soil erosion, mass wasting, sedimentation, nutrient or site degradation.

Past timber cutting practices have often been adjacent to streams which have adversely disturbed fish. Likewise, streams have been altered by sedimentation and water quality has decreased. Strips of timber designed to prevent such occurrences are required by this amendment to be left along such streams and their tributaries at all times.

National Forest lands are to be managed to preserve or enhance the natural populations of fish and wildlife species, irrespective of whether they are rare and endangered.

Additionally, the Secretary is required by this Amendment to conduct timber operations in such a manner as to preserve the natural diversity of forest types and species. This necessitates affirmative action to preserve habitats and populations of native species of plants and animals within National Forests.

Mr. RANDOLPH. I thank the Chair and my colleagues for giving me this time not to withdraw so much as to indicate to you that I am appreciative of the consideration already given and, hopefully, at a future date we may go, perhaps, I think, more logically and realistically into these problems that confront the American people as we seek not only to cut timber but as we seek the national forests to be for multiple-use purposes and to be multiple-use forests, which is very fundamental.

I hope we will be able, on that premise, to look forward to a future when we will be able to think in terms of yet another bill. At that time such legislation will, perhaps, not serve the emergency of the moment but the requirements of the long-term future.

Mr. HUMPHREY. Mr. President, I believe the junior Senator from Idaho had some discussion or amendment he might want to discuss.

AMENDMENT NO. 2199

Mr. McCLURE. Yes, I have.

Mr. President, I call up my amendment No. 2199 and ask the clerk to report.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

> The Senator from Idaho (Mr. McCLURE) proposes amendment No. 2199.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 16, line 15 through 22, delete subsection 5(d)(6)(H)(iii) and renumber the following subsection accordingly.

Mr. McCLURE. Mr. President, this amendment would deal with some language that was included in the bill upon the motion and with the support and direction of Senator BUMPERS. It dealt with the economic test for recovery.

Mr. President, this amendment would be to strike that section and, because it is a rather difficult section to administer, I think the Senator from Arkansas and I share an objective which we are trying to achieve under the language of the bill.

I am not certain that this language does that. From my conversations with the Senator I think he is not bound by any rigidity of language. It is simply the objective he is trying to achieve. He made some reference to it, to that objective, in his opening remarks.

It is not my intention, Mr. President, to insist upon a vote on this amendment, but I do think it is necessary for us to focus for a moment upon the effects of an economic test if it were applied in a very rigid manner, if it were applied in the most extreme manner possible under this bill.

The language was inserted, was discussed, was refined. We added a proviso, we have added language in the report, trying to explain what it is we mean by it.

I wrote a letter to the Chief of the Forest Service, and he indicated that in their opinion this is already being done under other provisions of law and will continue to be done. It was his recommendation that the proviso be stricken.

As I said, I do not intend to insist upon a vote on the amendment because I think perhaps after further discussion we may be able to come to some agreement as to its necessity or as to the wisdom of changing the language because it could be devastating.

Mr. HUMPHREY. Might I make just a brief comment before the Senator from Arkansas who is most familiar with this particular item.

Mr. McCLURE. I would be happy to yield to the Senator from Minnesota.

Mr. HUMPHREY. I want to say to the Senator from Idaho, as he knows, this provision is not in the bill that is presently reported from the subcommittee in the House and, therefore, we would be in a position to use the Senate language that is here in this bill in conference, and there would be an opportunity to make such clarifications and a more precise definition of meaning in the conference than I think we should do here by the deletion of the provision in the Senate bill.

So I hope the Senator from Idaho will do as he has indicated, let us take the provision that is in S. 3091 to conference. The Senator from Idaho is most likely going to be one of the conferees, and if he is not, I can assure him we will protect his rights.

Mr. McCLURE. I thank the Senator from Minnesota. I think we can only underscore the seriousness of this in some of the more arid Western States, not necessarily my State of Idaho, which is less affected, than would be the States of New Mexico and Arizona, in which a large number of the proposed timber sales might be completely wiped out if this language were construed in its strictest sense.

I am sure the Senator from Arkansas does not have that in mind, simply wiping out a timber industry in a broad area of the United States. I know from our conversations that that is correct.

I would be happy to yield to the Senator from Arkansas for any comments he might wish to make.

Mr. BUMPERS. I thank the Senator. He is absolutely right. The Senator from Minnesota has already stated my views with regard to taking this to conference. The House subcommittee has already marked up their bill, and I think the full committee is to start their markup tomorrow, and based upon what I have heard about the House bill so far it is not as stringent as the Senate bill.

But on the immediate subject, I feel strongly about this matter, as the Senator knows from the discussion in committee.

Mr. President, first let me explain the origins of this particular provision of the bill. During 3 days of hearings last March, the Interior and Agriculture Committees received testimony from Dr. Marion Clawson, a highly respected forest economist and regents' professor at the University of California, Berkeley. In his testimony, Dr. Clawson made the point that much of the less productive timber-growing land within the national forests should not be managed for timber production at all, but should be used for other purposes. He had sounded the same theme in the February 1976 issue of Science when he wrote:

> The data (on the economics of national forest management) strongly suggest that the national forests are functionally inefficient also. In particular, expenditures for timber management are being made in regions, on forests, and on sites where timber values are so low that the areas should be abandoned for timber growing purposes. Other outputs of these forests may be worth managing, and existing stands of trees may be valuable for this purpose, but the growing of more timber is not economically sound.

I ask unanimous consent that the full text of Dr. Clawson's article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BUMPERS. Dr. Clawson singled out the site class 5 lands as areas where investing for timber production is not economical. These are the lands capable of producing between 20 and 50 cubic feet of wood per acre per year. I would point out that site class 5 lands constitute the lower threshold of what are defined to be commercial forest lands.

I later questioned Chief McGuire about Dr. Clawson's statements. He took issue with Dr. Clawson's belief that site class 5 lands should not be managed for timber production, but he did not attempt to rebut the assertion that timber management was taking place on national forest lands where it was not economical.

During the markup of S. 3091, I considered offering an amendment to prohibit intensive timber management on site class 5 lands. Before doing this, however, I consulted with Chief McGuire and others who convinced me that this would not be the best way to approach the problem of wasteful investment in timber production. They pointed out that some of the site class 5 lands of the national forests are readily accessible and possess a gentle topography that makes timber production a viable proposition. Many areas in the Black Hills of South Dakota fit this description. By the same token, there are highly productive sites in the national forests so remote and inaccessible that managing them for timber production will probably never be economically feasible.

The amendment which I finally offered to the bill takes a somewhat different tack. Instead of flatly prohibiting timber investments on site class 5 lands, it requires the Forest Service to identify the relative productivity of land for timber production and assure that timber production is not a management goal on lands where the estimated cost of production will exceed estimated economic return. The amendment goes on to state that only direct timber production costs will be considered in figuring the estimated cost of production. The investments for other multiple-use purposes, such as recreation or wildlife habitat, are specifically excluded.

Let me take just a few moments to explain what this amendment actually does. The amendment simply establishes a type of cost-benefit test for timber production investments. It requires the Forest Service to weigh the costs of timber production against the gains that will be realized at the time of harvest. If it appear that the costs will exceed the economic benefits, then the investments may not be made.

It will take me slightly longer to explain what the amendment does not do, since there has been a great deal of deliberate confusion about that.

First, the amendment would not preclude on a wholesale basis the managing for timber production of the arid, relatively slow-growth areas of the National Forest System. The Agriculture Committee report is specific on this point. It states that the Secretary of Agriculture is expected to develop data under this amendment which assure that precipitous action is not taken which may have drastic and widespread economic impacts in the intermountain West or other areas which seem to have low productivity levels.

Second. The amendment would not prevent the Forest Service from salvaging diseased or damaged timber, nor would it prevent them from taking whatever action is necessary to prevent the spread of timber diseases or harmful insects.

Third. The amendment would not prevent cutting and selling of trees when done for such multiple-use purposes as improving wildlife habitat or establishing recreation areas.

Fourth. In fact, the amendment would not prevent harvesting trees from low-productivity sites where nature has produced a merchantable stand of timber, even if those sites cannot be economically managed for timber production in the future. In such cases, of course, the Forest Service would have to reforest or otherwise restore the area so that it could be used for other multiple-use purposes. The amendment would prohibit managing those sites for future timber production, but it would not prevent the harvesting of the trees originally if that is an environmentally and economically sound operation.

I know that a number of people have expressed concerns about the possible impact of this amendment on communities dependent on national forest timber for their survival. This possibility concerns me also, and for that reason I have explored it carefully with the Forest Service. In a letter dated August 23, Chief McGuire informed me that the Forest Service does not foresee the enactment of this amendment as causing an undue hardship on any State or area of the country. In fact, the Forest Service estimates that the amendment will affect timber management expenditures on less than 1 percent of the commercial forest lands of the national forests currently being managed for timber production.

In conclusion, Mr. President, I believe that it is entirely reasonable to require the Forest Service to weigh the potential benefits of timber management investments. If those investments will not pay for themselves in the long run, then clearly they should not be made. This is simply good commonsense, the same commonsense that is applied by the forest industry. Show me a timber company that does not consider the results of its management investments, and in a few years I will show you a timber company that has gone broke. Wasteful investment in timber production is nothing more than a subsidy to the timber industry, and its continuation cannot be justified on any grounds.

I appreciate very much the compromise the Senator has offered by bringing up the amendment, to get a colloquy in the RECORD, to allow me to point out the reasons for the amendment.

I certainly am pleased to know he will not ask for a vote on it and we will be able to go to the House with this language intact.

The language of the amendment is not as precise as it might be. There is no pride of authorship and I am pleased to admit that. I have told the Senator privately and Chief McGuire of the Forest Service that I would be happy to work with the Senator in dressing up the language as definitively as possible and giving the Forest Service greater direction on the intent of this amendment.

EXHIBIT 1

[From Science magazine, February 1976]

THE NATIONAL FORESTS: A GREAT NATIONAL ASSET IS POORLY MANAGED AND UNPRODUCTIVE

(By Marion Clawson) *

The national forests of the United States are a great national asset, include 8 percent of the national land area, have a value estimated at $42 billion, and in recent years produce cash revenues of $400 million to $500 million annually. Their output and use affect everyone in the United States, directly or indirectly (*1*).

The national forests are owned by the people of the United States and are managed by the federal government, more explicitly, by the Forest Service. The forests are managed on multiple use principles, with due regard for outputs of timber, outdoor recreation, wilderness, wildlife, and water (*2*). They are used by private individuals and companies. Other extensive forests in the United States are owned by the federal government and managed by other agencies, by state and local governments, by forest industry firms, or by an ownership class usually labeled "other" because it includes a great variety of owners. The national forests include 18 percent of the commercial forest land of the country but now include slightly more than half of the standing softwood timber, and a smaller proportion of the hardwood timber (*3*).

The national forests are located largely in the West because they were established by the reservation of public domain for permanent public ownership. By 1891 when such reservations began, most of the suitable public domain was in the West (*4*). However, under legislation passed in 1911, considerable acreage was purchased from private landowners, primarily in the South, the Northern Lake States, and the East. Half of the national forests are classed as commercial forests; the rest of their area is above timberline, is covered with shrubs and grasses, or has forests too sparse to be considered "commercial." The commercial stands of the national forests are primarily softwood species and much of the timber grown is old growth, or "virgin" (*5*). Such stands typically show little net growth annually and cannot be made to grow much more wood until the old stand has been harvested and replaced by new, more economical, faster-growing stands. Some of the most difficult problems of forest management involve this conversion of old growth to younger stands. There exists a good deal of popular confusion about the use of virgin timber stands. While the cutting of timber cannot indefinitely exceed annual growth because timber inventory would eventually be exhausted, neither can growth indefinitely exceed cutting because fully mature, uncut stands show little or no growth. Any cutting of old growth means cutting more timber than is growing until the annual net growth on the previously cut areas equals the volume cut annually from the old growth stands.

National forests, like all other forests, differ substantially in site productivity, often within rather short distances (1, 6). The average per acre growth potential of the national forests (for fully stocked natural stands not subject to intensive management) is slightly below the average for all forests and considerably below the average of forest industry forests. However, these differences are much less if the Site Class V lands, which are of dubious value in their timber growing potentialities, are omitted. The actual amount of timber growth on national forest land is low, both in volume of wood per acre annually and in relation to potential growth, primarily because the virgin stands are growing slowly or not at all (Table 1). In 1970, actual net growth of wood on national forest lands was only 39 percent of potential growth for fully stocked but not intensively managed natural stands, which in the forest industry forests net growth was 59 percent of the potential.

PAST TRENDS IN NATIONAL FOREST USE

Over the past 40 years, the use of every kind of forest output from the national forests increased by varying but substantial amounts (Table 2) (7–9). This comparison omits grazing on national forest land, much of which occurs on non-commercial forest areas, and mineral production. Since the use of each output of commercial forest lands increased, the sum usage of all outputs also increased. This conclusion is possible without calculating an index of combined output. Although each of the various uses of the national forests may, and sometimes does, impinge adversely on other uses at particular times and places, all uses have increased in the long run.

The increased harvest of timber from national forests was accompanied by major increases in the price of "stumpage" or standing trees. Whereas the annual average price of all timber sales from national forests varied only between $2 and $3 per 1000 board feet from 1924 to 1942, by 1972 the average price had risen to nearly $40, while prime logs in good locations were two to five times higher in price. This rise in average prices understates the extent of the increase in price for logs of the same quality in comparable locations, because the recent price includes logs of a quality or location (or both) which would have been valueless at one time. The other outputs of the national forests are free or negligible in price.

POTENTIAL OUTPUT FROM NATIONAL FORESTS

The output of every kind of good and service from national forests could be increased (Table 3). In considering potential, at least two questions arise: (i) whether the potential is purely biological or whether it is also economic; and (ii) whether the potential for each kind of output should be considered separately, without regard for competing outputs, or whether all outputs should be considered at the same time. Table 3 shows a combination of the extremes of these considerations; that is, biological output of each good and service managed for its maximum output with other outputs in a subordinate but often significant role; and an economically defensible output with the use of each kind of good or service adjusted to the demands for the other services. While these estimates are approximate, they demonstrate the potential for substantially increased output of each major kind of good or service.

The second type of potential output (economic) in Table 3 could be achieved only by the application of new technology and usually only by greater investment of capital or greater expenditures for current operation or both. For wood, this would include (i) prompt planting with improved species in order to achieve a good new stand within a year instead of a hit-or-miss stand from natural reseeding in an average period of 7 years; (ii) planting at the optimum spacing to take full advantage of the sun, water, and fertility of the site; (iii) periodic thinnings as the stand grew in order to harvest and use wood which would otherwise rot in the forest; (iv) fertilization at appropriate times; and (v) complete harvest when the trees reach economic maturity. For other outputs, roughly similar intensification measures would be needed. Even wilderness areas could be managed intensively to provide more trails at appropriate locations, to space out visitor parties to avoid conflicts, and to otherwise allow more users in a given wilderness area without loss of quality in the wilderness experience.

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* The author is a consultant to Resources for the Future, Inc., Washington, D.C. 20036, and is Regents Professor, University of California, Berkeley 94720. This article resulted from work done while Dr. Clawson was vice president of Resources of Future, Inc.

In the 1920's there was much unused potential output from the national forests. While this fact was realized at the time by Forest Service managers, the extent of that unused potential is more readily apparent now than it was then. Given today's technology, there still exists much unused potential output from the national forests. The unused potential now is not as great in percentage terms as it was in the 1920's, but is greater in absolute amounts. Forty years from now our descendants may have achieved increased output in ways that are not now apparent. The best trade-offs between one kind of output and another and the optimum intensity of production are complex and detailed questions beyond the scope of this article.

TABLE 1.—GROWTH OF SAWTIMBER IN BOARD FEET PER ACRE OF COMMERCIAL FOREST, NATIONAL FORESTS, AND TIMBER INDUSTRY FORESTS, 1970 (1)

Growth	National forests	Forest industry forests
Gross	176	220
Mortality loss	68	35
Net	107	185

ECONOMICS OF NATIONAL FOREST MANAGEMENT

The national forests are big business in the modern American sense of that term. Had they been an industrial enterprise, their cash income alone would have ranked them about halfway up on *Fortune*'s list of the 500 largest industrial firms in the United States during each of the past 20 years or more, and their total income and total assets would have ranked them still higher. Yet they have never been studied and analyzed as business enterprises, a failure which has serious consequences for their management for social purposes.

The national forests, as public enterprises, are not managed for profit in the way private business is. However, costs, output, and efficiency are no less important for public than for private enterprises. Economizing, the use of scarce resources and productive factors to produce desired outputs (whether sold for cash or not), is as applicable to public as to private enterprises. Wilderness, recreation, wildlife, water, and some other outputs of national forests are available to the public free or at prices substantially below their economic value, but this is also true for the same outputs of privately owned forests. The problem of securing a direct financial return comparable with the economic value of these outputs is a persistent and nearly ubiquitous one in forestry.

A financial balance sheet can be constructed for the national forests (Table 4). This is simplified version of a typical business balance sheet, constructed from the best data available (but data which were never intended for this purpose). Several aspects of this balance sheet are worthy of particular attention. First, cash receipts are less than half of the total income. Second, cash receipts nearly equal cash expenditures. Third, capital charges that are reasonable in comparison with the immense value of the national forests dominate the cost side of the balance sheet. If the facts are interpreted on this basis, the national forests incurred a deficit of nearly $2 billion in total or about $9 per capita of the whole population. Since the deficit is a bookkeeping one, another and perhaps more reasonable way of describing the overall result is to say that national forests earned less than 0.5 percent on their investment, even when all noncash outputs are valued generously.

The regional pattern of national forest expenditures is economically unsound. During the 5 years 1970–74 there was only a limited relation between cash expenditures for management purposes and cash receipts, by national forest regions (Fig. 1). It seems to cost $20 million to $30 million to manage a national forest region even when cash receipts are very low, and expenditures do not rise in proportion to revenues. The situation is more extreme for cash investment expenditures (Fig. 2). There is very little relation between the amount of cash receipts and the amount of cash investments.

TABLE 2.—AVERAGE ANNUAL HARVEST OF TIMBER AND WILDLIFE AND USE OF RECREATIONAL OPPORTUNITY, AND WATER FROM NATIONAL FORESTS, 1925–29 AND 1968–72

Item	Annual average		1968–72 as multiple of 1925–29
	1925–29 [1]	1968–72 [2]	
Timber cut	[3] 1.35	[3] 11.54	8.6
Wildlife	[4] 216	[4] 582	2.7
Recreation visits	[5] 6.3	[6] 188	30.0
Water [7]			[8] 2.0

[1] Data from (8).
[2] Data from (9).
[3] Amount given in billions of board feet.
[4] Thousand big game killed by hunters.
[5] Million recreation visits.
[6] Million visitor days, 1973.
[7] No data are available on use of water flowing off national forests. With the volume of public and private dam building, use in the latter period can hardly be less than double the former, even if total streamflow is unchanged.
[8] Probably.

TABLE 3.—CURRENT AND POTENTIAL OUTPUTS OF NATIONAL FORESTS

Potential output is given on a biological basis with each use considered dominant, other uses subordinate, and no concern for economic efficiency, and on an economic basis with each use adjusted to other uses

Kind of output	Present output [1]	Potential output [2]	
		Biological basis	Economic basis
Wood grown annually (billion cubic feet).	2.6	10.5	6 to 7.
Wilderness area [3] (million acres).	11.6	55	40.
Outdoor recreation (million visitor days).	188	1,000	400.
Water yield (volume).	Not measured.	25 percent more.	10 percent more.
Wildlife, all kinds	do	Many more.	Slightly more.

[1] 1970 for wood, some more recent year or average of years for others.
[2] My estimates, see text for basis.
[3] Formally designated wilderness areas, excluding de facto wilderness. Assumes no major relaxation in definition of wilderness with regard to size of tracts or degree of nonwilderness use tolerated.

If all outputs and costs, including capital charges, were calculated at their full market value, the old test of marginal value equaling marginal cost would be applicable in the management of national forests, whose great size makes them a major factor in all markets for their outputs. In the absence of the necessary data for such a comprehensive analysis, a comparison of cash receipts and cash expenditures by regions may serve as a reasonable indicator of the relation between value and cost.

The unsound regional pattern of national forest expenditures extends to timber management (Fig. 3). Expenditures for timber management, reforestation, and timber stand improvement are higher per 1000 board feet in regions where values per 1000 board feet of the timber sold are low than where they are high. The situation was more marked in 1972 when stumpage values were comparatively low than in 1973 when the sale price of stumpage was high. In some regions costs equal or exceed values of timber sold. These costs do not include general administrative costs, firefighting, insect and disease control, and some other national forest expenditures, some parts of which are properly chargeable to timber management. If these other costs could have been included in the analysis, the picture would have been worse.

A comparison of cash expenditures for all purposes with all cash receipts by individual national forests reveals a similar lack of rationale (Fig. 4). It seems to cost $1 million to $3.5 million to manage a national forest, regardless of the amount of cash receipts, whereas relatively little more is spent in the management of those national forests with large cash receipts. An analysis of typical forests in the Southwest, where timber values are comparatively low, shows that as much or more is spent per acre as in the Pacific Northwest where timber values are very high.

TABLE 4.—FINANCIAL STATEMENT FOR NATIONAL FORESTS, CIRCA 1974

Account item	Total national forest system (million)	Per acre of—		
		Entire acreage	Commercial forest acreage	
			Classes I–V	Classes I–IV
Capital structure:				
Value of standing timber [1]	$20,000	$107	$217	$324
Value of forest land [2]	20,000	107	217	324
Undepreciated value of man-made improvements [3]	2,000	11	22	32
Total assets	42,000	225	456	680
Cash investment [4]	196	1.05	2.13	3.08
Investment in kind [5]	120	.64	1.30	1.94
Value of increased timber inventory, 1970 volume, 1974 prices [6]	42	.22	.46	.68
Income:				
In cash [7]	486	2.60	5.28	7.88
In kind [8]	220	1.18	2.39	3.56
Additional value of products and services provided at less than full market prices [9]	490	2.62	5.32	7.93
Total annual output [10]	1,238	6.63	13.45	20.05

Footnotes at end of table.

TABLE 4.—FINANCIAL STATEMENT FOR NATIONAL FORESTS, CIRCA 1974—Continued

Account item	Total national forest system (million)	Per acre of—		
		Entire acreage	Commercial forest acreage	
			Classes I–V	Classes I–IV
Expenditures:				
In cash, all purposes	488	2.62	5.31	7.91
In kind [11]	220	1.18	2.39	3.56
Depreciation of man-made assets, 10 percent	200	1.07	2.17	3.24
Payments to States and counties	79	.42	.86	1.28
Interest on all assets, 5 percent	2,100	11.23	22.80	34.00
Total	3,087	16.51	33.53	49.99
Net annual income, cash and noncash	(1,849)	(9.87)	(20.08)	(29.94)

[1] A 1970 inventory of 1,021,000,000 board-feet of sawtimber on national forests is given in (1). On the basis of $40 per 1,000 board-feet, which is an approximate recent average for timber sold from national forests, the value of the standing sawtimber (ignoring values for growing stock of less than sawtimber size) would be slightly in excess of $40,000,000,000. This value has been cut in half to reflect a reasonably early (10 to 20 yr) liquidation value.

[2] Excludes timber values; averages about $110 per acre for all national forest land; also assumes reasonably early liquidation value.

[3] Clawson (8, p. 54) reports $1,160,000,000 in 1963; estimated to have risen to $2,000,000,000 by 1974.

[4] Data from Forest Service; roads, trails, other construction, and purchase of land (14).

[5] Road building allowance in timber sales contracts; 12,000,000,000 board-feet, assumed $10 per 1,000 board-feet road building allowance in sale price.

[6] In 1970 harvest slightly exceeded growth for softwood growing stock but growth exceeded harvest by about 450,000,000 ft³ for hardwood growing stock (1). Converted to board-feet this, is 6 board-feet per cubic foot; $80 per 1,000 board-feet for softwood, $30 per 1,000 board-feet for hardwood.

[7] Includes receipts from mineral leases on national forest lands acquired by purchase from private owners; excludes them from national forest lands reserved from public domain.

[8] All of road building allowance plus $100,000,000 in working funds, cooperative agreements, and the like where the national forest user agrees or is required as a condition of timber harvest or other use to undertake certain restoration or other activities.

[9] Estimated on basis of 170,000,000 recreation visits other than wilderness at an average value of $2 each, 10,000,000 wilderness area visits at an average value of $10 each, and water supply at $50,000,000. Wildlife values assumed included in recreation and wilderness values. States may benefit from wildlife values, for instance in sale of hunting licenses. No allowance is made for the possibility that wood and forage are sold at less than a full value.

[10] Increased timber inventory, cash and kind receipts, and values of products not sold for cash.

[11] These are the same items described in (9); they appear both as income and as outlay.

A complete accounting of the economic value of all national forest outputs, including those provided essentially without charge to their users, would change the income situation of all regions and forests. However, a complete accounting of all costs, including reasonable capital charges for the large amounts of capital tied up in the national forests, would also change our view of the cost situation of all regions and forests. It is by no means clear that the relative relation of costs and income would be changed thereby. The regions with high timber values, such as California, are also regions of high watershed, recreation, and wilderness values.

The data in Figs. 1–4 do not relate explicitly to expenditures by productivity classifications of sites in the national forests. Given the difficulty of allocating expenditures by specific locations, such data would be hard to obtain in any case. However, all the indications are that too much money is spent in management of low productivity sites and too little on high productivity sites. The pattern of expenditures by regions and by forests and the general disregard of economic considerations that underlie this pattern strongly suggest that allocations by productivity site class are also uneconomic. These statements about site class apply equally well whether one considers only timber production or whether one also considers wilderness, recreation, wildlife, and water, although the site specifications would differ for each.

The national forests are wasteful in their use of capital. Forestry always involves heavy use of capital, for land, for standing timber, for roads and other improvements, and for other purposes. The capital in standing timber is peculiar in the sense that the same tree is called capital if allowed to stand for further production but is called output when cut. If the national forests are judged by the standard of forest industry forests or by the standards of economically optimum rotations for which Forest Service research has provided the necessary basic data, there is at present $12 billion in excess timber inventory on national forests (*10*). The mature forests, where net growth is low, sometimes even negative, and where rot takes a large annual toll, are examples of extremely large amounts of nearly idle capital. At modest interest rates, a $12 billion excess inventory in standing timber means an annual cost of $600 million in total or about $3 per capita of population. One can readily imagine the reaction if every citizen of the United States was asked to contribute $3 annually toward the maintenance of an excess inventory of old trees that he might never see. This calculation of excess timber inventory has nothing to do with wilderness areas; even if they were to be reserved generously the excess timber issue would still remain.

The data strongly suggest that the national forests are functionally inefficient also. In particular, expenditures for timber management are being made in regions, on forests, and on sites where timber values are so low that the areas should be abandoned for timber growing purposes. Other outputs of these forests may be worth managing, and existing stands of trees may be valuable for this purpose, but the growing of more timber is not economically sound.

Some forest practices are almost surely economically inefficient also. Substantial sums are spent in timber surveys, appraisals, and sales (11). The stumpage (standing trees) is sold to private buyers. Although there is sometimes active competition for the stumpage, sometimes there is not, and to prevent the stumpage from being bid in at unreasonably low prices, the Forest Service makes elaborate timber appraisals. Where there is active competition, the bid prices often greatly exceed the appraisals since a processor may be better off to pay more than the timber is worth than to risk having his mill inoperative for lack of logs. If standing timber were cut by independent contractors or employees paid by the Forest Service and the logs transported to a central log yard, graded, and auctioned off, more money could be realized from the logs and substantial savings in management costs could be achieved. Other Forest Service practices might also be questioned on grounds of economic efficiency—for example, it may not be economical to fight fires or to control insects everywhere they appear.

A careful analysis of the best available data on timber management expenditures by large forest industry firms suggests that the Forest Service has available for expenditure on timber management somewhat less money (perhaps a fourth less) per acre of commercial forest than these private firms spend (12). The overall amount of expenditures for timber management in national forests is not too high and may well be too low, the geographic distribution and functional and practical allocation is uneconomic. Unfortunately, similar comparisons for outputs of the national forests other than wood cannot be made on the basis of the available data.

In any economic evaluation of national forest management, the free or nearly free services of wilderness, recreation, wildlife, and water are mischief-makers. Their price, arbitrarily established at well below market value, encourages wasteful use in the following ways: (i) services priced as if they are free are treated as if they are valueless; (ii) the Forest Service and the various other decision-makers in the federal budgeting and appropriation process lack clear guides to rational amounts of expenditures; and (iii) some parties gain substantially while others gain not at all or lose—an income redistribution that is not explicit but nevertheless may be considerable. The use of the best available shadow prices would solve the second of these problems.

The capital used by the Forest Service is available without specific interest or other charge. The value of the timber and land in the national forests is very large and any reasonable interest rate results in an annual charge that dominates the whole cost side of the national forest business sheet. Yet no charge is made for this capital—in fact, only rarely is its existence acknowledged. The Forest Service operates as if this capital were free. Even the capital invested in roads, reforestation, and other improvements does not bear a specific annual charge. The Forest Service may have great difficulty getting appropriations for such investments, but the difficulty is political and not in economic accounting. Capital which seems to be free is an irrestible temptation to its wasteful use.

(Figures not printed in RECORD.)

WHY ARE THE NATIONAL FORESTS SO ECONOMICALLY UNPRODUCTIVE?

A number of factors, forces, and organizations are responsible for the economically unproductive management of the national forest. Each factor, force, or organization taken alone would be serious; their combination is, to an economist, disastrous.

Responsibility for the management of the national forests is seriously dispersed in the federal government. The Forest Service, the Secretary of Agriculture, the Office of Management and Budget, and the Congress each have a major role, and other units have lesser but sometimes significant roles. Each offers direct constraints on the others, and each may indirectly influence the perceptions of others with regard to the positions of various actors in the process. It is virtually impossible for an outsider to fix responsibility; one suspects that the actors are not always clear as to why decisions are made or not made. In particular, there has been a lack of a clear policy directive for the Forest Service in its on-the-ground management of the national forests. The Multiple Use Sustained Yield Act of 1960 is vague in its directive, and its very vagueness may have been one reason it was acceptable to the various interest groups.

The free outputs from the national forests, such as wilderness, wildlife, and water, make rational economic planning very difficult. The free capital embodied in the national forests similarly distorts economic management. There has been a notable lack of economic tests for forest practices and management at all levels, from the specific site in the forest, to the ranger district, to the national forest, to the Forest Service region, to the national level. None of the actors in the management process, from forest ranger to President and congressman, have insisted on the careful weighing of costs and benefits which is the essence of economic management.

In any accountability for the results of national forest management, the attitude of professional foresters, or at least those in the public employ, must bear a substantial share of the result. Many foresters have ignored economics, and some have been strongly antieconomic in their philosophy. They have emphasized ecological considerations, multiple use, sustained yield, even flow, community stability, and other concepts which may have had meaning to them, and often were strongly, even emotionally held, yet had little precise meaning to others or in practice. An attitude that costs, benefits, and other economic considerations did not apply to public forests has somehow been common. In practice, multiple use has all too often meant a little of everything everywhere, including timber management on uneconomic sites.

The general public, the conservation organizations, and the information media must also accept some responsibility. Often the focus has been on some relatively small issue, such as a particular clear-cut or a particular potential wilderness area, while at the same time the possibilities of each interest group obtaining most or all of what it seeks by more intensive and skillful national forest management has gone unnoticed or unremarked.

WHAT TO DO?

Several steps are necessary if there is to be a national commitment to make the national forests best serve the needs of all the American people. An uneconomic use of capital, an output of national forests significantly below their economic potential, management costs and practices that are not efficient, and other aspects of national forest management described in this article do not serve the American people well. Three major kinds of actions are necessary.

1) There must be an alert, intelligent, and continuous national leadership for good national forest management. In particular, a concerned President, some sympathetic but tough-minded senior staff at the Office of Management and Budget who will remain on the same job for several years, a secretariat in Agriculture that is responsive to national forest possibilities and willing to devote some energy to them, and a Congress which continuously demands answers to the pressing questions about costs and benefits and then backs up its decisions with adequate funds are all essential.

2) There must be new procedures and new analyses to test economic rationality, from small timber sale area to national decisions on expenditure and investment. There are problems in doing this without creating bureaucratic and procedural monstrosities that would defeat the purpose. Nonetheless, past and present methods of management, especially the economics thereof, are no more sacrosanct than are past methods of cutting trees with axes and saws and dragging logs from the woods with the use of horses. Imaginative innovation can surely create means to deal with the problems if there is a will to do so.

3) There must be a massive infusion of new blood into the Forest Service—at least a third of the national forest management staff should be recruited from sources outside the Forest Service. Promotion within the service has many virtues, but in the end the closed society it creates is unable to cope with new problems (*13*). Without enough new people to significantly modify the nature of the Forest Service, progress will be slow, halting, and uncertain. The need today is not for forestry expertise, the Forest Service has that, or knows where it can get it. The need is for new economic and social vision.

SUMMARY

National forests are a valuable national asset. They produce important amounts of wood, recreation, wilderness, wildlife, and water, but good management could produce much more of each kind of output. The national forests are a major business enterprise, with $42 billion of assets and an annual cash revenue of $400 million to $500 million, but they have never been studied as business enterprises. The national forests are capital-intensive, but the capital is used wastefully, in large part because no charge is made for its use. Funds for management and investment are spent in economically unrewarding regions, forests, and sites. The availability of so much of their output at little or no cost to users seriously distorts management decisions. Major reforms in the management of the national forests are needed. If carried out, these could make the national forests much more useful to the American public.

REFERENCES AND NOTES

1. The source of much of the basic data for this article is *The Outlook for Timber in the United States* (Forest Resource Report No. 20, Forest Service, Department of Agriculture, Washington, D.C., October 1973). This source and many others give relatively detailed data for 1970, hence this is used as the usual base year. Where significant changes have occurred in more recent years or where data for a single year might be misleading, trend data or averages for periods of years are used. The financial data in the latter part of the article refer to various years after 1970, the choice of year depends in part on economic conditions that year and in part on data availability. Consistent use of a single recent year would be highly desirable but is not possible. I hope that using different years does not confuse the reader since the analysis is improved by use of the years chosen.

It is unfortunate that such anachronistic terms and concepts as "sawtimber" and "board feet" have not been replaced in practice by "wood" and "cunits" (100 cubic feet), respectively, for these are far more relevant to modern forestry. To permit easier comparison with earlier and current writings about forests. I have retained the outmoded terms and concepts in spite of my distaste for them.

2. Books that present an overall view of the national forests and the Forest Service are D. Barney, *The Last Stand* (Grossman, New York, 1974); M. Frome, *The Forest Service* (Praeger, New York, 1971); G. O. Robinson, *The Forest Service: A Study in Public Land Management* (Johns Hopkins Press, Baltimore, 1975).

3. Basic to all discussions about forests in general and about national forests in particular are two definitions taken from (*1*):

Forest land "Land at least 10 percent occupied by forest trees of any size, or formerly having such tree cover, and not currently developed for non-forest use. The minimum area for classification of forest land is 1 acre. Roadside, streamside, and shelterbelt strips of timber must have a crown width at least 120 feet wide to qualify as forest land. Unimproved roads and trails, streams, or other bodies of water or clearings in forest areas are classed as forests if less than 120 feet in width."

Commercial timberland: "Forest land producing or capable of producing crops of industrial wood and not withdrawn from timber utilization. Areas qualifying as commercial timberland have the capability of producing in excess of 20 cubic feet per acre per year of industrial wood in natural stands. Currently inaccessible and inoperable areas are included, except when the areas involved are small and unlikely to become suitable for production of industrial wood in the foreseeable future."

4. J. Cameron, *The Development of Governmental Forest Control in the United States* (Johns Hopkins Press, Baltimore, 1929); S. T. Dana, *Forest and Range Policy: Its Development in the United States* (McGraw-Hill, New York, 1956); P. Gates, *History of Public Land Law Development* (Government Printing Office, Washington, D.C., 1968); W. B. Greeley, *Forests and Men* (Doubleday, Garden City, N.J., 1951); B. H. Hibbard, *History of Public Land Policies* (Macmillan, New York, 1924); J. Ise, *The United States Forest Policy* (Yale Univ. Press, New Haven, Conn., 1920); E. L. Peffer, *The Closing of the Public Domain* (Stanford Univ. Press, Stanford, Calif., 1951); G. Pinchot, *Breaking New Ground* (Harcourt, Brace, New York, 1947); R. M. Robbins, *Our Landed Heritage* (Princeton Univ. Press, Princeton, N.J., 1942); H. Steen, unpublished history of the Forest Service.

5. The following publications about forests in general and national forests are relevant to my discussion: W. A. Duerr, Ed., *Timber!* (Iowa State Univ. Press, Ames, 1973); G. R. Gregory, *Forest Resource Economics* (Ronald, New York, 1972); D. M. Smith, *The Practice of Silviculture* (Wiley, New York, 1962); S. Spurr and B. Barnes, *Forest Ecology* (Ronald, New York, 1973); A. Worrell, *Principles of Forest Policy* (McGraw-Hill, New York, 1970).

6. *Report of the President's Advisory Panel on Timber and the Environment* (Government Printing Office, Washington, D.C., 1973), p. 35; Mr. Clawson, Ed., *Forest Policy for the Future: Conflict, Compromise, Consensus* (Resources for the Future, Washington, D.C., 1974.

7. M. Clawson and B. Held, *The Federal Lands: Their Use and Management* (Johns Hopkins Press for Resources for the Future, Baltimore, 1957).

8. M. Clawson, *The Federal Lands Since 1956: Recent Trends in Use and Management* (Resources for the Future, Washington, D.C., 1967).

9. *Agricultural Statistics 1974* (Government Printing Office, Washington, D.C., 1974).

10. M. Clawson, *Forests For Whom and For What?* (Johns Hopkins Press for Resources for the Future, Baltimore, 1975).

11. W. J. Mead, *Competition and Oligopsony in the Douglas-Fir Lumber Industry* (Univ. of California Press, Los Angeles, 1966).

12. M. Clawson, in preparation.

13. H. Kaufman, *The Forest Ranger: A Study in Administrative Behavior* (Johns Hopkins Press, Baltimore, 1960).

14. J. R. McGuire, personal communication with enclosures, 17 July 1975.

15. This article draws heavily on (12), as well as on (10), and (6) which I wrote or to which I was a major contributor. My debt to many persons is acknowledged in those sources and need not be repeated here. I am particularly indebted to William F. Hyde of Resources for the Future and to Lawrence W. Libby of Michigan State University for their active involvement in my research and for my use of some of their unpublished facts and ideas.

Mr. McCLURE. I thank the Senator for his comment. I think just one addition for the Record might be helpful.

This is tied in with other requirements of timber and land management that increased costs of management in such a way that they become subeconomic deficit sales.

I know that nationwide, if we average all of the forest lands of the country, it is not necessarily a massive problem. The figures I have is that the first half of this year in 1,377 advertised sales, 163 or 12 percent of the total had appraised values which were deficit, that is, by definition those that show less than normal profit opportunity.

Mr. BUMPERS. Will the Senator yield at that point?

Mr. McCLURE. Certainly.

Mr. BUMPERS. That number of deficit sales is higher than the Forest Service has given me. But I am curious as to whether or not that includes deficit sales which were put in the deficit column as a result of standards of roads to be built?

Mr. McCLURE. It would include that. That is why it is tied in with the other amendment I have, the prudent operator concept.

Mr. BUMPERS. Does the Senator have a breakdown of which ones are deficit as a result of the value of timber and which ones as a result of the roads?

Mr. McCLURE. I do not have that breakdown.

I think it is a valuable comment and it is another one of those problems we deal with when we have to get back and deal with what the Senator is concerned with in the subeconomic units.

I think it is important to make the distinction that the costs of roadbuilding are not intended by the Senator's amendment to be included as a part of the costs of operation.

Mr. BUMPERS. The Senator is correct.

Mr. HUMPHREY. That is my understanding, as well.

Mr. McCLURE. Mr. President, I ask unanimous consent to have printed in the Record a letter which the Senator from Arkansas (Mr. Bumpers), the Senator from Oregon (Mr. Hatfield), and myself addressed to the Chief, and his reply, to further explain some of the difficulties in the concepts so we can at least have in the Record what it is we intended.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate, Committee on Interior and Insular Affairs,
May 27, 1976.

Mr. John R. McGuire,
Chief, Forest Service, Department of Agriculture, Washington, D.C.

Dear Chief McGuire: Attention has been directed since the reporting of S. 3091 to the Section 5(H) (iii) dealing with an economic test on National Forest lands for timber production as a management goal. Senator Talmadge, in a recent speech recognized this and said he would be receptive to a clarification of this section.

We feel it would be useful to get the Forest Service viewpoint on the problems associated with the section in its present form, along with suggestions for improvement.

The reason for this subsection was to assure that timber growing investments be economically justified. When this bill is considered by the full Senate it would help to have the following points addressed:

What will be the expected impact on the arid timber sites in the West and the ability of the Forest Service to sell timber as part of the management program for these lands under the present language?

In the absence of harvesting timber on these arid sites, what is the impact on other multiple use values as trees become old and die without the opportunity to be utilized?

Are there problems in developing economic data for any sort of economic test in the light of the volatile nature of the forest products prices?

There is language in the Forest and Rangeland Renewable Resources Planning Act of 1974 (P.L. 93–378) as well as the S. 3091 that deals with economic consideration. Can the economic and arid lands concerns both be addressed by revised language? If this is not possible, can the economic concerns be addressed by P.L. 93–378 and other language in the bill should it be proposed to strike Section 5(H) (iii) in its entirety?

It would be helpful to have an answer at your earliest convenience for study by the full Senate prior to floor action.

Sincerely,

James A. McClure,
Mark O. Hatfield,
Dale Bumpers,
United States Senators.

U.S. Department of Agriculture, Forest Service,
Washington, D.C.

Hon. James A. McClure,
U.S. Senate.

Dear Senator McClure: In reply to your letter of May 27, 1976, signed also by Senator Hatfield and Senator Bumpers, we would like to comment on subsection (d) (6) (H) (iii) of S. 3091 dealing with an economic test for timber production as a management goal on National Forest lands.

We believe there is adequate direction in existing law to ensure economic analysis of anticipated cost of investments as compared to anticipated benefits, and we recommend that subsection (d) (6) (H) (iii) be deleted. The Forest and Rangeland Renewable Resources Planning Act of 1974 in section 3, items (2) and (3), already specifically direct that the Renewable Resources Program contain such analyses. Section 3 provides that the Program shall include, but not be limited to—

"(2) specific identification of Program outputs, results anticipated, and benefits associated with investments in such a manner that the anticipated costs can be directly compared with the total related benefits and direct and indirect returns to the Federal Government;

"(3) a discussion of priorities for accomplishment of inventoried Program opportunities, with specified costs, outputs, results, and benefits; and".

We have established procedures to provide this analysis. Land management plans which are the subject of subsection (d) (6) (H) (iii) are developed as part of the Program and subject to the analysis contained in the Program.

In addition to our belief that subsection (d) (6) (H) (iii) is not necessary, we are concerned about the difficulties of describing in statute a separation of costs and benefits associated with one resource when joint costs and benefits associated with all resources are so frequently involved.

If subsection (d) (6) (H) (iii) is retained, we would interpret it as follows:

The general cost of multiple use management, such as providing access, protection, revegetation including reforestation, and administration would not be considered a cost of production for timber production purposes. A direct timber production cost would only be a single purpose expense, such as road access needed for timber purposes or the thinning of a stand of trees to increase timber production. Further, the Committee report states, "The Committee also excludes the economic cost of carrying trees for the rotation cycle." We interpret this statement to mean that direct costs would not be capitalized in comparing them to future value.

In your letter, you specifically raised the question of the impact of subsection (d) (6) (H) (iii). First, we do not believe it would act as a constraint on overall multiple use management. Second, we believe that it would prohibit establishing intensive timber production as a management goal on only a small percentage of National Forest System lands, these lands being of low productivity at high elevations or relatively arid lands. We would not expect that such a prohibition would significantly affect National Forest allowable harvests because such lands contribute so little to present harvest levels. This estimate is based on our understanding that general multiple use management costs would not be considered a direct timber production cost, that investment costs would not be capitalized, and that the initial harvest of a stand of trees would normally bear the costs of roading and revegetation including reforestation. In further response to your questions, we believe the economic analysis which would be required by subsection (d) (6) (H) (iii) as presently worded can be developed, even though it might duplicate or overlap existing analyses.

You also raised the question of the possible effect of letting certain trees become old and die without utilization. The provision of subsection (d) (6) (H) (iii) could limit the removal of some old growth trees for timber production purposes, but if such prohibition would result in a threat to other values by significantly increasing fire or insect and disease hazards or otherwise affect multiple resource values, we believe the trees could be removed in accordance with land management plans for affected areas.

In addition to the discussion of subsection (d) (6) (H) (iii) contained in the Committee reports, we note that the additional description which Senator Humphrey provided for the record on June 3, 1976, is in agreement with our understanding of the subsection. Although we do not anticipate any major problems in management based on our interpretation of subsection (d) (6) (H) (iii), we are aware that various groups have questioned the interpretation and effects of the subsection, and if retained the subsection could be a source of future controversy. For this and the reasons previously stated, we would prefer that the subsection be deleted.

We would be happy to discuss the matter further with you if you desire.

Sincerely,

John R. McGuire,
Chief.

Mr. McCLURE. Mr. President, the effect of this amendment is to strike a troublesome section of this bill that would call for an economic test for timber production as a goal on arid lands. This provision would be difficult to administer, and there is ample direction without this subsection to assure the proper investment of public moneys for forestry activities. The Forest Service recommends this section be deleted.

Timber production is the only one of the many multiple uses that has been singled out for this economic test. Is this to be the forerunner of such tests for other uses? This section opens the way for a difficult analysis process that would be costly and time consuming to administer. The problem in working with a beginning lumber value is complicated by the extreme ranges in lumber costs which have historically varied greatly with the ups and downs of housing starts. The economic test would tend to further restrict supplies when the market is down, and change availability standards upward when the price is high. The time lag between a pricing analysis and when the lumber would be processed could be as much as 3 to 5 years. Idaho contains many timber producing arid lands that do not need this kind of additional analysis to determine if timber production is a goal.

The provision in S. 3091 on lands with marginal timber growing capability will generate serious legal and administrative problems, and involves risks of continuing support of established forest product industries in the Rocky Mountain and other comparable areas where timber growth rates are low. It imposes economic criteria requirements on timber growing activities on the national forests without comparable consideration of limitations on other resource use activities. Elimination of this provision is highly advisable. This objectionable item is section 5(d) (6) (H) (iii) which provides that land management planning guidelines must—

> . . . identify the relative productivity of land for timber production and assure that timber production is not a management goal on lands where the estimated cost of production will exceed estimated economic return; *Provided*, That the estimated cost of production will include only direct timber production costs and not access, protection, revegetation, and administration costs for multiple-use purposes:

The basic purpose of this provision to establish consideration of cost-return criteria for guidance of multiple-use administration of the national forest system is sound. Opportunity costs as well as expenditures on activities and requirements need to be weighed against the resulting tangible and intangible returns. The limited and specific requirements for cost-return analysis in S. 3091, however, could become a major source for disruptive litigation and result in widespread, unintended disruptive impacts on established timber based local economies.

This provision is a piecemeal approach to a wide faceted and complex consideration. It ignores the specific deemphasis of monetary considerations written into the Multiple-Use Sustained-Yield Act of 1960 which states:

> that multiple use is not necessarily the combination of uses that will give the greatest dollar return.

It disregards cost-return relationships in connection with resource other than timber on the national forests. It imposes more stringent financial return criteria than are being applied by industrial timberland owners. There is clearly need for a broader and more thorough consideration of the application of cost-return criteria concepts to national forest administration before statutory requirements are established.

The wording of this provision lacks precision as is attested by the use of a proviso in the text and discussion in the committee report to explain the proviso. The committee report, page 38 states:

> In determining whether certain lands should be managed for timber products, only direct timber production costs and returns should be evaluated.

And also that:

> The committee also excluded the economic cost of carrying trees for the rotation cycle.

If this latter sentence is intended to mean other than that compound interest charges are to be excluded from the evaluations, there should be an explanation of what is intended by the committee.

There is another significant explanatory paragraph on this provision in the committee report which reads:

> Certain National Forest lands in the more arid portions of the National Forest System have a relatively low growth rate. Data are not available now on how much land falls in this category. The Committee expects the Secretary to develop data for the 1980 Assessment and Program, to assure that precipitous action is not taken which may have drastic and widespread economic impacts in the Inter-mountain West or other areas which seem to have low productivity levels. Whether lands are of high or low productivity, often the forest values may be high, and subject to forces of nature that can have a beneficial or detrimental effect on timber and other multiple-use potentials.

This statement appears to give some recognition to the problems which this provision in S. 3091 will generate for the Intermountain West and other more arid areas of the national forest system with relatively low timber growth rates.

The 1980 program required by the Resources Planning Act (88 Stat. 476) must include under section 3(2):

> Provide specific identification of Program outputs, results anticipated, and benefits associated with investments in such a manner that the anticipated costs can be directly compared with the total related benefits and direct and indirect returns to the Federal Government.

The provision in S. 3091 is therefore unnecessary to initiate cost-return analysis for national forest system activities.

Another major reason for eliminating this provision from S. 3091 is the prospect that it will become the basis for numerous lawsuits. In a review of the potentialities of the provisions of S. 3091 to generate litigation, a prominent Washington law firm finds that under this provision:

> Any Forest Service timber management plan will be vulnerable unless the Service has an almost limitless computerized data base to continuously appraise cost of production and return on every timber stand within the forest. Thus a theoretically objectionable provision could become an administrative nightmare, amounting to a possible prohibition upon any timber production on lands falling within its proscription. As a result every timber management plan on the National Forests will become open to challenge in court under this provision. Not only that, but the courts themselves will have no basis upon which they will be able to arrive at some administratively workable interpretation. It is, therefore, a prescription for useless controversy and litigation.

But even though that nationwide figure of 12 percent is accurate, there is a regional application that is far worse than that.

In region 4 of the Forest Service, which embraces my State, one-half of all the sales advertised in this year, the first half of this year, were deficit.

When we get to the point that over half of the sales are deficit sales, we have to be very sensitive to any provision which might say to the Forest Service that they cannot offer them for sale.

There are a number of reasons why they have gotten that way and if we can get something done on the question of the growth building expenses, then we will have dealt with that. But I think rather than bring that into this discussion at this time, I will leave that to the discussion on the other amendment I have printed.

I thank both the Senator from Minnesota and the Senator from Arkansas for aiding me on this rather difficult problem.

Mr. HUMPHREY. Mr. President, the amendment would delete from the bill the requirement for guidelines to identify the relative productivity of land for timber production and assure that timber production is not a management goal on lands where estimated production costs exceed estimated economic return. Under 3091, estimated production costs would include only direct timber production costs and not costs unrelated to such production, access, protection, revegetation, and administrative costs for multiple-use purposes would not be direct timber production costs. Interest is excluded from production costs.

This amendment was considered and rejected by both committees.

The Forest Service has indicated that they are presently operating under this system, that the required economic analysis can be developed, and that they do not anticipate any major management problems in carrying out this section.

All this amendment does is state that timber production will not be a management goal on lands where such a goal is not cost-effective.

Such a prohibition would not significantly affect allowable harvest in the national forests because such lands contribute so little to present harvest levels.

The Forest Service report however, indicates it, can function adequately under the language of the bill S. 3091. The section fully supports multiple-use level of management.

The language in the bill was put forth as a constructive and conservative step to get round investments on land where timber production should be a goal and avoiding such investments where they are clearly unprofitable.

I wish to again assure the Senator from Idaho of our desire to make the language much more precise and meaningful along the lines of the discussion by the Senator from Arkansas.

The **PRESIDING OFFICER.** Do Senators yield back their time?

Mr. HUMPHREY. Mr. President, before the Senator from West Virginia leaves, I shall take a moment on my time. How much time, by the way, do I have?

The **PRESIDING OFFICER.** Does the Senator require time on this amendment?

Mr. McCLURE. Mr. President, I ask unanimous consent that my amendment be withdrawn.

The **PRESIDING OFFICER.** The Senator has the right to withdraw the amendment, and the amendment is withdrawn.

The Chair advises the Senator from Minnesota that he has 10 minutes remaining on the bill.

Mr. HUMPHREY. Mr. President, I will withhold. The Senator from West Virginia has another appointment. I had something I wanted to say of a kindly nature about him, but I will withhold and do it later.

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT 373

Mr. STEVENS. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 373:
>
> On page 14, line 19, strike the parenthesis after "wilderness" and insert the following: "as defined in the Wilderness Act of September 3, 1964)."

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, I yield myself such time as I may need on this.

Mr. President, again, I understand the problem of the distinguished manager of the bill and the Republican manager of the bill.

This is not a printed amendment. If we will turn to page 14, line 18, it says "outdoor recreation (including wilderness)." This will add to that the statement "as defined in the Wilderness Act of September 3, 1964."

I wish to make certain we are not creating a new system of wilderness, namely,the National Forest Service Recreation Wilderness System.

Mr. HUMPHREY. No, absolutely not. I assure the Senator we are not creating a new wilderness system.

Mr. STEVENS. Is it the Senator's understanding that where wilderness appears there it means wilderness as already defined?

Mr. HUMPHREY. And the multiple-use sustained-yield bill.

Mr. STEVENS. Yes; I understand, two bills.

Mr. HUMPHREY. Correct.

Mr. STEVENS. But we are not creating a new one?

Mr. HUMPHREY. No new system. It pertains to existing law and, therefore, is to existing law.

Mr. STEVENS. I am grateful to the Senator.

If I may I would like to use my amendment as a vehicle to ask a couple of questions. I see my friend from Idaho. Does he wish to have me yield on that matter?

Mr. McCLURE. Would the Senator yield on that matter?

Mr. STEVENS. Yes.

Mr. McCLURE. Because earlier there was a letter from the Chief of the Forest Service in regard to the operations on the forests in which he had made some reference to including in the economic base the planning units, not only the wilderness system, per se, but also those which had been designated for wilderness study. Until they had been classified, until Congress had reasonable opportunity to act upon those units for the purposes of this language, it is my understanding from the manager of the bill, the distinguished Senator from Minnesota, that that should not be construed to apply to this language.

Mr. HUMPHREY. Is that the prospective?

Mr. McCLURE. The prospective wilderness, which are not included within this language.

Mr. HUMPHREY. That is my understanding.

Mr. STEVENS. I am grateful to Senators for their comments.

If I might, I would like to address another question to the Senator from Minnesota. On page 13 at the top of the page, it states, "The Secretary shall provide for public participation in the development, review, and revision of land management plans."

In my State, the Forest Service of region 10 has published the Tongass National Forest Guide pursuant to the Forest Rangeland Renewable Resources Planning Act of 1974. This is a draft guide. It has been prepared in accordance with existing law. There has been substantial involvement in the State by the various interest groups in the State in the preparation of the guide. It is prepared in conjunction with the communities of southeastern Alaska that are within our forest area. It has also had the participation of the Alaskan Department of Fish and Game.

I want to point out there have been considerable strides made under existing law. I would like to ask whether, under the provisions of the bill as it is before us now, the public participation commences as of the time of the drafting of the environmental impact statement under the existing National Environmental Policy Act of 1969?

In other words, I am hopeful that since our people have gotten together and worked out a system they now do not have to go back and start all over again.

Mr. HUMPHREY. May I assure the Senator they do not have to start all over again.

Mr. STEVENS. The forest guide that has been prepared, then, for the Tongass National Forest, in the Senator's opinion, under existing law would be in effect under this system?

Mr. HUMPHREY. If the Forest Service deems it proper under the Resources Planning Act, it will become valid.

Mr. STEVENS. I thank the Senator. I am certain he would agree with me that where we have gotten together we have had substantial public participation and we should not have to duplicate that now because of a change in the law.

Mr. HUMPHREY. To simplify it, we do not need to plow the field twice. One time around is enough.

Mr. STEVENS. I thank the Senator and I agree with him.

On page 13, again calling attention to the subsection 4, it states "specifying procedures to insure that plans are prepared in accordance with the National Environmental Policy Act of 1969." I had an amendment that I was going to raise.

Mr. McCLURE. There has been an amendment to that.

Mr. HUMPHREY. We took care of that in a technical amendment.

Mr. STEVENS. But I am concerned that this refers to the procedural requirements of the National Environmental Policy Act of 1969. I am sure the Senator is familiar with the split in the circuit courts of appeal over the interpretation of whether NEPA is substantive or procedural. As I understand this section, it talks about specifying procedures. I want to make certain we are talking about specifying procedures for compliance with the procedural aspects of NEPA.

Mr. HUMPHREY. This relates only to the internal procedures within the Department and the Forest Service itself. It does not go into the Council on Environmental Quality.

Mr. McCLURE. It is my understanding that as we have now amended and clarified that section, the provisions of the National Environmental Planning Act are not in any way altered by this language. It deals only with the administration of the Forest Service internally.

Mr. HUMPHREY. And we make that as a matter of record, may I say to the Senator from Alaska. That was a technical amendment which was offered. I placed the explanation in the RECORD to give the Senator the assurance that the Senator from Idaho has already articulated.

Mr. STEVENS. The Senator from Alaska can interpret that to mean that while the committee is not prepared to specify, the Senator is referring only to the procedural aspects of NEPA, and that by this reference he is not intending to change NEPA in regard to whether it is substantive or procedural?

Mr. HUMPHREY. We are not amending NEPA.

Mr. STEVENS. I thank the Senator very much.

On page 14, if the Senator will notice subsection (c), which starts on line 7. It states, "provide methods of identifying special conditions or situations involving hazards to the various resources and their relationship to alternative activities."

Again I raise the question, because NEPA already requires a process that assesses alternatives to the proposals, whether we are creating some additional standard or additional test that will go beyond NEPA as far as what are alternative activities.

For instance, one of the alternatives obviously to a plan is a plan of cutting less timber or more or putting it all aside as wilderness or recreation area that is not wilderness. In dealing with the special conditions or situations involving hazards, does the committee contemplate that the relationship of this alternative activity to the NEPA be an additional investigation at that point as to what the relationship to the alternative activities would be at that time?

In other words, they look at the alternatives at the time the environmental impact statement is prepared. At that time, it is assessed as to whether the plan of the Forest Service is the plan as opposed to all alternatives.

Mr. HUMPHREY. That is correct.

Mr. STEVENS. At the time of the implementation of the plan, is it necessary to go in and identify special conditions and situations involving hazards and various resources and the relationships to alternative activities which were already considered or may not have been considered at the time of the environmental impact statement?

Mr. HUMPHREY. This is not a replay operation.

Mr. STEVENS. This does not provide a substantive examination of alternatives?

Mr. HUMPHREY. It does not.

Mr. McCLURE. If the Senator will yield on that point, we might add that quite the contrary, it is intended that this would allow them to make an alternative assessment before they get to the point of filing the environmental impact statement or whatever is necessary. This is a precedent condition rather than a subsequent condition. It is designed to clear away the instances where it might be avoided rather than to add procedural requirements on the top of procedural requirements already in the statute.

Mr. HUMPHREY. Starting at line 7 on page 14 of subsection (c) the bill language goes to the guidelines for on-the-grounds implementation of the plan that Forest Service works out, not to the broader NEPA requirements.

We want the Forest Service to have the actual hazard area marked out or defined on the ground, and that will be in the original plan.

Mr. STEVENS. All right. But at the time they mark out the hazard area, and I understand what the Senator is saying, I want to make certain they do not have to go back and consider all the alternatives, including not logging at all, for instance, and have a replay of the review of the alternatives to the proposed action.

Mr. HUMPHREY. Once that resource planning act plan is agreed to and has been delineated, that is the end; it is not necessary, as I said a while ago, to plow the field twice or replay it.

Mr. STEVENS. I thank the Senator. Now, will the Senator permit me, looking at page 15, line 16, subsection (F), where it says "prescribe, according to geographic area, forest type, or other suitable classifications, appropriate systems of silviculture," et cetera, will people think that perhaps the use of the word "prescribe" might be significant? Will the Senator tell me, does that mean delineate, or does it really mean prescribe in terms of setting forth in detailed specifications how logging must be conducted in every area of the national forest system?

I want to point out again that in the Tongass we use an air balloon in one portion, we use a helicopter in another, we use a tractor and a logging chain in another, and we use roads in another. Are they going to prescribe, for each area, the system, or are they going to prescribe the type of system that would be appropriate for that type of silviculture?

Mr. HUMPHREY. Let me assure the Senator that situations in Minnesota relating to forest lands are substantially different than in Alaska. That is why the words "geographic area" were used. The emphasis would be upon the delineation of systems, rather than to prescribe specifically a system. It would permit some flexibility on the part of the Forest Service.

Mr. BUMPERS. Mr. President, will the Senator yield at that point?

Mr. STEVENS. Yes.

Mr. BUMPERS. I would like to say that I do not know whether the Senator is talking about using helicopters, roads, and ballons for regeneration or not, but if he is talking about those things as a matter of harvesting, I do not understand the relevance of that to subsection (F). Subsection (F) says the Secretary will prescribe, in his land use plan, systems of silviculture which include, but are not restricted to, thinnings, et cetera.

This language here is talking about silvicultural systems that are most suitable for a particular geographic area, based on the contour of the land, the soil conditions, and other factors.

Mr. STEVENS. I appreciate the Senator's comment. It also takes note, however, of the harvesting of trees and products. What worries me is to make certain that the systems are delineated by the Forest Service and not prescribed by the Forest Service in terms of no alternative. I do think it is a matter of economics. Even under a contract for reforestation, I should think a contractor should have options as to what type of equipment or transportation mechanisms he might use.

Mr. HUMPHREY. As long as it meets the standards set out by the Forest Service.

Mr. STEVENS. I agree, as long as it is within the systems set out by the Forest Service.

Mr. HUMPHREY. Systems suitable within that particular geographic area.

Mr. McCLURE. Mr. President, if the Senator will yield at that point, I think the Senator from Arkansas put his finger on it: it would not have so much to do with a harvesting system as with what type of silvicultural system is appropriate within that geographic area.

Mr. BUMPERS. Mr. President, if I may elaborate on that, this goes to another section of the bill, where the Secretary is charged with doing his very best to utilize that particular area for the very highest and best possible use for the production of timber, assuming it is economically viable to do so. Once he makes that decision, it is true that no matter how intensively it may be managed and how much timber may be produced from a particular area, when it comes time to harvest it, it may be that the access to it is so expensive that it would not be feasible to do so.

I assume that that will happen in the future; there will be some areas that will have a fairly suitable stand of timber, but because of their inaccessibility, the cost of roads or helicopters or whatever other method might be considered for taking the timber out might be so expensive that those areas would not be utilized.

Mr. STEVENS. I understand what the Senator is saying. I am concerned that the Forest Service might be able to prescribe a particular method for harvesting which might not be the most economical. In our area, for example, various systems can be used, and I think it is up to the entrepreneur to decide what is the best system within the general delineation of what systems can be used for the geographical area.

Mr. BUMPERS. Mr. President, I think the Secretary would indeed have a right to prescribe the method of logging of a particular area. I think he would want to take into consideration the environmental impact that various methods of harvesting might have, and I, for one, feel he must have that flexibility and that latitude.

Mr. HUMPHREY. They have always had that.

Mr. BUMPERS. They have always had it.

Mr. STEVENS. They have always had it, that is if the operator proposed a balloon system and it was approved by them, it could be used. But if they have to prescribe it in advance and get locked in to the point that they cannot use new technology or the system that is economically sound under the circumstances, we do not want to have a system prescribed and have them say, for example, "In the Tongass you must use helicopters."

Mr. HUMPHREY. They are always developing new technology. They have the high-lead system, the balloon system, I guess they have a system in Idaho they call the jammer system, with which I am not at all familiar, and the tractor system—the purpose here is not to fundamentally change what has taken place. For example, at certain times of the year you do not use heavy tractors, and I think they would want the Forest Service to have the privilege of determining in the contract what logging systems are acceptable. But the bill deals with management systems.

Mr. STEVENS. Oh, if that is what the Senator from Arkansas is saying, I agree. That is just like saying at certain times of the year you do not build roads across streams. That is another matter of total management. I have nothing against helicopters; I think we can use them very well in some areas of our forests. But we do not want to get locked in, to the point, where the systems prescribed are so locked in, the entrepreneur has no opportunity to use sound business judgment to meet the economic tests.

Mr. BUMPERS. The subject matter the Senator is referring to, in my opinion, has nothing to do with harvesting; it has to do with prescribing the most suitable silvicultural method for a particular area. When it comes to harvesting, the Secretary right now can prescribe a method, grant a permit, or deny a particular procedure. The Department cannot force them to do something stupid, but it can prohibit them from doing something stupid.

Mr. STEVENS. I appreciate what the Senator says, but the section says "systems of silviculture which include, but are not restricted to, thinnings, harvesting of trees and products," et cetera.

I assume we are talking about harvesting in connection with that section. I am satisfied with the manager's response, unless the Senator from Arkansas wishes to place a caveat on it; then I may not be.

Mr. HUMPHREY. Let me assure the Senator that this does not expand or diminish existing law or existing practice. This language was placed in there as a statement outlining what the responsibility of the Forest Service is. The fact that you are limited to geographic areas, as stated there, indicates there may be a variety of systems that would be eligible. I think that everyone now knows that the Forest Service does have the power to reject or approve certain types of contracts, meaning, for example, how logging would be done, right today, under existing law.

Mr. STEVENS. Oh, I agree. But not in advance.

Mr. HUMPHREY. But I do not think we need to have any worry about this. This section is not designed to add another layer over NEPA's impact statements.

Mr. STEVENS. I assure the Senator that I support NEPA, but I want to make certain that we do not have a redundant system.

Turning to another matter, referring to the section on page 16 that begins with line 15, subsection (H)(iii), that concerns the relative productivity concept the Senator from Arkansas mentioned, is there an amendment pending on that?

Mr. HUMPHREY. The Senator from Idaho discussed this earlier in the day.

Mr. McCLURE. I shall respond to the Senator. I had an amendment No. 2199 which I offered and after some discussion I withdrew the amendment. So there is no amendment now pending with regard to that section.

I say to the Senator from Alaska that there was a general agreement that this language perhaps can be better defined and it can be more strictly limited to what is actually intended, and that will be the intention of those Members of the Senate who go to conference to attempt to arrive at some consensus upon the language that more precisely sets forth what the Senator from Arkansas had in mind when he offered this provision in the committee.

Mr. STEVENS. I am grateful for that. And I will not pursue it under those circumstances.

Mr. HUMPHREY. We agree to do it.

Mr. STEVENS. I am certain the members of the conference committee will understand our problem. We have a very volatile timber industry. It is affected by world prices and by demands not only nationally but internationally, and my concern is the time frame for the determination of economic viability. I can recall the time within the last 4 years that if one determined the economic return for any particular area of the Tongass it would have been very bad. Then if the economic climate throughout the country and the world changes it goes up. I am very worried about the time frame, and I hope the Senator puts a time frame within that determination and not just attach it to an ad hoc period of time where the determination is made that will be with us for a long period and which has no relevance at all to the predicted demand for the timber involved.

Mr. HUMPHREY. We certainly shall take that, may I say, into consideration. This was all a matter of discussion earlier in the day, and I am confident that the Senator's worries are properly cared for.

Mr. STEVENS. I am grateful to the Senator.

How much time do I have remaining?

The PRESIDING OFFICER (Mr. HELMS). The Senator has 7 minutes remaining.

Mr. STEVENS. We have had a question raised, if I might so state to the Senator from Minnesota, concerning the use of the word "optimum" on the first line of page 18. I wonder if my good friend will agree with us that what we are really talking about is the best silviculture method to be used for the area under consideration.

Mr. HUMPHREY. That is correct. The Senator is absolutely right. "Optimum" is a ambiguous word. It does not have precise definition. But we looked for a word that would indicate what is the practical, best, and most reasonable system for the area.

Mr. STEVENS. All right.

Under those circumstances I will not have any amendment to deal with that. I intend to withdraw that amendment in just a few minutes, Mr. President.

But I wish to ask my colleagues: Am I informed that there is to be an amendment dealing with section 20 which requires the timber purchasers to bear the cost of loads beyond the cost necessary for the removal of the purchased timber? Has that been modified?

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. McCLURE. I have an amendment on that section. It is my intention to engage in colloquy with the managers of the bill, those who will be managing the bill in conference, and I hope that we will be able to make a record and it is my intention, if that colloquy goes as I anticipate it will, to withdraw the amendment.

Mr. HUMPHREY. We have assured the Senator from Idaho that in light of this amendment and discussion which will come as a result of this presentation we will build a legislative history here which will give us the opportunity in conference to take care of the concerns that have been expressed.

Mr. STEVENS. I thank the Senator.

I spent almost 25 years practicing law, and I really think that there are some problems with regard to this bill in terms of provisions that appear to me to be unclear that might well produce excessive litigation. I have nothing against lawyers making a living, but I do not see why we ought to spawn it.

We had considered amendments to deal with particular language and as the Senator says the word "optimum" is an ambiguous word, but the question is what is the court going to do with it unless we make certain what our objectives are in using the words? I hope that the Senator will forgive me for prolonging the situation here today. I will examine some of the other items we have and seek the Senator's guidance. I do thank both of them for clarifying the problems as far as concerns have been raised to be by Alaskans.

Mr. President, unless the Senator wishes additional time on the amendment——

Mr. HUMPHREY. I say to the Senator, on page 16 of the report where the word "optimum" is discussed it says:

> It is determined to be the optimum method (that is, in the light of all land planning considerations, it is the best way to achieve the objectives and requirements of land management planning for the area to be cut); . . .

In other words, as I said earlier "optimum" relates to the sensible, reasonable, and best way that one can work it out in the area that is to be cut. I think that is about as precise as we can get it.

I thank the Senator very much for his interrogation. I hope it will be helpful. May I assure him of our desire to see that these interpretations that we made are the interpretations that are applied.

Mr. STEVENS. I might say to the Senator that I have been urged to oppose the bill. I do not oppose the bill, because I believe the Senators who were working for the enactment of this bill recognize the circumstances that many areas face. My area is probably an area that is going to have the most difficult time unless some legislation is passed.

I shall close by stating that I hope the Senator will take a good look at my bill, S. 2851 If he cannot get a bill out of conference along the lines we are talking about, at least give us an interim bridge to the next Congress so that we will not be completely shut out in terms of the next year as far as the timber contracts are concerned.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. STEVENS. I yield to my good friend from Kentucky .

Mr. HUDDLESTON. I support what the Senator from Alaska has attempted to do here and recognize his concern.

I have just spent a week in the State of Alaska conducting hearings. Some of them related to the forestry management problem there in Sitka, Juneau, and Ketchican. The Senator from Alaska is quite properly concerned and is expressing conditions that are unique to that State. There is no question that the timber operation there is not as it is in most of the lower 48, and it is proper that he brings these concerns to the Senate in relation to this legislation.

I worked on the committee that developed this particular legislation. I believe it meets most of the concerns that the Senator has in his State. I think it is the best piece of legislation that we can develop that meets this critical need that we have right now throughout all of the United States on the question of this resource and management of it.

So I support what the Senator from Alaska is attempting to do, and I support the legislation itself. I think it will guide the way to proper management of our timber.

Mr. STEVENS. I thank the Senator from Kentucky and thank him for taking the time to go to our State.

Mr. BUMPERS addressed the Chair.

Mr. STEVENS. I might say to the Senator from Arkansas that I understand some of the concerns he expressed also. We seek a balance.

Certainly, if the Senator just returned from my State he knows the very volatile small population, with every segment of opinion that exists in all the United States, very articulately expresses their opinions to visitors of our State right now. We have to have a balance in terms of use of forests to obtain our economy and maintain the recreation values that I understand he participated in to a limited degree.

I thank him for his comments.

Does the Senator from Arkansas seek time on this amendment?

Mr. BUMPERS. I owe the Senator an apology as to the remarks that were made as to the provision of subsection (f) a moment ago. I misunderstood his concern as to harvesting. I think his concern is a legitimate one.

I answer the Senator this way: While the plan must prescribe methods of harvesting trees in a particular area, as has been pointed out, they must review that plan every 10 years—that is mandatory. They can review it at any time, and they can change any part of it at any time.

So the concern that the Senator has about getting locked into a system, for example, of cutting the trees with a penknife and carrying them off in covered wagons is a legitimate one; but I do not think it is a serious threat, because the law is that way right now.

Mr. STEVENS. I understand. My problem arose out of the use of the word "prescribe" in the time frame that I saw that action taking place. We understand it is really delineating systems that can be used in that area for the period involved, which is subject to change; and it is subject to change, as I understand it, without going back and having an entire environmental impact statement on the question of transportation alone. That is the problem.

Mr. BUMPERS. The Senator is correct.

Mr. HUMPHREY. The manager of the bill agrees with the Senator's consideration.

Mr. STEVENS. Mr. President, unless the Senator from Idaho wishes any more time, I withdraw the amendment.

Mr. McCLURE. Mr. President, I make this comment to the Senator from Alaska. Not only do I think he has done a great service to all of us in asking some of these questions, seeking a definition of terms, but also, I express my conviction that if we cannot get this bill out of conference and passed, then a look will have to be taken at some interim measure such as he suggests to alleviate the very grave problems that would be associated with failure to pass any bill. I would join him in seeking that at least some legislation be passed before this session of Congress adjourns.

Mr. STEVENS. I thank the Senator.

Mr. HUMPHREY. Mr. President, I assure the Senator that we are going to press for this legislation. It is absolutely needed, and we should not have anything said or indicated that we can do with less than we have here.

Mr. STEVENS. Our friends in the industry must realize that this balance is a two-way street. You cannot balance the problems that face us today with a teeter-totter 1 foot long on one end and 12 feet long on the other end. Somewhere in the middle of this stream is a balance betwen the demands of the public interest groups and the need of the Nation for this resource.

Mr. HUMPHREY. And the balance is difficult to obtain between the ecological aspects and the economic. We think we have come as close to that as possible.

Mr. STEVENS. I thank the Senator.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 2200

Mr. McCLURE. Mr. President, I call up my amendment No. 2200.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an amendment numbered 2200.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, delete lines 13 through 18.

Mr. McCLURE. The amendment I have offered is designed to assure that environmental considerations receive the highest priority in setting forest road standards. As it now stands, the bill would repeal the "prudent operator" concept for the design and construction of forest roads. My amendment would reinstate it.

Present law provides that a timber operator need only build a road sufficient to meet the needs of removing timber. If a higher standard is designed, financial arrangements must be secured other than deduction from stumpage in order to reimburse the timber operator for road construction.

Those of us who represent States with vast amounts of forest lands hear repeated complaints about overbuilding of roads on the national forests. Such overbuilding means more dirt movement, more siltation in streams, wider scars on the landscape, and the removal of additional forest acres from production. On the other hand, retention of the prudent operator concept means one more check on the Forest Service to protect environmental quality by reducing excessive design standards that have been criticized by both the forest industry and environmental groups.

It is through the prudent operator concept that congressional oversight regarding national forest road programs and design standards can be maintained. If it is eliminated, the Forest Service will be free to build roads to excessive standards and charge the entire cost against the value of the timber removed. Retaining the prudent operator concept is necessary to avoid such overbuilding with associated excessive environmental damage.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Chief McGuire, dated June 17, in reply to my letter of June 9 on this subject.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 17, 1976.

HON. JAMES A. MCCLURE,
U.S. Senate.

DEAR SENATOR MCCLURE: Your letter of June 9, 1976, asks for a statement of how the Forest Service would implement sections 18 and 20 of S. 3091 in order to minimize any increase in deficit sale offerings and our plans for placing priority on securing roads that lay lightly on the land. In addition, in your letter of June 10, you asked for our interpretation of subsection (d)(6)(H)(ii) of S. 3091 which pertains to determining "lands available and suitable for timber production."

Section 18 would amend the Knutson-Vandenburg Act of 1930 to allow the collection of current costs for sale area betterment and to expand the purposes for which funds collected from timber purchasers, thereunder, may be used. We do not foresee any impact from these changes on the economic viability of individual timber sales. The changes would not increase the number of deficit sales.

Deposits for sale area betterment are collected as part of the stumpage payment for the timber. It is our policy to establish the minimum price we will accept for a timber sale at a level which will insure that we have funds available to do needed reforestation work on the areas cutover and to provide at least a base level of return to the Treasury. Funds for other sale area betterment activities are collected only to the extent that the stumpage payments are adequate to cover their value. Thus, the increased work authorized under section 18 would only be funded when the total stumpage payments are adequate to provide the needed money. We would anticipate no change in this procedure with the adoption of this legislation.

Section 20 would amend the National Forest Roads and Trails System Act by deleting the proviso in Section 4 which prohibits requiring the purchaser to pay for a higher standard road than needed to remove the timber from an individual sale. This proviso embodied in law the so-called "prudent operator" concept. The elimination of the proviso will permit roads to be placed in locations and built to standards which better serve present and future uses and will, in the long run, reduce the total expenditures necessary to develop an adequate road system.

Considered on its own, this provision, which authorizes the Forest Service to require construction of higher standard roads under a timber sale contract would appear to aggravate the problem of deficit sales. However, we believe that the overall result of the Renewable Resources Program and related budget requests will be to reduce the number of sales where the purchaser will not get full credit for road construction. It is clear that the bringing of purchaser credit for road construction under the authorization process as provided in the Forest and Rangeland Renewable Resources Planning Act establishes the intent of the Congress to more closely review the balance between methods used in financing road construction.

We plan to give high priority in the allocation of appropriated funds to areas where timber values are not adequate to bear the cost of road construction and where there is an established, dependent industry. The construction of access roads with appropriated funds will reduce the problem of deficit sales. Further, we would plan to use available funds to the extent feasible to augment purchaser construction in order to reduce deficits on individual sales.

Perhaps the most important impact of the bill on road construction is the emphasis which is placed on land management planning and the provision for public participation in the process. We view transportation planning as an integral part of this process, and thus we see increased attention to the proper planning of roads, including better selection of locations to serve multiple resource management needs and emphasis on appropriate choices of road standards. We would expect to complement improved transportation planning with strengthened controls over road design and construction in order to insure that roads are appropriate for the intended use and that the impact on the land and resources is evaluated in determining road locations and standards.

On the question of the interpretation of subsection (d)(6)(H)(ii), the Secretary of Agriculture is required to issue regulations setting guidelines for land management plans which:

"(ii) provide that the allowable harvests on National Forest System lands be based only on land available and suitable for timber production, and the harvest levels are reviewed and adjusted periodically;".

We consider National Forest System lands to be available for timber production when they have not been specifically withdrawn from timber production by congressional or administrative action. Congressional actions withdrawing lands would include classification of areas such as components of the National Wilderness Preservation System. Administrative actions precluding timber production would include the designation of special areas such as natural or archeological areas, and restrictions established in approved land management plans. There are also lands which are available for timber production but where specific congressional or administrative direction must be considered in determining the level of expected harvest. Such areas include wild and scenic rivers and national recreation areas designated by Congress or scenic areas established under Secretary's regulations. In addition, as you know we have, by administrative action, designated a number of areas as wilderness study areas. These lands are in a deferred status, and will be considered unavailable during the study period and any subsequent period of time necessary for congressional action. Other areas, which may have been inventoried as roadless, but which were not selected as wilderness study areas, are considered available; however, the specific allocation of these lands to various uses is being determined through land management planning.

Land would be considered suitable for timber production when it has the capacity to produce crops of industrial wood. Land would be considered suitable whether or not it is currently accessible. Permanently inoperable land would be excluded. In addition to these conditions which are currently in use, passage of S. 3091 would also require consideration of the factors set forth under subsections (d)(6)(H)(iii) and (iv) and (d)(6)(H)(iii) in judging whether land is suitable for timber production. These factors are now considered in land management and resource planning in determining whether and how timber harvest activity should be carried out.

We appreciate the opportunity to offer our interpretation of how various provisions of S. 3091 would affect the management of the National Forests.

Sincerely,

JOHN R. MCGUIRE,
Chief.

Mr. McCLURE. Mr. President, a portion of section 4 of the National Forest Roads and Trails Act of 1964—the act of October 13, 1964, 78 Stat. 1089, 16 U.S.C. 535—would be repealed by section 20 of S. 3091, Calendar No. 849, as reported May 14, 1976. The portion which would be so repealed is a proviso originally inserted in the 1964 act by the Senate Public Works Committee with concurrence by the Department of Agriculture.

As the reports of both the Senate and House[1] preceding enactment of the 1964 act point out, the proviso was designed: First, to protect purchasers of Forest Service timber from having to bear any uncompensated costs incident to road construction connected with timber sales; and second, to insure that there would be no undue diminution in national forest receipts, of which 25 percent are paid annually to the States to be expended for roads and schools for the benefit of the counties in which the national forests are located—act of May 23, 1908, 35 Stat. 260, as amended, and section 13 of the act of March 1, 1911, 36 Stat. 963, as amended; 16 U.S.C. 500. Although the second of the original objectives would be superseded through changes to be effected to existing law by section 17 of S. 3091, the first objective remains as fully desirable an element of public policy as when it was first adopted for assuring that the United States does not take unfair advantage of purchasers of national forest timber.

Prior to adoption of section 4 of the act of Ocober 13, 1964, the Secretary of Agriculture was without authority to require purchasers of national forest timber to construct, as a condition of purchasing such timber, roads to standards any greater than necessary for use in transporting the timber harvested from the particular sale. The lack of such authority prior to 1964 often resulted in "stage construction" of roads on the national forests; a road originally constructed by a timber sale purchaser incident to a particular sale would subsequently have to be reconstructed, either by the purchaser of a later sale if the existing road was inadequate for that sale, or by a Government road contractor paid with appropriated funds. Such stage construction was inefficient, unduly costly, and did not adequately provide for multiple uses of national forest roads which were appropriately to be served after the passage of the act of June 12, 1960, 74 Stat. 215; 16 U.S.C. 528–531, the Multiple Use-Sustained Yield Act.

Section 4 of the National Forest Roads and Trails Act of 1964 conferred authority upon the Secretary of Agriculture to cause maximum economy roads to be built by purchasers of national forest timber. Maximum economy roads are designed to serve all uses anticipated to be served by the road and thus are both of higher standards and of greater cost than were so-called "prudent operator roads" intended to serve only the initial timber sale. Authority was further granted by section 4 of the 1964 act to finance construction of maximum economy roads by any of three different methods—by appropriated funds, by timber purchasers, by cooperative financing with other public and private agencies—or by any of those methods in combination. The principal consequence of such authority, however, has been to use natioanl forest timber values to pay for the construction of maximum economy roads just as such timber values had previously largely paid for construction of prudent operator roads.[2]

The grants of authority to the Secretary of Agriculture which were stated in section 4 of the 1964 act, however, increased a number of risks for purchasers of national forest timber. One of these risks was that the timber values in a particular sale would be inadequate either to cover all the costs of constructing the roads required in connection with the particular sale, or would be inadequate to cover both such construction costs and a fair profit in processing the sale. Timber sale purchasers refer to such sales as "deficit sales."

It was for the purpose of preventing the occurrence of deficit sales resulting from exercise of the Secretary of Agriculture's newly conferred authority to require construction of maximum economy roads that the proviso was added by the Public Works Committee to section 4 of the National Forest Roads and Trails Act of 1964. With or without the proviso, section 4 of the 1954 act already provides fully for "roads to be placed in locations and built to standards which better serve present and future uses and reduce in the long run the amount of funds necessary to obtain an adequate road system".[3] The proviso to section 4 in no way bears upon the authority or capability for providing the best road system; it is concerned rather with the fairness by which such a road system is financed.

The Senate Public Works Committee in 1964 intended that in circumstances where a deficit sale occurs, use of one or both of the other two means of financing national forest road construction authorized by section 4 be required in supplementation of the inadequate timber values. The repeated statements at pages 24, 29, 30, and 31 of Report No. 94–893 accompanying S. 3091, to the effect that timber bears the costs of roads built in conjunction with timber sales and that the purchaser does not bear such costs simply are not accurate to describe every case; when timber values are inadequate to cover both costs and a fair margin of profit, the purchaser does pay a portion of the costs for constructing the road. Nothing has occurred since 1964 to change the Public Works Committee's original intent; the proviso to section 4, which would now be repealed by S. 3091, continues to serve its intended purpose and ought to be retained if inequity is not to be visited upon purchasers of national forest timber. The proviso of section 4 is thoroughly consistent with other provisions governing road location and construction in S. 3091, and in the interests of equity to timber purchasers should be retained. Section 20 of S. 3091 thus serves no good purpose, and should be stricken from the bill.

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[1] Senate Report (Public Works Committee) No. 1174, 88th Congress, July 8, 1964, to accompany S. 1147; House Report (Public Works Committee) No. 1920, 88th Congress, September 30, 1964, to accompany S. 1147.

[2] See Table at page 29 of Report No. 94–893 accompanying S. 3091.

[3] The quotation is from page 24 of Report No. 94–893 accompanying S. 3091.

Mr. President, I understand from the managers of the bill that, while they are sympathetic to the thrust of my amendment, they do not desire to see the change made in the bill at this time.

Mr. HUMPHREY. Mr. President, I say most respectfully—and the Senator from Arkansas has been involved in this—that we think that the language we have in the Senate bill will take care of the concern that the Senator from Idaho has.

We all know, for example, that the language of the 1964 act, which is the prudent operator concept as it has been applied, has not been what was intended originally. I think we can get this language worked out in conference so that the concerns of the Senator from Idaho and others that have been expressed here can be met.

It was never contemplated, as I understand it, that the 50–50 balance between the direct appropriation and the purchaser construction would change to a 5-to-95 ratio, as now is the case. We have to do something about it, and we will do something about it.

I ask the Senator from Arkansas, who has given much of his time and ability to this matter, to make some comment.

Mr. BUMPERS. I thank the Senator for the opportunity.

I say to the Senator from Idaho, as I told him privately earlier today, that I share his concern.

Under the old prudent operator rule—and I have it in front of me—the language the bill proposes to strike says that if roads of "a" higher standrad than that needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed, the purchaser of the national forest timber and other products shall not be required to bear that part of the cost necessary to meet such higher standards.

What has been happening—and I think Chief McGuire will agree with this—is that even under the old prudent operator concept, the Forest Service was building roads to a much higher standard than was necessary. So what we had was, I think, a situation in which the Forest Service was using appropriated funds to build a considerably better road than was necessary. In other words, they used purchaser credits to build part of the road, and then the additional, multiple-use part of it was built with appropriated money.

If I were a forest ranger and had to run around the national forest all day in a pickup truck, I would want these roads to be overbuilt, because they are much easier on the body and on the mind. But I do think that the Senator from Idaho is correct, in that considerable environmental damage is often done by building a road to higher standards than is necessary to get the timber out.

On the other side, there is this problem: If you have to build the road twice, once for a timber harvest and another time for some other multiple-use purpose, that will be environmentally detrimental.

I believe that by striking the prudent operator rule, the Forest Service, which has told me that they realize they have been building roads much too fancy for the need, will use that flexibility to build fewer roads and will build the high standard and high specification road only where they see a longtime need for it. I am willing to give them that degree of flexibility, and I am willing to reconsider this in the conference with the Senator, if he feels that some such dressed up language would help.

Mr. McCLURE. I thank the Senator for his expression of agreement with me and for the willingness to work with me on the problem.

So far as the assurances of the Forest Service are concerned, I say to the Senator that I have had those assurances for 5 years, and I have not seen them change one thing yet.

Mr. BUMPERS. I am with the Senator on that. I know how those assurances go.

Mr. McCLURE. I have received more assurances than we have highways. We have too many forest roads built to too high standards.

I can show the Senator an area in my State where they built a road 28 feet from shoulder to shoulder, with not to exceed 4 percent grade, and a culvert in every draw to the last stump, and they will not be used again for 40 years, except by berrypickers and grouse hunters.

Mr. STEVENS. I shall be glad to show the Senators some roads on islands that are not populated and will never be used by anybody until the next operator comes in and rebuilds them 50 years from now.

Mr. McCLURE. I suspect the Senator has told the Forest Service about it and will keep protesting about it until the cows come home, and they will keep right on building these roads, because they hired a bunch of engineers. There is nothing that an engineer likes to do more than engineer. He would not be an engineer if he did not. So he is going to be sitting at his desk drawing plans every day and, when he is not doing that, he is going to be out in the forest driving stakes in the ground. If they would just use green sticks for those stakes, they would reforest while they are doing it.

Mr. STEVENS. Will the Senator yield?

Mr. McCLURE. I yield.

Mr. STEVENS. Let us not be too hard on the Forest Service. I understand they do this from an overabundance of caution. Because they have had lawsuits in the past, these people are retreating to the planning board and become redundant planners. One operator told me about a road 28 miles long to go 4 miles. There is no reason for it at all, but the problem is they do not want any lawsuits.

The Senator from Arkansas and the Senator from Minnesota, I am sure, coming from the great heartland of the country, realize that the people who pay the bill for those roads, in the final analysis, are the users of that timber. The cost of housing has gone up because inflation in prices is, to a large extent, brought about by the redundant road systems we are legislating, ourselves.

This is one reason I asked my friend about the problem of redundancy as far as this bill is concerned. I am happy to be assured there is no redundancy intended.

Mr. HUMPHREY. I call the Senator's attention to the fact that in this bill, we have a "need" provision requiring the Forest Service to not only take into consideration but in fact be governed by—the cost of construction and the cost of operation. In other words, they cannot just go along and build any standard road they choose any longer. They are going to have to take a look at the cost of that construction, number one; then, what it costs to maintain and operate it, to look at safety and impact on lands and resources.

In two laws now, going back to the October 1964 act and the Forest and Rangeland Renewable Resources Planning Act, we find that the national forest road policy has been substantially improved and altered.

I remember that when we marked up the Forest and Rangeland Renewable Resources Planning Act, we had long discussions about these forest roads that were being established, and also about the revenues that were going to the counties and the local governments.

On page 30 of the committee report, going through page 31, over to the middle of page 32, Mr. President, I ask unanimous consent that the review of the committee action on what we might call national forest road policy be printed in the RECORD, because I believe that will do a good deal to alleviate some of the fears and concerns expressed here.

There being no objection, the review was ordered to be printed in the RECORD, as follows:

THE COMMITTEE ACTION

The Committee adopted several changes in National Forest road policy. Sections 8 and 16 of S. 3091, operating in conjunction with redesignated section 10 of the Forest and Rangeland Renewable Resources Planning Act of 1974, and the Act of October 13, 1964, will operate as follows:

1. Road funding devices will be evenly considered since there will no longer be a presumed advantage to favoring a system with fiscal impacts disadvantageous to local governments.

2. Road network decisions will be based on long-term needs. Multiple-use roads will be planned for a sustained yield of multiple resources.

3. Road standards will be better tailored to intended uses, considering safety, cost of transportation, and impacts on lands and resources.

4. Timber purchasers who have been tying up working capital in excess of $200 million annually will no longer be expected to build major roads as a condition of purchasing timber. The issue has not been whether they are or are not compensated for building such roads. Timber purchasers are compensated. The issue is whether this system of timber revenue reduction to finance road construction should be relied on so heavily and used so indiscriminately.

5. Timber purchasers will be expected to construct only those roads, permanent and temporary, where such roads are the best available alternative.

6. The network of needed roads will be planned and well executed, using non-permanent and permanent roads, as appropriate. Non-permanent roads and roadways will be designed to the extent feasible for early return to the resource production base.

7. The impact of roads and roadways as contributors to erosion, soil, and watershed losses should be a stronger factor in design, location and construction of roads.

Inappropriate road standards result in unnecessary expenditures of appropriated funds or reduced revenues to the Treasury for construction and may cause environmentally harmful impacts. The Committee concluded that more effective reforms are needed to assure that road standards are properly determined so that excessive construction is avoided while providing an efficient transportation facility.

The limitation on the standard of road which a timber purchaser could be required to construct under section 4 of the Act of October 13, 1964, has led to the construction of some roads of a lower standard than needed for future use of the road. Later reconstruction of such roads creates additional costs and possible environmental impacts. The Committee decided that the standard of roads to be built rests squarely with the Secretary as part of his responsibility for management of the National Forest.

The timber purchaser does not pay for these roads; they are paid for by the Government as a credit which reduces the price paid into the Treasury for the timber.

Section 4 of the 1964 Act was intended to minimize the impact of constructing roads for the permanent transportation system as part of a timber sale. With the change in the method of calculating payments to States proposed in section 16 of the Committee bill, the need for this provision is removed.

In those cases where the needed standard of road would result in a sale with less than a normal profit opportunity, the Secretary can use his authority to allocate appropriated funds for all or part of the cost of building roads in the approved transportation plan.

PAYMENTS TO STATES FOR SCHOOLS AND ROADS—SECTION 16

The Act of May 23, 1908, and the Act of March 1, 1911, require that 25 percent of all moneys received from each National Forest be paid, at the end of each fiscal year, to the State in which the National Forest is located. The payments must be expended as the State legislature prescribes for the benefit of public schools and public roads of the counties in which the National Forest is located. For the purpose of calculating the required payments, receipts from the sale of forest products are based upon the stumpage payment of the timber sold.

Section 16 of S. 3091 would revise the base from which the 25-percent payments to counties are calculated by including, as moneys received—

(1) Deposits collected under the Act of June 9, 1930 (the so-called Knutson-Vandenberg Act) which are used for reforestation and timber stand improvement within the National Forests timber harvest areas; and

(2) Credits earned and used in payment for timber by purchasers of National Forest timber and other forest products upon satisfactory construction or reconstruction of permanent roads on National Forest System lands which are specified in the timber sale contracts.

The Committee recognizes the complexities which surround existing payments to States and local governments from receipts generated by the National Forest System and other Federal lands. A broad range of alternative adjustments was considered by the Committee. The two adjustments agreed to would, in the Committee's judgment, provide a much needed increase in payments to States and counties in which there are National Forests, with minor effects on the Federal budget.

The inclusion of timber purchaser road credits in the base for the 25-percent payments would help correct an inequity to the States and counties that has developed during recent years as the Forest Service has increasingly relied on the timber purchaser road credit mechanism for road construction within the National Forests. While the Committee agrees that counties should receive 25 percent of timber purchaser road credits actually utilized in payment for National Forest timber and other forest products, the Committee does not intend to provide payments in excess of the amounts that would have been made had no timber purchaser credits been utilized. In other words, section 16 of the Committee bill will require the Secretary of Agriculture to include, in the base for the 25-percent payments, timber purchaser road credits actually utilized in lieu of cash during each fiscal year for the payment of timber and other forest products.

However, timber purchaser road credits earned or allowed but not actually utilized in payment for timber during each fiscal year, will not be included in the base for the 25-percent payments for that fiscal year. Such credits shall be included in the base for the 25-percent payment for a subsequent year in which they are actually utilized.

Mr. HUMPHREY. When we go to conference, we shall have a chance to sit down once again with our colleagues in the other body and with the representatives of the Forest Service. We shall go back over the legislative history in the Senate and we shall see to it that the language is sufficiently precise to prevent the kind of extravagance or the kind of unneeded construction which adds, as the Senator from Alaska has properly stated, to costs. We shall see that that is taken care of. I think we can do it better sitting around a table than we can here on the floor.

Mr. STEVENS. I agree with the Senator.

Will the Senator yield for just a moment, because of something he mentioned which is unrelated?

Mr. HUMPHREY. Yes, I yield.

Mr. STEVENS. On page 15, there is a reference to specifying an approach to be used to implement the section involved, including the manner in which the expertise of the affected State agencies will be obtained and used in the preparation of land management plans. I commend the Senator for that portion of the bill, but I raise the question about the ability of the States to finance that activity. Is it the intention in that section of the bill that the Forest Service would provide financial assistance to the States for the work that would be involved in the States' portion of the preparation of this plan? If it is not, would the Senator be receptive to some amendment to the bill which would authorize the appropriation of funds to be used to assist the States in meeting that cost?

Mr. HUMPHREY. I think we ought to deal with that separately, I say to the Senator. I am not prepared to accept such an amendment here. We do not know what the costs would be. I do not know what the recommendations would be from the Forest Service or even the State agencies.

I think what we tried to do here is make sure that the land management plans were not something conceived up here at the national level without due regard to the expertise which exists at the State levels. We tried to blend together the Federal and State operations.

Mr. STEVENS. I commend the Senator for that. I think it is a good idea.

Mr. HUMPHREY. Let us not try to add any extra money here now. There are all kinds of assistance that goes to States, as the Senator knows, under different kinds of planning legislation, and we may want to do it. But let us take that up separately.

Mr. STEVENS. As the Senator knows, in the Interior Subcommittee of the Senate Committee on Appropriations, we have made sure that the Forest Service has ample money to prepare plans. If we give them money to prepare plans, why should they not be authorized under this bill to use a portion of the money we give them to prepare plans for the States to use in their role in the formation of these plans?

Mr. HUMPHREY. The Secretary can enter into contracts, when appropriate, with the States and enter into arrangements with them. I just do not think we should specify it here.

Mr. STEVENS. I am glad to hear that. The bill does not rule out the possibility that he can pay for this?

Mr. HUMPHREY. Not at all. I do not want to say that he must, but it does not rule out the possibility that he can share.

Mr. McCLURE. Let me state just one thing before I ask that this be withdrawn. There are a number of problems with respect to roadbuilding on the forest lands. One of them the Senator from Arkansas addressed himself to earlier in regard to the transfer of additional costs, in effect, to the schools and counties by the reduction of the net revenues. This bill seeks to take care of that.

Mr. HUMPHREY. And we do.

Mr. McCLURE. And we do, in this bill, take care of that question. So that is removed.

I addressed myself earlier to the impact this has on moving sales into deficit. That is a very real problem to us. I recognize that the committee, in working with the Forest Service, will desire to set some limitations, some guidelines, or reach some understanding on the kinds of roads which will be built. But let me say that back in 1964, Congress found it necessary to put in the "prudent operator" concept as a restriction on the Forest Service to make them do what they were then unwilling to do; that is, set a cap on the amount of expenses that were transferred through on the timber sale. If we remove that, the cap is gone. If they are actually going to deal with us in the way they say they will, in meeting this problem of overbuilding these roads, that would be something that would operate under the cap but they still want the cap off. I am not sure I understand their good faith in the arrangement in which they say, "Take the cap off because we do not need it because we are going to operate under it anyhow." My instincts would tell me after several years of dealing with them on this problem that it might be a good idea to leave the cap in place and see if we cannot get them to work underneath that cap in a more constructive way.

Mr. HUMPHREY. If the House maintains existing law, the prudent operator cap is in place under the existing law.

I approve of what the Senator has to say. I am frank with him about it, because we do understand each other here. If we take this to conference and the House maintains existing law under this, which apparently they are going to do, I think we can put the Forest Service on the spot, properly, and get the language that we need so that we do not have the existing conditions prevail in the future. The Senator is absolutely right about it and we ought to do something about it, and we will.

Mr. McCLURE. I thank the Senator for that assurance.

Mr. BUMPERS. Mr. President, the only thing I can add to what has been said here is that I think the Forest Service is not the only service that really likes nice roads. These timber people have high-cost equipment going in there and hauling timber out. They like nice roads, too, because that is the least damaging to their equipment. It helps maintain their equipment if they have good roads.

If the industry objects strenuously to our striking the prudent operator rule, to be quite frank about it, I think in the past they have not objected to the super highways the Forest Service has built as long as the specifications for those roads did not create a deficit sale. The Forest Service tells me that that has been the case.

Secondly, the Forest Service tells me that they got an increase of $70 million in their appropriation for roads other than the ones that are paid for with timber purchaser credit sales. They get two appropriations. One is the amount of timber credits they can use, and the other is an outright appropriation for roads. So when they specify a road that actually exceeds the value of the timber sale—which is what results in the deficit sale—they tell me they are going to have $70 million additional to play with to keep more sales from falling into the deficit category.

I think the Senator from Minnesota is correct. When we get into conference that will be an ideal time to nail their hides to the wall on this point.

Mr. McCLURE. I agree with the Senator from Arkansas. I shall not insist upon my amendment, but we have the twin problems: It is not just industry that complains about overbuilding roads, the taxpayers ought to be complaining about it as well, and certainly we, as their representatives, must do so.

A third group of people who are definitely objecting to current policy are those who find low standard back country roads being closed in the name of environmental protection and, on the other hand, building great big overbuilt roads that cause a great deal more environmental damage than the small substandard back country road was doing, and I think this entire policy needs to be taken care of.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER (Mr. HELMS). The amendment is withdrawn.

Mr. STEVENS. Mr. President, will the Senator allow me to ask the Senator from Arkansas one question? The $70 million the Senator mentioned, and the Senator from Oregon, is here, and the Senator from West Virginia and I had a great deal to do with that money, and is was for the Forest Service to be used for roads which were intended to have a permanent value which should not be paid for by the purchasers of the timber.

Did I understand somehow that the Senator intended to limit the use of that $70 million by this bill?

Mr. BUMPERS. No. The Forest Service tells me that last year or the year just ended, 1976, the outright appropriation for Forest Service roads was $170 million. For the coming year 1977 that appropriation will be $240 million.

That means, in the illustration I used this morning, if you sell $100,000 worth of timber or a tract of timber that is worth $100,000, and you set up a standard for roads that is going to consume $50,000 of that, the buyer, as you know, builds $50,000 worth of road and puts up $50,000 in cash. But if the roads in this particular case run to $120,000, and the timber is only going to bring $100,000, they can use that additional money, they can use the $240 million appropriation, to tail out that additional $20,000 to keep that sale from becoming a deficit sale.

Have I made that point clear?

Mr. HUMPHREY. The Senator is correct.

Mr. STEVENS. They can do it if it has value beyond the excess of the timber involved?

Mr. BUMPERS. They can do it to keep any timber from being a deficit sale.

What the industry is doing in order to get a tract of timber is sometimes to pay more than the timber is really worth by building those roads. That is what they object to. But the Forest Service says that with the additional $70 million that they did not have last year there will not be as many deficit sales because they can tail out the cost of those roads with appropriated money.

Mr. McCLURE. There have been concerns expressed here today on terminology contained in S. 3091. These seem to fall into several categories, such as ambiguous language which opens the door for possible litigation, technical language corrections for clarification, and overlapping items in existing legislation or regulations.

This last category covers my concerns with section 14(c), the requirement for a purchaser to file an operating plan . . . which shall be subject to concurrence by the secretary.

The Forest Service now exercises the option of including in contracts provisions governing timing of operations where special problems must be met; otherwise harvesting within the contract term is permitted with some flexibility in timing to the purchaser.

Flexibility is necessary because of changes in weather, markets, and other conditions. More harvesting occurs in order to meet rising demands during better market conditions. The Government benefits from such adjustments in output because it receives higher stumpage rates in much of the West where contracts call for escalation of such rates with changes in product price. Disruptions to fight fires, problems with equipment, personnel, and supply problems may also require changes in schedules. Flexibility is needed for the efficient use of timber, men, and equipment.

Timber sale contracts currently require timber purchasers to file an operating schedule at the beginning of each operating season for each sale where activities are planned for that season. The schedule may be adjusted with reasonable notice to the Forest Service. There has been no evidence that this system is not working.

The last sentence in subsection 14(c) might cause uncertainty as to whether or not a contract term may be extended at all for a variety of reasons for which extensions have been formerly allowed. The first sentence in the proviso authorizes a continuation of the present practice of providing more time when delays are caused by the Government or other circumstances beyond the control of the purchaser. Standard provisions of timber sale contracts now specify the conditions under which such additional time is provided. Continuation of this practice is desirable and should be extended to include other prerequisites qualifying the purchaser for receipt of additional time.

Such other prerequisites in the past have included substantial progress in related road construction and removal of a stated percentage of the timber covered by the contract. Generally, these extensions in recent years have been limited to 1 year. Inclusion of these prerequisites in the contract language could permit all prospective purchasers to bid for the timber with a clear understanding of the qualifications for obtaining additional time.

In the event that this body does not see fit to strike this language as being superfluous, I believe that further clarification of the meaning of this subsection is needed. The report language is not complete in this regard.

Mr. HUMPHREY. The provision in section 14(c) is not intended to be used in a fashion which will hamper the flexibility of the purchaser to adjust his operations for proper reasons. One intent of the requirement for a plan of operation is to allow the Secretary to make a determination whether the purchaser has diligently performed in accordance with his plan of operation in the event the purchaser requests an extension in contract period. The filing of such a plan of operation is among other things for purposes of determining whether an extension should be granted. Failure to meet time schedules for valid reasons may be considered in assessing performance under the contract. Harvesting in advance of schedule will not require concurrence of the Secretary.

It is recognized by the committee that the purchaser must be allowed considerable flexibility under the contract to react to changes in weather, markets, and other conditions and for the efficient use of timber, men, and equipment.

It is not intended that anything in this section would prevent the Secretary from adopting a policy under which no extensions in timber sale contracts will be granted regardless of performance if this is determined to be in the public interest.

ADDITIONAL STATEMENTS

Mr. TALMADGE. Mr. President, I rise in support of S. 3091, the National Forest Management Act of 1976.

This is complex, badly needed, important legislation.

It is important to homeowners and prospective homeowners.

It is important to those who consider our national forests to be precious, irreplaceable resources for recreation and wildlife.

It is important to those whose livelihood depend upon the wood and wood products industry.

It is important to the public servants who manage the national forests.

It is important to the environment we will leave our children.

And it is important to the economic strength of America.

It solves a critical problem confronting the management of our national forest system and it does more: It puts into law a new set of guidelines designed to preserve the important multiple uses of one of the public's greatest resources.

If I may, I would like to backtrack a bit, and give you a little of the history of what we have come to call the Monongahela issue.

In 1973, our committee was working on the Forest and Rangeland Renewable Resources Planning Act. The Izaak Walton League of West Virginia, and others, filed suit against the Government, challenging management practices in the national forests.

The suit claimed that the Forest Service was not following the management practices set forth in that agency's Organic Act of 1897.

That law says that only dead and mature trees can be cut, that all trees to be cut have to be marked, and that all trees harvested have to be removed. But the law is the law, whether it is good or bad.

We recognized that we needed to change the law.

In the first draft of the Resources Planning Act of 1973, we included language which would have made the lawsuit moot. However, both the forest industry and the Forest Service asked us to delete this language. First they felt the Government would win the suit. Second, they were afraid of what might happen in Congress if the Organic Act were opened to debate.

We took the remedial language out of the bill and it proved to be a costly mistake.

By summer of last year, the fourth circuit court of appeals upheld the Izaak Walton League. By November the administration announced that it would not appeal the case, but instead would introduce legislation.

On December 31 last year, the administration was required by the Resources Planning Act to send Congress two things: First, an assessment of the condition of our national forests, and second, a program of work designed to meet the needs of the forests. They were also supposed to present their recommended legislation.

Therefore, we waited. December 31 came and went, and we received nothing. We were fully aware that the Forest Service had sent its program and assessment to the White House before January 1.

It was not until March 6 that we received the program and assessment. But these documents were not accompanied by legislation to resolve the mess created by the lawsuit.

Leadership from the White House would have been helpful. It would have made the enactment of good legislation that much easier. That is why we waited. But when it became clear that the President would not take action, we felt that Congress must do so. We heard 89 witnesses in 4 days of hearings, and we received testimony from dozens more. These hearings were held jointly with a Subcommittee of the Interior Committee.

Following the hearings, the legislation was modified to reflect suggestions in responsible testimony, and accommodate, where possible, the concerns of the gentleman from West Virginia (Mr. RANDOLPH) as expressed in S. 2926. The subsequent draft was reported to the full Agriculture and Forestry Committee and the full Interior and Insular Affairs Committee.

Then we took a most unusual step. Throughout this whole process we attempted to act with speed, but we also wanted to act openly and responsibly.

S. 3091 was not referred to the Interior Committee, but since that committee shares jurisdiction over the national forests, we invited the full Interior Committee to join with us in 4 days of perfecting the final bill. Senator RANDOLPH is not a member of either committee, but because of his sincere interest, we invited him to join us in these sessions.

We came to agreement, and I am proud of the bill we reported. I might add that while we did not have an official administration bill, as such, we received full cooperation in our work from Secretary Butz and the Forest Service. As a matter of fact, Secretary Butz broke the logjam at the Office of Management and Budget that had delayed White House action.

The bill which we reported does a number of things. It strengthens the concepts of multiple-use and sustained-yield, and it puts more teeth into the Resources Planning Act.

Significantly, it brings into the 20th century those parts of the old Organic Act which created the Monongahela situation.

But it also does a great deal more.

The bill provides for better evaluation of resource objectives. It spells out the opportunities for resource managers to improve their lands. More effectively, I believe, it recognizes the need to protect and enhance soil and water quality.

A major section of the bill establishes guidelines for land management plans for national forest and rangeland.

It should be understood that there was no way that we could have reported a bill which considered only forest economics. The bill we wrote is environmentally balanced. It had to be—or it never could have been reported from the committees, much less enacted.

The bill contains the essence of the clearcutting guidelines set forth by the Senate Interior Subcommittee on Public Lands in 1972. These guidelines were developed with the help of the forest industry. As a matter of fact, we cleaned these guidelines up a bit to make them even less restrictive.

The bill does not permit as rapid a harvest of old growth timber in the Northwest as some timber companies would prefer. But it does provide for more intensive timber management of three land classes, so that in the long run, there will be shorter rotations on these lands and that will lead to larger yields on a sustained basis.

Some in the industry believe that more intensive management of the best quality lands will preclude management for timber on the arid lands in the Intermountain and Southwest areas. I do not believe that was our intent.

I believe that this is a good bill. The Forest Service believes it is sound. Yet there are those who want substantial amendments. I caution against major tinkering at this late date.

The course we are taking has the support of much of the industry. It has the support of the county governments. It has the support of the more responsible segments of the conservation movement.

I think we can enact legislation which will truly be a new charter for the U.S. Forest Service. I urge your support.

Mr. PACKWOOD. Mr. President, recent Federal court decisions have used strict interpretations of the 1897 Organic Act to drastically limit clearcutting on national forest lands. A West Virginia decision concerning timber sales in the Monongahela National Forest allows the sale of only dead, physiologically mature or large trees that have been individually marked. This decision was affirmed by the fourth circuit court of appeals and also followed in the Zieske case in Alaska.

The effect of these decisions, Mr. President, threatens to send lumber prices soaring and to cramp our ability to plan and effectively manage our environment.

Last March, I joined a number of my colleagues in introducing S. 3091, the National Forest Management Act of 1976. The bill reaffirms authority to use controlled clearcutting as a professional management technique in our national forests.

In addition to being one of the original sponsors of this earlier bill, I testified in favor of the bill before committees in both the Senate and House. I strongly supported a simple bill with adequate environmental safeguards. As introduced, S. 3091 accomplished this purpose well.

I was disappointed, therefore, when the bill was substantially amended in committee markup sessions. The legislation we are considering today has been made far more complex than necessary to deal with the immediate problems of clearcutting restrictions caused by interpretation of an antiquated Federal statute. It even creates some major problems for the timber industry in Oregon and the Pacific Northwest.

However, I will cast my vote today in favor of the bill because of the overriding need for action on the question of clearcutting and because of the importance of this silvicultural practice to the economy of the State of Oregon.

Mr. President, I am prepared to support S. 3091 as a step toward dealing with a potentially critical situation in our national forests. I regret that my support for this measure is not as enthusiastic as it was when I endorsed the initial bill with my cosponsorship.

Mr. GRAVEL. Mr. President, I would like to express my appreciation to the Agriculture and Forestry and Interior and Insular Affairs Committees for their efforts in bringing this important measure before the full Senate for consideration.

As I indicated in testimony before the committees this spring, this legislation is of vital importance to the State of Alaska. The forest products industry is in large part the mainstay of the economy of the southeastern region of my State and is significantly important to certain parts of southcentral Alaska. Almost *all timber* harvested in Alaska is from national forests.

The provisions in this legislation which adjust the 1897 Organic Act to firmly establish the legality of the practice of clearcutting as an allowable and silviculturally acceptable harvesting practice on national forests resolve a serious threat to the economic security of hundreds of my constituents. The future and stability of Alaska's forest industry has been under a cloud since the Federal district court for Alaska rendered a decision prohibiting the practice of clearcutting on a portion of the Tongass National Forest.

I am pleased too, that the committees have given consideration to a refinement of standards provided to the U.S. Forest Service for management of national forests. I fully concur with the committee's action not to attempt to legislate nationwide rules and regulations for the management of national forests, but rather to set forth revised standards for the management of the variety of important resources found on the national forests.

Finally, as an original cosponsor of S. 3091 with the distinguished Senator from Minnesota (Mr. HUMPHREY) I am grateful for his cooperation and hard work, and for that of the chairman of the Agriculture and Forestry Committee (Mr. TALMADGE) and the Senator from Montana (Mr. METCALF) who worked extremely hard throughout consideration of this measure in pursuing the interests of the Interior and Insular Affairs Committee.

Mr. JACKSON. Mr. President, I have received inquiries regarding the intent of that portion of section 5 of S. 3091 which will become section 6(f) of the amended Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476). It is my understanding that the revisions required by that section to make existing contracts consistent with land management plans for a particular unit of the National Forest System are not required where such revisions would be inconsistent with or contrary to existing rights under such contracts. Is my understanding of this section of the bill correct?

Mr. HUMPHREY. Yes, that is the purpose of that particular provision of S. 3091.

Mr. JACKSON. One reason for my question involves a cooperative agreement between Simpson Timber Co. and the Federal Government. The agreement was executed on December 12, 1946, pursuant to the Sustained Yield Forest Management Act (58 Stat. 132, as amended, 16 U.S.C. 583–583i) which was enacted in March 1944 for the express purpose of promoting the stability of forest industries, of employment and of the communities.

To date, this is the only cooperative agreement which has been consummated pursuant to that act. The purpose of the agreement was to stabilize the timber dependent communities in Mason and Grays Harbor counties in the State of Washington. The agreement created an original sustained yield unit of 111,000 acres of national forest land and 159,000 acres of company land which are subject to unified and coordinated management of the company and the Forest Service for the continuous and sustained supply of timber to be processed in local manufacturing plants.

Since 1947, Simpson Timber Co. has invested nearly $100 million in capital expenditures under the terms of the agreement, including new plants and equipment, transportation, roads, reforestation, forest management, and land and timber acquisitions, and in the latter category has expanded its commitment of land to the sustained yield unit from the original 159,000 acres to 237,000 acres. Both the company and the Forest Service have upgraded the management of their forest lands within the unit. Reforestation is an essential element of this management and over 75,000 acres have been seeded and planted over to assure future tree crops.

The effect of this cooperative agreement on the dependent communities is striking. While in 1946, they were dying, they are now thriving communities with a moderate, wholesome growth in population. Moreover, all of the communities boast a high percentage of homeownership, new schools, churches, businesses and public facilities. Because of the agreement, Simpson Timber Co. currently employs over 2,000 in the woods, mills and offices in the immediate area of the unit with an annual payroll in excess of $29 million.

The citizens of these communities have expressed fears that S. 3091 would place the cooperative agreement and their collective futures in jeopardy. I have assured them that this is not the case.

Mr. HUMPHREY. You are correct because in the specific instance you have mentioned, if there were a conflict between any provision of S. 3091 or the regulations promulgated thereunder and the sustained Yield Forest Management Act and the cooperative agreement executed pursuant to that act, the provisions of the Sustained Yield Forest Management Act and the cooperative agreement would control.

Mr. JACKSON. I thank the Senator for the clarification.

Mr. HASKELL. Mr. President, we begin debate today on S. 3091. This bill, as reported unanimously by both the Agriculture and Interior Committees, will provide new national forest management policies which will finally deliver on the promise of the often repeated, and even more often ignored, public land management goals of multiple use and sustained yield. Any effort to reform forest management policies is not to be lightly regarded. Companies and individuals depend upon national forests and their timber resource for business and jobs. Consumers require wood products. And communities rely on the income generated from the cutting of the timber to construct roads and build schools. Our national, regional, and local economies all depend on forest products.

However, many of these same companies, individuals, and communities make equivalent demands upon the other resources of the national forest system—recreation opportunities wildlife, watersheds, and the forage resource.

Accordingly, the protection of these resources must be assigned as great a priority in any forest management policy as the production of timber. S. 3091 recognizes this basic fact and builds upon the multiple-use philosophy of both the Multiple Use-Sustained Yield Act and the Forest and Rangeland Renewable Resources Planning Act. It is distinctly not a "Timber Management Act," rather its title is accurate—it truly is the "National Forest Management Act" encompassing all the resources of the forest.

The need to develop new forest management policies such as those provided in this bill has never been more critical. The demand for timber has grown dramatically. Timber cutting on national forests today is 14 times greater than in 1920; 4 times greater than in 1950. This trend will continue. In its recently released 44-year renewable resource program required by the 1974 Renewable Resources Planning Act, the Forest Service recommended an increase in national forest timber yields from 2.7 billion cubic feet last year to 3.3 to 4.1 billion cubic feet in the year 2020. The competition for other resources will be equally fierce.

The Forest Service projects a 70 to 80 percent expansion in grazing from 11.3 million AUM's in 1975 to 18 to 20.4 million AUM's in 2020, a more than doubling of wilderness from 12 million acres today to 25 to 30 million acres by 2020, and an increase in all recreation uses from 125 million visitor days in 1975 to 176 to 220 million visitor days annually in 2020.

Not unexpectedly, the escalating demands for the resources of the national forests have been accompanied by increasing complaints about the policies and practices of the forest managers. This rise in public concern is reflected in the work of the Subcommittee on the Environment and Land Resources. During this last half decade, the subcommittee has investigated an increasing number of serious controversies surrounding the Forest Service policies for each of the forest resources—from the clearcutting controversy in the Bitterroot National Forest, Mont., in 1971 and 1972, to the disputes over ski permit policy in Crested Butte and Aspen, Colo., last year and this year.

The subcommittee has found much to blame in the Forest Service's performance. It recognizes, of course, that as pressures increase for the use of resources, any failing of the Agency becomes more visible. In today's age, a failure to properly plan a timber sale or maintain critical wildlife habitat virtually anywhere in the forests will no longer escape the eyes of backpackers, hunters, and fishermen who, each year, venture further from the roadheads. A decision to favor a proposal of a timber company or a ski resort without adequate explanation will be quickly challenged by a far more informed and active citizenry. The subcommittee recognizes, as well, that the Forest Service, within the limits of its authority, has striven admirably to improve its policies and practices. But, faced with these heightened demands and the increased workload and higher visibility which have accompanied them, the Agency, I believe, will forever fail to perform its mission adequately without congressional support in the form of statutory forest management policies.

It would be excellent if this debate today occurred amid bold statements of vision from a Congress which has foreseen forest management controversies long before they develop and which has pledged itself to enact programs to insure that the causes of such controversies shall never arise. Unfortunately, the Congress has permitted forest management controversies to arrive unhindered and thrive too long.

It is dismaying to observe the recent trend in lawmaking on our publicly owned national resources. Too often these last few years, the Congress has enacted new policies only when required to do so by a judicial decision or when to fail to do so would be an acute embarrassment. We are here today because Federal courts in West Virginia and Alaska have told us that a dated statute can no longer serve as authority for proper management of our national forests.

The court in the Monongahela decision virtually challenged the Congress to take action. As my colleagues may recall, the language used by the Monongahela court to invite the Congress to "correct" an outdated statute is quite similar to that employed by another circuit court in the Alaska pipeline decision. That decision on the basis of a similar close reading of a single provision of law—in that case, the right-of-way width provision of the 1920 Mineral Leasing Act—denied the authority of the Secretary of the Interior to issue permits for the pipeline.

The challenge issued by that court was promptly met by the introduction of legislation providing a range of alternatives from a simple exemption for the pipeline permit to a complete reform of the laws relating to rights-of-way across Federal lands. The Congress chose the latter approach in enacting the Federal Lands Rights-of-Way Act. To meet the Monongahela decision's challenge, a similar range of legislative alternatives—in this case, temporary exemption from the "offending" Organic Act provisions to a complete rewrite of the Forest Service's timber management authority—were introduced.

I am firmly convinced that, if we are to meet the demand for all the resources of our national forests—not just timber, but also water, wildlife, minerals, and wilderness and recreation opportunities—we must take the same comprehensive approach to forest management that we took toward Federal rights-of-way policy. We must once again successfully resist the temptation to simply remove the statutory roadblock to business as usual.

I am happy to say I believe S. 3091, in its present form, does adopt the comprehensive approach. S. 3091, as ordered reported, provides statutory policies for the management of our national forests which will insure that we can meet and accommodate the rapidly escalating demands for their use. These policies are flexible enough to permit the Forest Service to properly manage its diverse resources in whatever environment they are found. But they are also drawn in recognition that the era of full delegation of land management decisionmaking authority to Federal agencies is over and that the Congress must establish the basic policy framework within which those decisions will be made.

The Interior Committee established that such flexible but specific guidelines are possible to draw when it issued its policy recommendations in its 1972 report, "Clearcutting on Federal Timberlands." When the Forest Service and the Bureau of Land Management adopted those policy recommendations, they provided convincing evidence that such guidelines are workable and acceptable to the professional land management. I am particularly gratified to observe that these 1972 Interior Committee guidelines have been incorporated in the bill before us today.

Mr. President, I wish to commend my colleagues, the senior Senator from Georgia and chairman of the Committee on Agriculture and Forestry (Mr. TALMADGE), the junior Senator from Montana and then acting chairman of the Committee on Interior and Insular Affairs (Mr. METCALF), the junior Senator from Minnesota and author of S. 3091 (Mr. HUMPHREY), and the senior Senator from West Virginia (Mr. RANDOLPH), and author of an alternative many of the concepts of which are new, embodied in S. 3091 for their expeditious work in bringing a measure to the floor which enjoys the unanimous endorsement of two committees. When I served as cochairman of some hearings on the bill in March, I entertained few hopes that we would be debating it today in the full Senate. I congratulate my colleagues on a difficult task extraordinarily well done.

Mr. HUDDLESTON. Mr. President, I just returned from extensive travel and hearings in Alaska. One of the major purposes of my trip was to examine renewable resources management in the national forests in Alaska. Acting on behalf of the Senator from Mississippi (Mr. EASTLAND), chairman of the Senate Subcommittee on Environment, Soil Conservation and Forestry, I chaired hearings on forestry in Juneau, Sitka, and Ketchikan.

These hearing were well attended and brought forth a full spectrum of points of view. We met with various groups to discuss their special concerns. We spent 2 full days in "on the ground" field examination of renewable management activities on the Tongass National Forest. Attention was concentrated on the areas where timber cutting has produced litigation and controversy.

There is little doubt that the earlier cuttings on the Tongass National Forest are not up to the standards for renewable resource management that we know are required today. At the same time, it is equally clear that the Forest Service has been effectively responding to requests that it improve the level of resource management. While much has been done, more remains to be done because man's knowledge keeps on growing and his understanding of what he must do to protect his environment is constantly increasing. I would note that not only the conservation community in Alaska, but also the Alaska Lumber and Pulp Co. have a keen awareness of the fact that the environment and economic base of Alaska rests on sound conservation practices.

Southeast Alaska currently accounts for virtually all of the timber production in the State. Southeast Alaska salmon account for about 5 percent of the salmon catch in Alaska. Southeast Alaska accounts for a significant part of the recreational opportunity on public lands in Alaska. Southeast Alaska has valuable minerals which require care in development.

The legislation we are considering today paves the way for the people of Alaska and the people in the other 40 States with national forests to join together in constructive approaches to secure the benefits for all Americans for all time from their national forests.

As I listened to the testimony of people regarding the problems they confront and on the way they wanted to be heard by those charged with the day-to-day administration of the national forests, I could not help but conclude that S. 3091 meets the needs of the resources and the hopes of people.

This is a resource bill, not a single use bill. It will require the use of advisory boards. It will promote making plans, setting guides, and conducting operations using scientific data that has been developed and reviewed by trained scientists, including those who are not employed by the Forest Service.

This legislation provides a base for real consultation with local people. The plans and procedures will be locally adopted after being locally developed. There will be real multiple-use and effective sustained yield of all of the renewable resources on all the national forests.

Mr. President, S. 3091 meets "forest practices" issues with provisions for flexible on-the-ground application using the best efforts of professional resource managers. It meets the issue of allocations of land to various uses using the concepts of consultations and flexibility so that the best multiple-use mix of all the renewable resource uses can be secured.

In my judgment, S. 3091 is absolutely essential to provide for sound forest management practices in the national forests consistent with the principles of multiple-use and sustained yield. I urge my colleagues to support this legislation.

Mr. MORGAN. Mr. President, High Point, N.C., the approximate geographical center of my State of North Carolina is also the geographical center of the furniture producing industry of the Nation. About 75 percent of all the furniture produced in this country is manufactured within 75 miles of High Point. The industry is a major economic factor in North Carolina, as is the forest products industry.

The health of both the furniture and forest products industry has been seriously jeopardized by the ruling of the Fourth U.S. Circuit Court of Appeals in the Izaak Walton League of America against Butz case—commonly known as the Monongahela decision.

For more than a year, no timber sales have been allowed in North Carolina, South Carolina, West Virginia, or Virginia. The resulting shortage of timber has been a serious problem for industry in my State. The ruling was an extremely narrow interpretation of the Organic Act of 1897—an act that was necessary in 1897, but is an enigma in 1976. While it is extremely unfortunate that this situation has developed on and impacted only four States, the ultimate result will be the passage of needed beneficial forestry legislation—legislation that reflects more than 70 years of scientific research in the area of silvicultural management.

The bill in question wisely provides for the environment as well as timber production. Water quality, wildlife management, and recreational opportunity are valid and necessary considerations that must be provided for when authorizing a charter for the redirection of the management of our public lands.

This bill establishes parameters for the U.S. Forest Service to promulgate regulations for balanced and interrelated resource management. S. 3091 will also provide for oversight by the Congress which has been negligent in its responsibilities in this area. This extremely valuable resource—our only renewable resource—must be respected as well as protected. S. 3091 provides exactly that.

Mr. President, for these reasons I support the National Forest Management Act of 1976.

Mr. THURMOND. Mr. President, I rise in support of the pending legislation, S. 3091, the National Forest Management Act of 1976, of which I am a cosponsor.

As we all know, this issue has developed because of the August 21, 1975 decision by the Fourth Circuit Court of Appeals. The decision affirmed a previous ruling by the Federal District Court for West Virginia regarding planned timber sales in the Monongahela National Forest. The ruling, based on a strict interpretation of the so-called Organic Act of 1897, allows the sale of only dead, physiologically mature, or large trees which must be individually marked and completely removed when cut. As a result of the decision, South Carolina, along with the other States in the fourth circuit—Maryland, North Carolina, Virginia, and West Virginia—was allowed to sell only 10 percent of its planned sales for fiscal year 1976.

In South Carolina, the lumbering and related industries have been seriously affected. For fiscal year 1976, the planned timber sales were 160 million board feet. The decision allows only 15 million board feet to be sold. Obviously, this 90 percent reduction will have tremendous local impact. Should this decision be allowed to affect all the national forests in the United States, there would be a serious national impact. This would result in escalating wood product prices and higher costs for building homes.

Presently, 25 percent of the receipts from the sale of timber on national forests are returned to the counties to be used for public schools and public roads. Berkely County in South Carolina received over $325,000 in fiscal year 1975. Obviously, a 90 percent reduction would have a tremendous effect on this county.

Since 1897, many advances have been made in the field of silviculture. I think that it is imperative that we allow these advances to be used to provide for the well-balanced management of our national forests to the best advantage of the citizens of this Nation.

Mr. President, I plan to support this legislation and urge my colleagues to do likewise.

Mr. HANSEN. Mr. President, I am pleased to rise in favor of S. 3091. As all areas that have forest land now realize, there are many ways in which those resources can be utilized.

This concept of multiple uses is certainly not new; we have been hearing and talking about it for many years. In the past, however, no one had all the information about all the alternative uses. It seems to me that the only way the correct decision can be made about the uses of our forest lands is if we gather all that information.

It is my sincere belief that this bill will provide the means of gathering that information. Under this piece of legislation, guidelines for multiple use management will be established and there will be full participation in land management planning from the full spectrum of beliefs.

In Wyoming, we do not want to be overly restrictive in prescribing forestry management that should be done by professional foresters, both in industry and in government, but at the same time it must be certain that clear cutting and harvesting on steep slopes is strictly controlled, along with cutting near watersheds and streams, where some of our past problems have been most severe.

The bill recognizes the need of the American people for materials to build homes, while at the same time insuring our ability to properly harvest timber.

Mr. CHURCH. Mr. President, several organizations have spoken to me about expanding the findings contained in section 2 of the pending legislation. Specifically, they have sought to broaden the seventh finding relating to the need for research in the use of recycled and waste forest products materials to include the need for research to achieve optimum economic use of timber harvest residual material.

On June 21, I wrote to Chief John R. McGuire of the Forest Service asking for their comments on the feasibility and desirability of expanding these findings in this manner.

I ask unanimous consent that my letter to Chief McGuire and his response to me be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, D.C., August 25, 1976.

JOHN R. MCGUIRE,
Chief, U.S. Forest Service,
Washington, D.C.

DEAR CHIEF MCGUIRE: I have received the enclosed proposed amendment to the Forest Management legislation which is presently awaiting action by the full Senate.

I would appreciate having your agency's comments about the language contained in this amendment.

With best wishes,
Sincerely,
FRANK CHURCH.

Enclosure.

WOOD UTILIZATION AMENDMENT TO S. 3091 AS REPORTED MAY 14, 1976

1. On Page 10, line 25, after the "and" add the following and capitalize the "i" in "in" to begin a new sentence: "not all of every harvested tree is converted to useful products."

2. On page 11, line 3, after "research" insert the following: "to achieve optimum economic use of timber-harvest-residual material and".

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., July 9, 1976.

Hon. FRANK CHURCH,
U.S. Senate.

DEAR SENATOR CHURCH: We appreciate the opportunity to comment on the proposed amendment to S. 3091, dealing with utilization of timber harvest residual material, which was described in your letter of June 21.

The amendment would broaden the seventh finding in section 2 of S. 3091 to address the need for research to achieve optimum economic use of timber harvest residual material, in addition to the present emphasis in the finding on the need for research in the use of recycled and waste timber product materials. We do not object to the proposed broadening of the findings; however, in our view, it is not necessary. We agree that research in the use of both recycled and residual material is desirable. We have authority to carry out such research, and the finding does not provide any new authority. The proposed broadening of the finding, which relates to residual material, is in an area where we already have active research programs.

The stated reason for the amendment is a concern that emphasis on recycling could have an adverse effect on markets for residual forest materials and thus have an adverse effect on efforts to improve forest utilization. Currently, there is a potential for displacing some markets for harvest and manufacturing residuals if there was a significant increase in recycling. It is clear that the relative economics of using residuals versus recycled materials would guide market decisions in such situations. Available evidence suggests, however, that both improved utilization and recycling will be needed to meet product needs in the upcoming decades. We do not believe that the finding as now contained in S. 3091 would result in an imbalance between utilization and recycling research.

We would be happy to discuss with you present research programs and additional opportunities in both the area of utilization and recycling.

Sincerely,

John R. McGuire,
Chief.

Mr. **CHURCH**. Mr. President, this exchange of letters should help to clarify the concerns of many people, like myself, who seek continued improvement in the utilization of residual forest materials.

Mr. **MUSKIE**. Mr. President, the National Forest Management Act of 1976 is an important step toward providing modern policy guidelines for management of the resources in our National Forest system. It is important that we act on this measure quickly because it addresses many of the controversial and far-reaching legal questions which were raised in the Monongahela decision and I am persuaded that this legislation directs the country toward a resolution of the issue without making prematurely binding decisions on silvicultural questions.

I share with Senator Randolph his well-placed concern about indiscriminate clear cutting and other forest harvesting practices in our national forests which do not fully reflect long range silvicultural priorities and environmental problems. I am concerned, however, that we are poorly prepared at this time to make decisions that will finally bind forest managers. The bill now contains clear policy guidelines directing that clear cutting will be permitted only where it is determined to be the optimum silvicultural method. The amendments which Senator Humphrey successfully added provide a mechanism to assure that these silvicultural and environmental guidelines are followed in particular harvesting decisions.

I shall be following the administration of those guidelines and will join the effort to draft more rigid requirements into law if the discretion granted to administrators is abused, but I am not persuaded we should completely forbid clear cutting activity in all cases. Sound forest management may permit decisions to clear cut and use other even-aged management practices in some cases consistent with silvicultural and environmental concerns. It would be inappropriate for us to prejudge those decisions until we have the opportunity to view the administration of the policy guidelines.

The **PRESIDING OFFICER**. Are there further amendments?

Mr. **HUMPHREY**. Third reading.

The **PRESIDING OFFICER**. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The **PRESIDING OFFICER**. Is all time yielded back?

Mr. **HUMPHREY**. Mr. President, I have one brief statement I must make. But before I do that I ask for the yeas and nays on the bill.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **HUMPHREY**. Mr. President, I wish to take this brief moment to thank the very able Senator from West Virginia (Mr. Randolph) for his spirit of cooperation and to commend him for his superlative efforts in making this bill, I think, a most effective conservation instrument. He was very helpful throughout the hearings, the markup and again today.

I particularly thank my colleague, the Senator from Arkansas (Mr. Bumpers) and the Senator from Montana (Mr. Metcalf) for their vigorous, helpful work on this side of the aisle in this legislation and, of course, our distinguished chairman, the Senator from Georgia (Mr. Talmadge), who so diligently and graciously chaired over 4 hard days of committee work. On the Republican side of the aisle Senator McClure and Senator Hatfield, both of whom have been bulwarks of strength and have helped us immensely, as well as the distinguished Presiding Officer (Mr. Helms). It is always a joy to be associated with the distinguished Presiding Officer on these selective occasions. [Laughter.]

Mr. President, let me assure the Senator from West Virginia, who could not be with us at this moment, that if he or any other Senator brings any example of abuse of the provisions of this bill to the Committee on Agriculture and Forestry, as one who is responsible for handling this legislation on the floor, I will see to it that we go into it right away and we will call to account the Forest Service and, if need be, we will take remedial action, hopefully administratively but, if necessary, we will take it legislatively. So the Senators who have expressed concern here will be assured of that cooperation.

I also want to thank the staff for their help. Mr. Mike McLeod and Mr. Carl Rose, our counsels; Mr. Steve Storch, Mr. Jim Giltmer and Nelson Denlinger on my personal staff; Mr. Bob Wolf of the Congressional Research Service. On the Internal Committee, Mr. Mike Harvey and Mr. Steve Quarles. And on Senator Eastland's staff, Mr. Sam Thompson.

Also Chief of the Forest Service John McGuire, his deputys, Max Peterson, Leon Canski and Mah Reiners also helped constantly and constructively. Finally, I would mention the former Chief of the Forest Service, Richard McArdle, who counseled with me and my staff as we went along.

All of these people, working with the members of the two committees brought us a good bill.

Mr. **METCALF**. Mr. President, will the Senator yield at that point?

Mr. **HUMPHREY**. I yield.

Mr. **METCALF**. On behalf of Senator Jackson and the Interior Committee, I wish to make the same promise and the same declaration of purpose, that we, too, will handle as expeditiously as possible any matters that need to be brought before the committee.

Mr. **HUMPHREY**. I thank the Senator. Mr. President, we are ready for the vote.

The **PRESIDING OFFICER**. Does the Senator yield back his time?

Mr. **HUMPHREY**. I yield back my time.

Mr. **McCLURE**. I yield back my time.

The **PRESIDING OFFICER**. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **ROBERT C. BYRD**. I announce that the Senator from Iowa (Mr. Clark), the Senator from Iowa (Mr. Culver), the Senator from Indiana (Mr. Hartke), the Senator from Washington (Mr. Magnuson), the Senator from Minnesota (Mr. Mondale), the Senator from California (Mr. Tunney), and the Senator from Louisiana (Mr. Long) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mr. Tunney), the Senator from Washington (Mr. Magnuson), and the Senator from Iowa (Mr. Clark) would each vote "yea."

Mr. **GRIFFIN**. I announce that the Senator from Tennessee (Mr. Brock) and the Senator from Kansas (Mr. Dole) are necessarily absent.

I further announce that the Senator from Utah (Mr. Garn) is absent due to a death in the family.

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 528 Leg.]

YEAS—90

Abourezk
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cranston
Curtis
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—10

Brock
Clark
Culver
Dole
Garn
Hartke
Long
Magnuson
Mondale
Tunney

So the bill (S. 3091), as amended, was passed, as follows:

S. 3091

An act to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Forest Management Act of 1976".

FINDINGS

SEC. 2. The Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476; 16 U.S.C. 1601–1610) is amended by redesignating sections 2 through 11 as sections 3 through 12, respectively; and by adding a new section 2 as follows:

"SEC. 2. FINDINGS.—The Congress finds that—

"(1) the management of the Nation's renewable resources is highly complex and the uses, demand for, and supply of the various resources are subject to change over time;

"(2) the public interest is served by the Forest Service, Department of Agriculture, in cooperation with other agencies, assessing the Nation's renewable resources, and developing and preparing a national renewable resource program, which is periodically reviewed and updated;

"(3) to serve the national interest, the renewable resource program must be based on a comprehensive assessment of present and anticipated uses, demand for, and supply of renewable resources from the Nation's public and private forests and rangelands, through analysis of environmental and economic impacts, coordination of multiple use and sustained yield opportunities as provided in the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528–531), and public participation in the development of the program;

"(4) the new knowledge derived from coordinated public and private research programs will promote a sound technical and ecological base for effective management, use, and protection of the Nation's renewable resources;

"(5) inasmuch as the majority of the Nation's forests and rangeland is under private, State, and local governmental management and the Nation's major capacity to produce goods and services is based on these nonfederally managed renewable resources, the Federal Government should be a catalyst to encourage and assist these owners in the efficient long-term use and improvement of these lands and their renewable resources consistent with the principles of sustained yield and multiple use;

"(6) the Forest Service, by virtue of its statutory authority for management of the National Forest System, research and cooperative programs, and its role as an agency in the Department of Agriculture, has both a responsibility and an opportunity to be a leader in assuring that the Nation maintains a natural resource conservation posture that will meet the requirements of our people in perpetuity; and

"(7) recycled timber product materials are as much a part of our renewable forest resources as are the trees from which they originally came, and in order to extend our timber and timber fiber resources and reduce pressures for timber production from Federal lands, the Forest Service should expand its research in the use of recycled and waste timber product materials, develop techniques for the substitution of these secondary materials for primary materials, and promote and encourage the use of recycled timber product materials.".

REPORT ON FIBER POTENTIAL

SEC. 3. Section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by adding at the end thereof a new subsection (c) as follows:

"(c)(1) The Secretary of Agriculture shall report in the 1960 and subsequent Assessments on the additional fiber potential in the National Forest System. The report shall include, but not be restricted to, forest mortality, growth, salvage potential, potential increased forest products sales, economic constraints, alternate markets, contract considerations, and other multiple-use considerations.

"(2) In developing the report, the Secretary shall provide opportunity for public input, and shall consult with other interested governmental departments and agencies.".

RENEWABLE RESOURCE PROGRAM

SEC. 4. Section 4 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by striking out the word "and" at the end of paragraph (3); striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and the word "and"; and by adding a new paragraph (5) as follows:

"(5) Program recommendations which—

"(A) evaluate objectives for the major Forest Service programs in order that multiple-use and sustained-yield relationships among and within the renewable resources can be determined;

"(B) explain the opportunities for owners of forests and rangeland to participate in programs to improve and enhance the condition of the land and the renewable resource products therefrom;

"(C) recognize the fundamental need to protect and, where appropriate, improve the quality of soil, water, and air resources; and

"(D) state national goals that recognize the interrelationships between and interdependence within the renewable resources.".

NATIONAL FOREST SYSTEM RESOURCE PLANNING

SEC. 5. Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by adding at the end thereof new subsections (c) through (h) as follows:

"(c) The Secretary shall provide for public participation in the development, review, and revision of land management plans.

"(d) Within two years after enactment of this subsection the Secretary shall, in accordance with the producers set forth in section 553 of title 5, United States Code, promulgate regulations, under the principles of the Multiple-Use Sustained-Yield Act of 1960, that set out the process for the development and revision of the land management plans, and the guidelines and standards prescribed by this subsection. The regulations shall include, but not be limited to—

"(1) specifying how the interdisciplinary approach, as required by subsection (b) of this section, will be implemented;

"(2) specifying the type or types of plans that will be prepared and the relationship of those plans to the Program developed pursuant to section 4;

"(3) specifying procedures to insure public participation, as required in subsection (c) of this section;

"(4) specifying procedures to insure that plans are prepared in accordance with the National Environmental Policy Act of 1969, including, but not limited to, direction on when and for what plans an environmental impact statement required under section 102(2)(c) of that Act shall be prepared;

"(5) specifying guidelines which—

"(A) require the identification of the suitability of lands for resource management;

"(B) provide for obtaining inventory data on the various renewable resources, and soil and water, including pertinent maps, graphic material, and explanatory aids; and

"(C) provide for methods to identify special conditions or situations involving hazards to the various resources and their relationship to alternative activities;

"(6) specifying guidelines for land management plans developed to achieve the goals of the Program which—

"(A) insure consideration of the economic and environmental aspects of various systems of renewable resources management, including the related systems of silviculture and protection of forest resources, to provide for outdoor recreation (including wilderness), range, timber, watershed, wildlife and fish;

"(B) provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives;

"(C) recognize the requirements necessary to coordinate the uses on special or unique management areas;

"(D) recognize the need for special provisions to protect soils, water, esthetic, and wildlife resources where conditions are critical for tree regeneration within a reasonable period of time either by natural or artificial means, or where the size of a timber sale, cutting areas, or stand size and species composition are critical in terms of multiple-use impacts;

"(E) specify how the interdisciplinary approach, as required by subsection (b) of this section, will be implemented, including the manner in which the expertise of affected State agencies will be obtained and used in the preparation of land management plans;

"(F) prescribe, according to geographic area, forest types, or other suitable classifications, appropriate systems of silviculture which include, but are not restricted to, thinnings, harvesting of trees and products, regeneration, and other treatment methods;

"(G) insure research on and (based on continuous monitoring and assessment in the field) evaluation of the effects of each management system in use or proposed for use; and provide for the modification or discontinuation of a management system or method when research or evaluation establishes that a management system or method is producing impairment of the productivity of the land;

"(H)(i) provide that the amount of timber to be harvested from any National Forest System lands shall be determined only through the process of preparing land management plans;

"(ii) provide that the allowable harvests on National Forest System lands shall be based only on lands available and suitable for timber production, and the harvest levels are reviewed and adjusted periodically;

"(iii) identify the relative productivity of land for timber production and assure that timber production is not a management goal on lands where the estimated cost of production will exceed estimated economic return: *Provided,* That the estimated cost of production will include only direct timber production costs and not access, protection, revegetation and administration costs for multiple-use purposes; and

"(iv) provide that increases in allowable harvests based on intensified management practices such as reforestation, thinnings, or tree improvement, shall be made only upon demonstration that such practices justify increased allowable harvests, and that the outputs projected are being secured;

"(I) insure that timber will be harvested from National Forest System lands only where—

"(i) soil, slope, or other watershed conditions will not be irreversibly damaged;

"(ii) there is assurance that such lands can be adequately restocked within five years after harvest; and

"(iii) protection is provided for streams, streambanks, shorelines, lakes, wetlands, and other bodies of water from changes in water temperatures, blockages of water courses, and deposits of sediment, where harvests could seriously and adversely affect water conditions or fish habitat; and

"(J) insure that clearcutting (including seed tree cutting, shelterwood cutting, and other cuts designed to regenerate an even-aged stand of timber) will be used as a cutting method on National Forest System lands only where—

"(i) it is determined to be the optimum method to meet the objectives and requirements of the relevant land management plan;

"(ii) the interdisciplinary review has been completed and the potential environmental, biological, esthetic, engineering, and economic impacts on each sale area have been assessed, as well as the impact of the sale on nontimber resources and the consistency of the sale with the multiple use of the general area;

"(iii) clearcut blocks, patches, or strips are shaped and blended to the extent practicable with the natural terrain;

"(iv) there are established according to geographic areas, forest types, or other suitable classifications the maximum size limits for areas to be clearcut in one harvest operation, including provision to exceed the established limits after appropriate public notice and review by the responsible Forest Service officer one level above the Forest Service officer who normally would approve the harvest proposal: *Provided*, That such limits shall not apply to the size of areas harvested as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm; and

"(v) such cuts are carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and esthetic resources, and the regeneration of the timber resource; and

"(7) specifying guidelines to be followed in the preparation and revision of resource plans using an interdisciplinary review.

"(e) (1) In carrying out the purposes of subsection (d) of this section, the Secretary of Agriculture shall appoint a committee of scientists who are not officers or employees of the Forest Service. The committee shall provide scientific and technical advice and counsel on proposed guidelines and procedures to assure that an effective interdisciplinary approach is proposed and adopted. The committee shall terminate upon promulgation of the regulations, but the Secretary may, from time to time, appoint similar committees when considering revisions of the regulations. The views of the committees shall be included in the public information supplied when the regulations are proposed for adoption.

"(2) Clerical and technical assistance, as may be necessary to discharge the duties of the committee, shall be provided from the personnel of the Department of Agriculture.

"(3) While attending meetings of the committee, the members shall be entitled to receive compensation at a rate of $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(f) Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans. Those resource plans and permits, contracts, and other such instruments currently in existence shall be revised as soon as practicable to be made consistent with such plans. When land management plans are revised, resource plans and permits, contracts, and other instruments, when necessary, shall be revised as soon as practicable. Any revision in present or future permits, contracts, and other instruments made pursuant to this section shall be subject to valid existing rights.

"(g) Land management plans and revisions shall become effective thirty days after completion of public participation and publication of notification by the Secretary as required under section 6(c) of this Act.

"(h) The Secretary shall, within one hundred and twenty days after the enactment of section 6(d) of this Act, adopt interim procedures to guide the land management planning process. Prior to the promulgation of the regulations required by section 6(d), management of National Forest System lands shall be in accordance with existing regulations and the interim guidelines when adopted. When necessary, land management plans will be revised as soon as practicable to be in accord with the guidelines specified in section 6(d).".

NATIONAL PARTICIPATION

Sec. 6. Section 8 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended—

(a) by striking out "sixty" in the second sentence of subsection (a) and inserting in lieu thereof the word "ninety"; and by striking out "sixty-day period" in the third sentence of subsection (a) and inserting in lieu thereof "ninety-day period".

(b) by striking out the period at the end of the second sentence of subsection (b) and inserting in lieu thereof the following: ", and the Director of the Office of Management and Budget shall appear before the Committee on Agriculture and Forestry, the Committee on Interior and Insular Affairs, and the Committee on Public Works of the Senate, and the Committee on Agriculture, the Committee on Interior and Insular Affairs, and the Committee on Public Works and Transportation of the House of Representatives to explain the failure to request a budget to meet the policies approved by the Congress.".

RESTORATION OF VEGETATIVE COVER

Sec. 7. Section 9 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by inserting at the end thereof the following new sentence: "On any forest or rangeland in the National Forest System where vegetative cover has been removed by man or natural causes, the Secretary of Agriculture, within a five-year period after such removal, shall report in writing to Congress either the amount of funds necessary to properly restore useful vegetative cover or that such lands are not in need of revegetation, except that areas which are to be used for specific purposes, such as rights-of-way, campgrounds, and reservoirs, or areas where permits or other provisions are made to assure revegetation shall be excluded from the requirements of this sentence.".

TRANSPORTATION SYSTEM

Sec. 8. Section 10 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by inserting "(a)" immediately before the words "The Congress" and inserting at the end thereof new subsections (b) and (c) as follows:

"(b) Unless the necessity for a permanent road is set forth in the forest development road system plan, any road constructed on land of the National Forest System in connection with a timber contract or other permit or lease shall be designed with the goal of reestablishing vegetative cover on the roadway and areas where the vegetative cover has been disturbed by the construction of the road, within ten years after the termination of the contract, permit, or lease either through artificial or natural means. Such action shall be taken unless it is later determined that the road is needed for use as a part of the National Forest Transportation System.

"(c) Roads constructed on National Forest System lands shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources.".

NATIONAL FOREST SYSTEM

Sec. 9. Section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by adding at the end thereof the following new sentence: "Notwithstanding the provisions of the Act of June 4, 1897 (30 Stat. 34; 16 U.S.C. 473), no land now or hereafter reserved or withdrawn from the public domain as national forests pursuant to the Act of March 3, 1891 (26 Stat. 1103; 16 U.S.C. 471), or any act supplementary to and amendatory thereof, shall be returned to the public domain except by an act of Congress.".

RENEWABLE RESOURCES

Sec. 10. Section 12 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by striking out the period at the end of that section and inserting in lieu thereof the following: "and on the date of enactment of any legislation amendatory or supplementary thereto.".

LIMITATIONS ON TIMBER REMOVAL; PUBLIC PARTICIPATION AND ADVISORY BOARDS

Sec. 11. The Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof new sections 13 and 14 as follows:

"Sec. 13. Limitations on Timber Removal.—(a) The Secretary of Agriculture shall limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustaining-yield basis. However, the Secretary may exceed the quantity sales limitation from time to time in the case of any forest so long as the average sales of timber from such forest over any ten-year period do not exceed such quantity limitation. In those cases where a forest has less than two hundred thousand acres of commercial forest land, the Secretary may use two or more forests for purposes of determining the sustained yield.

"(b) Nothing in subsection (a) of this section shall prohibit the Secretary from salvaging timber stands which are substantially damaged by fire, windthrow, or other catastrophe.

"Sec. 14. Public Participation and Advisory Boards.—(a) In exercising his authorities under this Act and other laws applicable to the Forest Service, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs.

"(b) In providing for public participation in the planning for and management of the National Forest System, the Secretary, pursuant to the Federal Advisory Committee Act (86 Stat. 770) and other applicable law, shall establish and consult such advisory boards as he deems necessary to secure full information and advice on the execution of his responsibilities. The membership of such boards shall be representative of a cross section of groups interested in the planning for and management of the National Forest System and the various types of use and enjoyment of the lands thereof.".

CONFORMING AMENDMENTS TO THE FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT OF 1974

Sec. 12. The Forest and Rangeland Renewable Resources Planning Act of 1974 is amended as follows:

(a) Section 6(a), as redesignated by section 2 of this Act, is amended by striking out "section 3" and inserting in lieu thereof "section 4".

(b) Section 8, as redesignated by section 2 of this Act, is amended—

(1) by striking out "section 2" and "section 3" in the first sentence of subsection (a) and inserting in lieu thereof "section 3" and "section 4", respectively;

(2) by striking out "section 3" in subsection (c) and inserting in lieu thereof "section 4"; and

(3) by striking out "section 3" in the first sentence of subsection (d) and inserting in lieu thereof "section 4".

AMENDMENT TO THE ORGANIC ACT

SEC. 13. The twelfth undesigned paragraph under the heading "SURVEYING THE PUBLIC LANDS" in the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476), is hereby repealed.

TIMBER SALES ON NATIONAL FOREST SYSTEM LANDS

SEC. 14. (a) For the purpose of achieving the policies set forth in the Multiple-Use Sustained-Yield Act (74 Stat. 215, as amended) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476, as amended), the Secretary of Agriculture may sell at not less than appraised value, trees, portions of trees, or forest products located on National Forest System lands.

(b) All advertised timber sales shall be designated on maps, and a prospectus shall be available to the public and interested potential bidders.

(c) The length and the other terms of the contract shall be designed to promote orderly harvesting consistent with the principles set out in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended. Unless there is a finding by the Secretary of Agriculture that better utilization of the various forest resources (consistent with the provisions of the Multiple-Use Sustained-Yield Act of 1960) will result, sales contracts shall be for a period not to exceed ten years: *Provided*, That such period may be adjusted at the discretion of the Secretary to provide additional time due to time delays caused by an act of an agent of the United States or by other circumstances beyond the control of the purchaser. The Secretary shall require the purchaser to file as soon as practicable after execution of a contract for any advertised sale with a term of two years or more, a plan of operation, which shall be subject to concurrence by the Secretary. The Secretary shall not extend any contract period with an original term of two years or more unless he finds (A) that the purchaser has diligently performed in accordance with an approved plan of operation or (B) that the extension would be in the public interest.

(d) The Secretary of Agriculture shall advertise all sales unless he determines that extraordinary conditions exist, as defined by regulation, or that the appraised value of the sale is less than $10,000. If, upon proper offering, no satisfactory bid is received for a sale, or the bidder fails to complete the purchase, the sale may be offered and sold without further advertisement.

(e) The Secretary of Agriculture, under such rules and regulations as he may prescribe, is authorized to dispose of, by sale or otherwise, trees, portions of trees, or other forest products related to research and demonstration projects.

(f) Designation, marking when necessary, and supervision of harvesting of trees, portions of trees, or forest products shall be conducted by persons employed by the Secretary. Such persons shall have no personal interest in the purchase or harvest of such products and shall not be directly or indirectly in the employment of the purchaser thereof.

(g) Utilization standards and methods of measurement shall be established for the removal of trees, portions of trees, or forest products to provide for the optimum practical use of the wood material. Such standards shall reflect consideration of opportunities to promote more effective wood utilization, regional conditions, and species characteristics and shall be compatible with multiple use resource management objectives in the affected area. To accomplish the purpose of this subsection in situations involving salvage of insect-infested, dead, damaged, or down timber, the Secretary is authorized to require the purchasers of such timber to make deposits of money, in addition to the payment for the timber, to cover the cost to the United States for design, engineering, and supervision of the construction of needed roads and the cost for Forest Service supervision of the harvesting of such timber. Deposits of money pursuant to this subsection are available until expended to cover the cost to the United States of accomplishing the purposes for which deposited: *Provided*, That any portion of any deposit found to be in excess of the cost of accomplishing the purposes for which deposited shall be transferred to miscellaneous receipts.

VALIDATION OF TIMBER SALES CONTRACTS

SEC. 15. (a) Timber sales made pursuant to the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476), prior to the date of enactment of this Act are hereby validated, subject to the provisions of subsection (b).

(b) The Secretary of Agriculture is directed, in developing five-year operating plans under the provisions of existing fifty-year timber sales contracts in Alaska, to revise such contracts to make them consistent with the guidelines and standards provided for in the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, and to reflect such revisions in the contract price of timber. Any such action shall not be inconsistent with valid contract rights approved by the final judgment of a court of competent jurisdiction.

PAYMENTS TO STATES FOR SCHOOLS AND ROADS

SEC. 16. The sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908, as amended, and section 13 of the Act of March 1, 1911, as amended (35 Stat. 260, 36 Stat. 963, as amended; 16 U.S.C. 500), are each amended by adding at the end thereof, respectively, the following new sentence: "Beginning October 1, 1976, the term 'moneys received' shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.".

ACQUISITION OF NATIONAL FOREST SYSTEM LANDS

SEC. 17. (a) The Act of March 1, 1911 (36 Stat. 961), as amended (16 U.S.C. 480, 500, 513–517, 517a, 518, 519, 521, 552, 563), is amended as follows:

(1) Section 4, as amended, is repealed.

(2) Section 5 is repealed.

(3) Section 6 is amended to read as follows: "The Secretary of Agriculture is hereby authorized and directed to examine, locate, and purchase such forested, cut-over, or denuded lands within the watersheds of navigable streams as in his judgment may be necessary to the regulation of the flow of navigable streams or for the production of timber. The examination for purchase of lands necessary to the regulation of the flow of navigable streams shall be made in cooperation with the Director of the Geological Survey who shall submit a report to the Secretary of Agriculture showing that the control of such lands by the Federal Government will promote or protect the navigation of streams. No deed or other instrument of conveyance of lands referred to herein shall be accepted or approved by the Secretary of Agriculture under this Act until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States for the purpose of preserving the navigability of navigable streams.".

(4) Section 7, as amended, is amended to read as follows: "When the public interests will be benefited thereby, the Secretary of Agriculture is hereby authorized, in his discretion, to accept on behalf of the United States title to any lands within the exterior boundaries of national forests acquired under this Act which, in his opinion, are chiefly valuable for the purposes of this Act, and in exchange therefor to convey by deed not to exceed an equal value of such national forest land in the same State, or he may authorize the grantor to cut and remove an equal value of timber within such national forests in the same State, the values in each case to be determined by him: *Provided*, That before any such exchange is effected notice of the contemplated exchange reciting the lands involved shall be published once each week for four successive weeks in some newspaper of general circulation in the county or counties in which may be situated the lands to be accepted, and in some like newspaper published in any county in which may be situated any lands or timber to be given in such exchange. Timber given in such exchanges shall be cut and removed under the laws and regulations relating to such national forests, and under the direction and supervision and in accordance with the requirements of the Secretary of Agriculture. Lands so accepted by the Secretary of Agriculture shall, upon acceptance, become parts of the national forests within whose exterior boundaries they are located, and be subjected to all provisions of this Act.".

(5) Section 9, as amended, is amended by striking out the following language in the first sentence: "the National Forest Reservation Commission and".

(6) Section 14, as amended, is repealed.

(b) The Secretary of Agriculture shall prepare an annual report of all land purchases and exchanges relating to the National Forest System, and submit the report to the Congress as part of the report prepared in compliance with section 8(c) of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended. The report shall include an evaluation of the purchase price criteria and guidelines utilized by the Secretary of Agriculture for the purpose of forest land acquisition.

AMENDMENT TO THE KNUTSON-VANDENBERG ACT

SEC. 18. Section 3 of the Act of June 9, 1930 (46 Stat. 527; 16 U.S.C. 576b), is amended—

(a) by striking out the word "or" immediately before "(3)" in the first sentence thereof; and

(b) by striking out in the first sentence thereof the colon preceding the proviso and all that follows down through "three years" and inserting in lieu thereof the following: ", or (4) protecting and improving the future productivity of the renewable resources of the forest land on such sale area, including sale area improvement operations, maintenance and construction, reforestation and forest habitat management".

AMENDMENT TO THE ACT OF JUNE 12, 1960

Sec. 19. The Act of June 12, 1960 (74 Stat. 215; 16 U.S.C. 528–531), is amended by adding at the end thereof the following new section:

"Sec. 5. This Act may be cited as the 'Multiple-Use Sustained-Yield Act'.".

AMENDMENT TO THE NATIONAL FORESTS ROADS AND TRAILS SYSTEMS ACT

Sec. 20. Section 4 of the Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 535), is amended by striking out the colon preceding the proviso and all that follows down through "be appropriate".

The title was amended so as to read: "A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes."

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of S. 3091.

The PRESIDING OFFICER. Without objection, it is so ordered.

TETON DAM FAILURE

Mr. CHURCH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3542.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 3542) to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes, as follows:

Page 1, line 5, strike out "parties", and insert: "persons,".

Page 2, line 6, after "property", insert: "directly".

Page 2, line 20, after "States,", insert: "is hereby authorized to and".

Page 3, line 9, after "Secretary", insert: "under this Act".

Page 3, line 11, after "respect", insert: "under this Act but without prejudice under other laws as provided in subsection (f)".

Page 3, line 22, after "matter.", insert: "A release shall not, however, prevent an insurer with rights as a subrogee under its own name or that of the claimant from exercising any right of action against the United States to which it may be entitled under any other laws for payments made to the claimant for a loss arising from the subject matter.".

Page 3, line 23, strike all after "(g)" over to and including line 2 on page 4, and insert: "Any claim for damages which may be payable in whole or in part by a claimant's insurer, shall not be paid by the Secretary unless and until the claimant provides written proof that the insurer has denied the claim or has failed to approve or deny such claim within six months of its presentment, and the claimant assigns to the United States his rights against the insurer with respect to such claim. Upon the acceptance of any payment or settlement under this Act, the claimant shall assign to the United States any rights of action he has or may have against any other third party, including an insurer".

Page 4, line 6, after "sustained", insert: "directly".

Page 4, line 14, strike out all after "(c)" down to and including line 22, and insert: "At the request of a claimant, the Secretary is authorized to make advance or partial payments prior to final settlement of a claim, including final settlement on any portion or aspect of a claim determined to be logically severable. Such advance or partial payments shall be made available under regulations promulgated by the Secretary under section 5, which regulations shall include, but not be limited to, provisions for such payments where the Secretary determines that to delay payment until final settlement of the claim would impose a substantial hardship on such claimant. When a claimant pursues a remedy as provided for in section 9 of this Act, he shall be permitted to retain such advance or partial payments under a final court decision on the merits.".

Page 4, line 24, after "on-farm", insert: "structural".

Page 6, line 8, after "as a", insert "direct.".

Page 6, line 11, after "thereof", insert: ", to the standards and conditions existing immediately prior to the failure of Teton Dam,".

Page 6, line 13, after "Reclamation", insert: "to the extent the cost of repairs or construction are not covered by insurance".

Page 6, line 15, strike out all after "Sec. 8." over to and including line 3 on page 7, and insert: "At the end of the year following approval of this Act and each year thereafter until the completion of the claims program, the Secretary shall make an annual report to the Congress of all claims submitted to him under this Act stating the name of each claimant, the amount claimed, a brief description of the claim, and the status or disposition of the claim including the amount of each administrative payment and award under the Act.".

Page 7, line 4, strike out all after "Sec. 9. (a)" down to and including line 10, and insert: "An action shall not be instituted in any court of the United States upon a claim against the United States which is included in a claim submitted under this Act until the Secretary or his designee has made a final disposition of the pending claim. A pending claim may be withdrawn from consideration prior to final decision upon fifteen days written notice, and such withdrawal shall be deemed an abandonment of the claim for all purposes under this Act. After withdrawal of a claim or after the final decision of the Secretary or his designee on a claim under this Act, a claimant may elect to assert said claim or institute an action thereon against the United States in any court of competent jurisdiction under any other provision of applicable law, and upon such election there shall be no further consideration or proceedings on the claim under this Act.".

Mr. McCLURE. Mr. President, almost 3 months have passed since the failure of the Teton Dam caused heartbreak and chaos in the lives of thousands of people in eastern Idaho. While the Federal agencies have done a tremendous amount of work in temporarily rehabilitating victims of this disaster, the Federal Government continues to have a big responsibility to fulfill. That responsibility is to completely restore the victims to the lifestyle they knew before the disaster by providing fair and just compensation for the losses which occurred. President Ford set the basis for this responsibility by requesting an initial $200 million appropriation to begin relief. At the same time Senator CHURCH and I introduced S. 3542 to provide a definite procedure for compensation and to establish the vehicle for distribution of these claims funds. That bill has passed the Senate, been amended by the House and is now being considered before us today for final passage before going to the President. I know Senator CHURCH joins me in accepting the House amendments to our bill and in urging our colleagues to do the same.

While I support S. 3542, as amended, I must enumerate some of my concerns over the House amendments to our bill. Because of the pressures involved in rapidly introducing and passing this bill and the changing nature of the situation in the disaster area itself, some provisions of the House version need to be defined so that our intent is clear. The claims process is already underway so I want to make certain that the Bureau of Reclamation who administers this claims process is in complete understanding of our intentions.

In section 2, line 6; section 4, line 24; and section 7, line 14 the word "directly" has been inserted. The House report from Judiciary Committee does not clarify the intent of this word adequately. The Senate deliberately omitted the word "direct" because it was our intention that compensation for damages for death, personal injury, loss of income, and property damage should be broadly and flexibly provided. The word "directly" should therefore, be given as broad an interpretation as possible to include such losses as that of tax revenues lost by counties due to the diminution in tax base resulting from the destruction of taxable property, the proportionate damage attributable to the dam failure when other factors that have contributed to damages in specific instances and those losses resulting from damages not immediately discoverable in addition to immediate loss of property by individuals, personal injuries and deaths. S. 3542 already separately provides for loss of income to businesses who have suffered due to the failure of the dam and should not be affected by the word "directly."

In the same regard, I would like to mention more thoroughly the problem in the erosion of the tax base of local governments. This loss will adversely effect the ability of local governments to finance operations to the level before the disaster and the additional operating cost that are needed for recovery purposes.

It should also be noted that assistance from FDAA is in the form of community disaster loans and is limited to not more than 24 percent of the operating budget of a local government for a single year. This is not adequate nor just. We must restore the counties and cities as we would any individual claimant.

Likewise in section 4(d) the word "structural" has been included to define the kinds of farm facilities receiving compensation that were built in anticipation of the services of the Teton project. Many kinds of preproject work must be done in order for a farmer to be prepared to receive water. Thus any investment a farmer has made in preparing for the use of project water, such as leveling land, digging ditches or placing structures, should be included in compensation payments.

We concur with the House Judiciary Committee that the definition of "non-Federal entity" in section 10 of S. 3542, is to include "States and its subdivisions as eligible claimants in the same manner and for the same damages suffered by other claimants under the bill." Counties and the State of Idaho will be eligible to file.

The Bureau of Reclamation, in administering the claims procedure, is requiring that appraisals be done on property damages to determine values. Any costs attributed to the claimant such as the price of appraisals should be included and compensated for under the claims program.

There are other matters that need clarification and we will continue to work closely with the Department of the Interior in making the intent of S. 3542 clear. Above all, I am hoping that our efforts here today in the passage of this bill, the progress of the claims program and all the efforts of the Federal agencies and individuals will continue to come together to provide the kind of relief due the citizens of eastern Idaho.

Mr. CHURCH. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho.

The motion was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL CONFEREES ON H.R. 14262

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the names of Senator Jackson and Senator Thurmond be added as Senate conferees on H.R. 14262, the defense appropriation bill for fiscal 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PRINTING H.R. 8603

Mr. McGEE. Mr. President, I ask unanimous consent that H.R. 8603, the Postal Reorganization Act Amendments of 1976, be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

FARMER-TO-CONSUMER DIRECT MARKETING ACT

Mr. HUMPHREY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 10339.

The PRESIDING OFFICER (Mr. Helms) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 10339) to enourage the direct marketing of agricultural commodities from farmers to consumers, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. HUMPHREY. I move that the Senate insist upon its amendments and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Talmadge, Mr. Huddleston, Mr. McGovern, Mr. Humphrey, Mr. Clark, Mr. Dole, Mr. Young, and Mr. Bellmon conferees on the part of the Senate.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of the following unobjected to items on the calendar; Calendar Nos. 1058, 1069, 1073, 1074, 1080, 1085, 1086, and 1093.

The PRESIDING OFFICER. Without objection it is so ordered.

TRANSFER OF NAVAL VESSELS TO FOREIGN GOVERNMENTS

The bill (S. 3734) to approve the sale of certain naval vessels, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President may sell, subject to such terms and conditions as he may determine and at a price not less than the value thereof in United States dollars, three destroyers to the Government of Argentina; two landing ships dock and one auxiliary repair dry dock to the Government of the Republic of China; one destroyer to the Government of Colombia; four destroyers to the Government of the Federal Republic of Germany; seven destroyers and two tank landing ships to the Government of Greece; one repair ship and one auxiliary repair dry dock to the Government of Iran; seven destroyers and one landing craft repair ship to the Government of the Republic of Korea; two destroyers to the Government of Pakistan; one landing craft repair ship and one inshore patrol craft to the Government of the Philippines; five destroyers and three tank landing ships to the Government of Spain; one landing craft repair ship, one tank landing ship, and one auxiliary repair dry dock to the Government of Venezuela.

(b) All expenses involved in the sales authorized by this Act shall be charged to funds provided by the recipient government. The authority of the President to sell vessels under this Act shall terminate two years after the date of enactment of this Act.

Sec. 2. Subsection (b)(1) of section 7307 of title 10, United States Code, is amended by striking out "2,000" and inserting in lieu thereof "3,000".

LEO J. CONWAY

The Senate proceeded to consider the bill (S. 3146) for the relief of Leo J. Conway, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 5, strike "$30,000" and insert "$5,000", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $5,000 to Leo J. Conway of Cleveland, Ohio, in full satisfaction of all claims against the United States of the said Leo J. Conway arising out of the crash of an airplane of the United States Government which the said Leo J. Conway, as an employee of the Department of Treasury, was flying over Ashtabula, Ohio, on April 29, 1919, in connection with the promotion of the Victory Liberty Loan Campaign.

Sec. 2. No part of the amount appropriated by this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of this section shall be a misdemeanor punishable by a fine in any amount not exceeding $1,000.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LEADVILLE MINE DRAINAGE TUNNEL ACT OF 1976

The Senate proceeded to consider the bill (S. 3394) to authorize engineering investigation, stabilization, and rehabilitation of the Leadville Mine drainage tunnel and the construction of facilities for the treatment of the drainage effluent, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike all after the enacting clause and insert the following:

That the Secretary of the Interior is authorized and directed to rehabilitate the federally owned Leadville Mine Drainage Tunnel, Lake County, Colorado, by installing an appropriate structurally sound tunnel section extending from the portal of said tunnel for the distance required to enter structurally competent geologic formations. The Secretary is further authorized and directed to investigate the requirements for further rehabilitation, to maintain the tunnel in a safe condition, and to monitor the quality of the tunnel discharge.

Sec. 2. Such investigations and activities as are directed in section 1 of this Act shall be carried out in consultation with the Governor of Colorado.

Sec. 3. There is authorized to be appropriated $2,750,000 (January 1976 price levels) plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved, for the rehabilitation of the tunnel. There is also authorized to be appropriated such sums as are necessary for maintenance of the rehabilitated tunnel, for investigations of the requirements for further rehabilitation, for monitoring and investigations of water quality leading to recommendations for treatment measures if necessary to bring the quality of the tunnel discharge into compliance with applicable water quality statutes. Expenditures from funds authorized to be appropriated by this Act, and such sums as have heretofore been expended for emergency work on the Leadville Mine Drainage Tunnel by the Bureau of Reclamation, shall be nonreimbursable.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: A bill to authorize the Secretary of the Interior to undertake the investigations, construction, and maintenance necessary to rehabilitate the Leadville Mine Drainage Tunnel, Colorado, and for other purposes.

TREASURY INTEREST ADJUSTMENT

The bill (S. 3669) to provide for adjusting the amount of interest paid on funds deposited with the Treasury of the United States as a permanent loan by the Board of Trustees of the National Gallery of Art, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to authorize the acceptance of a permanent loan to the United States by the Board of Trustees of the National Gallery of Art, and for other purposes", approved April 10, 1943 (20 U.S.C. 74a), is amended by striking out "the rate of 4 per centum per annum," and inserting in lieu thereof "a rate which is the higher of the rate of 4 per centum per annum or a rate which is .25 percentage points less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding long-term marketable obligations of the United States, adjusted to the nearest one-eighth of 1 per centum,".

WASHINGTON-ROCHAMBEAU HISTORIC ROUTE

The concurrent resolution (H. Con. Res. 225) to recognize the Washington-Rochambeau Historic Route, was considered and agreed to.

The preamble was agreed to.

FREDERICK LAW OLMSTED HOME AND OFFICE NATIONAL HISTORIC SITE

The Senate proceeded to consider the bill (S. 400) to establish the Frederick Law Olmsted Home and Office in Brookline, Mass., as a national historic site, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert the following:

That the Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within one year from the date of enactment of this bill a feasibility/suitability study of the Frederick Law Olmsted Home and Office as a national historic site. The study shall include cost estimates for any necessary acquisition, operations and maintenance, and development as well as any alternatives.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to direct the Secretary of the Interior to conduct a one-year feasibility/suitability study of the Frederick Law Olmsted Home and Office as a national historic site."

NATIONAL MUSEUM OF AFRO-AMERICAN HISTORY AND CULTURE

The Senate proceeded to consider the bill (S. 3419) to authorize the Secretary of the Interior to establish and operate a National Museum of Afro-American History and Culture at or near Wilberforce, Ohio, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert the following:

That the Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within one year from the date of enactment of this bill a feasibility/suitability study of a National Museum of Afro-American History and Culture at or near Wilberforce, Ohio. The study shall include cost estimates for any necessary acquisition, operations and maintenance, and development as well as any alternatives.

Mr. TAFT. Mr. President, I am happy to join with my colleague from Ohio in support of S. 3419, to establish and operate a National Museum and Repository for Afro-American History and Culture near Wilberforce, Ohio.

I have been involved in and concerned about this legislation for a number of years. In 1970, I introduced this bill, and again in the 93d Congress. Unfortunately, no action was taken on those bills in either House, although Congressman CLARENCE J. BROWN sponsored it in the House as well.

Of the hundreds of museums in America representing different facets of American life, there is no national museum which concentrates on the contributions to our culture made by Afro-Americans. There is no national museum containing representative samples of black contributions to the arts, letters, science, technology, religion, politics, education, and entertainment.

This bill would authorize the Secretary of the Interior to conduct a 1-year feasibility/suitability study for the museum.

The museum would be established in or near Wilberforce, Ohio, which was a center for the abolition movement and the main line of the underground railroad which assisted slaves fleeing to the North in the mid-1980's.

Wilberforce and Central State Universities, located in Wilberforce, are both strongly supporting this proposal. It has also been supported by the State legislature in Ohio, which passed a bill to create the museum in 1972. The Ohio Association for the Study of Afro-American Life and History, with chapters in Cleveland, Toledo, Columbus, Cincinnati, and Wilberforce, are also supporting this bill.

This museum will serve as a lasting and appropriate recognition of the great and growing achievements of Afro-Americans in our country. It will provide a source of pride for all Americans, black and white, and underline the contributions of American blacks to our society.

Mr. GLENN. Mr. President, as a co-author, with Senator TAFT of S. 3419, a bill to establish and operate a National Museum of Afro-American History and Culture at Wilberforce, Ohio, I am pleased to speak today in complete support of this bill which authorizes an immediate feasibility and suitability study for such a museum.

I am most gratified, however, that this year, with a broad base of support, and as a member of the Interior Committee, that we will enact this legislation and begin this highly significant and needed project in Wilberforce.

Mr. President, let me begin by stressing that this project is more than simply a "regional project" or an "Ohio project." This is a national project to be located at a place in Ohio that has tremendous national significance to our black and white populations. I believe that this point is illustrated by the broad geographic range represented by the distinguished members of the congressional Black Caucus who are cosponsors of this legislation. I speak not only of Congressman STOKES from my home State, but of Congressmen DELLUMS and HAWKINS from California, Congressmen CONYERS and DIGGS from Michigan, Congressman RANGEL from New York, Congressman NIX from Pennsylvania, and Congressman MITCHELL from Maryland.

Additionally, we have received testimony in support of S. 3419 from Prof. Joseph Harris, chairman of the history department at Howard University, and from Mr. Ron Brown, of the National Urban League. This broad base of support is indicative of the great need for such a museum and in recognition of the role that Wilberforce, Ohio, has had in U.S. history. Not only did Wilberforce serve as the key station on the underground railroad, but has served as a significant educational center for blacks from the days when it was a criminal offense in some States to teach blacks to read, to the present.

Wilberforce University was one of the first universities organized by and for black Americans. Wilberforce, Ohio, is also the home of Central State University and Payne Theological Seminary. It would be most appropriate for Wilberforce, Ohio to serve as the people of the United States central repository for historic objects, relics and records pertaining to Afro-American history and culture.

Mr. President, in late May, my legislative assistant, Mr. Reginald Gilliam, was the guest speaker at a luncheon that was part of a highly significant program entitled "Blacks in Ohio History." At that conference, several distinguished panels of scholars presented a wealth of information on Ohio's black population's contributions to Ohio and to our Nation. Naturally, the name "Wilberforce" was featured prominently.

I believe that we have ample evidence justifying the selection of Wilberforce as the location for this museum. The next question to be answered is why is this museum needed? To my knowledge there is no national repository in recognition of the many-faceted achievements, accomplishments, and contributions of black Americans. Twenty-five million Americans, with a rich and substantive history, yet their great history has long gone unrecognized or has been viewed in scattered and piecemeal fashion. We need this museum and we need it now. It will provide a focal point of justifiable pride for a new awareness of the historic and present significance of the black American in the United States.

And, now is the time to act, time to help the black community assume its rightful place in the mainstream of U.S. society. The problems of black Americans have not ended. There has been progress but there is still racial discrimination and neglect; there are still problems of housing, unemployment, and health care; there is still a black median income that is 58 percent that of white families. Let us not delude ourselves, a museum will not solve those problems.

A national museum can, however, provide a source of pride and inspiration to Americans, black and white. It can serve as a motivating force and as a constant reminder of the strength and achievements of the black population. A national museum can serve as a national restatement of our goal to assure that American blacks history and past and present achievements and culture are thought of and are treated as an integral, vital part of our whole society.

Finally, Mr. President, establishing this museum near Xenia makes sound economic sense. In 1974, Xenia and much of Central State University and Wilberforce College were devastated by one of the worst tornadoes in U.S. history. The people of the area black and white, have worked to breathe new life into the area. It would be a great boon to the area's economy, and to the heartland of Ohio to have this great center attract many thousands of tourists. The area is easily accessible from all directions. It is beautiful, lush countryside and is historically significant.

Mr. President, I hope that the House will quickly concur in authorizing a study of this important project's feasibility. The Afro-American museum is an idea that has been circulating for several years, and we now have the opportunity to review and launch what I consider to be a significant, yet delayed project that can better the cultural and educational understanding of all Americans.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time, and passed.

The title was amended so as to read: "A bill to direct the Secretary of the Interior to conduct a one-year feasibility/suitability study of a National Museum of Afro-American History and Culture at or near Wilberforce, Ohio."

VALENTYN MOROZ

The resolution (S. Res. 67) concerning the safety and freedom of Valentyn Moroz, Ukrainian historian, was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas Valentyn Moroz, historian, writer, and spokesman for the cultural integrity of the Ukrainian people, is currently imprisoned in the Soviet Union on the charges of anti-Soviet agitation and propaganda; and

Whereas such charges are without basis as in his valiant attempts to preserve and defend the rights of the Ukrainian people and the culture of the Ukraine and to defend the principle of basic human rights, Valentyn Moroz has done no more than exercise rights granted him by the Constitution of the United Soviet Socialist Republics: Now, therefore, be it

Resolved, That the Senate requests the President to express the concern of the United States Government for the safety and freedom of Valentyn Moroz, historian, writer, and spokesman for the cultural integrity of the Ukrainian people.

SEC. 2. The Secretary of the Senate shall transmit copies of this Resolution to the President and the Secretary of State.

S. 3197—ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE — UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of Calendar No. 1094, S. 3197, there be a time limitation of 30 minutes on the bill, 20 minutes on amendments, and 10 minutes on amendments to amendments, motions, and appeals, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS, 1977—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, it is my understanding that under a previous agreement we now proceed to the consideration of the conference report on Labor and HEW appropriations.

The PRESIDING OFFICER (Mr. HELMS). The Senator is correct. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14232) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of August 3, 1976, beginning at page 25363.)

Mr. MANSFIELD. Mr. President, as I understand the situation, there will be 1 hour for the consideration of the conference report, and that the time will be equally divided, with 30 minutes to the Senator from Oregon (Mr. PACKWOOD), and 15 minutes each respectively, to the managers of the bill (Mr. BAYH and Mr. BROCK). The total 1 hour will be on amendment in disagreement No. 68.

The PRESIDING OFFICER. The Chair will state to the distinguished majority leader that the time on amendment in disagreement No. 68 is to be limited to 1 hour. The time on the adoption of the conference report and all other amendments in disagreement is limited to a total of 30 minutes. The agreement is as follows:

Ordered, That, during the consideration of the conference report on H.R. 14232, the Labor-HEW Appropriations Bill, debate on the question of the adoption of the conference report and all amendments in disagreement shall be limited to a total of 30 minutes, to be equally divided and controlled by the manager of the conference report and the Minority Leader or his designee.

Ordered further, That debate on the amendment in disagreement, No. 68, shall be limited to 1 hour, to be divided and controlled with 30 minutes to the Senator from Oregon (Mr. Packwood), 15 minutes to the Senator from Indiana (Mr. Bayh), and 15 minutes to the Senator from Massachusetts (Mr. Brooke), and with time on any amendment, debatable motion, or appeal thereto being limited to 30 minutes, to be equally divided and controlled by the manager of the conference report and the Minority Leader or his designee.

Mr. BAYH. Mr. President, I submit a report of the committee of conference on H.R. 14232 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. PERCY). The conference report has been placed before the Senate. Who yields time?

Mr. BAYH. Mr. President, I yield myself such time as I may use.

First, I ask unanimous consent to have printed in the RECORD a comprehensive statement by the distinguished subcommittee chairman, the senior Senator from Washington (Mr. MAGNUSON), who is in the hospital having his annual physical examination. I wish to assure the Senate that he is alive and well and strong as a bull. As we know, in the finest tradition of Warren Magnuson, he is a stouthearted character and will return to the Senate in a very few days.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR MAGNUSON

This is the very important Labor-HEW Appropriations bill which affects the lives of virtually every man, woman, and child in the country.

The bill totals $56.6 billion, an increase of nearly $4 billion over the President's budget, and $3 billion over last year's appropriation. This is less than a 6 percent increase, which barely keeps pace with inflation. Yet, the conference agreement retains many of the Senate priorities, which I will discuss in a moment. Nearly half the Senate increases, 44 percent, were sustained in conference. We kept the bill total down by making selective cuts and shifting funds to areas of most urgent need.

I want to emphasize that the bill is well within Congress' own budget ceiling. However, when we look down the road at possible supplementals, it appears we may end up the year very close to the budget ceiling.

But a budget ceiling was not our primary concern as we developed this bill, instead, we looked at each of the more than 400 major programs in terms of the most pressing needs that a decent society should fulfill. Briefly, I will describe the priorities contained in this bill.

LABOR

With more than 7 million people unemployed, we could not accept the President's proposals to cut back employment and training programs. Instead of abolishing the Jobs for the Elderly program as proposed by the budget, we provided 22,600 jobs, a 50 percent increase. Instead of laying off thousands of employment service staff as proposed by the budget, we provided for strengthened employment services, including expanded computerized job matching activities. The bill includes one million jobs for disadvantaged youth next summer, an all-time record, as well as half a million job training opportunities for the unemployed. For the first time in years, the Job Corps will have more enrollees, not less.

We added 178 new Federal compliance staff over the President's budget to better enforce occupational safety and health laws. At the same time, we provided relief to employers by eliminating fines the first time businesses are cited for less than ten non-serious violations. Farming operations with less than ten employees were exempt from OSHA inspections.

HEALTH

This bill contains the most comprehensive preventive medicine program we have ever funded. Over $5 billion has been provided for priority service, prevention, research, community and training programs.

This bill also includes funding for new initiatives in hypertension, research, treatment and control programs. With this money, a new central office should be set up to conduct pilot demonstration programs to test just how effective our hypertension projects are.

Over $52 million was provided to fund the newly-enacted Disease Control and Health Education Act, which includes venereal disease, immunization, rat control and lead-based paint poisoning prevention programs.

The National Institutes of Health will receive $2.5 billion to continue and expand our medical research programs which study nearly all diseases and search for prevention and treatment methods.

We are making good progress on many tragic diseases, such as stroke, heart disease, cancer and eye disorders. These funds will allow the United States to maintain our research momentum and continue to strive for the keys which unlock the doors to effective disease control.

Many community treatment and prevention centers are also covered by the bill. Community Health, Mental Health and Drug programs are becoming an integral part of a growing national network which serves millions of people yearly. For these programs, nearly $750 million has been provided.

EDUCATION

For as far back as I can recall, we have never had a bill that is far-reaching in the area of education. Millions of needy children who never received help will be covered.

We were not content with sitting back and letting the local schools bear all the responsibility for our handicapped. We have launched a new effort to encourage communities to help preschool handicapped children receive a full range of services. This appropriations measure will help states provide educational services to nearly 7 million handicapped, school-age children.

The bill includes $2.3 billion under the Title I program to assist over 6 million disadvantaged children—those from poor families, migrant and Indian children, and children in state institutions. Right now, these children are starting out at a disadvantage and these funds will help put them on an equal footing with their classmates.

This bill includes $85 million to provide education services for 1.2 million needy adults. Probably one of the saddest statistics for me to read is that 52 million Americans are functionally illiterate; they cannot get along well in this society because they cannot read. Along these lines, we have boosted to expand library services, particularly in rural areas that have no access to books.

HUMAN DEVELOPMENT

We more than doubled the budget request for Administration on Aging programs, from $192 million to $405 million. This includes $151 million for community services programs, providing a wide range of comprehensive services to the elderly. A $225 million nutrition for the elderly program will provide a record half a million daily, hot, nutritious meals for elderly persons.

For vocational rehabilitation programs, we provided $837 million, including $740 million for basic state grants and substantial increases over current funding levels for research, training, and special projects.

The bill also includes $475 million to continue and expand local Head Start projects throughout the Nation.

INCOME MAINTENANCE

As usual, the bill contains massive amounts for mandatory benefit programs, including: $5.9 billion for unemployment compensation; $13.5 billion for social security programs; and $18.5 billion for public assistance. Additional billions not counted in our bill totals are also expended from the trust funds for these programs.

POVERTY

For the anti-poverty programs of the Community Services Administration, a total of $511,170,000 has been provided. Besides continuing basic support for nearly one thousand local community action agencies, we have expanded both the emergency food and energy conservation programs. In addition, we have for the first time since enactment of the Community Services Act earmarked funds for carrying out services specified by that legislation for migrants and seasonal farmworkers.

For domestic volunteer programs of the ACTION Agency, we have expanded service opportunities for Older Americans and provided Volunteers in Service to America with cost-of-living increases in their subsistence allowances.

OTHER

We recommend $103 million for the Corporation for Public Broadcasting for 1977, $107 million for 1978, and $120 million for 1979. These funding levels will provide substantial increases in Federal assistance for public radio and television stations throughout the United States.

The conference agreement contains $20 million for HEW policy research. This is much more than the original Senate allowance, due largely to the quality of information we received from experts in the field rather than from the inadequate data supplied by HEW.

CONCLUSION

Mr. President, I have described the principal reasons why we have a bill which is $4 billion over the President's budget. We could not bury our heads in the sand and pretend there is a lesser need today to provide for the most fundamental human services. The unmet needs are still enormous, to better provide opportunities for all Americans to more fully share the richness of life that makes our Nation so great.

I hope the Senate will approve this conference report and I hope the President will sign the bill. This bill demonstrates our country's compassion and strength. It should be a source of confidence and commitment, not a cause of contention.

Mr. BAYH. I might, for the edification of my colleagues, just briefly summarize this matter, and then yield to the distinguished ranking Republican member of the subcommittee, the junior Senator from Massachusetts (Mr. Brooke), who has labored diligently with the Senator from Washington in the conference.

Earlier this week—Monday, August 23—I stated my views on this bill; however, I would like to reemphasize its importance. Most certainly, this is a large sum of money—the bill totals $56.6 billion. But beyond that, it is a "people bill." It is an investment in the health and well-being of every citizen in this country. Every dollar invested now will save many more which would otherwise be spent on welfare, medicaid, or unemployment benefits. In short, what we are here to vote on is the enlargement of this Nation's strength and opportunities.

Those of us on the committee worked hard to develop the best bill possible. We did this in the face of a very shortsighted, very restrictive budget submitted by the President. We also managed to stay within the overall spending limitations of the first budget resolution.

Personally, I am pleased to see that this bill contains funds to step up the battle against infectious and communicable diseases, particularly those which strike at our youth. This is an area where something can and must be done.

I yield at this time to the distinguished Senator from Massachusetts.

Mr. BROOKE. I thank my distinguished colleague from Indiana.

Mr. President, I am glad to join with Senator Magnuson in recommending adoption of the conference report on H.R. 14232, the fiscal year 1977 Labor HEW appropriations bill.

This is a bill of major importance to the Nation. It is a measure which tends to the human needs of the people of the United States providing funds for both training and jobs for the unemployed, for medical care and medical research, for education at all levels, and for assistance to the poor and near poor, to cite only several of the major areas covered.

The bill as it stands after conference totals $56,618,207,575. This is $3,999,999,575 above the very low budget requests of the administration, and $412,995,575 over the level recommended by the House. However, the final bill is below the Senate's level by $593,431,000 and it is well below the congressional ceiling for Labor-HEW.

As I am sure many know, we have come through a long and difficult conference with the House. There were 76 Senate amendments to the House bill, and these were resolved only after lengthy debate.

Still, the Senate was able to prevail on some 44 percent of its increases to the House bill. For health, 47 percent of the Senate increases over the House were sustained by the conference committee. The percentage of Senate increases sustained in the education area is 46 percent.

Thus while the Senate did not get all it felt was necessary, I believe we have come out with a reasonable bill and one we can live with. Let me briefly relate some of the specific results of the conference.

LABOR

Since both bodies had agreed to a level of $90.6 million for the jobs for the elderly program, the amount of funding was not an issue in conference. However, there was a question as to whether all of the funds should continue to be administered by national contractors or whether State and local government should receive a share, as provided by law. The conferees resolved this by providing that 18,800 jobs will go to national contractors and that 3,800 jobs be allocated to the States according to the formula in the basic law. I am advised that this language will permit the Labor Department to enter into contracts with public and private nonprofit organizations, as well as those serving black, Spanish-speaking, and other minority groups seeking to operate jobs for the elderly programs. I believe this is appropriate.

On occupational safety and health, we provide $3.5 million for 178 additional personnel for the OSHA compliance effort. The conferees also resolved several language problems by providing for elimination of penalties for first instance, nonserious violations except where a business is found to have 10 or more such violations. The conferees also adopted House language exempting farms with 10 or fewer employees from regulation and enforcement under the OSHA law.

HEALTH

In health, we agreed to an increase of $35 million over the House level for grants to the States under the Health Services Administration. Funds are allocated to continue the important research into sudden infant death syndrome and to expand the research and training efforts of the university affiliated facilities which serve the multiple-handicapped and retarded child.

Family planning services will be increased by $13 million which is the first addition to this budget in several years. New efforts in dealing with hypertension will be assisted by a $9 million program level in fiscal year 1977.

Because of a lack of authorization, the House did not consider project grants for VD, childhood immunization programs, rat control or lead-based paint poison prevention. However, the authorization was enacted in time for the Senate to fund these programs and the conference agreed to provide $52.5 million for these activities in the coming year.

For the National Institutes of Health, the conferees accepted $90 million of the $215 million Senate increase over the House.

For cancer, the conference agreement is $815 million. This is a $41.5 million increase over the House level of $773.4 million. I was glad the conferees agreed with my effort to increase the National Cancer Institute budget over the $800 million level. Cancer continues to be the leading cause of death after heart disease and one of the leading causes of death in children. It is a major killer, and we must not let up our efforts to conquer it.

According to the NCI, the $815 million level will allow for the expansion of research into the cause and prevention and detection and diagnosis of cancer, and in the treatment of cancer victims. NCI says the funds will further encourage research into the promising areas of nutrition and pain control and will support a greater effort in identifying environmental causes of cancer.

The conferees also agreed to substantial increases in the budgets of the National Heart and Lung Institute, the National Eye Institute and the National Institute of Child Health and Human Development in light of the promising research being carried out in these areas.

For the Alcohol, Drug Abuse and Mental Health Administration $763 million will be available in fiscal year 1977 to continue research, training, and community programs. These funds also will allow for much needed expansion of community mental health clinics into areas not yet served by these facilities.

The newly established health systems agencies should be better able to carry out the many responsibilities assigned to them by virtue of a $5 million increase over the House allocation for these activities.

Since most of the health manpower programs are not yet reauthorized, the conference bill provides funds only for the nursing programs: Capitation and educational research grants, contracts and fellowships. Funding for the other health manpower programs must await the enactment of the necessary authorizing legislation.

EDUCATION

The conferees provide $2.285 billion for grants to disadvantaged students. The increase is $385 million over the budget level and $35 million over the House. Even with this substantial increase, more than 3 million students remain unserved by what recent analyses indicate is a generally successful program.

I was pleased the conferees agreed to increase funding for emergency desegregation assistance from the House level of $21.5 million to a total of $35.7 million. The additional funds are needed as more and more school districts come under court orders to desegregate their systems. And I believe the conferees recognize that it may be necessary to provide even more funds for this assistance in the future.

The conferees also provide increases over the House for education for the handicapped: An additional $15 million for basic grants and $12.5 million for a new program to reach preschool children. For specific learning disabilities, the House gave us $4 million of the $5 million Senate increase for this important program. The fiscal year 1977 level will be $9 million.

The Senate conferees also were successful in getting an additional $3.5 million for adult education for a total level of $80.5 million. It is indeed disturbing that an estimated 52 million American adults have difficulty functioning in society because they cannot read properly. The adult education funds will help provide basic math and reading instruction to many of these persons. For some States such as Massachusetts, the additional funds could mean the first increase they have received for this program in several years.

The Senate conferees also were able to secure an additional $3 million for public libraries and an additional $7 million for school library resources over the amounts provided by the House. I also was pleased that the House agreed to increase funding for aid to land-grant colleges by $2 million over its own level of $9.5 million.

PUBLIC ASSISTANCE, HUMAN DEVELOPMENT, AND OTHER HEW AREAS

The conference committee, I am glad to report, provides additional funds to enable the States to expand foster care and other services for abused children. An additional amount also is provided for training people to care for children in need. These two items go hand-in-hand.

We also provide additional funds for youth development, aging, vocational rehabilitation, and developmental disabilities. I am pleased that the conference committee allows $20 million to continue experimental projects in the areas of income maintenance and health insurance. We look forward with interest to the results of both.

RELATED AGENCIES

The conferees provide an increase of $15.1 million over the House for the Community Services Administration. Our increase provides additional funds for nutrition for the poor and for community economic development. We provide $27.5 million for emergency energy conservation, but only for a 6-month period. It is expected that additional funds will be provided in a future supplemental.

The bill provides increases for the ACTION agency and additional amounts for the Corporation for Public Broadcasting.

The conferees were in disagreement on one item—the House language on abortion. In my view such language most probably is unconstitutional and has no place in this or any other bill.

All in all, I believe we have come out of conference with a supportable bill. I believe the level of the bill is a reasonable one given the problems we face in the areas of human welfare. I urge the Senate to adopt the conference report and the President to sign the measure we send him.

Mr. President, I hope the President will see fit to sign this bill into law. As I have said, we feel the budget request was not a reasonable one under the circumstances, and we have done our very best, with the House conferees, to come up with a bill that will serve the needs of this Nation and at the same time be one which the President can in good conscience sign into law.

I reserve the remainder of my time.

Mr. BAYH. Mr. President, I ask unanimous consent to have printed in the RECORD a summary of the provisions of the conference report as agreed to by the conferees.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1976 AND BUDGET ESTIMATES FOR 1977

PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY—FEDERAL FUNDS

[Becomes available automatically under earlier, or "permanent" law without further, or annual, action by the Congress. Thus these amounts are not included in the accompanying bill]

Agency and item (1)	New budget (obligational) authority, 1976 (2)	Budget estimate of new (obligational) authority, 1977 (3)	Increase (+) or decrease (−) (4)
Office of Education:			
Payments to States and territories for colleges of agriculture and mechanic arts (act of Mar. 4, 1907)	$2,700,000		−$2,700,000
Payments to States for promotion of vocational education (act of Feb. 23, 1917)	7,161,000	$7,161,000	
Payment of participation sales insufficiencies, indefinite (Independent Offices Appropriation Act, 1967)	1,220,000	1,282,000	+62,000
Total, permanent new budget (obligational) authority, Federal funds	11,081,000	8,443,000	−2,638,000

PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY—TRUST FUNDS

[Becomes available automatically under earlier, or "permanent," law without further, or annual, action by the Congress. Thus these amounts are not included in the accompanying bill]

Agency and item	New budget (obligational) authority, 1976	Budget estimate of new (obligational) authority, 1977	Increase (+) *or* decrease (−)
DEPARTMENT OF LABOR			
Employment and Training Administration: Unemployment trust funds	$16,700,466,000	$16,000,000,000	−$700,466,000
Special workers' compensation expenses	2,751,000	3,414,000	+663,000
Gifts and bequests, National Commission for Manpower Policy	125,000	125,000	
Total, Department of Labor	16,703,342,000	16,003,539,000	−699,803,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE			
Assistant Secretary for Health: Public Health Service trust funds	1,527,000	1,600,000	+73,000
Office of Education: Special statistical compilations and surveys	60,000	100,000	+40,000
Social Security Administration:			
Federal old-age survivors insurance trust fund	62,383,422,000	71,812,031,000	+9,428,609,000
Federal disability insurance trust fund	8,398,725,000	9,525,000,000	+1,126,275,000
Federal hospital insurance trust fund	13,609,540,000	15,726,008,000	+2,116,468,000
Federal supplementary medical insurance trust fund	4,945,975,000	7,312,000,000	+2,366,025,000
Total, Department of Health, Education, and Welfare	89,339,249,000	104,376,739,000	+15,037,490,000
RAILROAD RETIREMENT BOARD			
Railroad retirement account	3,274,330,000	3,735,600,000	+461,270,000
SOLDIERS' AND AIRMEN'S HOME			
Payment of claims	5,000	5,000	
Total, permanent new budget (obligational) authority, trust funds	109,316,926,000	124,115,883,000	+14,798,957,000

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS BILL, 1977

TITLE I—DEPARTMENT OF LABOR

						Increase (+) or decrease (−), Conference Committee compared with—			
Agency and item (1)	1976 comparable appropriation (2)	1977 budget estimate (3)	House allowance (4)	Senate allowance (5)	Conference agreement (6)	1976 comparable appropriation (7)	Budget estimate (8)	House allowance (9)	Senate allowance (10)
EMPLOYMENT AND TRAINING ADMINISTRATION									
Program Administration									
Planning, evaluation and research	$5,241,000	$5,034,000	$5,006,000	$5,006,000	$5,006,000	−$235,000	−$28,000		
Comprehensive employment development	33,046,000	33,805,000	34,109,000	34,151,000	34,109,000	+1,063,000	+304,000		−$42,000
Apprenticeship services	11,874,000	12,335,000	12,335,000	12,461,000	12,335,000	+461,000			−126,000
U.S. employment service	640,000	667,000	669,000	961,000	669,000	+29,000	+2,000		−292,000
Unemployment insurance service	271,000	1,185,000	1,275,000	1,337,000	1,275,000	+1,004,000	+90,000		−62,000
Investigation and compliance	647,000	751,000	708,000	732,000	708,000	+61,000	−43,000		−24,000
Executive direction and management	15,905,000	15,603,000	15,672,000	15,726,000	15,672,000	−233,000	+69,000		−54,000
Total	67,624,000	69,380,000	69,774,000	70,374,000	69,774,000	+2,150,000	+394,000		−600,000
Trust fund transfer	(30,323,000)	(31,487,000)	(30,887,000)	(30,887,000)	(30,887,000)	+564,000	−600,000		
Employment and Training Assistance									
State and local programs	1,980,000,000	1,980,000,000	2,280,000,000	2,280,000,000	2,280,000,000	+300,000,000	+300,000,000		
(Title I—Comprehensive employment service)	(1,580,000,000)	(1,580,000,000)	(1,880,000,000)	(1,880,000,000)	(1,880,000,000)	(+300,000,000)	(+300,000,000)		
(Title II—Public employment programs)	(400,000,000)	(400,000,000)	(400,000,000)	(400,000,000)	(400,000,000)				
National programs:									
National training programs	365,890,000	371,960,000	394,460,000	394,460,000	394,460,000	+28,570,000	+22,500,000		
(Job Corps)	(175,000,000)	(175,000,000)	(197,500,000)	(197,500,000)	(197,500,000)	(+22,500,000)	(+22,500,000)		
Program support	42,440,000	42,370,000	42,370,000	42,370,000	42,370,000	−70,000			
Summer youth employment program	528,420,000	400,000,000	595,001,000	595,000,000	595,000,000	+66,580,000	+195,000,000	−$1,000	
Total	2,916,750,000	2,794,330,000	3,311,831,000	3,311,830,000	3,311,830,000	+395,080,000	+517,500	−1,000	

						Increase (+) or decrease (−), Conference Committee compared with—			
Agency and item	1976 comparable appropriation	1977 budget estimate	House allowance	Senate allowance	Conference agreement	1976 comparable appropriation	Budget estimate	House allowance	Senate allowance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Temporary employment assistance	$2,825,000,000					−$2,825,000,000			
Community service employment for older Americans	85,900,000		$90,600,000	$90,600,000	$90,600,000	+4,700,000	+$90,600,000		
Federal Unemployment Benefits and Allowances									
Payments to former Federal personnel	384,000,000	$440,000,000	440,000,000	440,000,000	440,000,000	+56,000,000			
Trade adjustment assistance	26,000,000	120,000,000	120,000,000	120,000,000	120,000,000	+94,000,000			
Unemployment assistance and payments under other Federal unemployment programs		300,000,000	300,000,000	300,000,000	300,000,000	+300,000,000			
Total	410,000,000	860,000,000	860,000,000	860,000,000	860,000,000	+450,000,000			
Advances to Unemployment Trust Fund and other funds	5,000,000,000	5,000,000,000	5,000,000,000	5,000,000,000	5,000,000,000				
Grants to States for unemployment insurance and employment services	81,300,000	81,500,000	89,100,000	147,500,000	89,100,000	7,800,000	+7,600,000		−$58,400,000
Trust fund transfer	(1,415,400,000)	(1,354,300,000)	(1,412,700,000)	(1,354,300,000)	(1,412,700,000)	(−2,700,000)	(+58,400,000)		(+58,400,000)
(Employment Service, total trust and Federal funds)	(889,600,000)	(499,000,000)	(565,000,000)	(565,000,000)	(565,000,000)	(−324,600,000)	(+66,000,000)		
(Unemployment Insurance Service, total trust funds and Federal funds)	(531,100,000)	(697,000,000)	(697,000,000)	(697,000,000)	(697,000,000)	(+165,900,000)			
(Contingency Fund; Total Trust and Federal Funds)	(76,000,000)	(239,800,000)	(239,800,000)	(239,800,000)	(239,800,000)	(+163,800,000)			
(Total, Trust and Federal Funds)	(1,496,700,000)	(1,435,800,000)	(1,501,800,000)	(1,501,800,000)	(1,501,800,000)	(+5,100,000)	(+66,000,000)		
LABOR-MANAGEMENT SERVICES ADMINISTRATION									
Salaries and expenses:									
Labor-management relations policy	3,057,000	3,123,000	3,123,000	3,123,000	3,123,000	+66,000			
Labor-management standards enforcement	14,474,000	13,956,000	13,956,000	13,956,000	13,956,000	−518,000			
Veterans reemployment rights	2,553,000	2,578,000	2,578,000	2,578,000	2,578,000	+25,000			
Federal labor-management relations	4,418,000	4,567,000	4,567,000	4,567,000	4,567,000	+149,000			
Employee benefits security	16,722,000	20,971,000	20,671,000	20,671.000	20,671,000	+3,949,000	−300,000		
Executive direction and administrative services	3,593,000	3,424,000	3,424,000	3,424,000	3,424,000	−169,000			
Total	44,817,000	48,619,000	48,319,000	48,319,000	48,319,000	+3,502,000	−300,000		
PENSION BENEFIT GUARANTY CORPORATION									
Benefit payments	(2,101,000)	(25,024,000)	(25,024,000)	(25,024,000)	(25,024,000)	+(22,923,000)			
Program administration	(14 772,000)	(20,551,000)	(20,551,000)	(20,551,000)	(20,551,000)	+(5,779,000)			
Total	(16,873,000)	(45,575,000)	(45,575,000)	(45,575,000)	(45,575,000)	+(28,702,000)			
EMPLOYMENT STANDARDS ADMINISTRATION									
Salaries and expenses:									
Improving and protecting wages	38,567,000	41,895,000	41,725,000	41,725,000	41,725,000	+3,158,000	−170,000		
Elimination of discrimination in employment	13,888,000	14,870,000	14,790,000	14,790,000	14,790,000	+902,000	−80,000		
Worker's compensation	21,875,000	23,792,000	24,469,000	24,469,000	24,469,000	+2,594,000	+677,000		
Program development and administration	10,461,000	12,718,000	11,968,000	11,968,000	11,698,000	+1,507,000	−750,000		
Total	84,791,000	93,275,000	92,952,000	92,952,000	92,952,000	+8,161,000	−323,000		
Trust fund transfer	(225,000)	(250,000)	(250,000)	(250,000)	(250,000)				
Special benefits:									
Federal employees compensation act benefits	275,959,000	285,276,000	285,276,000	285,276,000	285,276,000	+9,317,000			
Disabled coal miners benefits	20,000,000	30,100,000	30,100,000	30,100,000	30,100,000	+10,100,000			
Longshore and harbor workers' benefits	2,141,000	2,442,000	2,442,000	2,442,000	2,442,000	+301,000			
Total	298,100,000	317,818,000	317,818,000	317,818,000	317,818,000	+19,718,000			
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION									
Salaries and expenses:									
Safety and health standards	6,747,000	10,856,000	9,194,000	8,194,000	8,194,000	+1,447,000	−2,662,000	−$1,000,000	
Compliance:									
Federal inspections	43,492,000	52,082,000	52,082,000	62,082,000	55,582,000	+12,090,000	+3,500,000	+3,500,000	−6,500,000
State programs	35,600,000	38,100,000	38,100,000	38,100,000	38,100,000	+2,500,000			
Education, consultation, and information	13,935,000	20,061,000	20,736,000	16,236,000	18,736,000	+4,801,000	−1,325,000	−2,000,000	+2,500,000
Safety and health statistics	5,977,000	6,159,000	6,159,000	6,159,000	6,159,000	+182,000			
Executive direction and administration	3,438,000	3,562,000	3,562,000	3,562,000	3,562,000	+124,000			
Total	109,189,000	130,820,000	129,833,000	134,333,000	130,333,000	+21,144,000	−487,000	+500,000	−4,000,000

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS BILL, 1977—Continued

TITLE I—DEPARTMENT OF LABOR—Continued

						Increase (+) or decrease (−), Conference Committee compared with—			
Agency and item	1976 comparable appropriation	1977 budget estimate	House allowance	Senate allowance	Conference agreement	1976 comparable appropriation	Budget estimate	House allowance	Senate allowance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
BUREAU OF LABOR STATISTICS									
Salaries and expenses:									
Manpower and employment	$25,459,000	$26,630,000	$26,598,000	$26,598,000	$26,598,000	+$1,139,000	−$32,000		
Prices and cost of living	10,479,000	16,310,000	15,212,000	16,240,000	15,807,000	+5,328,000	−503,000	+$595,000	−$433,000
Wages and industrial relations	9,266,000	11,202,000	10,937,000	11,164,000	11,164,000	+1,898,000	−38,000	+227,000	
Productivity and technology	2,269,000	2,587,000	2,576,000	2,576,000	2,576,000	+307,000	−11,000		
Economic research	619,000	710,000	706,000	706,000	706,000	+87,000	−4,000		
Executive direction and staff services	10,461,000	10,597,000	10,553,000	10,553,000	10,553,000	+92,000	−44,000		
Revision of the Consumer Price Index	7,261,000	5,652,000	5,614,000	5,614,000	5,614,000	−1,647,000	−38,000		
Total	65,814,000	73,688,000	72,196,000	73,451,000	73,018,000	+7,204,000	−670,000	+822,000	−433,000
DEPARTMENTAL MANAGEMENT									
Salaries and expenses:									
Executive direction	10,105,000	10,802,000	10,568,000	10,438,000	10,438,000	+333,000	−364,000	−130,000	
Legal services	17,218,000	18,752,000	18,730,000	18,730,000	18,730,000	+1,512,000	−22,000		
International labor affairs	4,388,000	4,712,000	4,692,000	4,692,000	4,692,000	+304,000	−20,000		
Administration and management	12,326,000	13,665,000	13,657,000	13,657,000	13,657,000	+1,331,000	−8,000		
Appeals from determination of Federal employee claims	267,000	272,000	272,000	272,000	272,000	+5,000			
Promoting employment of the handicapped	1,351,000	1,393,000	1,393,000	1,393,000	1,393,000	+42,000			
Grants for education and employment	5,000,000					−5,000,000			
Total	50,655,000	49,596,000	49,312,000	49,182,000	49,182,000	−1,473,000	−414,000	−130,000	
Trust fund transfer	(1,290,000)	(1,305,000)	(1,305,000)	(1,305,000)	(1,305,000)	(+15,000)			
Special foreign currency program	70,000	70,000	70,000	70,000	70,000				
Total, Labor Department	12,040,010,000	9,519,096,000	10,131,805,000	10,196,429,000	10,132,996,000	−1,907,014,000	+613,900,000	+1,191,000	−63,433,000
Trust funds	(1,447,238,000)	(1,387,342,000)	(1,445,142,000)	(1,386,742,000)	(1,445,142,000)	(−2,096,000)	(+57,800,000)		(+58,400,000

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency and item	1976 comparable appropriation	1977 budget estimate	House allowance	Senate allowance	Conference agreement	1976 comparable appropriation	Budget estimate	House allowance	Senate allowance
HEALTH SERVICES ADMINISTRATION									
Health Services									
Community health services:									
(a) Community health centers	$196,648,000	$155,190,000	$215,148,000	$220,148,000	$215,148,000	$18,500,000	+$59,958,000		−$5,000,000
(b) Comprehensive health grants to States	90,000,000		90,000,000	90,000,000	90,000,000		+90,000,000		
(c) Maternal and child health:									
(1) Grants to States	295,700,000	193,922,000	310,000,000	327,000,000	317,000,000	+21,300,000	+123,078,000	+$7,000,000	−10,000,000
(2) Sudden infant death information dissemination	2,500,000			3,000,000	2,000,000	−500,000	+2,000,000	+2,000,000	−1,000,000
(3) Research and training	23,708,000	17,500,000	6,708,000	30,708,000	28,708,000	+5,000,000	+11,208,000	+2,000,000	−2,000,000
Subtotal	321,908,000	211,422,000	336,708,000	360,708,000	347,708,000	+25,800,000	+136,286,000	+11,000,000	−13,000,000
(d) Family planning	100,615,000	79,435,000	100,615,000	122,615,000	113,615,000	+13,000,000	+34,180,000	+13,000,000	−9,000,000
(e) Migrant health	25,000,000	19,200,000	30,000,000	30,000,000	30,000,000	+5,000,000	+10,800,000		
(f) Health maintenance organizations	18,612,000	18,612,000	22,612,000	22,612,000	22,612,000	+4,000,000	+4,000,000		
(g) National Health Service Corps	(15,000,000)	(24,529,000)	(2)	(2)					
(h) Hemophilia treatment centers	3,000,000		3,000,000	3,000,000	3,000,000		+3,000,000		
(i) Hypertension	3,750,000		5,000,000	10,000,000	9,000,000	+5,250,000	+9,000,000	+4,000,000	−1,000,000
(j) Home health services	(3,000,000)		(2)	(2)					
Quality assurance:									
(a) Medical care standards	5,187,000	4,187,000	5,187,000	4,187,000	4,187,000	−1,000,000		−1,000,000	
(b) Professional standards review organizations	47,582,000	62,000,000	62,000,000	62,000,000	62,000,000	+14,418,000			
Patient care and special health services	117,970,000	106,970,000	120,209,000	129,209,000	128,209,000	+10,239,000	+21,239,000	+8,000,000	−1,000,000
(PHS hospitals)	(92,702,000)	(79,664,000)	(92,903,000)	(101,903,000)	(100,903,000)	+(8,201,000)	+(21,239,000)	+(8,000,000)	−(1,000,000)
Emergency medical services	(37,025,000)	(25,100,000)	(2)	(2)					
Buildings and facilities				11,000,000					−11,000,000
Program management	30,663,000	29,663,000	30,663,000	30,663,000	30,663,000		+1,000,000		
Less: Trust fund transfer	−26,321,000	−39,121,000	−40,121,000	−40,121,000	−40,121,000	(−13,800,000)	(−1,000,000)		
Total, authorized	934,614,000	647,558,000	981,021,000	1,056,021,000	1,016,021,000	+81,407,000	+368,463,000	+35,000,000	−40,000,000
Total, unauthorized	52,625,000	(49,629,000)							
CENTER FOR DISEASE CONTROL									
Preventive Health Services									
Disease control:									
(a) Project grants:									
(1) Venerea disease	19,840,000	19,840,000	(2)	16,013,000	18,000,000	−1,840,000	−1,840,000	+18,000,000	+1,987,000
(2) Immunization	4,960,000	4,960,000	(2)	17,500,000	13,000,000	+8,040,000	+8,040,000	+13,000,000	−4,500,000
(3) Rat control	13,100,000	5,410,000	(2)	14,000,000	13,000,000	−100,000	+7,590,000	+13,000,000	−1,000,000
(4) Lead-based paint poisoning prevention	3,500,000	3,500,000	(2)	12,000,000	8,500,000	+5,000,000	+5,000,000	+8,500,000	−3,500,000
(b) Disease surveillance	43,411,000	43,411,000	44,756,000	46,656,000	44,756,000	+1,345,000	+1,345,000		−1,900,000
(c) Laboratory improvements	10,601,000	15,063,000	15,063,000	15,063,000	15,063,000	+4,462,000			
(d) Health education	3,513,000	3,013,000	3,513,000	7,000,000	4,513,000	+1,000,000	+1,500,000	+1,000,000	−2,487,000
(e) Swine flu immunization	135,064,000					−135,064,000			

Footnotes at end of tables.

						Increase (+) or decrease (−), Conference Committee compared with—			
Agency and item (1)	1976 comparable appropriation (2)	1977 budget estimate (3)	House allowance (4)	Senate allowance (5)	Conference agreement (6)	1976 comparable appropriation (7)	Budget estimate (8)	House allowance (9)	Senate allowance (10)
Occupational health	$39, 533, 000	$37, 107, 000	$46, 707, 000	$50, 007, 000	$46, 707, 000	+$7, 174, 000	+$9, 600, 000		−$3, 300, 000
Buildings and facilities	1, 456, 000					−1, 456, 000			
Program direction	10, 439, 000	10, 989, 000	11, 689, 000	11, 689, 000	11, 689, 000	+1, 250, 000	+700, 000		
Total	285, 417, 000	143, 293, 000	121, 728, 000	189, 928, 000	175, 228, 000	−110, 189, 000	+31, 935, 000	+$53, 500, 000	−14, 700. 000
NATIONAL INSTITUTES OF HEALTH									
National Cancer Institute	762, 647, 000	687, 670, 000	773, 412, 000	850, 000, 000	815, 000, 000	+52, 353, 000	+127, 330, 000	+41, 588, 000	−35, 000, 000
National Heart and Lung Institute	370, 347, 000	342, 855, 000	380, 661, 000	420, 661, 000	396, 661, 000	+26, 314, 000	+53, 806, 000	+16, 000, 000	−24, 000, 000
National Institute of Dental Research	51, 427, 000	52, 207, 000	54, 573, 000	59, 573, 000	55, 573, 000	+4, 146, 000	+3, 366, 000	+1, 000, 000	−4, 000, 000
National Institute of Arthritis, Metabolism, and Digestive Diseases	179, 801, 000	180, 837, 000	202, 837, 000	230, 837, 000	209, 000, 000	+29, 199, 000	+28, 163, 000	+6, 163, 000	−21, 837, 000
National Institute of Neurological and Communicative Disorders and Stroke	144, 707, 000	146, 532, 000	153, 132, 000	163, 132, 000	155, 500, 000	−10, 793, 000	+8, 968, 000	+2, 368, 000	−7, 632, 000
National Institute of Allergy and Infectious Diseases	127, 163, 000	135, 615, 000	139, 615, 000	143, 615, 000	141, 000, 000	+13, 837, 000	+5, 385, 000	+1, 385, 000	−2, 615, 000
National Institute of General Medical Sciences	187, 388, 000	193, 435, 000	198, 435, 000	218, 435, 000	205, 000, 000	+17, 612, 000	+11, 565, 000	+6, 560, 000	−13, 435, 000
National Institute of Child Health and Human Development	136, 573, 000	129, 883, 000	140, 343, 000	150, 343, 000	145, 543, 000	+8, 970, 000	+15, 660, 000	+5, 200, 000	−4, 800, 000
National Institute on Aging	19, 388, 000	26, 220, 000	29, 200, 000	31, 200, 000	30, 000, 000	+10, 612, 000	+3, 780, 000	+800, 000	−1, 200, 000
National Eye Institute	50, 285, 000	46, 950, 000	56, 270, 000	70, 000, 000	64, 000, 000	+13, 715, 000	+17, 050, 000	+7, 730, 000	−6, 000, 000
National Institute of Environmental Health Sciences	37, 780, 000	46, 141, 000	49, 141, 000	49, 141, 000	49, 141, 000	+11, 361, 000	+3, 000, 000		
Research resources	130, 300, 000	92, 342, 000	136, 299, 000	142, 299, 000	137, 500, 000	+7, 200, 000	+45, 158, 000	+1, 201, 000	−4, 799, 000
John E. Fogarty International Center	5, 694, 000	7, 492, 000	7, 992, 000	7, 992, 000	7, 992, 000	+2, 298, 000	+500, 000		
Subtotal, Research Institutes	2, 203, 500, 000	2, 088, 179, 000	2, 321, 910, 000	2, 537, 228, 000	2, 411, 910, 000	+208, 410, 000	+323, 731, 000	+90, 000, 000	−125, 218, 000
National Library of Medicine	29, 244, 000	35, 234, 000	35, 234, 000	35, 234, 000	35, 234, 000	+5, 990, 000			
Office of the Director	15, 325, 000	16, 234, 000	16, 234, 000	16, 234, 000	16, 234, 000	+909, 000			
Total, Biomedical Research	2, 248, 069, 000	2, 139, 647, 000	2, 373, 378, 000	2, 588, 696, 000	2, 463, 378, 000	+215, 309, 000	+323, 731, 000	+90, 000, 000	−125, 318, 000
Buildings and facilities	54, 000, 000	25, 400, 000	67, 400, 000	67, 400, 000	67, 400, 000	+13, 400, 000	+42, 000, 000		
Total, NIH	2, 302, 069, 000	2, 165, 047, 000	2, 440, 778, 000	2, 656, 096, 000	2, 530, 778, 000	+228, 709, 000	+365, 731, 000	+90, 000, 000	−125, 318, 000
ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION									
Alcohol, Drug Abuse and Mental Health									
General mental health:									
(a) Research	92, 908, 000	83, 000, 000	102, 908, 000	101, 908, 000	101, 908, 000	+9, 000, 000	+18, 908, 000	−1, 000, 000	
(b) Rape Prevention	3, 000, 000		3, 000, 000	6, 000, 000	5, 000, 000	+2, 000, 000	+5, 000, 000	+2, 000, 000	−1, 000, 000
(c) Training	85, 100, 000	30, 000, 000	85, 100, 000	88, 100, 000	86, 600, 000	+1, 500, 000	+56, 600, 000	+1, 500, 000	−1, 500, 000
(d) Community programs:									
(1) Planning	1, 500, 000		1, 000, 000	1, 000, 000	1, 000, 000	−500, 000	+1, 000, 000		
(2) Operations:									
(i) First year	24, 000, 000		29, 000, 000	24, 000, 000	26, 500, 000	+2, 500, 000	+26, 500, 000	−2, 500, 000	+2, 500, 000
(ii) Continuation:									
Grants initiated under new law			21, 840, 000	21, 840, 000	21, 840, 000	+21, 840, 000	+21, 840, 000		
Converted staffing grants			54, 768, 000	54, 768, 000	54, 768, 000	+54, 768, 000	+54, 768, 000		
(3) Conversion	20, 000, 000		20, 000, 000	20, 000, 000	20, 000, 000		+20, 000, 000		
(4) Consultation and education	4, 000, 000		8, 000, 000	8, 000, 000	8, 000, 000	+4, 000, 000	+8, 000, 000		
(5) Financial distress	4, 000, 000		7, 000, 000	7, 000, 000	7, 000, 000	+3, 000, 000	+7, 000, 000		
(6) Continuations under old law:									
(i) Staffing	134, 363, 000	110, 526, 000	78, 891, 000	78, 891, 000	78, 891, 000	−56, 472, 000	−31, 635, 000		
(ii) Child mental health	26, 844, 000	20, 274, 000	14, 847, 000	14, 847, 000	14, 847, 000	−11, 997, 000	−5, 427, 000		
(e) Management and information	22, 229, 000	20, 414, 000	22, 714, 000	22, 714, 000	22, 714, 000	+485, 000	+2, 300, 000		
Subtotal	418, 944, 000	264, 214, 000	449, 068, 000	449, 068, 000	449, 068, 000	+30, 124, 000	+184, 854, 000		
Drug abuse:									
(a) Research	34, 000, 000	34, 000, 000	34, 000, 000	34, 000, 000	34, 000, 000				
(b) Training	10, 000, 000	4, 000, 000	10, 000, 000	10, 000, 000	10, 000, 000		+6, 000, 000		
(c) Community programs:									
(1) Project grants and contracts	139, 051, 000	160, 000, 000	160, 000, 000	160, 000, 000	160, 000, 000	+20, 949, 000			
(2) Grants to States	35, 000, 000	35, 000, 000	40, 000, 000	40, 000, 000	40, 000, 000	+5, 000, 000	+5, 000, 000		
(d) Management and information	14, 121, 000	14, 827, 000	15, 472, 000	15, 472, 000	15, 472, 000	+1, 351, 000	+645, 000		
Subtotal	232, 172, 000	247, 827, 000	259, 472, 000	259, 472, 000	259, 472, 000	+27, 300, 000	+11, 645, 000		
Alcoholism:									
(a) Research	11, 808, 000	10, 000, 000	11, 808, 000	14, 008, 000	12, 808, 000	+1, 000, 000	+2, 808, 000	+1, 000, 000	−1, 200, 000
(b) Training	7, 458, 000	2, 000, 000	6, 500, 000	7, 458, 000	7, 200, 000	−258, 000	+5, 200, 000	+700, 000	−258, 000
(c) Community programs:									
(1) Project grants and contracts	12, 859, 000	2, 546, 000	12, 859, 000	12, 859, 000	12, 859, 000		+10, 313, 000		
Items not authorized	(43, 549, 000)	(30, 905, 000)	(2)	(2)					
(2) Grants to States	(55, 500, 000)	(45, 600, 000)	(2)	(2)					

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS BILL, 1977—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued

						Increase (+) or decrease (−), Conference Committee compared with—			
Agency and item	1976 comparable appropriation	1977 budget estimate	House allowance	Senate allowance	Conference agreement	1976 comparable appropriation	Budget estimate	House allowance	Senate allowance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
(d) Management and information	$8,053,000	$7,011,000	$8,346,000	$8,346,000	$8,346,000	+$293,000	+$1,335,000		
Subtotal	40,178,000	21,557,000	39,513,000	42,671,000	41,213,000	+1,035,000	+19,656,000	+$1,700,000	−$1,458,000
Items not authorized	(99,049,000)	(76,505,000)							
Program direction	11,059,000	13,228,000	13,388,000	13,388,000	13,388,000	+2,329,000	+160,000		
Total, authorized	702,353,000	546,826,000	761,441,000	764,599,000	763,141,000	+60,788,000	+216,315,000	+1,700,000	−1,458,000
Total, unauthorized	(99,049,000)	(76,505,000)							
Saint Elizabeths Hospital (indefinite)	55,125,000	57,964,000	60,464,000	60,464,000	60,464,000	+5,339,000	+2,500,000		
Buildings and facilities	10,600,000			25,000,000		−10,600,000			−25,000,000
Total, ADAMHA	768,078,000	604,790,000	821,905,000	850,063,000	823,605,000	+55,527,000	+218,815,000	+1,700,000	−26,458,000
Total, items not authorized	(99,049,000)	(76,505,000)							
HEALTH RESOURCES ADMINISTRATION									
Health Resources									
National health statistics	25,636,000	24,000,000	27,636,000	27,636,000	27, 36,000	+2,000,000	+3,636,000		
Health planning and resources development	112,500,000	90,000,000	120,000,000	130,000,000	125,000,000	+12,500,000	+35,000,000	+5,000,000	−5,000,000
Health services research	26,000,000	24,000,000	26,000,000	24,000,000	24,000,000	−2,000,000		−2,000,000	
Health manpower:									
(a) Health professions institutional assistance:									
(1) Capitation grants	(101,100,000)	(120,000,000)	(2)	(2)					
(2) Start-up and conversion	(3,000,000)	(1,000,000)	(2)	(2)					
(3) Financial distress	(5,000,000)	(3,000,000)	(2)	(2)					
Subtotal, unauthorized	(109,100,000)	(124,000,000)							
(b) Health professions student assistance:									
(1) Loans	(24,000,000)		(2)	(2)					
(2) Scholarships	(3,500,000)		(2)	(2)					
(3) Loan repayments	(6,000,000)		(2)	(2)					
(4) National health service scholarships	(22,500,000)	(35,000,000)	(2)	(2)					
Subtotal, unauthorized	(56,000,000)	(35,000,000)							
c) Health professions special educational assistance:									
(1) Family medicine	(15,000,000)	(39,000,000)	(2)	(2)					
(2) Primary care		(18,000,000)	(2)	(2)					
(3) Area health education centers	(12,000,000)	(19,000,000)	(2)	(2)					
(4) Physician extenders	(8,000,000)	(8,500,000)	(2)	(2)					
(5) Dental health	(8,442,000)	(7,500,000)	(2)	(2)					
(6) Special project grants	(86,424,000)	(24,000,000)	(2)	(2)					
(7) Other	(27,525,000)	(8,000,000)	(2)	(2)					
Subtotal, unauthorized	(157,391,000)	(124,000,000)							
(d) Nursing institutional assistance:									
(1) Capitation grants	44,000,000		44,000,000	44,000,000	40,000,000	−4,000,000	+40,000,000	−4,000,000	
(2) Financial distress grants		1,000,000					−1,000,000		
(3) Advanced nurse training	2,000,000	3,000,000	9,000,000	9,000,000	9,000,000	+7,000,000	+6,000,000		
(4) Nurse practitioner training	3,000,000	7,000,000	9,000,000	9,000,000	9,000,000	+6,000,000	+2,000,000		
(5) Special projects	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000				
Subtotal	64,000,000	26,000,000	77,000,000	73,000,000	73,000,000	+9,000,000	+47,000,000	−4,000,000	
(e) Nursing student assistance:									
(1) Loans	21,000,000	5,000,000	22,500,000	22,500,000	22,500,000	+1,500,000	+17,500,000		
(2) Scholarships	6,000,000	2,000,000	6,500,000	6,500,000	6,500,000	+500,000	+4,500,000		
(3) Traineeships	13,000,000		13,000,000	13,000,000	13,000,000		+13,000,000		
(4) Loan repayment	2,500,000	3,000,000	3,000,000	3,000,000	3,000,000	+5,000,000			
Subtotal	42,500,000	10,000,000	45,000,000	45,000,000	45,000,000	+2,500,000	+35,000,000		
(f) Nursing research			2,000,000	5,000,000	5,000,000	+5,000,000	+5,000,000	+3,000,000	
(g) Nursing fellowship				1,000,000	1,000,000	+1,000,000	+1,000,000	+1,000,000	
Subtotal, health manpower	106,500,000	36,000,000	124,000,000	124,000,000	124,000,000	+17,500,000	+88,000,000		
Subtotal, unauthorized	(322,491,000)	(283,000,000)							
Health facilities construction:									
(a) Medical facilities:									
(1) Formula grants	40,373,000					−40,373,000			
(2) Special projects	11,387,000					−11,387,000			
Subtotal	51,760,000					−51,760,000			

Footnotes at end of tables.

Agency and item	1976 comparable appropriation	1977 budget estimate	House allowance	Senate allowance	Conference agreement	Increase (+) or decrease (−), Conference Committee compared with—			
						1976 comparable appropriation	Budget estimate	House allowance	Senate allowance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
(b) Health teaching facilities interest subsidies	$3,000,000					$3,000,000			
(c) Special medical facilities[1]	11,575,000		$4,000,000	$9,000,000	$9,000,000	−2,575,000	+$9,000,000	+$5,000,000	
Subtotal	66,335,000		4,000,000	9,000,000	9,000,000	−57,335,000	+9,000,000	+5,000,000	
Program management	48,484,000	$49,300,000	50,260,000	48,484,000	49,372,000	+888,000	+72,000	−888,000	+$888,000
Less trust fund transfer	−42,000					+42,000			
Total, health resources	385,413,000	223,300,000	351,896,000	363,120,000	359,008,000	−26,405,000	+135,708,000	+7,112,000	−4,112,000
Total, unauthorized	(322,491,000)	(283,000,000)							
Medical Facilities Guarantee and Loan Fund	10,000,000	31,000,000	31,000,000	31,000,000	31,000,000	+21,000,000			
Payments of sales insufficiencies	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000				
Total, authorized	399,413,000	258,300,000	386,896,000	398,120,000	394,008,000	−5,405,000	+135,708,000	+7,112,000	−4,112,000
Total, unauthorized	(322,491,000)	(283,000,000)							
ASSISTANT SECRETARY FOR HEALTH									
Assistant Secretary for Health	21,618,000	22,216,000	22,416,000	22,216,000	22,316,000	+698,000	+100,000	−100,000	+100,000
Retirement pay and medical benefits for commissioned officers (indefinite)	45,013,000	52,352,000	52,352,000	52,352,000	52,352,000	+7,339,000			
Scientific activities overseas		1,500,000	1,500,000	1,500,000	1,500,000	+1,500,000			
Total	66,631,000	76,068,000	76,268,000	76,068,000	76,168,000	+9,537,000	+100,000	−100,000	+100,000
Total, health agencies	4,756,222,000	3,895,056,000	4,828,596,000	5,226,296,000	5,015,838,000	+259,616,000	+1,120,782,000	187,242,000	−210,458,000
Total, health agencies, unauthorized	(476,565,000)	(409,134,000)							
EDUCATION DIVISION									
Office of Education									
Elementary and Secondary Education									
Grants for disadvantaged children	2,050,000,000	1,900,000,000	2,250,000,000	2,350,000,000	2,285,000,000	+235,000,000	+385,000,000	+35,000,000	−65,000,000
Support and Innovation grants	184,521,852	172,888,000	194,000,000	194,000,000	194,000,000	+9,478,148	+21,112,000		
Bilingual education:									
(a) Grants to school districts	62,500,000	60,230,000	68,500,000	74,300,000	74,300,000	+11,800,000	+14,070,000	+5,800,000	
(b) Training grants	25,370,000	22,670,000	28,800,000	29,700,000	29,700,000	+4,330,000	+7,030,000	+900,000	
(c) Curriculum development	7,000,000	7,000,000	8,500,000	7,000,000	7,000,000			−1,500,000	
(d) Bilingual vocational grants	2,800,000		2,800,000			−2,800,000		−2,800,000	
(e) Technical assistance, dissemination, and advisory council	1,300,000	100,000	6,400,000	4,000,000	4,000,000	+2,700,000	+3,900,000	−2,400,000	
Subtotal	98,970,000	90,000,000	115,000,000	115,000,000	115,000,000	+16,130,000	+25,000,000		
Right to Read	23,800,000	12,000,000	22,000,000	31,300,000	26,000,000	+2,200,000	+14,000,000	+4,000,000	−5,300,000
Follow Through	59,000,000	30,000,000	59,000,000	59,000,000	59,000,000		+29,000,000		
Drug abuse education	2,000,000		2,000,000	3,000,000	2,000,000		+2,000,000		−1,000,000
Environmental education	3,000,000		3,000,000	4,000,000	3,500,000	+500,000	+3,500,000	+500,000	−500,000
Educational broadcasting facilities	12,500,000	7,000,000	(2)	18,000,000	15,000,000	+2,500,000	+8,000,000	+15,000,000	−3,000,000
Ellender fellowships	500,000		500,000	750,000	750,000	+250,000	+750,000	+250,000	
Ethnic heritage studies	1,800,000	1,800,000	2,500,000	1,800,000	2,300,000	+500,000	+500,000	−200,000	+500,000
State equalization grants[3]			10,500,000	10,500,000	10,500,000	+10,500,000	+10,500,000		
Total	2,436,091,852	2,213,688,000	2,658,500,000	2,787,350,000	2,713,050,000	+276,958,148	+499,362,000	+54,550,000	−74,300,000
School Assistance in Federally Affected Areas									
Maintenance and operations:									
(a) Payments for 'A' children	248,737,758	249,400,000	251,272,000	251,272,000	251,272,000	+2,534,242	+1,872,000		
(b) Payments for 'B' children	341,597,262		356,800,000	356,800,000	356,800,000	+15,202,738	+356,800,000		
(c) Special provisions	12,664,980	13,100,000	13,100,000	13,100,000	13,100,000	+435,020			
(d) Payments to other Federal agencies	46,000,000	52,500,000	52,500,000	52,500,000	52,500,000	+6,500,000			
(e) Savings provisions	35,000,000		94,328,000	94,328,000	94,328,000	+59,328,000	+94,328,000		
Subtotal	684,000,000	315,000,000	768,000,000	768,000,000	768,000,000	+84,000,000	+453,000,000		
Construction	20,000,000	10,000,000	20,000,000	30,000,000	25,000,000	+5,000,000	+15,000,000	+5,000,000	−5,000,000
Total	704,000,000	325,000,000	788,000,000	798,000,000	793,000,000	+89,000,000	+468,000,000	+5,000,000	−5,000,000
Emergency School Aid									
National competition projects:									
(a) Bilingual education projects	8,600,000	8,600,000	8,600,000	8,600,000	8,600,000				
(b) Educational television	6,450,000	6,450,000	6,450,000	6,450,000	6,450,000				
(c) Special programs and projects	40,750,000	21,500,000	21,500,000	50,000,000	35,750,000	−5,000,000	+14,250,000	+14,250,000	−14,250,000
(d) Evaluation	2,150,000	2,150,000	2,150,000	2,150,000	2,150,000				
State apportioned projects:									
(a) Pilot programs	32,250,000	32,250,000	32,250,000	32,250,000	32,250,000				
(b) Grants to nonprofit organizations	17,200,000	17,200,000	17,200,000	17,200,000	17,200,000				
(c) General grants to school districts	137,600,000	126,850,000	126,850,000	137,600,000	137,600,000		+19,750,000	+10,750,000	
Subtotal, emergency school aid	245,000,000	215,000,000	215,000,000	254,250,000	242,000,000	−5,000,000	+25,000,000	+25,000,000	−14,250,000
Civil rights advisory services	26,700,000	34,700,000	34,700,000	40,700,000	34,700,000	+8,000,000			−6,000,000
Total	271,700,000	249,700,000	249,700,000	294,950,000	274,700,000	+3,000,000	+25,000,000	+25,000,000	−20,250,000

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS BILL, 1977—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued

						Increase (+) or decrease (−), Conference Committee compared with—			
Agency and item (1)	1976 comparable appropriation (2)	1977 budget estimate (3)	House allowance (4)	Senate allowance (5)	Conference agreement (6)	1976 comparable appropriation (7)	Budget estimate (8)	House allowance (9)	Senate allowance (10)
EDUCATION DIVISION—Con.									
Office of Education									
Education for the Handicapped									
State assistance:									
(a) State grant program	$200,000,000	$110,000,000	$300,000,000	$330,000,000	$315,000,000	+$115,000,000	+$205,000,000	+$15,000,000	−$15,000,000
(b) Deaf-blind centers	16,000,000	16,000,000	16,000,000	16,000,000	16,000,000				
(c) Incentive grant program				25,000,000	12,500,000	+12,500,000	+12,500,000	+12,500,000	−12,500,000
Subtotal	216,000,000	126,000,000	316,000,000	371,000,000	343,500,000	+127,500,000	+217,500,000	+27,500,000	−27,500,000
Special population programs:									
(a) Severely handicapped projects	3,250,000	3,250,000	3,250,000	5,000,000	5,000,000	+1,750,000	+1,750,000	+1,750,000	
(b) Specific learning disabilities	5,000,000	5,000,000	5,000,000	10,000,000	9,000,000	+4,000,000	+4,000,000	+4,000,000	−1,000,000
(c) Early childhood projects	22,000,000	22,000,000	22,000,000	25,000,000	22,000,000				−3,000,000
Subtotal	30,250,000	30,250,000	30,250,000	40,000,000	36,000,000	+5,750,000	+5,750,000	+5,750,000	−4,000,000
Regional vocational, adult, and postsecondary programs	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000				
Innovation and development	11,000,000	11,000,000	11,000,000	11,000,000	11,000,000				
Media and resource services:									
(a) Media services and captioned films	16,250,000	16,000,000	16,000,000	22,000,000	19,000,000	+2,750,000	+3,000,000	+3,000,000	−3,000,000
(b) Regional resource centers	10,000,000	9,750,000	9,750,000	9,750,000	9,750,000	−250,000			
(c) Recruitment and information	500,000	1,000,000	1,000,000	1,000,000	1,000,000	+500,000			
Subtotal	26,750,000	26,750,000	26,750,000	32,750,000	29,750,000	+3,000,000	+3,000,000	+3,000,000	−3,000,000
Special education manpower development	40,375,000	40,375,000	40,375,000	50,375,000	45,375,000	+5,000,000	+5,000,000	+5,000,000	−5,000,000
Total	326,375,000	236,375,000	426,375,000	507,125,000	467,625,000	+141,250,000	+231,250,000	+41,250,000	−39,500,000
Occupational, Vocational, and Adult Education									
Vocational education:									
(a) Grants to States for vocational education:									
(1) Basic vocational education programs	415,529,100	474,368,655	812,500,000	812,500,000	812,500,000	+396,970,900	+338,131,345		
(2) Programs for students with special needs	(20,000,000)		(2)	(2)					
(3) Consumer and homemaking education	(40,994,000)		(2)	(2)					
(4) Work-study	(9,849,000)		(2)	(2)					
(5) Cooperative education	(19,500,000)		(2)	(2)					
(6) State advisory councils	4,316,000	4,316,000	7,553,000	7,553,000	7,553,000	+3,237,000	+3,287,000		
(b) Vocational research:									
(1) Innovation	(16,000,000)		(2)	(2)					
(2) Curriculum development	(1,000,000)		(2)	(2)					
(3) Research	18,000,000	53,503,345	31,500,000	31,500,000	31,500,000	+13,500,000	−22,003,345		
Subtotal, authorized	437,845,100	532,188,000	851,553,000	851,553,000	851,553,000	+413,707,900	+319,365,000		
Subtotal, unauthorized	(107,343,000)								
Adult education	71,500,000	67,500,000	77,000,000	85,000,000	80,500,000	+9,000,000	+13,000,000	+3,500,000	+4,500,000
Total, authorized	509,345,100	599,688,000	928,553,000	936,553,000	932,053,000	+442,707,900	+332,365,000	+3,500,000	−4,500,000
Total, unauthorized	(107,343,000)								
Higher Education									
Student assistance:									
(a) Basic educational opportunity grants	(1,506,000,000)	(1,100,000,000)	(2)	(2)					
(b) Supplemental educational opportunity grants	(240,093,000)		(2)	(2)					
(c) Work-study	(509,800,000)	(250,000,000)	(2)	(2)					
(d) Subsidized insured loans—interest subsidies	377,620,000	325,000,000	325,000,000	325,000,000	325,000,000	−52,620,000			
Items not authorized	(74,380,000)	(475,000,000)	(2)	(1)					
(e) Direct loans:									
(1) Federal capital contributions	(321,000,000)		(2)	(2)					
(2) Loans to institutions	(2,000,000)		(2)	(2)					
(3) Teacher cancellations	8,960,000	11,920,000	11,920,000	11,920,000	11,920,000	+2,960,000			
(f) Incentive grants for State scholarships	(44,000,000)	(44,000,000)	(2)	(2)					
Subtotal, authorized	386,580,000	336,920,000	336,920,000	336,920,000	336,920,000	−49,660,000			
Subtotal, unauthorized	(3,074,893,000)	(1,794,000,000)							
Special programs for the disadvantaged	(70,331,000)	(60,331,000)							

Footnotes at end of table.

						Increase (+) or decrease (−), Conference Committee with—			
Agency and item	1976 comparable appropriation	1977 budget estimate	House allowance	Senate allowance	Conference agreement	1976 comparable appropriation	Budget estimate	House allowance	Senate allowance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Institutional assistance:									
(a) Strengthening developing institutions	($110, 000, 000)	($110, 000, 000)	(2)	(2)					
(b) Language training and area studies	2, 700, 000	1, 360, 000	$3, 000, 000	$3, 000, 000	$3, 000, 000	+$300, 000	+$1, 640, 000		
Items not authorized	(16, 000, 000)	(10, 000, 000)	(2)	(2)					
(c) University community services	(12, 125, 000)		(2)	(2)					
(d) Aid to land-grant colleges	9, 500, 000		9, 500, 000	12, 000, 000	11, 500, 000	+2, 000, 000	+11, 500, 000	+$2, 000, 000	−$500, 000
(e) State postsecondary education commissions	(3, 500, 000)		(2)	(2)					
(f) Veterans cost of instruction	(23, 750, 000)		(2)	(2)					
(g) Cooperative education	(10, 750, 000)	(8, 000, 000)	(2)	(2)					
Subtotal, authorized	12, 200, 000	1, 360, 000	12, 500, 000	15, 000, 000	14, 500, 000	+2, 300, 000	+13, 140, 000	+2, 000, 000	-500, 000
Subtotal, unauthorized	(176, 125, 000)	(128, 000, 000)							
Personnel development:									
(a) College teacher fellowships	(1, 000, 000)		(2)	(2)					
(b) Training for disadvantaged	750, 000		750, 000	750, 000	750, 000		+750, 000		
(c) Public service fellowships	(4, 000, 000)		(2)	(2)					
(d) Mining fellowships	(3, 000, 000)		(2)	(2)					
Subtotal	750, 000		750, 000	750, 000	750, 000		+750, 000		
Total, authorized	399, 539, 000	338, 280, 000	350, 170, 000	352, 670, 000	352, 170, 000	47, 360, 000	+13, 890, 000	+2, 000, 000	−500, 000
Total, unauthorized	(3, 329, 349, 000)	(1, 982, 331, 000)							
Library Resources									
Public library services	51, 749, 000	51, 749, 000	56, 749, 000	66, 749, 000	60, 237, 000	+8, 488, 000	+8, 488, 000	+3, 488, 000	−6, 512, 000
School libraries and instructional resources	147, 330, 000	137, 330, 000	147, 330, 000	162, 330, 000	154, 330, 000	+7, 000, 000	+17, 000, 000	+7, 000, 000	−8, 000, 000
College library resources	(9, 975, 000)	(9, 975, 000)	(2)	(2)					
Training and demonstration	(1, 500, 000)		(2)	(2)					
Undergraduate instructional equipment	(7, 500, 000)		(2)	(2)					
Total, authorized	199, 079, 000	189, 079, 000	204, 079, 000	229, 079, 000	214, 567, 000	+15, 488, 000	+25, 488, 000	+10, 488, 900	+14, 512, 000
Total, unauthorized	(18, 975, 000)	(9, 975, 000)							
Special Projects and Training									
Special projects:									
(a) Metric education projects	2, 090, 000	1, 045, 000	2, 090, 000	2, 090, 000	2, 090, 000		+1, 045, 000		
(b) Gifted and talented children	2, 560, 000	1, 280, 000	2, 560, 000	2, 560, 000	2, 560, 000		+1, 280, 000		
(c) Community schools	3, 553, 000	1, 777, 000	3, 553, 000	3, 553, 000	3, 553, 000		+1, 776, 000		
(d) Career education	10, 135, 000	10, 135, 000	10, 135, 000	10, 135, 000	10, 135, 000				
(e) Consumer education	3, 135, 000	1, 567, 000	3, 135, 000	3, 135, 000	3, 135, 000		+1, 568, 000		
(f) Women's educational equity	6, 270, 000	5, 896, 000	6, 270, 000	9, 970, 000	7, 270, 000	+1, 000, 000	+1, 374, 000	+1, 000, 000	−2, 700, 000
(g) Arts in education program	750, 000	750, 000	750, 000	2, 000, 000	1, 750, 000	+1, 000, 000	+1, 000, 000	+1, 000, 000	−250, 000
(h) Packaging and field testing	1, 400, 000	3, 900, 000	10, 000, 000	10, 000, 000	10, 000, 000	+8, 600, 000	+6, 100, 000		
(i) Educational TV programming	7, 000, 000	3, 500, 000	7, 000, 000	7, 000, 000	7, 000, 000		+3, 500, 000		
Subtotal	36, 893, 000	29, 850, 000	45, 493, 000	50, 443, 000	47, 493, 000	+10, 600, 000	+17, 643, 000	+2, 000, 000	−2, 950, 000
Educational personnel training:									
(a) Teacher Corps	(37, 500, 000)	(37, 500, 000)	(2)	(2)					
(b) Elementary and secondary training	(5, 462, 000)		(2)	(2)					
(c) Vocational training	(10, 000, 000)		(2)	(2)					
(d) Higher education			(2)	(2)					
Total, authorized	36, 893, 000	29, 850, 000	45, 493, 000	50, 443, 000	47, 493, 000	+10, 600, 000	+17, 643, 000	+2, 000, 000	−2, 950, 000
Total, unauthorized	(52, 962, 000)	(37, 500, 000)							
Student Loan Insurance Fund	201, 787, 000					−201, 787, 000			
Higher Education Facilities Loan and Insurance Fund	2, 192, 000	2, 119, 000	2, 119, 000	2, 119, 000	2, 119, 000	−73, 000			
Educational Activities Overseas									
Special Foreign Currency Program	2, 000, 000	2, 000, 000	2, 000, 000	2, 000, 000	2, 000, 000				
Salaries and Expenses									
(a) Planning and evaluation	6, 383, 000	7, 000, 000	7, 000, 000	6, 500, 000	6, 500, 000	+117, 000	−500, 000	−500, 000	
(b) General program dissemination	500, 000	500, 000	500, 000	500, 000	500, 000				
(c) Advisory committees	2, 454, 000	2, 041, 000	2, 041, 000	2, 041, 000	2, 041, 000	−413, 000			
(d) Information clearinghouses	300, 000	600, 000	600, 000	600, 000	600, 000	+300, 000			
(e) Program administration	98, 830, 000	107, 093, 000	105, 293, 000	107, 008, 000	106, 143, 000	+7, 313, 000	−950, 000	+850, 000	−865, 000
Total	108, 467, 000	117, 234, 000	115, 434, 000	116, 649, 000	115, 784, 000	+7, 317, 000	−1, 450, 000	+350, 000	−865, 000
Total, Office of Education	5, 197, 459, 952	4, 303, 013, 000	5, 770, 423, 000	6, 076, 938, 000	5, 914, 561, 000	+717, 101, 048	+1, 611, 548, 000	+144, 138, 000	−162, 377, 000
Total, unauthorized	(3, 521, 129, 000)	(2, 036, 806, 000)							
National Institute of Education									
Research and development	(58, 800, 000)	(78, 300, 000)	(2)	(2)					
Program administration	(11, 200, 000)	(11, 700, 000)	(2)	(2)					
Total, authorized									
Total, unauthorized	(70, 000, 000)	(90, 000, 000)							
Assistant Secretary for Education									
Improvement of Post-Secondary Education	(11, 500, 000)	(11, 500, 000)	(2)	(2)					
Salaries and Expenses	8, 000, 000	8, 446, 000	8, 446, 000	8, 446, 000	8, 446, 000	+446, 000			

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS BILL, 1977—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued

						Increase (+) or decrease (−), Conference Committee compared with—			
Agency and item (1)	1976 comparable appropriation (2)	1977 budget estimate (3)	House allowance (4)	Senate allowance (5)	Conference agreement (6)	1976 comparable appropriation (7)	Budget estimate (8)	House allowance (9)	Senate allowance (10)
EDUCATION DIVISION—Con.									
National Center for Educational Statistics	$13,000,000	$13,000,000	$13,000,000	$12,000,000	$12,000,000	−$1,000,000	−$1,000,000	−$1,000,000	
Total, authorized	21,000,000	21,446,000	21,446,000	20,446,000	20,446,000	−554,000	−1,000	−1,000,000	
Total, unauthorized	(11,500,000)	(11,500,000)							
Total, Education division	5,218,459,952	4,324,459,000	5,791,869,000	6,097,384,000	5,935,007,000	+716,547,048	+1,610,548,000	+143,138,000	−$162,377,000
Total, items not authorized	(3,602,629,000)	(2,138,306,000)							
SOCIAL AND REHABILITATION SERVICE									
Public assistance:									
(a) Maintenance assistance	5,897,904,000	6,215,000,000	6,215,000,000	6,215,000,000	6,215,000,000	+317,096,000			
(b) Medical assistance	8,510,026,000	9,292,000,000	9,292,000,000	9,292,000,000	9,292,000,000	+781,974,000			
(c) Social services	2,698,898,000	2,400,000,000	2,400,000,000	2,400,000,000	2,400,000,000	−298,898,000			
(d) State and local training	64,972,000	60,000,000	60,000,000	60,000,000	60,000,000	−4,972,000			
(e) Child welfare services	52,500,000	46,000,000	52,500,000	60,000,000	56,500,000	+4,000,000	+10,500,000	+4,000,000	−3,500,000
(f) Research	9,200,000	9,200,000	9,200,000	9,200,000	9,200,000				
(g) Training projects	7,450,000		7,450,000	8,900,000	8,150,000	+700,000	+8,150,000	+700,000	−750,000
Total	17,240,950,000	18,022,200,000	18,036,150,000	18,045,100,000	18,040,850,000	+799,900,000	+18,650,000	+4,700,000	−4,250,000
Work Incentives:									
(a) Training	250,000,000	206,500,000	243,000,000	243,000,000	243,000,000	−7,000,000	+36,500,000		
(b) Child care	150,000,000	108,500,000	127,000,000	127,000,000	127,000,000	−23,000,000	+18,500,000		
Total	400,000,000	315,000,000	370,000,000	370,000,000	370,000,000	−30,000,000	+55,000,000		
Salaries and expenses	60,378,000	63,095,000	63,095,000	62,895,000	62,895,000	+2,517,000	−200,000	−200,000	
Total	17,701,328,000	18,400,295,000	18,469,245,000	18,477,995,000	18,473,745,000	+772,417,000	+73,450,000	+4,500,000	−4,250,000
SOCIAL SECURITY ADMINISTRATION									
Federal Funds									
Payments to Social Security trust funds	4,121,236,000	6,713,902,000	6,713,902,000	6,713,902,000	6,713,902,000	+2,592,666,000			
Special Benefits for Disabled Coal Miners:									
(a) Benefit payments	971,507,000	906,000,000	906,000,000	906,000,000	906,000,000	−65,507,000			
(b) Administration	28,271,000	7,897,000	7,897,000	7,897,000	7,897,000	−20,374,000			
Subtotal	999,778,000	913,897,000	913,797,000	913,897,000	913,897,000	−85,881,000			
Supplemental Security Income Program:									
(a) Benefit payments	4,700,000,000	5,245,000,000	5,230,000,000	5,230,000,000	5,230,000,000	+530,000,000	−15,000,000		
(b) State supplementation payments	205,000,000	55,000,000	55,000,000	55,000,000	55,000,000	−150,000,000			
(c) Vocational rehabilitation services	57,672,000	52,770,000	52,770,000	52,770,000	52,770,000	−4,902,000			
(d) Administration	497,978,000	500,352,000	500,352,000	500,352,000	500,352,000	+2,374,000			
(e) Federal fiscal liability	60,000,000	57,000,000	57,000,000	57,000,000	57,000,000	−3,000,000			
Subtotal	5,520,650,000	5,910,122,000	5,895,122,000	5,895,122,000	5,895,122,000	+374,472,000	−15,000,000		
Limitation on salaries and expenses	(2,397,717,500)	(2,561,773,000)	(2,561,773,000)	(2,561,773,000)	(2,561,773,000)	(+164,056,000)			
Limitation on construction [4]	(6,300,000)	(14,400,000)	(14,000,000)	(14,400,000)	(14,400,000)	(+8,100,000)			
Total	10,641,664,000	13,537,921,000	13,522,921,000	13,522,921,000	13,522,921,000	+2,881,257,000	−15,000,000		
SPECIAL INSTITUTIONS									
American Printing House of the Blind	2,408,000	2,762,000	2,762,000	3,012,000	3,012,000	+604,000	+250,000	+250,000	
National Technical Institute for the Deaf:									
Academic Program	9,836,000	12,675,000	12,675,000	12,675,000	12,657,000	+2,839,000			
Construction									
Total	9,836,000	12,765,000	12,675,000	12,675,000	12,657,000	+2,839,000			
Gallaudet College:									
Academic Program	12,490,000	14,790,000	14,790,000	14,790,000	14,790,000	+2,300,000			
Model Secondary School for the Deaf	5,373,000	7,260,000	7,260,000	7,260,000	7,260,000	+1,887,000			
Kendall Demonstration Elementary School	2,713,000	3,215,000	3,215,000	3,215,000	3,215,000	+502,000			
Construction	2,255,000	15,575,000	15,575,000	15,575,000	15,575,000	+13,320,000			
Total	22,831,000	40,840,000	40,840,000	40,840,000	40,840,000	+18,009,000			
Howard University:									
Academic Program	55,995,000	60,026,000	60,025,000	60,026,000	60,026,000	+4,031,000			
Howard University Hospital	20,563,000	19,883,000	19,883,000	19,883,000	19,883,000	−680,000			
Construction	10,000,000	2,000,000	3,000,000	2,000,000	2,500,000	−7,500,000	+500,000	−500,000	+500,000
Total	86,558,000	81,909,000	82,909,000	81,909,000	82,409,000	−4,149,000	+500,000	−500,000	+500,000
Total, special institutions	121,633,000	138,186,000	139,186,000	138,436,000	138,936,000	+17,273,000	+750,000	+750,000	+500,000

Footnotes at end of table.

Agency and item (1)	1976 comparable appropriation (2)	1977 budget estimate (3)	House allowance (4)	Senate allowance (5)	Conference agreement (6)	Increase (+) or decrease (—), Conference Committee compared with—			
						1976 comparable appropriation (7)	Budget estimate (8)	House allowance (9)	Senate allowance (10)
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT									
Human Development									
Child development:									
(a) Headstart	$454, 500, 000	$434, 300, 000	$475, 000, 000	$475, 000, 000	$475, 000, 000	+$20, 500, 000	+$40, 700, 000		
(b) Research, demonstration, and evaluation	14, 700, 000	10, 700, 000	14, 700, 000	14, 700, 000	14, 700, 000		+4, 000, 000		
(c) Child abuse	18, 928, 000	18, 928, 000	18, 928, 000	18, 928, 000	18, 928, 000				
Subtotal	488, 128, 000	463, 928, 000	508, 628, 000	508, 628, 000	508, 628, 000	+20, 500, 000	+44, 700, 000		
Youth development	8, 000, 000	6, 000, 000	8, 000, 000	10, 000, 000	9, 000, 000	+1, 000, 000	+3, 000, 000	+$1, 000, 000	—$1, 000, 000
Aging programs:									
(a) Community services:									
(1) State agency activities	17, 035, 000	16, 235, 000	17, 000, 000	17, 000, 000	17, 000, 000	—35, 000	+765, 000		
(2) Area planning and social services	93, 000, 000	82, 000, 000	121, 000, 000	125, 000, 000	122, 000, 000	+29, 000, 000	+40, 000, 000	+1, 000, 000	—3, 000, 000
(3) Model projects	13, 800, 000		12, 000, 000	12, 000, 000	12, 000, 000	—1, 800, 000	+12, 000, 000		
Subtotal, community services	123, 835, 000	98, 235, 000	150, 000, 000	154, 000, 000	151, 000, 000	+27, 165, 000	+52, 765, 000	+1, 000, 000	—3, 000, 000
(b) Nutrition	125, 000, 000	88, 000, 000	203, 525, 000	203, 525, 000	203, 525, 000	+78, 525, 000	+115, 525, 000		
(Program level)	(187, 500, 000)	(150, 000, 000)	(225, 000, 000)	(225, 000, 000)	(225, 000, 000)	(+37, 500, 000)	(+75, 000, 000)		
(c) Research, demonstrations, and manpower:									
(1) Research	8, 000, 000	5, 765, 000	(5)	9, 000, 000	(5)				
(2) Training	10, 000, 000		(5)	17, 000, 000	(5)				
(3) Multidisciplinary centers on gerontology	1, 000, 000		(5)	4, 000, 000	(5)				
Subtotal	19, 000, 000	5, 765, 000	25, 000, 000	30, 000, 000	26, 500, 000	+7, 500, 000	+20, 735, 000	+1, 500, 000	—3, 500, 000
(d) Federal Council on Aging	575, 000	575, 000	575, 000	575, 000	575, 000				
(e) Multipurpose Senior Center [6]			20, 000, 000	20, 000, 000	20, 000, 000	+20, 000, 000	+20, 000, 000		
Subtotal, Aging programs	268, 410, 000	192, 575, 000	399, 100, 000	408, 100, 000	401, 600, 000	+133, 190, 000	+209, 525, 000	+2, 500, 000	—6, 500, 000
Rehabilitation Service and Facilities:									
(a) Basic State grants	720, 309, 318	720, 000, 000	740, 000, 000	740, 309, 000	740, 309, 000	+19, 999, 682	+20, 309, 000	+309, 000	
(b) Service projects:									
(1) Innovation and expansion	18, 000, 000		18, 000, 000	18, 000, 000	18, 000, 000		+18, 000, 000		
(2) Deaf-blind Centers	2, 100, 000	2, 100, 000	2, 100, 000	2, 100, 000	2, 100, 000				
(3) Special projects:	9, 965, 000	8, 500, 000	12, 600, 000	16, 600, 000	15, 600, 000	+5, 635, 000	+7, 100, 000	+3, 000, 000	—1, 000, 000
(4) Training and facilities grants	6, 900, 000	7, 400, 000	7, 400, 000	7, 400, 000	7, 400, 000	+500, 000			
(A) Training services	(4, 500, 000)	(5, 000, 000)	(5, 000, 000)	(5, 000, 000)	(5, 000, 000)	(+500, 000)			
(B) Facility improvements	(2, 400, 000)	(2, 400, 000)	(2, 400, 000)	(2, 400, 000)	(2, 400, 000)				
Subtotal	36, 965, 000	18, 000, 000	40, 100, 000	44, 100, 000	43, 100, 000	+6, 135, 000	+25, 100, 000	+3, 000, 000	—1, 000, 000
(c) Research	24, 000, 000	18, 000, 000	24, 000, 000	30, 000, 000	29, 000, 000	+5, 000, 000	+11, 000, 000	+5, 000, 000	—1, 000, 000
(d) Training	22, 200, 000	20, 000, 000	25, 000, 000	25, 000, 000	25, 000, 000	+2, 800, 000	+5, 000, 000		
Subtotal	803, 474, 318	776, 000, 000	829, 100, 000	839, 409, 000	837, 409, 000	+33, 934, 682	+61, 409, 000	+8, 309, 000	—2, 000, 000
Grants for the developmentally disabled:									
(a) State grants	31, 558, 000	33, 508, 000	33, 058, 000	33, 058, 000	33, 058, 000	+1, 500, 000			
(b) Service grants	19, 817, 000	16, 317, 000	19, 817, 000	19, 817, 000	19, 817, 000		+3, 500, 000		
(c) University affiliated facilities	4, 250, 000	4, 250, 000	4, 250, 000	6, 250, 000	5, 250, 000	+1, 000, 000	+1, 000, 000	+1, 000, 000	—1, 000, 000
Subtotal	55, 625, 000	53, 625, 000	57, 125, 000	59, 125, 000	58, 125, 000	+2, 500, 000	+4, 500, 000	+1, 000, 000	—1, 000, 000
Special programs for Native Americans	33, 000, 000	32, 000, 000	33, 000, 000	33, 000, 000	33, 000, 000		+1, 000, 000		
White House Conference on Handicapped Individuals	1, 370, 000	1, 436, 000	1, 436, 000	1, 436, 000	1, 436, 000	+66, 000			
Salaries and expenses	44, 993, 000	47, 725, 000	47, 725, 000	47, 425, 000	47, 425, 000	+2, 432, 000			
Architectural and Transportation Barrie's Compliance Board	(300, 000)	(300, 000)	(300, 000)	(300, 000)	(300, 000)				
Items not authorized	(500, 000)	(500, 000)				(—500, 000)	(—500, 000)		
Less trust fund transfer	—600, 000	—600, 000	—600, 000	—600, 000	—600, 000				
Total, authorized	1, 702, 400, 318	1, 572, 689, 000	1, 883, 514, 000	1, 906, 523, 000	1, 896, 023, 000	+193, 622, 682	+323, 334, 000	+12, 509, 000	—10, 500, 000
Total, unauthorized	(500, 000)	(500, 000)				(—500, 000)	(—500, 000)		
DEPARTMENTAL MANAGEMENT									
Office for Civil Rights	26, 570, 000	30, 604, 000	30, 604, 000	30, 604, 000	30, 604, 000	+4, 034, 000			
Less trust fund transfer	—1, 351, 000	—919, 000	—919, 000	—919, 000	—919, 000	—432, 000			
Total	25, 219, 000	29, 685, 000	29, 685, 000	29, 685, 000	29, 685, 000	+4, 466, 000			
General Management:									
(a) Department direction	42, 502, 000	42, 232, 000	42, 232, 000	39, 082, 000	39, 082, 000	—3, 420, 000	—3, 150, 000	—3, 150, 000	
(Office of Investigations)	(995, 000)	(1, 428, 000)	(1, 428, 000)	(1, 428, 000)	(1, 428, 000)	+433, 000			
(b) Department operations	59, 760, 000	64, 301, 000	63, 301, 000	63, 301, 000	63, 301, 000	+3, 541, 000			
Subtotal	102, 262, 000	106, 533, 000	105, 533, 000	102, 383, 000	102, 383, 000	+121, 000	—4, 170, 000	—3, 150, 000	
Less trust fund transfer	—12, 751, 000	—12, 872, 000	—12, 872, 000	—12, 872, 000	—12, 872, 000	+121, 000			
Total	89, 511, 000	93, 661, 000	92, 661, 000	89, 511, 000	89, 511, 000		—4, 150, 000	—3, 150, 000	
Policy research	24, 950, 000	24, 950, 000	24, 950, 000	12, 475, 000	20, 000, 000	—4, 950, 000	—4, 950, 000	—4, 950, 000	+7, 525, 000
Total, Departmental Management	139, 680, 000	148, 296, 000	147, 296, 000	131, 671, 000	139, 196, 000	—484, 000	—9, 100, 000	—8, 100, 000	+7, 525, 000
Total, Department of Health, Education and Welfare	40, 281, 387, 270	42, 016, 902, 000	44, 782, 627, 000	45, 501, 226, 000	45, 121, 636, 000	+4, 840, 248, 730	+3, 104, 734, 000	+339, 009, 000	—379, 590, 000

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS BILL, 1977—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued

						Increase (+) or decrease (−), Conference Committee compared with—			
Agency and item (1)	1976 comparable appropriation (2)	1977 budget estimate (3)	House allowance (4)	Senate allowance (5)	Conference agreement (6)	1976 comparable appropriation (7)	Budget estimate (8)	House allowance (9)	Senate allowance (10)
DEPARTMENTAL MANAGEMENT—Con.									
Action (Domestic Programs):									
(a) Volunteers in Service to America	$22,300,000	$13,600,000	(7)	$23,000,000	$23,000,000	+$700,000	+$9,400,000	+$23,000,000	
(b) Service Learning Programs	7,251,000	4,400,000	(7)	7,300,000	7,300,000	+49,000	+2,900,000	+7,300,000	
(c) Older Americans Volunteer Programs:									
(1) Foster Grandparents Program	28,287,000	34,000,000	$34,000,000	34,000,000	34,000,000	+5,713,000			
(2) Senior Companion Program	3,640,000	3,800,000	3,800,000	3,800,000	3,800,000	+160,000			
(3) Retired Senior Volunteer Program	17,500,000	17,500,000	19,000,000	19,000,000	19,000,000	+1,500,000	+1,500,000		
Subtotal	49,427,000	55,300,000	56,800,000	56,800,000	56,800,000	+7,373,000	+1,500,000		
(d) Special Volunteer Programs	3,731,000	2,000,000	(7)	2,500,000	2,500,000	−1,231,000	+500,000	+2,500,000	
(e) Service Corps of Retired Executives and Action Corps of Executives	400,000					−400,000			
(f) Program Support	20,486,000	18,602,000	(7)	18,600,000	18,600,000	−1,886,000	−2,000	+18,600,000	
Total	103,595,000	93,902,000	56,800,000	108,200,000	108,200,000	+4,605,000	+14,298,000	+51,400,000	
Community Services Administration:									
(a) Research and demonstration:									
(1) Rural housing development and rehabilitation	3,000,000		5,000,000	5,000,000	5,000,000	+2,000,000	+5,000,000		
(2) Veterans education and training services	2,500,000								
(3) Other demonstrations	11,300,000								
Subtotal	16,800,000		5,000,000	5,000,000	5,000,000	−11,800,000	+5,000,000		
(b) Community Action Operations:									
(1) Local initiative	330,000,000	260,000,000	330,000,000	330,000,000	330,000,000		+70,000,000		
(2) Senior opportunities and service	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000				
(3) State economic opportunity officers	12,000,000		12,000,000	12,000,000	12,000,000		+12,000,000		
(4) Emergency food services	26,200,000		15,000,000	40,000,000	27,500,000	+1,300,000	+27,500,000	+12,500,000	−$12,500,000
(5) Emergency energy conservation services	27,500,000		27,500,000	55,000,000	27,500,000		+27,500,000		−27,500,000
(6) National youth sports program	6,000,000		6,000,000	6,000,000	6,000,000		+6,000,000		
(7) Summer youth recreation and transportation	17,000,000		17,000,000	17,000,000	17,000,000		+17,000,000		
(8) Migrant programs				10,000,000	1,000,000	+1,000,000	+1,000,000	+1,000,000	−9,000,000
Subtotal	428,700,000	270,000,000	417,500,000	480,000,000	431,000,000	+2,300,000	+161,000,000	+13,500,000	−49,000,000
(c) Community Economic Development	46,500,000	39,000,000	46,500,000	61,500,000	48,170,000	+1,670,000	+9,170,000	+1,670,000	−13,330,000
(d) Program Administration	28,152,000	25,000,000	27,000,000	27,000,000	27,000,000	−1,152,000	+2,000,000		
Total	520,152,000	334,000,000	496,000,000	573,500,000	511,170,000	−8,982,000	+177,170,000	+15,170,000	62,330,000
Corporation for Public Broadcasting	78,500,000	70,000,000	96,750,000	103,000,000	103,000,000	+24,500,000	+33,000,000	+6,250,000	
Advance 1978		80,000,000	107,150,000	121,000,000	107,150,000	+107,150,000	+27,150,000		+13,850,000
Advance 1979		90,000,000	120,200,000	140,000,000	120,200,000	+120,200,000	+30,200,000		−19,800,000
Federal Mediation and Conciliation Service	18,332,000	20,328,000	20,328,000	20,328,000	20,328,000	+1,996,000			
National Commission Libraries and Information Science	468,000	517,000	517,000	492,575	492,575	+24,575	−24,425	−24,425	
National Labor Relations Board	69,597,000	78,204,000	77,776,000	78,204,000	77,776,000	+8,179,000	−428,000		−428,000
National Mediation Board	3,405,000	3,606,000	3,606,000	3,606,000	3,606,000	+201,000			
Occupational Safety and Health Review Commission	5,769,000	6,280,000	6,280,000	6,280,000	6,280,000	+511,000			
Railroad Retirement Board:									
Payments to Railroad Retirement Trust Funds	250,000,000	250,000,000	250,000,000	250,000,000	250,000,000				
Regional Rail Transportation Protective Account	37,600,000	40,000,000	40,000,000	40,000,000	40,000,000	+2,400,000			
Limitation on salaries and expenses	(29,492,000)	(33,723,000)	(33,723,000)	(33,723,000)	(33,723,000)	(+4,231,000)			
Soldier's and Airmen's Home (trust fund appropriation):									
Operation and maintenance	15,665,000	15,373,000	15,373,000	15,373,000	15,373,000	−292,000			
Total, Related Agencies	1,103,083,000	1,082,210,000	1,290,780,000	1,444,983,575	1,363,575,575	+260,492,575	+281,365,575	+72,795,575	−81,408,000
Total, items not authorized	(54,168,000)	(38,602,000)							
Grand total, Labor-Health, Education, and Welfare	53,424,480,270	52,618,208,000	56,205,212,000	56,167,116,575	56,618,207,575	+3,193,727,305	+3,999,999,525	+412,995,575	−548,909,000

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[1] Includes proposed deferral of $4,000,000 D 76—, submitted July 28, 1976

[2] Deferred due to lack of authorizing legislation.

[3] 2d supplemental appropriations bill includes $3,000,000 for this program, to be available during transition period. These funds are proposed for rescission, R76-47, submitted July 28, 1976.

[4] Includes proposed deferral of $15,098,131; D76-54A, submitted Mar. 18, 1976.

[5] Component amounts not specified.

[6] 2d supplemental appropriations bill includes $5,000,000 for this program, to be available during transition period. These funds are proposed for rescission, R76-48, submitted July 28, 1976.

[7] Deferred due to late enactment of authorizing legislation.

[8] Includes $90,000,000 proposed for rescission, R76-49, submitted July 28, 1976.

Mr. BAYH. Mr. President, having been one of the participants in the conference I would like to reiterate what the Senator from Massachusetts has said. It was a long and difficult conference. I think it probably involved the ultimate in give and take on both sides, and being a Member of this body, I felt rather strongly the case of the Senate. While we were not fully successful in achieving it, it was not because we did not try.

I think it is extremely important that we move forward with this bill, and I move the adoption of the conference report and yield back the remainder of my time.

Mr. MATHIAS. Mr. President, I note that the conference report language—and I quote:

> Reaffirms the language of the House report calling on the Department of Health, Education, and Welfare to bring the spiraling indirect cost rates under control.

The reference is to the cost of university research financed by the Federal Government. The House report, which the conferees reaffirm, urges the Department to devote greater attention to overhead costs and to assuring that these costs are strictly associated with the Department's grants and contracts.

It goes on to say that HEW, together with the Office of Management and Budget, is currently discussing the rules for determining indirect cost rates with representatives of educational institutions. It asks to be kept informed of these discussions. This seems to me to be a workmanlike, equitable, and wholly acceptable approach.

We do not want universities to make a profit on Federal research and we do not want them to take a loss. We want prudent and economical administration. We should not prejudge the outcome of these technical discussions by deciding what the true costs of research are before the professional judgments are made. What we need is an approach that is fair to the Government and to the universities. This is the principle that should guide HEW in preparing the material called for in the conference report.

Is my understanding consistent with the intent of the conferees?

Mr. BAYH. The Senator is correct. Our concern is that we get the most out of the taxpayer's dollar. We simply want to see that there are fair and reasonable controls on indirect costs. It was not our intent to prejudge the situation.

OSHA AMENDMENTS TO THE HEW-LABOR APPROPRIATIONS BILL

Mr. CHURCH. Mr. President, since enactment of the Occupational Safety and Health Act, the administration of OSHA has made it apparent that there are two serious flaws which the Congress must resolve.

First, the law simply reaches too far. It attempts to cover every business and farm in America. That is further than the Federal Government can reach and still enforce the law in an equitable way.

What if it were proposed that the Federal Government come into our individual homes? When I hear the discussions of the dangers of farming, the hazards of various other kinds of occupations, I think it strange that no mention is made of the most hazardous place of all, the home, where most of the accidents occur. Yet no one would suggest that the Federal Government should come into our individual homes with enforcement officers, to penalize us for having failed to comply with a whole set of Federal safety regulations applicable to the most hazardous place of all; the home. If this were proposed, we would reject it unanimously.

Yet, there is very little difference, Mr. President, between our individual abodes, where we assume the responsibility for our own safety and that of our children without the imposition of Federal regulations, Federal inspectors, or Federal penalties, and the mom-and-pop stores or family farms that are essentially the same thing.

These very small operations are family ventures. They depend primarily on members of the family, employ very few outside people, and ought not to fall within the scope of this law. The Federal Government reaches too far when it attempts to regulate conditions of work in every mom-and-pop store and every family farm. This flaw in OSHA must be corrected.

The second flaw, Mr. President, is the preemptory way penalties under OSHA have sometimes been imposed. Only larger businesses possess the resources to predetermine OSHA safety requirements for themselves. Smaller businesses frequently have no way of knowing whether or not they are in compliance. When an OSHA inspector suddenly appears, discovers certain violations, and then imposes a fine, without giving the business concerned any opportunity to bring itself into compliance, a serious injustice may result, particularly in those cases where the violations were neither known beforehand nor intended. Most businessmen want to comply with the law, and should be given an opportunity to do so, once violations are pointed up to them, by having reasonable time thereafter to make the necessary corrections.

Only if they then refuse to do so should penalties be imposed. It has been the assessment of first-inspection fines for innocent violations of the regulations which do not pose an obvious hazard to the life or health of the workers that has given rise to so many indignant charges of capricious and arbitrary enforcement of the OSHA law. This practice, too, must be corrected by the Congress.

When the Senate first considered this HEW-Labor appropriations bill, two amendments were adopted with my support that moved in the direction of correcting these defects in the present law. One had the effect of exempting from OSHA all farms that employed an average of 5 or fewer employees annually, but no more than 12 employees on any given day during the year. The other exempted all businesses from being fined for nonserious violations found on first inspections. I believe that these amendments moved in the right direction and greatly improved the present law.

The conference committee, meeting to resolve differences in the bill as passed by the Senate and the House, has rewritten these amendments. The conference version of the bill now before us exempts from OSHA all farms of 10 or fewer employees. This is a simpler standard; it would have the effect of exempting all but the largest family farms, and I support it.

As for the other amendment, however, the conference committee has modified the Senate language in an unfortunate way. Instead of exempting all businesses from being fined for nonserious violations on first inspections, a proviso has been added which would permit immediate fines in cases where more than 10 violations are found.

I am concerned, Mr. President, that this proviso could become an invitation for new abuses of the very kind the Senate had sought to correct. It might well encourage overly zealous enforcement officers to search for trivial violations in order to obtain the necessary number for imposition of an immediate fine. In view of some of the arbitrary cases that we have learned about in the past, who can foretell what mischief may result? Will we next learn that a defective ladder in grandfather's bookstore has not been cited as a single violation, but that each loose rung has been counted in order to legalize the assessment of an immediate fine?

I hope we will not learn of such cases in the future, but that the revised language leaves open the possibility. For this reason, the Senate's version was much to be preferred.

On balance, however, the changes in the OSHA law as contained in the conference report represent some improvement. Moreover, the bill contains funding for many worthwhile programs, including more generous appropriations for the Older Americans Act, which I strongly support. Therefore, I shall vote for adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAYH. Mr. President, for the purpose of clarifying the situation, and so that those who have differing opinions here might be fully apprised of what we are in the process of doing, and not feel we are trying to put anything over on them, there were a number of House amendments to Senate amendments in the bill which I would like to see the Senate concur in which I think would be in the best interests of the Senate to agree to these items in technical disagreement. Following that, one amendment will remain in disagreement, the Hyde amendment. I am sure that will be the subject of some debate on this floor.

Mr. President, I move that the Senate concur, en bloc, in the House amendments to Senate amendments Nos. 4, 8, 13, 36, and 48.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

> *Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid bill, and concur therein with an amendment as follows:
>
> In lieu of the matter proposed by said

amendment, insert: ", of which $75,300,000 shall be for section 906(a)(1).".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 8 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for 10 or more violations: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation and employs 10 or fewer employees.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "title XVII of the Public Health Service Act, the Lead-Based Paint Poisoning Prevention Act,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 36 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "and $15,000,000 for educational broadcasting facilities shall remain available until expended, including $1,000,000 for carrying out section 392A of the Communications Act of 1934, as amended".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

"*Provided,* That the appropriations for 'Education for the handicapped' contained in title I, chapter VI of Public Law 92–303 (second Supplemental Appropriations Act, 1976) is amended by adding at the end thereof", to remain available until September 30, 1977": *Provided further,* That funds contained in this title for "Special benefits for disabled coal miners" shall remain available for benefit payments from July 1, 1976 through September 30, 1977.".

The House amendments to Senate amendments Nos. 4, 8, 13, 36, and 48 were agreed to.

Mr. BAYH. Mr. President, I move that the Senate proceed to the consideration of the Hyde amendment, and I move that the Senate further insist upon its amendment No. 68 and request a further conference with the House of Representatives on the disagreement thereof and that the Chair be authorized to appoint the conferees on the part of the Senate.

I send the conferees requested to the desk.

The PRESIDING OFFICER. The clerk will state the amendment in disagreement.

The legislative clerk read as follows:

The House insists upon its disagreement with the Senate amendment numbered 68.

Mr. HELMS. Mr. President, will the Senator yield time to me?

Mr. BAYH. Yes; how much time does the Senator from North Carolina desire?

Mr. HELMS. May I have as much as 10 minutes?

Mr. BAYH. I am glad tc yield 10 minutes.

Mr. HELMS. I thank the Senator.

Mr. President, when this amendment was last debated, my able friend and the distinguished Senator from Oregon quoted Dr. Louis Hellman of the Department of Health, Education, and Welfare as saying that:

> Most of the women denied medicaid for abortions would be forced to carry unwanted pregnancies to term. The cost to the government for the first year alone after birth for medical care and public assistance would be between $450 million and $565 million. Whereas it is estimated that the department is currently financing between 250,000 and 300,000 abortions annually at a cost of $45 to $50 million.

At that time, I think the record will show that I asked the distinguished Senator from Oregon whether he might be saying that:

> It is cheaper to the state to kill the unborn children of the poor than it is to let them be born.

I believe that such was the necessary and direct implication of both his and Dr. Hellman's statement. To my surprise my good friend from Oregon did not repudiate that inference from his statement. Indeed he merely said that he had other arguments as well on which to base his position.

Mr. President, I know this is a controversial subject, but I am bound to say that many Americans regard this as a most invidious argument.

Had I ever any doubt concerning how I would vote on this amendment before this argument was made, I certainly would vote in favor of the Hyde amendment simply to repudiate any inference that the Senate of the United States would ever entertain such a notion.

To vote against the Hyde amendment in the context of this argument is to take the Senate on the first step to horror and tragedy. What we will be saying, if we reject the Hyde amendment under these circumstances, is that innocent human lives can and, indeed, should be subordinated to the monetary interests of the state. If we embrace this principle today, to what extremes will we go tomorrow? I predict, and I do so with all seriousness that if we today embrace the principle that innocent human life may be disposed of to save the Government money in regard to child care, in the foreseeable future we could again hear this argument applied to the old, the feeble, the infirm, and the handicapped. We know too plainly where such reasoning has led in the past. It is no mere coincidence that the modern practice of abortion as a policy of government first appeared in Nazi and Communist dictatorships. The low value these governments place on individual lives made the practice of abortion an easy vehicle for the implementation of their society's goals.

During the course of the Nuremberg Military Tribunals' trials of Nazi war criminals, the promotion of abortion was considered a crime against humanity. The Nazi regime encouraged and even in some circumstances forced abortions on eastern European women as part of their genocidal racial policies. Abortions were prohibited in Germany by the German Penal Code and after the Nazis came to power they strictly enforced the law as to Germans. But abortions were also prohibited by the Polish Penal Code and the Soviet Penal Code.

After the war, the prosecution argued during the Nuremberg Trials that the war crimes of certain Nazi officers in the race and resettlement office consisted in the implementation of a policy with the result that, and I quote official U.S. Government trial documents:

> The protection of the law was denied to the unborn children of the Russian and Polish women in Nazi Germany. Abortions were encouraged and even forced on these women.

According to Nazi documents the procedures involved were quite simple.

> In the case of eastern female workers, pregnancy may be interrupted if the pregnant woman so desires. Concerning the request of the eastern female worker, the officer for expert opinion for abortion is the locally competent medical office. . . . obtaining the consent of the higher SS and police leader as deputy of the reich commissioner for the strengthening of Germanism is, according to this, necessary only in the cases in which it is maintained or is probable that the father was a German and a member of an ethnically related (Germanic) race.

Gestapo and SS documents revealed at the trial derided physicians who argued that promoting abortions among these women was not in accordance with the moral obligation of a physician to preserve life. Other doctors were criticized for objecting to late-term abortions as "child murder." Also the documents expressed concern that—

> The more intelligent female eastern workers had misgivings about interruption of pregnancy, since they know from their native country that a woman's ability to conceive suffers through artificial abortion.

The defense position at trial basically involved two principal arguments. First, the defense argued that the mental attitude and personal beliefs of the defendants necessary to convict them of intending to commit a crime against humanity was absent because—

> A personal subjective attitude towards the matter was unnecessary all the more as it came to our knowledge that in those cases the woman themselves had applied for the interruption of pregnancy and had wanted it themselves and that these abortions could only be carried out on a voluntarly basis.

Second, the defense argued that their conduct did not constitute a serious crime.

> Interruption of pregnancy is or was never considered as murder, but it was considered a special violation against life. Generally this incurs considerably milder punishment than if it were murder. Up to now nobody

> had the idea to see in this interruption of pregnancy a crime against humanity.

It was in response to such attitudes that American physicians warned in the 1940 yearbook of obstetrics and gynocology, that:

> A physician has a clear duty to preserve human life, but by what principle can one demonstrate that he is the arbiter of life and death and may therefore decide to kill one human being so that another may live? When we approach the consideration of the rights of one human being over the life of another, we are confronted with a problem where the principles we may enunciate may have consequences that will soon extend much farther than we think and lead to results that we would abhor.

American physicians continued their disagreement with Nazi policy on abortion in the 1941 yearbook.

> At the present time, when rivers of blood and tears of innocent men, women and children are flowing in most parts of the world, it seems almost silly to be contending over the right to live of an unknowable atom of human flesh in the uterus of a woman. No, it is not silly. On the contrary, it is of transcendent importance that there be in this chaotic world one high spot, however small, which is safe against the deluge of immorality and savagery that is sweeping over us. That we, the medical profession, hold to the principle of the sacredness of human life and of the rights of the individual, even though unborn, is proof that humanity is not yet lost and that we may ultimately attain salvation.

Perhaps some will refuse to see any comparison with the promotion of abortion in order to reduce government expenditures and the promotion of abortion to implement government racial policies. However, there are millions of Americans who do and who are opposed to the use of their tax dollars to promote such a policy. We have heard over and over again on this floor from the proponents of abortion that today we live in a pluralistic society and that they would never think of imposing their particular beliefs upon those of us who do not share them. Well, I can see no stronger means of imposing one person's beliefs upon another person than by requiring that person under penalty of law to finance activity to which he is morally, religiously, and philosophically opposed. If this is the pluralism of the pro-abortionists then I, for one, want none of it.

We must also consider today whether we will force millions of Americans to violate their long tradition of religious morality concerning abortion and force them to finance an act which they believe to be a homicide. Millions of Christians find in the Bible many indications that abortion is contrary to Christian morality. For example, in the first chapter of the Book of Jeremiah, when God called Jeremiah to be a prophet he said:

> Before I formed thee in the belly I knew thee; and before thou comest forth out of the womb I sanctified thee

And the Southern Baptist Convention at its annual meeting this June adopted a resolution which reaffirmed—

> The biblical sacredness and dignity of all human life, including fetal life—

And held that the—

> practice of abortion for selfish non-therapeutic reasons wantonly destroys fetal life, dulls our society's moral sensitivity, and leads to a cheapening of all human life.

The last time we debated this issue, the distinguished Senator from Oregon read into the record the names of various religious organizations which accepted the Supreme Court's ruling on abortion. I do not want to compare figures with him, nor do I wish to debate how many Christians or other religious people may or may not support abortion. That is not the issue. All that I do want to emphasize is that there are millions of people in this country whose fundamental religious morality rejects the practice of abortion. For the Senate to force these people to pay for abortion is to clearly restrain the free practice of their religion.

Mr. President, the last time we considered the Hyde amendment many Members of this assembly voiced concern with the propriety of attaching "legislative amendments" to an appropriations bill. In general, I share their concern and respect the practice of this body not to favor such amendments. However, a procedural rule, such as this one must at times yield to more substantial considerations. We must weigh the efficacy of following this practice with the other goals to be achieved by this amendment. We must balance the goods to be achieved by each course of action. Even our most precious and longstanding constitutional principles admit of exceptions in certain circumstances. Today we are talking about the lives of hundreds of thousands of children about to be born and we are talking about a very positive and straightforward restraint on the freedom of religious practice by the use of the taxing power of the Federal Government. I believe that on balance, an exception and necessary on this occasion to our procedural practice.

I thank the Chair, and I yield back the remainder of the time allotted to me.

Mr. BAYH. Mr. President, I yield myself 4 or 5 minutes to continue the debate initiated by the distinguished Senator from North Carolina, the basic question here before us is the question of abortion. More specifically the question is one of whether we should permit Federal funds through the medicaid program to be utilized by women who need or require abortions.

As the chairman of the Constitutional Amendments Subcommittee, I suppose I have spent more time pursuing this at the legislative level than any other Member of Congress.

I have, after some great difficulty and struggle in my mind, arrived at a conclusion which I am prepared to live with so far as the issue of abortion is concerned. It seems to me that the question before us goes beyond that. I think the Senate has to recognize the impact that the adoption of this amendment would have on the various categories of people.

In other words, I think that we can make a much stronger case if for no abortion than can be made to support this language—language which in essence says that some people can have abortions but some people cannot.

We can argue this until the cows come home, but I must say that, without exception, the lower court decisions have ruled that the effect of this particular language would be unconstitutional. I am not a judge, but with what legal training I have had, I must say that I concur with these lower court decisions.

The impact of this language is to say that if you are poor, if you are a member of a minority group, your chances of having an abortion are going to be seriously limited; whereas, if you are affluent, of any color or ethnic group, you have the wherewithal necessary to get an abortion.

One, I do not think that is the kind of double standard we want to have. Two, I do not think the Supreme Court is about to let us have it, even if we wanted to have it. It is clearly a denial of due process. It is a clear denial of equal protection, and I think that in short order the Court will so hold.

Mr. HELMS. Mr. President, will the Senator yield? He did not interrupt me, and I hesitate to interrupt him.

Mr. BAYH. I yield.

Mr. HELMS. Is it not really a matter of saying that nobody shall have abortions at Government expense?

Mr. BAYH. I think the same thing can be said about people who use other services at Federal expense. This argument is very closely related to an argument that I found great sympathy with. Why should my tax dollars be used to dump napalm on defenseless civilians in Vietnam? I am opposed to the war, so why should I not be able to opt out?

Once we make that exception, I do not know where it stops. Maybe I do not want a highway going someplace because of environmental problems. Should I be given the option to determine where my tax dollars are going to be spent?

The clear ramification of this is that we are setting up two classifications of people. Those who have the money necessary to get abortions can get them; those who do not, cannot.

That does not answer the question to the satisfaction of the Senator from North Carolina, but is the feeling of the Senator from Indiana.

Mr. HELMS. If that is the best the Senator from Indiana can do——

Mr. BROOKE. I do not think that is the best argument, because it means the Senator is saying that no one can have an abortion at Federal expense.

The point is that these are the people who, if they are to have an abortion at all, would have to have it at Federal expense because they cannot afford it any other way. Those not covered by the prohibition in the Hyde amendment are people not in need, so they can go out and pay for an abortion.

Mr. HELMS. So the remedy for that, in the Senator's judgment, is to force the taxpayers to be taxed to pay for hundreds of thousands of abortions.

Mr. BROOKE. Not at all; that is not it. No one on the floor of the Senate or anywhere I know of is proabortion. The issue is not antiabortion or proabortion.

Mr. HELMS. I am glad the Senator cleared that up.

Mr. BROOKE. I will clear it up every

time. I can speak only for myself, but I do not know of anybody who is proabortion.

Under the Hyde language, even if it is to save the life of a mother, the mother cannot have an abortion. This goes further than any amendment language we have had before—that is, the Hyde language.

Mr. BAYH. A mother with five dependent children at home can be pregnant. The doctor says: "It is either a case of saving a child or saving the mother, or maybe you are going to lose both; but if we have an abortion now, we can at least save the mother of those five children."

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

Mr. BAYH. I yield myself a couple of more minutes.

I am prepared to let a mother who wants to make that decision go ahead with the pregnancy.

The PRESIDING OFFICER. The time of the Senator from Indiana on the amendment has expired.

Mr. BROOKE. I yield the Senator 1 minute.

Mr. BAYH. I thought the Senator from Indiana had a half hour.

The PRESIDING OFFICER. The Senator from Indiana has 15 minutes.

Mr. BAYH. It seems to me that here we are getting to the nub of the whole abortion question—whether this is something that the Federal Government should become involved in and say, "Thou shalt do thus and so" or "Thou shalt not do thus and so." That is where the Senator from Indiana decided that we are talking about life, and I am prepared to let people make that determination for themselves. However, in this situation, if we accept the position of the Senator from North Carolina, a mother who is poor, with dependent children, cannot make that decision.

Mr. BROOKE. Even if a mother's life is to be saved, or even if the woman is raped and becomes pregnant, or even if the woman becomes pregnant by incest, in any of those situations she would be denied the right to have an abortion at Federal expense.

Mr. HELMS. The Senator may have a different understanding of this amendment than does the Senator from North Carolina. Mr. Hyde said that it is not the intent of his amendment to prohibit those medical procedures necessary to save the life of the mother.

Mr. BROOKE. The language is clear and concise. It rules out all abortions at Federal expense. That is what the Hyde amendment intended to do and that is exactly what it does.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 13 minutes.

Mr. BAYH. I ask this of the Senator from North Carolina. I think it is rather basic. I will read the language of the Hyde amendment. It says:

> None of the funds appropriated under this Act shall be used to pay for abortions or to promote or encourage abortions.

It says "none." How does the Senator come to the conclusion that if the mother's life is in jeopardy, it makes an exception? It does not say, "None of the funds, except in the case the mother's life is in jeopardy, shall be appropriated."

Mr. HELMS. The doctrine of self-defense is also applicable here. I do not think there is any question about the effect of the Hyde amendment as to the saving of a mother's life. Essentially such operations concern the removal of a diseased uterus, or removal of an ectopic pregnancy which are simply not considered to be abortions. In any case, the record is clear regarding the position of Mr. Hyde as to the intent of the amendment in that regard.

Mr. BAYH. The self-defense doctrine does not say that you can have Federal funds for self-defense. It says that none of the funds shall be applied. It seems to me that we have to recognize the consequences of this amendment.

Mr. BROOKE. Mr. President, I have to reserve the remainder of my time, but I say to the distinguished Senator from North Carolina that Mr. Hyde did not make any exception where the life of the mother was to be saved, under this amendment.

I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. Mr. President, I think we should yield to the distinguished Senator from Oregon, under his 30-minute time agreement, in order to get into debate, and then I will yield some time to the Senator from New York, for discussion with him.

Mr. PACKWOOD. Mr. President, I asked for 30 minutes for myself in case we got into a time bind. I often have found myself in a situation in which I did not get any time. The Senator from New York just told me that there is no time for anybody on the side of anti-abortion. I do not know how that came to pass, but that appears to be the situation.

Mr. President, the Senator from North Carolina makes the argument—or claims that I made the argument—that it is cheaper to have abortions than to have women bear pregnancies to term and then to take care of the children in a variety of ways if they happen to be poor or welfare cases. That is not why I am opposed to the Hyde amendment, any more than I support capital punishment because it might be cheaper to execute criminals than to imprison them for life. I do support capital punishment, but not on the basis of fiscal conservatism.

I think the woman is entitled to determine for herself whether or not she wants to terminate an unwanted pregnancy. It is not the business of the Senator from North Carolina nor me nor the U.S. Government, nor anybody else. It is a decision for that woman to make.

To try to draw analogies to other countries—and the Senator from North Carolina made reference to Nazi Germany—does no good. Actually, the situation was that under the Weimar Republic, abortions were legal in Germany. When Hitler came to power, the Government of the Third Reich made abortions in Germany illegal, because there was a manpower shortage in Germany. I do not know what that proves.

Japan has had legal abortion since 1947. Japan is a perfectly civilized, mature country, able, when they have scandals in their government, to put their own house in order. What does that prove about abortions? That abortions are all right because Japan is a democratic government, or that abortions are bad because some government we do not like allows them? I do not think it proves anything at all. It is a non sequitur.

Abortion is a moral issue. It is one of the most evenly divided issues that this country has faced in this century. Although the position on abortion throughout history has changed from time to time—just look at the common law, forgetting for the moment the rest of Europe. By and large, under common law, until 1800 in England, abortions were legal, not a crime, and they were legal in this country under common law. It was not until the early and mid-1800's that laws were passed against abortions.

Part of the reason for the change was moral. People began to think that abortions were bad. Part of it was medical; abortions were a very unsafe procedure. Many, many more women died from abortions than died from carrying pregnancies to term. So, for a variety of reasons, starting roughly in the 1830's and 1840's, we began in this country to see States passing laws prohibiting abortions.

Then, starting in the early and mid-1960's, we began to see States again changing their laws on abortion. The State of Colorado was a forerunner in passing what was regarded then as a modern abortion statute. The State of New York, in its legislature, passed a statute legalizing abortion in that State. The State of Washington had the issue on the ballot; the State of Washington voted for legalized abortion. Some States have had it on the ballot and have turned it down.

All I am using these illustrations for is to prove that there has been a cycle of opinion about abortion. Never, in our history, either in terms of religious annals or in terms of legal annals, has there been an irrevocable time when everybody said, "It is right" or "It is wrong." Never has there been a 100-percent agreement on the subject of abortion. But we can say that in 200 years, we have gone full circle, in terms of at least a majority opinion, from legal to illegal and back to legal again.

I maintain that God did not talk to any of us at any time in that complete circle and say, "At this point in time, we have reached the final decision on abortion: it is right, it is just, it is moral;" or, "It is awful, it is illegal, it is immoral."

If anything, it is a personal decision, a very, very personal decision, and one that should be left to a woman and her physician to determine whether or not that abortion is going to be performed.

The argument of morality is brought into this so often that each time we have this argument, I want to read the list of just religious organizations—not the dozens of others, just the religious organizations—that are on record in favor of legalized abortion.

The religious organizations which have endorsed abortion rights are:

National Federation of Temple Sisterhoods, 1965.

Commission on Social Action of Reform Judaism, 1967.

Clergy Consultation Service on Abortion, 1967.

American Baptist Convention, 1968.

American Friends Service Committee, 1969.

Connecticut Council of Churches, 1969.

Church Women United, 1970.

Presbyterian Church in the U.S., Committee on Women's Concerns, 1970.

Presbyterian Church in the U.S., General Assembly, 1970.

Lutheran Church in America, 1970.

B'nai B'rith Women, 1970.

Moravian Church in America, Northern Province, 1970.

Council of Churches of Greater Washington, 1970.

Federation of Protestant Welfare Agencies, 1970.

Connecticut Conference of the United Church of Christ, 1971.

Board of Homeland Ministries, United Church of Christ, 1971.

Center for Social Action, United Church of Christ, 1971.

Council of Churches of the Mohawk Valley Area, 1971.

United Church of Canada General Council, 1972.

American Humanist Association, 1972.

American Jewish Congress, Women's Division, 1972.

Board of Church and Society, United Methodist Church, 1972.

Church Women United of Connecticut, 1972.

Church and Society Unit, United Presbyterian Church, USA, 1972.

Washington Office, United Presbyterian Church, USA, 1972.

Women's Program Unit, United Presbyterian Church, USA, 1972.

Church of the Brethern, 1972.

Pennsylvania Council of Churches, 1973.

Baptist Joint Committee on Public Affairs, 1973.

Women of the Episcopal Church, 1973 (reaffirmed 1970 endorsement).

National Association of Laity, 1973.

American Ethical Union, 65th Annual Assembly, 1973.

Young Women's Christian Association, 1973.

Baptist Joint Committee on Public Affairs, 1973.

Southern Baptist Convention, 1974, (Reaffirmed 1971 endorsement).

American Lutheran Church, 1974.

Women's League for Conservative Judaism, 1974. (Reaffirmed 1972 endorsement).

Reorganized Church of Jesus Christ of Latter Day Saints, 1974.

Central Conference of American Rabbis, 1975.

Unitarian Universalist Association, 1975.

Unitarian Universalist Women's Federation, 1975.

Women's Division, Board of Global Ministries, United Methodist Church, 1975.

Friends Committee on National Legislation, 1975.

United Methodist Church, Women's Division, 1975.

Union of American Hebrew Congregations, 1975.

American Ethical Union, National Women's Conference, 1975.

Reformed Church in America, 1975.

National Council of Jewish Women, reaffirmed in 1975 their previous 1969 endorsement.

Catholics for a Free Choice, 1975.

United Synagogue of America, 1975.

That only takes the religious list through the last few months of 1975. It does not include religious organizations that, in 1976, have endorsed legalized abortion. I cite that list simply to say that there is a religious division in this country as to whether or not we should have legalized abortion: a very significant portion of religious leadership in this country says yes, and a very significant portion says no. Under those circumstances, we should not, in this country, attempt to intervene on one side or the other in what is essentially a moral dispute.

Let us make no mistake about it: We are not going to stop abortions by passing the Hyde amendment. Rich women will have safe abortions. Poor women will either bear their pregnancies to term, whether they want to or not, or they will have illegal abortions and, in many cases, they will die from infection and the other aftereffects of cheap, backroom, butcher shop abortions.

We are not going to stop it. What we are going to do is make a distinction between the rich and the poor. If that is what this Congress wants to do, if this Congress wants to weigh in on one side of a very personal, moral issue, then let them know full well that they are not weighing in to stop abortions; they are weighing in to stop abortions for a small slice of this country that is so poor, so barren of any economic resources, that unless they have Government help for medical assistance, they get no medical assistance. In this case, they would get no medical assistance for abortion.

I hope that will not be the position of this Congress, because if that is the position of this Congress, then we are being hypocritical in the sense of thinking that we are going to stop abortions, and we are sentencing many women to death who will try to have abortions that will be badly, unscientifically performed, and who will die as a result of those abortions.

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. How much time does the Senator from New York desire?

Mr. BUCKLEY. Five minutes.

Mr. BROOKE. I yield 5 minutes to the Senator from New York.

Mr. BUCKLEY. Mr. President, I thank my friend from Massachusetts for the time. I am afraid that somebody let the ball slip in not allowing a greater period of time for those who support the Hyde amendment. My position is clearly known on the moral aspects of this issue. I shall not delve into them at this point. Rather, I would like to cover some of the specific arguments that have been advanced in favor of deleting the Hyde amendment.

First of all, it has been stated that any woman entitled to medicaid has a constitutional right to public funding for an abortion which is not necessarily essential to her health. We are talking about permissive abortion in this context. Some 250,000 a year are funded by the Federal taxpayer. But in the suit that is now being brought before the U.S. Supreme Court, I would like to point out that the Solicitor General has advised the court as follows:

> The United States is of the view that neither Title XIX of the Social Security Act nor the Fourteenth Amendment requires a federally-funded state medicaid program to pay for abortions that are not medically indicated . . .
>
> Moreover, the fact that a woman has a qualified right to an abortion does not imply a correlative constitutional right to free treatment. Individuals presumably have a "right" to undergo many recognized medical procedures by a licensed physician, but the Equal Protection Clause does not affirmatively require a state to cover the costs incurred by indigents in undergoing such procedures (Frank S. Beal, et. al. vs. Ann Doe . . . Memorandum for the U.S. as Amicus Curiae, March, 1976).

It seems to me, therefore, that until the Supreme Court rules to the contrary we are fully entitled to go on the premise that there is no obligation on the taxpayers to fund a discretionary procedure that appalls the conscience of a very substantial percentage of the American taxpayers, the American voters, and the American public.

I might add, incidentally, that the position of the Solicitor General represents and reflects the views of the Democratic candidate for President of the United States. In an interview published on August 10, 1976, Governor Carter answered the following questions in the following ways:

> Q. Under what circumstances, if any, would you approve of the use of Medicaid funds, for example, to pay for abortion?
>
> A. I would not approve of it at all. If the court should rule that it must be done, obviously I would have to comply, and carry out the laws of our country, but I don't favor the use of federal money for abortions.
>
> Q. And you oppose payment for abortion in programs like national health insurance?
>
> A. That's correct.

Well, in this one instance I am pleased to follow the lead of Governor Carter.

It is also suggested that it is somehow unfair that the poor be denied the rights or that which the rich people can afford.

Well, I think Dick Gregory has the definitive answer to this particular question, and I would like to quote him:

> I know a man in Chicago who wipes out 125 black babies a day in one of those abortion clinics. You say a poor black woman has as much right to an abortion as a rich white one. Well, then, give her the right to a Cadillac, a mink, and a trip to Paris.

Again we are not talking about medical necessity but choice.

This brings me, Mr. President, to one part of the Hyde bill that I know disturbs a number of people who, nevertheless, approve of its thrust. On the face of it, the Hyde amendment appears to make no exception in the case of a woman whose life is at stake, whose life is literally at peril, unless an abortion is performed.

Lest this question bother some of our colleagues who are here, I would like to point out that the legislative history of the Hyde amendment makes it amply clear that it would not preclude the use of medicaid funds in the instance where a woman's life is at stake. I would like to quote from the words of the author of the amendment, Mr. HYDE, uttered on the floor of the House on August 10, 1976. He states as follows, speaking of the major objection to the amendment:

> "If permitted to stand it will prevent abortions to save the life of the mother."

> Let me make it crystal clear that this amendment is not intended to prohibit any abortion deemed necessary to save the life of the mother. Such operations do not even fall within the medical terminology of abortion. They are called removal of a diseased uterus, or removal of an ectopic pregnancy, or some similar terms. Also, the medical indications for so-called therapeutic abortions today are almost zero due to advances in medical science and technology.

Mr. President, I urge that the Hyde amendment be sustained by this body.

Mr. BROOKE. Mr. President, I yield 3 minutes to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, I especially thank the Senator from Massachusetts. This is a subject that I do not take any delight in trying to discuss, but I would feel a sense of neglect if I did not at least try to express some sentiments on this subject that, it seems to me, has just run away and moved over into the semipolitical or the political field, and which I do not think is a political question at all. I am talking about abortions generally and, more particularly, a State-supported and thereby a State-encouraged abortion.

I do not think it is a political question one way or the other. I do not think it is a question of money. No one begrudges the amount of money involved or especially begrudges it.

I do not think, Mr. President, it is just strictly a legal question either, with all the greatest deference. I do not see how the Supreme Court of the United States could properly wander into this field and lay down the predicates and guidelines, legal and illegal terminology, and restrict the States and the Federal Government in this field which is not a legal question. It is murder, the wrongful taking of human life, which is to be condemned, and certainly some kind of abortions ought to be condemned which, I think, is a question of old-fashioned morality.

What is the moral position, not this high, new concept of morality, but the basic moral question involved? I am a former district prosecuting attorney, and I know something about the feel that a person has in prosecuting for the wrongful taking of human life. I think this is virtually analogous.

But other than that I believe this trend that we have drifted into, and drifted is a soft word, with reference to abortion as a whole, strikes at the very basic foundations of the family, which is not just an isolated institution, but the family that I refer to is the basic concept of our present civilization, whatever religious sect or whatever religious views, if any, one may have. I am talking about the basic concept of the family and family life.

As I understand human nature there is no doubt in my mind that this drifting trend we have taken and that we argue and try to justify on a narrow concept is leading us over the abyss on the basic question of what does the family mean and what is its place and how essential and necessary and indispensable it is if we are going to have a society anywhere near the standards of morality and decency and the basic concept of life as we have inherited it and as we have been trained in it.

I think it is as certain as night follows day that we are getting lost in the track here, and it is going to result in a lot of terrible consequences.

I thank the Senator.

Mr. BROOKE. Mr. President, I yield 2 minutes to the distinguished Senator from Missouri.

Mr. EAGLETON. Mr. President, I thank my colleague from Massachusetts.

The Senate should recede to the House on the Hyde amendment to H.R. 14232, the appropriations bill for the Departments of Labor, and Health, Education, and Welfare for the coming fiscal year. Of course, if the Senate does recede and thereby agrees to the Hyde amendment, this will have the effect of prohibiting HEW from using its funds to pay for abortions.

This, in my view, is the only proper policy to be adopted by the Federal Government. We should not be in the business of financing abortion on demand.

I was privileged to have a major role in securing passage of the Family Planning Services Act of 1970, the first categorical Federal program for providing family planning services to those in need of them. When we went to conference with the House on that bill, the situation was similar to that we find ourselves in today. The House-passed bill contained a prohibition against the use of family planning funds for abortion. There was no comparable provision in the Senate-passed bill. I moved that the Senate recede to the House and adopt the abortion prohibition. I was ultimately successful in persuading the other Senate conferees to adopt my motion; thus the policy of prohibiting the use of Federal funds for abortion was first established in the family planning legislation.

That was a sound policy 6 year ago, Mr. President, it remains a sound policy today, and it should be extended by the Hyde amendment to cover all programs financed by HEW. The 1973 Supreme Court decision in Roe against Wade has since changed the law to say that Government cannot ban the performance of abortions, but the Supreme Court has never rendered any decision saying that the Federal Government has to pay for the performance of abortions.

Finally, Mr. President, I want to point out that the position I take on the Hyde amendment is the same as that espoused by our Democratic nominee for President, Gov. Jimmy Carter. In an interview conducted on August 9, 1976, by Jim Castelli of the National Catholic News Service, Governor Carter stated as follows:

> Q. Under what circumstances, if any, would you approve of the use of Medicaid funds, for example, to pay for abortion?
>
> A. I would not approve of it at all. If the court should rule that it must be done, obviously I would have to comply, and carry out the laws of our country, but I don't favor the use of federal money for abortions.
>
> Q. And you oppose payment for abortion in programs like national health insurance?
>
> A. That's correct.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EAGLETON. I thank my colleagues.

Mr. BROOKE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 13 minutes.

Mr. BROOKE. Mr. President, I reserve the remainder of my time.

Mr. HATHAWAY. Will the Senator yield?

Mr. BROOKE. I yield to my distinguished colleague 2 minutes.

Mr. HATHAWAY. I thank my distinguished colleague from Massachusetts.

I rise in opposition to the Hyde amendment. I think the constitutional argument has been adequately made not only during this debate, but in the previous debate we had when this measure was before us on the floor of the Senate and we defeated it by a margin of 57 to 28. Hopefully, we will knock out the Hyde amendment by an even greater margin this time.

Mr. President, I would like in this brief time to point out to the Members possible ramifications which might be brought about as a result of endorsing the Hyde amendment.

The language is so broad that the full implications and injurious effects cannot be predicted. However, possible ramifications which might occur include: Coverage of those widely used birth control methods which may have abortifacient qualities—IUD's, morning after pills—prohibition of teaching abortion methods in medical schools or hospitals, pregnancy counseling, genetic counseling, use of abortifacient drugs—includes all cancer chemotherapy drugs plus many others in common use—or even discussion of abortion in a federally funded university classroom. It would also restrict availability of abortion or related services in any hospital, et cetera, which receives Federal funds. It is also clear that employees of the Departments of Labor and HEW would no longer have coverage for abortion services available under their Government insurance.

So the ramifications of the results of this very broad language are so great that——

Mr. BUCKLEY. Will the Senator yield?

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. HATHAWAY. I do not have control of the time.

Mr. BUCKLEY. Will the Senator be kind enough to yield half a minute so I can pose a question?

Mr. BROOKE. Yes.

Mr. BUCKLEY. Is the Senator aware that Congressman HYDE, in establishing legislative history for his amendment, made it absolutely clear that it would not have the side implications that the Senator just listed; it would not affect teaching or these other procedures; it would be limited only to the funding of the actual operation?

Mr. HATHAWAY. Is the Senator aware, if I may have 30 seconds to respond, the cardinal rule of statutory construction, if the language is clear on its face, do not go beyond it.

It says "shall be used to pay for abortions or to promote or encourage abortions."

That seems very clear, and the court would be fully warranted in interpreting that language just from reading it without resorting to any committee report or debate on the floor of either House. That is what concerns me very much.

Mr. BROOKE. I think the Senator from New York is clear on that. This was a matter brought up by the distinguished Senator from North Carolina in the course of the debate as to the intent of Mr. HYDE in his amendment.

The Hyde language is clear, simple, and no one can misunderstand the Hyde language. No court will misunderstand the Hyde language. There is no need for interpretation of the Hyde language. So all the legislative history in the world is not going to affect any court in looking at that Hyde language.

I am glad the distinguished Senator from Maine read the amendment again. The distinguished Senator from Indiana read the language. We are lawyers. I have been an attorney general myself. We are all legislators. We have all read that language.

No matter what Mr. HYDE intended, he did not allow abortion to save the life of the mother in the language which he added onto this appropriation bill.

If he had wanted it that way, Mr. HYDE is a very bright man, and he knows he could have well written that language into this amendment, but he did not do that.

Mr. HELMS. If the Senator will yield, the Senator knows Mr. HYDE—who, by the way, is sitting right beside me.

Mr. BROOKE. I see him.

Mr. HELMS. If he had tried to do what the Senator is now suggesting, he would have encountered the problem of legislating on an appropriations bill. That is the reason he did not spell it out.

Mr. BROOKE. I think this is legislation on an appropriations bill.

At any rate, I have great respect for Mr. HYDE. I have great respect for what Mr. HYDE is trying to do. I have great respect for his position. But, on the other hand, let us not fool ourselves, that if any court would be called upon to interpret the Hyde language, they would not make exceptions for a mother whose life is in danger or any of these other exceptions which the distinguished Senator from New York is trying to write into this language at this time.

Mr. BUCKLEY. Would the Senator from Massachusetts agree, however, the Senate in receding to the House position, could clarify the language and accept language which would make it explicit?

Mr. BROOKE. To go back to the conference is a possibility.

But I do not think we can do it at this time.

Mr. BUCKLEY. But the defect can be cured?

Mr. BROOKE. Yes, in theory. With all due respect to Mr. HYDE, we welcome him and are pleased to have him on the floor of the Senate. He has cost us many days of debate and many hours, but we are still pleased to have him.

Mr. HELMS. Mr. President, will the Senator yield so that I may make a parliamentary inquiry?

Mr. BROOKE. I yield for that purpose.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. The Senator from North Carolina assumes it is in order for him to move the Senate recede and concur in the House amendment. Is that correct?

The PRESIDING OFFICER. That motion would be in order at the proper time.

Mr. HELMS. The Chair means after the time has been yielded back or used?

The PRESIDING OFFICER. That is correct.

Mr. HELMS. I thank the Chair.

I want to let my colleagues know that I have that intent at the proper time.

Mr. BROOKE. I want my colleague to know we suspected he had that intent.

Mr. HELMS. Very well.

Mr. BROOKE. I yield to the distinguished Senator from Ohio.

Mr. TAFT. Two minutes would be adequate.

Mr. BROOKE. I yield 2 minutes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. TAFT. I want to talk on another issue relating to the language in the committee conference report dealing with the laboratory.

First of all, I commend the committee, the Senate Members, for holding out the position up to the end when it inevitably could make no progress whatsoever with the House conferees.

I say that I deplore the politics that seem to have been played by some members of the conference in the other body.

The results of the careful study seem to make the choice of the Cincinnati, Ohio, location, twice selected by HEW, the proper choice.

The language I think makes clear—and I would like confirmation if the Senator could give me his attention—confirmation that the intent is that the language is in no way intended to prejudice the selection against the Cincinnati site in the study, discussed in the report that comes out with that conclusion.

Mr. BROOKE. Mr. President, I want to give assurance to the distinguished Senator from Ohio, who has been very much concerned about this, that this, together with the Hyde language, held up the conference for the most time.

We finally made an agreement, included in the report language here, that there is no intent to in any way prejudice the Cincinnati site for this particular facility.

We are asking that a study and report be made. Our conference report does include language stating that the further study we request "shall also review existing site selection studies and with no prejudice to the site selected as a result of such existing studies." That, of course, means no prejudice to the Cincinnati site.

Mr. TAFT. I appreciate the Senator's answer. I thank him for the consideration.

Mr. BROOKE. Mr. President, I ask unanimous consent that the colloquy between the distinguished Senator from Ohio and myself be placed prior to the debate on the Hyde amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BROOKE. Mr. President, the Supreme Court has ruled that a woman has a constitutional right to terminate her pregnancy under certain circumstances. The Court did not rule that this was a right only of the wealthy. And yet this is what the Hyde amendment would have us say.

Women making the choice of abortion should not be discriminated against in Government programs. Yet, Mr. President, this is precisely what the Hyde amendment adopted by the House would do.

It is important to realize who would be hurt by this amendment. It is only the poor, those who cannot afford to pay a private doctor's bill. It will not affect those who can afford the price of an abortion. This amendment would not put an end to abortions, it would simply price them beyond the reach of the neediest.

The consequences of this amendment if enacted would be tragic. It would drive desperate, needy women back to the days of dangerous back alley abortions. This would mean a return to unsafe and fatal abortions. The maternal death rate would rise. And there would be an increase in abandoned, abused, and unwanted children.

The U.S. Commission on Civil Rights has spoken on the probable unconstitutionality of such an amendment:

> The Commission strongly opposes the amendment because of the potential negative impact of the amendment on the constitutional rights of indigent women . . . First we believe that such an amendment would undermine the constitutional rights of women as set forth by the U.S. Supreme Court. Second, it is clear that restriction of Medicaid funds for legal abortions would negatively impact only on low-income women, among whom racial and ethnic minority women are disproportionately represented. Such a result, in our view, would violate the equal protection clause of the Fourteenth Amendment.

In this instance, the Hyde amendment would also most probably violate the fifth amendment.

In addition to its probable unconstitutionality, it is important to realize how harsh and stringent the Hyde amendment is. It would forbid abortions even to save the life of the mother. It would prohibit abortions even in the case of rape or incest. And it would probably prevent any agencies or projects receiving Federal funds from counseling clients on the availability of abortion services. HEW advises that the Hyde amendment would impact on the full array of federally assisted medical facilities as follows:

> Eight U.S. Public Health Service hospitals and 26 U.S. Public Health Service outpatient clinics;
>
> Fifty-one Indian Health Service hospitals, 99 Indian Health Centers, and 300-plus Indian health stations and outpatient clinics;
>
> 117 federally assisted medical schools; the effect would probably extend to the many teaching hospitals associated with these educational programs;
>
> 1,292 federally asisted nursing schools;
>
> 267 U.S. Health Corps sites in 44 States and Puerto Rico that employ 408 U.S. Health Corps physicians.

In addition, the Hyde amendment to the Labor-HEW appropriations bill is legislation on an appropriations bill.

Such enactment would also be most ill-timed—for the Supreme Court has agreed to hear in the upcoming fall term two cases involving restrictions on the use of medicaid funds for abortions. In the past, lower courts have ruled that all such State actions represent illegal interference with women who wish to obtain an abortion.

As pointed out in the October 1974 memorandum prepared by the Congressional Research Service of the Library of Congress—

> In one case (Doe v. Roe), the Utah State Department of Social Services ruled that indigent pregnant women, entitled to medical services and care for pregnancy under its medicaid program, were not entitled to abortions unless an application was approved by the Department as being therapeutic. The Department defined a therapeutic abortion as one necessary to save the life of the expectant mother or to prevent serious and permanent impairment to her physical health and none other. The Federal appeals court decided that this "broad abortion policy is intended to limit abortion on moral grounds." Such a policy "constitutes invidious discrimination and cannot be upheld under constitutional challenge."

Mr. President, as can be seen, there are many compelling reasons to delete the Hyde amendment. The Senate clearly recognized this in its original vote on this measure. At that time the Hyde amendment was rejected by an overwhelming vote of 57 to 28. No facts have emerged since that time to cause the Senate to reverse itself. I, therefore, strongly urge my colleagues to join me in insisting that the Senate hold to its original position—and that is, to delete the unconscionable Hyde amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from North Carolina.

Mr. HELMS. Mr. President, has all time expired on the amendment?

The PRESIDING OFFICER. The Senator from Oregon has 20 minutes. The Senator from Indiana has 11 minutes.

Mr. PACKWOOD. Mr. President, the argument has been made that even though the Hyde amendment is very clear and singularly precise in its terms, it does not mean what it says. The distinguished Senator from Massachusetts has indicated that when a court comes to interpret an amendment or an act of Congress if there is no doubt about what the amendment says or what the act says, then what we might have thought was legislative history is irrelevant.

There is no doubt what the Hyde amendment says; it is very clear, very specific. But I asked the American College of Obstetricians and Gynecologists to send me the definition of an abortion. An abortion is an abortion is an abortion. It does not matter if it is done to save the life of a mother or if it is done for a voluntary reason because a woman does not want to continue a pregnancy. It is an abortion. Anything we say on this floor will not wish it away.

I ask unanimous consent to have the entire text of this letter from the American College of Obstetricians and Gynecologists printed in the RECORD. It indicates that an abortion done to save the life of a mother is an abortion. When it is done for whatever voluntary reason it is an abortion.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
Chicago, Ill., August 20, 1976.

Senator BOB PACKWOOD,
Dirksen Senate Office Building,
Washington, D.C.
Attention: Bob Jerome.

DEAR SENATOR PACKWOOD: In response to your questions regarding the definition of abortion and the various indications for which an abortion is usually performed, I submit the following.

In the official text of The American College of Obstetricians and Gynecologists, "Obstetric-Gynecologic Terminology," published by F. A. Davis (copyrighted, 1972) and in "Standards for Obstetric-Gynecologic Services," as published by The American College of Obstetricians and Gynecologists in 1974, the following appears as the authoritative definition of abortion:

"Abortion is the expulsion or extraction of all (complete) or any part (incomplete) of the placenta or membranes, without an identifiable fetus or with a liveborn infant or a stillborn infant weighing less than 500 gm. In the absence of known weight, an estimated length of gestation of less than 20 completed weeks (139 days), calculated from the first day of the last normal menstrual period, may be used. Abortion is a term referring to the birth process culminating before the 20th completed week of gestation."

The "Hospital Adaptation of ICDA," second edition (1973), based on the International Classification of Diseases, is the standard classification used throughout America and lists the following, beginning on the bottom of Page 316:

Abortion (640–646) includes any interruption of pregnancy before 20 weeks of gestation.

640.0 refers to abortion induced for maternal indications, which would include such reasons as cardio-respiratory pathology, breast carcinoma, severe diabetes, severe kidney disease, as well as others.

640.1 is abortion induced for fetal indications, such as known or suspected damage to fetus from: chromosome abnormality, drugs, hereditary disease, radiation, viral disease.

641 is other therapeutic abortion: elective, voluntary, that under medical supervision.

In reviewing this information it is clear that the standard definition of abortion is the removal of the fetus by any method and there are many indications for such a procedure.

It is hoped this information will be helpful in clarifying the terminology and indications for abortion. If we may be of further assistance, do not hesitate to call us.

Sincerely yours,
ERVIN E. NICHOLS, M.D.,
FACOG,
Director-Practice Activities.

Mr. PACKWOOD. Mr. President, a while ago one of our distinguished colleagues indicated that he has some misgivings about this and he wanted to return to old-fashioned morality. I come back again to the point I raised before, what old-fashioned morality? Whose old-fashioned morality? It is 1976 today. We are celebrating our Bicentennial. The old-fashioned morality of George Washington and Thomas Jefferson sanctioned legalized abortions and I have not heard him saying that they were immoral, ungodly, unconscionable men because at the time of the founding of this country abortion was regarded as permissible, as legal, as moral.

Or are we going to go back even further to the old-time morality of feudalistic England where abortion was legal and moral? Our distinguished colleague made reference to the fear of the family breakup. I say to my colleagues that when abortion was considered most legal in this country, most legal in England, it was at a time when they seemingly had a greater reverence for family life than we do now, a time when children took care of their parents and when people lived together until death separated them.

In both China and Japan, one a dictatorship and one a democracy, abortions are legal today.

This has nothing to do with whether or not we revere our children, our parents, our brothers and sisters. It comes back again to the same issue over and over: Individual choice, individual morality.

I did not, in my opening comments, and I do not now, rest my basic argument of opposition to the Hyde amendment on the Constitution. I think the Senator from Indiana, and the Senator from Massachusetts have correctly interpreted what court decisions will follow if we pass their amendment. I think it probably is unconstitutional. But I do not want to rest it on that because one day the court might change its interpretation of the Constitution.

Some think we should not pass this Hyde amendment because no segment of this country should try to impose on another segment of this country their view of morality. None of us are trying to force an abortion on anybody. I would wager that all of us in this body would stand shoulder to shoulder in opposition to any act that tried to compel abortions in this country, because that would be trying to force on this country a view held by a very narrow spectrum of people.

Neither will I stand here and take the other position, that I am going to prohibit certain people in this country from having abortions because a narrow spectrum of people are opposed to abortion.

The wise policy in this country—not the constitutional policy, although I am convinced, as I said before, that the Hyde amendment is unconstitutional—but the wise policy, the decent policy, is one of individual choice. That is what this country was founded on 200 years ago: the right to make for yourself the decisions that affect you.

In this case, the right of the pregnant woman, in consultation with her physician, to make a choice as to whether or not she wants to have an abortion is a right that was protected when this country was founded, and I think it would be a mockery if 200 years later we attempted to take that right away.

I reserve the remainder of my time.

Mr. BARTLETT. Mr. President, will the Senator yield me 3 minutes?

Mr. PACKWOOD. I yield 3 minutes to the Senator from Oklahoma.

Mr. BARTLETT. I thank the distinguished Senator from Oregon.

Mr. President, I wish to once more speak in opposition to the practice of using Federal tax dollars to pay for abortions and to urge the Senate to recede to the House on the Hyde amendment which would prohibit this practice.

The chief argument of those who oppose the Hyde amendment is that it would prevent the performance of an abortion to save the life of the mother. There are a number of reasons why this would not be the case, including a doctor's Hippocratic oath. However, I think we can dispense with all the debate and simply make it clear that the intent of the Senate is not to prohibit medicaid payments for those medical procedures necessary to save the life of a woman, even if this means the removal of the fetus.

On September 17, 1974, on another Labor-HEW appropriations bill, fully half of the Members of the U.S. Senate voted in support of ending Federal funding of abortions when specific wording was included in the amendment clarifying this point.

We all know such an exception cannot be written in on the Senate side because of the problem of legislating on an appropriations bill. It has, however, been made very clear in the House debate that such an exception is intended, and we in the Senate can do likewise.

Mr. President, there is no point in rehashing all the arguments used before. The "life of the mother" question can be clarified, and we can proceed with the passage of this bill.

I would like, Mr. President, to comment on one other matter. This has been stated a number of times. Perhaps the person saying it would say, "I oppose abortion, but I do not want to enforce my morality on other people."

Hogwash. I think we impose our morality on other people, or our constituents' morality on other people, time after time in this body. I think it is important that morality be involved in the decisions that we do make, but I think what we are talking about here——

The PRESIDING OFFICER (Mr. FORD). The Senator's 3 minutes have expired.

Mr. PACKWOOD. I yield the Senator 2 additional minutes.

Mr. BARTLETT. I thank the distinguished Senator from Oregon.

I think what we are doing here is enforcing someone else's morality on the fetus, on the life of the fetus, as to whether or not that life continues.

This should be decided by the mother after consultation with the doctor. But right here in this body, we as a group are undertaking to decide whether unilaterally or bilaterally, with a mother and a doctor in collaboration, such a decision could be made against the life of the fetus, against the life of the unborn. So I think it is using someone else's morality against someone else that we would be approving.

I feel that the morality question is very important, and I believe that this is a moral issue, but I also believe it is a legal issue that was legislated by the Supreme Court. They legislated morality, and they certainly legislated it in a way that is disapproved of by many people in this country.

So I do not think this is the kind of issue that we should provide Federal tax dollars for. Obviously, there is a lot of difference of opinion among very fine people on this issue, but I just do not think it is the kind of issue where we should feel we have a right or an obligation to finance abortions, which are simply considered anathema by many, many people in this country. It is the kind of thing I think we should avoid.

I thank the distinguished Senator from Oregon for the time.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I think this matter has been pretty thoroughly discussed, and, with the intensity of feeling on both sides, I see no point in proceeding. I am ready to yield back the remainder of my time.

Mr. HELMS. Mr. President, will the Senator yield me 1 minute?

Mr. BAYH. I yield 1 minute to the Senator from North Carolina.

Mr. HELMS. I would like to ask my dear friend from Oregon to cut his list. He has repeatedly referred to the Southern Baptist Convention as endorsing his position.

As recently as June 17 of this year, the Southern Baptist Convention reaffirmed "The Biblical sacredness and dignity of all human life, including fetal life."

So if the Senator will adjust his list of supporters to exclude the Southern Baptist Convention, I will be most grateful, Jimmy Carter and I being Baptist.

Mr. PACKWOOD. I will be glad to recheck that list, because I realize organizations from time to time change their positions. If that is the case with the Southern Baptist Convention, I will be happy to take it out.

Mr. BAYH. Mr. President, I am prepared to yield back the remainder of my time. Is the Senator from Oregon prepared to do so?

The PRESIDING OFFICER. Does the Senator from Oregon yield back the remainder of his time?

Mr. PACKWOOD. I yield back the remainder of my time.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Is it now in order to make the motion I earlier alluded to, that the Senate recede from its amendment and concur in House amendment No. 68?

The PRESIDING OFFICER. The Senator's motion is in order.

Mr. HELMS. I so move, Mr. President, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The time on the motion is limited to 30 minutes, 15 minutes to a side.

Mr. HELMS. Mr. President, I yield back my time.

The PRESIDING OFFICER. Do the proponents wish to yield back their time?

Mr. BAYH. I have already yielded back my time.

The PRESIDING OFFICER. This is on another question, on the motion of the Senator from North Carolina.

Mr. BAYH. I yield back by time.

Mr. BROOKE. I yield back by time.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina that the Senate recede from its amendment and concur in the House amendment numbered 68. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Will the clerk suspend? The Senate will come to order. The clerk will suspend. Will Senators take their seats or retire to the cloakroom for conversation? The clerk will not call the roll until the Senate comes to order.

Will the Senators please clear the aisle and retire to the cloakroom for conversation?

The clerk may proceed.

The assistant legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. Will the clerk suspend? Will the Senate please come to order? Will Senators please take their seats or retire to the cloakroom for conversations so other Senators may have the privilege of voting and the clerk can hear.

The clerk will suspend. No votes will be cast until the Senate comes to order. The Senate will please come to order. The clerk will withhold.

Senators may take their seats or retire to the cloakroom for conversation.

The Chair thanks Senators, and the clerk may proceed.

The assistant legislative clerk resumed the call of the roll.

Mr. DURKIN (when his name was called). On this vote I have a pair with the distinguished Senator from Washington (Mr. MAGNUSON). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. BAYH (after having voted in the negative). Mr. President, on this vote I have a pair with my colleague, the senior Senator from Indiana (Mr. HARTKE). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. STEVENS (when his name was called). Mr. President, on this vote I have a pair with the Senator from South Carolina (Mr. THURMOND). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from California (Mr. TUNNEY), the Senator from Rhode Island (Mr. PASTORE) are necessarily absent.

On this vote, the Senator from Rhode Island (Mr. PASTORE) is paired with the Senator from California (Mr. TUNNEY). If present and voting, the Senator from

Rhode Island would vote "yea" and the Senator from California would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. DOLE), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent due to a death in the family.

On this vote, the Senator from Kansas (Mr. DOLE) is paired with the Senator from Tennessee (Mr. BROCK). If present and voting, the Senator from Kansas would vote "yea" and the Senator from Tennessee would vote "nay."

The result was announced—yeas 35, nays 53, as follows:

[Rollcall Vote No. 529 Leg.]

YEAS—35

Allen
Bartlett
Bellmon
Bentsen
Biden
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Curtis
Domenici
Eagleton
Eastland
Ford
Goldwater
Griffin
Hatfield
Helms
Hruska
Johnston
Laxalt
McClellan
McClure
McGee
Montoya
Morgan
Moss
Proxmire
Randolph
Roth
Sparkman
Stennis
Stone
Talmadge
Young

NAYS—53

Abourezk
Baker
Beall
Brooke
Bumpers
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Fannin
Fong
Glenn
Gravel
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Long
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Ribicoff
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stevenson
Symington
Taft
Tower
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—3

Durkin, for.
Bayh, against.
Stevens, against.

NOT VOTING—9

Brock
Dole
Garn
Hartke
Magnuson
Mondale
Pastore
Thurmond
Tunney

So Mr. HELMS' motion was rejected.

Mr. BAYH. Mr. President, I now renew the motion I presented previously, that the Senate insist upon its amendment No. 68, request a conference with the House of Representatives on the disagreement thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate, the list of the conferees having been sent to the desk.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHURCH. Mr. President, on June 28, I voted in the Senate to strike the so-called Hyde amendment from the HEW-Labor appropriations bill for fiscal 1977. The amendment provided that:

> None of the funds appropriated under this Act shall be used to pay for abortions or to promote or encourage abortions.

I have no problem, Mr. President, with that part of the amendment which would prohibit the spending of Federal funds to promote or encourage abortions. Although people are entitled to have information on all legal options which are available to them, as a strong supporter of adoption instead of abortion, I firmly believe that the Government should not become an abortion advocate.

Two years ago, I voted against tabling an amendment to the HEW-Labor appropriations bill for that year, which provided:

> No part of the funds appropriated under this Act shall be used in any manner directly or indirectly to pay for or encourage the performances of abortions except such abortions as are necessary to save the life of a mother.

The amendment this year is virtually identical to the amendment of 2 years ago in barring funds, including medicaid funds, to pay for or encourage abortions, but it fails to include the exception for the life of the mother. It was my position then, and it is my position today, that Federal funds should not be spent for abortion on demand. But it is also my view that payment for an abortion needed to save the life or preserve the health of the mother should not be foreclosed.

Because the amendment before the Senate this year fails to include such an exception, I must oppose it.

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD a telegram from John L. S. Holloman, Jr., M.D., president of the New York City Health and Hospitals Corp.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

NEW YORK, N.Y.,
August 24, 1976.

Hon. JACOB K. JAVITS,
The Senate,
Washington, D.C.:

As president of the New York City Health and Hospitals Corporation representing the interests of the poor and minority patients serviced by the municipal hospitals in New York City I urge deletion of the Hyde amendment to the HEW appropriations bill which bars Federal funds specifically under the Medicaid program from use in abortion or abortion related services. The primary effect of this amendment is to deny medically indigent women covered by Medicaid and welfare recipients access to abortions. Abortions would be prohibited even to save a woman's life. The constitutionality of this amendment is extremely doubtful. I urge you to reject this amendment in the interest of the medically indigent.

JOHN L. S. HOLLOMAN, Jr., M.D.,
President, New York City Health and Hospitals Corp.

Mr. SYMINGTON. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. SYMINGTON. A yea vote means what?

The PRESIDING OFFICER. A yea vote will agree with the Senator from Indiana's motion.

Mr. SYMINGTON. I thank the Chair.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Is it fair to say that this vote is 180 degrees opposite to the last one?

The PRESIDING OFFICER. The Chair does not interpret. [Laughter.]

Mr. BAYH. I withdraw the question.

The PRESIDING OFFICER. The Chair thanks the Senator from Indiana.

The question is on agreeing to the motion of the Senator from Indiana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. STEVENS. Mr. President, on this vote, I have a live pair with the distinguished Senator from South Carolina (Mr. THURMOND). If he were here, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. BAYH. Mr. President, on this vote, I have a live pair with the distinguished senior Senator from Indiana (Mr. HARTKE). If Mr. HARTKE were here, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

On this vote, the Senator from Washington (Mr. MAGNUSON) is paired with the Senator from Rhode Island (Mr. PASTORE). If present and voting, the Senator from Washington would vote "yea" and the Senator from Rhode Island would vote "nay."

I further announce that, if present and voting, the Senator from California (Mr. TUNNEY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Maryland (Mr. BEALL), the Senator from Kansas (Mr. DOLE), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent due to a death in the family.

On this vote, the Senator from Tennessee (Mr. BROCK) *is paired* with the Senator from Kansas (Mr. DOLE). If present and voting, the Senator from Tennessee would vote "yea" and the Senator from Kansas would vote "nay."

The result was announced—yeas 53, nays 35—as follows:

[Rollcall Vote No. 530 Leg.]

YEAS—53

Abourezk
Baker
Brooke
Bumpers
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Fannin
Fong
Glenn
Gravel
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Long
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Ribicoff
Scott, Hugh
Scott, William L.
Stafford
Stevenson
Symington
Taft
Talmadge
Tower
Weicker
Williams

NAYS—35

Allen
Bartlett
Bellmon
Bentsen
Biden
Buckley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Curtis
Domenici
Durkin
Eagleton
Eastland
Ford
Goldwater
Griffin
Hatfield
Helms
Hruska
Johnston
Laxalt
McClellan
McClure
Montoya
Morgan
Moss
Proxmire
Randolph
Roth
Schweiker
Sparkman
Stennis
Stone
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Stevens, against.
Bayh, for.

NOT VOTING—10

Beall
Brock
Dole
Garn
Hartke
Magnuson
Mondale
Pastore
Thurmond
Tunney

So the motion was agreed to.

The **PRESIDING OFFICER** (Mr. FORD) appointed the following conferees on the part of the Senate:

Mr. MAGNUSON, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. PROXMIRE, Mr. MONTOYA, Mr. HOLLINGS, Mr. EAGLETON, Mr. BAYH, Mr. CHILES, Mr. MCCLELLAN, Mr. BROOKE, Mr. CASE, Mr. FONG, Mr. STEVENS, Mr. SCHWEIKER, and Mr. YOUNG.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. **MANSFIELD**. Mr. President, I ask unanimous consent that when the Senate completes its business tonight it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

JOINT RESOLUTION HELD AT DESK

Mr. **STENNIS**. Mr. President, today House Joint Resolution 519 was received from the House and referred to the Senate Armed Services Committee.

I ask unanimous consent that that joint resolution be returned and lie on the desk for further consideration by the Senate. It is a noncontroversial matter.

The **PRESIDING OFFICER**. Is there objection?

Without objection, it is so ordered.

EDUCATION AMENDMENTS OF 1976

Mr. **MANSFIELD**. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 838 (S. 2657).

The **PRESIDING OFFICER**. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes.

The **PRESIDING OFFICER**. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with an amendment.

Mr. **PELL**. Mr. President, I ask unanimous consent that the following persons be granted privilege of the floor during the debate on S. 2657:

Jean Frohlicher, Cary Peck, Babette Polzer, Jonathan Steinberg, Gary Aldridge, George Lawless, Patria Forsythe, Marcia McCord, James Murphy, Nik Edes, Lisa Walker, Larry Gage, Mark Schneider, Marc Ginsberg, Ellen Hoffman, Richard E. Johnson, Jane Yanulis, Betty Griffin, Gregory Fusco, Michael Shorr, Joe Carter, Eleanor Parker, Renee Bergman, Jack Andrews, Al Drischler, and Livingston Biddle.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

There is a time agreement on this bill. The Senator from Rhode Island.

Mr. **PELL**. Mr. President, today, we are considering S. 2657, the Education Amendments of 1976. This bill is the result of 2 years' work by the Education Subcommittee of the Committee on Labor and Public Welfare. During that time, we have taken nearly 5,000 pages of testimony. We have consulted heavily with authorities in the field, with officers in the education division, and with the officials from the various States.

I think this bill is an excellent piece of work, and the support given it by the professional associations and the support we heard for the programs themselves, shows that the educational community stands behind the language as well. Their recommendations argue strongly for the bill and should convince the Members of this body of its merits.

PURPOSE AND SCOPE OF THE BILL

Early this year, we had to consider this bill in terms of the budget that the Senate was considering. In March the full Committee on Labor and Public Welfare reported to the Budget Committee its views and estimates on the programs under its control. We said that in the larger view the education programs formed "the backbone of a decade of Federal policy to equalize educational opportunity for the young people of this Nation." Furthermore, considering the current state of the economy and especially considering the recent rise in the rate of unemployment, these programs were particularly worthy because "they are a counterforce to unemployment since each of these programs is labor intensive." That is one of the strongest points about this bill.

Basic and advanced education continue to provide the best means to assure Americans a fair opportunity to participate in the economic, political, and leisure aspects of national life. Each American must have the opportunity to fully utilize his or her potential by means of continuous educational programs. This begins in the early years of life by offering a basic education to enable each citizen to perform with proficiency those skills required for employment; participation in artistic, humanistic, and civic endeavors; and in the electoral process. Given the increasing impact of technology upon established occupations, it is essential that reeducation and retraining in response to changes in the work market be available for midcareer and older workers. Postsecondary and advanced education, then, will enhance economic prospects, mobility, and personal satisfaction.

That is what S. 2657 does. Education is a national requirement of permanent proportions. It is a program of the utmost importance. It is one of our greatest national interests. Therefore, it requires a continuing devotion of our national wealth and attention.

For those who ask, the cost of this bill over a 6-year period for all its provisions for higher education, vocational education, educational administration, and the various miscellaneous provisions breaks down to $26,550,000,000 for higher education—most of which is direct student aid—$5,464,000,000 for vocational education, and $3,357,000,000 for the related programs. These expenses seem large, but they average under $6 billion dollars per fiscal year. That is a relatively small investment to make for an industry, for a vital and growing sector of the economy, that generated over 116 billion dollars this past fiscal year alone—nearly 10 percent of our gross national product—and includes the education or employment of over 70 million people.

My argument is that this bill deals with more than schoolroom teaching and academic discipline. First, education has become a dynamic and growing part of the national economy. Second, education is not only a source of intellectual activity and a stimulant to creativity and fulfillment, but it serves its users in their life's work. Education provides a fair return in the world of work, just as in the world of ideas. Therefore, my colleagues should look at this bill not merely as a school program, but as a mainstay of our work to serve and strengthen the community, the family, and the individual.

DETAILED ANALYSIS OF THE BILL—TITLE I

The first title of S. 2657 deals with higher education programs. The title is divided into 10 parts which I shall review. Part A extends the present law which sponsors college and university-run community service programs and expands those programs to include a wide range of postsecondary continuing education and lifelong learning programs. The programs now in progress have been shown to increase institutional awareness of community problems. Since this is the only part of the bill which focuses on community service, it seemed necessary to expand that effort to meet the growing demand for postsecondary education and to place greater emphasis on the link between education and work which we stressed earlier.

The best demonstration of the continuous growth of these programs is the list provided by the Office of Education which shows that 2-year colleges are rapidly increasing their share of these grants. They are the institutions which most directly serve the wide variety of postsecondary services that are being demanded, and they are the institutions which are providing services for the greater part of the 20-percent increase in part-time students enrolled since 1969.

Part B extends and expands the programs for libraries. The existing law aids schools to acquire certain library material, trains new professionals in the field of library sciences, and provides grants for the development of new techniques of handling and distribution information. The new sections provide aid to major research libraries. This expansion is necessary because of the increasingly great demand on major libraries made by students, researchers, and interlibrary programs.

In general, this legislation is helping schools and students keep pace with the terrific expansion of information: Books, periodicals, technical journals, audiovisual materials, and the like. Only through the development of multilibrary programs and through research into information handling systems, can we hope to provide the increasing number of students with the resources they need for a solid education. This is especially needed by the smaller schools; by the colleges, which serve workers; and housewives and the elderly. Because of that need, and in spite of its small size, this program is important and necessary.

Part C of title I is an extension of the assistance program for developing institutions. Assistance is provided to institutions of higher education which demonstrate a desire and a potential to make a substantial contribution to the higher education resources of the Nation but which, for financial and other reasons, are struggling for survival and are isolated from the main currents of academic life.

This is one of the few programs in the higher education package that is institutionally based. That is, the vast majority of our assistance to higher education is student oriented. However, some assistance is warranted to institutions that are growing to the point where they can make real contributions to the diversity and wealth of American higher education.

Part D is the mainstay of our work with higher education. This is the range of provisions which deal with student assistance. It is one of the largest and most complex sections of S. 2657 which reflects the fact that student aid appropriations make up the lion's share of Federal aid to higher education. The specific figure is that student assistance comprises almost 90 percent of the total package.

Also, we had to consider what steps were necessary to compensate for several years of high inflation and recession. We have found that there is a growing number of students from middle-income families who cannot support the increasingly heavy burden of financing a higher education. These are families and students who make a reasonable income each year. However, because of inflation and because education is so labor intensive, the cost involved has shot upward dramatically in the past few years. This increase has lifted the cost above the level that most people can reasonably support.

Our response was to broaden the scope of the student aid program by making more students eligible for its benefits. This was done with the basic grant and the Federal and State insured loan programs. As well, we increased the amount of money students are eligible to receive under the basic educational opportunity program from $1,400 to $1,800. In our budget statement we requested, once again, full funding for the basic educational opportunity grant program and the other programs were also substantially augmented.

There was some debate about the nature of the package of financial aid each student is expected to arrange for his or her education. In the past few years, we have seen students greatly increase their indebtedness. They have been forced to increase the volume of their borrowing because the funds available for grants and work-study did not cover the increases in the cost of education. As a result, the loan program has become the predominant form of student aid, while aid administrators have not been able to properly handle the vast increase in new loans. We have seen, as a result, a terrific increase in the default rate in the program. We hope then to redress this imbalance and place a little more of the weight in the grant and work-study categories. This may also help to reduce the number of defaults in the guaranteed student loan program.

That loan problem was our third major concern of education. In testimony before us, Commissioner Terrell Bell stated that the rate of default for the program was 18.5 percent. One report issued by the GAO stated that the rate of default in the program was 24 percent. Other witnesses said the rate is higher. We sought to reduce this loss rate through several actions. First, we included several provisions designed to help the Commissioner keep an adequate track on the status of all outstanding loans and to audit institutions having difficulty operating their loan programs. We also included several technical provisions to increase the flexibility with which lenders can disburse loans. A second approach was the encouragement of State-based student loan programs. Witnesses testified before the subcommittee that the States have had a greater success with the loan program than the Federal Government has had. So, we hope to encourage State operations in this area.

Hopefully, these changes and a group of changes concerning information, financial guidance, and counseling and so on, will help solve our loan default problem. Many of these changes are the result of recommendations by the Government Operations Committee as set forth in their letter of March 15, 1976. Thus our total approach concerns the administration of the program by the Office of Education, the handling of loans by lenders, and the instruction of students taking these loans.

One final piece of language that we have included is a new schedule of payments to institutions. These payments of $15 per basic educational opportunity grant recipient and $10 per guaranteed student loan recipient are to cover the administrative costs involved in handling the basic educational opportunity grant and guaranteed student loan programs and will be awarded on the basis of loan and grant recipient attendance. We have found that one of the most persistent problems we have with these programs is the difficulty institutional officers have in administering the programs we have legislated. This provision, then, is a simple and direct method of meeting that need. I am sure that the programs and, most importantly, the students will benefit.

Part E covers the Education Professions Development Act. We have made a major change here which is to shift the emphasis of the program from scholarship, research, and teacher recruitment to inservice training. This has been a shift in programing which has ben going on for some time now, and S. 2657 merely adjusts the bureaucracy to meet the new situation. We have heard repeatedly that there has been a surplus of trained teachers in the country. Still, colleges were turning out teacher trainees at a high rate which was making the situation worse. Less than one out of three newly trained teachers was finding employment in the profession.

Our addition to the title was to authorize new technical services which the Commissioner may provide to institutions. Community councils are established as part of Teacher Corps programs and a program of teacher training centers—based on the community level—is inaugurated. All these changes are aimed at making the greatest impact at the student/teacher level as is possible.

Part F, dealing with programs for the acquisition of certain equipment and for some remodeling, is given a straight extension. This program is one of the few that does not deal directly with students but some development and encouragement on this level is necessary. This support is especially necessary in the field of audio-visual instruction and equipment. Because of the large startup costs, some assistance is usually necessary and through this program the Office of Education has been able to help nearly 1,000 schools a year develop media centers.

Part G of title I, Construction of Academic Facilities, has been extended and given new direction. Just as we decided in the financial aid provisions that some aid was necessary to help States and localities comply with Federal regulations, we sought to help institutions comply with certain regulations and laws concerned with facilities. The new emphasis in this legislation allows the Commissioner to use unused construction loan funds to make loans for the purposes of renovation and reconstruction in order to comply with guidelines set by the Occupational Safety and Health Act; in order to remove architectural barriers to the handicapped; and in order to conserve energy.

I think this initiative merits funding. Certainly, the Federal Government should lead the way by taking some of the responsibility for the regulations and rules it issues, and this is one way to do that.

Part H, Networks for Knowledge, is given a straight extension. This part of the Higher Education Act encourages programs whereby institutions of higher education will share resources and facilities increasingly, and this is an idea that we touched upon in connection with the library program. Schools are finding it harder and harder to keep up with the demands for new facilities, materials, and courses. This provision is a small encouragement to colleges and universities to work in cooperation, and it is extremely worthy. I think that if the growth in enrollment and the increasing demand for special services and courses continues, then we will find that this type of program will become not only worthy, but necessary. Increasingly, only through coordination and planning will we be able to provide high quality and free access higher education to our post-secondary students, to all workers, and in every community.

Part I deals with graduate programs. We have rewritten this title to broaden the range of activities authorized and allow more flexibility in the awarding and timing of grants. A new part is inserted which mandates that the Commissioner make an annual report on the activities he carries out pursuant to this title. We have also reauthorized the law school clinical assistance program.

Part J, the last in title I, concerns the programs for community colleges and State postsecondary planning. We have maintained the current level of funding. We have also reauthorized the legislation allowing the Commissioner to make grants to encourage and further certain interstate projects.

This part advances two main goals of our work. Those goals are to assist the growing trend toward more community-based and consumer-oriented education programs. Community and junior colleges have been growing at a tremendous rate, and this legislation is our recognition and support of that trend. Second, this part supports cooperation and planning of postsecondary educational activities. I think this sort of preparation is necessary if we are to adequately serve the growing demands for educational services.

In my home State, Rhode Island, the financial demand is over $10.6 million. Of this amount the State department of education estimates that $2 million is currently unmet. The increased authorizations for student aid in S. 2657 will cover much of the need of those 50,000 Rhode Island students currently attending postsecondary institutions. As well, the increases will provide significant opportunity for more than 200,000 citizens of all ages and backgrounds; citizens who have not participated in postsecondary education programs before.

In its annual evaluation on programs, the Office of Education said that student assistance programs can overcome the principal economic barriers in the way of equal access and opportunity to postsecondary education. Therefore, I am looking forward to the new vistas opening to the workers, professionals, unemployed, and students in my State. Surely, this same benefit will be enjoyed by every State. That is the highest recommendation for this program.

TITLE II

This title, along with the section dealing with student financial aid, is the most complex measure in S. 2657. Section 201 is a straight extension of the vocational education programs through fiscal year 1977. Section 202, the one other section in the title, is a complete revision of the Vocational Education Act of 1963.

Our aim in rewriting this piece of legislation was to insure that the vocational education and training programs carried out by the States would work hand in hand with other branches of the commercial and academic communities. Through a detailed series of hearings, an examination of State programs by the GAO and through onsite visits, we found that in too many States there were serious divisions between the vocational system and the academic sector. Just as often vocational training was being given without any view as to the employability of the skills being taught.

Our thrust, then, was to help the States coordinate their efforts. This could be done either through a certification process through which the States, or organizations within the States, would demonstrate to the Commissioner that the State vocational education planning process includes the participation of a wide range of interests. These interests are the groups most interested in vocational education; CETA sponsors, State postsecondary schools, representatives of the handicapped, representatives of labor and business, and the like. Our intention is to link education and work more closely, so that students will graduate with marketable skills and so that workers will readily find courses enabling them to retrain, or to upgrade old skills.

Finally, like higher education, there is a need for the vocational education process to catch the explosive increase in demands for greater educational services. New laws, new programs, and new sensitivities have expanded the field of vocational education to include many specialty programs that were not in any curricula only a few years ago. A short list of the technological advances made in recent times will show that we must train workers for ever more sophisticated jobs. Therefore, we have taken the step to provide that flexibility in vocational education planning. We are increasing the authorizations for the programs. There is a need to train workers for jobs and to give them guidance and counseling to help them find jobs—that is very real. Right now we are suffering a very high rate of unemployment in the country. In the Nation the percentage of unemployed is over 7 percent. The figure for my home State of Rhode Island hovers close to 10 percent. I cannot imagine any greater recommendation for this program or any greater justification for its expense.

Part A of title II is the main work of the Vocational Education Act. This part outlines the planning process for State vocational education programs and authorizes Federal grants to assist them. Besides the emphasis on a wide range of participation in the planning process, a new emphasis has been placed on women's programs and programs designed to reduce sex stereotyping in vocational education programs. The State board for vocational education is maintained as the sole State executive agency. The board will continue to have the last word on every plan being presented to the Commissioner. Provisions are also included, which establish a State advisory council—much like the advisory councils already in existence—which shall advise the planning commission on the formulation of the plans and will advise the State board of their implementation and administration.

A short note concerning the allocation formula for the revised program. We did not change the basic formula. Also, we have maintained the present set asides: 10 percent for the handicapped, 15 percent for other disadvantaged, 15 percent for those who have left high school, and added 5 percent for certain States with concentrations of limited English-speaking people.

Part B is divided into two subparts. The first subpart establishes programs for the provision of guidance and counseling services. This follows the emphasis on guiding students into employment I mentioned. The second subpart provides for a program of advanced study by vocational education personnel. This is an in-service program and will do much to upgrade the quality of the vocational education system.

Part C authorizes a program of grants by the States and the Commissioner of Education to foster innovative and exemplary programs in vocational education. As well, the Commissioner is authorized to develop and disseminate vocational education materials that overcome sex bias. This is the type of research and development that will truly help the field. Its impact will fall on the classroom level and that is where it will do the most good.

Part D is one of the most popular programs in the act, certainly from the student's point of view. This is the authorization for the work-study and cooperative education programs.

Part E is a 3-year authorization only. It outlines a program of grants by the Commissioner to localities for the modernization of facilities and equipment. In our review of the vocational education establishment, we have found that there is a terrific need for this work. Old equipment and old tools characterize much of the physical plant we saw, and this language will help remedy that lack and update vocational education facilities as we update vocational educational programs.

Part F is, basically, a reauthorization of the consumer and homemaking provision of the act. What we have done is to add a new emphasis—consumer economics and consumer education—which we feel is a valuable new area in the field.

Part G is a new piece. This provision establishes a special program, in conjunction with the Secretary of the Interior and the Energy Research and Development Administration, to establish programs in postsecondary institutions for the training of persons in the field of coal mining and coal mine technology.

Part H authorizes the Commissioner to make grants to institutions and agencies for vocational education research, training, and demonstration, especially in new or emerging fields of occupation. This is a necessary provision, if our vocational education programs are to be updated to meet a rapidly evolving job market.

Part I authorizes the Commissioner to make grants to overcome sex stereotyping.

Part J authorizes the Commissioner to make grants to State agencies and local education agencies for persons who are in need of bilingual vocational training programs. This is another example of a need that has not been adequately met until now.

Part K deals with several general provisions and states a few definitions for a number of terms used in the bill. It is a housekeeping provision. Most notably, this part contains the authorization for the National Advisory Council on Vocational Education.

TITLE III

Title III covers a variety of educational programs which have been developed over the years and which have separate authorizations from the Higher or Vocational Education Acts.

Without much amendment, we extended the Emergency Insured Student Loan Act, title III—dealing with area language centers—of the National Defense Education Act, the Emergency School Aid Act, and the Allen J. Ellender fellowship program. These are all fairly noncontroversial.

What I would like to draw the attention of my colleagues to are two important new efforts. First, we have attempted to give lenders a more equitable return for their participation in the program. This is section 302 of the bill. A special committee will be established to determine the special allowance, and a special emphasis is put on the prompt payment of that allowance. We have heard testimony about the low return and irregular service lenders have been receiving in this regard. The program should be run on a much stricter basis. This will convince lenders to stay in the program and, ultimately, the students will benefit.

The second item of particular note is the provision on maintenance of effort. This is section 323. We have heard a great deal about the problems many school districts are encountering in keeping up their expenditures, according to the maintenance of effort formula. Our intent then was to permit educational agencies to make adjustments in their contributions with respect to Federal maintenance of effort provisions in order to reflect decreasing enrollments and diminished fiscal resources.

Yet, we meant to retain the intent of these provisions that Federal money should supplement and not supplant State funds. The Commissioner is also authorized to grant waivers to the maintenance requirements in cases of particular need.

We do not intend to weaken our legislative efforts, but some notice must be taken of the inability of many districts to keep up their programs when revenues are declining. That is the sole intent of this legislation.

As a final note, I will briefly mention section 326, which establishes a Wayne Morse Chair of Law and Politics at the University of Oregon. This is a memorial to a distinguished colleague and leader.

TITLE IV

I have long felt that the Office of Education has grown too bureaucratic. The structure of education is extremely complicated, and no one is served by adding new layers of bureaucracy to the system. I have moved, in the title, to simplify the system somewhat by placing all programs run by the Office of Education under the Commissioner, promoting the Commissioner, and abolishing the Office of Assistant Secretary. What we are faced with now is a divided structure, which often confuses or obscures the process of lawmaking. It is often difficult to determine who is responsible for the division. Therefore, this reorganization will clear up the matter of authority and will help the localities, States, and lawmakers in their dealings in the field of education.

Several smaller provisions, but by no means unimportant ones, extend the fund for the improvement of postsecondary education and the National Institute of Education.

The fund has proven itself as a valuable, creative, and innovative body. It has widespread support from the field, and a number of the projects it has sponsored have had a good impact on higher education. This is the sort of practical research that is productive and worthwhile, and I support it.

The National Institute of Education is reauthorized, giving special emphasis to the need programs. The National Institute of Education has been criticized by some observers who feel that its work has been entirely academic—without meaning for the teacher and student at the classroom level. The new priorities place emphasis on dissemination, teaching basic skills, and assisting schools with administrative problems. These new priorities should insure that the institute will concentrate its effort on areas which will be of value to the work of educators. I might also say that this proposal is the same as the administration proposal, which is one of the few areas where we agree so well.

The rest of the part establishes a setaside for lab and center work. This to be drawn from NIE program funds. Also, there is perfecting language included amending the General Education Provisions Act concerning regulations and the technical revision relating to prohibition against Federal control.

TITLE V

Title V, part A, establishes a program of Federal aid to State-run programs of career education and career development. Also, the title, in part B, authorizes a demonstration program to assist educational agencies and institutions to conduct workshops and seminars for counselors and other administrative personnel. Grants for the coordination of State programs are also authorized.

This piece of legislation once again reinforces the theme I mentioned earlier, that education and work must go hand in hand. There has been a growing awareness in the past few years that students have been thrown out into the working world without any preparation for the time when they must take up their life's work. This title is a step toward meeting that need. More importantly, it will reinforce the drive we have undertaken to forge a strong link between our communities and our schools.

Mr. President, on Thursday, August 26, the Senate will begin debate on S. 2657, the Education Amendments of 1976. This important legislation extends and amends all programs in the Education Division of the Department of Health, Education, and Welfare involving higher education, vocational education, and the National Institute of Education, the division's research arm. Unless this legislation is passed expeditiously, all of these programs will come to a halt at the end of this fiscal year.

The legislation has enjoyed widespread support from the education community. All of the major education associations support its speedy passage, so that appropriations may be secured for these vital programs before their expiration.

I ask unanimous consent that various letters supporting the passage of S. 2657 without substantive change be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JULY 27, 1976.

Hon. CLAIBORNE PELL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PELL: The National Education Association urges you to support the "Education Amendments of 1976" (S. 2657) when that bill is taken up by the Senate soon.

Timing of Congressional action on this measure is critical. Unless higher education, vocational education, and education research programs are reauthorized promptly, appropriations for programs affecting millions of students will be seriously impaired. For this reason, the NEA urges you to oppose amendments and parliamentary procedures which would cause reconsideration of issues resolved by the Committee or raise additional issues, thereby delaying enactment of this important legislation.

The bill contains a number of provisions the NEA believes to be necessary.

TEACHER TRAINING

One important issue addressed by the Committee bill is the question of future federal policy on the training of personnel for service to students in the nation. S. 2657 proposes new approaches, authorizing less money, but with more efficient use of federal funds. NEA believes this proposal will reflect current and future educational and training needs of the nation's educational system. The Teacher Corps would be maintained while the general programs of the Education Professions Development Act would be ended, with a substitute program designed to meet specific needs for and of teachers.

Most notable in the bill is a new concept in teacher training: assistance would be provided to local education agencies to support teacher centers designed to meet the professional needs of teachers at the local level. In addition, training for higher education personnel would continue, and funds for improving graduate programs of education would be included.

VOCATIONAL EDUCATION

In keeping with the efforts made in the 1963 and 1968 vocational education amendments, S. 2657 is designed to modernize vocational education in the nation in order to meet the needs of all people of all ages for preparation for gainful and meaningful employment. Among the new features are an increased emphasis on planning for vocational programs, inclusion of features designed to overcome sex discrimination and sex stereotyping in vocational education, the encouragement given to new and improved vocational programs as opposed to maintaining existing programs, and the priorities given to meet the special needs of disadvantaged youth, handicapped persons, and persons with limited English-speaking ability.

The most important feature of the vocational education part of the bill is establishment of State Planning Commissions for Vocational Education to carry out the planning process for vocational education in each of the states. This is significant in that, for the first time, a body whose sole function is planning would look to the future needs for vocational education of all the people and assist in developing programs designed to meet those needs.

THE ADMINISTRATION OF EDUCATION PROGRAMS

Because administration of education programs is currently fragmented and spread among a number of agencies of the Executive branch, NEA applauds the proposal to reorganize the Education Division of the Department of Health, Education and Welfare. S. 2657 reorganizes and strengthens this by unifying the policy functions of the Assistant Secretary for Education and the Commissioner of Education and elevating the Commissioner to Executive Level III, equivalent to an Undersecretary.

REGIONAL EDUCATION LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS

NEA believes that education research and development supported by the federal government should be an integral part of the national program for education.

The record shows that some of the most promising research and development activities have been carried out in regional educational laboratories and research and development centers. S. 2657 would guarantee the continuance of the laboratories and centers and would encourage the establishment of new ones when merited, thereby encouraging field-initiated approaches to solving problems in education.

CAREER EDUCATION

In 1974, the Congress recognized the need for encouraging schools to adopt career education policies for all children by authorizing a program of demonstration projects designed to develop career education models. S. 2657 would now authorize assistance to the states to adapt those models to provide for the career education requirements of children in elementary and secondary schools.

The NEA considers these provisions of S. 2657 to be of utmost importance to the bill and would urge you to oppose any effort to change them on the Senate floor.

Sincerely,

STANLEY J. MCFARLAND,
Director of Government Relations.

AUGUST 9, 1976.

Hon. CLAIBORNE PELL,
Subcommittee on Education, Senate Labor and Public Welfare Committee, Old Senate Office Building, Washington, D.C.

DEAR SENATOR PELL: The American Vocational Association is deeply appreciative of your leadership in the United States Senate as Chairman of the Subcommittee on Education of the Senate Labor and Public Welfare Committee. The vocational educators of the Nation applaud you for your insistence that S2657 be brought to the floor of the Senate immediately.

We see no reason why the Beall Amendment to eliminate the Planning Commission should be introduced. To give responsibility to the state advisory councils for planning of vocational education would adversely affect their function (1) as advisory to the State Board on the Development of and policy matters arising in the administration of the state plan, and (2) to evaluate vocational education programs, services, and activities.

Planning is an essential part of administration and, therefore, only one body can effectively do the planning. We believe the state advisory councils have a major function in advising the State Board on the state plan and that the evaluation process would show deficiencies in the plan.

Because of the great urgency for enactment of this important legislation, we hope that the Senate will immediately bring S2657 to the floor under limited debate. We have great confidence that the deficiencies between the Senate and House bills can be resolved in the best interest of vocational education by the Conference Committee.

Sincerely yours,

LOWELL A. BURKETT,
Executive Director.

NATIONAL SCHOOL BOARDS ASSOCIATION,
Washington, D.C., August 4, 1976.

Hon. CLAIBORNE PELL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PELL: On behalf of the nation's 16,000 local school boards, our organization urges you to seek the scheduling of floor action on S. 2657 (higher and vocational education amendments) prior to the forthcoming August recess.

Our concern for immediate action is twofold. First, the bill contains a number of valuable improvements over existing law. An immediate scheduling date in this pre-election period would better ensure that these major improvements and other refinements can be given the full attention which they deserve on the floor and in Conference. Second, a delayed scheduling date could adversely affect the funding of these programs if there are difficulties in coordinating final passage with the appropriations time-table.

Sincerely yours,

AUGUST W. STEINHILBER,
Assistant Executive Director, Office of Federal Relations.

AMERICAN COUNCIL ON EDUCATION,
Washington, D.C., August 25, 1976.

Hon. CLAIBORNE PELL,
Chairman, Subcommittee on Education, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of seven higher education associations, I would like to urge passage of S. 2657, the Education Amendments of 1976, without substantial change.

The bill amends current law in important respects which merit strong support. It makes useful improvements in student assistance programs and adds new authorities assigning a national priority to lifelong learning, supporting research libraries, strengthening graduate and professional programs, updating teacher training, and encouraging reconversion of academic facilities for energy conservation and health and safety standards. It also authorizes improvements in the planning and coordination of vocational programs, and effects a significant upgrading and reorganization of the Education Division.

We support the Eagleton amendment to increase the authorization for the College Work Study Program. We have written all members of the Senate expressing opposition to any amendments which are not directly related to the bill. We oppose the Beall amendment which would dilute the planning provisions for vocational education. We also oppose the Bellmon amendments to remove increases in the Basic Grant ceiling and the family income eligibility for the Guaranteed Student Loan Program—increases which are necessary to keep up with inflation and rising college costs.

We would like to emphasize the importance of quick action on the bill, so that it can go to conference in time to resolve differences with the House and assure appropriations in FY 1977 for the many important programs involved.

This letter is written on behalf of the American Association of Community and Junior Colleges, American Association of State Colleges and Universities, American Council on Education, Association of American Universities, Association of Jesuit Colleges and Universities, National Association of Independent Colleges and Universities, and National Association of State Universities and Land-Grant Colleges.

Sincerely,

CHARLES B. SAUNDERS, Jr.,
Director of Governmental Relations.

WASHINGTON, D.C.,
July 30, 1976.

Hon. CLAIBORNE PELL,
325 Russell Senate Office Building,
Washington, D.C.

The American personnel and guidance association is quite concerned about the delay in scheduling floor action on S2657, the education amendments of 1976. The past two years activity, culminating in improvements in existing higher education and vocational education legislation, with other new provisions relating to lifetime learning, guidance and counseling and career education seem to be in jeopardy, S2657 was originally scheduled for August 3–4, 1976. We hope that you can prevail on the Senate Leadership to maintain that schedule. Delays much beyond this time period may prevent proper consideration and subsequent appropriations resolution before the September 13, 1976 appropriations deadline.

The American personnel and guidance association and its 42,000 National Membership urge your assistance in bringing about prompt and immediate action on S2657. The Youth and Adults who will benefit from the improvements you have worked into S2657 await your help and intercession.

CHARLES L. LEWIS, PHD,
Executive Vice President.

GEORGE M. GAZDA, EDD,
President, American Personnel and Guidance Association.

DETROIT, MICH.,
August 2, 1976.

Senator CLAIBORNE PELL,
Washington, D.C.

On behalf of more than 10,000 career and vocational guidance counselors across the country, we urge that S2657 be brought to the floor and into conference assignment before August 11. We are grateful for your support and initiative on behalf of a bill that can benefit thousands of individuals.

GEORGE E. LEONARD,
President, National Vocational Guidance Association.

ADULT EDUCATION
ASSOCIATION OF THE U.S.A.,
Washington, D.C., August 4, 1976.

Hon. CLAIBORNE PELL,
U.S. Senate,
325 Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR PELL: The Adult Education Association of the U.S.A. is an organization whose general purpose is to further the concept of education as a process continuing throughout life. Our constituency consists of some 6,000 individuals, institutions and organizations involved in the fields of education, business, labor and social welfare.

AEA, as an organization, has been following with great concern, the progress of the Bill "to extend the Higher Education Act of 1965 and to extend and revise the Vocational Education Act of 1963 and for other purposes." (S. 2657). As the expiration date of the two Acts falls on September 30, we are most anxious to see the Bill reported favorably out of the Senate before the recess on August 11.

Thank you in advance for your understanding and cooperation.

Sincerely,

LINDA S. HARTSOCK, D. Ed.,
Executive Director.

NATIONAL STUDENT LOBBY,
Washington, D.C., August 13, 1976.
Senator MIKE MANSFIELD,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MANSFIELD: The National Student Lobby notes with dismay the repeated postponement of consideration of the 1976 Higher Education Amendments, S2657. This bill is currently scheduled for floor action the week of August 23. Action on S2657 must be taken immediately after the Republican Convention as the first order of business. One more delay (for example, past Labor Day) would make a conference committee virtually impossible, forcing the enactment of a continuing resolution. No one would benefit from such action; students—particularly those who rely on financial aid harmed by Congress' inability to act.

It is imperative that the 1976 Higher Education Amendments be adopted before the September 30, 1976 expiration of the higher education programs. To replace action in the amendments with passage of a continuing resolution would constitute gross negligence on the part of Congress. Full funding of the higher education programs and titles would be seriously jeopardized by failure to pass and agree on a bill. NSL is particularly concerned that Title 4 appropriations will be endangered. This is a dangerous game, with the continued education of thousands of students in the balance.

In addition, failure by Congress to enact the new amendments will postpone needed and pressing reforms in Title 4 program, most notably the Guaranteed Student Loan Program and Special Programs for the Disadvantaged Student (TRIO).

NSL views early consideration of S2657 as imperative.

Yours,

DAVID ROSEN,
Legislative Director.

STATE OF NEW JERSEY,
DEPARTMENT OF EDUCATION,
Trenton, N.J., July 14, 1976.
Hon. HARRISON A. WILLIAMS, Jr.,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: I am writing to you in your capacity as a member of the Committee on Labor and Public Welfare to express my concern about the supplementary views expressed by Senators Beall and Randolph in Senate Report No. 94–882 relating to S. 2657.

The intent of the Senators to improve on the governance issue is excellent; however, assigning the State Advisory Council for Vocational Education administrative responsibilities creates an identical situation which was objected to previously in the creation of the State Planning Commission.

The State Advisory Council's primary responsibility is to assess the extent to which present programs are meeting such needs. Any change in the position would alter the major functions and reduce the effectiveness of the State Advisory Council.

Therefore, it is suggested that the State Advisory Council maintain its functions and responsibilities as outlined in the present Vocational Education Act of 1968.

Sincerely,

FRED G. BURKE,
Commissioner.

COLLEGE ENTRANCE
EXAMINATION BOARD,
Palo Alto, Calif., August 23, 1976.
Senator CLAIBORNE PELL,
Senate,
Washington, D.C.

DEAR SENATOR PELL: This letter is being sent in support of S-2657 and HR-12851, two proposed bills that will enact on the Higher Education Act amendments of 1976. Both bills are aimed at focusing new effort and commitment by the federal government to equal educational opportunity. Each bill in its own way would make this bicentennial year a year of redress for many on the outskirts of attaining a real chance in life. My letter is sent to you in response to a recent speech I heard you deliver where you spoke directly to these very personal and humanistic views of equality.

Thank you for your time and attention to this letter.

Most Sincerely,

ROY O. LUCERO,
Assistant Director.

Mr. JAVITS. Mr. President, I, too, include in the RECORD a complete explanation of my position on this bill which is strongly in its favor.

Mr. President, I am pleased that S. 2657 continues my long collaboration with the Senator from Rhode Island (Senator PELL), who has already described the major features of S. 2657. This bill is the result of long and careful deliberations of the Labor and Public Welfare Committee, and I commend my colleagues on this excellent bill. This work has been aided by a number of sources which should be credited. Oversight investigations by the Committee on Government Operations, on which I also serve, resulted in several recommendations which are incorporated in the bill. Assistance from the administration and innumerable educators and education associations has also been useful to the committee.

The bill will continue and improve Federal programs in higher education, vocational education, and the National Institute of Education. Additionally, the administrative structure for education programs within HEW has been strengthened, and other necessary education amendments are included.

I wish to emphasize to my colleagues the importance of this measure, and the necessity to act expeditiously. Title I of the bill reauthorizes the entire range of existing higher education programs, and provides many administrative improvements to combat the abuses which have tarnished the vital student aid programs. I am proud to have sponsored many of these improvements. If enacted, they will reverse the distressing prospect of endemic administrative problems of Federal student aid programs. I should emphasize that the vast majority of participants—students, educational institutions, and private lenders—have carried out all their responsibilities in these programs. However, given the financial magnitude, the popularity and the importance of student aid, we must assure that administrative problems are rooted out. S. 2657 contains over two dozen provisions to give administrators the necessary tools to improve these problems. I want to note particularly the provisions to protect the student from abuses arising from students misunderstanding their rights and responsibilities in student aid. These student consumer information provisions will help both schools and students.

S. 2657 also includes a new provision to authorize Federal activities in the emerging area of lifelong learning. This provides a "second chance" for many persons older than conventional school-going age, who never adequately benefitted from the recent Federal programs supporting postsecondary education. A modest authorization has been included to sponsor studies and the development of supportive mechanisms in lifelong learning. This will broaden the spectrum of lifelong learning and provide education opportunities for persons of all ages throughout their lifetimes. I strongly endorse these improvements in administration of student aid and increased efforts in lifelong learning.

Title II of the bill improves the Vocational Education Act. It continues a Federal tradition since 1917 of aiding State and local school districts in preparing young people for occupations.

The remaining titles of the bill contain other worthwhile provisions. I would like to highlight the National Institute of Education and the Fund for the Improvement of Postsecondary Education. As my colleagues know, NIE has had a difficult history since it was established in 1972. The committee bill affirms that educational research remains an important Federal activity. The new administration at NIE under Director Harold Hodgkinson has tackled these problems and, in my view, has turned the corner on its earlier problems. NIE is now well on its way to filling the mission for which it was created—to be a strong Federal agency for investment in research and development in the educational problems which continue to confront America. Also established in 1972 and now reauthorized, FIPSE has consistently proven its value. It has widely distributed its limited funds among the most innovative and challenging postsecondary education projects in the country. FIPSE has a record of stewardship which on the merits deserves both reauthorization and expanded resources.

I ask unanimous consent to insert in the RECORD a letter to the committee from the leading higher education organizations urging prompt passage of S. 2657 without substantial change.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN COUNCIL ON EDUCATION,
Washington, D.C., August 25, 1976.
Hon. CLAIBORNE PELL,
Chairman, Subcommittee on Education,
Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of seven higher education associations, I would like to urge passage of S. 2657, the Education

Amendments of 1976, without substantial change.

The bill amends current law in important respects which merit strong support. It makes useful improvements in student assistance programs and adds new authorities assigning a national priority to lifelong learning, supporting research libraries, strengthening graduate and professional programs, updating teacher training, and encouraging reconversion of academic facilities for energy conservation and health and safety standards. It also authorizes improvements in the planning and coordination of vocational programs, and effects a significant upgrading and reorganization of the Education Division.

We support the Eagleton amendment to increase the authorization for the College Work Study Program. We have written all members of the Senate expressing opposition to any amendments which are not directly related to the bill. We oppose the Beall amendment which would dilute the planning provisions for vocational education. We also oppose the Bellmon amendments to remove increases in the Basic Grant ceiling and the family income eligibility for the Guaranteed Student Loan Program—increases which are necessary to keep up with inflation and rising college costs.

We would like to emphasize the importance of quick action on the bill, so that it can go to conference in time to resolve differences with the House and assure appropriations in FY 1977 for the many important programs involved.

This letter is written on behalf of the American Association of Community and Junior Colleges, American Association of State Colleges and Universities, American Council on Education, Association of American Universities, Association of Jesuit Colleges and Universities, National Association of Independent Colleges and Universities, and National Association of State Universities and Land-Grant Colleges.

Sincerely,
CHARLES B. SAUNDERS, Jr.,
Director of Governmental Relations.

Mr. JAVITS. Mr. President, a comment regarding the critical thing of this legislation is needed. Even if the bill is promptly passed, we face a difficult conference. We believe and hope that the President will approve the final version. Only then can a supplemental appropriation funding of these programs be enacted. Given the number of legislative days remaining in the 94th Congress, we must proceed expeditiously at every step remaining in the legislative process in order to make the necessary funds available to the education community. Therefore, I urge prompt enactment of the Education Amendments of 1976.

Mr. President, in conclusion, I must discuss one additional area.

There are two vital questions about the costs of the bill which I hope Senators consider overnight, because they involve very grave issues of social policy. There will be some other arguments on this bill about matters involving quality education and other things of that kind.

But the money items involve two questions. One, shall we provide in the basic opportunity grant program—BEOG—an increase in the maximum award from $1,400 per student to $1,800 per student. Do we need this change in view of the fact that the $1,400 was fixed in 1972 and the increase would be effective in 1978. Is not the $1,400 obsolescent in terms of our present purpose?

This is for students who are poor, but it involves a lot of money, something in excess of a billion dollars a year and it involves hundreds of thousands of students.

The second question is in respect to the student guaranteed loans, which are private loans, but which the Government guarantees and also gives an interest subsidy of 7 percent, which also involves many millions of dollars. We must realize that there are literally hundreds of thousands of these loans made each year.

In any case, we will have all the figures.

The simple question before us is whether or not we should accommodate in that opportunity, families which have a family income of between $15,000 and $25,000 a year. Today it is limited to $15,000. Because of inflation, we figure the $25,000 is worth about what the $15,000 was when we put it in effect in 1965.

But both these things cost important money. I submit those to my colleagues so that they may overnight consider that juxtaposition.

These are highly desirable purposes: Do you want to spend the money? The committee thought you should, but the Senate will decide.

Undoubtedly, these issues will be challenged.

Other than that, I think everyone is well acquainted with the issues at stake in the various aspects of the bill and much more detail will be included in the RECORD.

ADJOURNMENT TO 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 6:06 p.m. the Senate adjourned until tomorrow, Thursday, August 26, 1976, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 25, 1976:

BOARD FOR INTERNATIONAL BROADCASTING

The following-named persons to be members of the Board for International Broadcasting for terms expiring April 28, 1979:

Thomas H. Quinn, of Rhode Island.
John T. Murphy, of Ohio.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, August 25, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Have no anxiety about anything, but in everything by prayer and supplication with thanksgiving let your requests be made known to God.—Philippians 4: 6.

"Shed Thou, O Lord, Thy light
On this strong land.
Firm in the ways of right,
Strong may she stand.

"Make her to all Earth kin,
Teach her to share,
Cleanse her of inward sin;
Lord, hear our prayer.

"Here let all men be free
Under Thy Sun;
Bound in fraternity
All people one.

"Here let Thy truth be power,
All deeds be just,
Save, Lord, in this grave hour;
In Thee we trust."

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 10370. An act to amend the act of January 3, 1975, establishing the Canaveral National Seashore; and

H.R. 12261. An act to extend the period during which the Council of the District of Columbia is prohibited from revising the criminal laws of the District.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11009) entitled "An act to provide for an independent audit of the financial condition of the government of the District of Columbia."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12455) entitled "An act to extend from April 1 to October 1, 1976, the maximum period during which recipients of services on September 30, 1975, under titles IV–A and VI of the Social Security Act, may continue to receive services under title XX of that act without individual determinations," and that the Senate agreed to the House amendment to the Senate amendment to the foregoing bill.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8603. An act to amend title 39, United States Code, with respect to the organizational and financial matters of the U.S. Postal Service and the Postal Rate Commission, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8603) entitled "An act to amend title 39, United States Code, with respect to the organizational and financial matters of the U.S. Postal Service and the Postal Rate Commission, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McGee, Mr. Randolph, Mr. Burdick, Mr. Fong, and Mr. Stevens to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5546) entitled "An act to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health and allied health professions, to revise the National Health Service Corps program and the National Health Service Corps scholarship training program, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Kennedy, Mr. Williams, Mr. Nelson, Mr. Eagleton, Mr. Cranston, Mr. Pell, Mr. Mondale, Mr. Hathaway, Mr. Durkin, Mr. Schweiker, Mr. Javits, Mr. Beall, Mr. Taft, Mr. Stafford, and Mr. Laxalt to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 2112. An act to authorize the Secretary of the Interior to conduct a study with respect to the feasibility of establishing the Bartram Trail as a national scenic trail;

S. 2486. An act to authorize the Secretary of the Interior to conduct a study with respect to the feasibility of establishing the Florida Trail as a national scenic trail;

S. 2783. An act to authorize a study for the purpose of determining the feasibility and desirability of designating the Daniel Boone Trail as a national scenic trail;

S. 3273. An act to authorize a study for the purpose of determining the feasibility and desirability of designating the Nee-Me-Poo Trail as a national scenic trail;

S. 3528. An act to authorize the Secretary of the Interior and the Secretary of Agriculture to conduct a study with respect to the feasibility of establishing the Desert Trail as a national scenic trail; and

S.J. Res. 139. Joint resolution to direct the Secretary of the Interior to conduct a one-year feasibility/suitability study of St. Paul's Church, Eastchester.

PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. WRIGHT. Mr. Speaker, on behalf of our colleague, the gentleman from Georgia (Mr. Flynt), I ask unanimous consent that the Committee on Standards of Official Conduct be permitted to sit today during proceedings under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

TO REMOVE AN INJUSTICE DONE TO TED GIES OF SHOSHONI, WYO.

(Mr. RONCALIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RONCALIO. Mr. Speaker, I am today introducing legislation upon which I hope the House will take quick and responsible action.

Mr. Ted Gies is a hard working man who was one of the original filers for land in the third division in Wyoming. He worked the lands and tried hard to improve them in order to make a good living.

In 1964, the Bureau of Reclamation told him that his lands were class 6, and he was therefore unable to obtain water rights. It then became inevitable that he had to sell his land and reluctantly did so to the Bureau of Reclamation; a sale of 90 acres of land for $30 an acre. The following spring, that same land was leased by the Bureau of Reclamation and the lessees were granted water. In 1972, the Bureau of Reclamation sold this land as class 4 land, at a price of $90 an acre.

The legislation which I am introducing is an attempt to make up for the grossly unfair treatment this fine man has received. It provides for the payment to him of $5,400. This amount is based on the incremental differences in land value of 90 acres of land classified as class 6 rather than class 4 at the time of sale to

Mr. Speaker, had I been present, I

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, yesterday I was granted a leave of absence in order to represent the President at West Point at the funeral of Maj. Arthur G. Bonifas, a resident of my congressional district at Newburgh, N.Y., who, along with 1st Lt. Mark T. Barrett, was killed last week by North Koreans in the demilitarized zone at Panmunjom. Consequently, I missed several votes.

Mr. Speaker, had I been present, I would have voted "yea" on the following measures: Rollcall No. 646 (H.R. 7929), interest on the corporate debt to acquire another corporation; rollcall No. 647 (H.R. 8046), exclusion of rental value of parsonage furnished to surviving spouse of minister; rollcall No. 649 (H.R. 10902), tax treatment of securities acquired for business reasons; rollcall No. 650 (H.R. 13828), the Federal records management amendments of 1976; and rollcall No. 651 (H.R. 14451), distribution of Federal surplus property to State and local organizations. With regard to rollcall No. 648 (H.R. 10155), tax treatment of certain income of political organizations, I would have voted "nay."

POSTAL REFORM LEGISLATION

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, I want to take this opportunity to alert the membership to the challenging assignment awaiting conferees in bringing back to the floor responsive and responsible postal reform legislation. As you know, the other body Tuesday afternoon completed action on its version of H.R. 8603.

The bill, in its present form, is not the ultimate solution to the continuing problems of the U.S. Postal Service, but it does provide the basis for a searching review and report on postal operations. The report, which will be drafted by a 12-member Postal Study Commission, will provide us with the foundation for developing comprehensive postal legislation in the 95th Congress.

With less than 30 working days left in the current Congress, the political facts of life strongly militate against any move which would further delay enactment of H.R. 8603.

If substantive changes are made in the Senate version of H.R. 8603, the bill faces a Presidential veto. That will leave the Postal Service with only one alternative—an immediate filing with the Postal Rate Commission for another increase in postal rates.

H.R. 8603, as now drafted, will provide immediate economic relief for the Postal Service and at the same time head off an immediate increase in postal rates and further reductions in service. The bill is supported by the White House, the Office of Management and Budget, the Democratic and Republican leadership, the postal craft unions, mail users, and Postmaster General Benjamin F. Bailar.

It represents our last chance to enact postal legislation this session.

INTRODUCTION OF BILL TO AID DANISH WIDOW, MRS. VIBEKE McCREADY

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I take the floor at this time to announce that I am today introducing a bill to help Mrs. McCready, a young woman who married an American citizen at the beginning of this year. Her husband was brutally murdered about 3 or 4 months ago, and the Immigration Department yesterday indicated that it would not deport the young woman. However, the Department gave her no legal status.

Therefore, I am introducing legislation today that will guarantee this woman, who is a victim of the tragedy to her husband, to have the right of following through and ultimately becoming an American citizen.

APPOINTMENT OF ADDITIONAL CONFEREE ON H.R. 12987, EMERGENCY JOB PROGRAMS STOPGAP EXTENSION

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint one additional conferee on the bill H.R. 12987, to authorize appropriations for fiscal year 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, for carrying out title VI of the Comprehensive Employment and Training Act of 1973, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following additional conferee: Mr. ERLENBORN.

CALL OF THE HOUSE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 653]

Abzug
Ambro
Andrews, N.C.
AuCoin
Badillo
Breckinridge
Burton, John
Chappell
Chisholm
Conlan
Conyers
de la Garza
Dickinson
Diggs
du Pont
Esch
Eshleman
Evins, Tenn.
Ford, Mich.
Green
Harkin
Harsha
Hayes, Ind.
Hays, Ohio
Hébert
Heckler, Mass.
Heinz
Hinshaw
Howe
Jarman
Jones, Okla.
Jones, Tenn.
Karth
McCloskey
McDade
McKinney
Martin
Matsunaga
Mills
Poage
Preyer
Rangel
Rees
Risenhoover
Scheuer
Shuster
Sisk
Smith, Iowa
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Thompson
Ullman
Waxman
Young, Alaska

On this rollcall 374 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY AND TOMORROW DURING THE 5-MINUTE RULE

Mr. GINN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation be permitted to sit today and tomorrow while the House is proceeding under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman assure us there will be no markups on the legislation?

Mr. GINN. Mr. Speaker, absolutely, it is simply a hearing.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

PERSONAL EXPLANATION

Mr. OTTINGER. Mr. Speaker, on rollcall No. 644, August 23, 1976, on final passage of H.R. 14032, Toxic Substances Control Act, I am recorded as not having voted.

Mr. Speaker, I was here. I inserted my card. I participated in the debate all the way through and I did vote.

I would like the record to show that I did vote "yea" on that bill.

CLARIFYING TREATMENT OF FEDERAL EMPLOYEES AND REEMPLOYED ANNUITANTS

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3650) to clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Page 5, line 6, after "Act" insert: "or October 1, 1976, whichever is later.".

Page 5, line 8, strike out "the date of the enactment of this Act" and insert: "such date".

Page 5, line 11, after "Act" insert: "or October 1, 1976, whichever is later.":

Page 5, line 12, strike out "the date of the enactment of this Act" and insert: "such date".

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. ALEXANDER. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from North Carolina, the chairman of the Committee on Post Office and Civil Service, if this bill which the gentleman asks unanimous consent to approve has anything to do with the postal bill that passed the Senate yesterday, whereon the Senate will ask the House to go to conference, whereupon I will offer a motion to instruct the conferees to adhere to the House position on both the House amendments to require an annual authorization and appropriation of postal matters and Presidential appointment and confirmation by the Senate of the Postmaster General and his chief deputy. Does your request have anything to do with this bill?

Mr. HENDERSON. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from North Carolina.

Mr. HENDERSON. Mr. Speaker, the response to the gentleman's inquiry is that it does not.

Mr. Speaker, the Senate amendments merely amend the effective date provisions of the bill, as passed by the House, in order to comply with the Congressional Budget Act of 1974.

The House bill, which passed on the Consent Calendar on July 21, 1975, provided that the provisions of the bill would take effect on the date of enactment.

Section 401(b) of the Budget Act prohibits the consideration of any entitlement legislation which is to become effective before the first day of the fiscal year which begins during the calendar year in which such legislation is reported.

In order to comply with this provision, the Senate amendments provide that the provisions of the bill H.R. 3650, shall not take effect prior to October 1, 1976, the beginning of fiscal year 1977.

Mr. ALEXANDER. Further reserving the right to object—and I will not object—I think that since the gentleman from North Carolina, chairman of the Post Office and Civil Service Committee, has the floor, it would be appropriate for me to advise the Members that I will offer a motion to instruct the conferees of the House-Senate conference on postal matters when the Senate asks for a conference today, which would instruct the conferees to adhere to the House position on both House-passed amendments which would require, first, an annual authorization and an annual appropriation of postal matters; and second, presidential appointment and confirmation by the Senate by both the Postmaster General and the chief deputy of the Postmaster General.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, can my colleague from North Carolina tell us, does the Senate version of the postal amendments include the concepts of the Alexander amendment? I wonder if the gentleman from North Carolina can inform us whether the Alexander amendment, which was passed rather substantially in the House, was included in the Senate version, or was it not?

Mr. HENDERSON. Will the gentleman from Arkansas yield so that I might respond to the gentleman from Calfornia?

Mr. ALEXANDER. I yield to the gentleman.

Mr. HENDERSON. I think, as the gentleman from California well knows, the Senate action occurred late yesterday afternoon or yesterday evening. I was advised of the Senate action, but I think we have been so involved in the course of this morning with regard to motions that are coming late this afternoon, which the gentleman from Arkansas is discussing now, that I must assure the gentleman that I have not seen the Senate action. I have not had an opportunity to be adequately informed to respond with assurance, but it is my understanding that the Senate action of yesterday is quite in contrast with our action.

Mr. ROUSSELOT. The Senate bill is different from the House version and does not include the Alexander amendment.

Mr. HENDERSON. That is my understanding.

Mr. ROUSSELOT. In other words, it is the gentleman's understanding that the Alexander amendment was left out of the Senate version? Additionally has the gentleman from North Carolina had an opportunity to review the differences between the two versions?

Mr. HENDERSON. Without being able to assure the gentleman from my own personal knowledge, and looking at the Senate action and report, and even the record over there, it is my understanding that the provisions of the Alexander amendment, as offered in the House, are not in the Senate bill.

Mr. ROUSSELOT. If the gentleman from Arkansas will yield further, I assume that my colleague, the chairman of the committee, is willing to stand for the position of the House, and he will try to help us maintain the Alexander position, is that correct?

Mr. HENDERSON. If the gentleman from Arkansas will yield further, I think that this is a matter we will certainly get into this afternoon at the proper time, but it gives me no pain to say at this time that as chairman of the conferees, it would be my position to uphold the position of the House to the greatest extent that is possible in order to get legislation to resolve the problem of postal service.

Mr. ROUSSELOT. My chairman is not uncomfortable with standing and fighting for the Alexander position, which we passed so overwhelmingly in the House?

Mr. HENDERSON. I would like to say that the House bill has other provisions in it that it would be the intention of the chairman of the conferees to stand for, and to stand for the total House bill the best I can. This is the responsibility of the chairman of the House conferees. Of course, I think the Members have already been alerted to the move to instruct the House conferees this afternoon, and that might more properly come at that time.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. ALEXANDER. Mr. Speaker, further reserving the right to object, I would like to ask the gentleman from North Carolina a question on the point that he raised concerning the motion to instruct the conferees.

The SPEAKER. The Chair will state that the colloquy is completely irrelevant to the issue.

If the gentleman wants to withdraw his request, that is all right.

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I do not think the colloquy is irrelevant at all, because momentarily we will receive the request from the Senate to go to conference on H.R. 8603, and these current questions stated to the chairman of the House Post Office and Civil Service Committee, may be the only opportunity Members of the House will have to raise these questions. We have been reliably informed that our chairman, Mr. HENDERSON hopes to immediately stop debate on any motion by Mr. ALEXANDER to instruct conferees by immediately offering a motion to table, which of course is not debatable. I repeat, Mr. Speaker, we may not have another opportunity to inform the House of the important differences.

Mr. Speaker, let me review the facts as we understand them:

This afternoon the Senate will request a conference with the House on H.R. 8603, the postal reform bill, following completion of the announced legislative schedule.

At that time, Congressman CHARLES WILSON of California and Mr. ALEXANDER will offer a motion to instruct the House conferees to insist on the House-passed provisions of the bill to:

Require the Postal Service to come to Congress annually to secure an authorization and an appropriation, and

Require that the Postmaster General and his Chief Deputy be appointed by the President and confirmed by the Senate.

It is expected that Mr. HENDERSON will then move to table the motion to instruct. Passage of the motion to table will virtually kill any hope for postal reform legislation with "teeth" in it this year.

The SPEAKER. It is irrelevant to the issue.

Mr. HENDERSON. Mr. Speaker, in order not to take the time of the House, the colloquy is not relevant to the request that I have. This can be disposed of after the other matter has been disposed of this afternoon. It appears we cannot dispose of anything else in my committee until that is disposed of, so as chairman of the committee I withdraw my unanimous consent request.

The SPEAKER. The gentleman from North Carolina withdraws his unanimous consent request.

Mr. ALEXANDER. Mr. Speaker, I would not object if the gentleman wishes to offer his unanimous consent request.

Mr. HENDERSON. Mr. Speaker, I would reiterate the unanimous consent request, but if there is objection or reservation of objection, I will not take any more time of the House.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

GUARANTEED STUDENT LOAN AMENDMENTS OF 1976

Mr. O'HARA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 14070) to extend and amend part B of title IV of the Higher Education Act of 1965, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. O'HARA).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 14070, with Mr. DUNCAN of Oregon in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, August 24, 1976, the Clerk had read through line 9, on page 2 of the committee amendment in the nature of a substitute.

Are there any amendments to section 1?

Mr. O'HARA. Mr. Chairman, I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute be considered as read, printed in the record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. Part B of title IV of the Higher Education Act of 1965 is amended to read as follows:

"PART B—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST INSURED LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

"STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

"SEC. 421. (a) The purpose of this part is to enable the Commissioner (1) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 435), (2) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 428 (b), (3) to pay a portion of the interest on loans to qualified students which are made by a State under a direct loan program meeting the requirements of section 428(a)(1)(B), or which are insured under this part or under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(C), and (4) to guarantee a portion of each loan insured under a program of a State or a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(C).

"(b) For the purpose of carrying out this part—

"(1) there are authorized to be appropriated to the student loan insurance fund (established by section 431) (A) the sum of $1,000,000, and (B) such further sums, if any, as may become necessary for the adequacy of the student loan insurance fund,

"(2) there are authorized to be appropriated, for payments under section 428 with respect to interest on student loans and for payments under section 437, such sums for the fiscal year ending June 30, 1966, and succeeding fiscal years, as may be required therefor,

"(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 422 for the reserve funds of State and nonprofit private student loan insurance programs,

"(4) there are authorized to be appropriated (A) the sum of $12,500,000 for making advances after June 30, 1968, pursuant to section 422 (a) and (b), and (B) such sums as may be necessary for making advances pursuant to section 422(e), for the reserve funds of State and nonprofit private student loan insurance programs, and

"(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying an administrative cost allowance in accordance with section 428(b)(3) to State and nonprofit private institutions and organizations with which the Commissioner has an agreement under section 428(b).

Sums appropriated under clauses (1), (2), (4), and (5) of this subsection shall remain available until expended, and sums appropriated under clause (3) of this subsection shall remain available for advances under section 422 until the close of the fiscal year ending June 30, 1968.

"(c) For purposes of carrying out this part—

"(1) the Commissioner shall develop and execute a plan designed to encourage the establishment of a student loan insurance program by each State which does not have such a program covered by an agreement pursuant to section 428(b);

"(2) the Commissioner shall make a report to the Congress within ninety days after the enactment of the Guaranteed Student Loan Amendments of 1976, containing a description of the plan developed according to paragraph (1) accompanied by a timetable for the execution of such plan; and

"(3) the Commissioner shall make a report to the Congress before June 30, 1977, which shall include—

"(A) a description of the activities the Commissioner and his designees have undertaken pursuant to paragraph (1),

"(B) a description of such State's plans to establish a program meeting the requirements of section 428(b), or alternatively, a presentation of the reasons such a plan is not under its active consideration, and

"(C) the Commissioner's recommendations to the Congress as to what changes in law, regulation, or policy would encourage the establishment of such a program in all States without such programs.

"ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN INSURANCE PROGRAMS

"SEC. 422. (a) (1) From the sums appropriated pursuant to clauses (3) and (4) of section 421(b), the Commissioner is authorized to make advances to any State with which he has made an agreement pursuant to section 428(b) for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Commissioner determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Commissioner may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to section 428(b) in order to enable students in the State to participate in a program of student loan insurance covered by such an agreement. The Commissioner may make advances under this subsection both to a State program (with which he has such an agreement) and to one or more nonprofit private institutions or organizations (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through such institution to a student loan insurance program which meets the requirement of section 428(b) (1).

"(2) No advance shall be made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term 'unencumbered non-Federal portion' means the amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of (A) the sum of (i) advances made under this section prior to July 1, 1968, (ii) an amount equal to twice the amount of advances made under this section after June 30, 1968, and before the advance for purposes of which the determination is made, and (iii) the proceeds of earnings on advances made under this section, or (B) any amount which is required to be maintained in such fund pursuant to State law or regulation, or by agreement with enders, as a reserve against the insurance of outstanding loans.

"(3) Advances pursuant to this subsection shall be upon such terms and conditions (including conditions relating to the time or times of payment) consistent with the requirements of section 428(b) as the Commissioner determines will best carry out the purposes of this section. Advances made by the Commissioner under this subsection shall be repaid within such period as the Commissioner may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

"(b) (1) The total of the advances to any State prior to July 1, 1968, pursuant to subsection (a) may not exceed an amount which bears the same ratio to 2½ per centum of $700,000,000 as the population of that State aged eighteen to twenty-two, inclusive, bears to the total population of all the States aged eighteen to twenty-two inclusive. The amount available, however, for advances to any State for each fiscal year ending prior to July 1, 1968, shall not be less than $25,000, and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000 per year) the amount available for advances to each of the remaining States. Advances to nonprofit private institutions and organizations prior to July 1, 1968, pursuant to subsection (a) may be in such amounts as the Commissioner determines will best achieve the purposes for which they are made, except that the sum (1) advances to such institutions and organizations for the benefit of students in any State plus (2) the amounts advanced to such State, may not exceed the maximum amount which may be advanced to that State pursuant to the first two sentences of this subsection.

"(2) The total of the advances from the sums appropriated pursuant to clause (4) of section 421(b) (A) to nonprofit private institutions and organizations for the benefit of students in any State and (B) to such State may not exceed an amount which bears the same ratio to such sums as the population of such State aged eighteen to twenty-two, inclusive, bears to the population of all the States aged eighteen to twenty-two, inclusive, but such advances may otherwise be in such amounts as the Commissioner determines will best achieve the purposes for which they are made. The amount available, however, for advances to any State shall not be less than $25,000, and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000) the amount available for advances to each of the remaining States.

"(3) For the purposes of this subsection, the population aged eighteen to twenty-two, inclusive, of each State and of all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

"(c) (1) From sums appropriated pursuant to section 421(b) (4) (B), the Commissioner shall advance to each State which has an agreement with the Commissioner under section 428(c) with respect to a student loan insurance program, an amount determined in accordance with paragraph (2) of this subsection to be used for the purpose of making payments under the State's insurance obligations under such program.

"(2) (A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to the greater of (i) $50,000, or (ii) 10 per centum of the principal amount insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

"(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by (i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date, and (ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a).

"(C) For purposes of subparagraph (B) the unspent balance of the advances made to a State pursuant to subsection (a) shall be that portion of the balance of the State's reserve fund (remaining at the time of the State's first request for an advance pursuant to this subsection) which bears the same ratio to such balance as the Federal advances made and not returned by such State, pursuant to subsection (a), bears to the total of all past contributions to such reserve fund from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date such State executed an agreement pursuant to section 428 (b).

"(3) The earnings, if any, on any investments of advances received pursuant to this subsection must be used for making payments under the State's insurance obligations.

"(4) (A) No repayment of any advances made pursuant to this subsection shall be required until such time as the sum of the advances under this subsection exceeds 20 per centum of the State's outstanding insurance obligation determined in accordance with subparagraph (B) of this paragraph.

"(B) For purposes of this paragraph, a State's outstanding insurance obligation shall be determined by subtracting from the total principal amount of loans insured by the State since it entered into an agreement pursuant to section 428(b), the total principal amount of loans insured by such State which have been fully repaid by the borrower, the State itself, or the Commissioner, and loans which have been canceled.

"(C) At such time as advances pursuant to this subsection reach the level indicated in subparagraph (A) of this paragraph, the amount of any excess shall be paid over to the Commissioner in a lump sum at the beginning of each fiscal year for deposit in the fund established by section 431.

"(5) Advances pursuant to this subsection shall be made to a State—

"(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 428(b) which was entered into before the effective date of this subsection, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the two succeeding calendar years after the date so requested; and

"(B) in the case of a State which enters into an agreement pursuant to section 428 (b) on or after the effective date of this subsection, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the four succeeding calendar years after the date so requested of the advance.

"(6) (A) If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Commissioner determines after consultation with the chief executive office of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Commissioner may make advances pursuant to this subsection for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to subsection (c), as well as subsection (b), of section 428 and subparagraph (B) of this paragraph in order to enable students in that State to participate in a program of student loan insurance covered by such agreements.

"(B) The Commissioner may enter into an agreement with a private nonprofit institution or organization for purposes of this paragraph under which such institution or organization—

"(i) agrees to establish within such State at least one office with sufficient staff to handle written and telephone inquiries from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major eligible lending institutions within the State,

"(ii) agrees that its insurance will not be denied any student because of his choice of eligible education institution or the student's lack of need, and

"(iii) certifies that it is neither an educational institution, nor has any substantial affiliation with an educational institution.

"EFFECTS OF ADEQUATE NON-FEDERAL PROGRAMS

"SEC. 423. (a) Except as provided in subsection (b), the Commissioner shall not issue certificates of insurance under section 429 to lenders in a State if he determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 428(b).

"(b) The Commissioner may issue certificates of insurance under section 429 to a lender in a State—

"(1) for insurance of a loan made to a student borrower who does not, by reason of his residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 422 for the benefit of students in such State), or

"(2) for insurance of all of the loans made to student borrowers by a lender who satisfies the Commissioner that, by reason of the residence of such borrowers, he will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loans he intends to make to such student borrowers.

"SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

"SEC. 424. (a) The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part shall not exceed $1,400,000,000 for the fiscal year ending June 30, 1972, $1,600,000,000 for the fiscal year ending June 30, 1973, $1,800,000,000 for the fiscal year ending June 30, 1974, $2,000,000,000 for each of the fiscal years ending June 30, 1975, and 1976, and $2,000,000,000 for the period from July 1, 1976, to September 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, 1980. Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after June 30, 1984.

"(b) The Commissioner may, if he finds it necessary to do so in order to assure an equitable distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

"LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE

"SEC. 425. (a) (1) The total of loans made to a student in any academic year or its equivalent (as determined by the Commissioner) which may be covered by Federal loan insurance under this part may not exceed $2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000 in the case of a graduate or professional student (as defined in regulations of the Commissioner), except that—

"(A) in the case of a loan to a student who has not successfully completed a program of undergraduate education which is made under a State student loan program described in section 435(g) (1) (D) or which is made or originated (as defined in section 433 (b) (2)) by an eligible institution, the loan may not exceed the lesser of $2,500 or 50 per centum of the estimated cost of attendance (calculated in accordance with the provisions of section 428(a) (2) (C) (i)),

"(B) in the case of a loan made or originated (as defined in section 43(b) (2)) by an eligible institution which is made to a student for his first academic year of postsecondary education, the loan may exceed $1,500 only if it is to be disbursed in two or more installments none of which exceeds one-half of the loan, with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

"(C) in cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education.

The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

"(2) The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed $7,500, in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part or by a State or nonprofit institution or organization with which the Commissioner has an agreement under section 428(b) made to such person before he became a graduate or professional student).

"(b) The insurance liability on any loan insured by the Commissioner under this part shall be 100 per centum of the unpaid balance of the principal amount of the loan plus interest. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part.

"SOURCES OF FUNDS

"SEC. 426. Loans made by eligible lenders in accordance with this part shall be insurable by the Commissioner whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

"ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS

"SEC. 427. (a) A loan by an eligible lender shall be insurable by the Commissioner under the provisions of this part only if—

"(1) made to a student who (A) has been accepted for enrollment at an eligible institution or, in the case of a student already attending such institution, is in good standing there as determined by the institution, (B) is carrying at least one-half of the normal full-time workload as determined by the institution, and (C) has agreed to notify promptly the holder of the loan concerning any change of address; and

"(2) evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, endorsement may be required,

"(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than five years (unless sooner repaid) nor more than ten years beginning not earlier than nine months nor later than one year after the date on which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except—

"(i) as provided in clause (C) below,

"(ii) that the period of the loan may not exceed fifteen years from the execution of the note or written agreement evidencing it,

"(iii) that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Commissioner in effect at the time the loan is made, and

"(iv) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, except that such loan shall not be in default because of the student's failure to fulfill the requirements of such a repayment schedule until the lender offers to the borrower in writing an alternative repayment schedule which meets the requirements of this subparagraph, and the borrower has refused to agree to the terms of such alternative repayment schedule,

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period (i) during which the borrower is pursuing a full-time course of study at an 'eligible institution', (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973, or (v) during a single period, not in excess of twelve months, at the request of the borrower and with the consent of the holder, during which the borrower is seeking and unable to find full-time employment, and any such period shall not be included in determining the ten-year period or the fifteen-year period provided in clause (B) above,

"(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b)) on a national, regional, or other appropriate basis, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest that has so accrued during that period may be added on that date to the principal,

"(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Commissioner under this part, and that the lender will enter into such agreements with the Commissioner as may be necessary for the purposes of section 437,

"(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan,

"(G) provides that the borrower shall within four months after ceasing to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, contact the holder of his loan to negotiate the terms of his repayment obligations,

"(H) the funds borrowed by a student are disbursed by check requiring the endorsement of such student, and that such student sign, prior to such disbursement, a notice stating that endorsement constitutes acceptance by the student of the obligation to repay the loan and setting forth the substance of the provisions of law governing the terms and conditions of repayment, and

"(I) contains such other terms and conditions, consistent with the provisions of this part and with the regulations issued by the Commissioner pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay to the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Commissioner with respect to such loan.

"(b) No maximum rate of interest prescribed and defined by the Secretary for the purposes of clause (2)(D) of subsection (a) may exceed 7 per centum per annum on the unpaid principal balance of the loan.

"(c) The total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not be less, unless the borrower and the lender otherwise agree, than $360 or the balance of all of such loans (together with interest thereon), whichever amount is less.

"FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS

"SEC. 428. (a)(1) Each student who has received a loan for study at an eligible institution—

"(A) which is insured by the Commissioner under this part;

"(B) which was made under a State student loan program (meeting criteria prescribed by the Commissioner), and which was contracted for, and paid to the student, within the period specified by paragraph (5); or

"(C) which is insured under a program of a State or a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

"(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than sixty days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

"(ii) in the case of a loan insured after June 30, 1967, is insured under a program covered by an agreement made pursuant to subsection (b),

shall be entitled to have paid on his behalf and for his account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

"(2)(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

"(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which he is in attendance in good standing (as determined by such institution), which—

"(I) sets forth such student's estimated costs of attendance and

"(II) sets forth such student's estimated financial assistance; and

"(ii) meet the requirements of subparagraph (B).

"(B) For the purposes of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if such student's adjusted family income at the time of execution of the note or written agreement evidencing such loan—

"(i) is less than $20,000; or

"(ii) is equal to or greater than $20,000 and the eligible institution has provided the lender with a statement evidencing a determination of need and recommending a loan in the amount of such need.

"(C) For the purposes of paragraph (1) and this paragraph—

"(i) a student's estimated cost of attendance means, for the period for which the loan is sought, the tuition and fees applicable to such student together with the institution's estimate of other expenses reasonably related to attendance at such institution, including, but not limited to, the cost of room and board, reasonable commuting costs, and costs for books;

"(ii) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under parts A, C, and E of this title, plus other scholarship, grant, or loan assistance;

"(iii) the term 'eligible institution' when used with respect to a student is the eligible institution at which the student has been accepted for enrollment or, in the case of a student who is in attendance at such an institution is in good standing (as determined by such institution);

"(iv) the determination of need and the amount of a loan recommended by an eligible institution under subparagraph (B)(ii) with respect to a student shall be determined by subtracting from the estimated cost of attendance at such institution the total of the expected family contribution with respect to such student (as determined by means other than one formulated by the Commissioner under subpart 1 of part A of this title) plus any other resources or student financial assistance reasonably available to such student.

"(D) For the purposes of this paragraph, the adjusted family income of a student shall be determined pursuant to regulations of the Commissioner in effect at the time of the execution of the note or written agreement evidencing the loan. Such regulations shall provide for taking into account such factors, including family size, as the Commissioner deems appropriate. In the absence of fraud by the lender, such determination of the need of a student under this paragraph shall be final insofar as it concerns the obligation of the Commissioner to pay the holder of a loan a portion of the interest on the loan.

"(3) The portion of the interest on a loan which a student is entitled to have paid on his behalf and for his account to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan which accrues prior to the beginning of the repayment period of the loan, or which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b)(1)(M) of this section or in section 427(a)(2)(C); but such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his behalf for that period under any State or private loan insurance program. The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Commissioner the portion of interest which has been so determined. The Commissioner shall pay this portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) was made, or if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

"(4) Each holder of a loan with respect to which payments of interest are required to be made by the Commissioner shall submit to the Commissioner, at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to determine the amount of the payment which he must make with respect to that loan.

"(5) The period referred to in subparagraphs (B) and (C) of paragraph (1) of this subsection shall begin on the date of enactment of this Act and end at the close of September 30, 1980, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his educational program, such period shall end at the close of September 30, 1984.

"(6) No payment may be made under this section with respect to the interest on a loan made from a student loan fund established under title II of the National Defense Education Act of 1958 or part E of this title.

"(7) Nothing in this or any other Act shall be construed to prohibit or require unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

"(8) In the case of any eligible lender (other than an eligible institution or an agency or instrumentality of a State), which enters into a binding agreement with a student to make a loan—

"(A) for which the student is entitled to have a portion of the interest paid on his behalf under this section, and

"(B) the proceeds of which loan are to be paid to the student in multiple disbursements over the period of enrollment for which the loan is made, but not to exceed twelve months,

the amount of the interest payment and the amount of any special allowance payment to be paid under section 438 shall be determined as if the entire amount to be made available for that period of enrollment had been disbursed on the date on which the first installment thereof was disbursed, and any increase in the rate of interest on the loan attributable to such multiple disbursements shall not be deemed to violate any provision of this part relating to the maximum rate of interest on such loan: *Provided*, That this paragraph shall apply only in the case of loans paid in multiple disbursements, in accordance with regulations of the Commissioner, based on the need of the student for the proceeds of such loan over the course of the academic year.

(9) With respect to any loan for which a portion of the interest is payable under this section, in the case of a student attending an eligible institution which is located

in other than a State, the determinations to be made (except determinations of good standing) and the statement to be provided by such institution under paragraph (2)(A)(i) and (2)(B)(ii) of this subsection shall be made and provided by (A) the Commissioner in the case of a loan described by paragraph (1)(A), (B) the State in the case of a loan described by paragraph (1)(B), or (C) the State or a nonprofit private institution or organization as the case may be, in the case of a loan described by paragraph (1)(C).

"(10) The eligible institution which provided the statement required by paragraph (2)(A)(i) shall notify the eligible lender (or where the eligible lender is not known, the insurer of the loan) before a date which is sixty days after (A) the borrower's formal termination (whether by graduation or withdrawal) or enrollment, on at least half-time basis at such institution, or (B) the borrower's failure to enroll, on at least a half-time basis, in the first of any subsequent academic terms at such institution (as determined under regulations of the Commissioner), and shall provide the last date of attendance and the last known address of the borrower to such lender or insurer.

"(b)(1) Any State or any nonprofit private institution or organization may enter into an agreement with the Commissioner for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) if the Commissioner determines that the student loan insurance program—

"(A) authorizes the insurance of not less than $1,000 nor more than $2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000 in the case of a graduate or professional student (as defined in regulations of the Commissioner), except that—

"(i) the program may not authorize the insurance of a loan which is made under a State student loan program described in section 435(g)(1)(D) or which is by an eligible institution to a student, who has not successfully completed a program of undergraduate education in an amount in excess of $2,500 or 50 per centum of the estimated cost of attendance (calculated in accordance with section 428(a)(2)(C)(i)),

"(ii) the program may not authorize the insurance of a loan in excess of $1,500 for an academic year which is made or originated (as defined in section 433(b)(2)) by an eligible institution and is made to a student for his first academic year of postsecondary education unless the loan is to be disbursed in two or more installments none of which exceeds one-half of the loan with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

"(iii) in cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education.

The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit;

"(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed $7,500, in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part or by a State or nonprofit institution or organization with which the Commissioner has an agreement under section 428(b) made to such person before he became a graduate or professional student);

"(C) authorizes the insurance of loans to any individual student for at least six academic years of study or their equivalent (as determined under regulations of the Commissioner);

"(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) except as provided in subparagraph (M) of this paragraph, the period of any insured loan may not exceed fifteen years from the date of execution of the note or other written evidence of the loan, and (iii) the note or other written evidence of any loan, may contain such provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Commissioner in effect at the time such note or written evidence was executed;

"(E) subject to subparagraphs (D) and (L) of this paragraph and except as provided by subparagraph (M) of this paragraph, provides that repayment of loans shall be in installments over a period of not less than five years nor more than ten years beginning not earlier than nine months nor later than one year after the student ceases to pursue a full-time course of study at an eligible institution, except

"(i) that if the program provides for the insurance of loans for part-time study at eligible institutions the program shall provide that such repayment period shall begin not earlier than nine months nor later than one year after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution; and

"(ii) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, except that such loan shall not be in default because of the student's failure to fulfill the requirements of such a repayment schedule until the lender offers to the borrower in writing an alternative repayment schedule which meets the requirements of this subparagraph and the borrower has refused to agree to the terms of such alternative repayment schedule;

"(F) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess of 7 per centum per annum on the unpaid principal balance of the loan (exclusive of any premium for insurance which may be passed on to the borrower);

"(G) insures not less than 80 per centum of the unpaid principal of loans insured under the program;

"(H) does not provide for collection of an excessive insurance premium;

"(I) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under section 428(a) (1) and (2) except in the case of loans made by an instrumentality of a State or eligible institution;

"(J) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

"(K) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under supervision of a single State agency;

"(L) provides that the total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not be less than $360 or the balance of all such loans (together with interest thereon), whichever amount is less, unless the borrower and the lender otherwise agree;

"(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973, or (v) during a single period, not in excess of twelve months, at the request of the borrower and consent of the holder, during which the borrower is seeking and unable to find full-time employment;

"(N) provides that in the case of each loan insured by the program that the eligible institution attended by the borrower at the time of the loan will be notified of such insurance and the name of the lender making the loan, and such notification will be made either by (i) the prompt transmittal of such information to the institution by the insurer or the lender, or (ii) a requirement of the insurer, as a condition of its insurance, that the lender shall transmit any checks for the proceeds of such loan directly to the eligible institution for delivery to the borrower;

"(O) provides that funds borrowed by a student are disbursed by check requiring the endorsement of such student, and that such student sign, prior to such disbursement, a notice stating that endorsement constitutes acceptance by the student of the obligation to repay the loan and setting forth the substance of the provisions of law governing the terms and conditions of repayment;

"(P) provides that the borrower shall, within four months after ceasing to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, contact the holder of his loan to negotiate the terms of his repayment obligations, and

"(Q) requires the borrower to promptly notify the holder of the loan concerning any change of address.

"(2) Such an agreement shall—

"(A) provide that the holder of any such loan will be required to submit to the Commissioner, at sucb time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to determine the amount of the payment which he must make with respect to that loan;

"(B) include such other provisions as may be necessary to protect the financial interests of the United States and promote the purposes of this part, including such provisions as may be necessary for the purpose of section 437, and as are agreed to by the Commissioner and the State or nonprofit private organization or institution, as the case may be; and

"(C) provide for making such reports in such form and containing such information as the Commissioner may reasonably require to carry out his function under this part and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"(3)(A) The Commissioner shall reimburse any State or any nonprofit private institution or organization with which he has an agreement under this subsection for a portion of the administrative expenses incurred by it in administering such program, not to exceed, for any fiscal year, 1 per centum of the total principal amount of loans upon which insurance was issued under this part during such fiscal year by such State, or institution or organization. An amount equal to not less than one-fourth of any amount received under this paragraph shall be used by such State or institution or organization to provide field services for eligible lenders or to promote commercial lender participation through services other than the insuring, reimbursing, or collecting of loans under this part.

"(B) Any reimbursements made by the Commissioner pursuant to this paragraph shall be made at such times and in such manner as the Commissioner may prescribe, except that such payments shall be made not less often than every calendar quarter.

"(c) (1) The Commissioner may enter into a guaranty agreement with any State or any nonprofit private institution or organization with which he has an agreement pursuant to subsection (b), whereby the Commissioner shall undertake to reimburse it, under such terms and conditions as he may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan with respect to which a portion of the interest (A) is payable by the Commissioner under subsection (a); or (B) would be payable under such subsection but for the borrower's lack of need. Except as provided in paragraph (7), the amount to be paid a State or a nonprofit private institution or organization as reimbursement under this subsection shall be equal to 100 per centum of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program, except that to the extent, for any fiscal year, the amount of such reimbursement payments by the Commissioner under this paragraph is in excess of 7 per centum of the loans insured by it under such program which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection shall be equal to 90 per centum of the amount of such excess. For purposes of this subsection, the amount of loans of a State or nonprofit private institution or organization which are in repayment shall be the original principal amount of loans insured by it reduced by (A) the amount the insurer has been required to pay to discharge its insurance obligations under this part, (B) the original principal amount of loans insured by it which have been fully repaid, and (C) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to section 427(a) (2) (B) or section 428(b) (1) (E) or such first installment need not be paid pursuant to section 427(a) (2) (C) or section 428(b) (1) (M) of this part.

"(2) The guaranty agreement—

"(A) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, including provisions for adequate and timely assistance by the parties to the agreement to States and lenders with respect to insured loans prior to default by the student borrower, to insure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program;

"(B) shall provide for making such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this subsection, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

"(C) shall set forth adequate assurance that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Commissioner pursuant to this subsection, the undertaking of the Commissioner under the guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

"(D) shall provide that if, after the Commissioner has made payment under the guaranty agreement pursuant to paragraph (1) of this subsection with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Commissioner), there shall be paid over to the Commissioner (for deposit in the fund established by section 431) such proportion of the amounts of such payments as is determined (in accordance with paragraph (6)) to represent his equitable share thereof, but shall not otherwise provide for subrogation of the United Staes to rights of any insurance beneficiary: *Provided*, That, except as the Commissioner may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan; and

"(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for purposes of section 422(c).

"(3) To the extent provided in regulations of the Commissioner, a guaranty agreement under this subsection may contain provisions which permit such for bearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer.

"(4) For purposes of this subsection, the terms 'insurance beneficiary' and 'default' shall have the meanings assigned to them by section 430(e).

"(5) In the case of any guaranty agreement entered into prior to September 1, 1969, with a State or nonprofit private institution or organization with which the Commissioner has in effect on that date an agreement pursuant to subsection (b) of this section, or section 9(b) of the National Vocational Student Loan Insurance Act of 1965, made prior to the date of enactment of this subsection, the Commissioner may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such State, institution, or organization and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

"(6) (A) For the purpose of paragraph (2) (D), the Commissioner's equitable share of payments made by the borrower pursuant to such paragraph shall be that portion of the payments remaining after the State or institution or organization with which the Commissioner has an agreement under this subsection has deducted from such payments (i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan and (ii) an amount equal to the costs (as defined in subparagraph (B) of this paragraph) of collection of loans reimbursed pursuant to this subsection and the costs of default prevention, as so defined, to the extent such costs do not exceed 30 per centum of such payments.

"(B) Costs of collection or default prevention which may be deducted pursuant to subparagraph (A) of this paragraph are (i) the salary of any employees whose primary function is the collection of defaulted loans which are insured under this part, or whose primary function is assisting or supervising lenders with regard to the collection of delinquent loans insured under this part, or whose primary function is providing clerical support for such functions, (ii) the costs of engaging the services of an attorney or any other person or firm for the purposes of locating or collecting from a delinquent or defaulted borrower under this part, (iii) telephone or postage costs which are directly related to the collecting of a delinquent or defaulted loan insured under this part, and (iv) those billing, receipting, and accounting costs which are directly attributable to the collection of delinquent or defaulted loans which are insured under this part, and which are precisely identifiable and quantifiable by means other than percentage estimations or similar means of allocation.

"(7) Notwithstanding the last sentence of paragraph (1), the amount to be paid to a State or nonprofit private institution or organization which is not, on the effective date of this paragraph, actively carrying on a student loan insurance program which is subject to a guaranty agreement under this subsection, but subsequent to such date begins to carry on such a program, shall be 100 per centum of the amount expended by it in discharge of its insurance obligation incurred under such program for the fiscal year in which it begins to carry on such program, and for each of the four succeeding fiscal years.

"(d) No provision of any law of the United States (other than section 427(a) (2) (D) and 427(b) of this Act) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

"(1) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of 7 per centum per annum, and

"(2) which is insured (A) by the United States under this part, or (B) by a State or nonprofit private institution or organization under a program covered by an agreement made pursuant to subsection (b) of this section.

"(e) If a nonprofit private institution or organization (1) applies to enter into an agreement with the Commissioner under subsections (b) and (c) with respect to a student loan insurance program to be carried on in a State with which the Commissioner does not have an agreement under subsection (b), and (2) as provided in the application, undertakes to meet the requirements of section 422(c) (6) (B) (i), (ii), and (iii), the Commissioner shall consider and act upon such application within ninety days, and shall forthwith notify the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives of his actions, and of his reasons therefor in the event he refuses to enter into such agreements.

"CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE DATE OF ISSUANCE

"SEC. 429. (a) (1) If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Commissioner may require, and otherwise in conformity with this section, the Commissioner finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

"(2) Insurance evidenced by a certificate of insurance pursuant to subsection (a) (1) shall become effective upon the date of issuance of the certificate, except that the Commissioner is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon sixty days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

"(3) An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Commissioner pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Commissioner may prescribe by or pursuant to regulation.

"(4) In the case of each certificate of insurance issued, the Commissioner shall require that the eligible institution which provided the statement required by section 428(a)(2)(A), or which provided the information required from an institution as a condition to the student's receipt of a loan, is advised of such insurance and the name of the lender making the loan. The requirements of this paragraph may be satisfied by a regulation of the Commissioner requiring any lender to transmit any checks for the proceeds of a loan insured under this section directly to the eligible institution for delivery to the borrower.

"(b)(1) In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a), the Commissioner may, in accordance with regulations consistent with section 424, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Commissioner, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Commissioner's judgment will best achieve the purpose of this subsection while protecting the financial interest of the United States and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Commissioner and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Commissioner from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Commissioner in the absence of fraud or misrepresentation of fact or patent error.

"(2) If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 424, the Commissioner may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance on comprehensive coverage under this subsection for the period or periods in which such future loans or payments are made.

"(c) The Commissioner shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 per centum per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Commissioner. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Commissioner has made such payment on his own motion pursuant to section 430(a).

"(d) The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Commissioner.

"(e) The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Commissioner may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b), the Commissioner may amend that certificate accordingly.

"DEFAULT OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM

"SEC. 430. (a) Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Commissioner, and the Commissioner shall if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The 'amount of the loss' on any loan shall, for the purposes of this subsection and subsection (b), be deemed to be an amount equal to the unpaid balance of the principal amount and interest accrued to the date of payment by the Commissioner.

"(b) Upon payment by the Commissioner of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Commissioner on a loan after deduction of the cost of that recovery (including reasonable administrative costs) exceeds the amount of the loss, the excess shall be paid over to the insured. The Commissioner may, in attempting to make recovery on such loans, contract with private collection agencies, State student loan insurance agencies, or State guaranty agencies, for payment for services rendered by such agencies in assisting the Commissioner in making such recovery.

"(c) Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Commissioner, or to preclude forbearance by the Commissioner in the enforcement of the insured obligation after payment on that insurance.

"(d) Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Commissioner, after reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 428(a)(4) and section 429(a)(3), or to pay the required Federal loan insurance premiums, he shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

"(e) As used in this section—

"(1) the term 'insurance beneficiary' means the insured or its authorized assignee in accordance with section 429(d); and

"(2) the term 'default' includes only such defaults as have existed for (A) one hundred and twenty days in the case of a loan which is repayable in monthly installments, or (B) one hundred and eighty days in the case of a loan which is repayable in less frequent installments.

"INSURANCE FUND

"SEC. 431. (a) There is hereby established a student loan insurance fusd (hereinafter in this section called the 'fund') which shall be available without fiscal year limitation to the Commissioner for making payments in connection with the default of loans insured by him under this part, or in connection with payments under a guaranty agreement under section 428(c). All amounts received by the Commissioner as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Commissioner in connection with his operations under this part, any excess advances under section 422(c)(4)(C), and any other moneys, property, or assets derived by the Commissioner from his operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Commissioner under this part, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

"(b) If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Commissioner under this part, or in connection with any guaranty agreement made under section 428(c), the Commissioner is authorized, to the extent provided in advance by appropriations Acts, to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations bearing such maturities, and subject to such terms and conditions as may be prescribed by the Commissioner with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the

United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Commissioner from such fund.

"LEGAL POWERS AND RESPONSIBILITIES

"SEC. 432. (a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this part, the Commissioner may—

"(1) prescribe such regulations as may be necessary to carry out the purposes of this part;

"(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and action instituted under this subsection by or against the Commissioner shall survive notwithstanding any change in the person occupying the office of Commissioner or any vacancy in that office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Commissioner or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 509, 517, 547, and 2679 of title 28 of the United States Code;

"(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to his obligations and rights and to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Commissioner determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this clause or any other provisions of this part may be modified by the Commissioner if he determines that modification is necessary to protect the financial interest of the United States;

"(4) subject to the specific limitations in this part, consent to the modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by him under this part;

"(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance or any guarantee agreement under section 428(c); and

"(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.

"(b) The Commissioner shall, with respect to the financial operations arising by reason of this part—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and

"(2) maintain with respect to insurance under this part an integral set of accounts, which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 105 of the Government Corporation Control Act, except that the transactions of the Commissioner, including the settlement of insurance claims and of claims for payments pursuant to section 428, and transactions related thereto and vouchers approved by the Commissioner in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.

"(c) (1) (A) For loans insured after October 1, 1976, or in the case of each insurer after such earlier date where the data required by this subsection remains retrievable, the Commissioner and all other insurers under this part shall collect and accumulate all data relating to (i) loan volume insured and (ii) defaults reimbursed or default rates according to the categories of loans listed in subparagraph (B) of this paragraph.

"(B) The data indicated in subparagraph (A) of this paragraph shall be accumulated according to the category of lender making the loan and shall be accumulated separately for lenders who are (i) eligible institutions, (ii) State or private, nonprofit direct lenders, (iii) commercial financial institutions who are banks, savings and loan associations, or credit unions, and (iv) all other types of institutions or agencies.

"(C) The Commissioner may designate such additional subcategories within the categories specified in subparagraph (B) as he deems appropriate.

"(D) The category or designation of a loan shall not be changed for any reason, including its purchase or acquisition by a lender of another category.

"(2) (A) The Commissioner shall collect data under this subsection from all insurers under this part and shall publish not less often than once every calendar quarter a report showing loan volume guaranteed and default data for each category specified in subparagraph (B) of paragraph (1) of this subsection and for the total of all lenders.

"(B) The reports specified in subparagraph (A) of this paragraph shall include a separate report for each insurer under this part including the Commissioner, and where an insurer insures loans for lenders in more than one State, such insurer's report shall list all data separately for each State.

"(3) For purposes of clarity in the making of regulations and in all other communications, the Commissioner shall devise and publish unique names or designations for loans made by the lenders referred to in clause (i) and for loans made by the lenders referred to in clause (ii) of paragraph (1) (B) of this subsection, and such names shall be used in all reports or communications of any insurer or lender under this part.

"STATE AND INSTITUTIONAL LENDERS

"SEC. 433. (a) An agency of a State or a private nonprofit agency designated by a State may not act as an eligible lender under this part unless it has in effect an agreement with the Commissioner under which the lender agrees to make loans to no more than 50 per centum of the students in attendance at any eligible institution in the State who are not graduate or professional students (as defined in regulations of the Commissioner).

"(b) (1) An eligible institution may not act as an eligible lender or originate loans under this part unless it has in effect an agreement with the Commissioner under which it agrees (A) to make loans to no more than 50 per centum of the students in attendance at the institution who are not graduate or professional students (as defined in regulations of the Commissioner), or (B) that it will not make a loan to a student, other than a graduate or professional student as defined in regulations of the Commissioner, who has not previously received a loan from such institution until such student has provided the institution with a statement from an eligible lender (other than an eligible institution or a State or an agency of a State or a private nonprofit agency designated by a State) that the borrower sought a loan from it and was denied such loan.

"(2) An eligible institution shall be deemed to have originated a loan for purposes of this subsection if it has had delegated to it by an eligible lender a substantial portion of the functions and responsibilities normally performed by a lender prior to the making of a loan, such as interviewing the applicant for the loan, explaining the applicant's responsibilities under the loan, obtaining completion of necessary forms, obtaining necessary documentation, or verifying that the student is eligible for the loan.

"(c) For purposes of this section, a loan is made or originated on the date of the first disbursement of any proceeds of the loan.

"PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS

"SEC. 434. Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Director of the Bureau of Federal Credit Unions, have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 428(a) (1) (C).

"DEFINITIONS FOR REDUCED-INTEREST STUDENT LOAN INSURANCE PROGRAM

"SEC. 435. As used in this part:

"(a) The term 'eligible institution' means (1) an institution of higher education, (2) a vocational school, or (3) with respect to students who are nationals of the United States, an institution outside the States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Commissioner for purposes of this part.

"(b) The term 'institution of higher education' means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, or who are beyond the age of compulsory school attendance, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose or, if not so accredited, (A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term includes any public or other nonprofit collegiate or associate degree school of nursing and any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5). If the Commissioner determines that a particular category of such schools does not meet the requirements of clause (5) because there is no nationally recognized accredited agency or association qualified to accredit schools in such category, he shall, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specially qualified to evaluate training provided by schools in such category, which shall (i) prescribe the standards of content, scope, and quality which must be met in order to qualify schools in such category to participate in the program pursuant to this part, and (ii) determine whether particular schools not meeting the requirements of clause (5) meet those standards. For purposes of this subsection the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(c) The term 'vocational school' means a business or trade school, or technical institution or other technical or vocational school, in any State, which (1) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (2) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (3) has been in existence for two years or has been specially accredited by the Commissioner as an institution meeting the other requirements of this subsection; and (4) is accredited (A) by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this clause, (B) if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Commissioner pursuant to this clause, and (C) if the Commissioner determines there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by him and composed of persons specifically qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools in order for loans to students attending them to be insurable under this part and shall also determine whether particular schools meet those standards. For the purpose of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded.

"(d) The term 'collegiate school of nursing' means a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing.

"(e) The term 'associate degree school of nursing' means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

"(f) The term 'accredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education.

"(g)(1) The term 'eligible lender' means—

"(A) a National or State chartered commercial bank, a mutual savings bank, a savings and loan association, or a credit union which—

"(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

"(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part;

"(B) a pension fund as defined in the Employees Retirement Income Security Act;

"(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

"(D) in any State, a single agency of the State or a single private, nonprofit agency designated by the State which has signed an agreement pursuant to section 433(a);

"(E) an eligible educational institution which meets the requirements of paragraph (2) of this subsection and which has signed an agreement pursuant to section 433(b); and

"(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or an agency of any State functioning as a secondary market.

"(2) To be an eligible lender under this part, an eligible educational institution—

"(A) must employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution;

"(B) must not be a home study school; and

"(C) must meet additional criteria established by the Commissioner.

"(h) The term 'line of credit' means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

"(i) The term 'due diligence' requires the utilization by a lender, in the servicing and collection of loans insured under this part, the use of collection practices at least as extensive and forceful as those generally in force among financial institutions for the collection of consumer loans.

"DISTRICT OF COLUMBIA LOAN INSURANCE PROGRAM

"SEC. 436. (a) The government of the District of Columbia is authorized (1) to establish a student loan insurance program which meets the requirements of this part for a State loan insurance program in order to enter into agreements with the Commissioner for the purposes of this title, (2) to enter into such agreements with the Commissioner, (3) to use amounts appropriated for the purposes of this section to establish a fund for such purposes and for expenses in connection therewith, and (4) to accept and use donations for the purposes of this section.

"(b) Notwithstanding the provisions of any applicable law, if the borrower, on any loan insured under the program established pursuant to this section, is a minor, any otherwise valid note or other written agreement executed by him for the purposes of such loan shall create a binding obligation.

"(c) There are authorized to be appropriated such amounts as may be necessary for the purposes of this section.

"REPAYMENT BY THE COMMISSIONER OF LOANS OF DECEASED OR DISABLED BORROWERS

"SEC. 437. (a) If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Commissioner), then the Commissioner shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

"(b) If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) is relieved of his obligation to repay such loan, in whole or in part, through a discharge in bankruptcy, the Commissioner shall repay the amount of the loan so discharged.

"SPECIAL ALLOWANCE

"SEC. 438. (a)(1) To assure that the limitations on interest or other conditions (or both) applicable under this part to student loans eligible for insurance under a State or nonprofit private insurance program covered by an agreement under section 428(b) or by the Commissioner, considered in light of the then current economic conditions and in particular the relevant money market, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, the Secretary shall pay to the holders of such loans a special allowance determined in accordance with paragraph (3).

"(2) The special allowance shall be paid for each of the three-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any three-month period shall be a percentage of the unpaid balance of disbursed principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

"(3)(A) Subject to subparagraphs (B) and (C) and paragraph (5), the special allowance paid pursuant to this subsection shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by substracting 3.5 per centum from such average, and (iii) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum.

"(B) Except as provided in paragraph (5), if the special allowance computed according to subparagraph (A) would (i) cause the special allowance for any twelve-month period to exceed 5 per centum, the special allowance rate to be paid for such period shall be reduced to the highest one-eighth of 1 per centum rate interval which would not cause such excess, or (ii) cause such allowance for such period to fall short of 1 per centum, such allowance rate shall be increased to the lowest one-eighth of 1 per centum interval which would not cause such shortage.

"(4) Subject to paragraph (5), the special allowance determined for any such three-month period shall be payable at such time, after the close of such period, as may be specified by or pursuant to regulations promulgated under this section. The holder of a loan with respect to which any such allowance is to be paid shall be deemed to have a contractual right, as against the United States, to receive such allowance from the Commissioner.

"(5)(A) If payment of the special allowance payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within thirty days after the Commissioner has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due to the holder.

"(B) Such daily interest shall be computed at the daily equivalent rate of the special allowance rate computed pursuant to paragraph (3) plus 7 per centum and shall be paid for the later of (i) the thirty-first day after the receipt of such request for payment from the holder, or (ii) the thirty-first day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date of payment.

"(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this subparagraph shall be segregated and reported separately.

"(6) As used in this section, the term 'eligible loan' means a loan which is insured under this part, or made under a program covered by an agreement under section 428 (b) of this Act.

"(b) The Commissioner shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to subsection (a), subject to the condition that such holder shall submit to the Commissioner, at such time or times and in such manner as he may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary and the Commissioner to carry out their functions under this section and to carry out the purposes of this *section.*

"(c) The Secretary shall adopt or amend appropriate regulations pertaining to programs carried on under this part to prevent, where practicable, any practices which he finds have denied loans to a substantial number of students. Regulations issued under section 2(a) (6) (B) (ii) of the Emergency Insured Student Loan Act of 1969 shall remain in effect until superseded or amended under this subsection.

"(d) There are authorized to be appropriated such sums as may be necessary for special allowances authorized by this section.

"STUDENT LOAN MARKETING ASSOCIATION

"SEC. 439. (a) The Congress hereby declares that it is the purpose of this section (1) to establish a Government-sponsored private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for insured student loans, insured by the Commissioner under this part or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b), and which will provide liquidity for student loan investments; and (2) in order to facilitate secured transctions involving insured student loans, to provide for perfection of security interests in insured student loans either through the taking of possession or by notice filing.

"(b) (1) There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the 'Association'). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

"(2) The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

"(3) There is hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 per centum, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

"(c) (1) The Association shall have a Board of Directors which shall consist of twenty-one persons, one of whom shall be designated Chairman by the President.

"(2) An interim Board of Directors shall be appointed by the President, one of whom he shall designate as interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders pursuant to this section, seven of whom shall be representative of educational institutions, and seven of whom shall be representative of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

"(3) When, in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors, who shall be representative of the general public.

"(4) At the time the events described in paragraph (3) have occurred, the interim Board shall turn over the affairs of the Association to the regular Board so chosen or appointed.

"(5) The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(6) The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

"(d) (1) The Association is authorized, subject to the provisions of this section, pursuant to commitments or otherwise, to make advances on the security of, purchase, service, sell, or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Commission under this part or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b).

"(2) Any warehousing advance made under paragraph (1) of this subsection shall not exceed 80 per centum of the face amount on an insured loan. The proceeds from any such advance shall be invested in additional insured student loans.

"(3) Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in insured student loans created on behalf of the Association or any eligible lender as defined in section 435 (a) may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by said State law for perfection of security interests in accounts.

"(e) The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) only after the Association is assured that the lender (A) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a credit union, savings and loan association, mutual savings bank, institution of higher education, or any other lender with less than $50,000,000 in deposits, and (B) does not discriminate on the basis of race, sex, color, creed, or national origin.

"(f) (1) The Association shall have common stock having a par value of $100 per share which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions as defined in section 435(a) (other than an institution outside the United States).

"(2) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in subsection (c) (3).

"(3) The common stock of the Association shall be transferable only as may be prescribed by regulations of the Secretary of Health, Education, and Welfare, and, as to the Association, only on the books of the Association. The Secretary of Health, Education, and Welfare shall prescribe the maximum number of shares of common stock the Association may issue and have outstanding at any one time.

"(4) To the extent that net income is earned and realized, subject to subsection (g) (2), dividends may be declared on common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(g) (1) The Association is authorized, with the approval of the Secretary of Health, Education, and Welfare, to issue nonvoting preferred stock with a par value of $100 per share. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(2) The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

"(3) In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

"(h)(1) The Association is authorized with the approval of the Secretary of Health, Education, and Welfare and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein.

"(2) The Secretary of Health, Education, and Welfare is authorized, prior to July 1, 1982, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury.

"(3) To enable the Secretary of Health, Education, and Welfare to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of Health, Education, and Welfare with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is authorized to be appropriated to the Secretary of Health, Education, and Welfare such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

"(i) The Association shall have power—

"(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

"(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

"(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualifiation or similar statute in any State;

"(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

"(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof; and

"(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(j) The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

"(k) A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of incoming and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary of Health, Education, and Welfare and to the Association.

"(l) All obligations issued by the Association shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States.

"(m) In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

"(n) The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year.

"FIVE-YEAR NONDISCHARGEABILITY OF CERTAIN LOAN DEBTS

"SEC. 439A. (a) A debt which is a loan insured or guaranteed under the authority of this part may be released by a discharge in bankruptcy under the Bankruptcy Act only if such discharge is granted after the five-year period (exclusive of any applicable suspension of the repayment period) beginning on the date of commencement of the repayment period of such loan, except that prior to the expiration of that five-year period, such loan may be released only if its payment from future income or other wealth will not impose an undue hardship on the debtor or his dependents.

(b) Subsection (a) of this section shall be effective with respect to any proceedings begun under the Bankruptcy Act thirty days after the date of enactment of this section.".

EXTENSION OF EXISTING LAW

SEC. 3. (a) Effective on the date of enactment of this Act—

(1) section 2(a)(7) of the Emergency Insured Student Loan Act of 1969 is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1977"; and

(2) the first sentence of section 424(a) of the Higher Education Act of 1965 is amended by striking out "for the fiscal year ending June 30, 1975" and inserting in lieu thereof the following: "each for the fiscal year ending June 30, 1975, for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976"; and

(3) section 428(a)(5) of such Act is amended by striking out "June 30, 1975" and inserting in lieu thereof "September 30, 1976".

(b) The amendments made by subsection (a) shall not be deemed to authorize the automatic extension of the programs so amended, under section 414 of the General Education Provisions Act, beyond the date specified in such amendments.

REPEAL OF EMERGENCY INSURED STUDENT LOAN ACT

SEC. 4. Effective October 1, 1977, the Emergency Insured Student Loan Act of 1969 is repealed.

ELIGIBILITY FOR INTEREST PAYMENTS

SEC. 5. Effective October 1, 1977, section 428(a)(2)(B) of the Higher Education Act of 1965, as amended by this Act, is further amended by striking out "$20,000" each place it appears and inserting in lieu thereof "$25,000".

EFFECTIVE DATE PROVISION

SEC. 6. The amendment made by section 2 shall become effective October 1, 1976, except as otherwise provided therein, and to the extent such amendment makes changes in such part B which affect student loans, such changes shall apply to outstanding loans as well as to loans made after the amendment became effective, except that—

(1) the changes made in sections 425(a), 427(a)(1)(C), 427(a)(2)(G) and 428(b)(1)(A), (B), and (P) shall become applicable with respect to loans to cover the costs of education for periods of enrollment beginning on or after October 1, 1976;

(2) section 422(c) shall become effective October 1, 1977;

(3) section 428(b)(3) shall become effective October 1, 1977;

(4) the changes made in section 428(a)(2) shall become applicable with respect to the determination of interest subsidies on loans to cover the costs of education for periods of enrollment beginning on or after October 1, 1976;

(5) the new section 433 shall become effective with respect to loans made to cover the costs of education for periods of enrollment beginning on or after October 1, 1976;

(6) the changes in section 428(c) with respect to the amount of Federal guarantee payments shall become effective with respect to payments to reimburse States and nonprofit private institutions and organizations with which the Commissioner has an agreement under section 428(c) of such part which are made on or after October 1, 1976; and

(7) section 438 shall become effective October 1, 1977.

Mr. O'HARA. Mr. Chairman, I move to strike the last word.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. O'HARA. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, the amendments being offered to the guaranteed student loan program do provide some improvement to the program as it presently operates. An effort has been made to account for the impact of inflation on educational costs by raising the unrealistically low ceilings on loan amounts and loan subsidies. And an attempt has been made to recognize the need for reforming the financial mechanisms of the program, with particular concern focused on the large rate of default by student borrowers.

The fundamental problem with the bill, however, is that it merely tries to patch up a system which clearly is inadequate to meet our present educational needs. Tougher penalties on students who default, combined with a rule forbidding bankruptcy for 5 years, will not resolve the problem that students coming out of college have a hard time, in our present economy, earning enough money to repay loans on a rigid schedule—or even in finding any kind of job at all.

And the program also ignores the fact that it is not only the poor who need help if their children are to be able to go to college. Once upon a time, if you earned a decent income, you knew that you could afford to send your children to college. Today that is not necessarily the case. The student coming from the middle class family is also often in need of help.

What is needed is an overhaul of our entire system of loans, both the guaranteed loans and the direct loans, in order to create a system which does not penalize parents for being middle class, and does not penalize graduates for facing an economy with the highest unemployment rate in years.

And we need to have time to think through such a program in a comprehensive fashion. Today we are considering the GSL program—one facet of the college loan program. Earlier we dealt with a short extension of the NDSL program, on the understanding that we would have a chance to look at the program in greater detail next year. But the Senate version of the loan-amendments legislation contains a 6-year extension of the NDSL program, so that there is a significant likelihood that many of us in the House who are deeply concerned with education will never have an opportunity to do more than vote up or down on a conference report on one of the two major sections of the loan program.

What is really needed is not a patchwork, long-term continuation of the present programs. What we really need is an innovative program that efficiently responds to the financial needs of students and realistically accounts for their ability to repay their loans after graduation. If we are to have a workable student loan program, we must make sure it is comprehensive, equitable, and well-managed.

I have introduced legislation which would effectively cope with the problems which presently arise at both ends of the loan program. I had not pushed for hearings on the legislation this year because of the originally expressed intention of the committee to press only for a 1-year extension of the NDSL program. That we should not be faced with a 3-year extension of the GSL program and a potential—unexamined—6-year extension of the NDSL program is extremely unfortunate.

To take the squeeze off the middle-income family, all means tests would be abolished. Any student in good standing at an approved college, university, professional school, junior college, or community college would be eligible for graduated low-interest loans up to an aggregate of $15,000. The loans would be made directly to students, rather than through banks or other intermediaries. The students would take on themselves direct responsibility for the loans made to them.

Repayment for loans under my program would be dependent on the income earned by the graduate.

The income-contingent repayment and strict collection provisions of my bill are aimed at significantly lowering the rate of default on student loans. According to the income contingent schedule I have devised, graduates who enter or advance to higher paying professions will be able to repay their loans quickly; those whose salaries remain low or who face financial difficulties at the beginning of their careers are allowed to extend their repayment period.

Following my schedule; if a borrower's net taxable income is at least $5,000, but less than $10,000, the payment is 1 percent of such income per $2,000 borrowed:

$10,000—14,999, 1½% per 2,000.
$15,000—19,999, 2% per 2,000.
$20,000—24,999, 2½% per 2,000.
$25,000—over, 3% per 2,000.

For the purpose of this program a borrower's income is defined as the net taxable income figure reported to the IRS. To avoid misrepresentation, the lending agency has the right to certify this line entry on a borrower's IRS return. There are no provisions for bankruptcy; borrowers who earn less than $5,000 in a given year are not required to make a repayment for that year.

Although there is a 30-year liability schedule to insure the collection of outstanding loans, the average student loan is expected to be repaid within 15 years.

Since the Federal Government will administer this program through existing regional offices there are no profit taking middlemen such as banks. Borrowers will be directly responsible to the Government for their loans, thereby streamlining and strengthening the collection process.

The concept of an income-contingent loan program has been proposed by such reputable organizations as the Ford Foundation, the Carnegie Council on Policy Studies in Higher Education, the Presidential Panel on Educational Innovation, and the U.S. Commission on the Financing of Post-Secondary Education. Successful programs are already in operation at some of our most notable universities, including Yale University.

I have talked about this program to a number of college presidents who have indicated strong support for it. And I have received endorsements of the thrust of my proposal from a number of leading educators.

I am disappointed that we will not have an opportunity to look at the college loan program in a comprehensive fashion again next year. To extend the present program for so long a period along present lines—particularly without giving the House any chance at all to look at the direct-loan portion of the program—is, I believe a mistake.

Educated citizens are our most vital resource. We should make sure that the funds we allocate for their development are spent as wisely and equitably as possible.

Mr. O'HARA. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from Michigan (Mr. O'HARA), the chairman of the committee, have some technical amendments to offer?

Mr. O'HARA. Mr. Chairman, I would first of all state that I am going to hold these amendments until the conclusion of our consideration in case they need some revision, in light of the amendments that might be adopted.

The CHAIRMAN. Are there other amendments?

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: Page 17, strike out lines 12 through 18, and insert in lieu thereof the following:

"(b)(1) The insurance liability on any loan insured by the Commissioner under this part shall be 100 per centum of the unpaid balance of the principal amount of the loan plus interest, except that—

"(A) if, for any fiscal year, the total amount of payments under section 430 by the Commissioner to any eligible lender as described in section 435(g)(1)(D) exceeds 5 per centum of the sum of the loans made by such lender which are insured by the

Commissioner and which were in repayment at the end of the preceding fiscal year, the insurance liability under this subsection for such excess shall be equal to 90 per centum of the amount of such excess;

"(B) if, for any fiscal year, the total amount of such payments to such a lender exceeds 9 per centum of such sum, the insurance liability under this subsection for such excess shall be equal to 80 per centum of such excess.

Notwithstanding the foregoing, the provisions of clauses (A) and (B) shall not apply to any such lender for the fiscal year in which such lender begins to carry on a loan program insured by the Commissioner, or for each of the four succeeding fiscal years.

"(2) For the purposes of this subsection, the sum of the loans made by a lender which are insured by the Commissioner and which are in repayment shall be the original principal amount of loans made by such lender which are insured by the Commissioner reduced by (A) the amount the Commissioner has been required to pay to discharge his insurance obligations under this part, (B) the original principal amount of loans insured by the Commissioner which have been fully repaid, (C) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to section 427(a)(2)(B) or such first installment need not be paid pursuant to section 427(a)(2)(C), and (D) the original principal amount of loans repaid by the Commissioner under section 437.

"(3) For the purposes of this subsection, payments by the Commissioner under section 430 to an assignee of the lender with respect to a loan shall be deemed payments made to such lender.

"(4) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part.

Page 40, strike out line 5 and everything that follows through page 41, line 14, and insert in lieu thereof the following:

"(c)(1)(A) The Commissioner may enter into a guaranty agreement with any State or any nonprofit private institution or organization with which he has an agreement pursuant to subsection (b), whereby the Commissioner shall undertake to reimburse it, under such terms and conditions as he may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan with respect to which a portion of the interest is payable by the Commissioner under subsection (a), or would be payable under such subsection but for the borrower's lack of need.

"(B) Except as provided in paragraph (7), the amount to be paid a State or a nonprofit private institution or organization as reimbursement under this subsection shall be equal to 100 per centum of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program, except that—

"(i) if, for any fiscal year, the amount of such reimbursement payments by the Commissioner under this paragraph exceeds 5 per centum of the loans insured by such institution or organization under such program were in repayment, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 90 per centum of the amount of such excess; and

"(ii) if, for any fiscal year, the amount of such reimbursement payments exceeds 9 per centum of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 80 per centum of the amount of such excess.

"(C) For purposes of this subsection, the amount of loans of a State or nonprofit private institution or organization which are in repayment shall be the original principal amount of loans insured by it reduced by (i) the amount the insurer has been required to pay to discharge its insurance obligations under this part, (ii) the original principal amount of loans insured by it which have been fully repaid, (iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to section 428(b)(1)(E) or such first installment need not be paid pursuant to section 428(b)(1)(M), and (iv) the original principal amount of loans repaid by the Commissioner under section 437.

Page 45, strike out line 17 and all that follows down through page 46, line 2, and insert in lieu thereof the following:

"(7) Notwithstanding paragraph (1)(B), the amount to be paid a State or a nonprofit private institution or organization for any fiscal year—

"(A) which begins on or after the effective date of this paragraph; and

"(B) which is either the fiscal year in which such State, institution, or organization begins to actively carry on a student loan insurance program which is subject to a guarantee agreement under this subsection, or is one of the four succeeding fiscal years, shall be 100 per centum of the amount expended by such State, organization, or institution in discharge of its insurance obligation insured under such program.

Page 52, line 17, insert immediately before the period the following: ", reduced to the extent required by section 425(b)".

Mr. QUIE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. QUIE. Mr. Chairman, the amendment which I am offering here now has the support of the gentleman from Michigan (Mr. O'HARA) and is a compromise between the committee bill and the proposals which I offered in the committee dealing with insurance and reinsurance rates for guaranteed student loans.

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Michigan (Mr. O'HARA).

Mr. O'HARA. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Minnesota (Mr. QUIE) is exactly correct.

I think that the provision that has been worked out with the gentleman from Minnesota (Mr. QUIE) is a very good one, one that meets the needs of everyone involved. I think, too, that the gentleman from Pennsylvania, who is the one who took the leadership in this area on our side of the committee, has likewise consented to the amendment, and I believe it is a very constructive step.

Mr. Chairman, I hope that the committee will agree to the amendment which the gentleman from Minnesota (Mr. QUIE) is offering.

Mr. QUIE. Mr. Chairman, I thank the gentleman from Michigan.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, in agreeing to the amendment, I wish to say that I think it is one that will please all the States, including the guaranteed States and the nonguaranteed States, because it lays down a fair rule. I want to compliment the gentleman for working toward the offering of this type of amendment.

I will support H.R. 14070, the Guaranteed Student Loan Amendments of 1976. I want to take this opportunity to commend the distinguished chairman of the Subcommittee on Postsecondary Education, the gentleman from Michigan (Mr. O'HARA) for the excellent work he did on this bill. The bill before us contains many well-documented and needed improvements to the program. H.R. 14070 would continue the guaranteed student loan program through fiscal 1980 and also makes necessary changes to reduce the losses to the Federal Government from defaults.

One of the most important provisions in the bill is that which gives incentives to States to establish student loan guarantee agencies. I have a particular interest in this provision. For some time now I have been concerned about the inequitable treatment which a State receives if it selects the option to offer a State guaranteed student loan program as compared with the treatment it receives if it allows the federally insured student loan program to be implemented by the Office of Education. My own great State of Pennsylvania has a State guarantee agency that is, I am proud to say, one of the best administered State programs.

Currently 26 States have State guarantee agencies; the default rate for their loan guarantees is less than half that for the Federal Government. Under the committee bill, States having guarantee agencies would receive up to 100 percent reinsurance rather than 80 percent as at present. If a State's default rate goes above 5 percent, the Federal reinsurance amount would drop from 100 to 90 percent.

States making guarantees would be permitted to retain up to 30 percent of the sums they collect if they use retained funds for services aimed at reducing future defaults. State guarantee agencies would also receive a 1-percent administrative allowance, and they could qualify for advances to cover expected insurance obligations.

I am very pleased that the committee bill provides these incentives for States to not only establish new State guarantee programs but also to provide the necessary incentives to States already in the program to continue with their excellent job of administering guarantee loan programs. The committee report clearly states that "the State guarantee agency is the preferable device for the management of student loan insurance programs, and that the federally insured student loan program is and should remain a second choice." By establishing these various incentives H.R. 14070 clearly reiterates the strong intent of the committee to establish more State agencies.

H.R. 14070 would also increase the family income level to $20,000 below which a student automatically qualifies for 7-percent annual interest subsidies in fiscal 1977 to $25,000 in fiscal 1978. The present $15,000 income level was set in 1965. I strongly feel that the increase in the adjusted family income is a necessary provision, which will justly compensate for the rapid rise in inflation.

The bill also restricts States and educational institutions in making loans to not more than 50 percent of the undergraduates in the State or institutions. Also, the annual loan limit for any student remains at $2,500. However, a student borrowing from a school for the first time must receive a loan of more than $1,500 in at least two installments. Multiple disbursements are also encouraged for loans from all lenders. Aggregate loan limits for undergraduates remain at $7,500, but for graduate students is raised to $15,000.

To attract lending institutions, the bill ties the special allowance rate to the rate paid on 91-day Treasury bills. Lenders would receive from 1 to 5 percent computed by subtracting 3.5 percent from the average rate for 91-day Treasury bills during a quarter. Currently, the rates vary from nothing to 3 percent and are established after a quarter by regulation.

The bill also has reforms aimed at protecting borrowers and cutting defaults which include payment of proceeds by check, which must be endorsed by the student and permitting borrowers and lenders to agree to a 1-year moratorium on repayment during the borrower's unemployment.

Mr. Chairman, this is an excellent bill and I strongly urge the Members of the House to support H.R. 14070.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I thank the gentleman for yielding.

The reinsurance rate is presently 80 percent. Under the committee bill the rate is moved to 100 percent if the default rate in a State is 7 percent or less. If it is over 7 percent the rate is 90 percent.

Am I correct that under the gentleman's amendment the rate can still be 100 percent, but only if the default rate is not more than 5 percent? Is that correct?

Mr. QUIE. The gentleman is correct.

Mr. PERKINS. Am I correct in saying that the rate is determined on an annual basis; that is, if a State will start each year with 100 percent reinsurance?

Mr. QUIE. The gentleman is correct.

Mr. PERKINS. Mr. Chairman, I would make reference to States like my own State of Kentucky, and I believe we have 20 other States similarly situated—perhaps I am wrong in that figure.

Mr. QUIE. I believe it is 26 States.

Mr. PERKINS. Twenty-six States.

Mr. QUIE. The gentleman is speaking of States with reinsurance rates of 80 percent?

Mr. PERKINS. I am talking about direct lenders.

Mr. QUIE. Direct lenders constitute 12 States.

Mr. PERKINS. I am speaking of direct State lenders that will be affected by the gentleman's amendment.

The Kentucky program is only 1 year old. I was concerned because of the newness of the program with the possibility of a penalty because of distortions which will occur in the implementation of any new program.

The gentleman from Minnesota (Mr. QUIE) has accepted my suggestion to exempt from the standards the first 5 years of activity under any new direct lending program. As a result, in my State the 100-percent Federal insurance will continue through the first 5 years of the program. The same will be true in any other State which wishes to initiate a direct lending program. Am I correct in my statement?

Mr. QUIE. Mr. Chairman, the gentleman is correct.

As the gentleman from Kentucky (Mr. PERKINS) has indicated, there is a 5-year period before the decrease in the reinsurance rate would occur. If there was a default rate of greater than 5 percent, then it would be decreased to 90 percent reinsurance. If the default rate was greater than 9 percent, then the reinsurance rate would drop down to 80 percent. Now there are 26 State insurance agencies and under present law only receive 80 percent reinsurance. Presently where the State is a direct lender, some are under the same arrangement as the State insurance agency and some are not.

Mr. Chairman, to give the Members an example, Minnesota is a direct lender. Presently Minnesota has a 29-percent default rate. Minnesota has 2 more years before that 5-year period of 100 percent reinsurance runs out, but if at the end of that 5-year period they are over 9 percent in defaults, they would only have an 80-percent reinsurance, as compared to 100 percent now. If they got it down to something between 5 and 9 percent, then the overage would be the 90 percent, if the default is at 5 percent, they would have reinsurance at 100 percent, as is proposed in the bill.

To explain further, default claims paid up to 5 percent would be at 100 percent. Any between 5 percent and 9 percent will be at 90 percent and any over 9 percent will be at 80 percent.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. QUIE) has expired.

(By unanimous consent, Mr. QUIE was allowed to proceed for 5 additional minutes.)

Mr. QUIE. Mr. Chairman, to continue, the most serious problem that faces the guaranteed student loan program is the default rate. The defaults are way too high; they are scandalously high.

Where there is a State agency the average default rate is about 4.2 percent now, and it will probably go to about 4½ percent. In the other remaining 24 States that are under the Federal program the default rate is above 14 percent, according to HEW, and GAO says it is going to be about 24 percent.

That is, I believe, unacceptable. One of the reasons that I believe the States have done such a good job is that the Federal Government will only reinsure 80 percent. When the lending institutions have reinsurance through the Federal agencies then it will be at 100 percent, and that is why we had that bad default rate.

Mr. Chairman, the way I look at it, when there is a default rate in the State and the State has to go back to the legislature to get some money to pay for the loans that were not paid back, that gets the legislature into the act. They put pressure on the State agency, and the State agency takes some action to try to remedy it.

What we have done, Mr. Chairman, is to be more liberal with the State agencies so as to encourage more of them to get into the act and administer the program.

The reason I offer these amendments is not to be quite so liberal as the committee was. There is agreement on this and hopefully, this is going to help. In the long run, we believe we have a serious concern as many of the States continue not to pick up that responsibility, but their lending institutions get 100 percent Federal insurance.

Mr. Chairman, we are not doing anything in the bill here on that last point and I have agreed not to offer an amendment at this time. My hope is that in the next Congress we will immediately take a look at that problem. It was not long ago that we were talking about whether the corporations ought to get into the business of enriching nuclear fuel. The big, serious problems there was that if we take all the risk away from private enterprise, they are going to be as bad as the Government. In fact, they would be worse than the Government. Therefore, at that time the bill was changed so that they would have to pick up more of the risk.

Mr. Chairman, I say this not because of any amendment that I will be offering, but to urge us to look into the future and then we will see a little bit of progress here and see whether we can make some additional changes in this regard. We ought to react as strenuously and as helpfully to our Federal agency as the States have been doing with respect to the State agencies, which we must say have been doing an outstanding job, for the most part.

It is true, Mr. Chairman, that a couple of States have not been doing as well, but most of them are below even the 4.5 percent default rate.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. What I do not understand is this: It seems to me that this has been in operation for about 11 years, and we are still talking about hoping that the next Congress or the next Congress will look into this business of whether a State did set up an agency or did not.

Why should my State continue to pay the administrative costs of this agency and also pick up the 20-percent default while other States, 24 States, get the cream of the crop, and they do not have to set up an agency or do not have to worry about any default? They do not have to do any of that.

Mr. QUIE. I will say to the gentleman

that they will not have to pick up those costs any more because the bill contains 1 percent cost allowance to be used for State administration. I believe the default rate in Pennsylvania is 5.5 percent. Pennsylvania will get 100 percent reinsurance on the 5 percent, and only on the half percent, if Pennsylvania continues that way, will it get only 90 percent reinsurance?

I will say that under this bill and under this amendment, Pennsylvania is going to be in a far better position than they were before.

Mr. GOODLING. But again, not in as good a position as 24 States which have not moved in the direction which is the intent, as I understand, of the legislation.

Why have we not moved to make sure that 50 States are now participating and setting up their own agencies rather than just 26?

Mr. QUIE. I will say basically the reason is that while we would like to get at those other States, our main concern is for students and institutions, students to get the money to go to college and institutions to provide an opportunity for them. If we summarily cut it off, we feel there would be a period there during which students would suffer in some States.

We want to get at the States to bring them under the same purview. I am glad the State of Pennsylvania is doing so well. We are concerned about the students.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. Goodling, and by unanimous consent, Mr. Quie was allowed to proceed for 2 additional minutes.)

Mr. GOODLING. Mr. Chairman, if the gentleman will yield further, at the same time we also have an interest in the relationship to the tax dollar. We know that the States are experiencing anywhere from 2½, 3½, to 5½ percent noncollected defaults, but when the Federal Government is involved, we are talking about anywhere from 14 to 17 percent. So, yes, we are interested in the students, but we are also interested in the tax dollar being used wisely. I do not think we should wait until next year. I think we should get into the business now of seeing to it that in 2 or 3 years they will have an agency or they do not participate.

Mr. QUIE. If the gentleman from Pennsylvania wishes to offer such an amendment, I imagine the House would consider it but I have chosen what we would probably call the better part of valor to wait until next year.

Mr. GOODLING. Which will probably mean another 11 or 12 years.

Mr. QUIE. Mr. Chairman, I believe that the fact that States have a strong incentive for good performance is the primary reason for their better record.

The reported bill raises the reinsurance rate to 100 percent except in the few cases where the State agency has a default rate of more than 7 percent. Since 24 of 26 existing State agencies have a default record of less than 7 percent, every one of them could slack off and not incur any extra cost. Eleven State agencies could more than double their default rate without any economic loss.

While I recognize that we do need to provide incentives to State agencies, Members should keep in mind that the bill includes several other features which provide strong incentives to the States inclusively.

First. A 1-percent administrative cost allowance;

Second. The provision of seed money for new agencies and advances for existing State agencies;

Third. The right to retain up to 30 percent of the amount collected to cover costs of collection.

The amendment which I propose would establish 5 percent as the default level above which the Federal reinsurance would drop to 90 percent. In addition, my amendment would reduce the reinsurance rate to 80 percent if default claims exceed 9 percent. The combination of these two breakpoints should serve as a very positive incentive to States to shoot for the lowest possible rate while at the same time rewarding those who do in fact produce good results.

Since 24 States do not now have State agencies and this legislation has as one of its primary goals the establishment of new agencies, it is only natural that the 24 States will adopt the management goal of achieving a default rate of less than 7 percent. Currently, of course, States aim to keep defaults at the absolute minimum since it costs the State 20 cents on every dollar of defaults. My amendment reduces that risk considerably by establishing the breakpoint at 5 percent—a much more acceptable goal.

Of course, once a State has a default rate of over 5 percent, under my amendment it would have to go to the Governor and the State legislature to fund the State's share of the liability. That action involves the automatic oversight of responsible State officials at an early stage—a stage which the Congress only too rarely reaches. By setting a 7-percent breakpoint, the committee bill gives State agencies simply too much leeway and allows too much sloppiness to occur.

I urge the adoption of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. Quie).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bingham: Page 53, line 7, immediately after the period insert the following: "Any contract under this subsection entered into by the Commissioner with any private collection agency shall provide that the practices of such agency in attempting to make recovery on such loans shall be in accordance with standards for such practices approved by the Commissioner, and in approving such standards, the Commissioner shall determine that such standards provide that such practices are fair and reasonable, and do not involve harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loan to persons other than the student borrower."

Mr. BINGHAM. Mr. Chairman, I am offering an amendment to H.R. 14070 which will remedy a potentially serious defect. Section 430 of this bill would authorize the Commissioner of Education to contract with private debt collection agencies to obtain repayment from students who have defaulted on federally guaranteed student loans. My amendment will prohibit any such agency, under contract with the Government, from using any unfair collection practice in connection with collection on these student debts. Specifically, my amendment prohibits harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loans to persons other than the student borrower. This will bring H.R. 14070 into line with the Debt Collection Practices Act which passed the House on July 27.

Frankly, I have serious doubts about the wisdom of section 430 in its entirety. Certainly I agree with the distinguished gentleman from Illinois (Mr. Erlenborn), who offered section 430 as an amendment in committee, that the Government must begin a serious debt collection effort. The student default rate is disturbingly high and the Office of Education has been far from diligent in tracking these students down and collecting the cash due. Other provisions in this bill tighten the loan process for new loans so that a minority of unscrupulous lenders and students cannot take advantage of the Government's largesse. However the problem of outstanding debts still remains.

I do not think that private debt collection agencies are the answer here. It is the existing policy of the Federal Government that it collect its own debts with its own personnel. The law as it now stands—Federal Claims Collection Act of 1966: 31 U.S.C., 951–953—indeed mandates that each Government agency collect its debts and the Comptroller General of the United States has indicated that under that statute it is not within the authority of any Government agency to assign debts to non-Government personnel. We must think long and hard before we change that policy.

The GAO has long opposed any farming out of Government debts. The GAO believes that Federal monitoring will become next to impossible if private collection agencies enter the picture. They also believe that utilizing private collectors here would establish a dangerous precedent. In the words of GAO:

> The Government's collection activities pertain to 140 or more agencies each having its own regulations promulgated pursuant to federal law and entailing *every* kind of monetary concern imaginable: from pay and allowances of civilian and military personnel to limitations on contract negotiations, agricultural subsidy programs, Federal insurance programs, as well as veterans benefits and the various Social Security benefits, to name a few. A commercial agency generally would not have the expertise to interpret much of the documentation, such as Army and Air Force computer printouts, military pay and leave records, civilian earnings and leave statements, travel orders, etc., used to substantiate the debts.

Is it not possible that once the Office of Education is permitted to contract with private debt collection agencies the practice will be extended generally? Government personnel will sit back and collect their salaries while their respective agencies pay outsiders, with little expertise, to do the work which should be done within the agency.

The main objective that GAO has to private debt collection agencies is one which the House shares. A considerable number of these companies have acquired an unfavorable reputation by using very questionable methods. There is serious risk of this reputation being imputed to the U.S. Government through actions taken on the Government's behalf by private debt collection agencies. It was with these questionable methods in mind that the House on July 27 passed H.R. 13720, the Debt Collection Practices Act, by a wide margin. That bill, still pending in the Senate, set up standards under which private collection agencies must operate. It prohibits harassment, intimidation, false representation, unnecessary communication with third parties about the debt, and the use of abusive language and physical threats. It establishes civil and criminal penalties in the case of violations of these standards.

After careful consideration I have decided not to seek the deletion of section 430. Instead, I am offering the amendment now before us which merely recapitulates the language of the Debt Collection Practices Act and applies it specifically to agencies considered for Government contract under the student loan amendments. It requires the Commissioner of Education to promulgate fair debt collection standards and to insure that any contract with a private debt collection agency be in accord with those standards. In short, this amendment applies to private debt collection agencies being considered for Government contract the same standards which the House voted to apply to all private debt collection agencies.

The text of the amendment follows:

Page 53, line 7, immediately after the period insert the following: "Any contract under this subsection entered into by the Commissioner with any private collection agency shall provide that the practices of such agency in attempting to make recovery on such loans shall be in accordance with standards for such practices approved by the Commissioner, and in approving such standards, the Commissioner shall determine that such standards provide that such practices are fair and reasonable, and do not involve harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loan to persons other than the student borrower."

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I am happy to yield to the gentleman from Michigan.

Mr. O'HARA. Mr. Chairman, I wish to commend the gentleman from New York on offering his amendment. I regret I did not think of it myself. Clearly it is a good amendment. It is necessary. It conforms our bill to the bill already adopted by the House with respect to the practices of collection agencies. I know of no objection to the amendment on this side.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I will be glad to yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I am willing to accept the amendment because it does conform the legislation to the action already taken by the House.

Mr. BINGHAM. I thank the gentleman from Minnesota.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: On Page 61, line 10, strike "(A)".

On Page 61, amend line 13 to read "Commissioner)." and strike lines 14 through 21.

Mr. QUIE. Mr. Chairman, what this amendment does is to strike the language in section 433 of the bill which requires that a student obtaining his first guaranteed loan from an institution or from a State agency must submit evidence that a financial institution would not provide the borrower with the required loan. The way the bill is now written, if anybody is going to get a loan from an educational institution that is a direct lender, or from a State acting as a direct lender, then he would have to go to a bank and be turned down.

We already have the Farmers Home Administration and the Small Business Administration where they are direct lenders. I can see why a statement should be required when the Federal Government is a direct lender; but why should we try and shift all the loans to the regular commercial bank when an educational institution is in the direct lending business, or the State tries to do it?

For instance, the University of Minnesota has been a direct lender for a long period of time. They were a direct lender prior to the time we had the guaranteed student loan program.

I do not see why if a person wants to go and get under their program, where that person's brother or sister may have done that, he would first have to develop some kind of relationship with the bank. I know banks are interested in the guaranteed student loans to the extent that they develop an experience with the student, and might then be dealing with the bank later on. I think this provision would tend to harass students and discourage colleges from providing loans. It is certainly true that nobody is better equipped to know the needs and the background of the student than the college financial aid officer. If the college wishes to serve as a direct lender, this kind of barrier should not be erected. The colleges should be free to pursue that goal if they so desire. The imposition of this kind of requirement establishes a different set of standards for colleges to serve as direct lenders, and would certainly create enormous paperwork burdens for banks and colleges. There is no reason for us to discourage colleges from making loans. They are better equipped to do so, and we should not stand in their way.

When one looks at the default rate of students who are going to private colleges as compared to the public junior colleges, we will find that the public junior colleges default rate is enormously high, and the public junior colleges are not involved as direct lenders themselves. So the fact that a college lends money does not mean there is going to be a default. There is strong support for this amendment from the private colleges and from student groups as well.

Mr. Chairman, I urge my colleagues to support this amendment in order that the student might have free choice of whether he will borrow the money from an institution who is a direct lender or from a bank or commercial lending institution.

Mr. O'HARA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we have been holding hearings for the last 3 years of an oversight and legislative nature on this guaranteed loan program. One of the principal problems with the program, as the gentleman from Minnesota pointed out in his remarks on the previous amendment, has been the very high default rate associated with the loan program. A number of steps have been taken by the committee to try to reduce the default rate, and the very provision that the gentleman from Minnesota offers to strike from the bill now is one of the improvements that we are using to try to reduce the default rate.

The Office of Education testified before us at the very beginning of our hearings that default rates were much higher when the student was borrowing from the institution than they would have been if the institution had not been associated with the loan. They say the highest default rate occurred among students who for one reason or another were dissatisfied with the education they were receiving and either dropped out or stayed through, but stayed through unhappily.

Then they felt: "Why should I pay this school for the education they gave me that was not worth what they told me it would be worth?" In other words they felt it was a further payment to the school for something the students had not found to be worthwhile, something they thought they had been gulled into.

So we have tried in this bill, as a step in the right direction, to separate the function of educating students from the function of financing them. We felt that a student ought to understand clearly that it was not the school that was giving him this money to attend their school, that if he was going to that particular school, that was his decision, and it was the bank or credit union or savings and loan institution that was lending him the money to permit him to carry out the decision he had made, and if he was unhappy toward the school, that did not make any difference to the bank or credit union, he still had to pay them.

We felt this was a help in getting rid of the default rate problem. So what we have tried and what I have tried originally was simply to take the schools out of the lending business. That ran into so much opposition we have had to drop that. What we have wound up with is a much more moderate step.

We say before a student gets his first loan from a school, he must first go to a bank or credit union or savings and loan institution or some other lending institution and try to get a student loan from them. He should bring from them a piece of paper that says he tried to get a loan from them but for one reason or another they were unable to give him that loan. That is all he needs to do. Once he gets that piece of paper he can go to the school lender and they can lend him the money and they can lend him the money the next year and they can lend him the money the year after without any further requirement that he set foot in the bank again.

But we felt as some small step toward breaking this tie between the people who provide the service and the people who provide the financing, we ought to require one visit to a regular lender.

Unfortunately some schools, and I know there are a minority of them, but some schools operate as used car dealers. They say: "Don't worry. You buy this Nifty 8 and we will arrange the financing. You do not even have to put anything down. We will take care of the financing."

So we do not want that kind of thing going on at least without one effort on the part of the student to go to a regular lender.

I sympathize with the gentleman from Minnesota and I agree with him on a great many of the things we ought to do with this program, but this is one area where we disagree and where the committee agreed to keep this provision for documentation and I hope the Committee of the Whole House will vote down the amendment offered by my good friend, the gentleman from Minnesota.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

I yield to the gentleman from Minnesota (Mr. Quie).

Mr. QUIE. Mr. Chairman, the gentleman from Michigan does bring out the point that in some cases where the institution has been the direct lender, there has been a high default rate. These are primarily the proprietary institutions.

The part of this section that provides that colleges cannot lend to more than 50 percent of the student body is going to foreclose them from running that kind of operation. But I would like to point out in a study that the General Accounting Office made in 1974 of what they call "eventual default rates," that the private colleges and universities have an 11.2-percent default rate but the public junior colleges and institutions have a 36-percent eventual default rate.

I bring this out because the private colleges and universities tend to be the ones that are direct lenders and the public junior colleges and institutions are not direct lenders, but they have a 36-percent default rate as compared to the 11.2-percent rate on the part of private colleges.

The proprietary institutions, of course, are the ones that have extremely high default rates. I believe we do get at that problem in the bill. So, as I say, I do not see why we should then use this blunderbuss approach to harass every student who attends an institution that is a direct lender, requiring the students to go to a bank first. Some poor students just do not have experience with banks. We are requiring them to first get turned down. I do not think we should force them to go through that arrangement and do all that extra paperwork with the colleges and the banks in order to bring them back.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment. As the Members know, I often agree with my colleague, the gentleman from Minnesota; but obviously, not always. This is one occasion I happen to disagree with him.

Mr. Chairman, I agree with the gentleman from Michigan (Mr. O'Hara) in the gentleman's observations concerning the proper mode of seeing that students are given the wherewithal through the guaranteed student loan program to attend a college or university.

I think it is not a good relationship between the students and the educational institution if the institution is using the guaranteed student loan program as a recruiting tool.

We know that we had quite a bulge of war-time babies in the baby boom of the war years immediately after World War II moving through colleges and universities. We had quite a bit of pressure on our institutions to expand, to accommodate this baby boom. We now have a falling birth rate. We have fewer people seeking that college experience.

The institutions of higher education are going to be inclined to try to keep their enrollment up in any way they can. Those who act as direct lenders, those who have a good relationship, possibly, with the banks, so they can get funds and loan them to students, are going to be encouraged to use this as a recruitment tool as they can keep their enrollment up.

Mr. Chairman, I think the relationship between the borrower and the one from whom he borrows ought to be a business relationship and that business relationship is fostered when the student goes to a financial institution to borrow the money and those funds are used to pursue his education.

Mr. Chairman, as the gentleman from Michigan has stated, all too many students when they borrow from an institution do not consider this a business relationship. They feel if they are not perfectly satisfied with their educational experience that somehow or other that relieves them of the obligation of repaying their loan. To maintain the proper business relationship, to help to solve to some extent the default problem, I would hope we would stay with the provisions of the bill that would require the first effort, at least, to be made by the student to go through the normal financial channels to obtain a loan. If that is not available and the institution is a lender, they could get their loan from the institution. If, as the gentleman from Minnesota says, some of the poorer students do not have experience with financial institutions, maybe this is a good time for them to get their first experience. Maybe they ought to be encouraged to get to know the financial community. If they are unsuccessful in getting their loan, they still have the opportunity of getting it from the educational institution.

Mr. Chairman, I would hope the amendment would be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. Quie).

The question was taken; and on a division (demanded by Mr. Quie) there were—ayes 7, noes 23.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Erlenborn: On Page 60, after Line 23 add the following new subsection:

"(d)(1) The functions of the Commissioner under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional offices of the Office of Education established pursuant to section 403(c)(2) of the General Education Provisions Act.

"(2) The functions which may be delegated pursuant to this subsection are—

"(A) reviewing applications for loan insurance under section 429 and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

"(B) receiving claims for payments under section 430(a), examining those claims, and pursuant to regulations of the Commissioner, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

"(C) certifying to the central office when collection of defaulted loans has been completed, compromising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Commissioner issued under section 432(a)), and recommending litigation with respect to any such claim.".

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, I offer an amendment to permit the U.S. Office of Education to regionalize certain functions carried out in the administration of the guaranteed student loan program. These are important administrative activities which, although they might be carried out in Washington, are far better carried out at the regional level. In most instances these activities have, in fact, been performed at the regional level for some years. However, in 1974 the Congress amended the General Education Provisions Act in a way which precludes OE from carrying out these functions in the future without specific statutory authority.

I know that many of my colleagues on both sides of the aisle are concerned about efforts to regionalize Federal programs. In many cases that concern is justified for regionalization may, in fact, create great communications problems and make it more difficult to manage a program in a thorough and efficient manner. However, in the instance I am persuaded that the functions involved are of such a nature that to require that they be carried out in Washington alone would, in fact, seriously hamper a program which has already suffered enormous administrative problems. All of these functions authorized by my amendment are of a routine nature. None involves the kind of judgmental decisionmaking which might accompany, for example, the awarding of project grants in certain programs.

The functions which would be authorized under my amendment include reviewing applications for loan insurance, the issuance of certificates of insurance, receiving claims for payment and processing those claims, and engaging in the collection of default loans.

Mr. Chairman, on June 23 the Honorable Marjorie Lynch, Under Secretary of the Department of Health, Education, and Welfare, wrote the chairman of the Education and Labor Committee asking for favorable action on this amendment.

I include that letter at this point in the RECORD:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
June 3, 1976.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As you know on February 10, 1976, the Administration submitted a draft bill "To amend and extend the Higher Education Act of 1965, and for other purposes." The draft bill was subsequently introduced in the Senate as S. 3190 and in the House of Representatives as H.R. 11939.

Several of the provisions of that proposal have been included in the various pieces of legislation currently pending before the Congress; however, no action has been taken on section 9(j) of S. 3190 and H.R. 11939 relating to the decentralization to the regional offices of the Office of Education of certain functions of the Commissioner under the Guaranteed Student Loan program. The decentralized functions would include reviewing applications for loan insurance and issuing certificates of insurance, processing claims for insurance payments under the program, and carrying out certain collection activities. The purpose of this letter is to urge that the amendment set forth in section 9(j) of those bills be included in the Higher Education legislation currently being considered by the Congress.

The need for this specific authority to decentralize these functions to the regional offices stems from section 403(c)(2) of the General Education Provisions Act (20 U.S.C. 1221c(c)(2)) relating to the authority of the Office of Education to perform various functions. Section 403(c)(2) may be interpreted to preclude the Office of Education from performing certain functions relating to the Guaranteed Student Loan program through the regional offices.

The functions which we are proposing for delegation to the regional offices are the following:

(1) Reviewing applications for loan insurance and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive insurance coverage to regulated lenders. Applications by school lenders and other lenders which are not regulated by an agency of the United States or a State would still be processed in the central office.

(2) Receiving claims for insurance payments under the Program, processing those claims, or requesting lenders to take additional collection action. These are the functions for which we asked, and the Congress granted in both the 1975 Labor-Department of Health, Education, and Welfare Appropriations Act (P.L. 93-517) and the 1976 Education Division Appropriations Act (P.L. 94-94), additional personnel who were identified for staffing of our regional offices.

(3) Certifying the completion of collection action, compromising or agreeing to the modification of any claim (pursuant to regulations applicable to all regions), and recommending litigation with respect to any claim. These are some of the functions for which we asked and obtained additional personnel for the regional offices pursuant to the Second Supplemental Appropriations Act, 1974 (P.L. 93-305) as well as the 1976 Education Division Appropriations Act.

We believe that the above activities can best be carried out by employees who are located conveniently around the country rather than centrally located in Washington. In order to assure that there is consistency in the administration of the program throughout the country, all of the above activities would be subject to regulations of the Commissioner under which all of the regional offices would be required to operate.

In May 1974 we issued a Delegation of authority to the regional offices which we considered to be the most efficient use of personnel as well as the most effective way to protect Federal fiscal interests. In our appearances before your Committee and others, we have tried fully to explain our intentions and our rationale, and it is our belief that the totality of congressional action to date, including the authorization in recent appropriations acts for the hiring of 300 persons for Guaranteed Student Loan activities in the regional offices, can be considered as congressional approval of our actions with regard to decentralization of this particular program. However, in order to resolve any lingering questions concerning this matter we believe that the congressional intent should be clearly established through the enactment of the amendment described above. We believe such a course of action will best serve the Federal fiscal interests as well as prevent disruption of program operations at a critical time when we all agree on the need for improved effectiveness in the administration of this program.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this proposal from the standpoint of the Administration's program.

Sincerely,

MARJORIE LYNCH,
Under Secretary.

Mr. O'HARA. Mr. Chairman will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Michigan.

Mr. O'HARA. Mr. Chairman, the amendment offered by the gentleman from Illinois, I think would improve the administration of this program, and its administration badly needs improvement. I know of no objection to his amendment on this side of the aisle.

Mr. ERLENBORN. I thank the gentleman.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, first, I think the philosophy of the gentleman from Illinois has been against regionalization in general, and in establishing layers of bureaucracy. I can support this amendment; I question however whether we are going to obtain any more effective administration of the program under the gentleman's amendment. A more serious question it seems to me is, Are we preparing the way for regionalization of all education programs?

Mr. ERLENBORN. If the gentleman would allow me to respond, the provisions of the law that now prevent regionalization will remain. This will be only one specific exemption from that prohibition against regionalization, so that I do not think we need feel that this would lead to further regionalization.

Mr. PERKINS. That is why I wanted to interrogate the gentleman. We wrote the law against regionalization several years ago, and it was supported by the gentleman from Minnesota (Mr. QUIE). We found that the efficiency of educational programs in general is much better operating out of Washington instead of setting up regional offices throughout the country. It has worked very effectively on a centralized basis.

Again, if we intend to cut back on the bureaucracy in the future, we must watch our affairs insofar as regionalization is concerned.

Mr. ERLENBORN. I thank the gentleman for his observation. I think, in the instance of the guaranteed student loan program, regionalization does make sense. We have people from the Office of Education who go to the financial institutions, to the educational institutions, and who are engaged in the process of debt collection. I think that can better be done near the institutions and near where the borrowers are, rather than having it all directed from Washington.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Minnesota.

Mr. QUIE. I thank the gentleman for yielding to me.

I, like the gentleman from Kentucky, am opposed to any increase in the regionalization. I have not seen this work well at all, but this is something that the Office of Education is already doing, and by putting this amendment in, we make legal what they have been doing out there. It is sort of like somebody making off with one's money, so one says, "You can have it so that it does not look like thievery."

They also did this before we put the amendment in the act which the gentleman from Kentucky referred to. That is why I am willing to go along with it, because it had already been going on before then.

Mr. ERLENBORN. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: On page 25, line 6 and line 7, strike "$20,000" each place it appears and insert in lieu thereof "$15,000".

On page 88, strike Sec. 5, lines 19 to 23 and renumber the following section accordingly.

Mr. ERLENBORN. Mr. Chairman, the amendment which I have offered will, if adopted, restore the $15,000 adjusted income figure in current law. If my amendment is not accepted, the cost of the subsidy and special alliance portion of the guaranteed student loan program will rise by an incredible quarter of a billion dollars annually by 1981.

Budget estimates for the program for fiscal year 1977 project subsidy costs of about $400 million without the change contained in the bill before us. HEW estimates that without the increase asked by the Education and Labor Committee, subsidy costs will exceed $600 million by 1981. If the bill is enacted as now written, that cost int 1981 will increase to $750 million. That means that we will be spending more in loan subsidies than we will in all likelihood be providing for SEOG and college work student programs combined.

There is simply no economic justification for using limited higher education dollars to increase subsidies for families with gross incomes of between $20,000 and $31,000, particularly when the subsidy per student amounts to only $70 per $1,000 borrowed each year. The individual subsidy is quite small, but when the costs of all those who take advantage of the subsidy are totaled we find that we will be spending an additional $253 million for this purpose alone by 1981. Over a 5-year period, my amendment would save $780 million in subsidy and special allowance costs. That's enough to provide 1,300,000 work study jobs paying $600 annually. In my view, a much better use of the money.

Think of all the other ways that we could use that money in support of education.

A quarter of a billion dollars, the savings in 1981 alone, could be used to:

Double what we spent last year on handicapped children, or;

Increase Federal aid for reading programs by 1,200 percent, or;

Provide vocational education skills for tens of thousands of high school age young people, or;

Provide nearly one-third of the work study jobs I mentioned a moment ago—in fact, 400,000 of them.

It should also be pointed out that under current law, students from families with adjusted incomes of greater than $15,000 may receive interest subsidies upon approval by the college and the lending institution. This means, for example, that a family with an income of $23,000 to $24,000 a year with four children, two of them in college, could well qualify for interest subsidy. Regrettably, too few families have sought this sort of separate determination and far too few colleges and financial institutions have been willing to provide this flexibility. However, that flexibility does exist in current law and it should be exercised in many cases.

Let us not mortgage future increases in aid to education on a single program. I urge your support of my amendment.

Mrs. FENWICK. Mr. Chairman, would the gentleman yield?

Mr. ERLENBORN. I yield to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank the gentleman for yielding.

If I may, I would like to inquire as to the adjusted family income, on page 25, line 3, of the bill. What is the significance of the word "adjusted" as compared to "gross"?

Mr. ERLENBORN. The gross income could be under the present program, say, $20,000. It is adjusted by provision in the current law for the number of dependents, adjusted additionally for the number of those in college, so that the greater the obligation of the family, the greater the need, the higher the gross income could be and the family could still qualify automatically under the program.

The average family of four or five, with one or two children in school, could have under the present law a $20,000 income and still qualify automatically by having an adjusted income below $15,000.

If we go to the $25,000 that is provided for in the bill, the same families could have as much as $31,000 annual income and still qualify automatically for subsidy.

As I say, that does not mean an awful lot to an individual student. It means about $70 a year. But in toto, for all those who would be automatically qualified, it would mean automatically a quarter of a billion dollars annually.

Mrs. FENWICK. Mr. Chairman, when the gentleman speaks of $31,000 adjusted, what would the family situation be in that case? Would it be, for instance, a couple with two children?

Mr. ERLENBORN. Let us say that a couple with three children, two of whom are in college, who have a $31,000 income, could qualify under the committee bill for the interest subsidy. At the present time their income could be as high as $20,000 and they could qualify automatically.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do not think that we should lose sight of the fact that the guaranteed student loan program or the commercial loan program is for middle-income students.

We do not here want to deprive middle-class college students of the right to obtain a loan. If the figure remains as we wrote the law in 1965, which is what the gentleman from Illinois (Mr. ERLENBORN) wants us to do today, many thousands of youngsters in the country will be denied the right to obtain a loan.

The gentleman from Illinois argues that with the figure of $25,000—and this does not go into effect until 1978—some 90 percent of all the families will qualify automatically for interest subsidy payments. However, what the gentleman from Illinois fails to mention is that when the program was first established, more than 92 percent of all families qualified automatically under the $15,000 figure, which figure has remained in the law ever since that time.

Mr. Chairman, we are simply providing for a long overdue and necessary cost-of-living adjustment; $15,000 in 1965 is equal to about $26,000 today.

Another aspect of this amendment has remained somewhat unnoticed. Any one of my colleagues who was here in 1974 knows from our debates how difficult it was then for students to obtain a nonsubsidized loan. We learned a lesson then, and we found that a student who was not eligible for payment of interest while he was in school was unlikely to find a lender willing to make him a nonsubsidized loan. We must not make the mistake of believing that we are merely debating the question of whether or not a borrower should be required to pay his own interest when he is in school. We are in fact making a determination of who will be able to receive assistance under this program.

Middle-income families, for whom the program was originally established, must rely heavily on these loans. They are not eligible for other forms of student assistance. Our delay in adjusting the income factor for over a decade has undoubtedly limited thousands of intended beneficiaries from participation under the program. We simply can no longer allow this to happen.

Therefore, Mr. Chairman, I would hope that this body would overwhelmingly vote down the gentleman's amendment. Let us set a figure commensurate with the figure that we set in 1965.

Mr. QUIE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, it is true that if we took the $15,000 figure when this was initiated and brought it up later in accordance with the increased cost of living, it would be substantially higher. However, it seems to me that at that time the Congress did set it excessively high.

Right now what we are talking about is a $25,000 adjusted income which is really a $32,000 gross income. Even though incomes have increased, there are not a great number of people who have a gross income greater than $32,000. According to the Census Bureau something in the neighborhood of probably 8 percent of the American people have incomes in that range.

Mr. Chairman, if this program is for middle-income and lower-income people, I think we have it set too high. I think the program just gets excessively expensive.

I think that when all the taxpayers of the country are required to pay for low- and middle-income students, that is one cost; but when they all have to send their money in and then send it back in to pay for their own children, that runs the taxes up too greatly. It would be better for the people to pay for their own children's education.

The experience I have had with families which have substantial incomes is that, while they enjoy the subsidized loan, there is no real problem for them if they do not get the subsidy. They like to have it, but I know of experiences where when the student finishes college, the father goes in and pays off the loan immediately and therefore does not have to pay any interest on the loan at all, indicating the ability of these families to pay for the loans.

For that reason, Mr. Chairman, I urge my colleagues to support the amendment.

Mr. BRADEMAS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment of the gentleman from Illinois.

This amendment would kill what I consider to be the most important provision in the bill under consideration. I refer to the provision raising the family income limitation for interest subsidies from $15,000 per year to $20,000 per year in fiscal 1977 and to $25,000 in fiscal 1978.

Mr. Chairman, the guaranteed student loan program has been the principal vehicle of the Federal Government for helping meet the financial needs of students from middle-income families who, without such help, could not attend the college of their choice.

Federal student aid programs have, of course, had as their primary emphasis financial aid to students from low- and moderate-income families. This is a policy which I have supported, and which I continue to support, for it is a matter of simple economic justice that we give the most help to those with the greatest need.

This is not to say, however, that Federal student aid programs have in the past or should in the future neglect entirely the needs of students from middle-income families.

The guaranteed loan program, since its inception in 1965, has helped over 8 million students, many of them from middle-income families, and, compared with its benefits, has cost the Government relatively little.

Yet, because of inflation and administrative difficulties, it has increasingly been our experience that a great many students for whom the program was designed are being denied its benefits.

The problem, simply stated is this:

The long established $15,000 family income ceiling for interest subsidy benefits has been—in terms of real income—significantly reduced by inflation. Thus, while the dollar definition of "middle income" has changed, the family income figure for interest subsidies has not, and the same family which might have received an interest subsidy 5 years ago today is shut out.

At the same time, many lending institutions, especially banks, have been reluctant to make loans to students who do not qualify for interest subsidy benefits. The reason is that on nonsubsidized loans the bank must bill students individually for interest charges on a quarterly basis, a procedure that costs a great deal of money and inconvenience to the lender.

Thus, many middle-income families are today simply unable to obtain a loan to help finance their children's college education.

Mr. Chairman, H.R. 14070 will remedy that situation by raising the family income ceiling for interest benefits from $15,000 to $20,000 this fall and to $25,000 the following year.

This, it seems to me, is a much more equitable eligibility ceiling for a program which, after all, involves loans, not grants.

Mr. Chairman, I think we might accurately refer to this provision as the "students from middle-income families loan assistance amendment of 1976." I hope the provision will have the strong support of my colleagues; I know it has the strong support of middle income families all over America.

Mr. Chairman, I want also to take advantage of this opportunity to pay tribute to my colleague, the gentleman from Michigan (Mr. O'HARA), for the able and constructive way in which he has handled this bill.

The Subcommittee on Postsecondary Education, of which Mr. O'HARA is chairman, has wrestled long and hard with the many problems which beset the student loan program and other higher education issues, and I know that my colleagues on the subcommittee and in the House will join me in expressing our appreciation for Chairman O'HARA's leadership and his dedication to the best interests of postsecondary education in the United States.

Mr. THOMPSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Current law provides that students from families with an adjusted income of less than $15,000 automatically have the interest on their guaranteed student loan paid while they are in school. The income level for the interest subsidy was set in 1965 when the program was created. At that time it covered more than 90 percent of all families. The intent of this program was to provide the interest subsidy for middle income as well as low-income families. In the floor debate on the 1965 act, our former colleague, the gentlelady from Oregon, Mrs. Green, remarked explicitly that the guaranteed student loan program "is designed primarily for those students who come from middle-income families."

The $15,000 level has not been adjusted in 11 years. In that period the burden of college costs on middle-income families has grown heavier not lighter. This is the one Federal student aid program that provides some modest assistance to these families. It is an essential element of a balanced student aid program.

In 1965, $15,000 is equivalent to about $26,000 in 1976. The bill raises the income level for automatic interest subsidy to $20,000 next year and $25,000 in the following year. It will not even bring the coverage of the program up to its 1965 level.

If the amendment, retaining the income level at $15,000 is adopted, the intent of this program will be further undermined and the one Federal student aid program intended to benefit middle-income families will be denied them. The amendment would ignore the simple justice of a catch up for the increase in the cost of living since 1965.

The supporters of the amendment point out that students could get a subsidized loan by demonstrating their need if their family income is above $15,000 or they could get an unsubsidized loan. The simple fact is that the lenders who participate in the program do not make such loans.

I urge defeat of the amendment.

Mr. DENT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, more than 10 years have passed since this bill was first enacted by Congress. These 10 years have been marked with an increase in the cost of living, along with an increase in tuitions for students, as well as an increase in wage earnings.

Let us get right down to the basics. Anybody earning in 1965 a $15,000 income which was the adjusted family income limitation for the guaranteed student loan program at that time, would under the Cost-of-Living Index alone over the years would have increased his own income to over 72 percent. Our staffs earning $10,000 at that time are earning $17,000-plus at this moment. The middle-class American is no longer at a $15,000 level of income that we used to consider a middle-income level. The only remaining pure taxpayer left, who is still paying out of his income his taxes without subsidies or aid of any kind, is that person between $20,000 and $30,000. I mean in that group we find needy persons when it comes to the problem of educating their children. No consideration is given to whether they have one, two, three, or even four children in college. It is based not upon one's need as an individual, but it is based upon a figure that was established when that figure was reasonable, and in 1965, a $15,000 limit was considered liberal. I will agree that a $15,000 limit in 1965 was liberal. But the fact of the matter remains, we could go to $30,000 a year right now and be helping the taxpaying group in America.

Everywhere I go, I hear remarks of complaint against certain classes of America, wage classes of America, or earning classes of America, where they are getting out of the Treasury more than their share. Then the complaints come from those who are paying and are reduced to a less income net for spending purposes than those who have an income of $15,000, $16,000, or $18,000 a year. The simple facts cannot be denied. That individual today who is over $20,000 a year and under $30,000—$30,000 or under—is the last remaining big group of taxpayers that are keeping up the country's economy today. For instance, our own salary in 1965 was $30,000 a year.

Our salary now is about $45,000 a year and we have lagged behind, way behind the Cost-of-Living Index, because the Cabinet officers who were in the same category of salary we had in 1930 were permitted to go under the cost-of-living index and their salaries today are $67,000 a year.

We cannot do any more damage than

we have done to that once proud group of Americans who had climbed, most of them by their own efforts, into what we call the heart of America, the middle-class American, the homeowner in the community, the fellow who pays the local real estate taxes which pay the bulk of educational costs in most communities, the man who keeps the local community alive, the man whose first dream is to get a home of his own in a community, the man who supports the institutions and the churches and the volunteer fire departments, the person who is always dinged the first and the most by every charitable group that comes into a community or resides in a community.

It is a false argument here today to say that a family with income between $20,000 and $30,000 a year as of this date is not in as much or more need than the family that had a $15,000 limitation in 1965. Let's continue with the intent of the Guaranteed Student loan program, and provide minimal relief for middle-income Americans. I strongly urge the defeat of the Erlenborn amendment.

Mr. PRESSLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as one who attended college in South Dakota partially on student loans, I am a strong supporter of student aid programs.

I serve on the Education Committee, and we have struggled to get this student aid bill through. Now we are voting on the Erlenborn amendment, which would weaken the student loan program by lowering the family income level which would qualify for the interest subsidy. I shall vote "no" on this amendment, because it would greatly reduce the number of students who would qualify.

Mr. Speaker, let me express some frustration over this whole student aid debate. Why is it so difficult to get aid for students. I am one who advocates a much higher priority for education. Our Nation pours billions into foreign military assistance. I have voted against such expenditures, but we continue to give 30-year loans to some foreign nations that pour the money into military adventures. Sometimes we arm both sides of foreign conflicts—as in the Middle East or in the current Cyprus conflict. Why are our priorities so mixed around that we hesitate to give loans to our own students for 10 years? I strongly advocate passage of this bill with no further weakening amendments.

Mr. MYERS of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think what we are ignoring here is the fact that millions of Americans graduate from high school and never see college and they know that probably many of their descendants will never see college. What we are doing is asking individuals who face a career of earning between perhaps $10,000 and perhaps a high of $18,000 in the industrial complex to try to associate themselves with this group we will be subsidizing by a loan program, those people who will earn two or three times as much as the lower-paid group and those people who will also have the opportunity to go to school and succeed and then come out and have careers that will pay multiples greater even than the present income of those who will be paying the subsidizing.

So I can say just from my own experience in sitting with on a lot of night turns with the steelworkers in western Pennsylvania that the steelworker earning $11,000 or $12,000 a year certainly does not associate himself with the person earning $25,000 to $30,000. The steelworker sees himself as in a distinct income class and differentiated from those earning twice as much as he does. They see themselves as middle-income people and they see the pople earning $30,000 as in a much higher range. If the steelworker had that type of income he would feel he would be willing on his own to assume the responsibility of educating his children.

I do not think we can convince millions of Americans who graduate from high school and who will never go to college, and whose children will never go to college, that they should support and contribute to this program to educate those who earn much more than they will ever earn.

Also those who earn $20,000 or $30,000 probably have a good relationship with a bank. They can go to the bank probably because of their past relationship from having paid back a car loan or a house loan, et cetera, and so they should not have a deep problem in getting loans for their children to go to college.

What we are trying to do in this legislation is provide a mechanism for more people to get an education. I think what the gentleman from Illinois and the gentleman from Minnesota are saying is quite correct. The money that can be saved by this amendment certainly can be put to use in better places than this. I think it is a rather weak argument to try to get the people earning one-third or one-half of the income of those who will benefit from this program to subsidize the higher-income families.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 13, noes 29.

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois (Mr. ERLENBORN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 30, noes 357, not voting 44, as follows:

[Roll No. 654]

AYES—30

Ashbrook
Bauman
Bell
Burleson, Tex.
Clawson, Del
Collins, Tex.
Crane
Devine
Dickinson
Erlenborn
Goodling
Gradison
Hansen
Ichord
Kelly
Ketchum
McDonald
Michel
Miller, Ohio
Moorhead, Calif.
Myers, Pa.
Paul
Quie
Roberts
Rousselot
Satterfield
Schneebeli
Steiger, Wis.
Symms
Teague

NOES—357

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Mathis
Matsunaga
Mazzoli

Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Natcher
Nedzi
Nichols
Nix
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Ryan
St Germain
Sarasin
Sarbanes
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—44

Abzug
Badillo
Chappell
Chisholm
Conlan
Daniel, R. W.
de la Garza
Duncan, Tenn.
Eckhardt
Esch
Evins, Tenn.
Green
Hays, Ohio
Hébert
Heinz
Hinshaw
Howe
Jones, Okla.
Jones, Tenn.
Karth
Krueger
Martin
Melcher
Murphy, N.Y.
Neal
Nolan
Nowak
Poage
Risenhoover
Rodino
Rosenthal
Russo
Santini
Sisk
Smith, Iowa
Stanton, James V.
Steelman
Steiger, Ariz.
Stuckey
Waxman
Weaver
Wilson, C. H.
Wylie
Young, Alaska

Mr. RAILSBACK and Mrs. SMITH of Nebraska changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DODD

Mr. DODD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dodd: Page 87, strike out line 18 and insert in lieu thereof the following: "on September 30, 1977, or one year after the enactment of this section, whichever is later.".

Mr. DODD. Mr. Chairman, I rise for the purpose of offering an amendment to H.R. 14070, Guaranteed Student Loan Amendments of 1976, which would postpone the effective date of section 439A. As it is now written, section 439A would prohibit the discharge through bankruptcy of student loan debts for a period of 5 years after the beginning of the repayment period.

It is my contention, and that of a number of my colleagues on both the Judiciary Committee and the Education and Labor Committee, that this action is premature, simply because we do not have conclusive data on which to base such an action which would be directed against one entire segment of our population.

Many of us are concerned over recently disclosed accounts of newly graduated students who are abusing the bankruptcy laws to rid themselves of unwanted debt. The Sunday supplements have recounted several stories of students who took out large student loans and who, shortly after graduation, entered the bankruptcy courts to have their loans discharged. In some cases, it was quite obvious that this was simply a legal maneuver to lawfully, although unethically, rid themselves of large debts.

Certainly no one condones this practice. However, the real question which must be raised is whether these instances are infrequent exceptions to the rule or whether they are, as some contend, representative of students as a group.

I do not believe that this question can be answered on the data we now have available to us. No comprehensive study has been done which documents this problem nationwide or which examines the causes of student loan bankruptcies, or the extent to which student loans are a part of the total bankruptcy picture.

Without an understanding of the underlying causes of student loan bankruptcies, we would be unfairly restricting a significant number of our citizens from discharging their student loans through bankruptcy for an arbitrary period of time.

Furthermore, extensive hearings have been held this year on all aspects of the bankruptcy laws by the Subcommittee on Civil and Constitutional Rights, chaired by the Honorable Don Edwards, of which I am a member. This subcommittee will begin markup of comprehensive legislation reforming the bankruptcy laws early next year, and they will also be examining the question of student loan bankruptcies.

Congressman Don Edwards and Congressman James O'Hara, chairman of the Postsecondary Education Subcommittee on the Committee of Education and Labor, have asked the General Accounting Office to prepare a comprehensive study on the total student bankruptcy question. This study, which will be completed no later than September 30, 1977, will provide the Congress with an in-depth and factual basis for determining what adjustments, if any, are required in dealing with student loan bankruptcies.

In light of the amount of information which is unavailable at this time and due to the anticipated action of the Judiciary Committee next year, I am asking my colleagues to delay enacting the 5-year prohibition for a period of 1 year in order to allow the General Accounting Office to complete their study and to allow the Judiciary Committee an opportunity to evaluate student loan bankruptcies as a part of bankruptcy behavior as a whole.

I am pleased to see that my colleague, the Honorable John Erlenborn of Illinois, who sponsored the original provision, has agreed to support my amendment.

I would urge all my colleagues to support my amendment.

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from Michigan.

Mr. O'HARA. Mr. Chairman, as those Members who saw the leter from the gentleman from Connecticut (Mr. Dodd) with regard to bankruptcy know, and as those who might have read my supplemental views in the committee report, know, I am opposed to section 439(a), and I had intended to support an amendment to strike it. But after discussion with the minority side and discussion with the gentleman from Connecticut, I have agreed to accept this compromise amendment the gentleman from Connecticut (Mr. Dodd) is now offering. It would give his committee time to work their will and bring before the House a bill that amends our bankruptcy laws generally, which I believe is the way to handle it.

So, Mr. Chairman, speaking for this side, I will accept the amendment.

Mr. DODD. I thank the gentleman.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman from Connecticut for yielding. The provision in this section that was added in committee pertains to the amendment I offered in committee. The gentleman from Michigan (Mr. O'Hara) opposed the amendment at that time, but eventually a majority of the committee did adopt it.

The problem that we have perceived is that there is a great number of students who think it is wise and it is smart to discharge their obligation through bankruptcy immediately after graduation without having any assets or any income at that time.

I fully appreciate the feelings of the gentleman from Connecticut (Mr. Dodd) and others who think this problem should be studied. Consequently I have agreed with the gentleman to allow the effective date be delayed for 1 year.

I think this is a good compromise. If, within the next year, a majority of the House and Senate want to pass legislation to change the provisions in this bill, they could, whether it was in effect or not. So I think delaying this for 1 year to allow the Committee on the Judiciary to complete their study, makes good sense.

I join in support of the amendment offered by the gentleman from Connecticut (Mr. Dodd).

Mr. DODD. I thank the gentleman.

Mr. EDWARDS of California. Mr. Chairman.

I rise in support of Mr. Dodd's amendment.

I personally have been involved in this question since early 1971 when I was appointed by the Speaker to the Commission on the Bankruptcy Laws of the United States in an effort to revise and update the Bankruptcy Act.

The Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary, which I am privileged to chair, has likewise been studying the entire Bankruptcy Act, both its procedural and substantive law, for several years. We recently concluded over 36 days of hearings into every aspect of the present act and proposed changes. Our committee staff is readying a draft of a new act which we hope to bring to this House later this year or very early in the next year.

I believe that our extensive effort in this regard has given our subcommittee members a broad knowledge and a broader perspective of the overall policies of the Bankruptcy Act—a policy which calls for maximizing the distributable estate and effecting an equitable distribution of the proceeds to creditors. At the same time, the Supreme Court has stated that one of the primary purposes of this act is to relieve the honest debtor from the weight of oppressive indebtedness and permit him to start afresh.

The problems generated by the guaranteed student loan program must be viewed in the broad context of the interrelationship of the basic principles of the Bankruptcy Act and not in the narrow scope of the program itself, troubled as it may be.

Over the period of our study, the proposal to limit the dischargeability of student loans has received a great deal of attention.

The great weight of opinions and testimony before our subcommittee has been in opposition to such a proposal. Bankruptcy experts are agreed and are opposed to establishing a new category of nondischargeable debt or to treating student loans differently unless the policy and data are very persuasive, particularly in view of the basic principles of the Bankruptcy Act.

We heard from distinguished professors, practitioners, judges, the American Bankers Association, and the Consumers Bankers Association.

Frankly, to date the data supplied to our subcommittee does not support a policy of giving, in effect, a preferential treatment to a class of creditors who are generally indistinguishable from other private creditors.

Our witnesses impressed upon me the principle that singling out a special class of debt is discriminatory treatment; it is an arbitrary type of favoritism, which is not countenanced in the Bankruptcy Act and should not be, unless there is solid, sound statistical evidence to base the policy on.

It is for these reasons that I recently joined with my colleague, Jim O'Hara, and requested the General Accounting Office to initiate a study on the subject of student loan defaults and bankruptcies to compare the loss ratio and problems with other creditor problems and behavior and report back to us as soon as possible.

It is also my firm belief that if the study shows a need for a change in the present policy of dischargeability of this type of loan, that the amendment of the Bankruptcy Act should be made by the committee most familiar with the total Bankruptcy Act. It is bad policy and can only lead to a fragmented policy to amend the Bankruptcy Act piecemeal.

I would urge you to support this amendment. If the GAO study produces evidence to support a special policy for this type of debt then we will certainly and immediately institute whatever type of remedy that appears properly applicable.

But let me emphasize that it is dangerous practice to alter long held and well-founded basic concepts of bankruptcy law without a thorough analysis of the overwhelming need and a sure knowledge of what that change will do to the overall scheme of equity presently residing in the act.

The year's delay in effective date will provide us with the time necessary to receive and evaluate the GAO report and complete our revision of the Bankruptcy Act which will reflect the results of that study.

Mr. Dodd is to be complimented on this amendment. He is a valuable member of the Judiciary Committee's Subcommittee on Civil and Constitutional Rights and an expert in bankruptcy.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. Dodd).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PICKLE

Mr. PICKLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Pickle: Page 18, strike out lines 16 through 20 and insert in lieu thereof the following:

"(A) is made without security and without endorsement, except that—

"(i) if the borrower is a minor and such note or other written agreement executed by him would not, under applicable law, create a binding obligation, endorsement may be required; and

(ii) if the borrower intends to use the loan at an eligible institution having a default rate in excess of 10 per centum (calculated on the basis of the amount of loans which are in repayment as determined under section 428(c)(1), endorsement may be required.

The CHAIRMAN. The gentleman from Texas is recognized for 5 minutes in support of his amendment.

(By unanimous consent, Mr. Pickle was allowed to proceed for 5 additional minutes.)

The CHAIRMAN. The gentleman from Texas, Mr. Pickle, is recognized for 10 minutes in support of his amendment.

Mr. PICKLE. Mr. Chairman and members of the committee, the problem that I bring before the committee, and for which I have submitted this amendment, primarily affects the State of Texas, but it also affects any State which has a direct loan program, and there are some 10 or 12 other States.

The amendment would say that if a State has a default rate in excess of 10 percent, the lender may require a cosigner for that loan.

It is not mandatory; it is at least permissive.

In order for the Members to understand why I offered the amendment, let me give them a little background. The default rate in the State of Texas for some of the schools is high, way too high. I do not defend that. Something must be done. The amendment we offer is intended to give those schools with a high default rate a tool that would improve the default rate for the future. This is what has happened. The Office of Education, upon the insistence of the committees of Congress has come into my State and said:

> Because of your high default rate, we, therefore, are going to penalize you and withhold money from your loan program, and we are going to do it in the percentage of the amount that you are in default, or in the total amount available to your State.

They have gone to the State of New Mexico first and forced New Mexico to sign a compliance order saying that they would withdraw much of this money. They came to our State, and our State's coordinating board was not sure that this was the proper approach or that it was legal, and they have asked for an Attorney General's opinion. At that time the Office of Education said to my State:

> We, therefore, will penalize all schools in the State of Texas, not just those that are in default, but we are going to propose to withhold money from all of the schools.

Apparently that is the pending order.

If this has happened to New Mexico and to Texas, my guess is it is going to be happening to Louisiana and to South Carolina and to Oklahoma and to Florida—any State that has a direct loan program. It is also going to spread throughout the country.

The amendment we asked the Members to approve is simply a positive way to try to put more responsibility into the loan program. Members ask me, "How will that affect my State? Is it just for Texas and just for a number of schools?" Let me read to the Members some information that will be rather startling, I think. Here is information from one Texas school on school aid. In the period between July 1, 1975, and June 30, 1976, 357 students borrowed $298,638 from the State loan program. If the restrictions that are being proposed by the OE are made effective, then this school will be affected in this way. Instead of the $298,000, they will receive only $178,000, and that would eliminate 144 students.

School B. In this school last year loans were had by 947 students totaling $827,000. If the OE restrictions are put into effect, the loans would be limited to not more than $457,000 or a total of 423 students will be knocked out of loans.

School C. Last year this school had 1,783 students who received $1,200,000. If the OE orders are put into effect, then that loan would be cut down to $836,000 or that would eliminate 633 students. That is over 1,200 students in just three schools. It happens that those three are black schools. I think the Members will agree that, generally speaking, black schools are more affected by the default rate than are other schools. I cannot say that this is true all across the country. It may be truer in my State, but I know that there are 62 other schools in Texas that are affected, and if OE says that we have got a default at the rate of 10 percent, 62 other schools in my State are going to be cut out. We can see that that is going to play havoc with the loan program in my State of Texas. I think it is certainly going to affect others. I think really what the committee is trying to do is to force States to adopt the agency form of loans.

And that may or may not be the better approach, and I would certainly think the committee has experience on it. But the fact is that there are some States that cannot do anything about it now. We cannot go to my State legislature and say they must change from their old procedure and set up this new system because our legislature will not be meeting before the first of the year, and before they can take action most of the school year will be gone. That is true of most of the other States that will be affected. So it is not proper for the committee to say the cure is to set up this new system, that is to go to the State agency type program soon. We cannot do it. We do not have the time.

On the other hand the committee is saying we should set up this new system, but the bill—the law—provides for really three different approaches. We make it legal to go the route my State and 10 other States have followed. Now, you say we have got to change the system. You say by these incentives we will encourage them to do that, but still it is legal for them to do the other. That is not consistent.

But my State is hurt and it is going to be hurt bad. The question is: Is the proper approach to permit the requirement of some kind of cosignature? This is not an approach we come to the Members happy about. We wish there were some other answer. But I must say we can either let the Office of Education force these compliances into effect or else we are going to have to put something into law that for the future at least gives them a tool.

I will recognize this amendment will not change the default rate upon passage of this amendment. I admit that. What it does is set the stage for the future. States may say to any default institution: "You can loan this but we may require cosignatures."

The default rate is getting out of hand. What is happening in my State of Texas and in New Mexico is going to happen all over the country.

My colleague, the gentlewoman from Texas (Ms. JORDAN), and I have offered this because our schools have asked us to offer this in cooperation with the coordinating board because they think this is the better way to do it. If we do not do this, then almost 40 percent of the students in default status will be cut off from loans. That would hurt many States. I do not think the committee intended that.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I feel I understand the thrust or the intent of the gentleman's amendment. I would only suggest that while I think the intent may very well be honorable, the practical effect of it would be we would pass a rather discriminatory provision. That is No. 1. I would like the gentleman's response to that.

No. 2: Is the gentleman aware of the fact that in the present Senate form of this bill there is a default provision that establishes this principle, that if an institution defaults at a rate above 15 percent for 2 consecutive years, that the funds could then be cut off, but the waiver provision would be established in the event that hardship could be demonstrated as to the effect on that institution? It seems to me that provision has less likelihood for discriminatory implementation, discriminatory interpretation, and seems to be much more lenient than my distinguished colleague's amendment.

Mr. PICKLE. Let me respond to the gentleman's first point. The amendment is obviously not discriminatory.

Mr. DELLUMS. I said it might be used that way.

Mr. PICKLE. I know there is a feeling which has been expressed by members of the committee that if we allow any kind of cosignature, that we really in effect are singling out the poor student who could not get a loan otherwise, and therefore they would be the ones who could not get any kind of loan. That may or may not be true. But it is not discrimination; it is not designed to be discrimination between black and white.

It also could establish some stability in the default program, that is the student loan program.

I think we must do something. Therefore, Ms. JORDAN and I think that this is a better approach.

I know also on the gentleman's second point, the gentleman would like to have not just 10 percent, but down to 7 percent. I have no objection if the gentleman wants to change the percentage, or whatever percentage the gentleman wants to try to establish, but I do not think the amount is the important thing.

What would the gentleman do if at least half of the gentleman's students are going to be cut out of loans for next year; what recourse would he have?

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I can appreciate what the gentleman from Texas is trying to achieve, but I believe that the gentleman's method of trying to achieve his goal will redound to the detriment of thousands and thousands of other students throughout the country trying to obtain a loan.

Mr. Chairman, as I read the gentleman's amendment, it is very plain. Section 417:

> A loan by an eligible lender shall be insurable by the Commissioner under the provisions of this part only if made without security and without endorsement—except that if the borrower is a minor and such note or other written agreement executed by him would not, under applicable law, create a binding obligation, endorsement may be required; and if the borrower intends to use the loan at an eligible institution having a default rate in excess of 10 per centum (calculated on the basis of the amount of loans which are in repayment as determined under section 428(c)(1)), endorsement may be required.

Mr. Chairman, I personally believe that a State loan program can be administered without a high default rate and without this amendment.

Now, in Kentucky we have a program, a new State program that has just been in existence 1 year. Appropriations from the State legislature provide the capital and that program is administered by State officials.

As I understand in Texas, bonds are utilized for capital and the program is administered by the schools.

The gentleman's amendment asks that any federally insured loan, for a student wanting to go to college or to do graduate work would have to have a cosigner if required by the lender. In my early days before World War II in the mining communities I had a lot of experience with signing notes. If we require a cosigner before the youngster can obtain a loan, I can assure this House that we are going to deprive hundreds of thousands of college students throughout America from obtaining loans. Likewise, graduate students in the hundreds of thousands will not be able to obtain loans. This is all the way across the board in the Federal program.

Under this amendment as presented by the gentleman from Texas, a cosigner could be required and that would thwart the whole purpose of the program.

Let me read what the administration says in a letter addressed to me concerning this amendment:

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., August 24, 1976.
Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that Mr. Pickle of Texas has prepared an amendment to H.R. 14070 which would allow lenders under the guaranteed loan program to require co-signers on guaranteed student loans made to students who would be attending schools which have a default rate in excess of 10 percent. The Administration opposes such an amendment.

Similar ideas were discussed and rejected within the Administration when we were developing the draft legislation which became the Student Loan Amendments of 1975 (S. 1229, H.R. 4376). The result of such an amendment would be to restrict access to loans by students whose postsecondary education is conditional upon the availability of guaranteed student loans. In particular, it appears that the effect of such an amendment might be exceedingly severe on loan availability at schools which are attended predominantly by low-income and minority students. We believe such a restriction of access to loans might indeed cut down on the rate of default; however, it would run contrary to the purposes of the Guaranteed Student Loan program of providing availability of low-interest loans to all students and potential students in order that they may pursue postsecondary education. For this reason, we would oppose the acceptance of such an amendment.

Thank you for the opportunity to present our views on this matter.

We are advised by the Office of Management and Budget that there is no objection to the presentation of these views from the standpoint of the Administration's program.

Sincerely,

WILLIAM A. MORRILL,
Acting Secretary.

Now, the Office of Education could not object more unequivocally to this amendment. The effect of it is going to be to deprive those who need loans the most by forcing them to obtain cosigners. I am of the opinion that there is a way that these direct State loan programs within the States can be administered without such high default rates.

We should try to improve the administration of the programs, and I think it is possible, before we resort to any drastic steps of this type. This would not be limited to Texas only. It would apply throughout the whole Federal program.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

(On request of Mr. PICKLE and by unanimous consent Mr. PERKINS was allowed to proceed for 2 additional minutes.)

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I would first make plain the gentleman's original statement which was corrected when he read the letter from HEW. Our amendment does not require a cosigner for all these loans, but only where we have the State in excess of a 10 percent default rate. This is the percentage the gentleman's committee says is an excessive allowance. It would be effective only when a State went over 10 percent. It would not affect those other thousands the gentleman refers to.

Secondly, of course HEW, by this letter, is following through with its objection that this approach might be more restrictive. I admit that it could turn out to be that way, but I don't think so. The law today, though, says that a student may be granted a loan if he cannot get a loan from a bank. That is a meaningless provision. The gentleman from Minnesota tried to knock that out earlier. That provision is sort of foolish because the banks do not cooperate. At least in my part of the State, they do not. I do not defend the banks, and I think in my State and others the banks ought to be doing more.

Perhaps our State ought to go the direct agency route. But, this is August. School opens next week or so for all of this next academic year; 30 to 40 percent of our students are not going to be able to get loans.

It is one thing just to say, "Well, there ought to be a better way and we ought to have a better system," but the fact is that in at least 10 or 12 States we are going to be hurt severely.

I think that this kind of an amendment, in the long run, is going to be more helpful. Only time will tell.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. PERKINS) has again expired.

(By unanimous consent, Mr. PERKINS was allowed to proceed for 1 additional minute.)

Mr. PERKINS. Mr. Chairman, let me say, in response to the distinguished gentleman from Texas, that he is correct insofar as the 10-percent default rate is concerned. Still, there are going to be thousands of college students, graduate and undergraduate students, who are going to need loans, commercial loans, where the default rate may very well be in excess of 10 percent.

I do not think this is the place where we should change a basic concept that has been part of the program since its inception.

Let me say that most of the loan applicants of the future are not responsible for this high default rate. We would be discriminating against them if we required cosigners.

This is not the place to take this drastic step. I would hope the amendment would be voted down.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I reluctantly oppose the amendment offered by the gentleman from Texas (Mr. PICKLE). Like the others before me who have spoken about the good intentions behind the amendment, I agree that it is well intentioned. However, I think we have to look at what, if anything, this amendment does, either favorably or unfavorably for Texas or favorably or unfavorably for students.

Mr. Chairman, my first observation is that if the amendment should pass—and I hope that it will not—in no way will it affect the three institutions in Texas that are under orders by the Office of Education. That mandate has already been handed down. The machinery is in operation. Even if the amendment passes—and I hope that it does not—the Office of Education will proceed against those three institutions in Texas. So, obviously, the amendment will have no impact in terms of helping the students who might be threatened by the action of the Office of Education.

The second point I would like to make is that the authors of the amendment, though well intentioned, failed to realize what a terrible impact it would have on black institutions of higher learning across the country. While it is true that black institutions have a higher default rate—and I need not spell out the reasons for that, because they are obvious, and we have discussed the reasons so many times on the floor—the point is that the higher default rate of black institutions constitutes only a tiny fraction of a percent of the national default rate. Inevitably, down the line, the Pickle amendment would have the effect of lenders looking at the black institutions and in effect blacklisting them because they have a higher default rate, despite the fact that their percentage of default is only a tiny percentage of the national default.

Mr. Chairman, I would like to, in addition, indicate one other strong concern. No one has thought about the absolute administrative nightmare that would take place if this Pickle amendment should pass. What would happen is this: in all of the 20,000-plus lending institutions in this country, somebody would have to go through the machinery of making an assessment of the default rate by institutions as provided by the Office of Education.

The Office of Education would advise the lenders who would be in a position of screening for or against those institutions.

We are talking about at least 18 months of administrative nightmares resulting from the Pickle amendment.

Finally, let me indicate in closing that most of the Members have seen correspondence from the National Association for Equal Opportunity in Higher Education. On the Board of Directors of that Association there are college presidents of institutions in North Carolina, South Carolina, Florida, Michigan, Texas, and from all over the country. These institutions are banding together to oppose the Pickle amendment. Most of the Members have seen correspondence signed by the executive secretary of that Association. I will read just one or two paragraphs from that correspondence for the RECORD, as follows:

> As an organization of 107 historically black colleges and universities, we share the purpose of the Pickle amendment. Like Mr. PICKLE, we do not want the students at historically black institutions denied the benefits of the loan program. However, good intentions are not enough. We fear that the unintended results of this amendment would go in the opposite direction, and would be counter productive to those it is intended to help.

Quoting from the next paragraph, the letter goes on as follows:

> The Texas amendment would require the assembling and publication of a list of the nearly 10,000 eligible schools in terms of their "default rates". Such a list, circulated to the nearly 20,000 lenders all over the nation would necessarily show those institutions that have high concentrations of low-income students, particularly the historically and predominantly black and Chicano institutions, at or near the top of that list.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. MITCHELL) has expired.

(By unanimous consent, Mr. MITCHELL was allowed to proceed for 2 additional minutes.)

Mr. MITCHELL of Maryland. Mr. Chairman, the correspondence is referring to the top of the high-default list. It goes on to state that "This list would irresistibly bring forth a blacklisting" of the institutions, exactly those institutions that are predominantly black and predominantly Chicano, by the Nation's lenders.

Mr. Chairman, I have talked with the gentleman from Texas (Mr. PICKLE), and I have assured him of my keen interest in the 3 institutions in Texas he is concerned about, but he has failed to recognize the adverse impact of his amendment nationally. While he is saving 3 institutions, he is going to wind up jeopardizing more than 107 institutions across the country.

I am sure that he does not want to do that. There must be a better way. I am sure that if we sit down with the national association, we can work out a solution. Perhaps those of us in the caucus would want to work on this problem. But for God's sake, let us not save 3 institutions and jeopardize 107 other institutions.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, in my earlier statement I did not say there were just 3 institutions involved. There are 62 institutions in my State that are affected. These problems are similar to problems in 10 other States. It is not just 3 institutions. This is a great big problem, and I am saying to the gentleman it is a problem all over the United States. The gentleman should not put it down to 3 institutions in my State, because the gentleman will find out it goes nationwide.

Mr. MITCHELL of Maryland. Mr. Chairman, I realize the problem is going to become national. The immediate problem is with 3 institutions in the gentleman's State. He is coming up with what purports to be an immediate solution for those schools, but which, in effect, is not a solution at all. Quite to the contrary, it is a propostion which will jeopardize 107 other predominantly black and Chicano institutions.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. Mitchell) has again expired.

(On request of Mr. Dellums and by unanimous consent, Mr. Mitchell of Maryland was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I will yield in just a moment after I have made my last point to the gentleman from Texas (Mr. Pickle).

The gentleman knows how I feel about predominantly black institutions. I am for them 100 percent. But I am saying that a piecemeal approach, which regrettably is what the amendment amounts to, does not save the 3 institutions or the 62 institutions involved in the gentleman's State.

However, what it does is to jeopardize the future of 107 other institutions.

Mr. Chairman, regretfully, I must urge the Members of the House to vote down the Pickle amendment.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank my distinguished colleague, the gentleman from Maryland (Mr. Mitchell), and would like to associate myself with the gentleman's remarks.

I would hope that the gentleman would yield for the purposes of my asking the distinguished gentleman from Texas (Mr. Pickle), the author of the amendment, a question.

First of all, my distinguished colleague, the gentleman from Maryland (Mr. Mitchell), indicates that no matter what is done in this particular piece of legislation today, it will not affect the Texas situation, No. 1. Number two, is it correct that for the past 10 years authorities responsible for higher education in the State of Texas have tried for a long time to mandate the requirement for co-signers with respect to student loans?

Mr. PICKLE. If the gentleman will yield, I shall be happy to answer. No; the passage of this amendment will not cure immediately the problem we have in Texas. I tried to make that plain.

It is a tool that could be used from this point on, not only by schools in my district or in my State, but nationwide. It will not cure the overall effects, and we all recognize that, but it surely would for the future. If we do nothing, we will be penalizing the present and future students because of poor repayment by previous students.

I would presume that for the past several years the Office of Education has been pointing out the problem which we are facing. I am sorry for the situation which my schools allowed to develop. I am sorry and I regret it, but we have to do something about the problem.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. Mitchell) has expired.

(On request of Mr. Dellums and by unanimous consent, Mr. Mitchell of Maryland was allowed to proceed for 1 additional minute.)

Mr. PICKLE. Mr. Chairman, if the gentleman will yield further, I want to make it plain that there is no way for us to go back and follow the committee bill. What the committee bill does is to give incentive to adopt the State-agency approach, and it encourages the States to go that route. The committee tells us that that is what they want, and that that is the purpose of this legislation.

Perhaps my State ought to do that. I do not know. I cannot pass judgment on that, but there is no way for us to do it now. We cannot do it until next year. That means that one whole academic year, for all practical purposes, will be lost.

Mr. MITCHELL of Maryland. Mr. Chairman, if I may recapture my time, let me again respond to my friend, the gentleman from Texas (Mr. Pickle).

There is now a problem affecting Texas which will ultimately affect the whole country.

Mr. Chairman, I respectfully suggest to the gentleman that the amendment which he proffers solves neither Texas' problems nor the problems of the whole country.

I would suggest that the approach being pursued in the Senate at this time, where they are talking about a higher default percentage rate and a 2-year period, is a much more sensible approach and a much more workable approach than what the gentleman now proffers. In addition to that, I think we need time to solve this ticklish problem, and that it will not be solved by a shotgun approach.

Miss JORDAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Pickle amendment.

Mr. Chairman. I rise in support of this amendment and will try to make some effort to allay some of the fears which have been expressed by persons who have spoken in opposition to the amendment.

The first statement made in opposition to the amendment is that it will in no way affect the three Texas institutions involved. If that is a correct statement, the presidents of these three predominantly black institutions in Texas are unaware that this kind of amendment would have no effect.

What is their situation, Mr. Chairman? The sword of Damocles just hovers over them when we have the Office of Education saying, "We will cut your funds. We will reduce them unless you reduce your default rate."

Mr. Chairman, will the Pickle amendment immediately affect the default rate at all? Probably not. However, what it does do is try to say to the Office of Education, "We know that we have to pay our bills, and we want to do what is sensible and reasonable. We are going to try to solve our problems, so let us at least try this discretionary cosigner amendment as a way of convincing the Office of Education that we in Texas, the coordinating board and the institutions involved, intend to try to solve their own problems."

What else has been said?

"There will be a terrible impact which the Pickle amendment will have on black institutions; that it will be discriminatory in its impact and its effect." Let us look at that argument for just a bit. All the Office of Education right now proposes to do is having a discriminatory effect when it says, "We are going to cut off altogether, or cut off proportionately to your default rate, the money available for loans for students in your institutions," who is affected? The minority students, the low income students, those who have some socio-economic, sociopersonal, socio-political backgrounds which makes them unable financially to comply with the mandate and the loan.

Mr. DELLUMS. Mr. Chairman, will the gentlewoman yield?

Miss JORDAN. Not at this time, but I will shortly.

Mr. Chairman, there is no way that you can balance the discriminatory effects of cutting off that money with what is alleged to be the discriminatory effect of requiring cosigners.

What is the experience of the State of Texas with regard to cosigners? The coordinating board has not tried to mandate cosigners but in the instances where those institutions have had cosigners on the loan they have had an easier time getting their money. The principal on the note, the principal on the indebtedness, was more diligent about trying to pay his debt because his cosigner friend was standing there with him.

It is said that black students then will have a tougher time getting cosigners than any other students. Maybe they will. I certainly would not stand here and say that they will not. But what are the choices that these students are faced with? To have access to the money at all or to not be able to receive the money because they cannot find a cosigner? Either way you take it they do not get the money and they are denied an education for reasons of finances, no matter what kind of reason or rationale that you can apply to it.

What else has been said in opposition to this amendment? That an administrative nightmare would be created because somebody would try to figure out through a computer operation the default rate.

The Pickle amendment says if the default rate reaches 10 percent then HEW may—underscore "may"—require cosigners.

Where is the administrative morass in an institution trying to figure out whether it has a default rate of 10 percent?

The CHAIRMAN. The time of the gentlewoman has expired.

(By unanimous consent, Ms. JORDAN was allowed to proceed for 2 additional minutes.)

Miss JORDAN. Where is that administrative morass? Where is that nightmare?

The institutions affected most directly in a positive way by the amendment offered by the gentleman from Texas, Mr. PICKLE, are those institutions who are a part of this equal educational opportunity organization. They are the ones. The presidents of those institutions say "we would like to try the Pickle amendment because we know that our students must have this money and we are willing, as best we can, to do whatever we can. We are not asking to be forgiven of money legitimately owed the Government of the United States."

Mr. Chairman, I now yield to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I thank my distinguished colleague, the gentleman from Texas (Ms. JORDAN) for yielding to me and I would like to go back to the second argument the gentlewoman advanced.

Miss JORDAN. Please do.

Mr. DELLUMS. The gentlewoman from Texas argues very eloquently and very persuasively but my point is simply this—there is one point that the gentlewoman from Texas and I are in total agreement on, that is that the introduction, or even the potential, of cosponsorship or cosigners, introduces the possibility of abuse. We at least agree on that because we do not have the answer. We agree that it produces the possibility of abuse.

My question is the same question that I directed to the author of the amendment, the gentleman from Texas (Mr. PICKLE): Could we not best handle the situation the way the Senate presently is handling it, by raising the default rate to over 15 percent after 2 consecutive years, provide a mechanism that would allow the rules of hardship to be denominated, to have a waiver, and also provide a system to bring down the default rate rather than introduce this potentially dangerous effect of cosponsorship?

The CHAIRMAN. The time of the gentlewoman has expired.

(At the request of Mr. DELLUMS, and by unanimous consent, Miss JORDAN was allowed to proceed for 2 additional minutes.)

Miss JORDAN. I can respond to the gentleman from California in this vein: This lady from Texas must function with the tools available at the moment. The Senate tool is not available at the moment.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentlewoman yield?

Miss JORDAN. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. I thank the distinguished gentlewoman for yielding.

I merely wanted to clear up something that she stated. It was the gentleman from Maryland who referred to an administrative nightmare developing. I had no reference to a school merely sitting down and finding out what its default percentage is. That is no problem at all. That is no administrative nightmare. The problem lies in that a national listing of all of those schools would have to be prepared. Then there must be a notification to the 20,000 lending institutions around this country. That is where the nightmarish aspect of the problem develops, in my opinion. I merely wanted to clear that up for the gentlewoman. It is not the individual institution having a problem of determining its own default rate; rather, it is at the national level once those schools that are in default above 10 percent are listed, once that list is determined, then that list must go to every lending institution which may or may not participate in the program.

Miss JORDAN. The gentleman from Maryland does not suggest to me that for some reason there is some inability nationally to make the necessary computations once this initial default rate is known?

Mr. MITCHELL of Maryland. No, no. That is not the issue at all.

Miss JORDAN. I still miss the point.

Mr. MITCHELL of Maryland. If the gentlewoman would yield further, that is why I stood up to try to clear it up.

Miss JORDAN. It is still not clear.

Mr. MITCHELL of Maryland. It occurs because once the listing is compiled at the national level, then the Office of Education, HEW, or somebody—if they are going to require consignors, must send that listing to the lending institutions? There are at least 20,000 such lending institutions in the country. The lending institutions then have to go internally into their structure and set up whatever mechanism is required concerning a particular institution or particular institutions on the list. That, in my opinion, becomes a nightmare; if not a nightmare, an awfully bad dream.

I thank the gentlewoman for yielding.

Miss JORDAN. I thank the gentleman.

Mr. DELLUMS. Mr. Chairman, will the gentlewoman yield?

Miss JORDAN. I yield to the gentleman from California.

Mr. DELLUMS. I thank my distinguished colleague for yielding. I appreciate her response, but it was not responsive to my question.

Miss JORDAN. It certainly was.

Mr. DELLUMS. My question was at a point in time when we are in the Committee of the Whole for the purposes of debating and amending a bill, and an amendment is before us, my simple question to the gentlewoman is, Should this particular amendment be an amendment adopted, or should the gentlewoman or the gentleman from Texas offer an amendment similar to a provision that is in the Senate bill? I understand that we must function on the basis of what is before us, but my question to the gentlewoman is, We often enact legislation and this is the moment we should be amending it. I am simply saying the amendment offered by the gentleman from Texas raises at least the spectre of a problem, and another amendment could handle it better, it seems to me.

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. O'HARA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me very briefly, not taking the 5 minutes, make the points that I think are essential to this amendment. First, as has been stated before, the amendment does not help the situation in Texas. Whatever is going to happen in Texas is going to happen whether or not we adopt this amendment.

Second, the amendment permits lenders to require cosigners if the student is attending a school that has a default rate of 10 percent.

For the most part, as the gentleman from Maryland pointed out, the ones from whom we could require cosigners would be students who attend community colleges and attend predominantly black institutions. They are the very ones who would have to get cosigners. So as a practical matter lenders will deny loans to a lot of kids, because they will not be able to get cosigners.

Third, and this is the point I think is absolutely essential, we would have to make up a list. We would have to make up a list showing the "default rate" of every school in America. And it would not be easy to make it up. Except in a few cases, it is not the school which makes the loans, and not the school which has the default rate. It is the lender who has the default rate, and a normal lender may lend to kids going to scores of different schools. So, the default rate that may apply to a given lender, because of that lender's good or bad loan origination practices will wind up being applied, largely by accident to the school a kid happens to take the loan proceeds to.

And then once we have got that list together we would have to circulate it to every lender in America, and here the lender sits and he has got a list of schools with high default rates. What does he do with that list? He uses it to decide whether or not he is going to give a loan to any kids going to a particular school. And as a practical matter those are the kids that are not going to get loans, cosigner or no cosigner.

So I have great sympathy with the problem the State of Texas has encountered. I have told the gentleman from Texas I will work with him. I will sit down and talk with him and with the Office of Education and I will do everything I can, Mr. Chairman, as chairman of the subcommittee to help the gentleman. But I am not going to support his amendment, because I think his amendment is going to do more harm than it does good. I hate to say that, because I know the amendment is offered with the best intention in the world.

Mr. PICKLE. Mr. Chairman, if the gentleman will yield, I do appreciate the gentleman's attitude and I know he does want to be helpful. Nevertheless it is one thing for the gentleman to tell me he will try to help me and he understands, but it is another thing for the Office of Education to come in with an ax and cut off our loans. So it is good to know folks love me but I am going to pass away anyway, because the Office of Education has said this is what they are going to do.

I want to make it clear I am not trying to say that these institutions have done it the right way and have run a good program. At this time, the fact is they cannot change overnight but HEW will ruin several schools if it continues the present course.

Mr. O'HARA. I will say to the gentleman that I will be here next week and the gentleman will be here next week and the Office of Education will be here next week, and I will be glad to sit down with the gentleman from Texas and the gentlewoman from Texas (Ms. JORDAN) and try to work out this problem in a way that will bring equity, but I cannot support the gentleman's amendment.

I ask that the amendment offered by the gentleman from Texas be rejected.

Mr. SKUBITZ. Mr. Chairman, I oppose the gentleman from Texas' amendment and I do so because of the serious effect it would have on college students who do not happen to be from his State.

It is the gentleman's contention that poorer students will be handicapped, because of the difficulty they would have—if his amendment is not accepted by this body.

While passage of his amendment would, no doubt, assist some colleges in his State, because certain institutions have not vigorously pursued repayment of guaranteed loans—those who would be affected the greatest are needy students which the gentleman contends will be assisted by passage of his amendment.

Presently, approximately 40 percent of the borrowers of federally insured student loans come from families whose incomes are below $6,000, and 30 percent are from families with incomes between $6,000 to $12,000. The evidence clearly demonstrates that poorer students have more difficulty in obtaining cosigners for loans and as such—would be placed with another obstacle in their path—before they could obtain a college education.

Mr. Chairman, the Education Subcommittees of this body and the other—along with the Office of Education, have opposed removing this bar against cosigners, because of the potential discrimination it would have on needy students. We should unite to defeat this amendment for the benefit of college students throughout the United States.

It is my belief that every boy and girl is entitled to the right to secure an education—and if the taxpayers are willing to grant that right—the taxpayers are also entitled to repayment after the student graduates. I might look more kindly toward the gentleman from Texas' amendment—in fact, I would be inclined to require cosigning by the parents of the applicants or some other cosigner in some cases—if it were not for the proviso in this bill stopping any student for 5 years after graduation from resorting to bankruptcy or other methods to defeat payment of his honest debts.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. PICKLE).

The question was taken; and on a division (demanded by Mr. PICKLE) there were—ayes 26, noes 28.

RECORDED VOTE

Mr. PICKLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 161, noes 231, not voting 39, as follows:

[Roll No. 655]

AYES—161

Adams
Alexander
Archer
Armstrong
Ashbrook
Aspin
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Boggs
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Cederberg
Clancy
Cohen
Collins, Tex.
D'Amours
Daniel, Dan
Derrick
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
du Pont
Eckhardt
Edwards, Ala.
Emery
English
Eshleman
Evans, Colo.
Evans, Ind.
Fascell
Fenwick
Findley
Fish
Fisher
Flowers
Flynt
Forsythe
Frey
Fuqua
Gonzalez
Goodling
Grassley
Haley

Hall, Tex.
Hamilton
Hammerschmidt
Hansen
Harsha
Hechler, W. Va.
Heckler, Mass.
Henderson
Hightower
Hillis
Holt
Hubbard
Hughes
Hungate
Hutchinson
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jordan
Kasten
Kazen
Kemp
Ketchum
Keys
Kindness
Krueger
Latta
Lent
Levitas
Long, Md.
Lott
Lujan
McClory
McCollister
McDonald
McKay
Mahon
Mann
Matsunaga
Meyner
Michel
Milford
Miller, Ohio
Minish
Montgomery
Moorhead, Calif.
Mottl
Myers, Pa.

Natcher
Nichols
O'Brien
Ottinger
Passman
Paul
Pickle
Pike
Railsback
Randall
Rinaldo
Roberts
Robinson
Rogers
Roncalio
Roush
Rousselot
Runnels
Ryan
Santini
Satterfield
Schneebeli
Schulze
Sebelius
Sharp
Shriver
Shuster
Sikes
Slack
Snyder
Spence
Steed
Stephens
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thornton
Ullman
Wampler
White
Whitehurst
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wydler
Young, Fla.
Young, Tex.

NOES—231

Abdnor
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
AuCoin
Baldus

Baucus
Beard, R.I.
Bedell
Bell
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas

Brodhead
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr

Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Calif.
Eilberg
Erlenborn
Fary
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frenzel
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gradison
Gude
Guyer
Hagedorn
Hall, Ill.
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hefner
Helstoski
Hicks
Holtzman

Horton
Howard
Hyde
Jeffords
Johnson, Colo.
Kastenmeier
Kelly
Koch
Krebs
LaFalce
Lagomarsino
Landrum
Leggett
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKinney
Madden
Madigan
Maguire
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis

Peyser
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rodino
Roe
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
St Germain
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Shipley
Simon
Skubitz
Smith, Nebr.
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stokes
Stratton
Studds
Thompson
Thone
Traxler
Treen
Tsongas
Udall
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Weaver
Whalen
Wiggins
Wilson, C. H.
Wirth
Wolff
Yates
Yatron
Zablocki
Zeferetti

NOT VOTING—39

Abzug
Badillo
Brown, Calif.
Chappell
Chisholm
Conlan
Daniel, R. W.
de la Garza
Esch
Evins, Tenn.
Green
Hays, Ohio
Hébert
Heinz

Hinshaw
Holland
Howe
Jones, Okla.
Jones, Tenn.
Karth
Lehman
Lundine
Martin
Mosher
Neal
Poage
Riegle
Risenhoover

Russo
Sisk
Smith, Iowa
Stanton, James V.
Steelman
Steiger, Ariz.
Stuckey
Waxman
Wylie
Young, Alaska
Young, Ga.

The Clerk announced the following pairs:

Mr. de la Garza for, with Ms. Abzug against.

Mr. Chappell for, with Mr. Brown of California against.

Mr. Hébert for, with Mr. Badillo against.

Mr. Stuckey for, with Mrs. Chisholm against.

Mrs. SMITH of Nebraska and Messrs. HORTON, NIX, and FOUNTAIN changed their vote from "aye" to "no."

Mr. SYMMS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. O'HARA

Mr. O'HARA. Mr. Chairman, I offer two technical amendments, and I ask unanimous consent that they be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. O'HARA: Page 87, line 14, strike out "not".

Page 87, strike out line 19 and everything that follows through line 15 on page 88 and redesignate the following sections accordingly.

The CHAIRMAN. Is there objection to to the request of the gentleman from Michigan that the amendments be considered en bloc?

There was no objection.

Mr. O'HARA. Mr. Chairman, these are technical amendments that have been agreed upon by both sides.

The first amendment simply corrects an error in syntax on page 87. The second amendment strikes out unnecessary provisions of section 3 of the bill which were taken care of in earlier legislation but which created one of the technical problems that we had with the Committee on the Budget.

Mr. Chairman, I do not believe there is any objection to the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Michigan (Mr. O'HARA).

The amendments were agreed to.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the last word.

Mr. MYERS of Indiana. Mr. Chairman, I would like to ask the gentleman from Michigan (Mr. O'HARA), the chairman of the subcommittee, a question about qualifying banks.

I learned that certain banks have been turned down by the U.S. Office of Education, which said that the banks have to have experience in lending before they can qualify to make these loans. I see nothing in the legislation to the effect that banks have to qualify. I see that certain institutions have to qualify as far as education is concerned.

Mr. Chairman, I would appreciate it if the gentleman from Michigan (Mr. O'HARA) would respond to my question.

Mr. O'HARA. Mr. Chairman, if the gentleman will yield, there is nothing in the existing legislation or in the proposed amendments to it which sets any such qualifications for the participation by eligible lenders in the program. The present law provides that an eligible lender is: "an eligible institution, an agency or instrumentality of a State, or a financial or credit institution (including an insurance company) which is subject to examination and supervision by an agency of the United States or of any State, or a pension fund approved by the Commissioner for this purpose."

The bill modifies this definition to read as follows:

(g) (1) The term "eligible lender" means—

(A) a National or State chartered commercial bank, a mutual savings bank, a savings and loan association, or a credit union which—

(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part;

(B) a pension fund as defined in the Employees Retirement Income Security Act;

(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

(D) in any State, a single agency of the State or a single private, nonprofit agency designated by the State which has signed an agreement pursuant to section 433(a);

(E) an eligible educational institution which meets the requirements of paragraph (2) of this subsection and which has signed an agreement pursuant to section 433(b); and

(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or an agency of any State functioning as a secondary market.

(2) To be an eligible lender under this part, an eligible educational institution—

(A) must employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution;

(B) must not be a home study school; and

(C) must meet additional criteria established by the Commissioner.

So, neither under present law nor under the proposed amendment is there any requirement of lending experience before an otherwise eligible commercial lender can participate.

Our new definition does bar the participation of certain special-purpose banks whose sole or primary consumer credit function is the holding or making of student loans, but this has no relationship to the kind of experience criterion which the gentleman describes.

Under section 438 of present law, which was reenacted in a somewhat expanded fashion as a part of the general higher education amendments bill, H.R. 12851, the Commissioner may prescribe regulations for the limitation, suspension, or termination of the participation in the program of an eligible educational institution. But I understand the gentleman's question to involve a commercial lending institution, and I do not know on what basis the Office of Education has made the ruling to which the gentleman refers. If the gentleman would convey the full details of this incident to me after the debate, I will be glad to discuss it with the Office of Education to ascertain the basis for the ruling.

Mr. MYERS of Indiana. I thank the Chairman.

Mr. CARR. Mr. Chairman, I am speaking in support of H.R. 14070, the guaranteed student loan program bill.

Under today's economic circumstances, there is a distinct need for continued, and in many cases increased, Federal benefits and assistance programs. Almost all businesses and industries have felt the effects of inflation, but few as much as our institutions of higher learning. Tuition and fees have nearly doubled for our public institutions in the past decade. Student loans have become a necessity for many people to be able to afford a college education. Because Michigan State University is in my district, I am well aware of these facts. In fiscal year 1976 alone, approximately 10 percent, or 4,121 of Michigan State's nearly 42,000 students, would have been unable to attend that school if it had not been for loans guaranteed to them through this program.

Though immediate eligibility for these loans may have declined, the need has not diminished; if anything it has increased. The Consumer Price Index has risen dramatically—over 70 percent since 1965 when the income level for automatic eligibility was set at $15,000. To serve the families that were intended to be served in 1965 we must now raise the eligibility to $25,000.

We must compensate for this inflation by raising the income limits to the more reasonable levels recommended in the bill.

In some parts of the country, it has become exceedingly difficult for students to secure a loan from a local banker. There are many reasons for this reluctance on the part of the bankers to guarantee loans to students, not the least of which is the relatively high default rate on these loans. Most often these defaults are the result of a misunderstanding on the borrower's part and H.R. 14070 attempts to deal with this problem with a number of provisions designed to clarify the terms and procedures involved in such a loan.

Education of our people is clearly beneficial to the whole of our society and the opportunity to obtain an education is and has been an issue of high priority. Accordingly, we must extend the current program and make necessary adjustments to maximize its service to students and minimize its abuse potential. H.R. 14070 addresses itself to these concerns.

I urge support for the passage of this bill.

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 14070, a bill to extend and amend provisions of the Higher Education Act of 1965 in relation to the guaranteed student loan program. It is imperative that students be given every opportunity to secure a quality education. In today's uncertain and hostile economy, the need for loans to finance education has increased dramatically since this provision was first introduced in 1965. Accordingly, support for the amending and extension of the original student loan program is in keeping with a philosophy of maximizing the convenience and availability of loans for education to as many students as possible.

This bill is designed to reduce the abuse of student loans by schools, financiers, and by the students themselves. It is important not to lose sight of the main purpose of the student loan program, increased opportunities for those who might otherwise be unable to afford a college education. This bill serves that purpose admirably.

H.R. 14070 encourages the States to establish guarantee agencies to reduce the rate of loan default. Currently, State defaults total less than half of those reported by the Federal Government and such encouragement would prove beneficial to all involved—States, the Federal Government, and the students themselves. In addition, this bill establishes limitations on institutional lending, in the hope that such limitation would alleviate the inflationary effects of large-scale lending.

It is a prime responsibility of legislators to ease any burdens which weigh heavily upon our citizens, and the prevention of an education due to financial problems or unavailability of funds is a burden which has plagued many of our young people. The eradication of this obstacle will make it a reality for all students, regardless of financial status, to share an equal opportunity—the opportunity to learn, and at a later date, to responsibly and conveniently determine the terms of repayment of their student financial assistance.

Accordingly, Mr. Chairman, I add my voice in support of H.R. 14070.

Mr. BIAGGI. Mr. Chairman, I rise to indicate my full support of H.R. 14070, the Guaranteed Student Loan Amendments of 1976. As a member of the Post Secondary Education Subcommittee which drew up this legislation, I urge its passage today by the House.

This important legislation will continue and modify the guaranteed student loan program through 1980. This program, which has been in operation since 1965 and which has provided some 8 million students with an opportunity to pursue higher education, is undisputably a good one. However, the high incidence of default on student loans experienced within the past 11 years, threatens the continued success of the program. This bill recognizes these problems and provides new, important safeguards to reduce losses incurred by the Federal Government as a result of defaults. The bill requires a student borrowing funds under the program, to provide documentation that he or she was refused by a commercial lender. This will help insure that other loan sources have been explored by the student. In addition, the payment of loan proceeds must be made by check and endorsed by the student. Finally, one of the more controversial provisions of the bill which I fully support, prohibits the discharge of a guaranteed student loan debt by bankruptcy for 5 years after the first payment becomes due. It should be noted that this provision also contains exemptions in those cases where failure to discharge would create a hardship on the debtor or his or her family.

There are two provisions of this legislation which I would like to focus special attention on. The first is language I cosponsored, contained in an amendment to the bill providing the 26 States which have their own guaranteed loan programs, with 100 percent Federal reinsurance, rather than the 80 percent provided under current law. All a State must do to qualify for this 100-percent reinsurance is maintain their default level on loans at or below 7 percent. If the figure increases, the reinsurance rate will correspondingly decrease to 90 percent. Throughout the past decade that the GSLP has been operative, the States which have their own guaranteed loan programs, have been forced to absorb 20 percent more of their default losses than those States which do not offer such a State program. This is so, despite the fact that State guarantee loan agencies have a lower default rate than States without such agencies. It is time we corrected such an injustice, and this legislation will achieve the desired goal.

Finally, I wish to indicate my very strong support for the provision in H.R. 14070 which would raise the maximum family income level for a student to automatically qualify for 7 percent interest subsidy payments while enrolled in school. The level set at $15,000 in 1965 would be increased to $20,000 in fiscal year 1977 and $25,000 in fiscal year 1978. These increases are necessary to offset the effects of a decade of unchecked inflation, which has reduced the real income of most Americans. The combination of reduced, real income values and rapidly rising education costs, especially in the private sector. necessitate this increase in the income level requirements. I consider retention of this amendment to be critical to the bill for its inclusion will guarantee more than 90 percent of the families in this Nation, access to student loans.

Problems in the GSLP have received an undue amount of publicity when compared with the overall worth and success of the program. This legislation attacks the basic problems in the program head-on and offers some real reforms. The GSLP provides more than just funds for an individual's education. It is more importantly a sound investment in the future of this nation. Americans are among the best educated people in the world and this is in part due to the opportunities which are afforded them. In the past 11 years, the GSLP has enabled more than 8 million students to take advantage of educational opportunities. These are the people who will form the cornerstone of the Nation's future. Millions of others await their chance. Passage of this legislation will be a clear affirmation by this Congress of our support for providing educational opportunities to all of our students, not only so that they may better themselves, but also, so that they may improve this Nation.

I would like to congratulate my colleague and chairman, JAMES O'HARA whose tireless efforts on behalf of this bill are most commendable. Three long years of work have been spent on developing this legislation and a fine bill has emerged which enjoys wide support within the educational community. Its passage would be a personal tribute to JIM O'HARA for his many years as a champion of improving educational opportunities for all Americans. I urge your support.

Mr. FRENZEL. Mr. Chairman, I rise today in support of the guaranteed student loan amendments. I feel the Committee on Education and Labor should be commended for maximizing its service to students while minimizing the possibilities of abuse, a badly needed reform.

I am pleased that incentives have been added to encourage the establishment of State agencies. Lending institutions will benefit too from the added provision mandating the Office of Education to promptly pay the special allowances which are now tied to the interest rate on Treasury bills. I cosponsored a similar bill.

The bankruptcy provision requiring students to wait 5 years after the repayment period begins, will help to curb these abuses.

I will support the change to increase the adjusted family income limits to $25,000. I have introduced tax legislation to give a tax break to medium income families for higher education, but unfortunately this incentive is not available yet. Generally, I like tax incentives better than a loan program, but I believe middle-income families too, need some kind of a relief from the rising costs of higher education, particularly those families with more than one child in college. This change would be more effective if it insisted that the student be working while in school.

I urge my colleagues to support this bill and to oppose any amendments to decrease the adjusted family income limits and to oppose amendments to delete the 5-year bankruptcy provision.

Mrs. MEYNER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) and urge my colleagues to join me in that dissent. H.R. 14070 provides for an increase in the adjusted family income level below which a student automatically qualifies for an interest subsidy without individual need analysis. The subsidy of the 7 percent interest rate for a portion of the in-school and deferral period offers an additional relief to those students who are most in need of assistance. The amendment to strike this provision is, at this time, ill advised.

The gentleman contends that the increase of the eligibility level from $15,000 to $25,000 over a 2-year period would render the special allowance and subsidy systems a virtually universal grant program. He argues that the present figure provides, in actuality, subsidies to students whose gross family income is $20,000; and that the proposed $25,000 level will represent a gross income as high as $31,000. This, he states, will accommodate 90 percent of our population and, presumably, provide full subsidies to a proportionate number of students.

Mr. Chairman, the Congress has consistently addressed itself to the problems of inflation and cost-of-living increases, and reaffirmed its belief in providing for adequate adjustments to benefits programs to compensate for such economic conditions. The students of today are faced with the rapidly rising cost of both public and private education. This, coupled with the declining purchasing power of the dollar, has placed an especially heavy strain on the students of middle-income families. Unlike those with low-income backgrounds, these students often do not qualify for scholarship grants and must finance their education through loans. In light of the contributing economic factors, the increase of the adjusted income level would result in the service of the same economic class of students that section 428(a)(3) of the Higher Education Act was originally intended to aid. We owe these students no less than to keep pace with the relevant economic conditions in the same manner that we have compensated veterans, social security recipients, and Federal annuitants.

I realize fully that the cost of the subsidy program is considerable; nonetheless, it is not prohibitive. The subsidy and special allowance payments comprise 70 percent of the fiscal year 1977 authorization of H.R. 14070. Furthermore, this $420 million price-tag will rise to $1.157 billion in fiscal year 1981.

I strongly believe that by providing qualified students vehicles by which to obtain postsecondary education, we are contributing to the health of the individual and to the health of the economy. It is our duty and our privilege to aid these young people. However, I am finding it difficult, as I am sure everyone in this chamber is, to reconcile my desire to provide qualified students with financial assistance without adding an excessive burden to the already overtaxed American public. An adjustment in the program from one of direct subsidies to one of extended loans would serve the interests of both the students and the taxpayers. If students were to repay the Government a portion of the subsidized interest after he or she repayed the principal to the lender, continuation of the program at the necessary pace-keeping eligibility level could be accomplished at a significantly lower cost. A formula constructed along these guidelines would provide added assistance to the student through the temporary assumption of the full 7 percent interest rate, and would provide financial flexibility through the continual recycling of these funds.

Mr. Chairman, I urge the Members of the House to oppose the amendment offered by the gentleman from Illinois and to vote to retain the increase in the adjusted family income eligibility level. We owe these students adequate compensation for the economic factors that they must contend with as they strive to finance their education. Furthermore, I urge the Committee on Education and Labor to consider alternate methods of financing this needed assistance program.

Mr. RIEGLE. Mr. Chairman, today we are considering a bill (H.R. 14070) to extend the guaranteed student loan program through fiscal 1980. Since this program to make loans available to students so that they could pay for their education at colleges and vocational schools began in 1965, over 8 million students have borrowed over $8 billion and the program has become an important part of our financial aid program.

Because many students from middle class families are generally precluded from obtaining grants due to family income, this guaranteed student loan program is their major source of financial assistance to continue their education. This year the guaranteed student loan program will enable more than 1 million loans, totaling nearly $1.5 billion to be made to students; and hopefully to alleviate the growing burden of college tuition for middle class families.

I strongly support this bill which contains many improvements in the program's structure and administration. Among these is one provision I would like to specifically mention—the proposed increase in the income level for automatic eligibility for interest subsidy payments.

No costs are skyrocketing faster in America than those for higher education and I expect this trend to continue. Between school year 1964–65 and school year 1974–75, tuition and fees charged by public institutions rose by 98.4 percent, those of nonpublic institutions rose by 118.8 percent. Unfortunately, family incomes have not kept pace with this rate of inflation. Under the current program, if a student is from a family with an adjusted family income of $15,000 or less, that student automatically qualifies for interest subsidy benefits. H.R. 14070 raises that income factor to $20,000 on October 1, 1976 and to $25,000 on October 1, 1977. The $15,000 figure has been in the law since 1965 and I believe the proposed increases should have been made before now and will oppose any attempt to reduce the amount.

Passage of this bill is just one step toward making quality education available to all individuals and I have supported other measures including providing tax credits for higher education expenses. I believe we must work to change the spending priorities of this Government because I strongly believe that no investment will pay greater dividends for America than money spent on the education of our young people.

Mr. LEGGETT. Mr. Chairman, the bill before us, H.R. 14070, requires us to examine some important educational issues. Does our system of higher education need a program of federally guaranteed loans to students? If so, on what terms should they be administered?

To some, this sort of program is an unmixed blessing. We should ask only how we can loan more money to more students. To others, the loan program is the bane of the student's existence, making him the victim, not the beneficiary, of our endeavors.

In my view, such a program falls between these two extremes. It is not an unmixed blessing, but it is a necessity and we should work to improve it.

The American system of higher education is predicated on maximizing opportunities for young people who wish to achieve an education and will work to do so. Grant assistance and work programs cannot now furnish the dollars needed to provide those opportunities, and there is no prospect that such programs will do so in the foreseeable future. I agree with our committee that, with today's economic environment and educational policy assumptions, loans are still needed.

H.R. 14070 would extend the guaranteed student loan program through fiscal year 1980. It would also make a number of changes in the program designed to improve services to students and cut down on loan defaults and other abuses.

Some of the problems of the program appear to stem from its dual nature. In many areas, it is administered by State agencies, in others directly by the Office of Education.

Twenty-six States have created agencies to guarantee lenders against losses incurred in making educational loans. The Federal role is limited to reinsuring losses of State agencies. But in the other States, the Office of Education serves as the direct guarantee agency, for loans from financial and educational institutions, under the Federal insured student loan program—FISL is also available in States with their own agencies. One of the major differences between the two is that OE insures State agencies for 80 percent of the losses they reimburse, but under FISL the lender enjoys a 100 percent guarantee.

I continue to believe, as does our committee, that the State guarantee agency is the better way to administer this program. While FISL should not be terminated, it has suffered from greater abuses, such as a higher default rate, and can be justified only where the States have failed to create their own agencies.

One of the major emphases of H.R. 14070 is to further this end by giving the States more incentives to run their own programs. It provides 100 percent reimbursement of loan losses for State agencies equalizing them with the FISL program. To retain the incentive for high quality State performance however if a State's reimbursement rate goes above 7 percent of loans in repayment status then OE will pay only 90 percent of its losses for the remainder of the year. The rate would revert to 100 percent at the beginning of the next year.

A related change would allow the States to retain up to 30 percent of their collections on defaulted loans to improve their collection systems. And they would also be given an allowance of up to 1 percent of the loan principal guaranteed in a year to cover administrative costs. These provisions should give States much stronger incentives to create their own agencies and get into this program.

This bill makes a number of other important changes in the loan program. It increases both loan limits and the income eligibility level for interest benefits. It also limits but does not prohibit, educational institutions from acting in the role of lenders. And it improves the mechanism for setting the special allowance for lenders, which has been a major bottleneck in the program.

There is one other aspect of the bill, however which is of particular concern to me. That is the matter of defaults in general, and their discharge in bankruptcy in particular. The problem posed by defaulting students is, of course, of real concern to all of us. And the bill includes a number of valuable provisions which should help to deal with the default issue.

One of those provisions, however, goes beyond what I and many other Members think is necessary. Section 439A, added to the bill by amendment in full committee, would prohibit the discharge in bankruptcy of student loans during the first 5 years of the repayment period.

It is true that the default rate is too high in this program, but bankruptcies represent only a small part of it—on the order of 4 percent of total default claims. Furthermore, there is no evidence that students are behaving differently than other borrowers in their use of this device. With our Judiciary Committee considering comprehensive revisions of the bankruptcy laws, piecemeal changes appear unwise unless there are compelling reasons for them.

I do not believe we are in possession

of the facts with which to decide this particular case. That is why I will support the Dodd amendment to strike this section and substitute language instructing GAO to study the question of how student behavior compares with that of other borrowers.

I favor strong provisions to cut down on loan defaults. And I am certainly not against efforts to stop unwarranted use of bankruptcy. But let us have the facts before we act.

In any event, our reservations over this section should not lead us to withdraw support from the bill as a whole. The student loan program is an essential ingredient in America's unique system of comprehensive educational opportunity. I urge my colleagues to support it.

Mr. GUDE. Mr. Chairman, before we take the final vote on this bill I would like to urge my colleagues strong support because loans are now the predominant form of post-secondary financial aid. As I stated to the chairman last evening when we began debate on this bill, it was with great wisdom that the committee saw fit to consider the guaranteed student loan program separately from the other financial assistance programs. In this way, the committee was able to come to terms with many serious problems which had previously stymied increased loan availability.

This piece of legislation encourages the investment of private capital for student loans by decreasing the amount of Government redtape which previously plagued the program.

Once again, I am especially pleased to note that the committee under Mr. O'Hara's guidance included in the bill my legislation to require the Office of Education to pay interest on claims to the lenders of student loans in not more than 30 days. Presently, there is no statutory time limit imposed on OE.

In addition to the 30-day proviso, the committee added a stipulation that when interest to the lender is not paid on time the Office of Education will be required to pay an extra penalty equal to the amount of money the bank would have received had the money been in hand.

But this $15,000 level has become unrealistic in recent years as inflation has increased and the value of the dollar declined. Consequently, I am pleased that the amendment to delete the increases in deferment levels to $20,000 in fiscal year 1977 and again to $25,000 by fiscal year 1978 was rejected.

In another important change, the bill requires the Commissioner to develop and carry out an active campaign to encourage States to establish their own State loan agencies. So far, many States have opted with astounding success to take from OE the responsibility for administering their student loan programs. For example, the Maryland Higher Education Loan Corp. has accomplished a great deal by smoothing over the roadblocks which frequently discourage and infuriate many participating banks, and has worked successfully to insure greater responsiveness to students in financial need.

In addition, the Commissioner will be required to collect and publish precise and accurate data concerning loan volume and default rates. This data can then be sued to study problems of the GSL program. In the past, the Office of Education's recordkeeping system has not been up to par. It has not been keeping the necessary data to provide a solid basis for which to study the GSL program.

I am eager to support such a timely piece of legislation which will further strengthen our GSL program and help provide increased access to higher education for our youth—certainly our greatest potential assets.

Existing statutes lack effective enforcement measures to cut through redtape delays in OE's payment of interest due on student loans. This certainly is in line with the intent of my bill which sought to make OE more accountable in their obligations to the lenders and thereby spark confidence and greater participation by the banks.

Obviously, in a student financial aid system which relies on the voluntary participation of the banks in order to work, it is essential that banks receive their interest on time.

Each year, participating banks must decide whether to continue to allocate money for the GSL program. It is clear that when a bank experiences losses due to OE's delays and redtape, it is not likely to extend or expand that program.

One bank in my district had over $100,000 in interest payments due in June 1975. Payment from OE was not received until well into November some 5 months later. This same bank is currently experiencing a similar delay. This is a textbook case of redtape thwarting a good program.

Furthermore, Mr. O'Hara's bill introduces more realistic and equitable guidelines by which a student applicant is judged to be eligible for interest deferment. From the standards set in 1965, only students whose adjusted family income amounted to $15,000 or less were eligible to have their interest paid by Federal subsidy as long as the student remained in school.

With these several improvements this legislation goes a long way to strengthening good post-secondary education aid in the United States.

The CHAIRMAN. Are there further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. Duncan of Oregon, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 14070) to extend and amend part B of title IV of the Higher Education Act of 1965, and for other purposes, pursuant to House Resolution 1433, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adoped by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken.

RECORDED VOTE

Mr. O'HARA. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 391, noes 3, not voting 37, as follows:

[Roll No. 656]

AYES—391

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Clay
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Frenzel
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Tenn.
Lloyd, Calif.
Long, La.
Long, Md.
Lott

Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Mathis
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Prichard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NOES—3

Kelly
McDonald
Paul

NOT VOTING—37

Abzug
Badillo
Chappell
Chisholm
Conlan
Daniel, R. W.
de la Garza
Esch
Evins, Tenn.
Green
Hays, Ohio
Hébert
Heinz
Hinshaw
Howe
Jones, Okla.
Jones, Tenn.
Karth
Lehman
McEwen
Martin
Mazzoli
Mosher
Neal
Poage
Riegle
Risenhoover
Russo
Sisk
Smith, Iowa
Stanton, James V.
Steelman
Steiger, Ariz.
Waxman
Wylie
Young, Alaska
Young, Ga.

The Clerk announced the following pairs:

Mr. Chappell with Mr. Evins of Tennessee.
Mrs. Chisholm with Mr. Conlan.
Mr. Russo with Mr. Heinz.
Mr. Hébert with Mr. Riegle.
Ms. Abzug with Mr. Howe.
Mr. Lehman with Robert W. Daniel, Jr.
Mr. Sisk with Mr. Esch.
Mr. Badillo with Mr. Young of Alaska.
Mr. Smith of Iowa with Mr. Wylie.
Mr. Jones of Tennessee with Mr. Steiger of Arizona.
Mr. Jones of Oklahoma with Mr. Hays of Ohio.
Mr. de la Garza with Mr. Martin.
Mr. Green with Mr. Risenhoover.
Mr. Young of Georgia with Mr. James V. Stanton.
Mr. Waxman with Mr. McEwen.
Mr. Mazzoli with Mr. Mosher.
Mr. Neal with Mr. Steelman.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PUBLIC WORKS EMPLOYMENT APPROPRIATIONS ACT

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1490 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1490

> *Resolved*, That during the consideration of the bill (H.R. 15194) making appropriations for public works employment for the period ending September 30, 1977, and for other purposes, all points of order against said bill, except for points of order solely against the proviso on page 2 lines 11 through 17, and the proviso on page 3, lines 19 through 21, for failure to comply with the provisions of clause 2, rule XXI, are hereby waived: *Provided*, That no amendment to said bill shall be in order in the House or in the Committee of the Whole except germane amendments relating to appropriations authorized in the Public Works Employment Act of 1976 (Public Law 94-369).

The SPEAKER. The gentleman from Texas (Mr. Young) is recognized for 1 hour.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Ohio (Mr. Latta), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1490 provides that during the consideration of H.R. 15194, a bill making appropriations for public works employment, all points of order against the bill, except for points of order against two provisions therein, for failure to comply with the provisions of clause 2, rule XXI, are waived. Clause 2, rule XXI prohibits unauthorized appropriations and legislation in a general appropriation bill. The Committee on Rules did not waive points of order which may lie against the proviso on page 2, lines 11 to 17, nor did it waive points of order against the proviso on page 3, lines 19 to 21. The first proviso relates to the employment of individuals in the area where the public works project is being constructed, and the second relates to funds which shall be allocated to States. Points of order may thus be raised against either of those two provisions.

In addition, the rule restricts amendments to those which are germane and which relate to appropriations authorized in the Public Works Employment Act of 1976. The test of germaneness will, of course, be the relationship between the bill, H.R. 15194, and the proposed amendment. The restriction was requested because the bill is a general appropriation bill and the Committee on Appropriations was concerned that, without the restriction, amendments not relating to the Public Works Employment Act might be in order. The restriction was drafted so that both substantive amendments and motions to strike would be in order.

Mr. Speaker, H.R. 15194 provides a total of $3.95 billion in new budget authority to carry out the provisions of the Public Works Employment Act. The funds include $2 billion for title I of the bill, the local public works capital development and investment act, $200 million for EPA wastewater treatment grants and $1.25 billion for countercyclical grants to States and localities during times of high unemployment.

Mr. Speaker, I urge the adoption of House Resolution 1490 so that we may proceed to the consideration of H.R. 15194.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as explained by the gentleman from Texas (Mr. Young) this is the rule on H.R. 15194, making appropriations for public works employment for the period ending September 30, 1977. I might say that the majority on the Committee on Rules did not grant the request as made by the Committee on Appropriations. They made a couple exceptions. The Committee on Appropriations requested a modified closed rule waiving points of order for failure to comply with clause 2, rule XXI. The Committee on Rules, without my support, voted out a modified closed rule which waives all points of order for failure to comply with clause 2, rule XXI except in two instances. Points of order may be raised against the proviso on page 2, lines 11 through 17, and the proviso on page 3, lines 19 through 21, for failure to comply with the provisions of clause 2, rule XXI.

This rule prohibits unauthorized appropriations and legislation on a general appropriations bill.

Mr. Speaker, I might point out that a very good argument was made for waiving points of order on these two items, particularly on the first matter. I want to call the attention of the House to the proviso which appears in title I, chapter I, page 2, line 11:

> *Provided further*, None of the funds appropriated under this Chapter shall be available for any project where less than ten percent of the personnel to be employed on the project have currently resided for at least thirty days in the area used in determining project eligibility under section 108(e) of Public Law 94-369 and have been currently unemployed for at least thirty days.

Mr. Speaker, I think that if we are going to have this type of bill, we ought to be directing at least some of the money into the areas where the unemployment exists. Without this proviso that was inserted in this bill in the Appropriations Committee, all of the employees to be employed by a contractor could be employed from outside the area where the unemployment exists. I really do not believe that this was the intent of this Congress when it passed this legislation in the first place, but since the Rules Committee did not grant a waiver of points of order, merely a point of order, if sustained, might strike these two very important provisions from this bill. For that reason I oppose the rule.

Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. Cederberg).

Mr. CEDERBERG. Mr. Speaker, I take this time because we are here on a jobs bill, and I find it very interesting that the Rules Committee would not protect the only amendment in the bill that has anything, really, to do with jobs. In the full Committee on Appropriations, I put in this amendment. The amendment was just read by the gentleman from Ohio (Mr. LATTA), but let me read it again. It says:

> *Provided further,* None of the funds appropriated under this Chapter shall be available for any project where less than ten percent of the personnel to be employed on the project have currently resided for at least thirty days in the area used in determining project eligibility under Section 108(e) of Public Law 94-369 and have been currently unemployed for at least thirty days.

The purpose was to try to assure, in a jobs bill, that there would be some jobs for people who are unemployed in the area where a project is located.

I do not believe this amendment is subject to a point of order. I believe it is a true limitation on this appropriation bill, but in the authorization bill, Public Law 94-369, the Public Works Employment Act of 1976, in section 107, it says:

> The Secretary shall, not later than thirty days after date of enactment of this Act, prescribe those rules, regulations, and procedures (including application forms) necessary to carry out this Act. Such rules, regulations, and procedures shall assure that adequate consideration is given to the relative needs of various sections of the country. The Secretary shall consider among other factors (1) the severity and duration of unemployment in proposed project areas, (2) the income levels and extent of underemployment in proposed project area, and (3) the extent to which proposed projects will contribute to the reduction of unemployment.

Then, we go to section 108, which provides:

> The unemployment rate of a local government shall, for the purposes of this Act, and upon request of the applicant, be based upon the unemployment rate of any community or neighborhood (defined without regard to political or other subdivisions or boundaries) within the jurisdiction of such local government, except that any grant made to a local government based upon the unemployment rate of a community or neighborhood within its jurisdiction must be for a project of direct benefit to, . . .

Then, the word is, "or provide employment for, unemployed persons who are residents of that community or neighborhood."

If they would have said, "and provide employment," it would have been much more clear, but there is nothing in here that says that people who are unemployed in the area in which the project is going to be constructed have to be or should be hired at all.

Mr. Speaker, I put the 10 percent figure in here because I know full well in certain areas we do not have the skilled labor to have a higher percentage. But it seems to me that if we have a project in an area, it is not unreasonable in a jobs bill to expect that 1 out of 10 people employed on the project ought to come from the ranks of the local unemployed. This seems eminently reasonable.

I find it very interesting that on this very jobs bill the majority members of the Committee on Rules voted the amendment not to allow this to happen. I think this does away with the idea that this is a jobs bill, in the first place. One of the arguments they used was that this would delay things. This bill was delayed over a year now. Remember, this was an emergency jobs bill almost 18 months ago, and we have more people out of work now than we did before the bill was enacted. If we are going to give jobs to the unemployed, then I think this amendment will help. I think it is reasonable.

Mr. Speaker, I will support the rule because we do not have any other option. But it seems to me that an amendment which has something to do with guaranteeing people jobs is the very amendment that is being attacked by the majority.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. MAHON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15194) making appropriations for public works employment for the period ending September 30, 1977, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Michigan (Mr. CEDERBERG) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 15194, with Mr. O'HARA in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Texas (Mr. MAHON) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. CEDERBERG) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, for many months now we have talked about unemployment. The unemployment situation is very serious in some areas of the Nation, and it is not so serious in other areas of the Nation. But there are pockets of unemployment in various States. How to deal with this problem is not evident to everyone. I think we would all like to see the unemployment problem handled through the private sector. The private sector has made very substantial contributions.

With respect to the role of the Government, the concern has been widespread—and it has been justified—that more be done in certain areas to meet the issue of unemployment.

On six different occasions now we have in some respect voted on a jobs bill. The last significant vote was on July 22, 1976, when by a vote of 310 to 96 the President's veto of the jobs authorization bill was overridden. It was overridden by a very substantial vote.

As chairman of the Committee on Appropriations and as members of the Committee on Appropriations, we regarded the vote of the House as a mandate to the Committee on Appropriations to take action by providing funds to implement the authorization bill which was passed over the President's veto. Therefore, we have faithfully brought before the Members today an appropriations bill providing funds for employment.

Mr. Chairman, I do not think that any of us should expect that this bill is going to perform any miracles. I do not think that we should feel that almost overnight these jobs will be provided and men will be rapidly going to work on these programs. In some cases, yes; in most cases this cannot be done quickly.

At any rate this is, in my judgment, a sincere effort on the part of the Congress to do something about a very pressing problem. I personally am deeply concerned about this antirecessionary revenue-sharing provision and about some of the other provisions in the bill, but in view of the mandate of the House and the overwhelming will of the majority, we have brought this bill before the Members and we, of course, anticipate that the bill will be passed.

Mr. Chairman, the bill contains a grand total of $3,452,433,000 in new budget authority including appropriations of $2,000,000,000 to the Economic Development Administration of the Department of Commerce for grants for various State and local public works projects; $200,000,000 to the Environmental Protection Agency for additional waste treatment works construction grants; and $1,250,000,000 to the Department of the Treasury for an antirecessionary program of revenue sharing. Also included in the bill is a total of $2,433,000 in new budget authority for certain related administrative expenses.

With the exception of the $200 million for EPA waste treatment grants, the recommendations of the committee represent the full amounts authorized. Public Law 94-369 authorized $700 million for waste treatment construction grants and this amount was recommended by the subcommittee of jurisdiction. However, when the bill was considered by the full committee, a motion to cut $500 million from this account was agreed to by a vote of 21 to 8. This was the only change made by the committee to the amounts authorized in the Public Works Employment Act.

In preparing this bill, the committee utilized its existing subcommittee structure. The $2 billion appropriation for the Economic Development Administration was handled by the State-Justice-Commerce-Judiciary Subcommittee chaired by the gentleman from West Virginia (Mr. SLACK) and the appropriation for the Environmental Protection Agency as well as the so-called antirecessionary appropriation was handled by the HUD-Independent Agencies Subcommittee chaired by the gentleman from Massachusetts (Mr. BOLAND).

The chairmen of the subcommittees and the members of the subcommittees are here and ready to discuss the measure to whatever extent may be desired by the House.

Mr. Chairman, under the circumstances, I do not feel it necessary to take additional time to discuss the measure at the moment.

Mr. CEDERBERG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will try to be brief and not take very much time. This is an issue that has been debated for a long time. However, there are some things that should be pointed out, and I will certainly try to do it by referring to the titles.

As the Members know, in title I there is $2 billion for EDA which is designed to try to do something about unemployment. I have serious reservations as to whether or not this is going to do anything about unemployment. It appears to me that what it is really going to do is substitute Federal dollars for State and local dollars on certain projects, most of which would have been undertaken anyway. But let us assume it does something to a minor degree in the area of unemployment.

As I said during the time of the debate on the rule, there is here an amendment that I placed in the bill in the full committee—I might say virtually without opposition—that tries to assure that where the project is built in these areas of unemployment, at least 10 percent of those employed on the project, will have been unemployed 30 days or longer, and have been residents in the area.

I thought that was the whole point of this bill, but it appears that there are those who feel that there is something wrong with allowing people who are unemployed in an area to work on these public works projects.

We have the antirecessional financial assistance fund which comes under chapter 2 in the amount of $1.250 million. What we are talking about here is revenue sharing. That is all it is. If we wanted that, let me say that I think the local States and communities would have been much better off if this additional amount had been added to the regular revenue sharing. However, I will tell the Members why that is. It is because this is what we call countercyclical. In other words, areas of higher unemployment are supposed to get so much more money under this legislation.

Mr. Chairman, the Members know and I know that if these communities receive this money and then the unemployment rates goes down 1 or 2 percent or something, they have already cranked this into their local projects, and then all of a sudden, Uncle Sam is going to come to them and say, "I am sorry. What happens now is that you are not going to get that full amount." Consequently, they will be back in here to grandfather it in.

Mr. Chairman, that may be all right, but I have serious reservations about it.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman. I hope I did not misunderstand the gentleman from Michigan (Mr. CEDERBERG). He knows that I have great affection for him and have had during all the years we worked together in representing Michigan.

However, I thought I heard him say that he would prefer to take the amount of money that would be coming to a State like ours under countercyclical and put it in the pot and have it distributed to others under revenue sharing.

Mr. CEDERBERG. I think over the long pull, it would be much better. I think the city of Detroit would get $19 million under this bill. Under the regular revenue sharing it would be somwhat less but it would assure the amount for a longer period.

Mr. FORD of Michigan. If the gentleman will yield further, the gentleman is aware, is he not, that we continue to have the highest statewide unemployment all over the country?

Mr. CEDERBERG. I am very much aware of it. A large part of it is in my district.

Mr. FORD of Michigan. And that is chronic. We are now in our third successive year.

Mr. CEDERBERG. That is right.

One of the reasons it is chronic is because we have not done some of the things in the State legislature that should have been done, which would be helpful in some of those areas.

As far as independent agencies having to do with the Environmental Protection Agency are concerned, this is very interesting. This is what we call the Nunn-Talmadge amendment which was added in the Senate. I understand the reason it was added was to try to correct what they claim were some differences in previous allocations, so as to bring it up to date.

Mr. Chairman, if this is a jobs bill, it is very interesting.

The $700 million that was in that title, in the construction grant for sewers, water, and so forth, has now been reduced to $200 million, which I understand most everyone agrees was all they can spend, and the very States that have the highest unemployment do not receive a dime under this bill.

Let me read them to the Members. The States that receive nothing are Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. They receive nothing. New Jersey and New York receive nothing under that title. Delaware receives nothing. Pennsylvania recevies nothing. Virginia receives nothing. The District of Columbia receives nothing.

Illinois; Indiana; Michigan, a high unemployment State; Minnesota; and Ohio receive absolutely nothing under this package of $700 million, nothing because of the Nunn-Talmadge amendment, which was designed to correct what they claimed were inequities in the formula which was used eariler.

Mr. Chairman, that may be, but we should not bring it in here under the guise that this is somehow going to do something about unemployment.

Mr. Chairman, this is very interesting in considering some of the States that have practially no unemployment.

Let us just take a look at the State of Texas, if I can find Texas here, and it usually is never very hard to find.

The State of Texas receives a vast amount of money. Texas receives $129,220,000 of the so-called $700 million that would have been allotted, and there is practically no unemployment there.

How can we say that this is a bill to do something about unemployment when the very States that have the unemployment do not get anything?

So, Mr. Chairman, I just thought those were matters that should be called to the attention of the Members. I am laboring under no illusions about what is going to happen under this bill because the veto was very well overridden. Sometimes I think that the Members do not realize what is sought in terms of unemployment in this bill.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I rise in support of this bill to provide appropriations for State and local public works projects, countercyclical aid, and waste treatment facilities.

As an initial cosponsor of title I of the authorizing legislation, I supported passage of the Local Public Works Employment Act of 1976, I voted to override the veto of that act on two occasions, and I am now pleased to support the appropriations which were authorized by that act.

The Appropriations Committee, on which I serve, has provided for full funding of $2 billion for public works projects for which on-site labor can begin within 90 days. Seventy percent of the funds are targeted for areas which have unemployment rates exceeding the national average, with second priority given to areas where unemployment is below the national rate but above 6.5 percent.

In this way, funds will be targeted only to those areas which are truly in need of Federal assistance. This is particularly important for areas such as Massachusetts, where recovery has lagged behind the rest of the country.

Reflecting the concern of the Appropriations Committee that the targeting be even more effective, this measure stipulates that no projects may be funded if more than 90 percent of those to be employed have lived in the area or have been unemployed less than 90 days. This will insure that the program indeed meets its objective of reducing local unemployment.

Mr. Chairman, the Economic Development Administration has issued its regulations for the implementation of this act. Applications will not be accepted until this appropriations measure is enacted. I therefore urge the prompt passage of this bill so that we can immediately put our unemployed to work on useful State and local public works projects.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I would like to say first of all that the gentleman from Michigan is entirely right. As a member of the conference committee dealing with the jobs bill, I can tell the Members that they simply held this bill hostage for another bill that we passed out of this committee that would have assisted the committee in the delegation of the construction program. We have a $18 billion construction grant program for waste water and sewage treatment plants pending in the Senate, all they have to do is act on it.

Mr. CEDERBERG. Mr. Chairman, I might say that I failed to point out that the State of California does not get a dime under this provision.

Mr. MAHON. Mr. Chairman, I yield 3 minutes to the gentleman from West Virginia (Mr. SLACK).

Mr. SLACK. Mr. Chairman, the committee recommends an appropriation of $2 billion, the full amount authorized, to carry out title I of the Public Works Employment Act of 1976—Public Law 94-369 of July 22, 1976. In addition, the committee recommends that, of the total amount provided, not to exceed $10 million may be used for necessary administrative expenses, including expenses for program evaluation by the Secretary of Commerce.

Title I authorizes the Secretary of Commerce, through the Economic Development Administration, to make grants to State and local governments for public works projects through three programs as follows:

First. The direct grant program provides 100 percent Federal funding for construction, renovation, repair, or other improvement of public works projects, including but not limited to projects for which Federal financial assistance is authorized under provisions of law other than Public Law 94-369.

Second. The supplemental grant program provides grants for the purpose of increasing the Federal matching share of any federally assisted public works project to 100 percent where such Federal financial assistance is immediately available.

Third. The program of grants for projects authorized by State or local law provides funding for all or any portion of the State or local share of any public works project authorized by any State or local law. However, such a grant may not provide both the State and local share.

Eligible applicants for grants include States and local governments, including cities, counties, towns, parishes, or other political subdivisions of a State, and Indian tribes. In general, projects must be in areas with an average unemployment rate of 6.5 percent or more for the 3 most recent consecutive months for which data is avaliable. In addition, applications for projects must show that if approved, onsite labor could begin within 90 days.

With respect to program administration, the Secretary of Commerce is required to prescribe rules and regulations within 30 days of enactment. These regulations were issued on Monday, August 23, 1976, and were published in the Federal Register.

The Public Works Employment Act also requires that applications for funding be acted on within 60 days of receipt. If no action is taken within the prescribed time, applications are deemed to be approved.

There are several other provisions of the statute which I shall not go into at this time. Information concerning many of these provisions may be found in the report. In addition, a copy of Public Law 94-369 is reprinted in the hearings, beginning on page 6.

The purpose of the title I local public works program is to help alleviate the problem of unemployment throughout the Nation, and to assist States and local communities in building needed public facilities. The appropriation of $2 billion provided in this bill for the local public works program is designed to provide assistance to an area of the economy—the construction industry—which has been a major victim of the recent economic decline. The most recent statistics reveal that the national unemployment rate in July climbed to 7.8 percent. This is an increase of 0.5 of 1 percent since May, and is equal to the highest monthly level of unemployment nationally in 1976, which occurred back in January.

However, unemployment in the construction sector reached 17.7 percent in July—more than twice the national average. Although testimony presented by EDA in our hearings indicated some uncertainty as to the number of projects that would be eligible for funding immediately, we have included the full $2 billion in the bill to assure that the necessary funds are available to meet the demand.

The committee is very concerned about the costs of administering this program since the objective of the program is to put people to work. We have included a statement in the report that overhead costs and the hiring of additional administrative personnel should be kept to the absolute minimum. In addition, total administrative costs are not to exceed $10 million, which is one half of 1 percent of the total amount appropriated. This amount includes expenses for program evaluation by the Office of the Secretary of Commerce.

EDA testified that, in establishing regulations to carry out this legislation, they intend to place a general limitation of $5 million on the Federal share of any project funded under this appropriation with a provision for certain exceptions for projects which exceed that amount. The purpose of such a limitation would be to ensure an equitable distribution of the funds available. The authorizing legislation does not provide for any limitation on the amount of the Federal share of an individual project funded under the act.

The committee feels that such a general limitation has merit in order to assure equitable distribution of the funds appropriated. However, we feel, and have so stated in the report, that EDA's regulations should provide the flexibility necessary to fund needed projects which may exceed any general limitation to some extent. I am happy to report that the regulations provide that the $5 milion limitation may be waived for good cause.

Finally, the bill includes a provision that requires that at least 10 percent of the persons employed on a project be residents of the area for which a project is approved and have been unemployed for at least 30 days. The Congress, in section 108(e) of the Public Works Employment Act of 1976, intended that the local public works program principally benefit those unemployed persons in the areas for which projects are approved. The committee has included the provision in the appropriation bill to reaffirm the intention of the Congress.

Thank you, Mr. Chairman.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I rise at this time in order to try and establish some legislative history relative to this bill. On August 12 the gentleman from New York (Mr. MCEWEN), the gentleman from New York (Mr. KEMP), the gentleman from New York (Mr. KOCH), and I sent a letter to the subcommittee chairman, the gentleman from West Virginia (Mr. SLACK) relative to certain conditions in the bill. We understand that certain sections of the Public Works Employment Act may work to discriminate against certain regions of the country in the distribution of funds under title I. I refer to the provision of the act which requires each applicant to give satisfactory assurances to the Secretary of Commerce that on-site labor can begin within 90 days of project approval. If the money we are recommending for appropriation today becomes available this fall, States located in the northern parts of the country will find that making an immediate application would require them to attempt beginning of construction during the winter months.

However, the ability to initiate on-site labor activities for many types of construction is dependent upon the "construction season," the period during the year which is generally unhampered by freezing conditions which make certain construction activities impossible or inordinately expensive. What protection can the northern States expect for an adequate share of the funds?

Mr. SLACK. Mr. Chairman, I would say to the gentleman from New York (Mr. ADDABBO) that, as I indicated in my letter of August 23, we have been in touch with the officials of the Department of Commerce concerning this very matter. I believe they are sensitive to the seasonality problem and recognize that many northern States could have some difficulty during the winter in meeting the 90-day, on-site labor requirement. In response to this issue, the Economic Development Administration established, in its regulations of August 23, State planning ceilings for the "purpose of furthering the objective of assuring that adequate consideration is given to the relative needs of various sections of the country." State ceilings will be established on a formula basis and will be held for 120 days after which the Assistant Secretary may reconsider the State ceiling and make such adjustments as he may determine to be reasonable.

In addition, I would say to the gentleman that the Economic Development Administration has published guidelines for the implementation of the public works program, and the guidelines are as follows:

First. The planning allocation established for each State will insure that the relative needs of the country are met, and that projects are competing with other projects within the same State, rather than with all projects in the Nation. This will eliminate unfair competition among States. It is expected that those States having the most severe seasonality problems will have projects that are funded later in the program.

Second. Because in those States experiencing varying weather conditions the 90-day requirement could be seen as giving unfair advantage to "fair weather" areas, the definition of on-site labor will be interpreted liberally. That is, some on-site labor must begin within 90 days, with full-fledged construction capable of being started as soon as weather permits.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MAHON. Mr. Chairman, I yield 1 additional minute to the gentleman from West Virginia.

Mr. SLACK. Thank you, Mr. Chairman. Finally, I would observe that the timetable concerning the availability of funds for the local public works program may make it possible for many Northern States to avoid the worst of the seasonality problem. It is generally expected that the appropriations bill will be sent to the President sometime in early September and if he signs it, funds could be apportioned to the Economic Development Administration by October 1, 1976. EDA would then accept applications for funding in accordance with their regulations which provide that applications will not be accepted until funds for the program are appropriated and apportioned to the agency.

Under the act, EDA would then have 60 days to review project applications, and if the maximum time allowed for such review is taken, project approval would occur on December 1, 1976. The 90-day, on-site labor requirement would then start and would run until March 1, 1977, by which time the most severe seasonal weather problems for many areas of the country would be over.

Mr. Chairman, I believe that the intent of Congress in establishing the 90-day on-site labor requirement was not to discriminate against northern jurisdictions, or for that matter, any jurisdiction in the country. Rather it was to guarantee an infusion of Federal funds for public works projects at the earliest possible time. The guidelines published by the Economic Development Administration are intended to effectuate this congressional intent.

Mr. ADDABBO. I thank the gentleman for his comments.

Mr. MAHON. Mr. Chairman, I yield 5 minutes to the chairman of the subcommittee, the gentleman from Massachusetts (Mr. Boland).

Mr. BOLAND. Mr. Chairman, as all of us here recognize, this bill provides $3.5 billion for the purpose of stimulating the economy, putting people back to work, and saving the jobs of people who are performing basic services for various governmental entities throughout the United States.

Title II of the Public Works Employment Act of 1976 authorizes payments to State and local governments for each of five succeeding calendar quarters beginning with the calendar quarter starting on July 1, 1976. For each quarter, there is authorized to be appropriated $125 million plus $62.5 million for each one-half percentage point of unemployment over 6 percent.

The total amount authorized for the five quarters was $1.250 billion and the committee is recommending the full authorization. As the report indicates, of the total recommended, $312.5 million has been earmarked for the first quarter of the five-quarter authorization period. This amount is based on the national unemployment rate of 7.63 percent for the period January 1 through March 31 of this year. The balance of $937.5 million has been made available for the four succeeding quarters. For the Members' information, let me explain that based on unemployment statistics, the second quarter allocation will be $250 million. For the remaining three quarters, the Congressional Budget Office estimates $250 million, $250 million, and $187.5 million, respectively.

That would, of course, exhaust the balance of the full amount of $1.250 billion recommended in the bill. These quarterly estimates are based on CBO's anticipated unemployment rates for the applicable three calendar quarters.

Mr. Chairman, title III of the bill provides $200 million of $700 million authorized for waste water treatment plant construction grants.

Let me take a second to explain the background behind this title. It was incorporated in the Public Works Employment Act to correct what some feel is an inequity in the allocation of the last $9 billion which was distributed to the States in March of 1975. The $9 billion was allotted as provided by the law, and I am talking about the 1972 act now, on the basis of two needs surveys conducted in 1971 and 1973.

However, a general needs survey was also conducted in 1974, and it showed that 37 States and territories would have received more funds on the basis of the 1974 survey and 1990 population estimates. So, it was to correct the so-called inequity that the $700 million was authorized in the act recently passed into law over the President's veto.

The committee's recommendation is based on the testimony of the Environmental Protection Agency which indicated that the maximum that could be obligated in fiscal year 1977 was $200 million. EPA takes this position because there currently remains $7.3 billion available for obligation from the $18 billion program—and that, in view of this, it would be difficult to obligate more than approximately $200 million.

I want to point out, however, that in recommending only $200 million, the committee has added language that has the effect of putting the $200 million out to those States which may run out of construction grant funds in the first half of fiscal year 1977. We believe that the committee's recommended language is flexibility enough written so as to permit EPA to administer the allocation of the $200 million to insure it gets to those States that need the money and can use it.

In short, what the committee has attempted to do is to provide only that level of funding, approximately *$200* million, that can actually be used and obligated in fiscal year 1977.

One final point.

I know the gentleman from Wisconsin (Mr. Obey) has a question as to whether any funds subsequently made available for the Environmental Protection Agency's construction grants program would have to be *obligated* before a State would be eligible for any of the $200 million provided in this bill. The answer is no. The proviso applies only to the $18 billion made available by the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500.

Mr. Chairman, I yield back the balance of my time.

Mr. CEDERBERG. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. McDade).

Mr. McDADE. Mr. Chairman, I rise in support of H.R. 15194, public works employment appropriations. I am extremely pleased that the House has moved so quickly to appropriate funds for this greatly needed job promoting legislation.

Mr. Chairman, I have supported the public works "Jobs" bill since its inception. Unemployment in my congressional district averages near 11 percent, in the construction industry it is closer to 25 percent. This appropriation is very important to put people to work in northeastern Pennsylvania.

There are those who criticize this program as "make work" and unnecessarily inflationary. These charges are patently unsound and unfair to my constituency. I believe people who want to work should be given that opportunity rather than be forced to accept unemployment compensation, or, in dire circumstances, welfare. Americans deserve the dignity of a decent job. These charges overlook the fact that there are hundreds of facilities nationwide which are vital to communities and for which no funding is available.

Already my office has received statements of intention to apply under title I of the bill from more than 50 communities. All of these projects are necessary and meritorious, they range from local courthouses, to fire stations to recreational projects. May I emphasize that all of these communities would be unable to provide these facilities without today's appropriation.

We have passed a bill which provides not only jobs in areas of high unemployment, but important community projects as well. As long as there is a need for this type of work and as long as the unemployment rate remains at a high level, I will continue to push for and support job creating legislation.

I want to draw the attention of my colleagues to the language contained on page 10 of the committee report. During our hearings, we became deeply concerned that the Treasury Department did not appear sufficiently geared up to efficiently administer the antirecession financial assistance fund.

Accordingly, we have strongly directed the Department to cut redtape, to simplify procedures, to establish clear lines of communications with appropriate local governments and to see that this program moves quickly. Much must be done to assure speedy and efficient administration of this provision of the bill.

Mr. Chairman, the distinguished gentleman from Massachusetts has done, as usual, an outstanding job in explaining the titles of the bill which were in front of the Subcommittee on HUD-Independent Agencies for consideration, namely, the antirecession financial assistance fund and the water and sewer sections.

I do want to pose a colloquy with my friend, the gentleman from Massachusetts. I do note in the language of the report we have written we indicate we believe a lot of the antirecession funds ought to be used for personnel services and we put this into the bill because we believe the Treasury Department was not sufficiently geared up to cut redtape properly, but I do think it is not the intention of the committee to say if a local jurisdiction wanted to apply that part of the fund to construction of a firehouse that it had deferred or to buy a piece of safety equipment, an ambulance, or something the local jurisdiction had deferred because of the recession, that it cannot do that.

I do not believe that language is intended to preclude them from doing so.

Would my friend, the distinguished chairman, comment on that?

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the distinguished gentleman.

Mr. BOLAND. Mr. Chairman, as the distinguished gentleman from Pennsylvania points out these funds are primarily for payment of personal services. That is the intention of the committee; but let me say this is not intended to rule out absolutely any use of title II funds for brick and mortar expenses. The committee recognizes that there may be some situations where funds ought to be used for brick and mortar purposes and it is not our intention or the intention of the committee to rule out that expenditure. The intent of title II in fact is primarily for personal services and the creation of jobs, but the use of these funds in the area the gentleman suggests is a possibility. We hope that the Office of Revenue Sharing will administer this program so as to consider the colloquy that has developed between the gentleman from Pennsylvania and myself.

Mr. McDADE. Mr. Chairman, I thank the gentleman. I think that clarifies the record.

Mr. MAHON. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, I support this appropriation, but am extremely disappointed that it does not include the full $700 million authorized for title III wastewater treatment plant construction projects. I would offer an amendment to restore the $500 million dropped from this title by the Committee, but will respect the judgment of the leadership that it would be wiser to wait, in anticipation that the Senate would be more likely to accept the amendment than this body.

The Committee was clearly deceived by the Environmental Protection Agency when it testified that it could only expend $200 million for wastewater treatment projects. As the Committee now knows, when EPA made that statement, it had no idea at all what the States could or could not use. It was after, not before, their testimony that EPA actually surveyed the States to determine their needs. This kind of deception makes it plain that EPA is not really committed to carrying out the tasks Congress has given it. Indeed, the whole history of the wastewater treatment projects program is filled with stories of delays, impoundments, and general frustration—frustration so monumental that it seems a miracle we have achieved anything at all toward cleaning up the Nation's water.

The administration knows the need for wastewater treatment facilities; it knows the need for programs to create jobs in the construction field, which has been the most severely depressed industry in America, the industry that has suffered first, most, and longest from the Nixon-Ford recession. They know the need, but we have had to fight every inch along the way to create this employment program in the first place, and now we see that they are prepared not only to obstruct, but to lie about what needs to be done and what can be done.

Since 1974, employment in the construction industry has dropped by 700,000. This year we will build a million fewer housing units than we did in 1972; we will build only half the amount of commercial structures that we built 4 years ago. Yet our housing needs are bigger than they were then, not smaller; our commercial and industrial building needs are bigger, not smaller. We really do need those 700,000 construction jobs that have disappeared during this last, long 4 years. Yet one out of every five construction workers remain on the bench, idle. There is little or no sign that they can expect early relief.

Even as these people sit idle, their families suffer, and their skills and pride fade, we know that every State in the Union, and almost every city, every town, and every hamlet in the country has work that needs to be done, and work that could be started, if only the funds were available. This bill will provide much in the way of new opportunity. But if the Environmental Protection Agency had not lied about how much money can really be used for wastewater treatment projects, we could be providing, and would be providing, much more than we are—three times more than we are.

Because of the administration's recalcitrance, it has been too long before we could produce this public works employment program. Because of the perfidy of the administration, we are providing less than we should. After all the scandals we have seen, the least that we should be able to expect from the administration is a little basic honesty. It might be too much to expect genuine human concern from them, but we ought to expect truthful answers to our questions. Had we been given the truth, title III of this bill would provide three times as much money as it does, and would help three times as many people as it will.

Mr. MAHON. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I thank the distinguished chairman for yielding.

Mr. Chairman, in light of recent communications I have received from constituents and the correspondence I have had with the mayor of Atlanta, Ga., I would like to clarify certain points concerning funding for title II. I wonder if the chairman of the committee, or the gentleman from New Jersey (Mr. ROE), the chairman of the Subcommittee on Economic Development of the Committee on Public Works and Transportation could engage in a colloquy with me and answer certain questions I have.

Mr. MAHON. Mr. Chairman, I would be glad to cooperate with my friend, the gentleman from Georgia; but I think it would be appropriate for the gentleman from New Jersey (Mr. ROE) to respond to the questions the gentleman has raised.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, I will be happy to answer the questions of the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I would like to ask the gentleman from New Jersey, is it true that title II funds can be used only for the purpose of maintenance of basic services customarily provided to persons in a State or in the area under the jurisdiction of a local government, as provided in section 204 of the Public Works Employment Act of 1976?

Mr. ROE. Mr. Chairman, if the gentleman will yield, that is correct. The interpretation is accurate.

Mr. LEVITAS. Is the primary purpose of countercyclical funding under title II to avoid layoffs or to reemploy persons laid off as a result of the recession and its adverse impact on local government revenues?

Mr. ROE. Mr. Chairman, if the gentleman will yield further, that is certainly one of the primary purposes. The principal purpose of title II is to prevent State and local governments from taking budget-related actions that hamper national economic recovery.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman from New Jersey for those answers.

Mr. Chairman, I am also interested in

the regulations which have been proposed by EDA to implement title I. These regulations are contrary to the legislative intent of Congress in passing the law.

As I understand section 107 of the bill that was passed, Public Law 94–369, section 107 provides that for purposes of the section the Secretary shall—I repeat, shall—consider the amount of unemployment or underemployment in the construction and construction-related industries. The reason for this requirement is that these are public works construction projects which will naturally employ construction workers and will therefore reduce construction-related unemployment. Yet as I read the regulations, there has only been lip service given to this statutory mandate focusing on construction-related employment has not been accomplished by these regulations. It is not only logical but it is obviously necessary to focus on construction industry unemployment in deciding what communities and projects are qualified and should be approved. Furthermore, the law itself requires that this be done. The administration has violated the law by issuing regulations which do not focus on construction unemployment.

Mr. ROE. Mr. Chairman, if the gentleman will yield further, we agree there are three or four of these regulations that are contrary, in our judgment, not only to the intent of the law, but the legislative history. I know that the chairman, the gentleman from Texas (Mr. Wright) and I had this in mind.

Mr. LEVITAS. Would one of these elements include a provision in the regulation that would limit to $5 million the cost of a project that would be approved by the EDA?

Mr. ROE. Mr. Chairman, if the gentleman will yield further, there is no restriction in the bill whatever on that item.

Mr. LEVITAS. I thank the gentleman for his answers. Having read these regulations, I think they are a classic example of how the entire Congress and the laws of the United States have been frustrated by an unelected administrative agency. It makes no difference what the law is or what Congress writes. It seems that once it gets to these bureaucrats they are going to do it their way regardless of the law.

These regulations fly in the face of the law which was passed, and are a patent attempt to frustrate the intent of Congress. I certainly hope the committee, under the leadership of the gentleman from Texas (Mr. Wright) and others, will have hearings which will get these regulations, for a change, to comply with the intention of the Congress rather than frustrate the intention of the elected Congress. The question will boil down to the issue, "Who passes laws in this country?" Is it the elected Congress or the unelected bureaucracy? I trust we will uphold the Constitution and let it be the elected Congress.

If Congress had already passed the bill I have introduced, H.R. 12048, the Administrative Rulemaking Reform Act, we could easily reject these bureaucratic fiats by a simple resolution; regrettably that bill is still tied up in the Rules Committee. Perhaps this experience will underscore the need for that legislation. In the meantime we will simply have to continue successfully amending each bill that comes along to include a provision for congressional veto of bureaucratic rules.

Mr. MAHON. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. Ginn).

Mr. GINN. Mr. Chairman, I thank the distinguished chairman of the Appropriations Committee for yielding time to me.

Mr. Chairman, the pending appropriation measure has reduced the funding for title III from the authorized level of $700 million down to a level of $200 million. This is the funding for waste water treatment construction which was included in the bill to rectify the inaccurate allocation formulas of the Environmental Protection Agency and also to stimulate employment while providing urgently needed water pollution control projects.

The $700 million authorization represented a 50-percent reduction in the original figure for title III of $1.4 billion. It is my understanding that the Appropriations Committee further reduced the $700 million figure by $500 million because EPA testified that the States involved could spend no more than $200 million during fiscal year 1977.

The facts will verify that EPA has intentionally misled the committee. Three days after EPA testified to the committee that the States were not capable of spending more than $200 million, EPA began telephoning the individual States to ask them what their actual spending capabilities are. This survey has shown that some individual States have the capability of utilizing the entire $200 million by themselves. All of the States involved can effectively utilize far more than $700 million. EPA has practiced a calculated deception by cleverly distorting the difference between what is meant by obligation of funds under the EPA definition and the actual capability of a State in utilizing funds for waste water construction.

Finally, the language in the pending appropriation bill would make it possible for one or two States to obligate the entire $200 million rather than having the money distributed to all of the eligible States in proportion to their needs.

These problems, Mr. Chairman, could likely cause those Members of the House and the Senate who have supported this bill, because of the provisions of title III to reconsider their position. I predict that unless changes are made, this appropriation will never be enacted.

We have insufficient time to seek to amend the bill today on the floor to remedy this problem. But I hope we have established the legislative history to show that our House conferees should yield to the Senate on these points.

Mr. Chairman, I would like very much to read into the Record a telegram I have received from the distinguished Governor of the State of Georgia, the Honorable George Busbee. The telegram is as follows:

August 20, 1976.

Representative Ronald Bo Ginn,
U.S. House Office Building,
Washington, D.C.

I am shocked by the reports of testimony presented by EPA officials to the House Appropriations Committee last week regarding the States' needs for wastewater treatment facilities funds under title III of P.L. 94–369. It is my understanding that EPA led the appropriations committee's members to believe that the majority of the States could not spend the funds already in hand in FY77, let alone spend an additional $700 million. I understand this testimony caused the committee to reduce its recommendations for appropriations for title III from $700 million to $200 million.

It is important to remember that no funds as yet have been authorized for water pollution control construction grants for FY77. The only funds available in FY77 to Georgia and other States are those portions of the Supreme Court released funds impounded by the Nixon administration which have not yet been processed. Georgia received $117.8 million from the impounded funds and obligates $28 million of those funds in FY76. This left $89 million for Georgia to spend on an FY77 project priority list (which EPA has approved totalling $170 million).

Because of a complicated and confusing 3 step application and regulation process, EPA only subtracts funds from a State's allocation after the grant has actually been awarded. In reality, these funds are processed and encumbered by the States long before EPA officials records so indicate, and EPA knows this.

For example, in Georgia during FY77, we will not only be able to process our $89 million of previously impounded funds, but could also process an additional $81 million, which is some $41 million more than we would receive if the full $700 million authorized under title III were appropriated under the committee's substitute amendment recommending $200 million for title III, Georgia will not receive a dime.

This is the prevailing situation in the majority of the 33 states and territories which would have received funding under title III. Equally distressing is that EPA, after delivering its testimony to the appropriations committee begin surveying the States to determine the real funding needs for FY77. At best, EPA officials misled the committee by citing figures which did not present an accurate picture of the States' needs.

I cannot overemphasize the importance of full appropriations for title III of PL 93–369. We have needs far in excess of the funds we would receive even if the full $700 million dollars were appropriated. You have my word that Georgia and the vast majority of the other States could fully process and obligate a full appropriation of $700 million dollars.

Without these funds, Georgia's efforts to achieve sound economic growth and recovery in an environmentally sound way will be severely restricted. I urge you to restore full appropriations to title III.

George Busbee,
Governor of Georgia.

Mr. MAHON. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. Roush), a member of the committee.

Mr. ROUSH. Mr. Chairman, I should like to point out that this is basically a jobs bill; however, the jobs created under title III of the authorizing legislation do not come on for 12 to 18 months. The money does not go to projects in States with the highest unemployment rates. Only 2 of the 10 States with highest rates of unemployment benefit under this title. For example, Michigan, with an unemployment rate of 9.7 percent gets nothing. Pennsylvania with an unemployment rate of 7.6 percent, California with 9.6 percent, and New Jersey with 9.2 percent get nothing. Indiana and Illinois get nothing. A total of 17 States get nothing.

The gentleman from Georgia, of course, makes a persuasive case for his State, but the facts are still uncontroverted that the Environmental Protection Agency can only spend $200 million under title III of the Public Works Employment Act of 1976. The gentleman from Georgia is insisting that the entire $700 million should be appropriated. I suspect that all States could use more money for the purposes defined in this act and for other purposes if they were not restrained by administrative and legislative restrictions. But the fact is that they are. To be even more specific the Environmental Protection Agency has testified that Georgia had an obligated balance of $91,804,818 at the date of their testimony—July 29, 1976—and Georgia is listed by the Agency as one of those States which will have an unobligated balance remaining at the end of fiscal year 1977 and to which funds under this act would not be allocated in fiscal year 1977. Later, yes, but not in fiscal year 1977.

The most compelling argument in reducing the $700 million to $200 million under title III is that at the time of the EPA's testimony—July 29, 1976—EPA had an unobligated balance of $7.3 billion. It is anticipated that as of the end of the transition period, September 30, 1976, there will still be an unobligated balance available to the various States of $6.3 billion. The Agency cannot spend the $700 million. Witnesses for the Agency were pressed in committee hearings. They were not asked how much they wanted to spend, or how much OMB wanted them to spend, or how much the administration wanted to spend, but rather they were asked, "Under the most favorable of circumstances, how much could be obligated." The response was an unequivocal $200 million. Because of the very large unobligated balances available the $200 million was the most that could be obligated. The action of the committee was fiscally responsible, it was prudent and it was reasonable.

Mr. FOUNTAIN. Mr. Chairman, the North Carolina Washington office earlier today informed me that North Carolina will get no additional funds for water pollution abatement control programs under this appropriations bill as reported, because it provides in only a total of only $200 million. Under the $700 million authorized by the act, North Carolina would get $46,550,000.

The reason for North Carolina not getting any additional funds is that the State still has a large backlog of title 201 EPA funds not yet obligated. Needless to say, I am advised that much of this is due to the footdragging of the Atlanta office of EPA, and that the formula for allocating the new funds depends heavily upon the amounts of 201 funds still on hand in the various States.

It is now anticipated by the North Carolina Washington office that title 201 funds for the State will be gone in June 1977. There would be no more funds.

I am attaching a copy of a funding list for fiscal year 1977 that was left with me by the North Carolina Washington office. The anticipated funding for the projects in my own district are marked with an asterisk.

Consequently, if this bill is to be passed, I sincerely hope that the amount of funds for water pollution will be increased to $700 million, and that the proviso on page 3 beginning at line 14 be eliminated. Otherwise, North Carolina and many other States will be grossly discriminated against.

The table follows:

2D DISTRICT

NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION

FEDERAL CONSTRUCTION GRANTS FUNDING LIST FOR FISCAL YEAR 1977, JULY 15, 1976

							Fiscal year 1976 project funding		Fiscal year 1977 project funding		Fiscal year 1978 project funding	
Number and priority value	Applicant name	NPDES No. NCOO-	Grant ID No.	Type of project (step)	Project description	Application target date	Estimated 75 percent Federal grant	Estimated project cost	Estimated 75-percent Federal grant	Estimated project cost	Estimated 75-percent Federal grant	Estimated project cost
1. 75	Burlington (east)	23868	38502	2	I/I, P. & S. for east Burlington WTP and Int.	July 1976	856, 950	1, 142, 600				
			38503	3	East Burlington WTP and Int.	June 1977	8, 601, 750	11, 469, 000				
			38504	3	Rehabilitation	December 1977			361, 500	482, 000		
2. 68.90	High Point (east)	24210	38702	2	P. & S. for Richland Creek Int. and east High Point WTP.	December 1976	457, 500	610, 000				
			38703	3	Richland Creek Int.	May 1977	2, 193, 675	2, 924, 900				
			38704	3	East High Point WTP	October 1977			6, 503, 934	8, 671, 912		
3. 68.64	Charlotte (McAlpine)		37701	1	Inflow evaluation survey	August 1976	450, 750	601, 000				
		24970	37706	2	P. & S. McAlpine WTP, upgrading.	March 1977	201, 000	268, 000				
			37707	3	McAlpine WTP upgrading	June 1978			5, 181, 750	6, 909, 000		
			37708	3	'nflow rehabilitation	4th quarter 1978					1, 500, 000	2, 000, 000
			37713	2	P. & S. McAlpine WTP addition.	June 1978			468, 750	625, 000		
			37714	3	McAlpine WTP additions	4th quarter 1978					12, 070, 500	16, 094, 000
4. 65.99	Greensboro (North Buffalo).	24325	37602	2	P. & S. North Buffalo WTP.	September 1977			150, 000	200, 000		
			37603	3	North Buffalo WTP	December 1978					3, 375, 000	4, 500, 000
5. 59.62	Durham (3d Fork)		38001	1	I/I, Phase I	December 1976	253, 030	337, 370				
					I/I, Phase II	December 1977			642, 470	856, 630		
		26298	38002	2	P. & S. for Farrington Rd., WTP and Int.	February 1977	412, 500	550, 000				
			38003	3	Farrington Rd. WTP and interceptors.	March 1978			7, 805, 184	10, 406, 912		
			38004	3	Rehabilitation	2d quarter 1978					1, 717, 500	2, 290, 000
6. 58.99	Burlington (south)	28876	38505	2	Plans and specifications for south Burlington WTP	December 1976	188, 550	251, 400				
			38506	3	South Burlington WTP	December 1977			4, 631, 250	6, 175, 000		
7. 58.29	Johnston Co		56001	2	Plans and specs	December 1976	161, 700	215, 600				
			56002	3	WTP and Int	June 1977	3, 804, 975	5, 073, 300				
			56003	2	Plans for Four Oaks and Pine Level Int.	December 1977			73, 240	97, 650		
			56004	3	Interceptors	4th quarter 1978.					1, 605, 825	2, 141, 100
	Smithfield		41202	2	Plans and specs; Rehab	December 1976	22, 350	29, 800				
			41203	3	Rehabilitation	May 1977	447, 195	596, 260				

Footnotes at end of table.

2D DISTRICT—Continued

NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION—Continued

FEDERAL CONSTRUCTION GRANTS FUNDING LIST FOR FISCAL YEAR 1977, JULY 15, 1976—Continued

Number and priority value	Applicant name	NPDES No. NCOO-	Grant ID No.	Type of project (step)	Project description	Application target date	Fiscal year 1976 project funding		Fiscal year 1977 project funding		Fiscal year 1978 project funding	
							Estimated 75 percent Federal grant	Estimated project cost	Estimated 75-percent Federal grant	Estimated project cost	Estimated 75-percent Federal grant	Estimated project cost
8. 57.49	Charlotte (Irwin)	24945	37709	2	Plans and specifications, Irwin Creek WTP and Int.	September 1977			186,000	248,000		
			37710	3	Irwin Creek; WTP and Int.	3d quarter 1978					4,796,250	6,395,000
9. 56.68	Swansboro		39202	2	Plans and specifications; WTP.	December 1976	35,950	47,934				
			39203	3	WTP	June 1977	516,630	688,840				
			39204	2	P. & S. for Int	December 1977			21,800	29,060		
			39205	3	Int	3d quarter 1978					267,240	356,320
10. 55.55	Buncombe Co (MSD).		39101	1	I/I, Phase I survey	January 1977	1,125,000	1,500,000				
			39101	1	I/I, Phase II survey	January 1978			750,000	1,000,000		
			39102	2	Plans and specifications South Buncombe and Hominy Valley Int.	April 1977	391,500	522,000				
			39103	3	South Buncombe and Hominy Valley Interceptors.	4th quarter 1978.					5,835,750	7,781,000
11. 53.75	Charlotte (Sugar)	24937	37711	2	Plans and specifications, Sugar Creek WTP and Int.	September 1977			168,675	224,900		
			37712	3	Sugar Creek WTP and Int.	3d quarter 1978					4,347,000	5,796,000
12. 53.69	Selma	25666	56101	2	Plans and specifications/ I/I Rehabilitation.	December 1976	18,225	24,300				
			56102	3	I/I, rehabilitation	June 1977	296,175	394,900				
13. 53.41	Dare County, (Nags Head).		41602	2	Plans and specifications for priority project.	December 1977			212,050	282,730		
14.	Forsyth Co		39901	1	I/I evaluation survey	March 1977	377,700	503,600				
52.89	Winston-Salem	24198	39902	3	Sludge terminal facilities.	December 1974	1,299,525	1,732,700				
			39903	2	Plans and specifications Archie Elledge WTP additions.	June 1977	257,250	343,000				
			39904	3	Archie Elledge WTP additions.	January 1978			4,254,750	5,673,000		
15. 52.89	Reidsville	24881	38401	1	I/I, Phase II evaluation survey.	March 1977	163,020	217,360				
			38404	3	I/I, Rehabilitation	December 1977			228,410	304,550		
16. 51.52*	Durham (Chapel Hill).	25241	38001	1	I/I, evaluation survey, Phase II.	December 1976	77,250	103,000				
	Chapel Hill		56201	2	Plans and specifications	April 1977	187,500	250,000				
			56202	3	WTP and Int	March 1978				[1] 5,800,000		
			56203	3	Rehabilitation	December 1977				243,000		
17. 50.99	Greensboro (South Buffalo).	23833	37604	2	Plans and specifications, Metro WTP and Int.	September 1977			750,000	1,000,000		
			37605	3	Metro WTP and Int	3d quarter 1978					18,000,000	24,000,000
18. 50.75	Burlington (Graham).	21211	38501	1	I/I, evaluation survey	December 1976	130,500	174,000				
	Graham		56301	2	Plans and specifications WTP and Int.	August 1976	120,000	160,000				
			56302	3	Interceptor and WTP	June 1977	2,844,000	3,792,000				
			56303	3	I/I, Rehabilitation	March 1978			56,250	75,000		
19. 50.73	Monroe	24333	56401	2	P. & S., WTP and Int	April 1977	360,000	480,000				
			56402	3	WTP and Int	April 1978			6,000,000	8,000,000		
20. 49.95	Edenton	20699	44601	1	I/I, evaluation survey	December 1976	165,000	220,000				
			44602	2	P. & S., WTP and Int	June 1977	100,500	134,000				
			44603	3	WTP and Int	March 1978			1,310,700	1,747,600		
			44604	3	I/I, Rehabilitation	4th quarter 1978					277,500	370,000
21. 49.92*	Rocky Mountain	25003	39401	1	I/I, Phase I, evaluation survey.	June 1976	75,000	100,000				
			39401	1	I/I, Phase II, evaluation survey.	September 1977			278,290	371,050		
			39402	2	P. & S. for WTP and Tar River, Beech Br and Cokey SW Int.	September 1976	664,030	885,370				
			39403	3	WTP, Tar River Int and Cokey Sw 1, 2, and 5 Int.	June 1977	11,224,938	14,966,584				
			39404	3	Beech Br and Cokey SW Int. 4, P.S. and force main.	December 1977				5,140,006		
			39405	2	Int and P.S	August 1977				130,980		
			39406	3	Int. and P.S	3d quarter 1978					2,616,525	3,488,700
			39407	3	Rehabilitation	September 1978					755,560	1,007,400
22. 49.55	Dunn	20311	41702	2	P. & S., WTP and Int	December 1976	295,500	394,000				
		20303	41703	3	WTP and Int	June 1977	4,766,250	6,355,000				
			41704	3	I/I rehabilitation	December 1977			900,000	1,200,000		
23. 49.44	Henderson (Nutbush).	20559	41001	1	I/I, evaluation survey	June 1977	40,500	54,000				
			41002	2	P. & S	do	195,000	260,000				
			41003	3	Int. & WTP	June 1978			4,852,500	6,470,000		
			41004	3	I/I rehabilitation	2d quarter 1978					135,000	180,000
24. 49.30	Gaston County complex.	20192	37801	1	I/I evaluation survey	June 1977	437,250	583,000				
			37802	2	P. & S. for priority projects.	December 1977			577,500	770,000		
25. 49.09	Newton	20222	38903	2/3	WTP and Int	June 1976	5,093,250	6,791,000				
26. 48.88	Statesville	20583	39502	2	I/I evaluation survey	March 1976	123,750	165,000				
		20591	39502	2/3	Int. and WTP	do	4,267,904	5,690,539				
27. 48.74	Hickory (Lake Hickory).	20401	38905	2	P. & S. Lake Hickory WTP and Int.	September 1977			142,500	190,000		
			38906	3	Lake Hickory WTP and Int.	September 1978					2,250,000	3,000,000
28. 48.65	Ahoskie-Aulander area.	25518	42302	2	I/I, P. & S. for priority projects.	June 1977	120,000	160,000				

Footnote at end of table.

							Fiscal year 1976 project funding		Fiscal year 1977 project funding		Fiscal year 1978 project funding	
Number and priority value	Applicant name	NPDES No. NCOO-	Grant ID No.	Type of project (step)	Project description	Application target date	Estimated 75 percent Federal grant	Estimated project cost	Estimated 75-percent Federal grant	Estimated project cost	Estimated 75-percent Federal grant	Estimated project cost
29. 48.47	Durham (Northside).	23841	38005	2	P. & S., WTP, Int., and PS.	December 1977			97,500	130,000		
			38006	3	WTP. Int. and PS	December 1978					2,340,750	3,121,000
30. 48.36	New Hanover County.	20079	42601	1	I/I evaluation survey	December 1976	9,750	13,000				
			42602	2	P. & S. northeast Int. and PS.	do	226,069	301,425				
			42603	3	Northeast Int. and PS	June 1977	3,706,050	4,941,400				
	Wrightsville Beach		56501	2	P. & S. for Int. and PS	December 1976	42,600	56,800				
			56502	3	Int. and PS	June 1977	977,600	1,303,467				
			56503	3	I/I rehabilitation	September 1977			24,900	33,200		
31. 48.28	Mount Olive	20575	42101	1	I/I Phase I, evaluation survey.	September 1976	28,609	38,145				
					I/I Phase II evaluation survey.	March 1977			39,000	52,000		
			42102	2	P. & S.. WTP	February 1977	47,175	62,900				
			42103	3	WTP	June 1977	1,099,575	1,466,100				
32. 48.25	Burlington (Gibsonville).	25500	38501	1	I/I survey	September 1976	16,650	22,200				
	Gibsonville	25607	56601	2	P. & S., Int. and P.S	September 1976	88,275	117,700				
			56602	3	Int. and P.S	December 1977			1,514,475	2,019,300		
			56603	3	I/I rehabilitation	December 1977			23,250	31,000		
	Alamance Co		57401	2	P. & S. for int	September 1976	122,925	163,900				
			57402	3	Interceptor	December 1977			1,928,250	2,571,000		
33. 48.18*	Louisburg	20231	39701	1	I/I, Phase I evaluation survey.	December 1976	6,313	8,417				
			39702	2	P. & S. WTP and Int	December 1976	55,725	74,300				
			39703	3	WTP and Int	June 1977	1,179,075	1,572,100				
			39704	3	I/I, rehabilitation	December 1977			48,075	64,100		
34. 47.28	Laurinburg-Maston Area.	20656 21687	45902	2	I/I, P. & S. for priority projects.	June 1977	258,750	345,000				
35. 46.80	Salisbury Area	23884 23892	40802	2	I/I, P. & S. for priority projects.	June 1977	300,000	400,000				
36. 46.37	Clinton	20117	47504	3	I/I rehabilitation	December 1977			162,000	216,000		
37. 45.81	Siler City	26441	42704	2	P. & S. for Blood Run Int. and P.S.	June 1976	25,800	34,400				
			42705	3	Blood Run Int. and P.S	September 1976	298,125	397,500				
			42706	3	I/I Rehabilitation	December 1977			60,090	80,120		
38. 45.52	Asheboro Area	26123	40301	1	I/I, Phase I evaluation	March 1977	75,000	100,000				
					I/I, Phase II evaluation	December 1977			225,000	300,000		
			40302	2	P. & S. for priority projects.	June 1977	281,250	375,000				
39. 45.44	Davidson Co.—West High Point Area.	24228	40402	2	I/I, P. & S. for priority projects.	June 1977	562,500	750,000				
40. 45.37*	Lucama	21652	40502	2	P. & S. for Int	March 1977	93,750	125,000				
			40503	3	Interceptor	December 1977			1,746,000	2,328,000		
			40504	3	I/I rehabilitation	2d quarter 1978					70,915	94,550
41. 45.23	Havelock	21253	42901	1	Inflow survey	September 1976	14,475	19,300				
			42902	2	P. & S. for WTP and Int	October 1976	56,250	75,000				
			42903	3	WTP and Int	March 1977	1,269,000	1,692,000				
			42904	3	Inflow rehabilitation	September 1977			10,650	14,200		
42. 44.69	Clayton	25453	43101	1	I/I, evaluation survey	June 1977	69,285	92,379				
			43102	2	P. & S., WTP, Int. and P.S.	January 1978			76,500	102,000		
			43103	3	WTP, Int. and P.S	4th quarter 1978					1,425,000	1,900,000
			43104	3	I/I, rehabilitation	4th quarter 1978					105,000	140,000
43. 44.66	Hickory (Henry Fork)	20419	38902	2	I/I, P. & S., WTP and Int	June 1976	309,000	412,000				
		20397	38904	3	WTP and Int	December 1976	7,791,450	10,388,600				
44. 43.74	Morehead City	26611	38801	1	I/I, evaluation survey	June 1977	60,000	80,000				
			56701	2	P. & S. for WTP	December 1977			138,563	184,750		
			56702	3	WTP	4th quarter 1978					3,075,000	4,100,000
			56703	3	I/I, rehabilitation	4th quarter 1978					696,000	928,000
45. 43.59	Faison		41401	1	I/I, Phase II	December 1976	22,500	30,000				
			41402	2	P. & S. for WTP	December 1976	22,500	30,000				
			41403	3	WTP	June 1977	300,000	400,000				
			41404	3	I/I, rehabilitation	December 1977			58,275	77,700		
46. 43.57	Holly Ridge		40202	2	P. & S. for priority project	June 1977	54,000	72,000				
47. 43.35	Jamestown	23183	56801	2	P. & S. for P.S. and F.M	December 1976	9,150	12,200				
			56802	3	P. & S. and F.M	November 1977			219,525	292,700		
48. 42.86	North Meck. Complex	21083	45104	3	I/I, rehabilitation	June 1977	75,000	100,000				
49. 42.77	Dare County (Hatteras Isle).		52802	2	P. & S. for priority project.	March 1978			37,500	50,000		
50. 42.75	Magnolia		40102	2	P. & S. for priority project.	June 1977	42,000	56,000				
51. 40.68	Jacksonville (Onslow County).	22764	56901	2	P. & S. Bryn Marr Int	March 1977	12,375	16,500				
			56902	3	Bryn Marr Int	December 1977			142,290	189,720		
		24121	38602	2	P. & S. for WTP and Int	March 1977	315,000	420,000				
			38603	3	WTP and Int	March 1978			4,720,808	6,294,410		
52. 40.63	Concord	25640	38205	2	P. & S. Dutch Buffalo, Coldwater and 3 mi, Int.	December 1976	126,260	168,350				
			38206	3	Interceptors	July 1977			3,711,410	4,948,550		
			38207	2	P. & S. for Rocky River and Wolf Meadow Br. Int.	December 1977			49,500	66,000		
			38208	3	Rocky River and Wolf Meadow Br. Int.	September 1978					1,256,250	1,675,000
53. 40.48	Valdese (Hoyle Creek).	21199	39602	2/3	Hoyle Creek WTP	June 1976	999,900	1,333,200				
54. 40.22	Moore County (Southern Pines).	25658	44103	2	P. & S. Int	June 1976	33,000	44,000				
			44104	3	Interceptors	December 1976			525,000	700,000		
55. 40.07 *	Spring Hope	20061	41502	2	P. & S. for WTP and outfall.	September 1976	41,250	55,000				
			41503	3	WTP and outfall	June 1977	543,750	725,000				
			41504	3	I/I rehabilitation	November 1976					178,500	238,000
56. 39.52 *	Carrboro		57001	3	do	September 1977			162,675	216,900		
57. 39.10	Beulaville		47202	2	I/I, P. & S. for WTP	November 1976	59,625	79,500				
			47203	3	WTP	November 1977			296,250	395,000		
			47204	3	I/I rehabilitation	4th quarter 1978.					78,750	105,000
58. 38.73	Kernersville	21270	57101	2	P. & S. for Salem No. 3 and Abbotts No. 1.	June 1977	180,000	240,000				
			57102	3	Phase I Salem No. 3 and Abbotts No. 1.	December 1977			750,000	1,000,000		

Footnote at end of table.

2D DISTRICT—Continued

NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION—Continued

FEDERAL CONSTRUCTION GRANTS FUNDING LIST FOR FISCAL YEAR 1977, JULY 15, 1976—Continued

Number and priority value	Applicant name	NPDES No. NCOO-	Grant ID No.	Type of project (step)	Project description	Application target date	Fiscal year 1976 project funding		Fiscal year 1977 project funding		Fiscal year 1978 project funding	
							Estimated 75 percent Federal grant	Estimated project cost	Estimated 75-percent Federal grant	Estimated project cost	Estimated 75-percent Federal grant	Estimated project cost
59. 38.66	Union County (Waxhaw).	25682	37901	1	I/I evaluation survey	December 1976	7,960	10,610				
			37902	2	P. & S. for WTP and Int.	September 1976	112,500	150,000				
			37903	3	WTP and Int. for Waxhaw	June 1977	1,350,000	1,800,000				
60. 38.53	Parkton	26921	41102	2	I/I, P. & S. for WTP	February 1976	36,000	48,000				
			41103	3	WTP	December 1976	150,000	200,000				
			41104	3	I/I rehabilitation	2d quarter 1978					127,500	170,000
61. 38.49	Winton		42801	1	I/i	June 1976	24,000	32,000				
			42802	2	P. & S. WTP and Int.	December 1976	37,500	50,000				
			42803	3	WTP and Int.	December 1977			386,250	515,000		
			42804	3	I/I rehabilitation	2d quarter 1978					93,000	124,000
62. 37.87	Mooresville	20788	40902	2	I/I, P. & S. for priority project.	December 1976	353,250	471,000				
		20796	40903	3	WTP	1st quar ter 1978					6,474,000	8,632,000
63. 37.45	Wake County complex.		41902	2	P. & S. for priority project.	June 1977	75,000	100,000				
64. 37.01	Burlington (Mebane).	21474	38501	1	I/I evaluation survey	December 1976	48,000	64,000				
	Mebane		57201	2	P. & S. for WTP	October 1977			17,280	23,040		
			57202	3	WTP	4th quarter 1978					414,720	552,960
			57203	3	I/I rehabilitation	do.					19,500	26,000
65. 36.98	Burlington (Haw River).		38051	1	I/I evaluation survey	March 1977	30,000	40,000				
	Haw River, S. Dak		57301	2	P. & S. for Int. and PS	December 1977			22,500	30,000		
			57302	3	Int. and PS	3d quarter 1978					307,500	410,000
66. 36.82*	Roxboro	21024	43001	1	I/I evaluation survey	September 1976	96,000	128,000				
			43002	2	P. & S. WTP, and Int.	April 1977	152,813	203,750				
			43003	3	WTP and Int.	December 1977			1,948,520	2,598,025		
			43004	3	I/I rehabilitation	3d quarter 1978					388,410	517,880
67. 36.74	Greater Lenoir area	21890 23981	39302	2	I/I, P. & S. for priority projects.	June 1977	75,000	100,000				
68. 35,85	La Grange	21644	46701	1	I/I evaluation survey	do.	60,000	80,000				
			46702	2	P. & S	do.	75,000	100,000				
			46703	3	WTP	3d quarter 1978					1,200,000	1,600,000
			46704	3	I/I rehabilitation	4th quarter 1978					168,750	225,000
69. 35.83	Elizabeth City	20501	54601	1	I/I phase I evaluation survey.	June 1977	75,000	100,000				
70. 35.45	Wake Forest	24058	44301	1	I/I, Phase II evaluation survey.	do.	56,250	75,000				
		24066	44303	3	WTP and Int.	September 1976	2,502,928	3,337,237				
71. 35.37*	Stantonsburg	20087	42402	2	P. & S. for WTP and Int.	December 1976	93,750	125,000				
			42403	3	WTP and Int.	December 1977			1,756,500	2,342,000		
			42404	3	I/I rehabilitation	2d quarter 1978					76,650	102,200
72. 35.34	New Hanover County (Wilmington).	23965	42601	1	I/I evaluation survey	September 1976	112,500	150,000				
	Wilmington (North Side).		59501	2	P. & S. Northside Outfall Sludge Facility.	November 1976	83,925	111,900				
			59502	3	Northside Outfall, and Sludge Facility.	March 1977	1,297,050	1,729,400				
			59503	2	P. & S. I/I rehabilitation	do.			91,700	122,266		
			59504	3	I/I rehabilitation	4th quarter 1978					2,375,700	3,167,600
73. 35.12	Kinston	20541	52701	1	I/I, Phase I evaluation survey.	June 1977	56,250	75,000				
		24236	52701	1	I/I, phase II evaluation survey.	March 1978			131,250	175,000		
74. 34.96*	Roanoke Rapids (S.Dak.).	24201	44901	1	I/I, evaluation survey	January 1977	75,000	100,000				
			44902	2	P. & S., for priority project.	September 1977			356,250	475,000		
75. 34.93	Surf City Topsail beach area.		44802	2	P. & S., for priority project.	June 1977	150,000	200,000				
76. 34.91	Montgomery County (Troy).	25950	45301	1	I/I Phase I evaluation survey.	February 1977	56,250	75,000				
			45301	1	I/I, Phase II evaluation survey.	September 1977			131,250	175,000		
			45302	2	P. & S. for priority project.	June 1977	258,750	345,000				
77. 34.84	Haywood County area.		52501	1	I/I evaluation survey	June 1977	56,250	75,000				
78. 34.67	Anson County area	21385	42201	1	I/I evaluation survey	April 1977	148,500	198,000				
			42202	2	P. & S. for reg. system	June 1967	375,000	500,000				
			42203	3	Phase I reg. system	June 1978			750,000	1,000,000		
79. 34.06	Red Springs	25577	43303	3	WTP and Int.	December 1976	2,226,000	2,968,000				
80. 33.92	Fayetteville (Cross Creek).	23957	43401	1	I/I evaluation survey	May 1977	112,500	150,000				
			43402	2	P. & S. for priority project.	December 1977			210,000	280,000		
81. 33.91	Raleigh (E. M. Johnson Water Plant).		31903	2/3	Sludge facilities	December 1976	367,500	490,000				
82. 33.72	Trenton		44202	2	P. & S. for WTP	June 1977	30,000	40,000				
			44203	3	WTP	March 1978			375,000	500,000		
83. 33.52	Wallace (Rose Hill area).		44501	1	I/I, evaluation survey	April 1977	52,440	69,920				
			44502	2	P. & S. for priority project.	June 1977	86,550	115,400				
			44503	3	Phase I for priority project.				187,500	250,000		
84. 33.41	Richmond County area.	21806	50801	1	I/I, evaluation survey	June 1977	75,000	100,000				
			50802	2	P. & S. for priority project.	October 1977			150,000	200,000		
85. 33.22	Roseboro-Salemburg area.	26816	50501	1	I/I evaluation survey Phase I.	April 1977	15,000	20,000				
			50501	1	I/I evaluation survey Phase II.	April 1978			37,500	50,000		
86. 33.14	Durham Co. (triangle).	26051	57501	2/3	Interceptor	February 1977	356,440	475,250				
87. 33.08	Eastern Catawba area.		43601	1	I/I evaluation survey	June 1977	37,500	50,000				
	Claremont	26549	57601	2	P. & S. for Claremont South WTP.	March 1977			18,750	25,000		
			57602	3	Claremont South WTP	4th quarter 1978.					277,500	370,000

Footnote at end of table.

Number and priority value	Applicant name	NPDES No. NCOO-	Grant ID No.	Type of project (step)	Project description	Application target date	Fiscal year 1976 project funding		Fiscal year 1977 project funding		Fiscal year 1978 project funding	
							Estimated 75 percent Federal grant	Estimated project cost	Estimated 75-percent Federal grant	Estimated project cost	Estimated 75-percent Federal grant	Estimated project cost
88. 32.41	Eastern Band Cherokee Indian.		53201	1	I/I evaluation survey	December 1976	30,000	40,000				
			53202	2	P. & S. for priority project.	September 1977			112,500	150,000		
89. 32.39*	Woodland		43801	1	I/I evaluation survey	September 1976	28,500	38,000				
			43802	2	P. & S., WTP and P.S.	September 1976	25,575	34,100				
			43803	3	WTP and P.S.	June 1977	538,425	717,900				
			43804	3	I/I rehabilitation	September 1977			67,500	90,000		
90. 32.18*	Oxford (Northside)	25062	43901	1	I/I evaluation survey	July 1977	112,500	150,000				
			43902	3	I/I rehabilitation	December 1977			105,000	140,000		
91. 31.76	Fuquay-Varina	21911	44001	1	I/I evaluation survey	December 1976	137,700	183,600				
			44002	2	P. & S., WTP	April 1977	93,750	125,000				
			44003	3	WTP	December 1977			1,500,000	2,000,000		
			44004	3	I/I rehabilitation	3d quarter 1978					306,600	408,800
92. 31.55	Pilot Mountain	26646	54501	1	Facilities plan	March 1976	22,500	30,000				
93. 41.54	Hendersonville	25534	44401	1	I/I evaluation survey	December 1976	243,750	325,000				
			44402	2	P. & S. for Phase I WTP and Int.	March 1977	11,250	15,000				
			44403	3	Phase I WTP and Int.	March 1978			123,750	165,000		
94. 31.53*	Pinetops-Macclesfield area.	27031	46901	1	I/I evaluation survey	June 1977	18,000	24,000				
		20435	46902	2	P. & S. for priority project.	December 1977			75,000	100,000		
95. 31.43	Elizabethtown	26671	41801	1	I/I, evaluation survey	December 1976	37,500	50,000				
			41802	2	P. & S., WTP and Int.	March 1977	52,500	70,000				
			41803	3	WTP and Int.	June 1977	1,125,000	1,500,000				
			41804	3	I/I, rehabilitation	3d quarter 1978					93,750	125,000
96. 31.40	Saluda		42001	1	I/I, evaluation survey	June 1977	9,000	12,000				
97. 31.04*	Seaboard	25925	44701	1	I/I, evaluation survey	December 1976	7,500	10,000				
			44702	2	P. & S. for WTP	December 1976	37,500	50,000				
			44703	3	WTP	June 1977	300,000	400,000				
98. 30.96	Cherryville	20206	47002	2	P. & S. for interceptor and WTP.	December 1976	305,700	407,600				
			47003	3	Interceptor	September 1977			433,800	578,400		
			47004	3	WTP	4th quarter 1978					4,576,980	6,102,640
99. 30.92	Oakboro	21792	45201	1	I/I, Phase II evaluation survey.	December 1976	15,000	20,000				
			45202	2	P. & S. for priority project.	June 1977	131,250	175,000				
100. 30.83	Morganton (Catawba R.)	26573	39603	2	P. & S. for Int. and P.S.	October 1976	48,750	65,000				
			39604	3	Int. and P.S.	April 1977	1,178,250	1,571,000				
101. 30.48	Drexel	21296	57701	2	P. & S. for Howards Cr. and Secrets Cr. Int.	December 1976	30,000	40,000				
			57702	3	Interceptor	October 1977			958,725	1,278,300		
102. 30.16	Clarkton	21610	46201	1	Facilities plan	May 1975	22,500	30,000				
103. 30.05	Murfreesboro	20851	49102	1	I/I, evaluation survey	March 1977	30,000	40,000				
			49102	2	P. & S. for priority project.	June 1977	45,000	60,000				
104. 29.97	Zobulon	24368	54201	1	I/I, evaluation survey	September 1976	42,675	56,900				
			54202	2	P. & S., WTP	April 1977	26,475	35,300				
			54203	3	WTP	December 1977			395,625	527,500		
			54204	2	I/I, rehabilitation	4th quarter 1978					22,875	30,500
105. 29.76	Richlands		57801	1	Facilities plan	June 1977	19,500	26,000				
106. 29.70	Denton	26689	51901	1	I/I, evaluation survey	March 1977	11,250	15,000				
			51902	2	P. & S. for priority project.	June 1977	37,500	50,000				
107. 29.66	Union Co. (Marshville-Wingate).		37904	2	P. & S. for Wingate, Marshville Int. and P.S.	December 1977	105,000	140,000				
			37905	3	Interceptor and P.S.	September 1978			2,283,750	3,045,000		
108. 29.59	Troutman (Big Br.)	26832	58001	2	P. & S. WTP and Int.	June 1977	34,400	45,870				
			58002	3	WTP and Int.	March 1978			570,000	795,990		
109. 29.50	Mayodan-Madison Stoneville area.	21873	46601	1	I/I Evaluation Survey	June 1977	48,000	64,000				
			46602	2	P. & S. for piority project.	December 1976	75,000	100,000				
			46603	3	WTP for piority project	June 1977	1,605,000	2,140,000				
10. 29.21	New Hanover Co. (Carolina Beach Kure Beach area)		46101	1	I/I Evaluation survey	May 1977	22,500	30,000				
111. 29.09*	Bunn		53101	1	Facilities plan	March 1976	15,000	20,000				
112. 28.70	Northeastern Harnett County area.	21245	45401	1	I/I Evaluation survey	June 1977	37,500	50,000				
113. 28.56	Goldsboro	23949	48201	1	I/I Evaluation survey	April 1977	56,250	75,000				
			48202	2	P. & S. for priority project.	June 1977	67,500	90,000				
114. 28.32	Valdese (McGallard).	27053	39605	2	P. & S. for Lake Rhodhiss WTP and Int.	December 1976	139,500	186,000				
			39606	3	Lake Rhodhiss WTP, Int.	September 1977			3,354,750	4,473,000		
115. 27.99*	W. Franklin County	20672	47302	2	I/I, P. & S. for priority projects.	May 1977	187,500	250,000				
116. 27.99	Warsaw		47403	2	I/I, P. & S. for priority project.	June 1977	75,000	100,000				
117. 27.58	Liberty		46002	2	I/I P. & S. for priority project.	June 1977	63,750	85,000				
118. 27.42	Greenville	23931	48701	1	I/I Evaluation survey	April 1977	75,000	100,000				
			48702	2	P. & S. for priority project.	March 1978			225,000	300,000		
119. 27.34	Eden	25071	45801	1	I/I Evaluation survey	May 1977	45,000	60,000				
120. 26.96*	Tarboro	20605	58101	1	Facilities plan	June 1976	18,750	25,000				
121. 26.72	Burlington (Elon College).		38501	1	I/I Evaluation survey	September 1976	6,000	8,000				
	Elon College		58201	2	P. & S. for Int.	September 1976	9,000	12,000				
			58202	2	Int. Sewer	1978					92,663	123,550
122. 26.41	Robbins	21440	49501	1	Evaluation survey—I/I	May 1977	30,000	40,000				
123. 26.31	Kenly-Micro area	27014	47701	1	I/I evaluation survey	June 1977	43,500	58,000				
124. 26.22*	Battleboro	25429	58301	3	I/I rehabilitation	4th quarter 1978					75,000	100,000
125. 26	Benson	20389	41701	1	I/I evaluation survey	May 1977	28,500	38,000				
			58401	2	P. & S. WTP	December 1977			64,050	85,400		
			58402	3	WTP	4th quarter 1978					1,041,450	1,388,600
			58403	3	I/I rehabilitation	do					76,500	102,000

Footnote at end of table.

2D DISTRICT—Continued

NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION—Continued

FEDERAL CONSTRUCTION GRANTS FUNDING LIST FOR FISCAL YEAR 1977, JULY 15, 1976—Continued

							Fiscal year 1976 project funding		Fiscal year 1977 project funding		Fiscal year 1978 project funding	
Number and priority value	Applicant name	NPDES No. NCOO–	Grant ID No.	Type of project (step)	Project description	Application target date	Estimated 75 percent Federal grant	Estimated project cost	Estimated 75-percent Federal grant	Estimated project cost	Estimated 75-percent Federal grant	Estimated project cost
126. 25.96	Lincolnton area	25496	45601	1	I/I, Phase I, evaluation survey.	June 1977	56,250	75,000				
			45602	2	P&S, Phase I, priority project.	March 1978			112,500	150,000		
127. 25.46	New Bern	25348	48301	1	I/I evaluation survey	June 1977	15,000	20,000				
			48302	2	P. & S. for priority project.	October 1977			217,500	290,000		
127. A. 25.45	Whitakers		57901	1	Facilities plan	June 1977	30,000	40,000				
128. 25.37	Fremont-Pikeville area.	21822	53001	1	I/I evaluation survey	May 1977	18,750	25,000				
			53002	2	P. & S. for WTP	March 1978			22,500	30,000		
129. 25.28	Forest City-Spindale-Rutherfordton area.	25984	46301	1	I/I evaluation survey	March 1977	30,000	40,000				
			46302	2	P. & S. for priority project.	June 1977	71,250	95,000				
130. 25.09	Burgaw		46401	1	I/I evaluation survey	do.	17,775	23,700				
131. 25.08	Alexander County area.	26271	48801	1	do.	January 1977	37,500	50,000				
132. 25.06	Princeton	26662	58501	1	Facilities plan	June 1977	6,375	8,500				
133. 24.98*	Jackson		49710	1	I/I evaluation survey	May 1977	11,250	15,000				
134. 24.62*	Enfield	25402	49801	1	do.	June 1977	22,500	30,000				
135. 24.58*	Creedmoor area	20125	49901	1	do.	do.	15,000	20,000				
136. 24.57	Gibson	24589	48501	1	do.	do.	7,500	10,000				
137. 24.56	Sedgefield S.D. (east High Point).		38701	1	do.	December 1976	7,425	9,900				
			58601	3	I/I rehabilitation	December 1977			44,830	59,770		
138. 24.30*	Nashville	21377	50401	1	I/I evaluation survey	June 1977	37,500	50,000				
139. 24.27	Williamston	20044	43501	1	do.	June 1976	24,000	32,000				
			43502	2	P. & S. for WTP and Int.	September 1976	55,710	74,280				
			43503	3	WTP and Int.	June 1977	797,850	1,063,795				
			43504	3	I/I rehabilitation	3d quarter 1978					317,775	423,700
140. 23.89	Fountain		47102	2	I/I, P. & S. for priority project.	June 1977	63,750	85,000				
141. 23.57	Piney Green (Onslow County).		56903	2	P. & S. interceptor and P.S.	December 1977.			117,949	157,265		
			56904	3	Interceptor and P.S.	4th quarter 1978.					1,356,408	1,808,545
142. 23.54	Stedman		50601	1	Facilities plan	March 1976	15,000	20,000				
143. 23.53	Brevard area	21466	47601	1	I/I evaluation survey	June 1977	22,500	30,000				
144. 23.46	Cleveland County		50201	1	I/I evaluation survey	June 1977	88,650	118,200				
			50202	2	P. & S. for priority project.	December 1977.			67,500	90,000		
145. 23.41	Jackson County area		47801	1	I/I evaluation survey	June 1977	75,000	100,000				
146. 23.34	Mount Airy	21121	58801	1	Facilities plan	March 1977	67,500	90,000				
147. 23.29	Spring Lake (Cumberland County).	25399	43403	2	P. & S. for WTP and Int.	June 1976	143,900	191,870				
			43404	3	WTP and Int.	September 1976	1,842,605	2,456,810				
148. 23.05	Marshall	21733	51201	1	I/I evaluation survey	May 1977	15,000	20,000				
149. 22.80	North Wilkesboro area.	20761	39001	1	I/I evaluation survey	June 1977	18,750	25,000				
150. 22.61	Yadkinville	20338	51001	1	I/I evaluation survey	June 1977	15,000	20,000				
151. 22.46*	Wilson		38101	1	I/I evaluation survey	June 1977	45,000	60,000				
			38102	2	P. & S. for Murphy Body Int.	December 1976.	11,250	15,000				
			38103	3	Murphy Body Int.	March 1977	187,500	250,000				
152. 22.24	Spruce Pine	21423	54701	1	Facilities plan	December 1976	11,250	15,000				
153. 22.19	Old Fort	21229	51801	1	I/I evaluation survey	June 1977	25,290	33,720				
			51802	2	P. & S. for priority project.	September 1977			70,162	93,550		
154. 22.14	Rowland	23329	53601	1	Facilities plan	March 1976	13,500	18,000				
155. 21.81	Whiteville area	21920	53401	1	I/I evaluation survey	June 1976	18,750	25,000				
156. 21.59	South Rutherford County.		54901	1	Facilities plan	December 1976.	15,000	20,000				
157. 21.53	Littleton	25691	58901	1	Facilities plan	June 1976	9,000	12,000				
158. 21.43	Wendell	25020	54201	1	I/I evaluation survey	May 1977	46,950	62,600				
			59001	2	P. & S., WTP and Int.	May 1977	28,575	38,100				
			59002	3	WTP and Int.	May 1978			394,875	526,500		
			59003	3	I/I rehabilitation	4th quarter 1978					12,000	16,000
159. 21.38	Bayboro		53301	1	Increase for survey	October 1977			750	1,000		
160. 21.03*	Sims		55001	1	Facilities plan	June 1977	14,814	19,752				
161. 20.95	Central Polk County area.		48101	1	I/I evaluation survey for Tryon.	May 1977	56,250	75,000				
162. 20.77*	Southern Nash	25852	55201	1	Facilities plan	March 1976	42,000	56,000				
163. 20.60	Boone	20621	49301	1	I/I Evaluation survey	June 1977	37,500	50,000				
			49302	2	P. & S. for priority project.	December 1977			131,250	175,000		
164. 20.32	Southwest Brunswick Co. area.		49201	1	Increase for survey	December 1977			750	1,000		
165. 20.27	Pembroke	27103	46501	1	Facilities plan	December 1976	13,125	17,500				
166. 20.26	Kenansville		59101	1	Facilities plan	March 1977	26,250	35,000				
167. 20.10	Fair Bluff	20729	51701	1	I/I Evaluation survey	May 1976	15,000	20,000				
168. 19.98	St. Pauls	20095	52901	1	I/I Evaluation survey	December 1977			11,250	15,000		
169. 19.77	Rosman	21946	55101	1	Facilities plan	March 1976	16,875	22,500				
170. 19.70*	Western Warren Co. area.	20834	52001	1	I/I evaluation survey	June 1976	26,250	35,000				
171. 19.60	Garland	25569	54301	1	Facilities plan	March 1976	13,000	17,333				
172. 19.24	Elkin	20567	54101	1	Facilities plan	March 1976	41,250	55,000				
173. 18.53	Murphy	20940	51601	1	I/I evaluation survey	June 1977	15,000	20,000				
174. 18.43*	Scotland Neck	23337	48401	1	I/I evaluation survey	December 1977			15,000	20,000		
175. 18.10	Carthage	25551	54401	1	Facilities plan	December 1976	15,750	21,000				
176. 17.98	Hertford	21849	52601	1	I/I evaluation survey	June 1977	37,500	50,000				
177. 17.75	Washington	20648	52101	1	I/I evaluation survey	June 1977	30,000	40,000				
178. 17.70	Maiden	21571	43702	2	P. & S. for WTP and int.	January 1977	103,500	138,000				
			43703	3	WTP and int.	June 1977	1,491,000	1,988,000				
179. 17.65*	Vass-Whispering Pines.	07838	49601	1	Facilities plan	March 1976	17,625	23,500				
180. 17.39*	Conway	26239	55801		acilities plan	December 1976	26,250	35,000				
181. 16.52	Hot Springs	25836	55401	1	Facilities plan	December 1976	5,625	7,500				
182. 16.42	Albemarle	24244	52201	1	I/I evaluation survey	June 1977	26,250	35,000				

Footnotes at end of table.

2D DISTRICT—Continued

NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION—Continued

FEDERAL CONSTRUCTION GRANTS FUNDING LIST FOR FISCAL YEAR 1977, JULY 15, 1976—Continued

Number and priority value	Applicant name	NPDES No. NCOO–	Grant ID No.	Type of project (step)	Project description	Application target date	Fiscal year 1976 project funding: Estimated 75 percent Federal grant	Fiscal year 1976 project funding: Estimated project cost	Fiscal year 1977 project funding: Estimated 75-percent Federal grant	Fiscal year 1977 project funding: Estimated project cost	Fiscal year 1978 project funding: Estimated 75-percent Federal grant	Fiscal year 1978 project funding: Estimated project cost
183. 16.32*	Bethel		48001	1	Facilities plan	March 1976	11, 250	15, 000				
184. 16.22	Andrews	20800	53701	1	Facilities plan	March 1976	10, 500	14, 000				
185. 16.20	Snow Hill	20842	52301	1	I/I evaluation survey	June 1977	15, 000	20, 000				
186. 16.04	West Jefferson area	20451	54801	1	Facilities plan	December 1976	26, 250	35, 000				
187. 15.79	Marion	21130	40601	1	I/I evaluation survey	December 1977			22, 500	30, 000		
188. 15.35	Goldston		55501	1	Facilities plan	March 1977	11, 250	15, 000				
189. 15.17	Lumberton	24571	45501	1	I/I evaluation survey	June 1977	37, 500	50, 000				
190. 14.95	Raeford	26514	45701	1	I/I, evaluation survey, Phase I.	do	18, 750	25, 000				
			45701	1	I/I, evaluation survey, Phase II.	December 1977			75, 000	100, 000		
191. 14.03	Maysville	21482	59201	1	Facilities plan	June 1977	13, 500	18, 000				
192. 13.89	Hookerton		55301	1	do	March 1976	10, 969	14, 625				
193. 13.86	Blowing Rock		47901	1	I/I, evaluation survey	June 1977	69, 750	93, 000				
194. 13.75	Columbia		50101	1	do	do	30, 000	40, 000				
195. 13.32	Highlands	21407	50701	1	do	do	33, 750	45, 000				
196. 13.24	Jamesville		55901	1	Facilities plan	December 1976	15, 000	20, 000				
197. 12.77	Lake Lure	25381	48901	1	do	April 1975	27, 638	36, 850				
198. 12.74	Franklin		52401	1	I/I, evaluation survey	June 1977	15, 000	20, 000				
199. 12.72	Broadway		43204	2	P. & S. for WTP and Int	do	71, 250	95, 000				
200. 12.56	Hayesville		55601	1	Facilities plan	March 1976	13, 500	18, 000				
201. 12.51	Robbinsville		55701	1	do	December 1976	9, 375	12, 500				
202. 11.73	Ramseur	02950	49001	1	I/I, evaluation survey	June 1977	22, 500	30, 000				
203. 11.60	Belhaven		50301	1	do	do	15, 000	20, 000				
204. 11.42	Dublin		59301	2	P. & S. for Int. and P.S	April 1977	18, 570	25, 000				
			59302	3	Int. and P.S	December 1977			243, 750	325, 000		
205. 11.34	Avery County area		53801	1	Increase	March 1977	22, 500	30, 000				
206. 11.01	Eureka		53901	1	Facilities plan	March 1976	6, 000	8, 000				
207. 10.63	Plymouth	20028	50001	1	I/I, evaluation survey	December 1976	30, 000	40, 000				
			50002	2	P. & S., WTP and Int	do	41, 250	55, 000				
			50003	3	Phase I, WTP	June 1977	45, 000	60, 000				
			50004	3	WTP and Int	December 1977			413, 250	551, 000		
			50005	3	I/I, rehabilitation	2d quarter 1978					183, 000	244, 000
208. 10.61	Harrellsville		51101	1	Increase for survey	December 1977			750	1, 000		
209. 10.00	Dobson	21326	54001	1	Facilities plan	March 1976	16, 875	22, 500				
210. 9.39	Mars Hill		50901	1	Increase for survey	June 1977	750	1, 000				
211. 9.03	Vanceboro		45002	2	P. & S. for WTP and Int	April 1976	33, 492	44, 656				
			45003	3	WTP and Int	September 1976	528, 407	704, 542				
212. 9.01*	Yanceyville, S. Dak		49401	1	I/I, evaluation survey	December 1977			7, 500	10, 000		
213. 7.86	Riegelwood, S. Dak		51401	1	Increase for survey	December 1977			750	1, 000		
214. 7.18	Roper		59401	2	P. & S. for WTP and Int	December 1976	22, 500	30, 000				
			59402	3	WTP and Int	December 1977			397, 500	530, 000		
Totals							102, 085, 589	136, 114, 110	90, 968, 000	121, 290, 636	88, 854, 046	118, 472, 045
Contingency account							7, 759, 411				2, 113, 954	
Reserve account							500					
Grand total							110, 345, 000		90. 968. 000		90, 968, 000	

* Contingent upon cost-effective evaluation.

Mr. LEGGETT. Mr. Chairman, we are starting what is hopefully the final act of a legislative drama which has been as contentious as it has been lengthy. That drama stretches back to last February, when the House passed the first of two vetoed public works employment bills.

Another way to characterize this long, drawn-out saga is to call it a lesson in simple arithmetic. This lesson is that, despite the blandishments of a recalcitrant White House, three-fourths of the people's representatives are prepared to reflect the desires of their constituents and vote for public works jobs to combat persistently high unemployment.

As we take up H.R. 15194 to provide appropriations pursuant to S. 3201, the Public Works Employment Act of 1976, I hope that lesson is not still lost on our friends in the White House. For as our Appropriations Committee said in reporting the bill, its action reflects the mandate of the House in overriding by a 310 to 96 vote the President's veto of S. 3201, and the "clear intention of an overwhelming majority of the Members * * *" that we promptly consider appropriations as authorized by that act.

As I said back when the House passed its second public works employment authorizations, the basic issue involved here has not changed throughout this time-consuming debate. It is whether, in a time when the economy has high unemployment and substantial unused productive capacity, public works and other governmental programs can create productive jobs and generate additional economic activity at the aggregate level. I am convinced that the answer to that question is an affirmative one. As I have said before, I think we ought to rebut vigorously the specious assertions of the conservative economic prophets who say that public jobs programs can produce only inflation and cannot create net additions to the Nation's employment level.

That might have considerable truth if unemployment were low and the economy were operating at a high proportion of capacity. But make no mistake about it, the unemployment problem certainly has not gone away. Despite the progress of the economic recovery, the downward trend in the unemployment rate has leveled off, and in the last 2 months it has shot back up again, from 7.3 to 7.8 percent. That is a level of unemployment, with the accompanying human misery and deprivation, which we need not and should not tolerate.

Not only is overall unemployment unacceptably high, but for several major groups in our economy, it has been and remains at depression levels. One of those groups is very definitely the construction industry, where unemployment has ranged between 15 and 23 percent over the last 18 months. While there has been some progress in the past year, unemployment among construction workers still stood at 17.7 percent in July, more than twice the national average.

This area obviously represents one of our most serious problems of structural unemployment. The public works funds included in this bill would thus provide badly needed help to a sector which is among the hardest hit in the American economy.

Looking again to the overall picture, permit me to say that as a member of the House Budget Committee, I have supported and urged the other members to support a jobs stimulus strategy that would lead us out of this recession as well as put us on the road to full employment. This bill provides not only a badly needed accelerated public works program, it also includes funds for countercyclical assistance to State and local governments and waste water treatment construction grants.

H.R. 15194 includes $1.25 billion, the

full amount authorized, for antirecessionary grants to States and localities over the five calendar quarters beginning July 1, 1976. The aim of this program is to enable State and local governments to avoid the cuts in basic services, as well as employment, which they would otherwise have to make as revenues decline in a period of economic recession.

In addition, the bill provides $200 million for grants to municipal, intermunicipal, States, and interstate agencies to assist in financing the planning, design, and construction of municipal waste water treatment facilities. That amount represents a substantial cut from the $700 million authorized in S. 3201, the only such cut, I might add, which is made in the appropriation. If the smaller figure is all that could be obligated in fiscal year 1977, however, as EPA says, then there is no reason to appropriate any more.

In sum, adoption of this bill will create approximately 160,000 new jobs during fiscal year 1977. And that is just the direct effect. Thousands of additional jobs will be created as a result of the almost $2 billion in outlays for fiscal year 1977 which are contained in this bill.

To those of us concerned about budgetary responsibility, I say that this bill, as Chairman Adams has pointed out, is clearly within the targets established by the Congress in the first budget resolution.

Finally, I must say that it has been the Congress acting via its committees, including the Budget Committee, that has demonstrated real concern for the unemployed and the economic welfare of all our people. If anything, Congress has been too hesitant in meeting the problem of unemployment and the human despair that accompanies it. The Public Works Employment Appropriations Act deserves the support of all Members of Congress. I urge its passage.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of H.R. 15194, the public works employment appropriations bill. I do so principally because of title I, the public works provision which authorizes $2 billion for the construction of local public works facilities. The language of this provision has been carefully drafted to address the excessive unemployment in the construction and related industries and to provide States and local governments with needed facilities such as schools, libraries, courthouses, and other needed public works facilities.

I also support the remarks of my good friend and colleague from Michigan (Mr. Cederberg) with regard to the Talmadge-Nunn amendment on the construction of waste water treatment facilities. As I urged my colleagues in the conference, this amendment is unnecessary. This is a jobs bill, not a program for the construction of waste water treatment facilities. In the House we addressed this matter in the Water Pollution Control Act amendments, and if the Senate would act on this measure in a timely fashion there would be no need for this provision.

On June 3 the House passed H.R. 9560, the water pollution control amendments. As ranking minority member of the Water Resources Subcommittee I actively worked for the passage of this measure. This bill included $17 billion for the construction of waste water treatment facilities and it altered the allocation formula. The revised allocation formula included in H.R. 9560 answers the objection to the current allocation formula that the Talmadge-Nunn amendment was designed to correct. In light of this legislation there is clearly no need for title III of this bill.

Despite the addition of this provision and the so-called countercyclical aid amendment, I still supported the authorizing legislation and now support the appropriations bill. I do so because it is the only public works job-creating measure which the Congress has considered this session and because I firmly believe that title I will provide a much needed shot in the arm for our communities throughout the country which have been hard hit by excessive unemployment.

This is the final step in the local public works bill to reduce the unemployment rate by providing employment opportunities through the private sector and is in my opinion a wise investment compared with the high costs of unemployment.

Mr. ADAMS. Mr. Chairman, I take this opportunity to advise the Members on the status of the pending Public Works Employment Appropriations Act as it relates to the first budget resolution for fiscal year 1977.

As you know, Mr. Chairman, this bill provides funding for a major segment of the job stimulus strategy contained in the first budget resolution. In that first resolution, Congress provided a total of $3,050 billion in budget authority and $1,950 million in outlays for job creation programs, such as accelerated public works and countercyclical assistance efforts. Titles I and II of the appropriations bill before the House today—the accelerated public works and antirecession assistance programs—will utilize nearly all of these job stimulus funds set aside by the Congress. The Budget Committee estimates that titles I and II will require a total of $2,938 million in budget authority and $1,850 million in outlays, just short of the first resolution set-aside. Approximately 160,000 new jobs will be created by these programs during fiscal year 1977.

Title III of the pending bill provides $200 million for the EPA construction grant program. In the first budget resolution, it was assumed that a total of $4,100 million in budget authority and $300 million in outlays would be utilized during the fiscal year. Thus, after passage of this bill, there will remain available within the first resolution assumptions a balance of $3,900 million in budget authority and $286 million in outlays for the EPA program. We expect this remainder to be taken up by the regular EPA extension bill still pending final action in the Congress.

In summary, Mr. Chairman, this special appropriations bill is not only within the targets set by the Congress in the first budget resolution, titles I and II fulfill a major thrust of the congressional budget process. It was clear to the House and the Congress in the spring that significant additional job creation efforts were necessary. All indications today are that this need continues to be strong.

Therefore, Mr. Chairman, I intend to vote for passage of the Public Works Employment Appropriations Act and I urge my colleagues to do the same.

Mr. HEINZ. Mr. Chairman, I rise in support of H.R. 15194, the public works employment appropriations bill. Approval of this legislation will enable qualified State and local governments to begin applying for vital antirecession funding and moneys for public works projects. Moreover, it will be a significant step toward alleviating the current levels of high unemployment which continue to plague our Nation.

The latest economic statistics have indicated just how much this assistance is needed. Nationwide unemployment has once again risen to the unacceptable level of 7.8 percent. In my home State of Pennsylvania, unemployment is 7.9 percent seasonally unadjusted. In Pittsburgh it is 7.5 percent, in Philadelphia it is 8.0 percent and many areas across the State are experiencing unemployment well above the national level.

The public works employment appropriations bill will supplement the budgets of State and local governments which are still hard hit by the effects of our recent recession. Since the passage of the public works employment authorization, my office has been flooded with requests for information regarding grant eligibility so that the important task of putting thousands of Americans back to work can begin.

Let me cite a few examples of projects in Pennsylvania that may benefit from the bill: Allegheny County, with unemployment at 6.8 percent will be eligible to apply for funds to repair 19 of its critically deficient and structurally dangerous bridges; Warren County with 6.7 percent unemployment, will apply for funds to build a new county jail; and Williamsport, with 9.1 percent unemployment, has several public works projects planned including a new city highway and various storm sewer projects if given funding.

In a recent letter to me, Mayor Dan Kirby of Williamsport voiced the sentiments of many State and local governments toward the public works employment bill:

> Congress' July 22, 1976, override of the Presidential veto of the Public Works Employment Authorization, provides greatly needed moneys to our nation's cities. The City of Williamsport, among other Pennsylvania cities, anxiously awaits the publication of the rules and regulations for this disbursement of moneys.

With these thoughts in mind, I hope my colleagues who share my and Mayor Kirby's enthusiasm will support the public works employment appropriations bill for fiscal year 1977.

Mr. TALCOTT. Mr. Chairman, this Nation continues to face serious economic problems which confound the economists and punish the average citizen. There is a story that says President Truman was listening to an economist who would say "on the one hand the problem is this and on the other hand it is that." Finally Harry Truman reportedly said "What I need around here is a one-armed economist!"

Today we are faced with a bill which was put together by a crew of economists who must have been related to centipedes. It is not particularly good legislation; it ignores the root causes of our economic problems; it provided only cosmetic solutions to major problems; and finally, it unreasonably raises the expectations of Americans at all levels.

My problems with this bill are many. It does not really address the major problems of unemployment in this Nation. In areas such as mine where there is a high seasonal employment during the summer months, followed by equally high unemployment after the harvest, this bill will not be particularly helpful since the unemployment figures are based on the previous 3 months regardless of unique situations. I suspect that the gentlemen from Maine, Cape Cod, Atlantic City, and a number of other places such as Alaska will find that the bill discriminates against them too. I am already working to correct this problem, but I suspect that it will continue for some time to come.

My second major problem with this bill is that it does not really aim at severe unemployment pockets. For example, the money which we are providing for construction of waste water treatment facilities is needed, but there is absolutely no attempt to target these funds into areas of high unemployment. In fact, even if there were such an attempt there is little evidence that it would do any good. Testimony from the Environmental Protection Agency was quite clear that none of these funds could actually be expended in less than 18 to 24 months.

Now I want to make it clear that I support this program, and that the Congress has set national policy to clean up our waterways. There is little doubt that these funds will be provided sooner or later, and because of the need to move forward in the cleanup effort now is a better time than later. But to tie these into a "jobs" bill makes no sense. They will not create any new jobs in the immediate future, and very few at all over coming years. We ought to spend the money, because it is the right and proper thing to do, but to call this a "jobs" program is to perpetrate a cruel hoax on the unemployed in this Nation.

Mr. Chairman, we all recognize the problems of the unemployed. I know that my colleagues are honorable, compassionate men. However, this "jobs" bill is a fraud on the American public. I intend to vote for this bill, because I am familiar with the problems of the unemployed. I know the exhaustion of the body and the spirit when a man cannot find work to support his family. I know the threat a man feels when he cannot pay his rent or the mortgage. I know the loss of dignity that accompanies unemployment, and if this bill will do anything to relieve those problems then I will support it.

My objection to this bill is that it is no more than a bandaid on a near terminal cancer. We do not address the root causes, we do not provide for permanent jobs, we do not target these funds into the areas of the worst unemployment. It seems that a decision was made within the councils of the other party that said that regardless of the needs, regardless of the problems, regardless of the shortcomings push this bill through so that we can get the money out on the street before November 2. I think that the American people deserve a lot better than that. I resent the fact that at least one party still thinks that the average citizen's vote is for sale. And even more, I resent the fact that this bill is being held out as a cure-all. Already the expectations of people around the country have been raised to a point where even $10 billion could not meet the demand generated by the thought of all this "free" money we are making available.

There are times when I have to ask myself if I can support bad legislation. This is one of the few times that I think that the answer to the question must be yes—but only because the needs for these funds is so great throughout the United States. Mr. Chairman, what I do urge the leadership on the other side of the aisle to consider is a comprehensive review of the problems of our economy coupled with thoughtful legislative initiatives which will stabilize the situation and restore confidence in both our economy and the Congress.

Ms. **ABZUG**. Mr. Chairman, I would like to commend my colleagues for their diligent and persistent efforts in the enactment of the Public Works Employment Act of 1976. The special public works appropriation represents the final legislation step necessary to bring this crucial act into effect and to put people back to work.

I am proud to be an original sponsor of which authorized the funds appropriated today, to be a member of the Public Works Committee that considered the authorization, and to have served on the conference committee of the initial measure. I equally am proud of the Congress' determination to complete this legislation in the face of continual Presidential vetoes and of our refusal to yield to pressure from the White House.

Despite President Ford's antirecessionary rhetoric, his actions clearly reveal his basic unwillingness to take the positive action needed to overcome the staggering unemployment and the crippling economic downturn we are still experiencing. The administration claims that we are in the midst of a strong economic recovery are undermined by the statistical evidence that the problem persists. The Bureau of Labor Statistics data for May of 1976 revealed that my own State of New York suffered from an unemployment rate of 8.9 percent and its neighbor, New Jersey had 9.2 percent of its labor force out of work. Though these rates are deplorable and unacceptably high, they sadly are not uncommon. Florida, Michigan, Connecticut, Rhode Island, California, and Alaska all had nearly a tenth of their populations out of work. The latest statistics for June of 1976 provide little comfort; in fact, unemployment in New York unfortunately has climbed to 9.3 percent.

Given Presidential inaction in light of these figures, a congressional response was mandatory. I am gratified that the program we have enacted is of such a substantial nature and is directed at the heart of the problem.

The public works bill will be helpful especially to those areas of the country suffering from the highest unemployment as most of the funds will be targeted to these priority areas. There are a wide range of projects eligible for Federal funding under the act. Many of these, such as demolition, renovation, and repair, are highly labor intensive. Hopefully the full scope of this legislation will be reached and the majority of funds allocated will be for such labor intensive programs.

The President's conservative philosophy, as expressed to us in his veto messages, reveals a basic misunderstanding of the economic factors involved in the current recession and a lack of sensitivity to human suffering. In the name of fighting inflation, President Ford was willing to veto a program whose total cost is less than the margin of error in the estimates of this year's deficit. I am gratified that Congress has had the wisdom and compassion to counteract Mr. Ford's decision.

Mr. **MAHON**. Mr. Chairman, I have no further requests for time.

The **CHAIRMAN**. The Clerk will read.

The Clerk read as follows:

TITLE I

CHAPTER I

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

LOCAL PUBLIC WORKS PROGRAM

For expenses necessary to carry out title I of the Public Works Employment Act of 1976 (Public Law 94–369), $2,000,000,000: *Provided*, That not to exceed $10,000,000 may be used for necessary administrative expenses, including expenses for program evaluation by the Secretary of Commerce: *Provided further*, None of the funds appropriated under this Chapter shall be available for any project where less than ten percent of the personnel to be employed on the project have currently resided for at least thirty days in the area used in determining project eligibility under Section 108(e) of Public Law 94–369 and have been currently unemployed for at least thirty days.

POINT OF ORDER

Mr. **WRIGHT**. Mr. Chairman, I make a point of order against the language included in the proviso which begins on page 2, line 11, and includes line 17, page 2.

Mr. Chairman, may I be heard on the point of order?

The **CHAIRMAN**. The gentleman will state his point of order.

Mr. **WRIGHT**. Mr. Chairman, my point of order is that the language contained in this proviso very clearly constitutes legislation on an appropriations bill, as prohibited under clause 2 of rule XXI.

Mr. Chairman, let me read the language, and I believe the chairman will see very clearly wherein it violates the rule. The language declares:

> *Provided further*, None of the funds appropriated under this Chapter shall be available for any project where less than ten percent of the personnel to be employed on the project have currently resided for at least thirty days in the area used in determining project eligibility under Section 108(e) of Public Law 94–369 and have been currently unemployed for at least thirty days.

Quite obviously, Mr. Chairman, this language is legislation, in that it imposes requirements not present in the authorizing legislation and not present in existing law. It imposes duties or determinations upon the administrator who would be required to investigate, quite obviously, all of the personnel to be employed on various projects and to make determinations as to where they reside and how long they have there resided and, in addition, to make determinations as to which of them have been currently unemployed for at least 30 days.

Now, that does indeed impose a new burden and a new determination and a new duty upon the Administrator.

Citing Deschler's Procedures in the U.S. House of Representatives, chapter 26, section 11, I quote the following:

> When an amendment, while curtailing certain uses of funds carried in the bill, explicitly places new duties on officers of the government or implicitly requires them to make investigation, compile evidence, or make judgments and determinations not otherwise required of them by law, then it assumes the character of legislation and is subject to a point of order.

It should not be necessary for me to recite any lengthy number of precedents since they abound. May I offer only two. In the 1st session of the 91st Congress, on July 31, 1969, the Chair ruled that an amendment to an education appropriation bill including the words, "in order to overcome racial imbalance," would be legislation on an appropriation bill because it would impose additional duties and determinations on school officials.

On another occasion, during the second session of the 89th Congress, on October 4, 1966, it was held by the Chair that a general appropriation bill providing funds for Federal highways constituted legislation if it included a provision specifying that "No funds shall be used for any highway * * * which requires either unjustified or harmful nonconforming use of land."

In both of those cases, as well as in numerous other cases, it has been uniformly held by the Chair that any provision in an appropriation bill which imposes additional determinations and requirements upon an administrator to make investigations or compile evidence or make judgments and determinations not otherwise required by law is legislation and, therefore, is subject to a point of order.

Mr. Chairman, I think this proviso does quite clearly require those determinations and, therefore, is legislation on an appropriation bill, and I insist upon my point of order.

The CHAIRMAN. Does the gentleman from Michigan (Mr. CEDERBERG) wish to be heard on the point of order?

Mr. CEDERBERG. I do, Mr. Chairman.

The CHAIRMAN. The Chair will be glad to hear the gentleman.

Mr. CEDERBERG. Mr. Chairman, my amendment is a limitation on funds in the bill, and it is restricted only to funds in the bill. It is consistent with but does not change existing law. The application of the limitation requires only information which it is the intention of the Department of Commerce to obtain under the rules and regulations required by existing law.

The authorization for this appropriation bill, Public Law 94-369, the Public Works Employment Act of 1976, provides in section 107—and I will read only part of the section—as follows:

> The Secretary shall consider among other factors (1) the severity and duration of unemployment in proposed project areas, (2) the income levels and extent of underemployment in proposed project area . . .

Then section 108(e) of the act provides—and I shall read the section in part—as follows:

> The unemployment rate of a local government shall, for the purposes of this Act, and upon request of the applicant, be based upon the unemployment rate of any community or neighborhood (defined without regard to political or other subdivisions or boundaries) . . . except that any grant made to a local government based upon the unemployment rate of a community or neighborhood within its jurisdiction must be for a project of direct benefit to, or provide employment for, unemployed persons who are residents of that community or neighborhood.

Thus the law required the Department of Commerce to issue rules and regulations and also required that any grant made to a local government based upon the unemployment rate of a community or neighborhood within its jurisdiction must be for a project of direct benefit to, or provide employment for, unemployed persons who are residents of that community or neighborhood.

The law was enacted on July 22, 1976. The Department of Commerce on August 23, 1976, in accordance with the act, released the required regulations; and I have copies of them here.

The official guidelines were issued on August 23, 1976, by the Economic Development Administration and incorporated the intention of the agency, and no new authority will be required.

The official guidelines provide, on page 4, and I quote in part:

> The applicant's intent to hire the unemployed of a specific area must be considered.

Mr. Chairman, from page 18 I read in part:

> The project must definitely benefit or provide employment for unemployment persons within that neighborhood or community.

Page 28 says:

> The grantee must provide to EDA monthly reports and a final report indicating number of employed persons, months of work, and certain characteristics of the individuals employed on the project.

Mr. Chairman, those are the regulations. The regulations include the following in the Statement of Objectives within those sections: "to fund projects to maximize immediate employment opportunities and wherever possible to maximize employment opportunities for unemployed residents of the project area."

Mr. Chairman, the limitation does not require any significant new duty, but is based on information and findings provided for in the authorization or anticipated in the regulations issued under the authorization. Such limitations have been found in order.

I respectfully address the attention of the Chair to Deschler's Procedure, chapter 25, section 10.7, and I read in part:

> The mere requirement that the executive officer be the recipient of information is not considered as imposing upon him any additional burdens and is in order.

Also, on this point I respectfully address the attention of the Chair to Deschler's Procedure, chapter 25, section 10.4, and I read in part:

> The fact that the administration of the limitation will impose certain incidental but additional burdens on executive officers does not destroy the character of the limitation.

I would also like to point out, Mr. Chairman, that the burden of certification under my amendment would rest on the contractors. It is the contractors who will certify that they will obtain information from applicants on their residence and employment.

I respectfully address the attention of the Chair to Deschler's Procedure, chapter 25, section 10.11, and I read in part:

> It is permissible to make the payment of funds contingent upon the performance of certain obligations by private citizens or other persons not in the Government's employ.

Mr. Chairman, I feel very strongly that this is not subject to a point of order; and I urge that the point of order be overruled.

The CHAIRMAN. Does the gentleman from Texas (Mr. WRIGHT) wish to be heard further on the point of order?

Mr. WRIGHT. Yes, Mr. Chairman. With the Chair's indulgence, I would like very much to be heard further.

I want to say two basic things which I think are pertinent to this question.

The first is that it is wholly inappropriate to rely upon so-called official guidelines promulgated by an administrative agency to support a contention that language in an appropriation bill does not place obligations upon the administrator which are not required by law. The question is whether it imposes additional obligations upon that administrator which are not required by existing law.

If this Congress ever should reach the point of declaring that some administrative guideline published in the Federal Register and lying there for 30 days constitutes law, then we shall have abrogated our most basic responsibilities.

The question is not whether that is consonant with what the administration has thought might have been Congressional intent. The question is whether the language in this appropriations bill is consonant with the language enacted by this Congress, and in response to that, it is not.

The CHAIRMAN. Could the Chair interrupt the gentleman from Texas (Mr. WRIGHT) for a moment to address a question to him?

Would the gentleman from Texas address that very issue of whether or not the statute in question imposes duties consistent with the limitation in the regulation which is consistent with the language in the bill.

Mr. WRIGHT. I will be happy to do that, Mr. Chairman, very briefly.

The gentleman from Michigan (Mr. CEDERBERG) quoted from a portion of section 107 of the act in an effort to demonstrate that the act itself requires these same determinations and findings that the language in the appropriation bill would require. There is a very significant difference between what the act requires and what this proviso included in the appropriation bill would require.

I call the attention of the chairman to the very language which was cited by the gentleman from Michigan:

> The Secretary shall consider among other factors (1) the severity and duration of unemployment in proposed project areas, (2) the income levels and extent of underemployment in proposed project area, and (3) the extent to which proposed projects will contribute to the reduction of unemployment.

In other words, the requirements imposed by the law upon the Secretary are very easily satisfied by statistical data available through the Bureau of Labor Statistics with respect to unemployment in specific areas geographically denominated within the country.

Beyond that, however, the language which was proposed as an exclusion in the appropriation bill would go much further than ask the administrator to determine statistics with respect to general areas. By its very terms it says:

> None of the funds appropriated under this chapter shall be available for any project where less than 10 percent of the personnel to be employed on the project have currently resided for at least 30 days in the area used in determining project eligibility * * * and have been currently unemployed for at least 30 days.

It would expand the requirement of the determination from a determination with respect to statistics applying to geographical areas, to make this determination include individual employees proposed to be employed on the project. And that is an enormous expansion.

We have been informed, Mr. Chairman, that there may be some 350,000 Americans employed under this bill.

Quite manifestly it is an unworkable provision wholly apart from its illegality under the rules.

Obviously a contractor cannot go out to hire employees until he has received a contract from the city, the county or the other sponsoring agency. Obviously the city, or the county or the other sponsoring agency cannot make a contract with the contractor until it first has received a grant. Yet this language, literally interpreted, would mean that we would have to know in advance of the grant just who all of the employees would be, where each one of them lived, how long they had lived there and how long each had been unemployed. It would encumber it with a nightmare of red tape.

There is nothing wrong with what the gentleman from Michigan seeks to accomplish. Actually I do not think there is a single project that would not qualify, but the whole thrust and purpose of the enabling legislation was to make the program move. We mandated, under the law, that every application should be moved upon within 60 days. How can they possibly handle all of the applications within 60 days and still have to make a determination with respect to every employee that presumably will be employed on the project? The contractor does not know who he is going to employ until after the contract has been granted to him.

For all of those reasons, Mr. Chairman, it is unworkable, it is unnecessary and contrary to the rules.

Mr. CEDERBERG. Mr. Chairman, may I be heard further?

The CHAIRMAN. The gentleman from Michigan may proceed.

Mr. CEDERBERG. Mr. Chairman, I will try to be very brief. I just want to say that I am amazed at the arguments of my friend, the gentleman from Texas. All this provision attempts to do is to insure an employment bill where some of the unemployed will be employed. Let me read section 108(e) and it is the basic legislation. It refers to a project and states "must be a project of direct benefit to, or provide employment for, unemployed persons who are residents of that community or neighborhood." All it says is somebody has got to determine "unemployed." To say here that a contract cannot be determined before a grant is issued as to how many people are going to be employed on a project, and we are asking for 10 percent employment, is beyond my fondest comprehension.

All this does is it must comply with the basic law—"unemployed persons who are residents"—the word "resident" is in the basic law—"of that community or neighborhood." It says nothing more than that, and that is in the basic law.

The CHAIRMAN (Mr. O'HARA). The Chair is prepared to rule.

The question, of course, is whether or not this limitation, or so-called limitation, imposes substantial new duties on an official of the executive branch. That question has been the subject of more points of order on appropriation bills than perhaps any other, or at least as many as any other. It is very difficult to make that determination in circumstances like the present one, because, for instance, as the gentleman from Michigan cited in Deschler's Procedure, chapter 25, section 10.7:

> It is not in order in an appropriation bill to insert by way of amendment a proposition which places additional duties on an executive officer; but the mere requirement that the executive officer be the recipient of information is not considered as imposing upon him any additional burdens and is in order.

The other citation, chapter 25, 10.4 through 10.6 states:

> The fact that the administration of the limitation will impose certain incidental but additional burdens on executive officers does not destroy the character of the limitation.

The Chair is also aware of the rulings involving certain limitations on appropriations for food stamps. Those amendments involved the issue of whether or not the household's need for food stamps was a result of the fact that a breadwinner within the household was unemployed because he was engaged in a concerted work stoppage in a strike and imposed certain incidental duties on the executive branch to make the necessary determinations. In those cases the language was held to be a valid limitation upon the appropriation.

In regard to the language now before the chairman for decision, the Secretary is required in the administration of the bill to make a determination that not less than 10 percent of the personnel to be employed on the project have been currently for at least 30 days in the area, and have been currently unemployed for at least 30 days.

The Chair notes that the basic law does impose rather substantial requirements in the sense that it requires, first, that the Secretary consider among other matters the three factors listed in section 107 that were mentioned by the gentleman from Texas as statistical factors. The Chair agrees they are statistical factors. He notes as well, though, that the gentleman from Michigan has brought up the provisions of section 108 (e) which go somewhat further than that, and they require that any grant made to a local government based upon the unemployment rate of a community or neighborhood within its jurisdiction must be for a project of direct benefit to, or provide employment for, unemployed persons who are residents of that community or neighborhood.

So the law already imposes some substantial duties and determinations similar to those which would be required by the proposed limitation in this proviso. The Chair therefore would hold that the particular proviso under consideration is one that does impose a valid limitation upon the use of an appropriation and that the duties imposed upon the Administrator are purely incidental and do not impose any substantial new duties on the Administrator. Therefore the Chair overrules the point of order.

AMENDMENT OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. WRIGHT: Strike the language contained in the proviso beginning on page 2, line 11, and concluding on page 2, line 17.

Mr. WRIGHT. Mr. Chairman, I do not have any quarrel with the ostensible purpose of this proviso. I think it is proper in a sense, and quite honestly I do not think there is a single project throughout the United States that would not qualify.

What I do have a quarrel with is the attempt on the part of the Appropriations Committee and the gentleman from Michigan to impose upon the program an encumbrance that is going to slow the program down.

What I do object to very strenuously

is the proliferation of paper work that was not anticipated in the act.

What I do object to very earnestly is the fact that this flies 180 degrees counter to the purpose of the law that this House passed six times by better than 3-to-1 votes.

The whole purpose, the entire thrust of that act is to get Americans to work quickly, to authorize projects soon, to dip into the backlog of delayed projects and get Americans to work, off the unemployment rolls and onto payrolls, building those projects without delay.

We were very careful, assiduously careful in the drafting of this enabling legislation to make certain that it was not encumbered by redtape, that it was not burdened down with rules and regulations that cause delay.

We mandated in that law that the application forms ought to be available within 30 days of its passage to avoid the kind of slowdown and redtape encumbrance which has characterized too many programs.

We mandated within that law that within 60 days of receipt of an application the administrative agency had to rule on it one way or the other and not just sit around asking questions back and forth, demanding studies, and demanding analyses of the studies, and demanding reviews of the analyses of the studies, and demanding studies of the reviews of the analyses of the studies.

We mandated further that priority must be given to those projects that can employ onsite labor within 90 days. This extraneous provision which my amendment would remove from the appropriations bill goes 180 degrees counter to that by requiring determinations which are not necessary at all, determinations which are not practically possible because everybody knows a contractor is not going to be able to recruit his force until after the project award is made and a contractor chosen and he has received a contract to build the project.

This is just a means of bureaucratic impoundment that is unnecessary, unworkable, and contrary to the provisions of the law itself. It will slow things down. It will proliferate redtape. It will add unnecessary paper work.

For all those reasons, Mr. Chairman, I earnestly implore the Members of this House to stay with the purpose of the law and adopt my amendment to reject this unwise proviso.

Mr. PATTEN. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from New Jersey.

Mr. PATTEN. Mr. Chairman, during the Depression the municipalities tried to pass laws that required private industry to hire 50 percent of local residents, and the State courts time and time again declared those Acts to be unconstitutional. The spirit of this limitation in my judgment has been declared unconstitutional over 100 times by the United States Supreme Court. New York City says one must live in New York City in order to work in the stock market or any other place. I think such a law would be unconstitutional.

I do not like the spirit of this limitation.

Mr. WRIGHT. Mr. Chairman, I thank the gentleman. That surely is an additional reason why this amendment ought to be agreed to.

Mr. CEDERBERG. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I find it utterly amazing that in a bill designed to do something about the unemployed in a given area where a project takes place, that the authors of this bill would come here on the floor and deny these unemployed an opportunity to work because of redtape.

Now, I do not know about Fort Worth in the district of the gentleman from Texas; but I can tell this House that in Michigan there is not going to be any redtape to assure that 10 percent that work on the job have been unemployed in the area for at least 30 days. That will be no problem whatsoever. Hopefully, it will be some welcome relief to some of the people that are unemployed.

Mr. Chairman, the basic law clearly says, and we have read it time and time again, section 108, this is the law that the gentleman's committee came out with, that it must be a project of direct benefit or employment for unemployed persons who are residents of that community or neighborhood. Now, that is the basic law. All this provision in the appropriation bill says very simply, very easily, is that we would like to have, if the project is built in my community or another Member's community and they have unemployed people there, 1 out of 10 employed on the project shall have been residents, and unemployed for 30 days or longer.

How are we going to vote against that? I cannot believe it. I cannot believe that in a bill designed to produce jobs that we can deny people in that area in which the project is going to be built an opportunity to work on that project. That is all that is involved here.

Let me assure this House, there is no redtape problem to determine whether 1 out of 10 people on the job have been unemployed for 30 days or longer. Why should there be any problem? We can do that in the twinkling of an eye on any project.

So, Members of the House, if we want to help people who are unemployed and give them an opportunity for employment under this Act, the only way we are going to assure it is the defeat of this amendment.

Mr. ROE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I have sat here with great big crocodile tears. How can we possibly listen to this? With the greatest of respect for the gentleman from Michigan, do we really believe what that gentleman is saying?

Let me state what the law says. The law makes two provisions, specific provisions. It says that if a town, a community, or a county, is eligible on the basis of its unemployment level, then it is eligible to be able to apply under this bill, priority No. 1, 7.8 unemployment which is over the national level.

I know nobody wants to mislead us, but we wrote a special provision in this bill and we said if there was a city whose unmployment did not meet that criteria, but there was a pocket of unemployment within that city or a section of the city, the section of the city could apply under its own right to be able to build its project. What does that mean? We are not talking about raking leaves. We are talking about building buildings. If they do not have the artisans or the steelworkers or the construction workers or the masons in that particular region of the city, they cannot build the project. I ought to know whereof I speak. I helped write this bill and was chairman of every single hearing that was held. How can we have people misinterpret this for the body? There are people who spoke as adversaries of this situation when they voted against this bill six times on this floor.

Who is to speak at that juncture for the people of our country? Let me add something else. I did not want to bring it up or to clutter this debate, but let me tell the Members what this amendment to the appropriation bill has done and I want the Democrats to understand something. This is not a quarrel with the Appropriations Committee, which is doing a splendid job, but they even recommend it by use of the notice for the rules meeting the other day, they had already published that in the guidelines; they didn't wait for us to go to the rules committee. We can talk about compensating for this particular piece of legislation written in these guidelines on the 23d, and we have not even passed the bill yet. What kind of a way is that to run a law?

We are trying to do something to put people to work. This bill was to permit capital employment for people to go to work; it is not designed to put people out raking leaves. What are they ging to do if they do not have enough masons in the area? Do they stop the job? Do we want people to lie when they say yes on their certifications that they have the employees, when they do not? That is what we are asking them to do.

Let me suggest something to the Members: This is the only piece of legislation before this body which provides the opportunity to help rebuild America. It is the only piece of legislation—or resurrection, if you like, of our cities—that we have available. If we have any more redtape, we will not get a brick in place or a piece of steel put into place.

All the opposition to this bill was based upon the point of view that public works will not work in this country. You better believe they will not, because this administration has already predetermined that they are not going to let this bill work. There are four or five provisions in this set of rules and regulations which are absolutely, blatantly converse to the law we passed. What are we, puppets? What are we here for? Do we believe in our country and make the law, or say, "The hell with it?"

Members of the committee, we are going to have to decide, because of the point of view of the bureaucrats and the people downtown, whether or not they can exploit the Hill on every single piece of legislation. This is our opportunity, and all the nitpicking points to delay it or turn it around stop here.

That is what we are going to do if we do not pass this amendment. I beseech and implore the Members, for the people of this country, for God's sake, let us follow the right course so that we will be able to believe in the United States of America, which we represent.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate my colleague's eloquent testimony, and I think most of us really are genuinely interested in seeing that Federal public projects do help the unemployment situation in a given area. After listening to all of the points the gentleman has made, I still do not understand what damage there is in allowing 1 out of 10 to come from a local area. What is so damaging about 1 out of 10?

Mr. ROE. There is not any damage. That is not the issue.

Mr. ROUSSELOT. That is your suggestion that 1 out of 10 is not the issue, but according to my colleague Mr. Cederberg, it clearly is the issue.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Michigan.

Mr. CEDERBERG. That is exactly the issue. The issue is whether or not, when a project is built in a given area, somebody that has been there and has been unemployed for 30 days or longer, has an opportunity to work on a project.

Mr. ROE. Is the gentleman making a statement or asking a question?

Mr. CEDERBERG. I am making a statement, not asking a question. The gentleman yielded to me.

Mr. ROUSSELOT. I will ask the question again. I am glad the gentleman from New Jersey (Mr. Roe) states that it does not do any damage to hire 1 out of 10 from an area that had been unemployed 30 days or more. As I read the language, that is exactly what the language says.

There is good reason, under a public project to hire 1 out of 10 from a local area. I do not see any great damage in that. I know that there are tremendous pressures from some of the union halls to eliminate that provision because they want to control the employment 100 percent. We understand that, but I really do not understand why we should be so fearful of hiring 1 out of 10 from the local area. I really do not see that there is any great damage to local input.

I can understand why several of us—probably my colleague (Mr. Roe)—have had a great deal of pressure from the unions not to allow this provision to stay in the bill.

I think that is kind of unfair. I think we should let the local people have some say in this. Why should we not allow 1 out of 10?

I will be glad to yield to either of my colleagues who wishes to speak.

Mr. WRIGHT. Mr. Chairman, will the distinguished gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Texas (Mr. Wright).

Mr. WRIGHT. I thank the gentleman for yielding.

Mr. Chairman, of course, there is nothing wrong with employing 1 out of 10.

Mr. ROUSSELOT. I am glad the gentleman accepts that.

Mr. WRIGHT. There is nothing wrong in employing one out of nine. It may be that they will have to bring in an expert technician from the outside.

Mr. ROUSSELOT. I agree with that concept.

Mr. WRIGHT. The point is that the objection is not to that. I do not think there is going to be a single project on which more than 1 out of 10 will not be from the local area. The problem is that the language says no funds shall be available until this determination is made. We cannot make the determination until we have hired the work force, and we cannot hire the work force until we get the funds. It is cumbersome redtape. That is the only problem.

Mr. ROUSSELOT. Mr. Chairman, let me say that I am in total agreement with my colleague, the gentleman from Texas, in that I do not want any more redtape than is necessary. But the effort of this public works project funding is also to put the unemployed back to work. I think that is a reasonable purpose. One out of ten I do not think is an unreasonable requirement for local consideration:

I think my colleague, the gentleman from Michigan, has made an excellent point, and I just want to rise to support the viewpoint of the gentleman from Michigan that 1 out of 10 is a reasonable number to take from the local residency. I hope the amendment will be defeated.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Michigan (Mr. Cederberg).

Mr. CEDERBERG. I thank the gentleman for yielding.

Mr. Chairman, this probably would not have very much effect in the large metropolitan areas where there are substantial numbers of tradesmen already unemployed. But I am thinking of areas such as mine, where we have substantial unemployment. We are just trying to insure that some of those individuals have a chance to work on the project in those particular areas. It seems so reasonable that I cannot believe that there should be opposition to it. Maybe it is too reasonable.

Mr. ROUSSELOT. Mr. Chairman, I tend to agree with my colleague. I have had the opportunity to listen and to hear the debate on both sides of this issue. I think my colleague, the gentleman from Michigan, made a reasonable point. I think it should be included in this appropriation. I hope my colleagues will vote against this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Wright).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 28, noes 21.

RECORDED VOTE

Mr. CEDERBERG. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 239, noes 149, not voting 43, as follows:

[Roll No. 657]

AYES—239

Adams
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Burke, Mass.
Burton, John
Carney
Carr
Clay
Collins, Ill.
Collins, Tex.
Conte
Corman
Cornell
Cotter
Crane
D'Amours
Daniel, Dan
Daniels, N.J.
Davis
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downing, Va.
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Evans, Colo.
Fary
Fascell
Findley
Fisher
Fithian
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gude
Guyer
Hall, Ill.
Hall, Tex.
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hefner
Helstoski
Henderson
Hicks
Hightower
Holland
Howard
Hubbard
Hughes
Hungate
Jacobs
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jordan
Kastenmeier
Kazen
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Landrum
Leggett
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McCormack
McFall
McHugh
McKay
Madden
Mathis
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Peyser
Pickle
Pike
Preyer
Price
Randall
Rees
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Schroeder
Seiberling

Sikes
Simon
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Stephens
Stokes
Stratton
Stuckey
Studds
Symington
Taylor, N.C.
Thompson
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Weaver
White
Whitehurst
Wiggins
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

NOES—149

Abdnor
Addabbo
Allen
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Biester
Bowen
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Cederberg
Clancy
Clawson, Del
Cleveland
Cochran
Cohen
Conable
Coughlin
Danielson
Derwinski
Devine
Dickinson
Downey, N.Y.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
Erlenborn
Eshleman
Evans, Ind.
Fenwick
Fish
Flood
Flowers
Frenzel
Frey
Goldwater
Gradison
Grassley
Hagedorn
Haley
Hamilton
Hansen
Harsha
Hechler, W. Va.
Heckler, Mass.
Hillis
Holt
Holtzman
Horton
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Johnson, Colo.
Kasten
Kelly
Kemp
Ketchum
Lagomarsino
Latta
Lent
Lott
Lujan
McClory
McCollister
McDade
McDonald
McEwen
McKinney
Madigan
Maguire
Mahon
Mann
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
O'Brien
Pettis
Pressler
Pritchard
Quie
Quillen
Railsback
Rangel
Regula
Rhodes
Robinson
Roush
Rousselot
Roybal
Runnels
Ruppe
Scheuer
Schneebeli
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steed
Steiger, Wis.
Symms
Taylor, Mo.
Thone
Treen
Vander Jagt
Walsh
Wampler
Whalen
Whitten
Wilson, Bob
Winn
Wolff
Wydler
Young, Fla.

NOT VOTING—43

Abzug
Badillo
Burton, Phillip
Chappell
Chisholm
Clausen, Don H.
Conlan
Conyers
Daniel, R. W.
de la Garza
Esch
Evins, Tenn.
Goodling
Green
Hays, Ohio
Hébert
Heinz
Hinshaw
Howe
Jones, Okla.
Jones, Tenn.
Karth
Lehman
McCloskey
Martin
Mazzoli
Mosher
Neal
Passman
Poage
Riegle
Russo
Sisk
Smith, Iowa
Steelman
Steiger, Ariz.
Sullivan
Talcott
Teague
Waxman
Wylie
Young, Alaska
Young, Ga.

The Clerk announced the following pairs:

Mr. Young of Georgia for, with Mr. Don H. Clausen against.

Ms. Abzug for, with Mr. Conlan against.

Mr. Chappell for, with Mr. Robert W. Daniel, Jr., against.

Mr. Jones of Tennessee for, with Mr. McCloskey against.

Mr. Badillo for, with Mr. Steiger of Arizona against.

Mr. Waxman for, with Mr. Young of Alaska against.

Messrs. RANGEL, RHODES, and BYRON changed their vote from "aye" to "no."

Messrs. HANNAFORD, CRANE, AuCOIN, and NEDZI changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. M'EWEN

Mr. McEWEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McEwen: On page 2, after line 18, insert:

DEPARTMENT OF TRANSPORTATION

Coast Guard

POLLUTION FUND

For carrying out the provisions of subsections (c), (d), (i), and (l) of section 311 of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500), $5,000,000 to remain available until expended.

CHAPTER III

Mr. MAHON. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. Mahon) reserves a point of order.

The Chair recognizes the gentleman from New York (Mr. McEwen) for 5 minutes in support of his amendment.

Mr. McEWEN. Mr. Chairman, before addressing myself to the amendment that I have offered, may I first express to my chairman, the gentleman from Texas and the gentleman from Michigan (Mr. Cederberg) and the gentleman from California (Mr. McFall) and the gentleman from Massachusetts (Mr. Conte) on the subcommittee, and the distinguished chairman of the Rules Committee, and many others with whom I have discussed the problem that this amendment relates to, my deep appreciation for the time and concern that they have expressed.

I understand my chairman's making a point of order on this amendment, and I deeply appreciate his reserving on that point of order to permit me to explain the problem.

The situation that prompts my offering this amendment is an event that occurred in the St. Lawrence River and the St. Lawrence Seaway, in the heart of the resort area known as the Thousand Islands, on the 23d of June of this year, in the early hours of that morning, when a barge carrying 6 oil, a heavy oil, struck a shoal in the vicinity of Comfort Island and ruptured three tanks and made a major oil spill into the St. Lawrence River.

This is, as we all know, a major waterway moving some 50 million tons annually. It also passes through one of the great recreational areas of this continent. The prevailing weather was such that for 2 days there was a flat calm and hundreds of thousands of gallons of No. 6 fuel oil spread down the river for a distance of some 70 miles. Following that, winds came up and, unfortunately for those on the American side, and more fortunately for our Canadian neighbors, the wind was on to the American side.

This oil polluted the shores for literally hundreds of miles, the shores of bays and coves and islands.

Very quickly, the company owning the barge disclaimed responsibility, recognizing that the cleanup would exceed their liability under existing law and turned this cleanup over to the U.S. Coast Guard. May I say that they promptly responded and tried to contain the spill.

In addition to being a recreational area, may I say to my friends who are concerned, as I am sure we all are, with the environment, there were two very major wildlife refuges that were involved downstream from this spill. One is an island sanctuary devoted exclusively to the great blue heron and the other was a waterfowl sanctuary where many geese and ducks were nesting.

Now, let me state what has happened. We have heard of the spill at Santa Barbara and many others we have had in this country; but I can state that this is the most expensive cleanup that the Coast Guard has ever undertaken. To date there has been an expenditure at this moment of some $7 million and the fund for this cleanup, the Coast Guard cleanup fund, is nearing depletion.

Let me say what this means. First, over 2 weeks ago now, the Coast Guard cut back on the employment of the companies and labor employed in cleaning up this spill. Possibly when we are considering legislative appropriations for the creation of jobs, it might not be wholly inappropriate to suggest that here are people in this area laid off and employment cut back because of a lack of funds.

At the moment this spill occurred, it polluted shorelines that are entirely within one congressional district, that of the gentleman speaking; but let me say that the need for this appropriation to this fund goes beyond just the requirements of that one congressional district. Here is what I mean.

On Monday of this week, I was advised by the U.S. Coast Guard that they had some $1.8 million remaining in the fund for the clean-up of this oil spill. They further advised that they intend to continue at the present reduced rate of clean-up as long as those funds remain, but that about the second week in September those funds will be completely exhausted and the clean-up will have to be halted. There will then be no further funds for employment or funds for this clean-up until after October 1.

Now, what does that mean for the rest of America during this period? First, it means this, that if there is a spill somewhere else between now and the second week of September, to the extent the funds permit, the work on the St. Lawrence will be stopped.

The CHAIRMAN. The time of the gentleman from New York (Mr. McEwen) has expired.

(By unanimous consent, Mr. McEwen was allowed to proceed for an additional 2 minutes.)

Mr. McEWEN. Mr. Chairman, what it will mean is that to the extent of the funds available the clean-up will be stopped in this area. I am sure the Coast Guard will respond to whatever district in America any spill occurs in. If that spill should occur after the second week of September when these funds are exhausted, it means there will be no response.

Mr. Chairman, in my congressional district, or any congressional district in America, there will be no funds with which to respond.

Mr. Chairman, it was for this reason that the Secretary of Transportation, William Coleman, addressed a letter to me just before we recessed on the 10th of August, pointing out the situation. He said this:

> However, on June 23, 1976, the tug Eileen C, grounded her tow, the tank barge Nepco 140, in the vicinity of Comfort Island, St. Lawrence River. Three of the barge's tanks were ruptured, spilling an estimated 504,000 gallons of No. 6 fuel oil into the surrounding waters. Containment and clean up operations began immediately. However, on June 25, 1976, the barge owners declined further financial responsibility (their liability is limited to approximately $800,000 in this instance).

The Secretary goes on to say:

> To date, clean up operations have required $6.0 million. . .

I said a moment ago it is now up to $7 million. "* * * and it is estimated that more than $8 million will be necessary before final clean up and disposal are completed in early September 1976."

The Secretary then says:

> When that occurs, the Coast Guard will be unable to respond to any spills, large or small.

Then the Secretary concluded by saying:

> The Transition Quarter budget supplemental request in the amount of $5 million is now in the Executive Branch process. This is intended to cover immediate additional emergency needs resulting from the St. Lawrence River oil spill and to provide an interim contingency amount in the event of other spills.

The CHAIRMAN. The time of the gentleman from New York has expired.

(On request of Mr. HOWARD and by unanimous consent Mr. McEWEN was allowed to proceed for 2 additional minutes.)

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Chairman, all of us who represent areas which have waterways subject to complete devastation would like to congratulate the gentleman. Certainly, I think it is a danger to the entire nation if we have our funds completely depleted and are unable to take care of any future spills between this time and September, which the gentleman mentions, and in October.

So, I certainly hope that there is no point of order successfully lying against this amendment. I wish to state to the gentleman that I am in wholehearted support of his amendment.

Mr. McEWEN. I appreciate the gentleman's comment.

I say that is exactly the danger, the clean up costs have been running $200,000 or $300,000 per month on the average, and I think we may anticipate a spill if this pattern follows, sometime during the latter part of September.

Mr. HOWARD. I say to the gentleman that others of us, who are responsible for providing funding for this kind of disaster and regulating the carriers which had this accident happen, certainly have a responsibility to the gentleman in his district for providing funds to clean it up.

Mr. McEWEN. I thank the gentleman.

The CHAIRMAN. Does the gentleman from Texas wish to press his point of order?

Mr. MAHON. Does the gentleman withdraw his amendment?

Mr. McEWEN. Mr. Chairman, the gentleman does not feel, in view of the problem that has befallen his constituency and the dangers he sees to the rest of this Nation, that he can voluntarily withdraw it. May I say that if my chairman insists on his point of order, then I would have to reconsider the matter.

Mr. MAHON. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman from Texas will state his point of order.

Mr. MAHON. Mr. Chairman, the gentleman from New York has been very aggressively and consistently seeking to do something to resolve the problem which he has discussed before the House. I am committed to do everything reasonably within my power to be helpful to him.

We have had numerous conversations, and the gentleman has pointed out that we must find a way to deal with it. With the authorization of the Appropriations Committee, I went before the Rules Committee, and other Members of our committee went before the Rules Committee and requested a rule. In that request, we said that we would like a proviso stating that no amendment to this bill shall be in order except germane amendments relating to appropriations authorized in the Public Works Employment Act of 1976. So, I would be betraying my commitment to the Rules Committee if I did not stand by the provisions which have been approved by the Rules Committee and now the House and make the point of order.

Therefore, I make the point of order, but with the promise that I will continue everything in power to help the gentleman in his determined effort.

Mr. McEWEN. Mr. Chairman, will my chairman yield?

Mr. MAHON. I yield to the gentleman.

Mr. McEWEN. Mr. Chairman, I would ask my chairman this: We do not contemplate at this time a supplemental appropriation between now and October 1. I believe that is correct. If I am not correct, the gentleman may correct me. So I ask my chairman, where is the appropriate vehicle which we will have to find if we are to alleviate this problem?

Mr. MAHON. I will say to my friend that the House can always work its will with regard to an emergency problem, and I think the gentleman will find that we do.

Mr. McEWEN. May I say to my chairman that I think this is an emergency, and I hope we find the will very soon to find the answer to this problem.

Mr. Chairman, on my chairman's insistence on his point of order, I feel constrained to withdraw my amendment.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ENVIRONMENTAL PROTECTION AGENCY

CONSTRUCTION GRANTS

> For necessary expenses for the fiscal year 1977 to carry out title II of the Federal Water Pollution Control Act, other than sections 206, 208, and 209, as authorized by title III of the Public Works Employment Act of 1976, $200,000,000, to remain available until expended: *Provided*, That such funds shall be allotted to those States for which funds currently authorized by the Federal Water Pollution Control Act are no longer available, but where construction grant awards could continue if additional funds were made available: *Provided further*, That no State shall receive more than would be allotted it if the full authorized amount were being allotted.

AMENDMENT OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. BOLAND: On page 3, line 20, after the word "amount" insert: "under Public Law 94-369".

Mr. BOLAND. Mr. Chairman, I offer this amendment at the suggestion of the Committee on Public Works and Transportation to make it explicit that this proviso refers to the authorization contained in the Public Works Employment Act of 1976, which is Public Law 94-369, and not the Federal Water Pollution Control Act authorization.

I am certain the language of the bill does this now. But to remove any doubt as to the intent, the amendment will cite the law specifically so that there can be no possible misinterpretation.

Mr. Chairman, I urge that the amendment be adopted.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to my colleague, the gentleman from Pennsylvania (Mr. McDADE).

Mr. McDADE. I thank the gentleman for yielding.

Mr. Chairman, I will take only a few sentences to say that my colleague, the gentleman from Massachusetts (Mr. BOLAND), has informed us of the amendment and its intent, and we are in full accord and urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. BOLAND).

The amendment was agreed to.

Mr. WRIGHT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to congratulate the Committee on Appropriations for the expeditious manner in which it has brought this appropriation bill to the floor to carry out the clear mandate of this Congress as quickly as possible to put Americans back to work.

With respect to the figures contained in this particular section to the act, I am not going to offer any amendment, Mr. Chairman, because I believe that the Committee on Appropriations has acted in complete good faith. I am certain that the Committee on Appropriations was persuaded by representatives of EPA that $200 million was all that could be actually spent under this section.

I am totally convinced that that is incorrect. I think the entire $700 million authorized could quite easily be spent by these 21 States that are soon going to run out of sufficient money.

I am a little bit concerned also by the language of the first proviso of this section which states that no State shall get more money until it has all run out. The reason I am disturbed by that is because the EPA interprets what States run out in a far different way than how the States themselves interpret that. According to the EPA's determination, there are only 2 States, North Dakota and Hawaii, that could comply with these provisions and receive funds for project grants.

Yet Georgia has indicated it has allocated all its funds to local projects, while EPA says it is not technically eligible. Georgia believes it could obligate $81 million in addition, as has been pointed out by the eloquent gentleman from Georgia (Mr. GINN).

My own State of Texas is in a similar posture. The EPA declares we have $57 million left, but the State says we have obligated that to contracts, that there are other contracts waiting, that they could spend $200 million next year, and that we are actually out of money now.

So there is a very real hazard here. I am convinced that 23 States could obligate the entire $700 million in fiscal year 1977, and in fact they claim they could spend the entire $1.4 billion that was authorized in the initial legislation.

As I say, I am not going to offer an amendment. I am persuaded to believe, though, that the other body may liberalize this section, and I am just informing my colleagues on the Committee on Appropriations of this and giving them my understanding so they may try to look at this again with a little more clarity and look a bit beyond what was referred to them by the Administrator.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I surely will yield to the chairman of the subcommittee.

Mr. BOLAND. Mr. Chairman, I appreciate and I am sure other members of the Committee on Appropriations appreciate the applause that the gentleman has given to the subcommittees that have brought this Public Works Employment Appropriation Act to the floor.

I think the gentleman would agree that the fact there is $200 million in here for title III will at least keep that title alive. I would think that would be what the gentleman's committee would want. In the long run, the $700 million will be provided in some vehicle.

This could provide some inconvenience for some States, but I would point out that in the last survey that was taken the question was asked: How much can you use? That is like going to the wailing wall or to the wishing well, and when we go to that wishing well or when we go to that wailing wall, we are going to get precisely the figures the States want to give us.

I do not quarrel with that. The only quarrel I have is that the committee has been criticized over the funding level of title III. But the fact is that this title has encountered some great problems, not just in the other body, but in this body, too, because as the gentleman from Texas (Mr. WRIGHT), knows, this provision was never in the 1975 or 1976 House bill.

However, it is in there now. We have appropriated $200 million for it, and I would think that the gentleman would be happy about that.

Mr. ROUSH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would first like to echo what my subcommittee chairman, the gentleman from Massachusetts (Mr. BOLAND), has said. Along that line, I should like to inquire of the gentleman from Texas (Mr. WRIGHT) as to the status of the authorizing legislation for fiscal year 1977.

It is my understanding that the House has passed a bill which would authorize appropriations for 1977 at $5 billion, for 1978 at $6 billion, and for 1979 at $6 billion, that the Senate has also passed authorizing legislation authorizing appropriations, I believe, at the level of $7 billion, and that this happened some time ago.

I wonder whether the gentleman from Texas (Mr. WRIGHT) could inform the House as to the status of that legislation. It seems to me that that should have come up before this.

Mr. WRIGHT. Mr. Chairman, if the gentleman will yield, in response to the gentleman's question, the other body now has under consideration in its committee the House-passed bill.

I certainly would presume and most earnestly hope and trust that they will act on it and give us the opportunity to go to conference with them prior to the adjournment of this session of Congress. I think it is urgent.

However, with respect to this particular money in this particular section, it is not clear, nor is it certain that moneys would be provided in the nature of compensatory payments to some 20-odd States which, I think it has been established, were unfairly discriminated against in the distribution of the funds.

As the gentleman is aware, earlier this year we enacted the public works jobs bill, and the other body offered $2 billion as compensatory payment and would have taken it from those States which had received adequate payments. We on the House side did not think that was an appropriate approach. We did not want any States to lose money. Therefore, we insisted that they include $1.4 billion as compensation to those States which were unjustly treated under the formula, without robbing any of the other States of anything.

Then in the second bill that amount was reduced from $1.4 billion down to some $700 million.

Mr. Chairman, the point I am making is that I think in arbitarily reducing it to only $200 million, the Committee on Appropriations may not have taken into full account the very real needs for water pollution abatement that now exists in some of these States that are just beginning or will very soon begin to run out of money.

Mr. ROUSH. Mr. Chairman, I would like to tell the gentleman from Texas that during the hearings the officials of the Environmental Protection Agency were pressed on this point. They were not asked how much money they wanted to spend. They were not asked how much the administration wanted to spend or how much the Office of Management and Budget wanted them to spend—and they were pressed on this—how much could be obligated. The unequivocal response was $200 million.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. ROUSH. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Chairman, my recollection is that the gentleman from Indiana (Mr. ROUSH) voted constantly in the same way with respect to the situation we are considering here right now. Therefore, if the gentleman had those questions, why did he not let them arise at the time when he was voting year in and year out?

Now, Mr. Chairman, the gentleman comes here with this explanation that he wants something done which he did not do away back because he was not there.

Mr. ROUSH. Mr. Chairman, it is difficult for me to understand the question which was just propounded, but I would say to the gentleman that I have been an advocate of conservation. I want sewage treatment plants built. I will insist that they be built, but I believe the action of the Committee on Appropriations was fiscally responsible, that it was prudent, and that it was reasonable.

The CHAIRMAN. The Clerk will read.

The Clerk concluded the reading of the bill.

Mr. MAHON. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair (Mr. O'HARA) Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 15194) making appropriations for public works employment for the period ending September 30, 1977, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The **SPEAKER**. Without objection, the previous question is ordered.

There was no objection.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The **SPEAKER**. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MILLER OF OHIO

Mr. **MILLER** of Ohio. Mr. Speaker, I offer a motion to recommit.

The **SPEAKER**. Is the gentleman opposed to the bill?

Mr. **MILLER** of Ohio. I am, Mr. Speaker.

The **SPEAKER**. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. MILLER of Ohio moves to recommit the bill to the Committee on Appropriations with instructions to report it back forthwith, with the following amendment: On page 4, after line 19, insert the following:
>
> "SEC. 203. Of the total budget authority provided in this Act for payments not required by law, five per centum shall be withheld from obligation and expenditure: *Provided*, That of the amount provided for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed ten per centum."

The **SPEAKER**. Does the gentleman from Ohio (Mr. MILLER) desire to be heard on his motion to recommit?

Mr. **MILLER** of Ohio. I do, Mr. Speaker.

The **SPEAKER**. The gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. **MILLER** of Ohio. Mr. Speaker and my colleagues, this is an amendment that the Members have had an opportunity to vote on at least 11 times on previous appropriations measures. This is an amendment which reduces the inflationary impact of this bill and the total dollar amount of the bill by 5 percent.

The authorization bill which this present appropriations bill funds is the classic example of Congress promising that which cannot be reasonably delivered. If the Nation's unemployed rest their hopes on working again with this kind of congressional hocus pocus, then they are in store for bitter disappointment. The wage earner desperately trying to make ends meet is in for another inflationary shock when the $4 billion cost of this bill starts rippling through the economy.

At best the act supposedly will create 160,000 jobs, not the 325,000 jobs its sponsors projected, at a per job cost of $25,000. Its impact will be felt neither now nor in the immediate future, but primarily in late 1977 and 1978 when the economy will be well advanced in its recovery stage. Finally, the money that will be borrowed to fund its provisions will stimulate inflation at a time when fiscal restraint is dictated.

More questions about the act's implementation, cost, and effect were raised during the course of the committee's hearings than were answered. The legislative intent may be clear to those who are going to administer the various titles but the act's infrastructure is so handicapped and poorly conceived as to make implementation difficult if not impossible. For example, under title II it is unclear what unemployment data is to be used in the allocation formula, how the States are to accomplish intrastate allocations, which governmental units are eligible for funds, and how economization assurances are to be achieved. Even more fundamental to title II is what jobs are basic to the maintenance of local governmental services. Paradoxically, local school boards are not eligible for title II personal services funds but are eligible for title I construction funds.

The act is replete with totally unrealistic time deadlines that will create an administrative nightmare. For example, under title I within the initial 60-day review/approval period, among other requirements, a favorable environmental impact statement must be obtained. Anyone who has had experience with an EIS knows that it can be a lengthy, complex undertaking certainly one that in many cases cannot be accomplished overnight or within 2 months.

In addition, the requirement that 90 days after project approval construction must start does not take into account the inevitable challenges many bids are subjected to locally. The rub is that when a project does not start within 90 days, the act requires the funds to be deobligated.

Because title I further requires that an application not processed and reviewed by EDA within 60 days is automatically approved, enormous pressure will be placed on the agency to push paper. With only cursory review the result may well be approval of constructions of questionable quality and solvency.

I am also concerned that smaller communities without the capability to gear up quickly and submit an application package within the 60-day review period under title I will be denied program participation regardless of the severity of its unemployment. Those political subdivisions well-advanced in the area of grantsmanship will fare much better in getting more than their share of the pot.

In addition, I think we will see the substitution of the easy 100 percent Federal money under title I for local money that is readily available to do the same construction work as well as some double dipping into each of the title pots.

Too many unanswered questions about the act remain to justify this appropriation. The committee simply does not know how much it will cost to administer the program, how many new bureaucrats will be needed, how many applications will be received, what the paperwork burden will be, where the benefits will go, who will receive them and what their extent will be, and finally what the real inflationary impact will be.

What the Congress has created here are not new job opportunities but an election year illusion for the folks back home. No matter how politically expedient it may be, pumping $3½ billion the Federal Government does not have into the economy to produce a few $25,000 jobs is still economically irresponsible.

Members have heard many times about the $2 billion public works program but the amount in this bill is $3,452,433,000. Five percent of that is $172,621,000.

Just stop to think that the amount my amendment cuts from this bill is not equal to the interest payment that will be necessary for the money that will be borrowed in order to pay for this bill, and that is for only 1 year.

We just considered an amendment, and I am quite disturbed that the amendment was approved, for the amendment struck the language in this bill which provides that 1 out of 10 employees that would be hired under the bill would have to be from the area where the project would be located. That was removed from the bill. Everyone seems to be at least interested in helping the unemployed, but how will we help the unemployed if we have a project in a high unemployment area and move in workers from another area in order to construct the project? That makes very little sense to me. I would hope that the Members could vote for the 5-percent reduction amendment. I am not intending to take your time and the full 5 minutes. You know exactly what it is. It will reduce the total amount of the bill 5 percent, and I request a yea vote on the amendment.

Mr. **MAHON**. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The **SPEAKER**. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. **MILLER** of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 108, nays 276, not voting 47, as follows:

[Roll No. 658]

YEAS—108

Abdnor
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bauman
Beard, Tenn.
Bell
Bennett
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burleson, Tex.
Butler
Carter
Cederberg
Clancy
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Crane
Daniel, Dan
Devine
Dickinson
du Pont
Edwards, Ala.
Emery
English
Erlenborn
Eshleman
Evans, Ind.
Findley
Forsythe
Fountain
Frenzel
Frey
Gibbons
Gradison
Grassley
Guyer
Hagedorn
Hansen
Harkin
Harsha
Holt
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Johnson, Colo.
Kasten
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Levitas

Lott
Lujan
McClory
McCollister
McDonald
McEwen
Mann
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
O'Brien
Paul
Quie
Quillen
Regula
Rhodes
Robinson
Rogers
Roush
Rousselot
Runnels
Satterfield
Schulze
Sebelius
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Steiger, Wis.
Symms
Taylor, Mo.
Thone
Treen
Vander Jagt
Waggonner
Wampler
Whitehurst
Wiggins
Wilson, Bob
Winn
Young, Fla.

NAYS—276

Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Beard, R.I.
Bedell
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Byron
Carney
Carr
Clay
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Fuqua
Gaydos
Giaimo
Gilman
Ginn
Gonzalez
Gude
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Holland
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jordan
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Landrum
Leggett
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mathis
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Railsback
Randall
Rangel
Rees
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Slack
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stratton
Stuckey
Studds
Symington
Taylor, N.C.
Thompson
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Weaver
Whalen
White
Whitten
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—47

Abzug
Badillo
Burton, Phillip
Chappell
Chisholm
Clausen, Don H.
Conlan
Daniel, R. W.
de la Garza
Early
Esch
Evins, Tenn.
Goldwater
Goodling
Green
Hays, Ohio
Hébert
Heinz
Hillis
Hinshaw
Howe
Jones, Okla.
Jones, Tenn.
Karth
Lehman
McCloskey
Martin
Mazzoli
Mosher
Neal
Passman
Poage
Riegle
Russo
Schneebeli
Sisk
Smith, Iowa
Steelman
Steiger, Ariz.
Sullivan
Talcott
Teague
Waxman
Wilson, C. H.
Wylie
Young, Alaska
Young, Ga.

The Clerk announced the following pairs:

Mr. Chappell with Mr. Evins of Tennessee.
Mr. Jones of Tennessee with Mr. Conlan.
Mr. Hébert with Mr. Howe.
Ms. Abzug with Mr. Young of Alaska.
Mr. Sisk with Mr. Robert W. Daniel, Jr.
Mr. Badillo with Mr. Heinz.
Mrs. Chisholm with Mr. Steelman.
Mr. Smith of Iowa with Mr. Esch.
Mr. de la Garza with Mr. Riegle.
Mr. Waxman with Mr. Steiger of Arizona.
Mr. Young of Georgia with Mr. Martin.
Mr. Mazzoli with Mr. Schneebeli.
Mr. Neal with Mr. Talcott.
Mr. Jones of Oklahoma with Mr. Wylie.
Mr. Lehman with Mr. McCloskey.
Mr. Green with Mr. Mosher.
Mr. Russo with Mr. Passman.
Mr. Teague with Mrs. Sullivan.
Mr. Charles H. Wilson of California with Mr. Hillis.
Mr. Phillip Burton with Mr. Don H. Clausen.
Mr. Early with Mr. Goldwater.
Mr. Hays of Ohio with Mr. Goodling.

Mr. ENGLISH changed his vote from "nay" to "yea."

Mr. RINALDO changed his vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 311, nays 72, not voting 48, as follows:

[Roll No. 659]

YEAS—311

Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Byron
Carney
Carr
Carter
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gilman
Ginn
Gonzalez
Gude
Guyer
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Holland
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hyde
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Keys
Koch
Krebs
Krueger
LaFalce
Landrum
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mathis
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pike
Pressler
Preyer
Price
Prichard
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Skubitz
Slack
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Symington
Taylor, N.C.
Thompson
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Weaver
Whalen
White
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—72

Abdnor
Archer
Armstrong
Ashbrook
Bauman
Beard, Tenn.
Bell
Brown, Ohio
Broyhill
Burleson, Tex.
Butler
Cederberg
Clancy
Clawson, Del
Collins, Tex.
Conable
Coughlin
Crane
Daniel, Dan
Devine
du Pont
Erlenborn
Eshleman
Frenzel
Gibbons
Gradison
Grassley
Hagedorn
Hall, Tex.
Hansen
Holt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Colo.
Kelly
Ketchum
Kindness
Lagomarsino
Latta
McCollister
McDonald
McEwen
Mann
Michel
Milford
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Paul

Pickle
Quie
Rhodes
Robinson
Rousselot
Satterfield
Schulze
Sebelius
Shuster
Smith, Nebr.
Snyder
Spence
Symms
Taylor, Mo.
Thone
Treen
Waggonner
Whitehurst
Wiggins

NOT VOTING—48

Abzug
Badillo
Burton, Phillip
Chappell
Chisholm
Clausen, Don H.
Conlan
Daniel, R. W.
de la Garza
Early
Esch
Evins, Tenn.
Goldwater
Goodling
Green
Hays, Ohio
Hébert
Heinz
Hillis
Hinshaw
Howe
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Lehman
McCloskey
Martin
Mazzoli
Mosher
Neal
Passman
Poage
Riegle
Russo
Schneebeli
Sisk
Smith, Iowa
Steelman
Steiger, Ariz.
Sullivan
Talcott
Teague
Waxman
Wilson, C. H.
Wylie
Young, Alaska
Young, Ga.

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Young of Alaska.
Mr. Chappell with Mr. Conlan.
Mr. Russo with Mr. Evins of Tennessee.
Ms. Abzug with Mr. Howe.
Mr. Badillo with Mr. Robert W. Daniel, Jr.
Mr. Sisk with Mr. Talcott.
Mrs. Chisholm with Mr. Wylie.
Mr. Smith of Iowa with Mr. McCloskey.
Mr. Waxman with Mr. Heinz.
Mr. de la Garza with Mr. Steelman.
Mr. Young of Georgia with Mr. Esch.
Mr. Mazzoli with Mr. Riegle.
Mr. Neal with Mr. Martin.
Mr. Green with Mr. Don H. Clausen.
Mr. Teague with Mrs. Sullivan.
Mr. Hébert with Mr. Mosher.
Mr. Lehman with Mr. Hays of Ohio.
Mr. Jones of Oklahoma with Mr. Goldwater.
Mr. Charles H. Wilson of California with Mr. Goodling.
Mr. Phillip Burton with Mr. Hillis.
Mr. Early with Mr. Steiger of Arizona.
Mr. Jones of North Carolina with Mr. Schneebeli.
Mr. Passman with Mr. Karth.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 15194, and that I may include extraneous material.

The **SPEAKER.** Is there objection to the request of the gentleman from Texas?

There was no objection.

FURTHER LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute.)

Mr. O'NEILL. Mr. Speaker, I have taken this time in order to announce the program for the remainder of today and tomorrow.

At the conclusion of the announcement of the program, we will take up the rule on H.R. 14578, authorizing various Federal reclamation projects and programs. We will consider the rule only today. Then we will adjourn until tomorrow. I will ask at the appropriate time for unanimous consent that when the House adjourns today it adjourn to meet at 11 o'clock tomorrow morning.

On the program for tomorrow, the rule having been adopted, the first item of business will be consideration of H.R. 14578, Federal reclamation projects, under an open rule, with 1 hour of debate, and amendments thereto.

Following that we will consider H.R. 8603, Postal Service amendments conference report.

Following that we will consider H.R. 8911, Supplemental Security Income amendments, under an open rule with 2 hours of debate. We know that it will be impossible to finish that tomorrow and consequently the Committee will rise at a reasonable time tomorrow. At that time we will take up House Resolution 1408, funding for the Professional Sports Committee, following by House Resolution 1414, funding for the Outer Continental Shelf Committee, followed by House Resolution 1420, regarding the funding of the Moss committee.

Mr. RHODES. Mr. Speaker, if the gentleman will yield, those will be taken up tomorrow?

Mr. O'NEILL. Yes, those are the additional three items.

Mr. RHODES. Does the distinguished majority leader have any estimate to make as to the possible time of adjournment of the House tomorrow afternoon? That would be at about what hour?

Mr. O'NEILL. As the minority leader knows, we have no intentions of a Friday session and certainly hope we can get through when this schedule is completed. What the controversies are regarding these funding resolutions I do not know. But, as I said, we will rise at a reasonable hour on the supplemental security income amendment. We will then go into the funding resolutions. I would say it would depend upon the controversy surrounding the third resolution.

Mr. RHODES. I thank the majority leader.

HOUR OF MEETING TOMORROW

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 o'clock a.m. tomorrow.

The **SPEAKER.** Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 14578, AUTHORIZING VARIOUS FEDERAL RECLAMATION PROJECTS AND PROGRAMS

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1489 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res 1489

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 2(1)(3)(A) of rule XI and section 401(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14578) to authorize various Federal reclamation projects and programs, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto final passage without intervening motion except one motion to recommit. After the passage of H.R. 14578, it shall be in order in the House to take from the Speaker's table the bill S. 3283 and to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 14578 as passed by the House.

The **SPEAKER.** The gentleman from Illinois (Mr. Murphy) is recognized for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Mississippi (Mr. Lott), pending which, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1489 provides for an open rule providing for 1 hour of general debate on H.R. 14578, Federal reclamation projects. The resolution provides that the bill be read for amendment under the 5-minute rule by titles instead of by sections.

House Resolution 1489 waives section 401(a) of the Congressional Budget Act to permit consideration of this bill. Section 705(c) of this bill is in violation of the Budget Act since this section provides contract authority but does not provide that this authority be subject to advance appropriations. The Interior and Insular Affairs Committee will amend this section on the floor to conform to the provisions of the Budget Act.

The rule further provides that points of order against clause 2, section L, part 3(A) of rule XI of the Rules of the House are waived. This rule requires committees to include oversight statements in their reports.

After the passage of H.R. 14578, the rule makes it in order for the House to take from the Speaker's table the bill, S. 3283, and to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions contained in H.R. 14578 as passed by the House.

H.R. 14578 authorizes $332,400,000 for seven Bureau of Reclamation water resources projects. There are seven titles in this bill, each pertaining to a separate project or related program.

I urge the adoption of House Resolution 1489 that we may discuss and debate H.R. 14578.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour, open rule providing for the consideration of H.R. 14578, legislation authorizing various Federal reclamation projects and programs. The bill is to be read for amendment by titles instead of by sections.

The rule waives section 401(a) of the Congressional Budget Act, which prohibits new spending authority not subject to advance appropriations, to permit the bill to be considered. It is my understanding that the Committee on Interior and Insular Affairs will offer an amendment on the floor to bring the bill into compliance with the Budget Act.

The rule also waives clause 2(l) (3) (a) of rule XI, which requires committees to include oversight statements in their reports.

After the passage of H.R. 14578, it will be in order to take S. 3283 from the Speaker's table and to move to strike out all after the enacting clause of the Senate bill and insert in lieu thereof the provisions contained in H.R. 14578 as passed by the House.

The legislation to be before us shortly contains seven titles each of which constitutes a separate project designed to provide water for irrigation, improve municipal water supplies, conserve fish and wildlife resources, and preserve the environment. These projects and their accompanying authorizations are as follows:

(1) Kanopolis Unit, Kansas, $30,900,000.

(2) Oroville-Tonasket Unit, Washington, $39,370,000.

(3) Unitah Unit, Utah, $90,247,000.

(4) American Canal Extension, Texas, $21,714,000.

(5) Allen Camp Unit, California, $64,220,000.

(6) Leadville Mine Drainage Tunnel, Colorado, $2,750,000.

(7) McGee Creek Project, Oklahoma, $83,239,000.

The total authorization for all of these projects is $332,440,000.

Mr. Speaker, I am not aware of any opposition to the rule, and I propose that we proceed to adopt it at this time.

Mr. MURPHY of Illinois. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. McFALL). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 346, nays 0, not voting 85, as follows:

[Roll No. 660]

YEAS—346

Abdnor
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Blanchard
Blouin
Boggs
Boland
Bonker
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Butler
Byron
Carney
Carr
Carter
Cederberg
Clancy
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Crane
D'Amours
Daniel, Dan
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gradison
Grassley
Gude
Guyer
Hagedorn
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Hefner
Helstoski
Henderson
Hicks
Hightower
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madden
Madigan
Maguire
Mahon
Mann
Matsunaga
Meeds
Melcher
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Ryan
St Germain
Santini
Sarasin
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wydler
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—85

Abzug
Addabbo
Badillo
Beard, R.I.
Bingham
Bolling
Bowen
Brademas
Broomfield
Brown, Calif.
Burton, Phillip
Chappell
Chisholm
Clausen, Don H.
Conlan
Conyers
Coughlin
Daniel, R. W.
de la Garza
Dickinson
Early
Eilberg
Esch
Eshleman
Evins, Tenn.
Goldwater
Goodling
Green
Haley
Hall, Tex.
Harkin
Hawkins
Hays, Ohio
Hébert
Heckler, Mass.
Heinz
Hillis
Hinshaw
Howe
Hutchinson
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Landrum
Leggett
Lehman
McCloskey
McKinney
Martin
Mathis
Mazzoli
Metcalfe
Mills
Mosher
Murphy, N.Y.
Neal
Nix
Passman
Poage
Rangel
Rees
Riegle
Rose
Rosenthal
Russo
Sarbanes
Schneebeli
Sisk
Smith, Iowa
Stanton, James V.
Steelman
Steiger, Ariz.
Stuckey
Sullivan
Talcott
Teague
Waxman
Weaver
Whitehurst
Wilson, C. H.
Wright
Wylie
Young, Alaska
Young, Ga.

The Clerk announced the following pairs:

Mr. Chappell with Mr. Evins of Tennessee.

Mr. Jones of Tennessee with Mr. Conlan.

Mr. Teague with Mr. Young of Alaska.

Mr. Badillo with Mr. Howe.

Mrs. Chisholm with Mr. Robert W. Daniel, Jr.

Mr. Sisk with Mr. Talcott.

Mr. Waxman with Mr. Wylie.

Mr. Charles H. Wilson of California with Mr. McCloskey.

Mr. Young of Georgia with Mr. Heinz.

Mr. Mazzoli with Mr. Steelman.

Mr. Neal with Mr Esch.

Mr. Green with Mr. Martin.

Mr. Lehman with Mr. Don H. Clausen.

Mr. Jones of Alabama with Mrs. Sullivan.

Mr. Riegle with Mr. Mosher.

Mr. Early with Mr. Hays of Ohio.

Mr. Phillip Burton with Mr. Goldwater.

Mr. Jones of North Carolina with Mr. Goodling.

Mr. Passman with Mr. Hillis.

Mr. Addabbo with Mr. Schneebeli.

Mr. Hébert with Mr. Beard of Rhode Island.

Mr. Murphy of New York with Mr. Bowen.

Mr. Nix with Mrs. Heckler of Massachusetts.

Ms. Abzug with Mr. Harkin.

Mr. Bingham with Mr. Broomfield.

Mr. Brademas with Mr Coughlin.

Mr. Hawkins with Mr. Dickinson.

Mr. Brown of California with Mr. Eshleman.

Mr. Conyers with Mr. Haley.

Mr. Eilberg with Mr. Hutchinson.

Mr. Hall of Texas with Mr. Landrum.

Mr. Leggett with Mr. McKinney.

Mr. Mathis with Mr. Mills.

Mr. Metcalfe with Mr. Sarbanes.

Mr. Rose with Mr. Smith of Iowa.

Mr. Rosenthal with Mr. James V. Stanton.

Mr. de la Garza with Mr. Karth.

Mr. Rangel with Mr. Rees.

Mr. Russo with Mr. Steiger of Arizona.

Mr. Stuckey with Mr. Whitehurst.

Mr. Weaver with Mr. Wright.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 14262, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1977

Mr. MAHON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. McFall). Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. Mahon, Sikes, Flood, Addabbo, McFall, Flynt, Giaimo, Chappell, Burlison of Missouri, Edwards of Alabama, Robinson, Kemp, and Cederberg.

DUTY, HONOR, COUNTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Gilman) is recognized for 5 minutes.

Mr. GILMAN. Maj. Arthur G. Bonifas was buried yesterday at the cemetery at West Point. This courageous, 33-year-old father of three had only 1 more week of service in Korea remaining before he was scheduled to return to the States.

Mr. Speaker, at the request of President Ford, I attended yesterday the sad ceremony at West Point where Major Bonifas was buried.

The President asked me to express to the family of Major Bonifas his deepest sympathy and his "tremendous pride in the service that Major Bonifas rendered to his country and to the cause of freedom."

At the Holy Trinity Catholic Chapel at West Point, the church at which Major Bonifas worshiped when he was a cadet, he was eulogized as a "loving husband, devoted father and a deeply religious man . . . his unselfishness was readily apparent . . . he exemplified the ideals of his beloved West Point . . . Duty, Honor, Country. . . ."

On August 18, 1976, a ruthless, abominable act against mankind occurred in the demilitarized section of Korea. Two American security officers, Major Bonifas and Lt. Mark T. Barrett were kicked, punched, and pummeled to death by a contingent of North Korean regulars.

Our hearts go out to the families of the two slain, loyal Americans who died performing their duty for their Nation. Their loss underscores the belligerent attitude of the North Koreans.

This grievous event was even more profound for the residents of our 26th Congressional District, for one of the gallant officers who met his death in Korea, Major Bonifas, was a resident of New Windsor, N.Y.

The deliberate, brutal slayings of Major Bonifas and Lieutenant Barrett have understandably aroused the American people. Major Bonifas, who was in charge of security, was commanding a work detail pruning a tree in the demilitarized zone (DMZ). The North Koreans knew the Americans would be in that area, performing that work, and had agreed not to interfere.

The United Nations Command in South Korea issued the following statement after the incident:

> Two United Nations Command officers were murdered in an unprovoked assault by North Korean (NK) guards this morning at the Joint Security Area, Panmunjom.
>
> The two army officers, both Americans, died from massive head injuries and stab wounds inflicted by an estimated 30 NK guards who attacked a small UNC work party with axes, metal pikes and axe handles about 10:45 a.m.
>
> A ROK army enlisted man, a security guard assigned to the U.S. Army support group, JSA, sustained stab wounds and is in the 121st evacuation hospital in Seoul.
>
> A ROKA officer, four other U.S. soldiers and three additional ROKA soldiers were treated for minor cuts and bruises.
>
> The three UNC officers and the enlisted guards were escorting five Korean Service Corps workers who were routinely trimming branches from a tree some 35 to 40 yards from UNC checkpoint number three at the south side of the bridge of no return.
>
> Two NK officers and several guards came to the area of the work. After some discussion during which a NK officer expressed no objection to the tree trimming, the NK's suddenly demanded that the KSC's stop work.
>
> Shortly afterwards a NK vehicle brought additional guards and the NK officer was heard to tell them to kill the UNC personnel and the fight then ensued with many of the NKs joining in.

When the senseless brutality subsided, two Americans lay dead, and four other Americans were wounded. Four more South Koreans suffered serious injuries in the confrontation.

It is obvious to the world that the North Korean government is trying to harass us to commit an act of hostility. But what the North Koreans fail to recognize is that our Nation remains steadfast in its recognition of the necessity of our military presence in that part of the world. We must not let this abuse by the North Koreans divert our intentions or discourage our presence in South Korea. South Korea wants and needs the United States to remain, as do most of the other major powers throughout Asia.

I commend our administration for its determination, for its show of force following these murders and for its restraint.

I join with my colleagues in the Congress in expressing our grief in their loss. May Mrs. Marcia Bonifas and her three children, Beth, Brian, and Megan, have some consolation in the knowledge that so many of us share their bereavement.

And our entire Nation shares their loss, as is evident from the following editorial comments:

[From the Times Herald Record, Aug. 23, 1976, Middletown, N.Y.]

Thanks, Major Bonifas

"One more week."

Soldiers everywhere count the days until they can return to home and family. Major Arthur G. Bonifas had just a week to go before he was to return to Newburgh, his parents, his wife and his kids.

But those dreams were wiped out last week with the swing of an ax in the hands of a North Korean.

There was a hassle over a tree that blocked the view of a South Korean-U.S. observation post. Major Bonifas and another American officer were killed in the fight.

"Useless . . . pointless, you say.

"Wrong," we say. We are indebted to Major Bonifas.

He was serving his country, albeit in a remote observation post that isn't very romantic nor popular with American thinking today.

But Major Bonifas was serving all of us. The fact that his sacrifice was made in a time of peace rather than in war makes his service even more valuable.

[From the Evening News, Newburgh, N.Y., Aug. 21, 1976]

Atrocity Hits Home

Americans everywhere are outraged over the brutal slaying of two U.S. Army officers by the North Koreans in the "truce village" of Panmunjom.

The atrocity, committed some 12,000 miles away, was particularly shocking to residents of the mid-Hudson region because one of their victims was a neighbor.

Major Arthur G. Bonifas was a graduate of West Point. His widow and three small children reside at Stewart Terrace, in the military housing complex adjacent to Stewart Airport.

The murder—it can't be called anything else—is a continuation of the endless provocations and border incidents which have occurred in the demilitarized zone between North and South Korea ever since the armistice of 1953.

A related incident was the seizure of the American vessel Pueblo in international waters off the Korean coast. Despite vigorous protests the ship was never returned, although its crew was released months later after being humiliated and forced to sign "confessions" of espionage.

These incursions appear to be calculated gambles by the North Koreans to see how far they can go before provoking military retaliation by the United States.

Such action would give them an excuse to launch a massive attack in "self defense" and resume their efforts to unite the two Koreas by force.

The Communists apparently are counting on the unwillingness of the American public to be drawn into another Vietnam, and the probability that there would be no large-scale United Nations support for South Korea as there was in 1950.

The death of the two officers is a personal and national tragedy. American officials must strike a delicate balance in making a response that will be vigorous enough to deter any further repetition without lighting the nuclear fuse.

[From the New York Times, Aug. 23, 1976]

Measured Response

Three days after North Korean guards brutally assaulted and killed two American officers supervising a tree-pruning operation in the demilitarized zone, allied forces returned Friday and cut down the tree, which had been obstructing the view of a United Nations Command post.

This symbolic gesture was backed by a show of military power sufficient to discourage any further North Korean interference and to evoke a belated apology of sorts from Pyongyang. It did not—as nothing could—adequately make amends for the lives lost as a result of North Korea's calculated barbarism. Nevertheless, the measured allied response drives home the essential message that the United States will not be bullied or otherwise driven from fulfilling its role as guardian of the 23-year Korean armistice; and it did so without additional loss of life and without unnecessarily exacerbating an already tense situation.

The incident of the tree strongly reinforces the conclusion reached by last week's "nonaligned" conference in Colombo that a "grave" threat of new conflict exists in Korea. But the evidence in no way supports the conference's incredibly myopic conclusion that the provocation is all on the allied side and that the danger of war would be removed by dissolution of the United Nations Command and withdrawal of American forces.

On the contrary, Pyongyang's latest brute display of unpredictable aggressiveness underscores the continuing need for a strong and patient United States presence, preferably under United Nations auspices, until North Korea's leaders abandon their persistent dream of military conquest and sit down to negotiate a final peace settlement.

In the Journal News of Nyack, N.Y., in the August 19, 1976 edition there was this sad account:

OFFICER KNEW RISKS

OMAHA, Nebr.—Capt. Arthur Bonifas was looking forward to returning home in about two weeks from Korea's Demilitarized Zone.

"Things are fairly quiet here now with the KPA (Korean People's Army). Hopefully they will stay that way for some time to come," said the note he sent his mother on a birthday card.

The card arrived Monday. On Wednesday, Bonifas and another officer, 1st Lt. Mark T. Barrett, were dead. The United Nations command said they were "brutally murdered" by North Korean soldiers wielding axes and pikes in Panmunjom, a village where the Korean armistice was signed 23 years ago.

Bonifas, 33, was Mr. and Mrs. Raymond Bonifas' only child. He and his wife, Marcia, had three small children.

Bonifas' wife in Newburgh, N.Y., was not available for comment Wednesday night.

Barrett's wife, Julianne, lives in Columbia, S.C.

"I got that card Monday. It was my birthday," Bonifas' mother said at her home in Omaha.

There was another birthday card in the home, sent by Capt. Bonifas to his father who will soon celebrate his birthday. It read: "I'm looking forward to checking out the yard when I stop by. I'll bet it's real beautiful now."

Weeping softly into a handkerchief, Mrs. Bonifas said her son wrote continuously of the dangers in and around Korea's Demilitarized Zone. Behind the words of assurance "that I can take care of myself" there were other phrases in the letters saying "you never know . . . anything can happen."

Bonifas, a 1961 graduate of Omaha Creighton Prep and a West Point graduate, volunteered for duty in South Korea in August 1975. He was a commander of an elite guard at the Demilitarized Zone.

"He went because he felt he had to go. He felt it was his duty," his mother said. "I'm numb. It all seems so useless. What chances did he have? Why and how could it have happened?

"He said things were explosive there, and we prayed and prayed he would be all right," Mrs. Bonifas said. "He was a wonderful person. Everybody who knew him loved him."

[From the Washington Post, Aug. 24, 1976]

KOREAN INCIDENT

North Korea's description of its killing of two American military officers as "regretful" falls short of a full apology but marks a substantial and apparently unprecedented backdown, especially by Asian standards. Japan apologized formally to China for World War II in just such a phrase. Nothing can restore the lives of the two officers who, when attacked, were accompanying a workforce on a routine tree-pruning mission inside the thin slice of the demilitarized zone at Panmunjom where unarmed personnel from both sides meet to oversee the 1953 Korean armistice. Nonetheless, the North Koreans were evidently impressed enough by the measured show of force and determination mounted by the United States after the incident to move to calm the situation down.

Some suggest that Kim Il Sung timed the assault to the opening of the conference of "nonaligned" nations to Sri Lanka the next day—to demonstrate the danger of the American military presence in Korea. But this confers upon the North Korean leader a capacity for fine tuning which he, for all his self-glorification, does not even claim for himself. More likely, a local commander overacted in the context of a continuous North Korean effort to intimidate the United States and South Korea. Kim's apology tends to support this view. The Korean frontiers are chronically tense. But war seems improbable, if only because the North's patrons, Russia and China, are as determined for their own reasons to preserve the armistice as is the South's patron, the United States.

Predictably, the "nonaligned" countries turned a blind eye to the butchery and seconded North Korea's standard call for the dissolution of the United Nations Command in Korea and for the withdrawal of American forces. This is childish, if not irresponsible, but it is foolish to expect anything else from the "nonaligned," who years ago took in North Korea despite its military alignment with two Communist powers. In this regard, the hypocrisy of the "nonaligned" may be their most attractive quality. Many of them know well that the source of tension in Korea lies not in American patronage of the South but in the North's refusel to accept the formula for a de facto two-Korea solution long proposed by South Korea. It is American steadfastness that keeps the peace, such as it is in Korea. Knowing that, many "nonaligned" feel free in rhetoric and international votes to flay the United States. . . .

There is no good reason for either Korea to believe, however, that any American administration would act without due regard for its commitments and responsibilities, not just to the government in Seoul, but with respect to the United States' profound national security interest in the stability of that part of the world.

America is proud of Major Bonifas and Lieutenant Barrett. We must make sure that their courageous and honorable performance of duty for their country will never be forgotten.

CAPITAL FORMATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 60 minutes.

Mr. FRENZEL. Mr. Speaker, during the post war period, the American economy has experienced continuous expansion and growth. This growth has provided an improved standard of living for more and more Americans each year. In order to continue this trend, however, the American economy must generate ever increasing amounts of capital.

Each year, for example, billions of dollars worth of plants and equipment are improved and replaced. New technology provides faster and more efficient means of production, and the implementation of these processes requires vast amounts of capital.

An expanding demand for consumer goods requires capital to expand production facilities to meet that demand. Population growth and increases in real wages contribute to increased consumer demand.

Recent public policies have also increased the demand for capital. The desire for energy independence requires greatly expanded production facilities. Additional investment will also be needed to satisfy the new environmental regulations.

On top of all this, the labor *force is* expanding rapidly. New amounts of capital will be required to provide jobs for this new labor force. It has been estimated that between now and 1985, 16 million new people will enter the labor force. While this estimate may be high, the fact remains that there is a substantial need for capital in order to provide meaningful jobs for this greatly expanded labor force.

In the American economy, the recent recession has intensified the historical need for capital. The dual impact of reduced consumer demand and high interest rates caused investment to drop considerably during this period. In 1974 and 1975, real gross domestic investment fell 13.2 and 22.8 percent respectively. Most of the reduced investment came at the expense of inventories and residential construction.

Now, as the economy is beginning to recover, the results of this reduced investment are being felt. Aggregate demand is increasing, but inventories are low and idle production equipment has not been kept in operational condition. Before the entire economy can begin its expansion again, the lags in these areas will have to be made up. And if this is not accomplished rapidly, the recovery will be seriously jeopardized as other sectors begin to reach their peak growth rates and aggregate demand increases substantially.

All of these factors, both historical and recent, contribute to *a vast demand* for capital in 1976 and future years. If the American economy is to continue to expand, and to provide all Americans with a continued high standard of living, this vast demand for capital will have to be met.

But where will this capital come from? How can this demand for capital be met? A slight digression to review some elementary economics will help answer these questions.

Capital must be put to work in order to meet the needs of a consumer economy. The terms "investment" and "capital formation" are used to describe the act of putting capital to work. What is needed then, to meet the vast demand for capital, is for the owners of capital to put it to work, to invest it.

The capital for investment comes from savings, and savings come from three sources: the personal savings of individuals and households; business savings, primarily in the form of retained earnings; and Government savings, made up of the surpluses of all government—including State and local. The above savings are termed "net savings." When depreciation allowances are added in, the term "gross savings" is used. If our goal is to increase investment, we must concentrate our efforts on increasing these areas of savings; if we can cause any of the component parts of savings to grow, the additional investment will help us meet our capital needs in the future.

An examination of the historical role of these three areas indicates that business savings are the largest contributor to aggregate savings in the U.S. economy, usually accounting for some 70 percent of the total. However, they tend to be relatively high during periods of recovery, and relatively low in times of a downturn. Government saving also varies widely, but personal savings do not, except during times of recession.

Because Government saving and business saving are the most susceptible to change, efforts to increase aggregate savings are concentrated on the Government and corporate sector. Unfortunately, recent years have not shown the Government to be a good example of how to increase savings. Net public saving has been positive in only 11 of the past 25 years. The Federal Government has been in surplus only 9 of those years.

Nevertheless, the goal of a balanced or surplus budget should be at the top of any list to aid capital formation in this country. If the Congress is serious about preventing a capital shortage, it should lead the way by bringing its own books in order, and providing a balanced or surplus budget. A surplus Federal budget would increase aggregate savings and free the many sources of capital which are usually required to finance the Federal budget deficit. A balanced budget cannot be achieved in recession years, but it can be achieved by fiscal year 1979 if Congress wants to do so.

The next highest priority to increase capital formation lies with increased saving in the business sector, and with business' willingness to reinvest those increased savings. The majority of capital formation proposals are attempts to provide incentives for business investment, usually in the form of measures which increase the profit, or return on investment.

An overall increase in the return on investment will cause two things. First, with the possibility of a higher return for each dollar invested, more businesses and individuals will be willing to undertake the risks of investment. The result will be increased numbers of investments. Second, when the profitability of an investment increases, the savings of the individual or business increase, and there will be more money available for future investment.

Most of the current capital formation proposals are aimed at either reducing the cost of capital assets or increasing the return on investment. This paper will discuss several of these proposals, including the following: First, liberalization of the investment tax credit; second, liberalization of depreciation allowances; third, integration of corporate and individual income taxes; fourth, reductions in the corporate income tax rates; fifth, more favorable treatment of net operating losses; and sixth, liberalized capital gains taxation. In addition, a number of "capital formation" proposals are aimed at increasing savings or broadening stock ownership. These will be considered briefly after a discussion of each of the six major areas.

INVESTMENT TAX CREDIT

Under present law, a 10 percent investment credit is available for taxpayers making investments in tangible personal property, or other tangible property which is an integral part of a manufacturing process, or used in research or storage. Generally, property is eligible for the credit when it is placed in service. The property must have a useful life of at least 7 years to qualify for the full credit. The amount of the credit that a taxpayer may take in any one year is limited to the first $25,000 of tax liability, and 50 percent of the tax liability in excess of $25,000. Excess credits can be carried back 3 years or forward 7 years.

The investment tax credit is designed to increase the propensity of businesses to invest. It works primarily in two ways. First, the investment credit lowers the cost of equipment to business, and this increases their propensity to invest. The investment tax credit is more powerful than other reductions—a 10 percent reduction in equipment prices, for example—because lower prices cause the depreciation basis of the equpmenit to be reduced. The investment tax credit also acts like the other business tax reduction: it increases the return on investment, or "profitability." Without a change in the cost of capital, this increase in profits will increase the propensity of business to invest.

The cost of the present 10 percent investment tax credit in lost revenue is about $8.8 billion. According to most econometric models, a 1 percent increase in the investment tax credit will produce about $710 million in increased investment in equipment. In addition, it will stimulate about $380 million in new plant investment because of its effect in increasing after-tax corporate profits. With these and other factors taken into account, it is estimated that the investment tax credit will increase investment by about $1.30 for each dollar of lost revenue.

The implementation of the investment tax credit has several important side effects. First, the credit tends to encourage investment in machinery and equipment rather than structures. Second, the full effect of the credit is not felt immediately because of the 4 to 10 month time lag involved in putting most pieces of equipment into operation. Thus the effect of the investment tax credit builds over a 3-year period after the date of any change in the credit. Third, the credit is the least subject to political criticism of all the capital formation proposals. Increases in the investment tax credit can be passed when all other capital formation schemes are seen as corporate ripoffs.

Finally, the investment tax credit often alters the composition of investment rather than the aggregate level of investment. Thus investment in equipment may rise, but only at the expense of investment in housing or other sectors. The ability of the investment tax credit to cause investment to shift to a certain area of the economy is beneficial in some respects. Geographic areas of high unemployment can be singled out for higher tax credits. Certain industries where capital investment is desperately needed—public utilities for example—might be made eligible for higher credits.

These side effects demonstrate the necessity that Congress study the whole economic picture before changing the investment tax structure. The present 10 percent credit was passed in order to complement the stimulus to consumer spending provided by the Tax Reduction Act of 1975. Without the increase in the investment tax credit, it is probable that investment may have dropped even further during the recent recession.

If the investment tax credit is to be increased, care must be taken to provide comparable incentives in other areas of the economy. Without them, the resulting shift of investment to machinery and equipment could cause serious deficiencies in other sectors of the economy. On the other hand, if the investment tax credit is to be reduced or eliminated, care should be taken to provide other incentives to replace it.

In sum, the investment tax credit is a popular and effective tool for increasing investment in a specific area, or over a broad portion of the economy. However, the associated time lag before full effect is reached and the accompanying shift of investment from other areas of the economy are important characteristics which must be anticipated.

DEPRECIATION

Under present law, taxpayers are allowed to claim depreciation allowances which permit them to recover their capital investment free of tax. Thus, only income which is in excess of that which is used for capital investment is taxed.

For depreciation purposes, "guideline lives" are established, and taxpayers are allowed to use one of several methods of dividing the cost of an asset over the guideline life prescribed for that asset. These guideline lives are established for property other than real estate on the basis of industry classes.

The simplest method for claiming depreciation allowances is the straight line method which spreads an annual charge evenly over the asset's useful life. The declining balance, sum of the year's digits, and other methods of accelerated depreciation, allow taxpayers to take large deductions during the early years of an asset's life, and smaller deductions in the later years. The methods of accelerated depreciation are intended to provide additional incentives to invest. The large depreciation deductions in the early years of an asset's life provide a stream of interest savings which, when capitalized, is the equivalent of a reduction in the capital cost of an asset.

Several modifications of these depreciation rules exist under present law. For example, an additional first year depreciation allowance of up to 20 percent is allowed for small businesses on the first $10,000 of an investment. A recent modification, the so-called ADR system, allows taxpayers to decrease the established guideline lives by 20 percent before applying the depreciation method. In addition, certain limitations on the choice of depreciation method apply depending on the asset. New residential construction is limited to 150 percent declining balance, for example.

One drawback of the present depreciation system is that the allowances are based on the historical cost of an asset. When there is inflation, the cash flow from depreciation allowances is not adequate to permit the replacement of an asset. This forces corporations to use after tax dollars to replace existing equipment and leaves little to invest in new equipment.

One capital formation proposal seeks to cure this problem by moving to a system of replacement cost accounting. Under this system, the basis of an asset—on which the depreciation allowance is based—is increased each year by the rate of inflation. In this way, the original intent of the depreciation allowance is restored and capital investments can be recovered free of tax. Once again, the capitalized interest savings from accelerated depreciation will serve as an actual reduction in the capital cost of an asset, and the accelerated depreciation will serve as a greater incentive to invest. If current rates of inflation continue, the estimated cost of a system of replacement cost depreciation would be about $9 billion per year.

Another capital formation proposal related to depreciation would expand the ADR system. Under this proposal, the established guideline lives could be reduced by 40 percent instead of the present 20 percent. By reducing the guideline lives in this fashion, the stream of interest savings increases. As a result the capital cost of an asset is reduced even further, and each investment becomes more attractive. Proponents of this measure also view it as another means of mitigating the effects of inflation on depreciation allowances. Expanding the ADR system from 20 to 40 percent would cost about $700 million in its first year, and almost $3.5 billion by the fifth year.

One popular proposal ties the need for capital formation with the present problem of unemployment. I am a cosponsor of one such bill which would allow very rapid depreciation—5 year amortization—for new plants and equipment in areas where the unemployment rate is greater than 7 percent. The revenue loss associated with this measure is estimated at $300 million in fiscal year 1977, rising to a peak of $1.1 billion in 1981.

INTEGRATION OF CORPORATE AND INDIVIDUAL INCOME TAX

Under existing law, the taxation of corporate income differs significantly depending on whether it is paid out as dividends or kept as retained earnings. Retained earnings are taxed only once, at the corporate rate. Dividends are taxed twice, once under the corporate income tax and once under the individual income tax. Thus, the total tax rates on dividends varies from 48 to 84.4 percent depending on the tax bracket of the shareholder.

There are a number of problems with the present "system" of corporate taxation. First, in terms of economic efficiency, the double tax on corporate income causes a misallocation of resources. Capital which would otherwise flow to the corporate sector flows to the noncorporate sector where income is taxed only once. Second, the double tax is inequitable. Recipients of dividend income are taxed twice, while recipients of other income are taxed only once. Finally, the high tax burden on equity money, coupled with the deductibility of interest payments on debt money, creates an unhealthy bias in the corporate sector toward debt financing. The resulting corporate financial structures are more risky and more vulnerable to downswings in the economy.

Several methods of integration of the corporate and individual income tax have been proposed. All are aimed at ending the double taxation of dividends and eliminating the bias toward debt financing. In addition, they will aid capital formation by decreasing the effective tax rates for corporations and increasing their return on investment.

One method of integration would allow corporations to deduct their dividend payments before computing their tax. In addition to eliminating the double tax on dividends and the tax bias against equity financing, this measure could be expected to increase dividend payouts and cause greater use of the equity markets to raise capital. Finally, it is efficient because it allows corporations to retain capital, rather than giving individuals an incentive to invest. The revenue loss associated with this measure is estimated at $16 to $18 billion.

A second method of partial integration would allow shareholders to claim a refundable credit for the portion of the corporate tax attributable to their dividend income. Although this method achieves similar economic effects as the first, it differs in that the tax reduction is achieved on the individual income tax instead of on the corporate tax. However, there is no guarantee that the individual will reinvest the capital. Tax-exempt shareholders and foreigners could be exempted from these benefits, reducing the revenue loss to $12 to $14 billion.

Complete integration would not only eliminate the double tax on dividends, but also integrate corporate and individual taxes with respect to retained earnings. One way to accomplish this would be to require shareholders to include in income the corporate earnings, including the tax on those earnings, and then permit the shareholders to claim a refundable credit for that tax. Complete integration would require the solution of many different technical problems, and the revenue loss would be approximately $20 billion.

From an equity standpoint, and from the standpoint of promoting stronger and more stable corporate sector, these proposals, especially dividend deductibility, should receive a high priority. However, their high cost and relatively low return in the form of increased investment make their enactment unlikely.

CORPORATE INCOME TAX

Corporate income is generally subject to a normal tax rate of 22 percent, and a surtax of 26 percent. The first $25,000 of taxable income is exempt from the surtax. The Tax Reduction Act of 1975 raised the surtax exemption to $50,000, and lowered the normal tax rate of 20 percent on the initial $25,000 of taxable income. These changes were adopted for calendar 1975 as an aid to small business.

Temporary reductions in corporate tax rates for small corporations cannot, however, be viewed as effective in stimulating business investment as increases in the investment tax rate. When a corporation is considering whether to make an investment, it is concerned with what the tax burden will be on the income produced by an investment, income that is usually received over a long period of time. A 1-year reduction in the corporate tax rates, therefore, has only a small effect on after-tax rates of return, so it provides little stimulus to new investment. A permanent reduction in the corporate tax rates, however, would increase after tax returns over the life may be as effective at stimulating investment as an increase in the investment credit.

The reduction in corporate tax rates will increase investment only if it reduces the marginal tax rate, that is, the tax rate on additional income. For this reason, an increase in the surtax exemption will produce additional investment only in corporations whose incomes fall between the old and new level of the exemption. For example, since only 3.7 percent of corporate income was received by corporations with incomes between $25,000 and $50,000, the increase in the surtax exemption under the Tax Reduction Act did little to produce additional investment.

A reduction in the normal tax rate, on the other hand, would reduce the marginal tax rate for most corporations and serve as an efficient stimulus to investment. It is estimated that each 1 percent decrease in the corporate rates would cost about $1 billion in foregone revenues.

An important bias of the corporate rate reduction is that it benefits only corporate taxpayers, while integration, the investment tax credit, and depreciation changes affect both corporate and individual income taxpayers.

NET OPERATING LOSSES

Current law allows a taxpayer to carry a net operating loss as a deduction against income for the 3 years preceding the year in which the loss occurred, and to carry over any remaining unused losses over to the 5 years following the loss year.

The purpose of net operating loss carryforwards and carrybacks is to provide business taxpayers with a form of averaging which, in effect, permits them to share their losses with the Government by offsetting their losses against income in other years. This is generally regarded as equitable since taxpayers are required to share their income with the Government when they have profitable years.

As a result of recent economic conditions, many taxpayers have incurred substantial losses which they cannot offset fully against the income of other years. These taxpayers, for example, may not be able to offset their losses fully under the present system because their losses are large and the 3 previous years were either loss or low-income years. In addition, if only modest profits are anticipated in future years, there remains little hope that the present heavy losses will be able to be offset.

An extension of the loss carryback and carryforward period may result in an influx of capital into companies which have been plagued by consecutive loss years. The additional money could then be invested in new capital which would produce greater earnings streams in the future.

Various proposals introduced in the *94th Congress* range in cost from $1.8 billion for a 10-year carryback or carryforward beginning after 1970, to $1.4 billion for an 8-year carryback effective beginning in 1970. Their chief disadvantage is that they have been perceived as a "bailout" mechanism for large unprofitable companies.

CAPITAL GAINS

Capital gains on property held for more than 6 months are currently classified as long-term capital gains. Present law allows 50 percent of these gains to be *excluded* from adjusted gross income for tax purposes. The remaining 50 percent is taxed according to the regular progressive rate schedule. The effect is that long-term capital gains are taxed at half the rates that apply to other income.

Many believe that it is inappropriate to treat all long term capital gains equally, regardless of whether an asset has been held just over the 6-month period or 20 to 30 years or more. Oftentimes much of the gain on assets held for these longer periods is a result of inflation rather than appreciation of real value.

At present, U.S. capital gains taxes are the highest of any in the free world. The combination of these high tax rates and the inflationary gains has caused many investors to be locked-in to their original investments. This lock-in effect reduces the availability of capital for new investments.

Liberalizing the present treatment of capital gains would provide a double benefit. Not only would it free many of the locked-in assets, but it would also encourage increased investment by realistically taxing gains which are, to a great extent, over-exaggerated by inflation.

The most popular proposal for liberalizing the capital gains laws would tax capital gains on a sliding scale of tax rates, depending upon how long the asset had been held. Under this proposal, the 50 percent exclusion would be increased for capital gains on assets held for long periods of time.

OTHER PROPOSALS

Other proposals for capital formation are aimed at increasing the level of personal savings. These measures are based on the premise that in our economy, investment equals savings. Thus, if savings increase, investment will increase, and our vast demands for capital in the future can be met.

Under existing law, personal savings are made with after-tax dollars. A number of proposals have been advanced which would encourage saving by the individual taxpayers by allowing them to defer the payment of tax on income which is placed in qualified savings plans. Taxes would then be levied when the savings are withdrawn from the plan—usually in later years when the individual is in a lower tax bracket.

The purpose of these programs is to encourage taxpayers to save a certain portion of their income. Allowing them to defer the tax on income which is placed in these special accounts is designed to provide the incentive for individuals to save a larger portion of their income. This additional saving will provide an expanded source of capital for investment.

The individual retirement account IRA, is a good example of a tax-deferred savings plan. The IRA allows a deduction for up to $1,500 per year for contributions to an IRA. The IRA is aimed at providing savings for the retirement years, but other plans have been suggested with slightly different goals.

Proposals to expand the existing IRA program to allow individuals covered by employer pension plans—but where the employer's contributions are less than $1,500 per year—to establish IRA's. Such individuals would be able to deduct IRA contributions up to the difference between the maximum permissable IRA contribution—the lesser of $1,500 or 15 percent of earned income—and the employer's pension contribution made on their behalf. This measure would cost approximately $1.2 billion. Increasing the allowable contribution to $2,000 per year would cost approximately $250 million.

The broadened stock ownership plan, BSOP, would provide a deduction for a fraction of income put into stock ownership plan. In addition to providing more capital for investment, this plan would encourage more individuals to own stock, and also provide a broader, more secure market for equities.

Individual savings accounts, ISA's, would provide a similar deduction for income which is placed in a qualified savings plan. Proposals to exclude interest on regular savings accounts have also been considered as a means of encouraging saving.

CONCLUSION

All of the proposals reviewed here have merit, but collectively they would create an intolerable drain on Treasury revenues. The goals of tax equity and capital formation must be moderated by other vital considerations such as the impact on the Federal deficit. Therefore, to qualify both politically and practically, an appropriate package of capital formation incentives cannot include all these proposals. And those that are included cannot be made totally effective at once, but probably will have to be phased in over a period of years.

The need for capital formation has been escalated by new technology, new realizations of the limits on our resources, and by special self-imposed limits on our business operations for reasons of health, safety, a clean environment, and so forth. But the single element which has made capital formation most difficult is inflation. Much of the blame for inflation must be placed on the Congress because of its inability to control its own spending processes.

Therefore, the greatest possible boost that Congress can give to capital formation is to regain some measure of spending control, and thereby reduce inflation. Second, until this control is achieved, tax laws must be indexed so they do not unnecessarily retard the formation of capital. An example is the corporate surtax exemption, which could be indexed as a special aid to small business.

I believe that no capital formation program should exclude some relief of the inequitable double taxation of dividends. My choice would be to make dividends deductible as a corporate expense rather than to make them non- or less-taxable to shareholders. This form of integration would undoubtably have to be phased in, perhaps over a 5-year period.

The establishment of a system of replacement cost depreciation should also be included in any overall program. Not only is it an important capital formation tool, but it has strong equity arguments as well. Best of all, it forces Congress to accept responsibility for the inflation caused by its own overspending. Expansion of the ADR system could be a temporary alternative to replacement cost depreciation, but it should not be a long-term substitute.

A comprehensive capital formation program should include temporary measures for dealing with geographical areas, or specific industries, in which there is high unemployment. Either special investment tax credits or faster depreciation writeoffs could be used. Such measures should be shortlived, with "sunset" features, and should not be used to counteract long-term economic trends.

Reductions in corporate income tax rates are perhaps the most direct way to increase capital formation. Laid on top of other proposals, a general corporate tax cut is too expensive, but as a separate alternative to the package of incentives, a cut is worth considering. Politically, and from the standpoint of equity, it would be clearly a second choice to a balanced package of capital formation stimulants.

Capital gains reductions for assets held over longer time periods would also provide useful incentives and should be a part of any package. In addition to increasing investment incentives, it would free up assets frozen by the present high tax rates on capital gains.

Proposals like ESOP's, for broadening stock ownership, are primarily important for expanding the base of capitalism and can be justified on that point alone. However, they will also provide new capital. Even if the extent or effectiveness of these plans is not known precisely, they are worthy of inclusion in a balanced program.

The eventual package, or program of capital formation incentives will not be easy to assemble. And it will be almost impossible to pass through Congress. For these reasons, it would be unwise to demand a very specific arrangement of items in the package. Hard and fast rules are to be avoided, but one, at least, is worth considering. That one would match all Treasury revenues lost in tax incentives with spending reductions. Observance of that rule would multiply the effectiveness of any package.

Despite its difficulty or magnitude, the task of assembling a workable capital formation program must be begun. Our future capital needs are massive, and must be met. The strength and future of our economy depend on our ability to meet those needs.

EPILEPSY NO LONGER A WHISPERING MATTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 5 minutes.

Mr. CLEVELAND. Mr. Speaker, for far too long, the victims of epilepsy have suffered not only from the symptoms of their ailment but also from the unfortunate stigma that has been associated with epilepsy because of the lack of knowledge and understanding of this tragic disease. The following article by Henry D. Astarjian, M.D., a member of the board of directors of the New Hampshire Chapter of the Epilepsy Foundation of America, is a stark reminder of the need for a better understanding of this illness and a more compassionate point of view toward those who suffer from it. I commend the article, which appeared in the June 8, 1976 issue of the Nashua, N.H., Telegraph, to my colleagues:

Epilepsy No Longer A Whispering Matter

(By Henry D. Astarjian, M.D.)

(Editor's Note: Dr. Henry A. Astarjian, a neurologist practicing in New Hampshire, is a member of the Board of Directors of the N.H. Chapter of the Epilepsy Foundation of America. The N.H. Chapter of the Epilepsy Foundation has offices at 10 Prospect St., Nashua.)

Of the four million epileptics in the United States, an estimated 40,000 live in the state of New Hampshire.

Some of these have been diagnosed and received treatment and a larger group pass unnoticed and suffer from the ailment for at least a period of their lives, mostly because of the nature of their nebulous symptoms. Yet another group of epileptics conceal their identity because of fear; fear from discrimination in schooling, employment, obtaining various insurances, drivers license, etc.

Unlike diabetes, hypertension, heart attack and cancer, epilepsy has remained unpublicized for various reasons and the general public has been kept uninformed and uneducated on the subject. Also unlike other naturally occurring diseases, epilepsy has brought, and unjustifiably so, shame onto individuals and families who suffer from the ailment, an attitude which is inherent from the darkest ages of civilization.

In the Old World until about the turn of this century, epileptics were considered to be "possessed" by the devils. They were put away from the sight of other human beings; children were kept in basements and adults were denied marriage and employment. Families were degraded for having an epileptic child generation after generation.

Physicians recognized one form of epilepsy, namely the major seizure "Grand Mal," however, they could not treat or control these seizures until the invention of barbiturate compounds in the early part of this century.

In modern times, attitudes have changed but only in a limited way. In one state until recently, applicants for a marriage license were asked to provide a medical letter stating that they were not "idiot, epileptic or common drunkard." Employment is still discriminatory because epileptics are unjustifiably considered as high risk workers.

Insurance premiums for health, life, disability and employment are difficult to obtain and frequently the insured epileptics have to pay a much higher price. Schools and camps have not infrequently discriminated against epileptic children, often unjustifiably, for fear of "something happening to the kid" at school.

Families with epileptic children encounter great difficulties in their immediate neighborhood; babysitters become "hard to find," other children are prevented from playing with the epileptic, neighbors' swimming pools and even town recreational facilities are closed in their face. The impact of this is left to the imagination of the readers. These victimized families cannot even "keep it secret" anymore, the town would know through radio scanner when Billy is taken to a hospital with seizures.

HARD TO DEFINE

What is epilepsy anyway? Well, it is really very hard to define. Since it comes in so many shapes and forms and has so many clinical presentations, one definition will certainly be very inadequate. Perhaps the best will be a "temporary disruption of the brain electro-chemical orchestration."

When this happens, a number of clinical situations may arise. A well-known generalized seizure consists, amongst other things, of a warning sign, loss of consciousness and convulsions; this may last for a few minutes after which the victim may arise, be confused for a brief period of time, then go to natural sleep. During this storm the individual may injure himself by hitting his head, or breaking a bone, he might bite his tongue.

The observer should use his judgment in preventing injury; moreover he should be courageous and prevent panic. The storm does not last long. When all is over, the person returns to his normal self with full capacity to think, function and perform physical work like any other normal human being.

I have just described very briefly indeed a horrifying situation which could be controlled in the majority of cases completely as long as the patient takes medication regularly.

SYMPTOMS SUBTLE, GENTLE

Another form of epilepsy is one which is not frightening at all. The symptoms are subtle and gentle, therefore frequently missed. There is no storm and there are no violent movements. The patient may simply lose his attention span and be cut off from his environment for seconds; in the process he might drop objects that he was holding or forget what he was talking about. There is an interruption of his train of thoughts, a gap in his memory. These are frequently described as "trances" or "absence periods."

When these episodes happen some *30-40* times a day it can really interfere with one's learning capacity and ability to perform. Not infrequently a child is labeled as "not bright" by teachers and parents; in reality the child is "missing the boat" in learning because of these frequent attacks of "absence periods."

In contrast to these forms of epilepsy, there is another form in which an individual's behavior is temporarily disrupted. Sudden bursts of rage, bad temper and violence characterize the attack. The individual is "wide awake," however, cannot control his behavior. He may assault, disrupt and destroy whatever surrounds him. He is "temporarily insane" before regaining his "sanity."

In infants "breath holding" attacks and sometimes head bobbing could be manifestations of seizures and some young children may have convulsions associated with high fever.

LOT MORE TO LEARN

Despite our knowledge of epilepsy, there is a lot more that has to be learned by both the medical profession and the public. Research is being conducted everywhere in the world for better understanding of seizure disorders and providing better treatment.

At present over 90 per cent of epileptics are well-controlled with medication. A complete control cannot be achieved only in a small group of people. Surgical removal of part of the brain harboring the epileptic focus has, on occasion, provided adequate control of seizures in those cases.

A recent and controversial neurosurgical procedure to control generalized seizure disorder is performed by Dr. Irving Cooper of New York who implants electrodes in the cerebellum (part of the brain) which is rich in a neuroinhibitory substance known as GABA.

The patient is provided with a stimulator which stimulates the cerebellum at will and releases this naturally occurring chemical which in turn prevents impending convulsions. This procedure is very controversial and rarely needed. Luckily the vast majority of epileptics achieve control from all forms of epilepsy with the help of drugs. These medications are relatively benign and have stood the test of time.

Once control of seizures is achieved an epileptic can function normally like any other normal human being. He can work, think, invent and produce. He does not have an inferior mental capacity or lower IQ than the rest of us. Great historical figures have been diagnosed as having been epileptics; amongst them are Alexander the Great, Julius Caesar, Buddha, Napoleon, Saint Paul, Handel, Tchaikovsky and Alfred Nobel to name a few.

COMPASSION NEEDED

Society on all levels including government should look at people with epilepsy with understanding and compassion and eliminate discrimination in spirit and letter. After all we do not discriminate against someone who has stomach ulcers or suffers from hypertension.

Schools, indeed all those directly involved in education, should be educated in this subject since it involves their pupils and students. Currently a "School Alert" program throughout this state is in the process of being prepared by the Epilepsy Foundation of America (EFA), New Hampshire Chapter, Inc. This foundation came into being in June of 1974. A number of concerned citizens took upon their shoulders the task of dealing with the problems of epilepsy which knows no socio-economic boundaries, the task of educating society on all levels.

Cancer was an unmentionable word until recently, but not any more. The word epilepsy should be the same.

Of all monies allocated by Washington to serve three neurological disorders, only seven per cent was benefiting epilepsy even though there are more epileptics in this nation than the other two groups, namely mental retardation and cerebral palsy.

The New Hampshire Chapter of the Epilepsy Foundation of America does not receive financial assistance from Washington. Its funds are raised locally and spent locally, on subsidizing anticonvulsant medications vital for control of seizures. On sending epileptic children to summer camp which otherwise would be inaccessible to them, providing educational programs and information to all.

This is one example of citizens helping themselves without government bureaucracy.

If you believe in the goals of this nonprofit organization, then support it. It is worth seeing it grow.

H. CON. RES. 205 STATEMENT BY DR. LEV E. DOBRIANSKY, GEORGETOWN UNIVERSITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, I was delighted to see that under the chairmanship of my colleague, the Honorable DONALD M. FRASER, two subcommittees of our Committee on International Relations have undertaken hearings on the vital subject of religious persecution in the Soviet Union. Along with other colleagues I have submitted House Concurrent Resolution 205 which addresses itself to a special case of religious genocide in the U.S.S.R. As emphasized in a testimony on the measure during the June hearings, in sharp contrast to other forms of religious persecution in the U.S.S.R.: "The Ukrainian Catholic Church and the Ukrainian Orthodox Church are not in being; they have been obliterated."

In the conviction that swift action will be taken on this and similar measures and that leading religious bodies

throughout the world would focus their human rights attention on these grave injustices in the U.S.S.R. I commend to the reading of my colleagues and of concerned Americans the text of House Concurrent Resolution 205 and the testimony presented by Dr. Lev E. Dobriansky of Georgetown University, who is also president of the Ukrainian Congress Committee of America:

H. CON. RES. 205

Whereas the Charter of the United Nations, as well as its Declaration of Human Rights, sets forth the objective of international cooperation "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion . . ."; and

Whereas in the Constitution of the Union of Soviet Socialist Republics article 124 unequivocally provides that "In order to insure to citizens freedom of conscience, freedom of religious worship and freedom of antireligious propaganda is recognized for all citizens"; and

Whereas not just religious or civil repression but the genocide, the absolute physical extermination, of both the Ukrainian Orthodox and Catholic Churches in a nation of over forty-five million brutally violates the basic civilized rights enunciated above: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the President of the United States of America shall take immediate and determined steps to—

(1) call upon the Government of the Union of Soviet Socialist Republics to permit the concrete resurrection of both the Ukranian Orthodox and Catholic Churches in the largest non-Russian nation both within the Union of Soviet Socialist Republics and in Eastern Europe; and

(2) utilize formal and informal contacts with Union of Soviet Socialist Republics officials in an effort to secure the freedom of religious worship in places of both churches that their own Constitution provides for; and

(3) raise in the General Assembly of the United Nations the issue of Stalin's liquidation of the two churches and its perpetuated effect on the posture of the Union of Soviet Socialist Republics in the light of the United Nations Charter and the Declaration of Human Rights.

STATEMENT OF PROF. LEV E. DOBRIANSKY, DEPARTMENT OF ECONOMICS, GEORGETOWN UNIVERSITY

Mr. Chairman, I am deeply grateful for this opportunity to express a number of points concerning the whole matter of the persecution of religion in the U.S.S.R. One might wonder how a Professor of Economics would be interested in the matter of religion and its persecution in the U.S.S.R.

Well, my credentials are that I do specialize in the subject of the Soviet Union, and anyone studying the Russian empire prior to 1918 and since would have to look at it from a holistic methodologic viewpoint. I think it has already been amply shown that we have here a monopoly of political power—that means monopolistic use of economic power which in turn can bring about such persecution through denial of facilities, resources, et cetera, in connection with religious groups.

In addition, I was a student of a Russian historian—one of the most prominent—George Fedetov, so I do have at least something in the way of a broad ecclesiastical background concerning the churches both in the earlier Russian empire and also in the Soviet Union.

I am going to make just three essential points without getting into details of history and the like.

The first point is this: that both the Ukrainian Catholic Church and the Ukrainian Orthodox Church, fit into an exclusive sphere for inquiry and action. Now, you can have persecution, and there is a great deal of it, in connection with the Russian Orthodox Church, the Georgian Orthodox Church, the Roman Catholics, Calvinists, Jews and Moslems. The crucial point that one has to recognize in considering any legislation dealing with this particular subject is that all of these that are being persecuted are nevertheless in being institutionally. In sharp contrast, the Ukrainian Catholic Church and the Ukrainian Orthodox Church are not in being; they have been obliterated. It is not only a matter of persecution of individuals but also a matter of genocide of institutional bodies that tend over time to conserve the spiritual resources of a given people.

My second point will be namely—and I urge this on a principle of proportionality—that consideration and even action be proportional to the object itself, to the reality of the peculiar situation. The traditional Ukrainian Churches—the Orthodox and Ukrainian Catholic—are what you might properly call expressions of the spiritual soul of a nation. And we are dealing here with a nation that is the largest non-Russian nation not only in the Soviet Union but also in Eastern Europe and, as a consequence, is of prime concern to Moscow and should be equally so to us.

Then, the third point, specifically, what to do with this after I shall have given some of the supporting points.

Now, I understand that the Commission on European Security and Cooperation will come into being and may consider some of these matters. I will urge, however, as part of my concluding remarks that this particular and outstanding case of religious genocide, in addition to the persecution of individuals that would seek to have their religious expressions and aspirations shown through these institutional entities that have been obliterated, be a special case for the International Relations Committee. Primarily, of course, for your subcommittees to favorably turn it over to the International Relations Committee and to have Congressional action on it. This, of course, brings up H. Con. Res. 205, which had been submitted and addresses itself solely to this matter of religious genocide.

By way of supporting statements on this, there will be some deviation from at least the historical outlook given in the previous paper, which I nonetheless support considerably. One can easily develop an historical background and perspective with regard to this special case. It is necessary to answer the natural query as to why these two major institutions, the Ukrainian Catholic and Ukrainian Orthodox Church that had been in being, were institutionally obliterated. Without such a background you can't really assess it.

The second point is, of course, that the long arm of history extends itself right into our contemporary period. So, when imperialist Moscow demands, for example, that another people reject and renounce, let's say, the Union of Brest, it does not have any meaning unless you know what the Union of Brest meant in connection with these Churches.

So, quickly and concisely—I could even diagrammatize this—Christianity was accepted in the Ukrainian area back in 988 A.D. There wasn't any real division then between Rome and Constantinople and, as a consequence, you have a continuous development of the Christian churches.

However, the next significant date is 1054, when the division took place and separated, if you will, these Ukrainian religious institutions from Rome. They developed as independent religious organizations in close union with the Patriarch of Constantinople for at least five centuries. Which brings us to the third very important turning point and date here, specifically, 1596. In that year a conference of bishops both from Ukraine and Byelorussia of that time made union with the Roman Catholic Church at the Conference of Brest, whereby they accepted the leadership of the Pope but retained all rights and customs of the Eastern Church.

Now, to be sure, this is the beginning of the two-tiered Ukrainian religious development. One plane is the Ukrainian Uniates who now are called Ukrainian Catholics. The other, which has represented, to be sure, the majority of Ukrainians, the Ukrainian Orthodox Church.

Thus, in this connection we find a very curious historical phenomenon. You have these two Churches developing fruitfully, but in time an empire and ideology intervene. With the expansion of the Russian Empire and also its ideology of a Third Rome—namely, Moscow being the third Rome and no fourth Rome after Moscow—that imperial ideology had its institutional imprint, if you will, in the harassment and curtailment of the Ukrainian Orthodox Church in the course of these centuries of the expansion of the Russian Empire.

Paradoxically enough, with the development of the Austro-Hungarian Empire, in which part of the Ukrainian territory happened to be situated right down to 1918, you witness on the part of the enlightenment dynasty there an encouragement of Ukrainian Catholicism. I think it is important to point this out with emphasis. In the context of the Austro-Hungarian Empire and its enlightenment and imperial prudence the Ukrainian Catholic Church was furthered in a favorable way against the expansionist Russian Empire. The Russian Empire, on the other hand, with its Russification policy brought about the systematic subordination and literal elimination of the Ukrainian Orthodox Church.

The next important date, of course, is 1917, with the disintegration of the Russian Empire. An opportunity was historically presented for the expression of the suppressed desires and aspirations of the Ukrainian people subjugated in that empire. With the establishment of Ukrainian national independence, in the form of an independent Ukrainian State, it is significant that we observe, of course, the easy continuation of the Ukrainian Catholic development. There was no disruption or disturbance on that developmental tier. But, with this historic event, the resurrection of the Ukrainian Orthodox development came into full bloom. As a consequence, in 1921, at an all-Ukrainian Orthodox meeting of bishops and others in Kiev, the Independent Ukrainian Orthodox Church was re-established. Even in this period of what was called Soviet Ukraine—prior to its forcible incorporation into what became the Soviet Union—and for a good part of the twenties when the Ukrainianization program prevailed in the area, the independent Ukrainian Orthodox Church flowered.

However, this was not to be an institutional continuum as you observed on the other tier with regard to the Ukrainian Catholic Church. For by the end of the twenties and then going into the thirties Moscow's assault against the Ukrainian Orthodox Church was in full swing. I think one has to point this out emphatically in connection with Stalin's Russification policies, which negated the Ukranianization movement and all matters emphasizing the national substance and nationalism not only in the Ukrainian colony but elsewhere in this new Soviet Russian Empire. The assault against the Ukrainian Orthodox Church, to all intents and purposes, came to an end at least on the surface in the mid-1930's.

So, by the mid-1930's, with the abolition of this independent Ukrainian Orthodox Church, 30 archbishops and bishops were eliminated, 20,000 priests, deacons and others were liquidated, and 3,000 parishes were disbanded. In effect, the Ukrainian Orthodox adherents now had been coerced into the Russian Orthodox Church, following a policy which was maintained even under the old Czars and continues with the new Red Czars.

In the meantime, turning to the other tier, what happened to the Ukrainian Catholic Church which, being centered in Western Ukraine now held by Poland between the two World Wars, continued to thrive? Well, this Church could not extend its historical continuum in view of the expansion, if you will, of Moscow's imperial influence. As a result, starting in 1939–1940, when Soviet troops entered into the area of Western Ukraine, which, as stressed above, was in Poland and previously a part of the Austro-Hungarian Empire, the Russian influence implanted itself in this particular area and the assault against the Ukrainian Catholic Church commenced.

Now, if I may give a few details on it, they started off in a hesitant manner because of the presence and more so the stature of Metropolitan Andrey Sheptytsky, who was the head of the Ukrainian Catholic Church. However, with its propaganda and through other means, Moscow was able to eliminate a number of seminaries, church facilities and the like.

Metropolitan Sheptytsky soon died in 1944 and was suceeded by Bishop Joseph Slipyj, who, as we know, is now a Cardinal attached to the Vatican.

However, during the war and as Soviet troops advanced toward Berlin, the major assault against the Church began. It was in April of 1945 when the NKVD arrested Slipyj, two bishops and others and, significantly, sought to have them renounce the Union of Brest. They refused, were incarcerated, and Slipyj himself spent roughly about 17 years in Soviet Russian concentration camps.

The campaign to liquidate the Ukrainian Catholic Church into the Russian Orthodox Church continued. Finally, in 1946, in a typical Russian potemkin manner on a religious plane here, Moscow inspired a spurious synod to abrogate the Union of Brest Agreement and to proclaim the reunion of the Ukrainian Catholic Church with the Russian Orthodox Church, as though it were ever a part of it.

I think it is obvious here that the regime has, as in previous times under the old czars, made use of the Russian Orthodox Church as a medium for the obliteration and the genocide of these two major Ukrainian institutional bodies.

Now, coming down to more recent date, Moscow—and this has been pointed out here—has used the law, meaning the State, to help the Russian Orthodox Church to spread its wings over the adherents of the two Churches, whether of Catholic or Orthodox background.

We find, however, an extensive religious underground. There is enough evidence to show that the Catacombs do exist. In the case of the Ukrainian Catholics there is one bishop, about 300 clergy and monastics who combine their religious work in a surreptitious underground manner along with their regular secular vocations. The silent church, however, referring again to the Ukrainian Catholics in this case, is a constant object of attack by Moscow propaganda. Its members are looked upon as agents of the Pope and, of course, of Ukrainian nationalism, and even as lackeys of American imperialism.

The present situation, I think, should also be viewed in terms of what one finds in the way of free religious expression in the area outside the Soviet Russian orbit. Combining in this case the laities and clergies of both Churches, let us view briefly the Ukrainian Catholics. I don't have to go into the whole case for I know you are quite familiar with the Slipyj case and John XXIII. Though in the Free World, Cardinal Slipyj represents, really symbolizes and personifies the Ukrainian Catholic aspiration within the Soviet Union and beyond.

In addition to this, of course, there are Ukrainian Catholic churches on almost every continent—here in the United States and Canada, Australia, in England, Germany and elsewhere. Where there are Ukrainians by heritage and ancestry, they have their churches, which are formidable economically as well as spiritually.

The same can be said in connection with the Ukrainian Orthodox. When the Germans invaded the USSR, they pulled out hundreds of thousands for forced labor in Germany. Eventually these Ukrainian Orthodox and others were established in DP camps. They again regrouped, created their parishes, and today we witness Ukrainian Orthodox churches throughout the free world.

Thus, the chief point I am making here is that if there were the opportunity, let's say, in terms of political freedom, there could be no doubt that we would see again the reestablishment of the Ukrainian Orthodox Church as well as the Ukrainian Catholic Church in Ukraine.

More important in terms of numbers—as it always has been of the roughly 47–50 million Ukrainians—is the Ukrainian Orthodox Church. Its believers range about 76 percent, while the Ukrainian Catholics make up about 13 percent of the faithful.

This, then, leads us to my conclusion here as to what has to be done in connection with these two major institutional religious bodies that have been eliminated by Stalin. Well, I think the first point—and that has already been stated here—is the marked degree by which these cases are in direct contrast and brutal, ruthless contradiction to the USSR constitution. I don't have to go over article 124 which expresses the freedom of religious worship.

The second important point is that the Soviet Union is a member of the U.N. and thus obliged to uphold its Charter. There is also the U.N.'s Declaration of Human Rights to which Moscow is a signatory. Both the Charter and the Declaration encompass or engender the right of religious freedom. If Moscow signed something, it should live up to it and be held accountable. If it cannot live up to it, then it should resign.

Third, there is the Genocide Convention. Unfortunately, in my opinion, I have always regarded it as disgraceful that the United States has not ratified the Genocide Convention. I, myself, was heavily involved in our hearings on the treaty, and I don't like to mention the year. But with Dr. Raphael Lemkin and others, I offered much of the details in connection with the genocide of the two Ukrainian Churches, in addition to cultural repression and political tyranny.

In this case, the Soviet Union is a signatory of the genocide convention. It may be rather awkward for the United States to confront it in view of the fact that we are not a signatory, but hopefully maybe in a few months that will be resolved. Which brings me, finally, to H. Con. Res. 205, that addresses itself to this whole subject of the two Ukrainian Churches. It calls upon the government of the Union of Soviet Socialist Republics to permit the concrete resurrection of both the Ukrainian Orthodox and Catholic Churches in the largest non-Russian nation both within the Soviet Union and Eastern Europe. Also, it urges informal and even formal contacts with USSR officials in an effort to secure the freedom of religious worship in places of both Churches that their own constitution provides for. Lastly, the resolution would raise in the General Assembly of the United Nations the issue of Stalin's liquidation of the two Churches.

Now, we have heard a great deal about de-Stalinization on many other planes—political, economic and the like. These Churches were genocided under Stalin. If there is a de-Stalinization process, I think that same principle should be applied in connection with these Churches.

My plea here is that the subcommittees consider the subject proportionate to the nature of the case. This is not just a matter of persecution; it is one of genocide. In view of this, H. Con. Res. 205 fittingly deserves consideration on the part of the entire commitee toward full congressional action on it. At the very least, if this matter is to be referred to the Commission on European Security and Cooperation, certainly its exclusiveness should be indicated by giving it a separate itemization to prepare it as a major point for the consideration of the Commission.

That is my unprepared statement, Mr. Chairman. I thank you again for the opportunity.

Mr. Fraser: Well, thank you very much, Professor, for that was very eloquent for an unprepared statement.

Dr. Dobriansky: Thank you, sir.

POLITICAL ASSASSINATIONS AND ILLEGAL DETENTIONS INCREASE IN ARGENTINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 30 minutes.

Mr. DRINAN. Mr. Speaker, the wave of assassinations and incarceration of refugees and suspected leftists continues unabated in Argentina. That nation's government seems unwilling or unable to halt the terrorist activities of the rightwing "death squads," which have claimed an average of 15 lives per day since the present Argentine leadership assumed power via a military coup on March 24, 1976. Most recently, the rightwing assassins brutally murdered 30 suspected leftists, including two women, on August 20.

Many of the victims of the death squads have been refugees who have filed repressive regimes in Chile and Uruguay. These individuals, regarded by the military as automatic security risks, are in imminent danger of losing their lives. Thousands are endeavoring to emigrate from Argentina before they are arrested by the military government or murdered by the death squads. I have joined 35 of my colleagues in the House in cosponsoring House Concurrent Resolution 656, calling upon the Attorney General to admit into the United States the Chilean and Uruguayan refugees whose lives are in danger in Argentina. An identical resolution has been introduced in the Senate. I urge my colleagues to act expeditiously on this matter of urgent humanitarian concern.

Argentina's military leaders have taken increasingly repressive actions against those individuals, including refugees, who are suspected of anti-government activity. Amnesty International, the highly respected London-based organization which monitors human rights around the world, estimates that there are 20,000 political prisoners in Argentina, many of whom are clearly not guilty of any subsersive activity and a majority of whom have not been charged or tried. Prison conditions are deplorable and reports of torture are widespread.

On August 21, the Washington Post's Buenos Aires correspondent, Joanne Omang, described the most recent assassinations by the death squads. On June 2, Amnesty International issued a summary of the deteriorating human rights situation and the increasing violence in Argentina. Amnesty International's Committee to Abolish Torture has just released descriptions of the most brutal torture endured by 3 Uruguayan refugees who escaped from Argentina in July. The conduct of the Argentine authorities in this matter confirms the immediate danger which confronts the refugees. America's tradition as a haven for the persecuted and our basic humanitarian values require action by the Attorney General to admit these unfortunate individuals into the United States.

The reports follow:

Thirty Bodies Discovered on Road in Argentina

(By Joanne Omang)

Buenos Aires, Argentina, Aug. 20.—Horrified farmers discovered 30 bullet-riddled bodies this morning on a dirt road in a rural vacation area west of here. There were unconfirmed reports later today that 16 more bodies were found in a suburban area.

The military command in the provincial capital of Cordoba, 420 miles west of Buenos Aires, later announced another 15 guerrillas had been killed when the army discovered a plan to disrupt the city over the weekend.

Today's death toll was one of the highest yet for a single day in Argentina's undeclared war between rightists and leftist extremists.

Witnesses said a sign was found near the 30 bodies, saying "Montonero Cemetery, Killed as Enemies of the Nation." Other sources said the dead were leftist prisoners, including members of the Montonero guerrilla organization, killed by rightist death squads in retaliation for a retired general's murder yesterday.

Many of the bodies were tied up, reports from the scene said. There were 25 men, two women and three bodies mutilated so badly the sex could not be determined.

The Interior Ministry condemned the "barbaric episode" as attributable "only to the madness of irrational groups." The statement said the killers were trying to disrupt public order and damage Argentina's reputation abroad, and that every effort would be made to bring them to justice.

Military sources said the bodies were spread out along a side road off a main highway near an area popular for summer homes and campgrounds. They were discovered about 5:30 a.m. and appeared to have been killed during the night, the sources said.

Police sources and residents of the area where the bodies were found said several vehicles were heard before sunrise. The vehicles stopped and voices were heard, ordering people out of the vehicles. Then screams were heard, followed by the sound of automatic weapon fire.

After a few moments of silence, an explosion was heard and then the vehicles sped away.

Guerrillas were blamed by the government for the shooting death of retired Gen. Omar Carlos Actis, 56, who was gunned down near his suburban home from a passing truck.

He was the second general to be killed by leftist terrorists since the armed forces took power here March 24. Bloody reprisals also followed the death of the first one, Gen. Cesareo Cardozo, head of the national police, who was blown up in his bed June 18. Fifteen leftist guerrillas were killed that night.

The army has been battling guerrillas since February 1975 both in a Vietnam-style war in Tucuman Province and here in Buenos Aires.

Today's incidents dimmed hopes for the survival of two former Radical Party members of Congress who recently disappeared: Sen. Hipolito Solari Irigoyen and Deputy Mario Abel Amaya.

Amaya is an attorney who defended a group of terrorists who escaped from Rawson Prison four years ago next Sunday. Argentina had already been braced for some serious incident as a guerrilla observance of this anniversary, which brought Marxist leader Roberto Santucho to fame as leader of the fugitives. Santucho was killed by police in his apartment hideout here July 19, increasing fears of trouble this weekend.

Last year guerrillas blew up an Argentine navy destroyer under construction in the tightly-guarded navy yard at Rio Santiago on the anniversary date. The event signaled what has since become a major headache for security forces here, the coordination of activities of the two major leftist guerrilla groups, the Marxist-oriented People's Revolutionary Army, and the Peronist Montoneros.

The Cordoba deaths today, the army said, occurred when "forces of order" uncovered a new group calling itself the Communist Workers Power Organization. Consisting of 20 members, the Army said, the group had a four-part plan to disrupt the city over the weekend in observance of the Rawson escape. The plan involved bombings at the Fiat, Renault and Siemens plants as well as blocking roads, distributing pamphlets and attacking military offices.

Nonstop violence since the military takeover has killed at least 663 persons, including 100 police, military and government officials.

A Brief Summary of the Human Rights' Situation in Argentina

Since the military coup of 24 March 1976, there has been a steady deterioration in the human rights' situation in Argentina. There are an estimated 20,000 people in detention at present, accurate figures are not available as yet, although the Argentinian government has promised to issue a complete list of prisoners. The majority of those detained have not been charged or tried and are being held under the State of Siege provision which has been in force since November 1974 (despite the fact that in January 1976 the now defunct Supreme Court declared the continuation of the State of Siege illegal).

The situation has been aggravated by the withdrawal after the coup of the right to opt for exile, this provision is contained in Article 23 of the constitution. Prison conditions are extremely poor: inadequate diet has caused malnutrition among the prisoners (families are not allowed to supplement the prison diet); inadequate medical attention; almost total censorship of all reading matter; families and friends visiting prisoners are intimidated and humiliated.

Whereas the Argentinian authorities have mounted an anti-guerrilla offensive, there have been remarkably few attempts to curb the activities of rightwing terrorists such as the Argentinian Anti-Communist Alliance (or AAA) and abductions and assassinations attributed to these groups have reached the alarming proportions of 15 political assassinations a day. One of the groups most vulnerable to this kind of attack is the Latin American refugee community who are regarded by the military as potentially subversive. Even those refugees who are under the protection of the United Nations High Commissioner for Refugees have been arbitrarily arrested or abducted. Although all refugees have been ordered to officially register as such, most are afraid to do so. At about the same time that the bodies of the Uruguayans were discovered, the torture and murder of the following five Chileans was discovered: Rene Roberto Fernandez, Mario Bueno Cifuentes, Mario Eduardo Carrasco, Juan Chacon Gonzalez and Pedro Flores Perez. Reliable sources have confirmed that the Chilean, Edgardo Enriquez, a leader of the Revolutionary Left Movement (MIR), who disappeared from Buenos Aires on 10 April 1976, was handed over to the Chilean security agents on 27 April. He has apparently been savagely tortured. Immediate international measures are needed to control the situation and protect refugees, many of whom are unable to leave Argentina as they do not have valid documents.

There have been various allegations received by Amnesty International that the huge military barracks of Campo de Mayo in Buenos Aires is used as a torture center and that many missing people are in fact being held there (e.g. Oscar Luis Montenegro, missing since October 1975 was recently seen there).

Whilst the Argentinian authorities insist that certain restrictive measures are necessary to combat leftwing subversion, many of the victims of the repression cannot be classified as guerrillas. The following are representative of those who have been arrested or abducted since the coup:

Haroldo Conti: abducted in April in Buenos Aires. Writer and journalist.

Huge Francisco Bellagamba: psychiatrist abducted in Buenos Aires, April 1976.

Roberto Sinigaglia: Lawyer, abducted in April in Cordoba.

Mario Hernandez: abducted in Cordoba in April, lawyer.

Jorge Alberto Taiana: ex-minister of Education in 1973. Detained 5 April 1976 on boat in Buenos Aires.

Dr. Molteni: Federal judge, detained and tortured 26 March 1976 in La Plata.

Gerardo Machado: abducted Cordoba in April 1976, trade unionist.

Maximo Sanchez: As above.

LIST OF POLITICALLY MOTIVATED DEATHS IN ARGENTINA BETWEEN 3 JANUARY AND 3 JUNE 1976

Attached is a list of deaths which occurred during the period 3 January to 3 June 1976, compiled by journalists and other reliable sources. Only information which they were able to corroborate was included in this list (eye-witness accounts or reports from relatives of the victims). The total of 493 deaths is, unfortunately not a true reflection of the extent of political violence in Argentina over the past few months. Our sources have suggested that this figure (493) only represents 30% of the actual number of deaths for this period.

It has not been possible to show clearly in every case who was responsible for the deaths.

Period 3 January to 24 March (date of coup)

Group responsible:	Number of Deaths
(i) Army/Police	60
(ii) Guerrillas	40
(iii) Others	67
Total	167

Period 24 March to 3 June 1976

Group responsible:	Number of Deaths
Army	135
Guerrillas	59
Others	132
Total	326

Category (iii)—Others, is the largest, and the group most implicated with these deaths, is the Argentinian Anti-Communist Alliance (AAA), although several other extremist rightwing groups operate along similar lines. As a general rule, victims of leftwing assassinations are identified as they have had some government or business position, whereas victims of rightwing terrorrism are frequently not identified.

Those most vulnerable to rightwing attacks are Latin American refugees, lawyers, trade unionists, students and relatives of guerrillas. Sometimes, families of these victims do not claim the bodies for fear of further reprisals. Some of the Latin American refugees have entered Argentina illegally and have no "official" identity, so their disappearance can pass almost unnoticed. Amnesty International is disquieted by the large number of people allegedly killed while trying to escape, or in gun battles with the police and army. Reliable sources indicate that there is evidence to suggest that some have been summarily executed.

There seems little doubt that rightwing terriorrists have considerable support from sectors of the security forces, and that they enjoy remarkable immunity from police action. The possible reason for this is that these sectors are convinced that Argentina is waging a war against subversion.

Finally, whilst such terrorrist groups are seemingly tolerated, the honest intentions of the Argentinian government to "ensure internal order, social peace and absolute respect for human rights and dignities" (declaration by the Military Junta of the Argentine Republic, 24 March 1976) must be seriously questioned.

URUGUAYAN REFUGEES KIDNAPPED AND TORTURED IN ARGENTINA, AMNESTY INTERNATIONAL PARIS NEWS CONFERENCE EMPHASIZES CONCERN FOR MISSING 23

Convincing evidence that the campaign of terror against refugees in Argentina has increased dramatically since the March 1976 coup there comes from 12 Uruguayan refugees, including three children, who arrived in Paris in mid-July.

Three of the refugees, one woman and two men, had been kidnapped and severely tortured during captivity by unknown assailants, whom the victims believe to have included both Uruguayans and Argentinians. The three torture victims were abducted in Buenos Aires on 6 July by about 30 armed men, who hooded them and bundled them into a car and took them to what they believe to be a private house in the countryside.

The three were released on 13 July, the same day that 23 other Uruguayan refugees, including 11 women and two children, were abducted in Buenos Aires. Amnesty International believes that it is unlikely that many of these 23 are still alive.

The three torture victims now in Paris were photographed and fingerprinted while in captivity in Argentina. They were also shown lists of names of other Uruguayan refugees who were being sought. Some of the names were marked with a cross. They were told this meant that these persons were marked for death.

Prior to a news conference in Paris, sponsored by Amnesty International's French section, the torture victims were examined by two members of the Amnesty International Danish doctors' team. The doctors confirmed that the marks and symptoms on the victims are consistent with their allegations. They were also consistent with marks and symptoms shown by other victims of torture examined in the past by this team in Greece and among Latin American refugees in Scandinavia.

marks of electrical shock over her breasts and thighs and a very bad bruise on her spine. She has cigarette burns on her wrists, breasts, arms and legs.

She stated that she had also had buckets of freezing cold water thrown over her (it is now winter in Argentina). She is currently undergoing tests for tuberculosis and bronchitis. She further alleges that she was raped in front of her two companions.

One of the male victims, aged about 25, has electric shock marks on his chest, navel, and the top of his legs, as well as bruises on his legs, severe cigarette burns on his arms and legs and 40 cigarette burns on one hand. Besides similar marks, the second man, aged about 24, shows symptoms of psychological stress from a former two-year period of solitary confinement in prison in Uruguay before his kidnapping in Argentina.

The refugees confirmed the substance of the following excerpt from a letter received in August by Amnesty International from other Uruguayan exile sources in Buenos Aires: the Uruguayan security forces, with the tacit support of the Argentinian authorities, are those directly responsible for all that has happened to Uruguayan residents in Buenos Aires. At this moment it would be impossible for their families to negotiate for the life or liberty of these victims because their disappearance forms part of the so-called *Plan Mercurio* destined to eliminate all Uruguayans of leftwing tendencies in both countries. This plan relies on the official support of the police authorities in both countries.

To this information the refugees who arrived in Paris adds that there is a specially selected force of 600 Uruguayan army personnel operating in Argentina under the direction of a certain Colonel RAMIREZ, who, according to the refugees, recently arrived from the United States to direct the campaign. With his second-in-command, Campos HERMIDAS, he operates from private houses without any set headquarters in Argentina.

The particular targets for these semi-clandestine activities are Uruguayan trade unionists in Argentina, who have accounted for a relatively high percentage of the kidnap and murder victims in the last several months.

WHITE HOUSE CONFERENCE ON MARRIAGE AND THE FAMILY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 30 minutes.

Mr. WOLFF. Mr. Speaker, does the U.S. Government really understand the institution of marriage? Do the policies of the Internal Revenue Service, and the Department of Health, Education, and Welfare work against the American family?

Such questions as these are no longer incredible to many observers and critics of the social scene in our country. For years now, these concerned people have been writing articles about and calling attention to the decline of the American family, and the rocky road now being traveled by the institution of marriage.

And, certainly, we do not have to be trained sociologists to note the national divorce rates, the juvenile crime levels, the burgeoning welfare roles, and the increasing segregation of the elderly from their children and grandchildren, which all form a part of the overall decline of life as it once was in our country.

But it is only recently that many of

us have come to feel that our own Government is unwittingly, perhaps, but very effectively helping to accelerate the decline in the American family by tax and welfare policies, for example, which actually seem to penalize a family relationship, and to encourage broken homes.

Of course, social phenomena involved here are not often a clear-cut case of good or bad, and in fact, they usually show the interrelationships which exist between many facets of American life and the American economy. Not all of these relationships are good ones, yet the more negative ones may be unavoidable. In sum, we may be able to, at best, do nothing more than call attention to some of the negative aspects in raising the consciousness level, and in hopes that we can make an extra effort to preserve what is presently threatened by little-understood social phenomena.

Simply noting the obvious, simply rattling off a list of the many crises facing the institutions of marriage and the family today does not really help much. After all, the people of my home district on Long Island are little different from our neighbors and fellow citizens across the land. We know, almost without asking, that someone from Georgia, or California, or Massachusetts is worried about their kids' exposure to drugs, or their retired parents' ability to cope on social security, or their own capacity to maintain their marriage in a meaningful way in face of the stress and strain of modern life.

So the task of the Congress is not simply to raise the various problems we all have in common. Our task is to do more than "wave the flag," and agree on "Mom and Apple Pie." Our task is to respond to social needs with suggestions on what Government can do to help, and to respond to criticism of what Government might be doing which is of no help.

Sometimes the most useful act we can perform is to recognize the wisdom of the suggestions of others, and when a constituent of mine wrote urging that I introduce legislation seeking a White House Conference on Marriage and the Family I was pleased to do so.

Recently, my colleagues, MILLICENT FENWICK and JIM BURKE, joined with me in seeking cosponsors to our legislation. To date we are pleased to announce the support of Mr. PEPPER, Mr. ROE, Mr. LAFALCE, Mr. EILBERG, Mr. EDGAR, Mr. WON PAT, Mr. COTTER, Mr. BEDELL, Mr. SCHEUER, Mr. DOWNEY of New York, Mr. HOWE, Mr. CONTE, Mr. FRASER, Mr. MAZZOLI, Mr. RIEGLE, Mrs. HECKLER, and Mr. CONABLE. All of us today urge you to join in this common enterprise—a White House Conference on Marriage and the Family.

In introducing my legislation originally, I noted that a White House conference would help focus public attention on the positive side of America's personal relationships as well as trying to come to grips with the stresses and strains.

It seems to me that a conference at the White House level would help establish a national understanding of the increasing role that must be played by marriage and the family in the development of a strong and viable society. Frankly, I am surprised that while we have in the past focused at the White House level on the economy, or on national defense, for example, we have consistently failed to focus on a topic of more immediate impact to every man, woman, and child in the country.

Let us just for a moment run through a list of potential topics to be covered by a White House Conference on Marriage and the Family. We can see that government at the Federal, State, or local level may well play a crucial role in many of them.

Day care, intended to help working mothers; do day care centers with strict Federal funding rules actually penalize middle-class families by making day care beyond their means? Do these centers remove children from the family at a crucial period in their lives, or do they help the family remain together? In other words, is the opportunity to work paradoxically harmful to family life in certain situations?

Welfare, in addition to the many obvious criticisms of the welfare system, the focus on poverty in the day care system, for example, may interact with the welfare system to actually encourage fathers to desert their families, so that the families are eligible for help. And the system may actually encourage mothers to leave their children so that the kids at least receive the benefits of some federally sponsored day care health and educational benefits.

Social security, never intended as a principal source of income: We all know that the social security system needs rapid and prompt refunding and overhaul. But do we really understand how the social security system may penalize working married couples both of whom are wage earners who are contemplating retirement? And again is it not social security discriminatory against women.

The ERA, still controversial and widely misunderstood, the Equal Rights Amendment has been attacked as a potential death blow to the American family by opponents, while its supporters say that in fact, ERA may be the last best hope of bringing the American family into the modern age. A White House conference would help focus on the ERA and its total impact on modern society and its needs.

Youth, increasing education, mass-media publicity of different life-styles, and the economic attention paid our youth means that our children may well grow up having widely different values than our own, and having very little in common with their grandparents, if anything at all. Government's role in education is crucial here, yet how much is really understood at the national level of how our youth are responding, and, indeed, what they are responding to?

Drugs, the greatest potential scourge of our youth, Congress has just acted to create the Select Committee on Narcotics Abuse and Control, which is a step in the right direction. But our youth need and deserve a multidisciplinary approach to a very complicated problem, a problem with roots far beyond the police, and traditional attitudes of right and wrong. The social causes of drug use and addiction have never been adequately addressed, and a White House conference would help put things in some useful perspective.

Food, consider for a moment the apparent contradiction in Government policy of encouraging family planning so that we do not have increasing numbers of our own people to feed, and our overseas moral commitments to feed the world.

Elderly, the problems of our parents and grandparents, and many of us more quickly than we may care to admit, are increasingly coming to the forefront as an area which has been neglected for far too long. Instead of the old family responsibility of caring for each generation, we now see group homes and other often remote institutions replacing the family. While longer lifespans and increasingly sophisticated medical care may necessitate much of the role of institutions in replacing the family's responsibility for the elderly, the social effects of the loss of the elderly from the family group are not well understood. Perhaps if the ill-effects were discussed at a White House conference, the tendency toward insensitivity toward the elderly might be reexamined. It certainly needs to be studied.

Economics, all aspects of the economy, obviously, impact on marriage and the family. But a White House conference would focus on particular aspects of the economy—the availability of mortgage money, the housing market, the proliferation of singles condominiums, and so forth—which are particularly central to the family life of the Nation.

Perhaps the sheer scope of the problems falling under marriage and the family have prevented anyone from attempting a coherent focus. After my legislation was introduced, the Smithsonian Institution held the first seminar in its 2-year series on the evolution of American family life.

But from the opening session, which featured such noted experts as Margaret Mead, it seemed to me that a host of questions would remain unanswered about the present and future of American marriages and families, and that they needed to be addressed in an organized fashion, within a tighter time frame.

As we Americans try to come to grips with reality in our post-Vietnam and post-Watergate world, we are hampered by the shaken nature of our institutions, and the wave of cynicism and doubt which these upheavals have produced.

Just as in our political life, marriage, and the family have not escaped the doubts, and we all know how economic stability and unprecedented social change further assault marriage and the family as the foundation of American life.

In seeking the support of the House, Mrs. FENWICK, Mr. BURKE, and I told our colleagues that we believe that a

White House conference on marriage and the family would provide an organized, disciplined, and potentially invaluable approach to the issues and problems facing American marriages and families today.

As in previous White House conferences on the economy, or the problems of the aging, we feel that interested citizens, professionals, and Government experts can all gain insight into the interdependence of their particular points of view.

Most important, we feel that a top-level conference presents an opportunity for mutual understanding, and even enlightenment.

The White House conference our legislation proposes would bring together men and women prepared to discuss how Federal laws and policies inadvertently subvert marriage and the family. The conference would allow parents and educators to discuss with law enforcement officers and social scientists, religious leaders and legislators how the "generation gap" really affects our society, and to see if "alienation" is the inevitable price we must pay for social change.

In short, the potential topics for debate and discussion are as varied as the American people themselves, and the prospects for progress are as rich as the experience of our people.

We have lived through a time of reassessment in foreign policy, domestic politics, and our spiritual life. It is clear that a national conference on marriage and the family can help all of us focus the resources and talents of our people toward the positive goal of adapting the family to the needs of the present, and the goals of the future.

A copy of my resolution follows with a lot of our cosponsors:

H. Con. Res. 723

Mr. Wolff (by request) and Mrs. Fenwick and Mr. Burke of Massachusetts, with Mr. Pepper, Mr. Roe, Mr. LaFalce, Mr. Eilberg, Mr. Edgar, Mr. Won Pat, Mr. Cotter, Mr. Bedell, Mr. Scheuer, Mr. Downey, Mr. Howe of Utah, Mr. Conte, Mr. Fraser, Mr. Mazzoli, Mr. Riegle, Mrs. Hechler and Mr. Conable submitted the following concurrent resolution; which was referred to the Committee on Education and Labor.

Whereas marriage is an institution fundamental to American society; and

Whereas the family is the foundation whereupon this Nation grows; and

Whereas it is necessary to reaffirm the goals and values of marriage and family life in a rapidly changing society; Now, therefore, be it

Resolved by the House of Representatives (*the Senate concurring*), That it is the sense of the Congress that the President call a White House Conference on Marriage and the Family in order to establish a national understanding of the role played by marriage and the family in the development of a viable society.

Mr. BURKE of Massachusetts. Mr. Speaker, the question of whether our own Government is encouraging the debilitation of its family unit is of very great concern to me. Such a serious matter deserves immediate attention from all of us. The family is a very small social unit, yet, it reflects the characteristics of the larger society in which it thrives. It literally is the "backbone of society." When I hear that the number of divorces, wife-beatings, and teenage runaways has increased, it is frightening. The statistics are telling us that the family structure is progressively deteriorating and we ought to respond with a united effort to examine this symptom and cure it.

We need to determine what the relationship between the family and the Government actually is. Is it an overly paternalistic government that fosters a dependent and weak society? Do individuals rely more on institutions and agencies for assistance than they do on their own families? The questions are numerous and need to be considered and discussed. We need to bring to light those areas of Government that actually resist our efforts to cultivate and maintain a healthy and stable country. One area that is an example of this self-destructive trend is that of institutionalizing the aged. In other countries the elderly enjoy their later years as highly respected and honored members of their communities on whom the young rely for advice and guidance.

In our country, growing old has become a fear to many. No one wants to be threatened by the possibility of residing in a nursing home, which oftentimes is a very lonely and unhappy existence. Our parents and grandparents are alienated from their families and friends and receive little of the attention and support they deserve. Yet, due to the modern facilities these institutions offer and the financial burden an additional dependent puts on a family, the elderly are forced into an unfortunate dilemma. Mr. Wolff has cited numerous other examples of how federally funded agencies lead to this decline of our families. Any system that penalizes its members for their contributions to society, as in the case of the day-care centers that he mentioned, or that encourages parents to desert their children, as in the case of some welfare families; any such system is very seriously weakened. It needs to be reviewed and helped back on its feet.

For these reasons, I think that a White House conference on marriage and the family is essential. Such national attention would provide us with the opportunity and organization needed to explore these various issues of concern, with men and women from all areas in society. It would allow us to reevaluate these problems which we all share as human beings and begin to restore our faith in the American family and the future of our country.

Mrs. FENWICK. Mr. Speaker, I would like to join with my colleague from New York in this resolution which is concerned with two fundamental institutions of our society—the family and marriage. Every responsible citizen—and certainly every serious legislator—is troubled by the pressures these institutions are experiencing, pressures which have produced an alarming rise in the divorce rate, a separation between the generations which leaves many elderly people lonely and alone, and a loosening of family bonds which allows too many young people without proper discipline or emotional support.

That Government itself has contributed in some ways to these pressures cannot be denied. By an unfortunate quirk of the income tax laws, two young people—both working for modest wages—are discouraged from marrying by the increase in taxes they would incur. Public housing for the elderly may have regulations which prohibit visits by children—even in the daytime—so grandparents cannot invite grandchildren for lunch, or babysit for a working daughter.

These practices and others like them should be carefully studied and we should discover many more, and receive many valuable suggestions for reform, in a conference convened for the purpose. The fundamental institutions of our civilization—marriage and the family—must receive the attention they deserve and, most unfortunately, seem to need more and more every day.

GENERAL LEAVE

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks, and to include extraneous matter, on the subject of the special order taken today by the gentleman from New York (Mr. Wolff).

The SPEAKER pro tempore (Mr. McFall). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

THE ADMINISTRATION OF THE FREEDOM OF INFORMATION ACT: A SUMMARY OF EXECUTIVE BRANCH ANNUAL REPORTS FOR 1975

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. Abzug), is recognized for 10 minutes.

Ms. ABZUG. Mr. Speaker, I wish to share with my colleagues a report prepared by the Library of Congress for the Subcommittee on Government Information and Individual Rights, which I chair, concerning the administration of the Freedom of Information Act. The report is based on an analysis of information supplied to the subcommittee as required by the Freedom of Information Act. The statements required to be filed with the Congress by each agency under the amended FOIA are available in the subcommittee office. The attached is an analysis of some of that material, and supplements the report which I submitted for the Congressional Record on August 9, 1976, pages 26447–26450.

It should be noted again that various agencies rely upon certain statutory authority to withhold information at the administrative level although the same statutes had not been invoked in initially denying the request. The analysis also describes the exemptions most frequently used and a tabular breakdown is supplied.

I also want to call attention to the fact that the number of "denials" may be greater than indicated since very often a document is provided full of deletions, but may not be considered to be a denial by the agency.

The report and tabular summary follow:

THE ADMINISTRATION OF THE FREEDOM OF INFORMATION ACT: A SUMMARY OF EXECUTIVE BRANCH ANNUAL REPORTS FOR 1975

Pursuant to the annual report requirement of the amended Freedom of Information Act (5 U.S.C. 552(d)), some ninety Federal departments and agencies complied accounts of their experience with the FOI Act during calendar year 1975. The following narrative, with accompanying tables, summarizes the general trends reflected in the Executive Branch reports. An earlier study of these documents (see *Congressional Record*, v. 122, August 9, 1976; 26447–26450) critically analyzed their contents.

With regard to the general volume of denials of requests for government records made pursuant to the FOI Act, the Department of Defense indicated the largest such total, though this amounted to only 12 per cent of the total volume of requests received by the Department. By comparison, the Justice Department reported the second highest number of denials, but these constituted 16 per cent of the total FOI Act requests received by that entity. Although the Agriculture Department did not have statistics on the total volume of FOI Act requests it received, the four Executive Branch units indicating the highest total of refusals were:

Unit	Denials	Requests	Percent
Department of Defense	5, 197	44, 403	12
Department of Justice	3, 987	24, 462	16
Department of Agriculture	1, 427	[1]	--
Department of the Treasury	1, 371	20, 977	7

[1] Not available.

A number of agencies reported making no denials under the Act. This results from either a relatively low volume of reports pursuant to the law or the total absence of such inquiries.

In considering the exemptions of the Freedom of Information Act (5 U.S.C. 552(b)) invoked by the Executive Branch departments and agencies, the investigatory files provision (5 U.S.C. 552(b)(7)) appeared to be the most heavily utilized at both the initial denial stage (39 per cent of the citations) and the appellate level (33 per cent of the citations). This exemption, of course, was modified by the 1974 amendments (P.L. 93–502) to the FOI Act to make it applicable under very specific criteria to investigatory files. The second most utilized FOI Act exemption during 1975 was the inter-agency/intra-agency memorandum provision (5 U.S.C. 552(b)(5)).

As noted in the earlier analysis of the 1975 FOI Act reports, some respondents appeared to rely upon statutory authority to withhold information (in conjunction with 5 U.S.C. 552(b)(3)) at the administrative appeal level although these same statutes had not been invoked in initially denying a request. Such isolated appellate citations were made by the following entities:

UNIT AND ISOLATED APPELLATE CITE

Dept. Commerce: 13 U.S.C. 8; 44 U.S.C. —.

Dept. Health, Education and Welfare: 42 U.S.C. 276.

Dept. Labor: 42 U.S.C. 2000c3(e).

Dept. Treasury: 5 U.S.C. 552a; 26 U.S.C. 6106.

Civil Aeronautics Board: 49 U.S.C. 1504.

Civil Service Commission: 17 U.S.C. —.

Also, there were instances when agencies indicated a greater number of citations for a particular statute (invoked in conjunction with 5 U.S.C. 552(b)(3)) at the appellate stage than at the initial request level. The entities and statutory provisions reflective of this pattern were:

UNIT AND CITATION AT ISSUE

Dept. Treasury: 18 U.S.C. 1905; 26 U.S.C. 6103; 26 U.S.C. 7213.

Federal Trade Commission: 15 U.S.C. 46(f).

The statutes most frequently cited in initially denying an FOI Act request (pursuant to 5 U.S.C. 552(b)(3)) are listed below (percentages are approximate due to discrepancies in the data on this point):

STATUTORY CITATION AND USE

38 U.S.C. 3301: 486 (18%).
50 U.S.C. 403(d) with 403g: 478 (18%).
39 U.S.C. 410(c)(1), (2), (5): 248 (9%).
7 U.S.C. 1373(c): 204 (8%).

At the administrative appeal stage, four provisions of law (cited in conjunction with 5 U.S.C.(b)(3)) accounted for almost 60 per cent of the intervening statute justifications for withholding information requested pursuant to the Freedom of Information Act. The authorities were (percentages are approximate due to discrepancies in the data on this point):

STATUTORY CITATION AND USE

50 U.S.C. 403(d)(3) with 403g: 110 (20%).
26 U.S.C. 6103: 75 (13%).
18 U.S.C. 1095: 72 (13%).
26 U.S.C. 7213: 71 (13%).

Among the other bases for initially declining a request pursuant to the Freedom of Information Act, the agencies most frequently cited non-possession of the record sought (over 3,200 instances) and, as the second most often reported reason for such refusal, inadequate identification of the material at issue (almost 1,600 instances). Although statistics regarding other bases for initially declining an FOI Act request are incomplete, it appears that the non-possession claim constituted almost 50 per cent of the category while the inadequate identification explanation composed over 20 per cent of the other bases cited. No such dramatic statistics were reported with regard to other bases of refusal at the appellate stage.

Of the FOI Act administrative appeals acted upon by the Federal departments and agencies during 1975, 15 per cent were granted in full, 48 per cent were denied in full, and 37 per cent were denied in part. These statistics do not include appeals pending before an agency head but, rather, cases resolved to the extent that no additional administrative action was anticipated.

With regard to costs incurred by the Executive Branch entities in FOI Act administration during 1975, those reporting the highest expenses were the Treasury Department ($3,337,000), the Department of Health, Education and Welfare ($2,365,000), the Veterans Administration ($1,631,400), and the Central Intelligence Agency ($1,392,000). However, many agencies reportedly realized costs not in excess of $500,000 and quite a few cited "negligible" expenses which were absorbed by the normal operating budget of the unit.

While the Executive has recently obtained a ruling (*Open America v. Watergate Special Prosecution Force*. Civil Action No. 76–1371. July 7, 1976) from the Court of Appeals (District of Columbia Circuit) that, when a large quantity of records is requested and the information operations of an agency are slowed, the timeframes set by the 1974 amendments to the FOI Act are "not mandatory, but directory," an examination of somewhat incomplete statistics on this point supplied by approximately 90 agencies indicates that only about a third of them cited any instance when they sought any ten-day extension of the administrative deadlines and of these, only six entities, excepting the Central Intelligence Agency and the Justice Department, found it necessary to obtain such an extension in more than a dozen cases.

This completes the narrative summary of general findings with regard to the 1975 Freedom of Information Act annual reports of Executive Branch departments and agencies. Detailed information with regard to these reports, to the extent it was provided, is depicted in the tables following this summary.

FREEDOM OF INFORMATION ACT (5 U.S.C. 552): FREQUENCY OF EXEMPTION CITATION, 1975

Agency	Exemptions								
	1	2	3	4	5	6	7	8	9
Executive Office:									
Central Intelligence Agency	301	98	478	7	148	272	208	0	0
Council of Economic Advisers	0	0	0	0	0	0	0	0	
National Security Council	37	0	12	0	17	1	0	0	0
Office of Management/Budget	4	0	4	0	7	0	0	0	0
Office of Special Representative/Trade	0	0	0	0	0	0	0	0	0
Office of Telecommunications	0	0	0	0	0	0	0	0	0
Council on Wage/Price Stability	0	0	0	0	0	0	0	0	0
Total	342	98	494	7	172	273	208	0	0
Departments:									
Agriculture	0	4	213	44	28	882	77	0	0
Commerce	3	5	30	33	25	8	6	0	0
Defense:									
Air Force	34	24	2	58	246	224	124	0	0
Army	29	9	5	39	109	77	302	0	0
Navy	29	6	4	15	81	27	175	0	0
Other units	121	28	83	43	109	66	93	0	0
Health/Education/Welfare	1	2	415	212	114	100	97	0	0
Housing/Urban Development	0	0	5	17	25	12	33	1	0
Interior	0	0	6	42	44	36	4	0	5
Justice	359	857	175	47	2, 357	1, 166	4, 822	0	0
Labor	1	22	3	179	565	19	1, 214	0	0

Agency	Exemptions								
	1	2	3	4	5	6	7	8	9
State	138	10	12	25	67	117	107	0	0
Agency/International/Development	1	0	0	4	8	3	8	0	0
Transportation	6	7	40	52	83.	98	32	0	0
Treasury	49	47	213	286	333	141	767	43.	2
Total	771	1,021	1,206	1,096	4,194	2,976	7,865	44	7
Independent agencies:									
ACTION	0	0	0	0	0	0	0	0	0
Administrative Conference	0	0	0	0	0	0	0	0	0
American Battle Monuments/Commission	0	0	0	0	0	0	0	0	0
American Revolution Bicentennial	0	0	0	0	0	0	0	0	0
Civil Aeronautics Board	0	0	9	8	7	0	13	0	0
Commission on Civil Rights	0	0	7	1	5	1	0	0	0
Commission on Fine Arts	0	0	0	0	0	0	0	0	0
Commodity Future Trading Commission	0	0	0	0	0	0	5	0	0
Community Services Administration	0	1	1	2	5	7	6	0	0
Consumer Product Safety Commission	0	0	0	12	3	5	3	0	0
Emergency Loan Guarantee Board	0	0	0	0	0	0	0	0	0
Energy Research/Development/Administration	4	0	4	9	7	9	6	0	0
Environmental Protection Administration	0	2	0	81	23	4	3	0	0
Equal Employment Opportunity	0	0	115	0	26	4	107	0	0
Export-Import Bank	0	0	0	6	3	0	0	0	0
Farm Credit Administration	0	0	0	3	3	0	0	0	0
Federal Coal Mine Health	0	0	0	0	0	0	0	0	0
Federal Communications Commission	0	9	0	25	21	11	7	0	0
Federal Deposit Insurance	0	0	0	12	3	4	0	25	0
Federal Energy Administration	0	14	1	101	32	5	36	0	1
Federal Home Loan Bank Board	0	0	0	28	6	6	3	37	0
Federal Labor Relations Council	0	0	0	0	0	0	0	0	0
Federal Maritime Commission	0	0	0	1	3	0	0	0	0
Federal Mediation/Conciliation	0	0	0	0	0	0	0	0	0
Federal Power Commission	0	1	0	3	9	1	0	0	0
Federal Reserve System	0	1	2	15	17	2	2	20	0
Federal Trade Commission	0	14	11	109	240	51	231	0	3
Foreign Claims Settlement Commission	0	0	0	0	0	0	0	0	0
General Services Administration	0	4	7	27	13	5	3	0	0
Indian Claims Commission	0	0	0	0	0	0	0	0	0
Inter-American Foundation	0	0	0	0	0	0	0	0	0
Interstate Commerce Commission	0	1	2	1	12	0	14	0	0
International Boundary and Water	0	0	0	0	0	0	0	0	0
Legal Services Corporation	0	0	0	0	0	0	0	0	0
Marine Mammal Commission	0	0	0	0	0	0	0	0	0
National Aeronautics/Space Commission	0	9	0	64	25	10	7	0	0
National Capital Planning Commission	0	0	0	0	0	0	0	0	0
National Credit Union	0	0	0	0	0	0	0	0	0
National Endowment/Arts/Humanities	0	0	0	0	0	0	0	0	0
National Labor Relations Board	0	14	0	6	392	68	1,117	0	0
National Mediation Board	0	0	0	0	4	0	3	0	0
National Railroad Passenger Corporation	0	0	0	0	0	0	0	0	0
National Science Foundation	0	0	0	0	15	28	2	0	0
National Transportation Safety Board	0	0	0	0	0	0	0	0	0
Nuclear Regulatory Commission	1	3	1	8	17	7	6	0	1
Occupational Safety/Health Administration	0	0	0	1	0	0	0	0	0
Overseas Private Investment Corporation	0	1	0	3	1	1	0	0	0
Panama Canal Company	0	2	0	0	6	1	1	0	0
Pennsylvania Avenue/Development	0	0	0	0	0	0	0	0	0
Pension Benefit Guarantee Corporation	0	0	1	1	1	0	0	0	0
Postal Rate Commission	0	0	0	0	0	0	0	0	0
Privacy Protection Study Commission	0	0	0	0	0	0	0	0	0
Railroad Retirement Board	0	0	112	0	0	2	0	0	0
Renegotiation Board	0	0	0	2	1	0	0	0	0
Securities and Exchange Commission	1	14	13	49	199	14	379	10	0
Selective Service System	0	0	0	0	0	0	0	0	0
Small Business Administration	0	0	2	3	4	0	2	0	0
Tennessee Valley Authority	0	0	0	2	3	2	1	0	0
U.S. Arms Control/Disarmament	4	0	0	0	0	0	0	0	0
U.S. Civil Service Commission	0	73	1	6	272	95	347	0	0
U.S. Information Agency	0	1	1	0	1	1	1	0	0
U.S. International Trade Commission	0	0	2	4	0	0	0	0	0
U.S. Postal Service	0	6	248	2	23	169	251	0	0
Veterans Administration	2	12	520	3	3	94	4	0	0
Water Resources Council	0	0	0	0	0	0	0	0	0
Total	12	182	1,059	605	1,406	607	2,560	94	5
Total:									
Executive Office	342	98	494	7	172	273	208	0	0
Departments	771	1,021	1,206	1,096	4,194	2,976	7,861	44	7
Independent agencies	12	182	1,059	605	1,406	607	2,560	94	5
Total (27,300)	1,125	1,301	2,759	1,708	5,772	3,856	10,629	138	12
Percent (100)	4	5	10	6	21	14	39	1	0

ANNOUNCEMENT OF VANIK VOTE ON WILD AND SCENIC RIVERS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, on August 9, I was present and voted for passage of the bill, H.R. 13372, amending the Wild and Scenic Rivers Act.

On that vote the electronic voting system improperly recorded me as not voting. I would like the permanent RECORD corrected to indicate my presence and vote for the bill.

FREIGHT CLAIMS LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. LONG) is recognized for 15 minutes.

Mr. LONG of Louisiana. Mr. Speaker, today I am introducing the Freight Claims Settlement Act which would amend the Interstate Commerce Act to expedite the process by which freight claims are settled and bring about a greater measure of equity and fairness to claim settlement procedures.

Briefly my bill would assess carriers with an automatic penalty of $10 a day or one-fiftieth the amount of the claim each day disposition is delayed beyond the 4-month deadline set forth in existing ICC regulations. It would apply to claims against all common carriers, contract carriers, or transportation companies lodged by the shipping public.

My purpose in introducing this legislation is to try to restore some balance in a negotiations process which historically has been weighted in favor of the carrier. As it stands now, months may be consumed in efforts to negotiate a claim before the shipper decides to submit his claim to ICC for assistance. Agency regulations then provide an additional 120 days for the carrier to respond and participate in negotiations proceedings. Final recourse is to the courts, but only in cases of flagrant violations has this route been taken by the ICC.

I have spent the past several months exploring some of the problems a businessman or an individual may face if the goods he ships are lost or damaged in transit and his claim becomes tied up in costly delays or ignored by the transportation company.

The prospect of ending up in such a dilemma is not remote. The latest figures available from the ICC show that in the first three quarters of 1975 over 2 million people submitted outstanding claims to the ICC for assistance, and the total amount of the claims in those quarters exceeded $230 million.

Unfortunately, the size of the claim is often the sole determining factor in the settlement process. A small businessman has no shipping specialist or employee to work full time trying to collect on claims, so he must decide how much of his own time he wishes to spend fighting the issue. In cases where the dollar value of time is equal to or greater than the value of the lost or damaged goods, this businessman probably will absorb the loss rather than spend his time or the cost of attorney's fees to collect a small claim.

The extent of the problem can easily be measured in terms of millions of claims and hundreds of millions of dollars, but in my view it is also important to measure it from the human perspective—that is in terms of the frustration a person encounters when trying to cope with a system that is very nearly unworkable.

Take, for example, the recent experience of an office products retailer who ordered a desk for one of his best customers and found upon delivery that it was damaged to the point of being a total loss. Seven months of delay and frustrated attempts to collect partial amounts from the carrier, from the wholesaler, from the carrier who brought the desk to the wholesaler, and from the manufacturer, finally caused the retailer to drop the entire matter.

According to reports from other businessmen, this 7-month wait is not unusual. Claims often go unsettled for a year or more.

One Pennsylvania retailer filed a claim for $72.09 on October 29, 1974. It remains unsettled today. A California retailer waited from September 10, 1973, until late 1975 to receive settlement on a claim of $180.65. And in my own State of Louisiana, a claim filed on behalf of a department of the State took over 2½ years to settle.

The ICC recognized the seriousness of these untimely delays as long ago as 1972. On February 24, 1972, the Agency handed down a unanimous decision in ex parte 263 requiring carriers to acknowledge receipt of each loss and damage claim, investigate the claims promptly, and dispose of them within 120 days.

Yet from the letters I have received, and from the conversations I have had with other businessmen, it seems this long-awaited decision has turned out to be more of a promise than a commitment because it lacks an enforcement mechanism.

All in all, the settlement of claims for freight loss and damage remains a tangled web of redtape, delay, and frustration for the shipper. The frustration is so great that one retailer in West Virginia recently commented it would be worthwhile to pass a law requiring a carrier merely to respond that it had received a claim.

It is this particular problem of uncertainty and delay my bill addresses. By assessing an automatic penalty for failure to dispose of the claim in a timely manner, it puts some teeth into the ex parte decision No. 263 which promised so much but delivered so little.

Mr. Speaker, in my judgment the time has come to swing the pendulum back in the direction of the businessman and the consumer, so that he is assured a fair shake in the processing of a duly filed claim for damages inflicted on his property. My bill would be a push in this direction and I strongly urge the Members of the House to support and adopt it.

The text of the bill follows:

H.R. 15271

A bill to amend the Interstate Commerce Act to establish timing requirements and penalties with respect to the settlement of property damage claims, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Freight Claims Settlement Act".

FREIGHT CLAIMS SETTLEMENT

SEC. 2. The Interstate Commerce Act is amended by redesignating section 29 as section 30 and by inserting immediately after section 28 the following new section:

"CLAIMS SETTLEMENT PROCEDURE

"SEC. 29. (1) Whenever any common carrier or contract carrier subject to the provisions of this Act receives a claim in writing from any person (hereinafter in this section referred to as the "claimant") alleging loss or damage to property transported by such common carrier or contract carrier, such carrier shall, within 30 days after the date of receipt of such claim, acknowledge in writing to the claimant that such claim has been received.

"(2) Any common carrier or contract carrier subject to the provisions of this Act which receives a claim described in paragraph (1) of this section shall, within 120 days after the date of receipt of such claim—

"(a) pay such claim in full;

"(b) make a firm compromise offer in writing to the claimant; or

"(c) deny such claim in writing to the claimant.

"(3) Any common carrier or contract carrier which violates the provisions of paragraph (2) of this section shall be liable for a civil penalty equal to—

"(a) $10 per day for each day the claim remains unsettled after the expiration of the 120-day period referred to in such paragraph (2); or

"(b) two per centum of the amount of the claim (as agreed upon by the claimant and carrier involved) per day for each day the claim remains unsettled after the expiration of such 120-day period,

whichever amount is greater.

"(4) The Commission may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.".

EFFECTIVE DATE

SEC. 3. The amendment made by this Act shall take effect on the date of enactment of this Act, and shall apply with respect to any claim for loss or damage to property which is received after such date of enactment by any common carrier or contract carrier subject to the Interstate Commerce Act.

REES REFUTES ATTACK ON MEXICO

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. REES) is recognized for 5 minutes.

Mr. **REES**. Mr. Speaker, last week, when Congress was in recess, an advertisement was published in the August 10 edition of the Wall Street Journal, sponsored by an organization calling itself "Radio Free Americas." The ad was a scurrilous attack on our good neighbor, the United States of Mexico, and consisted of a long series of fallacious assertions that Mexico was in the grip of a "Communist conspiracy."

This advertisement featured a reprinted letter to President Ford, signed by 76 Members of the U.S. House of Representatives. Some of my colleagues from both parties have since regretted signing the letter after hearing a less biased rendition of the facts. Several Members with whom I spoke were also resentful that the letter had been printed in an advertisement sponsored by Radio Free Americas. Radio Free Americas is an arm of the American Security Council, a private right wing group which was created in 1955 to investigate "Communist connections" of applicants for positions with certain American firms. Some of the Members who signed this letter considered it to be private correspondence with the President and did not give any organization permission to print the letter in a full page ad which seemed designed to produce public agitation—particularly since the ad included a solicitation for funds for the American Security Council.

More to the point, however, is the fact that the assertions of the letter are simply unfounded. Mexico is Latin America's preeminent democracy. The stability and strength of its government and society, and its long tradition of freely elected civilian governments, serve as an example to other less democratic countries.

Mexico is a democracy. As in all true democracies a wide range of political parties is permitted to exist under the laws of the country. The Mexican Government has acted in staunch opposition to all forms of terrorist agitation, Communist, and otherwise. It is true that the Mexican Government has established diplomatic relations with Cuba. So have most of the other nations of the world, and there is every indication that, within a few years, the United States will follow their lead. At a time when the United States is moving toward a relaxation of tension with the Soviet Union and China, we should encourage a continuation of such a Mexican foreign policy rather than to sound an alarmist note.

Under President Echeverria, Mexico has taken an active leadership role in the Third World. Their spirited economic development, and their early and successful efforts at land reform, continue to be an example to other countries seeking to surmount the development threshold.

Mexico maintains the most politically stable and dynamic economy in Latin America. The economy is based on a firm foundation of free enterprise and private ownership of capital. Mexico continues to display a mature attitude toward foreign investment and is eager to benefit from the free flow of capital from abroad. Foreign investors will continue to find in Mexico a stable and progressive government, with a freely elected civilian leadership.

Trade between our two countries has provided a vital link between Mexico and the United States. The United States continues to be the primary supplier of imports to the Mexican and the primary consumer of their exports. Much of the more than $5 billion of foreign investment in the Mexican economy comes from the United States, and the rate of growth in this investment will continue to increase.

Mr. Speaker, before coming to Congress I was president of Compania del Pacifico, a small export company I started in 1951. My major business was exporting farm machinery to Mexico. Later I worked with American businesses, helping them invest in Mexico. Although the pressures of Congress caused me to close down my Compania del Pacifico several years ago, I am still in close contact with friends in Mexico, both Mexican and American, and find that the general view of Mexico's future is very optimistic.

We have been privileged in this country, to have, as Mexico's Ambassador to the United States, Dr. Jose Juan de Olloqui. I have found Ambassador Olloqui to be both sympathetic and constructive in dealing with the problems which have arisen between our two countries. It is indeed a historical rarity for two countries with pronounced cultural differences to have positive and cooperative relations and to share a border of several thousand miles in peace and relative harmony.

An inflammatory advertisement such as this will only injure the position of U.S. business in Mexico. Mr. Speaker, I have a statement released yesterday by the U.S. Mexico Chamber of Commerce, which clearly reaffirms the faith of U.S. investors in the Mexican Government and in the investment climate in Mexico. It is clear from their statement that the American Security Council's ad was neither correct with regard to the facts nor welcomed by U.S. businessmen operating in Mexico. I would like to insert their full statement in the Record.

My colleagues will also be interested in the testimony of William H. Leurs, Deputy Assistant Secretary of State for Inter-American Affairs, before a Subcommittee of the House International Relations Committee. In the excerpts I am inserting in the Record, Secretary Leurs effectively refutes most of the charges made in the ad.

I commend these insertions to my colleagues:

MEXICO: A FREE AND DEMOCRATIC SOCIETY

(By Al R. Wichtrich)

The American Chamber of Commerce of Mexico, which represents American business and investment in Mexico, today affirmed its faith in "Mexico's dedication to a free and democratic society."

In noting that the Mexican Government had rejected all imported ideologies, Al R. Wichtrich, president of Amcham Mexico, said that the American business community in Mexico "is cooperating with Mexican efforts to achieve economic development."

The spokesman for the American business organization in Mexico also pointed out the results of recent surveys on foreign investment in Mexico and stated that the fact that foreign investment had reached the figure of 5 billion dollars and that foreign capital continued to enter the country constituted "clear and conclusive evidence of the confidence of American investors and businessmen in the political and economic future of Mexico, inasmuch as these persons understand the real situation in this country."

"On numerous occasions," Mr. Wichtrich added, "the present president of Mexico, Luis Echeverria Alvarez, the president-elect, Jose Lopez Portillo, and other high officials have clearly expressed their aim of establishing an appropriate mixed economy system with the participation of the public and private sectors. They have firmly rejected ideologies incompatible with Mexican realities and seek only the most appropriate means of increasing and distributing the national wealth more equitably without sacrificing individual liberties."

Mr. Wichtrich went on to say that this confidence in Mexico's future "can be felt in our statements as well as in our deeds. The American Chamber of Commerce has always maintained cordial relations with the Mexican Government in matters affecting business and investment, and it has always scrupulously avoided any involvement in internal political matters.

"Our organization on many occasions has received guarantees to the effect that foreign investment is welcome in Mexico owing to its vital contributions to technology. The formation of capital, tax contributions, exports and the generation of employment. Mexican laws on foreign investment do not discourage this close collaboration, but rather direct resources to the area and enterprises in which they will have the greatest effect."

The President of Amcham Mexico mentioned a recent survey carried out by the Standard Research Institute. An independent research firm of international reputation, among companies representing 41 per cent of American investment in Mexico. The results show, Mr. Wichtrich stated, that direct foreign investment has made positive contributions to Mexico's economic development. He added, "it is further significant that none of the firms interviewed showed the slightest concern over certain statements made by hostile minorities or isolated acts of terrorism. Among the firms interviewed, reinvestment of profits increased from 60 per cent in 1970 to 72 per cent in 1974, and recently concluded studies among the members of Amcham Mexico show that the percentage of profits reinvested in 1975 was even greater, an average of 76.2 per cent."

Mr. Wichtrich concluded his remarks by saying, "this optimistic evaluation of the political stability and of the future of the Mexican economy is not limited to investors whose points of view could be affected by their interests and investments in Mexico. A report in Business Week magazine this week pointed out that foreign investment in Mexico increased to a total of 5 billion dollars in 1975, noting that international credit institutions consider Mexico to be a respected and responsible customer. It is unfortunate that criticism without documentary evidence has been exploited for propaganda purposes. Such occurrences seriously undermine the work of the American Chamber of Commerce of Mexico, which seeks to maintain and improve friendly relations between the two countries and increase relations with our colleagues in Mexican public and private sectors. Nevertheless, we will continue our task of demonstrating the contributions of the system of free enterprise and foreign investment to Mexico, as we will continue to support Mexico's objective of building its economy on bases favorable to Mexico and beneficial both to Mexico and to all domestic or foreign business communities."

EXCERPTS: STATEMENT OF DEPUTY ASSISTANT SECRETARY OF STATE FOR INTER-AMERICAN AFFAIRS,WILLIAM H. LEWIS, BEFORE THE SUBCOMMITTEE ON INTERNATIONAL POLITICAL AND MILITARY AFFAIRS OF THE INTERNATIONAL RELATIONS COMMITTEE, JUNE 30, 1976

With regard to Mexico, we believe that recent allegations that the Mexican Government is taking Mexico down the Chilean and Cuban road to socialism are unfounded. Those who make these allegations cite what they characterize as government supported land seizures, policies directed against foreign investment and the influence of Chilean exiles on government policies.

In discussing Mexico, it must be borne in mind that Mexico is a proudly independent country. The tenacity with which it holds to its independence is heightened by geography—it is our neighbor and highly sensitive to us and signs of any designs to undermine its independence. Decisions Mexico takes to respond to what it perceives as its internal problems are purely Mexican decisions. It does not seek or accept influence from foreign sources or proponents of alien ideologies. Its political system, which has evolved over the 66 years since the Mexican Revolution, is electric and unique.

The allegation that Chilean exiles are influential in the development of Mexican policy and actions can be looked at in context. Mexico has a long record of liberalism in granting political asylum. At the end of the Spanish Civil War, Mexico accepted many Republican exiles. It did the same after 1960 in accepting anti-Castro Cuban exiles, and following the overthrow of the Allende Government in Chile it accepted more than 100 prominent Chileans, plus a large number of the dependents, and assisted them in finding gainful employment.

Some of these exiles were given government positions. But there is no evidence that these or any other foreign advisors have significantly influenced the policies or programs of this large and resourceful nation. Mexico has a highly organized governing political party and a vast reservoir of educated technicians who are fully competent to run the nation.

With regard to internal far leftist organizations in Mexico, Communist and radical Marxist parties are legal but are small and weak. The government party—the PRI—has been successful in encompassing a wide spectrum of political thought and activity. Because Mexico's own revolutionary tradition is expressed by the PRI, it is difficult for the Marxist parties to build a following.

The Mexican Communist Party (PCM) has only an estimated 5,000 members, not enough under Mexican law to qualify for registration. Since 1968 when the Russians invaded Czechoslovakia, the PCM has followed a line relatively independent of Moscow. There is also evidence of strain within the party over the issue of the degree of support to be given to student activism.

The Popular Socialist Party (PSS) is a loosely organized party which claims 75,000 members. It has carefully refrained from advocating violence or opposing the goals of the Mexican Revolution. It has endorsed the PRI presidential candidate since 1958, while running some of its own congressional and gubernatorial candidates.

The PCM and the PSS have disavowed terrorism. The principal terrorist organizations in Mexico are the 23rd of September Communist League (which has been disavowed by the PCM), the Poor peoples' Army, and the Peoples Armed Revolutionary Army. Strong Mexican government anti-terrorist measures resulted in an abatement of terrorism during 1975.

The 23rd of September Communist League is apparently the only group still active. They have claimed credit for several bombings, the murder of a police patrolman, and the recent kidnapping of the Belgian Ambassador's daughter. The 23rd of September League is an irritant to the GOM but not a threat to political stability. We know of no current Cuban connection to these terrorist groups.

Allegations that recent measures and actions by the Government of Mexico are "communist inspired," and against private domestic and foreign investment, do not hold up under scrutiny. There has, of course, been some controversy within Mexico over some of the government's recent proposals, a phenomenon that is inevitable in an open society in which various sectors do not always have identical interests.

With regard to alleged attacks on private property, the Government of Mexico has made it clear that it does not accept or tolerate violence as a means of furthering land reform any more than it will tolerate private land holdings in excess of the limits imposed by its Constitution. It has also acknowledged that the so-called "land invasions" are in part a result of the frustration of small farmers over their lack of adequate land. In a visit to Sonora on April 21, President Echeverria forcefully stated that the Government of Mexico would not tolerate land invasions and reaffirmed his government's commitment to the rule of law in regard to both squatters and property owners. The same theme has been sounded by Jose Lopez Portillo, the Presidential candidate of the ruling Institutional Revolutionary Party (PRI). Thus, while there have been land invasions, on occasion stimulated by leftist agitators, there is no official endorsement of such invasions.

Those who allege a drift towards Communism in Mexico also cite recent Mexican legislation—a Law on Human Settlements, which was opposed by some sectors in Mexico as an unconstitutional attack on private property. This law essentially gives authority to the government to regulate exploding urban growth through land use planning measures accepted in some industrialized countries. The Government of Mexico, in heeding the criticism expressed by some groups in Mexico, proposed some modifications of the original proposal by expressly stating that the law would not be used to expropriate private residences; by creating mechanisms to afford relief to property owners who might be affected; by excluding retroactivity; and by reaffirming its commitment to the concept of private property.

With regard to the general question of foreign investment, the Government of Mexico has made it clear that it wants and needs foreign investment that will be of benefit to Mexico's economy and development, but does not want investment that does not meet its needs. Foreign investors, including U.S. investors, continue to find investment attractive in Mexico, under the ground rules established by the Mexican Government. Mexico has a healthy and mixed economy with both private and public enterprise. The private sector within Mexico accounts for the largest part of total industrial production apart from petroleum, and the government continues to encourage its mixed economy. The long-range trend in Mexico, as in many countries of Western Europe, may well be toward greater state involvement in the dominant sectors of the economy. But we see little chance of dramatic shifts and anticipate that the private sector will continue to play a key role.

With regard to allegations that an "amnesty" of persons jailed as a result of student riots in 1968 is evidence of a trend towards Communism, it should be noted that most of the several hundred persons apprehended at that time have long since been released from jail on bail. The amnesty legislation was welcomed by both the left and right in Mexico as a measure which finally put the tragic events of 1968 to rest.

In discussing Mexico, it should be mentioned that some people allege that the United States is attempting to "destabilize" Mexico. This allegation is, of course, totally false. Mexico's interests, as well as ours, are best supported by a stable and economically prosperous Mexico, and we are supportive and understanding of efforts by the Government of Mexico to come to grips with the problems it perceives the need to solve to assure its economic and social advancement.

As a final note, relations, between the United States and Mexico are excellent. We have engaged in effective consultation and cooperation on numerous questions of mutual interest. And, when bilateral problems arise, as they inevitably must when two sovereign countries share 2,000 miles of border, we have been able to discuss these problems in a frank and friendly manner, and together seek mutually acceptable solutions. We do not foresee any change in this mutually advantageous relationship.

LEGISLATION TO AMEND THE COMMUNICATIONS ACT OF 1934

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

Mr. WIRTH. Mr. Speaker, today I am introducing, along with Mr. VAN DEERLIN and Mr. ROSE a bill (H.R. 15268) to correct a situation which threatens the ability of the cable television industry to serve the viewing public.

This measure amends the Communications Act of 1934 to give the Federal Communications Commission the right and responsibility to regulate the rates, terms, and conditions for the use of communications space on utility poles. The bill also gives the States the opportunity to exercise similar jurisdiction within their boundaries, provided that they meet certain federally established minimum standards.

This legislation is an outgrowth of the 16 days of hearings on cable television which have been held by the Subcommittee on Communications. During those hearings, we heard detailed testimony by the cable television industry to the effect that utilities exerted monopoly control over the ability of cable television to serve consumers. Interestingly enough, the utility witnesses who testified on the subject did much to convince me, as one member of the subcommittee, that there was merit in the cable industry's allegations.

Cable television, as the name implies, brings consumers improved television reception and greater programing diversity via coaxial cable. Clearly, consumers cannot receive the benefits of cable television unless the cable is allowed to reach their home. Herein lies the reason for this bill.

In order to get the television cable to the consumer, it must be attached to existing utility poles and/or run through underground conduits. The only alternative is for a cable system to build and use its own separate pole/conduit facilities. Since most communities, for environmental reasons, take a dim view of additional utility poles, and since appropriate rights-of-way are usually controlled by utilities, consumers must rely on existing utility poles and/or conduits to bring them cable service.

As was well documented in the hearings, however, utility companies, possessing what amounts to total control over the needed poles and/or conduits have been behaving in the classic monopolistic manner. Utility companies have consistently, on a nationwide basis, presented the providers of cable television service with "take it or leave it" contract terms. These so-called contracts of adhesion put consumers and the cable company at the complete mercy of the utility and its unquestionable monopoly power.

For many years cable operators have sought relief on this matter from the Federal Communications Commission. Finally, this July, the FCC decided that it did not have authority over nontelephone poles and conduits and that it was uncertain as to the extent of its authority over telephone poles and conduits. As a result, consumers and cable operators are left without a governmental forum to counterbalance the monopoly power of the utilities.

It is my belief that the FCC's inability to act on this matter requires this legislative initiative. The Congress has consistently determined that the public interest is served by the Federal regulation of interstate wire communications. However, the law is silent on the Federal responsibility to assure that the designated communications space on utility poles and conduits is made available for such purposes on a just and reasonable basis.

Utilities, which in the public interest have been granted easements and the use of public rights-of-way for the distribution of communications and power, have no justification for exploiting that public service right for private gain. The bill which I am introducing today authorizes both the Federal and State governments to take action to end this injustice and insure maximum service to the public for all wire communications.

Mr. Speaker, this legislation warrants prompt action by the Congress. The pace and magnitude of pole/conduit rental increases has picked up considerably during the past year. A recent survey of selected utilities showed that from 1973 to 1975 the average pole conduit rentals have increased 47 percent. In addition, there have been some particularly disturbing recent developments in the exercise of this monopoly power. One utility, an electric company, is demanding a fixed percent of the gross revenue of the cable system in addition to a rental rate almost double the national average. In another case, a telephone company, as a part of a rental rate dispute, actually disconnected the television cable, thus denying service to consumers in four cities.

The exploitation of the monopoly power possessed by utilities with regard to cable television conduit attachments not only is a threat to consumers who are presently receiving cable service, but also threatens to deny this promising new communications medium to additional consumers who would benefit from the services offered by cable television.

A recent survey conducted by the cable industry demonstrated that pole rental fees account for 53.8 percent of the industry's net income before taxes. This means that the monopoly position of the utilities permits them to lay claim to over half the pretax profits of the cable industry without a penny of additional investment.

Clearly, Mr. Speaker, consumers now receiving cable television as well as consumers who desire access to this service in the future will benefit from this bill's effort to protect them from the abusive use of the monopoly power of the utilities. I am encouraged by the leadership which the Communications Subcommittee Chairman Mr. Van Deerlin has shown on this issue. I am hopeful that under his leadership, this body will be able to act quickly on this matter.

I am inserting at this point in the Record a summary of this bill, and an explanation of the impact it would have on FCC jurisdiction:

Summary of H.R. 15268

H.R. 15268 gives jurisdiction to the Federal Communications Commission to regulate the rates, terms and conditions governing pole attachments. It recognizes that there is a federal interest in assuring that all those providing communication services are able to use communication space on poles which are owned or controlled by regulated utilities.

The legislation allows the States to recapture authority to regulate pole attachments from the FCC upon a showing that State regulation meets or exceeds minimum standards promulgated by the FCC. States may apply for exemption from the federal regulations at any time following the adoption of those regulations by the FCC, and there is an opportunity for those States which have already acted to deal with pole attachments to apply for exemption prior to the effective date of the regulations.

H.R. 15268 requires the FCC to adopt regulations governing pole attachments within 3 months of the date of enactment. In addition, the Commission must adopt, within that same time period, minimum standards which a State must meet in order to exempt itself from such regulations. It is expected that the FCC's regulations will be considerably more extensive than the minimum standards and that the standards will allow for significant flexibility on the part of the States, thereby providing an incentive for State recapture.

Initially, States will be given up to 3 months to demonstrate compliance with the minimum standards before the regulations become effective. This provision takes into consideration the fact that some States have already developed a mechanism for dealing with pole attachments and will enable those plans to be reviewed by the FCC.

In order to expedite FCC action on an application by any State for exemption, H.R. 15268 requires the FCC to make a final determination on such an application within 3 months.

The FCC is required to consult with an advisory board consisting of representatives of the Federal Power Commission, the Interstate Commerce Commission, and state regulatory commissions in adopting its regulations and minimum standards.

IMPACT ON FCC JURISDICTION

H.R. 15268 clarifies the FCC's jurisdiction over entities controlling access to utility poles. In a Memorandum Opinion and Order adopted on July 1, 1976, the FCC formally decided that it lacked jurisdiction to regulate the rates, terms and conditions under which space on "non-telephone utility poles" is leased to those providing communication services. In addition, the Commission instructed its staff to study "the jurisdictional and economic issues involved" with regard to communication space on telephone poles.

However, since these questions have been before the FCC for six years, and since the FCC is on record as seeking legislative guidance in the matter (see letter to Roy Ash, Director, Office of Mauagement and Budget from Richard E. Wiley, Chairman, FCC dated October 4, 1974), it is appropriate that Congress act to resolve the matter. It should be noted that while H.R. 15268 extends FCC's jurisdiction for the purposes of regulating pole attachments to all utilities regulated by the Federal Government or by the States, the jurisdiction goes only to such space as may be provided on such utilities' poles for communication services.

LEGISLATION TO DECENTRALIZE RESPONSIBILITY FOR NUCLEAR PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. Udall) is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, I am introducing today two bills intended to distribute among a wider segment of our society the responsibility for carrying out nuclear programs. At present, in spite of widespread citizen concern about the safety of nuclear power, virtually all decisionmaking concerning nuclear safety is made by a small number of Federal officials. This owes to the fact that the Atomic Energy Act of 1954 assigned sole responsibility and authority for nuclear regulation to Federal agencies.

The legislation I am proposing will change this situation. It will provide a clear role for the States in siting of nuclear facilities. I am suggesting either of two alternatives to this end. One would allow a State to disapprove of a facility prior to the taking effect of a construction permit issued by the Nuclear Regulatory Commission. The second alternative would require State approval prior to issuance of a construction permit. Either alternative would allow States to impose standards more stringent than those of the NRC subject only to the restriction that such standards would have to be consistent with those of the Nuclear Regulatory Commission.

WISE AND TIMELY POLICY ON URANIUM ENRICHMENT

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, during consideration of the Nuclear Fuel Assurance Act of 1976, I advised the Members of the House to recommit the legislation so that the Joint Committee on Atomic Energy could make improvements and report back to the House with a more reasonable and rational approach to need for and proper development of our nuclear enrichment capabilities.

I felt then, as I do now that enrichment technology and demand is questionable because of shortcomings, a decrease in the demand for nuclear power and economic competition from other energy sources. There are vexing world problems yet to be addressed.

These and other thoughts were recently considered in an excellent editorial that appeared in the Rocky Mountain News, August 11, 1976. The reflections contained in the editorial, on the recent passage of the Nuclear Fuel Assurance Act of 1976, are valid and to the point.

I am certain that my colleagues will find the sentiments expressed in the editorial to be highly worthwhile and an edifying discussion of the nuclear fuel assurance issue. I hope the Senate acts accordingly on our H.R. 8401, that one-vote marginal mistake we sent them 2 weeks ago.

The editorial follows:

Go Slow on Uranium

It might be better for the country if President Ford quietly took back for further study his proposal to let private industry into the uranium enrichment business, a government monopoly since World War II.

Many agree with Ford that the sharing of uranium enrichment with private industry has merit. In theory at least, it should expand production without forcing the government to invest billions in new plants.

But the stumbling point comes over the fact that the private companies interested in getting into the uranium enrichment business—mostly big oil and engineering companies—want government-guaranteed financing.

Congress is bitterly divided and no one seems quite sure where the line should be drawn in placing liability if something goes wrong. The taxpayers could wind up with an undue share of any such bill.

With demand for fuel for nuclear power plants growing at a rate less than had been expected (150 nuclear plants have been postponed or canceled since June, 1974) there seems no pressing need to solve this complex problem in an election year and with a Congress so uncertain of an answer. The House approved the private production of enriched uranium by one vote the other day and division in the Senate appears equally sharp.

For the near future at least, the government could provide enough nuclear fuel for ourselves and allies by expanding its own enrichment plant at Portsmouth, Ohio.

This, hopefully, would give time for a free of election-year pressures Congress to determine the proper risks and benefits for private industry in producing enriched uranium.

UNTIL INDIA STOPS FORCED STERILIZATION, U.S. AID TO INDIA MUST BE SUSPENDED

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I am appalled by the recent reports that the Indian State of Bombay, whose population is 50 million, has adopted a law requiring the forced sterilization of all men who have fathered three or more children. This effort to suppress Bombay's teeming population is strikingly reminiscent of Nazi Germany. The program which is being embarked upon may well sound the death knell of Indian democracy.

There is no denying that India has a serious population problem. Numbering 608.5 million in mid-1975, India's population is second only to the People's Republic of China. In the last decade alone India's population has increased by 120 million.

Yet a recent report prepared under Government contract by the Population Reference Bureau, entitled: "World Population Growth and Response, 1965–75," states that India's birth rate has declined to 35 per 1,000 people in 1974 from the level of 42 per 1,000 in the 1951–61 period. Although India's population is now growing at a rate of 2 percent per year, an Indian Government 5-year plan for the period 1974–79 projects the spending of $688 million to reduce the birth rate to 30 per 1,000 people by 1979 and to attain an annual growth rate of only 1.4 percent by 1986. The government's 5-year program is to be administered by individual Indian state governments and would involve a great deal of voluntary sterilization along with other voluntary family planning techniques.

However, it now appears that the state administrator for Bombay has decided to bring even greater "efficiency" to his population program.

As reported in the New York Times on Friday, August 13, 1976, the chief proponent of compulsory sterilization in India, Bombay Director of Family Planning, Dr. D. N. Pai, has now received the necessary law authorizing him to forcibly sterilize men and women within 180 days of the birth of their third child. According to the report, men up to 55 years old will be sterilized first, and their wives will be affected by the measure only if a vasectomy would endanger their husband's life. The law will go into effect as soon as it is approved by Prime Minister Indira Ghandi and her loyal President.

The news report describes the terror among the uneducated masses that this operation instills—

> The (sterilization) bill has caused consternation, and the heightened campaign since the declaration of a state of emergency last year to persuade people to volunteer for sterilization has provoked fear throughout India.

In India "the belief is widespread that large families, particularly with male children, are a blessing." This is understandable in a country whose traditional form of old age insurance has been the support of offspring. India also has a sizable Moslem population whose 60 million adherents oppose the sterilization operation on religious grounds.

To these objections, Dr. Pai and his sterilization law pay scarcely any heed. The law, as drafted, states that sterilization will be presumed not to violate any religious practice or essential tenet. The law also exempts upperclass, literate Indians.

In short, the intent of this law is to force illiterate Indians, many against their religious principles, to be sterilized. I cannot condone such scabrous practices, particularly when they appear to be directed at an illiterate, terrified mass of people. It reminds me all too much of Nazi Germany, where entire classes of people were labeled as inferior and then sterilized or liquidated. I find forced sterilization appalling. I believe this is one of the types of conduct Congress was referring to when it adopted a provision to the Economic Assistance Act of 1975 requiring a cutoff of economic aid to any country "engaged in a consistent pattern of gross violations of human rights."

India's efforts to reduce its population growth should be achieved not through coercion, but by way of incentives. A reward system would provide the necessary impetus for many Indians to freely adopt birth control measures. By the same token, those who, for religious, social, or personal reasons would not want to participate, would be afforded the freedom to have that choice. Incentives might be used for attendance at birth planning centers or lectures; use of condoms, pills, or intrauterine devices; male or female sterilization; remaining unmarried; remaining childless; older age at marriage; longer timing of first birth after marriage; greater interchild spacing; small family size; and education or employment for women. Each item of this nonexhaustive list has a negative counterpart that could be penalized with negative incentives.

By way of example I am suggesting several possible incentives which might be offered to those complying with the above behavior:

First, cash: Annual awards to married couples who avoid having offspring could be offered.

Second, bonds: Bonds have the advantage of permitting a program to operate for a few years before India would have to pay the bill. For example, bonds with dated coupons that could be clipped periodically for small cash amounts could be issued. Coupons would remind holders that birth planning "pays."

Third, old age security: As suggested above, in India a major reason for wanting larger families is for financial security in old age; incentives might replace sons. Bonds payable after 20 to 30 years, or at menopause, might be viable.

Fourth, food: Food is of special interest because the United States and other countries are exporting food into India. If the food is being channeled to the people anyway, it might be used as an incentive. Family planning would be tied into an entire health package.

Fifth, wedding costs: A daughter's wedding represents a huge expense for Indian families. Young couples could be told this expense would be paid, provided parents limit children to a specified number, and have their daughter's wedding only after she reaches a prescribed age.

As a member of the Foreign Operations Subcommittee of the House Appropriations Committee, I call for the immediate termination of any plans to resume bilateral economic aid to India, and I call on the American representatives to the World Bank and the International Development Association—IDA—to vote against further aid through those bodies for India.

The IDA made a loan commitment of $21.2 million to the Indian family program for the period 1972–78. Furthermore, total IDA assistance to India in 1975 was $631.3 in addition to $209 million in World Bank loans. The United States is the single largest contributor to IDA, furnishing about 25 percent of its capital, and India is the largest single recipient of loans from IDA.

In 1975 and 1976 the United States provided India with substantial bilateral food assistance: $227.7 in loans and grants for 1975 and $195.5 in 1976. Although the United States provided no direct bilateral economic development assistance to India in 1975 or 1976, because of worsening United States-India relations following Indira Ghandi's "decree of emergency" when she assumed control over the government by fiat, the Agency for International Development is presently negotiating with the Indian Government to provide a $60 million loan program and $1.7 million in economic development grants for 1977. In addition, the Department of Agriculture plans to provide $71.8 million in food grants and $61.1 million in food loans under the Public Law 480 international food assistance program in 1977.

I call on the executive branch to terminate all Public Law 480 food assistance and all economic assistance programs for India, until the Indian Government indicates a better recognition of fundamental human rights.

To some this may appear to be a harsh step, but every dollar which the United States provides India for food purposes enables India to spend her own resources for these draconian sterilization programs. Therefore, we should refuse to contribute even indirectly to these programs.

The United States should use its foreign assistance money for nations whose policies and practices are more in harmony with internationally recognized human rights. Furthermore, the actions of the Indian Government in suppressing democracy in India should be considered very seriously, before any aid program for India is resumed.

I call for an end to our support of the repressive Indian Government which now rules by emergency decree, censors the press, and has jailed opposition political leaders. India's forced sterilization campaign is the next step in the trend toward totalitarian rule, and the United States should not in any way aid or abet India's curbs on the freedoms of democracy. Forced sterilization in India should be ended. Until it is, the United States should withdraw any material support for India which may directly or indirectly enable the Indian Government to treat its population in this draconian manner.

GAO REPORT ATTACKS SYNFUELS

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I wish to call the attention of my colleagues to the fine General Accounting Office report attacking the economic energy and environmental soundness of the synthetic fuel subsidy program prepared in H.R. 12112.

Today's Wall Street Journal contains an excellent account of this report which I commend to the attention of my colleagues:

SYNTHETIC FUELS SEEN TOO COSTLY FOR U.S. TO FUND

> WASHINGTON.—The General Accounting Office dealt a blow to an already beleaguered White House proposal to aid the synthetic-fuels industry.
>
> The GAO, Congress's fiscal watchdog, concluded that synthetically produced oil and gas will be too costly to be competitive with foreign energy supplies. Therefore, it said, the federal government shouldn't commit billions of dollars for synthetic-fuel projects.
>
> Several different bills, authorizing up to $4 billion in federal loan guarantees to finance construction and operation of commercial-sized synthetic-fuel plants, are ready for action in the House. The Senate, which last year approved a measure authorizing $6 billion in loan guarantees, is expected to go along with any House bill.
>
> Upset by the GAO report, Rep. Olin Teague, chairman of the House Science Committee and sponsor of one of the loan guarantee bills, said he is calling GAO officials before his committee next Tuesday to elaborate on their conclusions.
>
> "There's no question this report doesn't help our chances (of passing a bill)," the Texas Democrat said. "I don't intend to bring any synthetic-fuels bill to the floor unless I'm convinced we can win."
>
> Rep. Teague shepherded a bill calling for $6 billion of loan guarantees through his committee last year, only to have it fail in the House, a demise he blames on lack of White House support. His second attempt to pass a smaller loan guarantee bill is already in trouble. Four different House committees have cleared four different versions of the measure ranging from no loan guarantees to $4 billion in government backing. The House won't consider synthetic-fuel legislation until after Labor Day at the earliest, Mr. Teague said.
>
> Meanwhile, the GAO study concludes that conservation, rather than big spending on synthetic-fuels production, is the most "cost-effective" way to reduce U.S. dependence on foreign oil imports. The U.S. imports about seven million barrels of oil a day of the 16 million barrels consumed daily.
>
> Oil produced from coal or oil shale could cost as much as $18 a barrel, compared with $12 a barrel for imported crude oil, the GAO said. Gas produced from coal would cost $2.61 to $3.02 for a thousand cubic feet roughly twice the rate of $1.42 set by the Federal Power Commission for new natural gas. To make synthetically produced oil competitive with imported oil, the government would have to subsidize its production, the GAO said.
>
> "If the price of a barrel of oil from shale were to exceed the price of imported oil by $5 a barrel, then an additional price subsidy of $250,000 a day, or about $90 million each year, could be required for just one small plant," the GAO concluded.
>
> In addition, the GAO reported, synthetic-fuel plants possibly could become outdated before they even began production because of changes in technology. A plant to produce 50,000 barrels of oil a day from oil shale would cost about $1 billion.
>
> Robert Seamans, head of the Energy Research and Development Administration, which supports loan guarantees for synthetic-fuels projects, criticized the report. In a letter to GAO Comptroller Elmer Staats, Mr. Seamans said the GAO's conclusions aren't supported by sound analysis. Further, he objected to comparisons of the cost of synthetic fuels with present prices for imported oil.
>
> "We believe that the GAO report is so substantially lacking in analysis and information supportive to its conclusions," that the report serves only "to confuse the issues discussed," Mr. Seamans wrote.

GAO ATTACKS SUBSIDIZED SYNFUELS PROGRAM

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, a just-released GAO report on commercialization of synthetic fuels provides pointed confirmation of our long-held contention that loan guarantees for first generation synthetic fuel development, as provided in H.R. 12112, would be a serious mistake.

The principal conclusions of the GAO report are:

First. Existing synfuels technology which H.R. 12112 seeks to subsidize is uneconomic:

> Synthetic fuels production is not cost effective in that the total cost of output is not price competitive with foreign oil.

Second. Synfuels program cost will be prohibitive, requiring huge price subsidies:

> There are obvious disadvantages in sinking costs in technologies where the economics are uncertain and where improved technology or competing energy sources in years ahead may render the plants obsolete. For example, the cost of constructing an oil shale plant producing 50,000 barrels a day is estimated at $1 billion. If the price of a barrel of oil from shale were to exceed the price of imported oil by $5 a barrel, then an additional price subsidy of $250,000 a day or about $90 million each year could be required for just one small plant.

Third. Synfuels guarantees will discourage development of alternative lower cost technologies:

> Certainly, larger commitments to building complex, highly capital-intensive energy resources will result in less incentive in future years to develop alternative lower cost energy sources.

Fourth. Synfuels subsidies would encourage OPEC price increases:

> In addition technologies producing energy that costs more than energy from imported oil would put exporting countries in a position to increase energy prices.

Fifth. Synfuels program would subsidize energy giants already having access to capital:

> The large investment required to build synthetic fuel plants would direct Federal incentives primarily to large industries which have access to capital.

Sixth. Synfuels program distorts energy priorities—conservation, tertiary oil recovery and renewable resources should take priority:

> We believe that certain conservation actions and other technologies are cost effective and should receive top priority for government financial assistance.

Seventh. New technology will render subsidized synfuels obsolete:

> Research and development on "second generation" synthetic gas technologies is expected to reduce costs by about 15 percent.

This second generation technology is due to come on line at the same time as these subsidized plants and is likely to obviate the need for Federal subsidies.

Eighth. Loan guarantees for uneconomic technology are inadvisable and if provided should be included in the budget:

> Conversely, loan guarantees should be carefully examined and other options considered where there are questions regarding the viability of the technology or the economic competitiveness of the product.
>
> Loan guarantees also may not be appropriate for target groups consisting of large firms with reasonable access to capital markets even if the energy activity in question is technically economically feasible.
>
> Loan guarantees should be included in the budget.

Ninth. Synfuels research should receive priority:

> Full priority should be directed to development of improved synthetic fuels technologies, however, it appears possible to gain adequate information of an environmental and regulatory nature from smaller plants under Government control. When commercialization of the technology becomes a primary objective, consideration should be given to approaches other than loan guarantees for gaining private industry interest.

The GAO report concludes:

> In the present circumstances, GAO believes Government financial assistance for commercial development of synthetic fuels should not be provided at this time.

This report has been delivered to all Members, and we hope you and your staff will take the time to look at it. The

House has rejected this ill-advised approach to our energy problems in the past, and I hope that it will do so again.

UNEMPLOYMENT COMPENSATION IN EIGHT INDUSTRIAL NATIONS

(Mr. STEIGER of Wisconsin asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STEIGER of Wisconsin. Mr. Speaker, on July 20 the House of Representatives took a significant step toward improving our Federal-State unemployment compensation system; we passed H.R. 10210, the Unemployment Compensation Amendments of 1975. I was pleased by the interest shown by my fellow Representatives in this important system and was particularly gratified by the thoughtful questions various Members asked during the weeks before the bill reached the House floor.

Because of the general interest in unemployment compensation I would like to place in the RECORD an article comparing the unemployment compensation systems in eight industrial nations. The article, by Constance Sorrentino, appeared in the U.S. Department of Labor publication Monthly Labor Review. It is thoughtful and informative and I recommend it to those Members interested in the area of unemployment compensation:

UNEMPLOYMENT COMPENSATION IN EIGHT INDUSTRIAL NATIONS

(By Constance Sorrentino)

Rising unemployment in 1974–75 and continued high levels in 1976 have focused attention on income maintenance measures. Unemployment insurance, the principal government means of replacing lost earnings during periods of unemployment in industrial nations, typically replaces one-half to two-thirds of former earnings. Social security structures in developed countries have been shaped by both longstanding traditions and changing economic and social priorities; thus, the United States, Canada, Japan, and five Western European nations vary in unemployment insurance schemes, partial unemployment compensation, assistance payments, severance pay, and supplementary unemployment benefits, programs used to maintain current income. There is also a vast difference in health insurance benefits for those unemployed.

Recently, a number of changes in unemployment insurance schemes have been introduced to extend coverage, benefit levels, and duration of unemployment benefits. In the United States, the scope of the unemployment system was temporarily broadened to include persons previously ineligible—chiefly farmworkers, domestic workers, and State and local government employees; also, maximum duration of benefits was extended to 65 weeks rather than the usual State maximum of 26 weeks. In Japan, a 1975 law made participation in the unemployment scheme compulsory for all firms; formerly, employers with five or fewer workers could choose not to participate. Sweden broadened the scope of its unemployment system to include new labor force entrants as well as other persons previously ineligible. France introduced a plan under which certain workers laid off for economic reasons would be paid 90 percent of their previous gross wages for up to 1 year unless they are reemployed, and Italy doubled flat-rate unemployment benefits and substantially increased payments to workers on short time.

UNEMPLOYMENT INSURANCE

Unemployment compensation expenditures in the major industrial countries rose sharply in recent years. In the United States, expenditures rose from $6.5 billion in 1972 to $18.1 billion or 1.2 percent of GNP in 1975. In comparison, expenditures in Germany increased sevenfold during the same period, accounting for 0.9 percent of GNP in 1975 and in France, increased fourfold, reaching 0.6 percent of GNP.

Coverage. In the United States, each of the States, the District of Columbia, and Puerto Rico have separate unemployment insurance laws subject to broad Federal guidelines. Because no uniform system exists, the most frequently applicable regulations must be used for comparisons with other countries. In 1975, coverage in the United States was increased to about 90 percent of the work force under an emergency jobs and unemployment assistance act passed in December 1974, a coverage exceeded only in Sweden. (See table 1.)

TABLE 1.—*Unemployment insurance systems in 8 industrialized nations, mid-1975*

Country	Percent of labor force covered [1]	Required 2 weeks employed preceding unemployment	Waiting period (days)	Maximum duration of benefits (weeks)
United States	82	(2)	7	65
Canada	89	[3] 8/52	14	51
Japan	45	26/52	7	[4] 15–50
France	60	13/52	0	[4] 52–104
Germany	77	26/156	0	52
Great Britain	80	26/52	[5] 3	[5] 52
Italy	51	52/104	7	26
Sweden [6]	100	20/52	5	[4] 60–90

[1] Coverage in 1974.

[2] Eligibility requirements vary widely by State.

[3] For minimum benefits; 20 weeks of employment in the preceding year are required for maximum benefits.

[4] Maximum duration for earnings-related benefits depends upon age of claimant, with duration rising with age.

[5] Figures shown relate to flat-rate benefits. For earnings-related supplements, waiting period is 14 days and maximum duration of benefits is 26 weeks.

[6] The trade union system covers about two-thirds of the labor force and the labor market support program covers the remainder, including new entrants; other figures are for trade union system.

Yet, Sweden was the only country without a compulsory system. The government-subsidized system is run voluntarily by the trade unions with compulsory membership for those in the unions. In 1974, Sweden established a new "labor market support" system extending coverage to persons not in a trade union and to those whose benefits with the fund have been exhausted. Also covered are all workers 16 and over who have recently entered the labor market as well as persons reentering the labor market after a lengthy layoff.

In comparison, the relatively low coverage of the labor force in France, Italy, and Japan reflects, in part, large numbers of self-employed and unpaid family workers and a significant number of agricultural workers, persons generally not covered by unemployment insurance. (Agricultural workers in Italy are covered.) In Great Britain, the exclusion of the self-employed and most married women restricts coverage to about 80 percent of the work force, while Germany, through omission of the self-employed, civil servants, and part-time workers, limits coverage to 77 percent.

Eligibility. To become entitled to unemployment benefits, a worker must have worked a certain number of weeks, be willing to return to work or to undertake training, have suffered involuntary loss of employment, and, in some cases, have met a minimum level of earnings while employed.

All countries except Sweden require a set length of previous work to ensure that the unemployed person has suffered a wage loss. In the United States, most States require a minimum amount of earnings in the preceding number of weeks of employment. In the other countries, eligibility requirements range from 8 weeks of employment out of the preceding 52 weeks in Canada (for minimum benefits) to 52 weeks of employment out of the preceding 104 weeks in Italy.

In Sweden, new entrants and reentrants to the labor force may become eligible for benefits after a 3-month period of unemployment during which they are actively seeking work. The eligibility requirement under the trade union system is 20 weeks of employment in the preceding year.

Waiting period. A waiting period must usually be served before unemployment benefits become payable. Canada requires the longest waiting period—2 weeks. The United States, Italy, and Japan require 1 week. Less than a week is required in Sweden (trade union system) and Great Britain (for flat-rate benefits), and no waiting period is imposed in France and Germany. Except for Japan and Sweden, a waiting period is required for each new spell of unemployment. In Japan, a waiting period of any 7 days during the preceding year satisfies the requirement. Technically, Sweden has one waiting period of 5 days during the year, but a 1964 labor-management agreement provides for employer-paid layoff benefits during this period.

Duration. In the United States, the maximum duration of benefits tends to be adjusted according to the degree of unemployment that prevails in the economy. In times of low unemployment, American workers do not fare as well as workers in most of the other countries studied, but currently and in past times of high unemployment, benefits are extended under Federal programs; currently, the maximum is 65 weeks. A similar "trigger" mechanism exists in Canada where the normal 26-week benefit period is doubled when the unemployment rate exceeds 4 percent, a condition met since 1967. New legislation in Japan also contains provisions for extended benefit periods. A maximum benefit period of 1 year is allowed in Germany and Great Britain.

In Japan, France, and Sweden, the maximum duration of benefits varies with the age of the claimant. Since 1975, eligible persons in Japan under the age of 30 receive benefits for only 15 weeks, those age 30 to 44 receive 30 weeks of benefits, those age 45 to 54 receive 40 weeks, and persons age 55 and over receive the maximum of 50 weeks of payment. Any person in insured employment for less than 1 year receives only the minimum 15 weeks of benefits. In Japan, benefit durations reflect a shortage of young workers and a surplus of middle-aged and older workers. The maximum duration is subject to extension by the Public Employment Security Office.

Under the traditional French unemployment insurance system, persons under 50 may get up to 52 weeks of benefits, those between 50 and 55, about 84 weeks, and those between 55 and 59, a full 2 years. Unemployed persons age 59 or more can draw benefits until the age of 65. The French supplementary benefits system permits payment of benefits for a maximum of 1 year.

The Swedish trade union system permits persons under age 55 to collect benefits for 60 weeks; those 55 and over are covered for 90 weeks. The labor market support system normally allows for 30 weeks of benefits, with persons between ages 55 and 59 permitted 60 weeks of payments. From age 60, there is no limit to the duration of benefit collection.

Uniquely, Japan provides a lump-sum bonus worth 30 to 70 days of unemployment benefits for quick reemployment. The payment is determined by the unused portion of insurance rights.

Benefit amounts. Weekly benefits are expressed under most unemployment insurance benefit formulas as a percentage of the worker's recent average wages. In the United States, Canada, France, and Germany, a benefit ceiling is imposed. In France, the benefit is scaled down to a lower level after 3 months of unemployment. Under its regular system, France provides flat amounts of unemployment assistance in combination with the earnings-related insurance compensation for the first 3 months of unemployment without a means test. Thereafter, the assistance payments are subject to a means test. Japan and Sweden use systems of wage classes that produce a scale of percentages which vary inversely to previous earnings levels. The Swedish labor market support system provides a flat rate benefit, using a means test.

In Italy, there is an earnings-related scheme for agriculture, industry, and construction; only flat amounts are payable to all other unemployed workers. Prior to 1966, flat amounts were also paid in Great Britain, but graduated supplements based on previous earnings have been added to flat benefits for the first 6 months of unemployment.

Supplementary allowances for a nonemployed spouse and children are added in the form of flat amounts to the basic benefit in France, Great Britain, and Japan. In France, the supplements are provided under the unemployment assistance program, subject to a means test. The French worker previously earning the average manufacturing wage would be eligible for the supplemental assistance if the household had no other income than the worker's unemployment benefits and a family allowance. In the United States, only 10 States and the District of Columbia provide dependents' supplements. In Canada, these supplements are provided to workers whose income is below a certain level or whose unemployment is prolonged.

Unemployment benefits may vary by level of former income and marital status. In addition, in all of the countries except the United States, allowances are payable to families with children and are paid whether or not a worker is unemployed.

In the United States, an unmarried unemployed worker generally receives unemployment benefits equal to approximately 50 percent of his former gross earnings, although not in excess of a state-established maximum. The maximum benefit in the majority of States is 50 percent of the average State wage in insured employment. Twelve States now provide a maximum benefit amount equivalent to two-thirds of the average State wage.

In contrast, all of the foreign countries studied except Great Britain provide more than 50 percent of the average manufacturing worker's previous earnings. (See table 2.) France provides the highest level of benefits, replacing 90 percent of former earnings to workers laid off for cyclical or structural reasons, subject to official authorization. Workers not eligible for this system receive a much lower level of benefits.

TABLE 2.—*Unemployment benefits as a percent of average earnings, manufacturing workers in 8 nations, mid-1975*

Country	Single worker	Married worker with 2 children	
		Unemployment benefits	Unemployment benefits and family allowances
United States [1]	50	50	50
Canada	63	63	68
Japan	60	62	62
France			
Regular system			
First 3 months	56	63	[2] 69–77
Subsequent months	50	57	[2] 63–71
Supplementary benefits system [3]	90	90	[2] 96–104
Germany	60	60	66
Great Britain			
First 6 months [4]	38	60	63
Next 6 months [4]	19	41	44
Italy			
Flat-rate benefits	9	22	22
Earnings-related scheme [5]	67	80	80
Sweden [6]	62–72	62–72	67–79

[1] Figures shown are representative of the majority of States.

[2] Lower figures relate to family allowance payable to family with more than 1 wage earner, higher figure includes single wage earner allowance.

[3] For workers under age 60 laid off for cyclical or structural reasons.

[4] Means-tested public assistance payments can substantially raise these ratios.

[5] Industrial sector employee at the same enterprise for 3 months.

[6] Trade union system. Numerical ranges due to trade union funds.

Canada, Japan, Germany, Sweden, and Italy replace up to 60 percent or more of former earnings of the average manufacturing worker. In Italy, the highest benefits go to industrial workers who receive two-thirds of former earnings. Italian construction workers can obtain one-third of their former wage (plus flat-rate benefits), and agricultural workers 60 percent; persons who lose their jobs in sectors outside agriculture, industry, and construction are entitled to very small flat-rate benefits.

Both France (regular system) and Great Britain scale down the benefit amount after an initial period of unemployment. In France, regular benefits amount to 56 percent of the unmarried manufacturing worker's former wage during the first 3 months of unemployment; thereafter, the benefit falls to 50 percent. In Great Britain, a flat rate is paid for the full year in addition to an earnings-related supplement paid for the first half year; thus, the 38-percent replacement rate for the first 6 months falls to 19 percent in the next 6 months of unemployment. Public assistance payments, including compensation for mortgage interest and rent subsidies, can substantially increase these ratios.

The payment of supplements for dependents in several countries, and of family allowances in all countries except the United States and Japan, causes the level of income support for an unemployed married person with two children to rise relative to the U.S. level. The addition of dependents' supplements in Great Britain increases the level of earnings replacement above the U.S. level for the first 6 months of unemployment. In France, the addition of supplements under the regular system keeps the replacement ratio higher than the U.S. level even after it is scaled down following the first 3 months of unemployment. Under the supplementary program, there are no dependents' supplements. Some unemployed workers in France may actually receive more than their former earnings if they are eligible for the 90-percent supplementary benefits and single wage-earner family allowance.

In Italy, individual employers pay family allowances directly to employees. When a person loses his job, the family allowance is paid through the unemployment insurance fund and becomes, in effect, a dependents' supplement.

For persons earning relatively low wages, all the countries studied except the United States provided for higher wage replacement rates. In Canada, a benefit rate of 75 percent applies to claimants with dependents and with earnings below one-third of maximum weekly insurable earnings. Similarly, Japanese workers at the low end of the wage scale receive 80 percent of their former wage. France allows a maximum payment of combined regular insurance and assistance of 90 percent of the former earnings of the household. This maximum is raised to 95 percent if there are dependents.

In Great Britain, the maximum of the flat rate plus earnings-related supplements equals 85 percent of former earnings. Germany allows unemployment insurance plus family allowances to amount to 80 percent of former net earnings (about 70 percent of gross earnings). Sweden's trade union system allows a maximum benefit of about 90 percent of gross earnings. In Italy, flat rate benefits will replace a higher proportion of the earnings of a low income than of a middle- or high-wage earner. However, there is no maximum percentage applied. In contrast to the foreign practices, the United States does not provide higher replacement rates to lower income workers. But, such workers are eligible for such welfare programs as food stamps.

Taxation of benefits. In the United States, unemployment benefits are treated as tax-free income. This is also the case in Japan, Germany, Great Britain, and Italy. In Canada and Sweden, however, unemployment benefits are taxable; in France, all unemployment benefits except the flat-rate assistance payments are taxable. Canadian unemployment benefits typically amount to 63 percent of former gross earnings, but, after taxes, the worker actually receives less. Therefore, Canadian benefits are only slightly higher than U.S. payments. Similarly, "after-tax" replacement ratios in France and Sweden would be somewhat nearer the U.S. level.

Replacement of disposable income. Unemployment benefits as a percentage of former net disposable income would, of course, show different results than those in table 2, which are in terms of former gross earnings. The average U.S. production worker in 1972 with two children kept about 85 percent of his gross income after taxes; unemployment benefits, which were 50 percent of gross earnings, amounted to about 60 percent of disposable income.

In countries with extensive social welfare programs, such as Sweden and Germany, the average production worker in 1972 kept less than 80 percent of his earnings after taxes. The German married worker with two children received unemployment benefits equivalent to about 80 percent of his former disposable income, while a similar Swedish worker obtained an even higher proportion. However, the German workers' benefits are not taxable, whereas the Swedish benefits are.

COMPENSATION FOR PARTIAL UNEMPLOYMENT

In some countries, special payments are available for workers placed on short workweeks. During 1974–75, the introduction or improvement of compensation for partial unemployment permitted a fairly widespread resort to part-time work in several countries as a means of spreading a reduced volume of employment among the work force. This practice helped to keep unemployment rates lower.

For many years, statutory unemployment insurance or assistance schemes in France, Germany, Great Britain, and Sweden have contained provisions covering payments for partial unemployment. Japan introduced such payments in 1975. In Italy, partial-unemployment compensation is provided by a special institution, not by public unemployment insurance. The United States and Canada do not have systems for short-time payments.

The circumstances giving entitlement to short-time benefits vary considerably among the countries. These differences concern the cause of the reduced working hours, the minimum reduction in work hours, work days, or earnings, and the number of workers partially unemployed. For example, it is sometimes stipulated that a specific percentage of the work force of an establishment must be affected by short-time work due before compensation can come into play.

In most countries, there is a limit to the time for which partial unemployment benefits are paid. In 1975, France extended the annual maximum of hours eligible for short-time benefits from 320 to 470 hours. In April 1975, the flat-rate payment per hour was increased by 26 percent over the 1974 level. The average French manufacturing worker now receives roughly half the regular hourly wage as a short-time compensation. Short-time payments are financed partly by the company concerned and partly by the public assistance scheme. The number of workers on short-time in France rose from 19,000 in July 1974 to more than 200,000 a year later.

In Italy, short-time benefits for workers with a permanent job in either industry or construction are paid by an employer-financed fund set up originally by collective agreement and subsequently covered by legislative decrees. The benefits, which were recently raised, now replace 80 percent of gross earnings for up to 40 hours a week. Thus, short-time benefits replace a greater proportion of earnings than do regular unemployment benefits for industrial workers.

A very steep rise in the number of hours compensated followed the widespread use of short-time work in Italy. In the first half of 1975, hours compensated increased fourfold in industry and represented 3 to 4 percent of total hours worked.

In 1975, Germany increased the maximum duration of short-time benefits from 6 to 12 months, and to 24 months under certain conditions. The scheme is primarily financed through the unemployment insurance system, yet benefits such as bad weather allowances to construction workers are financed by contributions made by employers. Short-time and bad weather allowances cover about 60 percent of forgone gross earnings, the same replacement rate as compensation for complete unemployment. Short-time payments have played an important role in protecting many workers threatened by dismissal. The number of workers on short-time rose from 292,000 in 1974 to more than 900,000 in May 1975. In October, more than 70,000 workers (over 3 percent of all employees) were still on short work schedules.

The 1975 Employment Insurance Law in Japan incorporated provisions for payment for temporary work suspensions in the form of increased holidays. These payments ranged from 70 to 90 percent of gross earnings, financed partly out of public funds and partly by the firms concerned. Between January and August 1975, 1.7 million workers in Japan received compensation for almost 15 million days not worked.

UNEMPLOYMENT ASSISTANCE

Unemployment assistance provides financial aid to unemployed workers who have exhausted their rights to ordinary unemployment benefits, provided their income or means are below a specified level; all countries studied except Japan have such programs. Recipients are usually required to continue registering at an employment office and usually there is no statutory limit to duration of payments, although in France the payments are subject to a 10-percent reduction at the end of each year.

In Japan, the period of regular unemployment benefits can be increased to reflect special considerations, the maximum length varying according to difficulties encountered in finding jobs as well as the age of the worker. Thus, long-term unemployed persons in Japan can continue to collect unemployment benefits rather than unemployment assistance.

In the United States, unemployment benefits are supplemented by Aid to Families with Dependent Children and food stamps for the needy. The aid program is administered by the States with Federal guidance, while funding is shared by the Federal Government and the States. Also, food stamps have become an important part of the U.S. income maintenance system, although eligibility is not tied to unemployment. In 1975, a monthly average of almost 19 million Americans received food stamps.

Assistance payments are normally lower than unemployment insurance benefits. They may take the form of a flat amount, as in France, or may be earnings-related, as in Germany. In the latter country, assistance payments amount to less than half of previous gross earnings, whereas unemployment benefits replace 60 percent of former earnings.

SUPPLEMENTARY BENEFITS

In the United States, supplemental unemployment benefits have been established by collective bargaining agreements in a number of industries. Plans for these benefits were originally negotiated in the automobile industry in 1955 and now cover large groups of workers in other industries. These plans typically provide for the payment by employers of regular fixed contributions to a fund from which weekly benefits are paid to laid off workers to supplement public unemployment benefits. In the auto industry, Supplemental Unemployment Benefits combined with State unemployment benefits amount to 95 percent of the workers' regular weekly pay after taxes. Benefits are available to workers with at least 1 year of service, with the duration of benefits graduated up to a maximum of 52 weeks after 7 years of service. Supplemental benefit plans are also found in Canadian labor contracts.

As indicated earlier, a broad system of supplementary benefits came into effect in France in 1975 for workers laid off for structural or cyclical reasons. Coverage is the same as for the unemployment insurance system, but eligibility provisions are more restrictive than for regular insurance benefits. Recipients must be under 60, registered for public assistance, and must have worked 6 months in the previous 12 months. In Germany, a scheme of supplementary benefits was put into effect for chemical workers in October 1975.

Trade adjustment assistance. In the United States, supplementary unemployment benefits are available to workers who lose their jobs because of import competition. Under the Trade Act of 1974, cash benefits added to regular unemployment insurance payments amount to 70 percent of the worker's former wage, with a maximum equal to the average weekly wage in manufacturing.

At present, the United States appears to be the only country with an assistance program specifically for workers who may be displaced by imports. Other countries help import-injured workers through general programs to aid the unemployed.

SEVERANCE PAY

Severance pay plans have been established by legislation or collective bargaining in a number of countries. A Bureau of Labor Statistics analysis of 1,550 American collective bargaining agreements in effect on or after July 1, 1974, indicated that one-third of the agreements contained severance pay plans with 41 percent of workers covered. Italy, Great Britain, France, and Sweden also have dismissal pay plans of fairly broad scope.

Italy passed severance pay legislation in 1965; the law provides that individual employees whose employment contract has been terminated are entitled to a length-of-service bonus. In Great Britain, a national system provides compensation for loss of job. In France, severance pay is provided to workers in certain industries.

Sweden established severance payments in 1964 through an agreement between the leading confederations of employers and trade unions. Payments are confined to workers over 50 with at least 10 years' service with the same employer, or whose age plus years of service total 65 or more. Germany has introduced the beginning of a severance pay program with a statutory provision that employers who terminate the contract of workers over 45 years of age must pay them a lump sum.

Receipt of severance pay usually does not affect the amount of unemployment benefits payable. In Canada, however, any lump sum payment on termination defers the benefit starting date by the number of weeks of normal earnings represented by the lump sum.

HEALTH INSURANCE

In the United States, workers who lose their jobs generally also lose their entitlement to health insurance coverage. The worker could, if financially able, continue paying for health insurance coverage, but he would have to pay at a much higher rate than when employed. A 1975 estimate indicated that only one employed person in four was in a program which specifically provided for coverage during layoff beyond the customary 1-month grace period.

Conversely, in most industrialized countries, workers receiving unemployment benefits are also eligible for health care. In Canada, Great Britain, and Sweden, health care programs cover all residents; employment status is immaterial. In France and Germany, where health care is job-related, a registered unemployed worker continues to receive health care coverage, with premiums paid by the government. Eligibility for health care also continues if unemployment benefits are exhausted and the worker is receiving unemployment assistance payments. In Japan, once a worker is unemployed he is no longer covered by the work-related system; his health coverage is picked up by an assistance system covering the general population.

In Italy, health insurance is job-related, but it may be extended to the unemployed if the sickness occurs within a specified period after separation. Thus, within the 2 months following separation, full medical and hospital benefits are available; from the second to the sixth month after separation, only medical benefits are available.

STATEMENT IN BEHALF OF CHAIRMAN AL ULLMAN BY CONGRESSMAN PICKLE WITH RESPECT TO THE RULE TO BE REQUESTED FOR CONSIDERATION OF H.R. 3605, REDUCTION IN BEER TAX FOR SMALL BREWERS

(Mr. PICKLE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PICKLE. Mr. Speaker, on August 23, 1976, the Committee on Ways and Means instructed Chairman Ullman to request a closed rule for the consideration of H.R. 3605, reduction in beer tax for small brewers, by the House of Representatives. This bill would reduce the excise tax on beer for small brewers.

Specifically, the committee instructed Chairman Ullman to request the Committee on Rules to grant a closed rule for consideration of H.R. 3605 which would provide for committee amendments which would not be subject to amendment, which would provide for 1 hour of general debate, to be equally divided, and which would provide for the usual motion to recommit.

H.R. 8911, SUPPLEMENTAL SECURITY INCOME AMENDMENTS

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, tomorrow when the House takes up consideration of H.R. 8911, I, together with 11 of my colleagues on the Ways and Means Committee, Representatives Ketchum, Rangel, Jones of Oklahoma, Frenzel, Waggonner, Jacobs, Martin, Schneebeli, Keys, Steiger of Wisconsin, and Stark, will offer an amendment to reduce the cost and improve the effectiveness of programs for disabled SSI children.

During the past several months, I have received numerous expressions of support for the amendment from agencies and associations dealing with disabled children—both from the governmental units that will have to administer the programs and the clients to be served support the proposal. Among the groups supporting the proposal are the National Association for Retarded Citizens, the Association of State and Territorial Maternal and Child Health and Crippled Children's Directors, the American Parents Committee, and the State of Illinois' Department of Children and Family Services. The letter from the Governors' Conference notes that they made recommendations to President Ford similar to those embodied in our amendment.

The letters I received from the organizations follow:

The American Parents
Committee, Inc.,
New York, N.Y.

The American Parents Committee supports the Mikva amendment to HR 8911, SSI Amendments of 1976.

We believe that the Mikva proposal as presented in the supplemental views of the report is preferable to what appears in HR 8911. We believe this to be the case because the proposals will make SSI for children more closely resemble that which is available to adults under SSI and the vocational rehabilitation program.

We also believe that it is absolutely critical that special disability criteria for children be developed. This problem of criteria for children is something that the Social Security Administration has been wrestling with since the inception of the program. We also believe that referral to an appropriate agency is better language than mandating referral to a Title V, Maternal and Child Health program. The APC has been a long time advocate of MCH programs but there are clearly instances, such as in the case of a mentally retarded child, that another agency would be better able to help that child.

The APC believes that the program should be funded as a Federal program. To do otherwise would be to seriously alter the basic make-up of the SSI program for all of the aged, blind and disabled who participate. While we believe that 100 percent Federal funding for all children is a goal we believe that 100 percent for pre-school children is the correct way to proceed. As Rep. Mikva, et al., point out in their supplemental views, older children have the resources of the school system available to them. In addition, most pediatricians I have talked to say that developmental or physical disabilities treated at an earlier age respond to treatment better.

The American Parents Committee, the oldest Washington public interest group working exclusively on behalf of Federal legislation for children, urges you to give your support to the Mikva proposal.

Sincerely yours,
Marilyn Marcosson,
Executive Director.

State of Illinois, Department of
Children and Family Services,
Springfield, Ill., May 19, 1976.
Hon. Abner Mikva,
U.S. Representative,
Cannon Office Building,
Washington, D.C.

Dear Congressman Mikva: In 1972, the Supplemental Security Income program was established thereby federalizing the Aid to Disabled, Aged, and Blind. The program was to have provided service to low income disabled children. There is such potential in the program because it could help to identify and treat disabled children at an early enough age saving money and human misery later on.

Regretfully, only 107,000 children have been served since 1973. The big question is why! The reasons are clear as no federal criteria has been established for determining disabilities of children, no valid system for referral and follow-up has been established, and lack of financial resources has seriously crippled the potential of this progressive legislation. H.R. 8911, with Congressman Mikva's amendments, will correct the inequities in the existing Supplemental Security Income Program.

This agency has seen the light in the cost benefits of instituting preventative programs which help the child at an early age. We are now reducing the more expensive out-of-home institutional costs. HEW has estimated the cost of the Mikva amendments at a realistic figure of $18,500,000 per year. I am confident the ultimate cost savings will make you proud to have voted in support of the Mikva amendments. Thank you.

Sincerely,
Tom Villiger,
Administrator,
Office of Child Development.

National Association for
Retarded Citizens,
Washington, D.C., August 24, 1976.
Hon. Abner J. Mikva,
Cannon House Office Building,
Washington, D.C.

Dear Congressman Mikva: I am writing you in support of the disabled children amendment which you intend to offer to H.R. 8911 when that bill comes to a vote in the House.

The National Association for Retarded Citizens has long sought a provision in the Supplemental Security Income program referring disabled children to whichever agency in the State provides health, social, developmental, and rehabilitative services appropriate to the needs of such children. We were therefore pleased to see a provision mandating referral of disabled children for certain health services included in the original version of H.R. 8911. Your amendment to this provision, extending coverage to developmental and rehabilitative services in addition to health services, has our heartiest support. We are also most pleased to see that your amendment would leave to the State to choose which agency shall be responsible for referral and providing other than the Maternal and Child/Crippled Children agency which provide comprehensive services to disabled children. We believe that it is desirable to allow States sufficient flexibility to designate the agency which in their judgment is most appropriate to local conditions.

We also endorse the provision in your amendment which authorizes 100% Federal matching funds for the provision of services to children under the age of six. This should assure that States are not impeded in their ability to deliver services to disabled SSI children by the need to locate scarce local matching funds.

On behalf of the National Association for Retarded Citizens, allow me to express our gratitude for your concern, sensitivity to important issues and openness to our suggestions.

Respectfully yours,
Mr. Marion P. Smith,
Chairman, Governmental Affairs Committee.

UNIVERSITY OF OREGON,
HEALTH SCIENCES CENTER,
Portland, Oreg., August 18, 1976.
Hon. ABNER J. MIKVA,
House of Representatives,
Cannon Office Building,
Washington, D.C.

DEAR REPRESENTATIVE MIKVA: I have perused your amendment to H.R. 8911 and find your proposal most reasonable and much to be preferred to the unamended proposal. Having Federal funding at only 50% of costs of services would create severe hardships among the states resulting in inconsistent application of this legislation as it relates to services for children over the country. At this time I don't know how many states would or could take on this program if they had to provide any funds for matching at this time. Certainly in Oregon I would have grave doubts that any funds would be provided to enable this program.

I am also pleased to commend you and your colleagues for recognizing the discrimination of children in the SSI legislation. Dr. Potsic's study of SSI for children in New York showing children being evaluated by physicians with no pediatric experience is not peculiar to New York. In Oregon the Crippled Children's Services had offered to provide evaluations for potentially eligible children who might not have otherwise been seen by us. Over the past three years I don't think more than 20 children have been referred for these evaluations.

The proposal in your amendment that the Crippled Children's program of each state administer the SSI program for children and to coordinate with other appropriate agencies is most important. The Crippled Children's programs have a long and well established history of providing integrated, interdisciplinary services to children and are the only agencies of state government that have concerns solely with handicapped children. These programs are therefore best suited to provide the individualized habilitation programs and follow up services required by this proposed legislation.

The Association of State and Territorial Maternal and Child Health and Crippled Children's Directors heartily endorse your proposal and hope that this letter of support will be helpful to assure the passage of your amendment to H.R. 8911.

Very truly yours,
VICTOR D. MENASHE, M.D.

NATIONAL GOVERNORS' CONFERENCE,
Washington, D.C., August 16, 1976.
Hon. ABNER J. MIKVA,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. MIKVA: I read with interest your proposed amendment to H.R. 8911 which would provide for the full federal financial reimbursement for the referral and the appropriate rehabilitative services of blind and disabled children receiving SSI benefits.

Enclosed is a copy of a paper presented to President Ford and the Cabinet on behalf of the Governors last December. Each of the six Governors who chaired the NGC standing committees prepared a list of issues and problems that they hoped could be addressed during the coming year. Governor Andrus, then Chairman of the NGC Committee on Human Resources, noted the problems of disabled children under SSI and stated that:

"The Governors are also concerned that regulations and guidelines on the eligibility, screening and treatment of disabled children under 13 have not been promulgated for legislation enacted in 1972. While 100% of the costs of such programs are federally funded for disabled citizens over 13, the Administration recommends that only half the cost of services for those under 13 be federally paid, with the States paying the other half.

"The Governors urge that disabled children receive the same benefits as older citizens and oppose any reduction in federal funding."

While these statements do not constitute formal policy on the part of the entire Conference, they do represent a real interest on the part of Governors in the resolution of this problem.

The Washington representatives of the Governors will be meeting in the near future to discuss H.R. 8911. Any comments you may have for their benefit would be appreciated.

Sincerely yours,
M. GAIL MORGAN,
Staff Director for the
Committee on Human Resources.

HORIZONTAL INTEGRATION OF OIL COMPANIES INTO OTHER ENERGY SOURCES

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, I would like to share with my colleagues an excellent policy paper written by a member of my 1976 High School intern program. The author, Cynthia Cohen of Bethesda-Chevy Chase High School, was among 38 high school students chosen competitively from the Eighth District of Maryland. They spent 3 weeks on and off Capitol Hill in an intense program of lectures, seminars, field trips, and individual research.

Each student independently picked a topic of current legislative interest, analyzed the problems, examined the alternatives, and argued for a solution. From these papers I have chosen "Horizontal Integration of Oil Companies into Other Energy Sources," as the winner. The text of the paper follows. Several excellent runners-up will be inserted in coming days.

JULY 1976.

HORIZONTAL INTEGRATION OF OIL COMPANIES INTO OTHER ENERGY SOURCES

(By Cynthia S. Cohen)

Competition in the oil industry is severely limited and current antitrust measures seem to be unable to restore a free market. Efficient use of energy resources is crucial if the United States is to achieve its goal of energy independence. The major oil companies are now horizontally expanding into other energy sources. Should Congress take action to insure competition in the energy industry?

A well-planned federal energy policy is vitally important if the United States is to become self-sufficient while at the same time preserving the environment. The United States should shift as soon as possible to alternate energy sources because of finite supplies of petroleum and to avoid the influence of the OPEC cartel.

In a free and competitive market such a shift would occur naturally. As the supply of petroleum diminished and the price rose, other cheaper fuels would take its place. The value of competition and the open market has been established legislatively as a principle of American business. The Sherman Antitrust Act of 1890 prohibits contracts in restraint of trade and monopolization of interstate and international trade. The Clayton Act of 1914 outlaws certain specific practices not included in the Sherman Act such as price-fixing, tying clauses and exclusive dealing agreements, and interlocking directorates among competing firms. Section 7, as amended in 1950, prohibits the acquisition of the assets of one corporation by another where such acquisition would tend to restrain trade or create a monopoly. Also in 1914, the Federal Trade Commission Act outlawed "unfair methods of competition" and established a commission to investigate and prosecute offenders. Further amendments and a series of Supreme Court decisions have established rules of conduct for business.

According to the rules laid down by Sherman, Clayton, and FTC Acts, and the court decisions, the petroleum industry is now violating the law by restricting competition. Although the oil industry is not the most concentrated American industry, collusion between the top firms has substantially reduced competition. The indicator commonly cited by the oil industry concerning competition is the concentration ratio, "the percentage of total business in a given industry that is handled by a specified number of the largest firms—usually the top four, eight, and twenty firms." [1] According to the concentration ratios, the petroleum industry is no more concentrated than many other industries such as aluminum, motor vehicles and car bodies, and salt.[2] However, these figures give no indication of collusion between the largest firms. In a February 1974 complaint against the eight largest integrated oil companies the Federal Trade Commission cited collusion as a way to "share risks and insure monopoly profits." The FTC stated that—

"The (oil) companies are interdependent to such an extent that, in virtually every facet of their operation, they have common rather than competitive interests. While intercompany cooperation is particularly pervasive at certain levels of industry, no level of operation is free of strong ties between the companies." [3]

The companies are tied together by joint ventures in the acquisition of leases, production of crude oil, transportation of products, and ownership of foreign gas and oil concessions. "The net effect of these interrelationships," according to the FTC complaint, "has been to create a solid community of interest among—the companies—which fosters cooperation rather than competition in the industry."

Within the last decade the major oil companies have been gaining increasing control over other fuel industries. The House Subcommittee on Special Small Business Problems issued a report in 1971 on "Concentration By Competing Raw Fuel Industries in the Energy Market and its Impact on Small Business." The committee found that:

"The major oil companies account for approximately 84% of U.S. refining capacity; about 72% of the natural gas production and reserve ownership; 30% of the domestic coal reserves and over 20% of the domestic coal production capacity; over 50% of the uranium reserves and 25% of uranium milling capacity. Further, the major oil companies are acquiring oil shale and tar sands as well as water rights in many areas of the country." [4]

The oil companies gained much of this control through the acquisition of already existing companies. These mergers are a clear violation of section 7 of the Clayton Act because they tend to create a monopoly in the energy market. The petroleum firms are potential entrants into other energy

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Footnotes at end of article.

sources and a merger prevents competitive entry. Since 1952 the major oil companies have violated antitrust laws by entering the coal and uranium industries through merger and acquisition rather than internal expansion. Each of the following mergers represents a lessening of competition in the energy industry.

MAJOR MERGERS BETWEEN OIL AND COAL COMPANIES

Gulf Oil—Pittsburgh and Midway Coal Mining Company (1963).

Continental Oil—Consolidation Coal Co. (1966).

Occidental Petroleum—Island Creek (1968).

Sohio—Old Ben Coal Company (1968).

Ashland-H. L. Hunt—Arch Mineral (1968).

MAJOR MERGERS BETWEEN OIL AND URANIUM COMPANIES [5]

Kerr-McGee—Navaho Mining Company (1952).

Kerr-McGee—Pacific Uranium Mines (1960).

Kerr-McGee—Gunnison Mining (1961).

Kerr-McGee—Lakeview Mining (1961).

Kerr-McGee—Nuclear Fuels Dept. of Spencer Chemical (1962).

Gulf—General Atomic (1967).

Atlantic Richfield—Nuclear Materials and Equipment (1967).

Getty Oil—Nuclear Fuels Services (1968, 1969).

The consequence of allowing the oil companies to expand into other fuels is the development of a non-competitive energy industry. Price competition and product improvement will be at least partially eliminated. Price will be determined by a few giant corporations instead of by the consumers in the marketplace. Even now the major oil companies are delaying their production of those fuels. In 1973 when the oil companies owned 34% of the coal, they produced only 22%. As they increased their ownership to 42% in 1974, they went down to 20% in production. Further examples of restricted production are found in the mergers previously listed. Old Ben Coal Company produced at least 12 million tons of coal in 1968 when Sohio merged with it. Production gradually decreased so that, by 1974, Old Ben produced only 9.5 million tons. A more drastic example is the acquisition of Consolidated Coal by Continental Oil. In 1967, 43.7 million tons of coal were produced. By 1974, production had declined to 7 million tons. Meanwhile, Continental's coal holdings had increased from 48.7 million tons to over 2 billion tons. So, as Continental Oil acquired more coal holdings, it produced less.[6]

By restricting coal production, the oil companies maintain an artificially high price for coal. The natural shift in the marketplace to alternate fuel sources does not occur and petroleum continues to sell.

What possible options does Congress have that would break up the energy oligopoly? First, Congress could take no action. Possible antitrust violations would be dealt with, as they are now, on a case-by-case basis by the FTC and the Antitrust Division of the Justice Department. Or, Congress could encourage stronger action on the part of the FTC and Justice Department since their record on the prosecution of oil companies is very weak. A third option is the possible enactment of a measure similar to section 105C of the Atomic Energy Act which would stipulate (a) that any petroleum producer acquiring any other property involving energy production or sale must notify the Justice Department and/or the FTC; and (b) either agency should call a hearing to determine whether such acquisition would violate antitrust laws. A stronger Congressional action would be to substantially amend section 7 of the Clayton Act (by the passage of S. 489) to make interfuel energy ownership or mergers illegal *per se*. Finally, a fifth option, which could accompany any of the others, would be to change the regulations covering the leasing of public lands. This would lower the total amount of capital needed to enter the energy industry.

Congress should prohibit horizontal integration of oil companies into other energy sources by passing S. 489. Also, federal land lease policies should be changed so that a company can delay payment on its leasehold bid until after production is under way. There are many precedents for divestiture of horizontally integrated industries. In the field of transportation Congress "has explictly acted to prohibit common ownership of competing modes of transport."[7] The Panama Canal Act of 1912 prohibited common control of railroads and water carriers. In section 213 of the Motor Carrier Act of 1935, Congress prohibited common control of railroads and motor carriers. And, section 408 of the Civil Aeronautics Act of 1938 prohibits common control of surface and air transportation.

Congress forced divestiture in areas other than transportation when the danger of horizontal concentration in various industries became apparent. The Public Utility Holding Act of 1935 required companies to divest themselevs of either their gas or electricity distribution facilities. And in 1906 Congress enacted the Hepburn Act which forced the railroads to stop producing coal.

The first option (no action) and second option (Congressional encouragement of stronger action on the part of the FTC and Justice Department) should not be adopted because they have proven ineffective. In May 1970 the Justice Department said it would "scrutinize with care" any future proposals for interfuel mergers. In October 1970 the FTC launched an investigation into antitrust aspects of the oil firms entry into other energy fields. In April 1975 the FTC rejected staff proposals to hasten antitrust action against eight major oil companies. Whether this lack of activity is due to political considerations, budget limitations, or some other reason, it is obvious that the FTC and Justice Department cannot be relied upon to preserve a competitive energy industry. The third option is as unfeasible as the first two because it would require more action from the two agencies which are currently so ineffective.

The oil companies claim that they alone possess the size necessary for energy development. Such claims are largely untrue and legally unjustifiable. Economies of scale are not an accepted legal defense against antitrust action. This was established in the U.S. v. Bethlehem Steel case in 1950. Some economies of scale are actually caused by government policies which are advantageous to large companies but provide no real savings for the taxpayer. The fifth option (delaying payment on leasehold bids) is desirable because it eliminates the bias of the government toward large companies when leasing federal land.

Passage of a bill to require horizontal divestiture is crucial to the United States' energy policy because it would provide a clearly defined, enforceable method of restricting horizontal integration. All oil companies should be given three years to divest themselves of any assets, reserves, or businesses related to other energy sources. This kind of bill is mandated by the constantly enlarging power over the energy supply of the entire nation.

FOOTNOTES

[1] Howard Useem, "Restructing the Petroleum Industry" (Congressional Research Service; June 11, 1976), Issue Brief 76031, pg. 2.

[2] Ibid, pg. 3.

[3] James Abourezk, "Interfuel Competition Act of 1975" Remarks in the Senate (Congressional Record; October 22, 1975).

[4] Ibid.

[5] Edward Kennedy, "Energy Company Divestiture Act" Remarks in the Senate (Congressional Record; October 22, 1975), pg. 33620.

[6] Ibid, pg. 33620.

[7] Ibid, pg. 33617.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mrs. Chisholm (at the request of Mr. O'Neill), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Butler), and to revise and extend their remarks and include extraneous matter:)

Mr. Gilman, for 5 minutes, today.

Mr. Talcott, for 5 minutes, today.

Mr. Frenzel, for 60 minutes, today.

Mr. Cleveland, for 5 minutes, today.

Mr. Goldwater, for 5 minutes, today.

Mr. Findley, for 5 minutes, today.

Mr. Kemp, for 10 minutes, today.

(The following Members (at the request of Mr. Derrick), to revise and extend their remarks and to include extraneous matter:)

Mr. Gonzalez, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Flood, for 5 minutes, today.

Mr. Drinan, for 30 minutes, today.

Mrs. Meyner, for 5 minutes, today.

Mr. Wolff, for 30 minutes, today.

Ms. Abzug, for 10 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Long of Louisiana, for 15 minutes, today.

Mr. Rees, for 5 minutes, today.

Mr. Wirth, for 5 minutes, today.

Mr. Baucus, for 10 minutes, today.

Mr. Udall, for 5 minutes, today.

Mr. Drinan, for 30 minutes, on August 26.

Ms. Abzug, for 5 minutes, on August 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Steiger of Wisconsin, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,430.

Mr. Edwards of California, to follow remarks of Mr. Dodd on H.R. 14070 today.

Mr. Gude, to revise and extend his remarks prior to the vote on the Pickle amendment to H.R. 14070 in the Committee of the Whole today.

(The following Members (at the request of Mr. BUTLER) and to include extraneous matter:)

Mr. LUJAN.
Mr. YOUNG of Florida.
Mr. FORSYTHE.
Mr. GILMAN in two instances.
Mr. MOSHER.
Mr. HYDE in two instances.
Mr. ABDNOR.
Mr. CONTE.
Mr. FINDLEY in three instances.
Mr. DERWINSKI in three instances.
Mr. HEINZ.
Mr. LAGOMARSINO in two instances.
Mr. KETCHUM.
Mr. LENT.
Mr. SKUBITZ.
Mr. ROUSSELOT in two instances.
Mr. TALCOTT in two instances.
Mr. BROWN of Ohio in two instances.
Mr. COLLINS of Texas in three instances.
Mr. KEMP in three instances.
Mr. ASHBROOK.

(The following Members (at the request of Mr. DERRICK) and to include extraneous matter:)

Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. GINN.
Mr. MURTHA.
Mr. BURKE of Massachusetts.
Mr. YOUNG of Georgia.
Mr. CHAPPELL.
Mr. O'NEILL.
Mrs. SCHROEDER.
Mrs. COLLINS of Illinois.
Mr. ROYBAL.
Mr. RANGEL.
Mr. HANNAFORD in two instances.
Mr. MAZZOLI in five instances.
Mr. CLAY.
Mr. DINGELL in three instances.
Mr. MCDONALD in two instances.
Mr. WIRTH.
Mr. FRASER.
Mr. STOKES.
Mr. WOLFF.
Mr. OBERSTAR.

SENATE BILLS AND A JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2112. An act to authorize the Secretary of the Interior to conduct a study with respect to the feasibility of establishing the Bartram Trail as a national scenic trail; to the Committee on Interior and Insular Affairs.

S. 2486. An act to authorize the Secretary of the Interior to conduct a study with respect to the feasibility of establishing the Florida Trail as a national scenic trail; to the Committee on Interior and Insular Affairs.

S. 2783. An act to authorize a study for the purpose of determining the feasibility and desirability of designating the Daniel Boone Trail as a national scenic trail; to the Committee on Interior and Insular Affairs.

S. 3273. An act to authorize a study for the purpose of determining the feasibility and desirability of designating the Nee-Me-Poo Trail as a national scenic trail; to the Committee on Interior and Insular Affairs.

S. 3528. An act to authorize the Secretary of the Interior and the Secretary of Agriculture to conduct a study with respect to the feasibility of establishing the Desert Trail as a national scenic trail; to the Committee on Interior and Insular Affairs.

S.J. Res. 139. Joint resolution to direct the Secretary of the Interior to conduct a 1-year feasibility/suitability study of Saint Paul's Church, Eastchester; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3435. An act to increase an authorization of appropriations for the Privacy Protection Study Commission, and to remove the fiscal year expenditure limitation.

ADJOURNMENT

Mr. DERRICK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, August 26, 1976, at 11 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3865. A letter from the Secretary of the Air Force, transmitting a report covering the 6 months ended June 30, 1976, on Air Force experimental, developmental and research contracts of $50,000 and over, pursuant to 10 U.S.C. 2357; to the Committee on Armed Services.

3866. A letter from the Secretary of Housing and Urban Development, transmitting the seventh report on the Emergency Homeowners' Relief Act, pursuant to section 111 of the act; to the Committee on Banking, Currency and Housing.

3867. A letter from the Director, Bureau of Land Management, Department of the Interior, transmitting a report on negotiated sales contracts for the disposal of materials during the period January 1 through June 30, 1976, pursuant to section 2(b) of Public Law 87-689; to the Committee on Interior and Insular Affairs.

3868. A letter from the Senior Adviser and Coordinator for International Narcotics Matters, Department of State, transmitting a proposal that the semiannual report on international narcotics control required by section 481(b)(2) of the Foreign Assistance Act be submitted for the 9-month period ending September 30, 1976, rather than the 6 months ended June 30; to the Committee on International Relations.

RECEIVED FROM THE COMPTROLLER GENERAL

3869. A letter from the Comptroller General of the United States, transmitting a report on computers and U.S. military readiness in Europe; jointly, to the Committee on Government Operations, and Armed Services.

3870. A letter from the Comptroller General of the United States, transmitting a report on how the Department of Housing and Urban Development can improve the quality of independent public accountant audits of public housing agencies; jointly, to the Committees on Government Operations, and Banking, Currency and Housing.

3871. A letter from the Comptroller General of the United States, transmitting an evaluation of proposed Federal assistance for financing commercialization of emerging energy technologies; jointly, to the Committees on Government Operations, Science and Technology, Banking, Currency and Housing, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PEPPER: Committee on Rules. House Resolution 1496. A resolution providing for the consideration of H.R. 14844. A bill to revise the estate and gift tax laws of the United States (Rept. No. 94–1437). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. STRATTON: Committee on Armed Services. H.R. 4105. A bill to amend section 1402(a) of title 10, United States Code, to revise the rule for computation of retired or retainer pay to reflect later active duty; with an amendment; referred to the Committee on Appropriations for a period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93–344 (Rept. No. 94–1435, pt. I).

Mr. STRATTON: Committee on Armed Services. S. 2090. An act to make the provisions of section 1331(e) of title 10, United States Code, retroactive to November 1, 1953; referred to the Committee on Appropriations for a period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93–344. (Rept. No. 94–1436, pt. I).

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BALDUS:

H.R. 15254. A bill to authorize the great river study; to the Committee on Public Works and Transportation.

By Mr. BROWN of Ohio:

H.R. 15255. A bill to direct the Secretary of the Interior to conduct a 1-year feasibility/suitability study of a national museum of Afro-American history and culture at or near Wilberforce, Ohio; to the Committee on Interior and Insular Affairs.

By Mr. BYRON:

H.R. 15256. A bill to establish the Lake Clark National Park in the State of Alaska, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. COHEN:

H.R. 15257. A bill to provide for quality assurance and utilization control in home health care under the medicare, medicaid, and social services programs in accordance with a plan to be developed by a commission specifically established for that purpose; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. GILMAN:

H.R. 15258. A bill to amend title II of the Social Security Act to reduce from 72 to 65 the age beyond which deductions on account of an individual's outside earnings will no longer be made from such individual's benefits; to the Committee on Ways and Means.

By Mr. HUGHES:

H.R. 15259. A bill to provide technical and financial assistance for the development of management plans and facilities for the recovery of energy and other resources from discarded materials and for the safe disposal of discarded materials, to regulate the management of hazardous waste, and to reclaim waters damaged by sludge and sewage; to the Committee on Interstate and Foreign Commerce.

By Mr. HYDE:

H.R. 15260. A bill to amend title 18 of the United States Code for the purpose of prohibiting the sale of children in interstate or foreign commerce; to the Committee on the Judiciary.

By Mr. LUJAN:

H.R. 15261. A bill to provide for control of incipient or emergency outbreaks of range caterpillars; to the Committee on Agriculture.

By Mr. McCLOSKEY:

H.R. 15262. A bill to provide for certain import restrictions against enterprises engaged in prohibited whaling activities, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, and Ways and Means.

By Mr. MATHIS:

H.R. 15263. A bill to establish a council on judicial tenure in the judicial branch of the Government, to establish a procedure in addition to impeachment for the retirement of disabled Justices and judges of the United States, and the removal of Justices and judges whose conduct is or has been inconsistent with the good behavior required by article III, section 1 of the Constitution, and for other purposes; to the Committee on the Judiciary.

By Mr. PEYSER:

H.R. 15264. A bill to amend title 18 of the United States Code to provide for the review of sentences imposed in certain criminal cases involving physical violence or crimes committed with a firearm, and for other purposes; to the Committee on the Judiciary.

By Mr. ST GERMAIN:

H.R. 15265. A bill to establish an office of inspector general within the Department of Health, Education, and Welfare, and for other purposes; to the Committee on Government Operations.

By Mr. WHITTEN:

H.R. 15266. A bill to authorize construction of the project for Nonconnah Creek, Tenn. and Miss., and Horn Lake Creek, including Cowpen Creek, Tenn. and Miss.; to the Committee on Public Works and Transportation.

By Mr. YOUNG of Texas:

H.R. 15267. A bill to provide for modification of the navigation project for the Guadalupe River, Tex.; to the Committee on Public Works and Transportation.

By Mr. WIRTH (for himself, Mr. Van Deerlin, and Mr. Rose):

H.R. 15268. A bill to amend the Communications Act of 1934 to provide just and reasonable rates, terms, and conditions for the use of certain rights-of-way by persons desiring to lease space for wire communication; to the Committee on Interstate and Foreign Commerce.

By Ms. ABZUG (for herself, Mr. Badillo, Mr. Beard of Rhode Island, Mr. D'Amours, Mr. Davis, Mr. Edwards of California, Mr. Flood, Mr. Harrington, Mr. Heinz, Mr. Kemp, Mr. Koch, Mr. Lehman, Mr. Long of Maryland, Mr. McHugh, Mr. Nix, Mr. Patterson of California, Mr. Richmond, and Mr. Rosenthal):

H.R. 15269. A bill to bar foreign assistance to any nation air traffic to and from which is suspended for violation of the air piracy provisions of the Aviation Act of 1958; to the Committee on International Relations.

By Ms. ABZUG (for herself, Mr. Badillo, Mr. Beard of Rhode Island, Mr. D'Amours, Mr. Davis, Mr. Edwards of California, Mr. Flood, Mr. Harrington, Mr. Heinz, Mr. Kemp, Mr. Koch, Mr. Lehman, Mr. Long of Maryland, Mr. McHugh, Mr. Nix, Mr. Patterson of California, Mr. Richmond, and Mr. Rosenthal):

H.R. 15270. A bill to require that the President suspend air transportation rights of any foreign nation which assists air terrorists, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. LONG of Louisiana:

H.R. 15271. A bill to amend the Interstate Commerce Act to establish timing requirements and penalties with respect to the settlement of property damage claims, and for other purposes; jointly, to the Committees on Public Works and Transportation, and Interstate and Foreign Commerce.

By Mr. OBERSTAR:

H.R. 15272. A bill to amend the Fish and Wildlife Coordination Act, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. PRICE (for himself and Mr. Anderson of Illinois) (by request):

H.R. 15273. A bill to provide for more efficient and effective control over the proliferation of nuclear explosives by amendments to the Atomic Energy Act of 1954, as amended; to the Joint Committee on Atomic Energy.

By Mr. UDALL:

H.R. 15274. A bill to amend the Atomic Energy Act of 1954 to provide that no applications for construction licenses under the act for production or utilization facilities shall be acted upon by the Commission unless the proposed facility has been approved by affected States; to the Joint Committee on Atomic Energy.

H.R. 15275. A bill to amend the Atomic Energy Act of 1954 to provide that construction licenses under the act shall be subject to State disapproval during a 90-day period following the issuance thereof; to the Joint Committee on Atomic Energy.

By Mr. ZEFERETTI (for himself, Mr. Biaggi, Mr. Phillip Burton, Mr. Murphy of New York, Mr. Scheuer, Mr. Yates, Mr. Harris, Mrs. Spellman, Mr. Russo, Mr. Addabbo, and Mr. Dent):

H.R. 15276. A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for inclusion of officers and members of the U.S. Park Police force under the Federal pay comparability system and to require submittal of a report on the feasibility and desirability of codifying the laws relating to the U.S. Park Police; to the Committee on the District of Columbia.

By Mr. ADDABBO (for himself, Mr. Anderson of Illinois, Mr. Buchanan, Mr. Cotter, Mr. Coughlin, Mr. Dent, Mr. Flood, Mr. Florio, Mr. Gaydos, Mr. Gude, Mr. Helstoski, Mr. Hughes, Mr. Johnson of California, Ms. Keys, Mr. LaFalce, Mr. McDade, Mr. Mann, Mr. Mollohan, Mr. Price, Mr. Rangel, Mr. Riegle, Mr. Rosenthal, Mr. Snyder, Mr. Traxler, and Mr. Walsh):

H.J. Res. 1058. A resolution authorizing the President to proclaim September 8 of each year as National Cancer Prevention Day; to the Committee on Post Office and Civil Service.

By Mr. FINDLEY:

H.J. Res. 1059. A resolution proposing an amendment to the Constitution of the United States to establish a single 6-year term for the President; to the Committee on the Judiciary.

By Mr. GAYDOS:

H.J. Res. 1060. A resolution designating February of each year as "American History Month"; to the Committee on Post Office and Civil Service.

By Mr. MYERS of Indiana:

H.J. Res. 1061. A resolution authorizing the President to proclaim September 8 of each year as "National Cancer Day"; to the Committee on Post Office and Civil Service.

By Mr. STAGGERS:

H.J. Res. 1062. A resolution providing for a National Leadership Conference on Energy Policy to be held during 1977; to the Committee on Government Operations.

By Mr. MURPHY of New York (for himself, Mr. Charles H. Wilson of California, Mr. Burke of Florida, Mr. Walsh, Mr. Blanchard, Mr. Allen, Mr. Mikva, Mr. Ketchum, Mr. Regula, Mr. Nix, Mr. Mollohan, Mr. Heinz, Mr. Ichord, Mr. Staggers, Mr. Taylor of North Carolina, Mr. Shriver, Mr. Young of Florida, Mr. Cleveland, Mr. Gude, Mr. Conable, Mr. Passman, Mr. Flynt, Mr. Dent, Mr. Mills, and Mr. Young of Texas):

H. Con. Res. 721. A resolution expressing the sense of Congress that the President take steps to place on the agenda of the United Nations Organization the threat to the peace created by the murder of two American Army officers by members of the North Korean Armed Forces; to the Committee on International Relations.

By Mr. MURPHY of New York (for himself, Mr. Charles H. Wilson of California, Mr. Duncan of Tennessee, Mr. Seiberling, Mr. Dickinson, and Mrs. Holt):

H. Con. Res. 722. A resolution expressing the sense of Congress that the President take steps to place on the agenda of the United Nations Organization the threat to the peace created by the murder of two American Army officers by members of the North Korea Armed Forces; to the Committee on International Relations.

By Mr. WOLFF (for himself, Mrs. Fenwick, Mr. Burke of Massachusetts, Mr. Pepper, Mr. Roe, Mr. LaFalce, Mr. Eilberg, Mr. Edgar, Mr. Won Pat, Mr. Cotter, Mr. Bedell, Mr. Scheuer, Mr. Downey of New York, Mr. Howe, Mr. Conte, Mr. Fraser, Mr. Mazzoli, Mr. Riegle, Mrs. Heckler of Massachusetts, and Mr. Conable) (by request):

H. Con. Res. 723. A resolution expressing the sense of Congress that the President call a White House Conference on Marriage and the Family; to the Committee on Education and Labor.

By Mr. MURPHY of New York (for himself, Mr. Charles H. Wilson of California, Mr. Burke of Florida, Mr. Walsh, Mr. Blanchard, Mr. Allen, Mr. Mikva, Mr. Ketchum, Mr. Regula, Mr. Nix, Mr. Mollohan, Mr. Heinz, Mr. Ichord, Mr. Staggers, Mr. Taylor of North Carolina, Mr. Shriver, Mr. Young of Florida, Mr. Jeffords, Mr. Cleveland, Mr. Gude, Mr. Conable, Mr. Passman, Mr. Flynt, Mr. Dent, and Mr. Mills):

H. Res. 1491. A resolution instructing the Committee on the Armed Services to study and report on the murder of two American Army officers by members of the North Korean armed services; to the Committee on Rules.

By Mr. MURPHY of New York (for himself, Mr. Charles H. Wilson of California, Mr. Young of Texas, Mr. Duncan of Tennessee, Mr. Seiberling, Mr. Dickinson, and Mrs. Holt):

H. Res. 1492. A resolution instructing the Committee on the Armed Services to study and report on the murder of two American Army officers by members of the North Korean armed services; to the Committee on Rules.

By Mr. MURPHY of New York (for himself, Mr. Charles H. Wilson of California, Mr. Burke of Florida, Mr. Walsh, Mr. Blanchard, Mr. Allen, Mr. Mikva, Mrs. Pettis, Mr. Ketchum, Mr. Regula, Mr. Nix, Mr. Mollohan, Mr. Heinz, Mr. Ichord, Mr. Staggers, Mr. Taylor of North Carolina, Mr. Shriver, Mr. Young of Florida, Mrs. Collins of Illinois, Mr. Jeffords, Mr. Cleveland, Mr. Gude, Mr. Conable, Mr. Passman, and Mr. Flynt):

H. Res. 1493. A resolution condemning the treacherous acts of North Korean; to the Committee on International Relations.

By Mr. MURPHY of New York (for himself, Mr. Charles H. Wilson of California, Mr. Dent, Mr. Mills, Mr. Young of Texas, Mr. Duncan of Tennessee, Mr. Seiberling, Mr. Dickinson, and Mrs. Holt):

H. Res. 1494. A resolution condemning the treacherous acts of North Korea; to the Committee on International Relations.

By Mr. THOMPSON:

H. Res. 1495. A resolution providing salary adjustments for the official reporters of debates and official reporters to committees; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PEYSER:

H.R. 15277. A bill for the relief of Mrs. Vibeke McCready; to the Committee on the Judiciary.

By Mr. RIEGLE:

H.R. 15278. A bill for the relief of Hun Sik Sanderson; to the Committee on the Judiciary.

By Mr. RONCALIO:

H.R. 15279. A bill for the personal relief of Theodore H. Gies; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

447. The SPEAKER presented a memorial of the Legislature of the State of California, relative to the regional office of the Pacific Fisheries Management Council, which was referred to the Committee on Merchant Marine and Fisheries.

PETITIONS, ETC.

Under clause 1 of rule XXII,

567. The SPEAKER presented a petition of H. G. Rickover, at sea aboard the U.S.S. *Bainbridge*, relative to the construction of nuclear-powered major combatant vessels, which was referred to the Committee on Armed Services.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 14238

By Mr. GRASSLEY:

Page 2, line 15, strike the period and insert a colon and the following language: "*Provided*, That none of the funds in this Act shall be used to pay any Member of the House of Representatives, Delegate to the House of Representatives, or the Resident Commissioner from Puerto Rico, at an annual rate of pay which is in excess of the annual rate of pay in effect with respect to such individual on September 30, 1976."

Page 3, line 4, strike the period and insert a colon and the following language: "*Provided*, That none of the funds in this Act shall be used to pay the majority leader or minority leader of the House of Representatives, or the Speaker of the House of Representatives, at an annual rate of pay which is in excess of the annual rate of pay in effect with respect to such individual on September 30, 1976."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of August 24, 1976, page 27545.

HOUSE BILLS

H.R. 14890. July 27, 1976. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in a State project to repair or replace unsafe bridges. Extends the Highway Trust Fund and the Land and Water Conservation Fund through fiscal year 1990. Postpones specified excise tax reductions under the Internal Revenue Code.

H.R. 14891. July 27, 1976. Armed Services. Authorizes the President to sell certain naval vessels to the Government of Iran.

H.R. 14892. July 27, 1976. Armed Services. Authorizes the President to sell certain naval vessels to the Government of Venezula.

H.R. 14893. July 27, 1976. Armed Services. Authorizes the President to sell certain naval vessels to the Government of Pakistan.

H.R. 14894. July 27, 1976. Interstate and Foreign Commerce. Prohibits the distribution or sale of mailing lists of individuals under the age of 18 for use in any commercial solicitation.

H.R. 14895. July 27, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 14896. July 27, 1976. Judiciary. Directs Federal Courts to consider specified criteria in the imposition of terms of imprisonment for criminal offenses.

Establishes a United States Commission on Sentencing as an independent commission within the judicial branch of the United States Government to promulgate sentencing guidelines for criminal offenses.

H.R. 14897. July 27, 1976. Banking, Currency and Housing. Amends the Consumer Credit Protection Act to prohibit the distribution of consumer information reports by investigation agencies except for specified uses such as credit transactions, employment purposes, or insurance underwriting. Limits the use of adverse information in such reports.

Requires that the consumer be notified whenever medical information is provided for use in such report or when adverse action is taken based on information in such report. Gives the consumer the right to examine any file held by such investigation agency and to challenge information contained in such file.

H.R. 14898. July 27, 1976. Post Office and Civil Service. Limits the persons who may be admitted to the Federal competitive service to those individuals who either are United States citizens or owe permanent allegiance to the United States.

Authorizes the President to prescribe exceptions from such requirements.

H.R. 14899. July 27, 1976. Public Works and Transportation. Deauthorizes the Lafayette Dam and Reservoir in Indiana.

H.R. 14900. July 27, 1976. Public Works and Transportation. Directs the Secretary of Transportation to determine and assign to each bridge located on any Federal-aid highway system a sufficiency rating based on its condition, essentiality for public use, age, and average daily traffic.

Requires that the apportionment of funds out of the Highway Trust Fund to States for bridge rehabilitation and repair be based on such rating. Authorizes the Secretary to approve State bridge inspection programs.

H.R. 14901. July 27, 1976. Interior and Insular Affairs. Directs the Secretary of the Interior to allow any chief of the Piscataway Indian Tribe to be buried at Piscataway Park in Oxon Hill, Maryland.

H.R. 14902. July 27, 1976. Post Office and Civil Service. Limits the persons who may be admitted to the Federal competitive service to those individuals who either are United States citizens or owe permanent allegiance to the United States.

Authorizes the President to prescribe exceptions from such requirement.

H.R. 14903. July 27, 1976. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 14904. July 28, 1976. Wals and Means. Amends the Internal Revenue Code to grant tax exempt status to industrial development bonds the proceeds of which are used for drydock facilities the primary purpose of which is to be for repairing, inspecting, or servicing vessels.

H.R. 14905. July 28, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to make eligible for registration as being of United States nationality, aircraft owned by a citizen of a foreign country who has been lawfully admitted for permanent residence into the United States.

H.R. 14906. July 23, 1976. Post Office and Civil Service. Designates the birthday of Martin Luther King, Junior, as a legal public holiday.

H.R. 14907. July 28, 1976. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to provide that any employer who successfully contests a citation or penalty under such Act shall be awarded a reasonable attorney's fee and other reasonable litigation costs.

H.R. 14908. July 28, 1976. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to provide that any employer who successfully contests a citation or penalty under such Act shall be awarded a reasonable attorney's fee and other reasonable litigation costs.

H.R. 14909. July 28, 1976. Interstate and Foreign Commerce. Amends the Federal Railroad Safety Act of 1970 to direct the Secretary of Transportation to issue regulations requiring that all the glass in the exposed windows of railroad locomotives and rear cars be bulletproof.

H.R. 14910. July 28, 1976. Ways and Means. Prohibits the importation of any product from the liver of any duck or goose which has been force-fed.

H.R. 14911. July 28, 1976. Education and Labor. Amends the National Labor Relations Act to provide that an employee shall not be required to join or support a labor organization as a condition of employment if it is contrary to his religion.

H.R. 14912. July 28, 1976. Agriculture. Directs the Secretary of Agriculture to develop and periodically reevaluate a national program for the conservation of land, water, and related resources. Requires use of program elements in preparation of budget requests to Congress.

H.R. 14913. July 28, 1976. Education and

Labor. Amends the National Labor Relations Act to provide that an employee shall not be required to join or support a labor organization as a condition of employment if it is contrary to his religion.

H.R. 14914. July 28, 1976. Judiciary. Sets forth penalties for unauthorized disclosure of information identifying any individual's association with the foreign intelligence operation of the United States.

H.R. 14915. July 28, 1976. Banking, Currency and Housing. Amends the Flood Disaster Protection Act of 1973 to eliminate flood insurance and community participation in the national flood insurance program as prerequisites for Federal approval of financial assistance for acquisition or construction of, or for lending institution loans secured by, any building, mobile home, or personal property located or to be located in an area having special flood hazards.

EXTENSIONS OF REMARKS

MASSACHUSETTS IS PROUD OF ARTHUR FIEDLER

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. BURKE of Massachusetts. Mr. Speaker, I am sure my colleagues are all aware of the renowned conductor of the Boston Pops Orchestra, Arthur Fiedler. Maestro Fiedler, now 81 years of age, has been conducting the Boston Pops since 1930. Through concert tours and public television performances, he has brought a new appreciation and love of music into the lives of many Americans. Mr. Fiedler's innovative programs, combining classical and popular musical styles, create delightful and exciting performances, with something for everyone.

The people of the Commonwealth of Massachusetts are particularly proud of Arthur Fiedler and the Boston Pops and fill Symphony Hall in Boston every evening there is a concert. Many Massachusetts groups and organizations have honored Mr. Fiedler over the years for his contributions to the world of music, among these the 1972 Bay Stater of the Year Award presented by the Massachusetts State Society of Washington, D.C.

As the 1976 recipient of the Bay State Award, I am indeed honored to join such distinguished company. I would like to join with the Massachusetts State Society in paying further tribute to Arthur Fiedler by introducing the following Wall Street Journal article in today's CONGRESIONAL RECORD.

ARTHUR FIEDLER MIXES POP AND THE CLASSICS AS CONCERTGOERS CHEER—HIS BOSTON POPS ORCHESTRA KEEPS THE MOOD LIVELY, INFLUENCES U.S. TASTES

A VIOLEST REFUSES TO WHISTLE

(By Liz Roman Gallese)

BOSTON.—It is a sultry summer evening, and here at Symphony Hall, spotlighted under a canopy of shimmering white light, conductor Arthur Fiedler lifts his baton before the Boston Pops Orchestra. Strains of a Gershwin medley fill the hall. In the audience, men in bright sport jackets and women in summer dresses sit around tiny tables, sipping white wine, nibbling tiny sandwiches and bobbing their heads to the music. The mood of festivity—even frivolity—never sags throughout the two-hour performance. Indeed, Mr. Fiedler is host of the biggest party in town.

"Arthur Fiedler has a consummate knack for building the audience up to a pitch with a mix of music and sending them home happy for more," says Thomas Morris, manager of the Boston Symphony Orchestra Inc., the Pops' parent organization. "It's a show."

Showmanship together with a well-packaged musical program offering nothing too weighty or avantgarde—plays a big part in the perennial popularity of the Boston Pops concerts. During the Spring and summer months here, the sedate Symphony Hall is transformed in Mr. Morris's words, into a "magical garden," and the 105-member Boston Symphony Orchestra sheds its 12 principal players to become the Boston Pops Orchestra. (The top musicians, one from each instrumental section, form a separate chamber-music group during the season.)

Over the years, the Boston Pops has had an enormous influence on the musical tastes of Americans far and wide, by popularizing classical music and introducing "serious" music lovers to the best of the popular fare. And presiding over it all is white-haired, 81-year-old Arthur Fiedler, who looks like the very protoype of a maestro. He has conducted the orchestra for the past 47 seasons, a tenure longer than all 17 of his predecessors combined.

"Arthur Fiedler is the ambassador of music to America," says Ralph Black, executive director of the American Symphony Orchestra League, a Vienna, Va., trade association. "What he's done is reach the masses. His music says, 'Come out and give it a try and have a good time.' "

Largely as a result of Mr. Fiedler's influence, most of the nation's 1,451 symphony orchestras have been giving pops concerts for the past two decades. But few set aside a specific time of year for the performances, and even fewer add the fillip of refreshments and a relaxed, informal setting.

It was in 1885 that Henry Lee Higginson, a Boston financier who had founded the Boston Symphony Orchestra four years earlier, realized another part of his dream: to present "concerts of a lighter type of music." This light music was combined with light refreshments, and these "promenade" concerts—soon renamed "popular" and then "pops"—quickly became a Boston institution.

VIOLINIST MAKES GOOD

By the time Arthur Fiedler, a young violinist with the Boston Symphony, was named conductor of the Pops in 1930, however, the popularity of the concerts had paled. So the young maestro, who had spearheaded a campaign for free outdoor concerts the year before, enlivened the Boston Pops repertoire and won cheers from critics and concertgoers alike.

Today, though some critics are less than enthusiastic, the crowds are still cheering. The Boston Pops plays to packed houses in Symphony Hall six nights a week during May and June. Crowds flood the Charles River bank for free concerts in July (conducted mostly by Mr. Fiedler's assistant, Harry Ellis Dickson). For 10 months of the year, Mr. Fiedler takes up his baton as guest conductor at pops concerts given by symphony orchestras throughout the U.S. and abroad. And millions of Americans see him conduct the Boston Pops on nationwide public television for 13 weeks each summer. All this earns for Mr. Fiedler a comfortable salary, but neither he nor the Boston Symphony will specify the amount of his income.

For the Boston Symphony Orchestra, the Boston Pops concerts mean more than popularity. They represent a surefire source of income that helps offset sizable losses in other parts of the organization. The Boston Symphony Orchestra itself, which must underwrite costly top talent and numerous rehearsals, and the Berkshire Music Center, a school for musicians at the orchestra's summer home in Tanglewood, Mass.

Overall, the Boston Symphony doesn't come close to meeting its $8.5 million annual operating expenses with the $6 million it takes in from ticket sales and other direct sources. Contributions and endowment income barely close the gap.

While the orchestra has tried to bolster its income by raising ticket prices, booking Symphony Hall for other events and hosting summer rock concerts at Tanglewood, increasingly it has come to rely on the Boston Pops. This year it extended the Pops season into July and switched the six-concert-a week Pops schedule to provide an extra weekend performance. For the past six years, it has collaborated with WGBH, Boston's public television station, to air "Evening at Pops," splitting with the station a $500,000 to $600,000 annual production grant from Martin Marietta Corp.

The Boston Pops has few of the financial problems facing the Symphony. Most of its tickets (ranging in price from $2.00 to $8.50) are sold out in advance as early as the preceding fall, often in large blocks to companies and organizations. It can keep labor costs at a minimum by holding only one three-hour rehearsal a week because the material, besides being simple and familiar, is repeated throughout the week. And sales of Boston Pops recording (ranging in flavor from Tchaikovsky's "Swan Lake" to "Salute to Disney") have reached some 50 million copies, probably more than those of any other orchestra.

Perhaps the key to the Boston Pops' wide appeal is Arthur Fiedler's near-flawless instinct for what will please the crowds. Although practically anything goes—from Beethoven to the Beatles and beyond—he tends to stay away from weightier symphonies and esoteric rock music. "I'm a middle-of-the-road guy," he says. "People like the things they know, and I play the music they like. I'd have trained seals here if people wanted them."

The Fiedler flair—or, some say, formula—was much in evidence at Symphony Hall on a recent Tuesday night as the conductor ascended to the podium promptly at 8:30 p.m. Like all Boston Pops concerts, this one is divided into three distinct parts: the first two featuring light classical music, the third popular tunes. "You plan a musical program the way a master chef plans a menu," Mr. Fiedler says. "You have a tempting appetizer, a fresh salad with a piquant dressing, a robust main course, a carefully chosen dessert."

Kicking off the program is "Variations on 'America,' " an Ives-Schuman number that capitalizes on the audience's early-evening enthusiasm with its attention-grabbing shifts in tempo and mood. Rousing applause follows the piece. A short Rheinberger concerto and an even shorter Mozart sonata precedes the first intermission.

After intermission comes the most serious part of the program, two lengthier concertos by composers Bruch and Gershwin. But it is the last segment of the program that truly captivates the audience. The orchestra strikes up a medley of Stephen Foster tunes, alternating slow melodies like "Beautiful Dreamer" with zippier numbers like "Oh! Susanna."

During a medley of Gershwin tunes from the musical "Girl Crazy," the orchestra makes clicking sounds to the beat of "But Not for Me." And just before the finale, Mr. Fiedler sneaks in a surprise that isn't listed on the program—the popular theme from the movie "The Way We Were." Capping the evening is "Look Sharp, Be Sharp," the onetime Gillette razor-blade advertising jingle, a piece that the Pops plays frequently.

Mr. Fiedler keeps careful files on the groups that attend his concerts, so that he doesn't repeat the same music when they return the next year. He also plays special requests if orchestra arrangements of the tunes are available.

The conductor also accommodates groups that want to hear a particular soloist, if the soloist meets with his approval at an audition. Because the New England Conservatory Preparatory School bought a block of tickets for the recent Tuesday concert, for example, two of its students, a violinist and a pianist, played the important Bruch and Gershwin concertos. "They weren't the greatest, but they passed," Mr. Fiedler says.

CHAMPAGNE AND FISH CAKES

Whereas only the finest classical performers play solo numbers at Boston Symphony concerts, Pops concerts give some of the orchestra's lesser-known musicians—as well as younger outsiders—a spot in the limelight. But some say the extra work isn't worth it. Ann Hobson, a harpist who has soloed several times at Boston Pops concerts, says, "The Pops audience isn't as attentive, and it's discouraging to hear them clinking champagne glasses."

Though most orchestra members say Pops concerts can be fun, some complain about the grueling schedule and the relatively unchallenging program. "It's the difference between lobster and chopped fish cakes," says Arthur Press, a timpani player. And Mr. Dickson, the assistant conductor, says that "Stars and Stripes Forever" is "enough to drive you out of your mind when you play it every night."

At least one musician refuses to enter into the spirit of things. Eugene Lehner, a 70-year-old violist, treats the more excessive Pops flourishes with tight-lipped disdain. When the other musicians clap their hands to a Beatles tune, Mr. Lehner's hands remain in his lap. When they whistle to music from "Bridge on the River Kwai," he steadfastly refuses. "He hates anything undignified," Mr. Dickson explains. "He says he wasn't hired to clap."

Most serious critics share Mr. Lehner's distaste for Mr. Fielder's unabashedly commercial approach. The Boston Pops concerts "aren't regarded seriously as a musical event," says Michael Steinberg, music critic for The Boston Globe. While he says the Boston Symphony Orchestra is "happy to take the money Arthur Fiedler brings in," he contends that management has been "traditionally embarrassed" by him.

Nor does Mr. Steinberg accept him as a teacher of the masses. The Boston Pops "is a slam-bang, cram operation for people who don't listen to music," he says, adding that most of the music is "stuff you get on Muzak."

Maybe, but the people love the Pops, and they adore Arthur Fiedler. Fans across the country have given him numerous honorary degrees, "serious" music awards and other tokens of their affection. He was named honorary cable-car conductor in San Francisco, honorary citizen of Natchez, Miss., and honorray chief of the Otoe Missouri Indian tribe in Oklahoma. Knowing his passion for chasing fires (his car is equipped with a scanner to pick up fire calls), some 380 cities have named him honorary fire chief, and his collection of fireman's helmets numbers over 200.

Offstage as well as on, Mr. Fiedler works hard. He comes into his tiny corner office in Symphony Hall every day from 10 a.m. to 2 p.m. to conduct rehearsals, pore over scripts and audition soloists. He has a late lunch at his home in Brookline, then spends the afternoon resting. He is at his most relaxed after concerts, when he often invites autograph-seekers to have a beer with him. He never takes vacations; one of his favorite axioms is: "He who rests, rots."

A FRUSTRATED ARTIST?

Privately, Mr. Fiedler doesn't measure up to his flamboyant onstage image. He shrugs off the stunts he's called upon to perform (WGBH, for example, filmed him riding down the Grand Canyon on a mule for one television show), saying, "I'm not a showman; I see myself as a conductor." Some of his colleagues see him as someone who has been unable to shed the effects of a restrictive Victorian-era upbringing. "He's a complete loner who hates to show emotion," Mr. Dickson says. "I'm as close to him as anyone, and still I can't get too close."

Others say they sense in him a great deal of dissatisfaction, as if he mourns for the career he aspired to but never attained: that of a great symphony-orchestra conductor. A biography of Mr. Fiedler relates the story that Serge Kossevitsky, the temperamental Russian who conducted the Boston Symphony between 1924 and 1949, rescinded an invitation he had given him to conduct the orchestra in 1945 because Mr. Fiedler had agreed to do a concert with the then-bobby soxer idol, Frank Sinatra.

"Arthur Fiedler had to buy his success at a price, and that price is dealing with music that isn't that challenging," says Mr. Steinberg, the music critic. "A certain defensiveness is a part of his posture."

Just who will replace him ultimately is something Boston Symphony Orchestra officials don't easily talk about. Some outsiders speculate that the successor could be Erich Kunzel, conductor of the New Haven Symphony who has substituted for Mr. Fiedler and has gotten good audience response. But officials say they haven't made specific plans. Talcott Banks, president of the Boston Symphony, says: "I have no reason to suppose Arthur Fiedler isn't immortal."

THE EIGHTH ANNIVERSARY OF THE SOVIET INTERVENTION IN CZECHOSLOVAKIA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. GILMAN. Mr. Speaker, August 21, 1976, commemorates the eighth anniversary of the Soviet-led Warsaw Pact invasion of Czechoslovakia, an invasion that crushed the brief, 7½-month life of the reform-minded administration of Alexander Dubcek. The Dubcek regime sought to lift East-West trade and travel restrictions, ease internal religious restraints, and remove literary and press censorship—policies that constituted a direct threat to the Soviet totalitarian prescription of the "better life" and which predictably, but unfortunately, resulted in Soviet military aggression. It is no wonder, Mr. Speaker, that August 21, 1968, has been appropriately called the "Soviet Day of Shame."

Last month, I joined with many of my colleagues in commemorating the 18th anniversary of Captive Nations Week, and I am reminded that 20 years ago, in 1956, Soviet troops smashed the heroic efforts of the Hungarian and Polish Freedom Fighters to expel the yoke of Russian occupation. Protests by these brave people is all the more impressive when we realize that for over a generation freedom fighters from the Soviet-dominated satellite states have been resisting this barbaric oppression.

Sad as these events are, Mr. Speaker, it is imperative that freedom loving people throughout the world pause and pay tribute to those who have sacrificed so much to remove Communist tyranny from their homelands. Let us bear in mind the plight of these brave people and let them know that while they live under tyranny, there are those in the free world who will continue to light the torch of freedom in order that they, too, may one day experience the blessings of liberty.

Mr. Speaker, I join the hundreds of thousands of Americans of Czech, Slovak, and Subcarpatho-Ruthenian descent and the millions of freedom loving people everywhere in observing this eighth anniversary of Soviet aggression and occupation, and I urge my colleagues to join in the observance of this infamous event.

PERSONAL EXPLANATION ON SWINE FLU BILL, S. 3735

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mrs. COLLINS of Illinois. Mr. Speaker, on the eve of our recent recess, August 10, the House acted in considerable haste to pass the Swine Flu bill, S. 3735. I voted "present" on this bill for what I believe to be good reasons and I would like to offer them here for the benefit of my colleagues.

As with all Members of Congress, protecting the interests of those we represent is our primary legislative goal. With this objective in mind, any legislation claiming to advance the health and welfare of our citizens immediately attracts my attention and causes me to investigate the validity of its claims.

As my colleagues know, this bill was presented to the Members of the House at the eleventh hour and, therefore, was not thoroughly reviewed by the appropriate House committees. Most Members of this Chamber were without a copy of the bill during the discussion of it. Such hasty action frequently results in significant harm to the American public. I fear such could be the case here.

According to the dictates of this bill, the insurance companies of America are relieved from their traditional role as risk underwriters. As passed, S. 3735 makes the U.S. Government the sole guarantor for the safety and quality of the Swine Flu vaccine. In fact, there is no set financial limit to Federal liability. Thus, the Government—and ultimately the American people—has assumed a responsibility that the insurance companies refused to accept.

One must wonder why the insurance companies who are in the business of insuring against loss are unwilling to insure the products of the pharmaceutical companies with whom they regularly do business. Could it be that the safety of the vaccine has not been thoroughly tested? Or, will enactment of S. 3735 be the first step to furthering the Government's role as a malpractice insurer? Significantly, testimony recently presented in the Senate indicates that the insurance companies may no longer wish to insure the producers of polio or rubella vaccine.

We have, in effect, subsidized the drug industry and removed the incentive for it as a producer to take all possible steps to guard against the manufacture and distribution of a faulty vaccine.

I hope that House passage of S. 3735 will not result in a precedent-establishing decision heralding the initiation of yet another Federal level of responsibility for the safety of drugs manufactured by private businesses and uninsurable by companies who hold themselves out as being in the business of insuring against risks.

HINESVILLE HOSPITAL LOWERS PRICES

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. GINN. Mr. Speaker, the statistics about the increasing cost of health care in America have been exceedingly disturbing. Health care expenses in recent years have risen more than almost any other expenditure facing the average citizen.

I am pleased to report, however, that there is some good news amid all of the bad. The Liberty Memorial Hospital in Liberty County, Ga., has recently lowered the cost of its room rates and also reduced other charges. The July 29 issue of the Liberty County Herald reported some of the details of this action, and I ask that this article be reprinted in the RECORD at this point.

[From the Liberty County Herald,
Thursday, July 29, 1976]

HINESVILLE HOSPITAL WILL LOWER PRICES 15–20 PERCENT

In the days of rising prices, Liberty Memorial Hospital is lowering prices. At the July regular meeting of the Hospital Authority of Liberty County, they voted to reduce all hospital room rates by $6.00 a day. They also voted to reduce most other services to patients by 15–20 per cent.

This will become effective August 1, 1976. While prices are being reduced, new services are being offered.

When asked how Liberty Memorial Hospital could lower prices, Doyle E. Mullis, Jr., administrator, said that it had been due largely to the increase in volume of patients and services to patients. This increased volume was brought about by the increased number of doctors on the medical staff. He pointed out that there are enough doctors to see patients in the community, whereas before, most services were sought elsewhere.

The hospital is now operating at the best utilized capacity when before it was seldom pushed to best capacity. The increase in number of patients provides spreading the cost over the greater volume.

Just six years ago, people of Hinesville and Liberty County were traveling great distances for a good portion of their medical needs. There were two doctors here and their offices were always crowded, so many people left the county to get medical help elsewhere.

Th Hospital Authority set up a recruitment program to bring new doctors to the community, and this program was welcomed and endorsed by the two doctors.

The Hospital Authority succeeded in attracting OB-Gyn specialist, Dr. Chen Shih; two Pediatric specialists, Dr. Grace Bautista and Dr. Cecilia Ong; two general practice-anesthesiologists, Dr. Victor Bautista and Dr. Tony Ong (whose practice is at Midway, 9 miles from Hinesville) to the community. Dr. Ben Silan, another surgeon came to Hinesville in 1975, and two Brunswick podiatrists, Dr. Paul Bodamer and Dr. Tom Sandford have opened offices in Hinesville.

Dr. James Snow, an Osteopathic doctor in general practice at Darien, joined the hospital also.

ENERGY CRISIS ONLY INVISIBLE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. LAGOMARSINO. Mr. Speaker, I would like to direct the attention of my colleagues to the following editorial "Energy Crisis Only Invisible" from the Oxnard Press-Courier:

ENERGY CRISIS ONLY INVISIBLE

The energy crisis has become an invisible crisis.

Its presence was felt for five months in the winter of 1973–74 when, during the oil boycott, the Arabs doubled oil prices. The impact of the action on industrial nations was staggering. It added heavily to the economic burdens of inflation and recession.

But the boycott ended, the price of oil remained fairly stable, and the world economy readjusted and began to recover. In the United States, fuel shortages came and went. There was great concern while the shortages lasted, but they were quickly forgotten after they were over.

Some minor adjustments in oil and gas price controls were made by Congress, but nothing major. Congressmen, after all, did not want to have to answer to their constituents for sharply higher gasoline, heating or electricity bills.

Along the same line, Congress took action to require Detroit to make cars with better gasoline mileage in the future, but did not impose a horsepower tax or raise gasoline taxes. Such taxes would have been highly unpopular.

For a time, conservation of energy was popular. For two years in a row, energy consumption declined. But now it is on the rise again. Oil demand is up 4 per cent, gasoline up 8 per cent. And this nation is more dependent on Arab oil than ever, more vulnerable to an embargo than in 1973.

Small cars aren't selling as well as expected. American consumers are buying bigger cars in greater number than expected.

In a comfortable democracy, people don't want to listen to talk about invisible crises that can reappear. Politicians who criticize people for their wasteful ways risk being punished at the polls.

Something has to be done, energy experts agree, and some things can be done.

About $10 billion could be appropriated by Congress to put a 90-day supply of oil in storage for use in an emergency. That would give the nation time to cope with another embargo.

The United States can work harder to reach a negotiated solution of the Middle East problem to reduce the chance of another Mideast war.

This nation can develop its huge coal reserves with proper concern for protecting the environment from possible damage. It can continue to push its plans for nuclear energy. And it can continue to promote conservation of energy, especially in industry.

But one consideration should be kept in mind. The nation, through its elected representatives, can go no faster and no farther than the people want it to go.

ARTHUR LAFFER EXPLAINS WHY THERE NEED NOT BE A TRADEOFF BETWEEN INFLATION AND UNEMPLOYMENT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. KEMP. Mr. Speaker, too many have been influenced by the mistaken idea that there must be a tradeoff between inflation and unemployment. We have been told, and many have believed, that any significant reduction in unemployment would, of necessity, require more inflation, and any reduction in inflation would require more unemployment. Professor Laffer in his testimony before the Republican Platform Committee explains very clearly why this is not so. Professor Laffer states, and I fully agree with him, that—

> A complete proposal to combat inflation will attempt to reduce the rate of growth of the money supply. It will also attempt to increase the rate of growth of real output and reduce unemployment. Therefore, a program that successfully combats unemployment will also aid in the battle against inflation.

The Jobs Creation Act is such a program. By reducing both personal and business tax rates, it will help us win both the battle against inflation and the battle against unemployment. Its passage would eliminate the Government-caused business cycle that results from fighting unemployment with inflation and inflation with unemployment.

As Professor Laffer says, "On humanitarian grounds, the hardship rendered by unemployment and inflation is abhorrent." Myself and the 132 cosponsors of the Jobs Creation Act fully agree with him, and we urge this Congress which speaks so often of its humanitarian concerns to act on this most major one of all and reduce the tax on employment and production by passing the Jobs Creation Act.

Professor Laffer explains brilliantly the case for reducing the tax on employment, and it follows:

Mr. Chairman, the country for some time now has been in need of a consistent policy toward both unemployment and inflation. This need is becoming increasingly urgent. Restoring full employment of all productive resources and eliminating inflation should be the prime economic objectives of U.S. policy.

On humanitarian grounds, the hardship rendered by unemployment and inflation is abhorrent. The wage earner and his family suffer immensely as a result of unemployment. In a like vein, fixed income recipients and payers both are subjected to the erratic and haphazard vagaries of sudden changes in the overall price level.

The lost value to the United States of both inflation and unemployment far exceeds the suffering imposed upon the individuals directly involved. The failure to use perishable resources makes all of us poorer. The loss also exceeds any explicit dollar and cents measure. A large part of our role as a world leader is predicated upon our economic prowess and the perceptions others have of our economic wisdom. Our capacity to deter potential belligerents not only rests on our defense capabilities narrowly defined, but is further enhanced by our production base. Allies are attracted to us in part because we provide economic benefits as well as military protection.

Policy formulation must above all else address the joint issues of inflation and unemployment. Inflation and unemployment are the principal obstacles to an equitable and prosperous society.

Policy formulation in confronting inflation and unemployment should be alert to three overriding characteristics of the United States economy. An overall program to combat inflation and unemployment must realize that:

We live in a global economy. U.S. policies impact on foreign inflation and unemployment. Likewise, the policies of foreign countries affect our inflation and unemployment rates. The U.S. no longer can ignore the world from a standpoint of politics, military security or economics.

People are, to a large extent, motivated to action by the prospect of economic reward resulting from that action. While other considerations are often also present, people do work in order to earn after-tax income, they save in order to have after-tax income in the future, and they acquire education and other skills to raise their standard of living. Policy actions that reduce the rewards attendant to work or production as a direct result reduce work and production.

The body politic of the United States has, through the auspices of the federal, state and local governments, made promises that literally are beyond the capacity of our economy to deliver. A policy of maintaining the status quo with respect to a number of the federal, state and local entitlement programs raises a serious spectre of national bankruptcy. While the prospect of defaulting on the promises explicit in current law is abominable, a far more immoral act would be to default on these promises and, in the process, destroy the very productive base upon which all benefits ultimately rest.

Economists, up until very recently, have emphasized that there is a trade-off between inflation and unemployment. Any significant reduction in unemployment would, of necessity, be accompanied by more inflation. Likewise, they argued, any attempt to reduce inflation would result in more unemployment. Nothing could be further from the truth.

Inflation primarily reflects increases in the amount of money relative to the quantity of goods. In cliché form, this means that inflation is "too much money chasing too few goods." As such, cures for inflation have to focus on both the supply of money and the supply of goods. Contrary to popular belief, an increase in unemployment *per se* does nothing to reduce inflation. As a point of fact, increases in unemployment only increase the pressures for inflation, not the reverse. The reduction in employment that accompanies recessions reduces the supply of goods and is inflationary.

A complete proposal to combat inflation will attempt to reduce the rate of growth of the money supply. It will also attempt to increase the rate of growth of real output and reduce unemployment. Therefore, a program that successfully combats unemployment will also aid in the battle against inflation.

While the numbers of employed and unemployed abound in the millions, work and employment are themselves highly personal and individual decisions arrived at between an employee and employer. Unemployment represents the failure of a firm and an employee to come to mutually advantageous terms. Any analysis of unemployment must ultimately come back to this individual firm/employee relationship. Any policy designed to reduce unemployment must be founded on just such an analysis.

A firm's decision to hire is based, in part, upon the total cost to the firm of the employee's services. For most firms, the more it costs them to hire workers the fewer workers they will hire. Likewise, the less it costs firms to hire workers the more they will hire.

Employees' decisions to work are also, in part, based upon the amount of earnings the employee himself gets. The more the employee gets, the more willing he is to work and vice versa. Employees, it should be noted, do not concern themselves with the total costs to the firm. All employees care about is how much they get, net.

In sum, firms worry about the total wages they have to pay, while employees are concerned with the wages they receive. The difference between the wages firms pay and the wages employes receive is called the "wedge." This "wedge" consists of income taxes, payroll taxes, excises, sales taxes, property taxes as well as the market value of the accountants and lawyers firms hire in order to maintain compliance with government regulations.

Let us for a moment imagine a "wedge" or tax of 20 percent on a worker whose gross wages paid are $200 per week. Let us also imagine that the employer pays half of the tax and the employee half. Under these conditions the total cost to the employer is not $200 per week but is $220 per week. The firm's decision to hire is based exclusively on the $220 figure. From the employee's vantage point he doesn't receive $200 per week. He must subtract his tax "wedge" share of $20 leaving him with $180 per week wages received. Thus, the "wedge" of $40 is the differences between the wages paid of $220 and the wages received of $180.

It is easy to see what happens if the "wedge" is increased, say, to 40 percent. Assuming it is still divided evenly, then wages paid by firms rise from the $220 figure to $240. Firms will hire fewer workers. Wages received by employees will fall from the $180 figure to $160. Employees will be less willing to work. Both the firm's desire to hire workers and the workers' willingness to work will be reduced as the "wedge" increases. Output unambiguously falls and the level of total employment falls as the "wedge" increases.

Conversely, it is equally as easy to see the results of a reduction in the "wedge" to, say, zero. In this case, the wages paid by firms fall from $220 to $200. Firms will hire more workers. On the other side of the relationship, wages received by workers will rise from $180 to $200. There will be more people willing to work. Total employment and output will increase as the "wedge" falls.

In the United States, the "wedge" can be represented by either total government spending or by the total of transfer payments. Basically, transfer payments are real resource transfers from producers and workers to people based upon some characteristic other than work or production. As such, transfer payments reduce the amount of goods and services available to the people who produced them. Transfer payments are a tax on production and work. Likewise, transfers are a payment based upon a characteristic other than work. Some of the transfers may be based on population characteristics such as age, region of residence, health, sex, race, etc. In many instances, however, not only are transfers given to people based upon a characteristic other than work, but they are often given out only if there is an absence of work. That is, transfers are often a payment explicitly for nonwork. Examples of this are agricultural subsidies, food stamps (income requirement), Social Security payments (retirement test), housing subsidies 235–236 (means test), and obviously unemployment compensation itself.

In order to increase total output, policy measures must have the effect of both increasing firms' demand for productive factors and workers' desires to be employed. The "wedge," as represented by taxes of all sorts, must be reduced. These reductions will have the greatest output effects where they lower the highest tax rates. Any reduction in tax rates means that employers will pay less and yet employees will receive more. Both from the employer and the employee point of view, more employment will be desired and more output will be forthcoming.

At present, corporate-held capital is taxed at exceptionally high rates. Viewing the problem strictly from the tax schedules, there is a marginal tax rate of 48 percent to be paid by corporations before anything goes to the ultimate owners of the capital. After the corporate tax, the owners of the capital must then pay additional personal income taxes. Even if the marginal personal income tax rate were only 42 percent, this would imply that the tax "wedge" on corporate-held capital would be close to 70 percent. The "wedge" considered so far only includes the corporate and personal income taxes on reported profits. Due to the effects of inflation, reported corporate profits overstate economic profits. Inventory price increases are reported as profits when, in reality, they are not. Similarly, depreciation is calculated from the purchase price of the capital good and therefore understates true depreciation.

In addition to these obvious considerations, some allowances should be made for capital gains taxes, excess profits taxes, property taxes, sales taxes, excise taxes, the cost of restrictions on the use of resources, and the total cost of accountants and lawyers firms hire to comply with government regulations. All things considered, the total marginal tax "wedge" on corporate-held capital is very high.

Workers work better with capital. To induce people to save in order to provide the capital to employ workers, there must be some post-"wedge" yield. Reducing tax rates, especially the high marginal tax rates on capital, will reduce unemployment and increase employment.

Another tax drastically in need of reduction is the personal income tax. Here again the "wedge" is apparent, especially at the higher marginal rates. Through tax loopholes and withdrawals from work in the form of unemployment or leisure, misemployment and underemployment prevail. By cutting the personal income tax rates, employees' after-tax wages rise while the pre-tax cost to employers falls. More people will be hired.

Cutting personal income taxes is especially appropriate seeing that a substantial portion of the current rise in tax rates has arisen from the effects of inflation on progressive tax schedules. Perhaps the best single measure here would be to index the personal income tax.

The implicit taxes on the less educated

and more disadvantaged potential employees and workers are unbelievably high. If minority youth in a poor neighborhood would like to work for $1.50 an hour and a small minority-run business would like to hire him at that wage rate, he still can't legally work because of the minimum wage law. After being unemployed for several years, the person becomes close to, if not literally, unemployable.

While complicated tax schedules and arcane building codes along with other modern bureaucratic developments can be coped with by college graduate entrepreneurs, they present a serious impediment to the economic development of the poor and less educated neighborhoods.

Tax rate reductions can only be one part of an overall national program to increase employment and output. In addition to the reductions in tax rates on excessively taxed factors, there should be substantial reductions in the government's command over real resources as represented by budget outlays and most notably transfer payments. I doubt very much whether the United States can maintain peacetime full employment without a substantial reduction in the level of spending as a share of GNP.

A USEFUL CAREER

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. FINDLEY. Mr. Speaker, Omer Poos, who served since 1958 as U.S. district judge, died on August 11 at a hospital near his home in Hillsboro, Ill. Surviving Judge Poos are his wife, son and other relatives. Their only child, Robert, was a correspondent for the Associated Press for years before becoming a staff member of the Committee on Internal Security of the U.S. House of Representatives. Bob is now Public Relations Officer for the American Association of Railroads. One of six children reared in the home of his coal miner father and devoted mother, Judge Poos led a long and distinguished life. In recognition of his great influence in the legal profession and his staunch support of his alma mater, St. Louis University dedicated in his name a new law library just recently. A tribute to Judge Poos appeared in the August 12 issue of the Hillsboro and Montgomery County News written by Robert R. Bliss, editor and publisher. Text of the editorial:

A USEFUL CAREER CLOSES

A long, useful and distinguished legal and judicial career for one of this community's most prominent citizens has been closed by death.

Our friend of nearly a half-century, Judge Omer Poos, was freed of an agonizing respiratory ailment, which had troubled him for years, with his passing Wednesday afternoon.

Omer Poos was one of only two Hillsboro attorneys who reached such professional pinnacles as seats on the bench of U.S. federal courts. The other was the late Chief Judge of the Circuit Court of Appeals J. Earl Major.

Both men had paralleled careers from extremely humble origins and both gained state-wide prominence in their judicial roles. Omer Poos was appointed a judge of the federal Southern District by President Eisenhower in 1958 and he distinguished himself in judicial circles because of his willingness to be a sincerely dedicated public servant ready and available for all case assignments in district courts at Springfield, Alton and Peoria.

One of six children reared in the home of his coal miner father and devoted mother, Omer Poos early in life learned the meaning and value of thorough dedication to each chore, regardless of importance. This habit served him well through his professional schooling, as a practicing attorney and during his 17 years on the federal bench.

Lawyers as a whole are noted for their propensity for procrastination and putting off until tomorrow what should be done today. The lone exception, without fail, was Omer Poos. He always had his cases prepared and was ready for trial on the day of docket setting. This thoroughness and devotion to detail provided him with an unsurpassed record as a trial lawyer.

He was admired as a jurist by the members of the bar who practiced in his court because he was always able to give immediate attention to matters before him.

Judge Poos in his pre-judicial career was a mover and shaker in this community and he got things done. He was a real guiding force in affairs of his church and had a large hand in seeing the handsome edifice and adjoining rectory completed. He was one of the main cogs in the wheel which engineered the creation of Sawyer Field at Hillsboro High school and he was always in good stead with political leaders of both parties in influencing development and completion of worthwhile projects.

Because of his unwavering support of his alma mater, St. Louis University, and his great influence among fellow alumni in financing improvements, a new law library facility was dedicated in his name, Omer Poos Library.

The same zeal he devoted to his legal practice and his community service was manifested in his recreational and relaxation pursuits. He was an ardent and enthusiastic fisherman which beckoned him to waters in the Canadian bush and to local area lakes and ponds with equal zest. He was equally ardent in area and collegiate sports events until a creeping respiratory affliction limited his activity.

Omer Poos exemplified good for his profession, good for his family and community, good for his church and his government.

None of his 74 years was wasted. His was a lifetime of success and personal achievement.

Is there more to life than that?

GOLDWATER HOSPITAL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. RANGEL. Mr. Speaker, in recent years the hospitals of our Nation have been striving to provide, quality medical care to millions of patients despite the myriad of problems which face them. It is hence not uncommon to hear horror stories detailing unsavory conditions and ill-treatment of patients.

It is always particularly heartwarming, therefore, to hear of hospitals which provide unique services and the highest quality care. Goldwater Hospital, located on Franklin D. Roosevelt Island in New York City, is such an institution. For many years the hospital has brought dignity and renewed hope to the handicapped people treated there.

Now, as the following excerpt from an article from the July 11, 1976, Parade magazine indicates, a further advance has been made by the hospital staff in their attempt to make the lives of patients more meaningful. Their program to educate many of the disabled patients is in itself a great step forward. But perhaps more importantly, it is representative of the recognition, so often lacking, that the handicapped can be treated as complete members of our society.

I am honored to bring the following excerpt to the attention of my colleagues:

10 MAJOR ADVANCES IN HOSPITAL TREATMENT

(By Donald Robinson)

COLLEGE FOR THE HANDICAPPED

All of the 700 patients at Goldwater Memorial Hospital on Franklin D. Roosevelt Island in New York City are severely disabled, confined to wheelchairs. Many are quadriplegics, unable to move their arms or legs a single inch. Some have been in the hospital for 40 years.

To impart more meanings to her patients' lives, Matilda Lang, chief of rehabilitation counselng, operates an educational program in the hospital where patients can obtain high school equivalency diplomas. Afterwards, patients who are physically able can attend neighboring colleges. They are driven back and forth.

Most important, Goldwater Hospital has pioneered a program that allows quadriplegic patients to attend college, too, by remote control. A conference room at the hospital has been hooked up by telephone to various classrooms at nearby Queensborough Community College. By means of an amplifying system, the quadriplegics listen to a professor lecturing as well as the responses of his students. The patients can pose any questions they wish. They dictate their homework and examination papers to hospital aides.

Already three quadriplegics have earned bachelor's degrees, and a fourth will soon receive one.

Herbert J. Larken, a 26-year-old patient, once a star athlete who lost the use of his arms and legs five years ago in an accident, is enrolled in this college program. He is majoring in psychology and hopes to become a youth counselor.

"It's a real challenge for me," he declares.

HOUSE FAIR EMPLOYMENT PRACTICES AGREEMENT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mrs. SCHROEDER. Mr. Speaker, as of today, 33 Members of the House of Representatives have signed the House Fair Employment Practices Agreement.

The following letter, signed by nine ciizens groups, was sent on Monday to those Members who had not yet signed the agreement, urging them to do so. It serves as yet another indication of the public's growing concern with employment practices here on Capitol Hill:

NATIONAL WOMEN'S POLITICAL CAUCUS,
Washington, D.C., August 23, 1976.

DEAR MEMBER OF CONGRESS: The public is becoming increasingly concerned about employment discrimination on Capitol Hill. You and the other Members of Congress employ more than 17,000 people who are not covered under any of the laws—such as the Civil Rights Act of 1964 and the Equal Pay Act of 1963—which you have enacted to protect the employment rights of workers in the private sector.

Enclosed is a copy of the "House Fair Employment Practices Agreement," which has already been signed by a number of your colleagues. While this employee grievance procedure relies on voluntary compliance, we believe it is a step in the right direction. This plan recognizes existing bona fide seniority or merit systems and customary ability testing and other valid methods of fair differentiation among employees.

Beyond these important provisions, however, the Fair Employment Practices Agreement will serve as proof to the American people that Members of Congress do believe in equal opportunity for all and do not consider themselves above the law.

We urge you to step forward and be counted among those Members who pledge to protect your employees against discrimination because of race, sex, color, religion, national origin, age, marital status or handicap.

Sincerely,

Ruth C. Clusen, President, League of Women Voters of the U.S.; Esther R. Landa, President, National Council of Jewish Women; Barbara Weinberg, Chairman, National Legislative Committee, American Association of University Women; Jane Culbreth, President, National Federation of Business and Professional Women's Clubs, Inc.; Audrey Rowe Colom, Chair, National Women's Political Caucus; Miriam J. Dorsey Coordinator, Capitol Hill Women's Political Caucus; David Cohen, President, Common Cause; Hope B. Eastman, Associate Director, Washington Office, American Civil Liberties Union; Jane Claybrook, Director, Congress Watch, Public Citizen.

IN OPPOSITION TO SLIDING PAY INCREASES FOR FEDERAL EMPLOYEES

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. LUJAN. Mr. Speaker, I rise to state my opposition to the advice the Federal Pay Council has given President Ford concerning the upcoming Federal employees' pay raise.

I think the Council is making a big mistake in suggesting that those Federal employees at the high end of the pay scale receive an 11.8-percent increase while those at the lower end only get a 4.25-percent increase.

It seems to me that fairness would dictate one standard, across-the-board percentage for all Federal employees regardless of their position on the pay scale or GS rating.

On the other hand, logic would seem to suggest that the proposal made by the Pay Council is exactly upside down. It would be logical that those at the lower end of the pay scale should be granted the higher percentage increase while those at the top of the scale receive the smaller increase.

So, whether one approaches the problem from an angle of logic or fairness, the proposal before the President seems entirely out of place.

One other factor which should be thrown into the equation is the issue of inflation. I still feel, as do the people in my district, that inflation is the biggest problem we face, as a nation. Considering that, we should look at the inflationary effects of a plan which gives vastly higher increases, in both percentage and actual dollars, to the higher paid employee, thus pouring many more Federal dollars into the marketplace. That is inflationary.

While any Federal pay increase is inflationary, it would be much less so if those employees at the lower end of the scale were to receive the higher percentage increase.

As for the fact that Members of Congress are included in this pay increase, my feelings on the subject are well known. I have consistantly voted against all pay increases for Members of the House. I also voted to not tie congressional pay increases to that of all other Federal employees, as is now the case.

In closing, let me once again state my opposition to this plan for a sliding pay increase with the top grades getting the big increase.

A BILL TO PROTECT AGAINST EARTHQUAKE DAMAGE

HON. CHARLES A. MOSHER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. MOSHER. Mr. Speaker, this morning's Washington Post carries an excellent editorial entitled, "The Violent Earth." The subject of the editorial is earthquakes, and I shall insert the article in the RECORD at the conclusion of these remarks.

The Post's editorial is especially timely in light of the fact that the House Committee on Science and Technology is this week reporting favorably an amended version of S. 1174, the Earthquake Hazards Reduction Act of 1976. This legislation is necessary to develop an adequate Federal program of predicting and mitigating earthquake hazards, to save lives and avoid huge property damage throughout the United States.

Some people have the mistaken belief that earthquakes pose a hazard only to the west coast areas. For this reason, I was especially pleased to note the cogent comments that appeared in today's Post, which is very definitely an east coast newspaper.

You may recall, Mr. Speaker, that on June 3 of this year I placed a statement in the CONGRESSIONAL RECORD, noting, "All 50 States are subject to some earthquake related hazard and over 70 million Americans in 39 States are living in zones where moderate to major damage by earthquakes could occur." Even my own State, Ohio, which is not noted for its seismic activity, has felt five different earthquakes in this century, of an intensity great enough to cause structural damage to buildings.

I am pleased to note that the Science Committee has responded by almost unanimous approval of H.R. 14876 as amended, a bill that was introduced by me and cosponsored by Congressmen BROWN and GOLDWATER of California and Congressman SYMINGTON of Missouri. The Senate has already approved S. 1174, introduced by Senator CRANSTON, so we substituted the body of H.R. 14876 amended for the text of S. 1174. I have received personal assurances from Senator CRANSTON that the Senate will very likely accept the changes we have proposed.

I believe we have come up with a sound, responsible bill that does adequately provide for a coherent, adequately funded Federal program to help reduce the dangers of earthquakes in the United States. This legislation enjoys very strong, completely bipartisan support in the House Committee on Science and Technology, just as similar legislation did in the Senate. It is my hope, then, that we will be able to send S. 1174 to the President for his signature in the very near future.

Now, Mr. Speaker, I wish to insert into the RECORD the editorial I referred to in my opening remarks. Thank you.

THE VIOLENT EARTH

According to the geologists, there is nothing unusual about the round of earthquakes and volcanic activity that has recently swept the world. If there is any connection between the threatened eruption of La Soufriere in the Leeward Islands, the predicted eruption of Mauna Loa in Hawaii, and the earthquakes in China, the Philippines and elsewhere, we do not know of it. These events, the experts say, are no more than one might expect in the way of bubbling and heaving of a planet that is still a long way from having solidified. This is not to suggest that we know nearly enough about the forces that from time to time create catastrophic upheavals on the surface of our planet. And what we don't know about this matter, contrary to the old adage, can hurt us in terrible ways. It is rare that there is no damage to human beings or their settlements when the earth stirs violently.

But much more is known about earthquakes and volcanoes now than was known just a few years ago. The science of predicting such events has developed rapidly and the day may come when geologists can say with considerable accuracy when a quake or an eruption will occur. Chinese scientists have predicted the timing of several major earthquakes in the past two years—sometimes accurately and sometimes not—and their government has taken emergency steps to limit casualties and damages. American scientists are predicting a major eruption of Mauna Loa within 24 months and have recommended that Hawaiian officials develop plans for attempting to divert lava flows from populated areas. Last winter, the director of the U.S. Geological Survey, V. E. McKelvey, proposed the creation of a national Earthquake Prediction Council to evaluate and make public the predictions made by individual scientists and agencies.

These developments open up serious questions of public policy. The first set of these deal with what resources ought to be devoted to exploiting and expanding knowledge about the earth's internal stresses. Congress has increased, slightly, the budget for such programs in the Geological Survey. And bills are pending on Capitol Hill to inject substantially more money into the earthquake prediction program. But, as in most scientific projects, it is difficult to guess at what the return on such an investment might be. The development of a reliable method of reducing the severity of an earthquake—and there are proposals now for beginning major experiments aimed at doing that—might someday save billions of dollars worth of property in Los Angeles and San Francisco. But there is no guarantee that a stepped up program will produce the desired results.

The other set of public policy questions relates to the problems that will arise if the scientists create a reasonably reliable method of predicting earthquakes. What do individuals—and governments, for that matter—do if the geologists announce that a major earthquake will occur near Los Angeles in 3 or 30 or 300 days? The Chinese have evacuated a couple of large cities based on just such predictions. And, on at least one occasion, nothing happened. Evacuating a city, and withstanding the criticism for an inaccurate prediction, may be possible in a totalitarian nation but is it either possible or desirable in this country? What degree of reliability would a prediction have to have before a public official would be willing to advise citizens to take drastic action to protect themselves? Given the inexact nature of man's knowledge of these natural phenomenons—and that is all we are likely to have for some years—should government limit itself to shutting down nuclear power plants, lowering the water level behind dams, and similar actions when the earthquake danger is high?

The questions are not esoteric. A majority of this nation's population now lives in areas which are regarded by geologists as earthquake zones and there are still five active volcanoes on the West Coast. Sooner or later, some part of the country is likely to undergo the kind of earthly violence that has killed more than 25,000 people so far this year in Guatemala, Italy, Bali, Philippines, China and the Soviet Union. Right now, nobody is pretending to be able to tell you with any certitude where this might happen or when. Gradually, however, the scientists will develop an increased ability to pinpoint the place and the time. At some point off in the future, the real question will then be whether enough people will acquire enough faith in the warnings of the scientists in time to take the kind of extraordinarly costly and disruptive precautions that might save hundreds of thousands of lives.

PHILIP MORRIS SIGNS A NEW LEASE ON NEW YORK

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. KOCH. Mr. Speaker, today Philip Morris, a corporation in my congressional district, announced its decision to stay in New York. It has signed a 15-year lease on the city and has committed itself to larger quarters. Its payroll will increase to 1,000 employees from the present level of 700.

According to Joseph F. Cullman, III, chairman of the Board and chief executive officer, "The decision to remain in New York was made by our board after intensive study of several possible locations, both in the New York suburbs and in other areas."

Philip Morris determined that the city of New York remains the center of commerce, communications, culture, and finance. What is important to recognize is that despite its present financial problems, New York City has an enduring strength which will long outlive its temporary problems. New York is a great city. And I think that in coming years we will find that in this Bicentennial Year a renaissance for New York City began. Some companies have left the city, but more and more businesses like Philip Morris—and recently Simon & Schuster—are concluding after careful evaluation that New York City is still the place to be.

The warm welcome that businesses receive in New York City is reflected in the number of public officials, including Mayor Abraham Beame, who participated in Philip Morris' lease signing ceremonies today. While congressional business kept me in Washington, I was represented by a member of my staff.

BLACK BUSINESS PIONEER IN CLEVELAND DIES

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. STOKES. Mr. Speaker, it is with a saddened heart that I announce to my distinguished colleagues in the U.S. House of Representatives, the death of a famous businessman and philanthropist, Alonzo Gordon Wright. As a close friend and associate, I mourn his loss as do so many who knew and admired this great financier and community leader.

As one of America's first authentic black millionaires, Mr. Wright's life, in anyone's estimation, reads like a chapter from the great American success story. But, Mr. Speaker, if one takes into consideration the fact that he was a black man in the early decades of this century, his financial feats take on Herculean dimensions in light of the enormous obstacles of racism and discrimination.

Mr. Speaker, in his passing, Cleveland and America has lost one of its true heroes.

At this time, I would like to call upon my distinguished colleagues to join me in conveying our condolences to Mrs. Helen K. Wright and the entire Wright family in their time of bereavement.

I would also like to commend to you a news story which appeared in the Saturday, August 21, 1976 Cleveland Call and Post newspaper, which gives details of Mr. Wright's long and illustrious career:

ALONZO WRIGHT, BUSINESS PIONEER, DEAD

Alonzo Gordon Wright, 78, a reputed millionaire whose contribution to the oil and automotive industries ranks with those made by Henry Ford, Howard Hughes and John D. Rockefeller, died of apparent heart failure in his Bratenahl Place home, Tuesday morning.

Wright and his mother came to Cleveland in 1912 from Fayetteville, Tennessee.

His father, a lineman, had been accidentally electrocuted when young Wright was six years old.

Wright drove a mule team, worked in a foundry as a laborer and drove a mail truck, but, it was a job at the auditorium garage where he parked cars that opened a path to fame and riches.

It was here that he met W. T. Holliday, a Standard Oil of Ohio (Sohio) executive.

Holliday impressed with Wright's dispatch and attention to detail offered him a job as a receptionist.

Wright declined saying that it wasn't a respectable job nor one that he could be proud of for the sake of his wife, Henrietta, a school teacher, who died in 1963.

Holliday granted Wright's request for a gasoline station franchise and the fledgling entrepreneur plunged into business with all the strength he could muster from his 6'-1'', 200 pound frame.

The thing that made him so successful at his job during the '30's when few businesses and people were keeping their heads above the water, was an innovation that attracted the attention of and set industry standards for service operators, throughout the United States.

To begin with, Wright's station was one from which gas had to be hand pumped. He increased his clientele by adding the extra niceties like cleaning windows, checking oil, and selling batteries and tires. Gasoline sales increased to 60,000 gallons a month—from 3,000 gallons.

Wright has been credited with saying that his formula for success was "blood, sweat, toil and tears," which he certainly knew about.

People close to him say Wright was a man who was a stickler for detail and preferred to attend to even the slightest business detail to make sure that everything was done the right way.

By 1940, he operated service stations at E. 93rd & Cedar, E. 40th & Central, E. 55th & Woodland, E. 35th & Woodland, E. 75th & Woodland, E. 130th & Buckeye, and E. 126th & Kinsman.

Alonzo Wright had a son by his wife, A. Gordon Wright, Jr., who worked infrequently with his father.

It seems that the two had irreconcilable differences about how to run a successful business. Wright, Jr. is a lawyer and lives in California.

In 1963 the first Mrs. Wright died and a short time later, Helen K. began to share the life and luxuries of one of the city's first black millionaires.

Although wealth has its advantages, the fair-skinned real estate financier, hotel operator, farmer, civil leader and philanthropist didn't always find it easy to move in all circles.

Wright and his family were the first black family to move into Cleveland Heights and they weren't accepted at first. A fire bomb thrown into the house did not discourage the family since no one was hurt. Wright's son, Gordon, was the only black in his grammar school and high school.

Taking life and success in stride, Wright scoffed at being called a millionaire.

In 1940, he had the distinction of being the largest black employer of blacks in the United States. Early real estate holdings include the old Majestic Hotel on East 55th & Central Ave. The Carnegie Hotel, the Georgian Hall at 1890 E. 97th St., and the Ritzwood Hotel at E. 51st and Woodland Ave. He also owned a 200 acre farm in Chesterland, Ohio.

The Diamond Shamrock Building in Erieview is one of the projects of the Wright Development Corp., of which Alonzo Wright was president. Housing projects built by the corporation include low income housing in the Woodland and University-Euclid urban renewal projects.

The name Alonzo Gordon Wright is one that will always be known and respected because it represents positive attributes and goals like hard work, persistence, fortitude and a desire to succeed.

Scores of people, both locally and nationally, will remember him.

Wake services will be held Thursday, August 19, 7-9 p.m. at the Harvard House of Wills.

Rev. William Downs of East Mt. Zion will officiate the funeral on Friday at 1 p.m.

He is survived by his wife, Helen K., a son, A. Gordon Wright, Jr.; a brother, Charles; a sister-in-law, Dorothy; four grandchildren, Cheryl, Joyce, Linda, and A. Gordon, III.

WHAT FUTURE FOR JAMAICA?

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. YOUNG of Georgia. Mr. Speaker, far too many of us have an image of Jamaica as an island paradise, a splendid backdrop for Hollywood-type movies and as a place to frolic and play. And it is true that the country, beginning under colonial rule, was made over into a tourist resource of international reputation.

We forget, however, that Jamaica is a nation seriously about the work of shaping and developing its society and economy to better benefit its own citizens. We forget too that this paradise underwent an extended era of colonial rule and oppression, a period of history which decisively impacted on its peoples and institutions and which has left a lingering residue of ill-feelings. Under the current administration of Prime Minister Michael Manley, a man of compassion and imagination, forceful efforts are underway to turn the nation's impoverished past into a fruitful future.

Saul Landau's editorial article in today's Washington Post outlines the parameters of Jamaica's hopes for its future. I hope that all of my colleagues will gain from his insights and will remain alert to any initiatives by our own Government to extend the wrong type of assistance to Jamaica's quest for development. The editorial follows:

WHAT FUTURE FOR JAMAICA?

I return from a five-week stay in Jamaica with the sinking feeling that our government, or a part of it, may be intervening in Jamaican affairs as it did in Chile. Even though the State Department has officially denied all such allegations, as they did in the Chile case, I fear that once again U.S. agencies are involved in activities designed to "destabilize" (the word the CIA used for its operation in Chile) the elected government of Jamaica.

While in Jamaica I read reports in U.S. and Jamaican publications charging that Jamaica, under Prime Minister Michael Manley, had become an unstable, mismanaged mess and was about to go Communist and become a Cuban satellite.

My own conclusions were quite different. The Manley government has accomplished in five years far more than the opposition government did in 10, despite adverse world conditions. Manley has raised Jamaica's national income considerably and reduced unemployment slightly.

The physical and cultural condition of Jamaica's majority is equivalent to that of most Third World countries. Great inequities of wealth separate a small elite from the poor mass. Bauxite, sugar and tourism constitute the basic sources of revenue. As with most poor countries, Jamaica's poverty results from its inability to match the prices paid for goods produced in the advanced countries with prices received from its own raw materials. So in 1976 Jamaicans must produce double their sugar output of 1956 to buy the same number of tractors. This problem of deteriorating terms of trade was further exacerbated when oil prices rose.

Yet, unlike leaders in most developing countries faced with this predicament, almost all of the steps taken by Manley since he won office in 1972 have been designed to relieve the suffering of the poor, by democratic parliamentary actions, and without infringing on anyone's constitutional rights.

Manley and the Peoples National Party have declared a commitment to socialism—as well as to democracy and rule by law. This commitment, when taken in the context of modest land reform and tougher bauxite terms for U.S. and Canadian multination corporations, had conjured up, in the minds of some Americans and Jamaicans, the fear of Jamaica's "going Communist." The Manley government's relations with Cuba, Jamaica's closest neighbor, have given further impetus to the charge.

A major flap arose when James Reston of the New York Times, among others, reported that Cuba was training Jamaican security forces. This turned out to be nothing more than limited training for some of the Prime Minister's personal guards. Little was said about Canadian, English and U.S. police training programs for Jamaica's police, which together comprise almost the whole program. Similarly, the opposition emphasizes Jamaica's commercial and cultural ties with Cuba, while ignoring ties of much greater volume with Mexico, Venezuela, England, and the United States.

This does not mean that Jamaican-Cuban relations are weak or unimportant. It does mean that those relations must be placed in a proper perspective and not viewed hysterically. The charges that Jamaica is a satellite of Cuba has no basis in fact or logic.

Even more serious was the outbreak of political violence, greatly increased in the last four months. The targets for murder, bombing and arson have not been random individuals or sites. Rather the victims have been Peoples National Party supporters, and most often youth organizers. The gunmen and bombers themselves do not appear capable of planning such devastatingly precise violence, as that which took place at Kingston's Orange Lane. Many Jamaicans suspected the CIA.

On May 19, 1976, I visited the site of that bombed out cluster of houses the morning after the devastation occurred. From on the scene witnesses I discovered that some 50 armed men drove up, blocking both street entrances with automobiles and hurled back fire bombs into the homes. Those who tried to escape were forced back into the flaming structures, while some of the gunmen held off the fire trucks. When police arrived the gunmen opened fire at them and then orderly retreated in trained military fashion. The result of this particular act of violence was 11 dead, most of them children, and hundreds of people homeless.

The charges of economic mismanagement against Manley are often as difficult to pin down as the charges of communism. He has used the budget to benefit the poorest. Investment in education has resulted in 150,000 adult Jamaicans becoming literate since 1972. His investment in land reform has thus far freed some 50,000 acres for cultivation, and provided some irrigation, credit and machinery to small farmers.

In his approach to government Manley has emphasized popular participation and local government. He has helped create community councils and encouraged more worker participation in industry. His own work style of visiting and knowing all parts of the country show him to be a politician in the best and indeed most noble British-American democratic tradition.

But there can be no doubt that the internal attack on the Manley government—a campaign of violence and lies plus strikes—combined with the external attack from the U.S. press, plus a currency lead and what on June 20, Mr. Manley told me was a "mysterious U.S. credit squeeze," add up to a destabilization campaign, one that no small, poor, developing country can afford or should have to endure.

Mr. Manley used a state of emergency to stop the violence. It has stopped. A successful Caribbean Folk Festival, Carifesta, took place in early August to the delight of thousand of tourists, without so much as a fistfight.

If we are destabilizing Jamaica in the long run, we will have to pay in conscience. If we are not, we should then take positive steps to help this poor country develop, and back her democratic institutions with credit, assistance, and fair description in our press.

GREECE AND TURKEY: THE TRAGEDY CONTINUES

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. MURTHA. Mr. Speaker, one of the saddest elements of international relations in the Western World over the past year has been the unresolved controversy between Greece and Turkey.

The last year has shown no resolution of the issues that have plagued the people of these two nations, created the disastrous Cyprus situation, and restricted defense actions within NATO. I congratulate Secretary of State Henry Kissinger for helping to bring the two nations together over the latest dispute involving research in the Aegean Sea, but these temporary actions cannot continue to postpone final resolution of the key issues in the dispute.

Most important is the refugee problem, involving many homeless families who continue to endure while they are used as pawns by national powers. At the heart of the Greek-Turkey dispute must be pressure from the major nations of the world to settle the refugee and future living problems of the citizens as a first priority. International humanity for these individuals must dictate America's policy.

The United States should take a more active role in solving this long-range problem for the benefit of world peace and the security of the NATO forces in this critical part of the world.

Mr. Speaker, I would like to insert the following editorial from the August 6 New York Times on recent developments in the Greek-Turkey dispute.

CYPRUS, OIL AND THE AEGEAN

With luck, the Turkish research ship Sismik I will complete its seismic studies in the Aegean Sea without provoking a military confrontation between Greece and Turkey. An informal understanding has evidently been reached by the two governments, under pressure from their NATO allies, that will allow the vessel to carry out modest explorations even in disputed waters without precipitating the clash both sides have been threatening even since the Sismik's voyage was projected.

At virtually the last minute, as the Sismik prepared to sail with naval escort, and units of the Greek fleet ostentatiously put to sea, Ankara repudiated the notion some of its Cabinet ministers had previously advanced that the voyage would establish Turkey's claims to what it regards as the Aegean's continental shelf. Athens then let it be known that it had no objections to a purely scientific expedition, said the Greek fleet would not shadow the Sismik and subsequently dispatched its own oceanographic ship to the northern Aegean to explore the seabed.

Even if the Sismik's voyage is completed without provocative incident or accident, however, the whole affair provides a dismaying commentary on the current state of relations between two countries that ought to feel constrained, for reasons of history, geography, security and economics, not merely to co-exist in peace but to cooperate in every possible way. The complicated questions regarding sea and air passage of the Aegean, and the exploration of its resources make such collaboration even more imperative.

No existing international law or convention provides a complete answer for the issues that divide Greece and Turkey in the Aegean—divisions that have been exacerbated by the Cyprus disaster of 1974. The Geneva Convention of 1958 gives a country control over the resources of its continental shelf and specifically confers this right on its islands as well as on the mainland. But Turkey never ratified this treaty and contends with some reason that its authors never intended to give "continental shelves" even to the tiny Greek islands just off Turkey's Anatolian coast.

Greece long ago proposed taking the continental shelf boundary question to the International Court of Justice. Turkey accepted in principle but demanded prior bilateral negotiations which have made no progress. An effort to reach agreement on the control of the Aegean air space has also stalled, and the two countries appear to be as far apart as ever on the smoldering Cyprus question.

It is obvious that Cyprus and oil contribute heavily to the Aegean impasse. Ankara's assertions about the continental shelf became strident only after Turkish nationalism had been stoked by the massive invasion of Cyprus in August 1974 and Greece's discovery of oil off the Aegean island Thasos that same year. A weak Turkish Government is under heavy pressure from right-wing coalition members and left-of-center opposition to pursue a more belligerent policy. Greece, helpless to prevent Turkey's invasion of Cyprus, feels compelled to assert its Aegean claims forcefully.

Though neither government has tried conspicuously to damp down public agitation over the Sismik's voyage, it is encouraging that in private both were eager to find a face-saving compromise. War between Greece and Turkey would be so catastrophic for both countries as well as for Western security that their allies must encourage the two Governments to follow up that compromise with serious negotiations. Such negotiations can be fruitful only if they embrace Cyprus as well as the question of an equitable division of responsibility and resources in the Aegean.

NEW LEGISLATION PROHIBITING THE SALE OF CHILDREN IN INTERSTATE AND FOREIGN COMMERCE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. HYDE. Mr. Speaker, I am today introducing legislation to amend the Federal Criminal Code for the purpose of prohibiting the sale of children in interstate or foreign commerce.

Due to the scarcity of babies available for adoption, the black market in interstate and international baby selling has become a florishing business for profiteers who barter with human lives—in these cases, the sale of a child for cash. In treating the baby as a chattel, not only is the future welfare of the child in jeopardy, but in many instances, both the mother or natural parents and the future parent or parents are emotionally and financially victimized.

I want to congratulate the Chicago Sun-Times and its reporters, Pam Zekman and Bob Olmstead, on their recent indepth and excellent series on the black market baby business, particularly in the Chicago area. This outstanding study of the problem alterted me, and I am sure all Sun-Times readers who followed the series, to the nature and severity of the problem.

The Sun-Times series revealed that the black market baby business is most flagrant in interstate and international deals that are out of the control of State authorities and where there is an absence of Federal control.

While I doubt we have time to schedule hearings on this legislation before October 2, when Congress is scheduled to adjourn, I hope the introduction of the bill at this time will stimulate interest and after Congress convenes in January, the Judiciary Committee will initiate these hearings.

Text of the bill follows:

H.R.—

A bill to amend title 18 of the United States Code for the purpose of prohibiting the sale of children in interstate or foreign commerce

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18 of the United States Code is amended by inserting immediately after chapter 119 the following new chapter:

"Chapter 121.—INTERSTATE PLACEMENT OF CHILDREN FOR PERMANENT CARE OR ADOPTION

"SEC.

"2581. Placing or coercing the placement of a child for compensation.

"2582. Definitions.

"2581. Placing or coercing the placement of a child for compensation.

"(a) Whoever, either directly or through any other person, knowingly solicits, provides, or receives anything of monetary value, or the promise of anything of monetary value—

"(1) for seeking to place, placing, or arranging to place any child for permanent care or adoption, or

"(2) for coercing any individual—

"(A) to place any child for permanent care or adoption,

"(B) to adopt any child, or

"(C) to provide any child with permanent care;

under circumstances which result in the transportation of such child or such individual in the District of Columbia, in the Commonwealth of Puerto Rico, or in any territory or possession of the United States, or in interstate commerce, or in foreign commerce, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(b) Subsection (a)(1) of this section does not prohibit any person's—

"(1) soliciting, providing, or receiving monetary value for seeking to place, placing, or arranging to place any child for permanent care or adoption—

"(A) if such person is—

"(i) a parent of such child,

"(ii) a guardian or any other person appointed by a court to provide for and to protect the interests of such child;

"(iii) a person seeking to adopt such child or to provide personally such child with permanent care, or

"(iv) a person authorized under or licensed to place children for permanent care or adoption in accordance with the laws of the State where such child is being placed for permanent care or adoption; and

"(B) if such monetary value is—

"(i) received for services provided in connection with placing, seeking to place, or arranging to place such child for permanent care or adoption, and

"(ii) not in excess of an amount which is fair, reasonable, and customarily received for the same or similar services at the time and place such services are provided; or

"(2) providing legal services—

"(A) which are in connection with the preparation and execution of documents, or appearance in court, necessary to place any child for permanent care or adoption in accordance with the laws of the State where such child is being placed; and

"(B) for which monetary value is not received in excess of an amount which is fair, reasonable, and customarily received for the same or similar legal services at the time and place such legal services are provided.

"§ 2582. Definitions

"As used in this chapter—

"(1) the term 'child' means any individual who has not attained the age of sixteen at the time such child is placed for permanent care or adoption, and includes any unborn individual;

"(2) the term 'permanent care' means a majority of the support provided for a child during a period of at least one year by any person who is not—

"(A) a parent, grandparent, sibling, aunt, or uncle of such child,

"(B) a guardian, or any other person appointed by a court to provide for and to protect the interests of such child, or

"(C) a person authorized under or licensed in accordance with the laws of the State where such support is provided to place children for adoption or to provide such support to children; and

"(3) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States."

SEC. 2. The tables of chapters for part 1 of title 18 of the United States Code and for such title are each amended by inserting immediately after item 119 the following new item:

"121. Interstate placement of children for permanent care or adoption___2581".

CALIFORNIA SHOWS THE WAY ON LAND-USE LEGISLATION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. BROWN of California. Mr. Speaker, this week the California State Legislature sent to Gov. Edmund G. Brown, Jr., a land-use bill that is of national importance. This legislation, which codifies the key recommendations of the California Coastal Zone Conservation Commission, which was created by a voter initiative passed in 1972, effectively preserves the 1,072-mile-long California coast for the use and enjoyment of all people, not just those who can afford it, for generations to come.

The battle for enactment of this legislation involved every conceivable special interest group. Frankly, I doubt that it could have been won if another voter initiative, the Campaign Reform Act passed in 1974, was not already law.

I do not need to remind my colleagues of the significance of land-use legislation. We have all had experience with land-use decisions at the local level, and have considered much less significant legislation than the new California law at a Federal level. The controversy that surrounded national land-use planning legislation, which did not even contain land-use controls, was so intensive that the House in the 93d Congress refused to even consider the committee-passed bill. The new California coastline law gives a State commission ultimate power to accept or reject local decisions that may, or may not be in the best interests of all of the people. This type of safeguard has been proven, time and again, to be necessary.

Mr. Speaker, and my colleagues in the House, I bring this new law to your attention because I believe it demonstrates that growth can be planned, and valuable national resources can be preserved and protected, even in an area of rapid growth. The Congress will not have time to act on reasonable land-use planning legislation this year, but it should put such legislation high on its agenda for next year.

Some additional information on the new California law follows:

[From the Los Angeles Times, Aug. 24, 1976]

COAST BILL WINS SURPRISE VICTORY, GOES TO BROWN

(By Larry Stammer)

SACRAMENTO.—Sweeping coastal protection legislation which has teetered between success and failure for the last week was approved on a surprising 25–14 vote Monday by the state Senate and sent to Gov. Brown for his signature.

The vote—four more than the 21 required for passage—climaxed a protracted four-year struggle to enact permanent coastal controls and a feverish 11th-hour drive to line up the required Senate votes.

Just minutes before the Senate began its two-hour debate, the bill's author, Sen. Jerome Smith (D-San Jose) glumly predicted he did not have enough votes for passage.

"You have to read the tea leaves correctly. It was close, wasn't it," Gov. Brown quipped shortly after the vote.

But it was more than a correct reading of tea leaves that put the bill over the top.

Throughout the two-hour Senate debate a steady stream of messages to undecided senators flowed from Brown's office.

At the same time, Brown and his top aides, joined by at least two legislative opponents of the bill, closeted themselves in the governor's office with representatives of organized labor and agreed to amendments which resulted in the California Labor Federation (AFL–CIO)—the last major holdout—to endorse the bill.

Those amendments will be inserted into another clean-up bill now in the Senate.

As soon as the bill's passage was apparent, several senators who had voted against it switched their vote from "no" to "aye."

Other senators who had not voted quickly added their names to the roll-call.

The vote was hailed by Brown as a "major step forward" and he told reporters who had been hastily summoned to his office that he would sign it as soon as it reaches his desk.

Assembly Speaker Leo T. McCarthy (D-San Francisco), who helped steer the bill successfully through the Assembly where it was approved Aug. 13, called the final vote "the single most important conservation act by this Legislature in a generation."

And Smith, who inherited the authorship from Sen. Anthony Beilenson (D-Los Angeles) after the Senate Finance Committee on June 11 rejected a similar bill by Beilenson, said Monday's Senate vote was "the happiest thing that ever happened to me."

Brown termed the amendments to be included in the clean-up bill as "reasonable" and McCarthy told reporters he saw no difficulty in winning passage of that bill, authored by Assemblyman Gary Hart (D-Santa Barbara).

Under terms of the compromise agreement reached with labor, six temporary regional commissions proposed by the Smith bill will be appointed but will not begin work until the proposed statewide California Coastal Commission determines there is sufficient workload for the regional bodies.

However, throughout the long legislative fight over the bill, supporters repeatedly stress that the regional commissions were needed precisely because of the demanding workload which they said would result from the submission by coastal cities and counties of local coastal programs for approval.

Another amendment will give the Legislature the power to ratify or reject sensitive coastal areas designated by the state commission, a power the Legislature does not have under the Smith bill.

The Legislature will have two years to act on the commission's recommendation. If the Legislature fails to ratify a sensitive area within that time, it would be excluded from the coastal commission's jurisdiction.

Another amendment, described as "clarifying language" says that the coastal act does not supersede the federal and state constitutions which declare that a property owner must be compensated when government actions constitute a "taking" of his property.

During Senate floor debate, the opposition was led by Sen. Ralph Dills (D-Gardena) who assailed the Smith measure as a "monstrosity" and charged, "This bill is no less than legal rape of property owners along the coast."

Alluding to so-called "bumps" in the 1,000-yard wide coastal zone where the coastal zone extends further inland, Dills said the bill amounted to a "legal strip tease."

"You have the bumps and you have the grinds," Dills intoned. "The grind comes in on the property owners."

Sen. David Roberti (D-Los Angeles) fervently urged a vote against the bill.

He charged the bill was an "elite neighborhood preservation plan." He complained the bill "talks about saving the sand dunes" at the expense of low- and moderate-income housing and employment.

"Well, make no mistake about it where David Roberti stands. My loyalty lies with the working men and working people of California," Roberti said.

Roberti's declaration was attacked by Sen. Peter Behr (R-Marin), who has supported the bill.

"I'm a little discouraged to see this bill described as a vehicle for a new class struggle, pitting the elite or the effete against the working poor," Behr demurred.

He reminded the Senate that in 1972, 4.6 million "effete elitists voted for Proposition 20 to save the coast."

Behr accused those pressing for further amendments of wanting to kill the bill.

"They really don't want a bill at all. They want this bill to die the death of 10,000 cuts, a Chinese torture, by amending it one by one," Behr said.

Sen. John Dunlap (D-Napa) said descriptions of the bill as a "legal rape" or "strip tease" were "labels that don't have anything to do with the substance of the bill."

[From the Los Angeles Times, Aug. 25, 1976]

A GREAT DAY

Mark Aug. 23, 1976, as a momentous day in California's history.

The long battle to save the coastline—a still-magnificent resource for most of its 1,072-mile length—was won in the Legislature.

From the Oregon to the Mexican borders, the verge of land and sea was made safe from the congestion of urban sprawl and the encroachment of excessive commercial and industrial development.

In the words of Gov. Brown, whose leadership was decisive, final passage of SB 1277 in the Senate late Monday will preserve "the coast for this generation and for generations to come."

Much of the coastline already has been lost to the bulldozer and the pile driver, but the new statute will insure that vast sections of it, ranging from the forest slopes and craggy promontories in the north to the broad beaches and tidal estuaries of the south, will be accessible to the public and safe from further exploitation.

Without the protections of SB 1277, it would have been only a matter of years until the shoreline adjacent to California's urban centers would have become almost entirely a private "no-trespass" domain. Without the environmental controls of SB 1277, areas that will remain open to commercial or industrial use might have become as repellent as those that blight much of the Atlantic seaboard.

Credit for enactment of this precedental legislation belongs not only to Brown but also to Sen. Anthony Beilenson (D-Los Angeles), whose original bill died in a Senate committee, and to Sen. Jerry Smith (D-San Jose), who agreed to revive the controls by amending them into legislation of his own.

Chairman Mel Lane, Executive Director Joe Bodovitz and members of the California Coastal Zone Conservation Commission, together with members of the six regional commissions, also fought for passage of the safeguards that were drawn from their own recommendations to the Legislature. The Planning and Conservation League, the Sierra Club and other environmental organizations kept steady pressure on the legislators.

But Brown's role was critical. Up to the last minute, he and his top aides were outside the Senate chamber lobbying for votes, and the margin of victory was a surprising 25 to 14—4 more than needed.

Just hours before the final vote, the governor met with leaders of the California Federation of Labor (AFL-CIO)—the last major special interest that was still in opposition—and was able to persuade them to endorse the measure.

The two final concessions made to the labor leaders in exchange for their support were not significant, and will be written into follow-up legislation.

One provides that six temporary regional commissions would become operative only if the new and permanent California Coastal Commission found that there was sufficient work for them to do—and then for two years instead of four. Neither change would diminish the ultimate authority of the statewide commission.

The second compromise would require ratification by the Legislature of the permanent commission's designation of "sensitive coastal resource areas," which would receive special protection under the statute. But the other strong protections of the law would apply even if areas were denied the "sensitive" designation.

Despite final approval of SB 1277, diehard opponents in the Legislature may attempt to exact further concessions during consideration of a companion appropriation measure, which requires a two-thirds vote and which must pass before adjournment at week's end. Proponents must resist such an effort. There already have been more than 300 amendments to the law, including the reduction of the control zone from 2,000 to 1,000 yards and the removal of a key restriction against the siting of nuclear power plants along the coast.

But the statute contains most of the basic safeguards to which the voters gave overwhelming approval in 1972 with enactment of Proposition 20. It protects the strip of coastline 1,000 yards inland, and for longer distances to preserve estuaries and the mouths of streams, rivers and canyons. It requires local governments to prepare, by 1980, a comprehensive plan for coastal development within their jurisdictions, but it reposes in the state commission the power to approve or reject local plans and zoning decisions.

Obviously, SB 1277 would have been stronger without the long series of amendments. But it could not have won legislative approval without them, and the alternative would have been a total cessation of controls at the end of this year. Relief, through passage of another initiative, could not have come earlier than 1978, and there could have been runaway development by then.

With aggressive enforcement, the new safeguards should be adequate to conserve a resource that is both unique and irrecoverable. Assembly Speaker Leo T. McCarthy (D-San Francisco) did not overstate the importance of the action in Sacramento when he said it was "one of the most momentous achievements of the California Legislature in many, many years. It will shape the character of this state for the next century."

MRS. CECILIE DANNENBERG HAPPY 100TH BIRTHDAY

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. WOLFF. Mr. Speaker, 1876 is a year often seen in history books, but to one lady living in Queens, N.Y., it is a most significant year in her life. Mrs. Cecilie Dannenberg was born on August 25, 1876.

Mrs. Dannenberg is the present touching the past that very few people today have experienced. I am pleased to extend to Mrs. Dannenberg my congratulations and best wishes on this, the 100th anniversary of her birth.

LA OPINION CELEBRATES 50TH ANNIVERSARY

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. ROYBAL. Mr. Speaker, when the United States of America was rapidly becoming a Nation, Thomas Jefferson wrote:

> Were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate for a moment to prefer the latter.

We in this Congress are all keenly aware of the contributions that newspapers have made to our people and our democracy.

In this Bicentennial Year when we reflect on our country's birth, one newspaper will also be celebrating its beginnings. On Saturday, August 28, 1976, the Los Angeles newspaper, La Opinion, will observe its 50th anniversary, making it the oldest Spanish-language daily in the United States.

Coming from difficult beginnings, La Opinion has grown to be an established and responsible force in the community, with a weekday morning circulation of 24,000 and 19,000 on Sundays.

La Opinion was founded on September 16, 1926, by Ignacio E. Lozano, an editor and publisher who had successfully established the country's first weekly Spanish-language newspaper in San Antonio, Tex., called La Prensa. Mr. Lozano decided that the large concentration of Mexican-Americans in the Los Angeles area deserved a newspaper that would provide them with objective news, history, culture, sports, and social news relating to their community.

With the help of his associates, Mr. Lozano founded the newspaper in an old house at the corner of Los Angeles and Commercial Streets in Los Angeles. They acquired a few old typewriters, a hot type printing press, a Linotype machine and joined the United Press International wire service. The first issue of La Opinion was published on the symbolic day of September 16—Mexican Independence Day.

Throughout the newspaper's history, the workers at La Opinion developed close working relationships with each other, and it was this type of family working environment that helped the paper survive the Great Depression and the following world war. At a time when many newspapers across the country went out of business, La Opinion continued publishing and was able to struggle through without laying off one employee. This was made possible by a vote of the workers who decided to cut their own wages for the good of the newspaper.

Prior to the celebration of its 25th anniversary in 1951, La Opinion moved to its current location at 1436 South Main Street. Since that time Mr. Lozano has passed on and his son, Ignacio E. Lozano, Jr., has assumed leadership of the newspaper and continues publishing in the same tradition of his father.

The paper now publishes with modern offset printing equipment, belongs to various wire services and holds true to Mr. Lozano's objectives of service to readers in the community.

Mr. Speaker, I know that you and my fellow colleagues join me today in saluting the achievements of La Opinion in this year of their 50th anniversary, and in wishing all the employees continued success in the future.

SOCIAL SECURITY BENEFITS FOR SENIOR CITIZENS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. GILMAN. Mr. Speaker, today I am introducing legislation to encourage individuals over 65 who are able to work and want work to do so without jeopardizing their social security benefits.

Mr. Speaker, under the present social security system, individuals between 65 and 72 receive a reduced social security benefit of $1 for every $2 earned above $2,760 per year or $230 per month. Under my proposal, individuals over 65 would be exempt from this earnings test, thereby encouraging senior citizens to continue their occupational endeavors with the knowledge that their social security benefits would not be reduced or jeopardized.

My older constituents continually ask: "Why should I work after age 65, earn more than $2,760 only to suffer a reduction in my social security benefits—benefits that I am entitled to for all of my years of contributing to the social security program?" Mr. Speaker, my proposal responds to that challenge. A senior citizen would not be subject to an earnings test requirement but would receive the full amount of the entitled social security benefits regardless of the amount of the individual's earned income.

Historically, this Nation has valued self-reliance and the work ethic. Penalizing elderly citizens who are willing and able to work by reducing their social security benefits is detrimental to this precept and discourages able senior citizens from working, thereby draining the Nation of their valuable skills and talents. It also robs our older Americans of their self-esteem and personal dignity. With unemployment at high levels, let us not perpetuate this economic condition by discouraging these citizens from working through reductions in their hard earned benefits.

In the interest of encouraging those citizens over 65 who are willing and able to work, I urge my colleagues to support this legislation and I request that the full text of this legislation be inserted at this point in the RECORD:

H.R. —

A bill to amend title II of the Social Security Act to reduce from 72 to 65 the age beyond which deductions on account of an individual's outside earnings will no longer be made from such individual's benefits

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (c)(1), (d)(1), (f)(1)(B), and (j) of section 203 of the Social Security Act are each amended by striking out "seventy-two" and inserting in lieu thereof "sixty-five".

(b) Subsection (f)(3) of such section 203 is amended by striking out "age 72" and inserting in lieu thereof "age 65".

(c) Subsection (h)(1)(A) of such section 203 is amended by striking out "the age of 72" and "age 72" and inserting in lieu thereof in each instance "age 65".

(d) The heading of subsection (j) of such section 203 is amended by striking out "Seventy-two" and inserting in lieu thereof "Sixty-five".

SEC. 2. (a) The last sentence of section 203(c) of the Social Security Act is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, or widower involved became entitled to such benefit prior to attaining age 60.".

(b) Clause (D) of section 203(f)(1) of such Act is amended to read as follows: "(D) for which such individual is entitled to widow's or widower's insurance benefits if she or he became so entitled prior to attaining age 60, or".

(c) Section 203(f)(5)(D) of such Act is repealed.

SEC. 3. The amendments made by this Act shall apply only with respect to monthly insurance benefits payable under title II of the Social Security Act for months in taxable years ending after the date of the enactment of this Act.

NATIONAL VOLUNTEER FIREMEN WEEK

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. YOUNG of Florida. Mr. Speaker, I am proud to introduce this joint resolution authorizing the President to proclaim the week of October 3, 1976, as "National Volunteer Firemen Week."

We all know that firemen risk their lives protecting people and property from fires and handling numerous types of emergencies. In my area firemen are also responsible for safeguarding residents and property during hurricanes. The job of a fireman is one where, at any given moment, a fireman may be asked to place his life in danger to protect his fellow citizens.

Volunteer firemen are a very special group of people because they truly have community spirit. They care about their neighbors. Volunteer firemen do not serve for money but out of a sense of duty. Their spirit is the spirit of the American frontier when settlers facing a tough environment helped each other in times of need.

Volunteer firemen are a self-reliant people. In many places a costly full-time fire department with paid employees would be required except for the volunteers who offer their time and effort without charge.

I hope this resolution will focus some much deserved attention on our volunteer firemen and that as a result Americans will see the shining example of sacrifice and spirit that they have set.

SCHOOL DESEGREGATION—A SEARCH FOR ALTERNATIVES

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. MAZZOLI. Mr. Speaker, last March, our colleague from Georgia, Mr. LAWRENCE MCDONALD, introduced H.R. 12365, a bill to eliminate Federal court jurisdiction over school desegregation cases. The operative words of the measure are as follows:

> . . . no court of the United States shall have the jurisdiction to make any decision, or issue any order, which would have the effect of requiring any individual to attend any particular school.

In April, this legislation was the object of an article in American Opinion. More recently, on July 20, Congressman MCDONALD inserted in the RECORD a detailed analysis of the court decisions relating to school busing and the jurisdiction of the Federal courts.

Our colleague has done extensive research on the problems of schoolbusing and has given careful thought to his proposed solution. However, I do not believe his approach is the appropriate one.

Sponsors of H.R. 12365 insist that Congress, by simple legislative action, can end the trauma of mandated schoolbusing by stripping the Federal courts of their jurisdiction over school desegregation cases.

Mr. Speaker, would that there were such easy and readymade solutions.

The sad truth, however, is that we live in the real world and the real world permits no such easy way out.

For example, this past April 1, when considering a bill creating additional Federal judgeships, the Senate rejected by a vote of 62 to 29, an amendment which contained language essentially similar to that contained in Mr. MCDONALD's bill. The specific language in the defeated amendment was as follows:

> That no Federal court has any jurisdiction to hear or decide cases or controversies involving public schools.

And, on June 22, our distinguished and thoughtful colleague from North Carolina, Mr. RICHARDSON PREYER, in responding to the proposal of the President and the Attorney General to limit judicial decrees in the area of busing, stated:

> The alternative to busing legislation which he (Attorney General Levi) and the President are considering makes the same mistake that characterizes much other legislation in this area: it addresses the remedy applied by the courts and not the underlying problem.

Congressman PREYER, a former Federal district court judge, himself, stated further:

> . . . Congress is always treading on dangerous ground when it seeks to stop the courts from granting certain remedies or to limit judicial decrees in an area in which the courts are applying the Constitution . . . these questions can be easily avoided if Congress uses its legislative power to reduce the need for busing, rather than creating false hope by attempting to foreclose the remedies of the court.
>
> We do not need any anti-judiciary bills. Rather, what we do need is a recognition on the part of Congress of its obligation to enunciate national policy and to provide mechanisms and resources with which to carry out this policy.
>
> . . . We will gain little from spending our time attacking the courts; instead we should remove the courts from the education business by removing the issue that put them there.

Last year, Mr. Speaker, Congressman PREYER introduced H.R. 10714, the National Education Opportunities Act, of which I am a cosponsor.

This measure is a positive measure which, in Mr. PREYER's own words, seeks to

> . . . remove the courts from the education business by removing the issue that put them there.

This measure insures equal educational opportunity to all children. And by this manner seeks an end to the division, the disruption, the financial and social cost of forced schoolbusing.

I firmly believe busing is not the correct solution to the problem. But, to end it, we must seek out and then aggressively implement the alternatives which will desegregate our classrooms and which will also upgrade the quality of education in every classroom of every State in this great Nation.

I have also cosponsored another legislative measure which would provide Federal funds for the purpose of exploring and developing alternatives to forced busing.

It has been estimated that the present extent of racial busing could be reduced by two-thirds if alternatives were adequately employed.

One of the more encouraging of these alternatives involved the construction of "magnet schools"—schools which attract students from wide geographical areas because of high-quality and specialized educational programs offered.

The bill would also provide Federal help in the construction of schools in areas where the population is already racially mixed, or in inner-city areas where many school facilities are old and decaying.

These measures, in and of themselves, may not provide final answers to the difficult and vexing issue of school busing. But, I believe they will lead to final answers.

And, they are preferable in my judgment to approaches—like that taken by my colleague, Mr. McDonald—to restrict the jurisdiction of the Federal courts to hear and decide school desegregation cases.

A BAD IDEA GONE EVEN WORSE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. LAGOMARSINO. Mr. Speaker, I thought some of my colleagues would be interested in the following editorial concerning post card registration from the Ventura Star-Free Press entitled: "A Bad Idea Gone Even Worse":

A Bad Idea Gone Even Worse

When so many good ideas go wrong in government, where could you reasonably expect a bad idea to go? Well, that's where the new state law on voter registration has gone.

Just a plain, factual recitation of what has happened here in Ventura County is enough to put the whole farce in perspective:

—The first batch of post card registration forms was sent by the office of California Secretary of State March Fong Eu—not to the Ventura County clerk-recorder, the elected official entrusted by law with responsibility for registering voters—but to a coalition of labor unions and other organizations that are active in Democratic party affairs. (Mrs. Eu is a Democrat.)

—That coalition then armed volunteer "registrars" with post cards and sent them into areas—like La Colonia in Oxnard—where there is a high percentage of residents who could be expected to vote as Democrats, but a low percentage of registered voters.

—When the first batch of postcards were returned to the county elections office, about 20 per cent of them were filled out wrong, so the voters weren't properly registered. The county elections office will have to contact these same residents and try to get them properly registered.

This is just the sort of nonsense we feared when we warned against post card registration before the legislature approved it.

With a heavy majority of Democrats in both Houses—and a Democrat in the governor's office—all considering a bill that figures to register three Democrats for every Republican, it would be hard to think of a more obvious conflict-of-interest. And the law is being implemented with the same partisan spirit that got it passed—though the partisanship isn't all on one side.

One of the first—and largest requests—for post card forms came from the Los Angeles Republican Central Committee, which asked for 250,000. State legislators of both parties who are up for election in November are hoping to use the post cards as a means of drumming up a few extra votes.

Even though we opposed the idea originally, we must confess that it's turning out worse than we had expected. Who would have thought the first result of the legislation would be partisan vote-hustlers, out peddling registration door-to-door?

Whatever the political benefits for whichever party, that's a pretty warped version of what representative government is all about. As we've said before, we're all for participation in public affairs, but it should be informed participation. The impetus to vote should come from the voter, not from some political organization trying to hustle an election.

Voter registration should be handled by trained registrars whose job it is to aid would-be voters of both parties. Representative government will in no way be enhanced by more officially sanctioned and publicly subsidized partisanship.

It simply hasn't been that hard to register in the past, and any citizen who doesn't care enough to register could hardly be expected to care enough to vote intelligently, if at all. It may well be that all the registration-hustling will prove less profitable politically than the hustlers think, though no doubt it will be followed up by vote-hustling on election day.

What's doubly distressing about this is the fact the U.S. House of Representatives has just approved a similar post card registration system for the whole nation. The prospects of partisan dividends are exactly the same as they were in Sacramento—with Jimmy Carter urging the Democrats in Congress to approve the legislation in time to get a flock of new Democrats registered by November.

That's partisanship, of course, and if President Ford vetoes post card registration, that would be equally partisan. But it would also be the right thing to do.

Voters should register themselves, not be registered by someone else. The next step will be to have the "registrars" do the voting, too, by holding elections via post card.

ODE TO SMALL COLLEGES

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. FINDLEY. Mr. Speaker, the following lines, entitled "A Distant Prospect of Rollins College", are by John Brookins Fisher.

Mr. Fisher, long active in our Nation's educational circles, has been associated for a number of years with that fine college in Winter Park, Fla. He is also, currently, a trustee of Mercyhurst College in Erie, Pa., and has served in that same capacity at Mount Holyoke College in South Hadley, Mass.

This ode to Rollins College, which has just been published in the Rollins Alumni Record, is a tribute to all of our fine small colleges throughout the Nation. I know that all will enjoy reading it as much as I did:

A Distant Prospect of Rollins College

(By John Brookins Fisher)

Some ninety years now veil from view
That natal time when, by Virginia's
Margent shades, a visionary citizenry,
Sprung from Yankee as from Dixie's roots,
Descried this vibrant scene,
Evoking from a modest Fourth Estate
A gladsome "Joy to the Park, the school's begun!"

'Twas ever so, since then, that what
The heart has felt the eye defines:
A hall, then more, a chapel with
Gently sculpted aspiration;
A measured field of contest and of play;
Connective structures, red-tiled, moss-framed,

For free communication of bodies and of minds.

Strong-willed founders of mercantile
And other business bent
Yielded to subtler influences of word and pen,
Perceived the forest, the verdant trees as well,
Transmuting hard materials, budgets, and accountings
Into such an ambience and aliment
As now inspire this austral grove of Academe.

Here, then, this Rollins College,
Provoking younger minds and old convictions
To assess and then assess again
And ever to expand, extend, pursue
That sinking star that so enticed
The voyagers from 'fore tortured Troy,
That understanding which alone can soothe the aching soul.

To yearn for, seek, such answers as may be
To present mysteries of life—
An environment diseased through man's corrosive greed—
Ant-hill numbers hungering for meagrest sustenance—
Holders of high office perverted by ambition,
Unaware, unfeeling, sterile and inert,
Their thinking seldom catholic, just elective.

And yet, as innocence is lost, to find
Within this pleasing acreage, the means,
And, yes, the will to o'ercome awesome evils,
To tame first our inner wildnesses
And judgments still uneven, immature,
To see, with purest cynicism, the world
As it so surely is as well as it should be.

So, by this pensive contemplation,
Shaped and toned by mentors attuned
To youthful hopes, comprehending these ideals,
To find that neither anger nor keenest anguish
Has utility, that neither bludgeon
Nor beguilement will move us
An iota farther toward fulfillment.

"Say not the struggle naught availeth",
For the effort, not the end, is all;
This is Nature's charge to thee and me and we.

For those about us must be made
To feel before they can expect to see;
Such evocations of the heart must start
With one, not populations.

Hence, these decades elder, this
Pantheon of quality prevails,
Not faultess, having myriad
Successes winnowed from such failures
As must attend each human trying,
Yet, here, substantial, luminous,
Aquiver with the promise of
That unyielding excellence which we pray,
And now resolve, shall be.

THE WASHINGTON POST ON WHY OUR NATION'S PRODUCTIVITY IS SO LOW

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. KEMP. Mr. Speaker, I am putting into the Record at *this time* an excellent editorial in the August 23 Washington Post. The editorial points out two very important facts of which the 132 cosponsors of the Jobs Creation Act are very conscious. The first fact is that rising business investment per worker is essential to rising productivity. The second fact is that rising productivity is essential if equality of opportunity is to continue to improve. I commend the Washington Post for its editorial leadership on this issue and recommend the editorial to my colleagues.

It is a known fact that opportunities expand for everyone when there is a growing economy. As the Washington Post put it:

> Economic growth makes it possible for the newcomers to move up the ladder without pushing down the people who got there before them.

It is also a known fact that workers' productivity is not increasing at its usual rate, because capital investment per worker is not rising at its usual rate. Because of the "baby boom" of two decades ago and the unprecedented proportion of women who are now entering the job market, the labor force is growing unusually fast. Therefore, if productivity is to continue to rise, it is imperative that we undertake accelerated steps to increase the rate of capital investment.

And that is exactly what the Jobs Creation Act would do. By reducing the tax on work and investment, it would get the train of economic opportunity moving again. Passage of the Jobs Creation Act is the surest way to full employment, stable prices, and growing equality of opportunity for all Americans.

The article follows:

PRODUCTIVITY: WHY SO LOW?

American productivity is no longer rising the way it used to. Currently the trend is hardly rising at all. You are not likely to hear this uncomfortable truth mentioned often in the political speeches of the coming weeks. It raises questions on which the parties themselves are divided, and the answers do not lend themselves to snappy campaign exhortations. But the stagnation of productivity is involved in all of the other economic issues about which you are going to hear a great deal: inflation, unemployment and the future of the American standard of living.

Productivity in this country has doubled since the end of World War II (and quadrupled since the end of World War I). It is simply the statistical measure of the average American's ability to earn much more, with fewer hours' work than his parents could. Productivity means output per man-hour, with the effects of inflation stripped out of it. The recent quarterly figures look pretty good, as they always do during the recoveries from recessions. But if you smooth the bumps and jolts out of the graph, you will find that in the United States (unlike Europe or Japan) the growth of productivity has been slackening steadily for two decades. In the early 1950s it grew at a rate of well over 3 per cent a year. The rate now is hardly 1 per cent a year. It means that, for the indefinite future, Americans' real earning power is apparently going to rise more slowly than in any sustained period since the Depression.

Why this slowdown? The reasons lie in the long-term changes overtaking this country's economy, and some of them—like the state of the educational system—go far beyond the usual bounds of economic analysis. The Congressional Budget Office published a useful summary earlier this month, in the last pages of its report, "Sustaining a Balanced Expansion." The CBO is frequently assailed (by Republicans) as a nest of inveterate Democrats. But its conclusions on productivity are not going to offer either presidential candidate much help toward easy answers on economic policy.

Workers' productivity is not rising at the accustomed rate, the CBO's economists say, partly because business investment per worker is not rising at its accustomed rate. Businessmen are still investing as much as they always have—but the labor force is growing faster. It's the baby boom of two decades ago, and the unprecedented proportion of women who are looking for jobs and finding them. Not only is the labor force growing unusually fast, but the greatest growth is in those categories of workers with the least experience and skill.

At the same time, a rising share of investment is going into equipment that is not—by the traditional definition—productive. Clean air and industrial safety are an important part of anybody's standard of living but they don't count in the statistics. The new rules on pollution abatement, health and safety are worth a lot, but some of those costs turn up in the form of lower productivity.

To maintain its momentum, an economy as advanced as ours needs to invest in new technology at a rising rate. But the money that this country puts into research and development has actually fallen a little in recent years. Still another element in economic growth is, of course, education. Over the past generation there has been an astounding increase in the proportion of young people to finish high school and go on to college. That rise seems to have ended, and college enrollments have generally levelled off. If there are to be further productivity gains through education, they are going to have to be achieved by increasing the effectiveness of instruction within the present span of the average citizen's schooling. As the CBO points out, improving the reading ability of high school graduates might well make them more productive workers.

The prescriptions for raising productivity are neither simple nor certain. Tax incentives are probably necessary to increase investment—but these incentives, in their customary forms, are objectionable to most of the country as mere tax breaks for the wealthy and the corporations. It will require a considerable application of political skill—perhaps, you might even say, political genius—to work out formulations adequate to assure voters that these benefits will genuinely flow to the whole country, not just to the investors.

There is one basic question: Does the country really want to put itself to the trouble of pushing for further productivity gains and economic growth? What about the argument that the United States is already rich enough, and ought to be content with what it's got? But the case for further growth has very little to do, at bottom, with economics or material wealth. It has a great deal to do with American ideals of social justice and opportunity. Economic growth makes it possible for the newcomers to move up the ladder without pushing down the people who got there before them. Education has been, for most people, the surest route up into the middle classes, and it was economic growth that made possible the past generation's massive expansion of this country's school and university systems. If productivity ceases to improve over the coming years, a lot of other things in this country will also cease to improve—and one of them is equality of opportunity.

TOO MUCH CONFUSION

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. BAUMAN. Mr. Speaker, in the last 2 weeks statements have been made by various officials of the EPA indicating in the first instance that an eminent threat to the Chesapeake Bay existed because of the spread of the contamination of kepone. Close analysis of the statements made by the EPA officials indicated that the threat to the Chesapeake Bay could be years away and might not exist at all if proper precautions are taken. In the meantime, scare headlines in newspapers and partial treatment of the facts presented on the part of the press create economic hardship for watermen, seafood processors, and those who depend upon this industry for their livelihood. I include at this point an editorial from the Banner in Cambridge, Md., indicating the twin needs for a cautious approach to the treatment of the publicity concerning kepone contamination and at the same time a vigorous program to contain the spread of this pollution. The editorial follows:

TOO MUCH CONFUSION

Environmental protection officials are tempering their long-term forecasts about kepone contamination of the Chesapeake Bay with assurances that although the chemical is being found in fish throughout the bay and north to New York, it is not showing up in harmful quantities. That reassurance is cold comfort to Maryland and Virginia watermen who know the effect damaging publicity can have.

EPA Administrator Russell Train and his assistants fear that the Chesapeake may be seriously threatened by Kepone within five years. One problem is that Kepone is a present chemical. At present it appears to be concentrated in the James River and some thought is being given to dredging the river-bottom muck which it has contaminated. Disposing of the dredged material could pose a major problem.

Federal agencies have set minimum acceptable levels of Kepone in fish and other food. Those levels seem not to have been exceeded in fish taken from the northern part of the Chesapeake. Customers in distant markets who remember newspaper headlines like the one this week that said: "Kepone now taints fish off New York" probably won't remember, or care, that the accompanying story also said the amount of the chemical was "well below the 'action level' at which sale of the fish could be banned."

Only time will tell whether the Chesapeake is headed for the major disaster the federal officials are now hinting at. The effect of Kepone on the men and women who were associated with its manufacture has been devastating. That is reason enough to view with the utmost concern its escape into the environment and the prospect of its poisoning important sources of human food. It behooves responsible officials to take steps to contain the material without delay, to make sure the public is kept informed of all phases of the problem and to state the case so clearly that the seafood industry throughout the Bay Country is not unnecessarily jeopardized in the process.

THE ALTERNATIVE TO HOSPITALS

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. KOCH. Mr. Speaker, the National Home Health Care Act that I introduced last year now has 117 House cosponsors. Recognition that home health care is a viable alternative to nursing home care in many cases continues to grow, both in Congress and among professionals and organizations in the health field.

Statistics illustrate the need for expanded home health services. Recent HEW figures show that of the 1 million elderly persons in long-term care facilities today, somewhere between 14 and 25 percent of these individuals are there because there are no alternatives available to them. For these people, as well as for the 1 out of 6 older Americans who are not in institutions but who are in need of direct health and social services if they are to be able to remain in their own homes and communities, home health care can be cheaper and psychologically beneficial. As the attached article indicates, individuals who are able to take advantage of home health services can often save money by reducing the length of hospital stays and receiving less expensive, but certainly adequate, care at home.

In keeping with my continued interest in seeing home health care legislation enacted, I am placing in the RECORD today an article from Modern Maturity, April–May 1976, discussing the benefits of home health care.

The article follows:

THE ALTERNATIVE TO HOSPITALS

(By Janet Lowe)

Home nursing was once a common practice. Grandmothers had home remedies. Families had maiden aunts who served as traveling nurses. Hospitals were reserved for only the most serious of maladies. Until recently, progress ended all that. But now history seems about to take a pleasant step backward.

With the recent disillusionment over the nursing home system and the spiraling increase in medical costs, health care professionals, all the way from health department administrators to insurance company presidents, are looking for an alternative to institutional admission. The way it looks now, an increasing number of people eventually will be receiving medical care at home.

A return to home health care makes basic, simple sense.

A recent study by graduate students of urban affairs at the New School for Social Research in New York City estimated that 30 percent to 50 percent of that city's nursing home residents could return to their homes if adequate home health services were available.

And the U.S. Health Services Administration estimated in 1971, that on any given day, at least 500 people were unnecessarily hospitalized in municipal hospitals.

In many cases, home care is just better than hospital care.

A comprehensive study done at St. Luke's Hospital Medical Center in New York showed the effects of home nursing. Of a group of stroke victims who did not receive home care, only eight out of 25 subjects were home at the end of the study. Of those patients receiving home care, 22 of the 25 subjects were still able to live at home when the study was over. Not only were these patients more self-sufficient, but they had a shorter initial hospital stay, fewer of them suffered recurring strokes and the overall cost of their care was greatly reduced.

Some experts warn against the assumption that home care will cost less than nursing home or hospital admission, but comparative studies show that costs can be significantly lower.

One unfortunate man who suffered two broken legs in an automobile accident was hospitalized for a time, then discharged with a plan for home nursing care. He received 29 visits from a supervising registered nurse, 16 visits from a physical therapist, 96 visits from a home health aide, which lasted either six or eight hours, three visits from social workers, and four deliveries of equipment, during 141 days of care. The total cost came to $3,500 or $25 per day. Without the home care plan, he would have been hospitalized for 74 days longer at a cost of $8,500.

If home care offers so many advantages, why do so many communities have little or no visiting nurse service available?

The question has many answers. Hospital services have expanded rapidly in the past 20 years, and hospitals need to attract customers. Because of the large number of patients they see, it's been more convenient for physicians to treat all patients at central, well-equipped locations, such as the hospitals nearest their offices. But not all blame falls on physicians and hospitals.

Insurance companies, Medicare and state medical aid programs, by their methods of reimbursement, also have tended to encourage hospitalization. Medicare and Medicaid often pay only a part of home care costs and restrict the services to those who need skilled nursing. Many insurance companies have looked upon their role as providing relief for the acutely ill only. Preventive measures, long-term rehabilitation, or maintenance at a certain level of health, have rarely been included in insurance plans.

We shouldn't assume that home health care is the best answer for all people. For one thing, it is a voluntary approach. And it is available only when recommended by one's doctor. But it at least provides the patient with another choice.

In some cases, home care is an alternative to more expensive care; often it is a preventive of such treatment. For many, it offers a chance for a happier and more comfortable life despite illness or disability.

Aroused public interest has forced Congress to examine steps to expand home health services. The Nurses Training and Health Revenue Sharing Act, which became law last year, provides funds for the development of new home health agencies and for the training of staffs.

In addition, several Congressional committees have conducted hearings on expanding reimbursement under Medicare for services in the home, and AARP Counsel Cyril F. Brickfield says indications are strong that this session of Congress will enact legislation along these lines.

The pressures on Congress to expand home health services have also been felt in the bureaucracy and several changes have been suggested by the Department of Health, Education and Welfare to make home health services more available. Most controversial of the proposed changes is expansion under both Medicare and Medicaid.

AARP legislative analysts have expressed serious concerns that the expansion of home health services should not be done at the expense of quality.

The proposed changes in the Medicaid program would not only expand the scope of and the eligibility for in-home services, but also change requirements for those offering the services. Association spokesmen have presented strong opposition to the lowering of standards and the Department of HEW is reviewing the objections. Final rules are expected within a few months.

One change in Medicare—and Medicaid—regulations that does seem a good one is the elimination of the three consecutive days of hospitalization required for you to be eligible for home care.

If steps can be taken to effectively control the quality of care given to patients at home, we may be on the road to better and happier health care for people of all monetary levels and all ages.

HOW TO KNOW WHEN HOME HEALTH CARE IS THE BEST SOLUTION

Home health care should provide high quality, individualized care to certain patients. Only when the service is wanted by the patient and recommended by a doctor, should it be considered.

Home care usually is not suitable for patients whose families are unable to handle the responsibility of ministering to them between visits. Bedridden patients with no family, or those who are fearful or lonely, may be better off in the sheltered support of a good quality institution.

Home health care requires a hospitable home environment. Alan E. Nourse, M.D., in a booklet prepared for Homemakers Upjohn Company, suggests you use these guidelines for evaluating the home:

Is it a quiet home? A sick person can be extremely sensitive to excessive noise.

Are there stairs leading to the home or inside? For some patients, stairs can pose a serious problem. But they can be replaced by a ramp, bannister lift or other device.

Will the patient have a private room? One near a bathroom and dining facility is ideal.

Will the doors and hallways accommodate a wheelchair or walker? Plenty of room is needed for maneuvering.

Are there small children in the home? Youngsters cannot be expected to remain quiet all the time.

Is there an adult nearby during the day? At night? Not all home care patients need constant attendance, but a relatively helpless patient will be safer and happier with someone there.

Does the patient have easy access to a telephone? This is essential for morale and a sense of self-sufficiency.

Is a television or radio available for the patient's room? These help pass the time and keep the patient in touch with the outside world.

Doctor Nourse warns that caring for a patient at home isn't always easy and that some illnesses require special procedures and transportation to medical facilities.

WHAT YOU SHOULD KNOW ABOUT HOME CARE AGENCIES

A home care agency may be an extension of the health department, it may be a voluntary agency such as the Visiting Nurse Association, or it may be a profit-making company.

Ideally, a comprehensive home care agency should be located at or affiliated with a health department, because that permits broad coverage of all services to all persons, regardless of age or financial conditions.

Unfortunately, controls have not been adequately established for quality of care given in the home. However, when a private or profit-making company is used, be sure: 1. that the agency has at least one registered nurse on the staff and the services of an R.N. are available for emergencies; 2. that the employes are bonded; 3. that it is covered by malpractice and malplacement insurance.

An ideal home health agency would provide the following services: home visits by a physician, visiting nurses, social worker visits, home health aids, homemaker services, prosthetic devices and other medical equipment, transportation to clinics and other medical needs, a food service either delivered or at a nearby nutrition facility, and hospital-based home care.

More and more private insurance companies are including home care in their coverage—and getting happy results while decreasing the cost of medical treatment.

HOME HEALTH CARE BENEFITS WITH MEDICARE

Medicare pays home care benefits under both hospital insurance (Part A) and medical insurance (Part B), but it has specific requirements governing what it will and won't pay for.

Under hospital insurance, you must meet these six conditions:

1. You were in a qualified hospital for at least three days in a row.

2. Home health care is for further treatment of the condition for which you were hospitalized or for which you were treated in a skilled nursing facility.

3. The care you need must include part-time skilled nursing care, physical or speech therapy.

4. You must be confined to your home.

5. A doctor must determine that you need home health care and set up a plan for your care within 14 days of your discharge from a hospital or nursing home.

6. The home health agency providing the care must be a participant in Medicare.

If you've met all six of these conditions, hospital insurance will pay the full cost of up to 100 visits during a benefit period. Medicare will continue to pay for visits for one year after the last discharge from the hospital or nursing home.

Medicare medical insurance will pay for 100 home health visits in a year without a hospital admission if these four conditions are met:

1. You need part-time skilled nursing care, physical or speech therapy.

2. A doctor decides you need the services and sets up a home care plan.

3. You are confined to your home.

4. The home health agency is a participant in Medicare.

After the $60 yearly deductible has been met, Medicare pays the full cost for home visits.

The home health agency always submits Medicare claims on behalf of the patient.

IN OUR OWN WORDS

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. WIRTH. Mr. Speaker, we have reached the point in the political season at which various interest groups send questionnaires to Members of Congress, asking for declarations of position on this or that issue. Some of these questionnaires are fairly straightforward, others seem to be worded in a way that would force us into oversimplification, into black-and-white statements of issues that contain many shades of gray. I believe that it is our obligation as elected Representatives to state our positions in our own words, not someone else's, and I have told this to a group that recently sent me a questionnaire. I would like to insert in the Record my letter to that group, in which I tried to set the questions raised into a larger context of policy.

The letter follows:

Congress of the United States,
House of Representatives,
Washington, D.C., August 24, 1976.

A. E. Hare,
National Right to Work Committee, 8316 Arlington Boulevard, Suite 600, Fairfax, Va.

Dear A. E. Hare: I read with interest your labor issues survey and the background information sheet that came with it. I must say that both were worded in such a way as to make impossible any distinctions or refinements of policy. Yet those of us who work in the real world of public policy-making are constantly required to make just such distinctions and refinements.

Therefore I am going to answer in the form of a statement setting the particular points you raise in a larger overall context of labor-management relations policy. It is my right—indeed, my duty as an elected representative—to express my position in my own words, rather than someone else's.

I assume that in any report of my response, you will print my statement in full and without alteration. The statement follows.

Effective representation of the interests of workers presupposes collective bargaining. To suggest a return to the days of individual negotiations between workers and management is, in effect, to suggest that workers' interests be ignored in the functioning of our economic system. I do not believe that many people would seriously make such a suggestion, yet that is the effect of many of the objections to current collective bargaining practices.

Certainly it cannot be denied that organized labor possesses a potential for abuse of power, just as that potential is possessed by the other giant institutions of our society, big business and big government. But it does not follow that the best way to prevent abuses of power is to roll back the progress we have made to date in developing a stable system of labor-management relations.

In a competitive, free-market economy such as ours, management and labor will compete with each other over such things as wages and benefits. The role of government in this adversary relationship is not to favor one side or the other, but to keep the power of each within reasonable bounds. In short, the role of government is to minimize the possibility of crippling strikes and economic disorders that threaten the public interest.

It seems to me that present federal labor law has by and large succeeded in this. We have been spared the kind of bitter labor strife that some European countries have experienced, and this is, I think, because we have a labor law that reflects the realities of power and human behavior. It seeks to balance the economic power of employers with the strength in numbers of organized labor. Certainly it is an imperfect law, but its imperfections will not be eliminated by sweeping away collective bargaining rights, nor by eroding employers' prerogatives. The reforms that are needed are those that will introduce still further stability into the labor market. This is the yardstick that I will use in judging all labor legislation that comes before the House.

Sincerely,

Timothy E. Wirth.

A LOSS FOR SOUTH DAKOTA AND RURAL AMERICA

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. ABDNOR. Mr. Speaker, last week one of the great pioneers in the rural electrification movement died. He was Albert C. "Al" Hauffe, who farmed 2 miles north of Leola, S. Dak., and who was going into his 56th harvest season on his own place at the time of his death.

Al Hauffe will go down in American history as one of the driving forces for REA. His record of service has long been recognized by the members of REA cooperatives many times over, for Al served in just about every capacity a farmer could in the rural electrification program.

At the time of his death, Al Hauffe was still president of his home cooperative, the FEM Electric Association serving Faulk, Edmunds, and McPherson counties. He also was still a board member of the South Dakota Rural Electric Association and the National Rural Electric Cooperative Association.

In both of these organizations, SDREA, and NRECA, the imprint of Al remains strong from his many years of dedicated service. He was president of SDREA for 21 years and rose to the same position with the national organization NRECA, where he served 2 years in that capacity.

I am certain Al Hauffe was well known to many Members of Congress and particularly to the more senior members who have had the opportunity to deal with the problems and progress of the rural electrification movement. I know they share the sense of loss felt in Mr. Hauffe's passing.

Mr. Speaker, I would like to include in the Record a tribute to Al Hauffe, as written by Tom Fennell, executive manager of the South Dakota Rural Electric Association, as contained in the association's weekly newsletter. I would also like to include the obituary for Al Hauffe from the newsletter.

The above-mentioned items follow:

Tribute to A. C. Hauffe

We'll miss him. Boy, how we'll miss him! Al Hauffe: family man, farmer, cooperative leader and as solid a citizen as I've had the privilege of knowing died Wednesday.

I first met Al when I was being interviewed for the job of High Liner editor by then SDREA Manager Dail Gibbs back in 1963. Al was president of SDREA at that time and also was serving as president of our national association, NRECA. If I live to be 101 I'll never forget the sight of this tall, rawboned South Dakotan presiding at the first national meeting of NRECA that I ever attended. It was down in Dallas, Texas, and I can assure you that it was an impressive sight to watch Al at that podium before 10,000 people, appearing as relaxed and comfortable with that audience as he would be back in Ipswich presiding at a meeting of the FEM Board.

But that was Al. He was comfortable with people of whatever level of society or in whatever numbers and I guess that's why he made such a great cooperative leader—he just naturally liked and understood people.

I only knew him for 13 years. Many of you were privileged to know him much longer. But, of whatever the length of friendship, we're all better off for having known Al and for having had the pleasure of working with him in the rural electric program.

A. C. Hauffe Dies, August 20, 1976

Funeral services were to be at 2 p.m., Sunday, Aug. 22 at the St. James Luthern Church in Leola for A. C. "Al" Hauffe, one of the greatest leaders South Dakota's rural electric program has produced. Al died Wednesday night at his Leola home. He was 79.

His service to the rural electric program extends back to its beginning in South Dakota, when he "talked up" the idea of rural electrification to farmers throughout South Dakota.

He served 21 years as president of SDREA; he was South Dakota's representative on the NRECA board for 27 years; was president of NBECA for 2 years, vice-president for 2 years and secretary for 5 years.

At the time of his death, Al, was still president of the FEM Electric Association, Ipswich, a board member of SDREA and a board member of NRECA. He was also active in many other community service projects, including membership in the Regional Advisory Group of the Regional Medical Program.

He is survived by his wife, Alma; two sons, Paul, Washington, D.C. and Harry, Cheyenne, Wyo., and a daughter, Mrs. Ruth Bonnet, Aberdeen.

And, of course, by SDREA which bears the imprint of his dedication, enthusiasm and leadership more than anyone can say.

EMERGENCY MEDICAL UNIT FOR SIERRA MADRE

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. ROUSSELOT. Mr. Speaker, on August 7, the citizens of Sierra Madre, a city in the 26th Congressional District which is situated in the heart of southern California's foothills, met at the fire station to dedicate a new emergency medical unit that had been donated by the community. This special service represented the culmination of the efforts of the Sierra Madre Kiwanis Club and support of many loyal and civic-minded residents who are concerned about the welfare and security of its citizens.

The newly dedicated emergency medical unit will serve to enhance the capabilities and performance of Sierra Madre's emergency program—a program that has been a pioneer in the field of paramedic services. Initiated in the early thirties, the program has provided invaluable emergency rescue service over the years.

In its more than four decades of service to the community, the functions and responsibilities of the emergency medical program have grown enormously—and, predictably, so has the need for more sophisticated and modern equipment. In April of this year, the Sierra Madre Kiwanis Club decided that the station wagon then being used as an emergency vehicle by the program was inadequate to meet growing needs. After receiving the endorsement of the city fire chief and the sanction of the city council, the club began fundraising efforts to purchase a new emergency vehicle. Responding enthusiastically to the strong leadership of fund drive chairman Sam Tesoro, the community supported the project, and the drive met its goal of $19,000 in just a little more than 10 weeks.

Mr. Speaker, I am proud to bring the achievements of the citizens of the lively city of Sierra Madre to the attention of my colleagues and it is my belief that communities all over the country could do well to follow the example of the Sierra Madre Kiwanis Club in raising funds for worthy community needs. Not only will civic spirit and morale benefit by such creative enterprises, but government tax bases will diminish as well.

The following excerpt from the dedication program will provide a short history of Sierra Madre's emergency medical program and fundraising drive for the new emergency medical unit, and I commend it to the reading of my colleagues:

PROGRAM, CALL TO ORDER, PLEDGE OF ALLEGIANCE, MAYOR DAVID MAY

Invocation, The Rev. Robert Gara of St. Rita's Church.

Welcome, Irwin Gersch.

Introduction of Guests, Irwin Gersch.

Presentation of Check, Sam Tesoro.

Presentation of Keys to City, Ben Hagel.

Presentation of Keys to Fire Dept., Mayor David May.

Presentation of Emergency Medical Technicians, Captain Neil Smith.

Blessing of Unit, The Rev. Robert Gara.

Benediction, The Rev. Ronald Erlandson of Episcopal Church of the Ascension.

SMALL TOWN SPIRIT ALIVE AND WELL IN SIERRA MADRE

Sierra Madre's Emergency Medical program actually reaches back many, many years, when in the early thirties the Fire Department owned and operated a First Aid Truck and provided the citizens of the community with emergency care. The truck was of their own design and was built by the membership. This continued in operation for many years and among its most noted achievement was its help to citizens of Long Beach during the earthquake that struck that area.

During the war manpower became a problem for the volunteer department, as it did with all other volunteer organizations and the emergency first aid care was then taken up by the Police Department as part of its function.

It became obvious to many people in the year 1973 that the Police cars could not carry the amount of equipment needed for many types of First Aid and equipment in police vehicles was limited to a resuscitator and a small first aid kit. It was also proving difficult for members of the Police Department to keep their training current, in addition to doing their Law Enforcement work and schooling necessary for their job.

To help close the gap in the type of aid being offered as in other cities, two members of the Volunteer Fire Department were enrolled in a class in Pasadena City College called Emergency Medical Technician training. John Buchan and George Maurer graduated in June of 1973 and after a couple of months of further preparation and evaluation, Fire Chief Charles Brown, and Police Chief Tom Kendra set up a system wherein the firemen trained in Emergency Medical Police Department.

In January of 1974 two more firemen, Gary Smith and William Maurer completed the EMT course and Chief Brown purchased a 1968 Station Wagon to carry all the equipment that was being accumulated to enhance the program. In this full year of operation over two hundreds calls were answered by the EMT's. Also during this period of time additional radio equipment was added to permit automatic responses by the firemen to the scene, with the saving of many minutes in the initial response time.

Early in 1975 another fireman, Robert Duer, completed the course in Emergency medical care at Mt. San Antonio College and the program continued to grow. With the aid of many generous donations, much more equipment was added to the vehicle, and the value of the program was becoming obvious to thousands of local residents.

During the year 1975, over three hundred calls were answered by the EMT's and the variety and depth of the calls was increasing with each passing week. With the growth of the Emergency Medical Program nationwide, more and more sophisticated equipment was being developed and put into field use and the local group continued to take advantage of those that could prove of value locally.

In June of 1976 a sixth fireman, Robert Spears, joined in the program with his graduation from PCC. In the meantime one member, William Maurer, was dropped as he moved to a different area, and the program continues to operate with these five members.

In April of this year the Sierra Madre Kiwanis Club came to the realization that the present emergency vehicle was really inadequate for the amount of equipment needed by the EMT's and with the blessing of Chief Brown approached the City Council to seek their sanction to conduct a drive for funds to purchase a new and modern vehicle.

Under the leadership of Fund Drive Chairman Sam Tesoro, the drive accomplished in a little over ten weeks a goal of $19,000. The community showed its support of the program, an unbelievable undertaking for a small community, with its financial backing and now the Emergency Medical will go forth sporting a new and modern vehicle as it seeks to serve this community.

THEY MIGHT AS WELL SHOOT US

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. PICKLE. Mr. Speaker, I have introduced two amendments to H.R. 8911, supplemental security income amendments. These amendments are intended to correct two serious problems with SSI benefits.

The first amendment pertains to the eligibility of the spouse where the wife or husband is institutionalized and the remaining spouse is trying to make ends meet at home.

The other amendment pertains to cost-of-living adjustments in amount of certain excludable income and is intended to insure that a person receiving both SSI and social security does not become ineligible for SSI when the social security cost-of-living increases are given.

The problems in this area were brought to my attention recently by several articles written by Mr. Dave Mayes for the Austin American-Statesman.

These articles, which follow, are very informative and give a good explanation of the hardships that are being created for the elderly.

"THEY MIGHT AS WELL SHOOT US"—SOCIAL SECURITY RAISE A LOSS TO MANY PENSIONERS

Social Security pensioners will get a raise in their monthly checks next week, but for some it is an increase they would gladly forego.

A 79-year-old Austin widow, for example, finds that for the price of little more than a cup of coffee, she has unwillingly traded away her eligibility for Medicaid, the nearest thing this country has to a free health program for the impoverished.

With the 6.4 per cent cost-of-living increase in Social Security benefits added in, Mrs. Y (she asked that she not be identified by name) will receive a check totaling $188.10—exactly 30 cents too much for her to continue participating in Medicaid.

"If they're going to treat us that way," she said in frustration, "they might as well take us out and shoot us and get it over with."

With the knowledge that the Medicaid program would almost meet her medical needs completely, Mrs. Y has been able to live on her meager income the past nine years by residing in public housing and buying groceries with food stamps. Under Medicaid, she was able to get three free prescriptions per month for her arthritis and see her own doctor at no cost to her.

Now she says she has no choice but to begin paying premiums for Medicare, the national health insurance program for the aged. The $7.20 monthly premiums will take nearly all her Social Security raise.

Although medicare will restore many of her major medical benefits, she'll be liable for deductibles she didn't have to pay before, including 20 per cent of her doctor bills.

Unlike Medicaid, Medicare has no benefits for prescriptions, dentures, eyeglasses or hearing aids.

The 79-year-old victim of a bureaucratic twist says she's been fortunate to remain in good health. She plans to forego her annual physical because it will be too expensive now.

In Texas, the regional Social Security office estimates that more than 1,300 persons will lose their Medicaid benefits due to the Social Security raise.

The greatest percentage of them will be the aged—people who require three times the medical care of the average American.

"I really couldn't begin to imagine what some of these people might have to go through," said Bart Henseler, a spokesman for Social Security in Dallas.

For the second straight year, Henseler said, Congress has failed to pass a "savings clause" which would have kept annual cost-of-living increases in Social Security from affecting Medicaid eligibility.

U.S. Rep. Jake Pickle of Austin says it was not the intent of the Congress to make anyone lose benefits because of a hike in Social Security.

He could not recall what happened to any "hold harmless" legislation that might have been proposed to remedy the problem. Pickle said he doesn't know what can be done now, given the regulations under which the federal welfare programs must operate.

A long-term solution to the problem would be national health insurance, Pickle said, but he predicted such a measure will not be passed before the next session of Congress, and then with a major tax increase to finance it.

Potentially, the ones who will be the hardest hit by the June raise are, by the same token, some of the most helpless. These, it appears, are more at the mercy of the Texas Legislature than U.S. Congress.

State welfare officials estimate as many as 400 persons confined in nursing homes will lose their medical benefit eligibility, meaning the state will stop paying for their medical care altogether.

The People affected will be those whose newly-adjusted monthly incomes will fall just over $390, the arbitrary cutoff point set by the Texas Department of Public Welfare.

Formerly, these persons paid all their monthly income except $25 toward their nursing home costs, knowing the state would pick up the difference. Now they will be faced with meeting their entire bill.

In the best of situations, a relative or charitable group may step in and take up the state's role; in the worst of circumstances, there is no one to pay the extra indebtedness that can exceed $200 per month.

What happens to persons in such dire straits? State welfare officials candidly admit they don't really know.

What to do with a patient who can no longer pay or get the state to is left up to the nursing home, says Sam McGlamery, a DPW official who helps manage the state's nursing home program.

"No doubt, the nursing homes are faced with a dilemma," he said. "They must either kick these patients out in the streets or take what they can pay and absorb the loss."

From a humanitarian standpoint, he added, most facilities have little choice but to keep them, and that is what DPW assumes they will do.

While the nursing homes may make exceptions, the state evidently cannot.

Significant numbers of nursing home patients are severed from state support practically every time Congress raises Social Security benefits or veterans' pensions, McGlamery says.

Each time that happens, the department is besieged by callers. "It's a nightmare," he says.

As an example, he continued, a 69-year-old woman who was made ineligible by less than 50 cents recently called to complain.

"She just could not believe it, she could not believe the world was so cruel as this," McGlamery said. "I felt sorry for her, but what could we do? We have to apply the rules equally to all. Many wind up just a dollar or two over the cutoff."

The $390 income limit, McGlamery agrees, is not based on any needs assessment made by the department. Rather, it's a purely arbitrary figure, derived directly from the amount of money appropriated for the nursing home program by the legislature.

With a $390 cutoff, eligibility is limited to the highest number of persons for which the department has money to buy nursing home services, McGlamery says. "Obviously, if we had more money we could raise the ceiling higher."

A cynic might suggest the welfare department has been more interested in taking care of nursing homes than the people needing to get in them. While the income cap since 1972 hovered around $360 before jumping to $390 last September, DPW approved nursing home rates have risen annually over the same period. The monthly rate for nursing skilled care, for example, has increased from $416 to $615.

But Marlin Johnston, head of DPW's medical administration division, says the agency has consistently tried to closely match its rates to actual nursing home costs, and says federal regulations will roon require it. Also, the state legislature indicates approximately at what levels it wants the rates set, and the welfare board tries to follow its wishes, Johnston added.

Next week the board considers additional nursing home rate increases for fiscal 1977, which the legislature has also recommended. The legislators have never indicated where the income limits for state benefits should be set.

Last September the department made a study of how much it would cost the state to raise the cap to $473, the maximum allowed by federal regulations. For a program that this fiscal year will spend more than $270 million to maintain a monthly average of 53,000 patients in nursing homes, the extra expense was found to be relatively small.

According to figures furnished by Hector Saenz, an administrator in DPW's budget division, some 2,274 persons would become eligible in a given year, at an annual cost of $3.6 million. As in the $270 million budget, 64 per cent of these dollars are available from the federal government, meaning the State need only provide an extra $1.3 million to meet the added cost.

Saenz said no raise in the ceiling is planned for 1977, or in the department's budget request for 1978–79. Any proposed increase, he indicated, was one of many budgetary casualties incurred as the department tried to pare its request to the austerity program encouraged by the state's top leadership.

Welfare officials point out that wherever the income limit is drawn, those just over the line will feel cheated.

Twenty-nine states, however, don't really draw the line as closely when it comes to meeting the catastrophic medical needs of their people. Of the 21 states that do, Texas is the most populous.

Saenz said DPW two years ago considered seeking funds to expand the state Medicaid program to cover the medically needy, as the majority of states do. The newly eligible would be those who fit all the requirements for current Medicaid assistance except income. These would qualify for medical assistance as they "spend down" their resources on medical bills.

Social Security officials in Dallas confirm that states with programs for the medically needy aren't forced to drop assistance to patients in nursing homes for every raise in retirement benefits.

The study showed the program would be so expensive in Texas, Saenz said, that the funds were never requested of the legislature.

Divorce Will Let Him Care for Ailing Wife

Now that he has divorced his wife, Cecil Schnautz says he can at last see about getting her the care she needs—and clearing his own conscience.

Schnautz sought a divorce he didn't want Thursday, claiming it's his only alternative under state welfare rules, if his wife of 23 years is to get the nursing home care her physician recommends.

"I'm going to take a half-day off Friday and go down and apply for her," Schnautz said after the divorce was granted. The printer says he's had a guilty conscience for months, knowing that his wife Ruth needed help that he couldn't afford.

We will likely have to wait at least six weeks longer. A representative of the local Social Security office indicated that because of her age, 58, Mrs. Schnautz would be too young to qualify for Medicaid benefits for the aged. The only way she can qualify for state-paid nursing home care is if she is determined to be "disabled."

The evaluation of her medical history and present needs, performed by the Texas Rehabilitation Commission, routinely takes 45 days.

Schnautz indicated he would keep his former wife at home while waiting for the decision.

Schnautz said he originally tried to get help from state and federal welfare agencies, but his income was too high under their eligibility rules.

It would take nearly all his $580 per month take-home pay, however, to meet nursing home costs.

He said he was told he could qualify his wife for state assistance under Medicaid by divorcing her, rendering her penniless.

In granting the divorce after a five-minute hearing Thursday, 167th District Court Judge Tom State Blackwell approved the same petition he denied last week.

A SUCCESS STORY—NUCLEAR POWER AT SEA

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. RONCALIO. Mr. Speaker, just before the August recess, I inserted a few remarks in the Congressional Record that exemplified the importance of nuclear energy in the successful development and operation of America's space program. Today, I wish to insert the following letter from Adm. H. G. Rickover which discusses the importance of nuclear energy in our naval defense effort.

The letter is a brief but excellent description of America's nuclear-powered naval force. In particular, the focus is on the U.S.S. *Virginia*, the eighth nuclear-powered surface warship in the U.S. fleet. As Deputy Commander for Nuclear Propulsion, the admiral discusses the fact that nuclear power has increased the mobility, versatility, and effectiveness of our naval forces, and he congratulates Congress for its foresight and wisdom in encouraging the development of nuclear propulsion for our naval strike forces.

Admiral Rickover's letter follows:

U.S.S. "VIRGINIA" (CGN 38),
FLEET POST OFFICE,
New York, N.Y., July 29, 1976.

Hon. TENO RONCALIO,
Joint Committee on Atomic Energy,
Washington, D.C.

DEAR MR. RONCALIO: We are returning from the first sea trials of the nuclear-powered guided-missile cruiser U.S.S. *Virginia* (CGN–38), our eighth nuclear-powered surface warship. The *Virginia* put to sea yesterday from the Newport News Shipbuilding and Dry Dock Company, Newport News, Va. The *Virginia*, in conjunction with nuclear-powered aircraft carriers and other nuclear-powered guided-missile ships will give the Navy the most capable surface striking forces we can build. Our nuclear-powered surface striking forces will be assured of their mobility despite uncertainty of fuel oil supplies in any future combat areas.

Five other ships of the U.S. Navy and two Confederate warships have been named *Virginia*. The last ship named *Virginia* was a 16,000-ton battleship commissioned in 1906 and retired in 1920. The current *Virginia* is 585 feet long, has a beam of 63 feet and displaces about 11,000 tons. She carries two twin-armed batteries of anti-aircraft missiles and anti-submarine rockets. She has two five-inch guns, long range sonar, torpedoes, electronic warfare equipment, and can hangar a helicopter. Her reactors contain enough energy for 10 years of operation without refueling. The *Virginia*'s primary mission is to provide anti-aircraft and anti-submarine protection to an aircraft carrier task force. Nuclear power provides a carrier task force with essentially unlimited high speed endurance. Only nuclear-powered task forces are able to transit quickly to remote areas and arrive ready for protracted combat without pre-placed tankers to supply propulsion fuel.

Nuclear powered task forces can maintain a sustained attack, then retire quickly to distant areas of lower threat for replenishment of combat consumables. Only a task force consisting entirely of nuclear powered ships can match the high speed endurance of enemy nuclear submarines. This permits high speed evasive action and eliminates the increased susceptibility to attack during the frequent slowing required to refuel conventionally powered ships. Thus, the all-nuclear carrier strike force has a greater capability to penetrate and counter the projected Soviet naval threat than any other naval surface force we know how to build. Nuclear power in guided-missile ships, like the *Virginia*, also makes them uniquely suited for independent missions where logistic support is not practicable.

The worldwide uncertainty in peacetime oil supplies and the declining number of our overseas bases emphasize the tenuous nature of our foreign oil supplies. In wartime, the vulnerability of tankers in high threat areas could well make it impossible to provide fuel for our oil powered naval strike forces when and where they need it. Further, after supply lines and the combatant ships protecting them are attacked by the enemy, the oil products that get through will be needed for the aircraft, small ships, and land vehicles for which there is no practicable alternate fuel.

The *Virginia* will join the nuclear surface fleet consisting of the five nuclear cruisers, *Long Beach* (CGN–9), *Bainbridge* (CGN–25), *Truxtun* (CGN–35), *California* (CGN–36), and *South Carolina* (CGN–37), and the two nuclear carriers, *Enterprise* (CVN–65), and *Nimitz* (CVN–68). Two additional nuclear carriers and three additional nuclear cruisers of the *Virginia* Class are also under construction.

The existence of these ships is testimony to the foresight and wisdom of the Congress in taking the initiative to provide nuclear propulsion for our naval strike forces.

Respectfully,

H. G. RICKOVER.

NUCLEAR WAR IN SOVIET MILITARY THINKING—THE IMPLICATIONS FOR U.S. SECURITY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

(By Hughes and Edwards)

Mr. KEMP. Mr. Speaker, it is increasingly evident that the over-selling of détente has encouraged false hopes and stimulated wishful thinking in the United States regarding Soviet intentions and the goals that can be set for improving U.S.-U.S.S.R. relations. The lack of realism in our attitudes about Soviet intentions and capabilities threatens our defense posture and increases my fear of the possibility that we will enter into a disadvantageous SALT agreement for other than the soundest military security reasons.

A valued member of my staff, Mary Rose Edwards, legislative assistant, has coauthored this important article about the implications for U.S. security of nuclear war in Soviet military thinking. I urge the attention of all my colleagues to this article. I am putting the first part of this article in the RECORD at this time, and the second part will follow shortly:

NUCLEAR WAR IN SOVIET MILITARY THINKING —THE IMPLICATIONS FOR U.S. SECURITY

(Peter C. Hughes and M. R. Edwards
U.S. Congressional Staff)

Much has been written in recent months about the disparity in U.S. Soviet defense expenditures, and the growing military capabilities of the Soviet Union in conventional and strategic forces. As a consequence, a new debate has emerged in this country concerning the adequacy of the nation's defense posture.

While this debate has served to highlight the lack of consensus in the nation at large over the means and ends of American foreign policy, and what the proper role for the United States should be as a world power in the last quarter of the twentieth century, the debate has also focused attention on the age-old question of what constitutes the necessary force levels, and combination of force structures, needed to adequately defend this country's foreign policy and defense interests. In the nuclear age this question assumes even greater significance than in earlier periods of history, for the deterrence of war today has become as important a function of the military as the capability to fight wars and win them. Thus, the ultimate question facing the United States, in an age where it no longer enjoys a position of nuclear superiority is what level of strategic forces represents "sufficiency" or "realistic deterrence". And although no question is of more importance to the survival of the nation, it is increasingly difficult to address.

The popular belief in the United States, nourished by statements from public officials, is that nuclear war would mean an Armageddon, without a victor, and without survivors. Expressing his thought, Secretary of State Kissinger observed:

> Historically a conflict of ideology and geopolitical interests, such as that which characterizes the current international scene, has almost invariably led to conflict. But in the age of thermonuclear weapons and strategic equality, humanity could not survive such a repetition of history. No amount of rhetoric can change these realities.[1]

Kissinger is arguing that global stability exists through what is popularly called the "balance of terror". This principle, also referred to as the doctrine of security through "mutual vulnerability", or "mutual assured destruction", assumes in its simplest form that neither the United States nor the Soviet Union is capable of undertaking a preemptive strike against the other. The strategic arms debate in the United States has been predicated exclusively upon this principle, and has resulted in a doctrine which, in theory, is designed to give the United States the strategic capability to withstand a Soviet first strike, and retaliate with enough strategic forces to inflict unacceptable damage upon the Soviet Union. It is this doctrine which represents the essence of the U.S. deterrence strategy; and it is this doctrine by which sufficiency is measured. In concrete terms strategic sufficiency, as defined by then Secretary of Defense McNamara, means that U.S. forces:

> . . . must be sufficiently large to possess an 'Assured Destruction' capability. By this I mean an ability to inflict at all times and under all foreseeable conditions an unacceptable degree of damage upon any single aggressor—even after absorbing a surprise attack . . . In the case of the Soviet Union, I would judge that a capability on our part to destroy, say, one-fifth to one-fourth of her population and one-half of her industrial capability would serve as an effective deterrent.[2]

McNamara's enunciation of the policy of 'Assured Destruction' represented a fundamental shift in the U.S. strategic deterrence doctrine, which for most of the 1950's had been predicated upon "massive retaliation'. This shift in U.S. policy reflected the changing conditions of the international environment, but more importantly, American policy makers recognized that massive retaliation lacked flexibility, and as such was undermining the credibility of the U.S. deterrence posture.[3] As Y. Harkabi has noted, the magnitude of the threat of punishment has a direct correlation with the value of the deterrence, but only up to some undefinable point, after which the probability that the threat will actually be implemented declines, again in direct correlation with the credibility of the deterrence.[4]

U.S. deterrence strategy has been refined many times over since McNamara first articulated the policy of 'Assured Destruction', but the heart of what constitutes strategic sufficiency remains essentially unchanged. There has, however, as of late emerged a new group of critics who are challenging the credibility of 'Assured Destruction.'[5]

The doctrine of mutual assured destruction, the acronym of which is the commonly

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Footnotes at end of article.

referred to MAD, has been the subject of intensive critical study, and has resulted in the contemporary "counterforce-countervalue" debate.[5] Until recently this debate was largely academic, but it assumed new policy significance when President Nixon, beginning in 1969, requested funding for a number of strategic R&D programs designed to enhance the U.S. counterforce capability.

This "counterforce-countervalue" debate has had both a pervasive and pernicious impact on U.S. strategic developments, and popular opinion. The conventional belief that stability between the superpowers exists through mutual assured destruction has led to strong demands by influential opinion makers in the United States to eliminate a number of this country's strategic R&D programs which the Soviets could interpret as being destabilizing. The 1972 treaty between the United States and the Soviet Union on the limitation of antiballistic missiles systems (ABM) was one clear result of this thinking. Both President Nixon and Secretary Kissinger urged U.S. approval of the ABM treaty on the grounds that it would eliminate an area of potentially "dangerous defensive competition", and that U.S. continuance of the ABM program might be seen as offensive strategy, "threatening the Soviet deterrent", by making U.S. targets less vulnerable to a Soviet attack.[6] Similarly, the ongoing debate over whether or not the yield and accuracy of the U.S. Minuteman force should be increased reflects this thinking. And the travesty of this ongoing debate in the United States is that it finds no parallel in the Soviet Union. Certain scholastics and policy makers in this country persist in continuing a debate concerning the adequacy of the U.S. deterrence posture without either considering the Soviet position, or if it is being considered, ignoring its implications. As Dr. William Scott has pointed out:

"There is a strange reluctance in the West to examine Soviet writings. . . It is much easier to sit on the fence and speculate what course the Soviets might take. A thorough analysis of Soviet publications on military matters, combined with known facts about Soviet weaponry could present explanations of Soviet behavior (and beliefs regarding nuclear war) that would be uncomfortable to study. Thus, in the marketplace, the myths still have ready sales."[7]

One such myth, which is the central and ultimately critical issue concerning the adequacy of the U.S. deterrence posture, is that stability between the superpowers exists through mutual assured destruction. U.S. proponents of MAD argue that the failure of deterrence must be obvious to all national leaders, and as such they doubt the efficacy of military power as a tool of diplomacy in the nuclear age. Commenting on this, Secretary Kissinger has argued that:

". . . to consider the mass use of nuclear weapons in terms of the destruction of civilian populations, one faces a political impossibility, not to speak of a moral impossibility."[8]

But while the issue of nuclear weapons may be considered immoral and unthinkable by U.S. leaders, this view is not shared by their Soviet counterparts.

Focusing public attention on this question, Dr. Malcolm Currie, Director of Research and Engineering with the U.S. Department of Defense, recently emphasized that nuclear war in Soviet politico-military thought is not only thinkable, but perhaps inevitable.[9] The inevitability of war is, of course, a fundamental tenet of Soviet ideology, and is based on the Marxist-Leninist concepts of the inherently destructive nature of capitalism and imperialism. While Soviet views on nuclear war, like those of the United States, have vacillated since World War II, since the mid-1950's the predominant Soviet attitude has been that the Soviet Union would survive a nuclear war. In 1954 the Soviet Chairman of the Council of Ministers, Malenkov, spoke of "the destruction of world civilization", but was sharply admonished by Molotov (then Minister of Foreign Affairs) and Party leader Khrushchev who insisted that only the capitalist system would perish.

In 1967, a more definitive Soviet position was taken by General Secretary Brezhnev when he said that "in a clash with any aggressor the Soviet Union will win a victory worthy of our great people." Since that time Soviet pronouncements reflecting the belief in "mutual suicide" and "no victory" have not been evident in that country's internal strategic debate. On the contrary, the Soviet strategic debate begins with the premise that nuclear war is survivable. As recently expressed by Rear Admiral V. Sheliag, one of that country's military spokesmen:

"Closely connected with the news in the character of a world war is the question of its consequences. In the West, for instance, it is claimed that humanity, world civilization would perish in the event of such war, that everything living on earth would be annihilated. . . ."

Marxist-Leninists resolutely reject (this). They have always considered and still consider war, all the more so a thermonuclear war, as the greatest calamity for the people. But the Communists harbor no sentiments of hopelessness or pessimism.[10]

It is this Soviet attitude toward nuclear war which sheds light on the incompatibility of Soviet political and military ambitions with detente diplomacy, at least as detente is commonly understood in the United States.

Detente, as projected by its architect, Sec. Kissinger, was designed to produce more than a stable strategic balance between the United States and the Soviet Union. It was designed to create a web of interdependent interests between the two countries which would serve as a constraint on Soviet efforts to expand its global power and influence, enabling both superpowers to pursue their national interests without destabilizing the so-called "grand design." Obviously, detente has failed to accomplish either of these U.S. objectives. But detente, or rather peaceful coexistence as it is called in Soviet terminology, has always had quite a different purpose for the Soviet leadership. As even a cursory reading of the Soviet literature and policy statements reveals, the global activities and ambitions of the Soviet Union, while irreconcilable with the U.S. understanding of detente, are entirely consistent with the U.S.S.R.'s interpretation of peaceful coexistence. Peaceful coexistence, in Soviet politico-military thinking, is designed to alter the form of the struggle between the opposing power blocs and reduce the likelihood of nuclear war. But detente, according to Soviet understanding, does not require the abandonment of the fundamentally incompatible and ideological objectives of the two powers blocs. On the contrary, the Soviet view is that peaceful coexistence will create favorable conditions for reducing the potential level of conflict between the opposing power blocs, while enabling the U.S.S.R. to support revolutionary mass movements and national liberation wars, "right up to the complete and final victory of communism on a world scale". In discussing this Soviet view of peaceful coexistence, within the framework of the Soviet attitude towards nuclear war, Major-General K Bochkarev wrote:

Marxist-Leninists are not panicked in the face of terrifying danger created by imperialism nor depict it as a prelude to the 'end of the world' . . . But if, nevertheless, the imperialists do manage to fan the flames of a world nuclear war, what will its consequences be? In answering such a question it is necessary to clearly understand that the bourgeois pacifists' argument about the 'end of the world' in such a war and the responsibility of victory benefit only the aggressor and the nuclear maniacs, who would very much like one or other of those against whom they are contemplating a nuclear attack to freeze with terror and lay down their arms. No, this is not how things stand. Nuclear war, despite its destructiveness, does not diminish the problem of struggle and the (significance of) correlation of forces. [11]

Bochkarev's statement is significant, for unlike Secy. Kissinger who denies that strategic nuclear forces are usable for foreign policy ends, Soviet strategic thinking does not reflect this inhibition. Translating doctrine into policy, the Soviet leadership has argued that "any country which contemplates allowing the opponent to strike first is acting contrary to rational behavior and the rules of war". Putting policy into practice, in 1970 Soviet broadcasts to China warned that the U.S.S.R. would not hesitate to resort to a nuclear first strike.[12] The continuing Soviet build-up in conventional and strategic forces is, then, the logical extension of Soviet strategic doctrine, and it extends far beyond any conceivable defensive requirements, or interest in 'parity' or 'essential equivalence' that country might have, but instead reflects the Soviet desire to achieve a strategic war-fighting, war-winning capability. Further, this Soviet ambition has actually been enhanced by efforts on the part of the United States to achieve meaningful strategic arms limitation agreements with the Soviet Union. As former U.S. SALT negotiator Paul Nitze has warned:

. . . there is every prospect that under the terms of the SALT agreements the Soviet Union will continue to pursue a nuclear superiority that is not merely quantitative but designed to produce a theoretical war-winning capability. Further, there is a major risk that, if such conditions were achieved, the Soviet Union would adjust its policies and actions in ways that would undermine the present deterrent situation, with results that could only resurrect the danger of nuclear confrontation or, alternatively, lead to Soviet expansion through the use of the nuclear threat.[13]

Not only has the Soviet Union failed to adopt a symmetric view of strategic forces, and what constitutes the basis for mutual deterrence, but it has undertaken a massive program designed to protect that country's civilian population and economic installations from all instruments of massive destruction, particularly nuclear weapons. And ironically, at a time when U.S. support for the ABM treaty was being sought on the grounds that it would be destabilizing for the United States to make its targets less vulnerable to a Soviet first-strike, the Soviet civil defense (CD) program was being rapidly expanded. Following ratification of the SALT I agreement, and the ABM treaty, the Soviets created the position of Deputy Minister for Civil Defense, a position that is on a level equal with that country's five other defense ministries, thus revealing the significance which the Soviets attach to this position.

FOOTNOTES

[1] Department of State Bulletin, February 3, 1976, p. 3.

[2] For a brief discussion on U.S. strategic deterrence doctrine from McNamara to Schlesinger see: "Analyses of Effects of Limited Nuclear Warfare," Committee Print, Committee on Foreign Relations, U.S. Senate, September 1975, pp. 25–39; see especially p. 27. Hereafter referred to as "Effects of Limited Nuclear War."

[3] The now declassified NSC Paper 68, Spring, 1950, reveals a sharp difference in the actual versus the declaratory U.S. policy regarding "massive retaliation."

[4] See Y. Harkabi, *Nuclear War and Nuclear Peace*, (Jerusalem, Malarachot: Publishing House of the Israel Defense Forces, 1966); pp. 28–30.

[5] For an excellent, concise critique of MAD

see: James E. Dorman, "Detente and the Pending Strategic Crisis," ACU Education and Research Institute, Washington, D.C. 1975. See especially pp. 11–16.

[5] For example: Robert Sherman, "The Fallacies of Counterforce," *Strategic Review*, (Spring, 1975) pp. 48–57. (An excellent rebuttal to this article was written by Amoretta and Francis Hoeber, "The Case Against the Case Against Counterforce," *Strategic Review*, (Fall, 1975), pp. 54–65.

[6] For the rationale behind this argument read: Gene R. LaRoque, "Security Through Mutual Vulnerability," Occasional Paper No. 2, The Stanley Foundation, 1973, pp. 1–12.

[7] William F. Scott, "Soviet Military Doctrine and Strategy: Realities and Misunderstandings," *Strategic Review* (Summer, 1975), p. 65. This is an excellent article in which the author argues that Western analysts have failed, as a group, to inform the public about Soviet military doctrine and strategy.

[8] "Effects of Limited War," p. 29.

[9] See News Conference by Dr. Malcolm Currie, Director of Research and Engineering, The Pentagon, February 26, 1976.

[10] For the most comprehensive discussion in the English language see: Leon Goure, *Soviet Civil Defense in the Seventies* (Coral Gables, Florida: Center for Advanced International Studies, University of Miami, 1975). This study was prepared for the U.S. Defense Civil Preparedness Agency. For the above citation see p. 17. This study is hereafter referred to as *Soviet Civil Defense in the Seventies.*

[11] *Ibid.*, p. 16. The correlation of forces in Soviet terminology defines the aggregate of forces bearing on the situation, including political, psychological, military and economic, which will eventually lead to Soviet supremacy and the defeat of the West.

[12] For a discussion of this see: Hearings by the Civil Defense Subcommittee of the Committee on Armed Services of the House of Representatives. See March 2, 1976 Hearings; committee print not available at date of publication. Hereafter referred to as "March 2, 1976 Hearings."

[13] Paul Nitze, *Nuclear Strategy in an Era of Détente* (Mimeograph) October 27, 1975, p. 1.

SPREAD THE NEWS

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. O'NEILL. Mr. Speaker, recently the Belmont Herald marked 45 years of service to the citizens of Belmont, Mass., and the newspaper has received many fine and deserved tributes.

One such tribute was paid by Davida and Maurice Goldsmith and I would like at this time to include it in the CONGRESSIONAL RECORD:

SPREAD THE NEWS

Dear Friends: One of the late Will Rogers many famous sayings was "All I know is what I read in the newspapers". We might paraphrase this remark, since we've been weekly readers of the Belmont Herald for 28 years. Last week's Editorial tells us that the Belmont Herald is 45 years young—so we're sending Happy Anniversary Greetings to John J. Martin and the Martin Families and to Editor Robert Mead and the entire Belmont Herald Team of dedicated workers. May you continue in the years ahead to spread the good news to good neighbors in the good Town of Belmont.

A TOAST TO JOHN J. MARTIN

Our lives by years cannot be dated
Our deeds and hopes best mark the span
By God Eternal are people created
The calendars were made by man
When we start to count flowers
We cease to count weeds
When we start to count blessings
We cease to count needs
When we start to count laughter
We cease to count tears
When we count happy memories
We cease to count years

Sincerely,
DAVIDA and MAURICE GOLDSMITH.

TRIBUTE TO BOBBY HACKETT—OUTSTANDING OLYMPIC ATHLETE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. BIAGGI. Mr. Speaker, the American people were proud of the men and women who represented us at the recently completed 21st Olympic games in Montreal. Our athletes captured a number of gold medals including the basketball, several in boxing and the coveted decathlon. The success of the American team was based on both an individual and team desire to excel. We are truly proud of all our athletes.

It is an especially proud opportunity for me to pay tribute to one of these athletes, Bobby Hackett, a young man presently a student at Fordham Preparatory School located in my congressional district. Bobby Hackett gave one of the more outstanding individual performances in the Olympics competing in the hotly contested 1,500 meter free style race.

Bobby was one of the youngest Americans ever to compete in the Olympics. This fact did not intimidate Bobby for 1 minute as he stood on the starting blocks before the race. He knew he had spent many long hours in training for this moment, and exuded a sense of self-confidence which betrayed his age of 16 years. He knew full well that he was competing head to head with the best swimmers in the world, and all indications pointed to an extremely fast race. Bobby rose to the occasion in the finest Olympic tradition and swam a race which combined savvy, strength, and desire to win. While he came in second Bobby was able to accomplish a remarkable feat, he shattered the existing world record for the 1,500 meter race at the age of 10 and while competing in his first Olympic Games.

Bobby Hackett in that race demonstrated the characteristics which make a true champion, and it can only be expected that Bobby will improve during the 1980 games.

Americans have always held a special place in their hearts for the men and women who represent them in the Olympics. They realize that these are individuals who epitomize what is best about Americans—their ability to work hard for a goal, and their ability to succeed.

Bobby Hackett has certainly brought a special sense of pride to his family, his friends and neighbors in his home town of Yonkers, N.Y., as well as his classmates and coaches at Fordham Prep. They and all Americans congratulate this fine young man for his contributions to the American Olympic cause. I extend to Bobby my warmest best wishes for continued excellence in all future endeavors.

SOVIET BUSTED, THOUGH FEW HAVE NOTICED

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. DERWINSKI. Mr. Speaker, there has been much discussion of Soviet crop failures but not enough attention to the fact that the entire Soviet economy is in dire straits. This point is well made in an article by Eliot Janeway which appeared in The Washington Star on August 8, "Soviet Busted, Though Few Have Noticed," and I insert it in the RECORD feeling it had not had enough attention. I certainly hope this article has been called to the attention of Secretary Kissinger.

The article follows:

SOVIET BUSTED, THOUGH FEW HAVE NOTICED

(By Eliot Janeway)

Revolution by repudiation is a novel possibility—still too novel to have been stated as a formal political concept. The textbook alternatives to this treat of capitalist collapse are limited to the various apocalyptic projections of Marx, Lenin, and Stalin. Their warnings range from defeat in war to collapse into depression.

The standard Communist ideology regards capitalism as on the wane and Communism as on the rise. It assumes that the eventual outcome is a foregone conclusion; only the timing and the circumstances of the revolution are admitted to be open to question. It is an article of faith that the inherent weakness and progressive disintegration of capitalism is responsible for its vulnerability to Communist takeover.

The Communist prophets never suspected that the shoe might wind upon the other foot; that is, that a serious threat to the very foundations of the capitalist structure might develop as a result of the acute weakness of the Communist system. Yet this is the very trick which financial history is now playing on political philosophy.

The fact is that during this decade, Moscow has engineered a worldwide cover-up to conceal this weakness. It began exactly three years before it surfaced at the time of the great Moscow grain steal of 1973. Since then its very conspicuousness has protected the cover-up; the obvious is always obscure until the economics of crisis forces recognition. While the process of recognition has begun, it is far from complete. Russia's food shortages and gold sales are making headlines, but few people understand their significance: Russia is busted—and no one has really noticed.

Familiarity with the history of Communist theology sharpens the contrast between Marxist expectations and admissions. Of the "big three", Marx himself was the most realistic; partly because he was the only one of them who had the benefit of an education, and who commanded a cultural reach. Marx envisioned the revolution beginning with the insurrection of the proletariat in an advanced industrial country—most probably Germany. He missed his mark by little more than a generation, which is not too bad for a millenial thinker.

Marx's famous failure to foresee that Russia would be the first important country to go Communist is offset by one of his less publicized insights. As I showed in my *Economics of Crisis,* Marx himself originated the theory of "American exceptionalism," which Stalin later declared to be heretical and punishable by death. Marx based the exemption he gave America on his recognition that this was a new world enjoying a fresh start. To paraphrase the send-off given the Bolshevik Revolution by John Reed, the idealistic American reporter whose ashes are embedded in the Kremlin Wall, Marx had seen the future, and it worked. He foresaw the rise of American agripower as the key to world power that it is now.

Marx's political judgments have actually stood the test of time better than his economic pronouncements. His politics were his own; but his economics—by his own admission—were borrowed from the classical English economists, whose models were limited to the relationships between industrial employers and their workers. While the work of Ricardo and his fellow pioneers offers a remarkable preview of the spectacle of Russia selling gold reserves to finance emergency purchases of corn, the problems and the potential of modern agriculture were beyond their ken. This is a major limitation of Marx's work as well.

Lenin, the second of the "big three," mobilized the Bolshevik Revolution behind a three-ply slogan: "Bread, land and peace." Apologists for Lenin have intellectualized about this appeal as offering something to all the downtrodden; the proletariat as consumers, the peasantry as producers and the military as victims. On scrutiny, however, this three-pronged appeal breaks down into demagogic camouflage and focuses on the peasants. Bread could come only from what the peasants produced; land was offered to them as an inducement to produce more grain; and they served as cannon-fodder in the Russian army.

The original Soviets were officially designated as councils of workers and peasants. When Stalin took over, he projected a grandiose scheme for "proletarianizing" the peasantry. His other gamble was on "socialism in one country." These bets assumed that Russia could both feed herself and find the processed fuels needed to develop a modern agricultural system, especially in a cold modern climate.

Stalin himself was too ignorant to grasp the interrelated ramifications of food and fuel technology. In his primitive view, the way to produce food was to produce tractors. He had no conception of the magnitude of the investment in fuel, chemistry and transportation necessary to develop farm productivity from tractor availability. Today Russia is hopelessly behind in her food production—but she has all the tractors she needs. Stalin's slogan of "socialism in one country" would be perfectly workable if Russia could depend on America to underwrite her glaring deficiencies in grains, gas transportation, technology and, above all, dollars.

It is the financial squeeze on Russia which has earned her the title of "Typhoid Mary" in the world's credit markets. Only yesterday Moscow was basking in the glory of financial respect. Her most carefully guarded secret was the size of the Kremlin's gold reserve. Her most self-serving fantasy was of finally cashing in gold chips at the expense of the American investing public. Her most impressive boasts were that import bills were paid promptly, that her credit rating was top notch, and that she never needed to borrow. Her most imaginative achievement had been the move which created the Eurodollar market.

Now Russia has worn out her welcome there. Until 1970, she loomed as the modern equivalent of a merchant prince in Europe's financial markets. In the few years since, even the most indulgent bankers have discovered that she is a pauper, and are treating her accordingly. The major New York bank with the biggest portfolio of dubious overseas loans has just decided that Russia is no longer entitled to advances—this with Russia still exploiting her shadowy role behind the more rambunctious members of the oil cartel, and squeezing more profit out of the present oil price structure than any of them.

The figures on Russia's borrowings are horrendous. Combined with the forced borrowings of her European satellites, they amounted to $35–37 billion by the end of last year, as opposed to only $2 billion in 1970. The only reason why 1976 may not prove to be Russia's biggest borrowing year yet is that the lenders are running out of both confidence and money, while she is running out of plausibility. At 7 percent, just the annual interest bill on $40 billion (a very conservative estimate for 1976's total of Russian and satellite country borrowings) would approximate the entire principal outstanding in 1970.

Russia is no longer making any bones about passing her distress on to her satellites. She is forcing them to overborrow so that she can step up her bleeding of them. For example, in 1970 Poland owed only $770 million to Western creditors; but by the end of 1975, her floating debt to capitalist banks was up to $6.8 billion. The comparable figures for East Germany are $990 million and $3.7 billion.

The plight of Hungary is equally symptomatic of the gathering crisis. Russia had been shipping oil to Hungary for 40 percent under the cartel price. She has just rescinded the discount and stepped up her food requisitions. Historically, Hungary has been the granary of Central Europe; now it is seething with food riots.

Suddenly, "debt rescheduling" is an issue whose time has come. Until Moscow ran out of willing lenders, only the over-borrowed debtors of the Third World have been pressing for a moratorium in one form or another. Now she is begining to fear it may be necessary.

The sparring between the Third World prodigals and their capitalist angels is an ominous reminder of the pragmatic definition of bankruptcy: "when you can no longer borrow the interest." In the climactic preliminaries to the formalization of bankruptcy, when lenders are under pressure to engineer a credit Watergate and borrowers have nothing to lose by resorting to blackmail, forced borrowing is accelerated. But none of the cash generated by borrowing flows through the system of the sick borrower. The frightened lender needs all of it recycled into interest payments to protect the credit coverup.

Russia's distress is genuine. There's no doubt that she wants to fight a rear-guard action against the increasing inevitability of debt rescheduling. But there's no way that Russia can tide herself or her creditors over the brewing crisis without admitting that her bullying will not save her from bankruptcy, that her squandering of resources on armaments will not save her from austerity, and that her distress gold selling won't begin to pay her interest—let alone raise new money. It has taken this trip to the brink of bankruptcy to force the Kremlin to recognize, however grudgingly, the common interest which now binds Communist mendicants to capitalist benefactors.

"KTO KUO"—who will conquer whom?—was Lenin's most menacing battle cry. The Kremlin is now too far gone to revive it. Russia has dissipated the sinews of war; but while she is not about to conquer any one she can still drive her creditors to the brink with her. This means that the contributions Russia and the satellites have been making to worldwide business activity with their borrowings is in for a drastic shrinkage.

Gradually, the calamitous implications of a forced rescheduling of Russian and satellite debts are recalling the meaning of the moratorium that triggered the last Depression. But America has the means to save the world financial structure from Russia's weakness. Hopefully, the presidential campaign will focus on the strategy of strength needed to buy the time and sell the resources America has been wasting.

WALL STREET JOURNAL ENDORSES THE DINGELL-BROYHILL (TRAIN) STANDARDS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. DINGELL. Mr. Speaker, the Wall Street Journal, in its lead editorial August 24, 1976, endorsed the Dingell-Broyhill (Train) automobile emission control amendment to the pending Clean Air Act amendments legislation, H.R. 10498.

The editorial provides new and definitive insight on this issue. I urge the attention of my colleagues to the opinion of the Wall Street Journal, inserted at this point, which aids in "Clearing the Air":

CLEARING THE AIR

Now that Congress is back on the job, we wonder if there is any chance it will clear up an expensive matter it has been dawdling about for a year. More to the point, we wonder if it will clear it up intelligently, or make a hash of the job once again.

The long-delayed, and apparently little understood, matter is automobile emissions standards. The administration, the Environmental Protection Agency and other authorities have recognized for at least 18 months that the auto industry could not possibly meet the emissions standards for 1978 models set by Congress in the Clean Air Act. But Congress has not yet acted on this knowledge.

The delay in revising the emission standards has left Detroit helpless to plan intelligently. It has had to resort to multiple planning tracks, with a plan to fit each possible guess of what Congress might do. If the revisions present the industry with a still-unreasonable timetable, as they will if the forces of Senator Muskie once again hold sway, the industry may have to adopt costly, temporary technology.

If anyone is wondering who will pay for this, it is neither Detroit nor Congress. Have you looked at the price tag of a new car recently?

The stringent approach is reflected in H.R. 10498 which postpones the 1978 standards for hydrocarbons and carbon monoxide only until 1980. The alternative is the Dingell-Proyhill amendment, supported by the administration and the EPA, which would hold them until 1982, a deadline that might give Detroit enough time to develop efficient technology.

More importantly, achievement of the standard for oxides of nitrogen (NO_x) is required for 1981 in H.R. 10498 and is left to the discretion of the EPA administrator in the Dingell-Broyhill bill. This is important because NO_x is the emission most intractable to control and whose noxious effects are most speculative.

The debate will be heated; in particular, supporters of Dingell-Broyhill are sure to be charged with selling out to Detroit. Likely to be forgotten is the great progress already made in cleaning up the air. Major gains have been made in cleaning up the mostly stationary sources of particulate matter and sulphates. Particulates are the most dangerous common air pollutant, being responsible for the famous London killer fogs of the past. Most environmental experts expect that pollution from stationary sources will be licked before the decade is completed under existing standards.

The trend in pollution from mobile sources (mostly automobiles) is almost as favorable. According to the EPA, carbon monoxide is down 50% since 1970 and the spotty data on oxides, the principal component of photochemical smog, suggest substantial improvement. Of the six "criteria pollutants," only NO_x shows any worsening, and in most places it is already below federal standards. In any event, NO_x is the pollutant whose adverse effects are most dubious and which worries air quality experts the least.

Lets look at some local air quality: In Washington, D.C. three of the criteria pollutants are much improved and three seem about the same. In Los Angeles, where smog was first made famous and where historical data are the best, the local air quality agency reports such substantial improvement that it projects a confident schedule for achieving the federal standards not already met.

New York City has a system of classifying overall air quality as good (G), acceptable (A), unsatisfactory (Uns.) or unhealthy (Unh.) each rating day. Here is a scorecard comparing 1975 with 1969:

	G	*A*	*Uns.*	*Unh.*
1969	0	38	209	114
1975	107	204	23	19

The fact is that industry and government already are breaking the back of air pollution in America. This progress will continue as better pollution control equipment and techniques come on-stream and as emission controlled automobiles replace older, dirtier ones.

The administration estimates that the Dingell-Broyhill standards will result in the saving of a billion gallons of gasoline over HR 10498. Here is a way to energy conservation that overshadows most of the schemes proposed.

There is no excuse for the congressional delay in revising the auto emissions standards. And there will be no real excuse if Congress presents Detroit once again with demands in which costs greatly outweigh benefits. To give Senator Muskie his due, there might have been a time when there was some justification for holding Detroit's feet to the fire. But burning those feet will not make us breathe any easier.

PERSONAL EXPLANATION

HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. TALCOTT. Mr. Speaker, I was called off the floor and missed the vote on H.R. 15194. Had I been present I would have voted "aye."

On the previous vote on the Wright amendment I would have voted "no."

HORSE, SADDLE, LARIAT, AND OSHA

HON. JOE SKUBITZ

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. SKUBITZ. Mr. Speaker, by now I am sure most of my colleagues are aware of OSHA's ridiculous proposal to require "field sanitation facilities" within a "5-minute walk" of farmworkers. A number of newspapers have published articles on this subject—but none illustrates any better the absurdity of this proposal than one which appeared recently in the Denver Post.

The article, entitled "Poke Packing Portable Potty Portends Pandemonium" is one I thought my colleagues would enjoy reading and it is reprinted herein:

POKE PACKING PORTABLE POTTY PORTENDS PANDEMONIUM

WASHINGTON.—The federal government thinks it's time to re-equip the American cowboy.

Along with his horse, saddle, lariat and pack of Marlboros, the modern cowpuncher would have to pack along a portable potty, under a standard proposed by the Occupational Safety and Health Administration (OSHA).

In cattle country, this idea has been as popular as scorpion stew.

Letters of laughter and outrage from the Western praires have been piling up at the U.S. Labor Department in response to OSHA's request for public comment on "29 CFR-Part 1928—Field Sanitation Facilities."

The proposed standard would require ranchers, and all agricultural enterprises, to provide toilet and hand-washing facilities for all workers engaged in field work.

Farmers across the country didn't seem to like the idea any better than the cattlemen, but the reaction from the Western states has been particularly sharp.

The problem of providing cowboys with portable toilets even has become an issue in the U.S. Senate election race in Wyoming.

"You'll be commanded to pack a toilet on the horse behind you when you go out to gather cattle," Republican candidate Malcolm Wallop warns. Wallop blames his opponent, Democratic Sen. Gale McGee, for voting against amendments that would have exempted small ranches from OSHA's authority.

"On cattle roundups," says C. W. McMillan, lobbyist for the American National Cattleman's Association, "it is customary for cowboys to use the field of expedience and the rule of reason."

"We have never lost a man or had one injured because he couldn't get to a toilet in five minutes," wrote Gene Brinkman, of the L–B Land and Cattle Co., North Kansas City, Mo.

"Ha, ha. My goodness, didn't you know God Almighty provided bushes for field workers?" wrote Nebraska farmer Jane Bland.

"I am thoroughly convinced everyone connected with OSHA has come from a mental institution or else should be sent to one," wrote Mary Smee, of Stockton, Kan.

The deadline for public comment on the OSHA standard is Monday, after which federal officials will review the file, already six inches thick, and possibly schedule public hearings. They also may drop the whole idea.

STATEMENT BY JIMMY CARTER ON THE AMERICAN FAMILY ON AUGUST 3, 1976

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. BRADEMAS. Mr. Speaker, I insert in the RECORD the text of the statement of August 3, 1976, in Manchester, N.H., of Gov. Jimmy Carter on the American family.

I commend the reading of this most thoughtful statement to my colleagues in the House of Representatives and Senate.

The statement follows:

STATEMENT BY JIMMY CARTER ON THE AMERICAN FAMILY, AUGUST 3, 1976, MANCHESTER, N.H.

THE EROSION OF OUR FAMILIES

The American family is in trouble.

I have campaigned all over America, and everywhere I go I find people deeply concerned about the loss of stability and the loss of values in our lives. The root of this problem is the steady erosion and weakening of our families.

Some shocking statistics are available to document the problem.

Forty percent of all marriages in America now end in divorce.

In 1960, one of every 20 women giving birth was not married; today the figure is about one in eight.

The extended family is all but extinct. According to one study, in 1900 in Boston half the households included parents, children and at least one other relative. Today the comparable figure is four percent.

One out of seven children, 8.6 million, live with a single parent, and we now have a larger percent of children who live in poverty than we did in 1970.

About 350,000 children live in foster homes, at an average cost throughout their childhoods of $60,000. At least 100,000 of them could be adopted.

Forty-five percent of the arrests for serious crimes are of young people under 18 years of age, and more than 90 percent of the children sent to correctional institutions last year were found guilty of offenses for which adults would not have been punished at all.

The number of gonorrhea cases has tripled in the last ten years among children less than 14 years old.

Among young people aged 15 to 19 the second most common cause of death is suicide.

And alcohol, drug abuse, and emotional problems are steadily increasing among both young people and adults.

INSTITUTIONS MUST SUPPORT AND HONOR THE FAMILY

As these statistics, and many others, show, the breakdown of the American family has reached extremely dangerous proportions. There can be no more urgent priority for the next administration than to see that every decision our government makes is designed to honor and support and strengthen the American family.

The problems of the aged would be reduced if we would all obey the Biblical command to honor our father and mother. As Rabbi Abraham Joshua Heschel said: "One father finds it possible to sustain a dozen children, yet a dozen children find it impossible to sustain one father."

The family was the first church.

The family was the first school.

The family was the first government.

And for a child, this is still true.

Our churches, our schools and our state, local and national governments all have major responsibilities to strengthen the American family, and when they fail, they themselves lose strength.

If we want less government, we must have stronger families, for government steps in by necessity when families have failed.

It is clear that the national government should have a strong pro-family policy, but the fact is that our government has no family policy, and that is the same thing as an anti-family policy.

Because of confusion or insensitivity, our government's policies have often actually weakened our families, or even destroyed them.

Our present welfare system is both anti-work and anti-family. We have welfare policies in half our states that deny aid to children unless and until their father deserts them. As Preisdent I intend to reform that system so that it encourages work and encourages family life and reflects both the competence and the compassion of the American people.

We have urban renewal programs that shatter homes and families and entire neighborhoods. You rarely see an interstate highway go through a golf course, but you've seen lots of them blast their way through neighborhoods where people have lived for generations. That's the kind of bureaucratic indifference we must end.

We have transfer and assignment policies in our armed services that don't take into account their impact on the families of the servicemen.

We have tax policies that often seem to discriminate against families, particularly lower income families. For example, the so-called "anti-grandmother" provision that disallows a child care deduction if the family employs a relative closer than a cousin. Also, the present personal tax deduction for dependents in effect provides a greater benefit for wealthy families than to middle income or poor families.

Some people argue that income tax exemptions for children encourage large families. But I agree with my running mate, Senator Mondale, who says that at his house the tax laws were never discussed at those moments of decision.

I have pledged to enact tax reform if I become President, and one basic goal of any tax reform must be to help and strengthen our families.

THE HUMAN CONSEQUENCES OF THE NIXON-FORD ECONOMICS POLICIES

Nixon-Ford economic policies have been dismal failures. We still have an unemployment rate of 7.5%, one of the highest in 30 years. We still have an inflation rate of 5%, which is higher than any year from 1952 to 1970. We still have an unprecedented budget deficit. The Ford Administration, in its budgets for fiscal 1975, 1976 and 1977, will have a total deficit of $170 billion—more than the combined total of all budget deficits from the end of the second world war until 1974. And Mr. Ford and his spokesmen like to say that we Democrats are reckless spenders!

Not only have the Nixon-Ford policies failed in their stated purpose, they have failed to consider their human consequences. When the head of a family is out of work, the entire family suffers, and not just in an economic sense. There is a loss of dignity and pride and self-respect.

Leonard Woodcock, the president of the auto workers, recently testified that when the unemployment rate in Flynt, Michigan, reached 20%, it became the city with the highest alcoholism rate in America, and its drug problem doubled, and cases of child abuse soared.

GOVERNMENT SUPPORT FOR THE FAMILY

There are many other areas where our government can do more to support our families.

At a time when teenage pregnancy and illegitimate births are rising sharply, we need a comprehensive program of family planning, which would include adoption and education and moral leadership, and would do everything possible to prevent the need for abortion.

In education, as we struggle with such problems as busing, we need to remember that our basic goal is quality education for every child, and that we need individualized instruction for every student, so that he or she can progress at the fastest possible rate, and that whenever possible we want children to attend schools close to their homes.

In the area of health, we need a comprehensive health care program, with emphasis on children and on the prevention of disease—and we're going to enact such a program when I become President.

We need to recognize the special problems of the single-parent family.

We need a national day care program.

We need to change the ridiculous Social Security regulation that prevents many elderly men and women from being married.

In short, we need a government that thinks about the American family and cares about the American family and makes its every decision with the intent of strengthening the family.

CONCLUSION

One of the things that has most impressed me about my running mate, Senator Mondale, has been his deep concern about the family and the leadership he has provided, as chairman of the Senate subcommittee on children and youth, on a variety of family-related subjects including child abuse, crib deaths, child health, adoption and foster care. I intend to rely upon him heavily as I chart a pro-family policy in the next administration.

One idea that Senator Mondale has proposed is that each federal program present a family impact statement, to analyze how it would affect the family, much as federal programs now prepare environmental impact statements. We don't need a new bureaucracy, but the President and Congress should routinely conduct such an analysis when any major decision is made, and when I am President this will be done.

As an immediate step toward developing a pro-family policy, I have asked Joseph A. Califano, Jr. to serve as a special advisor to me on how federal programs can aid and support the American family.

With Mr. Califano's help, and Senator Mondale's, and that of many, many other concerned men and women, I intend to construct an administration that will reverse the trends we have seen toward the breakdown of the family in our country.

The job will not be an easy one, but it is worth whatever effort may be required. The entire history of the human race teaches us that the family unit is the best way for men and women to live their lives, the best way to raise children, and the only solid foundation upon which to build a strong nation.

Ours is a time of unprecedented change, and of unprecedented pressures on the family structure. The family is a tough, tenacious, and adaptable institution, and I believe it can survive and prosper if given a decent chance. The trouble is that too many of our families don't get a decent chance. We must do everything in our power to see that they do.

FISH AND WILDLIFE COORDINATION ACT AMENDMENTS

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. OBERSTAR. Mr. Speaker, I am today introducing a bill to conserve valuable fish and wildlife resources and expedite our national water development program. The bill would amend the Fish and Wildlife Coordination Act, last amended in detail in 1958, to include several recommendations from Federal and State fish and wildlife agencies and many conservation organizations with an interest and expertise in these matters.

A series of conferences among these groups developed a consensus of views which were incorporated into an action report released late in 1971. It set forth 169 recommendations for needed changes in legislation, policy, and procedures, all of which bear on the consideration given fish and wildlife in planning and constructing Federal and federally licensed and assisted water projects. Among the highest in priority was a recommendation to seek strengthening amendments to the Coordination Act. The bill I am introducing reflects those firm recommendations.

The bill would bring projects constructed or assisted by the Tennessee Valley Authority and the Soil Conservation Service, as well as those licensed by the Atomic Energy Commission, under the provisions of the Fish and Wildlife Coordination Act. It would encourage changes in planning procedures to have fish and wildlife professionals become a part of each project planning team so their views and recommendations would be built into project planning from the earliest point. The joint planning of projects called for would minimize and help eliminate the divisive and costly delaying action-reaction relationships among agencies.

The amended act would encourage use of new procedures to prevent, compensate, and mitigate fish and wildlife losses in national water development projects. It would strengthen public participation in planning those projects. It would help insure that features recommended for fish and wildlife be installed in phase with other project features, rather than at some later date when land costs, for example, have escalated.

In short, these amendments generally are designed to insure that fish, wildlife, and other resources become "equally considered purposes" of national water development programs. They seek to insure that future water projects truly will yield the optimum range of public benefits that the taxpayer has a right to expect.

There is no question that water development is necessary in our country. The problem has been that many projects are developed without adequate input to protect fish and wildlife habitat. Consequently we are confronted with unnecessary losses of those valuable resources which result in public conflict and costly delays in water developments.

This problem already has been the subject of extensive hearings conducted in 1974 by the House Subcommittee on Fisheries and Wildlife Conservation and the Environment. Those hearings, supported by a 1974 General Accounting Office report and the action report of the National Coordinating Committee, show conclusively that certain changes in the Fish and Wildlife Coordination Act would be in the broad public interest. Governors of 37 States and one territory have given their support to such changes.

The proposed amendments I offer today reflect the experiences gained and shortcomings identified in 18 years of operations since the Fish and Wildlife Coordination Act was last amended. In this bill we attempt to identify and respond to the weaknesses in the current program, which prevent full consideration being given to the many factors involved in projects affecting water resources.

It is important to note that my bill is complementary to the National Environmental Policy Act. NEPA requires environmental consideration only after a project has been planned—after many major decisions have been made. My bill would require such considerations during the earliest planning stages before any commitments are made. Thus, agencies could avoid the many delays, arguments, and loss of taxpayers' money that have characterized our water development program.

Let me stress that my bill would not give wildlife agencies veto power over water development projects. Under my bill, the U.S. Army Corps of Engineers and other agencies would not have to accept any recommendations where the public interest demands otherwise. But those agencies must take affirmative steps to accept or reject them in a timely manner.

I invite my colleagues to study this matter. I invite the widest possible participation and assistance in producing legislation which will assure that fish, wildlife, and other related resources are considered fully in the planning and operations of Federal and federally-licensed or assisted water resource project. The public is calling for needed changes in the way we conduct some of our national affairs. Natural resources are no exception; these values are important to people, make no mistake. I hope Congress will respond to the call for changes that will improve the conduct of our natural resources programs.

DEPARTMENT OF DEFENSE TO REDUCE THE NAVY'S SELECTED RESERVE

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. CHAPPELL. Mr. Speaker, as you know, I have carefully analyzed the Department of Defense proposal to drastically reduce the Navy's Selected Reserve to a force level of 52,000 for fiscal year 1977. My objective was to assess the DOD proposal and ascertain what the present force level should be. In my floor remarks on March 3 of this year, I reported certain findings and recommendations. These and additional facts brought out by the Appropriations Committee led, on June 17, to overwhelming House support for a drill-pay strength of 102,000.

You can therefore understand my dismay when I learned that the Senate Committee on Armed Forces recommended a Naval Reserve force of 79,500. Later, the Senate voted for 92,000, and the House-Senate Armed Services conference committee recommended 96,500. Public Law 94-361 subsequently authorized 96,500. However, I cannot in good conscience accede to this erosion—regardless of its lesser magnitude. Hard evidence irrefutably supports a minimum drill-pay Naval Reserve strength of 102,000. Moreover, if even half of the new missions suggested by the Senate committee are adopted, the need clearly will be for more—not fewer—drilling reservists.

To determine the basis of the Senate committee recommendation, I reviewed its report (Report No. 94-876 of the Committee on Armed Forces, U.S. Senate, authorizing certain fiscal year 1977 appropriations for military procurement, research and development, and military and civilian personnel). While this report provides many valuable insights, it also contains shortcomings in its treatment of military manpower needs. I have particular reference to title IV, dealing with Selected Reserve strengths. The omissions and inconsistencies in this part are of such concern as to compel my bringing them to the attention of my colleagues.

The Senate committee accurately found Navy manpower management "fragmented," crippled by "a piecemeal approach to manpower issues." The committee discovered, as many of us long have known, that responsibility for planning, requirement identification, training, and resources allocation is scattered among dozens of offices and program sponsors. Not only is this management "system" devoid of cohesiveness, it is rife with inconsistencies in gathering and applying manpower data from year to year. It therefore comes as no surprise that the Navy once again failed to adequately assess, integrate, and project its active and Reserve force requirements.

The Senate committee found—and I totally agree—that a crucial need exists for new approaches to employment of the Naval Reserve, that active and Reserve missions and manpower must be much better integrated. It identified no less than eight new missions for possible assignment to the Reserve, and directed that a cost-benefit analysis be made for each. This clearly is only a beginning. I can think of at least a half-dozen other Navy missions well suited for transfer in whole or in part to the Reserve. Also, I am aware of several previous studies that have made a cogent case for transfer of selected mission responsibilities to the Reserve. Unfortunately, all of these efforts have been relegated to the trash heap. This suggests that the Congress cannot expect objective evaluations or constructive reactions to the Naval Reserve so long as any strengthening of that Reserve is perceived as a threat to the active Navy.

The committee also found substantial shortages in ship manning not identified as requirements to be met by the Naval Reserve. For example, through some convoluted reasoning, Navy frequently listed unfilled billets merely as shortages in active strength. Moreover, serious retention problems and significant declines in active duty manpower skills were revealed. About 20 percent of Navy's entire enlisted force must be replaced each year. Recruiting quotas are climbing; standards being compromised to meet them. Fewer new recruits are attending specialized schools, despite a Navy-admitted shortage of "23,000 skilled petty officers who have been replaced with inexperienced personnel." The committee report raises serious questions over Navy's would-be-solution—to cut recruit training time and send increasing numbers of unskilled enlistees directly to the ships—apparently to be trained by diminishing numbers of already overburdened petty officers.

All of these factors relate to what the Navy calls its "fleet shortfall." What this means, in layman language, is that Navy cannot man its ships now and does not expect to in the future.

In light of these shocking inadequacies, the Senate committee wisely directed the Secretary of the Navy and Chief of Naval Operations—

> To evaluate . . . organizational arrangements and procedures . . . and report . . . on the results of the evaluations and steps taken to improve the integration of the planning, development of requirements, training allocations, and assignment of military, civilian, and reserve manpower.

Such an evaluation is sorely needed. However, I was distressed to learn that the committee chose not to wait for the report, opting instead for a 25-percent cut in current Selected Reserve strength.

I cannot understand, Mr. Speaker, how the committee could first find Navy's manpower planning wholly inadequate, then employ data from the same system to conclude that a reduction of 22,500 in drill pay numbers is warranted. It seems paradoxical that the recommended "proper" Selected Reserve number would stem from the very process the committee discredited.

How could the committee not have perceived that most of the reduction would be in the petty officer ranks—technical school graduates, practiced in their skills, and most recently released from active duty? I cannot believe that the committee really intended to wipe out a substantial part of Navy's reservoir of seasoned technicians and leaders that would replace and guide the unskilled in a contingency. Too, I am puzzled over how the committee, expressly concerned with cost-benefit relationships, would elect to cut a trained manpower resource by one-fourth, and forego any further return on invested training dollars.

Well over 300,000 mobilization billets are listed in Navy's manpower documents as being essential for the first 90 days of a mobilization. Even if two-thirds of these were to be found "soft," which is highly unlikely, the remainder would more than equal and support the current Selected Reserve level of 102,000. The Defense Manpower Commission, chartered by the Congress, recently concluded that 102,000 was a reasonable minimum manning level, and urged that the role of the Reserve be upgraded. Navy's so-called "605 Study," which the Senate committee recognized as a creditable "first step," called for a drill-pay floor of 102,000 for the Reserve. Too, any new initiative in the mission areas suggested by the committee would call for more—definitely not fewer—drilling reservists. As just one example, a mere 5-percent increase in augmentation rates for Navy ships would create a requirement for 20,000 more people.

All this is to say that you cannot call for increased reliance upon the Reserve, give it new missions and additional hardware, meet priority mobilization requirements, increase ship augmentation rates, and minimize program turmoil—by first making a 25-percent cut in manpower.

In part of its report, the committee employed a Navy-supplied force tabulation. Unfortunately, the terms used to suggest the various organizational groupings, kinds of units, and their supposed functions, were misapplied and misconstrued. The catchall label of "shore establishment," for example, is not—and never has been—sufficiently definitive for purposes of setting priorities. It becomes a classic misnomer when employed as a tailor-made excuse for a priority of zero.

To illustrate, how does one classify major supply center mobilization assignments that would allow career Navy people to move immediately, in an emergency, to vital positions in the combat-area logistic pipeline? Their mobilization enables instant manning of critical combat support forces with the best professional talent available. Does the logistic support of combatants somehow become unimportant because the reservists who make it possible are earmarked for assignment to a shore activity? In a similar vein, are the medical personnel and fleet training groups so vital to expanded combat operations to be given low or no priority just because they would be deployed in the United States?

Mr. Speaker, I must commend the Senate committee for challenging Navy and Department of Defense lapses in planning and providing for emergency manning of vital shore activities. It is no secret that peacetime personnel reductions within the shore establishment and lowered maintenance standards have had widespread adverse impacts upon fleet readiness. Too, history repeatedly has shown that the shore establishment is the nearest source of manpower—and invariably the first to be stripped to augment deploying ships and aircraft in an emergency. I submit that any increased tempo of operations, sustained beyond 2 or 3 weeks, could easily exceed existing Navy support capabilities. Who would take care of the beans, bullets, and breakdowns in a prolonged confrontation?

While speaking of support forces, I am puzzled over the escape of other Guard and Reserve components from the Pentagon budgetary ax—and the silence to date of the Senate committee. Army and Air Force Guard and Reserve forces have thousands of reservists in support units similar or identical to the Navy units currently under attack. This is not to suggest that such Guard and Reserve units would be any less vital but rather to emphasize the seemingly biased manner in which cuts are being directed against Navy.

For instance, the Senate committee ignored the 30,000 paid drillers in sister service "force units" whose mission is to augment stateside training bases. Naval Reserve training units, on the other hand, were a prime target. Even more perplexing is an apparent willingness to cut Naval Reserve medical and shipyard units while retaining another service's reserve marching band.

Major additional cuts to Reserve and Guard components of all services may be just over the horizon. I am told that DOD is scrutinizing Army and Air Force Reserve units with a view to relabeling. The seeming intent is to find units with titles that appear combat related, and rename them with noncombat—and therefore more vulnerable—titles. The assault on the Naval Reserve appears to be a first step in a planned campaign to cut Guard and Reserve components of all military services.

At this time, however, Mr. Speaker, the attack is directed principally at the Naval Reserve. It comes not only from external sources, but also from within Naval Reserve management. Consider, for example, the half-hearted response by OSD to the Senate Armed Forces Committee call for an examination of Navy's manpower problems. At first, the task was given to the Office of Deputy Assistant Secretary of Defense for Reserve Affairs. This is the office that last October was stripped of virtually everything but its title. Moreover, this work was to be accomplished by two aides—neither of which had a Navy background. When challenged, OSD decided that this study would be left to some analysts from the discredited total force study—the costly failure best remembered for its singular lack of new perspectives on manpower management.

Another disturbing development is Navy's decision to eliminate the Naval Reserve CPAM—CNO program analysis Memorandum. The CPAM is the all-important first step in the Navy's planning, programing and budgeting process, and as such is really the key to the resource allocation process.

I remember well, Mr. Speaker, when Admiral Zumwalt established the CPAM. I also recall how the Naval Reserve was deliberately left out, and what a struggle we had to have the Reserve inserted into the process; to gain recognition for the first Reserve CPAM. This seeming small step required top Navy sponsors to consider Reserve requirements along with their regular programs. Additionally, it pulled together what had been multiple bits and pieces. I was therefore shocked to learn that recent changes to the Navy Programing Manual have wiped out the Reserve CPAM. Perhaps the term "wiped-out" is a bit strong. As I understand it, the Director of Naval Reserve will be given an opportunity, after all others have "done their thing," to extract pieces pertaining to the Reserve and to prepare a summary sheet. This deliberate scattering and obfuscation of Reserve needs certainly appears consistent with prevailing attitudes in Navy and DOD.

As if the turmoil caused by external pressures has not been enough, Reserve management is contributing to its own problems by imposing another reorganization on the Selected Reserve. Originally slated for implementation October 1, it is so flawed—both in concept and methodology—it will only further degrade the effectiveness of the Reserve as a mission-capable force.

Evolved by the Assistant Secretary of the Navy—M. & R.A.—and his advisers, it purportedly would "exact match" mobilization requirements with reservists and thereby "purify the system." Even where substantive shifts are not contemplated, a host of cosmetic changes would be effected—meaningless new terminology designed to create the illusion of progress.

If implemented, it will not be the "fine tuning" exercise being proclaimed. The purveyors of the alleged "purification" naively seized upon the OP–605 output as a billet-for-billet blueprint for Reserve units. Then they tied each such unit to a specific Navy activity. These two fundamental actions guarantee instant upheaval and continuing disruptions in the Reserve program for the simple reason that the composition and mobilization requirements of the active Navy are constantly changing.

One of the things the reorganizers of the reorganization fail to comprehend is the difference between machine listings of active Navy mobilization manpower requirements and the reasoned, carefully designed personnel structures necessary to generate and sustain needed capabilities in an inactive Reserve environment. To the credit of those in OP–605 who produced the listings, this difference—and the complexities involved—is appreciated. Having produced what they state was only an initial and rudimentary compilation of prioritized mobilization requirements, the OP–605 personnel understandably now back away from any responsibility for the subsequent misapplication of the information.

Any analytical work involved in the current project was done after the futile effort to jam square pegs into round holes. No one bothered to compare the 605 data—preliminary specifications though they were—with Reserve assets or the existing Reserve structure; they simply charged forward until the inevitable brick walls were met.

The work was to be completed by a special action group convened in January of this year by the Director of Naval

Reserve. The group was comprised entirely of inactive reservists, none of whom had the depth of experience in Reserve program management, manpower planning, or personnel administration needed to produce knowledgeable results. A deliberate effort was made to exclude Reserve program sponsors and technical managers—the very individuals who possess the personnel expertise peculiar to their special fields and who should have been intimately involved from the outset. Fearing in-house political interference, the project was shrouded with secrecy for 4 full months, during which time nothing was accomplished.

In May, the doors were finally opened and a few professionals allowed to enter. A hurry-up, rather superficial analysis was done, and a full-speed-ahead order issued. As it now stands, the October 1 objective has been whittled down to include only the Naval Reserve Force—NRF—ships and squadrons—the units that have little or no potential for change. The more demanding tasks have been postponed once again as they continue to encounter conceptual malformations, methodological fallacies, and error-ridden, unit-manning documents.

Mr. Speaker, unless there is a decided change in attitudes and actions affecting the Naval Reserve, I fear for its future as a mission-capable force. In this context, I am most reluctant to compound its difficulties through deprivation of essential funds. I will not support $1 more than the Reserve can use. At the same time, I firmly believe it incumbent upon all of us to provide for the normal conduct of business and maintenance of acceptable standards of readiness. I am sure that Appropriations Committee actions in both the House and Senate intended to insure this. There are, however, several instances where cuts are proposed that put funding below the sustaining level. I am confident that when these are reexamined by the conference committee, corrective steps will be taken.

The Senate Appropriations Committee did not support 102,000 in the Reserve pay Navy—RPN—appropriation, but recommended $215,010,000 for the 96,500 drill pay strength approved in the defense authorization bill. This amount is $6,305,000 short of the House Appropriation of $221,315,000. I recommend a full and complete reexamination to insure full funding for the authorized strength.

Three funding reductions in O. & M.N.R.—Operations and Maintenance, Naval Reserve—warrant restoration by the Conference Committee on Appropriations. These include the surcharge cut recommended by the House Appropriations Committee, and the flight-hour and travel cuts by the Senate Appropriations Committee.

The House Appropriations Committee proposed elimination of $6.5 million in O. & M.N.R. from a Defense-directed surcharge fund to cover cost escalation on aircraft parts. As I pointed out in the House committee deliberations, cost escalation is a simple fact of life. Denying the funds necessary to cover the predictable usage of parts will ultimately mean at least a lower level of aircraft maintenance, and eventually nonflyable aircraft. Lowered maintenance standards and loss of flight-hour proficiency impinge not only on readiness, but on aviation safety as well. Consequently, this reduction is dangerous. The $6.5 million in the surcharge fund should therefore be restored.

The Senate Appropriations Committee very wisely agreed with Defense that the surcharge for aircraft parts is needed. Then, however, it chose to cut $6.5 million from Naval Air Reserve flight-hour funds. The $6.5 million equates to 20,000 flight hours, or an 8-percent reduction across all flying programs. Of course, the program has already lost 8,000 flight hours because of price escalation since submission of the President's budget. So, if the recommended reduction is permitted to stand, the budgeted 235,333 hours will fall to approximately 208,000.

This would mean an annual average of only 98 hours for Naval Reserve aviators in Selected Reserve squadron replacement units—SRU's—below the minimum considered necessary to maintain safety of flight proficiency. Do we have to start killing our weekend warriors just to reaffirm where the minimum is? If one needs a yardstick by which to compare a 98-hour annual average, I suggest a look at the other Guard and Reserve programs. They vary with weapon systems, missions, and training requirements, but the following are representative:

Air Force Reserve:
  C–130 (airlift), 170.
  WC–130 (weather), 220.
  Fighter, 135.
  C–123, 180.
  Rescue, 180.
Army Reserve: (Dual-piloted), 125–130.
National Guard:
  Fighter, 135.
  Airlift, 180.

The Senate committee's explanation revealed an apparent lack of understanding when it said, "Naval Reserve strength declines in fiscal year 1977 and flying units do not increase. No justification was provided for these increases." What "increases"?

The assumption that the flight program is directly impacted by a general reduction in overall strength of the Selected Reserve is erroneous. Such a reduction would be taken in units other than aircraft squadrons or ships. Thus, the flight program would be unaffected.

Also, recent history cannot be used as a basis. The Naval Air Reserve has not attained its flight-hour program in the last 3 years. Last year was typical. The program took a general, across-the-board cut of $10 million, along with a surcharge loss of $16.6 million. With $26.6 million off the top, escalating fuel and material costs, and transition training in updating aircraft—the program suffered. It is hardly realistic to call it an "increase" when they are merely trying to restore flight operations to normal levels.

The additional cost per hour in the transition to more modern type aircraft is one of the most important factors. It requires little study to recognize, in the figures below, that costs per flight hour will continue to increase markedly during the course of fiscal year 1977.

From F–8 at $391.26, to F–4 at $708.62.
From P–2 at $254.95, to P–3 at $400.39.
From C–118 at $265.53, to C–9 at $352.73.
From A–4 at $274.48, to A–7 at $314.22.

The growth in average costs per hour over the past 3 years clearly indicates the trend.

Fiscal year:	
1975	$230.62
1976	275.58
1977	324.98

Failure to restore the $6.5 million in flight hour funds would compound the existing fiscal problems and seriously degrade the Reserve's ability to meet requisite readiness standards.

The Senate Appropriations Committee also reduced O. & M.N.R. travel funds by $1.3 million. The formula and rationale used in calculating this reduction was, to say the very least, surprising. Included in their formula was Selected Reserve strength at 52,000. Selected Reserve travel is, of course, budgeted for and funded in the RPN appropriation—not O. & N.M.R. However, even if the number of selected reservists had something to do with active duty and civilian personnel travel—which it does not—the number used should have been 96,500.

One of the most severe problems in the Naval Reserve in recent years has been the limitation placed on travel. Since each of the Reserve squadrons and ships has a substantial number of active duty members, restrictions on travel results in a loss of readiness and training effectiveness when school quotas cannot be used, various important inspections and liaison visits cannot be conducted and commanders are deprived of essential flexibility in applying resources against changing priorities. It is therefore vital that we restore the $1.3 million in travel funds.

Overall, the Senate committee recommended $286,600,000 in O. & M.N.R., which is $1.4 million less than the House appropriation of $288 million. The recommended corrective actions by the conference committee would settle at the House figure.

The Naval Reserve desperately needs stability. The existing unit organization must be left intact until a suitably supported study of the entire Navy manpower management system can be conducted, missions and priorities determined, and the Navy's Selected Reserve made a part of the total force design. To insure that these aims will be accomplished, I am hopeful that the conference committee will see fit to adopt my recommendations for restoration of the surcharge, flight hour, and travel funds.

MR. THOMAS J. HASTINGS

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. HANNAFORD. Mr. Speaker, on September 7, 1976, Mr. Thomas J. Hastings will be the guest of honor at a testimonial dinner at the Long Beach, Calif., Petroleum Club. Mr. Hastings will be celebrating his 80th birthday, as well as retiring from his 65-year career in the oil industry. Mr. Hastings began his career at the tender age of 16 with General Petroleum. He is retiring from the Eason-Therolf Co. in Long Beach.

Mr. Hastings' contributions to the Los Angeles County oil industry are numerous. He is an acknowledged expert in the field and has represented his industry on various panels dealing with oil production and other aspects of the industry. He is an active member of the Petroleum Pioneers and the Nomads. His many years of distinguished service are appreciated by all of his fellow workers and by those of us familiar with the complexity and importance of his tasks. We are all pleased that he plans to keep in touch with the industry and continue to share his knowledge and expertise with us.

I am sure that his wife of 59 years, Gladys, his 4 children, 12 grandchildren, and 8 great-grandchildren are looking forward to spending more time with him. I take this opportunity to join with Mr. Hastings' many friends in the Long Beach area to wish him well in the years to come.

UNCONDITIONAL PARDON OR AMNESTY: IT IS STILL A BAD IDEA

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. LENT. Mr. Speaker, the promise of blanket pardons to draft-evaders made at the National American Legion Convention in Seattle on August 24, 1976, makes this a time for the people's representatives to "stand up and be counted."

And I want to be counted against this ill-advised transparent proposal to grant unconditional amnesty to those who shirked their lawful obligation to serve their country during the Vietnam war.

During the course of our long involvement in Southeast Asia, over 2.5 million men fulfilled their legal responsibilities in the armed services. Almost 50,000 of these men never came home. To grant amnesty or pardons—because they mean the same thing in the final analysis—to all those individuals who fled their country or went into hiding to avoid service, would be an insult to the sacrifices made by the men who did serve, to their families, and worse, to the memory of those who sacrificed their lives.

In addition, the precedent established by this unconditional amnesty would make it most difficult to raise another army at a future time of national crisis.

I consider this amnesty proposal as a step toward making heroes of draft-evaders and deserters, and I believe that would be a terrible wrong. In the past, individuals who have felt obliged to make their views known through acts of "civil disobedience" have been prepared to accept the consequences of their actions, and have recognized the responsibility of the Government to enforce the law. I do not see why this principle should not continue to be applied to draft-evaders.

In two public debates 2 years ago, I challenged former U.S. Attorney General Ramsey Clark on this very same question. Mr. Speaker, the arguments advanced in favor of unconditional amnesty do not sound any more persuasive in a Georgia drawl than they did in 1974 in a Texas twang.

We have a Government of laws. If the laws are bad, let them be changed. But the honor and integrity of this country would be flawed by canonizing lawbreakers, which is precisely what this pardon proposal would do.

PROMOTING GEORGE WASHINGTON

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. HUGHES. Mr. Speaker, I found it very hard to vote against the appointment of Gen. George Washington to the grade of General of the Armies. It is somewhat akin to voting against motherhood or apple pie. More seriously, it is precisely because I have such respect for George Washington and this body that I voted against House Joint Resolution 519.

George Washington was the hero of the Revolution and the father of this country. He led an army of ill-equipped, amateur soldiers to victory over the preeminent military power of the time. He was Commander in Chief of the military forces of the United States for the 8 years he served as President. This legislation would add nothing to that record. As my distinguished colleague from Michigan (Mr. NEDZI) said during the debate on this resolution, "It is like the Pope offering to make Christ a Cardinal." Or as the Acting Secretary of the Army Norman R. Augustine stated, "The military prowess and stature of those who served in our Armed Forces during earlier periods of history should properly be assessed against a background of the conditions and national temperament at the time their service was rendered; accordingly the rate or grade of such individuals is of little practical value in determining the position of prominence they should receive."

Although this measure has been described as an elevation in rank for General Washington, it would put him on a par with that held by John J. Pershing, General of the Armies. I fail to see where this would be a promotion for George Washington.

My second reason for opposing House Joint Resolution 519 pertains to the workload of the House. Simply put, our priorities are a bit confused. Because of the pressure of the October 2 recess deadline this House will be unable to finish many important pieces of legislation. The time wasted in debate reminds me of the stories that I have heard from more veteran colleagues about the "Woodsy Owl" debate in 1973—to determine if the Woodsy Owl would be officially blessed as the symbol of the Interior Department, a discussion that took place in the midst of the energy crisis.

In the next several weeks, Mr. Speaker, may I urge the House to only consider those measures that are essential to the well-being of the country. Surely it is unreasonable to take time from the House in an exercise such as this. It does not enhance the reputation of George Washington and can only serve to diminish the reputation of the House.

At this point, I would like to insert an editorial by the Philadelphia Bulletin on August 6 entitled "Promoting George Washington—Historical Games" which I believe states the situation very clearly:

HISTORICAL GAMES—PROMOTING GEORGE WASHINGTON

There's a group in Congress that is worried about George Washington's dead-end army career. They think it is unfitting that he only achieved the rank of three-star general, when a whole battalion of generals since then has been elevated to four stars, and to five stars, and in the case of Gen. John J. Pershing, to six stars.

The congressional thinking is that this leaves the Father of Our Country seriously outranked. So the proposal, which has cleared a House armed services subcommittee, is to promote Gen. Washington to General of the Armies, a six-star rank.

One little flaw in this may be that even at his new six-star rank, Gen. Washington will be only number two, still junior to Gen. Pershing, who has held six-star rank since 1919.

No matter. It's the intent that stands out here, and it's this same intent to "improve" history that we used to find so ridiculous in the Soviets and the Chinese Communists, when, for instance, they reclassified Genghis Khan an agrarin revoluntionary.

Nevertheless, if congressmen are going to rewrite history, they've got their work cut out. For starters, they might as well clean up this army business by busting Gen. Benedict Arnold to Pvt. Arnold, by promoting Sgt. York to Maj. York, and by at least beginning hearings on what to do with that firebrand Gen. Custer.

Then if the idea catches on, they could broaden out into other fields. They could install Babe Ruth back into his number one spot by voting him a 62-home-run year; could rehabilitate Billy the Kid by giving him a retroactive, blanket pardon; and could maybe even posthumously get Washington's contemporary Robert Morris out of prison by voting him a federal pension.

Of course Congress won't want to carry this idea too far. If they did some of the public might get the idea of revising election returns to get some of the sillier congressmen back to private citizenship.

PERSONAL EXPLANATION

HON. STANLEY LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. LUNDINE. Mr. Speaker, I was unavoidably absent during yesterday's session because of an important prior commitment in my district. I hosted a conference at Chautauqua, N.Y., on employment opportunity and economic stability, which had been planned before my election to the Congress in March of this year. Leading economists and labor and management experts from around the country were invited to participate and the date of the conference was confirmed long before the legislative agenda for this week could be determined. Because my district, as part of Appalachia, is in need of economic development assistance to bring its standard of living up to the national average, yesterday's conference had particular relevance to the needs of my constituents.

Had I been present for Tuesday's session, I would have supported all of the bills that were brought to the House floor under suspension of the rules, with one exception. I would have voted "no" on rollcall No. 648—H.R. 10155, tax treatment of certain income and political organizations. The exemption to the tax code given under that bill did not appear to me to be warranted.

Had I not been en route to Jamestown on Monday evening, August 23, I would have voted "aye" on rollcall No. 644, in support of H.R. 14032, the Toxic Substances Control Act. I am pleased that the House approved this measure by a vote of 319 to 45. Recent medical evidence points strongly to environmental factors as a major cause of the rising incidence of cancer in this country. The toxic substances control bill passed by the House would make it possible to control the release of harmful substances into the environment.

CONGRESSMAN WOLFF RECEIVES ORDER OF THE PIKE AWARD

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. JAMES V. STANTON. Mr. Speaker, recently, our distinguished colleague from New York (Mr. WOLFF) received a highly coveted award from the Irish American community. He was the first non-Hibernian to receive the Ancient Order of Hibernians' "Order of the Pike."

In presenting the Order of the Pike to Mr. WOLFF at the AOH August 12 National Convention in Newport, R.I., National AOH President John Keane told the 1,000-member audience:

> Congressman Wolff's distinguished record of concern for the Irish in distress has earned him the wholehearted and overwhelming support of Irish people and Irish organizations everywhere. We are proud and honored to present Congressman Wolff with the Order of the Pike. He deserves it; we congratulate him and thank him for his continuing efforts on behalf of freedom everywhere.

Mr. Speaker, I, too, congratulate Mr. WOLFF. His long record of concern for the achievement of peace and justice in Ireland is one not easily equaled. The Order of the Pike is a most fitting tribute to his devotion to this cause. As the weapon of Ireland's freedom fighters in 1798, the pike has come to symbolize both rebellion against tyranny and courage and commitment to the fight for freedom. When National AOH President Keane instituted the Order of the Pike earlier this year, he said that "the AOH shall award the Order of the Pike to those persons, both Hibernian and non-Hibernian, who have performed outstanding service, far above and beyond the call of duty or obligation, and at personal risk and sacrifice, in support of efforts in this country to advance the fight for Irish freedom."

Our colleague from New York (Mr. WOLFF) can deservedly add the Order of the Pike to a growing number of awards he has received for his activities on behalf of the rights of all minorities.

NATIONAL COUNCIL OF SENIOR CITIZENS—AFL–CIO URGE PASSAGE OF SSI PASSTHROUGH

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. FRASER. Mr. Speaker, when the House meets today at noon the first order of business will be H.R. 8911, the supplemental Security Income Amendments of 1976. The gentleman from Massachusetts (Mr. O'NEILL) and I will offer an amendment to insure that all SSI recipients receive cost-of-living increases in the future.

Today Mr. O'NEILL and I received statements from both the AFL–CIO and the National Council of Senior Citizens which not only describe our amendment but in addition present most compelling arguments for its passage. I offer these statements for the benefit of my colleagues and urge favorable action on our passthrough amendment.

[From the National Council of Senior Citizens, Inc., Washington, D.C., Aug. 25 1976]

STATEMENT OF THE NATIONAL COUNCIL OF SENIOR CITIZENS

(By Nelson H. Cruikshank, president)

The National Council of Senior Citizens, an organization representing over three million elderly people, urges passage of the Fraser-O'Neill Amendment to H.R. 8911, which requires the pass-through of cost-of-living increases to beneficiaries and an end to the deplorable practice of concurrent reductions in state supplementation.

Five thousand members of the National Council of Senior Citizens meeting in Convention, in Chicago, June 1976, unanimously voted that states pass on the automatic cost-of-living increases in SSI benefits which are intended to maintain the real purchasing power of beneficiaries of this program. The SSI program serves the poorest of the poor among the elderly, blind, and disabled population. Certainly it is not reasonable, moral, or ethical to deprive this group of the minimal purchasing power that they were granted.

We, therefore, respectfully urge that this Congress immediately correct the problem of eroding benefit payments by passage of the Fraser-O'Neill Amendment.

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL
ORGANIZATIONS,

August 24, 1976.

HON. DONALD FRASER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FRASER: I am writing in behalf of the AFL–CIO to support and urge passage of your amendment to H.R. 8911 which would insure that starting next year, SSI recipients will receive the full cost-of-living raises to which they are entitled.

In June, 1976, SSI recipients believed they would receive a 6.4 percent cost-of-living increase in benefits. But in many states, SSI recipients were dismayed to find that they were denied this increase. Those recipients who received state supplementation in addition to their benefits have found their state grants reduced partially or totally as a result of the federal increase.

With the exception of three states, these states all save money when the federal floor is raised since the amount of their supplemental payment is reduced by the increased amount. States that supplement SSI payments should be required to pass on to beneficiaries any savings which result from the cost-of-living adjustment.

The increase in the federal floor does not save money for three states (Massachusetts, Wisconsin and Hawaii). These states find it difficult to increase their supplemental payments by the dollar amount of the cost-of-living increase in the federal minimum because they will hit their so-called "hold harmless" levels and will have to pay for the increases totally out of state funds. These increased costs incurred by the "hold harmless" states should be shared by the federal government.

Your amendment accomplishes these objectives. Without its passage, the SSI program will work toward a standardizing of basic public income support for the nation's elderly and disabled at a totally inadequate level.

The AFL–CIO commends you for your leadership on this issue. Please be assured that you have our full support in your effort to achieve enactment of your amendment into law.

Sincerely,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

KISSINGER CUTS A DEAL

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. DERWINSKI. Mr. Speaker, since we have entered the very political segment of the session following the two conventions, we must keep in mind the special sensitivity between foreign affairs and the domestic political debate. In a very timely column, Alex Seith, a respected international affairs analyst and delegate to the Democratic National Convention, comments on the temptation of his fellow Democrats to instinctively criticize Secretary Kissinger and the administration foreign policy. His article, "Kissinger Cuts a Deal," appeared in the August 15 edition of the Star-Tribune, which serves suburban Cook County, Ill., and I insert it in the RECORD at this point:

KISSINGER CUTS A DEAL

(By Alex R. Seith)

Don't jump on Kissinger this time. That's my advice to fellow Democrats who might be poised to pounce on the secretary of state for his latest round of Middle East diplomacy.

Kissinger flew to Iran to sign a sales deal so enormous that every corporate executive would promote his whole sales department for getting orders a fraction of the size. Kissinger's Iranian deal is for a total of $34 billion. Of this $24 billion will be sales of consumer goods and investments. The remaining $10 billion is for weapons to arm the Iranian Army and Air Force.

Instant critics were quick to criticize Kissinger for selling more arms in the already volatile Middle East. And superficial kibitzers thought they found support in a report issued a week ago by seven U.S. senators, four Democrats and three Republicans on the Foreign Assistance subcommittee of the Senate Committee on Foreign Relations.

But the critics miss the point. And the kibitzers mis-read the Senate report. Iran is different from most other countries in the Mid-East. And the Senate report on arms sales to Iran does not question the wisdom of arming Iran, it only recommends against "bad management."

Yet, some newspaper commentators were jumping on Kissinger for "sowing the seeds of another Viet Nam" in the Middle East. Warnings of "another Viet Nam" should certainly get our attention, if not our agreement. In fact, there is no reasonable ground for fearing that Iran will be another Viet Nam. Nor is there even a demonstrable fear that Iran will use American-made weapons to thwart American interests. Here are some reasons why.

Iran should not be confused with the Arab nations of the Mid-East. Iran is not Arabic, although it shares the Moslem religion with the Arab countries. But Iran does not share any of the Arab hostility toward Israel. Iran took no part on the Arab-Israel wars of 1949, 1956, 1967 and 1973. Nor is there any reason to think Iran would encourage any future war against Israel. On the contrary, the Senate report concludes that U.S. controls over American weapons in Iran enable the U.S. to "immobilize Iranian armed forces" and thus prevent Iran from "aiding the Arabs against Israel."

Still, skeptics might try to argue that Iran joined with the Arabs and other OPEC countries in raising oil prices after the Arab-Israeli war of 1973. But this argument also misses the point and the price rise was not caused by the 1973 war. It simply followed the war. And the price rise was not prompted by Arab animosity toward Israel; it was caused by the desire of all oil producing nations to sell their oil for as much as the market would bear. Oil producers in Asia, Africa and Latin America—far removed and unconcerned about Arab-Israeli disputes—were among the most eager to raise oil prices.

Iran, in short, has no major foreign policy goals in conflict with U.S. interests. Instead, many of Iran's goals coincided with—and prompted—U.S. interests. Here are some examples.

U.S. interests. Here are some examples.

Iran is an intense foe of the expansionary ambitions of the Soviet Union. Iran borders on the Soviet Union and, with its neighbor Turkey, is a land barrier to Soviet designs on the Arab nations of the Mid-East. A well-armed Iran is strong protection against southward expansion by the Soviets.

Iran also stands guard over the Persian gulf which separates Iran from its Arab neighbors to the south, Iraq and Syria—both dominated by left-wing governments and both recipients of arms aid from the Soviets.

To the east, Iran is a protector of the territorial integrity of Pakistan, another of the nations which provides a land barrier to southward expansion by the Soviet Union. Iran is also a counter-weight to potentially irresponsible governments on the Arabian peninsula. The Shah of Iran has already issued blunt warnings that his armed forces might invade to "restore order" if revolutionaries in Iraq or Syria were to threaten the stability of the Mid-East.

Every one of these reasons for Iran's purchase of billions of dollars of U.S. arms, serves U.S. interest. And all of this is at no cost to U.S. taxpayers. Instead, Iran is paying cold cash. It is also planning to pay cash for $24 billion in civilian goods which Kissinger agreed would be sold by U.S. suppliers.

As anywhere, catastrophe might strike Iran. Radicals might topple the government and turn against America. But, the best evidence is that Kissinger's latest deal with the Iranians will help thwart radicals. For that, he deserves to be complimented, not jumped on.

VOTING RECORD

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. BROWN of Ohio. Mr. Speaker, in a continuing attempt to provide my voting record for the first session of the 94th Congress for the benefit of anyone who would like to examine that record, I would like to have printed here my votes on bills ranging from amendments to the Drug Abuse Office and Treatment Act of 1972 to amendments to the Environmental Policy Act of 1969. The material follows:

VOTING RECORD

H.R. 8150 DRUG ABUSE OFFICE AND TREATMENT ACT OF 1972 AMENDMENTS

Amendment to eliminate provisions in the bill which would extend the life of the White House office of drug abuse prevention through June 30, 1976, rejected 167–325, "yea."

Final passage, a bill to authorize $699 million in FY 1976–78 for federal drug abuse prevention programs and to extend the life of the White House office on drug abuse prevention through June 30, 1976, passed 382–11, not voting; 9–11–75.

H.J. RES. 258 DESIGNATION OF MARCH 21, 1975 AS EARTH DAY

Motion to suspend the rules and pass the resolution to designate March 21, 1975, as Earth Day, adopted 374–30, "yea"; 3–18–75.

H.R. 5901 APPROPRIATIONS FOR THE EDUCATION DIVISION AND RELATED AGENCIES FOR FISCAL YEAR 1976/197T

Amendment to an amendment to increase the funding for four education programs by $137 million, rejected 94–308, "no"; Amendment to increase funds for 13 education programs by $487.5 million, adopted 259–143, "no"; Amendment to prohibit HEW from issuing legislations or withholding funds from school districts in order to force them to integrate physical education classes, fraternities and youth service organizations by sex, adopted 253–145, "aye."

Conference report on the bill to make fiscal year 1976 and advance fiscal year 1977 appropriations of $7,480,312,952 and also set transition period appropriations at $464,683,000 for education programs operated by the Department of Health, Education and Welfare and for related agencies, adopted 370–42, "yea"; 7–16–75.

Motion to concur with the Senate's deletion of a House-passed amendment that would prohibit the Department of Health, Education and Welfare from requiring schools to integrate by sex their physical education classes and from requiring professional and honorary fraternities and sororities to integrate their membership by sex, agreed to 215–178, "yea"; 7–18–75.

Vote to override Presidential Veto of HEW Appropriations Act of 1976, overridden 379–41, "nay"; 9–9–75.

S. 6, EDUCATION FOR ALL HANDICAPPED CHILDREN ACT OF 1975

Amendment to change the formula for distributing grants to the states to assist in educating handicapped children, rejected 116–308, "yea."

Final passage, a bill to expand the federal financial commitment to education of handicapped children, passed 375–44, "nay"; 7–29–75.

Conference report, passed under suspension of the rules 404–7, "yea"; 11–18–75.

HOUSE RESOLUTION 314, CONFIRMATION OF THE APPOINTMENT OF NEIL STAEBLER TO THE FEDERAL ELECTION COMMISSION

Final passage, a resolution to confirm the nomination of Neil Staebler to the Federal Election Commission, passed 366–43, "yea"; 3–19–75.

H.R. 7950, APPROPRIATION AUTHORIZATION FOR THE FEDERAL ELECTION COMMISSION FOR FISCAL YEAR 1976–77

An amendment to reduce the authorization for the Commission's operations to $2.6 million, from the $7,788,000 provided by the bill, and to reduce the period covered by the authorization to six months (through 12–31–75) instead of for 18 months (through 12–31–76), rejected 72–340, "nay"; 6–19–75.

HOUSE RESOLUTION 780, DISAPPROVAL OF THE PROPOSED REGULATION BY THE FEDERAL ELECTION COMMISSION

Motion to suspend the rules and adopt the resolution to disapprove the "point of entry" regulation of the Federal Election Commission that would require the House and Senate candidates to file their campaign finance reports first with the FEC, rejected 220–169, "nay"; 10–20–75.

Final passage, a resolution to disapprove the regulation of the FEC that would require the House and Senate candidates to file their campaign finance reports first with the Commission, instead of first with the Clerk of the House and the Secretary of the Senate, adopted 257–148, "nay"; 10–22–75.

H.R. 8800, ELECTRIC VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1975

Final passage, a bill to authorize $160 million in fiscal year 1976–80 for a research and demonstration project aimed at promoting the use of electric vehicles by individuals, business, and government, passed 308–60, "yea"; 9–5–75.

S. 1849, EXTENSION OF EMERGENCY PETROLEUM ALLOCATION ACT TO MARCH 1, 1975

Final passage, a bill to extend to March 1, 1976, from August 31, 1975, the price control and allocation authorities of the Emergency Petroleum Act of 1973, passed 303–117, "nay"; 7–31–75.

H.R. 9524 EXTENSION OF EMERGENCY PETROLEUM ALLOCATION ACT TO NOVEMBER 15, 1975

Final passage, an amendment to the bill passed by the Senate which extended oil price controls from August 31, 1975, until November 15, 1975, and limited the President's authority to propose any major change in oil price controls until November 1, 1975, passed 342–16, "yea"; 9–26–75.

H.R. 4481 EMPLOYMENT APPROPRIATIONS ACT OF 1975

Motion to recommit the bill with instructions to delete $2,802,181,000 in appropriations for departments and agencies earmarked for Federal public works projects and purchases intended to stimulate creation of new jobs, rejected 109–315, "aye"; 3–10–75.

Final passage, a bill to provide for emergency fiscal year 1975 appropriations of $5,941,636,000 for Federal Departments and agencies to stimulate jobs in depressed auto and construction industries, passed 313–113, "nay"; 3–12–75.

Conference report on the bill to appropriate $5,306,508,000 for several departments and agencies to create more than 1 million jobs, adopted 293–109, "nay"; 5–14–75.

Motion to recede from disagreement and accept Senate amendment with an amendment to appropriate $200 million rather than $700 million for railroad track repair and maintenance, rejected 141–253, "aye"; 5–14–75.

Votes to override Presidential veto of the Employment Appropriations Act of 1975, failed 277–145, "nay"; 6–4–75.

H.R. 6860 ENERGY CONSERVATION AND CONVERSION ACT

Amendment to make federal purchase and sale of imported oil mandatory in 1976, rejected 152–265, "no"; Ways and Means Committee amendments to Title I of the bill, including one which deleted from the bill the provision to allow federal purchase and sale of imported oil, adopted 216–196, "aye"; amendment to delete from Title I of the bill language providing for imposition of quotas on imported oil, rejected 185–224, "aye"; Amendment to raise petroleum import quotas to 6 million barrels a day, from 5.5 million barrels a day, in 1979 and to 6.5 million barrels a day, from 5.5 million barrels a day, in 1980 and subsequent years, adopted 211–200, "aye"; Amendment to require that petroleum import quotas be raised to allow increased foreign oil imports sufficient to offset expected reductions in natural gas supplies, and to make clear that the bill would not abrogate a 1973 presidential proclamation that assured some oil importers that they could import certain amounts of foreign petroleum without paying import fees until 1980, rejected 195–213, "aye"; Amendment to delete provisions that would impose additional federal gasoline taxes of up to 20 cents a gallon, triggered in any year following a year in which U.S. gasoline consumption rose above its 1973 level, adopted 345–72, "aye"; Amendment to delete the title that would impose a gasoline tax of 3 cents per gallon in 1976 to raise revenues for an energy development trust fund, adopted 209–187, "aye"; Amendment to impose a tax on each inefficient car providing fuel mileage below certain standards as well as a tax on each manufacturer or importer whose cars provided average efficiency below certain standards, rejected 166–235, "no"; Amendment to the pending amendment to prohibit any automobile manufacturer to build cars providing fuel mileage below certain standards, rejected 79–319, "no"; Amendment to the pending amendment to impose a fine on the manufacturer of any car that provided fuel mileage below certain standards, rejected 128–271, "no"; Amendment to impose fines on automobile manufacturers or importers if the average fuel efficiency provided by all their cars fell below certain standards—the fines, effective for 1978, 1979 and 1980 model years, would be $5 for each 1/10th of a mile per gallon by which the average standard was missed multiplied by the number of cars built or imported, adopted 306–86, "aye"; Amendment to phase out the federal excise tax on radial tires over five years instead of repealing it immediately, rejected 117–270, "aye"; Amendment to delete provisions allowing a federal income tax credit for 30 percent of investments of up to $500 to install insulation, storm windows or other thermal equipment in a principal residence, rejected 108–281, "no"; Amendment to allow a tax credit for 25% of investments of up to $8,000 in residential solar energy equipment, thus providing a maximum credit of $2,000 in place of provisions in the bill allowing a tax credit for 40% of investments up to $1,000, and for 20% of additional investments up to $1,000, thus providing a maximum credit of $600, adopted 244–132, "aye"; Amendment to reduce the amount of energy tax and to base the revenues appropriated to an energy conservation and development trust fund on the loss in general federal revenues caused by other tax incentives provided by the bill, rejected 169–210, "aye"; Amendment to require that at least 25% of expenditures from the energy trust during each fiscal year be used for research and demonstration projects in local and regional transportation systems, rejected 117–240, "no"; Amendment to delete Title IV, providing for an Energy Conservation and Conversion Trust Fund, rejected 162–247, "aye; amendment to make investments in facilities for building solar energy equipment eligible for rapid five-year tax depreciation provisions, rejected 159–247, "aye"; Amendment to delete provisions extending the 10% investment tax credit to the purchase of used materials for recycling, adopted 249–170, "no"; motion to recommit the bill to the Ways and Means and the Interstate and Foreign Commerce Committees, rejected 150–270, "yea."

Final passage, a bill setting quotas on oil imports, providing tax incentives for energy conservation and investments in energy saving devices, and creating a trust fund to finance development of conservation and alternative energy sources, passed 291–130, "nay"; 6–19–75.

H.R. 7014 ENERGY CONSERVATION AND OIL POLICY ACT OF 1975

Amendment to allow contingency plans for gasoline rationing and energy conservation to become effective as long as neither chamber disapproved them within 60 days, instead of requiring congressional approval of the plans within that time, rejected 155–231, "aye"; Substitute to an amendment to provide for gradual decontrol of domestic oil prices, but placing a ceiling of $11.28 per barrel on the price of new oil, rejected 94–326, "no"; Amendment to an amendment to reword the windfall profits tax condition for the decontrol program to make it more general in its prescription, adopted 236–187, "aye"; Amendment to provide for the gradual decontrol of domestic oil prices by 1980, contingent upon enactment of a windfall profits tax on resulting oil company profits, rejected 202–220, "aye"; Amendment to delete from the oil pricing provisions providing for a gradual increase in the cost of "old" controlled-price oil and a rollback in the price of "new" domestic oil to an average level of $7.50 per barrel, adopted 215–199, "aye"; Adoption of the rule providing that it would be in order to consider an amendment containing the President's oil decontrol plan and providing that H.R. 7014, when approved by the House, would be sent to conference with S. 622, the act which had already passed the Senate, adopted 310–109, "aye"; Amendment to continue the $5.25 per barrel price ceiling for "old" domestic oil, to roll back the price of most other domestic oil to an average of $7.50 per barrel and to allow the President to set higher prices of other classifications of domestic oil up to an average of $10 per barrel, adopted 218–207, "no"; Amendment to set ceiling prices for the cost of domestic oil, adopted 231–193, "no"; Amendment to bar joint ventures by major oil companies in developing oil, natural gas, coal, or oil shale resources on federal lands, rejected 206–207, "no"; Amendment to prohibit the leasing of federal mineral lands—other than those on which oil deposits are located—to a vertically integrated oil company and to prohibit granting leases on oil lands to such companies if they owned or controlled competing interests in energy sources, rejected 158–254, "no"; Amendment to suspend until May 1, 1976, all lease sales in frontier areas of the Outer Continental Shelf, rejected 120–286, "no"; Amendment to provide that oil price costs be equitably distributed among refined petroleum products, adopted 235–155, "no"; Amendment to strike from the bill the provision exempting small refiners from the requirements of the entitlements program intended to equalize the cost of crude oil, rejected 51–331, "aye"; Amendment to delete from the bill the oil pricing sections which would extend and expand federal controls on the price of domestic oil, setting a three-tier system of price ceilings at $5.25, $7.50 and $10.00 per barrel, rejected 151–242, "aye"; Amendment to delete from the bill the sections to require the President to restrict and allocate domestic gasoline supplies and to reduce domestic gasoline consumption by 2% over the next three years, rejected 150–239, "aye"; Amendment to delete from the bill the provisions setting up voluntary energy conservation programs for U.S. industry, adopted 220–187, "aye"; Amendment to delete language from the bill that would authorize the President, in certain circumstances, to act as the exclusive purchasing agent for oil imported into the United States, rejected 146–254, "aye"; Amendment to delete from the bill the 1985 goal for auto efficiency of a fleetwide average of 28 miles per gallon for American automobile producers, rejected 117–284, "aye"; Amendment to require all government-owned vehicles to use fuels that were a blend of gasoline substitutes, rejected 118–262, "no"; Amendment to shift from the Commerce Department to the FTC responsibility for administering energy efficiency standards and labeling requirements under the bill, adopted 214–165, "no"; Amendment to delete from the bill the provisions requiring energy efficiency improvement standards for major household appliances, rejected 146–243, "aye"; Amendment to delete a section of the bill to authorize the Federal Energy Administrator to ban the use of natural gas as a boiler fuel, rejected 93–300, "no"; Amendment to add new Title VIII to provide $750 million a year in loans to companies to begin the liquefaction and gasification of coal, rejected 154–211, "aye"; Amendment to authorize the GAO to conduct verification audits, and more comprehensive audits, if necessary, of oil and gas producers who were already required to submit various energy data reports to the federal government, adopted 233–162, "no"; Amendment to prohibit the use of gasoline or diesel-fuel powered vehicles to transport school children, other than one's own, to public schools other than the appropriate grade school closest to the student's home in his school district, adopted 204–201, "nay"; Motion to recommit the bill to the Interstate and Foreign Commerce Committee, thus killing the bill, rejected 171–232, "aye".

Final passage, a bill to provide the President with emergency energy standby authority, to authorize creation of a national civilian strategic oil reserve, to extend price controls on domestic oil, to establish a mandatory gasoline allocation program and to set fuel economy standards for domestic automobiles, passed 255–148, "nay"; 9–23–75.

Motion to delete from the bill language ruled nongermane that set up a program in the Department of Transportation to develop, evaluate, and promote the commercial application of advanced automotive technology through grants and loan guarantees, agreed to 300–103, "yea"; 12–15–75.

Conference report on the version of the bill without the provisions concerning advanced automotive technology and loan guarantees for expansion of existing low-sulfur coal mines, agreed to 236–160, "yea"; 12–15–75.

H.R. 8650 ENERGY CONSERVATION IN BUILDINGS ACT OF 1975

Final passage, a bill to provide a program of federal grants to assist low-income persons in winterizing their dwellings and to encourage state and local governments to include energy conservation standards in their building codes, passed 258–130, "yea"; 9–8–75.

H.R. 49 ESTABLISHMENT OF THE U.S. NATIONAL PETROLEUM RESERVES

Substitute bill to retain military control of the naval petroleum reserves and retain the oil produced from them for military use, rejected 102–305, "aye"; 7–8–75.

Final passage, a bill to authorize creation on lands owned by the federal government of national petroleum reserves and to provide for inclusion of the existing naval petroleum reserves in those systems, passed 391–20, "yea"; 7–8–75.

H.R. 3474 APPROPRIATION AUTHORIZATION FOR ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Amendment to an amendment to cut authorizations for on-site construction and long leadtime procurement for the Clinch River Breeder Plant, rejected 136–227, "no"; amendment to cut authorization for production of nuclear energy weapons and other programs by $803.8 million, rejected 102–246, "no."

Final passage, a bill to authorize appropriations to the Energy Research and Development Administration, passed 317–9, "yea"; 6–20–75.

Motion to delete from the conference version of the bill the language authorizing up to $6 billion in federal loan guarantees to encourage the commercial development of synthetic fuels, agreed to 263–140, "aye"; 12–11–75.

Motion to delete from the conference version of the bill the language authorizing the Energy Research and Development Administration to select a tract of public land and to conduct an oil shale demonstration program there in cooperation with a private company, agreed to 283–117, "nay"; 12–11–75.

H.R. 3130 ENVIRONMENTAL POLICY ACT OF 1969 AMENDMENTS

Motion to suspend the rules and pass the bill to amend the National Environmental Policy Act of 1969 to make clear that state preparation of an impact statement was not sufficient justification alone for rejecting an environmental impact statement for any Federal project, agreed to 370–5, "yea"; 4–21–75.

Conference report on the bill to amend the National Environmental Policy Act to state that environmental impact statements were not legally insufficient simply because they had been prepared by state officials, adopted 279–143, "nay"; 7–29–75.

TURNING YOUR KIDS INTO EMPTY ROBOTS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. McDONALD. Mr. Speaker, as educators and concerned parents watch with perplexity, and the Nation's SAT scores continue to slide downward, the blame is being portioned out in various ways and fashions. However, I think we can all agree that the three R's have been deemphasized in our schools and that the emphasis on the "whole child" has resulted in less basic learning. Federal aid to education appears to have had no impact on stemming the tide, in fact a good case can be made that it hurt American education as a whole by providing funds for hordes of administrators and so-called innovative programs that have continually disrupted our Nation's schools by being implemented and then discarded. Recently Columnist Allan Brownfeld wrote a very perceptive column on this problem, which appeared in the Anaheim Bulletin on August 13, 1976. I commend the column to the attention of my colleagues:

TURNING YOUR KIDS INTO EMPTY ROBOTS

(By Allan C. Brownfeld)

Americans are, by now, well aware of the fact that, although more money is being spent on public education than ever before, less is being learned. Scholastic aptitude tests in reading and mathematics are at all time lows. Students are taking remedial reading courses in colleges and universities and the study of American History and of foreign language has been all but eliminated in many high schools. Whether they can read or not, students are moved from the first grade through grade 12. Clearly, something is wrong.

In a recently published study, "Federal Aid For Social Engineering In The Public Schools" (ACU Education and Research Institute, 422 First Street, S.E., Washington, D.C. 20003), Solveig Eggerz, a contributing editor of Human Events and currently a Ph. D. candidate at Catholic University, puts into perspective the philosophy which has motivated those who have presided over the decline in our educational standards.

The fact is, Miss Eggerz writes, that, "Today's education theorists are often less concerned with what and how children learn than they are with what kind of Utopian world the schools can 'produce' . . . it was with the advent of federal aid that those who view the school as an instrument for social change could acquire a firm enough grip on local school districts and the content of education to realize some of these goals."

A curriculum sponsored by the National Education Association, called "A Curriculum for the 'Whole' Student," defined its purpose as the need to "move away from an emphasis on the retention of facts to an emphasis on the processes of inquiry, comparison, interpretation and synthesis. In addition to purely intellectual growth, the curriculum should regard emotions, attitudes, ambitions and values as legitimate areas of concern."

With so much attention given to "emotion, attitudes, ambitions and values" in recent years, young Americans have not had enough time to learn reading, writing and arithmetic. Parents and other concerned citizens should make no mistake about the reasons for this state of affairs. Students are not learning the basics precisely because the educational establishment believes that reading, writing and arithmetic are not important. Obviously, if little is being taught—little will be learned.

Catherine Barrett, past president of the N.E.A., states that the traditional skills such as reading and arithmetic should take no more than "one quarter of the school day." She declared that, "The remaining time will be devoted to what is truly fundamental and basic."

Miss Eggerz notes that, "At a time when the education establishment has downgraded the teaching of the basic skills, it is interesting to note that 18.5 million Americans over age 16 are functional illiterates, most of whom have attended public schools for many years."

The manner in which federal money has been used to finance curriculums which downgrade education and promote "change," is described in some detail in this study. Using the "inquiry" or "discovery" method, Miss Eggerz points out, students using federally-financed courses of study are "told that there are no absolutes, no truths, no certainty with regard to right and wrong, and that factual knowledge is unimportant."

Teachers are no longer considered individuals who transmit knowledge and skills to young people. Former Secretary of Health, Education and Welfare Elliot Richardson said in 1971 that teachers are "potentially our largest cadre of mental health personnel." An N.E.A. journal stated that the basic role of the teacher will "change noticeably" over the next decade and that, "Ten years hence it would be more accurate to term him a 'learning clinician.' The title is intended to convey the idea that schools are becoming 'clinics' whose purpose is to provide individualized psychosocial 'treatment' for the student, thus increasing his value both to himself and to society." (Today's Education, January, 1969).

Federal money has taken traditional courses in reading and history and foreign language out of the public schools and has replaced them with "courses" which are far different. A Title III (of the Elementary and Secondary Education Act) project used in San Jose and Saratoga, California promises to "develop the image of the school as the center of community living," and in doing so the school asks children to fill out questionnaires containing such questions as: "What is your family life like? . . . Do your parents visit bars? . . . Do your mother and father sleep in separate beds? . . . Do your brothers and sisters steal? . . . Does your mother go out with other men? . . . Does your father go out with other women?"

The parallel between asking children such personal questions, Miss Eggerz writes, "and the use of children as spies in their own homes during the Hitler period may be an extreme one to draw. Since this is a state funded program, the comparison is, however inevitable."

It is the unfortunate conclusion of the Eggerz study that, "The public schools have fallen into the hands of educators who have little interest in instruction and federal aid serves to strengthen their grip on what was once an educational system. As federal aid increases, the view of children tends to change from considering them as individuals who belong to themselves and their families, to viewing them as property of the state to be molded at the whim of the schools."

This—it is sad to report—is how our schools got to be the way they are today! Only if parents get angry enough about it can we hope to see a meaningful change in the right direction.

PERSONAL EXPLANATION

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. FORSYTHE. Mr. Speaker, I was absent from Washington for 2 legislative days during the week of August 9, 1976, due to my appointment as a member of the Republic Platform Committee which was meeting in Kansas City during that week. Accordingly, for the benefit of my constituents, I would like to indicate how I would have voted on legislation considered by the House if I had been present:

H.R. 11552, Post card registration, Frenzel amendment, to the Thompson amendment, Rollcall No. 617, yeas, 172, nays, 199. If I had been present, I would have voted "yea."

H.R. 11552, Post card registration, Thompson amendments en bloc, Rollcall No. 618, yeas, 223, nays 148. If I had been present, I would have voted "nay."

H.R. 11552, Post card registration, Frenzel amendment, Rollcall No. 619, yeas, 136, nays, 242. If I had been present, I would have voted "yea."

H.R. 11552, Post card registration, Frenzel prefecting amendment to Bonker amendment, Rollcall No. 620, yeas, 219, nays, 164. If I had been present, I would have voted "yea."

H.R. 11552, Post card registration, Bonker amendment, Rollcall No. 621, yeas, 255, nays, 130. If I had been present, I would have voted "yea."

H.R. 11552, Post card registration, Frenzel amendment in the nature of a substitute, Rollcall No. 622, yeas, 77, nays, 313. If I had been present, I would have voted "yea."

H.R. 11552, Post card registration, passage of the bill to create a Voter Registration Administration within the Federal Election Commission, Rollcall No. 623, yeas, 239, nays, 147. If I had been present I would have voted "nay."

H.R. 13372, New River power project, to designate a 26.5 mile stretch of the New River in North Carolina as part of the Wild and Scenic Rivers Systems, adoption of the rule, Rollcall No. 624, yeas, 371, nays, 10. If I had been present, I would have voted Yea.

H.R. 13372. New River Power Project, Taylor motion (procedural), Rollcall No. 625, yeas, 350, nays, 1. If I had been present, I would have voted Nay.

H.R. 12169. Federal Energy Administration Act Amendments. Adoption of the rule (H. Res. 1468) . . . to extend the life of the Federal Energy Administration until Dec. 31, 1977, Rollcall No. 630, yeas, 267, nays, 117. If I had been present, I would have voted Nay.

H.R. 12169, Federal Energy Administration Act Amendments. Adoption of the conference report on the bill extending the life of the Federal Energy Administration through 1977, Rollcall No. 631, yeas, 293, nays, 88. If I had been present, I would have noted Nay.

H.R. 13372, New River Power Project (Passage of the Bill). To prevent the Federal Power Commission license for the construction of a hydroelectric power project, by designating a 26.5 mile stretch of the New River in North Carolina as part of the Wild and Scenic Rivers System. Rollcall No. 632, yeas, 311, nays, 73. If I had been present, I would have voted Yea.

H.R. 14232, Labor-HEW Appropriations, FY '77. To appropriate $56,618,207,575 for the Department of Labor and Health, Education & Welfare and other various agencies for fiscal 1977, Rollcall No. 633, yeas, 279, nays, 100. If I had been present, I would have voted Nay.

H.R. 14232, Labor-HEW Appropriations, FY '77. Pritchard motion. Rollcall No. 634, yeas, 150, nays, 223. If I had been present, I would have voted Yea.

S. 3735, Swine Flu Immunization Program Sisk motion to consider the rule (H. Res. 1473), Rollcall No. 635, yeas, 293, nays, 70. If I had been present. I would have voted Yea.

S. 3735, Swine flu immunization programs, adoption of the rule (H. Res. 1473), Rollcall No. 637, yeas, 272, nays, 76. If I had been present, I would have voted Yea.

S. 3735. Swine Flu Immunization Program, to pass a national swine flu immunization program yet give the Federal government primary liability for law suits arising from the program, Rollcall No. 638, yeas, 250, nays, 83. If I had been present, I would have voted Yea.

AMERICA NEEDS THE B-1 BOMBER

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. GOLDWATER. Mr. Speaker, I rise to express my complete opposition to any postponement of the B-1 bomber program.

Most of the opponents of this important defense preparedness program—those who are currently advocating its postponement—are trying to cloak their efforts in the mantles of "economic sense" and "military nonnecessity."

In both cases, their arguments simply do not make sense. They are not supported by the facts.

Regarding the military facts, I find the case in support of the B-1 bomber program overwhelmingly compelling. The Soviet Union, in spite of détente and the SALT negotiations, is clearly pursuing a military posture of pre-emptive nuclear first strike capability; strategic nuclear and conventional superiority; a war-winning, war-surviving capability; and, the ability to engage in nuclear blackmail for both tactical and strategic purposes.

In spite of SALT, a policy that in my opinion has acted as an hallucinogenic on our national commonsense and fortitude, the Soviet Union has deliberately pursued the development and deployment of five new weapons systems and at least five new strategic capabilities that were either circumscribed or prohibited by the agreements. First, they have gone ahead with the development of three new ICBM rocket systems. Second, they have not only made these systems multiple payload and target capable, but they are currently MIRV'ing their intermediate missile systems as well. Third, they have aggressively pursued the development of an intercontinental manned bomber, the Backfire and will clearly deploy it. Fourth, they are pressing the development of a land-mobile ICBM missile system that they intend to be both nuclear and MIRV capable. I might add at this point that a land-mobile system rather effectively defeats one of the previously reliable qualities of our own nuclear missile force, and that circumvents one of the prime potential effects of the cruise missile. Fifth, they are aggressively pursuing the development of a 4,000-plus-mile submarine-launched missile system. This program is substantially ahead of our own Trident missile system.

I ask you, do these activities and dedicated programs strike you as ones a nation interested in peaceful coexistence and détente and nuclear parity would pursue? Can such strategic capability be for use only if they are attacked first? Can the Soviet Union be developing and deploying such a military capability because of their concern for the Chinese, as one of my colleagues has blithely suggested? Aside from the facts, commonsense tells you the answer is clearly "No."

It should be pointed out that the Soviets have also been diligently working on killer satellites to destroy our own tracking, detection, and surveillance satellites. They have been developing a vastly improved and expanded surface fleet. The recently deployed *Kiev* aircraft carrier, equipped with vertical take-off and landing, heavily armed attack planes, is only one example of this activity. They have been exporting military assistance to all corners of the world; from Ireland—yes, Ireland—to Angola, to Ethiopia, to Somalia, to Cuba, to Asia, and elsewhere. They have also been directly involved in political activities in Portugal, Iceland, Panama, Chile, Italy, Afghanistan, India, Indochina, and the Philippines, to name a few.

All of these activities are not those of a wrongfully misunderstood nation indulging in a grand social-economic experiment. They are clear manifestations of a nation pursuing an aggressive, worldwide manifest destiny—a destiny they believe ordained by history—that will by force and deceit crush and defeat any unprepared and irresolute opponent.

The B-52, which has been the manned airborne element of our three-part military defense system, has served us well. Unfortunately, it has been overtaken by the same things that rendered the long bow first marginally effective and then obsolete. The passage of time has brought age. It has also brought improved counter-technologies to our enemies—enemies who are clearly not content with equal strength and capability. By the 1980's the Soviet Union will be able to effectively defense the B-52. They will possess superior strategic nuclear power and delivery capability. Our missiles, locked in silos, will not be either a valid deterrent or reliably safe from pre-emptive knockout. Thus, a manned bomber with the flexibilities and capabilities of the B-1 will be essential.

Well, what about alternatives in function and mission to the B-1? Simply put, the cruise missile will not be ready for deployment under the best of circumstances until the late 1980's or early 1990's. Our need to replace the B-52 will exist well before then. Even if the cruise missile proves to be a more cost-effective weapons system, the savings will provide little more than food for a momentarily comforting thought if we are trying to act in the world from a position of strategic inferiority. If the last 50 years are any indication of the Soviet willingness to refrain from exploiting the weakness of an opponent, only the benighted would deliberately opt for making the United States strategically inferior.

Now, what about the economics of this situation? In terms of our domestic economy, a recent study by Chase Econometric Associates, Inc. provides some very revealing insights into the impact of the B-1 program. Regarding impact on the GNP, the study concludes that for $17.2 billion spent the GNP will be boosted by $49.1 billion for a multiplier effect of 2.85 for the B-1 production program. The report goes on to demonstrate that even if the B-1 funds were returned to the economy in the form of a tax cut or through welfare transfer, the effect on the total health of the economy would be the same except that the latter approaches would not assist the employment or manufacturing sectors in the same, broader based way, the employment factor takes on an added dimension when it is realized that for every aerospace job that is created, five additional jobs are generated in the economy. These jobs in most cases will last throughout the life of the program, or for 10 years. There is not one federally subsidized employment program that can achieve this result. The tax cut or the welfare return would provide between 1,000 and 4,000 fewer jobs a year.

The Chase study also reveals that the B–1 program will: First, generate or support an average of 291,000 jobs per year over the next 10 years; second, increase the after tax disposable income by $38 billion; and, third, return $25.6 billion Federal and State tax revenues, with some $6.3 billion being generated for State and local governments alone.

The B–1 pays its way in our economy while at the same time significantly contributing to our national security.

But, as significant as these economic impacts are, they should not overshadow the fact that the B–1 is being built to contribute to and enhance our national defense and strength. It is this function that is of prime concern to me and it is this function that will mean the most for this Nation.

Recently, the Los Angeles Times published an excellent article on the B–1 program. This paper is not noted for hasty or sloppy journalism. I would like to quote from two sections of that article:

> The United States is certain to lose equivalence in the early 1980's if we do not push on with the existing (B–1) plans while preparing new initiatives in both force modernization and arms control proposals. The only new systems we can deploy by that date are those now underway: not only the B–1 but also the Trident subs and their missiles.
>
> The B–1 clearly is the best bomber for its purposes that can be built now . . . delay would assure the Russians' reaching superiority in the 1980's.
>
> At this reasonable cost—244 planes at $1 billion a year in 1976 dollars, the B–1 has a far better chance to maintain our capability for assured retaliation and flexible options against improving Soviet air defenses than the far less capable B–52, which would require an estimated $40 million per plane, three-quarters of the cost of the B–1, for modernization and rebuilding so that it could keep flying for one-half of the life of the B–1.
>
> For all these reasons, Congress should decide to get on with B–1 production—not because the Air Force pilots want it, not because it would provide jobs, but because it is a plane that can do what is required in time to help meet the mushrooming Soviet threat and to help provide the essential strength from which the United States can try to negotiate acceptable arms-control agreements.

For the Congress to take any other course of action would be sheer folly. The B–1 is not an option among many comparable, viable alternatives. There are no reasonable, cost-effective alternatives that give this Nation the strategic strength and flexibility that is required.

I urge my colleagues to reject any attempt to postpone or stop the production of the B–1.

IN SUPPORT OF ISRAEL

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. HUGHES. Mr. Speaker, when President Truman recognized the state of Israel as an independent and sovereign nation in the first hours of its being, he was asked why he had done so. He replied with characteristic candor, because that is what the American people want. The recognition of a new nation's right to exist by the most powerful Nation in the world helped give an air of legitimacy and respectability to Israel which proved invaluable as the new country developed and prospered. The immediate offer of financial assistance also helped Israel find her footing in those difficult times. Many things have changed since 1948 but one thing remains the same—the deep and abiding commitment of the American people to a strong and independent state of Israel.

The alliance between the United States and Israel has weathered many adversities but nevertheless, it has endured and until several years ago, most of us in and out of government, took it for granted that we would always have a permanent bond of friendship between the two countries. Unfortunately, this laissez faire attitude has allowed cracks to appear in the relationship that the present and previous administrations have exploited in setting foreign policy designed by the State Department and described by much of the media as "evenhanded." The changing complexion of international relations has placed Israel in an even more vulnerable position than any time in her history except for her inception.

With the politics of oil gaining strength at every turn, what we took for granted has been left open to attacks on all sides. Mr. Speaker, I do not think this is what the American people want to happen. Tied to Israel by philosophy, affection, and an identity of interests, the United States must maintain and strengthen its bond with Israel. We must insure her independence against encroachment by those countries dedicated to her destruction.

It is incumbent upon Congress to insure that Israel has the financial aid and assistance in addition to the moral support that is necessary for her continued independence and well-being in the council of nations. With increasing pressures from this administration, and particularly our State Department, this becomes an even more difficult task. I am confident, however, that Congress can and will handle it now and in the future.

The Congress will have to be ever vigilant to monitor the activities of the other Middle East nations which constantly threaten the very existence of Israel. This means congressicnal opposition to huge arms sales and massive grants of aid to those nations which have sworn to make war on Israel. This has been brought home to me in a very real sense when I, as a Member of Congress, cast my vote to support Israel on the foreign assistance authorization and appropriations measures.

As long as the United States lives in an interdependent world and maintains global interests, it is in the national interest to insure that allies and other friendly nations have the military capability to meet internal subversion and external aggression. Arms transfers cannot become an automatic, unregulated process. Each case must be judged carefully on its own merits. Approval should come only after the application of set criteria designed to insure that a grant or a sale of defense articles will be in the national interests of the United States. I believe that the same holds true with other kinds of foreign assistance.

This is why I will keep pressing for separate votes on grant military assistance and military sales credits when future foreign assistance and appropriations bills are debated in Congress. I want the record to show that Congress is following the wishes of the American people by sending aid and assistance only to our friends—to those who also want to live in peace and permit others to do the same.

Israel must live and we hold the key to her future. We dare not let her down.

THE BIGGEST CON

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. McDONALD. Mr. Speaker, we live in a procollectivist, progovernment age. The Government can get away with virtually anything if allegedly done in the collective interest of the "public," with scarcely any media or public voice raised in criticism. Yet the same action by an individual or private company is attacked viciously and denounced as immoral.

For example, if a private company, whose products the public is free to ignore, gives money to officials of a foreign government, the company is denounced for "bribing" foreign officials. Never mind that the foreign government has a monopoly in its company and that the payments amount to a shakedown of the company. However, when the U.S. Government, whose citizens are forced to support its programs through taxes, gives billions of dollars every year to officials of foreign governments specifically for the purpose of influencing decisions of their government, well, this is "foreign aid," motivated by the highest of ethical motives.

This helps explain the enormous silence regarding possibly the biggest swindle of them all: Inflation. Inflation is a fraud of such huge proportions, that its very magnitude serves as part of the defrauder's protection.

The question of the fraud perpetrated by inflation is quite separate from the question of the propriety of the welfare state inflation is designed to support. If the welfare state is good and necessary, should not Government officials say so and tell the public precisely how much it will cost them?

The following article entitled "The Biggest Con," which appeared in the June 1976 issue of Argosy magazine gives a good account of the enormity of the Government swindle. Possibly some crusader for morality in Government will want to pursue this.

THE BIGGEST CON

(By Irwin A. Schiff)

Money has ceased to exist in the American economy. Mr. Average American literally has *no money* in the bank, *none* in the stock market, *none* in his wallet or pocketbook. United States politicians, contrary to the Constitution and the U.S. criminal code, have conned all citizens out of their money savings.

To appreciate the scope of the Big Swindle, it is necessary to understand what "money" is and what it isn't. Money, like the wheel, was one of mankind's most important inventions. Before the development of money, all exchanges were on a barter basis—the trading of one good directly for another. Fortunately, society discovered that there was usually one commodity which would be accepted in exchange for all goods and services, and this commondity became money. In most societies, the commodities were gold and silver.

When a medieval merchant arrived in a city for, say, a trade fair, he obviously did not wish to carry his gold around or leave it at an inn where he was staying. Consequently he sought the local goldsmith who, for a modest fee, would store it for him. When a merchant placed his gold with the goldsmith, he received a receipt as evidence of his claim to the stored gold. When merchants conducted business they could transfer these paper receipts instead of transferring the gold itself. So these warehouse receipts for gold became "paper money"—more accurately, a "money substitute."

It is people's inability to differentiate between money and money substitutes that allows them to be continually swindled by the government. Historically, this is a game that governments never tire of playing and citizens never catch on to.

A nation's legitimate paper money supply (currency) is nothing more than warehouse receipts for gold and silver stored in the national treasury, on exactly the same basis as those warehouse receipts first issued by goldsmiths in the Middle Ages. Initially, the U.S. issued an honest paper currency called a gold certificate. It stated: "This certifies that there have been deposited in the Treasury of the United States of America X dollars in gold payable to the bearer on demand." Gold certificates circulated in the United States until 1934, when the New Deal took away the citizen's right to own gold.

The government also issued silver certificates, which were discontinued in 1963. Given that type of paper currency, those who ran the U.S. government were discouraged from printing unlimited quantities of paper currency since they had to redeem it with gold or silver.

In its campaign of currency debasement, the U.S. government gradually switched from honest paper currency to the dishonest and fraudulent kind it now circulates. Federal Reserve notes, the only type of paper currency in circulation today, when first authorized in 1913, stated that they could be redeemed in "gold" at the U.S. Treasury or "in gold or lawful money at any Federal Reserve Bank."

When the Gold Reserve Act of 1934 made it illegal for Americans to own gold, the gold clause was removed from Federal Reserve notes. In 1963 the redemption clause on Federal Reserve notes was totally destroyed. Now it says only: "This note is legal tender for all debts, public and private." In other words, the Fed is under no obligation to redeem its paper IOUs. The situation is analogous to a debtor who's under no obligation to honor his debts. Since all Federal Reserve notes are now nonredeemable, they are in effect *IOU-nothings* of the Feds.

Only gold and silver can Constitutionally be regarded as money, while all forms of paper money and less than full-bodied coins serve only as substitutes for money—and as such are correctly referred to as currency or tokens. However, since the U.S. government no longer requires that real money be exchanged for money substitutes, Americans not only do not have any money, they also do not have any currency—a money substitute for which no money will be substituted can hardly be termed a money substitute.

The U.S. government and most of the nation's economists and financial "experts" have convinced the public that inflation is an illusive economic force that manages to propel prices continually upward despite efforts to contain them.

There is nothing mysterious about inflation; the government could stamp it out tomorrow if it really wanted to. After all, inflation is conceived by government, nurtured by government, perpetuated by government. Inflation is government's silent partner. Inflation permits government to bestow increased "benefits" on taxpayers without the apparent need for increased taxes. Inflation permits the government to retire huge debts without being inconvenienced for honest repayment. Inflation creates an illusion of prosperity. Inflation effectively increases tax rates and tax levels without the need for increasing taxing authority. With the graduated income tax, inflation forces people into higher tax brackets.

The capital gains tax provides dramatic evidence of how the government profits from inflation. Let's assume that a house bought in 1940 for $5,000 sells in 1975 for $18,000. Forgetting any other considerations, the government would claim that the seller had a gain of $13,000 on this sale and would assess a capital gains tax accordingly. The fact of the matter is that the seller had an economic loss, yet he is compelled to pay a "gains tax." Since prices have increased at least 500 percent since 1940, in order for the seller to receive the same purchasing power from the sale of the house as when he bought it, he would have to receive at least $30,000. In fact, he received only $18,000—60 percent of the initial purchasing power. In this way, inflation allows the government to extract unwarranted taxes.

Whenever there's inflation, government is spending more than it collects in taxes and/or is increasing the supply of money and credit in relation to the production of goods and services. As the quantity of money and credit is inflated, prices must rise. So, price increases are not inflationary, they are merely the effects of inflation created by government. To find out who causes inflation, find out who controls a nation's currency supply. Since in the United States, as in other countries, the government controls the currency, it is the government that does the inflating by permitting the currency supply to grow.

Now let's consider the U.S. Government's Consumer Price Index. This index purports to measure the degree of inflation by changes in prices. Since it is the government that is causing the inflation, to expect it to provide accurate statistics concerning the degree of inflation it is causing is like expecting the Mafia to furnish accurate statistics on crime. Inflation is far greater than the CPI figures indicate.

A substantial portion of inflation is hidden by technological advances and changes in quality. For example; an average non-farm dwelling prior to 1945 sold for under $5,000. Today, the price would be in excess of $37,500. Does that mean that inflation has only increased the cost of housing by 650 percent? No, the rate of inflation is much higher because if today's house were built with the same level of technology as that prior to 1945, with the same skills, materials, building methods and craftsmanship, it would in all probability sell for well over $60,000—showing a rate of inflation of over 1,100 percent.

Not too long ago, I bought a candy bar for fifteen cents that had for many years sold for only a nickel. "Well," I noted, picking the candy bar from the case, "its price has only increased 200 percent." However, when I removed the oversized wrapper, I discovered the candy was actually a third its nickel-priced size. Its price, therefore, had soared not 200 percent, but 600 percent. CPI statistics do not reveal price increases of this type.

I am amazed that no one has asked why the tremendous increases in laborsaving devices over the last thirty years, the development of low-cost synthetic fibers, the refinement of production techniques, and the substantial increases in capital have not yielded lower prices for goods and services for the consumer. Since the consumer has not benefited price-wise from all this technology, who has? The working man? According to the Bureau of Labor Statistics, as of January 1, 1975, the average weekly earnings of non-agricultural production workers was $154.45. Adjusting this to the seventeen-cent dollar, we get $25.74 in 1945 wages. The average 1945 wage for comparable employees was approximately $42.00. This indicates that production workers did not benefit wage-wise from all this increased technology. The Dow Jones Industrial Stock Average has not risen as much as inflation has since 1945, so the investor has not benefited from all of this increased technology either.

The vast benefits that should have come to the consumer, the worker, the investor, and the saver because of the increases in technology over the last thirty years were confiscated by the U.S. government through its taxing powers.

Inflation now benefits the debtor since inflation allows him to pay off his debts with cheaper money. Since the Federal government is the biggest debtor in the nation, it pursues a monetary policy which will benefit the debtor class, since even a one percent increase in inflation permits the government to "wipe out" $50 billion of its debt. Strange as it seems, the debtors are not at the middle- or lower-income levels; they are the upper-income classes. It is the lower and the middle classes that put their savings in the bank. It is the upper economic classes that borrow these savings from the bank to acquire businesses, larger homes and increase their control over industry and natural resources.

So, unlike Robin Hood who stole from the rich to give to the poor, the government steals from the middle and lower classes to give to the rich.

The U.S. public debt, larger than the combined debt of all other nations in the world, has now reached astronomical proportions and is far greater than Americans realize. The president's 1976 budget reports the national debt as $538.5 billion as of June 30, 1975, when, in reality, the national debt is over $5 trillion or ten times greater than reported.

The public does not realize the full extent of the national debt because the government conceals the extent of its indebtedness by citing only its "funded" or "bonded" debts, failing to report its "unfunded" and "contingent" liabilities. Unfunded government liabilities can be understood by considering the situation of a soldier discharged from the service with a government pension of $300 a month. The government's financial obligation to pay $300 a month is as great as if the government redeemed a $300 government bond each month. However, in the case of a veteran's payment, no government bonds are issued: the government's liability, therefore, is "unfunded" in contrast to bond redemptions which are reported as part of the national debt. The national debt, as officially reported, is only the tip of the iceberg of what the government has committed the U.S. taxpayer to pay.

The concept of the U.S. "national debt," like so many other terms coined by the U.S. government, is a form of Newspeak, the language described in George Orwell's book, 1984—a process by which government distorts the meaning of words as so to confuse and to tighten its grip on society. The U.S. government employs Newspeak when it refers to its practice of "borrowing money" to finance government deficits. Total government debts soared from approximately $20 billion in 1930 to nearly $5 trillion in 1975, an increase of 25,000 percent in just forty-two years. Since the government evidently does not pay back what it borrows, it does not borrow. How can one go on year after year spending more than one earns? Since the U.S. government does not borrow or exist on charity, it must be stealing.

Is the surreptitious taking away of an individual's purchasing power through the use of a government printing press any less effective than when it is done with a gun and a mask? Is counterfeiting less of a crime when practiced by the government than when it is carried out by private individuals? I think not.

Let's consider another multibillion-dollar fraud, Social Security. Government officials over the years have told the American public that Social Security is an "insurance program" employing sound principles of funding and financing. The public is constantly reminded of the Social Security "trust fund." What constitutes this trust fund? Cash in a multitude of banks? Corporation stocks and bonds? Not at all. The U.S. Treasury reported that, as of June 30, 1973, the Federal Old Age Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund collectively owned about $48 billion worth of government bonds, held in the "insurance trust funds" in order to help "defray" Social Security liabilities.

Those government bonds are worthless in the hands of the government. A bond is not an asset when held by the maker of the bond. For example, suppose you gave someone an IOU (you, of course, recognize that a bond is nothing more than a formal IOU). That individual could treat your IOU as his asset. You, of course, could not write yourself an IOU and treat it as your asset. But this is what the government does when it passes off its bonds as "assets" of government "trust funds." Insurance companies do not indiscriminately spend their premium income on projects and then leave their own IOUs (bonds) in the company till. If they did, they would be shut down and their officers carted off to jail.

All monies collected in the past through Social Security taxes have already been spent. This money was spent not only to meet past Social Security obligations, but to fight World War II, and the Korean and Vietnamese wars. It was used to bribe farmers not to grow food, finance Congressional junkets, support the UN, and pay for landing on the moon. The bonds held by the Social Security trust funds are reminders of Social Security collections that have been spent on other projects.

Since the Social Security System does not operate on a legitimate reserve principle, as does insurance, then by what funding principle does it operate? The principle of the chain letter! Wage-earners entering the bottom of the chain send their contributions, along with others moving up the chain, to those workers who have made it to the top (those becoming eligible for benefits). Is it conceivable that such an endless chain can really continue generation after generation? Look at what is happening. When Social Security was adopted, the maximum proposed tax was to be 3 percent withheld and 3 percent paid on a maximum salary of $3,000, giving a total proposed maximum tax of $180. In 1975, the maximum tax reached $1,650. In only thirty-five years, therefore, the maximum tax has soared over 800 percent. At this rate of increase, those who are now twenty-five could find the maximum tax at age sixty to be $13,000.

America's energy crisis not only imperils our standard of living, it threatens the very independence of our foreign policy by exposing us to possible blackmail and intimidation by oil-producing nations. This crisis can be blamed squarely on the U.S. government which, despite years of advance warnings, did nothing to prevent it. One way in which the government helped to create it was by its transportation policy.

In 1940 there were about 44,000 locomotives in service in the United States. By 1971, this had dwindled to about 29,000, while train passenger cars shrank from 38,000 in 1940 to 9,000 in 1971. The U.S. rail system was permitted to deteriorate because it was in private hands, while the Federal government sought to promote those areas of transportation that were in public hands. Efficiency and comparative national need had nothing to do with the massive Federal highway program.

So because of the construction of thousands of miles of six-lane highways, more Americans and American merchandise must rely on autos and trucks than on far more efficient and less polluting rail transportation. Those using the railroads were taxed to help support three levels of government while those who rode the highways were not similarly taxed. Had the railroads been able to operate without this burden of taxation (as are the nationalized railroads of other countries) they would have been able to provide rail service at far lower rates. It has been the government's lavish subsidy to a public highway system at the expense of our private rail system that has now made the country far more dependent on oil than it ever needed to be.

If medical schools turned out doctors as competent as the economists turned out by our universities, America would undoubtedly have the highest death rate of any nation on earth. Take, for instance, the economists' preoccupation with the gross national product (GNP). To Keynesian "economists," an increasing GNP means economic prosperity and economic well-being; a falling GNP means economic stagnation, recession, and a declining standard of living.

I maintain that all statements suggesting that a higher gross national product is indicative of an increased national prosperity are rubbish. Consider the following hypothetical example:

Suppose a tidal wave demolished the Florida Gulf Coast from Miami Beach to Palm Beach. Let's say the cost of cleaning up the debris alone came to $300 million. Obviously, the country has been made poorer by the destruction of $2 billion of real wealth—but is the dollar value of all this destruction subtracted from the gross national product? Of course not. Does the $300 million required for cleaning up the mess have any real economic value, and does it contribute toward increasing society's standard of living? Of course not. But that $300 million cleaning bill will go toward increasing the gross national product by $300 million, since all money received by all members of society finds its way into the GNP without any regard for its relative economic merit. To the extent that society was forced to work to replace the destroyed properties, the GNP would be increased by another $2 billion—thus this holocaust would have generated a $2.3 billion increase in the GNP and would have contributed to the appearance of a higher standard of living.

The government inflates and manipulates GNP figures with all manner of wasteful economic activity having no real bearing on consumption of goods and the nation's prosperity. Expenditures on munitions assign a misleading value to armament production. In an economic sense, all armament production (with the exception of that produced for export and sold) is a total waste. All the bombs that were exploded in the Vietnam War obviously did not increase America's standard of living by one iota. Those American resources and productive efforts that were diverted and exploded wastefully in the air and on the ground in Vietnam might have been directed toward building up a part of America, but they weren't.

In order for Americans to proceed with a program to correct the nation's economic and social ills, it is essential to realize that the United States government is the problem. U.S. Government, Inc., is just another big American business like General Motors or Exxon, only much larger and much less efficient. It differs from most businesses in that it (1) is nonprofit, (2) is largely unregulated by either law or competition, (3) is a monopoly, and (4) can compel us to buy its services, regardless of how unnecessary, overpriced, and destructive they might be.

U.S. Government, Inc., cannot be expected to relinquish its power and influence voluntarily, so responsible and patriotic citizens must organize and force it to cut back.

Americans today find themselves before an awesome crossroad. One road leads to the promised land, the other leads to economic and social tragedy of gigantic proportions. The choice is still ours.

THE U.S. STANCE IN NORTHEAST ASIA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. DERWINSKI. Mr. Speaker, provocative statements keep emanating from North Korea, and it is obvious that the Communist dictator, Kim Il Sung, is determined to keep up anti-American, anti-South Korean activity. Joseph Kraft analyzed this situation well in his article, "The U.S. Stance in Northeast Asia," which appeared in the Washington Post on August 24, 1976. The article follows:

THE U.S. STANCE IN NORTHEAST ASIA

(By Joseph Kraft)

The latest incident in North Korea is almost certainly not the opening gambit for a new round of military violence. On the contrary, the killing of two American officers seems to be part of a diplomatic campaign.

But the episode serves to focus attention on a truly tense area where the stakes are huge and the degree of control by responsible powers increasingly thin. So it suggests the need for a general review of American policy in Northeast Asia.

Northeast Asia rivals the Mideast for the title of No. 1 hot spot in the world. Chinese and Russian troops are in confrontation along the Siberian border. U.S. forces in South Korea are in close proximity. Japanese security is engaged. Thus the vital interests of four great powers are at stake.

The cockpit of the area is the Korean peninsula. North Korea is the lunatic fringe of the Communist world. Its dictator, Kim Il Sung, has been thwarted in his lifelong ambition to take over the whole peninsula. His economic plans have gone awry, and he has defaulted on debts to Japan and some European creditors. His regime has had to play off Russia against China for economic and military assistance.

South Korea, in contrast, is thriving economically. Its growth rate is high, and no other Asian country weathered so well the test imposed by the recent oil price increase. Given a few years of peace, South Korea will be a formidable and prosperous country far superior to its rival in the north. But the government of President Park Chung Hee is highly autocratic, and its authoritarian actions have generated intense criticism in the United States, Japan and many other countries.

Accordingly, the North Koreans have repeatedly staged incidents designed to play on international sensitivities about the South Korean regime. The aim has been to weaken support for the United Nations resolutions authorizing the presence of American troops in the peninsula until the present armistice is translated into a general peace agreement.

The incident which resulted in the death of American officers last week seems to fit that pattern. It coincided with a meeting in Colombo of nonaligned countries which have become increasingly strident in their opposition to this country and its friends in Asia and Africa. It preceded a meeting of the United Nations General Assembly where a resolution dissolving the U.N. command in Korea will be put forward again.

In these circumstances, a strong American reaction to the North Korean provocation makes sense. The North Korean expression of "regrets" suggests that Pyongyang is beginning to back down. So there is good reason to insist that "regrets" be widened into an acceptance of "responsibility."

But it would be improvident to imagine that the U.S. can simply keep hanging tough in Korea. Basic conditions in the area are changing. Chinese policy is in suspense, pending the outcome of the struggle for the succession to Mao tse-Tung. The Lockheed scandal is rearranging political alignments in Japan. In this country, there is increasing impatience with the South Korean regime, and a deepening awareness that American troops are committed to an area over which the country has no control.

The signs of these feelings are various proposals for change which have been embraced by a wide section of American opinion, including the Democratic candidate Jimmy Carter. One such proposal is for withdrawing all American troops from South Korea within five years. Another—designed to bind Peking to Washington before Mao dies—is for normalizing relations with mainland China, even if it meant abandoning commitments to Taiwan.

The trouble with these one-shot proposals is that they are not connected with a general process of adjustment in Northeast Asia. They would almost certainly cause Japan, South Korea and even mainland China to believe that the United States was abandoning its position on Asia. So probably the best thing this country can do now, especially with the prospect of a new administration coming in, is to set in motion a general review of policy in Northeast Asia which will serve, if nothing else, to cut off dangerous one-shot proposals.

A 6-YEAR TERM FOR THE PRESIDENT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 25, 1976

Mr. FINDLEY. Mr. Speaker, I have today introduced a joint resolution to amend the Constitution which I hope will receive favorable consideration by two-thirds of both this House and the Senate and eventual ratification by three-fourths of the States. It would limit the tenure of a President of the United States to a single 6-year term.

This proposal, of course, is not a new one. It was first introduced as early as 1826.

The question of limiting the tenure of the President has been a continuing one throughout American history. Indeed, the Constitutional Convention itself was ambivalent on both the length of the term of a Chief Executive as well as the question of eligibility for reelection. In fact, at one point the Convention voted to establish a 7-year term with no eligibility for reelection. The decision to substitute a 4-year term with no limitation on reelection was one of the last decisions of the Convention, agreed to only 2 days before the Convention adjourned.

I have no doubt that the Founding Fathers, who came so close to including a Presidential term of 7 years with no eligibility for reelection, would have looked more favorably on the idea had they been able to foresee the growth of the powers of the Presidency, especially in the 20th century.

I support a 6-year term, with no eligibility for reelection, for many of the same reasons that the Founding Fathers originally supported limiting Presidential tenure. At the Constitutional Convention, support for ineligibility was based on the fear that power would corrupt and be abused. My support for a single 6-year term is based on the sad experiences of recent administrations in perverting legitimate governmental powers and using them for personal political ends.

Indeed, two of the last three Presidential elections have been preceded by blatant and irresponsible attempts by incumbent Presidents to reap personal advantages from access to governmental investigatory agencies. Their desire to assure their reelection has overridden the public trust in the office of the Presidency. As recent investigations have shown, these abuses can be traced at least back to the 1930's and have involved some of our Nation's most respected Presidents. While I am confident that President Ford will not abuse the powers that are his, no one can foretell what future Presidents may do.

The Founding Fathers knew that the liberty of the people was ultimately dependent upon the vigilance exercised in protecting it. They also understood, however, that institutional forms play a great role in preventing the abuse of power by Government. Thus, they formulated a complicated system of checks and balances to prevent any branch of Government from so dominating policymaking that the rule of law gives way to arbitrary power.

This system has worked well for almost 200 years; we have made changes in that system as our perceptions of the requirements of our constitutional process have evolved. It is now time to make yet another change, one that recognizes both the necessary growth in the powers of the Presidency and the danger to liberty posed by that concentration of power.

That change is the adoption of a single 6-year term for the President, who, upon election, can thereby focus his entire attention and capabilities solely on the problems of the Nation. No longer will a President be tempted to evaluate every policy decision at least partially in terms of its personal political impact.

A 6-year term would prove a reasonable time for a President to implement his program for the country, and it would remove the crushing political pressures which occur each time an incumbent President seeks reelection.

These reelection efforts are not in the national interest for three basic reasons: First, an incredible amount of Presidential time and energy go into planning and conducting a reelection campaign. In the complex times in which we live, we do not need a President attempting to conduct a reelection campaign at the same time he is presumably running the executive branch. Second, the temptation is always present to tailor administration policies or appointments to meet political demands within a political party or within a segment of the electorate, even when such policies or appointments may not be in the national interest. Third, the danger, much diminished in the post-Watergate era, exists that an incumbent President will seek to illegally mobilize governmental agencies to aid his reelection effort.

For these, and perhaps also the additional reason that 6 years is time enough for any person to wield the enormous powers of the White House, I have come to believe that the 94th Congress could make a great Bicentennial gift to the American people by adopting this reform which would help insure that a century from now we as a nation will be celebrating the Tricentennial of liberty under law.

HOUSE OF REPRESENTATIVES—*Thursday, August 26, 1976*

The House met at 11 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord is my shepherd; I shall not want.—Psalms 23: 1.

O Thou Shepherd of our souls who makes us lie down in green pastures and who leads us beside still waters, to Thee we bring our needy human spirits that we may be restored by the goodness of Thy grace and renewed by the gift of Thy love.

We look up to the hills of Thy presence and from Thee receive help for each day, strength for each task, forgiveness for each mistake, comfort for each sorrow, and love for each person.

In these disturbing days we thank Thee for the men and women of sound character, understanding sympathy, and genuine faith who are Members of this body and upon whom our Nation can depend as we seek to make our country a better country serving the needs of all our people.

Make us conscious of Thy presence as we face the tasks of this day; for Thy name's sake. Amen.

THE JOURNAL

The **SPEAKER.** The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 13679. An act to provide assistance to the Government of Guam, to guarantee certain obligations of the Guam Power Authority, and for other purposes; and

H. Con. Res. 225. Concurrent resolution to recognize the Washington-Rochambeau Historic Route.

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 3542. An act to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14232) entitled "An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes," and that the Senate agreed to House amendments to Senate amendments numbered 4, 8, 13, 36, and 48 to the foregoing bill.

The message also announced that the Senate further insists upon its amendment numbered 68 to the bill (H.R. 14232) entitled "An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes," requests a further conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Magnuson, Mr. Stennis, Mr. Robert C. Byrd, Mr. Proxmire, Mr. Montoya, Mr. Hollings, Mr. Eagleton, Mr. Bayh, Mr. Chiles, Mr. McClellan, Mr. Brooke, Mr. Case, Mr. Fong, Mr. Stevens, Mr. Schweiker, and Mr. Young to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 10339) entitled "An act to encourage the direct marketing of agricultural commodities from farmers to consumers," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Talmadge, Mr. Huddleston, Mr. McGovern, Mr. Humphrey, Mr. Clark, Mr. Dole, Mr. Young, and Mr. Bellmon to be the conferees on the part of the Senate.

The message also announced that Mr. Jackson and Mr. Thurmond be conferees, on the part of the Senate, on the bill (H.R. 14262) entitled "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 400. An act to direct the Secretary of the Interior to conduct a 1-year feasibility/suitability study of the Frederick Law Olmsted Home and Office as a national historic site;

S. 3091. An act to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes;

S. 3146. An act for the relief of Leo J. Conway;

S. 3394. An act to authorize the Secretary of the Interior to undertake the investigations, construction, and maintenance necessary to rehabilitate the Leadville Mine Drainage Tunnel, Colorado, and for other purposes;

S. 3419. An act to direct the Secretary of the Interior to conduct a 1-year feasibility/suitability study of a National Museum of Afro-American History and Culture at or near Wilberforce, Ohio;

S. 3669. An act to provide for adjusting the amount of interest paid on funds deposited with the Treasury of the United States as a permanent loan by the Board of Trustees of the National Gallery of Art; and

S. 3734. An act to approve the sale of certain naval vessels, and for other purposes.

APPOINTMENT OF CONFEREES ON H.R. 14232, DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1977

Mr. **FLOOD.** Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 14232) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes, with the Senate amendment remaining in disagreement, further disagree to the Senate amendment numbered 68, and agree to the conference asked by the Senate.

The **SPEAKER.** Is there objection to the request of the gentleman from Pennsylvania?

Mr. **ROUSSELOT.** Mr. Speaker, reserving the right to object, will the gentleman tell us briefly what the basic areas of disagreement are?

Mr. **FLOOD.** Mr. Speaker, if the gentleman will yield, the only response I can give the gentleman is a hindsight guess as to what it is, and I would say it is the so-called Hyde amendment.

Mr. **ROUSSELOT.** Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none, and appoints the following conferees: Messrs. Flood, Natcher, Smith of Iowa, Patten, Obey, Roybal, Stokes, Early, Mahon, Michel, Shriver, Conte, and Cederberg.

CONFERENCE REPORT AND STATEMENT ON S. 3052

Conference report and statement on the Senate bill S. 3052, on orientation of dependents of USDA employees having foreign assignments, submitted August 11, 1976, for printing under the rules, reads as follows:

Conference Report (H. Rept. No. 94–1424)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3052) to amend section 602 of the Agricultural Act of 1954, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That section 602 of the Agricultural Act of 1954, as amended, is amended by adding at the end thereof a new subsection as follows:

"(f) Effective October 1, 1976, the Secretary of Agriculture is authorized to provide appropriate orientation and language training to families of officers and employees of the Department of Agriculture in anticipation of an assignment abroad of such officers and employees or while abroad pursuant to this Act or other authority: *Provided*, That the facilities of the Foreign Service Institute or other Government facilities shall be used wherever practicable, and the Secretary may utilize foreign currencies generated under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, to carry out the purposes of this subsection in the foreign nations to which such officers, employees, and families are assigned. There are hereby authorized to be appropriated such sums, not to exceed $50,000 annually, as may be necessary to carry out the purposes of this subsection: *Provided*, That for the fiscal year ending September 30, 1977, any appropriations available to the Secretary of Agriculture (not to exceed $50,000) may be used to carry out the purposes of this subsection. The Secretary of Agriculture shall submit to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry not later than ninety days after the end of each fiscal year a detailed report showing activities carried out under the authority of this subsection during such fiscal year.".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the amendment of the House, amend the title to read as follows: "An Act to authorize orientation and language training for families of certain officers and employees of the Department of Agriculture.".

And the House agree to the same.

E de la Garza,
George E. Brown, Jr.,
Frederick W. Richmond,
Tom Harkin,
Matthew F. McHugh,
Charles Thone,
Managers on the Part of the House.

Herman E. Talmadge,
Hubert H. Humphrey,
George McGovern,
Bob Dole,
Henry Bellmon,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3052) to amend section 602 of the Agricultural Act of 1954, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report. Except for technical, clerical, and conforming changes, the differences between the Senate bill and the House amendments and the substitute agreed to in conference are noted below:

The Senate bill authorizes the Secretary of Agriculture, effective upon enactment of the bill, to use any appropriated funds available to him for the orientation and language training of families of officers and employees of the United States Department of Agriculture who have foreign assignments. The Senate bill does not specify a monetary limit on the use of such funds.

The House amendments—

(1) limit the orientation and language training to spouses;

(2) provide a specific annual authorization, effective October 1, 1976, for appropriations not to exceed $35,000 annually, instead of making any Departmental appropriations available for the program upon enactment of the bill;

(3) authorize the use of foreign currencies generated under title I of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) to carry out the program in the foreign nations to which the officers, employees, and spouses are assigned; and

(4) require the Secretary of Agriculture to submit annually to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry a detailed report showing the activities carried out under the bill.

The House receded on the first of the above-described amendments, and the Senate receded with a conforming amendment to its disagreement to the third and fourth of the above-described amendments. The Committee of Conference agreed, in lieu of the second House amendment, to provide a specific annual authorization for appropriations to carry out the provisions of the bill at a level not to exceed $50,000 anually, except that for the fiscal year beginning October 1, 1976, the Secretary may use any funds appropriated to the Department of Agriculture in an amount not to exceed $50,000 for the purposes of the bill. Any Public Law 480 foreign currencies used for the purposes of the bill would be subject to the $50,000 annual limitation. The authorization provided by the bill would become effective October 1, 1976, as provided in the House amendment.

E de la Garza,
George E. Brown, Jr.,
Frederick W. Richmond,
Tom Harkin,
Matthew F. McHugh,
Charles Thone,
Managers on the Part of the House.

Herman E. Talmadge,
Hubert H. Humphrey,
George McGovern,
Bob Dole,
Henry Bellmon,
Managers on the Part of the Senate.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 661]

Abzug
Ambro
Andrews, N.C.
Armstrong
Badillo
Bonker
Burgener
Burton, Phillip
Chisholm
Clausen, Don H.
Conlan
Conyers
Crane
D'Amours
de la Garza
Dellums
Diggs
Early
Esch
Eshleman
Evins, Tenn.
Ford, Mich.
Gilman
Goodling
Green
Harkin
Harsha
Hayes, Ind.
Hays, Ohio
Hébert
Heckler, Mass.
Heinz
Hinshaw
Howe
Jarman
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Lehman
McCloskey
McKinney
Martin
Matsunaga
Melcher
Mills
Moorhead, Calif
Mosher
Murphy, Ill
Neal
O'Hara
Peyser
Poage
Rangel
Rees
Riegle
Rose
Ruppe
Russo
Santini
Sarasin
Sarbanes
Scheuer
Shuster
Sisk
Smith, Iowa
Spellman
Stanton, James V.
Steelman
Steiger, Ariz.
Stuckey
Sullivan
Talcott
Teague
Thompson
Traxler
Udall
Waxman
Wilson, Tex.
Wylie
Young, Alaska

The SPEAKER. On this rollcall 350 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

MAKING IN ORDER ON SEPTEMBER 8, 1976 OR ANY DAY THEREAFTER CONSIDERATION OF SECOND CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1977

Mr. ADAMS. Mr. Speaker, I ask unanimous consent that it may be in order on September 8, 1976, or any day thereafter to consider the second concurrent resolution on the budget for fiscal year 1977. Pending my request I wish to advise the House that we expect to report the second budget resolution to the House not later than September 2. While we would hope to begin general debate on Wednesday, September 8, no votes on the resolution would be anticipated until Thursday, September 9. It is my expectation that the conference on the budget resolution could begin on September 10 and that we would be able to file our conference report on the 11th. This would enable us to meet the Budget Act timetable which requires adoption of the conference report by September 15.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. LATTA. Mr. Speaker, reserving the right to object, and I shall not object, I would say that we have discussed this schedule and we are in agreement with it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING VARIOUS FEDERAL RECLAMATION PROJECTS AND PROGRAMS

Mr. JOHNSON of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14578) to authorize various Federal reclamation projects and programs, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. Johnson).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 14578, with Mr. Wolff in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. Johnson) will be recognized for 30 minutes, and the gentleman from New Mexico (Mr. Lujan) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. Johnson).

Mr. JOHNSON of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, members of the committee, it is my pleasure to present to the House at this time H.R. 14578, to authorize various Federal reclamation projects and programs.

This bill, when enacted, will be known as the Reclamation Authorization Act of 1976.

It is an omnibus bill consisting of seven titles, each of which authorizes a complete water resource undertaking.

The Interior and Insular Affairs Committee has consolidated in this single measure all of the authorizing legislation that has been considered in the second session of the 94th Congress.

The total cost of the several programs is $332,400,000.

As you can see, this is not a minor bill nor can it be considered unusually large as major public works programs are viewed.

At the present time the Federal Government is appropriating upward of $3 billion each year for water resource development construction.

When compared to this level of activity, H.R. 14578 represents less than 2 months of spending authority.

I make this point at the outset, Mr. Chairman, to officially lay to rest, once and for all, any suggestion that enactment of this bill would materially increase the backlog of authorized projects.

There is one other general aspect of this legislation that should be brought out and discussed.

Those Members who have studied the committee report filed by the Interior and Insular Affairs Committee will have noted that the administration did not endorse all of the programs contained in this bill.

Various reasons were given for the negative position.

Primarily, the committee was told that more time for study and review was required.

The facts of the matter are that several of the projects contained in this bill have been under study for upward of 15 to 20 years.

In the face of this record my colleagues on the Interior and Insular Affairs Committee evidently believed that sufficient study had been given to these programs and that they should now be approved on the basis of the data available to us.

Each of the seven titles was independently scheduled for public hearings and such hearings were indeed held by my Subcommittee on Water and Power Resources.

In addition to departmental witnesses, testimony was taken from interested Members and from several levels of State and local government.

This package of legislation may well be unique in my experience as there was not a single witness, exclusive of administration witnesses, who offered any testimony in opposition to any project.

The several individual bills were carefully considered by the subcommittee and desirable amendments were adopted before the legislation was introduced as a clean bill.

It was subsequently approved without a dissenting vote by the full committee.

Moreover, I am not aware of any opposition from any Member or any group of Members in the House and I have not been advised that any amendments will be offered.

Perhaps this lack of opposition may be accounted for by the fact that it is indeed a balanced bill which emphasizes many affirmative environmental and social pluses.

Title I of the bill will authorize the facilities for irrigating 20,000 acres of land in east-central Kansas, with water stored in an existing Corps of Engineers reservoir.

This development has been anticipated for more than 30 years and will also include substantial investments for increasing recreation and fish and wildlife values of the area.

It is the first time funds have been included for specifically preserving some areas for their environmental value.

Cost of the project at current price levels is $30,900,000.

Title II authorizes the installation of an enclosed pipe distribution system to replace an obsolete, wornout project irrigating 10,000 acres of apple orchards in the State of Washington.

Cost of the project is $39,370,000 and will have substantial fishery benefits, will reduce water use and return flows.

Title III legislation to authorize appropriations for a conditionally authorized program in the State of Utah, primarily for the benefit of the Uintah and Ouray Indian reservoirs.

This $90 million undertaking was endorsed by the administration and will be of great benefit to the Indian community.

Title IV involves a relocation and enlargement of the American Canal through the city of El Paso, Tex., at a cost of $21,714,000, for the principal purposes of salvaging water now being lost during conveyance and to eliminate safety hazards where more than 35 persons have been drowned in the last 23 years.

Title V will authorize, at a cost of $64,220,000, a multipurpose project in northeastern California for irrigation of 11,300 acres of inadequately irrigated land and the furnishing of a water supply for a major migratory waterfowl refuge.

Title VI is not, in the strict sense of the word, a water resource development project.

It will authorize emergency measures to stabilize and protect a mine drainage facility in the State of Colorado which, in its present condition, poses a substantial threat to life and property.

This program has an estimated cost of $2,750,000 which is a very minor sum when compared to the potential damage that could occur if protective measures were not taken.

Title VII authorizes a multipurpose project in southeastern Oklahoma for the primary purpose of municipal and industrial water supply for the project area and for the metropolitan area of Oklahoma City.

The legislation also contemplates the acquisition of approximately 20,000 acres of privately owned land adjacent to the reservoir for management of wildlife and for preservation of its unique wilderness characteristics.

In summary, Mr. Chairman, every project in this bill will make a contribution of some dimension to improvement of the environment, the elevation of the economic situation of our Indian citizens or the protection of our citizens from threats to their life and property.

These intangible benefits, when added to the evident economic values of the programs, certainly justify their approval and I therefore strongly urge that the House adopt this measure.

Mr. LUJAN. Mr. Chairman, I yield such time as he may consume to the distinguished minority ranking member of the Committee on Interior and Insular Affairs, the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, I rise in support of H.R. 14578, The Reclamation Authorization Act of 1976.

This bill is the authorization bill for reclamation projects which our committee has studied and worked upon since January of last year. Each of the seven projects has been subjected to thorough hearings by our Subcommittee on Water and Power Resources. Each of them was approved by unanimous vote in the subcommittee. Combined in a clean bill, they were then brought before the full committee where the clean bill, H.R. 14578, was ordered to be reported favorably, also by unanimous vote.

The projects are located in the States of Kansas, Washington, Utah, Texas, California, Colorado and Oklahoma. They are unanimously supported by the entire congressional delegations from those States.

During the hearings, there were no adverse witnesses to any of the projects. All minor disagreements that arose as to the content and draftsmanship of each title have been resolved through the amendment process in subcommittee.

Thus, the bill before us today is a bill to which we all can give our support and confidence. The projects are worthwhile projects that have been pending for some time. Their costs are reasonable and will be repaid to the Government in the ratio of about 75 cents on the dollar.

These much-needed multiple-use projects will provide benefits for large areas in the seven States, including water for irrigation, municipal and industrial water supply, flood control, recreational opportunities, fish and wildlife habitat enhancement, and drainage.

I am, of course, most familiar with the Kanopolis unit, which is located in Kansas.

Title I of the bill authorizes the construction, operation and maintenance of the Kanopolis unit.

This is a project whose completion is long overdue.

It has been in the works for almost 30 years.

It is time to get on with it.

Nothing is more precious to Kansas than water.

Our land is fertile and productive.

Agriculture is our most important industry, and the State is a primary supplier of the Nation's foods.

Moreover, a healthy agricultural economy has a direct beneficial effect on many other sectors of the economy: equipment and fertilizer manufacturers and suppliers, transportation, retailers, financial institutions, etc.

Unfortunately, we are too often at the mercy of the erratic rainfall.

Average rainfall varies drastically, and its seasonal distribution is unpredictable.

All too often, crop yield has been severly curtailed because there was just not enough water.

The obvious solution is to irrigate, and this is being done.

However, groundwater sources are limited and the rivers and streams, like the rainfall, are undependable.

Thus, completion of the project would provide a stable and reliable water supply for the area.

Crop production would be stabilized and yields improved.

The economy of the area, State and Nation, would benefit accordingly.

Of equal importance, is the assurance of an adequate water supply to cities in the area.

At the present time—these cities must depend upon ground supplies, or the rivers, for their domestic water supplies.

Availability of impounded water in the Kanopolis unit would eliminate these uncertainties and allow the communities to plan their futures and growth in a sensible and comprehensive way.

Mr. Chairman, the farmers and the cities of this area in Kansas need and want the water from the Kanopolis unit.

They have indicated their willingness to enter into contracts for its purchase.

The project has wide support, including that of both Congressmen, the Governor, the State water resources board, and local officials.

I urge the committee to give the bill its favorable and prompt consideration.

Mr. LUJAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to join my distinguished colleague, the gentleman from California, in support of this bill and to associate myself completely with his remarks.

By way of explanation to my colleagues on this side of the aisle, I want to comment on the negative reports submitted by the administration on six of the seven projects included in this bill. To those Members who are not on the Interior Committee and who have not had the opportunity to hear the testimony through months of hearings on these projects, it could easily appear that we are trying to force the administration into projects that are not really necessary. The administration objections might appear to them to be reasonable grounds on which to vote against this bill.

Nothing could be further from the truth, for a number of reasons, which I shall enumerate.

First, let me point out that the objections heard from the administration have centered on the issue of time, not money. On each of these bills, the Department report has recognized the need for the project and has spelled out the many worthwhile benefits to be derived from each project, but then the report has gone on to say that more time is needed to study the project.

I want to assure my colleagues that many of these projects have been studied for 15 to 20 years. Many of them are simply individual units of larger irrigation projects that were authorized many years ago but which are just now getting around to being constructed. They have been studied, reported upon, studied some more and reported upon again, and they are ready to go.

Two of the projects are of an emergency nature involving the saving of human life. Title IV, the extension of the American Canal in El Paso, Tex., has two major goals: First, to remove a dangerous condition that has resulted in the death of more than 20 children, and second, to salvage 11,600 acre-feet of water that is now being wasted in a very arid area. The safety hazard is very real and the need for conserving water is very real. The situation has been known about and studied for 30 years, but no action has been taken. In committee, we heard from more than a score of witnesses who testified as to the danger and the need for the additional water. We did not hear from one single adverse witness. Further delay would undoubtedly result in further loss of life. And further delay would drive the costs of the project even higher. Congress should have acted on this situation 20 years ago. We certainly should not postpone it any further and invite more children to drown in this dangerous canal.

Title VI is another emergency measure to prevent the loss of life and untold property damage. It calls for repairs to a drainage tunnel in Colorado that was built by the Federal Government during World War II and then abandoned. Over the years it has become a menace, as portions of the tunnel have caved in and caused a large head of water to build up behind the blockages. There are communities near the tunnel entrance that would be severely damaged, with possible loss of life, if those blockages should give way and that wall of water were to rip down the valley. We would have another situation similar to the Teton Dam failure. And, even if that were not to occur for a few more years, we have right now a very dangerous situation because a heavily used State highway crosses directly over this tunnel. Cave-ins within the tunnel have already caused portions of the highway to sink several feet into the ground. If cars had been passing at the time, we would have had more deaths on our hands. We must act to correct this situation now. Further delay will cost more in both dollars and possible loss of life.

I can assure my colleagues that each of these projects is worthwhile and well worth the money that this bill authorizes. And I can assure you also that further delays will drive the costs upward.

But let us talk about the money for a moment. What will these projects cost the taxpayers? How much will be returned to the Treasury? What is the net cost to the Government?

In round numbers, the total amount authorized will be $332 million. Of this, the Federal Government will get back about 77 percent in cash repayments from irrigators, municipal water users, industrial water users and Federal power revenues. I suggest to my colleagues that a 77-percent return on a Federal program is not only unique—it is virtually unheard of except in reclamation projects.

I want to compliment the distinguished chairman of our Water and Power Subcommittee, Mr. JOHNSON of California, for his leadership and evenhandedness in the development of this bill. Every possible aspect of each project has been explored in detail. Each component title has been amended, tightened up, carefully spelled out and patiently tied down so that the work that needs done will be done at the least cost to the Government but with maximum results.

There was not a single dissenting vote in our subcommittee on any of these seven projects. There was not a single dissenting vote in full committee as we ordered it reported. I urge my colleagues to join us in passing this bill today with the unanimous vote that it deserves. Thank you.

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I am happy to yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Chairman, I ask the gentleman, is there not one project in this bill that has a rather low payback or cost-benefit ratio, and that it seems as though perhaps there are other alternatives to that which has been proposed by the committee?

Mr. LUJAN. Mr. Chairman, I do not know which project the gentleman is referring to. The most expensive ones, from the standpoint of the payback feature, are the one at El Paso and the one in Colorado that I just talked about, but that is because these are for purposes other than the development of water. There is the safety aspect, too, to be considered.

Mr. MYERS of Pennsylvania. I believe it is the one at El Paso that we should address ourselves to. That already is an existing canal, and I believe the committee asks approval because there have been some drownings associated with it; is that correct?

Mr. LUJAN. The gentleman is correct.

Mr. MYERS of Pennsylvania. Is it not true that perhaps the new project, although it is located in a different area, could pose the same hazard, and that the more economic solution would be to fence it off along its present water path?

Mr. LUJAN. Mr. *Chairman*, I do not know what other project the gentleman is referring to.

Mr. MYERS of Pennsylvania. No, I am referring to the El Paso project. What I am saying is that there is a pathway of water through the town right now, and that there is not a problem from any standpoint other than safety; is that correct?

Mr. LUJAN. No, it is not just a safety problem, because there will be a savings of 11,600 feet of water. The main point about this is that this canal runs through the middle of El Paso, through a very populous area, and what we are trying to do in this case is to change the course of the water to a less populous area and cover it up in certain areas so there will not be any drownings. That is the reason for it.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Chairman, I wish to point out to the gentleman from Pennsylvania (Mr. MYERS) that indeed this is a project that will save lives. There is a fence at the present site, and all we intend to do is to make it safer and more resistant to the activities of children who tunnel under and try to find their way into the water because they find it attractive for the purpose of swimming.

Beyond that, too, I might point out that one of the problems is that the water now in the present Franklin Canal empties back into the river at a point where the Mexican people on the Mexican side have been taking away water for the purpose of irrigation. Also we have lost a considerable amount of water through percolation and in other ways. That can be preserved in the canal. It is life preserving and preservative of water and we should consider the preservation of the allotments that we have set up for the farm areas that we have in the El Paso valley.

So, Mr. Chairman, this is a local project that indeed will prove beneficial for all the people of this country.

Mr. MYERS of Pennsylvania. Mr. Chairman, if the gentleman will yield further, I would like to say that although I agree that we should make every effort to save lives, it would certainly seem the committee report fails to present a convincing case. Perhaps a number of people who have become victims of this particular body of water enter it voluntarily and most projects, even this replacement project, cannot prevent these accidents totally. It seems to me there are a number of watersheds and reservoirs that pose the same hazard.

It would appear that if there are not other associated problems, from the standpoint of the cost-benefit ratio, or water delivery, the effective way to deal with it is to fence it off where the hazard is most extreme. To proceed in that way would save a considerable amount of money.

Mr. WHITE. Mr. Chairman, if the gentleman from New Mexico will yield further, I hope later that I will have an opportunity to address myself more particularly to these projects.

This is not a new project. I have sought this project for 12 years during the past 6 Congresses, and it is a vitally needed project in an area that will, as I say, provide some multiple benefit to this country and certainly a great benefit to the people of that valley.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Texas.

Mr. KAZEN. As I understand the situation, this project is presently fenced. What is proposed to be done is to change the location of this stream as it now courses through the inhabited parts of El Paso. It is, as a matter of fact, a health hazard, and what price do we place on health?

Mr. MYERS of Pennsylvania. Mr. Chairman, if the gentleman will yield further, I would like to ask the gentleman from Texas (Mr. KAZEN) a question in response to his statement: Is it not true that there is a considerable advantage in having a canal through the city of San Antonio which perhaps creates an even more immediate hazard? I, for one, have walked along there. There is no protection there, no guard rail or anything for a considerable length. It seems to me that San Antonio has turned that around into an advantage.

Mr. KAZEN. Mr. Chairman, if the gentleman will yield further, it is an entirely different situation where we have the stream coming through the business district and only attracting tourists than to have it come through the residential districts and all the way through town, where the little children are running around in the neighborhood. It is actually an open situation that does become a health hazard.

Mr. LUJAN. Mr. Chairman, we have some other speakers. If I may, I would reserve the balance of my time.

This project will be dealt with more extensively by the gentleman from Texas.

Mr. JOHNSON of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. HALEY), the chairman of the full Committee on Interior and Insular Affairs.

Mr. HALEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the bill, H.R. 14578. I think it is a good bill. I think it is a bill that is deserving of consideration of the House here, and I want to compliment the gentleman from California (Mr. JOHNSON), who is the chairman of the Subcommittee on Water and Power Resources. He has done his usual homework and has presented, I think, a fine bill and one that deserves the support of all of the Members of Congress.

Mr. JOHNSON of California. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma (Mr. ALBERT). It gives me great pleasure to recognize the Speaker of the House of Representatives.

Mr. ALBERT. Mr. Chairman, this bill embodies very important projects in various parts of the country; and one of the projects in this bill is very important to a considerable part of Oklahoma, at least three congressional districts.

Mr. Chairman, McGee Creek Reservoir is situated in the southeastern part of Oklahoma in my district, where most of the best water in the State is located. It will supply water, not only to the McGee Creek area, but to the growing metropolitan area of Oklahoma City, some 90 miles away, where it is sorely needed.

Mr. Chairman, the immediate need for this high-quality water and the immediate market for the water assures the success of this project. I do not know of a more dollar-sound project anywhere which is better than this one. Because of the high demand, it is assured that the Bureau of Reclamation will be repaid.

Mr. Chairman, one of the attractive features of the project is that a substantial part of the money invested by the Bureau will be repaid with interest by users of the water. A special trust has already been established by prospective users of the reservoir to begin repayment of the money.

Another salient feature of the McGee Creek project is that, for the first time in the history of the Bureau, conjunctive planning has accompanied the reservoir development to preserve the natural environment. In other words, Mr. Chairman, the environment is going to be preserved when this project is finished.

An additional 20,000 acres of land are being acquired at project expense on behalf of preserving these environmental values.

Along with the reservoir, a wildlife refuge will be established. Further, one of the wildest sections in the State of Oklahoma—Bugaboo Canyon—will become a national wilderness area and will remain forever in its natural state. Thus, major investment is being made to assure that little environmental damage, if any, is done.

Finally, Mr. Chairman, I would like to point out the tremendous support this project has received not only from the water users of Oklahoma City, but from the citizens of Atoka County, Oklahoma, where the project will be constructed. Since this project began 10 years ago, we have not had one single word of opposition from one single constituent; which is unusual in the development of water projects, as all of the Members, I am sure, know. In the hearings held by the distinguished Subcommittee on Water and Power Resources, not a single resident of Atoka County was heard in opposition. In all my years I have never seen a project with such overwhelming support both within and without my congressional district.

Mr. Chairman, I would like to commend the chairman of the subcommittee, the gentleman from California (Mr. JOHNSON), and the distinguished members of his subcommittee for the fine job they have done on this bill. I am in total support of the bill. I urge every one of my colleagues to support this measure.

Mr. LUJAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. SEBELIUS), a member of the committee.

Mr. SEBELIUS. Mr. Chairman, I wish to thank the gentleman from New Mexico (Mr. LUJAN) for yielding me this time and to compliment the chairman of the subcommittee, the gentleman from California (Mr. JOHNSON), as well as the ranking member, the gentleman from New Mexico (Mr. LUJAN), for the fine job they have done, as well as the capable staff that has worked with them.

Mr. Chairman, I rise in support of H.R. 14578, the Reclamation Authorization Act of 1976, containing appropriation authority for the Kanopolis Unit in Kansas. A project, I might point out, that has been in the works since 1949.

The Kanopolis Dam and Reservoir was completed in 1948. Initial authorization for construction of the Kanopolis Unit in 1949 was met by an unfortunate series of delays in which legal formation of the irrigation district was not completed until 1966. Progress was then again slowed by the enactment of Public Law 88-442 under which all units of the Pick-Sloan Missouri Basin program not then under construction were required to be authorized by the Congress. Since that time, extensive environmental and feasibility investigations have been conducted and it has been generally agreed that a real need exists to complete this project as soon as possible.

This need is represented in the dependence central Kansas citizens have on water for their livelihood. Agriculture and its allied industries form the economic backbone of this three-county area. The chief industry is understandably the processing of agricultural products. Retail trade in the area is dependent upon the economic stability of those engaged in farming and related industries. The Kanopolis unit plan promises to enhance agricultural stability and the overall economic stability of the area by reducing crop production fluctuations that occur as a result of widely varying annual rainfall. The drought conditions the area experienced in the early spring and are once again threatened with as the fall crops reach maturity is ample proof of the value and necessity of authorizing this project.

Another aspect of considerable importance is the plan's impact on the Salina municipal water supply. Salina, a city of 38,000 and the largest city in my district, presently obtains 70 percent of their municipal water supply from the Smokey Hill River on which the Kanopolis Reservoir is constructed. The Kanopolis Unit is crucial in assuring the city of Salina a safe and guaranteed supply of water to meet their growing municipal and industrial water needs.

Mr. Chairman, I am not unaware of the administration's opposition to authorization of this project, as well as, the other six projects included in the bill. As my colleagues know, I would be one of the first to vote against any bill which meant the excessive expenditure of our tax dollars. However, the administration in none of their reports have attacked these bills on their cost but only on the grounds that they need more study. These projects have been studied and restudied. And, at least in the case of the Kanopolis unit, 10 years of extensive feasibility and environmental study has been made to the point where little could be accomplished by studying it any further.

As regards the need to hold down spending, this is uppermost in my mind as it is in most of yours. But, how many other projects that we have authorized in the last several years can we expect the return that we can expect on this and the other projects in the bill. For example, in the total cost of 30.9 million for the Kanopolis unit, 27.8 million of those dollars will be repayed by the irrigators, municipal and industrial users and power revenues.

Mr. Chairman, the need for completion of the Kanopolis unit is acute. Surely after 27 years, we can ill-afford to delay any longer in going forth with a project that has been proposed and needed as far back as 1949. I urge my colleagues to support this bill containing not only a project of vital interest to my district but six other very important projects in various parts of the country.

Mr. JOHNSON of California. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma (Mr. STEED).

Mr. STEED. Mr. Chairman, I rise in support of this bill, and I want to congratulate the committee for bringing up what I think is a very worthwhile and necessary piece of legislation. As an accommodation to the Speaker, I was the author of a bill to authorize the McGee Creek project which has been a part of this omnibus bill. In addition to what the Speaker has said in support of it, I would like to add and stress the two points that I think are of great interest. This project, among other things, not only brings into reality one of the most valuable sources of new water for our section of the country, but it also renders itself, because of its natural situation, to a very fine wildlife and recreation capability. The time for the preservation of this opportunity is running out, and so the sooner we can nail it down and get this made a reality, the better.

The other point is that timewise we are faced with a growing need for water in central Oklahoma, and by the time this facility could be brought into being, we are going to be in urgent need of the resources of this water. We are told by our experts that by the year 1980 we will be facing a water crisis in our part of the country if we do not get this additional facility.

So for all these reasons, and because it is an investment rather than an expenditure, I urge my colleagues in the House to support this authorization bill.

Mr. JARMAN. Mr. Chairman, will the gentleman yield?

Mr. STEED. I am happy to yield to my colleague, the gentleman from Oklahoma.

Mr. JARMAN. Mr. Chairman, I join my colleagues in support of the McGee Creek Dam and Reservoir of Oklahoma. It is a practicable surface-water development that would satisfy the short-term needs of Oklahoma City and the long-term needs of Atoka County, Okla. As already indicated by our distinguished Speaker and by my colleague, the gentleman from Oklahoma (Mr. STEED), it would also satisfy the need to preserve and manage the wilderness-type area surrounding McGee Creek Reservoir site.

The primary purpose of the project would be to provide dependable municipal and industrial water supplies to Oklahoma City, the city of Atoka, and to the Southern Oklahoma Development Association. Other purposes of the project include recreation, flood control, and fish and wildlife enhancement. The central part of Oklahoma, containing the Oklahoma City standard metropolitan area is the most heavily populated part of the State. It is relatively dry compared to the eastern part of the State. The towns and cities clustered in the Oklahoma City metropolitan area are slowly outstripping their current water supplies and are being forced to look outside their immediate area for a dependable source of good quality water.

Mr. Chairman, the population of the Oklahoma City metropolitan area is projected to double within the next 50 years. Water requirements will show a similar increase. The citizens of Oklahoma fully support this project as being vitally important to the future water supply of our State. I urge its approval by the Members of the House.

Mr. LUJAN. Mr. Chairman, I yield as much time as he may consume to the gentleman from Kansas (Mr. SHRIVER).

Mr. SHRIVER. Mr. Chairman, I rise in support of H.R. 14578 which includes seven projects. I was cosponsor, along with my colleague from Kansas (Mr. SEBELIUS) of H.R. 7044 which authorizes construction and operation of the Kanopolis Irrigation Unit. This project now is a part of the omnibus authorizing legislation before us.

The Kanopolis unit would be located along the Smoky Hill River in central Kansas in Ellsworth, McPherson, and Saline Counties. It is a multipurpose project that would furnish water for municipal and industrial use for the city of Saline and the State of Kansas; water for the irrigation of valley land, and meet the recommended fishery flows in the Smoky Hill River.

This legislation authorizes $30.9 million for the Kanopolis unit with a benefit-to-cost ratio estimated to be 3.54. Irrigators would repay $19,850,000 during a period of 50 years following the end of a development period provided by law. This sum represents more than 75 percent of the allocated costs.

Environmental preservation and enhancement are an integral part of the recommended plan.

We all recognize the heavy demands upon our Federal treasury, and the fight against inflation must remain high in our priority list. It is reassuring, therefore, to note the findings by the Committee that the potential impact of this legislation on the national economy will produce little or no inflationary pressures.

Mr. Chairman, the Kanopolis project has enjoyed growing public support, but has endured numerous bureaucratic roadblocks and delays. It almost has been studied to death.

Today the House has an opportunity to breathe life into the Kanopolis Irrigation project which can mean so much to the economy of Kansas and to the agricultural health of our Nation.

Those of us from States where agriculture is predominant in our economy, fully recognize the importance of getting the most out of the land. The Kansas farmer has demonstrated time and again his genius for producing food not only for American families but for people around the world. But water and weather often are deterrents to good crops.

If we are to sustain the farmer's ability to produce for future generations, irrigation projects such as Kanopolis must be built to enable him to develop greater production on the acreage available.

In closing, Mr. Chairman, I wish to express appreciation to the chairman of the Subcommittee on Water and Power Resources, the distinguished gentleman from California (Mr. JOHNSON) who took the leadership in bringing this bill to the floor today. He fully understands the importance of developing our water resources.

Mr. JOHNSON of California. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. RISENHOOVER), a coauthor of this legislation.

Mr. RISENHOOVER. Mr. Chairman, I rise in support of H.R. 14578. This is in my opinion one of the most fiscally sound bills I have seen in the short time I have been in the Congress. I think the McGee Creek project in Oklahoma is typical of the projects we have in the bill. It means immediate jobs for workers in our economy who are now unemployed, it means preservation of our wildlife, our wilderness areas and our recreation areas for future generations, and it means increased agricultural and industrial production which will result in the long run in lower prices to the people who are in our consuming areas.

I extend my appreciation to the chairman of the committee for bringing this bill forth and for the extensive hearings he held to show the country and especially the Members of the House what the bill means to all of America.

I am very proud to support the legislation.

Mr. LUJAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. MCCLORY).

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

I have been very impressed by the statements made here today in behalf of the projects in the areas represented by the Members who have spoken. I am sure they are very conscientious and very sincere in their recommendations for favorable action on this legislation. I have high regard for the gentleman from California (Mr. JOHNSON) and the gentleman from New Mexico (Mr. LUJAN) who are handling this legislation.

In looking at the committee report it seems to me it is a mistake for us to lump seven projects together in this way. Some of the projects seem to have been sufficiently studied for us to be taking final action here today. Others seem not to be supported by a feasibility report and seem not to have been studied completely and are opposed by either the Corps of Engineers or the Department of the Interior. I question the wisdom of legislating in this sort of extremely omnibus fashion. I think is poses extremely difficult problems on other Members who are not as thoroughly familiar with the specific projects as those Members are who have spoken in support of this legislation. I question the wisdom of our taking favorable action on all seven of these projects in this way at this time.

Mr. JOHNSON of California. Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Chairman, for the past six Congresses, I have submitted a bill similar to title IV of the legislation we are considering today. The purpose of this bill is to allow extension of the American Canal in El Paso which is an integral part of the Rio Grande Federal irrigation project.

In each instance in the past, my bill has called for a totally nonreimbursable construction project because I felt, as did the water users of the irrigation project, that completion of the canal was a much needed natural consequence of an international treaty with Mexico, and was therefore the responsibility of the Federal Government. Because of this nonreimbursable feature, the bill has consistently failed to be reported out of committee. That is why I should like to stress to Members that the American Canal project, as represented in title IV of this water project omnibus bill, has a cost reimbursable feature. This is spelled out in section 2 which dictates that the canal extension shall not be undertaken until the Secretary of the Interior has entered into a repayment contract with the users to pay the Federal Government a sum equal to the value of the water salvaged by the project for a 50-year period. Mr. Speaker, I should like briefly to background this subject in order to establish a complete justification for the American Canal project. In 1907, the United States and Mexico entered into a treaty dividing the waters of the Rio Grande at that point where the river becomes the international boundary between the two countries. At this point, the Rio Grande flows through a pass in the mountains with the city of El Paso located on the U.S. side and Cuidad Juarez located on the Mexican side. The treaty limited Mexico to diverting 60,000 acre-feet of water a year from the river in the El Paso/Juarez Valley.

Mr. Chairman, if I might interject at this point, in an arid area when we have short rainfall, this becomes somewhat trying to the farmers, but we have always lived with that situation.

Mr. Chairman, in order to assure compliance, a diversion dam, called the American Dam, was constructed above the city of El Paso with the idea that all of the river's waters, except Mexico's 60,000 acre feet, would be diverted through a canal and irrigation system solely for the use of reclamation and irrigation participants on the U.S. side. At the time the American Dam was constructed—in the mid-1930's—the accompanying canal was extended only for several miles to join with an existing canal, called the Franklin Canal, which flows virtually through the heart of the city of El Paso. The Franklin Canal empties back into the Rio Grande bed far short of the Riverside heading which is the final diversion point in the irrigation project. In recent years, evidence has steadily accumulated that Mexico, in violation of the treaty of 1906, is rather openly pumping and otherwise diverting water from this stretch of the Rio Grande bed between the terminus of the Franklin Canal and the Riverside heading. Additionally, estimates on seepage loss range upward from 10,000 acre feet per year. Extension of the American Canal would eliminate both of these problems. There is another compelling consideration involved in the conclusive need for this project. As I indicated, the present Franklin Canal flows through a heavily populated section of El Paso. This pronounced urban environment results in an unavoidable extensive pollution of the canal which in turn produces a distinct health hazard. Additionally, hardly a year goes by that at least one drowning occurs in the Franklin Canal even though it is fenced. Construction of the American Canal would eliminate this hazard to health and life.

Filling in the Franklin Canal is part of this project. City planning calls for the development of a median park along the present route of the Franklin Canal once it is filled in, and I would like to stress that this park would accommodate thousands of citizens from one of the more disadvantaged areas of the city. In summation, Mr. Chairman, the extension of the American Canal in El Paso rightfully should have been accomplished many years ago as a natural compliance feature of an international treaty; it will eliminate a public health and safety hazard and replace it with open park and recreation areas in a disadvantaged section of the city; and the desired partial reimbursable feature is included in the legislation as proposed today. One final observation relates to the ever-increasing problem of illegal entry by Mexican nationals into the United States in the El Paso/Juarez vicinity. The extension of the American Canal would provide a natural, fenced, barrier to illegal entry paralleling the Rio Grande international boundary for a distance of some 15 miles between the two cities. This would be a welcome assist to hard-pressed Immigration and Naturalization officers. Mr. Chairman, and fellow Members, I urge your favorable consideration of this legislation. Thank you.

Mr. LUJAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. MYERS).

Mr. MYERS of Pennsylvania. Mr. Chairman, I also would like to support the concern of the gentleman from Illinois (Mr. MCCLORY) in that this bill includes a number of projects. Essentially we are precluded from evaluating each one of them individually.

I think too often in authorizing committees we have projects authorized simply as a hunting license and then we find out in an appropriation bill such as this one that the hunting license delivers some very undesirable funding folded into and with legitimate proposals.

There is a project for El Paso, Tex., included in this bill, about which I do have serious concern because of that payback ratio. All of us in our districts have projects for flood control which are being rejected at the Federal level because of the payback ratio, and we have to be concerned about voting for those in another district which lack the same favorable ratio. It seems to me that we are trying to escape urban sprawl, in this project, and perhaps the location of that new canal may face the same challenge in the near future.

There are very few streams that do not claim lives each year of people who venture into them on a voluntary basis and do not realize the danger. Certainly, since it is a fenced area it would indicate that persons have gone beyond the normal involuntary act of falling into this particular body of water.

I have a stream in my district which claims probably more lives each year than this particular canal does. It seems to me that this alone is not enough to counter the poor pay-back feature.

We do have limited resources for our Federal dollars, and I think we have to be wise in how we commit them.

Mr. DON H. CLAUSEN. Mr. Chairman, this is the only major bill that will come before us during this session that provides any new initiatives bearing on the use and conservation of our national water resources. As such, its passage is both desirable and necessary.

The current drought in many sections of the country demonstrates vividly that our fresh water supplies constitute one of our most critical natural resources.

H.R. 14578 contains five projects that will assist the States of California, Washington, Utah, Oklahoma, and Kansas to make more efficient use of their water and to irrigate thousands of acres of new land for food production.

The authorizations contained in this bill amount to about $332 million. That is not an exorbitant amount when considered in the light of the national water and food problems that those dollars will help to solve. It is a real bargain when we take into account that 75 cents of every dollar spent will come back to the Treasury in the form of repayments from the water users.

This is a good bill and the price is right. I urge my colleagues to give it their full support.

Mr. LUJAN. Mr. Chairman, I have no further requests for time.

Mr. JOHNSON of California. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the bill by titles.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the Reclamation Authorizations Act of 1977.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 1, line 4, strike out "1977." and insert in lieu thereof "1976."

Mr. JOHNSON of California. Mr. Chairman, that is just a change of date there, from 1977 to 1976.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE I

KANOPOLIS UNIT, KANSAS

SEC. 101. The Kanopolis unit, heretofore authorized as an integral part of the Pick-Sloan Missouri Basin program by the Act of December 22, 1944 (58 Stat. 887, 891), is hereby reauthorized as part of that project. The construction, operation, and maintenance of the Kanopolis unit for the purposes of providing irrigation water for approximately twenty thousand acres of land, municipal and industrial water supply, fish and wildlife conservation and development, environmental preservation, and other purposes shall be prosecuted by the Secretary of the Interior in collaboration with the Secretary of the Army acting through the Chief of Engineers, in accordance with the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). The principal features of the Kanopolis unit shall include the modification of the existing Kanopolis Dam and Lake, an irrigation diversion structure, the Kanopolis north and south canals, laterals, drains, and necessary facilities to effect the aforesaid purposes of the unit.

SEC. 102. Upon expiration of existing leases for agricultural use of publicly owned lands, in the Kanopolis Reservoir area, the Secretary of the Army is authorized to enter into a management agreement covering said lands with the Kansas Forestry, Fish and Game Commission. The Secretary of the Army is further authorized to include provisions in such operating agreements whereby revenues deriving from future use of said reservoir lands for agricultural purposes may be retained by the game commission to the extent that they are utilized for wildlife management purposes at Kanopolis Reservoir.

SEC. 103. The Kanopolis unit shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891), as amended and supplemented. Repayment contracts for the return of construction costs allocated to irrigation will be based on the irrigator's ability to repay as determined by the Secretary of the Interior, and the terms of such contracts shall not exceed fifty years following the permissible development period. Repayment contracts for the return of costs allocated to municipal and industrial water supply shall be under the jurisdiction of the Secretary of the Army, and such contracts shall be prerequisite to the initiation of construction of facilities authorized by this title. Costs allocated to environmental preservation and fish and wildlife shall be nonreimbursable and nonreturnable under Federal reclamation law.

SEC. 104. For a period of ten years from the date of enactment of this title, no water from the unit authorized by this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 (63 Stat. 1051; 7 U.S.C. 1421), or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938 (62 Stat. 1251), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

SEC. 105. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the Kanopolis unit shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the unit is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

SEC. 106. The provisions of the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 649, 650), and any other similar provisions of Federal reclamation laws as applied to the Kanopolis unit, Pick-Sloan Missouri Basin program, are hereby modified to provide that lands held in a single ownership which may be eligible to receive water from, through, or by means of, unit works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes, as determined by the Secretary of the Interior.

SEC. 107. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter, for construction of the Kanopolis unit, the sum of $30,900,000 (January 1976 price levels) plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved. Of the funds authorized to be appropriated by *this section*, the Secretary of the Interior shall transfer to the Secretary of the Army all except those required for postauthorization planning, design, and construction of the single use irrigation facilities of the unit, and the Secretary of the Army shall utilize such transferred funds for implementation of all other aspects of the authorized unit. There are also authorized to be appropriated such sums as may be required for operation and maintenance of the works of said unit.

Mr. JOHNSON of California (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to title I?

If not, the Clerk will read title II.

The Clerk read as follows:

TITLE II

OROVILLE-TONASKET UNIT, WASHINGTON

SEC. 201. For purposes of supplying water to approximately ten thousand acres of land and for enhancement of the fish resource of the Similkameen, Okanogan, and Columbia Rivers and the Pacific Ocean, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to construct, operate, and maintain the Oroville-Tonasket unit extension, Okanogan-Similkameen division, Chief Joseph Dam project, Washington, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). The principal works of the Oroville-Tonasket unit extension (hereinafter referred to as the project) shall consist of pumping plants, distribution systems; necessary works incidental to the rehabilitation or enlargement of portions of the existing irrigation system to be incorporated in the project; drainage works; and measures necessary to provide fish passage and propagation in the Similkameen River. Irrigation works constructed and rehabilitated by the United States under the Act of October 9, 1962 (76 Stat. 761) and which are not required as a part of the project shall be dismantled and removed with funds appropriated hereunder and title to the lands and right-of-way thereto which were conveyed to the United States shall be reconveyed to the Oroville-Tonasket Irrigation District. All other irrigation works which are a part of the Oroville-Tonasket Irrigation District's existing system and which are not required as a part of the project or that do not have potential as rearing areas for fish shall be dismantled and removed with funds appropriated hereunder.

SEC. 202. The Secretary is authorized to terminate the contract of December 26, 1964, between the United States and the Oroville-Tonasket Irrigation District and to execute new contracts for the payment of project costs, including the then unpaid obligation under the December 26, 1964, contract. Such contracts shall be entered into pursuant to section 9 of the Act of August 4, 1939 (53 Stat. 1187). The term of such contract shall be fifty years, exclusive of any development period authorized by law. The contracts for irrigation water may provide for the assessment of an account charge for each identifiable ownership receiving water from the project. Such charge, together with the acreage or acre-foot charge, shall not exceed the repayment capacity of commercial family-size farm enterprises as determined on the basis of studies by the Secretary. Project construction costs covered by contracts entered into pursuant to section 9(d) of the Act of August 4, 1939, as determined by the Secretary, and which are beyond the ability of the irrigators to repay shall be charged to and returned to the reclamation fund in accordance with the provisions of section 2 of the Act of June 14, 1966 (80 Stat. 200), as amended by section 6 of the Act of September 7, 1966 (80 Stat. 707). The aforesaid contract shall provide that irrigation costs properly assignable to privately owned recreational lands shall be repaid in full within fifty years with interest.

SEC. 203. Power and energy required for irrigation water pumping for the project, including existing irrigation works retained as a part of the project, shall be made available by the Secretary from the Federal Columbia River power system at charges determined by him.

SEC. 204. The provision of lands, facilities, and any project modifications which furnish fish and wildlife benefits in connection with the project shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended. All costs allocated to the anadromous fish species shall be nonreimbursable.

SEC. 205. For a period of ten years from the date of enactment of this title, no water from the project authorized by this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 (63 Stat. 1051; 7 U.S.C. 1421), or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301 (b)(10) of the Agricultural Adjustment Act of 1938 (62 Stat. 1251; 7 U.S.C. 1301), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

SEC. 206. The interest rate used for purposes of computing interest during construction and, where appropriate, interest on the unpaid balance of the reimbursable obligations assumed by non-Federal entities shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption from fifteen years from the date of issue.

SEC. 207. The provisions of the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 649, 650), and any other similar provisions of Federal reclamation laws as applied to the Oroville-Tonasket unit, are hereby modified to provide that lands held in a single ownership which may be eligible to receive water from, through, or by means of unit works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes as determined by the Secretary of the Interior.

SEC. 208. There is hereby authorized to be appropriated for construction of the works and measures authorized by this title for the fiscal year 1978 and thereafter the sum of $39,370,000 (January 1976 prices), plus or minus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of the project.

Mr. JOHNSON of California (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to title II?

If not, the Clerk will read title III.

The Clerk read as follows:

TITLE III

UINTAH UNIT, UTAH

SEC. 301. Pursuant to the authorization for construction, operation, and maintenance of the Uintah unit, central Utah project, Utah, as provided in section 1 of the Act of April 11, 1956 (70 Stat. 105), as amended by section 501(a) of the Colorado River Basin Project Act (82 Stat. 897), there is authorized to be appropriated for fiscal year 1978 and thereafter, for the construction of said Uintah unit, the sum of $90,247,000 (based on January 1976 price levels) plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved.

SEC. 302. Notwithstanding any other provision of law, lands held in a single ownership which may be eligible to receive water from, through, or by means of the Uintah works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classese, as determined by the Secretary of the Interior.

Mr. JOHNSON of California (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to title III?

If not, the Clerk will read title IV.

The Clerk read as follows:

TITLE IV

AMERICAN CANAL EXTENSION, EL PASO, TEXAS

SEC. 401. The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof and supplementary thereto), in order to salvage water losses, eliminate hazards to public safety, and to facilitate compliance with the convention between the United States and Mexico concluded May 21, 1906, providing for the equitable division of the waters of the Rio Grande, is authorized as a part of the Rio Grande project, New Mexico-Texas, to construct, operate, and maintain, wholly within the United States, extensions of the American Canal approximately thirteen miles in total length, commencing in the vicinity of International Dam, El Paso, Texas, and extending to Riverside Heading; together with laterals, pumping plants, wasteways, and appurtenant facilities as required to assure continuing irrigation service to the project. Existing facilities no longer required for project service shall be removed or obliterated as a part of the program herein authorized.

SEC. 402. Construction of the American Canal extension shall not be undertaken until the Secretary of the Interior has entered into a repayment contract with the El Paso County Water Improvement District Number 1, in which said irrigation district contracts to repay to the United States, for fifty years, an annual sum representing the value of eleven thousand six hundred acre-feet of salvaged water at a price per acre-food established by the Secretary on the basis of an up-to-date payment capacity determination. Costs of the American Canal in excess of those repaid by the El Paso County Water Improvement District Number 1 shall be nonreimbursable and nonreturnable in recognition of benefits accruing to public safety and international considerations.

SEC. 403. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter for construction of the American Canal extension the sum of $21,714,000 (January 1976 price levels), plus or minus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of the project.

Mr. JOHNSON of California (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to title IV?

If not, the Clerk will read title V.

The Clerk read as follows:

TITLE V

ALLEN CAMP UNIT, CALIFORNIA

SEC. 501. For the purposes of providing irrigation water supplies, controlling floods, conserving and developing fish and wildlife resources, enhancing outdoor recreation opportunities, and for other related purposes, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof or supplementary thereto), is authorized to construct, operate, and maintain the Allen Camp unit, Pit River division, as an addition to, and an integral part of, the Central Valley project, California. The principal works of the unit shall consist of Allen Camp Dam and Reservoir and necessary water diversion, conveyance, distribution, and drainage facilities, and other appurtenant works for the delivery of water to the unit, a wildlife refuge, channel rectification works and levees, and recreation facilities.

SEC. 502. Subject to the provisions of this title, the operation of the Allen Camp unit shall be integrated and coordinated, from both a financial and an operational standpoint, with the operation of other features of the Central Valley project in such manner as will effectuate the fullest, most beneficial, and most economic utilization of the water resources hereby made available.

SEC. 503. Notwithstanding any other provision of law, lands held in a single ownership which may be eligible to receive water from, through, or by means of the Allen Camp unit works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes, as determined by the Secretary of the Interior.

SEC. 504. The costs of the Allen Camp unit allocated to flood control, conservation and development of fish and wildlife resources, and the enhancement of recreation opportunities shall be nonreimbursable.

SEC. 505. The Secretary is hereby authorized to replace those roads and bridges now under the jurisdiction of the Secretary of Agriculture which will be inundated or otherwise rendered unusable by construction and operation of the unit. Said replacements are to be the standards (including provisions for the future) which would be used by the Secretary of Agriculture in constructing similar roads to provide similar services.

SEC. 506. For a period of ten years from the date of enactment of this title, no water from the unit authorized by this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 (63 Stat. 1051; 7 U.S.C. 1421), or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301 (b)(10) of the Agriculture Adjustment Act of 1938 (62 Stat. 1251), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

SEC. 507. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter the sum of $64,220,000 (January 1976 price levels) for the construction of the Allen Camp unit, plus or minus such amounts as are justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the construction of works related to the Allen Camp unit. There are also authorized to be appropriated such sums as may be required to operate and maintain said unit and associated facilities.

Mr. JOHNSON of California (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to title V?

If not, the Clerk will read title VI.

The Clerk read as follows:

TITLE VI

LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

SEC. 601. The Secretary of the Interior is authorized to rehabilitate the federally owned Leadville Mine drainage tunnel, Lake County, Colorado, by installing a concrete-lined, structural steel-supported, eight-foot-diameter, horseshoe-shaped tunnel section extending for an approximate distance of one thousand feet inward, from the portal of said tunnel or for the distance required to enter structurally competent geologic formations. The Secretary is further authorized to maintain the rehabilitated tunnel in a safe condition and to monitor the quality of the tunnel discharge.

SEC. 602. There is authorized to be appropriated for fiscal year 1978 and thereafter $2,750,000 (January 1976 price levels) for the rehabilitation of the tunnel. There is also authorized to be appropriated such sums as are necessary for maintenance of the rehabilitated tunnel, water quality monitoring and investigations leading to recommendations for treatment measures if necessary to bring the quality of the tunnel discharge into compliance with applicable water quality statutes. All funds authorized to be appropriated by this title, together with such sums as have been expended for emergency work on the Leadville Mine drainage tunnel by the Bureau of Recalmation, shall be non-reimbursable.

Mr. JOHNSON of California (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to title VI? If not, the Clerk will read title VII.

The Clerk read as follows:

TITLE VII

M'GEE CREEK PROJECT, OKLAHOMA

SEC. 701. The Secretary of the Interior is authorized to construct, operate, and maintain the McGee Creek project, Oklahoma, in accordance with the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and the provisions of this title for the purposes of storing, regulating, and conveying water for municipal and industrial use, conserving and developing fish and wildlife resources, providing outdoor recreation opportunities, developing a scenic recreation area, developing a wildlife management area and controlling floods. The principal physical works of the project shall consist of a dam and reservoir on McGee Creek, appurtenant conveyance facilities and public outdoor recreation facilities.

SEC. 702. To provide for the protection, preservation, use, and enjoyment by the general public of the scenic and esthetic values of the canyon area adjacent to the upper portion of the McGee Creek Reservoir, the Secretary of the Interior is hereby authorized to purchase privately owned lands, not to exceed twenty thousand acres, for the aforesaid scenic recreation and wildlife management areas. The Secretary of the Interior is also authorized to construct such facilities as he determines to be appropriate for utilization of the scenic and wildlife management areas for the safety, health, protection, and compatible use by the visiting public.

SEC. 703. The Secretary of the Interior shall make such rules and regulations as are necessary to carry out the provisions and intent of section 702 of this title and may enter into an agreement or agreements with a non-Federal public body or bodies for operation and maintenance of the scenic recreational and wildlife management areas.

SEC. 704. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the project shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the project is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue.

SEC. 705. (a) The Secretary of the Interior is authorized to enter into a contract with a qualified entity or entities, for delivery of water and for repayment of all the reimbursable construction costs. All costs of acquiring, developing, operating, and maintaining the scenic recreation and wildlife management areas authorized by section 702 of this title shall be nonreimbursable.

(b) Construction of the project shall not be commenced until the contracts and agreements required by this title have been entered into.

(c) Upon execution of the contract referred to in section 705(a) of this title, and upon completion of construction of the project, the Secretary of the Interior shall transfer to a qualified contracting entity or entities the care, operation, and maintenance of the project works; and, after such transfer is made, will reimburse the contractor annually for that portion of the year's operation and maintenance costs, which, if the United States had continued to operate the project, would have been nonreimbursable. Prior to assuming care, operation, and maintenance of the project works the contracting entity or entities shall agree to operate them in accordance with regulations prescribed by the Secretary of the Army with respect to flood control, and by the Secretary of the Interior with respect to fish, wildlife, and recreation.

(d) Upon execution of the contract referred to in section 705(a) of this title, and upon completion of construction of the project, the contracting entity or entities, their designee or designees, shall have a permanent right to use the reservoir and related facilities of the McGee Creek project in accordance with said contract.

SEC. 706. The conservation and development of the fish and wildlife resources, and the enhancement of recreation opportunities in connection with the McGee Creek project, except the scenic recreation and wildlife management areas authorized by section 702 of this title, shall be in accordance with provisions of the Federal Water Project Recreation Act (79 Stat. 213), as amended.

SEC. 707. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter, for construction of the McGee Creek project the sum of $83,239,000 (January 1976 price levels), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuattions in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for the operation and maintenance of the project.

Mr. JOHNSON of California (during the reading). Mr. Chairman, I ask unanimous consent that title VII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to title VII?

AMENDMENT OFFERED BY MR. JOHNSON OF CALIFORNIA

Mr. JOHNSON of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of California: Page 18, line 12, after "'reimburse" insert a comma and add "subject to such amounts as may be provided in the appropriation acts,".

Mr. JOHNSON of California. Mr. Chairman, this technical amendment, recommended by the Budget Commitee, merely clarifies the intent that the amounts involved for contract reimbursement are to be subject to the appropriation process. It does not change the meaning of the bill as reported by the committee and in fact reinforces the last sentence in the bill which contains the general appropriation authorization.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Johnson).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Wolff, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 14578) to authorize various Federal reclamation projects and programs, and for other purposes, pursuant to House Resolution 1489, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ALEXANDER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 346, nays 35, not voting 50, as follows:

[Roll No. 662]

YEAS—346

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Clawson, Del
Clay
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hyde
Ichord
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, Okla.
Jordan
Karth
Kazen
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
Madden
Mahon
Mann
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Ryan
St Germain
Santini
Sarbanes
Satterfield
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Waggonner
Walsh
Wampler
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—35

Andrews, N.C.
Ashbrook
Brodhead
Brown, Mich.
Cleveland
Conable
Evans, Ind.
Fountain
Frenzel
Goodling
Gradison
Harrington
Hechler, W. Va.
Hutchinson
Jacobs
Jeffords
Kasten
Kastenmeier
Kelly
Kindness
McClory
McDonald
Madigan
Maguire
Miller, Ohio
Mottl
Myers, Pa.
Paul
Regula
Schneebeli
Schulze
Simon
Steiger, Wis.
Vigorito
Wydler

NOT VOTING—50

Abzug
Badillo
Burgener
Burton, Phillip
Chisholm
Clausen, Don H.
Conlan
de la Garza
Early
Esch
Evins, Tenn.
Green
Hays, Ohio
Hébert
Heckler, Mass.
Heinz
Hinshaw
Howe
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Landrum
Lehman
McCloskey
McKinney
Martin
Matsunaga
Moorhead, Calif.
Mosher
Neal
Peyser
Poage
Riegle
Rose
Rosenthal
Russo
Sarasin
Sisk
Smith, Iowa
Stanton, James V.
Steelman
Steiger, Ariz.
Talcott
Teague
Traxler
Waxman
Wilson, Tex.
Wylie
Young, Alaska
Young, Ga.

The Clerk announced the following pairs:

Mr. Teague with Mr. Johnson of Pennsylvania.

Mr. Jones of Tennessee with Mr. Burgener.

Mr. Early with Mr. Don H. Clausen.

Mr. Hébert with Mr. Landrum.

Mr. Russo with Mr. Martin.

Mr. Rosenthal with Mr. Talcott.

Mr. Waxman with Mr. Steiger of Arizona.

Mr. Young of Georgia with Mr. Young of Alaska.

Mrs. Chisholm with Mr. Wylie.

Mr. Phillip Burton with Mr. Sarasin.

Ms. Abzug with Mr. McCloskey.

Mr. Badillo with Mr. Moorhead of California.

Mr. Lehman with Mr. Esch.

Mr. Sisk with Mr. McKinney.

Mr. Smith of Iowa with Mr. Hays of Ohio.

Mr. Rose with Mrs. Heckler of Massachusetts.

Mr. de la Garza with Mr. Mosher.

Mr. Green with Mr. Heinz.

Mr. Jones of North Carolina with Mr. Riegle.

Mr. Matsunaga with Mr. James V. Stanton.

Mr. Neal with Mr. Steelman.

Mr. Charles Wilson of Texas with Mr. Traxler.

Mr. Howe with Mr. Conlan.

Mr. Evins of Tennessee with Mr. Peyser.

Messrs. FRENZEL, ANDREWS of North Carolina, and MADIGAN changed their vote from "yea" to "nay."

Mr. RUPPE changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. JOHNSON of California. Mr. Speaker, pursuant to the provisions of House Resolution 1489, I call up from the Speaker's table the Senate bill (S. 3283) to authorize the Secretary of the Interior to construct, operate, and maintain the Oroville-Tonasket unit extension, Okanogan-Similkameen division, Chief Joseph Dam project, Washington, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. JOHNSON

Mr. JOHNSON of California. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Johnson of California moves to strike out all after the enacting clause of the Senate bill S. 3283 and to insert in lieu thereof the provisions of H.R. 14578, as passed, as follows:

That this Act shall be known as the Reclamation Authorizations Act of 1976.

TITLE I

KANOPOLIS UNIT, KANSAS

Sec. 101. The Kanopolis unit, heretofore authorized as an integral part of the Pick-Sloan Missouri Basin program by the Act of December 22, 1944 (58 Stat. 887, 891), is hereby reauthorized as part of that project. The construction, operation, and maintenance of the Kanopolis unit for the purposes of providing irrigation water for approximately twenty thousand acres of land, municipal and industrial water supply, fish and wildlife conservation and development, environmental preservation, and other purposes shall be prosecuted by the Secretary of the Interior in collaboration with the Secretary of the Army acting through the Chief of Engineers, in accordance with the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). The principal features of the Kanopolis unit shall include the modification of the existing Kanopolis Dam and Lake, an irrigation diversion structure, the Kanopolis north and south canals, laterals, drains, and necessary facilities to effect the aforesaid purposes of the unit.

Sec. 102. Upon expiration of existing leases for agricultural use of publicly owned lands, in the Kanopolis Reservoir area, the Secretary of the Army is authorized to enter into a management agreement covering said lands with the Kansas Forestry, Fish and Game Commission. The Secretary of the Army is further authorized to include provisions in such operating agreements whereby revenues deriving from future use of said reservoir lands for agricultural purposes may be retained by the game commission to the extent that they are utilized for wildlife management purposes at Kanopolis Reservoir.

Sec. 103. The Kanopolis unit shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891), as amended and supplemented. Repayment contracts for the return of construction costs allocated to irrigation will be based on the irrigator's ability to repay as determined by the Secretary of the Interior, and the terms of such contracts shall not exceed fifty years following the permissible development period. Repayment contracts for the return of costs allocated to municipal and industrial water supply shall be under the jurisdiction of the Secretary of the Army, and such contracts shall be prerequisite to the initiation of constructioin of facilities authorized by this title. Costs allocated to environmental preservation and fish and wildlife shall be nonreimbursable and nonreturnable under Federal reclamation law.

Sec. 104. For a period of ten years from the date of enactment of this title, no water from the unit authorized by this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 (63 Stat. 1051; 7 U.S.C. 1421), or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b) (10) of the Agricultural Adjustment Act of 1938 (62 Stat. 1251), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

Sec. 105. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the Kanopolis unit shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the unit is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

Sec. 106. The provisions of the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 649, 650), and any other similar provisions of Federal reclamation laws as applied to the Kanopolis unit. Pick-Sloan Missouri Basin program, are hereby modified to provide that lands held in a single ownership which may be eligible to receive water from, through, or by means of, unit works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes, as determined by the Secretary of the Interior.

Sec. 107. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter, for construction of the Kanopolis unit, the sum of $30,900,000 (January 1976 price levels) plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved. Of the funds authorized to be appropriated by this section, the Secretary of the Interior shall transfer to the Secretary of the Army all except those required for postauthorization planning, design, and construction of the single use irrigation facilities of the unit, and the Secretary of the Army shall utilize such transferred funds for implementation of all other aspects of the authorized unit. There are also authorized to be appropriated such sums as may be required for operation and maintenance of the works of said unit.

TITLE II

ORVILLE-TONASKET UNIT, WASHINGTON

Sec. 201. For purposes of supplying water to approximately ten thousand acres of land and for enhancement of the fish resource of the Similkameen, Okanogan, and Columbia Rivers and the Pacific Ocean, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to construct, operate, and maintain the Oroville-Tonasket unit extension, Okanogan-Similkameen division, Chief Joseph Dam project, Washington, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). The principal works of the Oroville-Tonasket unit extension (hereinafter referred to as the project) shall consist of pumping plants, distribution systems; necessary works incidental to the rehabilitation or enlargement of portions of the existing irrigation system to be incorporated in the project; drainage works; and measures necessary to provide fish passage and propagation in the Similkameen River. Irrigation works constructed and rehabilitated by the United States under the Act of October 9, 1962 (76 Stat. 761) and which are not required as a part of the project shall be dismantled and removed with funds appropriated hereunder and title to the lands and right-of-way thereto which were conveyed to the United States shall be reconveyed to the Oroville-Tonasket Irrigation District. All other irrigation works which are a part of the Oroville-Tonasket Irrigation District's existing system and which are not required as a part of the project or that do not have potential as rearing areas for fish shall be dismantled and removed with funds appropriated hereunder.

Sec. 202. The Secretary is authorized to terminate the contract of December 26, 1964, between the United States and the Oroville-Tonasket Irrigation District and to execute new contracts for the payment of project costs, including the then unpaid obligation under the December 26, 1964, contract. Such contracts shall be entered into pursuant to section 9 of the Act of August 4, 1939 (53 Stat. 1187). The term of such contract shall be fifty years, exclusive of any development period authorized by law. The contracts for irrigation water may provide for the assessment of an account charge for each identifiable ownership receiving water from the project. Such charge, together with the acreage or acre-foot charge, shall not exceed the repayment capacity of commercial family-size farm enterprises as determined on the basis of studies by the Secretary. Project construction costs covered by contracts entered into pursuant to section 9(d) of the Act of August 4, 1939, as determined by the Secretary, and which are beyond the ability of the irrigators to repay shall be charged to and returned to the reclamation fund in accordance with the provisions of section 2 of the Act of June 14, 1966 (80 Stat. 200), as amended by section 6 of the Act of September 7, 1966 (80 Stat. 707). The aforesaid contract shall provide that irrigation costs properly assignable to privately owned recreational lands shall be repaid in full within fifty years with interest.

Sec. 203. Power and energy required for irrigation water pumping for the project, including existing irrigation works retained as a part of the project, shall be made available by the Secretary from the Federal Columbia River power system at charges determined by him.

Sec. 204. The provision of lands, facilities, and any project modifications which furnish fish and wildlife benefits in connection with the project shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended. All costs allocated to the anadromous fish species shall be nonreimbursable.

Sec. 205. For a period of ten years from the date of enactment of this title, no water from the project authorized by this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 (63 Stat. 1051; 7 U.S.C. 1421), or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938 (62 Stat. 1251; 7 U.S.C. 1301), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

Sec. 206. The interest rate used for purposes of computing interest during construction and, where appropriate, interest on the unpaid balance of the reimbursable obligations assumed by non-Federal entities shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption from fifteen years from the date of issue.

Sec. 207. The provisions of the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 649, 650), and any other similar provisions of Federal reclamation laws as applied to the Oroville-Tonasket unit, are hereby modified to provide that lands held in a single ownership which may be eligible to receive water from, through, or by means of unit works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes as determined by the Secretary of the Interior.

Sec. 208. There is hereby authorized to be appropriated for construction of the works and measures authorized by this title for the fiscal year 1978 and thereafter the sum of $39,370,000 (January 1976 prices), plus or minus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of the project.

TITLE III

UINTAH UNIT, UTAH

SEC. 301. Pursuant to the authorization for construction, operation, and maintenance of the Uintah unit, central Utah project, Utah, as provided in section 1 of the Act of April 11, 1956 (70 Stat. 105), as amended by section 501(a) of the Colorado River Basin Project Act (82 Stat. 897), there is authorized to be appropriated for fiscal year 1978 and thereafter, for the construction of said Uintah unit, the sum of $90,247,000 (based on January 1976 price levels) plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved.

SEC. 302. Notwithstanding any other provision of law, lands held in a single ownership which may be eligible to receive water from, through, or by means of the Uintah works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes, as determined by the Secretary of the Interior.

TITLE IV

AMERICAN CANAL EXTENSION, EL PASO, TEXAS

SEC. 401. The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof and supplementary thereto), in order to salvage water losses, eliminate hazards to public safety, and to facilitate compliance with the convention between the United States and Mexico concluded May 21, 1906, providing for the equitable division of the waters of the Rio Grande, is authorized as a part of the Rio Grande project, New Mexico-Texas, to construct, operate, and maintain, wholly within the United States, extensions of the American Canal approximately thirteen miles in total length, commencing in the vicinity of International Dam, El Paso, Texas, and extending to Riverside Heading; together with laterals, pumping plants, wasteways, and appurtenant facilities as required to assure continuing irrigation service to the project. Existing facilities no longer required for project service shall be removed or obliterated as a part of the program herein authorized.

SEC. 402. Construction of the American Canal extension shall not be undertaken until the Secretary of the Interior has entered into a repayment contract with the El Paso County Water Improvement District Number 1, in which said irrigation district contracts to repay to the United States, for fifty years, an annual sum representing the value of eleven thousand six hundred acre-feet of salvaged water at a price per acre-foot established by the Secretary on the basis of an up-to-date payment capacity determination. Costs of the American Canal in excess of those repaid by the El Paso County Water Improvement District Number 1 shall be nonreimbursable and nonreturnable in recognition of benefits accruing to public safety and international considerations.

SEC. 403. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter for construction of the American Canal extension the sum of $21,714,000 (January 1976 price levels), plus or minus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of the project.

TITLE V

ALLEN CAMP UNIT, CALIFORNIA

SEC. 501. For the purposes of providing irrigation water supplies, controlling floods, conserving and developing fish and wildlife resources, enhancing outdoor recreation opportunities, and for other related purposes, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof or supplementary thereto), is authorized to construct, operate, and maintain the Allen Camp unit, Pit River division, as an addition to, and an integral part of, the Central Valley project, California. The principal works of the unit shall consist of Allen Camp Dam and Reservoir and necessary water diversion, conveyance, distribution, and drainage facilities, and other appurtenant works for the delivery of water to the unit, a wildlife refuge, channel rectification works and levees, and recreation facilities.

SEC. 502. Subject to the provisions of this title, the operation of the Allen Camp unit shall be integrated and coordinated, from both a financial and an operational standpoint, with the operation of other features of the Central Valley project in such manner as will effectuate the fullest, most beneficial, and most economic utilization of the water resources hereby made available.

SEC. 503. Notwithstanding any other provision of law, lands held in a single ownership which may be eligible to receive water from, through, or by means of the Allen Camp unit works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes, as determined by the Secretary of the Interior.

SEC. 504. The costs of the Allen Camp unit allocated to flood control, conservation and development of fish and wildlife resources, and the enhancement of recreation opportunities shall be nonreimbursable.

SEC. 505. The Secretary is hereby authorized to replace those roads and bridges now under the jurisdiction of the Secretary of Agriculture which will be inundated or otherwise rendered unusable by construction and operation of the unit. Said replacements are to be the standards (including provisions for the future) which would be used by the Secretary of Agriculture in constructing similar roads to provide similar services.

SEC. 506. For a period of ten years from the date of enactment of this title, no water from the unit authorized by this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 (63 Stat. 1051; 7 U.S.C. 1421), or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301 (b)(10) of the Agricultural Adjustment Act of 1938 (62 Stat. 1251), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

SEC. 507. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter the sum of $64,220,000 (January 1976 price levels) for the construction of the Allen Camp unit, plus or minus such amounts as are justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the construction of works related to the Allen Camp unit. There are also authorized to be appropriated such sums as may be required to operate and maintain said unit and associated facilities.

TITLE VI

LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

SEC. 601. The Secretary of the Interior is authorized to rehabilitate the federally owned Leadville Mine drainage tunnel, Lake County, Colorado, by installing a concrete-lined, structural steel-supported, eight-foot-diameter, horseshoe-shaped tunnel section extending for an approximate distance of one thousand feet inward, from the portal of said tunnel or for the distance required to enter structurally competent geologic formations. The Secretary is further authorized to maintain the rehabilitated tunnel in a safe condition and to monitor the quality of the tunnel discharge.

SEC. 602. There is authorized to be appropriated for fiscal year 1978 and thereafter $2,750,000 (January 1976 price levels) for the rehabilitation of the tunnel. There is also authorized to be appropriated such sums as are necessary for maintenance of the rehabilitated tunnel, water quality monitoring and investigations leading to recommendations for treatment measures if necessary to bring the quality of the tunnel discharge into compliance with applicable water quality statutes. All funds authorized to be appropriated by this title, together with such sums as have been expended for emergency work on the Leadville Mine drainage tunnel by the Bureau of Reclamation, shall be nonreimbursable.

TITLE VII

M'GEE CREEK PROJECT, OKLAHOMA

SEC. 701. The Secretary of the Interior is authorized to construct, operate, and maintain the McGee Creek project, Oklahoma, in accordance with the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and the provisions of this title for the purposes of storing, regulating, and conveying water for municipal and industrial use, conserving and developing fish and wildlife resources, providing outdoor recreation opportunities, developing a scenic recreation area, developing a wildlife management area and controlling floods. The principal physical works of the project shall consist of a dam and reservoir on McGee Creek, appurtenant conveyance facilities and public outdoor recreation facilities.

SEC. 702. To provide for the protection, preservation, use, and enjoyment by the general public of the scenic and esthetic values of the canyon area adjacent to the upper portion of the McGee Creek Reservoir, the Secretary of the Interior is hereby authorized to purchase privately owned lands, not to exceed twenty thousand acres, for the aforesaid scenic recreation and wildlife management areas. The Secretary of the Interior is also authorized to construct such facilities as he determines to be appropriate for utilization of the scenic and wildlife management areas for the safety, health, protection, and compatible use by the visiting public.

SEC. 703. The Secretary of the Interior shall make such rules and regulations as are necessary to carry out the provisions and intent of section 702 of this title and may enter into an agreement or agreements with a non-Federal public body or bodies for operation and maintenance of the scenic recreational and wildlife management areas.

SEC. 704. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the project shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the project is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue.

SEC. 705. (a) The Secretary of the Interior is authorized to enter into a contract with a qualified entity or entities, for delivery of water and for repayment of all the reimbursable construction costs. All costs of acquiring developing, operating, and maintaining the scenic recreation and wildlife management areas authorized by section 702 of this title shall be nonreimbursable.

(b) Construction of the project shall not be commenced until the contracts and agreements required by this title have been entered into.

(c) Upon execution of the contract referred to in section 705(a) of this title, and upon completion of construction of the project, the Secretary of the Interior shall transfer to a qualified contracting entity or entities the care, operation, and maintenance of the project works; and, after such transfer is made, will reimburse, subject to such amounts as may be provided in the appropriation acts, the contractor annually for that portion of the year's operation and maintenance costs, which, if the United States had continued to operate the project, would have been nonreimbursable. Prior to assuming care, operation, and maintenance of the project works the contracting entity or entities shall agree to operate them in accordance with regulations prescribed by the Secretary of the Army with respect to flood control, and by the Secretary of the Interior with respect to fish, wildlife, and recreation.

(d) Upon execution of the contract referred to in section 705(a) of this title, and upon completion of construction of the project, the contracting entity or entities, their designee or designees, shall have a permanent right to use the reservoir and related facilities of the McGee Creek project in accordance with said contract.

SEC. 706. The conservation and development of the fish and wildlife resources, and the enhancement of recreation opportunities in connection with the McGee Creek project, except the scenic recreation and wildlife management areas authorized by section 702 of this title, shall be in accordance with provisions of the Federal Water Project Recreation Act (79 Stat. 213), as amended.

SEC. 707. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter, for construction of the McGee Creek project the sum of $83,239,000 (January 1976 price levels), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for the operation and maintenance of the project.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To authorize various Federal reclamation projects and programs, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 14578) was laid on the table.

GENERAL LEAVE

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 8603, POSTAL REORGANIZATION ACT AMENDMENTS OF 1975

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8603) to amend title 39, United States Code, with respect to the organizational and financial matters of the U.S. Postal Service and the Postal Rate Commission, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. ALEXANDER. Reserving the right to object, Mr. Speaker, it is my intention to offer a motion to instruct the conferees before their appointment to adhere to the House position as adopted by the House on the postal reform bill last October on two specific amendments that were adopted; namely, my amendment which requires the Postal Service to come to Congress for an annual authorization and an annual appropriation and; two, the Buchanan amendment which requires Presidential appointment and Senate confirmation of the Postmaster General and his Chief Deputy.

On Tuesday, the Senate passed a postal bill that passes the postal buck to the next Congress.

This is not a do-nothing Congress, but it may be a pass-the-buck Congress.

The Senate bill fails to include the House-passed amendments:

First. To require annual authorization and appropriation for the Postal Service;

Second. Fails to require Presidential appointment and Senate confirmation of the Postmaster General and Chief Deputy;

No matter who you are: "Butcher, baker, candlestick maker, rich man, poor man, beggar man, thief," everyone needs an efficient mail service and unless the Congress exercises its responsibility the Postal Service will collapse because the American taxpayer will not continue to tolerate the wastes, favoritism, inefficiency and excesses of the Washington postal establishment that has characterized its 6 years of operation.

The Washington postal establishment has doubled its own bureaucracy while cutting back the work force and service.

The mismanagement of the Postal Service has produced a loss of revenues, an increase in postal rates, and a reduction in service.

Despite the fact that investigations conducted by the Postal Facilities, Mail and Labor Management Subcommittee and other congressional committees have consistently revealed glaring evidence of misjudgments by top-level postal management, and despite ever-rising public dissatisfaction with deteriorating service, the so-called McGee compromise version of H.R. 8603 currently being debated by the Senate has removed all accountability requirements.

POSTAL SERVICE FAVORITISM

First. Forty-four percent of dollar value of USPS procurement contracts in fiscal year 1974 were noncompetitive, resulting in cost overruns of $30.6 million.

Second. Over $6 million in cost overruns are on four contracts awarded to a former Postmaster General; $830,000 in cost overruns are on contracts awarded to a crony of a former Postmaster General; and

Third. The amount of $23,000 was paid by a large postal customer to a member of the sitting Board of Governors for consultative services.

POSTAL SERVICE WASTE

First. USPS has spent as much as $732 per day for consultative services; another consultant is receiving $600 per day; two others receive $500 per day;

Second. USPS spent almost $1 million to produce a coloring book to teach children to address and stamp an envelope; and

Third. USPS, as part of a $5 million advertising campaign, engaged in an extensive media push to encourage people to use air mail in 1972, only to tell us in 1975 that they are doing away with the air mail designation since the mail does not arrive any faster.

POSTAL SERVICE INEFFICIENCY

First. USPS has committed $43.4 million in contracting costs on equipment that is not suitable for production; will cost to 2 to 30 times more than existing systems; and will result in no substantial manpower savings.

Second. Without consideration of recruitment in-house or through civil service, USPS instituted an executive recruitment program totaling $660,000 in contractual costs to fill 78 positions, or an average cost of more than $8,400 per individual hired; and

Third. Mechanization in USPS has actually increased the quantity of missent mail. GAO reports show that operators of letter sorting machines keyed 9.1 percent of the mail incorrectly. Even after screening, 3.6 percent of the mail between States was missent due to incorrect keying and machine error. An additional 3.1 percent of the mail sent between States was missent because correctly keyed mail was mishandled after sorting. Missent mail was delayed an average of 3 days beyond delivery standards because no effort was made to remove it from the normal processing system.

In August of 1970, President Nixon signed into law the new Postal Service. At the time, the Congress provided:

A $10 billion capital improvement fund to update the physical plant;

A sum of $920 million annually as a public service subsidy to keep the small post offices open; and

An annual subsidy for the magazines, newspapers, et cetera which amounts to $307 million.

In spite of this financial assistance, the Postal Service has gone from assets of $3.4 billion in 1970 to an estimated deficit of $4.5 billion by the end of fiscal 1977. The U.S. Postal Service is flat broke, and on the verge of collapse.

The problem is not really financial, it is managerial. We have watched the dismantling of the Postal Service over the objection of the people, and the Congress so far is unwilling to do anything about it. On October 1975, the House by a vote of 289 to 124 recognized the crisis by stating categorically that it would not approve any further moneys for the Postal Service without an accounting and annual authorization. After this vote, the House leadership succeeded in getting the bill back into committee, but when reported out with provisions similar to the Senate bill, the House again insisted on the appointment of the Postmaster General and annual authorization.

I believe the proper course of action is for the House to insist on its amendments to require annual authorization and appropriation for the USPS and to require Presidential appointment and Senate confirmation of the PMG and the Chief Deputy.

Congress will not permit the USPS to collapse. We can enact a supplemental appropriation bill providing a $500 million subsidy ending February 15, 1977. Then we will have answered the cries of the American people for postal reform by establishing a date certain to resolve this problem.

Every taxpayer should take a good look at this vote to table: a "yes" vote is to give a blank check to the PS and a continuation of the excesses of the past 6 years; a "no" vote is for oversight of Congress' accountability to the American people.

Further reserving the right to object, I have a question to ask the chairman of the Committee on Post Office and Civil Service, the gentleman from North Carolina (Mr. HENDERSON). Is it the gentleman's intention to offer a motion to table immediately following my offering of a motion to instruct? Further, is it the gentleman's understanding that in so doing he would cut off all debate, which would preclude a discussion of this matter?

Mr. HENDERSON. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from North Carolina for the purpose of answering my question.

Mr. HENDERSON. I thank the gentleman for yielding.

In response to the gentleman's question, under the rules it would be in order, and I will offer a motion to table the gentleman's motion to instruct the conferees. If it is the will of the House that it be tabled, the gentleman's conclusion is right that there would be no further debate.

If it is not, then there would be debate on the gentleman's motion, with the time being controlled by the gentleman, and then the vote would occur on whether the House would instruct its conferees.

Mr. ALEXANDER. Further reserving the right to object, I would like to ask the distinguished gentleman from North Carolina, is it his opinion as chairman of the committee that this is such an insignificant matter that it deserves no debate in the House of Representatives?

Mr. HENDERSON. Will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman for the purpose of answering my question.

Mr. HENDERSON. It is my opinion that the issue before the House is a clear one, and that is simply whether it is going to instruct its conferees and thus tie their hands before they are even able to sit down with the Senate conferees and attempt to resolve and get to our differences.

Mr. ALEXANDER. Further reserving the right to object, Mr. Speaker, is it not so, I ask the chairman, that the Senate bill would provide an open end appropriation to the Postal Service for a period of time beginning on enactment and ending in September of 1977 for $1 billion without the Postal Service having to account to this Congress for the spending of those funds?

Mr. HENDERSON. It is the understanding of the gentleman from North Carolina that there is $1 billion authorized by the Senate bill, but that will be a matter that will be subject to the conference and maintaining the position of the House in all respects will be the responsibility of the House conferees. There was no such authorization in the House legislation.

Mr. ALEXANDER. Further reserving the right to object, I would like to ask the gentleman from North Carolina, is it not the law under section 2004 of the Postal Reorganization Act of 1970 that such funds have already been authorized and merely need an appropriation from the Congress?

Mr. HENDERSON. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from North Carolina for the purpose of answering my question.

Mr. HENDERSON. The gentleman has asked for a legal interpretation of law that the chairman of the committee at this time is not prepared to answer. I am aware that there are varying interpretations of that provision.

Mr. ALEXANDER. Further reserving the right to object, I would like to advise the chairman of the committee that under section 2004 of the Postal Reorganization Act of 1970, an open end authorization has been enacted into law which requires only that the Postal Service come to Congress for an appropriation when such funds are needed in order to provide financial assistance to that independent agency.

And further reserving the right to object, Mr. Speaker, does not the chairman of the committee realize that the American people are so dissatisfied with the manner in which the Postal Service has been mismanaged over the last 6 years that this is such an important matter that it deserves some debate on the floor of the House of Representatives in order that we can get this issue out so that every Member can understand the significance of his or her vote on this motion to instruct?

It is my feeling that a vote for the motion to instruct is a vote for oversight and is a vote for accountability to the American people. A vote against the motion to instruct is a vote for a continuation of the mismanagement and the wasteful policies of the Postal Service over the last 6 years.

Would the gentleman from North Carolina not consent to the fact that debate on this important matter is of importance to this body?

Mr. HENDERSON. If the gentleman will yield so that I might respond to his question, certainly the rules of the House permit debate on this matter as well as no debate. This question is subject to the will of the Members of the House of Representatives and will be decided by voting on my motion to table. I would remind the gentleman that when the House considers the conference report, that would afford an opportunity to debate this matter further.

I feel sure that the Members of the House can make up their minds as to what is in the best interests of their constituents and the country and they will have ample opportunity to do so.

Mr. ALEXANDER. Mr. Speaker, further reserving the right to object, is it the position of the chairman that a vote for the gentleman's motion to table would be a vote against the House-passed amendments that prevailed in October of last year?

Mr. HENDERSON. Mr. Speaker, if the gentleman will yield further, it would not be the position of the chairman of the committee that that is the case. It simply would mean that the conferees to be appointed by the Speaker on the part of the House would go to the conference and do their very best to uphold the position of the House in resolving the differences between the House and the Senate and bring back the very best legislation by way of a conference report to the House for enactment in this Congress, so that we could meet the needs of the Postal Service for the American people.

Mr. ALEXANDER. Mr. Speaker, further reserving the right to object, I would disagree with the position and the statement of the gentleman from North Carolina and because of that disagreement I would think we need more debate on this issue, so that we could have the opportunity to address the specific questions that are contained in the Senate bill which are of importance to this House, as evidenced by the fact that the House on two specific occasions last year passed my amendment; one by a 2 to 1 margin and the second time by an overwhelming margin, to require the Postal Service to come to the Congress for annual authorization and an annual appropriation.

I would think because of the differences of opinion that the gentleman from North Carolina and I have on this subject that it is meritorious of debate.

Would the gentleman not agree with that difference?

Mr. HENDERSON. Mr. Speaker, if the gentleman will yield further, I know there are definite differences of opinion with regard to specific questions; but the very purpose of a conference between this body and the Senate is to try to resolve the differences between the two bills. I believe that the conferees, who are most knowledgeable about the problems and the law affecting the operation of the Postal Service, will bring back to the House the very best product that can be brought from the conference.

I certainly believe that we can do this best if we are not instructed, as the gentleman from Arkansas wishes to do.

Mr. ALEXANDER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California (Mr. Charles H. Wilson).

Mr. CHARLES H. WILSON of California. Mr. Speaker, I wonder if the chairman of the committee would not tell us whether an agreement has already been made since the conference started, because it is suggested that without even having a conference, they have already made an agreement on the bill.

Mr. HENDERSON. Mr. Speaker, will the gentleman from Arkansas yield further?

Mr. ALEXANDER. I yield.

Mr. HENDERSON. Mr. Speaker, in response to the question of the gentleman from California, even since we had the colloquy yesterday, I am not conversant with all the provisions in the Senate bill. Therefore, it would not be possible and, in fact, no agreement that has been reached.

Mr. Speaker, that is the simple purpose of a conference, identify the differences, resolve those differences as best we can on behalf of the House in a manner that will best reflect the earlier action of the House. That would be my intention as chairman of the conferees of this body.

Mr. ALEXANDER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California (Mr. Charles H. Wilson).

Mr. CHARLES H. WILSON of California. Mr. Speaker, I do not know whether the quotations attributed to the Senator from Wyoming, the chairman of the Committee on Post Office in the Senate, are reliable or not; but the Senator was quoted as saying that an agreement had been reached between the leadership of the two Post Office Committees on the content of the bill that was passed out of the Senate.

I do not know who the leadership of the House was. I was not consulted on it, but that was his quote, anyway. I assume that the gentleman was speaking a truthful fact.

Has there been an agreement made to accept the bill in principle, with one or two, perhaps minor, exceptions that the gentleman may have?

Mr. HENDERSON. If the gentleman would yield further, I saw the quote the gentleman referred to in the newspaper. I was not quoted and I can assure the gentleman that no agreement has been reached between potential House conferees and the conferees of the other body. The purpose of the conference is to achieve a resolution of those differences by all conferees and not solely by one.

Mr. ALEXANDER. Mr. Speaker, further reserving the right to object, I would like to ask the gentleman from California (Mr. Charles H. Wilson), chairman of the Subcommittee on Postal Facilities, does he not support my motion to instruct the conferees to adhere to the House position?

Mr. CHARLES H. WILSON of California. I chair the Subcommittee on Postal Facilities, Mail and Labor Management. As a result of hearings my subcommittee has conducted, we have found that there is great need for the Postal Service to be accountable to the Congress. We have no way of knowing what revenues are coming in, and no way of knowing what expenditures are going out. The only thing we have is the word of the Postal Service.

They are playing games with the labor unions on contracts, playing games with mailers. In my opinion, the bill we are going to be asked to appoint conferees to so that they can agree with the Senate bill is one that satisfies the mailers. It keeps the unions happy because they are going to keep having sweetheart contracts without having any oversight by the Congress.

There are so many things that are improper about it that I think it does have to be revised. I do remind the gentleman also that we are not in any great emergency on this problem, because in the Appropriations Committee, the gentleman will recall, a group of us introduced a bill——

POINT OF ORDER

Mr. DERWINSKI. Mr. Speaker, a point of order.

The discussion is going far beyond the point of order made by the gentleman from Arkansas. It is obvious that this is a discussion far removed from the point, and I wish we would stay on that point, if it is possible for the gentleman to be precise in his remarks.

Mr. ALEXANDER. Mr. Speaker, I am reserving the right to object. I have not made a point of order. I have reserved the right to object, and I would ask the gentleman from California to answer my question.

Mr. CHARLES H. WILSON of California. In addition to the things I have already stated, I think the bill that is in Mr. Steed's committee can be moved anytime we need to. It takes care of appropriations, prevents the Postal Service from increasing rates and protects the service that is now being given to the public. This is all that is needed at this time. It will take care of the problems that have to be resolved immediately.

None of the mailers have to have their rates increased. The labor unions are free to argue and sleep with the Postal Service management as much as they want to, and things will be left the way they are.

Mr. ALEXANDER. Further reserving the right to object, I would like to ask the gentleman from California, (Mr. Rousselot) if it is not true that the U.S. Postal Service has taken assets of $3.4 billion which it had in 1970, and turned that into almost an $8 billion loss by 1976. Is that correct?

Mr. ROUSSELOT. If the gentleman will yield, the best figures we can obtain show that the former equity position has, in fact, been badly diminished. It is hard to get a correct accounting of the amount of the deficit that has now been created because, as many Members know, under the Postal Reorganization Act this new organization can basically—and does many times—thumb its nose at Congress. Consequently, they do not give us full information.

But, the gentleman is correct, the best figures we can get show that they have created a substantial deficit. They have had to borrow heavily in the marketplace, not just for capital expenditures as was originally contemplated in the legislation, but to make up operating deficits so that they will not have to come to Congress for additional appropriations.

Mr. Speaker, will the gentleman from Arkansas (Mr. Alexander) yield further for a question?

Mr. ALEXANDER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California (Mr. Rousselot) to finish his statement.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Speaker, I have a question I would like to direct to the very distinguished chairman of the committee. We had a colloquy yesterday. Has the chairman of the committee now had an opportunity to review the differences between the two bills, the Senate bill and the House bill?

The reason I ask that question is that yesterday the chairman suggested that he had not had an opportunity to review it. I realize there are quite a few differences. But can the gentleman give us a thumbnail review of some of the major differences?

Mr. Speaker, the reason that becomes important is that I may be constrained to object, if we are going to have a cutoff of debate here by a motion to table and disallow the Members of this House to have a full debate on the issue of the postal amendments. Many of us are plagued daily by demands from our constituencies to know why we have not done a better job of oversight on this so-called postal reform group, which resulted from the Postal Reorganization Act of 1970, that great act that was passed 6 years ago.

Therefore, I would like to ask my chairman if he has had an opportunity to really review the basic differences between this bill and the Senate version.

Mr. HENDERSON. Mr. Speaker, will the gentleman from Arkansas (Mr. Alexander) yield?

Mr. ALEXANDER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from North Carolina (Mr. Henderson) for the purpose of responding to the question posed by the gentleman from California (Mr. Rousselot.)

Mr. HENDERSON. I thank the gentleman for yielding.

Mr. Speaker, in response to the question of the gentleman from California, the gentleman from North Carolina, to the best extent that he has been able, since the colloquy yesterday and at this moment, has been directing his attention to responding to what he understood would be the proposed motion to instruct. This motion encompasses a rather narrowly defined area of difference between the House and the Senate versions of H.R. 8603. If the Members of the House to do not support my motion to table, then I have anticipated and I have devoted my time to preparing the debate that will be held on the motion to instruct.

There are differences other than those covered in the proposed motion that I keep learning about. But in the short time we have had, there was no way I could prepare myself to give a full discussion of what the differences are.

It would be the intent of the chairman of the conference, as soon as we are permitted to go to conference, to have our own staff brief us, as fully as they can, before we go to conference with the other body.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman from Arkansas (Mr. ALEXANDER) yield further?

Mr. ALEXANDER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, there are many areas to ferret out and find out as to what the differences are between the House and Senate bills.

By the way, I had a chance last night to go through what is known as the committee print of the differences between these two bills as of July 27. They do seem rather substantial. I feel that the Alexander amendment deals only with one portion.

Can the gentleman assure us that we will not go to conference before next week, so that we really have a chance to dig into these substantial differences, or will there be a chance of going to conference tomorrow?

Mr. HENDERSON. Mr. Speaker, will the gentleman from Arkansas (Mr. ALEXANDER) yield further?

Mr. ALEXANDER. Mr. Speaker, I yield to the gentleman from North Carolina (Mr. HENDERSON) for the purpose of responding to the question put by the gentleman from California (Mr. ROUSSELOT).

Mr. HENDERSON. I thank the gentleman for yielding.

Mr. Speaker, the gentleman from North Carolina, as chairman of the conference, would intend to call a meeting as quickly as we can after my unanimous consent request is agreed to. I am advised that our staff is prepared to brief the conferees and I feel we will be fully prepared in a short time to go to conference with the other body.

Mr. ROUSSELOT. If the gentleman will yield further, does that mean tomorrow?

Mr. HENDERSON. Mr. Speaker, I think it depends upon when this pending action is concluded. I would anticipate that within a day or so after the conferees are appointed they will be prepared. I have no communication or information as to when the conferees of the other body will be prepared, but I can assure the gentleman from California (Mr. ROUSSELOT) that the conferees on the House side will not be forced to go into conference until the majority of the conferees are satisfied that they are adequately prepared at the time they meet in conference with the other body.

PARLIAMENTARY INQUIRY

Mr. ALEXANDER. Mr. Speaker, I desire to put a parliamentary inquiry to the Chair.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. ALEXANDER. Mr. Speaker, if an objection is heard, is it not so that the procedure that would be followed is for the chairman of the committee to go to the committee, convene the committee, and get a motion to come back to the floor asking for a conference, and that that then would be subject to 1 hour of general debate? Is that not so?

The SPEAKER. That is one avenue of approach, the gentleman is correct.

Mr. HANLEY. Mr. Speaker, will the gentleman from Arkansas yield?

Mr. ALEXANDER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York (Mr. HANLEY) only for the purpose of asking a question.

Mr. HANLEY. Mr. Speaker, I thank the gentleman for yielding.

Regretfully, I must question the gentleman's objectivity in that it is rather obvious that questions that should have been directed to the area of this jurisdiction, which is the Subcommittee on Postal Service, were instead directed to the jurisdiction of the gentleman from California (Mr. CHARLES H. WILSON), who is chairman of the Subcommittee on Postal Facilities, Mail, and Labor Management, and who has not at all been involved in this subject matter. So I am forced to question the gentleman's objectivity, and for the benefit of those who have been listening, that hopefully transmits a bit of a message in that the gentleman from California (Mr. CHARLES H. WILSON) happens to support the position of the gentleman from Arkansas (Mr. ALEXANDER).

I would have enjoyed the opportunity of responding to the questions that should have been directed to this area of jurisdiction.

Mr. Speaker, again I thank the gentleman for yielding.

Mr. ALEXANDER. Mr. Speaker, I appreciate the gentleman's position.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman for yielding.

I would like to ask the chairman of my subcommittee, the distinguished gentleman from North Carolina (Mr. HENDERSON), is there any great rush so that we cannot go and get a rule and come back to the House on, say, Monday or Tuesday and proceed under a regular rule? Would there be any great catastrophe if the conference met next week? I know the gentleman could get a rule very quickly. Is there any problem posed with getting a rule and just coming in and considering this at that time?

Mr. HENDERSON. Mr. Speaker, will the gentleman yield so that I may respond to the question asked by the gentleman from California?

Mr. ALEXANDER. I yield to the gentleman from North Carolina for the purpose of responding.

Mr. HENDERSON. Mr. Speaker, I know that the gentleman from California (Mr. ROUSSELOT) has been a member of the Committee on Post Office and Civil Service for many years. I am at a loss in this instance to understand what all the difficulty is about.

It seems to me that here we have a rather routine request that the Speaker appoint conferees on the part of the House so that we may go to conference with the Senate. I think that everyone realizes that we are near the end of this Congress, and that this legislation has had as much attention as any in the House and more recently in the other body. Surely our conferees ought to be free to act in attempting to resolve the differences between the two bodies and come back with a very fine compromise, one that we would recommend to the President for enactment.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, does that mean the gentleman from North Carolina (Mr. HENDERSON) does not have any great objection to going in and getting a rule for the consideration of this matter before going to conference?

Mr. HENDERSON. Mr. Speaker, will the gentleman yield further?

Mr. ALEXANDER. I yield to the gentleman from North Carolina for the purpose of responding to the question.

Mr. HENDERSON. Mr. Speaker, the gentleman from North Carolina does not believe that this matter could be resolved by following that procedure between now and the proposed adjournment date, so I certainly would object. Everything that I am trying to do with regard to this matter is to prevent delay and is directed toward expediting the legislation, but with as great care as we can exercise to protect the prerogatives and will of this body.

Mr. ALEXANDER. Mr. Speaker, I agree with the gentleman from North Carolina (Mr. HENDERSON). I do not want to delay the proceedings of this body either, and I will not object. However, I will advise the Speaker that I have a motion to instruct at the desk which I will insist upon offering immediately following the granting of the unanimous-consent request.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

MOTION OFFERED BY MR. ALEXANDER

Mr. **ALEXANDER**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Alexander moves that the Managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 8603, be instructed to insist upon (1) section 2(a) and section 2(c) of such bill as passed the House; (2) section 2401(b)(1) of title 39, U.S. Code, as added by section 2(b) of such bill as passed the House; and (3) section 16 of such bill as passed the House.

MOTION TO TABLE OFFERED BY MR. HENDERSON

Mr. **HENDERSON**. Mr. Speaker, I move that the motion offered by the gentleman from Arkansas (Mr. ALEXANDER) be laid on the table.

Mr. **GILMAN**. Mr. Speaker, I rise in opposition to the motion of the gentleman from North Carolina (Mr. HENDERSON), the distinguished chairman of the Post Office and Civil Service Committee, to table the motion of the gentleman from Arkansas (Mr. ALEXANDER) to instruct the conferees on H.R. 8603, the Postal Reorganization Act Amendments of 1975.

Mr. Speaker, although I oppose this motion to table, let me say that I am inclined to support the form of the compromise that has been so assiduously negotiated among congressional leaders, the White House, and the Postal Service. While I am, of course, deeply disappointed that this compromise is all we have to show for 2 years of extensive efforts on the part of many of the Members here present, I believe that this bargain is probably the best that we can hope to accomplish in the heat and passion of an election year. On the other hand, I cannot envision just how a blue-ribbon commission with a duration of 4 to 5 months can possibly uncover any new remedies that have not already been endlessly discussed and debated either in committee or on the floor of this House. However, given the political reality of present circumstances, I am prepared to adopt a wait-and-see attitude and let a fresh Congress grapple with the Commission's recommendations and the mammoth problems of the Postal Service, since this Congress appears either unwilling or unable to act decisively in their own right.

But, turning to the motion presently before us, I feel very strongly that the motion by the gentleman from Arkansas (Mr. ALEXANDER) to instruct the conference committee should be debated. If we agree to the motion to table, then we are cutting off all further debate and denying ourselves the opportunity to confront the very serious, complex problems of the Postal Service. The issues that underline the motion to instruct the conferees to restore congressional control over postal revenues—fiscal accountability, sound management and the degree and quality of service—are at the very heart of the present controversy and are of so critical an importance that they cannot be ducked.

By rejecting debate, we are also denying ourselves the opportunity to instruct and guide the new blue-ribbon commission. Here we have a golden chance to impart to the commission members at the outset of their deliberations the position of the House of Representatives on each and every one of these multiple Postal Service issues.

Mr. Speaker, I earlier voted for the Alexander amendment to H.R. 8603 for the same reason that I now urge my colleagues not to cut off debate on the motion to instruct. I urge this debate not because I necessarily believe that Congress should control postal expenditures, and certainly not to jeopardize any of the collective-bargaining agreements currently in force. Rather, I support debate on the motion to instruct because there are very real problems that cry out for answers not temporizing; principles to be fought for rather than shouldered on some blue-ribbon commission, and the need to loudly and clearly proclaim that we are not satisfied with the past efforts of the Postal Service, and that we demand immediate, substantive, and visible improvements in all areas of postal operations.

Accordingly, I urge that the motion to table the motion to instruct the conferees be resoundingly defeated.

PARLIAMENTARY INQUIRIES

Mr. **ALEXANDER**. Mr. Speaker, I have a parliamentary inquiry.

The **SPEAKER**. The gentleman will state his parliamentary inquiry.

Mr. **ALEXANDER**. Mr. Speaker, is it not so that the parliamentary situation is that my motion is entitled to 1 hour of general debate on that motion, the time to be controlled by me as the person who is offering the motion; but in view of the fact that the gentleman from North Carolina (Mr. HENDERSON) has offered a motion to table, a vote for that motion would preclude any debate and preclude any consideration of the motion to instruct? Is that correct, Mr. Speaker?

The **SPEAKER**. The Chair will state that if the motion to table is voted upon and rejected, 1 hour will be allotted to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. **ALEXANDER**. Mr. Speaker, I have a further parliamentary inquiry.

The **SPEAKER**. The gentleman will state it.

Mr. **ALEXANDER**. Mr. Speaker, I do not insist upon the full hour of general debate if the motion to table is voted down, but I would like to advise the Members that a vote against the motion to table is a vote for the motion to instruct.

The **SPEAKER**. The Chair will inform the gentleman that that is not a parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. **ROUSSELOT**. Mr. Speaker, I have a parliamentary inquiry.

The **SPEAKER**. The gentleman will state his parliamentary inquiry.

Mr. **ROUSSELOT**. Mr. Speaker, is the motion to table in writing?

The **SPEAKER**. The Chair will state that it is.

The question is on the motion to table.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. **HENDERSON**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 234, nays 153, not voting 44, as follows:

[Roll No. 663]

YEAS—234

Addabbo
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashley
Aspin
AuCoin
Baldus
Beard, R.I.
Bedell
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Brodhead
Brown, Calif.
Brown, Mich.
Brown, Ohio
Burke, Mass.
Burton, John
Butler
Carney
Cederberg
Clay
Cochran
Cohen
Conable
Conte
Conyers
Cornell
Coughlin
Crane
D'Amours
Daniels, N.J.
Delaney
Dellums
Dent
Derwinski
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Frenzel
Gaydos
Giaimo
Goldwater
Gonzalez
Grassley
Gude
Guyer
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Helstoski
Henderson
Hicks
Hillis
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hyde
Johnson, Calif.
Jones, Ala.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Krueger
LaFalce
Lagomarsino
Landrum
Leggett
Lent
Long, La.
Long, Md.
Lott
Lundine
McClory
McCollister
McDade
McEwen
McFall
McHugh
McKay
Madden
Madigan
Maguire
Matsunaga
Mazzoli
Meeds
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Morgan
Moss
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nix
Nowak
Oberstar
Obey
O'Brien
O'Hara
Passman
Patten, N.J.
Pattison, N.Y.
Perkins
Pike
Preyer
Price
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
St Germain
Santini
Sarbanes
Schneebeli
Sebelius
Seiberling
Sharp
Shipley
Shriver
Simon
Slack
Smith, Nebr.
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Treen
Tsongas
Udall
Ullman
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Weaver
Whalen
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wydler
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NAYS—153

Abdnor
Adams
Alexander
Allen
Anderson, Calif.
Archer
Ashbrook
Bafalis
Baucus
Bauman
Beard, Tenn.
Bell
Bennett
Bevill
Breaux
Breckinridge
Brinkley

Brooks
Broomfield
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byron
Carr
Carter
Chappell
Clancy
Clawson, Del
Cleveland
Collins, Ill.
Collins, Tex.
Corman
Cotter
Daniel, Dan
Daniel, R. W.
Danielson
Davis
Derrick
Devine
Dickinson
Diggs
Downing, Va.
Duncan, Tenn.
English
Eshleman
Evans, Colo.
Evans, Ind.
Fascell
Flowers
Forsythe
Fountain
Frey
Fuqua
Gibbons
Gilman
Ginn
Goodling
Gradison
Hagedorn
Hall, Tex.
Hannaford
Hansen
Hechler, W. Va.
Heckler, Mass.
Hefner
Hightower
Holland
Holt
Hutchinson
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kasten
Kelly
Ketchum
Keys
Kindness
Koch
Krebs
Latta
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Lujan
McCormack
McDonald
Mahon
Mann
Mathis
Melcher
Metcalfe
Miller, Ohio
Mills
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, N.Y.
Neal
Nichols
O'Neill
Ottinger
Patterson, Calif.
Paul
Pepper
Pettis
Pickle
Pressler
Prichard
Quie
Quillen
Randall
Risenhoover
Roberts
Robinson
Rogers
Rousselot
Runnels
Ryan
Sarasin
Satterfield
Scheuer
Schroeder
Schulze
Shuster
Sikes
Skubitz
Snyder
Spence
Stuckey
Symington
Symms
Thornton
Van Deerlin
Waggonner
Wampler
White
Whitehurst
Whitten
Wilson, C. H.
Wright
Young, Fla.
Young, Tex.

NOT VOTING—44

Abzug
Badillo
Burgener
Burton, Phillip
Chisholm
Clausen, Don H.
Conlan
de la Garza
Early
Esch
Evins, Tenn.
Green
Hawkins
Hays, Ohio
Hébert
Heinz
Hinshaw
Howe
Johnson, Pa.
Jones, Tenn.
Lehman
McCloskey
McKinney
Martin
Moorhead, Calif.
Mosher
Nolan
Peyser
Poage
Railsback
Riegle
Rose
Russo
Sisk
Smith, Iowa
Stanton, James V.
Steelman
Steiger, Ariz.
Talcott
Teague
Traxler
Waxman
Wylie
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Badillo for, with Mr. Hébert against.

Ms. Abzug for, with Mr. Howe against.

Mrs. Chisholm for, with Mr. Teague against.

Mr. Lehman for, with Mr. Johnson of Pennsylvania against.

Mr. Hawkins for, with Mr. Wylie against.

Mr. Russo for, with Mr. Young of Alaska against.

Mr. Phillip Burton for, with Mr. Jones of Tennessee against.

Mr. James V. Stanton for, with Mr. Evins of Tennessee against.

Until further notice:

Mr. Burgener with Mr. Don H. Clausen.
Mr. Conlan with Mr. de la Garza.
Mr. Early with Mr. Esch.
Mr. Green with Mr. Traxler.
Mr. Heinz with Mr. Martin.
Mr. McCloskey with Mr. McKinney.
Mr. Nolan with Mr. Moorhead of California.
Mr. Peyser with Mr. Mosher.
Mr. Riegle with Mr. Rose.
Mr. Steiger of Arizona with Mr. Sisk.
Mr. Smith of Iowa with Mr. Steelman.
Mr. Waxman with Mr. Talcott.

Mr. MITCHELL of Maryland and Mr. LAGOMARSINO changed their vote from "nay" to "yea."

Mr. KELLY changed his vote from "yea" to "nay."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees: Messrs. Henderson, Udall, Nix, Hanley, Ford of Michigan, Derwinski, and Johnson of Pennsylvania.

GENERAL LEAVE

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent that all Members may have permission to revise and extend their remarks during the debate prior to the preceding vote that was just announced.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO HAVE UNTIL MIDNIGHT TOMORROW, FRIDAY, AUGUST 27, 1976, TO FILE A REPORT ON H.R. 13089

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tomorrow, Friday, August 27, 1976, to file a report on the bill (H.R. 13089) Daylight Savings Time Act of 1976.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia.

There was no objection.

SUPPLEMENTAL SECURITY INCOME AMENDMENTS OF 1976

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1467 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1467

Resolved, That upon the adoption of this resolution, it shall be in order to move, section 401(b) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8911) to amend title XVI of the Social Security Act to make needed improvements in the program of supplemental security income benefits. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider, section 303(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, an amendment in the nature of a substitute consisting of the text of the bill H.R. 15080 and said substitute shall be considered as an original bill for the purpose of amendment under the five-minute rule. No amendment shall be in order to the bill or to said substitute except amendments offered by direction of the Committee on Ways and Means and germane amendments printed in the Congressional Record at least two legislative days prior to the consideration of said bill for amendment, but said amendments shall not be subject to amendment except those offered by direction of the Committee on Ways and Means and pro forma amendments. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. McFall). The gentleman from Massachusetts (Mr. Moakley) is recognized for one hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. Lott), pending which I yield myself such time as I may consume.

Mr. Speaker, the resolution provides for the consideration of the bill (H.R. 8911) to amend title XVI of the Social Security Act.

The bill makes a number of modifications in the supplemental security income program.

Mr. Speaker, the rule provides 2 hours of general debate and provides for a clean bill (H.R. 15080) to be in order as an amendment in the nature of a substitute. The rule provides that this text shall be considered as an original bill for the purpose of amendment.

I should make the situation clear in this respect. The only purpose of this provision is to provide for more orderly consideration.

Mr. Speaker, this is an open rule to the extent that it permits the offering of any amendment printed in the Record at least 2 legislative days prior to consideration of the bill. The rule also permits amendments offered by direction of the Committee on Ways and Means. It does not permit amendments to amendments.

It was the opinion of the Committee on Ways and Means that the House should have an opportunity to work its will but that the law being amended was so complex and involves such large funding that the committee needed adequate time to review any proposed amendments. The Committee on Rules concurred and recommended this rule as a fair procedure for protecting the right of Members to offer amendments while meeting the committee's concern.

The resolution contains a purely technical waiver of section 401(b) of the Budget Act. The bill which is being called up (H.R. 8911) provides entitlements taking effect before October 1. But the actual text which will be before the House (H.R. 15080) is in compliance with section 401.

The resolution does waive section 303(a) of the Budget Act and this is an actual waiver. The committee substitute contains language which will include Puerto Rico, the Virgin Islands, and Guam under the SSI program effective at the beginning of fiscal year 1978.

Section 303 would not normally permit the enactment of legislation providing new entitlement authority until adoption of the first concurrent resolution on the budget for that year.

But, Mr. Speaker, the Budget Act contains procedures for waiver of section 303 recognizing that there are some programs which justify—and even require—this kind of lead time. The Budget Committee agrees that this provision is such a case and has no objection to a waiver of section 303(a).

Mr. Speaker, the rule provides a fair and orderly method for the consideration of an important bill and I urge its adoption.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule makes in order the consideration of H.R. 8911, the supplemental security income amendments of 1976, notwithstanding the bill's violation of section 401(b) of the Congressional Budget Act, which relates to entitlements. There is to be 2 hours of general debate, and the bill is to be read for amendment under the 5-minute rule.

The rule also makes it in order to consider an amendment in the nature of a substitute consisting of the text of H.R. 15080, the supplemental security income amendments, nothwithstanding its violation of section 303(a) of the Congressional Budget Act, which deals with new spending authority. This substitute is to be considered as an original bill for purposes of amendment under the 5-minute rule.

No amendment will be in order to the bill or to the substitute except amendments offered by direction of the Committee on Ways and Means and germane amendments printed in the CONGRESSIONAL RECORD at least 2 legislative days prior to consideration of the bill for amendment. However, these amendments will not be subject to amendment except those offered by direction of the Committee on Ways and Means and pro forma amendments.

H.R. 8911 includes 17 sections amending various provisions of title XVI of the Social Security Act to make needed improvements in the program of supplemental security income benefits. This program, of course, administers payments to the poor, aged, blind, and disabled persons in all 50 States. The legislation to be debated pursuant to this rule, among other things, also would extend the SSI program to Puerto Rico, Guam, and the Virgin Islands.

Mr. Speaker, I urge its adoption of the rule at this time so that we may proceed to consider and pass the supplemental security income amendments of 1976.

Mr. Speaker, I have no requests for time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LEVITAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 380, nays 0, not voting 51, as follows:

[Roll No. 664]

YEAS—380

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madden
Madigan
Maguire
Mahon
Mann
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Nebr.
Snyder
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wydler
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—51

Abzug
Badillo
Brown, Calif.
Burgener
Burton, John
Burton, Phillip
Chisholm
Clausen, Don H.
Conlan
de la Garza
Early
Esch
Evins, Tenn.
Fuqua
Green
Hays, Ohio
Hébert
Heinz
Henderson
Hinshaw
Howe
Johnson, Pa.
Jones, Tenn.
Leggett
Lehman
McCloskey
McKinney
Martin
Moorhead, Calif.
Mosher
Nichols
Peyser
Poage
Riegle
Rose
Rousselot
Russo
Sisk
Smith, Iowa
Spence
Stanton, James V.
Steelman
Steiger, Ariz.
Stuckey
Talcott
Teague
Waxman
Wolff
Wright
Wylie
Young, Alaska

The Clerk announced the following pairs:

Mr. Teague with Mr. Wylie.

Mr. Wolff with Mr. Peyser.

Mr. Nichols with Mr. Riegle.

Mr. Badillo with Mr. Green.

Mr. Hébert with Mr. Hays of Ohio.

Mr. Fuqua with Mr. Conlan.

Mr. Early with Mr. Esch.

Mr. de la Garza with Mr. Brown of California.

Ms. Chisholm with Mr. Evins of Tennessee.

Mr. Phillip Burton with Mr. Heinz.

Ms. Abzug with Mr. Howe.

Mr. Jones of Tennessee with Mr. Johnson of Pennsylvania.

Mr. John Burton with Mr. Mosher.

Mr. Henderson with Mr. Burgener.

Mr. Smith of Iowa with Mr. Moorhead of California.

Mr. Russo with Mr. Morton.

Mr. Rose with Mr. Rousselot.

Mr. Stuckey with Mr. Don H. Clausen.

Mr. Waxman with Mr. Spence.

Mr. Wright with Mr. McCloskey.

Mr. Lehman with Mr. McKinney.

Mr. Leggett with Mr. Steelman.

Mr. Sisk with Mr. James V. Stanton.

Mr. Young of Alaska with Mr. Steiger of Arizona.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. CORMAN. Mr. Speaker, I move

that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8911) to amend title XVI of the Social Security Act to make needed improvements in the program of supplemental security income benefits.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. CORMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8911, with Mr. BERGLAND in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. CORMAN) will be recognized for 1 hour, and the gentleman from Michigan (Mr. VANDER JAGT) will be recognized for 1 hour.

The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, last September, the Public Assistance Chairman requested the Ways and Means Oversight Subcommittee to begin a "review in considerable depth of the Social Security Administration's arrangements for administration of the supplemental security income program." Citing serious problems in SSI error rates, delays in processing applications for SSI, and insufficient outreach to potentially eligible beneficiaries, it was recommended that the Oversight Subcommittee examine, in particular depth, problems in staffing, computer operations, and Social Security systems for providing the States with necessary data to help them in maintaining their medicaid and State supplementation rolls.

The Oversight Subcommittee has held eight hearings and has two more scheduled for the near future on the SSI program, and has also made one field visit to observe the SSI computer operations at Baltimore. Additional hearings are scheduled in New York City and Washington this September.

Further hearings will be scheduled as specific problems are identified. The Oversight Subcommittee issued an interim report to the Public Assistance Subcommittee on November 21, 1975. In addition, the SSA initiated SSI study group issued its report on January 26, 1976 and SSA has said it will adopt 69 of the study group's 71 administrative recommendations. Also, the GAO is currently involved in 12 major SSI studies. The staff of the Senate Finance Committee has also made a major study and will be issuing its report shortly.

In short, there has been the most intensive oversight and study of the problems of the SSI program. The program is being watched very closely.

As I wrote to Chairman CORMAN at the end of last November, H.R. 8911 should "not await a final report from the Subcommittee on Oversight" since many of the problems being studied by the Oversight Subcommittee are extremely long range, and particularly in the computer systems area, extend to management problems far outside of the SSI program.

Those portions of H.R. 8911 which will simplify the administration of the program will help reduce error rates and help improve SSI operations and, therefore, I strongly urge the passage of this legislation.

The Oversight Subcommittee believes that improvements are being made. While a great deal more needs to be done to improve the administration of the program and while everyone could wish that the rate of improvement was faster, it is obvious that top management at the Social Security Administration has made a vigorous commitment to improving the program. Continuing Oversight hearings will be held to insure that promises by Social Security management for specific changes in administrative practices are carried out in a prompt and vigorous manner.

The following types of changes are underway which the Oversight Subcommittee believes will help make the SSI program a quality operation:

STAFFING

In the first 2 years of the program, SSA relied in part on thousands of temporary or short-term employees to assist in processing the millions of SSI cases. The attrition or turnover rate among these nonpermanent workers averaged about 40 percent and resulted in wasted training, poor morale, and inaccurate service to SSI and more traditional Social Security beneficiaries. These short-term positions have been converted into permanent positions this summer. This should result in a restoration of a high quality, well-trained professional Social Security Administration work force which will be able to reduce the number of SSI errors.

In the past, each Social Security employee has been expected to "know" the full range of SSA programs—retirement, survivors, disability, medicare, and most recently, SSI. The Oversight Subcommittee found most district office employees and managers despaired of being able to master all the regulations and guidelines for all of these complex programs. As a result of our hearings, Social Security management is making a good faith effort to experiment with employee specialization in the larger urban offices and this will help reduce error levels in all SSA programs.

COMPUTERS

Many of the SSI problems were caused by the failure of Social Security computers to be in place and in operation at the start of the program. That problem is pretty much solved. Of 24 computer systems needed to efficiently run the program, 20 of the systems, including all the major ones, are operating. The other four systems will be coming along in the next few months. The GAO will issue a report in a few days indicating the need to check SSI benefit lists against Veterans' Administration beneficiary lists. This will be done in the relatively near future.

In studying the SSI program, we uncovered a number of problems with Social Security computer operations. As a result of our criticisms, Social Security has three major consultant studies underway and has already taken one major employee action to increase employee efficiency by insuring better overlap of computer room work shifts.

CONCLUSION

Changes are being made. There has been a great deal of adjustment in top management at SSA; people have been removed for inefficiency and we hope that new personnel will bring new perspective and directions to the administration of the SSI program. SSA has made commitments to the Public Assistance Subcommittee concerning establishing goals for speeding the processing of SSI claims. According to testimony before Oversight, those goals are being met.

Finally, in the well-publicized matter of error rates, there has been a very gradual decline in the case error percentage rate. We should remember, however, that the very high case error rate of around 24 percent is often understood by the public to imply that 24 percent of the SSI payments are erroneous or are wasted. In fact, the dollar error rate is about 8 percent. Many of the case errors are not really dollar errors but technical errors which, when reported, convey the impression that the program is in extremely serious trouble—yet, which really cost the public nothing. While still unacceptable, the dollar error rate figure may be a more realistic measure of the program's problems. Social Security Commissioner James B. Cardwell has given us a timetable for error reduction, and I believe that the full resources of the Social Security Administration are committed to the meeting of that timetable.

The Oversight Subcommittee reported last November to the Public Assistance Subcommittee, that improvements are being made. In my opinion, our subsequent hearings have supported this statement and have helped insure that error reductions will be accomplished. I have been one of the strongest critics of the Social Security Administration, but I want to say now that H.R. 8911 does nothing to interfere with that goal, and, indeed, has many provisions which will help speed along the improvement in the program. I again urge the passage of this legislation.

Mr. VANDER JAGT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to rise in support of H.R. 8911 as reported to the House of Representatives by the Committee on Ways and Means. These proposed amendments to title XVI of the Social Security Act reflect substantial testimony received by the Subcommittee on Public Assistance in June 1975, in the course of the first major review of the new supplemental security income program. The

Ways and Means Committee carefully examined the subcommittee's proposals in 5 days of debate and markup on H.R. 8911.

Mr. Chairman, as of March 1976, SSI was serving 4,318,967 persons, of whom slightly more than 2 million were eligible on account of age, slightly less than 2 million due to disability, and about 75,000 because of blindness. Payments in the month of March for SSI totaled $493,935,000, of which the Federal share was $374,173,000.

Of the 20 substantive sections of the bill which the subcommittee reported to the full committee, the Department of Health, Education, and Welfare actively sought 7 in order to improve the administration of SSI. Other provisions had the support of the Department by virtue of their consistency with the underlying principles of SSI, despite the administrative complexities which they could create. Still other provisions were opposed by the administration and minority members, primarily as a result of their cost.

During the full committee markup, almost all of the elements to which the administration objected were stricken. The only provision in the bill before you to which the administration remains strongly opposed is section 9, which would extend the SSI program to Puerto Rico, Guam, and the Virgin Islands, a proposal which won House approval when the original SSI legislation was being considered. The Ways and Means Committee amended the subcommittee's language on this matter so as to delay its implementation until October 1977, thereby avoiding any impact upon the Federal budget in the coming year. It should be noted, however, that the committee report includes a forecasted cost of $160 million for this additional SSI coverage in fiscal 1978, and $180 million by 1981.

Mr. Chairman, I believe that the amendments to SSI which the Ways and Means Committee brings to the floor at this time generally are constructive, and that they will strengthen the administration of this important program, to the benefit of millions of deserving citizens. I urge my colleagues to support this legislation.

Mr. CORMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the bill, H.R. 8911, which would make some 15 changes in the supplemental security income program.

This bill is the most comprehensive one in the area of the supplemental security income program that the Congress has considered since the program was established by Public Law 92–603 in 1972. The program, as you may recall, became effective January 1, 1974. We have met a number of crisis situations as they came along but no comprehensive look at the program was taken until 10 days of public hearings before the Subcommittee on Public Assistance in June 1975. From those hearings and from the bills that had been introduced and the ideas that were contributed by Members and others, the Subcommittee on Public Assistance fashioned a bill. This bill was thoroughly considered in several days of markup sessions in the full Committee on Way and Means and what you have before you represents the results of that consideration.

A number of the changes that would be made by H.R. 8911 were designed to improve and simplfy the administration of the act, others are designed to correct inadequacies and serious gaps which experience has demonstrated exist in the way the program is operating.

I would like to describe to you the 15 changes that would be made by the bill.

The first of these related to initial payments to presumptively blind individuals. When the original SSI law was passed it was assumed that the determination of blindness could be made quickly and that it would not be necessary to provide more than 1 month in which to make such a determination. We did permit a period of up to 3 months in the case of disabled persons with disabilities other than blindness. However, experience has shown that in some instances it is difficult to obtain appointments to secure a determination of visual acuity and that steps to insure that other diseases of the eye are not present are sometimes not permitted within this time frame. We would accordingly extend the period in which a person may be presumed blind if the information he is able to supply supports that presumption. A blind person could be presumed disabled on the same basis as a person with any other disability.

The next change which we would make is related to blind or disabled children between the ages of 18 and 21. As the law stands, a child between 18 and 21 who is in school or taking a course or training is deemed to be a child up to age 21. However, if he does nothing he is treated as an adult at age 18. This has been criticized as a deterrent to further training for blind and disabled children. Obvious inequities arise from the provision which was tailored for the family assistance plan that never became law. We have corrected this by placing all persons over 18 on the same basis and treating them as adults. At the same time we have carefully preserved existing exemptions for persons who are taking training beyond the age of 18. Through this amendment we eliminate the attribution of family income to children who desire to take training after age 18.

The next provision of the bill is concerned with disabled individuals under age 13. Under existing law all disabled persons regardless of age are referred to vocational rehabilitation agencies for determination of disability and for whatever services may be appropriate. It has been pointed out that in the case of children under 13, this is not a logical referral. After consideration the committee concluded that the best way to handle these children who are not ready for vocational training was through the agencies responsible for maternal and child health and crippled children services. The Social Security Administration advised us that it would make referrals to any one agency but was not in a position to select the agency which would best serve the child's needs. After careful consideration and discussion with the Administration this selection was made, using the crippled children services primarily, which enjoy an excellent reputation. The bill would provide that the Federal Government would reimburse half of the costs of any services provided to the child.

The next provision of the bill deals with Outreach. There has been a great deal of complaint that the SSI program has left many persons who were eligible for its benefits without knowledge of the availability of the program. In consultation with the Administration we carefully selected only those things which we *think* are a necessary part of Outreach and which the Administration advises are consistent with its objectives.

Another provision of the bill deals with the modification of existing requirements for payments to be made to a third party, when anyone is disabled as a result of alcoholism or drug addiction. This has been a very difficult requirement for the administrative agency to meet. In highly populated metropolitan areas there has simply been no one who would undertake to serve as a third party payee for large numbers of the persons involved. Your committee's bill would accordingly amend the law to provide that if the chief medical officer of the institution or facility where the individual is undergoing treatment certifies that payments of benefits directly would be of significant therapeutic value, and that there is substantial reason to believe that he would not misuse or improperly spend the funds, the payments can be made directly. We believe that with these safeguards, direct payments can be made in some cases and that they may promote successful rehabilitation.

The next provision of the bill deals with persons living on the border of the United States in areas where hospitalization is normally obtained across the Canadian or Mexican border. We have adopted in the bill the same provisions that were included in the medicare program some years ago and which apparently are satisfactory.

The next provision of the bill deals with the exclusion of certain gifts and inheritances from income. Normally receipts of cash including gifts, inheritances, prizes and similar items are counted as income in the month that they are received and to the extent that they not expended in that month become resources in later months. This has produced problems when an inheritance or gift is not in the form of cash.

Inheritance of antique furniture from a relative might well disqualify the persons from benefits, if the value were considered as income in the month the furniture is received and yet a reasonable cash value might not be available. In such an instance the individual or spouse might be deprived of food because of his acquisition. The law makes provision for the orderly disposition of resources. Your committee accordingly proposed to treat gifts or inheritances which are not readily convertible into cash only as resources and not as income in the month in which they are received. This is consistent with the treatment of other items under the program.

The next provision of the bill would extend SSI benefits to Puerto Rico, Guam and the Virgin Islands. When the House originally considered the SSI program, its bill H.R. 1, in the 92d Congress included provisions for these jurisdictions, with the benefit levels and other dollar figures adjusted in relation to per capita income of the jurisdiction as compared with the lowest per capita income State. The provision was not included by the Senate and was not accepted in conference. Accordingly, these jurisdictions provide benefits on a matching basis under a strictly limited dollar amount to their needy, aged, blind, and disabled. This seems obviously inequitable. The Social Security Administration advises that it will take at least a year to be prepared to administer SSI benefits in these jurisdictions. Accordingly, the bill would make the provision effective October 1, 1977.

The next provision of the bill would increase payments to presumptively eligible individuals. Existing law makes provision for an emergency payment of $100 were an individual appears to be eligible. However, experience has demonstrated that it is frequently several months before an initial payment is made. Your committee's bill would accordingly make several changes; it would increase the $100 amount to the amount for which the applicant is presumptively eligible, and increase the time limitation to a period of 90 days. However, because many applications are still slow to be acted upon the 90-day period would not be in effect until 1 year elapsed from the date of enactment. During that year presumptive eligibility payments could be made for as long as necessary. Beginning 12 months after date of enactment, the 3-month limitation would be applicable.

The next provision of the bill deals with emergency replacement of benefits payments. One of the most widespread complaints about the SSI program has been the number of persons who have been placed in desperate need by the failure of checks to arrive, due to their having been lost, stolen, or undelivered. Your committee understands the Treasury Department has expedited procedures and is in a position to issue duplicate checks in the period of 7 to 10 days. However, even this lapse of time can cause serious hardships for a needy individual. H.R. 8911, would accordingly propose to change the law to provide that the duplicate check could be sent to a State agency which had an agreement with the Secretary and which had issued an emergency payment to replace the lost, stolen, or undelivered check. The same provisions would apply to checks for less than the correct amount.

If the check itself is for a larger amount than the amount of emergency assistance which the State supplied the balance would have to be transmitted promptly to the SSI beneficiary. The procedure is similar to the provisions enacted for reimbursement of a State for interim assistance provided to an individual who has applied for SSI benefits but has not yet been approved as eligible to receive benefits.

The next provision deals with the evaluation of an individual's home for purposes of resources test. Existing law provides that a home is exempt so long as its value does not exceed a reasonable amount determined by the Secretary. H.R. 8911 would modify this, to the extent that the value considered could be either the current market value or the purchase price, whichever is lower. The Secretary of HEW would be left the responsibility for fixing a limit on value. However, the election of purchase price or market value solves the problems arising from inflation, increasing assessment and other changes which can deprive an individual of his SSI benefits. The amendment would also permit persons whose homes are located on ground that might be valuable for commercial purposes, or other reasons not associated with living there of an opportunity to continue to live there without the value of the land for other uses being taken into account.

The next provision of the bill deals with determination of mandatory minimum State supplementation in certain cases. Public Law 93-66, enacted in 1973, provides that an individual is guaranteed the same amount of income which he received in December 1973, if his own needs and situation are unchanged. This has resulted in higher payments than would have otherwise been received for a substantial number of beneficiaries.

H.R. 8911, would eliminate the requirement that the December 1973 level of income be guaranteed for the indefinite future, and would permit the Social Security Administration to stop maintaining such records when they are no longer beneficial to the individual. This might in a few instances prove detrimental because of future individual situations but it is believed that the administrative savings and simplification of the program well warrants a very small risk.

The next provision of the bill deals with the monthly computation for determination of SSI benefits. Under existing law benefits are determined for a calendar quarter—except the quarter in which an initial application is made—thus averaging income and expenses over a 3-month perod. In some instances this represents a hardship to the individual beneficiary as a substantial change in situation may occur in the last month of the calendar quarter and not receive more than partial recognition. The longer the time period involved, the less sensitive the program is to the fluctuation in individual need, the Department of Health, Education, and Welfare, advises that it is entirely feasible to make the determination of benefits for each month rather than for a 3-month period. This does not imply that the actual determination would be made each month but rather than the computation will be made for a monthly rather than a quarterly period. H.R. 8911 provides for a monthly computation.

The next provision deals with the eligibility of individuals in certain medical institutions. Under existing law, when an individual enters a hospital or other medical institution in which a major part of the bill is paid by the medicaid program, the benefit under SSI is reduced from its usual level to an amount not in excess of $25 per month. This is intended to take care of personal expenses since the costs of maintenance and medical care are provided through other programs. In the case of individuals having other income such as social security benefits no SSI is payable when the total or such other income exceeds $45 per month. It is been pointed out that an individual entering a hospital frequently has a household to be maintained if he is going to return to the community, expenses of shelter and other items do not stop because an individual is institutionalized for a relatively short period of time. The existing provision which makes only a small benefit available for any full month that the beneficiary is in a medical institution can defeat its purpose and make more difficult the subsequent return to community living. H.R. 8911, accordingly extends the period to "the period ending with the third consecutive month throughout which he is in such hospital or facility." During that 3-month period his eligibility and benefit amount would determined as though he continued to live outside the institution under the same conditions that existed prior to his entry. Since the purpose of the amendment is to make provision for needs which are ongoing during a short period of institutionalization, it is not the committee's intent that the larger payment for 3 months period be considered income for purposes of the medicaid program.

The final provision of the bill deals with the exclusion of certain assistance based on need. The original SSI law excluded from income assistance based on need, provided by the State or local public assistance agencies. A 1974 amendment extended this exclusion to support or maintenance provided by a nonprofit institution or by a charitable or philanthropic agency to an indivdual who is a resident of a nonprofit retirement home or similar institution. Considerable testimony was received and legislation has been introduced which would extend the exclusion of income for charitable organizations which was provided on the basis of need to individuals whether or not they live in institutions. H.R. 8911 contains such a provision. The bill would exclude such assistance furnished by any private entity described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such code. The provision would not be applicable to situations in which the institution or agency has an obligation to provide such assistance. Such situations would be primarily those where for a monetary or other consideration the agency has an obligation to provide such assistance. Such situations would be primarily those where for a monetary or other consideration the agency has undertaken to provide for full or partial lifetime care.

The effective dates in the bill are in general either the second month after enactment or October 1, 1976, whichever is later. An exception is made in the case of the extension of SSI to Puerto Rico, Guam and the Virgin Islands, for which the effective date would be October 1, 1977.

The total cost of the bill as estimated by the Department of Health, Education, and Welfare and the Office of Management and Budget an estimate which the Congressional Budget Office concluded is reasonable totals $69.5 million for the fiscal year 1977. This is broken down into $2 million for the provisions on presumptively disability for the blind, $55 million, the bulk of the total cost, for the provision of health services to disabled children, $4 million for the changes in procedure for evaluating a home, and $8.5 million for the more liberal treatment of individuals entering hospitals or medical institutions. The amount would increase substantially in 1978 when the coverage for Puerto Rico, Guam, and the Virgin Islands would become effective. The estimated cost of providing benefits in these jurisdictions is $160 million bringing the total cost to $235 million for the fiscal year beginning October 1, 1977.

After H.R. 8911 had been reported from the Committee on Ways and Means, the committee adopted a committee amendment which was originally offered by Ms. Keys. This amendment is part of the clean text of H.R. 15080 which I will shortly offer as a substitute for H.R. 8911 as reported. The amendment does three things.

First, it provides that publicly operated community residences with no more than 16 residents, shall not be deemed public institutions in which individuals are ineligible for Supplemental Security Income benefits. This would make provision for the mentally retarded and other groups who need supportive care to receive it in a group home of which there are now several hundred in the United States, some public and some private.

Second, the amendments would provide that State or local government subsidies to a home, public or private, would not result in the SSI benefits being reduced.

Finally, the amendment would permit States to establish standards for residential care institutions without including the nurses and other medical components, which are now required by law if SSI benefits are to be supplemented. The provision would require that States set standards and enforce them, publish their standards and any violations. It would not give the Federal Government any control over what those standards are. I believe this is a very desirable amendment to the present program.

The cost of this amendment is estimated at $16 million a year.

Mr. Chairman, I feel that H.R. 8911, makes many meritorious changes which will be of great assistance to the needy, aged, blind, and disabled who are beneficiaries under the SSI program and at the same time it would greatly simplify, the administration of the program. I believe that the bill warrants the enthusiastic support of the Members of this House.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I have been very disturbed by situations that have arisen in my State. I thought the gentleman said section 7 referred to this.

Mr. Chairman, a rise in one benefit results in either a diminution of another benefit or, in some cases, complete loss. For example, consider the effect on a program like medicaid, which is tied to an income level—does the gentleman understand what I am getting at?

Mr. CORMAN. I do, and the gentlewoman, I am sure, will be on the floor to support one of the Pickle amendments as it deals with that problem, as it relates to medicaid; and also support for the Fraser amendment which has to do with required pass-through of SSI cost-of-living increases.

Mrs. FENWICK. Will those two stop what I am talking about? I know of a case of a totally disabled man who is 48 years old, whose rise in other Federal benefits brought him $3 over the income level allowed for medicaid and so denied him medical assistance.

Mr. CORMAN. It will stop that in many instances in the case of social security benefit increases.

Mrs. FENWICK. Would not it be possible to say that any rise in any of these systems shall not disqualify a person who has been receiving benefits previous to this change? Would that not be a simple thing, across the board?

Mr. CORMAN. Yes. It would solve the problem as to increases in any kind of Federal benefits. We can and will try at least to prevent its happening in Federal programs in the future.

Mrs. FENWICK. I thank the gentleman.

Mr. CORMAN. If we get through the debate, I am going to ask unanimous consent first that the substitute be considered—which is provided in the rule. Then, I will ask unanimous consent that the bill be considered as read and open to amendment at any point. If this request is granted, I would notify Members that the amendments will be taken up in this order, which I have discussed with both the minority leadership and with the Members offering the amendments:

The first bloc of amendments will deal with housing. The first to be offered will be by the gentleman from California (Mr. Ketchum). I sincerely hope it passes. If it fails, there will be an amendment offered by the gentleman from Virginia (Mr. Harris), which deals with the same subject matter, although I would suggest not in quite as good a manner as the Ketchum amendment.

The next amendment is a housing allowance which would provide that the Federal portion of SSI benefits would be increased up to $50 a month for those who are paying more than one-third of their income for housing. It is an expensive amendment, but it is one that is completely fair and humane. I recognize the budgetary problems it imposes on us, but I hope the Members listen to those who advocate that amendment and that we think about the people we are talking about and the bind they are in.

The next are two amendments to be offered by the gentleman from Texas (Mr. Pickle), one having to do with a couple when one is in an institution, and the other having to do with what the gentlewoman from New Jersey talked about, relating to medicaid.

The next amendment is by the gentleman from Illinois (Mr. Mikva). It has to do with the services for disabled children. It would reduce the amount of money for that program from $55 million to $18 million. I hope it is defeated.

I will offer an amendment which has to do with housing subsidies. The law is that people who are getting subsidized housing have it counted against their cash payments. We changed that law, effective October 1, but at least in California—and I suspect soon in other States—SSA is going back and review its records to see if it made a mistake by overpaying people getting subsidized rent. If they did, they will then cut their cash payments. That panics people living on very, very little, to hear that they will soon lose a substantial portion of the amount they are getting. I hope that amendment carries.

The last amendment, and one which will be offered on Monday, is by the gentleman from Minnesota (Mr. Fraser) and the gentleman from Massachusetts (Mr. O'Neill). It is tremendously important. It is a fundamental decision for the House to make, and it is whether or not we will require States to pass through to the SSI recipients cost-of-living increases in SSI. It costs the Federal Government very little. It insures that when we determine that there should be a cost-of-living adjustment, that adjustment will be made for each SSI recipient in the Nation. I say it costs very little. There are still three hold-harmless States. There will be about a $1.9 million cost for the first year, to provide that that passthrough will cost the State in the hold-harmless category no additional money. The House should understand that in requiring the passthrough of Federal SSI increases it does not increase the costs to the States. It prohibits the States from reducing their costs by stopping the increase at the State Treasury instead of passing it on to the tables of the poor.

That is the order that I hope the amendments will be considered, and I have the assurance of those who will be offering them.

Mr. VANDER JAGT. Mr. Chairman, I yield 5 minutes to the very able member of the Subcommittee on Public Assistance, the gentleman from California (Mr. Ketchum).

Mr. KETCHUM. Mr. Chairman, I think one of the problems with an SSI program, or any welfare program, as far as that is concerned, is the somewhat of a vacuum in which we operate, where we seldom really realize, when we are making changes, what that reaction is going to be on down the line.

One of the reasons that we operate in such a vacuum is that there are very few Members of any legislative body—and this one is no exception—that are interested enough in these kinds of problems to try to understand them, to try to make them workable, to try to insure that the dollars of the taxpayers spent for these programs reach the very people that they were designed to reach, rather than to get all scraped off at the top, as we so often do.

The bill which the Subcommittee on Public Assistance brings us is, I think, the very best effort that we could possibly come up with, given the circumstances.

The Committee on Ways and Means, as the Members know, meets Tuesdays, Wednesdays, Thursdays, and any other time that they can think of, even if it is just for practice; so that the subcommittees of the Committee on Ways and Means have a very, very miniscule amount of time in which to meet, and it is usually on Mondays and Fridays. Most of us know how popular those days are for meetings.

I really think that the Subcommittee on Public Assistance has done a rather outstanding job in attempting to solve some of the problems.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. Certainly, I yield to the gentleman from California.

Mr. CORMAN. Mr. Chairman, I rise primarily for the purpose of saying that the gentleman has called to the attention of this House and, I am sure, to the chairman of our committee, a very severe problem. It is a problem that the subcommittee has had to face. It has taken the patience of Job on the part of the members to try to find times and places to meet.

I wish at this point to thank all the Members for accommodating the subcommittee in that respect. The gentleman points up a problem that we need to solve in the next Congress.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman. This is not a problem just for the Subcommittee on Public Assistance, but it is a problem of other subcommittees of the Committee on Ways and Means as well. I think we all attempt to do our best to solve our problems.

There are some provisions of this bill that I would like personally to have seen remain in the bill. The budgetary restraints are, of course, to be considered, and there are going to be, as we know, and as the gentleman from California (Mr. CORMAN) has announced, some amendments offered to the bill, some of which I will support and some of which I will not. But those should be debated and our priorities established.

My good friend, the ranking minority member of the subcommittee, the gentleman from Michigan (Mr. VANDER JAGT), indicated that one of the provisions in this bill is opposed by the administration. That is the inclusion of Guam, the Virgin Islands, and Puerto Rico, bringing them under the SSI program. For myself and speaking only on behalf of myself, I support the inclusion of those territories. I need not remind the body that the individuals residing in those territories are U.S. citizens, just as are all the other people of these great United States.

I would further state that the numbers of people we are going to be dealing with is minor, when compared to the whole program. I have some problems with SSI as it applies to the disabled. I think we have gone far afield, not only in this bill but in the SSI program itself, in establishing just who the disabled are.

Most of us, prior to the federalization of this mentally retarded, the insane, and those individuals who had lost arms or legs or who were truly physically disabled. Some of us really did not feel that drug addicts or alcoholics should be part of this program, that they should be beneficiaries of other programs aside from this.

For that reason, it is difficult from time to time to get some of these bills passed.

Mr. Chairman, I would like to address myself briefly to some of the means test, and that is the subject which was brought up by the gentlewoman from New Jersey (Mrs. FENWICK). This is a real problem.

As a part of the means test, of course, assets are added. If an individual has a certain amount of money in the bank, say $1,500 as an example, which might represent his or her lifetime savings, he or she may not be eligible for SSI, and they must divest themselves of that small amount of money that they may have put away in the bank for burial expenses in order to be eligible. I share the gentlewoman's concern, and I hope we have an opportunity to address ourselves to that issue later.

The passthrough amendment which will be offered, I believe, on Monday, as was indicated, will be perhaps the most controversial of all the amendments that are offered to this bill. I happen to be a proponent of passthrough. Those of us who were on the House floor here a couple of weeks ago, when we discussed the California food stamp bill, should certainly be aware that that is what we were arguing about. We wanted to insure that any Federal increase be passed on to those individuals in three categories: The aged, the blind, and the disabled. There is going to be a rather substantial argument, I know, on the floor as to that particular amendment.

The amendment which I will offer has to do with housing disregard, which is also a part of the means test. We are talking primarily about aged people now. If the houses that those individuals reside in have achieved a value of $25,000 or if they are over that value, those individuals are not eligible for SSI. It really seems ridiculous to me, because the value of houses inflates just as everything else does. I am convinced that the elimination of the housing requirement as a part of the means test to establish eligibility will actually result in a rather substantial administrative cost savings to the Federal Government.

Mr. Chairman, I certainly hope that it will pass. I have indications from both the chairman of the subcommittee and the ranking minority member that that amendment will be adopted.

I really hope, Mr. Chairman, that before we are through, we will be able to get a few more Members on this floor, particularly those individuals who perpetually criticize the welfare system and do not know the first darn thing about it. No one has to overspend in a welfare program, but one does have to understand it. We are not doing a very good job in a lot of areas, and the reason we are not is that we continue to operate in the fashion to which I alluded earlier.

I thank you, Mr. Chairman, for the time. I hope that this bill will pass and that some of the amendments, at least, will be achieved.

Mr. VANDER JAGT. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman and Members of the body, the remarks of the gentleman from California (Mr. KETCHUM) and the remarks of the chairman reminded me all over again of just how very difficult it was to find the time and place to grapple with the very difficult and complex problems.

Mr. Chairman, I would like to add my word of commendation not only to the chairman for the great job he did, but to every member of the subcommittee and to the staff, both majority and minority. Because of the cooperation of everyone, I think the work product before this body is, as the gentleman from California said, as outstanding as could be expected under all of the circumstances.

Mr. Chairman, I have no further requests for time.

Mr. CORMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do want to express my appreciation to the gentleman from California (Mr. KETCHUM) because he knows considerably more about the operation of these programs than many of us do, because he had responsibilities for those areas in the State legislature in California.

When he mentioned Guam, I was reminded that I first met him there 32 years ago when his uniform was so muddy that I failed to recognize him.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I thank the very distinguished gentleman for yielding.

I have asked for this time for the purpose of asking two questions. Before I do so, I also wish to thank the chairman and the committee for addressing themselves to this work. I know it was not easy, and I compliment all of them.

The first question is: Will this result in any substantial reduction in the rolls of those presently on SSI?

Mr. CORMAN. No.

Mr. GONZALEZ. Second, I refer to section 1614 in the committee report, on page 30, headed, "Determination of Marital Relations," which reads:

> In determining whether two individuals are husband and wife for the purposes of this title, appropriate State law shall be applied except that—
>
> (1) if a man and woman have been determined to be husband and wife under section 216(h)(1) for purposes of title II they shall be considered . . .

Paragraph 2 reads:

> If a man and woman are found to be holding themselves out to the community in which they reside as husband and wife, they shall be so considered for purposes of this title not withstanding any other provision of this section.

Does that do anything to any existing custom or practice on the Federal level with respect to our setting up common-law situations?

Mr. CORMAN. The section the gentleman is referring to is existing law.

Mr. GONZALEZ. Is there anything new or novel in the law?

Mr. CORMAN. There has been some confusion, I suspect. The fact is that in most States two single individuals get substantially more than a married couple. That has been long discussed, as to whether we are coercing the aged, the blind, and the disabled to live in sin. We hope we are not.

Mr. GONZALEZ. I am against sin.

Mr. CORMAN. I hope that the gentleman will not be too inclusive in his condemnation.

Mr. GONZALEZ. Mr. Chairman, I thank the gentleman.

Mrs. COLLINS of Illinois. Mr. Chairman, I urge my colleagues to support enactment of H.R. 8911, which would make a number of important revisions in the supplemental security income—SSI—program.

The SSI program is intended to provide a minimum income for eligible persons using nationally uniform eligibility requirements and benefit criteria.

The great number of requests for assistance from SSI recipients and would be recipients received in my office each week, however, has demonstrated repeatedly that this program is in critical need of the improvements that we are considering today.

As long ago as May 1974, I requested the Comptroller of the General Accounting Office to investigate the wide variation among States in the implementation of the presumptive disability provision which authorizes benefits to individuals presumed to be disabled, pending a formal determination of disability because, according to numerous reports from my constituents, the program failed to deliver assistance in an expeditious manner and variances in its application resulted in inequities to recipients. GAO verified these findings on October 16, 1975.

Thus, I am pleased that a number of the provisions offered in H.R. 8911 will correct serious deficiencies in the administration of the SSI program. For example, this bill affords to blind persons the same presumptive eligibility treatment now provided to the disabled and increases from $100 to an amount equal to 3 months' benefits, the maximum amount of cash advances which may be made to presumptively eligible persons who are faced with financial difficulty.

In addition, it directs the Secretary of the Department of Health, Education, and Welfare to conduct an outreach program to assure that all potentially eligible persons will be fully informed of the availability of such benefits and how to obtain them. Many, many people in my district and throughout this country who are disabled and, thus, restricted in their mobility will benefit from the enactment of this provision.

For these reasons, I urge my colleagues to cast their votes in a reaffirmation of the goals of this vital program.

Mr. DRINAN. Mr. Chairman, I rise in support of the Ketchum amendment which would exclude the value of a home as a countable resource in determining eligibility for the supplemental security income program.

Let us look realistically at the current requirement that a home be excluded as a resource only if its market value does not exceed $25,000. The fair market value of a home is based on the most recent assessed value placed on it by the State or locality which imposes a value-based property tax or levy. Massachusetts law requires a 100 percent evaluation for tax purposes. The $25,000 figure is unreasonable for the cities and towns of my congressional district which borders on the city of Boston and for most other areas of the state.

For example, in the city of Waltham, which has a population of 56,757, the average household income for 1975, assuming that income has kept pace with inflation, is in the range of $14,000 to $15,000. Yet the current assessed value of residential property is in the range of $40,000. We must also keep in mind that the income of older citizens and the disabled is going to be much lower.

I commend the committee for providing the alternative criteria of purchase cost since this will greatly assist the long-term homeowner. Yet there are those individuals who have purchased homes in relatively recent years and who have become disabled or whose economic security has been undermined by inflation and other factors. They will not benefit from the proposed modification of the home-value resource criteria.

We must also consider that a person may own a home with a market value of $25,000 and become eligible for SSI, whereas another person may have a mortgaged home valued at $28,000 but only have met up to $12,000 of the cost and is ineligible for benefits. Although the individual equity is well below the home value limit the individual is ineligible for participation in the program.

It would seem to me that fairness requires some consideration of the individual's equity in his or her home in determining eligibility for this means-tested program.

An equitable solution to these discrepancies would be to remove home value as a countable resource. The fact that some elderly and disabled citizens have been able to hold on to their homes should not serve as a basis for exclusion from the program. We all recognize that the cost of maintaining a home is of itself a financial strain even on a middle income budget. The escalating cost of property taxes, utilities and required upkeep services place a greater drain on the already burdened budget of low-income and fixed income individuals.

The SSI program is based on need and the means test takes into account all types of resources including a limitation of $1,500 in savings for an individual and $2,250 for a couple. A home that is owned by an elderly or disabled person does not stand as a sign of affluence but more likely as a result of austerity through years of sacrifice and hard work. Why should we require that this home become yet another obstacle to maintaining some measure of economic security in old age or in disability?

When the SSI program became effective in January of 1974, the Department of Health, Education, and Welfare distributed an introductory pamphlet called "Design For Dignity: Supplemental Security for the Aged, Blind and Disabled." The program is an important experiment which can have positive and profound influence on the Nation's thinking about the nagging question of whether a means-tested program can be designed and administered in ways which will enhance rather than negate the beneficiary's feeling of self-worth and capacity to function as a first-class citizen.

Homeownership has always reenforced a positive notion of self-worth and removing the home value resource criteria will move us closer to achieving a "design for dignity."

Mr. de LUGO. Mr. Chairman, I rise today in strong support of the provision of the bill H.R. 15080 to extend the supplemental security income program to the Virgin Islands. This provision, existing originally as a separate bill which I introduced, will dramatically aid over 2,000 eligible elderly poor, blind, and handicapped Virgin Islanders cope with the harsh realities of their daily life.

Extending the SSI program to the Virgin Islands helps these people in two ways. First, and most important, it raises the level of their benefits from a current, pitiful $43 per month to a new level of $157.50 per month. This is increased to $236.60 per month for couples. In light of our high cost of living the current level of benefits is clearly unacceptable.

Second, this is a fully federalized program. Enactment of this measure will help take the load from the local government which, like all local governments, continually faces strong budgetary problems.

I strongly urge the Members of this House to vote in favor of this provision, and for H.R. 15080 as a whole. I believe that its passage will demonstrate that this Congress cares about its citizens, and is willing to act on this belief.

Mrs. **MINK.** Mr. Chairman, I wish to express my strong support for the amendment to H.R. 8911 when it is offered by my colleagues, Mr. O'NEILL and Mr. FRASER. This amendment, which requires Federal cost-of-living increases in the supplemental security income program to be "passed through" to SSI recipients, would assure that congressional intent regarding the nature of the SSI program will effectively to carried out.

Congress has been sensitive to the needs of those on fixed incomes, realizing that these Americans whose primary income derives from constant social security or supplemental security income benefits are the first victims of inflation. Those who can least afford it are hit most severely by rising costs. Without Federal action these recipients have no recourse, no means of coping with inflation.

To maintain viable social welfare programs, Congress has instituted annual cost-of-living increases. It is a catch-up solution, one that sadly still leaves many on the borderline of poverty. But we have formulated a policy and a commitment to protect these most vulerable of our citizens from the very real ravages of what has been, in virtually all recent years, double digit inflation.

The difficulty SSI recipients have encountered, however, is that they do not necessarily realize the increases we have promised and indeed expended a great deal of money to confer. In those States that "supplement" the Federal SSI payments with a payment of their own, Federal cost-of-living increases are optionally passed on to the recipients and often are either partially or totally swallowed up by State governments and never passed on to the recipients themselves.

The result of this option is the frequent denial of congressionally approved benefits for those for which it was intended. Surely if Congress wanted a program of reduced State praticipation in the SSI program it would have legislated to that end. Our explicit concern, however, has been with the impact of escalating costs upon individuals' scant, fixed benefits.

Argument is made that these groups should lobby their State governments for a full "pass through" of Federal cost-of-living increases. But when you are discussing SSI recipients, you are talking about the aged, the blind, and the disabled, groups which include some of the most politically as well as economically disadvantaged groups in the Nation. These are the people least likely to rally on the steps of the State capitol. They are among the most likely to have their urgent human needs ignored—particularly when it can be done as readily as States do it now, simply by pocketing Federal increases.

My own State of Hawaii has made a strong effort to pass through Federal increases under particularly adverse circumstances. As one of the three remaining "hold-harmless" States, Hawaii has its Federal cost-of-living increases deducted from the Federal share of protected payments so that Hawaii in effect pays for the cost-of-living increases that it passes on to its SSI recipients.

The O'Neill-Fraser amendment ends this inequity by freezing the level of Federal protected payments for "hold-harmless" States, thus insuring that Hawaii, Massachusetts, and Wisconsin are in a position to "pass through" Federal cost-of-living increases at no cost to themselves. The effect of this aspect of the O'Neill-Fraser amendment is simply to establish parity among all the States.

I urge my colleagues to give the O'Neill-Fraser amendment your vigorous support. By mandating the "pass-through" of Federal cost-of-living increases, we will not be requiring the expenditure of any additional funds by the State. We will be insuring that congressional intent is carried out and that the priorities of human dignity and individual needs in the SSI program are reaffirmed and maintained.

Mr. **ROSTENKOWSKI.** Mr. Chairman, I support H.R. 8911, a bill making many important and needed changes in the supplemental security income—SSI—program.

The supplemental security income program was enacted by the Congress in 1972 to replace the grant-in-aid public assistance programs then in existence for needy aged, blind, and disabled Americans. The new SSI program provides for a federally administered and financed program with uniform eligibility and benefit payments, a much-needed improvement over the multiplicity of requirements and benefit levels which existed under the prior State-operated programs.

The SSI program became effective in 1974 and while many individual crises have been met by legislation both immediately prior to and since implementation, there had been no complete review of the program until the hearings held in June 1975 which resulted in this legislation. A comprehensive examination of the program by the Committee on Ways and Means has demonstrated that after a year and a half's experience with the new program, there are a number of changes and improvements which can and should be made.

One of the major problems identified in the supplemental security income program is that the needs of disabled children intended to be served by the SSI program are not being adequately met. The bill, therefore, mandates an outreach program specifically aimed at locating disabled children who are entitled to supplemental security income payments and removes certain disincentives for disabled children between the ages of 18 and 21 to attend school.

The committee has also found that there are continuing problems in providing prompt services to SSI applicants and recipients. The bill thus provides various ways to alleviate this situation, including prompt emergency measures to facilitate the replacement of lost or stolen checks and improvements in the program providing cash advance allowances for those presumed to be eligible for SSI benefits.

H.R. 8911 also would remove the current provision in the SSI law prohibiting SSI assisstance to individuals residing in a public institution which a publicly operated community residence serving 16 or fewer persons. Currently, for example, a private, nonprofit organization may operate a group home for the mentally retarded as an alternative living arrangement compared to a large State institution or a nursing home and residents are not prohibited from being eligible for SSI. However, if the group home is owned or controlled by a governmental entity, the residents would for that reason alone be ineligible for SSI.

The bill would not only correct many of the inequities that currently exist in the program, but would streamline its administrative procedures to increase its efficiency.

I urge my colleagues to join me in supporting this much needed legislation.

Mr. **GILMAN.** Mr. Chairman, I rise in support of H.R. 8911, the Supplemental Security Income Amendments of 1976, providing benefits to the needy aged, the blind, and the disabled—nearly 4.3 million citizens, 2.3 million needy aged, 1.9 million disabled, and 75,000 blind—at a time when these benefits are urgently needed in order to keep pace with the burdening Federal, State, and local taxes, and the escalating costs of living.

H.R. 8911, representing the most comprehensive review of the SSI program since the program came into existence on January 1, 1974, provides 15 changes that remove certain inequities in the present SSI program. Briefly stated, they are:

First. A presumptively blind person would receive initial SSI benefits for up to 3 months prior to the actual determination of blindness, thereby granting such an individual the same right to initial SSI benefits as any other presumptively disabled individual. Experience has shown that the current 1-month time period for an SSI applicant to obtain a finding that blindness exists is an insufficient amount of time to make such a determination. The 1-month time period would be extended to 3 months for purposes of obtaining a determination of disability and for providing initial SSI benefits to the presumptively disabled applicant.

Second. Blind or disabled individuals over 18 years of age are regarded as adults for purposes of receiving SSI benefits, and they may attend school without jeopardizing their SSI benefits. Under the current SSI program, a blind or disabled individual between the age of 18 and 21 who remains at home is regarded as an adult and is eligible for SSI benefits, while a blind or disabled individual in the same age bracket who attends school is regarded as a child, "frequently," as the report accompanying H.R. 8911 stated, "rendering him ineligible for any SSI benefit or eligible for a benefit or substantially smaller amount than the child who is not taking some form of training."

Third. Blind or disabled children under age 13 would be referred to appropriate State health services. The Mikva amendment, which I supported and which passed the House on August 26, changes the funding for children's vocational services from 50 percent for children under age 13 to 100 percent for children under age 6.

Fourth. The HEW Secretary would be directed to conduct outreach programs to inform potential SSI recipients of the availability of SSI benefits. The Secretary would report to the President and to Congress within 6 months of the bill's enactment on the progress of the program with his recommendations to improve the program's effectiveness.

Fifth. If the chief medical officer at a treatment center for drug addicts or alcoholics certifies that SSI benefit payments would be therapeutically valuable to the individual, with no reason to believe that the recipient of the SSI benefits would improperly spend the funds, then SSI benefit payments would be paid directly to the individual rather than to a third party as required under the present law.

Sixth. SSI benefit payments would be paid to eligible individuals receiving inpatient hospital care outside the United States. Under the present law, eligible individuals, who, for example, receive hospital care in Canada or Mexico, are prohibited from receiving SSI benefit payments.

Seventh. Certain gifts and inheritances which are not readily convertible into cash are excluded from income, thereby possibly disqualifying an individual from receiving SSI benefits.

Eighth. SSI benefits would be extended to Puerto Rico, Guam, and the Virgin Islands, effective October 1, 1977.

Ninth. The $100 SSI cash advance to a presumptively eligible individual confronted with a financial emergency would be increased to the maximum of 3-months benefits for which the individual would be presumptively entitled. However, since there is no assurance that the determination of the individual's eligibility would be made within 3 months, the 3-month limitation on authorized cash advances for financial emergencies would be suspended for 1 year after the enactment of H.R. 8911.

Tenth. A State may be reimbursed for furnishing emergency assistance to an individual entitled to SSI benefits confronted with a financial emergency as a result of a lost, stolen, undelivered, or erroneous SSI benefit payment.

Eleventh. Under the present law, an otherwise eligible SSI recipient whose home was valued at more than $25,000 would be denied SSI benefits. The Ketchum amendment, which passed the House on August 26, struck this provision, thereby disregarding hereafter the value of an individual's home in determining SSI benefits.

Twelfth. Mandatory minimum State supplementary payments corresponding to the December 1973, levels would be terminated in certain instances where the mandatory minimum State assistance is no longer applicable.

Thirteenth. Determination of SSI benefits would be on a monthly rather than on a quarterly basis.

Fourteenth. An individual entering a hospital or other medical institution in which the expenses are paid by the medicaid program would not receive a reduction in SSI benefits but would receive full SSI benefits for 3 months of residency in such an institution. Reduction in SSI benefits would commence during the fourth month of institutionalization.

Fifteenth. Any assistance based on need and furnished by a nonprofit tax-exempt organization would not be counted as income in determining the recipient's eligibility for SSI benefits or the amount of the benefits.

Mr. Chairman, these provisions, together with the amendments that passed the House on August 26, are urgently needed in order to simplify the administration of the SSI program and to correct inequities in the program.

The need for this legislation to protect the 4.3 million needy aged, blind, and disabled poor is obvious. These are citizens whose eligibility to receive SSI benefits is determined on need—whose savings are limited to $1,500—for whom this measure may mean the difference between survival and starvation. I have been informed by the Social Security Administration that in 1975, 403,226 needy individuals in New York State received Federal-State SSI benefits amounting to $686.1 million. For these citizens, these funds meant the purchasing of food and the paying of rent or winter fuel and the meeting of other economic necessities for survival.

Mr. Chairman, in the interest of continuing the SSI program and of providing urgently needed assistance to these citizens, I urge my colleagues to support this worthy legislation.

Mr. CORMAN. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the text of the bill H.R. 15080 as an original bill for the purpose of amendment. No amendments are in order to the bill or to the amendment in the nature of a substitute except amendments offered by direction of the Committee on Ways and Means and germane amendments printed in the CONGRESSIONAL RECORD at least 2 legislative days prior to the consideration of said bill for amendment, but said amendments shall not be subject to amendment except those offered by direction of the Committee on Ways and Means and pro forma amendments.

The Clerk read as follows:

That this Act may be cited as the "Supplemental Security Income Amendments of 1976".

AUTHORIZATION OF INITIAL PAYMENTS TO PRESUMPTIVELY BLIND INDIVIDUALS

SEC. 2. Section 1631(a)(4)(B) of the Social Security Act is amended—

(1) by inserting "or blindness" immediately after "disability" each time it appears; and

(2) by inserting "or blind" immediately after "disabled" each time it appears.

ATTRIBUTION OF PARENTS' INCOME AND RESOURCES TO CHILDREN

SEC. 3. (a) Section 1614(c) of the Social Security Act is repealed.

(b)(1) Section 1612(b) of such Act is amended—

(A) by striking out "a child who" in clause (1) and inserting in lieu thereof "under the age of 22 and";

(B) by striking out "a child" in clause (9) and inserting in lieu thereof "under age 18"; and

(C) by striking out "a child who is not an eligible individual" in clause (10) and inserting in lieu thereof "an individual who is not an eligible individual or eligible spouse".

(2) Section 1614(a)(3)(A) of such Act is amended by striking out "a child" and inserting in lieu thereof "an individual".

(3) Section 1614(f)(2) of such Act is amended by striking out "a child under age 21" and inserting in lieu thereof "under age 18".

REFERRAL OF DISABLED INDIVIDUALS UNDER AGE 13 FOR APPROPRIATE HEALTH SERVICES

SEC. 4. (a) Section 1615(a)(1) of the Social Security Act is amended by striking out "has not attained age 65" and inserting in lieu thereof "is over 12 and under 65 years of age".

(b) Section 1615 of such Act is further amended by adding at the end thereof the following new subsection:

"(d) In the case of any blind or disabled individual who—

"(1) has not attained age 13, and

"(2) is receiving benefits (or with respect to whom benefits are paid) under this title,

the Secretary shall make provisions for the referral of such individual to the appropriate State agency administering or participating in the State plan for maternal and child health services and services for crippled children approved under title V; and the Secretary is authorized to pay to the State agency administering or supervising the administration of such State plan 50 percent of the costs incurred in the provision of services to individuals so referred.".

OUTREACH PROGRAM

SEC. 5. Part B of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

"OUTREACH PROGRAM

"SEC. 1635. (a) The Secretary shall carry out a program designed specifically to assure that all individuals who are or may become eligible for supplemental security income benefits under this title will be fully informed of the availability and nature of such benefits and of the steps to be taken in obtaining them.

"(b) The Secretary is authorized to carry out his functions under this section through the personnel and facilities of the Department of Health, Education, and Welfare or to enter into appropriate contracts or arrangements with State and local agencies and private nonprofit organizations for the performance of such functions, or both, with the objective in any case of assuring the widest and most effective dissemination of the information described in subsection (a).

"(c) The Secretary *shall report* to the President and the Congress no later than six months after the date of the enactment of this section on the progress and accomplishments of the program under this section, including any recommendations he may have for improving its effectiveness.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out this section.".

MODIFICATION OF REQUIREMENT FOR THIRD-PARTY PAYEE

SEC. 6. The second sentence of section 1631(a)(2) of the Social Security Act is amended by inserting before the period at the end thereof the following: ", unless, and only so long as, the Secretary determines, upon the certification of the chief medical officer of the institution or facility where such individual or spouse is undergoing treatment as required by such section, that the payment of benefits directly to such individual or spouse would be of significant therapeutic value to him and that there is substantial reason to believe that he would not misuse or improperly spend the funds involved".

CONTINUATION OF BENEFITS FOR INDIVIDUALS HOSPITALIZED OUTSIDE THE UNITED STATES IN CERTAIN CASES

SEC. 7. The second sentence of section 1611(f) is amended by striking out the comma after "preceding sentence" and inserting in lieu thereof "(1)", and by inserting before the period at the end thereof the following: ", and (2) an individual shall be treated as being inside the United States during any period of absence from the United States which is demonstrated to the satisfaction of the Secretary to be necessary in order to obtain inpatient hospital services, as defined in title XVIII for purposes of section 1814(f), if (A) the requirements of subparagraphs (A) and (B) of section 1814(f)(1) are met, or (B) the inpatient hospital services are emergency services and the requirements of subparagraphs (A) and (B) of section 1814(f)(2) are met".

EXCLUSION OF CERTAIN GIFTS AND INHERITANCES FROM INCOME

SEC. 8. Section 1612(a)(2)(E) of the Social Security Act is amended by inserting ", except that the Secretary may by regulation provide that gifts and inheritances which are not readily convertible into cash are not income" immediately after "inheritances".

EXTENSION OF SUPPLEMENTAL SECURITY INCOME BENEFITS PROGRAM TO PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

SEC. 9. (a)(1) Section 1614(e) of the Social Security Act is amended by striking out "and the District of Columbia" and inserting in lieu thereof ", the District of Columbia, Puerto Rico, the Virgin Islands, and Guam".

(2) Section 1101(a)(1) of such Act is amended—

(A) by inserting "XVI," after "XI," and

(B) by striking out the last sentence (as added by section 18(z-2)(1)(A)(ii) of Public Law 93-233).

(3) Section 303(b) of the Social Security Amendments of 1972 is repealed.

(b) Section 1108 of such Act is amended by adding at the end thereof the following new subsection:

"(e)(1) In applying the provisions of—

"(A) subsections (a), (b), and (e)(1) of section 1611,

"(B) subsections (a)(2)(D), (b)(2), and (b)(3) of section 1612,

"(C) subsection (a) of section 1613,

"(D) section 1617, and

"(E) section 211(a)(1)(A) of Public Law 93-66,

the dollar amounts to be used shall, instead of the figures specified (or referred to) in such provisions, be dollar amounts bearing the same ratio to the figures so specified as the per capita incomes of Puerto Rico, the Virgin Islands, and Guam, respectively, bear to the per capita income of that one of the States which has the lowest per capita income; except that in no case may the amounts so used exceed the figures so specified.

"(2)(A) The amounts to be used under such sections in Puerto Rico, the Virgin Islands, and Guam shall be promulgated by the Secretary between October 1 and November 30 of each even-numbered year, on the basis of the average per capita income of each State for the most recent calendar year for which satisfactory data are available from the Department of Commerce. Such promulgation shall be effective for each of the two fiscal years in the period beginning October 1 next succeeding such promulgation.

"(B) The term 'State', for purposes of subparagraph (A) only, means the fifty States and the District of Columbia.

"(3) If the amounts which would otherwise be promulgated for any fiscal year for any of the three States referred to in paragraph (1) would be lower than the amounts promulgated for such State for the immediately preceding period, the amounts for such fiscal year shall be increased to the extent of the difference; and the amounts so increased shall be the amounts promulgated for such year.".

(c) The amendments made by this section (except subsection (a)(3)) shall apply with respect to supplemental security income benefits payable under title XVI of the Social Security Act for months after September 1977. Subsection (a)(3) shall become effective October 1, 1977.

INCREASED PAYMENTS FOR PRESUMPTIVELY ELIGIBLE INDIVIDUALS

SEC. 10. (a) Section 1631(a)(4)(A) of the Social Security Act is amended by striking out "a cash advance against such benefits in an amount not exceeding $100" and inserting in lieu thereof "one or more cash advances against such benefits, the aggregate amount of which may not exceed the aggregate amount of the benefits for which he is presumptively eligible under this title, including any federally administered State supplementary payments, for the first three months of such presumptive eligibility".

(b) The three-month limitation on the period of presumptive eligibility against which cash advances may be paid under section 1631(a)(4)(A) of the Social Security Act, as amended by subsection (a) of this section, and the three-month limitation on the period for which benefits to presumptively blind and presumptively disabled individuals may be paid under section 1631(a)(4)(B) of such Act, as amended by section 2 of this Act, shall not be applicable during the period beginning with the date of the enactment of this Act (or beginning with October 1, 1976, if later) and ending with the close of the twelfth month after the month in which this Act is enacted (or at the close of September 1977, if later).

EMERGENCY REPLACEMENT OF BENEFIT PAYMENTS

SEC. 11. Section 1631 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Reimbursement to States for Emergency Replacement of Supplemental Security Income Checks

"(h)(1) Notwithstanding subsection (d)(1) as it relates to section 207 and subsection (b) as it relates to the payment of less than the correct amount of benefits, the Secretary may, upon written authorization by an individual, withhold benefits due with respect to that individual and may pay to a State (or a political subdivision thereof if agreed to by the Secretary and the State) from the benefits withheld an amount sufficient to reimburse the State (or political subdivision) for emergency assistance (as defined in paragraph (3)) furnished on behalf of the individual by the State (or political subdivision).

"(2) For purposes of this subsection, the term 'benefits' with respect to any individual means supplemental security income benefits under this title, and any State supplementary payments under section 1616 or under section 212 of Public Law 93-66 which the Secretary makes on behalf of a State (or political subdivision thereof) and which the Secretary has determined to be due with respect to the individual.

"(3) For purposes of this subsection, the term 'emergency assistance' with respect to any individual means assistance financed from State or local funds and furnished—

"(A) in replacement of any lost, stolen, or undelivered check issued to or for such individual in payment of benefits as defined in paragraph (2), or

"(B) in supplementing to the correct amount any check so issued which is determined to be in an amount less than that for which the individual is eligible, where the individual to whom such check was issued is faced with financial emergency as a result of such loss, theft, nondelivery, or erroneous amount.

"(4) In order for a State to receive reimbursement under the provisions of paragraph (1), the State shall have in effect an agreement with the Secretary which shall provide—

"(A) that if the Secretary makes payment to the State (or a political subdivision of the State as provided for under the agreement) in reimbursement for emergency assistance as defined in paragraph (3) for any individual in an amount greater than the reimbursable amount authorized by paragraph (1), the State (or political subdivision) shall pay to the individual the balance of such payment in excess of the reimbursable amount as expeditiously as possible, but in any event within ten working days or a shorter period specified in the agreement;

"(B) that if the State (or political subdivision) makes a payment to an individual as emergency assistance as defined in paragraph (3) and any check referred to in paragraph (3)(A) is cashed by the individual to or for whom it was issued or by any other person, the State (or political subdivision) will assist the Secretary in recovering any resulting duplicate payment; and

"(C) that the State will comply with such other rules as the Secretary finds necessary to achieve the efficient and effective administration of this subsection and to carry out the purposes of the program established by this title, including protection of hearing rights for any individual aggrieved by action taken by the State (or political subdivision) pursuant to this subsection.

"(5) The provisions of subsection (c) shall not be applicable to any disagreement concerning payment by the Secretary to a State pursuant to the preceding provisions of this subsection or the amount retained by the State (or political subdivision).".

VALUATION OF INDIVIDUAL'S HOME FOR PURPOSES OF RESOURCES TEST

SEC. 12. Section 1613(a) of the Social Security Act is amended—

(1) by inserting "(within the meaning of the last sentence of this subsection)" after "value" in paragraph (1); and

(2) by adding at the end thereof the following new sentence: "For purposes of paragraph (1), the term 'value' with respect to an individual's home means (A) its current market value, (B) the price for which it was purchased by such individual (or his spouse), or (C) if it was acquired by such individual (or spouse) otherwise than by purchase, its appraised value at the time of such acquisition, whichever is least.".

TERMINATION OF MANDATORY MINIMUM STATE SUPPLEMENTATION IN CERTAIN CASES

SEC. 13. Effective October 1, 1976, section 212(a)(2) of Public Law 93-66 is amended—

(1) by striking out "or" at the end of subparagraph (C);

(2) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof a comma; and

(3) by striking out the matter that follows subparagraph (D) and inserting in lieu thereof the following:

"(E) the first month after September 1976, for which such individual is not a resident of the State to which the provision of subparagraph (B) applies,

"(F) the first month after September 1976, for which the amount of such individual's title XVI benefit plus other income (as determined under paragraph (3)(C)) is equal to or exceeds the amount of such individual's December 1973 income (as determined under paragraph (3)(B)) as reduced by the amount, if any, by which the amount of the supplementary payment payable under the agreement entered into under this subsection to such individual has been reduced under the provisions of paragraph (3)(D)),

"(G) the first month after September 1976, for which such individual is ineligible to receive supplemental security income benefits under title XVI of the Social Security Act by reason of the provisions of section 1611 (e)(1)(A) (except in the case of an individual who is in a public institution which is a hospital, extended care facility, nursing home, or intermediate care facility), 1611(e) (2) or (3), 1611(f), of 1615(c) or such Act, or

"(H) the first month after September 1976, for which such individual is ineligible to receive supplemental income benefits under title XVI of the Social Security Act by reason of the provisions of section 1611(a)(1)(B) or (2)(B) of such Act;

except that no individual shall be eligible to receive such supplementary payment for any month, if, for such month, such individual is ineligible to receive supplemental security income benefits under title XVI of the Social Security Act by reason of the provisions of section 1611(e)(1)(A) of such Act as they apply in the case of an individual who is in a public institution which is a hospital, extended care facility, nursing home, or intermediate care facility.".

MONTHLY COMPUTATION PERIOD FOR DETERMINATION OF SUPPLEMENTAL SECURITY INCOME BENEFITS

SEC. 14. (a)(1) The first sentence of section 1611(c)(1) of the Social Security Act is amended to read as follows: "An individual's eligibility for benefits under this title and the amount of such benefits shall be determined for each month.".

(2) The second sentence of section 1611 (c)(1) of such Act is amended by striking out "quarter" and inserting in lieu thereof "month".

(b)(1) Section 1612(b)(3)(A) of such Act is amended—

(A) by striking out "quarter" and "calendar quarter" wherever they appear and inserting in lieu thereof "month"; and

(B) by striking out "$60" and inserting in lieu thereof "$20".

(2) Section 1612(b)(3)(B) of such Act is amended—

(A) by striking out "quarter" and "calendar quarter" wherever they appear and inserting in lieu thereof "month"; and

(B) by striking out "$30" and inserting in lieu thereof "$10".

(c) The amendments made by this section shall be effective on such date as the Secretary of Health, Education, and Welfare determines to be administratively feasible, but not later than the beginning of the fifth calendar quarter after the calendar quarter in which this Act is enacted.

ELIGIBILITY OF INDIVIDUALS IN CERTAIN MEDICAL INSTITUTIONS

SEC. 15. (a) Section 1611(e)(1)(A) of the Social Security Act is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(b) Section 1611e()(1)(B) of such Act is amended to read as follows:

"(B) Except as set forth in subparagraph (C), in any case where an eligible individual or eligible spouse is in a hospital, extended care facility, nursing home, or intermediate care facility, such individual's benefit for the period ending with the third consecutive month throughout which he is in such hospital, home, or facility shall be determined as though he were continuing to reside outside the institution under the same conditions as before he entered the institution.".

(c) Section 1611(e)(1) of such Act is further amended by adding after subparagraph (B), as amended by subsection (b) of this section, the following new subparagraph:

"(C) In any case where an eligible individual or eligible spouse is throughout any month in a hospital, extended care facility, nursing home, or intermediate care facility, receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, and such month is either—

"(i) the first month in any period of eligibility under this title based on an application filed in or before such month, or a month in a continuous period of months beginning with such first month, throughout which such individual or spouse is in a hospital, extended care facility, nursing home, or intermediate care facility (whether or not receiving payments with respect to such individual or spouse for each month in such period), or

"(ii) the fourth consecutive month throughout which, or a month in a continuous period beginning with such fourth consecutive month throughout which, such individual or spouse is in a hospital, extended care facility, nursing home, or intermediate care facility (whether or not receiving payments with respect to such individual or spouse for each month in such period), the benefit for such individual for such month shall be payable—

"(iii) at a rate not in excess of $300 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who does not have an eligible spouse;

"(iv) at a rate not in excess of the sum of the applicable rate specified in subsection (b)(1) and the rate of $300 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home, or facility throughout such month; and

"(v) at a rate not in excess of $600 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who has an eligible spouse, if both of them are in such a hospital, home, or facility throughout such month.".

EXCLUSION FROM INCOME OR CERTAIN ASSISTANCE BASED ON NEED

SEC. 16. (a) Section 1612(b) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (10) the following new paragraph:

"(11) any assistance which is based on need and is furnished by any private entity described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code unless such assistance is furnished in fulfillment of an obligation described in subsection (a)(2)(A)(ii).".

(b) The amendments made by subsection (a) shall become effective on the first day of the second calendar quarter beginning after the date of the enactment of this Act.

ELIGIBILITY OF INDIVIDUALS IN CERTAIN INSTITUTONS

SEC. 17. (a) Section 1611(e)(1) of the Social Security Act (as amended by section 15 of this Act) is amended—

(1) by striking out "subparagraphs (B) and (C)" in subparagraph (A) and inserting in lieu thereof "subparagraphs (B), (C), and (D)"; and

(2) by adding at the end thereof the following new subparagraph:

"(D) As used in subparagraph (A), the term 'public institution' does not include a publicly operated community residence which serves no more than 16 residents.".

(b) Section 1612(b)(6) of such Act is amended by striking out "assistance described in section 1616(a) which" and inserting in lieu thereof '"assistance, furnished to or on behalf of such individual (and spouse), which".

(c)(1) Section 1616(e) of such Act is repealed.

(2) Effective October 1, 1977, section 1616 of such Act is amended by adding after subsection (d) the following new subsection:

"(e)(1) Each State shall establish or designate one or more State or local authorities which shall establish, maintain, and insure the enforcement of standards for any category of institutions, foster homes, or group living arrangements in which (as determined by the State) a significant number of recipients of supplemental security income benefits is residing or is likely to reside. Such standards shall be appropriate to the needs of such recipients and the character of the facilities involved, and shall govern such matters as admission policies, safety, sanitation, and protection of civil rights.

"(2) Each State shall annually make available for public review, as a part of the services program planning procedures established pursuant to section 2004 of this Act, a summary of the standards established pursuant to paragraph (1), and shall make available to any interested individual a copy of such standards, along with the procedures available in the State to insure the enforcement of such standards and a list of any waivers of such standards and any violations of such standards which have come to the attention of the authority responsible for their enforcement.

"(3) Each State shall certify annually to the Secretary that it is in compliance with the requirements of this subsection.".

SEC. 18. Except as otherwise specifically provided in this Act, the amendments made by this Act shall apply with respect to months after the month following the month in which this Act is enacted, or with respect to months after September 1976, whichever is later.

Mr. CORMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. KETCHUM

Mr. KETCHUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KETCHUM: Strike out section 12 (appearing on page 12, lines 9 through 23, of H.R. 15080) and insert in lieu thereof the following:

VALUATION OF INDIVIDUAL'S HOME FOR PURPOSES OF RESOURCES TEST

SEC. 12. Section 1613(a)(1) of the Social Security Act is amended by striking out ", to the extent that its value does not exceed such amount as the Secretary determines to be reasonable".

Mr. KETCHUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. KETCHUM. Mr. Chairman and Members of the committee, I will be very brief on this amendment. This is the "housing disregard" amendment.

The reason I am offering the amendment is that, in my opinion, a rather substantial amount of money is being spent administratively in establishing a means test relative to the value of a home that individuals receiving SSI or attempting to receive SSI are involved in.

What really occurs is that an individual some 30 years ago, or two individuals, purchased a home for $7,500. Over the period of time—and certainly those of us who reside in the environs of the District of Columbia know what the value of real estate has achieved over a relatively very short period of time through inflation that it makes the value of the property so high that these individuals are then not eligible for SSI. As I say, they may have paid $7,500 but that house now is worth perhaps $50,000.

The whole point is that some individuals in opposition to this amendment say that in a contemporary situation someone could reside in the Hearst castle in California. That is patently ridiculous because the taxes alone, in order to be able to pay those taxes, an individual would have to have an income far in excess of the requirements for eligibility for SSI.

Mr. Chairman, this is a very simple amendment.

It was kind of interesting to me, Mr. Chairman, that when we held hearings that HEW estimated that the additional costs would be between $5 million and $7 million if this amendment were accepted.

Let me point out that HEW conducted a study in 1975. It is not totally completed, but this much they know, they found that there were only 600 people who were denied SSI due to valuation of their homes. I cannot conceive how this would cost $5 million. I know it would not.

Let me say in relation to that that just a matter of a few days ago they admitted that there may be administrative savings of $1.5 million.

This I say is exactly what we are really attempting to do with this particular amendment. It is ridiculous to force aged individuals, in order to qualify, to perform a fraudulent act, maybe not fraudulent, but cutting a little corner, by giving their home to their children so that they do not have to list it as an asset.

I certainly hope that this amendment will be adopted.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I applaud the gentleman from California on offering his amendment. I had a similar amendment that I had intended to introduce myself. I think the amendment makes eminently good sense not to force elderly people out of a home they have lived in for years in order for them to receive the SSI payments that they are entitled to.

The amendment offered by the gentleman from California (Mr. KETCHUM) goes right to the heart of what I believe is a very serious problem. I think it actually reduces the cost of the program rather than increasing it. I think it has tremendous merit and ought to be adopted.

Mr. Chairman, again I say that I rise in support of the amendment offered by the gentleman from California (Mr. KETCHUM).

I published in the RECORD on August 10, 1976 an identical amendment to H.R. 8911 for two very important reasons. It is evident to me that the people of our Nation favor giving assistance to those in need, but that the public is tired of administrative waste. This amendment cuts unnecessary and wasteful administrative costs in the SSI program, but more importantly, the amendment allows a number of blind, disabled, and elderly persons in need of assistance to keep their family home.

The amendment is simple. It allows an individual to exclude the home, regardless of value, for purposes of the SSI resource test. In other words, the home is not counted as a resource available to the individual.

The only potential rationale against this amendment is the fear that the reform will allow a few people who own very valuable property to obtain assistance. This fear is unfounded—one cannot maintain and pay the property taxes on a "mansion" or a very valuable home and still meet the income test and other resource tests. The home valuation requirement is a cosmetic requirement—but it is an unnecessary and wasteful one.

The home valuation requirement prevents many individuals with low incomes from obtaining the assistance they need. Specifically, the requirement penalizes those who have managed to save and buy their own home. Currently most people otherwise eligible for SSI but who own a home valued at more than $25,000 cannot obtain assistance. I used the word "value" instead of "worth" because inflation has dramatically escalated the market price of the home. An individual who purchased a home for $13,000 in 1966 or for $18,000 in 1971 will often find that the home is now valued at more than $25,000 today; and, accordingly, these homeowners would be ineligible for assistance. Just because the selling price of the home has shot up does not mean that these citizens have additional resources at their disposal. Certainly, they are not living in a better home.

The Ways and Means Committee bill attempts to account for inflated home values by allowing individuals to use the purchase price of the home—or the current market value—as the value for purposes of the SSI resource test. The point is, however, that we do not need to include the home in the resource test to determine who needs assistance—valuing the home is just not needed to eliminate wasteful welfare expenditures. The committee's reform proposal will further add to the administrative costs, as it will be necessary to verify the claimed purchase price.

Additionally, the committee bill will create a dual standard; this is unfair and undesirable. For example, if two neighbors bought identical houses at different times, one might be eligible for assistance and the other would not. The two houses could both be worth $28,000 today, but one individual could have bought the house for $20,000 in 1970 and the other individual could have bought his home for $26,000 in 1975. If the two individuals have identical incomes and other resources and live in identical houses, one individual cannot be in less need of assistance than the other. And, if they meet the income and resource tests, excluding the home, they both need help. Two individuals who live in different regions of the country might have identical incomes and resources and own identical houses. However, because property values differ greatly between regions, one individual could have bought a house for $20,000 and the other bought the house for $30,000. The living standards are identical and the real resources are identical; but unfortunately, one individual will not be able to obtain the SSI assistance that he needs.

The committee reform also does nothing to help the individual who buys a moderately priced home today and becomes disabled in a few years. I do not believe that the Congress really intends to tell that individual to sell his home and buy a home that is "worth" less, particularly when inflation will make it impossible for him to buy a new home "valued" below the maximum allowed under current regulation. In many parts of the Nation homes are just not available below the maximum level now allowed. I think it ought to be our policy to encourage people to try to retain their family home. We should not deny assistance to those in need who are otherwise eligible for SSI merely because they managed to obtain a home.

A number of my constituents have learned to their dismay that they cannot get assistance simply because they own a home that is worth a little more than what is allowed under the current program. Many of these people are older folks who have lived in their homes for some time and now find that their few acres have been greatly inflated by land speculation. These houses are humble homes—the only property value is in the land, not the house. I do not want to force these folks to sell their home and land to the big developers and land speculators. These people ought to be able to keep their property.

Experience in California points out that by allowing individuals to exclude their home regardless of value will not greatly add to the public assistance rolls. The Social Security Administration advises me that 99 percent of the elderly who would otherwise be eligible for SSI own a home that is valued at less than $25,000. Why should we force those few who have managed to obtain a home to sell it? Only 19 States had home value limits before this program was administered by the Federal Government. My State of Virginia did not have a home value limit.

The amendment now before the House is equitable; it will not greatly add to the number of individuals receiving public assistance; it will certainly simplify the system; and, most importantly, it will allow people to keep their home. I urge its adoption.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. I thank the gentleman for yielding.

I, too, commend the gentleman in the well, Mr. Ketchum, for offering his amendment. It offers a simple solution to a problem which has been confronting the elderly with limited or no income, especially a widow or widower whose only worldly possession happens to be the home in which he or she lives and whose income would be insufficient for proper sustenance without SSI assistance. It would be tragic to force such person to sell the home in order to qualify for SSI benefits, when low-cost housing is virtually unavailable in cities such as Honolulu. The amendment would also save the elderly homeowner with no income from committing a subterfuge by transferring the home to his or her children, merely to qualify for SSI benefits. The honest ones who refuse to commit a subterfuge would be penalized.

Mr. Chairman, I urge the adoption of the Ketchum amendment.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this amendment, because of my own experience. As trustee of the legal services program in my home county, we fought for this. I felt that it was absolutely necessary, not only from the humane point of view of not moving people out of their homes, but because of the expense of appraisal and finding another house, constituting a totally unnecessary hassle which does not benefit anybody.

I applaud the gentleman for his amendment.

Mr. PIKE. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from New York.

Mr. PIKE. I thank the gentleman for yielding.

Is there any limitation in law or in current regulations pertaining to the amount of land which would be involved in the definition of a person's home? Can this person, the value of whose home, if the gentleman's amendment passes, is no longer to be considered, be allowed to have 10 acres around that home?

Mr. KETCHUM. There would be no restriction; there is none to my knowledge in the regulations now.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Ketchum was allowed to proceed for 1 additional minute.)

Mr. KETCHUM. I thank the gentleman from New York for his question. There is not, to my knowledge, any limitation on land or acreage surrounding a home in the regulations at this point. I would yield to anyone who might argue that point. The point is, though, that if this land were of such consequence, in order to pay the property taxes on that property, would require that individual to have assets enough so that he or she would not be eligible to receive the benefit anyway.

Mr. VANDER JAGT. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Michigan.

Mr. VANDER JAGT. I thank the gentleman for yielding.

Mr. Chairman, I commend the gentleman for the excellent case that he has made for his amendment.

Mr. Chairman, I do not object to the amendment offered by the gentleman from California, a member of the Subcommittee on Public Assistance. The amendment would disregard the value of the home for purposes of SSI eligibility.

While the administration has not taken a position on the amendment, it has expressed substantial concern over the provisions adopted in the Ways and Means Committee. HEW believes that it would face considerable difficulties in administering the exclusion under the requirements as set forth in the bill, in which the home's market value, or the price for which it was purchased or otherwise acquired would have to be established. In many instances it could be extremely difficult to reliably establish the value of a home at the time of its acquisition, especially if that occurred many years ago.

The committee provision, however, reflects the substantial concern of Members with respect to the impact of soaring real estate values, which could force a person to lose SSI eligibility or to give up his property.

It is my understanding that California makes persons eligible for State SSI benefits if they would qualify except for the value of their home. There are about 1,500 such cases, a small fraction of the total SSI population in the State.

The cost of the Ketchum amendment has been estimated at between $5 million and $7 million, but there would be an administrative cost savings of approximately half that amount in excluding the value of the home. I will not object to the gentleman's amendment.

Mr. KETCHUM. I thank the gentleman for his comments.

Mr. Chairman, I hope the amendment is agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Ketchum).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. PICKLE

Mr. PICKLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Pickle: Strike out line 23 on page 17 (of H.R. 15080) and all that follows down through line 17 on page 18 and insert in lieu thereof the following: "the benefit for such individual for such month shall be payable—

(iii) in the case of an individual who does not have an eligible spouse, at a rate not in excess of $300 per year (reduced by the amount of any income of such individual which is not excluded pursuant to section 1612(b));

"(iv) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home, or facilitiy throughout such month, at a rate not in excess of the sum of—

"(I) the rate of $300 per year (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the one who is in such hospital, home, or facility), and

"(II) the applicable rate specified in subsection (b)(1) (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the other); and

"(v) in the case of an individual who has an eligible spouse, if both of them are in such a hospital, home, or facility throughout such month, at a rate not in excess of $600 per year (reduced by the amount of any income of either spouse which is not excluded pursuant to section 1612(b));

except that for purposes of any provision of law other than this subparagraph, any benefit determined under clause (iv) shall be deemed to be payable at a rate equal to the sum of the rate of $300 per year and the applicable rate specified in subsection (b)(1), reduced by any income of either spouse which is not excluded pursuant to section 1612(b).".

Mr. PICKLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment may be considered as read and printed in the Record. The amendment had been previously submitted in the Record, in printing, and it is in exactly the same form.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PICKLE. Mr. Chairman, I rise to offer this amendment that is designed to prevent a couple, one of whom has to enter into an institution, from putting the spouse who stays at home in a position where he or she does not have enough to live on. Now, while it is not true that "two can live as cheaply as one," nevertheless a couple living at home can get by on a small income. When one of them has to enter an institution, one-half of the income is deemed to be available to the person in the institution, when, in fact, that full amount is necesary for the one on the outside to survive.

Under the present law a couple is not considered "separated," so that the income can be adjusted, until they are separated 6 months. My amendment would treat them immediately, after one enters an institution, as if they are living alone, which in fact they are.

It is sad to see in many cases couples who have lived together a lifetime forced to resort to divorce, in order that the spouse who has to enter an institution can be considered eligible for benefits, without cutting into the few dollars available to the spouse who must continue to live in the home.

HEW estimates that this will cost less than $1 million. We expect that the revenue loss from this amendment will be negligible, yet it is very important to those few couples whom it affects.

Perhaps the best way to illustrate this is by example:

Example of Situation Arising With One Spouse in Nursing Home Leading to Perceived Need for Divorce

Actual case: Mr. and Mrs. B are married. Mrs. B is told by doctor she must enter nursing home. The income of the family is $561.88 per month, totally belonging to Mr.

B (a combination of Social Security and a private retirement plan).

In Texas, by agreement of Department of Public Welfare with Social Security Administration and Medicaid agency, the spouse living at home (when one member of a couple is in a nursing home) is allowed to retain $167.80 for expenses of the home and that spouse's personal expenses. The remainder of the income is deemed available to the spouse in the nursing home (Until, at the end of 6 months under current law, those two persons are treated as separated for purposes of determining benefits for the duration of the nursing home episode).

	Per month
Mr. B's income	$561.88
Mr. B allowed to retain for own expenses and running home	167.80
Remainder deemed available to pay for Mrs. B's care	394.08

Texas has set a $390 limit of income after which a person is ineligible for SSI and therefore Medicaid to pay for nursing home care. Therefore, Mrs. B's available "income" (remainder of Mr. B's income) places her $4.90 above that limit, and she is ineligible.

If Mrs. B were treated as immediately "separate" from husband upon entering nursing home, she would have no income of her own, and therefore would be eligible for SSI and therefore for Medicaid to pay for her nursing home expenses (+$25/mo. for living expenses from SSI). Mr. B could keep all his income for his and home's expenses.

Only other way for Mrs. B to have nursing home bills paid is for Mr. and Mrs. B to obtain divorce.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. CORMAN. Mr. Chairman, the gentleman from Texas has called the attention of the Committee to this very important needed change. I support it.

Also I have discussed it with the ranking minority member of the subcommittee.

Mr. VANDER JAGT. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Michigan.

Mr. VANDER JAGT. Mr. Chairman, I rise in support of the amendment.

When an individual enters a hospital or other medical institution for which treatment is covered under medicaid, his SSI benefit is reduced from its usual level to an amount not in excess of $25 per month.

H.R. 8911 presently proposes that this reduction in benefits be withheld until after the first 3 months of hospitalization. This is a desirable change which takes account of the fact that one is not immediately relieved of the burden of his living costs outside an institution upon being hospitalized. He must maintain his home, et cetera.

Current law also provides that when a couple becomes separated for 6 months, their SSI benefits are to be computed individually, thus providing benefits which are more adequate to their individual needs.

The gentleman's amendment as I understand it is designed to take care of the remaining interval in particular, during which SSI benefits could be entirely inadequate. For example, when a husband enters a medical institution, his social security benefits will be used to assist in meeting his medical expenses. His spouse will no longer have the use of those funds; until the 6 months' separation requirement has been met, she will be left with only minimal SSI benefits on which to live.

The amendment is a desirable effort to meet this problem; in this instance, it would result in her SSI being computed separately and amounting to full individual benefits.

The administration does not object to the amendment, which carries negligible cost. I urge its acceptance.

Mr. PICKLE. Mr. Chairman, I thank the gentleman.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. Mr. Chairman, I rise in wholehearted support of the amendment offered by the distinguished gentleman from Texas (Mr. PICKLE) to H.R. 8911, the Supplemental Security Income Amendments of 1976. The amendment will provide for the immediate consideration of couples receiving SSI benefits as "separated" for the computation of individual benefits when one of them enters a medical institution and thereby, under current SSI provisions, cuts the remaining spouse's income in half.

Presently, the law provides for such individual computation of benefits to couples only after they have been separated for a period of 6 months. This delay in the computation of individual benefits has created undue hardship for elderly married couples, who are often forced to resort to divorce in order to obtain benefits for the spouse entering the institution, without cutting into the benefits available to the spouse who must continue to live at home.

The Department of Health, Education, and Welfare has estimated the cost of this amendment to be less than $1 million. This is a negligible amount viewed in the light of the tragic situation in which affected couples find themselves.

Mr. Chairman, I strongly support the Pickle amendment and urge my colleagues to do likewise.

Mr. PICKLE. Mr. Chairman, I thank the gentleman very much.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. PICKLE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RANGEL: On page 21 (of H.R. 15080), after line 5, insert the following new section (and redesignate the succeeding section accordingly):

INCREASE IN SSI BENEFITS TO REFLECT CERTAIN EXPENSES

SEC. 18. (a) Part A of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

"INCREASE IN BENEFITS TO REFLECT CERTAIN EXPENSES

"SEC. 1618. (a) In the case of an eligible individual whose annual housing expenses exceed 33⅓ per centum of his or her annual income (which for purposes of this section shall include benefits determined under section 1611 and any income which would otherwise be excluded pursuant to section 1612(b)), and who makes application for assistance under this section, the benefit otherwise payable under this title shall be increased by an amount determined at a rate which is the lesser of—

"(1) $600, or

"(2) the amount by which such individual's annual housing expenses exceed 33⅓ per centum of his or her annual income.

"(b) For purposes of this section, an individual's annual housing expenses shall consist of such individual's annual expenses for rent or for mortgage payments and real estate taxes, together with such individual's annual expenses for gas and electric utilities and home and water heating.

"(c) If two aged, blind, or disabled individuals are huband and wife (which shall be determined in accordance with section 1614(d)) and are not living apart from each other, only one of them may be qualified to receive an increase in benefits under this section; and the income and annual housing expenses of the other shall be included for purposes of determinations under this section to the same extent as they would be if such determinations involved eligibility for and amount of benefits under section 1611.

"(d) The Secretary shall administer this section and shall prescribe such regulations as may be necessary or appropriate to effectuate its purposes and conform its administration, to the maximum extent feasible, to the general administration of the supplemental security income benefits program under this title.".

(b) The amendment made by subsection (a) shall be effective on and after October 1, 1976.

Mr. RANGEL. Mr. Chairman, this amendment to H.R. 8911 to increase benefits to SSI recipients is an extremely important measure to insure decent and adequate housing for our Nation. It is a disgrace to think that in the United States of America there are those of us who must go without food in order to pay for living facilities that are often indecent and unfit for human habitation.

Housing expenses in this country vary more than most other basic necessities. This is due to many factors: locality, rate of mobility, availability for Government housing, and so forth.

The provisions of H.R. 8911 should respond to the discrepancies in housing expenses, since these costs comprise a major portion of the differences in the cost of living; and the elderly, blind and disabled are not well equipped to change residence in response to varying housing costs.

My amendment would provide an increase in SSI benefits for persons whose annual housing expenses exceed 33⅓ percent of their annual income, up to a maximum of $600. The items which comprise housing expenses are rent or mortgage payments, real estate taxes, expenses for gas and electric utilities and home and water heating.

During the committee's study of the SSI program a primary concern was the inflexibility of the benefit levels to accommodate the varying needs of SSI recipients, especially as they relate to housing expenses. These variations take different forms.

Often, there are different rents for the same housing within a local jurisdiction because some rental units are under Government imposed ceilings and others are not. This especially applies to increases suffered by individuals when they move out of State, thus releasing the landlord from continuing at the lower rental rate.

Housing costs may be greater for certain physically handicapped persons, who have to obtain housing with specific facilities. For example, rental costs are usually higher in elevator equipped buildings in comparison to walk-ups, thus increasing the cost for those in wheelchairs or on crutches.

Other variations include the differences in availability of Government subsidized low-cost housing on rent supplements, variations in heating costs due to the differing impacts of fuel prices in different localities, and variation in costs between rural areas or small towns and cities relating to differences in housing construction costs. Housing construction is affected by labor costs, land, and materials, and these vary from one locality to another.

This amendment, by providing increases in benefits, will in many cases aid those who are trapped into remaining in miserably unfit housing to find decent homes. Also, this provision should encourage landlords, as indirect recipients of the cash increases, to provide proper maintenance and make necessary improvements to substandard facilities. I urge my fellow Members of the House to support this amendment, because its provisions are an indispensable part of H.R. 8911.

Mr. VANDER JAGT. Mr. Chairman, I rise in very, very strong opposition to this amendment.

The initial estimate of the cost of this amendment was $825 million. That has now been revised upwards to over $1 billion.

Mr. Chairman, for 5 days the full Committee on Ways and Means wrestled with all the implications of H.R. 8911. The total cost was about $86 million. In 5 minutes the full Committee on Ways and Means rejected this $1 billion amendment. I do not think anyone could seriously argue that we have not given full and proper consideration to this amendment, which would launch us into a massive housing assistance program far removed from the fundamental purposes of the supplementary security income program.

This $1 billion amendment would take us 10 times over the budget resolution authorization of $100 million for this bill; so the $1 billion amendment would sink the whole bill and the good work that is embodied here would be lost.

Mr. Chairman, I urge the Members to reject the amendment resoundingly.

Mr. CORMAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, it is true that the full committee considered and rejected this amendment. The subcommitte considered it under the bill, H.R. 8912, and reported it favorably to the full committee.

It is a substantial amount of money. It would be a significant policy shift in the philosophy of the Federal Government as it relates to SSI. It is, I think, a sound policy shift. We would be paying more Federal dollars to beneficiaries who live in higher-cost areas.

Looking at it from the point of view of the people that we are dealing with, they live on very meager amounts of money.

We say they must spend at least one-third of their few dollars for rent if they are to get this additional support. Not many of us think we can live on $44,600 a year and pay a third of it in rent. Try it on $175 per month.

As to equity among the States, when we federalized welfare for this group of beneficiaries, we said that we would pay exactly the same per capita, whether they live in very expensive areas or inexpensive areas, and leave it to the good consciences of the States to decide on how much to supplement it, but that is not fair to all American citizens and not fair to all American taxpayers, because in more expensive areas Federal taxes are higher because incomes are higher.

Mr. Chairman, I recognize the gravity of this amendment, but I urge its adoption.

Mr. MILLER of Ohio. Mr. Chairman, I move to strike the requisite number of words. I would like to address a question to the author of the amendment, the gentleman from New York (Mr. RANGEL).

How does the amendment affect those families that are receiving HUD subsidies of $873 per month for rent? Would they receive additional funds under the gentleman's amendment?

Mr. RANGEL. No funds are to be received by any recipient if, in the total amount they are receiving on a monthly basis, less than one-third of that amount is paid for rental costs.

Mr. MILLER of Ohio. When we had the HUD appropriation bill on the floor, it was brought out that one family could receive as much as $873 per month for a rent subsidy. Now, if they had no one in the family working, or no income coming in, would that subsidy still be paid, and then would they receive the regular SSI payment plus up to $50 per month under the gentleman's amendment?

Mr. RANGEL. I am saying that if the subsidy is locked into place, then certainly we cannot consider that as being something that is being paid by the recipient. If one accepts that, then we take a look at the SSI check and find out how much monthly income would have to be paid toward rent, even though the subsidy may be already locked in, but certainly not paid by the recipient for that rent.

Mr. MILLER of Ohio. But that is not answering the question. If a family is being paid that maximum amount, and they have no income, will they still receive a SSI payment plus up to $50 additional that the gentleman is offering in his amendment?

Mr. RANGEL. Is the gentleman saying that they have no income? No, they do not receive any income under SSI.

Mr. MILLER of Ohio. That is correct. That came out under the appropriation bill for HUD, that there are families receiving that amount of $873 per month, per family, for rent. That is why I am concerned. If they are also going to receive the SSI now on top of that additional because they paid nothing from their own income for their rent, the people, the taxpayers of the United States paid that rent, and now are we asking for additional funds on top of that?

Mr. RANGEL. No, if they have no income, then certainly they would not be the recipient of SSI, and certainly if the rent is already being paid by a different source, and the formula we are using relates to the SSI check, then it certainly would not apply where the recipient's rent is being paid by some other public source.

Mr. MILLER of Ohio. It would not apply, the gentleman's amendment would not give them additional funds?

Mr. RANGEL. No, because under the situation the gentleman refers to, this would not be one-third or over one-third of the SSI income that would be paid. The gentleman's concern is where, through another Federal program, the Government is subsidizing the rent, and it would not apply to this amendment.

Mr. MILLER of Ohio. I thank the gentleman.

Mr. CORMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. MILLER of Ohio. I yield to the gentleman from California.

I am confused. I realize we are all supposed to know all of these programs. This one is based upon $876 a month rent?

Mr. MILLER of Ohio. Eight hundred seventy-three dollars.

Mr. CORMAN. Excuse me. I do not want to overstate the case. Eight hundred seventy-three dollars a month rent. Is there an existing Federal program in which we are giving that much money to some property owner to house a welfare family?

Mr. MILLER of Ohio. If the gentleman recalls, when the appropriation bill for HUD was on the floor. I asked at that time the chairman of the subcommittee handling the HUD bill and the ranking minority member what was the maximum amount being paid to any one family for 1 month. I did not receive an answer at the time, so I checked with HUD. It took about 3 days before the answer came back. The answer was that we are paying up to $873 per month for one family, yes. That was the answer from HUD.

That is why I questioned as to what amount we are going to pay beyond $873 per month subsidy.

Mr. CORMAN. If the gentleman will yield further, under the program we are talking about, nobody gets that much money. As a matter of fact, California is the highest paying State, and it pays $532 a month per couple.

I think that maybe what we were talking about is the people who are making up to $873 a month would be eligible for rent subsidy. If in truth we are paying $873 a month for rent—and the gentleman may very well be correct—we might want to have some substantial changes.

Mr. MILLER of Ohio. I assure the gentleman that it is not a family who is making $873 a month.

The question was how much is the American taxpayer subsidizing and what is the maximum amount being paid to any one family for 1 month, and the answer was that if no one in the family were working, we are paying up to $873 per month subsidy to that one family.

Mr. CORMAN. We will certainly look into it. Some landlord is making a hell of a profit.

Mr. MILLER of Ohio. I am afraid so. I thank the gentleman.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in strong support of this amendment. As a sponsor of it, along with my colleagues, the gentleman from New York (Mr. RANGEL) and the gentleman from New York (Mr. OTTINGER) I feel very deeply that this amendment will help insure that the most helpless people in this society, the blind, the disabled, and the aged poverty-stricken people of America, will get a small additional amount of money to insure a modicum of economic dignity in their lives.

This amendment is a very modest amendment. It says that if an S&F beneficiary is paying more than one-third of his benefits in rent, he can get up to $50 a month in additional benefits to meet the extra housing cost. Although the total expenditure may be substantial because there are many poverty-stricken people in this country who are blind, disabled, and aged, the amount any single person would get under this amendment is really very, very small.

The $50 a month in additional benefits amounts to $1.67 a day per person. What does the amendment provide in terms of available income per person for SSI recipients? The SSI benefits are presently so low that if this amendment passes in the States that pay the highest benefits, California and Massachusetts, people will be getting about $6 a day after rent costs to live on.

It seems fairly difficult for anybody to live on $6 a day. That is hardly enough to pay for food, transportation, clothing, toothpaste, or other essentials.

But $6 would be available only in the two States that pay the highest benefits. In New York State this amendment would insure that people have only about $4.85 a day to live on after paying rent. In most States of the Union, this amendment would insure that people get about $3 a day to live on.

Who are these people? They are the poverty-stricken blind, aged, disabled; they are the people who are helpless and who cannot help to provide for themselves.

This amendment is especially important because so many people in my district, in the city and State of New York, and in other places throughout the country find that most of their small SSI benefits are spent for rent or housing costs. It is not uncommon for an aged, blind or disabled New Yorker, who receives $218.55 in SSI benefits each month, to pay more than $150 in rent alone—thus leaving no more than $2 a day on which to live. It is impossible for anyone to survive on $2 a day.

Our amendment would provide some relief to the many needy people in such desperate circumstances.

Mr. Chairman, I remind the Members of this Committee that the SSI program was designed to provide a Federal guaranteed income to insure that these most helpless people in our society would be able to live in our wealthy nation with some economic dignity. If we are not willing to insure that people in this country who are blind, disabled, and aged and who are very, very poor and unable to provide for themselves can have at least $3 to $6 a day on which to survive, then I wonder how proudly we who are better off can stand in this Bicentennial year.

Therefore, I urge my colleagues to support this amendment.

Mr. KETCHUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I reluctantly oppose this amendment. The gentleman from New York, a member of the subcommittee and of the full committee, is one of the few Members of the House that really has an understanding of the SSI program and of its problems. I do understand the problems, particularly as they sort of regionalize.

Let me give the Members two reasons at this time for the defeat of this amendment. One reason—and it is of overwhelming importance—is that it will simply sink the bill. We are talking about $1 billion over what we have budgeted, and that will simply sink the bill. The bill is far too important in many other areas to do that.

The other reason is a fear that I have, and perhaps we will never be able to achieve a perfect way of solving this problem. The fear that I have is that individuals who are renting homes, that is, the landlords themselves, may have—and I emphasize "may have"—a proclivity to take a look at these individuals and jack their rents up a little bit and say, "We know they are getting a little extra money, so let us just raise the rent today, and then we can raise it 6 months from now." I am not saying that will happen, but it could happen.

Mr. Chairman, the main fear I have is that it will kill the bill.

Mr. VANDER JAGT. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Michigan.

Mr. VANDER JAGT. Mr. Chairman, I thank the gentleman for yielding.

I would just like to underscore the gravity of this amendment and point out that this is a $100 million bill that is before us. The adoption of this amendment would make it a $1,100,000,000 bill and guarantee a veto.

I think of the hours and the weeks that we wrestled with this bill and shuffled amounts of $3 million and $2 million around, and as the gentleman from California (Mr. KETCHUM) pointed out, we would hate to sink the bill by the addition of this $1 billion amendment, which is guaranteed to attract a veto. I believe that when we go 1,000 percent over our own budget resolution on this bill, we would find that the veto would be sustained. It would be a tragedy not to give the benefits and the good that is in this bill to so many needy and deserving people.

That is what would happen by the attachment of this amendment, which would indeed guarantee a veto and kill the bill, and then the good that is contained herein would be lost.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman for yielding.

I would think that the gentleman from Michigan (Mr. VANDER JAGT) well understands that in enacting the SSI program the Federal Government undertook a responsibility to provide support for the most helpless people in this country: the blind, the disabled, and the aged people who are too poor to help themselves.

Mr. Chairman, if we have undertaken this responsibility, how can we stand here today, knowing that these people in many parts of this country live just on the edge of despair, many of them going without food and many of them not having enough money to buy a pair of shoes, to buy soap, or to buy toothpaste, how can we stand here today and say that we cannot afford another $1.66 a day for these people?

Mr. Chairman, I thank the gentleman who says we cannot afford it is not really speaking accurately.

Mr. VANDER JAGT. Mr. Chairman, will the gentleman yield so that I may respond to the statement of the gentlewoman from New York (Ms. HOLTZMAN)?

Mr. KETCHUM. I yield to the gentleman from Michigan.

Mr. VANDER JAGT. Mr. Chairman, I thank the gentleman for yielding.

The SSI program is an income maintenance program, not a housing program. It is very possible that these needs are needs that should be attempted to be answered through a housing program, but we should not subvert the supplemental security income program, which is establishing a minimum Federal income standard for the Nation.

Mr. Chairman, we would subvert the purpose of SSI if we attempted to grapple with the problem which the gentlewoman from New York (Ms. HOLTZMAN) has so graphically described.

Mr. OTTINGER. Mr. Chairman I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I am very pleased to join with my colleagues, the gentleman (Mr. RANGEL) and the gentlewoman from New York (Ms. HOLTZMAN), in offering this amendment.

I would like to say that I have always heard from those on the other side of the aisle that they certainly do not like the excesses in the social welfare programs; but they have always felt that the people who are really in need ought to be dealt with adequately.

Mr. Chairman, the SSI program did not foresee the tremendous differences in the cost of living that do exist in different parts of the country, and it makes no provision for those differences. There are SSI recipients in my area, in areas like Mount Vernon, N.Y., who are in very poor communities within areas with a very high cost of living; they have such a difficult time making ends meet that they cannot afford adequate diets. We have people coming into my office with tears streaming down their face. They say that their rent has gone up but their SSI payment has not. They ask, "How are we going to eat?" One of my district office managers spends a quarter of her time trying to get food from charities so that these people do not starve to death. That should not happen in the United States of America.

Mr. Chairman, this is a modest provision. It just says that we will make a little bit of allowance for the high cost of living areas and make some provision so that the aged, the blind, and the handicapped in the United States do not have to worry about starving.

Mr. Chairman, I do hope that my friends on the other side will support this minimally adequate provision for the people who are most in need.

Mr. Chairman, while H.R. 8911 has many good features that will help to end some of the inequities of the present SSI program, it is tragically deficient in providing relief to aged, blind, and disabled persons residing in high cost of living areas such as my own congressional district in Westchester County, N.Y.

One of the principal defects of SSI that causes horrendous pain and suffering is the lack of flexibility and failure to take into account regional differences in cost of living. The best way to rectify the problem is through an allowance for housing—the principal cost item in the SSI recipient's budget.

Mr. Speaker, during the 1st session of the 94th Congress I introduced a bill, H.R. 7138, to provide a housing allowance to those SSI recipients who are spending more than one-quarter of their income for housing needs with an annual ceiling of $1200 for any one individual. I believe the figure of 25 percent of income that I proposed last year is both reasonable and logical. It conforms to the standards set under the section 8 housing assistance payments program in which eligible persons are given a Federal housing benefit equal to the difference between the market value of a rental unit and a given percentage of income.

While I continue to feel that my proposal is the most reasonable one and would hope that we could eventually provide a benefit computed on the basis of one quarter of income, I support the amendment being offered based on one third of income because of present budgetary constraints. The Social Security Administration has indicated a first year cost of my proposal of $1.3 billion, while the Rangel amendment would cost just over $800 million.

I would like to point out that the Public Assistance Subcommittee of the Committee on Ways and Means reported this housing subsidy provision to the full committee. The full committee, unfortunately, failed to adopt this as a part of the reform package that is being considered today.

I firmly believe that rent supplementation is one way of getting around the basic inflexibility of a program that has never taken regional cost-of-living differences into consideration in the awarding of benefits even those that makes the difference on whether SSI recipients can afford adequate food or clothing. In the higher cost of living areas of the country rising rent and utilities, coupled with a lack of adequate alternate housing at reasonable prices has made it utterly impossible for those on SSI to survive.

Because of the crying need for justice and mercy in this program, and because this is a proposal that has received significant indications of support from among the House membership, I urge my colleagues to cast their votes in favor of providing much needed relief to the aged, blind, and disabled for whom this program is their only means of survival.

Mr. BINGHAM. Mr. Chairman, it is my pleasure to rise to express my vigorous suport for the housing assistance amendment offered by my colleagues from New York: Mr. Rangel, Mr. Ottinger, and Ms. Holtzman. This amendment is essentially identical to a provision in SSI reform legislation (H.R. 2891) I cosponsored with Ms. Holtzman early last year, and to a bill approved by the Public Assistance Subcommittee last year. It embodies the principle of housing supplements for low-income elderly on social security which I have been advocating in various legislative proposals since 1971—for example, H.R. 12161, 92d Congress. Specifically, the amendment provides an increase in SSI benefits for persons whose annual housing expenses exceed one-third of their income up to a total supplement of $600. I am pleased to point out that we realistically included under "housing expenses" real estate taxes, and the cost of gas and electric utilities and home and water heating in addition to rent or mortgage payments.

The concept of special housing supplements to low-income persons to limit such costs to one-third or one-fourth of their income is widely used under other public assistance programs administered by Federal, State, and local governments. It reflects recognition of the fact that shelter expenses vary greatly from area to area and imposition of strict national or State income standards which do not take into account local housing conditions would be unjust for those who live in high-cost areas. The crisis in the housing industry and in fuel supplies has added to this problem of rising rents and related housing expenses. Various levels of government have responded by raising housing assistance limits. This is all fine and good for those low-income persons who live in public housing or receive housing cost-based welfare payments. But what about the elderly, blind, and disabled on SSI? What do they do when their housing expenses rise to the point where they have little left over from their SSI income after their rent, or mortgage, and utilities are paid. A nationally based Cost-of-living increase of 8 percent or 6.4 percent is not going to cover a 20-percent or 30-percent housing cost increase.

This problem is especially acute in New York City, part of which I represent. There fuel and shelter costs have risen greatly over the past few years. The fiscal crisis has also forced the State and city government to phase out or limit various rent control and rent exemption programs. Consequently, some unfortunate persons on fixed incomes have been faced with 20-percent to 50-percent rent increases which are impossible for them to absorb. For example, back in 1974 during hearings conducted by the New York State Assembly Standing Committee on Social Services, it was discovered that in many areas of the State it was not uncommon for a single person to have to pay rent in the range of $140 to $160 per month. After also paying for utilities, an essential phone, personal necessities, transportation, and perhaps heat, a person with as little as the basic monthly SSI grant of $206.85 would have as little as $1 a day with which to put food on the table. The anguish this situation caused especially for the proud elderly, blind, and disabled cannot be measured. I urge my colleagues in the House to consider the plight of these people and vote in favor of the Rangel-Ottinger-Holtzman amendment. Justice for our aged, blind, and disabled low-income persons demands it. If we fail to take this step, we might as well officially rename SSI as supplemental "insecurity" income as it was called in 1974 by the New York Times.

Mr. GIBBONS. Mr. Chairman, I rise in opposition to this amendment. In essence, it creates a housing allowance program for persons eligible for the SSI program. Under this amendment, extra SSI payments—beyond the basic Federal benefits—would be made to persons whose housing costs—including rent, mortgage, real estate taxes, heating, and utilities—exceed one-third of their total income. There is a maximum payment of $50 per month, or $600 per year. I urge opposition on grounds of cost and the relationship to the budget resolution; on administrative grounds; and on the grounds that the program's design does not make economic sense. Let me expand on the points.

COST AND THE BUDGET RESOLUTION

This bill would cost $825 million. There is no money for this in the budget resolution, in large part because the Ways and Means Committee explicity rejected the proposal when making its recommendations with respect to the fiscal year 1977 budget to the House Budget Committee.

ADMINISTRATIVE PROBLEMS

This amendment would return the SSI program back to the old-style welfare calculation of individual need, rather than the promised, more streamlined calculation of income. It would be very complex and costly to administer, requiring documentation of rent, mortgage, taxes—prorated monthly—and utilities. Every time someone's rent is raised, property taxes are changed, or utility rates are raised, SSI officials would have to recalculate or else make erroneous payments. Given the severe problems the Social Security Administration is already having in administering the program—and these are the problems we've been reading about in the papers time and time again, can social security administer what is in effect another complex program?

ECONOMIC PROBLEMS

This amendment, while noble in intent has serious design flaws. It directly encourages higher spending on housing, simply because of the new subsidy. Once housing costs one-third of income, a recipient can incur $50 more monthly in housing costs and be completely reimbursed. A payment of only a portion—for example, one-half—of the difference between one-third of income and housing costs would discourage unnecessary housing consumption in much the same way that personal cost-sharing in health care is said to do.

Finally I would note that the Department of Housing and Urban Development has been operating a massive housing allowance experiment to test the effect on rent levels and demand for housing of housing subsidies. It is my understanding that no firm conclusions can yet be drawn as to whether landlords would simply hike rent since SSI will pay for some or all of the rent increases. These are important questions, and should be given more detailed committee attention.

I urge my colleagues to vote no to the Ottinger amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. RANGEL).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. VANDER JAGT. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee on the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 665]

Abzug
Anderson, Ill.
Andrews, N.C.
Archer
Badillo
Beard, R.I.
Beard, Tenn.
Bolling
Brademas
Breaux
Burgener
Burton, Phillip
Cederberg
Chisholm
Clausen, Don H.
Cochran
Conlan
Conyers
Coughlin
D'Amours
Danielson
de la Garza
Drinan
Early
English
Esch
Eshleman
Evins, Tenn.
Fish
Fuqua
Giaimo
Gibbons
Green
Harrington
Harsha
Hays, Ohio
Hefner
Heinz
Hinshaw
Howe
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Kastenmeier
Landrum
Lehman
McCloskey
McCollister
McKay
McKinney
Martin
Mathis
Melcher
Milford
Mink
Moorhead, Calif.
Moorhead, Pa.
Mosher
Murphy, N.Y.
O'Hara
O'Neill
Passman
Pattison, N.Y.
Peyser
Poage
Railsback
Rees
Riegle
Rose
Rosenthal
Rousselot
Russo
Santini
Scheuer
Shuster
Sisk
Smith, Iowa
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Talcott
Teague
Udall
Waxman
Wiggins
Wilson, C. H.
Wolff
Wylie
Young, Alaska

Accordingly the Committee rose; and the Speaker having resumed the chair (Mr. BERGLAND) Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 8911, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 337 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Michigan (Mr. VANDER JAGT) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 114, noes 269, not voting 48, as follows:

[Roll No. 666]

AYES—114

Addabbo
Allen
Ambro
Anderson, Calif.
Beard, R.I.
Bergland
Biaggi
Bingham
Blouin
Boland
Bolling
Brademas
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burton, John
Carney
Clay
Cleveland
Collins, Ill.
Conte
Conyers
Corman
Cotter
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Diggs
Downey, N.Y.
Drinan
du Pont
Eckhardt
Edgar
Eilberg
Fenwick
Florio
Ford, Tenn.
Fraser
Gilman
Gude
Harkin
Harrington
Hawkins
Helstoski
Holland
Holtzman
Howard
Johnson, Calif.
Jordan
Koch
LaFalce
Lent
Long, Md.
Madden
Maguire
Matsunaga
Metcalfe
Meyner
Mezvinsky
Miller, Calif.
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mottl
Murphy, Ill.
Murphy, N.Y.
Nix
Nolan
Nowak
O'Hara
Ottinger
Patten, N.J.
Patterson, Calif.
Pepper
Perkins
Price
Randall
Rangel
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Rooney
Rosenthal
Roybal
Ryan
St Germain
Sarbanes
Scheuer
Schroeder
Seiberling
Solarz
Spellman
Stanton, James V.
Stark
Stokes
Studds
Thompson
Tsongas
Van Deerlin
Vanik
Weaver
Wilson, Bob
Wolff
Wydler
Yates
Young, Ga.
Zeferetti

NOES—269

Abdnor
Adams
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bevill
Biester
Blanchard
Boggs
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carr
Carter
Cederberg
Chappell
Clancy
Clawson, Del
Cochran
Cohen
Collins, Tex.
Conable
Cornell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Calif.
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flood
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Frenzel
Frey
Gaydos
Gibbons
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harris
Harsha
Hayes, Ind.
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holt
Horton
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Krebs
Krueger
Lagomarsino
Latta
Leggett
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Lundine
McClory
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Mann
Mathis
Mazzoli
Meeds
Michel
Mikva
Milford
Miller, Ohio
Mills
Mineta
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Pa.
Morgan
Moss
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Oberstar
Obey
O'Brien
Passman
Pattison, N.Y.
Paul
Pettis
Pickle
Pike
Pressler
Preyer
Pritchard
Quie
Quillen
Railsback
Rees
Regula
Reuss
Rhodes
Roberts
Robinson
Rogers
Roncalio
Rostenkowski
Roush
Runnels
Ruppe
Santini
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Staggers
Stanton, J. William
Steed
Steiger, Wis.
Stephens
Stratton
Sullivan
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Udall
Ullman
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wiggins
Winn
Wirth
Wright
Yatron
Young, Fla.
Young, Tex.
Zablocki

NOT VOTING—48

Abzug
Badillo
Bonker
Burgener
Burton, Phillip
Chisholm
Clausen, Don H.
Conlan
de la Garza
Early
Esch
Eshleman
Evins, Tenn.
Fuqua
Giaimo
Green
Hays, Ohio
Heinz
Hinshaw
Howe
Johnson, Pa.
Jones, Tenn.
Landrum
Lehman
McCloskey
Martin
Melcher
Moorhead, Calif.
Mosher
O'Neill
Peyser
Poage
Riegle
Rose
Rousselot
Russo
Sisk
Smith, Iowa
Steelman
Steiger, Ariz.
Stuckey
Talcott
Teague
Waxman
Wilson, C. H.
Wilson, Tex.
Wylie
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Phillip Burton for, with Mr. Teague against.

M. Abzug for, with Mr. Jones of Tennessee against.

Mr. Badillo for, with Mr. Rousselot against.

Mrs. Chisholm for, with Mr. Johnson of Pennsylvania against.

Mr. Lehman for, with Mr. Don H. Clausen against.

Mr. Waxman for, with Mr. Young of Alaska against.

Messrs. BROWN of California, LENT, MURPHY of New York, BEARD of Rhode Island, and BRADEMAS and Mrs. FENWICK changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. CORMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to advise the Members as to what we are anticipating to do on this bill and for the balance of the day.

We will next have an amendment offered by the gentleman from Texas (Mr. PICKLE) which is a rather complex but very important amendment. It will be passed, in my view, but it will be debated thoroughly.

Then there will be an amendment offered by the gentleman from Illinois (Mr. MIKVA) which has some significant impact on crippled and retarded children. I do not know how long it will be debated. It is extremely complex. I would hope that many Members who are interested in the plight of those children would be disposed to listen to the debate and then follow their best judgment as to how to vote.

Mr. CORMAN. Mr. Chairman, at the conclusion of the Mikva amendment, I will request that the Committee rise, and we will take the two final amendments on Monday.

AMENDMENT OFFERED BY MR. PICKLE

Mr. PICKLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PICKLE: On page 21 (of H.R. 15080), after line 5, insert the following new section (and redesignate the succeeding section accordingly):

COST-OF-LIVING ADJUSTMENTS IN AMOUNT OF CERTAIN EXCLUDABLE INCOME

SEC. 18. (a) Section 1617 of the Social Security Act is amended by inserting "subsection (b)(2)(A) of section 1612," after "1611,".

(b) The amendment made by subsection (a) shall apply with respect to months after the month following the month in which this Act is enacted, so as to reflect in the benefits payable for such months under title XVI of the Social Security Act the percentage increase in benefit amounts under title II of such Act which became effective (pursuant to section 215(i) thereof) in 1976.

Mr. PICKLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment may be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PICKLE. Mr. Chairman, I offer an amendment to correct an inequity which occurs when a social security increase goes into effect. Because of the way a concurrent increase in social security and in the allowable SSI income level is computed, some SSI recipients are thrown over the maximum income ceiling by the social security raise and therefore become ineligible for SSI and in turn for medicaid.

A small social security increase in these instances can therefore wind up costing a person money in terms of increased medical bills. I do not think that it was the intention of the Congress to have this happen since the law already provides for the SSI income limit to rise by the same percentage as a social security increase.

The problem arises because under existing law $20 of income can be disregarded so that an individual may receive a very small SSI benefit—and be eligible for medicaid—on top of a social security benefit which is $20 larger. However, when one multiplies the SSI limit and the higher social security benefit by the same percentage to enact a raise, the social security increase may be larger than the SSI limit increase and those near the limit are thrown over the top.

My amendment would remedy this by making the $20 exempt amount increase by the same percentage that the SSI benefit increases.

Let me give a concrete example from my own State of Texas:

There a Mrs. Y was receiving a social security check of $176.80. The SSI limit in Texas at that time was $157.70, meaning that with the $20 income disallowal, Mrs. Y was close to the borderline. When the recent 6.4 percent raise went in, her social security check went up to $188.10. But the SSI income limit went up only to $167.80. Again adding the $20 income disallowal, this meant that Mrs. Y was suddenly, through no fault of her own, receiving 30 cents too much to qualify for SSI—and receive medicaid.

In fact, anyone in Texas receiving a social security check between $176.50 and $177.70 before the raise was caught in this crack and about 800 to a thousand persons were caught in our State alone.

This amendment does carry a cost to it. CBO estimates cost between $20 million and $29 million. Treasury estimate may be higher. But I hope that the Members here will realize that this is a small cost compared to the hardship not passing this amendment will work on the elderly of this country. This amendment simply corrects a computational fluke and fulfills the intent of Congress in this field. I hope you will vote for it.

Mr. VANDER JAGT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the problem that the gentleman from Texas described is a very real problem. It deals with eligibility for medicaid. The bill before us is the supplemental security income program. This is a complicated enough program without twisting it, like a pretzel, around in order to deal with a medicaid eligibility problem.

That medicaid problem should be addressed in terms of what is proper in determining eligibility for medicaid. This bill is complicated enough in itself without trying to change it and twist it to cover a problem in an entirely and totally different field.

The gentleman from Texas said it will cost some money but we should not be too worried about the cost. Yes, we should be worried about the cost, because in coming up with this $86 million in the bill, in order to stay within our budget the committee labored and gave up many things that had heart rending appeal in order that the committee might come to terms with our own budget resolution. To come in at this last moment with this amendment would throw us way over the budget resolution.

The cost in this year is $50 million, and it would cost $245 million a year in subsequent years.

We have already said "no" to many equally worthy things, so this committee and the House could stay within the terms of our own budget resolution. This would take us 25 percent over the budget resolution we set for ourselves in terms of SSI improvements

Not only would it take us over the budget resolution but also it is a pretzel-type solution to a problem, there is a much better solution to the problem, and the solution ought to be the result of committee hearings on that specific problem.

I sincerely hope this amendment is defeated.

Mr. OTTINGER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas (Mr. PICKLE) and I move to strike the requisite number of words.

Mr. Chairman, I am really amazed to hear my friend from the other side of the aisle say in effect to the people—the SSI recipients—who really are not able to make it, that we should not adopt this amendment. This SSI program is the most inflexible program and the greatest mistake we ever passed because it does not take into account of the effect on other programs or cost of living differentials. We say we will give an older person a Social Security increase and then we take it away from that person with another hand under the present operation of the law. These SSI recipients are then left unable to support themselves.

The gentleman says ineffect: "Let them eat pretzels"—similar to the infamous historic condemnation by an infamous Queen of France: "Let them eat cake." The gentleman says: "Let them eat pretzels." I do not agree that we should handle our aged blind and handicapped people in that manner.

Mr. CORMAN. Mr. Chairman, I move to strike the requisite number of words and I rise in support of this amendment.

The amendment does exactly what the gentlewoman from New Jersey was pointing out we ought to do with every Federal program, and that is to refrain from substantially harming people when we help them slightly.

I urge adoption of the amendment offered by the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I thank the gentleman for yielding. I will not take more than just a minute.

This is not a far out amendment. To say that it is changing and twisting the program I think is not correct. It is changing and correcting the program. It is correcting somethihg that certainly should be readjusted.

I think everybody in the House should recognize this.

I think everybody in this House recognizes this. It is certainly germane. It is certainly the kind of amendment that should be considered. It was mentioned to us in our committee and we agreed on the wording.

Mr. Chairman, I would say one additional thing about the cost. I do not think that it goes on to the budget. It is in excess of what we started out with, but there may be other amendments where adjustments are made and the balance may even out. This does not bust the budget that much and the amount is questionable, whether it costs $30 million or up to $50 million a year. That is not a sizable amount. I think we can stand it in the bill. I think as this bill moves forward, if we need to adjust it a little, we can; but I do not have that option.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I want to commend the gentleman from Texas for bringing this to the attention of the House. I think an injustice has been done. I think an injustice should be corrected when we have the opportunity to correct it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Pickle).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MIKVA

Mr. MIKVA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Mikva: Strike out line 24 on page 2 and all that follows down through line 17 on page 3, and insert in lieu thereof the following:

Sec. 4. (a) Section 1615 of the Social Security Act is amended to read as follows:

"REHABILITATION SERVICES FOR BLIND AND DISABLED INDIVIDUALS

"Sec. 1615. (a) In the case of any blind or disabled individual who—

"(1) has not attained age 65, and

"(2) is receiving benefits (or with respect to whom benefits are paid) under this title, the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, or, in the case of any such individual who has not attained age 16, to the appropriate State agency administering the State plan under subsection (b) of this section for rehabilitation services under such plan, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the rehabilitation services made available to him under such plan.

"(b) The Secretary shall by regulation prescribe criteria for approval of State plans for the offering of appropriate, comprehensive rehabilitative services (including social and developmental services) to blind and disabled persons who have not attained the age of 16 (hereinafter referred to as 'disabled children'). Such criteria shall include—

"(1) administration—

"(A) by the agency administering the State plan for crippled children's services under title V of this Act, or

"(B) by another agency which administers programs providing services to disabled children, and which the Governor of the State concerned has determined is capable of administering the State plan described in the first sentence of this subsection in a more efficient and effective manner than the agency described in subparagraph (A) (with the reasons for such determination being set forth in the State plan described in the first sentence of this subsection);

"(2) coordination with other agencies serving disabled children; and

"(3) establishment of an identifiable unit within such agency which shall be responsible for (A) assuring appropriate counseling for disabled children and their families, (B) establishment of an individual service plan for each child, and prompt referral to appropriate medical, educational, and social services, (C) monitoring to assure adherence to each individual service plan, and (D) provision for disabled children who are 6 years of age and under, or who require preparation to take advantage of public educational services, or of medical, social, developmental, and rehabilitative services, in all cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

"(c) Every individual under age 13 with respect to whom the Secretary is required to make provision for referral under subsection (a) shall accept such rehabilitation services as are made available to him under the State plan for vocational and rehabilitation services approved under the Vocational Rehabilitation Act or under subsection (b) of this section; and no such individual shall be an eligible individual or eligible spouse for purposes of this title if he refuses without good cause to accept rehabilitation services for which he is referred under subsection (a).

"(d) The Secretary is authorized to pay to the State agency administering or supervising the administration of the applicable State plan the costs incurred in the provision of rehabilitation services to individuals so referred (not including the costs of any services to which individuals have been referred under a State plan approved pursuant to subsection (b) of this section except to the extent that provision for such services is made under and in accordance with subsection (b)(3)(D)).

"(e) The Secretary shall, within 120 days after the enactment of this subsection, promulgate by regulation criteria (including medical, social, personal, educational, and other criteria) for the determination of disability in the case of persons who have not attained the age of 16."

(b) The amendment made by subsection (a) shall take effect on the first day of the second calendar month beginning after the date of the enactment of this Act.

And on page 2, strike out lines 22 and 23 and insert in lieu thereof "Referral of Blind and Disabled Individuals Under Age 16 foı Appropriate Rehabilitation Services".

Mr. MIKVA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MIKVA. Mr. Chairman, my colleagues have received a strange kind of letter, a "Dear Colleague" letter in the mail yesterday or today, with a very odd coalition on it, a coalition consisting of perhaps as unusual a group as the Committee on Ways and Means has ever seen. They are as follows:

The gentleman from California (Mr. Ketchum), the gentleman from New York (Mr. Rangel), the gentleman from Oklahoma (Mr. Jones), the gentleman from Minnesota (Mr. Frenzel), the gentleman from Illinois (Mr. Mikva), the gentleman from Louisiana (Mr. Waggonner), the gentleman from Indiana (Mr. Jacobs), the gentleman from North Carolina (Mr. Martin), the gentleman from Pennsylvania (Mr. Schneebeli), the gentlewoman from Kansas (Ms. Keys), the gentleman from Wisconsin (Mr. Steiger), and the gentleman from California (Mr. Stark).

They all sent a letter to the Members urging adoption of this amendment. I would hope that that kind of innocence by association ought to be sufficient to persuade all of us of the logic of the amendment; but let me in addition suggest that this amendment will save $37 million in the bill.

I am not normally for taking money away from crippled children and I do not think this amendment does that. This amendment represents what I hope is the kind of targeting that we will do more of in our SSI social security and welfare legislation from here on in.

Very briefly, the disagreement with the distinguished chairman of the subcommittee and those of us who support the amendment is simply this: The subcommittee and the full committee ultimately proposed a section in the bill which would provide a total of $55 million of funding for helping disabled children between 0 and 16 on a matching fund basis. That means that if the local communities and the States will pick up 50 percent of the cost, the Federal Government will provide the other 50 percent. For those over 13, we currently have in existence a program of 100-percent funding for rehabilitation of the disabled. This would provide a matching basis for those under 13.

My amendment would concentrate on that group aged 0 to 6, the most important group of disabled children, where a little help goes the furthest, because it is at a time when it makes a difference in terms of rehabilitation, and would provide 100-percent funding for that group; the bill would then leave the 6 to 16 where they are now.

Now, leaving the 6 to 16 where they are is what saves the money. It is not as heartless as it sounds, because in most, if nearly not all States, they have some kind of program operating through the schools that provides some kind of assistance for rehabilitation of disabled children. Indeed, that was the opposition some of us had to the matching grant formula. What would have happened to that whole $55 million is that it would have gone to rehabilitation centers and local school districts to supplement the moneys already being spent, a worthy enough cause, but no new money for these children and nothing for the 0 to 6 group of children.

If any Member knows of a community or a State at this point at our history which can come up with funds for new programs, I wish he would let me know where it is, because I have several communities which would like to borrow some funds. The fact of the matter is that the States and local communities have no money to start up new programs. If we do not do this amendment, we will spend the $55 million, but no child will get any new help of any kind. If we adopt this amendment, we will spend less money, but there will be 100-percent funding for the most critically abandoned, unhelped group of disabled children in our society, that group from birth to age 6, when they get into the other programs now available. It is for that reason that we have such an unusual collection of Members supporting the amendment. I hope it will find favor with the committee.

Mr. VANDER JAGT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman who preceded me in the well, the gentleman from Illinois (Mr. Mikva), made a statement that, "while this amendment is not quite as heartless as it seems to those children between the ages of 6 and 13," and so on. This statement that it is not quite as heartless as it seems indicates that there is some heartlessness in what this amendment does to those children between the ages of 6 and 13.

His amendment presents us with a very, very difficult decision. He made the case for the amendment in a way which I think is persuasive. I think it is desirable to target a great deal of help to children 6 and under, give them the help when they need it the most. Nevertheless, this amendment does take away help from those children between 6 and 13.

The committee bill basically gives 50-percent Federal help to disabled children aged zero through 13. The Mikva amendment gives 100-percent help to children between ages zero and 6, taking away the 50-percent help the bill gives to those children between 6 and 13. I just think this body ought to understand clearly what it is doing. It is being, as the gentleman from Illinois said, heartless to those children between the ages of 6 and 13, and it is being very much filled with heart in caring for those children between the ages of zero and 6. That is a decision I think this body will have to make for itself.

Before I yield to the gentleman from Illinois, I want to ask him, is that the proper statement of the issue before us, that this amendment changes the committee bill from giving 50-percent Federal aid to all children aged 13 and under, and instead excludes those children between the ages of 6 and 13 in order to give 100-percent Federal help to children between the ages of zero and 6? Is that not a proper statement of what the gentleman's amendment does?

Mr. MIKVA. Mr. Chairman, will my colleague yield to me?

Mr. VANDER JAGT. I am delighted to yield to the gentleman from Illinois, and again I congratulate him on a good statement on behalf of presenting us a very difficult decision which I think this body should make for itself.

Mr. MIKVA. That is a proper statement of the disagreement. The only reason I rose was to correct a little bit of the rhetoric in the gentleman's otherwise articulate and precise statement. When he suggested that it was heartless, even a little bit, I do not think it is a little bit. I think, rather, this is the distinction the gentleman is describing. How do we get the money to where it will do the most good?

I agree with the gentleman that if the amendment is not adopted, under the Committee bill the whole $55 million, the whole thing, will be eaten up for existing programs. There will not be one dime of new help for disabled children. I do not consider that a question of the gentleman being heartless or of my being heartless. I am merely asking, "How can we do it?"

Mr. VANDER JAGT. I thank the gentleman very much for clarifying the record. It is nice to hear from the other side that they do not consider us heartless. I only cited the gentleman's statement that the amendment was not quite as heartless as it seems, to direct the attention of this body to the fact that the amendment does take away some benefits to those children between 6 and 13 who would otherwise be receiving it without this amendment.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by Mr. Mikva.

While I support the additional changes made in the bill over the existing law, it simply does not go far enough in providing benefits to disabled children 6 years of age and under.

The SSI Amendments of 1976 provide that handicapped children under the age of 13 shall be referred to the State agency responsible for the material and child health and crippled children's programs, rather than to vocational rehabilitation agencies for vocational services. The bill provides 50-percent reimbursement for States to provide these services. The criteria for the determination of disabilities of these children, remains the same as for adults. It is important to point out that children aged 6 to 13 will receive many of these services in our public school system, while children under 6, would not.

The Mikva amendment, of which I am a cosponsor, corrects these inequities. The amendment mandates HEW to promulgate specific eligibility criteria for these children. It provides for a mechanism for their referral and followup to the proper medical, rehabilitative, educational, and other necessary services and provides 100 percent, rather than 50-percent reimbursement for States to provide such services to children 6 and

The necessity for mandating early intervention cannot be overemphasized. In this way, we can insure that these disabled children have early access to a comprehensive and rehabilitative health services system. Applying the same criteria for adults to children is unfair as there is an obvious additional need for other factors beyond the medical information required for adult eligibility. Mandating a State mechanism for these preschool handicapped children will guarantee the formulation of separate referral plans, the availability and delivery of these services, and implementation of the plans. States simply cannot afford to finance 50 percent of these programs and with 100 percent full Federal reimbursement, as exists for adults, handicapped children would not receive these benefits.

The costs of full funding of preschool disabled children's program as estimated by HEW is equal to one-third of the cost of the provisions in the bill, at $55 million. This amendment would actually reduce Federal spending by treating these children at an early age and thus prevent their dependence on welfare as adults.

I urge my colleagues to support this amendment and vote in favor of the bill.

Mr. CORMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I urge my colleagues to be patient. I really would like to use most of the 5 minutes. We have expedited the handling of this bill. We have done pretty well with it. As soon as we finish with this amendment, we are going to rise and we will have the other two amendments on Monday.

Mr. Chairman, it just is not true that nothing is being done for children from 0 to 6. That is not true. In the State of California, being helped under maternal and child health programs in fiscal year 1975 are 172,000 people, and 97,000 of them are under the age of 1. Of them, 63,000 are age 1 to 4. That is a matching fund program. Under the crippled children program, in the State of California we helped 58,000 of them. Two thousand are under the age of 1, 13,000 are from 1 to 4, and 16,000 are from 5 to 10. That is a matching fund program. We are not reaching nearly as many crippled and retarded children as we should because we are not spending enough money.

It is not true to say that there will not be any money. Ninety percent of the States are now overmatching the Federal money they get. This will spend $55 million more to help those who are probably in the greatest need of all.

What are we talking about? What kind of aid? What kind of people?

Let me read one paragraph from the National Health Insurance Resource published by the Committee on Ways and Means:

> State crippled children's agencies use their funds, especially in rural areas, to locate handicapped children, to provide diagnostic services, and then to see that each child gets the medical care, hospitalization, and continuing care by a variety of professional people that he needs. A little less than half of the children served have orthopedic handi-

caps; the rest include epilepsy, hearing impairment, cerebral palsy, cystic fibrosis, heart disease, and many congenital defects.

We can save $37 million with the Mikva amendment. We can make it very easy for some people in New York to have their particular projects funded by the Federal Government. We do that at the expense of many children who need services. I hope the Mikva amendment is defeated, and we will spend the money, the $55 million, to help the children across this land who need it desperately.

Mr. MIKVA. Mr. Chairman, in 1972, through the establishment of SSI, we permitted disabled income-eligible children to benefit from the program. We hoped that through early identification and intervention we could prevent childhood disabilities from becoming lifelong, irreversible handicaps. Our hopes remain unfulfilled. The lack of Federal support and specific criteria for evaluating disabled children has seriously hampered the development of programs designed to treat disabled children.

The bill reported by the committee makes some headway, but further improvements are needed. It does not provide for full Federal funding of State programs designed to treat preschool children. Under the bill, States will have to finance 50 percent of their programs designed for disabled children—programs for adults remain totally federally funded With most States facing financial difficulties Federal participation of only 50 percent means no new State programs. States simply cannot afford their share of the costs.

The amendment I, together with 11 of my colleagues on the Ways and Means Committee, offer is designed not only to correct the deficiencies in the program, but also to reduce its cost.

First, in order to reach the SSI children who need help, the amendment requires HEW to promulgate criteria for the determination of disabilities specific to children.

The amendment mandates that this criteria take into account not only the medical development of the child but also the child's social, educational, and personal development. The severity of a child's disability cannot be made strictly on the basis of his physical health. SSI eligibility determinations for disabled adults are not made strictly on this basis. An adult is considered disabled for purposes of SSI "if by reason of any medically determined physical or mental impairment—he is unable to engage in any substantial gainful activity—employment."

Since in assessing the severity of a child's disability, any standard which relates to the child's ability to engage in substantial gainful employment is inappropriate, the assessment should refer to the impact of the child's handicap on his ability to function successfully within age-appropriate expectations. The child's functional capacity within the areas of learning, language, self-help skills, mobility, and social skills are decidely more meaningful in determining both the severity of his impairment and his developmental potential.

In addition to the development of specific and standardized disability criteria for children, guidelines should be established in order to obtain the existent information, such as school records and developmental assessments, required to evaluate effectively a child's functional capacity.

We look forward to the development of these and the other guidelines required by our amendment and hope that the Office of Maternal and Child Health can complete their work with all due speed.

Second, the amendment mandates the establishment of a mechanism for disabled children, identical to that which now applies to disabled adults, for their referral and followup to appropriate medical, rehabilitative, educational, and other services. The 1972 SSI law mandates that all disabled SSI recipients be referred to the State vocational rehabilitation agency. In actual practice, only children over 13 are being so referred. While one must question the validity of vocational rehabilitation for a 13-year-old child, even more serious is the absence of any provision to deal with the service needs of children under 13. In a recent study we discovered that many children suffering from visibly severe handicaps had not been referred to a physician and, in some cases, had not seen a doctor since 1972. Even with immediate referral to medical and related services, problems remain. Especially for young chidlren, followup is critically important. Our amendment would remedy this problem.

While H.R. 8911 merely mandates the referral of children to services and only provides Federal funds for 50 percent of the administrative costs that the States would consequently incur, our amendment provides the 100-percent Federal reimbursement for these referral and followup efforts as is the case for comparable efforts on behalf of the disabled adults.

Finally, our amendment provides 100 percent Federal reimbursement for rehabilitative, developmental, and medical services to preschool children in cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or to be self-supporting as an adult.

By preschool we mean either children under age 6 or children "who require preparation to take advantage of public educational services." The latter refers to children who are 6 years of age but are not yet in school or children who have been receiving services under this amendment and upon entering school require, for a shortwhile, follow-up or other services related to their transition from prior treatment modalaties to the services of the school.

H.R. 8911 provides Federal funding for only 50 percent of the costs of services provided to all disabled children participating in SSI. In view of the fiscal problems now facing most States, however, it appears that without additional Federal financial participation, few services would be provided. Yet H.R. 8911 calls for the mandatory referral of SSI children to services, which will greatly increase both the need and pressure for services.

Rather than establish a program that States will not be able to afford to utilize, we believe full Federal funding for preschoolers is needed. The preschool group of disabled children is most hurt by the lack of programs. School-age children receive some help through federally supported programs in their schools. Even without this bill they will continue to receive treatment. Preschool children, however, have no programs to which they can turn. By not providing total funding for disabled children, 6 years of age and under, we are losing the opportunity to provide treatment when the likelihood of success is the greatest—during the developmental years.

HEW estimates the cost of full Federal funding of preschool programs to be $18 million—less than a third of the $55 million it will cost to provide 50 percent of the funding for all child treatment programs as required by the bill. By providing full funding for those programs for which there is the greatest need, not only could we reduce Government spending in the long run by preventing disability and dependence, but also reduce actual Government outlays in the next fiscal year.

I urge my colleagues to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MIKVA).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MIKVA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 219, noes 146, not voting 66, as follows:

[Roll No. 667]

AYES—219

Addabbo
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Aspin
Baldus
Baucus
Beard, Tenn.
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Burleson, Tex.
Burton, John
Butler
Byron
Carney
Carr
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Cornell
Cotter
Crane
Daniel, Dan
Daniels, N.J.
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
Eckhardt
Edwards, Calif.
Emery
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Forsythe
Fountain
Fraser
Frenzel
Gaydos
Gibbons
Gilman
Ginn
Goodling
Guyer
Hagedorn
Hall, Ill.
Hall, Tex.
Hamilton
Hannaford
Harkin
Harris
Hayes, Ind.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hillis
Holtzman
Horton
Howard
Hughes
Hyde
Ichord
Jeffords
Jenrette
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kasten
Kastenmeier

Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Leggett
Levitas
Lloyd, Tenn.
Long, Md.
Lott
Lujan
Lundine
McClory
McHugh
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Mathis
Metcalfe
Meyner
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mink
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Neal
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Pepper
Pettis
Pickle
Pressler
Preyer
Pritchard
Quie
Railsback
Randall
Rangel
Regula
Reuss
Richmond
Rinaldo
Rodino
Roe
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Sharp
Shipley
Shuster
Simon
Slack
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stephens
Stokes
Studds
Symington
Taylor, N.C.
Thompson
Tsongas
Udall
Vanik
Vigorito
Waggonner
Walsh
Weaver
White
Wilson, Tex.
Wirth
Wolff
Yatron
Young, Ga.
Zablocki

NOES—146

Abdnor
Adams
Alexander
Allen
Anderson, Calif.
Annunzio
Archer
Armstrong
Ashley
Bafalis
Bauman
Bedell
Bennett
Blanchard
Bolling
Breckinridge
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Carter
Cederberg
Chappell
Clancy
Clawson, Del
Clay
Collins, Tex.
Conable
Corman
Coughlin
D'Amours
Daniel, R. W.
Danielson
Devine
Dickinson
Diggs
Dingell
Downing, Va.
Duncan, Oreg.
du Pont
Edgar
Edwards, Ala.
Eilberg
English
Erlenborn
Flynt
Ford, Mich.
Ford, Tenn.
Frey
Goldwater
Gonzalez
Gradison
Grassley
Gude
Haley
Hammerschmidt
Hanley
Harrington
Harsha
Hechler, W. Va.
Hightower
Holt
Hubbard
Hungate
Hutchinson
Jacobs
Jarman
Johnson, Calif.
Johnson, Colo.
Kazen
Kelly
Kemp
Latta
Lent
Lloyd, Calif.
Long, La.
McCollister
McDade
McDonald
McEwen
McFall
McKay
Matsunaga
Mazzoli
Meeds
Michel
Miller, Ohio
Mills
Mitchell, Md.
Mollohan
Moss
Mottl
Myers, Pa.
Natcher
Nedzi
O'Hara
Patterson, Calif.
Paul
Perkins
Pike
Price
Rees
Rhodes
Roberts
Robinson
Rogers
Roybal
Runnels
Ruppe
Satterfield
Sebelius
Seiberling
Shriver
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Stratton
Sullivan
Symms
Taylor, Mo.
Thone
Thornton
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Whalen
Whitehurst
Whitten
Wiggins
Wilson, C. H.
Winn
Wright
Wydler
Yates
Young, Fla.
Young, Tex.

NOT VOTING—66

Abzug
Ashbrook
AuCoin
Badillo
Beard, R.I.
Burgener
Burton, Phillip
Chisholm
Clausen, Don H.
Conlan
de la Garza
Early
Esch
Eshleman
Evins, Tenn.
Fuqua
Giaimo
Green
Hansen
Hawkins
Hays, Ohio
Hébert
Heinz
Hinshaw
Holland
Howe
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Ketchum
Koch
Lehman
McCloskey
McCormack
Martin
Melcher
Mezvinsky
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
O'Neill
Peyser
Poage
Quillen
Riegle
Risenhoover
Rose
Rousselot
Russo
Ryan
St Germain
Sisk
Smith, Iowa
Steed
Steelman
Steiger, Ariz.
Stuckey
Talcott
Teague
Wampler
Waxman
Wilson, Bob
Wylie
Young, Alaska
Zeferetti

Mrs. BOGGS, Mr. PATTEN, and Mr. CONTE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. CORMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BERGLAND, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8911) to amend title XVI of the Social Security Act to make needed improvements in the program of supplemental security income benefits, had come to no resolution thereon.

PROVIDING FOR FURTHER EXPENSES OF SELECT COMMITTEE ON PROFESSIONAL SPORTS

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1408 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1408

Resolved, That for the further expenses of investigations and studies to be conducted by the Select Committee on Professional Sports acting as a whole or by subcommittee, not to exceed $30,000, including, but not limited to expenditures for the employment of clerical and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $5,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. The chairman of the Select Committee on Professional Sports shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution are for the purpose of carrying out House Resolution 1186 and shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law, and pursuant to House Resolution 1186.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey

There was no objection.

Mr. THOMPSON. Mr. Speaker, House Resolution 1408, by the gentleman from California (Mr. SISK) and the gentleman from New York (Mr. HORTON) calls for $30,000 for the further work of the Select Committee on Professional Sports. Both the gentleman from California (Mr. SISK) and the gentleman from New York (Mr. HORTON) testified in support of the resolution before the Committee on House Administration on July 27, 1976.

The Select Committee was established on May 18, 1976, when the House passed House Resolution 1186. The purpose of the select committee is to investigate the question of stability in the operation of the four major professional sports.

In addition the select committee is to assess the need for and recommend any changes in the law pertaining to such sports. They do not, I might emphasize, have legislative jurisdiction, which would in some instances belong in the Committee on the Judiciary and in some others in the Committee on Education and Labor, since the sports are now under the National Labor Relations Act and of course there exists the question of the antitrust aspects.

The select committee did not request any funds for its initial investigations. However, its review has demonstrated a need for further study which will require some funds, in this case the very modest amount in my judgment of $30,000.

Mr. Speaker, I will move the previous question.

Mr. BAUMAN. Mr. Speaker, if the gentleman will withhold moving the previous question, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding.

When this resolution was brought up on May 18 and passed, the gentleman from Maryland asked the question of the gentleman from California (Mr. SISK) about the cost and the gentleman was assured that there would be no cost, that this was a limited investigation by a nonlegislative committee that would hold a series of hearings and conclude its work. Are we to understand by this $30,000 authorization that this is the total amount for the duration of this Congress and the committee will then expire at the time this Congress expires?

Mr. THOMPSON. The gentleman is correct.

Mr. BAUMAN. I have one further question that might better be addressed to the gentleman from New York.

Mr. THOMPSON. I would yield for purposes of debate only to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I thank the gentleman for yielding and I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the question I would ask is why this committee is in existence. I have watched the news headlines and heard the evening sports newscasts and some people say the only reason for this committee is to bludgeon the major baseball leagues into providing a baseball team for Washington, D.C. I question whether or not the taxpayers ought to be financing a crusade of that type through this investigating committee.

Mr. HORTON. I think that is a misapprehension, because the purpose of the committee is to take an overall look at the 4 major professional sports: football, baseball, basketball, and hockey. So far we have held 16 sessions and heard 52 witnesses, including the commissioners in each of those 4 major sports.

There is coverage of course by the local press and they are very much interested in bringing a baseball team into the Washington area, but that is not the purpose of the committee, and that is not what the committee is studying.

We have looked over the antitrust provisions and we have found there were immigration problems and we have found there were problems with respect to franchises, and there is the interest of the fans and this sort of thing. The commissioners of the four sports and those who have represented the teams and the players' representatives have indicated these oversight hearings were very good and very needed. The purpose of the hearings is not, as apparently has been depicted by the local press and news media. The basic purpose is to look at the overall problems as they relate to the sports.

Mr. BAUMAN. Mr. Speaker, if the gentleman would be good enough to yield further, may we have assurances from the gentleman from New York that the committee will end its work with this session of the Congress?

Mr. HORTON. I will assure the gentleman this committee will end its work this session. That is the purpose.

The gentleman from California (Mr. Sisk), the chairman of the committee, is not here today. That is why he is not on the floor. He is not in Washington. That is why I am answering the questions as the vice chairman of the select committee.

Mr. BAUMAN. I thank the gentleman.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield for debate only to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, if I might I would like to address a question to the gentleman from New York also.

Mr. Speaker, if the gentleman will yield further, I would like to ask the gentleman from New York (Mr. Horton), we have discussed this previously and just as a matter of record to follow up on the question of the gentleman from Maryland, not only is it the intent at the present time of the chairman to conclude whatever hearings that we are to hold, but to conclude all the business and bring an end to the life of the committee also at the end of the year; is that correct?

Mr. HORTON. Mr. Speaker, if the gentleman will yield further, I guess I cannot say it any more plainly than to say that we intend the work of the committee to be finished in this session, that it will self-destruct or end. We do not intend to ask for it to be reconstructed in the next session.

I might say in reply to the gentleman from Maryland and also the other gentleman, we do intend to have more sessions in this Congress. We do have some 15 sessions scheduled in September with some 40 witnesses to impact on the areas brought up. It is our intent to have a report and make a report to the appropriate legislative committees before we finish this session.

Mr. THOMPSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just adopted (H. Res. 1408), and on those resolutions to follow.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PROVIDING ADDITIONAL FUNDS FOR THE AD HOC SELECT COMMITTEE ON THE OUTER CONTINENTAL SHELF

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1414 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1414

Resolved, That for the additional expenses of the ad hoc Select Committee on the Outer Continental Shelf associated with the completion of the legislative process on H.R. 6218, a bill to establish a policy for the management of oil and natural gas in the Outer Continental Shelf, to protect the marine and coastal environment, to amend the Outer Continental Shelf Lands Act, and for other purposes, not to exceed $89,000 including expenditures for the employment of investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $18,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. The chairman of the ad hoc Select Committee on the Outer Continental Shelf shall furnish the Committee on House Administration information with respect to the use of the funds authorized by this resolution.

Sec. 3. Funds authorized by this resolution are for the purposes of carrying out House Resolution 412, and shall be expended, pursuant to regulations established by the Committee on House Administration in accordance with existing law, and pursuant to House Resolution 412.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, House Resolution 1414 requests that the House approve an amount of $89,000 for the Select Committee on the Outer Continental Shelf, chaired by the distinguished gentleman from New York (Mr. Murphy).

The select committee was established on April 22, 1975, for the passage of House Resolution 412. The mandate to the select committee was to consider and report to the House on H.R. 6218, a bill to establish a policy for the management of oil and natural gas in the Outer Continental Shelf.

The committee's report was to have been filed on January 31, 1976; but subsequent resolutions have extended the deadline to May 4, 1976.

The additional funds have been requested so that the select committee may continue to function until the completion of the legislative process. The greatest possible efforts will have to be extended by the committee, first to help resolve substantial differences in the House and the Senate versions of the Outer Continental Shelf bill; and secondly, to provide information necessary for the consideration of a possible veto override.

The legislation became more complicated than was anticipated and more controversial. The differences between the two bodies are considerable, and without the adoption of this resolution and this modest amount of money, Mr. Speaker, the committee would be without staff with which to support itself or to represent this body in a conference with the other body.

Mr. Speaker, I will yield for debate only to the gentleman from Alabama (Mr. Dickinson).

Mr. DICKINSON. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, I would just like to say that what has happened in this case is really what prompted my last question on the resolution before this, because this committee initially, we were told, was to end last January, but they did not get the legislation through. Once they got the legislation through, they had to get the conference report and instead of ending last January they went on to August and asked for additional moneys to extend their life.

I think it is necessary and I intend to support this, but that is the reason I really have serious reservation about the creation of so many of these committees and ad hoc committees.

I really think that most things could be handled under the normal standards of the House, and I would hope that in future we would be more reluctant to create special committees.

Mr. THOMPSON. I would like to assure my distinguished colleague and ranking minority member of the Committee on House Administration that I share his view. It is not the intention of the gentleman from New Jersey to entertain further requests for this committee, or for the Select Committee on Sports, during the balance of this Congress. I am constrained to agree in general with the gentleman that the proliferation of these types of committees is not the most desirable way, except when unusual circumstances warrant, to handle these matters. The gentleman and I will work closely together in the future to see that they are limited.

Mr. DICKINSON. If the gentleman will yield further briefly, what the membership of the House should remember and keep in mind is that when we create a special subcommittee, then we have got to have a place to house them; we have got to have furniture; we have to have mechanical equipment. They have to have extra staff. In the first place, we are short on places to house them now, and it creates additional problems. We can better be giving the subject matter to standing committees which have jurisdiction initially.

Mr. THOMPSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PARTICIPATION BY COUNSEL ON BEHALF OF SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE IN ANY JUDICIAL PROCEEDING CONCERNING CERTAIN SUBPENAS

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1420 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1420

Resolved, That the chairman of the Subcommittee on Oversight and Investigation of the Committee on Interstate and Foreign Commerce is authorized to seek to participate and to participate, by any attorney or special counsel in the employ of such subcommittee, on behalf of such subcommittee and the House of Representatives in any judicial proceeding concerning—

(1) the subpena duces tecum issued under the authority of the House of Representatives, dated June 1976; and addressed to the President of American Telephone and Telegraph Company, directing him to appear before such subcommittee on June 28, 1976, at 10 o'clock antemeridian, and to bring with him certain documents described in such subpena; or

(2) the subpena duces tecum issued under the authority of the House of Representatives, dated June 30, 1976, and addressed to the president of American Telephone and Telegraph Company, directing him to appear before such subcommittee on July 20, 1976, at 10 o'clock antemeridian, and to bring with him certain documents described in such subpena.

Sec. 2. (a) To carry out this resolution, the chairman of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce is authorized to employ, with the approval of the Speaker, a special counsel to represent the subcommittee in any judicial proceeding described in the first section of this resolution.

(b) Expenses to employ a special counsel under subsection (a) shall be paid from the contingent fund of the House on vouchers signed by the chairman of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce and approved by the Speaker.

Sec. 3. The Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce shall report to the House with respect to the matters covered by this resolution as soon as practicable.

Mr. THOMPSON (during the reading). Mr. Speaker, the subject matter of this resolution having been printed in the Record, and since it is the subject of much interest and will be debated for some time, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike all after the resolving clause and insert in lieu thereof the following:

That the Chairman of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce is authorized to intervene and appear in the pending action entitled *"United States, plaintiff, against American Telephone and Telegraph Co., et al, defendant,"* Civil Action 76–1372, United States District Court for the District of Columbia, on behalf of the Committee on Interstate and Foreign Commerce and the House of Representatives in order to secure information relating to the privacy of telephone communications now in the possession of the American Telephone and Telegraph Company for the use of the Committee and the House.

Sec. 2. To carry out the purposes of this resolution, the Chairman of the Committee on Interstate and Foreign Commerce is authorized to employ with the approval of the Speaker a special counsel to represent the Committee and the House in all judicial proceedings relating to said Civil Action 76–1372.

Sec. 3. Such expenses to employ a special counsel not to exceed $50,000 shall be paid from the contingent fund of the House on vouchers signed by the Chairman of the Committee on Interstate and Foreign Commerce and approved by the Speaker and the Chairman of the Committee on House Administration.

Sec. 4. The Committee on Interstate and Foreign Commerce is authorized and directed to report to the House with respect to the matters covered by this resolution as soon as practicable.

Sec. 5. The authority granted herein shall expire three months after the filing of the report with the House of Representatives, but in no case later than January 3, 1977.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, House Resolution 1420, from the Committee on Interstate and Foreign Commerce, was introduced by our distinguished colleague, the gentleman from California (Mr. Moss), the chairman of the subcommittee. The gentleman from California (Mr. Moss) and the minority counsel to the Subcommittee on Oversight and Investigations, testified with respect to the resolution on July 27, 1976, before the committee. Both Mr. Moss and the ranking minority member, the distinguished gentleman from Texas (Mr. Collins) were present on August 4, 1976, to answer questions when the full committee finally reported the resolution.

Thereafter, I submitted report No. 94–1422. House Resolution 1420 is similar to House Resolution 899, which passed the House without debate on December 18, 1975. That resolution provided funds for intervention in the Ashland Oil case. This resolution provides funds for intervention in the case entitled the "United States against the American Telephone & Telegraph Co., and others."

The gentleman from California (Mr. Moss) intervened in a case which was before the U.S. District Court for the District of Columbia, in order that he might argue for the Congress constitutional right of access to information in question.

The committee issued a subpena in order to secure information in the possession of the American Telephone & Telegraph Co., relating to warrantless wiretaps of private telephone communications. Jurisdiction was based squarely on section 605 of the Federal Communications Act.

Essentially, the discussions revolve around the need for the House of Representatives and/or this distinguished subcommittee to be represented in the Federal courts. There was a period of negotiations with respect to this case. The committee choose to be represented by one of the most prestigious firms in the District of Columbia and, indeed, in the United States.

It is my considered opinion, having looked into this matter very carefully, that this resolution should be adopted by the House.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. Mr. Speaker, I yield 5 minutes, for purposes of debate only, to the distinguished gentleman from Alabama (Mr. Dickinson).

Mr. DICKINSON. I would like to inquire of the gentleman, since this is a privileged resolution and there are 60 minutes of debate, how much will the minority be granted for discussion?

Mr. THOMPSON. Under the agreement we worked out a couple minutes ago.

Mr. DICKINSON. We did not have an agreement. The gentleman told us how much there would be. I was just trying to ascertain that as a matter of record.

Mr. THOMPSON. I thought the gentleman and I had agreed that the request for the majority was 37 minutes and for the minority 22 minutes.

Mr. DICKINSON. The gentleman told me that is how it will be.

Mr. THOMPSON. We are now using the gentleman's time.

Mr. DICKINSON. Mr. Speaker, I would like to say at this time that I have several requests for time, and if the gentleman is going to control it and handle each one individually, I would like to inform the gentleman of my requests so that the gentleman might comply with them.

Mr. THOMPSON. May I inquire of the gentleman whether they are different from the list he gave me, which is as follows: The gentleman from Ohio (Mr. Devine), 5 minutes; the gentleman from Alabama (Mr. Dickinson), 5 minutes; the gentleman from Arizona (Mr. Rhodes), 3 minutes; the gentleman from California (Mr. Wiggins), 5 minutes; and others.

Mr. DICKINSON. It is different.

Mr. THOMPSON. I do not know who "others" is. But that leaves 4 minutes.

Mr. DICKINSON. The gentleman from Ohio (Mr. Devine) would like 3 minutes at the present time, if the gentleman would be kind enough to yield to him, and then 5 minutes for the gentleman from Texas (Mr. Collins) following that.

Mr. THOMPSON. That is perfectly agreeable.

Mr. DICKINSON. I thank the gentleman.

Mr. THOMPSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. Devine) for the purpose of debate only.

Mr. DEVINE. I thank the gentleman for yielding.

Mr. Speaker, this is not the normal funding resolution that we swish by the House, because we have an unusual set of circumstances.

The gentleman from California (Mr. Moss), as chairman of the Subcommittee on Oversight and Investigations, saw fit to have a subpena issued to the A.T. & T., seeking certain electronic surveillance information. The Justice Department, on behalf of the President, sought and obtained a temporary and, finally, a permanent injunction against the A.T. & T. revealing the information having to do with electronic surveillance because of very delicate, sensitive national security information that would be revealed if the subpena were granted.

The gentleman from California sought and intervened in this particular proceeding and also saw fit to employ counsel, special counsel, representing him before the U.S. district court, even though the Subcommittee on Oversight and Investigations had 11—repeat, 11—attorneys on his payroll and available, and some of whom actually appeared with him at the time he appeared in the U.S. district court.

The question is the precedent the action here might set for this House; whether one individual Member of Congress can gratuitously intervene in a proceeding, not following the procedures nor authorized by either the subcommittee or the whole Commerce Committee, in that the Member apparently did not receive the permission of the subcommittee by vote or by authorization of the whole Committee on Interstate and Foreign Commerce by vote, and causing the Congress of the United States to delve into its contingency fund and pay for special counsel that appeared for him in the court, even prior to authorization by the Committee on House Administration for this to be done.

That is the issue involved here, and I believe it is a matter the House should give very serious consideration to before we act on this particular resolution. It should be defeated soundly on its merits as well as the dangerous precedent it sets.

Mr. THOMPSON. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the subcommittee, the gentleman from California (Mr. Moss), for purposes of debate.

Mr. MOSS. Mr. Speaker, I did not intervene as anyone but John Moss, a Member of Congress, and I intervened because there was no alternative to intervention.

I had negotiated in good faith with representatives of the President of the United States, at the request of the President. The President's representatives, Mr. Buchen and Mr. Marsh, came to my office upon learning of the issuance of the subpena to American Telephone and Telegraph and stated the concerns of the White House involving the possible sensitive nature of the material under subpena. I concurred in their expressed convictions that we all wanted to protect this Nation's security, and no one any more than this Member.

We commenced 5 weeks of negotiations with Mr. Rex Lee, Deputy Attorney General, and with the Congressional liaison of the Federal Bureau of Investigation, and, from my certain knowledge, with the White House being concurrently informed all the way along.

Finally we arrived at an agreement, an agreement among all parties to the negotiations. I convened the subcommittee, and the subcommittee was given the outline of the agreement as well as the substance of the agreement. The subcommittee, by a vote without any exception, concurred in my request that I be permitted to sign that agreement. The matter was then reduced to its final written draft and sent to the Department of Justice, to Mr. Rex Lee, and then we started getting some static.

Finally we were faced with the fact that the President sent Mr. George Bush to see me, and I was offered a proposal which in my judgment was demeaning to this House in the extreme. I might add that it was demeaning a few years earlier to another Member of this House, a gentleman from Michigan by the name of Gerald R. Ford.

The President said that we should receive only expurgated material, that if we had any questions, we would have to go to the Attorney General to have them resolved, and that if we could not get them resolved with the Attorney General, we should then seek the opportunity of having them resolved with the President.

The President would deny to the Congress the only information which was not prepared by him or his agents, the targets of surveillance. This target information is at the heart of any responsible review of Government wiretaps. Without this information, the Congress must rely on administration characterizations of targets as threats to national security. Clearly if the targets are news correspondents or members of opposition political parties—the information which can be obtained through the subpena in this case—those characterizations may be severely questioned and the wiretaps they support ultimately found unlawful. In other words, this information provides (i) the most direct method of ascertaining the legality of a tap and (ii) verifying other documents which may be obtained during the investigation.

My attitude toward the President's offer was very much, again, the attitude expressed by Mr. Ford, Representative Ford, when he stated that it would be ridiculous for us to put such a case in the hands of the Attorney General. Even under ideal circumstances, any Attorney General would tend to reflect the attitude of his own boss in handling any executive-privilege case.

Further, Congressman Ford, in addressing himself to the question of the invoking of executive privilege, in the instance of President Kennedy—and I agreed with him; he took the occasion, in his remarks on the floor, to commend my attitude—stated that "to maintain that the executive has the right to keep to itself information specifically sought by the representatives of the very people that the executive is supposed to serve is to espouse some power of the divine right of kings."

Mr. Speaker, Representative Ford was precisely correct when he made that statement.

Mr. Speaker, what is stated here is the assertion of executive privilege on the broadest base ever made by any occupant of the White House.

The SPEAKER. The time of the gentleman from California (Mr. Moss) has expired.

Mr. THOMPSON. Mr. Speaker, I yield 2 additional minutes to the gentleman from California (Mr. Moss), for debate only.

Mr. MOSS. Mr. Speaker, no President has ever before asserted Executive privilege over private documents against a congressional subpena. One other President has asserted Executive privilege against a congressional subpena, and that was the former President, Richard Nixon. Even in that case it was a very narrow assertion of privilege against the Senate select committee and went to matters of material held closely by the President.

Mr. Speaker, if this House concurs in the doctrine that has been asserted here without challenging it in the courts, it will make one of the gravest mistakes ever made by a parliamentary body.

This is an effort on my part to preserve the rights and the privileges of this House.

We are told that we should maintain more effective oversight. We cannot do it under the very strict limitations of Executive will. We have to stand up and recognize that we have at least the right to the same information which is given to more than 50 employees of American Telephone & Telegraph and its 24 subsidiaries, who see these documents routinely; and they are not cleared at any level in the majority of cases.

Mr. Speaker, that is the sworn testimony of the officials of American Telephone & Telegraph.

Mr. THOMPSON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas (Mr. COLLINS), for purposes of debate only.

Mr. COLLINS of Texas. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, this matter that is before us today—and in this respect I do agree with the chairman of my committee—is certainly one of the most important ever to come before us here in Congress.

The reason it is so vital is because we are talking about the national security of our country.

The question that comes to the fore is to what extent Congress should involve ourselves in matters in which we do not have expertise, but which we want to make public.

Let me go back and take this particular issue as it first started.

Mr. Speaker, when this matter got started, we had a special meeting of our committee one afternoon. At that same time, Congress was in session considering the Federal energy legislation which is so very important to our entire country.

While the Committee on Interstate and Foreign Commerce was on the floor discussing Federal energy, we went ahead and held a subcommittee meeting. I did not know it was going forward. It did not last very long. There was only one member on our side who attended, and he voted "present."

I asked him, "Why did you vote present?"

He said he did not know what the issue was all about. We did not have enough advance information to know what was going into this particular subpena—this issue that is so vital and so important.

The members of our subcommittee had not even been briefed before they voted.

Mr. OTTINGER. If the gentleman will yield, that is inaccurate.

Mr. COLLINS of Texas. I am talking about a Republican. It might have been that the Democrats were briefed, but I am talking about the gentleman from Louisiana who was there.

Mr. OTTINGER. They were all briefed and all at the same time.

Mr. COLLINS of Texas. The gentleman from New York (Mr. OTTINGER) gets the information real quickly. Perhaps he was able to understand it in 10 minutes and know what it was all about. But some people on a major issue of this type, when we are talking about subpenas being served on the executive functions, need time to evaluate the facts.

The issue that is before us here is that there have been taps placed on telephones. As I understand it, about half of them are on individuals in this country, but half of them are on national security situations.

As much as I have read about electronics in the press, I thought that this thing might have involved hundreds of thousands of taps being attached, but I have found out that it only involves 1 or 2 a week out of our country that has 220 million people. I have confidence in those people to decide on those one or two national security exceptions. But what we are doing in this situation, we are making an investigation where we will even question the sensitive national security checks.

I think every Member could realize what is potentially involved, with this national security situation, where we may reveal investigations of individuals involved in foreign affairs that may be with our national interest or against us and we were trying to confirm their reliability. We had it happen in Greece and it has happened elsewhere. When individuals are publicized.

We have heard the name of George Bush. Most of the Members know him, as he was our former colleague here in the Congress. He called the chairman of our committee and asked if he could present some facts to discuss the matter. The chairman said he was dealing only with the judicial representative so that he did not have an opportunity to see him.

Mr. MOSS. Will the gentleman yield?

Mr. COLLINS of Texas. I yield to the chairman, the gentleman from California (Mr. MOSS) on that point.

Mr. MOSS. This gentleman has asked that the gentleman from Texas yield only for the purpose of making the record correct.

Mr. COLLINS of Texas. Yes.

Mr. MOSS. We talked to Mr. Bush and told him that I felt it was inappropriate to meet with him without the Deputy Attorney General, Mr. Lee, who was conducting the negotiations, being present.

I saw him as soon as he brought Mr. Lee with him.

I thank the gentleman for yielding.

Mr. COLLINS of Texas. That is probably correct.

But, let me emphasize this. Mr. Bush is not questioning this in terms about what is involved in this business of going into the legislative and the judicial aspects, but the facts are that this involves a national security issue.

The agreement in our subcommittee that was being discussed was that three staff members from our committee would go down to get the records. They would take this information and write notes which in turn would be placed on record in our committee for any Member of the Congress to see.

Mr. Speaker, when we expose top, top secret information to 435 people, we are talking about putting in jeopardy the lives of individuals who might be involved on one or another telephone call. So far as any investigation that involves individuals, there has never been any fact presented that would show us that the facts justified revealing top security reviews related to foreign affairs.

The SPEAKER. The time of the gentleman has expired.

Mr. THOMPSON. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. OTTINGER) for the purpose of debate only.

Mr. OTTINGER. Mr. Speaker, I rise in strong support of House Resolution 1420 authorizing funds to intervene and seek counsel in the case of United States against American Telephone & Telegraph Co., et al.

Too many sins have been committed too recently in the name of national security and under the pretext of the supposed power of executive privilege to permit the assertion of such a privilege here.

This is particularly so since it is not even the President asserting such a privilege for himself here, but on behalf of a private company supposedly acting as his agent. It is outrageous that thousands of A.T. & T. employees, with no security clearance, should have access to this material while a committee of Congress is denied.

Mr. Speaker, we should support this resolution because we support the Constitution of the United States and the powers and duties of Congress thereto. Inherent in the power to legislate is the power and the duty to investigate. Without oversight and investigations, Congress cannot act in an informed and effective manner.

In this litigation, President Ford seeks to deny essential information on domestic wiretaps to a subcommittee with clear jurisdiction over interstate communications. Without this information, the Committee on Interstate and Foreign Commerce cannot report informed remedial legislation to the House or effectively address recurring rumors of illegal wiretaps of our citizens.

The doctrine employed by the President to deny this information to the Congress is one which we have sadly seen before—executive privilege. Employed by President Nixon to cover up apparent illegality, this doctrine is pernicious. Its unrestrained use would allow the Executive to spoon-feed information to the Congress. This is a result which this House must not—cannot—accept.

Even Gerald Ford when he was a Member of this House understood the dangers of executive privilege. He was vocal in defending the investigative powers of Congress against encroachment from the President. As the ranking Republican member of an Appropriations Subcommittee seeking to obtain a then secret report on the ill-fated Bay of Pigs invasion prepared for President Kennedy, Gerald Ford took a position 180° from the one he holds today. Congressman Ford said:

> The incident was another of a long series of executive department claims of special privileges: in a frightening proportion of these cases, the claim was made to cover up dishonesty, stupidity, and failure of all kinds.
>
> To maintain that the Executive has the right to keep to itself information specifi-

> cally sought by the representatives of the very people the Executive is supposed to serve is to espouse some power akin to the divine right of kings.

Said Congressman Ford, adding:

> The basic issue of congressional access to executive information is far more important than fanning partisan flames. I need only remind you of the important work in this field done by . . . the gentleman from California (Mr. Moss). . . . There are even examples of both Democrats and Republicans who argued on one side of the issue when they served in Congress and on the other side when they served in the executive branch.

Those words of former Congressman Gerald Ford are as true today as they were then. The House must confront this dangerous doctrine in the courts or allow itself to be bound by a pernicious precedent.

I urge your support for House Resolution 1420 and the constitutional powers of the House which it will defend.

Mr. Speaker, I ask unanimous consent to include in the RECORD at this time two excellent articles of the New York Times, one by Tom Wicker entitled, "Hangover From Watergate," the other an editorial on Tuesday, August 10, entitled "Again That Privilege" which supports this subpena with great force and eloquence.

The **SPEAKER**. Is there objection to the request of the gentleman from New York?

There was no objection.

The articles are as follows:

HANGOVER FROM WATERGATE

(By Tom Wicker)

After President Ford abandoned his opposition to a special prosecutor to investigate wrongdoing within the Government, the Senate included such an office in its Watergate reform bill. But Mr. Ford isn't showing much interest in acting on his own to curb executive excesses or clean up past offenses.

He recently ordered the Justice Department, for example, to go into court for a restraining order against a House subcommittee's attempt to obtain Federal wiretap records from American Telephone and Telegraph Company. Mr. Ford contended that it would be an "unacceptable risk" to the national security to let the subcommittee have the records it had subpoenaed from A.T.&T.

It may be true that the House in the past has not been sufficiently scrupulous in maintaining the security of sensitive documents, and the Administration's concern may therefore be reasonable. Yet, how is Congress to operate as a real check on the Executive if the President can nullify a Congressional subpoena with a claim of national security.

Judge Oliver Gasch, who issued the temporary order, has the matter under advisement and may yet rule in favor of the subcommittee. But with the echoes of Watergate scarcely faded from the Washington air, Mr. Ford would have acted more reassuringly if he had sought some security arrangement with the subcommittee chairman, Representative Moss of California, rather than going into court to protect executive branch secrets.

By doing so, as subcommittee lawyers pointed out, he ranked duly elected members of Congress as less trustworthy than Justice Department officials. Federal Bureau of Investigation agents and the large number of A.T.&T. employees who have seen the secret documents. He also raised the question whether there may not be more to hide than "national security" information in the wiretap records.

Nor is this the only instance in which an executive branch "cover-up" might at least be suspected. A Justice Department official recently told The New York Tmes that the depatrment's lawyers had recommended against the prosecution of Central Intelligence Agency officials involved in the illegal opening of mail between the United States and Communist countries.

Opening mail, by the C.I.A. or anyone else, was clearly against the law throughout the 20-year period when the agency engaged in the practice. Yet, the Justice official explained, the department's lawyers had concluded that during all that time there had been "a continuum of Presidential authority" that had made the C.I.A. mail openings legal after all.

But since when have Presidents been able to make legal what the law says is illegal, by a continuum or any other kind of authority? And even if there were some such power inherent in the office, what about the report of the Senate Select Committee on Intelligence that it had found no documentary evidence that any President had "authorized" the mail openings?

Aside from these questions, however, why should the Justice Department take it upon itself to decide such matters? There is ample evidence that the mail openings took place, against the statutory law. That seems reason enough to prosecute those responsible, and if the defendants wanted to claim a "continuum of Presidential authority" as a defense, the courts could decide the validity of such a claim.

Justice Department lawyers already have recommended to Attorney General Levi that no indictments be sought as a result of C.I.A. assassination plots against Fidel Castro of Cuba and the late Patrice Lumumba of, then, the Congo. Nor does it appear that perjury action will be taken against the former C.I.A. director, Richard Helms for his questionable statements to Congress on the agency's involvements in Chile.

If no evidence of legal offenses in these cases exists, of course, there should be no prosecutions. But it is hard to see how that could be so, at least in the mail-opening matter. And if such evidence does exist—no matter what exculpatory theories the defendants might offer in court—no special prosecutor ought to be needed to order indictments.

Mr. Ford's sudden switch to support of a special prosecutor may have represented a sincere change of heart. But it may also have reflected the Democrats' recent show of interest in Watergate as an issue against him. In either case, action by Mr. Ford's own Administration would speak louder than any number of words from him.

AGAIN THAT "PRIVILEGE"

Once again the magic phrases "executive privilege" and "national security" are being invoked by the White House in a court effort to withhold wiretap data from a Congressional oversight committee.

At issue is an outstanding subpoena served on the American Telephone and Telegraph Company by the House Subcommittee of Oversight and Investigations, seeking records of national security wiretaps over recent years. The subcommittee wants to ascertain that these taps genuinely relate to foreign intelligence missions and not illegal domestic surveillance. The Administration obtained a District Court order blocking enforcement of the subpoenas last week; the subcommittee is appealing and the case, if not settled by new negotiations, will almost certainly end up in the Supreme Court.

An interesting twist in the arguments is the Administration's contention that executive privilege can be invoked over the acts of third parties outside the Government—in this instance, the telephone company—on grounds that they were acting as executive branch agents in the technical installation of taps.

Data of the sort under subpoena is indeed sensitive as the Administration claims, involving crucially important counter-intelligence operations. Yet after all that has come to light about recent abuses, responsible Congressional investigators cannot simply accept without verification the word of the executive branch that everything was done in accordance with the law. And certainly a sweeping assertion of executive privilege cannot be allowed to stand without challenge.

As one Representative said in a noteworthy Congressional statement on executive privilege, "In a frightening proportion of these cases, the claim was made to cover up dishonesty, stupidity and failure of all kinds." That point was made on April 4, 1963 by the Representative from Michigan's fifth district, Gerald R. Ford.

The most sensible way out of this impasse is not through another court fight on the murky battlefield on executive privilege, but through renewed consultation between the subcommittee and the executive branch, both of which have legitimate interests to protect. The executive needs careful assurances that sensitive intelligence data will not become available to unauthorized persons; Congress needs the facility to exercise its oversight responsibilities upon otherwise unchecked executive actions.

The **SPEAKER**. The time of the gentleman has expired.

Mr. **THOMPSON**. Mr. Speaker, I yield such time as he may consume to the gentleman from New York, Mr. SCHEUER, for the purpose of debate only.

Mr. **SCHEUER**. Mr. Speaker, this resolution will allow the House to intervene and obtain counsel in the case of *United States* v. *American Telephone and Telegraph Company, et al.*, Civil Action No. 76–L372. The history and general importance of this case are detailed in the report of the House Administration Committee.

At issue is whether the executive branch can preclude the Committee on Interstate and Foreign Commerce through its investigations subcommittee from reviewing the administration of laws within its jurisdiction. That committee reported to the House what became section 605 of the Federal Communications Act of 1934, 47 United States Code 605. Modeled upon provisions of the Radio Act of 1927, also reported by that committee, this section prohibits wiretapping of telephones absent "demand of * * * lawful authority."

The committee seeks to determine whether widespread allegations of electronic surveillance of private citizens in violation of section 605 are based on fact. Upon the results of this investigation will rest the ability of that committee to report informed remedial legislation to the House or assure the American people that the reports of illegal wiretaps attendant upon the Watergate scandal are groundless.

The power and duty of the Committee on Interstate and Foreign Commerce to engage in such an investigation through its subcommittees is firmly grounded in the rules of the House, the Legislative Reorganization Act, and the Constitution. The President is attempting to block that committee from discharging its responsibilities by asserting a claim of an almost imperial privilege from congressional review.

Going far beyond the limited advice privilege which received recognition in *United States* v. *Nixon*, 418 U.S. 673, the President seeks to preclude on this basis congressional review of his actions. President Ford has put forth the novel agency theory that executive privilege can cover not only his conversations with White House advisers, but also put the cloak of secrecy over the activities of a private party, the American Telephone & Telegraph Co.

If these assertions stand, the Congress could be severely affected in its ability to review Presidential actions. President Ford's asserted privilege would create an exclusive, unreviewable preserve of excutive power. Such exclusive power is anathema to our constitutional system of checks and balances.

The Supreme Court has repeatedly defended the power of the people's representatives to inquire in a long series of cases from 1971 to 1975. The power to probe is an essential condition precedent to the proper and informed use of Congress powers to legislate.

For the Committee on Interstate and Foreign Commerce and the Congress, the implications of President Ford's asserted privilege are dramatic. If such a privilege applies to domestic communications, it would apply to a review of any regulatory measure passed by the Congress on the basis of any of the powers enumerated in article I of the Constitution. Such crippling limitations on Congress investigatory powers are possible if the House does not approve House Resolution 1420.

I hope you will stand with me in supporting House Resolution 1420.

Mr. THOMPSON. Mr, Speaker, I yield 2 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES) for purposes of debate only.

Mr. RHODES. Mr. Speaker, I hope that this resolution will not be adopted. I recognize and I uphold the right of the House of Representatives and the Senate to acquire information from the Executive which is needed. I really do not know why—and I would like to have speakers who come after me address themselves to this—it is necessary to know whose messages were tapped. Is it not more important in preparing legislation, which, after all, is the reason for investigation, to know the purpose for the taps? I certainly have no doubt but that that purpose can be determined and in fact, probably has been determined.

I think it is also important to recall that the President of the United States is the one person who must be trusted. When we come to whether or not a matter which is of national security importance should be divulged, we have to trust somebody. I have served under Democratic and Republican presidents, and I have always trusted them on national security matters. I think it is important that when the President of the United States says that it is important for national security that these taps not be disclosed, that we should take him at his word, and should not proceed, as this subcommittee desires to proceed, to press the matter any farther.

As I say, I will certainly do all I can to uphold the right of this Congress for any information which is necessary for the production of legislation. This, I submit is not. The information which is necessary for the preparation of legislation, if there is any, can be obtained and will be furnished, but I do not think this is the time to make like a bunch of busybodies and, for some reason I cannot perceive to try to get information which the President of the United States says would not be in the national interest.

I hope, Mr. Speaker, this resolution will be voted down.

Mr. THOMPSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to my distinguished colleague, the gentleman from California (Mr. VAN DEERLIN).

Mr. VAN DEERLIN. Mr. Speaker, I rise in support of House Resolution 1420, which will further efforts by the Subcommittee on Oversight and Investigations to discover the extent of illegal domestic wiretapping of American citizens by Federal law enforcement authorities.

As chairman of the Communications Subcommittee, I fully realize the importance that Americans attach to the privacy of their telephone calls. There are reasonable grounds for suspecting that the executive branch subordinated this right of privacy to bureaucratic and possibly political goals. It is important that the extent to which this occurred in the past be known, and appropriate measures be taken by the Communications Subcommittee, if necessary, to prevent future abuse.

What we have seen is a sweeping and expanded assertion of Executive Privillege, with dimensions far beyond any similar claim in our history. This is not a limited claim of privilege over communication between the President and his advisers, but one intended to prevent congressional review of his actions. This is not a claim of privilege by the President over his material or material in his possession, but is one asserted on behalf of private documents in the custody of A.T. & T., a private, regulated communications carrier. The danger of allowing such a sweeping claim to stand is obvious. It is one that must not be permitted to stand, if this body is to continue the exercise of its constitutional responsibilities.

Mr. THOMPSON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, we are faced with I think a very important question today in this particular privileged resolution. I think we are faced with a series of important questions.

One of those important questions is whether this is the proper procedure, with no amendments and very limited debate in which to discuss this kind of important question.

I suspect that an even more important aspect of the whole problem is whether this House should ratify the use of outside counsel by a Member at his request which was not approved by his committee or subcommittee, and was apparently undertaken principally on his own motion—at least that was his statement to the House.

But I think there is another matter that should interest the House just as much. In testimony before the House Administration Committee the chairman of the Subcommittee on Interstate and Foreign Commerce indicated he had on his staff 11 lawyers and he indicated that his budget for the year was about $850,000. Today he informs me that he has 10 lawyers and a budget of $725,000. Yet with that enormous budget and with that vast staff of lawyers—and I would like to say in my town a staff of 11 lawyers is a pretty good-sized law firm.

Mr. MOSS. Mr. Speaker, will the gentleman yield for a correction?

Mr. FRENZEL. I think the gentleman has had a lot of time. Maybe he can correct on somebody else's time later. I do not yield.

With all that vast staff, apparently the subcommittee is not able to defend itself in court.

Now, I have heard about staff members that cannot answer telephones, but I certainly hope that staff lawyers are at least able to go into court and do the job they are hired for by the Congress.

So I would say, first of all, the request in the resolution is unnecessary. The subcommittee is possessed of vast resources sufficient to carry out this adventure.

Now, another question is that the purpose of the resolution is unworthy, because it is putting the House into confrontation with the Executive when that confrontation is totally unnecessary.

Mr. Speaker, I am going to read a Washington Post editorial from the 19th of this month. All of us have probably read it, so I will read only a part, as follows:

> Rep. Moss is appealing the decision with the fervor that he usually brings to such disputes. The AT&T subpoena is not, however, the best ground on which to wage a full-scale court test of executive privilege. Instead of continuing to press for documents of somewhat marginal importance, the panel should reopen direct negotiations with the President.

That, of course, is what the President suggested in the letter.

Mr. Speaker, there is a better way to deal with the problem. We do not have to go into an immediate crisis confrontation. We especially do not have to go into that confrontation with $50,000 of the taxpayers' money when the subcommittee already has something like three-quarters of a million dollars of that kind of funds already available to itself.

Finally, Mr. Speaker, I think we have to ask the question as to why the matter did not come through the usual channels, why it was not approved by the full committee. It seems to me it is a question of one Member hiring outside counsel, attempting to make a contract with outside counsel without going through that committee or without coming to the contract subcommittee of the Committee on House Administration. The question is why we are being asked to subvert the normal procedure.

Mr. Speaker, what we are doing here, I think, is simply using an excuse to start a fight with the Executive, which is totally unnecessary, based on the Executive's letter to the subcommittee chairman and to the chairman of the full committee.

There is a way to resolve the question without going to the mat and without this needless expenditure of the taxpayers' money.

Mr. Speaker, I hope the House will reject this resolution.

Mr. THOMPSON. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. ECKHARDT) for purposes of debate only.

Mr. ECKHARDT. Mr. Speaker, I think that this question has been made a good deal more complicated in the debate than it really is. The question here is whether or not the real parties in interest will be in a lawsuit which involves a constitutional question of Executive privilege and division of powers.

Mr. Speaker, presently the only parties in the case, other than the personal intervenor, John Moss, are what is called the United States and A.T. & T., but the "United States" is President Gerald Ford against A.T. & T.

The essence of a lawsuit is the difference between the parties involved. There should be parties that are antagonistic to each other, in order that all the points be brought up; but in the letter of President Ford to the chairman, the gentleman from West Virginia (Mr. STAGGERS), he said:

> To secure these services,—

That is, the electronic surveillance involved—

> the Executive Branch has supplied to the American Telephone and Telegraph Company sensitive national security information with the understanding that such information would not be disclosed except to the extent necessary to provide the required services.

So the President was affording to A.T. & T. access to sensitive information that he does not want Congress to see.

Then he further says:

> In receiving, acting upon and retaining this information, the American Telephone and Telegraph Company was and is an agent of the United States acting under contract with the Executive Branch.

So we have got the principal suing the agent to determine whether or not Congress has the right to get this information. Now, how in such a lawsuit do we have the adversary parties that are necessary in order that the case for the Congress of the United States is presented? We have before the court the principal and the agent. We have President Ford and A.T. & T., which he entrusted and empowered to be his agent, as the two parties who are in the positions of the principal adversaries.

They are going to present the case to the court so that it may decide whether or not Congress should be permitted to have the information. Is that a lawsuit? Are there real adversary parties in that lawsuit? The only way that the real adversary parties can be placed in that lawsuit is by the passage of this resolution. This resolution will not determine that Congress is entitled to have the information, but it will let Congress make its case to the court. The court will make the determination.

I wish I could appeal to Members across the aisle. I do not think this is a question for partisanship. I think this is an institutional matter: that House of Representatives should be represented in a suit in which Congress powers and those of the President are centrally involved.

Mr. THOMPSON. Mr. Speaker, I yield 3 minutes for the purpose of debate only to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, if we follow the arguments of the gentleman from Texas to their logical conclusion, what we are going to have to do is have some equitable split of this $50,000 here to those who may feel one way and to those who may feel another way.

Mr. Speaker, the argument has been made—and it is true—that there has been no vote of the full committee or the subcommittee on the decision to seek outside counsel or to seek this extra appropriation in order to pay for that outside counsel. I also make the argument, Mr. Speaker, that the subpenas that were issued to A.T. & T. were not issued according to the rules of the House.

Mr. Speaker, under rule XI(2) (m) (2) (a), I read very clearly that:

> Subpenas may be issued when authorized by the majority of the members of the committee.

This subpena was authorized by a majority of the subcommittee and not by the full committee. A close reading of this rule of the House leads me to the conclusion that this rule means that a full committee of the House of Representatives must authorize a subpena, and not a subcommittee. A subcommittee can perform the ministerial duty or function of issuing or serving the subpena, but it takes a vote of the full committee in order to authorize a subpena. This was not done in this case.

Not only was the subpena not issued, in my judgment, according to the rules of the House, but also the full committee and the subcommittee in no way had any say or took action on the seeking of outside counsel or securing this appropriation.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Texas.

Mr. ECKHARDT. Is that not the very reason why we should not now authorize Congress, the real adversary party, to join the suit?

Mr. BROYHILL. No; I say that the procedures have not been followed, and that we should turn down this request for this money at this time.

Mr. Speaker, rule XI 2(m) (2) (A) of the House Rules states as follows:

> Subpoenas may be issued by a Committee or Subcommittee under subparagraph (1) (B) in the conduct of any investigation or activity or series of investigations or activities only when authorized by the majority of the members of the Committee and authorized subpoenas shall be signed by the chairman of the Committee or any member designated by the Committee.

A close reading of this section leads me to the conclusion that this rule means that the full committee or a subcommittee can perform the ministerial function of issuing and serving a subpena, but the full committee must vote to authorize the subpena. As you will note, the word "subcommittee" is conspicuous by its absence in that part of the above-cited rule that deals with authorization as opposed to issuance.

As a general proposition of statutory interpretation, when a term, phrase, or word, such as "subcommittee" is used in one place and omitted in another place in a rule or statute, the omission should be deemed to have been made for a purpose. As an example of the distinction that I make between ministerial acts of issuance and the responsibility for authorization of the issuance of subpenas, I call to your attention the case of *Shelton* v. *United States*, 327 F. 2d 601 (1963). In this case, which involved the Senate Subcommittee To Investigate the Administration of the Internal Security Act and Other Internal Security Laws, the Senate rule at issue specified that subpenas for the attendance of witnesses shall be issued by the subcommittee chairman or by any other member of the subcommittee designated by him. The Court held that this particular language, which is similar to the language in House Rule XI2(m) (2) (A), concerned the ministerial functions of issuance of a subpena, not authorization and the Court further held that the subcommittee, and not the subcommittee chairman, was the only body that could authorize subpenas. Issuance then is ministerial, to be differentiated from authorization. It would appear that the House rules do give to the subcommittee the ministerial function of issuing the subpoena, but the authorization should come via a vote of the subcommittee and full committee. Some would argue that rule XI2(m) (1) (B), which provides that any committee or any subcommittee thereof is authorized "to require by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers and documents as it deems necessary" gives a subcommittee the power to authorize a subpena. This authorization language in rule XI2(m)(1)(B), however, is made subject, by its own language, to the provisions of rule XI2(m)(2)(A), quoted above, which calls for a full committee vote in order to authorize a subpena. Thus, it would appear to me that the proper procedure to be followed is as follows: First, a vote by the subcommittee in favor of authorizing subpenas; second, a vote by the full committee authorizing the issuance of the subpena; and third, the issuance of the subpena by either the subcommitee or the full committee—the ministerial act.

It would be my opinion that this subpena was not issued in compliance with the rules of the House, which delineate the procedures to be utilized in the issuance of a subpena in that subpenas were issued without the benefit of a vote by the full committee.

Mr. THOMPSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Connecticut (Mr. Moffett) for the purpose of debate only.

Mr. MOFFETT. Mr. Speaker, we all know where this institution stands in the public opinion polls. Some of it is justified and some of it is not, but we do know that its public approval rating in recent years was highest when it aggressively challenged the Executive trampling of individual rights. During Watergate, this Congress received high marks from the public. Now, we are at the bottom of the barrel again.

That should tell us something about our shortcomings, our lack of vigilance and our lack of aggressiveness in protecting the public, and the lack of integrity of the legislative branch of the Government.

Mr. Speaker, I have sat here today and listened to the gentleman from Minnesota talk about the need to go back into negotiations. The fact of the matter is that the President cut off negotiations to go to court. I have heard my good friend from Texas (Mr. Collins) talk about the "present" vote by the lone Republican when we issued the subpenas, but he did not mention the fact that Messrs. Collins, Lent and Moore were also present when we had a unanimous-consent request to go forward with the agreement that had been supposedly endorsed by Mr. Buchen and Mr. Marsh of the White House. We had more consent on that issue than on any other issue.

I heard the distinguished minority leader, the gentleman from Arizona (Mr. Rhodes) talk about the Congress being what he calls "busybodies" by challenging the Executive. I remember very clearly, as a private citizen in 1974, watching some Members of this House on TV, watching some stonewalling going on in that Congress.

I remember running not on the Watergate issue but winning by a substantial margin, as did many people on this side, largely because the American public, in November 1974, rejected stonewalling. It is disgusting to see it being put forth here again today.

Mr. Speaker, I urge the adoption of this resolution.

CALL OF THE HOUSE

Mr. COLLINS of Texas. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 668]

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Ashbrook
AuCoin
Badillo
Beard, R.I.
Bell
Bonker
Broomfield
Burgener
Burke, Fla.
Burton, John
Burton, Phillip
Byron
Chisholm
Clausen, Don H.
Clay
Cochran
Collins, Ill.
Conlan
Conyers
de la Garza
Derwinski
Diggs
Drinan
Duncan, Oreg.
du Pont
Early
Edwards, Calif.
Esch
Eshleman
Evins, Tenn.
Ford, Tenn.
Fraser
Fuqua
Giaimo
Green
Hall, Tex.
Hannaford
Hansen
Harsha
Hawkins
Hays, Ohio
Hébert
Heinz
Hightower
Hinshaw
Holland
Howe
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Kastenmeier
Ketchum
Koch
LaFalce
Landrum
Latta
Lehman
Long, Md.
McCloskey
McCollister
McCormack
McKinney
Martin
Mathis
Melcher
Mezvinsky
Mikva
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, N.Y.
Neal
Nix
O'Neill
Patterson, Calif.
Pepper
Peyser
Poage
Pressler
Quillen
Regula
Riegle
Risenhoover
Roberts
Rose
Rousselot
Roybal
Russo
St Germain
Schneebeli
Sikes
Sisk
Smith, Iowa
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Talcott
Teague
Traxler
Udall
Ullman
Vander Jagt
Wampler
Waxman
Wilson, Bob
Wilson, C. H.
Wright
Wylie
Young, Alaska
Zeferetti

The SPEAKER pro tempore (Mr. McFall). On this rollcall 305 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispersed with.

AUTHORIZING PARTICIPATION BY COUNSEL ON BEHALF OF SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE IN ANY JUDICIAL PROCEEDING CONCERNING CERTAIN SUBPENAS

Mr. THOMPSON. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama, the ranking minority Member, Mr. Dickinson, for the purpose of debate only.

Mr. DICKINSON. Mr. Speaker and Members of the House, let me say first of all that I do not disagree with the principle that the House should be allowed, or be in the position, or have the authority to subpena records. But whether they have the constitutional right to do so, is a red herring that has been dragged across the path of the House so as to divert us from what we are discussing. What we are discussing here is the question whether a subcommittee chairman who is not authorized by a vote of the subcommittee, who is not authorized by a vote of the full committee, can come to the House and get $50,000 to hire a special counsel to intervene in a lawsuit when they already have some 11 lawyers on their staff at an annual payroll of over $266,000. Yet he comes in and wants us to give him $50,000 more. And for what? If the lawyers he presently has cannot produce, then he had better get other lawyers.

As a matter of fact, Mr. Speaker, he does have a lawyer on his staff who did, in fact, appear, and who did, in fact, argue the case, Michael R. Lemov, who was a former attorney with the Department of Justice, Civil Division. That is exactly where this suit is.

Why should this House give any one subcommittee chairman $50,000 to go out and intervene in a suit when his own subcommittee has $850,000 annual budget to hire whom they want to? They already have 11 lawyers. They have never come before our committee yet in the 12 years I have been there and asked for additional money, if they did not have it, where they did not get it?

The point is, Mr. Speaker, even our own committee circumvented its own rules. We have a Committee on Contracts, to review contracts, and our chairman admitted that it was an unusual procedure and in the future he would not circumvent our own subcommittee. But in this case, because of the press of time, we would not even take it up within our own subcommittee. So on an almost straight party-line vote, with one Democrat joining the Republicans, it was voted out of our committee.

The point is not whether or not we should be able to subpena, or whether or not this is a constitutional issue. The point is does this committee want to authorize any committee chairman to go out and intervene as an individual, or as subcommittee chairman, without the authority of any subcommittee or any full committee, and give him $50,000 to do it? I think the answer is no, and I certainly hope we defeat this resolution.

Mr. Speaker, I yield back the remainder of my time.

Mr. THOMPSON. Mr. Speaker, I thank the distinguished ranking Member for his most empressive remarks, with which I do not agree, except that I am inclined to express my gratitude to him for yielding back the remainder of his time.

The SPEAKER. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. MAGUIRE. Mr. Speaker, I rise in support of House Resolution 1420.

I think it is important for all of us to focus on the constitutional implications of this case.

The doctrine of separation of powers and the doctrine of checks and balances requires that the legislative branch have complete access to such information. The father of the separation of powers doctrine, Montesquieu, stated unequivocally that the legislature "has the right, and ought to have the means of examining in what manner its laws have been executed." In analyzing Montesquieu's work, Justice Holmes argued that it is "a basic value in the separation of powers that ultimate surveillance should rest in the legislature."

The Supreme Court has repeatedly defended the power of the people's representatives to inquire. In the leading case of *McGrain* v. *Daugherty*, 273, U.S. 135, the court stated that "the power of inquiry—with process to enforce it—is an essential * * * auxiliary to the legislative function." In *Watkins* v. *United States*, 354 U.S. 178, the court said:

> The power of the Congress to conduct investigations is inherent in the legislative process. That power is broad. It encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes. . . . It comprehends probes into departments of the Federal Government to expose corruption, inefficiency or waste.

In the most recent case, *Eastland* v. *United States Servicemen's Funds*, 421 U.S. 491, the court stated unequivocally that "the power to investigate is inherent in the power to make laws. * * *"

The President's assertions in the pending case of United States against American Telephone and Telegraph Co., et al., directly threaten the power of the legislative branch to inquire by wrapping a broad class of information in the cloak of "Executive privilege." If the Executive can preclude the Congress from gaining essential information through this means, the Executive makes meaningless, to the extent of the asserted privilege, the power of Congress to check Executive abuse of power.

If the Congress cannot know, it cannot act in an informed manner to enact remedial legislation. If these checks are breached, then the constitutional system whose "constant aim" according to Madison in the Federalist Papers, is "to divide and arrange the several offices in such a manner as that each may be a check on the other" is itself breached.

The President seeks to dismantle these constitutional principles because he questions the ability of the Congress to handle any sensitive material in a responsible manner. I am, as we all should be, offended by such an assertion. It is one which lacks completely any basis in fact. The Subcommittee on Oversight and Investigations has an unblemished security record in its handling of over one-half million sensitive documents.

The security procedures employed by the subcommittee are as strict as can be developed. All such documents are stored in safes and may be seen only by members of the subcommittee and the subcommittee staff, and then only with an elaborate checkout system. These documents were received, as will those of A.T. & T., in executive session under rule II of our rules, and as you know may be released only by a majority vote of the committee.

The subcommittee negotiated an agreement with the executive branch whereby only three top security cleared members of the subcommittee staff would be allowed to see names of wiretap targets for verification. This was refused by the White House.

The procedures established by this body and the Subcommittee on Oversight and Investigations insure that the subcommittee is at least as able as the Executive or the telephone company—which gives access to the subpenaed material to some personnel who possess no security clearance whatsoever—to safeguard this information. The President must not be allowed to perpetuate the false notion that we are any less than equally responsible in handling sensitive information we receive.

I urge an aye vote on House Resolution 1420.

Mr. THOMPSON. Mr. Speaker, I move the previous question on the resolution, as amended.

The previous question was ordered.

The SPEAKER. The question is on the resolution, as amended.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DICKINSON. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 143, not voting 108, as follows:

[Roll No. 669]

AYES—180

Adams
Allen
Ambro
Anderson,
  Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Baldus
Baucus
Bedell
Bergland
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Brademas
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Carney
Carr
Collins, Ill.
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Fountain
Fraser
Gaydos
Gibbons
Gonzalez
Gude
Hall, Ill.
Hamilton
Harkin
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Holtzman
Howard
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jenrette
Johnson, Calif.
Jordan
Kastenmeier
Keys
Krebs
Krueger
LaFalce
Leggett
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McFall
McHugh
McKay
Madden
Maguire
Matsunaga
Mazzoli
Meeds
Metcalfe
Meyner
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moffett
Moss
Murphy, Ill.
Murphy, N,Y.
Murtha
Neal
Nolan
Nowak
Oberstar
Obey
O'Hara
Ottinger
Passman
Patterson,
  Calif.
Pattison, N.Y.
Perkins
Pickle
Pike
Preyer
Price
Randall
Rangel
Rees
Reuss
Richmond
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Ryan
Santini
Sarbanes
Satterfield
Schroeder
Seiberling
Sharp
Simon
Solarz
Spellman
Staggers
Stanton,
  James V.
Stark
Stephens
Stokes
Studds
Symington
Taylor, N.C.
Thompson
Thornton
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Weaver
Whalen
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki

NOES—143

Archer
Armstrong
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Biester
Bowen
Breaux
Breckinridge
Brinkley
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Cederberg
Chappell
Clancy
Clawson, Del
Cochran
Cohen
Collins, Tex.
Conable
Conte
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erlenborn
Findley
Fish
Flowers
Flynt
Forsythe
Frenzel
Frey
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hammer-
  schmidt
Harsha
Hefner
Henderson
Hillis
Holt
Horton
Hutchinson
Hyde
Jarman
Jeffords
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Kindness
Lagomarsino
Lent
Levitas
Lloyd, Tenn.
Lott
Lujan
McClory
McCollister
McDade
McDonald
McEwen
Madigan
Mahon
Mann
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
O'Brien
Patten, N.J
Paul
Pettis
Pressler
Pritchard
Quie
Railsback
Rhodes
Rinaldo
Robinson
Runnels
Ruppe
Sarasin
Schneebeli
Schulze
Shipley
Shriver
Shuster
Smith, Nebr.
Snyder
Spence
Stanton,
  J. William
Steiger, Wis.
Stratton
Symms
Taylor, Mo.
Thone
Treen
Vander Jagt
Waggonner
Walsh
White
Whitehurst
Whitten
Wiggins
Winn
Wydler
Young, Fla.

NOT VOTING—108

Abdnor
Abzug
Addabbo
Alexander
Anderson, Ill.
Andrews,
  N. Dak.
Ashbrook
AuCoin
Badillo
Beard, R.I.
Bell
Bonker
Broomfield
Burgener
Burke, Fla.
Burton, John
Burton, Phillip
Chisholm
Clausen,
  Don H.
Clay
Cleveland
Conlan
Conyers
de la Garza
Duncan, Oreg.
du Pont
Early
Esch
Eshleman
Evins, Tenn.
Ford, Tenn.
Fuqua
Giaimo
Green
Hall, Tex.
Hanley
Hannaford
Hansen
Harrington
Hawkins
Hays, Ohio
Hébert
Heinz
Hightower
Hinshaw
Holland
Howe
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Karth
Ketchum
Koch
Landrum
Latta
Lehman
McCloskey
McCormack
McKinney
Martin
Mathis
Melcher
Mezvinsky
Moakley
Moore
Moorhead,
  Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Nix
O'Neill
Pepper
Peyser
Poage
Quillen
Regula
Riegle
Risenhoover
Roberts
Rose
Rousselot
Roybal
Russo

St Germain
Scheuer
Sebelius
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Steed
Steelman
Steiger, Ariz.
Stuckey
Sullivan
Talcott
Teague
Traxler
Tsongas
Wampler
Waxman
Wilson, Bob
Wilson, C. H.
Wylie
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. O'Neill for, with Mr. Hébert against.
Mr. Addabbo for, with Mr. Roberts against.
Mr. Hanley for, with Mr. Teague against.
Mr. Koch for, with Mr. Rousselot against.
Ms. Abzug for, with Mr. Regula against.
Mrs. Chisholm for, with Mr. Moore against.
Mr. Moakley for, with Mr. Latta against.
Mr. Charles H. Wilson of California for, with Mr. Ketchum against.
Mr. Jones of Tennessee for, with Mr. Johnson of Pennsylvania against.
Mr. Badillo for, with Mr. Wampler against.
Mr. Phillip Burton for, with Mr. Young of Alaska against.
Mr. John Burton for, with Mr. Hansen against.
Mr. Conyers for, with Mr. Burke of Florida against.
Mr. Clay for, with Mr. Andrews of North Dakota against.
Mr. Pepper for, with Mr. Ashbrook against.
Mr. Early for, with Mr. Martin against.
Mr. Hannaford for, with Mr. Quillen against.
Mr. Harrington for, with Mr. Abdnor against.
Mr. Hawkins for, with Mr. Burgener against.
Mr. Lehman for, with Mr. Cleveland against.
Mr. McCormack for, with Mr. Don H. Clausen against.
Mr. Mezvinsky for, with Mr. Wylie against.
Mr. Moorhead of Pennsylvania for, with Mr. Talcott against.
Mr. Morgan for, with Mr. Anderson of Illinois against.
Mr. Riegle for, with Mr. Skubitz against.
Mr. Roybal for, with Mr. Bob Wilson against.
Mr. Scheuer for, with Mr. Sebelius against.
Mr. Sisk for, with Mr. Moorhead of California against.
Mr. Smith of Iowa for, with Mr. McKinney against.
Mr. St Germain for, with Mr. McCloskey against.
Mr. Traxler for, with Mr. Eshleman against.
Mr. Tsongas for, with Mr. Broomfield against.
Mr. Waxman for, with Mr. Steelman against.
Mr. Zeferetti for, with Mr. du Pont against.
Mr. Duncan of Oregon for, with Mr. Bell against.
Mr. Mottl for, with Mr. Steiger of Arizona against.
Mr. Ford of Tennessee for, with Mr. Conlan against.
Mr. Melcher for, with Mr. Esch against.
Mr. Nix for, with Mr. Landrum against.

Until further notice:

Mr. Hays of Ohio with Mrs. Sullivan.
Mr. de la Garza with Mr. Evins of Tennessee.
Mr. Alexander with Mr. Green.
Mr. Giaimo with Mr. Holland.
Mr. Jones of Alabama with Mr. Mathis.
Mr. AuCoin with Mr. Bonker.
Mr. Fuqua with Mr. Hall of Texas.
Mr. Hightower with Mr. Karth.
Mr. Risenhoover with Mr. Rose.
Mr. Russo with Mr. Sikes.
Mr. Slack with Mr. Steed.

Mr. JONES of Oklahoma changed his vote from "aye" to "no."

Mr. HUBBARD changed his vote from "no" to "aye."

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title was amended so as to read: "Resolution providing for the appointment of a special counsel to represent the House and the Committee on Interstate and Foreign Commerce in certain judicial proceedings.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT TOMORROW, AUGUST 27, 1976, TO FILE A CONFERENCE REPORT ON S. 5

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, Friday, August 27, 1976, to file a conference report on the Senate bill (S. 5), the Government in the sunshine bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 94–1441)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 5) to provide that meetings of Government agencies shall be open to the public, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Government in the Sunshine Act".

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of the United States that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government. It is the purpose of this Act to provide the public with such information while protecting the rights of individuals and the ability of the Government to carry out its responsibilities.

OPEN MEETINGS

SEC. 3. (a) Title 5, United States Code, is amended by adding after section 552a the following new section:

"§ 552b. Open meetings

"(a) For purposes of this section—

"(1) the term 'agency' means any agency, as defined in section 552(e) of this title, headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate, and any subdivision thereof authorized to act on behalf of the agency;

"(2) the term 'meeting' means the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations required or permitted by subsection (d) or (e); and

"(3) the term 'member' means an individual who belongs to a collegial body heading an agency.

"(b) Members shall not jointly conduct or dispose of agency business other than in accordance with this section. Except as provided in subsection (c), every portion of every meeting of an agency shall be open to public observation.

"(c) Except in a case where the agency finds that the public interest requires otherwise, the second sentence of subsection (b) shall not apply to any portion of an agency meeting, and the requirements of subsections (d) and (e) shall not apply to any information pertaining to such meeting otherwise required by this section to be disclosed to the public, where the agency properly determines that such portion or portions of its meeting or the disclosure of such information is likely to—

"(1) disclose matters that are (A) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order;

"(2) relate solely to the internal personnel rules and practices of an agency;

"(3) disclose matters specifically exempted from disclosure by statute (other than section 552 of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

"(4) disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

"(5) involve accusing any person of a crime, or formally censuring any person;

"(6) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

"(7) disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

"(8) disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

"(9) disclose information the premature disclosure of which would—

"(A) in the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution; or

"(B) in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action,

except that subparagraph (B) shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

"(10) specifically concern the agency's issuance of a subpena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, *conduct*, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in section 554 of this title or otherwise involving a determination on the record after opportunity for a hearing.

"(d)(1) Action under subsection (c) shall be taken only when a majority of the entire membership of the agency (as defined in subsection (a)(1) votes to take such action. A separate vote of the agency members shall be taken with respect to each agency meeting a portion or portions of which are proposed to be closed to the public pursuant to subsection (c), or with respect to any information which is proposed to be withheld under subsection (c). A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each agency member participating in such vote shall be recorded and no proxies shall be allowed.

"(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the agency close such portion to the public for any of the reasons referred to in paragraph (5), (6), or (7) of subsection (c), the agency, upon request of any one of its members, shall vote by recorded vote whether to close such meeting.

"(3) Within one day of any vote taken pursuant to paragraph (1) or (2), the agency shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the agency shall, within one day of the vote taken pursuant to paragraph (1) or (2) of this subsection, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

"(4) Any agency, a majority of whose meetings may properly be closed to the public pursuant to paragraph (4), (8), (9)(A), or (10) of subsection (c), or any combination thereof, may provide by regulation for the closing of such meetings or portions thereof in the event that a majority of the members of the agency votes by recorded vote at the beginning of such meeting, or portion thereof, to close the exempt portion or portions of the meeting, and a copy of such vote, reflecting the vote of each member on the question, is made available to the public. The provisions of paragraphs (1), (2), and (3) of this subsection and subsection (e) shall not apply to any portion of a meeting to which such regulations apply: *Provided*, That the agency shall, except to the extent that such information is exempt from disclosure under the provisions of subsection (c), provide the public with public announcement of the time, place, and subject matter of the meeting and of each portion thereof at the earliest practicable time.

"(e)(1) In the case of each meeting, the agency shall make public announcement, at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the members of the agency determines by a recorded vote that agency business requires that such meeting be called at an earlier date, in which case the agency shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

"(2) The time or place of a meeting may be changed following the public announcement required by paragraph (1) only if the agency publicly announces such change at the earliest practicable time. The subject matter of a meeting, or the determination of the agency to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by this subsection only if (A) a majority of the entire membership of the agency determines by a recorded vote that agency business so requires and that no earlier announcement of the change was possible, and (B) the agency publicly announces such change and the vote of each member upon such change at the earliest practicable time.

"(3) Immediately following each public announcement required by this subsection, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting, shall also be submitted for publication in the Federal Register.

"(f)(1) For every meeting closed pursuant to paragraphs (1) through (10) of subsection (c), the General Counsel or chief legal officer of the agency shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the agency. The agency shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to paragraph (8), (9)(A), or (10) of subsection (c), the agency shall maintain either such a transcript or recording, or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

"(2) The agency shall make promptly available to the public, in a place easily accessible to the public, the transcript, electronic recording, or minutes (as required by paragraph (1)) of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the agency determines to contain information which maybe withheld under subsection (c). Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription. The agency shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any agency proceeding with respect to which the meeting or portion was held, whichever occurs later.

"(g) Each agency subject to the requirements of this section shall, within 180 days after the date of enactment of this section, following consultation with the Office of the Chairman of the Administrative Conference of the United States and published notice in the Federal Register of at least thirty days and opportunity for written comment by any person, promulgate regulations to implement the requirements of subsections (b) through (f) of this section. Any person may bring a proceeding in the United States District Court for the District of Columbia to require an agency to promulgate such regulations if such agency has not promulgated such regulations within the time period specified herein. Subject to any limitations of time provided by law, any person may bring a proceeding in the United States Court of Appeals for the District of Columbia to set aside agency regulations issued pursuant to this subsection that are not in accord with the requirements of subsections (b) through (f) of this section and to require the promulgation of regulations that are in accord with such subsections.

"(h)(1) The district courts of the United States shall have jurisdiction to enforce the requirements of subsections (b) through (f) of this section by declaratory judgment, injunctive relief, or other relief, as may be appropriate. Such actions may be brought by any person against an agency prior to, or within sixty days after, the meeting out of which the violation of this section arises, except that if public announcement of such meeting is not initially provided by the agency in accordance with the requirements of this section, such action may be instituted pursuant to this section at any time prior to sixty days after any public announcement of such meeting. Such actions may be brought in the district court of the United States for the district in which the agency meeting is held or in which the agency in question has its headquarters, or in the District Court for the District of Columbia. In such actions a defendant shall serve his answer within thirty days after the service of the complaint. The burden is on the defendant to sustain his action. In deciding such cases the court may examine in camera any portion of the transcript, electronic recording, or minutes of a meeting closed to the public, and may take such additional evidence as it deems necessary. The court, having due regard for orderly administration and the public interest, as well as the interests of the parties, may grant such equitable relief as it deems appropriate, including granting an injunction against future violations of this section or ordering the agency to make available to the public such portion of the transcript, recording, or minutes of a meeting as is not authorized to be withheld under subsection (c) of this section.

"(2) Any Federal court otherwise authorized by law to review agency action may, at the application of any person properly participating in the proceeding pursuant to other applicable law, inquire into violations by the agency of the requirements of this section and afford such relief as it deems appropriate. Nothing in this section authorizes any Federal court having jurisdiction solely on the basis of paragraph (1) to set aside, enjoin, or invalidate any agency action (other than an action to close a meeting or to withhold information under this section) taken or discussed at an agency meeting out of which the violation of this section arose.

"(i) The court may assess against any party reasonable attorney fees and other litigation costs reasonably incurred by any other party who substantially prevails in any action brought in accordance with the provisions of subsection (g) or (h) of this section, except that costs may be assessed against the plaintiff only where the court finds that the suit was initiated by the plaintiff primarily for frivolous or dilatory purposes. In the case of assessment of costs against an agency, the costs may be assessed by the court against the United States.

"(j) Each agency subject to the requirements of this section shall annually report to Congress regarding its compliance with such requirements, including a tabulation of the total number of agency meetings open to the public, the total number of meetings closed to the public, the reasons for closing such meetings, and a description of any litigation brought against the agency under this section, including any costs assessed against the agency in such litigation (whether or not paid by the agency).

"(k) Nothing herein expands or limits the present rights of any person under section 552 of this title, except that the exemptions set forth in subsection (c) of this section shall govern in the case of any request made pursuant to section 552 to copy or inspect the transcripts, recordings, or minutes described in subsection (f) of this section. The requirements of chapter 33 of title 44, United States Code, shall not apply to the transcripts, recordings, and minutes described in subsection (f) of this section.

"(l) This section does not constitute authority to withhold any information from Congress, and does not authorize the closing of any agency meeting or portion thereof required by any other provision of law to be open.

"(m) Nothing in this section authorizes any agency to withhold from any individual any record, including transcripts, recordings, or minutes required by this section, which is otherwise accessible to such individual under section 552a of this title.".

(b) The chapter analysis of chapter 5 of title 5, United States Code, is amended by inserting:

"552b. Open meetings."

immediately below:

"552a. Records about individuals.".

EX PARTE COMMUNICATIONS

Sec. 4. (a) Section 557 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) (1) In any agency proceeding which is subject to subsection (a) of this section, except to the extent required for the disposition of ex parte matters as authorized by law—

"(A) no interested person outside the agency shall make or knowingly cause to be made to any member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, an ex parte communication relevant to the merits of the proceeding;

"(B) no member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, shall make or knowingly cause to be made to any interested person outside the agency an ex parte communication relevant to the merits of the proceeding;

"(C) a member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of such proceeding who receives, or who makes or knowingly causes to be made a communication prohibited by this subsection shall place on the public record of the proceeding:

"(i) all such written communications;

"(ii) memoranda stating the substance of all such oral communications; and

"(iii) all written responses, and memoranda stating the substance of all oral responses, to the materials described in clauses (i) and (ii) of this subparagraph;

"(D) upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this subsection, the agency, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation; and

"(E) the prohibitions of this subsection shall apply beginning at such time as the agency may designate, but in no case shall they begin to apply later than the time at which a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of his acquisition of such knowledge.

"(2) This subsection does not constitute authority to withhold information from Congress.".

(b) Section 551 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the "act." at the end of paragraph (13) and inserting in lieu thereof "act; and"; and

(3) by adding at the end thereof the following new paragraph:

"(14) 'ex parte communication' means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proeeding covered by this subchapter.".

(c) Section 556(d) of title 5, United States Code, is amended by inserting between the third and fourth sentences thereof the following new sentence: "The agency may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the agency, consider a violation of section 557(d) of this title sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur.".

CONFORMING AMENDMENTS

Sec. 5. (a) Section 410(b) (1) of title 39, United States Code, is amended by inserting after "Section 552 (public information)," the words "section 552a (records about individuals), section 552b (open meetings),".

(b) Section 552(b) (3) of title 5, United States Code, is amended to read as follows:

"(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;".

(c) Subsection (d) of section 10 of the Federal Advisory Committee Act is amended by striking out the first sentence and inserting in lieu thereof the following: "Subsections (a) (1) and (a) (3) of this section shall not apply to any portion of an advisory committee meeting where the President, or the head of the agency to which the advisory committee reports, determines that such portion of such meeting may be closed to the public in accordance with subsection (c) of section 552b of title 5, United States Code.".

EFFECTIVE DATE

Sec. 6. (a) Except as provided in subsection (b) of this section, the provisions of this Act shall take effect 180 days after the date of its enactment.

(b) Subsection (g) of section 552b of title 5, United States Code, as added by section 3 (a) of this Act, shall take effect upon enactment.

And the House agree to the same.

Jack Brooks,
John E. Moss,
Dante B. Fascell,
John Conyers, Jr.,
Bella S. Abzug,
Walter Flowers,
George E. Danielson,
Barbara Jordan,
Romano L. Mazzoli,
Edward W. Pattison,
Frank Horton,
Paul N. McCloskey, Jr.,
Carlos J. Moorhead,
Thomas N. Kindness,
Managers on the Part of the House.

Abe Ribicoff,
Edmund S. Muskie,
Lee Metcalf,
Lawton Chiles,
Charles H. Percy,
Jacob K. Javits,
William V. Roth, Jr.,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 5) to provide that meetings of Government agencies shall be open to the public, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a complete substitute for the House amendment, and the House agrees to the same. The differences among the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

The Senate bill, the House amendment, and the conference substitute provide that this legislation may be cited as the "Government in the Sunshine Act".

DECLARATION OF POLICY

The Senate bill, the House amendment, and the conference substitute provide in section 2 that it is the policy of the United States that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government, and that it is the purpose of this Act to provide the public with such information while protecting the rights of individuals and the ability of the Government to carry out its responsibilities.

OPEN MEETINGS

Codification

Senate Bill

The Senate bill did not make its open meeting provisions a part of title 5, United States Code.

House Amendment

The House amendment enacted its open meeting provisions as a new section 552b of title 5, United States Code.

Conference Substitute

The conference substitute is the same as the House amendment.

Definitions

Senate bill

Section 3 of the Senate bill defined the term "person" to include an individual, partnership, corporation, association, or public or private organization other than an agency.

Section 4(a) of the Senate bill made section 4 applicable to the Federal Election Commission and to any agency, as defined in section 551(1) of title 5, United States Code, where the collegial body comprising the agency consists of two or more individual members, at least a majority of whom are appointed to such position by the President with the advice and consent of the Senate.

Section 4(a) of the Senate bill also provided that for purposes of section 4, a meeting means the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations concern the joint conduct or disposition of official agency business.

The Senate bill did not contain a definition of the term "member".

House amendment

The House amendment, subsection (a) of the proposed new section 552b of title 5, United States Code, contained no definition of the term "person", since the proposed section 552b would automatically be subject to the definition of "person" contained in 5 U.S.C. 551(2) (which is identical to the definition contained in the Senate bill).

The House amendment defined the term "agency" as the Federal Election Commission and any agency, as defined in section 552(e) of title 5, United States Code, headed by a collegial body composed of two or more individuals, a majority of whom are appointed to such position by the President with the advice and consent of the Senate, including any subdivision thereof authorized to act on behalf of the agency.

The House amendment defined the term "meeting" as a gathering to jointly conduct or dispose of agency business by two or more, but at least the number of individual agency members required to take action on behalf of the agency, but not including gatherings held to take action required or permitted by subsection (d) of section 552b.

The House amendment defined the term "member" as an individual who belongs to a collegial body heading an agency.

Conference substitute

The conference substitute is subsection (a) of new section 552b. It is the same as the House amendment, except as follows:

1. The separate reference to the Federal Election Commission in the definition of "agency" is eliminated, since that body now falls within the bill's generic definition of the term under the provisions of Public Law 94–283.

2. Although the language of the House amendment referring to a covered agency as "headed by a collegial body" is used in the substitute instead of the reference in the Senate bill to "the collegial body comprising the agency", the intent and understanding of the conferees regarding this provision is that meetings of a collegial body governing an agency whose day-to-day management may be under the authority of a single individual (such as the United States Postal Service and the National Railroad Passenger Corporation (Amtrak)) are included within the definition of agency.

3. The substitute defines the term "meeting" as the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations determine or result in the joint conduct or disposition of agency business, but not including deliberations to take action to open or close a meeting, or to release or withhold information under subsections (d) or (e) of this section. This is the Senate definition, as explained in the Senate report, except that the word "concern" is replaced by the words "determine or result in". This definition will include conference telephone calls if they involve the requisite number of members and otherwise come within the definition.

Prohibition on conduct of business other than as provided in this section

The Senate bill contained no express prohibition on the conduct of agency business other than as provided in the bill.

House amendment

Section (b)(1) of new section 552b, as included in the House amendment, provided that members, as described in subsection (a) (2), shall not jointly conduct or dispose of agency business without complying with subsections (b) through (g).

Conference substitute

The conference substitute provides that members shall not jointly conduct or dispose of agency business in a meeting other than in accordance with new section 552b. This prohibition does not prevent agency members from considering individually business that is circulated to them sequentially in writing.

Open meeting requirement

Senate bill

Subsection 4(a) of the Senate bill provided that, except as provided in subsection 4(b), all meetings of a collegial body comprising an agency, or of a subdivision thereof authorized to take action on behalf of the agency, shall be open to the public.

House amendment

The House amendment provided, in subsection (b)(2) of new section 552b, that except as provided in subsection (c), every portion of every meeting of an agency (including a subdivision) shall be open to public observation.

Conference substitute

The conference substitute is the same as the House amendment. The phrase "open to public observation" is intended to guarantee that ample space, sufficient visibility, and adequate acoustics will be provided.

Exemptions from open meeting requirement

Senate bill

Section 4(b) of the Senate bill provided that, except where the agency finds that the public interest requires otherwise, (1) the open meeting requirement of subsection 4 (a) shall not apply to any meeting, or portion thereof, of an agency or a subdivision of an agency authorized to take action on behalf of the agency, and (2) the informational and disclosure requirements of subsections 4(c) and (d) shall not apply to any information pertaining to such meeting otherwise required by this section to be disclosed to the public, where the agency or subdivision in question properly determines that such portion or portions of the meeting, or such information, can be reasonably expected to—

(1) disclose matters (A) specifically authorized under criteria by an Executive order to be kept secret in the interests of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;

(2) relate solely to the agency's own internal personnel rules and practices;

(3) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(4) involve accusing any person of a crime, or formally censuring any person;

(5) disclose information contained in investigatory records compiled for law enforcement purposes, but only to the extent that the disclosure would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source, (E) in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation disclose confidential information furnished only by the confidential source, (F) disclose investigative techniques and procedures, or (G) endanger the life or physical safety of law enforcement personnel;

(6) disclose trade secrets, or financial or commercial information obtained from any person, where such trade secrets or other information could not be obtained by the agency without a pledge of confidentiality, or where such information must be withheld from the public in order to prevent substantial injury to the competitive position of the person to whom such information relates;

(7) disclose information which must be withheld from the public in order to avoid premature disclosure of an action or a proposed action by—

(A) an agency which regulates currencies, securities, commodities, or financial institutions where such disclosure would (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution;

(B) any agency where such disclosure would significantly frustrate implementation of the proposed agency action, or private action contingent thereon; or

(C) any agency relating to the purchase by such agency of real property.

This exemption would not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal;

(8) disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) specifically concern the agency's participation in a civil action in Federal or State court, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in section 554 of title 5, United States Code, or otherwise involving a determination on the record after opportunity for a hearing; or

(10) disclose information required to be withheld from the public by any other statute establishing particular criteria or referring to particular types of information.

House amendment

Subsection (c) of 5 U.S.C. 552b, as included in the House amendment, provided that except in a case where the agency finds that the public interest requires otherwise, the open meeting requirement of subsection (b) shall not apply to any portion of an agency meeting, and the informational and disclosure requirements of subsections (d) and (e) shall not apply to any information pertaining to such meeting otherwise required by this section to be disclosed to the public, where the agency properly determines that such portion or portions of its meeting or the disclosure of such information is likely to—

(1) disclose matters that are (A) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order;

(2) relate solely to the internal personnel rules and practices of an agency;

(3) disclose matters specifically exempted from disclosure by statute (other than section 552 of title 5, United States Code), provided that such statute (A) requires that the matters be withheld from the public, or (B)

establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) involve accusing any person of a crime, or formally censuring any person;

(6) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) disclose information the premature disclosure of which would—

(A) in the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (i) lead to significant financial speculation, or (ii) significantly endanger the stability of any financial institution; or

(B) in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action, except that exemption (9)(B) would not apply in any instance after the content or nature of the proposed agency action has been disclosed to the public by the agency, unless the agency is required by law to make such disclosure prior to taking final agency action on such proposal, or after the agency publishes or serves a substantive rule pursuant to section 553(d) of title 5, United States Code; or

(10) specifically concern the agency's issuance of a subpena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in section 554 of title 5, United States Code, or otherwise involving a determination on the record after opportunity for a hearing.

Conference substitute

The conference substitute is the same as the House amendment, except that the third exemption, incorporating by reference exemptions contained in other statutes, applies only to statutes that either (a) require that the information be withheld from the public in such a manner as to leave no discretion on the issue, or (b) establish particular criteria for withholding or refer to particular types of information to be withheld. The conferees intend this language to overrule the decision of the Supreme Court in *Administrator, FAA* v. *Robertson*, 422 U.S. 255 (1975), which dealt with section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504). Another example of a statute whose terms do not bring it within this exemption is section 1106 of the Social Security Act (42 U.S.C. 1306).

The conferees' understanding and intention with respect to subsection (c) is as follows:

1. The conferees understand the word "likely" to mean that it is more likely than not that the event or result in question will occur.

2. The conferees intend the inclusion in the seventh exemption (law enforcement material) of non-written information such as oral information imparted by a confidential informant, to cover only information, that if written would be included in investigatory records compiled for law enforcement purposes.

3. The language of the House amendment regarding trade secrets and confidential financial or commercial information is identical to the analogous exemption in the Freedom of Information Act, 5 U.S.C. 552(b)(4), and the conferees have agreed to this language with recognition of judicial interpretations of that exemption.

4. The limitation on the second part of the ninth exemption (information whose disclosure would significantly frustrate a proposed agency action) provides that it shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on the proposal. Disclosure of the information other than by the agency, such as by an unauthorized "leak", would not render it ineligible for the protection of this exemption.

5. In an appropriate instance, an agency discussion of the possible purchase of real property would fall within the second part of the ninth exemption.

6. The House version of the personnel exemption is agreed to with recognition of the Supreme Court's interpretation of the analogous Freedom of Information Act exemption in *Department of the Air Force* v. *Rose*, — U.S. —, 44 U.S.L.W. 4503 (April 21, 1976).

Procedure for closing meetings

Senate bill

Subsection 4(c)(1) of the Senate bill provided that action to close a meeting or to withhold information under subsection 4(b) shall be taken only when a majority of the entire membership of the agency or subdivision concerned votes to take such action. A separate vote is to be taken with respect to each meeting (or portion thereof) proposed to be closed, or any information proposed to be withheld, except that a single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, if each meeting in the series involves the same particular matters and is scheduled to be held no more than 30 days after the initial meeting in the series.

The vote of each agency member is to be recorded and proxies are not permitted.

Whenever any person whose interests might be directly affected by a meeting requests that the agency close a portion or portions of the meeting under the exemptions relating to personal privacy, criminal accusation, or law enforcement information, the agency, upon the request of any one of its members, is required to vote whether to close such meeting.

Within one day of any vote taken pursuant to this paragraph, the agency is required to make public a written copy of the vote.

Subsection 4(c)(2) of the Senate bill provided that if a meeting (or portion thereof) is closed, the agency must, within one day of the vote taken under paragraph (c)(1), make public a full written explanation of its action closing the meeting, together with a list containing the names and affiliations of all persons expected to attend the meeting.

Subsection 4(c)(3) of the Senate bill provided a special procedure whereby any agency, a majority of whose meetings will properly be closed to the public pursuant to the exemptions for trade secrets, information that might lead to financial speculation, bank condition reports, or adjudicatory proceedings for civil actions, may provide by regulation for the closing of such meetings or portions, so long as a majority of the members of the agency vote at the beginning of the meeting or portion to close the meeting and a copy of the vote is made public.

The closing procedures of paragraphs (c)(1) and (2), and the announcement procedures of subsection (d), do not apply to any meeting closed under these regulations, but the agency is required to make a public announcement of the date, place, and subject matter of the meeting at the earliest practicable opportunity (except to the extent that to do so would disclose information exempt under subsection 4(b)).

House amendment

Subsection (d)(1) of new section 552b, as set forth in the House amendment, provided that action to close a meeting (or portion thereof) may be taken only when a majority of the entire membership of the agency votes to take such action. A separate vote of the agency members is to be taken with respect to each meeting a portion or portions of which are proposed to be closed, except that a single vote may be taken with respect to a series of portions of meetings proposed to be closed if each portion in such series involves the same particular matters and is scheduled to be held no more than 30 days after the initial portion of a meeting in the series.

The vote of each agency member is required to be recorded and proxies are not permitted.

Subsection (d)(2) of section 552b provided that whenever any person whose interests might be directly affected by a portion of a meeting requests that the agency close such portion to the public under the exemptions relating to personal privacy, criminal accusation, or law enforcement information, the agency, upon the request of any *one* of its members, is required to vote by recorded vote whether to close such meeting.

Subsection (d)(3) of section 552b required the agency to make public a written copy of any vote taken pursuant to paragraphs (d) (1) or (2), reflecting the vote of each member on the question, within one day after the vote. If the vote is to close the meeting (or a portion thereof), the agency is also required to make public within one day a full written explanation of its action closing the portion and a list of the names and *affiliations* of all persons expected to attend the meeting.

Subsection (d)(4) of section 552b provided a special procedure whereby any agency, a majority of whose meetings may properly be closed pursuant to the exemptions for trade secrets, information that might lead to financial speculation, bank condition reports, or adjudicatory proceedings or civil actions, may provide by regulation for the closing of such meetings or portions in the event that a majority of the members of the agency vote by recorded vote at the beginning of the meeting or *portion* to close the exempt portions thereof and a copy of the vote, reflecting the vote of each member on the question, is made public.

The closing procedures of paragraphs (d) (1), (2) and (3), and the announcement procedures of subsection (e), do not apply to any portion of a meeting closed under these regulations, but the agency is required to make a public announcement of the date, place, and subject matter of the meeting (and each portion thereof) at the earliest practicable time and in no case later than the commencement of the meeting or portion (except to the extent that to do so would disclose information exempt under subsection (d)).

Conference substitute

The conference substitute is the same as the Senate bill, except as follows:

1. The reference to an agency subdivision in paragraph (1) is eliminated, since the definition of "agency" in subparagraph (a) (1) of section 552b includes any subdivision thereof authorized to act on behalf of the agency. The reference to the definition of "agency" in this instance is intended to make clear that when a subdivision is authorized to act on behalf of the agency, a majority of the entire membership of the subdivision is necessary to close a meeting.

2. Any vote to close a meeting upon the request of an affected person, or using the special procedure under paragraph (d)(4), must be recorded. When such vote is published, the vote of each individual member shall be set forth.

3. While the public announcement required when a meeting is closed using the special procedure under paragraph (d)(4) need only be made at the earliest practicable time, the conferees intend that such announcements be made as soon as possible, which should in few, if any, instances be later than the commencement of the meeting or portion in question.

4. The fact that one portion of a meeting may be closed does not justify the closing of any other portion.

Announcement of meetings

Senate Bill

Section 4(d) of the Senate bill required that the agency publicly announce, at least one week before a meeting, the following:

1. the date of the meeting;
2. the place of the meeting;
3. the subject matter of the meeting;
4. whether the meeting is open or closed to the public; and
5. the name and telephone number of the official designated by the agency to respond to requests for information about the meeting.

This seven day period may be reduced if the majority of the members of the agency or subdivision determine by vote that the agency business so requires, in which case public announcement of the date, place, and subject matter of the meeting, and whether it is open or closed, is to be made at the earliest practicable opportunity.

The subject matter or closed/open determination for a meeting may be changed following the initial public announcement if (1) a majority of the entire membership of the agency or subdivision determines by vote that the agency business so requires and that no earlier announcment of the change was possible, and (2) the change is announced at the earliest practicable opportunity.

Notice of any public announcement required by this subsection is to be submitted for publication in the Federal Register immediately after its release.

House amendment

Subsection (e) of new section 552b, as added by the House amendment, required that the agency publicly announce, at least one week before a meeting, the following:

1. the date of the meeting;
2. the place of the meeting;
3. the subject matter of the meeting;
4. whether the meeting is to be open or closed to the public; and
5. the name and telephone number of the official designated by the agency to respond to requests for information about the meeting.

This seven day period may be reduced if the majority of the members of the agency determines by recorded vote that the agency business so requires, in which case public announcement of the date, place, and subject matter of the meeting, and whether it was open or closed to the public, is to be made at the earliest practicable time and in no case later than the commencement of the meeting or portion in question.

The time, place, or subject matter of a meeting, or the determination whether a meeting should be open or closed, may be changed following the initial public announcement if (1) a majority of the entire membership of the agency determines by recorded vote that the agency business so requires and that no earlier announcement of the change was possible, and (2) the change and the vote of each member thereon is announced at the earliest practicable time and in no case later than the commencement of the meeting or portion in question.

Conference substitute

The conference substitute is the same as the House amendment, except as follows:

1. While the public announcement required when a meeting is announced on less than seven days' notice, or when the time, place or subject matter of a meeting, or the determination whether to open or close a meeting is changed following the initial public announcement, need only be made at the earliest practicable time, the conferees intend that such announcements be made as soon as possible, which should in few, if any, instances be later than the commencement of the meeting or portion in question.

2. A change in the time or place of a meeting made subsequent to the initial announcement need not be voted upon by the agency members, but must be announced at the earliest practicable time.

3. The bill requires that reasonable means be used to assure that the public is fully informed of public announcements pursuant to this section. Such means include posting notices on the agency's public notice boards, publishing them in publications whose readers may have an interest in the agency's operation, and sending them to the persons on the agency's general mailing list or a mailing list maintained for those who desire to receive such material.

Notice of a public announcement pursuant to this subsection must also be submitted immediately for publication in the Federal Register.

Transcripts, recordings, and minutes of meetings

Senate bill

Section 4(e) of the Senate bill required that a verbatim transcript or electronic recording be made of each meeting or portion closed to the public, except for a meeting or portion closed under the exemption for adjudicatory proceedings and civil actions. The transcript or recording of each item on the agenda is to be made available to the public promptly, in a place easily assessible to the public, where no significant portion of such item contains any information falling within one of the exemptions in section 4(b).

Copies of the transcript (or a transcription of the recording disclosing the identity of each speaker) are to be furnished to any person at the actual cost of duplication or transcription.

The complete transcript or recording is to be maintained by the agency for at least two years after the meeting or one year after the conclusion of the agency proceeding which was the subject of the meeting, whichever occurred later.

House amendment

Subsection (f)(1) of new section 552b, as contained in the House amendment, required that for every meeting closed under the section, the General Counsel or chief legal officer of the agency certify that, in his opinion, the meeting may properly be closed and state the relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the date, time, and place of the meeting, the persons present, the generic subject matter of the discussion at the meeting, and the actions taken, is to be incorporated into minutes retained by the agency.

Subsection (f)(2) of section 552b required that written minutes be kept of any meeting or portion which is open and promptly be made available to the public in a location easily accessible to the public. The minutes are to be maintained for a period of at least two years after the meeting, and copies are to be furnished to any person at no greater than the actual cost of duplication (or, if in the public interest, at no cost).

Conference substitute

Subsection (f)(1) of the conference substitute requires that before a meeting may be closed, the General Counsel or chief legal officer of the agency must certify that, in his or her opinion, the meeting may properly be closed and state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the date, time, and place of the meeting, and the persons present, shall be retained by the agency as part of the transcript, recording, or minutes of the meeting.

The agency shall make a verbatim transcript or electronic recording of each meeting or portion closed to the public, except that for a meeting closed under exemptions (8) (bank reports), (9)(A) (information likely to lead to financial speculation), and (10) (adjudicatory proceedings or civil actions), the agency may elect to make either a transcript, a recording, or minutes. If minutes are kept, they must fully and clearly describe all matters discussed, provide a full and accurate summary of any actions taken and the reasons expressed therefor, and include a description of each of the views expressed on any item. The minutes must also reflect the vote of each member on any roll call vote taken during the proceedings and must identify all documents considered at the meeting.

Subsection (f)(2) of the conference substitute requires that the transcript, recording, or minutes made pursuant to paragraph (f)(1) as to each item on the agenda must be made promptly available to the public, except for agenda items or items of the discussion or testimony that the agency determines to contain information exempt under subsection (c).

Copies of the nonexempt portions of the transcript, or minutes, or a transcription of the recording disclosing the identity of each speaker, must be furnished to any person at the actual cost of duplication or transaction.

The complete transcript, minutes, or recording of a closed meeting is to be maintained by the agency for at least two years after the meeting or one year after the conclusion of the agency proceeding which was the subject of the meeting, whichever occurs later.

Agency regulations

Senate bill

Section 4(f) of the Senate bill required each agency subject to the requirements of section 4 to promulgate implementing regulations within 180 days after the enactment of the Act, following consultation with the Office of the Chairman of the Administrative Conference of the United States, published notice in the Federal Register of at least 30 days and opportunity for any person to make written comment thereon.

The Senate provision permitted any person to bring a proceeding in the United States District Court for the District of Columbia to require the promulgation of such regulations if not promulgated within the 180-day period, and also permitted any person to bring a proceeding in the United States Court of Appeals for the District of Columbia Circuit to set aside any such regulations not in accord with the requirements of subsections (a) through (e) of section 4 and to require the promulgation of regulations in accord with those provisions.

House amendment

The House amendment, subsection (g) of new section 552b, was the same as the Senate bill, except that the right to bring a proceeding in the Court of Appeals to challenge agency regulations promulgated under the Act is subject to "any limitations of time therefor provided by law."

Conference substitute

The conference substitute is the same as the House amendment, except that the right to bring a proceeding in the Court of Appeals to challenge agency regulations promulgated under the Act is subject to "any limitations of time provided by law."

Judicial review

Senate bill

Section 4(g) of the Senate bill vested in the United States District Courts jurisdiction to enforce subsections (a) through (e) of section 4 by declaratory judgment, injunctive relief, or other appropriate relief. An action may be brought by any person prior to, or within 60 days after the meeting in question, except that if proper public announcement of the meeting is not made, the action may be instituted at any time within 60 days after such announcement is made.

The Senate provision required a potential plaintiff to notify the agency before instituting suit and to allow it a reasonable period of time (not to exceed 10 days or, if notification is made prior to the meeting, not to exceed two days) to correct the violation.

An action may be brought where the plaintiff resides or has his principal place of business, or where the agency has its headquarters. The defendant is required to serve his answer within 20 days after the service of the complaint, and the burden is on the defendant to sustain his action.

In deciding such an action the court may examine in camera any portion of the transcript or recording of a closed meeting and may take any additional evidence it deems necessary. The court, having due regard for orderly administration, the public interest, and the interests of the party, may grant such equitable relief as it deems appropriate, including enjoining future violations or ordering the agency to make public the transcript or recording of any portion of a meeting improperly closed to the public.

Subsection 4(g) provided that, except as provided in subsection 4(h), nothing in section 4 confers jurisdiction upon any district court to set aside or invalidate any agency action taken or discussed at a meeting out of which a violation of this section arose.

Subsection 4(h) of the Senate bill provided that any Federal court otherwise authorized by law to review agency action may, at the request of any person properly participating in such a review proceeding, inquire into violations of section 4 by the agency and afford any such relief as it deems appropriate.

House amendment

In the House amendment, subsection (h) of new section 552b vested in the United States District Courts jurisdiction to enforce subsections (b) through (f) of section 552b. An action may be brought by any person prior to, or within 60 days after the meeting in question, except that if proper public announcement of the meeting is not made, the action may be instituted at any time within 60 days after such announcement is made.

The House amendment permitted an action to be brought where the meeting was held, where the agency has its headquarters, or in the District of Columbia. The defendant is required to serve his answer within 20 days after the service of the complaint, but the court may extend that time limit for up to 20 additional days upon a showing of good cause for an extension. The burden is on the defendant to sustain his action.

In deciding such an action the court may examine in camera any portion of the minutes of a closed meeting and may take any additional evidence it deemed necessary. The court, having due regard for orderly administration, the public interest, and the interests of the party, may grant such equitable relief as it deems appropriate, including enjoining future violations or ordering the agency to make public such portion of the minutes as was not exempt under subsection (c) of section 552b.

Subsection (h) further provided that nothing in section 552b confers jurisdiction on a district court acting solely under subsection (h) to set aside, enjoin, or invalidate any agency action taken or discussed at a meeting out of which a violation of section 552b arose.

Conference substitute

The conference substitute vests in the United States District Courts jurisdiction to enforce subsections (b) through (f) of section 552b by declaratory judgment, injunctive relief, or other relief as may be appropriate. An action may be brought by any person prior to, or within 60 days after the meeting in question, except that if proper public announcement of the meeting is not made, the action may be instituted at any time within 60 days after such announcement is made.

The conference substitute does not contain the requirement of the Senate bill that a potential plaintiff formally notify the agency before commencing an action under this subsection because the conferees expect and encourage potential plaintiffs or their attorneys to communicate informally with the agency before bringing suit.

An action under subsection (h)(1) may be brought where the agency meeting was or is to be held, where the agency has its headquarters, or in the District of Columbia. The defendant must serve his answer within 30 days after the service of the complaint, and the court is not given discretion by the substitute to extend that time limit. The burden is upon the defandant to sustain his action.

In deciding such an action the court may examine in camera any portion of the transcript, recording, or minutes of a closed meeting and may take any additional evidence it deems necessary. The court, having due regard for orderly administration, the public interest, and the interests of the party, may grant such equitable relief as it deems appropriate, including enjoining future violations or ordering the agency to make public such portion of the transcript, recording, or minutes as is not exempt under subsection (c) of section 552b.

Subsection (h)(2) of section 552b, as contained in the conference substitute, provides that any Federal court otherwise authorized to review agency action (under provisions such as chapter 7 of title 5, U.S. Code, or chapter 158 of title 28, U.S. Code) may, on the application of any person properly participating in the review proceeding, inquire into violations of section 552b by the agency and afford such relief as it deems appropriate. Nothing in section 552b authorizes any Federal court having jurisdiction solely on the basis of subsection (h)(1) to set aside, enjoin, or invalidate any agency action (other than an action, such as to close a meeting or withhold a portion of a transcript, recording, minutes, or other information, taken pursuant to section 552b) taken or discussed at a meeting out of which a violation of section 552b arose.

The conferees do not intend the authority granted to the Federal courts by the first sentence of subsection (h)(2) to be employed to set aside agency action taken other than under section 552b solely because of a violation of section 552b in any case where the violation is unintentional and not prejudicial to the rights of any person participating in the review proceeding. Agency action should not be set aside for a violation of section 552b unless that violation is of a serious nature.

Attorney fees and litigation costs

Senate bill

Section 4(i) of the Senate bill authorized the court hearing an action under subsection (f), (g), or (h) of that section to assess against any party reasonable attorney fees and other litigation costs reasonably incurred by any other party who substantially prevails in the action. Costs may be assessed against an individual member of an agency only where the court finds that he has intentionally and repeatedly violated section 4, and against a plaintiff where the court finds that he initiated the suit for frivolous or dilatory purposes. In the case of apportionment of fees or costs against any agency, the fees or costs may be assessed against the United States.

House amendment

Subsection (i) of new section 552b, as contained in the House amendment, authorized the court hearing an action under subsection (g) or (h) of section 552b to assess against any party reasonable attorney fees and other litigation costs reasonably incurred by any other party who substantially prevails in the action. Costs may be assessed against a plaintiff only where the court finds that he initiated the suit primarily for frivolous or dilatory purposes. In the case of assessment of fees or costs against an agency, they may be assessed against the United States.

Conference substitute

The conference substitute is the same as the House amendment.

Annual report to Congress

Senate bill

Section 4(j) of the Senate bill required the agencies subject to the requirements of section 4 to report annually to Congress regarding their compliance, including the total number of meetings open to the public, the total number closed to the public, the reasons for the closings, and a description of any litigation brought against the agency under section 4.

House amendment

Subsection (j) of new section 552b of the House amendment required each agency subject to the requirements of the section to report annually to Congress regarding its compliance, including the total number of meetings open to the public, the total number closed to the public, the reasons for the closings, and a description of any litigation brought against the agency under section 552b (including any fees or costs assessed against the agency in such litigation, whether or not paid by the agency).

Conference substitute

The conference substitute is the same as the House amendment.

Relationship to the Freedom of Information Act, 5 U.S.C. 552

Senate bill

Section 6(a) of the Senate bill provided that except as specifically provided in section 4, nothing in section 4 confers any additional rights on any person or limits the existing rights of any person to inspect or copy, under 5 U.S.C. 552, any documents or written material within the possession of any agency. In the case of any request made pursuant to 5 U.S.C. 552 to copy or inspect the transcripts or recordings described in section 4(e) of the Senate bill, the provisions of this Act govern whether the transcripts or recordings are to be made available in response to the request.

Section 6(a) also makes the requirements of chapter 33 of title 44, United States Code, inapplicable to the transcripts and recordings described in section 4(e) of the Senate bill.

The Senate bill contained no provision amending the third exemption set forth in 5 U.S.C. 552(b).

House amendment

Subsection (k) of new section 552b, as included in the *House amendment*, provided that other than as specifically provided in section 552b, nothing in section 552b expands or limits the existing rights of any person under 5 U.S.C. 552, except that the provisions of this act govern in the case of any request made pursuant to 5 U.S.C. 552 to copy or inspect the minutes described in subsection (f) of new section 552b.

Subsection (k) also makes the requirements of chapter 33 of title 44, United States Code, inapplicable to the minutes described in subsection (f) of section 552b.

Section 5(b) of the House amendment amended the third exemption set forth in 5 U.S.C. 552(b) to include matters specifically exempted from disclosure by statute (other than the new section 552b), if the statute either requires that the matters be withheld from the public or establishes particular criteria for withholding or refers to particular types of matters to be withheld.

Conference substitute

The conference substitute provides that nothing in section 552b expands or limits the existing rights of any person under 5 U.S.C. 552, except that the exemptions in subsection (c) of section 552b shall govern in the case of any request made pursuant to 5 U.S.C. 552 to copy or inspect the transcripts, recordings or minutes described in subsection (f) of section 552b.

The conference substitute further provides that the requirements of chapter 33 of title 44, United States Code, shall not apply to the transcripts, recordings, and minutes described in subsection (f) of section 552b.

Section 5(b) of the conference substitute amends the third exemption in 5 U.S.C. 552 (b) to include information specifically exempted from disclosure by statute (other than new section 552b), if the statute either (a) requires that the information be withheld from the public in such a manner as to leave no discretion on the issue, or (b) establishes particular criteria for withholding or refers to particular types of information to be withheld.

The conferees intend this language to overrule the decision of the Supreme Court in *Administrator, FAA* v. *Robertson*, 422 U.S. 255 (1975), which dealt with section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504). Another example of a statute whose terms do not bring it within this exemption is section 1106 of the Social Security Act (42 U.S.C. 1306).

Authority to withhold information from Congress

Section 6(a) of the Senate bill, subsection (1) of new section 552b of the House amendment, and subsection (1) of section 552b in the conference substitute all provide that the open meeting provisions of the legislation (section 552b of the conference substitute) do not constitute authority to withhold information from Congress.

Closing of meetings otherwise required to be open

Senate bill

No comparable provision.

House amendment

Subsection (1) of new section 552b, as contained in the House amendment, provides that section 552b does not authorize the closing of any agency meeting otherwise required by law to be open.

Conference substitute

The conference substitute is the same as the House amendment.

Relationship to the Privacy Act of 1974 5 U.S.C. 552a

The Senate bill, the House amendment, and the conference substitute all provide that nothing in the open meeting provisions of this legislation (section 552b of the conference substitute) authorizes any agency to withhold from any individual any record, including the transcripts, recordings, and minutes required by these provisions, which is otherwise accessible to that individual under 5 U.S.C. 552a.

Relationship to Federal Advisory Committee Act, 5 U.S.C. App. I

Senate bill

No comparable provisions.

House amendment

Subsection (n) of new section 552b of the House amendment provided that in the event that any meeting is subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) as well as the provisions of section 552b, the meeting is governed by the provisions of section 552b.

Subsection 5(c) of the House amendment amended the Federal Advisory Committee Act to make advisory committee meetings subject to the exemptions contained in the new 5 U.S.C. 552b (enacted by this act), rather than to the exemptions contained in 5 U.S.C. 552.

This provision in the House bill is addressed to a problem that has arisen in administration of the Federal Advisory Committee Act, enacted in 1972. In establishing a requirement in that Act that meeting of Executive Branch advisory committees should be open to the public, Congress adopted the exemption provisions set forth in the Freedom of Information Act (FOIA) to describe the few types of meetings that might properly be closed. Unfortunately, this approach has not been entirely satisfactory, largely because those exemptions were designed to deal with documents rather than meetings, and some agencies have closed advisory committee meetings for reasons not contemplated by Congress. The chief concern in this regard has been application of exemption 5, a provision intended to protect the confidentiality of purely *internal* governmental deliberations, as a basis for closing discussions with and among *outside* advisers. One court has given approval to the use of exemption 5 to close advisory committee meetings, *Aviation Consumer Action Project* v. *Washburn*, 535 F.2d 101 (D.C. Cir. 1976).

The House provision which was unanimously approved, is intended to cure this and similar problems by replacing the nine FOIA exemptions presently incorporated in the Federal Advisory Committee Act with the new exemptions of the Sunshine Act that have been expressly designed to govern meetings, as opposed to documents. This provision thus overrules the *Washburn* case and is intended to end agency reliance upon the "full and frank" discussion rationale for closing advisory committee meetings. Under this provision, portions of federal advisory committee meetings may be, but are not required to be, closed when they fall within one of the disclosure exemptions that are created for meetings of collegial bodies under section 552b of title 5, United States Code.

Conference substitute

Subsection 5(c) of the conference substitute amends the Federal Advisory Committee Act (5 U.S.C. App. I) to make advisory committee meetings subject to the exemptions contained in 5 U.S.C. 552b (enacted by this act).

The Conference substitute is the same as the House provision. The conferees, however, are concerned about the possible effect of this amendment upon the peer review and clinical trial preliminary data review systems of the National Institutes of Health. The conferees thus wish to state as clearly as possible that personal data, such as individual medical information, is especially sensitive and should be given appropriate protection to prevent clearly unwarranted invasions of individual privacy. While the conferees are sympathetic to the concerns expressed by NIH regarding its committees' funding recommendations and analysis of preliminary data, the conferees are equally sympathetic to concerns expressed by citizens' groups that important fiscal and health-related information not be unnecessarily withheld from the public.

With these competing interests in mind, the conferees have secured assurances that the appropriate House and Senate committees will review the unique problems of NIH under the new standards. Indeed, it is noted that the Subcommittee on Reports, Accounting and Management of the Senate Government Operations Committee has already held three days of hearings on this matter and plans to continue with further inquiry at an early date.

EX PARTE COMMUNICATIONS

Prohibition

Senate bill

Section 5(a) of the Senate bill added a new subsection (d) to 5 U.S.C. 557. Subsection (d) provided that in any agency proceeding subject to 5 U.S.C. 557(a), except as required for the disposition of ex parte matters as authorized by law—

(1) no interested person outside the agency shall make or knowingly cause to be made to any member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, an ex parte communication relevant to the merits of the proceeding;

(2) no member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding shall make or knowingly cause to be made to an interested person outside the agency an ex parte communication relevant to the merits of the proceeding;

(3) a member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of such proceeding who receives, or who makes, a communication in violation of subsection (d), shall place on the public record of the proceeding:

(A) written communications transmitted in violation of subsection (d);

(B) memorandums stating the substance of all oral communications occurring in violation of subsection (d); and

(C) responses to the materials described in the two preceding paragraphs;

(4) upon receipt of a communication knowingly made by a party, or which was knowingly caused to be made by a party in violation of subsection (d), the agency, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the person or party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected by virtue of such violation;

(5) the prohibitions of subsection (d) shall apply at such time as the agency might designate, but in no case later than the time at which a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply at the time of his acquisition of such knowledge.

Section 6(a) of the Senate bill provided that the act does not authorize any information to be withheld from Congress.

House amendment

Section 4(a) of the House amendment added a new subsection (d) to 5 U.S.C. 557. Subsection (d) provided that in any agency proceeding subject to 5 U.S.C. 557(a), except as required for the disposition of ex parte matters as authorized by law—

(1) no interested person outside the agency shall make or cause to be made to any member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, an ex parte communi-

cation relative to the merits of the proceeding;

(2) no member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be, involved in the decisional process of the proceeding, may make or cause to be made to any interested person outside the agency an ex parte communication relative to the merits of the proceeding;

(3) a member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of such proceeding who receives, or who makes or cause to be made, a communication prohibited by subsection (d) shall place on the public record of the proceedings:

(A) all such written communications;

(B) memoranda stating the substance of all such oral communications; and

(C) all written responses, and memoranda stating the substance of all oral responses, to the materials described in the two preceding paragraphs;

(4) in the event of a communication prohibited by this subsection and made or caused to be made by a party or interested person, the agency, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the person or party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation; and

(5) the prohibitions of subsection (d) shall apply beginning at such time as the agency may designate, but in no case later than the time at which a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it would be noticed, in which case the prohibitions shall apply beginning at the time of his acquisition of such knowledge.

Subsection (d) (2), as added by the House amendment, provided that subsection (d) does not constitute authority to withhold information from Congress.

Conference substitute

The conference substitute is the same as the Senate bill, except as follows:

1. The requirement of placing material on the public record applies to an agency decisionmaking official who knowingly causes an ex parte communication to be made, as well as to one who receives or makes such a communication.

2. The conference substitute clarifies the time at which the prohibition on ex parte communications begins to apply.

3. The provision that subsection (d) is not authority to withhold information from Congress is included in the subsection as paragraph (2).

4. Although the conference substitute does not contain express provision for sanctions against an interested person (who is not a party) who makes a prohibited communication, the conferees intend that such a person be subject to all sanctions provided in the bill if he later becomes a party to the proceeding.

The word "relevant" is not used in the strict evidentiary sense, but is intended to apply to communications bearing on the merits or affecting the merits.

Definition of "ex parte communication"

Senate bill

Section 5(b) of the Senate bill defined an ex parte communication as an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given.

House amendment

Section 4(b) of the House amendment defined an ex parte communication as an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given. The definition expressly excluded requests for information on or status reports relative to any matter or proceeding covered by subchapter II of chapter 5 of title 5, United States Code.

Conference substitute

The conference substitute defines an ex parte communication as an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given. The definition contained in the conference substitute expressly excludes requests for status reports on any matter or proceeding covered by subchapter II of chapter 5 of title 5, United States Code.

The conferees wish to note the fact that this provision and the ex parte provisions of new section 557(d) (as added by this act) in no way prohibit—

1. any communication with an agency decisionmaking official if not involving a formal adjudicatory proceeding (and a few formal rulemaking proceedings); or

2. any communication with a decisionmaking official if not relevant to the merits of a covered proceeding; or

3. any communication with a decisionmaking official in any proceeding at any time if it involves only a request for the status of the proceeding and is not intended to affect the merits; or

4. any communication at any time with an agency official not involved in the decisional process.

Sanctions

Senate bill

Section 5(c) of the Senate bill amended 5 U.S.C. 556(d) to permit an agency, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the agency, to consider a violation of 5 U.S.C. 557(d), as added by this act, sufficient grounds for a decision on the merits adverse to a party who has knowingly committed or caused the violation.

House amendment

Section 4(c) of the House amendment amended 5 U.S.C. 556(d) to permit an agency, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the agency, to consider a violation of 5 U.S.C. 557(d), as added by this act, sufficient grounds for a decision on the merits adverse to a person or party who has committed or caused the violation.

Conference substitute

The Conference substitute is the same as the Senate bill.

CONFORMING AMENDMENT AND EFFECTIVE DATES

U.S. Postal Service

Senate bill

No comparable provision.

House amendment

Section 5(a) of the House amendment amended 39 U.S.C. 410(b) (1) to make clear the fact that new section 552b and the Privacy Act of 1974 (5 U.S.C. 552a) apply to the United States Postal Service.

Conference substitute

The conference substitute is the same as the House amendment.

Effective dates

The Senate bill, the House amendment, and the conference substitute all provide that this act shall take effect 180 days after the date of its enactment, except that the provision requiring the promulgation of agency regulations to implement the open meeting provisions (new section 552b(g)), as contained in the conference substitute, shall take effect upon enactment.

Jack Brooks,
John E. Moss,
Dante B. Fascell,
John Conyers, Jr.
Bella S. Abzug,
Walter Flowers,
George E. Danielson,
Barbara Jordan,
Romano L. Mazzoli,
Edward W. Pattison,
Frank Horton,
Paul N. McCloskey, Jr.,
Carlos J. Moorhead,
Thomas N. Kindness,
Managers on the Part of the House.

Abe Ribicoff,
Edmund S. Muskie,
Lee Metcalf,
Lawton Chiles,
Charles H. Percy,
Jacob K. Javits,
William V. Roth, Jr.,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL MIDNIGHT TOMORROW, AUGUST 27, 1976, TO FILE A REPORT ON H.R. 14886

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may have until midnight, Friday, August 27, 1976, to file a report on the bill (H.R. 14886) to amend the Presidential Transition Act of 1963.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON S. 217, REPEAL OF ACT OF MAY 10, 1926, RELATING TO CONDEMNATION OF PUEBLO INDIAN LANDS IN NEW MEXICO

Mr. MEEDS submitted the following conference report and statement on the Senate bill (S. 217) to repeal the Act of May 10, 1926 (44 Stat. 498), relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico:

CONFERENCE REPORT (H. REPT. No. 94–1439)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 217) to repeal the Act of May 10, 1926 (44 Stat. 498), relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with the following amendment: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SEC. 3. The Act of April 21, 1928 (45 Stat. 442), is hereby amended by striking all after the enacting clause and inserting, in lieu, the following:

"That the provisions of the following statutes:

"Sections 3 and 4 of the Act of March 3, 1901 (31 Stat. 1083 and 1084);

"The Act of March 2, 1899 (30 Stat. 990), as amended;

"Sections 1 and 2 of the Act of March 11, 1904 (33 Stat. 65), as amended; and

"The Act of February 5, 1948 (62 Stat. 17), are extended over and made applicable to the Pueblo Indians of New Mexico and their lands, whether owned by the Pueblo Indians or held in trust or set aside for their use and occupancy by Executive order or otherwise, under such rules, regulations, and conditions as the Secretary of the Interior may prescribe.

"Sec. 2. Notwithstanding such provisions, the Secretary of the Interior may, without the consent of the affected Pueblo Tribes, grant one renewal for a period not to exceed 10 years of any right-of-way acquired through litigation initiated under the Act of May 10, 1926 (44 Stat. 498), or by compromise and settlement in such litigation, prior to January 1, 1975. The Secretary shall require, as compensation for the Pueblo involved, the fair market value, as determined by the Secretary, of the grant of such renewal. The Secretary may grant such right-of-way renewal under this section only in the event the owner of such existing right-of-way and the Pueblo Tribe involved cannot reach agreement on renewal within ninety days after such renewal is requested. Nothing in this section shall be deemed to validate or authorize the renewal of a right-of-way which is otherwise invalid by reason of the invalidity of the Act of May 10, 1926, on the date said right-of-way was originally obtained."

And the House agree to the same.

Lloyd Meeds,
John Melcher,
Robert G. Stephens,
Don Young,
Managers on the Part of the House.

Henry M. Jackson,
Lee Metcalf,
James Abourezk,
James A. McClure,
Dewey F. Bartlett,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 217) to repeal the Act of May 10, 1926 (44 Stat. 498), relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico, submit the following joint statement to the House and the Senate in explanation of the effect of the action by the managers and recommended in the accompanying conference report:

The House amendment added a new section 3 at the end of the text of the Senate bill, and the Senate disagreed to the House amendment.

The committee of conference recommends that the Senate recede from its disagreement to the amendment of the House and agree to such amendment with an amendment. The differences between the Senate bill, the House amendment thereto, and the amendment to the House amendment agreed to in conference are noted below except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

S. 217, as passed by the Senate on May 21, 1975, repeals the Act of May 10, 1926, which subjected the lands of the New Mexico Pueblo Indians to condemnation under State law. It provides for the termination of any action or proceeding pending or commencing under such Act upon the enactment of the Senate bill, but preserves any right of appeal from a final decree or order entered before enactment of this legislation.

The 1926 Act exposes Pueblo Indian lands to a wider range of liability for condemnation than that of other Indian tribes in the State and throughout the Nation, and subjects the Pueblos to a type of action from which the other tribes are immune.

As a consequence, the 1926 Act denies the Pueblos the right of consent in considering applications for rights-of-way across their lands for whatever purpose. On the other hand, those tribes that organized constitutional governments pursuant to the Act of June 18, 1934 (48 Stat. 987), clearly, were provided the right of consent in considering rights-of-way applications. Moreover, the balance of federally recognized tribes have been granted the privilege of consent through Secretarial regulations.

It is the purpose of the Senate bill to place the New Mexico Pueblo Indians in the same position relative to grants of rights-of-way across their lands as other federally recognized Indian tribes. The House amendment adds a new section 3 to the Senate bill amending a 1928 statute making certain general statutes providing for rights-of-way across Indian lands applicable to the lands of the Pueblo Indians of New Mexico. One of such general statutes, the Act of February 5, 1948 (67 Stat. 17), permits the Secretary of the Interior to grant rights-of-way for all purposes across Indian lands, but clearly provides that tribes organized pursuant to the Indian Reorganization Act of 1934 and the Oklahoma Welfare Act of 1936 must consent to such grant (five of the nineteen Pueblos organized under the 1934 Act). Moreover, by administrative regulations promulgated under the general statutory authority of the Secretary of the Interior (25 C.F.R. 161.3), the Secretary has extended the consent requirement to rights-of-way to all Indian lands.

In addition to the foregoing provisions contained in the new section 3 as added by the House amendment, the House amendment adds a proviso which provides that if the owner of an existing right-of-way and the Pueblo tribe involved cannot agree to a renewal or widening of a right-of-way or have not entered into a binding arbitration process relative to such renewal or widening within 60 days after a request is made for renewal or widening, the Secretary of the Interior, in his discretion, may grant the right-of-way for appropriate compensation, notwithstanding the absence of Pueblo consent.

This proviso, as contained in the new section 3 added by the House amendment, has the effect of negating the Pueblos' right to exercise the privilege of consent on requests pertaining to widening or renewal of existing rights-of-way (whether granted pursuant to the 1926 Act or voluntarily), notwithstanding their statutory or administrative right to exercise such consent, which would obtain after repeal of the 1926 Act.

It is the foregoing proviso in the new section 3, as added by the House amendment, which is in disagreement.

The conferees agreed to accept the provisions of the House amendment with certain modifications to the proviso of the new section 3, as added by the House amendment, authorizing Secretarial grants of right-of-way renewal across Pueblo lands without Pueblo consent.

The conferees agreed to strike out such proviso and insert, in lieu thereof, a new section 2 to the 1926 Act being amended by such section 3 of the House amendment.

The conference agreement authorizes the Secretary of the Interior to grant a right-of-way renewal across Pueblo lands without Pueblo consent in limited cases. He may grant such renewal only in those cases where the original right-of-way was obtained through litigation initiated under the 1926 Act, or by compromise and settlement in such litigation, prior to January 1, 1975. He is limited to granting only one such renewal for a period not to exceed ten years and only if the Pueblo involved and the owner of the original right-of-way fail to negotiate a renewal within 90 days after the request for renewal by the owner of the right-of-way.

Under the conference agreement, the Secretary must require the payment of fair market value as compensation to the Pueblo for such grant.

Finally, the conference agreement provides that no renewal of a right-of-way under this section may be authorized without the consent of the Pueblo if such right-of-way is declared invalid because of the invalidity of the 1926 Act upon the date of the original acquisition of such right-of-way.

Lloyd Meeds,
Robert G. Stephens,
John Melcher,
Don Young,
Managers on the Part of the House.

Henry M. Jackson,
Lee Metcalf,
James Abourezk,
James A. McClure,
Dewey F. Bartlett,
Managers on the Part of the Senate.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on an amendment of the Senate to the bill (H.R. 8800) entitled "An act to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles."

The message also announced that Mr. Bellmon be a conferee, on the part of the Senate, on the bill (H.R. 8603) entitled "An act to amend title 39, United States Code, with respect to the organizational and financial matters of the United States Postal Service and the Postal Rate Commission, and for other purposes."

The message also announced that Mr. Chiles be a conferee, on the part of the Senate, on the bill (H.R. 14262) entitled "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes."

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished acting majority leader, the gentleman from California (Mr. McFall), if he is in a position to inform the House as to the program for the balance of the week and the week following.

Mr. McFALL. If the distinguished minority leader will yield, I will be happy to respond to his inquiry.

Mr. RHODES. I yield to the gentleman from California.

Mr. McFALL. There is no further legislative business for today, as the gentleman knows.

Upon the announcement of the program for next week, I will ask unanimous consent to go over until Monday.

The program for the House for next week is as follows:

On Monday, we will conclude the consideration of the bill that we started today, H.R. 8911, supplemental security income amendments;

H.R. 9398, Economic Development Administration, under an open rule with 1 hour of debate; and

H.R. 14844, estate and gift tax reform, a modified closed rule, with 4 hours of debate.

On Tuesday, H.R. 14844, estate and gift tax reform, votes on amendments and the bill;

H.R. 13636, Law Enforcement Assistance Administration, under an open rule with 2 hours of debate; and

Continued consideration of H.R. 10498, Clean Air Act amendments.

On Wednesday and Thursday, the House will consider H.R. 14238, legislative appropriations, fiscal year 1977;

Conclude consideration of H.R. 10498, Clean Air Act amendments;

H.R. 13958, defense officer personnel, under an open rule with 1 hour of debate; and

H.R. 13615, Central Intelligence Agency retirement, under an open rule with 1 hour of debate.

Of course, conference reports may be brought up at any time, and any further program will be announced later.

As the distinguished minority leader knows, the House will recess from the close of business Thursday, September 2, 1976, until noon, Wednesday, September 8, 1976.

ADJOURNMENT TO MONDAY, AUGUST 30, 1976

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore (Mr. BRADEMAS). Is there objection to the request of the gentleman from California?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. RHODES. Mr. Speaker, may I ask of the distinguished acting majority leader as to the probable hour of adjournment on Thursday?

Mr. McFALL. If the gentleman will yield, I would have to answer the gentleman's question by saying it will be a reasonable time. I would think that reasonable time would take into consideration the desires of the Members to catch their airplanes, because almost everyone, including the gentleman from California who is presently speaking, intends to go out for Labor Day meetings.

I would think that it would be very reasonable to try to conclude around 4 o'clock, but I cannot at this time make any sort of promise because we will have to see how the program proceeds. The Speaker will have to make that determination.

Mr. RHODES. I think the gentleman has made a rather reasonable definition of the word "reasonable" as being 4 o'clock.

May I ask further of the gentleman, there have been rumors going around concerning a rule to be sought for the legislative appropriations bill for fiscal year 1977. Does the gentleman have any details as to whether or not a rule will be sought and what limitations there will be?

Mr. McFALL. If the gentleman will yield, I am advised that there have been conversations between Members on our side of the aisle concerning that question. Meetings have been held between the leadership of the House Administration Committee and the Committee on Rules. I am not yet fully advised as to what might be requested in that rule.

However, consideration has been given to making such a request to the Committee on Rules next week.

Mr. RHODES. Mr. Speaker, I might say to my good friend, the acting majority leader, that the minority is very much interested in this bill and particularly interested in offering some amendments to it. If it were decided that a rule which is either closed or partially closed were to be requested, I am satisfied that there would be resistance.

Mr. McFALL. Mr. Speaker, I can understand the gentleman's position on that and the position of the Members on his side of the aisle. The only thing I could say is that we will have to wait for the regular procedure. There will be an application to the Committee on Rules.

Of course, the members of the minority on the Committee on Rules will be fully advised in the regular way.

Mr. RHODES. Mr. Speaker, I thank the gentleman.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I just wanted to say to the distinguished acting majority leader that it has become almost a ritual over the last 3 months for some Member on our side to ask each week when the legislative appropriations bill is going to come before us. Throughout that entire period of time there was never any indication that it was to come to us in any way except completely open, with a chance for the House to work its will. The only reason I can see for a closed rule or even a partially closed rule would be to prevent the embarrassment of Members of the House if they are asked to vote on whether or not they wish another automatic pay raise. I hope the majority is not, in the full view of the country and the press, going to deny the Members of the House the right to act on these issues which have come under very close scrutiny in the last few months. I hope that the gentleman will recommend that there be no rule, that it be brought up in the regular manner as any other appropriation bill, and that the Members be allowed to work their will on the issue.

Mr. McFALL. Mr. Speaker, if the minority leader will yield further, I am not fully advised as to what the request will be. However, I have been in attendance at some of the meetings.

The steering committee on our side met on this matter and had some preliminary discussions on it. The Members on our side, knowing full well of the gentleman's interest in the pay raise, which is automatic, I believe, on October 1, depending on what sort of a recommendation the President makes, understand it is a matter on which the Members on his side would desire to have a vote.

Mr. Speaker, I believe that would be one of the matters which would be permitted under the rule, so that there would be an opportunity for the expression of an opinion by a vote in this House on that issue.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield further?

Mr. RHODES. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, it is the information of the gentleman from Maryland that the distinguished acting majority leader is going to visit Maryland this weekend. In fact, he read that in the local press in his district. The gentleman is going to St. Mary's County, the first county in the State of Maryland and the one where our settlers first began.

I want to welcome the gentleman to Maryland, and I hope he has a wonderful time. Our hospitality is very expansive, the food is delectable, the land is beautiful, our crabs delicious, and the gentleman is one of the most gracious Members of the majority. I am sure that "expansive" is the right word and may I say further to the gentleman from California that I hope he enjoys the "Land of Pleasant Living."

Mr. McFALL. Mr. Speaker, I understand it is a delightful section of the State of Maryland. I have not been out there for any purpose before, and I hope to find that everyone is friendly and happy. I look forward to my journey there on Sunday.

Mr. BAUMAN. My hope is that at least the majority of the people are happy.

Mr. McFALL. I will say to the gentleman that it is certainly good crab country.

Mr. RHODES. Mr. Speaker, I understand that they call it the land of pleasant living.

AN ANALYSIS OF FORD'S ATTACK ON THE DEMOCRATIC CONGRESS

(Mr. RONCALIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, I am indebted to our colleague, the gentleman from Texas, Mr. JIM WRIGHT, for candid analysis of President Ford's attack upon their Democratic 94th Congress.

I shall refer to only one portion of it and ask that the entire response be placed in the RECORD as a part of my remarks.

The President said in his speech in Kansas City last week:

> I have demanded honesty, decency and personal integrity from everybody in the Executive Branch . . . The House and Senate have the same duty.

Mr. Speaker, that was an obviously pious and self-serving observation.

I do so wish there might be an upgrading and improvement in the presenting of issues to the electorate this year. Improvement is long overdue.

Congress, to be sure, is an imperfect instrument composed of imperfect human beings; but at least we are trying to serve the people well and to uphold the standards of accountability.

This Congress has tightened the requirements through the election laws. As a matter of fact, we opened up chairmanships and made chairmen responsible to their peers, to approval from Congress to Congress. This was a first.

As a matter of fact, we opened our markup sessions and even the work of conference committees to the scrutiny of the press. This was never done before. This is another first for the 94th Congress.

Mr. Speaker, we hope that the President himself will upgrade his campaigning in this election year and not resort to the old schmaltzy techniques that only turn mature and sensible people away from the electoral process.

Mr. Speaker, the statement of the gentleman from Texas, Jim Wright, follows:

An Analysis of Ford's Attack on the Democratic Congress

(By Jim Wright)

(Quotes from Aug. 19 Acceptance Speech, with Factual Refutation)

1. President Ford said: "America and Americans have made an incredible comeback since August, 1974."

The facts: According to official Bureau of Labor Statistics reports, the unemployment rate was 5.4% in August, 1974. It was 7.8% in August, 1976. The number of jobless Americans has risen by more than two million since Gerald Ford became President.

Meanwhile, the cost of living (Consumer Price Index) has increased by 14.2% since August, 1974. Do these figures represent "an incredible comeback?" The incredible thing is that the Republican administration and Republican lawmakers can find cause for self-congratulation in these dismal statistics.

More than seven million people today are unable to find work. A greater number of Americans have been unemployed for a longer time during the Ford administration than for any commensurate period in the past 30 years—since World War II! And that is the essential difference between us. We Democrats believe that America can do better than that!

2. The President said: "the great progress we have made . . . was in spite of the majority who run the Congress."

The truth: That depends entirely on what he calls "progress." To the extent that we've created a tentative if still inadequate degree of recovery from the depth of the trough (8.9% unemployed in the summer of 1975), that recovery clearly must be attributed to Congressional initiatives. And if each of the original Congressional initiatives had been allowed to stand, that recovery most certainly would have been much further along by now.

Witness the following factual recitation:

(1.) On March 26, 1975, Congress passed a $22.8 billion tax cut to stimulate consumer purchases and business investments in the private economy. In the summer of 1975, the Federal Reserve increased short-term interest rates by more than one-third, largely canceling the stimulative effects of the tax cut.

(2.) On May 16, 1975, Congress passed a $5.3 billion appropriation to finance the creation of more than a million public service jobs. Ford vetoed the bill and Congress failed by only 5 votes to muster the two-thirds necessary to override. Congress then responded with a smaller bill, for 310,000 jobs, which the President signed.

(3.) On June 11, 1975, Congress passed a housing bill designed to put some 800,000 Americans to work in the private economy building needed houses. Ford vetoed the bill. Congress barely failed to override. Then Congress enacted a smaller bill, which the President reluctantly signed.

(4.) On January 29, 1976, with 18% unemployed in the building trades and up to 40% in some areas, Congress passed the $6.2 billion Public Works Capital Investment Act. This would have engaged 600,000 workmen, mostly in the private sector, to build needed public facilities—libraries, schools, sewer and water improvements. The President vetoed the bill. The House overrode handily; the Senate failed by 3 votes.

(5.) On June 23, Congress countered with a reduced verison of the above ($3.9 billion) to employ some 350,000 jobless in needed public construction. The President vetoed even this. While willing to spend $19 billion in unemployment compensation, he was unwilling to spend $3.9 billion to put unemployed Americans back to work at useful tasks. This time Congress overrode the veto, and this bill went into effect.

(6.) In December, 1975, Congress extended the tax cut. Although he had formally called for the extension, Ford vetoed the bill, demanding the inclusion of certain extraneous cosmetic language. In order that the public might have the benefit of the tax reductions, Congress drafted a compromise verison of the language the President demanded and repassed the bill on December 19.

It is easy to see from the above that, in every case. The initiative for economic recovery has originated in the Congress. The President has dragged his feet on each occasion, stalled and complained, and finally assented only with the greatest reluctance.

3. The President said: "Fifty-five times I vetoed extravagant and unwise legislation. Forty-five times I made those vetoes stick."

A bit of perspective: Two years ago President Ford was seeking to frighten the public over the spectre of a "veto-proof Congress." We certainly haven't been that. But he clearly has been the most veto-prone President in recent history. Fifty-five vetoes in 24 months. That's 2½ vetoes a month, or an average of one every twelve days!

By contrast: During the first 20 years of our nationhood—through the Administrations of Presidents Washington, Adams and Jefferson—there were only two vetoes in all. Ford has vetoed more bills in only two years that the first 15 American Presidents vetoed throughout the first 70 years of our history.

Those who wrote the Constitution would have been appalled! Hamilton wrote in the Federalist Papers that the veto was created as an unusual instrument to be reserved for extreme occasions. He predicted it would be rarely resorted to. Emphatically the authors of the Constitution never intended it as a device to enthrone the President nor to frustrate and obstruct the repeatedly asserted will of the people's elected representatives.

No, this hasn't been a "veto-proof" Congress. But, largely as a result of President Ford's abuse of this privilege, he has suffered a greater percentage of overrides than any President in the past 100 years—back to and including Ulysses S. Grant.

To the degree that there has developed an atmosphere of conflict and stalemate between the Executive and Legislative branches, to the detriment of the public business, quite manifestly this must be laid at the door of our most veto-happy President who, with such total lack of self-restraint, has tried to use the instrument as a bludgeon to dictate the precise terms of legislation—a power never intended for any President.

4. President Ford said: "I called for a permanent tax cut . . . Congress won't act."

As pointed out above, Congress acted twice. The President, meanwhile, has paid only lip service to the principle of meaningful tax cuts. On one occasion, he let the Federal Reserve cancel their effect by raising interest rates. On another, he vetoed the bill. It must take exceptional gall to assert that "Congress won't act."

5. President Ford said: "I called for reasonable, constitutional restrictions on court-ordered busing of school children . . . Congress won't act."

The truth: Congress on no fewer than nine occasions during the past eight years has passed legislation containing restrictions upon the power of courts and administrative officials to order cross-town busing. On several occasions these laws have contained prohibitions against ordering the busing of any student to any school except the one "closest or next closest" to the student's home. For the most part, the courts have declared these provisions to be unconstitutional. Surely President Ford knows this. He was a member of Congress during much of that time. If he knows of some "constitutional" way to achieve the objective, one wonders why he didn't come forward with it when he was House Minority Leader.

6. President Ford said: "We will go on reducing the deadweight and the impudence of bureaucracy."

The fact: The bureaucracy has not been appreciably reduced. In January, 1969, civilian employees of the government totalled 2,969,000. Today they total 2,866,000. The eight-year decrease of about 3% has come about largely through the elimination of people-oriented programs.

But there has been a pronounced growth, ironically, in the Executive Office of the President. When Lyondon Johnson left office, there were 261 employees working directly for the President. Today there are 519—twice as many.

As for the "impudence" of bureaucracy, the Nixon-Ford years have spawned an enormous growth in the promulgation of administrative regulations, often directly counter to the intent of Congress, which intrude needlessly upon the daily lives of our citizens.

Since January of 1975, while Congress was enacting a total of 393 public laws, the administrative bureaucracy was writing over 95,000 pages of regulations—each of which has the full effect of law! Ford is right in saying that the arrogance of administrative lawmaking by appointed officials needs desperately to be curbed. But he most certainly has not curbed it! And, since the proliferation of this activity lies solely within the Executive branch of government, the Chief Executive is the only one who can.

7. President Ford said: "We will submit a balanced federal budget by 1978."

The history of Presidential budget submissions tells a vastly different story. Rhetoric is one thing. Facts are another.

During the eight Kennedy-Johnson years, the Presidential budget requests averaged a $1.6 billion annual deficit. During the eight Nixon-Ford years, the average annual deficit of Presidential budget requests has been $14.3 billion. For Fiscal 1976, the Ford budget request reflected a $47.8 billion deficit. These are the facts.

The overpowering reason for the hugely increased deficits during Nixon-Ford years, of course, has been the unconscionably high level of unemployment which Republican presidents have been willing to tolerate. There is a direct correlation. In testimony before the House and Senate Budget committees, both conservative and liberal economists have agreed to a basic rule of thumb: Each additional percentage point of unemployment generates an adverse budgetary impact of approximately $16 billion! Each time unemployment goes up by one percent, the Treasury loses about $12 billion from people who are no longer paying taxes because they're no longer working. And the government is obliged to pay about $4 billion more in unemployment compensation and related welfare costs.

The deficit this year—with 7.8% currently unemployed—will be approximately $51 billion. If the unemployment level were down to a healthier figure of 4.8%, the deficit at the present level of expenditures would be about $3 billion. If it were 4.5%, the budget would be balanced. It is fatuous, therefore—and cruelly irresponsible—to talk glibly about balanced budgets without first talking about how we're going to get Americans back to work—off the unemployment and welfare rolls and back onto productive payrolls!

8. President Ford, while trying to claim personal credit for having "saved American taxpayers billions and billions of dollars", and while castigating what he called a "free-spending congressional majority," then charged that "They (Congress) slashed $50 billion from our national defense needs in the past decade."

Well, it's a little hard here to know just what he means. Where he gets the figure is anybody's guess. Apparently he feels Congress should have spent $50 billion more than it did over the past ten years for military manpower and hardware.

But we can't have it both ways of course. And there is no realistic way to speak of saving "billions and billions" unless we try to trim some of the fat from the most costly single item of government, and that is the military. The Democratic Congress appropriated $90.2 billion for defense needs in 1976, and has budgeted $100.8 billion for fiscal 1977. That isn't peanuts. To try to brand Democrats as "anti-defense" just won't wash. It smacks uncomfortably of a latter-day McCarthyism. It is a comment unworthy of the President.

9. The President said: "I have demanded honesty, decency and personal integrity from everybody in the executive branch. . . . The House and Senate have the same duty."

Oh, for Pete's sake, Jerry. How piously can you pose? Do you really mean that "honesty, decency and personal integrity" are partisan virtues? Of course they aren't, and you know it. Surely you're not contending that nobody in the Republican executive branch has done any wrong.

Congress, to be sure, is an imperfect instrument, composed of imperfect human beings. We make no claim to perfection. But at least we're trying, very hard, to uphold the standards of public accountability. This Congress has tightened up the accounting requirements under the election laws and provided penalties for violations. We have made committee chairmen come before their peers for approval of their stewardship. We have opened our mark-up sessions—even our conference committees—to the scrutiny of the press. We have removed certain chairmen from their posts. We have voted censure against a member who, probably unintentionally, neglected to make full disclosure of outside income. We have voted to require documented, signed and certified vouchers for all disbursements. We've required every member to provide a monthly certification of the salaries and official duties of every person on his office payroll. At least we're trying, Jerry, poor mortal folks that we are. And that's better, we think, than a pretense at piety.

10. The President said: "Those who make our laws today must not debase the reputation of our great legislative bodies."

We agree. Neither, we think, should the President deliberately try to debase that reputation.

DISTINGUISHED AUTHOR REPORTS ON HUMAN RIGHTS VIOLATIONS IN URUGUAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 30 minutes.

Mr. DRINAN. Mr. Speaker, increasingly repressive actions by military governments have become disturbingly commonplace in several Latin American countries. Reports of such activities in Uruguay, Chile, and Argentina are horrifying to all those who respect human rights and democratic principles.

The House Committee on International Relations has been investigating the deplorable human rights conditions in Uruguay. Not only are residents of that nation subject to repression and terrorism by their own government, but they confront a similar situation when they attempt to seek refuge in Argentina. I have joined 35 of my colleagues in the House in cosponsoring House Concurrent Resolution 656, which calls upon the Attorney General to parole these oppressed refugees in Argentina into the United States, where they will at last be able to live without constant fear of torture or loss of life. In the absence of action by the administration, Congress must reassert America's respect for basic human rights by passing House Concurrent Resolution 656, and by considering the termination of all military assistance to nations which violate the fundamental rights of their citizens.

In the August 14 issue of the Nation, Mrs. Rose Styron, a distinguished poet, translator, and board member of Amnesty International, described the conditions in Uruguay and Argentina, and America's unacceptable failure to take action against this most objectionable situation.

The article follows:

URUGUAY: THE ORIENTAL REPUBLIC

(By Rose Styron)

On June 12, 1976, the constitutionally elected President of the Republic of Uruguay, Juan Bordaberry, was deposed by the military to whom he had been selling his power since 1972. Beyond certain murmurs of surprise, the event caused little reaction in Montevideo or in world diplomatic circles. The media reported it perfunctorily: Jonathan Kandell's piece in *The New York Times* was possibly the single major story to appear in North America. Uruguay, after all, is small, distant and poor in the resources Yankees covet from their neighbors. Until recent years, it boasted a history of peace, democracy and political stability that earned it a most unprovocative nickname—"the Switzerland of Latin America."

Military dictatorships are more the rule than the exception these days in the Americas. At a conference of army commanders from fifteen American countries held in Montevideo last October, host General Vadora, addressing his colleagues, justified hard right-wing rule by declaring that "Communists were bombarding the continent with a political campaign of distortion and misinformation, using international media." The United States, which gave the conference no publicity, was one of only five countries represented there whose governments were not run or openly backed by the military. After the military commanders went home, there was a wave of arrests and a renewal of torture all over Latin America. In Uruguay alone 800 were detained. Bordaberry, offering himself to his generals for "re-election" in November, outlined a scheme to make their control constitutional. Instead, the generals voted secretly (16 to 1) to oust Bordaberry, forgo elections, and forget the cumbersome pretense of parliamentary rule until 1984.

Months before June, word had begun to reach the outside world that all was not Swiss in Uruguay. Bordaberry's government seemed to be conducting an ugly campaign of terrorization, a brutal and systematic repression parallel to that of Chile. In 1974 the International Commission of Jurists and Amnesty International had sent a joint mission to Montevideo to investigate charges that human rights were being violated. They submitted their findings on illegal detention and maltreatment of political prisoners to Uruguayan officials, and since then neither they nor any other human rights organizations have been allowed to enter the country. Three requests to Bordaberry in 1976 for a nonpartisan, international on-site investigation have been flatly denied.

Meanwhile, officials of the U.S. Government—among them Robert McCloskey, assistant secretary for Congressional relations at the State Department—have more than once misrepresented the ICJ–AI report to members of Congress. Last year McCloskey claimed in a series of letters that "security laws have been applied primarily to Tupamaros," though even Bordaberry acknowledged that this urban guerrilla movement of the 1960s, which in its day fired the imagination of so many middle-class youths, had been totally destroyed before he dissolved parliament in June 1973. It is known that 50,000 to 60,000 persons have been interrogated or imprisoned in the past four years (one in every forty-five citizens), of whom some 5,000 remain in jail today. This is the highest per capita concentration of political prisoners in the world. McCloskey suggested that torture "was not a policy of the Uruguayan Government," but "isolated acts in apparent violation of government policy." Amnesty International published full documentation on twenty-two prisoners who had died under torture before December 1975, and seven who were tortured to death since then. If strict censorship and threats of reprisal were not government policy in Uruguay, the documented cases might be more numerous. Ten per cent of Uruguay's population has left the country.

McCloskey further stated that the ICJ considered the Uruguayan Government to be "doing everything possible to reduce the risk of mistreatment of political prisoners." ICJ President Niall MacDermott sternly rejected this assertion in a letter from Geneva. Although members of the joint mission were not allowed to visit military establishments, where the most serious abuses occur, nor permitted to speak with prisoners, the ICJ–AI delegates concluded on the basis of talks with defense attorneys that "at least 50 per cent of all the political prisoners arrested [had] been the object of mistreatment or torture." According to AI, virtually all political prisoners, including those detained briefly for interrogation, are forced to stand hooded for hours, sometimes for days, often naked, without food or water. In addition, 70 to 80 per cent of all prisoners are subjected to torture by electric shock or the "submarine"—immersion of the prisoner's head down in a tank of filthy water and excrement to the point of near asphyxiation—a form of torture highly regarded because it leaves bad psychological, but no physical, scars.

In late February, Sen. Edward Kennedy wrote a letter of inquiry about Uruguay to William Rogers, the Under Secretary of State for Economic Affairs who then headed State's Inter-American Department. Rogers, one of the most thoughtful men in the State Department, replied on March 2 that repression in Uruguay was a thing of the past, that to his knowledge only one large-scale arrest had taken place (the one in November 1975 when the authorities seized 150 persons who allegedly possessed illegal weapons or spread Communist propaganda). But the record shows that on January 11, 700 more were arrested, along with Bordaberry's only important rival still in Uruguay, the 1971 Frente Amplio candidate, Gen. Liber Seregni. Seregni, who had just been released after eighteen months in jail, was again incommunicado. Rogers went on to remark that the traditional good relations between the United States and Uruguay still permitted "the discussion of sensitive issues in an atmosphere of friendly frankness," citing the assurances of good will and just behavior U.S. and Canadian officials had accepted from Bordaberry. Who was kidding whom?[1]

For its size, Uruguay has a huge defense budget. What is it for? The United States has been sending military aid to Uruguay—$3 million to modernize its army. Why? Its huge neighbors, Argentina and Brazil, could crush it if they chose, army or no. And why is our executive pretending to our legislature that everything is fine? Is U.S. policy toward Uruguay being based exclusively on information sent back by Ambassador Siracusa, a staunch anti-leftist? Informed inquiries to him from Congress have produced puzzling replies.

Having focused their winter attention on problems in Chile and our new favored ally Brazil, concerned Reps. Edward Koch, Donald Fraser and Michael Harrington, and Senator Kennedy have now begun to pursue the facts on Uruguay. Censorship of mail, television and the press, the closing of *Marcha* and imprisonment of its editors and writers, the destruction of academic freedom, the suppression of political parties and trade union activity and civilian legal rights have been noted and discussed.

Invalids, the elderly and children are not excluded from torture. In several instances over the past months adolescents of 12 and 14 have been arrested and shockingly mistreated while incommunicado. A phychiatrist who treated one boy fled Uruguay with his son soon afterward. Doctors in Uruguay as in Chile have been severely persecuted for treating dissidents. Dr. Beresmuda Beralta who treated a wounded Tupamaro four years ago, is rotting in jail even though he declared he was against the Tupamaros but had acted out of conscience. On March 25, Representative Koch surprised the Congress by calling Uruguay "the main torture chamber of Latin America." He may have read AI's fresh report on torture in Uruguay and the Uruguayan press's fierce daily denials and attacks on the agency as a Communist front (AI's thick new publication, *Prisoners of Conscience in the USSR*, was conveniently ignored).

The report proceeds chronologically, beginning with the secret mutilation and murder of Luis Carlos Batalla which caused a scandal in May 1972, the first and last case of death under torture to be officially admitted. A 32-year-old building worker and father of two, Batalla had been a member of the Christian Democratic political party. He is not known to have engaged in any illegal activities. It is believed he was apprehended and interrogated in an attempt to extract names of persons who might be linked with the Tupamaros. No charges were brought against Batalla, either before or after his death in a military barracks. The official death certificate read "acute anemia caused by liver rupture." Later this was officially admitted to be false.

In another case, the body of Alvaro Balbi was returned to his family two days after his arrest. The authorities claimed he had died of an asthma attack, though he had never suffered from asthma. An autopsy, authorized by a civil judge at the request of his family, revealed a crushed thorax, burned genital organs, fractured legs and a ruptured liver. Now when bodies are returned to their families, the military forbids the opening of the coffins. The police frequently disrupt funerals, chase away mourners, and desecrate graves as part of the campaign "to eliminate subversion," especially when the coffin lid has been raised and the stated cause of death—"acute lung edema" or "suicide by poison"—was challenged by the absence of legs or the presence of knife or bullet wounds, soldering-pipe burns and multiple head fractures.

In the same week that Koch addressed Congress, a remarkable letter from a Uruguayan military man (prudently unidentified in the press, though impeccable sources have vouched for his authenticity) was sent out through Buenos Aires and published in Europe, along with the first two photographs of men under torture that human rights organizations believed to be genuine. The letter began:

"I am an officer of the Uruguayan Army. If I have come to the decision, for me a very important one, to write this letter, it is for one reason and one reason only: the revulsion I feel for all that I have the misery of witnessing, and worse still, in some cases, of taking part in. It has become intolerable for me. . ."

The photographs recall Goya. One is of a hooded but otherwise naked man, his wrists handcuffed behind his back, his feet dangling in air, straddling a bar. We are told the bar is of iron with a cruel cutting edge, *el cabellete* (the sawhorse), and that the prisoner has been sitting thus for hours. The other is of a hooded man suspended by his wrists, enduring *la bandera* (the banner). The photo was taken when he had been hanging in a sun of at least 80° F., for three hours, after which he hung for several more. The letter describes other forms of torture whose applications have become routine in 1976 Uruguay: the submarine, the electric prod (applied to testicles), the telephone (an electric cable attached to each earlobe):

I have seen the strongest officers and noncommissioned officers selected to punish prisoners with clubs, pipes, karate blows. And I can state that no one is safe from this treatment; some cases are more brutal than others, but practically all prisoners, irrespective of age or sex, are beaten and tortured. Dozens have been taken to the Military Hospital with fractures and lesions. Such a level of sadism has been reached that military doctors supervise the torture. The women are in a separate category. . . . I have personally witnessed the worst aberrations committed with women, in front of other prisoners, by many interrogators. Many . . . are held only for the purpose of discovering the whereabouts of their husband, father or son. . . ."

The letter goes on to describe the places of detention—private houses like the one expropriated at 5515 O'Higgins Drive where neighbors report hearing piercing screams, despite music played at full volume. Also mentioned are torture at army barracks, torture by the police, the navy and the air force, and savage raids carried out under the pretext of depriving Communists of their bases of support.

April, May and June news stories have borne out Koch's assessment and justified the fears of Uruguayans at home and abroad. On April 23 the first in a series of cadavers—ten to date—showed up on the river banks of Uruguay, manacled, mutilated, several even decapitated. At first they were identified as Orientals (a play on the former name for Uruguay, the Oriental Republic of Uruguay), then as Uruguayans, most likely those who were disappearing weekly from their homes or jobs in Argentina, where they had sought haven. In Argentina, President Videla commanded all refugees to register by the first week in May.

The refugee population of thousands was terrified; rumors of deportation to Chile and Uruguay were rife; offices and embassies in Buenos Aires soon sprouted long lines of foreigners seeking asylum or exit papers (lawyer Peter Weiss, recently returned from Argentina, compared the scene to those in Nazi Germany in the 1930s). The U.N. High Commissioner for Refugees (UNHCR) requested assurances of their safety, in vain.

In early June refugee files containing 8,000 names were stolen (the refugee population in Argentina, more heavily Chilean than Uruguayan, is about 18,000) and two days later armed men abducted twenty-five who were on the list. Through the fast and persistent efforts of the U.N., the World Council of Churches, AI and others, the twenty-five were released on President Videla's orders. They were dropped off on different street corners, in poor shape, many of them bearing marks of torture. The loud protests and Videla's speedy response were reactions to world outrage at the kidnap-murders of prominent, conservative Uruguayans in Argentina a fortnight earlier. On May 18, at 3 A.M. and 5 A.M. former Uruguayan legislator Zelmar Michelini and former speaker of the Uruguayan Chamber of Deputies, Hector Gutierrez Ruiz, were abducted from their homes in Buenos Aires by groups of heavily armed men dressed as civilians. Soldiers and police stationed in the area stood by as the apartments were unhurriedly ransacked, doors were broken down, screams were heard, and the men were led blindfolded into waiting cars that had no license plates. As Michelini was about to enter his vehicle, an employee of the Hotel Liberty where he and his sons were living ran out to protest that the abductors had taken a hotel blanket with them. The blanket was returned.

Nothing was heard of Michelini or Gutierrez or of a young Uruguayan couple named Whitelaw, abducted earlier, until their bullet-ridden, tortured bodies were found in a car in downtown Buenos Aires at 9 P.M. on May 21. After a wide search organized by the UNHCR, the Whitelaws' three small children, abducted with them, were found dazed but alive in a suburban hospital. Meanwhile Videla had claimed that it was the work of Uruguayans or of Argentine vigilantes. He told the editor of *La Opinion*, which carried a front-page story of the "kidnapping" (Michelini had worked on the paper), that he would investigate. He did not. Then *La Opinion* printed a letter Michelini had given a friend on May 5, stating that he had received threats that he would be returned forcibly to Uruguay, a matter which the Uruguayan Foreign Minister would take up with Argentine authorities. Then Wilson Ferreira Aldunate, head of the conservative Blanco Party, who received 18 per cent more votes than Bordaberry in the 1971 election (the returns were apparently manipulated to give Bordaberry the Presidency) and whom authorities had failed to locate for abduction on May 18 because he was not in his apartment, announced that the Argentine authorities had received letters accusing Michelini and Gutierrez of being Tupamaros, virtually marking them for death. International pressure and quiet, complicated maneuvering brought the distinguished Ferreira and his family out of Argentina. The United States Congress, led by Rep. Donald Fraser, invited him to Washington to testify on June 17.

At an Amnesty International press conference in New York after his arrival June 16, Ferreira, challenged by two hostile Uruguayan newsmen, noted that the members of the Tupamaro movement, which he had opposed, were all either dead or jailed; that the only people who kidnap and kill today are the government; that only a minority of prisoners have been convicted by the courts, that brutal forms of torture such as the electric prod, tying a prisoner to a horse to drag him across a field, and raping women and children—that these and the entire apparatus of repression made the government successful. Later, he confirmed UPI reports of May 17 that, after the meeting when the generals voted to oust Bordaberry, Minister of Economy Alejandro Vegh Villegas, who favored a "limited election option" for November, sent emissaries to Buenos Aires to consult with Blanco Party leaders in exile about their possible cooperation if that option were chosen. Both Ferreira and Gutierrez were approached. They asked that at least three conditions be met: (1) respect for human rights, including an end to torture; (2) reinstitution of a civilian legal system; and (3) the removal of Bordaberry from office.

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[1] At the first full hearings on Uruguay, held July 27, Martin Weinstein submitted to Rep. Donald Fraser (D., Minn.) exchanges on Uruguay between Hewson Ryan of the State Department and Rep. Edward Koch (D., N.Y.).

The American Embassy had told the Uruguayan Government that Michelini (who leaned toward a social democratic position) had applied for a U.S. visa and that they had no reason not to grant it. That was the day before the abductions; it seems likely that Bordaberry decided to eliminate opposition leaders with support in his country. As for Argentina's reasons for cooperating, one can only speculate that President Videla wants to gain favor with the small neighbor governments (Bolivia's former President Torres was also assassinated in Argentina in mid-June) because it is competing with vast Brazil for domination in the southern cone, the term used for land below the bulge in Latin America.

Since his testimony in Washington, Wilson Ferreira has been indicted by his government as a Tupamaro, and his estate and assets in Uruguay have been confiscated. He and his wife and son are temporarily safe in the United States, but Michelini's daughter and her husband are among thirty Uruguayans in Argentina who have disappeared since mid-July (twenty bodies were reported discovered June 26, but not yet identified) and so are the children of Ferreira's other good friends.

The role of the secret police in military and paramilitary organizations in our hemisphere is of prime concern. The Argentines are acceding to the wishes of the Uruguayans just as the Chileans acceded to those of Brazil, allowing them to enter the country and subject their nationals to torture, deportation and death. The United States has trained hundreds of Brazilians, Chileans, Uruguayans and Argentinians in its counterinsurgency school in Panama, and many more at army bases and police academies in the United States. The training, and the equipment and money we send these repressive governments marks us for responsibility in their concerted violations of human rights.

Latin America has not been Henry Kissinger's chief area of concern, nor have human rights. Still, at the OAS meeting in Santiago in June, the Secretary of State made an historic speech, declaring that violations of these rights would no longer be tolerated by the United States, noting that they had already "impaired U.S. relations with Chile." And after Kissinger left, our new permanent OAS deputy, Robert White, made a statement that should stand as a rebuttal to General Vadora's address in Montevideo: "Much has been said here about communism and we must be alert to guard against it. Hopefully, however, the struggle against communism is not the main feature which configures our heritage. There are others: respect for law, independence of the judiciary, right of dissent and freedom of the press."

Americans can only applaud these statements—and await their implementation. A good start could be made by expanding the present limited "parole" program to allow refugees from Argentina and Uruguay, and more Chileans, to enter the United States. Would it be too much to ask that Washington change its policy of not offering asylum to foreigners in danger or, if that is excessive, at least to instruct our Latin American embassies to act quickly to help find asylum in the embassies of less finicky nations for those whose lives are threatened by the repressive regimes of that continent?

AIR PIRACY QUARANTINE ACT OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 5 minutes.

Ms. ABZUG. Mr. Speaker, joined by 17 of my colleagues, I have reintroduced two measures designed to combat air piracy and terrorism. The first, the Air Piracy Quarantine Act of 1976, would suspend for at least 1 year U.S. foreign air traffic with any nation that has been found to aid, to abet, or to arm a terrorist organization, and with any nation that maintains air operations with a country that aids, abets, or arms a terrorist organization. The second bill would prohibit any nation under an air traffic suspension from receiving U.S. foreign aid for the duration of the suspension.

The action we are proposing is strong, but it is essential if we effectively are to end hijacking. In recent years, air piracy and other forms of terrorism have threatened regularly the lives and safety of innocent people. We can no longer rely on the daring rescues of hijacked planes as our response to terrorism. Powerful preventative measures are urgently needed and the Air Piracy Quarantine Act of 1976 is such a measure.

Faced with the sanctions of this act, many nations that have tacitly or explicitly supported terrorist groups will terminate, out of necessity, their cooperation with these organizations. In the absence of a friendly base of operations terrorist organizations will be hard pressed to continue their detestable activities.

Listed below are those Members who have joined me in cosponsoring these bills:

COSPONSORS

Herman Badillo, Edward P. Beard of Rhode Island, Norman E. D'Amours, Mendel J. Davis, Don Edwards of California, Daniel J. Flood, Michael Harrington, John H. Heinz, Jack F. Kemp, Edward I. Koch, William Lehman, Clarence D. Long of Maryland, Matthew F. McHugh, Fredrick W. Richmond, Benjamin S. Rosenthal.

THE ADMINISTRATION HAS TAKEN A POSITIVE AND A DECISIVE STEP TOWARD REINSTITUTING RELIANCE UPON THE PRIVATE SECTOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 25 minutes.

Mr. KEMP. Mr. Speaker, the Ford administration took a decisive step this week toward reinstituting reliance upon the private sector for the goods and services required to meet the Government's needs and I applaud it heartily.

In taking this action, the administration reaffirmed a policy which many of us in the Congress had been seeking over the past year.

On October 30 of last year I introduced a resolution setting forth a clarification and reaffirmation of the policy that Government ought to rely upon commercial sources for the goods and services it needs. A revised text of that resolution was introduced on February 19, House Joint Resolution 818. That and similar resolutions have nearly 80 cosponsors in the House, and there is a Senate companion measure as well.

The policy expressed by Congress and embodied in OMB Circular A–76 has always been that the Government ought to rely upon the private sector for its goods and services. But, in contrast, with that policy, the Government has persistently and increasingly done in-house that for which they could have contracted outside, from janitorial services to weapons systems research and development. Three exceptions—which, like most exceptions, started out small but then grew—provided a means of circumventing the general policy.

The frustration of this policy has been at great costs to the country.

A dollar spent in-house by Government simply does not buy the same level of productivity as one spent in the private sector.

Real wages, aggregate national income, production, and gross national product do not grow as quickly when large percentages of expenditures are made within Government.

Dollars spent in Government do not create as many jobs as the same dollars spent in the private sector.

Competition declines.

The adequacy of investment capital declines.

And America's technological lead over other industrial nations has been falling rapidly.

Despite these realities—and they are realities, not merely opinions—not everyone wanted to reaffirm the general policy.

But even among those who wanted a reaffirmation of existing policy—to return to the private sector the responsibility for providing goods and services—there was not uniform agreement as to how to proceed. Should there be a reaffirmation and clarification on the existing policy? Should that come from the Congress or the administration? Or should there be a major, susbtantive overhaul of the Federal laws in this regard? If so, what would need to be changed in existing law and regulations.

While there are still Circular A–76 questions which must be addressed and answered, I think the administration's announcement this week helped answer those questions.

On Monday of this week, August 23, Hugh E. Witt, the Administrator of Federal Procurement Policy within the Office of Management and Budget, announced proposed new rules under which hundreds of millions of dollars worth of services now supplied by the Federal Government to itself could be purchased from private, commercial sources. These new rules will affect about 10,000 commercial and industrial operations, such as guard services, maintenance of buildings and grounds, cafeteria operations, and film processing.

There are two benefits to be derived from implementing this policy after the 30-day comment period. First, by shifting these operations to the private sector, Government both restores a responsibility to the private economy and reduces its own payroll size. Second, because a specific service will be awarded to the private sector only if the private sector bidder can perform the work at less cost than an in-house performance, it will mean a reduction in Government expenditures and the taxes and deficit financing required to sustain those expenditures.

The Office of Federal Procurement Policy—OFPP—has estimated that the annual operating costs of the 10,000 commercial and industrial operations to be affected by the new rules to be about $7 billion. Of these 10,000 operations, at least 1,000 are justified solely on the basis of cost, and they will be the first to be shifted to the private sector through the new Federal in-house cost determination formula.

Private companies have lost out repeatedly to the Government in recent years, because under the old rules the agencies sharply underestimate the cost of providing retirement benefits to Government workers engaged in the in-house work. In calculating its cost under current rules, an agency must compute its wage bill and add 7 percent for employee retirement costs. This 7-percent addition is so out of date that the U.S. Civil Service Commission has determined that it should here after be 24.7 percent—over three times greater, and this 24.7 percent is a conservative estimate based on a "set of assumptions most favorable to minimum retirement costs." Of course, the true add-on should be 31.7 percent—the 24.7 percent contributed by Government and the 7 percent contributed by the employee.

Under the new rules, within the next 3 years, all 10,000 progams will have to recalculate their costs using the new retirement figures.

What will this shift mean to the taxpayers? According to an OMB officer at the Monday announcement, government surveys show an average savings of 30-percent, when a service is contracted out, rather than provided by the Government. If one couples the unofficial projection of officials of the Department of Commerce that about $2½ billion may be shifted into the private sector through this latest effort with the OMB estimate of a cost reduction of about 30 percent, it is quite possible that the cost saving to the taxpayers will be about $850 million a year. That is significant.

Opposition to the proposed regulations has already surfaced—predictably. The National Federation of Federal Employees—a Federal employee union—has already attacked the measure.

I think it is crucial to understand several things at this point.

First, the new rules certainly cannot be construed as harmful to organized labor, because the private companies which will perform these services are as heavily, if not more, organized by labor than are the Federal departments and agencies.

Second, Federal employees don't have a right to their jobs. They are protected against politics through the career civil service system, but their jobs are no more guaranteed—nor ought they to be—than one in the private sector. That's why we have an orderly process within the civil service system for reductions in force. If we adopt the attitude that everyone now holding a Federal job is entitled by right to keep it, we'll never be able to reduce the size of government and its cost to the taxpayers. Most civil servants are conscientious, capable employees, and I am as sympathetic to them as I am to someone in the private sector, but our democratic society does not believe in government jobs as a matter of right. To give that assurance to government employees would be to create a 20th century aristocracy, this time with employees instead of noblemen. The realities being what they are, most reductions in force can be handled by natural attrition anyway, and that way a national objective—returning to the private sector a responsibility which it ought to have been undertaking all along and reducing the costs of government to the taxpayers—can be accomplished at minimum emotional costs and financial disruption to the employees.

When one reviews—as I have—the myriad of examples of where government has unnecessarily performed a service or provided a good which could have been done by the private sector—one sees the importance of these new rules. When you look at the FLITE program within the Department of the Air Force, the JURIS program within the Department of Justice, the Navy's handling of the RF8G—F8—modification program, Interior's agreement with the Air Force for research into a more efficient way of generating electrical power from coal, NOIC's competition with the private sector on oceanic instrumentation systems, plus almost everything ERDA is doing, one sees the necessity of changing the rules.

I do not want to leave the impression that everyone in the executive departments and agencies is a defender of in-house performance. Quite to the contrary, I have been very pleased with the efforts of some within the Department of Commerce and its Bureau of Domestic and International Commerce, including the former Deputy Assistant Secretary for Domestic Commerce, Sam Sherwin; the Under Secretary of Defense, Bill Clements; the Assistant Secretary of Defense for Procurement, Dale Babione; the Office of Management and Budget, where its director, Jim Lynn, and its Administrator for Federal Procurement Policy, Hugh Witt, have been active in this subject matter; and William Gorog and others in the Executive Office of the President. A great amount of credit for these new rules is owed to these dedicated public servants.

I think credit has to be given to my colleagues, who, through their sponsorship of the joint resolutions and persistent support for the principle involved here, helped to bring about and then buttress the resolve of the administration, OMB, and OFPP, to begin moving again in the right direction on this issue. Those cosponsors are:

Mr. ABDNOR of South Dakota.
Mr. ADDABBO of New York.
Mr. ANDERSON of Illinois.
Mr. ANDREWS of North Dakota.
Mr. ARCHER of Texas.
Mr. ASHBROOK of Ohio.
Mr. BAFALIS of Florida.
Mr. BRINKLEY of Georgia.
Mr. BROWN of Ohio.
Mr. BROWN of Michigan.
Mr. BURGENER of California.
Mr. CEDERBERG of Michigan.
Mr. CLANCY of Ohio.
Mr. CLEVELAND of New Hampshire.
Mr. COLLINS of Texas.
Mr. CONLAN of Arizona.
Mr. CRANE of Illinois.
Mr. DAN DANIEL of Virginia.
Mr. DANIELSON of California.
Mr. DERWINSKI of Illinois.
Mr. DICKINSON of Alabama.
Mr. DUNCAN of Oregon.
Mr. ESCH of Michigan.
Mr. ESHLEMAN of Pennsylvania.
Ms. FENWICK of New Jersey.
Mr. FORSYTHE of New Jersey.
Mr. GILMAN of New York.
Mr. GOLDWATER of California.
Mr. GRADISON of Ohio.
Mr. GRASSLEY of Iowa.
Mr. GUYER of Ohio.
Ms. HECKLER of Massachusetts.
Mrs. HOLT of Maryland.
Mr. HYDE of Illinois.
Mr. ICHORD of Missouri.
Mr. KASTEN of Wisconsin.
Mr. KETCHUM of California.
Mr. KINDNESS of Ohio.
Mr. LAGOMARSINO of California.
Mr. LOTT of Mississippi.
Mr. MANN of South Carolina.
Mr. MARTIN of North Carolina.
Mr. MCDONALD of Georgia.
Mr. MCKINNEY of Connecticut.
Mr. MILFORD of Texas.
Mr. MOORHEAD of California.
Mr. NOWAK of New York.
Mr. O'BRIEN of Illinois.
Mr. PATTERSON of California.
Mr. PATTISON of New York.
Mr. PICKLE of Texas.
Mr. PRITCHARD of Washington.
Mr. REGULA of Ohio.
Mr. ROBINSON of Virginia.
Mr. ROONEY of Pennsylvania.
Mr. ROUSSELOT of California.
Mr. SANTINI of Nevada.
Mr. SARASIN of Connecticut.
Mr. SATTERFIELD of Virginia.
Mr. SEBELIUS of Kansas.
Mr. SHRIVER of Kansas.
Mr. SIMON of Illinois.
Mr. J. WILLIAM STANTON of Ohio.
Mr. STEELMAN of Texas.
Mr. SYMINGTON of Missouri.
Mr. TEAGUE of Texas.
Mr. TREEN of Louisiana.

Mr. Vander Jagt of Michigan.

Mr. Walsh of New York.

Mr. Charles Wilson of Texas.

As I indicated earlier, this matter has yet to be fully resolved. The next step is the 30-day comment period in which all interested parties are to write to the Administrator for Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, expressing their support for, opposition to, or suggested changes in the proposed rules.

Beyond this, we have the other circular A-76 and Federal procurement questions. Ought there to be other overhead cost inclusions or existing ones updated? What about the reserves for sick pay, paid vacations, et cetera? How about the make-or-buy questions associated with research and development? Is massive Government sponsorship of basic research and developing crippling the creative process in America? How can we assure that the other exceptions to the general policy—such as an agency determining that contracting out may demonstrably disrupt or significantly delay an urgent agency program, or that in-house performance may be necessary for national security, or that the product or service is not and cannot be made available from the private sector and is available from a private source—will not be used in the future to continue circumvention of the general policy?

But, we are indeed going in the right direction.

At this point in today's proceedings, I wish to read into the Record the text of the notice and proposed rule, as published in the Federal Register, Vol. 41, No. 164 of Monday, August 23, 1976, at pages 35581–3. These items follows:

FEDERAL PROCUREMENT POLICY: COST COMPARISONS UNDER OMB CIRCULAR A-76

Proposed Transmittal Memorandum to OMB Circular A-76, Providing Cost Factors to be Used in Determining the Cost of Government Commercial and Industrial Activities.

OMB Circular A-76, originally issued in 1966 and revised on August 30, 1967, states the Government's general policy of reliance on the private enterprise system for needed products and services. The Circular provides that exceptions to that policy may be justified when direct Government performance can be shown to be in the National interest. One basis for such exception is a demonstrated cost saving from Government operation of a commercial or industrial activity. When executive agencies make a comparative cost analysis between commercial and Government sources, the cost to be incurred under each alternative must be determined in accordance with prescribed procedures.

The cost of commercial performance can be established primarily from a contract bid or proposal, but Government costs must be developed from less specific cost data. Circular A-76 states that Government costs must include: "all elements of compensation and allowances for both military and civilian personnel, including the full cost to the Government of retirement systems, calculated on a normal cost basis."

Both the employing agency and the employee contribute 7% of salary to the Civil Service Retirement System. The agency 7% contribution is currently used in cost comparisons as the full cost to the Government, although it is widely recognized that the actual cost to the Government is substantially higher. The discrepancy results from the fact that agency and employee contributions are based on a "static" projection of the normal cost for the system; i.e., a projection which assumes that there will be no general increases in Civil Service wage scales and no increases in benefit payments to retirees under the Consumer Price Index (CPI) escalator provisions. When these increases do occur, they create a deficit in funding of the system that is paid by additional Government contributions from general Treasury funds distrtibuted over a thirty-year period. Underfunding prior to 1969 created an unfunded liability which is being stabilized by annual direct transfers of interst payments from the Treasury to the Civil Service Retirement Trust Fund.

In order to achieve greater accuracy and uniformity in agency cost studies, standard factors which reflect the full cost to the Government must be provided for use by all executive agencies. At the request of OMB, the Civil Service Commission developed cost factors for the Civil Service Retirement System and for Government contributions to employee insurance programs.

The retirement system factor was first approached from the standpoint of the cost of financing the system under current conditions, while excluding any cost attributable to past failures of the Government to make payments into the fund when due. The resulting figure, 19.9% of salary, included the agency contribution to the system, thirty-year payments to cover benefit improvements, and a portion of the interest on the unfunded liability. This retirement cost factor was criticized on the basis that it reflected the cost of financing obligations which have already been incurred, and that it did not include the impact of future salary and benefit increases, which must be anticipated. It was also recognized that a factor computed on this basis would increase each year as additional thirty-year payments are initiated. For example, the 19.9% factor, which was based on FY 1975 data, increased to 20.4% when recomputed with FY 1976 data.

An alternative approach was developed to determine a factor that reflects full Government cost for the system through the use of "dynamic" rather than "static" normal costs. Calculation of normal costs on a "dynamic" basis provides a more realistic measure of system costs by anticipating future changes in salaries, interest rates, and retirement benefits. This method has been recommended by the Board of Actuaries of the Civil Service Retirement System and the Comptroller General of the United States. Dynamic normal costs were calculated using the actuarial models of the Civil Service Retirement System.

In developing a cost factor on this basis, it was necessary to make economic assumptions about future average annual wage increases to civil service employee and average annual interest rates for money in the fund. Using empirical analyses of historical data and judgments as to how trends might change in the future, the following economic assumptions were developed:

Average annual real wage increase 1.3 percent.

Average annual real interest rate 1.6 percent.

The annual real interest rate of 1.6 percent was the prevailing rate between 1952 and 1964, our last period of sustained stability in inflation rates. If periods of erratic inflation had been included, the interest rate would have been lower. The average annual real wage increase was based on 1948–1973 real GNP growth per manhour worked, corrected for factors such as intersectoral shifts, and increased quality of workers. Data for 1974 and 1975 were excluded from the computation because of the greatly reduced GNP growth during those recession years.

In addition, a conservative set of assumptions (from the point of view of retirement costs) was established, setting the real wage growth rate at 1.0 percent, and real interest rate at 2.0 percent. A third economic assumption that was required by the actuarial model was the expected rate of inflation. However, because the effect of different inflation rates proved to be essentially irrelevant, a zero inflation rate was used and the analysis was carried out in constant dollar terms.

The Civil Service Commission actuary was asked to calculate normal costs under the following three combinations of assumptions, assuming in addition that the "one percent kicker" on CPI initiated benefit increases will be discontinued.

Case	Annual real wage increase (percent)	Annual real interest rate (percent)
1	1.3	1.6
2	1.0	2.0
3	1.3	2.0

The actuary projected the costs of retirement in each case as a percentage of payroll costs. These were: Case 1, 36.6%; Case 2, 31.7%; and Case 3, 33.0%. Since the individual contributes 7 percent of his salary to the retirement system, costs to the Government become 29.6, 24.7, and 26.0 percent, respectively.

The 24.7% cost to the Government, which results from use of the set of assumptions most favorable to minimum retirement costs, has been selected for use in all cost comparisons under Circular A-76.

To ensure uniformity and consistency in cost studies performed by different agencies within the executive branch, the following Transmittal Memorandum to Circular A-76 has been prepared. All interested parties are invited to submit their views and comments on this memorandum for consideration by the Office of Federal Procurement Policy. Responses should be received by September 20, 1976 and should be addressed to:

Administrator for Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, NW, Washington, D.C. 20503.

Hugh E. Witt,
Administrator.

Subject: Policies for Acquiring Commercial or Industrial Products and Services for Government Use

1. *Purpose.* This Transmittal Memorandum provides guidance and specific cost factors to be used when agencies prepare a cost analysis under OMB Circular A-76.

2. *Background.* OMB Circular A-76 expresses the Government's general policy of relying upon the private enterprise system to supply its needs for products and services, in preference to engaging in commercial or industrial activity. This policy reflects the fundamental concept that the Government should generally perform only those functions which are governmental in nature and should utilize the competitive incentives of the private enterprise system to provide the products and services which are necessary to support governmental functions. Those commercial or industrial activities which the Government performs directly for itself are not inherently governmental functions, but rather are exceptions to the fundamental concept, and their performance by Government personnel must be justified as being in the National interest.

3. *Supplemental Guidance.* Circular A-76 sets forth specific circumstances under which it may be in the National interest for the Government to provide directly some products and services for its own use. One of these circumstances permits justification of Government commercial or industrial ac-

tivity if a detailed comparative cost analysis demonstrates that Government performance would result in sufficient savings to justify involvement in such activity. However, the Circular does not require that a cost study be made in every case to support a decision in compliance with the policy preference for reliance on commercial sources. A cost analysis is not needed in circumstances where the Government's economic interests would be protected, such as the existence of a competitive commercial market, unless the agency has some unique economic advantage which would permit it to supply the needed product or service at less than commercial cost. In determining whether a cost study should be undertaken, consideration should be given to the delay and expense involved in a study sufficiently detailed and comprehensive to provide valid results.

Cost studies, when conducted, should be made in accordance with the guidelines in Section 6 of Circular A–76, and must cover all identifiable costs of both commercial and Government performance. Instructions for the determination of costs incurred by Government activities in providing products and services are set forth in paragraph 6.C. of the Circular. In computing the cost of civilian personnel services for a Government activity, the actual cost to the Government for employee benefits, such as retirement and insurance programs, must be included. Guidance in calculating these cost elements has been provided by the U.S. Civil Service Commission, which has determined current percentage factors for Government contributions to employee insurance programs and the full cost to the Government of the Civil Service Retirement System.

4. *Cost Factors.* (a) For the convenience of Federal agencies making cost studies, the following percentages of base pay will be used in computing the costs of civilian personnel services: Retirement, 24.7 percent; Health Insurance, 3.5 percent; Life Insurance, .5 percent.

(b) Cost comparisons made under the provisions of Circular A–76 should be sufficiently complete and documented to permit ready audit by qualified financial personnel. Copies will be made available to interested persons, on a cost reimbursable basis, when requested under the provisions of the Freedom of Information Act.

5. *Effective Date.* This Transmittal Memorandum is effective immediately.

6. *Inquiries.* Inquiries or requests for assistance should be directed to the Office of Federal Procurement Policy, telephone 395–3327.

[FR Doc. 76–24760 Filed 8–20–76; 8:45 am]

Mr. Speaker, for anyone who wishes to more fully acquaint themselves with this matter, they may wish to read several CONGRESSIONAL RECORD items on the question, including remarks on October 30, 1975, at pages 3462–3464 on December 19, 1975, at pages 42315–42317 on March 15, 1976, at pages 6424–6427; on May 17, in two instances, at pages 14214–14218 and 14180–14182; on June 18, 1976, at pages 19314–19317; and on July 28, 1976, at pages 24347–24348.

WOMEN'S EQUALITY DAY, 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, today marks the 56th anniversary of the ratification of the 19th amendment—the amendment to the U.S. Constitution which gave women the right to vote. As we in the Congress recognize today as "Women's Equality Day, 1976," and this year as we celebrate our Nation's Bicentennial, we must also remember that full equality for women is still a goal to be realized.

Mr. Speaker, I commend to the attention of my colleagues President Ford's message proclaiming today as "Women's Equality Day, 1976," and insert it at this point in my remarks:

WOMEN'S EQUALITY DAY, 1976

A PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

During this Bicentennial Year we celebrate a dynamic history which began with that inspirational declaration that all individuals are "endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.'"

To give substance and form to those self-evident truths, "We the People of the United States" created a constitutional republic to "secure the Blessings of Liberty to ourselves and our Posterity."

However, it was not until August 26, 1920, that the Nineteenth Amendment to our Constitution unambiguously secured for each of us, regardless of sex, that precious mark of liberty—the right to vote.

In October 1971 and March 1972, the House of Representatives and the Senate of the United States proposed a new amendment for our consideration—an amendment, completing the process begun by the Nineteenth, which would secure "equality of rights under the law" regardless of sex, for men and women.

Several more States need to ratify that Equal Rights Amendment before it becomes part of our Constitution. It would be most fitting for this to be accomplished as we begin our third century. In this Land of the Free, it is right, and by nature it ought to be, that all men and all women are equal before the law.

Now, therefore, I, Gerald R. Ford, President of the United States of America, to remind all Americans that it is fitting and just to secure legal equality for all women and men, do hereby designate and proclaim August 26, 1976, as Women's Equality Day.

I call upon all the citizens of the United States to mark this day with appropriate activities, and I call upon those States who have not ratified the Equal Rights Amendment to give serious consideration to its ratification and the upholding of our Nation's heritage.

In witness whereof, I have hereunto set my hand this twenty-fifth day of August, in the year of our Lord nineteen hundred and seventy-six, and of the Independence of the United States of America the two hundred and first.

GERALD R. FORD.

THE REPEAL OF HOLDER IN DUE COURSE WAS ESSENTIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the suggestion by the Federal Trade Commission of a rule which would repeal the antiquated holder in due course doctrine caused almost no stir among the various credit industry representatives.

The enactment of the rule, however, brought an onslaught of criticism and wolf-crying almost unequalled in my observation of credit lobbying history.

Not only is the availability of credit supposedly drying up, but reputable businessmen everywhere are supposed to have been driven out of business for lack of available bank financing.

The FTC is standing strong in its position that credit buying has become such a way of life for so many millions of Americans that the consumer protection which the repeal of the holder in due course doctrine provides, is essential.

I have backed the FTC from the beginning. In January I pointed out that the only businesses this rule would hurt are the disreputable ones because they could no longer count on full payment regardless of their performance. Then in July I conducted a survey of more than 100 District of Columbia area businesses to determine just how difficult it is to find needed bank financing. The results were gratifying. I found that the charges that the consumer credit industry would be adversely affected by the ruling were no more than a Pavlovian reaction to a very proconsumer move. Consumers have benefited from the FTC's ruling and the auto dealers, furniture stores, and others have not been hurt.

It is an unfair and unfounded effort that the trade associations are making to deny the consumer protection of the FTC's repeal of the holder in due course doctrine.

I therefore urge my colleagues to read the following testimony which I presented today to the Consumer Protection and Finance Subcommittee in defense of the FTC's ruling:

TESTIMONY OF THE HONORABLE FRANK ANNUNZIO, CHAIRMAN OF THE CONSUMER AFFAIRS SUBCOMMITTEE OF THE COMMITTEE ON BANKING, CURRENCY AND HOUSING BEFORE THE CONSUMER PROTECTION AND FINANCE SUBCOMMITTEE OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE REGARDING THE FEDERAL TRADE COMMISSION'S TRADE REGULATION RULE REPEALING THE HOLDER IN DUE COURSE DOCTRINE

Mr. Chairman, Members of the Subcommittee, it is truly a distinct privilege for me to appear before you today and I deeply appreciate the honor of being the lead-off witness at these most important hearings. I am accompanied this morning by Mr. Curtis Prins, the Staff Director of the Consumer Affairs Subcommittee of the Committee on Banking, Currency and Housing.

Mr. Chairman, I am not here this morning to defend every sentence, every word, or every punctuation mark of the Federal Trade Commission's ruling repealing the Holder in Due Course Doctrine. I do feel that there are some clarifying provisions that need to be worked out with regard to the ruling, and the Federal Trade Commission has indicated that it is working towards that end. I am not willing for one moment, however, to suggest that the entire ruling should be scrapped, substantially reworked, repealed, or even delayed in its implementation. To do so would be to endorse a concept that has caused untold financial horrors for far too many consumers.

The Federal Trade Commission's holder in due course ruling was not an overnight hit. The Commission spent some several years in both the hearings and the writing stage, and thousands of comments were devoted to the discussion of the proposed rule. Yet, only in recent months has there been any outcry against the ruling. Perhaps those who are opposed to the repeal are guilty of the far too common malady of only reacting when a crisis exists. I suggest that anyone who is unhappy with the FTC's action is like the criminal who refuses to offer a defense during his trial and then when the jury finds the criminal guilty, argues that he was not given an opportunity to tell his side of the story.

It is contended by those who opposed the ruling that the FTC should have promulgated it under the provisions of the Moss-Magnuson Act. I wonder however, if those same champions of the Moss-Magnuson provisions would have felt as strongly if the FTC had come out with a regulation that left holder in due course virtually intact.

I am certain before these hearings are concluded that someone will suggest that the Holder in Due Course Doctrine should not be repealed because it has been a principle of commercial law since the 18th century. Of course, the question of whether or not it has been a good principle of commercial law will not be addressed. Instead, the only question that proponents of the status quo will raise is that holder in due course should be maintained solely because it has been here for a long time. If that philosophy had been adopted, this country would still have slavery for, after all, slavery was in existence for a long time. And we would still deny the right to vote to women, a practice which existed in this country for a long time. Children would still work in mines and in sweatshops for pennies a day. That wasn't a good practice, but it existed for a long time.

We cannot endorse a principle merely by employing a calendar test. If the Holder in Due Course Doctrine is right and just, then it should be maintained but if that doctrine is not just as I believe it is not, then it must be struck down regardless of its longevity.

Mr. Chairman, shortly after the holder in due course ruling went into effect in mid May, there was an immediate outcry from trade associations about the consequences of allowing the repeal to remain in effect. Just like Pavlov's dog, many of these trade associations are trained to react in a negative manner when anything that deals with consumer rights is raised.

The banking lobby was quick to attack the FTC ruling, and not far behind were the automobile dealers. On the same day that the president of the American Bankers Association made a speech condemning the holder in due course ruling, I heard an advertisement on a Washington area radio station urging borrowers to secure loans from a particular bank. In part the radio ad said, "obtain your loan from us or ask your dealer to finance your purchase with us."

Mr. Chairman, if the holder in due course repeal is causing as many problems as the bank lobby would like Congress to believe, why is a major banking institution in this area openly soliciting new business that would come directly under the new ruling? And why in the light of the banker protest has the American Bankers Association announced that its member banks have planned to substantially increase the finance of new automobiles for consumers. According to the ABA, not only is an increase planned, but not a single bank surveyed by the association plans to cut back the amount of money available for new car lending.

I know that many of the members of the Subcommittee have received letters from businessmen concerning the Holder in Due Course Doctrine. For the most part, the letters that I have seen on this subject fall into the Chicken-Little-the-sky-is-falling category. Typical of the letters was one that was referred to me from a small banker in the western portion of our country. The banker's cry of "wolf" read in part:

". . . down payments of 50% or higher will be required on big ticket items such as automobiles to guarantee that a buyer has a large enough equity from time of purchase that he will not default on his contract because his cigarette lighter didn't work. With today's ridiculous prices for automobiles and a required down payment of 50%, guess how this will affect the auto industry."

Well, just as Chicken Little found that the sky did not fall, our banker friend is finding that virtually nothing has changed in the automobile financing area. Down payments are no higher, and according to the newspaper ads in almost every major city, it is still possible to obtain no-down-payment financing.

Mr. Chairman, when the claims from various business groups that the repeal of the Holder in Due Course Doctrine would spell the end to the American business community began appearing, I decided to do a survey of my own rather than depend upon the manufactured horror stories being promoted in opposition to the holder in due course repeal. In order to determine the effects of the ruling, the Consumer Affairs Subcommittee staff called more than 100 automobile, furniture and home improvement businesses in Washington, Maryland and Virginia.

Of the more than thirty automobile dealers contacted, not a single one indicated any major problem with the new method of doing business. From the automobile dealers, the most common reply when asked about the new ruling was, "we haven't noticed any difference" or, "it hasn't affected us."

Several dealers claim that they never heard of the FTC action. And one Virginia dealer apparently was trying to use the FTC's action as a basis for steering customers away from Maryland dealers. The Virginia dealer told the staff that people with good credit had nothing to worry about and that the new regulations seem to affect Maryland banks more than those in Virginia.

Here are some typical quotes from Washington car dealers concerning the FTC ruling. A General Motors dealer said, "no problem at all." A used car dealer pointed out, "it is easier and cheaper for you to find your own financing." A luxury car dealership said, "it depends on your credit rating; no problem at all." An import dealer said, "it will be a while before people start changing their policies." A used car operator said, "no problem whatsoever." A Chrysler product dealer remarked, "it hasn't affected us." Another used car dealer responded, "never heard of it." An import dealership said, "it is not difficult for us to finance cars at all." A luxury car dealership said, "no problem at all." Another luxury car dealership said, "no problem" and another GMC dealership said, "I haven't noticed any change at all."

The survey of furniture dealers for the most part paralleled the results obtained from car dealers with the exception that not as many furniture dealers financed purchases. Of ten furniture dealers contacted in Virginia only four of them financed sales through a lending institution and all four indicated that there was no problem with the new ruling.

One salesman admitted, however, that he had never heard of the ruling and asked to have the staff explain it to him. At the end of the explanation the salesman responded, "we've been in business a long time and we back our merchandise. We will have no problem with the ruling."

Similar reports about a lack of problems were received from furniture stores in Maryland and the District of Columbia.

One of the most universal comments received from furniture dealers was that as long as the company sold quality merchandise it would have no problem in obtaining financing for customers.

The responses received from home improvement firms were for the most part, identical to the responses received from auto and furniture dealers. One company representative indicated that he was thoroughly knowledgeable with the new regulation because his bank had a meeting with all of the companies that financed with the bank to explain the rule. He indicated that the bank foresaw no problem for reputable companies.

One Washington contractor was upset with FTC's action and labeled it as ridiculous. However, he did not indicate that the ruling had caused his company any problem at this time.

Following a press release describing the results of my study, I received letters from a number of consumer affairs offices throughout the country reporting on the result of similar studies they conducted in their areas. Every one of these studies indicated that while merchants might not like the repeal of the Holder in Due Course Doctrine they were not experiencing any changes in their business operations.

I note from your witness list, Mr. Chairman, that representatives of the automobile sales industry will be appearing before the Subcommittee. As I noted earlier, this industry has been one of the most vocal in pushing for a return to the traditional holder in due course philosophy.

I have long been a supporter of the automobile sales industry in general and particularly in times when the energy shortage caused great problems for many smaller dealers. Despite this support of the auto sales industry, there is one aspect of the operation that troubles me greatly and it is something that I hope this Subcommittee will deal with in its oversight functions.

There may well be some move towards exempting arms-length financial transactions or the so called "purchase money loans" from the new FTC ruling. But, Mr. Chairman and members of the Subcommittee, there is no reason why this type of transaction—which many automobile dealers engage in with various financial institutions—should be exempt. I am referring here to the practice of financial institutions providing auto dealers, and in many cases other types of businesses, with a share of the income derived from the interest on the finance contract.

Under such an arrangement an auto dealer who finances individual car sales through a particular institution will receive either a set amount for each contract or in even more horrendous cases, the financial institution will set a base charge for interest rates and will tell the dealer that any interest that can be charged the consumer above the base charge belongs to the dealer.

I am convinced that this highly questionable, though long-standing practice is one of the reasons why I see so many automobile financing contracts with interest rates of astronomical proportions. The question here is not whether or not it is legal or ethical for dealers to get "a piece of the action" for directing financing business to a particular institution. The question is whether or not that relationship should be rewarded by exempting those transactions from the new Federal Trade Commission protection. It has been argued that by allowing a dealer to set the interest rate that a buyer will pay, the dealer becomes an agent of the financial institution. At the very least, there is clearly no arms-length transaction. Why then should there be any consideration given to this type of arrangement?

It is my feeling that what the automobile dealers want is to be able to continue their sweetheart arrangements with the financial institutions while gaining an exemption from, or a repeal of, the FTC's ruling. The automobile dealers not only want to have their cake and eat it too, they are asking the consumers to buy the cake for them.

In closing, Mr. Chairman, let me commend you and your Subcommittee for holding these hearings and also for the fact that they are oversight hearings rather than trying to rush through a hastily drafted bill. You are dealing with a highly important issue and thoroughness, not speed in my opinion, is what is needed in dealing with this issue.

I therefore urge you and the members of the Subcommittee to give the new ruling a fair treatment here. It has been in operation only slightly more than ninety days and I do not think that is enough time to judge the merits of the ruling. Thank you very much for allowing me to appear here this morning.

MONTHLY LIST OF GAO REPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 10 minutes.

Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The August 1976 list includes:

Effectiveness, Benefits, and Costs of Federal Safety Standards for Protection of Passenger Car Occupants. CED-76-121, July 7.

Audit of Financial Statements of Saint Lawrence Seaway Development Corporation Calendar Year 1975. FOD-76-18, July 28.

Better Information Needed in Railroad Abandonments. CED-76-125, July 23.

Student Enrollment and Attendance Reports in the Boston Public Schools Are Substantially Accurate. HRD-76-146, July 16.

The National Assessment of Educational Progress: Its Results Need to Be Made More Useful. HRD-76-113, July 20.

Formulating Plans for Comprehensive Employment Services—A Highly Involved Process. HRD-76-149, July 23.

Administration of a Federally Funded Disaster Relief Program for Agricultural Workers in Southern Florida. B-171934, April 20, 1972.

Cost-of-Living Adjustment Processes for Federal Annuities Need to Be Changed. FPCD-76-80, July 27.

Civil Service Commission Actions and Procedures Do Not Help Ex-Offenders Get Jobs with the Federal Government. FPCD-76-67. July 1.

Magnitude of Nonappropriated Fund Activities in the Executive Branch. FPCD-76-58, July 5.

Economies Available Through Consolidating or Collocating Government Land-Based, High Frequency Communications Facilities. LCD-76-113, July 6.

Work Performed and Underway by GAO on Federal Regulatory Activities January 1, 1974, through April 30, 1976. CED-76-122, July 20.

Audit of Federal Deposit Insurance Corporation for the Year Ended June 30, 1975. FOD-76-13, July 21.

Greater Emphasis on Competition Is Needed in Selecting Architects and Engineers for Federal Projects. LSD-75-313, July 21.

Administration of Federal Assistance Programs—A Case Study Showing Need for Additional Improvements. HRD-76-91, July 28.

More Action Needed to Insure That Financial Institutions Provide Equal Employment Opportunity. MWD-76-95, June 24.

Gifts Given by U.S. Presidents Since 1960. ID-75-44, February 19, 1975.

Methodology Used in Lease-Versus-Purchase Decision for Tracking and Data Relay Satellite System. LSD-76-127, July 15.

Federal Control of New Drug Testing Is Not Adequately Protecting Human Test Subjects and the Public. HRD-76-96, July 15.

Better Enforcement of Safety Requirements Needed by the Consumer Product Safety Commission. HRD-76-148, July 26.

Progress, But Problems in Developing Emergency Medical Services Systems. HRD-76-150, July 13.

North Carolina's Medicaid Insurance Agreement: Contracting Procedures Need Improvement. HRD-76-139, July 1.

Better Controls Needed over Biomedical Research Supported by the National Institutes of Health. HRD-76-58, July 22.

U.S. Marshals Service—Actions Needed to Enhance Effectivenes. GGD-76-77, July 27.

Federal Drug Enforcement: Strong Guidance Needed. GGD-76-32, December 18, 1975.

Assessment of the Air Force's Planning for the Technology Repair Center Concept. LCD-76-429, July 2.

Pentagon Staffs—Is There Potential for Further Consolidations/Cutbacks? FPCD-76-35A, July 6.

Marine Corps Recruiting and Recruit Training Policies and Practices. FPCD-76-72, July 20.

Critical Considerations in the Acquisition of a New Main Battle Tank. PSAD-76-113A, July 22.

Readiness of First Line U.S. Combat Armored Units in Europe. LCD-76-452, July 23.

Continuing Problems with U.S. Military Equipment Prepositioned in Europe. LCD-76-453, July 27.

Improvements Needed in Operating and Maintaining Waste Water Treatment Plants. LCD-76-312, June 18.

Certain Actions That Can Be Taken to Help Improve This Nation's Uranium Picture. EMD-76-1, July 2.

Shortcomings in the Systems Used to Control and Protect Highly Dangerous Nuclear Material. EMD-76-3A, July 22.

Need to Develop a National Non-Fuel-Mineral Policy. RED-76-86, July 2.

Actions Taken by the Federal Power Commission on Prior Recommendations Concerning Regulation of the Natural Gas Industry and Management of Internal Operations. RED-76-108, May 24.

Federal Hydroelectric Plants Can Increase Power Sales. CED-76-120, July 8.

Revenue Sharing Act Audit Requirements Should Be Changed. GGD-76-90, July 30.

Additionally, letter reports are summarized including:

$103 million of impounded funds for home health services projects, required to be released under the Impoundment Control Act, may not be released before the budget authority lapses. OGC-76-28, July 7.

Information on the status of impounded funds appropriated to the Department of Housing and Urban Development to help owners of rental housing projects meet higher operating costs due to increased property taxes and utility costs. OGC-76-29, July 7.

Information on the President's proposed rescission of funds for the Office of Drug Abuse Policy. OGC-76-30, July 15.

GAO comments on impoundment of budget authority proposed in the President's 17th special message to the Congress OGC-76-31, July 20.

Status of Budget authority that was proposed for rescission by the President, but rejected by the Congress. OGC-76-32, July 28.

Information on deferral of funds for Amtrak to acquire the Northeast Corridor should have been reported to Congress under the Impoundment Control Act, but was not. OGC-76-33, July 29.

The Postal Service should use surface mail, not air mail, to send mail-order catalogues to military personnel overseas. LCD-76-231, July 2.

The Navy's method of recording and reporting financial data in successor accounts and related surplus fund accounts—used to record net balances of unpaid obligations and accounts receivable for expired appropriations—needs to be improved. FGMSD-76-45, July 2.

The Defense Supply Agency should study its use of magnetic disk space—an expensive aspect of computer hardware—and make any excess space available to other Government activities. LCD-76-121, July 7.

Need to recover full cost of military training and technical assistance services provided to Iran. FGMSD-76-64, July 13.

Veterans Administration justification for establishing four regional computer centers for its planned Target System, a communications-based system to modernize VA's benefit claims processing. HRD-76-145, July 13.

Does the Military Airlift Command need to keep personnel on duty in its distinguished visitors' lounges 24 hours a day, 7 days a week? LCD-76-236, July 14.

Procurement operations at the Homestead Air Force Base commissary. PSAD-76-157, July 15.

The Air Force should install standard radios on the F-15 aircraft, instead of expensive UHF and tactical air navigation radios which will not meet future communications requirements. PSAD-76-159, July 20.

How does the Community Services Administration evaluate how well the Community Action Agencies provide services to the poor? HRD-76-151, July 20.

The General Services Administration should encourage Federal agencies to use life cycle costing, a procurement technique for evaluating the total cost of a product over its useful life. PSAD-76-160, July 23.

Controls over admittance to and distribution of expendable items need to be strengthened at the Pentagon's self-service supply centers, PSAD-76-164, July 26.

Does the Defense Department's Base Labor Agreement with the Republic of the Philippines discriminate against U.S. citizens in employment? FPCD-76-79, July 28.

Effects of new Environmental Protection Agency regulations for procuring architect-engineer services on the municipal waste treatment construction grant program. RED-76-112, June 1.

Cost effectiveness of the Air Force's proposal to centralize its equipment allowance program at Warner Robins Air Logistics Center. LCD-76-434, June 1.

Safety program at construction sites for Washington, D.C.'s METRO subway. PSAD-76-147, June 25.

General Dynamics and Pratt & Whitney received contract payments for the Air Force F-16 project greater than those normally allowed. PSAD-76-152, June 25.

Savings possible by changing regulations for printing identical bills introduced in the House of Representatives. RED-76-104, May 12.

Accounting and other financial practices of the Panama Canal organization. FOD-76-15, May 17.

How the Navy selected the US-3A aircraft for the carrier onboard delivery (COD) mission. PSAD-76-144, May 20.

Defense plans to combine functions of the Defense Contract Administration Services' Camden, New Jersey, district office with the Philadelphia district office. LCD-75-339, April 17.

Conditions at the Indian Health Service Hospital at Shiprock, New Mexico. MWD-76-108, March 15.

Exaggerated mail volume and overstaffed operations at the Washington, D.C. City Post Office. GGD-76-41, January 20.

Standards for selecting engineering firms for federally assisted capital projects. LCD-75-320, January 10, 1975.

Safety, and operations and maintenance and cost data for the military services' CH-46 and CH-47 helicopters. LCD-75-411, January 22, 1975.

Investigation of contract award by the Corps of Engineers to the Ranger Construction Company of Atlanta, Georgia, in spite of the firm's termination for default on a Bureau of Prisons contract. PSAD-76-59, January 30, 1975.

Information on Postal Service's sale of printed return address envelopes. GGD-75-62, February 13, 1975.

Handling of Federal funds by the Ohio Bureau of Vocational Rehabilitation. MWD-75-70, March 3, 1975.

Answers to questions on a GAO report on controls needed over equipment provided to the Republic of Vietnam armed forces. LCD-75-227, April 1, 1975.

Information on the cancellation of a planned family housing project at Fort Eustis, Virginia. LCD-75-338, April 3, 1975.

Cost of the Secretary of State's children accompanying him on official trips overseas. ID-75-55, April 9, 1975.

Cost data on gifts given to foreign officials by U.S. Presidents since 1970. B-181244, April 15, 1975.

Investigation of allegations that an Army officer stationed at Aberdeen Proving Ground, Maryland, used military flights for personal convenience. LCD-75-225, April 15, 1975.

Evaluation of the Navy's reported $2,269 billion deficit in its shipbuilding and conversion accounts. PSAD-75-81, April 24, 1975.

Do VA hospitals have adequate medical staffs? MWD-75-83, May 5, 1975.

Effects of oil price increases on small business contracts. PSAD-76-72, May 22, 1975.

Constituent's proposal that military personnel replace civilian field buyers in procuring fresh fruits and vegetables for the Department of Defense. FPCD-75-157, June 23, 1975.

Information on unsolicited mailing of material by the Treasury to members of the American Economic Association. GGD-75-106, July 18, 1975.

Relocation of the Food and Drug Administration district office from Newark to East Orange, New Jersey. LCD-76-301, August 5, 1975.

Army's cost estimate for planned FY 1975 purchase of M60A1 tanks from the Chrysler Corporation. PSAD-76-9, August 11, 1975.

Review of Selective Service System contract to Kenneth J. Coffey. FPCD-76-17. September 30, 1975.

Air Force's indicator repair contracts with Pantronics, Inc. PSAD-76-31, October 7, 1975.

Use of appropriated funds to finance lobbying activities by the Citizens Advisory Council on the Status of Women on behalf of the Equal Rights Amendment. MWD-76-43, October 14, 1975.

Information on the Administration of the Federal Insured Student Loan program in Colorado. B-164031(1), October 15, 1974.

Information on cost reductions expected to result from relocating the Benet Weapons Laboratory, Watervliet Arsenal, New York. LCD-76-418, November 19, 1975.

Alleged deficiencies in Army maintenance practices in Europe and the Air Force shelter program. LCD-76-417, December 22, 1975.

Delivery times for airmail and first-class mail. B-114874, December 17, 1974.

The monthly list of GAO reports and/or copies of the full texts are available from the U.S. General Accounting Office, room 4522, 441 G Street NW., Washington, D.C. 20548. Phone (202) 275-6241.

Summaries of significant legal decisions and advisory opinions of the Comptroller General issued in July 1976 are also available as follows:

Federal Procurement Law Decides Grant Complaint. B-186790, July 9.

Prorating Fees for Jury Duty in Federal and State Courts. B-70371, July 13.

GAO Decides Protest on Subcontract Award. B-185178, July 15.

Travel Entitlement Under Change of Home Port. B-167022, July 12.

Exchange of Similar Items Under the Federal Property Act. B-163084, B-186675, July 15.

Local Regulations May Not Curb Sick Leave Usage by "First 40 Hours" Employees. B-171947.78, July 9.

Quarters Allowance for Female Military Members after Marriage. B-185813, July 13.

Extra Travel Costs When Aeroclub Plane Has Mechanical Problems. B-185098, July 6.

Reenlistment Bonus—Credit for Period of Excess Leave. B-183824, July 6.

Waiver of Excess Payments Under Survivor Benefit Plan. B-182704, July 2.

If you need further information regarding these or other decisions, please call (202) 275-5308 or write to the General Counsel, U.S. General Accounting Office, Washington, D.C. 20548.

TERROR IN ARGENTINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Koch) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, I am deeply concerned about what at present is happening in Argentina. It is a haunting specter of rampant anticlericalism and anti-Semitism, of right-wing thugs murdering Catholic priests and terrorizing those whose policies are simply democratic, while the Argentine Government tacitly approves these actions. Argentina is embroiled in a near civil war, and many innocent persons are being caught in a crossfire of leftist guerrilla warfare and government-sponsored counterterrorism.

Eleven Roman Catholic priests have been arrested in Argentina in the last few months, apparently because their nonviolent work for social justice is considered "subversive" by the government. Tragically, at least three other priests have been murdered by right-wing gunmen. It was particularly outrageous to Americans when an American Roman Catholic priest, Rev. James Martin Weeks of the La Salette Novitiate was arrested, beaten, and held for 10 days along with five seminarians in Argentina. Thanks to the efforts of the State Department and my good friend and colleague, Joe Early, Father Weeks was released and flown to the United States, but many have been left behind who are in danger of death.

Nazi publications are flourishing in Argentina. There is widespread distribution of "Mein Kampf" and the fraudulent anti-Semitic tract, Protocols of the Elders of Zion. Rightist magazines are characterizing Hitler as the "Savior of the West." Such material has been distributed in the schools. The Argentine Government piously says that it is not condoning this practice, but it has taken no steps to prevent its distribution. All of this is happening at a time when all democratically oriented literature—always denounced as leftist—has been banned. There is no freedom of expression in Argentina, and by its silence in the face of Neo-Nazi propaganda, the Government of Argentina has legitimized that virulent philosophy.

Perhaps most threatened are the thousands of South American refugees who have fled political persecution in Chile, Brazil, Uruguay, and elsewhere. The Argentine Government has already determined that these refugees are not compatible with the nation's security. The U.N. High Commissioner on Refugees has appealed to member nations to take 1,000 refugees from Argentina, terming the situation as "grave." Some have already been killed, and many more have been terriorized. The level of violence has not yet reached its crescendo and continues to escalate. The world was shocked by the discovery of 47 more people slaughtered by right-wing groups and Argentine security forces only last weekend.

What has the United States done in reaction to this situation. I perceive a genuine revulsion on the part of the State Department with regard to developments in Argentina. I am appending a letter I received today from the State Department which I feel is quite strongly worded. I also believe it imperative that the United States reevaluate its military aid program to Argentina. A government which abandons the rule of law and uses terrorism to maintain itself does not deserve our support, economic or military. While at present we are not providing economic assistance to Argentina, we are furnishing over $49 million in military assistance.

Aside from that consideration, the United States can do something constructive and compassionate, and we can do it right now. We should take our fair share of those political refugees endangered in Argentina.

The State Department has requested that the Attorney General establish a parole visa program to allow South American refugees now in Argentina into the United States. That request was sent to the Attorney General in late July and there it has sat for a month, and still sits. I need not belabor my colleagues as to the desperate nature of the situation. All of us in Congress who support this program should speak out now. I suggest that they write to Attorney General Levi, urging him to establish this program immediately.

I have written to Attorney General Levi on this issue today. Along with the State Department letter, I am appending my letter to Attorney General Levi:

Department of State,
Washington, D.C., August 24, 1976.

Hon. Edward I. Koch,
House of Representatives.

Dear Mr. Koch: The Secretary has asked me to reply to your letter of July 21 regarding the safty of political refugees in Argentina.

Political violence in Argentina, which has been going on several years, has escalated in the past few months since the establishment of the new Argentine Government. This violence has been carried out by terrorist forces of both the left and the right. There have been repeated charges that the Argentine Government, if not encouraging or participating in counter-violence, is not actively suppressing right wing groups with the same energy that it pursues the left. The Argentine Government, however, states that it deplores the activities of all vigilante groups and is trying to bring violence perpetrated by the right and left under control.

We have discussed our concern over this

escalating pattern of violence and some of its tragic consequences with high-level Argentine officials both in Washington and Buenos Aires, and we have informed the Argentine Government of the nature and level of concern which is being expressed in the United States Congress and by private citizens. In this context, we have also discussed specifically with Argentine officials the case of the thirty Uruguayan refugees who recently disappeared.

Regarding the status of refugees in Argentina, the Argentine Government has stated that it will not forcibly repatriate refugees for political or ideological reasons. As you are aware, Argentina currently has a large colony of expatriate refugees chiefly from Uruguay and Chile, some of whom have been targets of assassination by terrorist groups. Both the UN High Commissioner for Refugees and the Government of Argentina have appealed to us and to other governments for assistance in relocating refugees in other countries. We are deeply concerned over this problem and are aware of the resolutions on this subject which have been submitted to the Congress by you and Senator Kennedy. The Executive Branch currently has this question under urgent consideration.

We will send copies of this correspondence to our Embassy in Buenos Aires so that they may express your concern to the Argentine authorities.

Sincerely yours,
ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 26, 1976.

Hon. EDWARD LEVI,
Attorney General, Department of Justice,
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: Along with Senator Edward Kennedy and Congressman Donald Fraser, I am the prime sponsor of H. Con. Res. 656, introduced on June 15, 1976, which calls for the establishment of a parole visa program for South American refugees endangered in Argentina. I understand that in late July the State Department requested that your Department establish such a program.

I am certain that I do not have to detail the litany of horrors being perpetrated in Argentina today. The fact sheet I am enclosing gives background information on the need for the program. Since July 1, events have only confirmed the need for the program. 30 Uruguayans were kidnapped, roughed up, and later released; Roman Catholic priests have been arrested and some have been murdered; Nazi propaganda flourishes; people are killed (47 last week) by Argentine security forces in reprisal for left-wing terrorism.

I urge you in the strongest possible manner to expedite this program. I would appreciate being apprised of developments with regard to this program and want you to know that I am willing to help in whatever way possible. I believe that we all would like to avoid the tortuous delays that accompanied the Chilean parole visa program. With as volatile a situation as there is in Argentina, we simply cannot afford those kinds of delays.

Sincerely,
EDWARD I. KOCH.

PROVIDING FOR THE INCLUSION OF LICENSED PRACTICAL NURSES UNDER THE MEDICARE AND MEDICAID PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 5 minutes.

Mr. MATSUNAGA. Mr. Speaker, I am introducing today legislation which provides for the inclusion of licensed practical nursing services under the medicare and medicaid programs. Similar in intent and function to my proposal introduced in this Congress and in the previous Congress to provide for the inclusion of registered nursing services under the medicare and medicaid programs, this new proposal will recognize for the first time on the Federal level the important contributions which licensed practical nurses have made throughout the years in our Nation's health and medical care delivery systems.

Some 447,000 strong in 1974, according to the latest Division of Nursing, U.S. Public Health Service estimates, licensed practical nurses can be found in a wide variety of work settings. While the majority of licensed practical nurses work in hospitals, clinics, homes for the aged, and nursing homes, they can also be found working in doctor's offices, schools, public health agencies, and in private homes.

The medical duties of a licensed practical nurse are as varied as their settings. An LPN can provide direct patient care at the bedside in relatively stable nursing situations such as found in hospitals, extended care units, nursing homes, and in private homes in administering treatment and medication prescribed by a physician or dentist. LPN's can also perform nursing functions in semicomplex situations such as found in hospital nursing service units, recovery rooms, and labor rooms, and in more complex situations found in intensive care and coronary care units and in emergency rooms.

In the area of health care delivery, LPN's assist other members of the health care delivery team in the promotion of personal and community health by promoting and carrying out preventive measures in community health facilities such as well baby clinics and outpatient clinics.

Mr. Speaker, licensed practical nurses have made and will continue to make valuable contributions to our health and medical care delivery systems. By virtue of their training, LPN's are able to provide much-needed basic nursing services in a wide variety of patient settings at a significantly lower average cost than a charge for similar services provided by a registered nurse.

It is, therefore, apparent, Mr. Speaker, that in a multitiered, cost controlled health and medical care delivery proposal such as comprehensive national health insurance, licensed practical nurses will play an important role in the delivery of basic health and medical care to our Nation's citizenry. I am introducing this proposal today to assist in the recognition of that fact by providing a mechanism in the medicare and medicaid programs which will demonstrate the importance of licensed practical nursing services along with physician services, registered nursing services, and all the other health and medical care professional services which together comprise the health and medical care systems of the United States.

Mr. Speaker, I urge my colleagues to give thoughtful consideration and support to this proposal in connection with comprehensive medicare reform and comprehensive national health insurance legislation. The text of my proposal is hereby submitted for inclusion in the RECORD for the reference of any interested parties or individuals:

H.R. —

A bill to amend the Social Security Act to provide for inclusion of the services of licensed practical nurses under medicare and medicaid

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1861(s) of the Social Security Act is amended by inserting immediately before the matter following paragraph (13) the following: "The term 'medical and other health services' also means medical care, or any other type of remedial care recognized under State law, furnished by licensed practical nurses within the scope of their practice as defined by State law.".

SEC. 2. (a) Section 1905(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (16);

(2) by inserting "and" at the end of paragraph (17);

(3) by adding immediately below paragraph (17) the following new paragraph:

"(18) medical care, or any other type of remedial care recognized under State law furnished by licensed practical nurses within the scope of their practice as defined by State law;".

(b)(1) Section 1902(a)(13)(B) of such Act is amended by inserting after "through (5)" the following: "and (18)".

(2) Section 1902(a)(13)(C)(i) of such Act is amended by inserting immediately after "through (5)" the following: "and (18)".

(3) Section 1902(a)(13)(C)(ii)(I) of such Act is amended by inserting immediately after "through (16)" the following: "and (18)".

(4) Section 1902(a)(14)(A)(i) of such Act is amended by striking out "and (7)" and inserting in lieu thereof ", (7), and (18)".

SEC. 3. The amendments made by this Act shall be effective with respect to payments under titles XVIII and XIX of the Social Security Act for calendar quarters commencing with the first calendar quarter beginning after the date of enactment of this Act.

A FAIR DEAL FOR THE SMALL SAVER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota, Mr. FRASER is recognized for 5 minutes.

Mr. FRASER. Mr. Speaker, our colleague Henry Reuss has written an excellent article on the increasing problems small savers have in getting a fair return on their savings. In our concern over monetary policy, we must keep in mind that the Federal Reserve policies affect not only borrowers, but also savers who provide the funds for credit.

Chairman REUSS gives several examples of this discrimination against small savers: Lower interest rates being paid on passbook accounts, Treasury bills being sold only in high denominations, service charges imposed on small savings accounts, and proposed restrictions on pooled funds for purchasing large certificates of deposits bearing high interest rates. Practices such as these can discourage savings and make borrowing even more difficult.

If we are to correct these problems, Congress will have to look carefully at a whole range of alternatives to make the money markets more flexible. We cannot afford to continue shutting the small saver out of more lucrative opportunities.

I would like to share with my colleagues Chairman Reuss' article "A Fair Deal for the Small Saver" from the September issue of Money magazine:

A Fair Deal for the Small Saver

(By Henry S. Reuss)

The virtue of thrift has been extolled as part of the American ethic ever since Benjamin Franklin moralized that "a penny saved is two pence clear." Given half a chance, most Americans will save with Calvinist zeal.

Unfortunately, between the government and our financial institutions, we do just about everything we can to discourage a couple of hundred million Americans—all but the rich—from saving money.

When interest rates start rising, the rich can plunk their money into high-yielding Treasury bills that sell only in minimum denominations of $10,000, or into $100,000 "jumbo" certificates of deposit (CDs) that pay market rates. But the small saver can earn only the maximum 5% at a commercial bank or 5¼% at a savings and loan association. For a time in 1974, for example, a $10,000, 91-day Treasury bill yielded 9.9%—almost double what a small saver could get with a passbook account.

LOST $30 BILLION

The government sets this ceiling (called Regulation Q) on small savings accounts for the laudable purpose of "helping housing." In 1966, an interest-rate war developed among S&Ls and other savings institutions, which were competing with each other and with money-market instruments that were beginning to pay more than the S&Ls; Congress became concerned with the soundness of the thrift institutions—and with their ability to continue making the housing loans in which they specialize. So a ceiling was imposed on the interest rates these institutions could pay, although they could still pay a little more than commercial banks.

Since 1966, savers have lost an estimated $30 billion as a result of Regulation Q—the difference between what they earn on their savings accounts and what they could have earned at competitive market interest rates.

Inflationary periods are especially tough on small savers. While their savings are earning low interest in passbook accounts, the cost of living climbs. The modest saver ends up with savings that actually shrink in terms of purchasing power. During 1974, for instance, inflation was whirling away at 12%, while passbook accounts were paying 5¼%. Thus the small saver was actually losing almost 7% a year.

Right now the difference between passbook accounts and the market is not nearly as large as a couple years ago, when Treasury bills and notes were paying 9% to 10% interest. Six-month Treasury bills, for instance, are paying less than 6%, one-year Treasury bills 6¼%, two-year notes just under 7%. But the next time the Federal Reserve clamps down on the money supply, the small saver will be right back in the same fix.

These restrictions on the small saver naturally spur efforts to get around them. Mutual funds, for instance, have been created that attract small investments and pool the money to buy the $100,000 CDs and other money-market instruments formerly the province of the rich. Seeing this loophole for the small saver, the Federal Reserve recently set out to make it tougher for the funds to serve him. The Fed proposed stopping the banks from selling their jumbo CDs to the funds. Even if adopted, this proposal would not destroy the mutual funds, because they could still invest in other money-market instruments outside the Fed's reach. But it is indicative of a "small saver be damned" attitude.

COMING OUT EVEN

What can the small saver do to escape the second-class citizenship to which all these regulations confine him? There are some ways out, but they all have drawbacks.

Credit unions pay higher interest on savings than do banks or S&Ls. Federally chartered credit unions are currently paying an average 5½% but are allowed to pay 7%, and do so when money gets tight. To belong to a credit union, however, the saver must belong to some group like a church, labor union or neighborhood organization that meets the "common bond" requirement for forming such an institution.

Banks and S&Ls offer smaller denomination CDs than the market-rate jumbos. But their interest rates are still limited by Regulation Q, based on the maturity of the certificates. Currently, banks can pay 5½% on maturities with a 90-day minimum, 6% on one-year maturities and 6½% on 2½-year maturities. S&Ls also offer these CDs and can pay a quarter of a percentage point more on them.

The highest yielding investment of this type offered by federally insured institutions is a six-year $1,000 CD that pays 7¾% at S&Ls. Stretched out over a period of assumed economic ups and downs, this instrument gives the small saver a fair chance of coming out even with inflation. But the small saver is trapped in another way with these certificates: there is a severe penalty for withdrawing funds before maturity. If the holder cashes in before maturity, he may end up with less than he would have earned in a savings account. Holders of jumbo CDs, by contrast, suffer no such penalty, because they can sell these certificates in secondary markets any time.

LINES AROUND THE BLOCK

Congress and the Treasury Department must come to the rescue of the small saver.

Treasury bills and notes should be offered in lower denominations. Before 1970, and again for a while in 1974, the Treasury did offer $1,000 short-term notes, and people lined up around the block to buy them. But under pressure from the thrift institutions, the Treasury today refuses to make available bills in less than $10,000 units.

As for U.S. Savings Bonds, their present 6% return is competitive in today's market. But in periods of higher interest rates, savings bond holders are always left behind. One solution would be to set a "floating" rate on the interest paid, allowing it to rise and fall with the market. An interest ceiling could be established to keep the bonds from becoming a sudden burden to the government, and a floor to insure holders a fair minimum return. Or savings bonds could be pegged to purchasing power; the investor's return would be fixed at a set percentage, plus an allowance for any rise in the consumer price index.

But the basic question remains: Is is fair to ask the small saver to subsidize other people's home mortgages by forcing him to keep his savings in low-yielding accounts? In practice, this can mean that an $8,000-a-year family is "taxed"—by an artificially low rate of return—so that an $80,000-a-year family may enjoy a lower interest payment on its home mortgage.

Besides Regulation Q doesn't even work very well. The big savers still pull out when interest rates rise, draining money out of the mortgage market.

Interest-rate ceilings ought to be abolished. The banks and the thrift institutions ought to compete for the saver's dollar.

If Regulation Q is to be abolished, something must be done for the S&Ls and other thrift institutions to enable them to continue focusing on housing loans. My ill-fated Financial Reform bill of 1976, a major preoccupation of the House Banking Committee for most of this Congress, was designed to meet the problem in two ways.

First, the federal government would stand ready, during periods of tight money, to lend mortgage funds to the thrift institutions at the prevailing government borrowing rate. The funds would be repaid to the Treasury when money markets return to normal and funds flow back into savings.

Second, federally chartered S&Ls and other thrift institutions would be allowed to do other kinds of business than simply taking in savings and making mortgages. If they were allowed to offer checking accounts, as some state-chartered savings banks now do, they would have more money in the till from which to make mortgage loans. And if they were allowed to use part of their funds to make more diversified consumer loans, that would help them stay profitable during periods of tight money without driving mortgage rates up. With checking account funds to add to saving accounts, they could do more consumer lending and still have as much as they have now to put out in mortgages.

This liberalization of what the thrifts may legally do would also generate a healthy note of competition in financial services. Banks, S&Ls, mutual savings banks and credit unions would all compete for the little guy's business.

UNSTUCK

Unfortunately, the reform bill died in committee this year, after some intensive lobbying by the American Bankers Association. But the problem will not go away, and the new Congress will have to readdress itself to reform.

When it does, it will undoubtedly reconsider another device to permit the thrift institutions to survive ups and downs of interest rates and still stay in the housing market. That device is the variable rate mortgage (VRM), on which interest rates rise and fall in tune with interest rates on other things. That way, the institutions could offer mortgages freely, at market rates, during low interest periods without fear of getting "stuck" with a 7% mortgage when interest rates rise to 9%. (See "Mortgages with Changing Monthly Payments," *Money*, September 1975.)

Congress last year rebuffed a proposal to allow federally chartered institutions to offer variable rate mortgages. Meanwhile, California and some of the New England states are experimenting with the VRM. In adopting this idea nationally, there must be assured safeguards for the consumer—such as requiring lenders to offer fixed-rate mortgages as well.

Of course, government policy is not the only source of grief for the small saver. Many banks give him short shrift as well. Just recently, the second biggest bank in Washington, D.C., the American Security & Trust Co., announced it was placing a $1-a-month service charge on savings accounts of $500 or less. Other financial institutions threaten to follow suit. One Washington youngster who has just opened a new savings account with $50 earned this summer mowing lawns now faces a $1-a-month service charge—24% per annum on an account that earns only 4½% interest! How's that for encouraging young people to get into the saving habit early?

MORE THAN JUSTICE

I view skeptically the claim of some banks that they lose money on small accounts, and so are justified in discouraging them. Other businesses, like department stores, don't charge a customer more for an item because he does a small amount of business. Furthermore, $500 is not that small an account. It should be good business to attract young people as customers before they become big customers. Financial institutions are given a charter—and legal protection from too much competition—to meet the needs of the public. That would include even the youngster with his $50 account.

Altogether, small savers are not treated very well in our present financial system. We hear from all sides that more savings are needed to finance the nation's investment needs. As John Calvin said, "We ought not to prevent people from being diligent and frugal; we must exhort all . . . to save all they can."

Letting the small saver earn market interest rates is not only social justice. It would be economic good sense.

CONGRESSIONAL CLEARINGHOUSE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

Mr. BEDELL. Mr. Speaker, I want to share with my colleagues a brief description of the congressional clearinghouse on the future, an informal information network formed in April of this year. Ten other Members and myself decided to establish the clearinghouse at that time to share materials with each other about futures research and citizen participation projects.

Our Advisory Committee consists of the Honorable BERKLEY BEDELL, the Honorable JAMES BLANCHARD, the Honorable LINDY BOGGS, the Honorable JOHN BRECKINRIDGE, the Honorable MILLICENT FENWICK, the Honorable TIM HALL, the Honorable JACK HIGHTOWER, the Honorable JOHN JENRETTE, the Honorable HENRY REUSS, the Honorable CHARLIE ROSE, and the Honorable GLADYS SPELLMAN. Anne W. Cheatham is our coordinator.

The idea for the clearinghouse grew out of a series of sessions led by noted futurists and interested individuals who encouraged us and our staffs to look more carefully at ways we can anticipate our problems.

In early September, 1975, Alvin Toffler, author of "Future Shock," and the Ad Hoc Committee on Anticipatory Democracy organized a seminar called "Outsmarting Crisis: Futures Thinking in Congress" sponsored by Representative CHARLIE ROSE, Representative JOHN HEINZ, and Senator JOHN CULVER. Hazel Henderson of the Center for Alternative Futures in Princeton, N.J., and Ted Gordon of the Futures Group in Glastonbury, Conn., joined Mr. Toffler in urging us to look at alternatives to current problems by involving citizens in the planning process.

As a result of the interest generated during that event, Senator CULVER and Representative ROSE invited Mr. Toffler and Mr. Gordon to speak to Senators and Members of the House in early 1976. Shortly after that meeting, we came together to form the clearinghouse.

Our goals have been developed and they are:

First. To assist Members as they become aware of the ways in which the future is affected by today's decisions.

Second. To help committee members implement the foresight provision by holding foresight hearings as well as oversight hearings by identifying witnesses, suggesting questions, helping to organize meetings.

Third. Help Members foresee the impact of legislation on State and local governments so that legislation will have foresight.

Fourth. Let Members know what citizens' groups are eager to work in the planning process of government and give Members new methods of citizen involvement to use with their constituents.

Our first efforts were to publish a monthly newsletter called "What's Next" and circulate it to offices which expressed interest in these ideas. We now have over 250 offices on our mailing list. In April and May, we sponsored seminars led by Robert Theobald of the Northwest Regional Foundation and Dr. Edward Lindaman and John Osman of the Alternatives for Washington in Washington State. In both instances, we sought to identify ways in which Members could involve citizens in the decisionmaking processes of government.

Future plans for clearinghouse activities include bimonthly seminars, presentations to delegation meetings about State and local citizen activity, and addresses by distinguished guests on issues related to the future of the country and the world. An index of futures-related information found in the RECORD will be added to our monthly newsletter as well.

Mr. Speaker, we believe that the information we are sharing is of much importance to the Congress and to our democratic form of government. In this time of rapid change, we must anticipate if we are to survive. As C. P. Snow said in 1961, "The sense of the future is behind all good politics. Unless we have it, we can give nothing either wise or decent to the world."

THE PLIGHT OF THE KOGAN FAMILY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Ms. COLLINS) is recognized for 5 minutes.

Ms. COLLINS of Illinois. Mr. Speaker, all of the nations which signed the Helsinki accords, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to this obligation, Members of Congress are conducting a vigil on behalf of Russian families that remain separated.

A case history of these families, who are referred to as "Orphans of the Exodus," dramatically details this tragic problem. At this time I would like to bring to the attention of my colleagues the situation of the Kogan family.

Faina Lvovna Kogan wrote to me on behalf of her husband and herself who wish to emigrate from the Soviet Union to Israel to join their son. Mrs. Kogan, who in writing stressed the importance of International Women's Year and the safeguarding of human rights, details a sad story of Soviet abuse.

Both Mrs. Kogan and her husband are elderly and are not in good health. As a result of their attempts to leave the Soviet Union and reunite their family, they have encountered both government insensitivity and antagonism.

For example, for a long time these elderly people have been denied telephone service without reason. They have been frustrated in all attempts to induce any official government action to correct this. It is my understanding that the disruption of phone service is not an uncommon suffering for those in the Soviet Union who seek exit visas to Israel.

The Helsinki accord not only advances the reunification of families, but the agreement pays special attention to the reunion of the old and the ill. In view of the accord, the Soviet Union is obligated to respond positively to requests by its citizens to emigrate.

The character of the Soviet Union is sadly revealed in this account of the Kogan case. I know my colleagues join me in promising to keep a serious and persistent vigil on human rights. Without such diligence the rights of people are frequently abridged by insensitive forces and in final analysis it may be said that the United States has not done all that it could to insure humane actions in world politics.

DISTRICT OF COLUMBIA REGULATIONS ILLEGALLY PASSED

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman for Michigan (Mr. DINGELL) is recognized for 30 minutes.

Mr. DINGELL. Mr. Speaker, I am pleased by the prompt and positive action which the Senate took yesterday on H.R. 12261 to reinforce the language of the District of Columbia Self-Government and Governmental Organization Act. Both Houses now have passed the bill with an amendment making it absolutely clear that the District of Columbia City Council was without authority to enact the new gun control regulations it recently passed.

Under section 602(a)(9) of the act, the Council is prohibited from passing any legislation "with respect to any provision of any law codified in title 22" of the District of Columbia Code. Title 22 relates to criminal offenses.

If signed into law by the President, H.R. 12261 would extend that prohibition, due to expire in January 1977, for 2 more years.

The new language simply emphasizes that the injunction against Council action "with repect to" title 22 was intended to encompass any act "with respect to any criminal offense pertaining to articles subject to regulation under chapter 32 of title 22." Chapter 32 covers weapons, including firearms.

H.R. 12261 would not, of course, affect the current District of Columbia regulations enacted by the old city council in 1969. But it would automatically strike down the new council's Gun Control Act which was passed on July 23 of this year, by foreclosing any claim of authority which the council might assert through some contorted interpretation of section 602(a)(9).

It also should be noted that the language of the District of Columbia Home Rule Act itself precludes the council from passing any such legislation for the 24—now to be extended to 48—"full calendar months immediately following the day on which the members of the council first elected pursuant to this act take office," which is to say, beginning on January 2, 1975.

Since this definite, ascertainable time period already was specified in the statute, it is manifest that the prohibition extended by the Congress this week operates retroactively to January 2, 1975.

Furthermore, it is highly doubtful that the council had any statutory jurisdiction to pass its July 23 regulations in the first place.

Although the council characterized its action as an amendment to the police regulations, authority for which is found in title I of the District of Columbia Code, in truth the regulations are de facto amendments to title 22.

When the council enacts a law making it a crime to possess any handgun except those now registered in the District, and making it a crime to be in possession of a loaded firearm even in one's own home, it is ridiculous for the council to suggest that these are not amendments to the criminal code.

I therefore requested the American Law Division of the Congressional Research Service to examine the council's action to see whether it was a valid exercise of authority under title 1, or was in violation of section 602(a)(9) of the District of Columbia Home Rule Act. I now have received the results of that research, and I would like to share it with my colleagues.

In an exhaustive discussion, the Library of Congress attorney, Mr. Charles Doyle, states:

> Congress could not have therefore intended to prohibit amendments to Titles 22, 23 and 24 covering things like firearms control, rape, assault, etc. but permitting the identical provisions to be validly enacted under the authority of (Title 1).

He concludes:

> An examination of the arguments suggests that the Firearms Control Regulations Act exceeds the legislative authority delegated to the City Council. Congress in enacting section 602(a)(9) intended to freeze those areas of criminal law and procedure contained in titles 22, 23 and 24. The fact that gun control legislation for the District of Columbia was then contained in title 22 makes it inconceivable that Congress did not intend to preserve the status quo in the area of weapons control.

I include this material in the RECORD at this point:

FIREARMS CONTROL REGULATIONS ACT OF 1975: VALID EXERCISE OF THE AUTHORITY GRANTED BY SECTIONS 1-224, 1-226, 1-227 (REGULATION OF FIREARMS, EXPLOSIVES AND WEAPONS) OF THE D.C. CODE OR VIOLATION OF SECTION 602(a)(9) OF THE DISTRICT OF COLUMBIA SELF-GOVERNMENT AND GOVERNMENT REORGANIZATION ACT. 87 STAT. 894–95(1973)

INTRODUCTION

The Firearms Control Regulations Act of 1975. D.C. Act No. 1–142, approved July 23, 1976 raises questions as to whether the Act is the valid exercise of authority granted by D.C. Code Sec. 1–227, 1–226, 1–224 or a violation of the limitation imposed on the legislative authority of the D.C. City Council by section 602(a)(9) of the District of Columbia Self-Government and Government Reorganization Act, 87 Stat. 894–95(1973), D.C. Code Sec. 1–147(a)(9)(Supp. II). The conclusion of this report is that the Act is not valid.

Section 602(a)(9) provides:

> The Council shall have no authority . . . to—
>
> * * * * *
>
> (9) enact any act, resolution, or rule with respect to any provision of title 23 (relating to criminal procedure), or with respect to any provision of any law codified in title 22 or 24 (relating to crimes and treatment of prisoners) during the twenty-four full calendar months immediately following the day on which the members of the Council first elected pursuant to this Act take office.

Sections 1–227, 1–226 and 1–224 of the D.C. Code state:

> Section 1–227 Regulations relative to firearms, explosives, and weapons.
>
> The District of Columbia Council is hereby authorized and empowered to make, and the Commissioner of the District of Columbia is hereby authorized and empowered to enforce, all such usual and reasonable police regulations, in addition to those already made under sections 1–224, 1–225, and 1–226 as the Council may deem necessary for the regulation of firearms, projectiles, explosives, or weapons of any kind in the District of Columbia.
>
> Section 1–226 Regulations for protection of life, health, and property.
>
> The District of Columbia Council is hereby authorized and empowered to make, and the Commissioner of the District of Columbia is hereby authorized and empowered to enforce, all such reasonable and usual police regulations in addition to those already made under sections 1–224, 1–225, as the Council may deem necessary for the protection of lives, limbs, health, comfort and quiet of all persons and the protection of all property within the District of Columbia.
>
> Section 1–224 Police regulations authorized in certain cases.
>
> The District of Columbia Council is hereby authorized and empowered to make and modify, and the Commissioner of the District of Columbia is hereby authorized and empowered to enforce, usual and reasonable police regulations in and for said District as follows:
>
> First. For causing full inspection to be made, at any reasonable times, of the places where the business of pawnbroking, junkdealing, or second-hand clothing business may be carried on.
>
> Second. To regulate the storage of highly inflammable substances in the thickly populated portions of the District.
>
> Third. To locate the places where licensed vendors on streets and public places shall stand, and change them as often as the public interests require, and to make all necessary regulations governing business.
>
> * * * * *
>
> Ninth. To regulate or prohibit loud noises with horns, gongs, or other instruments, or loud cries, upon the streets or public places, and to prohibit the use of any fireworks or explosives within such portions of the District as it may think necessary to public safety.
>
> * * * * *
>
> Eleventh. To prescribe reasonable penalties for the violation of any of the regulations in this section mentioned; and said penalties may be enforced in any court of the District of Columbia having jurisdiction over minor offenses, and in the same manner that such minor offenses are now by law prosecuted and punished.

BACKGROUND

Congress enacted legislation governing the carrying and selling of firearms in the District in 1892. 27 Stat. 116. Several years later it passed legislation governing the "killing of wild birds and wild animals in the District of Columbia," 34 Stat. 808(1906) which included language similar to that currently contained in D.C. Code Sec. 1–227.

When the basic provisions of title 22, chapter 32 of the D.C. Code replaced the 1892 legislation, the District's regulatory authority under the 1906 Act was left unchanged, 47 Stat. 650(1932), as amended, D.C. Code secs. 22–3201 to 22–3217.

In 1968, the District promulgated police regulations covering the possession, registration and sale of firearms and destructive devices, D.C. Police Regs. arts. 50–55. The Maryland and District of Columbia Rifle and Pistol Association challenged the validity of the '68 regulations on the grounds that in enacting D.C. Code secs. 22–3201 to 22–3217 Congress had preempted the field and withdrawn the delegation of legislative authority granted by D.C. Code sec. 1–227. They contended, alternatively, that the regulations exceeded the authority granted by the 1906 legislation which they argued should be read narrowly to permit only regulations associated with hunting of wild birds and animals.

The United States Court of Appeals rejected both of these arguments, *Maryland and District of Columbia Rifle and Pistol Association, Inc.* v. *Washington*, 442 F. 2d. 123(D.C. Cir. 1971). It noted that broad language contained in section 1–227 does not suggest the narrow interpretation offered and that by subsequently repealing all of the 1906 statute except the firearm regulation provision Congress intended section 1–227 to be interpreted as broadly as its language. The Court also observed with respect to the preemption issue:

> The important consideration, we think, is not whether the legislature and municipality have both entered the same field, but whether in doing so they have clashed. Statutory and local regulation may coexist in identical areas although the latter, not inconsistently with the former, exacts additional requirements, or imposes additional penalties. The test of concurrent authority, this court indicated many years ago, is the absence of conflict with the legislative will. . . .
>
> We find, too, from the fact that section 1–224 was not repealed, either in 1932 when the gun control law was passed or in 1958 when the 1906 wildlife legislation was repealed, a satisfying assurance that Congress, having dealt with some aspects of weapons control, left others for regulation by the District. Indeed, as we have pointed out, we cannot fathom any other purpose to be achieved by leaving section 1–227 in force. We are aware of a brief observation in the legislative history of the 1932 act that it would effect a "comprehensive program of [gun] control," but we cannot accept that

as an expression of intent to preempt the entire field. Examination discloses that the 1932 act is not comprehensive with respect to rifles and shotguns, and the regulations under review demonstrate a clear design to leave the areas preempted by the statute unaffected. Id. at 130–32.

When Congress delegated broad general legislative authority to the City Council in the District of Columbia Self-Government and Government Reorganization Act, it restricted its grant by providing that:

> The Council shall have no authority . . . to—
>
> * * * * *
>
> (9) enact any act, resolution, or rule with respect to any provision of title 23 (relating to criminal procedure), or with respect to any provision of any law codified in title 22 or 24 (relating to crimes and treatment of prisoners) during the twenty-four full calendar months immediately following the day on which the members of the Council first elected pursuant to this Act take office. 87 Stat. 894–95 (1973), D.C. Code Sec. 1–147(a)(9).

This subsection was added to the bill by House sponsors during debate, 119 Cong. Rec. 33353 (1973). Under its provisions, one of the sponsors noted, "the City Council is prohibited from making any changes in the criminal law applicable to the District. The conference committee, "agreed to transfer authority to the Council to make changes in Titles 22, 23 and 24 of the District of Columbia Code, effective January 2, 1977. . . . It is the intention of the Conferees that their respective legislative committees will seek to revise the District of Columbia Criminal Code prior to the effective date of the transfer of authority referred to." H.R. Rep. No. 93–702, 93d Cong., 1st Sess. 75(1973). We have been unable to locate any further express indication of legislative intent as to the meaning of section 602(a)(9). Other than the language or section 404(a) there is no express indication as to whether the limitation applies to D.C. Code Sec. 1–227:

> Subject to the limitations specified in title VI of this Act [which includes sec. 602(a)(9)], the legislative power granted to the District by this Act is vested in and shall be exercised by the Council in accordance with this Act. In addition, except as otherwise provided in this Act all functions granted to or imposed upon, or vested in or transferred to the District of Columbia Council, as established by Reorganization Plan Number 3 of 1967, shall be carried out by the Council in accordance with the provisions of the Act. 87 Stat. 787(1973).

ARGUMENTS THAT THE ACT IS BEYOND THE AUTHORITY OF THE COUNCIL

Congress reserved to itself legislative jurisdiction over criminal law and procedure in the District of Columbia until January 2, 1977 by enactment of section 602(a)(9). This fact is established by the legislative history cited above and the statements contained in this year's House committee report on the bill to extend that date, H.R. Rep. No. 94–1418, 94th Cong., 2d Sess. (1976). Any act which prohibits under criminal penalty the control, transfer, offer for sale, sale, gift or delivery of destructive devices such as explosives, poison gas bombs, tear gas, and lasers; the manufacture of firearms within the District of Columbia; and the possession of pistols acquired after the effective date of the Act involves the exercise of criminal legislative jurisdiction.

By enacting section 602(a)(9) Congress imposed a moratorium over the Council's legislative authority over matters covered by titles 22, 23 and 24 so that the Congress could revise the District's criminal law and procedure including especially those matters currently contained within the three titles. The District of Columbia weapons control statutes are currently all found within title 22 including provisions for licensing weapons dealers, licensing those who carry pistols and prohibiting possession of certain firearms and weapons. This is the law which Congress intended to freeze by enacting section 602(a)(9). Enactment of the Firearms Control Act alters the law with respect to those areas which Congress intended to examine in revising the D.C. criminal law and is therefore within the limitation of that section and beyond the legislative authority of the D.C. City Council until January 2, 1977.

The Firearms Control Regulations Act is an act with respect to title 22 because it is an act containing "general and permanent laws relating to the District of Columbia" which will have to be placed in the D.C. Code, 1 U.S.C. Sec. 203, and the most, in fact only, logical repository for those provisions is chapter 32 of title 22.

The Firearms Control Regulations Act is an act with respect to title 22 because it deals with many of the same subject matters contained in chapter 32 of title 22: circumstances under which a pistol may be lawfully possessed, compare D.C. Code sec. 22–3202 with D.C. Act No. 1–142, sec. 201, 202(d), 202(e), 706; licensing of those who deal in weapons, compare D.C. Code secs. 22-3209, 22–3210 with D.C. Act No. 1–142 secs. 401–409; regulation of the transfer of firearms compare D.C. Code secs. 22–3208 with D.C. Act No. 1–142 secs. 501, 502.

The Firearms Control Regulations Act is an act with respect to title 22 because it replaces and repeals D.C. Police Regulations Acts, 50–51 which deals with the same subject matter as chapter 32 of title 22, *Maryland and District of Columbia Rifle and Pistol Association, Inc.* v. *Washington*, 442 F. 2d 123(D.C. Cir. 1971).

The Firearms Control Regulations Act is an act with respect to title 22 because the City Council intended it to supplement chapter 32 of title 22 as is evidenced by a comparison of the findings and purpose of the Act with the title of the 1932 Act which became chapter 32 of title 22: compare, "An Act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia . . ." 47 Stat. 650(1932) with D.C. Act No. 1–142, sec. 2.

The Firearms Control Regulations Act is an act with respect to title 22 because even if the Council could have passed regulations containing the same provisions as an exercise of municipal legislative authority under D.C. Code secs. 1–224, 1–226, 1–227 it chose to enact a statute under legislative authority first delegated in the District of Columbia Self Government and Government Reorganization Act, 87 Stat. 774 (1973), D.C. Code sec. 1–124 (Supp. II).

The Firearms Control Regulations Act is an act with respect to title 22 because no argument to the contrary is tenable. As noted earlier, even if the Act could have been promulgated as police regulations under the authority of D.C. Code secs. 1–224, 1–226 and/or 1–227, the Council did not elect that approach. However, it seems more reasonable to conclude that section 602(a)(9) limits the authority granted by D.C. Code secs. 1–224, 1–226, 1–227. The legislative history indicates that section was intended to freeze D.C. criminal law until Congress could work a general revision. Congress could not have therefore intended to prohibit amendments to titles 22, 23 and 24 covering things like firearms control, rape, assault etc. but permitting the identical provisions to be validly enacted under the authority of D.C. Code secs. 1–224, 1–226, 1–227. Moreover, in spite of the fact that the language used in the Act, "An Act to protect the citizens of the District from loss of property, death, and injury . . . in order to promote the health, safety and welfare of the people of the District of Columbia . . ." suggests that the authority of D.C. Code sec. 1–226, ". . . police regulations . . . for the protection of lives, limbs, health, comfort and quiet of all persons and the protection of all property within the District of Columbia" was used, the Council's selection of penalties in excess of those permitted for regulations enacted under D.C. Code secs. 1–226, 1–224 negates any argument that the Act was passed pursuant to authority vested by those sections. (D.C. Code Sec. 1–224a provides that the maximum penalties established for violation of D.C. Code secs. 1–224, 1–226 may exceed imprisonment for 10 days; second and subsequent offenders of D.C. Act No. 1–142 are punishable by imprisonment for not more than 90 days, D.C. Act No. 1–142, sec. 706). The Act cannot be classified as primarily regulatory with only those criminal provisions which would be necessary to enforce any regulatory scheme because in its regulatory aspects the Act by and large simply reproduces the Police Regulations found in Articles 50–55 onto which new criminal prohibitions have been grafted, *e.g.*, prohibitions against various and sundry destructive devices, against possession of pistols by D.C. residents acquired after the effective date of the Act, and against manufacturing firearms within the District. Finally, the validity of the Act cannot be supported by reference to *Maryland and District of Columbia Rifle and Pistol Association, Inc.* v. *Washington*, 442 F. 2d. 123(D.C. Cir. 1971). That case arose prior to the Home Rule Act and dealt with the issue of whether in the absence of an express limitation Congress had preempted the District's municipal legislative authority. The Firearms Control Regulations Act's validity turns on the applicability of section 602(a)(9), an express reservation of the legislative authority the District would otherwise have been delegated.

ARGUMENTS THAT THE ACT IS WITHIN THE COUNCIL'S AUTHORITY

The limitation of section 602(a)(9) is a restriction on the legislative authority, most comparable to that exercised by a state legislature, which the Home Rule Act vested in the City Council. It does not restrict the Council's authority to enact municipal ordinances. If it did, Congress could have and would have made that clear either in the Act or its legislative history.

The Firearms Control Regulation Act is regulatory in nature, not criminal. Most regulatory schemes provide minor criminal penalties for violation. Two of the principal differences between regulatory and criminal provisions are the extent of noncriminal matter included and the severity of the penalties imposed. The basic thrust of the Firearms Act is administrative, regulatory. Maximum penalties of 10 days and $300 are the kind of sanctions that support the administrative dealings of a municipality with its businessmen and citizens; they are not the kind of penalties one establishes as a crime control measure.

Section 602(a)(9) restricts amendments to titles 22, 23 and 24. The Firearms Act does not amend any of those sections.

Finally, if Congress fails to disallow the Act, it would serve as a further indication that section 602(a)(9) was not intended to restrict D.C. Code Sec. 1–227 or even gun control regulation under its general legislative powers.

CONCLUSION

An examination of the arguments suggests that the Firearms Control Regulations Act exceeds the legislative authority delegated to the City Council. Congress in enacting section 602(a) (9) intended to freeze those areas of criminal law and procedure contained in titles 22, 23 and 24. The fact that gun control legislation for the District of Columbia was then contained in title 22 makes it inconceivable that Congress did not intend to preserve the status quo in the area of weapons control.

Of course, Congress could enact the provisions of the Firearms Control Regulations Act, or in the absence of federal legislation the City Council could enact them after January 2, 1977.

Charles Doyle,
Legislative Attorney,
American Law Division.

THE LOCKHEED LOAN

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. Harrington) is recognized for 5 minutes.

Mr. HARRINGTON. Mr. Speaker, in the light of the past year's disclosures regarding the Lockheed Aircraft Corp.'s longstanding practice of paying substantial bribes to influential persons both in and out of numerous governments, I have introduced a bill to provide for the termination of any loan guarantee made pursuant to the Emergency Loan Guarantee Act, better known as the Lockheed loan guarantee.

To date, our Government has provided little more than the silence in which the echoes of toppling foreign governments and parties, most notably the Liberal Democrats of Japan, the Christian Democrats of Italy, and the royal family of the Netherlands, could resound.

While the impetus for investigations which have led to developments such as the imprisonment of former Prime Minister Tanaka, among numerous others, came from the revelations of our own Senate Subcommittee on Multinational Corporations, we have taken little substantive action against the corporation which paid the bribes; nor has there been any inquiry made as to whether the banks which made available to Lockheed the depositor's moneys necessary for these payments adequately exercised their fiduciary responsibilities.

Thus, in addition to introducing legislation, I have requested that hearings be undertaken by Chairman Reuss' Committee on Banking, Currency and Housing, the Federal Reserve Board, and the Comptroller of the Currency to consider these matters.

I have also written to Secretary Simon informing him of my request to Chairman Reuss for a review of the performance of the Emergency Loan Guarantee Board, of which the Secretary is Chairman, with regard to its oversight of Lockheed's financial transactions and business activities, as well as with regard to its willingness to continue guaranteeing $160 million worth of loans to Lockheed in light of what has become a matter of public record; namely, the corporation's payment of $22 million in bribes to foreign government and business officials.

Below are copies of the three letters which together provide only an outline of Lockheed's legerdemain. The detail and scope, both in terms of the incidents themselves and the participants involved, have yet to be established. I urge that efforts be undertaken to adduce the facts regarding that which remains unexplained, and that action be taken against those who may be held accountable for overt illegal activity or negligence in the performance of their responsibilities.

H.R. —

A bill to provide for the termination of any loan guarantee made under the Emergency Loan Guarantee Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Emergency Loan Guarantee Board shall provide for the termination, no later than 90 days after the date of enactment of this Act and on such terms and conditions as will preserve and protect the interests of the United States, of any loan guarantee made under the Emergency Loan Guarantee Act.

August 25, 1976.

Hon. Henry S. Reuss,
Chairman, Committee on Banking and Housing, RHOB, Washington, D.C.

Dear Chairman Reuss: In 1971, the Congress passed the Emergency Loan Guarantee Act which was designed primarily to avert the impending bankruptcy of the government's largest defense contractor, Lockheed Aircraft Corporation.

Pursuant to the Act, the federal government guaranteed $250 million worth of loans to Lockheed, $160 million worth or which remains outstanding. The legislation also stipulated that an oversight mechanism, the Emergency Loan Guarantee Board, be created.

The Board was mandated, in part, to determine management's responsibility for Lockheed Aircraft Corporation's imminent bankruptcy, and was authorized to require that the corporation make such management changes as the Emergency Loan Guarantee Board deemed necessary to give Lockheed a sound managerial base before guaranteeing any loan.

In the course of House and Senate hearings on the merits of guaranteeing loans to Lockheed, it became apparent that the corporation had displayed managerial incompetence in the conduct of at least five major programs: th C–5A military aircraft project, the SRAM subcontract, the Cheyenne helicopter, the Tristar L–1011 commercial jet program, and the case of the Lockheed Shipbuilding and Construction Company's $62 million claims settlement.

It was against this background that the Emergency Loan Guarantee Board came into existence and commenced what were intended to be its oversight responsibilities. In order to carry out its mandate, the Board was granted access to all accounts, records, memoranda, correspondence and other documents of the Lockheed Aircraft Corporation. In effect, the Board had access to those same documents which the Senate Subcommittee on Multinational Corporations later relied upon in its own investigations—investigations which revealed the payment of $22 million in bribes during the course of five years.

Lockheed's activities in Japan, involving the payment of $12 million in bribes, $2 million of which went to Japanese government officials, are only the most widely publicized incidents of a more general practice employed by this corporation. Lockheed officials, under oath before the Senate Subcommittee on Multinational Corporations, stated that since the late 1950's, Lockheed has engaged in activities similar to those carried out in Japan, both without NATO allies and others.

Between 1961 and 1962, $1.2 million was paid to Prince Bernhard of the Netherlands in order to establish a favorable climate in Europe for Lockheed's products. A decade later, the Prince received $100,000 in connection with Lockheed's efforts to sell the F–104 Starfighter in Germany.

In Italy, in 1970, a former Italian air force chief of staff, along with two other prominent Italian politicians, received $1.6 million in connection with the sale of 14 C–130 Hercules cargo planes.

In Indonesia, in 1971, a $100,000 commission was paid for persuading the Indonesian military to award the contract for an American military sales program item to Lockheed.

In further attempts to market the F–104, Lockheed channeled $8,000 to German political parties during the early '70s.

In Turkey, during this same period, a Lockheed affiliate allegedly paid Turkey's air force commander $80,000 in order to ensure the sale of 40 F–104s. An additional $800,000 was expended to buy influence in high places.

During the period spanning 1970 through 1975, Lockheed used $400,000 and the talents of Adman Khashoggi to pay off a high Saudi Arabian government official. Mr. Khashoggi is currently being investigated by government prosecutors with regard to an account he kept in Mr. Charles G. Rebozo's bank in Key Biscayne. Two cash withdrawals from the account, a $100,000 withdrawal in May 1972 and a withdrawal for the same amount in November 1972, could never be fully traced.

It can be argued that the Emergency Loan Guarantee Board stands in relation to the American taxpayer in much the same way that Lockheed's board of directors is responsible to its shareholders, i.e., the respective boards knew or should have known of the aforementioned improprieties. What we have seen instead has been the continuing guarantee of loans extended to a corporation currently undergoing investigation by three agencies, the SEC, IRS and Justice Department, and by eight foreign governments—Mexico, Japan, Italy, the Netherlands, Belgium, Greece, Columbia, and Nigeria. In my view, the performance of the Emergency Loan Guarantee Board should be reviewed and the tacit endorsement which the loan guarantee constitutes should be ended. Toward this end, I have introduced a bill to provide for the termination of any loan guarantee made under the Emergency Loan Guarantee Act.

A meeting of the Emergency Loan Guarantee Board has been tentatively scheduled for September 8, 1976, to review the loan renegotiation agreed upon by Lockheed and a consortium of 24 banks in June of this year. The new agreement entails, in part, the extension of $560 million in loans to the corporation, $160 million worth of which are covered by government guarantee. Before we once again find ourselves confronted with a situation in which the Executive has created a state of affairs regarding which there has been neither Congressional consent nor comment, I would urge that the Committee call before it the members of the Emergency Loan Guarantee Board so that we may be apprised of the assessments made both by the Board and by the lending banks rgarding the possible ramifications of the investigations cited above.

With regard to another aspect of the Lockheed case, I have written to Chairman Burns of the Federal Reserve Board and Mr. James E. Smith, Comptroller of the Currency, requesting agency determinations as to whether the loan renegotiation agreement entered into by the bank consortium and Lockheed constituted an unsafe and unsound banking practice, given the fact that the corporation is currently under investigation for possible criminal activity.

I have asked the Chairman and the Comptroller to undertake hearings to determine whether cease and desist orders should be issued against the banks, as their decision to make loans of this size to a corporation in this situation may constitute a practice which "is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to otherwise seriously prejudice the interest of its depositors . . ." 12 USC 1818(c)(1).

It seems to me that these banks have burdened their depositors with an added risk by extending loans to a corporation whose ability to secure contracts needed to repay these loans may have been substantially diminished due to having its reputation tainted in this fashion.

These are only some of the questions that arise regarding Lockheed's dealings in our own private and public sectors, as well as in those of foreign countries. Enclosed is a memorandum which details numerous Lockheed-related incidents which, in my opinion, should be probed in the course of hearings. Your cooperation in this effort would be appreciated.

Yours sincerely,

MICHAEL J. HARRINGTON.

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 26, 1976.

To: The Honorable Henry Reuss
From: Michael J. Harrington
Re: Lockheed's Activities at Home and Abroad

In addition to the issue of Lockheed's questionable practices in the business sector as cited in the body of my letter, there are a number of other questions that go to the government's seemingly historic special handling of incidents and activities involving Lockheed, a corporation which does approximately 90 percent of its business with the government.

It has been alleged that in the late 1950's, the Washington headquarters of the CIA was fully informed of bribery payments Lockheed was making to Japanese officials in connection with the sale of the F–104 Starfighter. If this was, in fact, the case, why didn't the CIA report such activity to the Justice Department, the SEC or IRS? If it did, why was no action taken by these agencies, given the fact that throughout the period during which bribes were being paid Lockheed may have deducted these expenses in the guise of commissions and agents fees for federal income tax purposes; deductibility is precluded where such payments are illegal under foreign law, as was the case in several instances.

Lockheed's secret agent in Japan was Yoshio Kodama, an influential right-wing militarist. It is alleged that the CIA has maintained a relationship with Mr. Kodama which dated back to 1948, the year Kodama was released from a Japanese prison after serving a three-year term as a war criminal. There is additional speculation that the relationship between the CIA and Kodama may have stemmed from their collaborative efforts in the creation of Japan's Liberal Democratic Party. Between 1970 and 1975, Mr. Kodama received $7 million in cash and bearer checks. A review of the money flows to Kodama reveals a substantial increase in the amount he received in 1972, the year that the Japanese Lower House elections, as well as our own Presidential election, were held. Kodama received $180,000 in 1969, $100,000 in 1970, $400,000 in 1971, and $2,240,000 in 1972.

The U.S. government's handling of the foreign bribery payments investigation is itself suggestive of the special consideration given Lockheed, as the following examples indicate.

In December of last year, Secretary Kissinger invoked foreign policy considerations, no doubt shared by Lockheed's chief attorney, former Secretary of State and Former Attorney General William Rogers, in his "suggestion of interest" to the Federal District Court in the SEC-Lockheed dispute over release of information. Secretary Kissinger recommended that documents relating to bribery payments remain in the custody of the court, to be made available to the SEC on a loan basis. One rationale behind the proposal was that of precluding an eventual disclosure under the Freedom of Information Act.

In March of this year, another government agreement related to Lockheed was announced, namely, the adoption of "Procedures of Assistance in Administration of Justice in Connection with the Lockheed Aircraft Corporation Matter." The agreement, which has been entered into by eight countries—Mexico, Japan, Italy, the Netherlands, Belgium, Greece, Colombia, and Nigeria—restricts the use of information for the exclusive purposes of investigations conducted by agencies with law enforcement responsibilities. Under the agreement, information shall not be disclosed to other government agencies having no law enforcement authority. Thus, investigatory committees of legislative bodies are denied access to information in the possession of the executive.

In addition to making payments to foreign government officials, Lockheed has allegedly claimed bribes and political contributions as legitimate business expenses against U.S. government-subsidized projects. The Defense Contract Audit Agency discovered that during fiscal year 1972, Lockheed had improperly charged the government $36.6 million for contributions, advertisements, sales promotions and entertainment. An additional $2 million was claimed for questionable overhead costs. In DCAA's estimate, the corporation had taken in $83 million in improper profits. Had it not been for the dissent of one member of the Pentagon's Renegotiation Board, Lockheed's illegitimate claims would have been granted summary approval.

Another episode involving Lockheed occurred at the time of the U.S. embargo of arms sales to Turkey. As you may recall, Congress imposed a limited embargo on December 17, 1974 which suspended all military assistance and sales. However, the President exercised his authority to lift the suspension until February 5, 1975. On February 5, eighteen F–104's were transferred from Italy to Turkey, with State Department approval.

This past May, in the midst of these controversies, Secretary Rumsfeld proposed converting a commercial transaction, involving a $250 million sale of P–3 Orion patrol planes to Japan, into a government-to-government sale. The Secretary reportedly indicated to Japanese officials that the United States was prepared to guarantee the financial ability of Lockheed to deliver the planes. In the case of the 1971 loan guarantee, a similar pledge was made to the British government.

As stated in my letter, I think that these matters should be reviewed in light of the Emergency Loan Guarantee Board's apparently unfulfilled oversight responsibility and would appreciate your assistance in this regard.

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 26, 1976.

Mr. WILLIAM SIMON,
Chairman, Emergency Loan Guarantee Board, Department of the Treasury, Washington, D.C.

DEAR MR. SECRETARY: On August 26, 1976, I introduced legislation to provide for the termination of any loan guarantee made pursuant to the 1971 Emergency Loan Guarantee Act.

As you know, the Act authorized the federal government to guarantee $250 million in loans to Lockheed Aircraft Corporation, $160 million worth of which remain outstanding. In light of the past year's disclosures regarding the corporation's long-standing practice of paying substantial bribes to influential persons both in and out of numerous foreign governments, it seems to me that this tacit endorsement by loan guarantee should be ended.

In addition to introducing legislation, I have requested that Chairman Reuss' Committee on Banking, Currency and Housing, review the performance of the Emergency Loan Guarantee Board, especially with regard to the Board's execution of that part of its mandate which calls for an assessment of the soundness of the corporation's managerial base and a management reorganization if such is deemed necessary, before making any guarantee.

Given the significant instances of managerial incompetence which become apparent during the course of House and Senate hearings held in the summer of 1971 on the merits of guaranteeing loans to Lockheed, one would think that this aspect of the Board's responsibilities would have received more careful consideration. However, it was not until after the disclosures that emerged from the Senate Foreign Relations Subcommittee on Multinational Corporations, revealing that high-level personnel authorized bribes, that a fundamental change in the composition of Lockheed's management was effected.

Other revelations issuing from the Subcommittee's investigations give further evidence of what would seem to be negligence on the part of the Board in the performance of its oversight responsibilities. For example, in 1972, the year of the Japanese Lower House elections and our own presidential election, $2,240,000 was paid to Lockheed's secret agent in Japan, Yoshio Kodama. This payment was a substantial increase over what Mr. Kodama had previously received: Kodama was paid $180,000 in 1969, $100,000 in 1970, $400,000 in 1971, and then $2,240,000 in 1972. The Emergency Loan Guarantee Board, however seemingly failed to take note of or inquire further into this inordinate commission fee. If it did, no action appears to have been taken to curb such practices, nor did the Board make public its concern regarding such payments.

With regard to another aspect of the Lockheed case, I have written to Chairman Burns of the Federal Reserve Board and Mr. James E. Smith, Comptroller of the Currency, requesting agency determinations as to whether the loan renegotiation agreement entered into by a consortium of 24 banks and Lockheed Aircraft Corporation in June of this year constituted an unsafe and unsound banking practice, given the fact that Lockheed is currently under investigation by the SEC, IRS, and Justice Department for possible criminal activity.

I have asked the Chairman and the Comptroller to undertake hearings to determine whether cease and desist orders should be issued against the banks involved in the consortium, as their decision to make loans of this size to a corporation in this situation may constitute a practice which "is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to otherwise seriously prejudice the interests of its depositors. . . ." 12 U.S.C. 1818(c)(1).

It seems to me that these banks have burdened their depositors with an added risk by extending loans to a corporation whose ability to secure contracts needed to repay these loans may have been substantially diminished by having its reputation tainted in this fashion.

Although I am aware that federal investigations are ongoing, I am nevertheless puzzled that given the sufficiency of documentation as established in the testimony taken before the Senate Subcommittee on Multinational Corporations, the Board, assigned as it is to oversee Lockheed's activities and to protect the interests of the American taxpayer, has yet to take any substantive action or to make public expression of its position on these matters.

As to the Emergency Loan Guarantee Board's activities in this regard, it is my understanding that the Board is scheduled to meet September 8 to review the loan renegotiation agreement. I also understand that representatives of Lockheed and the bank consortium have been invited to discuss with the Board, in private, the details of the agreement prior to the Board's deliberations. Given the past reluctance of all the parties presently involved to consider Lockheed's bribes abroad—and their implications for ensuring reasonable protection to the United States, as specified in the Emergency Loan Guarantee Act—it appears that the proceedings will not offer a balanced discussion of these critical matters.

Under these circumstances, I hereby request an opportunity to personally appear before the Board during its September 8 meeting. I wish to bring to the Board's attention the matters I have discussed as they relate to the Board's oversight mandate in considering the loan renegotiation agreement. I am prepared to submit a written statement five business days prior to the meeting, in accordance with the Board's rules of procedure. However, I feel that a representative of the Congress which created the Board should be entitled to make a personal presentation on the same basis as the other parties presently involved. As I understand that the Board's rules currently have no provision addressing this point, I trust you will take this opportunity to affirm that the public's representatives have an equal right to be heard on a decision affecting a potential commitment of taxpayer's funds.

Yours sincerely,

MICHAEL J. HARRINGTON.

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 26, 1976.

Mr. ARTHUR F. BURNS,
Chairman, Board of Governors of the Federal Reserve System, Federal Reserve Building, Washington, D.C.

DEAR CHAIRMAN BURNS: In June of this year, a consortium of 24 banks entered into a financial restructuring agreement with Lockheed Aircraft Corporation which involved the extension of $560 million in loans to the corporation, $160 million worth of which are covered by government guarantee.

In the course of hearings held by the Senate Foreign Relations Subcommittee on Multinational Corporations in February of this year, it became a matter of public record that officials of Lockheed either authorized or engaged in the payment of bribes to officials both in and out of numerous foreign governments. Since there was some question as to whether these payments were taken as illegal deductions on Lockheed's Income Tax returns and were not adequately accounted for in reports filed with the Securities and Exchange Commission, investigations were undertaken by the IRS, SEC and Justice Department.

I would appreciate your providing me with a determination as to whether granting loans of this size to a corporation under investigation by three agencies for possible criminal activity constitutes an unsafe or unsound banking practice, or whether any Federal Reserve System law, rule, regulation, or other condition may have been violated by any of the 24 banks involved in the consortium, all of which are members of the Federal Reserve System, in making these loans. (Attached is a list of the banks participating in the 1971 Credit Agreement.)

As I understand it, the Federal Reserve Board may order a bank to cease and desist from any practice which "is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to otherwise seriously prejudice the interests of its depositors . . ." (12 USC 1818 (c)(1)).

It seems to me that these banks have burdened their depositors with an added risk by extending loans to a corporation whose ability to secure contracts needed to repay these loans may have been substantially diminished due to having its reputation tainted in this fashion. I would urge that the Federal Reserve Board hold hearings to determine whether an order to cease and desist should issue against the 24 banks.

Yours sincerely,

MICHAEL J. HARRINGTON.

INTRODUCES BILL TO AUTHORIZE CORPS OF ENGINEERS TO CONSTRUCT FLOOD CONTROL FACILITIES ON CHEHALIS RIVER AT ABERDEEN AND COSMOPOLIS, WASH.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. BONKER) is recognized for 5 minutes.

Mr. BONKER. Mr. Speaker, I am today introducing a bill which would authorize the Corps of Engineers to construct certain flood control facilities on the Chehalis River at Aberdeen and Cosmopolis, Wash., as recommended by the corps' board on rivers and harbors in its report of June 15, 1976.

I understand that the corps will be testifying on the project, among others, on August 26 before the Water Resources Subcommittee of the Public Works Committee. It is my strong hope that the subcommittee will favorably consider this project and authorize it.

I insert in the RECORD at this point the report of the board on rivers and harbors of June 15.

DEPARTMENT OF THE ARMY,
Fort Belvoir, Va., June 15, 1976.

Subject: **Feasibility Report on Chehalis River at South Aberdeen and Cosmopolis, Washington.**

Chief of Engineers,
Department of the Army,
Washington, D.C.

1. *Authority.*—This report is in partial response to the following resolution adopted 19 April 1946:

Resolved by the Committee on Flood Control, House of Representatives, That the Board of Engineers for Rivers and Harbors, created under Section 3 of the Rivers and Harbor Act approved June 13, 1902, be and is hereby requested to review the report on the Chehalis River and tributaries, Washington, submitted in House Document numbered 494, Seventy-eighth Congress, second session, with a view to determining whether any modification of the recommendations contained therein should be made at this time.

2. *Description.*—The Chehalis River drainage basin in western Washington covers 2,114 square miles. The Chehalis River, about 125 miles in length, rises in the Willapa Hills southeast of Aberdeen and flows northeast, then northwest, emptying into Grays Harbor at Aberdeen. The basin uplands include the Willapa Hills, the western flank of the Cascade Mountains, and the southern part of the Olympic Mountains. Grays Harbor is approximately 15 miles long and 6 miles wide, and provides ocean vessel access to the Aberdeen-Hoquiam-Cosmopolis area. The area considered is the flood plain along the left bank of the Chehalis River from Devonshire Slough upstream to the main business district of Cosmopolis. It consists of about 1,560 acres and includes that part of the city of Aberdeen referred to as south Aberdeen, the town of Cosmopolis, and unincorporated areas in Grays Harbor County. The terrain is generally flat, but in the southern part rises gently and then sharply near the south city boundaries. The five sloughs which drain the area have elevations ranging from mean sea level to 525 feet above mean sea level. Mill Creek is the primary drainage channel. It emerges from a relatively steep, narrow canyon at Cosmopolis and passes through the flat residential area in a series of open channel sections connected by culverts.

3. *Economic development.*—The economic area tributary to south Aberdeen and Cosmopolis is Grays Harbor County, which covers about 1,900 square miles, or about half of the Chehalis River basin. Approximately 90 percent of the land is commercial forest, 6 percent is used for agriculture and grazing, 2 percent is urbanized, and the remaining 2 percent is covered by marshes, lakes, and noncommercial forest. Of the 2,260 acres in south Aberdeen and Cosmopolis, 65 percent is in public ownership or zoned residential, 10 percent is zoned for commercial uses, and 25 percent is zoned for industrial uses. The processing of wood products is the primary industrial activity in Grays Harbor County. Approximately 64 percent of the 1970 populaton of 59,533 is located in incorporated areas, with the remainder concentrated in rural areas adjacent to the Chehalis River and its tributaries. The contiguous cities of Aberdeen-Hoquian-Cosmopolis have a total population of about 30,600 with the flood plain under study having about 3,500. Between 1940 and 1970, the population of Grays Harbor County increased at an average annual rate of 0.4 percent. In contrast, during the last 7 years the flood plain has experienced a more rapid population growth with an average annual rate of 1.5 percent. The economic base of Grays Harbor County will continue to be related to developing forest resources with an increasing share directed toward log export, pulp, paper, plywood, prefabricated homes, and decorative wood products manufacturing. Trade and service industries are expected to grow due to expansion of sport fishing, tourism, and other recreational activities near Grays Harbor.

4. *Existing or authorized improvements.*—Local interests have provided flood protection improvements in south Aberdeen, and the Corps of Engineers has constructed a navigation channel between Grays Harbor and Cosmopolis. Wynoochee Dam, a multipurpose storage project on the Wynoochee River, a tributary of the Chehalis River, was completed by the Corps in 1972. This dam has no appreciable effect on Chehalis River stages at south Aberdeen and Cosmopolis.

5. *Problems and needs.*—The flood plain encompasses about 1,560 acres on the Chehalis River left bank at Aberdeen and Cosmopolis, Washington. Floods in south Aberdeen and Cosmopolis result from combinations of high Chehalis River discharges and high tides, aggravated by severe storms with low barometric pressure, strong onshore winds, and heavy precipitation in the Chehalis basin. Flooding of low interior areas occurs when high water in the Chehalis River backs up into Mill Creek. Consequently, the existing non-Federal levees are overtopped and portions fail. The highest recorded stages at Aberdeen occurred in 1912, 1913, 1923, 1933, and 1934. A recurrence of the flood of record, December 1933, at 1973 conditions and prices, would cause an estimated $4,431,000 in damages. Eighty-four percent of the damages would be residential, 5 percent would be commercial or industrial, and the

remaining 11 percent would include damages to public utilities, roads, bridges, and agriculture.

6. *Improvements desired.*—At public meetings and workshops in Aberdeen, participants discussed nonstructural alternatives, including flood plain management and floodproofing, as well as structural alternatives such as various levee alignments. Evaluation of environmental effects and engineering and economc data led to a general conclusion that some form of levee protection should be provided.

7. *Plan of improvement.*—The District Engineer finds that the most practical plan for flood protection would consist of 4.2 miles of embankment, 0.4-mile of floodwall, and 5 pumping plants at locations where the levee crosses existing natural drainage channels. The improvements would protect 1,288 acres of property in south Aberdeen and Cosmopolis from flood damages.

8. *Economic evaluation.*—The District Engineer estimates the initial first cost of the proposed improvement, based on 1973 price levels, to be $7,525,000, of which $7,160,000 would be Federal and $365,000 would be non-Federal. He estimates future Federal first costs to be $800,000. Annual charges, based on a 100-year period for economic analysis and an interest rate of 5⅞ percent, are estimated at $485,000, including $30,000 for operation and maintenance. Of this amount, $433,500 would be Federal and $51,500 would be non-Federal, including $30,000 for operation and maintenance. Present worth of the future Federal investment for pumping facilities is $192,000, while the associated non-Federal annual operation and maintenance costs are estimated at $1,000. Total project benefits, incorporating elimination of future damages to existing developments and elimination of future floodproofing costs, would be $922,000, resulting in a benefit-cost ratio of 1.9. Use of the 6⅛ percent interest rate would result in annual charges of $503,000, with annual benefits of $923,000, and benefit-cost ratio of 1.8.

9. *Recommendations of the reporting officers.*—The District Engineer recommends authorization of improvements for flood control at south Aberdeen and Cosmopolis, Washington, generally in accordance with plans described in his report and subject to certain items of local cooperation. The Division Engineer concurs.

10. *Public notice.*—The Division Engineer issued a public notice stating the recommendations of the reporting officers and affording interested parties an opportunity to present additional information to the Board. No communications have been received.

VIEWS AND RECOMMENDATIONS OF THE BOARD OF ENGINEERS FOR RIVERS AND HARBORS

11. *Views.*—The Board of Engineers for Rivers and Harbors concurs in general in the views and recommendations of the reporting officers. However, the reporting officers recommend that the Federal Government assume responsibility for installation of interior drainage facilities, and they note that these facilities may not be required until 25 years after initial project operation. The results of investigations by the Board show there is a lack of basic hydrologic data of the interior drainage watersheds for reasonable identification of the need for these future facilities. The Board notes that project operating experience and actual growth rates of future development are also factors that will influence the need for these future facilities. If additional control over future increases in interior drainage runoff is warranted, it should be the responsibility of local interests to meet these future needs through implementation of structural or nonstructural measures.

12. The Board agrees that protection against a 200-year flood event represents the economically optimum plan of development. However, the flood plain is a highly urbanized area characterized by residential, commercial, industrial developments, and public facilities. Major flood events greater than the 200-year frequency, such as the standard project flood, may cause serious flooding in the project area. Overtopping of the proposed levees and floodwalls could result in loss of human life and extensive property damage due to high velocities of the floodwaters and lack of sufficient time to notify occupants located in the flood plain. As a result of these investigations by the Board, protection against the standard project flood is considered appropriate. The levee and floodwall alignment would remain essentially unchanged from the plan presented in the District Engineer's report. However, these structures would be approximately 0.8 and 1.4 feet higher at the downstream and upstream ends, respectively. Construction costs for protection against the standard project flood are estimated at $11,062,000. Based on January 1976 price levels, an interest rate of 6⅛ percent, and a 100-year period for economic analysis, annual benefits and costs are estimated at $1,218,000 and $713,000, respectively, resulting in a benefit-cost ratio of 1.7. Non-Federal costs associated with this degree of protection are presently estimated at $533,000 for lands, easements, and rights-of-way, and $34,000 annually for operation and maintenance of the project works.

13. The effects on regional development and social well-being were evaluated, and the Board believes that construction of levees and floodwalls would provide a significant contribution to the regional economy and result in an improvement of social well-being. The Board has also carefully considered the environmental effects, including those discussed in the Revised Draft Environmental Impact Statement dated April 1975, and notes that the improvements are expected to have little adverse environmental effect.

14. *Recommendations.*—Accordingly, the Board recommends that improvements for flood control be authorized for construction on the Chehalis River at south Aberdeen and Cosmopolis, Washington, generally in accordance with the plan of the District Engineer, and with such modifications thereof as in the discretion of the Chief of Engineers may be advisable, but modified to: (a) provide protection against the standard project flood, and (b) require local interests to assume responsibility for controlling future increases in interior drainage runoff. The first cost to the United States for these improvements is presently estimated at $10,529,000 for construction. These recommendations are made with the provision that, prior to commencement of construction, non-Federal interests agree to:

a. Provide without cost to the United States all lands, easements, and rights-of-way, including borrow areas and disposal areas for excavated material determined suitable by the Chief of Engineers and necessary for the construction of the project;

b. Accomplish without cost to the United States all alterations and relocations of buildings, transportation facilities, storm drains, utilities, and other structures and improvements made necessary by the construction;

c. Hold and save the United States free from damages due to construction works, not including damages due to the fault or negligence of the United States or its contractors;

d. Maintain and operate all the works after completion in accordance with regulations prescribed by the Secretary of the Army;

e. Prescribe and enforce regulations to prevent obstruction or encroachment upon the project levees, floodwalls, channels, or ponding areas, that would be detrimental to the flood control purposes of the project and, if ponding areas or interior drainage channel capacities become impaired, or exceeded, promptly implement structural or nonstructural measures for control to restore the capability of the Federal project, without cost to the United States; and

f. Prevent encroachment on the rights-of-way of the works that would interfere with project operation and maintenance.

J. W. Morris,
Major General, USA, Chairman.

SUBCOMMITTEE ON MANPOWER, COMPENSATION, AND HEALTH AND SAFETY TO HOLD FIELD HEARINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Dominick V. Daniels) is recognized for 5 minutes.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I wish to bring to the attention of my colleagues a press release issued by the Subcommittee on Manpower, Compensation, and Health and Safety, which I chair. This release describes a schedule for oversight hearings on the Comprehensive Employment and Training Act of 1973, and details the dates of the hearings, the cities where field hearings will be held, and the specific issues which the subcommittee will explore.

We have scheduled several days of hearings in Washington, and I know that many of my colleagues may wish to present testimony to the subcommittee or offer written statements for inclusion in our hearing record.

The subcommittee welcomes any contribution our colleagues wish to make, and I would request that interested colleagues contact the subcommittee staff at 225–6876.

The release follows:

Daniels' Subcommittee Announces Hearings

Washington, D.C.—Representative Dominick V. Daniels, (D–NJ, 14th) today announced that the Subcommittee on Manpower, Compensation, and Health and Safety will conduct a series of field hearings on the Comprehensive Employment and Training Act of 1973 (CETA). These hearings will take the Subcommittee into seven cities between now and the end of the year. An additional five days of hearings have been scheduled in Washington.

CETA is a complex law which embodies our national policies for dealing with the problems of training and employment. The legislation provides funds to state and local governments for the operation of comprehensive manpower programs, provides funding for the operation of public service employment programs in areas of substantial unemployment, and authorizes the Secretary of Labor to operate manpower programs for special target groups. It also places the responsibility for operating the Job Corps within the Department of Labor. The last major provision of CETA, Title VI, provides for a nationwide public service employment program. Title VI was passed in 1974 in response to the nation's alarmingly high unemployment rate.

Congressman Daniels noted that the authorization for CETA expires May 15, 1977 and said his hearings will lay the groundwork for possible revisions of CETA during the next Congress.

He said he expects to take testimony from government officials in Washington and in the regional offices, other Members of Congress, national organizations involved in CETA, the prime sponsors who operate CETA programs, and other interested groups at the state and local level.

Mr. Daniels announced the following hearing schedule:

August 26, 1976, Washington, D.C.
September 16, 1976, Washington, D.C.
September 17–18, 1976, Los Angeles, California.
September 21, 1976, Washington, D.C.
September 23, 1976, Washington, D.C.
September 29, 1976, Washington, D.C.
October 7, 1976, Boston, Massachusetts.
November 8, 1976, Chicago, Illinois.
November 9, 1976, Minneapolis, Minnesota.
November 18–19, 1976, Portland, Oregon.
December 2, 1976, Denver, Colorado.
December 3–4, 1976, Phoenix, Arizona.

He said the Subcommittee will concentrate on a number of specific issues:

I. THE FEDERAL SUPERVISORY ROLE

CETA contemplated a decentralization of decision-making authority on program details, design and mix of services, with Federal review and supervision to ensure that the basic policies of the Act were carried out.

Has Federal review of prime sponsor plans and performance been effective in enhancing the achievement of CETA purposes? Has the Labor Department (and particularly the Regional Offices) interjected itself into program details? Has it developed review procedures that assess the adequacy of plans and performance against the statutory objectives. Has the Department been excessively concerned with management details rather than the value of the manpower program itself?

II. ADMINISTRATIVE EFFICIENCY

CETA has been described as a reaction to a multiplicity of categorical programs administered through about 10,000 individual contracts. Has the multiplicity of categorical programs disappeared from the national scene only to reappear at the local level? How many separate programs are prime sponsors operating? How many separate contracts? Is there better coordination of programs at the local level than there was when training programs were Federally operated? Is there less duplication of programs and services?

III. CATEGORICAL FUNDING

CETA was premised on the desirability of leaving decisions on program mix and clientele selection (with broad guidelines) to local decision-makers. With the assent of prime sponsor groups, Congress has reestablished categorical programs (Title VI) and categorical funding (summer youth and older workers programs). Is there a continued need for national decision-making on clientele and programs or can the decision on clientele to be served be left to local decision-makers?

IV. PROGRAM EFFECTIVENESS

CETA basically did not change the substance of the manpower programs but only their administration. The premise was that decentralized administration would make for "better" programs.

How do CETA programs compare to their predecessors? Are clients getting better jobs? More jobs? Is there more or less slippage between training and employment?

V. PERSONS SERVED

CETA provides that manpower services will be provided to those most in need of them. Who has received services under CETA? How do they compare with the recipients under earlier programs? Are the changes consistent with the statutory language?

VI. RELATION TO OTHER PROGRAMS

CETA is only one of a series of programs providing manpower services in a community. Has the new administrative structure made it easier or more difficult to coordinate manpower programs with related programs, especially the U.S. Employment Service, Vocational Education programs and the WIN program? Is the relation between the local prime sponsor and the state a satisfactory one?

VII. PUBLIC SERVICE EMPLOYMENT

Has the distinction between Title II and Title VI been maintained? Has there been a difference in the two titles in movement into unsubsidized employment? Does it make sense to have two separate public service employment and work experience programs?

What problems have there been with maintenance of effort and substitution of federal for state and local funds?

Daniels requested that all interested persons and organizations wishing to testify designate one spokesman to represent them where they have a common interest. Any interested individual or organization may file a written statement for consideration by the Subcommittee and for inclusion in the printed record of the hearing instead of appearing in person.

LAKESHORE PROTECTION EFFORTS NEED A BOOST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LaFalce) is recognized for 5 minutes.

Mr. LaFALCE. Mr. Speaker, for the fourth straight year, the shoreline residents of Lake Ontario and the other Great Lakes have been faced with destructively high water levels. In tandem with strong northerly winds, the high water levels have resulted in extensive erosion of the Lake Ontario shoreline. Some of my constituents have informed me that they have lost considerable shoreline footage through the erosion process. I myself have made a number of trips to personally inspect the damages and I can verify the reports 100 percent.

Land that is lost in this way is lost not only for the present owners of the property, but for all posterity. I am tremendously concerned about the land and personal property that has been lost over the past few years, and I am doing everything I can to insure that extensive erosion does not hit us again for the next 4 years. I have introduced two pieces of legislation that attempt to deal directly with this problem which I would like to address today.

The first bill that I introduced, H.R. 14389, represents an attempt to map out a strategy to protect the Lake Ontario shoreline from the kind of erosion it has sustained for the last 4 years. The bill directs the U.S. Army Corps of Engineers to develop a plan for shoreline protection and control along Lake Ontario, and I would at this juncture like to make a copy of H.R. 14389 available for the Record:

H.R. 14389

A bill to protect the shoreline of Lake Ontario

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Lake Ontario Protection Act of 1976".

Sec. 2. The Secretary of the Army, acting through the Chief of Engineers, is directed to develop a plan for shoreline protection and beach erosion control along Lake Ontario, and report on such plan to the Congress as soon as practicable. Such report shall include recommendations on measures of protection and proposals for equitable cost sharing, together with recommendations for regulating the level of Lake Ontario to assure maximum protection of the natural environment and to hold shoreline damage to a minimum.

Sec. 3. Until the Congress receives and acts upon the report required under section 2 of this Act, all Federal agencies holding responsibilities affecting the level of Lake Ontario shall, consistent with existing authority, make every effort to discharge such responsibilities in a manner so as to minimize damage and erosion to the shoreline of Lake Ontario.

Sec. 4. There is authorized to be appropriated to carry out this Act such sums as may be necessary.

I introduced my second bill today, and it is a two-pronged effort to encourage shoreline residents to construct breakwalls and other protective edifices to guard against erosion; at the same time, it would extend favorable tax treatment to those individuals who build such structures to protect their property. It is my hope that the favorable tax treatment accorded individuals under my bill will encourage them to undertake the protective efforts they need, and that the combined efforts of numerous shoreline residents will add up to an extensive and long-lasting network of protection along those parts of the shore most susceptible to serious erosion.

As both incentive and legitimate compensation, favorable tax treatment should be accorded the protective efforts undertaken by shoreline residents. The costs of constructing protective walls and other devices that will serve their purpose long into the future can be prohibitive for the average citizen. H.R. 15299 would permit a deduction of 50 percent of the costs of qualified erosion prevention expenditures.

To insure that the favorable tax treatment would only be used for protective devices that would last long into the future, the bill permits a deduction only for those edifices which have a minimum useful life of 20 years or more. To insure that the revenue loss is no larger than absolutely necessary, the Corps of Engineers is designated to select only those portions of the shoreline along the Great Lakes that are most susceptible to erosion damage, such as the area on the southern shore of Lake Ontario in western New York State. There are a number of other sound provisions in the bill which work to insure that the legislation will have its intended effect of encouraging long-term protection against the hazards of erosion, and I insert a copy of H.R. 15299 for the Record at this time:

H.R. 15299

A bill to amend the Internal Revenue Code of 1954 to allow a deduction for property improvements designed to prevent shoreline erosion caused by high water levels in the Great Lakes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"Sec. 189. Qualified Erosion Prevention Expenditures.

"(a) In General.—A taxpayer may elect, at such time and in such manner as the Secretary or his delegate may prescribe, to treat 50 percent of the qualified erosion prevention expenditures which are paid or incurred by him during the taxable year as expenditures which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

"(b) Qualified Erosion Prevention Expenditures.—

"(1) In general.—For purposes of this section, the term 'qualified erosion prevention expenditures' means expenditures made for improvements—

"(A) of real property within the United States which—

"(1) borders the Great Lakes, or

"(ii) is within any area designated by the Chief of Engineers of the United States Army as being susceptible to erosion caused by high water levels in any of such lakes or any of their tributaries or connecting waters,

"(B) designed to prevent or reduce shoreline erosion of such property,

"(C) which are of a type designated by such Chief of Engineers under subsection (c) and which meet the specifications established by him under such subsection,

"(*D*) which are placed in service after the date of the enactment of this section and before December 31, 1981,

"(E) which have a useful life of 20 years or more, and

"(F) with respect to which no subsidy, loan, loan guarantee, or other financial assistance is or has been provided under any other Federal, State, or local law.

"(2) Certain Expenditures in Excess of Prescribed Maximum.—

"(*A*) Exclusion.—The term 'qualified erosion prevention expenditures' does not include expenditures for any improvement to the extent such expenditures for such improvement exceed the maximum authorized cost for such improvement prescribed under subsection (c) (3).

"(B) Joint ownership, etc.—In the case of any improvement expenditures for which are paid or incurred during any calendar year by two or more individuals—

"(i) the amount excluded under subparagraph (A) with respect to any of such individuals with regard to such improvement shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(ii) the exclusion under subparagraph (A) with respect to each of such individuals for the taxable year in which such calendar year ends shall be an amount which bears the same ratio to the amount determined under clause (i) as the amount paid by such individual during such calendar year for such expenditures bears to the aggregate of the amounts paid by all of such individuals during such calendar year for such expenditures.

"(c) Specifications, Etc., To Be Prescribed by Army Corps of Engineers.—Not later than 180 days after the date of the enactment of this section, the Chief of Engineers of the United States Army shall, by regulation—

"(1) designate the type of improvements expenditures for which qualify for the deduction provided by this section,

"(2) prescribe specifications for each such type of improvement, and

"(3) establish the maximum cost which he considers reasonable for each such type of improvement.

"(d) Reduction of Basis.—The basis of any property shall not be increased by the amount of any qualified erosion prevention expenditures made with respect to such property to the extent of the amount of any deduction allowed under this section with respect to such expenditures."

I urge all of my colleagues to review the problems that each of the Great Lakes has been experiencing in the past few years, and I urge my colleagues to join me in an effort to enact meaningful legislation that addresses the problems of extensive shoreline erosion throughout the Great Lakes region.

ADDITIONAL JUDGES NEEDED IN SOUTH FLORIDA

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, the right to a prompt and fair trial is granted to each American under our constitutional system of law. This is the bedrock underlying our entire democratic process, which emphasizes the rule of law and equal rights for every citizen.

Unfortunately, this right is endangered in the south Florida area which I am privileged to represent in Congress. The judicial system responsible for implementing the right to trial is burdened by a crushing load of cases that has all but halted the consideration of new matters.

This means that in the southern district of Florida, an American citizen who is aggrieved and seeks court action to redress his injury may be unable to obtain the remedy that our law promises is available.

In short, there may be a breakdown in the system of justice.

What is needed is additional Federal judges in the southern district of Florida to help handle the growing caseload. The few existing judges have been working tirelessly to process the heavy volume of cases, but it is a hopeless task unless more judges are provided.

The Subcommittee on Monopolies and Commercial Law of the House Committee on the Judiciary has been considering H.R. 4421, an omnibus judgeship bill that in its present form provides two more judges for the southern district. A comparable measure passed by the Senate includes one additional judgeship for the district.

Conservative studies of the need show that at least 5 additional judges are needed, along with trial and appellate judgeships. The middle district of Florida also has an urgent need for more judges, and two are provided in H.R. 4421.

In my testimony today to the subcommittee on this legislation, I pointed out that the southern district of Florida is the most heavily burdened urban district in the country, and the situation is worsening at an alarming rate.

It seems to me that Congress should act as promptly as possible to provide the additional judgepower needed in south Florida. We can do no less if we want to assure the continued availability to the citizens of this area the full rights and liberties accorded under our Constitution and legal system.

I include the following:

Testimony by Hon. Dante B. Fascell Before the Subcommittee on Monopolies and Commercial Law of the House Committee on the Judiciary, on Behalf of Legislation To Provide Additional Federal Judgeships for the Southern District of Florida, August 26, 1976

Mr. Chairman and members of the Subcommittee, I appreciate this opportunity to state my views on the omnibus judgeship bill, H.R. 4421.

For most of the requests you may hear for additional judgeships, the need is pressing.

For the Southern District of Florida, however, the need is an acute emergency.

The serious situation in this district goes to the very heart of our system of law. If we are not able to provide a fair trial in a reasonable period of time, the process of justice falls apart.

The Southern District of Florida is faced with the prospect of being completely overwhelmed by an escalating caseload that simply cannot be handled by the small number of judges available. The legal system is in danger of breaking down under the crushing burden of too many cases.

In the first half of fiscal year 1976, the Southern District had 2,336 civil cases and only 7 judges to handle them. By contrast, the Northern District of Illinois (Chicago) had 2,212 cases and 13 judges to handle them. The Eastern District of Pennsylvania (Philadelphia) had 1,883 cases and 19 judges.

The alarming fact is that the Southern District of Florida is the most heavily burdened metropolitan court in the country, and the situation is getting worse. The caseload increased by 91.8 percent in the first half of fiscal year 1976, as compared with the similar period in fiscal year 1975.

Florida is the most rapidly growing State in the nation in population, and that part of the State which makes up the Southern District is growing at a faster rate than the remainder of the State. Unless help is provided at an early date, our judges will be unable to cope with the load and it will become impossible to obtain a trial in a reasonable period of time.

Although civil cases increased by almost 92 percent and criminal case filings increased by 21 percent in the first six months of fiscal year 1976, the Southern District has prepared a *conservative* projection of minimum judgeship needs based on an increase of only 14 percent per year. This shows that the minimal need during the period 1976–1980 will be 12 additional judgeships, 5 of which are urgently needed at the present time.

This does not include any of the difficult and time consuming condemnation cases which will arise from the pending purchase of 570,00 acres of land in connection with the Big Cypress National Preserve project. This is the most massive eminent domain program ever instituted anywhere in the United States, and as many as 40,000 condemnation cases are expected to flood the Southern District court beginning almost immediately and continuing for the next six years.

Experience with the recent Biscayne National Monument project and Everglades National Park condemnations shows that these cases are both time consuming and tedious. Presently, some 70 cases from these two projects are on appeal from the Southern District court. This massive addition to the already formidable workload will probably be beyond the capacity of the court to deal with unless even additional judges, whether temporary or permanent, are assigned.

Already, hearings and trials in civil cases are being substantially delayed. Unless more judges are provided, it could become necessary to impose a virtual moratorium on new civil cases. If that should occur, it would not be possible for aggrieved persons to secure justice in Miami and South Florida. There would be no system of justice.

In view of the urgency of this matter, I respectfully urge that at least 5 judges be provided in the pending legislation, for the Southern District of Florida. Even this number would not solve the problem beyond the next two years or so. It would only give breathing time while we try to plan for meeting the growing judicial needs through 1980.

Thank you for your consideration of this request.

TRIBUTE FOR HON. WILLIS SARGENT

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, there are many occasions on which this great House has been asked to pause in posthumous reflection and tribute for men and women of distinction and significant merit for their contributions to our commonweal. No such observance is more poignant than when the remembrance is for one who embodied so much that is good in the human spirit and humble in its outward expression. I ask you to pause with me today in such a moment for such a man.

Onondaga County in upstate New York has been the fortunate beneficiary of the talent and dedication of one of the most respected and widely admired men to make themselves available for public service. I refer to County Legislator Willis Sargent who died this past Sunday.

The life of Willis Sargent spans almost fourscore years of our history and growth as a nation. Born in the 19th century, he became one of the apostles of the 20th century. Never forgetful of his roots in central New York, he ventured forth to the golden West to begin a new career at age 50, and then returned for a third fulfilling "new" life.

Indomitable, Willis lived life to the fullest measure, always with tact and discretion, compassion and appreciation for the frailty of human nature. To all who had occasion to meet him and experience his unique brand of seriousness and good humor there will be a lasting recollection of his even disposition and fair manner. Perhaps it was the experience of life which only comes with the life well lived that gave to Willis' temperament the fine patina of equanimity which was his hallmark.

Somehow, though, I have to believe that even as a young man growing up in those years around the turn of the century he displayed the inherent fairness and bull-dog determination which made his success in law and in public service a logical expectation.

So outstanding were these qualities of perseverance and fairness when wedded to talent and insight that the rare distinction of election to the State assemblies of two States—New York and California—was not astonishing to anyone who knew Willis Sargent.

It was my pleasure to know him, Mr. Speaker, and to point him out as a man worthy of emulation. Not that agreement was always the companion of our encounters, for just as he was tolerant of dissent so he was vigorous in his opinion and his defense of what he felt to be the truth.

Certainly, there are many in our community has had occasion to know Willis on a professional level, on a political level, and on a social level. And then there are those who worked with him as he spent the capital of his spirit and brilliance in the philanthropy of service to many agencies and groups which were concerned for the lives and futures of thousands of central New Yorkers.

The press accounts and television treatments of public men and women can only touch the surface of their real identities and often gives a flat and unidimensional aspect to their lives. Willis Sargent was able to get beyond that limitation of media by his personal dynamism and force of personality to show a man of substance and concern—a man who dignified the life of the politically active citizen and increased the repute for public service among all segments of our county.

Mr. Speaker, I join those leaders of central New York who unite in common voice and lament for the passing of Willis Sargent. We will miss him, but we will not forget him.

So too, I ask this House to join in expressing its sympathy to the family which survives Willis Sargent, his wife, Ann; two sons, Willis, Jr. and Richard H.; two daughters, Mrs. Sandra Holcomb and Mrs. Nancy Hunterton; two brothers, Paul and Frank Sargent; a stepsister, Mrs. Katherine Ackerman; and nine grandchildren.

I include at this point extracts from the news accounts of Mr. Sargent's passing:

Tribute for Hon. Willis Sargent

Willis Sargent, 79, one of Onondaga County's most respected public servants, died yesterday of a heart attack.

Mr. Sargent, chairman of the County Legislature and a former member of the New York and California state assemblies, was stricken while visiting his summer home at Wellesley Island in the Thousand Islands.

Onondage County Executive, John Mulroy, contacted yesterday, called Mr. Sargent's death "a terrible loss" to the county.

Mulroy, who ordered county flags flown at half-staff in tribute to Mr. Sargent, said, "his passing leaves a void in the community that will be difficult to fill because his talents were many and varied.

"I consider it an honor to have known Willis personaly and to have availed myself of his wisdom, expertise and counsel in a variety of matters," Mulroy said. "I know I speak for those who knew him personally and the thousands who knew him by reputation in saying thanks, from a grateful community, for a job well done."

"MAN OF FAIR PLAY"

Michael J. Bragman, Democratic Floor Leader in the Legislature, called Mr. Sargent "a good and trusted friend."

"The citizens of this county have lost a uniquely dedicated representative, who always, and with no hesitancy, carried out his responsibilities in the public interest," said Bragman. "He was a man of fair play, imagination and vision. We will all miss him."

County Republican Party Chairman Richard J. Hanlon called Mr. Sergant "a unique man and a legislator of extraordinary ability."

He said Mr. Sargent "excelled as a conciliator, who worked hard at making friends of those with differing views."

"His keen mind and steady hand will be missed," said Hanlon.

Mayor Lee Alexander said "The loss of Willis Sargent is a deep personal wound to all of us who knew him. It is also a severe jolt to county government because Mr. Sargent was a great balancing element in the legislative dialogue.

"He was experienced, perceptive and compassionate. He was one of our finest public officials, an inspiring figure who will be remembered with affection and admiration."

"He was one of the oustanding men in the county," said William F. Fitzpatrick, Sr., a Syracuse attorney whose acquaintance with Mr. Sargent began as a law student in the 1920's.

TAUGHT LAW

Fitzpatrick was a pupil in an evidence course taught by Mr. Sargent at the Syracuse University College of Law.

"We were on opposing sides in a lot of lawsuits over the years, but he was always a fair, decent man, and an aggressive lawyer who had his client's best interests always in mind," said Fitzpatrick.

Born in Syracuse on Oct. 11, 1896, Mr. Sargent became a success in the practice of law in the military, and in political roles at the municipal, county, state and federal level.

A graduate of Yale University and the Harvard University Law School, Mr. Sargent was admitted to the New York State Bar Association in 1923.

He was elected to the State Assembly in 1925, and remained for eight years before winning a term as president of the Syracuse Common Council.

While in the State Legislature, Mr. Sargent was considered something of a political maverick—a reputation he was proud of and often referred to even in his later years.

UNSUCCESSFUL ATTEMPT

Although a Republican, he voted with Assembly Democrats in an unsuccessful attempt to amend the state's Prohibition Enforcement Act, and publicly counseled other Republicans to avoid the mistake of criticizing every suspect of Roosevelt's New Deal program.

After one term as Common Council president, Mr. Sargent moved to California, and pulled off a rare trick by becoming a member of that state's Assembly in 1948, one of a few Americans to hold State Legislature posts in two states.

Mr. Sargent had fought in World War I as a first lieutenant in a field artillery unit, but he enlisted in the Navy in 1943, and served with distinction as a captain who helped write the surrender terms for the Nazis and also aided in negotiations with the Russians and the British.

He also acted as an advisor to Ambassador John G. Winant in London, and as diplomatic deputy to Adm. Harold R. Stark.

His naval role won him the Legion of Merit.

HOOVER COMMISSION

After the war, Mr. Sargent was chairman of the speakers' bureau for the first Hoover Commission in Southern California, and chairman of the Upstate New York Committee to Enact the Second Hoover Commission Reforms in Federal Government.

During the 1950's he spent much of his time lecturing college law classes and representing business and industry in labor negotiations and court cases.

Moving back to the Syracuse area in the early fifties, he was active in civic affairs but did not re-enter the political arena until 1968, when he was elected to the County Legislature.

He was picked as majority leader in 1972, and became chairman this year.

Mr. Sargent, a devout Presbyterian, was president of the Syracuse Area Council of Churches for two terms during the sixties.

Throughout his adult life, he was an avid golfer and sports fan.

He remained vigorous until his illness earlier this year, and amazed his friends three years ago when, at the age of 76, he injured his achilles tendon playing softball at a Legislature clambake.

SPEARHEADED LEGISLATION

During his County Legislature career, Mr. Sargent spearheaded many important pieces of legislation. He was instrumental in opening up Legislature committee meetings to the public, headed a reapportionment commission, and fought in vain for giving county school districts a share of the local sales tax revenues.

He three times headed the Legislature's special Budget Review Committee, and headed a special committee that pared millions of dollars from the cost of construction of the new Onondaga Community College campus.

Mr. Sargent is survived by his wife, Ann; two sons, Willis Jr. and Richard H. (a partner in his father's law firm); two daughters, Mrs. Sandra Holcombe (wife of Dist. Atty. Jon K. Holcombe) and Mrs. Nancy Humberton of Detroit, Mich.; two brothers, Paul of Boston and Frank Sargent of Pottstown, Pa.; a stepsister, Mrs. Katherine Ackerman of Devon, Pa.; and nine grandchildren.

Services will be at noon Wednesday at First Presbyterian Church, 620 W. Genesee St., the Rev. Robert B. Lee and the Rev. Gordon V. Webster officiating.

A private family service will precede the church service, according to Fairchild and Meech Funeral Home, which has charge of arrangements.

Mr. Sargent will be buried in Oakwood-Morningside Cemetery.

There will be no calling hours. Contributions in Mr. Sargent's memory may be made to the First Presbyterian Church Memorial Fund, or to a charity of one's choice, the family said.

MRS. BLANKA ROSENSTIEL

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, one of the great and lovely ladies of Miami and of America is Mrs. Blanka Rosenstiel, widow of the late businessman and philanthropist, Lewis S. Rosenstiel. One of the many outstanding organizations which Mrs. Rosenstiel heads is the American Institute of Polish Culture in Miami. Both Mrs. Rosenstiel and the American Institute of Polish Culture in Miami have made immeasurable contributions to Polish culture in America and to many other causes of educational, humanitarian, and cultural significance. On May 29 of this year Mrs. Rosenstiel was awarded an honorary degree by the International Fine Arts College in Miami. The citation for that degree reveals the inspiring background and work of Mrs. Rosenstiel. I ask that this citation appear in the body of the Record immediately following these remarks.

Earlier this year Mrs. Rosenstiel was signally honored by the Polish American magazine, Perspectives. Mrs. Rosenstiel, in accepting the Perspectives Achievement Award, delivered a very able and eloquent address explaining the work of the American Institute of Polish Culture in Miami, its contribution to the development of Polish culture, and her keen interest and dedicated service to the cultural development of the Greater Miami area and our whole Nation. Mrs. Rosenstiel is a shining example of what many people coming to this Nation from abroad have done in America not only to preserve their historic culture but to stimulate and develop our own. Mrs. Rosenstiel is an eminent leader of the cultural, spiritual, and humanitarian forces of our country. I am sure that the Members of the Congress not only applaud those who previously honored Mrs. Rosenstiel but wish to join also in paying the highest tribute and honor to her for what she has done and continues to do to make ours a more beautiful and better country.

Mr. Speaker, I include Mrs. Rosenstiel's acceptance of the Perspectives Achievement Award in the Record:

Blanka Rosenstiel Acceptance of Perspectives Achievement Award

I am greatly honored by the Award and I gratefully accept it with the understanding that it is not me, personally, who has been awarded but the American Institute of Polish Culture in Miami—an organization of more than four hundred Americans of different ethnic backgrounds and one common denominator: profound interest in and enthusiasm for the great cultural heritage of the Polish nation and its contribution to American civilization.

When some four years ago our Institute was born, it had a different name: "Polish-American Cultural Institute." We came to change the Institute's name, because our experience reflected a very important truth which can be helpful to all Polish cultural organizations in pursuit of their goals.

As our Institue expanded its activities and began to organize events which aroused a general interest in our community, more and more people came to me with these questions: "Why are you called a Polish-American Institute? Are you an exclusive Polish organization? Are you closed to others? I realized that the name should be changed; that it should reflect the basic fact that we were an American organization, open to all Americans, not only those interested in Polish culture but all those motivated by the urge to enrich the cultural life of their community. To be sure, love of the country of my fathers, of its magnificent heritage and history, constittued my main motivation when founding the Institute. But I soon came to realize that—in order to be really successful—a Polish cultural organization cannot remain a closed entity, isolated by a language barrier from its community, and, indeed, from its own youth.

In order to be successful in today's America, a Polish cultural organization *must be American!* While promoting the Polish culture, it must be an integral part of its community—and more—it must be a major creative force contributing in a significant way to the community's cultural life.

We must throw our doors wide open to our fellow Americans of other ethnic origins. They will come when they see that we all speak the same language. They will come because an American has a healthy urge to learn, to know more about other Americans and their backgrounds. Let's let them in.

How did our Institute achieve this goal? First, we established working contacts with local universities, civic and cultural organizations and our local Government. The University of Miami enthusiastically helped us to organize and sponsor the First National Frederic Chopin Piano Competition in Miami It also cooperated with us in organizing an International Conference on Joseph Conrad. The Miami Philharmonic and the University made their concert halls available for our musical events. The Miami Art Center cosponsored an exhibition of Polish graphics, tapestry and posters. The W.P.B.T.-T.V. educational channel has videotaped and televised the beautiful Harp Ensemble. It has also shown "The Ascent of Man" by Dr. Bronowski, a 13-hour program which we have underwritten twice for our community. We had "Mazowsze" just recently. Our annual balls are part of our community's life. The "Perspektywa Polska" exhibition, created at our Institute, is at present traveling throughout the United States, shown at universities and public libraries. This is just to mention a few. We always have support of our City and State Governments when applying to have Polish-American days proclaimed in Miami and in Florida. The Mayor of the city of Miami—the Honorable Maurice Ferre—is a member of the Board of Directors of our Institute.

Please, don't misunderstand me: I am far from implying that our work is an uninterrupted chain of success. We have had difficulties as well. But these don't change the basic rule which is: come out with daring and initiative, and you will get a response almost immediately. When organizing events try to cooperate with the established prestigious organizations—even if, at first, theirs will be the glory.

My experience teaches me that we should be more active in the field of Public Relations. Our Polish-American community has been underrating the importance of this area of activity. We don't have enough Polish-American journalists and writers in our national media. Our organizations and clubs are often excessively modest about the important work they are doing. It is time for us, Polish-Americans, to stand up and talk a bit louder about ourselves and our place in this nation.

Our Institute offers only one kind of scholarship—scholarships for Polish-American students of Public Relations. I think this Fact fully reflects the importance our organization attaches to this field.

Quite often I hear and read complaints about Polish-American youth. We are often disappointed by young people's lack of interest in our organizations. We blame them with indifference toward our club and social activities. Very often we hold it against them when they don't speak Polish.

Of course, it is impossible to penetrate and analyse every human situation. I am far from idolizing the youth; there are many cases when a young man or woman must be told an unpleasant truth. But, in general, I am very optimistic about our Polish-American young generation. We have a number of young people among our members. Actually, about 20% of our members are below 30. They joined the Institute because they wanted to learn more about their cultural and national background and because they want Polish culture to be better known. Most young Polish-Americans I know are strongly attracted by it, when it is offered in a form they understand and can be proud of. But let us not make a mistake about it: they are Americans. They feel and think American. And we should not complain about it but adapt our educational and cultural activities to this irreversible fact of life. A cultural organization—as opposed to a social club—should endeavor to abolish language and background barriers. We shall easily reach our young people when we speak to them in the language they understand and when we prove to them that our activities are not aimed at isolating ourselves from the mainstream of American life but, on the contrary, that they are a significant factor and an inspiration in the development of our common American culture.

Ladies and Gentlemen: The experience of our Institute, of all our struggles, setbacks and victories—and indeed the experience of my whole life—has taught me a vital lesson which can be summarized in these simple words: Let us think positive and adopt positive plans and we shall succeed, let us be more confident in ourselves and more comfortable with the world that surrounds us. We can influence it. Only first we must be an integral and active part of it.

Blanka Rosenstiel

It is a privilege to name Blanka Rosenstiel who has been recommended by the Faculty of International Fine Arts College to receive the Doctor of Fine Arts Degree (Honoris Causa).

Born in Warsaw, Poland where she was

educated in the classical European manner, Blanka Rosenstiel soon realized that her many talents could best be developed by studying various forms of Art, Design and Music. She pursued her studies in Brussels, Belgium. From her art studies in Europe she made the difficult transition to the United States where she continued under private tutorship. Most of her work has been donated to public institutions where they are on permanent exhibit and have received artistic acclaim.

In 1967 she married the late Lewis S. Rosenstiel, a philanthropist and humanitarian who was the Chairman of Schenley Industries, a world-wide company. As the wife, confidante and associate of Lewis S. Rosenstiel, she contributed immeasureably to his internationally-renowned philanthropies. In 1972, both her artistic inclinations and a desire to propagate the culture of her homeland inspired her to found, in Miami, the American Institute of Polish Culture, which she currently serves as President.

The National Frederic Chopin Piano Competition, the International Joseph Conrad Conference, both held in Miami, as well as the "Perspektywa Polska" traveling exhibition, representing 1000 years of Polish history and culture, are just a few of the many culturally-oriented and educationally-enlightening projects realized under her guidance at the Institute.

Mrs. Rosenstiel is a member of the Board of Governors of the Museum of Science and a member of the Board of Directors of: WPBT TV Channel 2, Florida International University Foundation, Recording for the Blind, Council for International Visitors, Papanicolaou Cancer Research Center, Metropolitan Museum, Opera Guild, all of Miami, and the American Council of Polish Cultural Clubs of Washington, D.C., The International Chopin Society, Polish Assistance and the Kosciuszko Foundation in New York. In addition, Blanka Rosenstiel devotes her personal energies and financial assistance to many local charitable organizations such as the Welfare Society for Animals, Ballet Society, The Internationl Center, The Crippled Childrens Society and is listed as a Major Founder for Mt. Sinai Hospital and Jackson Memorial Hospital.

Mrs. Rosenstiel attends to the annual Rosenstiel Award Dinner at Brandeis University, where she presents to the chosen scientists, in the field of basic medical sciences, the Award founded by her late husband. On March 12, 1976 she chaired in New York City the "Tribute to Artur Rubinstein", preceding the artist's last concert for the public.

For her leadership on an international level in the Arts, for her dedication to the propagation and understanding of the culture and history of Poland, for her devotion in carrying the torch of recognition to the world community of scientists, and for her friendship to this College and her students, this Degree is awarded.

HOUSE TAX REFORM BILL AND TAX CUT

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, as the second session of the 94th Congress nears its close, we have only a few weeks left to take final action on major legislative issues still unresolved.

Near the top of the list of bills that must be passed is extension of the temporary tax cut previously adopted. This is included in the tax reform bill passed by the House and Senate in radically differing forms.

Of the two versions, the House bill is far preferable since it closes loopholes and raises revenue, while the Senate bill opens new loopholes and would lose revenue. There have been suggestions that, in view of the defects in the Senate bill and the poor outlook for a decent bill to emerge from the Senate-House conference, the tax reform bill should be scrapped altogether and a new attempt made in the next Congress.

With the economy still shaky after the recent recession, this is no time to let the tax cut expire and cause a reduction in spendable income.

Today's edition of the Miami Herald contains an editorial making the point that the tax cut must be extended. It says in part:

> . . . If Senate conferees cannot be persuaded to accept a bill close to the House version, then perhaps the best thing Congress can do is to extend the existing tax law, including last year's cuts, and wait until next year, when new leadership in the Congress and possibly the White House may be able to end the long stalemate.

I call the entire editorial to my colleagues' attention. I strongly believe it merits our consideration for action on tax reform and tax cut:

DESPITE ELECTION PRESSURES, CONGRESS MUST DO ITS DUTY

Congress is back in Washington, very much aware that its performance (or lack thereof) is already a major issue in the presidential campaign between Gerald Ford and Jimmy Carter.

Except for a brief Labor Day recess lawmakers will be in session from now until their scheduled adjournment Oct. 2, by which time those up for reelection hope to be busy campaigning.

The essential problem facing this election year Congress is to accomplish enough for a respectable record without making anybody mad. Unfortunately, certain issues are of the kind which are bound to make some voters angry no matter what Congress does. That is why veteran observers of the Capitol Hill scene will not be surprised if the lawmakers punt and try again later on issues such as abortion, gun control, and the reform of the criminal code.

Other pending issues—the reform of federal regulatory agencies, for example—are of the type that may be put off because, although they are important they don't excite many voters.

On the other hand, food stamp reform and creation of a "consumer protection agency" are widely perceived as issues with some impact on the electorate. Furthermore, there is reason to believe that the Democrats would not be sorry to provoke vetoes on those issues.

Already, Mr. Carter and President Ford have both made an issue of the vetoes. Democrats in Congress may very well wish to give their candidate some additional ammunition in support of his assertion that some of the Ford vetoes have "contributed to needless human suffering."

But apart from all the maneuvering for partisan political advantage in the congressional and presidential races, Congress has a duty to perform. Some issues will not go away. Some can not be postponed.

The tax bill is a prime example. This was supposed to be the year for passage of long-overdue reforms in the federal tax structure. Instead of tax reform, however, the Senate and House have come up with bills quite different from each other and from the ideal of reform.

Some tax legislation will have to be passed this fall. The tax accountants can't wait until next year some time to find out what next year's tax schedules are going to be like.

If Congress does act on tax reform, the House version is clearly superior to the Senate's cornucopia of loopholes and tax breaks for special interests. Moreover, it is estimated that the Senate version could cost the Treasury as much as $17 billion annually in lost revenue while the House version, though extending last year's tax cuts, would actually raise more revenue by closing loopholes.

But if Senate conferees cannot be persuaded to accept a bill close to the House version, then perhaps the best thing Congress can do is to extend the existing tax law, including last year's cuts, and wait until next year, when new leadership in the Congress and possibly in the White House may be able to end the long stalemate.

EXECUTIVE CHALLENGE FOR WOMEN

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on August 8 of this year Jayne B. Spain, senior vice president of public affairs at Gulf Oil Corp., gave a truly inspiring speech in Miami Beach, Fla. In her address to the Hemispheric Conference for Women '76, Ms. Spain pointed out the special problems women face in achieving job equality, and offered sound advice to help women develop self-confidence and succeed in their field, whatever it may be. Her thoughtful speech should be of interest to us all and I request permission to include it in the RECORD at this time:

EXECUTIVE DECISION-MAKING A CHALLENGE FOR WOMEN

(An address by Jayne Baker Spain, senior vice president for public affairs, Gulf Oil Corp., before the Hemispheric Conference for Women '76, Miami Beach, Fla., August 8, 1976)

"One afternoon, walking through a poor street in Temuco, I saw a quite ordinary woman sitting in the doorway of her hut. She was approaching childbirth, and her face was heavy with pain. A man came by and flung at her an ugly phrase that made her blush. At that moment I felt toward her all the solidarity of our sex, the infinite pity of one woman for another, and I passed on thinking, 'One of us must proclaim (since men have not done so) the sacredness of this painful, yet divine condition. If the mission of art is to beautify all in an immensity of pity, why have we not, in the eyes of the impure, purified this?' So I wrote these poems with an almost religious meaning."

The lines that I have just quoted, as I am sure many of you recognize, are those of the Chilean poet and Nobel Laureate, Gabriela Mistral. I can think of no more appropriate note on which to begin my remarks than by recalling those eloquent words of this distinguished woman of the Americas, and her plea for unity in womanhood.

It is in that spirit that I say to you how deeply honored I am to have been asked to participate with you in this Hemispheric Conference for Women. Its objectives are unquestionable: to explore the mutual development of women's goals; assess the dynamics of social change; and research and develop programs for future action that will improve the status of women throughout the Americas. To be sure, there are significant differences in the status of women from country to country, as was recognized by the World Conference in Mexico City last year. Nevertheless, meetings such as this will do much to unite all women of the Americas in our mutual quest for equality—equality in dignity, in the law, and in opportunity.

One of the hurdles in achieving that goal is subtly reflected in the very title of the talk that I have been asked to give here today: "Executive Decision-Making—A Challenge For Women."

Believe me, after having spent many years in executive posts in industry and government, I can attest to the fact that executive decision-making is a challenge for anyone—regardless of sex.

Still, I must concede that the realities of the world are such that making and implementing executive decisions do present a special problem for women. The myth of female physical inferiority has begat the myth of female intellectual inferiority—which has in turn begat the myth that women cannot make up their minds—that is, can't make decisions. All of us—male and female alike—have been influenced by thousands of years of brainwashing that has assigned arbitrary roles to each gender.

From as far back as the dim dawn of primitive prehistory, both male and female have been subjected to generations of conditioning about the roles each is expected to play. Virtually all of our institutions—from the family through government and business, and, yes, even the church, as anyone familiar with the epistles of St. Paul can confirm—have conspired, often unknowingly, to relegate both men and women into preconceived patterns. And pity the poor women who departed from the role that society prescribed for them. I need only mention Jean D'Arc, and her trip to the stake, and Hester Prynne's ordeal in Nathaniel Hawthorne's "The Scarlet Letter."

Granted, some women have been able to rise above their environment with relative impunity, but their very notoriety is silent testimony to the "place" in which women were supposed to keep themselves. I am thinking here of women such as Gabriela Mistral, who not only was an internationally acclaimed poet and humanitarian, but also rose to important educational and diplomatic posts in various parts of the world. She dedicated an entire group of her poems to trying to correct some of the misunderstandings that have traditionally separated men and women.

Thus, what we are faced with is not really a woman's problem or a man's problem, but society's problem.

Nevertheless, the very fact that such a distinguished group of participants has come to this conference, reflects the historical significance of the conscience-raising that is taking place. In the early history of the U.S.A., when our nation was largely agricultural and rural, women played a far more important role in the economy. Anyone familiar with the American Indian knows, for instance, that in many tribes it was the women who not only kept the tepee fires burning, but also did the hard, physical labor in the village, while the braves were out hunting and fishing.

Later in the development of the United States, the pioneer women, in addition to childbearing, caring for the family, sewing, weaving, cooking, preserving food, and a myriad of other things, tilled the fields and helped harvest alongside the men. Later in history, when times were bad on the farm, the men would spend entire seasons away from home earning money in a nearby city while the women would run things at home. Would you say all these women did not make decisions—and important decisions?

Then there are the great contributions made by America's immigrant women of the turn of the last century, who, largely for economic reasons, were frequently not only breadwinners—sewing or taking in washing—but also made the really important family decisions and dominated the entire household. Would you say they were not decision makers?

These participatory roles for women were accompanied by great drudgery that had a simultaneous subjugating effect. It was not until the industrial revolution that women began being freed from the debilitating burdens that chained them to work in the household for so many generations. As Dr. Estelle Ramey, the noted physiologist and feminist of Georgetown University, has said: "What has liberated women most is cheap energy. The cheap energy that helped bring about industrialization has provided the power to reduce the labor to care for house and family, and has, thereby, freed women to use their physical and emotional energies elsewhere."

Cheap natural gas and electricity have made posible such labor-saving devices as the gas and electric stove, hot running water, washing machines, the electric iron, and the refrigerator. Gasoline has provided the housewife with the mobility that she had always lacked. Such luxuries, taken so much for granted today, were unheard-of in the past, and are still not in abundance in many developing countries. The typical women's life was toil from sun-up to sun-down.

Today, ironically, the very technological explosion that has helped liberate women, has been a major factor in their dissatisfaction and separation from one another. Many want to use their time and talents outside the home—some don't.

I hasten to emphasize that I am not downgrading the profession of being a housewife. Certainly one of the most pervasive and destructive rivalries among females is that between the housewife and the career woman. I have heard women say apologetically I am "just" a housewife:

If you are a housewife, and you are fortunate enough economically not to have to work, and you feel fulfilled and content being a housewife, then be glad and proud you're a housewife, and be the best housewife on the block. But don't look down upon the woman who has to work because of economics, or the woman who wants to work because she's trained professionally and/or needs to work outside her home in order to feel fulfilled.

The scarce human resource brainpower mandates the use of capable persons regardless of sex, race, age, religion and no nation can afford to put any of its brainpower on the shelf.

As a businesswoman, I am convinced that overcoming this unconscionable waste of human resources—resources that could be used to make the industry of the Americas more productive, more efficient, and more effective in meeting the needs of humanity—is one of the most important demands confronting all of us, male and female alike.

Attitudes in the U.S.A. are gradually changing. There have been numerous estimates that 9 out of 10 of today's young girls in the U.S.A. will be part of the work force at some point of their lives. Many of them will work full-time for 30 years or more.

But where will they work—and at what levels? That is the question. For there is no doubt today that more women will be knocking at the doors of business and industry. The issue still to be resolved is how these women will be received and what opportunities will they have.

Even today a woman often starts lower and rises more slowly than a professionally comparable man, and she frequently must be better qualified than her male competition to get even that far.

Why? Mainly because of the myths that men—and women too—have believed, attitudes so deeply ingrained that they have successfully barred many women from fulfilling their intellectual and professional potentials. I'm referring to myths such as: "A woman's place is in the home"; that women work only for "pin money"; that a woman cannot combine a business career with a family, although many women do it quite well; that women aren't reliable or emotionally stable; that men and women don't want to work for a woman. The list is long and so are the consequences for working women. As one woman in a middle-management position once said: "I feel like I'm forever the private in an Army where every man is at least a corporal."

There is nothing more difficult to erase than a myth, which is all the more reason why surmounting the myth of female inferiority will demand extraordinary effort. There has, all the same, been progress. This has included representation by women on increasing numbers of U.S. corporate boards of directors. Six years ago when I was elected to the board of Litton Industries, I was the second woman to be elected to a board of a large corporation. Today there's at least one woman on the board of most of the largest American corporations. Gradually more and more companies tried it and liked it—for they discovered that qualified women can make big decisions and can contribute greatly at board level.

But in the day-by-day operations of major companies, women are still fighting an uphill battle. A Business Week survey last year revealed that of 2,500 presidents, key vice presidents, and chairpersons directing the country's major corporations, women held only 15 top management positions. It is estimated that women represent only 15% of entry-level management, 5% of middle management—and 1% of top management.

Robert Townsend, that cheerful iconoclast who parlayed his unorthodox management techniques into a fortune, devoted a special section of his best-selling book, "Up The Organization," to what he termed: "A Guerrilla Guide for Working Women." Townsend advises us to—as he puts it—"Make every decision (from your first job as a receptionist or file clerk on up) in the light of this question: 'How would I do this job if I owned the company?' "

By putting ourselves in the boss's place—by, first and foremost, asking the right questions—we women can be more constructively competitive.

Seen in this light, decision-making harbors no mystery that is part of some special masculine mystique.

There are, for example, countless books on the subject from which women could benefit, even though you might have to ignore some of their sexist references.

Charles Kepner and Benjamin Tregoe list seven steps to effective decision-making, involving setting objectives, weighing alternatives, and necessary follow-through.

Yet, in my mind, the most important decision that every career-oriented female must make—whether she is an executive or not—has to do with what she can do for herself.

First of all—I believe women must decide to stop thinking of themselves as second-best. A woman should aspire to whatever she wants with as much zeal and dedication as her male counterpart. As Eleanor Roosevelt once said: "No one can make you feel inferior without your consent." Even if the woman doesn't make it, she'll undoubtedly be better off and happier with herself than the shrinking violet who simply folds her hands and sits back to accept whatever life decides to dole out to her.

Second, you should decide to pursue specialized training and/or an advanced degree if you don't already have it. One female business graduate working as a consultant has suggested: "Having professional training is an important asset for anyone, and particularly for women. A woman without this advantage faces a more difficult road in the working world. Not only does she have more to learn on her own, but she also faces more intense discrimination because her professional potential has not been formally recognized—and is therefore easier to dispute."

Thirdly, a woman should plot a career path for herself, identifying the essential work experiences that are needed to move up the corporate ladder, and then make it a point to gain experience in those areas. The management skills most often noted as neglected in career development for women include an understanding of financial planning, the preparation of budgets, and general business planning.

Fourth, a woman should not be afraid—or too proud—to draw on the considerable body of resources and strengths already available to her. A majority of successful career women who are married, have indicated that they receive strong emotional support from their husbands. Both married and single professional women cite support from women's organizations and from female co-workers and supervisors.

Women should be supportive of each other. A South American woman once put it well when she said: "The best wedge is one made of the same wood. Men know this, and women ought to recognize it and be supportive of other women."

Finally, women should realize that a good deal of self-confidence on the job can come from just having done it a few times. Another woman consultant, who's been in business for a number of years, says, "My job has helped me at least as much as any other force in my life. No other has been as consistent or as major a force, just by virtue of the amount of time one has to give to it."

It is important to see yourself developing your skills, and to see your portfolio of accomplishments start to accumulate, and to begin to get the kind of feedback that tells you: "That assignment was well done—I got through the whole project and it didn't blow up in my face." As they say, nothing succeeds like success—with others or with yourself.

Part of it, too, is simply the process of assimilation into traditionally male environments. This may be the toughest hurdle of all. We all know what it is like to work with some unreconstructed males in the business and professional worlds. Detecting and defeating sex discrimination on the job has become a refined art. Oh sure, we in the U.S. know the statistics and the legal remedies. But beyond the overt problems, there are the more subtle symptoms—the big buildups and the little put-downs; the roles that we are often still expected to play, of mother or daughter, office wife or temptress, grateful supplicant or "one of the boys." For instance, behavior condemned as compulsive and ugly in a woman is praised as "forceful" in a man. This means, I guess, that in some organization you can scream and bark commands all you want as long as you do so in a deep bass instead of a high soprano.

Still, assimilation into a predominantly male environment is possible. A female financial analyst, for example, says she's been assimilating now for twelve years. "It's getting easier every year," she reports, "not just because I've established some credibility, but because the attitudes of management toward women are slowly changing."

Now that I'm back in industry, I'm often asked whether I am going to be as concerned with equal opportunity for women and minorities in my country, as I was when I was with the government. Of course I am. And I'll be among the first to admit that business has a long way to go to offer equality of job opportunity.

My company, Gulf Oil, for example, had very few women on the scene until 25 years ago. Most file clerks, stenographers, and secretaries were male. Even today, female managers at Gulf are pretty much a conspicuous minority.

Yet, we are making progress at Gulf. Our Equal Opportunity program is only six years old, but, more importantly, we have the commitment from the Chief Executive Officer and the Board that is absolutely vital to any such effort.

We also have an active women's program, counseling, career planning, career ladders, training, upward mobility, etc.

This is a slow process but it is a sure process.

I have argued, and I will continue to argue, that we should never put a woman in a job that she is not qualified to do and do well. We can open the doors of opportunity, we can help provide training, and we can offer counseling services along the way. But when all is said and done, to run a business properly, as well as fairly, we are going to have to hire on the basis of entry-level qualifications, and promote and reward on the basis of consistent quality performance. That means the right person, male or female, minority member or non-minority member, for the right job.

This criterion may mean moving more slowly, but in the long run everyone will be better off—especially women and minority members themselves. Nothing is more destructive to the pursuit of equal opportunity than putting a woman or a minority person in a job for which he or she is not qualified.

Success calls for the same qualities in men and women. Those qualities include, but are not limited to: Intelligence, motivation, an attitude of cooperation, standards of excellence, and, perhaps most of all, hard work. Such characteristics will go a long way toward ensuring quality achievement.

But, of fundamental importance, women must believe that they can do it. Mike McGrady, who wrote the book "The Kitchen Papers—My Life as a Househusband," after exchanging traditional roles with his wife for a year, feels that many women are threatened by the thought of leaving the secure environment of the home and entering the business world. He challenges these women with: "Go ahead. There is a world out here, a whole planet of possibilities. The real danger is that you won't try it. Men have to go out on a limb, too. If Gutenberg had not taken a risk I might be writing these words with a quill pen. If Edison had not ventured, you might be reading them by an oil lamp."

Let me conclude by simply saying this: As women, our most important decision is to decide to believe in ourselves. To believe that we have the ability, the talent, the determination, and the strength to be as effective as any man.

Gabriela Mistral has expressed this need for self-confidence as only a Nobel Laureate could. I should like to close by reading a few verses from her famous poem "Those Who Don't Dance":

A crippled child once said,
  "How can I dance?"
We told her that she should
  Start her heart to dancing.

Then said the deformed one,
  "How can I ever sing?"
We told her that she should
  Start her heart to singing. . . .

God asked from above,
  "How can I leave the sky?"
We told him to come down
  and dance with us in the brightness.

All in the valley are dancing
  Together beneath the sun,
May the heart of whoever is missing
  Turn to dust and ashes.

When "All in the valley are dancing," when we begin to see sizeable numbers of females reviewing equality of satisfaction for equality of career performance, then jobs will become jobs rather than "Men's jobs" or Women's jobs."

If equal rights mean anything, it is simply the right of each individual, male or female, to choose his or her vocation and to fail or succeed.

Success will then become sexless, and all of society will be the beneficiary.

THE INTER-AMERICAN FOUNDATION: A BETTER WAY OF DOING THINGS

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, almost 7 years ago the Inter-American Foundation was established by Congress to provide an innovative approach to the problem of social and economic development in Latin America and the Caribbean as an alternative to the traditional bilateral and multilateral programs in which the United States has participated.

The Foundation conducts its programs through grants to indigenous private organizations in Western Hemisphere countries. Grants are made under guidelines established by the Board of Directors, whose members are appointed by the President subject to Senate confirmation.

Since the Foundation began operations it has obligated almost $48 million for 413 separate projects; $24 million came directly from congressionally appropriated funds and was used to finance 298 projects. Another $24 million was obligated from funds received from the social progress trust fund under an agreement with the Inter-American Development Bank and has been used to finance 115 projects.

Mr. Speaker, the August 18, 1976, issue of "The Times of the Americas," contained an excellent summary of the work of the Inter-American Foundation by a distinguished commentator on hemisphere affairs, Mr. Winthrop P. Carty. I want to take this opportunity to bring to the attention of Congress Mr. Carty's analysis of the Foundation's activities.

A CASE STUDY OF A "DECISION TO EXPERIMENT"

(By Winthrop P. Carty)

WASHINGTON.—The Inter-American Foundation, a bold experiment in U.S. foreign assistance, faces a critical period of re-examination.

The five-year-old avant-garde agency channels public money to private Hemisphere organizations for self-help projects on a no-strings basis. The IAF has expanded $55 million so far for projects considered out of the mainstream of the traditional aid program but now the whole operation will be tested on a variety of fronts:

A majority of the positions on the board are coming up for the Administration's selection and the Senate's ratification over the next couple of months. Some members will probably be renominated but it remains to be seen whether a newly constituted board will be as supportive as the present one;

If Jimmy Carter is elected as expected, the new administration will be sorely tempted to throw the IAS into the AID pot to make good the candidate's pledge to consolidate the sprawling Washington bureaucracy;

The agency must go to congress next session to replenish funds or peter out before decade's end.

A growing number of congressmen are interested in an IAF style program for Africa and the present foundation may be enlarged to become an umbrella for a multi-continental operation.

The IAF has received remarkably little public attention. In part the situation stems from a policy "to neither seek nor avoid publicity" and let the recipients announce the grants in their own way.

But another problem to public understanding is the sheer inability to categorize the hybrid agency. Among other anomalies, it is an administrative lending agency mandated by Congress to be free of the bureaucracy, and a predominantly private board dispenses public monies.

The IAF is best understood as a congressional reaction against the mounting *deficiencies* of the foreign aid program. In brief, the aid operation was perceived as wrapped in red tape, completely politicized, and remote from the impulses of both the average U.S. taxpayer and the Latin American needy.

More specifically, Congress was deeply concerned by the failure of the Alliance for Progress, and the role that aid was thought to play in the Vietnam tragedy. In both cases, many observers contended, AID mindlessly poured more and more men and money into programs to justify yesterday's bureaucratic and financial investment.

"After a process of elimination," says Rep. Dante Fascell, "something like the IAF became obvious. For 25 years we had operated on the theory that economic stability was needed for political stability, but the classical approach simply didn't work. We haven't reached the marginal people. In the agrarian sector, for example, we tried everything in Latin America—transfer of technology, farm-to-market roads, support of land reform and so on—but it was all just a dribble in the ocean.

"We decided to experiment, take nothing for granted. The IAF, problems notwithstanding, has done a fantastic job of implementing our intention. It has proven its worth to the most critical congressional examination."

Fascell, it should be noted, is the man most responsible for the creation of the innovative lending agency and its mentor in Congress. The Florida Democrat, however, is a pragmatist whose Miami constituency demands a tough-minded approach to Latin American matters.

The IAF was legislated by Congress in 1969, with a pervasive preoccupation with the errors, real or imagined, of the old way. To prevent a bureaucratic and financial overcommitment, the foundation maintains no staff abroad, recipients seldom are funded longer than a three-year period.

All financing is in the form of grants. And to avoid mixing international realpolitiks with social development, the grants are only made to non-official groups for self-help projects they have fashioned for themselves. Rather than getting into the business of nation-building, the IAF stresses manageable projects averaging $100,000 within a spectrum of $400 to $1.5 million.

And staff does handsprings to maintain conspicuous honesty about the operation. In contrast to the machinations of the Johnson and Nixon administrations, Congress' child has no secrets. Only the personnel files are under lock and key, and one can walk off the street to find out what's up.

The 70-man staff is constantly going through intellectual calisthenics—dialogues, challenges, self-examinations, etc.—to preserve team integrity. Many outsiders deride the exercise as "navel-gazing" and posturing but the fact remains that an honest question receives an honest answer at IAF headquarters.

Predictably, the staff is highly motivated and idealistic. The foundation president, William Dyals, is an ordained minister, and many staff members are drawn from the church, Peace Corps, foundations and the like. "We have no trouble with the truth," Dyals says matter-of-factly.

The 7-man board of unpaid directors is composed of four men from the private sector and three selections from the government. From the outset the board has been dominated by moderate Republicans like Augustin S. Hart of Quaker Oats, Charles A. Meyer of Sears and Roebuck and George C. Lodge of the Harvard Business School. The Republicans serve as a good foil for the reform-minded IAF staffers: the informed moderates are aware of the problems without presuming to have all the answers. A board of certified liberals, vice-president Csanad Toth points out, would be more inclined to impose its particular solutions to developmental issues without letting the IAF staff chart its own course.

Buttressed by a congressional demand to develop innovative techniques, a board willing to listen and a powerful shepherd on Capitol Hill (Dante Fascell), the IAF, since it began in April 1971, has had sweeping latitude. "I am surprised what the government lets us do," says Dyal frankly. Three grants make the point:

The Educational Broadcasting Corporation was given $76,000 to subsidize a one-hour show illustrating Caribbean social problems for the TV series called "Bill Moyers' Foreign Report." The TV program was for public TV and outages were used for Caribbean training films, but ordinarily the Congress would raise hob about public funds being spent on a foreign project which might influence domestic opinion:

A left activist, Rev. Phillip Wheaton, was paid to study consciousness-raising among U.S. marginals. During the heyday of "law and order," about the best the Wheatons of this world could expect from the U.S. government was a dirty trick;

A grant of $83,000 was made in Costa Rica "to develop a weekly newspaper supplement written for campesinos and delivered to them in rural areas." The Costa Rican government and some North American critics found the newspaper's editorial policy hostile and sharply challenged the introduction of U.S. public money into a local editorial operation.

The above examples, I hasten to add, illustrate the IAF's freedom to make mistakes, not its usual routine. Most of its grants go to a wide variety of Hemisphere groups and are safe bets. If a community has the yeast to band together and apply for a grant, it generally knows its goals and how, with a little help, to reach them.

The traditional bottleneck has been the international lending agencies bureaucratic inability to identify plausible social projects and then cut through the red tape to reach them.

Most any commercial banker will readily admit that small cooperatives faithfully repay their debts but that administering small loans on a wide scale represents impossible paperwork. The AID bureaucracy is far more burdened with an overwhelming checklist of needed approvals and specifications, largely applied by Congress. The IAF makes a definitive decision on a grant request within two or three months.

Does the IAF really fully justify itself? Not yet, but it certainly could. First and foremost the operation reassures the U.S. taxpayer and the average Latin American man that international assistance can be effective, dignified, and altruistic. Most Americans throughout the Hemisphere go along with the joke that foreign aid is what the poor people in rich countries give to rich people in poor countries.

The growing number of grant requests attest to the fact that the word is getting around Latin America that there is a Washington agency with no political ax to grind which lends directly to little people for social self-improvement.

The IAF has been less able to demonstrate its ability to transfer its experimental findings to the public and to other lending agencies. There are some examples of ideas proved out by the IAF and subsequently picked up in a larger way by the multinational lending banks but little impression has been made on U.S. administrators.

"We haven't delivered our experience to the market place of ideas," admits Toth. Like any Congressman, says Dante Fascell, "I always want 'more results.' "

Envious AID officials contend the young IAF staffers live in an unreal world and that the experimental agency has produced nothing which could be applied on a wide scale. In my opinion the IAF has amply demonstrated that the whole U.S. lending program could be modified to incorporate much of the fresh approach which has been acclaimed by Congress and Latin Americans.

Furthermore, some of the IAF personnel could be offered positions of leadership in the next administration. Some of the bright young idealists have been called too cocksure. "Sometimes we are arrogant," states Toth, "and it is a sign of immaturity." But the IAF is not rife with cynicism, the terminal disease of the AID bureaucracy.

In the coming months the experimental agency will be challenged by a critical reappraisal. Now the IAF must do what it expects of its grantees: strive in its community to make come true its special dream of a better way of doing things.

ESTATE TAX REFORM

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, when H.R. 14844, the Estate and Gift Tax Reform Act of 1976, comes before the House next week, I will offer an amendment to delete the "$1 million, one generation-skip" exception to the provision imposing a tax on generation-skipping trusts.

The question of generation-skipping trusts is one of the most complex in the Estate Tax Code. I realize that some of my colleagues who have not had the opportunity to sit through the weeks of hearings and markup on the bill may find the question somewhat baffling. For this reason, I am inserting the testimony of Prof. A. James Casner, professor of law at Harvard University, who presented to the Ways and Means Committee the most concise and understandable explanation of generation-skipping transfers that I have come across.

I strongly urge my colleagues to read Professor Casner's testimony before casting their vote on my generation-skipping amendment.

[A panel consisting of A. James Casner, Professor, A.L.I. reporter on estate and gift tax provisions, Harvard University, Cambridge, Mass.; Edward C. Halbach, Jr., Chairman, American Bar Association, Committee on Estate and Gift Taxes, Professor of Law School, University of California, Berkeley; Dr. Gerald R. Jantscher, Research Associate, Economic Studies Program, Brookings Institution, Washington, D.C.; and James Lewis, Paul Weiss, Rifkind, Wharton & Garrison, New York City]

STATEMENT OF PROF. A. JAMES CASNER

Mr. Casner. Thank you very much, Mr. Chairman.

I am here in the capacity of the reporter for the American Law Institute project on estate and gift taxation. You will find in your printed booklet the material of the law institute. It begins on page 311.

This is a project that was carried out over a period of about 4 or 5 years, and the institute finally approved some 45 or 46 recommendations for changes in the estate and gift tax area. Among those recommendations was a change in relation to what we call generation skipping transactions, and also in regard to the marital deduction, and also in regard to unification.

The four of us on the panel this afternoon have divided this subject matter into separate parts, and we would like to present to you each of these parts, and open them up for any discussion you may want to have.

I am going to talk to you about generation skipping transactions. Mr. Halbach, on my left, will talk to you about the 100-percent marital deduction. Mr. Lewis will talk to you about unification, and Mr. Jantscher will talk to you about some of the economic effects of the adoption of these recommendations if they should be carried out.

The CHAIRMAN. Indeed, you are well organized and we appreciate it.

Mr. CASNER. Fine.

The CHAIRMAN. You may proceed.

Mr. CASNER. On the generation skipping transactions, if you will permit me it, since I am a teacher and cannot work without a blackboard, if you will permit me to go to the blackboard I would like to do that and tell you what is on my mind with regard to generation skipping.

I think it is important if we talk about generation skipping that you have a picture of what can be done in this regard under the present law. I would like to take you through a possible discussion that I might have with a client who comes in to see me and wants to pass on a rather substantial amount of his property to his son. His idea when he comes in might very well be that he wants to give the property outright to his son. I point out to him, of course, that if he does that he is going to subject his son to gift taxes, in moving it on to his own children. He is going to subject his son to estate taxes, as he moves that property on on his death and that he ought to consider setting this arrangement up for his son in a way that would avoid future estate and gift taxes in relation to the son handling the property.

He says, of course, well, that interests me. What do you have in mind? And I would tell him, well, he as the owner of the property can transfer the property to a trustee, and under the terms of the trust he can give the income to his son for life, and then on his son's death the property can go in accordance with the terms of the trust to the son's issue.

If he does that, then the son has the use and enjoyment of this property as long as he lives, that is the income from it, and then on his death it moves on to his issue without another tax. And he says, well, that is, of course, quite different from giving the property outright to my son, because he does not have access to the principal, he can't control where the corpus of the property goes, serious restraints will operate on him if we set the trust up in that form.

And I say, well, that is true, but what is it you would particularly like for him to have in addition to this life interest. And he says, well, at least I would like to have him be able to determine how it will go among his own family when he dies. And I say, if that is what you want, we will simply add to this trust arrangement a power in your son to appoint by will this property to anyone in the world except himself, his creditors, his estate, and creditors of his estate, and I don't see why he would want to appoint it anyway to his estate or creditors.

So he can appoint it to anyone he wants to, and he will have the same liberty of choice as to where the property will go on his death as he would have if he owned it outright.

And he says, you mean I can add on that power and still it will go on to the people to whom he may appoint it in his will, without another estate tax? The answer is yes, he can have that degree of dominion over the destination of the property when he dies, and no estate tax will be imposed at all.

In fact, when he appoints the property by his will, he can appoint it to the son's son, we will call him SS, for life, and then he can give that son the power to appoint it on his death by will to anyone but himself, his estate, his creditors or creditors of his estate, and we can keep on doing this for how long? Well, we can keep on doing this for what is the rule against perpetuities, which is 21 years after lives in being, and if you select 21 healthy babies from families with family longevity, and continue the trust until 21 years after they die, you can pretty well keep this up for over 100 years and no estate tax as they enjoy the trust for life and the power to move it on by will. The law says that is permissible.

But what about during the time the son is alive, he might want to give some of this property to his family, and here you have only arranged for it to go by will. Well, if that is what you are interested in, we will give the son another power, a power to appoint by deed during his lifetime to anyone but himself, his estate, his creditors, or creditors of his estate. He can then exercise that power during his lifetime to appoint to any members of the family, and no gift tax will be imposed.

You mean he can have the power to appoint by will to all these people, the power to appoint it by deed, and no gift tax? That is correct, under our present law, we can keep this property going on and on and on, making gifts within the family, making disposition by will, and no gift tax and no estate tax until we run up against the rule against perpetuities and there are two States which don't even have a rule against perpetuities and this can be done perpetually in those States.

Then he says, that is all right, that takes care of the family for some time outside of the gift and estate tax area, but during the lifetime of the son he might need some property.

Well, if that is what you want, we will give your son another power, a power to withdraw, annually, from the trust property $5,000 or 5 percent, whichever is greater. If he does not excerise the power of withdrawal, and the power lapses, that will mean that the property will stay in the trust and go on and on without any estate or gift taxes.

Of course, if he draws the property down to himself, then he will have it. But if he is going to draw down, it is probably because he is going to spend it, but as long as he leaves it there, and this power lapses every year and renews itself every year, there is no gift or estate tax as a consequence of the lapse of the power.

But he says, well, that is somewhat limited because that is limited to $5,000 or 5 percent, whichever is greater, and that is true. But we have another provision we can write in, we can give power to the son to withdraw any amount as long as the power is limited by standards measured by health and education, and so forth. So if he has doctor bills he can withdraw the amount to pay the doctor bill and the existence of that power will not cause the property to be taxable on his death and the power lapses because of the special provision that exists.

He says, well, that is fine, and now the son can do anything he wants by will; he can give it away without gift tax, he can draw it down if he needs it to pay certain medical bills, he can draw it down up to $5,000 or 5 percent and this won't cause him to be treated as the owner for estate and gift taxes? Yes, that is the situation as we now have it, and then we can keep this going on, you see, by everybody who has a power in his generation carrying out this same sort of arrangement.

Then he says, well, that is fine, but there is one thing that isn't here yet that he would have if he owned it, he could manage the property. Well, if that is what you are worrying about, we will make him the trustee of the trust, to manage the property.

Now, what kind of a nut would give property outright to anybody when you have a situation of this sort where you can go on and on?

In fact, we haven't got an estate tax, what we have, you pay an estate tax if you want to; if you don't want to, you don't have to.

It is a question of selection, because of the ability through these arrangements to keep the property, once you have set up the arrangement, to keep it out of taxation for 100 to 150 years.

Now, they say people don't do this, that they aren't doing this. Well, I don't know whether they are doing it, but clients of mine are getting the benefits of these arrangements.

As long as you leave the estate and gift tax in this way, they are going to set up trusts that will take advantage of this, and this is not illegal.

Mr. LEWIS. Jim, you don't have a monopoly on that.

Mr. CASNER. No. I think you do this once in a while; there are a few other people that know about this. I mean it is not a secret any more, that this can be done.

So when we say generation skipping, that is what we call this, we are setting up arrangements that avoid taxes for several generations.

We cannot say that sort of thing is not significant to consider and to face up to in the estate and gift tax area, it seems to me that until you face up to this you haven't got an estate and gift tax that really is a very significant factor.

Now, I will let one of my colleagues carry on from here. They can't talk as loud, and they can't use a blackboard, but they can go on.

Mr. LEWIS. You filled it up.

The CHAIRMAN. Very excellent, Professor Casner.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BUTLER) to revise and extend their remarks and include extraneous material:)

Mr. MILLER of Ohio, for 10 minutes, today.

Mr. KEMP, for 25 minutes, today.

Mrs. HECKLER of Massachusetts, for 5 minutes, today.

(The following Members (at the request of Mrs. SPELLMAN), to revise and extend their remarks, and to include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. BROOKS, for 10 minutes, today.

Mr. KOCH, for 10 minutes, today.

Mr. MATSUNAGA, for 5 minutes today.

Mr. FRASER, for 5 minutes, today.

Mr. BEDELL, for 5 minutes, today.

Mrs. COLLINS of Illinois, for 5 minutes, today.

Mr. DINGELL, for 30 minutes, today.

Mr. HARRINGTON, for 5 minutes, today.

Mr. BONKER, for 5 minutes, today.

Mr. DOMINICK V. DANIELS, for 5 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FASCELL to revise and extend his remarks in two instances and include extraneous matter.

Mr. BINGHAM and Mr. GIBBONS to revise and extend their remarks just prior to the vote on the Rangel amendment.

(The following Members (at the request of Mr. BUTLER) and to include extraneous material:)

Mr. KEMP in four instances.
Mr. BUTLER.
Mr. CONTE in two instances.
Mr. STEIGER of Wisconsin.
Mr. PAUL.
Mr. DERWINSKI in two instances.
Mr. SYMMS.
Mr. PRESSLER.
Mr. FRENZEL in three instances.
Mr. WYDLER.
Mr. BEARD of Tennessee.
Mr. HEINZ.
Mr. HILLIS.
Mr. CRANE.
Mrs. FENWICK.
Mr. LENT.
Mr. MCCLORY.

(The following Members (at the request of Mrs. SPELLMAN) and to include extraneous matter:)

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. YOUNG of Georgia.
Mr. GIBBONS in two instances.
Mr. YATRON.
Mr. BOLLING.
Mr. LLOYD of California.
Mr. DINGELL.
Mr. FRASER in five instances.
Mr. ROE in two instances.
Mr. MCFALL.
Mr. ROGERS in five instances.
Mr. WAXMAN.
Mr. ROSENTHAL.
Mr. GAYDOS.
Mr. DE LUGO.
Mr. JOHN L. BURTON.
Mr. RANGEL.
Mr. OBERSTAR.
Mr. O'HARA in two instances.
Mr. WIRTH.
Mr. GINN.
Mr. BLANCHARD.
Mr. EDGAR.
Mr. DELANEY.
Mr. ZABLOCKI in two instances.
Mr. MCDONALD.
Mr. HARRINGTON.
Mr. NEAL.
Mr. MCKAY.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 400. An act to direct the Secretary of the Interior to conduct a one-year feasibility/suitability study of the Frederick Law Olmstead Home and Office as a national historic site; to the Committee on Interior and Insular Affairs.

S. 3146. An act for the relief of Leo J. Conway; to the Committee on the Judiciary.

S. 3394. An act to authorize the Secretary of the Interior to undertake the investigations, construction, and maintenance necessary to rehabilitate the Leadville Mine Drainage Tunnel, Colorado, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3419. An act to direct the Secretary of the Interior to conduct a one-year feasibility/suitability study of a National Museum of Afro-American History and Culture at or near Wilberforce, Ohio; to the Committee on Interior and Insular Affairs.

S. 3734. An act to approve the sale of certain naval vessels, and for other purposes; to the Committee on Armed Services.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3650. An act to clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes.

H.R. 10370. An act to amend the Act of January 3, 1975, establishing the Canaveral National Seashore;

H.R. 11009. An act to provide for an independent audit of the financial condition of the government of the District of Columbia;

H.R. 12261. An act to extend the period during which the Council of the District of Columbia is prohibited from revising the criminal laws of the District;

H.R. 12455. An act to amend title XX of the Social Security Act so as to permit greater latitude by the States in establishing criteria respecting eligibility for social services, to facilitate and encourage the implementation by States of child day care services programs conducted pursuant to such title, to promote the employment of welfare recipients in the provision of child day care services, and for other purposes; and

H.R. 13679. An act to provide assistance to the Government of Guam, to guarantee certain obligations of the Guam Power Authority, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3542. An act to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes.

ADJOURNMENT

Mrs. SPELLMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 23 minutes p.m.), under its previous order, the House adjourned until Monday, August 30, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3872. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize appropriations during the fiscal year 1977 and the transition quarter for procurement of aircraft, naval vessels, torpedoes and other weapons and research, development, test and evaluation for the Armed Forces, and for other purposes; to the Committee on Armed Services.

3873. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 651 of title 10, United States Code, to provide that female persons who become members of the Armed Forces shall have a 6-year statutory obligation and for other purposes; to the Committee on Armed Services.

3874. A letter from the Deputy Assistant Secretary of Defense (Military Personnel Policy), transmitting a supplemental report on defense-related employment of present and former Department of Defense personnel, pursuant to section 410(d) of Public Law 91-121; to the Committee on Armed Services.

3875. A letter from the Comptroller, Defense Security Assistance Agency, transmitting quarterly reports on foreign military sales direct credit and guaranty agreements, pursuant to subsections 36(a)(3) and (4) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

3876. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on locks and dam No. 26, Mississippi River, Alton, Ill. (H. Doc. No. 94-584); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

3877. A letter from the Acting Secretary of Health, Education, and Welfare, transmitting a report covering the quarter ended June 30, 1976, on grants approved by the Secretary for experimental, pilot, demonstration, or other projects all or any part of which are wholly financed with Federal funds under the Social Security Act, pursuant to section 1120(b) of the act [42 U.S.C. 1320(b)]; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

RECEIVED FROM THE COMPTROLLER GENERAL

3878. A letter from the Comptroller General of the United States, transmitting a report on the management of a nuclear light water reactor safety project by the Nuclear Regulatory Commission and the Energy Research and Development Administration; jointly, to the Committee on Government Operations and the Joint Committee on Atomic Energy.

3879. A letter from the Comptroller General of the United States, transmitting a report on problems encountered by the Federal Aviation Administration in managing a prototype long-range radar system contract; jointly, to the Committee on Government Operations, and Public Works and Transportation.

3880. A letter from the Comptroller General of the United States, transmitting a report on the Department of Transportation's administration of laws pertaining to bridges across navigable waters; jointly, to the Committees on Government Operations, Merchant Marine and Fisheries, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee of conference. Conference report on S. 5 (Rept. No. 94-1441). Ordered to be printed.

Mr. MEEDS: Committee of conference. Conference report on S. 217 (Rept. No. 94-1439). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. STRATTON: Committee on Armed Services. H.R. 14772. A bill to amend section 313 of title 37, United States Code, to pay variable incentive pay to medical officers who participated in the Berry plan, and for other purposes; with an amendment; referred to the Committee on Appropriations for a period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93-344 (Rept. No. 94-1438, pt. I).

Mr. TEAGUE: Committee on Science and Technology. S. 1174. An act to reduce the hazards of earthquakes, and for other purposes; with an amendment; referred to the Committee on Interior and Insular Affairs for a period ending not later than September 8, 1976, for consideration of such provisions of the bill as fall within the jurisdiction of that committee under rule X, clause 1(j), and ordered to be printed (Rept. No. 94-1440, pt. I).

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK:

H.R. 15280. A bill to repeal the Gun Control Act of 1968; to the Committee on the Judiciary.

By Mr. BRINKLEY:

H.R. 15281. A bill to amend the Federal Aviation Act of 1958, as amended, to broaden the power of the Civil Aeronautics Board to grant relief by exemption in certain cases, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. DENT:

H.R. 15282. A bill to provide for the establishment of the George W. Norris Home National Historic Site in the State of Nebraska, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HAMMERSCHMIDT:

H.R. 15283. A bill to amend the Older Americans Act of 1965 to require the Commissioner on Aging to establish a special supplemental food program and medical examination and referral program for older Americans, and for other purposes; to the Committee on Education and Labor.

By Mr. LLOYD of California:

H.R. 15284. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. NIX:

H.R. 15285. A bill to establish the National Diabetes Advisory Board and to take other actions to insure the implementation of the long-range plan to combat diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. OTTINGER:

H.R. 15286. A bill to amend the Immigration and Nationality Act to permit adoption of more than two alien children under certain conditions; to the Committee on the Judiciary.

By Mr. PRESSLER:

H.R. 15287. A bill to amend the act entitled "An Act authorizing the Secretary of the Interior to arrange with States or Territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes", approved April 16, 1934 (48 Stat. 596; 25 U.S.C. 452 et seq.); to the Committee on Education and Labor.

H.R. 15288. A bill to amend title 18 of the United States Code to prohibit certain forms of economic coercion based on religion, race, national origin, sex, or certain other factors; to the Committee on the Judiciary.

By Mr. VIGORITO (for himself, Mr. Badillo, Mr. Baucus, Mr. Byron, Mr. Mottl, Mr. Nix, Mr. Patterson of California, Mr. Rodino, and Mr. Roe):

H.R. 15289. A bill to treat the African elephant as an endangered species; to the Committee on Merchant Marine and Fisheries.

By Mr. YATRON:

H.R. 15290. A bill to authorize the Secretary of Housing and Urban Development to make grants to local agencies for converting closed school buildings to efficient, alternate uses, and for other purposes; to the Committee on Banking, Currency and Housing.

H.R. 15291. A bill to amend the Internal Revenue Code of 1954 to encourage businesses to purchase surplus school or hospital buildings from governmental and nonprofit entities by providing rapid amortization for such buildings; to the Committee on Ways and Means.

Mr. BEARD of Tennessee:

H.R. 15292. A bill to direct the Foreign Agricultural Service of the Department of Agriculture to study the effects of palm oil imports upon domestic processors of vegetable oils and to study methods of regulating the importation of palm oils in order to provide additional protection to domestic producers of agricultural commodities, and for other purposes; to the Committee on Agriculture.

By Mr. BONKER:

H.R. 15293. A bill providing for the construction of a flood control project on the Chehalis River, Wash.; to the Committee on Public Works and Transportation.

H.R. 15294. A bill to modify the project for navigation improvement of the Grays Harbor and Chehalis River and Hoquiam River, Wash.; to the Committee on Public Works and Transportation.

By Mr. HARRINGTON:

H.R. 15295. A bill to provide for the termination of any loan guarantee made under the Emergency Loan Guarantee Act; to the Committee on Banking, Currency and Housing.

By Mr. KELLY:

H.R. 15296. A bill to amend the Federal Noxious Weed Act of 1974 for the purpose of making such act apply to the water weeds hydrilla and hyacinth; to the Committee on Agriculture.

H.R. 15297. A bill to amend section 102 of the act of September 21, 1944, for the purpose of making such section apply to the water weeds hydrilla and hyacinth; to the Committee on Agriculture.

H.R. 15298. A bill to amend section 104 of the River and Harbor Act of 1958 for the purpose of making such section apply to the water weed hydrilla; to the Committee on Public Works and Transportation.

By Mr. LaFALCE:

H.R. 15299. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for property improvements designed to prevent shoreline erosion caused by high water levels in the Great Lakes; to the Committee on Ways and Means.

By Mr. MATSUNAGA:

H.R. 15300. A bill to authorize Federal payment, from sums appropriated for supplemental security income benefits under title XVI of the Social Security Act, of the cost of returning certain recipients of such benefits to their homelands; to the Committee on Ways and Means.

H.R. 15301. A bill to amend the Social Security Act to provide for inclusion of the services of licensed practical nurses under medicare and medicaid; to the Committee on Ways and Means.

By Mr. MILFORD (for himself, Mr. Hammerschmidt, Mr. Ginn, Mrs. Lloyd of Tennessee, Mr. Roncalio, Mr. Howe, Mr. Taylor of Missouri, Mr. Henderson, Mr. Beard of Tennessee, Mr. Ford of Tennessee, and Mr. Kemp):

H.R. 15302. A bill to amend the Federal Aviation Act of 1958, as amended, to broaden the power of the Civil Aeronautics Board to grant relief by exemption in certain cases, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MURPHY of New York:

H.R. 15303. A bill to amend the Communications Act of 1934 to authorize the Federal Communications Commission to regulate terminal equipment and to direct the Commission to conduct a study on the costing of satellite common carrier communication services and a report on data common carrier competition; to the Committee on Interstate and Foreign Commerce.

By Mr. RUPPE:

H.R. 15304. A bill to expedite a decision on the delivery of Alaska natural gas to U.S. markets, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs.

By Mr. WHITTEN:

H.R. 15305. A bill to authorize construction of the project for Nonconnah Creek, Tenn. and Miss., and Horn Lake Creek, and tributaries, including Cowpen Creek, Tenn. and Miss.; to the Committee on Public Works and Transportation.

By Mr. CARNEY (for himself, Mr. Poage, Mr. Spence, Mr. Mann, Mr. Jenrette, Mr. Abdnor, Mr. Duncan of Tennessee, Mr. Allen, Mr. Ford of Tennessee, Mr. Eckhardt, Mr. Pickle, Mr. Wright, Mr. Mahon, Mr. Krueger, Mr. Downing of Virginia, Mr. Satterfield, Mr. Robinson, Mr. Young of Texas, Miss Jordan, Mr. Paul, Mr. Whitehurst, Mr. Butler, Mr. Fisher, Mr. Mollohan, and Mr. Slack):

H.J. Res. 1063. A resolution authorizing the President to proclaim the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week"; to the Committee on Post Office and Civil Service.

By Mr. CARNEY (for himself, Mr. Mazzoli, Mrs. Boggs, Mr. Treen, Mr. Waggonner, Mr. Breckinridge, Mr. Moore, Mr. Breaux, Mr. Long of Louisiana, Mr. Bauman, Mr. Long of Maryland, Mr. Sarbanes, Mr. Boland, Mr. Early, Mr. Drinan, Mr. Harrington, Mr. Cohen, Mrs. Spellman, Mr. Byron, Mr. Mitchell of Maryland, Mr. Gude, Mr. O'Neill, Mr. Moakley, Mrs. Heckler of Massachusetts, and Mr. Burke of Massachusetts):

H.J. Res. 1064. A resolution authorizing the President to proclaim the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week"; to the Committee on Post Office and Civil Service.

By Mr. CARNEY (for himself, Mr. Nichols, Mr. Bevill, Mr. Rhodes, Mr. Udall, Mr. Alexander, Mr. Mills, Mr. Johnson of California, Mr. John L. Burton, Mr. Phillip

Burton, Mr. Miller of California, Mr. Dellums, Mr. Stark, Mr. Edwards of California, Mr. Ryan, Mr. Mineta, Mr. McFall, Mr. Krebs, Mr. Corman, Mr. Roybal, Mr. Hawkins, Mr. Danielson, Mr. Charles H. Wilson of California, Mr. Anderson of California, and Mr. Del Clawson):

H.J. Res. 1065. A resolution authorizing the President to proclaim the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week"; to the Committee on Post Office and Civil Service.

By Mr. CARNEY (for himself, Mr. Young of Georgia, Mr. Matsunaga, Mr. Pepper, Mr. Flynt, Mr. Stuckey, Mr. Stephens, Mr. Price, Mr. Madden, Mr. Fithian, Mr. Brademas, Mr. Roush, Mr. Mezvinsky, Mr. Grassley, Mr. Simon, Mr. Myers of Indiana, Mr. Hayes of Indiana, Mr. Sharp, Mr. Smith of Iowa, Mr. Harkin, Mr. Bedell, Mrs. Keys, Mr. Winn, Mr. Hubbard, and Mr. Natcher):

H.J. Res. 1066. A resolution authorizing the President to proclaim the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week"; to the Committee on Post Office and Civil Service.

By Mr. CARNEY (for himself, Mr. Lloyd of California, Mrs. Pettis, Mr. Cotter, Mr. Dodd, Mr. Sikes, Mr. Chappell, Mr. Johnson of Colorado, Mr. Sarasin, Mr. Moffett, Mr. Gibbons, Mr. Haley, Mr. Metcalfe, Mr. Murphy of Illinois, Mr. Derwinski, Mr. Fary, Mrs. Collins of Illinois, Mr. Mikva, Mr. Annunzio, Mr. Shipley, Mr. Rogers, Mr. Ginn, Mr. Mathis, Mr. Brinkley, and Mr. Levitas):

H.J. Res. 1067. A resolution authorizing the President to proclaim the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week"; to the Committee on Post Office and Civil Service.

By Mr. CARNEY (for himself, Mr. Nix, Mr. Eilberg, Mr. Schulze, Mr. Yatron, Mr. Steed, Mr. Duncan of Oregon, Mr. Weaver, Mr. Edgar, Mr. McDade, Mr. Flood, Mr. Murtha, Mr. Moorhead of Pennsylvania, Mr. Rooney, Mr. Gaydos, Mr. Dent, Mr. Morgan, Mr. Vigorito, Mr. Beard of Rhode Island, Mr. Davis, Mr. Derrick, Mr. Holland, Mr. Quillen, Mrs. Lloyd of Tennessee, and Mr. Charles Wilson of Texas):

H.J. Res. 1068. A resolution authorizing the President to proclaim the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week"; to the Committee on Post Office and Civil Service.

By Mr. CARNEY (for himself, Mr. Clancy, Mr. Whalen, Mr. Guyer, Mr. Latta, Mr. Harsha, Mr. Brown of Ohio, Mr. Kindness, Mr. Ashley, Mr. Miller of Ohio, Mr. Devine, Mr. Mosher, Mr. Seiberling, Mr. Wylie, Mr. Regula, Mr. Ashbrook, Mr. Hays of Ohio, Mr. James V. Stanton, Mr. Stokes, Mr. Vanik, Mr. Mottl, Mr. AuCoin, and Mr. Ullman):

H.J. Res. 1069. A resolution authorizing the President to proclaim the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week"; to the Committee on Post Office and Civil Service.

By Mr. CARNEY (for himself, Mr. Zeferetti, Mr. Murphy of New York, Mr. Koch, Mr. Rangel, Mr. Badillo, Mr. Bingham, Mr. Ottinger, Mr. Gilman, Mr. McHugh, Mr. Stratton, Mr. Pattison of New York, Mr. Hanley, Mr. Walsh, Mr. LaFalce, Mr. Jones of North Carolina, Mr. Neal, Mr. Preyer, Mr. Nowak, Mr. Kemp, Mr. Lundine, Mr. Rose, Mr. Hefner, Mr. Taylor of North Carolina, and Mr. Gradison):

H.J. Res. 1070. A resolution authorizing the President to proclaim the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week"; to the Committee on Post Office and Civil Service.

By Mr. CARNEY (for himself, Mr. Thompson, Mr. Forsythe, Mr. Maguire, Mr. Roe, Mr. Helstoski, Mr. Rodino, Mr. Minish, Mr. Lujan, Mr. Pike, Mr. Downey of New York, Mr. Ambro, Mr. Lent, Mr. Wydler, Mrs. Meyner, Mr. Dominick V. Daniels, Mr. Patten, Mr. Runnels, Mr. Wolff, Mr. Addabbo, Mr. Delaney, Mr. Biaggi, Mr. Scheuer, Mr. Solarz, and Mr. Richmond):

H.J. Res. 1071. A resolution authorizing the President to proclaim the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week"; to the Committee on Post Office and Civil Service.

By Mr. CARNEY (for himself, Mr. Conyers, Mr. Vander Veen, Mr. Carr, Mr. Traxler, Mr. Vander Jagt, Mr. Ruppe, Mr. O'Hara, Mr. Diggs, Mr. Nedzi, Mr. Ford of Michigan, Mr. Brodhead, Mr. Blanchard, Mr. Frenzel, Mr. Whitten, Mr. Montgomery, Mr. Clay, Mr. Nolan, Mr. Oberstar, Mr. Florio, Mr. Howard, Mrs. Fenwick, Mr. Melcher, Mr. Cleveland, and Mr. Hughes):

H.J. Res. 1072. A resolution authorizing the President to proclaim the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week"; to the Committee on Post Office and Civil Service.

By Mr. CARNEY (for himself, Mr. Roncalio, Mr. McCormack, Mr. Hicks, Mr. Staggers, Mr. Kastenmeier, Mr. Zablocki, Mr. Hammerschmidt, and Mr. Mitchell of New York):

H.J. Res. 1073. A resolution authorizing the President to proclaim the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week"; to the Committee on Post Office and Civil Service.

By Mr. HARRINGTON (for himself, Mrs. Chisholm, Mr. Conte, Mr. Diggs, Mr. Fraser, Mr. Bergland, Mr. Cohen, Mr. McHugh, and Mr. McCloskey):

H.J. Res. 1074. A resolution with respect to the promotion and use of infant formula in developing nations as it relates to basic nutrition in such nations; to the Committee on International Relations.

By Mr. ROE:

H.J. Res. 1075. A resolution designating September 19 as "National Family Day" during the celebration of our Nation's Bicentennial Year; to the Committee on Post Office and Civil Service.

By Mr. MURPHY of New York (for himself, Mr. Charles H. Wilson of California, Mr. Bob Wilson, Mr. Adams, Mr. Bevill, Mr. Young of Texas, Mr. Wright, Mr. Helstoski, Mr. Ryan, Mr. Minish, Mr. Johnson of California, Mr. du Pont, Mrs. Fenwick, Mr. Brown of Michigan, Mr. Fish, and Mr. Bowen):

H. Con. Res. 724. A resolution expressing the sense of Congress that the President take steps to place on the agenda of the United Nations Organization the threat to the peace created by the murder of two American Army officers by members of the North Korean Armed Forces; to the Committee on International Relations.

By Mr. HENDERSON:

H. Res. 1497. A resolution authorizing appointment of a special counsel to represent the Sergeant at Arms in the case of *Pressler v. Simon et al.*; to the Committee on House Administration.

By Mr. MURPHY of New York (for himself, Mr. Charles H. Wilson of California, Mr. Bob Wilson, Mr. Adams, Mr. Bevill, Mr. Young of Texas, Mr. Wright, Mr. Helstoski, Mr. Ryan, Mr. Minish, Mr. Johnson of California, Mr. du Pont, Mrs. Fenwick, Mr. Brown of Michigan, Mr. Fish, and Mr. Bowen):

H. Res. 1498. A resolution condemning the treacherous acts of North Korea; to the Committee on International Relations.

By Mr. MURPHY of New York (for himself, Mr. Charles H. Wilson of California, Mr. Bob Wilson, Mr. Adams, Mr. Bevill, Mr. Young of Texas, Mr. Wright, Mr. Helstoski, Mr. Ryan, Mr. Minish, Mr. Johnson of California, Mr. du Pont, Mrs. Fenwick, Mr. Brown of Michigan, Mr. Fish, and Mr. Bowen):

H. Res. 1499. A resolution instructing the Committee on the Armed Services to study and report on the murder of two American Army officers by members of the North Korean armed services; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

448. By the SPEAKER: A memorial of the Legislature of the State of Alabama, relative to allowing food stamp recipients to use part of their stamps to buy seeds and supplies to grow their own food; to the Committee on Agriculture.

449. Also, a memorial of the Legislature of the State of Alabama, relative to general revenue sharing; to the Committee on Government Operations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. JOHN L. BURTON:

H.R. 15306. A bill for the relief of Teresa Rodriquez De La Torre; to the Committee on the Judiciary.

By Mr. CARTER:

H.R. 15307. A bill for the relief of Sgt. Leonard B. Decker; to the Committee on the Judiciary.

By Mr. TREEN:

H.R. 15308. A bill for the relief of Mr. and Mrs. Hugh Mapp; to the Committee on the Judiciary.

By Mr. WAMPLER:

H.R. 15309. A bill for the relief of Granwel Aquino Esteban; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

568. The SPEAKER presented a petition of Leon Hess, chairman of the board, Amerada Hess Corp., New York, N.Y., relative to creating a U.S. customs oil zone within the property lines of the Hess Oil Virgin Islands Corp.'s refinery on St. Croix, which was referred to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 12112

By Mr. BLOUIN:

On page 105 (which is part of the Banking, Currency and Housing Committee Amendment), strike all on line 17 through the period at the end of line 26 on page 106.

On page 106 (which is part of the Banking, Currency and Housing Committee Amendment), after the period on line 12, insert the following:

"The Administrator may not enter into any agreement under this subsection with any person who receives any other financial assistance under this section or sections 7 and 8 of this section without specific authorization by Congress enacted after the date of enactment of this section."

On page 106 (which is part of the Banking, Currency and Housing Committee Amendment), strike all on line 13 through the period on line 17 and insert therein the following:

"(3) Subsections (c)(5), (c)(7), (d), (e), (i), (k), (m), and (p) through (z) shall apply to agreements or contracts under this subsection."

By Mr. MOFFETT:

On page 36 (which is part of the Science and Technology Committee Amendment), line 4, strike "thirty" and insert therein "twenty".

On page 35 (which is part of the Science and Technology Committee Amendment), line 6, strike all through the semi-colon on line 11 and insert the following:

"(2) the amount guaranteed with respect to any demonstration facility may not at any time exceed 75 per centum of the total cost incurred as of such time with respect to such facility (as determined by the Administrator), except if the total cost incurred with respect to a demonstration facility exceeds the project cost estimated by the Administrator at the time the loan guarantee was issued, the amount guaranteed may not exceed 75 per centum of such estimated project cost and 60 per centum of such excess. In determining the cost incurred with respect to a facility—

"(A) there shall be excluded any cost incurred for facilities and equipment used in the extraction of a mineral to be converted to synthetic fuel, unless the Administrator determines that such facilities and equipment are not capable of producing any marketable fuel other than synthetic fuel.

"(B) property or services obtained for the facility in a transaction with a person who has or will have a substantial ownership or profits interest in the facility shall be valued at the cost to the borrower or fair market value, whichever is less;".

On page 73 (which is part of the Banking, Currency and Housing Committee Amendment), line 10, strike all through the semicolon on line 25 and insert the following:

"(2) the amount guaranteed with respect to any demonstration facility may not at any time exceed 75 per centum of the total cost incurred as of such time with respect to such facility (as determined by the Administrator), except if the total cost incurred with respect to a demonstration facility exceeds the project cost estimated by the Administrator at the time the loan guarantee was issued, the amount guaranteed may not exceed 75 per centum of such estimated project cost and 60 per centum of such excess. In determining the cost incurred with respect to a facility—

"(A) there shall be excluded any cost incurred for facilities and equipment used in the extraction of a mineral to be converted to synthetic fuel, unless the Administrator determines that such facilities and equipment are not capable of producing any marketable fuel other than synthetic fuel.

"(B) property or services obtained for the facility in a transaction with a person who has or will have a substantial ownership or profits interest in the facility shall be valued at the cost to the borrower or fair market value, whichever is less;".

By Mr. TEAGUE:

(Substitute amendment.)

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(7) Federal loan guarantees and commitments thereof as provided in section 19.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is further amended by adding at the end thereof the following new section:

"LOAN GUARANTEES FOR DEMONSTRATION FACILITIES

"SEC. 19. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a demonstration program to produce synthetic fuels from coal, oil shale, and other domestic resources, to employ biomass and renewable and geothermal energy sources to produce synthetic fuels and other desirable forms of energy, and to assure the availability of energy-efficient industrial equipment and facilities;

"(2) to authorize assistance, through loan guarantees under subsection (b) for construction and startup and related costs and through price guarantees under subsection (z), to demonstration facilities (A) for the conversion of domestic coal, oil shale, biomass, and other domestic resources into synthetic fuels; (B) for the demonstration of synthetic fuels and other desirable forms of energy from renewable and geothermal sources; and (C) for the demonstration of energy-efficient industrial equipment and facilities; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) Except as provided in paragraph (5) of this subsection, the Administrator is authorized, in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of (A) financing the construction and startup costs of demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into synthetic fuels, including, but not limited to, such synthetic fuels from coal as high Btu gaseous fuels compatible for mixture and transportation with natural gas by pipeline; gaseous, liquid, and solid fuels suitable for boiler use in compliance with applicable environmental requirements; liquid fuels for transportation uses; and petrochemicals: *Provided*, That no loan guarantee for a full sized oil shale facility shall be provided under this section until after successful demonstration of a modular facility producing between six and ten thousand barrels per day, taking into account such considerations as water usage, environmental effects, waste disposal, labor conditions, health and safety, and the socioeconomic impacts on local communities: *Provided further*, That no loan guarantee shall be available under this clause for the manufacture of component parts for demonstration facilities eligible for assistance under this clause; (B) financing the construction and startup costs of demonstration facilities to generate desirable forms of energy (including synthetic fuels) from direct solar, wind, ocean thermal gradient, bioconversion, or other renewable energy resources; (C) financing the purchase, construction, installation, and startup costs of energy-efficient industrial equipment and facilities for demonstration by small business concerns and others for general use; and (D) further implementing the financing of geothermal resource development under the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1101, et seq.). The amount of obligations authorized for any guarantee or commitment to guarantee under this subsection is $3,500,000,000 for the following fiscal years, 1977 and 1978: *Provided*, That the indebtedness guaranteed or committed to be guaranteed which may be outstanding at any time in any fiscal year shall not exceed the aggregate of the total amount authorized pursuant to this section for that fiscal year and all preceding fiscal years. With regard to such limitation the Administrator shall make no new commitments for loan guarantees after September 30, 1984, and shall furnish no guarantees after September 30, 1986. The authorized indebtedness to be guaranteed under clauses (A), (B), and (C) of this paragraph shall be allocated by the Administrator so that no more than 50 per centum is for high Btu coal gasification, no more than 30 per centum for other fossil based synthetic fuels, and no more than 50 per centum for renewable energy resources, including biomass, urban and other waste, direct solar, wind, ocean thermal gradient, bioconversion, and for industrial energy conservation. All guarantees or commitments to guarantee authorized by this section shall be made only for demonstration facilities constructed within the United States or in waters contiguous to its territory. None of the amounts authorized for guarantee under this section shall be committed until the studies already initiated by the Administrator concerning the synthetic fuels demonstration program authorized by this subsection are completed and a report of each such study is submitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and the President of the Senate and the Senate Committee on Interior and Insular Affairs. Loan guarantees for geothermal resource development under clause (D) of this paragraph shall be carried out pursuant to the authority and provisions of the Geothermal Energy Research, Development, and Demonstration Act of 1974: *Provided*, That paragraphs (2) and (4) of this subsection, and subsections (g)(2), (h), (n), and (u) of this section, shall also apply to such guarantees: *Provided further*, That the limitations in section 201(e) of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1141(e)) shall not apply to such guarantees.

"(2) An applicant for any financial assistance under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5)(A) The Administrator is authorized, in the case of a facility for the conversion of oil shale to synthetic fuels which is determined by the Administrator pursuant to the proviso in paragraph (1)(A) of this subsection, to be constructed at a modular size, to enter into a cooperative agreement with the applicant in accordance with section 8 of this Act and the other provisions of this Act to share the estimated total design and construction costs, plus operation and maintenance costs, of such modular facility. The Federal share shall not exceed 75 per centum of such costs. All receipts for the sale of any products produced during the operation of the facility shall be used to offset the costs incurred in the operation and maintenance of the facility. The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), (x), and (y) shall apply to any such modular facility. The provisions of this section shall apply to any loan guarantee for such modular facility.

"(B) *After* successful demonstration of the modular facility, as determined by the Administrator, the facility is eligible for financial assistance under this section for purposes of expansion to a full sized facility and the applicant may purchase the Federal interest in the modular facility as represented by the Federal share thereof by means of (i) a cash payment to the United States, or (ii) a share of the product or sales resulting from such expanded operation, as determined by the Administrator. If expansion of such facility is determined not to be warranted by the Administrator, he may, at the option of the applicant, dispose of the modular facility to the applicant at not less than fair market value, as determined by the Administrator as of the date of the disposal, or otherwise dispose of it, in accordance with applicable provisions of law, and distribute the net proceeds thereof, after expenses of such disposal, to the applicant in proportion to the applicant's share of the costs of such facility.

"(6) To the extent possible, loan guarantees shall be issued on the basis of competitive bidding among guarantee applicants in a particular technology area.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed to any borrower at any time does not exceed—

"(A) an amount equal to 75 per centum of the project cost of the demonstration facility as estimated at the time the guarantee is issued, which cost shall not include amounts expended for facilities and equipment used in the extraction of a mineral other than coal or shale, and in the case of coal only to the extent that the Administrator determines that the coal is to be converted to synthetic fuel; and

"(B) an amount equal to 60 per centum of that portion of the actual total project cost of any demonstration facility which exceeds the project cost of such facility as estimated at the time the loan guarantee is issued;

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed demonstration facility have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such facility under this section, under other provisions of law, or by other means;

"(6) the maximum maturity of the obligation does not exceed twenty years, or 90 per centum of the projected useful economic life of the physical assets of the demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator;

"(7) the Administrator has determined that, in the case of any demonstration or modular facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location;

"(8) the obligation provides for the orderly and ratable retirement of the obligation and includes sinking fund provisions, installment payment provisions or other methods of payments and reserves as may be reasonably required by the Administrator. Prior to approving any repayment schedule the Administrator may consider the date on which operating revenues are anticipated to be generated by the project. To the maximum extent possible repayment or provision therefor shall be required to be made in equal payments payable at equal intervals; and

"(9) the obligation provides that the Administrator shall, after a period of not less than ten years from issuance of the obligation, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation, determine the feasibility and advisability of terminating the Federal participation in the project. In the event that such determination is positive, the Administrator shall notify the borrower and provide the borrower with not less than two nor more than three years in which to find alternative financing. At the expiration of the designated period of time, if the borrower has been unable to secure alternative financing, the Administrator is authorized to collect from the borrower an additional fee of 1 per centum per annum on the remaining obligation to which the Federal guarantee applies.

"(d) Prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee and cooperative agreement, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment or agreement on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided*, That if either official, within sixty days after receipt of such request or at any time prior to the Administrator submitting such report to Congress, recommends against making such guarantee or commitment or agreement, the proposed guarantee or commitment or agreement shall be referred to the President, and the Administrator shall not do so unless the President determines in writing that such guarantee or commitment or agreement is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee or cooperative agreement is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee or enter into a cooperative agreement under subsection (b) of this section, if the Governor of the State in which the proposed facility would be located recommends that such action not be taken, unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee or enter into a cooperative agreement despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. The Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review initiated by the Governor to be unlawful by the reviewing court pursuant to 5 U.S.C. 706(2) (A) through (D). Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, startup costs, costs to political subdivisions and Indian tribes by such facility, and costs of any water storage facilities needed in connection with such demonstration facility, and determine who shall pay such costs. Such determination shall not be binding upon the States, political subdivisions, or Indian tribes.

"(3 There is hereby established a panel to advise the Administrator on matters relating to the program authorized by this section, including, but not limited to, the impact of the demonstration facilties on communities and States and Indian tribes, the environmental and health and safety effects of such facilities, and the means, measures, and planning for preventing or mitigating such impacts, and other matters relating to the development of synthetic fuels and other energy sources under this section. The panel shall include such Governors or their designees as shall be designated by the Chairman of the National Governors Conference, Representatives of Indian tribes, industry, environmental organizations, and the general public shall be appointed by the Administrator. The Chairman of the panel shall be selected by the Administrator. No person shall be appointed to the panel who has a financial interest in any applicant applying for assistanace under this section. Members of the panel shall serve without compensation. The provisions of section 106(e) of the Energy Reorganization Act of 1974 (42 U.S.C. 5816(e)) shall apply to the panel.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g) (1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection or section 202(b) of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1142(b)), the Administrator shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or any other property of the borrower (of a value equal to the amount of such payment) to the extent that the guarantee applies to amounts in excess of the estimated project cost under subsection (c) (2) (B), without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the demonstration facility if the Administrator determines that this is in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) including any payment of principal and interest under subsection (h) from such assets of the defaulting borrower as are associated with the demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patents, including any inventions for which a waiver was made by the Administrator under section 9 of this Act, and technology resulting from the demonstration facility, shall be treated as project assets of such facility. The guarantee agreement shall include such detailed terms and conditions as the Administrator deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to the Administrator, to complete and operate the defaulting project. Furthermore, the gurantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the demonstration facility shall be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as project assets of such facility for disposal purposes under this subsection, unless the Administrator determines in writing that it is in the best interests of the United States to do so.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section or from the Geothermal Resources Development Fund, as applicable, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (t) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by clauses (A), (B), (C), and (D) of subsection (b) (1), in amounts which (1) are sufficient in the judgment of the Administrator to cover the applicable administrative costs, and (2) reflect the percentage of projects costs guaranteed. In no event shall the fee be less than 1 per centum per annum of the outstanding indebtedness covered by the guarantee. Nothing in this subsection shall be construed to apply to community planning and development assistance pursuant to subsection (k) of this section.

"(k) (1) In accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more demonstration facilities assisted under this section to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such demonstration facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the applicant for assistance for a demonstration facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided,* That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the facilities for such payments by such applicant.

"(2) Prior to issuing any guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(3) The amount of obligations authorized for any guarantee and commitment to guarantee under paragraph (1) of this subsection is $150,000,000 for each of the following fiscal years 1977 and 1978: *Provided,* That such obligations guaranteed or committed to be guaranteed which may be outstanding at any fiscal year shall not exceed the aggregate of the total amount authorized pursuant to this subsection for that fiscal year and all preceding fiscal years, and shall be included in the limitation on outstanding indebtedness set forth in subsection (b) (1) of this section.

"(4) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(5) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this subsection will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided,* That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further,* That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such demonstration facility and which are determined by the Administrator to be appropriate for such inclusion shall be included in the total costs of the demonstration facility.

"(6) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of demonstration facilities, and for establishing related management expertise.

"(7) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(8) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the demonstration facilities occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(9)(A) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts and shall be requested in fiscal year 1977, and in subsequent fiscal years.

"(B) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1976, and the transition period $2,000,000 for grants to be used to carry out the purposes of this subsection.

"(10) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this subsection.

"(11) In carrying out the provisions of this subsection, the Administrator shall provide that title to any facility receiving financial assistance under this subsection shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee made or committed under subsection (b) of this section, such facility shall not be considered a project asset for the purposes of subsection (g) of this section.

"(l)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy. Such report shall be updated and submitted to Congress at least annually for the duration of the program authorized by this section and shall include specific comments and recommendations by the Secretary of the Treasury on the methods and procedures set forth in subparagraph (B)(viii) of this subsection, including their adequacy, and changes necessary to satisfy the objectives stated in this subsection. This report shall include—

"(A) a study of the purchase or commitment to purchase by the Federal Government, for use by the United States, of all or a portion of the products of any synthetic fuel facilities constructed pursuant to this program as a direct or an alternate form of Federal assistance, which assistance, if recommended, shall be carried out pursuant to section 7(a)(4) of this Act; and

"(B) a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, the Department of Agriculture, and the Department of the Treasury, and shall include therein, but not be limited to, the following:

"(i) information about potential demonstration facilities proposed in the program under this section;

"(ii) any significant adverse impacts which may result from any activity included in the program;

"(iii) the extent to which it is feasible to commercialize the technologies as they affect different regions of the Nation;

"(iv) proposed regulations required to carry out the purposes of this section;

"(v) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program;

"(vi) the methods and procedures by which the information gathered under the program will be analyzed and disseminated;

"(vii) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect of synthetic fuels; and

"(viii) the methods and procedures to insure that (1) the use of the Federal assistance for demonstration facilities is kept to the minimum level necessary for the information objectives of this section, (2) the impact of loan guarantees on the capital markets of the United States is minimized, taking into account other Federal direct and indirect securities activities, and any economic sectors which may be negatively impacted as a result of the reduction of capital by the placement of guaranteed loans, and (3) the granting of Federal loan guarantees under this Act does not impede movement toward improvement in the climate for attracting private capital to develop synthetic fuels without continued direct Federal incentives.

"(2) The Administrator shall annually submit a detailed report to the Congress concerning—

"(A) the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including, but not be limited to (i) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility, including byproduct production therefrom, and the distribution of such products and byproducts, (ii) a detailed statement of the financial conditions of each such demonstration facility, (iii) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (iv) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (v) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section; and

"(B) The activities of the funds referred to in subsection (n) of this section during the preceding fiscal year, including a statement of the amount and source of fees or other moneys, property, or assets deposited into the funds, all payments made, the notes or other obligations issued by the Administrator, and such other data as may be appropriate.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports and the one-hundred-and-eighty-day report required in paragraph (1) of this subsection shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Committee on Interior and Insular Affairs of the Senate.

"(m) Prior to issuing any guarantee or commitment to guarantee or cooperative agreement pursuant to subsection (b) of this section or entering into any price guarantee contract pursuant to subsection (aa) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate a full and complete report on the proposed demonstration facility and such guarantee, agreement, or contract. Such guarantee, commitment to guarantee, cooperative agreement, or contract shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided*, That, where the cost of a demonstration facility to be assisted with a guarantee or cooperative agreement pursuant to subsection (b) of this section exceeds $200,000,000 such guarantee or commitment to guarantee or cooperative agreement shall not be finalized if prior to the close of such ninety-day period both Houses pass a resolution stating in substance that the Congress does not favor the making of such guarantee or commitment or agreement.

"(n)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by clauses (A), (B), and (C), of subsection (b)(1) and subsections (g), (h), and (k) of this section. The Geothermal Resources Development Fund established by the Geothermal Energy Research, Development, and Demonstration Act of 1974 shall be available for the purpose of carrying out the geothermal loan guarantee program as established by that Act and as further implemented by this section.

"(2) There are hereby authorized to be appropriated to the fund for administrative expenses for the fiscal year ending June 30, 1976, $1,000,000, and for the period beginning July 1, 1976 and ending September 30, 1976, $1,000,000, and from time to time such other amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund or in the Geothermal Resources Development Fund, as applicable.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the funds subject to appropriations or from the Geothermal Resources Development fund, as applicable. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund or in the Geothermal Resources Development Fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), and (h) of this section, or the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1101), as the case may be, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by clauses (A), (B), and (C) of subsection (b)(1) and subsections (g), (h), and (k) of this section, and from appropriations or other moneys available under section 204 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 for loan guarantees described in clause (D) of subsection (b)(1) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

"(5) The provisions of this subsection do not apply to direct loans or planning grants made under subsection (k) of this section.

"(o) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States,

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity.

"(p)(1) An applicant seeking a guarantee or cooperative agreement under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (1) the citizenship of officers or directors of a corporation, and (2) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(2) The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

"(q) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirement and conditions of section 9 of this Act.

"(s)(1) Each officer or employee of the Energy Research and Development Administration who—

"(A) performs any function or duty under this section; and

"(B)(i) has any known financial interest in any person who is applying for or receiving financial assistance for a demonstration facility under this section; or

"(ii) has any known financial interest in property from which coal, natural gas, oil shale, crude oil, or other energy resources is produced in connection with any demonstration facility receiving financial assistance under this section,

shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(2) The Administrator shall—

"(A) act within ninety days after the date of enactment of this Act—

"(i) to define the term 'known financial interest' for purposes of paragraph (1) of this subsection; and

"(ii) to establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(B) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(3) In the rules prescribed in paragraph (2) of this subsection, the Administrator may identify specific positions within the Administration which are of a nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this subsection.

"(4) Any officer or employee who is subject to, and knowingly violates, this subsection shall be fined not more than $2,500 or imprisoned not more than one year, or both.

"(t) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(u) The information maintained by the Administrator under this section shall be made available to the public subject to the provision of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided,* That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further,* That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman. For the purposes of this subsection, the term person' shall include the borrower.

"(v) Notwithstanding any other provision of this section, the authority provided in this section to make guarantees or commitments to guarantee or enter into cooperative agreements under subsection (b)(1), to make guarantees or commitments to guarantee, or to make loans or grants, under subsection (k), to make contracts under subsection (h) or (z), and to use fees and receipts collected under subsections (b) and (j) of this section, and the authorities provided under subsection (n) of this section, shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(w) No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with assistance made available under this section: *Provided,* That Indian tribes are exempt from the operation of this subsection: *Provided further,* That such exemption shall be limited to the planning and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

"(x) In carrying out his functions under this section, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in the program to the optimum extent feasible consistent with the size and nature of each project.

"(y)(1)(A) Recipients of financial assistance under this section shall keep such records and other pertinent documents, as the Administrator shall prescribe by regulation, including, but not limited to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any facility, the total cost of the provision of public facilities for which assistance was used, and such other records as the Administrator may require to facilitate an effective audit. The Administrator and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records and other pertinent documents.

"(B) Within 6 months after the date of enactment of this section and at 6-month intervals thereafter, the Comptroller General of the United States shall make an audit of recipients of financial assistance under this section. The Comptroller General may prescribe such regulations as he deems necessary to carry out this subparagraph.

"(2) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c)).

"(z)(1) In addition to providing assistance through loan guarantees under the preceding provisions of this secion, the Administrator is authorized to provide assistance in the form of payments made in support of synthetic fuel prices after September 1977 under price guarantee contracts entered into with persons proposing to construct facilities for the manufacture of synthetic fuels, with the objective of encouraging the construction and operation of such facilities by guaranteeing that the price received for such fuels will remain at levels which make such construction and operation economically feasible whenever the market price of competing fuels falls below such levels.

"(2) Any price guarantee contract entered into under paragraph (1) shall be for a term not exceeding the projected useful life of the facility involved; and the level (of the market price of competing fuels) at which price support payments become payable thereunder, which shall be specified in the contract, shall be determined in accordance with regulations prescribed by the Administrator in such manner as will realistically reflect the actual costs of manufacture in the facility involved as well as both the current and projected prices of competing fuels.

"(3) To the extent provided in the regulations prescribed by the Administrator under subsection (i), the provisions of this section relating to loan guarantees shall apply also with respect to assistance in the form of price guarantee contracts under this subsection.

"(4) The total amount of the Federal obligation to make price support payments under contracts entered into under this subsection shall not at any time exceed $500,000,000; except that (notwithstanding any other provision of this section) the Administrator may utilize any portion of the amount which is authorized for loan guarantees under subsection (b)(1), but which is not needed for such guarantees, for the purpose of entering into additional price guarantee contracts under this subsection.".

SEC. 2. AMENDMENT TO INTERNAL REVENUE CODE OF 1954.

(a) TAXABILITY OF INTEREST ON CERTAIN FEDERALLY GUARANTEED OBLIGATIONS.—Part II of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 85. CERTAIN FEDERALLY GUARANTEED OBLIGATIONS.

"(a) IN GENERAL.—Gross income includes interest on any obligation of any State or local government—

"(1) the interest or principal (or both) of which is guaranteed in whole or in part under section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, or

"(2) the payment of the interest or principal (or both) of which is to be supported by tax payments to such government which are guaranteed in whole or in part under section 19 of such Act.

"(b) STATE OR LOCAL GOVERNMENT DEFINED.—For purposes of this section, the term 'State or local government' means a State, a possession of the United States, any political subdivision of any of the foregoing, and the District of Columbia."

(b) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Section 103(f) of such Code is amended by striking out the period at the end of paragraph (23) and inserting in lieu thereof "; and", and by adding at the end thereof the following:

"(24) Certain federally guaranteed obligations, see section 85."

(2) The table of sections for part II of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following:

"Sec. 85. Certain federally guaranteed obligations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

H.R. 13636

By Mr. BUTLER:

On page 23 beginning with line 17, strike out all down through line 3 on page 29, and insert in lieu thereof the following:

(c) (1) No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any program or activity funded in whole or in part with funds made available under this title.

(2) (A) Whenever there has been—

(i) receipt of notice of a finding, after notice and opportunity for a hearing and appeal, by a Federal court (other than in an action brought by the Attorney General) or State court, or by a Federal or State administrative agency (other than the Administrator under subparagraph (ii)), to the effect that there has been a pattern or practice of discrimination in violation of subsection (c) (1); or

(ii) a determination after an investigation by the Administrator (prior to a hearing under subparagraph (E) but including an opportunity for the State government or unit of local government to make a documentary submission regarding the allegation of discrimination with respect to the funding of such program or activity, with funds made available under this title) that a State government or unit of general local government is not in compliance with subsection (c) (1); the Administrator shall, within 10 days after such occurrence, notify the chief executive of the affected State, or the State in which the affected unit of general local government is located, and the chief executive of such unit of general local government, that such program or activity has been so found or determined not to be in compliance with subsection (c) (1), and shall request each chief executive, notified under this subparagraph with respect to such violation, to secure compliance. For purposes of subparagraph (i) a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

(B) In the event the chief executive secures compliance after notice pursuant to subparagraph (A), the terms and conditions with which the affected State government or unit of general local government agrees to comply shall be set forth in writing and signed by the chief executive of the State, by the chief executive of such unit (in the event of a violation by a unit of general local government), and by the Administrator and the Attorney General. On or prior to the effective date of the agreement, the Administrator shall send a copy of the agreement to each complainant, if any, with respect to such violation. The chief executive of the State, or the chief executive of the unit (in the event of a violation by a unit of general local government) shall file semiannual reports with the Administrator detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports, the Administrator shall send a copy thereof to each such complainant.

(C) If, at the conclusion of 90 days after notification under subparagraph (A)—

(i) compliance has not been secured by the chief executive of that State or the chief executive of that unit of general local government; and

(ii) an administrative law judge has not made a determination under subparagraph (E) that it is likely the State government or unit of local government will prevail on the merits; the Administrator shall notify the Attorney General that compliance has not been secured and suspend further payment of any funds under this title to that program or activity. Such suspension shall be limited to the specific program or activity cited by the Administration in the notice under subparagraph (A). Such suspension shall be effective for a period of not more than 120 days, or, if there is a hearing under subparagraph (F), not more than 30 days after the conclusion of such hearing, unless there has been an express finding by the Administrator after notice and opportunity for such a hearing, that the recipient is not in compliance with subsection (c) (1).

(D) Payment of the suspended funds shall resume only if—

(i) such State government or unit of general local government enters into a compliance agreement approved by the Administrator and the Attorney General in accordance with subparagraph (B);

(ii) such State government or unit of general local government complies fully with the final order or judgment of a Federal or State court, or by a Federal or State administrative agency, if that order or judgment covers all the matters raised by the Administrator in the notice pursuant to subparagraph (A), or is found to be in compliance with subsection (c) (1) by such court; or

(iii) after a hearing the Administrator pursuant to subparagraph (F) finds that noncompliance has not been demonstrated.

(E) Prior to the suspension of funds under subparagraph (C), but within the 90-day period after notification under subparagraph (C), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (F), prevail on the merits on the issue of the alleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under subparagraph (C) pending a finding of noncompliance at the conclusion of the hearing on the merits under subparagraph (F).

(F) (i) At any time after notification under subparagraph (A), but before the conclusion of the 120-day period referred to in subparagraph (C), a State government or unit of general local government may request a hearing, which the Administration shall initiate within 30 days of such request.

(ii) Within 30 days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the 120-day period referred to in subparagraph (C), the Administrator shall make a finding of noncompliance, the Administrator shall notify the Attorney General in order that the Attorney General may institute a civil action under subsection (c) (3), terminate the payment of funds under this title, and, if appropriate, seek repayment of such funds.

(iii) If the Administrator makes a finding of compliance, payment of the suspended funds shall resume as provided in subparagraph (D).

(G) Any State government or unit of general local government aggrieved by a final determination of the Administrator under subparagraph (F) may appeal such determination as provided in section 511 of this title.

(3) Whenever the Attorney General has reason to believe that a State government or unit of general local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section. The bringing of a civil action by the Attorney General shall suspend further administrative proceedings under this title and under any other applicable provision of law.

(4) (A) Whenever a State government or

unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this Act, a civil action may be instituted after exhaustion of administrative remedies by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction.

(B) In any action instituted under this section to enforce compliance with section 518(c)(1), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

H.R. 14238

By Mr. PRESSLER:

Page 2, line 15, strike the period and insert a colon and the following language: "*Provided*, That none of the funds in this Act shall be used to pay any Member of the House of Representatives, Delegate to the House of Representatives, or the Resident Commissioner from Puerto Rico, at an annual rate of pay which is in excess of the annual rate of pay in effect with respect to such individual on September 30, 1976."

Page 3, line 4, strike the period and insert a colon and the following language: "*Provided*, That none of the funds in this Act shall be used to pay the majority leader or minority leader of the House of Representatives, or the Speaker of the House of Representatives, at an annual rate of pay which is in excess of the annual rate of pay in effect with respect to such individual on September 30, 1976."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of August 25, 1976, page 27777.

HOUSE BILLS

H.R. 14916. July 28, 1976. Education and Labor. Amends the National Labor Relations Act to provide that an employee shall not be required to join or support a labor organization as a condition of employment if it is contrary to his religion.

H.R. 14917. July 28, 1976. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to authorize the Commissioner of Education to make grants to, and enter into contracts with, schools of medicine, dentistry, and osteopathy for the purpose of offering regional three-year demonstration programs introducing secondary students from disadvantaged backgrounds to the health professions.

H.R. 14918. July 28, 1976. Education and Labor. Amends the Higher Education Act of 1965 to direct the Commissioner of Education to make annual grants to schools of medicine, dentistry, and osteopathy for the purpose of offering regional medical academic summer enrichment programs for undergraduate students from deprived educational or economic backgrounds.

H.R. 14919. July 28, 1976. Education and Labor. Directs the Secretary of Health, Education, and Welfare to make annual grants to schools of medicine, osteopathy, and dentistry for the support of education programs of such schools relating to the special needs of students from disadvantaged backgrounds enrolled in such schools.

H.R. 14920. July 28, 1976. Education and Labor. Amends the National Labor Relations Act to provide that an employee shall not be required to join or support a labor organization as a condition of employment if it is contrary to his religion.

H.R. 14921. July 28, 1976. Agriculture. Prohibits the importation of palm oil and palm oil products unless the Secretary of Agriculture certifies that such products are pure and wholesome and meet sanitation standards. Authorizes the Secretary to establish such standards, and to inspect such imports. Requires that such imports meet the packaging and labeling requirements in effect in the United States and specify the country of origin. Makes all palm oil in the United States subject to the Federal Food, Drug, and Cosmetic Act. Sets forth labeling requirements for palm oil in the United States. Prescibes penalties for violation of this Act.

H.R. 14922. July 28, 1976. Education and Labor. Makes Federal financial assistance available, under the Emergency School Aid Act, for programs and projects for: (1) the construction of "magnet" and "neutral site" schools, and education parks; (2) the pairing of schools and programs with colleges and universities and with leading businesses; and (3) education programs to improve the quality of education in inner city schools and the general use of "education magnetism."

H.R. 14923. July 28, 1976. Rules. Requires review of Federal programs to determine if they warrant continuation. Directs the President to conduct such review of the programs covered by the annual budget. Requires Congress to make such review every four years.

H.R. 14924. July 28, 1976. Banking, Currency and Housing; Government Operations. Establishes the Minority Business Development and Assistance Administration in the Department of Commerce. Creates the position of the Assistant Secretary of Commerce for Minority Business Development and Assistance to direct such administration. Enumerates the powers of the Administration. Provides for the transfer (from existing agencies) of functions pertaining to minority business enterprises.

H.R. 14925. July 28, 1976. Ways and Means. Amends the Internal Revenue Code to establish graduated corporate income tax rates. Increases the estate tax exemption and establishes a new rate schedule for the estate tax. Increases the gift tax exclusion and exemption and establishes a new gift tax rate. Provides special treatment for the sale of stock in a closely held corporation when sold to pay estate taxes. Redefines a subchapter S corporation. Allows tax credits for the hiring of new employees. Redefines section 1244 stock (small business stock, losses on which are treated as ordinary losses).

H.R. 14926. July 28, 1976. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to provide that any employer who successfully contests a citation or penalty under such Act shall be awarded a reasonable attorney's fee and other reasonable litigation costs.

H.R. 14927. July 28, 1976. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to provide that any employer who successfully contests a citation or penalty under such Act shall be awarded a reasonable attorney's fee and other reasonable litigation costs.

H.R. 14928. July 28, 1976. Agriculture. Amends the Agricultural Act of 1949 to provide increased disaster relief benefits to farmers who plant wheat, feed grans, cotton or rice in excess of their allotments with respect to the 1976 and 1977 crops of such commodities.

H.R. 14929. July 28, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authoristy of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 14930. July 28, 1976. Ways and Means. Amends the Internal Revenue Code to extend for two years that provision allowing depreciation of expenses relating to rehabilitation of low income rental housing over a 60 month period (rather than the useful life of the property).

H.R. 14931. July 28, 1976. Interior and Insular Affairs. Conveys specified Federal-owned land known as the Yardeka School land to the Creek Nation of Oklahoma.

H.R. 14932. July 28, 1976. Interstate and Foreign Commerce. Amends the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976, the Rail Passenger Service Act, and the Interstate Commerce Act with respect to railroad financing, employees claims, rail property purchase options ,and acquisitions and rail abandonment procedures.

H.R. 14933. July 28, 1976. Ways and Means. Amends the Medicare and Medicaid programs of the Social Security Act to include rural health facilities of 100 beds or less within the definition of the term "hospital."

H.R. 14934. July 28, 1976. Interior and Insular Affairs. Revises the boundaries of (1) Manassas National Battlefield Park, Virginia; (2) George Washington Birthplace National Monument, Virginia; and (3) Olympic National Park, Washington.

Renames Monocacy National Military Park, Maryland, as Monocacy National Battlefield. Revises the boundaries of such park. Amends specified provisions relating to park administration.

Authorizes the Secretary of the Interior to (1) accept the donation of lands for addition to Pecos National Monument, New Mexico, and (2) acquire specified lands for addition to Bandelier National Monument, New Mexico.

H.R. 14935. July 28, 1976. Interior and Insular Affairs. Revises the boundaries of (1) Manassas National Battlefield Park, Virginia; (2) George Washington Birthplace National Monument, Virginia; and (3) Olympic National Park, Washington.

Renames Monocacy National Military Park, Maryland, as Monocacy National Battlefield. Revises the boundaries of such park. Amends specified provisions relating to park administration.

Authorizes the Secretary of the Interior to (1) accept the donation of lands for addition to Pecos National Monument, New Mexico, and (2) acquire specified lands for addition to Bandelier National Monument, New Mexico.

H.R. 14936. July 28, 1976. Ways and Means. Authorizes and directs the Secretary of Labor, through the Bureau of Labor Statistics, to prepare, as part of the Consumer Price Index, the Consumer Price Index for the Aged and Other Social Security Beneficiaries designed to reflect the relevant price information for individuals, as a group, who are 65 years of age or older or are otherwise entitled to monthly benefits under the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act.

H.R. 14937. July 28, 1976. Ways and Means. Authorizes semiannual computation of cost-of-living increases in Old Age, Survivors and Disability Insurance benefits under the Social Security Act.

H.R. 14938. July 28, 1976. Armed Services. Specifies the rental charge for quarters occupied by a certain employer of an executive agency stationed in the United States until the expiration of his current employment contract.

SENATE—*Thursday, August 26, 1976*

The Senate met at 10 a.m. and was called to order by Hon. JOHN C. CULVER, a Senator from the State of Iowa.

PRAYER

Dr. Stanley M. Wagner, rabbi, Beth Ha Medrosh Hogodol Congregation, Denver, Colo., offered the following prayer:

Lord of the Universe, Father of all men:

We thank Thee for the miracle which is America.

It is the miracle of a beautiful and bounteous land which Thou hast provided as our inheritance.

It is the miracle of a culturally, racially and religiously kaleidoscopic society that Thou, O God, has helped forge into a harmonious and unified nation.

It is the miracle of a system inspired by Thee in which the fruits of industry and enterprise of the strong are rewarded, and the rights of the weak are protected, and their prerogatives unlimited.

It is the miracle of Thy Divine Spirit working through men of integrity, honor, and sincerity, statesmen who regard the welfare of the American people above all else, and who have led America and continue to lead America in the paths of justice and righteousness.

For these miracles are we humbly grateful.

Continue, we pray, to extend Thy providence over us, to the end that we shall ever be blessed by Thy beneficence and goodness. Guide our destiny and make us Thine instrumentality in the shaping of a better and happier world. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 26, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JOHN C. CULVER, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. CULVER thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, August 25, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Nos. 1095 and 1098.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZATIONS FOR THE UINTAH UNIT RECLAMATION PROJECT, UTAH

The Senate proceeded to consider the bill (S. 3395) to authorize appropriations for the construction of the Uintah unit of the central Utah project, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert the following:

Pursuant to the authorization for construction, operation, and maintenance of the Uintah unit, central Utah project, Utah, as provided in section 1 of the Act of April 11, 1956 (70 Stat. 105), as amended by section 501(a) of the Colorado River Basin Project Act (82 Stat. 897), there is authorized to be appropriated for fiscal year 1978 and thereafter, for the construction of said Uintah unit, the sum of $90,247,000 (based on January 1976 price levels) plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved.

SEC. 2. Notwithstanding any other provision of law, lands held in a single ownership which may be eligible to receive water from, through, or by means of the Uintah works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes, as determined by the Secretary of the Interior.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NEW HAMPSHIRE-VERMONT INTERSTATE SEWAGE WASTE DISPOSAL FACILITIES COMPACT

The bill (H.R. 9153) granting the consent of Congress to the New Hampshire-Vermont Interstate Sewage Waste Disposal Facilities Compact, was considered, ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the calendar under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

THE JUDICIARY

The second assistant legislative clerk read the nomination of Marion J. Callister, of Idaho, to be a U.S. district judge for the district of Idaho.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of Justice.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. PAROLE COMMISSION

The second assistant legislative clerk read the nomination of Dorothy Parker, of Virginia, to be a Commissioner of the U.S. Parole Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

SENATE RESOLUTION 523—AUTHORIZING SENATE STUDY OF U.S. SECURITY AND FOREIGN POLICY MATTERS

Mr. MANSFIELD. Mr. President, one of the most important issues to face the Senate during the next Congress will be the development of a policy to cope with the worldwide proliferation of atomic reactors. It is probable that the U.S. Senate will be asked to make judgments on the possible sale of nuclear reactors to certain countries such as Iran, Israel, and Egypt in the Middle East. As time goes on, there will undoubtedly be other requests as this sophisticated technology becomes more prevalent.

A potent byproduct from a nuclear reactor is plutonium, and this element can be utilized to develop nuclear weapons. For this reason, it is imperative that appropriate safeguards and security procedures are designed to prohibit the misuse of plutonium and other by-products of an atomic reactor.

Concerning this subject within the Senate, there are proper jurisdictional questions which involve several committees. I have in mind the Joint Committee on Atomic Energy, chaired by the distinguished Senator from Rhode Island, Mr. PASTORE, and assisted by the ranking minority member, Senator BAKER of Tennessee; the Government Operations Committee under the chairmanship of the distinguished Senator from Connecticut, Mr. RIBICOFF, and the ranking minority member, Senator PERCY of Illinois; and the Foreign Relations Committee, under Senators SPARKMAN and CASE.

In order for the Senate to properly exercise its legitimate oversight function, it is essential that select designated Members be authorized to visit certain countries in the Middle East and elsewhere to conduct a study on U.S. security and foreign policy interests in those areas with particular emphasis on the question of worldwide nuclear proliferation.

With this in mind, the distinguished minority leader (Mr. HUGH SCOTT) and I submit a resolution for immediate consideration. This resolution has been cleared with the distinguished chairman of the Rules Committee, (Mr. CANNON) and the ranking minority member of that committee (Mr. HATFIELD).

The PRESIDING OFFICER. The resolution will be stated.

The resolution (S. Res. 523) was read, considered by unanimous consent, and agreed to as follows:

S. RES. 523

Resolved, That the President of the Senate is authorized to appoint a special delegation of Members of the Senate to visit certain countries in the Middle East, Europe, and other areas as needed to conduct a study on United States security and foreign policy interests in those areas with particular emphasis on world-wide nuclear proliferation and to designate the co-chairmen of said delegation.

SEC. 2. (a) The expenses of the delegation, including staff members designated by the co-chairmen to assist said delegation, shall not exceed $35,000, and shall be paid from the contingent fund of the Senate upon vouchers approved by the co-chairmen of said delegation.

(b) The expenses of the delegation shall include such special expenses as the co-chairmen may deem appropriate, including reimbursements to any agency of the Government for (1) expenses incurred on behalf of the delegation, (2) compensation (including overtime) of employees officially detailed to the delegation, and (3) expenses incurred in connection with providing appropriate hospitality.

(c) The Secretary of the Senate is authorized to advance funds to the co-chairmen of the delegation in the same manner provided for committees of the Senate under the authority of Public Law 118, Eighty-first Congress, approved June 22, 1949.

Mr. MANSFIELD subsequently said: Mr. President, on the resolution agreed to earlier this morning concerning the appointment of a special delegation on U.S. security and foreign policy interests, I omitted the usual language in such resolutions on the appointment of the Senate delegation. I ask unanimous consent that the phrase "upon the recommendation of the majority and minority leaders," be added after "The Senate" in the second line of the resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 523) as modified, is as follows:

Resolved, That the President of the Senate is authorized to appoint a special delegation of Members of the Senate upon the recommendation of the majority and minority leaders to visit certain countries in the Middle East, Europe, and other areas as needed to conduct a study on United States security and foreign policy interests in those areas with particular emphasis on worldwide nuclear proliferation and to designate the cochairmen of said delegation.

SEC. 2. (a) The expenses of the delegation, including staff members designated by the cochairmen to assist said delegation, shall not exceed $35,000, and shall be paid from the contingent fund of the Senate upon vouchers approved by the cochairmen of said delegation.

(b) The expenses of the delegation shall include such special expenses as the cochairmen may deem appropriate, including reimbursements to any agency of the Government for (1) expenses incurred on behalf of the delegation, (2) compensation (including overtime) of employees officially detailed to the delegation, and (3) expenses incurred in connection with providing appropriate hospitality.

(c) The Secretary of the Senate is authorized to advance funds to the cochairmen of the delegation in the same manner provided for committees of the Senate under the authority of Public Law 118, Eighty-first Congress, approved June 22, 1949.

POSTWAR SOUTHEAST ASIA—A SEARCH FOR NEUTRALITY AND INDEPENDENCE

Mr. MANSFIELD. Mr. President, 1 year ago, on behalf of the Committee on Foreign Relations, I visited three nations in Southeast Asia, Thailand, the Philippines, and Burma, to study regional and local developments after the ending of U.S. involvement in Indochina. Upon my return, I reported to the committee that:

> Throughout Southeast Asia, nations are now making reassessments of their relationships. Nationalism and neutrality, mixed with a budding interest in regional co-operation, are the driving forces at work.

I ask unanimous consent that pertinent portions of this report be printed in the RECORD following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. MANSFIELD. During the recent congressional recess, I returned to Southeast Asia to make an up-to-date reappraisal of the situation there, visiting Thailand, Burma, and Laos. A confidential report has already been submitted to the President as a result of that trip. This is my report to the Senate.

Winds of change still sweep the area, continuing to move the region toward cohesion and an easing of tensions. The U.S. role in this movement is limited and must remain so. It is not for this Nation, nor is it possible for this Nation to tell the nations of Southeast Asia what is in their interest. If we have learned anything from our sad experience in Indochina, it is that the future of Southeast Asia is for the nations of the area to decide and without outside interference.

The Philippines, Thailand, Malaysia, Singapore, and Indonesia, through the Association of Southeast Asian Nations, ASEAN, have taken small but positive steps toward regional cooperation. In February, the heads of state of the five ASEAN members met at their first summit conference to produce a treaty of amity and cooperation and other agreements looking toward closer collaboration on problems of common concern. There remained, however, an uneasy uncertainty about what course Vietnam, now a powerful, unified nation of 40 million people, would take in regional affairs.

Twenty-two years after the Geneva cease-fire agreement which temporarily divided the nation, the two parts of Vietnam have become one. After three decades of isolation and civil war, Vietnam has entered the regional political scene. The ASEAN States and Vietnam have launched a major program of détente, which has already produced an atmosphere of regional friendship. During July, Vietnam's Deputy Foreign Minister Phan Hien made a goodwill visit to several of the ASEAN countries as well as to Burma and Laos. The five ASEAN countries have established diplomatic relations with Vietnam. All signs indicate that Vietnam has set out to prove to its neighbors and the world that it is determined to pursue an independent course, free from domination by either the Soviet Union or China.

These important steps toward regional amity should be welcomed by the United States. A regional organization composed of the ASEAN nations, the states of Indochina, and Burma, dedicated to peaceful intercourse, would be a significant force in maintaining stability and promoting economic progress in this volatile area. Thai officials assured me of their strong support for this concept. While endorsing a regionwide organization in principle, Burma has lingering historical suspicions.

I will describe briefly some current aspects of U.S. relations with Thailand, Burma, and Laos and then discuss the drug situation, a problem of particular concern to this Nation, as it involves Burma and Thailand.

THAILAND

In Thailand, Prime Minister Seni Pramot presides over a shaky parliamentary government. Although the ruling coalition is composed of only 4 parties, compared with 17 in the previous government led by his brother, Kukrit Pramot, there is serious dissension within the coalition. In addition, there is the ever-present threat of a military coup. While I was in the country, a crisis arose as a result of the surreptitious return to Bangkok from Taiwan of the former military strongman, Field Marshal Praphas Charasathien, who was exiled when the military government was ousted in 1973. It was widely assumed that his return was designed to stimulate overthrow of the civilian government by the military. The government's handling of the affair aroused strong passions on both the left and the right. Although Praphas was forced to leave the country, the incident has probably given encouragement both to opposition elements within the government and to antidemocratic elements in the Military Establishment.

It is said that the military, much of which is opposed to Thailand's commitment to regional détente with Vietnam, Laos, and Cambodia, is convinced that the country's experiment with democracy will fail. Although it is making a valiant attempt to survive, the future of Thailand's fledgling democratic system is less than assured. On the other hand, prospects for survival of parliamentary government are aided significantly by a reasonably bright economic picture and vivid public memories of the oppressive tactics of previous military governments. Insurgencies in the North and Northeast, and to a lesser extent in the South, continue but the problem appears little changed from last year. And the picture is not likely to improve as long as there is no firm dedication by the Bangkok Government to bringing about real economic progress in neglected regions.

The withdrawal in July of the last regular U.S. military forces, leaving only a 250-man advisory unit, was a significant factor in creating favorable conditions for the establishment 2 weeks later of diplomatic relations between Thailand and Vietnam. Americans should not interpret the Thai demand for the withdrawal of U.S. forces as an unfriendly gesture. It should be seen for what it was, an inevitable adjustment to the new realities which both countries face in Southeast Asia.

Under the withdrawal agreement the United States will have certain aircraft transit rights at the Takli air base. The abuse of this privilege should be scrupulously avoided, lest it exacerbate the tenuous political situation in Thailand. Both military and economic assistance to Thailand continue, although nonconcessional economic aid, other than that for population control and antidrug programs, will terminate next year. Military grant aid will end in 1977 also as a result of the general phaseout voted by the Congress. Consistent with Thailand's desire to stand on its own two feet, U.S. bilateral aid programs for population and antidrug activities should be terminated also if the responsibility for programs in these fields can be shifted to the United Nations.

The current Thai Government favors continuation of the SEATO treaty relationship with the United States. Drawn up following the 1954 Geneva Conference on Indochina as a device to stop the spread of communism in Southeast Asia, the SEATO treaty is no longer a viable multilateral security agreement. It has practical application only to Thailand. Although I strongly approve of Thailand's desire to maintain close ties to the United States, I do not believe that trying to breathe life into the SEATO treaty, a relic of the errors of past policy, is in the best interests of either country. Sound bilateral trade and economic relations are far more important to Thai-United States friendship than a lifeless scrap of paper. Undue emphasis on military matters would be an anachronism, inconsistent with the current interests of both countries. It is, however, important that America continue to demonstrate its desire for close, friendly relations with Thailand in ways that will promote regional cooperation and heal the wounds left by the recent war.

BURMA

The situation in Burma has changed little since last year. Burma continues rigorously to pursue a nonalined course, keeping its distance from all of the major powers. Seven years ago in a report to the Senate, I wrote:

> The Burmese government continues to go its own way as it has for many years. It is neither overawed by the proximity of powerful neighbors nor overimpressed by the virtues of rapid development through large infusions of foreign aid. Burma's primary concern is the retention of its national and cultural identity and the development of an economic system preponderantly by its own efforts and along its own lines.

That analysis continues to be valid.

In July, a coup plot against President Ne Win's government, instigated by a number of low-ranking, but well-connected, army officers, was discovered. Although the attempt may signify eroding confidence in Ne Win's leadership within the army, it did not deter the President from leaving for Europe in mid-August for medical treatment. On the positive side, there are reliable reports that the event stimulated the government to take more aggressive action to cure the ills of Burma's stagnant and inefficient economy. A World Bank consultative group is being formed to aid in stimulating economic growth but, thus far, the United States has refused to join, seeking assurances of economic changes in advance of participation.

Insurgencies continue in Burma's remote mountainous regions but, according to observers, the government has made some progress within the last year in controlling the problem. Although the country's economy is notoriously mismanaged, it is a country rich in assets, both in natural resources and people. "No one dies of starvation in Burma," one top official put it. That says a great deal about the situation.

The United States owns some $12 million in Burmese currencies which are wasting away through inflation. My visit to Burma a year ago came several weeks after a devastating earthquake had seriously damaged or destroyed many Buddhist temples in historic Pagan. It required 5 months of prodding within the Government in Washington to get an Embassy request approved for a token gift of $10,000 of these currencies to aid in the restoration work at Pagan, approval that came long after all major nations had made even more substantial contributions. An Embassy request is now pending in the State Department for use of a modest amount of this U.S.-owned local currency to make needed improvements in Embassy staff apartments. I hope that not only will the Embassy's request be approved but also that a study be made of other appropriate ways to make effective use of the U.S.-owned holdings.

LAOS

With the approval of the Government of Laos, I flew from Bangkok to Vientiane in a small aircraft attached to the U.S. Embassy in Thailand, the first U.S. aircraft of any type allowed into Laos in more than a year. I view the Laotian Government's approval of my flight as a gesture of good will toward the United States.

The new government has taken steps to improve relations with Thailand, although deep suspicions remain from the period when Thailand was used as a base for military operations against Laos. Agreement in principle was reached early this month to open several border crossings on the Mekong to facilitate trade between the two countries.

In the course of a long conversation with me, the Acting Foreign Minister, Khamphay Boupha, repeatedly made allegations that the United States was supporting anti-Lao elements in Thailand. I assured him that, according to the best information available to me, the United States was not engaged in any operations in Thailand directed against Laos.

The Lao Government seeks assistance from all sources, to repair the damage inflicted on its people and resources during many years of civil and international war. Acting Foreign Minister Khamphay told me that 500,000 Laotians were forced to leave their homes because of the war—a United Nations representative in Vientiane said that the number was as high as 700,000—and that 100,000 were killed and tens of thousands wounded, a terrible toll for a country of only 3 million people. Significant United Nations programs are underway to aid refugees and restore agricultural productivity.

Minister Khamphay assured me that his government "wants to maintain good relations with the United States on the basis of mutual respect for each other's independence, sovereignty, and territorial integrity." The Laotian Government, he said, had two objectives for its relations with the United States: First, to bring a halt to any support by the United States for what he termed the "reactionary traitors" working against Laos; and second, to obtain assistance for healing the wounds of the war.

As I noted above, on the basis of official information, I was able to assure the Laotian Deputy Foreign Minister that we were no longer involved in the internal affairs of Laos. It would be my hope that such would continue to be the case. There would be no point at this time in the United States giving any support, directly or indirectly, to anti-Laotian elements inside or outside of that country, under any circumstances. As to foreign aid, I believe that, at an appropriate time, consideration should be given to providing relief aid through the United Nations or other international auspices, not as war reparations, but as a decent gesture to a poor country in a great need through little fault of its own.

One problem of concern to many Americans very much on my mind in traveling to Laos, was to seek cooperation in determining the fate of the some 300 U.S. servicemen missing in action from aircraft which went down in Laos. When I raised this matter, Minister Khamphay said to me:

> The Lao have a long tradition of adhering to humanitarian principles. . . . The government has ordered the people throughout the country to look for crash sites and if the people find any they are to report to us and the information will be passed to the United States.

In a speech on Pacific policy on December 7, 1975, President Ford said that U.S. policy toward the new regimes in Indochina will be "determined by their conduct toward us. We are prepared to reciprocate gestures of goodwill—particularly the return of remains of Americans killed or missing in action or information about them." I hope that this cooperative gesture by the Laotian Government will produce helpful information. It might well be matched by a gesture on our part.

In this connection, it seems to me that the United States should send an ambassador to Laos, a country with which we still maintain formal diplomatic relations. The nomination of Galen Stone to be Ambassador to Laos was confirmed by the Senate nearly 15 months ago but he has yet to be sent to take up his post. Either he or a replacement should be sent to Vientiane. The present course smacks of a petty petulence.

NARCOTICS

The United States is making a major effort in Thailand and Burma, at a cost of several millions of dollars each year, to lessen the flow of narcotics to the United States from the Golden Triangle. The United Nations also operates antinarcotics programs in both countries. After an investment of $8.5 million in equipment and advisers, plus the cost of an additional $2.6 million annually for regional U.S. Drug Enforcement Administration operations, there is little to show in Thailand for the American investment.

Although the growing of opium in Thailand has been illegal since 1959, the law is not enforced. According to experienced observers, a more fundamental problem is that a revolving door system under which arrested drug traffickers are quickly released is still the rule. Hong Kong authorities, who must cope with the flow of drugs from the Bangkok connection, are making significant progress in local antidrug programs but are critical of the Thai Government's laxity in dealing with drug traffickers. The authorities of other nations are also highly critical of the failure of the Thai Government to police its side of the border and of the corruption reputed to exist in the Thai police system.

To be sure, the Thai Government has to deal with many problems. Stopping the Bangkok drug traffic, however, is a major headache. Until there is a much greater commitment to deal with the problem, putting more millions of American money into buying helicopters, radios, jeeps, and other fancy equipment for the Thai antinarcotics police will not have the desired effect.

According to U.S. officials, Burma is making effective use of 12 helicopters the United States has provided within the last year for antinarcotics operations. Six more are yet to be delivered. The Burmese Army has begun a program of physically destroying opium poppy fields, which, according to estimates, has reduced this year's potential crop from 470 tons to 343 tons, compared with an estimated 440 tons produced in Burma last year. It is said, optimistically perhaps, that Burma's opium production can be virtually eliminated within 3 or 4 years, if an effective herbicide eradication program is initiated and crop substitution schemes now being planned have appeal to the traditional opium growers. Efforts have been made to establish a U.S. Drug Enforcement Agency presence in Burma, a move resisted in Burma. In my judgment, the arguments against bringing DEA personnel into Burma are fully tenable and there is no reasonable justification for such an expansion of the bureaucracy.

Laos is not a factor in the external opium trade, according to most experts. The current Lao Government is taking drastic measures to cure drug addicts, sending them to an island in the middle of the Mekong for intensive treatment. As to China, all U.S. officials within the area agree that it is not a source of narcotics for the outside world, producing only as much opium as is required for internal medical needs.

In my report last year, I expressed concern over involvement by U.S. narcotics operatives in police actions abroad. As a result, Congress adopted a proposal which prohibits any U.S. personnel abroad from participating in any foreign policy arrest actions in connection with narcotics operations. The Drug Enforcement Administration has issued guidelines for implementation of this provision and I have been assured by Mr. Peter Bensinger, the DEA Administrator, that both the letter and the spirit of the law will be strictly enforced.

In view of the fact that the drug problem is international in scope, I also recommended last year that the United States channel assistance to other countries for antinarcotics efforts through the United Nations. Congress has directed the President to make a study of how to achieve this objective. In both Thailand and Burma, for example, the United Nations already conducts crop substitution and other antidrug programs. Burma, intent on maintaining its distance from all major powers, has indicated keen interest in obtaining through the United Nations assistance of the kind we now provide on a bilateral basis. I believe that leaders of the Thai Government would also be more comfortable if the United Nations took the lead from the United States in this field.

The Committee on Foreign Relations should make a thorough study of the foreign operations of the antinarcotics program. It is an expensive program, costing $37.5 million for direct aid alone in the last fiscal year. It is also an administrative nightmare involving the operations abroad of at least five Departments and agencies—the DEA, AID, CIA, the Department of Agriculture, and the Department of State, which, through our ambassadors, is supposed to be in charge of the entire operation. Pending submission of the Presidential report on shifting emphasis to the United Nations or regional programs, the committee should make a careful study of the management and cost effectiveness of all current drug operations abroad.

NONALINED CONFERENCE

While I was in Southeast Asia, an event of significance took place in Sri Lanka, the Fifth Conference of the Non-Alined Nations. The delegates at Colombo represented two-thirds of the nations of the world and one-third of its inhabitants, a three-fold increase from the 28 nations represented at the founding meeting at Bandung two decades ago. Much of the rhetoric that came out of the conference hall in Colombo was not very palatable to us. Nevertheless, it is in our national interest to pay close attention to the Third World, to what the leaders of these countries think and seek. The United States is rapidly becoming a have-not Nation in regard to basic resources on which we and other industrial nations are dependent. The Third World straddles a good share of the world's supply of these resources and can no longer be ignored.

I returned from my visit to Southeast Asia with a firm conviction that, in general, developments in the region are moving in the right direction, both for the nations concerned and for the United States. The Southeast Asian countries appear determined to pursue an independent path, free of outside domination by any power. There are encouraging signs that, on a parallel tract, most also seek to further regional understanding, or, at a minimum, to join hands in preventing undue interference from outsiders.

Vietnam, contrary to many predictions, is demonstrating a desire to live in peace with its neighbors. It has now applied for membership in the United Nations. I hope that the United States will not again veto its application. Our relations with the nations of Indochina should be shaped to fit reality. The reality is that new governments are in firm control in Vietnam, Cambodia, and Laos.

Seven years ago the Senate approved a resolution, offered by Senator CRANSTON, which stated that—

> When the United States recognizes a foreign government and exchanges representatives with it, this does not of itself imply that the United States approves of the form, ideology, or policy of that government.

In other words, the Senate has said that diplomatic recognition is simply a recognition of de facto and de jure control. That should be the basis for U.S. policy toward the new governments of Indochina.

Americans are a generous people, willing to bury the mistakes of the past and look to the future. A generation ago our Nation was locked in a life and death struggle with Germany and Japan. Today they are allied with us. National interests are not immutable. Interests, and the policies to further them, must reflect a changing world. We should look to the past for wisdom, to learn how to shape the future, not for the purpose of perpetuating animosity or bitterness.

I urge the next President to make a thorough review of U.S. policy in Asia with a view to wiping the slate clean. It is not easy for bureaucracies or individuals to shake off the habits or associations of decades. Much of the Government foreign affairs bureaucracy, from State Department policymakers to CIA operatives, appear to me to be still too closely attuned to policies of the past.

There are deep suspicions in the region that remnants of operations related to the old policies continue, particularly as to CIA operations. It may be that intelligence gathering, for example, has not yet been keyed to the new situation in Indochina and to the goal of normalizing relations with China. In any event, I hope that the Select Committee on Intelligence will make a thorough review of current intelligence operations in Asia to insure that they are consistent in all respects with long-range national objectives.

In closing, I add a short postscript to my recent report to the Committee on Foreign Relations concerning Japan and Korea.

Both en route to and on return from Southeast Asia, I stopped in Tokyo to receive a briefing on recent developments from officers of the U.S. Embassy. The Lockheed scandal continues to dominate Japanese political affairs as the Watergate affair did here for so long. Prime Minister Miki's determination to bring out all of the facts, regardless of where the chips might fall, has created great controversy within his own party but has met with widespread public and news media approval. It is to be hoped that the matter will be handled in such a way that neither the confidence of the Japanese people in their governmental processes nor that nation's political stability will be damaged.

As to the incident in Korea, the brutal killing of two American officers in the joint security area of the Korean demilitarized zone, and subsequent actions have aroused passions on both sides, underlining what I said in my report scarcely a month ago: "Korea is a time bomb which has yet to be defused."

This is not the first inflammatory incident to occur in the nearly quarter of a century since the cease-fire agreement that ended the Korean war. And it will not be the last. When fighting men are placed in close proximity to the enemy on a daily basis, incidents are bound to happen. It takes only a match to start a conflagration.

The President is to be commended for having insisted that U.S. officials keep cool in the recent tragedy because under existing circumstances U.S. Forces will be involved inevitably in any outbreak of fighting in Korea. The swift dispatch to Korea of additional U.S. attack aircraft and a carrier task force demonstrate that under current contingency plans, U.S. military forces will be involved from the outset in any resumption of hostilities, despite the constitutional responsibility of Congress to declare war.

The United States is in a vise in Korea from which it must eventually extricate itself by a phased withdrawal of forces while simultaneously seeking a permanent solution to the conflict. It is to be hoped that the recent incident will not delay U.S. initiatives in that direction.

Exhibit 1

EXCERPTS FROM WINDS OF CHANGE—EVOLVING RELATIONS AND INTERESTS IN SOUTHEAST ASIA

I. THREE VARIATIONS ON NEUTRALISM

President Nixon's visit to Peking in 1972 released strong winds of change in the international relationships of Asia. The collapse in South Vietnam and Cambodia intensified these currents. Visible changes already include the restoration of contact between the United States and China looking in the direction of normalcy after many years of acrimonious confrontation. This shift has been a key factor in enabling us to reduce the U.S. military presence in Asia from some 650,000 at the height of the Indochina war to less than 60,000 at present. Moreover, a further reduction will take place in the months ahead as U.S. forces are withdrawn from Thailand.

U.S. policy, in short, is beginning to reflect the fact that the United States is a Pacific nation, but not a power on the Asian mainland. The waters of the Pacific touch the shores of the United States on the West Coast, at Hawaii, Alaska, the territory of Guam and the U.S. trust territories. They also beat against the coastlines of seven nations to which we have made security commitments—Japan, South Korea, Taiwan, the Philippines, Thailand, Australia and New Zealand—as well as the shores of the Soviet Union and China. What takes place in this vast region is of deep concern to this nation. However, concern and capacity to influence are quite different. What we began to perceive in Korea and saw very clearly in Indochina is that our capacity to influence the flow of history on the Asian Mainland itself is quite limited on the basis of any rational input of manpower and resources.

After the birth of the Peoples Republic of China in 1949, we established a policy of containment of Communist China. It was a policy which sought to line up nations on an either "for or against" basis with "neutralism" regarded as something to be spurned. A ring of treaties was engineered in an effort to use U.S. power and influence to choke off what were held to be China's aggressive designs on its neighbors. In Southeast Asia, both Thailand and the Philippines linked their foreign policy directly to what became a U.S. crusade against communism on the Asia Mainland. Burma and Cambodia, each in its own way, tried to walk the tight rope of non-involvement. The former did so throughout the Indochina war, in part, by rejecting U.S. and other forms of foreign aid. Under Prince Norodom Sihanouk, Cambodia also held the line of non-involvement successfully for many years. When the Prince was overthrown by a military coup, however, the Khmers paid the cost in five years of bloody war. The overthrow of Sihanouk also added more U.S. casualties and billions to U.S. costs in Indochina as this nation went from non-involvement to the aid of the successor military regime in Phnom Penh.

Throughout Southeast Asia, nations are now making major reassessments of their relationships. Nationalism and neutrality, mixed with a budding interest in regional cooperation, are the driving forces at work. Neutralism takes on different characteristics in each of the Southeast Asian nations. Burma is a study of traditional neutrality with a heavy accent on isolationism. Thailand, the only nation in the region to remain free of colonial rule before World War II, is engaged in writing another chapter in its long history of seeking to balance its independence amidst shifting political currents. Three decades after close alinement with and vestigial dependency on the United States, the Republic of the Philippines is moving into the more open waters of international relations and accelerating its efforts to achieve a fully independent identity.

As new relationships evolve in Southeast Asia, new problems are emerging among the nations in the area and in their relations with the United States. Changes in an old order always carry a degree of painful adjustment. It is to be hoped, however, that out of the old, eventually will emerge a new spirit of self-reliance and regional cooperation. In that fashion, the independent nations of the region may be able to live together in a zone of peace respected by all of the great powers. That is the goal towards which each nation visited, in its own way and to some degree, all of them together, seemed to be moving.

The Asian nations are very likely to call for adjustments of all of the relationships with the West which grew out of a previous state of dependency. We should do our best in our own interests to accommodate to changes of this kind. They involve, in many cases, as in Indochina, the lightening of an excessive and one-sided burden which has been maintained for decades by the people of the United States. From our own point of view, it would be desirable to subject the Southeast Asia Collective Defense Treaty, the so-called Manila Pact, to critical reexamination. The treaty seems to me of little relevance to the security of this Nation in the contemporary situation. In fact, it may be more a liability than an asset to all of the signatories. As for our relations with Indochina, it would seem to me helpful in dealing with the vestigal problems of the war and in paving the way for a peaceful future to establish direct contact with the successor governments in Vietnam and Cambodia at an appropriate time.

It would be unfortunate if out of indignation or disillusionment we should turn our backs on Asia. More in line with our interests would be to seek to understand more clearly what is transpiring on that continent. Our young people, in particular, need as much exposure as possible to the changes in Asia since they will experience in the years ahead most of the consequences. Through diplomacy and cultural contacts we should be able to harmonize our reasonable national interests in security, trade and cultural cross fertilization with the emerging situation in Southeast Asia. The present transition need not be a source of anxiety if it is approached in that fashion. Indeed, we could be on the verge of a new era which could bring great benefits both to the Asian countries and to this Nation.

II. BURMA

Neutrality and nonalinement

Under President Ne Win, Burma has navigated a course of neutralism and nonalinement for many years. Its relations with the great neighboring states of China and India are correct and formal and the same is true for the Soviet Union and the United States. Burma has no intimates and seeks none. It has sought to avoid foreign entanglements. Although it was an early member of the United Nations, only in 1973 did the nation even join the World Bank and the Asian Development Bank. In the United Nations and other international forums, Burma has abstained on many divisive issues. For years it has recognized both Koreas and both Vietnams.

Burma was an observer of what happened to the Indochinese nations when they were drawn into great power rivalries. Their tragic experience was such as to provide proof to the Burmese government of the correctness of its own policy. Whatever its shortcomings, this policy has served to keep Burma out of the conflicts which have beset others in Southeast Asia. Furthermore, isolated by natural mountain barriers on the east, west, and north the Burmans have been able to preserve to a greater degree than most nations in the region, their traditional culture.

Speculation in Burma is to the effect that its doors may soon open wider, evidencing, some say, a change in attitude towards the outside world. One Burmese official observed to me, however, that what has happened is "not that Burma has changed but that the world has changed." He went on to explain that a U.S. policy of détente with the Soviet Union and the new U.S. relationship with China significantly altered the framework of Burma's neutralism and made foreign contacts, notably with the United States, more feasible.

Foreign observers, when discussing Burma's economy, generally describe it as "stagnant" or "sick." While it is obvious to a visitor that there is a great deal of poverty, the usual economic yardsticks are not exact or even very relevant when applied to a rice-based agrarian society. The extremes of poor and rich, for example, are not seen in Burma as in many other countries. Burma's economy is not rocketing ahead but neither as in Indochina has the land been devastated and hundreds of thousands killed and maimed by warfare. Also avoided so far have been the cultural upheavals and environmental despoliation which are often associated with economic development via heavy influxes of outside capital and foreign aid.

Nevertheless, there are manifestations of political dissatisfaction from time to time which center in Rangoon and are probably directed in part, at least, at the lack of economic progress and opportunity. Three major anti-government demonstrations by workers and students have occurred during the last year and a half. Colleges and universities have been closed from time to time and leaders of workers demonstrations have been sentenced to long prison terms.

Although a new Burmese Constitution was adopted last year, the government remains based on army leadership. Sixteen of 18 cabinet officers are military or ex-military men. While farming is still on a private basis, as are many shops and stores, the government runs much of the rest of the economy. Staples, such as rice, oil, and cloth are rationed, with scanty allotments. This system, plus a shortage of consumer goods generally undergirds a so-called "shadow economy" or black market. Although stable until the last year or so, prices ar now rising. Rice stocks available for export, the country's principal source of foreign exchange, are dwindling due to lack of substantial increases in output coupled with population growth. In the last thirty years, the population has almost doubled to 30 million. The government is considering new incentives to raise rice production and recently increased the price paid to the farmer by 30 percent. As yet, however, policies have not been devised to surmount the dilemma of a dwindling per capita food supply as against what is seen as a possible loss of security and national identity which might be occasioned by limiting population growth in the midst of towering neighbors.

One way to help alleviate this dilemma, at least for the immediate future, would be by the discovery of petroleum in exportable quantities. After years of rejecting private investment, last year, Burma leased offshore tracts to two American oil companies, Exxon and Cities Service, and two companies from other countries. While the drilling has not yet yielded results, the Burmese believe the prospects are good. Burma is also seeking by its own efforts to extend present onshore oil fields which supply 70 percent of the nation's modest current needs. The government has not shown any interest in foreign involvement in the exploration for minerals, with which, according to technical reports, Burma is generously endowed.[1]

A part of Burma's imports are presently being financed by loans from the World Bank and the Asian Development Bank and by bilateral agreements with West Germany and Japan. Three small Asian Development Bank projects are now underway. While the U.S. has not provided new dollar assistance to Burma since 1963, a consortium arrangement under the World Bank and the International Monetary Fund which involve foreign aid contributions by the United States, Japan, and Western European countries is under consideration.

The Burmese are in the process of repairing the severe damage cause by an earthquake in early July at Pagan, an area of historical significance and the site of numerous edifices and shrines dating from the 11th Century. They are hampered by lack of funds which are being raised through public subscription. Various nations have made contributions through their embassies in Rangoon for this very worthwhile endeavor. Shortly before I arrived, U.S. Embassy officials had asked Washington for permission to make a small monetary contribution to assist in the repair of the damage at Pagan. The request was denied, apparently on some semantic or obscure basis and the matter was buffeted from pillar to post in the bureaucracy. It is amazing to find that in an Executive Branch which frequently finds ways unknown even to the Congress to rush tens of millions in aid to shore up a sinking regime as in the closing days of the Cambodian debacle, is unable to find a basis for a modest human gesture in the face of a natural disaster such as occurred in Burma last summer. One can only note that if more authority is necessary to act in a situation such as this, why has it not long since been requested?

The drug trade and insurgents along the Burmese border create a dangerous mixture. Twenty groups, most of them based on ethnic divisions and some quite small and of little contemporary significance, are now in various degrees of insurrection or insurbordination with regard to the government in Rangoon. It is possible to divide the factions into three basic groupings. The first type seeks to replace the existing government and is exemplified by the Burma Communist Party, the largest single dissident element. Typified by the Kachin Independence Army (KIA), a second group seeks autonomy in ethnic areas. The third consists simply of out-and-out drug traffickers and bandits, some of whom are remnants or descendants of the forces associated with the National Government which fled from China in 1949 and which, for a time, were supported from Taiwan.

Opium is a traditional crop in the hill areas of Northeast Burma. It is estimated that the crop may reach 440 metric tons this year even though the price is currently depressed because of the loss of the South Vietnamese market. All the insurgent groups are believed to be financed, at least in part, through the drug traffic. The Chinese (Nationalist) Irregular Force which is still organized into the 3rd and 5th divisions is the most important group involved in the drug traffic. Another element is the Shan United Army, which operates in the Northern Shan states.

Each organization has its own "turf" in the remote and scarcely accessible border areas as well as its own methods of operations. In simplified form, the cycle of operations, runs as follows: the trafficker buys the crude opium from the grower, transports it to the Thai border, sells it, uses the proceeds to buy arms or other goods, brings the arms and goods back into Burma, sells them on the black market. The cycle is completed when the proceeds from the black market sales are used to buy more opium.

The Burmese government is concerned with the drug traffic both because of the growing consumption of drugs in the country and because suppression of the trade is seen as an essential element in dealing effectively with the insurgency problem. After an initial reluctance, Burma has agreed to accept eighteen helicopters which are available under the U.S. narcotics control program. Four helicopters have been delivered, on a trial basis, and, if results are mutually satisfactory, the remainder will be turned over, in due course, to the Burmese government.

In addition to this arrangement, there have been some small Burmese purchases of U.S. military related goods. The Burmese government, however, has indicated no interest in renewal of military aid program or in obtaining military training for its forces in the United States.

A note of caution is indicated in regard to cooperation in drug suppression. The zeal of U.S. enforcement officials in trying to get at the sources of drugs is understandable and merits much applause. Nevertheless, there are other questions involved in Burmese-U.S. relations. For too long in the administration of U.S. policies, we have tended to assume responsibility for problems which are more properly those of other nations or of the international community. One form of involvement in the internal affairs of other nations can lead very rapidly to other forms, as the bitter Indochina experience should have taught us.

In my judgment, therefore, any further U.S. assistance to foreign countries for their internal use in anti-drug problems, if warranted at all, would seem more appropriately to be funneled through international bodies. Whatever funds Congress thinks justified for this activity might well go as a contribution to the U.N.'s Narcotics Control program. Moreover, any activity of U.S. narcotics agents in Burma or any other nation in Southeast Asia, for that matter, must remain under the strict supervision and firm control of the U.S. Ambassador who is in the best position to know what practices are or are not possible in the light of our total relationship with the country concerned.

After my visit to Burma six years ago, I wrote: "The Burmese government continues to go its own way as it has for many years. It is neither overawed by the proximity of powerful neighbors nor over-impressed by the virtues of rapid development through large infusions of foreign aid. Burma's primary concern is the retention of its national and cultural identity and the development of an economic system preponderently by its own efforts and along its own lines."

These are still the major pre-occupations of the Ne Win government. The nation has succeeded in maintaining its national and cultural identity. Its economic situation, however, is still very tenuous.

As for our relations with Burma, while some strengthening of cultural and technical exchange either on a bilateral or multilateral basis may be desirable and possible, my view is that we would be well-advised to avoid scrupulously any inclinations towards a deepening involvement in Burmese affairs. Such inclinations would not be welcomed in Burma as in its best interests. Clearly, too, they would not be in the best interest of this nation.

III. THAILAND

After four decades of military rule, Thailand is attempting anew to forge a democratic system. At the same time, there is underway a major revision in foreign relationships. Following student uprisings, in

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[1] A map depicting petroleum exploration throughout Asia is included in the appendix.

October 1973, the military government of Field Marshall Thanom Kittikachorn was ousted and Thanom and other government leaders fled the country. This development, coupled with the rapidly changing situation in Asia, initiated by President Nixon's trip to Peking, and culminating in the collapse in Indochina, has brought about a sweeping reappraisal by Thailand of its foreign policy.

Until the fall of the Thanom government, Thailand had maintained a close relationship—some termed it a "client-state" relationship—with the United States. Now that has changed, with Thailand moving away from the long intimacy with the United States and, at the same time, seeking better relations with its neighbors in Indochina and Asia. How this land of 44 million people handles the turn towards political democracy and a new foreign policy will have far-reaching consequences for the over-all relationships in and around the Asian continent.

Political and economic situation

Prime Minister Khukrit Pramot, leader of the Social Action Party, has governed Thailand since mid-March with a coalition of eight parties. His own party, with only 18 seats, is a distant third in terms of party strength in the Parliament. While the Thai King, Phumiphon Adunyadet, serves primarily as the symbol of national unity, the monarchy is still a factor in state affairs, particularly, in times of crisis. The present Thai political system is based on a Parliament consisting of 269 seats in an elected Lower House and a 100-member appointed Upper House. Elections earlier this year attracted 42 parties and 2,191 candidates. Predictably, the results were inconclusive. There are now representatives from 23 parties sitting in the Parliament which, when I visited it, was meeting in a joint session and engaged in spirited debate over an aspect of ASEAN. Despite earlier predictions of a short and unhappy life, the Parliamentary structure is managing to hold together and is serving as a vehicle for operative government.

The Khukrit cabinet, apart from the difficulties inherent in any coalition and, especially in one emerging from the trauma of an abrupt shift from military authoritarianism, is subject to three basic pressures; a volatile student movement; long-standing insurgencies in the north, the northeast and the south; and the ever present possibility of a military coup.

The student movement wields influence, as is often the case in Asian nations, far beyond numbers. There is a working relationship between the students and labor on most issues and this coalition constitutes the most potent force in current Thai politics. It may be less of a factor, however, than it was two years ago at the time of the ousting of the dictatorship. Public reaction in Bangkok to past excesses, it is said, has caused student leaders to be more discriminating in choosing issues on which to exert their pressure.

One personal incident was instructive. When I arrived for an appointment with the Prime Minister, hundreds of out of work Thai guards at U.S. military bases, who are being discharged as the bases are phased out, were engaged in a demonstration demanding final pay adjustments. The guards were not on U.S. payrolls but, rather, were paid indirectly on the basis of U.S. contracts with Thai military leaders of the previous regime, some of whom apparently have fled the country. Since the demonstration was taking place in front of the Prime Minister's offices, it was necessary to postpone the meeting lest the presence of a visiting American official trigger more serious difficulties.

Ever present in the background of Thai politics is the potential for a military coup. While the government appears to command the loyalty of the armed forces, rumors of possible coups abound in Bangkok. Perhaps, the principal deterrent is the public revulsion with the rampant corruption of the previous military regime and the possibility that a coup at this time would again bring on a militant student-labor reaction.

The role of the military has been deemphasized by the present government which appears to want to direct its energies towards social and economic needs. Heretofore much of the government's interest centered on Bangkok. With 4 million people, Bangkok is Thailand's only major city and it is scarcely representative of the nation. The gap between Bangkok and the rest of the country is great. Per capita income in the capital, for example, is $600 per year, but it is only about $200 nationally, and it is, perhaps, not more than $75 per year in the most troublesome insurgent area, the northeast. There has been little spread of commerce and industry from Bangkok to the countryside. The city, in some respects, is like a foreign land to most Thais. Its traffic jams, westernized practices and political maneuvering are quite alien to the villagers who make up the vast majority of the country's population.

Neglect of the villages is a major factor in fueling the insurgency movements. In the north the insurgents are ethnic groups often involved in the drug traffic. In the northeast, the problem is pesant discontent and Thai against Thai. In the south, it is largely Malay Muslim or Chinese against Thais.

Over the years, there have been any number of anti-insurgency campaigns launched by Bangkok, all liberally financed with U.S. funds and, often, abetted with advice from various U.S. agencies. None has brought any appreciable results. The insurgent movements have continued to grow, with a total of perhaps 8,500 now under arms in the northeast alone. The Khukrit government seems to be aware that the problem cannot be solved unless there is more effective contact between a heretofore remote government in Bangkok and the people in the localities. It is trying new approaches which include a form of revenue sharing to channel funds to the poorest areas. Also recognized is the need to change the attitudes of the underpaid and corrupt bureaucracy in the insurgent areas. While it may be difficult to persuade soldiers and police who have reaped much of the financial benefit of past anti-insurgent campaigns to become benefactors of villagers, at least an effort is being made to bring about a reorientation. The government's five year plan also emphasizes economic growth in the rural areas and reduction in income disparities. It remains to be seen whether the benefits will actually reach the people.

The Thai economy has weathered the oil crisis, the world recession, and the phaseout of U.S. military involvement in Indochina. Although the rate of inflation was 20 percent in 1974, up from an average of 4 percent in the years before, it has been falling and will probably be down to about 10 percent for 1975. Increased earnings from agricultural exports have been a prime factor in countering oil price increases. The impact of both the recession and the uncertainty over political developments in the region have been felt in the slackening of foreign investment. Tourism, too, is down. Nevertheless, Thailand enjoyed a $400 million surplus in its over-all balance of payments in 1974 in the face of a deficit of $657 million in trade. The difference was made up by foreign aid, oil concession payments, tourism and capital inflows.

The United States has given Thailand large amounts of economic aid over the years, much of it in the last decade for the so-called counter-insurgency programs. Thus far, a total of $672 million in economic aid has been provided by the United States. For fiscal year 1976, $12 million has been requested.

In an economy as formidable as Thailand's, $12 million must be regarded as relatively inconsequential. The government's political and economic policies are the critical factors in shaping the nation's future. There would appear, therefore, to be little relevance to either country in the continuance of the bilateral aid program. Indeed, the time seems very propitious to end this vestige of "clientism" and to place the relationship of the two nations on a firm plane of mutual respect, with accent on mutually beneficial exchange.

Petroleum

There are prospects for major offshore petroleum strikes in the Gulf of Siam on Thailand's east coast and in the Andaman Sea west of the Kra Isthmus. Twenty-five wells have been drilled by American companies in the Gulf of Siam. Oil has been found, but the potential is not yet ascertainable. There could be international difficulties in some areas since most Thai concessions, overlap in part, territory also claimed by Cambodia. Thus far, however, there has not been any drilling in disputed areas. Some concessions have also been issued for the Andaman Sea but work there is not likely to start until next year. Thailand has already received more than $75 million for drilling rights from foreign prospectors. Renewed consideration is also being given by the Thai government to a proposal to join with Japan in constructing a major pipeline stretching across the Kra Isthmus, and terminating in a large refinery which would refine Persian Gulf crude for shipment to Japan.

Drugs

Thailand is a major site in the international drug problem, not so much as a producer but as the route of transshipment of opium brought in from elsewhere in Southeast Asia. Estimates indicate that about 40–45 tons of opium per year are actually produced in Thailand. This level is sufficient only to meet local demand.

Although some Thai officials may still be parties to the drug trade, the level of involvement is reported to be much lower than in the past. Contrary to the situation in Burma, drugs do not seem to be a significant source of financial support for insurgents but, rather, a means for personal or syndicate enrichment.

Thailand receives equipment from the United States under the narcotics control program. In fiscal year 1975, $4.8 million was provided, with $3.7 million more programmed for FY 1976. Bangkok is a regional headquarters for the U.S. Drug Enforcement Agency (DEA) which is active throughout Southeast Asia. The agency has a regional budget of $500,000, but the figure does not include assistance to other governments which runs into the millions. There are 26 U.S. agents in Thailand and they are involved in operational actions as well as intelligence gathering. The day before my arrival, for example, U.S. agents and Thai police had carried out a joint raid on an opium refinery.

This sort of U.S. anti-drug activities in Thailand seems to be highly dubious. Quite apart from the expenditure of U.S. funds, the direct participation by U.S. agents in police activities within Thailand amounts to involvement in internal Thai affairs. While it undoubtedly is meritorious in objective, it is a foot-in-the-door, a point of entry which could lead to extensions and in the end, renewed entrapment in the internal affairs of that nation at renewed cost to the people of the United States. The sorry history of military and economic aid and other activity in Indochina and Thailand over the past two decades should serve as a precaution in this respect. Police actions, including local drug enforcement, are functions of indigenous governments. If there is a U.S. role, it should be limited to the exchange of information and intelligence with appropriate Thai or other officials. Beyond that point, U.S. financial assistance for anti-drug operations at whatever level may be set by the Congress, in my judgment, is best channeled through international or regional organizations.

Foreign policy and U.S.-Thai relations

President Nixon's trip to Peking and the end of U.S. involvement in Indochina have created a new milieu for Thai foreign policy. From direct links and intimate cooperation with the United States in matters of security, Thailand has moved towards a neutral position. An effort is now being made by Bangkok to assure good relations with all the major powers. A case in point was Prime Minister Khukrit's visit to Peking in July which resulted in the establishment of diplomatic relations with China. So, too, was the official protest to the United States over the use of Thai bases in the Mayaguez affair. That incident, moreover, was followed by a demand for the complete withdrawal of U.S. forces from Thailand.

The outcome of the Indochina war was not only a factor in the new Thai approach to China, it also resulted in intensified interest in closer association with the Southeast Asian nations. Within five months after taking office, Khukrit visited not only Peking but all of the ASEAN countries. Thailand joined in support of the proposal to create in Southeast Asia a zone of "peace, freedom, and neutrality" which would be guaranteed by the great powers. There is no indication thus far, however, that this grouping will include any type of joint security arrangement. In that sense it would not be a substitute for the SEATO Organization which Prime Minister Khukrit and President Ferdinand Marcos of the Philippines have urged should be "phased out to make it accord with new realities in the region." This proposal, it should be noted, relates only to the organized activities under the Southeast Asian Treaty and the large headquarters staff in Bangkok. It does not involve a renunciation of the actual treaty, the so-called Manila Pact. Thailand is the only signatory in the area, however, to which the Pact now has practical application insofar as a U.S. security commitment is concerned. Pakistan renounced the treaty several years ago and the Philippines, Australia, and New Zealand, are tied to the United States by other defense arrangements.

The security relationship between the United States and Thailand is complicated by the existence of the 1962 Rusk-Thanat communique in which the obligations of the Manila Pact were held to be both joint and several. Under that interpretation, it would seem the multilateral SEATO treaty would also amount to a bilateral U.S.-Thai treaty. Thus, the treaty, potentially, has far more significance than the "scrap of paper," as it is often called today. An attack for example, by an enemy in Southeast Asia could conceivably lead on a Thai call on the United States to come to its aid notwithstanding the disinclination of any other of the signatories to do so.

The fact is that the Manila Pact was born of an old and now altered view of China. It is of no current relevance to U.S. interests in Asia. Left in abeyance it is, perhaps, a source of potential mischief or embarrassment. We would be well-advised, therefore, to reexamine this agreement forthwith, with a view to its termination.

It should be noted in this connection that Prime Minister Khukrit has called for the complete withdrawal of the 19,000 U.S. military forces in Thailand by the end of March 1976. Some references, however, have been made to the possible retention of a standby capacity at the U Taphao Base, manned by a small caretaker force.

For more than a decade, my view has been that the United States in its own interests should withdraw militarily from the Southeast Asian mainland, "lock, stock and barrel." It remains my judgment that it is not in the interest of this nation nor, probably, in the interest of Thailand to have a U.S. capacity retained at any of the installations in Thailand. There should be no toe-hold which would serve as a potential source of reinvolvement of U.S. military forces on the Southeast Asian Mainland.

LAOS—THE SANDS RUN OUT

It has been said that in Laos the French laid foundations of sand and that we tried to build on them. As seen from Thailand, the sands have run out. Since the fall of Cambodia and South Vietnam, the Pathet Lao have rapidly expanded their control of Laos. The advance occurred without much resistance or bloodshed, with the opposition tending to evaporate or flee the country. Three of the five government military commanders had left the country by early August and another left shortly afterwards.

In the capital of Vientiane, the Pathet Lao have also extended their control of the coalition central government. Prime Minister Souvanna Phouma is still in nominal command but he is reported to be virtually powerless. The King remains on the throne but is said not to play a political role. Laos is now described as a "Democratc People's Kingdom."

U.S. relations with Laos are strained and minimal following the forced closing of U.S. aid operations last June. The size of the U.S. mission dropped from 800 (including dependents) in April 1975 to 32 by mid-August. It is estimated that there are also some 50 other Americans without official status remaining in Laos. U.S. assistance is not being provided to Laos as a result of a prohibition contained in the continuing appropriations resolution for FY 1976. The new U.S. Ambassador to Laos has been confirmed by the Senate, but as of late-summer had not yet been ordered to his post. In this fashion, a U.S. involvement of 22 years which cost billions of dollars and many lives, is drawing to a close.

Exactly twenty years ago, in 1955, on the occasion of a third visit to Laos, I reported to the Committee as follows:

"* * * military aid policies which seek to do more than bulwark the security forces to the point where they can cope with armed minorities and stop occasional border sallies seem to me to be highly unrealistic. By the same token economic aid programs which attempt to move an ancient pastoral country overnight from the age of the oxcart to that of the airplane are equally unsound to say the least. Both, in attempting to do too much, in my opinion, can do incalculable harm.

"In Laos as in Cambodia, there has been an enormous increase in United States activity and in the size of the (U.S. official) mission during the past year. At the time of my first visit to Vientiane in 1953, there were two Americans in the entire country. Now (1955) there are some 45. Accordingly, I recommend that the Executive Branch, as in the case of Cambodia, review the extent of our activity in Laos and the size of the mission with a view to keeping both within the realm of the reasonable."

ORDER FOR RECOGNITION OF SENATOR HARRY F. BYRD, JR., ON MONDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on Monday next the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) be recognized for not to exceed 15 minutes after the joint leaders have been recognized.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished minority leader seek recognition?

Mr. HUGH SCOTT. Mr. President, I yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

NO AID FOR MARXIST REGIME IN MOZAMBIQUE

Mr. ALLEN. Mr. President, the Reverand Armand Doll is still a prisoner of the Government of Mozambique. Senators will recall that during consideration of the foreign miliary aid authorization bill (H.R. 13680) in the early part of June, I offered an amendment which would have barred aid to Mozambique pending Rev. Doll's release. The House version of that bill contained a categoric ban on aid to Mozambique presumably because the House of Representatives recognized the pro-Communist dictatorial character of the present regime in that country and saw little purpose in expending taxpayer funds on a government openly hostile to the United States and its people.

Nevertheless, Mr. President, the Senate and House conferees in their wisdom saw fit to remove both the Senate and House bans on aid to the Mozambican regime stating in the conference report that Rev. Doll's release could be more easily obtained without making aid to the Mozambican Marxist dictatorship contingent on that citizen's release.

Mr. President, I say again for the benefit of those Senators who may not have the latest information on this subject, Rev. Doll is still a prisoner in a Mozambican concentration camp, and I ought not to have to remind Senators that Rev. Doll is not alone. Literally thousands of individuals have been imprisoned by the Machel dictatorship, and hundreds of thousands have been forced to flee Mozambique as a direct result of the repressive and criminal behavior of Machel's government.

Yet, Mr. President, Secretary Kissinger presumably with the consent of the President of the United States proposes to reward Machel's criminal conduct by handing over to him millions of dollars in American taxpayer funds for the express purpose of aiding this newly established Soviet satellite in its efforts to overthrow one of the few remaining stable governments in Africa—the Government of Rhodesia.

Senators heard or read on April 27, 1976, the Secretary of State of this country pledge to the dictator of Mozambique the sum of $12.5 million, apparently in payment for the Machel's regime decision to close the Mozambique-Rhodesia border and to step up terrorist attacks in Rhodesia. Some of us here in the Senate were rather disturbed at the Secretary's action—especially since, so far as was known, the House of Representatives had not appropriated the money the Secretary planned to give away. But the State Department in the administration of the vast and costly foreign aid program of this country, is usually able to find funds somewhere even if it is far from clear that Congress ever intended those funds to be used for the purpose for which they are expended.

So, Mr. President, what the Department of State is planning to do in this particular case—and there will be opposition in Congress; if the whole Congress does not oppose it, there will be opposition, and the Senator from Alabama will give opposition to that—in order to circumvent the possible opposition of Congress to Federal support for a Marxist dictator is to use an authorization contained in a bill passed long before the present situation in Mozambique had developed, which authorized $30 million:

> To provide development assistance . . . and rehabilitation assistance to countries and colonies in Africa which were prior to April 25, 1974, colonies of Portugal.

Mr. President, I am referring to section 314 of Public Law 94–161, the International Development and Food Assistance Act of 1975. I doubt that a single Senator here present or, for that matter, a single Member of the House of Representatives had any idea whatsoever at the time the International Development and Food Assistance Act of 1975 was enacted that an authorization for development or for relief and rehabilitation assistance for former Portuguese colonies in Africa would be utilized by the Department of State to fund the Department's commitment to assist the Machel regime in its terrorist efforts against Rhodesia. I do not believe that was contemplated by Congress when that bill was passed.

Mr. President, I might note paranthetically that I believe the Department of State will, in fact, be acting without the authority of Congress if it does continue in its present plan to expend $10 million during the transition quarter under the authorization contained in the Food Assistance Act. I believe the Department of State would be acting contrary to law simply because the authorization contained in that act is for fiscal year 1976 only. When it stretches that year out for 3 months, I do not believe that the original appropriation would cover the transition period. A much smaller amount is authorized for the transition quarter and certainly not a sufficient amount to cover the proposed $10 million expenditure in the transition quarter.

But, Mr. President, I am digressing from the main point that I wish to emphasize to the Senate and that point is that in spite of our efforts in this body, in spite of the assurances of the Senate-House conferees on the foreign military aid bill, and in spite of the repeated assurances to my staff that progress is being made in securing the release of Reverend Doll, a citizen of the United States and a resident of the State of Pennsylvania—I wish the distinguished Republican leader were in the Chamber at this time; I believe he would voice some opinions on the right of the Mozambique Government to imprison this minister from the State of Pennsylvania—despite these assurances, Reverend Doll remains in prison, without trial, without a hearing, without even being informed of the charges against him.

What is his crime? What is the crime of this Reverend Doll of the State of Pennsylvania? Simply this: Reverend Doll chose to attempt to practice his religion according to the dictates of his conscience and his interpretation of God's holy word. He attempted to practice his religion in the face of the Machel dictatorship's announced religious policy. That is the offense that this man is charged with, and this is the type of government that would be aided by this foreign assistance bill that has remained dormant for some weeks, and I dare say will continue to remain dormant, as a result of the statement of the Senator from Alabama that he is going to oppose that measure here in this Chamber. I hope the matter will not be brought up to further complicate the crowded logjam of legislative activities we now have on the schedule.

Mr. President, it seems to me that in a country founded in large measure on the principle of religious freedom and toleration, there ought to be no toleration for the intolerant and no aid from our Treasury to encourage repression.

Mr. President, we have been hearing for many years how our largesse expended on dictatorial regimes will cause those regimes to see reason and to behave more responsibly toward this country and its citizens. Well, Mr. President, it just has not worked, and it is time for this body to recognize its error and to begin conserving the tax revenues of this country, the taxpayers' money, and not to expend it on nations which abuse our citizens and insult our Nation.

Mr. President, from the end of World War II through the end of fiscal year 1975 we have expended $170 billion in foreign countries, primarily so-called third world nations. Sadly, a large proportion of this expenditure has gone to prop up Socialist dictatorships professing to have the interest of the poor at heart but, in fact, interested only in self-perpetuation, self-aggrandizement, and the subjugation of the great mass of people not in privity with the governing elite.

These so-called third world nations have just concluded a meeting held in the Indian Ocean nation of Sri Lanka, formerly Ceylon. As Senators know, these so-called nonaligned nations have been holding summit meetings since 1955, and at each of the meetings down through the years the main target of attack has been the United States. We are branded as aggressors for saving South Korea from subjugation by Communist North Korea; we are called imperialists because our territories extend to such areas as Puerto Rico and the Virgin Islands; we are called a colonial giant because we support governments which the Communists seek to overthrow; and we are told that we must give up the Panama Canal Zone and our naval base in Guantanamo Bay, Cuba.

Radical leaders of the nonaligned group for several years have threatened to withhold their natural resources from the industrial nations in order to demand high prices not in any way connected with the law of supply and demand. Not only do they seek to blackmail us into paying higher prices for their goods but also they want us to mark off their past debts to us.

Mr. President, since World War II, we have given away hundreds of billions of dollars in foreign aid to help these people develop their countries, but too often have leaders of those countries taken our money and bought weapons and luxury goods, leaving their people in squalor and poverty. In my judgment, Samora Machel, dictator of Mozambique, living in a multimillion dollar palace in his capitol, is a poor risk if we expect the millions proposed to be given to him to be utilized for relief and rehabilitation assistance. Somehow I believe Dictator Machel's interpretation of relief and rehabilitation may be different from yours and mine.

Senators will also, I believe, be interested to know that Mozambique has already been dipping into the till. In fiscal year 1975 some $5 million was expended in Angola, Guinea-Bissau, and Mozambique supposedly for refugee relocation assistance, agricultural assistance and teacher training. A large portion of this money was expended in Mozambique, much of it funneled through the U.N. High Commissioner for refugee assistance.

As I pointed out, the State Department is planning without clear congressional authorization to spend in the next few weeks $10 million under the seemingly innocuous heading "relief and rehabilitation assistance." H.R. 14260, the foreign assistance and related programs appropriation bill of 1977, contains, secreted in its general provisions, the sum of $20 million authorized but not specifically earmarked by earlier congressional action in our adoption of the International Security Assistance and Arms Export Control Act (Public Law 94–329).

I would like to know just how much money the State Department does plan to funnel to the Machel regime in fiscal year 1977. I would also like to know why this item cannot be spelled out in clear language so the Senate can know exactly what it is acting on. Is there some embarrassment in stating clearly where this appropriation is intended to be used?

Mr. President, the American people are entitled to know what the Senate's position on this issue is. My position is clear, and I am not afraid to state it. I urge that if this body does consider the foreign aid appropriation before adjournment, any appropriation to the Marxist dictatorship in Mozambique be stricken.

Mr. President, I ask unanimous consent to have printed in the RECORD a table of recent expenditures in southern Africa. I hope Senators will examine that table and ask themselves what good we have done for the people of southern Africa and what advantage has accrued to the United States as a result of the massive infusion of taxpayer dollars in that region.

I also ask unanimous consent to have printed in the RECORD a newspaper item published in the Washington Post of Wednesday, August 25, 1976, entitled "Rhodesian Leader Hits U.S. Views as 'Illogical.'"

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Fiscal year—	Zaire	Southern Africa regional (Zambia, Botswana, Lesotho, Malawi, and Swaziland)	Former Portuguese colonies (Angola, Mozambique, Guinea-Bissau, Cape Verde, Suo Tome, and Principe)	Mozambique
1946–75	$664,300,000	$129,500,000	[1] $10,000,000	$5,000,000 [2] (fiscal year 1975).
1976 and transition quarter	53,300,000	6,400,000	22,600,000	$10,000,000 [3] (plus $2,500,000 in Public Law 480, title II grants).
1977, planned or authorized	63,500,000	45,000,000	30,800,000	$20,000,000.

[1] Prior to independence U.S. foreign aid to Portuguese territories in Africa was included in a package deal in which the government of Portugal received $517,100,000 during the period indicated.

[2] A portion of this sum was expended in fiscal year 1975 in Angola and Guinea-Bissau.

[3] Not yet expended but planned for expenditure in transition quarter.

Note: Figures are rounded to nearest $100,000 and are based on the latest available documents furnished to Congress by the Department of State.

RHODESIAN LEADER HITS U.S. VIEWS AS "ILLOGICAL"

(By Robin Wright)

SALISBURY.—Rhodesian Prime Minister Ian Smith says that the Rhodesian government, despite an eagerness to have the United States "take the lead" in finding a settlement to his country's 11-year-old constitutional crisis, will not agree to black majority rule in two years.

A British plan for majority rule in two years was recently endorsed by the U.S. government in new negotiations under American sponsorship.

In an interview here, Smith denounced the plan, saying: "This question of quick majority rule is a facile, superficial argument to our plan. I want to assure you that not only the whites in Rhodesia but the majority of black people in Rhodesia oppose that sort of thing.

"I think it would be unfortunate if they [the United States] simply accepted the views of the present British government because I believe those are far removed from reality . . . I would have thought the U.S. government was a little more realistic and pragmatic than to fall for that kind of thing because it is so illogical."

Smith maintained that majority rule has been the "ultimate goal" of Rhodesian constitutions since 1923, but that there could be no such thing as a timetable for transition since it could be measured only by achievement, "not by a clock or calendar."

Observers in Salisbury feel that the Rhodesian government fears that a definite transition date would lead to an accelerated exodus of the white population, as happened when the Portuguese fled Mozambique and Angola before independence last year.

Despite the serious divergence in the U.S. and Rhodesian positions, Smith said he had communicated "indirectly" his interests in discussions with U.S. State Department officials.

He said that the United States, as leader of the free world, has an obligation to take an interest in the problems of southern Africa to counter the growing Communist influence in the area.

Smith added: "We find ourselves in the incredibly stupid position that we are fighting against other members of the free world more than we are fighting our natural enemies, the Communist world.

"Countries like Britain and the United States are leading the campaign against us in posing sanctions and trying to destroy us economically. So clearly we must try to overcome this ridiculous, this stupid position in which we have got ourselves to see if we cannot get back to normality."

The prime minister said he would offer "quite a few new proposals" if negotiations are organized. But he would not outline them because he does "not negotiate in public."

The proposals, however, do not appear to include the issue reported by diplomatic sources to be of prime importance to the countries involved in backing new negotiations: A common voters' roll leading to one man, one vote.

Under the current Rhodesian electoral system, blacks gain the vote only after meeting one of two requirements.

A minimum income of about $600 with property holdings worth $1,000.

A minimum income of $400, property holdings worth $800, and completion of two years of secondary education.

There are approximately 85,000 voters in the white population of 270,000 compared to approximately 6,000 voters in a population of 6.1 million Africans.

Although Smith said he is willing to discuss details of qualifications for voting, he is adamantly opposed to lowering standards.

"You can't expect people to take over and govern and run a country without some preparation. Otherwise we're going to have chaos and pandemonium such as we have in Mozambique today or in Angola where there is far greater misery, tragedy and disaster than there was before the Portuguese pulled out."

During the interview, Smith indicated that he intends to take a strong stand against any pressure by the United States, Britain and South Africa.

He also appears to be counting on Secretary of State Henry A. Kissinger's anger about the continued Cuban presence in Angola flowing over to the rapidly escalating guerrilla war in Rhodesia.

Diplomatic sources in Mozambique have confirmed that there are a few hundred Soviet, Cuban and East European technicians advising the Rhodesian guerrilla forces based in Mozambique.

The guerrilla war is already closing in on Rhodesia. Government sources admit that they expect 4,000 guerrillas to be operating here by the end of September, compared to approximately 1,500 now.

Rhodesian forces are already strained by the opening of three new fronts and the spread of fighting from the borders to areas deep inside the country.

Thus, from a Rhodesian standpoint the timing for American involvement could not be better. With Soviet and Cuban support committed to two vital areas in southern Africa and beginning to threaten a "free world member," the Rhodesians are hoping that the United States will end up taking even more than "the lead."

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New York (Mr. JAVITS) is recognized for not to exceed 15 minutes.

SENATE RESOLUTION 524—SUBMISSION OF A RESOLUTION REGARDING THE RECENT TERRORIST ATTACK AT ISTANBUL AIRPORT

(Referred to the Committee on Foreign Relations.)

Mr. JAVITS (for himself, Mr. BEALL, Mr. BENTSEN, Mr. BUCKLEY, Mr. CASE, Mr. GRIFFIN, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JACKSON, Mr. MONDALE, Mr. KENNEDY, Mr. MCGEE, Mr. NELSON, Mr. PELL, Mr. RIBICOFF, Mr. HUGH SCOTT, Mr. PERCY, Mr. STEVENSON, Mr. SYMINGTON, and Mr. TAFT) submitted the following resolution:

S. RES. 524

Whereas the August 11 attack at Yesilkoy airport in Istanbul, Turkey resulted in the death of four innocent civilians, including a member of the United States Senate staff; and

Whereas this victimization of innocent civilians is but the most recent of a long and outrageous history of comparable terrorist attacks allegedly political in nature but causing the deaths and wounding of many Americans and other nationals having nothing to do with the political struggle; threatening the interdiction of international air transportation; and constituting a transgression against human rights and civilized values by a new form of armed aggression; and

Whereas the perpetrators of the August 11 attack have stated that they were provided arms and instructions in Libya for this attack and other terrorists have been provided arms and aid for previous comparable terrorist attacks, as well, by, through, or with the complicity of the government or governments of a nation or nations with which the United States has commercial relations; and

Whereas the actions of such transgressor nations constitute a threat to the facility of free movement thereby necessitating that appropriate unilateral United States and international measures be taken to protect international air transportation from such threat: Now, therefore, be it

Resolved, That it is the sense of the Senate that:

(1) the President of the United States is urged to direct United States ambassadors abroad to seek the consideration by foreign governments of their suspension of their air service to any foreign nation aiding or abetting terrorism until the international community, in implementing the Helsinki accords, has been assured that the nation in question has ceased such activity;

(2) the President should undertake in a timely fashion international discussions and negotiations which would strengthen the current minimum safety standards established pursuant to the Convention on International Civil Aviation; or, should take any other actions he deems appropriate to improve airport security in those nations with direct air links to any transgressor nation and in other airports servicing international air transportation;

(3) the President under his authority pursuant to sections 1114 and 1115 of Public Law 93-366, the Antihijacking Act of 1974, is urged to take such appropriate measures as to:

(a) deny the right of any United States air carrier to engage in foreign air transportation between the United States and any other foreign nation whose government is in violation of such act;

(b) suspend the air service rights of any foreign air carrier, which may pose a threat to international air transportation by servicing such foreign nation, by engaging in air transportation between the United States and any such foreign nation; and

(c) direct the Secretary of Transportation, with the approval of the Secretary of State, to withhold, revoke, or impose conditions on the operating authority of any airline or or airlines of any foreign nation that does not maintain transportation security sufficient to meet the minimum security standards established pursuant to the Convention on International Civil Aviation; and be it further

Resolved, That the Senate urges the President to conduct a comprehensive review of all U.S. trade and diplomatic relations to determine what further appropriate actions including specific sanctions may be taken to discourage any further support of international terrorism.

Mr. JAVITS. Mr. President, today I am introducing with 19 cosponsors a Senate resolution by way of lesson and memorial of the recent August 11 terrorist attack at Yesilkoy Airport in Istanbul, Turkey, and I am calling on President Ford to take action as appropriate under the Anti-Hijacking Act. As we all know, this incident is only one of the most recent of a long and terrible history of terrorist attacks victimizing totally innocent civilians.

In this attack, 4 were killed and 17 were injured. I am sure that my colleagues know from the news coverage of this incident that one of those killed at Yesilkoy Airport was Harold W. Rosenthal, who since January had been working in the Foreign Relations Committee as a special assistant for foreign relations. Hal was a brilliant, totally committed young man with a complete dedication to his work. Ironically, at the time of his murder, he was on his way to the Van Leer Institute in Israel to take part in a program dealing with the issues of securing peace in the Middle East. Incidents such as his murder, and other terrorist attacks, only deepen the divisions in the Middle East and retard the process of peace.

And, the scourge of terrorism is spreading. This was dramatically demonstrated last Monday by the hijacking of an airliner in Egypt—and another rescue, this time by Egypt. It is abundantly clear that no location and no person is safe from the perpetrators of these murderous attacks. Unless civilized nations want to live in a world where international air transportation—and many other aspects of modern life—become increasingly insecure from hijacking, sabotage, and bombings, decisive and effective action will have to be taken against terrorists and those organizations—and those national governments—which aid and abet them.

The Senate's passage of the resolution I am introducing today with other Senators should be taken as an indication that the United States does not intend to tolerate the continued activities of terrorists and their accomplices. The preamble of this resolution characterizes the Istanbul terrorist attack, and the other attacks which preceded it as "threatening the interdiction of international air transportation; and constituting a transgression against human rights and civilized values by a new form of armed aggression." The preamble then points out that, according to the terrorists, arms and instructions to facilitate this attack were provided in Libya. The preamble concludes that "such transgressor nations" that aid or abet terrorism in any way "constitute a threat to the facility of free movement"—"to facilitate freer movement" being one of the objectives of the final act of the Conference on Security and Cooperation in to the facility of free movement—to necessitating that appropriate unilateral United States and international measures be taken to protect international air transportation" from the threat of terrorists and their accessories.

Accordingly, the operative section of the resolution, following the provisions of the Anti-Hijacking Act, urges the President to:

(1) direct United States ambassadors abroad to seek the consideration by foreign governments of their suspension of their air service to any foreign nation aiding or abetting terrorism until the international community, in implementing the Helsinki accords, has been assured that the nation in question has ceased such activity;

(2) undertake in a timely fashion international discussions to strengthen the current minimum safety standards established pursuant to the International Convention on Civil Aviation or any other action he deems appropriate to improve airport security in those nations maintaining air service with nations aiding or abetting terrorism;

(3) consider exercising his authority under the Anti-Hijacking Act of 1974 to:

(a) deny authority for any U.S. air carrier to service any foreign nation violating the Act by aiding or abetting terrorism:

(b) suspend the air service rights in the U.S. of any foreign air carrier servicing any such nation;

(c) suspend the air service rights in the U.S. of any foreign air carrier whose national airports do not meet the minimum security standards established pursuant to the Convention on International Civil Aviation; and

(4) "conduct a comprehensive review of all U.S. trade and diplomatic relations to determine what further appropriate actions including specific sanctions may be taken to discourage any further support of international terrorism."

As the resolution points out, at a minimum the relatively permissive ICAO airport security standards should be considerably strengthened.

Another glaring deficiency in the antiterrorism efforts is demonstrated by the fact that this attack seemingly did not violate any international law. There are three international conventions dealing with aircraft hijacking and sabotage: the Tokyo, Hague, and Montreal Conventions; but all three of these are triggered only when the attack occurs on an aircraft the doors of which are closed for flight. In this incident, the attackers never attempted to enter a plane in the carrying out of their attack. Therefore, none of the antihijacking conventions appear to have been violated. A convention dealing with attacks in airports—or any other transportation facility for that matter—and airport security is clearly needed to close these loopholes.

None of the antihijacking conventions contains any sanctions against nations that aid, abet, or provide sanctuary for terrorism and terrorists, and there does not exist any international convention that deals with forms of terrorism other than air hijacking and sabotage. In 1972, then Secretary of State William Rogers proposed just such a convention to the United Nations, but it was argued and studied to death—largely by third world countries on the completely erroneous notion that it had something to do with self-determination. I am not at all sanguine that any such convention, even if again put forward to the United Nations, would be seriously considered. However, there are alternatives. I hope the President and Secretary of State will consider bilateral and regional negotiations to help fill the existing need.

In addition, there is the avenue of implementing existing law and passing new legislation. As the resolution I am introducing states, it is now time for the President to implement the air service boycott provisions of the Anti-Hijacking Act of 1974, Public Law 93-366. It is also time for Congress to consider other possible legislative remedies, and for that purpose I intend to ask for hearings in the Senate Committee on Foreign Relations of which I am a member.

Mr. President, the civilized world must not fail to respond effectively and decisively to the scourge of international terrorism. While the resolution I am introducing today is just that, a Senate resolution expressing the sense of the Senate, I hope we shall proceed to take the steps that are necessary, in concert with our allies and by ourselves, in order to deal with this new dread terror and scourge upon the civilized world.

Mr. President, I ask unanimous consent that there be printed in the Record with my remarks certain press reports and a short history compiled by my staff of the Istanbul terrorist attack, this history being developed from these reports and other sources by my staff.

There being no objection, the material was ordered to be printed in the Record, as follows:

Staff Summary History of Istanbul Terrorist Attack, August 11, 1976, From Press and Other Sources

The two perpetrators of the Istanbul attack, members of what is known as the Wadi Haddad faction of the Popular Front for the Liberation of Palestine, had been fighting for the PFLP in Lebanon when they were ordered to report to Tel el Zataar refugee camp where they were given initial instructions and plans for their attack. They were then ordered to report to Tripoli, Libya, where they were given two automatic weapons, ammunition, hand grenades, false Kuwaiti passports, airline tickets for Bagdad via Rome and Istanbul and their final instructions, which were to (1) "kill as many Israelis as possible", (2) not to hijack the El Al flight to Tel Aviv but to attack the passengers as they enplaned, (3) to take no hostages, and (4) to surrender after the attack.

The terrorists proceeded to Rome and then to Istanbul. At Yesilkoy Airport in Istanbul, the terrorists waited in a transit lounge, through which earlier had passed a Libyan delegation on its way to the Non-Aligned Conference in Columbo, Sri Lanka. They waited as the lines of passengers to the attacked El Al flight to Tel Aviv and the flight the terrorists were ticketed to take to Bagdad converged at the Turkish security check point. As they approached the security check point, the terrorists commenced their attack, throwing hand grenades down stairs the El Al passengers were taking to a bus which would in turn take them to their flight and then fired their weapons into the crowd. Four were killed and twenty-four injured. The terrorists surrendered shortly thereafter to Turkish security guards and have now been turned over to the Turkish courts for prosecution.

As additional information, below are a listing of the statements of officials of the Government of Libya concerning this and other terrorist incidents and a July 16, 1976 New York Times article, titled "Libyans Arm and Train World Terrorists."

(1) "We in the Libyan Arab Republic take a clear line—that fedayeen action must emanate from all fronts without restriction." President Qaddafi in Tripoli, Libyan State Radio, October 7, 1972.

(2) After Black September terrorists who murdered 11 Israeli athletes at the Munich Olympics were given asylum in Libya, West Germany asked for their extradition. Libyan Foreign Minister Mansour Rashid Kikhiya replied:

"The fedayeen asked for political asylum here and they got it. They will naturally not be brought before a court . . . We Libyans will support in this phase every Palestinian commando operation. I stress: every operation." Quoted in Stern (West Germany), November 11, 1972.

(3) Referring to the 1972 massacre of 26 persons at Israel's Lod Airport by Japanese Red Army members working for the PFLP, President Qaddafi said:

"We demand that fedayeen action be able to carry out operations similar to the operation carried out by the Japanese." Quoted over Libyan State Radio, October 7, 1972.

(4) After the raid at Qiryat Shemona, in which 18 Israeli youth were murdered by Arab terrorists, President Qaddafi said:

"This operation is a step in the right direction, stressing the true meaning of fedayeen operations." Quoted over Libyan State Radio, April 11, 1974.

(5) A week after the PFLP attack which killed four persons and wounded 24 in Istanbul, President Qaddafi told the Conference of Non-aligned Nations that if the Palestinian "struggle is terrorism, then we accept the accusation and it is an honor to us." Quoted in Washington Post August 19, 1976.

[From the New York Times, July 16, 1976]

LIBYANS ARM AND TRAIN WORLD TERRORISTS

(By Bernard Winraub)

LONDON, July 15.—A broad terrorist network, stretching from the Middle East to Africa and Europe, is being trained, armed and financed by Libya's leader, Col. Muammar el-Qaddafi, according to diplomats in Europe, the Middle East and the United States. This zealous adventure, starting early in the 1970's, is said to be designed to unite Arab countries into a radical Islamic union.

Although Colonel Qaddafi seeks to crush Israel and undermine, if not destroy, the leaderships of countries such as Egypt, the Sudan, Tunisia, Jordan, Lebanon and Morocco, the efforts of the 34-year-old colonel reach far beyond the Arab world.

He has sent Soviet-made arms to the Irish Republican Army in Northern Ireland, to Moslem guerrillas in the Philippines and Thailand and to rebels in Chad and Ethiopia, according to European sources.

Arab leaders, including President Anwar el-Sadat of Egypt, view Colonel Qaddafi as an unpredictable and volatile threat to Middle East stability and a central figure underwriting the campaign of hijackings and terrorism.

Moreover, according to diplomats, Mr. Sadat and others are convinced that Colonel Qaddafi is fueling revolutionary groups for assault and assassination campaigns against Arab leaders and embassies of countries seeking settlement with Israel.

Beyond this, Colonel Qaddafi, supported by a burgeoning Soviet weapons arsenal and oil money, has involved himself in some of the most publicized terrorist attacks in recent years. Sources in London said that the terrorists who murdered members of the Israeli team at the Olympic games in Munich four years ago had been trained in Libya, had their arms smuggled into Munich by Libyan diplomatic couriers—a common means of arms smuggling—and were later given large rewards by Colonel Qaddafi.

It is known that a gang that included the terrorist called "Carlos" took refuge in Libya despite the death of a Libyan minister, last December after a raid on the Vienna headquarters of the Organization of Petroleum Exporting Countries. Arab and Western diplomats are convinced that Libya, and possibly Iraq and Algeria, helped plan the raid, whose aim was partly to attract publicity for a newly formed militant group, the Arm of the Arab Revolution.

TERRORIST LIVES IN LIBYA

The group's leader is said to be Wadi Haddad, a leading member of the Popular Front for the Liberation of Palestine, who now resides in Libya. Israeli sources have identified him as the planner of the recent hijacking of the Air France plane whose hostages were flown to Entebbe Airport and in Uganda and later freed in a daring Israeli commando raid.

An assault at Rome airport in December 1973, in which 32 people died, was also planned in Libya with the aim of wrecking the Geneva peace talks between Israel and Egypt, according to diplomatic sources here. The initial plan was to assassinate Secretary of State Henry A. Kissinger in Beirut by an attack on his aircraft with submachine fire and hand grenades, but Lebanese authorities foiled the plot and the plane was diverted to a military airport east of Beirut.

Colonel Qaddafi has recently set up a guerrilla squad under his personal control, trained at a closed camp at the former United States Air Force base near Tripoli, whose missions included assassination attempts on President Sadat of Egypt, an attempt to kidnap one of Colonel Qaddafi's disaffected aides who had sought refuge in Cairo and a plot to blow up the residence of the Egyptian military commander of the Western Desert, Gen. Saad Maamoun.

Mr. Sadat declared Colonel Qaddafi was "100 percent sick and possessed of a demon."

Shah Mohammed Riza Pahlevi of Iran has reportedly called him "that crazy fellow."

Last week, the Sudan's President, Gafaar al-Nimeiry, furiously blamed Libya for a coup attempt and said: "Qaddafi has a split personality—both of them evil."

Colonel Qaddafi, who was born in 1942 in a tent in the Sirte Desert as the German tanks advanced across Libya towards Egypt, has never enunciated his views in a single coherent doctrine. Since he and 11 other young officers unseated King Idris in a coup in 1969—only four remain with him now, others have been arrested or have fled—Colonel Qaddafi has waged a revolution in the name of Islam and Arab supernationalism and opposed to what are viewed as moderate forces.

OIL MONEY FOR ARMS

Coupled with this, Colonel Qaddafi supports "liberation" movements outside the Middle East, movements with links to Islam or, as in Northern Ireland, a struggle against "occupation and injustice," words used by a Libyan official recently about Ulster.

Aided by a huge income—oil revenues last year produced a balance of payment of $1.7 billion—Libya has rapidly acquired large amounts of military equipment. According to military sources in London, the country of 2.3 million people now has 141 combat aircraft, including more than 100 French-made Mirages, and has doubled its supply of Soviet tanks in the last year.

Last year, Colonel Qaddafi concluded an $800 million arms deal with the Soviet Union, and the bulk of his weapons are Soviet-made. Many of the weapons are smuggled outside Libya. British soldiers, for example, seizing Irish Republican Army equipment, have found Soviet-made rocket launchers in Londonderry with desert sand still inside. Nonetheless, security officials in London have concluded that the flow of arms from Libya has been minimal.

There are few specific estimates on the amount of money that Colonel Qaddafi has spent on international terrorism and assistance abroad. It is believed that Libya's contribution to leftist forces in Lebanon has reached $50 million, although the figure could be far higher.

There were reports last year that Colonel Qaddafi had allocated at least $100 million to Black September, the clandestine terrorist wing of al Fatah, and $40 million to other guerrilla groups.

Libyan aid has also reportedly gone to the Eritrean Liberation Front in Ethiopia and to opposition groups in Yemen, Somalia, Syria, Tunisia, Morocco, the Philippines and Panama. There are rumors of Libyan support for black militant groups in the United States but they can't be confirmed.

TERRORIST TRAINING CENTER

According to officials, Libya now serves as the main training center in the Middle East for international terrorists—a network whose training bases spread from Tripoli to North Korea, Cuba, East Germany and the Soviet Union. It is in these bases, according to officials, that links are forged between Palestinians as well as such groups as the Japanese Red Army, the Baader-Meinhof gang in West Germany and the terrorists led by Ilich Ramirez, or "Carlos," the Jackal. In Libya, the terrorists are supplied with forged passports, cash, documents, contacts and weapons.

Recently, Libya has stepped up its own internal terrorist unit and has sent men to Rome and Cairo to try to kill two former members of the ruling Revolutionary Command Council who fled the country. One of them, Maj. Abdel Moneim el-huni, was in a Rome clinic.

In the Rome incident three men were seized at the Fumicino Airport on March 6 after arrival from Cairo. The three were carrying Libyan diplomatic passports, but the briefcase of one failed to pass a metal detector test. It contained three pistols and a hand grenade.

[From the Washington Post, Aug. 12, 1976]

FOUR KILLED IN ATTACK ON EL AL PASSENGERS

ISTANBUL, TURKEY, August 11.—At least four persons were killed and 24 were wounded when terrorists attacked passengers preparing to board an El Al flight to Israel at the international airport here tonight.

After several minutes of shooting, Turkish security forces captured two terrorists.

One of the dead, a Japanese youth, was thought to be a terrorist. The other three dead—two Israelis and a Spaniard—were passengers on the El Al flight.

The Japanese Foreign Ministry in Tokyo later identified the dead youth as Yutaka Hirano, a 29-year-old tour guide. The Japanese consulate general in Istanbul said he was leading a group of 10 tourists. Police said that they had thought he was one of the terrorists because he had been found with a pistol in his shirt. There was no explanation for the presence of the pistol on Hirano's body.

Some reports said five person have died—four passengers and a terrorist.

Witnesses said the terrorists set off a bomb or grenade and fired on passengers with machine guns.

The captured terrorists, traveling on false Kuwaiti passports, were identified by police as supporters of the Popular Front for the Liberation of Palestine. They reportedly told police Libya had financed their operation.

The El Al Boeing 707 later arrived safely in Tel Aviv with 82 passengers aboard, six of them with minor shrapnel wounds. The more seriously wounded remained in Istanbul.

Two injured American women were aboard the plane. Margaret Shearer, 40, was hospitalized with a bullet wound in the ankle, and her companion Lucille Washburn, was slightly injured. Their hometowns were not reported.

Israeli Transport Minister Gad Yacobi called the attack "another attempt to disrupt Israeli's international air connections."

"There is no guarantee that there will not be more attacks and we are alert to this," he added.

The attack came a month after Israeli commandos raided Entebbe airport in Uganda to free more than 100 hostages who had been aboard a plane hijacked by pro-Palestinian terrorists.

Prime Minister Yitzak Rabin said today. "After our operation at Entebbe, I warned Israelis that we had won a battle and that others would follow. It did not take long for that prediction to happen."

Rabin added: "Today, many days since Entebbe, I can't say that the international community has done anything in terms of better and more effective cooperation to cope with terror."

Yacobi said that following the Entebbe raid he had urged the governments of Turkey, France, the United States, Italy, Britain, Cyprus and Greece to tighten up security at their airports.

He said Turkey had "replied favorably" to the Israeli request. Security had been tightened at Istanbul's airport. Teams of policemen were posted at doors and plainclothes agents mingled with passengers.

Turkish police said the two captured men said they flew from Libya's capital, Tripoli, to Rome this morning, then boarded an Alitalia flight to Istanbul, carrying grenades and other weapons in their suitcases.

They were booked from Istanbul on a Pakistani Airlines flight to Baghdad, Iraq, and waited in the transit lounge with passengers for the El Al flight until they attacked.

There were varying reports of how long the battle between police and terrorists went on. Some witnesses reported between five and 15 minutes of shooting. Other reports from Istanbul said the terrorists took a Turkish policewoman hostage and bargained with authorities—including Istanbul Governor Namik Kemal Senturk—for about an hour before being apprehended.

"In Tel Aviv, Clara Mizrahi, a passenger wounded by flying glass, said: "I was in the terminal before going down to the boarding bus when I heard a bomb and the roof fell down . . . I was so frightened I couldn't see."

Dr. Mustafa Turkel, the physician on duty at the airport, said the terrorists "were shooting on police and passengers from the duty free shop just above the stairs descending to the exits doors. The passengers came under fire just as they were descending the stairs. That is why most of them got wounded in the head."

[From the New York Times, Aug. 13, 1976]

Turks Give Details of Guerrilla Attack and Attempt To Hijack an El Al Jetliner

Istanbul, Turkey, Aug. 12.—Turkish policeman and intelligence officers today questioned two Palestinian guerrillas who directed bombs and guns at passengers at the Istanbul airport after having failed to hijack an Israeli airliner.

Four persons died, including an aide to Senator Jacob K. Javits of New York, when the Palestinians set off explosions last night and raked an airport departure hall with automatic fire. More than 30 people were injured.

Legal sources said that the state prosecutor's office might demand the death penalty when the two guerrillas came to trial.

The attack was widely regarded as revenge for the Israeli rescue raid on Uganda's Entebbe airport last month, but it appeared curiously unsophisticated in view of the sweeping security precautions always mounted here for planes of the Israeli airline, El Al.

NOT BOOKED ON EL AL

The police said that the two gunmen, who might have been aided by a third, had not been booked aboard the Tel Aviv-bound flight. They were transit passengers supposedly waiting to fly to Baghdad.

The Governor of Istanbul, Manik Kamal Senturk, said the Palestinians had not taken into account El Al's security measures.

Being transit passengers, they evidently hoped to get to where the plane was waiting, without body and baggage searches.

The Governor said that only when they realized that they could not avoid detection at a special checkpoint did the gunmen decide to end their mission with random violence. He denied reports that the guerrillas had tried to take hostages before setting off their bombs.

FOURTH NOT IDENTIFIED

The four who died included Senator Javit's aide, Harold W. Rosenthal, 29 years old, of Philadelphia, a Japanese tourist guide, Yutaka Hirano, and an Israeli identified as Sano Sholomo.

The badly mutilated body of the fourth person has not been identified. The police said he might have been a member of the guerrilla group.

The police gave the names of the two captured guerrillas as Mehti Mohanned Zilh, 22, and Hussein Mohammed al-Rashid, 23, but they said these could be aliases. They traveled from Libya to Istanbul via Rome on Kuwaiti passports.

Reprisal Plan Reported

Istanbul, August 12.—The pro-Palestinian guerrillas who killed four persons in an attempt to hijack an Israeli plane here were quoted today as having said they had been instructed to kill "as many Israelis as we can" in reprisal for Israel's raid at Entebbe.

The prosecutor, Nejat Ulgen, said the two guerrillas contended that their attack was a reprisal for the Israeli commando raid, in which more than 100 mostly Israelis, hostages, from a hijacked Air France plane were rescued.

Mr. Ulgen said the terrorists had described themselves as "active warriors" of the Palestine Liberation Organization. They said they had joined the group six months ago and were on their first assignment, he reported.

[From the New York Times, Aug. 13, 1976]

Security Termed Lax

Tel Aviv, Aug. 12.—Israeli officials said today that Arab guerrillas were exploiting the laxity of security checks on transit passengers in international airports. They called for international cooperation to tighten supervision.

Prime Minister Yitzhak Rabin said that the terrorists who attacked waiting El Al passengers in Istanbul last night used the same tactic as those who hijacked an Air France plane in Athens in June. Both groups timed their arrivals to catch planes being prepared for takeoff.

Speaking to antiterror units of the Israeli border police, Mr. Rabin said the Istanbul raiders had planned to murder, while the Athens hijackers had been seeking live hostages to be bartered for terrorist imprisoned in Israel. But he said the attempts to free imprisoned guerrillas were also calculated to further murders of Israelis.

Government sources here said that the Foreign Ministry had set up a team to enlist international cooperation for an antiterrorist drive.

Six slightly injured passengers who were flown here from Istanbul last night have been released from Israeli hospitals. More wounded are expected to be flown home from Istanbul tomorrow. Relatives of those who still remain in Turkish hospitals were offered flights to Istanbul by El Al.

NOTABLE REPUTATION

Harold Wallace Rosenthal, an administrative assistant on foreign affairs to Senator Javits, had achieved a notable reputation as an aide to law makers.

He was going to Jerusalem to represent Senator Javits at a two-week conference on the Middle East and Israel at the Van Leer Institute when he was killed in the terrorist attack in Turkey.

Describing Mr. Rosenthal's death as "a stunning, awful and senseless tragedy," Senator Javits said he would urge the Republican Party to adopt a "strong plank against terrorism."

Mr. Rosenthal joined Senator Javit's staff eight months ago after having been a staff assistant on the international economic program of the Rockefeller Brothers Fund.

ONCE AIDED CAREY

Mr. Rosenthal began his Washington career as a legislative assistant to Hugh L. Carey, then a Democratic Congressman from New York and now Governor. Mr. Rosenthal was an administrative assistant to Senator Walter F. Mondale, Democrat of Minnesota, before joining the Rockefeller organization.

A native of Philadelphia and unmarried, Mr. Rosenthal received a bachelor of arts degree from Temple University in 1968, a master of arts degree in international affairs and economics from Cambridge University in 1969 and another master of arts in the same field from the Fletcher School of Law and Diplomacy at Tufts University.

He leaves his parents, Mr. and Mrs. Sidney Rosenthal of Philadelphia. Arrangements were being made yesterday to fly the body to the United States.

[From the New York Times, Aug. 13, 1976]

Turkey to Ask Death for 2 Guerrillas After Attempt to Hijack El Al Jetliner

Istanbul, Turkey, August 12.—Two Palestinian guerrillas will face the death penalty in a Turkish court on charge stemming from their attack at the Istanbul airport after a vain attempt to hijack an Israeli airliner, a state prosecuter said tonight.

Four men, including an aide to Senator Jacob K. Javits of New York, died in the explosions and automatic fire that raked an airport departure hall last night. More than 30 people were wounded.

The prosecutor, Nejat Ulgen, interviewed on television, said he intended to bring charges under an article that provides for the death penalty for murder or attempted murder.

The attack was widely regarded as revenge for the Israeli rescue raid on Uganda's Entebbe airport last month, but it appeared curiously unsophisticated in view of the sweeping security precautions always mounted here for planes of the Israeli airline, El Al.

NOT BOOKED ON EL AL

The police said that the two gunmen, who might have been aided by a third, had not been booked aboard the Tel Aviv-bound flight. They were transit passengers supposedly waiting to fly to Baghdad.

The Governor of Istanbul, Manik Kamal Senturk, said the Palestinians had not taken into account El Al's security measures.

Being transit passengers, they evidently hoped to get to where the plane was waiting, without body and baggage searches.

The Governor said that only when they realized that they could not avoid detection at a special checkpoint did the gunmen decide to end their mission with random violence. He denied reports that the guerrillas had tried to take hostages before setting off their bombs.

FOURTH NOT IDENTIFIED

The four who died included Senator Javit's aide, Harold W. Rosenthal, 29 years old, of Philadelphia, a Japanese tourist guide, Yutako Hirano, and two Israelis identified as Soloman Weisbeck and Ernest Elias.

The badly mutilated body of the fourth person has not been identified. The police said he might have been a member of the guerrilla group.

The police gave the names of the two captured guerrillas as Mehti Mohanned Zilh, 22, and Hussein Mohammed al-Rashid, 23, but they said these could be aliases. They traveled from Libya to Istanbul via Rome on Kuwaiti passports.

Mr. CASE. Mr. President, the resolution introduced today urging additional steps against international terrorists and their supporters in Libya speaks for itself. But it also is an attempt to express our hopes that no more voices will be stilled by the bullets and hand grenades of terrorists.

For too long, the international community has taken only partial steps to combat terrorism. Half-hearted measures and slipshod security suggest that for some nations oil and fashionable slogans of so-called freedom fighters are more important than the blood of innocent civilians.

Now, however, even some of those who have given a degree of moral as well as material support of terrorists are discovering the nature of the monster they helped nurture. The recent explosions and aircraft hijacking in Egypt, which have been blamed on the Libyans, show that terrorists cannot be expected to keep to their original targets.

There is overwhelming evidence that the Libya Government has aided and abetted terrorists and may have even abused the use of diplomatic pouches and privileges to do so.

It is time for the world to treat the Qaddafi government as one deals with an infected animal—by imposing a quarantine.

Thus, we urge the President in this resolution to encourage nations maintaining direct air links with Libya to suspend their service until Libya no longer assists terrorists.

Indeed, the resolution calls attention to a 1974 law, Public Law 94–336, which allows the President to suspend landing right in the United States of airlines which provide service to countries aiding and abetting terrorists.

Another way of encouraging tighter security might be to impose even more stringent than usual security checks on planes and passengers of airliners serving Qaddafi government as one deals with Libya and also landing in the United States. These airlines should be charged a heavy fee, perhaps a very heavy one, until they prove they have taken additional steps to tighten their security, for passengers in transit as well as those boarding planes in their home countries.

It may be that a kick in the wallet is the only way to get tightened security in the world's airports.

Mr. President, I ask unanimous consent to have printed in the RECORD two editorials on this subject.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 26, 1976]

WHAT PRICE QADDAFI?

In his long speech at the nonaligned summit meeting in Colombo last week, Libya's Col. Muhammar el-Qaddafi emphatically denied supporting any terrorist activities except those involving "the struggle of a people for independence." He blamed "imperialism, international Zionism and racialism" for the charges that he uses oil revenues to back hijacking, kidnaping and subversion.

Four days after his eloquent denial, Arab gunmen hijacked an Egyptian airliner and ordered the pilot to fly it to Libya. After Egyptian paratroops thwarted the attempt and released 80 hostage passengers, authorities reported the captured hijackers as saying they had acted on orders of Colonel Qaddafi who promised them $250,000 if they forced the plane to land at Benghazi.

The aborted hijacking was the third act of terrorism in Egypt in a fortnight attributed to Libya. Egyptian officials believe Colonel Qaddafi has allocated a million dollars for a coup against President Anwar el-Sadat. Qaddafi unquestionably helped arm, train and bankroll the forces that tried to overthrow President Gaafar al-Nimeiry of the Sudan in July. In fact, the Colonel has supported attempts to undermine the governments of five of Libya's six neighbors in the last six months.

Arab governments may find it convenient to look the other way when Palestinian terrorists, after hurling grenades and firing tommyguns at El Al passengers in Istanbul airport, tell Turkish captors their orders issued in Libya were to "kill as many Israelis as you can." But can the other Arab governments ignore indefinitely the indisputable fact that Colonel Qaddafi intends to use Libya's oil money to overthrow every one of them that falls short of his extremist blueprint for the Arab revolution?

Colonel Qaddafi is everlybody's problem; but for reasons of geography and their own eloquent commitments to Arab unity, the Arab governments cannot forever escape a share of the responsibility for halting his aggressions.

[From the Washington Post, Aug. 22, 1976]

AN EXPERT ON TERRORISM

One of the highlights of the fifth summit conference of non-aligned nations, just concluded in Sri Lanka, was a discourse on terrorism by Muammar Kadafi, the Libyan leader. Even though Colonel Kadafi held back much of what he knows about international violence, the occasion in Colombo was noteworthy because he felt it appropriate to defend in general terms his own role as a sponsor of terrorist activity.

The Kadafi defense, predictably, was that he supported good causes (like national independence and racial justice) against evil forces. The latter, he argued, are more deserving of the terrorist label than such victims of injustice as the Palestinians. The plea by the 34-year-old Libyan fanatic must have drawn cynical chuckles from representatives of at least some of the governments that have been objects of his revolutionary zeal.

Colonel Kadafi's targets by now span the globe, and include neighboring Arab nations with which he is technically allied as well as more distant enemies. With ample oil revenues and supplies of Soviet arms, the colonel supports Palestinian extremists in outrages against Israel, and Moslem guerrillas in the Philippines, Thailand and Ethiopia. But these are among the more understandable Kadafi causes, given his Islamic ardor. He also is believed seeking to destroy fellow Arab and/or Islamic leaders, in Egypt, the Sudan, Tunisia, Iran, Jordan and Morocco. And when the IRA in Northern Ireland is found to have Soviet weapons containing desert sand, fingers reasonably point to Colonel Kadafi. Libya is believed to be the training center for a diverse group of international terrorists—the meeting ground of such as the Japanese Red Army and the Baader-Meinhof Gang.

Explanations for Colonel Kadafi's extremist hyper-activity vary. The shah of Iran was reported as calling him "that crazy fellow" and President Sadat of Egypt has pronounced him "100 per cent sick and possessed of a demon." In other views, he is intelligent and dedicated to his version of Arab unity and all-embracing Islam, allowing of no peace with Israel. What is not in dispute is that the causes he promotes threaten stability and innocent lives in many parts of the world.

The mystery of his performance in Colombo is why he dared to show up at all, exposing himself to the possible vengeance of several of those he has sought to overthrow. Colonel Kadafi showed some awareness that he might not be universally popular. His arrival in Sri Lanka was preceded by that of 73 Libyan policemen (a score of them without proper passports), and he brought dozens more guards with him. A young leader of Third World opinion cannot be too careful these days.

Mr. HUDDLESTON. Mr. President, I am pleased to join with Senator JAVITS, Senator HUMPHREY and other Members of this body in cosponsoring Senate Resolution 524 which urges the President to use and expand his authority governing air service among nations to discourage hijackings and related terrorist activities.

In recent weeks, we have seen again the senseless and outrageous acts of those who seek a moment of attention in violence and destruction without concern for innocent victims who become pawns in this deadly game.

Each shocking incident leads to denunciations and expressions of concern. But, again and again the incidents return to plague us. While we have made some significant moves in terms of our own increased security at airports, and while there is greater cooperation in a number of areas, clearly we have not done enough.

Air service is important to any nation. It is a lifeline to the outside world, a means of bringing in both people and things. But, if a nation is unwilling to cooperate in efforts to protect that service, to protect those who provide it and those who might use it, then they have no right to it. If nations allow either their own citizens or nationals of other countries to utlize their air facilities for terrorist activities, then they simply cannot expect their actions to be without sanction among the rest of the world.

Terrorism must be fought on many fronts, in many ways, with many different weapons. We obviously have no one easy solution at hand. We have no magic wand to wave to rid our world of the threats and dangers of fanatic groups and individuals. But, we do have a broad arsenal of diplomatic and economic pressures which can be brought to bear on countries which provide a sanctuary or haven for terrorists.

It is, consequently, a timely period for new initiatives, new efforts. This resolution sets out a number of those areas where productive moves might be undertaken—it requests the President to direct our Nation's ambassadors to seek consideration by those countries in which they serve of suspension of air service to third nations until the international community has been assured that those third nations will no longer serve as a staging area or haven for terrorist operations; it recommends new international discussions designed to strengthen security at airports which have direct links to nations which have harbored terrorists and it urges use of appropriate measures pursuant to the Antihijacking Act of 1974 to restrict or deny air service rights where such action might contribute to preventing or discouraging hijacking and terrorist activity.

Mr. President, any action which gives aid, comfort or sanctuary to international hijackers must be met with appropriate sanctions. This resolution is a positive step in that direction, and I am pleased to associate myself with it.

ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a brief period for the conduct of morning business, with a time limitation on statements of 5 minutes attached thereto.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:03 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the Speaker has signed the enrolled bill (S. 3435) to increase an authorization of appropriations for the Privacy Protection Study Commission, and to remove the fiscal year expenditure limitation.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. CULVER).

At 11:05 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MAHON, Mr. SIKES, Mr. FLOOD, Mr. ADDABBO, Mr. McFALL, Mr. FLYNT, Mr. GIAIMO, Mr. CHAPPELL, Mr. BURLISON of Missouri, Mr. EDWARDS of Alabama, Mr. ROBINSON, Mr. KEMP, and Mr. CEDERBERG, were appointed managers of the conference on the part of the House.

At 2:25 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House has passed the bill (H.R. 15194) making appropriations for public works employment for the period ending September 30, 1977, and for other purposes, in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 3650. An act to clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes;

H.R. 10370. An act to amend the act of January 3, 1975, establishing the Canaveral National Seashore;

H.R. 11009. An act to provide for an independent audit of the financial condition of the government of the District of Columbia;

H.R. 12261. An act to extend the period during which the Council of the District of Columbia is prohibited from reviewing the criminal laws of the District;

H.R. 12455. An act to amend title XX of the Social Security Act so as to permit greater latitude by the States in establishing criteria respecting eligibility for social services, to facilitate and encourage the implementation by States of child day care services programs conducted pursuant to such title, to promote the employment of welfare recipients in the provision of child day care services, and for other purposes; and

H.R. 13679. An act to provide assistance to the Government of Guam, to guarantee certain obligations of the Guam Power Authority, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

At 5:22 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House disagrees to the amendment of the Senate to the bill (H.R. 8603) to amend title 39, United States Code, with respect to the organizational and financial matters of the U.S. Postal Service and the Postal Rate Commission, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. HENDERSON, Mr. UDALL, Mr. NIX, Mr. HANLEY, Mr. FORD of Michigan, Mr. DERWINSKI, and Mr. JOHNSON of Pennsylvania were appointed managers of the conference on the part of the House.

At 6:30 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House has passed the bill (H.R. 14070) to extend and amend part B of title IV of the Higher Education Act of 1965, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 3542. An act to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. METCALF).

HOUSE BILLS REFERRED

The following House bills were read twice by their titles and referred as indicated:

H.R. 14070. An act to extend and amend part B of title IV of the Higher Education Act of 1965, and for other purposes; to the Committee on Labor and Public Welfare; and

H.R. 15194. An act making appropriations for public works employment for the period ending September 30, 1977, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, August 25, 1976, he presented to the President of the United States the enrolled bill (S. 3435) to increase an authorization of appropriations for the Privacy Protection Study Commission, and to remove the fiscal year expenditure limitation.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

APPROVAL OF REA-INSURED LOAN

A letter from the Acting Administrator of the Rural Electrification Administration transmitting a statement in connection with the approval of an REA-insured loan to Chugach Electric Association, Inc., of Anchorage, Alaska (with accompanying papers); to the Committee on Appropriations.

REPORT OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT

A letter from the Secretary of Housing and Urban Development transmitting, pursuant to law, a report to the Congress on the Emergency Homeowners' Relief Act (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

Report of the District of Columbia Bail Agency

A letter from the Director of the District of Columbia Bail Agency transmitting, pursuant to law, a report of the Agency for the calendar year 1975 (with an accompanying report); to the Committee on the District of Columbia.

Reports of the Comptroller General

Three letters from the Comptroller General of the United States, each transmitting, pursuant to law, a report entitled (1) "Using Independent Public Accountants To Audit Public Housing Agencies—An Assessment"; (2) "Difficulties of the Federal Aviation Administration in Acquiring the ARSR–3 Long Range Radar System"; and (3) "Increased Attention Needed To Insure That Bridges Do Not Create Navigation Hazards" (with accompanying reports); to the Committee on Government Operations.

Follow-Up Reports of the Office of Management and Budget

Two letters from the Deputy Director of the Office of Management and Budget, each transmitting, pursuant to law, a follow-up report on (1) Final Report of the National Advisory Council on Supplementary Centers and Services, and (2) a report on Electric Utilities by the President's Labor-Management Committee (with accompanying reports); to the Committee on Labor and Public Welfare.

Reports of the Civil Service Commission

A letter from the Chairman of the Civil Service Commission transmitting, pursuant to law, the 53rd and 54th annual reports of the Board of Actuaries of the Civil Service Retirement System (with accompanying reports); to the Committee on Post Office and Civil Service.

Proposed Legislation by the Secretary of the Army

A letter from the Secretary of the Army transmitting a draft of proposed legislation to authorize certain construction of locks and dams in the Mississippi River (with accompanying papers); to the Committee on Public Works.

Report of the Secretary of Health, Education, and Welfare

A letter from the Acting Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report concerning grants approved which are financed wholly with Federal funds (with an accompanying report); to the Committee on Finance.

Report of the Commission on Civil Rights

A letter from the Chairman and members of the Commission on Civil Rights transmitting, pursuant to law, a report containing the Commission's evaluation of school desegregation in a variety of school districts throughout the country (with an accompanying report); to the Committee on Labor and Public Welfare.

Financial Statement of the Legion of Valor

A letter from the Corporation Agent for the Legion of Valor, Inc., transmitting, pursuant to law, the financial statement of the corporation for the fiscal year ending April 30, 1976 (with an accompanying report); to the Committee on the Judiciary.

Report of the National Railroad Passenger Corporation

A letter from the Vice President of the National Railroad Passenger Corporation transmitting, pursuant to law, a report on the operations of Amtrak for the month of May 1976 (with an accompanying report); to the Committee on Commerce.

Proposed Legislation by the Department of Defense

Two letters from the General Counsel of the Department of Defense transmitting drafts of proposed legislation to amendment section 651 of title 10, U.S.C., relating to female persons who become members of the armed forces; and to authorize appropriations during the fiscal year 1977 for the procurement of aircraft for the Armed Forces (with accompanying papers); to the Committee on Armed Services.

Request for Secret Service Protection

A letter from the Secretary of the Treasury transmitting, pursuant to law, a request for Secret Service protection for Mrs. Carter and Mrs. Mondale (with an enclosed letter); to the Committee on Finance.

PETITIONS

The ACTING PRESIDENT pro tempore laid before the Senate the following petitions, which were referred as indicated:

A resolution relating to the disposal of nuclear waste material adopted by the board of commissioners of Alpena County, Mich.; to the Joint Committee on Atomic Energy.

House Joint Resolutions 6–208 and 6–212, adopted by the Congress of Micronesia; ordered to lie on the table:

Sixth Congress of Micronesia, House Joint Resolution No. 6–208, H.D. 1

A House joint resolution congratulating the Honorable Hiram Leong Fong, United States Senator from the State of Hawaii, for his long and distinguished service in the Senate and his efforts on behalf of the people of Micronesia, and cordially inviting him to visit Micronesia at any time in the future

Whereas, throughout the period of the Trusteeship Agreement, the people of Micronesia have been grateful for the programs and support given to them through the understanding, patience, and efforts of concerned and knowledgeable members of the Congress of the United States; and

Whereas, one of the foremost friends of Micronesia in the past two decades has been Senator Hiram Leong Fong of the State of Hawaii; and

Whereas, Senator Fong has a long, distinguished, and varied career both in Hawaii and in the U.S. Senate, where he serves on several important committees including the Senate Appropriations Committee which oversees funding for the civil administration of the Trust Territory of the Pacific Islands; and

Whereas, it is with regret that the Congress and people of Micronesia have learned that Senator Fong intends not to run for reelection to his seat upon completion of nearly 18 years of devoted and dedicated service to his constituents in the U.S. Senate; and

Whereas, it is the sense of the Congress of Micronesia that due recognition ought to be given the distinguished Senator from the State of Hawaii for his efforts on behalf of the people of Micronesia; now, therefore,

Be it resolved by the House of Representatives, Sixth Congress of Micronesia, Second Special Session, 1976, the Senate concurring, that the Honorable Hiram Leong Fong, United States Senator from the State of Hawaii, is hereby congratulated for his long and distinguished service in the United States Senate and for his efforts and interest on behalf of the people of Micronesia; and

Be it further resolved that the Honorable Hiram Fong is hereby cordially extended an invitation to visit Micronesia at any time in the future to meet with the many Micronesian friends he has made over the past years, and to provide the opportunity for the people of Micronesia to demonstrate their hospitality to a fellow islander; and

Be it further resolved that certified copies of this House Joint Resolution be transmitted to the Honorable Hiram Leong Fong, to the President of the United States Senate, to the Governor and the Legislature of the State of Hawaii, and to the High Commissioner.

Adopted: July 31, 1976.

Sixth Congress of Micronesia, House Joint Resolution No. 6–212, H.D. 1

A House joint resolution extending congratulations to the Government and people of the United States on the occasion of its Bicentennial Year and expressing gratitude and thanks from the Government and people of Micronesia for the economic, social, and political development and progress that has been made during the tutelage period of Micronesia under United States administration

Whereas, on July 4, 1976, the United States of America celebrated and commemorated its 200th Anniversary as a free nation committed and dedicated to the *self-evident* truths of the equality of all men, of all men being endowed by their Creator with certain inalienable rights, that among these are life, liberty, and pursuit of happiness; and

Whereas, based on these political principles as eloquently pronounced by the founding fathers of the United States of America, first in the Declaration of Independence of the United States of America on July 4, 1776, and again in the substance of the United States Constitution, the constitutional government system of the United States has endured for two hundred years, starting as colonies and becoming the "arsenal" of democracy and the mightiest nation of the world; and

Whereas, moved by its humanitarian idealism, the United States Government assumed as "sacred trust" and an international obligation to develop, promote, and advance the economic, social, educational, and political development of the islands of Micronesia under a trusteeship arrangement with the United Nations; and

Whereas, pursuant to its trusteeship obligations, the United States as the Administering Authority has spent, and continues to spend, in and for the people and Government of Micronesia, millions of dollars and continues to provide necessary administrative and other civil service personnel in order to insure uninterrupted administration of the Trust Territory; and

Whereas, despite much criticisms and allegations of maladministration, it must be admitted that the United States has made much progress in Micronesia in the development and advancement of the people and Government of Micronesia as they move closer toward the day the trusteeship system is terminated; and

Whereas, Micronesians and their own government must not overlook or appear ungrateful for what progress and growth Micronesia has achieved as a result of the administration of the Trust Territory by the United States; now, therefore,

Be it resolved by the House of Representatives of the Sixth Congress of Micronesia, Second Special Session, 1976, the Senate concurring, that by means of this House Joint Resolution and on behalf of the people and Government of Micronesia this Congress hereby extends congratulations and wishes a happy Bicentennial Year to the people and Government of the United States of America; and

Be it further resolved that such a congratulatory word be coupled with the hope that the people and Government of the United States long endure; and that the 200th Anniversary be even the best of commemorations ever; and

Be it further resolved that sincere gratitude and thanks be extended to the people and Government of the United States of America for their continuing efforts to assist and help Micronesia develop economically, socially, and politically and for the progress and significant growth thus far realized during this tutelage period in Micronesian history; and

Be it further resolved that certified copies of this House Joint Resolution be transmitted to the President of the United States, the President of the United States Senate and the Speaker of the House of Representatives of the United States Congress, the Secretary of the United States Department of the Interior, and the High Commissioner of the Trust Territory.

Adopted: July 31, 1976.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHILES, from the Committee on Appropriations with amendments:

H.R. 15193. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes (Rept. No. 94–1167).

By Mr. RIBICOFF, from the Committee on Government Operations, with amendments:

H.R. 3884. An act to terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies (Rept. No. 194–1168).

THE FEDERAL JUDICIAL SYSTEM—REPORT NO. 94–1169

Mr. BURDICK, from the Committee on the Judiciary, submitted a special report entitled "The Federal Judiciary System," pursuant to Senate Resolution 72, 94th Congress, 1st session, which was ordered to be printed.

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

S. 3651. A bill to amend the Alaska Native Claims Settlement Act to provide for the withdrawal of lands for the village of Klukwan, Alaska (Rept. No. 94–1170).

By Mr. LONG, from the Committee on Finance, without amendment:

H.R. 1386. An act for the relief of Smith College, Northampton, Mass. (Rept. No. 94–1171).

H.R. 3052. An act to amend section 512(b) (5) of the Internal Revenue Code of 1954 with respect to the tax treatment of the gain on the lapse of options to buy or sell securities (Rept. No. 94–1172).

H.R. 8656. An act to amend the Tariff Schedules of the United States in order to provide for the duty-free importation of loose glass prisms used in chandeliers and wall brackets (Rept. No. 94–1173).

H.R. 11321. An act to suspend until July 1, 1978, the duty on certain elbow prostheses if imported for charitable therapeutic use, or for free distribution, by certain public or private nonprofit institutions (Rept. No. 94–1174).

H.R. 12254. An act to suspend the duties on certain bicycle parts and accessories until the close of June 30, 1978 (Rept. No. 94–1175).

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. LONG, from the Committee on Finance:

Thomas L. Lias, of Iowa to be an Assistant Secretary of Health, Education, and Welfare.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

LEAVE OF ABSENCE

Mr. HATHAWAY. Mr. President, I ask unanimous consent, under rule V, that I be granted a leave of absence for 2 days, to attend the funeral of a friend in northern Maine.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BARTLETT (for himself and Mr. BELLMON):

S. 3771. A bill to authorize and direct the Secretary of the Interior to convey the mineral interest of the United States to Oklahoma State University to certain lands in Oklahoma, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BENTSEN:

S. 3772. A bill to provide for the establishment and enforcement of security and accountability procedures necessary to protect weapons and munitions of the Department of Defense against theft and loss, and for other purposes. Referred to the Committee on Armed Services.

By Mr. BELLMON:

S. 3773. A bill to authorize the Secretary of the Army and the Secretary of the Interior to convey to the State of Oklahoma certain interests of the United States in and to Fort Gibson Dam and Reservoir Project. Referred, by unanimous consent, to the Committee on Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BARTLETT (for himself and Mr. BELLMON):

S. 3771. A bill to authorize and direct the Secretary of the Interior to convey the mineral interest of the United States to Oklahoma State University to certain lands in Oklahoma, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BARTLETT. Mr. President, I am introducing for my colleague Mr. BELLMON and myself a bill to transfer to Oklahoma State University the mineral interests reserved by the United States in certain lands in the vicinity of Lake Blackwell, Okla.

In December 1954 the U.S. Government transferred to Oklahoma State University the surface and one-fourth of the mineral rights held by the United States at that time in the subject lands. The remaining three-fourths of the mineral rights were reserved by the United States.

The regents of the university desire to manage all of its properties in a coordinated and efficient manner. The property transfer accomplished by this bill would facilitate prudent management of these lands by the university and would enhance the timely development of any mineral resources which might underlie them.

Any revenues which might accrue to the university because of oil or gas development would, of course, be used to enhance the quality of higher education at the university, in Oklahoma, and in the United States.

The benefits which would result from the coordinated management and timely development of these lands will more than offset any potential revenue loss to the United States if the remaining, reserved mineral rights are retained.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3771

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to convey to Oklahoma State University, by patent or such other document as he deems appropriate, all interest in minerals reserved to the United States in the following described lands located in the State of Oklahoma:

(1) Township Eighteen North, Range One East of the Indian Base Meridian

Section Two: Northwest quarter, South half,

Section Three: Entire,

Section Four: Northeast quarter, Southwest quarter of the northwest quarter. All of lot four in the northwest quarter excepting a tract in the northwest corner of lot four more particularly described as follows: Commencing at the northwest corner thereof, about 26 rods to the east boundary of the tract owned by the M. E. Church; thence south along the east boundary of the church property 15 rods; thence west about 26 rods to the west line of said lot four; thence north 15 rods to the place of beginning, South half,

Section Nine: Northwest quarter,

Section Ten: North half, Southeast quarter,

Section Eleven: North half, Southeast quarter,

Section Twelve: West half, Southeast quarter;

(2) Township Nineteen North, Range One East of the Indian Base Meridian

Section Three: West half,

Section Four: Entire,

Section Five: Entire,

Section Six: Entire,

Section Seven: Entire,

Section Eight: Entire,

Section Nine: Entire,

Section Ten: West half,

Section Fifteen: A parcel of land in the northwest corner of the northeast quarter of the northwest quarter described as follows:

Beginning at the northwest corner, thence south 466.69 feet, thence east 466.69 feet, thence north 466.69 feet, thence west 466.69 feet to the point of beginning, containing five acres, more or less; Northwest quarter of northwest quarter,

Section Sixteen: Entire,

Section Seventeen: Entire,

Section Eighteen: Entire,

Section Nineteen: North half; Southwest quarter,

Section Twenty: Entire,

Section Twenty-one: Entire,

Section Twenty-two: West half,

Section Twenty-six: North half of northeast quarter, North twenty-one rods of the south half of the northeast quarter, Northwest quarters, Section Twenty-seven: North half, Southeast quarter,

Section Twenty-eight: Northwest quarter,

Section Twenty-nine: North half except one acre in the northeast corner preserved for school purposes,

Section Thirty-two: Southwest quarter,

Section Thirty-four: Northeast quarter; South half,

Section Thirty-five: Northeast quarter;

(3) Township Eighteen North, Range Two East of the Indian Base Meridian

Section Seven: North half of southwest quarter;

(4) Township Nineteen North, Range One West of the Indian Base Meridian

Section One: Entire section except one acre in southwest corner,

Section Two: Northeast quarter, South half,

Section Three: South half,

Section Four: Southeast quarter,

Section Ten: North half,

Section Eleven: Entire, less twelve acres in the southwest corner thereof described as follows: Beginning at the southwest corner of section eleven; thence north along the section line 578.55 feet, thence east 903.5 feet; thence south 579.2 feet to the section line; thence west along the section line 903.5 feet to point of beginning, containing 148 acres, more or less,

Section Twelve: Entire,

Section Thirteen: North half, Southeast quarter,

Section Twenty-four: East half,

Section Twenty-five: North half of the north half of the northeast quarter;

(5) Township Twenty North, Range One East of the Indian Base Meridian

Section Thirty-one: South half of northwest quarter, South half.

Section Thirty-two: South half of northeast quarter, Northwest quarter; South half except one acre in square out of southeast corner of lot five for cemetery purpose,

Section Thirty-three: Lots one, two, three, four, six, seven, and eight of north half.

SEC. 2. Mineral exploration and development of the lands described in this Act shall be considered a use for public purpose as required in subsection (c), section 32, Title III, Bankhead-Jones Farm Tenant Act (7 U.S.C. 1012(c)), as amended, if the funds derived from such exploration and development are used by Oklahoma State University for public purposes.

By Mr. BENTSEN:

S. 3772. A bill to provide for the establishment and enforcement of security and accountability procedures necessary to protect weapons and munitions of the Department of Defense against theft and loss, and for other purposes. Referred to the Committee on Armed Services.

Mr. BENTSEN. Mr. President, I am today introducing legislation which I believe is a much-needed and long overdue step toward meeting a problem of potentially wide-ranging and enormously serious dimensions, both internationally and domestically, but one of which all too few Americans are aware. I refer to the continuing incidence of losses, frequently through theft, of military weapons from U.S. facilities and the direct connection between those losses and clandestine operations abroad.

Mr. President, subcommittee hearings on this subject in the House of Representatives over the past 9 months have developed evidence which must be of concern to all of us. They illustrate that the Defense Department has lost 18,578 military weapons during the last decade; subsequent recoveries reduced the net loss of 10,604 weapons for that decade, although actual losses were probably much higher since losses were not always reported. In addition, substantial quantities of weapons were frequently written off as inventory errors without benefit of investigation to determine whether there had in fact been theft or loss.

Such losses may not seem substantial spread out over the course of a decade but it is striking to note that they are more than enough to equip 10 combat battalions. Of equal concern to me are the numbers of automatic rifles and machine guns that have been lost or stolen, weapons which clearly are of little interest to the ordinary citizen but are in great demand by foreign clandestine crime and guerrilla organizations.

I find it shocking, Mr. President, that during the 1960's the Defense Department played only a minor role in developing weapons security policy. During that period it was the individual military departments themselves who largely developed their own security programs, if they developed them at all. It was not until 1970 that the Department of Defense even began to be aware of the substantial losses of weapons from its inventories, losses that not only adversely affect our own preparedness but also strengthen the hands of those clandestine groups which obtain them. The Defense Department's establishment of the Physical Security Review Board was the first real effort to coordinate and improve weapons security policy. It is important to note that as a result there have been reductions in numbers of weapons stolen. Nevertheless, the problem remains with us—more than 9,000 weapons have disappeared since the Board was established, a figure which is still far too high.

One of the explanations seems to lie in the failure of the individual services to implement the Board's policies, a failure which the Defense Department itself has recognized and admitted.

In addition, the structure of responsibility within the Department of Defense for monitoring and obtaining compliance is fragmented and ambiguous.

Consequently, Mr. President, the legislation I am introducing today would establish in the Department of Defense a Weapons and Munitions Security Office to be headed by an Assistant Secretary of Defense, to be responsible for formulating coordinating, and supervising a continuing program of security and accountability for Department of Defense weapons and munitions. Immediately upon enactment of the act, a review of weapons security shall be undertaken to determine the effectiveness of existing policy and to develop new procedures for meeting weaknesses in that policy. In addition, the Assistant Secretary is given the critical mandate of conducting periodic inspections to determine the extent of compliance by the individual services with Department of Defense weapons security policies.

A second problem which has been divulged has been the failure to report all weapons losses. Indeed the services have tended all too frequently to follow the practice of chalking up weapons losses to inventory error with little or no investigation. In spite of repeated Department of Defense urging of the services to investigate all weapons losses, however, the practice has continued and its existence was confirmed by a General Accounting Office report as recently as July 1975.

Consequently my bill requires that a thorough investigation be conducted upon each loss of weapons and no loss may be ascribed to inventory error unless the Department demonstrates that its investigation has conclusively excluded the possibility of theft or loss. In addition, each military department is required to submit to the Assistant Secretary quarterly reports on implementation of weapons security regulations and a description of all losses and recoveries of weapons by that department during the preceding quarter. The Secretary of Defense shall submit a report to the Congress each year summarizing the weapons and munitions losses and the recoveries made by each military department during the preceding year.

Finally, my bill requires the Defense Department to cooperate with Federal law enforcement officials in efforts to identify and protect weapons and munitions against threats of destruction or theft and in recovering any loss through theft. This provision is to secure a measure of cooperation between military officers and law enforcement agencies which has not always existed in the past.

In addition to inadequate security, Mr. President, there is another aspect of this issue of great concern to me and that is the destination of these stolen weapons. Available evidence indicates that there are two major groups of recipients: one, illegal narcotics traffickers; two, revolutionary organizations in Latin America, especially Mexico.

It is incomprehensible to me that the Defense Department either denies or minimizes the whole problem of weapons losses but also seems only remotely concerned over their delivery into the hands of those illegal groups. Various Federal agencies, including the Drug Enforcement Administration and Customs Bureau, among others, have documented evidence of U.S. military weapons and aircraft being used by those engaged in the illegal drug trade in Latin America. Mexico is the primary target country. Since these are largely automatic weapons not available on the U.S. commercial market, the source of origin is clear—U.S. military installations.

One drug trafficker told authorities he was buying surplus U.S. military aircraft and selling them to foreign nationals. These nationals would then load them with stolen weapons and fly them to another country to exchange for narcotics.

And late last year evidence was collected pointing to the existence of a gun-smuggling ring stealing weapons from U.S. military installations, a ring with contacts who exchange arms for narcotics.

At a time when 90 percent of the heroin available in the United States originates in Mexico, Mr. President, when heroin addiction among our Nation's youth continues to be one of our most urgent social problems, I do not believe we can afford to ignore the assistance provided drug smugglers by U.S. weapons. When I see evidence of smugglers flying monthly into the United States with planeloads of heroin and returning with planeloads of M–16 automatic rifles, Mr. President, I am convinced that our faulty weapons security policy is not only a threat to our security, it is—indirectly—a threat to our moral fiber as well.

Also of concern to me, but more difficult to document, is the ease with which stolen U.S. weapons can enter the hands of antigovernment guerrilla organizations in neighboring nations to the south. A recent spate of terrorist incidents in Mexico, in particular, underlines the existence of radical elements in that country which are clearly well armed and may have access to the same sources of arms supplies as those involved in the illegal drug trade. Indeed many terrorist, guerilla groups barter heroin, cocaine, and marihuana for weapons and munitions. For example, a large cache of stolen M–14's from the Midwestern United States was traded in Mexico for marihuana to a Mexico drug trafficker connected with a now deceased Mexican guerilla leader. Other cases document efforts to use a subversive organization in Mexico to obtain marihuana in exchange for automatic weapons.

It goes without saying that it is imperative to our national security to share our 2,000-mile-long southern border with a strong, stable, democratic neighbor. If stolen arms are being provided illegal, extremist, clandestine groups in Mexico, then it is a threat not only to the people of that country but also to the United States—and it is a threat which we must work together to solve.

Therefore, Mr. President, I am convinced that the legislation I am introducing today is one urgently needed step that will not only strengthen our own national security but that of our neighbors as well.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3772

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 159 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 2686. Weapons and munitions security and accountability procedures

"(a) There shall be established in the Department of Defense an office known as the Weapons and Munitions Security Office (in this section referred to as the 'Office'). The Office shall be responsible for formulating, coordinating, and supervising a continuing program of security and accountability for weapons and munitions of the Department of Defense. The Secretary of Defense shall designate an Assistant Secretary of Defense to serve as the head of the Office.

"(b) In carrying out the provisions of this section, the Assistant Secretary of Defense who is designated as head of the Office shall—

"(1) review all security and accountability procedures in effect on the date of enactment of this section with respect to weapons and munitions of the Department of Defense to determine whether such procedures provide effective accountability and physical security for such weapons and munitions wherever located, including, but not limited to, weapons and munitions in storage depots and weapons and munitions in transit;

"(2) modify such existing procedures or promulgate such new procedures as he deems necessary or appropriate to protect weapons and munitions of the Department of Defense against loss or theft and to provide for accurate and timely accountability for such weapons and munitions; and

"(3) conduct periodic inspections to determine the extent of compliance by the military departments with the security and accountability procedures applicable to weapons and munitions of the Department of Defense.

"(c) Whenever any military department suffers a loss of weapons or munitions, such department shall conduct a thorough investigation of such loss. In no case may a military department attribute a weapon or munition loss to inventory error unless such department demonstrates that its investigation has conclusively excluded the possibility of theft or loss.

"(d) Each military department shall submit to the Assistant Secretary of Defense designated as the head of the Office quarterly reports containing such information, as such Assistant Secretary shall prescribe, regarding security and accountability of all weapons and munitions under the jurisdiction of such military department. Such reports shall include, but shall not be limited to, a description of all losses and recoveries of weapons and munitions by such military department during the quarter for which the report is made.

"(e) The Secretary of Defense shall submit a report to the Congress each year summarizing the weapons and munitions losses suffered and the recoveries made by each military department during the preceding year.

"(f) The Secretary of Defense shall cooperate with Federal law enforcement officials in attempting to identify and protect weapons and munitions of the Department of Defense against threats of destruction or theft and in recovering any such weapons or munitions which have been lost or stolen.".

(b) The table of sections at the beginning of chapter 159 of such title is amended by adding at the end thereof.

"2686. Weapons and munitions security and accounting procedures.".

By Mr. BELLMON:

S. 3773. A bill to authorize the Secretary of the Army and the Secretary of the Interior to convey to the State of Oklahoma certain interests of the United States in and to Fort Gibson Dam and Reservoir Project. Referred by, by unanimous consent, to the Committee on Public Works.

Mr. BELLMON. Mr. President, today I am introducing a bill authorizing the transfer of certain elements of the Fort Gibson Reservoir in Oklahoma to State control. This reservoir was constructed by the Corps of Engineers and is now operated by the Interior Department.

Mr. President, the terms and purpose of this bill are not complicated. The bill provides authority for the Federal Government to negotiate with representatives of Oklahoma State government for the sale or transfer of Fort Gibson Reservoir to an agency of the State of Oklahoma. No price is set by the bill. The price is subject to negotiation.

The Fort Gibson Reservoir in Oklahoma represents a unique situation. In 1935, the Oklahoma State Legislature created the Grand River Dam Authority for the purpose of developing the water resources of the Grand River in Oklahoma. The first project, Pensacola Dam and Power Station, was completed in 1941. A second project, Markham Ferry—now known as Lake Hudson—was constructed in 1964.

The third site on the Grand River was taken over by the U.S. Corps of Engineers which constructed the Fort Gibson Dam and Power Station. The power generating elements of this project are now being operated by the Southwest Power Administration of the Department of Interior.

The principal purposes of the project are power generation, recreation flood control, and navigation. Under the terms of this legislation, the Corps of Engineers would continue management of the navigation and flood control operation of the project as is currently the case with Markham Ferry and Pensacola.

Mr. President, Congress and the administration have increasingly returned responsibilities and power to State and local governments. The transfer of the operation of Fort Gibson Reservoir in Oklahoma is another step in this direction. The successful negotiation of the transfer of this project to the appropriate State agency would serve as an example for other States to assume operations of similar projects which are now under Federal control.

Mr. President, it is anticipated that the terms of negotiation will protect the power requirements of the Southwest Power Administration's preference customers.

The U.S. Army Corps of Engineers is probably one of the world's finest construction teams. Throughout its history, it has carried on construction activities of a size and scope virtually unmatched by any other organization. The corps has accomplished its mission under extremely demanding and complex conditions. It has earned a reputation of excellence that is virtually unparalleled. It is not the intention of this legislation to in any way be critical of the corps or to lessen the corps' role as the principal construction agency of the U.S. Government for flood control, navigation, and similar projects.

There is some question, however, as to whether or not the housing chores associated with projects like Fort Gibson are a proper function of the corps. Once these projects are built, there is reason to believe that other entities can perform the day-to-day operational functions and coordinate nonflood control and nonnavigation functions more efficiently and effectively than an arm of the Federal Government.

Mr. President, the passage of this legislation will provide a means for determining whether or not it is necessary for the Corps of Engineers to continue in its present role both as the major construction arm of the U.S. Government and a major housekeeper of projects once they are finished. In addition, it will provide a measure as to whether or not State agencies can perform the important management and housekeeping role with which the corps is presently saddled. I am convinced that the States can meet this responsibility and urge the prompt approval of this legislation.

Mr. President, I ask unanimous consent that this bill be referred to the Committee on Public Works.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 1593

At the request of Mr. CRANSTON, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of S. 1593, to amend the Public Health Service Act.

S. 2468

At the request of Mr. GARY HART, the Senator from Utah (Mr. MOSS) was added as a cosponsor of S. 2468, to provide for certain payments to local governments based on the amount of certain public lands within their boundaries.

S. 3182

At the request of Mr. TAFT, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 3182, a bill to amend the Occupational Safety and Health Act of 1970.

S. 3221

At the request of Mr. DOMENICI, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 3221, to issue a certain oil and gas lease to the Ballard E. Spencer Trust, Inc., New Mexico.

S. 3516

At the request of Mr. BENTSEN, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 3516, relating to the suspension of assistance to certain countries.

S. 3663

At the request of Mr. GARY HART, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 3663, to amend the Federal Water Pollution Control Act.

S. 3750

At the request of Mr. BARTLETT, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 3750, to amend the Walsh-Healey Act and the Contract Work Hours Standards Act.

AMENDMENT NO. 2114

At the request of Mr. TOWER, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of amendment No. 2114, intended to be proposed to S. 2304, a bill to strengthen the supervisory authority of the Federal banking agencies.

AMENDMENT NO. 2155

At the request of Mr. FANNIN, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of amendment No. 2155, intended to be proposed to S. 2657, the education amendments of 1976.

AMENDMENT NO. 2219

At the request of Mr. MUSKIE, the Senator from Missouri (Mr. EAGLETON), the Senator from Indiana (Mr. BAYH), and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of amendment No. 2219, intended to be proposed to H.R. 14846, the military construction authorization bill.

AMENDMENTS SUBMITTED FOR PRINTING

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1976—S. 521

AMENDMENT NO. 2225

(Ordered to be printed and to lie on the table.)

Mr. JACKSON. Mr. President, on July 30, 1975, the Senate passed S. 521, the Outer Continental Shelf Lands Act Amendments of 1976, by a vote of 67 to 19. On July 21 of this year, the House of Representatives passed its amendment to S. 521 by a vote of 247 to 140.

I have reviewed the House amendment which is very similar to the Senate bill in its general approach. I believe that the Senate should accept the House amendment with some further amendments. This approach will give us the greatest opportunity to make these much needed changes in the law this year.

I have introduced amendment No. 2225 which would make these changes. All of them are designed to move the House amendment somewhat closer to the Senate-passed bill. No new or nongermane matter is involved. They are consistent with the Coastal Zone Management Act Amendments of 1976, which became law on July 26.

I believe that, if these amendments were adopted by the Senate and accepted by the House of Representatives, the bill which Congress would be sending to the President would be a fair compromise of the differences between the two Houses.

The ad hoc Select Committee on the Outer Continental Shelf has reviewed these amendments and is prepared to accept them. I intend to bring S. 521 before the Senate as soon as possible.

I ask unanimous consent that my amendment, together with a brief explanation of its 14 provisions and an analysis of the differences between the Senate bill and the House amendment, be printed in the RECORD.

There being no objection, the amendment and explanation were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 2225

1. Page 17: Strike all of lines 21–25, and on page 18 strike all of lines 1–24, and on page 19 strike lines 1–7 and insert in lieu thereof:

"(b) Section 4(a)(2) of such Act is amended by redesignating paragraph (2) as (2)(A) and adding at the end of that paragraph the following:

"The determination and publication of the projected lines defining the area shall be completed within one year after the date of enactment of this sentence."

2. Page 22: On line 3 strike "findings, purposes, and".

3. Page 34: Strike all of line 25 and insert:

"(ii) If, during the first year following enactment of this subsection, the Secretary finds that compliance with the limitation set forth in clause (i) would unduly delay development of the oil and gas resources of the Outer Continental Shelf, he may exceed that limitation after he submits to the Senate and the House of Representatives a report stating his finding and the reasons therefor. If, in any other year following the date of enactment of".

4. Page 41: On line 5 strike "would" and insert in lieu thereof "may".

5. Page 47: Strike line 6 and insert in lieu thereof: "and gas accumulations. The Secretary shall, by regulation, specify the length of time during which he will seek such applicants.".

6. Page 47. After line 6 add the following new subsection:

"(h) The Secretary is authorized and directed to contract for exploratory drilling on geological structures which the Secretary, in his discretion, determines should be explored by the United States Government for national security or environmental reasons or for the purpose of expediting development in frontier areas. Such exploratory drilling shall not be done in areas included in the leasing program prepared pursuant *to section* 18 of this Act."

7. Page 58 Strike lines 12–20 and insert in lieu thereof: "in a balanced manner, consistent with the policies of this Act. If the recommendations from State Governors or Regional Advisory Boards conflict with each other, the Secretary shall accept any of those recommendations which he finds to be the most consistent with the national interest. If the Secretary finds that he cannot accept recommendations made pursuant to this subsection, he shall communicate, in writing, to such Governor or such Board the reasons for rejection of such recommendations. The Secretary's determination that recommendations are not consistent with the national security or the overriding national interest shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to Section 23 of this Act, unless found to be arbitrary or capricious."

8. Page 61 Strike lines 23 and 24 and lines 1–10 on page 62 and insert in lieu thereof:

"(A) Except as provided in subparagraph (B), such regulations shall be developed by the Secretary with the concurrence of the Administrator *of the* Environmental Protection Agency, the Secretary of the Army, and the Secretary of the Department in which the Coast Guard is operating.

"(B) Regulations for occupational safety and health shall be developed with the concurrence of the Secretary of Labor."

9. Page 62. On line 15, strike "economically achievable,".

10. Page 65 On line 23, strike "twice" and insert "once".

11. Page 67 Strike lines 9–13 and insert in lieu thereof:

"(e) The *Secretary, or*, in the case of occupational safety and health, the Secretary of Labor, shall consider any allegation from any person of the existence of a violation of a safety regulation issued under this Act. The respective Secretary shall answer such allegation no later than 90 days after receipt thereof, stating whether or not such alleged violation exists and, if so, what action has been taken."

12. Page 70 On line 23, insert after "Act" the first time it occurs the following: "or common law".

13. Page 105 On line 15 insert "or" immediately before "(2)" and strike lines 17 and 18 and insert in lieu thereof: "tity)."

14. Page 128 Strike all of lines 23–25 and all of lines 1–15 on page 129. Also on page 2 strike "Sec. 406. Rule and regulation review."

EXPLANATION OF PROPOSED SENATE AMENDMENTS TO HOUSE AMENDMENT OF S. 521—OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1976

1. Applicability of State Law: The Senate bill did not change the existing law with respect to applicability of State law to OCS activity. Section 19(f) of the Deepwater Ports Act of 1974 (88 Stat. 2126) amended

Section 4 of the Outer Continental Shelf Lands Act to provide that current State law would apply. The House amendment would apply State civil law every five years. The proposed Senate amendment would delete this provision and thus maintain the status quo.

2. Clarification of Purpose of Regulations: The House amendment states the leasing regulations shall be "in furtherance of the findings, purposes, and policies of this Act." The Senate bill had no comparable provision. The proposed Senate amendment would delete the reference to "findings" and "purposes" in the House amendment.

3. Use of Alternative Leasing Systems: The Senate bill limits the use of cash bonus bidding to not more than 50% of the acreage offered in frontier areas. The House amendment put this requirement at 66⅔%. Both versions provide for exceptions after Congressional review. The proposed Senate amendment would adopt the House approach with one modification taken directly from the Senate bill. This would allow the Secretary, during the first year after enactment, to use cash bonus bidding for more than two-thirds of the areas offered for lease if he found that compliance with the limitation would unduly delay OCS oil and gas development.

4. Antitrust Review-Conforming Amendment: The House amendment added provisions for antitrust review of proposed leases, which were not in the Senate bill. These provisions were modeled on those in the Naval Petroleum Reserves Production Act of 1976 (P. L. 94-258) and the Federal Coal Leasing Amendments Act (P. L. 94-377).

Among other things, Section 205(b) of the House amendment requires the Secretary of the Interior to notify the Attorney General and the FTC 30 days before the issuance or extension of any proposed lease, and "(s)uch notification shall contain such information as the Attorney General and the Federal Trade Commission may require in order to advise the Secretary as to whether such lease or extension *would* create or maintain a situation inconsistent with the antitrust laws" (emphasis added).

From a technical antitrust standpoint, the correct word is "may". The object of the antitrust section of the OCS bill is to permit the Justice Department and the Federal Trade Commission to challenge potentially anticompetitive leases before they are issued, i.e. in their incipiency. In this regard, the purpose is identical to that of section 7 of the Clayton Act, which prohibits corporate acquisitions "where . . . the effect of such acquisition *may* be substantially to lessen competition . . ." (emphasis added).

The Senate amendment simply substitutes "may" for "would".

5. Stratigraphic Drilling: In connection with oil and gas exploration on the OCS, the House amendment contains a provision (Sec. 206) which requires the Secretary "at least once in each frontier area" to "seek qualified applicants" to conduct geological explorations, including core and test drilling, in areas having the greatest likelihood of containing oil and gas. The Senate bill has no comparable requirement.

While this provision for possible on-structure stratigraphic drilling by private industry is reasonable, it appears desirable to set a specific limit on the length of time during which the Secretary must "seek qualified applicants." The proposed Senate amendment would authorize and direct the Secretary to set a specific deadline.

6. Federal Exploratory Drilling: The Senate bill (new Section 19) provides for a comprehensive OCS oil and gas information gathering program including requirements for detailed mapping and an experimental program of exploratory drilling under government contract. $500 million was authorized to be appropriated for such drilling. The House amendment has no comparable provision.

The proposed Senate amendment would provide for a scaled-down Federal exploratory drilling program to be carried out under contract with private industry. This would be limited to situations where the Secretary of the Interior, *in his discretion,* determined that government exploration was needed for national security or environmental reasons or to expedite development in frontier areas. Areas included in the five-year leasing program would be excluded from Federal exploration.

7. Judicial Review of Secretary's Rejection of Recommendations of Governors and Advisory Board Recommendations: Both the Senate bill and the House amendment provide for establishment of Regional OCS Advisory Boards, and require the Secretary to accept the recommendations of such Boards and of State Governors unless he determines such recommendations are not consistent with the national interest.

The Senate bill provided that the Secretary's determination of overriding national interest would be final unless determined in a judicial review to be arbitrary or capricious. The House amendment broadened the scope of judicial review of the Secretary's determination.

The proposed Senate amendment retains the House language but adds the original Senate limitation on judicial review of the overriding of a State Governor or Regional Board recommendations.

8. Development of Safety Regulations: The Senate bill provides for the safety regulations to be prepared by the Secretary of the Interior with the concurrence of the Environmental Protection Agency and the Coast Guard.

The House amendment splits up this responsibility. Regulations are to be developed by the Secretary (1) for protection of the environment with the EPA or the Secretary of Commerce (NOAA), (2) for the avoidance of navigational hazards, with the Army or Coast Guard, (3) for occupational safety and health with the Secretary of Labor (OSHA) or Coast Guard.

The proposed Senate amendment adopts the original Senate approach but specifies, as did the House amendment, that regulations relating to occupational safety and health will be developed with the concurrence of the Secretary of Labor.

9. Standard of Technology: The Senate bill provides that the Secretary's safety regulations must require use of the best available technology of all new OCS operations and, wherever practicable, on already existing operations.

The House amendment retained this provision but refers to best available and safest technology *"economically achievable"*. (emphasis added.)

The proposed Senate amendment would retain the House language except for the words "economically achievable". There is no need for this qualification with respect to existing operations where the "whenever practicable" test would apply. With respect to new operations, adding an "economically achievable" test could lead to use of less safe equipment in marginal development situations.

10. Inspection Frequency: The Senate bill requires the Secretary to provide for physical observation of OCS installations at least once a year. The House amendment provides for twice a year inspections.

The proposed Senate amendment adopts the original Senate requirement. This is a statutory minimum and does not preclude more frequent inspections where appropriate.

11. Response to Allegation of Violations: Both the Senate bill and the House amendment require the relevant official to consider any allegation of the existence of a violation of a safety regulation. The Senate bill specifically required that an allegation be answered within 90 days.

The proposed Senate amendment adds this requirement to the House amendment.

12. Citizen Suits—Clarifying Amendment: Both the Senate bill and the House amendment contain similar provisions relating to citizen suits to enforce the OCS law and regulations.

The proposed Senate amendment is a technical one. It is simply designed to assure that the provisions of the bill (new section 23) do not restrict any right to relief which anyone may have under common law.

13. Oil Spill Liability—Act of God Defense: The Senate bill contains an oil spill liability provision (new Section 23) modeled after the Trans-Alaska Pipeline Authorization Act of 1973 (Title II of P. L. 93-153) and the Deepwater Port Act of 1974 (P. L. 93-627).

The House amendment contains a more extensive provision (Title III) which applies to oil spills from any OCS facility, and any transportation device, including vessels, for delivery of oil or gas from such a facility. This Title is modeled after the Comprehensive Oil Pollution Liability and Compensation Act of 1975 proposed by the President on July 9, 1975.

The proposed Senate amendment would accept the House amendment with one change. The House amendment provides that a lessee is not liable for damage from an oil spill caused by "a natural phenomenon of an exceptional, inevitable, and irresistable character." The Senate amendment would eliminate this "secular act of God" defense which was not included in the Senate bill. The Senate took this approach in order to encourage OCS operators to make their installation as earthquake and hurricane proof as possible.

14. Congressional Veto of Regulations: The House amendment contains a provision (Section 406) providing for Congressional veto of any rule or regulation issued under the Act if either House of Congress passes a resolution of disapproval within 60 days after its adoption. The Senate bill has no such provision.

The proposed Senate amendment would delete Section 406 of the House amendment. The constitutionality of Congressional vetoes of Executive regulations is currently being litigated. In addition, there is general legislation on this subject currently pending in both Houses. Inclusion of a specific veto provision in S. 521 at this time is not appropriate.

DIFFERENCES BETWEEN S. 521—SENATE VERSION (S) AND HOUSE VERSION (H) (FORMERLY H.R. 6218)

TITLE I

1. Title—S. calls the bill "Outer Continental Shelf Management Act of 1975"; H. calls the bill "Outer Continental Shelf Lands Act Amendments of 1976".

2. Findings—Both versions have many of the same findings.

However, S. also has findings that it is a "national policy" to develop coastal zone resources and provide for energy facility siting; and that the Coastal Zone Management Act provides procedures to anticipate and prevent adverse impacts.

H. alone has findings requiring an updating of environmental and safety regulations; that states should be given timely access to information relating to the outer continental shelf; that states should have an opportunity to review and comment on decisions; that states should receive financial assistance to plan for and ameliorate OCS impacts; that funds should be made available to pay for the removal of oil spills and damages from oil spills; and that the federal government should minimize or eliminate conflicts between OCS exploitation and other uses, such as fishing and recreation.

3. Purposes—Both versions contain many of the same purposes.

However, H. alone provides that states should have timely access to information regarding OCS activities; that states should have an opportunity to review and comment on decisions; that conflicts between OCS and other resource recoveries should be minimized or eliminated; that states should receive financial assistance to plan for and ameliorate OCS impacts; that an oil spill liability fund should be established to pay for the prompt removal of oil spills and damages from oil spills; and that the resources of the OCS should be assessed at the earliest practicable time.

4. Sunshine in Government—(Should really be in Miscellaneous Section—Title IV)—H. alone contains a provision for filing of statements concerning the financial interests of employees of the Interior Department and reports to Congress on such statements.

TITLE II

5. National Policy—(Amending Section 3)

H. restates first two provisions of Section 3 of the OCSLA (maintained without change in S), providing for control of the subsoil and seabed of the OCS of the United States and preservation of the right to navigation and fishing of the waters above the OCS's high seas.

S. recognizes development of OCS resources will have significant impact on coastal zones, and H. states that such OCS activities will have significant impact on not just coastal areas, but on other affected areas of all states.

H. contains a provision for insuring safe operations in this section, while S. places the policy for safe operations in the section on safety regulations.

6. Leasing Programs (New section)—Both versions establish an OCS leasing program.

* H. limits as factors to be included in consideration and establishment of such program the laws, goals and policies of affected states and the policies and plans established pursuant to the Coastal Zone Management Act required to be considered as those specifically identified by the governors of the states.

H. also alone provides, as a consideration, recommendations and advice given by regional OCS boards and whether there will be sufficient resources, including equipment and capital, to provide for expeditious exploitation.

* S. provides that the timing and location of leasing should occur so that areas with the greatest potential for discovery of oil and gas are leased first, taking into account environmental and coastal zone impacts and national needs, while H. provides that timing and location should be based on a proper balance between environmental damage, discovery of oil and gas, and adverse impacts on the coastal zone.

S. version provides for estimates to be prepared in the leasing program for the $500 million exploration program authorized by that bill and H., not having that program, does not so provide.

S. alone includes detailed considerations of what is to be included in the EIS for the leasing program.

H. requires that the procedures to be established by regulation, in addition to those provided in S. version, include periodic consultation with governments, lessees and permittees, representatives of individuals or organizations involved in OCS activities, including fishing, recreation.

S. requires proposed leasing programs to be submitted to Congress and published in the Federal Register, while H. requires that it be submitted to Congress, the Attorney General, state and local governments and regional advisory boards, and other persons, and provides that the Attorney General is to submit comments on competitive aspects of the program and other organizations and states and local governments are to submit recommendations as to any aspect of the program within ninety days of publication.

H. alone specifically requires in addition that during the preparation of any program, the Secretary is to invite and consider suggestions from the governors and to submit the proposed program sixty days prior to formal proposal by publication in the Federal Register to the governors.

S. provides for approval by June 30, 1977 and no leasing unless in accordance with that program after that date, while H. provides for approval within 18 months of enactment and allows leasing to continue until the program is approved and/or under judicial or administrative review.

S. requires the program to be revised and reapproved at least annually, while H. requires review annually and reapproval as seen fit by the Secretary of the Interior.

Both H. and S. provide for the obtaining of information and reports from public sources, or by purchase from private sources, but S. provides that confidentiality is to remain for such period of time as agreed by the parties, while H. provides confidentiality for such period of time as provided specifically in the OCS Act, established by regulation, or agreed to by the parties.

7. Exploration/Information Program (Amended Section 11 and new Section).

* Exploration—S. alone authorizes any type of exploration and alone establishes a comprehensive "information-gathering program" concerning OCS resources, including government drilling, purchasing results of permitted drilling activities in a $500 million drilling program; S. alone also contains a provision for keeping and publishing a detailed set of maps and submitting to Congress a report on the information-gathering program.

* H. adopts, in an amended Section 11, the original language of the OCSLA giving the authority of any agency of the United States, or any person authorized by the Secretary, to conduct any type of geological or geophysical exploration; and adds a subsection requiring the Secretary to "seek qualified applicants to conduct geological explorations in areas of greatest likelihood of resources (on-structure drilling)."

Information—S. provides that all lessees or permittees are to provide all data and interpretations to the Secretary of the Interior while H. provides a lessee or permittee is to provide all information and interpretations as the Secretary requests.

H. alone adds provisions providing that an interpretation made in good faith eliminates any liability by the lessee or permittee based on reliance on that interpretation, and providing for processing and reproduction expenses to be paid by the Secretary.

* S. provides that the Secretary and any other person coming into possession of information is to insure confidentiality until the Secretary determines release would not "damage the competitive position of the lessee," while H. provides for the Secretary only to establish regulations to assure the confidentiality of information.

*H. limits transmittal of information to states to other persons unless the permittee or lessee agrees, but provides specifically that the governor of the state can designate an appropriate official to see any privileged or confidential information after a lease sale, that the state shall keep such information confidential and any provision of state law to the contrary is overruled, and that a state could be deprived of the right of access and transmittal if it violates confidentiality standards. S., on the other hand, provides for the Secretary to make available to the public and to various states all information that the Secretary himself obtains, or obtains by services contracts; and all other information which the Secretary obtains, provided that confidentiality is secured.

H. alone adds a provision that a copy of all relevant documents, reports, plans, EIS's, nominations are to be submitted to the states; that a summary of the data prepared by the Secretary and any other data processed or analyzed by the Secretary is to be submitted to the states, provided that it does not unduly damage the competitive position of the lessee or permittee.

S. has a provision that once an entire geological structure or trap is leased, the Secretary is to publish estimates of the amount of oil and gas contained therein, and also a separate section providing for certain planning information for the states to be supplied as soon as practicable after each lease sale, while H. provides for planning information to be prepared by the Secretary for the states to include estimates of reserves, size and timing of development, etc., and to be periodically transmitted to the states as soon as practicable after any information is received.

8. Safety Regulations—(New section)—S. contains a policy for safe operations, which H. puts in its amended section and establishing national policy.

S. provides for promulgation of all "safety regulations," while H. provides for the promulgation of safety regulations as to the construction and operation of any fixed structure and artificial island on the outer continental shelf.

*S. provides for the safety regulations to be prepared by the Secretary of the Interior with concurrence and advice of the EPA and Coast Guard; H. provides for the separation of responsibility—regulations are to be developed by the Secretary (1) for protection of the environment with the EPA or the Secretary of Commerce (NOAA), (2) for the avoidance of navigational hazards, with the Army or Coast Guard, (3) for occupational safety and health with the Secretary of Labor (OSHA) or Coast Guard. Both provisions provide for a *complete promulgation* of new regulations within one year after enactment and the continuation of existing regulations until that time (language has to be cleared up to make this explicit).

H. alone contains a provision providing for interim regulations to be prepared within sixty days by OSHA as to diving activities and any other unregulated hazardous working conditions.

*S. contains a provision requiring the best available technology, while H. provides for the best available and safest technology economically achievable.

H. alone contains provisions indicating that nothing should affect or *duplicate* the authority of the Secretary of Transportation as to pipelines, and providing for a compilation of all safety regulations to be prepared by the Secretary available to any person.

9. Research and Development—(New section)—S. contains an extensive provision for research and development programs, and H. does not. (Committee on Science and Technology of the House has passed an Outer Continental Shelf Research and Development Act, which is presently pending in the House Interior Committee, providing for a detailed R&D program as to the OCS, H.R. 11333.)

10. Safety Enforcement—(New section)—*S. provides for the Secretary of the Interior and the Coast Guard to enforce all regulations, while H. provides for the Secretary of the Interior and the Coast Guard to enforce safety and environmental regulations, and the Secretary of Interior and Secretary of Labor (OSHA) to enforce occupational and public health regulations.

H. alone also provides that enforcement shall be "strict."

*H. provides for joint responsibility by holders of leases or permits with an employer or subcontractor for all safeguards in accordance with regulations.

S. provides for physical observation once a year, while H. provides for it twice a year.

Both versions provide for periodic on-site surprise inspection, but requires on-site inspections as to permittees, and not just as to lessee, as limited in S.

H. alone requires an investigation and report on any death or serious injury by the Secretary of Labor (OSHA).

Both versions provide that the relevant agencies are to consider any allegation as to safety violations, but S. requires the Secretary to answer an allegation within ninety days.

H. alone contains a provision requiring the annual report to contain a listing of the number of safety regulations violations reported or alleged, investigations undertaken, the results of the investigations, and any other action taken in response.

H. alone has a provision providing that after notice and hearing, the Secretary is to cancel a lease, without compensation, where there has been a failure to comply with safety regulations in a repeated course of conduct, or there is an overall pattern of failure to comply with regulations to assure maximum efficient and safe development of leases.

*11. Oil Spill Fund—S. contains a new but limited section on oil spill liability, while H. contains a very extensive Title establishing liability and a pollution fund.

Specifically, H. applies to OCS facilities and vessels transporting OCS oil, while S. is limited to OCS facilities.

H. alone contains a provision prohibiting the discharge of oil in quantities determined to be harmful under the Federal Water Pollution Control Act.

Both versions contain provisions for the person in charge to report a spill, penalties for failure to report, and limitations on the effects of notification on any subsequent criminal prosecution.

S. provides for liability for all clean-up and damages up to $22 million and a fund thereafter, while H. provides for liability for damages up to $35 million and unlimited clean-up.

*H. alone specifically provides that liability limits do not apply to damages resulting from gross negligence, willful misconduct, or violation of applicable standards or regulations. S. provides that liability is not to be imposed for spills as a result of acts of war, negligence by a government agency, or the negligence or intentional act of the claimant, while H. provides that liability does not apply to spills as a result of acts of war, negligence or intentional acts of the damaged, or any third party, including the government, or an act of God (a natural phenomenon, of an exceptional, inevitable and irresistible character).

Both versions provide for subrogation, but H. specifically provides for the right to go against the person who damages or injures. H. contains a provision providing for the limitation of liability to a citizen of a foreign country unless there is a treaty or executive agreement or the Secretary of State, or the Attorney General certifies that there is a similar remedy in that country.

H. also alone provides for interests upon claims.

S's fund is to be within the Department of the Interior, to be financed by 2½ cents per barrel charge, until $200 million has been accumulated, while H's fund is to be administered by the Department of Transportation, on the basis of a three cent per barrel fee, until $100 to $200 million is established in the fund, and H. provides for the ability to borrow up to $500 million in addition.

H. specifically details the duties and powers of the fund, the recoverable damages, the specific disbursements available from the fund and its revolving account, the claims procedure, none of which are specifically detailed in S.

S. provides for removal of discharged oil by the Coast Guard; while H. provides for arrangements to be established by the President.

H. alone provides that claims can be brought directly against the Fund or Spiller, allows the President to adjust the requirements of liability, and provides that states cannot require additional evidence of financial responsibility in addition to those required.

H. alone provides that the President or his representative is to act as a trustee of the natural resources so as to recover for damages to the natural resources from a spill, and alone specifically provides procedures for judicial review; for class actions; for representation of the class by the Attorney General, or if he does not act, by the Secretary of Transportation; for acecss to records by the Secretary; for limited public access to information; and for an annual report.

H. specifically provides for appropriations of $10 million for 1977, $5 million for 1978, and $5 million for 1979, in accordance with appropriation acts each year, while S. contains a general authorization provision.

While both S. and H. provide that this act should not preempt a state from imposing additional requirements or liabiltiy for discharge, H. provides that a person who receives compensation from one fund should not be able to receive compensation from another fund.

12. Citizens Suits—(New section)—*S. provides that any person having interest which "is or may be" adversely affected can sue, while H. provides that any person having interest "which is or can be" adversely affected can sue.

S. alone provides specifically that one can sue a government instrumentality, "to the extent permitted by the Eleventh Amendment."

S. provides for suits against the Secretary, while H. provides for suits against any federal official involved in safety regulation and enforcement. Similarly, S. precludes suits if the Secretary is diligently prosecuting a civil suit on the same matter, while H. provides a limitation if the relevant official or the Attorney General is undertaking such litigation.

S. provides for sixty day notice unless there is an imminent threat to the health or safety "of the plaintiff" while H. provides sixty-day notice unless there is an imminent threat to the "public health or safety."

*S. provides that the citizens suits provision does not in any way limit the ability to sue under any other law while H. provides that some of the judicial review procedures as to certain activities do limit the way one can sue under other laws, except for NEPA.

Both versions provide for a right of judicial review to the D.C. court of appeals of a leasing program, providing challengers participate in relevant administrative procedures, but H. provides that this is the exclusive method of review, and is excluded from citizens suits.

Both versions provide that review of a development and production plan is to be in a court of appeals where an affected state is located, after suitable administrative proceedings, but H. provides this should be the exclusive way to review a development and production plan.

H. also provides for judicial review in a court of appeals of an affected state of an exploration plan (an exploration plan is not included as part of the requirements of the Senate bill).

*S. provides that judicial review of the holding of a specific lease sale is to be reviewed by a United States Court of Appeals, while H. specifically excludes a lease sale from judicial review, thus including it as an event that can be challenged in a citizens suit in the district court.

H. specifically provides, as in the original OCS Act but in a different section (and thus retained in S.), for jurisdiction in the district courts as to court actions, also alone provides for expedited consideration and specifically that this section not to affect any procedures or actions under NEPA.

13. Annual Reports/Promotion of Competition (amended section 15, and a new S. section)—Both versions provide for an annual report, which H. alone including in the report a list of all shut-in wells, and S. alone including a summary of grants made from the impact fund.

Both versions require a report on competition. S. provides in a separate section for a report within one year after enactment, via the Secretary, while H. provides for it to be included in the annual report by the Secretary after consultation with the Attorney General and includes within the report an evaluation of restrictions on joint bidding and their effectiveness.

14. Enforcement/Remedies (New Section)—Both versions provide for the relevant agencies to sue to enjoin or restrain activities, while discretion is granted to do so in S. for violations or implementation while H. provides "it shall be done."

S. provides for penalties of $5,000 for each and every day while H. provides for $10,000 each and every day, and there are minor differences between H. and S. in the criminal provisions.

15. Baseline and Monitoring Studies—Both versions provide for baseline studies to be undertaken by NOAA, in cooperation with the Secretary of the Interior.

H. alone specifically provides that the study is to be commenced within six months for any area where there has already been a lease sale, and no later than six months prior to the holding of a lease sale for any area to be included in a lease sale, and that the Secretary of Commerce is to complete such study and submit it to the Secretary prior to final approval of a D&P plan, that failure to complete a study should not ordinarily be a basis to preclude approval unless the Secretary finds it necessary to do so.

Both versions provide for monitoring after a baseline study, but H. alone provides that additional studies can be undertaken after the development and production is approved to establish baseline information.

H. alone specifically provides that existing information from other agencies as to EIS's or other studies are to be utilized and not repeated, that the Secretary of Commerce is to submit to the Secretary of the Interior and to Commerce and make available to the general public, an assessment of the cumulative effect of activities on the environment.

16. Environmental Impact Statement—S. specifically details what is to be included in any environmental impact statement, while H. did not include it, as it did not want to interfere with the discretion granted in NEPA.

17. Regional Board (New Section)—Both versions provide for Regional Boards to be established, to include representatives from the relevant federal agencies (H. adds as a relevant agency, OSHA) and provides recommendations are to be accepted, if submitted within 60 days, from a state or a Regional Board, unless overridden in the national interest.

*H. Specifically defines national interest as consistent with obtaining oil and gas supplies in a balanced manner, and provides procedures if recommendations from different governors or boards conflict.

S. alone specifically provides that the Secretary's determination, after receiving such recommendations, shall be final unless determined to be arbitrary or capricious (this may be in conflict with S's general provision providing that on judicial review the standard is to be substantial evidence based on the record considered as a whole).

18. Planning Information (New Section—separate for S; in H's information section)—Both versions provide for planning information to be prepared, S. provides it to be forwarded to the States after each lease sale while H provides that the summary of data is to be available as soon as information is received periodically.

19. Limitations on Export—Both provisions provide for limitations on export in the same manner.

*20. Restriction on Employment—H. alone contains a provision that limits the ability of an employee or an officer of the Department of the Interior, above GS–16, to work within two years for any company subject to regulation by the Interior Department.

21. Lease Terms (amended Section 5)—Both bills revise the various bidding systems with certain minor differences. S. provides minimum royalty of 16⅔, while H. provides a minimum royalty of 12½ percent; S. provides a minimum net profit share of 60 percent while H. provides a minimum net profit share of 30 percent; for percentage leasing systems, S. provides for bids on the basis of highest price per share, while H. provides for averaging of bid shares; S. provides for a work program bid, based on specific activities to be undertaken, while H does not include such a bidding option; S. provides for a bidding system with matching exploration grants to accompany bids on the cash bonus system where H. does not contain this provision.

Both versions allow deferment of any cash bonus, but S. allows deferring to be for three years while H. allows it to be for five years. H. alone allows decreasing royalty or net profit share to promote increased production.

Both S. and H. provide for an evaluation of net profit share, but S. requires that a net profit share be determined individually for each lease area, while H. allows it to be done generally by regulation.

As to the percentage leasing system, both provide that the United States is a non-voting party to any joint working group, but H. alone describes detailed procedures for averaging out the bids, and offering additional percentages.

S. provides generally that the systems are to be used to accomplish the objectives of the Act, while H. provides detailed considerations for use of bidding systems.

H. alone allows more than one bidding system to be used in a particular lease area.

S. provides for 50 percent of new leasing systems to be utilized in frontier areas unless the Secretary decides not to use 50 percent and neither House disapproves that decision while H. provides for 33⅓ percentage use of new systems which can only be overridden by the Secretary if one House approves, pursuant to an expedited procedure.

*S. also alone contains a specific provision requiring that one of the percentage leasing systems, and one other new system, must be utilized in sales in undeveloped areas in the next two years.

H. specifically requires a report to be prepared by the Secretary as to the use of the bidding systems, detailing all the information to be required and evaluation of effectiveness.

*S. does not allow joint bids under the percentage leasing while H. has a more detailed procedure as to limitations on all joint bidding, of 1.6 million barrels or less a year, pursuant to regulation.

*S. provides for leases to cover whole areas containing geological structures or traps to the maximum extent practicable, or a reasonable economic unit while H. provides for tracts of 5,760 acres, unless the Secretary wants a larger area so as to comprise a reasonable economic and production unit.

S. provides for a lease of five years, or to encourage exploration in deep water adverse weather conditions, for ten years, while H. provides for a lease of five years, and capability, if a provision is in the original lease, to extend for five additional years in areas of unusually deep water or adverse weather conditions.

S. specifically requires a provision in the lease describing the ability of the Secretary to require increased production, while H. does not contain such provisions (as is this is already authorized by Energy Act).

*H. alone provides that the lease shall contain a provision detailing that it can be suspended or cancelled in apporpriate circumstances as detailed in the Act, and that a lease is conditioned upon satisfaction of due diligence requirements.

*H. provides that a lease is not to be issued or extended for five additional years until notification is given to the Attorney General or the FTC who can say that granting the lease or extension would maintain a situation inconsistent with the antitrust laws. In such a situation, the Secretary is to hold a hearing to balance the infringement on competition against the overall benefit to the public.

*H. also alone contains a provision, providing that no lease is to be issued or extended if there is a finding that a lessee is not meeting due diligence requirements on other leases.

*H. alone contains a provision providing for joint leasing in areas within three miles of a seaward boundary of a coastal state and for resolutions of disputes as to resources that might be in both federal and state waters.

22. Royalty Oil and Gas (New Section)—Both versions allow oil and gas to be taken in kind, as a royalty, but H. specifically states that net profit share can be taken in oil and gas.

Both allow 16⅔ percent by volume of hydrocarbons to be purchased by the United States, but H. provides that the government can only purchase that amount if the, and to the extent that, the royalty or net profit share is not 16⅔.

H. specifically provides that title to the royalty or net profit share purchased oil and gas can be transferred to other federal agencies.

Both versions provide for disposition of federal royalty oil on the basis of competitive bidding, but H. alone specifically provides that if there is a regulated price, or a required allocation, it is to be in accordance with those regulatory provisions.

*S. provides that participation in sales can be limited to an "independent refiners", while H. provides that participation can be limited to "small refiners" defined in the section as those companies so designated by the Small Business Administration.

Both provisions provide for disposition of federal royalty gas to the highest bidder and allow limitations so as to have it to needy regional geographic areas, but H. specifically provides that this is to be in accordance with, and not in conflict with, the regulated price or allocation procedures established by the FTC and other agencies.

23. Development of Production Plans (New Section)—Both versions provide for development and production plans.

S. provides for plans to be prepared by all lessees prior to development and production, while H. requires to be prepared by lessees only in those regions where there is no development prior to January 1, 1975.

S. provides for the plan itself to contain information about offshore activities and onshore impact, while H. provides for the plan only to involve offshore activities and a statement of information to be prepared as onshore impact. H. alone specifically provides that the Secretary is to forward, within 10 days of receipt, the plan and statement to the governor and make it available to the public.

S. provides that the plan is to contain a commitment to produce at a maximum efficient rate, with the ability to secure a waiver from the Secretary; while H. provides that production is to be in accordance with rules and orders as established by law, and if no rule or order is established at a rate to be set by the Secretary to assure "maximum rate of production which is efficient and safe."

*H. alone specifically requires a finding by the Secretary as to whether the development and production in an area is a major federal action, requiring NEPA procedures, and requires the Secretary to declare that a lease sale, at least once prior to major development in any area where there has not been development, to be a major federal action.

S. provides that the Secretary determine and tentatively approve a plan and transmit it to states with all other information and that a lessee can proceed with development based on such tentative approval. H. provides for no such tentative approval.

If NEPA does not apply, H. provides for comments to be forwarded within 90 days by a governor or any other person to the Secretary and for the Secretary to approve or disapprove a plan within 120 days after receiving all the comments. While S. provides for public hearings 60 days prior to approval or disapproval of a plan with sufficient opportunity to participate, and states no particular time period for decision.

H. specifically details that if development is a major federal action, a draft EIS is to be sent to the governors, regional boards, and other affected persons for review and comment and that after the final environmental impact statement is prepared the Secretary must act within 60 days, while S. provides merely that the plan is to be made available to the general public not less than 60 days prior to any public hearing.

Both versions allow the Secretary to require modifications of a plan if they don't insure safe operations but S. provides that no modification is to be included if it is inconsistent with the valid exercise of authority by the state or subdivision while H. did not contain such a provision because the H. D&P plan, by definition, has only to do with offshore operations.

Both versions detail procedures for disapproval of a plan and H. contains a provision that disapproval can be had without compensation, if it is not consistent with the Coastal Zone Management Act.

H. alone specifically contains a provision that disapproval means that a lease is to be extended for five years, that new plans can be requested and that if disapproval occurs, and five years later there is still no action on the lease, and no new plan approved, the lease is to be cancelled and a certain stipulated cancellation compensation is to be paid.

Both provisions provide for periodic review of a plan and possible revisions. S. specifically provides the situations where revisions will be allowed when requested by the lessee, while H. provides so long as the revision is not inconsistent with the Act it should be accepted.

Both versions provide that failure to comply with the approved plan shall terminate the lease, but H. alone provides that failure to submit a plan in accordance with regulations shall also terminate the lease, and specifically provides the right to a hearing and judicial review, and states that failure to comply with the plan would not entitle a lessee to compensation.

S. provides that lessees are to design and implement a program to obtain maximum efficient rates of production; while H. does not contain such a provision as the requirement is in the Energy Act.

H. alone contains a provision that allows a development and production plan to be submitted to not just the Secretary of the Interior but also to the FPC and the FPC to approve those portions having to do with transportation of natural gas.

24. Exploration (amended Section 11)—S. provides for a $500,000,000 exploration program, and does not allow any type of exploration unless there is a permit issued by the Secretary. H. provides for no such program, but does require applicants to be sought for on structure drilling, and allows any agency of the United States and any person to conduct exploration either by permit or pursuant to regulation.

S. separates out the confidentiality requirements as to permittees and provides that all information is to be given to the Secretary and confidentiality is to be maintained until there is a lease sale, or until it would not effect the competitive position of the permittee, while H. provides for the same procedures as to confidentiality for lessees and permittees, grants access after a lease sale to any information by a state representative and precludes transmission unless consented to by the permittee or lessee.

H. contains a provision requiring an exploration plan to be prepared by the lessee which would detail work to be done and also have attached a statement of information as to onshore impact. Such plans would be reviewed by the Secretary and could be modified. Disapproval could only occur under certain circumstances which would allow cancellation under a newly amended section 5.

25. Administration (amended Section 5)—S. retains the original language of the OCS Lands Act as to authority to issue regulations, while H. grants broader authority to prescribe regulations, including as part, the original language of the OCS Lands Act.

*H. alone provides that regulations are to be applicable to any lease issued or maintained under the Act, requires such regulations to be prepared in cooperation with relevant agencies, and as to competition, requires consultation with the Attorney General.

H. also alone specifically provides procedures for the suspension and temporary prohibition of an activity; for cancellation of a lease or permit for environmental reasons, after a five year suspension and with compensation, and details regulations to be included to implement certain requirements of the Act.

H. also includes provisions noting that issuance or continuance of a lease is to be dependent upon compliance with the regulations (as in the original OCS Lands Act and thus retaining in S.); provides that a lease can be cancelled for failure to comply with the Act, if a lease is producing, or if the lease is nonproducing, re-includes the provisions as to rights of way through submerged lands (all as in the original OCSLA and thus retained in S.).

26. Definitions (amended Section 2)—Both versions include many new definitions, but H. alone includes a new definition of lease to include "any form of authorization," does not include "coastal state", but does add a definition for "affected state" which is to comment on particular activities and programs. S. and H. both provide definitions for marine and coastal environment but H. alone adds a definition of human environment relating to the social infrastructure and adds definitions for governor, antitrust law, fair market value, and major federal action, while S. alone defines "maximum efficient rate of production".

27. Laws Applicable (amended section 4)—H. contains a provision changing certain terms to be consistent with the Geneva Convention, providing for an updating of applicable state criminal law as they are enacted and state civil laws every five years, requiring the President to determine within one year boundaries between states and to seek to resolve international boundary disputes, and requiring the Coast Guard to mark navigational hazards when the owner has failed to so mark, rather than as an existing law (and thus in S.) merely authorizing it to so mark.

TITLE III

28. Miscellaneous Provisions—S. contains and H. does not, a provision for a pipeline safety and operations, study and report within one year.

Both versions contain provisions for review of shut-in or flaring wells, and for a review and revision of delinquent royalty payments. H. alone contains a new provision providing for the ability of a natural gas distributing company to have any gas found on a lease which it owns to be sent back to its service area, adds provisions prohibiting discrimination and requiring affirmative action, and requiring all rules and regulations to be submitted to Congress and to be capable of being diapproved by either House of Congress within 60 days. Both versions indicate that the Act is not to repeal any provisions above the laws, unless expressly provided, and S. alone has a severability clause.

29. Funding—S. contains a provision amending the Mining and Mineral Policy Act giving 22½ percent more money to the states, and amending the Coastal Zone Management Act providing for a coastal facility impact program to pay for OCS and energy facility siting impact—both of which are not contained in the House version.

30. Other Miscellaneous Provisions—S. alone contains provisions limiting the ability of the FEA to stop new retail gas outlets, limiting the ability of the Administrator of the FEA to reduce the allocation of retail gasoline sales, requiring the FEA to submit reports about its oil entitlement program and the regional impact of such program, requiring the Secretary of the Interior to submit a comprehensive plan for effective and efficient use of royalty natural gas to meet emergency shortages of natural gas.

EDUCATION AMENDMENTS OF 1976—S. 2657

AMENDMENT NO. 2226

(Ordered to be printed and to lie on the table.)

AMENDMENTS TO S. 2657, THE HIGHER EDUCATION ACT OF 1965

Mr. PERCY. Mr. President, on behalf of Senator NUNN and myself, I send to the desk an amendment to S. 2657 that should improve the student loan program by establishing criminal penalties to deal with those who have been abusing the program for years.

Last fall, the Senate Permanent Subcommittee on Investigations, under the able leadership of Senator SAM NUNN of Georgia, held a series of hearings on the administration of the Federal student loan program and turned up substantial evidence of fraud, abuse and bribery. Senator NUNN, to whom the survival of this program is of great importance and who shares my concern for the students participating in it, found as I did, that the present program is flawed.

A most helpful synopsis of the problems in the program can be seen in the testimony of John Walsh, who conducted the subcommitte's inquiry into West Coast Schools of Los Angeles. I ask to have his testimony printed at the close of my remarks and following the printing of the amendment itself. Mr. Walsh has recently become Director of the Office of Investigations in the Department of Health, Education and Welfare. I am hopeful that, with his addition, HEW can begin to aggressively pursue the kinds of fraud and abuse he uncovered as an investigator for our subcommittee.

The student loan program is flawed in that there are no criminal penalties provided in the Higher Education and Vocational Education Acts for the kinds of nefarious activities the subcommittee encountered. And, while some of the activities—such as bribery of a Federal official—are covered elsewhere in Federal law, I believe that the absence of adequate penalties within the enabling legislation invites the kinds of abuses disclosed during our public sessions.

There is no doubt in my mind that those who abuse this worthy program for their own financial gain at the expense of needy students and Federal taxpayers are committing no less a crime than someone who robs a bank or cheat on his income tax. Bank robbers and tax cheaters go to jail. Those who seek to unconscionably exploit this program should know that they, too, can find themselves behind bars. We must make vivid the fear of a jail term in the minds of those who contemplate defrauding the students who depend on this program for a better life, and the taxpayers whose interests must be more aggressively protected.

We heard testimony under oath from former employees of West Coast Schools in Los Angeles that they had delivered money on several occasions to an official with the Office of Education in San Francisco for the purpose of insuring that this official authorized Federal grants to West Coast Schools. The program officer, subpenaed before the subcommittee, resigned from the Office of Education on the eve of our hearings. Although the U.S. attorney in Los Angeles has investigated, to date there has been no indictment on this matter. If an antibribery provision were in the Vocational Education Act, Federal law enforcement authorities might well have acted by now.

The revision that I advocate would specifically forbid under this act any payment to a U.S. Government employee in return for which grants or loans are to be made. Violators would be criminally liable and subject to a fine up to $10,000 and/or imprisonment for up to 5 years.

This amendment would also provide criminal penalties for persons who knowingly and willfully provide false information or conceal material information in seeking accreditation as a school eligible for participation in the loan program. Thus, for example, the administrator of a fringe school will think twice before telling the Office of Education that a faculty member has an advanced degree if he does not.

False representations regarding courses offered, facilities available, and the capital structure of a school would also be punishable with a criminal penalty. Such penalties could also be imposed on a school operator who represents to an accrediting organization that certain persons are members of its board of trustees or otherwise serve the institution when that is not the fact.

The operators of a school would likewise be inhibited from concealing from the Office of Education the fact that any financial backers have underworld or other unsavory connections. In fact, this amendment can be expected to help keep such elements out of the education business. As we learned during our hearings on West Coast Schools, such characters are all too present at some educational facilities enjoying Federal favor.

For example, Fred Peters, the man who ran West Coast Schools, once faked his own murder, apparently to escape paying alimony to his first wife. After his clothes and bloodstains were found, she tried to collect on his life insurance. State police in Texas, where the alleged murder took place, discovered that Peters had not been killed. This same Peters operated under a false identity for years after that event, and, in fact, filed a passport application in that name. It was only because of the work of the Permanent Investigations Subcommittee on West Coast Schools that his true name—Fred Braneff—was discovered and a Federal arrest warrant was issued for him.

This is the man with whom the Office of Education did business for more than 2 years. Had it only known about his past, as this amendment would require, presumably things might be different today.

Another proposal would allow the courts to sentence to jail school operators who sell student loan notes to other lending institutions under false pretenses or without having informed such groups of material information relevant to the assignment. West Coast Schools officials neglected to tell a credit union in Texas which bought $1 million in federally insured West Coast School notes that they had closed the school down a year before the sales of the notes.

This amendment would also establish criminal penalties for an unlawful payment to a lender as an inducement to make assignment of an insured loan. As the West Coast Schools investigation showed, "commissions" were frequently paid by that institution to encourage the sale of its student loan notes to banks and credit unions. Such financial manipulation is contrary to the objectives of this act.

Another provision would apply criminal penalties to anyone who, with intent to defraud the United States, or to prevent the United States from enforcing any right obtained by subrogation, knowingly and willfully destroys or conceals relevant material involving an application for, or processing of, a federally insured student loan. This would make school administrators think twice before hiding relevant student attendance and financial records. Once again, the West Coast School case provides an example of how that can happen. As the school comptroller told the subcommittee, he was directed to hide student attendance records in his garage, so that auditors would not know how many students had dropped out and were consequently due refunds.

Finally, this amendment would impose criminal penalties for the operator of any school in the program who commingles Federal student loan grant funds with general operating revenues. The West Coast Schools case demonstrated that school administrators can now commingle Federal funds with their own at will. As testimony made clear, West Coast officials took $1.2 million in Federal grant funds and stashed it away in numerous private accounts. Federal investigators are still trying to trace some of that money. Without a commingling restriction, there is little to stop unscrupulous school administrators from successfully siphoning off grant funds for personal use, thus depriving the students most in need of Federal funds intended for their education.

These provisions are designed to discourage the kinds of abuses that the subcommittee uncovered in the course of its hearings.

Mr. President, I believe that the amendment is needed to counter the unwillingness of the Office of Education to face the fact that there are inveterate hucksters in the field of education, just as there are in medicine, used car sales, and just about any other facet of commerce as well as politics.

To allow such fly-by-night operators to continue to abuse this noble program with impunity is for the Congress, in effect, to condone such illicit activity. Senator Nunn and I previously have written to Senator Pell, the distinguished chairman of the Education Subcommittee, offering proposals for establishment of criminal penalties within this act. Senators Pell and Javits are to be commended for their outstanding leadership and concern for the education of all Americans. They accepted many of the proposals which we offered. The subcommittee, for whatever its reasons, chose not to include the criminal penalties that we proposed. I ask that a copy of our letter be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, House Minority Whip Bob Michel of Illinois whom I have long admired for his work in this area, has been a leader in the effort to establish criminal penalties for many of the wrongs I have cited. Largely because of his diligence, the House approved a series of amendments which fix penalties for a number of activities affecting the student loan program. I ask permission to include in the Record, following my statement, Representative Michel's explanation of the reasons behind his Student Aid Abuse Act proposal. The amendment I present today is designed to cure specific problems presented to the Investigations Subcommittee during its hearings. In the House bill, criminal penalties are proposed for a number of additional activities which were not explicitly addressed in the inquiry and hearings of the Permanent Subcommittee on Investigations. They are, therefore, not included in the amendment we are offering today. It is my hope, however, that when this bill gets to conference, the conferees give serious consideration to the merits of these additional House provisions, the need for which Congressman Michel has well-documented.

Together with Senator Nunn, I offer this amendment to correct a bad situation and to assure that the student loan program is afforded every opportunity for enhanced success.

I ask unanimous consent that the amendment be printed in the Record.

There being no objection, the amendment and material were ordered to be printed in the Record, as follows:

AMENDMENT NO. 2226

On page 130, between lines 13 and 14, insert the following:

(c) Subpart 2 of part A of title IV of the Act is amended by adding at the end thereof the following new section:

"CRIMINAL PENALTY FOR UNLAWFUL PAYMENT

"Sec. 413E. Any person who makes an unlawful payment to an officer or employee of the United States to obtain funds for supplemental grants under this subpart, and any officer or employee of the United States who accepts any such unlawful payment, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than 5 years, or both.".

On page 163, after line 24, insert the following:

(n) Part B of title IV of the Act is amended by inserting immediately after section 439 the following new section:

"CRIMINAL PENALTIES

"Sec. 440. (a) Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with an application for accreditation by a nationally recognized accrediting agency or association, or for a finding by the Commission under section 435 (b) (4) (A) or (B), for the purpose of qualifying an educational institution as an eligible institution under this part shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"(b) Any person who knowingly and willfully makes any false statement to, furnishes any false information to, or conceals any material information in connection with the assignment of a loan, which is insured under this part, to another eligible lender, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"(c) Any person who makes an unlawful payment to an eligible lender as an inducement to make, or to acquire by assignment, a loan insured under this part shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"(d) Any person who knowingly and willfully destroys any application for a loan which is insured under this part, any application for insurance of a loan under this part, or destroys or conceals any other record relating to the making or insuring of loans under this part with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.".

On page 175, line 4, strike out "section" and insert in lieu thereof "sections".

On page 176, line 23, strike out the quotation marks and the period the second time it appears.

On page 176, after line 23, insert the following:

" 'SEGREGATION OF FUNDS

" 'Sec. 498 C. (a) Any person who receives funds under the provisions of this title for the making of grants or loans as provided in this title shall be deemed a custodian of public funds and shall not disburse or otherwise use any of such funds for any purpose other than as expressly authorized by the provisions of this title. Such funds shall be maintained in separate accounts and shall not be commingled with the operating funds of any institution, nor with any other funds except as expressly provided in this title. Such persons shall maintain such records of such separate accounts as Commissioner shall by regulation require.

"'(b) Any person who violates any provision of this section, or any regulation prescribed pursuant to this section shall be fined not more than $10,000 or imprisoned not more than five years, or both.'".

Committee on Government Operations, Senate Permanent Subcommittee on Investigations,
Washington, D.C., March 15, 1976.

Hon. Claiborne Pell,
Chairman, Subcommittee on Education, Committee on Labor and Public Welfare, Washington, D.C.

Dear Senator Pell: As you know, the Senate Permanent Subcommittee on Investigations has held a series of hearings into fraud and abuse in the administration of the Federally Guaranteed Student Loan Program. During these hearings, we had the very helpful counsel of Senator Javits, who so ably serves with you on the Education Subcommittee. During our discussions, Senator Javits suggested that we offer your Subcommittee our thoughts on possible legislative initiatives that would appear warranted to correct many of the abuses uncovered during our hearings.

Knowing of your own dedication to this very important program and with deep respect for the leadership role you have played on the Education Subcommittee, we submit for your consideration the legislative proposals outlined below. We will certainly make Subcommittee staff available to meet with your staff to expand upon these proposals and discuss other relevant material which has come to our attention in the course of our investigation.

LIMITING POTENTIAL FOR FUTURE LOSSES

As testimony made clear during the hearings of the Investigations Subcommittee, default rates are running much higher in the direct, federally-insured part of the GSL program than they are in the state-run program. Under the state program the federal government acts as a reinsurer rather than as a direct insurer. Although the initial concept of the program was to help middle-income students, the emphasis has shifted so that a large number of beneficiaries are lower income persons. It was originally anticipated that outright grant programs, with no anticipated repayment, were for the use of these most-disadvantaged students.

At the same time, the original goal of trying to encourage state programs has apparently been abandoned in favor of the direct federally-insured lending program. As a result, only 25 states now operate their own guaranteed student loan program.

To remedy these problems, Congress could pass legislation establishing a date after which the Department of Health, Education, and Welfare would no longer directly insure loans. Instead, emphasis would be shifted to state programs. Accordingly, legislation should also be contemplated to encourage the other 25 states to set up their own programs.

A principal reason that many states do not operate their own student loan program is the HEW collection policy. In the state-run programs, the federal government reimburses the state 80 per cent of a defaulted loan. This leaves the state with a 20 per cent exposure. However, under existing procedures, if the state collects any money it must turn it over to the federal government until the entire federal obligation is liquidated. Such a policy is a disincentive for state action. If this policy were modified to provide an equitable sharing of collections between the state and the federal government, more states could be expected to inaugurate their own programs and strengthen existing programs.

Legislation must also be considered to authorize a study of how to encourage more state-run programs. For example, the federally-guaranteed portion could be increased and/or the federal government could reimburse the state for a percentage of its collection costs.

Your Subcommittee might also consider providing a bonus to states which run their own insured-loan program under the State Incentive Grant Program in which all 50 states now participate.

An alternative would be to limit the total liability of the state and federal governments in the direct loan system to 80 or 90 per cent of the loan, making the lender responsible for 10 or 20 per cent of the liability. But, realistically speaking, this would undoubtedly result in a severe curtailment of the program unless accompanied by some companion inducement to banks to continue to write these loans.

Finally, consideration should be given to eliminating proprietary and correspondence schools as lenders under the program. In most state programs such schools are not permitted to be lenders, although a student could obtain a loan from another source to enable him to take courses at such schools. Undoubtedly, the elimination of such schools as lenders is one reason for the better performance of state-run programs. On the other hand, we have heard the counter-argument that such schools offer constructive courses which would not be available to students unless such institutions were permitted to continue as lenders. In any event, it would seem that such institutions should be permitted to serve as lenders only after the most careful scrutiny.

ENFORCEMENT AND COMPLIANCE

It was clear from testimony that the Office of Education has been less than efficient in its administration of the program and woefully lacking in professional personnel who will dutifully enforce existing laws and regulations. It is, therefore, suggested that a most important legislative step involves increasing the authorization for more auditors, investigators, compliance officers and support personnel as well as additional travel funds. We understand that some administrative changes within HEW have recently been undertaken with a view toward strengthening this surveillance component. The Education Subcommittee should determine whether those efforts suffice or whether they are merely cosmetic.

In addition, since there are no criminal penalties now being used by the Office of Education in prosecuting violators, it is suggested that criminal penalties be written into the law which would prohibit:

The siphoning off of or allocation of grant funds for purposes not directly related to education, including entertainment, transportation of non-students, payments to non-students for non-educational services, and payments to federal, state or local officials intended to influence governmental action favorable to a school;

False statements made to accreditation organizations;

Fraudulent action of individuals which cause a default claim to be filed against the United States;

The payment of bribes to lenders to induce them to buy GSL loans; and

The intentional destruction of records by any participants in the GSL program.

To provide a marketing unit for guaranteed student loans, Congress created the Student Loan Marketing Association, a quasi-governmental corporation, in 1973. Now, however, it is the opinion of the Department of Health, Education, and Welfare that guaranteed student loans are not negotiable instruments and it is therefore questionable what useful function the Student Loan Marketing Association (Sallie Mae) is serving.

Moreover, the enabling legislation did not require audit of Sallie Mae by the General Accounting Office. Consideration should be given to requiring a GAO audit of Sallie Mae, with a report to be prepared for Congress within six months.

For some time, HEW has proposed cutting the National Direct Student Loan Program and the Supplemental Education Opportunity Grants Program. This proposal merits consideration if coupled with a broadening of the Basic Educational Opportunity Grant Program to pick up true hardship cases now being handled by SEOG. An alternative would be to use NDSL and SEOG programs only for students in higher-learning institutions, while terminating these programs for proprietary vocational schools, since this latter category is where most of the abuses have been found.

Before termination of any of these programs, however, a complete audit of the disposition of the funds should be completed. It is likely that such audits will show massive amounts of unaccounted-for federal monies.

In addition, there are many other problems in the program which could be corrected by new or revised regulations or administrative procedures. Examples include the accreditation process, the composition and authority of boards making outright grants to schools, procedures whereby dropouts can be monitored, problems with present computer and record-keeping capabilities, and clarification of rights and obligations of lenders, students and the government. But one of the greatest criticisms we have of HEW is that they have not promulgated essential regulations to run the program properly. We believe it has reached the point where you might want to consider including in pertinent legislation a directive that HEW promulgate regulations in these and other specific areas with the imposition of a stringent time requirement.

We hope these suggestions will be of some assistance to you in your examination of legislation in this important area. Please feel free to call upon us for any further assistance.

Sincerely,

Sam Nunn,
Charles H. Percy,
U.S. Senators.

Statement of John J. Walsh, Investigator, Permanent Subcommittee on Investigations

My name is John J. Walsh and I am an investigator on the staff of the Senate Permanent Investigations Subcommittee. I was assigned to work on the investigation of the Federally Insured Student Loan program and the direct grant programs in the spring of 1975. I participated in meetings with the General Accounting Office where it was agreed that to complement the general review of management controls and practices to be done by the General Accounting Office, the Subcommittee staff would focus on specific case examples involving the programs.

The first step was a review of HEW files involving problem schools. Some 30 or 40 files were reviewed. The files were in deplorable shape. There was no one master file on any school. Pertinent documents were scattered through many different files in many different offices. Material in the files was not maintained chronologically, by subject matter or in any kind of order. Incoming correspondence was found with no record of a reply;

outgoing correspondence was found which referred to incoming letters which could not be located. In most cases, it was necessary to completely rearrange the file before one could understand the nature of the school's problems.

It was apparent from the files reviewed that a major problem existed in the Advance Schools located in Chicago, Illinois. Advance is a correspondence school which went bankrupt in 1975, leaving about 70,000 students stranded and about $150 million in guaranteed student loans in the hands of some 45 financial institutions, a substantial part of which could become default claims against the Government.

Another major problem area was in the Dallas Region where a number of schools had been suspended or removed from the program. In this region several investigations were already under way; and a substantial number of cases were awaiting investigation when personnel became available. A number of HEW officials in the Dallas office had been suspended from their duties because of alleged improprieties. More will be set out later concerning these cases but because of the advanced stage of these investigations, it was decided that Subcommittee efforts might be duplicative of work already done.

The file reviews showed problem schools in every region of the country but it was noted that there was a large number of problem schools in California. The file reviews indicated a possible pattern where schools had been operated intensively for a short period of time to build up the student body, usually immediately after opening or after a change in ownership. A large cash inflow would be provided from the sale of guaranteed loans. The school would be closed abruptly and the students would be unable to complete their classes. Financial institutions which had obtained these loans would have substantial claims but the school would be out of business and many of the students would be unable to pay or had not finished their courses so that they were not accountable for the full amount of their loans.

The files reviewed failed to show any pending prosecutions or, in fact, even any pending investigations in California. After a review of a number of California problem schools, it was decided to focus attention on the operations of Automation Institute of Los Angeles, Inc., doing business as West Coast Schools.

The HEW file showed that this school closed down in May 1973, leaving many students unable to complete their education; that there had been a change in ownership shortly before the school closed; and that a large number of student loans had been sold to financial institutions in the last few months of the schools' existence. An audit had been started by HEW but had never been completed because the current owner, one Fred Peters, had moved the books and records to an undisclosed location. There was no indication in the HEW files of any ongoing investigation or even of any attempts to locate the books and records.

The major question addressed in the file appeared to be whether HEW should pay default claims to the financial institutions which held the students' notes as there was some unresolved question as to whether refunds were due to students because of the schools' closing. As testimony will later show, the investigation disclosed some startling facts as to this school and its principals' activities but there was no reason to suspect the existence of these problems from the HEW file. This, of course, raises the question as to whether the same types of problems and even criminal acts could be found in other schools in California or elsewhere if an adequate effort was made to discover them.

The investigation of West Coast Schools began at the Los Angeles office of the HEW audit division. It was found that an audit of West Coast Schools had commenced after the school was closed on May 24, 1973. While the audit was never completed, it was found that government funds paid to the school for the grant programs could not be accounted for. However, the audit had been dropped indefinitely because the books and records had been moved and HEW was unable to find out their location.

The Los Angeles audit office reported to the Subcommittee staff in June 1975, that while no one in the Federal Government was showing any interest in the West Coast Schools case, the Fraud Section of the Los Angeles County District Attorney's office was interested and was taking some action. It was felt that the logical approach was to look into the matter of how much money was obtained by the sale of guaranteed loans and from grant programs and try to determine what happened to this money—whether the money was actually used for the school or whether it was used for the benefit of the owners. The Los Angeles County District Attorney's Office was contacted and that office was interested in pursuing this matter. However, a major problem was encountered. Within the last two years of the school's operations, nearly 50 bank accounts had been opened and the funds received by the school had been shuttled through these accounts. These included local accounts, out-of-state accounts, accounts of West Coast Schools, accounts of dummy corporations set up by the West Coast Schools' officials, and personal accounts of West Coast Schools' officials. It was agreed that the Los Angeles County District Attorney's office and the Subcommittee staff would work together to try to trace the movement of these funds through this maze of bank accounts, and try to determine whether the money was being spent for legitimate purposes or whether it was being diverted for personal gain. Mr. Andrew Ewing, Investigator for the Los Angeles District Attorney's Fraud Section was designated to work with the Subcommittee staff and his cooperation and assistance has been invaluable.

I want to present at this time a chronology of the pertinent events pertaining to West Coast Schools. I ask that the chronology be printed in full in the record of the hearings but to save time, I will read at this time only highlights from the chronology. I also present a list of documents to support the chronology and ask that the list be printed in full in the record and that the documents be introduced as exhibits.

West Coast Schools Chronology

Throughout the chronology, reference will be made to West Coast Schools even though the true name is Automation Institute of Los Angeles, Inc., d/b/a West Coast Schools.

June 13, 1966.—Automation Institute of Los Angeles was incorporated under the laws of the State of California. The President was Edward Tokeshi; the Vice President was Yale Lasker. The purpose of the company was to operate a computer training school at 451 South Hill Street, Los Angeles, California. Tokeshi and his family owned 80 percent of the stock; Yale Lasker, 20 percent.

1969.—Automation Institution of Los Angeles was accredited by the National Association of Trade and Technical Schools and was approved by HEW as a lender.

1969.—Fred Peters appeared on the streets of Los Angeles, unemployed and penniless. He was employed as a telephone interviewer by the Jane Arden Employment Agency, salary $450 per month. His supervisor was O. A. (Dan) Dameron, Branch Manager.

April 1, 1970.—Fred Peters was hired as Placement Manager for Automation Institute of Los Angeles by Edward Tokeshi at a salary of $850 per month.

1971.—Fred Peters was promoted to Vice President of Automation Institute of Los Angeles. He bought 20 percent of the stock from Yale Lasker. The money for this purchase was loaned to Peters by Edward Tokeshi.

1971.—Fred Peters hired Dan Dameron as his assistant.

1971.—Fred Peters was made President of Automation Institute and Edward Tokeshi became Chairman of the Board. Peters assumed active control over the affairs of the corporation and intensified the efforts of the school to obtain funds by selling guaranteed student loans and by applying for financial assistance grants.

November 1971.—Automation Institute purchased five West Coast Trade Schools in the Los Angeles area from Computing and Software, Inc. These five schools had been operating in the Federally Insured Student Loan Program since July 7, 1967, without accreditation. They had been given a grace period by HEW to secure accreditation from the National Association of Trade and Technical Schools by September 1, 1972, or be dropped.

After the purchase of the five trade schools, the corporation now was known as Automation Institute of Los Angeles doing business as West Coast Schools. Salesmen were hired and an intensive advertising campaign both in the press and on television was initiated to sign up new students and to increase the enrollment in the new schools.

September 20, 1971.—Fred Peters was appointed by James Hoffe, Senior Program Advisor for Financial Assistance, HEW San Francisco, to the Advisory Panel for Region IX of HEW. The function of the panel was to review applications for financial assistance grants from schools in Region IX and to recommend how much in Federal funds should be awarded to each school.

December 2, 1971.—Group II Equities was incorporated this date under the laws of the State of California with 20,000 shares of common stock authorized at a par value of $10 per share. Directors were listed as F. P. Fisher, D. M. Carman, and Edward Tokeshi. As of May 31, 1973, officers were identified as D. M. Carman, President; Fred Peters, Vice President; F. P. Fisher, Secretary-Treasurer. As of August 1, 1974, the charter of the corporation was suspended.

Peters had brought Fisher and Carman into the management of West Coast Schools about the time of the purchase of the new schools.

March 1972.—HEW reminded West Coast Schools by letter that the September 1, 1972, deadline for accreditation of the five non-accredited trade schools was approaching.

April 14, 1972.—An investigation was being conducted by the Federal Home Loan Bank Board into irregularities by certain Savings and Loan Associations in their acquisition and handling of Federally Insured Student Loans. Warren Tappin, HEW San Francisco, contacted the local office of the Federal Home Loan Bank Board and wrote a lengthy report to William M. Simmons, Chief of the Insured Loans Division in Washington, D.C.

The following is quoted from page 10:

"It is quite apparent from the delinquent accounts that we are also going to experience difficulty with Automation Institute of Los Angeles, California. The Association [U. S. Life Savings and Loan] accepted over $1 million of paper from the school . . . This is another school that we have been watching as I am confident that we will experience basically the same problem with this institution that we have and are experiencing with Airlines Schools Pacific."

The report was never sent to the HEW file on Automation Institute and as far as is known no action was taken on the report.

May 26, 1972.—Group III Equities was incorporated under the laws of the State of California. 7,500 shares of no par value stock authorized. Directors were F. P. Fisher, Fred

Peters and David M. Carman. The corporate charter was suspended as of July 2, 1973.

July 7, 1972.—West Coast Schools was notified that the eligibility status of the five unaccredited schools for insured student loans would be extended to October 31, 1972. The unaccredited schools were not eligible to receive the direct grant of Federal funds from the College Work Study and National Direct Student Loan Programs.

September 1, 1972.—Fred Peters, Peter Fisher and Dave Carman bought the remaining 80 percent of stock from Edward Tokeshi and his family and assumed full control of Automation Institute. The price was $141,900 and this sum was paid to the Tokeshi family from the Schools' own funds.

December 31, 1972.—Mr. Peters was notified that HEW was extending the eligibility of the schools for the insured student loan program until February 16, 1973.

January 1973.—The National Association of Trade and Technical Schools denied accreditation to the five newly purchased West Coast Schools.

January 11, 1973.—Lenora W. Mallory, HEW Washington, wrote Fred Peters informing him that the HEW Division of Insured Loans had approved the continuation of Automation Institute's participation in the insured loan program for the next 12 months. However, the letter stated that Automation Institute was instructed not to write more than $300,000 in loans during this period. Actually, between January 1, 1973, and May 24, 1973, the date the school closed, over two million in loans was written. HEW had no mechanism whatsoever to be informed on a current basis as to how much in loans the school was writing nor did HEW have any means to enforce any limitation it imposed. Fred Peters thus could and did ignore the restriction with impunity.

February 6, 1973.—PFC Investments was incorporated this date under the law of the State of California. 7,500 shares of no par value stock were authorized. Directors were listed as F. P. Fisher, W. Fred Peters, and D. M. Carman. California records indicate that as of August 5, 1975, the corporation was in good standing.

February 14, 1973.—R. L. Mappus, Senior Program Officer, Guaranteed Student Loans, HEW, San Francisco, wrote William Simmons, Director, Insured Loans Division, Washington, D.C., of some irregularities on the part of West Coast Schools in the handling of student loan papers. The following is quoted:

"The aforementioned facts and the exhibits attached clearly indicate . . . above and beyond reasonable suspicion of irregular practices on the part of the subject. . . . A program review will be conducted on this school prior to the end of March 1973. In the meantime, it seems logical that we further restrict or suspend this school contract as a lender."

March 7, 1973.—S. W. Herrell, Acting Deputy Associate Commissioner, Office of Education, HEW, wrote Fred Peters saying a decision on the continued eligibility of the five West Coast Schools was deferred until April 14, 1973, pending action by the accrediting agency (NATTS) on an appeal hearing set for April 6, 1973.

March 9, 1973.—William M. Simmons, Jr., Director, Insured Loans Division, wrote to S. W. Herrell, Acting Deputy Associate Commissioner, referring to certain complaints and investigations made concerning West Coast Schools and says:

"I would be remiss in my duty to you and to the program if I did not apprise you of my concerns and strongly recommend that we suspend any further insurance for students in these schools until both the schools' accreditation status and Mr. Peters' performance under his contract of insurance becomes more clear."

April 26, 1973.—R. L. Mappus, HEW, San Francisco, wrote Fred Peters saying that because of accounting deficiencies disclosed in a program review recently conducted, HEW would withhold action on all student loan applications until West Coast Schools made refunds of $550,000 and reimbursed HEW for excess interest billed HEW effective June 1, 1973.

April 26, 1973.—Phillip A. Taylor, NATTS, advised HEW that the previous action in January 1973, denying accreditation had been reaffirmed following an April appeal hearing.

May 1, 1973.—William M. Simmons wrote S. W. Herrell, Acting Deputy Associate Commissioner, saying "we urge in the strongest possible terms that eligibility for further participation in the GSL program by these schools be denied."

May 2, 1973.—William M. Simmons sent another memo to S. W. Herrell reporting further information on the activities of Fred Peters and saying: "In view of this and other irregular activities previously reported, we would like to reaffirm our prior recommendation that no further extension of these schools' eligibility be granted."

May 3, 1973.—The HEW file shows a draft memo dated this date setting out a chronology of pertinent actions in the West Coast Schools case which says:

"In view of the denial of accreditation of the schools by a nationally recognized accrediting agency, we can see no loophole in the law which would permit the commission to grant continued eligibility to these schools."

May 4, 1974.—A package of $323,500 worth of Federally Insured West Coast Schools' student loans were sold to the Kern County Employees Credit Union, Bakersfield, California. David Sawaya, a money broker, and Dan Dameron, a West Coast Schools employee, delivered the package of loans and received three $100,000 Ginnie Mae certificates in payment.

May 9, 1973.—Officers of Automation Institute of Los Angeles were listed on this date as Fred Peters, President; D. M. Carman, Vice President; F. P. Fisher, Secretary/Treasurer.

May 19, 1973.—The three $100,000 certificates were sold by the City National Bank for net proceeds of $290,717. A $3,000 commission was paid David Sawaya and $287,717 was deposited this date to the account of Group III Equities at the Union Bank, Century City Branch, Los Angeles, California.

May 22, 1973.—A check for $290,000 signed jointly by Peters, Fisher and Carman was cashed at the Union Bank and taken out in $100 bills.

May 24, 1973.—Fred Peters announced that all six schools operated by Automation Institute would be closed indefinitely.

June 4, 1973.—On this date, almost two weeks after the school closed, John Ottina, Commissioner of Education, signed a formal notification to Fred Peters that the five West Coast Schools not accredited were no longer eligible for participation in the Federally Insured Student Loan Program.

June 11, 1973.—Alexander Grant and Company, certified public accountants, had made in the fall of 1972, an audit of the books of Automation Institute for the period ending June 30, 1972, and published a qualified report. In the spring of 1973, information was reported to Alexander Grant employees of the school indicating improprieties on the part of the management of the school. Officials of Alexander Grant attempted to obtain access to the records of the school to determine whether their qualified report should be reviewed and withdrawn, but the school officials rebuffed them. On this date, a letter from Alexander Grant was directed to D. W. Stepnick, Director of HEW Audit, Dr. Leonard Spearman, Director of Student Assistance, and Mr. William M. Simmons, Jr., Director of Insured Loans, all in Washington, D.C., advising these officials of the existence of these allegations. More details concerning this incident will be set out later.

June 11, 1973.—Peters, Fisher and Carman appeared at the First National Bank of Arizona with a brief case full of $100 bills which they exchanged for $278,000 in cashiers checks. This incident became known to Gene Ferguson, a Los Angeles newscaster who gave it wide publicity on his broadcasts over Station KPOL.

July 12, 1973.—A $100,000 package of Federally Insured Loans was sold by Automation Institute to Ralph's Credit Union, Los Angeles. Ralph's Credit Union was not aware that the schools were closed and that the paper was of doubtful value. This transaction will be examined further.

August ?, 1973.—Gene Ferguson met with HEW officials in San Francisco, Dr. Edward Aguirre, Regional Commissioner of Education, Florence Van de Camp, Regional Legal Counsel, Rudy Mappus, Senior Program Officer and others. He gave them copies of transcripts of his broadcasts setting out allegations of fraud and a copy of an affidavit from an officer of the First National Bank of Arizona giving details concerning the $278,000 in cash. Although these officials retained copies of these documents and sent copies of the documents to Washington, no action was taken either in San Francisco or Washington to make this information available to HEW auditors; to the HEW Office of Investigations; to the United States Attorney or to the FBI.

August 9, 1973.—HEW auditors commenced an audit of West Coast Schools records in Los Angeles. No attempt was made during this audit to look into the disposition of the $278,000 in cash or to contact Alexander Grant to learn what information that company had concerning West Coast Schools.

December 12, 1973.—HEW submitted a draft of a proposed audit report prepared by the Regional HEW Audit Agency based in Los Angeles. The audit began August 13, 1973, and the period covered in the audit was from July 1, 1970 through July 31, 1973. The audit was concerned primarily with the accountability for National Direct Student Loan Funds and College Work Study Funds received by the school which amounted to $1,209,827 during this period. The conclusion was that the school did not have adequate accounting records, procedure or control to effectively manage these funds. It was recommended the school be required to refund $462,588 in program funds and concluded that as much as $666,319 or more of these program funds were not accounted for. Fred Peters disputed the conclusions in this draft audit report and no action was ever taken to try to collect the money.

February 11, 1974.—West Coast Schools continued to submit invoices to HEW requesting payment of interest and special allowance direct to West Coast Schools even though the school was closed August 24, 1973.

March 1, 1974.—A package of Federally Insured Student Loans amounting to $480,317 was sold to the Big Spring Savings Association, Big Spring, Texas, by a group of people working out of Phoenix, Arizona. Fred Peters and Pete Fisher were part of this group. Included in this package of insured loans was $159,284 of West Coast Schools' loans. These were of doubtful value since the school had been closed almost one year. The Big Spring Savings Association remitted the purchase money before the actual delivery of the loan files. The purchase money was divided by the group in Phoenix. Fred Peters received $100,000. An investigation of this incident was initiated by the United States Attorney's Office in Phoenix, Arizona later in 1974, but nothing came out of it.

April 1974.—A memo to the Secretary of HEW was sent by John R. Ottina, Commissioner of Education. The following is quoted:

"Needless to say Mr. Peters and the loan proceeds have left the scene but we have had some indications recently from his attorneys that he may be willing to come to the conference table (privately) with OE personnel and our legal counsel. Our future course is not set because many pieces of the puzzle are yet missing."

April 22, 1974.—An investigation into West Coast Schools was initiated by the Office of Investigations and Security for HEW. This investigation was based upon a complaint made by a letter dated December 12, 1973, addressed to Congressman Edward R. Roybal by Ricardo Livas, a former employee.

Livas was found to have been employed prior to 1971 and his allegations were found to be largely non-specific and not relative to the operations of Fred Peters. The investigation was also based on a memorandum dated April 12, 1974, prepared by John R. Ottina setting out some information about Peters and West Coast Schools. Nothing was mentioned in this memorandum concerning the reports of alleged improprieties made to HEW by Alexander Grant Company, or about the $278,000 in $100 bills.

April 29, 1974.—The HEW file contains a draft memo by William A. Morrell, Assistant Secretary for Planning and Evaluation, on the subject of preventing the recurrence of cases like West Coast Schools. The following is quoted:

"We must have the mechanism and the will to take what will undoubtedly seem drastic action. There is no question that such action will in some cases force the closure of schools . . . But we must be willing and able to make up our minds quickly when the risk to prospective students and the Federal Government tips the scales in the direction of closure. It seems likely that considerable losses would have been avoided in the West Coast Schools case had action been taken more quickly."

Statement of Congressman Bob Michel on the Introduction of the Student Aid Abuse Act of 1975—October 3, 1975

It is now clear that there is substantial fraud and abuse in our Federal student aid programs, particularly the proprietary school segment of the guaranteed student loan program, and it is high time we stopped it.

This fraud comes about in a great variety of ways. There is no single m. o. Rather, the avenues which are used are as many and varied as the criminal mind. It is a con game of immense proportions, involving huge sums of money. When pieced together, it amounts to one of the most gigantic ripoffs in the country.

And who are the victims of this fraud? They are the taxpayers of the United States and the thousands of individual people who enroll in these schools after being led on by misleading advertising and high pressure salesmanship.

My office has conducted a vigorous investigation on this problem, and I am delighted to say that we have had the cooperation of the new Secretary of HEW, and especially of the Commissioner of Education, Dr. Terrell Bell, who is with me today, and who is as committed as I am to rooting out this corruption, and ending the abuses which exist not only in the proprietary school industry, but also in the financial community and the Office of Education itself.

Dr. Bell deserves the applause and support of the people and the Congress for his commitment to good government. In addition, he needs some new tools in order to do the job of cleaning up this blight on our education program.

The legislation which I am introducing today is designed to provide those tools.

But before discussing the specifics of the bill, let me attempt to outline the parameters of the problem. This is a difficult task, because as I have indicated, there are a vast number of varieties of student aid fraud. But let me give you some idea of what we are talking about.

In many instances, the fraud comes about because fly-by-night proprietary school operators sign up students, have them fill out the forms for the federal loans, sell the loan paper for cash, and then go out of business, leaving the student without the education they expected but still owing the government the loan money. In some cases, student names and signatures have been falsified on the loan applications.

Most of the time, the proprietary schools themselves are the lenders, and they frequently sell their paper to established lending institutions, who are willing to purchase it on the basis of the government guarantees. It is possible that in some instances lending institutions themselves have been party to these shady activities, although in most cases they are unwitting participants, having purchased the notes in good faith.

Not all of the problems involve fly-by-night operations, however. There are some well-established correspondence schools, for example, that are systematically involved in the ripoffs. Characteristically, they operate on the basis of a high—perhaps enormous is a better word—rate of student dropouts. Justice would suggest that if a student drops out of a class after a few weeks, he should be refunded a prorated portion of his tuition, but in case after case this is not done. The result is that the school collects the full tuition through government student loans, puts the money to its own use, and lets the government worry about trying to collect from the dropped-out student when the loan comes due. The student is then faced with a dilemma. He received no education, but he is in trouble with the law if he does not pay up. Given these conditions it is small wonder that the default rates on student loans are so astronomical. For the guaranteed loan program, these rates are currently about 18% and rising, with 70% of the defaults involving proprietary school students.

Let me cite for you here just three examples of cases that are currently under investigation by Federal authorities. Because these investigations are now in process, I cannot divulge the names of the schools involved, nor can I reveal which Federal agencies are doing the investigations. But I think these cases will give you some idea of what we are dealing with.

The first case involves a vocational-technical school in Detroit. It has been discovered that 659 students of this school received Federal financial aid of $400,000. The investigation also reveals that 20% of the 659 students never attended a single class, and that an additional 33% dropped out before completing the course. It is alleged that the school was ineligible for federal student aid to the 659 students. No accurate accounting system or documentation has been uncovered to substantiate or verify the school's claim to receive the Federal student aid money.

The second case. A Federal investigation into a proprietary school on the West Coast reveals approximately 7,000 students receiving Federal student aid. The drop-out rate is 50%. The estimated amount of money involved is between 9 and 14 million dollars. That is taxpayers' money the school collected on behalf of students it never educated.

In the third case, a large, nation-wide proprietary correspondence school claimed 91,000 students receiving Federal Insured Student Loans. 89,000 of those students dropped out, and the investigation reveals that only 1,665 students graduated, some 2% of the students receiving government financial assistance. This school has averaged over 90 million dollars a year in FISL funds during the last five years.

There are any number of other cases, and some have received coverage in the press. At the moment, virtually all of them involve what is termed "program abuse," and therein lies the rub. There are at present no criminal penalties for these abuses. Unless the schools can be prosecuted for deceptive advertising or some other related crime, they cannot be properly dealt with by the law.

My bill is designed to close this loophole. My bill would make it a Federal crime to defraud students receiving Federal assistance. It would also prohibit bribes, kickbacks, and other unethical inducements for individuals to make student aid grants or loans, or to sell student loan notes. It would make it a Federal crime to submit false claims and reports, make false statements or to falsify or destroy records needed to prove such violations. I intend to assure that Federal auditors and investigators have access to these records.

In addition, profit making schools will be prohibited from being lenders under the Guaranteed Student Loan Program, a power they have too often used as a sales device. And the student's and the government's rights to refunds will be guaranteed in all proprietary schools.

The bill also provides that whoever receives disbursements of Government student aid funds be designated the custodian of those funds and be prohibited from using them for other than the purpose for which they were granted. The funds could not be co-mingled with other monies, and must be held in escrow.

Finally, we would charge the Secretary of HEW with the responsibility for the enforcement of these provisions, and authorize him to conduct appropriate investigations to insure compliance. In this regard, it is clear that a beefing up of the investigative staff of the Department from its current staff of ten is essential. We have added an additional 12 positions in the Labor-HEW Appropriations bill, and I intend to move for further increases when we put together a supplemental appropriation bill later this fall.

Had these things been done years ago, we would not have the problem today. If they are done now, we will eradicate the problem for the future. I intend to press for passage of this legislation with every resource at my command. I intend to stop the ripoffs and the fraud and the deception. We simply cannot tolerate something like this in our country.

Ladies and gentlemen, let me say this. This thing is big; it is much bigger than we thought when we got started. How much money is involved? No one knows. It could be as much as 500 million dollars; it could be more.

Who is involved? We're just scratching the surface. The tentacles of this thing appear to reach deep into the government.

They reach into some of the nation's largest corporations. In the financial community, there are indications that banks, savings and loan associations, credit unions and other lending institutions are involved. The FBI has established task forces to probe the extent of this network.

There are people who have been perhaps unwittingly drawn into it, including Congressmen and Senators who may have had no idea of the far-ranging ramifications of this thing.

I am gravely concerned about where it all may lead. It is definitely not a penny ante matter.

There is going to be a lot of activity in this area as the investigations proceed. There is also going to be a lot of demagoguery, I fear, and some unproved charges tossed about. Those of us who are concerned about this problem have a special obligation to see that we do not by our conduct make statements which will damage the reputations of innocent people and infringe upon their personal rights. I intend to observe that standard.

AMENDMENT NO. 2228

(Ordered to be printed and to lie on the table.)

Mr. GLENN (for himself, Mr. STONE, Mr. TAFT, Mr. KENNEDY, Mr. HUMPHREY, Mr. GARY HART, and Mr. JACKSON) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 2657), supra.

ADDITIONAL STATEMENTS

THE MURDER OF 1ST LT. MARK T. BARRETT

Mr. THURMOND. Mr. President, on Tuesday, it was my sad duty to attend funeral services in Columbia, S.C., for 1st Lt. Mark T. Barrett, one of the two Army officers murdered by North Koreans at the Panmunjom cease-fire village.

President Ford, who asked that I represent him at Lieutenant Barrett's funeral, has properly condemned this senseless act committed by North Korean soldiers along the demilitarized zone.

Lieutenant Barrett and Maj. Arthur Bonifas, the other murdered officer, were performing their duties in an open and proper manner when this obviously well-planned and vicious attack took place. Although the assault lasted only about 6 minutes, these two officers were singled out and brutally murdered by the North Koreans.

The American Government has long recognized that the Communist authorities who control North Korea represent one of the most totalitarian and cruel dictatorships in the world. They have continually fostered truce violations along the armistice line and in December 1974 it was discovered they had constructed tunnels under the demilitarized zone well into South Korean territory. Previously, they had attempted to assassinate South Korean President Park.

As a visitor to South Korea in the winter of 1975, I inspected the area near where these two officers were slain. Based on information provided me reference this incident, there is no doubt in my mind that it was a deliberate and heinous crime which condemns North Korean President Kim Il Sung and his Government.

It illustrates the character of the North Korean Government and is further proof as to why the United States must maintain about 42,000 military personnel in South Korea.

Mr. President, the death of these two officers is a grim reminder of the dangers that thousands of U.S. military personnel endure daily in Korea and elsewhere in this dangerous world. The Communist nations of the world, and many nonalined countries, turn a blind eye to the butchery often fomented by the North Koreans. Those in this country who are promoting U.S. withdrawal from Korea must come to realize the enemy we face is unrelenting and unprincipled.

Lieutenant Barrett died keeping the peace we here at home too often take for granted. His sacrifice is no less heroic than those who died 200 years ago or in those conflicts since our Nation won its independence. His death, however, has touched each American in this year of peace, this year of 1976. They sympathize with his family because they know of his sacrifice.

Mr. President, my heartfelt sympathies are extended to the widow of this young officer and other members of his family. They have been called upon, as well as he, to bear an extra heavy burden in this Nation's efforts to maintain peace throughout the world. Lieutenant Barrett was a Regular Army officer performing his duties in a delicate situation. Obviously, the restraint he exercised in this incident probably cost him his life.

Mr. President, I ask unanimous consent that the following articles relative to this incident be printed in the RECORD at the conclusion of my remarks. They include: "Flags To Be Flown at Half-Mast Today," the State newspaper, Columbia, S.C., August 24; "Murders in Korea," an editorial in the Columbia Record newspaper, Columbia, S.C., August 24, 1976; and "North Korea's Regret," an article in the Chicago Tribune, August 24:

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Columbia (S.C.) State, Aug. 24, 1976]

FLAGS TO BE FLOWN AT HALF-MAST TODAY

(By Mary Whittle)

The citizenry and the military join the family of 1st Lt. Mark T. Barrett in mourning today as the slain officer is buried in Columbia with full military honors.

Gov. James B. Edwards has ordered all flags on state buildings to be flown at half-mast today in memory of Barrett who, along with Maj. Arthur G. Bonifas of New York, was killed by North Koreans near Panmunjom, Korea, last week.

The two officers were slain last Wednesday by North Korean army guards during a skirmish while they were supervising the trimming of a tree. Both men were assigned to the United Nations Command at the demilitarized zone between North Korea and South Korea.

The body of Barrett, which was flown to Columbia by a commercial airplane Sunday, will be buried at Greenlawn Memorial Park today following 2 p.m. services at the Devine Street Chapel of Dunbar Funeral Home.

In Columbia, more than 50 American flags will flank Main Street "in honor and respect" for the 25-year-old officer who left his station at Ft. Jackson for Korea.

Family members and civilian and military friends of the slain officer will be joined at the services by various military and state government dignitaries as well as those members of the general public wishing to pay their respects.

Assistant Secretary of the Army for Manpower and Reserve Affairs Donald Brotzman will represent the Department of the Army. Also, the director of the Army's staff at the Pentagon, Lt. Gen. William B. Fulton, will attend.

Representing the Republic of South Korea at the funeral will be Korean Maj. Gen. Bong-Chun Chang, a defense and military attache to the United States.

Maj. Gen. Richard L. Prillaman, commander of Ft. Jackson where Barrett was stationed from Dec. 1973 until his assignment last month in Korea, and a full Honor Guard will represent the military installation.

Also attending the services will be Sen. Strom Thurmond, R-S.C., and Gov. Edwards.

According to Ft. Jackson spokesman Bruce Andrae, seven members of the Honor Guard will fire a 21-gun salute over the gravesite at the conclusion of the services. Andrae said the flag-draped casket will be carried by Honor Guards who met it at Columbia Metropolitan Airport Sunday.

Final rites at the cemetery also will include the bugle playing of Taps.

Andrae said the military pallbearers are members of Barrett's former units at the fort—the 6th Battalion, 2nd Training Brigade and the Armed Forces Examining and Entrance Station. Barrett had been a training and executive officer from his arrival at Ft. Jackson in 1973 until June 1975 when he was transferred to the fort's Examining and Entrance Station. He remained at that post until last month when he left for Korea.

Lt. Col. Ollie L. Langford, commander of the 6th Battalion and the man in charge of the military pallbearers, lamented Barrett's untimely death Monday, saying, "It's a terrible tragedy; such a waste of a fine human being."

Remembering the slain officer, Langford said, "He was a rather large, handsome fellow, really, very active and very friendly and easy to get along with."

The commander said Barrett and his wife remained active as "alumni" in 6th Battalion activities even after the officer was transferred to the Entrance and Examining Station.

He said all of the military men participating in the service were friends of Barrett's and had worked with him.

The pallbearers include, in addition to Langford, Capt. Norman R. Allen, Capt. Herman S. Heath (Barrett's former company commander), Capt. Steve Overcash, Capt. David T. Smith, 1st Lt. Robert W. Venci and Lt. Daniel E. Redieske.

Langford said friends of Barrett's from distant places will attend the funeral. He said an officer stationed in Panama was at the airport in Columbia Sunday when the casket arrived.

In issuing Gov. Edwards' order that state buildings fly their flags at half staff, news secretary Robert G. Liming said, "The governor feels that this gesture in recognition of Lt. Barrett's personal sacrifice on behalf of his nation expresses the feelings and sorrow of all South Carolinians. Our prayers go out to his family and friends."

City of Columbia spokesman John Spade said the flags stretching along either side of Main Street from City Hall to the Capitol today are usually flown during special observances. He added this is the first time they will be raised in respect for a death, with the possible exception of the late Gov. James F. Byrnes.

The services are expected to last from 30 to 40 minutes, according to Ft. Jackson's Andrae. Following services at the chapel, which will seat about 400 people, the funeral procession will be escorted by Columbia City Police to Greenlawn Memorial Park.

Barrett's long-time friend, Rabbi William A. Greenebaum, a chaplain at Ft. Jackson, and another chaplain, Father Mark Manzak, will conduct the services. Barrett's widow, Julianne Reiner Barrett, is Jewish and he converted from the Catholic faith to Judaism several years ago. Greenebaum officiated at the Barrett wedding in Gainesville, Fla. two years ago.

[From the Columbia (S.C.) Record, Aug. 24, 1976]

MURDERS IN KOREA

Our feelings are mixed as we mourn the murder of First Lieutenant Mark Thomas Barrett whose body was buried at Columbia's Greenlawn Memorial Park today.

Young Barrett, whose army career seemed so bright, was one of two American officers slain last week by North Koreans at the Panmunjom cease-fire village.

We feel sadness for the families of both men. Our thoughts and sympathies are with them at this difficult time. We also feel unmitigated outrage at the brutishness perpetrated by the minions of North Korea's diehard Stalinist government.

The murders are the most recent examples of a long series of violent acts committed against the American ground troops stationed in South Korea. A year ago, for instance, North Koreans ganged up on an American officer, kicking and beating him unmercifully. His vocal chords were so badly injured he is still unable to speak properly.

The prevailing theory is that the barbarism carried out by North Korea's President Kim Il Sung is a form of diplomacy: to build support for a gradual phase-out of the 42,000 American ground troops still stationed in South Korea. The effect, of course, should be exactly the opposite: to strengthen our resolve in the face of extreme provocation and to buttress the argument for a continuing U.S. presence in that troubled Asian country.

In the wake of the murders, our government responded in appropriately blunt and forthright fashion, both diplomatically and militarily. We rejected as unacceptable a weaseling statement issued by the North Korean government. The statement expressed regret for the slayings but acknowledged no responsibility for them. At the same time, American forces along the Korean demilitarized zone were beefed up with additional naval and air power.

Predictably, North Korea complained that the U.S. show of power had brought the situation "closer to the brink of war."

Nothing fruitful will come of such propaganda ploys. Clumsy diplomatic rhetoric, coupled with barbarism, can earn North Korea only the disdain and disgust it deserves in the international community.

[From the Chicago Tribune, Aug. 24, 1976]

North Korea's "Regrets"

President Kim Il Sung has described as regrettable the slayings of two United States Army officers by his North Korean troops in the demilitarized zone. For the arrogant dictator to go this far is without apparent precedent, but it is not far enough.

The State Department is quite right in calling his message unacceptable becaue it did not "acknowledge responsibility for the deliberate and unpremeditated murders of the two UN Command officers."

It appears to us to be further unacceptable because it did not explain why the officers were killed as they directed a peaceful work party in pruning a tree in neutral territory. It appears still further unacceptable because it does not explain what, if anything, Kim proposes to do about the killers. In the absence of obvious and adequate punishment we shall continue to assume the killers were carrying out orders and that those orders came from high in the North Korean leadership.

The behavior of the United States has been proper since this unjustified and barbarous act. It expressed outrage. It sent planes and the carrier Midway into the Korean area to make clear that it was alert to the possibility that Kim might follow up barbarism with aggression. It showed restraint in not seeking revenge. And it made a nearly perfect symbolic response to the atrocity by sending in another work party which cut down the disputed tree. We thus made clear that the tree, which we have said blocked our observation of North Korean troop activities beyond the DMZ, would not be permitted to hamper our surveillance of an area in which we remain responsible for maintaining peace. And we made it clear that Kim was not going to intimidate us.

North Korean propagandists say our show of force has endangered peace in Korea. The opposite is true. For one thing, it deterred Kim himself from any further outrages he may have contemplated. And, for another, it doubtless was a calming influence on any South Koreans who might have been trigger-happy enough to respond to Kim in kind.

Our restrained response may not only have contributed to peace; it may have cost Kim two propaganda victories he could have been seeking. It deprived him of an opportunity to inform the conference of nonaligned nations in Colombo, Sri Lanka, that the U.S. was engaged in "aggression" against him. And it cost him an opportunity to suggest to Democratic presidential candidate Jimmy Carter that the administration over-reacted in a situation calling for coolness.

As it turned out, Mr. Carter supported President Ford in the actions he took and called the two killings "deliberate murder." And the conference of the nonaligned, though it adopted a resolution blaming the U.S. for increased tension in Korea, did so without much enthusiasm or conviction.

The murder of two Americans remains an intolerable crime; the matter is far from closed. But so far our government has behaved in a responsible way which shed no blood unnecessarily. It made no threats which cannot be carried out. And, we hope, it may have persuaded Kim that we remain alert to his mischief making and his desire to overturn world peace if he can gain something by doing so.

THE GENOCIDE CONVENTION AND THE MEANING OF MENTAL HARM

Mr. PROXMIRE. Mr. President, the Convention on the Prevention and Punishment of the Crime of Genocide includes in its definition of genocide the act of causing serious mental harm. Opponents of the convention have often expressed concern over the purported vagueness of the phrase "serious mental harm." The Senate Foreign Relations Committee, recommending ratification on four occasions, stated that it had no particular problem with the meaning of these words. It did recommend, however, that the words "mental harm" be construed to mean "permanent impairment of mental faculties."

This redefinition acts to refute charges made by critics who suggest that a liberal construction of the language of the convention would enable hostile foreign nations to invent supposed examples of American foreign involvement which somehow caused mental harm to a particular national group. It is clear that criticism of this sort is unfounded. Such liberal construction of the convention's wording constitutes an abuse of its provisions, intent, and purposes.

Similarly, with the committee's interpretation, foreign powers could not properly charge the United States with a violation of the Genocide Convention because of alleged harassment of minority groups. While those opposed to the treaty believe otherwise, the language of the convention makes it clear that the term genocide is not applicable in cases of discrimination. Only when there is evidence of intent to destroy, in whole or in part, a national, ethnic, racial, or religious group can charges of genocide violations be supported.

The Genocide Convention is meant to prohibit the tragic act of genocide. It does not attempt to deal with internal and political problems of any one nation. These fears should not stand in the way of our ratifying this important document.

DR. HUBERT PHILLIPS

Mr. CRANSTON. Mr. President, one of the greatest men of this century in the California Democratic Party, Dr. Hubert Phillips of Fresno, died last week at the age of 91. He was a dear friend for years. But more than that, Dr. Phillips was a joy to know—a joy because of his unflagging enthusiasm for seeking the truth and for bettering the human *condition*. For him liberalism was simply a compendium of the virtues he believed in: Honesty, decency, fair play, forthrightness, intellectualism, internationalism, and, most of all, tolerance. I want to share with my colleagues a Fresno Bee eulogy of August 19, 1976, to Dr. Phillips and ask unanimous consent that it be printed in the Record.

There being no objection, the eulogy was ordered to be printed in the Record, as follows:

[From the Fresno Bee, Aug. 19, 1976]

Hubert Phillips

Dr. Hubert Phillips' life was such a celebration of important virtues that it seems inappropriate to mourn his death this week at age 91.

Let us rather be grateful he came our way and stayed so long.

As a teacher, traveler, lecturer, civil libertarian, political and social activist, exemplar of moral courage, and thoughtful friend, he touched hundreds of lives.

He walked through the door of retirement and down the passageway to old age with such grace and intellectual liveliness that it was easy to forget what came before.

During his 32 years at Fresno State College Dr. Phillips was an educator in the broadest sense. He brought to his colleagues and students—and to the community through his lectures—a world view, an acute understanding of ideological and economic forces that was particularly valuable during the confusing and dispiriting period before World War II.

He was a liberal and wore the label proudly. He believed in social and political action to improve the human condition. Unlike many liberals, however, Dr. Phillips was truly compassionate, tolerant of opponents, and a vigorous but fair advocate. And he was willing, always, to act on his convictions right now.

His serenity and optimism were sorely tested.

He worked on a statewide group pressing for justice for farm laborers when this was enough to bring down smears from certain grower interests.

As a member of a state commission on housing he pushed for public housing at a time when some right-wingers perceived this to be a bolshevik plot.

He headed a committee during World War II which pressed for "fair play" for Japanese-Americans who had been sent to internment camps. Demagogues, riding on the hysteria of the times, attacked him. Dr. Phillips' response shamed them into silence.

His losing campaign for Congress in 1946—a bad year for liberal internationalists—was based on the issues but suffered from what some supporters—in a mood of fond exasperation—thought was excessive integrity.

And so it went—early resistance to the red-baiting attacks on the colleges in the 1950s, early opposition to the Vietnam war a decade later.

Dr. Phillips fretted mildly at the infirmities of old age because of the limits they imposed. But he tried to maintain his extensive correspondence, his curiosity, his friendships, his interest in what young people were thinking and doing. He did not retreat into the past. He never became the intellectual counterpart of the old soldier reliving his battles.

His legacy is carried in many hearts and minds.

TRIBUTE TO SENATOR DOLE

Mr. FANNIN. Mr. President, with the high spirits and the hoopla of the Republican Convention hardly over, it would be well for all of us to reflect on the wisdom of the President's choice of our esteemed colleague, Senator Dole, as his running mate.

I call to the attention of my colleagues a recent editorial of the Arizona Republic which fairly points out not only Senator Dole's considerable achievements, but also the qualities that make him an asset to the Republican ticket. As the campaign progresses, I think that President Ford's good judgment in his election of Senator Dole will become even clearer, as this Arizona Republic editorial suggests.

Mr. President, I ask unanimous consent that the complete text of the Arizona Republic editorial of August 20 be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Good Points for Dole

When President Ford picked Sen. Robert Dole of Kansas as his vice-presidential candidate, the first reaction was not exactly exuberant.

"The bland leading the bland" was a typically ungenerous remark.

But the senator from Kansas has a lot going for him. He is a team player. His modesty ("I'm not sure what I can contribute to the ticket") is refreshing in a business noted for its brashness. He has served in both houses of Congress, and has many friends there. He has been the national chairman of the Republican Party.

Most important of all, however, is that Dole was re-elected to the Senate in the post-Watergate year of 1974, when Republican candidates were being shot down all over the place. The bad Nixon image didn't brush off on him.

In fact, it was Nixon, or at least the Nixon White House, that removed him as chairman of the Republican National Committee in January 1973. The official reason: Dole was too independent of the White House. That was before Watergate had reached the huge proportions it was to achieve.

Dole favored winding up the Vietnam War at a time when Lyndon Johnson and the Democratic Congress were plunging the nation farther into the morass without making a victory possible.

When he left the party chairmanship, Dole said, "We're a strong minority party, but that's not enough. We've got to reach out and take in some of these people—blacks and Spanish-speaking Americans—and we've got to elect some good candidates."

Dole's obscurity may help him. He did not have as high visibility as Ronald Reagan, Sen. Howard Baker, Gov. John Connally and others. Therefore he hadn't made the enemies some of the others had.

His biggest job, of course, will be "to elect some good candidates." Presumably he will include Jerry Ford and himself in that number.

ALASKA FORESEES A GREAT INTEREST IN IMPROVED FUTURE AGPLANES

Mr. MOSS. Mr. President, surprisingly, the largest State in the Union, Alaska, has a very small utilization of agplanes at present. But for future potential, Alaskans are "very interested."

Those are not my words, Mr. President, but the words of the Honorable Jay S. Hammond, Governor of Alaska, and the word "very" is underlined by him. Let me read a short excerpt from his letter:

> As with many aspects of our State, the agricultural picture is rapidly changing. The next decade may see the development of the great basins along the Yukon River between Fairbanks and the Arctic Circle. This will be a type of agriculture demanding large investment and the most modern farm equipment. By the year 1985 Alaska may be *very* interested in the increased agricultural production afforded by a new generation of agricultural aircraft.

Governor Hammond continues with a number of detailed and interesting suggestions for possible improvements in agplanes, both fixed wing types and helicopters.

Mr. President, I ask unanimous consent that Governor Hammond's letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

State of Alaska,
Juneau, June 28, 1976.

Hon. Frank E. Moss,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

Dear Senator Moss: Thank you for your letter inquiring on the desirability of improved agricultural aircraft technology and its applicability to better agricultural productivity in the State of Alaska.

Although Alaska is a leading state in the utilization of small aircraft, the number of "ag" planes here is very small: several Pawnee-type adapted for seeding and fertilization and one or two devoted to mosquito control. Our small, family farms apply their pesticides with ground equipment.

As with many aspects of our State, the agricultural picture is rapidly changing. The next decade may see the development of the great basins along the Yukon River between Fairbanks and the Arctic Circle. This will be a type of agriculture demanding large investment and the most modern farm equipment. By the year 1985 Alaska may be *very* interested in the increased agricultural production afforded by a new generation of agricultural aircraft.

The specific technological improvements that can make agricultural aircraft more acceptable in our state are several:

1. Higher ferry speeds for our great distances. A wider envelope between stall speed and cruise speed and a greater selection of applicating speeds within this range. To be financially attractive to a small operator, one piece of equipment must be able to do several types of applications each demanding different optimum speeds,

2. Adaptation of modern turbo-prop engines to agricultural aircraft, plus a reinvestigation of tricycle gear (as on the Fletcher) for planes so equipped. Prop damage is common when working off rough strips and dinged prop and a "sudden stop" that can be shrugged off with a radial engine requires rebuilding a turbine,

3. Spray equipment and chemical formulations designed to control the drift of pesticides. Spray apparatus that is designed to give the pilot cockpit-control over droplet size,

4. A wider swath width for fixed wing aircraft when using either liquids or dry materials. Initial agricultural development will probably be in the area of small grains. Here the profit margin is small, the acreage large and an increase in swath width from the present-day one or two wing spans can be of considerable economic importance to our farmers,

5. A helicopter designed completely for agricultural use. At present agricultural users of rotary-wing aircraft pay for design costs unrelated to their type of operation.

Today's new equipment prices range from $25,000 to $75,000 for single engine, fixed wing aircraft and from $110,000 to $300,000 for helicopters. A single engine, fixed wing aircraft with a turbine will top $100,000. Professional applicators in Alaska will profit most from improvements at the lower end of this price range.

My sincere thanks for your interest in this important area of concern to the State of Alaska.

Sincerely,

Jay S. Hammond,
Governor.

ENDING THE BROKEN PROMISE: THE FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1976

Mr. HUMPHREY. Mr. President, the first order of business for the Government of this Nation is to see to it that every adult American has the opportunity to earn a decent living in a free, democratic society.

Free people cannot remain free if they are overwhelmed by the fear and despair of unemployment.

They cannot remain free if they are forced to abandon expectations of fulfillment for themselves and their families.

They cannot remain free if they lose their homes and all the other important endeavors in which they have invested their lives.

These tenets are fundamental to the purpose and promise of America.

But the promise has never been fully kept. It has not been kept because our Government has never completely marshaled the talent and the determination needed to put our economy on an even keel and keep it growing. It has never built the policy and program framework necessary to coordinate Government and our free enterprise system to achieve and sustain prosperity despite the vast resources of our people and the wealth of the land.

Mr. President, we dare not sit back again and entertain the alibi that nothing needs to be done now because the economy has begun to recover. With a 7.8 percent unemployment rate, with 25 percent of our plant capacity idle, add to this, the high rate of unemployment among adult blacks, about 15 percent—and a dangerously high unemployment rate of over 40 percent among black youth.

More important, the history of the last 7 years, with the economy swinging from boom to bust, should teach us that we will soon be back in another recession if not depression if we continue to fail to develop the policies and the programs necessary to achieve and sustain prosperity.

Mr. President, Congress can and must break this pattern of failure and start the Nation moving toward consistent realization of its full potential. I do not mean we should start this work next year or some indefinite time in the future. I mean we must start right now and hold to a time table that will achieve this aim within the next 4 years.

The blueprint to build the road to this goal is before us in S. 50 and H.R. 50, the Full Employment and Balanced Growth Act of 1976.

In essence this measure would require by law that Congress and the administration, as an ongoing chief priority, and with maximum coordination, design and implement the fiscal and monetary policies and programs necessary to stimulate private enterprise and reduce unemployment to no more than 3 percent of the adult labor force within 4 years. This is a level which would reflect only the temporary joblessness of those workers seeking new opportunities in an evolving but nevertheless prosperous full employment economy.

The Full Employment and Balanced Growth Act of 1976 was introduced by Representative AUGUSTUS HAWKINS of California and myself. Neither of us claims exclusive authorship for the proposal. Rather, it was written by the people of this Nation—by labor leaders, businessmen, unemployed men and women, officials of State and local government, and by economic experts—at field hearings held by the Joint Economic Committee, which I chair. We asked the people what they thought their Federal Government should do to get the Nation out of the depression of the 1970's and to lock the country into prosperity.

This measure is truly the people's bill. In a very real sense it is their bill of rights to a full employment economy and the security and opportunity a full employment economy guarantees.

The Full Employment and Balanced Growth Act requires that on a first priority basis, the President and the Council of Economic Advisers annually present to Congress short- and long-range full employment, production and anti-inflationary goals and recommend the policies and programs necessary to achieve these goals as soon as possible. The long range adult unemployment goal of 3 percent is to be met not later than 4 years after the bill is passed. Adult unemployment does not include those age 20 and below—thus the 3 percent unemployment goal is a reasonable, achievable goal. Monetary and fiscal policies must be utilized to the fullest extent necessary to reach and sustain a full employment-balanced growth economy. This mandate requires the President to propose supplementary job creation policies to eliminate any shortfall.

In this connection, the Federal Reserve Board, which influences the economy more than any other single agency, would be required to annually explain to the President and to Congress the extent to which its monetary policies support or fail to support the goals and recommendations of the administration and to justify any differences.

The President would have to make recommendations to the Board and to Congress when necessary to bring monetary policy fully in line with fiscal policy.

Mr. President, one of the most important provisions of the Full Employment and Balanced Growth Act requires the administration to include comprehensive antiinflationary recommendations in its annual reports to Congress. These recommendations will go to such issues as increasing the supply of goods and services in markets deprived of investment capital, strengthening antitrust laws and the promotion of general price stability. It places no limits whatsoever on what antiinflation measures the President may propose.

To assist the Council of Economic Advisors to prepare policy and program recommendations, the measure provides for the establishment of a 12 member Advisory Committee on Full Employment and Balanced Growth, broadly representative of the public interest. The Committee shall be appointed by the President, the Speaker of the House, and the President pro tempore of the Senate.

The measure requires the President to present to the Congress effective and flexible recommendations for the establishment of programs to reduce high youth and adult unemployment caused by downturns in the economy. Such programs shall include public service and standby public works programs and proposals to provide antirecession grants to State and local governments. These programs, which shall include skill training for both public and private sector workers, will be automatically triggered in and out with the seriousness of the unemployment problem.

The President would also be responsible for the development of policies designed to coordinate Federal economic policies and programs with those of State and local governments. In this connection, the President would be required to submit proposed legislation to Congress to establish a permanent antirecession grant program to help stabilize State and local budgets, a program that would be automatically activated when national unemployment exceeds a specified level. Areas of highest unemployment would receive priority treatment in the distribution of these funds.

The comprehensive employment policies the administration would be required to formulate would include plans for the reduction of unemployment and underemployment in chronically depressed areas or industries. New methods by which credit would be channeled into depressed areas for private and public investment purposes would be proposed.

Problems of youth unemployment are singled out by the bill. Required comprehensive employment policies and proposed programs would cover methods to improve the transition from school to work, preparation of disadvantaged youths with employment handicaps for self-sustaining employment through training, counseling and other support activities. Combining training and actual work experience and the provision of employment opportunities in public service work in Federal, State, and local government projects, would also be a part of these proposals.

To help achieve maximum levels of employment, the measure would establish a Full Employment Office within the Department of Labor. Among other things the office would develop programs aimed at providing employment opportunities for jobless Americans who have seriously sought work but cannot find it. Counseling and job training would be provided and a system of job referrals in both the private and public sectors would be placed in operation. In addition a reservoir of Federally operated or approved projects would be phased in by the President whenever necessary to meet the employment goals which would be established by this measure. Under provisions of the act work at standard wages would be substituted for income maintenance programs whenever possible.

All of the administration's full employment and balanced growth policies and proposed programs as well as the monetary policies of the Federal Reserve Board would be reviewed annually by the Joint Economic Committee. The JEC in turn would evaluate these proposals and submit its recommendations for change or improvement to Budget Committees of the Senate and the House. Appropriate *standing* committees of Congress would report their recommendations to achieve a full employment-balanced growth economy to the JEC. Recommended changes in the administration's proposals would be presented to the President. A Division of Full Employment and Balanced Growth would be established within the Congressional Budget Office to assist the JEC in meeting the responsibilities prescribed by the measure.

Mr. President, this is a straightforward proposal which is basically designed to harness the resources of the administration, the Federal Reserve Board, and the Congress to the maximum extent possible to plan and implement the policies and programs leading to a full employment economy under conditions which will keep inflationary forces in check. The structure to initiate action immediately is in place. All that is really required is the will to act.

SDX SUPPORT FOR JOURNALISTS' FREEDOM OF CHOICE

Mr. FANNIN. Mr. President, the Society of Professional Journalists, Sigma Delta Chi, will hold its annual national convention in Los Angeles on November 10–13. Among the matters to be considered by that distinguished body at that time will be the issue of compulsory unionism for journalists.

In anticipation of this meeting, SDX members and nonmembers, all of them journalists, were asked to support a draft resolution indicating their opposition to being forced to join or support a labor organization. The so-called journalists' Freedom of Choice resolution which will be introduced at the convention reads as follows:

> Whereas no journalist should be required to contribute either his loyalty or his money to any private organization in order to fulfill his (her) First Amendment rights and professional obligations, be it
>
> *Resolved*, That journalists should not be required to join or support any labor, fraternal, professional, or any other private organization in order to report or interpret the news.

Journalists throughout the country were asked to express their opinion of this resolution. To date, the response has been overwhelmingly favorable. Approximately 100 SDX members have indicated that they wish to cosponsor the resolution. In addition, more than 225 journalists who are nonmembers have asked to be identified as supporters of the resolution. The list of those favoring the principle of freedom of choice is impressive. It represents men and women at all levels of the journalistic profession, from top management and owners of newspapers to staff reporters and even a staff intern at one newspaper.

Mr. President, for the record, I ask unanimous consent that the names of those journalists favoring the resolution be printed in the RECORD at this point. I call attention to the names of those distinguished journalists from Arizona who stand behind the freedom of choice principle; namely, Asa S. Bushnell, Tucson Daily Citizen; Louis J. Combs, Arizona Grocer; Gary Dillard, Bisbee Review; Loyal G. Meek, the Phoenix Gazette; Pat Murphy, Arizona Republic; and Jones Osborn, the Yuma Daily Sun.

There being no objection, the names were ordered to be printed in the RECORD, as follows:

SDX MEMBERS COSPONSORING RESOLUTION

Col. J. L. C. Beaman, Publisher, the Epco Publications, 1004 E. Third Street, Alice, Texas 78332.

Duward Bean, News Editor Montgomery County Daily Courier, P.O. Drawer 609, Conroe, Texas 77301.

Charles L. Bennett, Exec. Editor, Oklahoman & Times, P.O. Box 25125, Oklahoma City, OK. 73125.

Ralph D. Berenger, Ed. & Pub., the Pioneer, Shelley, Idaho 83274.

Robert W. Boyer, Man. Editor, Altoona Mirror, 1000 Green Ave., Altoona, PA 16603.

P. C. Boyle, Editor, the Derrick, 1510 W. First Street, Oil City, Pennsylvania 16301.

E. Edwin Bradford, Editor, Hickory Daily Record, 116 Third Street, NW., Hickory, NC 28601.

A. W. Bramwell, Editor, Chico Enterprise-Record, 700 Broadway, Chico, CA 95927.

Mack Nelson Brice, Editor, Yoakum Herald-Times, P.O. Box 231, Yoakum, Texas 77995.

Tom Briley, Editor, the Intelligencer, 1500 Main Street, Wheeling, WV 26003.

David E. Bryant, Editor, Today's Farmer, 201 S. Seventh, Columbia, MO 65201.

Donald B. Bryant, Ed. Writer Del Rio Daily News-Herald, 321 South Main Street, Del Rio, Texas 78840.

Roger D. Buehrer, City Editor, Crescent-News, Perry & Second Streets, Defiance, Ohio 43512.

Gwen Bushart, Editor, Polk County Enterprise, Livingston, Texas 77351.

Tal Campbell, City Editor, the Daily Breeze, 5215 Torrence Blvd., Torrance, CA 90509.

George L. Carey, Publisher, the Daily Clintonian, 422 South Main Street, Clinton, Indiana 47842.

Robert J. Casey, 206 Valley Court, Pittsburgh, PA 15237.

J. A. Clendinen, Editor, Tampa Tribune, 202 Parker Street, Tampa, FL 33606.

Peter A. Cockshaw, Editor, Construction Labor News-Opinion, P.O. Box 427, Newtown Square, PA 19073.

Robert S. Corya, Bus. Editor, Indianapolis News, 307 N. Pennsylvania Street, Indianapolis, IN 46204.

A. Monroe Courtright, Pub., the Public Opinion, 130 Graphic Way, Westerville, Ohio 43081.

Wayne Cox, Reporter, Fresno Bee, Fresno, CA 93786.

Ed S. Critchlow, Pub., Union City Daily Messenger, 613 Jackson Street, Union City, TN 38261.

Philip S. Duff, Jr., Editor, Republican Eagle, 433 Third Street, Red Wing, MN 55066.

Ray Edwards, Ed. & Pub., the Mayfield Messenger, 206 W. Broadway, Mayfield, KY 42066.

George A. Embrey, Bu. Chief, the Columbus Dispatch, 809 National Press Bldg., Washington, D.C. 20045.

John R. Evans, Editor, Jamestown Daily Sun, 122 Second Street, NW, Jamestown, ND 58401.

Loyal Frisbie, Ed. & Pub., the Polk County Democrat, P.O. Box 89, Bartow, FL 33830.

Pat Geisler, Wire Editor, Chronicle Telegram, 225 East Ave., Elyria, Ohio 44044.

John D. George, Editor, Democrat News, 519 S. State, Jerseyville, IL 62052.

Douglas A. Gibson, Editor, Wyoming Agriculture, P.O. Box 1348, Laramie, WY 82070.

Nicholas L. Goble, Editor, Pa. School Board Bulletin, 412 N. Second Street, Harrisburg, PA 17101.

Max Goodwin, Ed. & Pub., Lemon Grove Review, P.O. Box 127, Lemon Grove, CA 92045.

William E. Hannan, EPE, the Sun Chronicle, P.O. Box 600, Attleboro, MA 02703.

Charles H. Hansohn, Farm Editor, Quad-City Times, 124 East Second, Davenport, IO 52808.

Del Harding, Secretary, Colorado Professional Chapter, 8102 S. Jay Drive, Littleton, CO 80123.

Roland C. Hartman, Editor, Poultry Digest, P.O. Box 1220, Redlands, CA 92373.

A. L. Hewitt, Editor, Daily News Tribune, 655 W. Valencia Drive, Fullerton, CA 92632.

W. E. Hussman, Sr., Editor, Palmer Newspapers, 113 Madison Ave., Camden, Ark. 71701.

Paul E. Ingels, EPE, the Palladium-Item, 19 N. Ninth Street, Richmond, IN 47374.

Rosemary K. Jackson, Associate Editor, the Sun, 115–117 S. Water Street, Hummelstown, Pa. 17036.

Harvey C. Jacobs, Editor, the Indianapolis News, 307 N. Pennsylvania Street, Indianapolis, Ind. 46206.

John M. Jones, Jr., Associate Editor, the Greeneville Sun, 200 S. Main Street, Greeneville, Tenn. 37743.

George A. Joplin, III, Managing Editor, the Commonwealth-Journal, 102 N. Maple Street, Somerset, Ky. 42501.

Gene Kelly, Business Editor, Lincoln Journal, 926 P Street, Lincoln, Nebr. 68501.

James J. Kilpatrick, Columnist, Washington Star syndicate, 225 Virginia Ave., SE., Washington, D.C. 20003.

Robert King, Sports Editor, Holdrege Daily Citizen, 418 Garfield Street, Holdrege, Nebr. 68949.

Fred C. Latcham, Jr., Publisher, Beeville Bee Picayune, 206 W. Corpus Christi, Beeville, Texas 78102.

Paul League, Editor, Lancaster News, 701 N. White Street, Lancaster, S.C. 29720.

William R. Lewis, Publisher, Lunden Tribune, Box 153, Lunden, Wash. 98264.

Curtis A. Littman, Editor, Gadsden County Times, P.O. Box 790, Quincy, Fla. 32351.

Jeffrey K. MacNelly, Cartoonist, Richmond News Leader, 333 Grace Street, Richmond, Va. 23219.

James L. Martin, Sr., Vice President, Forewarned, 8320 Old Courthouse Rd., Vienna, Va. 22180.

Richard L. McBane, Reporter, Akron Beacon Journal, 44 East Exchange Street, Akron, Ohio 44328.

Allan W. McGhee, Editor, the Drovers Journal, Kansas City, Kans. 66101.

Sidney B. McKeen, Assistant Editor, Worcester Telegram & Gazette, 20 Franklin Street, Worcester, Mass. 01613.

Holt McPherson, Editor Emeritus, High Point Enterprise, 210 Church Avenue, High Point, N.C. 27261.

Loyal G. Meek, Editor, the Phoenix Gazette, 120 E. Van Buren Street, Phoenix, Ariz. 85001.

Ann L. Merriman, Associate Editor, the News Leader, 333 East Grace Street, Richmond, Va. 23261

William Metz, Associate Professor, University of Nevada, Reno, Nev. 89507.

Joyce W. Milkie, Feature Editor, the Times and Democrat, 211 Broughton Street, Orangeburg, S.C. 29115.

James A. Morrissey, American Textile Manufacturers, 1150 17th Street NW., Washington, D.C. 20036.

Pat Murphy, EPE, Arizona Republic, 120 E. Van Buren Street, Phoenix, Ariz. 85001.

Myron K. Myers, Bus. Editor Palo Alto Times Valley Journal, 245 Lytton Ave., Palo Alto, Cal. 94087.

Dawson B. Nail, Ex. Editor, Television Digest, 1836 Jefferson Pl. NW, Washington, D.C. 20036.

Edward C. Nicholls, Corres., The Associated Press, P.O. Box 838, Omaha, Neb. 68101.

Jerry W. Norton, Assis. Bur. Chf., Commodity News Services, 777 14th Street, Suite 400, Washington, D.C. 20005.

Jones Osborn, Ed. & Pub., The Yuma Daily Sun, 2055 Arizona Ave., Yuma, Arizona 85364.

David Owen, Editor, Parkersburg Sentinal, 519 Juliana Street, Parkersburg, W. Va. 26101.

Robert K. Phillips, Editor, Peach Times, P.O. Box 1485, Martinsburg, W. Va. 25401.

Jerry W. Poole, Chf Ed. Writer, Daily Oklahoman & OK. City Times, 500 N. Broadway Street, Oklahoma City, OK 73125.

George O. Rash, Man. Editor, Daily Mail, 25–31 Summit Ave., Hagerstown, MD 21740.

Jerry M. Roberts, Publisher, Human Events, 422 First St. SE, Washington, D.C. 20003.

Richard N. Robertson, EPE, Sarasota Journal, P.O. Box 1719, Sarasota, Florida 33578.

Bruce Sankey, Business Editor, The Commercial Appeal, 495 Union Ave., Memphis, Tenn. 38103.

Adele C. Schwartz, 525 Thayer Ave., Silver Spring, Md. 20910.

Edward W. Scripps, II Director, E. W. Scripps Co., 200 Park Ave., New York, N.Y. 10017.

Theordore A. Serrill, Ex. V.P., National Newspaper Assoc., 491 National Press Bldg., Washington, D.C. 20045.

Eric Sevareid, Commentator, CBS News, 2020 M Street, NW, Washington, D.C. 20036.

Don Shaffer, Editor, Mercury-Register, 1740 Bird Street, Oroville, CA 95965.

Debby S. Small, Asso. Ed., Doane Agricultural Service, 8900 Manchester Road, St. Louis, Mo. 63122.

Gilbert P. Smith, Ex. Editor, Press & Observer Dispatch, 221 Oriskany Plaza, Utica, N.Y. 13503.

Frank Spencer, Editor/GM, Daily Journal-Capital, 700 Kihekah St., Pawhuska, OK 74056.

Albert D. Sterner, Editor, Evening Sun, 130 Carlisle Street, Hanover, Pa. 17331.

Hal D. Steward, Ex. Editor, the Daily Chronicle, Pearl & Maple, Centralia, Wash. 98531.

Charles H. Sweeten, Man. Ed. The Knoxville Journal, 210 West Church Ave., Knoxville, Tn. 37901.

Barbara Taylor, Real Estate Ed., The Register, 625 N. Grand Ave., Santa Ana, CA. 92711.

R. K. Tindall, Sr. Editor, Evening Sentinel, 118 S. Elm Street, Shenandoah, Iowa 51601.

Sanky Trimble, Secretary, New Mexico Professional Chapter, 328 Enchanted Valley Dr. NW., Albuquerque, New Mexico 87107.

Wanda H. Tucker, Man. Editor, Star News, 525 E. Colorado Blvd., Pasadena, CA. 91109.

David M. Turner, Sr., Publisher, The Dailey Review, 116 Main Street, Towanda, Pa. 18848.

Virginia Turner, City Editor, El Paso Herald-Post, 401 Mills Street, El Paso, Texas 79999.

T. R. Waring, Editor, Charleston Evening Post, 134 Columbus Street, Charleston, S.C. 29402.

Henry J. Waters, III, E&P, Columbia Daily Tribune, 4th and Walnut Streets, Columbia, Mo. 65201.

James S. Wenck, City Editor, San Marino Tribune, 2260 Huntington Dr., San Marino, CA. 91108.

Bernard Y. Wickstrom, Editor, The News, P.O. Box 638, Zephyrhills, Fla. 33599.

H. Eugene Willard, City Ed., Savannah Morning News, 105–111 West Bay Street, Savannah, Georgia 31402.

Nathaniel F. Wood, Editor, State & County Admin. Mag., P.O. Box 272, Culver City, CA. 90034.

Terry Wooten, Editor, Alexandria Gazette, 717 No. St. Asaph Street, Alexandria, VA. 22313.

Fred A. Wulfekuhler, ED & P, Paragould Daily Press, Hwy 1 at Hunt Street, Paragould, Arkansas 72450.

NON-SDX MEMBERS SUPPORTING RESOLUTION

James L. Adams, Real Estate/Farm/Labor Editor, the Indianapolis Star, 307 N. Penn Street, Indianapolis, Ind. 46204.

Roy Alleman, Farm Editor, Hastings Tribune, 908 W. 2nd Street, Hastings, Nebr. 68901.

Jan Allen, Reporter/Photographer, WWTV-WWUP-TV—News Department, P.O. Box 627, Cadillac, Mich. 49601.

R. P. Althaus, Owner-Publisher, the Bethel Journal, 11 K Main Street, Bethel, Ohio 45106.

Bruce L. Allen, Associate Editor, Butterfield Express, Box 8, Sunnymead, Calif. 92388.

B. F. Anderson, EPE, Lawrence Eagle-Tribune, P.O. Box 100, Lawrence, Ma. 01842.

Lee Anderson, Editor, Chattanooga News-Free Press, 400 E. 11th Street, Chatanooga, Tenn. 37401.

Lowell R. Anderson, Publisher, the Drain Enterprise, P.O. Box 26, Drain, Oreg. 97435.

Ed Ashley, Editorial Cartoonist, the Blade, 541 Superior Street, Toledo, Ohio 43660.

Thomas E. Aswell, Editor, Ruston Daily Leader, 301 W. Mississippi, Ruston, La. 71270.

C. David Bailey, Community Editor, Headlight Herald, P.O. Box 232, Tillamook, Oreg. 97141.

John P. Bailey, Agriculture Writer, the Wichita Eagle, 825 E. Douglas Street, Wichita, Kans. 67201.

Bob Baker, City Editor, News Chronicle, P.O. Box 1346, Thousand Oaks, Calif. 91360.

Ann Barrett, Editor, Eastern Idaho Farmer, P.O. Box 778, Idaho Falls, Idaho 83401.

Arthur J. Barrett, Staff Writer, the Register, 625 N. Grand Ave., Santa Ana, Calif. 92711.

W. M. Barron, Managing Editor, Tribune-Herald, 900 Franklin Street, Waco, Tex. 76703.

Jane-Ellen Bartholomew, Editor, the Lemoore Advance, 236 Heinlen, Lemoore, Calif. 93245.

Kurt C. Bauer, Publisher, Rathway News-Record, 1470 Broad Street, Rathway, N.J. 07065.

Ted C. Bauer, Associate Editor, Marietta Daily Times, 700 Channel Lane, Marietta, Ohio 45750.

Mark S. Beardsley, Editor, the Commerce News, 16 Cherry Street, Commerce, Ga. 30529.

Bill J. Beckham, Publisher, the Wink Bulletin, P.O. Box 697, Wink, Tex. 79789.

G. S. Benson, Publisher and Editor, National Ed. Program Monthly, Harding College, Searcy, Ark. 72143.

John L. Blue, Managing Editor, the Southeast Missourian, 301 Broadway, Cape Girardeau, Mo. 63701.

L. William Bonsib, Jr., Pres., Bonsib Agency, Inc., P.O. Box 1807, Washington, D.C. 20013.

Ronald M. Bopp, Publisher, Spalding Enterprise, Spalding, Nebraska 68665.

David A. Bovenizer, Asso. Editor, the Barnsville Enterprise, 162–166 E. Main Street, Barnesville, Ohio 43713.

Donald W. Boyd, Jr., Editor, Niagara Frontier Purchaser, 802 Kenmore Ave., Buffalo, N.Y. 14216.

Adolph Bremer, Editor in Chief, Winona Daily News, 601 Franklin Street, Winona, Minn. 55987.

Chas. R. Broderick, Man. Editor, Tribune, 303 W. 2nd Street, New Albany, Ind. 47150.

James A. Brown, Editor, the Daily Mail, 115 E. Market Street, Anderson, S.C. 29621.

Linn L. Brown, Editor, the Argus, 122 Center Square, Fremont, Ca. 94536.

Randy Brown, News Editor, the Tribune, 4901 Richmond Ave., Houston, Texas 77027.

Bob T. Bruce, Bus. Ed./Travel Ed., Abilene Reporter-News, 100 Block Cyprus Street, Abilene, Texas 79604.

Asa S. Bushnell, EPE, Tucson Daily Citizen, P.O. Box 26767, Tucson, Arizona 85726.

Samuel Campbell, Asso. Editor, the Register, 625 N. Grand Ave., Santa Ana, Calif. 92711.

Paul Carson, Jr., Editor, Macomb Daily Journal, 128 N. Lafayette Street, Macomb, Ill. 61455.

Nancy T. Catherman, Asso. Pub., Bastrap County Times, Smithville, Texas 78957.

Lavor K. Chaffin, Ed. Editor, Deseret News, P.O. Box 1257, Salt Lake City, Utah 84110.

W. F. Childress, Editor, Knoxville Journal, 210 W. Church Street, Knoxville, Tenn. 37901.

Gerald Clausen, Co. Assign. Ed., the Register, 625 N. Grand Ave., Santa Ana, Calif. 92711.

Curt Clinkscales, Nat'l Dir., the Senior Independent, 1300 35th Street, NW., Washington, D.C. 20007.

Bill Cockshott, Managing Editor, Columbia Basin Daily Herald, 813 W. 3rd Ave., Moses Lane, Washington 98837.

Rick Coffman, Editor, the News-Tribune, Box 1179, Caldwell, Idaho 83605.

Marilyn B. Colton, Editorial Dept. Natchitoches Times, Box 448, Natchitoches, La. 71457.

Louis J. Combs, Editor, Arizona Grocer, 604 E. Pierce Street, Phoenix, Arizona 85004.

Walter W. Conklin, Man. Editor, Cortland Standard, 110 Main Street, Cortland, New York 13045.

Joe Cordero, Staff Writer, the Register, 625 N. Grand Ave., Santa Ana, CA 82711.

Maurice Cox. Editor, Merit Shop Contractor, P.O. Box 8733, BWI Airport, MD 21240.

Frank L. Craig, Staff Reporter, the Crescent-News, Perry & 2nd Street, Defiance, Ohio 43512.

James J. Crawford, Editor, Northern Virginia Daily, 120 Holliday Street, Strasburg, Va. 22657.

Gene Cryer, Managing Editor, Rockford Morning Star, 99 E. State Street, Rockford, Ill. 61005.

J. A. Cunningham, Editor, Cape May County Herald, 2789 Dune Drive, Avalon, N.J. 08202.

Richard L. Davis, Editor, Cumberland County Times, P.O. Box 745, Crossville, Tn. 38555.

Raymond S. Dawson, Publisher, the St. Edward Advance, St. Edward, Nebraska 68660.

Paul J. Day, Ex. Editor, the Middletown Journal, First & Broad, Middletown, Ohio 45042.

F. J. Deering, Editorial Col., the Daily Oklahoman, P.O. Box 25125, Oklahoma City, Ok. 73125.

Ella M. DiCarlo, Assis. Ed., Holyoke Transcript-Telegram, 120 Whiting Farms Road, Holyoke, Mass. 01040.

Gary Dillard, Managing Editor, Bisbee Review, Bisbee, Az. 85603.

George W. Dodds, President, WGGH Radio, P.O. Box 340, Hiway 13E, Marion, Ill. 62959.

Marcida Dodson, Staff Writer, the Register, 625 N. Grand Ave., Santa Ana, CA 92711.

Edward C. Domaingue, Sr. Ed., the Hartford Times, 10 Prospect Street, Hartford, Conn. 06101.

Frank R. Dornheim, Editor, Action in Kentucky, 200 W. Chestnut, Louisville, Kentucky 40202.

Leonard G. Duck, Publisher Calif. Rancher Magazines, 3040 Rio Linda Blvd., Sacramento, Calif. 95815.

Harry L. Elliott, Editor, Grants Pass Daily Courier, 409 SE Seventh Street, Grants Pass, Oregon 97526.

W. Ericson, Editor, Publisher, South Pasadena Review, 1024 Missouri Street, South Pasadena, Calif. 91030.

M. Stanton Evans, Columnist, Los Angeles Times Syndicate, 4422 1st Street, SE, Suite 208, Washington, D.C. 20003.

Marjorie M. Field, Editor, Bristol Enterprise, 7 Spring Street, Bristol, N.H. 03222.

Albert B. Feldstein, Editor, MAD magazine, 485 Madison Avenue, New York, N.Y. 10022.

Gene Fowler, Editor and Publisher, The McDowell News, Marion, N.C. 28752.

Ellis Finch, Editor, Denver City Press, Denver City, Tex. 79323.

Warren R. Fisher, Publisher, The Carlisle Mercury, Carlisle, Kentucky, 40311.

Leonard Franckowiak, 5710 Central Ave., Chicago, Ill. 60638.

Max Friedman, Associated Editor, Human Events, 422 1st Street, SE, Washington, D.C. 20003.

John Geddie, Washington Bureau Chief, Dallas Morning News, 637 National Press Building, Washington, D.C. 20045.

Gerald R. Glaub, Editor, Illinois School Board Journal, 330 Iles Park Place, Springfield, Ill. 62718.

Leon Gleason, Editor and Publisher, The Ringling Eagle, Ringling, Okla. 73456.

Ray Glenn, Editor, Kentucky New Era, 1618 E. 9th Street, Hopkinsville, Ky. 42240.

Carol Goldsmith, City Editor, Daily Dunklin Democrat, 212-4 N. Main Street, Kennett, Missouri 63857.

J. J. Graf, Publisher, Advertiser-Courier, Hermann, Mo. 65041.

George Grey, Staff Writer, The Register, 625 N. Grand Ave., Santa Ana, Calif. 92711.

James A. Groth, Managing Editor, News-Pilot, Box 191, San Pedro, Calif. 90731.

Kenneth E. Grubbs, Jr., EPE, The Register, 625 N. Grand Ave., Santa Ana, Calif. 92711.

Jason S. Gray, Jr., President, The Courier-Express, Long at High Street, DuBois, Pa. 15801.

Dahlia Haas, Managing Editor, Rural Kentuckian, 4515 Bishop Lane, Louisville, Ky. 40218.

Carlton Harrell, Man Editor, Durham Sun, 115-19 Market Street, Durham, N.C. 27701.

Barbara A. Harris, Ed. Assist., Elementary School Journal, 5835 Kimbank Ave., Chicago, Illinois 60637.

Donald A. Henry, III, Ed., Camarillo Daily News, 99 S. Glen Drive, Camarillo, CA 93010.

Jo Hindman, Columnist, Metro News, Rt. 1, Box 636, Powell Butte, Oregon 97753.

Bruce Herschensohn, Writer, 2475 Virginia Ave. NW., Washington, D.C. 20037.

John V. Hinkel, 822 National Press Bldg., Washington, D.C. 20045.

Mary Hinkle, Editor, Arkansas Cattle Business, 208 Wallace Bldg., Little Rock, Ark. 72201.

Ashley E. Holden, Sr. Editor, Freedom Newsletter, P.O. Box 238, Seattle, Wash. 98111.

Michael Heylin, Man. Editor, Chemical & Eng. News, 1155 16th Street N.W., Washington, D.C. 20036.

Jerry Huff, Ex. Editor, Amarillo Globe-News, 900 Harrison Street, Amarillo, Texas 79166.

James M. Hughes, Editor, N.M. Farm & Ranch Magazine, 421 N. Water, Las Cruces, New Mexico 88001.

Robert C. Imler, Editor, the Commercial-Review, 309 W. Main Street, Portland, Ind. 47371.

Oliver Jensen, Sr. Editor, American Heritage Magazine, 1221 Ave. of Americas, N.Y., New York 10020.

J. O. Johnson, Editor, Plainfield Enterprise, 519 Lockport Street, Plainfield, Ill. 60544.

Bernard E. Jensen, Reporter, Ellensburg Daily Record, 4th and Main Street, Ellensburg, WA 98926.

Ernest V. Joiner, Editor, The Sebastopol Times, Sebastopol, CA 95472.

Dean Jones, Editor, Belle Glade Herald, 425 Main Street, Belle Glade, Florida 33430.

Joyce Jones, Editor, The Tribune, 4901 Richmond St., Suite 104, Houston, TX 77027.

Richard Kalebjian, Editor, Glasgow Courier, 314 Third Ave., Glasgow, Montana 59230.

Owen Kearns, Jr., EPE, Bakesfield Californian, 1707 "Eye" Street, Bakesfield, Calif. 93302.

Raymond Kendall, Financial Con., Audio Forum, Box 9486, Arlington, VA 22209.

Charles R. Kesler, Editor Intern, Charleston Daily Mail, 1001 Virginia St., E, Charleston, WVa. 25330.

Forest Kinler, Staff Writer, The Register, 625 N. Grand Ave., Santa Ana, CA 92711.

Elizabeth K. Kellar, Comm. Dir., Public Management Magazine, 1140 Connecticut Ave. NW., Washington, D.C. 20036.

William V. Kinney, Asso. Editor, Argus, 1724 4th Avenue, Rock Island, Ill. 61201.

G. H. Koenig, Editor, Waukesha Freeman, 200 Park Place, Waukesha, Wis. 53186.

John F. Kurie, Publisher, Mecklenburg Times, Charlotte, N.C. 28202.

Bill King, City Editor, Union City Daily Messenger, 613 Jackson Street, Union City, Tenn. 38261.

John P. Lanigan, Ed. Cartoonist, New Bedford Standard-Times, 555 Pleasant Street, New Bedford, Mass. 02742.

Wesley W. Lee, Editor, Senior Independent, 1300 35th Street, NW., Washington, D.C. 20007.

Ben Leonard, Editor, The Farmers' Advance, 130 S. Main Street, Camden, Michigan 49232.

Earl S. Levitan, EPE, The Journal Messenger, P.O. Drawer 431, Manassas, VA 22110.

Harry Maier, Business Ed., Green Bay Press-Gazette, 435 E. Walnut Street, Green Bay, Wis. 54305.

Philip Maimone, Publisher, Ocean County Citizen, 126 Second Street, Lakewood, N.J. 08701.

Don Mapes, Ass't. Bus. Ed., The Register, 625 Grand Ave., N., Santa Ana, CA 92711.

Ralph B. Maxwell, Editor, Oglethorpe Echo, P.O. Box 277, Lexington, GA 30648.

Amon E. McKay, Mng. Editor, Poteau News & Sun, P.O. Box 429, Poteau, Okla. 74953.

Hugh J. McIlhenny, Editor, The Gettysburg Times, Carlisle Street, Gettysburg, Pa. 17325.

Earl W. McMunn, Dr. of Pub. Aff., The Harvest Publishing Company, 1350 W. Fifth Ave., Columbus, Ohio 43212.

Geoffrey L. Mehl, Ed-in-Chf., Press Publications, Inc., Blairstown, N.J. 07825.

Robert M. Merryman, Manager, Fort Dodge Messenger, 713 Central Ave., Fort Dodge, Iowa 50501.

Murray T. Miles, Jr., Editor, Tenn. Farm Bureau News, Box 313, Columbia, Tenn. 38401.

James G. Minter, Jr., Mng. Ed., Atlanta Constitution, 72 Marietta St., NW., Atlanta, GA 30302.

Floyd Mobley, Jr., Managing Editor, Mississippi EPA News, Box 8656, Jackson, Miss. 39204.

Bobby Dean Moore, Publisher, The Tyler Chronicle, R.R. 10, Box 120, Tyler, Tex. 75701.

Thomas P. Moore, Gen. Mgr., WBCO Radio, P.O. Box 789, Bucyrus, Ohio 44820.

R. W. Morey, Publisher, Brantwood Publications, Inc., 850 Elm Grove Road, Elm Grove, Wis. 53122.

Erin Morrison, Editor, Texas Town & City, 801 Vaughn Bldg., Austin, Tex. 78701.

Thomas J. Mullen, Editor, The Lima News, 121 E. High Street, Lima, Ohio 45802.

Austin McMurchy, Editor, Mississippi Farm Bureau News, Box 1570, Jackson, Miss. 39205.

Richard G. Neal, Editor, Negotiations Management, 1835 K Street, NW., Washington, D.C. 20006.

Howard J. Nieman, Editor, The Cincinnati Purchasor, 1631 Central Ave., Cincinnati, Ohio 45214.

John O'Dell, Staff Writer, The Register, 625 N. Grand Ave., Santa Ana, Calif. 92711.

Lynn O'Dell, Staff Writer, The Register, 625 N. Grand Ave., Santa Ana, Calif. 92711.

J. A. Parker, Conservative Digest, 1721 De Sales St., NW., Washington, D.C. 20036.

William R. Peterson, Editor, Ridgway Record, P.O. Box T, Ridgway, Pa. 15853.

Peter Philipps, News Editor, McGraw Hill, Inc., 400 National Press Bldg., Washington, D.C. 20045.

Thomas L. Phillips, Publisher, Phillips Publishing, Inc., 8401 Connecticut Ave., Washington, D.C. 20015.

David Pinkard, Editor, Mining Congress Journal, 1102 Ring Bldg., Washington, D.C. 20036.

Cheryl Pruett, Staff Writer, The Register, 625 N. Grand Ave., Santa Ana, Calif. 92711.

L. C. Purrington, Publisher, Buffalo County Journal, Alma, Wis. 54610.

Dan Quayle, Gen. Man., Herald-Press, 5-7 N. Jefferson, Huntington, Md. 46750.

Max Rafferty, Syndicated Columnist, Los Angeles Times Syndicate, Times Mirror Square, Los Angeles, Calif. 90053.

John W. Richards, Editor, The Kershaw News-ERA, Kershaw, S.C. 29067.

Donald Ringler, Farm Writer, Omaha World-Herald, 14th and Dodge Streets, Omaha, Neb. 68102.

George Roberts, President, Shakopee Valley News, 321 West 1st Ave., Shakopee, Minn. 55379.

Scott Robertson, Editor, Merit Shop Contractor, Box 8733, BWI Airport, Md. 21240.

Rita Robison, Editor, AM School & UN. Magazine, 401 N. Broad Street, Philadephia, Pa. 19108.

Dan J. Rooker, Publisher, The Southwest Times, 223 N. Washington St., Pulaski, Va. 24301.

Dave Rose, Staff Writer, The Register, 625 N. Grand Ave., Santa Ana, Calif. 92711.

Robert G. Rupp, Editor, The Farmer Magazine, 1999 Shepard Rd., St. Paul, Minn. 55116.

William F. Rust, Jr., President, Rust Communication Group, Inc., P.O. Box 1378, Leesburg, Va. 22075.

William O. Rutledge, III, Ed., New Albany Gazette, Carter Ave., Box 29, New Albany, Miss. 38652.

F. H. Ryan, Jr., Publisher, The Big Bend Sentinel, Drawer P, Marfa, Tex. 79843.

Jim St. Clair, Editor, Kentucky Business Ledger, P.O. Box 3508, Louisville, Ky. 40201.

Victor Sanford, Editor, South Jersey Advisor Newspapers, 803 Marlboro Road, Abselom, N.J. 08201.

Donald J. Senese, 1503 Woodbine Street, Alexandria, Va. 22302.

Frank E. Shaffer, Asso. Editor, Modern Railroads, 5 S. Wabash Ave., Chicago, Ill. 60603.

Walter Lee Sharpe, Editor, The Taylorsville Times, P.O. Box 278, Taylorsville, N.C. 28681.

Leslie Shaw, Editor, Lake County Examiner, Lakeview, Oreg. 97630.

Keith A. Shelton, Editor, The Gazette-Virginian, P.O. Box 524, South Boston, Va. 24592.

Cecil C. Shrock, Editor, The Case-File, Box 278, Leslie, Ark. 72645.

Larry D. Simpson, Editor, Van Horn Advocate, Van Horn, Tex. 79855.

Richard W. Samson, Creative Dir., The Economics Press Inc., 12 Daniel Road, Fairfield, N.J. 07006.

Andrew C. Seamans, Asso. Editor, Human Events, 422 1st Street, SE., Washington, D.C. 20003.

William Seigal, Editor, Chelsea Record, 18 4th Street, Chelsea, Mass. 02150.

E. S. Shearer, Man. Ed., Boone News Republican, 814-12 Keeler Street, Boone, Iowa 50036.

Edmund G. Shelby, News Editor, The Herald Voice, Hazard, Ky. 41701.

James M. Smiley, Editor, The Nonpareil, 117 Pearl Street, Council Bluffs, Iowa 51501

Gordon Smith, Editor & Publisher, Citrus & Vegetable Magazine, Box 2349, Lakeland, Fla. 33601.

James Smorada, Man. Editor, Tri-State Daily News, P.O. 1018, Wahpeton, N. Dak. 58075.

James B. Snyder, City Editor, The Parkersburg News, 519 Juliana, Parkersburg, W. Va. 26101.

Robert E. Sogard, Asst. Man. Ed., Hawk Eye, 800 S. Main Street, Burlington, Iowa 52601.

Bill Southard, Man. Editor, Clovis News-Journal, Sixth & Pile Street, Clovis, N. Mex. 88101.

William B. Staiger, VP & Ed., California Cattleman, 12th & L Streets, Sacramento, Calif. 95814.

Orland Stanley, Editor, Daily Times, 115 W. Jackson Ave., Sullivan, Ind. 47882.

Fred Stein, Editor, Producer Magazine, 400 Boyden Ave., Maplewood, N.J. 07040.

John W. Stephenson, Editor, Towne Courier/Enterprise, 423 Albert Street, East Lansing, Mich. 48823.

Andrew L. Stevens, Editor, The Ohio Farmer, 1350 W. Fifth Ave., Columbus, Ohio 43212.

Carlyle V. Stewart, President, Exec. Apt's, Inc., 2301 Jefferson Davis Hwy., Arlington, Va. 22202.

Rudy M. Taylor, Editor-Publisher, The Caney Chronicle, Caney, Kans. 67333.

Stuart S. Taylor, Editor & Pub., Santa Barbara News-Press, Drawer NN, Santa Barbara, Calif. 93102.

Jeanne B. Tempest, Editor, Rochester Courier, Rochester, N.H. 03867.

Warren Thornton, Editor, The Appeal-Democrat, 319 G Street, Marysville, Calif. 95902.

Donald R. Tindall, Editor, The Cooperative Farmer, Box 1656, Richmond, Va. 23213.

Thomas J. Tock, Co-Publisher, Dwight Star & Herald, 204 E. Chippewa, Dwight, Ill. 60420.

Ralph de Toledano, Columnist, Copley News Service, 825 New Hampshire Ave. NW–601, Washington, D.C. 20037.

Henry G. Trautirein, Gen. Man., Thermapolis Independent Record, Box 31, Thermapolis, Wy. 82443.

Steven C. Frolinger, Man. Ed., Suffolk News-Herald, Suffolk, Va. 23434.

Maurice M. Van Kirk, Editor, Nebraska Agriculture, P.O. Box 80299, Lincoln, Nebraska 68501.

Fred Wagner, Man. Editor, Belvidere Daily Republican, 401 Whitney Blvd., Belvidere, Ill. 61008.

Gene Wakell, Business Ed., The Register, 625 N. Grand Ave., Santa Ana, CA. 92711.

P. S. Meagher-Walker, Reporter, Lafayette Journal Courier, 217 W. 6th Street, Lafayette, Ind. 47901.

Mike Ward, Editor, The Advisor, 915 Highway 35, Middletown, N.J. 07748.

Hugh C. Waters, Jr., Box 7605, Orlando, Florida 32804.

Jon C. Wedemeyer, Asst., Ed., Harrison Co. Press, Corydon, IND. 47112.

W. Herbert Welch, Editor/Pub., The Republican-Delta, 7 N. Locust St., Bookhannon, W.VA. 26201.

Dick West, Editorial Director, The Dallas News, Communication Center, Dallas, Texas 75222.

Fred Whissel, EPE, The Athens Messenger, Rt. 33 & Johnson Road, Athens, Ohio 45701.

Andy Williams, Editor, Florida Agriculture Magazine, Box 730, Gainesville, Fla. 32608.

James A. Williams, Ed. Man., Southwest Virginia Enterprise, Wytheville, Virginia 24382.

Morris W. Wimpee, Ex. Editor, The Southern Democrat, Oneonta, Alabama 35121.

Philip B. Wise, Man. Editor, San Antonio News, Ave. E. & 3rd Street, San Antonio, Texas 78297.

Charles E. Wissenbach, Pub., Podunk, P.O. Box 38, Pinesdale, Montana 59841.

James E. Wolcott, Assign., Ed., The Register, 625 N. Grand Ave., Santa Ana, CA 92711.

William D. Woodyard, Man., Ed., The Carrol News, Hillsville, VA. 24343.

I. J. Wynn, Publisher-Ed., Abbeville Meridional, P.O. Box 400, Abbeville, Louisiana 70510.

John F. Yarborough, Editor, The Poultry Times, 345 Green Street, Gainesville, Georgia 30501.

Claudia J. Young, Society Ed., Lexington Advertiser News, 906 Main Street, Lexington, Missouri 64067.

Edgar L. Young, Columnist, Baltimore News-American, Lombard & So. Streets, Baltimore, MD 21203.

David A. Yuenger, Editor, Press-Gazette, Box 430, Green Bay, Wis. 54305.

Wm. F. Buckley, Jr., Editor, National Review, 150 E. 35 Street, N.Y. New York 10016.

Mr. FANNIN. Mr. President, I wish to call my colleagues' attention to two editorials discussing the SDX resolution in the context of freedom of the press in America. I ask unanimous consent that the complete text of the article "A Free Press—If We Can Keep It" by William Murchison of the Dallas News and the editorial "Press, Unions Do Not Mix" of the Centralia-Chehalis, Wash., Daily Chronicle of July 30, 1976, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FANNIN. Mr. President, on November 20, 1975, I was pleased to introduce, together with Senators CURTIS, HANSEN, HELMS, HRUSKA, LAXALT, and THURMOND, S. 2712, the Journalists' Freedom of Choice Act. This bill incorporates the principle discussed in the Sigma Delta Chi resolution.

This legislation would amend the Federal labor laws to guarantee freedom of choice in bargaining and labor relations matters. This would be accomplished by exempting employees of newspapers, radio, and television stations and other media from the exclusive representation provisions of the National Labor Relations Act.

If S. 2712 were enacted, it would no longer be lawful to require news personnel to join, support or pay membership dues or fees to any union in order to exercise their first amendment rights. Employees who are journalists would henceforth be free to negotiate their own wages, hours, and working conditions and adjust grievances with their employers without intervention or control of any union, if they so desired. Journalists could join or support a union as they see fit, but membership in a labor organization would not be necessary in order to hold a job or to express opinions on public issues in a professional capacity.

As I stated upon introducing S. 2712, current provisions of the Federal labor laws not only create serious problems for those individuals employed in the news media as columnists, broadcasters, commentators and critics on public issues. They also pose "a potential threat to individual liberties and fundamental freedoms enjoyed by all Americans." Unless amended, these laws threaten to destroy basic rights of free speech and free press guaranteed by the Constitution, especially where journalists are concerned.

Mr. President, I am disappointed though not surprised that to date the Senate Committees on the Judiciary and Labor and Public Welfare have failed to hold hearings or to take any action whatever on the journalists' Freedom of Choice Act. Since there is little time remaining in this Congress, I am hopeful that the next or succeeding Congresses will take time to consider the important fundamental issues involved in this legislation. In the meantime, I look forward to the discussioon of the Sigma Delta Chi convention and hope that the professional journalism fraternity will take a strong affirmative stand in favor of freedom of choice for journalists.

As William Murchison wrote in the Dallas News:

> The matter is considerably more important than many journalists probably believe. More than the right of free association is at stake. Over the long run, the right to think is at stake. . . . Marvelous is the freedom of speech; marvelous are all our freedoms. But they put one in mind of Benjamin Franklin's famous description of the Philadelphia convention's handiwork. What kind of government are we to have? the good doctor was asked. "A republic," replied Franklin, pausing significantly, "if you can keep it."

EXHIBIT 1

[From the Dallas (Tex.) News, August 3, 1976]

A FREE PRESS—IF WE CAN KEEP IT

(By William Murchison)

Journalists, who think more, talk more and worry more than anyone else about freedom of the press, have a chance this fall to show they mean what they say.

The professional journalism fraternity, Sigma Delta Chi, will be offered a resolution affirming the right of journalists to abstain from union membership if they so wish. Two years ago, a similar resolution got booted out of SDX's resolutions committee without discussion. If SDX wishes truly to make a stand for press freedom, it will lustily shout the '76 resolution through to passage.

The matter is considerably more important than many journalists probably believe. More than the right of free association is at stake. Over the long run, the right to think is at stake.

What makes such a resolution essential is a saddening fact: For only a decided minority of American journalists does there exist legal protection against forced union membership. Only 20 states have right-to-work laws. Most of the great centers of communications—New York City, Chicago, Los Angeles—are in states where to decline union membership is to decline employment.

The point is one that rankles with anyone who values freedom. Still worse is it when the freedom in question is the *freedom* to express an idea or a belief—which freedom is precisely the one enshrined in the great constitutional prohibition: "Congress shall make no law . . . abridging the freedom of speech, or of the press."

What law has Congress made that so abridges freedom? The offending statute is the National Labor Relations Act of 1935, the Wagner Act. It provides that where employers negotiate contracts with unions, those contracts are binding on all employes. Only with passage of the Taft-Hartley Act in 1947 were individual states given the right to exempt their citizens from so onerous a requirement.

A suit filed several years ago by William F. Buckley Jr. and several other broadcasters challenged the power of the American Federation of Television and Radio Artists (AFTRA) to make news commentators join. Though preliminary verdicts have gone against the plaintiffs, the suit still drags along in the courts.

The passage by Sigma Delta Chi of an anticlosed shop resolution would hardly, of itself, strike the shackles from the wrists of journalists—among them, liberals like Nicholas von Hoffman—who consider themselves prisoners of their unions. But at least it would be a symbolic start—a blow for liberty.

That liberty is more than theoretical. For some of the leaders of the communications unions wax ever more arrogant. The Newspaper Guild, over the objection of numerous members, endorsed for president none other than George McGovern. AFTRA urged its members to back Cesar Chavez' grape and lettuce boycotts. From urging, it is but a step to forcing.

Should that step at last be taken, then the journalist of conscience would have no choice. He would have to go along to get along. Or he would have to look elsewhere for work.

Already, in the birthplace of Anglo-Saxon freedoms, such matters are being worried over long and loudly. A bill to press-gang all British journalists into unions is making its menacing way through Parliament. The coercive ways of British unions are well known; so also their dislike of dissent. Should the bill go through, it is being freely predicted, only a short time would elapse before shop stewards began telling journalists what to write; almost as bad, the unions would gain theoretical power to ban contributions from outside writers.

That anything so totalitarian should even be talked of in Great Britain shows that American journalists had best nail down their freedoms while yet there is time. An adverse straw already floats in the domestic wind: The Democratic presidential candidate has declared that he would go along with outlawing voluntary unionism.

Marvelous is the freedom of speech; marvelous are all our freedoms. But they *put one* in mind of Benjamin Franklin's famous description of the Philadelphia convention's handiwork. What kind of government are we to have? the good doctor was asked. "A republic," replied Franklin, pausing significantly, "if you can keep it."

[From the Daily Chronicle, July 30, 1976]

PRESS, UNIONS DO NOT MIX

When members of the Society of Professional Journalists/Sigma Delta Chi (SDX) meet in Los Angeles Nov. 10 to 13, they will have an opportunity to go on record against compulsory unionism in the news business. Two years ago, the resolutions committee and the SDX directors declined to permit discussion of such a resolution at the convention. They later said they thought the resolution in favor of freedom of choice would somehow undermine employe-employer relations.

Compulsory unionism, in our judgment, violates the First Amendment to the U.S. Constitution by embedding in law the principle that a reporter can neither write nor express his or her opinions without financially joining a union.

Compulsory unionism also flies in the face of the SDX Code of Ethics, which says that "Journalists must be free of obligation to any interests other than the public's right to know."

We are not saying journalists should not join unions, what we are saying is that it should be a matter of choice . . . if the First Amendment is to survive.

SDX is now going to get another opportunity to pass a resolution in favor of freedom of choice. If its members truly believe in an unfettered press, its members will pass it overw*helmingly*.

The issue of unionism in journalism cuts across all lines of the political spectrum—it is not a conservative versus liberal stance. These are some of the prominent individuals who have made public statements about it:

—Supreme Court Justice William O. Douglas: "In some respects, the requirement to pay dues under compulsion can be viewed as the functional equivalent of a 'license' to speak . . . Our cases dealing with flat license fees or registration requirements . . . tend to suggest that even a minimal payment designed to cover administrative costs may be impermissible in a First Amendment context."

—Benjamin Bradlee, executive editor of The Washington Post: "I have long been troubled by forced union membership, particularly in the newspaper business, where independence is so important."

—Nicholas von Hoffman, syndicated columnist: "I do not appreciate being a member of a union against my will and live in fear and trepidation of a licensed press."

—Wes Gallagher, general manager, The Associated Press: "If the AP is to maintain its standards of objectivity, it cannot force the news employes into any organization, including a union. Inherent in the First Amendment is the assumption that the press is going to be the independent watchdog over public affairs and government and be divorced from any particular partisan group."

Compulsory union membership is basically unAmerican, and it is particularly reprehensible in the profession of journalism where independence of thought and fairness are so essential to an effective and responsible free press.

It is time that SDX faced up to its responsibilities in this area, and endorsed publicly the freedom of choice of a journalist to join or not join a union.

CITIZEN ACTION ON THE CASCO BAY ISLANDS

Mr. MUSKIE. Mr. President, a recent editorial in the Portland Press Herald made note of two important successes for the people of the Casco Bay Islands in the areas of health care and world peace. I had the opportunity to visit the islands recently, and talked with people there about these projects. I would like to join the newspaper in offering thanks and congratulations. I think their work demonstrates what a small group of determined and dedicated people can do to improve the quality of their lives and the lives of others.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A GIANT STEP

It was a very big weekend for the people of Peaks Island with two significant events, one involving a building, the other a World War II gun emplacement.

On Friday, the Casco Bay Health Center was opened culminating two years of dedicated work by members of the Casco Bay Health Council. And while other sources, such as the Maine Medical Center which will work closely with the Center, have played major roles in bringing the island facility to reality, it was primarily the efforts of islanders themselves that brought success and everyone participating in the official ceremonies stressed that factor.

The other event, the dedication of the gun emplacement, represents an even longer period of effort and is part of a project not yet brought to completion.

The gun emplacement was dedicated to peace throughout the world and it represents a 13-year effort by the Peaks Island Conference Center. It is that organization's dream to one day build an international conference center on the site at the east end of the island.

Some 40 United Nations journalists were weekend guests of residents of Peaks, Chebeague, Long, Little and Great Diamond Islands. It was the first time in five years that the journalists had gathered here.

The people who share the vision of the conference center on the island hope that these journalists, and those who have been here in earlier years, will join in encouraging the development of such a center. The whole idea is to promote peace, bringing people together on a one-to-one basis in a setting of tranquility and beauty. It may be a dream, but it is everyone's hope that the dream will come true and that free from the protocol and rigidity of the formal United Nations proceedings, some understanding can be shared.

More immediately and practically, the gun emplacement may be used for special events and islanders hope it may even become part of a summer theater operation.

The dedication of the gun battery may seem as one small step for man, but who is to say that one day it will not be recognized as part of a giant step for mankind.

And the health center already is a giant step for all the men and women of the island who for so long have had to travel to the mainland for medical assistance.

The health center brings a new security to island residents right now. Perhaps, in years to come, the conference center concept will bring a new security for all people.

In any event, the people of Peaks Island are to be congratulated for their devotion to both causes and the accomplishments already realized in each program.

RHODE ISLAND UNDERSTANDS AG-PLANE PROGRAM COULD BE WORTHWHILE

Mr. MOSS. Mr. Preseident, even Rhode Island, the smallest State in the Union, has found a use for the aerial application of pesticides to control mosquitos and gypsy moths. In his letter to me, Gov. Philip W. Noel of Rhode Island also notes the potential for this technique in agricultural crop production.

Governor Noel states:

> It is my understanding that a program of the type to be carried out by NASA, having as its aim increasing the efficiency, economy, and safety of agricultural aircraft usage, could be quite worthwhile.

Mr. President, I ask unanimous consent that Governor Noel's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF RHODE ISLAND AND
PROVIDENCE PLANTATIONS,
Providence, R.I., June 25, 1976.

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Sciences, Washington, D.C.

DEAR SENATOR MOSS: Mr. Rudolph D'Andrea, Chief of the Division of Agriculture, Rhode Island Department of Natural Resources, has informed me that to date aerial pesticide applications have been undertaken in Rhode Island mainly in pursuit of objectives in forest pest (gypsy moth,) and disease vector (mosquito) control. However, the potential for use of this technique in agricultural crop production exists.

It is my understanding that a program of the type to be carried out by NASA, having as its aim increasing the efficiency, economy, and safety of agricultural aircraft usage, could be quite worthwhile.

Sincerely,

PHILIP W. NOEL,
Governor.

SALE OF U.S. TECHNOLOGY TO SOVIETS

Mr. THURMOND. Mr. President, the July 1976 issue of Conservative Digest included a shocking article written by Miles Costick entitled "The Dangers of Economic Détente."

Mr. Costick, a Washington based foreign affairs and trade analyst, raises many vital points which should be addressed by the Congress and the administration.

Many of us in Congress are opposed to the transfer of defense related technology to the Soviet Union. Much of this technology, especially in the area of advanced computers, has a definite military application. We are selling the Soviets what their totalitarian system has not been able to produce.

While I am unable to verify all of Mr. Costick's claims, the Congress and the administration should give the issues he has raised immediate consideration.

Transfer of laser and computer technology to the Soviets is irresponsible and dangerous. By so doing we are passing on the fruits of our free system to aid a system dedicated to our demise. The American people will not stand for such actions.

Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Dangers of Economic Detente

(By Miles Costick)

Not satisfied with the serious damage done by his grand design for political detente, Secretary of State Henry Kissinger has also advanced the concept of "economic detente."

Economic detente, according to Kissinger, is based on the principle of "linkage" of the American and Soviet economies, and would add "an element of stability to the political equation."

However, stability is not the result because what the United States means by detente and what the USSR means by detente are two entirely different things.

Leonid Brezhnev and his colleagues see detente as a policy to increase Soviet power over the United States *without* alarming the Americans or their allies into taking effective countermeasures. Brezhnev made this clear to his Politburo and Warsaw Pact leaders during the summer of 1973.

His key proposition was dubbed the "new Brezhnev doctrine" by U.S. defense analysts, who summarized it as follows: "We communists have got to string along with the capitalists for a while. We need their credits, their agriculture and their technology.

"But we are going to continue a massive military buildup, and by the middle 1980s we will be in a position to return to a much more aggressive foreign policy designed to gain the upper hand in our relationship with the West."

Therefore, every U.S.-Soviet deal—particularly the transfer of advanced technology and sophisticated capital equipment—is an act of international politics.

THE NATURE OF TRADE

By now, the two general techniques in the Soviet pattern of trade have clearly emerged. One is to tap the Western technology and long-term credits in order to develop resources rapidly, including oil, natural gas, timber and rare metals in Siberia.

The other is to import complete industrial installations wholesale, especially in the chemical and petrochemical industries, computer production, the automotive field, the energy sector and modern metallurgy.

In 1972 alone, orders for Western technology ran to $2 billion—a figure that rose in 1973 to almost $3 billion and is still climbing—with the result that Moscow now spends over 22 percent of its foreign exchange earnings annually in repaying loans.

The surge in shipments of advanced technology was particularly evident in the case of the United States. According to figures released by the Department of Commerce, the U.S. shipped $547 million worth of machinery and equipment to the Soviet Union last year.

This sharp increase in the export of technology, combined with grain shipments worth $1.1 billion, produced a record trade gap in Soviet-American relations in 1975. United States' exports totaled $1.8 billion, compared with imports from the Soviet Union of $227 million, a ratio of almost seven to one.

More, however, lies behind the Soviet trade strategy than erecting large new industrial facilities. The major contract with Fiat to build a complete auto factory at Togliatti illustrates another Soviet objective. Fiat not only planned, programmed and supervised construction of the complex, but trained Soviet engineers and technicians and provided technical help in running the installation.

Thus, what Moscow wanted to and did acquire was not just a modern plant, but the very art of modern mass production of cars, plus the management and organization for such mass production. The same applies to the Kama River truck plant, which predominantly utilizes American technology.

Historically, the Kremlin has used trade for political and strategic reasons, to exploit economic crises and to try to disrupt Western economies. In the view of this observer, the Soviet Union had explicit political objectives in exhorting the Arab oil nations to bargain hard with the West.

By half privately, half publicly promoting the upward spiral of oil prices, Moscow hoped to push the West toward bankruptcy and depression. It was obvious that Moscow took great comfort in seeing inflation pressures increasing in the West.

The Soviet press made no secret that Moscow also saw advantages in the rising competitive frictions between Western Europe and the United States as the oil crisis mounted.

THE MILITARY DIMENSION

In his testimony on April 12, 1974, before an executive session of the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee of the U.S. Congress, William Colby, then director of the CIA, stated that the Soviets "have been getting military technology" from the West.

When Chairman William Proxmire inquired about the nature of that technology, Mr. Colby replied: "Computers, some scientific instruments and advanced equipment."

In 1972, the U.S. Departments of State and Commerce granted an export license for 164 of the latest generation Centalign-B machine. These are of critical importance in the manufacture of precision miniature ball bearings, which, in turn, are imperative for any guidance mechanism used in intercontinental ballistic missiles—ICBMs, MIRVs and the latest in guided missiles, MARVs—Maneuverable Reentry Vehicles. The sole manufacturer of these unique machines is the Bryant Chucking Grinder Company of Springfield, Vermont.

The Soviet war industry gained 164 of these machines; the United States has never owned more than 77 of them. The export of Centalign-B machines to the Soviet Union gave Moscow direct access to the mass manufacture of guidance mechanisms needed for MIRVing and MARVing.

According to testimony presented to the Senate Finance Committee, United States and British computer technology and large scientific computers enabled the Soviets to make a breakthrough in the development and advancement of MIRVs by saving them valuable time ranging from two to four years.

In 1982, the Soviets will have at least 5,000 operational MIRVs aimed at the United States. Without American technology and precision miniature ball bearings, this would not have been possible.

In my presence, the former chief legal counsel of the contracting division in the Soviet Ministry of Armaments gave a sworn statement that, without the use of American computers, precision instruments and digital tools in Soviet research and development laboratories, the Soviet military-industrial complex could not have made any advances in the development of high-energy lasers or nuclear devices. His statement was made in the spring of 1974.

This statement was confirmed on July 21, 1975, when Lt. Gen. Daniel Graham, then director of the Defense Intelligence Agency testified before a subcommittee of the Congressional Joint Economic Committee in executive session that he was worried about a Soviet breakthrough in "the application of lasers."

Furthermore, the Soviet Union is seriously exploring "revolutionary" and "highly speculative" weapons technologies, which could give it the worldwide lead in military weaponry in the near future.

So stated Deputy Defense Secretary William Clements on April 20 of this year. Clements told an MIT university conference in Washington, D.C., that the Soviet's arms experiments "include high-energy lasers, surface-effect vehicles and antipersonnel-pressure weapons."

It should be stressed that the Soviets have made a breakthrough in the deployment of high-energy lasers in the form of antisatellite devices. It was recently reported that several U.S. spy satellites placed in orbit to observe Soviet compliance with the SALT 1 agreement were rendered nonoperable (blinded) by Soviet laser-beam devices.

Computers are at the core of today's and tomorrow's strategies. Without them there are no weapons systems. All the new technologies—giros, lasers, nucleonics, metallurgy, propulsion, including computer technologies themselves—are dependent upon computers. Furthermore, computers, lasers and nucleonics are interrelated.

ROPESELLERS RUN WILD

And yet there is a concerted drive by several leading American electronic firms to sell to the Soviets fourth-generation large computers and related technologies, or to provide the Soviets with complete manufacturing facilities for the mass production of the latest generation computers.

For example, Control Data Corporation has provided the Soviet nuclear-research facility in Dubna near Moscow with its second- and third-generation computers. Today Control Data's management is pressing the Department of Commerce and other U.S. government agencies to permit the export to the Soviet Union of the world's largest and most advanced scientific computers—the fourth-generation Cyber-76 and Cyber 172 series.

Only eight such installations exist in the world, including those at the Atomic Energy Commission, U.S. Air Force, NASA and the National Security Agency.

One of the most flagrant examples of the outflow of American advanced technology and automated machinery is to be found in the case of the KAMAZ—Kama River truck plant, still under construction in accordance with specifications provided by leading American engineering concerns.

Donald E. Stingel, president of Swindell-Dresser Co., told the congressional Subcommittee on International Trade of his firm's role as the plant's principal engineering and construction contractor. His testimony included the revelation that the firm is providing the USSR with a technology yet to be realized even in the United States.

Specifically, the KAMAZ will have an annual production capacity of 150,000 to 200,000 10-ton multiple-axle trucks, more than the capacity of all U.S. heavy-duty truck manufacturers. This plant will be capable of producing tanks, military scout cars, rocket launchers and trucks for military transport, but it was approved as "nonstrategic."

Hedrick Smith, a Moscow correspondent for The New York Times, has reported a joke that circulated within the official Soviet establishment on the eve of Brezhnev's visit to Washington in June 1973. Brezhnev, it seems, had gathered his advisors for counsel on what he should ask from America.

"Ask them to sell us cars and build us highways," suggested one. "Ask them to build us computer factories and petrochemical plants," said a second. "Ask them to build us oil pipelines and atomic power stations," said a third. "No," replied Brezhnev thoughtfully. "I'll just ask them to build us communism."

From the results to date of both political and economic detente this is exactly what the West has been doing: Building communism and digging its own grave.

BANK LOAN LOSS ACCOUNTING

Mr. McINTYRE. Mr. President, during the last year or so, as banks have experienced sizable loan losses, their accounting of those losses has become a matter of increased public interest.

Walter B. Wriston, chairman of Citicorp, has recently written an article entitled "A View of Loan Loss Accounting," which I believe to be a useful contribution to understanding the problem. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A View of Loan Loss Accounting

(By Walter B. Wriston)

The evolution of the accounting concept that loan losses, which are an expected and identifiable cost of the business of banking, should be charged to a bank's profit and loss account has developed slowly. Until as recently as 1969, loan losses in banks were not reflected as an expense in the calculation of operating earnings as publicly reported. This bookkeeping was clearly inconsistent with the valid concept that accounting presentations should reflect economic reality which, in the case of banks, means that the bottom line should reflect loan losses as one of the normal costs of being in the banking business. Bank managements, independent public accountants, and bank regulators recognized and then rectified this situation by requiring that any reserve set up for loan losses had to be funded by a charge to operating earnings. This change in accounting rules was a clear improvement in that inevitable loan losses were identified as a cost of doing business by clearly delineating that they should be charged to operating earnings.

Citicorp's *policy* has been, and will continue to be, to charge off loan losses in the month when management reviews determine that, based on judgment, a loss appears likely. Citicorp is, therefore, following the conservative policy of charging off perceived loan losses on an anticipatory basis. Because of the stringency of this anticipatory process, our experience has been that substantial sums are collected on loans which have previously been charged off. These recoveries are detailed in our financial statements. Unlike industrial experience, where inventory and accounts receivable losses tend to have little salvage value, a meaningful portion of Citicorp's loan losses are recovered. Citicorp has been charging current earnings in excess of actual loan losses, and, therefore, has been providing currently for possible future losses.

Because the absolute and relative size of bank loan loss reserves have recently attracted some attention, it may be useful to analyze the function and the utility of such reserves. The level of a loan loss reserve is a function of the size of the charge to earnings to fund it on the one hand, and the timing of bad debt write-offs on the other. It follows from this, that the size of a reserve can be significantly inflated by continuing the funding charge against earnings, while at the same time being slow to charge off bad debts against the reserve. This timing might vary all the way from a highly conservative anticipatory process, to deferring write-offs until ordered to do so by bank examiners.

Suppose, for example, that Citicorp had not followed its conservative policy of anticipatory credit charge-offs and had allowed loan write-offs to lag twelve months behind those actually reported. Assuming also that the provision for loan losses charged to earnings remained the same, the reserve for loan losses on June 30 would have been close to $700 million, more than double the reported amount. Earnings and net loans, as shown on the balance sheet, would have been exactly the same as actually reported. The absolute and relative size of such an inflated reserve would not, in fact, have resulted in stronger shareholders' and depositors' positions, nor would it be predictive of future earnings trends. On the contrary, this action would be the reverse of conservative management. If there were a universal perception that the larger the reserve the sounder the institution, there would then arise a strong motivation not to recognize losses promptly, and to let the reserve build up. Such a course of action would be not only bad business management, but also would present an inaccurate picture of the facts. The concept that the ratio relationship between the reserve for possible loan losses and aggregate loan totals should be either constant or increasing is based on the presumption that charges are not in fact, made to current earnings in anticipation of possible loan losses. If one assumes a constant or increasing loan portfolio matched by a constant or increasing ratios between the reserve and the loans, it is apparent that the reserve can never decrease. This being so, it ceases to be a reserve and assumes the attributes of equity, thus defeating the purpose of reserve accounting for loan losses.

The understanding of the function and utility of a reserve is further complicated by the fact that every financial institution has a different mix in its loan portfolio. This fact also tends to get abscured by simple arithmetic ratios. Citicorp, for example, has approximately $4 billion of personal and mortgage loans to consumers. The nature of this risk is relatively predictable in that the ratio of losses to particular kinds of consumer loans made does not vary widely from one time period to another, although loss ratios do vary from market to market and among different types of consumer loans. In the case of personal loans, losses are recognized on a formula basis which is based on loss experience by type of loan by market over time. Typically this formula anticipates loan loss recoveries will run approximately 30% overall.

In the first half of 1976, certain Citicorp subsidiaries changed their write-off policies, based on experience with respect to consumer personal loans, to a more restrictive "180 days contractual" basis. The one time effect of this discretionary formula change was an additional charge against loan loss reserves of $16 million in the first half of 1976. This change made good business sense and was deemed prudent and conservative. It means, however, that future reserves will, by definition, be lower and that write-offs and recoveries somewhat higher. There will be no effect on reported earnings.

As a result of this formula change, Citicorp's reserve for loan losses is $16 million lower than it would have been had the formula charge-off policy for consumer loans been the same as it was in 1975. By implementing a more conservative charge-off formula, the ratio of reserves to loans was lowered by four basis points. Since the economic reality has been and continues to be that losses on consumer loans are anticipated with reasonable accuracy and charged to current earnings, this charge has taken on many characteristics of an accrued expense. It is simply a rather predictable cost of doing business and is viewed as such. Citicorp's consumer losses for the full year 1975 were $58 million and recoveries $18 million. For the six months ended June 30, 1976, and after reflecting the $16 million of losses resulting from the change in write-off policy previously described, consumer loan losses were $61 million and recoveries $17 million. The higher absolute level of write-offs results primarily from the write-off policy change combined with greater loan totals outstanding.

Unlike the experience of personal finance companies or Citicorp's own consumer loan portfolio, commercial loan losses are not as clearly predictable as consumer loan losses. There is not now, or has there ever been any formula which has proven accurate in predicting losses over time, so charges must of necessity be judgmental. These judgments must be made based on a thorough analysis of a given portfolio and then subjected to scrutiny by independent accountants and bank examiners. Clearly, if management could identify at any one point in time all anticipated losses within a given portfolio with total accuracy, these loans would be immediately written off and no reserve would be required. Since no one can predict the future with total accuracy, Citicorp has increased its charges to current earnings in excess of current losses to be as conservative as possible. Over the last five and one-half years Citicorp has charged current earnings and put into the reserve for loan losses $72 million more than actual write-offs.

Since all known loan losses are appropriately anticipated, it is clear that the primary defense against loan losses has always been and will continue to be the ability of a financial intermediary to absorb future losses out of current earnings and still provide an adequate return to the shareholders. Both in 1975 and thus far in 1976, a period in which Citicorp has experienced greater loan losses than any other period in its history, earnings before taxes and provision for net loan losses were more than three times net loan losses.

UNEMPLOYMENT RATES

Mr. DOMENICI. Mr. President, there is an issue of importance within the Labor-HEW appropriations bill that I wish to bring to the attention of my colleagues. In supporting H.R. 14232, the Senate will be appropriating funds to clear up a case of statistical oversight dealing with unemployment rates.

In brief, the Bureau of Labor Statistics has come up with a procedure that is unfair to the 23 least populous States, as applied to CETA funding. It is the practice of the BLS to "benchmark" unemployment figures—reported by the States—to the Census Bureau's Current Population Survey—CPS. In so doing, the BLS generally improves the quality of official figures by relating them to a standard and accepted statistical series

In the 23 least populous—or non-CPS—States, however, the BLS readily acknowledges the fact that the CPS sampling is too small to measure employment trend changes within any of the non-CPS States. As a lump sum, we are told by the BLS, it is known that refinements are needed because the small

States report too much unemployment—by an estimated 9 percent. But, because the actual samples are so small, the BLS is unable to statistically locate the sources of overreporting within the 23 non-CPS States, and they therefore assume a uniform error from which they uniformly reduce the official unemployment figures of all 23 non-CPS States with no recourse to individual States.

It is quite possible, for example, that Rhode Island lose a major source of employment resulting in a dramatic increase in unemployed persons. If the trend among other small States is an increase in jobs due to energy exploration, the overall trend of increased employment will be used to Rhode Island's detriment because it happens to be a small State with an inadequate CPS sample. The net result for Rhode Island, as far as official statistics are concerned, will be a reduction in the numbers of unemployed persons even though the actual joblessness increased.

This can happen because of the lump-sum approach of the BLS in reporting unemployment rates among the 23 non-CPS States. Because so many Federal grant programs—especially CETA and the EDA programs—are directly tied to BLS statistics, Rhode Island could and would lose needed Federal assistance.

Fifteen Senate colleagues have joined me in a letter to Mr. Julius Shiskin, Commissioner, BLS. We expressed our concern and were in turn promised by the Employment and Training Administration and the BLS of the Department of Labor that any negative funding decisions due to changes made by the BLS in unemployment statistics would be held harmless—with discretionary funds in H.R. 14232.

I bring this matter to your attention so that you will know that a vote in favor of H.R. 14232 will be a vote of assistance to those non-CPS States that could very easily lose some or all of their CETA funds.

In fairness to the BLS, I assure my colleagues that a revised, more in-depth procedure will be online for calendar year 1977. At that time, according to BLS timetables. all 50 States will have adequate samples for meaningful benchmarking and improvement in the quality of unemployment rates. Therefore, the problem shared by the 23 least populous States as discussed above is due to an interim procedural measure. The Department of Labor has been most cooperative in resolving the funding problems associated with aggregate, multi-State revisions of the unemployment rates.

In discussing this same statistical problem with the Economic Development Administration, we have found that the 23 non-CPS States will, as a group, not be hindered. This is due to a new twist in the application of numbers. CETA uses the estimated numbers of unemployed persons while EDA uses the rates of unemployment. CETA funds would have been—without the transfer of discretionary funds allowed in this bill—decreased in the 23 non-CPS States because the number of unemployed persons is officially reduced as explained above. However, since the BLS also reduces the number of employed and the total labor force, the ratio of unemployed to the total labor force can and, in fact, does increase. That is, the unemployment rate increases—in most cases—due to the reduced official size of the labor force. Thus, the same set of numbers yields different results depending on their specific application.

I ask unanimous consent that our letter to BLS and the response be printed in the Record.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C. May 27, 1976.

Mr. Julius Shiskin,
Commissioner, Bureau of Labor Statistics, U.S. Department of Labor, Washington, D.C.

Dear Mr. Shiskin: We write you in opposition to the recent BLS decision to treat 23 States as a single group in making downward adjustments in the official unemployment rates. While we enthusiastically support your plans to standardize unemployment statistics in the coming year, we object to this interim measure.

As we understand this complicated procedure, each year (when necessary) the BLS benchmarks the State estimates to the Current Population Survey figure. The problem arises in 23 States that do not have an adequate CPS sample to justify such an adjustment. The net result is the use of two different methods. The 27 most populous States are individually revised and benchmarked to the CPS; the 23 least populous States are lumped into one group with a uniform downward revision applied to all 23 States.

Further complicating this situation is the fact that Congress made several significant changes in the unemployment insurance system. The estimating procedures for all States are closely tied to unemployment insurance figures and then verified or adjusted by the results of the CPS which is conducted by the Census Bureau. According to information received from the BLS (in the March 25, 1976 letter to Mary C. Hackett, Employment Security Director for Rhode Island), the 27 CPS States had over-estimated 1975 unemployment by about 6 percent and the 23 non-CPS States over-estimated 1975 unemployment by about 9 percent.

While we can empathize with the dilemma faced by the BLS in determining an equitable method for making adjustments in the 23 non-CPS States, we must object to the uniform reductions required in these 23 States with no field validation or State-by-State verification of methodology to more precisely determine the sources of "error." It is also not clear to us how the "error" can be known when the CPS sample is admittedly insufficient in the non-CPS States.

We have relied on unemployment data from the Bureau of Labor Statistics for much of our decision-making. Had we known about the underlying problems and the impending interim "solutions," funding decisions for CETA and economic development programs may have been quite different.

We would like to continue our good faith in the reliability of the estimates given to us by the BLS. There is no better way to undermine this faith than to make changes in the methodology without public notice or proper validation of data.

Therefore, we ask that the BLS rescind its requirement to the 23 non-CPS States to reduce their official unemployment rates by an annual average of about 9 percent. Since there is no valid statistical reason to assume that each of the 23 non-CPS States has an error of that magnitude, we further request that other alternatives be examined by the Department of Labor to insure that current funding levels are held harmless in the 23 non-CPS States. We feel confident that alternative solutions are clearly possible in light of inadequate data in the 23 non-CPS States.

Sincerely,

Pete V. Domenici, New Mexico; Ted Stevens, Alaska; John Pastore, Rhode Island; Paul Fannin, Arizona; Patrick Leahy, Vermont; Claiborne Pell, Rhode Island; Joseph M. Montoya, New Mexico; Gary Hart, Colorado; Jennings Randolph, W. Virginia; Lee Metcalf, Montana; Robert Stafford, Vermont; Mike Gravel, Alaska; Thomas McIntyre, New Hampshire; William Hathaway, Maine; Robert Dole, Kansas; Howard W. Cannon, Nevada.

Note.—After obtaining the signatures of 15 colleagues, it was brought to our attention by the staff of the Labor-HEW Subcommittee of the Appropriations Committee that the final paragraph of this letter might be misunderstood. It could be interpreted to mean that any changes made for the non-CPS States would have to be absorbed by the CPS States. Such an interpretation is not our purpose. On the contrary, we are seeking a solution that would preserve CETA funding (as well as other program activities tied to unemployment rates) for all the States. We intend no spill-over or negative impact in the CPS States. We feel that the BLS should have the latitude to pursue alternatives.

I am confident that the co-signers of this letter agree to this clarification.

Pete V. Domenici.

Bureau of Labor Statistics,
Washington, D.C., June 18, 1976.

Hon. Pete V. Domenici,
U.S. Senate,
Washington, D.C.

Dear Senator Domenici: I am responding to your letter of May 27 to Commissioner Shiskin, in which you expressed your concern and that of several other Senators, regarding the unemployment estimates for the 23 States for which data from the Current Population Survey (CPS) are not available.

We understand your concern and would like to explain to you the reasons for the decision made by the Bureau of Labor Statistics to require a uniform adjustment to the unemployment data for these 23 States. This decision was made after consultation at all levels within the Bureau and with Committees on which State employment security agencies are represented.

A careful review of the data prepared by the State employment security agencies revealed that the State estimates tended to overstate unemployment in 1975. This was due to the fact that the estimating procedure, sometimes referred to as the "Handbook Method" or the "70-step method," had not been corrected to allow for new unemployment programs in 1975 (the State extended benefit program and the Federal supplementary benefit program).

In the 27 States for which reliable data from the national survey are available, the benchmarking process corrected this problem. Since individual State benchmarks from the CPS were not available for the other 23 States, some other procedure was required in order to insure comparability. The CPS data for the individual States in this group did not meet the required standard of reliability, but the aggregate of the 23 States—taken as an entity—did. The decision was to use the 23 State aggregate (the only data available) as a benchmark and to adjust each of the States in the group proportionately.

The problems involved in the use of this procedure have been reviewed with those in the Department responsible for administering funds under the Comprehensive Employment and Training Act (CETA). It has been decided that the Secretary's discretionary funds will be used to insure that no area is penalized merely because separate CPS estimates were not available. This decision, I believe, will satisfy the intent of your letter. However, if you wish to have particular details clarified further, I suggest that your staff call Mr. Dudley E. Young, our Assistant Commissioner responsible for this program for BLS (523–1694), to discuss any questions on statistical procedures. Questions on the allocation process itself, however, should be directed to Mr. Davis Portner of the Employment and Training Administration (376–6274).

I want you to know that I appreciate your concerns about the quality of the local area statistics and that the Bureau of Labor Statistics is doing everything it can to improve the data so that the allocation of Federal funds is made in an equitable manner.

Sincerely yours,

Janet L. Norwood,
Acting Commissioner.

THE CORPORATE DOUBLE STANDARD: WOMEN STAY BACK

Mr. METCALF. Mr. President, a double standard is being used to prevent women from becoming board members of America's largest corporations.

At the 1976 General Electric stockholder meeting, G.E. Chairman Reginald H. Jones was asked why there are no women serving on the board of America's ninth largest industrial corporation. As reported in the summer issue of General Electric's Investor magazine, Chairman Jones explained that he was "personally distressed" that there are no women serving on the board, but because of the wide diversity of General Electric's products, no qualified women could be found who were not already on the board of a competing company.

I am pleased that Mr. Jones has expressed a concern about director affiliations which present potential conflicts of interest. Unfortunately, it appears that G.E. standards for women executives are far stricter than those for male executives.

I have asked my staff to prepare an analysis of the affiliations of the present members of General Electric's board of directors. The board, made up of 18 men, is packed with representatives of potential competitors, customers and suppliers, and financial institutions with potential controlling interests in competing companies.

Two of the Nation's largest retail chains, Federated Department Stores and J. C. Penney, are represented on the board of G.E.—one of the Nation's largest manufacturers of retail goods.

Two large steel companies, National Steel and Inland Steel, both potential suppliers, are represented on the G.E. board.

Six of the Nation's largest banks, Chase Manhattan, Morgan Guaranty, Citibank, Chemical Bank, Wells Fargo, and Northern Trust Co., are represented on the G.E. board. The trust and investment divisions of these banks hold, with voting rights, blocks of General Electric common stock. Common stock voting authority, along with long- and short-term debt control and interlocking directors, are the main avenues of influence between the banks and corporations.

Five subsidiaries of the Nation's largest mutual fund complex, Investors Diversified Services, are represented on the General Electric board. Two of those five companies hold G.E. common stock. Another IDS company, not represented on the board, holds more G.E. stock.

These companies and banks, all directly interlocked with the board of General Electric, present potential conflicts of interest for board members involved.

It should be pointed out that this array of corporate affiliations and potential conflicts exists on the board of virtually every large American corporation. Concerns about potential conflicts of interest are indeed legitimate. I am personally concerned about the present situation at General Electric. But for anyone to claim that there are simply not enough qualified women to go around is ludicrous.

It is ironic that the issue of Investor magazine which reports Mr. Jones' remarks was distributed at approximately the same time that Business Week published, as its cover story, a survey of the top 100 corporate women in the United States.

This Business Week list is impressive, but in no sense is it complete. It is only a small example of the vast range of talent yet to be tapped by America's corporations. As the Business Week article points out "Corporate officers need all the talented and experienced advice they can find. There is plenty to be found among women executives."

I am in complete agreement. Corporations that are serious about bringing women and minorities into upper management positions can find plenty of talented, intelligent people—if they will only throw aside their double standards and stop searching for more excuses for delay.

Professional women who are interested in opportunities for service on corporate boards should be aware that information bearing on the discrimination against them, by companies such as General Electric, is not easy to obtain. There is no centralized reporting of affiliations of corporate officers and directors or, for that matter, other data bearing upon corporate ownership and control such as major stockvoters and debtholders.

The staff of the Subcommittee on Reports, Accounting and Management spent several days sifting through public reference such as Standard & Poor's, Moody's, and Vickers, as well as the reports of the trust and investment divisions of national banks to the Comptroller of the Currency, to obtain some of this data on GE.

Such information, that is so vital to our understanding of the structure of the American corporate system, is not available in any one place. It should be. To this end, the staff of the subcommittee, in cooperation with staff members of nine regulatory agencies and the General Accounting Office, developed model uniform corporate disclosure requirements. They appear in appendix A of Senate Document 94–246: Corporate Ownership and Control.

These proposed regulations would provide Congress with the information we need to make important public policy decisions. They would provide the regulatory agencies with the information they need to efficiently and effectively protect the public interest, with a minimum of interference and burden on the reporting companies. They would provide investors with the information they need to make safe, sound investments. And they would provide the majority sex with information women need to attain a larger role in corporate governance.

The model corporate disclosure regulations are currently before all of the commissions and agencies that participated in their formulation. Most of these commissions and agencies unfortunately, appear to be as slow to adopt these disclosure regulations as many corporations are in adding qualified women to their boards of directors.

Mr. President, I ask unanimous consent that Mr. Jones' remarks, as they appear in the summer 1976 issue of Investor magazine, the staff analysis of the board of directors of General Electric, and the article, "Top 100 Corporate Women," from the June 21, 1976, issue of Business Week, be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the General Electric Investor, summer 1976]

A Woman Director: The Search Intensifies as a Special Committee of the Board Considers More Women Nominees

In response to a share owner question at the Statutory Meeting, Board Chairman Jones said that he was "personally distressed that we do not have a woman serving on our Board of Directors at this time." He reported that the Special Committee of the Board has been considering nominations for a couple of years but has not yet found "the right woman to bring aboard."

The Chairman explained that "one of our problems is the very great diversity of the Company itself. Many qualified women are already members of a Board of Directors of some other company, and because of the diversity of our products would be in conflict if they were to serve on our Board."

He indicated, however, that efforts are being intensified "to find the right woman to bring to our Board," and he added that he was "personally hopeful that by the time we next send out an annual Proxy Statement this will be a moot issue."

Affiliations of Board of Directors of General Electric Co.

Board member, corporate affiliations, and comments

Humphrey, Gilbert W.: Hanna Mining Co.; General Electric Co.; National City Bank of Cleveland; Texaco, Inc.; St. John d'el Ray Mining Co.; Massey Ferguson, Ltd.; National Steel Corp, 8th largest integrated steel company—potential supplier; Sun Life Assurance Co., holder of GE common stock; General Reinsurance Co., holder of GE common stock.

Hovde, Frederick L.: General Electric Co.; Purdue University; Investors Mutual, holder of GE common stock; Investors Selective Fund; Investors Variable Payment Fund; Investors Stock Fund, holder of GE common stock; IDS Bond Fund, Inc.; Inland Steel Company, 5th largest integrated steel company—potential supplier.

Lawrence, John E.: General Electric Co.; James Lawrence & Co.; State Street Investment Corp., holder of GE common stock.

Parker, Jack S.: General Electric Co., inside director.

Weiss, Herman L.: General Electric Co., inside director.

Pierce, Samuel R.: General Electric Co., inside director.

Wriston, Walter B.: General Electric Co.; Citicorp; First National City Bank, holder of GE common stock, potential debtholder Chubb Corp.; Rand Corp.; J. C. Penney Co., 3rd largest retail chain, potential customer, actual competitor.

Jones, Reginald H.: General Electric Co., American Management Association, board chairman.

Scribner, Gilbert H.: Nortrust Corp.; Nothern Trust Company, holder of GE common stock; General Electric Co.; Scribner & Co.; Northwestern Mutual Life, Mortgage and Realty Investors, parent company is holder of GE common stock; Quaker Oats; Abbott Laboratories.

Dance, Walter D.: General Electric Co.; inside director.

Lazarus, Ralph E.: Federated Department Stores, ninth largest retail chain, potential customer; Chase Manhattan Bank, holder of GE common stock, potential debtholder; Scott Paper Co.; General Electric Co.

Littlefield, Edmund: Utah International; General Electric Co.; Marcona Corp.; Cyprus Pima Mining; Wells Fargo Bank holder of GE common stock, potential debtholder; American Mining Congress; Southern Pacific Transportation, potential customer; Southern Pacific Co.; Industrial Indemnity Co., holder of GE common stock.

Austin, J. Paul: Coca-Cola Co.; Continental Oil Co.; Morgan Guaranty Trust Co., holder of GE common stock, potential debtholder; General Electric Co.; Trust Company of Georgia; J. P. Morgan Co.

Boswell, James G. II: General Electric Co.; Safeway Stores; Security Pacific National Bank.

Dickey, Charles D.: General Electric Co.; Scott Paper Co.; British Columbia Forests; INA Corporation, holder of GE common stock; Morgan Guaranty Trust Co., holder of GE common stock, potential debtholder; J. P. Morgan Co.; American Paper Institute.

Hillman, Henry L.: Chemical New York Corp.; Chemical Bank, holder of GE common stock, potential debtholder; Pittsburgh National Corp.; Pittsburgh National Bank; Texas Gas Transmission Corp.; Hillman Corp.; Cummings Engine Corp.; Global Marine Corp.; Marion Power Shovel Co., Inc.; Copeland Corp.; Edgewater Corp.; Shakespeare Co.; Hillman Coal and Coke Co.; National Steel Corp., eighth largest integrated steel company, potential supplier; General Electric Co.

Cathcart, Silas: Illinois Tool Works; A. B. Dick Co.; Jewel Companies; General Electric Co.; Nortrust Corp.; Northern Trust Company, holder of GE common stock; Quaker Oats Co.

BANKS REPRESENTED ON THE GE BOARD OF DIRECTORS WHOSE TRUST DIVISIONS HOLD GE COMMON STOCK

Director	Bank	Total shares held	Sole voting rights
Wriston, Walter	Citibank	4,712,000	3,021,511
Lazarus, Ralph	Chase Manhattan Bank.	2,166,000	754,000
Littlefield, Edmund.	Wells Fargo Bank	740,957	536,468
Austin, J. Paul	Morgan Guaranty Trust Co.	1,419,122	584,084
Hillman, Henry	Chemical Bank	1,042,000	[1] 915,000
Scribner, Gilbert H., Cathcart, Silas.	Northern Trust Co.	[1] 2,135,406	(2)

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[1] Approximate.

[2] Not available.

COMPANIES HOLDING GENERAL ELECTRIC COMMON STOCK REPRESENTED ON GE BOARD OF DIRECTORS

Board member: Company	Shares held
Humphrey, Gilbert W.:	
Sun Life Assurance Co	46,000
General Reinsurance	77,600
Hovde, Frederick L.:	
Investors Mutual	400,000
Investors Stock Fund	300,000
Lawrence, John E.: State Street Investment Co	55,000
Dickey, Charles D.: INA Corp	120,000
Littlefield, Edmund: Industrial Indemnity Co	5,000
Scribner, Gilbert H.: Northwestern Mutual Life Mortgage & Realty Investors	[1] 169,000

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[1] Stock is held by parent company, Northwestern Mutual Life. Scribner is not a director of Northwestern Mutual Life.

One Hundred Top Important Women—A Comprehensive Survey of Women With Corporate Clout—And Their Routes To the Top

Ann Maynard Gray, a 30-year-old MBA from New York University, was elected treasurer of American Broadcasting Cos. in New York City two months ago after only three years with the entertainment conglomerate that is enjoying one of its best years in television. Jayne Baker Spain, 52, former chief executive of a machinery manufacturer and a former vice-chairman of the U.S. Civil Service Commission, was named senior vice-president of public affairs at Gulf Oil Corp. in Pittsburgh earlier this year. Frances Davis, a 51-year-old member of a leading San Francisco law firm, was appointed vice-president and general counsel of Potlatch Corp., the forest product giant, last September.

Quietly, with no more notice than the usually ignored press release, women have been moving into significantly important executive positions at major U.S. corporations. Who they are, where they are, and determining their real influence has taken weeks of research and reporting by BUSINESS WEEK's staff. Profiles of 100 of these women are on the following pages.

These 100 women who wield real corporate power are distinguishable for one thing: They are indistinguishable from their male counterparts in how they came to their present business eminence. More than a dozen founded their own businesses, a handful inherited a business. Some are highly educated, with several degrees capped by a doctorate. Some have a high school education.

Like upwardly mobile men, about a dozen of the top women executives found a law degree either handy or the principal tool in their rise. Banking or financial services have offered most—23 of the top 100—their path to a senior corporate post. Many feel their age is irrelevant to their present job and will not disclose it.

AVENUE TO SUCCESS

Some of the women have carved their careers by spotting corporate needs and developing the knowledge to fill them, or by being in the right spot at the right time, such as was the case with Marion S. Kellogg (picture, above), a vice-president at General Electric Co., and Phyllis A. Cella, a John Hancock Mutual Life Insurance Co. vice-president (BW—Nov. 24, 1975). Others, such as Mary Kay Ash—now chairman of a $35 million cosmetics company—found the male refusal to give a female a chance too forbidding and started their own businesses. Mary Hudson Vandegrift was in her early 20s when her husband was killed in a truck accident, leaving her with a couple of gasoline stations in the middle of the Great Depression and a surplus of gasoline. She pioneered in acquiring a string of gas stations and cutting prices.

The top female executives are no different than males in being busy people. Dorothy Gregg, holder of a doctorate from Columbia University and vice-president of communications at Celanese Corp., has served on a half dozen New York State and New York City commissions, on the White House Conference on Children, a UNESCO committee, and claims membership in 22 organizations. Spain is a director of a hospital, a trustee of two colleges, has been a director of the American Management Assn., and served on two Presidential commissions.

No one geographical area of the country seems more hospitable to the woman executive than any other. You will find more of them, of course, in New York City and its environs as that area boasts the most corporate headquarters. But women executives are prominent in Boston, Philadelphia, Chicago, and Los Angeles. No particular vocation seems closed to women; one directs research at Avco Corp., another negotiates labor contracts for Macy's New York.

These women share one distinction: They are sought by male executives to serve on boards of directors. This is not primarily a response to the "consciousness-raising" of the past decade, but a calculated move to get counsel on developing their own women executives. And, just as important, corporate officers need all the talented and experienced advice they can find. There is plenty to be found among the following women executives.

BANKING

Catherine B. Cleary, president and chief executive officer of First Wisconsin Trust Co., Milwaukee, with deposits of $20.8 million. The only woman to head a well-known bank she did not inherit, Cleary also serves as a director of General Motors, AT&T, Kraftco, Northwestern Mutual Life Insurance Co., and Kohler Corp.

Rebecca S. High, senior vice-president of First Pennsylvania Bank, Philadelphia, the nation's 19th largest bank, with deposits of $4.4 billion. High supervises five divisions: corporate cash management, deposit and accounting services, trust accounting, loss and fraud prevention, computer control.

Marilyn LaMarche, vice-president at Citibank, New York City, the country's second largest, with deposits of $45 billion. As head of the business development department of the personal financial management division, LaMarche handles portfolios totaling more than $100 million.

Kay K. Mazuy, senior vice-president for corporate marketing at Shawmut Corp., Boston, parent of Shawmut National Bank, with deposits of $1.8 billion. Mazuy directs corporate advertising, market research and sales analysis, and corporate business and product development at the eight-bank holding company, and is a director of McGraw-Hill and Blue Shield of Massachusetts.

Sandra J. McLaughlin, vice-president for retail services at Mellon Bank, Pittsburgh. McLaughlin heads three divisions of the nation's 15th largest bank, with deposits of $7 billion, and she controls more than $100 million. She is also consumer adviser to the American Bankers Assn.

Madeline McWhinney, president of First Women's Bank, New York City. The first of a number of banks to serve predominantly women, the bank has acquired $8 million in deposits since its opening in October, 1975.

Caroline Norman, vice-president at Wachovia Bank & Trust Co., Winston-Salem, N.C., and the first woman to attain this rank in the Southeast's second largest bank, with deposits of $2.8 bililon. Since last year, Norman generates new loans in the Midwest and specializes in cash management.

Mary G. Roebling, chairman of National State Bank, Elizabeth, N.J., which has deposits of $570 million. One of the first women bank presidents and the first woman governor of the American Stock Exchange, Roebling also serves on the New Jersey Investment Council, a state advisory group.

Martha R. Seger, division vice-president for investments and economics at the Bank of the Commonwealth, Detroit, with deposits of $836 million. A former Federal Reserve Board economist, Seger manages Commonwealth's investment portfolio and heads its money center and municipal bond departments.

BROADCASTING

Deanne Barkley, vice-president of program development at NBC in Burbank, Calif. Barkley is responsible for supervision of 60 to 70 new prime time TV program concepts each season.

Ann M. Gray, treasurer of American Broadcasting Cos., New York City. Reporting to the financial vice-president, Gray directs all treasury operations, cash control and management, credit and collections, and short-term portfolio management.

Charlotte Schiff Jones, executive vice-president and director of Manhattan Cable Television Inc., a subsidiary of Time Inc. As No. 2 executive of the 80,000-subscriber CATV station, one of the nation's largest, Jones directs relations with government regulatory agencies and develops new uses for cable TV technology.

Kathryn Pelgrift, vice-president for corporate planning at CBS Inc., New York City. A rising corporate star at the broadcasting company, which she joined as assistant to the president in 1972, Pelgrift recommends corporate objectives for growth and profitability.

Marion Stephenson, vice-president and general manager of NBC's radio-network, New York City, and RCA Corp.'s first woman vice-president. The No. 2 executive at the network, Stephenson is in charge of sales, programs, and the operations of affiliates.

Marilyn Walsh, vice-president and director of taxes and finance at CBS, New York City. Walsh is the corporation's chief tax executive, advising and representing CBS on all tax matters.

COSMETICS AND FASHION

Mary Kay Ash, chairman and co-founder with son, Richard, of Mary Kay Cosmetics Inc., Dallas. Ash was instrumental in boosting the company's revenues from $200,000 in 1963, its first year, to $35 million in 1975.

Jane Evans, president of Butterick Fashion Marketing Co., New York City, the American Can Co. division that comprises Vogue and Butterick Patterns, Butterick Publishing, and several smaller units. A former president of I. Miller, the Genesco Inc. retail shoe operation, and vice-president for international marketing of Genesco's International Group, Evans is an established power in fashion marketing.

Gloria Gelfand, president of Picato sportswear, New York City, a new General Mills Inc. division aimed at the young professional market. After only two years, Picato racked up sales of $10 million, with Gelfand exerting autonomous control of sales, marketing, and merchandising.

Mary Joan Glynn, general manager and chief operating officer of the Princess Marcella Borghese Div. of Revlon Inc. The cosmetics giant in New York City had 1975 sales of nearly $750 million. Glynn is responsible for all aspects of the multiproduct cosmetics group, specializing in marketing and product direction.

Shirley Goodman, executive vice-president of the Fashion Institute of Technology, New York City, and a trend setter for the garment trade. By training designers and placing them with ranking companies, Goodman exercises strong influence on the fashion and retailing industries.

Helen Lee, president and designer of Helen Lee Inc., New York City. The company produces the nation's single largest line of children's clothing, the Winnie the Pooh collection for Sears.

Ruth Manton, president for Anne Klein Design Studio, New York City, a designer and licenser of towels, sheets, and 20 other lines, which account for about $150 million in retail sales.

Paula K. Meehan, founder and chairman of Redken Laboratories Inc., Van Nuys, Calif. A former actress, Meehan runs the 16-year-old company with sales of $31 million in cosmetics and personal grooming preparations.

Carole Phillips, executive vice-president and chief operating officer of Estee Lauder Inc., Clinique Div., which is the fastest growing unit in Lauder's cosmetics empire. Phillips heads sales, marketing, and new product development at Clinique, a leader in the allergy-tested cosmetics market.

Tina Santi, vice-president for corporate, consumer, financial, and internal communications at Colgate-Palmolive Co., New York City. Santi initiated and directs the company's sponsorship of women's sports programs, an effort credited with helping to promote sales that produce $119 million in income from the company's predominantly female customers.

Diane von Furstenberg, founder and president of Diane von Furstenberg Inc., New York City, a dress company that started with $30,000 in 1970 and is expected to post sales of $60 million this year, with accessories, cosmetics, perfumes, and shoes added to the dress line.

ELECTRICAL AND ELECTRONICS

Evelyn Berezin, president and founder of Redactron Corp., New York City, a word-processing company with the second largest installed base of word-processing equipment in the U.S. Recently acquired by Burroughs Corp., Redactron continnues under Berezin's direction.

Ursula Farrell, manager of product marketing for large systems in the data processing division at IBM, White Plains, N.Y. Farrell develops national marketing programs for both the hardware and programming of computers that represent IBM's top range in size and price ($5 million to $8 million per system) and account for a sizable chunk of IBM's profits.

J. Diane Folzenlogen, treasurer and secretary of Electronic Data Systems Corp., Dallas. Credited with sparking several important financial management plans at the $123 million company, Folzenlogen serves on the board of various EDS subsidiaries. Long range, she is regarded as a potential corporate chief.

Marion S. Kellogg, vice-president of corporate consulting services at General Electric Co., Fairfield, Conn. GE's first woman at each successive level at the $13 billion company, Kellogg is the first and only woman among 2 GE corporate officers. An internationally known management expert, she supervises 400 employees, working with a $19 million budget.

Lucille Lomen, counsel for corporate affairs at GE. In this key spot, Lomen handles executive compensation issues, drafts benefits programs, and serves on the company's political action committee and its pension board.

FINANCIAL SERVICES

Ida Brancato, director, senior vice-president, and member of the executive board at Thomson & McKinnon Auchincloss Kohlmeyer Inc., a New York City retail brokerage firm with about 85 branch offices and some 2,400 employees. She is one of only four women to serve as directors of major Wall Street firms.

Patricia M. Howe, managing partner at L. F. Rothschild Co.'s San Francisco office. The only woman among about 40 partners of this investment house, Howe was the first woman to manage a branch for any major New York Stock Exchange company.

Beverly Lannquist, vice-president of Morgan Stanley & Co., a major investment house in New York City and the only woman chosen by Institutional Investor to be a member of its All-American Team, a group of top experts in the various investment areas. Lannquist specializes in cosmetics stocks.

Freda I. Miller, senior vice-president of Philadelphia Saving Fund Society, which claims to be the biggest and oldest mutual savings bank in the nation, with assets of $4.2 billion. As a ranking officer of the bank, Miller directs its financial policies and serves on its executive and finance committees.

Lorna Mills, president of Laguna Beach Federal Savings & Loan, Laguna Beach, Calif. The first woman president of a federally chartered S&L, Mills has doubled its assets in the past five years to $236 million.

Gloria Muir, managing partner and vice-president of Loomis, Sayles & Co., Boston, the country's second largest investment counseling firm, managing assets of $4 billion. Muir created and runs a special $150 million department for smaller-scale accounts of $100,000 to $400,000.

Marion O. Sandler, vice-chairman of Golden West Financial Corp., Oakland, Calif. Together with her husband, Herbert, Sandler formed the holding company in 1963 to acquire Golden West Savings & Loan and built its assets from $38 million to $1.8 billion. Last October the corporation merged with Trans-World Financial Corp. to become the second largest S&L branch network in the country, with 107 offices in California and Colorado, and the 7th largest in assets. It is also one of the most profitable: Annual earnings have grown from $16.8 million in 1966 to $92 million in 1975.

Muriel F. Siebert, president of Muriel Siebert & Co., New York City. She is both the first woman member of the New York Stock Exchange and the first to run her own firm.

Beverly Splane, executive vice-president of the Chicago Mercantile Exchange. A former management consultant and former acting executive director of the U.S. Commodity Futures Trading Commission, Splane is regarded as a fast mover in the business world.

Frances Stone, vice-president of Merrill Lynch & Co., New York City. She frequently serves as a national spokesman for security analysts through the Financial Analysts Federation.

Sally A. Stowe, director, senior vice-president and chief financial officer at Keefe, Bruyette & Woods Inc., an investment banking firm that specializes in bank stocks and bank research, one of only four women to serve as directors of major Wall Street firms.

Madelon Talley, director of foreign investment funds at the $3 billion Dreyfus Corp., New York City, and portfolio manager at the Dreyfus Intercontinental Investment Fund. She handles $20 million for the investment fund and serves as the principal analyst for Dreyfus' $126 million in overseas investments.

Julia M. Walsh, vice-chairman of Ferris & Co., Washington, D.C. One of the first women to become a brokerage house officer, Walsh serves as the only woman official at the American Stock Exchange.

FOOD

Mercedes A. Bates, vice-president for the Consumer Center of General Mills Inc., Minneapolis. A woman executive who pioneered in the food field, Bates still exerts substantial influence in the company.

Mary Beth Crimmins, vice-president for school services at ARA Food Services Co., Philadelphia, the industry leader, with annual revenues of $1.2 billion and net income of $30 million. Crimmins is in charge of contract food and dietetic services to schools, a hefty market in which ARA sales increase about $15 million annually.

Marguerite C. Kohl, vice-president for consumer affairs at General Foods Corp., White Plains, N.Y., the country's largest producer of packaged groceries, with $3.9 billion sales.

Kohl directs an operation that has a budget of more than $2 million and a staff of 80.

Betty McFadden, president of the direct marketing division of Jewel Cos., a Chicago-based food chain. McFadden has full control of a division that generates annual sales of about $100 million in 40 states.

Dianne McKaig, vice-president for consumer affairs at Coca-Cola Co., Atlanta. McKaig supervises Coke's domestic soft-drink and foods division (coffee and juices) and develops consumer policies for Coca-Cola Export Corp., the soft drink foreign subsidiary that accounts for more than half of the company's $239 million earnings.

Esther Peterson, vice-president for consumer affairs at Giant Food Inc., an $832 million supermarket chain based in Washington, D.C. Peterson was recruited to make Giant Food a leader in consumerist areas such as open dating, unit pricing, and ingredient listing. The improved company image is credited with helping to raise earnings $11 million last year.

Marilynn A. Raymond, vice-president for health care services at ARA Food Services, Philadelphia. Raymond is in charge of contract food and dietetic services for hospitals and nursing homes.

MANUFACTURING

Olive Ann Beech, chairman of Beech Aircraft Corp., Wichita. President of this top general aviation company for 18 years following the death of her husband, she remains active in day-to-day operations. Company sales have risen from $74 million in 1963 to $267 million in 1975.

Joan M. Burgasser, vice-president of marketing services and design at Thonet Industries Inc., York, Pa., a subsidiary of Simmons Co. Burgasser has full responsibility for selecting the company's line of contract furniture, seeing it through the manufacturing process, and handling its marketing and advertising. Contract furniture accounts for $20 million in sales.

Frances Davis, vice-president and general counsel at Potlatch Corp., San Francisco, a major forest products company. Davis, one of 12 top executives at the $504 million corporation, is responsible for over-all legal activities.

Isabelle M. Dienstbach, vice-president at Johns-Manville Corp., Denver. Dienstbach coordinates administrative responsibilities in this diversified building materials corporation and supervises its public and corporate relations.

Lillian Edwards, staff vice-president, corporate counsel, and secretary of Dresser Industries Inc., Dallas, capital goods producer with sales of nearly $2.5 billion. Edwards functions as the company's specialist in mergers and acquisitions.

Veronica P. Ging, corporate secretary of Olin Corp., Stamford, Conn. The company's first and only woman senior officer, Ging, a lawyer, specializes in mergers and real estate.

Dorothy Gregg, corporate vice-president of communications at Celanese Corp., a $1.9 billion diversified chemicals and fibers company. Gregg coordinates public relations officers in the five Celanese divisions.

Alice E. Hennessey, vice-president and corporate secretary of Boise Cascade Corp., a $1.5 billion forest products company. The only woman among 24 top-level officers, Hennessey oversees company relations with the board of directors, the investment community, shareholders, and the public.

Marjorie Hoyne, assistant vice-president of United Merchants & Manufacturers Inc., a New York textile manufacturer with sales of $921 million, and president of Kenneth Home Fashions, its home furnishings subsidiary with sales of $20 million.

Royle G. Lasky, president and chairman at Revell Inc., Los Angeles. Lasky has doubled sales to $30 million and increased profits nearly tenfold in the five years since she took over the model and hobby company after her first husband's death.

Juliette M. Moran, executive vice-president for communications services at GAF Corp., New York City, which produced net sales of $964 million in 1975. She is one of the most powerful and highest-paid women among executives who have made it through the ranks, with salary and bonus of $120,000 in addition to other compensation.

Dorothy M. Simon, corporate vice-president of research at Avco Corp., Greenwich, Conn., a $1.3 billion conglomerate with substantial government contracts. A physical chemist, Simon commands industry respect in a traditionally male field.

Aleta Styers, manager of economic analysis at Babcock & Wilcox Co., New York City. Styers initiates and conducts both macroeconomic and specific industrial analysis and forecasting for the business planning of the $1.5 billion equipment and machine manufacturer.

Dorothy F. Worcester, vice-president for market research at Milton Bradley Co., Springfield, Mass. Worcester possesses veto power over each of the 50 new toys and games that the company produces annually that account for more than half of Milton Bradley's $174 million annual sales volume.

PETROLEUM

Camron Cooper, investment officer at Atlantic Richfield Co., Los Angeles. ARCO's first and only woman officer and an oil industry rarity, Cooper manages the investment of $700 million in company benefit funds.

Jayne Baker Spain, senior vice-president for public affairs at Gulf Oil Corp., Pittsburgh. A former president of Alvey-Ferguson Co. in Cincinnati, Spain directs public, financial, and government relations for the nation's fifth-largest domestic oil company.

Mary Hudson Vandergrift, president and chief executive officer of Hudson Oil Co., Kansas City, Kan., an independent gasoline marketer. Top woman in the oil industry since founding Hudson in the 1930s, Vandegrift has surmounted problems ranging from the Depression to the Arab oil embargo to run a company with 300 stations in 35 states and revenues of $175 million.

Jane Yount, senior attorney for Cities Service International Co., a Houston arm of Tulsa-based Cities Service Oil Co. Yount operates in the sensitive areas of oil exploration and production contracts with foreign countries and companies, drilling concessions, and joint operating agreements.

PUBLIC RELATIONS AND ADVERTISING

Muriel Fox, group vice-president and senior consultant of Carl Byoir & Associates, New York City, the nation's second largest public relations firm. Probably the top-ranking woman in public relations, Fox handles the agency's TV Radio-Film Dept.

Barbara Hunter, executive vice-president of Dudley-Anderson-Yutzy Public Relations Inc., New York City, the only public relations agency among the top 25 to be owned and run by women, with annual fees of $1.2 million. Hunter handles consumer education programs and specializes in food and other consumer product publicity.

Reva Korda, executive vice-president of Ogilvy & Mather Inc., New York City. Next to Mary Wells Lawrence, Korda probably is the most important woman in advertising as creative director of this top 10 agency, which has worldwide billings of $175 million.

Mary Wells Lawrence, chairman and chief executive officer of Wells, Rich, Greene Inc., New York City. Lawrence is the founder, head, and moving spirit of this major advertising agency noted for trend-setting ads. The agency had 1975 gross billings of $187 million and net income of $1 million.

Barbara Proctor, president of Proctor & Gardner Advertising, Inc., a Chicago advertising agency with annual billings of $4.8 million. It specializes in ads aimed at the black community and handles such clients as CBS, Kraft Foods, and an impressive list of other blue-chip companies.

Joan Satin, founder and president of Throckmorton/Satin Associates Inc., New York City, a fast-growing marketing and advertising firm with special expertise in direct-mail programs for communications companies. Clients include Time Inc., McGraw-Hill, Doubleday Book Clubs, GAF, and Citibank.

Jean Schoonover, president of Dudley-Anderson-Yutzy, New York City. A 20-year employee of the public relations firm, Schoonover has been an account executive of every major account in the agency before becoming its president in 1970.

PUBLISHING

Adele Bowers, president of the book division at Times Mirror Magazines Inc., New York City. Bowers runs two of the largest special interest book clubs in the country, the Outdoor Life and Popular Science book clubs, which together total a half million members. The division, which publishes special interest books and includes a women's craft book club, has gross revenues exceeding $20 million.

Pat Carbine, publisher and editor-in-chief of four-year-old Ms magazine, New York City, the profitable flagship publication of the women's movement, with ad revenue of $1.55 million and circulation of 450,000.

Helen K. Copley, chairman and chief executive officer of Copley Press Inc., La Jolla, Calif. Since her husband's death in 1973, Copley has raised profits of the company 5% to 10% by selling the 14 weakest of its 50 newspapers, cutting staff 6%, and effecting a wide range of other economies. The privately held company's revenues are estimated to be $100 million.

Katherine Graham, chairman, Washington Post Co., Washington, D.C., a $309 million media empire that includes, beside the newspaper, Newsweek magazine, five TV stations, and two radio stations. Taking over following her husband's death in 1963, Graham proved herself a strong executive in her own right, backing the Post's Watergate investigation, despite government pressure, and winning a rough pressmen's strike.

Joan Manley, group vice-president of Time Inc., New York City. In charge of Time-Life Book/Records, Books & Arts Associates, New York Graphic Society, and Little, Brown & Co., Manley is considered a strong contender for the president's spot.

Helen Meyer, president of Dell Publishing Co., New York City, a paperback house that is probably the world's largest mass market publisher, with revenues exceeding $75 million. Meyer is the only woman president of a major publishing house.

Beryl Robichaud, senior vice-president for corporate management information services at McGraw-Hill Inc., New York City, one of the nation's largest publishers, with revenues of $536 million in 1975. Robichaud directs the company's computerization, an evolving process that links her with all major divisions.

Dorothy Schiff, president of New York Post Corp. and publisher and editor of the New York Post, which she has effectively dominated since buying it with her late husband in 1939. The Post, with a circulation of 600,000, is New York City's only afternoon daily and one of the country's largest afternoon newspapers.

Patricia Wier, vice-president of management services at Encyclopedia Britannica U.S.A., Chicago. Operating with a budget of $3 million and a staff of 116, Wier has the responsibility for all of the computer services, accounting, budgeting and planning, payroll, and information systems at one of the world's largest encyclopedia companies.

RETAILING

Gertrude Alman, executive vice-president of purchasing and marketing services for Allied Stores Marketing Corp., New York City, a department store holding company of 165 stores producing $1.75 billion in revenues. Alman moved through the ranks from assistant market representative to her present position in charge of all soft goods.

Gertrude G. Michelson, vice-president for consumer and employee relations at Macy's New York. The consumer responsibility is relatively recent, but Michelson's long-time role as the department store's labor relations chief makes her perhaps the only woman executive in the country to bargain and deal regularly with a major union.

Phyllis Sewell, vice-president of Federated Department Stores Inc., Cincinnati, the country's largest department store group. Sewell heads market research, including acquisition recommendations, planning, budgeting, and setting of corporate objectives for the $3 billion corporation.

Geraldine Stulz, president of Henri Bendel, a New York City specialty store, which Stutz has pulled out of the red since taking charge in 1965. Bendel is part of Genesco Inc., but Stutz operates with substantial independence to give it a high-fashion personality.

SERVICES

Marianne Burge, partner at Price Waterhouse & Co., New York. Burge is one of the few women to become a partner in a Big Eight accounting firm—a firm that is chary with its U.S. partnerships.

Phyllis A. Cella, vice-president for field management and marketing for John Hancock Mutual Life Insurance Co. and president and chief executive officer of Hanesco Insurance Co., a Boston subsidiary. Cella probably ranks as the highest-placed woman in the insurance industry.

Stephanie Dalidchik, vice-president at H. F. Philipsborn & Co. and assistant vice-president at Seay & Thomas Inc., two subsidiaries of IC Industries Inc., Chicago. Dalidchik handles all insurance for loans made by the mortgage banking company, for the properties managed by the companies, and for the real estate owned by the various companies in the $1.5 billion conglomerate.

Mary E. Lanigar, partner at Arthur Young & Co., San Francisco. Believed to be the first woman to achieve partnership in a Big Eight accounting firm, Lanigar has run the tax department of the San Francisco branch.

Myrtle Chun Lee, president of Island Holidays, AMFA Inc.'s Hawaiian hotels division. Lee oversees the operation of 10 hotels, with sales of $51.6 million, Hawaii's No. 2 hotel chain, second only to Sheraton Corp.

Anne M. McCarthy, vice-president at New England Mutual Life Insurance Co., Boston, a major insurance company with $4.6 billion in assets. McCarthy supervises $1 billion in privately placed bonds in addition to investing the premiums from company assets in bonds.

Norma Pace, senior vice-president of the American Paper Institute, the national trade association for pulp, paper, and paperboard companies. A former consultant to such corporate giants as GM, GE, and Sears, economist Pace continues to exercise influence through membership on such important corporate boards as Milton Bradley, Sears, and Sperry Rand and through the weight that the industry gives her economic analyses.

UTILITIES

Grace Fippinger, vice-president and secretary-treasurer of New York Telephone Co. The first woman officer in the Bell System, she handles corporate financing and banking policy for the company, administers a $1 billion pension fund, and is in charge of the General Services Dept.

Mary J. Head, vice-chairman of Amtrak, Washington, D.C. A former director of several transportation committees, Head plays an important role in mapping new routes for the rail network, serving as liaison between Amtrak and the railroads whose rights of way it uses, and representing Amtrak at Congressional hearings and before the public.

Mary Gardiner Jones, vice-president for consumer affairs at Western Union Telegraph Co., Washington, D.C. A former commissioner of the Federal Trade Commission, Jones currently concentrates on developing service standards for WU, pinpointing sources of service trouble, and spotting potential problems in new and proposed services.

Virginia Smith, vice-president and corporate secretary of Intermountain Gas Co., Boise, Idaho, and possibly the top-ranking woman in the public utility industry. As vice-president of the $60 million utility, she is charged with supervision of the personnel and communications departments. As corporate secretary, she deals with Intermountain's directors on behalf of its executives.

Mr. METCALF. Mr. President, I also ask unanimous consent that the article, "Sex and a Single Corporation," be printed at this point in the Record. It shows that GE's policy of double standards and discrimination is in effect at all employment levels—from the assembly line to the board of directors. This article was written by Ginny Ullman and Cookie Arvin in association with the GE project for their paper "Women and Corporations: A Look at the General Electric Company," and is reprinted in the book, "The Work of a Giant Corporation," by John Woodmansee.

There being no objection, the article was ordered to be printed in the Record, as follows:

Sex and a Single Corporation

(By Ginny Ullman and Cookie Avrin)

Women have always played a significant, though unequal role in the electronics industry, where in 1969, according to the U.S. Department of Labor, women comprised 40% of the labor force. Except for the textile and clothing industries, there is a higher concentration of women in electronics than in any other area of manufacturing. However, women working in the electronics industry are given little or no decision making power within the corporations. Instead, they are hired mostly as, and remain as, secretarial, clerical, or assembly workers [8].

Women who are production workers in the electronics industry are used for labor intensive work; this is the stage of the production process in which the most expensive element is labor, not machinery or materials. By underpaying women in these positions corporations minimize their costs and hence increase their profits.

In their 1972 policy manual. The United Electrical, Radio and Machine Workers (UE) describe how sex discrimination is practiced by companies:

"Government figures also prove that companies are mining gold by separating these two groups of workers. Their companies "mine the gold" by separating them into jobs that are classified as male and female, heavy and light, technicians and testers, assembly complicated and assembly simple, and similar divisions. They put women in the jobs of 'female', 'light', 'tester', and 'simple.' There are profits for the companies from these divisions. The average woman worker in manufacturing is paid $3,864 a year less than men, resulting in $22 billion extra profits for companies each year." [9]

This job segregation described by the UE takes two forms. In some instances women are put in different kinds of work from men. And since there is no group of male workers doing the same work, women cannot be said to receive unequal pay. Instead, these women are underpaid for the work they do. In other instances, women's jobs are described differently from men's jobs (technicians vs. testers, light vs. heavy, etc.) However, although they are segregated in job and pay categories, the men and the women in these different jobs do work that is often very similar or identical. Yet women in these situations receive smaller wages than men.

As production workers in the electronics industries, women often engage in work which is tedious and repetitive, such as wiring, soldering and assembling. According to the UE, these jobs often take several months of training and can be extremely strenuous. Job descriptions such as "light", "simple" are misleading in terms of the actual work women do. The UE describes women's jobs in the electronics industry:

"Many women's jobs require tremendous eye concentration and are performed in temperatures of 120 degrees. The fact is they actually can be more exhausting and require more physical effort than higher paying men's jobs." [10]

According to a survey made of the electrical industry by the Women's Bureau of the U.S. Department of Labor, "The constant arm and finger movements involved in many women's jobs were, in the course of a day, probably more wearing in many cases than the occasional lifting of a 30 or 40 pound box." [11]

As the largest electronics corporation, GE is no exception in the way it treats women workers. There are approximately 100,000 women workers in American GE plants, comprising more than one third of GE's workforce [12]. There are 121 top level positions within GE—all of which are filled by men. None of its 100,000 women employees are considered sufficiently qualified to hold any of these positions [13].

Although women are not considered eligible for the highest level jobs, one GE spokesman assures us that they are not discriminated against in the jobs they do hold: "We pay all employees on the same job the same wages regardless of their sex. We have different wage rates for different jobs of course, and this is entirely proper under the [Fair Labor Standards Act] law." [14]

Public statements such as this may quell the anxiety of some concerned stockholders but, as our research has revealed, it unfortunately represents little change for women workers at GE. According to Ms. Ruth Weyland, a Washington-based attorney for the International Union of Radio, Machine and Electrical Workers [IUE] who has recently travelled to several GE plants to examine company practices in regard to women workers:

The government has said it is illegal to classify jobs as "light" and "heavy" but GE has a record of advertising positions in this way.

Jobs are filled by foremen on the basis of favoritism with no regard for seniority and merit.

All of GE's women employees [at the Fort Wayne plant] were hired at rates at 35c per hour less than janitor rates, with many of the women doing intricate assembly work; and all were locked into historically women's jobs, with no possibility to move to higher paying jobs.

Many women at GE never rise above the entry level wage for janitors even after 30 to 40 years of experience with the company.

The United Electrical, Radio and Machine Workers of America [UE] obtained from GE the following figures on the average hourly straight-time wages of male and female workers in all GE plants in the U.S. (regardless of union representation) from 1945 to 1968:

	Men	Women
1945	$ 1.09	$ 0.76
1955	2.10	1.61
1965	2.92	2.22
1968	3.34	2.53

GE seems to have accurately described the situation of its women workers when it changed its corporate slogan from "Progress Is Our Most Important Product" to "Men Helping Man."

VETERANS NEED ACCELERATED ENTITLEMENT

Mr. TAFT. Mr. President, the most recent Jobs for Veterans Report, a publication of the National Alliance of Businessmen, contains a most disturbing report: The rate of joblessness for veterans, particularly for Vietnam-era veterans, is increasing compared to the rate for non-veterans. The report notes:

> Even veterans in the 20–34 age group have a higher unemployment rate than non-veterans, and young veterans (20–24) lead their civilian counterparts by over nine percentage points . . . Raymond Moppin, JFV manager in Minneapolis, says that lack of civilian training and skills is a major obstacle to veterans looking for work.

In December of last year I introduced a bill, S. 2789, that would provide the skills and training opportunities our veterans need to get jobs. It would accomplish this by permitting a veteran to use his educational benefits under the GI bill at an accelerated rate, so that he could attend not just a liberal arts college, but a vocational or a training school. It is training, not A.B.'s, that many of our Vietnam-era veterans need.

I hope that the Veterans' Affairs Committee will, in its continuing deliberations, give full and serious consideration to S. 2789 and to accelerated entitlement. We need to provide our veterans with job-oriented training. We need to do this not only because we owe this to the men who have served our country, but also because we need to assist veterans to become employed, productive members of our community.

Mr. President, I ask unanimous consent that this article, "Gap Widens Again Between Vet and Non-Vet Jobless Rates," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Gap Widens Again Between Vet and Non-Vet Jobless Rates

The gap between young veteran unemployment and their non-veteran peers jumped over four percentage points in June. Figures from the Bureau of Labor Statistics show that even veterans in the 20–34 age group have a higher unemployment rate than non-veterans, and young veterans (20–24) lead their civilian counterparts by over nine percentage points. Recently the job stability of older Vietnam veterans has tended to lower the jobless rate for veterans as a whole (nearly all Vietnam-era vets are between 20–34) down to rates comparable to non-vets.

The *JFV Report* surveyed twenty Alliance JFV managers from around the country and found several factors hindering young veterans in finding employment.

Raymond Moppin, JFV manager in Minneapolis, says that lack of civilian training and skills is a major obstacle to veterans looking for work. "What kind of a job can a guy get who is a rifleman? Where is he going to go?" Moppin says the youngest vets went into the service straight from high school, while their friends went into civilian careers. The Bureau of Labor Statistics says that because of their lack of civilian experience, young veterans need a transition period. They need time to transfer their skills into civilian industry and to feel out the job market.

Federally-supported unemployment benefits give veterans time to adjust. Young civilians generally have not been on the job long enough to earn unemployment eligibility. Veterans, on the other hand, have money coming in and so don't have the same sense of urgency about taking *any* job that happens to come along. In many cases vets use their educational benefits to get the education and training they lack, rather than enter the civilian labor market directly from service.

"It's a matter of alternatives," Long Island JFV Manager Ron Williams says. "Going to school or apprenticeship training is an alternative. Going out and taking the first job that comes along is an alternative. Unemployment compensation is also an alternative," he says.

"Why should I work for $100 a week when the government will give me that money tax free," asks Fate Carter of Philadelphia. He says that some veterans, particularly in states where the unemployment benefits are larger and extended over a longer period of time, don't want to take a job right away, but would rather take their time and readjust to society first.

The problem here is that veterans who don't grab the first job that they can reach, but who stay idle may be compounding their difficulties. "A big gap between jobs looks bad on your employment record," says Edgar Ekman of Grand Rapids. "Employers want someone who has initiative and has been working."

When unemployment compensation does run out, a veteran may have to take a menial job. Several of the JFV managers point out that if a veteran had taken a $2.50 job to start, with raises and promotions he could have ended up with the $10 job he was waiting for.

Not all JFV managers thought veterans misuse unemployment benefits. Larry Hales of Norfolk, for example, says that if a young veteran has responsibilities, unemployment "doesn't even cover the necessities." Coming out of service and seeing everyone about going to work every day makes it difficult to be idle he says.

Chuck Long of Portland, Oregon, says the biggest problem for young vets is their youth. "They're young. Employers aren't willing to hire inexperienced workers in a tight job market and will always go for a more mature, settled employee."

Most JFV managers seem to agree that young veterans always had a job in the military, and so when faced with the option of taking a menial job in civilian life, many pass it by, figuring that something better will come along soon. When they do take jobs, some quit soon, discouraged by poor work conditions, or when a better job comes along.

Most veterans don't think very much about a career while they are in the service, and don't know what they want to do or what direction to go in when they get out. Many don't know what services are available to them, or where to turn for help in getting the training and guidance that they need.

Charles Collins, NAB director, jobs for veterans, says that another obstacle facing young veterans is the image that the public has of the Vietnam-era. Collins says that most of the young veterans coming out now should not even be labeled as Vietnam-era veterans, since most didn't serve in Vietnam. "Why are they still calling them Vietnam veterans? They are suffering from subtle discrimination over a war that they weren't even in," Collins says.

George Cordova of Denver adds up the unemployment situation facing younger veterans: "First, lack of experience. Second, location. Third, lack of direction. Fourth, lack of education and skills. Fifth, discrimination against minority veterans." There's only one ultimate solution Cordova says, "The services have got to provide some career direction for these veterans while they are still in the service. They have to gear training more to civilian life."

CRACKDOWN ON RUNAWAY FATHERS

Mr. TALMADGE. Mr. President, the State of Michigan is pushing a hard-nosed program to crack down on runaway fathers in an effort to lower the State's welfare costs, and Wednesday's Wall Street Journal carried an interesting article on the effectiveness of this program.

Michigan authorities are locating and apprehending fathers who desert their wives and children and cause their families to resort to public welfare. The State takes the position, with which I thoroughly concur, that it is the responsibility of the father to work, if he is able to do so, and to look after his family, and this burden should not be placed on the taxpayers through an already bloated welfare system.

What the State of Michigan is doing is in keeping with a Federal law passed by Congress 2 years ago under the sponsorship of Senator Long, the distinguished chairman of the Senate Finance Committee, Senator Nunn, and me. This law requires States to try to track down runaway fathers and to make them pay for the support of their families and Federal financial assistance is offered in connection with this program. I am very glad to read of the success of the Michigan effort, and I for one would like to see similar programs put into force in every State where the cost of welfare has become virtually intolerable. I applaud the Michigan authorities, and I wish them continued success in relieving taxpayers of a responsibility that ought not to be theirs.

I bring the Wall Street Journal article to the attention of the Senate and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Whittling Welfare Costs—Deserting Fathers Are Required by Michigan To Support Their Families or Be Sent to Jail

(By Jonathan Spivak)

Lansing, Mich.—Almost 400 recalcitrant men—no ordinary criminals—were sentenced in this county last year to jail terms ranging up to a year.

They weren't car thieves, shoplifters or the like. Indeed, many people would argue they weren't criminals at all. They were absentee fathers who had fallen behind in their pledged child-support payments or had made none at all—often leaving their families on welfare.

The crackdown is part of a harsh but effective method that Michigan has pioneered to hold down its welfare costs and enforce greater parental responsibility. The state demands that deserting fathers support their families or go to jail. Many pay up to avoid the pokey or to get out as quickly as they can.

One delinquent, a 35-year-old worker at an Oldsmobile auto plant, who owed $3,500 in support payments for two children, was sentenced to six months in jail. After serving a week, he won his release by coming up with a lump-sum payment of $1,000 and agreeing to increase his weekly payments to $45 from $40.

For some, just the threat of jail is enough. A 30-year-old carpenter who had let his child-support obligation pile up to $3,000 drew a six-month sentence; he got out of it by paying $500. A prominent local doctor, earning as much as $70,000 a year, paid $2,000 he owed for child support and alimony as soon as he was ordered to appear in court. But now he has fallen another $1,000 behind and is likely to be summoned to court again.

Since Michigan began brandishing the jail threat five years ago, its collections from husbands of women on welfare have risen fivefold to $50 million a year; officials predict they will reach $100 million annually. The savings so far reduced the state's welfare costs by 8%, says Paul Allen, chief deputy administrator of the Michigan Social Welfare Department.

FEDERAL ENCOURAGEMENT

While civil libertarians, as well as delinquent daddies, are unhappy, prosecutors are pleased, women's-rights groups delighted and welfare officials ecstatic. "This is what we want to do, reduce the taxpayers' dollars," exclaims David Bailey, head of Michigan's Office of Central Registry, which oversees the endeavor. "The threat of incarceration is essential," he adds.

A little-noticed federal law is encouraging every state to emulate Michigan's get-tough policy, though not necessarily to the extent of throwing fathers in jail. The law, brainchild of Senate Finance Committee Chairman Russell Long of Louisiana, requires states to track down the missing fathers of all welfare children and make them cough up. New state "parent-locator" services, financed with federal funds, will undertake the search. As Sen. Russell Long told Secretary David Mathews of the Health, Education and Welfare Department, "You will help us make these fathers, some of whom are making $10,000 to $20,000 a year, contribute something to the support of their children."

The effort to reduce welfare costs has obvious political appeal; district attorneys in some places have boasted of it in election campaigns. The appeal is simple and direct. "Why should taxpayers support someone else's children?" asks Judge John Dowling of Harrisburg, Pa. Without any way to find a missing father, he complains, "I put on an order for $50, the man doesn't pay and the woman goes on welfare."

HEW efforts to help states set up their locator services now are getting into high gear. By the beginning of next year, states must have these services in full operation or face the loss of 5% of their federal welfare funds. A number of states besides Michigan are well on the way to compliance; California, Massachusetts and Washington, among others, have already moved to track down delinquent fathers.

As things stand now, it's estimated that 5.4 million of the 8.1 million children on the nation's welfare rolls still receive no support payments from their missing fathers. But Louis Hays, who heads the HEW Department's child-support enforcement efforts, says, "We are fairly confident that it will be possible to collect from 50% of the absent parents." Officials expect a welfare-cost saving of $1 billion annually by 1980.

THE FRIEND OF THE COURT

Michigan, which is setting a pattern for the nation in child-support enforcement, relies on a unique official known as the Friend of the Court. There's one in every county, and his job is to ensure that all court-ordered support payments are made and other domestic issues, such as a parent's right to visit children, are properly dealt with. Here in Ingham County, there's no question that the Friend of the Court, James Pocock, an ex-West Pointer, means business. Under the new federal law, 25% of the amount collected is kept by the local agency that does the work. As a result, Mr. Pocock figures he will get $400,000 to $500,000 this year to spend on more manpower and equipment to improve collections.

He is particularly proud of a computerized operation that keeps constant tabs on fathers' payments. These payments are made through the Friend of the Court, and employes of his staff ask questions as soon as the records show a father falling into arrears. "I like to give them two months," says Dena Kaminski, a caseworker. But then events can move rapidly. If the father doesn't resume his weekly payments and make arrangements to catch up with his back debt, he is taken to court and given a choice of paying or being thrown in jail.

David Chambers, a professor of law at the University of Michigan, has been examining the impact of this approach. He concedes that it is effective in extracting more money for child support over a longer period than are more lenient methods used in other states. But he cautions, "The big question is what happens to the quality of relationship between the separated child and the father when it's based on fear."

JOB TRAINING

Critics also demand to know what good it does to jail an unemployed father who simply doesn't have the funds to pay. To meet this objection, Mr. Pocock has instituted job training for delinquent fathers. Even before completing their jail terms, they're sent out on work-release projects run by public or private agencies in a three-county area. Follow-up checks show some 60% are still at work after three months. The Ingham County official is extending his efforts to include job searches for women who are left with children to care for and not enough money to pay the bills.

But Ingham procedures are rudimentary alongside those of Genesee County Friend of the Court Robert Standal in industrial Flint. Mr. Standal used to send his emissaries into the auto plants twice a week to pull off the line workers who were defaulting in their child-support payments. If they did not make arrangements to settle their debt on the spot, they were jailed.

Now a far more civilized system is used. The big auto companies have authorized automatic deductions from employes' salaries to cover child-support payments to the Friend of the Court. Mr. Standal wants to go even further. If he can get an okay from the companies, he will search their computer tapes to try to find the addresses of missing fathers.

The shock of arrest alone can make a delinquent father come across in a hurry, Mr. Standal reports. He says: "Better than 50% of the people we lock up are released on some kind of planned (payment) system; they pay in a matter of hours. It's not unknown to have a man pay $1,000 to $4,000 in 30 minutes to an hour."

Though no other states have gone as far as Michigan, most have already stepped up their child-support enforcement, in cooperation with the federal government. During the fiscal year ended in June, these efforts yielded a total of $192 million in support payments but at a cost of $131 million. It's hoped that collection costs will come down as the state operations increase in efficiency. Some are already doing well. Michigan reports it gets $4 back for every $1 in outlays, but Iowa is the leader with a $6 to $1 ratio.

The HEW Department's main contribution is a parent-locator service that searches federal records for the addresses of fathers fleeing from their obligations. It operates out of a modest two-room office on the second floor of the department's headquarters in downtown Washington. Twenty-five state governments are linked to this point by computer terminals; the rest send in their requests by mail. Since mid-March, when the service began searching records at the Social Security Administration, Internal Revenue Service and the Defense Department, it has found addresses for almost 90% of the 13,500 names on which the states sought help.

There's an elaborate effort to prevent possible abuse of the system by nosy outsiders. Computer tapes are locked up every night, and a secure computer code has been designed to block any unauthorized access. But the Social Security Administration lost a bitter struggle to block use of its identification numbers for searching other government files. The agency argued that such practices violated the Privacy Act and could lead to indiscriminate use of the numbers by snoopers to win access to other personal information about the delinquent fathers. But Sen. Long, who regards the use of Social Security numbers as the key to the parent-locator service's success, held up Senate confirmation of a new HEW general counsel until the Social Security Administration agreed to release the numbers.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

EDUCATION AMENDMENTS OF 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of Calendar No. 838 (S. 2657), the higher education bill, and that it be made the pending business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes.

The Senate resumed the consideration of the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment in the nature of a substitute.

Mr. JAVITS. Mr. President, I ask unanimous consent that we may have a quorum call without its being charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that Charles Warren, Ralph Neas, and Barbara Harris may have the privilege of the floor during consideration of the education bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, pursuant to the unanimous-consent agreement, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, S. 2657, the bill which is before us today, is the result of many months of extensive work by the members of the Committee on Labor and Public Welfare and its Subcommittee on Education. The chairman of that subcommittee (Mr. PELL), the chairman of the full committee (Mr. WILLIAMS), and the ranking minority members (Mr. BEALL and Mr. JAVITS), respectively, are to be congratulated for the diligence and thoroughness with which they have undertaken this responsibility.

I should extend commendation also to the many staff members who have participated in bringing to the floor what I consider to be an excellent bill with respect to higher education and vocational education.

Crafting a major bill which encompasses a wide range of programs in higher education, vocational education, and in many ancillary areas is not an easy or uncontroversial task. I am happy to say that we Americans take our educational system seriously. We are as concerned and troubled by its failures as we are gratified and excited by its successes. In writing this legislation, one of our primary tasks has been to identify as many examples as we could of both, and write a bill solving some of the problems generated by the failures—while extending and enlarging the beneficial effects of the successes.

As you might imagine, not everyone agrees with every aspect of the result. I myself do not agree with all parts of the bill before us today. While I offered many amendments which were accepted by the committee, for example, I also proposed some that were not. Yet I believe the bill represents a reasonable committee effort in virtually all of its major particulars, and for that reason, I urge colleagues to support it on the floor of the Senate today, and to reject all crippling amendments. I imagine that several will be offered not only today but tomorrow, and I hope that my colleagues will reject them, especially those pertaining to busing and other matters which I do not consider to be germane to the Higher Education Act or to the Vocational Education Act.

The bill before us today is divided into two major sections: the higher education and vocational education. In addition, there are titles to the bill dealing with several other education programs, such as the National Defense Education Act and the Emergency Insured Student Loan Act (title III); education administration, including reauthorization of the National Institute of Education and the fund for the improvement of postsecondary education (title IV) and career education and counseling programs (title V).

In title I of the bill, most Higher Education Act programs are extended through the fiscal year 1982, at authorization levels that are basically the same as current levels. Certain specific programs, such as the Education Professions Development Act, and the occupational education title, which has never been funded, have been repealed. Other programs, such as the guaranteed student loan programs, have been modified. But most others have simply been extended with little change through the next 5 fiscal years.

It is on the length of this extension itself, and the relative unchanged nature of the basic student aid programs, that I have expressed the greatest dissatisfaction with the committee-reported measure. I believe certain basic changes in our student-aid program should receive fuller consideration during a non-election year, and under a new administration. I moved in committee to limit the extension of those programs to 1 year instead of 5. On that issue, I was voted down. However, I do not intend to pursue that question further at this time, since the House has already enacted that approach, and I believe the issue can be adequately discussed in conference.

My primary reason for wanting to take a closer look at our financial aid programs next year stems from the increasing dichotomy between Federal support for public versus private institutions of higher education. While no bias has ever been intended in the Federal aid programs, I believe we are reaching a stage where the costs of attending private schools on the one hand, or publically subsidized institutions on the other, are creating a prima facie case of public policy discrimination against the former under the current student aid program—a situation the Government can continue to promote only at the peril of abandoning a large part of our Nation's intellectual heritage.

I am convinced that if we continue to permit our ever-increasing student aid programs to channel low-income students into cheaper public colleges and universities, not only will we hasten the bankruptcy of many of our private liberal arts institutions, but we will also unwittingly be creating once again a system where some schools become educational ghettoes, while others are the province only of the rich.

In addition to the programmatic extensions and revisions I have already mentioned, there are several new or significantly altered programs in this measure, some of which I offered personally or in conjunction with one or more of my colleagues.

The most significant of these provisions should be considered together as part of a new overall approach to American eductional policy. The provisions include:

The reworking of title I of the Higher Education Act to expand the Continuing Education provisions, and plan for the establishment of a new approach to lifelong learning;

The creation of a nationwide network of Educational Outreach Centers; and

The expansion and institutionalization of our current experimental and demonstration approaches to career education.

The new policy each of these items is designed to complement stems from the recognition of the need for early development of, and lifelong commitment to, a type of education relevant to the needs of the changing world in which the student must ultimately live, work, and conduct his or her affairs.

I realize that liberal arts professors and administrators have become hypersensitive in recent years to what they consider the "careerism" movement in higher education. It challenges, to hear some tell it, the right of every individual to listen to great music or read a good book. They fear an anti-intellectual approach to education that will stifle creativity, that will create, in the words of one education, "specialty idiots, who pursue job credentials at the expense of learning."

The "higher" in higher education, they cry, will soon have to be spelled "hire."

I believe such critics do have a valid complaint—to a point. One brand of education cannot, and must not, be pursued simply for its own sake, to the point of excluding all else. But neither the liberal artists nor the hard core vocationalists necessarily appreciate that education in this country, in this decade, must be able to take account of and educate for, both the complexity of the world outside the ivy-covered towers and the speed with which that world is constantly changing.

New approaches to education are going to be required in the months and years ahead. With changes occurring in all of life at an ever-increasing rate, education will have to adapt itself to the increasing need for lifelong learning and relearning. And the education that will continue to be concentrated in a child's early years will have to become increasingly related to the ability to function in society—to get and hold a job, and to analyze and react to change.

The specific provisions of S. 2657 that deal with this need are as follows:

CONTINUING EDUCATION AND LIFELONG LEARNING

The revision of title I of the Higher Education Act represents an extensive collaboration between Senator Mondale and I, merging our concerns about the way adults are educated in postsecondary institutions, the way adults are or should be treated in all educational institutions in the future, and the future resources that are or may be available to finance such education.

The current title I program ties Federal support for parttime "continuing education" in colleges and universities to the creation of programs directly concerned with providing or augmenting "community services." As far as it goes, this concept is a good one. But true continuing education must transcend the utilitarian concept of linking schools more closely to the problems of their communities, just as the true provision of community services must go far beyond the resources and capabilities of local institutions of higher education.

It would have been possible to be myopic to the greater needs of adults for parttime continuing education, but for the fact that adults who take advantage of these programs have unique ways of expressing their needs. For one, very often they pay their own way. That is, despite the lack of financial aid available for students in continuing education programs, many such programs exist self-sufficiently on the basis of tuition paid by their students. This means, of course, that the very limited Federal effort in this area—limited in scope as well as in dollars—has been virtually ignoring the greater part of the need for the development and replication of more extensive continuing education programs.

My amendments to title I are thus designed to incorporate the existing program into the wider context of support for an ongoing continuing education program, and to provide a new Federal emphasis on innovation and development, at the Federal and State level, in this vital area of ongoing education for all adults.

Because the committee perceived the needs in this area to be more expansive than those which might be met in programs limited to institutions of higher education, however, a second, equally important subtitle was added to title I. Characterized as a "lifelong learning" title, its purpose is to fund research and development into the full range and scope of the education needs of all persons through their lives in the future. This title is meant to complement the extensive effort currently underway into problems of early childhood education, concentrating instead on those who "have left the traditionally sequenced education system." But the possibilities for developing new creative insight into this vast educational field are virtually limitless, giving us for the first time an opportunity to explore the roles played by all our major societal institutions in the education and reeducation of adults.

This subtitle authorizes Federal research and development, as well as funding for State assessment and demonstration programs. In its early stages, its purpose is to cause us all to think more clearly about the range and scope of educational opportunities that can—or should—be made available to all adults throughout their lives.

In that regard, I would like to call particular attention to the research and study requirements of section 133(a). That provision encompasses virtually every aspect of an amendment I proposed which would have required the National Institute of Education to devote major resources to a 5-year study of current and proposed domestic and foreign educational resources. I point this out only to underscore the breadth of the effort Congress will expect of our Federal education administrators in carrying out this national assessment.

EDUCATIONAL OUTREACH PROGRAM

The second new program which I consider a part of the attempt to develop a new strategy for educational change in America stems from a program originally designed to provide educational aid and assistance to severely disadvantaged students. The educational opportunity center concept, which was designed by Senator JAVITS several years ago, has been adapted in this amendment to the needs of all Americans for access to information about educational opportunities, and assistance in taking advantage of them. The need for these centers is particularly great in rural areas, and in our Nation's smaller towns and cities.

It is intended that these centers will be located so as to provide all persons in an area with reasonable access to them. They will be designed, it is hoped, to provide outreach services with regard to available full- and part-time education opportunities, as well as other education-related programs or activities, and to provide assistance in taking advantage of such opportunities.

This is a concept which has been endorsed by educators from all across the country, and I have received unsolicited indications of support for this provision from Maine, New York, California, Minnesota, and over a dozen other States.

CAREER EDUCATION PROGRAMS

The third major part of this new educational emphasis concerns the refinement and expansion of the currently experimental programs being undertaken at the Federal, State and local level in career education. These provisions will be found in title V of the committee reported bill.

I would like to note that there has been some confusion over the addition to title V of a new program called career guidance counseling, pursuant to an amendment offered by Senator STAFFORD. At an appropriate time, and with Senator STAFFORD's concurrence, I intend to offer technical amendments to this part of the bill to clarify this provision.

The career education provisions of title V are designed to expand and refine the Federal effort to develop State and local programs implementing many of the ideas developed under the current experimental authority of section 406 of the Special Projects Act, by the National Institute of Education, and by other educators and researchers.

The intention is to gradually bring these ideas and experimental programs, which have proved to be successful in a wide variety of contexts, into online operational status. I should note that funding under the new provisions will rise gradually from $25 million per year to $75 million per year, but that it is not intended to begin until the fiscal year 1978, in order to give Federal, State, and local administrators ample leadtime to prepare for this new phase.

The need for this program has been ably demonstrated by recent headlines detailing the failure of many of our educational institutions to adequately prepare individual students for the world outside their doors. Included in that category are many individuals with bachelor of arts degrees, or more, who despite their education often find themselves unemployable and ill suited to the real needs of the American job market.

As I mentioned earlier, the recent polarization of the debate about careerism in American education has obscured some essential facts about the needs of the American job market and the ability of our educational system to prepare students to meet those needs. Thus far, the arguments have taken on "dancing angels" quality, concentrating quite erroneously on the issue of whether the intention of "career education" is or is not to deny the benefits of great books to American students, in favor of comprehensive skill training in auto mechanics.

I would find this whole argument amusing, if its participants did not seem to take themselves so seriously. For the information of the panic stricken liberal artists who teach in our Nation's college and universities, and who might fear for their jobs in the face of a greater emphasis on career education, I must point out that the "basic notion" of career education is not, as Washington Star so superciliously put it in an editorial some months ago—

> that a knowledge of the more academic subjects won't buy groceries, and may not prepare children to be good workers bees.

It is not, as the Star went on in purple prose to claim—

> a foggy-minded effort to manipulate the attitudes of children, rather than to train them.

Rather, career education—and if you object to the phrase "career education" you are welcome to throw it out and substitute anything you like—involves the clear demand that our educational institutions begin training our children, and many of our adults, to be able to analyze all aspects of their lives, and how those lives relate to the changing needs of the world around them, and to relate their own particular needs—including the need to feed, clothe, and house themselves and their families—to the needs of that world.

That those institutions have not been doing so was graphically illustrated by a recent study published by the Office of Education, in which it was found that perhaps as many as one in every five adult Americans lack even the most basic skills and knowledge necessary to get along in modern society.

I ask unanimous consent, Mr. President, that a Christian Science Monitor article summarizing that study, a Washington Post editorial dealing with a similar, though unrelated, issue, letters written to the editor of the Star in response to its editorial, but not published, and a brief description of a program from my own home State of Maine graphically illustrating an experimental attempt to solve one of the many career education problems faced by our youth, be printed in the RECORD at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Oct. 30, 1975]

NEW SURVEY FINDS JOHNNY'S PARENTS CAN'T READ EITHER

(By Clayton Jones)

WASHINGTON.—New findings that one out of five American adults lacks enough basic skills to count change, read a newspaper, or write a job application mean that U.S. education needs major "rethinking," according to a senior federal official here.

U.S. Education Commissioner Terrel H. Bell calls the findings "rather startling." "At one time, if a person could read or write, he could function in our society," he said. "But we now conclude that is not so."

The findings come from a $1 million, four-year study of 10,000 people conducted for the Office of Education. They show that over half of American adults barely have the skills needed to function in the United States in the 1970s.

The survey, by Opinion Research Corporation of Princeton, New Jersey, shows that almost 34.7 million adult Americans are incompetent in such consumer tasks as reading a grocery ad, writing a grocery list, computing the unit price of a grocery item, and determining the best stores to shop in. Another 39 million just "get by" in coping with consumer basics.

Also, 30 percent of American adults (35 million) cannot read a flight schedule or bus schedule. Thirteen percent (15 million) cannot address an envelope. And 58 percent (68.5 million) cannot understand a paragraph describing rights under arrest.

Dr. Bell acknowledged that the study confirms cries by many students for more "relevancy" in dealing with adult life. "We have moved into a decade in which the need for capability is being superseded by 'cope-ability,'" he added.

The report stated, "as long as 'literacy' is conceived to be nothing more than the ability to read and write one's name, or to score at some low grade level on a standardized test developed for children, then the United States probably does not have a significant problem." Said Dr. Bell, "We now know that we prepare people for further education but not to meet the demands of living."

Several states, in response to earlier signs that high school curricula should offer more than college preparatory courses, now require students to pass "competency" tests in real life roles before they can graduate.

Freshmen in high schools in Oregon, for instance, are now taking courses in personal development, social responsibility, and career development rather than college-directed training. Mississippi, Texas, and Alabama also are converting to the new training.

"Teachers will require significant retraining in order to function effectively in providing basic education for adult life," the report said.

Are schools failing or is American society getting too complex? asks study director Dr. Norvell Northcutt, from the University of Texas.

"The gap is widening between what adults know and what is demanded of them," he says. The picture is more dismal than had been believed previously, he said.

The survey found that those most unable to "make it" in modern society are older, undereducated, unskilled, unemployed, and low-income. They predominate in the South and rural areas.

[From the Washington Post, June 14, 1976]

GRADUATES WHO CAN'T READ

One by one, school systems throughout the country are beginning to require high school seniors to meet a basic test of competence before they can graduate. Of all the things that a student ought to be able to do, the crucial skill is reading. Virginia has now authorized its local school boards to set levels of ability that a student must reach before getting a diploma. Until now a student was eligible to graduate if he had earned the necessary course credits. But, notoriously, it has been possible for a good many to earn the credits without ever really learning to read.

As usual, the coming wave of educational reform is the reaction to the last wave of educational reform. Sometime in the 1950s a broad consensus formed in this country around the idea that every child ought to finish high school. It is remarkable how recently most Americans had regarded high school as an optional benefit, offered to those youngsters who wanted it. A high dropout rate was generally taken as the indication of a tough school with strict standards. But in the decade after World War II the country changed its mind and decided—correctly—that a high school education was essential equipment for life in the United States. A high dropout rate quickly turned into a sign that the school was falling down on its responsibility to the students and to the community.

The pressure to reduce the numbers of dropouts frequently induced schools to move youngsters along from one grade to the next even when they were learning very little. Of this June's graduates, how many are functional illiterates? It depends upon your definition of illiteracy. One of the benefits promised by Virginia's decision is that school boards will have to bring into focus their views as to what, at the minimum, a high school graduate ought to be able to do.

A standard requirement for basic skills would be cruel and unfair if it consisted of only one test given at the end of four years of high school. But as the Virginia Board of Education conceives it, testing would begin in the ninth grade and the children who scored badly would be marked out for special attention over the following years. It would constitute an early warning system not only for the student and his family but for the school as well. This kind of testing would be unacceptable if it turned merely into a device to exclude students from graduation. The test is only half of the bargain between the student and his school. The other half of the bargain is the promise of help for those whom the test identifies as possible failures.

The demand for more rigorous minimum standards is coming, above all, from employers. They have discovered that a new employee's high school education sometimes means far less than it ought and, reasonably enough, they want a guarantee of an agreed basic level of proficiency. But it is not only employers who have an interest here. First of all, it is the new graduates—particularly those who are not going on to college, but who will go job-hunting armed with their new diplomas. The shockingly high unemployment rates among young people are a major source of social malaise in this country. These rates usually run three or four times as high as the rates for adults. One valuable remedy would be to restore a degree of confidence among employers in the one real asset of the inexperienced young job-seekers—his or her high school diploma.

Like Virginia, Maryland is moving toward more rigorous standards of skill, but it is following a different route. Maryland's State Board of Education held hearings this spring on a proficiency test as a requirement for graduation. Now it seems to have backed off the idea a bit. Instead of initiating the standards in the high schools, Maryland is going to begin much farther down the ladder. Under new state legislation, children who fall below the standard as early as second grade must either repeat the grade or be assigned to remedial instruction. This law is designed to push schools into a much more serious effort at special reading instruction for young children. Maryland is following the view that reading is best taught in the lower grades, and illiteracy gets harder to deal with as children grow older.

Fifty years ago one-fourth of the country's children finished high school. The proportion rose to half shortly after World War II. Now it is around three-fourths. This long experience has demonstrated—most of the time—that it is possible to expand the secondary school system massively without sacrificing standards. But it is also pretty clear that, in recent years, there has been a degree of slippage in students' performance. For the sake of the students themselves, it is necessary for schools to begin—as they are now doing in Virginia and Maryland—to resolve the anomaly of the illiterate high school graduate.

OFFICE OF EDUCATION,
Washington, D.C., January 14, 1976.

EDITOR,
The Washington Star,
Washington, D.C.

DEAR SIR: The Star's January 12 editorial, "The Career Education Rigmarole," is both misleading and unnecessarily capricious. Your readers deserve a more reasoned and accurate picture of career education.

The basic reason career education emphasizes education/work relationships is that most persons seek work once they leave the educational system. Moreover, they assume that the education they received will aid them in this quest. That assumption is neither frivolous nor unreasonable. If education/work relationships do exist, career education simply says that we should help students understand and capitalize on them. To help students see, experience, and think about such relationships is far better than having educators and students ignore them.

Career education is not, as you state, either a "substitute for (or a supplement to) careful academic training." On the contrary, career education is one source of motivation for studying academic subjects. Our assumption here is that motivated students will learn more than unmotivated students. The validity of this assumption is already beginning to be verified by research.

Contrary to your accusation, career education does not assume that "children necessarily like to work if they watch it and learn about it at an early age." On the contrary, career education assumes only that youth will be better equipped to make the transition from school to work if, instead of shielding them from knowledge of the work place, we let them learn what it is like before they try to enter it. We think that there are serious limitations on the extent to which students can learn about the world of work through reading. It is for this reason that career education seeks collaborative relationships with both the business/labor industry community and with the home/family structure.

Career education does not, as you state, consist of "an effort to manipulate the attitudes of children." Instead, it seeks to help students better understand both themselves and the world of work so that they can make better, informed decisions on the work they choose.

Finally, I must point out that in basing your editorial on the Grubb and Lazerson article in a recent issue of the Harvard Educational Review, you have made what I would regard as a serious error. That unscholarly article is filled with false perceptions of career education. Yet, even Messrs. Grubb and Lazerson know that about 5,000 (one-third) of the local education agencies in the United States have initiated some sort of career education program on their own. Can we all be that wrong?

Kenneth B. Hoyt,
Director, Office of Career Education.

Chamber of Commerce
of the United States,
Washington, D.C., January 15, 1976.

Letter to the Editor,
The Washington Star,
Washington, D.C.

Dear Sir: Far from manipulating and indoctrinating students ("The Career Education Rigmarole"), career education expands student options by giving them a better understanding of the many ways people earn their living, and stimulates student interest in academic subjects by illustrating their application in various careers—from the sub-technical to the most skilled professional.

Geometry may appear useless to an indifferent student, but takes on new meaning and purpose if a carpenter shows a class how to use the principles of geometry in designing a flight of stairs, or an engineer in designing a bridge, or an architect in designing a gymnasium.

Your editorial also contends that most of the nation's jobs are boring and simplistic, and therefore to expose these jobs to students will only turn them off.

We disagree! Granted there are dull jobs, and even the best of jobs can occasionally be routine. Students should understand this. They should also understand that the least attractive jobs go to the least skilled.

A recent study by Professor Drawbaugh of Rutgers University estimates that American industry spends $25 billion annually on personnel training and education—almost half the amout spent on all public education! This investment to develop talent indicates the demands of most jobs surpass workers' skills. It also indicates that too many young workers arrive at the employer's door ill-prepared and, equally unfortunate, uncertain of what they want to do. Career education seeks to give them a better chance.

"Career education pulls back the curtain that isolates much of education from one of the largest dimensions of life—a man's or woman's work. Education and work are artificially separated today, but they were not so divided in the past and should not be so in the future. A linking of education and work is even more important in a dynamic industrial-service economy than in a less complex economy."

This quotation is from a U.S. Chamber of Commerce publication co-authored with 25 major education associations and other national labor, minority, women's, and business organizations. This near-universal expressing of support suggests that, rather than "rigmarole," career education offers a promising response to the call for educational reform.

Sincerely,

Thomas P. Walsh,
Education Director,
Chamber of Commerce of the United States.

Research Developments—Project Women

Women, once considered too frail physically and naive intellectually to cope with the world beyond the kitchen, are now taking jobs as never before. Department of Labor statistics show that women accounted for three-fifths of the increase in the civilian labor force in the past decade. Because of advanced technology, few careers are beyond their physical capabilities, and they are proving conclusively that intellectual ability is blind to differences in sex.

Why then are the majority of women concentrated in low-paying, dead-end jobs?

Part of the problem is that women have not been adequately prepared to enter the job market. When and where a woman seeks employment is influenced by her conception of her capabilities and her knowledge of the various career and training opportunities open to her.

Many schools, recognizing that women have not always been given equal treatment with regard to career education, are trying to relieve the condition. Five high schools in Maine were involved in one project to educate female students about career possibilities in traditional male fields. Entitled "Project Women—in a Man's World of Work," it was developed as a State model for a career education program. One hundred girls (20 from each of the five schools) were selected to participate in the program.

Project Women began in the 1971–72 school year with support from OE's Bureau of Adult, Vocational, and Technical Education (now the Bureau of Occupational and Adult Education) and the University of Maine at Orono. The experiment had two main goals: 1) to acquaint girls in the tenth and 11th grades with career opportunities in fields that were traditionally male-occupied; and 2) to train students to work as aides to counselors in providing occupational guidance to other students.

The write-up of the project, intended to be a guide for high school counselors, presents a detailed, step-by-step exploration of how Project Women progressed. According to the report, the first problem was to identify the career interests of the students. By administering a standard vocational preference test, which lists 91 career choices, the directors were able to select ten careers on the following basis: those having the greatest amount of student interest, and those in which at least 50 percent of the jobs were occupied by men. The ten careers on which Project Women focused were: veterinary medicine, communications, counseling, military, recreation, bookkeeping and accounting, computer programing, law enforcement, law, and forest service.

Next, the project directors assessed the girls' knowledge of the ten male-oriented careers. To accomplish this, a "Knowledge of Careers" multiple-choice survey was developed and administered. Each girl was asked to choose one of the target careers in which she was most interested and to complete her survey accordingly. This test indicated each girl's knowledge of her chosen career in such aspects as entry requirements, future employment trends, salary, and male/female ratios.

The directors, aided by graduate apprentices from the University of Maine at Orono, helped the young women learn more about their chosen careers. This inservice training was provided through orientation groups, private meetings with school counselors, written materials, and informal question and answer sessions. Moreover, the young women went on field trips to places where others were doing precisely those jobs they were studying—an area hospital, a newspaper, a counseling center, and a bank. At each place they got a clearer idea of the actual working conditions and types of duties associated with each career.

The students, spurred on by greater interest in the project, also sought out their own means of gathering information on the target careers. Samples of their ideas for training:

Visit local community figures (men and women) who are employed in the target careers.

Visit colleges to learn about curriculum requirements.

Give a slide show presentation at each school.

Visit employment agencies to gather information on job opportunities.

Develop a list of books (fiction and nonfiction) about women involved in the project careers.

Start career notebooks.

The second objective of Project Women—to provide a rotating cadre of student helpers to work with the guidance departments—had also been accomplished by the end of the school year. The students who had received training were able to share with their classmates their knowledge about careers traditionally confined to men. In addition, the girls received an added benefit: They now know how to gather information about other careers that might interest them later in life.

The Project Women handbook includes various valuable "project instruments"—sample letters, the Knowledge of Careers survey, lists of associations connected with the ten target careers, and articles covering the experiment, which were clipped from area newspapers.

In its final section, the report presents an evaluation study of Project Women submitted by an impartial outside evaluator who observed all phases of the project firsthand. The comments and recommendations in the evaluation would be most helpful to those seeking ways to implement similar projects in their schools.

Rita C. Bobowski.

TIME-LIMITATION AGREEMENT

Mr. ROTH. Mr. President, I ask unanimous consent that debate on my amendment No. 2122 be limited to 50 minutes to be equally divided between myself and the manager of the bill.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that we may again suggest the absence of a quorum, the time being charged to neither side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I ask unanimous consent to have Ted Farfaglia of my staff be granted the privileges of the floor during the consideration of this bill.

Mr. JAVITS. Mr. President, I did not hear the unanimous-consent request.

Mr. ROTH. I ask unanimous consent that Ted Farfaglia be granted the privileges of the floor during the consideration of this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be charged to neither side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that Jim Hill, a member of my staff, may have the privileges of the floor during the debate and votes on the pending legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum, with the request that the time not be charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 374

Mr. HATHAWAY. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Maine (Mr. Hathaway) proposes an unprinted amendment numbered 374.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At page 337, line 15, strike out "Career Development and Guidance and Counseling Programs" and insert in lieu thereof: "CAREER EDUCATION AND CAREER DEVELOPMENT";

At page 337, line 17, strike out "Part A—Career Education and Career Development";

At page 341, line 18, strike out "counseling" and insert in lieu thereof "development";

At page 342, line 12, after "programs" insert: ", including inservice training programs,";

At page 342, line 12, after "for" insert "teachers,";

At page 342, line 13, before "educators" insert "other";

At page 343, line 25, after "disseminating to" insert "teachers,";

At page 344, line 1, before "career" insert "other";

At page 344, line 4, strike out "section" and insert in lieu thereof "title";

At page 344, line 17, strike out, "Part B" and insert in lieu thereof "Title VI";

At page 344, line 19, strike out "511" and insert in lieu thereof "601";

At page 345, line 9, strike out "512" and insert in lieu thereof "602";

At page 345, line 12, and at page 346, line 7, strike out "part" and insert in lieu thereof "title";

At page 345, line 14, strike out "513" and insert in lieu thereof "603";

At page 346, line 9, strike out "514" and insert in lieu thereof "604";

At page 346, line 14, after "professional" insert "guidance", and after "of" insert "teachers and";

At page 101, the Table of Contents is amended after "Title V" by striking out "CAREER DEVELOPMENT AND GUIDANCE AND COUNSELING PROGRAMS" and inserting in lieu thereof "CAREER EDUCATION AND CAREER DEVELOPMENT"; by striking out "Part A—Career Education and Career Development"; by striking out "Part B—Guidance and Counseling" and inserting in lieu thereof "TITLE VI—GUIDANCE AND COUNSELING"; and by renumbering sections 511, 512, 513, and 514, as sections 601, 602, 603, and 604 respectively.

Mr. HATHAWAY. Mr. President, this is a technical and clarifying amendment to title V of S. 2657, the provisions of which concern career education, career development, and guidance and counseling. It is necessary because the combination of two programs in this title have resulted in considerable confusion in the various educational fields affected by these amendments.

The two provisions are the new career education and career development program, which was a Hathaway amendment in committee, and the new guidance and counseling language, which was added by Senator Stafford in the very last markup. At that time, the latter program was added to title V, which had previously been set aside for career education. In order to avoid further confusion between the two programs, it has become necessary to create a new title VI to the bill to accommodate separately the guidance and counseling provisions.

In addition, the amendment makes several changes of a clarifying nature, involving the intended status of classroom teachers under both the Hathaway and Stafford provisions. The career education title used the words "educator," intending to include teachers within that term. However, since several different teachers organizations and representatives have expressed concern over what they say might be considered an omission, the language has been clarified in several places with specific references to teachers, and to in-service training for teachers.

Mr. President, I have discussed this amendment with the Senator from Rhode Island and the Senator from New York. I understand there is no objection.

Mr. PELL. Mr. President, the Senator from Maine is correct. It has been discussed. It seems to be mainly technical and clarifying in nature.

From my viewpoint, I see no objection. What would be the view of the ranking minority member?

Mr. JAVITS. Mr. President, I understand from my staff—and I think I have talked to Senator Hathaway about it—that there is no objection to this amendment.

Mr. PELL. Does the Senator yield back the remainder of his time?

Mr. HATHAWAY. If I have time, I yield it back.

The ACTING PRESIDENT pro tempore. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. PELL. Mr. President, I ask unanimous consent to suggest the absence of a quorum without the time being charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 375

Mr. PELL. Mr. President, I call up my unprinted amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. Pell) proposes an unprinted amendment numbered 375.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 149, between lines 8 and 9, insert the following:

(g)(1) Section 427 (a)(2)(C)(i) of the Act is amended by adding at the end thereof the following: "or is pursuing a course of study pursuant to a graduate fellowship program approved by the Commissioner,".

(2) Section 428(b)(1)(L)(i) of the Act is amended by adding at the end thereof the following: "or is pursuing a course of study pursuant to a graduate fellowship program approved by the Commissioner,".

On page 149, line 9, strike out "(g)(1)" and insert in lieu thereof "(3)".

On page 149, line 15, strike out "(2)" and insert in lieu thereof "(4)".

Mr. PELL. Mr. President, this amendment makes a technical change in the deferral provisions of the guaranteed student loan program. Under existing law, a student's obligation to repay his loan may be deferred while he is enrolled in graduate study, a member of the Armed Forces, or a Peace Corps or VISTA volunteer. This deferral does not change a student's obligation to repay; it merely delays it.

However, a problem has arisen concerning graduate fellowship programs of independent study, such as the one conducted by the Thomas J. Watson Foundation of Providence, R.I. Since a fellow is required to study on his own, rather than as a part of an organized institutional curriculum, it has been ruled that he cannot defer his obligation to repay his guaranteed loan during the period of his fellowship. My amendment would correct this oversight.

In order to assure that deferral is allowed only for legitimate programs of independent graduate study, my amendment requires that the program be approved by the Commissioner before its fellowship recipients become eligible for deferral.

I hope that my colleagues will accept the amendment.

I yield back the remainder of my time.

Mr. JAVITS. Mr. President, this amendment is acceptable on this side.

I yield back our time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time not be counted against either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 2194

Mr. BUMPERS. Mr. President, I call up my amendment No. 2194.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Arkansas (Mr. BUMPERS), for himself and the Senator from Idaho (Mr. CHURCH) proposes an amendment numbered 2194:
>
> On page 131, line 1, strike "1976" and insert in lieu thereof "1977".

Mr. BUMPERS. Mr. President, first I would like to announce that the distinguished Senator from Idaho (Mr. CHURCH) joins me as a cosponsor of this amendment.

Mr. President, this is a very simple amendment which I believe the committee will find acceptable. Here is the reason for it: There are 16 States in this country which are not presently contributing as much as 150 percent to the State student incentive program. Some of those States also have prohibitions against the portability of these grants. In other words, they have State laws which prohibit students from using these grant funds to attend school outside their State borders.

My own State happens to be one that falls into both categories. First, we have a State law which prohibits students from taking their student incentive grants and attending schools outside the State and second, we are not contributing 150 percent of the funds for the program.

The amendment simply strikes the year 1976. The bill as it is presently written provides that the States must be in compliance with the 150 percent matching requirement by September 30, 1976 or else allow the grants to be used at out-of-State schools. I have asked in my amendment that the year 1976 be stricken and the year 1977 be inserted so that our legislature, which will not meet until January, will have an opportunity to rectify this problem in either of two ways: First, repeal the statute prohibiting portability so that students can use the funds to go outside the State or, second, contribute up to 150 percent and retain the prohibition against portability.

It seems only fair that 16 States should not be prevented from participating in this program because of a law being in effect which they will not get an opportunity to repeal before January, and, second, it does not give those States an opportunity, if they choose, to participate to the extent of 150 percent and keep the portability clause. It seems only fair to give these State legislatures, most of which will be coming into session in January, an opportunity to work their will.

Mr. PELL. Mr. President, I have discussed this amendment with Senator BUMPERS and also with Senator CHURCH. I believe it is a good amendment, and to my mind, it is acceptable. I urge my colleagues to accept the amendment.

Mr. JAVITS. Mr. President, because of the special circumstances affecting the States which have been mentioned by the Senator, we were quite confident this amendment would be offered. We fully accept it. Senator FONG was interested in a similar amendment.

The PRESIDING OFFICER (Mr. STONE). Is all remaining time yielded back?

Mr. BUMPERS. I yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

UP AMENDMENT NO. 376

Mr. PEARSON. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Kansas (Mr. PEARSON) proposes an unprinted amendment No. 376.

The amendment is as follows:

> At the end of the bill, add the following new section:
>
> SEC. 7. The Act of November 2, 1921 (25 U.S.C. 13), is amended by adding at the end thereof the following new paragraph:
>
> "Notwithstanding any other provision of this Act or any other law, post-secondary schools administered by the Secretary of the Interior for Indians, and which meet the definition of an "institution of higher education" under Section 1201 of the Higher Education Act of 1965, shall be eligible to participate in and receive appropriated funds under any program authorized by the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or post-secondary educational institutions."

Mr. PEARSON. Mr. President, under present law, postsecondary schools funded directly by the Bureau of Indian Affairs are not eligible to receive funds under education programs administered by HEW. This unfortunate situation has arisen because of the question of "augmentation of appropriations." The United States Code states that "the use of appropriated funds is limited to the purposes for which they are appropriated." HEW has interpreted this statute to mean that Federal institutions are eligible only for direct support from a single agency. I believe that HEW has misconstrued this statute, and in a June 15, 1976, legal brief, the Library of Congress stated that they seriously questioned the applicability of the doctrine of augmentation of appropriations in this instance.

This amendment, which is approved by HEW, does not have any revenue cost. It would simply enable two post-secondary Indian schools, Haskell Junior College and the Albuquerque School of Vocational Education, to compete for funding under programs administered by HEW. Without this amendment, these schools cannot be fully provided for. I strongly believe that if these Federal institutions are to be quality institutions they must be eligible to compete for funding under these various education and research programs.

Mr. President, when the Elementary and Secondary Education Act passed in 1963, there were already several elementary and secondary schools funded directly by the BIA. Thus, the Elementary and Secondary Education Act did specifically provide for the eligibility of these schools and Haskell, which was then a high school, could receive funding from HEW. However, when the Higher Education Act passed in 1965, there were no postsecondary schools directly funded by the BIA so the Higher Education Act did not provide for their eligibility under the act. Consequently, when Haskell became a postsecondary institution in 1970, it could no longer receive funds under many HEW programs. In effect, I propose only to update our present laws and remove an existing inequity.

Mr. President, to summarize, this amendment relates specifically to two Indian institutions, the Haskell Junior College and the Albuquerque School of Vocational Education in Albuquerque, N. Mex. It provides that these institutions may apply for programs and funds under the HEW programs. The fact that they cannot apply arises from some legal construction within the act, which construction the Library of Congress questions. It provides for no additional funds. It just says that these two institutions may make application for HEW funding programs. It corrects an inequity, actually, created when we passed the Elementary Aid Act some time ago. When both of these institutions were pregraduate types of institutions they could apply. But in the passage of the Higher Education Act this was overlooked in draftsmanship.

The amendment is supported by HEW and, as I understand it, is acceptable to the managers of the bill.

Mr. PELL. Mr. President, it would certainly seem appropriate that the first Americans should have the same opportunity as others for access to strong secondary support. I recommend that the amendment be accepted.

Mr. JAVITS. Mr. President, the amendment is acceptable on this side.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. PEARSON. Yes. I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PELL. Mr. President, I ask unanimous consent that Adele Mann be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time to be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2204

Mr. McINTYRE. Mr. President, I call up my amendment No. 2204 to the pending bill S. 2657, the educational amendments of 1976.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. McINTYRE) proposes amendment numbered 2204.

The amendment is as follows:

On page 283, line 12, strike out "$5,000,000" and insert in lieu thereof "$6,000,000".

On page 283, line 12, strike out "$10,000,000" and insert in lieu thereof "$15,000,000".

On page 283, line 14, before the period insert a comma and the following: "of which $1,000,000 for the fiscal year 1978 shall be available only for carrying out the provisions of section 168, and $5,000,000 in each of the succeeding fiscal years ending prior to fiscal year 1982 shall be available only for carrying out the provisions of section 168".

On page 284, between lines 4 and 5, insert the following:

"GRANTS FOR SOLAR ENERGY EDUCATION AUTHORIZED

"SEC. 168. The Commissioner, after consultation with the Administrator of the Energy Research and Development Administration, is authorized to make grants to postsecondary educational institutions to carry out programs for the training of individuals needed for the installation of solar energy equipment, including training necessary for the installation of glass paneled solar collectors, of wind energy generators and for the installation of other related applications of solar energy.".

On page 284, line 6, strike out "SEC. 168." and insert in lieu thereof "SEC. 169. (a)".

On page 284, line 7, after the word "part" insert the following: "(other than section 168)".

On page 285, between lines 5 and 6, insert the following:

"(b) Each postsecondary educational institution desiring to receive a grant under section 168 of this part shall submit an application to the Commissioner at such time, in such manner, and containing or accompanied by such information as the Commissioner deems necessary.".

On page 285, line 7, strike out "SEC. 169." and insert in lieu thereof "SEC. 170.".

Mr. McINTYRE. Mr. President, before proceeding further, in a brief explanation of this amendment, I ask unanimous consent that the amendment be modified in the following manner to strike out the words "fiscal year" on line 9 of the amendment and insert in lieu thereof "October 1,".

I send a copy of the modification to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 283, line 12, strike out "$5,000,000" and insert in lieu thereof "$6,000,000".

On page 283, line 12, strike out $10,000,000" and insert in lieu thereof "$15,000,000".

On page 283, line 14, before the period insert a comma and the following: "of which $1,000,000 for the fiscal year 1978 shall be available only for carrying out the provisions of section 168, and $5,000,000 in each of the succeeding fiscal years ending prior to October 1, 1982 shall be available only for carrying out the provisions of section 168".

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On page 285, between lines 5 and 6, insert the following:

"(b) Each postsecondary educational institution desiring to receive a grant under section 168 of this part shall submit an application to the Commissioner at such time, in such manner, and containing or accompanied by such information as the Commissioner deems necessary.".

On page 285, line 7, strike out "SEC. 169." and insert in lieu thereof "SEC. 170.".

Mr. McINTYRE. The purpose of this amendment is to help our Nation decrease its dependence on foreign oil by stimulating vocational training in the installation and maintenance of solar energy heating, cooling, and hot water equipment.

The amendment does not change the major goals or immediate needs provided for in the education bill. Nor does it request any additional authorization for funding in the coming fiscal year. It would not authorize funding until fiscal 1978, in the amount of $1 million the first year. From fiscal 1979 through fiscal 1982, it would provide for an authorization of $5 million per year. I anticipate that from the first few years' experience with solar vocational training, we will be better able to judge precisely how much funding will be necessary.

As we all know, both the Senate and the House of Representatives have made firm commitments to accelerating the development of safe domestic sources of energy, and have given special attention to solar energy. For example, both the Senate and House have voted to allow a residential solar energy tax credit, and both Houses have voted to increase more than threefold the ERDA budget for solar energy research and development.

But we have not overcome all the obstacles. For one thing, we have not considered who will do the solar energy installation work, or where the country will get the architects, engineers and designers—the needed specialists—to help make solar energy in the home both inexpensive and attractive.

Today, skilled tradespeople who can install and maintain solar energy equipment are especially lacking, even though some equipment is already on the market, and new equipment is being introduced all the time. By passing this amendment now, we can encourage vocational schools to begin planning for courses in solar energy installation because they will know when Federal aid will be available.

This amendment does not cover the whole gamut of solar energy training and the long-range educational programs we will eventually need in the Nation's vocational schools, colleges and universities. It is my intention to review the need for more comprehensive solar energy programs with educational and solar experts, and consider submitting a bill to encourage these education programs in the next session of Congress.

Though there is not time to consider such comprehensive programs in this session, we must recognize the immediate and growing need for skilled people to install solar heating, cooling, and hot water units. And so, Mr. President, I urge the adoption of my amendment.

Mr. President, this is a very simple amendment. It was called to my attention that the education bill had authorization for some funding to assist in vocational education in the field of mining technology and since we all in this Chamber are so interested in energy today, it seemed appropriate to suggest to the members of the committee that we add solar energy vocational education.

I spoke to the distinguished senior Senator from West Virginia, who is the father of the section providing for mining technology vocational education, and he agreed to the amendment that I wished to make.

I have also proceeded to discuss this matter thoroughly with the distinguished manager of the bill, the Senator from Rhode Island.

So I believe at the appropriate time the committee will agree to accept this proposal.

I am happy to yield to the manager of the bill, the Senator from Rhode Island.

Mr. PELL. The Senator from New Hampshire is correct. I have been informed that it has been cleared with the Senator from West Virginia. It fulfills a real need because the wider we can make the research in this field and experimentation the better off we are. From at least this side of the aisle I recommend that we accept this amendment.

Mr. JAVITS. Mr. President, the amendment is acceptable on this side as well.

Mr. McINTYRE. Mr. President, before we move to agree to this amendment, let me say I thank the distinguished Senator from Rhode Island and the distinguished Senator from New York. All of us want to do everything that we can possibly to lend further impetus to the techniques and technology of solar energy, a possible great help to us in the future in the energy field. With that I am happy to yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all remaining time yielded back? All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment was agreed to.

Mr. PELL. Mr. President, I ask unanimous consent that Mr. Peter Harris, of the staff of the Committee on Labor and Public Welfare, be accorded the privilege of the floor during the course of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. I suggest the absence of a quorum with the time to be counted from neither side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time to the Senator from Utah?

Mr. PELL. I yield 10 minutes to the Senator from Utah.

Mr. MOSS. Mr. President, for many months, Senator PELL and members of the Education Subcommittee and the Committee on Labor and Public Welfare have worked long and hard to write the Education Amendments of 1976. I commend them for a prodigious accomplishment. My only concern is that the whole bill may overshadow some of its best parts. Very briefly, therefore, I want to draw the Senate's attention to a provision of title II which marks a new departure in Federal assistance to vocational education programs and which will undoubtedly make an important contribution to the development of the Nation's energy resources.

Over a year ago, I introduced the Coal Mining Technology and Manpower Development Act, to assist community colleges in training skilled coal mine workers. That bill, with some modifications, was cosponsored by Senator RANDOLPH and adopted by the committee as an amendment to S. 2657 under the title "Special Energy Education Program."

In our effort to expand the production and diversify the sources of domestic energy, we must not overlook the need to develop sufficient manpower with appropriate skills to do the job. This is particularly true of coal mining. Coal presently provides only 17 percent of our energy even though it constitutes 93 percent of the fossil fuel reserves of the United States. Project Independence anticipates an increase in production of 10 percent per year through 1985 in order to raise output to more than 1 billion tons. This goal, in the judgment of the National Academy of Engineering, will require 125,000 additional skilled workers, more than one-half of the projected increase for all energy production, electric power generation, and energy transportation in the decade ahead.

The problem in coal mining is not merely one of numbers. So far the general unemployment rate has assured the industry an adequate labor supply, but many of the new recruits are poorly trained. Shortages of experienced miners are beginning to appear and will become acute, for a large proportion of the work force is concentrated in the older and younger age groups. According to United Mine Workers' president Arnold Miller, who testified last year before the Senate Interior and Public Works Committees, nearly 30 percent of the union's membership will be eligible for retirement under the terms of the present contract. The same number of workers is under 30 and, therefore, inexperienced. In this, the most hazardous of industrial occupations, they are the most frequent victims of accidents.

The private sector has long assumed the major burden of recruiting and training skilled coal workers and is taking new initiatives. In recent years, however, a number of junior colleges, technical colleges, and vocational schools have created training programs.

In all, 17 2-year institutions now have 2,878 persons enrolled in associate degree or 1-year certificate programs. All but three of these programs have been established since 1970. Twelve additional colleges are in various stages of planning to offer coal mining curricula. I am proud to say that nearly half of the present total number of students are participating in the program at the College of Eastern Utah in Price. In the near future the college will construct a $2 million center to provide training for high school students, a 2-year associate degree in mining technology, an extension course for recertifying mine electricians, and a university preparatory general science course.

This remarkable expansion is documented in a recent survey conducted by John R. Doggette of the Oak Ridge Associated Universities for ERDA and the American Association of Community and Junior Colleges. Although the study does not assess the financial requirements of these programs, I have received letters from more than half of the 17 institutions describing the enormous costs they incur in starting up, continuing, and improving their training. These costs are especially high for equipment purchases and instructors' salaries.

Senator RANDOLPH's and my amendment provides $5 million for fiscal year 1978 and $10 million for each succeeding year until 1982 for grants by the Office of Education to postsecondary institutions to train entering miners, supervisors, technicians, safety personnel, and environmentalists. It is expected that they will be engaged in all phases of coal production from extraction to disposal of coal mine wastes and reclamation of surface-mined land.

I regard this assistance as one way of providing the trained manpower to do the job that must be done if we are to achieve energy independence and of enabling thousands of men and women to qualify for jobs that will be available.

Mr. President, I ask unanimous consent that the relevant section of Dr. Doggette's survey, together with a list of institutions having coal mining training programs, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ENERGY-RELATED TECHNOLOGY PROGRAMS IN COMMUNITY AND JUNIOR COLLEGES: AN ANALYSIS OF EXISTING AND PLANNED PROGRAMS, JUNE 1976

(By John R. Doggette)

COAL-MINING TECHNOLOGY

By far the greatest demand for energy-related technicians is in coal mining. This is because the U.S. coal industry intends to mine more than 1.1 billion tons of coal by the year 1985. One projection published in December 1974 is that 125,000 new employees will be needed to man the 270 mines now to be built, each of which will be producing 2 million tons of coal a year.[1]

Another projection, stated in May 1975 by a representative of Consolidated Coal Company, is that coal-mining companies must hire an additional 152,000 employees between 1976 and 1985, the majority of whom will be inexperienced in coal mining.[2]

Experts discussing manpower needs for the coal mines have emphasized that not only will many new persons be needed but also they will need to be well trained. Because additional pretraining and early upgrading have proved both to increase productivity and to augment mine safety, companies are no longer satisfied with the practice of indoctrinating new employees for fewer than 40 hours before they go underground.

In illustrating this point, one survey respondent explained that a coal-mining company with more than 2,000 applications for underground miner positions, offered to hire all persons who successfully completed the college coal-mining program. The college and the coal company created a successful cooperative program, alternating school and work.

Without exception, coal-mining technology programs in two-year colleges fit the definition of community programs. The colleges work closely with the regional coal companies to develop programs needed by the local mines or related industry. And because of this close cooperation in tailoring the programs to the needs of local mines and industry, it was difficult for the survey staff to categorize the coal-mining technology programs.

In all, 17 colleges with a combined total of 24 existing programs in coal-mining were identified. All but 3 programs were reported to have been established within the last five years. (See Table 111.5.)

TABLE 111.5.—COAL-MINING TECHNOLOGY: COLLEGES AND THEIR EXISTING PROGRAMS, ENROLLMENT, AND GRADUATES

Regions	Colleges	Programs	Enrollment	1975 graduates	Projected 1976 graduates
East	5	7	[1] 466	12	[1] 74
South	4	6	453	25	88
Midwest	5	5	685	89	143
North-central	2	3	60	25	28
Southwest	1	3	1, 214	2	10
Total	17	24	2, 878	153	343

[1] This figure is an estimate.

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[1] J. Wes Blakely, "The Manpower Scene: Training and Development," *Coal Mining and Processing* (December 1974), p. 52.

[2] Roger M. Haynes, "Manning of Coal Mines," a speech delivered at the 1975 Coal Convention of the American Mining Congress, Pittsburgh, Pa., May 4–7, 1975.

Of these 17 colleges, 5 are in the East, 5 are in the Midwest, and 4 are in the South. The two states having the greatest number of these colleges are West Virginia (5 colleges) and Illinois (3 colleges).

It was frequently difficult for the survey research staff and the college to determine whether or not a program led to a certificate or an associate degree. Many of the short courses and electrician and supervision certification preparation courses are or can eventually be placed in the degree track. Colleges generally were unsure about how many of the employed miners taking courses were seeking degrees. The survey identified 2,878 persons enrolled, 153 graduated in 1975, and 343 who were projected to graduate in 1976.

Of the 17 colleges with programs, 8 are expanding their offerings. Twelve additional colleges are planning programs: 6 in the discussion stage, 2 in the preliminary stage, and 4 in the formal stage. (See Table 111.6.)

TABLE 111.6.—COAL-MINING TECHNOLOGY: NEW COLLEGES PLANNING PROGRAMS AND STAGES OF PLANNING

Regions	New colleges	Program planning stage		
		Informal	Preliminary	Formal
East	3		1	2
South	2	1	1	
Midwest	3	3		
North-central	2	1		1
Southwest	2	1		1
Total	12	6	2	4

The start-up time for coal-mining technology programs seems to be considerably shorter than that for other energy-related technology programs: seven of the offerings are planned to begin in 1976 and two are slated for 1977.

In analyzing the West Virginia public and private college programs training coal miners, Duane A. Letcher, of the Mining Extension Service of West Virginia University, classified the instructional activities into three categories:[1]

Training: Activities to improve the employee's present performance.

Education: Activities to improve the overall competence of the employee beyond the job now held.

Development: Activities to prepare the employee to adjust to the organization as it changes.

While most of the degree programs identified are "education" and "development" activities using Letcher's classification system, colleges are also providing extensive "training" activities for underground miners.

Each coal company is required to submit a training plan to the district office of the U.S. Mining Enforcement and Safety Administration (MESA) for approval. The community colleges are frequently included as part of the method for meeting the training objectives. Experienced miners with appropriate underground time can seek certification as electricians or become supervisors if they have completed training and can pass the required certification tests. Community colleges provide training for both certifications.

In only two states do state statutes require a minimum of 80 hours of pretraining before the new employee can go underground. The apprenticeship as a "red hat" under close supervision away from the face of the mine lasts 90 days. The local colleges make available a variety of courses each a few hours in length on all phases of mining and safety.

Six categories of coal-related programs were identified besides short training courses for employed miners. (See Table 111.7.)

TABLE 111.7.—TYPES OF COLLEGE COAL-MINING DEGREE PROGRAMS

Type	Length	Students	Program
Mining engineer	2yr	Full-time	Transfer emphasis.
Mining technology	1 or 2 yr	Full- and part-time.	Terminal and transfer.
Mining management.	1 or 2 yr	do	Terminal o transfer.
Surface mining technology.	1 or 2 yr	do	Terminal.
Mining reclamation technology.	1 or 2 yr	do	Do.
Coal-conversion technology.	1 or 2 yr	Still only in planning.	Still only in planning.

One- and two-year programs in mining technology are available for both full-time students and miners enrolled part-time. Mining management was listed as a complete program and as an option in mining technology. Two-year associate degree programs in mining engineering and mining technology designed for students to transfer to four-year colleges were identified.

Surface coal-mining and reclamation technology programs are available in geographical areas where surface coal-mining is prevalent. Surface coal mining does not have the strict training regulations that underground coal mining has, but the colleges work closely with the coal companies. Of the five colleges responding in the survey that had surface coal-mining technology programs, two also had reclamation technology programs. (See Table 111.8) One surface coal-mining program in the formal planning stage and two reclamation programs—one in the formal planning stage and one in the preliminary planning stage—were identified.

TABLE 111.8.—SURFACE COAL-MINING AND RECLAMATION TECHNOLOGY: COLLEGES WITH EXISTING AND PLANNED PROGRAMS[1]

Regions	Colleges with existing programs	Colleges with planned programs		
		Informal	Preliminary	Formal
Surface coal-mining programs:				
South	1			
Midwest	3			1
North-central	1			
Total	5			1
Reclamation programs:				
South	1		1	
Midwest	1			1
Total	2		1	1

[1] This table's data are also included in tables III.5 and III.6.

Three college coal-conversion technology programs being planned will train technicians in converting coal to a fuel oil or a gas. (See Table 111.9.) The formally planned program is in North Dakota and will train personnel to operate plants now on-line and under construction in converting lignite to a synthetic gas.

As mentioned previously, there is strong cooperation between the colleges and the local coal mines. To colleges with existing programs, industry made instructional staff available to 13 colleges (77 percent), facilities to 12 colleges (71 percent), equipment to 11 colleges (65 percent), and curriculum planning expertise to 10 colleges (59 percent). (See Table 111.10.)

Six of the 12 colleges planning programs (50 percent) are using local companies in curriculum planning. (See Table 111.10.) A number of the colleges are also planning to use industrial facilities, equipment, and industry-trained college instructors.

TABLE 111.9.—COAL-CONVERSION TECHNOLOGY: NEW COLLEGES PLANNING PROGRAMS AND STAGES OF PLANNING[1]

Regions	New colleges	Program planning stage		
		Informal	Preliminary	Formal
East	1		1	
Midwest	1	1		
North-central	1			1
Total	3	1	1	1

[1] This table's data are also included in table 111.6.

TABLE III.10—COAL MINING TECHNOLOGY: INDUSTRIAL INVOLVEMENT IN COLLEGES WITH EXISTING AND PLANNED PROGRAMS

Industrial involvement	17 colleges with existing programs		12 colleges with *planned* programs	
	Number	Percent	Number	Percent
Industry involved	15	88	6	50
Use of industrial facilities	12	71	5	42
Use of industrial equipment	11	65	4	33
Use of industrial staff for instruction	13	77	4	33
Use of industrial staff for curriculum planning	10	59	6	50
Use of industry to train college instructors	3	18	1	8
Use of college to train industry employees	4	24	2	17
Industry not involved	2	12	6	50

INSTITUTIONS WITH COAL MINING TECHNOLOGY PROGRAMS

EAST

Beckley College, Beckley, West Virginia.

Bluefield State College, Bluefield, West Virginia.

Comunity and Technical College: West Virginia Institute of Technology, Montgomery, West Virginia.

Fairmont State College, Fairmont, West Virginia.

Williamson Campus—Southern Virginia Community College, Williamson, West Virginia.

SOUTH

Madisonville Community College, Madisonville, Kentucky.

Mountain Empire Community College, Big Stone Gap, Virginia.

Southeast Community College, Cumberland, Kentucky.

Southwest Virginia Community College, Richlands, Virginia.

MIDWEST

Belmont Technical College, St. Clairsville, Ohio.

Illinois Eastern Community College, Olney, Illinois.

Indiana Vocational Technical College, Indianapolis, Indiana.

Rend Lake College, Ina, Illinois.

Southeastern Illinois College, Harrisburg, Illinois.

NORTH CENTRAL

Casper College, Casper, Wyoming.

Sheridan College, Sheridan, Wyoming.

SOUTHWEST

College of Eastern Utah, Price, Utah.

Mr. MOSS. I thank the Senator from Rhode Island for yielding, and I yield back the time I did not use.

Mr. HUMPHREY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. PELL. I yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that two members of my staff, Mr. Dan Davis and Miss Louise Bracknell, be permitted the privilege of the floor during the consideration of the pending measure and during rollcall votes.

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[1] Duane A. Letcher, *Identification and Structural Analysis of Instructional Programs for the Underground Coal Miner in West Virginia*, July 1975.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time not to be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

AMENDMENT NO. 2222

Mr. STONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will please state the amendment.

The assistant legislative clerk read as follows:

> The Senator from Florida (Mr. STONE) proposes amendment numbered 2222.

Mr. STONE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 213, between lines 15 and 16, insert the following:
>
> "PART K—GENERAL PROVISIONS
>
> "ANTIDISCRIMINATION AMENDMENTS
>
> "SEC. 181. Title XII of the Act is amended by adding at the end thereof the following new section:
>
> " 'ANTIDISCRIMINATION
>
> " 'SEC. 1207. No institution of higher education receiving Federal financial assistance may use such financial assistance, whether directly or indirectly, to undertake any study or project or to fulfill the terms of any contract containing an express or implied provision that any person of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract.'.".
>
> On page 100, in the table of contents, after item "Sec. 177." insert the following:
>
> "PART K—GENERAL PROVISIONS
>
> "Sec. 181. Antidiscrimination amendment.".

Mr. STONE. Mr. President, this amendment has already been passed by the House, and what it does is prohibit the use of our educational assistance funds in a manner that would discriminate against participants in those grant programs by reason of their race, religion, or background.

I stress that neither the wording nor the intent of the amendment is designed to restrict in any way the curriculum or the subject material of the use of these grants.

I am proposing an antidiscrimination amendment which was adopted without opposition by the House of Representatives. The amendment would bar American universities from using Federal funds to enter into programs with foreign nations that deny participation in these programs to individuals on the basis of race, religion, sex, or national origin.

The need for this amendment is not hypothetical. The honorable Representative from Pennsylvania, EDWIN ESHLEMAN, who introduced this amendment in the House, reports that several New England colleges and universities have felt compelled to turn down contracts with Arab nations which demanded that persons of certain religions be barred from fulfilling the contract. In other instances, foreign countries involved in faculty and student exchange programs with American institutions have forbidden entry to certain American students on the basis of religion.

We have recognized the need for antidiscrimination provisions in other aspects of our foreign policy. President Ford has issued orders that Federal agencies should ignore the discriminatory policies of foreign countries when selecting individuals for overseas assignments. Former Secretary Dunlop expanded this order to all Federal contractors entering into agreements with foreign nations. We need an equivalent statement of policy in the area of contracts granted to institutions of higher education.

American universities are becoming increasingly prominent in international education, sending their faculty, students, and research and administrative expertise throughout the world, as well as educating foreign students on their own campuses. The amendment I am introducing would make it clear that foreign nations may not use contracts or grants to force American educational institutions to discriminate against any person on the basis of race, religion, sex, or national origin.

Mr. JAVITS. Mr. President, I would like to ask the Senator a few questions. First, let me tell the Senator that the Department raises some question about this amendment on the ground that none of the civil rights statutes relating to higher education deals with religion. This discrimination on the ground of race, color, and national origin is dealt with, as well as sex, but not religion; and therefore, this would introduce yet another proposition into the antidiscrimination aspects of the law.

The language also raises some questions in my mind, for two reasons: first, I understand the amendment is designed to deal with contracts which may be offered or projects or studies which may be offered to a university or college from abroad, requiring discrimination and, for example, saying that people of a certain religious faith should not be hired under the contract.

Mr. STONE. That is correct.

Mr. JAVITS. But nothing in the section 1207, as written, says anything about contracts offered from abroad. It is a blanket proposition bringing in religious discrimination.

What is the reason for omitting the specific reference to the evil the Senator is trying to deal with?

Mr. STONE. I think the placing of the provision in the act at the point where it is placed does refer to that. But if the committee feels more comfortable in making an additional specific reference to that, it can do so. But this is the language that the House committee and, finally, the House, did clear.

The purpose here is to eliminate the use of grants and contract money in such a way that the recipient uses it while specifying, as some have, that members of a particular race or particular religion may not participate. That would be against the proper general use of American taxpayers' money.

Mr. JAVITS. The other matter that concerns me is the following:

> . . . to undertake any study or project or to fulfill the terms of any contract . . .

Now, they might undertake conceivably a study or project dealing with this particular question, to wit, the question of discrimination on religious grounds.

Mr. STONE. Yes.

Mr. JAVITS. What concerns me is any impairment to the academic freedom of individual institutions.

Now, anything they would undertake for anybody else would be pursuant to some form of contract or agreement, and I was concerned about whether or not the amendment should read broadly enough that if they undertook—mind you, without any agreement, they just undertook—as an in-house proposition, any study or project containing an express or implied provision, and so forth, of discrimination, whether or not we had any right, even though we might thoroughly disapprove of that idea, to inhibit any higher education institution from going ahead with any in-house study or project of any kind even if we did not like its subject.

Mr. STONE. The Senator has a correct concern, but the amendment is so worded as to permit that type of course material, and the only restriction here, the only prohibition, is that in the carrying out or implementing of any program, a person of a particular race, religion, sex, or national origin not be barred from performing the study.

In other words, this amendment is not a restriction on the course material or types of study carried out. It is only a prohibition that in the implementing of any such project, the manner of carrying it out not be such that it bars people, because of their religion, and so forth. Had it not been occasioned by at least charges that this had taken place, this type amendment would not be felt necessary.

I think this point need not concern the Senator, and I think the legislative record we are making now shows the intent clearly to be simply that the way of carrying out these projects shall be in a nondiscriminatory way.

Mr. JAVITS. Would the Senator object to a proviso added to the amendment saying, "*Provided, however*, That nothing herein contained shall be deemed to relate to in-house studies or projects of higher education institutions"?

Mr. STONE. The Senator from Florida would object to it in this way, for this reason: the provision here does not bar, nor do we intend to bar, either in-house or contract studies of any kind, including the type that the Senator raised in a hypothetical way.

For example, a study of discrimination.

What this does is say when we use the money we cannot, either by express prohibition or implied prohibition, prevent a woman from participating, or perhaps a Catholic from participating, or an Armenian from participating, and so forth.

Mr. JAVITS. Does that relate also, or does the Senator intend it to relate—suppose Columbia University undertakes a study, whatever the study may be, which has nothing to do with a contract, nothing to do with anybody giving them a contract.

Mr. STONE. Right.

Mr. JAVITS. Does the Senator want to bar them from providing in undertaking that study that they are going to exclude women?

Mr. STONE. That is right.

Mr. JAVITS. So it is a much broader provision than protecting against Arab nations which offer contracts to universities, provided they exclude people of a given faith; it is going much further than that.

Mr. STONE. Correct. But we are not requiring they use women. We are not requiring they use ethnic backgrounds of any kind.

We are simply saying in the use of these funds they cannot prohibit participants from being of a certain——

Mr. JAVITS. That is not the way it works. When the Senator says that they are prohibited from prohibiting——

Mr. STONE. That is right.

Mr. JAVITS. Require the use of women, or it may be people of a given faith, or a given race. I mean, we simply cannot get by with that.

In other words, it is just not the prohibition against prohibiting the use. We have to use affirmatively.

Mr. STONE. That is not the case.

Mr. JAVITS. If they are of equal quality or of equal capacity.

I am concerned about the application of this amendment to strictly in-house studies and projects of colleges and universities.

That is not what we intend to deal with by this amendment.

I know why the Senator is putting it forward. I agree with its purpose. But I am deeply concerned about the breadth of trying to control the in-house operations, other education, civil rights laws, by introducing now the religious qualification. That is really what we are doing.

I would much rather change title VI of the statute of 1964. I would rather do it directly that way because I do not know the full implications, as I stand here now.

I am more than with the Senator if he will give us an amendment saying——

Mr. STONE. Suppose we take the proviso the Senator has suggested.

Mr. JAVITS. Yes.

Mr. STONE. Between now and the conference, the House staff and our staff can tailor it to prevent any broadening beyond that which is intended in this amendment.

Mr. JAVITS. The Senator has read my mind correctly.

If we take the same amendment as the House, it is not in conference.

Mr. STONE. That is right.

Mr. JAVITS. If we add something to it, it is in conference.

Mr. STONE. Correct.

Mr. JAVITS. The Senator knows me well enough to know he can accept my good faith.

Mr. STONE. I certainly do.

Mr. JAVITS. I do not want to act in any way to inhibit the freedom of American education.

Mr. STONE. Mr. President, I ask that the amendment be modified using the words the Senator from New York has suggested, and I will send that to the desk in writing momentarily.

Mr. JAVITS. Mr. President, I ask unanimous consent that we may have a quorum call without its being charged to either side.

The PRESIDING OFFICER. The Senator has the right to modify his amendment and it will be so modified.

Mr. STONE. I thank the Chair.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? The Chair hearing no objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I believe that Senator STONE has now sent a modification of his amendment to the desk. I ask that the modification be stated.

The PRESIDING OFFICER. The modification will be stated.

The second assistant legislative clerk read as follows:

On page 2, at the end of line 3, strike the period and quotation mark and insert in lieu thereof the following:

"*Provided, however*, That nothing herein contained shall be deemed to affect any in-house study or project of an institution of higher education."

Mr. JAVITS. Mr. President, the amendment, as modified, is acceptable.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. STONE. I yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be counted against neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

AMENDMENT NO. 2206

Mr. ALLEN. Mr. President, on behalf of my senior colleague (Mr. SPARKMAN) and myself, I call up our amendment No. 2206, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN), for himself and Mr. SPARKMAN, proposes amendment No. 2206.

Mr. ALLEN. I ask unanimous consent that further reading of the amendment be dispensed with, inasmuch as I will explain it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Act, add the following title;

TITLE III—AMENDMENT TO TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

SEC. 301. Section 901(a) of the Education Amendments of 1972 is amended by striking out "and" at the end of clause (5), by striking out the period at the end of clause (6) and inserting in lieu thereof "; and", and by adding at the end thereof the following new clause:

"(7) this section shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received an award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only.".

Mr. ALLEN. Mr. President, pageants such as the Miss America pageant and America's Junior Miss pageant, held in Mobile, Ala., are being seriously damaged by the possible application or misapplication of title 9. Many colleges and universities give scholarships, both at the local level and at the national level, to winners of these pageants. Of course, the Miss America pageant and the Junior Miss pageants are open to young ladies, to one sex only. There is a fear, and that fear is well grounded from what we understand may possibly be the application of title 9 in this area, which has caused many colleges and universities to now be unwilling to grant these scholarships for the reason that they would be helping one-sex organizations or pageants in possible violation of title 9.

What this amendment would do would be to provide that title 9 would not prevent colleges and universities from continuing the practice that they have engaged in for many, many years of, in their discretion, giving or not giving, as they might desire, scholarships to winners in these various contests. That is all the amendment would do. Serious damage is being done at this time to these pageants by the fear of some universities and colleges that Federal funds will be withdrawn from them. All this amendment does is to make this practice permissible.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. JAVITS. I would like to ask a question, and then I would like to make a very brief statement on the amendment.

The Senator will notice the language on page 2:

> This section shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received—

And here are the words that trouble me—

> an award in any pageant—

Is the word "award" related directly to the scholarship or other financial assistance awarded by an institution of higher education? That is really what we are talking about. We are not talking about qualifying somebody who just received an award, whatever that may mean.

Mr. ALLEN. No; it is related to this contest or pageant or other activity.

Mr. JAVITS. Could we say "such award" or something like that? Would the Senator mind that? As it stands, if they give a girl a certificate——

Mr. ALLEN. Well, it is an award. If the Senator will read further, it is an award in a pageant.

Mr. JAVITS. I agree. But sometimes they hand out on a wholesale basis, these awards, or other forms of recognition. I think what is troubling me is a lack of a connection between the word "award" and the term "scholarship or other financial assistance."

Mr. ALLEN. Does not the Senator think the college or university would use discretion in giving their scholarships?

Mr. JAVITS. I agree. I am just looking at the words of the amendment. The Senator is a lawyer just as I am. The word "award" in line 3 is not related to the "scholarship or other financial assistance." It simply pertains to anyone who may have received an award which may or may not be this financial assistance. I suggest changing the word "an" to the word "such," because that is what we are talking about.

Mr. ALLEN. I would have no objection to that. This is the manner in which the House passed the amendment. I am sure in conference they can decide on the better of the two words.

Mr. JAVITS. May I ask another question? I am with the Senator on the amendment. I am just trying to put it into the best form.

Mr. ALLEN. I understand.

Mr. JAVITS. The other thing that worries us a little bit, and I think it would worry the Senator, is that the pageant should itself not be discriminatory. In other words, what we are trying to do is to avoid sex discrimination, but we do not want to encourage pageants or beauty contests—which is what this is about, as I understand it—which are themselves discriminatory. It might be confined.

Mr. ALLEN. Of necessity it is going to be discriminatory.

Mr. JAVITS. As to sex.

Mr. ALLEN. Yes. I have no objection to that.

Mr. JAVITS. Suppose it is discriminatory as to something else?

Mr. ALLEN. I have no objection to making that clear.

Mr. JAVITS. All right. So we would add "so long as such pageant is in compliance with other nondiscrimination provisions of Federal law."

Mr. ALLEN. But leaving the permission to discriminate as to sex in this particular area.

Mr. JAVITS. Of course; that is why I use the word "other."

Mr. ALLEN. Yes.

Mr. JAVITS. Does the Senator mind making the changes? One is "has received such award" and then add "so long as such pageant is in compliance with other nondiscrimination provisions of Federal law."

Mr. ALLEN. I have no objection to that. I am sure that is the thrust of it.

Mr. JAVITS. That is what we both intended.

Mr. ALLEN. Yes.

Mr. JAVITS. Mr. President, I will send the modification to the desk. I ask unanimous consent to so do.

The PRESIDING OFFICER. The Senator from Alabama has a right to modify the amendment.

Mr. ALLEN. Yes. I will modify the amendment, but first we will have a look at it. In the meantime, I ask unanimous consent that we might have a quorum call without time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. I send the modification to the desk. I believe it meets the objections.

The PRESIDING OFFICER. The amendment as modified will be stated.

The second assistant legislative clerk read as follows:

> At the end of the Act, add the following title:
>
> TITLE III—AMENDMENT TO TITLE IX OF THE EDUCATION AMENDMENTS OF 1972
>
> SEC. 301. Section 901(a) of the Education Amendments of 1972 is amended by striking out "and" at the end of clause (5), by striking out the period at the end of clause (6) and inserting in lieu thereof "; and", and by adding at the end thereof the following new clause:
>
> "(7) this section shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only so long as such pageant is in compliance with other nondiscrimination provisions of Federal law.

Mr. ALLEN. Mr. President, before we vote on the modification I shall make this statement:

Mr. President, as you of course know, title IX of the Education Act Amendments of 1972 prohibits discrimination on the basis of sex in educational programs or activities receiving financial assistance. The implementation of title IX by the Department of HEW has caused much deliberation, discussion, and concern that the provisions of title IX be enforced in a reasonable and responsible manner.

Frankly, Mr. President there have been many unintended results since title IX became law—results which I am confident few if any of us here in the Senate, ever expected and results which are creating great distress among parents of children attending schools receiving Federal financial assistance. I might add also that this sentiment of distress is not confined to the parents alone but, I believe, is shared in large measure by students and in fact all citizens, whether or not they are directly affected.

In my judgment, Mr. President, there is a substantial danger that the underlying concept which led to the enactment of title IX will itself soon be subjected to strenuous attack if the anomalous and unintended results which have brought title IX into disrepute are not promptly corrected.

In HEW's implementation of title IX, one of the greatest disasters has occurred in the scholarship programs of the America's Junior Miss Pageant, the Miss America Pageant, and other such pageants throughout the Nation. Historically, colleges and universities have offered scholarships to participants in local and State level pageants. Before title IX became effective, these scholarships amounted to approximately $7 million annually. Senators ought to agree with me when I say that Congress had no intention of causing a tremendous educational loss of that magnitude for the young women throughout the country.

As Senators of course know, colleges and universities give scholarships for a variety of reasons—athletic, talent, ability, scholarship—some to young men, some to young women—but all of them designed to recognize the potential of the recipient in their chosen field.

Personally, I think it is most unfortunate that title IX has resulted in a termination of these educational programs, and I urge the Senate to adopt my amendment so that worthy young women may have a better opportunity to get a good education.

Now, Mr. President, I will concede that I have more than an ordinary interest in this question since the America's Junior Miss pageant is held annually in Mobile, Ala. Some Senators may have seen the pageant on television several months ago. Fifty young women who were high school students competed on the basis of talent, poise, youth fitness, and scholastic achievement. I feel certain my distinguished colleagues from the State of Washington will recall that this year's America's Junior Miss is Lenne Jo Hallgren from the town of Clarkston, Wash. Miss Hallgren is truly a delightful and charming young lady and certainly ought not to be denied a scholarship by a blind and unreasonable interpretation of title IX.

I want Senators to understand that these pageants are not "bathing beauty contests" and that it is truly a shame to see the Education Act used to deny education benefits to such intelligent and talented young women.

A vote for this amendment will be a vote for education and against a bureaucratic and unreasonable application of a measure adopted by Congress in good faith with every intention that it would be implemented in a reasonable fashion.

Mr. President, this amendment will not cost the taxpayer one dime, but it will correct a problem we should all want to see corrected and will allow some $7 million in scholarships to be made available that will otherwise be denied.

Mr. President, the House of Representatives has passed a similar amendment.

I ask unanimous consent that a statement by the Honorable Jack Edwards, a Congressman from the First Congressional District of Mobile, Ala., be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

PAGEANT AMENDMENT

Title IX of the 1972 Education Amendments Act was meant to end sex discrimination in the nation's schools. It went into effect in July of last year after Congress concluded its hearings on the Department of Health, Education and Welfare's published regulations.

Based on the Act, the departmental regulations prohibit sex discrimination in admissions, financial aid, employment and athletics in the 16,000 school districts and 2,700 institutions of higher education throughout the country that receive federal aid.

Since its implementation, several problems have been encountered in athletic and curriculum programs and in other areas.

SCHOLARSHIP PROGRAMS

One of the greatest injustices has been in the scholarship programs of the America's Junior Miss and the Miss America pageants.

Historically, colleges and universities have awarded scholarships at the local and state level pageants. In fact, before Title IX became effective, these scholarships amounted to more than $7 million annually.

In addition, many local pageants have been held in high school and college auditoriums throughout the country. With the Title IX regulations, these same educational institutions have become reluctant to let their facilities be used.

If allowed to continue, this whole situation would result in a tremendous educational loss for young women throughout the land.

Colleges and universities give scholarships for a variety of reasons—athletic, talent, ability, scholarship—some to young men, some to young women—but all of them designed to recognize the potential of the recipient in their chosen field.

COLLEGE EDUCATION

Personally, I think it is unfortunate that Title IX originally could have resulted in a termination of some of these educational programs.

The America's Junior Miss Pageant, for example, which concluded in Mobile in early May before a nation-wide television audience, is not what is generally referred to as a "beauty" pageant.

Fifty young women who are high school seniors compete on the basis of creative and performing arts, poise and appearance, youth fitness and scholastic achievement. The scoring percentages for scholastic achievement and an interview with the judges accounts for a great percentage of the overall scoring total.

This is an honorable program that spotlights the better points of youth and allows them to compete in a wholesome atmosphere and before a large audience for a worthwhile objective, a college education.

EDWARDS AMENDMENT

It would be a shame for the Education Act to deny education benefits to such intelligent and talented young people.

And so on May 12, I offered an amendment to the Higher Education Act to exempt the Junior Miss Pageant and others like it from the provisions of Title IX.

It was adopted and now goes to the Senate. If it passes the Senate and is signed by the President, colleges and universities may once again award scholarships to the fine young women who participate in the pageants.

Mr. HATHAWAY. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I yield.

Mr. HATHAWAY. As I read the amendment, am I to understand it applies to so-called beauty contests only?

Mr. ALLEN. Actually, they are not beauty contests. I guess that might be the popular expression. We feel that the Alabama Junior Miss is a pageant. It is not a beauty contest.

Mr. HATHAWAY. I understand that. That is the sole purpose of this amendment, to qualify that type of pageant, or rather to exempt it, from the provisions of title IX. What I am afraid of is that the language here might be used by some ingenious individual or institution to manufacture some other type of contest or pageant which would fall within the terms of this amendment, but which would actually be in controversion of the spirit of title IX. We have had a colloquy here that clearly limits this to pageants, such as junior miss pageants or other beauty contests, where customarily only females are entered.

Mr. ALLEN. I do not think the Senator need fear, because this does not operate so much on the pageants themselves as that it allows colleges and universities in their discretion to give scholarships to the winners in the pageants.

We assume that the colleges and universities would not grant scholarships to the entrants in a pageant unless the pageant measured up to their requirements. That is all it does. It does not put any special power in the pageants. This is permissive as far as colleges and universities are concerned.

Mr. HATHAWAY. I understand that.

Mr. ALLEN. As regards title IX.

Mr. HATHAWAY. I understand that. I wish to make sure we are not going to open the door to individuals or, as I say, institutions coming up with ingenious discriminatory devices and then asking the university to award them a scholarship, like devising some kind of a talent contest where they exclude women or they exclude men for no real reason other than to get around title IX. The university would say, "Well, I guess we are entitled to do this under the Allen amendment," and go ahead and honor the award. That would be in controversion of the spirit of title IX.

Mr. ALLEN. As I say, I do not believe we are going to have that. As far as that is concerned, the universities now can give scholarships to anyone they want to, I suppose. But the reason for this amendment is that if they gave a scholarship to a one-sex-type pageant they might be in violation of title IX, and this just removes that inhibition or that burden and says that as to these particular organizations they can grant these scholarships without offending title IX. It does not make them grant the scholarship.

Mr. HATHAWAY. No. I realize that. I just wish to make sure that the language here is confined to the junior miss-type pageant that the Senator from Alabama has in mind.

Mr. ALLEN. Yes, and Miss America as well; reputable pageants, yes.

Mr. HATHAWAY. Because we can use exactly the same words, "personal appearance, poise, and talents," but apply them to some kind of football players' contest with scholarships as prizes, and restricted to males only. Taking the literal interpretation of these words, we might open the door to actual discrimination such as we are trying to avoid through the provision of title IX. As long as we have established in this colloquy that this is an extremely limited amendment, I think it is going to be pretty clear that such activities would be illegal.

Mr. ALLEN. The modification proposed by the distinguished Senator from New York (Mr. Javits) proposed that these pageants or contests, if you will, would have to comply with all other Federal antidiscrimination laws generally. So I do not believe we could run into a discriminatory organization.

Mr. HATHAWAY. Senator Javits' amendment simply says the pageant itself cannot discriminate in any other way. If this Junior Miss pageant discriminated against anyone on the basis of religion, for example, it would not qualify.

Mr. ALLEN. That is correct.

Mr. HATHAWAY. That is the purpose of Senator Javits' amendment. My purpose in questioning the Senator is to make sure it is confined only to current ongoing pageants such as the Junior Miss pageant.

Mr. ALLEN. I do not wish to say "current."

Mr. HATHAWAY. Well, then, to that type of pageant. We could start one tomorrow morning, or after this amendment passes, as long as it is that same type of contest.

Mr. ALLEN. Of that type; that is what this amendment is intended to cover, yes.

Mr. HATHAWAY. I thank the Senator.

Mr. PELL. I thank the Senator from Maine and hope that since it is acceptable on both sides of the aisle we could come to a vote on this matter.

Mr. President, I yield back the remainder of my time.

Mr. ALLEN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Alabama (Mr. Allen).

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time not to be charged against either side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, would it be considered that legislative business had intervened if I asked for a renewal of the quorum call, but with the time to be charged equally to both sides?

The PRESIDING OFFICER. If nothing is done, the time will be charged. If a quorum call is entered, the time will be charged automatically to the Senator requesting it, or whoever has control of the time. If the Senator asked by unanimous consent for it to be charged equally, it would then be charged equally to both sides.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PELL. I yield.

Mr. JAVITS. Mr. President, Senator PELL's problem and mine is the problem of time here going on. We have a unanimous-consent agreement respecting this bill, and the controversial amendments have yet to be offered. The Senate has been in session now on this particular matter for about 2 hours. That is our problem. We have no desire to curtail anyone's opportunity to offer amendments, but they have to be willing to offer amendments.

I do not believe in using up our time arbitrarily. We can always yield it back if we choose, and if we wish to press the rights of the managers of the bill, we could always press the bill to third reading, right here and now. Of course, we have no such design.

I simply make this statement to serve notice on the Members that we hope very much to finish this bill today; certainly at the very latest, tomorrow. If they do not offer their amendments, they put us in a very difficult and embarrassing position, and our duty may be to act *notwithstanding*. I urge the attachés of the Senate to notify Members that those who have amendments really must present them; otherwise, they could conceivably be locked out.

Then I suggest to Senator PELL that we do not press the use of time on this particular quorum call, but that we serve notice that we will, from now on, allow the time to be equally charged, so that the time on the bill itself will be used up, too, by simply waiting for Members, which is not something we desire.

The PRESIDING OFFICER. Also, the Chair has considered, in his capacity as the Senator from Vermont, objecting to quorum calls going on without the time being charged because of the Chair's concern that this bill be disposed of within the time allowed for it.

Mr. JAVITS. I thoroughly agree with the Chair as the Senator from Vermont. I hope, therefore, that we shall from now on suggest the absence of a quorum in the regular way, with the unanimous-consent request that the time be charged equally to both sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The Clerk will call the roll, with the time for the quorum call to be charged equally to both sides.

The second assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2220

Mr. PERCY. Mr. President, I call up my amendment No. 2220.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an amendment numbered 2220.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 322, between lines 6 and 7, insert the following new section:

"PARTICIPATION OF WOMEN IN CONSOLIDATED TITLE IV PROGRAM

"SEC. 328. (a) Section 421(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by inserting before the word 'library' the following: 'nonsexed biased'.

"(b) Section 431(a)(3) of such Act is amended by inserting before the semicolon a comma and the following: 'and of programs to promote equal educational opportunities for women, including public information activities to increase the awareness of educational personnel concerning the problems incident to sex discrimination and the elimination, reduction, or prevention of sex discrimination in those agencies'.

"(c) Section 431(a) of such Act is amended—

"(1) by striking out the word 'and' at the end of clause (3),

"(2) by striking out the period at the end of clause (4) and inserting in lieu thereof a semicolon and the word 'and', and

"(3) by adding at the end thereof the following new clause:

" '(5) for carrying out demonstration projects designed to promote new approaches to expand educational opportunities for women, including the provision of comprehensive physical education programs and sports activities for women'.".

On page 337, between lines 14 and 15, insert the following new section:

"IMPROVED EDUCATIONAL RESEARCH PROGRAMS FOR WOMEN

"SEC. 406. (a) Section 404(a)(1) of the General Education Provisions Act is amended by inserting before the semicolon a comma and the following: 'including activities designed to improve the status of women in postsecondary education.'

"(b) Section 404(a)(6) of such Act is amended by inserting before the semicolon at the end thereof, a comma and the following: 'including the creation of innovative administrative and educational practices that respond to the special needs of persons who have or have had responsibilities of caring for dependents'.

"(c) Section 405(b)(2) of such Act is amended by inserting after the phrase 'including career education' a comma and the following: 'and programs designed to meet the needs of women'.".

On page 101, in the table of contents, after item "Sec. 327." insert the following:

"Sec. 328. Participation of women in consolidated title IV program.".

On page 101, in the table of contents, after item "Sec. 405." insert the following:

"Sec. 406. Improved educational research programs for women."

Mr. PERCY. Mr. President, I ask unanimous consent that the name of Senator BAYH be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I first introduced this amendment as part of the Women's Equal Educational Opportunity Act in February 1974. In May of that year, the bill was offered as an amendment to the Education Amendments of 1974. In order not to complicate conference proceedings on the bill, I did not press for its adoption at that time. Instead, in a colloquy with Senators MONDALE and JAVITS, members of the Senate Labor and Public Welfare Committee, it was agreed that the Women's Equal Educational Opportunity Act would be an appropriate addition to a later education bill.

Last spring when the Senate and House Education Subcommittees began hearings on vocational and higher education, I reintroduced the bill, S. 1338, with nine cosponsors, including Senators ABOUREZK, BROCK, CASE, CLARK, GRAVEL, HASKELL, MCGOVERN, SCHWEIKER, and HUGH SCOTT.

The amendment I am offering today embodies part of S. 1338. It addresses the problems of sex discrimination in existing education programs. The amendment neither creates new programs, nor requires new moneys, nor alters existing funding formulas. It modifies existing educational statutes to expand the permissible uses of Federal grants to include those programs specifically directed at providing equal educational opportunities for women. It allows States to conduct these projects as part of their activities under the Elementary and Secondary Education Act and under the General Education Provisions Act, for postsecondary education.

The amendment is designed to encourage existing education programs to change attitudes and practices that perpetuate sex biases in education and, thereby, fully integrate girls and women as equal participants and beneficiaries of our educational system. It, therefore, expands the impact of the Women's Educational Equity Act which was overwhelmingly approved in 1974, and complements the provision of the women's vocational education amendments incorporated in this bill.

It is unfortunate that this amendment is needed as much today as in 1974. A recent National Assessment of Educational Progress survey found that female educational achievement declines with increasing age although male-female learning ability is nearly equal at age nine. Because of tracking or the channeling of male and female capabilities, males in the survey generally demonstrated higher levels of educational achievement in mathematics, science, social studies, and citizenship, while females consistently outperformed males only in writing. In releasing the survey information to the public, the national assessment said:

> When it comes to educational achievement, it appears that it's still a man's world.

There is a clear need to develop educational programs that will build on all the potentials in children of either sex. The Women's Equal Educational Opportunity Amendment can help us retrieve for this country some of the female intelligence, capabilities, and talents that are now being allowed to wither away.

I understand the committee agrees with me and will accept this amendment. I appreciate this support, and I am sure that the many people who worked with me on this amendment appreciate it also.

Mr. President, I take this opportunity also to commend the Labor and Public Welfare Committee and its Subcommittee on Education for a fine job on this omnibus education bill. My colleagues Senator PELL, the chairman of the subcommittee, and Senator JAVITS, the ranking member of the full committee, have worked particularly hard on this measure.

I am particularly pleased that the bill has incorporated so many of the recommendations which Senator NUNN and I sent from the Permanent Subcommittee on Investigations review of the federally insured student loan program.

In addition, S. 2657 incorporates a major provision of my 1974 Higher Education Insured Student Loan Amendments, which would prohibit students from discharging their loan obligations by claiming bankruptcy within 5 years after graduation. S. 2657, if enacted, will go a long way toward curbing the abuses and the growing default rate of the guaranteed student loan program so that the needed moneys might properly reach the intended beneficiaries—students in need.

Mr. PELL. Mr. President, the Senator from Illinois has worked hard on this amendment. It has been discussed with the staff of the subcommittee. I think it moves in the direction we should move by making life a little fairer for women.

I suggest we accept this amendment.

Mr. JAVITS. Mr. President, we find the amendment acceptable.

I congratulate Senator PERCY and his colleagues on the initiative and intelligence which has gone into this addition to our education program.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. PERCY. Yes.

Mr. HELMS. The amendment of the Senator from Illinois seems to have a very salutary purpose.

I wonder, just for my education, will the Senator give me some precise information on the inequities he spoke about?

Mr. PERCY. If I may refer to a speech I gave in the Senate on February 5, 1974, I think these specific examples are possibly the best that I can give.

I pointed out at that time that at each level of advancement within the American educational system, the percentage of women declines: Women comprise 50.4 percent of the country's high school graduates, 43.1 percent of these who receive bachelor's degrees, 40 percent of those with master's degrees, and only 13 percent of the doctorates. Although women make up 24 percent of college and university faculties, only 8.6 percent are full professors.

We have experience with another amendment I offered to the foreign assistance bill.

In that case we required that women be integrated into the development process under our bilateral and multilateral foreign aid programs. This has now become the so-called Percy amendment in the foreign aid bill.

I have monitored it when visiting other countries, for instance, last year, when I was in Jordan.

Traditionally, out of 100 fellowships that were offered for advanced degrees of study in this country, 92 percent were given to men.

As Senator HUMPHREY—who was a cosponsor of this foreign aid amendment—knows, American foreign assistance has in many cases had the effect of increasing the gap between men and women in developing nations. We were highly educating and highly training men, leaving the women farther and farther behind. In a sense, we were dealing with 50 percent of the human resources in those countries.

Today, with this language in the foreign aid bill, equal opportunity for women has become a priority.

All we had to do in Jordan was to reach out with that as a goal: no mandate, no quotas, just a goal. They reached out and now approximately half of the students coming here from Jordan are women.

There were plenty of women who, heretofore, had never been reached, had never had programs available to them; they just assumed they were only for the men. Now we have specifically stated that they are for women, too, and they are being brought increasingly into them.

This history of discrimination is exactly the same thing we find to our amazement is true in American education.

Just by way of illustration, we have learned from grammar schoolbooks, in which "Mary is a stewardess and John is a pilot. Mary is a nurse and John is a doctor."

We can go through and find countless examples of this sort of subtle sex discrimination. The same problem exists in physical education.

In the pending amendment, we simply are trying to see that when funds are made available, those funds should be available equally to women and men.

We are not mandating forced integration. But we do say that if we provide for mathematics training, if we provide for foreign language training, there should be a goal that as long as 50 percent of the population are women and 50 percent are men the goal ought to be equal opportunity provided in the use of funds from the Federal Government for students regardless of sex.

Mr. HELMS. What the Senator is saying is that this is designed to encourage a psychological incentive to women to participate in these programs?

Mr. PERCY. Absolutely.

Mr. HELMS. I thank the Senator.

Mr. HUMPHREY. The President, will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. HUMPHREY. I take a moment to commend the Senator from Illinois, who has been a leader in this effort. It is paying off. I cooperated with the Senator in the Committee on Foreign Relations, as did other members of our committee, and I was honored to be a cosponsor.

The evidence is there that when efforts are made the results speak for themselves. In this instance, in the higher education amendments, the participation of women in educational activities is as vital as anything we could possibly consider. The effort that was made in physical education in the past couple of years has resulted in a tremendous improvement in women's athletic events, in women's participation in physical fitness programs, and in other matters of higher education and elementary and secondary education activities.

I have to say with some regret that one of the worst areas of discrimination on the basis of sex is in education. In the United States, of those who have the honor of the title of professor, dean, administrator, all too few are women. Yet in many other countries that is not the case, particularly in the other countries of democratic persuasion, like the Scandinavian countries and some of the Western European countries. Women there occupy very important administrative and scholarship roles.

I think the Senator is doing us a great favor by calling this matter to our attention. The amendment which he offers, I believe, will be very helpful. As the Senator from Illinois has said, there are no quotas, there is no compulsion, but what it does say is, "Look, get with it," and it attacks this great resource of women power.

Mr. PERCY. I do not know anything that would do more good to strengthen our economy. In vocational training, for instance, women today are still too frequently directed to a narrow range of occupations, mainly homemaking, clerical, and health occupations, where the promises are small, the pay is low, and chances for advancement are very, very limited. The generally conceived to be masculine professions are always those with higher pay and more rapid advancement possibilities. We go right back to Whitney Darrows' popular children's book entitled "I'm Glad I'm a Boy. I'm Glad I'm a Girl." He says in there:

> Boys have trucks. Girls have dolls.
> Boys are doctors. Girls are nurses.
> Boys are presidents. Girls are first ladies.
> Boys fix things. Girls need things fixed.
> Boys build houses. Girls keep houses.

I suppose we could go back and say men drive taxicabs, women do not. Today where would we get the manpower or person power if we did not have women taxicab drivers? I must say I was surprised when I got in my first taxicab driven by a woman years ago. Today we do not think of it as unusual. Soon we will have many women airline pilots.

We have to move with it and get women involved, certainly, if we are going to be an example to the developing nations of the world to break down the stigma against women, as we are doing with the Percy-Humphrey foreign aid provision. I wish to thank my colleagues for their willingness to accept this amendment. I appreciate their leadership in this field.

Mr. President, I yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. PERCY. Mr. President, I ask unanimous consent that during all deliberations and votes on S. 2657, to extend the Higher Education Act, the privileges of the floor be accorded to John Cottin and Stuart M. Statler, from the staff of the Permanent Subcommittee on Investigations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. FANNIN. Mr. President, I yield to the distinguished Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that Janice Wilson be granted the privilege of the floor during the consideration of the pending bill, S. 2657.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2155

Mr. FANNIN. Mr. President, I call up my amendment No. 2155.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. FANNIN) for himself and others, proposes an amendment numbered 2155.

The amendment is as follows:

On page 322, between lines 6 and 7, insert the following new section:

"AMENDMENT RELATING TO SEX DISCRIMINATION

"SEC. 328. (a) Section 901(a) of the Education Amendments of 1972 is amended—

"(1) by striking out 'and' at the end of paragraph (5);

"(2) by striking out 'This' in paragraph (6) and inserting in lieu thereof 'this';

"(3) by striking out the period at the end of paragraph (6); and

"(4) by adding at the end thereof the following new paragraphs:

" '(7) this section shall not apply to—

" '(A) any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference, or

" '(B) any program or activity of any secondary school or educational institution undertaken in connection with—

" '(i) the promotion, organization, or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

" '(ii) the selection of students to attend any such conference; and

" '(8) this section shall not apply to any father-son or mother-daughter activity at any educational institution.' ".

(b) The amendment made by subsection (a) shall take effect on January 1, 1976.

On page 101, in the table of contents, after item "Sec. 327." insert the following new item:

"Sec. 328. Amendment relating to sex discrimination.".

Mr. FANNIN. Mr. President, more than 17 colleagues initially joined me in cosponsoring this amendment, and there is a greater number now.

Since the enactment of the Education Amendments of 1972 there has been much discussion and concern about the provisions of title IX—which prohibits discrimination on the basis of sex in any educational program or activity receiving Federal financial assistance.

Title IX of the education amendments, which passed in June of 1972, affects virtually every educational institution in the country.

The spirit of the law is reflected in this statement: under title IX—

> No person in the United States shall on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance . . .

The law was originally introduced in 1971 as an amendment to the Civil Rights Act of 1964. Following congressional debate and changes, the law, signed on June 23, 1972, emerged as title IX.

The HEW-proposed final regulations covering every aspect of title IX were sent to the White House on February 28, 1975, for approval. After approval on May 27 they were sent to Congress which had 45 days to accept or reject them. The regulations became effective July 21, 1975.

In the 93d Congress Senator BAYH attached an amendment to title IX to the White House Conference on Libraries and Information Services Act which stated that section 901 of title IX does not apply to membership practices of social fraternities and sororities of higher educational institutions or to voluntary youth service organizations, Young Men's Christian Association—YMCA, Young Women's Christian Association—YWCA, Girl Scouts, Boy Scouts, and Camp Fire Girls.

Although title IX was well-meaning there have been many unintentional results since it became law. One of the most outrageous took place on June 25 when a letter was mailed from HEW's region IX Civil Rights Office to the Scottsdale, Ariz. school district. This letter said school sponsorship of father/son or mother/daughter events "would be subjecting students to separate treatment and would not be permitted by the title IX regulations." Schools sponsoring such events would run the risk of losing their Federal funds.

This decision followed an earlier decision by HEW that the Boys and Girls State American Legion program violates title IX. It was not the American Legion, however, that was being challenged since it does not receive Federal funds. Rather, it was the relationship of public schools to Boys and Girls State that was at issue. Any school participating in the program, and most do, by promoting Boys and Girls State would run the risk of losing Federal funds.

To eliminate the potential threat of loss of funds the schools must either end their association with Boys and Girls State and father/son, mother/daughter functions or alter the format of these programs. Neither approach is justifiable since to do either would alter the programs beyond recognition or perhaps even end them.

Subsequently, HEW reversed its decision regarding Boys and Girls State and President Ford was so irritated by the father/son, mother/daughter banquet decision he ordered Secretary Mathews to review the matter, which, in effect, suspends the decision.

However, these decisions are administrative and could change again. In fact, HEW officials, in a meeting with the American Legion, stated that legislation would be the only permanent solution to the problem. For this reason I have introduced this amendment which exempts Boys and Girls State programs and father/son, mother/daughter events from the provisions of title IX. In addition, the Office of Civil Rights has assured me of its full support for this amendment.

Mr. President, I point out that HEW is not to be blamed entirely for these incredible decisions since it is Congress which enacted title IX without considering its ramifications. We have already had to pass legislation to exempt fraternities and sororities, as well as Boy and Girl Scout programs, from the effects of title IX. What these recent HEW decisions demonstrate is that title IX has the capacity to reach far beyond its intent to directly prohibit sex discrimination in federally funded programs. These decisions lack any degree of commonsense, but it is Congress that produced the means to arrive at this unhappy result, and it is Congress which must bear the responsibility for resolving it. Perhaps in this regard it is well to recall the recent statement by the Governor of Colorado that—

> All too often we find that the Federal Government for all its sincerity is the problem.

Certain customs and traditions that involve sex discrimination must be ended. However, there are some institutions and practices that deserve to remain as presently constituted. Certainly my distinguished colleague, Senator BAYH, held this conviction when he introduced his amendment exempting fraternities and sororities, an amendment which I fully supported. There is nothing magical to be accomplished in ending the separation in the American Legion program and father/son, mother/daughter functions, and therefore, I hope my colleagues will join with me in voting in favor of this amendment.

Mr. President, on behalf of the Senator from Kansas (Mr. DOLE), I ask unanimous consent that a statement he has prepared in support of amendment No. 2155 to the Education Amendments of 1976 be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT OF SENATOR DOLE

I am pleased to cosponsor this amendment to the Education Amendments of 1972 in order that the various youth conferences conducted by the American Legion and the extracurricular activities sponsored by public schools such as the father-son and mother-daughter functions, shall not be subject to further Title 9 sexual discrimination bureaucratic determinations.

It appears that the Department of Health, Education, and Welfare has failed to formulate acceptable implementation plans for the Title 9 guidelines. Twice in the past year alone, the legislative intent of these guidelines appears to have been seriously distorted by the agency efforts to enforce the regulations, and it is my feeling that this additional legislation is necessary to reinforce the intent of Congress and to assure that these programs are not subjected to further misguided bureaucratic efforts.

In the first of these controversial decisions, the Office for Civil Rights in the Department of Health, Education, and Welfare ruled that the conferences sponsored by the American Legion violate the sex discrimination guidelines of Title 9. If this decision had been upheld, high schools taking part in these programs would have been in danger of losing federal funds. Fortunately, the Department of Health, Education, and Welfare reversed its initial position and allowed the programs to maintain their school ties and their exclusive membership policies.

In a more recent ruling, the Department of Health, Education, and Welfare's Office for Civil Rights again issued an equally unacceptable interpretation of the sex discrimination guidelines when it ruled on June 23rd of this year that schools using federal funds would jeopardize their federal assistance by sponsoring such extracurricular activities as mother-daughter and father-son functions since these social activities provided "separate treatment."

I feel that the Department of Health, Education, and Welfare has erred in exercising the vast discretion conferred upon them by elected officials, and I am disturbed by the meaning of the guidelines, as applied to both the youth conferences sponsored by the American Legion and the father-son extracurricular school activities. It appears that additional legislation is necessary to express the sense of Congress that these traditional activities be allowed to continue without becoming embroiled in further disputes with a well-meaning, but over-zealous bureaucracy. I strongly urge my colleagues to approve this amendment and, in doing so, grant the legislative relief necessary for these programs.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. FANNIN. I am pleased to yield to the distinguished Senator from North Carolina.

Mr. HELMS. I commend the able Senator from Arizona on this amendment, and I will be honored if he will include me as a cosponsor of it.

Mr. FANNIN. Mr. President, I ask unanimous consent that the name of the Senator from North Carolina (Mr. Helms) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, who is in control of the time?

Mr. FANNIN. I am pleased to yield to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from Arizona is in charge of the time.

Mr. THURMOND. Mr. President, I commend the able Senator from Arizona for offering this amendment, and I am very pleased to join him as a cosponsor.

Mr. FANNIN. I thank the distinguished Senator from South Carolina and appreciate the Senator from North Carolina and the Senator from South Carolina supporting this very necessary amendment.

Mr. THURMOND. Mr. President, will the Senator yield me 10 minutes?

Mr. FANNIN. Mr. President, I am glad to yield to the Senator from South Carolina.

How much time does the Senator from Arizona have remaining?

The PRESIDING OFFICER (Mr. Ford). The Senator from Arizona has 25 minutes remaining.

Mr. FANNIN. I am very pleased to yield to the Senator from South Carolina.

The PRESIDING OFFICER. How much time does the Senator desire?

Mr. THURMOND. Ten minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 10 minutes.

Mr. THURMOND. Mr. President, I strongly support the amendment to exempt the American Legion Boys' State program and the American Legion Auxiliary Girls' State program from title IX of the Education Amendments of 1972.

Likewise, I strongly support a similar exemption for mother-daughter and father-son activities in the public school systems.

Title IX provides that no person may be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the basis of sex under any education program funded with Federal money.

Mr. President, title IX embodies a lofty goal, which on its face, seems practical and realistic. Unfortunately, some of the bureaucrats who administer title IX have approached its implementation in an unrealistic and impractical manner. Thus, we are faced with the necessity of offering the proposed amendment.

If it were not for misguided and senseless application of these regulations, Congress would not have to concern itself with this corrective legislation.

Briefly, I provide a historical outline which will explain the necessity for the amendment.

I. BOYS' STATE AND GIRLS' STATE

On January 30, 1976, I received a telephone call informing me of the HEW decision advising the American Legion that the Boys' State and Girls' State programs violated title IX, since there were different programs for young teenage girls and young teenage boys. Furthermore, I was shocked to learn that HEW had advised school districts they could not put up American Legion posters in the schools, student newspapers could not advertise the program, and student annuals could not even publish stories or pictures relating to Boys' State or Girls' State. Otherwise, the school districts would be in danger of losing their Federal funds.

Mr. President, I immediately telephoned Dr. David Mathews, Secretary of HEW, and asked him to have the general counsel review the decision of the runaway bureaucrat who initially caused the whole problem. Fortunately, Dr. Mathews reacted swiftly and professionally to order the review, which resulted in an administrative determination that Boys' State and Girls' State were exempt from title IX.

Mr. President, I followed up on my telephone conversation with Dr. Mathews by directing a letter to him dated January 30, 1976. His response to me, dated February 17, 1976, sets forth the administrative determination, and for the sake of the historical record, I ask unanimous consent that this exchange of correspondence be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, this brings me to the essence of why I support the pending amendment.

Simply put, the current ruling is an administrative determination subject to change based on the interpretation of legislative history. We should set the record straight today, once and for all.

II. MOTHER-DAUGHTER AND FATHER-SON BANQUETS

Legislation to protect father-son and mother-daughter events in the public schools is equally necessary. There is a popular misconception that President Ford effectively disposed of this problem by his swift and decisive action in ordering Dr. Mathews to review the HEW decision forbidding these banquets in public schools. Unfortunately, this is not the case. President Ford did all that he could under existing law, the bureaucracy still retains the ability to thwart the President's policy.

Specifically, Mr. President, I have received a report on the Department's policy concerning father-son and mother-daughter events which leaves open the question of what course the HEW bureaucrats will take. If the current review of the statute upholds the bureaucratic interpretation, legislation will be necessary to exempt these events from title IX.

Mr. President, I ask unanimous consent that the report signed by the Director of the Office of Civil Rights be printed in the Record at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

III. OVERREGULATION

Mr. THURMOND. Mr. President, I urge the adoption of the pending amendment for one more simple and compelling reason—it is highly important that the Federal Government stay out of matters like this, where it has no business in the first place.

If there is one thing our constituents want, it is for the Government to get off their backs, to stay out of their private and business affairs, and to cease trying to implement utopian designs at the expense of personal freedom.

Only yesterday I received a call in my office from a constituent who objects on religious grounds to his daughter being compelled to participate in physical education activities with members of the opposite sex. It is not that he objects to the current HEW policy of determining mixed classes on the basis of whether contact or noncontact sports are involved. This constituent is a minister, and as a part of his religious belief, his family does not condone pants suits on girls. In other words, his daughter wears skirts, and skirts are unbecoming for the physical activity required in physical education classes.

This constituent has been put in the position of requesting a waiver from physical training since my State requires physical education as a part of the curriculum. I intend to do all that I can to help this constituent, since his problem emanates from a decision by HEW bureaucrats to require mixed physical *education* classes.

Mr. President, this example serves to show the far-reaching effects of the decisions by bureaucrats who are unaccountable to the people. I hope the Senate will pass the pending amendment as a signal to HEW that we intend to administer title IX in a practical rather than unrealistic and disruptive manner.

Finally, this amendment is necessary in order to signal the intent of Congress that we intend to restore a semblance of sanity and balance to the promulgation of title IX regulations.

Mr. President, I shall vote for the amendment, and urge my colleagues to do likewise.

Exhibit 1

Committee on Armed Services,
Washington, D.C., January 30, 1976.

Hon. David Mathews,
Secretary of Health, Education, and Welfare, Independence Avenue, SW., Washington, D.C.

Dear Secretary Mathews: I have learned of a recent decision by the Department of Health, Education, and Welfare, holding that The American Legion Boys State and Girls State programs violate Title IX, the sex discrimination provisions of the 1972 education amendments.

It appears that HEW has ruled that any school which participates in the programs will be in danger of losing its federal funding.

In my opinion, such an approach is not only unjustified, but highly ill-advised. I know of no more worthwhile program to teach young people fundamentals of good citizenship than Boys State and Girls State.

I hope you will order an immediate review of this uncalled for and unwise opinion. If possible, I hope you will have the General Counsel rescind it. If this cannot be done, I will appreciate any legislative recommendations you may have concerning this matter. I think it is highly important for the government to stay out of matters like this, where it has no business in the first place.

I shall look forward to hearing from you concerning this matter at your earliest convenience.

With kindest regards and best wishes,
Very truly,
Strom Thurmond.

Department of Health, Education and Welfare,
Washington, D.C., February 17, 1976.

Hon. Strom Thurmond,
U.S. Senate,
Washington, D.C.

Dear Senator Thurmond: This is in reply to your letter of January 30, 1976, expressing concern that this Department has ruled that schools which participate in, or cooperate with, the Boys State and Girls State programs of the American Legion and the American Legion Auxiliary, respectively, would be violating Title IX of the Education Amendments of 1972. The decision to which you are apparently referring was contained in a letter from our Regional Office in San Francisco, responding to a specific request and based on the facts available to it at the time. At the request of the Secretary, we have obtained further facts and have thoroughly reviewed the statute and pertinent legislative history. As a result, we have concluded that the membership practices of Boys State and Girls State are exempt from Title IX.

As you know, Title IX generally prohibits discrimination on the basis of sex in education programs or activities receiving Federal financial assistance. Under the HEW regulation which was approved by the President and which became effective on July 21, 1975, school districts and other educational institutions are prohibited from discriminating against their students and employees, and pursuant to section 86.31(b) (7) of the regulation, are prohibited from providing significant assistance to persons, agencies and organizations which discriminate in this manner.

We are advised that Boys State and Girls State are sex-separate activities sponsored, as noted above, by the American Legion and the American Legion Auxiliary, respectively. Their purpose is to give outstanding high school students experience in the techniques of democracy. Both activities are funded by their sponsoring organizations and neither, as far as we are aware, receives Federal support. It is our understanding that participants in Boys State and Girls State are normally chosen by or with the assistance of the schools attended by the students. Apparently, some school districts or post-secondary institutions grant academic credit to the participants, although we are informed that neither Boys State nor Girls State has a policy encouraging that practice.

Neither Boys State or Girls State receives any direct Federal financial assistance. Thus, the only way in which Title IX can affect their membership practices is if they are receiving assistance from an educational program which is receiving Federal financial assistance. This concept, as you may know, is embodied in the Department's Title IX regulaton at 45 CFR Section 86.31(b) (7). However, as you may also know, the Congress, in Section 901(a) (6) of Title IX, has provided an exemption from this policy for certain types of organizations. This leads us to review the terms of that section and the nature of the activities of Boys State and Girls State.

Section 901(a) (6) of Title IX which was added to the act by an amendment signed by the President on December 31, 1974 (P.L. 93–568) excludes from the application of Title IX the membership practices of:

(A) . . . a social fraternity or social sorority which is exempt from taxation under Section 501(a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students in attendance at an institution of higher education, or

(B) . . . the Young Men's Christian Association, YWCA, Girl Scouts, Boy Scouts, Camp Fire Girls, and voluntary youth service organizations which are so exempt, the membership of which has traditionally been limited to persons of one sex and principally persons of less than nineteen years of age.

The amendment was introduced and sponsored by Senator Bayh who was also, of course, the Senate sponsor of Title IX itself. In his introductory remarks, Senator Bayh stated:

"Since I introduced S. 4163, it was brought to my attention that the Department of Health, Education, and Welfare was also planning to extend title IX *to youth services organizations such as the boy scouts and girl scouts, YMCA, YWCA, or the Campfire Girls.* . . . Again, I feel the Department has gone far beyond the original intent of the Congress in passing title IX by extending its provisions to cover such organizations. Therefore, in order that the Department can turn its time and energy to those legitimate aspects of Title IX which are in great need of its time and attention, I am proposing an amendment . . . which would provide a specific exemption to the admissions requirements of Title IX for social fraternities and sororities and for youth service organizations such as the Boy Scouts and Girl Scouts, and intended to include YMCA's and YWCA's and other such organizations.

"My amendment would also provide an exemption for youth service organizations whose membership has been traditionally open to members of one sex and has been principally limited to only those under 19. Therefore it would not apply to organizations such as the Little League, a primarily recreational group, or to the Jaycees, an organization whose membership consists primarily of those over 19. It would apply to the Boy Scouts, Girl Scouts, YMCA, YWCA, Campfire Girls, and Boys Clubs, and Girls Clubs." (Emphasis added.) *Cong. Rec.*, vol. 120, part 30, pp. 39992–39993, remarks of Senator Bayh.

The term "voluntary youth service organization" is not defined in section 901(a) (6) or in the current HEW regulation. We intend to develop general guidance on this term in the near future in order to avoid any future uncertainty and ambiguity. In the meantime, however, in light both of the language of the exemption and of its legislative history, it is our judgment that Boys State and Girls State fall within the term. They are, in effect, performing a service to the community by teaching the techniques and philosophy of democratic leadership and governmental processes. However, they satisfy the other requirements of the exemption: their sponsoring organizations are exempt from taxation under section 501 (a) of the Internal Revenue Code, and their membership is composed primarily of persons under nineteen years of age.

We are concerned, however, about those instances in which educational institutions give academic credit to students participating in Boys State and Girls State, because this action appears to give these activities an educational, rather than service, orientation. Moreover, by giving students academic credit, the educational institutions are making available, as a part of their own education program, activities being conducted in a manner prohibited by Title IX. Therefore, we conclude that any educational institution receiving Federal financial assistance which gives such academic credit is violating Title IX.

We are not, at this time, concerned with other forms of contact and cooperation between educational institutions and Boys State and Girls State, such as furnishing lists of academically qualified students or allowing facilities to be used during the summer. In our judgment, these do not constitute an integral part of the institutions' education programs or activities.

The Secretary has asked me to convey to you his thanks, along with my own, for your interest in this matter. I hope these comments will be of assistance to you. Should you have questions or further comments, please do not hesitate to let me know.

Sincerely,
Martin H. Gerry,
Acting Director,
Office for Civil Rights.

EXHIBIT 2

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., August 17, 1976.

REPORT ON THE DEPARTMENT'S POLICY CONCERNING APPLICATION OF THE NONDISCRIMINATION PROVISIONS OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972 TO SCHOOLS THAT SPONSOR FATHER-SON, MOTHER-DAUGHTER EVENTS, JULY 1976

Title IX prohibits, with certain exceptions, discrimination on the basis of sex in educational programs and activities receiving Federal financial assistance. Under the implementing regulation, which became effective July 21, 1975, school districts and other educational institutions are prohibited from discriminating against their students and employees and, pursuant to Section 86.31(b) (4) of the regulation, are prohibited from subjecting any student to separate or different treatment, on the basis of sex, in providing benefits or services.

An initial decision, finding sponsorship of father-son and mother-daughter breakfasts in violation of the Title IX regulation, was contained in a letter from the San Francisco Office for Civil Rights to the Scottsdale Public Schools, Arizona. The letter was in response to a specific request and was advisory in nature.

Following the initial decision in this matter, the President directed the Department to undertake further legal review to determine whether such application is mandated under the statute. Further, the President stated that if such a review upholds such an interpretation, the Administration will seek an immediate amendment to Title IX to permit schools to continue sponsorship of father-son or mother-daughter events.

At the President's direction, the Department has suspended the ruling, pending review by the Department's General Counsel and the Director, Office for Civil Rights. Accordingly, the Department plans no enforcement action as to these kinds of events occurring during the review period. A school requesting advice from the Department's Office for Civil Rights as to whether to sponsor a father-son or mother-daughter event will be informed of this policy.

MARTIN H. GERRY,
Director, Office for Civil Rights.

Mr. FANNIN. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, we understand that the Senator from Missouri will offer a substitute amendment.

I call the attention of the Senator from Arizona to two propositions respecting his amendment and the Eagleton substitute. I am sympathetic to both, but I think it is necessary, in order to handle the matter, to combine both concepts.

First, the Eagleton substitute will call for equal treatment respecting these individual events—that is, father-son, mother-daughter—so that schools that have father-son will also allow, on the same terms and conditions, and with equal treatment, mother-daughter. The Eagleton amendment does contain safeguards so that we will not have a biased situation there.

The second thing I should like to ask the Senator from Arizona is with respect to the disquiet which is created by the following words in his amendment. I am not certain that these few words are really needed. The amendment, at page 2, lines 14 and 15, speaks of:

> Any program or activity of any secondary school or educational institution undertaken in connection with.

And then it goes on to deal with the promotion, organization, or operation of Boys' State, and so forth.

There is no question about the fact that if we adopted this amendment, we would be authorizing a segregated activity. But, as I think my colleagues properly say, we are undertaking a great reform in respect of trying to bring up the status of women; and this reform runs into some very deep social establishments which do differentiate between sexes, and we cannot expect to whole scale eliminate all those activities.

For example, we would prefer to see that the mother-daughter and father-son activities be intermingled, so that it becomes four-cornered instead of two.

We would like to see the Legion, in its very enviable and fine programs undertake joint boys' and girls' conferences. There is no law against it, and I understand that it is being done just that way in a good many places.

Nonetheless, recognizing the facts of life and facing those facts of life, I express the hope to the Senator from Arizona that we can work out the matter so that two things occur: First, a very clear definition of the activites which we intend to allow to be governed by sex; and, second, the words "undertaken in connection with" are much too broad, and I suggest that the words be stricken and that it relate to any program or activity of any secondary or educational institution dealing with the promotion, organization, or operation of the boys' conference, and so forth.

Mr. FANNIN. The Senator from New York has brought forth a very good recommendation, and the Senator from Arizona will ask that the amendment be altered on that basis.

Mr. JAVITS. That is fine. Not yet, I say to the Senator. First, let us deal with the other question.

The question will be raised by Senator EAGLETON of allowing comparable facilities in the same institution to girls that are allowed to boys. That means that in the dynamics of carrying out the amendment of the Senator from Arizona, the same type and quality of facilities—not necessarily line by line, but comparable facilities, comparable opportunities—will be afforded to girls as are afforded to boys. That suggests a combination of the Eagleton concept with the Fannin concept, adding the specifics of the Legion's program which is dealt with by the amendment of the Senator from Arizona.

I suggest to the Senator from Arizona, if it is agreeable to him, that the time be yielded back on his amendment, so that we may go ahead with the Eagleton substitute. Then, in the course of that debate—as I have suggested—combine the two and adopt one amendment, on which we will have a rollcall vote, if it is desired, but which will be acceptable to the majority and the minority on the committee.

Mr. FANNIN. The Senator from Arizona expresses appreciation to the distinguished Senator from New York.

I ask that the substitution be made in the amendment of the Senator from Arizona, in section 8, with respect to section 7 on page 2 of the Eagleton amendment.

Would that comply with the wishes of the Senator?

Mr. JAVITS. I think it would, if it also included the material which is contained in section 7(b) of Senator EAGLETON's amendment.

Mr. FANNIN. That is what I say. The elimination of section 8 on the second page, lines 22, 23, and 24, and then take up, on page 3, as the Senator suggested, the same wording in that area.

Mr. JAVITS. With respect to the retroactive nature of the Senator's amendment, I see that it takes effect on January 1, 1976. Will the Senator give us his purpose in that respect? They have already dealt with this by regulation.

Mr. FANNIN. The Senator is correct. I think the amendment should take effect at the time of passage.

Mr. JAVITS. Mr. President, in order to try to work this out, I am ready to yield back my time, if Senator FANNIN is. We will give him time against the Eagleton amendment, if he wishes it, or time on the bill, so that we can get both matters before us.

Mr. FANNIN. As I understand, it is the desire of the Senator from Missouri to offer a substitute or an amendment.

Mr. JAVITS. I think we had better ask him.

I yield to the Senator.

Mr. EAGLETON. It is my intention to offer a substitute for the Fannin amendment now pending.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. BAYH. I ask the Senator from New York to permit me to have a bit of time, perhaps before all the time is yielded back on the amendment of the distinguished Senator from Arizona, to share some of my thoughts with my colleagues with respect to the whole thrust of where we are going here.

Mr. JAVITS. Unless Senator FANNIN wishes more time, I yield 10 minutes to the Senator from Indiana.

Mr. BAYH. I do not want to take any more time than necessary.

As the author of title IX of the Education Amendment of 1972, I have seen a good deal of progress made in trying to guarantee the major thrust and intent of that legislation, the elimination of sex discrimination in our educational system. However, as is always the case when we have new legislation such as this, there can be misinterpretations.

What concerns me here about the well-intentioned effort made by our colleagues is that I do not think that the proper way to deal with a problem such as this is to come on the floor of the Senate—or, indeed, the floor of the House—and try to structure amendments to deal with every possible eventuality.

The basic legal mechanism to deal with age-old discrimination against women students is title IX. HEW has promulgated regulations to carry out title IX. I have been very unhappy with the way HEW has carried out this mandate. Not only was HEW very slow in coming up with the implementing regulations, not only has HEW missed the mark of what we were trying to accomplish so far as equality of opportunity for our daughters was concerned, but also, it seems to me that they have gone out of their way to pick some of the most ridiculous examples of the intention of title IX.

The best example of this is this father-son, mother-daughter controversy. I tell you, as original sponsor of this bill, there was no intention whatsoever to do away with the traditional father-son, mother-daughter festivities that exist in most of our schools. Yet, instead of really dealing with the fact that we are not getting equal scholarships, we are not getting equal course opportunities, we are not getting equal employment opportunities for our daughters, what do they do? They come up and say, "You cannot have mother-daughter, father-son banquets." That is the most idiotic thing I have ever heard.

It seems to me that what we have to do is get back on the mark. These recent administrative decisions were not based on complaints. They were invented by short-sighted bureaucrats. In this instance, we have no alternative but to say, "Wait a minute, that is not what we meant." While this administrative foolishness may require congressional action, but I hope that we shall move carefully. I hope that we shall deal with this problem with a scalpel and not with a meat ax.

On the amendment before us, I say to the distinguished Senator from Arizona that I find myself preferring the approach of the Senator from Missouri. I do so for several reasons, one of which is that I do not think we ought to legislate in the area where regulations have already been perfected. Because of the intervention of the Senator from Indiana as well as the Senator from South Carolina, we were able to get HEW to back away from the Boys' State-Girls' State ruling. An exemption has been made for Boys' State-Girls' State. In fact, I think it is to the credit of the Legion and the Legion Auxiliary that they have sort of taken the bull by the horns themselves. For the first time in history, they had a joint meeting of Boys' Nation and Girls' Nation.

These are two very salutary programs. The Senator from Indiana has a little personal experience with this, having married a sweet young thing who, a long, long time ago—not so long by her definition—was the president of Girls' Nation. In that regard, I know firsthand of the training that is given in Girls' Nation and Boys' Nation, Girls' State and Boys' State. Rather than legislating in this area, since the exemption already exists, we should concentrate on other areas not covered.

The second matter is a matter that was touched on by the Senator from New York. After HEW released that absolutely ridiculous—and I am being kind by saying that—statement on father-son, mother-daughter affairs, they indicated they are studying the matter and that no ruling is to be in effect. So I think this is an area where we should give attention. Certainly, it was the intention of those of us who got title IX enacted into law to say that those additional functions, which add significant contributions to the lives of our sons and daughters, should be exempted under title IX. But it seems to me that in the language that is used by the distinguished Senator from Arizona, we are, in fact, making a significant departure from what we had intended to do in title IX. What we want to do, it seems to me, is say that sons and fathers, daughters and mothers can have festivities that follow the tradition of our schools, but that those opportunities have to be available to both groups.

As I read the language of the Senator from Arizona, it would permit under the guise of activities in connection with father and son activities—a continuation of the discrimination that has existed for years against our daughters. For example, it is possible to have a father and son sports activities and totally ignore mothers and daughters. By following the language of the Senator from Arizona, we continue that discrimination, which I do not think any of us wants.

So, with all respect to the distinguished Senator from Arizona, I do not want to see this discrimination continued. I do not think, really, that he wants that, but as I read the language, it is going to be permitted, not only in the area of sports but in the whole area of scholarships and counseling and other programs that could be construed to relate to father and son.

What I would like to see us do is deal with the father-son, mother-daughter situation but do a scalpel job, as the amendment by the distinguished Senator from Missouri has gotten much closer to doing.

Basically, I think that that is all that I need to say on this matter. I appreciate the Senator from New York letting me have some time.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, will the Senator yield to me 1 minute?

Mr. HATHAWAY. Yes, I am happy to yield.

Mr. EAGLETON. At such time as all time is yielded back on the pending Fannin amendment, I intend to offer a subsitute with respect thereto.

Mr. HATHAWAY. Mr. President, may I make a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. HATHAWAY. How much time will be allowed on the substitute?

The PRESIDING OFFICER. That would be an amendment in the second degree. There is 30 minutes on any amendment in the second degree, 15 minutes to a side.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Michael Francis and Michael Burns, both of my staff, have the privilege of the floor during debate and votes on the pending legislation, the business now before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I ask for the same privilege with respect to Marcia McCord.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. I ask for the same privileges for John Napier of the Judiciary Committee staff.

Mr. FANNIN. Mr. President, I ask unanimous consent that Kathryne Bruner be given the privileges of the floor.

Mr. BAYH. Would the Senator add Barbara Dixon of my staff to that growing list?

The PRESIDING OFFICER. Are there any others in the Chamber? Without objection, it is so ordered.

The Senator from Maine is recognized.

Mr. HATHAWAY. I yield to the Senator from Nevada.

Mr. CANNON. Mr. President, I ask unanimous consent that Jim Stasny of my staff be accorded the privileges of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, I ask unanimous consent that Joseph Carter and Nancy Slepicka of my staff be granted the privileges of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, before I yield back my time, I would like to make a point with regard to the amendment of the Senator from Arizona (Mr. FANNIN). I understand full well the objective and motivation of the Senator from Arizona and his cosponsors with respect to this amendment. They do not want to impair certain traditional activities.

At the same time, I think we should be mindful of the fact that we seem to be going down the path of "separate but equal" with amendments like this. In another context, you will recall America rejected that concept several years ago.

I'm sure you can make a good case for the exemption of Boys' State and Girls' State, and for father-son and mother-daughter activities. I think in the latter case, the father-son and mother-daughter, you can probably make a better relative case than you can with respect to the Boys' State-Nation and the Girls' State-Nation, because the father-son and mother-daughter activities are primarily social activities. But even there, you can raise some questions with respect to those activities in an age when we see increasing numbers of one-parent families. In fact, we might want to be encouraging father-daughter activities or mother-son activities here today, because in many families today there is no father or there is no mother, for whatever reason.

Even so, I think a much stronger case can be made against allowing Boys' State and Girls' State activities, because these activities are encouraged for the purpose of getting young people of both sexes interested in politics. I suppose that maybe I should be the last one in this body to suggest this in view of the person against whom I ran when I was elected in 1972. But I think we are trying to encourage participation of both sexes in the legislative process, on a coequal basis, and I think a very good argument could be made that Boys' State and Girls' State discourage coequal participation in that direction.

But the essential point is, I do not think we should be starting down a road of separate-but-equal educational activities for women. As the Senator from Indiana has pointed out, each amendment we accept could be precedent-setting, and therefore I think this is a good time to stop setting this "separate-but-equal" precedent.

I am mindful of the fact that there is already an HEW administrative ruling that Boys' State and Girls' State activities can be exempted from title IX, and that the purpose of the amendment of the Senator from Arizona is only to make sure that this is etched in concrete so that the ruling cannot be changed.

But, at this time at least—and I await further argument on the Eagleton substitute—I would much prefer the Eagleton substitute to the amendment offered by the Senator from Arizona.

Mr. FANNIN. I thank the distinguished Senator from Maine. He is correct as to the statements of the Senator from Arizona.

The Senator from Arizona does not want to delay. In fact, the distinguished Senator from Missouri permitted the Senator from Arizona to proceed because of the conference which the distinguished Senator knows is taking place on the tax bill, and the Senator from Arizona is due back at 2 o'clock.

It is not the intent of the Senator from Arizona not to try to cooperate and show appreciation for the manner in which the distinguished Senator from Missouri has permitted him to intervene. So the Senator from Arizona would like at this time, if the Senator from Missouri would be willing, for him to explain his amendment and to explain, if he so desires, why he would oppose the Boys' State and Girls' State amendment, and not be willing to accept the amendment of the Senator from Arizona. I realize it would require unanimous consent, but if the Senator from Missouri would like to express himself on the Senator from Arizona's time maybe we could get this settled.

Mr. President, how much time is remaining of the Senator from Arizona?

The PRESIDING OFFICER. The Senator from Arizona has 17 minutes remaining.

Mr. EAGLETON. Mr. President, if the Senator will yield 2 minutes——

Mr. HATHAWAY. I yield 2 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Maine yields 2 minutes to the Senator from Missouri.

Mr. EAGLETON. I know the Senator from Arizona wants to get to his conference committee on the tax bill, and properly so. I think the quickest way to do that would be to yield back the time on this amendment. I will offer my substitute; 15 minutes on that amendment will be assigned to the Senator from Arizona and 15 minutes to me, and I think I will only use about 4 minutes, and we can have a vote well before 2 o'clock.

Mr. THURMOND. Mr. President, will the Senator from Missouri yield?

Mr. HATHAWAY. I will be happy to yield.

Mr. EAGLETON. Yes.

Mr. THURMOND. Mr. President, will the Senator from Missouri agree to include in his amendment Boys' State and Girls' State?

Mr. EAGLETON. I am sorry, I did not hear the Senator.

The PRESIDING OFFICER. Will the Senator use his microphone?

Mr. EAGLETON. If I heard the Senator correctly, Boys' State and Girls' State are not specifically mentioned in my amendment because that has been treated administratively by HEW.

Mr. THURMOND. We cannot rely on that treatment. They may reverse themselves.

Does the Senator object to including Boys' State and Girls' State?

Mr. EAGLETON. I do not know that I object. I do not know that this has to be etched in concrete, to use the term the Senator from Maine has used.

Mr. THURMOND. Mr. President, may I make this statement: The American Legion is very anxious for Boys' State and Girls' State to be specifically excluded here. Will the Senator from Missouri object to this?

Mr. EAGLETON. My objection is not strenuous, although I do not consider it to be a matter of national compelling necessity.

Mr. THURMOND. If the Senator from Missouri would include Boys' State and Girls' State in his amendment, then it is possible the Senator from Arizona might agree not to press his amendment, and to let the Senator from Missouri offer his substitute.

Mr. EAGLETON. Perhaps I had better yield at this point to the Senator from Maine or the Senator from Vermont in administratively handling this meaure at this time.

The PRESIDING OFFICER. The time of the Senator has expired at this point.

Mr. THURMOND. Mr. President, I ask unanimous consent for 2 minutes to carry on this colloquy because if we do we can save some time.

The PRESIDING OFFICER. The Senator from Arizona is yielding the Senator 2 minutes.

Mr. THURMOND. I would like to inquire whether the Senator from Missouri is willing to agree to include Boys' State and Girls' State in his amendment. The American Legion is asking for that specifically, which would appear to be reasonable in view of the trouble we have had in this matter.

Mr. EAGLETON. Might I suggest that if we get to my substitute, if the Senator from South Carolina or the Senator from Arizona wish to offer a perfecting amendment to my amendment I personally will not oppose it. Perhaps others might.

Mr. BAYH. Mr. President, will the Senator from Maine permit me to have——

The PRESIDING OFFICER. The Senator from South Carolina has 2 minutes from the Senator from Arizona, and he has the floor until the 2 minutes are up.

Mr. THURMOND. Mr. President, will the Senator from Indiana object to that being offered?

Mr. BAYH. Yes, I will. May I state why I am in favor of Boys' State and Girls' State being exempted? I think the Senator from Maine made a good argument on the other side of this issue, but I come down on the side of having an exemption for Boys' State and Girls' State. In addition, the personal experience I have witnessed firsthand I think indicates they make a valuable contribution, and I do not see why they should not be exempted. But what I am concerned about is that if we exempt them then I have got to tell the Senator from South Carolina there is a list as long as my arm of other people who are going to come in here and will want to be exempted who are not now included, and if you make an exemption for the American Legion and the auxiliary which, I think, are exemplary organizations, providing a significant service, I do not know how we will be able to prevent our having an amendment every 30 minutes.

What I would like to propose to the Senator from South Carolina, inasmuch as I was one who intervened along with some others to get that exemption made by regulation, is that the instant that regulation is changed so that the exemption is no longer available I will come on this floor with him and we will change that law in about 30 minutes.

Mr. THURMOND. Mr. President, we have already had this trouble. One bureaucrat ruled on this situation unfavorably, and we may get a ruling again by that bureaucrat or some other bureaucrat, so what is the objection? The main point that has been raised here concerns Boys' State and Girls' State.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BAYH. Mr. President, will the Senator permit me an additional minute?

Mr. HATHAWAY. I yield 2 minutes.

The PRESIDING OFFICER. The Senator from Indiana has 2 minutes.

Mr. BAYH. The Secretary of HEW has ruled personally the exemption now exists. That is about as high as you can go, and I just reiterate what I said a moment ago.

Mr. THURMOND. He had to overrule a bureaucrat to do it, and if another bureaucrat reverses that policy or if another HEW Secretary reverses that policy where are we?

The PRESIDING OFFICER. The Senator from Indiana has the floor.

Mr. BAYH. Let me just say to my friend from South Carolina the issue has been settled now.

There was some fellow down there at HEW who I think was shortsighted and who ruled title IX meant no Girls' State and no Boys' State. He was overruled by his superior. That is what the law of the land now states. That has been put to rest.

I think most of us understand that is what title IX means, that it is not designed to try to get Boys' State and Girls' State:

I will reiterate what I said a moment ago, and I hope my friend will listen because I have been personally involved in this.

Mr. THURMOND. The Senator does not have to repeat it. I heard what he said the first time.

Mr. BAYH. Then I will sit down, but the Senator asked a question.

Mr. THURMOND. Is it not true——

The PRESIDING OFFICER. The Senator from Indiana has the floor.

Mr. BAYH. I yield.

Mr. THURMOND. Is it not true that Boy Scouts and Girl Scouts have been exempted?

Mr. BAYH. That is accurate.

Mr. THURMOND. Then what is the objection to exempting Boys' State and Girls' State?

Mr. BAYH. For the very reason I just mentioned: We now have an administrative exemption. We now have a ruling exempting Boys' Nation and Girls' Nation. There was a time when these characters at HEW wanted to do away with Boy Scouts and Girl Scouts. At that time they had not thought about Boys' Nation and Girls' Nation yet.

Mr. THURMOND. If we have trouble with them, we can exempt others. These are the ones causing trouble now. The American Legion is asking for this. I think they are reasonable in asking for it.

I hope the Senate will pass it.

Mr. BAYH. Will the Senator tell me how it is causing any trouble?

Mr. THURMOND. Simply because the bureaucrat ruled the other way and the Secretary had to overrule him. That is their ruling. It could be changed tomorrow by a new bureaucrat or Secretary. The only way to fix it is to put it in the statute, to protect the people of this country.

Mr. BAYH. Can the Senator tell me one thing that is going to be provided if it is put in the statute that is not now provided by the regulation, one thing——

Mr. THURMOND. Yes.

Mr. BAYH. Will the Senator allow me to continue?

Mr. THURMOND. They cannot change it because it will be in the statute. It ought to be in the statute.

Mr. BAYH. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from South Carolina has been yielded time by the Senator from Arizona, and the Senator from Indiana——

Mr. BAYH. Will the Senator from Maine yield me some time?

Mr. HATHAWAY. How much time does the Senator need?

Mr. BAYH. Two minutes.

Mr. HATHAWAY. I yield.

The PRESIDING OFFICER. The Chair will explain that the Senator from Indiana has the floor and he has it for 2 minutes.

Mr. BAYH. I understand the dedication of the Senator from South Carolina, but it is difficult to answer questions when he continues expressing his views. Certainly, he is within his right to do that when he has the floor.

But I want to tell the Senate that there is nobody any closer to the American Legion than the Senator from Indiana. It happens to be headquartered in Indianapolis. Nobody has been involved more in Boys' State and Girls' State than he has. He does not need any lecture about the importance of the program.

The fact is that the Senator from Indiana and his wife both had the privilege of addressing the first joint meeting of Girls' State and Boys' State meeting collectively.

So the Senator does not need to tell me what is happening.

Are we going ahead here and let this statute operate or are we going to get on the floor and wave the flag and try to convince the American Legion we support them more than somebody else? The fact is that if we make this exception, we better be prepared to fend off 20 other organizations that have a good case to make.

I think this is very poor legislative history. It is not good legislative procedure to establish by law an exemption which has already been established by administrative ruling.

I think the case has been made. The Senator from South Carolina is right in expressing concern. I was adamant in my position and took the bull by the horns. I went to Secretary Mathews and it was changed.

I cannot envision any other Secretary of HEW undoing that ruling.

I appreciate the courtesy of the Senator from Maine and the Senator from Rhode Island. I appreciate the interest of the Senator from South Carolina. I just happen to believe it can be best handled this way.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I yield myself 1 minute.

As the Senator from Arizona stated previously, it is very necessary we have an understanding as to just what is involved.

This is an amendment of the Senator from Arizona which does pertain to the Boys' State and Girls' State and does cover them, and this request has been made by the American Legion.

It is a request that has been made by many others; and there are about 20 or more Senators on this particular amendment.

I feel it is essential we carry it through on that basis.

The Senator from Arizona would like to cooperate with the Senator from Missouri. I do not know how much time the Senator from Missouri is going to take on his amendment. The Senator from Arizona hopes to get back to the conference.

Mr. GOLDWATER. Mr. President, will the Senator yield to me?

Mr. FANNIN. Yes.

Mr. GOLDWATER. There is another question that just comes to my mind that I would like to put to the opponents of this procedure.

Just recently, I think it was last week, HEW ruled that we could not have a boys' choir.

We have one of the most famous boys' choirs in the world in Tucson, Ariz. We have another famous boys' choir in Scottsdale, Ariz. The ruling came down that they could not discriminate, that the boys' choir had to have girls in them.

The only purpose of boys' choirs, where they are from the age of 6 to 10 or 12, is that there is not enough difference in the voices, so they have boys' and girls' choirs, and the effort is made to interest the young people in continuing with choral work.

I would like to ask whoever I should ask whether or not they consider that to come under the purview of the present law?

Mr. PELL. From the viewpoint of commonsense, it does not make much sense to me. But I am not as deep into this as I might be.

I think that the approach of the Senator from Missouri is correct, that it is a more commonsense approach. I think if he starts specifying specific organizations in the legislation, we can get into trouble. That is why I intend to support the measure of the Senator from Missouri, and why I am not inclined to be supportive of the language of the Senator from Arizona.

Mr. GOLDWATER. I want to assure the opponents of Senator FANNIN's approach wholeheartedly, that as to their attitude that there is commonsense in HEW, I will have to admit I have not seen a lot of it displayed.

It may be that with the relatively new Director of HEW we could expect better decisions in the future. But I can assure those people who are opposing this that if we continue to have these jackass decisions handed down by HEW, we are going to push for this type legislation, as objectionable as it is even to me.

I do not like to spell out word for word that a man is supposed to have commonsense to know what to do.

When they get to the point where they say, "You cannot have a boys' choir, it has to be mixed; you cannot have a boys' camp or a girls' camp," I think we have to pay more attention to the matter.

I thank my colleague from Arizona.

Mr. FANNIN. I thank my colleague. This is a very serious problem.

Mr. President, before I yield the floor so that the Senator from Missouri can offer his amendment, I ask unanimous consent that I be permitted to make the following change on the amendment I have offered. On line 16——

Mr. EAGLETON. Mr. President, I ask that any modification offered by the Senator from Arizona to his own amendment not foreclose me from proposing my amendment as a substitute.

The PRESIDING OFFICER (Mr. TOWER). It will not foreclose the Senator from Missouri.

Mr. FANNIN. The change would be on line 16, strike "organization or" and continuing on line 17 to "operation" and then on line 22 to strike 22 through 24 and insert:

> This section shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex.

I ask unanimous consent that the amendment be modified as I have stated.

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

Is there objection to the modification? Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 322, between lines 6 and 7, insert the following new section:

"AMENDMENT RELATING TO SEX DISCRIMINATION

"Sec. 328. (a) Section 901(a) of the Education Amendments of 1972 is amended—

"(1) by striking out 'and' at the end of paragraph (5);

"(2) by striking out 'This' in paragraph (6) and inserting in lieu thereof 'this';

"(3) by striking out the period at the end of paragraph (6); and

"(4) by adding at the end thereof the following new paragraphs:

" '(7) this section shall not apply to—

" '(A) any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

" '(B) any program or activity of any secondary school or educational institution specifically for—

" '(i) the promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

" '(ii) the selection of students to attend any such conference; and

" '(8) this section shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex.' ".

(b) The amendment made by subsection (a) shall take effect upon the enactment of this act.

On page 101, in the table of contents, after item "Sec. 327." insert the following new item:

"Sec. 328. Amendment relating to sex discrimination.".

Mr. FANNIN. I thank the Chair. I yield back the remainder of my time so that the Senator from Missouri may proceed.

The PRESIDING OFFICER. The Senator from Arizona has yielded back his time.

Mr. FORD. Mr. President, I would like to make a unanimous-consent request, if I may.

Mr. PELL. I yield.

Mr. FORD. I ask unanimous consent that Tom Smith of my staff be granted the privileges of the floor during the debate and vote on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I would like to make the comment, Mr. President——

The PRESIDING OFFICER. Does the Senator yield?

Mr. FORD. Will the Senator yield 30 minutes?

The HEW people, through their regional district, have told the educational people in my State that the teachers cannot go into the classrooms in the morning and say, "Good morning, boys and girls."

This has gone as far as I think it ought to go. If we cannot ask them to have the right kind of attitude, I think we will have to start regulating attitudes, and that is bad.

Mr. PELL. What we want to avoid today is for the teacher to go in and say, "Hello, people."

Mr. BAYH. The Senator from Indiana thinks perhaps the proper mode will be, "Good morning, y'all." [Laughter.]

May I have 1 minute?

Mr. PELL. Certainly.

Mr. BAYH. I think the Senator from Kentucky has pointed out, as has the Senator from Arizona and others, the abuses that come when we enact new legislation. But I think it is important for us not to lose sight of the many benefits and not to overreact in an effort to get rid of the abuses by doing something that will irreparably damage the major thrust of title IX, which is very salutary.

I think it is possible for us, both by using our influence on those who impose the regulations and when they do not respond by following our responsibility by changing the law, to deal with the abuses and still continue to make equality of opportunity available for the women and girls of this country.

I do not think there is anyone in this body who will argue with the thrust of that. We want our daughters and sons to have an equal opportunity to have a full educational experience, with all that that means.

Mr. HUMPHREY. Mr. President, I support the amendment offered by the Senator from Arizona (Mr. Fannin), as modified in the course of this debate.

This amendment exempts Boys' State, Boys' Nation, Girls' State and Girls' Nation from coverage under title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in any educational institution receiving Federal funds. In addition, it clarifies the intent of this title so as not to preclude father-son or mother-daughter activities at educational institutions.

Quite frankly, Mr. President, I was befuddled when I learned of the opinion by a regional director of the Office for Civil Rights that the sponsorship by public schools of father-son or mother-daughter events is a violation of laws prohibiting sex discrimination.

In response to this report, I wrote to Mr. Martin Gerry, Director of OCR, expressing my deep concern over this ruling and urging that it be withdrawn immediately. I want to share this letter with my colleagues.

Mr. President, I have been, and remain, devoted to efforts to guarantee the rights of every citizen to equal opportunity in every aspect of American life. We have made great strides, because our attentions have focused on the significant—indeed, vital—elements of discrimination and denial of opportunity.

As I stressed in my letter to Mr. Gerry, I believe that this ruling can profoundly damage nationwide efforts to assure that "every citizen is entitled to an education to meet his or her full potential"—that "no person, on the basis of sex, should be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

In my view, this ruling defies commonsense. I am pleased that the Senate has acted to purify the intent of our hard-won civil rights laws by adoption of this amendment.

Mr. President, I ask unanimous consent that my letter of July 8 to Mr. Martin Gerry be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., July 8, 1976.

Mr. Martin H. Gerry,
Director, Office for Civil Rights, Department of Health, Education, and Welfare, Washington, D.C.

Dear Mr. Gerry: The recently reported opinion by a regional director of your office that the sponsorship by public schools of father-son or mother-daughter events is a violation of laws prohibiting sex discrimination, defies common sense. I fully concur with the President's view that this ruling is ill-advised.

Our schools are public—they belong to all the people. There is nothing in our laws on the protection of civil rights that says such events are prohibited.

Newspaper reports state that this decision, cleared through your office and representing national policy, was in response to an inquiry from the Scottsdale, Arizona school system, and was based upon an interpretation of Title IX of the Education Amendments of 1972, barring discrimination on the basis of sex in any educational institution receiving federal funds.

However, I emphatically disagree that this sort of decision should be national policy, and I find this interpretation to be distorted at best and, in fact, irresponsible.

This ruling can profoundly damage nation-wide efforts to assure that "every citizen is entitled to an education to meet his or her full potential"—that "no person, on the basis of sex, should be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance." These are the actual statements of national policy and Congressional intent in the Education Amendments of 1972. They mean exactly what they say: that women and men should basically have equal educational opportunities.

When the Office of Civil Rights concentrates its attention and efforts on peripheral or community activities associated with school facilities, it exercises poor judgment that, moreover, can only build frustration and resistance among our people to the achievement of the basic, positive goal of guaranteeing women an equal chance with men to obtain a good education—an equal opportunity that for too long has been denied. It was precisely because of a bureaucratic distortion of priorities in the application or interpretation of HEW regulations implementing Title IX, that Congress had to amend this Title to exempt certain activities.

Rulings of this nature—providing extended commentary and stentorian judgment against a father-and-son banquet or a mother-and-daughter tea, sponsored by a local PTA or school, and condescendingly educating local communities on alternative procedures to enhance community relations—bring discredit to serious efforts to affirm civil rights. They make a mockery of a national commitment to provide equal educational opportunities. They foolishly interfere with family relations and with long-standing traditions in our communities—which in no way can be construed as an informal educational process teaching that men and women are separate and unequal. Quite to the contrary, father-son and mother-daughter events evolved precisely in response to deeply felt needs by both parents and children for such opportunities to strengthen family ties. Moreover, sponsoring groups frequently arrange for "parents" to come with children who do not have a father or mother—to answer another objection reportedly raised by the Office of Civil Rights. And finally, today it is just as frequently a custom in our towns to have father-daughter and mother-son events at our local schools.

This ruling by the Office of Civil Rights should be withdrawn forthwith. Should it be necessary, I shall take steps to initiate appropriate legislative action to make it crystal clear that it is the sense of Congress that such a thing is in violation of Congressional intent and is adverse to national policy on establishing equal educational opportunities for women and men.

I request that your Office respond at the earliest possible time to the concerns I have expressed.

Sincerely,

HUBERT H. HUMPHREY.

AMENDMENT NO. 2221

Mr. EAGLETON. Mr. President, I have amendment No. 2221 at the desk. I submit this amendment as a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes amendment numbered 2221.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the substitute be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 322, between lines 6 and 7, insert the following new section:

"AMENDMENT RELATING TO SEX DISCRIMINATION

"SEC. 328. Section 901(a) of the Education Amendments of 1972 is amended—

"(1) by striking out 'and' at the end of paragraph (5);

"(2) by striking out 'This' in paragraph (6) and inserting in lieu thereof 'this';

"(3) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon and the word 'and'; and

"(4) by adding at the end thereof the following new paragraph:

"'(7) this section shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex.'".

On page 101 in the table of contents after item

"Sec. 327. Wayne Morse Chair of Law and Politics."

insert the following new item:

"Sec. 328. Amendment relating to sex discrimination.".

Mr. EAGLETON. Mr. President, I yield myself 3 minutes.

This substitute, Mr. President, seeks to deal with the Department of Health, Education, and Welfare's decision that schools may no longer sponsor father-son and mother-daughter events because they violate title IX of the Education Amendments of 1972.

I believe, and in this regard I feel sure that most of my colleagues will agree, that this was an absurd ruling. The enforcement of it is presently in abeyance, but I believe the only sure remedy in this case is the legislative remedy. Thus, the substitute I now offer to the Fannin amendment would make absolutely clear, otherwise called crystal clear, that the provisions of title IX do not preclude school districts from sponsoring father-son and mother-daughter events as long as the school provides opportunity for reasonably comparable activities for both sexes.

Mr. President, I would like to emphasize that this substitute is intended to cover only the traditional father-son, mother-daughter activities which many schools now sponsor.

I further point out that the amendment would not allow grossly different activities and programs for father-son or mother-daughter events.

If the school district sponsored a father-son football banquet and the female students wish to hold an event for women's sports, the school district would be obliged to sponsor a reasonably comparable event. It would not have to be identical, but it could not be grossly different.

This substitute makes clear, Mr. President, that HEW cannot restrict father-son/mother-daughter activities while at the same time making sure that blatant sex discrimination is not perpetuated.

Subject to the wishes of the Senator from Arizona I am prepared to yield back the remainder of my time. Do I need the yeas and nays on this substitute?

The PRESIDING OFFICER. Yes.

Mr. EAGLETON. I ask for the yeas and nays.

Mr. THURMOND. Mr. President, I move to table the amendment.

Mr. EAGLETON. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. The motion to table is not in order because time has not been yielded back.

Mr. EAGLETON. I ask for the yeas and nays on the Eagleton substitute.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EAGLETON. I reserve the remainder of my time.

I was trying to expedite this.

Mr. FANNIN. The Senator from Arizona does not have any time.

Mr. EAGLETON. Fifteen minutes on the amendment should have been assigned to the Senator from Arizona, he being the leading opponent of my substitute.

Mr. FANNIN. Mr. President, I thank the Senator from Missouri. I did not understand it to be on that basis. The Senator from Arizona will yield back the remainder of his time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona has control of the time in opposition.

Mr. FANNIN. The Senator from Arizona yields back the remainder of his time.

Mr. ALLEN. Will the Senator yield me 1 minute?

Mr. EAGLETON. I yield.

Mr. ALLEN. I would like to say that I would be glad to vote for the substitute of the Senator from Missouri if it stood alone, if it were an amendment in the first degree. But it does not go as far as the amendment of the Senator from Arizona and, therefore, since it falls short of the thrust of the amendment of the Senator from Arizona, I will have to vote against it. If it were on its own hind legs, if we were voting on it separately, I would vote for his amendment.

Mr. EAGLETON. I appreciate the comment of the Senator from Alabama. I yield to the Senator from Indiana.

Mr. BAYH. I salute the Senator from Missouri for dealing with a problem area directly, succinctly and specifically. Is it fair to say that given the present state of the law and the regulations which have the force and effect of law, if the Senator's amendment is accepted Boys' State and Girls' State will be exempted from coverage by title IX, and father and son, mother and daughter affairs will be permitted with the proviso that equal opportunity for both fathers and sons and mothers and daughters will be required?

Mr. EAGLETON. The term of art used in the amendment is "reasonably comparable," and the Senator is correct.

Mr. BAYH. I salute the Senator.

Mr. EAGLETON. I thank the Senator from Indiana.

Does any other Senator wish to be heard on this substitute? If not, I yield time to the Senator from Rhode Island.

Mr. PELL. I think the proposal of the Senator from Missouri is an excellent one, and I intend to support it.

Mr. EAGLETON. Does any other Senator desire to be heard?

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. THURMOND. Mr. President, I move to lay on the table the amendment of the Senator from Missouri.

The PRESIDING OFFICER. A motion to lay on the table is heard.

Mr. EAGLETON. Mr. President, I ask for the yeas and nays on the motion to lay on the table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Missouri. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The clerk will suspend. The Senate will be in order. The clerk will suspend until the Senate is in order. Senators will please retire from the well.

The clerk may continue.

Mr. NELSON. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The point of the Senator from Wisconsin is well taken.

Will the Senate be in order? The Senate will be in order.

The clerk will continue.

The call of the roll was resumed and concluded.

Mr. FANNIN. Regular order, Mr. President.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK) and the Senator from Kansas (Mr. DOLE) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent due to a death in the family.

The result was announced—yeas 47, nays 41, as follows:

[Rollcall Vote No. 531 Leg.]

YEAS—47

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Curtis
Domenici
Eastland
Fannin
Fong
Ford
Goldwater
Griffin
Hansen
Hatfield
Helms
Hruska
Johnston
Laxalt
McClellan
McClure
McIntyre
Morgan
Nunn
Pearson
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—41

Abourezk
Bayh
Biden
Brooke
Cannon
Case
Church
Clark
Cranston
Culver
Durkin
Eagleton
Glenn
Gravel
Hart, Gary
Haskell
Hollings
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Mansfield
Mathias
McGee
McGovern
Metcalf
Moss
Muskie
Nelson
Packwood
Pastore
Pell
Percy
Ribicoff
Sparkman
Stevenson
Stone
Symington
Williams

NOT VOTING—12

Brock
Dole
Garn
Hart, Philip A.
Hartke
Hathaway
Huddleston
Long
Magnuson
Mondale
Montoya
Tunney

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Arizona, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), and the Senator from Kansas (Mr. DOLE) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent due to a death in the family.

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 532 Leg.]

YEAS—88

Abourezk
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Helms
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—12

Brock
Dole
Garn
Hart, Philip A.
Hartke
Hathaway
Huddleston
Long
Magnuson
Mondale
Montoya
Tunney

So Mr. FANNIN's amendment (No. 2155, as modified) was agreed to.

Mr. FANNIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. FANNIN. Will the Senator from New York yield, Mr. President?

Mr. BUCKLEY. I yield.

Mr. FANNIN. I ask unanimous consent that clarifying language be inserted in the amendment just agreed to. It is just to add two words "specifically for" on line 14 at the end of "educational institution" and delete "undertaken in connection with."

The PRESIDING OFFICER (Mr. TOWER). Is there objection? The Chair hears none, and it is so ordered.

Mr. FANNIN. I thank the Chair and I thank the distinguished Senator from New York.

Mr. PELL. Mr. President, will the Senator yield to the majority leader?

Mr. BUCKLEY. I would be glad to yield, without losing my right to the floor.

VALENTYN MOROZ—SENATE RESOLUTION 67

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of Senate Resolution 67.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR ADJOURNMENT TO 9 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL PARK SYSTEM

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1091, H.R. 13713.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

Calendar 1091, H.R. 13713, an act to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments, as follows:

On page 2, line 18, strike " "$3,120,000" " and insert " "$3,462,000" ";

On page 3, line 13, strike " "$145,000" " and insert " "$145,000";";

On page 3, beginning with line 15, insert the following:

(12) Canyonlands National Park, Utah: section 8 of the Act of September 12, 1964 (78 Stat. 934) as amended (85 Stat. 421) is further amended by changing $16,000 to $104,500; and

(13) Padre Island National Seashore, Texas: section 8 of the Act of September 28, 1962 (76 Stat. 650) is amended by changing $5,000,000 to $5,350,000.

On page 5, line 6, strike " "$3,850,000"." and insert " "$3,850,000";";

On page 5, beginning with line 8, insert the following:

(9) Channel Islands National Monument, California: paragraph (1) of section 201 of the Act of October 26, 1974 (88 Stat. 1445, 1446), is amended by changing "$2,936,000" to "$5,452,000"; and

(10) Nez Perce National Historical Park, Idaho: section 7 of the Act of May 15, 1965 (79 Stat. 110) is amended by changing "$1,337,000" to "$4,100,000".

On page 5, beginning with line 16, strike out through page 7, line 13, and insert in lieu thereof:

SEC. 301. The Act of September 21, 1965 (79 Stat. 824), as amended, providing for the establishment of the Assateague Island National Seashore in the States of Maryland and Virginia, is further amended—

(a) by deleting section 7 in its entirety and substituting in lieu thereof the following:

"SEC. 7. The Secretary is authorized to undertake, in consultation with other interested Federal, State, local, and private agencies and interests, the development of a comprehensive plan for the lands and waters adjacent or related to the seashore, the use of which could reasonably be expected to influence the administration, use, and environmental quality of the seashore. Such plan shall set forth the most feasible and prudent methods for providing solid waste disposal, wetlands managements, development of visitor facilities, and other land uses all in a manner compatible with the preservation of the seashore. The Secretary may revise the plan from time to time, and he shall encourage Federal, State, local, and private agencies and interests to be guided thereby. Notwithstanding any other provision of law, no Federal loan, grant, license, or other form of assistance for any project which, in the opinion of the Secretary, would significantly affect the administration, use, and environmental quality of the seashore shall be made, issued, or approved by the head of any Federal agency without the concurrence of the Secretary unless such project is consistent with the plan developed pursuant to this section.";

(b) by deleting section 9 in its entirety and by renumbering accordingly.

On page 11, at the beginning of line 7, strike "151 91,001–B, and dated May 1976," and insert "151 91,001–C, and dated July 1976,";

On page 11, beginning with line 20, insert the following:

SEC. 308. (a) The Appomattox Court House National Historical Park shall hereafter comprise the area depicted on the map entitled "Boundary Map, Appomattox Court House National Historical Park", numbered 340–20,000, and dated November 1973, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the "Secretary") may revise the boundaries of the park from time to time by publication of a revised map or other boundary description in the Federal Register, but its total acreage shall not exceed one thousand five hundred acres.

(b) Within the boundaries of the park, the Secretary may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange. Any lands or interests in lands owned by the State of Virginia or its political subdivisions may be acquired only by donation.

(c) The Secretary shall administer the park in accordance with the Acts of August 25, 1916 (39 Stat. 535), as amended and supplemented, and August 21, 1935 (49 Stat. 666) as amended.

(d) The Acts of June 18, 1930 (46 Stat. 777), August 13, 1935 (49 Stat. 613), and July 17, 1953 (67 Stat. 181), are repealed.

(e) There are authorized to be appropriated not to exceed $1,365,000 to carry out the purposes of this Act.

SEC. 309. (a) That the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange approximately four thousand two hundred and thirty-four acres comprising part of the Canada de Cochiti Grand adjacent to the southern boundary of Bandelier National Monument, New Mexico, and approximately three thousand and seventy-six acres containing the headwaters of the Rito de los Frijoles adjacent to the northwestern boundary for addition to the monument. Lands and interests therein owned by the State of New Mexico or any political subdivision thereof may be acquired only by donation or exchange.

(b) Lands and interests therein acquired pursuant to this Act shall thereupon become part of Bandelier National Monument and subject to all laws and regulations applicable thereto.

(c) There are hereby authorized to be appropriated not to exceed $1,463,000 for the acquisition of land.

SEC. 310. Section 7 of the Act of March 1, 1972 (86 Stat. 44) which establishes the Buffalo National River, is amended by deleting "For development of the national river, there are authorized to be appropriated not more than $283,000 in fiscal year 1974; $2,923,000 in fiscal year 1975; $3,643,000 in fiscal year 1976; $1,262,000 in fiscal year 1977; and $1,260,000 in fiscal year 1978. The sums appropriated each year shall remain available until expended." and inserting in lieu thereof "For development of the national river, there are authorized to be appropriated not to exceed $9,371,000.

SEC. 311. The Act of September 5, 1962 (76 Stat. 428) which designates the Edison National Historic Site, is amended (a) by deleting the words "accept the donation of" in section 2 and substituting the words "acquire, by donation, or purchase with donated or appropriated funds,"; and (b) by adding the following new section:

"SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $75,000 for acquisition of lands or interests therein, and $1,695,000 for development.".

SEC. 312. The Act of September 13, 1961 (75 Stat. 489), authorizing the establishment of the Fort Smith National Historic Site, Arkansas, is amended as follows:

(a) in section 1, after "adjoining" insert "or related" in the first sentence, and add the following after the second sentence: "The total area so designed for the purposes of this Act may not exceed seventy-five acres.";

(b) in section 2, change the colon at the end of the second sentence to a period and delete the remainder of the section (through the second proviso); and

(c) revise section 4 to read as follows:

"SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, not to exceed, however, $1,719,000 for land acquisition and not to exceed $4,580,000 for the development of Fort Smith National Historic Site undertaken after the effective date of this section.".

SEC. 313. The Act of September 13, 1960 (74 Stat. 881) which designates and establishes that portion of the Hawaii National Park on the island of Maui, in the State of Hawaii, as the Haleakala National Park, is amended by adding the following new section:

"SEC. 2. (a) Notwithstanding any limitations on land acquisition as provided by the Act of June 20, 1938 (52 Stat. 781), the Secretary of the Interior may acquire for addition to the park any land on the island of Maui within the boundaries of the area generally depicted on the map entitled 'Haleakala National Park, Segment 03,' numbered 162–30,000–G, and dated May 1972, by donation, purchase with donated or appropriated funds, or exchange. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

"(b) There is authorized to be appropriated such sums but not to exceed $920,000 as may be necessary to carry out the purposes of this section.".

SEC. 314. The second sentence of subsection (e) of section 6 of the John F. Kennedy Center Act (72 Stat. 1698), as amended, is amended to read as follows: "There is authorized to be appropriated to carry out this subsection not to exceed $4,000,000 for the fiscal year ending September 30, 1978, and not to exceed $4,300,000 for the fiscal year ending September 30, 1979.".

SEC. 315. The Act of September 18, 1964 (78 Stat. 957), entitled "An Act to authorize the addition of lands to Morristown National Historical Park in the State of New Jersey, and for other purposes", as amended by the Act of October 26, 1974 (88 Stat. 1447), is amended by changing "465 acres" in both places in which it appears in the first section to "600 acres".

SEC. 316. The first sentence of section 15 of the Act of March 23, 1972 (86 Stat. 102; 16 U.S.C. 460z–13) which establishes the Oregon Dunes National Recreation Area, is hereby amended to read as follows: "There are hereby authorized to be appropriated for the acquisition of lands, waters, and interests therein such sums as are necessary, not to exceed $5,750,000.".

SEC. 317. The boundary of the Pecos National Monument is hereby revised to include the area as generally depicted on the map entitled "Boundary Map, Pecos National Monument, New Mexico", numbered 430–20017, and dated December 1975, which map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 318. The boundary of Zion National Park is hereby revised to include the area as generally depicted on the map entitled "Land Ownership Types, Zion National Park, Utah", numbered 116–80,003, which map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior may acquire the property included by this section by donation only.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MOSS. Mr. President, will the Senator yield to me?

Mr. BUCKLEY. Mr. President, I will be glad to yield to the Senator from Utah without losing my right to the floor.

ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1976—CONFERENCE REPORT

Mr. MOSS. Mr. President, I submit a report of the committee of conference on H.R. 8800 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8800) to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The **PRESIDING OFFICER.** Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of July 22, 1976, beginning at page 23539.)

Mr. **MOSS.** Mr. President, today the Senate is to vote on the conference report on H.R. 8800, the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976. This legislation provides a comprehensive program of research, development, and demonstration to help us combat our deepening dependence on foreign sources of petroleum, reduce the consequent significant drain on our balance of payments, and thereby contribute to a greater freedom of action for our foreign policy.

The need for this legislation is clear. The United States is now forced to import approximately 40 percent of our oil—more than 30 percent of it from the Middle East. Furthermore, our dependence on foreign oil has been projected to reach 50 percent as early as 1977. To avoid subjecting ourselves to the threat of energy blackmail, we must take forceful and rapid action to limit this accelerating dependence.

Transportation is clearly a critical sector if we wish to combat this growing energy dependence. The automobile is this Nation's single largest end user of petroleum and accounts for nearly 40 percent of the present petroleum consumption in the United States. This represents approximately 6.3 million barrels of oil a day, an amount almost equal to our present oil imports.

Research, development, and demonstration of electric and hybrid vehicles can greatly assist us in meeting this challenge. Electric vehicles can provide the public with quiet nonpolluting vehicles, which are not dependent on petroleum fuels. The electric vehicle which can utilize more abundant and virtually inexhaustible domestic supplies of energy, including solar, hydro, coal, geothermal, nuclear, wind, and tidal power to generate its electricity, offers the potential of reducing our transportation fleet's petroleum dependence by hundreds of millions of barrels a year. Reducing the amount of petroleum consumed by our motor vehicle fleet would limit the need to import petroleum from overeas.

The potential savings in foreign payments are significant. A study by the Argonne National Laboratory conservatively estimated that—

> The development of economically competitive electric automobiles would reduce the demand for oil and, thus the need for oil imports. Introduction of electric cars by about 1985 and the gradual build up to a total of 18 million cars on the road by the year 2000 would result in a cumulative savings of petroleum of 1.3 billion barrels.

Even at today's price of $13 per barrel of imported oil, such a reduction corresponds to a cumulative savings in foreign payments of $16.9 billion.

If we act forcefully, electric and hybrid vehicle technology can begin to have an impact, not in the distant future, but within the next few years.

A 1975 study carried out by the General Research Corp. for the Environmental Protection Agency on potential electric vehicle use in the Los Angeles region concluded:

> Electric car range and performance can be adequate for substantial urban use. Even limited range, lead-acid battery cars could replace a million second cars in the Los Angeles area in 1980 (17% of all area cars) at little sacrifice in typical driving patterns.

Furthermore, it has been estimated that the range and performance of electric vehicles could double or triple within a few years if both battery research and development and improvement in electric and hybrid vehicle configurations receive adequate emphasis.

It is important to note that the conference report focuses on the development of electric and hybrid vehicles that will be able to capture a significant portion of the so-called second car and short-haul commercial vehicle market. This fleet is a major part of our transportation system. More than 28 percent of all households in the United States own two or more cars. More than 5 perpent of such households own three or more cars. Thus, almost 28 million cars on the road today fall within the second- or third-car category. Milk vans, post office delivery trucks, and many other short-haul commercial fleet vehicles also could successfully utilize electric and hybrid vehicle technology.

The conference report provides a two-part program to facilitate the development and demonstration of such vehicles. The first part of this program will comprise a major research and development program within the Energy Research and Development Administration focused on advanced battery development and improvements in vehicles design. Dr. Austin Heller, Assistant Administrator for Conservation of the Energy Research and Development Administration, estimated in the hearings carried out by the Senate Commerce Committee this year that up to "$150 million" could be usefully expended in battery research and development over a 5-year period by ERDA.

The second part of the program is devoted to a three-step demonstration of electric and hybrid vehicles. This demonstration program will provide the Government, the public, and industry with the baseline data necessary to evaluate electric vehicles. Within 21 months of enactment, the Administrator shall contract to purchase or lease 2,500 electric or hybrid vehicles with delivery of such vehicles to be completed within 39 months of enactment. These vehicles are to represent the best state-of-the-art of electric and hybrid vehicles at that time and meet the performance standards prescribed by the Administrator, which specify minimum performance levels for such vehicles.

Within 54 months of enactment, the Administrator shall complete the final contracts under the act to purchase or lease 5,000 advanced electric or hybrid vehicles. Delivery of such vehicles are to be completed within 72 months of enactment. The act defines electric or hybrid vehicles as vehicles which minimize the total amount of energy to be consumed during fabrication, operation, disposal, and which represent a substantial improvement over existing electric or hybrid vehicles with respect to the total amount of energy so consumed. Such vehicles also must be capable of being produced and operated at a cost and in a manner which is sufficiently competitive to enable their production and sale in numbers representing a reasonable proportion of the market. These vehicles must also meet any safety, damageability, or other Federal requirements.

The conference report provides the Administrator of ERDA with a great deal of flexibility in order to assure that the demonstration project will provide the Government, industry, and the public the best possible data to evaluate the potential of electric and hybrid vehicles. For example, the Administrator may accelerate various phases of the project in order to provide more time for other aspects, although the conference report contains outside deadlines for the performance of various activities under the act. Also in the final contracting phase, the Administrator may lengthen the final delivery period for up to 6 months, if he finds that such an extension will lead to the delivery of advanced vehicles that would otherwise not be available.

Through the setting of performance standards, the Administrator of the Energy Research and Development Administration, is provided with sufficient flexibility to assure that only "top quality" vehicles will be purchased or leased under the act. In contracting for the purchase or lease of electric or hybrid vehicles, the Administrator of ERDA, is directed to see that a cross section of the available technologies and the various types of uses of such vehicles are represented. A sufficient number of each type of vehicle will be bought to provide adequate information as to such vehicles performance characteristics. However, if the Administrator believes that particular types of vehicles, or a particular use, of such vehicles appears particularly promising—for example, for fleet applications—then the Administrator can emphasize the purchase of such vehicles.

The Administrator is also directed to assure the gathering of adequate data in the demonstration project, while at the same time, protecting private industry from unnecessary displacement of vehicles which otherwise would have been purchased privately in the United States. The conference report sets a floor and a ceiling for the number of vehicles to be contracted to be purchased or leased under the act. The Administrator shall choose the number of vehicles that shall actually be demonstrated by balancing the purposes of the demonstration project while attempting to minimize displacing of the purchase of electric and hybrid vehicles in the private sector.

Just as the Administrator is given wide discretion in the contracting aspects of the project, he also has wide flexibility in directing the course of the research and development project. The conference report, however, identifies certain areas as essential to the success of the project. Foremost among those is battery research. In order to carry out this purpose, the authorizations specify that $10 million will be expended on battery research and development during the first year of the project.

Mr. President, it is my strong conviction that only such a program of Federal research, development, and demonstration has any hope of rapidly accelerating acceptance of this useful technology, and I strongly urge my colleagues to join me in support of the conference report.

Mr. President, this conference report has been fully cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

APPOINTMENT OF ADDITIONAL CONFEREE—H.R. 8603

Mr. McGEE. Mr. President, I ask unanimous consent that the name of the Senator from Oklahoma (Mr. BELLMON) be added as a conferee with the House on the postal compromise bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGEE. I yield back the remainder of my time.

EDUCATION AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes.

Mr. BUCKLEY. Mr. President, I understand the Senator from Maryland (Mr. BEALL) has two small amendments that the managers will agree to, and I ask unanimous consent to be able to yield to him for the purpose of proposing those amendments, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Maryland is recognized.

Mr. BEALL. Mr. President, I ask unanimous consent that Ann Colgrove of Senator PACKWOOD's staff, Hazel Elbert of Senator BARTLETT's staff, and Caroleen Silver of Senator DOMENICI's staff, be granted the privileges of the floor during the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. I thank the Senator from New York for yielding. This will not take very long.

UP AMENDMENT NO. 377

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from Maryland (Mr. BEALL) proposes unprinted amendment No. 377.

Mr. BEALL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 194, between lines 3 and 4, add the following new paragraph:

"(b)(1) Section 721(a) of the Act is amended by inserting "(1)" immediately after "(a)" and by adding the following new paragraph:

"(2) The Secretary is authorized to make grants to or enter into contracts with institutions of higher education for the construction of facilities for model intercultural programs designed to integrate the educational requirements of substantive knowledge and language proficiency."

On page 194, line 4, strike "(b)" and insert in lieu thereof "(2)".

On page 315, beginning on line 19, strike all following "SEC. 304." to the end of line 2, on page 316.

On page 316, line 3, strike "(b)".

Mr. BEALL. The committee adopted an amendment offered by me permitting the use of title VI of the National Defense Education Act, which provides for language in area studies, for the construction of facilities for model intercultural programs designed to integrate the education requirements of substantive knowledge and language proficiency.

Upon reflection and discussion with the education community and some Members of the House, we have decided that this proposal more appropriately belongs in section 721, a section which authorizes grants for the construction of graduate academic facilities.

This amendment is identical to language adopted by the committee. Its effect is merely to transfer the language from title VI of the National Defense Education Act to the more appropriate graduate facilities construction section.

Mr. President, I urge the adoption of this amendment.

I have talked this matter over with the manager of the bill, and I understand there is no objection to the amendment.

Mr. PELL. That is correct. While I was unenthusiastic about the original amendment, it was accepted, and the logical place for it is where the Senator from Maryland now suggests that it should be, so I have no objection. I yield back the remainder of my time.

Mr. BEALL. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Maryland.

The amendment was agreed to.

UP AMENDMENT NO. 378

Mr. BEALL. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Maryland (Mr. BEALL) proposes an unprinted amendment No. 378.

The amendment is as follows:

On page 346, following line 24, add the following new section:

"SEC. .Notwithstanding any other provision of law, the Secretary is authorized by contract or otherwise to establish, equip and operate a day care center facility for the purpose of serving children who are members of households of employees of the Department. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Department of Health, Education and Welfare employees or others who are beneficiaries of services provided by such facilities to pay for the cost of their operation and to accept money, equipment or other property donated for use in connection with the facilities."

Mr. BEALL. Mr. President, the need for this amendment was called to my attention as the result of the efforts of HEW's employees at Parklawn to have a day care center. In this case, space is available to the employees for a day care facility, but under an existing interpretation, HEW lacks—or has inadequate authority to address this and similar situations which the Department has confronted.

I initially became involved in the Parklawn situation when I assisted the Parklawn Day Care Foundation, an employee organization, in securing permission from GSA to establish a day care center for them. However, one of the conditions of GSA's permission was that alterations to be accomplished by GSA would be done on a reimburseable basis. HEW has refused—because they do not have specific enabling statutory authority to do so—to pass renovation money from the Foundation to GSA so that the required renovation could proceed. A similar situation arose at the Department of Housing and Urban Development and the Senate amended the Housing Amendments of 1976 to provide HUD with the needed authority. This is now Public Law 94–375.

The amendment I am proposing tracks the HUD language with one additon. My amendment would make it clear that HEW could accept donations—either money, equipment or other property—for use in such child care facilities. I would emphasize this amendment does not require the Department to establish day care centers. It is permissive. And, further, it—like the HUD-passed provision—authorizes the Secretary to provide for or establish appropriate fees and charges for the operation.

Mr. President, when employees band together in recogniton of their need for child care services and the Government cannot accept the money they wish to donate for the purpose of renovating a facility to make this child care center possible, it is no wonder our citizens shake their heads in amazement as they try to fathom governmental action or inaction. This group has been confronted with unbelievable roadblocks in trying to bring into being a child care center. The obstacles can be removed by providing—as the amendment does—HEW with the same authority as was given to HUD earlier.

Mr. President, I want to pay particular tribute to the work of my House colleague, Congressman GUDE, for his efforts to resolve this problem.

I urge the enactment of this amendment.

Simply, Mr. President, this is an amendment that would give HEW the needed authority. It will help clarify the situation that has arisen at Parklawn, but elsewhere at HEW.

I have talked this over with the managers of the bill and I understand there is no objection.

Mr. JAVITS. The amendment is satisfactory.

Mr. PELL. There is no objection to the amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Maryland yield back his time?

Mr. BEALL. Mr. President, I thank the managers of the bill for their cooperation and favorable consideration and I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time has been yielded back. The question is on agreeing to the amendment of the Senator from Maryland.

The amendment was agreed to.

Mr. PELL. Mr. President, I ask unanimous consent that Conway Collis be granted privilege of the floor during the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 379

Mr. BUCKLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. Buckley) proposes an unprinted amendment numbered 379.

The amendment is as follows:

On page 337, between lines 14 and 15, insert the following new section:

Sec. 406. Section 440 of the General Education Provision Act is amended by inserting "(a)" immediately after "Sec. 440" and adding at the end thereof the following new subsection:

"(b) (1) Subject to paragraph (2), the extension of Federal funds to a State or local educational agency or institution of higher education, community college, school, agency offering a preschool program or other educational institution through grant, loan, contract, student assistance or any other programs may not be deferred by the Secretary before according such State or local educational agency or institution of higher education, community college, school, agency offering a preschool program or other educational institution the right of due process of law, which shall include

(i) a detailed written notice to the recipient that it is in noncompliance with a specific provision of Federal law,

(ii) a hearing before a duly appointed administrative law judge within a 60-day period from the receipt of notification of non-compliance, and

(iii) a determination by the administrative law judge based on evidence taken from all parties that such recipient is in noncompliance with the specific provision of Federal law as indicated in the notice as herein provided,

except that this provision shall not apply to part B of Title IV of the Higher Education Act of 1965 (20 U.S.C. 1071–82)."

"(2) Notwithstanding any other provision of this subsection the Secretary may defer assistance to any educational agency or institution if the Secretary determines that such agency, institution, or school, after being given notice of an opportunity for a hearing, has, without good cause, purposely delayed the commencement or conclusion of such a hearing.

Any determination made under this subparagraph may not be delegated.

"(3) In any proceeding brought pursuant to the provisions of this subsection to defer financial assistance, the administrative law judge, as part of his decision, may make suitable arrangements for an escrow of the funds subject to the deferral and may order the administrative head responsible for the application made by that agency or institution to place any such new awarding of financial assistance in escrow, as warranted. Such escrow of funds shall only occur if an administrative review of the initial administrative judgment of compliance or noncompliance is sought, and such escrow shall not continue beyond the exhaustion of administrative remedies within the Department.

"(4) The Secretary shall provide written notice to the Congress of any determinations made by him under paragraph (2) of this subsection".

On page 101, in the Table of Contents, after item "Sec. 405." insert the following new item:

"Sec. 406. Administrative due process.".

Mr. BUCKLEY. Mr. President, this amendment is virtually identical with amendment No. 2196, my due process amendment.

The amendment had some modifications inserted to meet certain objections that had been raised since the original introduction.

Mr. President, I ask unanimous consent that the Senator from Texas (Mr. Tower) and the Senator from Idaho (Mr. McClure) be named as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, the change that was inserted was to provide 60 days within which the administrative hearing had to take place. There were those who feared that requiring a hearing, an administrative determination of whether or not a school was in violation of Federal law, might open the door to extensive delays in determining whether or not HEW would be entitled to this.

My amendment simply introduces the principle of due process into the procedure by which HEW may defer or withhold funds that a given school or college is otherwise entitled to on a simple finding by a functionary of HEW that that institution is in violation of Federal law.

What my amendment does is make it mandatory that before there can be such a suspension, the school have an opportunity to appear before an administrative judge in an expeditious proceeding in order that there may be a determination as to whether or not a violation, in fact, exists. Only then is HEW entitled to defer funding.

Many people, as I mentioned earlier, are concerned that the due process amendment would result in a long drawn-out battle. This will not happen, as the amendment that I have now submitted requires that a hearing be held within 60 days.

It has also been alleged that the due process amendment would require HEW to approve all new applications for funding, even in cases where the applicant was not in compliance with Federal law.

This would not happen, as the process of deferral refers to situations in which an institution is already receiving Federal funds.

Mr. President, this amendment effectively addresses itself to the questions raised by those who have been concerned over the impact of these proposed changes in existing practice.

It should now be clear that this amendment will accomplish one thing. It will afford the schools and colleges the benefits of due process which are currently enjoyed by private citizens.

I urge the adoption of this commonsense amendment. I point out that it has the support of the National School Board Association.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. BUCKLEY. I am glad to yield.

The PRESIDING OFFICER. Who yields time?

Mr. BUCKLEY. I yield such time as the Senator wishes.

Mr. BEALL. Mr. President, if I understand the Senator's amendment correctly, he has eliminated the concerns expressed by some about the Eshleman amendment in the House.

Mr. BUCKLEY. Correct.

Mr. BEALL. By establishing a procedure that provides fair play and due process to an education agency or institution while at the same time assure that such agencies do not unreasonably drag out the hearing process and prevent a decision.

I believe the concurring opinion of Judge Skelton in the *Palm Beach* case. 415 F. 2d 1201, decided in 1969 stated the case for this amendment and, as a matter of fact, seems to beg Congress to change the system it created.

I ask unanimous consent that this opinion be inserted at this point in the Record.

There being no objection, the opinion was ordered to be printed in the Record, as follows:

Skelton, Judge (concurring):

I concur in the opinion in this case but I do so only because existing law leaves me no other choice. I take advantage of this opportunity to record the reasons for my reluctance.

It is my belief that a system which authorizes a government official in Washington, in his sole discretion, to cut off funds to a local school district under the guise of a "deferral", without a prior hearing and determination of the merits of the matter, contravenes the fudamental principles upon which this federal republic was founded. It is true that under the Fountain Amendment to the Civil Rights Act of 1964 (42 U.S.C. § 2000d–5 (Supp. III, 1965–1967)), a hearing must be held, after notice, within sixty days of the notice and the deferral cannot continue more than thirty days after the hearing unless there is a finding of non-compliance at the hearing. At first blush, this would appear to protect the rights of the school district involved. As a practical matter it does not, for the system produces contrary results in most cases. It is generally a foregone conclusion that the decision of the examiner at the hearing will go against the school district in the overwhelming majority if not all, of the cases. It would take an independent examiner, indeed, who would decide in favor of a school district when he knows that for all practical purposes Washington has already made a decision against the school district when it issued the deferral notice. Consequently, in most cases, the hearing is just a formality for the purpose of making a record on which the district can appeal if it desires to do so. In the event of an appeal by the district, the deferral remains in effect until the district exhausts its administrative remedies and while the case is in court. This could take from one to two years, or more. During this time, the funds of the district are cut off. This means, for all practical purposes, the district

> has been denied these funds during this period.
>
> To put it another way, the school children of the district have been denied the funds during the pendency of the case. A period of from one to two years or more taken out of the lives of these school children is gone forever, especially for those who finish school during the time in question. The benefits they would have received from the funds thus denied them during this period can never be restored to them. Therefore, the so-called "deferral" is really a denial during the pendency of the proceedings.
>
> Furthermore, the withholding of funds by the government has the appearance of punishment or penalty against the trustees of the school district and the adults living in the district because they have not complied with orders issued from HEW in Washington. The sad part about it is that the denial of funds does not punish the trustees or the adults, because they are not in school. The punishment and deprivation is inflicted on the school children themselves. They are the ones who suffer.
>
> The cutting off of funds from school districts by the HEW is done on the theory that it will help children of minority races in such districts. As a matter of fact, in many cases, when this action is taken, the resulting hardships and deprivations fall on the children of the minority races. Their parents are not financially able to supply the teachers, buildings, and programs which the withheld funds would have supplied, whereas, the more affluent parents of children of the white race may be able to supply them without government help. So, in many cases, the program hurts the very children it was designed to help.
>
> This is the system Congress has created. The courts are powerless to do anything about it. Until Congress sees fit to change it, we will have to live with it.

Mr. BEALL. I think we all want to make sure that there is due process provided in order to protect the Nation's school systems and its educational institutions. Actually, the beneficiaries of an amendment of this sort will be the children and the students in the school system.

We do not want them put upon by people at the Federal level on the basis of some allegation, which unproven, may nevertheless result in school boards losing financial assistance which they might otherwise receive.

The Senator from New York has drawn a revised amendment. Such amendment eliminates the concerns expressed by those who were upset with the original Eshleman amendment, and who feared it would set back civil rights.

However all Buckley, as modified, provides is an orderly procedure for a fair airing of the allegation and a decision on the merits before funds may be deferred.

Mr. BUCKLEY. Correct.

Mr. BEALL. Mr. President, I ask that my name be included as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I also ask unanimous consent that the Senator from South Carolina (Mr. THURMOND) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. PELL. Mr. President, I have studied and followed this amendment. I recognize the concern that motivates the junior Senator from New York in offering it.

I think that if we embark on this procedure, where the onus is being taken from changing the procedure in order to receive the Federal funds to a procedure which can be stretched out as long as is possible to avoid the withdrawal of the funds, one will find the end result may well be the same. However, the incentive will be to extend the process over a period of months or years in order that the additional funds may go on, while violations of the law continue to exist.

For that reason, I will be compelled to oppose the amendment.

Mr. BUCKLEY. Mr. President, I would like to point out that the language contained in the amendment I sent to the desk states:

> A hearing before a duly appointed administrative law judge within a 60-day period from the receipt of notification of noncompliance, and requires a determination by the administrative law judge based on evidence taken from all parties that such recipient is in noncompliance with the specific provision.

It seems to me that the provision makes sure that we have a very timely adjudication, and perhaps we will find we will accelerate the settlement of the quarrels that go on in every State between a particular functionary of HEW that may or may not be correct in his understanding of the facts in the given situation.

I suggest, as the Senator from Maryland has indicated, that this provision, the due process amendment with the safeguards, will benefit the children who need the help most.

As was pointed out in a letter from the National School Board Association:

> Most often deferrals denied funds for programs serve those children in greatest need of special Federal assistance, such as the educationally disadvantaged, the handicapped, the racially isolated and the many linguistic minorities.

These, Mr. President, are the people who are most often adversely affected by the present system, which allows the arbitrary termination of funds that a school district is entitled to until found guilty.

Mr. President, I do not know if anyone else wishes to speak to this amendment. If not, I am willing to yield back the remainder of my time.

Mr. BEALL. Mr. President, I might say I had some concerns similar to those expressed by the Senator from Rhode Island. I think the new Buckley amendment speaks directly to those concerns.

The concern was expressed that under the original amendment there was no time limit and the process would drag on interminably. The current amendment of the Senator from New York has taken care of that objection.

There was concern that noncooperative educational institutions receiving assistance could delay the process for their own purpose. The Senator has spoken to that.

Finally, a concern that such an amendment would impair the enforcement ability of the Office of Civil Rights. I think it is clear that there is no effort or desire to impair the enforcement ability of the Office of Civil Rights. The amendment in my judgment will advance civil rights by expediting the process and extend to school districts basic due process procedures which are fundamental to our Nation.

Therefore, I think the objections raised by the Senator from Rhode Island are covered by the revised Buckley amendment.

Mr. JAVITS. Mr. President, I yield myself such time on the amendment as I may require.

First let me say that I concur with Senator PELL. I think this is not a desirable amendment from the point of view of those who want to cling to whatever vestiges there remain of due process in respect of discrimination in the educational process.

The purpose of deferral is that it discourages recipients who have been notified of the determination of noncompliance with the nondiscrimination statutes from unduly delaying the commencement of a hearing on that particular subject. Without that inducement, recipients could delay a hearing indefinitely without being in any way disadvantaged in the receipt of Federal funds.

The possibility of a deferral tends to encourage recipients to enter into more meaningful negotiations than would be the case if they simply could delay any adverse action for an extended period of time. The deferral preserves the status quo during the course of the proceedings.

Let me point out that the Senator from New York in his amendment seeks a hearing within 60 days, but there is no way that he has, and no way he could provide, when the hearing should end or when the subsequent proceedings should end. Our history in civil rights cases has been that they tend to take years, not weeks and not months. So while I understand the purpose of the amendment—and it has a nice label on it, that it seeks to afford a hearing—the fact is that it will frustrate enforcement of the law, and the fact is that it will string it out for years.

Mr. BUCKLEY. Will the Senator yield?

Mr. JAVITS. Not yet, if I may complete my argument.

Any competent lawyer, once he starts on the route where a recipient gets the funds from a Federal Government and this goes on and on and on, has every inducement for going on and on himself.

There is now a current limitation on the department which was contained in the Fountain amendment, which prohibits the department from deferring funds under certain specified elementary and secondary program statutes for a period of more than 60 days unless the time is extended by mutual consent of the recipient and the department for the purpose of holding a hearing. The deferral may then extend for an additional 30 days for the rendering of a decision. If the decision is in favor of the recipient, the deferral is lifted. If the decision is adverse to the recipient, the deferral is lifted. If the decision is adverse to the recipient, the deferral continues and the determination process, including appeals, occurs.

Thus, the effect of this amendment, which is being proposed by the Senator from New York, by establishing an absolute prohibition of deferral, is to discourage and retard and abort that process. After all, under the Fountain amendment, the only thing that deferral can force is an early hearing. That is a 60-day proposition. It seems to me that that is desirable and necessary in order to adequately enforce the law, and that this amendment should therefore not be adopted.

Mr. TOWER. Will the Senator yield me 4 minutes?

Mr. BUCKLEY. I yield.

Mr. TOWER. Mr. President, I have joined Senator Buckley as a cosponsor of this amendment because I think it provides a fair and logical solution to a problem which has become distressingly prevalent in our school districts. Contrary to certain criticism, it will not obstruct the intent of the Civil Rights Act. Instead it will expedite the administrative procedures already attendant on compliance with the civil rights laws and will relieve school districts of the disruptions that presently occur as a result of existing procedure.

Amendment No. 2196 would simply require a hearing on alleged violations of Federal law, conducted by an administrative law judge, before Federal funds to educational institutions could be withheld. The point is that a school district will be presumed innocent until proven guilty. It is a courtesy extended to every student on the verge of being expelled, to every teacher being considered for dismissal, and to every citizen and group within the country confronting an accusation in our courts. There is no justification for depriving our school systems of the opportunity for a fair hearing as well.

If this amendment is passed, it will actually expedite the investigations into a possible case of noncompliance which have been known to extend over 8 years. It will end the unnecessary budgetary and hiring disruptions for school districts that occur in spite of a subsequent finding that the district has been falsely accused. It will relieve the special hardship that an accusation of noncompliance creates for the type of student most in need of Federal assistance—the educationally disadvantaged, the handicapped, the racially isolated, and the linguistic minorities. No good purpose can be served by a highly punitive action when a reasonable approach would be just as effective.

It is always easier to see the value of such legislation by illustration of a specific example, and I have several such in Texas. One case in particular, however, illuminates the value of this amendment.

Texas has received substantial funding through the Emergency School Aid Assistance Act, which is intended to facilitate the desegregation process. In order to receive funds, a school district must submit a plan for desegregation and the application of assistance which is acceptable to HEW. The school district in question had to revise its program in order to satisfy requirements, and this it did very expeditiously. The administrative delay in approving this revised program means that funds will not be made available until the middle of September. However, school started on August 16. Teachers have been employed, and programs have been pursued which will not begin to be paid for until September. There is no way that funding will be made retroactive to the beginning of the school year.

The school district is understandably upset. Teachers may quit work until they can draw salaries, and some will probably seek employment elsewhere. The school board is so upset that members are determined at the moment not to participate in the program again—which will only be to the detriment of the students and the desegregation effort. Since the school district had been substantially funded by ESAA in years past, this amendment would probably make it possible for this and other districts in a similar plight to continue to receive the assistance previously allowed while programs were brought into compliance. In this case as in so many others, the district has approached its obligation toward civil rights with goodwill and a genuine effort in behalf of the students affected. There is no reason why it should become discouraged and frustrated when a fair alternative to the present harsh reality is so readily available on the floor of the Senate.

I commend my good friend from New York (Mr. Buckley) for having taken the initiative in this matter, and I urge the Senate to support it.

Mr. BUCKLEY. Mr. President, I yield myself such time as I will utilize.

I thank my friend from Texas for his support and for providing such a graphic example of the kind of fact situation to which this amendment is addressed.

It is not a revolutionary concept to assume that a party is innocent until proven and found guilty. This is essential to our whole attitude to the law and application to the law. Nor do I understand that this country has ever committed itself to the doctrine of the divine infallability of bureaucrats.

We are talking about the welfare of children, the welfare of teachers, and the continuity of education.

But my distinguished senior colleague did suggest that even though my amendment provides for an expeditious initiation of the hearing process, any competent lawyer could drag it out indefinitely. I have tried to anticipate that objection through the second section of my amendment, which reads as follows:

> Notwithstanding any other provision of this subsection the Secretary may defer assistance to any educational agency or institution if the Secretary determines that such agency, institution, or school, after being given notice of an opportunity for a hearing, has, without good cause, purposely delayed the commencement or conclusion of such a hearing.

I believe this is more than bending over backward to insure that a school cannot prolong the proceeding indefinitely while collecting Federal funds.

Mr. President, I think that the size of this issue is well enough understood.

I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Domenici). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUCKLEY. I ask unanimous consent that Messrs. Todd Culbertson and Bill Griffin of my staff be accorded the privilege of the floor during the remainder of the debate and the rollcalls on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield myself such time as I may require on the amendment.

Mr. President, the section to which Senator Buckley has referred reads as follows:

> Notwithstanding any other provision of this subsection the Secretary may defer assistance to any educational agency or institution if the Secretary determines that such agency, institution, or school, after being given notice of an opportunity for a hearing, has, without good cause, purposely delayed the commencement or conclusion of such a hearing.

The difficulty with that section is twofold: One, the determination of the Secretary is itself reviewable because it is a determination; hence, the deferral is not effective until that question as to whether he has been capricious, arbitrary, or otherwise has not obeyed administrative regulations or provisions of law regarding such a detemination, has been dealt with.

There has been plenty of opportunity to spin things out. In addition, as to a hearing before an administrative judge and the conclusion that hearing can have, if I were the Secretary, notwithstanding my deep convictions on the questions of nondiscrimination, and I were given a list of 100, 200, or 500 witnesses, I could not very well make a determination, unless I really had more than you have in any given case, that they do not have the right to call witnesses to try and prove their case. They do. Therefore, that could just go on and on, and does in all of these agencies.

What strikes me very strongly is this: What the Senator from New York, my colleague, is trying to give is an injunction pendente lite. That is what he is trying to give—an injunction pendente lite without getting one. It is absolutely hornbook law that if you owe x $100 and you have a counterclaim against x, you do not pay him the $100. This goes to the contrary of every tenet of law. If you owe him $100, even though you contest whether you really do, you have to continue to pay it. There is no due process in that. That is just an effort to stand the law on its head and to delay the day when the school district can be called to account. That is what this is all about. It is all dressed up with due process and a hearing, et cetera.

But the fundamental proposition is to ease up on the school district that is charged with discrimination, and remember it has to be de jure discrimination. It has to be actual legal discrimination in respect of these activities.

It seems to me, Mr. President, that this is not only a step backward but it is really a nullification effort. The fact it is dressed up with words of due process—we are far more sophisticated around here than that—does not save it.

Therefore, Mr. President, I deeply feel that this amendment should be rejected.

Mr. ROBERT C. BYRD and Mr. TAFT addressed the Chair.

Mr. TAFT. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. Will the Senator allow me to get one request in?

Mr. TAFT. Yes.

ORDER FOR APPOINTMENT OF A CONFEREE

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. McCLELLAN, I ask unanimous consent that the junior Senator from Florida (Mr. CHILES), be appointed a conferee on the Defense appropriation bill for fiscal year 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator.

EDUCATION AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. TAFT. I wish the Senator from New York to explain a little to me what happens if we have a determination by an administrative law judge that there has been discrimination and funds ought to be cut off and the case is then appealed. What happens to the funds at that point if there is an appeal taken from the ruling of the administrative law judge?

Mr. BUCKLEY. As I understand my amendment, immediately upon the finding of the judge, the HEW is entitled to withhold the funds.

Mr. TAFT. Does the Senator mean there is no withholding until the finding is made?

Mr. McCLURE. That is correct.

Mr. TAFT. If the finding is made, then what happens?

Mr. BUCKLEY. Then the Secretary may withhold funds.

Mr. TAFT. Suppose there is appeal from that?

Mr. BUCKLEY. The funds are withheld pending the outcome of the appeal.

Mr. TAFT. It is the intention to allow those funds to be paid so long as the appeal has not become final or the order has not become final; is that correct?

Mr. BUCKLEY. I believe the language is quite clear that this inhibition on the Secretary exists only until the administrative judge has issued his decision in the case.

Mr. TAFT. The point I was making is this: In this proceeding if there is an affirmative finding by the administrative law judge, and then this proceeding is appealed, it can go through the courts for 2 or 3 more years on appeal procedures, briefs, arguments, and the like, and during that entire period the local school board is cut off from receiving any funds under the act.

Mr. BUCKLEY. That is right.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. TAFT. I thank the Senator. I yield.

Mr. BEALL. It should be pointed out we are talking about a rather narrow area here; we are not talking about ongoing funds. We are talking about new funds to which the school district might be entitled. The HEW, I understand, never defers the granting of funds that the local agency has already been receiving, without a hearing. That would be a termination and a hearing is required. They only defer those funds to which they may be entitled that are new funds.

So under the Buckley-Beall proposal, deferral of new funds could not take place until after the decision had been made by the administrative law judge, as I understand it, and if an appeal is then taken the funds could be deferred during the appeal process.

Mr. TAFT. If the Senator will elaborate further on that, by new funds does he mean funds due for the next year or any funds due for the next year, or just funds new for a program?

Mr. BEALL. I mean new application or new programs or new authorization.

Mr. TAFT. Is a new application made each year for each program?

Mr. BEALL. Although I have received different answers to this point, the answer appears to be no, except to the extent the new application would be for fund in excess of the previous year.

Mr. TAFT. What would happen with the funds that already are being withheld at the present time due to the failure of a school to implement a busing plan that previously had been passed by a prior school board?

Mr. BUCKLEY. The funds have to be resumed, pending a hearing.

Mr. TAFT. A new hearing, where a hearing already had occurred?

Mr. BUCKLEY. If there has been a determination, there is no problem. If there is a determination after a hearing that the school is in violation, then there is no obligation on the part of HEW to fund.

Mr. TAFT. I thank the Senator.

Mr. BUCKLEY. Mr. President, I am prepared to yield back my time, but I wish to read one paragraph of the letter I received from the National School Board Association. I think it puts the entire amendment in context:

> Specifically, the Buckley amendment would require HEW officials to conduct a hearing *prior* to deferring (i.e,. curtailing) a school system's funding for violations that federal officials *alleged* have taken place. It is our view that requiring such hearings will expedite investigations involving possible violations of federal law. Some such investigations have already extended over eight years. In addition, the hearing requirement will end the unnecessary budgetary and hiring disruptions for school districts subsequently found to be in compliance with the law. While deferrals apply only to new federal assistance, a cut-off of funds for continuing and previously approved programs requires a separate termination procedure—which does require a hearing. Thus hearings are legislatively required prior to termination but, in the absence of a legislative definition of deferral, HEW officials maintain that no hearing is required in the closely related deferral practice.

Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Rhode Island yield back his time?

Mr. PELL. The Senator from Massachusetts wishes to make a statement.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. BROOKE. Mr. President, I thank the Senator from Rhode Island.

Mr. President, I oppose this amendment. Although clothed in the appealing language of the Constitution, the amendment, if adopted, would hamper the achievement of equal rights for all our citizens. It would make even more difficult the already cumbersome process of making sure that Federal funds do not subsidize discrimination in our educational institutions, and, in fact, would put the Federal Government in the position of increasing its funding of such institutions even as they continue to discriminate.

Mr. President, this amendment is based on misinformation about the present nature of civil rights enforcement by HEW. Its sponsors would have us believe that educational institutions are now being denied due process of law, that HEW officials whimsically cut off funds to schools and school districts and then sit on their hands while the impoverished school districts struggle to prove their virtue. This is simply not true. HEW can do no more than defer funding of new programs sought by a school or school district allegedly in noncompliance, and even that can continue for no more than 90 days.

Mr. President, because of the misinformation circulating about the nature of civil rights enforcement at present, I think it important simply to lay out how that procedure now works. I think these facts will make clear that the proposed amendment is both unnecessary and mischievous.

HEW is charged with enforcing several civil rights statutes: Title VI of the 1964 Civil Rights Act, which bars discrimination on the basis of race, color, or national origin; title IX of the Education Amendments of 1972, barring sex discrimination; and sections 799A and 845 of the Public Health Service Act, which also bar sex discrimination. For all of these statutes, HEW uses the enforcement procedure mandated by statute for title VI.

Title VI specifies termination of assistance as one of the ways in which compliance may be sought from recipients of Federal assistance. However, title VI explicitly states that Federal assistance may not be terminated until there has been "an express finding on the record, after opportunity for hearing, of a failure to comply." 42 United States Code Annotated 2000d–1. In practice, HEW does not terminate funding until after all administrative appeals have been exhausted.

Prior to a hearing, HEW can do no more, under the statute, than defer acting on applications from an allegedly noncomplying recipient for new assistance, and such deferral cannot continue for more than 90 days without a hearing—except by mutual agreement. 42 United States Code 2000d-5.

In other words, even now HEW is barred from terminating assistance or refusing to grant or continue assistance until after a hearing before an administrative law judge. Prior to the hearing, HEW has no authority to decrease the amount of education funds already going to an allegedly noncomplying school or school district. It is only permitted to refuse to increase funding to such a recipient, and that for no more than 90 days.

Mr. President, we should not be misled by this amendment. Civil rights enforcement by HEW is weak enough as it is. Far from being overzealous in its enforcement activities, HEW has recently been found by a Federal court to be so reluctant to enforce the law that an injunction mandating action was necessary. *Adams* v. *Weinberger*, 391 F. Supp. 269 (DC DC, 1975). The Civil Rights Commission has similarly concluded that HEW has been timid in its enforcement activities. Report of "United States Commission on Civil Rights," January 22, 1975, page 131. In short, the contention that HEW arbitrarily and capriciously terminates funds simply is not borne out by the facts.

Mr. President, I trust that the distinguished Senator from New York, who has proposed this amendment—for whom I have the greatest respect—understands just how HEW has administered this law. I hope that I may allay any fears he may have by citing the record, because the facts, as I have said, speak for themselves. It is because of that that I feel compelled to move to lay this amendment on the table.

The PRESIDING OFFICER. The motion is not in order at this time.

Mr. BEALL. Mr. President, will the Senator yield me 2 minutes?

Mr. BUCKLEY. I yield.

Mr. BEALL. Mr. President, I always hesitate to take exception to the remarks of the distinguished Senator from Massachusetts, because I agree with the objective he is trying to reach; but I must in this instance take some exception to the remarks he made with regard to the utilization of the taxes by HEW.

First of all, we have to recognize that we are not talking about termination of funds here, but about deferral. No termination is involved in this discussion at all. It is all deferral with regard to new funds and new programs. Of course, that can be a very substantial amount, because on the one hand you could have a new program coming along to aid an innercity school, and HEW would defer the funds.

The damage would be done to the children who are served by the school. But let me read a paragraph from a statement put out by HEW with regard to the Eshleman amendment. I recognize there was difficulty with the Eshleman amendment in the House, and I congratulate the Senator from New York, because I think he has gotten to the problem and eliminated the difficulties that we had with the Eshleman amendment.

When speaking to the Eshleman amendment, HEW said:

> *Problem with current practice*. The major problem in the current use of the deferral authority is the absence of any standards under which the Department will invoke it. In the past, deferrals have been imposed almost as a matter of course in civil rights cases when a recipient is given notice of opportunity for a hearing. However, exceptions to that practice have been made on a case-by-case basis. While the courts have held that deferral is not a refusal to grant and is not violative of due process,[2] the case-by-case approach currently in use may open the Department to allegations of a denial of due process.

What the department is saying by this is that, by implication, they are in effect doing what the Senator from New York has done. He has eliminated the objections to the Eshleman amendment and has come up with some language that I think will rectify a situation that could be subject to abuse by HEW, and which I think would be counter to our goal of achieving greater civil rights for people in our society. Therefore, I think the amendment of the Senator from New York, rather than being contrary to the interests of the Senator from Massachusetts, really enhances his goal.

Mr. BAYH. Mr. President, today we are considering an amendment to the Higher Education Act which could effectly destroy civil rights enforcement activities for minorities and women. This amendment, introduced by my colleague, Mr. BUCKLEY, has noble aims—it seeks to guarantee the due process rights of all institutional recipients of Federal funds, but in reality, it destroys the existing due process protections for victims of discrimination throughout our educational system.

Under the provisions of the Buckley amendment, the Secretary of Health, Education, and Welfare would be prohibited from either terminating or deferring Federal funds to any agency, institution or program until final judgment of noncompliance with the law has been reached, and after a hearing before a duly appointed administrative law judge. This amendment could, therefore, be interpreted as prohibiting HEW from using its enforcement tools until the completion of the entire appeal process, potentially all the way to the Supreme Court. I think that it is particularly important for all my colleagues to understand both the current enforcement process and the effect of the Buckley amendment on that process.

I. CURRENT ENFORCEMENT PROCESS

The Office of Civil Rights has a number of civil rights enforcement responsibilities. It is legally responsible for protecting minorities, women, and the handicapped from discrimination throughout our educational system. An essential part of the enforcement of existing discrimination laws has been the right to terminate or defer Federal funds for any institutions, agencies, or programs found to be in noncompliance with any discrimination statutes.

I think it is particularly important to understand that the current process does provide due process protection for both parties of concern—the recipient institution and the victims of discrimination.

When the Office of Civil Rights makes a preliminary finding of noncompliance, voluntary compliance is sought. If this effort is unsuccessful, the Department begins an administrative enforcement proceeding. At this time the Department may choose to defer the granting of new financial assistance to the effected institution. I think it is particularly important to note that the funding level prior to the commencement of enforcement proceedings is not reduced. Only new Federal assistance requested by the institution is effected by the deferment.

A measure known as the Fountain amendment that was added to the Education Amendment of 1966 guarantees the granting of a hearing shortly after money is deferred. The Fountain amendment prohibits HEW from deferring funds for more than 60 days, unless this period is extended by mutual consent of the parties involved, for the purpose of holding a hearing. An additional 30 days is allotted for the rendering of a decision.

Termination of funding can occur only when an administrative law judge has ruled that the institution or agency is in noncompliance.

II. EFFECTS OF THE BUCKLEY AMENDMENT

I would like to point out some of the detrimental effects of the Buckley language on the current enforcement process. First, it is important to stress that deferring or terminating funds are only tools available for enforcing civil rights laws.

In reality, the past record of deferments and terminations shows that a very small percentage of institutions have been affected by these actions. Since 1970, only 3 out of 118 enforcement proceedings for title IV resulted in a termination of funds. In the same period, there were only 86 cases where funds were deferred. Since there are approximately 17,000 school districts in the United States, this means that over the last 6 years only 0.02 percent of all school districts had their funds terminated and only 0.5 percent had their funds deferred.

Second, the Buckley amendment would impede civil rights enforcement in another way. The Office for Civil Rights has issued an impact statement on the Buckley amendment which states that removal of the power to defer funds would exacerbate the existing practice of many recipient institutions to delay hearings on discrimination complaints. The statement from HEW stated that the language "discourages recipients who have been notified of a determination of noncompliance from unduly delaying the commencement of a hearing. The possibility of deferral may encourage a recipient to enter into more meaningful negotiations than may be the case if the recipient believed it could delay any adverse action for an extended period of time."

The excessively broad provisions of the amendment pose still another problem: Though it is the intent of the amendment to only change laws which affect civil rights enforcement in education, the language makes the amendment apply to several other laws as well. The additional laws affected are those which allow the deferment or termination of funds prior to an administrative hearing. Examples of such laws cited in the Office of Civil Rights effect statement are Executive Order 11246—which allows HEW to, as the statement says, "refuse to let contracts to a bidder believed not to be in compliance, pending the completion of administrative or court proceedings" and various labor standards statutes—which allow HEW to withhold funds from contractors who violate the standards set forth in the statutes.

The Library of Congress has provided me with information that indicates many other laws are also involved. Among these laws is one which enables the Department to withhold funds to recoup indebtedness. Some of the programs which have procedures which violate the provisions of the amendment are the Follow Through program, supplemental educational opportunity grants and the emergency school assistance program.

III. PROGRESS AGAINST DISCRIMINATION

True advances have been made in eliminating race and sex discrimination in education over the past few years. For example, in the early 1960's of those students who received doctoral degrees, 0.8 percent were members of minority groups and 10 percent were women. In 1975, minority groups comprised 11.8 percent of those receiving doctorates while 21.9 percent were women. These increases demonstrate progress, yet simultaneously indicate a need for still more effort.

As the author of title IX, I have closely monitored the progress of women in their efforts to attain equality in education. It is evident that in many areas, progress has occurred. In the field of law, in 1960, 3 percent of the people who received bachelor degrees were women; in 1975, 11.5 percent were women. The medical schools have also shown increases. In 1971, 13.7 percent of the students entering medical school were women; in 1974, the figure was 22.2 percent. Yet, despite increases, the number of women receiving legal and medical training is still far below that which one would expect in a discrimination-free environment.

The presence of past sex discrimination is clearly evident when examining general educational statistics. In 1975, of those women ages 25 to 29, 45.7 percent had completed 12 years of school; only 37.2 percent of the men had completed that many years. Yet, in the same year, using the same age group, the corresponding figures for women and men who had 4 or more years of college education were 18.7 percent and 25.1 percent. These figures demonstrate we still have far to go. I urge my colleagues not to end the progress we have been making to date.

Mr. President, the last, but perhaps the most important reason for rejecting this amendment is that it is unconstitutional. Analysis of the constitutionality of this provision prepared by the Office of Civil Rights indicates that since this amendment makes it necessary for the Office of Education to fund a program that it has decried as in noncompliance with civil rights laws, the amendment forces the Office of Education to violate the equal protection issue of the 14th amendment. The fifth amendment prohibits the Government from violating the 14th amendment, so the Buckley provision would not be likely to be declared constitutional. Court precedents in similar, though not identical, cases provide convincing justification for this view.

Mr. President, the Buckley amendment is unnecessary, undesirable, and probably unconstitutional. No hearings have ever been held on this amendment; the abundant problems with the language provide proof that the measure has not been carefully studied. I urge my colleagues to reject the Buckley amendment.

Mr. BUCKLEY. Mr. President, I think that all sides of this matter have been amply examined. With the greatest respect for my friend from Massachusetts, I disagree with him on this one and on how HEW sometimes operates.

I yield back the remainder of my time.

Mr. PELL. Mr. President, I yield back the remainder of my time.

Mr. BROOKE. Mr. President, I move to table the amendment.

Mr. BUCKLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. JAVITS. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. BARTLETT). Regular order has been called for.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) and the Senator from New Hampshire (Mr. DURKIN) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. DOLE), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent due to a death in the family.

The result was announced—yeas 44, nays 42, as follows:

[Rollcall Vote No. 533 Leg.]

YEAS—44

Abourezk
Bayh
Biden
Brooke
Burdick
Cannon
Case
Church
Clark
Cranston
Culver
Eagleton
Ford
Glenn
Gravel
Hart, Gary
Hollings
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Moss
Muskie
Nelson
Pastore
Pell
Percy
Proxmire
Ribicoff
Scott, Hugh
Stafford
Stevenson
Stone
Symington
Weicker
Williams

NAYS—42

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Buckley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Curtis
Domenici
Eastland
Fannin
Fong
Griffin
Hansen
Haskell
Hatfield
Helms
Hruska
Johnston
Laxalt
McClellan
McClure
Morgan
Nunn
Packwood
Pearson
Randolph
Roth
Schweiker
Scott, William L.
Sparkman
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—14

Brock
Dole
Durkin
Garn
Goldwater
Hart, Philip A.
Hartke
Hathaway
Huddleston
Long
Magnuson
Mondale
Montoya
Tunney

So the motion to lay Mr. BUCKLEY's amendment on the table was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PELL. I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to reconsider. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. DURKIN) and the Senator from Washington (Mr. MAGNUSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. PACKWOOD) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 45, nays 40, as follows:

[Rollcall Vote No. 534 Leg.]

YEAS—45

Abourezk
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Culver
Eagleton
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Hollings
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Moss
Muskie
Nelson
Pastore
Pell
Percy
Proxmire
Ribicoff
Scott, Hugh
Stafford
Stevenson
Stone
Symington
Weicker
Williams

NAYS—40

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Buckley
Bumpers
Byrd, Harry F., Jr.
Chiles
Curtis
Domenici
Eastland
Fannin
Fong
Goldwater
Griffin
Hansen
Haskell
Hatfield
Helms
Hruska
Johnston
Laxalt
McClellan
McClure
Morgan
Nunn
Pearson
Randolph
Roth
Schweiker
Scott, William L.
Sparkman
Stennis
Stevens
Taft
Talmadge
Tower
Young

NOT VOTING—15

Bayh
Brock
Dole
Durkin
Garn
Hartke
Hathaway
Huddleston
Long
Magnuson
Mondale
Montoya
Packwood
Thurmond
Tunney

So the motion to table the motion to reconsider was agreed to.

AMENDMENT NO. 2094

Mr. BEALL. Mr. President, I call up my amendment No. 2094 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Maryland (Mr. BEALL), for himself, Mr. HATFIELD, Mr. TOWER, Mr. BUCKLEY, and Mr. LAXALT, proposes amendment No. 2094.

Mr. BEALL. Mr. President, I ask unanimous consent to substitute a revised text of the amendment that is at the desk which only makes some technical and clerical changes.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 223, beginning with line 20, strike out all through line 20 on page 226, and insert in lieu thereof the following:

"REQUIRED PARTICIPATION IN STATE PLANS

"SEC. 104. (a) Each State board, in formulating the comprehensive statewide long-range plan and annual program plan required by sections 106 and 108 shall involve the active participation of—

"(1) the State advisory council on vocational education;

"(2) the State Manpower Services Council appointed pursuant to section 107 of the Comprehensive Employment and Training Act of 1973;

"(3) the State agency, if any, having responsibility for community and junior colleges;

"(4) the State agency, if any, having responsibility for higher education institutions or programs;

"(5) the State agency, if separate from the State board, having responsibility for public elementary and secondary programs;

"(6) the State agency, if any, having responsibility for postsecondary occupational education programs; and

"(7) the State agency or commission responsible for comprehensive planning in postsecondary education, which planning reflects programs offered by public, private nonprofit and proprietary institutions, and includes occupational programs at less-than-baccalaureate degree level.

The participation required by this section shall include at least one meeting as a group during the planning year between representatives of the State board and representatives of each agency or council specified in this subsection.

"(b) In submitting the plans pursuant to sections 106 and 108, each State shall (1) include a statement by each agency listed in subsection (a) indicating the extent of such agency's participation in such plans, and (2) specifically respond to the recommendations of the State advisory council pursuant to section 105(d)(1) (i) and (ii), and in the event that such recommendations are not followed, indicate the reasons for its decision."

On page 227, between lines 14 and 15, insert the following new clauses:

"(5) a representative of the State agency, if any, having responsibility for higher education in the State;

"(6) a representative of the State agency, if any, having responsibility for community and junior colleges;

"(7) one shall be a representative of and be a vocational education teacher;".

On page 227, line 15, substitute "(8)" for "(5)".

On page 227, line 17, substitute "(9)" for "(6)".

On page 227, line 22, substitute "(10)" for "(7)".

On page 228, line 1, substitute "(11)" for "(8)".

On page 228, line 4, substitute "(12)" for "(9)".

On page 228, line 6, substitute "(13)" for "(10)".

On page 228, line 8, substitute "(14)" for "(11)".

On page 228, line 10, substitute "(15)" for "(12)".

On page 228, line 12, substitute "(16)" for "(13)".

On page 228, line 14, substitute "(17)" for "(14)".

On page 228, line 18, substitute "(18)" for "(15)".

On page 228, line 21, substitute "(19)" for "(16)".

On page 228, line 24, substitute "(20)" for "(17)".

On page 229, line 3, substitute "(21)" for "(18)".

On page 229, line 12, after the period insert the following new sentence: "A majority of the members of the State advisory council shall be individuals who are not educators or administrators in the field of education.".

On page 230, strike lines 3 through 8 and insert in lieu thereof the following:

"(d)(1)(A) Each State advisory council shall advise the State board in the development of the comprehensive statewide long-range plan and the annual program plan for vocational education. In carrying out its functions under this paragraph each State advisory council shall make recommendations for (i) areas for the concentration of effort and program priorities related to such concentration and (ii) the distribution of funds among various levels of education. The recommendations required by this paragraph shall be developed in close coordination with the State board. Recommendations required under this paragraph shall be submitted to the State board not later than 120 days prior to the submission of each such plan.

"(B) Each State advisory council shall advise the State board on policy matters arising out of the administration of programs under such plans."

On page 231, strike lines 4 through 16, and insert in lieu thereof the following:

"(f)(1) From the sums appropriated pursuant to this section for any fiscal year, the Commissioner is authorized (in accordance with regulations) to pay each State advisory council an amount equal to the reasonable amounts expended by it in carrying out its functions under this Act in such fiscal year, except that the amount available for such purpose for each State for any fiscal year shall not exceed 1 per centum of the amount allotted to each State under section 102, but such amount shall not exceed $300,000 and shall not be less than $100,000. In the case of Guam, American Samoa, and the Trust Territories of the Pacific Islands, the Commissioner may pay the advisory council in each such jurisdiction an amount less than the minimum specified in the preceding sentence if the Commissioner determines that the council can perform its functions with a lesser amount.

"(2) There are authorized to be appropriated $8,000,000 for the fiscal year 1978, $8,500,000 for the fiscal year 1979, $9,000,000 for the fiscal year 1980, $9,500,000 for the fiscal year 1981, and $10,000,000 for the fiscal year 1982 for the purpose of carrying out this section."

On page 231, line 18, strike out "planning commission".

On page 232, line 5, strike out "planning commission".

On page 233, line 8, beginning with the word "State" strike out through "section 104" in line 9 and insert in lieu thereof the following: "appropriate State agencies".

On page 233, lines 12 and 13, strike the words "State planning commission,".

On page 234, line 9, beginning with the word "approved", strike all through the word "board" on line 10.

On page 238, lines 6 and 7, delete the words "planning commission".

On page 238, line 17, before the semicolon insert the following: "and was prepared in accordance with the provisions of section 104(a);".

On page 238, strike out lines 18 through 22.

On page 238, line 23, substitute "(2)" for "(3)".

On page 239, line 1, substitute "(3)" for "(4)".

On page 239, line 9, substitute "(4)" for "(5)".

On page 239, line 15, substitute "(5)" for "(6)".

On page 239, line 19, substitute "(6)" for "(7)".

On page 240, line 5, substitute "(7)" for "(8)".

On page 242, line 3, strike out "(1)".

On page 242, strike out lines 8 through 13.

Mr. BEALL. Mr. President, on behalf of Senators BUCKLEY, HATFIELD, LAXALT, TOWER, and myself, I am offering this particular amendment.

The PRESIDING OFFICER. Will the Senator suspend? May we have order in the Senate?

The Senator may proceed.

Mr. BEALL. Mr. President, this amendment addresses the so-called governance issue which incidentally was one of the most difficult issues that our committee faced during deliberations on this bill. Distilled to its essence, the governance issue comes down to who makes the decision on the distribution of vocational education funds among educational institutions and levels of education in the respective States.

Under present law, States are required to distribute at least 15 percent of the Federal funds to postsecondary institutions. The committee received several recommendations to increase this postsecondary set-aside. Such recommendations varied from 25 to 40 percent. Rather than selecting a particular percentage, the committee decided "that this should be a State's own decision to make for itself."

Since in most States, the State board is responsible only for elementary and secondary education, postsecondary education, in particular, was either not involved or was inadequately involved in the decisionmaking. Thus, the committee decided to mandate the creation of a Planning Commission. The Planning Commission, whose membership would be comprised of the various interests, would be responsible for the "development and preparation of comprehensive statewide long-range plans and annual program plans" for vocational education in that State. If the membership of the State board conformed to the bill's requirements for the Planning Commission, the state board could serve as the planning commission.

In addition, the Hathaway amendment was added, prior to the reporting of S. 2657, to allow the waiver of the requirement to establish a Planning Commission, if all concerned State agencies certify that they actively participated in all phases of development, preparation, implementation and evaluation of the State plan.

However, under this amendment, if a State agency, even unreasonably, refused to certify full participation, a State would have to establish a state planning commission. Also, to secure such a waiver, the Commissioner of Education would have to determine whether such certification "substantially fulfills the purpose" of the Planning Commission provisions. This criterion is vague and could allow the commissioner of education to refuse certification, even if all the participants concurred.

Mr. President, my objections, however, are more central. In my opinion, the Federal Government should not dictate State governance or structure. This is particularly true, when one federally mandated and funded mechanism—the State advisory council—is in place and with appropriate amendments could achieve the objectives of the committee.

I agree that we should provide the States with maximum flexibility to determine their priorities and funding allocation.

I also agree that the various interests in vocational education should be involved and have input in the planning process and the funding allocation.

However, I do not agree that it is either necessary or desirable to require the creation of another layer of bureaucracy.

Mr. President, Amendment No. 2094 represents an alternative way to achieve the committee's objectives without adding another layer of bureaucracy which would divert additional resources away from students and programs.

This amendment that I have just offered would:

First. Strike the planning commission provisions from the bill.

Second. Add a new section to the bill to require the "active participation" of the various parties in both the long-range and annual plans. Such participation would include at least one meeting during the planning year with the State board and the parties specified. In addition, the comprehensive and annual plans would be required to include a statement by the parties on the extent of their participation.

Third. Amend the Advisory Council to add representatives, if any, of the State agency responsible for community colleges and for higher education and a classroom vocational education teacher. The Advisory Council would be specifically required to make recommendations to the State board, at least 6 months prior to the submission of the State plan, with respect to areas for the concentration of funds and priorities related thereto, and the funding allocation among the various levels of education. While such recommendations are only advisory, and not binding on the State board, the board would be required to indicate its reasons if it did not follow the recommendations of the council in the priority-setting and funding allocation areas.

Fourth. Increase the funding of the State advisory councils, including raising the minimum and maximum payments to such councils.

Mr. President, some have contended that the advisory councils are not effective in some States. That this merely converts the advisory councils to planning commissions or that it changes the role of advisory councils from an advisory body to an administrative one.

These arguments are specious and without merit.

If advisory councils are not effective, we should either make them effective or repeal them. The answer is not and should not be to create another council or commission.

The advisory council, under our amendment, does not become a Planning Commission. Instead, all the amendment does is to broaden its membership to provide greater representation for the postsecondary community and to provide greater involvement by the advisory councils in the planning process. The councils are not given any administrative authority, and their essential role of "advising" in the planning and priority-setting—including funding allocation—is retained.

I repeat, these responsibilities are advisory in nature. The State board is expected to consider carefully these recommendations in formulating the State plan. The requirement that the State board explain the rationale and reasons if it decided not to follow the advisory council's recommendation will asure careful consideration.

Mr. President, in summary, this proposal promises to achieve the objectives of the committee's Planning Commission, without forcing another federally mandated structure on the States and with less money.

In committee, a motion to strike the Planning Commission failed by a single vote. This illustrates the strong feelings that exist on this issue.

Mr. President, I urge the Senate to support the compromise proposal which will preserve the objectives of the committee without its objectionable features.

Mr. President, I point out one additional bit of information. We asked the Office of Education in the Department of Health, Education, and Welfare what they felt about this particular amendment, and I shall not read the entire letter, but I shall quote from the letter what I consider to be the pertinent paragraph. The letter is addressed to me, and it is signed by the Acting Secretary of the Department of Health, Education, and Welfare.

> We believe your amendment would substantially improve the governance provisions of Senate bill 2657.

Mr. McCLURE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BEALL. I am happy to yield to the Senator from Idaho, for a unanimous-consent request.

Mr. McCLURE. Mr. President, I ask unanimous consent that Mr. Jim Fields and Mr. Tom Hill of my staff be accorded the privilege of the floor during all proceedings and consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, I also point out that the chief State school officers, the State school superintendents, endorse this amendment to the bill. It is an amendment that makes good sense, and that is obvious because it is supported not only by the Office of Education in the Department of Health, Education, and Welfare, but also by the chief State school administrative officers of this country.

I urge the Senate to support the compromise proposal.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I strongly oppose the adoption of the amendment offered by the Senator from Maryland (Mr. BEALL). To my mind, it substantially weakens one of the major thrusts in the committee bill's provision relating to vocational education—assuring that all interested State agencies and other parties concerned with vocational education and training have a meaningful opportunity to participate in the development of the State's plan for vocational education.

Under current law, this is not the case. Only four States, including my own State of Rhode Island, have State boards for vocational education which encompass all levels of education, from preschool through graduate school. In the other 46 States, the State educational agency is responsible only for elementary and secondary level education. Postsecondary vocational education, an ever-increasing area in this country, does not have an adequate mechanism to make its views known as programs are planned and priorities set. S. 2657, as reported by the Committee on Labor and Public Welfare, provides for just such a mechanism.

The issue of planning and involvement, which is often reduced to the term "governance," was one which was given much attention in the Subcommittee on Education and again at the full committee level. Indeed, I do not believe that any issue was more fully discussed and more alternatives explored. What was reported by the committee as part of S. 2657 represents a delicate balance among a number of competing forces and interests. I am afraid that the amendment to the committee bill might upset that balance, and leave unchanged the current splits between secondary and postsecondary vocational education programs which the General Accounting Office and testimony before the committee revealed.

Let me make it very clear what the committee bill does and does not do.

It does not change the composition of any existing State board for vocational education. The bill as I originally introduced it on November 12, did suggest such changes. I believe that the Rhode Island cradle-to-grave approach to educational planning and administration makes a great deal of sense. However, requiring other States to change their organizational structures to accommodate the views of other State agencies—agencies which the State itself had established—was viewed as too sweeping a change. Therefore, the committee bill leaves unaltered the existing State boards of vocational education.

The bill does not require the creation of an additional organizational structure at the State level. The committee bill offers the States several optional organizational and decisionmaking patterns. First, the State can establish a State planning commission, made up, at a minimum, of a certain statutory membership. This list primarily includes in the planning process all State agencies—if they already exist—which have a valid and vital interest in vocational education and manpower training.

Second, if the State board for vocational education already includes the members listed in the committee bill, the State does not have to make any changes in its planning process. The State board for vocational education also serves as the State planning commission.

Third, if the State agencies who otherwise would participate in the planning commission certify to the Commissioner of Education that they have had an active opportunity to participate in the planning process—whether or not they are satisfied with the outcome—that certification will relieve the State of any requirement that it alter its current planning process.

The committee bill does not change the role of the State advisory council on vocational education. These councils have served an extremely valuable advisory role; they have become increasingly active and sophisticated in advising the State board for vocational education on its administration of the program and in evaluating program success or failure. However, their role has traditionally been limited to advice. As the General Accounting Office noted, the councils "have participated, in varying degrees, in evaluating vocational education programs, but have not served in any primary capacity in planning for the comprehensive provision of vocational education services." They are at present unprepared to take over the much stronger planning role contemplated by the amendment.

Part of the reason for this lies in the composition of State advisory councils. Their membership is primarily client groups of vocational education—disadvantaged, handicapped, individual community colleges, the general public—whereas the planning contemplated by the committee bill is done by State officials. These are the individuals who have the expertise to plan programs so that a State can put limited funds to the best use. After all, they have the responsibility to plan for the expenditure and distribution of equally scarce State funds, as part of their responsibilities under State law.

S. 2657 does not weaken the role of the State board for vocational education. In all instances, it is the only State body which deals with the U.S. Commissioner of Education. If it is dissatisfied with the product of the State planning commission, it returns it to the commission, with suggestions for change. The State board sends nothing to Washington of which it does not approve.

The committee-reported bill has been supported by the following list of major organizations deeply concerned with improving our Nation's vocational education:

The American Vocational Association;

The National Education Association;

The American Association of Community and Junior Colleges;

The American Council on Education;

The American Association of State Colleges and Universities;

The Council for Educational Development and Research, Inc.;

The National Association of State Universities and Land Grant Colleges; and

The American Association of Colleges for Teacher Education.

Yesterday, I introduced into the Record a number of communications in support of the committee-reported bill. I ask unanimous consent to have additional letters of support for the planning mechanism contained in S. 2657 printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

June 4, 1976.

Hon. Claiborne Pell,
U.S. Senate,
Washington, D.C.

Dear Senator Pell: The Senate will soon be considering the "Education Amendments of 1976" (S. 2657). This measure, if enacted as reported with amendments by the Committee on Labor and Public Welfare, would constitute a major step toward achieving the goal to which the Congress has committed itself during the past four years: equality of educational opportunity for all Americans.

The Committee bill affects a broad range of education subjects, institutions, and agencies. Favorable action by the Senate is requested by the following associations: American Association of Colleges for Teacher Education, American Association of Community and Junior Colleges, American Association of State Colleges and Universities, American Council on Education, American Personnel and Guidance Association, Council for Educational Development and Research, Inc., National Association of State Universities and Land Grant Colleges, National Education Association.

We are especially supportive of five provisions of the Committee bill which have a long-range positive effect on education.

(1) TEACHER TRAINING

The bill would revise Title V of the Higher Education Act of 1965 to reflect more nearly current and future educational and training needs of the nation's educational systems. The Teacher Corps would be maintained while the general program of education professions development would be ended, with a substitute program designed to meet specific needs for and of teachers. A mechanism for assessing current and future needs for education personnel would be established; training for higher education personnel would continue; funds for improving graduate programs of education would be included; and, most notable, assistance would be provided to local educational agencies to support teacher centers which are designed to meet the professional needs of teachers at the local level.

(2) VOCATIONAL EDUCATION

Title II of S. 2657 revises the Vocational Education Act of 1963. This revision is the first attempt to refocus federal support for vocational education since 1968. In keeping with the efforts made in 1963 and 1968, the revision is designed to modernize vocational education in the nation in order to more nearly meet the needs of all people of all ages for preparation for gainful and meaningful employment. Notable among the new features are the increased emphasis on planning for vocational programs, inclusion of features designed to overcome sex discrimination and sex stereotyping in vocational education, the encouragement given to new and improved vocational programs as opposed to maintaining existing programs, and the priorities given to meet the special needs of disadvantaged youth, handicapped persons, and persons with limited English-speaking ability.

The bill would establish State Planning Commissions for Vocational Education to carry out the planning process for vocational education in each of the states. The provision may well be the most significant aspect of the revision in that, for the first time, a body whose sole function is planning would look to the future needs for vocational education of all the people and assist in developing programs designed to meet those needs.

(3) EDUCATION ADMINISTRATION

The Education Amendments of 1976 propose a reorganization of the Education Division of the Department of Health, Education, and Welfare. The Education Division was established in 1972 as a means of having a distinct but uncentralized organization structure in the Department which is solely responsible for education. S. 2657 reorganizes and strengthens that structure by unifying the policy functions of the Assistant Secretary for Education and the Commissioner of Education and elevating the Commissioner to Executive Level III, equivalent to an Under Secretary.

This reorganization is a significant step toward the eventual establishment of a cabinet-level post for education.

(4) REGIONAL EDUCATIONAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS

The bill continues the National Institute of Education through 1982. In so doing the bill would change NIE to guarantee the continuance of the regional educational laboratories and research and development centers which have been supported in the past and encourage the establishment of new laboratories and centers when merited. The bill establishes a review panel to advise the Director of NIE on support for laboratories and centers, which will insure decentralized policy in educational research and development, thereby encouraging field-initiated approaches to solving problems in education.

(5) GUIDANCE AND COUNSELING

The bill contains a number of provisions which support guidance and counseling. These provisions recognize the importance of counseling throughout the educational process. Most importantly, Title V–B would establish an administrative unit within the Office of Education with responsibility for assisting and coordinating guidance and counseling activities in all education programs. That unit should give guidance and counseling the recognition it merits.

We urge you to support the "Education Amendments of 1976" when it is considered by the Senate and to oppose any amendments which would weaken these important provisions of the bill.

If you would like more information on these issues, please feel free to call any one of us.

Sincerely,

David Imig, American Association of Colleges for Teacher Education; Jack Terrill, American Association of Community and Junior Colleges; Jerold Roschwalb, American Association of State Colleges and Universities; Charles B. Saunders, Jr., American Council on Education;

P. J. McDonough, American Personnel and Guidance Association; Joseph Schneider, Council for Educational Development and Research, Inc.; John P. Mallan, National Association of State Universities and Land Grant Colleges; Stanley J. McFarland, National Education Association.

AMERICAN ASSOCIATION OF
COMMUNITY AND JUNIOR COLLEGES,
June 11, 1976.

DEAR SENATOR PELL: The Senate will soon be considering S. 2657. The Subcommittee on Education and the Committee on Labor and Public Welfare have included a State Planning Commission for Vocational Education in the bill reported to the floor for action.

The Committee decided upon the State Planning Commission as the means of solving administrative problems in many states where presently the secondary-oriented State Boards of Vocational Education do not give adequate support to vocational education at the postsecondary level. Rather than mandate an increased set-aside for postsecondary (now set at 15%) the Committee decided that the best approach is to open up the planning process so that all vocational elements in the state can participate in planning for the allocation of Federal vocational education funds. Thus the State Planning Comissions will have representatives from all significant parties at interest in the state (see attached for Sec. 104 of S. 2657). You will note the provision in Sec. 104(e) that Sen. Hathaway proposed that any State that already had such a representative planning group could have this provision waived.

AACJC participated actively in the development of this concept and strongly believes that the State Planning Commissions will effectively improve participation of community colleges and other postsecondary vocational education institutions. (We have secured a similar planning mechanism in the bill approved by the full House).

Despite the merits of the idea there is some opposition, and it is understood that a move may be made during the Senate debate on the floor to remove the State Planning Commission section from the bill.

It is known that Senator Beall plans to offer a compromise amendment somewhat strengthening the State Advisory Councils, requiring them to submit their recommendations to the State Boards before final plans are developed. However, the State Advisory Councils would still have only advisory functions. Although the State Board would have to explain why it did not follow the Advisory Council's recommendations, it is under no obligation to do so, thus defeating the intent of this section.

AACJC strongly urges you to support the current provision in S. 2657 worked out so carefully by Senator Pell in the Subcommittee after hearings and responding to many interested groups to a draft of the bill. You can see in the language attached from pages 65–66 of the Report that thoughtful consideration was given to using the State Advisory Councils. But, like the House, this idea was rejected as compromising a very important group that has an entirely different function mandated in earlier legislation and elsewhere in this bill.

Your serious consideration will be sincerely appreciated. If we could be of any assistance to you or your staff in this regard, we would be pleased to respond to any request.

Respectfully,

JOHN E. TIRRELL,
Vice President for Governmental Affairs.

Mr. PELL. Mr. President, the amendment before the Senate was never formally offered in draft form at the Committee on Labor and Public Welfare considering this legislation. It was never the subject of hearings.

The bill adopted by the House of Representatives proposes still another approach to the issue of involvement in planning in a meaningful way. Obviously, in conference, some compromise must be struck.

I urge my colleagues not to undo the balance achieved by the committee-reported bill, a balance which has received almost universal support from the vocational education community. I urge you to vote against this amendment.

Mr. BEALL. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BEALL. Mr. President, if the distinguished Senator from Rhode Island is prepared to yield back his time, I am prepared to yield back my time.

Mr. PELL. Mr. President, I yield to the chairman of the full committee, the Senator from New Jersey.

Mr. WILLIAMS. Mr. President, S. 2657 makes changes in the Vocational Education Act to provide for comprehensive long-range planning and to assure that State planning takes into consideration the needs of the student for employable skills, and to assist vocational education for keeping up with the changing employment environment.

In particular, S. 2657 provides for a new statewide planning commission involving in the planning process those persons in the State responsible for manpower programs, for higher education programs, both 4 years and other programs, and elementary and secondary programs. This provision is one around which some controversy has developed and on which the Senator from Maryland has indicated he will offer an amendment so I would like to for my colleagues describe the current situation in the State of New Jersey and the impact of this provision.

New Jersey has three separate agencies which operate higher education, elementary and secondary, and manpower programs. It also has two boards of education, the State board of education vested with policymaking authority for all elementary and secondary programs, and the State board of higher education with policy making authority for all postsecondary programs, with the exception of noncollegiate postsecondary vocational education programs. The issue of comprehensive planning and the establishment of a State planning commission is one which is, therefore, sensitive in New Jersey in terms of what authority is vested where.

The State planning commission in S. 2657, however, does not disturb that authority in the State of New Jersey. The sole State agency for administering vocational education will continue to be the department of education. The State board of education will continue to be the final policymaking body. What the provisions of S. 2657 provide for is input in statewide planning for vocational and technical education by all the responsible governmental agencies whose programs overlap that educational area, and whose policy charge may involve the same students.

The committee bill does not mandate a new separate planning body. If a body—for example, the State board—exists with membership of the appropriate agencies having responsibility for secondary and postsecondary educational programs, for community and junior colleges, for higher education and the State manpower council. Furthermore, it does not mandate the establishment of a commission if each of these State agencies certifies that it had been involved in the planning.

The responsibilities of the State board for policymaking and the advisory role of the State advisory councils remain the same under S. 2657. All that this bill does is assure that all segments of the population will be considered and all responsible State agencies will come together to plan for vocational and technical education.

Therefore, having been through this in a State that has a complexity of administration, and knowing that the goal was to bring them all into the process, the result here—that is, in the bill—meets the most complex situation that I could imagine. Therefore, I am strongly in support of the bill as it is; I am opposed to the amendment that is offered.

Mr. PELL. I thank my colleague from New Jersey. I am prepared to yield back my time.

I yield to the Senator from Maryland.

Mr. BEALL. Mr. President, I certainly sympathize with the Senator from New Jersey in his objective. The objective of my amendment is to make certain that there is input from all interested parties in the planning process. If New Jersey does not like its structure, it is up to

New Jersey to change its structure. I do not think the Federal Government should be mandating a change in the structure of all States, but we should insist that everybody is participating in the planning process. My amendment simply mandates that the appropriate, interested parties be permitted—in fact be required—to participate in the planning process, without mandating the structure of the State. If we did that in the State of Maryland, we would require, by Federal law, that our State change its structure.

I do not think we ought to be requiring that States change their structure unnecessarily. It imposes additional costs on them and also imposes additional costs on the Federal Government.

I hope the Senate will adopt the amendment.

I ask unanimous consent that my colleague from Maryland (Mr. Mathias) and my colleague from North Carolina (Mr. Helms) be added as cosponsors to my amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. PELL. What is the unanimous-consent request?

The PRESIDING OFFICER. For two additional cosponsors.

Mr. PELL. I have no objection.

Mr. JACKSON. Mr. President, I voted for the Beall amendment No. 2094 for reasons described in a letter which Senator Magnuson and I sent to the chairman of the Subcommittee on Education earlier this year. I ask unanimous consent that our letter be printed in the Record.

Although the committee bill does include a modification of the version of the bill referred to in our letter, it would not have been sufficient to take care of the situation in Washington State. I would like the record to show my reasons for opposing the committee position in this matter.

There being no objection, the letter was ordered to be printed in the Record, as follows:

March 1, 1976.

Hon. Claiborne Pell,
Chairman, Subcommittee on Education, Labor and Public Welfare Committee, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: We are writing to express some specific concerns about S. 2657 now being marked up in the Subcommittee of Education. The State of Washington has some very definite problems with the latest version of that legislation that they have seen because of the way in which the state's vocational administration has developed there. Washington has had a separate organization for the coordination of federal vocational funding since 1957. Only last year that coordinating body was reconstituted by our State Legislature, its powers altered, and its membership changed in ways that appear to be incompatible with the published versions of your bill.

Our Legislature took this action in order to rid the existing system of two problems. First, there had been a tremendous expansion of the bureaucracy administering federal vocational funds, even to the point where a coordinating and planning body was actually running some training programs. Second, under the old system, there was no way to resolve conflicts that developed between the common school system and the postsecondary system as they relate to vocational education. Under the proposal they have seen in S. 2657, this commission would have to be changed once again and the expansion of power contemplated would put the State of Washington back into a situation similar to the one that the Legislature tried to rectify only last year.

The situation in Washington is somewhat unique, but this uniqueness only serves to illustrate the problem of writing such specific and detailed legislation to cover situations in all 50 states. In particular, we are concerned that building such a strong administrative structure for vocational education at the state level will have the tendency of drawing funds away from programs for students.

We are hopeful that the legislation can be redrafted in such a fashion as to permit states the option of organizing the governance of vocational education in their own way while at the same time requiring that such administration begin overcoming the problems that you and your committee have identified in the administration of vocational education. We do not believe that these aims are incompatible and look forward to working with you and your staff to effect a compromise on this important legislation.

Sincerely yours,
Warren G. Magnuson,
Henry M. Jackson,
U.S. Senators.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PELL. Yes. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays were ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (when his name was called). Mr. President, I have a pair with the Senator from Washington (Mr. Magnuson). If he were present and voting, he would vote "aye." If I were permitted to vote, I would vote "nay." I, therefore, withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Hartke), the Senator from Maine (Mr. Hathaway), the Senator from Kentucky (Mr. Huddleston), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), and the Senator from California (Mr. Tunney) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Kansas (Mr. Dole), the Senator from Oregon (Mr. Packwood), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

I further announce that the Senator from Utah (Mr. Garn) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "yea."

The result was announced—yeas 36, nays 50, as follows:

[Rollcall Vote No. 535 Leg.]

YEAS—36

Baker
Bartlett
Beall
Bellmon
Buckley
Bumpers
Byrd, Harry F., Jr.
Cannon
Chiles
Curtis
Domenici
Fannin
Fong
Goldwater
Gravel
Griffin
Hansen
Hatfield
Helms
Hruska
Jackson
Johnston
Laxalt
Mathias
McClellan
McClure
Pearson
Randolph
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stevens
Tower
Young

NAYS—50

Abourezk
Allen
Bayh
Bentsen
Biden
Brooke
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Durkin
Eagleton
Eastland
Ford
Glenn
Hart, Gary
Hart, Philip A.
Haskell
Hollings
Humphrey
Inouye
Javits
Kennedy
Leahy
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pell
Percy
Proxmire
Ribicoff
Sparkman
Stennis
Stevenson
Stone
Symington
Taft
Talmadge
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—13

Brock
Dole
Garn
Hartke
Hathaway
Huddleston
Long
Magnuson
Mondale
Montoya
Packwood
Thurmond
Tunney

So Mr. Beall's amendment was rejected.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 380

Mr. HATFIELD. Mr. President, I have an unprinted amendment and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. Hatfield), for himself and Mr. Hartke, proposes an unprinted amendment No. 380.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 322, between lines 6 and 7, insert the following new section:

COMMISSION ON PROPOSALS FOR A NATIONAL ACADEMY OF PEACE

Sec. 328. (a) There is established a commission to be known as the Commission on Proposals for a National Academy of Peace and Conflict Resolution (hereinafter in this section referred to as the "Commission").

(b) The Commission shall be composed of nine members as follows:

(1) Three members shall be appointed by the President by and *with the* advice and consent of the Senate.

(2) Three members shall be appointed by the President pro tempore of the Senate.

(3) Three members shall be appointed by the Speaker of the House of Representatives.

(c) (1) Any vacancy in the Commission shall not affect its powers.

(2) The Commission shall elect a chairman and a vice chairman from among its members.

(3) Five members of the Commission shall constitute a quorum.

(d) (1) The Commission shall undertake a study to consider—

(A) establishing a National Academy of Peace and Conflict Resolution consistent with the proposals contained in S. 2976, the George Washington Peace Academy Act, modified by considerations of size, cost, location, relation to existing public and private institutions, and the likely effect the establishment of such an academy would have on such existing institutions, and the relation of such an academy to the Federal Government;

(B) the feasibility of making grants and providing other assistance to existing institutions of higher education as an alternative to or as a supplement for a National Academy of Peace and Conflict Resolution; and

(C) alternative proposals available to the Federal Government to accomplish the objectives contained in that proposal.

(2) In conducting the study required by this section the Commission shall—

(A) review the theory and techniques of peaceful resolution of differences between nations, and draw on the experience of public and private institutions concerned with conflict resolution and of informal government leaders of peaceful methods of conflict resolution;

(B) conduct inquiries into existing institutions of international relations, labor-management, racial, community, and family relations, and

(C) consider proposals for combinations of mechanisms available to the Federal Government to strengthen the accomplishment of its peaceful purposes, including the establishment of a National Academy of Peace and Conflict Resolution.

(3) The Commission shall submit to the President and to the Congress interim reports with respect to the study and investigation and a final report, not later than one year after the date of the enactment of the education amendments of 1976, containing its findings and recommendations for such additional legislation as the Commission deems advisable.

(e) (1) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this section, take such testimony, and sit and act at such times and places as the Commission, subcommittee, or members deem advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission, or any subcommittee or member thereof.

(2) Each department, agency, and instrumentality of the executive branch of the Federal Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the chairman or vice chairman, such information as the Commission deems necessary to carry out its functions under this section.

(3) Subject to such rules and regulations as may be adopted by the Commission, the chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, shall have the power—

(A) to appoint and fix the compensation of such staff personnel as he deems necessary including an executive director who may be compensated at a rate not in excess of that provided for Level V of the Executive Schedule in title 5, United States Code, and

(B) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

(f) Members of the Commission shall receive compensation at the daily rate specified for GS-18 under section 5332 of title 5, United States Code, for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(g) There are authorized to be appropriated, such sums, not to exceed $350,000, as may be necessary to carry out the provisions of this section.

(h) The Commission shall cease to exist 60 days after the submission of its final report.

On page 101, in the Table of Contents, after item "Sec. 327." insert the following:

"Sec. 328. Commission on the Proposals for National Academy of Peace.".

Mr. HATFIELD. Mr. President, I yield the floor.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that his amendment be set aside?

Mr. HATFIELD. Mr. President, I ask unanimous consent that my amendment be set aside until the Senator from Delaware has had an opportunity to present his.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Will the Senator yield?

Mr. ROTH. Mr. President, I yield for the purpose of a unanimous-consent request.

Mr. GLENN. Mr. President, I ask unanimous consent that two members of my staff, Len Bickwit and Reginald Gilliam, be granted privilege of the floor during consideration and voting on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Will the Senator yield?

Mr. ROTH. Mr. President, I also yield to the Senator without losing my right to the floor.

Mr. BELLMON. Mr. President, I ask unanimous consent that Dick Woods of my staff be granted privilege of the floor during the consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2122

Mr. ROTH. Mr. President, I call up my amendment No. 2122.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Delaware (Mr. ROTH) proposes an amendment No. 2122.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 322, between lines 6 and 7, insert the following new section:
>
> "EQUAL EDUCATIONAL OPPORTUNITIES
>
> "SEC. 328. Section 203(b) of the Education Amendments of 1974 is amended by inserting a period after 'dual school systems' and striking out the remainder of the sentence."
>
> On page 101, in the table of contents, after item "Sec. 327." insert the following new item:
>
> "Sec. 328. Equal educational opportunities.".

Mr. ROTH. Mr. President, I ask unanimous consent that the junior Senator from Delaware (Mr. BIDEN) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Will the Senator yield for a unanimous-consent request?

Mr. ROTH. I yield.

Mr. McINTYRE. Mr. President, I ask unanimous consent that John Cross of my staff be granted privilege of the floor during the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, there will be 50 minutes on this amendment to be equally divided, 25 minutes under the control of the managers of the bill and 25 minutes under control of the Senator from Delaware, the sponsor of the amendment.

Mr. ROTH. Mr. President, the Roth-Biden amendment strikes certain language from the findings section of title II of the Education Amendments of 1974 commonly referred to as the Esch amendment.

The language proposed to be stricken is the proviso contained in section 203(b) which is as follows:

> . . . except that the provisions of this title are not intended to modify or diminish the authority of the courts of the United States to enforce fully the fifth and fourteenth amendments to the Constitution of the United States.

The source of this language was the so-called Scott-Mansfield amendment. In presenting the amendment, the distinguished Senator from Pennsylvania indicated that this was merely clarifying language—to make clear that the bill was not intended to prevent the courts from upholding the Constitution—however, the U.S. court of appeals for the sixth circuit has misconstrued the language as "not limiting either the nature or scope of the remedy for constitutional violations"—and held the act not applicable to the Federal Judiciary. (*Brinkman* v. *Gilligan*, 518 F. 2d 853 (6th Cir. 1975).)

By removing this language through the adoption of my amendment, we are merely reasserting our intention that a court formulate its remedy for a denial of equal educational opportunity in accordance with the priority of remedial alternatives set out in section 214 of Public Law 93-380. That priority of remedies is as follows:

Assigning students to schools closest to their homes, taking into account school capacities and natural physical barriers.

Assigning students to schools closest to their homes, considering only school capacity.

Permitting students to transfer from a majority to a minority student concentration of their race, color, or national origin.

Creation or revision of attendance zones or grade structures without requiring transportation beyond the school next closest to the student's home.

Construction of new schools.

Closing of inferior schools.

And any other plan which is educationally sound and administratively feasible which does not require transportation beyond the next closest school or across district lines, unless such lines were drawn for the purpose, and had the effect of segregating students among public schools on the basis of race, color, or national origin.

The proviso regarding school district lines is extremely important, because it correctly requires a racial purpose or intent as an essential element of unlawful discrimination. Lower Federal courts have been prone to ignore this element and declare laws or official acts unconstitutional solely because of racial impact, even though the Supreme Court has not.

The recent Supreme Court decision in Washington against Davis (No. 74–1942, June 7, 1976) is directly on point.

In ruling that a job-qualification test given police applicants was not unconstitutional simply because four times more blacks than whites failed it, the Supreme Court stated:

> Our cases have not embraced the proposition that a law or other official act, without regard to whether it reflects a racially discriminatory purpose, is unconstitutional *solely* because it has a racially disproportionate impact. (*Washington,* at p. 8)

In support of its ruling that a racial purpose or intent is an essential element of unlawful discrimination, the Supreme Court specifically cited school desegregation cases as demonstrative that the law is identical in other contexts:

> The school desegregation cases have also adhered to the basic equal protection principle that the invidious quality of a law claimed to be racially discriminatory must ultimately be traced to a racially discriminatory purpose. That there are both predominately black and predominately white schools in a community is not alone violative of the Equal Protection Clause. The essential element of *de jure* segregation is "a current condition of segregation resulting from intentional state action . . . the differentiating factor between *de jure* segregation and so-called *de facto* segregation . . . is purpose or intent to segregate." *Keys v. School District No. 1,* 413 U.S. 189, 205, 208, (1973). (Ibid., at pp. 9 and 10)

Many constitutional scholars find it difficult to reconcile this language with recent Federal district court decisions. In my own State of Delaware, a three-judge district court, after clearly stating the evidence did not substantiate any finding of racial purpose or intent, nonetheless held a State statute unconstitutional solely because it had a racially disproportionate impact. (*Evans* v. *Buchanan,* 393 F. Supp. 428 (D. Del. 1975).)

Many people today are critical of the judiciary. I, for one, believe the courts have usurped prerogatives properly belonging to the elected representatives of the people. By ruling on the basis of their view of "enlightened" social policy rather than the law, the courts have become a super-legislature responsible to no one.

Perhaps the best illustration of the evils that flow from judicial enforcement of social policy in the guise of constitutional adjudication is the deplorable mess in which the schools of the Nation find themselves today as a result of court-ordered busing. In 1954, the Supreme Court in Brown against Board of Education laid down a constitutional principle with which few would disagree, that is, no State may compel separation of the races in the public schools. In other words, the States may not, on the basis of a child's race or color, designate where he is to attend school. Over the course of two decades, however, the noble principle of Brown has been rewritten to the point that we find the present Court announcing that the 14th amendment, far from prohibiting the assignment of pupils on account of race, actually demands it.

The basis for the Court's 180 degree reversal in approach to the problem of school segregation cannot be found in the enduring principle of equal protection which remains the same today as it was in 1954. Rather, it may be explained only for what it actually was—an unrestrained exercise of judicial policymaking totally at odds with the function of the courts under the Constitution.

Patterns of concentration by race and national origin have always existed in American cities and towns. Such concentrations are the natural outgrowth of group loyalties and cultural bonds. These patterns are more often the result of individual choice, rather than discrimination.

The Constitution does not require that racial or ethnic communities be destroyed. It only requires that no individual be confined to them by law. Our whole history has been to allow individuals full freedom to maintain or abandon their ties with such communities.

The polls indicate that the vast majority of Americans favor desegregation yet oppose busing. What the people are telling us is that they want desegregation and education, not desegregation at the expense of education. In terms of quality education, court-ordered busing has been counter-productive. The courts have focused so intently on racial balance that they have lost sight of what such balance was to achieve.

Our public school system is rapidly deteriorating. School tests demonstrate that children are not learning the basic skills of education. The scholastic aptitude tests taken by nearly 1 million college-bound dropped sharply to the lowest level in more than two decades.

There are remedies other than busing through which we can achieve quality education for all children, regardless of race, color or national origin. Title II of Public Law 93–380 provides a priority of remedies consistent with that goal.

It is now up to Congress to clearly indicate to the courts that they formulate their remedies in accordance with that act.

I would like to point out that on May 11 the House passed an identical amendment offered by Mr. Esch to H.R. 12835. I am hopeful that my colleagues in the Senate will take similar action.

At this time I will yield 5 minutes to my junior colleague from Delaware.

Mr. BIDEN. I thank the Senator.

I shall not take very much of the Senate's time. My distinguished colleague (Mr. Roth) has, I think, stated our position very well. I would like to amplify a few points, if I may.

First and foremost is the elimination of what has been referred to in the past as the Scott-Mansfield language and which is presently part of the law. In fact, it says, and it sounds very innocuous, that, "Nothing in this title is intended to modify or diminish the authority of the courts of the United States to enforce fully the Fifth and Fourteenth Amendments of the Constitution of the United States."

When that was offered in 1974, it was argued that we wanted to assure everyone that we had no intention to interfere with the Constitution or do away with the authority of the courts to make certain rulings.

We further went on in that law and said, "Look, Courts, we understand you might have to bus on occasion, but we want to make sure that you first exhaust other possible remedies."

We set out a section in the law entitled "Priority of Remedies." Included in the priority of remedies were such things as transfer zones, attendance zones, and so forth. What we tried to get the court to do was to say, "When, in fact, you find there has been discrimination within a school system requiring some action on the part of the court to eliminate that constitutional violation, you start off in the following way," and we listed in that instance several alternatives to busing.

We said, "After you have gone through those eight alternatives and you still determine that implementing them would not satisfy the Constitution, then you can go ahead and order busing. But we want to make sure you have really looked at it." We said in the law not "may" but "shall."

In section 214, referring to the courts in formulating remedies, we said "and shall require implementation of the first of the remedies set out below or the first combination thereof which would remedy such denial."

I voted for that in 1974 on the assumption that all we were doing was mollifying those who were concerned we might be interfering with the constitutional authority of the courts. But what has happened subsequently is that variout Federal courts have interpreted the existence of the Scott-Mansfield language as allowing them to overlook the congressional intent and priorities set out in the law.

Courts have ruled, quite frankly with very tortured reasoning, "With the existence of that language we are not compelled to make a specific finding that any of your seven or so remedies will not satisfy the situation. All we have to do is decide busing will satisfy it."

That is not, as I understood it, what this U.S. Senate intended in 1974. If that is what we intended, I wonder why we went to all the trouble to draft a law that included within it a priority of remedies. Why would we bother to do that if we really meant that the court did not have to look at a priority in making a determination?

Well, what has happened, as I said, is that the courts have decided, or some of the courts and lower courts have decided, that because of the existence of Scott-

Mansfield language in the bill they do not have to follow our test.

What the Roth-Biden amendment does is try to clarify the issue. Unfortunately, in my opinion—and I must be honest—it does not eliminate all busing. I wish it did. What it does do is say, "If, in fact, you are going to order busing, Federal courts, you must make a specific finding that the other remedies listed are not capable of doing the job."

That is simply what it does.

I have talked to some of my friends who usually vote on the opposite side of the issue.

Will the Senator from Delaware yield me 2 additional minutes?

Mr. ROTH. I yield.

(Mr. GLENN assumed the chair at this point.)

Mr. BIDEN. Unfortunately, they are not here now. Along with my senior colleague I have been bending their ears for the last day and a half. Some of the people who voted in 1974, believed this was merely language to quell concern about our attempt to violate the Constitution, if that is how it would be characterized, said, "I did not realize the courts were making the findings you have just stated, Joe. That was not our intent in the first place."

I wish we had everyone here to listen to this. I particularly wish they were here to listen to my distinguished colleague from Delaware and the opposition, whoever will be speaking on this, because I would like it clarified. I would like them to go away from this Chamber with a clear understanding of what we are talking about.

What happens in the meantime is the argument breaks down into whether or not one is for civil rights or against civil rights, whether they are a good guy or a bad guy. As was stated to me by a staff friend of mine, "You are going after the Constitution again, Jo. Ha, ha, ha."

That is really how this is usually argued in the cloakrooms, in the hallways, on the way to the elevators, when we are stopped by opponents or proponents, and we seldom get to the specifics or the merits.

In conclusion, we are not in any way tampering with the Constitution. We cannot, by statute, amend the Constitution, so there is no need for the language in the first place.

We are only attempting to assure that the courts no longer use the Scott-Mansfield language as a dodge to avoid the congressional intent and the law, which says, "Try these other ones first, and make a specific finding that they do not work before you use the drastic step of busing."

Mr. President, I yield back to my colleague from Delaware, or whoever seeks the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. JAVITS. Mr. President, I shall speak in opposition to this amendment.

This amendment is an effort to legislate a constitutional amendment in a law. That is all it amounts to. The cases that are alleged to have decided something only say exactly that.

I challenge any conclusion such as is contained in the memorandum on this amendment which has been distributed to all Senators, which says:

> In 1975, the U.S. Court of Appeals for the 6th Circuit determined that title II of the Education Amendments of 1974 was not applicable to the Federal courts because of the Scott-Mansfield language contained in section 203(b).

The part which I challenge is:

> Because of the Scott-Mansfield language contained in section 203(b).

Mr. President, the Scott-Mansfield language, the Roth-Biden language, my language, or anyone else's language, unless incorporated in a constitutional amendment, does not change the Constitution of the United States; and the Fifth and Fourteenth Amendments remain fully in effect no matter what we say.

If we adopted the amendment which Senator ROTH and Senator BIDEN have put forth, it would change nothing; it would only cause social disorder and social distress. That is all it would do. It would invite a confrontation with the courts, which we have sought to avoid, not in the interest of blacks going to public schools, but in the interests of all the people of our country, who want some semblance of order and tranquility, and when they are ready to amend the Constitution they will do it.

Mr. President, I am not given to making assertions without proof, so I read the decision on which this whole idea is based, of Brinkman against Gilligan. Mr. President, this is what it says, and I invite my colleague from Delaware to follow. The court, in its operating language, says at page 556 of 519 Federal 2d:

> We construe the 1974 Act—

To wit, the one we are talking about—

> read as a whole, as not limiting either the nature or the scope of the remedy for constitutional violations in the instant case.

They did not talk about priorities. That is all that title II talked about, and the section to which my colleague has made reference, section 214, talked about: priorities. They just said it cannot limit what the courts do in curtailing constitutional rights as they respect the rights of individuals. And it cannot; and it did not intend to. The only thing the Scott-Mansfield language was intended to do was politically, in its highest sense, to reassure the people of our country that Congress was not trying to change the Constitution or to engage in a face-to-face confrontation with the Supreme Court of the United States, because we, too, like everyone else, respected the findings of the Constitution as to the rights of individuals, and that we did not intend to pass a law to change the Constitution, first because we could not do it, and second because it would be very bad policy to try.

It is the latter point upon which this amendment ought to be decisively defeated. It is very bad public policy to try. We have enough trouble with this kind of conflagration in this country without inviting and asking for a confrontation with the court.

Mr. President, I would refer Senators in that regard to a report of the Civil Rights Commission of the United States just issued, dealing with school desegregation standards. Here is what it says, at page 10:

> Although Congress may legislatively define appropriate remedies for the violation of rights conferred by statute, Congress may not restrict judicial remedies for violation of constitutional rights. The right to attend nonsegregated schools, although reaffirmed by various statutes, is a right conferred on all by the Constitution.

That is the basis, of course, for the 1954 decision of the U.S. Supreme Court.

Now, section 5 of the 14th amendment, which is one of the amendments in question, provides that:

> The Congress shall have power to enforce, by appropriate legislation, the provisions of this Article.

That relates, of course, to equal standing before the law. This obviously does not authorize Congress to take away the protection of the 14th amendment, or to limit the way in which it can be enforced. But Congress can exercise its judgment, which it offered to the Supreme Court, as to the order of priorities or its feeling as to the policy which ought to be pursued.

Mr. President, in Katzenbach against Morgan—we will give the date of that decision very shortly; it is 1975—where the court was dealing with a provision of the Voting Rights Act, the court said:

> Contrary to the suggestion of the dissent . . . section 5 (of the 14th Amendment) does not grant Congress power to exercise discretion in the other direction and to enact "statutes so as in effect to dilute equal protection and due process decisions of this court." We emphasize that Congress' power under section 5 is limited to adopting measures to enforce the guarantees of the Amendment; section 5 grants Congress no power to restrict, abrogate, or dilute these guarantees.

That is exactly what the circuit court of appeals said in the case which our colleagues depend upon to sustain their position, Brinkman against Gilligan. It said:

> We construe the 1974 Act, read as a whole, as not limiting either the nature or the scope of the remedy for constitutional violations in the instant case.

As a matter of fact, the court in this Gilligan case actually followed the orders of precedence which are contained in section 214, because the plan approved by the district court in that case actually was inadequate in terms of the constitutional requirement, and the court sent it back to make it adequate. So the court did not take exception, except on one specific kind of a school which is not relevant to this discussion, to the order of the remedies which the lower court had described, but what the court said was, "That does not limit us, and we send it back to the district court to approve the desegregation plan, bearing in mind that we are not confined nor limited to the remedies prescribed in the Education Act, because it is a constitutional right that is being enforced, not a contractual or other legal right which is developed by statute, and therefore may not come under the particular constitutional provision."

Mr. BIDEN. Mr. President, will the

Senator yield for a brief question on that one case?

Mr. JAVITS. Surely.

Mr. BIDEN. Is the Senator suggesting that the language which he read, which said that the Congress cannot dilute the effect——

Mr. JAVITS. Limit, Senator BIDEN.

Mr. BIDEN. Limit?

Mr. JAVITS. I beg the Senator's pardon; he was referring to the Katzenbach case.

Mr. BIDEN. Dilute the effect of the 14th amendment; is he suggesting that prescribing the remedy dilutes the jurisdiction, in effect, of the 14th amendment?

Mr. JAVITS. No; I am not. What that bears on is the fact that the court held that measures which implement the guarantees are perfectly proper for Congress, but that they cannot adopt measures which reduce the guarantees, because that is changing the Constitution.

Mr. BIDEN. Is the Senator suggesting that if you deal with the remedies, you are proscribing the guarantees?

Mr. JAVITS. I suggest only that that is what the Supreme Court held, and that this court, the appellate court, did no differently.

The theory of this amendment was, as I understood it—and that is the broadside attack that you gentlemen made—that the courts had held that section 214 was not applicable, therefore, they need not pay any attention to it. However, you wanted them to pay attention to it so you were going to strike certain language in the Scott-Mansfield compromise. I am pointing out the court held no such thing. Indeed it did not pass on the question of priorities. It just held—and I am going to go back to the statute now and prove that—that you cannot limit the guarantees which the Constitution provides and that the courts——

Mr. BIDEN. But you could limit the remedies.

Mr. JAVITS. You cannot limit the remedies which the Constitution calls for—to guarantee the rights.

Mr. BIDEN. That is not this case.

Mr. JAVITS. Let me go back to the statute and demonstrate what I mean or why this is a perfectly sound doctrine.

In 203(b), which is sought to be partially stricken by this amendment, I said: "We for high social and political policy reasons simply restated the obvious." And I argue and it is the basis of my opposition to this amendment that to strike out that statement raises the big issue of social policy which we had decided by accepting the Scott-Mansfield compromise, that is, that the minorities in the country need have no fear that Congress was trying by statute to change the Constitution; but, on the contrary, we maintain our adherence to the Constitution as we expected everyone else, and that being the essence of the mandate we laid down, it would be a great mistake in policy to change it. In addition especially it would be a great mistake as it meant nothing. The fact is that the Supreme Court would go right ahead and do whatever it thinks it ought to do in the absence of a change in the Constitution, and that is right. That is according to American law. If my colleagues feel deeply aggrieved by it they can take it to the people by a constitutional amendment if they can get the necessary concurrence, and there is no way of cutting and trimming on that proposition, unless you want to junk the Constitution.

Mr. President, let us see the scheme of the legislation. We laid down an order of priority of remedies in section 214. It is very brief, and any member can read it very quickly. It is noted that there is nothing in section 214, there is nothing in section 215, and there is nothing in section 216, all the pertinent sections, which allows busing. Congress did not allow busing as a last resort. As a matter of fact, we sought to prohibit it, and section 215(a) says exactly that. I shall read it because it is very important:

> No court, department, or agency of the United States shall, pursuant to section 214, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate level and type of education for such student.

The Supreme Court says—and the Supreme Court has the absolute right—that if that perpetuates segregating schools, then it cannot enforce that provision because that is contrary to the Constitution of the United States.

And that is what we argue. Whether you write it in what you want to strike out or not, it is not going to make any difference except to cause deep social difficulties in our country, if the minorities in this country, whether they like busing or not, get an idea that we feel we think we can in Congress by passing an amendment annul the Constitution. Once we get into that, we are in real trouble, and that is why I urge strongly, Mr. President, against it.

Mr. President, one final word and I shall be through. I think that the situation in our country, notwithstanding upsets in Louisville and upsets in Boston, has shown, according to very authoritative surveys, on the whole to have gone very well with the Southern States, and I am the first to pay tribute to them as the leaders. I argued here in the course of the civil rights debates that I would be just as tough on any State, including my own if it were in violation of law, and the answer is that I was.

We have actually had this situation in a county in New York City which one would think would be the paragon of virtue on this subject but was not. I never did anything but insist on the rigorous application of the law.

I shall read in that regard the finding of the U.S. Civils Rights Commission, that where there is community cooperation with the law, not with policy but with the law, it works, and where there is community violence which a minority feels that it can use to transgress the law it might just as well do that by smashing windows as by denying the guarantees of the Constitution as to equal opportunity in education.

Here is this statement from the Civil Rights Commission's report just issued which says as follows, and then I shall be through, Mr. President:

> At the end of what has been an exciting experience for the members of the Commission, there is one conclusion that stands out above all others: desegregation works. It is working in Hillsborough County, Florida; and Tacoma, Washington; Stamford, Connecticut; and Williamsburg County, South Carolina; Minneapolis and Denver, and in many other school districts where citizens feel that compliance with the law is in the best interests of their children and their communities. It is even working in the vast majority of schools in Boston and Louisville in spite of the determination of some citizens and their leaders to thwart its progress.

So, Mr. President, I conclude, we have decided with the Scott-Mansfield compromise, which took the two leaders of the Senate, Mr. President, to sponsor, in order to make it as authoritative and weighty as we could, and it is working in terms of the tranquility of our country. The expressions of violence which we have seen, and they are real, must be compared to the universe in which there is no violence and in which the Constitution is at long last being enforced. To dismantle this delicately balanced structure by striking out a key portion of the Scott-Mansfield compromise when it will mean nothing except trouble—it does not change a thing, even according to the case they cite—would be, in my judgment, the height of unwise public policy, and I hope very much that when the appropriate moment comes we will reject this amendment.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. BROOKE. How much time does the Senator have remaining?

Mr. PELL. How much time do we have now?

The PRESIDING OFFICER. The opponents of the amendment have 6 minutes remaining.

Mr. PELL. I yield 2 minutes to the Senator.

The PRESIDING OFFICER. The other side has 9 minutes remaining. Six and 9 minutes remaining. The opponents of the amendment have 6.

Mr. PELL. How many minutes does the Senator wish?

Mr. BROOKE. Five.

Mr. PELL. I yield 5 minutes.

Mr. BROOKE. I thank my distinguished colleague.

Mr. President, I would prefer to spend this time considering the merits of the provisions of S. 2657, the Education Amendments of 1976. But, unfortunately, the occasion precludes such a discussion and compels me to once again oppose an unconstitutional and unconscionable amendment. That this should be necessary is indeed troubling for I am unable to understand how, as responsible legislators, we again find ourselves giving serious consideration to an amendment that can only invite chaos and confusion across the Nation, further racial division and strife, and precipitate a constitutional confrontation between the Congress and the courts. Instead our sights should be fixed on the legitimate educational concerns facing our Nation as we move slowly, sometimes painfully, but I believe inexorably toward "one nation indivisible."

The amendment now before this body, like the Esch amendment added to the higher education bill on the floor of the House of Representatives, would effectively repeal the Scott-Mansfield language from the Equal Educational Opportunity Act which was enacted as title II of the Education Act Amendments of 1974. In that law, Congress created a new statutory remedy in Federal courts for relief from racial discrimination in education and provided the courts with guidance in formulating remedies for unlawful segregation in the schools. Specifically, the act sets out practices which are to be considered denials of due process and equal protection of the laws and delineates a hierarchy of preferred forms of remedial relief. It also provides that mandatory pupil transportation beyond the school "closest or next closest" to the home is prohibited.

To preserve the act from judicial challenge that would certainly have ensued, the Scott-Mansfield language explicitly affirmed the constitutional authority of the courts by adding the following to the prefatory congressional findings:

> . . . Except that the provisions of this title are not intended to modify or diminish the authority of the courts of the United States to enforce fully the fifth and fourteenth amendments to the Constitution of the United States.

As described by Senator SCOTT:

> . . . The language regarding constitutionality . . . puts the issue squarely to Senators who (a) insist (Title II) is constitutional as is, or (b) say they are unsure but wish to leave it to the courts. This language does leave it to the courts, but makes clear that Senators . . . will not try to tell the Court that it cannot enforce the Constitution.
>
> To oppose this clarification would undermine the integrity of our system and respect for the Constitution as interpreted by the Courts. If a Senator votes "no" on this Scott-Mansfield substitute, he is saying "Yes, I am prepared to try to go beyond what the Constitution permits." It does not require Senators to decide if this or that provision is constitutional; it merely requires them to stand by the Constitution as interpreted by the judicial branch, as called for by our system short of Constitutional amendment. Cong. Rec., vol. 120, part II, p. 15078.

My reasons for opposing any amendment to *eliminate* the Scott-Mansfield language from the current law are threefold.

First, contrary to the apparent belief of its sponsors, the amendment would not stop busing for desegregation by making the remedial limitations of the 1974 act mandatory on the courts. Instead, it would render that legislation blatantly unconstitutional and deprive it of any force or effect. The Supreme Court in Swann against Board of Education clearly recognized that the remedial assignment and transportation of students is one permissible—and, in some cases, indispensable—means of achieving constitutionally adequate desegregation of the schools mandated by Brown against Board of Education and its progeny. As stated by the Court, "Desegregation plans cannot be limited to the walk-in school." The imperative nature of this remedial principle was made clear in a companion to Swann which struck down, as violative of equal protection, a North Carolina State law which would have prohibited the involuntary transfer of students to accomplish desegregation. North Carolina State Board of Education against Swann.

The judicial power of the United States is vested by article III of the Constitution in the courts, not in Congress, and ever since Chief Justice Marshall's decision in Marbury against Madison, the judicial power has been supreme over the legislative, so far as the application and enforcement of the Constitution is concerned. The Court in United States against Nixon unequivocally reaffirmed the central principle of that case that "[i]t is emphatically the province and duty of the judicial department to say what the law is." To be sure, Congress has power, which the States lack, to regulate the jurisdiction of the Federal courts, and to govern their procedures and choice of remedies. So it did in the Norris-LaGuardia Anti-Labor Injunction Act of 1932, for example. But there it deprived the courts of power to grant a remedy historically viewed as extraordinary. The remedy ordinarily available was not affected. And there, as in other instances where Congress has imposed jurisdictional limits on the Federal courts the legislation was not concerned with remedies for denial of constitutional rights. Marbury clearly established that the doctrine of separation of powers precludes Congress from limiting the authority of the courts in interpreting the Constitution and effecting constitutional rights. In the guise of a jurisdictional statute, Congress cannot deprive a party either of a right protected by the Constitution or of any remedy the courts deem essential to enforce that right. Similarly, under section 5 of the fourteenth amendment, as interpreted by the Court in Katzenbach against Morgan, Congress' authority extends only to laws expanding or supporting, rather than diluting, the equal protection guarantee.

For Congress to ignore these limits on its authority and pass this amendment would be an open invitation to the courts to strike down the remedial standards of the 1974 act. Where unconstitutional segregation is found, Swann decreed that student transportation plans may be necessary to implementation of an effective remedy. Congressional action in derogation of this principle would impede realization of the constitutional goal of desegregated schools for all our children and therefore violate the due process clause of the fifth amendment.

A major reason for my opposition to this amendment stems from my basic disagreement with its proponents that the courts have callously ignored the remedial standards prescribed by Congress in 1974, ordering large-scale transportation schemes without considering other alternatives. To the contrary, a brief survey of several recent rulings reveals that the lower courts have deferred to the congressional policy of the 1974 act and have utilized busing as a remedy of last resort only where other means would not effectively eradicate the effects of past discriminatory policies.

In the Boston case, Judge Garrity employed many of the remedies authorized by the 1974 act in formulating a comprehensive plan to desegregate the schools of that city. Morgan against Kerrigan. In issuing his final order, the judge indicated that "[r]evision of attendance zones and grade structures, construction of new schools and closing of old schools, a controlled transfer policy with limited exceptions and the creation of magnet schools have been used in the formulation of the plan here adopted in order to minimize mandatory transportation.".

So if there is any doubt in the minds of the proponents as to what at least one Federal district court judge did prior to ordering busing as a tool of last resort, I want to reassure them by the language contained in that judge's final order.

Perhaps the most notable feature of Judge Garrity's order in the Boston case was the extensive use made of the so-called "magnet school" concept to achieve desegregation with minimum busing. The plan finally approved established 22 such schools, offering specialized courses of study, to be attended voluntarily by about 14,000 students throughout the city. But he found that some minimal busing was necessary "to remedy adequately the denial of plaintiffs' constitutional rights and to eliminate the vestiges of a dual school system." About 25,000 of the system's 85,000 students are bused under the judge's order compared with some 30,000 before desegregation.

Likewise, in Louisville, Ky., Judge Gordon instructed the school board to consider the 1974 law in formulating a school desegregation plan for the Louisville school system. The final plan approved by the court made extensive use of school closings and the remedial altering of attendance zones "to insure the maximum desegregation of the schools without the use of any other remedy, including transportation." Newburg Area Council, Inc. against Board of Education of Jefferson County. I offer that to my colleagues for their reading.

Judge Gordon further observed that in issuing his order he had "meticulously followed the priorities and remedies set forth in the Equal Educational Opportunity Act of 1974."

And that is why we passed that act—because we wanted to give Federal courts additional tools that should be used prior to resorting to court-ordered busing. Though it is not written, we have said time and time again that busing should only be used as a constitutional tool of last resort. What I am saying to my colleagues today on this issue—and I have said it so many times before—is that all Federal district court judges have used these tools, and used them wisely, before they ultimately used court-ordered busing.

Another example of judicial discretion recently occurred in the fifth circuit. The court of appeals directed that in fashioning a new desegregation plan for Austin, Tex. the district court attempt "to minimize the economic cost of busing, the traffic congestion that the busing plan will cause, the time that schoolchildren will spend on buses, and the number of students who will leave the public school system rather than participate in the desegregation plan." United States against Texas Education Agency.

Thus, it is clear that the courts have acted neither excessively nor irresponsibly in their use of busing as a school desegregation technique. They have ordered busing only where no other means would adequately redress violation of constitutional rights. Even then, they have exercised their authority with admirable restraint and in a fashion consistent with congressionally declared policy. Further indication of this is the Attorney General's repeated inability to find the appropriate case—Boston, Pasadena, or elsewhere—in which to argue to the Supreme Court that busing has been used to a constitutionally inordinate degree.

Finally, Mr. President, I oppose this amendment, despite my firm conviction that it would be held wholly ineffectual as contravening constitutional limits, because it would symbolize to the American people a weakening in the commitment of their elected representatives to the rule of law and orderly constitutional processes. Each of us has taken an oath to uphold the Constitution and adhere vigorously to the rule of law. Our Constitution, and Court decisions which interpret it, must not be compromised by the appearance of congressional defiance lest we open the door to lasting and potentially disastrous erosion of our basic freedoms. The very strength of our democratic system proceeds from the protection of individual rights as embodied in the Constitution and we must forcefully resist any attempt to thwart the Constitution or to destroy the fundamental role of the courts in enforcing fundamental freedoms.

Yet this amendment would inevitably lead to a devastating confrontation between the Supreme Court and Congress, which would weaken both branches and undermine the confidence of Americans in our ability to govern. The measure seeks to undo a long line of Supreme Court decisions defining the constitutional obligations of public educational authorities to provide a desegregated education for all our Nation's children. The outcome of the confrontation is predictable. The Court and Constitution would prevail over the Congress. In the process, the amendment would be revealed for what it really is—much sound and fury signifying nothing. It would signify a lack of courage on the part of Congress to make clear our constitutional obligation and to tell the people that what some may desire of us, we cannot deliver. In short, it would be an exercise in hypocrisy and would be perceived as such by the American people. Moreover, by rekindling old antagonisms and encouraging public resistance to lawful court orders by unlawful—and possibly, violent—means, it would jeopardize the progress being made in school districts across the country which have come to accept desegregation as a way of life.

Mr. PELL. Mr. President, I yield as much time as is required——

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. JAVITS. Mr. President, if I may be recognized for 30 seconds, we suggest that the proponents use their time, and if others wish to speak and any time is allocated on the bill, I know that Senator PELL will be glad to yield an equal amount of time to whatever we do use on the bill, or I will, to the proponents. I just wish to make that clear.

The PRESIDING OFFICER. The time of the opponents to the bill has expired.

The Senator from Delaware has 9 minutes remaining.

Mr. ROTH. I yield myself 4 minutes.

Mr. President, first, I respectfully disagree with those who are claiming that the present system is working well. There are many leading sociologists as well as scholars who are finding that what is transpiring today is not only failing to bring about desegregation but also is hurting the educational quality of schools for all children.

I think this is a matter of great seriousness. People like James Coleman, a man who earlier was referred to as the father of busing, has said today that it is time to make a change; it is time to try some other remedies that will bring about better results, not only for quality education for all children but also in achieving the objective of desegregation.

So I do not think we can stress too strongly that the present system is not working. In fact, it is causing the social chaos and difficulties that are facing the educational system today.

Second, I point out that it is very clear under section 5 of the 14th amendment that Congress shall have the power to enforce, by appropriate legislation, the provisions of that article.

In our legislation, we are dealing primarily with the remedy. We are not limiting any constitutional right. Congress has the power, and it has the responsibility, to set forth what it thinks are the appropriate remedies for violations of constitutional rights.

Many distinguished legal scholars, such as Professor Bork and Archibald Cox, have argued very effectively, in my judgment, that Congress does have this authority.

One of the things that I think must be pointed out is that Congress is much more competent than a court—and the courts have recognized this—to make the sophisticated and detailed judgments necessary to frame a general rule regarding remedies which can be applied uniformly across the Nation. It is important that we give the courts the benefit of our judgment and that is what we are seeking to do in this legislation today.

If our amendment is adopted, it will be a major step forward to bring about better schools and better efforts at desegregation than we have experienced in recent years.

Mr. BROOKE. Mr. President, will the Senator yield for a question?

Mr. ROTH. I am happy to yield.

Mr. BROOKE. The Senator said in his statement that he felt that Congress was the proper party that could write sophisticated rules and guidelines that should be used by the courts. Is that correct?

Mr. ROTH. That is correct.

Mr. BROOKE. I agree with the Senator in that statement. Does not the Senator agree, further, then, that the Educational Amendments Act of 1974 contains precisely those guidelines and rules which Congress said to the courts they should use prior to resorting to court-ordered busing?

Mr. ROTH. The difficulty, of course, is that in the one case, the court used the so-called Scott-Mansfield language basically to ignore the remedies that were set out in the legislation.

There are other cases where pretty much the same thing——

The PRESIDING OFFICER (Mr. GLENN). The Senator's 4 minutes have expired.

Mr. BROOKE. I thank the Senator.

Mr. BIDEN. I understand the Senator has 5 minutes remaining. Will the Senator yield 2 minutes to me?

Mr. ROTH. I yield 2 minutes to my distinguished colleague.

Mr. BIDEN. In view of the time, I would like to address myself to one issue. That is remedial jurisdiction in the Federal courts and the right of Congress to deal with that jurisdiction. On the sum and substance of the argument of the distinguished Senator from New York about Congress infringing upon the Constitution by statute and attempting to proscribe the jurisdiction of the Federal courts, I believe he has confused two things. One is the jurisdiction of the court to determine what right exists and if there is a violation of that right with the jurisdiction of the court to prescribe a remedy. I admit that there is a division among judicial scholars as to whether or not Congress has a right to proscribe the remedies available to a Federal court. But there are those judicial scholars who say we do have that right; if it is not a cut and dried matter.

My distinguished senior colleague has cited some of them. On the opposite side, there is the distinguished former Professor Bickel, who has come down and said, "No, Congress does not have that right in this case."

The fact of the matter is, to characterize the attempt of the Senators from Delaware as an attempt to make an onslaught on the Constitution of the United States is, I think, very misleading. I believe that the United States Congress has the right to proscribe the remedies available to the Federal courts of this country. That is the issue we must decide here. If we, in fact, are in doubt, let us let the Court decide whether or not we do.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. ROTH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, has all time expired?

The PRESIDING OFFICER. There are 2½ minutes remaining for proponents of the bill only. The opponents have no time remaining.

Mr. ROTH. If the opponents are ready for a vote, we shall yield back the remainder of our time.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. PELL. Am I correct that all time has expired on the amendment?

The **PRESIDING OFFICER.** All time was yielded back, it is the understanding of the Chair.

Mr. ROTH. Mr. President, I think I said I would yield my time if we are ready for the question.

Mr. PELL. In turn, I am glad to yield back my time.

I now yield as much time as he may desire to the majority whip.

Mr. JAVITS. Mr. President, will it be understood that whatever time is taken by the deputy majority leader will also be granted to the proponents of the amendment out of the time on the bill?

Mr. PELL. Absolutely.

The **PRESIDING OFFICER.** The Chair understands that this will be time yielded on the bill.

Mr. JAVITS. That is correct, and an equal time to the proponents.

Mr. ROBERT C. BYRD. Mr. President, all time has been yielded back or has expired. I am prepared to move to table the amendment, so, after I finish my remarks, I shall move to table. I shall withhold my motion so as to give the other side an equal amount of time.

Mr. JAVITS. I thank the Senator very much.

Mr. ROBERT C. BYRD. Mr. President, I shall shortly move to table the amendment offered by Senator ROTH to strike the Mansfield-Scott language from the Equal Educational Opportunity Act of 1974. At the time, I opposed the Mansfield-Scott language that was written into that act, but I shall oppose the amendment to delete the language today and I shall manifest that opposition by moving to table the amendment.

The language specified is in section 203(b) of that act, and it states in part:

> . . . except that the provisions of this title are not intended to modify or diminish the authority of the courts of the United States to enforce fully the Fifth and 14th amendments to the Constitution of the United States.

In reality, that language merely spells out what is a fact of constitutional law: To wit, Congress cannot, by statute, diminish the enforceability in the Federal courts of a basic constitutional right. Of course, Congress can limit the jurisdiction of the lower courts, but Congress, itself, cannot limit the jurisdiction of the Supreme Court. The jurisdiction of the Supreme Court can only be limited by a constitutional amendment. Congress can, by statute, limit the jurisdiction and authority of lower courts, but the basic rights stemming from the Constitution are still enforceable by the Supreme Court. The elimination of the Mansfield-Scott language at this particular time would raise false hopes among those who oppose court ordered forced busing—and I am one who opposes busing to bring about an arbitrary racial balance in the schools. I do not believe that the Constitution requires an arbitrary racial balance in the schools. But to eliminate the language today could leave an impression with people who are opposed to court-ordered busing that, by virtue of elimination of the Mansfield-Scott language, court-ordered busing would be affected.

In reality, it would not be affected in the slightest degree by the elimination of this language; yet, it could lead to an impassioned reaction here, as we begin a new school year, on the part of those affected in the districts where court-ordered busing would again be applied this fall.

The amendment is referred to as an antibusing amendment. It will not have any impact whatsoever, and it cannot have any impact whatsoever, on court-ordered busing. Yet, it could raise false hopes to the contrary. As I have already indicated, my record of opposition to busing to bring about an arbitrary racial balance is clear, because I do not think the Constitution requires it. I have consistently opposed busing when it is done solely for that specific purpose.

In September of last year, the Senate agreed to my amendment to the HEW appropriation bill forbidding the use of HEW funds to require school districts to bus students beyond the nearest school in order to comply with title VI of the Civil Rights Act of 1964.

That amendment was adopted after lengthy debate in this Chamber, and it was adopted after many meetings in conference with the other body. The distinguished Senator from Massachusetts (Mr. BROOKE) sat in on those conferences. I attended them.

The Senate conferees held fast behind my amendment. The House conferees finally were forced to take that amendment back to the House in disagreement, and the House upheld my amendment. That is one way, one legitimate, effective way, of getting at this matter.

Another way is by constitutional amendment. Another way is by limiting the jurisdiction or authority of the lower courts. But in no way can the Senate of the United States and the House of Representatives limit the courts from enforcing the fifth and 14th amendments to the Constitution. Congress might eliminate the lower courts entirely, but the Supreme Court would still be there. We cannot limit its authority. As I have already indicated, the only way that can be done is by constitutional amendment.

But my amendment did not reach court-ordered busing. I said so at the time, and I have said so repeatedly since. So even my amendment, prohibiting the use of funds to require school districts to bus students beyond the nearest school, was very limited in scope. It did not reach court-ordered busing, but it did effectively prohibit HEW from acting arbitrarily in dealing with busing.

This amendment today likewise will not reach court-ordered busing, and I do not denigrate the arguments of those who have spoken in support of the amendment. They have a right to their viewpoint. I respect their viewpoint, and sympathize with their objective. The amendment will do nothing with respect to court-ordered busing; actually, it will have no impact whatsoever on busing of students.

In regard to the decisions by the courts, I have consistently spoken out, urging the Supreme Court to reexamine the recent line of Federal court decisions in the school desegregation cases which have involved forced busing because I have felt that some of the lower courts have indeed not correctly construed and interpreted the decisions of the highest court of the land. But I have also stated that the only effective legislative method of prohibiting court-ordered forced busing is by constitutional amendment.

I do not believe the Senate ought to act in any manner that may result in mistaken impressions that could result from the passage of this amendment which, as I have said repeatedly, would have absolutely no effect on court-ordered forced busing. It could lead to more unrest this fall when schools open again, and I do not believe that is a possibility that ought to be overlooked.

Therefore, I am ready to move to table the amendment, but I will withhold my motion until the Senators who support the amendment have had equal time.

Mr. ROTH addressed the Chair.

The **PRESIDING OFFICER** (Mr. GLENN.) The Senator from Delaware has 8 minutes.

Mr. ROTH. I would point out No. 1, that no one can say with certainly what the Supreme Court might finally do with this legislation. But no one can say, as the distinguished majority whip has said, that this will have no effect. There are eminent legal scholars in this country who feel very strongly to the contrary, that Congress does have authority to give guidance to the courts on what the remedy shall be when there is a constitutional violation. That is all we are seeking to do here. We are not limiting, we are not modifying, we are not denying constitutional rights.

But what we are saying is that Congress has a right, not only a right but an obligation, to provide guidance to the courts, on how they should proceed to correct any pernicious segregation.

So I must respectfully disagree with the distinguished majority whip when he says that this legislation has no effect. I would urge him to reconsider because I think it is important that we do provide some relief. I think it is important that we give the courts an opportunity to follow guidelines that are the result of careful study and debate.

No. 2, he makes the argument that the timing is wrong. Well, Congress could never act, I suppose, if that were the judgment. I think the fact remains, and it is an important fact to recognize, that many distinguished scholars and educators are urging that the Congress step in and try to provide some strong leadership in this area and not abdicate its responsibility. To do otherwise would be to do nothing. If we are wrong, the Supreme Court can declare it unconstitutional.

I agree with the majority whip that

the one sure way of ending this type of busing is by a constitutional amendment. I would be happy to support, work for and vote for such a constitutional amendment if we could get it through this Congress. But so far that has been impossible.

So we should take our responsibility, take the bit in our teeth and move ahead in an area that is clearly constitutionally sound. Congress does have the right to set remedies to correct a violation of the Constitution.

Mr. BIDEN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. Under the time agreement how much time do the proponents have remaining?

The PRESIDING OFFICER. The proponents have 5 minutes remaining.

Mr. BIDEN. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. How much time did the distinguished majority whip take?

The PRESIDING OFFICER. Eight minutes.

Mr. BIDEN. I thank the Chair.

If the Senator will yield to me the remaining time, Mr. President——

Mr. ROTH. How much time do we have?

The PRESIDING OFFICER. Four and a half minutes.

Mr. ROTH. I yield 3½ minutes.

Mr. BIDEN. Mr. President, quite frankly I resent the implication that, No. 1, we are trying to mislead the American public by telling them this is going to stop busing. We did not say that. We do not say that now and we never said that, No. 1.

No. 2, I further resent the implication that this is a direct onslaught on the Constitution and that that is what our intent is.

I suggest, and respectfully do so, that the opponents of this amendment, including the distinguished majority whip, are confusing apples and oranges. We never once said nor do we now say that any of the basic rights stemming from the Constitution, to use his phrase, can be altered by this Congress other than by a constitutional amendment. We never said that. We are talking here not about the rights but the remedy, and the question is does this Congress have the right to prescribe the remedy?

I said before and I say again there are distinguished scholars who disagree on that, but there are two distinct schools of thought, one of which says what we are saying that we do have the right to deal with the remedy. We are not taking away any constitutional right. That is not the intent nor are we taking away any constitutional guarantee. We use the phrase interchangeably here. We use the term "right" and the term "remedy." They are two different things, and I wish we would keep that in mind.

The distinguished majority whip also pointed out that on the Robert C. Byrd amendment we had great debate. I suggest that that amendment was the outgrowth of the Biden amendment on which we argued for 3 days. I understand what that amendment was all about. I stood on the floor for 3 days and discussed it and argued it. The fact of the mattter is we are saying here in what way can the United States Congress affect busing to any degree. We all agree there is one way. We can pass a constitutional amendment. Everyone agrees with that. I think that is clearly the most drastic thing we can do in terms of what we can do to impact on it.

There is a second way. We say we can deal with the administrative arm of the Government, HEW, and all the rest. We have done that.

The third way I suggest is open to us. We can deal with the remedial jurisdiction of the Federal courts. If the Federal courts, and the Supreme Court of the United States in particular, after our action is taken, ruled that we cannot, we are back in a Marbury against Madison situation. That is really the essence of the discussion here, which no one has really articulated.

Now, if Senators are going to decide to vote against the Roth-Biden amendment because they think we are going after the Constitution, then understand they have decided that they believe—and they have a right to do it—the U.S. Congress cannot affect the remedial jurisdiction of a Federal court.

The PRESIDING OFFICER. The Senator's time has expired. There is 1 minute remaining for the proponents.

Mr. ROBERT C. BYRD. Mr. President, I want the Record to clearly show that I did not say and do not seek to leave——

The PRESIDING OFFICER. Who yields time?

Mr. PELL. I yield time on the bill, 1 minute to the Senator from West Virginia.

Mr. ROBERT C. BYRD. I did not say and certainly do not want to leave any impression that the proponents of the amendment were deliberately misleading the people.

I did not mean to say that. I do not think I said it, and certainly I would not say it. They are acting in good faith, and I respect their position and viewpoint.

Second, as to remedal jurisdiction, as I indicated earlier, Congress can reduce the authority of the lower courts. So we can, indeed, deal with remedial jurisdiction.

But this amendment will not do that.

Mr. HASKELL addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HASKELL. Mr. President, I would like to make a unanimous-consent request for just 1 minute to ask one question which is subject to a yes or no answer by either Senator Roth or Senator Biden.

Mr. PELL. I will yield 1 minute on the bill for that purpose.

The PRESIDING OFFICER. One minute.

Mr. HASKELL. To either Senator, is my understanding correct that if this amendment were adopted courts could still require busing, but that they would have to apply their remedies in the order stated in the statute before they issue an order requiring busing?

Mr. ROTH. That is correct.

Mr. HASKELL. I thank the Senator.

The PRESIDING OFFICER. The proponents of the bill have 2 minutes remaining, if they wish to use it.

Mr. ROBERT C. BYRD. Mr. President, I am ready to yield back the remainder of my time.

Mr. ROTH. I yield back the remainder of my time.

Mr. PELL. Mr. President, I yield back the remainder of the time.

Mr. ROBERT C. BYRD. Mr. President, I now move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the motion to table. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUGH SCOTT. (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Kansas (Mr. Dole). If he were present he would vote "nay." If I were permitted to vote I would vote "yea." Therefore, I withhold my vote.

Mr. BELLMON (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Tennessee (Mr. Brock). If he were present he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. MANSFIELD (when his name was called). Mr. President, on this vote I have a pair with the Senator from Minnesota (Mr. Mondale). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. Nunn). The clerk will suspend.

May we have order in the Senate?

The legislative clerk resumed the call of the roll.

Mr. RANDOLPH. Mr. President, a point of order.

The PRESIDING OFFICER. A vote is in process. The point of order is not in order.

Mr. RANDOLPH. The Senate is not in order.

The PRESIDING OFFICER. The point is well taken. Senators will please take their seats.

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Hartke), the Senator from Maine (Mr. Hathaway), the Senator from Kentucky (Mr. Huddleston), the Senator from Washington (Mr. Magnuson), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from California (Mr. Tunney), and the Senator from Mississippi (Mr. Eastland) are necessarily absent.

I further announce that, if present

and voting, the Senator from Washington (Mr. Magnuson) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Kansas (Mr. Dole), the Senator from Oregon (Mr. Packwood), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

I further announce that the Senator from Utah (Mr. Garn) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "nay."

The result was announced—yeas 46, nays 38, as follows:

[Rollcall Vote No. 536 Leg.]

YEAS—46

Abourezk
Bayh
Brooke
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Glenn
Gravel
Hart, Gary
Hart, Philip A
Hatfield
Hollings
Humphrey
Jackson
Javits
Kennedy
Leahy
Mathias
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Ribicoff
Schweiker
Sparkman
Stafford
Stevenson
Symington
Taft
Weicker
Williams

NAYS—38

Allen
Baker
Bartlett
Beall
Bentsen
Biden
Buckley
Bumpers
Byrd, Harry F., Jr.
Cannon
Chiles
Curtis
Domenici
Fannin
Ford
Goldwater
Griffin
Hansen
Haskell
Helms
Hruska
Inouye
Johnston
Laxalt
Long
McClellan
McClure
Nunn
Proxmire
Randolph
Roth
Scott, William L.
Stennis
Stevens
Stone
Talmadge
Tower
Young

PRESENT AND GIVING LIVE PAIRS AS PREVIOUSLY RECORDED—3

Mr. Hugh Scott for.
Mr. Mansfield against.
Mr. Bellmon for.

NOT VOTING—13

Brock
Dole
Eastland
Garn
Hartke
Hathaway
Huddleston
Magnuson
Mondale
Montoya
Packwood
Thurmond
Tunney

So the motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Oregon. Who yields time?

Mr. MANSFIELD. Mr. President, will the Senator yield to me briefly?

Mr. HATFIELD. Yes, I am happy to yield to the majority leader.

UNANIMOUS CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I wonder if we can find out how many more amendments will be offered by Senators. One, two, three——

Mr. EAGLETON. I have one.

Mr. MANSFIELD. Four, five, six, seven—Mr. President, I ask unanimous consent that the final vote on the pending measure occur at the hour of 8:30 this evening.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Mr. President, reserving the right to object, I have three amendments. I did not see how many the total was.

Mr. MANSFIELD. There are about eight.

Mr. McCLURE. There are only about 2 hours between now and 8 o'clock.

Mr. MANSFIELD. 8:30.

Mr. McCLURE. And that would give us somewhat less than a half-hour per amendment, 15 minutes on a side. A great many Members, I suspect, think their amendments are more important than that.

Mr. MANSFIELD. I think we are probably over the toughest amendments, and I would hope that the Senate would consider a possible dilution of the time already agreed to, in the interests of bringing this matter to a conclusion. How about 9 o'clock?

Mr. CHILES. Mr. President, I wonder if we could find out rather quickly—I have one of those amendments, and I can handle my amendment in 3 minutes.

Mr. MANSFIELD. Very well.

Mr. EAGLETON. Ten minutes, five minutes to a side.

Mr. MANSFIELD. Let us take them one by one, then.

Mr. BELLMON. Mr. President, I would like a half hour on my amendment. It is a matter of some consequence.

Mr. MANSFIELD. A half hour, equally divided.

Mr. McCLURE. Mr. President, I have three amendments. I would like to have a half hour on each of two, and 10 minutes on the third.

Mr. MANSFIELD. All right. I hope the clerk is keeping track of these times. A half hour equally divided for the Senator from Idaho, or a half hour equally divided twice?

Mr. McCLURE. Yes, and 10 minutes on the third, equally divided.

Mr. MANSFIELD. The Senator from Ohio?

Mr. GLENN. A half hour.

Mr. MANSFIELD. A half hour equally divided.

The Senator from Kansas?

Mr. PEARSON. Twenty minutes.

Mr. MANSFIELD. Twenty minutes, equally divided.

The Senator from Illinois.

Mr. PERCY. Senator Nunn and I have an amendment. A half hour equally divided is adequate.

Mr. MANSFIELD. The Senator from Oregon?

Mr. HATFIELD. A half hour, on the one.

Mr. DOMENICI. Mr. President, I have one for 15 minutes, equally divided.

Mr. MANSFIELD. Very well. This is like a faro game.

Mr. STEVENS. I have two amendments. A half hour on one and 5 minutes on the other.

Mr. MANSFIELD. Very well.

Mr. President, I ask unanimous consent that there be a 10-minute limitation on all votes from now on.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, if we count in all the time expended on voting as well as all the time on amendments, it seems to me we will be here rather late. Is it necessary to finish this bill tonight? Could we not have a time certain tomorrow?

Mr. MANSFIELD. It is not necessary, but it is desirable. The Senator knows what we have on our platter, and how much time we have left. I would think the distinguished ranking Republican Members might be willing to shorten the time.

Mr. GRIFFIN. I am told that a quick computation shows that 4 hours have already been spoken for, not including the time consumed in voting.

Mr. MANSFIELD. Very well; let us go until 7:30 or 8 o'clock, then, and see where we are.

Mr. GRIFFIN. I think setting a time certain for voting tomorrow would be fine.

Mr. MANSFIELD. Mr. President, first could we have the Chair approve the request which the Senator from Montana made relative to these various amendments?

The PRESIDING OFFICER. Did the Senator from Montana also intend to include in his request a time for voting on the bill?

Mr. MANSFIELD. No; just a time on the amendments.

Mr. JAVITS. Mr. President, may we go over the terms of the request?

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, I want to know the terms of the request.

Mr. MANSFIELD. Just as to the requests for time on amendments.

Mr. JAVITS. What was the last answer to the majority leader? I did not get the last point the majority leader raised.

The PRESIDING OFFICER. It is the opinion of the Chair that the majority leader is asking for specified times on amendments, but not for a specified time for voting on passage of the bill.

The Chair observes to the Senator from Montana that if he was asking for a specified time on passage of the bill, waiver of rule XII would be required. That is no longer the case, if the Senator is not asking for a vote on final passage.

Mr. JAVITS. Is this unanimous-consent request under the usual procedure? Because if it is not, we are in a totally new thicket.

Mr. MANSFIELD. No. If the Senator will yield, it just has to do with amendments and the Senators who have indicated how much time they will take.

Mr. JAVITS. I understand, but the unanimous-consent agreement should be under the usual procedure respecting germaneness; otherwise I do not know where we are going or what we have agreed to.

The PRESIDING OFFICER. The Chair informs the Senator from New York that there is a unanimous-consent agreement on the bill in force which provides for 1 hour on each amendment. This proposal would merely reduce the time, and would be under the same rule.

Mr. JAVITS. Fine. No objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. PASTORE. Mr. President, reserving the right to object——

Mr. MANSFIELD. Let him go, and then ask for recognition.

Mr. PASTORE. All right. Let it go.

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object——

Mr. MANSFIELD. Well, then the Senator from Rhode Island has priority.

Mr. WILLIAM L. SCOTT. All right, go ahead.

Mr. PASTORE. Mr. President, if we are going to stay around here until 8 o'clock, and you are going to lose out on your dinner at home, you might as well stay around here until 10 o'clock and finish this bill.

Why not have a definite time tomorrow, either 11 o'clock or 12 o'clock, for final passage of this bill, and stay here tonight and work our will on all the possible amendments that will come up?

Mr. MANSFIELD. That is the next step.

Mr. PASTORE. Is there any objection to that?

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. LEAHY. If we are going to do that, I would strongly recommend we set the time for final passage fairly early in the morning, like 9:30 or 10 o'clock. This morning we had almost 2 hours of stalling quorum calls on this bill.

Mr. PASTORE. If we have a definite time, those who have been stalling will no longer stall. May I suggest that we have a vote on passage at 11 o'clock tomorrow?

Mr. MANSFIELD. If the Senator will withhold that, one step at a time.

Mr. PASTORE. But this is a big step.

Mr. MANSFIELD. That is the next step.

Mr. WILLIAM L. SCOTT. Mr. President, I am not going to object, but I just express the hope—I would add my word to that of the distinguished Senator from Rhode Island, and say further that I am not going to stay around here after 8 o'clock. Of course, that will be just 1 out of 100.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Montana for time limitations on amendments? The Chair hears none, and it is so ordered.

Mr. EAGLETON and Mr. MANSFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. EAGLETON. No, I am not objecting. I was trying to seek recognition on my amendment.

Mr. MANSFIELD. The next step is this——

Mr. PASTORE. May we have order, please? The majority leader is speaking.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MANSFIELD. The Senate will come in at 9 a.m. tomorrow. If our colleague from Vermont will indulge me, I ask unanimous consent, with the approval of the leadership on the other side and the membership of the Senate, that the vote on final passage occur at the hour of 12 noon tomorrow.

The PRESIDING OFFICER. And rule XII be waived.

Mr. LEAHY. Mr. President, reserving the right to object, and I shall not object, so the majority leader will understand my position, I would much prefer to have the vote tonight.

Mr. PASTORE. It is not going to happen.

Mr. MANSFIELD. It has been a long day, though.

Mr. LEAHY. I understand.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Mr. President, reserving the right to object, and I do not intend to object, it is my understanding that it is the intention to come in at 9 a.m. tomorrow.

Mr. MANSFIELD. Yes.

Mr. McCLURE. Are there pending requests for special orders?

Mr. MANSFIELD. None. Wait a while. There may be one. I am not certain.

Mr. PASTORE. May we have a ruling?

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, will the majority leader tell us is it the intention to complete as many of the amendments as possible tonight and then others tomorrow morning or complete all of the amendments tonight and just have a vote on the bill tomorrow?

Mr. PASTORE. That is right.

Mr. MANSFIELD. If we can do that, I do not think we can finish all the amendments tonight. I think we should go to a reasonable hour, between 7 and 8 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Mr. President, reserving the right to object, since it is my understanding there are no special orders, we will be on this legislation again before 9:30 a.m. tomorrow morning, so there will be 2½ hours on the bill tomorrow.

Mr. PASTORE. That is right.

Mr. MANSFIELD. Yes, indeed.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I have one additional unanimous-consent request.

I ask that rule XII be waived under the unanimous-consent request agreement just entered into.

The PRESIDING OFFICER. That was part of the previous unanimous-consent agreement.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time on all other amendments than those listed be limited by the Members themselves this evening to 20 minutes.

Mr. JAVITS. That is 10 minutes on each side.

Mr. MANSFIELD. Ten minutes on each side.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. Again I repeat my request that from now on the votes on amendments be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon has the floor, I believe.

Mr. HATFIELD. I thank the Chair.

The PRESIDING OFFICER. The Senator from Oregon is entitled to be heard. The Senate will be in order.

The Senator from Oregon may proceed.

UP AMENDMENT 380

Mr. HATFIELD. Mr. President, I am joined by the Senator from Indiana (Mr. HARTKE). He is necessarily absent. Therefore, he requested that I call up the amendment. It is related to but is different from printed amendment 2015.

Mr. President, Senator HARTKE and Senator RANDOLPH join with me in sponsoring S. 1976.

Mr. McCLURE. Mr. President, the Senator is entitled to be heard. The Senate is not in order.

The PRESIDING OFFICER. The Senator from Oregon will suspend until the Senate is in order.

The Senate is not in order.

Will Senators please take their seats?

The Senator from Oregon may proceed.

Mr. HATFIELD. Mr. President, Senator HARTKE and Senator RANDOLPH join with me in sponsoring S. 1976, entitled the George Washington Peace Academy Act.

The intent of S. 1976 is to establish an educational institution in this country to fulfill an important aspiration of this Nation's great Revolutionary War general and outstanding first President, George Washington—that of providing an establishment devoted to the furtherance of peace and cooperation amongst nations and peoples.

The establishment of a Peace Academy would has a twofold purpose. One important purpose for its establishment would be for the training of students in the arts of conflict revolution.

The PRESIDING OFFICER. Will the Senator from Oregon suspend for a moment for the purpose of an inquiry by the Chair?

Is this amendment of the Senator from Oregon that has a 30-minute allocation or the one with a 10-minute limitation?

Mr. HATFIELD. There is a 10-minute allocation on this amendment.

The PRESIDING OFFICER. The clerk will know to keep that time.

I thank the Senator.

Mr. HATFIELD. For example, arbitration and negotiation are two peaceful methods of conflict resolution which could be researched and studied. The second purpose for forming an institution devoted to peace would be to train individuals in new methodology which will be extracted from the arts of negotiation, arbitration, conciliation, and mediation.

Mr. President, in May of this year, a hearing was held on S. 1976 before the Education Subcommittee of the Committee on Labor and Public Welfare. The hearing was ably chaired by my fine colleague from Rhode Island (Mr. PELL).

As a result of the testimony received during the course of that hearing, it was determined that formation of a commission to study the theories and techniques of peaceful resolution of differences between nations and peoples would be wise. Thus, this amendment requires the formation of a commission to be known as the Commission for a National Academy of Peace and Conflict Resolution. There would be nine members of the Commission; three of whom would be appointed by the President—subject, of course, to the advice and consent of the Senate; three members would be appointed by the Speaker pro tempore of the Senate, and three members would be appointed by the Speaker of the House.

In addition to studying the feasibility of a Peace Academy, the Commission *would* consider alternative proposals available to the Government for the future resolution of conflicts other than by war. A report would be required to be filed within 1 year of the date of enactment of the Act creating a commission. The Commission shall cease to exist within 60 days after the submission of its final report.

Mr. President, I ask unanimous consent to amend the amendment to reduce the amount authorized of $350,000 to the figure $200,000.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 322, between lines 6 and 7, insert the following new section:

COMMISSION ON PROPOSALS FOR A NATIONAL ACADEMY OF PEACE

Sec. 328. (a) There is established a commission to be known as the Commission on Proposals for a National Academy of Peace and Conflict Resolution (hereinafter in this section referred to as the "Commission").

(b) The Commission shall be composed of nine members as follows:

(1) Three members shall be appointed by the President by and with the advice and consent of the Senate.

(2) Three members shall be appointed by the President pro tempore of the Senate.

(3) Three members shall be appointed by the Speaker of the House of Representatives.

(c)(1) Any vacancy in the Commission shall not affect its powers.

(2) The Commission shall elect a chairman and a vice chairman from among its members.

(3) Five members of the Commission shall constitute a quorum.

(d)(1) The Commission shall undertake a study to consider—

(A) establishing a National Academy of Peace and Conflict Resolution consistent with the proposals contained in S. 2976, the George Washington Peace Academy Act, modified by considerations of size, cost, location, relation to existing public and private institutions, and the likely effect the establishment of such an academy would have on such existing institutions, and the relation of such an academy to the Federal Government;

(B) the feasibility of making grants and providing other assistance to existing institutions of higher education as an alternative to or as a supplement for a National Academy of Peace and Conflict Resolution; and

(C) alternative proposals available to the Federal Government to accomplish the objectives contained in that proposal.

(2) In conducting the study required by this section the Commission shall—

(A) review the theory and techniques of peaceful resolution of differences between nations, and draw on the experience of public and private institutions concerned with conflict resolution and of informal government leaders of peaceful methods of conflict resolution;

(B) conduct inquiries into existing institutions of international relations, labor-management, racial, community, and family relations, and

(C) consider proposals for combinations of mechanisms available to the Federal Government to strengthen the accomplishment of its peaceful purposes, including the establishment of a National Academy of Peace and Conflict Resolution.

(3) The Commission shall submit to the President and to the Congress interim reports with respect to the study and investigation and a final report, not later than one year after the date of the enactment of the education amendments of 1976, containing its findings and recommendations for such additional legislation as the Commission deems advisable.

(e)(1) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this section, take such testimony, and sit and act at such times and places as the Commission, subcommittee, or members deem advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission, or any subcommittee or member thereof.

(2) Each department, agency and instrumentality of the executive branch of the Federal Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the chairman or vice chairman, such information as the Commission deems necessary to carry out its functions under this section.

(3) Subject to such rules and regulations as may be adopted by the Commission, the chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, shall have the power—

(A) to appoint and fix the compensation of such staff personnel as he deems necessary, including an executive director who may be compensated at a rate not in excess of that provided for Level V of the Executive Schedule in title 5, United States Code, and

(B) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

(f) Members of the Commission shall receive compensation at the daily rate specified for GS–18 under section 5332 of title 5, United States Code, for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(g) There are authorized to be appropriated, such sums, not to exceed $200,000, as may be necessary to carry out the provisions of this section.

(h) The Commission shall cease to exist 60 days after the submission of its final report.

On page 101, in the Table of Contents, after item "Sec. 327." insert the following:

"Sec. 328. Commission on the Proposals for National Academy of Peace.".

Mr. **HATFIELD.** Mr. President, I have discussed this with the leadership, the managers of the bill, the Senator from Rhode Island (Mr. PELL) and the Senator from New York (Mr. JAVITS), and I understand they will accept this amendment.

Mr. **PELL.** That is correct. We have discussed it and, while I have some reservation in my own mind about the advisability of creating a Government supported institution of higher education, I see merit in the idea of a study. For that reason I am glad to support the amendment of the Senator from Oregon.

Mr. **HATFIELD.** I thank the Senator from Rhode Island.

Mr. **PELL.** I know the Senator from New York shares my view. I yield back the remainder of my time.

Mr. **HATFIELD.** I move the adoption of the amendment.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 381

Mr. **HATFIELD.** Mr. President, I send to the desk my second amendment and ask that it be stated.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) for himself, Mr. HARTKE, and Mr. RANDOLPH proposes unprinted amendment numbered 381.

Mr. **HATFIELD.** Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 337, after line 14, insert the following:

Sec. 406. Section 440 of the General Education Provisions Act is amended by inserting "(a)" immediately after "Sec. 440" and adding at the end thereof the following new subsection:

"(b) Except to the extent Federal courts determine necessary to comply with the United States Constitution, the Federal government may not

"(1) withhold Federal funds, or

"(2) regulate the practices of educational institutions receiving Federal funds (unless necessary for the administration of applicable funding programs)

"where such power to withhold or regulate is based upon the receipt of Federal financial assistance when such assistance is limited to scholarships, loans, grants, wages or other funds extended to an institution for payment to or on behalf of students or extended to students for payment of education-related expenses, provided that the education institution is not the principal agency determining which individual students receive the benefits of such Federal student assistance."

On page 101, in the table of contents after item "Sec. 405," insert the following new item:

Sec. 328. Revision relating to regulations resulting from student assistance.

Mr. **HATFIELD.** Mr. President, this is an amendment that I am sure will elicit some comment from the leadership, and rightfully so, because it is a rather complex issue, but yet I believe it is one that we must face up to here in the Senate at some time or another.

As we know, aid to education in our Nation has always been designed for the purpose of enhancing educational opportunities for students. Federal aid has taken the form of direct assistance to institutions for building programs, for programs of study and research, for enhancement of libraries and other facilities, and for the administration of programs of student financial assistance.

Realizing the limited resources available to many students, the Congress has also provided programs of financial aid to students, some administered by institutions of higher education and some administered directly by Federal and State educational agencies. In keeping with the concern of Congress that all programs be administered with equity and that education be made available equally to all citizens, Federal departments and agencies have used various levers to encourage compliance with Federal law. The levers include the withholding of aid where cases of noncompliance are found. This is proper and within the intent of law.

However, in the present climate of interest in reducing the bureaucracy and expanding liberties, I am surprised that attention has not been given to the unfortunate results of the classification of non-campus-based programs of student financial assistance as aid to institutions of higher education. This has resulted in a loss of liberty for both students and institutions.

For instance, many institutions, in the interest of maintaining independence from Federal regulations, have traditionally refused any kind of Federal financial assistance. They have accepted students whose education is financed by programs of Federal assistance to students. Such aid was not intended to benefit the institution but to enable the student to have the type of education he or she desired.

But some Federal regulations have defined Federal assistance to institutions as including that assistance which is not administered by the institution but is directly available to students through State and Federal agencies. Many institutions, desiring to maintain independence from Federal intervention in their administration, are placed in the position of having to refuse to accept students merely because the students' financial assistance comes from the Federal Government.

This is like a grocer telling a recipient of food stamps that he cannot accept the stamps because they are from a federally funded program and the mere receipt of them as payment for food would result in more Federal regulations on his business. So, in order to maintain the grocer's independence, the food stamp recipient suffers. Now, we know that this is not the case in the administration of the food stamp program. Such a concept is absurd. But, my colleagues in the Senate, this is precisely what happens in higher education.

Mr. President, I should like to have the attention of the manager of the bill at this point in my comments, because I think this gets to the very heart of the matter I am raising.

For instance, one of the oldest programs of student assistance is the GI bill. Under the provisions of this program of student assistance, veterans have been enabled to freely select the type of education they desired. Among the many courses veterans have followed are studies related to careers in the Christian ministry and Jewish rabbinate. Until recently, financing of such seminary education through the provisions of the GI bill has not been a threat to the independence of the educational institutions involved. Such assistance was conceived in a manner which would insure the freedom of students to choose the type of institution they desired.

However, as a result of new Federal regulations students can no longer make such a choice. Now, the presence of just one student receiving noncampus based Federal assistance on a campus which has maintained independence from Federal funding, places the school in the category of receiving funds. Hence, either the school must bear the time and expense of reporting how it complies to Federal regulations or it must refuse to receive the student's money. This, of course, jeopardizes the students' ability to purchase the education they desire.

I realize that some may see this as an expression of anticivil rights sentiment. I challenge them to find in my record grounds for such an accusation. My concern is for liberties of students and for the independence of institutions of higher education.

Mr. President, I should like to have the attention of the managers of the bill at this moment. If they care not to listen to the other part, I would like to have their attention for this, because, again, it emphasizes the purpose of this amendment.

Mr. PELL. This is the first time I have heard of the amendment, and I am studying what it does.

Mr. JAVITS. We were conferring about this amendment.

Mr. HATFIELD. I think the Senators would understand if they would listen, and all I am asking for is their attention.

This amendment would correct an inconsistency in the definition of programs of financial assistance to institutions of higher education. In a letter from Ms. Arlena Renders, Assistant Regional Attorney of Region X of the Department of Health, Education, and Welfare, it is explicitly clear that with reference to the Family Educational and Privacy Rights Act of 1974—and I underscore this particular act—Federal funding to institutions does not refer to non-campus based programs of Federal financial aid to students. In a subsequent letter from the safe office relating to title IX regulations—this is a different act—Federal funding is defined as including non-campus based programs of Federal financial aid to students.

I hope the managers of the bill realize that these are two different acts, with contradictory definitions.

I have no quarrel with the interpretation offered by Ms. Renders. The interpretation is consistent with the laws and regulations. But the interpretation has brought to light the inconsistency that exists in the laws and the regulations. My amendment would correct that inconsistency by redefining Federal assistance to students in a manner consistent with the Family Educational and Privacy Rights Act of 1974. That is, noncampus based Federal assistance to students would not be considered as assistance to the institution.

Mr. President, there are presently at least 292 seminaries, Bible colleges, and Bible institutes in the United States that are trying to maintain their independence and keep their costs down. There are also 797 church-related colleges and universities, many of which have received no direct Federal funding. In addition, there are several independent private colleges that are forced to discriminate in the acceptance of students merely because of the source of the students' funds. Tens of thousands of students are enrolled in all of these institutions. Is it not time that we began to restore integrity and trust in the Federal Government by using only the proper tools in our efforts to achieve equity in education? One does not repair a radio with a sledgehammer. To classify non-campus based programs of student financial assistance as aid to educational institutions is a gross error which deserves immediate correction.

I ask unanimous consent that letters from the Region X Office of the Department of Health, Education, and Welfare and from Hillsdale College and an article from Newsweek magazine, be printed at this point in the RECORD

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF GENERAL COUNSEL, DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, REGION X,
Seattle, Wash., March 16, 1976.

Re Buckley amendment.

DR. GENE HABECKER,
Dean of Students, George Fox College, Newberg, Oreg.

DEAR DR. HABECKER: This letter is to confirm our conversation of March 11 regarding the Family Educational and Privacy Rights Act of 1974, commonly referred to as the Buckley Amendment. As I advised you at that time, this statute applies only to those educational agencies and institutions that receive federal funds under a program administered by the Commissioner of Education. Therefore, the statute does not apply to an educational institution solely because the students attending the institution receive benefits under a federal program. The test is whether the institution itself is receiving the funds. (Citation 20, U.S.C. Section 1230, Section 1232G).

The substitute provisions of the statute each begin with wording which makes this limited applicability clear. "No funds shall be made available under any applicable program to any educational agency or institution." The provisions then go on to state conditions which must be met in order for an institution to receive funds. "Applicable program" is defined for these purposes as "any program for which the Commissioner has administrative *responsibility*." Furthermore, enforcement of this statute is by termination of assistance to the institution if failure to comply is found. There would be no method of enforcement against an institution not receiving funds. In summary, the Buckley Amendment requirements apply to all educational institutions which receive funds under programs administered by the Commissioner of Education, but not the private schools which do not receive such funds but whose students receive benefits under these programs. If you have any further questions on the Buckley Amendment, please do not hesitate to contact this office.

Sincerely yours,

ARLENA RENDERS,
Assistant Regional Attorney.

Office of General Counsel, Department of Health, Education and Welfare, Region X,
Seattle, Wash., April 29, 1976.

Dr. Gene Habecker,
Dean of Students, George Fox College,
Newberg, Oreg.

Dear Dr. Habecker: This letter is in confirmation of our conversation Tuesday, April 27. Title IX prohibits discrimination based on sex under education programs or activities receiving federal financial assistance. "Federal financial assistance" has been defined to include "scholarships, loans, grants, wages or other funds extended to any entity or payment to or on behalf of students admitted to that entity or extended directly to such students for payment to that entity." (Citation 45, 86.2 G2.)

Thus, an educational institution which has students receiving guaranteed student loan program benefits or Veterans' Administration student benefits is covered by Title IX.

Sincerely yours,

Arlena Renders,
Assistant Regional Attorney.

Hillsdale College,
Hillsdale, Mich., October 1975.

Dear Friend of Hillsdale: Hillsdale has long prided itself on its independence from political funding. That independence has permitted the maintenance of high standards because we have avoided the pressures which politicized education produces. We have been able to offer quality education to generations of students, without regard to race, sex or religion.

Our independence has been based upon the non-acceptance of federal funds for any purpose whatsoever. There have been students on campus who are individual recipients of federal loans, grants, veterans benefits and similar programs, but such funds have never been accepted by the school as an institution. Now the federal bureaucracy has changed the rules. Beginning in October, 1975, Hillsdale College and all other independent colleges and universities are to be regarded as "recipient institutions" if they have any students on campus who receive individual funding through government programs. The American Association of Presidents of Independent Colleges and Universities has recognized the threat and is marshalling a campaign of determined resistance.

Acceptance of such status as a "recipient institution" opens the door to federal control of Hillsdale College. The entire weight of federal guidelines, covering faculty, students, curriculum, dormitories and every aspect of our existence, would potentially dominate our campus if we once accept the premise that aid to an individual student makes Hillsdale College a recipient of federal funds.

The issue at stake is not equal treatment for minority groups or women. Hillsdale College had already pioneered in non-discriminatory treatment for over a century before the first federal legislatiton on the subject. Our record of non-discrimination speaks for itself. We have consistently displayed a willingness to measure our faculty and students by the only yardstick with any real meaning: individual performance.

Now through a bureaucratic ploy, Hillsdale's independence is presumably to give way to the social engineers in Washington. Rather than allow such a federal takeover of our campus, we are prepared to refuse compliance with the government edicts now proposed. None of us at Hillsdale underestimates the power of the federal government to harass and possibly destroy those who do not comply, but we feel the fight must be made if independent education is to endure in America.

At the October 10, 1975, meeting of the Board of Trustees, the decision was unanimously and vigorously made to resist federal control with every means at our disposal. It is with great pride that I enclose a copy of the Trustee Resolution.

The Trustees fully appreciated how high the stakes are likely to be. If the bureaucracy now withdraws the scholarships and veterans benefits of those students attending Hillsdale College, the federal government will be discriminating against those students and will in effect be denying them an education at the accredited college of their choice. The college itself will also be penalized. In an age when independent higher education already faces inflation, governmentally subsidized competition, and a continuing reduction of private revenue through more and more stringent tax policy, the difficulties of meeting the budget and surviving have grown larger each year. Now we are faced with the additional burden of aiding those students against whom the government proposes to discriminate.

The additional financial burdens are enormous, but Hillsdale College feels the fight must be made. In addition to the large operating deficits which the school must face, the October 10 meeting of the Trustees also discussed an endowment campaign of $25,000,000 for scholarships and faculty salaries to perpetuate our independence—whatever new tax policies or bureaucratic whims may lie ahead.

We need help now as never before. The question involved is nothing less than whether or not the private sector can survive in our present society. At Hillsdale, we believe the answer is a resounding affirmative. With your help, we will prove that the job can be done.

All my best,

George Roche.

[From Newsweek, Dec. 29, 1975]

BUREAUCRACY SCORNED

(By Milton Friedman)

In this day and age, we need to revise the old saying to read, "Hell hath no fury like a bureaucrat scorned."

The most recent and flagrant example is the attempt by bureaucrats at HEW to impose an "affirmative action" program on Hillsdale College—a small, independent college in southern Michigan.

The affirmative-action program is one of those bureaucratic monstrosities that have become all too familiar: noble objectives, ignoble results. The objective is to eliminate discrimination on the basis of sex or race; the results are mountains of paper, hiring criteria that are irrelevant to the mission of institutions of higher learning and, frequently, the substitution of reverse discrimination for no discrimination. Par for the course.

Most colleges and universities have accepted—and lobbied extensively for—Federal funds, and their receipt of Federal funds is the legal justification for HEW jurisdiction over their hiring and other practices. They are hoist on their own petard when they now complain that he who pays the piper is calling the tune.

NO REFUGE

But Hillsdale and a few other institutions (for example, Rockford and Wabash colleges) are in a different position. In order to retain their complete independence, these colleges have refused to accept Federal funds for any purpose. In consequence, they have with clear conscience regarded themselves as not subjet to HEW control. George Roche, Hillsdale's president, even had the audacity to write a book attacking the whole affirmative-action program as a threat to the quality and standards of higher education ("The Balancing Act." Open Court, La Salle, Ill. $8.95). And to add insult to injury, it is an excellent book.

The scorned bureaucrats have now struck back. Some students at Hillsdale receive Federal grants or loans under veterans and similar programs. HEW claims that this makes Hillsdale a "recipient institution" subject to HEW control.

By this line of reasoning, the corner grocer and the A&P are "recipient institutions" because some of their customers receive social-security checks. The New York Times and The Chicago Tribune are Federal contractors because welfare recipients buy papers. How silly can you get?

Yet no argument is too silly to serve as a pretext for extending still further the widening control over all of our lives that is being exercised by government bureaucrats. The HEW grab is in the same class as the widening judicial interpretation of "interstae commerce," as the imposition of forced busing despite widespread disapproval by both blacks and whites, as the growing paper work we are all called on to do at the behest of the Internal Revenue Service, as the detailed regulation of business practices in the name of clean air, safety, protecting pensions, and so on and on without end. I doubt that there is a single adult resident of the United States—certainly none who has ever had the legal obligation to file an income-tax return—who could not be subjected at the very least to a costly legal battle to avoid being convicted of violating some law or regulation.

In one sense, it is poetic justice that my colleagues and I at colleges and universities should now be suffering under the bureaucratic lash. For we have done more than any other group to produce a climate of opinion favorable to big government. So long as affirmative-action programs were directed at greedy businesses and grasping trade unions, academia for the most part cheered. And even now that its own ox is being gored, the typical reaction is that the academic world is "different."

FOR FREEDOM

But perhaps the recognition will come, even if only slowly, that freedom is for everyone or no one, and not a special privilege of the intellectual that government controls destroy freedom for everyone and not only the intellectuals, that they typically fail to accomplish their noble objectives no matter on whom imposed.

If that happens, the heavy-handed bureaucratic assault on colleges and universities may prove a blessing in disguise. Just as intellectuals bear major responsibility for instilling the view that big government is Santa Claus, so they can do more than any others to drive home the lesson that big government is really Frankenstein.

Mr. HATFIELD. Mr. President, I emphasize that this is also becoming an increasing difficulty with the Veterans' Administration, because HEW is using the Veterans' Administration GI bill of rights to follow the money of the GI bill into the college to apply HEW regulations and rules. I think we should look at this particular situation and recognize that it is creating havoc.

A number of these colleges and seminaries are small. They are not major institutions. They do not have the wherewithal to provide all the paperwork and all the reports that are required under HEW. To me, this is bureaucracy at its worst, which is invading and intruding into the privacy of these colleges, when there is no direct aid being given, and when, in good faith, they have accepted students and have recognized under one definition of one law that noncampus student aid is not to be regulated and under another law is. That is the purpose of the amendment.

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. I yield 5 minutes to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I commend the able Senator from Oregon, as the principal sponsor of this amendment. I am gratified to be listed as a cosponsor of the measure.

I am certain that the cogent arguments that have been set forth by the Senator will appeal to the Members of the Senate. I hope that the distinguished chairman of the Subcommittee on Education of the Committee on Labor and Public Welfare will give careful consideration to the proposal.

I hope, also, that the distinguished Senator from New York, the ranking minority member of the Committee on Labor and Public Welfare, who is active in our Senate Subcommittee on Education, will realize that there is an equity presented here in the amendment offered.

The problems of the smaller colleges of the country are very real. Many times, colleges in this category—in fact, most times—are private institutions. They are not publicly supported institutions.

My distinguished colleague (Mr. Hatfield) referred to the great burden of recordkeeping and reporting of data demanded by the Department of Health, Education, and Welfare. The current issue of Newsweek magazine places this cost at approximately $2 billion each year—or equal to the amount of private donations that go to our educational system annually.

Each of us publically deplores the heavy hand of bureaucracy, but when methods are proposed to provide some modest restraints of those in Washington who would set standards for all of our diverse institutions, we seem to pull back from interfering in any way with the promulgators of redtape on the grounds that what we do might create "administrative chaos."

Mr. President, I submit that it is the Federal educational bureaucracy itself which is creating much of the chaos in our educational system today.

The burden of compliance with multitudinous regulations, the intrusion of the Government into institutional governance, and the imposition of wrongheaded regulations threaten to destroy the character of many of our unique institutions, if not their very existence.

For example, these small, struggling private colleges are, in many cases, dedicated to teaching young men and women Christian ideals to help them develop the basic moral attitudes on which this Nation depends so greatly.

Yet, regulations pertaining to sex discrimination in education have been propounded which would prevent these private, religion-oriented institutions from inquiring into the marital status of a prospective faculty member. Is it an invasion of a person's privacy to ask such a fundamental question? Should a college president know if a new professor, male or female, is living in a state of unwedded bliss as an example for his or her students?

Why should we, in our zeal to assure egalitarianism, prevent those institutions which do not accept direct Federal aid from employing the right, if they so desire, to use the Ten Commandments as a code of conduct for faculty, staff, and students?

In many cases, small private colleges do not have the advantage of funds that flow from public treasuries at political subdivision levels. Certainly, in the State of West Virginia and in other States, this situation is a very acute one from the standpoint of the private or church-oriented colleges, which number several in the State of West Virginia. These often are the colleges of 600 or 700, 800, or 1,000 students. The personnel, even, within the staff of the college, are really pressed with the duties that they have to do, the jobs that they are called upon to do. It is, I think, a realistic look that we should take in the direction of doing what we can to simplify wherever possible the reporting procedures and the programs that surface but really submerge those who have to work under them in an effort to keep current with the various programs, resolutions of the law, or laws that are upon the books. So I shall not take longer—and I am appreciative of the time allotted to me by the Senator from Oregon—to indicate that there is merit in this amendment. I hope that it can be approved.

Mr. PELL. Mr. President, this is an amendment of substantial scope. In fact, I recognize the justice of the problem in certain cases, but this approach is like using a sledgehammer to kill a fly. We are dealing with the direction of programs totaling better than $3.5 billion a year, which is an administrative problem with which the committee is not fully familiar.

We have not considered an amendment of this nature before. Therefore, I think that it would not be prudent to accept it at this time, when we do not know its full effects. So, I shall be compelled to oppose the amendment.

UP AMENDMENT NO. 382

Mr. HATFIELD. Mr. President, I appreciate the comments made by the chairman of the subcommittee, because this is something that has tended to develop complexity as the application of this has been made. I am prepared to withdraw the amendment. I wanted to bring it to the attention of the committee by this route. I do have a bottom-line backup position that I would like to offer as a substitute, which would be requesting that a study be made of this particular problem on this issue. I want the committee to know that I have full confidence in its capacity, its objectivity, and its fairness in conducting this. This matter has been brought to my attention—I discussed it with the ranking minority member (Mr. Javits) in the well on this day. I now would like to move to ask the committee to accept as a substitute, withdrawing my present amendment, a request for a study of this subject.

Mr. JAVITS. May we see the amendment?

Mr. HATFIELD. Certainly.

Mr. JAVITS. I shall take my own time, so as not to use Mr. Pell's.

The Senator may remember that in our committee, we developed a compromise on the whole question of secular subjects taught in religious institutions. The late Senator Wayne Morse and I worked diligently to achieve this compromise.

It seems to me that what the Senator from Oregon has said as to the scope of this particular problem probably deserves the same kind of review to see if we can find a way to obtain equal educational opportunity for students who chose to attend these types of institutions without compromising the constitutional prohibitions regarding the mixture of church and State.

I should like to have a moment to read the amendment in order to see whether we can, indeed, proceed along the lines that the Senator suggests.

Mr. HATFIELD. I certainly would like to have the Senator take a hard look at it. I shall seek to modify my particular amendment via this route, if it is satisfactory.

I point out to the Senator that he refers back to a very interesting period in our history, when he and the late Senator Morse from Oregon were involved in this. If the Senator from New York recalls, one of the great issues that was raised when the GI bill was before this body was on the question of separation of church and State, if the student should desire to seek out his educational benefits under the GI bill in some seminary or church-related institution. The point was made very clearly in this body that the aid was to the student, to the GI, to the individual, not to the institution. That would maintain that clarity of separation, so that no Federal funds were actually going to that institution as that institution.

Yet, by these regulations of HEW, we are going back on that very principle and we are moving in to say that, because there is one student out of the whole student body who receives this kind of noncampus aid, not administered by the campus, in no way filtered through the school, but directed only to that student, now that money is followed right through to that campus, that seminary, whatever it might be. The Federal Government is saying, "Now we have come in, now we have a role to play in demanding of you the same kind of compliance, the same reporting that we have from that student getting direct aid."

That is the kind of problem we have. I think we ought to look at it very carefully, because I do not think the Government can have it both ways. I do not think it can say out of one corner of its mouth, "We maintain separation of church and State," and out of the other side say, "We are going to assume this indirect role of following that money all the way through because you have someone getting student aid."

Mr. JAVITS. Mr. President, I ask unanimous consent that we may have a brief quorum without its being charged to either side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, with the understanding of the managers of the bill, I send to the desk a modification of my amendment, which would——

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

Mr. HATFIELD. The modification would call for the General Accounting Office, beginning at the bottom of the first page:

> . . . is herein directed to conduct a detailed analysis of the extent and effects of the Federal Government's regulation of educational institutions—

> On down through to the language—

> United States House of Representatives—

Ending at that point.

Does the desk have an understanding of that modification? It begins on page 1, down at the bottom, the second line from the bottom, with the words "The General Accounting Office is herein directed to conduct a detailed analysis of the extent," and continues on page 2. The modification would in effect, be a substitute for the first amendment that I sent to the desk.

Mr. JAVITS. Mr. President, will the Senator yield? Do I understand he is omitting the last three lines on page 2 beginning with "On page 101"?

Mr. HATFIELD. Yes.

Mr. JAVITS. And the amendment starts with a capital letter in the next-to-the-last line on the first page with the words "The General Accounting Office"?

Mr. HATFIELD. That is correct. The second line from the bottom starts "The General Accounting Office is herein directed" and ending with "the United States House of Representatives" on page 2.

Mr. JAVITS. Mr. President, I hope the Senator will leave what he has omitted at the very end beginning with "On page 101." As we understand, that is a technical requirement.

Mr. HATFIELD. I agree.

Mr. JAVITS. That would be restored to the amendment.

Mr. HATFIELD. It would be all of page 2.

Mr. JAVITS. All right.

Mr. HATFIELD. Mr. President, I ask unanimous consent to modify my amendment as just described by the language that has been presented to the desk beginning at page 1 with "The General Accounting Office is herein directed to conduct a detailed analysis," and continuing on through page 2 of the modification.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 322, after line 6, insert the following:

STUDY OF STUDENT FINANCIAL ASSISTANCE

SEC. 328. The General Accounting Office is herein directed to conduct a detailed analysis of the extent and effects of the Federal government's regulations of educational institutions where such regulation is based solely upon the presence at those institutions of students participating in Federal student assistance programs and/or where the institutions act as mere conduits for the distribution of Federal student assistance benefits. This study shall continue for a period of not more than nine months at the end of which time the General Accounting Office shall file a complete report of its findings with the Labor and Public Welfare Committee of the United States Senate and the Education and Labor Committee of the United States House of Representatives. On page 101, in the table of contents after item "Sec. 327" insert the following new item:

Sec. 328. Study of Student Financial Assistance.

Mr. JAVITS. Mr. President, in that form the amendment is acceptable as far as I am concerned.

Mr. PELL. I concur in accepting this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Oregon.

The amendment, as modified, was agreed to.

Mr. HATFIELD. Mr. President, I want to thank especially the leadership at this time, Senator PELL and Senator JAVITS, for their cooperation. It indicates further the kind of objectivity and fairness with which they have been dealing on this bill, and many other bills in which they have given leadership on the floor, and I am very grateful to them.

Mr. JAVITS. I thank my colleague.

The PRESIDING OFFICER (Mr. STONE). The Senator from Florida is recognized.

UP AMENDMENT NO. 383

Mr. CHILES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for himself, Mr. NUNN, Mr. HUDDLESTON, Mr. McINTYRE, Mr. JOHNSTON, Mr. ROTH, Mr. JACKSON, Mr. BARTLETT, and Mr. STONE, proposes unprinted amendment numbered 383.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 337, between lines 14 and 15, insert the following new section:

CONTROL OF PAPERWORK

SEC. 406. Section 406 of the General Education Provisions Act is amended by redesignating subsection (g) of such section as subsection (h) and by inserting after subsection (f) of such section the following new subsection:

"(g) (1) (A) In order to eliminate excessive detail and unnecessary or redundant information requests the Secretary and the Commissioner shall, in accordance with the provision, of this subsection, coordinate the collection of information and data acquisition activities of the Education Division and the Office for Civil Rights.

"(B) for the purpose of this subsection the term—

"(i) 'information' has the same meaning as is prescribed by section 3502 of title 44 of the United States Code; and

"(ii) 'educational agency or institution' means any public or private agency or institution which is the recipient of funds under any applicable program, including any preschool program.

"(C) The Commissioner shall establish and provide staff personnel to operate information collection and data acquisition review and coordination procedures to be directed by the Administrator for the National Center for Education Statistics. The procedures shall be designed to review proposed collection of information and data acquisition activities in order to advise the Commissioner and the Secretary on whether such activities are excessive in detail or unnecessary or redundant.

"(2) (A) The Administrator shall assist each bureau or agency directly responsible for an applicable program, and the Office for Civil Rights, in performing the coordination required by this subsection, and shall require of each such bureau, agency and office—

"(i) a detailed justification of how information once collected will be used,

"(ii) an estimate of the man-hours required by each educational agency or institution to complete the requests,

"(B) Each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, within 30 days prior to the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator on the collection of information and data acquisition activity.

"(C) Nothing in this subsection shall be construed to interfere with the enforcement of the provisions of the Civil Rights Act of 1964 or any other nondiscrimination provisions of Federal law.

"(3) The Administrator shall, insofar as practicable, and in accordance with the provisions of this title, provide educational agencies and institutions with summaries of the information collected and the data acquired by the Education Division and the Office for Civil Rights.

"(4) The Administrator shall, insofar as possible, develop a common set of definitions and terms after consultation with the head of each bureau or agency directly responsible for the administration of an applicable program.

"(5) The Commissioner shall prepare as part of the annual report to the Congress provisions relating to the progress made by the Secretary, the Commissioner, and the Administrator in meeting the objectives of this section and make to the Congress whatever legislative recommendations necessary for meeting the objectives.".

On page 101, in the Table of Contents, after item "Sec. 405." insert the following:

"Sec. . Control of paperwork.".

Mr. CHILES. Mr. President, in the last several years there has been a growing recognition within the Congress of the serious Federal paperwork problem, and the continued lack of effective action to reduce the paperwork burden on private individuals, businesses and public institutions.

As has been pointed out numerous times on the Senate floor we are drowning in a sea of paperwork. The statistics, while becoming familiar in their repeated telling, are still alarming. It has been estimated that there are 10 public use forms for every man, woman, and child alive in the United States, and that the amount of paper flowing into the Government each year fills 4½ million cubic feet of space. The costs to the taxpayer of handling and managing this mountain of paper exceeds $8 billion a year. With the advent of so many new Federal programs in the past decade, Federal administrative and statistical reports continue to increase with each passing year.

The increased awareness of the paperwork burden has been accompanied by some serious efforts by the Congress to tackle the problem. We have learned you cannot wish paperwork away. A first and important step was the establishment of the Commission on Federal Paperwork; a temporary body, with the primary goal of recommending means to reduce the amount and cost of Federal paperwork requirements.

The distinguished Senator from New Hampshire (Mr. MCINTYRE) sits as a member on that Commission, and the amendment I am offering today addresses this problem.

Another important step is the Paperwork Review and Limitation Act proposed by Senators NUNN, HUDDLESTON, MCINTYRE, and ROTH which I have joined in sponsoring. This legislation calls for a paperwork impact statement in the report of all bills and resolutions of a public nature and for annual review of the reporting requirements of all Federal departments and agencies. This bill would keep congressional feet to the fire in stemming the flow of paperwork and I look toward speedy enactment.

The amendment I am offering today, on behalf of myself and Senators NUNN, ROTH, JACKSON, BARTLETT, JOHNSTON, STONE, HUDDLESTON, and MCINTYRE, addresses the paperwork burden being experienced by States, local education agencies and colleges and universities due to Federal data acquisition activities. For educators the past few years have marked an explosion in Federal reporting requirements. With new programs and statutes has come a tremendous number of forms to be filled out. I know from talking with administrators and teachers in Florida, that the dimension of this administrative burden is a chronic complaint. There is growing evidence that more and more of obviously limited resources are going into completing forms.

Funds important to the education of students are being diverted to fulfill reporting requirements. This problem exists at all levels of the educational process and no end seems in sight. I was struck by an estimate by Harvard president Derek Bok, reported in this week's Newsweek that the Harvard faculty spent more than 60,000 hours in the school year 1974–75 meeting the recordkeeping requirements of Federal programs. Other schools report similar commitments of resources. As Duke president Terry Sanford commented in the same article—

> It's not hard to imagine a day when faculties and administrators will spend all of their time just filling out government forms.

The aim of our amendment is not in any way to interfere with the obvious need and responsibility of the Federal Government to seek accurate and up-to-date educational information. Such information is critical to the decisionmaking of both the administration and the Congress. It is equally important to establishing adequate accountability for Federal education spending. Obviously you cannot evaluate and account for education programs without information that originates in the school districts and institutions where the programs are in operation.

The problem lies not with the objective of Federal information collection. The problem lies in the fact of excess and duplication, and unnecessary information requests. In too many instances persons filling out forms provide the same basic information over and over again. In too many instances local education agencies are asked for information that the States have already collected. In too many instances information is requested without a determination of what is essential as opposed to what may be merely "nice to know."

Unless we reverse this trend we will soon reach a point where the forms connected with a Federal-aid program are too burdensome to make participation in the program worthwhile. A recent memorandum from the Florida Department of Education to district superintendents concerning a certain duplicative Federal form contained the message:

> You may use this memorandum as your authority to dispose of those forms, preferably by throwing them in the trash can.

This is a rather succinct comment on the level of feeling that is being engendered by the paperwork problem.

Our amendment represents an attempt to insure that the Department will make a serious effort to coordinate its data acquisition activities so as to reduce the duplication and excess of reporting requirements. It is in no way intended to interfere with the legitimate information collection responsibilities of the Education Division or the Office for Civil Rights.

Under this provision the Administrator of the National Center for Educational Statistics is to review the proposed collection of information and data acquisition activities in order to advise the Commissioner whether such activities are excessive in detail or unnecessary or redundant.

The Administrator shall require that proposed information collection will be accompanied by a detailed justification of how the information once collected will be used and an estimate of the manhours that will be required of educational agencies or institutions in completing the information requests.

Also, those agencies and institutions which will have to respond to the information requests will have an opportunity to comment within 30 days as to their feasibility and value.

Further, the Commissioner shall report to the Congress on the progress made in meeting the objectives of this provision and make legislative recommendations necessary for meeting the objectives.

I think this amendment is another step forward in indicating that Congress is determined to reduce the paperwork burden and not just talk about it. Mr. President, I urge the Senate to adopt this amendment.

I yield to the distinguished Senator from New Hampshire.

Mr. McINTYRE. Mr. President, I wish to commend the senior Senator from Florida in this amendment which he has offered and which contained provisions to which he has agreed in my behalf and in behalf of the Commission on Federal Paperwork.

Any Member of this body who has had an opportunity to sit down with college administrators and educators and listened to their plight today as they try to answer inquiries made by HEW will understand the situation.

In this regard I feel the Senator from Florida has really hit the ball right in centerfield and has hit a homerun and I am delighted to support him on it.

Mr. President, several weeks ago Senators HUDDLESTON, NUNN, ROTH, and I circulated a letter to our colleagues in the Senate, noting how much concern is being raised among various sectors of American society about the paperwork requirements imposed by the Federal Government.

In that letter we noted that we would like to ask a series of questions about pieces of legislation that we have before us that would impose paperwork requirements. We also suggested that we would offer an amendment, printed in that letter of August 3 in draft form, to make sure that the Federal agencies not submerge the American public in paper.

Today we have the first bill up before us which would have a significant paperwork impact since we circulated that letter. It concerns education, one of the areas of our society which is burdened by paperwork.

Education, one of the Nation's biggest industries, is an area now under study by the Commission on Federal Paperwork, which I cochair. According to the Paperwork Commission, the Department of Health, Education, and Welfare is the second largest producer of forms and paperwork in the Federal Government.

It produces, excluding the Social Security Administration, about 700 forms, for education and health programs other than medicare, the Food and Drug Administration, and Social and Rehabilitation Services. The Department of Health, Education, and Welfare also produces lengthy forms. According to the Commission on Federal Paperwork, reports on education require over 8 million manhours on paperwork from the Office of Education alone.

The Department of Health, Education, and Welfare also, according to the Commission, "towers over all the others in the volume of paperwork it generates. It alone receives 170 million responses to the forms it issues out of a total of 421 million in the Office of Management and Budget inventory."

While I know that many of the forms we require of individuals, and in this case universities and educational institutions, are necessary for the proper functioning of the U.S. Government, I would like to add a few statements on the subject and urge that the Federal bureaucrats administering the programs that we legislate not require so much information that it takes almost eons to comply.

Recently I inserted in the CONGRESSIONAL RECORD a piece that was put together by the editors of U.S. News & World Report.

In that piece, the President of Dartmouth College, John Kemeny, noted that "it is a very frustrating thing that we have to respond to something within 2 weeks and the Government may take up to a year to make up its mind whether it accepts your explanation or not."

That article noted that a $5,000 grant can have as much as 100 pages attached to it in regulations. Compliance with regulations tied up the computers at the University of North Carolina at Greensboro for 6 months. Its president said, "For 6 months we did nothing but HEW forms."

Clearly, steps must be taken to limit the number of forms that we require of our educational institutions.

For instance, in this bill we can see that there will be massive reporting required for some programs.

But when these reports are put together, will a Federal agency consider the amount of time and money it takes to fill them out? Let me tell you, this is one Senator who wants to be sure that the legislative history of this bill shows that the Senate wants to be sure that someone makes an assessment of these reports and lets Congress know what was done and what was the result.

Second, I wonder how we can be sure that there will be no duplication in paperwork when reporting requirements on educational institutions are already severe. The Department should report back to us on how it has cut duplication.

And third, what possibilities are there that smaller institutions without huge computer capabilities will be able to handle the requirements of the Department? I want to be sure that small colleges asking for Federal help do not get swamped by paperwork.

For instance, New England College, a small college in my State in the town of Henniker, tells me that as a rough estimate the college spends about $750 per week just on staff to fill out forms. Thomas P. Fencil, the assistant to the president there for resource development, just this morning said that it takes 30 hours of professional time per week, at a cost of about $500, and 40 hours of nonprofessional time per week, at a cost of $250 per week, to fill out forms. For the Department of Health, Education, and Welfare, he said, it takes about 50 hours, including employment reporting, financial aid reporting, library reports, including one semiannual form that is 4 inches thick. "HEW really gets us," he said.

Clearly, the Department has to do something about this. The amendment offered this morining will provide some relief. Particularly, I want to emphasize that the Department has a responsibility under this amendment to report back to Congress and tell us what legislative recommendations may be necessary to cut Government paperwork.

I am pleased to be able to join Senator Chiles on this amendment, with the changes that have been worked out, to insure that the agencies in the Department of Health, Education, and Welfare involved in education programs and civil rights programs cut Government paperwork.

Mr. NUNN. Mr. President, if the Senator from Florida will yield me one minute, I wish to commend the Senator from Florida. I worked with the Senator from New Hampshire in this Commission on Federal Paperwork to a great extent in the Government Operations Committee. I have known of the interest of the Senator from Florida in this matter. I think this is a very good amendment and a step in the right direction, and I believe it will help to a great degree to relieve some of the unnecessary burden that is now imposed on many higher educational institutions.

Mr. CHILES. I thank the distinguished Senator from Georgia.

The PRESIDING OFFICER. Is all time yielded back? The Senator from New York.

Mr. JAVITS. Mr. President, we have had a copy of earlier version of an amendment which was supposed to be a paperwork amendment. This is the first time we have seen this particular amendment. We do not know whether it does or it does not deal with the problem of giving inadequate information for the purpose of correcting civil rights violations which may occur and upon which information is essential from the people who are subject to the act.

Therefore, before we accept this amendment, which I am not prepared to do——

Mr. CHILES. Mr. President, if the distinguished Senator will look at the bottom of page 2 of the amendment he will see subparagraph (C) which states that:

> Nothing in this subsection shall be construed to interfere with the enforcement of the provisions of the Civil Rights Act of 1964 or any other nondiscrimination provisions of Federal law.

Mr. JAVITS. Well, Mr. President, I appreciate that.

Mr. CHILES. I wanted to say——

Mr. JAVITS. We still must read it through, which we have not done. The debate has gone on for about 3 minutes.

Mr. CHILES. I wanted to say to the distinguished Senator from New York that I do not know whether he has had an opportunity to see this amendment, but we have given copies of this amendment to the staff of both sides to discuss it, and we have been discussing it for days.

Mr. JAVITS. I understand, but the amendment has gone through a considerable number of changes. This amendment is very definitive.

Therefore, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. Will the Senator tell the Chair on whose time?

Mr. JAVITS. It would have to be on our time.

The PRESIDING OFFICER. The Chair thanks the Senator from New York. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, if I may have the attention of Senator CHILES, we have now had an opportunity to examine this amendment and I ask for one technical change. Then I would like to make a comment on the amendment, and that is that in the next to the last line on page 2 in front of the word "nondiscrimination," the word "other"—"or any other nondiscrimination provisions of Federal law."

If that is agreeable to the Senator from Florida.

Mr. CHILES. I think that does not do too much harm to the amendment.

Mr. JAVITS. Mr. President, I wish to make this point. We are prepared, and we are going to take this amendment. But I wish to make it clear to the Senator that when we get into the conference, we may find that the paperwork called for by this amendment is in excess of the paperwork which it is designed to correct, because it calls for a new procedure by which comments may be made by any such educational agency, or educational institution, and their representative organization respecting the presentation of this proposed paperwork to OMB for their clearance prior to the establishment of a new data collection form.

We have no idea now what paperwork that implies.

So I say to the Senator, we are with him in the spirit of his amendment, we will take it to conference. We will check it out to see if what is required here will save paperwork. If it will, we are all with him, and if it will not——

Mr. CHILES. I am delighted with that. I think the provisions the Senator is talking about there would not cause any additional paperwork.

It gives people in the field the opportunity to comment, if they feel they need to. It does not require anybody to add anything.

We are delighted.

Mr. JAVITS. I understand the Senator modifies his amendment, therefore, by the insertion of the word "other" in the next to the last line on page 2.

Mr. CHILES. That is correct.

The PRESIDING OFFICER. Will the Senator from New York kindly insert that word, insert any modifications that are added, and send the modified amendment up to the desk?

Mr. PELL. I join in accepting this amendment, but I do recall in the committee how I have usually opposed amendments calling for more paperwork, more reports, more studies.

As I read this amendment in its final form, it seems to me it does create, certainly in the first instance, a lot more paperwork rather than less.

But knowing the objectives of the Senator from Florida and ourselves are the same, I accept it.

Mr. CHILES. I say to the distinguished Senator from Rhode Island that if there is any paperwork created, it might be that HEW has to do something to justify all of the paperwork they put on all the school boards, that they put on all the local universities, and everybody else.

But it does not create any more paperwork on the poor devils that have been under the paperwork.

Mr. PELL. We will take it to conference and see what we can do with it.

The PRESIDING OFFICER. The amendment will be so modified.

Is all time yielded back?

Mr. JAVITS. Yes.

Mr. CHILES. Yes.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Florida, as modified.

The amendment, as modified, was agreed to.

UP AMENDMENT NO. 384

Mr. STEVENS. Mr. President, I have an amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 384.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 128, line 9, strike "1982" and insert in lieu thereof "1977".
>
> On page 144, line 19, strike "1982" and insert in lieu thereof "1977".
>
> On page 164, line 24, strike "1982" and insert in lieu thereof "1977".
>
> On page 168, line 10, strike "1982" and insert in lieu thereof "1977".

Mr. STEVENS. Mr. President, I would like to read a statement for the chairman of our Appropriations Subcommittee for HEW. If he were here, this is what Senator MAGNUSON would say to the Senate:

> Mr. President, I would like to say a few words at this point about the Higher Education Act.
>
> As Chairman of the Labor-HEW Appropriations Subcommittee, I am pleased to see this bill moving towards enactment. Unfortunately, our subcommittee had to defer consideration of programs which lacked authorizing legislation. We have always tried to enact early appropriations—particularly for education programs. We have always held the view that the students and the school administrators should know, in advance, what will be available in the way of Federal funds. I am sure my colleagues are aware the Federal investment in education is very small—less than 10 percent. Yet, even the smallest amounts become critical in these times, particularly to those who are in desperate need of any financial aid they can get to go to school. Our committee has worked hard to target funds to the most needy.
>
> One of the programs which helps reach the needy has been the Basic Grant (BEOG) program. After some rough going the first few years the BEOG program, hopefully, seems to be getting on track. There are still some problems: (1) HEW has still not been able to give us good, solid budget estimates at the start of the process, and (2) the issue of potential fraud and abuse has grown just as rapidly as the size of the program.
>
> The bill before the Senate proposes some changes to the BEOG program. Specifically, the bill proposes to increase the maximum grant per student to $1,800—instead of the current level of $1,400. This issue will, of course, be debated on its merits. I would like to make it clear at this point that our labor-HEW Appropriations Subcommittee had no way of accurately predicting that this would happen. In other words, when our subcommittee prepared its projections for the budget ceilings, we did not factor in any increase in the maximum grant level.
>
> It is my understanding that if this legislation is enacted, an additional $400–$500 million would be required over and above our earlier estimates for BEOG's. I just wanted to make it clear that our subcommittee had not planned on this.
>
> As always, we will continue to develop the best appropriation levels possible. When and if legislation is enacted into law, our subcommittee will move with all deliberate speed to get the funds out to the students.

That, Mr. President, was a statement for our chairman.

I have introduced an amendment to limit this authorization to 1 year. Being realistic, I know this amendment will not carry. Therefore, I do not intend to ask for a rollcall vote on it. But having been the one who has chaired hearings on this subject for the Appropriations Subcommittee, I think it is time we looked at what we are doing.

Mr. President, for somewhat different reasons, I must join with members of the Budget Committee in stating my opposition to the recommendations of the Committee on Labor and Public Welfare in extending the student aid programs in the higher education section of this bill.

In one area I do agree with the Labor and Public Welfare Committee and that is extending eligibility to middle-income students. For some time we have recognized that students from lower-income families were often denied the opportunity for post-secondary education because of financial constraints. The many aid programs in this bill testify to the willingness of Congress to ameloriate this situation. In the past decade, however, it is the middle-class student who has had more and more difficulty securing the financial resources necessary to pursue a college degree.

My opposition to the bill before us stems from the fact that we have three grant programs: Basic educational opportunity grants, supplemental educational opportunity grants, and work-study, in addition to two loan programs: Direct loans and guaranteed student loans—all five of which are aimed primarily at the same group of students. In addition to the administrative expenses incurred by the Department of Health, Education, and Welfare in administering the programs for direct loans, work-study-study and SEOG's, the Federal Government pays a 3-percent administrative overhead to educational and financial institutions which process the papers. For fiscal 1976 this 3-percent overhead for the three programs amounted to $28,830,000. By contrast, the administrative costs associated with the basic grants amount to only seven-tenths of 1 percent. If that $28.8 million for administrative expenses had instead been put into the BOG program, an additional 33,483 students could have received grants averaging $855 and that takes into account the BOG administrative cost.

I also have a serious question as to why the Federal Government should pay colleges and universities for processing the forms which then afford students the means to attend the school and pay room, board, and tuition to the institution.

The student aid programs contained in this bill mandate duplication of effort by the student and the colleges by having three different campus-based programs in addition to the basic grant program all of which serve the same purpose—to assist students in getting enough money to attend a post-secondary school. It inflates the Federal bureaucracy by having people in all the regional offices as well as here in Washington who are responsible for only one fraction of student aid. And it wastes the taxpayers' money not only by supporting the HEW employees but also by providing some $28 million a year to pay for processing duplicating applications.

I hope the committee is listening to this because we have to listen to comments on these programs every year. This is a 5-year program. The Senate will be through with it but I will have to listen to these comments again each year for the next 5 years.

The Department of Health, Education, and Welfare informs me that they do not have any statistics on how many students receive basic grants and one or more of the other federally assisted student aid programs. By the very concept of BOG's, however, I feel it is safe to assume that every student who is a recipient of one of the three campus-based programs—work-study, supplemental educational opportunity grants, or a direct loan—also receives a basic educational opportunity grant. HEW does have some figures on the number of students who receive funds from more than one of the three campus-based programs, however, they stopped keeping them after 1970.

During the fiscal year ending June 30, 1970, a total of 772,672 students received funds from work-study, direct loans, or the SEOG program which was then simply called the educational opportunity grant program. Of this number 282,217 or 36 percent received funds from two or even all three of these programs; 51,703 students had both work-study and SEOG; 70,707 received work-study and NDSL; 96,612 had SEOG and NDSL; and 63,195 benefitted from all three programs.

In fiscal year 1975 HEW tells me that 1,300,000 were assisted by these 3 programs. Using the same percentage of 36 would mean that 468,000 students received funds from more than one of the programs. Keeping in mind my earlier premise that almost all of these students also receive basic opportunity grants, it would be a conservative estimate to say that 1 million duplicative applications were reviewed. That 1 million figure is based only on approved applications.

During our appropriations hearings this year, I chaired the higher education portion. HEW testified that only about 50 percent of the applications received for the basic grant program are approved. I will not carry my estimate of the mountain of unnecessary paper work generated by the present system of financing student aid which is perpetuated in this bill, but it should be clear by now that we are wasting hundreds of thousands of manhours and millions of taxpayers' dollars in this process.

Now, may I ask my colleagues one question: Why on earth is it necessary to have five programs to accomplish one goal? The authorizing committee has not been responsive to the facts—it has become far too easy to merely change the dates and extend the same programs for 3 or 4 years rather than taking the initiative to streamline the programs. As far as I am concerned, we should have one grant program and one loan program with the same application for each.

Under the bill that is before us now, students will be filling out as many as five applications. We will pay institutions and Federal members of the bureaucracy to process those applications. All of that money is coming from students who could get the money to go to school. Instead of facing up to the problem, the committee merely says, "Authorize more money."

The Appropriations Committee to this date has never been able to fund 100 percent of the current authorization of $1,400. Now we are going to raise it to $1,800. I think it is high time that people listen to the Budget Committee when they tell us we are misleading the students of this country and we are misleading them very grossly.

I wish we had more time to consider this and more people to listen to it. I have listened day after day after day in the Appropriations Committee now for at least 3 years.

We could reduce the size of the Federal bureaucracy, we could save tens of millions of dollars in other administrative costs, and we could provide better service to the students who would no longer have to go hat in hand from one program to the next begging $200 here and $500 there and $700 in loan funds from somewhere else. If a student qualified for a $500 basic grant and a $200 supplemental grant, why not just give $700 from one source?

We make them declare they are paupers, in effect, before they get the supplemental education opportunity grant. I do not see any reason why they should have to do that with the knowledge that the institution gets 3 percent of the money for processing their applications.

I say the record is clear that almost half of these people fill out three applications, they are processed twice, by the institution and by the Federal bureaucracy, and we are wasting money.

We raised this question in our reports. I do not know whether the authorizing committee ever reads the Appropriations Committee's reports, but I am sure that it is time they did. If this amendment would carry, it would mean that the bill before us would be valid for only 1 year, and next year the committee would have to get to the job of revising the whole system and provide us with a simple form where a student could fill out his application and ask for as much BEOG money as he was eligible for, and a guaranteed loan beyond that. That is all we need.

If we did that just this year, as I said, there would be 35,000 more students in school with help. I cannot understand why this committee, to which we have looked for innovation, is giving us a bill which does nothing but change the dates and the dollar amounts, and does not take into account the total of what we have been able to do under this bill.

Mr. President, this year, in 1976, we gave $680, on the average, under a $1,400 grant authorization. Now we are going to tell them, "You will get $1,800." I would be willing to bet, with the budget circumstances we have next year, they will be lucky if they get much more than $700. Then we wonder why it is that students go against the Establishment, why do they despise us? I sat and listened to those students who came in and asked for the right to process their applications themselves, so they would get the 3 percent. They have come forward with a student coordinating council, with some very good suggestions. They present them to our committee, and I presume to this committee, but I see none of that innovation in this bill. This bill is an extension of the same tired, worn-out old thing that has built up the bureaucracy in HEW to the point where the busiest man in HEW today, as our chairman, Senator MAGNUSON, has often said, is the signpainter who paints the names on the doors, because we change the names of the occupants in the same room.

I cannot get excited enough about this, and I know my good friend from the Budget Committee, the Senator from Oklahoma (Mr. BELLMON) understands the problem of the budget limitation, and for that reason, very reluctantly, I will support the committee's amendment to maintain the current level, because it is misleading the students of this country to tell them there is a chance to get any more under the current budget situation, and it is misleading the current population in the schools to tell them this is a new bill, there is something new for education in the country as far as students are concerned.

This bill is a retread, and I have nothing but condemnation for the approach that refuses to listen to the students of the country, refuses to face the facts, and refuses to cut down administrative and overhead costs, and instead deliver that amount of money to the students involved.

As I said, I hope the committee will respond. I do not know whether the Senator from Oklahoma intends to put into the RECORD the statistics to support his action, but I certainly, again, say we are making a great mistake in extending a retread program. We should, instead, be simplifying it, and it could have been done. It could have been done with some innovative thinking. I am sorry to have to say these direct things. I have great respect for the managers of the bill, and I now their hearts and souls are in trying to provide the assistance these students need. But I do not think that the authorizing committee, which faces this problem once every 5 years, is doing anything to assist those of us who face it not only once a year in the annual appropriation, but again in the supplemental process. This year we had to come up with $800 million extra money, taken out of other areas, in order to cover the applications that came in; and in doing so we did not get the opportunity to increase the amount of money the students and schools should have had to meet the increased costs they face.

I happen to know a little bit about this, having four kids in college at the same time. None of them are eligible for these programs, but I know what their friends tell us, and I know some of the problems I personally have faced in keeping those kids in school. It is unfortunate, to me, that the Congress of the United States is going to perpetuate a program that will provide, probably, more jobs for people who process more than a million duplicated applications than it will provide in additional assistance to the students who are vitally in need of that assistance.

As I say, I understand the facts of life, and I do not intend to press for a rollcall vote, but I hope this is a warning to this committee. Some of us intend to be around here for a long time. I do, and I am going to oppose any further extension, ever, of this retreaded concept that continues to pile program on program and administrative cost on administrative cost, and refuses to simplify the process of providing assistance to the students who are in need.

We are all aware of the increasing problems with default on loans and misuse of other Federal student aid funds. The present programs all too readily lend themselves to such abuse. One application per student, one grant fund, one loan fund—this would be far easier to monitor and audit.

Mr. President, I truly feel that the committee is capable of revising, reforming and simplifying the student aid package. For this reason, I am offering an amendment which would limit the authorization for these programs to 1 year with the hope that when the 95th Congress convenes next year, the committee will give serious consideration to the suggestions I have made today.

Mr. PELL. Mr. President, the Senator from Alaska has made a very eloquent statement in behalf of his amendment. However, I think that we ought to bear in mind that the students are opposed to the present, as he puts it, piecework approach. The National Student Lobby, just a couple of weeks ago, sent a letter to the majority leader strongly supporting this bill as it is. I ask unanimous consent that their letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL STUDENT LOBBY,
Washington, D.C., August 13, 1976.

Senator MIKE MANSFIELD,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MANSFIELD: The National Student Lobby notes with dismay the repeated postponement of consideration of the

1976 Higher Education Amendments, S2657. This bill is currently scheduled for floor action the week of August 23. Action on S2657 must be taken immediately after the Republican Convention as the first order of business. One more delay (for example, past Labor Day) would make a conference committee virtually impossible, forcing the enactment of a continuing resolution. No one would benefit from such action; students—particularly those who rely on financial aid to remain in school—would be seriously harmed by Congress' inability to act.

It is imperative that the 1976 Higher Education Amendments be adopted before the September 30, 1976 expiration of the higher education programs. To replace action in the amendments with passage of a continuing resolution would constitute gross negligence on the part of Congress. Full funding of the higher education programs and titles would be seriously jeopardized by failure to pass and agree on a bill. NSL is particularly concerned that Title 4 appropriations will be endangered. This is a dangerous game, with the continued education of thousands of students in the balance.

In addition, failure by Congress to enact the new amendments will postpone needed and pressing reforms in Title 4 programs, most notably the Guaranteed Student Loan Program and Special Programs for the Disadvantaged Student (TRIO).

NSL views early consideration of S2657 as imperative.

Yours,

DAVID ROSEN,
Legislative Director.

Mr. PELL. As for the problem of paperwork, there is no one in the committee more concerned with it than I. We have had hearings on this subject. I recognize that the forms used by the basic educational opportunity grants are very complicated. We tried, and were unable to achieve a common form, so that one form could be used for all four programs. Under actions we in Congress have passed, we have specified that the Government must never ask for information unless it is needed for the particular program or application involved. For that reason, among others, we cannot have a common form, because in each case the common form would require information other than that required for the particular program the student was interested in.

From the viewpoint of the institutions and for general planning, I think it is a pretty good idea to have a 4- or 5-year bill, or a 6-year bill, which this is, so that we do not have to continually change plans, with youngsters and parents who have a hard time enough, as is. We found this in connection with basic educational opportunity grants. For the first couple of years, hardly anyone seemed to want to apply, and then, as young people became conscious of the program and familiar with the paperwork involved, it became more and more popular. They then applied in force. The point is, it took almost 3 years before the new program filtered down. To make it a 1-year program, I think, would be in error, it would not allow the students time to adjust, and therefore I oppose this amendment.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator from Rhode Island yield briefly?

Mr. PELL. Certainly.

Mr. WILLIAM L. SCOTT. Just looking through the report, I do not see the total cost of the program; there seems to be no index. Does the Senator know the cost?

Mr. PELL. The approximate total cost, if it remains a 6-year bill, is $36 billion, averaging out to $6 billion a year.

Mr. WILLIAM L. SCOTT. I thank the Senator.

Mr. JAVITS. Mr. President, I wish to make just one point. I adopt everything which the Senator from Rhode Island has said, but I have listened very carefully to the Senator from Alaska (Mr. STEVENS). I am impressed. I know that is his view.

We have had our hearings and have, in the hearings, found justification for these programs. Obviously we like the guaranteed student loans; it is one of "my babies," and I like it because it involves very heavily private enterprise; but I take to heart everything the Senator has said, and I promise him I will dig into it. I never want to be complacent. Since this issue has moved him as deeply as it obviously has, it moves me. I will try very hard tc see what can be done to simplify the programs. I do not want to be arguing about the details now, because obviously the Senator has studied it well, and I want to be as forceful in my argument as he has been.

Mr. STEVENS. I thank the Senator from New York. I am sure the Senator from New York can never be accused of being complacent. I do feel strongly about it, because the record which the students made before the Appropriations Committee, in my opinion, justifies innovation, if we want to restore their confidence in our system of providing Federal assistance to them.

I appreciate the comments of the Senator from Rhode Island, and also the spirit in which the Senator from New York has spoken.

Mr. President, I withdraw that amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. STEVENS. I have another amendment.

The PRESIDING OFFICER. The Senator from Kansas. The Senator from Alaska has a further amendment.

Mr. STEVENS. I said I have two. I will be happy to yield. It is very short.

Mr. PEARSON. Go ahead.

The PRESIDING OFFICER. The Senator from Alaska.

UP AMENDMENT NO. 385

Mr. STEVENS. I do not intend to call for a rollcall vote. But I do have an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) for himself, Mr. INOUYE, Mr. GRAVEL, Mr. DURKIN, Mr. LAXALT, and Mr. McGOVERN proposes unprinted amendment No. 385.

The amendment is as follows:

On page 130, between lines 17 and 18, insert the following new subsection:

(b) Section 415B(a)(1)(A) of the Act is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "except that (1) no State shall be allotted less than one-half of one per centum of the sum appropriated for the fiscal year for which the determination is made. For the purpose of the exception contained in this paragraph, the term 'State' does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands."

On page 130, line 18, strike out "(b)" and insert in lieu thereof "(C)".

On page 131, line 9, strike out "(c)" and insert in lieu thereof "(d)".

On page 222, line 5, strike out the period.

On page 222, between lines 5 and 6, insert the following: "except that (i) no State shall be allotted less than one-half of one per centum of the sum appropriated for the fiscal year for which the determination is made. For the purpose of the exception contained in this paragraph, the term 'State' does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands."

Mr. STEVENS. Mr. President, I discussed this amendment with the manager of the bill and I understand his position and again I am not going to ask for a rollcall vote. I do want to make a record of this, though. I want to indicate my feelings about one portion of this.

Mr. President, I am very pleased to call up my amendment which would insure that all States receive adequate funding under two of the most important programs which we are extending under S. 2657, the State student incentive grants program and the basic vocational education programs. My amendment would insure for the first time a guaranteed funding level to each State.

Both of these programs are now funded through a formula based primarily on population. This formula has, in my opinion, led to inequities in the distribution of funds. We have developed a system which provides built-in hardship for small States such as Alaska in providing adequate services with the moneys that are available.

For instance, the State of Alaska has decided not to participate in the State student incentive grants program in the past because out of a total of $44 million nationwide, my State would receive only $58,000 in Federal funds. Even with matching moneys from the State, administrative and overhead costs which accompany a program such as this outweigh the value of the limited Federal support which would be forthcoming.

Additionally, the level of Federal support for the vocational education funds is totally unrealistic. Alaska receives something over $600,000 *out of a total* of $422 million. In order for the State to provide for the rapid development of vocational education delivery systems in rural Alaska, coupled with articulation to postsecondary vocational programs and a further expansion of adult and continuing education programs throughout the State, a higher level of Federal assistance must be forthcoming.

In order to make the point more graphic, the figures I have quoted indicate that my State is currently receiving approximately one-tenth of 1 percent of all nationwide funds for either of these programs. Many other States are faced with similar low percentage figures for Federal assistance under these programs.

My amendment would mandate that no State would receive less than one-half of 1 percent of the funds appropriated under these two programs. I direct the attention of the Senate to a list of the States which would benefit under the provisions of my amendment. I ask unanimous consent that this listing follow the completion of my remarks.

Mr. President, while I certainly realize that there is a strong argument to be made for distribution of these funds on a population basis, I am convinced that the formula that has been developed does not provide nationwide assistance in an equitable manner. I believe that a one-half of 1-percent floor is an extremely modest request, and I would certainly hope that Senators from more largely populated States would recognize this as such. The intent of this bill in continuing the public laws that provide these educational programs is to insure that each State will have enough Federal assistance to adequately carry out the purposes of each program. What we are asking for today is that we live up to this obligation, and provide all our States with enough assistance to cary out these programs.

Mr. President, I ask unanimous consent that a listing of State student incentive grants be printed in the RECORD.

There being no objection, the listing was ordered to be printed in the RECORD, as follows:

State student incentive grants

State	1976 appropriation	1977 estimate	.5 percent floor
Alaska	$58, 776	$58, 776	$220, 000
Delaware	149, 989	149, 989	220, 000
Hawaii	180, 753	180, 753	220, 000
Idaho	145, 592	145, 592	220, 000
Maine	159, 086	159, 086	220, 000
Montana	127, 434	127, 434	220, 000
Nevada	113, 904	113, 904	220, 000
New Hampshire	149, 917	149, 917	220, 000
North Dakota	120, 529	120, 529	220, 000
South Dakota	117, 764	117, 764	220, 000
Vermont	113, 172	113, 172	220, 000
Wyoming	79, 279	79, 279	220, 000

Basic vocational education programs

State	1976 appropriation	1977 estimate	.5 percent floor
Alaska	$618, 820	$701, 942	$2, 407, 650
Delaware	989, 618	1, 134, 066	2, 407, 650
Idaho	1, 858, 990	2, 095, 875	2, 407, 650
Montana	1, 683, 661	1, 873, 041	2, 407, 650
Nevada	906, 177	1, 097, 653	2, 407, 650
New Hampshire	1, 610, 620	1, 894, 837	2, 407, 650
North Dakota	1, 583, 246	1, 494, 848	2, 407, 650
Rhode Island	1, 923, 618	2, 093, 558	2, 407, 650
South Dakota	1, 698, 798	1, 783, 195	2, 407, 650
Vermont	1, 091, 067	1, 237, 586	2, 407, 650
Wyoming	760, 782	869, 385	2, 407, 000

Mr. STEVENS. My State is a very low population, very high cost State. We have had to decide not to participate in the State student incentive grants program because the administrative costs would exceed the amount of money that would be available to students even under the matching formula. Under this bill it provides $44 million nationwide. My State would receive $58,000 for that student incentive grant program.

In the level of Federal support for vocational education funds it is also unrealistic. My State would receive something around $600,000 out of $422 million. Mr. President, it costs almost as much to administer a small program as it does to administer a large program when you are dealing with the contents of this type of aid.

My amendment that I offered here would mandate as we have in the water programs by providing assistance to States to develop clean and safe water programs. We provided a minimum of one-half of 1 percent for the administrative costs to each State. We have provided that now in several other bills at my request, including the administrative costs under the EDA program. This amendment that I have offered would provide that no less than one-half of 1 percent of these two programs would be made available to any State, and I have a list of those States that would be benefited from this amendment. But also I realize the problem that is involved, and the problem is a unique one. Unless we could find a way to increase the amount of money available we would automatically be decreasing the amounts of money available to other States in order to provide a fair participation to the smaller States. This too is a matter which I hope the committee will study in the future and may find some way to separate out administrative cost funds and provide each State with an amount for administration which will in fact permit the program to go ahead, and then where you have funds that are allocated on the basis of population they could still have a modest program in every State.

And I hope that the comment will alert some members from other States of the very tough problem we have with mounting administrative costs and limited funds for student aid in these two very vital areas.

Mr. JAVITS. Mr. President, does the Senator wish a voice vote on his amendment?

Mr. STEVENS. All I ask for is a voice vote.

Mr. JAVITS. We are prepared to yield back our time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PELL. I yield back my time.

The PRESIDING OFFICER. Does the Senator from Alaska yield back the remainder of his time?

Mr. STEVENS. Yes, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was rejected.

AMENDMENT NO. 2227

Mr. PEARSON. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. PEARSON), for Mr. DOLE, proposes amendment No. 2227.

Mr. PEARSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 320, strike lines 8 through 17 and insert in lieu thereof the following:

ELIGIBILITY OF CERTAIN CHILDREN FOR SERVICES UNDER TITLE I OF THE ELMENTARY AND SECONDARY EDUCATION ACT

SEC. 325. Section 141 of title I of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this section, a local educational agency which implements a plan described in subparagraph (A), (B), or (C) of section 706 (a) (1) of the Emergency School Aid Act may, during the three school years following the implementation of that plan or during the school years ending prior to September 1, 1979, whichever is later, provide services under this title to children who reside in school attendance areas which were eligible for such services prior to the implementation of the plan, but who, as a result of such plan, are no longer eligible to receive them. Any school which is not eligible for a project under paragraph (1) (A) or (13) of subsection (a) but which is attended by children who are eligible to receive services under this subsection shall not be considered to be providing services in project areas or to be a school served by a program or project for the purposes of paragraph (3) (C) and (14) of subsection (a).".

On page 101, in the Table of Contents, strike item "Sec. 325." and insert in lieu thereof:

"Sec. 325. Eligibility of certain children for services under title I of the Elementary and Secondary Education Act.".

Mr. PEARSON. Mr. President, I offer this amendment prepared by my distinguished colleague (Mr. DOLE), although I join in the sponsorship with it, and present it in his behalf here tonight, and it applies to many problems throughout the country, but it is of particular interest to us.

The PRESIDING OFFICER. The Senator will suspend momentarily.

The Senate will be in order.

Will the Senators kindly clear the well and take their seats?

The Senator from Kansas may proceed.

Mr. PEARSON. Mr. President, this amendment deals with the eligibility of services to disadvantaged children under title I of the Elementary and Secondary Educational Act, and under that provision it was formerly provided that children who were transferred under a desegregation plan from one school which had qualified under title I as a school of high concentration of low-income families, when the children were transferred, then the services to those children followed the children themselves to the new school. That was formerly the case. There was then a new legal opinion, by the Office of Education, that renounced that policy. To give a case in point, in the city of Wichita, Kans., which is now under a desegregation order, some 1,800 children will lose under the new legal opinion of the Office of Education the benefits under title I. The committee sought to deal with this particular problem by involving or constructing under title 325, which is on page 203 of the report, which said that services would continue and be transferred with the student, if, first, they had previously been receiving those services, and, second, if it were under a court-ordered desegregation plan.

This amendment changes that committee policy in three ways.

First, it provides that the services will continue with the children as they are transferred, not only if they are only under a court desegregation plan, but if they are under an administrative plan or voluntary plan or any other plan.

Second, it changes it in that children entering into the educational system for the first time would be eligible for these services because they in their preschool years had been subject to the same disadvantages as children who were transferred out and had they remained in their school they would receive those services.

The third modification of the committee proposal is that there be a 3-year limitation on this transfer of funds, because I understand their concern and as they pointed out so well in the report that you cannot transfer funds out of a poor area, do it continually, do it on a long-term basis without effect, without affecting severely the funds in that particular area.

Mr. President, this is an amendment that is supported by OMB, the administration, and HEW. I hope that the managers of the bill will look favorably upon this amendment.

Mr. PELL. Mr. President, this amendment is a pretty broad one. It seeks to get to a problem. I see the problem. But also one of the effects, if it were passed, would be to dilute the effectiveness of the title I programs, and on balance I am compelled to oppose it.

Mr. JAVITS. Mr. President, I want to have the facts clear. According to our figures from the U.S. Commission on Civil Rights, there are three children who are subject to voluntary or other than court-ordered plans for each one child under court-ordered plans. This possibly increases the movement of ESEA title I money, affects money for underprivileged children in education. It moves with the child by three times what is authorized in the committee bill, and, of course, that depletes very materially the aggregate funds available under title I for children who are underprivileged children.

Therefore, Mr. President, I join Senator Pell in opposition to this amendment, and I most respectfully suggest in view of that fact I do not think either of us could rely on the voice vote technique.

I hope, therefore, that we might quit now—it is 10 minutes to 8—or that the vote be put over until tomorrow.

Mr. PEARSON. Mr. President, if the Senator will yield, I think that is a good suggestion. I would like to have a record vote on this amendment, but the hour is getting late. Not many Senators are in the Chamber.

If the leadership would permit, I would hope that we would obtain the yeas and nays this evening and vote on it tomorrow morning. That would give us a reason to come in early and get right to work.

Mr. JAVITS. There is nothing the leadership can do about it. If the Senator asks for the yeas and nays, he will have it.

Mr. PEARSON. I want the concurrence of the leadership on this.

Mr. EAGLETON. Mr. President, will the Senator withhold that request? Will the Senator ask unanimous consent that the rollcall vote on this amendment come immediately following the morning hour tomorrow?

Mr. PEARSON. That is all right. I have no objection.

Mr. JAVITS. I have no objection.

Mr. PELL. Both sides yield back their time.

Mr. EAGLETON. Now we can ask for the yeas and nays.

Mr. PEARSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PEARSON. Mr. President, I ask unanimous consent that the vote on this amendment come immediately following the close of morning business tomorrow.

Mr. JAVITS. Mr. President, reserving the right to object—and I shall not object—I think we should leave 5 minutes to a side, so that anybody who is not there now can know what we are discussing. That should be before the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. We can yield back the time.

Mr. JAVITS. We can yield back all but 5 minutes each.

Mr. PEARSON. I make that unanimous-consent request.

The PRESIDING OFFICER. Does the Senator mean after the morning business?

Mr. PEARSON. After the morning business.

THE PRESIDING OFFICER. When the Senate resumes the unfinished business.

Mr. PEARSON. And not before 9:30 in the morning.

Mr. JAVITS. And preceded by a 10-minute debate, with the time evenly divided.

The PRESIDING OFFICER. Five minutes to a side.

Without objection, it is so ordered.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

Mr. McCLURE. Mr. President, will the Senator withhold that request?

Mr. PELL. Yes.

Mr. McCLURE. I thank the Senator.

Mr. President, I have three amendments, and it is my intention to call up the one amendment on which there is a 10-minute limit. I ask for a rollcall vote on that amendment. I have two other amendments on which there are 30-minute time limitations. They both deal with title IX regulations. They should be considered together, I think, and I wonder whether it might be in order at this time to ask that they be made the pending business following the vote on the Pearson amendment tomorrow morning.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. I have no objection.

Mr. PELL. I have no objection.

Mr. JAVITS. That does not mean that they are going to be considered together. It just means that they will follow seriatim.

Mr. McCLURE. That is correct.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. McCLURE. I yield.

Mr. BELLMON. Mr. President, would it be in order for a unanimous-consent request that the Bellmon amendment be the pending business following the McClure amendments?

Mr. JAVITS. Could we know what these amendments are?

Mr. McCLURE. I will give the Senator copies.

Mr. BELLMON. I will give the Senator a copy.

Mr. JAVITS. Mr. President, reserving the right to object, what is the time limit on the amendment of the Senator from Oklahoma?

Mr. BELLMON. Thirty minutes.

Mr. McCLURE. Thirty minutes on each of my two which I will call up tomorrow morning.

Mr. JAVITS. So that there will be 15 minutes on a side on each one.

Mr. McCLURE Yes.

Mr. JAVITS. I should like to have a minute to consult the leadership, because we are piling up the time. We are coming in at 9. Let me consult the leadership.

Mr. McCLURE. Mr. President, I have a unanimous-consent request with respect to making my amendment the pending business.

Mr. JAVITS. Yes.

Mr. McCLURE. While the Senator is doing that, I thought I could bring up the other amendment on which there is a time limit.

Mr. JAVITS. Ten minutes?

Mr. McCLURE. Yes.

Mr. JAVITS. Will it require a vote?

Mr. McCLURE. It will not require a record vote.

Mr. JAVITS. I do not know whether we can even have a voice vote tonight, at this hour.

Mr. McCLURE. It only takes about two to have a voice vote.

Mr. PELL. The two might go the wrong way. [Laughter.]

Mr. JAVITS. Mr. President, if the Senator desires to discuss it, I have no objection; but I am serving notice that we may have the same problem there.

UP AMENDMENT NO. 387

Mr. McCLURE. Let us solve that when we get to it.

Mr. President, I have an amendment at the desk, and I ask that it be reported.

The PRESIDING OFFICER. Without objection, the amendment is in order, and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McClure) proposes unprinted amendment No. 387.

The amendment is as follows:

On page 130, strike out lines 22 through 4 on page 131.

On page 130, line 20, redesignate (6) as (5), and (7) as (6), and in line 21 strike "clauses," and add "clause."

On page 131, line 5, redesignate (5) as (4).

Mr. McCLURE. Mr. President, this matter has been broached once by the amendment of the Senator from Arkansas (Mr. Bumpers). It deals with the question of portability.

This issue of portability of the Federal grant moneys under the State student incentive grants is a matter of first impression to the Senate, because it has been injected for the first time by the committee bill.

The Senator from Arkansas properly raised the question about the ability of the State to respond to this new matching requirement on the part of the Federal Government by asking that the effective date of the portability requirement be postponed for 1 year, and that amendment was adopted. So it might be said that my object in bringing up this amendment at this time is premature, because it will not be in effect for another year; but my concern remains exactly as if it were going to be made pending immediately.

I understand that in the committee, the Senator from New York was able to have an exception made to the portability provision if the State provided at least 150 percent of the amount of the Federal grant. This has the effect of guaranteeing that the States that have the most financial resources, or the ones that focus most financial resources on student incentive grants, are exempted from the requirement; but the States that have limited resources, that have found it difficult to make student incentive grants, are subjected to the portability requirement.

It seems to me that while this may have been intended to relate it to the amount of money that the Federal Government and the State governments were putting into the program, and perhaps was intended to stimulate the States to come up to the 150 percent grant requirement in order to exempt themselves from the portability requirement, it may, instead of increasing the amount of money available to students, actually work in the opposite way, that States that will be subjected to the portability requirement will suddenly just fail to participate in the program. The result then would be a loss of educational opportunity and a loss in precisely those States that have the greatest difficulty providing money.

That does not seem to me to be a rational policy; and I do not think that simply saying that we will delay it for a year in its application really addresses itself to the question.

The requirement of portability contained in section 123 (b) (4) of the committee version of the education amendments which would prevent States from limiting State student incentive grants to students attending eligible institutions within the State, would have damaging effect on those smaller States, such as Idaho, with relatively small SSIG programs. These States are already hard pressed to provide sufficient matching funds to claim their basic SSIG entitlements, and may, in fact, be forced to discontinue their participation in the program altogether if the added burden resulting from portability is placed upon them. In addition to the added costs of administration, the requirement would necessarily result in the loss of control at the local level by the individual institution, where decisions regarding need of applying students can be made most equitably.

Those students wishing to attend out-of-state schools are afforded portability in financial aid by other programs such as basic education opportunity grants.

The States should not be forced to submit to the dictates of the Federal Government in how they administer such grants including substantial amounts of State moneys.

I have letters from the president of the University of Idaho and from the Governor of the State in which they voice their objections to portability, and I ask unanimous consent that they be made a part of the Record.

I also have a listing of the States affected by portability with the 150-percent exemption that was introduced into that deliberation in the committee, and I ask unanimous consent that it be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

University of Idaho,
Moscow, Idaho, June 18, 1976.

Senator James A. McClure,
U.S. Senate,
Washington, D.C.

Dear Jim: We are seriously concerned that certain amendments to the Higher Education Act of 1965 as proposed in Senate Bill S2657 will not only have a deleterious effect on the states and on college students, but will also be very difficult to administer. These provisions are contained on page 126 of the amendments in Section 415C(b) of the Higher Education Act of 1965.

State Student Incentive Grants are now limited by states to students attending eligible institutions within that state. The amendment seeks, by federal legislation, to prevent states from so restricting. To escape the amendment's force, states will be obliged to exceed the one-to-one dollar match by 50%. In a state such as Idaho, whose fiscal efforts on behalf of higher education are already heroic, the amendment could well result in no increase in state funds for matching and a corresponding net reduction in award of federal aid funds by a factor of one-third.

It is doubtful that the Idaho legislature will endorse this new portability concept, nor do we as an Idaho institution. Idaho state legislation has encouraged Idaho youth to remain in the state for undergraduate study. In support of this goal, a strong state scholarship program (non-portable) is in operation. Idaho possesses adequate institutional capacity within the state, public and private, to furnish quality undergraduate programs to Idaho youth. Full utilization of these institutional resources is vital in a state where citizens are relatively heavily taxed for higher education. Any hint of underutilization of facilities and encouragement of students to go to college out-of-state may well result in loss of fiscal support for Idaho higher education.

The Basic Educational Opportunity Grant program already provides a high degree of portability in student financial aid. Students supported under the campus based programs (NDSL, CWS, and SEOG) are funded through the institution they elect to attend. The portability proposed by this amendment will needlessly complicate financial aid work in every state and in every institution. This, in turn, increases administrative costs. These additional costs will absorb dollars which would otherwise reach students in the form of direct aid. Portability should, in our view, be approached in a way *now possible* under the law, i.e., the receiving state provides State Student Incentive Grant funds to the entering student without discrimination as to the student's residency.

We oppose this amendment vigorously and recommend that portability be encouraged by continuing to permit states to award State Student Incentive Grants without regard for the student's residency.

Sincerely,

Ernest W. Hartung,
President.

State of Idaho,
Boise, June 11, 1976.

Senator James A. McClure,
Room 2106, Dirksen Building,
Washington, D.C.

Dear Senator McClure: It has come to my attention that Senate Bill 2657 contains an amendment to the State Student Incentive Grant Program requiring that a state must provide "portability" of state grants unless the nonfederal funding equals 150 percent or more of the federal funding.

This is a strange amendment. Presumably it was designed to insure "portability". Its most probable result would be to enable states with large, well-established student assistance programs to *avoid* portability.

In the case of the State of Idaho, which has for the first time appropriated money to match the federal SSIG funds, the effect of the amendment would probably be the withdrawal of Idaho from the program. The question of portability has never been reviewed by this office, nor has it been reviewed by the legislature. It is certain that a substantial number of legislators would oppose utilization of state monies for such a purpose.

In short, the amendment to S. 2657, without assuring the portability its sponsors appear to desire would, in fact, threaten to destroy completely the fledgling program in this State. I urge you to support any action which may be introduced to remove this amendment from the Bill.

Sincerely,

CECIL D. ANDRUS,
Governor.

STATES AFFECTED BY PORTABILITY

Alaska, Arizona, Arkansas, District of Columbia, Hawaii, Idaho, Louisiana, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, South Dakota, Tennessee, Utah, Virginia, Wyoming, and American Samoa.

Mr. JAVITS. Mr. President, as I understand it, and the Senator will correct me if I am wrong, this proposes to drop the whole concept of portability. Is that correct?

Mr. McCLURE. The Senator is correct.

Mr. JAVITS. It is too comprehensive an amendment for us to take and much too comprehensive an amendment for us to submit to a voice vote. Therefore, I suggest to the Senator—as I understand it now, and he will correct me or the Chair will correct me if I am wrong, there are 10 minutes on this amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. A few have been used. Senator McCLURE has two others, on which there is a half hour each.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. That means an hour tomorrow.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Mr. President, I should have to seek a quorum or a record vote if this matter is to be pursued tonight. We do not want to do that. Perhaps we should make the same arrangement for this amendment that we made for Mr. PEARSON's amendment and perhaps have it considered immediately after the Pearson amendment is voted upon.

Mr. McCLURE. May I, in conformity with the request of the Senator from New York, ask unanimous consent that this amendment be made the pending business immediately following the disposition of the vote on the Pearson amendment with, again, 5 minutes of debate on each side preceding the vote?

Mr. JAVITS. Right.

Mr. McCLURE. And that the rollcall vote be a 10-minute vote?

Mr. JAVITS. That is right.

Mr. McCLURE. And that, immediately following the disposition of this amendment, my other two amendments be made the pending business.

Mr. JAVITS. I would like to wait on that. I would not like the Senator to include that matter in this request. Just make this one the Senator's amendment, 10 minutes, and a rollcall. Let me say why.

I say to Mr. BELLMON, we find now that we have a list of amendments which will take us, if the time is used, well past 12 o'clock. It will mean that Members who do not happen to be here are absolutely shut out. I should have been alert enough to catch that on Senator McCLURE's unanimous-consent request. One, maybe, we can live with. But if we begin to have all the time taken up back to back, it is very unfair to other Members. I shall feel constrained, therefore, to object. But I hope that, in the spirit of accommodation which all of us have here, we shall be able to work out a schedule, perhaps reducing time for each in order to be able to accommodate everybody and give a reasonable opportunity for debate. Right now, we have from 9:30 until 12, which is 2½ hours. We have 2 hours and 35 minutes of debate. That includes rollcalls, of course. So obviously, we are over, and some Members are going to be completely shut out.

Mr. McCLURE. I withdraw my request, then.

Mr. JAVITS. The request is OK for this amendment, because we cannot deal with it tonight.

Mr. McCLURE. The difficulty with that is that I have already gotten unanimous consent that my other two amendments will be made the pending business.

Mr. JAVITS. Right.

Mr. McCLURE. If I do not withdraw my request, I shall lose that unanimous consent, because this will vary from that.

Mr. JAVITS. Right.

Mr. McCLURE. Therefore, I withdraw my unanimous-consent request on this amendment.

Mr. JAVITS. Does the Senator want a vote on this amendment tonight?

Mr. McCLURE. That is fine with me.

Mr. JAVITS. We shall have to get a quorum and see if it is here.

Mr. McCLURE. I am satisfied with a voice vote.

Mr. JAVITS. We cannot have a voice vote. We just do not know who is here.

All right, Mr. President, I am willing to yield back my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JAVITS. Yes, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. STEVENS. Will the Senator answer an inquiry for me before we close the business here, the manager of the bill?

Mr. JAVITS. Yes.

Mr. STEVENS. We just had a question raised as to whether this bill mandates any particular level of funding of these five student aid programs in regard to one another. Is there anything in this proposal before us that mandates a particular level of one program in relation to the other?

Does the Senator from Rhode Island understand my question?

Mr. PELL. Yes.

Mr. STEVENS. We ran into a situation once where we tried to increase the BOEG allocation and we were told we could not put any money into BOEG because we were mandated to put a certain portion of the money available for student aid into the other programs. Is that concept in this bill?

Mr. PELL. That concept is in this bill. It has been existing law since 1972. The Senator is correct.

Mr. STEVENS. Is it changed in any regard as far as current law is concerned?

Mr. PELL. There is no change as far as current law is concerned.

Mr. President, I move to reconsider the vote on the amendment of the Senator from Idaho.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. May we know if any other amendments are to be offered?

Does Senator BELLMON wish to press his unanimous-consent request?

Mr. BELLMON. Mr. President, I would like to press for unanimous consent to my amendment tomorrow, that it follow the two McClure amendments.

The PRESIDING OFFICER. Will the Senator state the unanimous-*consent* request?

Mr. BELLMON. Mr. President, I ask unanimous consent that, following the vote on the second McClure amendment, the Bellmon amendment be made the pending business.

Mr. JAVITS. Mr. President, reserving the right to object, and I hope we can work this out so that I do not object, I am perfectly agreeable to Senator BELLMON's amendment following Senator McCLURE. In fairness to Members not here, the time that both have is excessive, considering the fact that we only have 2½ hours. If Senator McCLURE might be willing to consider cutting down the time on both of his amendments, say to 20 minutes instead of a half hour, and Senator BELLMON would consider cutting down the time on his amendment to 20 minutes instead of a half hour, then I think it would be at least somewhat more fair to those who are not present.

Mr. BELLMON. Mr. President, I am agreeable to a 20-minute time limit.

Mr. McCLURE. Mr. President, may I say that both of my amendments deal with the same subject matter. They both deal with the title 9 regulations. Although they are separate amendments and deal with it in different portions, nevertheless, the debate probably will somewhat merge and we might be able to get the debate on both of them and then have back-to-back votes. Rather than a whole hour on the two, we could have 40 minutes on the two, equally divided, then back-to-back votes on the two amendments.

Mr. JAVITS. That suits me.

Mr. PELL. We do not have to use the time in any case.

Mr. McCLURE. That is right.

Mr. JAVITS. The unanimous-consent request, as I understand it, is that the time on the Bellmon amendment is reduced to 20 minutes, equally divided. The time on the two McClure amendments is reduced from an hour aggregate to 40 minutes aggregate, equally divided, with the votes to come back-to-back after the debate of 40 minutes is complete.

The PRESIDING OFFICER. The Senator is correct.

Is there objection? Without objection, it is so ordered.

ADDITIONAL STATEMENTS

Mr. WILLIAMS. Mr. President, I am pleased to join my colleagues on the Committee on Labor and Public Welfare in bringing S. 2657, the Education Amendments of 1976, to the attention of the Senate. This bill contains extension authority for all programs of higher education and vocational education, makes revisions in other programs in the administration of education by the U.S. Office of Education, and authorizes the creation of a number of new programs.

This bill represents the careful and concerned efforts over the last 2 years of the chairman of the Education Subcommittee, the Senator from Rhode Island (Mr. PELL), with the assistance of other members of the committee. Committee consideration encompassed more than 17 days of hearings and many more informal sessions, including field review by staff. I believe this bill thus provides a sensitive and forward looking review of higher education and vocational education, one that provides assistance to those students in need and makes changes in programs to assure that they meet the needs of the times.

Continuing the historical trend of educational legislation which has been approved by the Congress over the last decade, the provisions of S. 2657 further extend equal opportunity through education by focusing attention on the nontraditional student and nontraditional education programs. In particular, the committee bill adopts a program for grants to States for the development of postsecondary continuing education programs, which includes funding for technical assistance to States and localities for the development of such programs and puts a priority on the funding of statewide planning efforts to determine the need for various continuing education programs and to adopt strategies to meet these State needs.

The committee bill directs the Commissioner of Education to undertake activities to explore various alternatives for a national strategy on lifelong learning. These provisions put emphasis on exploring flexible learning environments and programs for persons of all ages. They take note of the tremendous change in our society and the need for individuals to continue learning and continue exploring. As the committee found during its review of education programs, the increase in students enrolled part-time in institutions of higher education has increased by 20 percent from 1969 to 1972 alone, as compared to the increase of full-time students of only 8.8 percent.

Furthermore, we know that over the next several years we can expect an increase in leisure time for all citizens and many changes in the job market and the society around us. Remarkable new methods and environments of learning have been created here and in other countries, including such things as community workplace learning, tuition free education for the elderly, various programs for financing retraining of workers, programs in museums and galleries, and outdoor learning settings. As our society continues to become more complex, I believe we must assure to our citizens as much personal freedom and opportunity for creative endeavor possible. This strategy for lifelong learning offers us this opportunity.

I take special note of one part of this provision which I authored to demonstrate ways to increase the utilization by workers of employer-employee tuition assistance programs and to coordinate and encourage the development of community learning programs which will meet the projected career and occupational needs of the community. These provisions were adopted to try to find ways to correct the underutilization of tuition assistance programs and to bring the world of work and the world of education closer together in the community. These ideas were originally explored in "The Boundless Resource," a study done by Willard Wirtz and the National Manpower Institute.

In the area of student assistance, I believe the committee bill makes some major changes designed to make higher education more accessible to families of all incomes. It adopts an increase in the maximum grant allowable under the BEOG program from $1,400 to $1,800. This provision was adopted by the committee to keep up with increasing costs since 1972 to assure that the student grant allowable makes sense in terms of costs of higher education.

S. 2657 also increases from $15,000 to $25,000 the income level for automatic eligibility for interest subsidies in the guaranteed student loan program. This change in the guaranteed student loan program is designed to assure that this program will again meet the needs of students as was intended when the provision was created in 1965. When the $15,000 limit was set 10 years ago, the intention was that 87 percent of all students receiving loans could benefit from the interest subsidies. Because of the increase in the cost of living, only two-thirds of the students now receiving guaranteed loans are also eligible for the interest subsidy. As many of my colleagues know, this loan program is currently one of the few sources of Federal financial assistance for students from middle-income families.

While students with incomes over $15,000 may receive interest subsidies based on their need, this change will assure that students from middle-income families from all over the United States will be able to be assisted. As this program currently operates, the income level differential cuts hardest against middle-income families from the large industrial States like New Jersey because the cost of living in these areas is higher. I know that in many of these States banks and student financial aids officers have been very sensitive to needs of individual students. This amendment, however, will assure that the intent of Congress is clear on the matter.

S. 2657 also adopts new provisions for support of education outreach centers, to assure that information about opportunities for postsecondary education, financial assistance, and other pertinent matters will be available to all persons throughout a State; and of service learning centers to provide postsecondary remedial training to students from disadvantaged backgrounds. I know that in my own State of New Jersey these programs will be extremely helpful in assuring that the State can meet the needs of bilingual students, handicapped, and other disadvantaged students seeking postsecondary education.

The bill also makes important changes in the GSL program designed to improve loan collection, cut down on student default, and improve the administrative efficiency of the program. These reforms include such things as: Incentives to States to operate their own loan programs because collection efforts are much better in such States, an improved method of setting the special allowance rate for banking institutions, easing the minimum repayment period and lowering the monthly payment when two spouses both have loans, encouragement of lenders to make multiple disbursements, thus lowering the default if educational programs are not completed by the student borrower, and the adoption of a provision prohibiting a student from exercising an unintended use of the bankruptcy laws.

Mr. President, this bill also makes changes in the veterans cost of instruction program, which will assure that this important program will not suffer as a result of the expiration of the delimiting date for educational benefits for post-Korean war veterans. It provides a new method of funding teacher training programs, by allowing for the determination of national priority areas and by the development of teacher centers within local areas. And it assures that certain basic information will be made available by institution to all students receiving GSL loans and BEOG grants such as an institution's fee refund policy, availability of student assistance, policies on the rights and responsibilities of students and that institutions must designate and make known personnel responsible for assisting students in obtaining student assistance.

Finally, the bill creates a new program for the support of research libraries to protect their collections and to prevent them from having to curtail their hours and their services to their users.

Mr. President, I believe that this bill is vitally needed and that it makes critical changes in education law. It provides a solid base of reform and direction for future higher education and vocational education programing, and I strongly urge my colleagues to support its provisions.

S. 2657 also makes changes in the Vocational Education Act to provide for comprehensive long-range planning and to assure that State planning takes into consideration the needs of the student for employable skills, and to assist vocational education for keeping up with the changing employment environment.

In particular, S. 2657 provides for a new statewide planning commission involving in the planning process those persons in the State responsible for manpower programs, for higher education programs—both 4-year and other programs—and elementary and secondary programs.

This provision is one around which some controversy has developed and on which the Senator from Maryland (Mr. BEALL) has indicated he will offer an amendment. So I would like to for my colleagues describe the current situation in the State of New Jersey and the impact of this provision.

New Jersey has three separate agencies which operate higher education, elementary and secondary and manpower programs. It also has two boards of education, the State Board of Education vested with policymaking authority for all elementary and secondary programs, and the State Board of Higher Education with policymaking authority for all postsecondary programs—with the exception of noncollegiate postsecondary vocational education programs. The issue of comprehensive planning and the establishment of a State Planning Commission is one which is, therefore, sensitive in New Jersey in terms of what authority is vested where.

The State Planning Commission in S. 2657, however, does not disturb that authority in the State of New Jersey. The sole State agency for administering vocational education will continue to be the Department of Education. The State Board of Education will continue to be the final policymaking body. What the provisions of S. 2657 provide for is input in statewide planning for vocational and technical education by all the responsible governmental agencies whose programs overlap that educational area, and whose policy change may involve the same students.

The committee bill does not mandate a new separate planning body, if a body, for example, the State board—exists with membership of the appropriate agencies having responsibility for secondary, and postsecondary educational programs, for community and junior colleges, for higher education and the State Manpower Council. Furthermore, it does not mandate the establishment of a commission if each of these State agencies certifies that it had been involved in the planning.

The responsibilities of the State board for policymaking and the advisory role of the State advisory councils remain the same under S. 2657. All that this bill does is assure that all segments of the population will be considered and all responsible State agencies will come together to plan for vocational and technical education.

PRIVATE AND PUBLIC COOPERATION COMMENDED

Mr. RANDOLPH. Mr. President, today we are debating S. 2657, the educational amendments for higher and vocational education. I call to the attention of Senators that we are urged to think in terms of public and private education—not in terms of public or private education.

Ours is a pluralistic society, and helping to meet the needs of this society is a very important role of the private school. Most of the discussion and debate over private and church-oriented schools revolves around the Federal and State role in supporting or contributing financial assistance to the private educational segment. I am most pleased to note that, in some instances, this assistance works the other way around. Mutual support in education is a two-way street.

An outstanding example of this cooperation and assistance has occurred in my hometown of Elkins, W. Va., where the Randolph County Board of Education, for the past 6 years, has been provided school facilities in the former St. Brendan's Catholic School through the good offices of the Parish Council and the Catholic Diocese of Wheeling-Charleston.

To illustrate this cooperation, I ask unanimous consent that a letter of appreciation from the school board to the Reverend R. M. Kraus, of the St. Brendan's Catholic Church, together with a resolution approved by the Randolph County Board of Education, be placed in the RECORD at this point in our discussion.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AUGUST 4, 1976.

Rev. R. M. KRAUS,
St. Brendan's Roman Catholic Church,
Elkins, W. Va.

DEAR FATHER KRAUS: I am very pleased to indicate that the Randolph County Board of Education, meeting in regular session on August 3, 1976, did unanimously approve the attached Resolution in regard to Board utilization of the former St. Brendan's School since 1970. Speaking on behalf of the Board, we are most appreciative of the cooperation and assistance provided by the Parish Council of the St. Brendan's Church and with the Catholic Diocese of Wheeling-Charleston. Truly, the Randolph County Board of Education would have been unable to operate its schools in any reasonable manner these past six years had it not been through the gracious benevolence of the St. Brendan's Church.

We are sincerely appreciative, and if we can be of service, please advise.

Respectfully,

TOM MCNEEL,
Board of Education for the county of Randolph.

RESOLUTION

Re St. Brendan's School Facility.

Whereas, the Roman Catholic Diocese of Wheeling-Charleston, West Virginia, and the Parish Council of the St. Brendan's Catholic Church of Elkins, West Virginia, have since 1970 recognized the need for increased school facilities for Randolph County; and

Whereas, the Parish Council aforesaid has, in a spirit of benevolence and concern, leased to the Randolph County Board of Education that structure formerly known as the St. Brendan's Catholic School; and

Whereas, the Randolph County Board of Education has utilized said facilities to serve students attending the Central Elementary Annex; and

Whereas, new elementary schools have been constructed to house the children formerly attending Central Elementary School Annex; and

Whereas, the Randolph County Board of Education desires to publicly extend appreciation for this service to the Roman Catholic Diocese of Wheeling-Charleston, West Virginia, and to the Parish Council of the St. Brendan's Catholic Church;

Be it hereby resolved, that the Board of Education for the County of Randolph officially notes as a matter of public record that the Board is sincerely grateful for the kind generosity and benevolence of the Wheeling-Charleston Diocese and the St. Brendan's Church for use of this facility.

VETERANS EDUCATIONAL BENEFITS NEED TO BE EXTENDED

Mr. HUMPHREY. Mr. President, as we debate S. 2657, the Higher Education and Vocational Education Act, I want to again bring to the Senate's attention the plight of our post-Korean war veterans whose educational benefits were cut off on May 31, 1976.

On June 10, I introduced S. 3547, a bill which would allow those veterans who were enrolled at the time of the cutoff to complete approved programs of education. Senators SCOTT of Pennsylvania, HUDDLESTON, MONTOYA, and ALLEN have joined in cosponsoring this bill which has been referred to the Veterans' Affairs Committee.

I now strongly urge that the Veterans' Affairs Committee seriously consider extending this May 31, 1976, delimiting date when it meets on veterans' education legislation next week.

I understand that about 483,000 veterans would be affected by this bill, some 7,500 in my State of Minnesota who for various reasons have not completed their educational training within the 10-year time limit. Time is so short, classes are beginning. Every day my office receives calls from veterans who will have to drop out of school for lack of finances and with uncertain job prospects because of unfinished training.

I recognize that an adjustment to meet the cost of this limited benefit eligibility extension will be required in the next concurrent budget resolution but this investment will be more than paid back in the resulting better jobs with higher wages for veterans and additional tax revenues for the Government.

Mr. BROOKE. Mr. President, since 1972, loan limits under the guaranteed student loan program have been set at $2,500 per year with a cumulative limit of $7,500 for undergraduate students and $10,000 total including both undergraduate and graduate education. The House Education and Labor Committee reported H.R. 14070 with an important change in the amounts borrowable by graduate and professional students under this program. In the House version, the annual limit for graduate students would be raised to $5,000 and the total would be raised to $15,000, including the amounts borrowed for their undergraduate studies. These figures are clearly more realistic than the figures agreed upon in the Senate bill.

There are several basic reasons why graduate and professional students need higher loan limits, both annually and total, than undergraduate students. First, almost no grants are available generally to graduate and professional students. Second, tuition in graduate and professional programs is typically much higher than in undergraduate programs. These higher costs, including tuition and books, reflect not only the inflationary trends of society but also the greater expense of providing a high quality graduate education. And, third, professional and graduate students are adults who are often independent of their families or are starting families of their own.

Most graduate and professional students can be expected to have higher earning capacity after receipt of their degrees, so it is not unreasonable to expect them to have higher levels of debt at the time of graduation. Their higher career earning potential may justify the absence of direct public subsidies for their training, but these students should be able to finance this training by borrowing against the future earnings that it provides.

Since the escalating individual budgets required to keep a graduate student in school are directly tied to the financial condition of the schools themselves, it would be well to realize that the very existence of some of these schools is threatened. Their costs are rising at a rate that outstrips even the rate of inflation, which produced a decline in the purchasing power of the dollar of 40.3 percent in the past 10 years. Endowments of even the relatively affluent private schools were devastated by the recession of the early 1970's and these endowments cannot provide a significant degree of support to graduate education. In addition, for various reasons, both State and Federal governments have curtailed subsidies to graduate and professional education.

As the Carnegie Commission noted in a 1973 report:

> Science and engineering fields, and the academic professions in general, benefitted from greatly increased federal funding in the post-Sputnik period. Today, however, because many fields are developing manpower surpluses, and because the need for additional college teachers seems likely to decline as we move toward enrollment stabilization, the societal benefit of continuing high subsidies is also declining. Thus, federal policy is one of constraint. . . . Too great a reliance on manpower assessments in determining public funding, however, tends to overlook the delicate balance of institutional well-being; what may appear to be a rational policy in adjusting manpower flows may exact a harsh penalty on the institutions whose continued vitality is essential to the public interest.

It should also be added that penalizing students for surpluses in certain professions would be even more harsh than penalizing the institutions. Those who are concerned about subsidizing education programs in career fields that are experiencing a surplus should realize that direct assistance to students does not involve the Government in determining priorities among professions.

Rising tuition levels have been resisted by the schools but are inevitable. Every significant increase in tuition prices a substantial proportion of interested students out of the market. Graduate and professional education in the United States traditionally has been a ladder for those of all social and economic classes who are most competent to climb as high as their interests and abilities will carry them. Particularly since World War II, we have based graduate and professional training on merit rather than on ability to pay. To prevent excluding the sons and daughters of the great majority of our population from this training, additional financial support for students must now be provided.

These are the historical and sociological tenets on which the need for increased financial aid to graduate and professional students is based. The current student budgetary problems follow.

Schools regularly prepare a minimum annual budget figure for their students, a figure derived by adding tuition and books to the standard or minimum budget produced by the Bureau of Labor Statistics for that locality. The Association of American Law Schools estimates that the average minimum budget for attending a private law school is approximately $5,500 per year; average for public law schools is approximately $4,000 per year for nonresidents and approximately $4,500 per year for residents. In the health professions, costs go even higher. The Association of American Medical Colleges estimates that the average budget for a medical student is about $8,400 per year at private schools and about $5,750 per year at public schools.

At these prices, only the wealthy can afford professional education from their personal resources. And the typical middle-class family is rapidly being priced out of the professional education market.

These figures were recently used as the basis for an informal analysis of need among law students by the Graduate and Professional School Financial Aid Service—a nonprofit educational service. GAPSFAS is under contract with law schools, medical schools, dental schools, and business schools to provide analyses of applicants for financial aid at those schools. By comparing the individual's need analysis against the school's suggested minimum budget, the school can assess relative entitlements to financial aid. GAPSFAS thus has both experience with actual levels of aid and sophisticated computer models of need analysis. Using figures supplied by the Association of American Law Schools, GAPSFAS drew upon its family income data and computerized financial aid model to reach an estimate that 40,956 law students could show a need, as defined under the guaranteed loan program, of an average of $3,175 per year. Therefore, for almost 41,000 students—over one-third of all law students—a 3-year law school education would make them eligible to borrow almost $10,000 each if the money were available. Increasing these figures by an average of $2,000 each, a conservative estimate of the greater cost of medical or dental school, would produce loan eligibility of over $5,000 per year and a total of over $15,000. Even if costs of education did not continue to rise with inflationary pressures, a $5,000 annual limit on borrowing would be warranted by these figures; the current $2,500 limit is clearly inadequate. In addition, many graduate school students have already borrowed to pay for their undergraduate education.

Mr. President, I also support extending the repayment period to 15 years. For if these increased limits are adopted, then a 10-year repayment period will become burdensome for many graduates. Moreover, it would impel recent graduates away from public service jobs into higher paying endeavors. Comparable experience with fundraising efforts by the schools indicates that their graduates have a tightly limited amount of money until almost the 10th year after graduation. It is at that time that many of them have established their careers, started families, purchased homes, and otherwise begun to stabilize their financial situations. Fortunately, a high number of graduates, especially from the law schools, spend the first few years of their careers in relatively low-paying public service jobs, either with the Government or legal services institutions. Many others either go into private practice on their own or serve what amounts to an apprenticeship with other practitioners; in either event, their earning potential is not realized during these formative years.

It would not be a wise policy to develop a program that forced graduates immediately into higher paying jobs at the sacrifice of public service. Therefore, it is advisable to stretch out the payments over a longer period to reduce the amounts repaid during the early years of the graduate's career.

There are a couple of points worth reemphasizing. First, this is not a giveaway program. Administrative costs and default rates continue to make it expensive for the Government, but these problems must be tackled independently of the amounts that students need for a quality education. Second, the Federal guarantee in this program is essential to make capital markets respond to students. Given the choice between a real estate mortgage and an unsecured education loan, a lender could not be expected to choose the student without the backing of the Government. Finally, the costs of education threaten in the near future to close all but the most affluent members of society out of graduate education. This would not be fair to so many young men and women who have been told that academic prowess is the key to their future.

Mr. President, I urge the Senate conferees to accept the House allowance for the guaranteed student loans.

IMPACT AID

Mr. TOWER. Mr. President, I would like to express my support for the amendment which Senator HRUSKA would have proposed to S. 2657 revising the impact aid formula. The Killeen School District in Texas has a problem similar to that of the Bellevue Public School System in Nebraska, and as the Senator has stated, there are 81 school districts throughout the United States for whom this issue is a matter of critical concern.

The Federal Government has been providing aid to schools in federally affected districts since 1950. Those funds are vital to the districts if they are to continue to provide quality education to the children attending the schools in areas heavily burdened by Federal activity. As with most Federal programs, there have been cases in which the integrity of the purpose of impact aid has been threatened by certain abuses. Wealthy school districts have received large amounts of tax dollars. However, that does not negate the fact that there are numerous communities in which the tax base cannot possibly support quality education for students, among whom are an extraordinarily large number of military dependents.

When the State cannot tax the Federal property housing those military dependents, the school system must forego massive revenues that must be replaced in other ways—if the national ideal of a high standard of education is to extend to these parts of the country as well. I might add that, though impact aid is a matter of critical concern to 81 school districts, there are about 4,000 altogether which benefit to some degree from this type of assistance.

In conclusion, the current impact aid formula is extremely complex, and responsible review will require extensive hearings. I look forward to the opportunity for the Senate to go into this matter in some depth, and I, too, have numerous constituents who would appreciate the opportunity to make known their estimation of the value of the program and potential improvements which would enhance its value and popularity. I commend Senator Hruska for his efforts in making this opportunity available.

Mr. HRUSKA. Mr. President, I wish to bring to the attention of the Senate a matter of great concern to my constituents in Bellevue, Neb., on the subject of aid to school districts heavily impacted by Federal activity. For many years I have been involved in assuring that local school districts with a high percentage of military dependents in attendance receive the level of funding needed through the appropriations process. The changes in impact aid adopted by the Congress in 1974, establishing a three-tier formula for the distribution of impact aid funds, were designed to insure that school districts with a high level of impaction from the dependents of on-base military personnel receive a separate entitlement.

By distinguishing between the two types of military impaction, a practice followed before the 1974 amendments, districts with a high percentage of both on-base and off-base personnel whose children attend local schools have found that their needs still are not being met. The Bellevue public school system is such a district, due to the proximity of Offutt Air Force Base, headquarters of the Strategic Air Command. There are 81 school districts across the country similarly affected.

To remedy this situation, I had intended to offer an amendment to the bill presently before us. Its purpose would have been to adjust the formula so that off-base dependents of military personnel receive full entitlement under the three-tier formula through the first and second tiers rather than in the third tier. Entitlements for on-base dependents who constitute more than 25 percent of enrollment in an individual school district are now met fully in the first two tiers. Mr. President, I ask unanimous consent to include the text of the amendment for information purposes only at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

To Amend Public Law 874, 81st Congress Respecting Payments Pursuant to Section 5 Thereof

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) section 5(c) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended—

(1) in paragraph (2)(A) thereof, by striking out "section 3(a)" and inserting in lieu thereof "sections 3(a) and 3(b)(3)"; and

(2) in paragraph (2)(D) thereof, by inserting after "section 3(b)" the following: "(other than children with respect to whom payments are made under clause (A))".

(b) The amendments made by subsection (a) shall be effective with respect to appropriations for such Act for fiscal year 1977 and succeeding fiscal years.

Mr. HRUSKA. I would like to point out, Mr. President, that providing full entitlements to the 81 school districts that would have been affected by this amendment would cost only $3 million.

The distinguished Senator from Rhode Island, to whom I made my intentions known, expressed reluctance to consider an impact aid amendment to a bill dealing primarily with higher and vocational education. I well understand and respect his reluctance, and for that reason I will not offer my amendment. I would appreciate, however, assurances from my distinguished colleague that the problem facing the 81 school districts with both high on-base and off-base impaction will be taken up when the Senate considers amendments to elementary and secondary education legislation in the next Congress. Does the esteemed Senator from Rhode Island agree that the elementary and secondary education bill of the next Congress is the appropriate legislation for addressing the issue I have raised?

Mr. PELL. Yes, I do.

Mr. HRUSKA. I thank the Senator. As he knows, the impact aid formula is extremely complex. One of the reasons he was reluctant to consider my amendment at this time is due to the complexity of the formula, especially since no hearings were held to present evidence on the need for the change. I would appreciate the distinguished Senator's assurances that my constituents will have the opportunity to testify on the need for amending the impact aid formula during subcommittee hearings on the elementary and secondary education bill next year. Does that meet with the approval of the distinguished Senator from Rhode Island?

Mr. PELL. I can assure the Senator that all issues involving the impact aid program will receive thorough consideration by the Subcommittee on Education as it considers the elementary and secondary education bill in the next Congress.

Mr. HRUSKA. Mr. President, I thank the Senator for his assurances. In order that my colleagues may examine the need for this change in the impact aid formula, I ask unanimous consent to include in the Record following my remarks a statement prepared by Dr. Richard Triplett, superintendent of the Bellevue Public School System. It was originally delivered before a conference of impacted school districts in San Diego in December 1975. It represents a refinement of an earlier proposal by Dr. Triplett which I brought to the attention of my colleagues on June 27, 1975, during debates on the education division appropriation for fiscal 1976. It appeared on pages 21274–21278 of that days Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Justification for 100 Percent Funding for Military "B's" for Districts Which Are Also 25 Percent Impacted With "A" Pupils

As was pointed out by Senator Hruska during the floor debate on the 1975–76 appropriation for School Assistance in Federally Affected Areas, (impacted aid), the recent changes in the authorization language have not provided equitably for those districts which are heavily impacted with both "A" and military "B" pupils The so-called Super "A" districts have gained some degree of stability, particularly those with no, or relatively few, "B" pupils, with the provision of 100% funding for "A" pupils through Tier II when 25% impacted with "A" pupils. However, there is a relatively small number of districts with 25% or more impaction of "A" pupils which also have a high concentration of military "B" pupils which are suffering serious financial problems as a result of prorations of P.L. 874 funding.

Of the 4,531 P.L. 874 applicants, only 234 qualify as Super "A" districts. Of these 39 have no "B" impaction, 114 have a "B" civilian impaction but no "B" military impaction, 6 have "B" military impaction but no "B" civilian impaction, and 75 have both "B" military and "B" civilian impaction. The table below depicts this distribution:

"B" impaction among super "A" districts

	Number of districts
No. "B" impaction	39
"B" civilian but no "B" military	114
"B" military but no "B" civilian	6
Both "B" military and "B" civilian	75
Total	234

Thus, there are 81 districts which have a military "B" impaction, of which 75 also have a civilian impaction of "B" pupils, Among the 81 districts which are 25% impacted with "A's" and which also have military "B" entitlements are the 30 districts which were identified in the Battelle Report as "Prisoners of the Federal Government" because their reliance upon impact funding is so great. These are the districts which Battelle recommended should be dealt with separately in the legislation since it was impossible to develop a formula which would apply to the other 99.3% of the applicants and still treat these severely impacted districts in an equitable manner when reductions were made in the funding. This separate category has never been created by the Congress.

Typically, these 30 districts serve military installations. Enrollments vary from approximately 1,000 pupils to 15,000 with an average enrollment of 5,779. This average enrollment is apportioned among the various enrollment categories as follows:

[In percent]	*Average enrollment*	*Percent of total*
"A" Pupils	2,007	35
Military "B" Pupils	762	13
Other "B" Pupils	667	12
Non-federal Pupils	2,343	40
Totals	5,779	100

These districts typically have a smaller tax base per pupil than their neighbors due to the presence of the military installation, on-base housing and base exchange activities. Military personnel typically retain legal residences in their home states. As a result, they are not subject to state income taxes in the state where their children attend school. Sales on base exchanges are not subject to local sales taxes. On the average, 48% of the pupils in a typical district are dependents of those in the uniformed services and 12 percent are dependents of civilian employees who work on base. Thus, 60% of the students are federally connected. These percentages will vary from district to district, * * *.

A typical district among these 30 districts will expend approximately 80%–90% of the amount per pupil as is expended by its neighbors which are not severely impacted. At least a half dozen of these 30 districts have experienced financial crisis in the past five years as was predicted in the Battelle Report, since the prorations of P.L. 874 first began in 1970. School closings, staff reductions or program reductions have occurred in almost all of these 30 districts during the past five years since P.L. 874 prorations first began.

Attached are three tables listing the 81 districts which have 25% or more impaction of "A" pupils and also have a military "B" impaction. For each district, there is also listed the total enrollment, the relative impaction of the total of "A's" and military "B's" (counting a military "B" as one-half a pupil), the entitlements for "A's", military "B's", and other "B's" and the amount of military "B" entitlement which is funded only when Tier III is funded.

It is proposed that legislation be introduced that would provide 100% funding for the military "B" category through Tier II when a district is also 25% impacted with "A" pupils.

If passed, such legislation would have the following effect:

1. It would apply only to military "B" funding in the 81 districts which have military "B" entitlements in addition to their Super "A" entitlement.

2. It would move $2,978,474 of entitlement from Tier III to Tier II but would not increase the total of entitlements.

3. It would increase the number of districts receiving 100% of entitlement through Tier II from 39 to 45. The increase in funding through Tier II for these six districts would total only $6,679, an insignificant amount when compared with the total appropriations. Thus, the proposal has little effect upon the number of districts guaranteed full funding through Tier II.

4. The 30 districts which are most severely impacted with military "B" pupils presently have 11.0 percent of their entitlements funded in Tier III. The proposal, if passed, would reduce the amount in Tier III to 5.4% of total entitlement, increasing funding through Tier II by $2,861,833.

5. In addition to the 30 districts which were identified above are 51 districts with relatively small military "B" impaction. Of these, 24 are identified in the table attached, the remaining 27 are grouped by state since their "B" military entitlements are small. Full payment for the military "B's" for these districts would have little effect upon the totals since only $116,641 would be moved from Tier III funding to Tier II for these districts. These districts typically have an "A" impaction much greater than the 25% minimum and have a relatively large civilian "B" impaction.

These 51 districts presently have a 9.2% of their enttilement in Tier III. The proposal would reduce Tier III funding to 9.1%.

6. 75 districts, of the total 81, would continue to have a significant portion of their entitlements (that for the civilian "B's") funded only if funds were appropriated for some or all of Tier III.

In summary, the proposed legislation would correct some of the inequities that result when reductions are made in the funding for the districts severely impacted with military "B" pupils.

Justification for the proposal is based upon the premise that there is a distinct difference between a military impaction and a civilian impaction, a distinction that has been recognized in every study that has been made of impact aid.

Obviously, these 30 districts are not, and have not been capable of exerting sufficient political influence to correct the situation. They make up less than one percent of the total applicants, yet their entitlements for section 3 pupils equal almost 10% of the total entitlements for impact aid. They represent only 18 states. In 12 of the states, only one district is among the 30. In only one state, California, are there as many as 5 districts among the 30. Enrolled in these 30 districts are 167,797 pupils, of whom, 48% or 81,023, are dependents of those in the uniformed services. The proposed legislation, if enacted would result in a minimum change in the authorization language, yet would correct one of the most glaring inequities which result from the prorations of P.L. 874 funding of the past 5 years. For these 30 districts at least, the need for full funding for the military connected pupils is unchanged from the date of original enactment of the law in 1950.

DECEMBER 1975—ANALYSIS OF 81 PUBLIC LAW 874 APPLICANTS WHICH ARE 25 PERCENT OR MORE IMPACTED WITH "A" PUPILS AND ALSO HAVE AN IMPACTION OF MILITARY "B" PUPILS

Applicant	Total enrollment	Percent impaction ("A's"+½ of military "B's")	Total entitlement "A"	Total entitlement Military "B"	Total entitlement Other "B"	Portion of military "B" in tier III
Killeen, Tex	14, 879	43	$2, 197, 144	$1, 256, 911	$404, 357	$502, 764
Bellevue, Nebr	10, 393	51	3, 167, 726	1, 116, 292	295, 559	446, 517
Clover Park, Wash	14, 998	39	2, 824, 570	578, 102	426, 329	231, 241
Monterey Peninsula, Calif	16, 752	32	3, 450, 477	513, 028	845, 763	205, 211
Oak Harbour, Wash	5, 337	42	836, 119	445, 177	226, 543	178, 071
Junction City, Kans	6, 841	48	1, 689, 695	408, 470	241, 023	163, 388
Lompoc, Calif	11, 421	29	2, 173, 059	246, 856	1, 188, 539	98, 742
Del Valle, Tex	4, 242	58	1, 059, 996	203, 043	56, 486	81, 217
Atwater, Calif	3, 412	42	624, 178	200, 709	48, 057	80, 283
Biloxi, Miss	8, 223	31	1, 040, 444	193, 131	270, 288	77, 252
Air Force Academy, Colo	4, 657	37	728, 313	192, 651	99, 719	77, 060
Groton, Conn	8, 563	32	1, 599, 134	178, 107	164, 701	71, 243
Burkburnett, Tex	3, 643	33	457, 702	165, 827	105, 902	66, 331
Waynesville, Mo	4, 803	63	1, 389, 061	161, 036	95, 337	64, 414
North Chicago, Ill	4, 043	48	1, 179, 988	145, 553	190, 399	58, 221
Rantoul, Ill	3, 214	54	927, 141	138, 189	109, 577	55, 276
El Paso, County, Colo	3, 705	60	1, 038, 811	112, 747	618, 572	45, 099
Mountain Home, Idaho	3, 803	44	808, 682	102, 933	141, 994	41, 173
Oscoda, Mich	4, 001	38	776, 530	99, 570	109, 298	39, 828
Prince George County, Va	5, 308	31	785, 301	80, 622	85, 725	32, 249
Douglas, S. Dak	3, 174	79	1, 811, 390	76, 416	9, 797	30, 566
Central S.D. of P., N.Y.	3, 862	34	1, 103, 176	69, 003	69, 877	27, 601
Fallbrook U.S.D., Calif	1, 200	56	297, 242	71, 447	51, 813	28, 579
Knob Noster, Mo	1, 969	62	552, 265	69, 157	30, 133	27, 663
Ayer, Mass	3, 351	61	1, 695, 628	65, 183	80, 622	26, 073
Mascoutah, Ill	3, 930	63	1, 536, 997	62, 069	56, 949	24, 828
Maconaquah, Idaho	3, 740	34	639, 276	55, 732	48, 629	22, 293
Ocean View, Calif	2, 143	34	342, 185	53, 780	110, 195	21, 512
Medical Lake, Wash	2, 311	56	687, 526	52, 843	45, 535	21, 137
Lakehurst, N.J	879	35	255, 256	40, 003	31, 431	16, 001
Total, 30 applicants	168, 797	48	37, 675, 012	7, 154, 587	6, 259, 149	2, 861, 3
Eatontown, N.J	2, 261	46	$887, 792	$28, 100	$57, 957	$11, 240
Adelanto, Calif	1, 608	93	776, 094	25, 308	13, 181	10, 123
Center Jt. S.D., Calif	1, 041	61	336, 480	22, 506	16, 317	9, 002
Wheatland, S.D., Calif	1, 987	83	856, 781	18, 454	8, 436	7, 382
Northern Burlington, N.J	2, 135	44	884, 303	18, 144	36, 289	7, 258
Wheatland U.S.D., Calif	706	69	414, 352	16, 750	14, 106	6, 700
Randolph Field, Tex	1, 354	94	1, 061, 521	13, 448	12, 607	5, 379
North Hanover, N.J	1, 778	77	955, 096	11, 886	7, 691	4, 754
Minot, N. Dak	8, 535	26	1, 237, 036	10, 395	1, 444, 941	4, 158
Gallup-McKinley, N. Mex	13, 270	61	4, 034, 446	9, 933	214, 561	3, 973
Flour Bluff, Tex	3, 196	26	421, 947	9, 533	202, 193	3, 813
Highwood-Highland, Ill	1, 454	33	952, 474	8, 414	12, 153	3, 366
Travis, Calif	2, 977	100	2, 054, 850	8, 219	----------	3, 288
Fort Sam Houston, Tex	1, 565	82	994, 535	7, 825	386, 546	3, 130
Tularosa, N. Mex	1, 558	35	282, 242	7, 237	106, 487	2, 895
Muroc, Calif	3, 350	71	1, 692, 331	7, 051	71, 924	2, 820
Rudyard, Twp	2, 149	67	819, 448	6, 867	28, 040	2, 747
Limestone, Maine	2, 050	62	663, 602	6, 260	352, 148	2, 504
Alaska State Operations	18, 639	80	27, 428, 880	5, 200	8, 815, 440	2, 080
Mineral County, Nev	1, 620	40	329, 729	5, 168	435, 676	2, 067
Sierra Sands, Calif	6, 295	34	1, 499, 356	4, 795	715, 773	1, 918
North Chicago H.S., Ill	1, 396	30	555, 422	3, 986	204, 629	1, 594
Lackland, Tex	996	99	768, 549	3, 897	----------	1, 559
Seeley, Calif	486	34	92, 185	2, 845	6, 259	1, 138
Total, 24 applicants	82, 397	55	49, 989, 451	262, 221	13, 163, 354	104, 888

Source: Listing provided by U.S. Office of Education.

Mr. HRUSKA. Our colleagues from Texas also have a strong interest in amending the impact aid formula in the manner that I had proposed to the Senator from Rhode Island. They also have statements on the subject.

I thank the Senator from Rhode Island once more for his assurances.

Mr. GARY HART. Mr. President, S. 2657 would amend section 405(e)(2) of the General Education Provisions Act to include a new subsection which would set aside at least 25 percent of the funds appropriated to NIE for grants and contracts exclusively with research laboratories and centers. This subsection reads as follows:

> (f)(1) In carrying out the functions of the Institute under this section, the Director of NIE shall make grants to, and enter into contracts with—
>
> (A) regional educational laboratories established by public agencies or private nonprofit organizations; and,
>
> (B) research and development centers established by institutions of higher education.

Mr. President, I would like to obtain clarification from the committee regarding the implications of this subsection as it applies to the National Center for Higher Education Management Systems—NCHEMS. Since 1971, NCHEMS has been one of those institutions included among NIE sponsored labs and centers and I feel certain that the authors of this legislation intend NCHEMS to be included as one of the labs and centers eligible for funding under this set-aside provision. However, it has recently been brought to my attention that the above referenced language might be interpreted by some to exclude NCHEMS. I would like to briefly review the source of ambiguity on this point.

First, although NCHEMS does not have the word "laboratory" in its title, it is a laboratory. The word "center" was chosen over "laboratory" in order to avoid confusion with the National Laboratory of Higher Education in North Carolina which was also a laboratory in 1971. The North Carolina lab has since lost its laboratory status. As I understand NIE's technical definition of center and the language in the bill before us, it refers to research and development institutions established by institutions of higher education. While NCHEMS is governed by a board of directors made up of representatives from institutions and State agencies of higher education, it is not a "center" in that sense of the word.

Second, NCHEMS was initially established by the Western Interstate Commission for Higher Education—WICHE—a compact of the 13 western States—to serve the western region of the United States. However, its programs and products soon became of national interest and as a result of requests to WICHE by national associations and Federal agencies, WICHE agreed that a nationally representative board of directors should govern NCHEMS and that NCHEMS should become a laboratory funded by NIE.

With this change, NCHEMS shifted its focus from the specific needs of western institutions of higher education to serving the planning and management needs of all institutions of higher education across the nation. Thus, when NCHEMS became a laboratory in 1971 it already had a national rather than regional focus.

Mr. President, NCHEMS is widely known for its highly competitive and excellent achievements in improving planning and management capabilities in postsecondary education through research, development, dissemination and implementation activities. The center's objectives are first, to improve basic knowledge and understanding of modern planning and management concepts, systems, and practices in postsecondary education; second, to improve the quality and flow of information relevant to policy and managerial decisions in postsecondary education; and, third, to enhance the ability of planners and managers to make effective use of this information. It has made outstanding advances in all those areas.

Mr. President, I would greatly appreciate clarification and comment by the committee on the question I have raised regarding NCHEMS. As I mentioned earlier, I feel confident that it was the intent of the committee to include NCHEMS under this provision. I would like to have that point established for the record.

Mr. EAGLETON. Mr. President, as sponsor of this amendment in the committee, let me respond to Senator HART's concern.

Section 405(e)(2) was amended in committee to assure a continuing strong role for regional educational laboratories and research and development centers. The committee intends that those laboratories and centers now being supported by the National Institute of Education continue to be supported under the set-aside if their proposals have merit. During the fiscal year 1976 House Appropriations hearings on the Education Division appropriations bill, the NIE provided a list of those laboratories and centers which were being supported by NIE as follows:

Appalachian Education Laboratory, Charleston, W.Va.

Center for Educational Policy and Management, Eugene, Oreg.

Central Midwestern Regional Education Laboratory, St. Louis, Mo.

Center for the Study of Evaluation, Los Angeles, Calif.

Center for the Social Organization of Schools, Baltimore, Md.

Far West Laboratory for Education Research and Development, San Francisco, Calif.

Learning Research and Development Center, Pittsburgh, Pa.

Mid-Continent Regional Education Laboratory, Kansas City, Mo.

National Center for Higher Education Management Systems, Boulder, Colo.

Northwest Regional Education Laboratory, Portland, Oreg.

Research for Better Schools, Philadelphia, Pa.

Research and Development Center for Teacher Education, Austin, Tex.

Southwest Educational Development Laboratory, Austin, Tex.

Southwest Regional Laboratory, Los Alamitos, Calif.

Stanford Center for Research and Development in Teaching, Stanford, Calif.

Wisconsin Research and Development Center for Cognitive Learning, Madison, Wis.

The committee intends that all of the above agencies be eligible under the 25 percent set-aside, but does wish to make clear that by listing these 16 laboratories and centers the committee does not wish to preclude other institutions from eligibility if they meet the criteria in the legislation. Let me add that the list provided by NIE to the House Appropriations Committee also included the Center for Vocational Education in Columbus, Ohio. It is the committee's intent that the center continue to be eligible under the 25 percent set-aside if it does not become designated as the National Center for Vocational Education as contemplated in the House-passed vocational education bill, H.R. 12835.

Mr. HASKELL. Mr. President, the National Center for Higher Education Management Systems—NCHEMS—was established in 1971 as a national research and development laboratory to design, develop and field test planning and management information systems. Over the past 5 years, NCHEMS has achieved a high degree of credibility in all sectors of postsecondary education. More than 600 institutions have signed participation agreements with the Center. The Center has developed an extensive network of cooperative relationships with institutions, State and Federal agencies, and with consultants and task forces of experts to insure that the Center's products address high-priority concerns ultimately are useful to planners and managers.

Postsecondary education is among the most complex and diffusely organized of all enterprises and its substance, process, and environment change over time. Modern management concepts and techniques developed for business, industry, and government cannot be adapted to the unique needs of postsecondary education without extensive further research and development. These techniques are being constantly improved and therefore, the need for research and development efforts to apply them to postsecondary education will continue indefinitely into the future.

I would like, therefore, to join with Senator GARY HART in endorsing the clarification relating to the National Center for Higher Education Management Systems. I am pleased that the committee has cleared any ambiguity surrounding the intent of the National Institute of Education to continue funding of those centers in compliance with the above-referenced provisions of the law, and I am confident that the continued funding of NCHEMS will insure that our Nation's postsecondary education institutions receive the most expertise information in the areas of planning and management.

Mr. EAGLETON. Mr. President, I shall take a moment to clarify the committee's intent on section 127(1) of the bill. Section 127(1) provides for elimination as a lender of any school with an annual default rate of 15 percent or greater for 2 consecutive years. Further, the Commissioner is directed to waive the eligibility termination if he finds that termination of the institution as a lender would present a hardship to present or prospective students or if he finds that the institution has the ability to improve loan collections within 1 year.

It is my understanding that the Commissioner cannot terminate an institution's eligibility prior to making some determination under the waiver criteria. If he finds that collections will improve or that termination of eligibility would have a negative impact on educationally disadvantaged students in an institution, he must grant a waiver. Is that also your understanding, Mr. Chairman?

Mr. PELL. That is correct. The Commissioner must make a finding as to the institution's ability to improve collections or the impact of terminating eligibility on the institution's student body *before* he can take any school out of the lending business. If he finds that either of the above two conditions exist, he must grant a waiver.

Mr. TAFT. Mr. President, Federal support of education is an investment in the future. Expenditures for education can result in increased lifetime earnings for individuals, reduce the costs of welfare, unemployment, delinquency, and crime. Payoff in these terms alone, to say nothing of the individual dignity, fulfillment, and social stability, makes our commitment to education a worthwhile and necessary investment. An excellent education can, therefore, fully serve the needs of the individual and the needs of society.

Mr. President, I rise in support of the bill before us, S. 2657, the Education Amendments of 1976, which I cosponsored as reported by the Committee on Labor and Public Welfare. This is an omnibus bill, and as we are all aware, we cannot have everything to our liking in a bill of this size. Overall it is a good and comprehensive piece of legislation, and the committee has worked long and hard to come up with a bill that it hopes is satisfactory to the various facets of the education community.

HIGHER EDUCATION

The education that can be derived from colleges or various universities is the stepping stone to many career opportunities and it exposes students to vocations that match their aptitudes and interests. Students are more likely to be productive and receive the highest personal satisfaction in a chosen profession. This increased education also enhances the versatility of people by widening their options, and reduces the risk of their possible personal stagnation, by enabling them to know how to learn to progress to other things.

The reported bill extends the Higher Education Act of 1965 through fiscal year 1982—revises existing programs and adds some new ones.

The community services program is amended to include postsecondary education in community problems such as housing, poverty, government, recreation, employment, youth opportunities, transportation, health, and land use.

Continuing education is expanded to include postsecondary education.

A new program of lifelong learning opportunities is provided for those persons who have left the traditionally sequenced education system.

Special programs and projects relating to problems of the elderly as well as the national advisory council on extension and continuing education are extended.

College library assistance and library training and research is strengthened to promote research and education of high quality throughout the United States by providing financial assistance to major research libraries.

Special assistance to strengthen developing institutions is extended unchanged.

STUDENT ASSISTANCE

The amount of the basic educational opportunity grant is increased from $1,400 to $1,800. In addition, institutions are allowed $15 per academic year for each student enrolled so the institution can provide students with information concerning such financial aid and to defray the cost of administering this program the one-half cost limitation is retained, that is, for any academic year the amount of a basic grant shall not exceed 50 per centum of the actual cost of attendance—actual per-student charges for tuition, fees, room and board—or expenses related to reasonable commuting—books, and an allowance for such other expenses as the Commissioner determines by regulation to be reasonably related to attendance at the institution at which the student is in attendance.

The State incentive grants program—SSIG—by which the Federal Government provides grants to States to assist them in providing individual grants, based on financial need, to undergraduate students to attend institutions of higher education, is amended to provide that if the non-Federal portion of the grant is less than 150 per centum of the Federal payment to a State, effective after September 30, 1976, no difference is to be made between students whether they attend an educational institution within or outside the State, thus providing for the portability of SSIG funds across State lines.

The special programs for students from disadvantaged backgrounds includes a new special focus program to assist individuals from isolated rural backgrounds and minority group individuals underrepresented in specific careers. Also, a special service learning center program is added to provide remedial, counseling, tutorial, and other services for students with special educational needs. A new program is established to provide educational outreach, guidance, counseling, information, referral, and placement services for all persons who desire them.

The veterans cost-of-instruction program—VCI—which was designed to provide incentives and support funds for colleges and universities to recruit veterans and to establish special programs and services necessary to assist veterans in readjusting to an academic setting, especially educationally disadvantaged veterans, is amended to resolve the problem of participatng institutions regarding their continued eligibility on the basis of their count of veteran students. The program is also amended to emphasize the need to insure that educationally disadvantaged veterans are fully informed of the GI bill benefits and other opportunities available to them. In addition, the VCI program must be administered by an identifiable administrative unit.

Under the guaranteed student loan program a student may borrow money from a bank, savings and loan association, credit union, or other lender, to attend either institutions of higher education or vocational schools. The Federal Government guarantees the repayment of loan principal, and subsidizes interest payment for certain borrowers based on their adjusted family income. Some of the amendments adopted to strengthen the program are as follows:

First, elimination of the defense from repayment by reason of infancy.

Second, easing of minimum repayment period of the loan when agreeable to lender and borrower.

Third, provision of lower monthly payment for two spouses who both have loans.

Fourth, encouragement of lenders to make multiple disbursements.

Fifth, mandate that any loan insured or guaranteed cannot be discharged on account of bankruptcy for a 5-year period beginning on the date of commencement of the repayment period of the loan.

Sixth, eligibility for Federal interest payments is broadened to include students with an adjusted family income level of $25,000—an adjustment from $15,000 now.

Seventh, eligible institutions shall receive $10 per academic year for each student enrolled and who is a recipient of a guaranteed loan to carry out certain administrative duties, especially the student consumer information services program established by this bill.

The work-study program which stimulates and promotes the part-time employment of students is enlarged so that students may work for Federal, State, or local public agencies. This program is also amended to mandate that work-study institutions employ work-study students to provide financial aid, counseling, and information for students.

Cooperative education, which integrates classroom experience and practical work experience and as a result satisfies the dual desire of providing income-producing jobs that at the same time extend and amplify the learning process of students, is amended to allow participating students to alternate part-time work with part-time study periods.

The direct loan program which authorizes the commissioner to help establish funds at institutions of higher education for the making of low-interest loans to needy students is amended to provide for the cancellation of loans in cases where borrowers die or become disabled. The cancellation provisions of present law for certain public services, will no longer be applicable after the date of enactment of this bill.

Effective September 30, 1976, the Education Professions Development Act is repealed, except for the Teachers Corps. The Teachers Corps program is amended to encourage institutions to participate in teacher training in areas where there is a concentration of low-income families. The category of people who may serve under this program is broadened. The length of time that an institution may participate in a Teachers Corps program is increased from 2 to 5 years. A new program of teacher centers is authorized, as well as training of higher education personnel and grants for improvement of graduate programs of education.

The construction of academic facilities program is amended to enable the Commissioner to make loans to institutions of higher education for the purposes of reconstruction or renovation to conserve energy; enable the facilities to meet health and safety requirements imposed by the Occupational Safety and Health Act; and remove architectural barriers for the handicapped.

The graduate fellowships and assistance program is amended to broaden the range of activities authorized, emphasizing innovation and development.

The law school clinical assistance program is extended unchanged.

The program to assist the States in supporting community college program is extended at current level of funding.

VOCATIONAL EDUCATION

New discoveries in the sciences and technology occur almost daily and this knowledge requires that people be exposed to a broader educational base. Vocational education is a main tool in the ability of our society to funnel sophisticated scientific and technological advances down to our everyday uses. The Federal Government has been supporting vocational education since 1917, with the passage of the Smith-Hughes Act. As society has changed, the original act has been amended and expanded many times to reflect social and economic conditions. Vocational education needs our continuing support, to supply our citizens with the very best opportunities that can be available for them. It remains one of the firmest foundations between man and his works.

Existing law concerning Federal assistance to vocational education is extended through fiscal year 1977, then is rewritten for fiscal years 1978 through 1982. The revision calls for a State planning commission to be responsible for the development and preparation of comprehensive statewide long-range and annual plans. The membership of the State Planning Commission for Vocational Education must include:

First. A representative of the State agency having responsibility for secondary vocational education programs, designated by that agency;

Second. A representative of the State agency if such separate agency exists, having responsibility for postsecondary vocational education programs, designated by that agency;

Third. A representative of the State agency, if such separate agency exists, having responsibility for community and junior colleges, designated by that agency;

Fourth. A representative of the State agency, if such separate agency exists, having responsibility for institutions of higher education in the State, designated by that agency;

Fifth. A representative of a local board or committee;

Sixth. A representative of vocational education teachers;

Seventh. A representative of local school administrators;

Eighth. A representative of the State manpower services council.

If the State board of education membership meets the membership requirements of the State Planning Commission, then the State board may serve as the commission.

If the agencies named to the State Planning Commission certify to the commissioner of education that they have had the opportunity to participate in the making of the comprehensive statewide and annual plans, the Commissioner is required to waive the planning commission requirement and the State board is authorized to carry out the functions of the State Planning Commission.

As already required by existing law, States wishing to participate in programs under the Vocational Education Act are required to establish a State advisory council. However, the mandated membership of the council has been broadened and must provide for the following representation:

First. Are representative of, and familiar with, the vocational needs and problems of management in the State;

Second. Are representative of, and familiar with, the vocational needs and problems of labor in the State;

Third. Are representative of, and familiar with, the vocational needs and problems of agriculture in the State;

Fourth. Represent State industrial and economic development agencies;

Fifth. Are representatives of community and junior colleges;

Sixth. Are representative of other institutions of higher education, area vocational schools, technical institutes, and postsecondary agencies or institutions which provide programs of vocational or technical education and training;

Seventh. Have special knowledge, experience, or qualifications with respect to vocational education but are not involved in the administration of State or local education programs;

Eighth. Are representative of, and familiar with, public programs of vocational education and comprehensive secondary schools;

Ninth. Are representative of, and familiar with, private programs of vocational education;

Tenth. Are representative of, and familiar with, vocational guidance and counseling services;

Eleventh. Are representative of State correctional institutions;

Twelfth. Are representative of local education agencies;

Thirteenth. Are representative of a State or local public manpower agency;

Fourteenth. Represent school systems with large concentrations of persons who have special academic, social, economic, and cultural needs and of persons who have limited English-speaking ability;

Fifteenth. Are familiar with the special experiences and special problems of women and problems of sex stereotyping in vocational education;

Sixteenth. Have special knowledge, experience, or qualifications with respect to the special educational needs of physically or mentally handicaped persons;

Seventeenth. Are representative of the general public, including a person or persons representative of and knowledgeable about the poor and disadvantaged; and

Eighteenth. Are representative of vocational education students who are not qualified for membership under any of the preceding clauses of this paragraph.

In addition, the members of the State advisory council may not represent more than one of the above-specified categories. Appointments to the State advisory council must insure that there is appropriate representation of both sexes, of racial and ethnic minorities, and of the various geographic regions of the State.

States are required to submit and maintain a general application on file with the Commissioner, giving assurance that necessary methods of administration will be provided, that an office for women will be established, that standard accounting procedures will be used, that Federal funds will not be used to supplant State funds, that the State will make such reports to the Commissioner as he or she deems necessary, and that funds shall be distributed with regard to local interest. Priority is to be given to programs dealing with persons with special needs, with areas of particular need, or with innovative programs.

The Commissioner is authorized to make grants for vocational guidance and counseling services, including cooperative programs with community groups and agencies, to individuals of all ages; improving the qualifications of persons serving in vocational education programs by enrolling potential leaders in advanced study programs, that is, the training or retraining of teachers, training or retraining of guidance personnel, exchange programs, graduate study as leadership development awards, and, provide funds to institutions which carry out leadership development programs; grants to State local educational agencies, institutions of higher education, and other public and private agencies in order to develop and disseminate exemplary and innovative programs. Priority in funding is given to projects dealing with areas with high concentrations of unemployed, persons with limited English-speaking ability, physical or social handicaps, and programs to reduce sex stereotyping. After consultation with the National Advisory Council on Vocation Education, the Commissioner is authorized to make grants to develop and disseminate vocational education materials for new and changing occupations, to overcome sex bias, to coordinate Federal information output, and to train personnel in curriculum development.

The Commissioner is authorized to allot funds to each State for the compensation of students employed in approved work-study programs. He is authorized to make grants to States to establish and operate programs of cooperative vocational education related to students' occupational and educational objectives.

The Commissioner is authorized to make grants for a limited period of time to local educational agencies to modernize facilities and equipment.

The world has changed at a careening pace over the last few years, and our educational systems have been hard put to keep up with the advances. Information made available through home economics may very well make an essential difference in our young peoples' future. To this end, funds are provided for the purpose of assisting the States to prepare males and females for homemaking, including consumer education.

Students need to have their sights raised in accord with their potential, and to identify themselves with the diverse occupational possibilities open to them and with the preparation programs required. To achieve this goal, the reported bill creates a new and expanded program to develop and conduct career education and career development programs.

To improve the professional qualifications of guidance counselors, a new program of guidance and counseling is created providing training for supervisory and technical personnel having responsibilities for guidance and counseling.

Mr. President, education is the tool to a better life. We bear no greater responsibility in a selfgoverning society than that of educating our citizenry. I commend the distinguished chairman of the Education Subcommittee (Mr. PELL) and the ranking minority member (Mr. BEALL) for the careful work and many significant improvements the bill brings to higher education.

Mr. JACKSON. Mr. President, I wish to commend the Senator from Rhode Island and his subcommittee for including in their education amendments bill, S. 2657, an extension of the authorization for the International Education Act—IEA. The act expresses the determination of the Federal Government to assist in the development of the educational resources necessary to meet our national need for increased knowledge and understanding of foreign states, peoples, and cultures. I am particularly pleased to note that IEA is authorized to provide specific assistance to centers of advanced foreign affairs research.

Mr. President, it is urgent that, at this time, we promote the search for imaginative, thoughtful, and innovative ideas and insights in the field of foreign affairs and national security. This Nation's safety can be jeopardized and creative opportunities for promoting international peace and stability missed should the quality of the centers producing new knowledge deteriorate, and a shortage of highly trained specialists in foreign areas and languages develop. First-rate specialists representing a variety of viewpoints are indispensable to inform the deliberations of the executive and legislative branches of the Federal Government in the fields of foreign affairs and national security policy.

Yet the centers of advanced foreign affairs study throughout the country are in trouble. Until recently, the advanced foreign studies function was supported very largely by private foundations—notably the Ford, Carnegie, and Rockefeller Foundations. This support generally took the form of aid to research centers, both those that are university affiliated—e.g. the Russian Institute at Columbia University, the Latin American Studies Center at the University of Florida, the Near Eastern Studies Center at Princeton University, and the Comparative and Foreign Studies Institute at the University of Washington—and those that are non-university-related such as the Brookings Institution and the Hudson Institute. Private philanthropy, however, has changed its priorities and largely pulled away from the support of foreign affairs research centers. Inflation has taken a tremendous toll. In the decade from 1969 to 1970 alone, the Ford Foundation committed over $242 million to the field, an average of $22 million per year. Since then, commitments have declined sharply, and, by 1978, the Ford Foundation expects to be spending only $3 to $4 million a year in this area. Almost none of these funds will go to institutions of higher learning.

The impact of these declining commitments has had serious effects on advanced research centers. For example, the Center for Chinese Studies at the University of Michigan received over $2 million from the Ford Foundation between 1961 and 1975, but now receives nothing, and has found no satisfactory alternative source of funding. The Russian Research Center at Harvard University has gone from an annual budget of $300,000 in the late 1950's to about $100,000 and is assured of only $50,000 in 1976–77. Yale's Southeast Asia Program has been eliminated completely.

In university-associated centers around the country, important library acquisitions have been reduced; fewer faculty have been given released time from teaching to conduct frontier research on the intentions and behaviors of other nations and of international organizations; specialized support staff for translation and for library coding have been let go; fewer post-doctoral visitors have been funded from other colleges and universities and from other lands.

Parent institutions, predominantly universities, have not found it possible to fill the gap left by the decline in foundation support. Meanwhile, the National Defense Education Act, which provides funds for training in international education under its title VI, is expressly barred from supporting foreign studies research.

For this reason, I am greatly encouraged that Senator PELL's subcommittee has included in S. 2657 an authorization of funds which includes assistance to American centers of advanced foreign policy studies. This is a constructive move in the direction of maintaining and enriching the base of knowledge essential to the wise development of national policy—by the executive branch and by the Congress.

Mr. BURDICK. Mr. President, I would like to engage in a short colloquy with Senator KENNEDY, who, I understand, is the author of the Teacher Corps amendments contained in S. 2657.

Mr. President, I think the amendments to the Teacher Corps program contained in this bill are good ones, and I want to commend Senators KENNEDY and PELL for their work on this fine program. There is one section, however, which I believe should be clarified now so that the legislative intent of the law is absolutely clear to those who will administer the program.

Section 513(f) directs the Commissioner of Education to establish procedures designed to assure a ratio in the Teacher Corps of five teachers who are employed by a local educational agency at the time of their enrollment to one individual who has not been so employed.

Mr. KENNEDY. Yes, we believe the inservice trend should be balanced with an effort to recruit new teachers in urban and rural poverty areas, especially teachers who will reflect the backgrounds of the students they will be teaching.

Mr. BURDICK. This ratio is to be a national one rather than one imposed on each project, is that correct?

Mr. KENNEDY. Yes, that is the intent of the law. This is a national ratio. Some projects may train experienced teachers primarily; others may have a lower ratio and put a greater emphasis on training new teachers. The language permits variation as long as the overall ratio is maintained.

Mr. BURDICK. The language refers to individuals who have not previously been teachers. As I understand it, these individuals may be undergraduate students, as long as they fulfill the program's goals of training new minority teachers to meet the specific needs of such groups as American Indians, migrants, and bilingual children where there is still a shortage of teachers and so long as they continue to meet the Teacher Corps' upper division standards.

Mr. KENNEDY. Yes; that is correct. This language allows undergraduates from minority backgrounds to participate as full Teacher Corps interns and receive the full stipend payable to such interns.

Mr. BURDICK. I thank the distinguished Senator for his clarification of this matter. At the University of North Dakota, we have an outstanding Teacher Corps program which has put a special emphasis on training new American Indian teachers—who are badly needed nationwide. As a rule these Indian students are undergraduates, but they are older than the average students and often have families. Thus, they need the stipend available to full interns. These Indian Teacher Corps interns receive a bachelor of science degree through the program and have been returning in high numbers to teach on or near Indian reservations. They become active members of the Indian communities and provide new and innovative teaching methods to students who have historically been severely overlooked and disadvantaged. In this situation, I believe it makes sense to allow the Teacher Corps to include undergraduates as Teacher Corps interns, and so I appreciate the opportunity to make it clear that this will be permitted under the provisions of this bill. This is the understanding of the manager of the bill; is it not?

Mr. PELL. Yes; I fully concur with the intent expressed here by the Senators from North Dakota and Massachusetts. The 5-to-1 ratio is for the program as a whole, not for each individual project, and undergraduate such as those described by Senator BURDICK may be included in the program as full interns.

Mr. BURDICK. I thank the distinguished Senator.

Mr. BEALL. Mr. President, as a cosponsor, I recommend and urge the Senate to pass S. 2657, the Education Amendments of 1976.

Before discussing the bill's substantive features, I want to congratulate Chairman PELL for his leadership and legislative skill in bringing this measure to the Senate with the unanimous support of the committee. Since I have become the ranking minority member of the Education Subcommittee, I have enjoyed the opportunity to work with the chairman. He has been fair and helpful to all committee members, and I am grateful to have had the opportunity to work with him in shaping education legislation.

Also, I wish to particularly note the excellent staff work of majority counsel, Jean Frohlicher, and Greg Fusco of the minority. I believe this is the first major education legislation they have directed, and their work was outstanding and augurs well for education legislation and education generally. I am certain that I speak for the entire minority when I congratulate them for a job well done.

S. 2657 is an omnibus education bill. While important changes and initiatives are included, the bill basically builds on the 1972 Higher Education Act and the 1968 Vocational Education Act. In effect, we endorse the essential soundness of the overall direction and program concepts charted by these two landmark acts. This is not to say, no new initiatives are included; they are. But the essential and core elements of these acts are endorsed and extended.

Now, I would like to discuss the bill's provisions.

The higher education provisions, which are found in title I of S. 2657, are extended through 1982, and include the following:

First, the bill amends the community services provision of the Higher Education Act of 1965, as amended, by extending the existing program and by authorizing a new program of continuing education and lifetime learning.

Mr. President, I had the pleasure of serving on the National Commission on Postsecondary Education, which issued its report in 1972. Some of the trends and developments in education, which now are beginning to have major influence and impact on both society and our education system, the Commission saw unfolding. The Commission called for us to broaden our vision from the narrow and traditional higher education to what it termed postsecondary education. The Commission saw continuing education increasingly becoming a perpetual or lifelong proposition for everyone, and particularly for the various professions. Many of the professions are offering, and some are requiring, continuing education programs to make certain their members stay abreast of developments in their field. Nontraditional approaches and greater utilization of technology are likely. The continuing education concept is consistent with the Commission's report and the needs of society.

LIBRARY SUPPORT

The committee extends the college library resources and the college library training program of the Higher Education Act. This program provides basic grants to college libraries, provides training support and library demonstration projects.

I am particularly pleased that the Major Research Libraries Assistance Act of 1976, which I introduced as S. 3244, was adopted as an amendment to this legislation by the committee. This proposal would amend part C of title II of the Higher Education Act by authorizing the Commissioner of Education to make grants for library resources to public or private nonprofit institutions which serve as major research libraries.

Based on a recommendation of the Carnegie Council on Policy Studies in Higher Education, this amendment has wide support among education and research groups, including the American Library Association, the Association of Research Libraries, the American Association of University Professors, the American Council on Education, and the National Board on Graduate Education.

Research libraries are collectively a single national resource of recorded knowledge, central to higher education and necessary to the research which expands our horizons and improves our lives. These libraries today are finding it difficult to continue to acquire all the materials scholars and researchers require. They are also finding it more and more difficult to find room for, organize for use, and make available all the manuscripts, photographs, recordings, films, and memorabilia that constitute the record of our times.

Take a close look at the many excellent and fascinating Bicentennial displays here in Washington and all across the country which bring our Nation's history alive and help us to know ourselves better. The fine print under many of the documents, pictures, and artifacts in these displays shows that they come from the fine research collections and archives in all parts of the country. I would hope that 100 and 200 years from now we would be able to display as complete a record of our Nation's history as I have seen in this Bicentennial Year.

Preserving our Nation's heritage is one of the important functions of research libraries which must be continued, and which deserves our support. My amendment is a modest attempt to help these libraries, providing an authorization of $10 million for fiscal year 1977, $15 million for fiscal year 1978, and $20 million for each of the following 4 fiscal years.

All types of libraries which serve as major research libraries would be eligible—academic, public, and State libraries, and nonprofit independent research libraries. Libraries receiving grants should meet State, regional or national research needs. In addition, this amendment requires regional and institutional balance in the distribution of grant awards, and will benefit libraries in all parts of the country. Besides the direct benefits to those institutions receiving grants, other libraries in every State will benefit indirectly from this amendment.

First, a library receiving a grant for resources under the new title II–C would not be eligible to receive a title II–A basic grant, and thus the other academic libraries in each State would receive a larger basic grant. Second, all libraries which must provide access to research materials for their users would benefit from the strengthening of major research libraries so that they can continue to make their holdings available to other libraries.

Both the direct and indirect benefits are mentioned over and over again in the many letters of support for this amendment from libraries across the country. The number of small 2- and 4-year colleges expressing strong support for this proposal is truly impressive, and confirms my belief that research libraries are indeed a national resource. I ask unanimous consent, Mr. President, that a sample of comments from these letters be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BEALL. This program recognizes that the major research libraries are regional and national resources. They are vital for research and scholarship and they increasingly are the hub of growing interlibrary lending. With total resources in excess of 200 volumes, they obviously loan more than they borrow from small libraries. Thus, they serve and reach far beyond their own clients. While inflation has hit all segments of society, and particularly the service sector, costs in the library field have increased rapidly with the result that major research libraries have found it difficult to purchase books, materials, and required periodicals. Inflation is running 15 to 20 percent for books and journals with the highest increases occurring in the hard sciences.

Yet, the budgets for research libraries is going down. This is resulting from fuel bills—Maryland University lost $50,000 alone as a result of fuel costs—and also because of general budgetary problems. In my State, two libraries— Maryland University and Johns Hopkins University—have experienced actual dollar reductions. If such reductions continue, these regional resources face both quantity and quality problems.

Thus, Mr. President, this new program is designed to make certain that research libraries will maintain their quality and continue to serve as the repository of accumulated knowledge and learning and a mecca for students and researchers of the region and Nation.

Mr. President, I urge my colleagues to support this amendment so that all Americans will benefit from the improved research capability of major research libraries. These libraries are an essential element in higher education and research in every part of the country, and must be enabled to continue to keep up with the increase in recorded knowledge and the increased cost of acquiring and maintaining that knowledge.

DEVELOPING INSTITUTIONS

S. 2657 extends title III of the Higher Education Act at the level of $120 million yearly. Of this sum, approximately three-fourths is earmarked for 4-year institutions. Many black institutions have been aided under this title.

While these institutions, as well as other institutions in the respective States, are not segregated and are—or are becoming—integrated, such institutions, for a variety of reasons—proximity to students, costs, choice—still serve a high proportion of minority students. While good progress has been made in educational opportunity for minority and other students, the task is not completed. Therefore, this provision helps to encourage developing institutions to continue such evolution and to improve their quality, and to attract all students.

STUDENT AID

Student assistance programs are at the heart of Federal support for postsecondary education. And the centerpiece of the student assistance program are the Basic Opportunity Grants—BOGs, BOGs, as they are called, originated with Chairman PELL and were enacted in 1972. I was pleased to support BOGs then, and strongly endorsed the extension of this program in this bill. This fall will mark the first time that all four classes—freshman through senior—will be eligible. It is estimated that 1.3 million students will receive such grants. Access to postsecondary education, not just traditional higher education, has been enhanced by this program. At a time when so much of the news is bad news, and the impression is often conveyed that the Nation's continued quest for enlarged and equal opportunity for all citizens is not continuing, more needs to be written about BOGs. For, BOGs alone shows the quest continues.

The committee, in general, made no basic changes in the program. I considered a proposal which would have allowed a student, at his or her option, to elect to receive a higher percentage grant for the freshman year, with either a straight or increasing percentage reduction in the subsequent 3 years. Such a proposal, I felt, would expand access, be more equitable to students who attended only for a year or two, and reduce default rates. However, I was persuaded by the chairman, at least for the first extension of BOGs, that we should now add administrative complexities to the program. In addition, there were BOG amendments advanced by public and private colleges and their associations. For the same reasons, the committee elected not to adopt any of those recommendations.

CAMPUS-BASED ASSISTANCE PROGRAMS

S. 2657 extends the Supplemental Educational Opportunity Grants—SEOG's—essentially unchanged. The private schools advanced a proposal which in effect would have changed this program to make the goal of access primarily the function of BOG's, and refocus SEOG's on choice. This would have enabled SEOG's particularly to aid higher cost institutions. While not adopted, this and other proposals, I am certain, will be continually examined by our subcommittee. Although financial need is a criterion, SEOG's income limitations are not as restricted as BOG's, and institutions have more flexibility to determine those in need.

The reported bill also extends the popular and successful work-study program. This program has enabled many students to earn their way through college and at the same time receive job experience. While I do not feel the postsecondary community has been as imaginative as it could have been with respect to job opportunities, the program is still an excellent one. The committee included an amendment to encourage the use of students as counselors for assistance programs. The bill also makes clear—which I always felt was the case—that work-study students could be employed by Government and public agencies.

STATE STUDENT INCENTIVE GRANTS

This was another one of those imaginative programs that was part of the 1972 Act. Authored by Senator JAVITS with my strong support, this program was designed to encourage the development and expansion of State scholarship programs. All the States are now participating in this program and in fiscal year 1976, 176,000 students from low- and middle-income families were assisted by the program.

The committee, in order to encourage States' guaranteed student loan programs, adopted a bonus allotment under the State student incentive grant program. When appropriations for this program exceed $50 million, one-half of the excess appropriations up to $200 million will go to States with their own guaranteed loan program, and the other half under the regular formula. For appropriations over $200 million, all will go to States with their own programs. For 1976–77, Maryland received $765,154 in Federal funds which will be matched by State funds.

GUARANTEED LOAN PROGRAM

Mr. President, under this program, the Federal Government guarantees student loans made by private lending institutions. In addition, for certain borrowers, the interest rate is subsidized. This is one program that is critical to middle-income Americans. Certainly, we have a responsibility to see that middle-income Americans have access at least to the loan markets. College costs are skyrocketing, and this—combined with the inflation and other economic difficulties, including fewer youth jobs—has resulted in parents and students of middle-income Americans being squeezed and, frankly, having increasing difficulties in meeting tuition and other education costs.

Middle Americans, although often abused and frequently forgotten, remain the backbone of this Nation. That is why I joined Senator MONDALE, the chairman, and others in raising the student interest subsidy from the 1965 level of $15,000 to $25,000. Students from families with income levels above that limit remain eligible for the guaranteed loans, but do not receive a subsidy. The Consumer Price Index increased by 65 per cent since 1965. This increase, which I still feel is too low, at least restores the number eligible, which has been reducing yearly, as inflation has pushed individual incomes into higher brackets.

Mr. President, in fiscal year 1976, 891,000 students received new loan guarantees, bringing the total number who have benefitted to over eight million. The cumulative loan volume is in excess of $8 billion.

While the guaranteed loan program is successful, the Congress and the administration are aware that the student default rate and other fraud and abuse are "cancers" to the program which must be addressed and removed if the program is to remain healthy.

The committee incorporated a number of provisions of my bill, S. 1229, to—

First, remove infancy as a defense from repayment for student borrower;

Second, encourage lending institutions to make multiple disbursements to minimize default if students fail to complete programs; and

Third, prohibit students from utilizing bankruptcy to wipe out their loans.

Mr. President, the need for this last provision can be best illustrated by a case from Little Rock, Ark. In this instance, a legal aid lawyer and his wife utilized the Federal bankruptcy laws to avoid paying some $18,382 in student loans. Although this couple had combined earnings of $19,500, they successfully claimed bankruptcy. This was possible because bankruptcy proceedings only require the listing of earnings for the 2-year period prior to filing. Being students during such period, this couple had no earnings, and Uncle Sam was left holding the bag and paying the bill.

Insignificant funds are not involved here. Almost $3.7 million was paid to lenders under the Federal guaranteed loan programs for students who entered bankruptcy in fiscal year 1975. In addition, almost $4.5 million was claimed in the same period but was not paid lenders by June 30, 1975. Also, another $1.6 million was paid under reinsurance agreements with the various State agencies.

All this added up to a 60-percent increase over payments for bankruptcy over the previous year. And, since the inception of both programs, over $17 million has been paid on behalf of student borrowers who are in bankruptcy. The committee by adopting the provisions of S. 1229 with respect to bankruptcy disallowing a student from using the defense of bankruptcy for a 5-year period will save the taxpayers money and prevent the abuses, such as the Arkansas case. Further, the committee included a provision terminating an instittuion's eligibility as a lender, if such institution default rate is too high.

Mr. President, S. 1229 also adopted a number of other provisions to improve the loan program by—

First, allowing lower monthly payments when both husband and wife have been student borrowers; and

Second, easing minimum loan repayment period when agreeable to both student-borrower and lender.

In addition, the committee added an additional "grace period" for repayment when student-borrower, upon graduation, is unable to find a job.

Let me also take a moment to express appreciation for the excellent work contributed by the Government Operations Committee under the leadership of Senators Nunn and Percy, which along with our Labor and Public Welfare Committee's examination and action will significantly reduce the abuses in the loan programs.

Thus, while we are supportive of this guaranteed loan program, we are determined to put an end to this massive loss of public funds whether caused by student borrowing, poor administration or whatever the reason.

Mr. President, one final word, the guaranteed loan program is a voluntary program. Its success depends on the voluntary participation of lending institutions. We have received reports that administrative delays and uncertainties are discouraging, causing cutbacks, or leading to the dropping out of the program altogether. Congressman Gude introduced H.R. 12703 and I introduced S. 3246, a companion bill on the Senate side. These bills simply would require HEW to make payments of money due and owing to lending institutions "within 30 days * * * after receipt of itemized voucher."

The committee has included a number of provisions addressing these problems—provisions to improve the fairness and timeliness of rate determinations and additional staffing for OE to administer the student aid programs. Further, since the introduction of S. 3246, improvements in payments have occurred. The committee contemplates not only that such improvements be continued, but also improved upon.

TITLE VI

The committee included an amendment advanced by me at the behest of Georgetown University. This would enable the Secretary to use title VI funds for construction of facilities for model intercultural programs to integrate substantive knowledge and language proficiency. It is not our intent that such funds come from existing programs, but that Georgetown secure an additional appropriations under title VI for this purpose.

EDUCATION ADMINISTRATION

Mr. President, the bill eliminates the position of Assistant Secretary for Education and upgrades education within the Department. The 1972 Education Amendments created the position of Assistant Secretary for Education. I did not believe that it made sense then, and experience has confirmed my initial feelings. The Commissioner of Education has the authority for education programs. A separate spokesman, which is about what the Assistant Secretary position amounted to, is both unnecessary, confusing, and administratively unsound. I support this change.

NATIONAL INSTITUTE OF EDUCATION

The committee extends the NIE for 7 years, and incorporates the provisions of S. 1498—which I introduced—providing additional clarity and focus to the Institute's mission, and establishes the following priorities:

First. Improvement in student achievement in the basic educational skills, including reading and mathematics;

Second. Overcoming problems of finance, productivity, and management in educational institutions;

Third. Improving the ability of schools to meet their responsibilities to provide equal educational opportunities for students of limited English-speaking ability, women, and students who are socially, economically, or educationally disadvantaged;

Fourth. Preparation of youth and adults for entering and progressing in careers; and

Fifth. Improved dissemination of the results of, and knowledge gained from, educational research and development including assistance to educational agencies and institutions in the application of such results and knowledge.

As one who has been deeply interested in the reading problem—a problem which is receiving increased attention in the Nation—I am delighted that this is listed as a top priority of NIE.

The committee also earmarked 25 percent of NIE appropriations for the regional educational laboratories and research and development centers. It should be made clear that this direction is not meant to interfere with the mandate of the conference committee in the Education Amendments of 1974, when we directed the establishment of a reading lab or center. NIE is in the process of implementing that mandate, and I, for one, could not support any action that interfered with or excluded the reading center—which, incidentally, NIE will be naming soon.

NIE has not been without its growing pains. But education is too important. and notwithstanding the fact that we have been at it for a long time, there remain many mysteries with respect to learning and the learning processes. Education is a $119 billion industry, one of the largest in the Nation. It is most appropriate that the Federal Government support research in education. Education has always occupied a central and priority position in our Nation and has been a major contributor to our economic growth and opportunity. The new NIE Director, Harold L. Hodgkinson, seems to have provided the needed direction. Congress must provide the support and also have some patience. If both are forthcoming, I believe dividends and directions will be forthcoming from NIE.

VOCATIONAL EDUCATION

Mr. President, the committee devoted considerable time to the vocational education provisions. This was not only because a number of difficult problems surfaced, but also the committee feels strongly that this is one of the most important of the Nation's education programs.

This is not to say that the 1963 and 1968 Vocational Education Acts were not successful. They were, and the reported bill essentially endorses the direction and program under those Acts. There is little question that Federal vocational education funds contributed to an extraordinary growth of both quantity and quality of vocational education programs.

From 1963 to 1974, total expenditures for vocational education increased by more than a thousand percent, exceeding $3 billion in 1974. While Federal funds during this period increased 354 percent, reaching $468 million in 1974, the Federal share of total vocational education spending continues to decrease, dropping from 34.4 percent in 1965 to 13.6 percent in 1974. State and local governments continue to overmatch Federal funds. In 1973, the States spent over $5 dollars for every Federal dollar. My State of Maryland expended $7 for every Federal dollar.

During this same 1965–74 period, enrollment in vocational education programs increased 151 percent, from 5.4 million to 13.6 million.

In addition, the 1968 act attempted to focus on various special needs categories, such as, the handicapped and disadvantaged. At that time it was found that only 2 percent of the Federal funds were going to special needs populations. The 1968 act provides a set-aside and other incentives to increase the amount of funds allocated to special needs. As a result. in 1974, over 30 percent of the total Federal funds were channeled to the special needs categories. The hearing and the GAO report did raise the issue of the State matching of special needs categories, for whereas overall matching of Federal vocational education funds by States is over 5 to 1, States only match disadvantaged 2 to 1, and handicapped, 1 to 1. Maryland State plan in 1975 indicated that the State was reaching only 2,800 of some 10,000 handicapped students at the secondary level. In view of the need for special needs categories, there has been disappointment over the failure of Federal funds to stimulate a greater response by State and local government.

Finally, there was substantial growth in postsecondary vocational education programs. Enrollment in programs in this sector increased 660 percent, from 207,000 in 1965 to 1.6 million in 1974. In Maryland, postsecondary vocational education experienced a growth of approximately 130 percent in the 1971 to 1974 period. Vocational education programs comprised 32 percent of the total community college enrollment in 1973 in Maryland.

The vocational education provisions of S. 2657 seek to—

First. Improve the planning process and involve the active and wide participation of the interested parties in the development of the long-range and annual vocational education plans developed by the State board;

Second. Assure attention to special populations—handicapped, disadvantaged, and persons with limited English-speaking ability, and to areas having high concentration of youth unemployment and school dropouts;

Third. Strengthen vocational guidance and counseling;

Fourth. Provide training and retraining opportunities for vocational education teachers and authorize grants to outstanding individuals for leadership development in vocational education;

Fifth. Encourage innovation through support of exemplary programs and projects and for curriculum development for new and changing occupations;

Sixth. Continue strong support for essential work-study and cooperative education programs;

Seventh. Authorize emergency renovation and remodeling assistance for vocational education facilities in rural and urban areas;

Eighth. Create an office for women in the respective States to address problems of sex stereotyping and sex discrimination;

Ninth. Provide for a special evaluation of vocational education patterned after the GAO evaluation, which was helpful to the committee;

Tenth. Promote vocational education research at both the Federal and State levels; and

Eleventh. Simplify application procedure so as to reduce paperwork.

VOCATIONAL PLANNING

Mr. President, there is little question that more and better State planning is needed. State plans which the committee examined, although including considerable statistics, in general have no real discussion of priorities, such as what to do about the large dropout problem and high youth unemployment rates and how to best respond to the needs of the handicapped or the disadvantaged. Few discuss problems or barriers, if any, preventing their responding appropriately.

In short, State plans generally were compliance, rather than planning, documents. They were interesting and contain some useful data, but they were not as helpful as they should be in examining and evaluating overall priorities or pointing to new directions.

Planning inadequacies and funding allocation among various levels led the committee to require the creation of a new State Planning Commission for Vocational Education. For reasons, which I will spell out later, I do not feel we need another layer of bureaucracy.

While there is disagreement over mechanisms to address these problems, there is no agreement over the necessity for improvements.

In addition to the controversial planning commission provision, the bill includes numerous provisions by—

First. Requiring the development of long-range (4 to 6 years) and annual plans which shall set forth vocational and manpower goals. In developing such long-range plans, a State would be required to access—the manpower needs and how such needs square with enrollments; existing facilities and institutions and the most effective means of utilizing such resources; and the needs of special populations. Also, the bill requires coordination of vocational and manpower efforts;

Second. Encouraging the involvement of various participants—secondary education, postsecondary education, Advisory Councils, local communities—in the process;

Third. Mandating that priority programs and areas be addressed;

Fourth. Strengthening the Advisory Council's role in planning and evaluation; and

Fifth. Assuring better evaluation at both the Federal and state levels.

SPECIAL NEEDS

The committee bill incorporates a number of provisions to assure greater attention to priority areas and to priority populations with special needs. This includes the establishment of a series of national priority programs with a specific, minimum reservation of the State's basic grants as follows:

First, 10 percent of the funds to pay 60 percent of the cost for handicapped persons;

Second, 15 percent for academic and economically disadvantaged students; and

Third, 15 percent for postsecondary education.

To make certain that States make special efforts in these priority areas, States would be required to match Federal dollars at the rate of two State dollars for every three Federal dollars.

VOCATIONAL GUIDANCE

There is a need for improved guidance and counseling. The bill's provisions provide Federal funds to support existing efforts and to develop new guidance and counseling efforts. States desiring to participate under this program would include in their annual plan how they plan to allocate such funds among eligible recipients.

While I believe that schools and guidance counselors overall have done a good job, given the client-counselor ratio with which they work, with respect to college-bound students, I believe more and improved efforts are required for the now college-bound students. One use of such funds, which I have advocated, could be the naming of a community guidance and job placement officer whose responsibilities would be—

To work with guidance personnel in the county schools to make certain they are knowledgeable about job markets and that they pay attention to the needs of vocational students and become as involved in job placement for such students as they have traditionally done with college-bound students;

To serve as a liaison officer with the community—including industry, unions, State employment offices, manpower programs, and community colleges;

To understand the job needs of the community and region, and to encourage work-study slots in the community; and

To improve follow-up and placement activities.

This certainly would be a good use to which a school district could elect to use these funds.

TEACHER AND LEADERSHIP TRAINING

Under these sections, a program for the training of vocational education personnel is authorized. While such training includes training and retraining of experienced teachers, it also seeks to attract individuals who have the necessary technical and skill training, but who lack the educational requirements. This would enable school districts to utilize such individuals and enable such individuals to secure some teacher training.

Also, the bill authorizes leadership development grants to outstanding individuals with the potential of leadership in this field.

INNOVATION

S. 2657 authorizes the Commissioner to make grants for exemplary programs and projects. Fifty percent of the funds allocated under this part would be reserved for the Commissioner; the other 50 percent would be to the States for grants and contracts pursuant to the State's annual plan.

Specific priorities are delineated for the Commissioner's funds, although the committee makes it clear that he could add additional priorities to the list. They include—

First, high quality programs for urban and rural areas;

Second, guidance and placement centers;

Third, cooperative programs with education and manpower agencies; and

Fourth, programs for individuals with limited English-speaking ability.

While the States obviously can use their innovation funds for the national priorities, they have discretion, in addition, to select their own priorities.

It should be emphasized that funding under this innovation should be coordinated with the State plans.

There are two further aspects of the innovative projects that merit mentioning. First, since the provision is designed to encourage exemplary or innovative projects, the bill makes it clear that support for innovation projects will be for only 3 years. In certain circumstances of national significance, an additional year could be excluded. This hopefully will encourage innovative projects which are realistic, and that successful programs will be incorporated into the regular school program. Often such projects are unrealistic and little thought is given to the fate of the program when the Federal funds terminate.

The second part of the innovation section provides assistance for curriculum development in new and changing occupations.

WORK-STUDY PROGRAMS

These are some of the most important and popular programs in the act. The work-study and cooperative programs are both extended. Under the former, students who need the earnings are provided work opportunities. Under the cooperative education program, the students alternate periods in the classroom with work on the job.

Today's students for the most part are in need of work opportunities. Many of today's youth no longer have even household chores. We simply must find ways of wedding the world of education and the world of work. This is particularly true for vocational students. I believe work experiences are important for two reasons. First, there is the recognized value of work, and, secondly, students, generally, want to end their isolation from the adult world, and experience and see the relevant real world. Work-study and cooperative education programs make sense for students, schools and society.

EMERGENCY AID

Mr. President, the committee heard testimony with respect to the plight of big cities, and the condition of facilities therein. For example, the Council of the Great Cities schools survey showed a dire need for upgrading urban facilities. This survey revealed one of two buildings in three major cities, including Baltimore, was built before World War II. The National Advisory Council on Vocational Education urged a "crash funding" for urban facilities.

The Committee provides a 4-year emergency program to remodel and renovate vocational facilities. However, the committee also made rural areas eligible. The Commissioner would be required to rank applicants on the basis of "need" and then fund such projects at the Federal share of 75 percent.

CONSUMER AND HOMEMAKING

The bill extends the consumer and homemaking provisions. Many changes have been, and are, taking place in society, but the importance of the home and homemaking remains. The Federal share of expenditures for consumer and homemaking is 50 percent.

VOCATIONAL RESEARCH

This section authorizes funds for grants and contracts for research. As in the innovation area, 50 percent would go to the Commissioner and 50 percent would be distributed to the States.

SPECIAL EDUCATION

Mr. President, the committee adopted an amendment offered by me calling for an in-depth evaluation, patterned after the GAO study which has been most helpful and certainly far surpassed other evaluations, of at least five States. States would be classified either as urban or rural, and at least one State from each classification would be selected. Each State evaluated will have an opportunity to comment prior to the submission of the evaluation to the Congress. In addition, those states not evaluated would be expected to comment on the applicability of the funding to them.

The vocational education title also includes a special energy education section authored by Senator RANDOLPH; special grants to overcome sex discrimination; and an extension of the bilingual vocational training program.

CAREER EDUCATION

Title V establishes an expanded career education program. Also, the Commissioner would be required to collect and disseminate information on career education.

GUIDANCE AND COUNSELING

Part B creates a new program of guidance and counseling.

Grants under this part may be awarded for institutions, workshops, and seminars to improve counseling and the professionals involved in this important field. Also, this part allows the Commissioner to make grants to States to assist them in implementing and coordinating new and existing guidance and counseling programs.

Mr. President, from my discussion, it is obvious that S. 2657 is critical to American education. In view of its importance, it is imperative that this measure be enacted this year. We have worked too long and hard on this bill to allow this session to close without S. 2657 becoming law. This measure, in short, is "must" legislation, and I hope the Senate will take early and favorable action, and that the conference committee will be able to resolve the differences so that the measure may become law.

EXHIBIT 1

COMMENTS FROM ACADEMIC LIBRARIANS ON AID TO MAJOR RESEARCH LIBRARIES AMENDMENT (TITLE II–C)

California: (specialized college)—Our library would benefit both directly and indirectly. Directly, because the proposal would free more funds for title II–A (college library resources) basic grants, for which this library is eligible, and indirectly, because it would help to maintain the quality of the large research libraries. Serious researchers at smaller institutions such as ours depend heavily on the resources of the major library collections for their specialized needs.

Georgia: (public university)—Research libraries have been hard put to maintain their collections and services in the past several years in the face of crippling inflation and static (or decreasing) funding. Our library, as an example, has had to expend for serials subscriptions approximately 90 percent of its resources funds in FY 1976. In FY 1968 the percent spent for serial subscriptions was about 60 percent. The 1968 ratio is a healthy one. The 1976 ratio reveals a sick library. Each of the major research libraries of the state is suffering from bibliographic malnutrition. We are trying to cooperate and stretch resources but are finding the growing demands by the research community harder and harder to meet.

Illinois: (private college)—Last year about one third of the college's students and most of the faculty used some form of interlibrary loan. Scores of others visited the Newberry and Crerar libraries, the libraries of Northwestern and the University of Chicago. Our programs benefit directly from the riches of these collections. The young people of Illinois and of other states who study here benefit directly from these strong libraries. These institutions have been hit hard by the depression in higher education and by inflation. Quality already has deteriorated and further loss of effectiveness can be seen if no support is forthcoming.

Maryland: (public community college)—Because of reduced materials budgets and inflated materials costs libraries must develop better means of sharing resources. In, order to share collections with smaller libraries, major research libraries need to at least maintain their level of acquisitions. The proposed amendment to the revised HEA, S. 2657, by assisting them in so doing, will improve the resources available to the entire academic library community.

Massachusetts: (private college)—We wish to add our endorsement to the proposed amendment. We see the value and the effects of the daily contributions being made by our large research libraries. As a small, private, liberal arts college library, we are often the beneficiary of the expertise and resources of this type of institution, especially in the area of interlibrary lending. It seems only just that these support systems for smaller libraries be, in turn, supported by federal funds for the procurement of the necessary resources to service the varied users beyond their primary clientele.

New Mexico: (private university)—Because we cannot acquire research materials, we must rely on larger research libraries to supply these materials. If these research libraries are funded to help maintain and strengthen their collections and to assist them in making their holdings available to other libraries whose users have need for research materials, then we, as a small academic library, are benefitting from this funding through interlibrary loan of these research materials.

North Dakota: (public university)—Though the State Board of Higher Education through the Legislature has worked valiantly to increase support for academic libraries, we are still far short of adequate resources to meet the needs of our graduate students and research personnel. The interlibrary loan activity here has doubled, tripled and quadrupled within the last few years, attesting to the fact that this library is an indispensable resource to the state and region.

Ohio: (private college)—This amendment would serve the interest of our college by enriching the resources of the large libraries from which we borrow hundreds of volumes every year. The research needs of our faculty and students would often go ill served without the help we receive from these great libraries. It is not too much to say that the welfare of our country is also dependent upon the strength of these institutions and the completeness and currency of the information they make available to the scholarly world. Research libraries make research possible. If they are weak, they cannot support first-rate research. In a world as complex and dangerous as ours we cannot afford second-rate research.

Oregon: (public community college)—I am interested in this amendment, for it is mandatory that large research libraries get more funds for resources and for sharing those resources by loaning to smaller libraries. The cost of interlibrary lending is forcing many large research libraries to consider no lending to users beyond their own clientele or to consider charging for that lending. I feel that we in smaller towns and cities and in small libraries must have access to the materials located in larger libraries.

Tennessee: (public university)—Our library serves as a state resource for the state. All residents of the state have access through interlibrary borrowing to our collections here. We serve as a central repository of recorded knowledge for the entire state and are central to all levels of Tennessee higher education. In addition, through the sharing of our collections with libraries in other states whose collections we in turn share, the entire nation as well as Tennessee will benefit from the II–C amendment.

Vermont: (private college)—The intent of this legislation is to provide special funding for a small group of large research libraries which really constitutes a national resource and should receive national support. It is imperative to the development of scholarship and the national interest that the collections and services of these libraries be maintained. Much of the material each receives is unique in this country and, unfortunately, this is the very type of material which may no longer be purchased because of attrition of funds.

Virginia: (public community college)—Data from a state survey of interlibrary loan patterns indicate that the research needs of scholars and industry are served without regard to state boundaries yet recent financial stringencies in state budgeting and rapid increases in quantity and costs of library materials are causing reduction in growth of the research collections which are basic to the Nation's research effort.

Wisconsin: (private college)—It is obvious that the bibliographic foundation of the nation's research libraries must not be allowed to deteriorate, and yet it is. Exceptionally rapid increases in cost of library materials and financial stringency have forced many leading research libraries to cut back on purchases of materials and even to reduce the number of hours the libraries are open. Erosion of a source of such strength to the nation must be stopped. As one of the small academic libraries in the state of Wisconsin and so dependent on the resources of the research libraries, it is chilling to consider the effects of either limited access or access to limited resources.

Mr. DOMENICI. Mr. President, I want to compliment the Education Subcommittee for its extensive work on the complex and far-reaching legislation before us today. Particularly, I want to thank the chairman and the other members of the subcommittee for including certain provisions I believe are important contributions to the present law.

Early last year, I conducted two education seminars in New Mexico to discuss education issues with many university officials, financial officers, and students. As a result of these highly productive meetings, I introduced several amendments to the higher education legislation, several of which I am pleased to note are similar to those included in the bill, S. 2657.

For example, the provision to expand the work-study program by allowing Federal, State, or local agencies to act as cooperating employers was suggested by the New Mexico educators. Such cooperation between public agencies and the universities should assist students studying certain subjects such as in health-related areas, forestry, or many diverse fields. The work-study program has probably been the best received program of Federal student assistance, both from the students' and the institutions' viewpoints. I am sure we would agree that the "earn-learn" philosophy brings about many more benefits than students earning a salary simply to defray their college expenses. Certainly expanding the work opportunities to include public agencies will enhance this particular student aid program as well as indicating a strong government endorsement.

Besides this change in the work-study program, I would like to endorse a firm $15,000 to $25,000 provision to increase the family income eligibility under the guaranteed student loan program, to prohibit students from declaring bankruptcy after securing their education with GSL moneys, and to allow title VII construction funds to be used for renovation of existing facilities for energy conservation. These provisions are also similar to those amendments which I introduced last October on behalf of the New Mexico educators and students.

Mr. President, there will be many amendments to S. 2657 offered today prior to the passage of the bill. I only wish to indicate my support at this time for those provisions of the bill which I believe to be particularly reflective of the views of my New Mexican constituency, and I urge my colleagues' serious consideration on their behalf.

The PRESIDING OFFICER. The Senate will be in order. Will the Senators kindly clear the aisles.

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS AND RESUMING CONSIDERATION OF S. 2657 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized on tomorrow there be a period for the transaction of routine morning business not to extend beyond the hour of 9:20 a.m. and with statements limited therein to 2 minutes each; and that at the conclusion of routine morning business tomorrow the Senate resume consideration of the unfinished business, S. 2657.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS FOR MONDAY, AUGUST 30, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders have been recognized under the standing order, it be in order for the leadership to call up either H.R. 13372, the New River bill, or S. 3084, the Export Administration Act.

The PRESIDING OFFICER. The Chair would state there is an order for recognition on Monday after the two leaders have been recognized. The senior Senator from Virginia has been recognized under the order.

Mr. ROBERT C. BYRD. I thank the Chair.

Then I ask unanimous consent that following the consummation of that order or any other orders for Senators that may be entered in the meantime, it be in order for the leadership to call up either the New River bill or the Export Administration Act.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER MAKING TIME-LIMITATION AGREEMENT APPLICABLE TO S. 3037 AND S. 2710

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time limitations applicable to Calendar Order 827, S. 3037, the Federal Water Pollution Control Act, apply as well to S. 2710, an act dealing with the amendments to the Federal Water Pollution Act. It is my understanding that the Public Works Committee may use the latter bill rather than S. 3037 for its vehicle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER REFERRING H.R. 13955 TO COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, H.R. 13955, a bill to provide for amendments of the Bretton Woods Agreements Act has been reported from the Committee on Foreign Relations as of August 10. By request of Mr. Proxmire—and I understand the request has been cleared on both sides—I ask unanimous consent that that bill may have a 30-day referral to the Committee on Banking, Housing and Urban Affairs.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

DR. STANLEY M. WAGNER

Mr. HASKELL. Mr. President, I wish to express my thanks to Dr. Edward Elson, Chaplain of the Senate, for extending an invitation to a distinguished rabbi from the State of Colorado. Dr. Stanley M. Wagner, spiritual leader of the Beth Ha Medrosh Hagodol Congregation, is also professor of Judaic studies and director of the Center For Judaic Studies at the University of Denver, and serves as Jewish chaplain for the Denver Police Department and Colorado State Patrol.

Dr. Wagner has just returned from a 2-week visit to the Soviet Union where he spent a great deal of time with many members of the Jewish communities of Leningrad, Kiev, and Moscow. He shared with me some of his findings concerning the tragic condition of Russian Jewry—facts which belie the reports of the leaders of the U.S.S.R. that "all is well" for these unfortunate people.

Despite the agreements reached at Helsinki, to which Russia was a signator, and notwithstanding the Kremlin's statements about the rights of national groups within the Soviet Union, Rabbi Wagner has brought with him evidence of the harassment of Jews in Russia who have applied for visas for Israel to be reunited with their families and proof of the cultural annihilation being perpetrated by Soviet officials against the Jewish community.

I wish to remind this distinguished body that the American people are not prepared to ignore the plight of the persecuted Jews in Russia. We must be willing, despite our desire for détente, to call the Soviet Union to task for infractions of international agreements.

If Russia can unashamedly proclaim to the world that its treatment of Russian Jewry does not violate the principles and ideals of the United Nations Commission on Human Rights and the Helsinki accord—a contention which Dr. Wagner and others are prepared to show is outrageously incorrect—then shall we not be wary of their promises and statements in all other areas?

I am pleased that Rabbi Wagner shared his findings with me, and through me, with the Senate. He is prepared to meet with any Senator or staff member to discuss the most current information on the tragic circumstances confronting Russian Jewry which he collected during his recent visit to the Soviet Union.

I would conclude by saying that since America is regarded the world over as a champion of freedom and human dignity, we must do everything in our power to persuade the U.S.S.R. to permit Soviet Jewry to freely emigrate to Israel and to desist from intimidating those who apply for visas for this purpose. We cannot close our eyes to this denial of elemental human rights.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, tomorrow the Senate will convene at 9 a.m. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business with statements limited therein to 2 minutes each for a period not to extend beyond the hour of 9:20 a.m.

Upon the conclusion of routine morning business, the Senate will resume consideration of the unfinished business. The pending question at that time will be the adoption of the amendment offered by Mr. PEARSON for Mr. DOLE on which there is a 10-minute time limitation. At the expiration of that time, and not before 9:30 a.m., the yeas and nays will occur, they having already been ordered.

Upon the disposition of the Pearson-Dole amendment, the Senate will proceed to the consideration of two McClure amendments on which there is a time agreement in the aggregate of 40 minutes, and with rollcall votes thereon to occur back to back.

Upon the disposition of the two McClure amendments, the Senate will proceed to the consideration of the Bellmon amendment on which there is a 20-minute time limitation, and there will be a rollcall vote upon that amendment.

All rollcall votes tomorrow in relation to the unfinished business, motions and amendments in regard thereto, will be limited to 10 minutes each under the order previously entered. So there will be rollcall votes tomorrow, several in number, the first to occur at no earlier than 9:30 a.m.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. I understand the limits of time, but I wonder if we should provide that the first rollcall at 9:30 be 10 minutes or should it be 15 minutes?

Mr. ROBERT C. BYRD. I think that is a good idea.

Mr. GRIFFIN. I think we can try to notify Senators, but I think they will expect the first rollcall of the day will be 15 minutes.

Mr. ROBERT C. BYRD. I agree.

ORDER FOR FIRST ROLLCALL VOTE OF 15 MINUTES

Mr. President, I ask unanimous consent that the first rollcall vote—it will come early enough—be limited to 15 minutes, rather than 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR RECESS ON TOMORROW TO MONDAY, AUGUST 30, 1976 AT 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate, when it completes its business tomorrow, stand in recess until the hour of 9 a.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and at 8:16 p.m., the Senate adjourned until tomorrow, Friday, August 27, 1976, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate August 26, 1976:

Department of State

Ralph E. Becker, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Honduras.

Davis Eugene Bostor, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Guatemala.

Francois M. Dickman, of Wyoming, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

International Atomic Energy Agency

The following-named persons to be the Representative and Alternate Representatives of the United States of America to the Twentieth Session of the General Conference of the International Atomic Energy Agency:

Representative: Robert C. Seamans, Jr., of Massachusetts.

Alternate Representatives: Frederick Irving, of Rhode Island; Richard T. Kennedy, of the District of Columbia; Myron B. Kratzer, of Maryland; Edward A. Mason, of Massachusetts; Nelson F. Sievering, Jr., of Maryland; Galen L. Stone, of the District of Columbia; Gerald F. Tape, of Maryland.

Department of Defense

John J. Bennett, of Virginia, to be an Assistant Secretary of the Navy, vice Jack L. Bowers, resigning.

In the Judiciary

Kenneth K. Hall, of West Virginia, to be U.S. circuit judge for the fourth circuit, vice John A. Field, Jr., retired.

John T. Copenhaver, Jr., of West Virginia, to be U.S. district judge for the southern district of West Virginia, vice Kenneth K. Hall.

Howard G. Munson, of New York, to be U.S. district judge for the northern district of New York, vice Edmund Port, retired.

Vincent L. Broderick, of New York, to be U.S. district judge for the southern district of New York, vice Harold R. Tyler, Jr., resigned.

Department of Justice

Thomas A. Grace, Jr., of Louisiana, to be U.S. marshal for the middle district of Louisiana for the term of 4 years (reappointment).

Everett R. Langford, of Oregon, to be U.S. marshal for the district of Oregon for the term of 4 years (reappointment).

CONFIRMATIONS

Executive nominations confirmed by the Senate August 26, 1976:

Department of Justice

Donald I. Baker, of New York, to be an Assistant Attorney General.

William C. Smitherman, or Arizona, to be U.S. attorney for the district of Arizona for the term of 4 years.

U.S. Parole Commission

Dorothy Parker, of Virginia, to be a Commissioner of the U.S. Parole Commission for the term of 6 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

The Judiciary.

Marion J. Callister, of Idaho, to be U.S. district judge for the district of Idaho.

EXTENSIONS OF REMARKS

HON. STEPHEN L. NEAL'S VOTING RECORD

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. NEAL. Mr. Speaker, it has been my practice ever since becoming a Member of Congress to publish my complete voting record in such a way that any interested citizen or constituent may read and understand it without having to wade through a maze of unrelated material.

Following is a compilation of all the record votes I cast between January 1, 1976, and June 30, 1976:

REPRESENTATIVE STEPHEN L. NEAL VOTING RECORD, JANUARY–JUNE 1976

Following is a compilation of all record votes cast by Representative Stephen L. Neal from January 1, 1976, through June 30, 1976. Each listing is identified by its roll number. The "Yes" or "No" is Congressman Neal's vote. The North Carolina delegation total is in parentheses. DNV indicates "did not vote." Yes votes appear first.

(2) *Indochina Refugees: Amendment to reimburse school districts for only the actual cost of providing supplemental education to refugees. Yes (9–1). Passed 235–143.

(3) *Indochina Refugees: Final passage to reimburse school districts for cost of supplemental education. Yes (5–5). Passed 311–75.

(5) *To authorize two irrigation projects and modification of dam spillways in Wyoming, Oregon, North Dakota, South Dakota. Yes (6–4). Passed 284–110.

(6) *To authorize 101st Airborne Assn. to erect memorial in D.C. Yes (10–0). Passed 400–0.

(7) *To vacate previous action on Railroad Revitalization and Regulatory Reform Act and recommit to conference. Yes (8–2). Passed 383–15.

(9) *To consider Federal Coal Leasing Amendments. Yes (10–0). Passed 386–12.

(10) *Coal Leasing: Amendment to prohibit coal mining in National Park System. Yes (11–0). Passed 370–32.

(11) *Coal Leasing: Amendment to remove 25,000 acre lease limitation. No (2–9). Failed 97–301.

(12) *Coal Leasing: Motion to recommit (kill). No *(0–11)*. Failed 80–319.

(13) *Coal Leasing: Final pasage to establish terms and duration of leases. Yes (11–0). Passed 344–51.

(14) *To consider (adopt rule) on Motor Vehicle Information Amendments. Yes (10–0). Passed 386–0.

(15) *Motor Vehicle Amendments: To Enforce federal standards of safety and quality of auto construction. Yes (11–0). Passed 369–18.

(20) *Veto override: Labor/HEW appropriations. Yes (9–2). Overridden 310–113.

(21) *Defense: To prohibit use of any funds under the bill for direct or indirect military aid to any of the factions fighting in Angola. Yes (9–1). Passed 323–99.

(24) *To authorize $6.4 billion for railroads, including $2.1 billion in loans to ConRail, $1.6 billion for intercity passenger service, and $1.6 billion for capital assistance to railroads other than ConRail. No (6–4). Passed 353–62.

(26) *Public Works Employment: Motion to strike (discard) aid to state and local governments to maintain basic services if unemployment above 6 per cent. No (5–5). Failed 133–268.

(27) *Public Works Employment: To adopt conference report on Public Works Employment Act to provide $6.1 billion for public works project and other programs to create as many as 800,000 jobs. Yes (8–2). Passed 321–80.

(28) *Substitute to Renegotiation Act Amendments (contracts between government and private contractors). No (2–8). Failed 129–251.

(29) *Intelligence Report: Amendment to limit distribution of report of Select Committee unless president certified it contained no classified material. Yes (10–0). Passed 246–124.

(32) *Natural Gas: To consider (adopt rule). Yes (10–0). Passed 230–184.

(34) *Natural Gas: Eckhardt amendment to delete provision that ended FPC authority to reduce price ceilings on gas still under federal regulation. Yes (8–3). Passed 232–184.

(35) *Natural Gas: Amendment to allow FPC to set varying five-year ceilings on prices for offshore natural gas. Yes (1–10). Failed 182–236.

(36) *To adjourn from Feb. 11 to Feb. 16. No (10–1). Passed 327–80.

(37) *Natural Gas: Amendment to give "feedstocks" priority to industrial and agricultural users. No (0–11). Failed 131–274.

(38) *Natural Gas: Substitute to deregulate prices for all independent gas producers with less than 100 million Mcf per year, with more flexible and incentive pricing formula for others. Yes (1–10). Passed 205–201.

(39) *To affirm the foregoing action. Yes (3–8). Passed 219–184.

(40) *Natural Gas: Motion to recommit (kill). No (9–2). Failed 198–204.

(41) *Natural Gas: Passage of bill to deregulate independent producers of less than 100,000 Mcf per year and adjust price levels for others. Yes (11–0). Passed 205–194.

(43) *To consider (adopt rule) on Animal Welfare Act. Yes (10–0). Passed 352–5.

(44) *Amendment to make violations of Animal Welfare Act subject only to state enforcement. No (0–11). Failed 56–312.

(45) *Amendment to prohibit use of interstate facilities for the purpose of cockfighting. Yes (11–0). Passed 289–76.

(46) *Passage, Animal Welfare Act Amendments. To protect animals during shipment and prohibit dog and cockfights. Yes (8–3). Passed 335–34.

(48) *To approve $97.3 million of president's rescission of impact aid. No (4–7). Failed 134–267.

(50) *To consider (adopt rule) Emergency Employment Project Amendments. Yes (11–0). Passed 360–42.

(51) *Substitute to continue CETA funding levels through 1977 but no funding for increased number of public service jobs. Yes (11–0). Failed 175–226.

(52) *To change formula for Part B CETA funds. Yes (9–2). Failed 189–206.

(53) *Final passage, public service jobs bill, authorizing funds to maintain a level of 32,000 public service jobs and add 280,000 jobs under a new program. No (2–9). Passed 239–154.

(56) *To extend Library Services and Construction Act for five years. Yes (9–0). Passed 378–7.

(57) *To authorize funds for acquiring 4,340 acres for Indiana Dunes National Lakeshore expansion. Yes (6–4). Passed 272–118.

(58) *To authorize $33 million for completion of Madison Building, Library of Congress. Yes (10–0). Passed 342–48.

(60) *To appropriate $2.03 billion for purchase of ConRail debentures and preferred stock over four years. No (3–8). Passed 298–95.

(62) *Veto override: To authorize funds for grants to states and localities for public works projects to create as many as 800,000 jobs. Yes (9–2). Overridden 319–98.

(63) *To refer to Rules Committee a resolution concerning Daniel Schorr's part in publication of report of Select Committee on Intelligence. No (0–11). Failed 172–219.

(64) *To direct Committee on Standards of Official Conduct to investigate publication of parts of the final report of Select Committee on Intelligence. Yes (11–0). Passed 269–115.

(67) *To appropriate $33 million for completion of Madison Building, Library of Congress. Yes (11–0). Passed 336–52.

(68) *To consider (adopt rule) increase in the temporary public debt ceiling. No (10–1). Passed 348–53.

(69) *To increase temporary public debt ceiling to $627 billion. No (1–9). Passed 212–189.

(71) *To require resolution, bills, committee and conference reports be distributed to members two hours before floor consideration. Yes (9–1). Passed 258–107.

(73) *To exempt actions of five New York City pension plans purchasing city obligations from rules which otherwise would jeopardize their special tax status. Yes (9–0). Passed 298–45.

(75) *To consider (adopt rule) Black Lung Benefits Reform Act. Yes (6–4). Passed 275–118.

(77) *To strike from black lung bill provision permitting survivors of miners killed in mine accidents prior to 1971 to receive benefits. No (6–5). Failed 141–253.

(78) *To provide black lung benefits without medical evidence. No (1–9). Passed 210–183.

(80) *Motion to close debate on subpoena power in Schorr investigation. Yes (11–0). Passed 306–99.

(81) *To give subpoena power to committee investigating correspondent Daniel Schorr. Yes (11–0). Passed 321–85.

(82) *To continue military sales cutoff to Chile. Yes (1–9). Failed 139–266.

(83) *To discontinue provision permitting trade with North and South Vietnam if such trade does not adversely affect U.S. shortages, U.S. national security, and does not increase military capability of North or South Vietnam. No (7–3). Failed 185–223.

(84) *To authorize $3.46 billion in military assistance and foreign military sales credits. No (1–9). Passed 240–169.

(86) *To consider (adopt rule) Foreign Assistance Appropriations for FY 1976. No (2–9). Passed 229–168.

(88) *Foreign Aid: To restore committee cut of $9 million for assisting private voluntary organizations in running programs and shipping materials overseas. No (0–10). Failed 161–237.

(89) *Foreign Aid: To delete funds for United Nations Development Program. No (8–2). Failed 179–208.

(90) *Foreign Aid: To prohibit use of any funds to carry out or planning assassinations or influencing peacetime foreign elections. Yes (8–2). Passed 250–129.

(91) *Foreign Aid: To reduce by $200 million the $1.5 billion foreign military credit sales of arms to Israel. No (0–10). Failed 32–342.

(92) *Foreign Aid: To prohibit aid to any nation in default of a U.S. obligation for

more than one year. Yes (9-1). Passed 229-139.

(93) *Foreign Aid: Final passage, $4.99 billion in foreign economic and military aid programs. No. (1-8). Passed 214-152.

(95) *Conference report, Equal Credit Opportunity, adding age, race, color, religion and national origin to sex and marital status as categories under which no creditor can discriminate against an applicant. Yes (9-0). Passed 384-3.

(96) *To consider (adopt rule) Medical Devices Amendments. Yes (10-0). Passed 379-6.

(97) *To send 25-member congressional delegation to England at reqeust of British government to pick up copy of Magna Carta. No (2-8). Failed 167-219.

(98) *Final passage, Medical Devices Amendments, requiring classification of all medical devices intended for human use. Yes (8-1). Passed 362-32.

(100) *To authorize a four-part Coastal Energy Activity Program to deal with impact of Outer Continental Shelf activity and other energy siting. Yes (10-0). Passed 370-14.

(101) *To increase cadet student subsidy at six state maritime academies. No (0-10). Failed 53-292.

(102) *To authorize $444.8 million for maritime programs, including $403.7 million subsidy to merchant fleet. No. (6-4). Passed 315-42.

(104) *Community Services Act Amendments (technical changes). Yes (10-0). Passed 346-2.

(105) *To authorize $43.2 million for implementation of Pennsylvania Avenue Corp. plan. No (2-8). Failed 149-201.

(106) *To allow all elderly persons, regardless of income, to continue to receive services at federal senior citizens centers. Yes (11-0). Passed 383-0.

(107) *Continuing appropriations for government functions for which regular appropriations not yet enacted. Yes (7-4). Passed 309-75.

(108) *To consider (adopt rule) resolution proposing full representation in Congress for District of Columbia. Yes (11-0). Passed 313-72.

(112) *To reduce size of Magna Carta delegation from 25 to 5. No (3-8). Failed 94-306.

(113) *To bring Senate version of Magna Carta resolution into conformity with House version. Yes (8-2). Passed 294-98.

(115) *Antitrust: To restrict aggregation of damages provision of Parens Patriae Act, and permit reduction from treble to single damages in parens patriae suits where defendants have acted in good faith. Yes (10-0). Passed 220-171.

(116) *Antitrust: To allow private attorneys to be contracted on contingency fee basis in parens patriae suits. No (0-9). Failed 167-217.

(117) *Antitrust: Motion to recommit Parens Patriae Act. No. (6-3). Failed 150-223.

(119) *To authorize funds ($81 million) for Peace Corps. Yes (7-2). Passed 274-75.

(120) *To authorize $25 million for earthquake disaster relief in Guatemala. Yes (11-0). Passed 357-3.

(121) *To authorize $3.70 billion for NASA research and development, construction, and program management. Yes (11-0). Passed 330-35.

(123) *To adopt rule and waive provisions of Budget Act on conference report, Child Day Care Standards. Yes (7-4). Passed 275-123).

(124) *Motion to recommit Child Day Care Standards. DNV (6-4). Failed 153-237.

(125) *Adoption of conference report, Child Day Care Standards. DNV (8-2). Passed 316-72.

(127) *D.C. Representation (one member of House). Yes (3-8). Passed 221-188.

(128) *Amendment to provide D.C. full representation in the House. No (9-2). Failed 67-338.

(129) *To propose amending constitution to provide D.C. a voting member in the House. (⅔ required). Yes (3-8). Failed 229-181.

(130) *To consider (adopt rule) amending Title 10, Economic Opportunity Act. Yes (10-1). Passed 343-44.

(132) *To amend Title 10, Economic Opportunity Act, to permit Legal Services Corp. to use 10 percent of funds for research and training, technical assistance, and clearinghouse activities. Yes (5-6). Passed 256-143.

(133) *To authorize $338.7 million for United States Information Agency. No (7-4). Passed 327-81.

(134) *To adopt conference report approving purchase of $2.03 billion in ConRail securities, $50 million for improvement of the Northeast Corridor, and $36.5 million for grants to Amtrak. No (3-8). Passed 288-105.

(135) *To require National Science Foundation to inform all Members of Congress, not just appropriate committees, of all its activities within days of such action. No (3-8). Failed 136-257.

(136) *To transfer $1.4 million in NSF funds to summer programs for elementary and secondary science and math teachers. Yes (4-7). Failed 160-232.

(137) *To authorize funds ($801 million) for National Science Foundation for FY 1977. Yes (10-1). Passed 358-33.

(138) *Motion to recommit Judiciary Committee Funding Resolution. Yes (8-2). Failed 158-193.

(140) *To fund Ethics Committee investigation of Daniel Schorr. Yes (10-0). Passed 278-87.

(141) *To authorize $58.4 million for Radio Liberty and Radio Free Europe. DNV (7-1). Passed 287-70.

(143) *To permit voluntary political activity by federal employees as of Jan. 1, 1977, and prohibit coercion of employees for political purposes. No (3-7). Passed 241-164.

(144) *To adopt conference report, Fishery Conservation and Management Act. Yes (9-1). Passed 346-52.

(145) *To consider (adopt rule) Federal Election Campaign Act Amendments. Yes (11-0). Passed 333-73.

(147) *To eliminate provision that all Federal Election Commission opinions become regulations subject to the approval of Congress. No (2-8). Failed 134-269.

(148) *To require candidates and committees to file duplicate reports with secretaries of state. Yes (8-2). Passed 293-111.

(149) *To establish three petroleum reserves in Alaska. Yes. (10-0). Passed 390-5.

(151) *To require labor unions and corporations to report all funds spent on internal communications advocating election or defeat of a candidate for federal office. No (4-6). Failed 175-220.

(152) *To eliminate provision allowing either House or Senate to terminate authority of Federal Election Commission. Yes (8-2). Passed 276-120.

(153) *To limit debate on Burton amendment, Federal Election Campaign Act Amendments. No (6-4). Passed 200-187.

(154) *To provide for public financing of Congressional elections on a matching fund basis beginning in 1978. Yes (1-9). Failed 121-274.

(155) *Motion to recommit Federal Election Campaign Act Amendments. No (4-6). Failed 153-246.

(156) *Final passage, Federal Election Campaign Act Amendments. Bill reconstituted Federal Election Commission to comply with Supreme Court mandate. Yes (7-3). Passed 241-155.

(157) *To provide 18-member U.S. delegation for Atlantic Convention to discuss agreement on a declaration of more effective unity among Western democracies. Yes (3-7). Failed 165-194.

(158) *To consider (adopt rule) Grain Standards Act. Yes (6-0). Passed 295-0.

(159) *Amendment to require complete federalization of grain inspection system at export points. No (1-5). Failed 112-183.

(160) *Final passage, Grain Standards Act, requiring USDA or state agencies to inspect and weigh grain at export locations. Yes (6-0). Passed 246-33.

(162) *To expand federal jurisdiction to prevent all government supervisors from threatening employees with dismissal if they do not contribute to a political party. Yes (8-0). Passed 358-3.

(163) *To authorize $2.2 million for development of a national cemetery at Quantico Marine Base. Yes (8-0). Passed 358-8.

(164) *To designate April 13, 1976, as Thomas Jefferson Day. Yes (8-0). Passed 363-2.

(165) *To declare second week in March 1977, "National Employ the Older Worker Week." Yes (8-0). Passed 365-2.

(166) *To designate as "National Family Week" that week in which Thanksgiving occurs. Yes (8-0). Passed 362-5.

(167) *To implement the 1972 Convention on the International Regulations for Preventing Collisions at Sea. Yes (8-0). Passed 366-1.

(168) *To authorize $304.1 million for Coast Guard. Yes (8-0). Passed 358-9.

(169) *To appropriate $135 million for nationwide swine flu immunization program. No (7-1). Passed 354-12.

(171) *To authorize $57 million supplemental appropriation for Energy Research and Development Administration. Yes (7-0). Passed 311-66.

(173) *To diminish boundaries of Eagles Nest Wilderness. No (3-5). Failed 109-273.

(174) *To accept conference report on Animal Welfare Act amendments. Yes (9-0). Passed 332-31.

(176) *To transfer census records to National Archives. Yes (9-0). Passed 376-4.

(177) *To remove penalties for refusing to answer census questions. Yes (9-1). Passed 248-140.

(179) *To recommit National *Health* Promotion and Disease Prevention Act. Yes (7-3). Failed 185-207.

(181) *To delay $960.5 million in procurement funds for B-1 bombers. No (0-10). Failed 177-210.

(182) *To defer any expenditure of funds for a new nuclear aircraft carrier pending completion of a congressional study. Yes (4-6). Failed 182-195.

(184) *To prohibit overland testing of MaRV nuclear warheads. No (0-10). Failed 95-267.

(185) *To reduce 2,100,000 active forces level by 47,000, with reduction coming from 454,000 personnel stationed overseas. No (0-10). Failed 88-275.

(186) *To require three-year notice of military base closings. No (1-9). Failed 152-202.

(187) *To authorize $33.26 billion for Military Procurement and Research and Development. Yes (10-0). Passed 298-52.

(189) *To extend one year the District of Columbia Medical and Dental Manpower Act. Yes (8-2). Passed 264-90.

(190) *To reject President's proposed deferral of $118 million soil *conservation* funds appropriated for emergency watershed repair work. Yes (10-0). Passed 338-23.

(191) *To authorize $1.25 billion (two years) for prevention and control of lung and heart disease. Yes (10-0). Passed 360-0.

(193) *To add $60 million for education of handicapped and $315 for Basic Educational Opportunity Grant Programs. Yes (10-0). Passed 318-68.

(194) Supplemental appropriations for various departments and agencies of government. Yes (9-1). Passed 352-35.

(196) *To disapprove exemption of resid-

ual fuel oil from price and allocation controls. No (0–10). Failed 109–272.

(197) *To recommit conference report on Consumer Product Safety Commission Improvements Act. No (5–5). Failed 177–192.

(199) *Final passage, Arts, Humanities, and Cultural Affairs Act of 1976. Yes (7–3). Passed 279–59.

(202) *To recommit (kill) conference report on International Security Assistance and Arms Export Control, authorizing $3.17 billion for grant military aid, foreign military credit sales and guarantees, security supporting assistance, etc. Yes (9–1). Failed 185–214.

(203) To adopt conference report (approve) International Security Assistance and Arms Export Control. No. (1–9). Passed 215–185.

(204) *Budget resolution: To add $610 million for possiblbe extension of GI Bill education benefits. Yes (8–2). Passed 218–188.

(205) *Budget resolution: To increase target for veterans entitlement programs tied to cost of living. Yes (10–0). Passed 397–6.

(206) *Budget resolution: To reduce defense spending target by $2 billion. Yes (1–9). Failed 145–255.

(208) *Veto override: To override President's veto of Hatch Act Reform. (Two-thirds required). Yes (5–5). Failed 243–160.

(209) *Budget resolution: To reduce defense spending target by $7.5 billion. No (0–9). Failed 85–317.

(210) *Budget resolution: To remove $50 million in start-up funds for Humphrey-Hawkins and $50 million for national health insurance legislation. Yes (8–2). Failed 153–230.

(211) *Budget resolution: To remove $50 million start-up of Humphrey-Hawkins. Yes (10–0). Failed 177–206.

(212) *Budget resolution: To reduce target for food stamp program by $1 billion. No (5–5). Failed 147–229.

(213) *Budget resolution: To substitute Administration's budget proposals. No (2–8). Failed 145–230.

(214) *Budget resolution: To reduce targets to achieve a balanced budget immediately. No (2–8). Failed 105–272.

(215) *Budget resolution: Final passage, setting spending and income targets; rejecting Administration's proposed cuts in human resources programs, and accepting its proposed level of spending for defense and energy. Yes (5–4). Passed 221–155.

(217) *To earmark 1% of jobs funds for unemployed artists. Yes (1–7). Failed 78–246.

(218) *Final passage, Emergency Jobs Programs Stopgap Extension to maintain 273,000 public service jobs through Sept. 30, 1976. Yes (8–1). Passed 287–42.

(219) *To require all payments in Public Safety Officers Benefits Act be made through general revenue sharing funds. No (2–5). Failed 98–202.

(220) *To provide a $50,000 payment by Law Enforcement Assistance Administration to spouse or dependent of law enforcement personnel who die of injuries sustained in performance of duty. Yes (2–4). Passed 199–93.

(221) *To provide $50,000 payment by LEAA to spouse or dependents of firefighting personnel who die of injuries sustained in performance of duty. Yes (2–3). Passed 178–80.

(223) *To adopt conference report on Federal Election Campaign Act Amendments. Yes (10–1). Passed 291–81.

(224) *To adopt conference report on Beef Research and Information Act. Yes (10–1). Passed 200–170.

(225) *Final passage, Administration of Fish and Wildlife Programs. Yes (11–0). Passed 360–0.

(226) *Final passage, Marine Protection, Research and Sanctuaries Act Authorization. Yes (10–0). Passed 362–0.

(227) *Final passage, one-year extension of National Sea Grant College and Program Act. Yes (10–1). Passed 326–34.

(228) *Final passage, to close tax loopholes by which wealthy individuals join together to diversify their stock holdings and redistribute their stock market risks while postponing tax on the unrealized gains in the stock they pool. Yes (11–0). Passed 348–14.

(229) *Final passage, Natural Gas Pipeline Safety Act Amendments, appropriating $7.6 million for Office of Pipeline Safety operations and grants to states. No (7–4). Passed 227–88.

(231) *Veto override: Child Day Care Centers bill to postpone until July 1, 1976, requirement that day care centers meet federal staffing standards. (⅔ required). Yes (9–2). Passed 301–101.

(232) *To extend authorization for Domestic Volunteer Service Act. Yes (10–0). Passed 367–31.

(233) *To require that regulations promulgated in connection with research and development under the Environmental Protection Act be subject to congressional disapproval. Yes (10–1). Passed 228–167.

(234) *To authorize $256.6 million for research and development program of EPA. Yes (11–0). Passed 381–16.

(236) *To reduce authorization levels 1979 through 1989 under Land and Water Conservation Fund Act. Yes (10–0). Failed 111–282.

(237) *To lower revised state allocation formula in Land And Water Conservation Fund Act. No (0–10). Failed 177–221.

(238) *To prevent Land and Water Conservation funds from being used for shelters for swimming pools and ice skating rinks. Yes (7–4). Passed 248–147.

(239) *Final passage, Land and Water Conservation Fund authorization. Yes (10–0). Passed 392–3.

(240) *To consider (adopt rule) Packers and Stockyards Amendments. Yes (11–0). Passed 371–3.

(242) *To consider (adopt rule) Military Construction Authorization. Yes (11–0). Passed 385–0.

(243) *To strike requirement in Flexible and Compressed Work Week bill pertaining to federal agencies, making program voluntary. Yes (9–2). Passed 240–112.

(244) *To require workers represented by unions include waiver of overtime in contract with federal agency. No (1–10). Failed 76–268.

(248) *Defense: To require one year advance notice and justification for closing or transfer of military bases. No (0–11). Failed 83–237.

(249) *Defense: To eliminate section in Military Construction bill extending Davis-Bacon Act wage protection to certain non-advertised military construction contracts. Yes (3–8). Failed 35–279.

(250) *Defense: To authorize $3.33 billion for military construction and family housing for military personnel. Yes (11–0). Passed 299–14.

(252) *To consider (adopt rule) Career Incentives for Navy Nuclear Officers. Yes (8–0). Passed 333–0.

(253) *To increase pay incentives to enable Navy to attract and retain qualified officers for nuclear vessels. Yes (9–0). Passed 322–27.

(254) *To authorize $274.3 million for Nuclear Regulatory Commission. Yes (9–0). Passed 356–5.

(255) *To consider (adopt rule) Federal Reserve Reform Act. Yes (8–1). Passed 354–3.

(256) *Final passage, Federal Reserve Reform Act, making terms of chairman and vice chairman of Federal Reserve coterminous with President of U.S., and to increase directors of Federal Banks from nine to 12. Yes (9–0). Passed 279–85.

(257) *To consider (adopt rule) Higher Education Act Amendments. Yes (9–0). Passed 362–0.

(259) *To extend Vocational Education Act and increase funding for vocational education programs. Yes (10–0). Passed 390–3.

(262) *To strike requirement, Higher Education Act, that when student aid exceeds $2.5 billion, additional funds triggered for other programs. No (4–6). Failed 146–255.

(263) *To prohibit use of Higher Education Act funds for the teaching of "secular humanism." Yes (10–0). Passed 222–174.

(264) *Higher Education Act: To extend sex antidiscrimination to professional fraternities and sororities. No (4–6). Failed 121–272.

(265) *Final passage, to extend for one year provisions of Higher Education Act, including student aid programs, and Title VI of National Defense Education Act. Yes (10–0). Passed 388–7.

(267) *Budget resolution: To adopt conference report setting guidelines for spending and income. Yes (3–6). Passed 224–170.

(268) *To adopt conference report, Small Business Act Amendments, easing funding for acquisition of pollution control equipment, liberalizing provisions of Small Business Investment Act, and requiring studies of federal disaster loan programs and the role of small business in the economy. Yes (9–0). Passed 392–0.

(269) *To authorize funds ($2.5 billion) for grants to state and local governments for local public works projects on which on-site labor could begin within 90 days. Yes (10–0). Passed 339–57.

(271) *To establish a 15-member Commission on Security and Cooperation in Europe. No (3–6). Passed 240–95.

(272) *To consider (adopt rule) Unemployment Compensation Amendments, which would extend coverage and increase employer-paid unemployment compensation taxes. No (0–8). Failed 125–219.

(276) *To extend War Risk Insurance (for air carriers which have contracts with Defense or State Departments). Yes (10–0). Passed 392–1.

(277) *To increase maximum direct federal housing loan to veterans from $25,000 to $29,000. Yes (10–0). 386–2.

(278) *To adopt conference report on Second Supplemental Appropriations ($12 billion, including $2.6 billion to fund a 5% wage increase for federal workers; $2.7 billion for public assistance payments). No (3–8). Passed 286–100.

(280) *To reduce funding for solar energy research and development. No (7–3). Failed 188–207.

(281) *To redistribute funds for solar research. No (6–4). Passed 265–127.

(282) *To distribute solar research and development funds equally between solar heating and cooling, and other forms of solar. Yes. (5–5). Passed 321–68.

(284) *To consider (adopt rule) International Security Assistance and Arms Export Control Act. Yes. (10–0). Passed 350–35.

(286) *To adopt conference report on increased U.S. Participation in the Inter-American Development Bank. DNV (3–4). Passed 257–120.

(287) *To eliminate $1.2 billion for nuclear weapons activities from Energy Research and Development Administration Authorization Act. No (0–9). Failed 97–286.

(288) *To require utilities in Clinch River Breeder Reactor joint venture pay part of cost overruns. Yes (1–7). Failed 173–209.

(289) *To lessen public health and safety requirements during construction of Clinch River nuclear plant. No (8–1). Passed 238–140.

(290) *To authorize $6.97 billion for Energy Research and Development Administration, with $5.25 billion for nuclear programs. DNV (8–0). Passed 316–26.

(291) *To authorize $3.7 billion for National Aeronautics and Space Administration. DNV (6–0). Passed 255–20.

(292) *To consider (adopt rule) Alcohol Abuse and Alcoholism Amendments. DNV (7-4). Passed 279-0.

(293) *To authorize $481.5 million for three-year federal effort to meet problems of alcoholism. DNV (6–0). Passed 271–3.

(294) *To recommit with instructions Health Services Research bill. No. (4–3). Failed 111–172.

(295) *To authorize $318.3 million for three years for health services research. Yes (7–0). Passed 268–8.

(297) *To publish D.C. Code. Yes (9–0). Passed 259–48.

(298) *To require Comptroller General enter into contracts for financial planning, reporting and budget control for D.C. government. Yes (9–0). Passed 308–2.

(299) *To consider authorizing additional Assistant Secretary of Commerce. Yes (9–0). Passed 302–10.

(300) *To authorize an additional Assistant Secretary of Commerce for Congressional Affairs. No (3–7). Failed 143–178.

(302) *To create year-round Young Adult Conservation Corps. Yes (7–0). Passed 291–70.

(303) *To consider (adopt rule) Housing Authorization Act. Yes (11–0). Passed 319–35.

(306) *District of Columbia appropriations for FY 1976. Yes (10–0). Passed 350–13.

(307) *To strike set-asides from Housing Authorization Act. Yes (10–0). Passed 260–110.

(308) *To provide that social security benefit increases not be used in computing income of tenants in public housing. Yes (7–3). Passed 260–99.

(309) *To create new direct housing loan program for middle-income homebuyers. No (0–10). Failed 116–243.

(310) *Final passage, Housing Authorization Act to extend and amend existing housing and community development programs. Yes (10–0). Passed 332–27.

(313) *To consider (adopt rule) Federal Energy Administration Authorization for FY 1977. Yes (9–1). Passed 238–116.

(315) *To reduce Office of Conservation and Environment funds from $50 to $12.6 million. Yes (10–0). Passed 220–154.

(316) *To prohibit FEA from making oil price and control allocation changes in a single action. No (0–10). Passed 200–175.

(317) *To allow Congress to reject any FEA rule or regulation within 60 days of promulgation. Yes (9–1). Passed 226–147.

(318) *To reduce extension of FEA to 18 months from 39 months. Yes (2–8). Passed 194–172.

(319) *To require FEA rules hearings be held within affected areas. Yes (9–1). Passed 267–95.

(320) *Final passage, $172 million for Federal Energy Administration. Yes (10–0). Passed 270–94.

(323) *International Security Assistance: to delete $290 million ceiling on sales to South Korea. DNV (10–0). Passed 241–159.

(324) *$7.1 billion for International Security Assistance in FY 1976, FY 1977, and transition quarter. DNV (2–8). Passed 255–140.

(326) *Five year program to develop auto propulsion systems, allot $20 million for FY 1977. No (4–7). Passed 296–86.

(327) *To end use of government funds as of Oct. 1, 1977, for promotion and research program of Cotton Board. Yes (11–0). Passed 370–6.

(329) *Water Pollution Control: To limit jurisdiction of Corps of Engineers. Yes (11–0). Passed 234–121.

(330) *Water Pollution Control: $18.2 billion through FY 1979, including $17 billion for matching grants for waste treatment. Yes (10–0). Passed 339–5.

(332) *To adopt rule (consider) Outer Continental Shelf Lands Act amendments. Yes (9–0). Passed 294–27.

(335) *To fund Small Business Administration programs for FY 1978–79. Yes (10–0). Passed 341–2.

(337) *To establish Valley Forge National Park. Yes (10–0). Passed 364–4.

(338) *To grant duty exemption for certain aircraft parts. Yes (10–0). Passed 359–4.

(339) *To clarify law regarding lobbying by tax exempt organizations. Yes (11–0). Passed 355–14.

(340) *To establish Old Ninety-Six (S.C.) National Historical Site. Yes (11–0). Passed 359–7.

(342) *To adopt rule (consider) revenue sharing amendments. Yes (7–0). Passed 358–1.

(343) *To resolve into Committee of the Whole House to consider revenue sharing. Yes (8–0). Passed 358–0.

(344) *To adopt rule (consider) State Department Authorization Act. Yes (8–0). Passed 378–6.

(345) *To reaffirm U.S. interest in Italian democracy and Italy's participation in NATO. Yes (8–0). Passed 388–0.

(346) To adopt rule (consider) U.S. Information Agency Authorization. Yes (8–0). Passed 387–1.

(347) *To adopt rule (consider) Winter Olympic Games Authorization. Yes (8–0). Passed 377–2.

(348) *To adopt rule (consider) Amtrak Improvement Act. Yes (8–0). Passed 359–21.

(349) *To adopt rule (consider) Federal Railroad Safety Authorization Act. Yes (9–0). Passed 375–4.

(351) *To adopt rule (consider) Ethics Committee Funding. Yes (11–0). Passed 400–0.

(352) *Ethics Committee Funding: For remainder of 94th Congress, only expenses of committee be paid from contingency fund of House solely upon presentation of vouchers signed by chairman and ranking minority member. Yes (11–0). Passed 400–0.

(353) *Revenue Sharing: Fountain substitute. Yes (11–0). Passed 233–172.

(354) *Revenue Sharing: To require that 20% of funds received by local governments be used to decrease property taxes. No (0–11). Failed 64–340.

(355) *Revenue Sharing: To equalize revenue sharing payments to cities and townships that perform similar activities. No (0–11). Failed 158–229.

(356) *Revenue Sharing: To fund first two years of four-year extension as an entitlement program, other two years on annual basis, instead of four-year entitlement. Yes (1–10). Failed 150–244.

(357) *Revenue Sharing: To restore Davis-Bacon provisions eliminated by Fountain substitute. No (0–11). Failed 174–218.

(358) *Revenue Sharing: Final passage, extend through Sept. 30, 1980, authorize $24.95 billion entitlement for that period. Yes (11–0). Passed 361–35.

(360) *To resolve into Committee of Whole House to consider Railroad Safety Act. DNV (10–0). Passed 322–0.

(361) *Railroad Safety: Skubitz substitute. DNV (0–9). Failed 37–298.

(362) *Railroad Safety: Final passage. DNV (10–0). Passed 332–11.

(363) *Final passage, to authorize $49 million for construction of facilities for 1980 Olympic winter games at Lake Placid, N.Y. No (3–7). Passed 179–147.

(364) *To adopt rule (consider) National Traffic and Motor Vehicle Safety Act Authorization. Yes (11–0). Passed 318–1.

(367) *To prohibit use of any Treasury/Postal funds by IRS to pay rewards to those who inform the IRS of suspected tax law violator. Yes (3–5). Failed 160–187.

(368) *To reduce Treasury/Postal/General Government expenditures by 5 per cent. Yes (6–2). Failed 159–191.

(369) *To prohibit IRS from compiling or making public records of contacts made by Members of Congress concerning any matter pending before IRS. No (1–7). Failed 67–291.

(370) *To appropriate $8.27 billion for Treasury, Postal Service, Office of President, and other agencies. No (5–2). Passed 261–99.

(371) *To adopt rule (consider) Increase in Debt Ceiling. No (5–2). Passed 295–57.

(372) *To increase temporary debt ceiling in three stages to $700 billion. No (1–7). Passed 184–177.

(374) *Technical amendment to Minority substitute, Outer Continental Shelf Lands Act. No (2–5). Failed 156–201.

(375) *To delete requiring evaluation of impact on competition of a proposed Outer Continental Shelf lease sale. DNV (0–6). Failed 114–231.

(376) *Minority substitute. Outer Continental Shelf. DNV (3–4). Failed 139–209.

(378) *To adopt rule (consider) Public Works/Energy Research Appropriations. DNV (7–0). Passed 363–0.

(380) *Public Works: To eliminate $12.6 million for land acquisition for Lone Tree Reservoir. Yes (3–8). Failed 156–244.

(381) *Public Works: To reduce expenditures across the board 5 per cent. Yes (8–3). Failed 129–270.

(382) *Public Works: Final passage, $9.55 billion for public works, water and power development. Yes (9–2). Passed 378–20.

(386) *Agriculture: Amendment to limit peanut price support to $59 million for 1977 crop year. No (0–11). Failed 175–229.

(387) *Agriculture: To reduce appropriations for food stamp program from $4.8 billion to $4 billion. Yes (9–2). Failed 184–222.

(388) *Agriculture: To reduce appropriations by 5 per cent. No (2–9). Failed 103–298.

(389) *Agriculture: Final passage, $11.70 billion for Ag Dept. and related agencies. Yes (11–0). Passed 377–26.

(390) *To adopt conference report, $3.3 billion in military construction authorization. Yes (11–0). Passed 375–20.

(392) *Military Construction: 5 per cent reduction in expenditures. Yes (7–3). Failed 151–232.

(393) *Military Construction: Final Passage, $3.4 billion. Yes (10–0). Passed 361–22.

(394) *Defense: To adopt rule (consider) Defense Appropriations. Yes (10–0). Passed 375–2.

(397) *Defense: To restore $10.1 million for consolidated helicopter pilot training, debate $17.5 million for separate Navy-Marine school. Yes (7–4). Passed 288–110.

(398) *Defense: To eliminate 1% add-on to cost-of-living increases for retired military personnel. Yes (9–2). Passed 331–64.

(399) *Defense: To eliminate $350 million advance procurement funds for Nimitz-class nuclear aircraft carrier. No (1–10). Failed 179–213.

(400) *Defense: To postpone procurement of B–1 bomber until March 1, 1977. Yes (2–9). Failed 186–207.

(401) *Defense: $105.6 billion for Dept. of Defense. ($1.2 billion less than administration's request; $13 billion more than previous year.) Yes (11–0). Passed 331–53.

(403) *To direct president to negotiate a treaty with Panama which "perpetuates U.S. sovereignty and control" over Panama Canal. Yes (9–2). Failed 157–197.

(404) *To use weaker "protect the vital interests of U.S." in renegotiation of Panama Canal treaty. No (4–7). Passed 229–130.

(405) *To reaffirm "protect the vital interest" language on Panama Canal treaty. Yes (11–0). Passed 339–12.

(406) *State Department authorization, $1.05 billion, including Panama Canal treaty instructions. Yes (10–0). Passed 327–22.

(407) *U.S. Information Agency appropriation, $269.1 million. Yes (10–0). Passed 313–25.

(408) *To adopt rule (consider) State/Justice/Commerce appropriations. Yes (10-0). Passed 326-8.

(410) *State/Justice: To increase funding for Law Enforcement Assistance Administration by $138 million. Yes (4-5). Passed 176-95.

(411) *State/Justice: To recommit with instructions to reduce by 5 percent. Yes (4-5). Failed 66-153.

(412) *State/Justice: $6.4 billion for Departments of State, Justice, and Commerce, and the judiciary and related agencies. Yes (8-0). Passed 208-9.

(414) *To extend Guaranteed Student Loan Program through Sept. 30, 1976. Yes (11-0). Passed 350-0.

(415) *Veterans: To increase by 8 per cent the rates of disability compensation for service-connected disabled veterans, etc. Yes (10-0). Passed 351-0.

(416) *Veterans: To extend "interim" 8% increase in pension benefits and provide, at beginning of 1977, a 7% increase in pension benefits for veterans and their survivors; similar increase for parents receiving dependency and indemnity compensation. Yes (10-0). Passed 354-0.

(417) *To permit 24-hour display of an all-weather flag, if properly illuminated. Yes (10-0). Passed 352-0.

(418) *To permit translator broadcast stations to originate limited amounts of local programming Yes (10-0). Passed 349-0.

(419) *Horse Protection Act: To prohibit the practice of "soring." Yes (10-0). Passed 346-6.

(422) *To eliminate bracket system of taxing large cigars, replacing with flat 8.5 per cent on wholesale price. Yes (11-0). Passed 269-138.

(423) *To prevent special tax on amounts inadvertently distributed by life insurance company and returned in same taxable year. Yes (11-0). Passed 339-66.

(424) *To extend suspension of duty on certain bicycle parts. Yes (10-1). Passed 370-41.

(425) *That Postal Service not close or suspend the operation of any small post office unless there is a compelling need to do so. Yes (11-0). Passed 399-14.

(426) *Bretton Woods Agreement Act Amendments (regarding International Monetary Fund). 2/3 required. Yes (6-5). Failed 264-147.

(427) *To tighten government control and set new procedures for transfer of cash receipts from food stamp vendors to federal government. Yes (11-0). Passed 407-0.

(428) *To extend Federal Energy Administration through Sept. 30. Yes (9-2). Failed 194-216.

(430) *To recommit conference report on International Security Assistance and Arms Export Control. No (5-6). Failed 128-279.

(431) *To adopt conference report, International Security Assistance and Arms Export Control. No (1-10). Passed 258-146.

(432) *To adopt rule (consider) HUD/Independent Agencies Appropriations. Yes (11-0). Passed 399-5.

(434) *To reduce HUD appropriations bill by 5 per cent. Yes (6-5). Failed 98-294.

(435) *$42.9 billion for HUD and independent agencies, including NASA and Veterans Administration. Yes (8-0). Passed 369-18.

(436) *To meet at noon June 23, 1976. Yes (6-1). Passed 180-43.

(437) *To elect Rep. Thompson chairman of House Administration Committee (to replace Rep. Wayne Hays). Yes (10-0). Passed 295-4.

(438) *To adopt rule (consider) conference report on Public Works Employment Act. Yes (10-0). Passed 393-7.

(439) *To delete Title II from conference report, Public Works Employment Act. No (5-6). Failed 153-259.

(440) *Public Works: To authorize funds for public works projects on which on-site labor could begin within 90 days; for grants to state and local governments, etc. Yes (9-2). Passed 328-83.

(442) *Labor/HEW: To increase funding for summer youth jobs program by $66.6 million. Yes (4-7). Passed 205-201.

(443) *To rise from consideration of H.R. 14232 and adjourn for the day. Yes (9-1). Passed 303-96.

(445) *Labor/HEW: To end debate on Skubitz amendment at noon. Yes (9-2). Passed 247-150.

(446) *Labor/HEW: To exempt farmers employing fewer than 5 workers from OSHA regulation. No (0-11). Failed 151-245.

(447) *Labor/HEW: To exempt farmers employing fewer than 11 workers from OSHA regulations. Yes (11-0). Passed 273-124.

(448) *Labor/HEW: To exempt any business employing 10 or less workers from OSHA regulations. Yes (11-0). Passed 231-161.

(449) *Labor/HEW: To increase funds for Center for Population Research ($8.7 million). No (0-10). Failed 122-278.

(450) *Labor/HEW: To increase by $24 million funds for mental health research and community centers. Yes (7-2). Passed 248-136.

(451) *Labor/HEW: To add $10 million for multipurpose senior citizen centers. Yes (6-4). Passed 318-67.

(452) *Labor/HEW: To prohibit funds for abortions. No (4-6). Passed 207-167.

(453) *Labor/HEW: To reduce expenditure 5 per cent, no program cut below previous level. Yes (9-1). Failed 143-218.

(454) *Labor/HEW: Cut expenditures 5% across the board. No (4-6). Failed 87-271.

(455) *To affirm increase in funding for summer jobs program. Yes (4-6). Passed 183-181.

(456) *Labor/HEW: No funds in bill may be used to pay for abortions. No (3-7). Passed 199-165.

(457) *To adopt rule (consider) Foreign Assistance Appropriations. Yes (10-1). Passed 304-45.

(460) *To adopt rule (consider) Interior Appropriations. Yes (9-0). Passed 348-8.

(461) *Interior: To increase ERDA energy conservation programs by $67.5 million. Yes (3-7). Passed 170-157.

(462) *Interior: To reduce expenditures 5%. Yes (6-4). Failed 84-219.

(463) *Interior: $5.6 billion to Interior Department and related agencies. Yes (10-1). Passed 295-1.

(465) *To adopt rule (consider) Transportation Department and Related Agencies Appropriations. Yes (10-0). Passed 329-0.

(467) *Transportation: To prohibit SST aircraft (Concorde) from landing in U.S. No (0-11). Failed 126-269.

(468) *Transportation: To prohibit SST landings at Kennedy Airport. No (0-11). Failed 170-228.

(469) *Transportation: To delete limit on obligations for Federal-Aid Highway and Highway Safety Construction programs during FY 1977. No (7-4). Passed 251-146.

(470) *Transportation: $5.3 billion for Department of Transportation and related agencies. Yes (10-1). Passed 376-21.

(471) *Foreign Aid: Adoption of conference report; $5.94 billion for FY 1976 and transition quarter. No (1-10). Passed 231-158.

(473) *Public Works: To adopt conference report on Public Works Appropriations; $9.7 billion. Yes (9-2). Passed 381-15.

(474) *To adopt conference report on continuation of community programs for alcohol abuse and alcoholism. Yes (11-0). Passed 386-6.

(475) *Agriculture: To adopt conference report on providing $12.6 billion for Dept. Agriculture and related agencies. Yes (11-0). Passed 372-27.

(476) *To reduce appropriations for World Bank's International Development Assn. ($128 million). Yes (9-2). Failed 165-229.

(477) *Foreign Aid: To reduce across the board 5 per cent. Yes (9-2). Failed 187-214.

(478) *Foreign Aid: To prohibit funds for production of palm oil. Yes (11-0). Failed 198-210.

(479) *Foreign Aid: To appropriate $4.8 billion for foreign military and economic assistance. No (1-10). Passed 238-169.

(480) *To authorize $1.05 billion for State Department and $58.4 million for U.S. Information Agency. Yes (7-3). Passed 358-45.

(481) *To designate Eagle's Nest Wilderness. Yes (9-0). Passed 388-13.

(482) *To adopt rule (consider) Mine Safety and Health Act. Yes (10-0). Passed 363-36.

(484) *To adopt rule (consider) on extending FEA Act. Yes (10-0). Passed 351-51.

(485) *To adopt rule (consider) Department of Defense authorization for FY 1977. Yes (10-0). Passed 363-41.

(486) *To extend the FEA Act through July 30, 1976. Yes (7-4). Passed 283-122.

(487) *To recommit conference report on Housing Authorization Act Amendments. No (2-9). Failed 157-250.

(488) *To adopt conference report on Housing Authorization Act Amendments. Yes (9-2). Passed 341-68.

(489) *To adopt conference report on $8.3 billion for Treasury, Postal Service, and Executive Office of the President. Yes (9-2). Passed 318-82.

(490) *To concur in Senate amendment banning GSA purchase of foreign flatware. No (4-7). Passed 206-201.

(491) *To adopt conference report, Airport and Airway Development Act Amendments. Yes (10-0). Passed 309-103.

(492) *Motion to recommit conference report on Department of Defense Authorization. No (0-10). Failed 112-298.

(493) *To adopt conference report—$32.5 billion for weapons and research and development. Yes (10-0). Passed 339-66.

(494) *To adopt conference report on Coastal Zone Management Act Amendments. Yes (10-0). Passed 391-14.

(495) *To adopt conference report on State/Justice/Commerce Appropriations ($6.7 billion). Yes (8-2). Passed 360-42.

(496) *To reject motion to discharge Interstate Committee from further consideration of Energy Actions 3 and 4. No (0-10). Failed 194-208.

U.S. STRATEGY

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. FASCELL. Mr. Speaker, I call to the attention of the House the following commentary by C. L. Sulzberger as printed in the August 4 edition of the New York Times.

The ongoing discussion stimulated by Professor Gouré deserves our attention particularly in light of the many outstanding questions concerning Soviet ambitions and strengths. We have yet to comprehend fully the significance of Soviet involvement in Africa and of their growing emphasis on seapower. Only recently agreed on our calculation of the magnitude of Soviet defense expenditures, we continue to debate the measurement of their overall military force. We should continue to review the elements that make up their overall strategic design to test whether our own assumptions are secure.

Professor Gouré is the director of Soviet studies at the Center for Advanced International Studies of the University of Miami. I heartily applaud the very important work that the center is doing.

The article follows:

[From the New York Times, Aug. 4, 1976]

Are We—Or Is Our Strategy—MAD?

(By C. L. Sulzberger)

Paris.—A gloomy stir has been created in NATO Europe by the University of Miami's publication of a book called "War Survival in Soviet Strategy," by Prof. Leon Gouré. The Russian-born Gouré emigrated to the United States in 1940, eventually becoming an adviser on civil defense to the United States Government.

He believes Moscow has never accepted the American idea of a balance of terror or that Dr. Strangelove idea, MAD—acronym for "Mutual Assured Destruction." The latter reckons if either superpower can count on retaining enough strategic nuclear weapons to destroy the other after suffering a surprise attack, no government could afford to risk war.

Former Defense Secretary Robert McNamara was the original prophet of the formula, and current Washington concepts of "mutual sufficiency"—meaning we need enough power to convince Moscow an assault would be insane—stem from it.

During the past week two formidable critiques of allied strategic thinking have been mounted, one in The Times of London by Lord Chalfont, once the paper's defense correspondent and a minister of state, the other in the widely circulated "Foreign Report" of The Economist. Both seem persuaded of the accuracy of Gouré's information and come to terrifying conclusions.

"I am deeply sorry if I tread on anyone's dreams," Chalfont writes, "but I feel bound to draw attention to the fact that the nuclear balance, always a fragile and uncertain edifice, is being demolished before our very eyes. . . . While the strategic arms limitation talks [SALT] have been going on, and partly as a result of American concessions during those negotiations, the Soviet Union has achieved a position of strategic nuclear superiority over the United States. . . .

"The nuclear balance ceases to exist at the moment when one side believes it has acquired the capacity to deliver an effective nuclear attack upon the other and survive the ensuing retaliation. My proposition is that the Soviet Union is resolved to acquire that capacity in the very near future."

"Foreign Report" predicts the U.S.S.R. will have valid strategic superiority by the end of this year and asserts its leaders believe they could then destroy an adversary without suffering unacceptable reprisals. It says Moscow has invested enormously in civil defense and survival programs while the Americans have unilaterally mothballed their antimissile defense system. Russian military writers believe their country's casualties in the nuclear war would be about equal to or even less than those of World War II.

Moscow has made civil defense into a separate service of the armed forces under a colonel general, according to "Foreign Report." Most new factories are built away from large urban areas and "Russian society is now equipped to go undergrond at short notice," with immense food stocks being buried. Missile sites have been hardened to about 15 times the strength of those in the United States.

In the past decade Moscow has spent more than $65 billion on assorted civil defense measures, compared with $17 billion in the United States. Frequent evacuation exercises are held in Soviet plants and there is a drumbeat of propaganda on preparedness.

The Russians are deploying ten new land-based ballistic missile systems and are already ahead of America in nuclear throw-weight, total ICBM's and submarine-launched missiles and megatonnage. By 1980 it is possible they may surpass the United States in strategic bombers. They have accelerated development of chemical and biological weapons while our program has been scrapped.

"Foreign Report" relates all this to a background of Kremlin sweet talk featured by last year's Helsinki European security accord. It quotes a Colonel Korzun as noting the "unpopularity of civil defense among the wide masses of the population" in the West.

I am in no position to judge the veracity of this information but it is certainly well within the realm of probability that approximately this kind of approach has been going on. For years something similar has lain at the heart of Chinese defensive strategy.

Chairman Mao was quoted long ago as telling French Socialists that even if half China's population was killed in a conflict, more than enough would survive for China to be victorious.

Surely the American people have a right to be informed about the truth of the statements made above so that they can debate whether it is necessary to revise our strategic assumptions. Mere national survival should be the paramount issue of this autumn's election. Are we—or is our strategy—MAD?

VOTING RIGHTS ACT REPEALER

HON. M. CALDWELL BUTLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. BUTLER. Mr. Speaker, I was delighted to see a resolution that the National Association of Secretaries of State passed at their annual meeting of July 21, 1976, calling for a repeal of the preclearance requirements of the Voting Rights Act of 1965.

The following resolution is provided for consideration by all Members:

Resolution

Whereas, the National Association of Secretaries of State recognizes that from time to time various states may enter into legitimate disputes with the federal government concerning administration of the election law; and

Whereas, the NASS recognizes that such disputes may arise specifically concerning the Voting Rights Act of 1965, as amended; and

Whereas, a fair and impartial resolution of such disputes is necessary to preserve the proper relationship between the federal government, the various states, and individual citizens who are affected by the disputes; and

Whereas, the Constitution and legal tradition mandate that such disputes shall be resolved through the federal judicial process; and

Whereas, the substitution of an administrative decree for the judicial process is an abrogation of the proper legal procedures.

Now, therefore, be it resolved that the NASS supports an amendment to the Voting Rights Act of 1965, as amended, removing from the Justice Department the power of preclearance over election statutes promulgated by the various individual state governments; and

Be it further resolved that the NASS believes the federal judicial process should be utilized to ascertain the compliance or noncompliance of any state election statute with the Voting Rights Act of 1965, as amended; and

Be it further resolved that copies of this resolution be forwarded to each member of Congress and to the President of the United States.

Adopted by the National Association of Secretaries of State on this twenty-first day of July, 1976.

NUCLEAR WAR IN SOVIET MILITARY THINKING—THE IMPLICATIONS FOR U.S. SECURITY PART II

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. KEMP. Mr. Speaker, the second part of an important article, coauthored by my legislative assistant, Mary Rose Edwards, about the implications for U.S. security of nuclear war in Soviet military thinking follows:

While much attention has focused on the Soviet military build-up, very little attention has been devoted to the Soviet civil defense program, a program which must be considered destabilizing if the arguments which led to the ABM treaty are accepted. And only now is the Congress and the U.S. Department of Defense beginning to think of what the consequences of this preparation are in terms of our strategic thinking, and our own strategic capabilities.*

Two of this country's foremost experts on the Soviet civil defense program are Dr. Leon Goure, with the University of Miami's Advanced Institute for International Studies, and Mr. T. K. Jones, the top technical advisor to former SALT negotiator Paul Nitze, and current product evaluation manager of the Boeing Aerospace Company.[14] As part of the House of Representatives' consideration of the fiscal year 1977 defense authorization legislation, Jones and Goure appeared before the Civil Defense Subcommittee of the House Committee on Armed Services. And in a rare U.S. public forum on Soviet civil defense they discussed the implications of this program for U.S. national security.[15]

The Soviet civil defense preparations are the direct derivative of that country's strategic thinking, a strategic thinking which considers civil defense a determining factor in the course and outcome of a possible nuclear war. Commenting on this, the head of the Soviet Civil Defense Ministry, Colonel-General A. Altunin, in 1973 wrote:

"Under present conditions the preparation of the country's rear for defense against means of mass destruction has become without a doubt, one of the decisive strategic factors ensuring the ability of the state to function in wartime, and in the final analysis, the attainment of victory." [16]

Predicated on the belief that nuclear war is both thinkable and survivable—even capable of producing a victor—the Soviet Union has undertaken a civil defense program which, conservatively estimated, costs the U.S.S.R. approximately $1 billion annually in equivalent U.S. terms, or roughly $4 for every Soviet citizen. The Soviet Civil Defense Ministry has a permanent organization staff of some 72,000, which can be augmented by the U.S.S.R.'s 500,000 member police force, and the civil defense program is an integral component of all Soviet na-

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Footnotes at end of article.

tional planning, from urban planning to industrial organization. This has led, among other things, to the dispersion of critical Soviet industries, (with 80% of all new industry having been dispersed to some one thousand new small and medium-sized towns built during the last decade), extensive bomb-resistant construction, low building density, and the stockpiling of a one-year food supply for population and livestock, with plans to expand the food supply further. Civil defense training is mandatory for all Soviet citizens; it is included in the school curriculum, and there is a twenty-one hour basic training program for all adults, followed by a mandatory twenty hours of refresher courses. In 1975, camouflaged as "military sport games", 23 million Russians of predominantly school age were involved in a detailed exercise of various civil defense role assignments. There continue to be reports of evacuation planning and staff exercises, and special towns have been constructed for this purpose.

The Soviet civil defense program is organized on the "territorial production principle", and oversight of the program extends from the Central Committee of the Communist Party of the Soviet Union and the Council of Ministers down through the republics, territories, regions, cities, to the district level. For analytical purposes the Soviet civil defense manual divides the CD role into three groups. The first group includes tasks related to civilian population protection, e.g., basic education in the preparation and construction of protective shelters, and the evacuation and dispersion procedures from the urban centers. In the second and third groups tasks relating to increasing the survivability of the industrial facilities, the execution and rescue of emergency repair, among others, can be found. And it is not by accident that this program embodies the recommendations which resulted from the U.S. strategic bombing survey of Nagasaki and Hiroshima, a study undertaken to assess the precautions necessary to survive a possible future nuclear attack on the United States. All steps, then, which are necessary to guarantee population and industrial survival and political continuity in the event of a nuclear war are covered in the Soviet civil defense program.[17]

Can the Soviet Union's civil defense program be dismissed as mere propaganda? The attention to detail, and the amount of time, human and financial resources that are being devoted to this program would make this a very expensive exercise indeed. Nevertheless, it would be an effort well worth the expense if the United States could be led into believing that it did not have the capability to inflict 'assured destruction' on the Soviet Union. From available evidence, however, it is apparent that the Soviet civil defense preparation is more than mere propaganda.* The Soviet leaders for substantive reasons, consider CD of major strategic significance, as critical a component of defense as the active capabilities of its military.

In an effort to verify the Soviet claims regarding the viability of their CD program, Mr. Jones, with the support of the Boeing Aerospace Company, has undertaken a number of studies. These studies revealed that Soviet claims of minimal population losses (three to four percent of their total population, or some 7 to 11 million people) in a U.S. nuclear retaliatory attack, appear quite realistic.

In testimony before the House Armed Service Committee, Jones discussed in some detail the survival prospects of the Soviet population from a U.S. second strike. Jones made the disclosure that if all the weapons in the U.S. retaliatory arsenal were delivered aganist Soviet territory, they would destroy all the people in an aggregate area equal only to three percent of the Soviet land area; the people in the remaining 97 percent of the land were would survive. These figures assume that the population was not protected by buildings or terrain, and all blast, thermal and radiation effects of the weapons detonated were above ground. Assuming even simple protection, such as foxhole-type shelters, the area covered by U.S. weapons would be reduced to about one-third of one percent. If the U.S. weapons were detonated at ground level, the lethal fallout might cover about ten percent of the Soviet land area (variations would result from such factors as wind, rain, and topography). But such a detonation would reduce by half the lethel area of the U.S. weapons against the urban-industrial targets, and people could be protected from the fallout. Soviet population evacuation and dispersal to a U.S. attack would reduce fatalities to about eight percent of the total population (some 20 million), even if the evacuees were not protected from fallout. This fatality level could, however, be reduced even further. If the evacuating population built simple shelters fatalities could be kept to about two percent. (Shelters capable of holding ten people, with a blast resistance of forty pounds per square inch, and a radiation factor of about one thousand, would take only a matter of hours to build, and directions for their construction are included in the civil defense training). Assuming a U.S. retaliatory attack were directed against the Soviet urban-industrial areas, the weapons were burst above ground, and the population was evacuated without protective shelters, Soviet fatalities would be slightly over two percent. The estimates for the Soviet population loss as a result of a U.S. nuclear retaliatory attack then range between six and twenty million. Such a population loss compares with the loss of twenty million Russians during World War II, and some thirty million self-inflicted losses during the Stalin purges of the 1930's.

Even under the most adverse conditions to the Soviet Union, testimony before the House Armed Services Committee revealed, a U.S. retaliatory attack could destroy only about 70 million Russians, or 27% of the Soviet population. But the level of fatality to the Soviet population would be determined largely by factors the Soviet Union controlled, such as the level of evacuation and dispersal, and whether or not even primitive shelters were built. The highest official U.S. estimate that 100 million Russians could be killed in a U.S. retaliatory attack presupposes that the Soviet urban population would remain concentrated in the cities, an expectation that is wholly without foundation, given Soviet strategic thinking and the extent of the civil defense preparation.

Soviet industrial centers, like the urban population, could withstand a U.S. retaliatory attack. Industrial survival rate estimates range from fifty to ninety percent, with damage so limited that machinery would not have to be rebuilt. By changing from two workshifts a day to three, the Soviets could more than adequately compensate for damaged machinery, and need not suffer a loss of productive capacity. In the Boeing studies undertaken to estimate the effectiveness of the Soviet industrial protective measures, using the Seattle-Tacoma area as a labortory, preliminary results indicated that the civil defense measures were particularly effective against low-yield, low accuracy characteristics of the surviving U.S. retaliatory force. These preliminary results revealed further that if the Soviet industrial targets were attacked with the Poseidon and Trident warheads, and these targets were protected in the way prescribed by the Soviet civil defense manual, only 25 to 50 percent of the targeted industry would be destroyed in the primary area. The supporting industries would have an even better survival rate e.g., 75% of the blast furnaces, 75% of the foundries, 90% of the machine shops, 80% of the aircraft-related industries, and 80% of the steel fabrication facilities survived. In short, the preliminary results of the Boeing studies confirmed the feasibility of the Soviet civil defense program.[18]

Having discussed the impact of a nuclear exchange on the Soviet Union it would serve well to discuss the possible impact of such exchange on the United States. The U.S. Defense Civil Preparedness Agency undertook a post-nuclear attack study (PONAST II) on the survival and recovery prospects of the United States and the Soviet Union. A hypothetical massive nuclear attack upon the United States by the Soviet Union, followed by a U.S. counter-attack, was considered.

The scenario presupposed the Soviet Union delivered 1,400 warheads, with 6,800 megatons, on the United States. Approximately one-third of the Soviet megatonnage was delivered to U.S. urban industrial targets, with the remaining going to U.S. military targets. The scenario further presupposed that 10 percent of the U.S. urban population had evacuated the large cities.

In this postulated attack, 109 million people, or 43 percent of the U.S. population survived.

The 57 percent population loss is explained by the fact that the U.S. population is concentrated in only 140 cities with no effective civil defense program. (For the United States to inflict an equivalent amount of damage on the Soviet population, 1,000 Soviet cities would have to be attacked and the Soviets would have to fail to implement civil defense procedures).

In the study, U.S. industry labor force survival generally coincided with the overall population survival rate.

Because U.S. manufacturing facilities are not protected against nuclear blast, only 27 percent of the U.S. manufacturing industry received light or no damage. Electric power, raw materials and transportation survived at higher rates, and presented little constraint for U.S. recovery.

Seventeen of 50 federal government agencies with 22 percent of their employees survived, and the Governors and principal elements of 20 of the 50 state governments survived.

The study concluded it would take the United States some 60 to 90 days to restore operation of the federal government, and some 6 years to effect a civil recovery to the 1965 per capita level of production.

While the PONAST II study was very controlled, the variables reflected what are considered to be realistic conditions of nuclear war.[19] The study could not, of course, assess the untold human suffering that would result from a nuclear exchange. Significantly, however, the study showed that despite lack of preparation, the United States as a nation survived the postulated nuclear attack. Nuclear war, then, is survivable. As such, no country can afford to mortgage its future on deterrence alone, particularly a deterrence posture that is not backed up with the capability or will to actually carry out the threat, or a deterrence posture that lacks credibility. Despite the spectre of mass destruction raised by the possibiilty of a nuclear war, the Soviet belief that nuclear war is survivable—even winnable—must be given credence. Indeed, the U.S. National Academy of Sciences in a report published last year, concluded that man, the biosphere, and its ecosystems would survive nuclear war. This conclusion contrasts sharply with the widely prevalent belief in the United States that the superpowers have enough nuclear weapons to destroy not only each other, but the entire world many times over, so-called overkill. The simple truth is that the United States has never possessed overkill capability, as it is commonly understood. Both public officials and popular perceptions have been overly impressed with the aggregate numbers of strategic weapons systems and the technical properties of these weapons, without proper

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Footnotes at end of article.

regard given to the tactical and strategic doctrines which underlie the use of these weapons. The fallacious assumptions and simplified interpretations regarding the awesomeness of nuclear weapons have then led to the continuing belief in the myth of overkill. Commenting on overkill at a Harvard-MIT seminar Mr. O. C. Boileau, the President of the Boeing Aerospace Company observed:

"Ever since the Soviet Union got its first nuclear weapon, the American policy has been to deter nuclear conflict rather than to attempt to win it. I'm sure that most Americans believe that if the Soviet Union were insane enough to attack us, it would be annihilated by the U.S. retaliation. 'Overkill' has become a buzz word. We're told that the U.S. has the capability to kill every man, woman and child in the Soviet Union many times over.

"Actually, the U.S. has never had this kind of capability. We do have more than enough capability to kill the people in Russia's cities, provided they don't leave town. But the term overkill is nothing but mathematical fiddle-faddle; it has nothing to do with reality. After all, you could put the world's entire population in one piece of territory 19 miles in diameter, and kill them all with half a dozen bombs." [20]

The misconceptions in this country regarding overkill, and the belief that stability exists through mutual assured destruction, particularly in this age of detente, have made thoughtful and objective analysis concerning the political and military threat confronting the United States extraordinarily difficult. Yet while the United States has advocated a policy of stability through MAD it has done so unilaterally, with the result that this country may not in fact have the capability to inflict assured destruction on the Soviet Union in a retaliatory attack, thus placing the credibility of the U.S. deterrence posture in doubt. The Soviet Union, by contrast, has prepared for the possibility of nuclear war, and is prepared to emerge from such a war with a viable social, economic and political order. The consequences of the asymmetry in U.S. Soviet strategic thinking are, then, significant. As Professor James Dougherty has cautioned:

"As technology develops, the anxiety of nation-states which are really free to pursue policies of their own choosing still prefer to base their security on some form of deterrence or power balance than on the expectation of disarmament and effective international peacekeeping. Perhaps this will strike many as illogical. But the realm of international politics is governed by more than logic, and often by less. When we think about national armaments, we have to think not only about how we would like nations to behave—based on the ethical and rational ideals of Western civilization—but also about how nations do in fact behave." [21]

The Soviets have undertaken a massive military build-up in conventional and strategic forces; they are making rapid technological advances in strategic arms, and they have undertaken an intensive civil defense preparation program. These efforts combine to pose an ever-growing threat to U.S. security and global stability. Dr. Malcolm Currie has estimated that by late 1977 the Soviet Union could launch an ICBM attack against the United States, absorb a retaliatory and counter-military attack, and still have the capacity to attack strategic Chinese and NATO targets and have more throw-weight than the United States. Indeed, since 1973 the Soviet Union has enjoyed substantial post-exchange superiority. The Soviet post-exchange advantage has continued to grow since that time, and it has now become evident that nuclear parity with the United States was never a Soviet objective. On the contrary, available evidence indicates that the U.S.S.R. is seeking superiority over the United States in every significant area of military power. If nuclear superiority is devoid of any operational meaning, as Secretary Kissinger has argued, the relevant question is why do the Soviets seek it? A look at the historical record would indicate that the Soviets have aggressively attempted to exploit their military capability for political purposes, even when they were strategically inferior to the United States. Soviet strategic superiority would, then, likely result in an intensification on their part to translate military might into political ends. They would seek the fruits of war without the cost of war.

Were the Soviets directly or indirectly to bring their strategic edge to bear during an international crisis, the U.S.—or its allies—might easily be intimidated. Given current strategic realities, any Western leader might hesitate to challenge a direct Soviet military threat when a vital interest of the U.S.S.R. was at stake, much less employ strategic weapons in the event of lower-level Soviet aggression. It is for this reason that the credibility of the U.S. deterrence posture must be questioned; and it is for this reason that the United States must continue to pursue vigorously those strategic programs designed to enhance the U.S. counterforce capability. If the United States is to have a credible nuclear deterrent its strategic missiles must have greater accuracy to compensate for the payload and launcher advantages allowed the Soviets under SALT I. Further, this country's strategic weapons must be able to accommodate the Soviet civil defense program by having the capability to hit Soviet targets that have been hardened to withstand nuclear attack. As Congressman Jack Kemp has argued, "Our weapons will always have the capability to knock down buildings and blow off roofs in the Soviet Union. But the machinery in those buildings may be hardened against inaccurate (low-yield) weapons. Such hardening would enable the Soviet Union to restore production much more rapidly than the United States, where machinery is fully exposed to the effects of Soviet weapons." [22] Additionally, however, it is also important that the United States undertake its own vigorous civil defense preparation. Recognizing the importance of such a program Senator Howard Baker (R-Tenn.), in a speech before the U.S. Senate observed:

I believe that an expanded civil defense effort is an important ingredient of the U.S. defense posture, that such an effort would discourage nuclear blackmail and therefore, contribute to detente, and that civil defense, coupled with arms limitations, would constitute the harbinger of a more realistic peace than any state of 'mutually assured destruction' could bring about.[23]

It is increasingly evident that detente has encouraged false hopes and stimulated wishful thinking in the West regarding Soviet intentions and the goals that can be set for improving relations between the superpowers. In fact, there is no true detente between the United States and the Soviet Union, even where detente is defined in a minimum way to mean the acceptance of a stable military balance between the two powers. Much less is there a true detente if that word is defined more broadly as a situation in which both powers agree to pursue foreign policies which are essentially status quo in nature. The danger, however, now exists that the United States, beguiled by its own moral principles and the horror of nuclear war, may be making nuclear war increasingly thinkable, and perhaps even increasingly likely. The time has come, therefore, to reassess U.S. strategic thinking and educate the American public to the realities of the nuclear age. For only then will it be possible to determine the adequacy of the nation's foreign policy and defense posture.

FOOTNOTES

*See, for example, the hearings announced by Senator William Proxmire (D-Wisconsin) in the April 14, 1976 Congressional Record, p. 10995. Under the Chairmanship of Senator Proxmire the Joint Committee on Defense Production has begun a "comprehensive review of the nation's industrial, economic, and civil readiness—the first such congressional review in over 25 years."

[14] The importance of the studies undertaken by Messrs. Jones and Goure on the Soviet civil defense program cannot be overemphasized. Dr. Goure's most recent book, *War Survival in Soviet Strategy* is the most definitive book available on this subject today. (Coral Gables, Florida: Center for Advanced International Studies, University of Miami, 1976).

[15] See "March 2, 1976 Hearings."

[16] *Soviet Civil Defense in the Seventies*, p. 27.

[17] The translation of the Soviet civil defense manual is available to the American public through the U.S. Department of Commerce, National Technical Information Service. See e.g. "Civil Defense, Moscow, 1970, ORNL-TR-2793" and "Civil Defense, Moscow, 1974, ORNL-TR-2845."

*Countering the critique that large-scale evacuation cannot be successful unless the population has the experience of frequent exercises, Mr. Jones in his testimony before the Armed Services Committee cited the results of a recent Stanford Research Institute study. This study concluded that the most important preparatory measures for a successful civil defense are planning and the existence and training of the cadre which will direct evacuation operations. As Mr. Jones pointed out, the evidence is that the Soviets are implementing these preparatory measures.

[18] For a detailed discussion see the following: "March 2, 1976 Hearings," testimony by Mr. T. K. Jones. See also Mr. Jones' *Trends in the Strategic Balance and Their Significance*, (Washington, D.C.: The Institute of American Relations, 1976).

An excellent and concise review, not only of the Boeing Studies, but also of Soviet strategic thinking and the current strategic balance can be found in "Nuclear War: A Soviet Option." This paper was presented by O. C. Boileau, President, Boeing Aerospace Company, to the Harvard-MIT Seminar on Technology and International Security, Boston, Massachusetts, March 23, 1976. Hereafter referred to as "Nuclear War: A Soviet Option."

[19] U.S. Defense Civil Preparedness Agency, PONAST II. This study was recently undertaken by an interagency study group comprising over twenty federal agencies at the request of the Joint Chiefs of Staff. The briefing is unclassified. For a discussion on the same subject see: "Briefing on Counterforce Attacks," Committee Hearings, Committee on Foreign Relations, U.S. Senate, January, 1975. At these hearings former Secretary of Defense Schlesinger detailed the casualties and destruction expected to result from nuclear counterforce attacks against U.S. military installations.

[20] "Nuclear War: A Soviet Option," p. 13. For a brief illustration of the importance of military doctrine see William Schneider, Jr., "The Military Balance on the Korean Peninsula," in *Korea in the World Today*, ed. Roger Pearson (Washington, D.C.: Council on American Affairs, 1976) pp. 23–39.

[21] See James Dougherty, *How to Think About Arms Control and Disarmament* (N.Y., N.Y.: Crane, Dursak, & Co., 1973), p. 7. This study was published for the National Strategy Information Center, Inc. An important contribution to the current debate concerning the adequacy of this country's deterrence posture is made by Paul Nitze. See "Assuring Strategic Stability In An Era of Detente," *Foreign Affairs*, LIV (January, 1976), pp. 207–232.

[22] See *Congressional Record*, April 8, 1976, p. 9969–9972.

[23] See *Congressional Record*, June 24, 1975, p. 20462–63.

*See news conference by Dr. Malcolm Currie, Director of Research and Engineering, The Pentagon, February 26, 1976.

ENERGY'S EFFECTS ON ECONOMY AND UNEMPLOYMENT

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. HILLIS. Mr. Speaker, as the United States begins to gear up for the final 8 weeks of this year's election, I believe it will behoove us all to reflect upon some of the major issues being discussed by the candidates. It is already apparent that two of the major issues which will be receiving a great deal of attention are unemployment and the state of our economy. We all know through a simple understanding of economics that unemployment and the state of the economy are closely associated. However, it appears from the discussions I have heard so far this year that another major factor which affects these two issues, as much as they affect each other, has been forgotten. The factor being our declining energy situation.

In talking about unemployment, the discussion always seems to center around the debate over the Humphrey-Hawkins bill. In discussing our economy, we always seem to rely upon figures which describe the inflation rate and/or the proximity to which American business approaches our maximum industrial capacity potential. It is most disturbing that we seldom hear about the role which our energy situation plays in the scenario of future economic and employment growth. By focusing our attention solely on unemployment, inflation, and our industrial output, it appears to me that we are trying to solve the problem by attacking the symptoms.

During the next decade, millions of new jobs will be required if we are to take care of our increasing national work force. The only way our free enterprise system can produce these needed jobs is through a growing and healthy economy. If our economy fails to grow, unemployment surely will. I do not believe it is necessary to point out that high unemployment benefits no one. When the unemployment rate increases, we all feel the effects.

If the unemployment rate is to be reduced, and if the economy is to grow, the United States must have increased supplies of energy. It is unfortunate that the American people, and seemingly most candidates for public office, fail to understand this vital relationship. A recent Gallop poll indicates that only 2 percent of the voting population considers our energy situation the most important national issue. I am convinced that this lack of concern is due, in large part, to the lack of attention most candidates have given to the role energy plays in improving our unemployment and economic situations.

In a time when the Congress and the administration should be working overtime to develop a national energy policy designed to free the American people from dependence on OPEC oil, Time Magazine this week reports, and I quote:

> Today, Project Independence is largely dead; Federal energy analysts concede that there is no way for the U.S. to become totally independent from foreign oil.

While we may not be able to become completely independent of imported oil, I believe we can at least reduce our dependence substantially.

The United States passed from an era of cheap, abundant energy into an era of shortages and expensive fuels. I realize that this situation is hard for the American people to comprehend having grown up in a life style based on cheap mobility and a seemly abundant amount of energy resources to meet whatever demands might occur. Americans have come to believe that our affluence is not a product of fortuitous circumstances, but is an inevitability. Our affluence has made it almost impossible for the American people to visualize anything but the preceived status quo of inexhaustible natural resources. Nevertheless, the United States must face the hard fact that our dependence on imported crude oil is a threat to our future well-being and to our present efforts to improve the economy.

In 1976 the United States will pay $35 billion to import oil. This money will slow the U.S. economic recovery through a transfer of payments to the OPEC nations and thereby reduce consumer buying power. With the attitude adopted by this Congress of "let's worry about tomorrow's problems tomorrow," this transfer of payments and reduced purchasing power will continue as oil imports increase. We cannot wait until 1980 or 1985 to begin serious attempts to solve our energy shortages. It may now be too late to avoid serious and harmful ramifications of our past neglect of our energy resources—it certainly will be too late if we do not act until 1980.

As the opinion leaders of this country, it is the duty of the Congress to convince the 98 percent of the American people who do not place our energy situation on the top of their list of potential problems that they may be shortsighted. Congress must not delay its decision on what scenario we are to use in solving our energy problems. I do not think we need to engage in an argument concerning the pros and cons of nuclear power or any other potential source of new energy at this point since the need for some type of scenario surpasses the desirability of any one particular course of action.

In conclusion, I strongly urge everyone running for office this year to address himself to our energy situation. We must be willing to become educators of the American people if we are to expect them to support efforts by the Federal Government necessary to insure America's freedom from imported oil. I disagree with the analysts of Time magazine—Project Independence is not dead, but is merely asleep.

PARK MEMORIALIZES A BEAUTIFUL WOMAN

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. BOLLING. Mr. Speaker, the memorials we create are present to remind us of persons and events of singular value. One such memorial, Brown Memorial Park in Merriam, Kans., helps us to recall past struggles for human dignity steadfastly fought for by Esther Brown of Kansas City. Mrs. Brown was instrumental in bringing the 1954 school desegregation case to a decision by the U.S. Supreme Court.

A recent column in the Washington Post poignantly tells of the beauty, the compassion, and the strength of this remarkable woman and her family who gave of themselves that we all might experience more fully opportunities which once belonged to only a few.

[From the Washington Post, Aug. 17, 1976]

PARK MEMORIALIZES A BEAUTIFUL WOMAN

(By Richard Cohen)

KANSAS CITY.—Anyone who ever saw Esther Brown says she was beautiful. It's a word that appears over and over again—beautiful. Beautiful in the editorials that were printed when she died six years ago of cancer, and beautiful in the eulogies that were said for her and beautiful, finally, in the picture that hangs on her husband's living room wall—a dark-haired woman of classic looks, posing with her husband, Paul Brown.

But there is no mention of her beauty on the simple wooden sign that says Brown Memorial Park in the Kansas City suburb of Merriam, Kan. Around the corner from the park is the old black school and nearby also is the former all-white school and in between is the park named after Esther Brown because she managed to make the two schools one. She got mad or concerned or, some people said, crazy, and she went to work. When she finished and slapped her hands in satisfaction, the Supreme Court of the United States had outlawed segregation in the public schools. That was 1954 and Esther Brown was instrumental in bringing that case to a decision.

So we sat in Paul Brown's car on a drizzly day and he told how he had brought his grandson to the park. "He played on those things," he said pointing to the swings and climbing equipment. I looked, and then I looked back at Brown. His face was puffy and he was struggling with a tear. "I get a chill when I come here," he said. And then he pulled himself out of it, saying once again how ironic it was that the town had named a park for his wife.

In 1950, of course, they had run the Browns out of town.

I looked up Paul Brown because there is a Republican National Convention here and some of the delegates still won't forgive the Browns for what they did. They are still arguing here about busing and school aid and the rights of the states to run their schools as they please. I looked him up also because when you're at a convention you can start to think that everyone who is important is here and that it is always the politicians who make things happen. Esther Brown never believed that and after the 1954 decision when she once referred to herself, she said, "Little people like us."

There was, of course, nothing little about Esther Brown and her husband, Paul. If you ask him what it was like for them, he hands you newspaper clippings. They tell the story. They say that in 1948, Esther Brown, a middle-class housewife and something a causist, got into a conversation with her black maid, the two of them deciding right on the spot that blacks as well as whites should use the new school in the South Park area of Merriam. The black school was a mess, the sort of structure that mocked the separate-but-equal doctrine. It had outdoor toilets and in the winter, when the wind drove the rains, water came into the building, accumulating on the floor.

So Esther Brown organized. She led meetings at the Philadelphia Missionary Church in the black section, finally taking the kids out of school and teaching them herself. She petitioned the school board and it responded. The board would provide the black school with a mailbox and a stop sign on the corner. Mrs. Brown hired a lawyer, a black man named Elisha Scott, and they sued.

Soon, the Brown's phone was ringing—late-night calls, threats to their children, shouted obscenities. A cross was burned on their lawn. Paul Brown, recently out of the Army and working for his father, was called in one day. His father didn't like Esther's activity one bit. "Tell your wife to stop," he ordered. Paul Brown cleared out his desk that day. Soon he had to borrow money for the groceries.

"They didn't understand her," he said. "They thought she was a crazy Jewish girl, a radical." The "they" was mostly everyone—members of the family, their neighbors, even people in the black community. In 1950, the Browns moved back to Kansas City, but Esther Brown did not quit. She pressured the NAACP to challenge school segregation laws and, finally, they picked their spot—Topeka. It was Esther Brown who found Oliver Brown, a Topeka black man and asked him if his daughter, Linda, would become a plaintiff. The rest, as they say, is history—Brown vs. The Board of Education of Topeka.

Esther and Paul Brown did not work on their own. Others were bringing similar cases elsewhere. The NAACP was moving across the nation. The time had come. But this is no reason to discount what the Browns did, to forget the late-night phone calls, the fear they had for their own children, the cross on the lawn, the way it hurts when members of your own family say—as they did say—enough, Esther, think of your own children.

The other day, Paul Brown took me around. He showed me places that should have historic markers on them—the old black school, the once all-white school, the house where the maid lived, which is now an empty lot, and the church where Esther Brown did her organizing. It was not an easy thing for him to do. Later, he drove me back downtown to my hotel. Delegates and journalists were on the street, milling around, talking about important things, while Paul Brown and I said goodbye. They did not know that the 58-year-old man was Esther Brown's husband.

Everyone says she was a beautiful woman.

CONGRESS IS THE CULPRIT IN RUNAWAY SPENDING—PART II

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. ASHBROOK. Mr. Speaker, in the January 20 CONGRESSIONAL RECORD, I pointed out that Congress must bear the ultimate responsibility for runaway Federal spending. It is, after all, the votes of Congressmen that have made such spending possible. No money can be spent without specific authority. And the Congress has been all too willing to give its authority.

The 94th Congress especially deserves to be called the spendthrift Congress. It has spent billions of dollars that our Nation simply does not have.

This year it is estimated that the budget deficit will run in the neighborhood of $43 billion. This follows on the heals of last year's $70 billion deficit. Such massive deficits are the major cause of our present inflation and unemployment problems.

I have selected a number of key votes occurring during the first 8 months of 1976 which show the irresponsible spending engaged in by the House of Representatives. Anyone looking at these votes should be able to understand why the Federal Government is going deeper and deeper into the red. In each case I voted for the reduction or against the additional spending.

Rollcall No. 93. H.R. 12203, a bill appropriating $5.3 billion for foreign aid programs for fiscal year 1977. Passed March 4, 214 to 152.

Rollcall No. 137. H.R. 12566, a bill authorizing $811 million to the National Science Foundation without necessary restrictions to prevent wasteful research projects. Passed March 25, 358 to 33.

Rollcall No. 214. House Concurrent Resolution 611, an amendment to balance the budget and hold the increase in the public debt to $15.1 billion. Defeated April 29, 105 to 272.

Rollcall No. 286. Conference report on H.R. 9721, to provide for increased financial participation in the Inter-American Development Bank and initial participation in the African Development Fund. Passed May 20, 257 to 12[illegible].

Rollcall No. 372. H.R. 14114, a bill to increase the limit on the public debt by $73 billion over a 15-month period. Passed June 14, 184 to 177.

Rollcall No. 476. H.R. 14260, an amendment to reduce U.S. contributions to the International Development Association by $128 million. Defeated June 29, 165 to 229.

Rollcall No. 534. Veto override of S. 3201, a bill authorizing an additional $4 billion for public works projects. Passed July 22, 310 to 96.

Rollcall No. 542. H.R. 7743, a bill authorizing an initial $38.8 million to revitalize the Pennsylvania Avenue corridor. Passed July 26, 225 to 149.

Rollcall No. 633. Conference report on H.R. 14232, a bill appropriating $56.6 billion to the Departments of Labor and Health, Education, and Welfare—approximately $4 billion over the budget. Passed August 10, 279 to 100.

GRAND JURY ABUSE

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. JOHN L. BURTON. Mr. Speaker, sometime next year the Members of the House will face the issue of Federal grand jury reform. Currently, the Judiciary Subcommittee on Immigration, Citizenship, and International Law, chaired by our colleague Representative JOSHUA EILBERG, himself a leading figure in the drive for a just and fair grand jury system, is holding hearings on the numerous pieces of grand jury reform legislation that have been introduced.

These hearings are extremely important. For too long the veil of secrecy over grand jury proceedings has hidden prosecutorial conduct, conduct that a free society cannot tolerate. Unfortunately, though, the hearings have received nowhere near the public attention they deserve.

On Thursday, July 29, Representative JOHN CONYERS was one of the several congressional witnesses who testified before the subcommittee. I feel that his remarks raise important questions that we all need to consider, and I insert an excerpt from them in the RECORD at this point:

TESTIMONY OF THE HONORABLE JOHN CONYERS, JR. BEFORE THE HOUSE JUDICIARY COMMITTEE, SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND INTERNATIONAL LAW, JULY 29, 1976

GRAND JURY REFORM ACT OF 1976

If FBI Director Clarence Kelley were to come before Congress tomorrow and request that Bureau agents be granted subpoena power, the Congress would overwhelmingly rebuff Mr. Kelley's request, as it has done in the past with similar requests from Mr. Hoover. The idea of giving FBI agents—or U.S. attorneys or any executive branch criminal law enforcement officials for that matter—compulsory process authority is unthinkable. Nations that allow law enforcement officials to compel people to answer questions and punish those who refuse are police states, not democratic societies. Congress would not dare give law enforcement officials such unaccountable discretion, especially now that we are so painfully aware of the FBI's track record on civil liberties.

Yet, in reality, the FBI now has that discretion anayway. The FBI currently can compel people to asnwer questions and punish them if they refuse, and the Bureau has gained this dangerous power not through a statute debated by the representatives of the American people, but through the ill-defined authority of the grand jury.

The process is simple. It can begin anytime a person approached by FBI agents refuses to answer their questions, and that, it appears, is a course that growing numbers of people the FBI seeks to interrogate are taking, for a variety of reasons. Many, particularly activists and suporters of political groups we now know the FBI has been systematically disrupting over the years, basically do not trust the FBI enough to give it information, any information. They may feel that by visiting their homes and workplaces, the FBI is chilling their right to engage in political activity and warning others to stay away, too. They may feel that the FBI has no right to traipse through their personal lives. They may be outraged by arrogant FBI attempts to intimidate them into answering, or they may be aware that giving false information to the FBI is a crime and, rather than risk giving an incorrect answer, decide to remain silent.

In any case, the law does not care why a person refuses to answer FBI questions. Every person has the legal right to slam the door in an FBI agent's face if he or she so chooses.

Once a person refuses to answer questions, however, FBI agents have ways to step up their pressure. Talk to us, they say, or you will have to talk to the grand jury. Sometimes the threat of a grand jury subpoena and all the disruption and unfavorable publicity that could mean will scare a person who intended to remain silent into answering questions. But the FBI's subpoena threat is not an idle one, and should the person steadfastly reiterate his or her legal right not to answer FBI questions, the Bureau can alway have it executed. A quick phone call to the nearest cooperative U.S. attorney is often sufficient to produce the grand jury subpoena sought. Sometimes phone calls are not even necessary. The U.S. Attorney in my home city of Detroit, for example, openly stated last summer that FBI agents are sent out to question witnesses with subpoenas in their pockets. If a prospective witness does not cooperate to the extent the FBI sees fit. out comes the subpoena.

For the FBI's unfortunate target, the grand jury subpoena nullifies the legal right not to talk to the FBI. Once inside the grand jury chamber, the same questions the FBI agents wanted answered are asked by federal prosecutors, and this time the inquiries *must* be answered. If witnesses should invoke the Fifth Amendment, then the prosecutors, by simply obtaining the approval of the Attorney-General, can "immunize" them. Continued silence at this point brings contempt and an incarceration that will last as long as the grand jury's term and can be begun again with the convening of a new grand jury. By such a process, the FBI can have someone thrown into jail for an indefinite period without ever having to produce a shred of evidence of the person's criminal activity.

I wish that the above scenario were only an idle theoretical exercise. But it is not. In case after case over the past six years Justice Department officials have used the grand jury to railroad—the only word that adequately describes a situation where there are no accusers, accused or evidence—their enemies and irritants behind bars. The Nixon Administration pioneered this strategem, and many researchers have studied the incredible extent to which the Nixon-Mitchell Justice Department bent the grand jury system to its needs. But let us be absolutely clear about one thing. We are not talking about past history. We are not talking about the sorry exploits of a Richard Nixon and a J. Edgar Hoover that must not be allowed to happen again. We are talking about horrors that are continuing at this very moment. The stories of the Ft. Worth Five, the Harrisburg Eight and Prof. Samuel Popkin, to name some of the more celebrated grand jury victims of the Nixon years, are fairly familiar to anyone who has read on the grand jury issue. Let me note briefly here some appalling instances of grand jury abuse that are the responsibility of the *present* Administration.

I can start, arbitrarily, with Cynthia Garvey, a young Oakland woman active in various Bay Area radical political activities. At the height of the FBI's embarrassment over its failure to find missing heiress Patty Hearst, Ms. Garvey was approached by FBI agents, presumably because she had once been, but no longer was, close to one of the people involved with the SLA. Ms. Garvey had no sympathy for the SLA, and she made this no secret. She refused to cooperate with the SLA defense in a subsequent criminal trial. But Ms. Garvey also did not trust the FBI, feeling strongly that the Bureau was engaged in a desperate search for scapegoats, and she refused to answer FBI questions. She was then subpoenaed, immunized and jailed for contempt when she refused to answer the same questions before the grand jury. In all, she was behind bars for about nine months in 1975. Counting time off for litigation, the government took the better part of a year out of her life before releasing Ms. Garvey at the expiration of the grand jury's term last September.

It is still not clear how much time the government will take out of Lureida Torres' life. Ms. Torres is an unemployed New York City schoolteacher. She is also a member of the Puerto Rican Socialist Party (PSP), which is basically why she is presently in jail. For over a year now the government has been investigating a series of bombings that ripped New York City between October, 1974, and October, 1975. The FALN, a tiny fringe group that backs independence for Puerto Rico, claimed credit for the blasts, and last fall, the government, frustrated in its search for the FALN bombers, began indiscriminately questioning anyone who believes (or believed) in Puerto Rican independence, apparently under the theory that anyone who supports independence for Puerto Rico might have something to do with the bombings. Right from the start of these widespread aggressive "visits," the PSP, many of whose members were being approached, suspected that there were ulterior motives to the FBI's interest in the party. Members felt the FBI was trying to discredit the party, which had denounced the FALN terrorism, by tying it to the bombings, thus discouraging people from attending the July 4th demonstration the PSP was helping to plan in Philadelphia and also hurting the party's chances in the upcoming island elections.

In January, Ms. Torres refused to let FBI agents into her apartment. They had her subpoenaed, immunized and finally, after litigation that went all the way up to the Supreme Court, jailed at the end of June. Needless to say, there is no evidence that Ms. Torres is involved in any bombing. Yet she is in jail, and will be there until the end of October when the term of the grand jury expires and may then be resubpoenaed and reincarcerted by a new grand jury.

The fact that Ms. Torres can be jailed indefinitely because she would not answer FBI questions does not, I suppose, faze some people. Ms. Torres is, after all, a radical, enough reason for some people to believe she should be behind bars. There is, however, a more sophisticated rationalization for the ordeal Ms. Torres is undergoing. Ms. Torres (or any of the dozens of political activists incarcerated for civil contempt), according to this reasoning, is not in jail because the government wants her there. The government merely wants information. Ms. Torres has brought incarceration upon herself by stubbornly refusing to supply that information. Far from being incarcerated "indefinitely," she is free to go at any time. All she has to do is testify. The keys to her jail cell, runs the cliche that has appeared in numerous judicial opinions, are in her pocket.

This reasoning is seductive, but, at its heart, constitutionally bankrupt. Karen DeCrow, the president of the National Organization for Women (NOW) and an attorney who has written widely on legal issues, exposed it strikingly in a speech she gave early last April to demand the release of three women then in jail for grand jury contempt—Jill Raymond, a Kentucky feminist, JoAnna LeDeaux, a Native American legal worker from South Dakota, and Veronica Vigil, a Colorado Chicano activist. Said Ms. DeCrow:

"All they have to do is testify. What does that mean? It means that all Jill, JoAnna and Veronica have to do is give up their Constitutional rights to silence, to privacy, to political association; all they have to do is answer any question the FBI wants answered; all they have to do is help the FBI stuff its intelligence files on the feminist, Native American and Chicano movements; all they have to do is give the government information that can be manipulated to send their coworkers and friends to jail; all they have to do, in short, is forget their consciences."

If the many Englishmen and women in centuries past who sacrificed their freedom and even lives to struggle against inquisitorial tyranny had forgotten their consciences, we would have no Bill of Rights today.

What will halt the modern, inquisitorial use of the grand jury? The safeguards I noted earlier, as valuable and necessary as they are, are not sufficient in themselves. Preventing more "Ft. Worths" requires a broader set of changes, and of those I would isolate the following as fundamental.

(1) Reduce the prosecutorial control over the grand jury's subpoena power. No subpoena should be issued unless first approved by at least 12 grand jurors. If a prosecutor cannot justify issuing a subpoena to the grand jury from whose authority the subpoena derives, it should not be issued. We must realize, however, that sometimes a prosecutor may be able to justify an improper subpoena to 12 grand jurors. Witnesses, then, must be able to ask the court to quash subpoenas that are either punitive, would impose an unreasonable burden or are designed to collect information for the trial of a person under indictment. H.R. 2986 and H.R. 11660 include such provisions, as does H.R. 6006, which was introduced by our colleagues, Rep. Robert Kastenmeier and Rep. Tom Railsback.

(2) Prohibit confinements where the request to testify is based on a violation of the witness' constitutional or statutory rights. H.R. 1277 prohibits confining a witness who has been asked to testify on the basis of a violation of the federal wiretap law. H.R.s 2986, 11660 and 6006 extend this prohibition to include all witness rights. In other words, if material is illegally seized from a person's home, that person could not be incarcerated for refusing to answer grand jury chamber questions about the illegally seized materials.

(3) Limit contempt confinements to six months. All the omnibus bills include this key provision. It also appears in H.R. 14146, which Rep. Holtzman has introduced.

(4) Make grants of immunity conditional on the consent of the witness, the court and the grand jury in addition to the government. This "consensual immunity," which is provided for by H.R.s 2986, 11660 and Rep. Robert Drinan's 11870, is the single most important change in the grand jury system that we can make.

Immunizing a witness is a very serious step to take, one that should not be taken until the particular case involved is subjected to the closest scrutiny. The purpose of making immunity "consensual" is to provide this scrutiny. First, the government would have to make the determination that a person's testimony is so valuable that it would be willing to trade safety from future prosecution for it. The grand jurors would then have to make a similar determination. Is the community's best interest served by shielding the witness in question from all future prosecution? If the grand jurors decide it is, then an offer of immunity can be made to the witness, who would be free to *accept or reject it*. If the witness accepts, however, the grant of immunity may still be nullified by the supervisory court involved, if the bench, for instance, should determine that the prosecution and the witness have conspired to create an "immunity bath."

Under current law, only the Attorney General need approve an immunity order. The 1970 Organized Crime Control Act reduced the court to a mere rubberstamp in the immunization process.

This same legislation also created the highly controversial limited "use" immunity. I agree with the growing sentiment that this quasi-immunity must be abolished, but the simple substitution of full "transactional" immunity for use would leave immunity coercive, and it is this coercive aspect of the present immunity statute that makes it the most dangerous inquisitorial weapon in the prosecutorial arsenal. It is the Justice Department's power to force witnesses to testify that has turned the grand jury into what some critics call "a trap door" to prison.

I recognize that witness consent has never been required by past U.S. immunity statutes. On the face of it, this would seem to indicate that consensual immunity is a bold, new departure that might, as the Justice Department would have us believe, wreak havoc in the administration of criminal justice. As Attorney General Levi told this Subcommittee June 10: "The practice of providing immunity against the use of compelled incriminatory testimony has an unquestioned tradition in English legal history.

This assertion is, at best, an oversimplification of a complex historical record. It would certainly shock the English people whose struggles against the hated *oath ex officio,* the Medieval compulsory testimony legalism, laid the groundwork for our Fifth Amendment. It is also instructive to note that despite the "unquestioned tradition" the Attorney General alludes to, there was no immunity provision in the United States criminal law until 1954. The first such statute was passed at the height of the anticommunist hysteria and was aimed specifically at "Fifth Amendment Commies," those beleaguered souls who stood on their Fifth Amendment rights when grilled by such powerful witch hunters as Sen. Joseph McCarthy. The opposition to this precedent-setting legislation, our Attorney General might be interestetd to know, included O. John Rogge, a former Assistant U.S. Attorney General in charge of the Criminal Division of the Department of Justice.

"An immunity act will add little, if anything, to our store of knowledge in this field," Mr. Rogge later wrote. "By passing an immunity act in order to obtain this possible additional mite, we give up part of our heritage. The cost is too great."

"(I) n order to try to reach the illusion of the additional information which such acts hold out to us," Mr. Rogge explained in an eloquent passage that deserves our attention and praise:

"We take a step in the direction of the inquisitorial technique, and degrade individuals by giving them the choice either of confessing their sins and naming their associates or going to jail. We give up part of our birthright for less than a mess of pottage. Our accusatorial method has helped us to develop a more independent and mature citizenry than will be found in eastern countries. With us an individual does not have to be submissive when the state points an accusing finger at him: he has the right to remain silent, along with a right to counsel, to a formal accusation, to bail in nearly all cases, to a public trial, to be confronted with his accusers, and to be proved guilty beyond a reasonable doubt. We should not let any of these rights atrophy, least of all the right of silence. The compulsory confession of one's sins and the naming of one's associates may be standard operating procedure in authoritarian regimes, but is unbecoming a free people."

By recommending that the government's power to compel testimony by immunizing away the Fifth Amendment be conditional on the targeted person's consent, I am not recommending anything more than a return to the status quo as existed in this country's criminal law before 1954. Before that time the government had no legal means in a criminal matter to force an American citizen to give testimony over that person's Fifth Amendment objection. From 1954 until 1970 the types of criminal cases where involuntary immunity could be used were extended until immunity was applicable to any offense in the Federal Criminal Code. For the past six years we have lived with this far-reaching involuntary immunity statute on the books, and we have also lived with one Ft. Worth after another. It is time to admit that our experience with involuntary immunity has been a disaster.

But what about organized crime, the shibboleth that is invariably invoked to justify the slashing of our citizens' rights? Will the abolition of involuntary immunity prove a devastating roadblock to the successful prosecution of mobsters? Common sense would seem to tell us that a grant of immunity provides little incentive for a genuine mob figure to talk. Against the government's threat of contempt confinement if the subpoenaed hoodlum doesn't inform, the other side has the none-too-subtle threat of physical reprisals if he does.

In addition, we have no evidence that expunging involuntary immunity from the criminal code would hamper legitimate organized crime prosecutions. It is virtually impossible to measure statistically the instances where involuntary immunity has been essential to a successful prosecution, for to do so, one would have to know not only the number of successful prosecutions claimed, but also whether the witness would have testified if the immunity had been offered, not forced, or if the threat of a possible indictment for noncooperation would have been incentive enough to produce testimony.

Finally, even if the effectiveness of a coercive immunity statute could be demonstrated, how can society "balance" the "side-effects" involved? In the Ft. Worth case, the government manipulated involuntary immunity to upset the lives and smear the reputations of five witnesses who were never charged, tried or convicted of a crime. How many mobsters have to be sent up for how many years to balance off what happened at Ft. Worth—or at Camden, Tucson, Harrisburg, Detroit, Lexington, New Haven, New York, Rapid City, all the other Ft. Worths we have and still are witnessing?

"The history of liberty," Justice Felix Frankfurter wrote some years ago, "has largely been the history of procedural safeguards."

This Subcommitee, this Congress, has the opportunity to add a significant chapter to the history of liberty. Let us not leave this chapter unfinished. Let us give the grand jury process a solid shield of safeguards from which it can withstand government attempts to abuse it. It took Congress 185 years to take a searching look at the grand jury system, and it may well be another 185 years before this important institution comes under such close scrutiny again.

"SPIRIT OF '76" AIRSHOW HELD IN NASSAU COUNTY

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. WYDLER. Mr. Speaker, the people in my congressional district in Nassau County, Long Island, were recently treated to both an excellent air show and an exciting speaker, Astronaut Bruce McCandless II. Mr. McCandless, in his excellent speech, touched upon the history of aviation and the Space Shuttle, giving those in attendance a wonderful opportunity to view the remarkable progress that has been made in the short history of men in flight.

With your permission, I would like to share Mr. McCandless' words as well as my remarks of introduction, with you:

Mr. Wydler's Remarks in Introduction of Astronaut Bruce McCandless at Nassau County—"Spirit of '76" Air Show

I think the most surprising aspect of this Air Show is the fact that we haven't had one for such a long time in this most appropriate place. Long Island has a romantic past from Lindbergh to the development of that strange but reliable beast, the Lunar Module. Every important figure in the first half century of American Aviation used Long Island as home base—from Jimmy Doolittle to Amelia Earhart. But I'm not going to stand here and recount a lot of names and aerospace firsts for you—I'd rather take this opportunity to remind you of a quality these pioneers shared and which the aerospace industry, and indeed the country, must retain. That is, the spark of innovation zeal.

Here on Long Island the aerospace industry is such a vital part of our economy that its future is literally a bread and butter issue. Although activity is down from the peak days of Apollo, there are some positive trends and the fact that Nassau County's unemployment is below the national average reflects that. We've got two firms in this district doing Space Shuttle subcontracting and, in addition, filling the needs for the F–14 and A–10 planes should provide a continually improving economic base.

I think we're seeing a generally positive trend for aerospace as the country recovers from its anti-technology binge of the early 1970's and defense needs become more pressing. Every R&D dollar the government spends on aerospace is returned sevenfold and the export of aerospace goods results in the biggest plus in our balance of payments outside of agriculture. So let's not lose sight of just how valuable this activity has been in providing international economic strength, as well as prestige.

From my position as Ranking Minority Member of the Aviation and Transportation R&D Subcommittee and Member of the Space Science and Applications Subcommittee, I've been involved in key decisions on government's role in aerospace for well over a decade. Today, I want to repeat my encouragement to NASA and the industry, that they look beyond today's problems and provide a strong advanced technology base so we can always have new projects to stretch our minds and wills.

In the course of my Committee work, I have continually been impressed by the quality of people that NASA has assigned to key roles of responsibility in the Agency. Commander Bruce McCandless, our visiting astronaut, is no exception to this pattern.

He comes from a strong academic background—first, at the Naval Academy, and then at Stanford University. He has gained flying proficiency in virtually every high performance aircraft the Navy uses, including helicopters, and yet has found time to pursue a spectrum of hobbies from electronics to scuba diving. He is representative of the accomplishments of the Agency and the quality of its personnel. He has been involved in the Apollo and Skylab Missions as an experimental investigator in addition to performing back-up and support crew duties.

Let us look ahead with hope for both the Nation and technology's future. Certainly with a renewal of the pioneer spirit this country will continue to push back technology's frontiers. I'm sure that with people such as Commander McCandless involved, those frontiers will continue to provide us with an improved quality of life while we protect a fragile environment. But let's not deceive ourselves, meeting this challenge will require lots of hard work but with great rewards.

Let me close with the words of a great President, and great environmentalist, after whose aviator son one of Long Island's historic airfields was named. Theodore Roosevelt said of men like Bruce McCandless and his fellow astronauts:

"It is the man who does actually strive to do the deeds; who knows the great enthusiasm; the great devotions; who spends himself in a worthy cause; who at the best knows in the end of the triumph of high achievement—and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat."

Mr. McCandless' Speech

Thank you Congressman Wydler.

It is indeed a pleasure to be with you today at this magnificent air show; to participate in recognizing and honoring Long Island's historic role as the "Cradle of American Aviation;" to reminisce a bit about the history of aeronautics; and, to talk briefly about our country's future manned space program, the Space Shuttle.

During this Bicentennial Year, it is appropriate that we pause and reflect upon our heritage and our national progress during the past 200 years. In this connection, we give special recognition today to the people of Long Island and to the honor roll of aerospace industries situated here: Grumman, Republic, Glenn L. Martin, Sperry, Curtiss-Wright, and United Aircraft.

The important experimental flights of Glen Curtiss were conducted here in Uniondale, and the takeoff of Lindbergh's solo transatlantic flight in 1927 was from Roosevelt Field. During the 1930's, the combination of a growing healthy commercial aviation enterprise and a military policy supporting continuous development of new types of aircraft as technology advanced put a solid floor under the enormous and vital war-time expansion of the early forties. From the now venerable but still flying Republic Seabees, from the Navy fighters of the so-called "Grumman Iron Works," the foresight, creativeness, and capabilities of the people of New York have kept pace with the coming of the age of space. It was only a few scant miles from this coliseum that Grumman built the lunar modules that took men—American men—to the lunar surface and back six times, flawlessly, and it was a Grumman lunar module that saved the day following the near-catastrophic explosion onboard Apollo 13.

The history of man's attempts to fly, of course spans much more than our 200 bicentennial years. Dating from Babylonian scripts of 4,000 B.C., flight by man has been a dream through the ages, largely frustrated until the beginning of the 20th century.

Only in 1783, just seven years after the signing of the Declaration of Independence, did the Montgolfier brothers in France discover that an inverted paper bag would hold and be buoyed up by hot air. They were the first to send a balloon into the air—using paper of their own manufacture, and carrying for its crew some barnyard animals.

In 1869, a gentleman by the name of Marriott built a balloon-airplane, which he called "Avitor," that used steam for power. It made 5 miles per hour on its trial trip to California.

And in 1903, Orville and Wilbur Wright, in the first successful flight of a "heavier-than-air" plane, attained a speed of 31 miles per hour. Inside the coliseum today there are models, replicas, or photos of many of these early machines.

In 1927, at the time of Lindbergh's flight, the speed of aircraft had risen to approximately 110 miles per hour. Four years later, Wiley Post circumnavigated the globe in 8 days! Only 29 short years after that, John Glenn circled the Earth three times in 4 hours and 55 minutes!

Today the bulk of our air traffic move at slightly less—about 85%—than the speed of sound, or about 600 miles per hour. Some notable exceptions are carrying passengers at more than twice the speed of sound over major portions of their routes. In space we talk in terms of 17,500 miles per hour for vehicles in low Earth orbit and 25,000 miles per hour on lunar missions.

The speed at which man can travel can be considered an index of his technological progress. The increase in aeronautical speeds from 5 miles per hour to 25,000 miles per hour over the relatively short span of 107 years is indeed remarkable. In the preceding thousands of years of mankind's history, man's speed had never before exceeded the speed of the fastest horse—about 35 miles per hour.

In our space programs, speed has generally not been pursued as an end in itself. The required velocities to perform various missions are unalterably determined by the laws of physics—as discovered, not written, by man.

As an interesting sidelight, the startling progression in reductions of time to circumnavigate the Earth—from Jules Verne's "Around the World in 80 Days," to Post's 8 days, to the 90 minutes required by spacecraft in low Earth orbit—may well have reached a minimum. In space, if you try to go faster, the orbit becomes larger, and it actually takes *longer* to complete a revolution; if you make the orbit much smaller than that corresponding to a 100-mile altitude, the spacecraft sinks into the atmosphere, heats up, and reenters.

Our future manned space vehicle, the Shuttle, like all of its predecessors—Mercury, Gemini, and Apollo—will be reentering the Earth's atmosphere at the end of its missions at these high, nearly orbital, velocities—supersonic speeds to be sure—and creating sonic booms. Unlike the supersonic transport, which has stimulated much concern about noise pollution, there is no other way to fly the Shuttle—there is no other way to come back from space except by decelerating through the supersonic regime in the atmosphere.

Just as we have learned to use trucks, trains, ships, airplanes, and other means of transportation to improve our standard of living, so we are now adapting the use of space transportation for the benefit of man. The National Aeronautics and Space Administration is embarking on a phase of space *exploitation* in contrast to space *exploration*. The ability to realize scientific and economic gains is largely dependent on the capability to transport goods to and from space in a safe, straightforward, and economical manner.

We at NASA recognized that the next great breakthrough must be the development of a transportation system that will simplify and economize travel from Earth to space—a system that will remove the stringent limitations on payload weight and that will be largely reusable—the *Space Shuttle*.

It is officially called the Space Shuttle, but it is really a *space truck* to haul large loads into and out of Earth orbit routinely and economically. The accomplishment of this task is as tough as going to the Moon—in some ways it is more difficult. The Shuttle is intended to be the "DC-3" or "Gooney Bird" of the space era—the unglamorous utilitarian vehicle.

The drive to develop the Space Shuttle began in early 1970—less than a year after Armstrong and Aldrin made history as the first human beings ever to set foot on the Moon.

As it is now being built, the Shuttle consists of a reusable manned aerospace craft, called the "Orbiter," mounted on a large liquid-propellant tank and two reusable solid-propellant rocket boosters.

The orbiter itself will resemble a delta-winged airplane, about the size of a medium-range jetliner, and will have a cargo bay 60 feet long and 15 feet in diameter. It will be capable of carrying over 32 tons of payload into orbit in this way, and of returning 16 tons to Earth.

The Space Shuttle will be manned by a professional crew of three, consisting of a pilot, copilot, and mission specialist. Besides the crew, there are accommodations for up to four payload specialists. The crew and specialists will not require space suits enroute and will undergo forces of not more than 3g's during launcn and reentry. We are building this vehicle to accommodate a wide cross-section of average healthy human beings, men and women, rather than selecting only those few who are qualified to be astronauts, and are now accepting applications from additional prospective crewmembers.

The greatest benefit of the space transportation system will be to the multitude of payloads that can go into space aboard the Shuttle. The Shuttle will provide the double advantages of a more economical launch vehicle and greater payload capacity, making possible more payloads of less sophisticated and, therefore, less costly design.

With the Shuttle automated satellites can be repaired or serviced by men in space, or returned to Earth for refurbishment and reuse. Thus, when the Shuttle becomes operational, it will carry into space almost all of the nation's payloads, as well as payloads for international groups and other nations. NASA estimated that up to 60 missions a year will be required to handle the volume of space payloads anticipated during the 1980's.

As one of the many Orbiter payloads, a unique international venture by the European Space Agency will invest more than $350-million of its own money in building a modular space laboratory—Spacelab—to be carried in the Orbiter. It will be capable of supporting several different categories of experiments and investigations and will be able to operate in orbit for up to 30 days.

After completion of its orbital mission, comes perhaps the most crucial part of the Shuttle flight, and that is reentry. We are taking a big step there. As you can imagine, the Orbiter gets very hot during entry and must have a superb thermal protection system. This system consists of a lightweight silica material that looks very much like flat bricks attached to the skin of the vehicle—leading to innumerable wisecracks about this being the world's first brick airplane!

The Orbiter will descend the last 13 miles of altitude to touchdown in about 4½ minutes. Near the ground it will flare to an approach like that of a modern fighter, with a touchdown speed nominally around 200 miles per hour. Since the returning Orbiter lacks propulsive power, however, every landing is a "dead stick" landing and only the first one counts; but the Orbiter is engineered and planned so that each vehicle will fly over 100 missions.

The first flight stage of the development program is the approach and landing test to be conducted at Edwards Air Force Base in early 1977. There, we will carry the Orbiter aloft, mounted on the back of a Boeing 747, and release it for landing tests.

Our first orbital test missions will also recover at Edwards Air Force Base where we have the large dry lake on which to land the Shuttle. Later missions will both launch from and recover to the Kennedy Space Center in Florida.

It's going to be an intriguing program to the pilots involved because the Orbiter is what is called a control configured vehicle with a digital fly-by-wire control system—

without a conventional backup. This will be the first testing of an aircraft that is completely digitally, electronically controlled—computer controlled—with no mechanical linkage between controls and control surfaces.

The Space Shuttle system is now entering its period of peak development and testing, leading to the first manned orbital flight in mid-1979, and is being developed without increase to the present level of the NASA budget—which is running about 1¢ out of the federal tax dollar.

When the Shuttle becomes operational, the cost savings to the nation over a 12-year period beginning about 1980 are estimated at a total of $12- to $13-billion.

There are good scientific and technical reasons for doing all these things I have mentioned, but the major advantage of the Space Shuttle is in the economics. We expect that when the Shuttle starts flying regularly in the eighties, the cost of launches will be down by a factor of ten for large payloads. And, in addition, just as Skylab and Apollo did, the new, more cost-effective Space Shuttle will open more avenues to science, stimulate the development of advanced technology, inaugurate the age of manufacturing production in zero gravity, and perhaps provide solar power from space to help solve our energy crunch.

From the first days of powered flight, the United States has played a leading role in the development of aviation. Through the steady application of new technology, we have continually developed faster, safer, larger, and more reliable aircraft. In recent years, the United States has been absolutely preeminent in the high technology marketplaces of the world. Today, 85% of the commercial aircraft flying in the free world are of U.S. manufacture. The economic benefits of this alone have been very substantial.

Satellites, too, will get bigger and more versatile, and they will play a more and more dominant role in the commercial, cultural, scientific, and political life of the Earth's population; bringing us into the international age. The communications have been the first to go commercial, the first to pay their own way. But more and more, NASA is becoming a service organization rather than just a research and development agency. For example, out of the 21 launches scheduled during this year, 17 of them are reimbursable from other countries, other governmental agencies, or commercial firms.

We have found space an extremely useful place to be. We have found that space gives us a unique capability to look out towards the universe without the veil of our atmosphere—it gives us the capability to look back at the entire Earth in perspective and to see how its many complex parts interact and affect one another—it provides a unique laboratory for investigating things as diverse as the growth of crystals in a gravity-free environment and the adaptation of men to the space environment.

The scope of what we can do in space is already great. The knowledge we have gained thus far is only the beginning, and men with vision will look ahead to the future.

From Columbus and Washington—to Bell and Edison—to the Wright brothers and Goddard—to Glen Curtis and John Glenn—to the scientists and engineers of today, our nation's history tells the story of civilization's march forward because men of faith and skill lived and worked together.

Not only does 1976 mark the 200th Anniversary of our Declaration of Independence and the first ringing of the Liberty Bell, but it is also the 100th Anniversary of the telephone, the 50th Anniversary of the first liquid-fuel rocket launched by Dr. Robert Goddard, and the 49th Anniversary of Lindberg's flight. Last month also marked the 7th Anniversary of the first lunar landing and the 1st Anniversary of the first international meeting in space. At this very moment we are engaged on the surface of Mars aimed at the determination of whether or not life exists there.

What will the people of 2176 remember as they look back over the next 200 years? Perhaps the words of Dr. Goddard, who is known as the "Father of American Rocketry," could serve as a motto for each of us during this Bicentennial Year:

"It is difficult to say what is impossible, for the dream of yesterday is the hope of today, and the reality of tomorrow."

WATERWAY DAMAGE THROUGH CARELESS FOREST HARVESTING—STILL UNCORRECTED

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. BROWN of California. Mr. Speaker, a great deal of evidence on the destructive effects of clearcutting close to watercourses was submitted in both the Senate and House hearings on the issue of national forest management. Cases of salmon fishery problems due to rises in water temperature which harmed the spawning process—temperature increases caused by removal of cooling foliage along the cold-water rivers and streams in Washington, Oregon, and Alaska—were cited. Problems with debris and nutrient runoff polluting our waterways due to careless forest harvesting practices causing needless soil erosion were listed, with some of California's streams holding the top posion for degree of damage.

Such testimony shocked me at the time and continues to do so. This is a very definite problem which should have been addressed in the House Agriculture Subcommittee on Forests' bill on national forest management recently reported to the full committee. But no section of this bill, H.R. 15069, contains any reference to this problem—no improved guidelines, no clarification of intent, no directions whatsoever. It is a serious matter which needs attention.

I would like to insert in the RECORD the following letter which appeared in the Mendocino Grapevine in July 1976. It is a clear summary of one of the many cases of damage to our waterways by careless forest harvesting. I hope my colleagues will take a brief moment to skim the material put forth within:

JUAN CREEK DESTRUCTION

DEAR GRAPEVINE: In the early fall of 1975 I began hearing a lot of talk about a very poorly managed logging operation in the Juan Creek watershed north of Westport which was so destructive that it may have been in violation of state forestry practices and water quality law. The Juan Creek watershed is characterized by very steep slopes, and the state requirement was for cable logging which keeps bulldozers off of these slopes.

Louisiana-Pacific was the owner of this piece of timberland, with the James Waibel Co. of Oregon doing the actual logging and hauling. Why local people were not employed at Juan Creek I didn't find out until later.

The complaints that I heard were mostly that this beautiful little stream was being degraded, and the returning salmon-steelhead runs killed off by silt, topsoil, slash, trash, and debris of all kinds being shoved either into or too close to the stream by the logging company. Friends in Westport (including a sensitive logging truck driver-fisherman friend of mine), and people living at the mouth of Juan Creek, were in agreement that the stream had been clear-running before logging began in the watershed, that the fish were beginning to return, but that with the first fall rains, the creek became a muddy torrent, full of sediments and debris.

In February of 1976, we asked the state to investigate the situation for violations of the Porter-Cologne Water Quality Act, and the State Forestry Practices Act. This began with a personal Fort Bragg interview with Mr. Robert Rappleye, the State Forestry Inspector in charge of inspecting the Juan Creek operation. Mr. Rappleye assured me that all was in compliance.

On March 4, Mr. Gary D. Weatherford, Deputy Secretary for Resources, wrote to thank us for our concern, and said that the matter would be investigated by Mr. Larry Richey, State Forester.

On April 5, Mr. Bill B. Dendy, Executive Officer of the State Water Resources Control Board, wrote to say that the degradation of Juan Creek and its watershed had been going on for 20 years, but that the current logging operation appeared to be in compliance with state water quality requirements.

On May 11, Mr. Richey, State Forester, wrote to say that his staff had investigated the matter and failed to confirm any of our contentions. He went on to say that Forestry Inspector Rappleye had been making regular inspections, had found violations of forest laws in the operation, but that those that were correctable had been corrected.

Mr. Richey's implication that uncorrectable damage had been done to Juan Creek and its watershed by the current logging operation was the first break in the stonewall.

On May 14, we wrote to Governor Brown, explaining the situation, and asking that state records of the operation be released to us for our review. The matter was turned over to Claire Dedrick, Secretary for Resources, a dedicated conservationist, and one of Governor Brown's most important appointments.

On June 15, Mr. Thomas L. Neil, State Forest Ranger-Ukiah, sent the inspection records. With the arrival of these records, part of the Juan Creek story can now be told; but only part, as there was no information sent on the uncorrectable violations that Mr. Richey mentioned in his May 11 letter.

Beginning on June 6, 1975, Inspector Rappleye reported that the Waibel loggers had not disposed of non-biodegradable refuse, litter, trash, and debris as required by state law.

On December 23, he again reported these violations, and in addition, reported that slash and debris had not been removed from below the stream transition line. Mr. Rappleye also commented that state law requires trees cut within 50 feet of a stream to be felled as nearly as possible at right angles away from the stream.

On January 14, 1976, Mr. Rappleye again reported both violations of State Forestry Practices Law, and finally on January 16, 7 months after the original report had been filed, and after the winter rains had washed logging silt, slash, and debris into Juan Creek, Mr. Rappleye reported the violations as being corrected.

A June 23 phone call to Mr. Bill Smith, an L-P forester in the Ukiah office, confirmed what we knew already: The Waibel Oregon logging outfit had been called in to log Juan Creek because . . . "no one locally could meet state requirements for cable logging," and that, "We hired them to log Juan Creek during the winter to keep them off unemployment."

What this statement means to every logger in this area is that unless L-P and the rest of the local logging companies get their acts together to start meeting the new state logging requirements, there is going to be increasing numbers of logging jobs farmed out to logging companies out of the area who have the desire to stay in the business, and the environmental conscience and good business sense to use the new logging techniques which drastically reduce the damage to soils, watersheds, and streams.

What we have learned so far about Juan Creek raises questions. Among them:

Why did it take 7 months, including the period of heaviest rainfall from the date of the first citation for violation of state forestry practices and water quality law, for L-P and the Waibel Company to clean the slash, non-biodegradable material, and other logging debris out of the Juan Creek transitional zone?

What are the uncorrectable violations that State Forester Richey mentioned in his May 11 letter? Why weren't they revealed?

Why was it required for L-P to hire an Oregon company to log at Juan Creek? Why is there no one locally who has the equipment to meet California logging requirements for steep slopes? If L-P, G-P, and the rest of the locals intend to stay in the logging business, as they say they do, why aren't they investing some of their enormous profits in equipment which would drastically reduce the logging damage to soils, watersheds, and streams, and which they are going to be required to use if they intend to stay in the logging business? Do these companies intend to cut out as fast as they can for the next 10 years or so, and then go into the real estate business when the timber supply is exhausted?

The whole sorry Juan Creek affair, even the small part of the story that the state and the logging companies have allowed us to see so far, points again to the near desperate need for forestry practices and water quality reform legislation which would give much more consideration to soils, watersheds, streams, and wildlife; which would withdraw steep, unstable, and marginal lands from logging entirely; and which would limit timber harvesting to large, dead, and mature trees only.

Coming next! Ukiah State Forest Ranger Neil has agreed to inspect Georgia-Pacific's virgin redwood clearcut on Big River for violations of state forestry practices and water quality law. Forester Bill Richards of the Ukiah office will do the inspecting, and will respond directly to those interested. This was the clearcut that was described in a State Parks Department internal memo as the worst waste of valuable timber that the author had seen, with virgin redwood logs in one canyon—criss-crossed and splintered, and apparently felled down hill rather than up. It made the author wonder as to the effectiveness of the new Timber Practices Act. This clearcut and the circumstances surrounding it was written up by Nicholas Wilson in the May 6 Grapevine.

Ron Guenther,
Fort Bragg.

KISSINGER—A FORD LIABILITY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. DERWINSKI. Mr. Speaker, we are often told that politics should stop at the water's edge. But it is really difficult to separate foreign policy from domestic political considerations. This truism has never been quite appreciated by Secretary Kissinger. In my judgment that accounts for the growing complications he has encountered in the Congress and the effective manner in which Governor Reagan was able to attack Kissinger policies during his Presidential campaign.

Frank Starr, longtime Moscow bureau chief for the Chicago Tribune and now a columnist with that publication, accurately analyzes the situation in his column on August 25:

Foreign Policy Furor Shows Kissinger as a Ford Liability

(By Frank Starr)

Washington.—Last February Henry Kissinger told a reporter that if it ever became obvious to him that his presence was a burden to President Ford's campaign, he would quit his post.

Last week, a bare six months later, Kissinger was clearly a burden. In fact for a few hours he endangered Ford's nomination. Now he pretends it didn't happen. The incident raises the question whether Kissinger will continue to place his own concerns before the President's as the fall campaign continues.

The issue was that innocuous little statement of principle on foreign policy that the Reagan people wanted the full convention to insert in the platform. Except for a few buzz words intended to set Kissinger on his ear, the Reagan plank restated principles that every Republican holds dear.

Against principles like avoiding "undue concessions" in negotiation and remaining aware of "the nature of tyranny" were balanced the buzz words: "Alexander Solzhenitsyn," "detente," "the Helsinki Pact," and "secret agreements."

The Ford staff saw the plank accurately as a ploy to draw the White House into an unnecessary defense of Kissinger at the cost of seeming to oppose sacred principles of openness and anticommunism.

They were barely squeaking through on the crucial floor vote to defeat rule 16-C that would have required Ford to name his running mate before he himself was nominated. They weren't about to dilute their slim margin on such a questionable and unnecessary platform plank. "Accept it," they said. "It's not worth a fight."

Back in Washington, however, Kissinger had read the local press accounts and had reacted violently. Soon he was busy persuading Ford to oppose it. Ford hesitated, then sought a compromise.

As the platform debate drew near late Tuesday evening, Senators Strom Thurmond (S.C.) and Roman Hruska (Neb.) and Rep. David Treen (La.), representing Reagan and Ford, were standing in the back of the hall looking over compromise language which Kissinger had helped to draft. Thurmond checked with the Reagan people: "No deal." As late as 11:30 p.m. Ford floor leaders didn't know what their position would be. Ford was being urged not to fight. At 11:45 came the first sign he had decided to accept the Reagan plank. At 12:30 it passed by voice vote.

To win that internal struggle, it had been necessary for Nelson Rockefeller, Kissinger's old patron, to telephone and persuade Kissinger the White House would argue that the plank represented the basis of foreign policy as already practiced. Thus, Kissinger was told, the plank was not a personal attack on him, but was simply a tactical move by the Reagan forces.

If Kissinger looked sour as he sat watching the convention Thursday night it was because he *was* sour. And he sourly told David Brinkley that the plank was no problem for him because it was "simply a tactical move."

Once the superstar of the Republican White House, he was now a political pariah whose arrival in Kansas City was the subject of bitter jokes. One high ranking Ford campaign official said of Kissinger before his arrival, "We're very short of tickets, and I'm not sure we'll have enough until after the vote."

Ford's convention floor manager, Sen. Robert P. Griffin, was seen after the Tuesday night vote carrying a newspaper with the headline "Kissinger to Fly Here Tomorrow."

"Who the hell makes decisions like that?" wondered Griffin. "I can't understand it."

The conventional wisdom had it that Kissinger would be troublesome only before the nomination and would be an advantage in the fall. But Jimmy Carter has already begun criticizing him on one of the Reagan platform issues, secret agreements.

Kissinger might well find himself under pressure in coming weeks to announce his intention to retire in January.

AN ANALYSIS OF THE IMPACT OF PALM OIL IMPORTS

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. BEARD of Tennessee. Mr. Speaker, once again we are faced with another disturbing example of conflict between the path we are following in foreign policy, and our domestic policy objectives. Once again our Nation's farmers will be adversely affected as a result of misdirected foreign policy decisions made to achieve some international objective without regard for the potentially dangerous impact such decisions may have here at home. Let me outline this example.

With the massive assistance of U.S. dollars, international financial institutions are subsidizing an ever-increasing production of a foreign grown crop—palm oil—which competes directly in the world market with soybeans, the largest single export item of American farmers. While the impact of this situation falls most heavily on soybean producers, many other elements of the domestic vegetable oil industry are also affected.

Twenty-six percent of the world production of palm oil is due directly to low interest loans from international lending institutions to which the United States supplies a substantial amount of capital. For example, since 1966, we have contributed $462 million to the Asian Development Bank, and over half of those funds were spent for loans to increase palm oil production. Such loans helped to increase that production by about 300,000 metric tons from 1972–75. It is estimated that more than two-thirds of that production was exported.

Now I do not bring this example to the attention of the House to condemn the efforts of underdeveloped nations to acquire loans in order to increase their capability to produce food and fiber, to alleviate malnutrition, to prevent starvation, and to upgrade the diets of their own people. Indeed, I would commend them for doing so. My complaint, is that our foreign policy has encouraged self-help projects not for an underdeveloped nation's internal consumption, but rather for export. In this case, that export is in direct competition with our own largest export commodity.

Palm oil exports from developing countries have not only increased, but a disproportionate share of that increase has come to markets in the United States. This trend toward increased imports is not expected to decline. Indeed, imports are expected to triple in the next 10 years, and palm oil will surely gain a greater share of the U.S. vegetable oil market. From 1969 to 1974 we imported 296 million pounds of palm oil, but our 1974–75 imports were 757 million pounds and they are expected to reach 1 billion pounds by this year.

The inevitable result will be not only lower income for farmers, but also higher prices for consumers. Soybean meal, the major soybean product, is bound to rise if soybean prices are depressed. The price of livestock, dairy, and poultry feed grains will be affected and the increased cost passed on to the consumer in higher prices for meat, eggs, milk and other dairy products.

Last year farm income from soybeans dropped $1.5 million at a time palm oil imports to this country increased by 118 percent. There is no question, that at least in part, that loss of income can be attributed to increased palm oil imports.

The subsidy we provide for the production of palm oil is only a portion of the overall problem. The increases we have experienced in imports are not only a result of substantially increased world production we helped to finance, but also the result of trade restrictions placed on palm oil by every nation in the world, except the United States. This makes our country the dumping ground for the bulk of that production.

The American farmer is not afraid of free trade, indeed, mutually beneficial and open trade with all nations is the policy we should be pursuing. However, there is not free trade in palm oil. The European community, Japan, and all other industrial and underdeveloped nations have placed severe restrictions on its importation.

This situation is especially unreasonable in the case of the many nations of the world whose people suffer from low nutritional levels. For example, both Brazil and Venezuela have import quotas on palm oil of 150 percent and 250 percent respectively. Yet, the per capita nutritional level of both countries falls far below the standards set by the World Health Organization. This example only demonstrates that there are potential markets for increased production that would not interfere with our own export trade, alleviate the flood on our domestic market, and provide a substantially improved diet for much of our world's inadequately fed population.

Mr. Speaker, I have reviewed much of the material available on this problem, and I find it incomplete and unsatisfactory. A recent Department of Agriculture, Economic Research Service report, entitled "Analysis of the Fats and Oil Industry to 1980—With Implications for Palm Oil Imports," deals with projections only, and none of the important aspects of the problem I have discussed today. It is my feeling that before we pursue any further action, we need a rapidly completed report which builds upon the information already developed. To the existing study we need to add an analysis of what alternative markets are potentially available for the increasing world production of palm oil and we need to address the problem of artificial constraints on its importation by other nations. As a part of this report some recommendations should be made as to what action the U.S. Government can take to ease those restrictions through international agreements.

Today I have introduced a bill that directs the Foreign Assistance Service of the U.S. Department of Agriculture to undertake such a study. Also, I have sent a letter to the President requesting that he direct his special trade representative in Geneva to make every effort to find some means of agreement on this problem as soon as possible. In that letter I have also indicated my concern that this problem arose out of a failure to sufficiently coordinate foreign policy decisions with those who could best judge the impact of those decisions here at home. I hope that others will join me in contacting the President on this issue.

100th JUBILEE CELEBRATION OF ST. JOHN'S SCHOOL FOR THE DEAF IN MILWAUKEE

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. ZABLOCKI. Mr. Speaker, in the recent Summer Olympics Games at Montreal, Canada, athletes from around the world displayed extraordinary discipline and perseverance in their attempts to earn the world's recognition through displays of excellence in their given areas of expertise. Today I would like to bring to the attention of my colleagues the attainment of what must be an all-time record of perseverance in quite a different field of endeavor—service in the cause of the deaf. St. John's School for the Deaf, located in my congressional district in St. Francis, Wis., is presently celebrating its 100th Jubilee as an institution which inspired nine people to give more than 50 years of their lives in full-time service and benefited at the same time from the donated hours of the Sisters of St. Francis of Assisi.

St. John's opened its doors to 17 students in the fall of 1876, some of whom were adult deaf who had never had a prior chance for an education. Fund raising difficulties prompted the school to foster job-training programs, teaching its students such useful trades as typsetting, shoe repair and other vocational training, through which additional funds could be earned. By 1891, large workshops were built for the manufacture of church furniture, an activity which brought the school $30,000 in the first year alone. Academic subjects taught at this time included reading, writing, arithmetic, geography, and Christian doctrine. This is even more remarkable when one realizes that these activities were conducted by teachers who had been trained to teach children without such handicaps.

In viewing the remarkable success of this school, it is necessary to recognize the tremendous contribution of Father Matthias Gerend, who was rector of St. John's from 1889 to his death in 1938. It was under his discretion that substantial improvements were made to the buildings and grounds, and additional funds were raised through the sale of books published by Catholic authors for the benefit of the deaf. As annual sales of these books soon grew to 20,000 volumes, by 1897 St. John's became one of the finest schools in the Nation, well-staffed and largely self-supporting.

Overcoming a disastrous fire in 1907, the school grew over the next 70 years into a vital institution, involved in religious instruction, retreats for the deaf, counseling, and connections with Boy and Girl Scout organizations. The annual charity basketball game earns increasingly large sums for improvements in the facilities, and St. John's continues to draw dedicated support from the surrounding community.

At present total communication is used as the most effective means of instructing the students, involving speech, speech-reading, auditory training, fingerspelling, sign language, dramatization, writing and visual aids. St. John's thereby proves that while it is understandably proud of its admirable past achievements, it remains a functioning and contributing part of our society and is truly deserving of our support and admiration.

The success of the school is in no small measure attributable to Rev. Matthias M. Gerend, the rector of St. John's from 1889 to 1938; the subsequent directors, Rev. Eugene Gehl (1938–1963), Rev. Lawrence (1963–1974), and the present director, Rev. Donald Zerkel.

Mr. Speaker, I join the citizens of St. Francis and the Milwaukee Metropolitan Area in saluting the present and past administrators of St. John's School for the Deaf, and I sincerely wish them and their students the best of success in their second hundred years of service.

At this time, Mr. Speaker, I would like to insert the August 11 Milwaukee Journal article by Edward S. Kerstein, entitled "School for the Deaf: 100 Years on the Job," which further highlights the accomplishments and contributions to the Milwaukee community made by the St. John's School for the Deaf:

SCHOOL FOR THE DEAF: 100 YEARS ON THE JOB

(By Edward S. Kerstein)

For many decades after St. John's School for the Deaf was founded 100 years ago on the outskirts of the South Side, few jobs were open to the deaf.

Many of the school's students became printers, typesetters, shoe repairers, bricklayers, carpenters and cabinetmakers.

In recent years, however, with the opening of technical and career colleges, jobs for the deaf have expanded.

Graduates of St. John's at 3630 S. Kinnickinnic Ave., St. Francis, now are employed as engineers, teachers, accountants, machinists, medical technicians, dental assistants, radiologists, optical technicians, social workers, insurance agents, computer operators and in many other positions that would have appeared unbelievable to the founder of the pioneer institution.

FIRST STUDENTS IN 1876

Father Theodore Bruener brought the idea of teaching and training deaf children from Germany. While rector of the old Pio Nono college and Catholic Normal School in St. Francis, Bruener accepted two deaf students May 10, 1876, and housed them in the upper rooms of the college gymnasium.

One of the students was from Dubuque, Iowa; the other from Sheboygan.

That fall, 17 students enrolled. Some were adults who never had had a chance for an education.

TAUGHT FOR 51 YEARS

Three years later, the original St. John's School for the Deaf—a two story, 40 by 70 foot brick building, with an attic and basement—was built. Each room was heated by an individual stove until about 1884, when a wood furnace was installed.

Louis Mihm, who had been teaching in Washington, D.C., was recruited in 1878 and taught at St. John's for 51 years. Another pioneer teacher was Sister Mary Longina, a Franciscan from St. Louis.

Bruener went to Alton, Ill., in 1879, when Father John Friedl became rector of Pio Nono and the School for the Deaf. Friedl was succeeded by Father Charles Fessler in 1881.

Originally known as the Catholic Deaf and Dumb Asylum, the school in 1882 began to teach typesetting and two years later added shoe repairing, under the guidance of Matt Heck, a deaf man.

CLOSED TEMPORARILY

The school was closed temporarily in 1889 because of lack of money until Father Matthias Gerend of Westport, Wis., took charge of Pio Nono College and obtained permission from Archbishop Heiss to reopen the institution for the deaf.

The archbishop died shortly after, leaving his estate for the School for the Deaf.

Gerend renamed the institution St. John's Institute for the Deaf before it received its present name. He erected workshops in which deaf students made church furniture to help support the school.

The first $30,000 worth of furniture, consisting primarily of church pews, is still in use in the main chapel of the motherhouse of the Sisters of St. Francis of Assisi, who had come to teach and to care for the deaf students.

Reading, writing, arithmetic, geography and Christian Doctrine were among the academic subjects taught then. In addition, speech and lipreading were emphasized in St. John's early history, but manual signs and fingerspelling were used as needed. Although speech and lipreading continued, the use of sign language remained a component of communication.

To help support the school, girl students, who were taught sewing, cooking and baking, worked in the kitchen and laundry.

The school was in an idyllic setting, bordered by prosperous farms, woods and streams, as well as St. Francis Seminary, St. Aemilian's Orphanage and the motherhouse of the Sisters of St. Francis of Assisi.

When the school was largely self supporting by 1907 and regarded as one of the finest of its kind in the nation, a fire broke out in the attic of the institution and almost destroyed it.

Public sympathy was aroused by stories and pictures of the extensive damage in Milwaukee newspapers and public donations poured in. Within a year a new school was built.

Gerend, assisted by his students and two pet donkeys trained to carry heavy loads of brick, supervised the construction of the new building. It resembled the red tile, roofed monastery schools in Italy.

When Gerend, who had been elevated to the rank of monsignor, died April 26, 1938, his successor was Father Eugene Gehl. Gehl, a member of the school's faculty since 1909, served as director until his death May 10, 1963. His successor, Father Lawrence Murphy, undertook an extensive construction of a new school complex between 1965 and 1973 at a cost of $3 million.

ONE HUNDRED AND THIRTEEN ENROLLED

After 24 years of teaching, hard work, vast improvements and heavy responsibilities, Murphy resigned as director and principal in 1974. Father Donald F. Zerkel, who served as assistant director for seven years, succeeded Murphy.

Zerkel, 45, said that while the school was operated by the Catholic Archdiocese, it accepted students from all parts of the U.S. regardless of their race, religion, sex or origin. Enrolled during the 1975–'76 academic year were 113 preschool, elementary and high school pupils from 11 states, aged 2½ to 20.

"Deaf persons are marked by a high level of vocational competence, a remarkable absence of psychiatric illness, personal independence, wholesome involvement in social functions and an overall cheerful disposition," said Zerkel.

Preschool children are taught the beginnings of language formation, word recognition (reading lips), word formation (speech) and manual communication (sign language). The existence of the school, since its founding 100 years ago, has become known primarily through its reputation among parents of deaf students and the students themselves.

FACULTY OF TWENTY-TWO

The school is listed in various catalogs and directories of educational services, but it has not advertised itself. Its pupil capacity is 160, and its highest enrollment was 158 in 1971. The institution has an athletic program that includes swimming, basketball, volleyball and cross country running.

Sister Roberta Le Pine, school principal since 1974, said 22 teachers were on the faculty, including nine sisters, 12 lay persons and Zerkel.

"Teaching of a deaf pupil requires specialized teacher training," said Sister Roberta. "Every faculty member is a certified teacher of the deaf."

St. John's is primarily funded by tuition, Catholic charities, bequests, scholarship funds, an annual picnic sponsored by Council 4614 of the Knights of Columbus and fund raising programs planned by the students.

Among other groups that have given financial or other aid are other KC councils, Christ Child Society (a woman's group), the Jaycees, Moose, Elks, Optimists, Soroptomists (a woman's group), Shriners, Lions Clubs and the Catholic Knights of Wisconsin. Cardinal Stritch Council 4614 of the Knights of Columbus is sponsoring its 17th annual picnic for the benefit of St. John's.

TRIBUTE TO FRANCIS E. HART

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. CONTE. Mr. Speaker, this week, the House will debate the Law Enforcement Assistance Act and its efforts to further the cause of criminal justice in this country.

At the same time, the town of Amherst in the First Congressional District of Massachusetts, is mourning the loss of a man who embodied all that is good in law enforcement, retired Police Chief Francis E. Hart.

Frank Hart's career of 38 years as a police officer in the service of the town of Amherst is thought to be a record in that community. But more than the amount of time Frank Hart dedicated to his job and his town is the quality of that service. Recognized for his skill as an investigator, his ability to defuse potentially volatile situations, his compassion, and his knowledge of the criminal justice system, he knew and loved his job. He was respected by his peers in law enforcement and beloved by his community. These sentiments are certainly evident in the heartfelt eulogies spontaneously delivered by his friends and coworkers in the articles I will submit for the RECORD.

At this time, I want to express my deepest sympathy to Frank Hart's wife, Margaret, and the entire Hart family.

[From the Springfield (Mass.) Morning Union, July 28, 1976]

FRANCIS E. HART, 67, WAS AMHERST CHIEF

AMHERST.—Francis E. Hart, 67, Hampshire County Deputy Sheriff and retired Amherst Police Chief, who had become one of the most respected law enforcement officers in Western Massachusetts at the time of his mandatory retirement, died Monday in Cooley Dickinson Hospital, Northampton.

Hart, of 232 Strong Ave., served on the Amherst Police force 38 years, the last 15 as chief of police for the mushrooming university town, until his retirement in November, 1973.

He continued to serve as a deputy sheriff during sittings of Hampshire County Superior Court until last month when he was hospitalized.

When he was not in court advising both the judge, lawyers and their clients on "court decorum" he was actively working his Amherst dairy farm.

Hart related to the criminal, members of his department, students in the Pioneer Valley, citizens of Amherst and peers in Western Massachusetts law enforcement.

Although Hart had built a strong police department, in this college town, he also built an image around his seemingly dry sense of humor, his hair-curling words that could make one's face turn as red as his ruddy complexion, and his ability to lead and organize an intensive investigation.

Hart was never a man of titles. He preferred to be called "Frank" rather than chief. But whatever the name, the job was done well and efficiently.

He was credited with preventing major student disturbances on the University of Massachusetts-Amherst and Amherst College campuses during the late 1960s by keeping a line of communication open between his department and student leaders.

But "Frank" was not a big person on pomp and circumstances. "No retirement party for me," he told Amherst civic leaders. "You can have it, but the guest of honor won't be there," he told them.

Rather than recognition, he sought to create an ongoing scholarship fund.

Donald N. Maia, deputy chief, named chief following a national search, along with community leaders began the Francis E. Hart Scholarship Fund for graduates of Amherst-Pelham Regional High School alternating annually between a boy and girl recipient. And one of the considerations was that the award did not have to go to the person with the highest academic rank, but one who showed the ability to perform to the utmost of her or his capacity.

The fund has accumulated $19,200 and Hart was the highest single contributor.

Many police and court officials were stunned by the news Tuesday. Amherst Police Lt. Clarence G. Babb said "He was Mr. Amherst to all of us . . . he had a gruff way but was a very compassionate man."

John M. Callahan, Northwestern district attorney, spoke of him as having great wit and insight along with being both a good police officer and a devoted family man.

Hampshire County Sheriff John F. Boyle and Salvatore A. Polito, clerk of Superior Court, each termed him a close, dear friend and one of a kind.

Born in Whitman, Nov. 16, 1908, he was graduated from Massachusetts Agricultural College, later known as UMass.

In 1932, he began his police career as a campus patrolman at Massachusetts State College where he stayed until 1935, transferring to the Amherst Police department as a patrolman.

Fourteen years later, he was promoted to deputy chief and nine years later he was named chief.

Chief Hart is believed to have the longest number of years service as an employe to this community.

He leaves his wife, Mrs. Margaret (Kelley) Hart; a son, Edward of Amherst; three daughters, Mrs. Mary Murphy of Monson, Mrs. Geraldine Smyth of South Hadley and Mrs. Regina Gulliver of Pelham; three brothers, J. Joseph of Scituate, Edward J. of Marshfield and Murray J. of West Palm Beach, Fla. a sister, Mrs. Theodore Chisholm of Rockland, and 16 grandchildren.

The funeral will be Thursday at the Amherst funeral home and in St. Brigid's Church. Burial will be in St. Brigid's Cemetery.

Donations may be made to the Francis E. Hart Scholarship Fund in care of the First National Bank of Amherst.

GEORGE C. JORDAN III.

[From the Daily Hampshire (Mass.) Gazette, July 27, 1976]

FRANK HART, RETIRED AMHERST POLICE CHIEF, DIES

AMHERST.—Retired Police Francis E. (Frank) Hart, 67, a member of the Amherst police force for 38 years and a longtime Hampshire County Court officer died yesterday evening at the Cooley Dickinson Hospital following a long illness.

He was the husband of the former Margaret Kelley and lived on a dairy farm at 232 Strong St.

Hart retired from the Amherst Police Department in November, 1973, after having served as chief for 15 years.

During his colorful career on the force, Hart established a reputation as a tough investigator whose salty language enlivened both the police station and the Hampshire County courthouse.

Former Town Manager Allen Torrey, who appointed Hart as chief recalled this morning, "His outward appearance was gruff and severe but for anyone who really knew him that wasn't the case at all. His knowledge and concept of justice and law enforcement was ahead of his time. What we're doing today in law enforcement, Frank did instinctively; he had a feeling for human rights and a concern for the underdog."

With thousands of college students in Amherst, Hart used a mild approach, and he remembered his own student days when solving problems.

THOUGHTS ON YOUTHS

In an interview the year he retired Hart said, "The kids come up here straight out of high school . . . they get into a little mischief . . . Who the hell woudn't? I did when I was a kid . . . that's why I know who to look for and where . . ."

He was proud of the fact that during his 38 years on the force, no policeman ever fired a gun, and no policeman had ever used a drop of tear gas. In fact, the town did not even stock tear gas.

During the anti-Vietnam War demonstrations, Amherst was the only major college town that did not have major disruptions. When demonstrations occurred, Hart would walk into the crowd and calmly discuss the issues.

As he said in 1973, "There's nothing to me more boiling than a bunch of big cops carrying clubs and wearing riot equipment. If I were a student, I'd take that as a challenge."

He solved some difficult crimes, including the only two murders that occurred in his years on the force. His reputation as an investigator was so established that during the 1950s, an arsonist testified in District Court that he had delayed his crime when he heard that Hart was on duty.

The arsonist set fire to the building on Hart's night off, but he was captured nevertheless.

Hart continued working as a court officer in Superior Court until last month. He worked as both a police and a court officer on a full-time basis for many years, as well as tending to his dairy farm.

Police Lt. Clarence Babb, who worked with Hart for 20 years, said, "He was Mr. Amherst to all of us. He had a gruff way, but he was one of the most compassionate men I ever knew."

Franklin-Hampshire Dist. Atty. John Callahan today characterized Hart as a "thoughful, sensitive man of great wit and insight, but most of all as a warm and devoted husband and father to his family and as a friend of thousands of people who will miss him very much."

Salvatore Polito, clerk of Superior Court said, "We're all going to miss him; he was a friend to everybody. It's hard to believe he's gone, he was one of a kind."

Hart was born in Whitman, Nov. 16, 1908, son of the late Edward J. and Mary (Murray) Hart. He was educated in Whitman schools and graduated from the Stockbridge School of Agriculture here in 1930.

In 1933, Hart served as the first campus policeman on the University of Massachusetts campus. Two years later, he joined the Amherst police force, where he was promoted to deputy chief in 1949 and became chief in 1958.

He was married Oct. 23, 1929 in St. Brigid's Church.

Besides his wife, he is survived by a son, Edward, of Amherst; three daughters, Mary Murphy, of Monson, Geraldine Smyth, of South Hadley, and Regina Gulliver, of Pelham; three brothers, J. Joseph Hart, of Scituate, Edward J. Hart of Marshfield and Murray J. Hart of West Palm Beach, Fla.; a sister, Mrs. Theodore Chisholm of Rockland, Maine and 16 grandchildren.

The funeral will be Thursday at 9:30 a.m. from the Amherst Funeral Home with a concelebrated liturgy of Christian burial at 10 a.m. in St. Brigid's Church.

The burial will be in St. Brigid's Cemetery.

The calling hours at the funeral home are tomorrow from 2 to 4 and 7 to 9 p.m.

Memorial donations may be made to the Frank E. Hart Scholarship Fund c/o the First National Bank of Amherst.

SOCIAL SECURITY NUMBERS AND THE TAX BILL

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Ms. ABZUG. Mr. Speaker, the House and Senate conferees are presently considering H.R. 10612, the "Tax Reform Act of 1976." One provision of the bill as passed by the Senate effectively repeals section 7(a) of the Privacy Act of 1974.

As chairwoman of the Subcommittee on Government Information and Individual Rights, which has jurisdiction over the Privacy Act, I urge the conferees not to accede to section 1211 of the Senate version of the bill. The reasons for this request are spelled out in a letter which I have sent to all House conferees, the text of which follows:

WASHINGTON, D.C.,
August 25, 1976.

Hon. AL ULLMAN,
U.S. House of Representatives,
Rayburn House Office Building,
Washington, D.C.

Re: Conference on H.R. 10612, Tax Reform Act of 1976

DEAR AL: I am writing to call your attention to a provision of the Senate version of the Tax Reform Act—Section 1211—which would effectively repeal Section 7(a) of the Privacy Act of 1974 which limits the use of Social Security account numbers.

The House-passed bill contained no similar provision. Yet the Senate, without holding hearings on the matter, and in contravention of the recommendation of the Privacy Protection Study Commission, has amended an important provision of the Privacy Act of 1974.

The Senate bill provides that any State or political subdivision may—

"In the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Secretary for the purpose of establishing the identification of individuals affected by such laws, and may require any individual who is or appears to be so affected to furnish to such state (or political subdivision thereof) . . . the social security account number . . . issued to him by the Secretary."

It should be emphasized that one of the most important provisions of the Privacy Act of 1974 is Section 7(a) which limits the right of local, state and federal government agencies to compel disclosure of the Social Security number unless specifically provided for by law. This provision was fought for, over a period of many years, by the distinguished former Senator Sam Ervin. It was overwhelmingly agreed to by both Houses of Congress after extensive discussion on the floor and in committee on the need to guard against further invasion of privacy by the expansion of the use of the Social Security number as a universal identifier.

Since passage of the Privacy Act of 1974, it has been claimed that state governments do need access to the Social Security number for the purposes of tax administration, since state tax administration depends upon coordination between the states and the Internal Revenue Service to assure that information in federal returns conforms with information filed in state returns. However, there is no valid purpose in extending the requirement that individuals disclose their Social Security number to government officials in the areas of general public assistance, driver's licenses or motor vehicle registration.

I therefore urge that the House conferees recede from disagreement to Senate Section 1211, or, at minimum, strike the language dealing with general public assistance, driver's licenses and motor vehicle registration.

It should be noted that the struggle to prevent further utilization of the Social Security number as a universal identifier is one supported by those of all political persuasions. For example, Seantor Goldwater stated on the floor of the Senate in connection with the debate over Section 1211

"I am shocked that there is a provision in the pending tax reform bill to repeal much of the Percy-Goldwater law which now puts a halt to new uses of the Social Security number . . . in 1974, we put a halt to federal, state or local government forcing anyone to disclose his Social Security number for any reason that was not already a part of federal law. Now, the Finance Committee wants to change this . . . Mr. President, this is wrong."

In addition to Senator Goldwater, the Social Security provision was opposed by Senators Muskie, Percy and Ribicoff, who were instrumental on the Senate side in passage of the Privacy Act of 1974.

I urge the House conferees to reject this proposal, or, at minimum, to limit it to tax administration.

Sincerely,

BELLA S. ABZUG,
Chairwoman.

ENERGY CONSERVATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. HAMILTON. Mr. Speaker, the regrettable fact is that the United States is back on a carefree energy consuming binge. Gasoline is being consumed at a rate nearly 7 percent higher than last year. Electric power consumption has risen nearly 6 percent above last year at this time. This present pattern of demand implies a need to double the country's electric generating capacity over the next decade.

Energy consumption in the United States has grown rapidly, particularly since World War II at a rate of about 3.5 percent each year from 1950 to 1965 and 4.5 percent a year from 1965 to 1973. In 1974 consumption fell 2.2 percent and in 1975 the total consumption declined another 2.5 percent. It is likely that this change in trend, however, was the result of an economic slowdown, rather than conservation efforts.

Dependence on Arab oil exports has also risen dramatically and, as market power shifts to the Arab world, the Arab oil ministers will meet soon to decide how much to increase their prices. It is dangerous for the United States to become increasingly dependent upon oil imports from the Middle East.

So the real challenge today is to keep the American appetite for energy from continuing to rise as fast as it has risen during most of our recent past. The need for effective energy conservation is real and urgent, and will exist for a long time. Many studies of our energy needs for the rest of the century show a serious supply deficiency, requiring either strong measures to curtail our consumption or such substantial imports as to cause serious economic problems.

Our energy conservation record, however, is not good. The United States remains close to the bottom of the list in national efforts to reduce energy consumption. For example, last year the United States wasted as much energy as two-thirds of the world's population consumed.

This week the Congress approved a set of far-reaching energy conservation measures. The legislation sets energy conservation standards for new construction and uses loan guarantees to encourage individuals to insulate their homes and install efficient heating and cooling equipment. Under this legislation low-income families will get grants to weatherize their homes, information on the benefits of conservation will be made available, and demonstration programs will encourage efficient use of energy.

This legislation is not a comprehensive blueprint for achieving energy savings, but the proposals in it represent a good start toward conservation in commercial and residential housing, the area where 29 percent of all energy in the United States is consumed.

Energy conservation, which practically everybody favors and finds necessary, is neither simple nor quickly achieved, but that is no reason to abandon interest in it. The experts tell us that roughly one-half the energy produced in this country is wasted, but you can get some real arguments over which half. Floridians believe we use too much fuel heating homes and residents of Maine think we waste a lot of energy on air conditioning. Reducing Sunday driving may be a waste to some people, but Sunday driving is vital to the American tourist industry. A heavy tax on gasoline may save gas, but it might also be bad for jobs in the automobile industry. At the same time if the demand for energy outstrips supply, and energy shortages occur, it would mean certain unemployment. Some energy conservation measures, however, like home insulation, actually create jobs.

The Congress is right in my view in insisting on a firm commitment to the conservation of energy. The target should be to keep the annual rise in energy consumption down around 2 per cent a year. This rate of increase still requires increased power production but at a manageable rate consistent with sound environmental protection. No one wants an energy conservation program that reduces the standard of living, but rather an energy conservation program that complements a strategy to increase the supply of fuels and stresses the efficient use of energy.

Energy conservation means not only smaller cars, lower highway speeds, turning off unneeded lights, doubling the average number of passengers in automobiles from 1½ to 3, colder homes in winter and warmer homes in summer, but also modernizing factories, improving urban mass transit systems that use less energy, using waste heat to supply domestic hot water, burning garbage for energy, and recycling steel cans and paper. Although no single change will make much of a dent in the total amount of energy consumed, the cumulative impact of energy-conscious individuals and enterprises can be significant. If the burden of energy conservation is spread, its impact on people and the economy will be less.

A major conservation effort is the indispensible first step in a comprehensive energy policy. All of us must make a realistic assessment of our use of energy and begin to find ways and means to reduce our consumption. We can no longer view energy as an abundant wastable resource. Saving energy will save dollars. The government must become much more aggressive in asking Americans to get serious about energy conservation. Policy steps by the government must encourage and reinforce those efforts and, where necessary, regulate to eliminate wasteful consumption.

SAM DAVIS TO RECEIVE NATIONAL B'NAI B'RITH TRIBUTE

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. GIBBONS. Mr. Speaker, Sam Davis is a man whom I have known for a long time. We live in Tampa, Fla., and have been friends since the 1930's. Sam Davis is being honored by B'nai B'rith. He has received the national B'nai B'rith tribute. Sam Davis is a big man, not only large in stature, befitting of his athletic days, but he has a big heart and an optimistic outlook that make him so attractive to those who have an opportunity to know him.

Sam Davis has been and is a crusader. He has led numerous drives in our area for better government, elimination of organized crime, and improving the opportunities of those who need help.

Mr. Speaker, Mrs. Gibbons and I want to extend to Sam and his wife Helen our best wishes and congratulations. We wish that we could be present on September 15 for this occasion in Tampa, but, as you know, the House will be in session in that day. But, our best wishes will be with Sam. Mr. Speaker, I present now for insertion in the RECORD a news release from B'nai B'rith concerning this affair:

B'NAI B'RITH YOUTH SERVICES APPEAL,
Washington, D.C.

SAM DAVIS TO RECEIVE NATIONAL B'NAI B'RITH TRIBUTE

WASHINGTON, D.C.—Sam Davis, President of Florida Downs and Turf Club and Chairman of the Tampa Ship Repair and Drydock Company, will be honored by B'nai B'rith with its coveted National Humanitarian Award.

Mr. Davis will be cited for outstanding communal service at the "Humanitarian Award Testimonial," Wednesday, September 15 at the Airport Hotel, Tampa.

The tribute was announced by David M. Blumberg, International President of the 500,000 member Jewish service organization.

"Throughout the years Mr. Davis has been deeply dedicated to the betterment of mankind through a host of civic and philanthropic activities," Mr. Blumberg said. "B'nai B'rith is proud to honor an outstanding American."

The dinner in Mr. Davis' honor will help support B'nai B'rith Youth Services. With a $9 million annual budget, the organization supports a wide range of cultural, religious, counseling, civic and brotherhood activities for young people in every part of the country.

B'nai B'rith Hillel Foundations serve students on over 300 campuses including the University of South Florida, Florida State, University of Miami and University of Florida, the latter of which Mr. Davis is a distinguished alumnus.

The B'nai B'rith Young Organization conducts meaningful programs for teenagers in communities throughout Florida, and the B'nai B'rith Career and Counseling Services assist thousands of young people and their parents every year.

Mr. Davis' broad scope of activities in the Tampa community include leadership positions in numerous fund raising campaigns, including the Community Chest, Salvation Army, Childrens Home and Tampa Guidance Center.

He is a board member of the University of Tampa, Thorobred Racing Association of America, General Telephone of Florida, American Bureau of Shipping and First National Bank of Tampa.

He also served as the chairman of the Tampa Crime Commission, County Sports Committee and the Committee of 100.

In addition, Mr. Davis has been honored with numerous awards, including the National Football Hall of Fame's "Distinguished American Award", Sertoma Club's "Service to Mankind" award, and was named Tampa's Outstanding Citizen.

Mr. Davis has the distinction of being the first man on the West Coast of Florida to be honored with the B'nai B'rith Humanitarian Award. Previous recipients include John deButts of AT&T; Gus Levy, former Chairman, N.Y. Stock Exchange; Bill Veeck, President, Chicago White Sox; and Maurice Ferre, Mayor of Miami.

SOUTH DAKOTA DROUGHT

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. PRESSLER. Mr. Speaker, I have just returned from South Dakota, which continues to suffer from the summer drought. Many have compared this year's drought to the one of the 1930's—all agree that our farmers and rural communities have been extremely hard hit.

In early July, I sent a questionnaire to the people of South Dakota's First Congressional District. My staff and I have tabulated over 4,500 responses, with the results showing how critically the drought is affecting South Dakota's economy:

Farming

Have you been forced to sell any of your livestock herd because of the drought?

Average percent of herd sold, 51 percent.

Total number of head sold, 23,255.

Average number head sold per farmer, 58.

Could you estimate for each type of crop you planted, what percentage of it will be lost because of the drought?

Corn, 78 percent.

Wheat, 78 percent.

Oats, 74 percent.

Soybeans, 63 percent.

Barley, millet, rye, 79 percent.

Hay, alfalfa, pasture, 78 percent.

Flax, 84 percent.

Sunflowers, 86 percent.

Businessmen

Are you currently experiencing a significant drop in your retail sales due to drought?

What percent?—33 percent.

Yes, 75 percent.

No, 25 percent.

Have you been forced to lay off or reduce work hours for your employees because of drought-related decreases in business?

Yes, 41 percent.

No, 59 percent.

Wage-earners

Have you had your work hours reduced or do you anticipate that they will be reduced if the drought continues?

Yes, 36 percent.

No, 64 percent.

Have you been laid off recently or do you anticipate being laid off because of a drought-related decline in your employer's business?

Yes, 19 percent.

No, 81 percent.

Excerpts from South Dakotans on drought questionnaire:

In Washington you just can't realize. . . . The grain was too short to cut. . . . Our government programs are nothing but a big hoax. . . . As a young farmer, I've had to sell my herd at a loss, and the grain isn't worth combining. . . . Why 2% loans for overseas, and 9% loans to us? . . . Our corn is shrinking, not growing. . . . Our chances of meeting expenses are nil. . . . With business down, we just can't hire any more help. . . . Make a living? . . . When crops are gone, it's hard for small stores to get business.

While I appreciate that the Members have been hearing about the drought most of this summer, there may be some who think the situation has improved. That is not the case. A summary of precipitation prepared by the South Dakota Office of Statistical Reporting Service of the National Weather Service verified the continuation of the hot, dry weather for the week ending August 23, 1976, with the following report. The northeastern part of the State continues to be the driest, down some 11 inches from their normal total of 14 inches:

SOUTH DAKOTA WEATHER, CROP AND LIVESTOCK REPORT, G.D.D., TEMPERATURE AND PRECIPITATION, WEEK ENDING AUGUST 22, 1976

Station	Growing degree days		Temperature past week (degrees)				Precipitation (inches)					
							Totals			Departure from normal		
	Total growing degree days since Mar. 29[1]	Departure from normal	Average	Departure from normal	Highest	Lowest	Weekly	Since Jan. 1	Since Mar. 29	Past week	Since Jan. 1	Since Mar. 29
Northeast:												
Milbank	2,352	+211	84	+14	103	56	0.06	5.74	3.21	−0.52	−10.68	−11.37
Watertown	2,280	+382	83	+14	100	66	.05	7.76	4.81	−.51	−8.29	−9.21
Aberdeen	2,426	+423	85	+14	104	63	T	6.30	4.27	−.49	−8.24	−8.33
Faulkton	2,551	+518	84	+14	106	60	0	7.87	6.48	−.49	−6.92	−6.73
Huron	2,393	+232	84	+13	103	67	.01	7.82	5.82	−.48	−6.54	−6.43
Brookings	2,105	+14	77	+7	96	54	0	10.52	7.99	−.63	−6.01	−6.89
Southeast:												
Sioux Falls	2,568	+373	81	+10	98	64	.52	9.49	7.10	−.11	−8.39	−7.95
Yankton	2,410	+152	78	+4	96	60	1.02	14.76	12.57	+.32	−3.27	−3.32
Pickstown	2,596	+368	84	+11	99	68	.17	10.98	9.09	−.46	−7.56	−6.34
Mitchell	2,531	+216	82	+10	101	66	.04	10.19	8.56	−.66	−5.98	−5.55
Sioux City, Iowa	2,494	+236	79	+5	97	57	.14	11.52	8.76	−.56	−7.19	−7.10
Central and west:												
Mobridge	2,305	+171	83	+10	101	68	T	9.45	7.23	−.49	−4.26	−4.96
Dupree	2,395	+463	81	+10	102	53	.08	13.41	11.47	−.27	+.97	+.54
Lemmon	1,990	+208	79	+10	96	59	0	16.29	14.48	−.42	+2.46	+2.41
Camp Crook	2,068	+170	81	+11	95	48	.03	12.57	11.51	−.32	+1.86	+1.88
Vale	2,209	+182	77	+7	97	55	0	15.21	13.50	−.28	+2.05	+1.78
Pierre	2,671	+464	87	+13	108	67	0	5.38	3.68	−.49	−8.72	−8.53
Philip	2,407	+258	82	+9	105	57	.08	10.89	10.01	−.27	−1.23	−.97
Rapid City	2,016	−34	79	+8	100	59	T	13.43	12.35	−.35	−.37	+.43
Oelrichs	2,273	+108	78	+9	102	52	0	13.46	11.53	−.28	+.18	−.12
Winner	2,796	+436	85	+11	103	63	.08	9.77	8.53	−.59	−6.56	−5.80

* Revised to include corrections or data available since last issue.

The Watertown Public Opinion is a fine daily newspaper serving the northeastern part of South Dakota. Recently, as an excellent service, this newspaper devoted a portion of their paper to a drought questionnaire form and solicited statements from farmers and businesspeople as to the direct effects of the drought. I am pleased to insert some of these into the CONGRESSIONAL RECORD. These are representative of the responses that we received and are by no means the worst situations. I invite anyone who wishes to read more of the statements to contact my office.

EXCERPTS FROM DROUGHT QUESTIONNAIRE IN WATERTOWN PUBLIC OPINION

Mr. Congressman: I farm 400 acres in Roberts County. This year's harvest has consisted of 16 acres of oats that yielded 15 bushels per acre. Nothing else has been worth harvesting. I have a foundation herd of 40 Hereford stock cows that have taken a lifetime to acquire. Since both hayland and pasture are dried up, the only way I am keeping them alive is feeding hay for which I am paying $75 per ton. Unless relief is provided soon we'll have to sell the cattle. Thank you.

Mr. Congressman: My son with his two sons, both married, farm my land—This year our crop was a total loss—I can manage with Social Security—my son can borrow and hang on for a year—but my two grandsons just starting need machinery, seed, fertilizer, etc. They are completely discouraged and are trying in every way to find a way to carry on.

Mr. Congressman: If there ever was a year a farmer needed help this is it! We plowed up our winter wheat and the other crops are very poor—(3 bushels of flax to the acre, 10–15 bushels of oats to the acre and corn will make very little silage). We have 300 head of cattle and around one month's supply of feed. Our pastures are grazed down—and it is only the first part of August! In my opinion if grants are out of the question, a 1% loan would be a big boost to the drought stricken farmers.

Mr. Congressman: The drought is the worst I have ever seen. I was here in the 30's but the costs weren't so high then. The farmers just can't make it. Three of my sons have milk cows, so please supply them with help since they have no crops and no rain.

Mr. Congressman: Our wheat did about 4–4½ bushels. Our barley never even headed out. And our corn is actually too short to cut for feed. We planted some sunflowers after a rain in July, but I don't think they're going to make it either.

I applied for some Emergency Feed (oats) and didn't qualify for that. I think these programs should be revised to help the farmers who need help.

Mr. Congressman: I farm 400 acres of cultivated land and was able to harvest just 7 acres—just enough to get my seed back. This just happens to be my first year of farming after high school and it is very tough.

I don't know what can be done but something must be done and soon not only to help the farmer because of any help the farmer gets, the businessman gets.

Mr. Congressman: The farm conditions in the area are very—very poor. I just got done mowing and baling 50 acres of prarie hay and I got 103 bales of hay. That sure doesn't go far towards living and trying to pay taxes—especially with high machinery costs. If some aid isn't made available there will be a lot of idle land next year. We aren't asking for welfare, but a grant would give a person a chance to buy hay—which is now around $100.00 a ton. If you feed a ton of hay a day, how can a person keep his foundation herd around. Some of us must sell out!

Mr. Congressman: We have to sell most of our dairy cows, if no help can be furnished. Also, where will the money come from next spring? Am trying to find a job for working in town, but that is very hard to do. I have medical bills that I cannot pay now.

Mr. Congressman: A farmer is against many odds such as weather, poor cattle prices, high priced fuel, repairs, machinery, interest and taxes. The least that could be done is to allow everyone to buy 52c oats and $40 a ton hay regardless of a financial statement. Everyone suffered the same loss and pays taxes. Financial statements are not always true. Don't penalize a full time farmer for working hard and trying.

Emergency measures which have been provided through the Federal Government have not been adequate to meet the problems. There is a great deal of frustration as evidenced by the news release written by Mr. Ben Radcliffe, president of the South Dakota Farmers Union on August 19, 1976:

Huron.—South Dakota's drought-stricken farmers cannot wait for economic assistance until the 1977 Congress convenes, South Dakota Farmers Union president Ben Radcliffe said today.

"Only now, as the drought reports continue to come in, has it become possible to assess the full, terrible economic and social impact this drought is having on the lives of our farmers and small town businessmen," Radcliffe declared.

At least one-third of all the farmers in South Dakota have been devastated by this year's drought, the Farmers Union president explained.

"A substantial portion of them have been forced to liquidate their livestock and now face the possible end of their farming careers unless meaningful federal assistance is forthcoming this year," he continued.

Radcliffe said that in spite of determined efforts on the part of delegations of South Dakota farmers and businessmen who have gone to Washington, D.C., to personally tell the story of the drought disaster and in spite of the best efforts of members of the state's Congressional delegation, the Ford Administration and Secretary of Agriculture Earl Butz have continued to turn a deaf ear.

"Instead of offering a helping hand to dried out farmers and ranchers the penny-pinchers at the Department of Agriculture have fought every inch of the way in an attempt to avoid proper administration of disaster legislation," Radcliffe said.

"Secretary Butz' proposal last week to eliminate all federal disaster relief programs was just one more chapter in the USDA record of failure to offer any meaningful aid to South Dakota farmers and ranchers who are now fighting for their agricultural lives," Radcliffe said.

"Now that the political convention season is over, perhaps Secretary Butz can get his mind back on the problems of rural Americans," Radcliffe concluded.

VICE PRESIDENT OF PANAMA SPEAKS ON PROBLEMS AND PLANS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. FASCELL. Mr. Speaker, spurred by the widespread interest in the U.S. negotiations presently underway with Panama over the future of the Panama Canal, there has been a great deal of interest expressed in Congress and in the press about the ideological nature of Panama's government. Because of this I would like to call to the attention of the House a news account of a speech by the Vice President of Panama in which he gives his perception of his country's attitude.

The text of the article from the August 4, 1976 edition of Panama's Star and Herald follows:

[From the Star & Herald (Panama, R. P.), Aug. 4, 1976]

GONZALEZ SAYS NO SOCIALISM FOR R.P.

Panama will never be a Socialist country, Vice-President Gerardo Gonzalez declared in remarks at the closing session of a political awareness seminar attended by 800 government officials.

The Vice President echoed statements made by Chief of Government Brig. Gen. Omar Torrijos following a visit to Cuba, the only Socialist state in the Hemisphere, last January.

Torrijos told Cuban newsmen in Havanna then that Panama could achieve social change through ways other than socialism.

"Those who go around saying that we should carry out a Socialist revolution first and then go after the canal should be told that for the first time the people are united behind a government that seeks national liberation."

In his remarks, Gonzalez said the most important issue in the Panama treaty negotiations with the United States is the duration, including the "liquidation of the colonial relationship" in that period. Once this is done, he added, economic activities can be undertaken around the Canal that will contribute to national progress.

Gonzalez said that if a treaty is signed in 1977, it will be submitted to approval in a national plebiscite as required by the 1972 Constitution. He said that the government will not permit debate on the treaty to become a political issue. A serious and thorough program of information on the treaty will be undertaken so that the people will go to the polls fully cognizant of what they want to do.

The Vice President said that prior to 1968 there were in Panama a nationalist middle class and economically powerful groups that were controlled politically by Washington. The policy prior to 1968 with respect to the Canal he added, was one of revisionism instead of liberation, reflected in demands for a larger annuity.

Turning to domestic problems, Gonzales said that the retail price of sugar had to be increased because the world price of sugar had dropped and the local sugar mills could not cover their losses in the local market. He emphasized, however, that the price increase does not benefit the government, since the state-owned mills sell their entire production abroad.

By 1978, when two additional state sugar mills are in operation, Panama's income from sugar operations will exceed the benefits it now receives from the Panama Canal, he predicted.

Referring to the problems in connection with generation of electricity, Vice President Gonzalez pointed out that when the Revolutionary Government came into power in 1968, the price of a barrel of crude petroleum was about 3 balboas. Now it is approximately 12 balboas.

"We have a whole series of economic and dependence problems which involve large expenditures, decreased fiscal revenue, transport deficiency and belt-tightening", he declared.

ARNA BONTEMPS AND THE SOUL OF THE SOUTH

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. YOUNG of Georgia. Mr. Speaker, much is said these days about the "New South," for progressive changes have come—slowly, but inevitably—to that part of the country. While we celebrate the shift from oppression toward freedom let us not forget the rich history made in that region by the black people who supported the Old South's economy and population. Arna Bontemps was a product of the Old South. He wrote with perceptions of southern black life "as vivid and valid" as any in American literature. Colman McCarthy's article from the August 25 issue of the Washington Post talks of Bontemps and his memorable portrayals of life in the Old South.

Let us not forget.

The article follows:

ARNA BONTEMPS AND THE SOUL OF THE SOUTH

(By Colman McCarthy)

Stories of the "New South" are appearing again, now that Southern politics has shown the nation someone other than George Wallace or Strom Thurmond. But whenever Northern reporters come on with their "significant trend" stories, the Old South is wordlessly dismissed. Everyone knows about the cruelties of the past, so why mention them again?

The trouble with that dismissal is that much of the region's past richness and ardor is smothered, especially as it came from blacks. Whether among the caneworkers of Louisiana, the woodcutters of the Gulf coast or sharecroppers of the Carolina highlands, the blacks of the Old South—in the 1920s and 30s—had a resourcefulness and depth that no institutionalized assaults ever destroyed. Black survival meant that family life often had runic strengths, the weak were embraced as a natural part of the community and small pleasures were accepted with gaiety and thanks. Before comparisons are made between the "better" New South and the "worse" Old South, some probings into the work of Arna Bontemps ought to be made—in the pursuit of balance, but also to get away from contemporary sensibilities that are bored with the past but overdazzled by our own shiny present.

Arna Bontemps, long associated with Fisk University as its librarian and then its writer-in-residence until his death in 1973, gained a reputation as an anthologist. With Langston Hughes, he produced "Poetry of the Negro, 1746–1970" and "The Book of Negro Folklore." But if the anthologies revealed his affection for black writing and history, Bontemps' fiction and poetry created ties to black life that flowed with perceptions as vivid and valid as any in American literature.

Bontemps never wrote a single masterwork and let that one book carry his thought, as did a Jean Toomer or Ralph Ellison. Instead, the force of his production was in its breadth. He wrote poetry that met the standards of aesthetic requirements and he produced fiction that was a path of meditation across fields of black experience. His poem "The Day-breakers" appeared years before the civil rights movement but it described subtly the nonviolent strategy that was to follow:

"We are not come to wage a strife
  With swords upon this hill;
It is not wise to waste the life
  Against a stubborn will.
Yet would we die as some have done:
  Beating a way for the rising sun.

Bontemps has faced some suns himself. He was born in Alexandria, Louisiana in 1902, the son of a stonemason and a school teacher. In the preface to his final book, "The Old South," he wrote that "mine had not been the varmint-infested childhood so often the hallmark of Negro American autobiography. My parents and grandparents had been well-fed, well-clothed and well-housed. One does not speak of ancestors who lived publicly—Creole style—with their colored families and gave proof of fealty to dark offspring. Some have called these genealogies unwritten history. I have come to feel that mine was fairly typical. I observe with more than mild surprise, for example, that all the Negroes in the Congress bear the mark of a similiar tradition, that many faces conspicuous in government, in the U.N., even among the Black Muslims, are so obviously of mixed ancestry that the bald expurgation of this fact from the history of the South becomes increasingly comical. The cold—or hot—fact is that down here there is a widespread kinship, sometimes unknown, generally unacknowledged."

The family moved to Los Angeles when Arna was three. His early experiences in Watts were to be matched by later exposures to Harlem and Chicago's South Side. These wanderings were to prompt Bontemps to write in 1966 (with Jack Conroy) "Anyplace But Here." It is the sociological account of the internal migration of Negroes in the United States, a period of American life that is all but forgotten today, especially in this year of bunting and flutes. The Negro migrations covered 100 years. "And just as every man who went West had his own personal reasons, so every Negro who left the South behind was motivated by a set of circumstances peculiar to himself."

Bontemps' reasons for shifting around were neither odd nor strange. Out of college in California, he came east to be a writer. In the preface to a small collection of verse, "Personals," he wrote that "in some places the autumn of 1924 may have been an unremarkable season. In Harlem it was like a foretaste of paradise. A blue haze descended at night and with it strings of fairy lights on the broad avenues. From the window of a small room in an apartment on 5th and 129th Street I looked over the rooftop of Negrodom and tried to believe my eyes. What a city! What a world! . . . Nothing could have been sweeter to young people who only a few weeks or months earlier had been regarded anything but remarkable in Topeka and Cleveland and Eatonville and Salt Lake City—young people who, more often than otherwise, had seemed a trifle whacky to the home folks. In Harlem we were heralds of a dawning day. We were the first-born of the dark renaissance."

One of Bontemps' more wry short stories, "A Woman With a Mission," is about the effect of Harlem's renaissance on a white patroness in Larchmont. She would pick out "promising" young black artists and subsidize them. "The refined races have lost something vital," she believed, "an essential vitamin, a certain mystic power . . . The Negroes possess it in abundance." In trying to make a Harlem musician out of a salon black, the dowager is frustrated. He was grateful to have his talents developed but he believed the directions that development would take him should be decided in his own heart, not in the Larchmont tea room.

The most memorable Bontemps short stories are in "The Old South." The narratives of Southern musicians, alcoholics, aging sharecroppers or troublesome relatives tell of a people whose lives may have lacked the elevated drama of high fiction, but the lives were at least true. Pain was integrated, not bought off. Tests were met, consistency honored. About these stories, Bontemps wrote: "One was obliged to notice that Negroes in the South seemed better armed for a struggle with spiritual overtones than their kinfolk in the North. I suspected, and still believe, that they are less likely to go berserk than the Harlemites. Willing to sacrifice, even to take risks . . . Perhaps the word is morale. Moreover, you can communicate with them because you know where to find them."

Arna Bontemps can be found too—among those who want to remember the enchantments of the South and to keep alive a desire for vibrant writing about its black folk. If the nation wants to celebrate this year, much of what truly is worthy of excitement first happened among the people Arna Bontemps carefully and honestly observed.

THE KOREAN TRAGEDY

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. FRASER. Mr. Speaker, our colleague, the gentleman from New York (Mr. Murphy), is right about the murder of two U.S. officers at Panmunjom by the North Koreans. As Mr. Murphy stated August 24, "The American people, allied with South Korea throughout a bloody war and through 23 years since then, deserve much more than a brief note of regret for the continued murder of our men" from the North Koreans. The savage attack on U.S. military men in the demilitarized zone dividing North and South Korea was brutal and unjustified.

But, Mr. Speaker, the American people also deserve more from the South Korean Goverment.

These two young Americans were defending, in effect, a government that was recently described by the Senate majority leader, Senator Mansfield, as "a military-bureaucratic authoritarianism under the control of President Park Chung-Hee." Senator Mansfield accurately pointed out that in South Korea, civil liberties are suspended and all opposition has been silenced by fear of death or imprisonment. A South Korean history professor recently said:

> The facade of openness here makes it seem ridiculous, but control of protest here is tighter than many Communist countries . . . The present Polish level of dissidence is unthinkable here, and Sakharov is able to operate in the U.S.S.R. in ways impossible here. Under the Hitler regime in the '30s, the German people were able to be more outspoken than we can be in Seoul today.

Non-Communist South Korean patriots are today on trial in Seoul. Their crime? Openly advocating a return to democracy in South Korea.

A South Korean Solzhenitsyn would not be invited to the Blue House or exiled, he or she would be tried and imprisoned—if lucky.

Thus, the tragedy of the deaths of the two American officers is not only the loss to our country and their families. The tragedy also is that after 23 years and a bloody war our Government asked these men to risk spilling their blood for a despotic government headed by a man who tolerates no opposition.

Once again, our Government is asking the U.S. military to defend an authoritarian regime.

An August 24, 1976 New York Times editorial puts it well:

> [T]he deployment of American strength abroad must have positive and worthy goals. The American people know what United States forces stand against in Korea; they have a responsibility to ask what they stand for as well.

FAVORABLE BUSINESS CLIMATE

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. COLLINS of Texas. Mr. Speaker, in Texas the citizens appreciate and encourage business being in our community. We have what is known as a favorable business climate. Business is taxed with equity. We want business to prosper because when business grows, it means more jobs for our community. We are "pro business."

It is jobs with their payrolls that provide the basic economic strength for every section of America. I am always appalled to hear discussions in Congress where the impact of the legislation will be to stifle development and growth of business.

Massachusetts is a great State. I have warm memories of Boston where I graduated from Harvard Business School, where I became engaged to my wife on the Boston Commons, where I shipped out of Fort Devens to go to Europe, and where I came back to Devens when the war was over. There are no finer folks in the world than the Irish of Boston. All our girls went to Wellesley and the boys to Harvard. Massachusetts is a great intellectual center. The Boston area has as much book knowledge and theory as any one spot in the world.

I am a stockholder in a company named Dennison Manufacture Co. whose main plant is in Framingham, Mass., but they have recently built another plant in Mississippi. In their annual meeting a stockholder asked about why the company was building a plant in Mississippi, and he was answered by Mr. Nelson S. Gifford, president of Dennison. The exact statement of Dennison's head man is a message in common sense that all America should hear:

> I might say parenthetically that some of you might wonder what we are doing with a second plant in Mississippi. It is incredible, the difference between the climate of doing business in the State of Massachusetts and doing business in the State of Mississippi.
>
> The State of Massachusetts is currently $700 million bankrupt on its unemployment fund. You heard the caterwauling that went up about the State Income Tax which only had to raise three or four hundred million dollars from corporations and individuals combined. The corporations ALONE are going to have to make up this $700 million deficit.
>
> We also have the flat rate electricity issue. On the 5th of May the Legislature on Beacon Hill will vote on flat rate electricity. If they pass that and raise our rate to 4.85 cents per kilowatt-hour, it will be an incredible increase in the cost to the Company, $200,000 to $300,000 out of your pocket. And what are the benefits you will get back? The employees will get a reduction of 85 cents a week in their electric bill.
>
> In the part of the world that we live in, it is very expensive to do business. So we will continue to place our plants where we think they are geographically best located for distribution as well as the economies of taxes, labor costs, and distribution costs.

MINERS SOFTBALL TEAM THIRD IN THE NATION

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. YATRON. Mr. Speaker, The Miners Softball Team, a part of the Minersville Little League, has compiled a record of accomplishments of which they should be justifiably proud.

The young women who played in the senior division recently placed third in the world series held in Portland, Oreg. The Miners played their best and brought home national recognition to the community of Minersville, the county of Schuylkill, and the entire Sixth Congressional District.

In testimony of the Miners' accomplishments, I am submitting an article that was published in the Pottsville, Pa. Republican on Friday, August 20, 1976, which gives the account of the Miners' final game of the series and their prospects for next season.

> ### MINERS—THIRD IN NATION
>
> (By Alan Kerr, Assistant Sports Editor)
>
> PORTLAND, OREG.—The citizens of Minersville and all of Schuylkill County will in the years ahead be able to look back on 1976 with a great deal of pride in what a group of 14 young ladies did for sports in the county and the northeast.
>
> The Minersville Senior Division Little League girls—Pennsylvania and Eastern Regional Champions—finally met their match Thursday evening in the world series here, losing 6–0 to south representative Tampa Bay, Florida.
>
> It was the Miners second loss in the double elimination tournament against one victory which placed them third in the four team playoff, ahead of Dayton, Ohio.
>
> There were few if any tears to mark only the Miners' third loss since they began their championship quest a few weeks ago.
>
> There wasn't the emotion that reddened 14 pair of eyes in two previous defeats.
>
> The Miners had indeed lost, but they seemed to finally realize that there is no shame in finishing third in the nation.
>
> They had done their best: on Thursday night, that just wasn't quite enough.
>
> Take away Tampa Bay's first two innings and it's a different game. The Florida girls scored three runs in each of the opening two frames to establish their margin of victory. After that, though they were in some hot water in almost every inning, the Miners kept Tampa off the scoreboard. And Tampa has a very good offensive club—one that hits well and is extremely quick on the bases and has the ability to make things happen.
>
> On Monday night, when Tampa and Minersville tangled in the tournament's opening game, Miners pitcher Beth Ann Lechleitner held her opponents to just three hits in winning a 2–1 decision. The girls from Florida came out swinging against Lechleitner Thursday pounding nine hits.
>
> Again some fine defense by outfielders Brenda Miller and Mary Ann Cremo kept Minersville within sight of a possible comeback.
>
> Tampa Bay pitcher Michelle Lamont was a big part of why the comeback did not materialize. Lamont, who got herself in trouble Monday against the Miners by walking eight changed her pitching style and cut down the free passes to three. She made the Miners hit the ball, and though they rapped five hits and had runners on in every inning, they could not score on the south's defense which did not allow a runner past second base.
>
> "I really slowed down tonight," Lamont said. "I wasn't going for the strikeouts. I knew we had a great defense so I was just trying to make them hit the ball. If I got behind on the count, like 2–0, then I tried to throw a hard strike, but I was mostly pitching a lot slower than Monday."
>
> Minersville mounted its biggest threat against Lamont in the fourth. Miller rifled a line drive single off Lamont's glove and an out later, moved to second when Bonnie Wenner walked, Krista Borrell then ripped a shot down the third base line but Jeanette Rodriguez fielded the ball, stepped on third to retire Miller, then threw to second to get Wenner for an inning ending double play.
>
> Minersville had two runners on base in just one other inning, the fifth. Michaelle Pizzico got on after forcing Cheryl Shulkusky at second and with two outs Kelley Borrell singled to left. Cremo flied out to end the inning.
>
> #### FIRST INNING DECISIVE
>
> Tampa Bay got all the runs it needed in the first. Therese Balbin flied out to open the game but speedy Carmen Orihuela beat out an infield roller to second and Lamont reached on a bloop single which fell in front of Miller in left. Dori Vila was retired for the second out, but Debbi Portugues walked to load the bases.
>
> Lefthanded batter Rodriguez then stroked a hit to left which bounced away from Miller and sent three runners across. Rodriguez wound up at third with a triple and the biggest hit of the game.
>
> Tampa Bay came right back in the second. Sandra Espino walked and Kim Andersen got a bunt single. Balbin singled to center for a run and she and Andersen moved up an extra base on the throw to the plate. Shortstop Wenner couldn't handle Orihuela's one hop line drive and as the ball bounced off Wenner's leg into left, Tampa's runs five and six scored.
>
> Minersville retired the Florida girls in order in the third and left them with two runners stranded in fourth and fifth. Miller made two key catches in the sixth, the second a diving grab to rob Lamont of a base hit.
>
> #### TALK OF NEXT YEAR
>
> Even while fans were still filing out of Alpenrose Stadium following the final out, some of the Miners, particularly Cremo and Kelley Borrell, were talking about next year. Both Cremo and Borrell will be too old to play next season, but their spirit in defeat seemed to typify the feeling in all of the Miners.
>
> Something should also be said about tiny Carolyn Harley who was among the smallest if not the smallest player on any of the four senior division teams.
>
> "Shorty" generated the most offense for the Miners in their three tournament games reaching base safely 10 straight times before Tampa Bay finally got her out last two times up Thursday. Harley drew nine walks and also got a single in 12 plate appearances.

Tampa Bay, now 2 and 1, will move into Saturday's finals against west champ Hawthorne, California, a hard-hitting team which dropped the Miners 13-7 Wednesday. Tampa will have to beat Hawthorne twice on Saturday in order to win the championship.

Today is get together day for all the girls who took part in the little league and senior division tournament, and with the pressure off, the Miners should have no trouble enjoying the day's festivities. An awards banquet Saturday night will officially end world series week in Portland.

The Miners and the contingent of Minersville fans who made the trip to the coast will fly home together on Monday.

Tampa Bay, Fla.	ab	r	h	bi	Minersville	ab	r	h	bi
Balbin lf	4	1	1	1	Harley 2b	2	0	0	0
Orihuela ss	4	1	1	0	Bosack ph	1	0	0	0
Lamont p	4	1	2	0	Kelley Borrell rf	4	0	1	1
Vila 2b	3	0	1	0	Cremo cf	3	0	0	0
Portugues cf	2	1	0	0	Miller, lf	3	0	2	0
Coto cf	0	0	0	0	Lechleitner p	3	0	0	0
Rodriguez 3b	4	0	2	3	Wenner ss	2	0	1	0
DeLaCruz 1b	3	0	1	0	Kirsta Borrell 3b	3	0	0	0
Solomon 1b	1	0	0	0	Shulkasky c	2	0	0	0
Espino rf	2	1	0	0	M. Pizzico 1b	3	0	1	0
Morales rf	1	0	0	0	Totals	26	0	5	0
Andersen c	3	1	0	0					
Totals	31	6	9	4					

Tampa Bay	330 000 0—6	9	1
Minersville	000 000 0—0	5	2

E — Vila, Wenner 2. DP — Tampa Bay 1. LOB — Tampa Bay 8, Minersville 8. 3B — Rodriguez. SB — Andersen.

	IP	H	R	ER	BB	SO
Lamont (W)	7	5	0	0	3	2
Lechleitner (L)	7	9	6	4	4	3

AMENDMENT TO SYNTHETIC FUELS BILL, H.R. 12112

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. TEAGUE. Mr. Speaker, I would like at this time to call to the attention of all the Members a package amendment to H.R. 12112, the Synthetic Fuels Loan Guaranty bill, placed in the amendment section of the RECORD which contains the language agreed to by the Committee on Science and Technology, the Committee on Banking, Currency and Housing, and the Committee on Ways and Means. As you know, the bill, H.R. 12112, which was introduced on February 25, 1976, and reported by the Committee on Science and Technology on May 15, was sequentially referred to three additional committees. To reflect the work of the Committees on Science and Technology, Banking, Currency and Housing, and Ways and Means, we have prepared this amendment so that the Members will have an opportunity to review and study the provisions that three of the four committees agree should be incorporated in H.R. 12112.

To facilitate consideration of H.R. 12112 on the floor, the Committee on Science and Technology, the Committee on Banking, Currency and Housing, and the Committee on Ways and Means will ask the Rules Committee to consider this amendment as the text for purposes of amendment.

We have worked very hard with other committees referring the bill. Three of the four committees have agreed with this approach. I would like to alert all Members that if they wish to offer amendments to the package amendment we are printing in the RECORD today, the amendments should be drafted to the text we are placing in the RECORD.

IMPORTANT ANTI-CRIME MEASURE

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. DODD. Mr. Speaker, earlier this week the House passed a long overdue measure designed to make the streets of our Nation's capital safer. This legislation, the District of Columbia pretrial release or detention bill, H.R. 14957, was approved by this body on August 23 by a voice vote, thus giving clear indication of the overwhelming, bipartisan support it enjoys. I am hopeful that the bill will receive equally favorable consideration before the Senate.

My only reservation in supporting this bill, Mr. Speaker, was that it does not go as far as I would have liked. The District of Columbia is only one of many areas of the country where the safety of law-abiding citizens is jeopardized because repeat offenders, accused of violent crimes, are released on bail.

As many of my colleagues know, I introduced a similar, though more comprehensive bill earlier this year. The pretrial detention bill which I sponsored, H.R. 13997, would have applied to Federal district courts, as well as to courts in the District of Columbia. It would have allowed a judge to deny pretrial release to a person charged with an act of violence, including crimes involving the use of a dangerous weapon, intentional infliction of death or serious physical injury, or commission of sexual assault. The bill the House passed on Monday would apply only to District of Columbia courts, and is limited in scope to the crimes of first degree murder and forcible rape. Given the number of instances where a recidivist is released on bail and commits another violent crime, I feel the more comprehensive approach would have been preferable.

I believe, Mr. Speaker, that it is entirely reasonable to allow a judge the discretion to deny release, after a preliminary hearing, if it is determined that the accused poses a clear threat to the community, or if the accused is likely to flee. It is a necessary step toward making many areas of this country safer to live in and travel through. And it is an important step toward providing an effective deterrent against violent crimes committed by repeat offenders.

We have heard time and time again from police commissioners across the Nation that this sort of legislation is essential if we are to curb the problem of the "revolving door" through which recidivists continue to pass. The concept of pretrial detention in cases involving repeat offenders and violent crimes has received broad, bipartisan support here in Congress, from the administration, and most importantly, from the general public.

Although the bill the House passed is more limited in terms of scope and jurisdiction, I feel it will prove to be a positive first step in the right direction. It will serve as a testing ground and an example for State legislatures to follow. It will be a pilot program for the Federal Government, which hopefully can be extended to apply to all Federal courts in the near future. Furthermore, it will address a problem here in the Nation's Capital, where an appalling 70 percent of persons indicted for robbery are rearrested for similar or more serious offenses while on release pending trial; and where many residents and visitors are afraid to walk the streets day or night.

The House bill also provides an important measure to protect the right of due process for the accused. When the House Committee on the District of Columbia held hearings on this legislation I testified in support of a provision to allow judges to hold a preliminary hearing to determine the appropriateness of pretrial detention before it is imposed. I am pleased to note that this provision for a hearing is included in the House-passed bill.

ST. ELIZABETH SETON

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. MURPHY of New York. Mr. Speaker, this Saturday, August 28, 1976, is the 202d anniversary of the birth of Elizabeth Bayley, known today as St. Elizabeth Seton. Almost 1 year ago, the Congress overwhelmingly passed a resolution requesting the President to issue the proclamation which designated Sunday, September 14, 1975, as "National St. Elizabeth Seton Day." This was done in honor of the day Mother Seton was canonized and proclaimed a saint by Pope Paul VI. She was the first native born American to be so honored. Although the official ceremonies have been completed, it is fitting on the anniversary of her birth that we reflect on the remarkable accomplishments of this great American woman. Widowed in 1803, with 5 children to support, she went to Baltimore to open a private girls school at the invitation of Bishop John Carroll, America's first Catholic bishop. She later moved to Emmitsburg, Md., where she founded not only the first religious order for women in the United States but also the first American Catholic parish school. She was responsible for the establishment of many of the first orphanages in America as well as many badly needed hospital facilities. During her lifetime she was deeply involved in the problems of the poor and disadvantaged of all faiths. Her schools, hospitals and welfare institutions were open to everyone in need, regardless of race, nationality or creed. Today, over 10,000 women trace the origins of their respective religious foundations to the Sisters of Charity of St. Joseph, the religious order founded by Elizabeth Seton at Emmitsburg, Md., on July 31, 1809. The courage and spirit by which she lived served as an inspiration to many in her lifetime. She was a symbol of hope for the future and this hope is still reflected in the lives and works of her followers.

U.S.S.R. REFUSES PERMISSION TO ABE STOLAR FAMILY TO EMIGRATE

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. ANNUNZIO. Mr. Speaker, the final act of the Conference on Security and Cooperation in Europe was signed on August 1, 1975, in Helsinki, Finland, and contains provisions designed to guarantee basic human rights and to allow for the free movement of people, information, and ideas between East and West. The Soviet Union led in the organization of this conference and, after considerably watering down their original promise to include strong guarantees for wider dissemination of information and freer movement of peoples, signed the document, thus endorsing the weakened human rights provisions.

One year has passed since the signing of that document and it is now clear that the U.S.S.R. had no intention of even honoring the weakened provisions of the accord with regard to human rights, and continues in its denial of requests by its citizens to emigrate. I cosponsored and strongly supported legislation to create the Commission on Security and Cooperation in Europe, which will monitor Soviet compliance with the Helsinki accord, and this bill is now public law.

The case of the Abe Stolar family illustrates the effects of these sadistic Soviet policies, and I call the attention of my colleagues to an article on the sad plight of the Stolar family which appeared in the Chicago Tribune, in addition to the letter I wrote to the Soviet Embassy on the family's behalf as well as the reply I received.

The article and the letters follow:

"STATELESS, BROKE" JEW YEARNING FOR DIVISION STREET HOME

(By James O. Jackson, Moscow Correspondent)

MOSCOW.—Abe Stolar was born on West Division Street in Chicago and loves the city. As a boy he roamed its streets, played ball in its parks, went to movies in the Loop, and looked at the pictures in the Art Institute.

He would very much like to visit his home town once more, but he cannot. Forty-four years ago he came to the Soviet Union, and the Russians have never let him out.

Stolar, 63, told his strange, sad story this week after he had exhausted his efforts to obtain official permission to emigrate with his wife, Gitta, and his 16-year-old son, Mikhail.

"We're stateless, broke, and desperate," Stolar said, his speech edged with the flat Midwestern accent he picked up on the streets of Chicago so long ago. "I figure our best hope is to make as much noise as we can."

Stolar does not look like the noisy type. He is shy and bookish, with thinning gray hear and sad brown eyes. He has never before delivered a protest, sought publicity, nor talked with foreign newspapermen.

He began by explaining how he came to be transplanted from Division Street to Moscow. He said his father, who was a Jew and a Communist, fled the persecutions of Czarist Russian in 1909 and settled in Chicago. He worked as a printer, but the Depression struck so in 1931 he took his family and returned to Russia, full of hope and Communist fervor.

Soon, hope turned to anxiety, and then to fear as the great Stalinist terror of the thirties swept the land.

"They arrested my father one night in 1937," Stolar said. "They just took him away for no reason, and of course we never heard from him again. Things like that happened all the time in those days."

Stolar said he managed to avoid arrest, altho both his sister and her husband were taken. He worked first as a poster artist, and then as a translator for Moscow radio. Sometimes he dreamed of leaving, he said, "But I didn't try to go to the American embassy. In those days, people who went to the American embassy always disappeared later."

But in 1971 when other Jews began getting permission to emigrate to Israel, Stolar decided to try. He applied, with his family, to go to Israel.

"At first things went well," he said. "In May, they finally said we could go so we sold all our things, got rid of our apartment, and on June 18 we went to meet the flight."

"We cleared customs," he said, "but at passport control they said something was wrong with my wife's visa."

The Stolars went back to the city to straighten out the problem, but at the visa office officials took all their documents from them.

"The officials said my wife, who was a chemist, had done secret work," he said. He shook his head ruefully. "But she retired two years ago, and she hasn't done any secret work since the war. It's ridiculous, and we just don't understand."

Now, he said, he is without work, low on money, and low on hope. He is especially worried about his son, who is nearing the age for the military draft. Once in the army, it would be years before he could hope to leave the country.

"He's a bright kid," Stolar said. "I don't want him to have to live here. I don't want him to have to think one thing, but say another, like I have done all my life."

Stolar said he has visited the United States embassy and asked for help. Embassy officials are checking to determine if he still is considered a U.S. citizen, and, if so, they can formally intervene with the Soviet government.

Stolar said he does not know whether he would rather go to Israel or to America. "We have a joke here," he said. "It's not so much a matter of where you're going to. What's important is where you're going from."

But Chicago was the place of his youth, he said, and his eyes soften when he remembers it. "I used to play in Humboldt Park, and later we lived out by Portage Park," he said. "I worked in my uncle's drug store on Grand Avenue."

"I loved that city, I really did," he said. "I have lots of good memories."

Stolar sit silent, looking at the gray Moscow day.

"I'd sure like to see that town again," he said.

AUGUST 26, 1975.

Hon. ANATOLY F. DOBRYNIN,
Ambassador of the Union of Soviet Socialist Republics,
Office of the Embassy,
1125 16th Street, N.W.,
Washington, D.C.

DEAR MR. AMBASSADOR: In view of the recent agreement between the United States and the Soviet Union signed in Helsinki, Finland, providing for less restrictive emigration procedures, I appeal to you on behalf of Mr. Abe Stolar, who along with his wife and son requested permission from Soviet authorities to emigrate to Israel in 1971 but have never been allowed to leave the Soviet Union.

I urgently request that you use your good offices to facilitate the grant of permission to emigrate as requested by these individuals.

Sincerely,

FRANK ANNUNZIO,
Member of Congress.

EMBASSY OF THE
UNION OF SOVIET SOCIALIST REPUBLICS,
Washington, D.C., September 3, 1975.

Hon. FRANK ANNUNZIO,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. ANNUNZIO: With reference to your letter of August 26, 1975, I would like to inform you that the Embassy does not deal with questions concerning Soviet citizens' departure from the USSR for permanent residence elsewhere.

These matters come under the jurisdiction of appropriate authorities in the Soviet Union, which consider them only on the basis of applications by Soviet citizens themselves.

Sincerely,

Y. GALISHNIKOV,
Chief, Consular Division.

LONDON SCHOOLS SYMPHONY ORCHESTRA

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. WAXMAN. Mr. Speaker, the Hollywood Bowl in Los Angeles will be the scene of a major cultural exchange when the Los Angeles Community College District presents the London Schools Symphony Orchestra in concert on Sunday, September 19, 1976.

The British Bicentennial Arts Committee has chosen this orchestra made up of 100 of Britain's finest young musicians as the sole representation of all the youth orchestras which flourish in Britain today.

Not only will there be a fine interaction with the young musicians of Los Angeles but also a mingling of cultures through the hospitality of Los Angeles as they open their homes to the musicians.

Leading the London School Symphony is one of Britain's most brilliant young conductors, Simon Rattle, whose sudden rise to fame at the age of 21 has had a dramatic impact on the musical world. He and the orchestra have been acclaimed for performances at the Philharmonic, West Berlin, Beethovenhalle, Bonn, Surbonne, Paris, Guildhall and Sadler Wells, London.

The Los Angeles Community College District, the largest in the country, with nine colleges and 140,000 students, seeks community involvement through a flexible program of cultural, educational, social, recreational enrichment.

Through lecture series, mobile counseling, theatrical productions, senior citizen centers, art exhibits, workshops, conferences and career centers, the College District stimulates and assists programs of community action.

This cultural highlight through cooperation with the British Bicentennial Arts Committee and the Los Angeles colleges is an outstanding example of the kind of international friendship which leads to peace and understanding.

It is my pleasure to congratulate the Los Angeles Community College District and Chancellor Koltai for this fine undertaking.

DEDICATION OF MEMORIAL SECTION, WOOD NATIONAL CEMETERY AND MEMORIAL SERVICE FOR LT. TOM CRESS, USN

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. ZABLOCKI. Mr. Speaker, on Tuesday, August 17, 1976, I had the privilege of participating in the dedication of the memorial section of the Veterans Administration Cemetery, Wood, Wis. A portion of the VA cemetery has been set aside as a memorial to those who have lost their lives in the service of their country but whose remains cannot be returned here for a final resting place.

It was also a most appropriate time to honor and memorialize Lt. Tom Cress, USN, who was lost at sea on January 6, 1961, while serving his country.

Tom sang in my choir at St. Vincents Church, Milwaukee, Wis., when he was a boy and had a beautiful boy soprano voice. He showed leadership qualities even in his youth and was an outstanding young man in every way. He served his country well, and his death was a great loss to his family and friends and to our Nation. There is consolation in knowing that his life and herioc sacrifice added to the heritage of our great country.

An example of Tom's outlook on life and his dedication to duty and devotion to God is exemplified in the following poem, one of many he composed while on ship duty:

The sun sank slowly in a golden mantle of color.
Man watched
And was awed.
God looked down and smiled.
Such little things in nature made the creature aware of beauty.
But what of the spirit?
Somber gray towers stretched to the heavens.
The sea was disturbed by massive structures of might,
And this was not in nature,
But it was a part of it.
This was that intruder, man,
Drinking in the purple, and red, and golden sun sinking into the sea.
But not merely as a watcher
For his task was more terrible.
The somber towers of destruction were there for another purpose.
Man was being taught to destroy man!
Yet the creature saw God's beauty and was awed.
His heart was not in this grisly business.
And God saw
And looked down
And smiled.
For man was not built to study destruction.
He was made as a companion to man
And his nature rebeled against his action.
He felt,
But he did not realize.
Still God smiled;
For it was in the nature of these, his creatures, that peace and order lived,
And thrived.
Man would continue his war against man,
For a awhile,
But his nature would rise triumphant.
For man is good.
He was made by He who is All-good.
As was the earth,
And the sky,
And all things.
He could not rebel forever,
But soon would surrender himself to his nature,
And thus to his God.

The memorial ceremony at Wood was a fitting and well deserved honor to the memory of this fine young American, and as I shared the occasion with Tom's family and friends as well as officials of the Veterans' Administration and the veterans service organizations, I could not help but reflect that the price of freedom has often been high—that the preservation of freedom and our democratic ideals has at times demanded the supreme sacrifice of some of our Nation's finest. This was the theme of the dedication address of Rev. J. E. Trethewey, Chief of the Chaplain Service, which follows:

In his address at Gettysburg President Lincoln said:

"We are met on a great battlefield . . .

We have come to dedicate a portion of that field as a final resting place for those who here gave their lives that that nation might live. It is altogether fitting and proper that we should do this."

It seems altogether fitting and proper that we dedicate a portion of this National Cemetery, as has been done in other National Cemeteries, as a Memorial to those who also gave their lives for their country but whose remains cannot be returned here for a final resting-place.

Military service and warfare demands that those in the service of our country often face danger on land, in the air, on the sea and under the sea. Tragically, some are lost at sea; some are missing in action as a result of carrying out dangerous and often lonely assignments, and after a period of time, are presumed to have died. We shall honor the memory of those veterans by inscribing their names on individual markers and placing them in this section set aside in their memory.

The parents and other loved ones of Tom Cress, who was lost at sea while serving his country are present at this Dedication. We can only begin to understand the significance of this occasion for you personally. We stand with you and by you today.

The first marker to be placed in this section is inscribed "In Memory of Tom Cress." From time to time, other stone markers will be inscribed and placed in memory of other veterans. To this place loved ones may come to memorialize their loved ones.

But we, too, recognize as did President Lincoln at Gettysburg, that "in a larger sense, we cannot dedicate, we cannot consecrate—we cannot hallow—this ground" either, "because brave men have consecrated it far above our poor power to add or detract."

The appropriate Dedication, now then, is a Dedication of ourselves "to the great task remaining before us" also—the task of defending the right to be free.

Mr. Speaker, I take this opportunity to commend the Veterans' Administration for initiating the policy of setting aside memorial sections in National cemeteries for servicemen lost in action whose remains cannot be returned for interment. Particularly, Mr. Mack Cochenour, cemetery superintendent at Wood, has the undying gratitude of the families of such servicemen for initiating and promoting a memorial section at Wood, Wis.

At the dedication ceremony the Veterans Administration was represented by Wood VA staff personnel and veterans service organizations. The family and friends of Lt. Tom Cress are grateful to them.

The Veterans' Administration staff personnel and veterans service organizations representatives present and participating in the dedication service were as follows:

Mr. A. L. Modin, Center Director.

Mr. J. T. Krajeck, Assistant Center Director.

Mr. James N. Santelle, Special Asst. to Director.

Mack Cochenour, Cemetery Superintendent.

Chaplain J. Trethewey, Chief, Chaplain Service.

Mel Nimitz, Station Photographer.

Robert Krebs, Asst. Chief, Engineering Service.

Richard Reid, Chief, Voluntary Service.

D. N. Felty, Chief, Engineering Service.

H. R. McClanahan, Asst. Chief, Bldg. Mgmt. Service.

Mr. Fred C. Heinle, State Service Officer, The American Legion.

Mr. Harold Henry, American Legion Hospital Representative.

Mr. Ralph Gerlach, Asst. State Service Officer, VFW.

Mr. Thomas Murach, VAVS Hospital Representative, VFW.

Susie Heitkemper, VAVS Deputy Representative, Disabled American Veterans.

Monica Witt, Hospital Representative, American Legion Aux.

Martha Marlowe, State VAVS Representative, AMVETS.

Russ Sheldon, Hospital Representative, Masonic Service.

Mr. Ed McDonald, Field Representative (Washington, D.C.), American Legion.

Wm. Markhoff, Hospital Representative, Military Order of the Purple Heart.

Frank C. Krolczyk, Asst. National Service Officer, Disabled American Veterans.

Albert J. Hanna, Department Adjutant, Disabled American Veterans.

Mr. Speaker, there will be other individuals like Tom who will be honored throughout our Nation, and this should be an inspiration to each of us to rededicate ourselves to the principles for which these brave men and women have given their lives.

BIG ERNIE DESERVES MORE THAN MENTION WITH END IN SIGHT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. CLAY. Mr. Speaker, recently an article appeared in the St. Louis Post Dispatch about one of the greatest sportspersons I have known. Many of you will remember Ernie McMillan. It is with great pleasure that I rise today to pay tribute to a fine person and a personal friend.

I commend the following article dated Aug. 22, 1976 to my colleagues:

[From St. Louis Post-Dispatch, Aug. 22, 1976]

BIG ERNIE DESERVES MORE THAN MENTION WITH END IN SIGHT

(By Tom Fitzpatrick)

CHICAGO, Aug. 21.—It all ended so quietly. There was a brief wire service story out of Green Bay, Wis. It told how Ernie McMillan has been cut by the Packers. He had been in the National Football league as an offensive tackle for 15 years; the first 14 with the St. Louis Cardinals.

McMillan was 38 years old, the story said. He was coming off winter knee surgery and the Packers had to make way for their No. 1 draft choice, Mark Concar, an offensive tackle out of the University of Colorado. Concar is 23.

The story intrigued me because McMillan started playing football at DuSable High in Chicago under Jim Brown. He went on to play at the University of Illinois with Ed O'Bradovich and Bill Brown.

There was a time when McMillan was considered the best pass blocker in the NFL. He had been offensive captain and played in 162 consecutive games for the Cardinals. He made the pro bowl game four times.

Now he was leaving, and he was barely a footnote to the news.

Some things should not end in silence. Ernie McMillan deserves more than a passing mention, I thought.

"It was the saddest thing I've seen in a long time," a Green Bay man said "Practice was agony for Ernie this year. His body just gave up on him. It's a damned shame a decent guy like Ernie can't go on forever."

When it came down to it, Bart Starr, the Packer coach, who is only four years older than Ernie, called him to his office.

"Ernie," Starr said, "It's time for you to retire. I brought you here from St. Louis a year ago when they let you go because you were exactly the high quality kind of guy we needed to turn our program around.

"You did a fine job for us but now it's time to quit. Why don't you let us announce your retirement?"

Ernie McMillan sat there thinking for several minutes before answering. He has always taken every step with caution.

"No, Bart," McMillan finally said. "I'm not ready to quit. I still think I can play and help somebody. Just put me on waivers. That way every other team in the league will know I'm still available."

It was the same decision McMillan had made a year previously when Joe Sullivan, the general manager of the Cardinals, called him into his office.

"Ernie, you've been one of the greatest players in Cardinal history," Sullivan begged. "Let us tell the world how great you've been for this club. Let's announce your retirement and have one hell of a big party for you."

Sullivan remembers the desperate look that came into Ernie's eyes when he answered.

"This is my life," McMillan said. "Pro football is everything I have ever dreamed about in the world. I still think I have something left."

So Ernie was dropped by the Cardinals and headed for Green Bay. He would be missed.

Don Coryell, the present coach of the Cardinals, will never forget the sight of Ernie on the sidelines during the final game of the season against the New York Giants in 1974.

"Ernie had been injured and couldn't play," Coryell says. "A coach doesn't usually know what's going on behind him on the bench. But I couldn't help but notice Ernie there in his civilian clothes.

"He was eating his heart out, he wanted to play so bad. It was raining and Ernie stood there handing out towels to everyone and even helped wipe the balls off for the officials.

"We were losing 14–0 at half and we needed that game to win the division title. Ernie went around the dressing room talking quietly and encouraging everyone. We came back and won 26–14."

Jim Brown remembers Ernie when he was a high school kid playing for DuSable.

"I coached 20 years," Brown says, "and I never had a kid who worked as hard or was more reliable. Nobody knows what a price Ernie paid to become a great athlete."

Ernie's older brother, Shelly, was a great basketball player as was Ernie's younger brother, Floyd. Shelly went to Indiana University and then transferred to Bradley where he was a star and then on to a career in pro basketball.

"Actually, I thought Ernie could be a great basketball player, too," said Brown, "because he was so good around the boards, but I couldn't get Indiana to give him a basketball scholarship. So I went down to Illinois and got them to give him a football scholarship.

"Nobody knows what a torture chamber he went through down there. He didn't play in anything but scrimmages for the first two years.

"After spring practice was over he'd come back home to Chicago. You know what he'd do then? He'd get up at 5 a.m. and go out jogging in Washington Park. Then, he'd put heavy gauze over both his forearms and tape them.

"Then he'd pick out a big tree and he'd just wear himself out attacking that tree trying to block it."

Brown hesitated.

"The thing about Ernie McMillan is that he was never able to convince anyone right at the start how good he was. Everyone always underrated him."

Ernie played defensive end in his last two years at Illinois. When he was a senior, Illinois was picked to win the Big Ten title. They had nine players who were drafted by the NFL. But they finished with a 5-4 record.

"I've finished high school and college," Ernie said then, "and I've never been with a winner. I want to be with a winner before I finish up as a pro."

So Ernie went to the Cardinals as a thirteenth-round draft choice.

Ernie played on some fine Cardinals teams that came close. And there are those who credit him with his finest hour in the game when he stepped in and helped mediate an ugly racial situation that was developing on the Cardinals in 1970.

Still, McMillan never played in a Super Bowl. Not having reached the summit, he has a hard time accepting the end.

"I still think I can help some team," McMillan said.

Jim Brown was close to tears when he heard that.

"I've got my fingers crossed for Ernie," he said. "Wouldn't it be great if somebody picked him up and he got his chance to play in the Super Bowl after all?"

It would be great, of course. But dammit, life just doesn't work that way.

WE ARE THE FOUNDING FATHERS OF THE FUTURE

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. GIBBONS. Mr. Speaker, Mr. Sidney Eisenberger, of Apollo Beach, Fla., which is within the congressional district that I am privileged to represent, is the first place winner in the Bicentennial awards program, "Toward Our Third Century," sponsored by Wells Fargo Bank in cooperation with the Smithsonian Institution. The program challenged Americans of all backgrounds to present thoughts on the Nation's next 100 years.

Prior to moving to Florida, Mr. Eisenberger lived in New York. He has an impressive educational and business background. With a masters degree in chemical engineering from Columbia University and a B.A. in the same subject from City College, New York, he is a member of MENSA—an international organization of persons whose IQ's are in the upper 2 percent of the population—and the Apollo Beach Civic Association.

The "Statement of Purpose" of the awards program included the following words—

> America's future rests upon the dreams, the resourcefulness, the determination, and the skill of all its people in seeking solutions to the critical issues facing our society. Now is the time to invite all who live in this country to shape a vision of the future that can profoundly affect our nation's existence.

Mr. Eisenberger's paper does just that, and, after reading it, it is easy to understand why he was a winner. I commend it to Members of the House and to all Americans:

WE ARE THE FOUNDING FATHERS OF THE FUTURE

(By Sidney Eisenberger)

($10,000 First Place Award Essay by Adult)

ADAPT OR DIE

Stars explode and their fireballs grow dim in the sky. Galactic clouds condense into new suns and new planets. Continents drift. New mountain ranges rise. Shallow seas turn into great plains. Grasslands replace forests and are replaced by deserts. Rivers slice through rising strata and build new land where their waters join the seas. Polar ice caps advance and retreat. Climates become hotter or colder, wetter or drier. Nature is restless, everchanging.

Living organisms must adapt to the fickle moods of nature or their species die out. To maintain harmony between their mode of living and the changing environment in which they live, they must evolve. Only Homo sapiens is not subject to this compulsion. Man has reached the end of the evolutionary line not because he has achieved perfection but because he has found another way to cope with nature. He has evolved into a technological animal. He has acquired the ability to use tools, to communicate, to study nature and pass information to succeeding generations, to transport himself and his goods over vast distances, to protect himself from extremes of weather, and to supplement his muscles with other sources of energy. Man can carry his life supports with him to the Sahara or the South Pole or even the moon.

Yet most of Man's technology would have died aborning had he not also become a social animal. His cultural, economic, and political institutions have made it possible for the many to act in concert for the benefit of all, however unevenly the benefits are distributed. Thus, the evolution of Man as a species is no longer sensitive to nature's variability. To be larger or stronger or fleeter of foot has ceased to possess survival value. Changes in body structure or function are not required to guarantee the continued existence of future generations.

For Man, the need to evolve has passed from species to societies.

THE CHANGING SOCIAL CLIMATE

Two hundred years ago, thirteen thinly populated English colonies on the Atlantic seaboard of North America banded together to fight a revolutionary war for their independence. They founded the United States of America, now the most powerful, the most affluent nation the world has ever seen. In those two centuries, Man's ability to control and exploit nature has been profoundly enlarged, producing changes in social environment at such a rapid pace that human societies have difficulty adapting to them.

A very small percentage of our present population grows enough food to feed the rest of us with a surplus for the needs of other nations. Nuclear reactors and the combustion of fossil fuels supply every American with many times the amount of energy than that which was available to the colonists from wood, horses, slaves, and the push of rivers against waterwheels. Mass production pours manufactured goods out of our factories with an ever-diminishing need for human labor. Conestoga wagons averaging less than fifty miles a day have given way to huge cargo planes and diesel trucks spanning the continent in a few hours or a few days. Laboriously handwritten letters, requiring weeks to cross the Atlantic via fast sailing vessels, have been replaced by the almost instantaneous transmission of pictures and voices bounced off satellites hovering thousands of miles above the earth's surface. Special materials have been developed for all kinds of mundane and exotic purposes—new metals, new ceramics, and a bewildering variety of plastics. Computers are taking over the tedious aspects of mathematical calculation and the storage and retrieval of information. Pestilential scourges—smallpox, diphtheria, malaria, typhoid, polio—are almost non-existent in our land, and life expectancy has just about doubled since colonial days. Weather can be made to order almost everywhere except on a golf course, and air-conditioned golf carts are not too far away.

Unfortunately, not all of our expanded capabilities are benign. Many of our rivers and lakes and some ocean areas have been converted into open sewers and cess pools. We are running short of clean, potable water. Our thin layer of life-supporting air is being poisoned. Those few inches of soil on top of the earth's crust which ultimately feed all species is being exposed to the erosion of wind and water. Fish and game have become scarce. Access to unspoiled nature has been constricted by unplanned growth and the rapacious exploitation of natural resources. And worst of all, warfare has changed from the hand to hand combat of the few to the push-button killing of unseen millions halfway round the world.

The evil consequences of our technological sins are no longer local: they affect the entire planet, the space ship we call earth. Our power to destroy has brought Armageddon in sight.

SOCIAL ADAPTATION

Though Homo sapiens has become fortified against the vagaries of nature, nothing protects Man's societies from the iron law of evolution: adapt or die. If they fail to maintain harmony between their institutions and the everchanging status of ideas, knowledge, relationships, and needs, nations will crumble and a new age of darkness will descend upon us. As information accumulates and understanding improves, we need new ways of looking at the world. As the demand for natural resources increases and access becomes more difficult, we must find better ways to order our economy. As the temptations of power and the rewards of corruption grow, we must make our political system more accountable to the common people or we shall lose our liberties. As our numbers increase and our capacity for destruction becomes increasingly alarming, we must develop more effective institutions for promoting peace among men and harmony with nature.

The threat of obsolescence may no longer exist for us as individuals but it hangs heavy over any nation dedicated to what is instead of what can be. As the history of vanished civilizations shows us, those that outstrip their competition are particularly vulnerable to this insidious form of national suicide. It is so easy for the winners to believe that the status quo is the best of all possible worlds.

Thus, our Bicentennial is not a time for boasting and self-satisfaction. We should use this occasion to examine the problems of getting to our Tricentennial in good shape. Maintaining our supremacy by holding other nations down will get us into trouble. Staying on top by national self-improvement will keep us out of trouble. Constantly matching our institutions to the requirements of changing circumstances will help us survive and prosper.

Being larger or stronger or fleeter of foot may again have survival value if we fail.

REVOLUTION AND EVOLUTION

The mid-wife presiding at our birth was revolution. We look with forgiving eyes at the failure of a revolution which drowned our country in blood before our first centennial. The United States has contributed more than any other nation to industrial and technological revolutions. It is ironic, therefore, that we have come to regard the word, "revolution", with hostility and deep suspicion, equating it with raging mobs, covert murder, and dark terror. It is a useful word for signifying the sudden appearance of something new, something that is not merely the result of growth, of step by step change. If we lay aside our semantic prejudice, we shall discover that revolution and evolution are not contending mechanisms for achieving change but rather complementary processes in the struggle for survival.

On the 200th anniversary of our own revolution, it is most appropriate that we restore this word to respectability.

That revolution and evolution are two faces of the same coin can be seen most clearly in nature where we are less troubled by our own bias. Mutation is the revolutionary process that suddenly produces characteristics never previously displayed by a given species. Natural selection is the gradual evolutionary force that weeds out characteristics threatening survival and encourages those favoring survival.

Without mutation there is no variation.

Without variation there is no natural selection.

Without natural selection there is no evolution.

Without evolution there is no adaption to environmental change.

Without adaption there is no survival.

A species will persist as long as its pool of characteristics includes those required to meet the challenge of changes. If the rate of mutation is inadequate, which is most likely when change is rapid, or if the new characteristics are inappropriate, the continued existence of the species is threatened.

Thus, revolution and evolution go hand in hand in nature.

No species can control the nature and the rate of its own mutations. But Homo sapiens does have the ability to invent new concepts, new institutions, new relationships to draw upon as it becomes necessary for societies to evolve under the pressure of a changing social environment. When Man has used this capability wisely, which has not always been the case, his revolutions have been bloodless and free of terror. When the flow of social mutations has been constricted by blind adherence to tradition or narrow concepts of self-interest, as was the case in England two hundred years ago, then his revolutions have been violent. Since the complementary nature of revolution and evolution is as inevitable for the survival of societies as it is for the survival of living species, the only influence we can have on revolution is whether they will be peaceful or violent.

We must be wary of the argument that what is working will continue to work and that violence is the consequence of stubborn, impatient, irrational insistence on unnecessarily drastic reforms. The instability of established order and the pressure for change are not always visible, and the voices of disaffection may be our only warning that our society is no longer in harmony with its social climate. The solid, unmoving earth over the San Andreas fault hides the enormous tensions being built up by huge rock formations trying but unable to slide past each other. The calm persists for years. Heedless men ignore slight tremors and go right on building hospitals, schools, and housing developments over the fault. Inevitably, the breaking point arrives and the rock masses get past each other. The violence of passage shakes the earth and the building come tumbling down.

LOOKING BACKWARD—AND FORWARD

Chronologically, the United States is no longer young. In a sense, we are the oldest of the great nations. Nevertheless, we are still young in drive and vigor, though perhaps not always in purpose which is sometimes murky even to ourselves. We have reduced to absurdity the melancholy view of John Jay's friend who, only seventeen years after we won our independence, wrote:

". . . we have lived to see (the United States) in its dotage, with all the maladies and imbecilities of extreme old age."

That we have survived and prospered for two hundred years is clear proof that revolutionary and evolutionary forces have been at work keeping our *institutions* adequately, though not perfectly and not always smoothly, adjusted to drastic changes in social climate. That our wisdom has been flawed is evident in the violence accompanying such historical events as Shay's Rebellion (our 18th century equivalent of a socialist revolution), the destruction of the institution of slavery, and the struggles between capital and labor. Nevertheless, our wisdom has been good enough to forge a system which can depose a head of state without disorder, which gives poor people upward mobility on the economic ladder, which legally, though not always in practice, bans all manner of discrimination, and which provides reasonably easy access to the political process for all.

It is, therefore, fair to say that we have developed a system which, in a general sense, is as good as we, the people, are willing to make it. If we fail to pay close attention to the public record of a political candidate, it is not the system's fault when we get a crooked president. When we allow a bombastic senator to frighten us with misty ghosts of subversion so that we are no longer able to distinguish fact from fiction, then it is no weakness of the system if our political institutions function with diminished effectiveness. If we allow the passage of gun control laws to be frustrated, then it is we, not the system, who have decided that the assassination of public figures and a reduction in the number of murders is less important than the inconvenience of sportsmen. If we flinch from the words, "socialized medicine", then it is not the fault of the system if, despite our superior medical research and medical centers, the health care delivered to common people is the poorest to be found among developed nations. Fortunately, we have always been given enough chances, sometimes painful, to correct our shortcomings. But it is better to avoid sins than to atone for them.

We now face the question: is our system good enough to continue adapting our institutions to the requirements of change? The pressure of exploding populations, the finite limits to our natural resources, and our awful power of destruction no longer provide much room for delay, fumble, and apathy. What has been good enough in the past may not be good enough now.

THE ENERGY CRISIS TESTS OUR WILL

To understand how drastic changes in social climate create a strong need to generate new characteristics in our institutions and force us to make hard decisions with respect to the evolution of our society, let us briefly examine the energy crisis.

The collapse of colonial systems in the last few decades has produced a large number of underdeveloped nations determined to eradicate their poverty via power-consuming industrialization. The advance of power-consuming technology in the developed nations continues at a rapid pace. Population increases guarantee greater power consumption even if a moratorium were to be declared on the aspirations of underdeveloped nations and on technological progress. Put these all together and the result is an enormous acceleration of an already huge demand for oil and natural gas. Since the world is running out of oil and gas, we are looking at a severe change in social climate.

There are various ways to adapt. We might undertake a program based on the resubjugation of former colonies: the suppression of industrialization, the rigid enforcement of birth control, and the elimination of excess population via famine and pestilence. The United States is not and is not likely to be the nation for such a task. That has not been the direction of our evolution. Perhaps Hitler's Germany would have considered it. But no matter how brutal a nation is prepared to be or how reckless it is in risking international conflict, this approach cannot work. It can only buy a little time. To the human race, it makes no difference whether oil wells run dry in 2000 A.D. or 2030 A.D.

Or, we could take severe measures to conserve supplies, including putting an end to our love affair with the automobile and enduring more of the discomforts of hot or cold weather. But conservation, though highly desirable for several reasons, can also do more than postpone the inevitable.

Or, we can rely on our free enterprise system, as it is presently constituted, where the prices of oil and gas are supposed to rise as supplies decline until the next source of energy on the cost ladder becomes economically more desirable considering both price and the capital cost of changing over. The many complications in this approach and its many serious drawbacks will not be discussed because there is actually only one feature commanding our strict attention as the present argument is developed: only direct costs count in the choice of energy source, barring intervention in the marketplace by governments or cartels. Since the most socially desirable energy sources are the least competitive on a direct cost basis, it will be a long time before we turn to them in any substantial way. For example, in all but direct cost, sunshine is an ideal source of energy. It is present in substantial supply almost everywhere on earth and is inexhaustible. It is free of hazard and contributes absolutely nothing to pollution. It does not burn raw materials which are better employed for the production of pharmaceuticals, dyes, plastics and other useful products. It will not cause unpleasant genetic malformations in future generations. Yet all government estimates indicate that solar energy will not play a significant role until well into the 21st century.

This, therefore, suggests still another approach to the energy crisis. We can introduce the revolutionary idea that marketplace decisions must somehow be based on social costs as well as direct costs. If a coal burning plant had to pay for the health and property damage resulting from the pall of vitriol and cinders it spreads over the landscape, it might discover that solar energy is more economical. Adding social costs to the equations of commerce will not destroy our free enterprise system. It will merely compel it to evolve in such a way that its decisions will automatically be better adapted to changes in social climate and will be arrived at with greater speed and less strife. Had we been able to respond sooner and more decisively to the obvious fact, accurately forecast many years ago, that the wells were running dry, there would be no energy crisis today, there would be no controversy on this issue between Congress and the President, and there would be less cause for international tension.

THE NEXT HUNDRED YEARS

We have come a long way since 1776. The road has been rough. We have survived a civil war, two world wars, a disastrous adventure in Southeast Asia, and the wild gyrations of economic cycles. We have stumbled and fallen. We have picked ourselves up and gone on. But all along the way, we have polished our institutions or revolutionized them so that when the chips were down, our society has never failed to find reasonably good adaptations to great changes in social environment. Every amendment to the Constitution, every public service provided by the government, every protection we have against the greed and rapacity of men started out during the past two hundred years as a revolutionary idea opposed by the majority.

We are now at the pinnacle of our success. The fifty states extend from the Atlantic to the Pacific and beyond. For the first time in human history, it has become possible for a nation to eradicate poverty. The world looks to us for leadership. Yet, our examination of the energy crisis leads to the suspicion that our social environment is changing too rapidly for the institutional characteristics we have acquired to date and that our society is not adapting fast enough because the flow of revolutionary ideas is being impeded. It would seem, therefore, that our most difficult problem, as we journey toward our Tricentennial, will be the release and encouragement of those creative forces in our society which produce totally new concepts and new methods.

Workable revolutionary ideas are hard to come by when only the outraged and the unstable dare to oppose a hostile majority. Thus, the first step toward solving our problem is to recognize that civil rights do more than protect the right of an individual to be obnoxious: they are vital to our revolutionary development. There are few among us who object to free speech in principle but many who, at the drop of a hard hat, are eager to suppress it in practice. Perhaps it takes a sense of humor to understand that no one needs free speech until he wants to contradict prevailing opinion. It should not be a great strain on our common sense to see that dissent and disloyalty are not the same and that no amount of foreign gold can grow enough disloyalty to give us serious concern if we ourselves do not fertilize the soil of disaffection .

It will also be helpful if we return to an older concept of patriotism, honoring those who see greatness in the future instead of glory in the past. The founding fathers had no past to celebrate: that was for Tories. They had no stars and stripes to salute, no loyalty oath to take, and no national anthem to sing. Nevertheless, they produced the Declaration of Independence, the Constitution, and the Bill of Rights, becoming thereby our first and purest patriots. This is a fact beyond the reach of muckrakers who can prove only that the founders were men and not gods.

The 200th anniversary of our first revolution is a good time to salute the revolutions of the future. May our devotion to life and the challenge of change make them peaceful. May the celebrants of the Tricentennial commend us as we commend the patriots of 1776.

INFLATION AND THE ELDERLY

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. BLANCHARD. Mr. Speaker, I was pleased to support a needed change in the law relating to the supplemental security income program today. I refer to the Ketchum amendment which, fortunately, was adopted by voice vote. This amendment corrects a serious injustice which has been working against the elderly in our Nation, an injustice caused by inflation.

Currently the law allows HEW to set limits on the value of a home which a person can own and still be eligible for SSI benefits. The amendment eliminates that provision, and thus will allow the elderly to be treated more fairly in this time of inflation and economic hardship.

One of the best examples as to why this change in the law is needed comes from the treasurer of the city of Warren, Mr. Edward J. McLaughlin. I am privileged to represent Warren here in Congress, and Mr. McLaughlin's letter, I believe, sheds valuable light on this important subject.

Mr. McLaughlin writes:

CITY OF WARREN,
OFFICE OF CITY TREASURER,
Warren, Mich.

Hon. JAMES BLANCHARD,
House of Representatives,
Washington, D.C.

DEAR SIR: I would like to bring to your attention a problem, that perhaps with your assistance can be rectified.

A Warren resident brought in a notification received by his ninety one year old mother, advising her that Social Security Supplemental benefits were discontinued and not to cash but return any checks she received in the future. Reason given: her home is valued in excess of $25,000.

We both realize that the value of property has been increasing by leaps and bounds every year which is a detriment to the aged who want to remain in their homestead filled with memories until called by the dear Lord. Without additional income so desperately needed to exist in today's world of spiralling costs, it is truly an injustice that they are deprived of this income through no fault of their own.

As you know in Michigan property is assessed at 50% of the cash value, just this year of 1976 valuations were increased 22%. I realize that this increase not only affected Warren residents but the entire state of Michigan and every state in these United States.

I have included a recent article published in the Detroit Free Press which states that the median price of new, single family homes have increased 71% since 1971 at which time the median price was $25,200, in May of 1976 the price is $48,000.

One of our Warren residents included a valuation breakdown of his property since 1966 when his property was assessed at $8,000, today it is assessed for $14,521, making the cash value of the property $29,000 (copy enclosed).

I also submit a copy of page 5 of the Guide to Supplemental Security Income, (DHEW Publication No. SSA75-11015).

Your cooperation and assistance in changing the formula used for a basis in providing additional income to the aged, so that these people are protected, will certainly rectify this injustice on behalf of the elderly.

Your efforts in correcting this situation will be most appreciated.

Respectfully yours,

EDWARD J. MCLAUGHLIN,
Warren City Treasurer.

BILINGUAL WASTE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. McCLORY. Mr. Speaker, on July 21, 1976, the National Association of Secretaries of State passed a resolution condemning the waste of materials and manpower required to prepare bilingual ballots and election materials under the Voting Rights Act as amended in the 1975 act.

In December of 1975 I introduced H.R. 10997 calling for the repeal of the onerous and burdensome bilingual provisions of the Voting Rights Act Amendments of 1975. Subsequently, I introduced H.R. 13137 and H.R. 13485 with over 30 cosponsors to accomplish this much needed repeal.

My colleagues should take note that the National Association of Secretaries of State, which represents the office of Secretary of State in each of the 50 States of our great Nation, has concurred in the need to limit the distribution of bilingual ballots to those cases where more than 5 percent of the total population use only a second language other than English.

I submit the following resolution to reinforce my belief that DON EDWARDS, chairman of the Subcommittee on Civil and Constitutional Rights, should take action on my bills to repeal the ill-considered bilingual Voting Rights Act amendments of 1975.

RESOLUTION

Whereas, the National Association of Secretaries of State opposes on principle the inclusion of wasteful or confusing provisions in all laws governing the electoral process; and

Whereas, the requirement that ballots and other eelctions materials and voter assistance in any or all of the 50 United States be furnished bilingually without regard to the efficacy of doing so or the relative number of voters using only a second language other than English would in all likelihood contribute to such circumstances; and

Whereas, the requirement for bilingual ballots, materials, and assistance specifically increases the expense of conducting elections; and

Whereas, the bilingual requirement likewise increases the cost of elections in terms of man hours; and

Whereas, the preparation of bilingual ballots, materials, and assistance serves to increase confusion in areas lacking a population which uses only a second language other than English; and

Whereas, the presence of bilingual ballots, materials, and assistance serves no practical purpose in areas lacking a population utilizing only a second language other than English.

Now, therefore, be it resolved that the NASS takes the position that bilingual ballots, materials, and assistance should be mandated only in counties and cities in which at least five percent of the total population utilizes only a second language other than English, as ascertained by the U.S. Bureau of the Census; and

Be it further resolved that the NASS urges Congress and the various state governments to adopt such a standard in mandating distribution of bilingual ballots, materials, and assistance; and

Be it further resolved that copies of this resolution be forwarded to each member of the Congress and to the President of the United States.

Adopted by the National Association of Secretaries of State on this twenty-first day of July, 1976.

ELWILL M. SHANAHAN,
President.

PAT PERKINSON,
Chairman, Resolutions Committee.

REMEMBERING THE SOVIET INVASION OF CZECHOSLOVAKIA

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. FENWICK. Mr. Speaker, 8 years ago this month the Soviet Union moved with force into the Czechoslovak Socialist Republic, smothering the political reforms that had been initiated just months before.

The Soviet intervention ended a "Prague spring" which had ushered in a few human freedoms. The courageous leadership of Alexander Dubcek sought to democratize and humanize a political system that had become far removed from the people it was to serve.

Soviet intervention was followed by enunciation of the so-called Brezhnev doctrine, which asserted that it was the right of the U.S.S.R. to intervene militarily in any socialist country which deviated from the "common laws governing socialist construction" or which threatened "the cause of socialism."

Despite the Soviet tanks and troops, despite the August 1968 intervention and the subsequent Brezhnev doctrine, the people's desire for freedom lives on in Czechoslovakia.

The convening of the Conference on Security and Cooperation in Europe and the signing of the final act at Helsinki were acts of hope for them, in reaffirming their human rights.

Because of our own commitment to these values, we have established in Congress a Commission to monitor compliance with the Helsinki accord. It is important for us to follow up on such a major international agreement in which the signatories—including Czechoslovakia—acknowledged that certain human freedoms were international concerns.

Our pursuit of these ideals is an indication of our continuing repudiation of military acts against a sovereign people.

REDTAPE BLUES

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. PAUL. Mr. Speaker, on August 25, I found myself on the receiving end of a 391 to 3 vote. The bill in question, Guaranteed Student Loan Amendments of 1976, H.R. 14070, was obviously quite popular with my colleagues. No doubt they believed that a vote in favor of this bill was a vote for better education for more people. Yet I am firmly convinced that the inevitable result of Federal aid to education at any level is bureaucratic education—the very antithesis of independent education, the only kind worth getting.

He who pays the piper calls the tune. In our day, this means that the massive, frequently unpredictable bureaucracy which administers the programs that are voted into existence by the Congress calls the tune. And the tune is all too often very loud and off key. The federalization of American education is the bureaucratization of American education, pure and simple. There is only one way that parents and students can regain control over the educational system in this country: buy it back. Federally guaranteed loans are simply one more nail pounded into the casket of free education. Education, if it is to remain free, will not be cheap. Besides there is no constitutional justification for Federal intervention in education.

Congress seems to be the last group to discover the implications of the programs that Congress creates and requires taxpayers to finance. We require poorer taxpayers to finance loan programs that are used overwhelmingly by the children of the middle class and upper middle class. We vote for programs that we know will be poorly administered by Federal bureaucrats, yet we act as if we were not responsible for the actions of those to whom we delegate the supervision of these programs. In the name of better education we are hamstringing education.

Federal rules now cost colleges and universities almost $2 billion a year to comply with, and this figure is growing rapidly. These student loan programs are being used by Washington's bureaucrats to compel university officials to revamp whole programs and physical plants on campus. As evidence, I offer a Newsweek article which appears in the August 30, 1976 issue. There is only one way to cure this bureaucratic nightmare: we have to stop voting for Federal aid to education. Federal money serves as the cutting wedge of the Federal bureaucracy. If education is to be saved from bureaucratic paralysis, we as legislators must stop subsidizing its strangulation. The answer to the horrors described by Newsweek is freedom—the freedom of each man to seek out the best education he can afford—or win a scholarship or private loan to finance. Until we face this fact, we will continue to smother education with tax-supported kindness.

The federalization of American education is the bureaucratization of American education.

The article follows:

REDTAPE BLUES

The U.S. Government gives colleges and universities nearly $9 billion a year. But there is a catch. Frustrated educators find that they are spending a lot of this largesse not to teach students but to comply with arcane bureaucratic regulations. The University of Illinois, for example, may soon have to spend $557,000 to correct a minor violation of the Occupational Safety and *Health Act*. The school must repair an elevated walkway connecting the buildings of its Chicago Circle campus; the solid granite slabs that form its banisters fall 5 inches short of the OSHA specification that all railings must stand 42 inches high. Federal inspectors recently warned Stanford that the university's 6,000 chromium-plated fire extinguishers did not meet U.S. standards, which require that all such devices must be colored red. Exasperated officials figured out a way to comply: they wrapped the offending fixtures in red tape.

Since the mid-1960s, when both government funds and regulations began to accelerate at an unprecedented rate, the nation's colleges have labored especially hard to comply. They must meet all the standards required of corporate and industrial employers, such as health and hiring regulations, and at the same time fulfill a set of obligations designed for educational institutions alone. Every Federal regulation means inspections, corrections, record keeping and the possibility of costly court battles if a school's compliance is challenged. By the best estimates available, the Byzantine Federal rules now cost colleges and universities almost $2 billion a year—a figure that is roughly equal to the entire sum the institutions raise through voluntary donations. Noncompliance, of course, can be even more expensive. A school that does not meet the government's standards is in danger of losing its Federal assistance.

The American Council on Education has completed a new study of the problem that highlights the colleges' worst troubles. Using detailed figures of six representative institutions, from the private College of Wooster in Ohio to the cosmopolitan University of Illinois, ACE has determined that compliance costs between 1 and 4 per cent of the schools' operating budgets—enough in these tight times to force cuts in departmental funds. Many of the newest regulations the report notes, concern employment, an area that hits the labor-intensive colleges much harder than it does an ordinary manufacturing concern.

Bureaucrats are little moved by protests that a university academic department is different from a factory assembly line. A college may want to add more blacks to its faculty, but that can be difficult when its only job openings are in eighteenth-century French literature or sub-particle physics and there are not enough black Ph.D.'s to go around. In their search for more women and blacks, many institutions have hired special personnel officers—and even outside "head hunters"—to prove their good faith.

OBLIGATIONS

While most colleges support the principles that the Federal regulations are designed to uphold—from fair hiring to environmental protection—they deplore the sheer complexity of the bureaucratic demands. In order to fulfill their obligations under the new educational privacy act, for example, school officials not only must keep complete student records, but must painstakingly note every occasion on which anyone, anywhere, requests access to them. At Ohio State, this process costs $250,000 a year. Harvard president Derek Bok reports that the Harvard faculty spent more than 60,000 hours in the school year 1974–75 meeting the record-keeping requirements cf Federal programs. "It's not hard to imagine a day," says Duke president Terry Sanford, "when faculties and administrators will spend all of their time just filling out government forms."

Perhaps worst of all, some educators see a threat of government intrusion in the classrooms themselves. When the Department of Health, Education and Welfare recently proposed a review of all college curriculums to root out racism and sexism, so many schools protested the censorship implications that HEW withdrew the request. Yale President Kingman Brewster thinks that interference is inevitable when the government spends so much money on higher education. "It's the old syndrome," he says. "'Now that I have bought the button, I have a right to design the coat'."

The last straw for some weary college administrators proved to be the regulations against sex discrimination in education known as Title IX, which, among other things, ordered schools to equalize their spending on athletic opportunities for both men and women. Last spring, two institutions—Hillsdale College in Michigan and Brigham Young University in Utah—refused to comply, and invited the government to retaliate. Neither of these colleges receives direct Federal money for any of its programs. But they do stand to lose all Federal financial aid to their students, about $200,000 for Hillsdale and $6 million to $7 million for Brigham Young.

For the many colleges whose Federal assistance is a fiscal necessity, however, such nose-thumbing is not feasible. Most administrators simply want to persuade the Federal government to make sense of its regulations. But even that lobbying effort runs into Catch-22. This fall, bills will be considered in Congress that may result in new Federal regulations limiting college lobbying.

PRESIDENT FORD'S FINEST HOUR

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. STEIGER of Wisconsin. Mr. Speaker, along with many of my colleagues, I had the honor last week of representing my district as a delegate at the 1976 Republican National Convention. For me, for most delegates, and for the millions of spectators in the hall and around the Nation, the high point of that week was surely President Ford's acceptance speech. I know, from conversations with numerous people—Republicans and non-Republicans alike—that the impact of those words and ideas was fully felt both within and far beyond the emotionally-charged atmosphere of Kemper Arena. It was an experience that few witnesses will forget soon.

A recent editorial in the Fond du Lac Reporter captured, with great perception, the effect which the President's address—and his presence—had upon those who heard him that night. I am proud to share this editorial with my colleagues:

PRESIDENT FORD'S FINEST HOUR

President Ford stole a page from the book of Harry Truman last night as he delivered a genuine "give 'em hell" speech in a remarkable windup to the Republican National Convention.

The speech, which lasted around 35 minutes and was interrupted by applauding delegates 65 times, was not the dull recitation that many had expected and probably was the best the President has ever given.

Not only did he challenge Democratic candidate Jimmy Carter to a series of televised debates, but he also took on the Democratic-controlled Congress. In doing so, he grabbed the offensive away from Carter and indicated that he is on the side of tax-burdened Americans who want to apply voting pressure on congressmen seeking re-election.

It was an enormously impressive windup to a squabbling GOP convention that was brought to life by a "new" Gerry Ford. During his speech there was a confident, fighting tone in his voice that, for a few minutes at least, even made weepy-eyed Ronald Reagon delegates forget about their beloved candidate.

President Ford, following an acceptance speech by his vice presidential choice, Sen. Robert Dole of Kansas and a humorous introduction of Betty Ford by handsome movie star Cary Grant, seemed to completely surprise the delegates by the vigor and delivery of his remarks.

It was early in his talk that he said he would be happy to debate Carter so that everyone can learn "exactly where both of us stand."

Admitting that he "probably has made some mistakes" since taking over the presidency in the midst of a constitutional crisis, President Ford defended the vetoes he has written to curb the excesses of a free-spending Congress.

And in the course of his speech he called for tax reforms, restrictions on school busing, action on rising crime and a strong national defense. The reason more progress hasn't been made, said President Ford, has been because "Congress is the problem."

Warming to his task, the President cited the success of his administration in fighting inflation and unemployment and pointed to the fact that American troops are not at warfare anywhere in the world. He said he believes the budget can be balanced by 1978, that the nation's troubled cities can be helped, that local controls can be restored to our school systems, that new efforts have to be made to aid farmers, that Social Security can be protected and Medicare improved.

Admitting that he trails Carter in the polls, President Ford declared, "The only polls that count are the polls that people go to on Nov. 2nd." As the leader of the party, he said he would conduct a fighting campaign and predicted that the November election will be "a victory for the American people."

Delegates appeared highly pleased and impressed by the tone of the Ford speech, and occasionally shouts of "Give 'em hell" could be heard from the crowd. When the President finished there was a swelling chant, "Ford will win! Ford will win! Such a response was far from the usual reaction to President Ford's prosaic speeches in the past.

An emotional touch was added when the President invited Reagan and his wife Nancy to come down from the balcony where earlier in the evening they had been roundly cheered. In a few brief minutes, Reagan praised the conservative GOP platform, perhaps to emphasize that it is his platform on which President Ford will have to run. He spoke in a soft, eloquent, occasionally poetic manner that again brought tears to the eyes of many delegates who had supported him.

It seemed, in those somewhat theatrical

waning moments, that actor Reagan was about to steal the final scene. Yet the plain-spoken, stimulating, leadership words of Gerald Ford lingered. They were confident, hard-hitting, straight-talk words and, as if by magic, they appeared to pull a divided Republican party together. Oratorically, it was Mr. Ford's finest hour. And after two difficult, criticism-filled years, it may have been the making of a President.

THE CASE AGAINST COMPREHENSIVE GUN CONTROL

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. SYMMS. Mr. Speaker, one of the most stalwart defenders of the right to own and use firearms by American citizens is my good friend and colleague JOHN M. ASHBROOK. He has written an article entitled "Against Comprehensive Gun Control" which appears in the July–August issue of Current History. Arguing the other side of the issue is Senator KENNEDY.

At this point I include the text of Mr. ASHBROOK's article in the RECORD and commend it to the attention of my colleagues.

AGAINST COMPREHENSIVE GUN CONTROL

Every few years there is a renewed call for legislation dealing with firearms. Often the proposed legislation would further restrict the right of law-abiding American citizens to own and use firearms. Such legislation is usually proposed in the hope that it will help put an end to violent crime; so-called gun control is viewed as crime control. But it is a serious mistake to confuse the two.

Let us define the terms. The sloganeers throw the words "gun control" around as if everybody knows what they mean—as if good citizens are for gun control and bad citizens are against it. In fact, every American I know is for some form of gun control. No one favors allowing people to walk the streets with Thompson submachine guns. Nor does the average citizen need a howitzer or an anti-tank bazooka. Most Americans believe that laws that prohibit concealed weapons are fair. The list could go on and on. This is not what the advocates of gun control legislation mean, however. They advocate the registration and the eventual confiscation of firearms.

The right (and in some societies, the duty) of citizens to own arms is of long standing. As early as the thirteenth century, the English Parliament upheld the right of Englishmen to keep and bear arms.

In his *Commentaries*, an important basis for our founding fathers' understanding of English law, William Blackstone, the English jurist, pointed to the importance of the right to keep and bear arms, a right that is the final recourse of free men against tyranny.

This right, of course, played an important role in the American Revolution. In his book, *Our Vanishing Freedom*, James B. Whisker writes, "the first clash between colonists and British forces came about as a result of Americans' defense of their right to keep and bear arms." [1] It was British General Thomas Gage's attempt to remove military supplies kept by the colonial militia that helped start the American Revolution.

The second amendment to the United States Constitution speaks of the right of the people to keep and bear arms. Constitutions of the original 13 states also recognized the right. During the nation's westward expansion, the right to own firearms was well recognized.[2]

In addition to the provisions of the U.S. constitution, constitutions of over 75 percent of the states recognize an individual's right to keep and bear arms.

Gun control is frequently advocated as a means of reducing crime. Certainly, almost every American would like to reduce the amount of criminal activity in this country. There is no reason to believe, however, that gun control will result in crime control.

There are already more than 20,000 gun laws in existence at the federal, state and local levels. Many of these laws have been enacted in the last few years in an effort to bring crime under control. Despite all these laws, the crime rate has continued to escalate.

In fact, proponents of gun control legislation cannot point to any city or state that has reduced crime by adopting a gun law, regardless of the many gun laws on the books. It is interesting to note that, according to Federal Bureau of Investigation crime reports, approximately 20 percent of all the murders in the United States take place in New York City, Chicago, Detroit and Washington, D.C. Each of these cities has very stringent firearms laws. Why has gun control failed in those cities?

Gun control advocates respond that either the laws are not strong enough or that weak laws in surrounding jurisdictions make it easy to get around the laws. But New York City, for example, has one of the strongest gun control laws in the nation. There is a virtual handgun prohibition; only some 500 handgun permits are issued to persons not involved in law enforcement. Nevertheless, in 1973, New York City had almost twice as many murders with handguns and more than four times as many robberies with handguns as the rest of the country, on a per capita basis.

Proponents of gun control blame Ohio and other states with minimal gun laws for the high crime rates in New York City and Detroit. They believe that the availability of firearms causes crime. If this were the case, a state like Ohio, with minimal firearms laws, would have a far higher crime rate than states where guns can be obtained only by illegal purchases. In actuality, however, Ohio has a far lower murder and robbery rate than either New York or Michigan.

The excuse that guns from areas with weak laws account for the failure of New York City's firearms laws collapses on other grounds. It should be kept in mind that it is a violation of federal law for a person to buy a handgun outside his state of residence or for a person to sell a gun to a non-resident. In addition, it is a violation of state law for any New Yorker to import, carry or possess an unlicensed gun. Why will another federal law be obeyed when all the others have not?

The truth of the matter is that people who commit crimes like murder and robbery are not going to worry about a gun-licensing or registration law. Criminally minded individuals will always be able to procure guns—regardless of firearm laws. It is the law-abiding citizens who will lose their right to gun ownership. And it is the law-abiding citizens who are not going to commit murder and bank robbery anyway.

Charles Lee Howard, who has been serving time in the Ohio State Penitentiary, might well be called an expert on this subject. Howard has written:

"It's baffling that the people who want to prevent criminals like me from getting hold of guns expect to accomplish this by passing new laws. Do they forget that the criminal makes a business of breaking laws? No criminal would obey a gun law while committing a crime of equal or greater seriousness." [3]

The lesson of Charles Lee Howard should be clear to everyone. Any person willing to risk the penalties for murder, burglary or assault is not going to worry about the penalty for possessing an unauthorized weapon.

In short, it is naive to think that legislation to register or otherwise make it difficult to acquire firearms for legitimate purposes would in any way impede the unlawful conduct of the criminal or would prevent him from securing a gun. This position is backed by the California Peace Officers Association, which in 1969 stated:

"We have been unable to discover any evidence which would indicate that there is any direct relationship between the registration of firearms or the licensing of gun owners and the reduction in crime committed by the use of firearms." [4]

It is also supported by the National Sheriffs' Association, which has said:

"There is no valid evidence whatsoever to indicate that depriving law-abiding American citizens of the right to own arms would in any way lessen crime or criminal activity. . . . The National Sheriffs' Association unequivocally opposes any legislation that has as its intent the confiscation of firearms . . . or the taking away from law-abiding American citizens their right to purchase, own and keep arms." [5]

Other police officials have also made statements on the issue. The chief of police of Los Angeles, California, had the following to say on more firearm legislation:

"My views on gun control and the rights of individual gun ownership are well known. Some people seem to believe that if you legislate against handguns you will reduce murders and other gun-related crimes. That whole idea is absurd. We have legal restrictions on guns right now, but that doesn't stop the Arthur Bremers from receiving $50 fines or probation.

"New York is a good example of a city that has restrictions on handgun ownership. The Sullivan Law has been in effect for several years. Yet, this law seems to only have an impact on the people who are generally law-abiding. The criminals sure don't have any difficulty getting guns." [6]

Chief James Rochford of the Chicago Police Department takes an opposite viewpoint. He favors not only the registration but the outright confiscation of firearms. However, the policemen beneath him differ drastically. A poll of Chicago policemen indicated that 73.5 percent believe that current gun laws are adequate; they do not favor extending gun control laws despite the position of their chief.

In the central portion of Ohio, I took a survey of law enforcement officers. There was overwhelming opposition to the federal registration or confiscation of all firearms. When the question was federal registration of all handguns, there was still overwhelming opposition. By almost a three-to-one margin these officials felt that, if there were to be any more laws dealing with firearms, they should be at the state level rather than at the federal level.

These statements are supported in a comprehensive study prepared by Alan S. Krug, an economist at Pennsylvania State University. His study, which related FBI crime statistics to state firearms laws, concluded that "there is no statistically significant difference in crime rates between states that have firearms licensing laws and those that do not." [7]

Another myth is the theory that most handgun murders are unpremeditated, spontaneous crimes primarily resulting from family or romantic quarrels. Such killings are frequently labeled "crimes of passion."

A recent study in New York City conducted by the Rand Institute indicates that this is a myth. The study revealed that an upsurge in deliberate murders was responsible for most of the 60 percent increase in homicide in New York City from 1968 to 1974. During that period, homicides rose from 968 a year to 1,554.

Footnotes at end of article.

The Rand study emphasized that in most murder cases there was no longer a close relationship between the victim and the killer. At most, one out of five involved family members or close friends. The report declared that "We find that the major part of the citywide rise in homicides since 1968 seems to be in deliberate killings." [8]

No one can doubt that crime is a growing industry in the United States. The number of crimes committed in the United States is growing astronomically; since 1960 the crime rate has more than doubled. From 1973 to 1974, there was the largest annual increase—17 percent—in serious crime in the history of our country. According to the latest FBI figures, serious crime increased another 9 percent in 1975. Serious crime includes murder, rape, robbery, aggravated assault, burglary, larceny and auto theft. It is estimated that if unreported crimes were included the total might be three to five times higher in a number of cities.

Terrorism continues to be a threat. We read of terrorist bombings in London and other cities overseas. While not receiving as much media attention, terrorist activities are also continuing in the United States. During 1975, there was an increase in bombings in this country. Sixty-nine people were killed, and 326 were injured. Property damage was over $26 million.

Gun control is indeed needed to control criminals. I have introduced legislation that would make a prison sentence mandatory for anyone convicted of committing a crime in which he used a gun. To quote the chief of the Los Angeles Police Department:

> "If we really want to reduce gun-related crimes, all we have to do is require judges to impose an additional penalty on those individuals using guns during crimes. This has a dramatic deterrent effect on other gun-carrying criminals. Your average criminal on the street knows just what society will tolerate. He knows that his sentence will not be any greater, under current judicial practices, if he 'packs a piece'." [9]

Police officials do not confuse gun control with crime control. The American people have expressed similar views. Decision Making Information, a firm based in Santa Ana, California, recently completed a comprehensive public opinion survey on the issue of gun control.[10] This poll, conducted during September and October, 1975, is based on interviews with more than 1,500 registered voters from all regions of the country.

According to the DMI survey, almost three out of every four Americans feel that crime would not be reduced if Congress forced the people to turn in their guns. Instead, they recommend harsher punishment of criminals as the best way of cutting back on crime.

The survey found that fully 73 percent of the public does not believe that a federal law requiring all guns to be turned in would be effective in reducing crime. When asked to suggest ways to reduce crime, only 11 percent volunteered gun control as a solution. In contrast, by far the most popular suggestion was more severe punishment of criminals (33 percent). Only 1 percent mentioned the registration of firearms, and less than .5 percent suggested a ban on so-called "Saturday night specials."

In addition, 78 percent of the public feel that neither of the two recent attempts to assassinate President Gerald Ford could have been prevented by a national handgun registration law, and 71 percent reject the idea that assassination attempts on public officials could be avoided by banning the private ownership of handguns.

In conclusion, let us look at one of the causes of crime. In my opinion, a major problem is the decline of one of the basic tenets of this country—individual responsibility. Our forefathers believed that a person was responsible for his actions. If a person committed a crime, he should pay the price.

In recent years, some sociologists and other social scientists have advanced the view that individuals are not responsible for their actions. On the contrary, individuals are supposedly the products of their environment. The result has been the decline of individual responsibility and a rise in crime.

Nevertheless, attempts to ignore the facts of life have not negated those facts. Human beings are responsible for their actions. A return to this basic view will help to deter and punish criminals.

FOOTNOTES

[1] James B. Whisker, *Our Vanishing Freedom*, 2d ed. (Skokie, Ill.: Publishers' Development Corp., 1973).

[2] For a more detailed treatment of the historical and constitutional basis for the right to own firearms, see *ibid*.

[3] Charles Lee Howard as quoted in John Lee Ashbrook, "Gun Control Legislation," *Congressional Record*, June 27, 1968, p.H 19144.

[4] Lynn D. Compton, "California Police Officers Adopt Gun Control Policy," *Journal of California Law Enforcement* (January, 1969), p. 126.

[5] National Sheriffs' Association, "Resolution," June 23, 1971.

[6] As quoted in "Tough Words on Crime by L.A. Police Chief," *Human Events*, vol. 35, no. 12 (March 22, 1975), pp. 8–9.

[7] Alan S. Krug, *A Statistical Study of the Relationship Between Fire Arms Licensing Laws and Crime Rates* (University Park: Institute for Research on Land and Water Resources, 1967). See also Douglas R. Murray, "Handguns, Gun Control Laws and Firearm Violence," *Social Reforms*, vol. 23, no. 11 (October, 1975), pp. 91–93.

[8] Arthur J. Swerse and Elizabeth Enloe, *Homicide in Harlem* (Santa Monica: Rand Institute, 1975).

[9] *Supra*, note 6.

[10] "Public Opinion Survey on Gun Control" (Santa Ana: Decision Making Information, 1975).

UNIFORM PROMOTION PROCEDURES

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. LLOYD of California. Mr. Speaker, on Friday we are scheduled to consider the Defense Officer Personnel Management Act. The act will establish new and uniform promotion procedures for all services. I will be offering an amendment to DOPMA to correct what I feel is one of the fundamental injustices of the promotion system. My amendment will allow an officer who was not selected for promotion to request the reason for his being passed over. The officer will have the option to appeal the decision within 30 days. This right to know and to appeal will insure consistent promotion policies, and extend to the military a form of due process. The text of the amendment follows:

Proposed Section 618, Chapter 36, Title 10:

On page 14, line 10, insert after "section" the following: "or by section 626 of this title".

Proposed Section 626, Chapter 36, Title 10:

On page 22, line 35, insert "(a)" after the opening quotation marks and before "An".

On page 22, between lines 37 and 38 insert the following:

"'(b) An officer who has failed of selection by a board convened under section 611 of this title may, within 30 days after he is notified that he has failed of selection, request reasons why he was not selected for promotion. The request shall be in writing and be submitted through official channels. Within 30 days of receipt of such a request, the selection board shall advise the officer in writing of the reasons why he was not selected for promotion.

"'(c) An officer in the regular grade of captain, major, or lieutenant colonel in the Army Air Force, or Marine Corps, or lieutenant, lieutenant commander, or commander in the Navy who has requested reasons under subsection (b) of this section may, within 30 days after receipt of the advice of reasons from the selection board, appeal his failure of selection to a board of review convened under subsection (d) of this section. The appeal shall be in writing and submitted through official channels and may not criticize any other officer or reflect on the character, conduct, or motive of any other officer.

"'(d) Boards of review, each composed of three or more officers, shall be convened by the Secretary of the military department concerned at such times as he may prescribe to consider appeals from failure of selection under subsection (c) of this section. No officer may be a member of a board of review to consider an appeal from failure of selection by a selection board of which he was a member. If the board of review determines that the failure of selection was contrary to law or involved material error or fact or material administrative error, the Secretary concerned shall refer the record of the officer to a special selection board convened under section 627 of this title. Otherwise, the failure of selection shall be affirmed.

Proposed Section 630, Chapter 36, Title 10:

On page 24, line 27, insert after "time," the following: "whose right of appeal, if any, under section 626 of this title has been exhausted,"

Proposed Section 631, Chapter 36, Title 10:

On page 25, line 13, insert after "time" the following: ", whose right of appeal under section 626 of this title has been exhausted,".

Proposed Section 632, Chapter 36, Title 10:

On page 26, line 25, strike out "and".

On page 26, line 27, insert after "(Navy)," the following: "and whose right of appeal under section 626 of this title has been exhausted,".

ETHNIC HERITAGES

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. MURPHY of New York. Mr. Speaker, all America is a multi-ethnic society where people of all national origins bring their culture and heritage together to form a unified nation. My own 17th Congressional District of New York is a microcosm of America, with representatives of nearly every ethnic society living side by side.

Some of America's greatest unsung heroes have their roots in these ethnic heritages. I refer specifically to the foreign language newspapers published in America, whose responsibilities are to explain America to its ethnic constituency and to keep open the avenues of communication between the many facets of our ethnic mosaic. One of their most important functions is to help immigrants to become American citizens by keeping them informed of the daily flow of events, and by forming a bridge of understanding between the immigrant's old and new cultures.

Recently, the China Post, a major Chinese language daily newspaper published at 11 Allen St. in New York's 17th Congressional District, was instrumental in having the New York City Police Department change its offensive terminology for identifying the American Chinese. For over a century, American Chinese were identified as "the yellow race" in official records. At the suggestion of the China Post, New York City Police Commissioner Michael Codd changed the records procedure which had previously identified those of Asian heritage as "yellow," to a system which now identifies them as "oriental."

The purpose of the change is to eliminate the prejudices and confrontations among police and our citizens of Asian descent.

I would hope that police departments across the nation might follow Commissioner Codd's lead in contributing to equality and the elimination of racial prejudices. I believe the China Post deserves the highest recognition for its performance of a public service in eliminating such an unjust practice by the bureaucracy which had been for so long a thorn in the side of honest, industrious Americans of Oriental heritage.

Three letters pertaining to the above-mentioned subject follow.

The China Post,
New York, N.Y., May 18, 1976.

Mr. Michael J. Codd,
Police Commissioner,
New York, N.Y.

Dear Mr. Codd: In covering crime stories for The China Post I have become increasingly aware of a discrepancy in the police reports which name the Chinese peoples as the "yellow race" (M–Y)

This appellation is an anachronism and an injustice to the Chinese peoples (one billion) because they all do not have "yellow skin". I have yet to discover where the term originated.

Perhaps New York City can extend the same courtesy to its Chinese peoples as they have to its Black Puerto Ricans who are now listed at Hispanics (M–H).

The Chinese peoples arriving now to live in New York City are very much different than those who had arrived over 100 years ago. They are better educated, more sophisticated, higher on the social scale and their skin tone is as light as the average Scandinavian. Our Chief Editor once asked me why the American Chinese peoples are called the "yellow race"?

A change in the nomenclature would eliminate the ammuntion for future confrontations and probable prejudices among future rookie policemen.

May we suggest you change the reference from M–Y to M–A for "Male-Asians". It would establish a landmark decision which would be identified with your tenure in office. This gesture would be undoubtedly adopted by Police departments in the rest of America during this Bi-Centennial Year.

May we have your reply at your earliest convenience?

Thank you,

Emile Bocian,
Assistant to Editor.

The City of New York,
Police Department,
New York, N.Y., July 9, 1976.

Mr. Emile Bociah,
Assistant to Editor, The China Post, 11 Allen Street, New York, N.Y.

Dear Mr. Bocian: Your recent letter concerning the reference in department records to those of Asian heritage as the "yellow race" raises an important issue. For sometime, the New York City Police Department has taken steps to eliminate terminology in official communications which is offensive to the people of various ethnic origins living and visiting our city.

On May 27, 1976, I promulgated an order requiring the term "Oriental" to be used in arrest reports and on June 18, 1976 for Juvenile Reports. With these orders, the official designation of those of Asian heritage will be Oriental.

I appreciate your concern and thank you for bringing the matter to my attention.

Sincerely,

Michael J. Codd,
Police Commissioner.

Congress of the United States,
House of Representatives,
Washington, D.C., August 10, 1976.

Mr. Emile Bocian,
Assistant to the Editor, The China Post, 11 Allen Street, New York, N.Y.

Dear Emile: Thank you for the copies of correspondence regarding the New York City Police Department's recent change in terminology used on arrest reports for citizens of Asian heritage. I appreciate your keeping me informed, and I appreciate even more your untiring efforts on behalf of the Asian community in New York. Seldom does a bureaucracy alter its unacceptable practices without first having had an infusion of community interest through such dedicated and involved citizens as yourself.

I am sure I speak for the entire community in thanking you for your contribution to equality and to the elimination of racial prejudices.

Sincerely,

John M. Murphy,
Member of Congress.

LEGISLATION TO COUNTER FOREIGN BOYCOTTS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. ROSENTHAL. Mr. Speaker, at the next meeting of the International Relations Committee, scheduled for Tuesday, August 31, I and several of my colleagues, including Messrs. Bingham, Solarz, Fascell, Gilman, and J. Herbert Burke, will be offering an amendment to prohibit all American compliance with the Arab boycott and any other secondary boycott of American business.

Because of the great interest expressed by numerous Members in the contents of that amendment, I wish to include in the Record at this point a summary of the provisions of this important measure. I also append an editorial from the Washington Post which ably and succinctly sets forth the vital need for this action:

Analysis of Antiboycott Amendment

PROHIBITION

The amendment prohibits all American businesses and individuals from taking "any action with an intent to comply with or to further or support" the Arab boycott and any other foreign boycott of a country friendly to the United States. It also directs the Commerce Department to enforce the prohibition by issuing rules and regulations outlawing specifically the following types of conduct among others:

Discriminating against any American on the basis of race, color, religion, sex, nationality, or national origin.

Boycotting any American company, the boycotted country, any company or individual in the boycotted country, or any company which does business with the boycotted country, its businesses or residents.

Furnishing information about an American's race, color, religion, sex, nationality, or national origin.

Furnishing information about any business dealings related to the boycotted country.

REPORTING

The amendment requires all American businesses and individuals to file with the Commerce Secretary a report of all boycott-related requests which they receive. These reports must be made public and transmitted to the Secretary of State.

ENFORCEMENT

Any American business or individual hurt by a violation of the boycott prohibition may institute a private right of action to collect three times actual damages and other litigation costs. This would arguably protect, for example, an employee fired as a result of a boycott request or a company which loses a contract because of its business relations with the boycotted country.

[From the Washington Post, June 12, 1976]

Arab Boycott Victims: Americans

The specific dimensions of the Arab boycott—in fact, a boycott of American firms that deal with or in Israel or whose officers are identified as "Zionists" or simply as Jews—are becoming known for the first time. One House subcommittee has established that in 1974–75, 637 American exporters sold at least $352 million and perhaps as much as $781 million in goods and services under boycott conditions. Another subcommittee found that in the four months running from last December, one bank alone received and executed 824 Arab letters of credit, worth $41 million, containing boycott clauses. In one of a number of such cases, General Tire has been accused (by the SEC) of paying a $150,000 commission to get off the boycott list. Although the Justice Department has filed an antitrust suit against Bechtel Corporation for boycotting another American firm in order to fulfill a boycott requirement, Bechtel is said to be notifying subcontractors that Israeli goods or materials shipped on blacklisted vessels cannot be used in a $20 billion Saudi seaport project.

So the Arab boycott is real. It is immense, though sometimes capricious. It seems to be growing as business prospects grow.

What should be done? The administration believes its own current quiet policies suffice. Further legislation would be "counterproductive," Treasury Secretary William Simon argued the other day. But it is precisely during the last two-year period of discreet administration policy that boycott practices have spread to the point where hundreds of millions of dollars of business a year are affected and where Americans are forced to trample on their own laws and values and each other as they pursue Arab business. It is difficult to imagine a policy that has been more discredited.

The Arabs' *primary* boycott of Israel is their own affair. The need is overwhelming, however, for legislation addressing the *secondary* boycott, by which Arabs try to make American companies their instruments in boycotting Israel; and against the *tertiary* boycott, by which Arabs try to make American firms boycott other American firms that deal with Israel or that have Zionist/Jewish officers. Will the Arabs take their business elsewhere? No doubt some will. But since Arabs want American business ties not just for the goods and services but for the broad political ties that come with them, we are confident that most Arabs will decide otherwise. They are not so blind to their own self-interests as apologists for the boycott tend to claim.

The antiboycott principle has been embodied in American law for 11 years. "It is the policy of the United States," says the Export Administration Act, to "oppose" boycotts imposed against friendly countries, and to "encourage and request" American firms not to take part. What is now involved is to turn that eminently sound principle into actual practice. The State Department has had other—political—matters foremost in mind. The Treasury Department thinks first of dollars. But an increasing number of companies favor legislation that would make it illegal to participate in a practice that—even critics of the legislative approach agree—is fundamentally offensive and un-American. Federal Reserve Board Chairman Arthur Burns stated the other day that it is no longer enough merely to "encourage and request" noncompliance with boycott requests. "It is unjust," he said, "to expect some banks to suffer competitive penalties for responding affirmatively to the spirit of U.S. policy, while others profit by ignoring this policy." He urged Congress to "act decisively." It should.

THE NEED TO STAND FIRM IN KOREA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. CRANE. Mr. Speaker, the brutal murder of two American officers by the government of North Korea in the demilitarized zone was not without a purpose.

The Communist government of Kim Il Sung timed the incident to coincide with the meeting of the world's "nonalined" nations in Sri Lanka and was an effort to convince these countries that the United States and South Korea were bent on invading the North. Although photographs taken at the scene confirm beyond any doubt that the North Koreans were the aggressors, the "third World" was quick to adopt the North Korean view.

There were at least two other purposes for these brutal murders.

One is the determination of Kim Il Sung to get United Nations action at this year's General Assembly toward U.S. withdrawal from South Korea and the reunification of the two Koreas under him on his terms.

The other is an effort by the North Koreans to influence American public opinion. Democratic Presidential candidate Jimmy Carter has already advocated the "phased" withdrawal of U.S. troops from Korea, as have a number of Members of Congress. Kim Il Sung evidently hoped to stimulate others to take this view by his aggressive acts.

Fortunately, the reaction seems to be contrary to what the North Koreans expected. The initial response of the United States was firm and massive. When the North Koreans issued a statement calling the killings "regretful", the State Department said this was "unacceptable", because North Korea had not admitted responsibility for the deaths of the two Americans. Yet, on the very next day, the State Department reversed itself and now discovered that Kim Il Sung's statement had been "a positive step."

Does this response add up to strength, or to vacillation? The question, unfortunately, remains to be answered.

The record of the North Koreans in the years since the end of the Korean war has been an adequate barometer of their aggressive designs. This was not the first time that Americans have died during the 23-year-old truce. Forty-nine have been killed, along with more than 1,000 Koreans. In addition, there has been the *Pueblo* affair of 1968 and the destruction of an American aircraft and all personnel aboard in April 1969. There has been the machinegun ambush of an American troop transport in the DMZ in October 1969, and the boobytrap slayings of United States and South Korean personnel who discovered illegal North Korean tunnels into the DMZ in 1974. The list is a long one.

It is essential that we make it clear to the world that our commitments to the Government of South Korea will be honored. Kim Il Sung is counting upon an American withdrawal and the eventual communization of all of Korea. If he succeeds, the thousands of Americans who died fighting aggression in Korea will have died in vain.

In an editorial commentary on this situation the Wall Street Journal declared that, "U.S. troops remain in South Korea for sound and even imperaative reasons." The New York Times stated that:

> Pyongyang's latest brute display of unpredictable aggressiveness underscores the continuing need for a strong and patient United States presence.

I wish to share with my colleagues the editorial, "The Whys Of Panmunjom," as it appeared in the Wall Street Journal of August 23, 1976, and the editorial, "Measured Response," which appeared in the New York Times of the same date and insert them into the Record at this time:

[From the Wall Street Journal, Aug. 23, 1976]

THE WHYS OF PANMUNJOM

The latest North Korean atrocity at Panmunjom has stirred American anger, but when the anger ebbs and frustrations take hold, there will be new voices asking "why are we there?"

It's a good question. But even though the answer is in no way as simple as either the critics or supporters of U.S. policy sometimes seek to make it, U.S. troops remain in South Korea for sound and even imperative reasons.

The critics say, of course, that the U.S. investment of lives and substance in Korea 23 years ago has gone sour. South Korean President Park runs what is, by Western standards, a repressive regime, they argue, rejecting South Korean protests that this is only true because South Korea remains a nation at war.

One suspects that these complaints, from sources who always seem to be more critical of repression by the right than by the left, are not wholly humanitarian in their origins. South Korea certainly is not a democratic showcase but it is a rather remarkable showcase of what private economic development, as opposed to socialist development, can achieve in improving the living standards of an undeveloped country. Socialists everywhere, including the United States, are chafed by its economic successes.

The supporters of U.S. policy argue more successfully but sometimes narrowly as well. The 41,000 U.S. troops in Korea are indeed part of the politics of containment, but they have a broader purpose. If containment were the only problem, South Korea's army alone might easily serve. Many military analysts believe that South Korea, despite a certain vulnerability arising from the proximity of its capital to the northern border, is a stronger military power than North Korea, fully capable of dealing with a North Korea not supported by China or Russia.

The true danger is that some incident, possibly of just the type that occurred last week, would trigger fighting between North and South that would quickly escalate into a contest between General Park and Kim Il Sung of the North for control over the entire Korean peninsula. Reunification is, after all, the policy of both sides, although General Park is more inclined towards peaceful reunification.

The consequences of such a contest could be highly dangerous to world peace. While there is a solid prospect that the South would win a one-on-one struggle with the North, it is also likely that the struggle would not remain one-on-one for long if the South appeared to be winning. The entry of Russia or China into the fray would face the United States with the alternative of abandoning yet another Asian ally or fighting a repeat of the Korean war.

Under either circumstance, the tenuous relationship with Peking that has been built so painstakingly would be at risk, there would be a new and dangerous confrontation with either China or Russia, and Japan would have a new blow to its confidence in the U.S. which most likely would lead it towards rapid rearmament. It is not hard, under these circumstances, to imagine a complete and humiliating withdrawal of the U.S. from Asia.

Such a scenario is so frightening that even the United Nations, with all its anti-U.S. animus of recent years, has been in no hurry for the U.S. to end its peace-keeping role in Korea, still technically conducted under UN auspices.

Nonetheless, there are U.S. Congressmen who want us out of Korea. Jimmy Carter, groping for some concept of foreign policy, has given encouragement to these forces without demonstrating a very sure grasp of what is really at stake.

The murder of two American officers at Panmunjom, barbaric and at the same time probably premeditated, is all the more infuriating because U.S. policy makers seem powerless to punish such conduct. But it is dangerous to believe that the frustrations and risks would evaporate if the U.S. pulled out. They more than likely would grow larger, with dangers for the U.S. and all of Asia.

[From the New York Times, Aug. 23, 1976]

MEASURED RESPONSE

Three days after North Korean guards brutally assaulted and killed two American officers supervising a tree-pruning operation in the demilitarized zone, allied forces returned Friday and cut down the tree, which had been obstructing the view of a United Nations Command post.

This symbolic gesture was backed by a show of military power sufficient to discourage any further North Korean interference and to evoke a belated apology of sorts from Pyongyang. It did not—as nothing could—adequately make amends for the lives lost as a result of North Korea's calculated barbarism. Nevertheless, the measured allied response drives home the essential message that the United States will not be bullied or otherwise driven from fulfilling its role as guardian of the 23-year Korean armistice; and it did so without additional loss of life and without unnecessarily exacerbating an already tense situation.

The incident of the tree strongly reinforces the conclusion reached by last week's "nonaligned" conference in Colombo that a "grave" threat of new conflict exists in Korea. But the evidence in no way supports the conference's incredibly myopic conclusion that the provocation is all on the allied side and that the danger of war woud be removed by dissolution of the United Nations Command and withdrawal of American forces.

On the contrary, Pyongyang's latest brute display of unpredictable aggressiveness underscores the continuing need for a strong and patient United States presence, preferably under United Nations auspices, until North Korea's leaders abandon their persistent dream of military conquest and sit down to negotiate a final peace settlement.

A RESPONSE TO THE NEW YORK TIMES ON AUTOMOBILE EMISSION CONTROLS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. DINGELL. Mr. Speaker, the New York Times recently discussed the pending Clean Air Act amendments, H.R. 10498, in a manner that I could not entirely agree with. I responded to the Times in a Letter to the Editor which was printed by the newspaper August 25.

I urge the attention of my colleagues to this correspondence which further details information on the auto emission control decision the House anticipates action on the week of August 30.

I insert my Letter to the Editor as printed by the Times, at this point:

ON CLEAN AIR, ENERGY AND THE ECONOMY

To the Editor:

I do not agree with all of your editorial Aug. 5, "Keep It Clean," referring to the clean air bill stuck in Congress, a series of amendments to the Clean Air Act of 1970.

First, it has been intolerably and inexplicably delayed all summer in the House. Serious dislocations within the nation's largest industry and employer are threatened. Auto manufacturers and related industry timetables slip due to lack of decision on 1978 and subsequent model year auto emission standards. Testing is delayed. The Environmental Protection Agency must begin 1978 certification in September, but clean air has no House priority until, perhaps, Aug. 31.

Secondly, while your salute that I am a "reliable environmentalist," is appreciated, I reject your comment that the Dingell-Broyhill (Train) auto emission control amendment I will offer to the bill is "ominous." Representative Broyhill of North Carolina is co-sponsor. The amendment carries the recommendation and support of another "reliable environmentalist," Administrator Train of the E.P.A.

Released documentation pinpoints balanced economic, health and environmental, and energy conservation advantages of our amendment. The 1970 Clean Air Act was enacted when energy supplies appeared sufficient. As Energy and Power Subcommittee Chairman since 1975, concerned on energy conservation and resources, I oppose standards more stringent than the Train recommendation. Documentation is contained in the April 1976, Environmental Protection Agency, Department of Transportation, and Federal Energy Administration, interagency analysis of effects of auto emission control schedules. It concludes that auto standards in the bill would waste gasoline, be unnecessarily costly to consumers and offer no significant improvements in air quality.

I cite the June 1976 Chase Econometric Associates analysis, a macroeconomic study of emission standards.

Chase determines penalties of the pending bill, compared to savings of Dingell-Broyhill (Train) would be almost a 15 percent fuel loss on new cars, 1980–1985; cost consumers an additional $280 each for vehicle maintenance, 1982–1985; and increase prices to $340 per new car, 1981–1985. Chase then predicts loss in automobile sales of eight million units, 1980–1985, and loss in jobs at 820,000, during 1980–1985.

Thus, auto emission standards tighter than Dingell-Broyhill (Train) would destroy opportunity for economic, energy conservation and environmental balance. While I do represent a portion of Detroit in the Michigan 16th Congressional District, it is also true that its citizens are concerned about air quality, consumer costs, jobs, productivity and energy supply, as is the rest of the country.

A DECLARATION OF FAITH

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. GAYDOS. Mr. Speaker, as our Bicentennial Year moves into its final months, the time seems appropriate to turn our attention from the commemoration of historic events to planning for what is to come.

We have had a magnificent observance of our Nation's founding. We have paid proper tribute to those people who built the foundation of our freedom. And we have acted properly in so doing. Their courage, ideals, and clarity of vision combined to produce a system of government which remains unsurpassed today.

But while the foundation of our society remains strong and undamaged, the superstructure which has been built over the years is beginning to creak in places. There are cracks in the plaster and a few leaks in the roof. The structure can be repaired, of course. At least the physical damage can be repaired. The psychic damage is another matter. It is in this area that I believe we Americans have cause for legitimate concern.

Our emphasis this year on our Nation's beginnings has served to point up the difference between the American of those early days and our country as we know it in 1976. As we read our history books or listen to those among us who are old enough to remember a different time, we see a picture of an America which people regarded as the land of opportunity. In those days, Fourth of July orators called America "the greatest country on earth" and we believed them. In our schools and churches and homes, we were taught pride in our country and on holidays the bands played and the flags waved. It never occurred to anyone that all this might be unsophisticated or corny. It was just the normal atmosphere in which we lived—a state of mind which gave meaning to life, put some purpose into toil and struggle and fired the soul of many a young person.

That, unfortunately, is not the atmosphere in which we live today. In the last half century, America has had to grow up and take her place among the nations of the world, and it has been a painful and confusing experience. We have made some mistakes and we have learned that we have some national faults. We have become the leader of the free world and we have discovered that leadership involves some awesome responsibilities. We have also learned that a leader is the target for criticism of all kinds, much of it unreasonable.

Those who would use our freedom to destroy us constantly criticize Americans and our actions. We are told that we are all materialistic with little desire or capacity for the finer things of life; that we are psychopathic about the threat of world communism; that we have not done enough to correct the evils of our system, and so on down the line of our sins—both personal and national.

We, of course, can live with this criticism. In fact, it is true that in some cases we deserve the censure that has been leveled at us. We are not perfect, and we need to attack the problems which still plague our society. What bothers me is that this barrage of criticism is having its effect on our own state of mind. The seeds of doubt—doubt of ourselves—are becoming too strong within us. It is right that we should examine our own faults. It is only by a free discussion of our errors that we can correct them.

But throughout this process, let us remember that there still is much about which we can be proud. There is no reason to be apologetic about America. All other nations have made mistakes, too, and it would be hard for any of them to match the decent idealism we have brought to our role in both domestic and foreign affairs.

So I think it is high time that we all start saying a good word for our country whenever the opportunity arises. Somehow, we must revive in our own hearts, and in the hearts of our young people, the deep pride that all Americans must have in their heritage.

These are bewildering and fearful times. We have serious economic, social and environmental problems at home and the threat of war and its accompanying nuclear destruction still lurks abroad. Our only real safeguard is to remain strong—but strong in heart and fiber as well as strong in arms. I believe we will find a way to do this because I retain a basic confidence in the character, ability and decency of my fellow

Americans. I subscribe to the words of MacKinlay Cantor, the famous author who wrote about civil war and pioneer days, who, on the occasion of receiving an honorary degree, addressed himself to the spirit of Abe Lincoln in these words:

> The dreams are ever around us Mr. Lincoln. There is medicine in the breeze and an enzyme beneath the sod; and we still have a yearning and a gallantry sir.

I echo that high note. I think we still have it in us to dream and to achieve, to be gallant and proud and to stand up on our hind legs and be Americans.

STEMMING THE TIDE OF TERRORISM

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. HEINZ. Mr. Speaker, the tragedy and the viciousness of terrorism struck close to home earlier this month when Mr. Hal Rosenthal, an aide to Senator JACOB JAVITS, lost his life during a hijack attempt at the Istanbul Airport. His death, like the deaths of over 25 other Americans who have been murdered by international outlaws, serves as a grim reminder of the urgent need for our Nation to take immediate steps to curb the tide of terrorist activities.

During its consideration of H.R. 10612, the Tax Reform Act, the Senate adopted an amendment providing for strong economic sanctions against nations that aid and abet terrorists. This amendment, authored by Senator LLOYD BENTSEN, ought to become a part of a tough national policy that gives international outlaws no quarter and no comfort. For this reason, 16 of my colleagues have joined me in asking Congressman AL ULLMAN to help insure that the Bentsen amendment remains in H.R. 10612 if and when the bill is enacted into law. The text of our letter to Chairman ULLMAN, who I know shares our concern in this matter, follows:

AUGUST 26, 1976.

Hon. AL ULLMAN,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR CHAIRMAN ULLMAN: During its consideration of H.R. 10612, the Tax Reform Act of 1976, the Senate adopted an amendment denying tariff and trade preferences to nations that harbor international terrorists. We believe that this amendment, drafted by Senator Bentsen, represents an effective step toward making American opposition to skyjacking and other tactics of international terrorism felt throughout the world. Therefore, it is crucial that the Bentsen amendment be retained by the conference committee that is currently meeting on this bill.

As you know, in recent years international terrorism has grown in frequency, violence and viciousness. Over the past eight years, nearly 800 people have been killed and over 1700 more injured as a result of terrorist activities. Twenty-eight of our own citizens have met their death at the hands of these international outlaws—the most recent victim being a staff aide to Senator Jacob Javits. We cannot allow these grim statistics to continue to grow.

During the last two months, three hijacking attempts—two directed against Israel and one against Egypt—have been a tragic reminder that the international community must find a workable solution to this problem. As representatives of the American people, we are obliged to take strong and effective leadership toward this end.

Because we know that you and the other House conferees share our concern for the need to stem the spread of terrorism, we urge you to ensure that the Bentsen amendment remains in the Tax Reform Act, if and when it is enacted.

Sincerely,

Bella S. Abzug; H. John Heinz III; Edward P. Boland; Thomas J. Downey; Gilbert Gude; James R. Mann; J. J. Pickle; Peter W. Rodino, Jr.; Robert A. Roe; Herman Badillo; James C. Cleveland; Benjamin A. Gilman; Edward I. Koch; William S. Moorhead; Joel Pritchard; Gladys Noon Spellman; Stephen J. Solarz.

Members of Congress.

NEW YORK SHINES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. RANGEL. Mr. Speaker, the financial crisis experienced by New York City last year focused a great deal of national attention on that city. As had usually been the case, most of the publicity was negative; one heard only of reports of wasteful spending, inefficient government and chaotic city life. In short, New York became a symbol of the seeming futility of urban America, a city which, by the charitable, was pitied.

This summer, things have apparently changed. The Bicentennial celebration attracted thousands to the "Big Apple" to witness the tall ships come into the harbor. The Queen then visited, and finally the city played host to the Democrats during their convention. Perhaps it was this latter event that has served to return my city to the place of prominence and respect which it deserves. New York is truly the capital of the world.

I mention these things because I feel that it is very important for my colleagues to realize that there is a considerable amount of vitality left in the city. When we were discussing providing financial assistance to it late last year, many of my colleagues expressed the notion that aid was not necessary as the city was going to die and thus it would be an exercise in futility. I maintain that the events this past summer clearly illustrate that the people of New York City are indeed friendly and willing to show those out-of-towners a good time. My hope is that those of you who had difficulties in supporting assistance to New York City will look closely at the events over the last couple of months and ask yourselves, Are you really willing to continue to treat such an important cultural, financial, and recreational center like a stepchild?

I am pleased to insert in the RECORD at this point the following editorial which was aired over WCBS–TV in New York:

NEW YORK, NEW YORK

"I'll take Manhattan, the Bronx and Staten Island, too,"—"I like New York in June, how about you?" Remember when love songs used to be written to New York City? It's been a long time since people have been singing our song—or our praises for that matter. In fact, about a year ago when New York, once rich and powerful, was brought to its knees, the rest of the country was not sympathetic, almost seeming to take satisfaction in New York City slickers getting their comeuppance. New York after all had the reputation of being a cold and unfriendly place where a visitor was more than likely to be mugged or hustled by some street corner sin salesman. Then a few weeks ago something happened.

First, the tall ships sailed into New York harbor, then, the Queen of England went shopping in Bloomingdales, and last week, the Democrats descended on Madison Square Garden. Suddenly, New York City was the golden girl of the East. The atmosphere had changed. And the convention delegates took the message back home, New York, New York, it's a wonderful town.

How did this happen? Well, superb planning on the part of the city, especially the police and transportation departments helped. So did the smooth handling of the convention by Madison Square Garden. Of course, New York was also the lucky beneficiary of an uncharacteristically peaceful Democratic convention. But it was more than planning and luck. New Yorkers themselves rose to the occasion and made a special effort to be helpful and courteous. The too-long maligned city cab drivers were also ambassadors of good will.

How can we make this spirit of July 1976 last? Well, for one thing, New Yorkers should continue to take pride in their city and not make negative wisecracks about New York. And city officials should keep up the momentum by planning other events that not only will keep the city's new image alive but will also attract tourist dollars.

It's too bad the spirit of the last few weeks can't be bottled. Because New York is going to need it. But if the city continues to generate that spirit, maybe the next time New York asks for help, it won't be regarded as a fiscal leper. Maybe the New York of July 1976 will be remembered as worth saving.

ANNE V. MARINELLI RECEIVES DISTINGUISHED RECOGNITION BY PRESIDENT OF ITALY

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. OBERSTAR. Mr. Speaker, Anne V. Marinelli, of Hibbing, Minn., recently received the decoration of Knight of the Order of the Star of Solidarity from the President of the Republic of Italy. At the same time she was awarded the President's Citation Diploma and two insignias.

She is possibly the only American woman ever to receive these high symbols of recognition from the Italian Government.

As she and I both share Italian-American heritage, and grew up in neighboring towns. I am doubly proud to call her many achievements to the attention of my colleagues in the House of Representatives.

The decoration, citation and insignias recognize her lifetime of dedication to bringing about a closer understanding between the American people and peoples of many other countries, especially Italy.

Miss Marinelli is a librarian by profession, and has made a distinguished mark on the national and international library communities.

Her father, John Marinelli, came to this country from Rome in 1898, and settled in Hibbing. He, like virtually all Italian-Americans, kept his Italian heritage and traditions alive in his new home. Prime among these was his dedication to education for his four daughters, all of whom received a university education.

Anne was born and grew up in Hibbing, among first and second generation Americans from all parts of Europe. This early experience among the rich cultures of so many countries inspired her lifelong mission: to preserve the desirable elements of foreign cultures in our own; and to assure better understanding among peoples.

She studied and pursued her professional career at universities and libraries across America and also at the Universita per Stranieri in Perugia, Italy.

She further developed her interest in other cultures while on special assignment to the Pan American Union Library, which brought her into contact with the cultures, languages, writers, and intellectual leaders of Latin America.

Miss Marinelli was able, early in her career, to enrich her experience with foreign cultures while employed at the New York City Public Library, where she steeped herself in the many national communities and activities of that multinational city.

The Librarian of Congress, after reading one of her publications, invited Miss Marinelli to accept a post as his special assistant. In this capacity she was responsible for many international library activities, working closely with prominent library leaders of other countries, the State Department, and other Government agencies as well as professional associations.

She returned to Italy as a Fulbright professor and lecturer. For a full year and a half she traveled the whole of Italy and Sicily, lecturing and offering consultant services to Italian librarians in 110 libraries throughout Italy. She worked closely with the Italian Ministry of Public Instruction, the Italian Association for Libraries, and the U.S. Cultural Affairs Office.

These contacts have been strongly felt, and one of the direct results has been the further development of an exchange of ideas and people between Italy and the United States.

Mr. Speaker, Anne V. Marinelli is a wonderful, warm, and outstanding person in her own right; a woman who has left many landmarks and made many friends wherever she has been, and who brings great credit to the people of Minnesota and to all Italian-Americans.

I am proud to share her accomplishments and honors with my colleagues, and with Italian-Americans everywhere. In her, we have much to be proud of.

CONGRESSMAN RON PAUL SPEAKS OUT AGAINST SOCIALIZED MEDICINE

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. BAUMAN. Mr. Speaker, in the August issue of the distinguished medical journal, Private Practice, our colleague, Ron Paul of Texas has written an excellent article analyzing the Democratic platform plank on health care.

Drawing on his own personal experience as a medical doctor, Ron Paul has made an impressive indictment of the failure of socialized medicine and the other party's advocacy of this policy of failure.

The article follows:

An Idea Whose Time Has Gone, I Hope

(By Ron Paul, MD, Member of Congress)

The proposed plank on medical care for the 1976 Democratic platform is another attempt on the part of political opportunists, committed interventionists, and misled humanitarians to impose a bureaucratic straightjacket on American medicine. This straightjacket will be financed by a massive increase of Federal taxation, should the proposal be passed by Congress and signed into law. Once again, a political program which is guaranteed to produce further Federal deficits, reduced medical efficiency, more bureaucracy, and angry patients wrapped in red tape, is being considered by Democratic Party leaders in the name of "maximum personal interrelationships between patients and their physicians. . . ." You know, those kinds of personal interrelationships that welfare recipients have with their case workers, or New York City parents have with their school board officials, or Social Security recipients have with clerks in the Social Security office.

The basic provision of the platform is found in paragraph three: "We need a comprehensive national health insurance system with universal and mandatory coverage. Such a national health insurance system should be financed by a combination of employer-employee shared payroll taxes and general tax revenues. Consideration should be given to developing a means of support for national health insurance that taxes all forms of economic income." If enacted into law, this three-sentence program would unquestionably revolutionize not only the American medical care system but also the American tax system.

First, there is the question of compulsion. Nobody escapes. This is required, of course, because the experiments in socialized medicine in every country have led to a reduction in the quality of medical care and an increase in taxes. If people could escape the burdens of taxation associated with the program, simultaneously gaining after-tax income to be used for first-rate medical care, only the poorest members of the community would participate in the Federal health insurance scheme. Like those residents of Iron Curtain countries who would "vote with their feet" if given the opportunity, the middle-class voters of America would take the same approach. The authors of the proposed program, like political officials in the Iron Curtain commonwealths, seek to make "foot voting" a crime.

Second, there is the question of financing. In the midst of a growing tax revolt, the Democratic platform announces a new round of taxes. These will be identical to the Social Security taxes, insofar as the base is the contribution by the employer and employee. Since the Social Security tax now produces income for the Federal government second only to the income tax, the fiscal implications of the proposed measure are staggering. Furthermore, all forms of income will be taxed under this scheme, spelling the death of the municipal bond markets which rely on the tax-exempt status of their debt obligations to find favor with high-income investors. (And when this proposal kills off municipal revenues, then the same authors of this platform will no doubt call for revenue sharing—from a Federal government which is consistently running $50 billion deficits.)

The proposed scheme also calls for more Federal aid to government laboratories and to private research institutions, thereby guaranteeing the Federal bureaucratization of medical research. To make certain that fewer alternatives are available within a community, the platform announces: "Communities must be encouraged to avoid duplication of expensive technologies and meet the genuine needs of their population." Who will determine the "genuine" needs of the local community? Obviously, the bureaucrats in charge of distributing the funds. And what level of government will be the primary source of funding once the municipal bond markets are in shambles? Naturally, the Federal government—the one which is supposed to increase its aid to government laboratories.

With private medical facilities, patients can gain access to a wide variety of medical technologies, as well as seemingly similar technologies administered by physicians of varying skills and concerns. This multiplicity of medical facilities is therefore a threat to Federally funded medical bureaucrats. Thus, concludes the platform: "Savings will result from the removal of inefficiency and waste in the current multiple public and private insurance programs and the structural integration of the delivery system to eliminate duplication and waste." Duplication and waste are apparently the products of open competition in a free market; savings are the product of systematically designed, compulsory programs of Federal bureaucrats protected by Civil Service rules.

The capper is the following: "A further need is the comprehensive treatment of mental illness, including the development of Community Mental Health Centers that provide comprehensive social services not only to alleviate, but to prevent mental stresses resulting from social isolation and economic dislocation. Of particular importance is improved access to the health care system by underserved population groups." Not only are psychiatrists supposed to diagnose mental illness accurately, including the pinpointing of the specific economic causes of certain forms of "*social isolation* and economic dislocation," they must also be able to prescribe a remedy. "Take two aspirins and a trip to Bermuda at Federal expense and call me next month." The physician must not only heal men's bodies and minds, he *must* also cure the supposedly hostile, competitive economic environment in which alienated poor people find themselves. We have told criminals that they're not criminals, but only sick people mentally; now we will tell mentally sick people *that* they are sick because they are poor. And if this proposed platform is passed into law, there are going to be a lot more poor people wandering the streets.

The obvious failure of the Social Security system has begun to alert average voters about the collapse of Federal security programs for old age retirement. They will learn that Federal guarantees for medical care are even less enforceable. The new concern about taxes and bureaucracy will, I hope, create a climate of opinion in this country which will send the Democratic platform statement on medical care to a well-deserved oblivion.

WHO'S IN CHARGE HERE?

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. O'HARA. Mr. Speaker, this morning a column by Art Buchwald came to my attention. I doubt that Mr. Buchwald meant this column to be taken seriously; but I do know that the description of the administrative process which Mr. Buchwald gives is very close to the process which I know to exist today.

I share this column with my colleagues in the hopes that they will get their chuckles from it, as I got mine. But more importantly, I share it with them to help remind them of the great need of the Congress to find ways to get the laws executed fairly, effectively, and in a timely manner.

The article follows:

WHO'S IN CHARGE HERE?

(By Art Buchwald)

Everybody thinks that the Democratic and Republican conventions and the November election decide who is going to run the country.

I hate to be the one to throw cold water on this idea, but neither the President of the United States nor Congress can really do much to change anything.

The guy who runs this country is Plotkin. He is neither elected by the American people nor does he have to answer to them.

Plotkin, and thousands like him, are civil servants averaging somewhere around $20,000 a year. They are stashed away in large brick and glass buildings all over Washington, Maryland and Virginia, and no matter what Congress or the President decide, they are the people in charge.

Let us say that the President wants a pothole reform bill. He sends it up to Congress where, after two years, it is passed. The President signs it, and everyone in the United States believes it is the law of the land.

Except Plotkin.

Plotkin gets the bill and examines it. The wording, after the lobbyists get through with it, is, of course, vague. What kind of potholes does the law cover? How much money should be spent to fill each pothole? Should the work be contracted to private industry or to the Army Corps of Engineers? Was it Congress' intent to deal with all potholes or just those on federal property? And, finally what constitutes a pothole in the first place?

Plotkin, who has been a civil servant for 20 years, knows if he takes any action on his own, he could be criticized and he could blot his copy book.

So he calls a meeting of all his department heads and asks them to write him memoranda on the best way to administer the pothole bill. He tells them it is a matter of urgency and he wants to hear from everybody in six months.

Six months later the people under Plotkin all submit memoranda. A majority of them suggest that a study be made of potholes by a commission made up of engineering experts from companies, universities and government that will report back to the bureau in a year.

Plotkin likes the idea and approves it. But to play it safe, he also hires his own experts to check out the report of the commission. This means larger office space, and Plotkin decides to move the bureau to a new building. The move requires tremendous logistics, but also causes fierce competition among all of Plotkin's subordinates as to where their offices will be located, as well as carpeting, furniture and the location of the water cooler.

There is so much controversy over the new quarters that Plotkin hasn't had too much time to worry about the potholes.

Finally the move is made, new people are hired and everyone settles down to the task of administering the pothole bill. The outside commission has submitted its report, which is circulated throughout the bureau for comments.

The comments are all negative, and it is decided to scrap the commission's report. The fear of most of the people in Plotkin's office is that, if they accept the recommendations of the commission, they would have to put them into action. If they turn them down, they'll have to come up with their own—which would mean expanding the bureau, thus guaranteeing everyone a promotion to the next civil service grade.

By this time, Congress and the President have forgotten they even passed a pothole bill. But one day the President is driving on U.S. Highway 95 and he hits a pothole. His head bumps the ceiling of the limousine, and an Associated Press photographer gets a picture of it. This makes the President very mad, and he says to his aide, "Whatever happened to the pothole bill I signed?"

That night Plotkin gets a call from the White House and the aide says, "The President wants a progress report on what you're doing about the potholes in this country."

"We're working on a report right now," Plotkin assures him. "But just because the President signs a bill doesn't mean he can expect results overnight."

LET'S NOT RUSH INTO SALT II

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. KEMP. Mr. Speaker, in a U.S. News and World Report editorial of August 30, Howard Flieger makes some vital points about SALT that the Congress should consider. Pointing out that a bad agreement is worse than no agreement at all, he counsels patience and caution.

Mr. Flieger points out that—

> A major U.S. objective in SALT I was to eliminate the danger of a 'first strike' against America's Minuteman missiles. What worried American strategic planners were Russia's 300 or so powerful SS–9 intercontinental missiles—vastly more destructive than anything in the United States' arsenal.
>
> The SALT I agreement was supposed to neutralize that threat by prohibiting Moscow from installing any more of these 'modern heavy' missiles. Instead, the Soviets introduced four new intercontinental missiles which are as much as four times greater in 'throw weight' than the rockets they are replacing. As a result, the danger that the U.S. hoped to forestall in SALT I is now greater than ever.

Mr. Flieger also points out that a recent study issued by the Congressional Budget Office raises the troubling question of whether the Soviets share our objective of arms limitation. In view of the absence of a reassuring answer to this troubling question and the increased danger we face as a result of SALT I, there must be no rush into SALT II.

The editorial follows:

WHAT'S THE RUSH?

(By Howard Flieger)

Now that Gerald Ford's nomination has set the presidential race, expect to hear a great deal about the need to rush into a SALT II agreement with the Soviet Union.

President Ford—which is to say, candidate Ford—is anxious to reach a new strategic-arms-limitation deal with Moscow before the election. He fears that, otherwise, there may be nothing to replace the SALT I accord when it expires in October of 1977, and that this could restart an arms race. Secretary of State Henry Kissinger seems equally anxious for a SALT agreement this year.

It's time to sound a warning signal when there are signs that policy makers are about to negotiate against a deadline.

There are few people who would question the desirability of an arms agreement that would actually enable the U.S. and Russia to reduce defense spending.

But one lesson has emerged from the SALT negotiations so far: They have had no visible restraint on the Russian drive to achieve strategic superiority over the U.S., nor have they significantly curtailed the build-up of offensive weapons there or here.

A study issued recently by the Congressional Budget Office, and prepared by independent strategic experts, raises a troubling question: Do the Soviets share the objective of stability and believe an attempt to achieve some form of major strategic advantage would be futile?

The answer comes through in an analysis of what has happened since the 1972 SALT agreement. A major U.S. objective in SALT I was to eliminate the danger of a "first strike" against America's Minuteman missiles. What worried American strategic planners were Russia's 300 or so powerful SS–9 intercontinental missiles—vastly more destructive than anything in the United States' arsenal.

The SALT I agreement was supposed to neutralize that threat by prohibiting Moscow from installing any more of these "modern heavy" missiles. Instead, the Soviets introduced four new intercontinental missiles which are as much as four times greater in "throw weight" than the rockets they are replacing. As a result, the danger that the U.S. hoped to forestall in SALT I is now greater than ever.

Nothing that conceivably can emerge from SALT II will change that. As the 1,000 Minuteman missiles become increasingly vulnerable to a Russian "first strike," the U.S. will have to decide whether to replace them with a whole new system.

So what is the point of going on with SALT negotiations? Most strategic experts in Washington—even the "hawks"—believe that some modest benefit could result from an agreement that would limit the two superpowers over the next 10 years to 2,400 strategic vehicles—long-range missiles and bombers—with a sublimit of 1,320 on the number that can be armed with multiple warheads. That would mean that, strictly in terms of numbers, neither side could go beyond those limits. The agreement would not, however, prevent either from building new missiles.

The Russians will hold out for concessions. They insist the agreement must cover the American cruise missile—a fantastically accurate, subsonic, pilotless drone, armed with nuclear or conventional warheads—that can be launched from anywhere. At the same time, they insist their new Backfire bomber be excluded. Some experts maintain that Moscow's aim is an agreement that would virtually kill off a revolutionary new American weapon while allowing the Soviets to build an unlimited number of bombers capable of hitting the U.S.

What's needed is patience. What certainly is not needed is a U.S. strategy that involves American negotiators in a race against the clock—a rush to get an agreement before the November election or before next year's inauguration. A bad agreement is worse than no agreement at all.

HINESVILLE HOSPITAL WILL LOWER PRICES 15 TO 20 PERCENT

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. GINN. Mr. Speaker, the statistics about the increasing cost of health care in America have been exceedingly disturbing. Health care expenses in recent years have risen more than almost any other expenditure facing the average citizen.

I am pleased to report, however, that there is some good news amid all of the bad. The Liberty Memorial Hospital in Liberty County, Ga. has recently lowered the cost of its room rates and also reduced other charges. The July 29 issue of the Liberty County Herald reported some of the details of this action, and I ask that this article be reprinted in the RECORD at this point:

[From the Liberty County Herald, July 29, 1976]

HINESVILLE HOSPITAL WILL LOWER PRICES 15–20 PERCENT

In the days of rising prices, Liberty Memorial Hospital is lowering prices. At the July regular meeting of the Hospital Authority of Liberty County, they voted to reduce all hospital room rates by $6.00 a day. They also voted to reduce most other service charges to patients by 15–20 per cent.

This will become effective August 1, 1976. While prices are being reduced, new services are being offered.

When asked how Liberty Memorial Hospital could lower prices, Doyle E. Mullis, Jr., administrator, said that it had been due largely to the increase in volume of patients and services to patients. This increased volume was brought about by the increased number of doctors on the medical staff. He pointed out that there are enough doctors to see patients in the community, whereas before, most services were sought elsewhere.

The hospital is now operating at the best utilized capacity when before it was seldom pushed to best capacity. The increased number of patients provides spreading the cost over the greater volume.

Just six years ago, people of Hinesville and Liberty County were traveling great distances for a good portion of their medical needs. There were two doctors here and their offices were always crowded, so many people left the county to get medical help elsewhere.

The Hospital Authority set up a recruitment program to bring new doctors to the community, and this program was welcomed and endorsed by the two doctors.

The Hospital Authority succeeded in attracting OB-Gyn specialist, Dr. Chen Shih; two Pediatric specialists, Dr. Grace Bautista and Dr. Cecilia Ong; two general practice anesthesiologists, Dr. Victor Bautista and Dr. Tony Ong (who practice at Midway, 9 miles from Hinesville) to the community. Dr. Ben Silan, another surgeon came to Hinesville in 1975, and two Brunswick podiatrists, Dr. Paul Bodamer and Dr. Tom Sandford have opened offices in Hinesville.

Dr. James Snow, an Osteopathic doctor in general practice at Darien, joined the hospital also.

DR. JOSEPH L. BLANCHARD, DEDICATED EDUCATOR, PUBLIC SERVANT, ENTERS ACTIVE RETIREMENT

HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. McFALL. Mr. Speaker, John F. Kennedy once observed that: "Our progress as a nation can be no swifter than our progress in education."

In the area of California I am privileged to represent, we have been fortunate to have a person whose life has been dedicated to strengthening the bond of public education which binds our people and to preparing the young to assume their full responsibilities to the Nation, community, and family.

This good man is Dr. Joseph L. Blanchard, president and superintendent of San Joaquin Delta College.

Tonight, Mr. Speaker, his colleagues, many friends, and family will gather in Stockton to express their appreciation to him and wish him a happy and active retirement after four decades of public service in education.

Twenty-five of those years, Mr. Speaker, have been spent in service first to Manteca High School and then to San Joaquin Delta College.

Joe Blanchard is a builder, Mr. Speaker. In every post he has served—from his first as principal-teacher in Oregon in 1937 to the present, he has sought to develop education within the community to its highest potential.

The people of my area of California are grateful and appreciate his successes, for they are shared by the whole community.

Joe Blanchard understands that public schools must serve and reflect the people and meet the needs of the community. To bridge any gap that might exist between the public and their educational institutions, Joe Blanchard has sought to let people know factually and with candor what was taking place.

An example has been a regular newspaper column that has served to fully inform the public of developments, actions, and events which affect them and their children.

As a public servant and leader, Joe Blanchard has received the support of the people and boards of education which have placed their trust in him and his abilities.

In Manteca, as principal-superintendent, the people backed four successful bond issue elections. He was instrumental in bringing about more efficient administration of Manteca High School and strengthening its academic programs. When he left there in 1964, plans already were underway to begin construction of a second high school which since has been built.

At San Joaquin Delta College, his accomplishments have been many. Again, his efforts have led to strengthening the administration of the district, expanding its boundaries and improving the general curriculum, including developing tutorial and reading laboratory facilities so that students needing help receive it to achieve their full potential.

And with perseverance, he has guided a $55 million program to build a new campus while at the same time maintaining the fiscal integrity of the college.

San Joaquin Delta College, today, Mr. Speaker, is among the finest community colleges in the Nation, having a full range of quality educational programs.

San Joaquin Delta College's progress is exceptional and its future is bright. Joe Blanchard has been able to work unceasingly, effectively, and successfully in the best interests of the students with the backing of his board, faculty, and the people he has served so very well.

I could say much more, Mr. Speaker, about this fine man and good friend—his service in war and peace as a Marine officer and his many civic activities. But what stands out is his sustained optimism and belief in people and public education.

Now that he enters active retirement—still serving his community in many ways, including members on the Port of Stockton Commission. I take this opportunity to say: "Thank you Joe Blanchard, for who you are and what you have done. Best wishes *to you* and your Elizabeth for many, many wonderful years ahead."

WHAT'S RIGHT WITH NEW YORK

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. DELANEY. Mr. Speaker, there have been numerous recent events which highlight the continued vitality of our great city and industry's confidence in its dynamic and growth-filled future. Among these—the decisions by a number of major corporations not only to remain in Manhattan, but to launch expansion programs of their current facilities. Corporation after corporation is casting its vote on the side of the people of New York and the city's ability and determination to solve its problems.

Only yesterday, Philip Morris, Inc., one of the Nation's leading manufacturers, with 1975 sales of more than $3.6 billion, announced plans to maintain and expand its headquarters on Park Avenue. The firm's executives noted the city's preeminence as the world's center of communications, culture, and finance, and as the business-transportation center of the globe—both domestically and internationally. All modes of transit are readily available—with employees free to choose a home in central Manhattan or the surrounding boroughs and free to pursue any of a dazzling variety of lifestyles. This decision affects some 700 present employees with salaries and wages totaling more than $15 million a year and 300 additional staff members to join the firm in the near future.

As another company president put it:

> New York is the finest place in the world to conduct business. The best banks, the best lawyers, the best investment specialists, and the best service facilities of all kinds are right at your doorstep. No other city can match its attractions.

Yes, Mr. Speaker, New York is America's city, the way London is England's, Rome is Italy's, and Tokyo is Japan's. Yes, Mr. Speaker, we're still the greatest. That is what's right with New York.

CONFERENCE ON AGING

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. WIRTH. Mr. Speaker, ours was a youth-oriented culture long before the emergence, of a "youth culture" in the 1960's. We have always admired youthful vigor and youthful looks, and as a result, we have tended to ignore the values and virtues associated with age. Now at least we can see a growing appreciation for, and sensitivity to, those values and virtues.

In Denver, Colo., the combined efforts of a generous benefactor and a number of dedicated health professionals, community organizers, and social workers have resulted in bringing to the Denver community the new Davis Institute for the Care and the Study of the Aging. Although the physical plant is still under construction, the spirit is moving already, with the first annual Colorado Conference on Aging held in June and continuing plans for organizing this facility and putting its capabilities to use.

I would like to share with my colleagues the following articles about the Davis Institue, which promises to increase substantially our understanding of the complex issues of growing old.

INTERVIEW—DR. ABRAHAM KAUVAR

Senior Edition: How did the idea for the Davis Institute originate?

Dr. Kauvar: About nine months ago, a very good friend of mine, Marvin Davis, said he'd always wanted to do something in the health field. He asked me, because I was a good friend and I'm in the health field, "What would make the most impact?"

I said, after thinking about it, that there are three things I think are important in the next 10 or 15 years in medicine. The first has to do with cancer. Of course that's a big killer and a young killer. But there are plenty of cancer institutes.

I said the second was the delivery of health care. I think that's a very important thing—how do you deliver health care to the people. Well, this is something that we've done a lot with and a lot more is being done. It's out of our control to some extent because of the government.

The third has to do with problems of aging. Now the reason that aging is appealing is because this is the new frontier in medicine, as far as I'm concerned. When I graduated from medical school we were all interested in cures. And technology was the big thing. We did a tremendous thing as far as technology is concerned. But very rarely were we interested in something that has to do with taking care of people. One of the things that I recently told a group of medical students is that the word therapy has been equated with cure. In medical school we talk about diagnosis and therapy. Well "therapy," from the Greek derivation, means "to take care of." That's a little different from cure, you see, so doctors have to be interested in taking care of people. And we've done such a rotten job of taking care of people as they get older.

The other thing I think was that it appealed to me because it goes through all the branches of medicine. When I expressed my feelings to Mr. Davis, he thought that would be a very appropriate thing for him to put his money into.

Senior Edition: What was the personal connection between you and Mr. Davis?

Kauvar: Ever since Mr. Davis has been in Denver, now about 25 years, I took care of him and his family, so we've been friendly all the time. His father had a stroke, about 10 years ago, and luckily things went right and he's done very well since then. I think that's another reason for all of this. But, primarily, he has a great sense of human feeling and he said the first thing a person has to do if he has money is to take care of their family, and the second is to do something for humanity. Here's a man who really wants to do something, and for my part, he trusts me to do something that's good for humanity. And I hope I'm able to do it, that's all.

Senior Edition: One of the major goals for the Davis Institute, according to the public literature, is to interrupt the downward cycle that leads an elderly patient from the hospital to an extended care facility to permanent custodial care in a nursing home. What can the Davis Institute do to alter this downward cycle?

Dr. Kauvar: Very much. Let's take a patient with a stroke. If he has a stroke, it's an acute affair. He goes to an acute hospital. An acute hospital does what? It takes care of him for a few days and he either lives or dies. If he lives, at the end of those five days there's no place for him to go. He can't stay in an acute hospital so he has three choices. He goes to his own home, which may be totally inadequate, you know; or he may go to his folks or his children's home, which may be devastating to him; or he may go to an extended care or a nursing home. Our whole purpose is to try to do something for people and not put them in the nursing homes. That is, we'd like to take that stroke patient to the Davis Institute, take him and his family, and show how he can be rehabilitated with the best kind of rehabilitation so that he doesn't go to a nursing home and just vegetate away. I think that by taking them from our acute care hospital into the Davis Institute, we can show them and their family how they can live a good, normal life for a long time.

But even more than that we're going to try at the Davis Institute to show how people can get back into the mainstream of living. What is it that puts them in a nursing home? What is it that gets them out of a nursing home? We'd like to do more things to see that they get back into the mainstream of living rather than trying to just keep them as custodial patients.

I'm not against nursing homes. I think they're doing a tremendous job for what they've got. They're hamstrung with politics, with finances, with everything else under the sun. But nursing homes are trying to do all things for all people. That is, they're trying to be day care, night care centers, rehabilitation centers. They can't do it. So we're going to try on a research method to be able to say: What is the staffing pattern for a day care center? What's the staffing pattern for a night care center? Then go to a nursing home and say, "You try to do all you can with day care. You try to do all you can for night care. We'll show you how to make money at it." Standards is what we're going to set, and I think this is the important thing for the patient.

Senior Edition: What types of actual patient care will be available?

Dr. Kauvar: Everything. We're going to have everything from acute care on. Supposing we want to be interested in the acute stroke patient—we'll be able to take care of them there. We'll take care of them in living quarters with their family, if necessary, to show the family how to do it. So we'll have an apartment set up. We'll see how two people can live together, how one person can live alone. We'll have all sorts of methods and it's very flexible.

Senior Edition: Will all patient care be connected with research?

Dr. Kauvar: Yes, because we're a small institution. The most we'll have are 80 patients on an inpatient basis; maybe more on an outpatient basis. All we're trying to do is to be a research source for other people, or to be a source where other people can come and consult with us, or to be in the forefront of things, to start innovative things so that other people can take them up.

This is a small diamond. We're not trying to be a big, huge stone. We want to be a small diamond that really means something. To give you an illustration of that, when I finished medical school I had my choice of going to a county hospital where they had a thousand patients with diabetes without much instruction, or to go to a place where they maybe had only two patients with diabetes but had good instruction. What was the answer? I opted for two patients with very good instruction because I think I can learn from two patients as much as you can from a huge gamut of patients. I think we're going to do it here.

Senior Edition: Are you concerned about the possibility that you might create a demand here that can't be met and raise the frustration level of patients trying to get the kind of care you will be offering?

Dr. Kauvar: Not really because we are not trying to isolate ourselves from the community. We're going to try and put ourselves in the community. That means if we are doing a good job we can go to a nursing home and say, "Hey, we've learned this, why don't you do it," I think we can upgrade the whole level of care. So it won't be the Davis Institute that's known all over the country, it'll be Denver that's known all over the country.

Senior Edition: What priorities have you established for research?

Dr. Kauvar: We have four priorities. I think the first one which we feel is very, very important and that has to do with basic research. That means, what makes a cell grow, What makes an artery grow hard? What makes blood clot? This is basic research.

The second thing is what we call applied research. That is—Is digitalis the same at age 30 as at age 70? What happens when you get older as far as nutrition is concerned? What do you need as far as vitamin supplements as you get older?

The third is what we call psychological and social caring research, and that means what I just spoke about in regard to re-integrating patients back into the community.

And finally, teaching. We think that teaching is a tremendously important part, not only to doctors but to health care professionals of all kinds so that they know who to take care of people and how to do it.

Senior Edition: Will there be any specific research into preventing or curing such chronic conditions such as arthritis?

Dr. Kauvar: Yes. Arthritis is a specialized thing and there are good arthritis places. For instance, Spaulding does a lot with arthritis, and General Rose is doing a lot with arthritis. What we'd be interested in is what makes the bone get hard. I think we ought to encourage them to continue their research on arthritis and not try to duplicate the effort that they're doing.

Senitor Edition: How about other chronic conditions?

Dr. Kauvar: There are many chronic conditions. For instance, we have people here that are interested in Parkinson's disease. Also hardening of the arteries with all of its manifestations. The problem in my particular field has to do with stomach disease—what happens with the absorption of food as you get older? These are all problems that we're going to be associated with.

Senior Edition: Do you foresee any programs to train health professionals to care for the needs of older patients?

Dr. Kauvar: Yes. We think that maybe doctors can't take care of the elderly quite as well as some of the health care professionals. For instance, one of the thoughts has been that the nurse practitioners can do a very good job in this field. So this may be the future of medicine in a lot of different areas because I think this is a health team problem. I think the doctor will only be the head of the health team and that we should look for paraprofessionals and we should look for physician assistants. We should look for all the things that will do the job.

We're going to have to change the doctor's attitude because the doctor's attitude has been one of "Let's get going. Let's cure. If we can't cure them they're a crock." You have to be a little older to appreciate that. When I was young and a young doctor, I had the same feeling the young doctors have today. That is, "Boy, I want these patients to get well." Maybe it's a feeling of omnipotence that you develop in medical school which I think is one way of looking at it. I also think aging has a lot to do with death and dying, and this is a real problem to young people because young people don't look at it that way. You have to reach maturity to say, "Well, hey, we're not going to live forever." And then you empathize with someone who's a little older. But when you're young it's hard to empathize because it's all inward as far as what happens with your omnipotence, your immortality, your feeling of curing people real fast. We have to change a lot of those attitudes. A lot of those are society's attitudes too, so we've got to change those.

Senior Edition: Are there any special features in the construction of the building to accommodate special needs of older people?

Dr. Kauvar: Yes. We spent nine months in which I went around to every place I knew that was doing anything on this, and wrote to the places I couldn't go to. We wanted to get all the information we could.

Let me give you a simple little illustration that came up. We found that in a lot of the homes some of the older people became confused if they just saw a bunch of doors. So we have to make each door a little bit different. Maybe a little logo on the door so somebody could say, "Say, I'm in the red room with a bird on it." Or, "I'm in the blue room with a something else on it"—so they don't get confused. The corridors have to be wider. We're trying very hard to make the rooms not pleasant—we want pleasant rooms, of course, but we don't want them to have so many things in their rooms that they won't get out and congregate with other people. It's a very big must. I've seen a lot of the homes where the rooms are so nice, so comfortable, that nobody wants to get out of them. We want to make it that—sure they sleep there—but let's get them out. There are many tricks we learned during the last nine months and that we have worked with the architect on.

Senior Edition: What plans are there for cost containment in regard to patient charges?

Dr. Kauvar: We think that we have to be the model; we think we can be the model. As I said, supposing we are interested in day care patients because a lot of patients don't need night care. They're able to be taken care of at night at home. We think that we can, with our cost control methods, determine how many people you need for a patient, what the nutritional requirement is, how you can get a balanced diet on $1 a day, or whatever. The state is interested in what we're doing because they need a facility of our type to be able to make a model against which all the others can be looked at.

Senior Edition: Is the older community of Colorado being involved in any significant capacity in planning the Davis Institute? Will older people be involved in operating the Institute? In what capacity?

Dr. Kauvar: Yes, because our whole philosophy of health and hospitals is the following: Why is a neighborhood health program such a success? The reason it's such a success is because we do what the patients perceive to be their needs and then we as professionals add to that perception. In other words, we have to do what they perceive to be their needs no matter what else we do. If we don't we have failed in our function. So we are asking the people in that age group, "What is it you perceive to be your needs? What is it you think? And then we're going to add to that and say, "In addition to what you think, these are the things you might not have thought of that we think ought to be done." This is a very important involvement and we've got the Capitol Hill group and all sorts of groups interacting with us. We want them to interact with us.

We want the older people with this but we also want the younger people to be with us in this institute because we think this is a societal problem, not just an elderly problem. I've made the statement that I don't think a person should be labeled as elderly or young. There are a lot of elderly people who are more alert and vigorous than some younger people. I think we ought to say "Who can contribute the most to this institution?" We want to include older people and also a lot of young people who realize the importance of such a thing and want to be associated with us.

Senior Edition: Is there going to be an advisory board?

Dr. Kauvar: There already is. We have a national advisory board. These are the very top names of all the people from all over the country. They'll meet once or twice a year to sort of plot our course and interact with the country at large. Then we have a local advisory board. We've got maybe 15 people on that already and more will be added. These are the people who are already working in the field. I mean people like Dr. Vest, Bill Hines and Edith Sherman. The reason for that is that we don't want to be an ivory tower; we want to get down with the people. We want everybody involved.

We look at two things. We say, "What can you do for the Davis Institute? Because what you do for us will help us but it will also help you." And then we turn it around and say, "What can we do for you?" We want to involve ourselves with everybody else; to be a place where everybody can come and say, "What do you think?" Let me give you an example. The city has projects going all the time. They have already turned over to the local advisory board two projects for the aging to have, the Davis Institute give their critique of these problems. This is something we can do very well.

Senior Edition: What's the target date for completion of the building? When will the Institute become operational?

Dr. Kauvar: The target date for the completion of the building, we hope, will be about April or May of 1977. The building is being done right now and it's going very well.

However, the Davis Institute will officially be opened at the conference we're going to have on June 7, 8, and 9, the First Colorado Conference on Aging. It's a combined project between the State Department of Institutions, the University of Colorado Medical School, and the Davis Institute on the occasion of the opening of the Institute.

But we don't need a big building. We can start in. We've already accepted our first grant from the Department of Institutions. They gave us $50,000. We're going to take 10 nursing home patients and ask "Why did these 10 patients go in the nursing home? What happened to them in the nursing home? And what happened to them when they left the nursing home? It's a pilot study and we're going to have to enlarge on that, but we're already started. We're not waiting for the building to be done.

Conference on Aging Held as Davis Institute Is Opened

Last March Denver received a $5 million donation from Marvin Davis for the establishment of a facility for the care and study of aging.

This month the Davis Institute for the Care and Study of the Aging opened, and to celebrate the fulfillment of Davis' aim, the first Colorado Conference on Aging was held.

Several noted speakers were featured during the three day program. Dr. Robert Butler, director of the National Institute on Aging in Bethesda, Maryland and winner of a Pulitzer prize for his book, "Why Survive? Being Old in America," spoke on the future of research in aging and on the National Institute on Aging.

Dr. Abraham J. Kauvar, Manager of Health and Hospitals, City and County of Denver lectured on the future of the Davis Institute. Dr. Kauvar is chairman of the board of trustees and president of the Institute. Among his goals for the Institute is the development of methods designed to keep elderly persons out of nursing homes. Dr. Kauvar said of the elderly, "Society has too long neglected this potent social and political force."

Other speakers at the Conference were Dr. Eric Pfeiffer, on sabbatical to help set up Davis Institute programs from Duke University where he is Associate Director for the Study of Aging and Human Development at the University Center; Michael Muldavin, advisor to California Governor Jerry Brown on health affairs; Sir Martin Roth, recently knighted for his work in outpatient geriatric care and professor of psychological medicine at the Royal Victoria Infirmary in Great Britain; and Dr. Carl Eisendorfer, chairman of psychiatry and behavioral sciences at the University of Washington and a widely known authority on aging.

Services to be offered by the Davis Institute, which will need federal and state funding to operate, will include basic and applied research, psychological and social caring for the aged as well as teaching and projecting knowledge to practicing physicians and medical schools. In this way Dr. Kauvar hopes "to change attitudes and bring about understanding." The Institute's main concern will be to develop new and varied techniques for assisting the elderly.

The Davis Institute hopes to retain a quality of life whereby longer life means a more productive and satisfying existence, not eventual isolation from society or mental deterioration due to existing societal attitudes that force the aged into a vacuum existence.

The aims are high but necessary, for, as Dr. Pfeiffer stated, "Society as a whole is going to fall" if these problems aren't faced.

A Marriage of Research and Psychology

(By Herb Stoenner, Denver Post Staff Writer)

It took a lot of "soul searching" for Dr. Abraham J. Kauvar, manager of health and hospitals, to decide what to do with a $5 million gift with no strings attached.

The donation came from Denver oilman Marvin Davis.

Build a health institute? Yes, but what kind should it be and where should it be built?

"If I were going into medicine, and somebody told me I'd be given this opportunity, I would have thought, My God, this is heaven," Kauvar said.

He said that the gift came from his admired friend, who simply asked, "What would make the most impact?"

Kauvar said that after thinking about it for a long time, he decided that the project must be a necessary one, that it must be functional, national in scope and yet have a local impact because Davis made his money in Denver.

Kauvar, who is president of whatever the project would be called, said that he began his search by trying to think of the programs with which he would like to be associated in the next 10 to 15 years he may be around.

Cancer? That was No. 1, but cancer institutes are all around "and anyway they're going to get these answers some way," he decided.

Delivery of health care? This is a terribly important field . . . to get it down to the people, but there are many people working on this, too, he said.

Problems of aging? This seemed to be a fairly open field, especially if you could come up with a unique approach.

Thus was born the Davis Institute for the Care and Study of the Aging under construction adjacent to Denver General Hospital, but a separate entity.

The institute is unique because it carries basic research on aging (why does a cell grow old and die) and the practical psychology of aging in the same program. Nobody else is doing it, according to Kauvar, and interest in the idea has been surprising across the nation.

Kauvar said that little work has been done in this field because when one talks about aging there are associations of termination and loss, and people tend to put such things in the back of their minds. But, he said, we are getting closer and closer to the time when these problems must be faced because this minority is getting closer to becoming a majority all the time.

And, he noted, doctors have been trained to do the dramatic things, not custodial care.

"When I was practicing medicine, I loved to see a patient who would get well fast, and a long-term commitment of just taking care of an elderly patient was very difficult," he said.

Then he found himself getting more and more involved with "local parentis"—the care of patients who no longer had children around. "I began to think of them in terms of taking care of my own father and mother," he said.

He said that medical schools don't teach much about aging. Recently he spoke to a sophomore class of medical students, and it was the first talk they had had on the problems of aging.

Kauvar explained that medicine has consisted of two parts: diagnosis and therapy, but therapy has been equated with "cure."

"This is one of the reasons for the malpractice mess we're in today. Everybody thinks therapy is cure, but if you go back to the Greek root of therapy, you find out that it means 'to take care of' and this is what we should be doing," he said.

One of the techniques of taking care of people is a multidisciplinary approach where many professional and human service workers take part in the decisions—and this has been built into the institute program.

Kauvar gave a few examples of some lags in programming for the aged.

"There are a lot of things in medicine that we don't know exactly and nobody has researched. We give digitalis the same to a patient who is 35 as to one who is 75. There has been no hard research to find out if you need more or less as you grow older. What about vitamins and drugs that are prescribed? Research on sleep as you grow older . . . now that's a fascinating topic," he said.

He mentioned other areas in which there has been little research, such as the psychological effect on a person who retires at 65 because of a societal edict, or how does a family best take care of a person after a stroke? What changes need to be made in a home, not in a nursing home, to which a patient returns after hospitalization.

Helice, the institute complex will consist of two buildings, one of them connected to DGH by a suspended corridor for easy access to hospital services. Building No. 1 will house basic research facilities and other projects funded through grants, plus administrative offices. Building No. 2 will house experimental apartment modules for patients or patients and families to live on a short-term basis for instructions on patient care, or for experimenting with various types of ovens or other household needs. This building also will house a cafeteria. Facilities for outpatient care and outreach of the program into the region are part of the complex.

Outreach lies close to the heart of Kauvar's health planning. He has shifted the thrust of his hospital to a regional as well as a Denver program.

"I'm firmly convinced that the future of core cities depends on what these cities can do for the regions around them" he said.

And sharing information from the molecular biology section of the institute on what makes a cell grow old or the arteries grow hard is larger than just Denver, he explained.

The same would be true for sharing information on how much it costs to run a care center, what staff is necessary and what constitutes good diet or helping with grant or legislative funding, he said.

Kauvar said that in his travels for his research on the institute, he found people on the national level surprisingly interested because the idea was unique and no funding would be required for "brick and mortar" (thanks to Davis' grant) which grantors and congressmen dislike.

He described his open reception in Washington at congressional committee hearings and at other institutes an aging, including Duke University, the University of Michigan and Andrus Institute in Southern California.

And, he discussed what he called a "coup" on his visit to Duke. The renowned Dr. Eric Pfeiffer, professor and assistant director of Duke's Center for the Study on Aging and Human Development, will take a sabbatical leave and come to Denver as acting director of the Davis Institute.

Although the institute buildings are scheduled for completion by April 1977, Dr. Pfeiffer will move to Denver July 1 and assume his office temporarily at DGH.

Why locate the institute in Denver?

The State Department of Institutions is interested in the project in order to establish care cost factors through research. Denver, according to Kauvar, has all the needed ingredients: it isn't too large like a Chicago, but large enough to have ethnic representation; it has a good reputation nationally in the health field, especially in the neighborhood health programs; it has a responsive form of government that values human services, and in addition it is the center for medical research through its universities, he added.

Two forthcoming events involve research for the aging. Dr. Pfeiffer will visit Denver Tuesday as a speaker for the 86th annual meeting of the Visiting Nurse Association of the Denver Area, Inc. He will speak on contributions of research in improving care for the aged.

And, June 7–9, the Governor's Colorado Human Services Cabinet Council, the University of Colorado Medical Center and the Davis Institute will sponsor the first Colorado scientific and professional conference on aging at the Executive Tower Inn in Denver.

OCEAN ESSAY

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. EDGAR. Mr. Speaker, I hope members will be interested in reading another "ocean essay" by one of my constituents, Dr. John J. Logue, director of Villanova University's World Order Research Institute. It is entitled "Tall Ships and Tall Dreams: Reflections on Two Summer Gatherings in New York City." The essay appeared in the June 1976 issue of the institute's publication WORI Report. Like two other essays of Dr. Logue's that I have placed in the RECORD—"Canada, the Third World and the Law of the Sea," October 7, 1975; and "What the Law of the Sea Conference Needs is a Monnet," May 18, 1976—this essay is a thoughtful look at current developments in one of our most important and least understood policy areas: the law of the sea.

I also recommend the reading of an editorial which appeared in the August 9, 1976, edition of the Philadelphia Bulletin. It is entitled "Law of the Sea Laps On" and it uses Dr. Logue's "Tall Ships and Tall Dreams" essay as a point of departure.

Tall Ships and Tall Dreams: Reflections on Two Summer Gatherings in New York City

In early July—the Fourth of July to be exact—tall ships from all over the world will sail into New York Harbor to celebrate the Bicentennial of the American Revolution. That Revolution's basic thesis, "all men are created equal", has helped to foster a hundred national revolutions and thousands upon thousands of social and economic movements to better the lot of human beings in every part of our planet.

For reasons they may not fully understand, millions of Americans will line the waterways around the island of Manhattan to catch a glimpse of the great square-riggers, barquentines and clipper ships of another era. Through the miracle of television a hundred million other human beings round the world will watch these sailing ships glide under New York City's giant bridges and sail past its skyscrapers, including a beautiful blue one on the East River. Somehow the tall ships have caught the imagination of men and women and children everywhere.

In early August—August 2nd to be exact—thousands of diplomats of every race and creed and color will enter that blue building on the East River to attend one of the largest, longest and most important diplomatic gatherings in history: The New York session of the Third United Nations Conference on the Law of the Sea. And though the Conference is trying to establish a system of law and order and justice for the seven seas, to write a Constitution for seventy percent of the earth's surface, almost no one will be there to greet the delegates. Almost no one will come to their important meetings. And if no one cares, there is a good chance that the delegates will fail in their crucial task.

Why do so few seem to care? Why hasn't the Conference—in which so many good people have worked so hard for so long—caught on?

Tall ships, great movements, tall dreams move men's hearts, catch their imaginations, enlist their sympathy, win their support. Curiosity, nostalgia, a feeling for beauty—these will be among the motives of the viewers as they watch "Operation Sail" on this Bicentennial Fourth of July. Ships, especially sailing ships, suggest adventure, a destination, aids, obstacles, struggle—and fulfillment. They suggest the possibility of using, working with, befriending the elemental forces of our beautiful planet. They suggest the need for moral and emotional and intellectual qualities: a stout and persevering heart, a quick and probing mind and a love of the task. Above all they suggest the idea of a crew, a company, a common purpose, a common destiny and skills and qualities which, if all goes well, a gifted captain can harmonize into purposeful activity.

Perhaps the dedicated men and women who will come to UN Headquarters in August have that sense of unity and purpose and destiny. But if they have, they have not yet been able to communicate it to the common people of the world. Perhaps they are trying—really trying—to implement tall dreams, dreams such as human equality, "social and economic justice", "clear, clean seas" or, the dream of "the oceans as the common heritage of mankind", the dream which inspired the Law of the Sea Conference.

Perhaps the delegates and the governments who sent them to New York are trying as hard as they can to reconcile their national interests—or alleged national interests—with the common interest of mankind. Perhaps they are trying too hard, using their heads too much—and their hearts and imagination too little. Perhaps, when they come to New York in August, they should think of the tall ships which came in July and ask why the ships got the great response they did. Perhaps the Law of the Sea Conference needs a stronger purpose, a stouter heart, a bolder course and more harmony in its crew. Then perhaps, like the tiny ships which sailed from Spain and Portugal four centuries ago, the Conference's voyage would change our world—and bring it to a better time.

WILL THE "OCEAN HAVES" SHARE WITH THE HAVE NOTS? KEY QUESTION IN THE LAW OF THE SEA CONFERENCE

Act IV of the giant Third United Nations Conference on the Law of the Sea (UNCLOS III) will open in mid-summer at UN Headquarters in New York City. The seven week (August 2–September 17) session follows close on the eight week spring session also held in New York. By the end of the summer session the world should know whether the delegates to this "oldest, established, permanent, floating crap game" are making history—or comedy or tragedy.

It will probably be a mixture of all three.

Although it may take an Act V—possible in Caracas in early 1977—to arrive at a definitive treaty text, this summer's session will probably indicate whether an agreed text is possible. For time is moving very fast and recent unilateral actions by five important nations in the Conference—the United States, Canada, Mexico, Iceland and France—suggest that the play must end soon even if the players cannot agree on a treaty. Each of these nations has—or is about to—violate international law by declaring a 200-mile fishing zone or a 200-mile "exclusive economic zone". (EEZ)

It may be that no treaty can be achieved by UNCLOS III. But if one can it will probably be not too dissimilar to the "Revised Single Negotiating Text" (RSNT) which the Conference's several thousand delegates will be wrestling with before and during this summer's session. Also known as "the New York Text", the RSNT's 400 or so articles are a revision, but not a very substantial revision, of the May 1975 Informal Single Negotiating Text (ISNT), also known as "the Geneva Text". Neither text had an official status but both served a very important function, i.e. to give a focus to the deliberations of the several thousand delegates. Like the Geneva Text the New York Text is not the work of the delegates. No part of it has been voted on. It is instead the work of the chairmen of the Conference's three major committees, Paul Engo of Cameroon, Andres Aguilar of Venezuela and Alexander Yankov of Bulgaria, as well as of Conference President Hamilton Shirley Amerasinghe of Sri Lanka. What gives the texts a certain authority is that they represent their authors' "sense" of what the delegates *may* be willing to agree to, in the light of the long discussions and negotiations in the two and a half year old Conference.

What kind of a treaty would the New York Text make?

The sad truth is that in its essence the New York text is a "giveaway" treaty, heavily biased in favor of a small number of coastal states, half of them very rich and half of them very poor or relatively poor. The great gainers include the United States, Canada, the Soviet Union, Norway, Australia and South Africa. The New York text gives this elite "New Class" of geographically advantaged states the lion's (shark's?) share of the fish and minerals in a 200-mile exclusive economic zone. That this is true becomes clear when one realizes that some 90 percent of the world's fish are within 200 miles of shore and that some thirty trillion dollars worth of hydrocarbons (i.e. oil and natural gas) are also found within 200 miles of shore. Those "within 200" hydrocarbons are many times more valuable than the much talked of "manganese nodules", which are usually found well beyond 200 miles. And they are also many times more valuable than the "very difficult to exploit" hydrocarbons *beyond* 200 miles. (In any case the New York Text awards almost all of the hydrocarbons beyond 200 to the coastal states.)

It will take a minor miracle to turn the Conference around and restore the principle of "the common heritage of mankind" to the key position it should have in the treaty. And that is just what the increasingly articulate and increasingly self-confident "Landlocked and Geographically Disadvantaged States" will try to accomplish in the summer session. Now a well-organized group, these 51 nations have learned a great deal about the law of the sea from the sessions of UNCLOS III and from five years of meetings of the 91-nation Seabed Committee which served as the Conference's Preparatory Commission. One thing has become especially clear to the Disadvantaged and that is that the exclusive economic zone is a ripoff. For it awards the coastal states—and especially those with long coastlines—all of the immensely valuable resources within 200 miles of shore, resources which, for more than three hundred years, were regarded as either *res nullius*, no one's property or *res communis*, common property. On the last day of the spring session the Disadvantaged issued a strong statement complaining that their "just aspirations" had been virtually ignored in both the Geneva and New York Texts. Their statement, issued by their Chairman, Ambassador Karl Wolf of Austria, said:

"We view a progressive development of . . . the Law of the Sea not as a development exclusively favoring certain groups of states to the detriment of others. . . . This has in our view all too often been overlooked in the course of the past deliberations of this Conference . . . no solution to the unsettled issue seems possible without an adequate accommodation of the just aspirations of the landlocked and geographically disadvantaged states."

After deploring past or contemplated unilateral action, the Group says that:

"It will continue to actively pursue its goal, namely the establishment of a new and just order of the law of the Sea benefitting all groups of states and mankind as a whole."

Perhaps, as many believe, the geographically favored states would rather have no treaty than share some part of the "within 200" wealth with the Disadvantaged, most of whom are very poor indeed. But the "ocean haves"—which include important Third World states—may yet decide to give the Disadvantaged a real stake in the new ocean system. One reason for hope is that on the same day as Ambassador Wolf's statement the Chairman of the Conference Drafting Committee, Ambassador Alan Beesely of Canada said that special attention must be given to the concerns of the Geographically Disadvantaged. This could foreshadow a major breakthrough in the Conference—and a major step forward to agreement on a treaty. For Canada has been one of the most effective champions of the EEZ and, hardly a coincidence, one of the nations which stands to gain the most resources from it.

However there is reason to believe that the "big coastals" hope to appease the Disadvantaged not by giving them a share in the mineral wealth off the shores of the rich nations but by giving them a right—and only a very qualified right—to fish in the zones of their (usually) poor neighbors. The influential Evensen group has been promoting this technique of the poor—rather than the rich—helping the poor. Fabulous discoveries of offshore oil are making Norway, Ambassador Evensen's home and a nation of only four million people, the Saudi Arabia of Europe. Although Thor Heyerdahl and other prominent Norwegians have suggested that Norway share at least twenty-five percent of the oil revenues within 200 miles of shore, the Norwegian government wants every penny of them for Norway.

The EEZ is by far the most important feature of the New York Text and the "probable treaty"—if there is a treaty. That "probable treaty" will have two other main features (in addition to the EEZ). Feature two will be the preservation—though not without ambiguity—of freedom of navigation including "*unimpeded* transit" through straits. All nations, not just maritime nations have a strong interest in that freedom. The third feature will be the establishment of a powerful—but poor—international seabed authority (ISA) which will organize production—but not *too much* production—of the valuable—but not really *very* valuable hard mineral resources of the deep seabed. This is an important and exciting development and appears to be a step in the direction of the new economic order which the Third World desires so ardently. Perhaps it is cynical to say it, but one of the ISA's great values to the "have" nations is that it diverts Third World attention from the massive grabs of offshore oil resources by the "have" nations.

To single out these three issues is not to suggest that there have not been other important issues before the Conference. There have—dozens of them, e.g. pollution, scientific research, naval armament, dispute settlement. These and many other subjects received a great deal of attention. But in most of them the probable result will be treaty articles with ambiguous—and even contradictory wording. Thus, the actual "operative regime" for each of the problem areas will envolve through "state practice" and uneasy bargaining between the coastal and flag states.

But what the big coastals want to avoid sharing is the really valuable riches, i.e. oil and gas within 200 miles of shore. They have no strong objections to sharing their fish with poor neighboring countries under a general obligation of coastal states to permit—more or less on the coastal state's terms—other nations to fish for species which they, the coastal states, do not or cannot take, provided that the total catch does not exceed the maximum sustainable yield.

Let us look at some of the other features of the "probable treaty", i.e. in most respects, the New York Text. The most important source of ocean pollution, land-based pollution, is not treated at all, except for a pious declaration. Third World *countries* need money to pay for the technology to deal with that pollution. They won't use their own funds. An obvious source of the funds would be the tremendous revenues in the economic zone. However the concept of the EEZ forbids this. The "mixed economic zone" proposal (MEZ) would take care of this problem and mean substantial aid to development as well. It would require coastal states to contribute 1 to 20 percent, depending on per capita GNP, of the offshore mineral revenues within the MEZ to a World Common Heritage Fund.

As to the Authority, the U.S. has gone some distance in meeting the desires of the Third World. It is now willing to have the Authority itself engage in production, if a role is guaranteed for private enterprise. It is willing to accept, at least for some years, a limit on production so as to protect the interests of land-based producers. It is willing to accept a voting scheme which permits the developed countries to be outvoted but does weigh voting in their favor. However the Authority will probably provide little common heritage funding for decades, nothing like the six billion dollars per year (by 1975) that Ambassador Pardo's plan would have produced. It will have to pay its own expenses first, then compensate land-based producers. And, some believe, there will be enough "national nodules", i.e. nodules within 200-mile economic zones, to undercut the price and production controls the Authority may try to establish.

Some champions of the treaty believe that the Conference will adopt a system of "compulsory and binding dispute settlement mechanisms" for marine disputes. It is true that the Dispute Settlement Draft which Conference President Amerasinghe presented to the spring session has such provisions. But the long debate on that subject revealed a widespread reluctance on the part of coastal states to accept any kind of third party dispute settlement within the economic zone, although maritime nations regard this as essential. There is even doubt as to how compulsory third party settlements outside the zone will be.

To sum up. Perhaps the champions of a "least common denominator treaty" are right. Perhaps the New York Text will be—and should be—acceptable to the Disadvantaged, even though it enriches the rich and impoverishes the poor. Perhaps, with minor revisions, it will win the necessary votes in the Conference and win the necessary ratifications afterwards. Perhaps it will be self-enforcing. Perhaps the money to save the oceans and to build development will be found elsewhere.

But perhaps the realistic thing to do, if we really want a treaty, is to abandon the idea of a least common denominator treaty and try to write a treaty which measures up to the dimensions of the problems which man faces on land and on sea, a treaty inspired by the concept of the oceans as the common heritage of mankind. When George Washington was presiding over the American Constitutional Convention he finally intervened to question the realism of the realists. His words may be the proper counsel for the law of the sea delegates when they return to New York not long after the tall ships:

It is too probable that no plan we propose will be adopted. Perhaps another dreadful conflict is to be sustained. If, to please the people, we offer what we ourselves disapprove, how can we afterwards defend our work. Let us raise a standard to which the wise and the honest can repair. The event is in the hands of God.

Tall Ships Becalmed? Law of the Sea Laps On

Recently we printed an article by Dr. John J. Logue of Villanova University. He wrote eloquently of the way that "Operation Sail"—the world's Tall Ships parading in New York harbor—had captured the imagination of people everywhere.

Maybe, he suggested, something of this spirit should be inspired by the New York session of the Third United Nations Conference on the Law of the Sea, which reconvened last week. "Perhaps," said Dr. Logue, who is director of the World Order Research Institute, "the Law of the Sea Conference needs a stronger purpose, a stouter heart, a bolder course and more harmony in its crew."

These qualities are not apparent among the thousands of negotiators in the conference's 157 delegations. They resumed the current series of debates with acrimony about negotiating procedures.

Basically, the fussing is about who gets what of the mineral and other wealth of the sea. There are the matters of security, and the free passage of shipping and communications through sea zones being economically developed by coastal countries. Also in question is how landlocked countries are to share in sea wealth, the international controls to be applied, and the means for settling disputes.

The arguments on updating sea law have dragged on for many years now. The difficulties are enormous, with geography and technology resulting in national interests that cut across the western, Communist and Third World blocs. The stakes in new mineral wealth are high, as well as in the sea food that has caused strife among fishing nations.

The expectation is now voiced that one or two more sessions extending into next year will be required to produce a treaty. That seems to justify the impatience of the U.S. Congress when it established a 200-mile exclusive fisheries zone offshore, effective in March 1977, to protect our New Jersey, Delaware and other East Coast fishermen from excessive foreign fishing and to goad the sea law conferees to act.

Congress is also under pressure from highly advanced American industry that has the technology to mine the ocean floor and wants to get ahead with it. Clearly there is a limit beyond which it is unreasonable to prevent those capable of developing sea wealth from doing so—provided it is fairly shared to benefit mankind.

The "tall ships" of the sea law conference unfortunately have been either snarled in the gulfweed of greed or becalmed in the horse latitudes of need. It's time now to use their engines.

COMMUNIST PARTY PLANS LABOR DAY MARCH IN NORTH CAROLINA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. McDONALD. Mr. Speaker, the Communist Party, U.S.A.—CPUSA—has organized a "March for Human and Labor Rights" to be held September 6, 1976, in Raleigh, N.C. The CPUSA has organized the demonstration through its front directed at the "civil rights" and "prison reform" movements called the National Alliance Against Racist and Political Repression—NAARPR—which operates from national headquarters at 150 Fifth Avenue, New York, N.Y. 10010 (212/243-8555). NAARPR is directed by its executive secretary, Charlene Alexander Mitchell, a top CPUSA Central Committee member responsible for overseeing minority group organizing.

The NAARPR march is designed to develop support for a campaign to free 13 convicted and imprisoned felons in North Carolina's prisons—Rev. Ben Chavis—a NAARPR vice-chairperson—and the Wilmington 10, and James Grant, Jr. and the Charlotte 3 convicted of arson. Grant was an organizer for the Southern Conference Educational Fund—SCEF—during the period when it was the CPUSA's principal front in the South.

The second focus of the NAARPR march is to gain support from organized labor for the National Alliance, and to in turn persuade organized labor to accept help from the Communist Party in union organizing drives in North Carolina. The NAARPR has expressed particular interest in efforts by the Textile Workers Union to organize J. P. Stevens plants in North and South Carolina.

The Communist Party's drive against North Carolina is being supported by the Soviet Union's international propaganda organizations to generate anti-United States and anti-North Carolina sentiment in the "world public opinion." Chief among the international Communist fronts under Soviet control which have taken up the NAARPR campaign is the World Peace Council—WPC—headquartered in Helsinki, Finland.

The demonstrators assembled under NAARPR's aegis will gather at 9 a.m. on the grounds of the State museum, Wilmington and Lane Streets, from which they will march past the State legislature, the State Capitol, the Federal Building and the Governor's Mansion before returning to the museum grounds for a rally.

Featured speakers are to include Colorado Lt. Gov. George Brown; Georgia State Senator Julian Bond; Angela Davis; Hilton Hanna, a vice-president of the Amalgamated Meatcutters and Butcherworkmen of North America, a union long dominated by the Communist Party; and Rev. W. W. Finlator, chairperson of the North Carolina Advisory Committee to the U.S. Commission on Human Rights.

Local NAARPR chapters are organizing charter buses. For those who plan to attend from New York, round-trip bus tickets are being sold for $30. Buses will leave from NAARPR headquarters at 150 Fifth Avenue; from 96th Street and Broadway; from 168th Street and Broadway; from Queens Boulevard and 63d Drive in Queens; and from Grand Army Plaza in Brooklyn. The New York buses will leave at 6 p.m. on Sunday, September 5, and will leave Raleigh for the return to New York at 5 p.m., Monday. The demonstrators are to arrive back in New York about 5 a.m. on Tuesday, September 7.

To drum up last minute support for the National Alliance demonstration, the tank-topped superstar of the Communist Party Central Committee, Angela Davis, a "cochairperson" of the NAARPR, has been on a national speaking tour.

On August 12, 1976, Davis spoke at the Trinity Evangelical Lutheran Church, 168 W. 100th Street, New York City. Introduced by Trinity's pastor Rev. David Kalke, Davis was supported by other speakers including:

Antar Mberi—former chairman of the Athens, Ohio, Young Workers Liberation League—YWLL—who now heads the CPUSA's W.E.B. DuBois Center in Harlem.

Charlene Mitchell—CPUSA Central Committee.

Martin Sostre—recently pardoned by New York Governor Carey for one offense, and now a legislative aide to Assemblywoman Marie Runyon. Sostre had received a 30-year sentence for his third drug-selling conviction. In prison he used his position as a "political prisoner" to support the Symbionese Liberation Army and the Black Liberation Army, both terrorist organizations.

Morton Sobell—a convicted Soviet atom spy who was part of the Rosenberg ring; Sobell and Sostre expressed sympathy for their fellow "political prisoners" in North Carolina.

Ali Rashed, a "minister" of the Nation of Islam—Black Muslims—who denounced the trial of Louis 37X Dupree for the murder of a police officer during a Black Muslim attack on police in a New York mosque.

Hank Williams, WBLS Radio.

Suni Paz, a folksinger active in Castroite circles.

Martha Siegel.

Lennox "Tony" Hinds, a vice-chairperson and founding member of the NAARPR who is active with the National Lawyers Guild and the National Conference of Black Lawyers. Hinds also serves as the United Nations representative of the International Association of Democratic Lawyers—IADL—an international Soviet-controlled Communist front.

A claimed 1,000 persons attended the Trinity rally; however, the Communist Party newspaper, Daily World, reported a mere $500 raised in response to Hinds' appeal for bus rental funds.

Three days later, on August 15, Davis spoke in Baltimore, Md., at Johns Hopkins University before a crowd of some 700 persons. Davis shared the platform with Representative PARREN MITCHELL. Davis leveled a broad attack on North Carolina's criminal justice system, former President Nixon, South Africa, the Baltimore youth curfew law, the Baltimore Police Department and its Commissioner, Donald D. Pomerleau. The Baltimore police have been attacked for monitoring meetings of Communist Party fronts at which public figures have appeared. The press reported the Representative charged that FBI "spying" had not ended and that he believed "They are right here." It was noted that no disorders or acts of violence took place during the NAAPR meeting in Baltimore, despite several telephoned bomb threats which necessitated several police searches of the auditorium before the Communist Party Leader appeared.

On the next morning, Davis spoke at a 20-minute press conference in the D.C. Municipal Building city council meeting room with Councilman Marion Barry, former head of the Student Nonviolent Coordinating Committee, and Jimmy Ingram, vice president of Local 6, Newspaper and Graphic Communications Union. Mr. Ingram's local represents the Washington Post pressmen, 15 of whom were indicted for smashing the presses in a strike action last October. The indicted pressmen are being represented by identified Communist Party member David Rein of the National Lawyers Guild.

That evening, Angela Davis spoke at the AME Zion Church, 1518 M Street, NW, Washington, D.C. Among those speaking with the Communist Party representative was Ray Collins, recording secretary of Local 6. Collins was cheered when he told the crowd that only three months ago, Local 6 members, relatively well-paid and presuming themselves safe from layoffs, would not have associated with the struggle to free the Wilmington 10 and Charlotte 3. He urged the crowd to go to Raleigh, adding, "Just by your being there, you are showing that you believe they should be free."

Angela Davis warmly praised the pressmen saying:

> The fact that our brothers are here tonight proves that something is happening in this country.

Davis emphasized the NAARPR/CPUSA drive for organized labor participation in the Raleigh march. She repeated the NAARPR charge that North Carolina is "one of the most repressive States against organized labor. Davis linked the drive to free the prisoners with the textile plant organizing drive and claimed:

> Rev. Ben Chavis and Dr. Jim Grant were singled out by the officials of North Carolina because they saw the connection between the fight for civil rights and the fight by organized labor.

During previous weeks Davis had spoken in New Haven, Chicago, and Los Angeles. Davis' activities are continuing right up until the Labor Day weekend.

A FREE AMERICA NEEDS A STRONG DEFENSE

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. LENT. Mr. Speaker, the recent brutal murders of two American officers by the North Koreans comes at a time when Congress is moving toward adoption of the final budget resolutions for fiscal year 1977. I rise to ask my colleagues to remember the provocation at Panmunjom, and to resist the temptation to effect massive government economies at the expense of our national defense.

President Ford's defense request simply continues the increase begun in 1976 that reversed the 7-year decline in real defense resources. The administration's defense program will reduce programs that do not contribute directly to combat effectiveness, lower civilian personnel levels accordingly, and in general, spend our defense dollars more efficiently.

We cannot afford to be dazzled by détente. America is at peace, but a strong credible defense is essential to keeping the peace. And our adversaries have been steadily building up their military might. To be sure, the United States enjoys a momentary qualitative advantage, but unless Congress acts affirmatively, we will begin to live in an unstable, and therefore dangerous, world. An objective look at the doubling of Soviet military strength, or the constant series of Russian-backed provocations around the world, will convince the most stubborn skeptic that the Soviets are again on the move.

Mr. Speaker, arms control and reduction is a goal every sane person must endorse, but we live in a world filled with unpleasant realities and those realities dictate a wary approach. There are those who tell us that the Soviet military buildup is concentrated at the border between Russia and China, and therefore should not be regarded as a threat to the United States. But I suggest this line of reasoning is at least overly optimistic and at worst, naive. Because, Mr. Speaker, to rely on the continuation of Sino-Soviet rivalry is to give control of the strategic balance in the world to the People's Republic of China. I, for one, do not feel comfortable having China as the guarantor of America's security. I would be more comfortable—and I believe most of my constituents agree with me—having an American defense capability second to none. Détente cannot be a substitute for deterrence in a nuclear age.

The Federal Government now spends twice as much on human needs as on defense. That is not exactly the budget pattern of a "military state," which is the description some critics of defense spending have applied to our current defense program. Consider these facts: the United States spends only 6 percent of its gross national product—GNP—on defense, while the Soviet Union is devoting 20 percent of its GNP to defense. In comparison, on the eve of World War II, Hitler allocated only 19 percent of his GNP to military expenditures.

Mr. Speaker, when a major nation like Russia—ostensibly at peace—devotes such a high percentage of its resources to the production of weapons and to a general military build-up, we must ask: Why? Military spending unequalled since the war preparations of the Nazis in the thirties must at least engage our interest, and suggest that there are no grounds for complacency.

I agree with the views expressed by former Secretary of Defense James Schlesinger that to continue our complacent attitude, and allow real defense spending to decline further, would be a conscious decision to slip to an inferior status vis-a-vis the Soviet Union.

Dwight Eisenhower used to say that military strength is only the sharp edge of the sword's blade. The strength of the blade and therefore of the sword, is based on the economic might and political freedom of the American people. By that test, Mr. Speaker, we are a strong nation, growing stronger. My concern is that, while we keep our sword sheathed, we do not allow it to become dull or rusty. For if we do, we shall pay a terrible price.

We want peace. We are working towards a relaxation of international tensions. We hope our adversaries want peace. But this Nation is being tested around the world, and a prudent caution is necessary. Part of that caution must be an adequate American defense program, and I hope my colleagues will join me in voting to achieve it.

INFANT FEEDING RESOLUTION

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. HARRINGTON. Mr. Speaker, today I am introducing the "Infant Feeding Resolution," a joint resolution cosponsored by eight of my colleagues in the House to study the marketing and misuse of infant formula as a substitute for mother's milk in the developing nations. The promotional practices of several large American multinational corporations in the Third World represent a potential threat to infant nutrition.

Recent studies by leading nutritionists and pediatricians strongly suggest that increased use of infant formula in developing nations has contributed to a rise in infant malnutrition, illness, and higher infant mortality. Infant formula manufacturing subsidiaries of three U.S.-based firms—Abbott Laboratories, American Home Products, and Bristol-Myers—have stepped up questionable sales efforts of formula and weaning foods, largely in response to the expanding market in the populous developing world. Such corporate practices include the widespread distribution of free formula samples and the hiring of "milk nurses" commissioned by the firm to promote formula products in the home and elsewhere.

In recent years, women of the industrialized West, as a result of urbanization, increased employment opportunities, technological advancement, and greater affluence have discarded breast feeding and turned to the use of infant formula. Recently, the trend toward the use of milk substitutes has been extended to the developing nations of the world which can least afford to properly utilize these products. The large majority of the citizens of these nations lack the sanitary, educational, and economic resources necessary for safe formula use. Contaminated and diluted formula has been a major contributor to infant malnutrition and suffering. Thus in recent years nutritionists and pediatricians have strongly encouraged the practice of breast feeding as the preferred alternative for women in developing nations.

Our joint resolution addresses these problems of formula promotion by U.S. subsidiaries and of improper formula use in the developing world. We request the President to conduct a study of the infant formula problem through the appropriate executive branch channels and by calling on the Agency for International Development to promote breast feeding in its programs.

A multifaceted strategy in partnership with developing nations designed to promote breast feeding by AID would represent a vital step toward balancing the voluminous promotional activities of multinational formula manufacturers. Our resolution requests AID to undertake practical education programs through the mass media, community outreach efforts and other means to encourage breast feeding as the preferred alternative for the majority of women without the economic, sanitary, and educational means to use the formula safely.

From a health standpoint, infants bottle fed under less than optimum conditions are more susceptible to a wide range of diseases including, bacterial and viral infections, allergies, and diarrhea, than are breast-fed infants. Perhaps more importantly, "increasing scientific evidence indicates the specific active protective effects of human milk against many infections in infancy, particularly diarrheal disease and especially in areas of poor environmental hygiene," according to Dr. Derrick Jelliffe of the UCLA School of Public Health. The widespread use of artificial formula represents a substantial economic waste for families and governments worldwide. Alan Berg, an economist of the World Bank, cites some relevant examples of this loss. Potential human milk production in Chile was 93,200 tons in 1970, of which only 14,600 were realized. Instead, 78,600 were provided to infants in the form of costly imported formulas. Kenya, too, suffers an annual loss of approximately $11.5 million or two-thirds of that country's national health budget due to the increased purchase of infant formula.

Thus, in light of the economic and health benefits of breast feeding, a strategy which aims at reversing the trend toward early weaning may help to decrease the malnutrition resulting from the improper use of infant formula.

Several factors have contributed to the decline of breast feeding among Third World women. Among these, are the questionable promotional practices of multinational corporations involved in the sale and marketing of infant formulas, which have played a substantial role in furthering this trend. By the time an infant reaches 4 to 6 months of age, some sort of weaning food is necessary to supplement the mothers own milk. All too frequently, however, firms' high pressure sales promotion convinces mothers never to start breast feeding at all or to abandon it after just a few weeks.

Formula marketing takes many forms, including some highly questionable advertising and promotional practices which have come under increasing attack in recent years. For example, these infant formula manufacturing subsidiaries often hire "milk nurses" or "mothercraft personnel" who visit the mothers of newborn infants after acquiring their names from hospital registers. Dr. Derrick Jelliffe states:

> They (mothercraft personnel) may bring small samples of the milk which they are paid to promote to the mothers' bedside, emphasizing at the some time the suitability and ease of bottle feeding to lactating women.

Company spokespersons claim that their mothercraft presonnel perform a valuable function in supporting professional and paraprofessional medical personnel. However, many of these individuals are drawn from the existing force of health personnel by the promise of higher pay. Many receive commissions on sales and thus they are primarily concerned with the promotion of the company's products. Tragically, the use of trained personnel to promote infant formula products in countries with far too few qualified health professionals only serves to exacerbate these shortages.

Another inappropriate corporate marketing practice is the distribution of free bottles and formula samples to the mothers of newborn children. Free drug and formula distribution to hospital patients is a disturbing and unnecessary fact of life in the developing world.

Company representatives argue that their advertising is aimed only at medical professionals and those upper income families who can afford artificial feeding products. However, again and again the continuous flow of advertising carried by newspapers, magazines, radio and television, reach and influence the underprivileged mother. For example, a 1973 study found that ads for Swiss-based Nestle's "Lactogen" made up 11.26 percent of all radio advertising in Kenya that year. Clinics in various countries also display brightly colored calendars and distribute eyecatching "baby books" emphasizing the case of use and the unmatched quality of various formula products. In contrast, information about the benefits of breastfeeding tends to gain little visibility.

Human suffering is the inevitable result of improper infant formula use. The extreme expense of artificial formula virtually forces underprivileged mothers to dilute the product in an effort to stretch it further. A 1-pound container of milk formula which is intended to last for 3.5 to 4 days is sometimes diluted to last up to 3 weeks or longer. For example, a study in Barbados conducted by the Pan American Health Organization, revealed that 82 percent of mothers surveyed in 1969 overdiluted formula products. Worse still, according to a 1975 Consumers' Union study:

> When the tin of formula is used up, if the women have no money and their breast milk

is used up, they give the babies "something else" (e.g., cornstarch mixed with water or chocolate drink).

Furthermore, sterile equipment and clean water are essential for the healthful use of artifiicial infant formula. For poor mothers, especially in rural areas, such requirements are very difficult to fulfill. The consequences of formula use under such precarious conditions can be tragic. Infant mortality rates among bottle-fed infants in Chile are three times that of breast-fed infants, according to a 1973 WHO study. The use of dirty water and unsanitary bottles leads to more frequent and severe instances of gastroenteritis and diarrhea. These disorders may occur up to 12 times more frequently in cases where an infant is solely bottle-fed.

This resolution expresses, as the sense of Congress, the conviction that United States based businesses, and U.S. subsidiaries of foreign-based businesses, involved in marketing infant formula should act responsibly in conducting activities which affect the nutrition and health needs of people in the developing world.

More importantly, we cannot hope to find remedies to the infant feeding problem without first collecting the critically needed data. The growing number of local and regional studies on infant malnutrition, infant formula use, and corporate promotion must be synthesized and elaborated by a far more extensive investigation if we are to fully understand this problem.

The resolution requests the President to conduct through the appropriate executive departments and agencies "a detailed study into the nature, scope, and extent of effects of infant formula use in developing nations." This study hopefully will provide comprehensive answers to the following questions:

First. How much formula is being used worldwide by region? What is the socioeconomic status and literacy level of the women using the product? How much formula is necessary as a nutritive supplement? What are the health and nutritional effects of infant formula use under existing local conditions?

Second. Which corporations are involved, and in what manner and to what extent?

Third. What is the effect of advertising and promotional techniques employed by U.S.-based and foreign-based corporations with U.S. subsidiaries?

Fourth. Is any direct or indirect support being provided to infant formula manufactured by U.S. Government agencies?

Fifth. How widespread are bribes and the use of illegal payments to foreign governments by businesses seeking to secure markets for infant formula sales?

At least, one study on the incidence of breast feeding versus formula use is already underway, funded by the Agency for International Development's Food and Nutrition sector. However, a more comprehensive study remains of critical importance.

Businesses cannot simply affirm the healthfulness of their products in a vacuum. Firms must acknowledge the potential health hazards resulting from the promotion of ostensibly good products to people who cannot fulfill the many requirements for safe use.

POST CARD REGISTRATION

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. FRENZEL. Mr. Speaker, the Wall Street Journal's lead editorial today pointed out that post card registration has not produced "appreciable increase in voter turnout," and that less than 12 percent of nonvoters in 1970 claimed illness or registration requirements for their nonparticipation. Since the Senate leadership has neither scheduled the bill for floor action, nor referred it to committee, the post card bill is now resting in a state of suspended animation. Candidate Carter, who was badly burned on his first legislative adventure, is unlikely to try to breathe life back into the bill. But because someone else might get that bright idea, I invite the attention of the House to the WSJ editorial which follows:

[From the Wall Street Journal, Aug. 26, 1976]

POST CARD REGISTRATION

Jimmy Carter's first venture into congressional politics proved to be a partial success, which isn't half-bad for a man who is not even an elected official much less a Congressman. For it was at his urging, shortly after his nomination, that the long dormant post-card registration bill was resurrected from committee and sent to the House floor. The full House rejected the proposal endorsed by candidate Carter that the federal government mail voter registration forms to all eligible voters in the U.S., but it did vote to allow prospective voters to pick up registration forms at the Post Office and return them through the mail.

The exercise was probably for naught, since even if a mail registration bill gets to President Ford's desk—not very likely in a Congress faced with far more pressing business—he has promised to veto it. Mr. Carter would settle for that, since he believes he can make a campaign issue out of the veto, but he would no doubt also like to have a postcard registration law, since his strategists guess that most non-registrants are nominally or potentially Democrats.

But neither side talks about mail registration in crass partisan terms. Republicans discuss the enormous expense involved and the potential for vote fraud, while Democrats make mail registration sound like the quintessence of democracy. Actually, neither party has ever adduced any real evidence to support its claims. Perhaps their gut reactions would be borne out if mail registration were ever adopted, but so far both sides are operating solely on hunches.

For example, although some 17 states have some form of mail registration for state elections, one of the few studies of any such plan was undertaken by political scientist Richard G. Smolka, who examined the mail registration systems that became effective in Maryland and New Jersey during 1974. In an analysis for the American Enterprise Institute he concluded that (1) No appreciable increase in voter turnout was related to mail registration, and (2) The relationship between mail registration and party identification is inconclusive, although the evidence from those two states suggests that persons who register by mail are less likely to affiliate with either party.

Supporters of mail registration frequently cite the low rate of U.S. voter participation, low not just in comparison with dictatorships but also in comparison with other democracies with high literacy and universal suffrage. Politicians generally condemn such apathy, while liberal politicians go further and tend to blame it on obstacles put in the path of voters. Yet neither explanation withstands serious analysis.

It's true that the U.S. alone among Western democracies places responsibility for registering voters on the individual and on political parties, rather than on the government. But responsibility—the responsibility for taking the time to register—is a far cry from those "obstacles" we hear so much about. A U.S. Census Bureau poll found that less than 12% of nonvoters in the 1970 election blamed illness or registration requirements for their nonparticipation. While that poll no doubt is not scientifically accurate it does jibe with similar polls taken over the years. All tend to discredit the notion that government has erected difficult hurdles for potential voters.

Many voters apparently refrain from voting because they generally like both candidates while others refrain because they generally dislike both. A proliferation of parties and candidates might stimulate greater voter turnout, as it does in other nations. But many careful observers attribute much of the success of the American political system to the absence of splinter parties and the willingness of both major parties to accommodate a wide spectrum of issues and opinions.

The ideal, of course, would be a high turnout of informed, concerned voters. But those who are most enthusiastic about boosting voter turnout almost never mention an informed or concerned electorate. Their emphasis seems to be exclusively on increased percentages.

The traditional U.S. view is that the essence of representative democracy is not how many warm bodies can be cajoled, shamed or talked into going to the polls. It is how many voters will take time to inform themselves about the issues so they will go willingly to exercise their franchise.

SENATE—*Friday, August 27, 1976*

The Senate met at 9 a.m. and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God and Father of us all, in Thee do we trust and to Thee confidently lift our morning prayer. Thou art holy and we are unholy. Thou art great and we are small. Thou art strong and we are weak. Our incompleteness seeks Thy fulfillment. Pour the treasures of Thy life and love and wisdom into our needy souls. Bring us into harmony with Thyself, Thy purpose, Thy life. Help us with the immediate task before us, but keep our vision ever upon the coming of Thy kingdom in all its fullness. Bless us and make us a blessing.

In Thy holy name, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 27, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. BURDICK thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, August 26, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination will be stated.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The second assistant legislative clerk read the nomination of Thomas L. Lias, of Iowa, to be an Assistant Secretary of Health, Education, and Welfare.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of this nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—S. 3197

Mr. MANSFIELD. Mr. President, earlier this week, I asked for and received unanimous consent from the Senate that S. 3197, the wiretapping bill, be allocated 30 minutes on the bill, 20 minutes on amendments, and 10 minutes on amendments to amendments, motions, and appeals.

I am afraid I acted too hastily because in talking to other Members who are interested in this bill I find it necessary to change my request.

At this time, I ask unanimous consent that the time on S. 3197 be limited as follows: 3 hours on the bill, 1 hour on any amendment, 30 minutes on any amendment in the second degree, and any other debatable motion or appeal, and that the agreement be in the usual form.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

ORDER OF PROCEDURE

Mr. MANSFIELD. Mr. President, for the information of the Senate, it is my understanding that when the unfinished business is laid down there will be 10 minutes on the Pearson amendment, to be followed by a 15-minute rollcall. It, in turn, will be followed by two McClure amendments to which a total of 40 minutes has been allocated, a Bellmon amendment on which 20 minutes has been allocated. Then, not necessarily in this order, an Eagleton amendment of 10 minutes, a Glenn amendment of 30 minutes, and a Domenici amendment of 15 minutes, and all other amendments 20 minutes.

As the Senate knows, the Senate has agreed that the vote on final passage will occur at 12 noon.

The ACTING PRESIDENT pro tempore. Is that a statement or a unanimous consent?

Mr. MANSFIELD. Just a statement.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, I yield back my time.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 9:20 a.m., with statements therein limited to 2 minutes each.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL LEADERSHIP CONFERENCE ON ENERGY POLICY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of calendar No. 1099 (S.J. Res. 206).

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 206) providing for a National Leadership Conference on Energy Policy to be held during 1977.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the joint resolution (S.J. Res. 206) was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

Whereas the United States continues to face critical problems relating to energy, despite enactment in 1975 of the Energy Policy and Conservation Act;

Whereas because of insufficient development of reliable domestic energy sources, such as oil, gas, and coal, and insufficient energy conservation programs, United States dependence on unreliable foreign energy sources has continued to increase during 1976;

Whereas the Nation's security, economic vitality, and environmental well-being depend upon the adoption of a comprehensive energy policy to resolve these problems; and

Whereas the successful development and implementation of such a policy requires the active support of the American people and the cooperation of all levels and branches of government: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall call a National Leadership Conference on Energy Policy (hereafter in this joint resolution referred to as the '"Conference") to convene in Washington during 1977. The President shall, not later than April 1, 1977, announce the beginning date of the Conference.

SEC. 2. (a) It shall be the purpose of the Conference to consider alternate policy approaches available to the United States with respect to energy. In particular, the Conference shall develop specific proposals to increase the supply of energy from reliable sources with minimum impact on the environment, and decrease domestic energy demand in ways not harmful to America's economic recovery, which shall form the basis for the adoption of a national energy policy to be implemented during 1977 and thereafter.

(b) The Conference shall be composed of, and bring together—

(1) Members of Congress and Federal, State, and local government officals with responsibility over energy policies and programs;

(2) representatives of energy industries, especially industries involved in producing oil, gas, and coal;

(3) representatives of public utilities;

(4) representatives of environmental and conservation organizations;

(5) representatives of consumer organizations;

(6) representatives of industrial and financial trade associations;

(7) representatives of organized labor;

(8) representatives of the academic and scientific communities; and

(9) individual citizens with particular expertise in the energy field.

SEC. 3.(a) Within fifteen days after January 22, 1977, the President shall appoint a committee which shall make all necessary arrangements and preparations for the Conference. The committee shall consist of fifteen members and shall, insofar as possible, be representative of members of the Conference. The President shall designate one of the members of the committee to serve as chairman and one to serve as vice chairman.

(b) The committee shall prepare and make available background materials for the use of members of the Conference.

(c) The committee is authorized—

(1) to request the cooperation and assistance of other Federal departments and agencies in order to carry out its responsibilities, and

(2) to employ such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 51, and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, but no individual so employed may be paid compensation at a rate higher than the annual rate of level V of the Executive Schedule under section 5316 of such title.

(d) Each Federal department and agency is authorized and directed to cooperate with and provide assistance to the committee upon its request.

SEC. 4. Members of the Conference and members of the committee shall, when attending the Conference or when attending to the business of the committee, as the case may be, and away from their homes or regular places of business, be allowed travel expenses, including per diem in lieu of subsistence, as may be authorized under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

SEC. 5. A final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President not later than sixty days following the close of the Conference, which final report shall be made public and, within thirty days after its receipt by the President, transmitted to the Congress together with a statement of the President containing the President's recommendations with respect to such report.

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this joint resolution.

ORDER THAT S. 3424 BE PLACED UNDER SUBJECTS ON THE TABLE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that calendar No. 782, S. 3424, a bill to minimize the use of energy in housing, nonresidential buildings, and industrial plants through State energy conservation implementation programs and Federal financial incentives and assistance, and for other purposes, be transferred from the calendar and placed under subjects on the table.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the Vice President, pursuant to Senate Resolution 523, 94th Congress, appoints the following Senators to the membership of the Study on U.S. Security and Foreign Policy Interests in Middle East, Europe, and Other Areas: the Senator from Connecticut (Mr. RIBICOFF), cochairman; the Senator from Nevada (Mr. CANNON); the Senator from Missouri (Mr. EAGLETON); the Senator from Ohio (Mr. GLENN); the Senator from Kentucky (Mr. FORD); the Senator from Iowa (Mr. CULVER); the Senator from Arkansas (Mr. BUMPERS); the Senator from Tennessee (Mr. BAKER), cochairman; the Senator from Kansas (Mr. PEARSON); the Senator from Maryland (Mr. MATHIAS); the Senator from Oklahoma (Mr. BELLMON); and the Senator from Nevada (Mr. LAXALT).

MESSAGES FROM THE HOUSE

At 11:14 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House had passed the bill (S. 3283) to authorize the Secretary of the Interior to construct, operate, and maintain the Oroville-Tonasket unit extension, Okanogan-Similkameen division, Chief Joseph Dam project, Washington, and for other purposes, with amendments in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATION BY THE DEPARTMENT OF COMMERCE

A letter from the Secretary of Commerce transmitting a draft of proposed legislation to amend section 510(i) of the Merchant Marine Act, 1936 (with accompanying papers); to the Committee on Commerce.

REPORT OF THE ASSISTANT SECRETARY OF DEFENSE

A letter from the Deputy Assistant Secretary of Defense transmitting supplemental listings of names of persons filing reports too late to include with previous reports of the Department of Defense; to the Committee on Armed Services.

REPORT OF THE OFFICE OF MANAGEMENT AND BUDGET

A letter from the Administrator of the Office of Management and Budget transmitting, pursuant to law, a study report and executive summary of procurement payable from nonappropirated funds (with accompanying papers); to the Committee on Government Operations.

PUBLICATIONS OF THE FEDERAL POWER COMMISSION

A letter from the Chairman of the Federal Power Commission transmitting two publications entitled "Statistics of Publicly Owned Electric Utilities in the United States, 1974" and "Principal Electric Facilities, 1976" (with accompanying publications); to the Committee on Commerce.

REPORTS OF THE COMPTROLLER GENERAL

Two letters from the Comptroller General, each transmitting, pursuant to law, a report entitled "Poor Management of a Nuclear Light Water Reactor Safety Project" and "The Air Force Could Reduce War Reserve Requirements of Spares and Repair Parts for Combat-Ready Units" (with accompanying reports); to the Committee on Government Operations.

REPORT OF THE COURT OF CLAIMS

A letter from the Chief Commissioner of the Court of Claims transmitting a report relating to the case of Datronics Engineers, Inc. against United States (with accompanying papers); to the Committee on the Judiciary.

AMENDMENTS TO REGULATIONS OF THE FEDERAL ELECTION COMMISSION

A letter from the Chairman of the Federal Election Commission transmitting amendments to certain sections of regulations previously submitted on August 3, 1976; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

By Mr. INOUYE, from the Committee on Commerce, without amendment:

S. 784. A bill to authorize the Secretary of Commerce to sell two obsolete vessels to Kailua Tug and Barge, Inc., and for other purposes (Rept. No. 94–1176).

By Mr. MORGAN, from the Committee on Banking, Housing and Urban Affairs, with an amendment:

S. 2613. A bill to amend the Small Business Investment Act of 1958, to change the title and duties of the Associate Administrator for Finance and Investment of the Small Business Administration, and for other purposes (Rept. No. 94–1177).

By Mr. BARTLETT, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 6622. An act to provide for repair of the Del City aqueduct, a feature of the Norman Federal reclamation project, Oklahoma (Rept. No. 94–1179).

By Mr. CHILES, from the Committee on Government Operations, with amendments:

S. 1437. A bill to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes (Rept. No. 94–1180).

By Mr. LONG, from the Committee on Finance, with an amendment:

H.R. 6860. An act to provide a comprehensive national energy conservation and conversion program (title amended) (Rept. No. 94–1181).

By Mr. LONG, from the Committee on Finance, without amendment:

H.R. 8283. An act to amend the Internal Revenue Code of 1954 with respect to the type of flavors which may be used on bonded wine cellar premises in the production of special natural wines (Rept. No. 94–1182).

H.R. 5071. An act to amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks for purposes of the common trust fund provisions of such code (Rept. No. 94–1183).

By Mr. BARTLETT, from the Committee on Interior and Insular Affairs, with amendments:

S. 2194. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the McGee Creek project, Oklahoma, and for other purposes (Rept. No. 94–1184).

By Mr. McCLELLAN, from the Committee on Appropriations, with amendments:

H.R. 15194. An act making appropriations for public works employment for the period ending September 30, 1977, and for other purposes (together with minority and additional views) (Rept. No. 94–1185).

By Mr. LONG, from the Committee on Commerce, without amendment:

H.R. 10192. An act to amend title 14, United States Code, to provide for the nondiscriminatory appointment of cadets to the U.S. Coast Guard Academy (Rept. No. 94–1186).

By Mr. LONG, from the Committee on Commerce, with an amendment:

H.R. 11407. An act to amend title 14, United States Code, to authorize the admission of additional foreign nationals to the Coast Guard Academy (Rept. No. 94–1187).

GOVERNMENT IN THE SUNSHINE ACT—S. 5—CONFERENCE REPORT (REPT. NO. 94–1178)

Mr. CHILES submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 5) to provide that meetings of Government agencies shall be open to the public, and for other purposes, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. EAGLETON, from the Committee on the District of Columbia, with additional views:

Charles W. Halleck to be an Associate Judge of the Superior Court of the District of Columbia (Exec. Rept. No. 94–32).

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nominations of Lt. Gen. Donald G. Nunn, U.S. Air Force, to be placed on the retired list in the grade of lieutenant general; and Lt. Gen. James T. Stewart, U.S. Air Force, to be placed on the retired list in the grade of lieutenant general; and Rear Adm. Alfred J. Whittle, Jr., U.S. Navy, for temporary appointment to the grade of vice admiral. I ask that these nominations be placed on the Executive Calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NUNN. In addition, Mr. President, there are 2,244 in the Army for promotion to the grade of first lieutenant—list beginning with Richard L. Abbott; and 17 in the Air National Guard for promotion to the grade of lieutenant colonel—list beginning with Robert G. Beabout; and 23 in the Navy for temporary and permanent promotion to the grade of lieutenant—list beginning with Robert J. Beckman. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of August 2 and August 6, 1976, at the end of the Senate proceedings.)

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, August 27, 1976, he presented to the President of the United States the following enrolled bill:

S. 3542. An act to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam, a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BENTSEN:

S. 3774. A bill for the relief of Peter Juergen Wiedemann and Maria del Carmen Castellanos de Wiedemann. Referred to the Committee on the Judiciary.

By Mr. BARTLETT (for himself and Mr. EASTLAND):

S. 3775. A bill for the relief of Grace McDougall Anderson. Referred to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 3776. A bill to amend the Disaster Relief Act of 1974. Referred to the Committee on Public Works.

By Mr. ABOUREZK:

S. 3777. A bill to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

S. 3778. A bill to amend the Agricultural Act of 1949 to provide for increased benefits with regard to disaster relief for any farmer who plants wheat, feed grains, cotton, or rice in excess of his or her allotments for the commodity. Referred to the Committee on Agriculture and Forestry.

By Mr. THURMOND:

S. 3779. A bill for the relief of Mrs. David C. Davis. Considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATHIAS:

S. 3776. A bill to amend the Disaster Relief Act of 1974. Referred to the Committee on Public Works.

Mr. MATHIAS. Mr. President, in September of 1975 several east coast States were subjected to the ravages of nature in the form of Hurricane Eloise. Damage was extensive in my home State of Maryland and a major disaster was declared, thereby making available Small Business Administration loans to disaster victims.

The drawback to participation in this program, however, was that the SBA loans had an interest rate of 6⅝ percent and no loan forgiveness provision pursuant to the Disaster Relief Act of 1974.

Under the previous Disaster Relief Act of 1970, the SBA granted loans bearing a 1-percent interest rate with a $5,000 forgiveness clause. As my colleagues can readily see, there is a substantial difference in cost to the disaster victim between these two types of loans. Consider the anomaly in loan terms depending upon the time of the disaster in relation to the then current Disaster Relief Act. If it was 1972, and you had the misfortune to be damaged by, for example, Hurricane Agnes, you could apply for a 1-percent loan under the provisions of the Disaster Relief Act of 1970.

By 1975, however, the law had been changed to the higher cost loans. But the forces of nature, however, had not abated and, certainly, the cost and frequency of natural disasters visited upon us had also not decreased. As a result, when Hurricane Eloise came along in September of 1975, her victims were not only at the mercy of the hurricane but of a new law—the Disaster Relief Act of 1974 which provided for the higher interest rate loans with no forgiveness clause.

In Prince Georges County, Md., one of the counties most flood damaged by Hurricane Eloise, only one-tenth of the estimated 1,000 disaster victims—both households and businesses—even applied for the SBA loans because of their high cost.

As Prince Georges County Council Chairman David G. Hartlove, Jr., stated:

> It's no wonder so few applied. Few of our citizens, faced with high inflation and little spare money, can afford to take relatively high interest loans over a long stretch. At that percentage, the federal government isn't lending a helping hand to unfortunate victims but instead it's acting like a commercial brokerage house.

The bill I am introducing today would reduce the high cost of loans for victims of Eloise. It provides for a 3-percent interest rate with up to a $2,500 loan forgiveness clause.

The difference to the disaster victim in terms of a monthly loan repayment between the present 6⅝-percent loan with no forgiveness and my proposed 3-percent loan is significant.

Present holders of 6⅝-percent loans are paying an average monthly payment of $43.90. Should my bill be enacted, the average monthly payment would be $34.53, assuming an average loan of $5,000 with a 15-year payback period and no loan forgiveness. The monthly figure would be even lower if part of the loan were forgiven up to the maximum of $2,500.

I believe this amendment to the Disaster Relief Act will provide the opportunity for many of those remaining

Hurricane Eloise disaster victims to take advantage of the SBA disaster relief loans.

By Mr. ABOUREZK:

S. 3777. A bill to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. ABOUREZK. Mr. President, many Americans and the Congress are becoming more aware of the difficulties Indian communities face in a broad range of areas: Health, Education, Land and Water Rights, Economic Development, and others. But there are few who are aware of the difficulties American Indians face in a matter of vital concern to them; namely, the welfare of their children and their families.

It appears that for decades Indian parents and their children have been at the mercy of arbitrary or abusive action of local, State, Federal, and private agency officials. Unwarranted removal of children from their homes is common in Indian communities. Recent statistics show, for example, that a minimum of 25 percent of all Indian children are either in foster homes, adoptive homes, and/or boardings schools, against the best interest of families and Indian communities. Whereas most non-Indian communities can expect to have children out of their natural homes in foster or adoptive homes at a rate of 1 for every 51 children, Indian communities know that their children will be removed at rates varying from 5 to 25 times higher than that.

Because of poverty and discrimination Indian families face many difficulties, but there is no reason or justification for believing that these problems make Indian parents unfit to raise their children; nor is there any reason to believe that the Indian community itself cannot, within its own confines, deal with problems of child neglect when they do arise. Up to now, however, public and private welfare agencies seem to have operated on the premise that most Indian children would really be better off growing up non-Indian. The result of such policies has been unchecked: Abusive child removal practices, the lack of viable, practical rehabilitation and prevention programs for Indian families facing severe problems, and a practice of ignoring the all-important demands of Indian tribes to have a say in how their children and families are dealt with.

Officials seemingly would rather place Indian children in non-Indian settings where their Indian culture, their Indian traditions and, in general, their entire Indian way of life is smothered. The Federal Government for its part has been conspicuous by its lack of action. It has chosen to allow these agencies to strike at the heart of Indian communities by literally stealing Indian children. This course can only weaken rather than strengthen the Indian child, the family, and the community. This, at a time when the Federal Government purports to be working to help strengthen Indian communities. It has been called cultural genocide.

This bill is derived from hearings which I chaired on April 8 and 9 of 1974. I do not mean to suggest that this bill will relieve all of the problems that Indian families and Indian communities face. What I do mean is that this pattern of discrimination against American Indians is the responsibility of the Congress. We as elected leaders cannot lay back and allow these practices to continue. It is the responsibility of the Congress to take whatever action is within its power to see to it that American Indian communities and their families are not destroyed; to see to it that Indian people receive equal justice and the support of the Federal Government. We must commit ourselves to a course in Indian child welfare which will eliminate the abuses and injustices and which will begin the long, overdue process of helping, rather than handicapping, Indian children and their families.

By Mr. ABOUREZK:

S. 3778. A bill to amend the Agricultural Act of 1949 to provide for increased benefits with regard to disaster relief for any farmer who plants wheat, feed grains, cotton, or rice in excess of his or her allotments for the commodity. Referred to the Committee on Agriculture and Forestry.

Mr. ABOUREZK. Mr. President, today I introduce a bill to amend the crop disaster assistance program. The program, as currently administered by the USDA's Agriculture Stabilization and Conservation Service, is based on an obsolete system of acreage allotments that is thoroughly inconsistent with current farming practices and with the USDA's own guidelines.

Under the current program, farmers are given payment for crop disaster, such as the terrible drought in my own State of South Dakota, based on their ASCS acreage allotments. These allotments were established in conjunction with a set-aside program designed to cut down on crop surplus by limiting agricultural production. The world food situation has changed dramatically, however, and the Agriculture Department has been encouraging farmers to plant fence to fence. The set-aside program is no longer active. Despite this major change, the allotment system remains as one of the major elements in determining how much, if anything, a farmer will receive in cases of crop disaster. Under the present system, if a farmer plants fencerow to fencerow, as he has been encouraged to do, he would have to lose about three-quarters of his crop to qualify for disaster assistance. The farmer who stays within the acreage allotment would qualify for aid if he lost only one-half of his crop.

This bill, introduced in the House by my distinguished colleague BERKLEY BEDELL of Iowa, would remedy this inequity and inconsistency in our laws. Farmers who have to somehow deal with the agony of a disaster, such as the South Dakota drought, should not have to deal as well with an outdated, inappropriate Federal program.

I hope that we can enact this legislation in the very near future. I ask unanimous consent that text of bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3778

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the section 107(c) of the Agricultural Act of 1949, which applies to the 1971 through 1977 crops of wheat (7 U.S.C. 1445a(c)) is amended—

(1) by striking out "is less than 66⅔ percent of the farm acreage allotment" in the third sentence and inserting in lieu thereof "is less than 66⅔ percent of the acreage planted in wheat (or cotton, corn, grain, sorghums, or barley planted in lieu of wheat)"; and

(2) by striking out the period at the end of the third sentence and inserting in lieu thereof the following: "except that in calculating the amount of the payment for any producer receiving benefits under this sentence the Secretary shall use the amount of the acreage planted in wheat (or cotton, corn, grain, sorghums, or barley planted in lieu of wheat) in lieu of the farm acreage allotment."

SEC. 2. The Section 105(b)(1) of the Agricultural Act of 1949 which applies to the 1974 through 1977 (7 U.S.C. 1444b(b)(1) crops of feed grains is amended—

(1) by striking out "is less than 66⅔ percent of the farm acreage allotment" in the fifth sentence and inserting in lieu thereof "is less than 66⅔ percent of the acreage planted in feed grains (or wheat, or cotton planted in lieu of the allotted crop"; and

(2) by striking out the period at the end of the fifth sentence and inserting in lieu thereof the following: "except that in calculating the amount of the payment for any producer receiving benefits under this sentence, the Secretary shall use the amount of the acreage planted in feed grains (or wheat, or cotton planted in lieu of the allotted crop) in lieu of the farm acreage allotment."

SEC. 3. Section 102(e)(2) of the Agricultural Act of 1949 which applies to the 1974 through 1977 crops of upland cotton (7 U.S.C. 1444(e)(2)) is amended—

(1) by striking out "is less than 66⅔ per centum of the farm base acreage allotment in the third sentence and inserting in lieu thereof "is less than 66⅔ per centum of the acreage planted in cotton"; and

(2) by striking out the period at the end of the third sentence and inserting in lieu thereof the following: "except that in calculating the amount of the payment for any producer receiving benefits under this sentence, the Secretary shall use the amount of the acreage planted in cotton in lieu of the farm acreage allotment."

SEC. 4. Section 101(g)(4) of the Agricultural Act of 1949 which applies to the 1976 and 1977 crops of rice is amended—

(1) by striking out "is less than 66⅔ per centum of the acreage allotments of producers on the farm or of the farm acreage allotment" in the fourth sentence and inserting in lieu thereof "is less than 66⅔ per centum of the acreage planted in rice"; and

(2) by striking out the period at the end of the fourth sentence and inserting in lieu thereof the following: "except that in calculating the amount of the payment for any producer receiving benefits under this sentence, the Secretary shall use the amount of the acreage planted in rice in lieu of the farm acreage allotment."

SEC. 5. The amendment made by the Act shall apply beginning with payments made with regard to the 1976 and 1977 crops.

ADDITIONAL COSPONSORS

S. 595

At the request of Mr. Bartlett, the Senator from Florida (Mr. Chiles) was added as a cosponsor of S. 595, to amend the Beef Import Act of 1964.

S. 1424

At the request of Mr. Inouye, the Senator from California (Mr. Tunney) was added as a cosponsor of S. 1424, to allow credit for civil service retirement purposes for time spent by Japanese-Americans in World War II internment camps.

S. 2925

At the request of Mr. Muskie, the Senator from New Hampshire (Mr. Durkin) was added as a cosponsor of S. 2925, the Government Economy and Spending Reform Act of 1976.

S. 3737

At the request of Mr. Fannin, the Senator from Alaska (Mr. Stevens) was added as a cosponsor of S. 3737, to authorize appropriations under the Indian Elementary and Secondary Assistance Act of 1965.

AMENDMENT NO. 2223

At the request of Mr. Inouye, the Senator from Hawaii (Mr. Fong) was added as a cosponsor of Amendment No. 2223, intended to be proposed to S. 3084, the Export Administration Act Amendments.

UP AMENDMENT NO. 334

At the request of Mr. Javits, the Senator from Arkansas (Mr. Bumpers) was added as a cosponsor of unprinted amendment No. 334, proposed to the bill (H.R. 10612), to reform the tax laws of the United States.

SENATE RESOLUTION 526 AND SENATE CONCURRENT RESOLUTION 135—SUBMISSION OF RESOLUTIONS DISAPPROVING CERTAIN ACTION OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

(Referred to the Committee on the District of Columbia.)

Mr. BARTLETT submitted the following resolutions:

S. Res. 526

Resolved, That the Senate disapproves of the action of the District of Columbia Council described as follows: The Firearms Control Regulations Act of 1975 (Act 1–142) passed by the Council of the District of Columbia on June 29, 1976, signed by the Mayor of the District of Columbia on July 23, 1976, and transmitted to the Congress on July 27, 1976, pursuant to section 602(c) of the District of Columbia Self-Government and Governmental Reorganization Act.

S. Con. Res. 135

Resolved by the Senate (the House of Representatives concurring), That the Congress disapproves of the action of the District of Columbia Council described as follows: The Firearms Control Regulations Act of 1975 (Act 1–142) passed by the Council of the District of Columbia on June 29, 1976, signed by the Mayor of the District of Columbia on July 23, 1976, and transmitted to the Congress on July 27, 1976, pursuant to section 602(a) of the District of Columbia Self-Government and Governmental Reorganization Act.

Mr. BARTLETT. Mr. President, I am today submitting a Senate concurrent resolution and a Senate resolution which will disapprove, under the Home Rule Act, the recent action by the District of Columbia Council in adopting the Firearms Control Regulations Act of 1975.

On Tuesday of this week, August 24, the Senate approved and sent to the President H.R. 12261, which extends for 2 years the period during which the Council of the District of Columbia is prohibited from revising the criminal laws of the District. Incorporated in that bill was an amendment, added on the House floor, which raised serious questions as to certain gun control laws passed by the Council of the District of Columbia.

The District of Columbia Council recently adopted the "Firearms Control Regulations Act of 1975." This act is one of the most restrictive and stringent gun control schemes to be adopted anywhere in the United States. Basically, it prohibits private ownership, possession, or use of all firearms except in the most narrowly defined circumstances. And even for those few persons the law allows to own or possess firearms, the act requires that they keep those firearms in a disassembled state, hence eliminating or at least minimizing the legitimate usefulness of those weapons for defense of home and family. Annual, rather than one-time, registration is required for the few persons allowed to retain firearms.

Mr. President, the District of Columbia Council's act is precisely the sort of misdirected and misguided legislation that I have long been opposed to. This legislation, ostensibly directed at fighting violent crimes, in practice will do no more than to deprive the law-abiding citizen of his right to possess firearms. The criminal element in this country has repeatedly demonstrated its ability to get firearms regardless of gun registration or confiscation schemes. Hence the only people whose rights are restricted by this law are the same ones who do not abuse firearms.

The most appropriate way to attack the problem of gun-related crimes is to place restraints on the criminal, not on law-abiding citizens. Stiffer penalties for gun-related crimes, imposed swifty and surely, will do more to eliminate the problem than these gun control attempts.

As a Member of the Senate, I have of course been most concerned with preventing the enactment into law of Federal gun control schemes that apply nationwide, as have occasionally been proposed. While the Firearms Control Regulations Act applies only to the District of Columbia, I am concerned about the effect of its enactment on the efforts of those persons who seek a Federal gun control law. Inevitably, the proponents of gun control will step back in a couple of years, assess the results of this act on the incidence of violent crime, and conclude it has not worked. But instead of realizing the inherent uselessness of this type of controls on firearms, they are apt to conclude that gun control can be effective only if imposed nationwide. Such a conclusion should be nipped in the bud right now. Controls that restrict the enjoyment and use of firearms by the law-abiding public, while doing nothing in practice to keep guns out of the hands of criminals, are useless and ought to be discarded.

Mr. President, my concerns with the District of Columbia Firearms Control Act go beyond my opposition to the substance of the measure. There is a substantial legal question as to whether the District of Columbia Council even possesses the authority to pass an act imposing what is essentially a comprehensive set of criminal penalties in the firearms control area. The District of Columbia Home Rule Act, section 602(a) (9), provides that the District Council shall have no authority to enact laws pertaining to crimes and criminal procedure. Yet that is precisely what the Firearms Control Regulations Act, in the guise of "police regulations", appears to do. The Dent amendment, now incorporated into H.R. 12261, addresses this question. At least indirectly, it makes clear the intent of the Congress that gun control matters for the District continue to be the province of the Congress. It further makes clear that the Congress opposes the sort of unproductive and useless restraints on the liberties of law-abiding citizens such as are contained in the Firearms Control Regulations Act of 1975.

While I believe the Congress disapproval of this gun control measure has been made clear by the adoption of H.R. 12261 with the Dent amendment language included, the legal effect of our expression of disapproval is not clear. The House debate on the Dent amendment indicates disagreement as to the precise effect of the amendment. Yesterday's Washington Post indicates that John R. Risher, District of Columbia Corporation Counsel, believes the Dent amendment to be ineffective to block the city gun act due to the absence of any provision making the amendment retroactive. Court resolution of the controversy may ultimately be necessary to determine the effect of the Dent amendment on the gun control act. Mr. President, in order to avoid the necessity of extended court proceedings to interpret and apply H.R. 12261, I am today submitting a Senate concurrent resolution and a Senate resolution which expressly disapprove of the

District of Columbia Council's ineffective and oppressive legislation, and would prevent it from going into effect.

Mr. President, I strongly urge the immediate consideration of these measures.

SENATE RESOLUTION 527—SUBMISSION OF A RESOLUTION DISAPPROVING CERTAIN ACTION OF THE DISTRICT OF COLUMBIA COUNCIL

(Referred to the Committee on the Judiciary.)

Mr. McCLURE submitted the following resolution:

S. Res. 527

Resolved, That the Senate disapproves of the action of the District of Columbia Council described as follows: "The Firearms Control Regulations Act of 1975, passed by the Council July 8, 1976, and signed by the Mayor July 23, 1976.

Mr. McCLURE. Mr. President, I am today submitting a resolution of disapproval, in accordance with section 602 (c) (2) of the District of Columbia's Self-Government and Governmental Reorganization Act, against the Council's recent passage of new gun control regulations.

Just this week, of course, both the Senate and the House passed H.R. 12261, which confirms the Council's lack of authority to enact these regulations, and extends that restriction from 2 years to 4 years, beginning from January 2, 1975.

Although the Council was expressly prohibited from enacting amendments to the District of Columbia Criminal Code, it attempted to circumvent this restriction by thinly disguising its bill as "police regulations."

The language adopted by the Senate and House resolves any doubt that the Congress intended, in section 602(a) (9) of the Home Rule Act, to freeze the District's criminal laws in place, and not permit that section to be evaded through a disingenously narrow interpretation by the Council.

I am hopeful that the President will speedily sign H.R. 12261 into law to drive this point home. However, since he has not yet done so, and since the time period within which the Senate can express its disapproval by simple resolution is limited by statute, I am taking this opportunity to emphasize its disapproval by this measure. I do not believe it is legally necessary against an action that was invalid at its inception, but I think the Senate might desire to retain the option to emphasize its disapproval by this method.

EXPLANATION OF REFERRAL OF SENATE RESOLUTION 524

Mr. JAVITS. Mr. President, yesterday I submitted Senate Resolution 524 dealing with international terrorism. This resolution was referred to the Committee on Foreign Relations after discussions with the acting Chairman of the Commerce Committee (Mr. Pastore) and the ranking minority member (Mr. Pearson) and on the understanding that this was to be done by unanimous consent to protect the jurisdiction of the Commerce Committee. Through an oversight there was no actual consent given but I want to clarify the fact that the referral was to be made on that basis and should be understood to have been made on that basis.

AMENDMENTS SUBMITTED FOR PRINTING

WILD AND SCENIC RIVERS ACT AMENDMENTS—H.R. 13372 AND S. 158

AMENDMENT NO. 2229

(Ordered to be printed and to lie on the table.)

Mr. WILLIAM L. SCOTT submitted an amendment intended to be proposed by him to the bill (H.R. 13372) to amend the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271), and for other purposes.

AMENDMENT NO. 2230

(Ordered to be printed and to lie on the table.)

Mr. WILLIAM L. SCOTT submitted an amendment intended to be proposed by him to the bill (S. 158) to amend the Wild and Scenic Rivers Act of 1968 by designating a segment of the New River as a potential component of the National Wild and Scenic Rivers System.

Mr. WILLIAM L. SCOTT. Mr. President, it is my understanding that S. 158 or its House counterpart, H.R. 13372, bills to designate a segment of the New River in North Carolina as a component of the National Wild and Scenic Rivers System, are scheduled for consideration before the Senate on Monday of next week.

Of course, the sole purpose of these bills is to block the construction of a multipurpose dam in Virginia, even though a license for the construction of the project has been granted by unanimous vote of the Federal Power Commission. This action has been approved, also, by unanimous vote of the United States Circuit Court for the District of Columbia.

I quote from page 18 of the report of the Senate committee:

> 2. This is the first time that Congress to our knowledge has taken upon itself the burden of overruling a Federal Power Commission Permit. The usurpation of this regulatory function by Congress can have widespread ramifications.
>
> The Federal Power Commission was created by Congress to oversee the production and generation of electric power utilized in interstate commerce. The agency was made independent so that it would be insulated from the political arena. Experts in electrical power are on the commission payroll to insure that decisions are knowledgeably made. The rights of appeal from agency decisions was strictly limited in order that finality be assured. The decision-making process intentionally has been kept at the agency level instead of elsewhere.
>
> The question of the Blue Ridge Project was before the Federal Power Commission for twelve years. During this period, volumes of testimony was taken, and all parties were given the opportunity to be heard. The proper environmental impact statement was prepared. The final agency decision was unanimous—to build the Blue Ridge Project.
>
> The decision has been fully challenged in the courts. The court decisions have, to this date, upheld the decision of the Federal Power Commission. Opponents of the project have had their day in court and have not convinced anyone of the justice of their claim.
>
> It is inconceivable that the Congress would, on the basis of a few hours of legislative testimony, overrule the carefully considered decision of agency experts based on evidence produced over several years of intensive investigation.
>
> Congressional revocation of a license granted by an independent regulatory agency could have serious repercussions. Under the precedent established here, any contestant in a case, unsatisfied with the decision of a regulatory agency or the court, will be tempted to carry his appeal to the Congress. The finality of agency decision will be doubtful. Who will make substantial investments based on license that may be revoked at any time by the Congress? Second guessing of independent regulatory agencies will create tremendous problems with the regulated industries.
>
> We cannot support this undermining of the administrative process. We must be able to have confidence in the decisions made through the established regulatory process.

In order to focus the attention of the Senate upon this phase of the bill, I am now submitting an amendment for printing to strike out section 2 of the Senate bill relating to this license granted the Appalachian Power Co. to construct the dam and substituting in lieu thereof a provision that nothing contained in this act shall be construed to affect the validity of any license issued by the Federal Power Commission.

There are many valid arguments to be made against the passage of this bill and a number of them are contained in the committee report. I might add that the minority views were submitted by every Republican member of the committee and are worthy of careful consideration by the membership when this bill is brought before us.

FEDERAL WATER POLLUTION CONTROL ACT AUTHORIZATIONS—S. 2710

AMENDMENT NO. 2231

(Ordered to be printed and to lie on the table.)

Mr. MUSKIE. Mr. President, I submit on behalf of the Committee on Public Works, with the cosponsorship of Senators Randolph, Buckley, and Baker, an amendment to S. 2710, as passed by the House. I ask unanimous consent that the text of the amendment be printed in the Record and that 200 copies of the amendment be printed for the use of the Committee on Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 2231

Strike all the amendment of the House after the enacting clause, and insert:

Section 1. (a) Section 207 of the Federal Water Pollution Control Act, as amended (86 Stat. 839), is amended by striking the period at the end of the sentence and adding ", and for the fiscal year ending September 30, 1977, subject to such amounts as are provided in appropriation Acts, not to exceed $5,000,000,000.".

(b) Section 104(u)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended by striking out "1975" and inserting in lieu thereof "1975, $7,500,000 for fiscal year 1977,".

(c) Section 104(u)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended by striking out "1975" and inserting in lieu thereof "1975, $2,500,000 for fiscal year 1977,".

(d) Section 106(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1256) is amended by striking out "and the fiscal year ending June 30, 1975;" and inserting in lieu thereof "and the fiscal year ending June 30, 1975, and $75,000,000 for the fiscal year ending September 30, 1977,".

(e) Section 112(c) of the Federal Water Pollution Control Act (33 U.S.C. 1262) is amended by inserting "$25,000,000 for the fiscal year ending September 30, 1977," immediately after "June 30, 1975,".

(f) Section 208(f)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1288) is amended by striking out "and not to exceed $150,000,000 for the fiscal year ending June 30, 1975." and inserting in lieu thereof "and not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, and September 30, 1977.".

(g) Section 314(c)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1324) is amended by striking out "and $150,000,000 for the fiscal year 1975" and inserting in lieu thereof ", $150,000,000 for the fiscal year 1975; and $150,000,000 for fiscal year 1977.".

(h) Section 517 of the Federal Water Pollution Control Act (33 U.S.C. 1376) is amended by striking out "and $350,000,000 for the fiscal year ending June 30, 1975," and inserting in lieu thereof ", $350,000,000 for the fiscal year ending June 30, 1975, and $350,000,000 for the fiscal year ending September 3, 1977.".

SEC. 2. Section 109(b)(3) of the Federal Water Pollution Control Act, as amended (86 Stat. 830), is amended by striking "$250,000" and inserting in lieu thereof "$500,000".

SEC. 3. Subsection (b)(1) of section 205 of the Federal Water Pollution Control Act, as amended (86 Stat. 837), is amended by striking "one-year" and by inserting after the second sentence the following: "The sums first made available for obligation during fiscal year 1976 shall continue to be available for obligation until September 30, 1978."

SEC. 4. Section 205 of the Federal Water Pollution Control Act, as amended (86 Stat. 837), is amended by adding the following new subsection:

"(c) Sums authorized to be appropriated pursuant to section 207 for each fiscal year beginning after September 30, 1976, shall be allotted by the Administrator on October 1 of the fiscal year for which authorized. Sums authorized for the fiscal year ending September 30, 1977, shall be allotted in accordance with the following table:

	Proportional share
Alabama	0.0110
Alaska	.0048
Arizona	.0064
Arkansas	.0109
California	.0831
Colorado	.0081
Connecticut	.0123
Delaware	.0040
District of Columbia	.0040
Florida	.0361
Georgia	.0201
Hawaii	.0070
Idaho	.0041
Illinois	.0526
Indiana	.0219
Iowa	.0111
Kansas	.0123
Kentucky	.0151
Louisiana	.0126
Maine	.0055
Maryland	.0382
Massachusetts	.0279
Michigan	.0473
Minnesota	.0152
Mississippi	.0076
Missouri	.0200
Montana	.0020
Nebraska	.0062
Nevada	.0030
New Hampshire	.0068
New Jersey	.0480
New Mexico	.0026
New York	.1062
North Carolina	.0209
North Dakota	.0019
Ohio	.0560
Oklahoma	.0136
Oregon	.0084
Pennsylvania	.0471
Rhode Island	.0040
South Carolina	.0132
South Dakota	.0016
Tennessee	.0150
Texas	.0434
Utah	.0051
Vermont	.0022
Virginia	.0222
Washington	.0155
West Virginia	.0218
Wisconsin	.0201
Wyoming	.0012
Virgin Islands	.0005
Puerto Rico	.0090
American Samoa	.0003
Trust Territories	.0020
Guam	.0010

If the sums allotted to the States for a fiscal year are made subject to a limitation on obligation by an appropriation Act, such limitation shall apply to each State in proportion to its allotment.

SEC. 5. (a) Section 208(b)(1) of the Federal Water Pollution Control Act, as amended (86 Stat. 840), is amended by inserting "(A)" after "(b)(1)" and by adding the following new subparagraph: "(B) For any agency designated during 1976 under subsection (a) of this section and for all portions of a State for which the State is required to act as the planning agency in accordance with subsection (a)(6), the initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than three years after the receipt of the initial grant award as authorized under subsection (f) of this section."

(b) Section 208(f)(2) of the Federal Water Pollution Control Act (33 U.S.C. 2188) is amended to read as follows:

"(2) For the two-year period beginning on the date the first grant is made under paragraph (1) of this subsection to an agency, if such first grant is made before October 1, 1977, the amount of each such grant to such agency shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section, and thereafter the amount granted to such agency shall not exceed 75 per centum of such costs in each succeeding one-year period. In the case of any other grant made to an agency under such paragraph (1) of this subsection, the amount of such grant shall not exceed 75 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process in any year.".

(c) The second sentence of section 208(f)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1288) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "subject to such amounts as are provided in appropriation Acts.".

SEC. 6. Title II of the Federal Water Pollution Control Act, as amended, is amended by adding the following new section:

"LOAN GUARANTEES FOR CONSTRUCTION OF TREATMENT WORKS

"SEC. 213. (a) Subject to the conditions of this section and to such terms and conditions as the Administrator determines to be necessary to carry out the purposes of this title, the Administrator is authorized to guarantee and to make commitments to guarantee, the principal and interest (including interest accruing between the date of default and the date of the payment in full of the guarantee) of any loan, obligation, or participation therein of any State, municipality, or intermunicipal or interstate agency issued directly and exclusively to the Federal Financing Bank to finance that part of the cost of any grant-eligible project for the construction of publicly owned treatment works not paid for with Federal financial assistance under this title (other than this section), which project the Administrator has determined to be eligible for such financial assistance under this title, including, but not limited to, projects eligible for reimbursement under section 206 of this title.

"(b) No guarantee, or commitment to make a guarantee, may be made pursuant to this section—

(1) unless the Administrator certifies that the issuing body is unable to obtain on reasonable terms sufficient credit to finance its actual needs without such guarantee; and

"(2) unless the Administrator determines that there is a reasonable assurance of repayment of the loan, obligation, or participation therein. A determination of whether financing is available at reasonable rates shall be made with relationship to the current average yield on outstanding marketable obligations of municipalities of comparable maturity.

"(c) The Administrator is authorized to charge reasonable fees for the investigation of an application for a guarantee and for the issuance of a commitment to make a guarantee.

"(d) The Administrator, in determining whether there is a reasonable assurance of repayment, may require a commitment to apply to such repayment (1) all or any portion of the funds retained by such grantee under section 204(b)(3) of this Act, and (2) any funds received by such grantee from the amounts appropriated under section 206 of this Act."

SEC. 7. Section 301 of the Federal Water Pollution Control Act, as amended (86 Stat. 844), is amended by adding the following new subsection:

"(g)(1) Upon application by a State on a case by case basis, the Administrator may extend the time for achieving the requirements of subsections (b)(1)(B) and (b)(1)(C) of this section beyond the date specified in such subsection for any publicly owned treatment works: *Provided*, That (A) the Administrator determines that the construction of such treatment works necessary for the achievement of such requirements cannot be completed by the date specified because Federal assistance under title II of this Act has not been available, or has not been available for a sufficient time, or because funds to pay the non-Federal portion of the costs of construction of such treatment works have become unavailable subsequent to a commitment by the Administrator to provide Federal assistance under title II; and (B) the State demonstrates that the priority for Federal funding of treatment works which the State accords to the treatment works for which such extension is sought and to all treatment works within the State will assure compliance with this section, and is designed to maximize compliance with subsection (b) (1)(B) and (b)(1)(C) by the date specified in such subsections and with the objective of this Act.

"(2) No time extension granted under this subsection shall extend beyond July 1, 1980.

"(3) Upon application on a case by case basis, the permitting authority under section 402 of this Act may, in the case of a publicly owned treatment works which has been granted on extension under paragraph (1) of this subsection, extend the time for achieving the requirements of subsection (b) of this section for the period of the extension granted under paragraph (1) of this subsection, for any point source which on or before January 1, 1975, had a permit under section 402 of this Act or a contract (enforceable against such point source) to discharge its effluent into a publicly owned treatment works which is granted an extension under paragraph (1) of this subsection and which in that manner intends to comply with the requirements of subsection (b) of this subsection: *Provided*, That such point source complies during the period of such extension with all applicable pretreatment requirements under section 307(b) of this Act or otherwise required under a permit issued by the Administrator or a State.

"(4) For the purpose of paragraph (1) of this subsection, the term "publicly owned treatment works" shall not include a Federally owned treatment works."

SEC. 8. (a) Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), is amended by adding the following new subsection:

"(I)(1)(A) Except as provided in section 404 of this Act, any discharge of dredged or fill material into the navigable waters shall be required to be in compliance with a permit issued under this section.

"(B) Any permit for the discharge of dredged or fill material issued under this section shall be considered in accordance with, and shall comply with, the guidelines published under section 404(b)(1) of this Act, and the authority of section 404(c) of this Act shall apply to the consideration of any such permit and the specification of any disposal site.

"(2) At any time after the enactment of this subsection, the Governor of each State desiring to administer its own permit program for discharges of dredged or fill material into the navigable waters within its jurisdiction (under this section and section 404(a) of this Act) may seek approval of its program in accordance with subsection (b) of this section. The Administrator shall approve each such program unless he determines, after consultation with the Secretary of the Army, that (A) it does not have adequate authority in accordance with subsection (b) of this section with respect to discharge of dredged or fill material, or (B) it does not contain adequate guidelines for the consideration of permits comparable to those under section 404(b)(1) of this Act or adequate authority comparable to that under section 404(c) of this Act. Any State program approved under this paragraph shall be subject to the provisions of subsections (c) through (k) of this section, and any permit under a program approved under this paragraph shall be subject to the jurisdiction of the Secretary of the Army under subsection (b)(6) of this section and section 511(a) of this Act and the Administrator under section 404(c). Approval of a program otherwise submitted under subsection (b) of this section shall not be delayed by submittal of a program under this paragraph, and a program submitted under this paragraph may be distinct from, or administered by a different State agency than, any program otherwise submitted or approved under subsection (b) of this section.

"(3)(A) The placement of dredged or fill material into the navigable waters shall not constitute a point source discharge of pollutants required to have a permit under this subsection of section 404 of this Act, where such placement—

"(i) results from normal farming, silviculture and ranching activities, such as plowing, cultivating, seeding, and harvesting for the production of food, fiber, and forest products;

"(ii) is for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;

"(iii) is for the purpose of the construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches;

"(iv) is for the purpose of the construction or maintenance of silt or sediment control impoundments associated with mining operations, except to the extent such impoundments are required to comply with effluent limitations and guidelines pursuant to sections 301, 304(b) and (c), and 307(a) of this Act;

"(v) is for the purpose of the construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained in accordance with guidelines promulgated by the Administrator which assure that flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired, that the reach of the navigable waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized; or

"(vi) is for the disposal of dredged material removed in maintaining a Federally authorized navigation channel or non-Federal access channels contiguous to the authorized project, in specified confined disposal areas where such disposal areas are landward of the mean high water mark, where the State in which such disposal areas are located has a program approved under paragraph (2) of this subsection for the control of dredged or fill material disposal or the protection of wetlands and such disposal areas are specified under and in compliance with such program, and where pollutants in such confined disposal areas will not migrate to cause water or other environmental pollution.

"(B) Any placement of dredged or fill material specified in subparagraph (A) of this paragraph shall only be considered a nonpoint source subject to regulation under this Act under sections 208 and 303(d) and (e) of this Act.

"(C) Any placement or discharge of dredged or fill material into the navigable waters incidental to the construction of a dike or other activity for the purpose of bringing an area of the navigable waters into a farming, silviculture, or ranching use to which it was not previously subject, where the flow or circulation of the navigable waters may be impaired or the reach of such waters be reduced, shall be required to have a permit under this subsection or section 404 of this Act. Any placement or discharge of dredged or fill material containing toxic pollutants into the navigable waters shall be required to have a permit under this subsection or section 404 of this Act, and to be in compliance with sections 301, 307(a), and 404(b)(1) and (c) and of this Act.

"(4)(A) Consistent with the requirements of this section, the Administrator, the Secretary of the Army under section 404 of this Act, or a State with a permit program approved under paragraph (2) of this subsection may, after notice and opportunity for public hearing, issue general permits for classes or categories of discharges of dredged or fill material subject to this section or section 404, where the discharges authorized by any such general permit are similar in nature, cause only minimal adverse environmental impact when performed separately, and will have only minimal cumulative adverse effect on the environment.

"(B) Any such general permit issued under this paragraph shall be in lieu of individual permits required under this subsection (or section 404). Such general permits shall be conditioned on compliance with (i) specific requirements or standards, including State standards or management practices for the activity authorized by such general permit, and (ii) the guidelines under section 404(b)(1). Any general permit shall be for a maximum period of five years and shall be subject to being revoked or modified, after opportunity for public hearing, if the requirements of this paragraph are not being complied with, or if the activities authorized by such general permit may have an effect which is more appropriate for consideration in individual permits.

"(5) The Secretary of the Army, acting through the Chief of Engineers, is authorized to make available to the Administrator such personnel or facilities under the jurisdiction of the Chief of Engineers as may be necessary for the implementation of this subsection.".

(b) Section 404 of the Federal Water Pollution Control Act, as amended (86 Stat. 884), is amended by adding the following new subsection:

"(d) For the purposes of this *section, the* jurisdiction of the Secretary of the Army shall be limited to those portions of the navigable waters (1) that are subject to the ebb and flow of the tide shoreward to their mean high water mark (mean higher high water mark on the Pacific Coast), and (2) that have been used, are now used, or are susceptible to use as a means to transport interstate commerce, up to the head of their navigation, and (3) that are contiguous or adjacent wetlands, marshes, shallows, swamps, mudflats, and similar areas.".

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976—H.R. 8532

AMENDMENT NO. 2232

(Ordered to be printed and to lie on the table.)

Mr. **ALLEN** submitted an amendment intended to be proposed by him to the motion to concur, with an amendment, in the House amendment to the Senate amendment to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

MOTIONS SUBMITTED FOR PRINTING

(Ordered to be printed and to lie on the table.)

Mr. **THURMOND** submitted nine motions intended to be proposed by him in connection with the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, as follows:

I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8532 with an amendment as follows:

On page 35, line 14, amend Section 303(3) by adding: "provided that no portion of any monetary relief or recovery shall be paid, awarded, or allocated to any private counsel employed by the state, or to any person other than the natural persons residing in such state on whose behalf such action was brought."

I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8532 with an amendment as follows:

On page 33, line 12, add a new sentence: "No portion of any monetary relief or recovery shall be paid, awarded, or allocated to any private counsel employed by the state, or any person other than the natural persons residing in such state in whose behalf such action was brought."

I move that the Senate concur in the House amendment to the Senate amendment to H.R. 8532 with an amendment as follows:

On page 34, line 10, strike the word "person," and insert in lieu thereof: "State agency."

I move that the Senate concur in the House amendment to the Senate amendment to H.R. 8532 with an amendment as follows:

Strike all of title I starting on page 1, line 20, through page 18, line 5.

I move that the Senate concur in the House amendment to the Senate amendment to H.R. 8532 with an amendment as follows:

In lieu of the language proposed to be inserted, at the end of title III add the following new section:

SEC. 4H. Nothing in this title shall be construed to (a) require any State or State attorney general to utilize the provisions of this title; or (b) preclude any State from enacting legislation to bar utilization of the provisions of this title.

I move that the Senate concur in the House amendment to the Senate amendment to H.R. 8532 with an amendment as follows:

On page 34, line 12, after "person" add "compensated," on page 34, line 13, strike the period and add: "or other contingent basis, or any basis other than compensation normally paid by the State to private counsel retained to represent the State in civil litigation."

I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8532 with an amendment as follows:

On page 15, line 18, after the word "material" add the words "including all copies" and delete the word "has" and substitute therefor the word "have."

I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8532 with an amendment as follows:

On page 31, line 5, strike the period and insert in lieu thereof the following: ": *Provided*, That if the State fails to establish that the defendant acted in willful violation of the antitrust laws, the monetary relief shall be reduced from treble to single damages.".

I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8532 with an amendment as follows:

On page 31, strike the period and add: "including individual notice to all persons on whose behalf the suit is brought who can be identified through reasonable effort."

NOTICE OF HEARING

Mr. CANNON. Mr. President, I wish to announce that on September 8, 1976, the Committee on Rules and Administration will hold a hearing on S. 2925, a bill to provide for the elimination of inactive and overlapping Federal programs, to require authorizations of new budget authority for Government programs and activities at least every 4 years, to establish a procedure for zero-base review and evaluation of Government programs and activities every 4 years, and for other purposes. This is the proposal popularly referred to as the "Sunset" bill.

The hearing will commence at 10 a.m. and be held in room 301, Russell Senate Office Building. Chairmen and ranking minority members of Senate committees are especially urged to testify or submit statements for the record. All interested persons should contact Peggy L. Parrish, assistant chief clerk of the committee, at 224-0281.

NOTICE OF HEARING

Mr. HRUSKA. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, September 8, 1976, at 9:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nomination: Sidney M. Aronovitz, of Florida, to be U.S. district judge for the southern district of Florida, vice William O. Mehrtens, retired.

Any person desiring to offer testimony in regard to this nomination, shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

The subcommittee consists of the Senator from Mississippi (Mr. EASTLAND) chairman; the Senator from Arkansas (Mr. McCLELLAN) and the Senator from Nebraska (Mr. HRUSKA).

ADDITIONAL STATEMENTS

LEADERS SHOW THEIR STRENGTHS IN POLITICAL FORUM

Mr. PERCY. Mr. President, the Republican National Convention held last week in Kansas City was one of the most closely contested in decades. It provided a stirring forum for the expression of opinion and sentiment on behalf of the two candidates for the Presidential nomination as well as on the major issues of the day.

Throughout the convention Republican leaders from all sectors of the party conducted themselves with dignity. Although the battle for the Presidential nomination was hard-fought and the struggles over various issue positions were spirited, the convention was an example of the kind of open debate that makes our political system strong.

The contribution to this spirit of open debate on the part of Ronald Reagan and Senator BAKER was captured in a recent column by Patrick Buchanan. I ask unanimous consent that Mr. Buchanan's column as published in the August 24 issue of the Chicago Tribune be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A GRACEFUL LOSER ACCEPTS HIS DEFEAT

(By Patrick Buchanan)

KANSAS CITY, MO.—The conservative movement will be a long time finding a classier champion than the one who retired here last week. In defeat, Ronald Reagan was the model of how a losing political leader should behave.

Despite the narrowness of the loss, the governor was there, in the early morning hours, shoulder-to-shoulder with the President, pledging himself in humor and graciousness to party unity. His brief farewell remarks to his young staff of messengers, drivers, and telephone operators were the most moving and poignant of the convention.

Disagree, as this writer does, with the tactics and strategy employed by the Reagan camp, the campaign he conducted was on the highest level—on issues and principles, not personalities.

The man may have lost, he said in his closing remarks, but the "cause" goes on. Yet, after the Goldwater defeat in 1964, the decline and fall of Spiro Agnew, and the retirement, it is difficult to see where the conservative movement can find a political champion capable of carrying the nation. Which is an odd development, since every pol and pundit seems to concur that the United States is a nation adrift on a starboard course.

But there was another politician here who showed himself better in political reversal than most in political victory. That was the senior senator from Tennessee.

During the Watergate days, as long as Howard Baker, ranking Republican on the Ervin Committee, kept up with the pack in pursuit of Nixon and his men, the Nixon-haters in the national press guaranteed a steady supply of indulgent coverage.

Kansas City was another story. Having carried off well his keynote address, considered by almost everyone the front-runner for his party's vice-presidential nomination, Baker was hit Tuesday by the published reports of his wife's drinking problem.

But Baker faced the issue directly, and with dignity, just as he faced, two days later, the deep disappointment that he had been passed over once again for the vice presidency.

The Kansas City convention seems to be the last hurrah for an entire generation of politicians, the generation of Rockefeller and Nixon, of Goldwater and Ford. But the Howard Baker who departed here, a determined man committed never again to leave his political destiny in other hands, will surely be among that next generation of Republican leaders. If, of course, the party itself survives the storm gathering for November.

THE WEST POINT CHEATING SCANDAL

Mr. NUNN. Mr. President, Secretary of the Army Martin Hoffmann's announcement of August 23 represents, in my view, a positive step toward resolution of the EE304 cheating incident and restoration of a viable honor system commanding the full support and respect of the Corps of Cadets. A 1-year suspension is neither an unusual nor an unnecessarily harsh penalty for cheating. Most colleges and universities in the United States impose similar punishment for cheating, and in some schools expulsion is the only penalty.

I believe a more preferable means of settling the EE304 incident and restoring a viable honor system would have been to permit the Corps of Cadets as a whole to decide by referendum what changes it wished to make in the system and whether those changes should be applied retroactively to the class of 1977. In this regard, perhaps the supreme irony is that even were the corps to vote in a flexible, discretionary, honor system of the type now in effect at the U.S. Naval Academy and make it retroactive, the fate of most if not all the cadets who so far have been found guilty in the current cheating scandal would remain unchanged. None of these cadets were ignorant of the honor system's prohibition of cheating. None of these cadets were subjected to the kind of duress which traditionally has justified attenuated sanctions. And none, with perhaps one or two exceptions, voluntarily turned themself in.

Secretary Hoffmann did make significant concessions on many issues raised by the current scandal. First and foremost among these was his public admission that the Academy itself bears a degree of responsibility for the cheating which took place on the EE304 test. In so doing, however, he did not permit himself to fall victim to the bogus argument, now in vogue among defense counsel, that institutional culpability absolves individuals of all moral responsibility for their own actions.

Secretary Hoffmann also conceded that the honor system had to a large extent been taken out of the hands of the Corps of Cadets, and that cadet support of and respect for the system had subsequently declined. In this regard, his refusal to impose permanent changes in the honor system by Army fiat, instead of leaving this issue in the hands of the Cadet Honor Committee for consideration—with the probability of a full referendum by the corps—is eminently supportive of the system's return to the corps.

While Secretary Hoffmann refused to state publicly that the honor system has broken down, I believe this conclusion was implicit in the very fact of his unprecedented intervention in the current scandal and in his continual characterization of the considerations which led to his intervention as "extraordinary circumstances." Like the owner of an old automobile, the corps of cadets must decide whether there is enough life left in the honor system to justify simply a complete overhaul or whether the present system is beyond repair and should be replaced by a new one or by a total abandonment of the honor code.

However, Secretary Hoffmann's response to other issues was, in my view, less reassuring. I cannot subscribe to the notion that allegations of intimidation of defense counsel can be largely dismissed as stemming simply from paranoid interpretations of abrupt reassignments, inexplicably derogatory efficiency reports, and subsequent unexpected promotion denials. Secretary Hoffmann is nevertheless committed to a thorough explanation of these allegations, and the subcommittee will insist on nothing less.

Moreover, despite protestations to the contrary, the scope of the Academy's investigation of cheating still appears to be confined to the EE304 examination and the class of 1977. It is important to realize, however, that it is the defense counsel themselves who bear the principal responsibility for the failure to conduct a thorough inquiry into the extent of cheating at West Point. Since May, defense counsel have been compiling sworn affidavits submitted by their clients containing allegations of cheating and other honor violations on the part of 600 to 700 additional cadets, including members of the classes of 1976 and 1978.

Yet, in a flagrant attempt to intimidate—some might say blackmail—the Army into reinstating their clients, they have refused to turn these affidavits over to the Army for investigation. Thus, on the one hand defense counsel berate the Army for not pursuing a thorough investigation of cheating at West Point, while on the other they refuse to make available information without which such an investigation is impossible.

The Army has repeatedly requested these affidavits and is pledged to investigate them thoroughly. If defense counsel are indeed serious about ascertaining the true extent of the cheating at the Military Academy, they should make these allegations public. Keeping them locked in the safe of a chaplain at West Point hardly serves the interest of a comprehensive and unfettered inquiry.

Mr. President, it is time for defense counsel to fish or cut bait.

In summary, Mr. President, before West Point can get back to the business of training young men and women to become Army officers, it must dispose of the following problems:

First, the known cases of cheating in the EE304 test must be resolved in an equitable fashion. The Secretary of the Army has moved in this direction.

Second, the honor system must be thoroughly reviewed with the aim of reform and this must be done by the cadets. The Secretary of the Army's action encourages and opens the way for this to occur, and it should occur quickly.

Third, any new allegations of cheating or other honor violations must be pursued vigorously to a satisfactory conclusion. The Army is pledged to do this, if only those who have made new allegations would step forward.

Finally, any suspicion of intimidation of defense counsel, prosecutors, or others involved in the current scandal must be investigated, and, if proven, rectified. The Army's actions in this area appear to have been less than satisfactory.

EDA REGULATIONS ON PUBLIC WORKS JOBS

Mr. MUSKIE. Mr. President, I ask unanimous consent that the Economic Development Administration's regulations and guidelines for local communities, for implementation of the Local Public Works Capital Development and Investment Program, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Federal Register, Vol. 41, No. 164—Monday, August 23, 1976]

PART V: DEPARTMENT OF COMMERCE: ECONOMIC DEVELOPMENT ADMINISTRATION

LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM—FINAL RULEMAKING

Title 13—Business Credit Assistance

Chapter III—Economic Development Administration, Department of Commerce

Part 316—Local Public Works Capital Development and Investment Program

The Economic Development Administration, pursuant to Title I of the Public Works Employment Act of 1976, hereby publishes these regulations to amend Title 13 of the Code of Federal Regulations by adding a new Part 316. These regulations describe procedures by which eligible applicants may receive financial assistance for the construction (including demolition and other site preparation activities), renovation, repair, or other improvement of local public works projects and for the completion of plans, specifications, and estimates for local public works projects.

Statement of Objectives

Legislative objectives

On the basis of an in-depth study of the Local Public Works Capital Development and Investment Act of 1976 and its legislative history, it has been determined that the purpose of this legislation is to provide:

a. Employment opportunities in areas of high unemployment through the expeditious construction or renovation of useful public facilities; and

b. A countercyclical stimulus to the national economy.

EDA program objectives

Analyses of past public works programs and the Economic Development Administration's (EDA) experience in operating such programs have revealed certain characteristics about the extent and nature of employment generated by public works construction. Of these, the most relevant to the objectives of the Local Public Works Capital Development and Investment Act are the preponderance of skilled construction jobs and the relatively high cost of creating a job through such an approach. Between 68 and 81 percent of the costs of a public works project are for materials, equipment, overhead, and contractor profits, leaving between 19 and 32 percent for on-site wages. Consequently, even the most labor intensive public works projects generate a limited amount of direct employment per dollar of project cost. Public works projects do, however, result in useful end products and are commonly believed to provide general economic stimulation, particularly to the construction and construction-related industries.

In recognition of these characteristics of public works construction projects, as well as other considerations deriving from the legislation and EDA's experience, the following objectives for implementing the Local Public Works Act have been established:

a. To insure that consideration is given to the relative needs of the various sections of the country;

b. Within those sections, to fund projects that maximize immediate employment opportunities and, wherever possible, that maximize employment opportunities for unemployed residents of the project area;

c. To fund locally oriented projects that provide useful public facilities in areas of high unemployment and low income;

d. To fund projects that advance local plans and contribute to long-term development;

e. To fund facilities that could not have been constructed in the absence of the Local Public Works grant (i.e., facilities for which Federal funds are not merely replacing or reducing local, State, or other Federal monies that have been specifically provided or set aside); and

f. To carry out a comprehensive evaluation of both the direct employment impact and the indirect or stimulative impact of the projects funded.

Because these regulations pertain to a grant program administered by the Economic Development Administration, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable. In addition, Section 107 of the Public Works Employment Act of 1976 requires implementing regulations to be prescribed within thirty days after date of enactment.

However, in accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments or suggestions to the Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230 by September 24, 1976. This is a new and widespread program, and all suggestions received will be carefully considered. If a sufficient number of valid comments raising significant issues are received, these regulations may be amended and republished. Until such time as further changes are made, however, 13 CFR Part 316 shall remain in effect, thus permitting the public business to proceed more expeditiously.

The application form, necessary to carry out the Public Works Employment Act of 1976, as provided in Section 107 therein, has been prescribed and submitted to the Office of Management and Budget for clearance as required by OMB Circular No. A-40, as revised on February 10, 1976. When clearance has been received, EDA will publish the application form, which will then be available through EDA and its Regional Offices.

Interested persons should take notice that it is the policy of the Economic Development Administration that no applications for financial assistance pursuant to Title I of the Public Works Employment Act of 1976 will be accepted until the funds to implement the program have actually been appropriated and apportioned to and made available for use by the agency.

Consideration has been given as to whether matters set forth in these regulations constitute a major proposal with an inflationary impact within the meaning of OMB Circular A-107 and interpretative guidelines as issued by the Department of Commerce. A determination has been made that these regulations do not extend or go beyond the statute, and therefore, there is no inflationary impact of these regulations beyond the statute.

Accordingly, the regulations shall read as follows:

Sec.
316.1 Purpose.
316.2 Definitions.
316.3 Applicants.
316.4 Direct grants.
316.5 Supplemental grants.
316.6 Limitations on grants.
316.7 Priority of projects.
316.8 Allocation of program resource levels to regional offices.
316.9 Determination of unemployment rates.
316.10 General considerations and requirements for financial assistance.
316.11 Compliance with other Federal requirements.
316.12 Acceptance of applications.
316.13 Environmental considerations.
316.14 Final determination.
316.15 Termination.

AUTHORITY: Title I, Pub. L. 94-369 (July 22, 1976); 42 U.S.C. 6701 *et seq.;* 90 Stat. 999; and Department of Commerce Organization Order 10-4 (September 30, 1975), as amended (40 FR 56702, as amended at 40 FR 58878).

§ 316.1 Purpose.

The purpose of this part is to set forth the requirements and procedures pursuant to which eligible applicants may receive grants under Title I of the Public Works Employment Act of 1976, which is entitled the "Local Public Works Capital Development and Investment Act of 1976."

§ 316.2 Definitions.

"Assistant Secretary" means the Assistant Secretary of Commerce for Economic Development or his delegate.

"Indian tribe" means the governing body of a tribe, nonprofit Indian corporation (restricted to Indians), Indian authority or other tribal organization or entity or Alaskan native village.

"Initiation of construction" means that a contract has been awarded for construction of the project or notice to proceed or its equivalent has been issued or on-site labor has begun, whichever is earlier.

"Local Public Works Act" means the "Local Public Works Capital Development and Investment Act of 1976," which is Title I of the Public Works Employment Act of 1976.

"Local government" means any city, county, town, parish, or other political subdivision of a State (including local school districts), and any Indian tribe.

"Maintenance costs" means costs that are incurred for any necessary repairs or upkeep of property which neither adds to the permanent value of the property or appreciably prolongs its intended life, but rather keeps it in an efficient operating condition.

"Political subdivision of a State" means the agencies, instrumentalities and authorities established or authorized by State law including, but not limited to, special districts and regional authorities formed by local governments.

"Public works" means public facilities including, but not limited to, municipal offices, courthouses, libraries, schools, police and fire stations, detention facilities, water and sewer lines, streets and roads (including curbs), sidewalks, lighting, recreational facilities, convention centers, civic centers, museums, and health, education and social service facilities.

"State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa.

§ 316.3 Applicants.

A State or a local government, as defined in § 316.2 of this part, is eligible for assistance under the Local Public Works Act.

§ 316.4 Direct grants.

(a) The Assistant Secretary may make direct grants to any State or local government for construction (including demolition and other site preparation activities), renovation, repair, or other improvement of local public works projects, including those for which Federal financial assistance is authorized under provisions of law other than the Local Public Works Act. Such grants may include funds for the completion of plans, specifications and estimates where additional architectural and engineering work or related planning is required to permit construction of the project under this section.

(b) Applications under this section will be approved only if the applicant submits with its application, if applicable, a written certification from the other Federal agency/agencies that the project meets all applicable Federal statutory and regulatory requirements.

(c) The Federal share of any project for which a grant is made under this section shall be 100 per centum of the cost of the project.

§ 316.5 Supplemental grants.

(a) The Assistant Secretary may make supplemental grants for the purpose of increasing the Federal contribution to 100 percent of the project cost for any Federally-assisted public works project authorized by any Federal law other than the Local Public Works Act if the applicant submits with its application:

(1) A written certification from the other Federal agency/agencies that:

(i) Federal financial assistance for the project has been approved and the funds are immediately available for the project;

(ii) The project meets all applicable Federal statutory and relevant related requirements; and

(2) Its written certification that actual construction of the project has not yet been initiated because of lack of funding for the non-Federal share.

(b) The Assistant Secretary also may make grants in an amount necessary to provide all or part of the required State or local share (but not both shares) of the cost of any public works project for which financial assistance is authorized by State or local law requiring such contribution if the applicant submits with its application a written certification from the appropriate authority that:

(1) The share of financial assistance not applied for has been properly approved and is immediately available for the project;

(2) The project meets all applicable statutory and other relevant requirements of law; and

(c) Grants under this section may include funds for the completion of plans, specifications, and estimates where additional architectural and engineering work or related planning is required to permit construction of the project under this section.

§ 316.6 Limitations on grants.

(a) Canals and watersources. No grants shall be made under this part for any project having as its principal purpose and permanent effect:

(1) The channelization, damming, diversion, or dredging of any natural watercourse, or

(2) The construction or enlargement of any canal except a canal or raceway designated for maintenance as an historic site.

(b) Real property. No part of any grant made under this part shall be used for the acquisition of any interest in real property.

(c) Maintenance. No part of any grant made under this part shall be used for the payment of maintenance costs in connection with a project constructed (in whole or in part) with Federal financial assistance under the Local Public Works Act.

§ 316.7 Priority of projects.

(a) *Allocation of funds.* (1) In making grants under this part, when the average national unemployment rate for the three most recent consecutive months for which data is available from the United States Department of Labor, has been at least 6½ percent:

(i) Seventy percent of all amounts appropriated to carry out the Local Public Works Act shall be allocated for project applications submitted by State or local governments whose average unemployment rate for the three most recent consecutive months for which information is available exceeds the average national unemployment rate for the same period of time. The Assistant Secretary shall expedite and give priority to applications in this category.

(ii) The remaining thirty percent of all amounts appropriated to carry out the Local Public Works Act shall be available for distribution according to priority as listed below:

(A) Project applications submitted by State or local governments whose average unemployment rate for the three most recent consecutive months for which information is available is more than 6½ percent but not more than the average national unemployment rate for the same period of time, and

(B) Project applications submitted by State or local governments whose average unemployment rate for the three most recent consecutive months for which information is available is 6½ percent or less. These project applications will be considered only when funding of such projects is necessary to fulfill the minimum funding level required for each State or if funds are available in the 30 percent category.

(b) *State limitations:* Not less than one-half of one percent or more than twelve and one-half percent of all amounts appropriated to carry out the Local Public Works Act shall be granted for local public works projects within any one State, except that not less than one-half of one percent of the total of all funds appropriated for this part shall be granted for public works projects in Guam, the Virgin Islands, and American Samoa, in the aggregate.

§ 316.8 Allocation of program resource levels to regional offices.

(a) *Regional allocations.* To assist in the orderly utilization of program resources, the Assistant Secretary will assign to each regional office a target level of anticipated project assistance for the total of all areas served by that regional office. Such regional allocations of program resources shall be based on appropriation apportionments available to EDA and shall be calculated on a formula basis reflecting the relative numbers of unemployed persons in the States served by the regional office and the level of unemployment rates in those States.

(b) *State planning ceilings.* Regional offices shall observe with respect to each State served by it a ceiling on project approval recommendations. The allocation of funds to regions and States will be made after the funds have been apportioned to EDA and will be based on unemployment data available at that time. EDA will announce the date on which the funds are apportioned and the allocation is made. The formula by which the planning ceiling for each State will be established is as follows:

Subject to program administrative costs and statutory minimum and maximum amounts allocated to individual States by the legislation, 65 percent of the funds will be set aside as planning ceilings for individual States based on the share of unemployed workers residing in a State of the total national unemployed; 35 percent of the funds will be set aside as planning ceilings to individual States based on the relative severity of unemployment for each State above the national unemployment rate.

(c) It is to be understood that the planning ceiling assigned to each State is not to establish an entitlement to any minimum level of project assistance within that State (unless such is the statutory maximum or minimum) but is adopted only for the purpose of furthering the objective of assuring that adequate consideration is given to the relative needs of various sections of the country. Where the planning ceiling calculated on the formula basis is less than the statutory minimum assured for each State the statutory minimum shall be the planning ceiling, and where the planning ceiling calculated on the formula basis is greater than the statutory maximum for any State the statutory maximum shall be the planning ceiling.

(d) 120 days after the date on which funds are first apportioned for program assistance under the Act and at any time thereafter the Assistant Secretary may reconsider the regional allocations and State ceilings previously established and make such adjustments as are determined to be reasonable in achieving the purposes of the Act.

§ 316.9 Determination of unemployment rates.

(a) The average unemployment rate for the three most recent consecutive months for which data is available for a State or local government applicant under this part may be determined from information obtained in the following order:

(1) *The United States Department of Labor.* (i) EDA's Qualification Division has provided to EDA's Regional Offices and Economic Development Representatives a list, prepared by the United States Department of Labor, which shows the average unemployment rate for the three most recent consecutive months for:

(A) the entire nation;

(B) each State; and

(C) where available, "identifiable" local governments.

(ii) On or before September 15, 1976, EDA's Qualification Division will provide to EDA's Regional Offices and Economic Development Representatives a list, prepared by the United States Department of Labor, which will show the average unemployment rate for the three most recent consecutive months for approximately 1,000 counties throughout the nation.

(iii) The above lists will be updated and expanded if and when more information is obtained from the United States Department of Labor.

(2) If not available from the United States Department of Labor the average unemployment rate for the three most recent consecutive months for which information is available shall be obtained from the State employment security agency.

(3) Indian tribes shall submit information from the Bureau of Indian Affairs of the United States Department of Interior or other appropriate sources acceptable to the Assistant Secretary.

(b) If requested by an applicant, the unemployment rate of a local government shall be based upon the unemployment rate of any community or neighborhood (defined without regard to political or other subdivisions or boundaries) within the jurisdiction of such local government, except that any grant made to a local government based upon the unemployment rate of a community or neighborhood within its jurisdicton must be for a project of direct benefit to or provide employment for, unemployed persons who are residents of that community or neighborhood. The applicant shall apply to the State employment security agency for the average unemployment rate for the three most recent consecutive months for which data is available. The data obtained from the State employment security agency will be accepted by the Assistant Secretary.

(c) If requested by an applicant, in determining the unemployment rate of a local government, unemployment in those adjoining areas from which the labor force for a project may be drawn shall be taken into consideration.

(d) The Assistant Secretary has obtained from all State employment security agencies their cooperation to provide all applicants, other than Indian tribes, with unemployment data.

(e) EDA will not accept an unemployment rate determination that is based on data obtained for a time period which is longer than twelve months prior to the date of the application as stated therein.

(f) The unemployment rate established by one of the procedures above, will determine whether the area qualifies for the 70 percent or 30 percent category as described in § 316.7 above.

(g) No data regarding unemployment rates for time periods after the date of the application as stated therein, may be changed.

§ 316.10 General considerations and requirements for financial assistance.

(a) *Project selection procedure*—(1) *Considerations.* In line with the purposes and objectives of the Act, EDA's goal of choosing projects having the greatest potential for furthering these purposes and objectives, the relative importance of various factors in determining this potential, and the availability and consistency of data specified in the Act, the following project selection procedures have been adopted.

(2) *Project selection formula.* The ranking procedure developed for selecting projects within each State's planning allocation uses those project and area factors that will contribute most to achieving substate equity in the distribution of planning funds and insures that the relatively more economically efficient projects are selected. All factors will be standardized for comparability purposes and assigned policy weights to reflect their importance in the ranking procedure.

(i) *Basic rank.* The basic rank of a project will be determined by the following factors:

(A) The number of unemployed workers in the project area averaged over the three most recent months for which data is available. An area characterized as having a high unemployment rate overall is generally characterized as having a high unemployment rate in the construction industry. Similarly, an area characterized as having a large number of unemployed overall is generally characterized as having a relatively large number of unemployed construction workers as a share of the overall unemployed. Therefore, this factor gives consideration to construction unemployment. This factor will constitute 30 percent of a project's basic rank.

(B) Severity and duration of unemployment, as measured by the unemployment rate prevailing in the project area averaged over the last three months for which data is available. This factor will constitute 25 percent of a project's basic rank.

(C) The cost per person-month of employment, defined as the ratio of the total cost of the project to the total number of person-months of employment to be generated. In formulating project proposals, applicants should bear in mind the intent of the Act to reduce unemployment generally, and to give due consideration to the amount of unemployment and underemployment in the construction and construction-related industries. As previously indicated, projects eligible for funding would include, but are not limited to, such local public works projects as municipal offices, courthouses, libraries, schools, police and fire stations, detention facilities, water and sewer lines, streets and roads, civic centers, museums, health, education and social service facilities, convention centers, and the upgrading of existing facilities through renovation, repair, and other related improvements. Finally, it should be emphasized that supplemental assistance provided for under the Act will be considered as part of total project costs; the latter is defined as funds from all sources, whether Federal, State, or local. The cost per person-month of employment factor will constitute 30 percent of a project's basic rank.

(ii) *Additional considerations*. A project's basic rank will be increased if the project meets one or more of the following criteria:

(A) Exhibits potential for providing long-term benefits. The basic rank of a project will be increased up to a maximum of 10 percent if it meets this criterion. The amount of increase will be determined by the nature and extent of the long-term benefit(s) to be provided by the project.

(B) Is sponsored by a general purpose unit of local government, as defined in § 316.2 above. Projects meeting this criterion will have their basic ranks increased by five percent.

(C) Relates to existing approved plans and programs of a local community development or regional development nature or promotes or advances longer range plans and programs. The basic rank of a project meeting this criterion will be increased by five percent.

(iii) *Final rank*. The final rank of a project is to be determined by summing the basic rank and increases attributable to the additional considerations defined above.

(3) *Application of project selection formula*—(i) *Geographic considerations*. Projects will be ranked and assessed relative to other projects submitted from the *same* State until such time as the Assistant Secretary determines, pursuant to paragraph (a)(2) above, that comparison of projects submitted from different States is required to either further the purposes and objectives of the Act or to comply with statutory requirements.

(ii) *Priority considerations*. Within each State, projects submitted from areas with an unemployment rate exceeding the national average for the most recent consecutive three months will be ranked and compared only with projects submitted from other areas in this priority category. Similarly, projects submitted by areas with an unemployment rate below the national average for the most recent consecutive three months will be ranked and compared only with projects submitted from other areas in the same priority category. Applicants who anticipate the project labor requirements will draw upon the unemployed and underemployed labor resources of other jurisdictions outside the immediate project area (such as a multi-county area) will be given priority consideration on the basis of the unemployment rate prevailing in the extended geographical (labor market) area. Similarly, the basic rank computations discussed above will be computed in aggregate on data provided for the extended geographical area.

(iii) *Project selection*. Within each State and priority category, projects will be selected on the basis of their final ranks until the State planning allocation for each priority category has been exhausted or until such time as the Assistant Secretary determines that the remaining funds made available under the Act must be reallocated among the States.

(b) An application shall be rejected unless:

(1) It is properly prepared on appropriate forms prescribed by the Assistant Secretary.

(2) It contains one of the following:

(i) Information showing that the area conforms to an area for which United States Department of Labor unemployment statistics are available; or

(ii) Unemployment information from the appropriate State unemployment security agency.

(3) It contains a certification by the applicant that construction on the project has not yet been initiated;

(4) It contains assurances, satisfactory to the Assistant Secretary, that onsite labor can begin within niney days of project approval;

(5) Where applicable, it relates the proposed project to existing approved plans and programs of a local community development or regional development nature so as to avoid harmful or costly inconsistencies or contradictions;

(6) It contains evidence, where feasible, that the proposed project will promote or advance longer range plans and programs;

(7) It contains adequate assurances that all laborers and mechanics employed by contractors or subcontractors on the proposed project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5).

(8) It contains adequate assurance by the applicant and by any "other parties" as defined in 15 CFR Subtitle A, Part 8, that no person shall, on the grounds of race, color, sex, or national origin, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under the proposed project; and an assurance that it is not involved in any civil rights litigation or if it is involved in a lawsuit or Federal administrative action alleging discrimination it shall state the name of the case, the court where filed, or the name of the agency involved in the administrative action.

(9) It contains certification, by the properly authorized official of the Federal agency or State or local government, that no funds budgeted and available or otherwise specifically committed for the project applied for in its application shall be reduced, diminished, or replaced by funds requested under this part.

(c) Applicants should be advised that false representations and/or certifications in connection with applications for assistance under this part may be the basis for criminal liability under title 18 of the United States Code.

(d) No cost overruns for public works projects previously funded under this part will be approved.

(e) Project costs for administration, plans, specifications, estimates and other A/E costs, which have been incurred prior to the date of application, will not be funded.

(f) Applications will not normally be approved where any of the following conditions exist:

(1) The project site, including easements and rights-of-way, has not been obtained, clear of any encumbrances; or

(2) The project request is for a supplemental to another Federal, State or local grant which has not been approved by the applicable grant agency.

(g) The maximum amount of financial assistance made available under this part should not exceed $5 million for each project; however, the Assistant Secretary may, in his discretion, waive this policy for good cause.

(h) Projects which cannot be completed within two years after date of approval will not be considered; however, the Assistant Secretary may, in his discretion, waive this policy for good cause.

§ 316.11 Compliance with other Federal requirements.

Each applicant shall, as a condition to its receipt of a grant under this part, comply with the following relevant Federal requirements:

(a) All labor standards including those relating to the payment of wages, working conditions, anti-kickback prohibitions and equal employment as provided 13 CFR 309.6;

(b) Those concerning relocation and related payments to all persons displaced as a result of the development of a public works project with funds received under this part, as provided for in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 *et seq.*, and 13 CFR Part 310;

(c) If the project involves a detention facility, those sections of Part E of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, found at 42 U.S.C. 3750 b(1) and (4)–(9);

(d) The provisions of OMB Circular A-95, except during the first ninety days after EDA begins receiving applications when the following procedures shall apply:

(1) Applicants must submit their full applications or notifications of intent to apply to the appropriate clearinghouse as early as possible.

(2) Upon submission of an application to EDA, the applicant must certify that he has submitted the full application to the appropriate clearinghouse.

(3) EDA may begin processing the application upon its receipt but will make no final approval of an application until 30 days after its receipt unless clearinghouse response is received before 30 days have elapsed.

(4) Clearinghouse comments will be submitted directly to EDA; EDA will consider such comments until it has finished processing the application.

(e) All environmental requirements, to the maximum extent possible, as determined by the Assistant Secretary, including, but not limited to:

(1) The National Environmental Policy Act of 1969, as amended (42 U.S.C. § 4321 *et seq.*); and EDA's requirements found in § 316.13 below;

(2) The Clean Air Act, as amended (42 U.S.C. 1857–1858a);

(3) The Federal Water Pollution Control Act, as amended (33 U.S.C. 1251–1376);

(4) The National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*) and EDA's requirements found in § 316.13 below;

(5) The Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271–1287) and EDA's requirements found in § 316.13 below;

(6) The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*);

(7) The Historical and Archeological Data Preservation Act, as amended (16 U.S.C. 469 *et seq.*); and

(8) The Fish and Wildlife Coordination Act of March 10, 1934, as amended (16 U.S.C. 661–666c).

(f) 13 CFR 309.9, entitled "Records and Audit;"

(g) 13 CFR 309.27, entitled "Land use near Federal airfields;"

(h) 13 CFR 309.14, entitled "Design, construction, and alteration of buildings to accommodate the physically handicapped;"

(i) 13 CFR 309.26, entitled "Project modification;"

(j) 13 CFR Part 314, entitled, "Property management standards;"

(k) The National Flood Insurance Program and EDA's requirements regarding flood hazards found at 13 CFR 309.15; and

(l) Other laws affecting this program.

§ 316.12 Acceptance of applications.

(a) Applications for assistance under this part shall only be submitted to the appropriate EDA Regional Office, as provided in 13 CFR 301.31.

(b) Applications shall be recorded and deemed received upon their arrival at the appropriate EDA Regional Office.

(c) EDA shall endeavor, within five working days from the date the application is actually received by the appropriate Regional Office, to determine whether the application has been completely and properly prepared, and contains accurate unemployment rates. An application may be rejected (denied) unless it contains full and accurate information including the requirements of Section 316.10 above. By the end of the fifth working day after the date the application was received, the Regional Director should notify the applicant if the application has been rejected, and state what is needed to properly complete the application. However, EDA reserves the right during the 60 day period after receipt of an application to reject an application for substantially being incomplete, improperly prepared, or otherwise failing to meet the requirements of this part.

§ 316.13 Environmental considerations.

(a) *The National Environmental Policy Act.* (1) Since the Local Public Works Act requires applications to be processed within 60 days of their acceptance, EDA will not be able to prepare environmental impact statements for those projects which may significantly affect the quality of the human environment. However, to the fullest extent possible within this time period, EDA will analyze a project's potential environmental impacts and give appropriate consideration to environmental impacts in making its final decision.

(2) In order that EDA may conduct its environmental analysis of proposed projects, applicants shall include the following materials with their application, except with respect to subsections C and D if such materials are not available in which case the applicant must so certify:

(i) a description of those elements of the proposed project which will have an impact on the environment, the nature of the environment which will be affected; and data on the expected environmental impact;

(ii) alternatives to the proposed project;

(iii) any environmental analysis previously conducted by local, State, federal agencies; and

(iv) evidence of public reaction to the project such as transcripts of local public hearings held on the proposal.

(3) EDA will independently review and analyze environmental information submitted by applicants.

(i) Where appropriate, EDA, within the 60 day limit, may seek the views of other government agencies which have jurisdiction by law or special expertise with respect to any environmental impact involved.

(ii) If a project appears to be highly controversial for environmental reasons and there is a need to further understand the basis of the controversy, EDA may, within the 60 day limit, request the views of concerned residents through a newspaper notification or a public information meeting held near the project site.

(4) EDA shall deny an application if, after consideration of the benefits of a project against any environmental costs, it concludes that the environmental costs exceed the benefits. EDA may deny any application solely on the basis that its environmental impact analysis discloses that unacceptable adverse impacts will or are likely to result. EDA, where necessary, may condition approval of a project upon the adoption of specified measures designed to mitigate any adverse environmental impacts.

(b) *The National Historic Preservation Act.* (1) Applicants shall include with their applications either a statement of their State Historic Preservation Officer's views of the proposed project or shall certify that their State Historic Preservation Officer was provided with a detailed project description and request for comments prior to application's submission to EDA.

(2) If necessary, EDA will attempt to complete the coordination of proposed projects with the Advisory Council on Historic Preservation. EDA will use the results of this coordination process, even though completion of this process may not be possible, as a factor in making a final decision on the project.

(c) *The Wild and Scenic Rivers Act.* (1) If required, EDA will coordinate its processing of a proposed project with either the Department of Interior or the Department of Agriculture.

(2) EDA will use the results of this coordination process, even though completion of the process may not be possible, as a factor in making a final decision on the project.

§ 316.14 Final determination.

(a) All applications for assistance under this part shall be processed by the appropriate EDA Regional Office.

(b) The Regional Director shall notify the applicant, in writing, when its application has been rejected and state the reasons therefor.

(c) The Regional Director shall forward to the Assistant Secretary in Washington, D.C., all applications which he deems are properly completed and eligible for assistance under this part.

(d) The Assistant Secretary shall review all applications received from the Regional Directors and make the final determination.

(e) If no determination has been made by the end of the sixtieth day after the application was received as determined in § 316.12 above, the application will be deemed to be approved.

§ 316.15 Termination.

(a) An appropriate official of the grantee may request EDA to cancel or terminate a public works project approved under this part. This request must be accompanied by a certified resolution or ordinance authorizing the requesting party to make such request. Before agreeing to such request, EDA will determine the legal sufficiency of such request.

(b) EDA may initiate a cancellation or termination of a protest approved under this part for failure by the grantee to adhere to the requirements of the grant.

(c) EDA may initiate a cancellation or termination of a project approved under this part whenever it determines that such cancellation or termination is in the best interest of the government. Cancellation or termination shall be effected by delivering a notice to the grantee specifying the extent of the cancellation or termination and the date upon which it becomes effective.

Effective date: These regulations become effective on August 23, 1976.

John W. Eden,
Assistant Secretary.

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Economic Development Administration—Guidelines for Local Public Works Capital Development and Investment Program

A. AUTHORITY

Title I of the Public Works Employment Act of 1976, which is entitled the Local Public Works Capital Development and Investment Act of 1976, authorizes grants to any State or local government for local public works projects that will stimulate employment.

B. OBJECTIVES

1. Legislative Objectives—

On the basis of an in-depth study of the Local Public Works Capital Development and Investment Act of 1976 and its legislative history, it has been determined that the purpose of this legislation is to provide:

Employment opportunities in areas of high unemployment through the expeditious construction or renovation of useful public facilities.

A countercyclical stimulus to the national economy.

2. EDA Program Objectives—

Analyses of past public works programs and the Economic Development Administration's (EDA) experience in operating such programs have revealed certain characteristics about the extent and nature of employment generated by public works construction. Of these, the most relevant to the objectives of the Local Public Works Capital Development and Investment Act are the preponderance of skilled construction jobs and the relatively high cost of creating a job through such an approach. Between 68 and 81 percent of the costs of a public works project are for materials, equipment, overhead, and contractor profits, leaving between 19 and 32 percent for on-site wages. Consequently, even the most labor intensive public works projects generate a limited amount of direct employment per dollar of project cost. Public works projects do, however, result in useful end products and are commonly believed to provide general economic stimulation, particularly to the construction and construction-related industries.

In recognition of these characteristics of public works construction projects, as well as other considerations deriving from the legislation and EDA's experience, the following objectives for implementing the program authorized by this Act have been established:

To insure that adequate consideration is given to the relative needs of the various sections of the country.

Within those sections, to fund projects that maximize immediate employment opportunities and, wherever possible, that maximize employment opportunities for unemployed residents of the project area.

To fund locally oriented projects that provide useful public facilities in areas of high unemployment and low income.

To fund projects that advance local plans and provide long-term benefits.

To fund facilities that could not have been constructed in the absence of the Local Public Works grant (i.e., facilities for which Federal funds are not merely replacing or reducing local, State, or other Federal monies that have been specifically provided or set aside).

To carry out a comprehensive evaluation of both the direct employment impact and the indirect or stimulative impact of the projects funded.

C. FUNDING

The authorization for carrying out this program is $2.0 billion for the period beginning with EDA's receipt of appropriation and ending September 30, 1977.

D. ELIGIBLE APPLICANTS

Eligible applicants for this program are:

1. States—

The several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

2. Local Governments—

Any city, county, town, parish, or other political subdivision of a State (including general-purpose and special-purpose units of government and local school districts), and any Indian tribe.

E. ELIGIBLE AREAS

The Act requires that 70 percent of all funds appropriated for this program be granted for projects submitted by States or local governments having unemployment rates in excess of the national rate. It further requires that 30 percent of all funds appropriated be for projects submitted by States or local governments having unemployment rates equal to or below the national average. In line with these requirements, the following guidelines will govern area eligibility.

1. Unemployment Level—

It shall be EDA's policy that the majority of projects approved will be in areas with an unemployment rate of 6.5 percent or more for the average of the three most recent consecutive months for which data is available. Projects in areas with an unemployment rate of less than 6.5 percent will be considered only when funding of such projects is necessary to fulfill the minimum funding level required for each State or if funds are available in the 30 percent category.

2. Eligibility for Priority Consideration—

An area will be eligible for priority consideration based on unemployment rates developed using the procedures described in Section E.3.b. Priority will be given to areas based on these unemployment rates for the 70–30 categories discussed above.

3. Determination of Areas Eligible for Priority Consideration—

a. Project Area Definition:

(1) To establish an unemployment rate for an area, a "project area" must be defined. The boundaries for this project area may be defined according to the area from which the labor force for the project is expected to be drawn. The project area should be one for which unemployment rates are available or easily calculable. Such areas include, but are not limited to, census tracts, neighborhoods, counties, cities, Standard Metropolitan Statistical Areas, and multi-county areas or parts thereof.

(2) In determining where the labor force can be expected to be drawn from, the journey-to-work characteristics of the labor force and the applicant's intent to hire the unemployed of a specific area must be considered.

(3) Applicants who anticipate that project labor requirements will draw upon the unemployed and underemployed labor resources of other jurisdictions outside the immediate project area (such as a multi-county area) may define their project area to include those jurisdictions.

b. Procedures for Obtaining Unemployment Data:

Note: The unemployment data discussed in these guidelines must be for periods within the 12 months preceding the date of application.

(1) Bureau of Labor Statistics—

The principal source of the unemployment statistics to be used in considering applications submitted by States and local governments will be the latest available data published by the U.S. Bureau of Labor Statistics (BLS). This data will be used to determine whether an application comes from a 70 percent area or a 30 percent area and to rank individual projects from these areas within a State.

Initially, EDA Regional Offices and Economic Development Representatives (EDRs) will be furnished a list for public use that will contain unemployment data for those States and "identifiable" local governments for which BLS, for its Comprehensive Employment and Training Act of 1975 (CETA), has published such data. The initial data will include the unemployment rate and total number of unemployed persons for the three most recent consecutive months for States and areas for which information is available. BLS data indicating unemployment rates by county will become available in the near future and will also be furnished to EDA Regional Offices and EDRs. Potential applicants should contact EDRs or EDA Regional Office staff to determine if they are covered by such BLS data.

(2) State Employment Security Agencies—

An applicant whose proposed project is in an area for which BLS unemployment data is not available may seek to obtain the required data, for the three most recent consecutive months, from the appropriate State Employment Security Agency. EDA will automatically accept the unemployment data as confirmed by the State Agency. This confirmation must accompany the project application.

(3) Specially Defined Areas—

A local government situation within a larger area may seek to obtain State confirmation for its own unemployment date. A local government may also seek to obtain State confirmation for any community or neighborhood within its jurisdiction. The U.S. Department of Labor has issued instructions to State Employment Security Agencies to respond affirmatively to the requests of local governments for unemployment rates for the three most recent consecutive months for both these types of areas. However, no such request should be made by a local government unless it has good reason to believe that the unemployment rates of such areas warrant the establishment of separate rates.

A project application submitted to EDA by a local government for a specially defined area must be accompanied by evidence that the unemployment data for that area has been confirmed by the State Employment Security Agency.

If, for any reason, a State Agency should advise an applicant that it is unable to provide unemployment dates for areas covered under this section and Section (2) above, a statement of the circumstances should be furnished the appropriate EDA Regional Office, which will contact EDA's Qualification Division in Washington (telephone 202–337–2710) for advice and assistance.

(4) Indian Reservations—

If an Indian tribe is unable to establish its three-month-average unemployment rate according to the procedures described above, it may submit to the appropriate EDA Regional Office such evidence as it can produce regarding unemployment conditions within its jurisdiction. Preferably, this would be in the form of a statement signed by an authorized official of the Bureau of Indian Affairs. However, if this cannot be obtained, the evidence should include the results of a study or survey showing labor force, employment and unemployment numbers, and unemployment rates for the three most recent consecutive months. The individuals or organizations carrying out the survey or study should be identified, and the methodologies and procedures followed should be described. This documentation should be submitted to EDA's Qualification Division in Washington, which will determine the acceptability of the unemployment data submitted and advise the applicant and the Regional Office of its findings.

F. TYPES OF GRANTS

The types of grants that are available to State and local governments under this program are:

1. Direct Grants—

100 percent grants for local public works projects on which construction has not been started.

2. Supplemental Grants—

a. Grants to supplement other Federally funded public works projects, in the amount necessary to make the Federal share 100 percent of the project cost, provided that the other Federal funds are immediately available and that construction on the project has not been started owing to a lack of funding for the non-Federal share.

b. Grants to provide all or any part of the required State or a local share (but not both shares) of the cost of a public works project for which financial assistance is authorized under the State or local law requiring such a contribution, provided that the financial assistance other than that being provided is immediately available and that construction on the project has not been started.

The guidelines and requirements set forth here apply to both direct and supplemental grants, unless otherwise specified.

G. TYPES OF PROJECTS

1. Eligible Projects—

The types of projects eligible for funding under this program are:

a. Construction (including demolition and other site preparation activities), renovation, repair, and other improvements related to public works projects that have a local orientation. Such local public works projects include, but are not limited to, municipal offices, courthouses, libraries, schools, police and fire stations, detention facilities, water and sewer lines, streets and roads (including curbs), sidewalks, lighting, recreational facilities, convention centers, civic centers, museums, and health, education and social service facilities.

b. Public works projects authorized by other Federal acts.

2. Ineligible Projects—

The types of projects that are not eligible for funding under this program are:

a. Projects that have as their principal purpose—or permanent effect—the channelization, damming, diversion, or dredging of any natural watercourse, or the construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historic site). The primary purpose of this restriction is the environmental protection of the Nation's natural watercourses.

This prohibition refers, generally, to the alteration of the natural state of a watercourse, i.e., to those watercourses (or portions of watercourses) that have not been disturbed by man. Therefore, the construction of a new dam or the expansion of the capacity of an existing dam is prohibited, as is the construction of a new canal or the expansion of an existing canal, except one designated as an historic site.

Construction on natural watercourses that have already been diverted, dammed, and channelized would constitute an acceptable project if the final project result were the improvement of the natural flow of the entire watercourse. Thus, acceptable projects would include: dredging a previously diverted river; desilting an existing dam; temporarily diverting a river for the principal purpose of constructing a bridge; and constructing, reconstructing, or repairing a jetty in an area where beach erosion or storm damage has occurred.

b. Projects on which construction is ongoing (i.e., on which a contract for construction has been awarded, notice to proceed or its equivalent has been issued or onsite labor has begun, whichever has occurred earlier).

c. Projects requiring financial assistance in excess of $5 million. However, in unusual circumstances, the Assistant Secretary may waive this requirement.

d. Projects that will take more than two years to complete. This requirement may also be waived by the Assistant Secretary in unusual circumstances.

e. Projects for which this program's funds would reduce, diminish, or replace funds specifically budgeted and/or committed for the project by the State, local government, Indian tribe, or other Federal agency.

H. PROGRAM ADMINISTRATION

1. Considerations—

The following factors will be considered in the administration of this program:

a. Unemployment, in both absolute numbers and concentration, is unevenly distributed in the country.

b. Areas in some States do not have unemployment rates in the 70–30 proportions prescribed by the Act.

c. There are large concentrations of unemployed persons in the major urban areas of the country.

2. Policy Implications—

To account for these factors, the following policies will govern the administration of this program.

a. State Minimum Funding Level, Planning Allocations, or Ceiling(s):

(1) Each Regional Office will observe, with respect to each State served by it, a State minimum funding level, planning allocation, or ceiling(s). The formula by which these levels will be established is as follows:

Subject to EDA administrative costs and statutory minimum amounts allocated to individual States by the Act, 65 percent of the appropriated funds will be set aside as planning allocations for individual States based on each State's share of the total national unemployed (i.e., the ratio between the number of unemployed workers residing in a State and the total number of unemployed workers in the Nation) averaged for the three most recent consecutive months; 35 percent of the funds will be set aside as planning allocations to individual States based on the relative severity of unemployment for each State (i.e., the relationship between a State's unemployment rate and the national unemployment rate) averaged for the three most recent consecutive months.

Further, in accordance with statutory requirements, each State allocation, including that for the District of Columbia and for Puerto Rico, will not be less than 0.5 percent or more than 12.5 percent. For Guam, the Virgin Islands, and American Samoa, not less than 0.5 percent will be granted for all three.

(2) It should be understood that the level assigned to each State is not intended to establish an entitlement to any minimum or maximum level of project assistance within the State (unless such is the statutory minimum or maximum). Rather, it is adopted to further the objective of insuring that consideration is given to the relative needs of various sections of the country.

(3) One hundred and twenty days after the date on which funds are first apportioned for program assistance, and at any time thereafter, the Assistant Secretary may reconsider the State funding levels previously established and make such adjustments as are determined to be reasonable in achieving the purposes of the Act.

b. *70–30 Priority:*

The 70–30 requirement of the Act (discussed in Section E of these guidelines) will be met by totaling the funding of projects on a State level—or regionally or nationally, if necessary.

(1) First priority and expedited processing will be given to applications submitted from areas having an unemployment rate for the average of the three most recent consecutive months (for which data is available at the time of application) that is in excess of the national unemployment rate. Seventy percent of the funds appropriated for this program will be available for projects from these areas.

(2) Second priority will be given to applications submitted from areas having an unemployment rate for the average of the three most recent consecutive months (for which data is available at the time of application) in excess of 6.5 percent but less than or equal to the national average. Thirty percent of the funds appropriated for this program will be available for projects from these areas.

(3) Third priority will be given to applications submitted from areas having an unemployment rate equal to or less than 6.5 percent. Applications from such areas will be approved if funds are available in the 30 percent priority level, or if funding of the proposed project is necessary to fulfill the minimum funding level required for each State.

(4) Public works projects of general-purpose units of local governments within each of the above priorities will be given priority and preference.

3. Project Selection Procedure—

a. Considerations:

In line with the purposes and objectives of the Act, ERA's goal of choosing projects having the greatest potential for furthering these purposes and objectives, the relative importance of various factors in determining this potential, and the availability and consistency of data specified in the Act, the following project selection procedures have been adopted.

b. Project Selection Formula:

The ranking procedure developed for selecting projects within each State's planning allocation uses those project and area factors that will contribute most to achieving substate equity (priority allocation of funds based on need) in the distribution of planning funds, and insures that the relatively more economically efficient projects (those having maximum impact on unemployment) are selected. Certain factors will be standardized in order to perform comparative analyses of projects within each State. Each factor has been assigned a weight to reflect its importance in the ranking procedures.

(1) Basic Rank—

The basic rank of a project will be determined by the following factors:

(a) The number of unemployed workers in the project area averaged over the three most recent consecutive months for which data is available at the time of application. An area characterized as having a high unemployment rate overall is generally characterized as having a high unemployment rate in the construction industry. Similarly, an area characterized as having a large number of unemployed overall is generally characterized as having a relatively large number of unemployed construction workers as a share of the overall unemployed. Therefore, this factor gives consideration to construction unemployment. This factor will constitute 30 percent of a project's basic rank.

(b) Severity and duration of unemployment, as measured by the unemployment rate prevailing in the project area averaged over the three most recent consecutive months for which data is available at the time of application. This factor will constitute 25 percent of a project's basic rank.

(c) The cost per person-month of employment, defined as the ratio of the total cost of the project to the total number of person-months of employment to be generated. It should be emphasized that supplemental assistance provided for under the Act will be considered as part of total project costs; the latter is defined as funds from all sources, whether Federal, State, or local. This factor will constitute 30 percent of a project's basic rank.

(d) The level of income prevailing in the project area. This factor will constitute 15 percent of a project's basic rank.

(2) Additional Consideration—

A project's basic rank will be increased if the project meets one or more of the following criteria:

(a) Exhibits potential for providing long-term benefits (e.g., provides a needed community facility). The basic rank of a project will be increased up to a maximum of 10 percent if it meets this criterion. The amount of increase will be determined by the nature and extent of the long-term benefit(s) to be provided by the project.

(b) Is sponsored by a general-purpose unit of local government. Projects meeting this criterion will have their basic rank increased by five percent.

(c) Relates to existing approved plans and programs of a local community development or regional development nature or promotes or advances longer range plans and programs. The basic rank of a project meeting this criterion will be increased by five percent.

(3) Final Rank—

The final rank of a project is to be determined by summing the basic rank and increases attributable to the additional considerations defined above.

c. Application of Project Selection Formula:

(1) Geographic Considerations—

Projects will be ranked and assessed relative to other projects submitted from the same State until such time as the Assistant Secretary determines, *pursuant to* Section H.2.a.3. of these guidelines, that comparison of projects submitted from different States is required either to further the purposes and objectives of the Act or to comply with statutory requirements.

(2) Priority Considerations—

Within each State, projects submitted from areas wth an employment rate exceeding the national average for the three most recent consecutive months for which data is available at the time of application will be ranked and compared only with projects submitted from other areas in this priority category.

Similarly, projects submitted by areas with an unemployment rate below the national average for the three most recent consecutive months will be ranked and compared only with projects submitted from other areas in the same priority category.

(3) Project Selection—

Within each State and priority category, projects will be selected on the basis of their final ranks until the State planning allocation for each priority category has been exhausted or until such time as the Assistant Secretary, pursuant to Section H.2.a.3 of these guidelines, determines that the remaining funds made available under the Act must be reallocated among the States.

The Agency may disapprove an application for a project when it is believed that the project construction activity will generate labor requirements in excess of those available among the unemployed in the project area. Further, for areas having large pools of unemployed labor, projects will be ranked; however, the Agency may decline applications of lower rank when the sum of project labor requirements exceeds the available supply of unemployed labor.

I. APPLICATIONS PROCEDURES

1. Forms—

An application form, developed for this program and available from EDA's Regional Offices and EDRs, is to be used for all proposed projects. Owing to the short time available for developing project applications, pre-application conferences for projects will not be held.

2. General Considerations and Requirements for Financial Assistance—

a. An applicant must provide EDA with satisfactory assurance that on-site labor can begin within 90 days of project approval. It is recognized that many Northern States could have difficulty in meeting this requirement, particularly during the winter months. This problem will be minimized by the following:

(1) The planning allocation established for each State will insure that the relative needs of the country are met, and that projects are competing with other projects within the same State, rather than with all projects in the Nation. This will eliminate unfair competition among States. It is expected that those States having the most severe seasonality problems will have projects that are funded later in the program.

(2) Because in those States experiencing varying weather conditions the 90-day requirement could be seen as giving unfair advantage to fair weather areas, the definition of on-site labor will be interpreted liberally. That is, some on-site labor must begin within 90 days, with full-fledged construction capable of being started as soon as weather permits.

b. An applicant must provide EDA with the following environmental information (except items (5) and (6) if such materials are not available and the applicant so certifies): (1) those elements of the project that will impact the environment; (2) the nature of the environment to be impacted; (3) data on the expected environmental impact; (4) alternatives to the proposed project; (5) any environmental analyses previously conducted by local, State, or Federal agencies; and (6) public reaction as evidenced, for example, in transcripts of local public hearings held on the proposed project.

c. An applicant must insure that plans, specifications, and estimates for projects are either complete or sufficiently complete so as to insure that on-site labor can begin within 90 days of project approval. Final plans and specifications will not be required for EDA review and approval except in unusual circumstances.

d. An applicant must provide EDA with satisfactory assurance that no person has been *discriminated* against or will be denied the benefit of the project on the grounds of sex, national origin, color, or race.

e. A project should relate to existing approved local plans and programs of a community or regional development nature—e.g., OEDPs, Comprehensive Plans, HUD 701 Plans, EPA Areawide 208 Plans—as applicable, and should advance long-range plans.

f. To the extent possible, at least 10 percent of the personnel hired for a project should be project area residents who had been unemployed for at least 30 days prior to being hired.

g. For a project involving a neighborhood or community within a larger jurisdiction that is eligible for priority assistance on the basis of the unemployment rate for this specially defined area, the project must directly benefit or provide employment for unemployed persons within that neighborhood or community. However, it is not necessary that the project be located in that neighborhood or community—only that it benefit or provide employment for unemployed area residents.

h. For supplemental grants providing the non-Federal share of another Federally funded public works project, the applicant must obtain certification from the other agency involved in the project that: (1) the project is approved and funds are immediately available; (2) construction has not been started owing to the lack of the non-Federal share; and (3) on-site labor can begin within 90 days.

i. For supplemental grants providing the State or local share of any State or local authorized public works project, the applicant must obtain certification from the State or local agency involved in the project that: (1) the project is approved and funds for one of the shares are immediately available; (2) construction has not been started; and (3) on-site labor can begin within 90 days.

j. If a 100 percent direct grant application has been authorized and is pending under another Federal program(s), that application—to be eligible for fundnig under this program—must be withdrawn from the other program, and evidence of the withdrawal must accompany the application for EDA funding. In certain situations, as required by EDA, grant applications authorized and/or pending under another Federal program(s) must be reviewed—and certifications obtained from the agency (agencies) involved—concerning design, program, and technical standards.

3. Procedures—

a. An applicant will develop an application in conjunction with EDA's field organization and will submit the completed application to the appropriate EDA Regional Office.

b. An application may be accepted only by the appropriate Regional Director, processed by the Regional Office, and approved by the Assistant Secretary. No application will be accepted unless funds have been appropriated and made available to the Agency.

c. A modified A-95 clearinghouse procedure has been requested by EDA from the Office of Management and Budget. The procedure will be as follows. An applicant will be encouraged to submit its full application or notification of intent to apply to the appropriate clearinghouses as early as possible. Upon submission of an application to EDA, the applicant must certify that the full application has been submitted to the appropriate clearinghouses. EDA may begin processing the application upon its acceptance; however, the Agency will make no final decision to approve an application until 30 days after its acceptance, unless, of course, clearinghouse response is received before the 30 days have elapsed. Clearinghouse comments will be submitted directly to EDA, and EDA will consider such comments until processing of the application is completed. This procedure will be in effect for 90 days.

An applicant submitting an application after the first 90 days during which EDA is accepting applications will be expected to attach all State and areawide clearinghouse comments to the application, as required by Circular No. A-95. It should be noted that clearinghouses will often be able to provide technical assistance in the preparation of applications for assistance under this program.

4. Acceptance of Applications—

The Regional Office will begin the processing of an application after it has been determined that the application is eligible for consideration, has been properly prepared, and contains all necessary material. The Regional Office will notify the applicant of one of the following:

The application has been received for processing.

The application contains deficiencies that must be corrected. After the deficiencies have been corrected, the application may be resubmitted to the Regional Office. Upon resubmission, the application will be treated as a first submission.

The application is ineligible for funding, stating the specific reason (e.g., ineligible project type or applicant).

There is a need for comment by other Federal agencies.

Although the project is eligible, all funds have been expended, the State's maximum funding level has been met, or no funds remain for the priority group.

5. Final Determination—

After the Regional Director has received and begun processing the application, EDA has 60 days within which to make a final determination on approving or denying the project proposal. If, after 60 calendar days, the applicant has not been advised regarding final determination, the project will be considered approved.

EDA, to comply with the Local Public Works Capital Development and Investment Act, the regulations governing this Act, and these guidelines—particularly in the case of areas in other than the 70 percent priority group—may disapprove applications without prejudice. When this is done, EDA will so notify the applicant promptly. Applications that have been disapproved without prejudice automatically will be considered as resubmitted for further processing, unless the applicant withdraws the application in writing.

J. EXCLUSIONS

To meet the time frames mandated by the Act, delays in the initiation of construction of projects must be avoided. Therefore, projects normally will not be approved if it appears that any of the following conditions might result in delays that would prevent construction from being initiated within 90 days of project approval:

Clear title to the project site has not been obtained.

Condemnation or relocation actions are involved.

Information contained in assurances for plans and specifications is not sufficient.

K. ENVIRONMENTAL CONSIDERATIONS

1. National Environmental Policy Act—Because the Local Public Works Capital Development and Investment Act requires that EDA process applications within 60 days of their acceptance, EDA will not be able to prepare environmental impact statements for those projects that may significantly affect the quality of the human environment. However, EDA will, to the fullest extent possible within the allotted 60 days, analyze a proposed project's potential environmental impacts and give appropriate consideration to these impacts in making its final decision.

The environmental impact analysis will include: (1) the identification of any potential major adverse environmental impacts; and (2) when feasible, the development of mechanisms and measures to avoid or mitigate such impacts. EDA will deny an application if, after consideration of the benefits of a project against any environmental costs, the Agency concludes that the environmental costs exceed the benefits. EDA may deny any application solely on the basis that its environmental impact analysis discloses that unacceptable adverse impacts will or are likely to result. Unacceptable adverse impacts may include, but are not limited to, the following:

The addition to the environment of a pollutant that will violate or increase an existing violation of a Federal, State, or local standard covering such a polluant.

The deterioration of an environmental resource declared to be of national significance, such as a property listed on or eligible for the National Register of Historic Places.

The major disruption, or conversion to

another land use, of important environmental resources within the surrounding area, particularly those resources in scarce supply.

The existence of substantial controversy among government agencies or residents/users of the project area concerning the acceptability of the project's environmental impact.

The time frame for application review mandates that the Regional Offices identify early in the application stage those projects having substantial environmental costs and/or unacceptable adverse impacts. Applications that are inconsistent with the environmental policies described above are discouraged.

2. National Historic Preservation Act—In compliance with the National Historic Preservation Act, all project applications must be accompanied either by a statement of the State Historic Preservation Officer's (SHPO) views on the project or by evidence that the SHPO was provided with a detailed project description and a request for comment prior to submittal of the application.

EDA will attempt to complete the coordination of proposed projects with the Advisory Council on Historic Preservation, as required. Even though completion of the coordination process may not be possible, the results of the process will be used by EDA in making the final decision on the project.

3. The Wild and Scenic Rivers Act—As required, EDA will coordinate with either the Department of the Interior or the Department of Agriculture regarding the requirements of the Wild and Scenic Rivers Act.

L. COMPLIANCE

In addition to the requirements of the Local Public Works Capital Development and Investment Act, projects must be in compliance with the following:

15 CFR Subtitle A, Part 8 Civil Rights and Title VI of the Civil Rights Act of 1964.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and 13 CFR Part 310.

The National Flood Insurance Program and 13 CFR 309.15.

The National Environmental Policy Act of 1969, as amended.

The Archeological and Historic Preservation Act.

The Federal Water Polluction Control Act, as amended.

The National Historic Preservation Act.

The Clean Air Act.

The Fish and Wildlife Coordination Act of 1975.

The Wild and Scenic Rivers Act, as amended.

The Endangered Species Act of 1973.

OMB Circular A–95 (modified procedure for this program).

13 CFR 309.14 Design, construction and alteration of buildings to accommodate the physically handicapped.

13 CFR 309.11 Special purpose units of local governments.

13 CFR 309.26 Project modification.

The Davis-Bacon Act.

Part E of the Omnibus Safe Streets and Crime Control Act of 1968, as amended (for detention facility projects).

13 CFR 314 Property Management.

The Contract Work Hours and Safety Standards Act.

The Intergovernmental Cooperation Act of 1968.

The Copeland Anti-Kickback Act.

13 CFR 309.9 Records and Audits.

13 CFR 309.27 Land Use near Federal Airfields.

Executive Order 11246, of 1965, Equal Employment Opportunity.

All other existing or further acts affecting this program, including State and local acts.

M. PROJECT COSTS

1. Eligible Costs—

The types of project costs that are eligible for funding under this program are:

a. Construction and facility improvement costs.

b. Uniform Relocation Assistance expenses and payments.

c. Costs for capital equipment not included in the construction contract.

d. Interest on interim construction financing.

e. Costs for completing and updating plans, specifications, and estimates—where either architectural design/preliminary engineering or related planning has already been undertaken, and where additional architectural and engineering work or related planning is required to permit construction of the project.

f. Other A/E costs such as inspection fees and test borings.

g. Legal and audit costs.

2. Ineligible costs—

The types of costs that are not eligible for funding under this program are:

a. Costs for acquiring real property—acquisition of land, structures, and rights-of-way, including costs incidental to acquisition of land.

b. Maintenance costs—costs incurred for any necessary repairs or upkeep of property that neither add to the permanent value of the property nor appreciably prolong its intended life, but rather keep it in an efficient operating condition.

c. Costs for plans, specifications, and estimates for projects incurred prior to receipt of an application by EDA. Such costs will not be reimbursed by EDA, nor will costs incurred subsequent to receipt of applications unless the project is approved.

d. Cost overruns. This means that, regardless of the type of grant (100 percent direct or supplemental), no additional funding will be extended once a project is approved. Any cost overrun incurred on a project must be funded by the grantee.

N. CONSTRUCTION MANAGEMENT PROCEDURES

1. Processes—

The following processes are to be followed in the implementation of projects funded under this program:

a. Each grantee will be provided with a copy of "Design and Construction Guidelines for the Local Public Works Capital Development and Investment Act," which details construction procedures and requirements.

b. EDA will monitor construction of 100 percent direct grant projects and projects for which the grant is supplemental to State or local funding.

c. EDA will transfer to other Federal agencies the supplemental grant funds for the projects of those agencies. The other agencies will then administer the grant, monitor construction, and provide EDA with assurance that program requirements of the Local Public Works Capital Development and Investment Act have been met.

d. Construction on projects normally will be contracted for through competitive bidding.

e. EDA will allow simultaneous design and construction of projects when this is necessary for the applicant to meet the requirement that on-site labor begin within 90 days of project approval. A description of the procedures to be followed in such cases will be supplied to the grantee by the appropriate EDA Regional Office.

f. Any cost underrun incurred on a local public works project may be used for additional construction, if approved by EDA. If an underrun cannot be used for this purpose, the amount of the underrun will be returned to EDA.

2. Requirements—

The following major construction management requirements are to be followed in the implementation of each project approved under this program. Detailed instructions for these and other requirements will be supplied to the grantee upon project approval.

a. A Project Management Conference normally will be held. This conference is to be attended by, but not limited to, EDA representatives, the grantee, his designer, and his attorney to discuss design and construction requirements.

b. The grantee must obtain EDA approval of A/E and related planning services that are found to be required after the project has been approved.

c. The grantee must insure that adequate construction surveillance and inspection are carried out by a fully qualified inspector.

d. The grantee must provide to EDA regular reports on design and construction progress and on the status of all advanced grant funds.

e. The grantee must provide to EDA evidence that all necessary permits, *certifications*, land titles, rights-of-way, easements, etc., needed to carry out the project have been obtained.

f. The grantee must establish a financial management system that meets FMC 74–7 standards.

g. The grantee must insure that bidding and contract award procedures are accomplished in accordance with FMC 74–7 standards.

h. The grantee must obtain EDA concurrence on any major changes affecting the project as approved by EDA.

i. During project construction, the grantee must provide to EDA monthly reports and a final report indicating number of employees, person-months of work, and certain characteristics of the individuals employed on the project.

j. EDA normally will make disbursements through the line of credit procedures outlined in the Department of the Treasury *Fiscal Requirements Manual*.

THE TOWER AMENDMENT TO THE WATER POLLUTION CONTROL ACT

Mr. STENNIS. Mr. President, I am a cosponsor of the amendment offered by the distinguished Senator from Texas (Mr. Tower) to the bill (S. 3037), the extension of the Water Pollution Control Act authorizations.

This amendment is a much-needed legislative remedy to a very confused situation that has existed for over a year with respect to interpretation of section 404 of the Water Polluion Act of 1972. Section 404 directed the Corps of Engineers to implement a new regulatory permit program to control the disposal of dredged or fill material. As initially implemented the permit program was applied to navigable waters.

In March, 1975, however, the Federal District Court for the District of Columbia ruled that the program should be carried out in all waters of the United States, navigable or not, thereby literally expanding the program to every stream, brook, or pond, however small and wherever located. The court ordered publication of new regulations to so provide.

In compliance with the court mandate the Corps of Engineers published regulations in July 1975 that would be effective in three annual phases. In the first phase permits would be required immediately in navigable waters and adjacent wetlands. Beginning in July, 1976, they would be necessary in tributaries of a given size, and in the next year extended to the remaining waters.

On June 10 of this year I joined with 29 other Senators in a letter to the President asking that the implementation of phase II of the permit program, scheduled for July 1, be delayed. We pointed out that a few days prior to our letter the House of Representatives had enacted a statutory definition of the waters subject to the permit—a definition that we consider consistent with the original intent of Congress.

The President then directed a 60-day delay in implementation of phase II. He stated that this action was being taken to give Congress the opportunity to give consideration to the section 404 program, and to avoid the possibility that those being regulated would be subject to the rules being changed soon after July 1.

The Tower amendment is being placed before the Senate to allow this body to act promptly to resolve the confusion and controversy that have resulted from this judicially imposed permit program. We should act promptly to do so, before the 60-day delay expires, and before many more citizens and local government entities become subject to the paperwork harassment of this unreasonable expansion of the requirement for Federal permits.

The Tower amendment is the same as the Wright amendment which was passed by the House on June 3 by a very strong vote of 234 to 121. An even stronger amendment had been proposed in the House, which would have limited the program only to those waters used for commercial water transportation. The Wright amendment was offered as a reasonable alternative and a moderate and effective solution to the problem.

The Tower-Wright amendment is in fact an effective and reasonable solution. It meets the expressed objective of the Environmental Protection Agency to protect wetlands from land development programs, but without unreasonable Federal intervention into matters that are properly State jurisdiction. Under this amendment the section 404 program will apply to navigable waters—those actually subject to the usual Federal navigation servitude. In addition it will apply to adjacent wetlands. Further, additional wetlands, besides those adjacent to navigable waters, can be included in the permit program if a State so requests. It seems to me that this covers the wetlands situation very adequately.

Of very great importance, this amendment resolves the problem of whether permits would be required in farming and forestry activities, a question the administration agrees should be clarified. The Tower amendment grants broad exemptions to normal farming and irrigation practices, and to the usual silviculture practices in forests.

I believe that the Congress has a very solemn obligation to carefully evaluate the environmental consequences of any legislation that is passed. A part of this evaluation is that the environmental requirements must be reasonable and when established must be met with dispatch. The cost of compliance, the cost of delay, and the needs of the people in making a living must all be seriously considered. This amendment provides protection for wetlands, without unreasonable Federal intrusion into other jurisdictions.

Mr. President, a permit program is needed to control dredging and the disposition of dredge and other fill in waters under Federal navigation jurisdiction. This amendment provides such a program.

What it does not do, and what would be done under the present judicial mandate would be to make a further gigantic Federal intrusion into the regulation of the daily activities of our citizens. It does not create another massive and costly Federal bureaucracy to administer an unnecessarily detailed permit program.

In my view it is pretty well established, and has been for some time, that the American people feel that they are overregulated by their Government. I think they are right. To allow the present permit program to go on into phase II and phase III would be another example of the overregulation which they so justly complain about.

Mr. President, the Tower-Wright amendment is a sound solution to a problem that badly needs legislative correction. I am pleased to be a cosponsor. I strongly urge its adoption.

WYOMING BICENTENNIAL HONOR BAND

Mr. McGEE. Mr. President, 1 month from now will be Wyoming Day in the Nation's Capital. I first take this time to heap praise upon the District of Columbia Office of Bicentennial Programs as well as Mayor Walter Washington's administration. Over the past year, the District of Columbia's Bicentennial efforts have brought representatives from most every State in the Union to celebrate the roles of those States in the history of America. The efforts will not cease until every State has had its day. This local effort has been no small undertaking, to say the least, and I congratulate the District for its work in this program.

Wyoming Day September 28, will actually begin the prior evening with the "Parade of American Music," a concert of selections by Wyoming composers at 4:15 p.m. in the Kennedy Center Foyer. This concert will be followed by a twilight concert.

At 10:30 a.m., September 28 on the west front terrace of the Capitol, the Wyoming High School Honor Band will perform. The band is a group of 127 young musicians from high schools across the State of Wyoming. At noon, Mrs. Walter Washington will host a luncheon on the House side and later that afternoon, a ceremony will be held on Wyoming Avenue in the District.

At this time, Mr. President, I ask unanimous consent that a list of the musical participants who will be traveling to Washington to make Wyoming Day a memorable one, be printed in the RECORD, and I extend an invitation to all my colleagues to join in the celebration of the Equality State.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

WYOMING BICENTENNIAL HONOR BAND

Albin High School: Marilyn Lundberg, flute; Cindy Woods, bass clarinet.

Basin High School: Debbie Dellos, clarinet.

Big Horn High School: Richard Marques, alto sax.

Big Piney High School: Stuart Moffat, bari sax; Steve Yose, clarinet; Michele Nicholas, baritone base.

Buffalo High School: Joe Rulli, chairman/director; Orlinda Lusher, percussion; Alicia Kuhn, bassoon; Mary Perry, clarinet; Lisa Ferguson, clarinet; Barb Lothian, clarinet; Ann Marton, cornet.

Burns High School: Tina Hagstrom, tenor sax.

Chugwater High School: Debbie Bigner, flute; Brenda Rhoades, clarinet.

Cheyenne Central High School: Ada Kaser, bassoon.

Cody High School: Kevin Dunn, percussion.

Cokeville High School: Kim Burton, clarinet.

Cheyenne East High School: Janet Krumm, tenor sax; Becky Wold, flute.

Converse County High School (Douglas): Karen Rash, cornet; Toni Petranovich, clarinet; Marty Siebken, tuba.

Dubois High School: Dee Dee Atchley, tenor sax.

Encampment High School: Martha Gail Herring, cornet.

Evanston High School: Greg Pittman, alto sax; Lunne Clark, flute.

Gillette High School: Gary Argue, tenor sax; Tracy Guschwender, cornet.

Glendo High School: Roberta Rooney, trumpet; Julie Mae Roediger, cornet.

Glenrock High School: Steve Jackson, cornet; Tina Byer, baritone.

Hanna High School: Ronda Chamberlain, clarinet.

Hot Springs County High School: Shannon Jones, clarinet.

Huntley High School: Lori Foland, cornet.

Jackson-Wilson High School: Alan Ashley, tuba; Dana Seeley, trombones; Wayne Myers, trumpet.

Kelly Walsh High School: Karla Winkle, bari sax; Bob Carahan, oboe; Nancy Gosman, keyboard; Ken Ross, keyboard.

Kemmerer High School: Jim Roberts, tuba; Lori Dixon, alto sax.

LaGrange High School: Rene McMillen, flute.

Lander Valley High School: Dian Meredith, clarinet.

Laramie High School: Wendy Moore, clarinet; Mike Cupps, cornet; Janet Chenoweth, french horn; Jeff Stoller, trombone; Bev Seckenger, french horn.

Lingle-Fort Laramie High School: Wayne Koerwitz, baritone base.

Lovell High School: Linda Story, flute; Mona Moyes, clarinet.

Lusk High School: Susan Hahn, flute; Debbie Akers, clarinet; Susan Tschacher, bass clarinet; Randy Heckman, tuba.

Lyman High School: Ila Rollins, alto sax.

Manderson High School: Georgia Sova, alto clarinet.

Medicine Bow-Shirley Basin High School: Vicki Morris, percussion.

Meeteetse High School: Frank Odell, trombone.

Midwest High School: Linda Doughty, flute; Cindy Wiederien, cornet.

Moorcroft High School: Mary Smoot, french horn; Randy Castallo, alto sax.

Mountain View High School: Kirk Slagowski, cornet.

Natrona County High School: Jerry Johnson, tuba; Julie Pengelly, flute; John Materson, french horn.

Newcastle High School: Tim Thompson, director; Dan Jones, french horn; Wanda Hutt, french horn; Mark Gottsch, tuba; Marlene Burr, clarinet; Julie Lease, flute; Craig Mills, flute; Delores Howell, clarinet; Doug Mitch, alto sax; Marty Stearns, cornet; Kraig Weyr, trumpet.

Pine Bluffs High School: Patty Gieber, bari sax; Jody Mueller, clarinet.

Pinedale High School: Jana Wenz, french horn; Kelly Coleman, alto sax.

Platte Valley High School: Bill Rathbun, trombone.

Powell High School: Elizabeth Johannesen, alto sax; Molly Knudson, clarinet; Ann Woods, bassoon; Gerry Pinney, oboe; Leese Reed, flute; Richard Norberg, percussion; David Trevino, trombone.

Goshen Hole High School: Kerri Booth, baritone base.

Green River High School: Lee Hamdlin, trombone.

Rawlins High School: Shelly Winzenried, alto clarinet; Tom McGarry, trombone; Mitch Dahmke, tuba.

Riverton High School: Janet Ray, bass clarinet; Tina Haddenham, french horn.

Rock River High School: Kelly Mallory, flute.

Rock Springs High School: John Novotny, director; Denise Culver, french horn; Christine Christiansen, tuba; Jay Soderland, tympany; Karen Okano, alto sax; Jody Gilpin, bass clarinet; Marjean Frolic, clarinet; Nora Henderson, flute.

St. Mary's High School: Ken Dugas, cornet.

Sheridan High School: Diana Hauf, trombone; Bill Avery, director; Mike Seay, piccolo; Peter Cherni, clarinet.

Star Valley High School: Jade Henderson, cornet.

Sundance High School: Gena Gaylord, clarinet.

Ten Sleep High School: Steve Gestnuer, trombone.

Tongue River High School: Jodene Stout, alto sax.

Torrington High School: Gordon Haszier, trumpet.

Upton High School: LaDonna Jones, cornet.

Wind River High School: Trent Blankenship, tuba.

Wheatland High School: Marla Wade, clarinet.

Worland High School: Joel Taylor, cornet; Dana Watson, cornet; Jeri Johns, clarinet; Allen Hill, bassoon; Gard Ferguson, trombone.

Twilight Concert

Two Pieces for Organ: "Fantasy on an Old English Tune", and "Variations Al Rovescio," by Arthur Birkby.—Arthur Birkby, organist.

A Ballade of the Night for Voice and String Quartet, by Allan Willman.—Patricia Weiss, soprano; Brian Hanly, violin; Rosalie Lewis, violin; Douglas Engelhardt, viola; David Tomatz, violoncello.

Duo for Horn and Piano, by George Hitt.—William Stacy, French horn; Werner Rose, piano.

H*O*R*N, for French Horn Alone: H—Quickly, O—Very slowly, R—Indeterminately, N—Slowly and forcefully, by William B. Stacy.—William Stacy, French horn.

Triangulum, for Piano Trio, by George Hufsmith.—The Western Arts Trio, Werner Rose, piano; Brian Hanly, violin; David Tomatz, violoncello.

THE NEED TO END AIR TERRORISM

Mr. KENNEDY. Mr. President, I add my strong support to the antihijacking resolution introduced by Senator Javits yesterday.

No nation must doubt that international morality and respect for human life is on trial when innocent Americans and others still cannot safely travel international air lines for fear of random murder and the threat of hijacking. Each new savage act of terrorism shocks the conscience of the civilized world—yet there are those who still celebrate terrorism's "success" and plot even more sinister acts to perpetrate upon the international community in the days ahead.

Two weeks ago, Harold Rosenthal—legislative assistant to Senator Javits—was brutally murdered by those who utilize airports and airliners in order to blackmail and terrorize the international community. Mr. Rosenthal died in the service of the Congress and the Nation. He is one more innocent victim of our failures to put a halt to terrorism. Our sadness at the death of Mr. Rosenthal can only be matched by the anger I know I share with all of my colleagues over the continuation of terrorist attacks on civilians.

How long will this outrageous history of air terrorism continue before governments are moved to act to end this murder. How many young men like Harold Rosenthal must die before the international community is moved to finally say enough is enough?

I firmly believe that our Government must show some active leadership in pursuit of this goal. We must not let Hal Rosenthal's death be one more statistic to be added to the growing list of those who have died at the hands of terrorism. If Mr. Rosenthal's life is to be honored by those of us who respected his dedication to his Nation, we must move quickly and constructively to insure that the policy set forth in this resolution is formulated into positive action by our Government. For only if we do act now will we be able to restore the integrity and security of international air transportation.

Mr. President, there is ample evidence available indicating that the terrorists who randomly tossed their grenades into Istanbul's crowded airport terminal were aided and abetted by the leader of Libya—Colonel Quaddafi.

Again this week, the attempted hijacking of an Egyptian airliner has been linked to Libya. Whether through funds, the abuse of diplomatic privileges, or the safe haven of its territory, Libya aided and abetted terrorists in their act of murder.

The time has come for responsible leaders to place the burden of terrorism on the shoulders of Libya's leader. A price must be paid for facilitating international terrorism. We must finally and firmly do all that we can to work for an end to such acts and press for a universal condemnation by every nation of those who help instigate them.

Mr. President, this critical resolution has several important objectives which can and must be pursued by the President.

First, the President is urged to direct American Ambassadors serving nations which maintain direct air links with any transgressor nation—such as Libya—to carefully consider their suspension of air services until these nations no longer serve as a staging area or haven for terrorist operations.

Second, the President is urged to seek international agreement to strengthen current safety standards utilized by governments and airlines pursuant to the Convention on International Civil Aviation.

Finally, and most importantly, this resolution urges the President to consider—pursuant to the Antihighjacking Act of 1974—the possibility of denying the right of any U.S. airline to maintain air links with any other nation whose government is found to be in violation of this act; to suspend the air service rights of any foreign air carrier which may pose a threat to international air transportation by servicing those nations which aid terrorism; and to direct the Secretary of Transportation to withhold, revoke, or impose conditions upon the operating authority of any airline that does not maintain transportation security sufficient to meet the minimum security standards enacted in the Convention on International Civil Aviation. And, this resolution urges the President to conduct a comprehensive review of all U.S. trade and diplomatic relations to discourage international terrorism.

Mr. President, no one nation has been singled out by international terrorists. The entire community of nations are the victims of terrorism. We know all too well that too many Americans have died at the hands of terrorism. And each of us has all too often mourned the death of innocent civilians who have died just because they have been in one airport or another waiting to board an airline.

I urge my colleagues to lend their support to this resolution. Only if the United States joins with other concerned nations to restore the fundamental freedom of international airlanes will any American feel secure traveling abroad in the days ahead.

VERNON E. JORDAN, JR. ADDRESSES NATIONAL URBAN LEAGUE

Mr. JOHNSTON. Mr. President, on Sunday, August 1, 1976, in Boston, Mass., Mr. Vernon E. Jordan, Jr., executive director of the National Urban League, delivered the keynote address at the 66th annual conference of the National Urban League.

Mr. Jordan's speech dealt with important problems that still remain on the American scene as we enter the third century of our Nation's life. It was an excellent speech, which was delivered to over 6,000 conferees from 104 Urban League affiliates in 34 States, as well as many distinguished persons from other parts of the country.

I ask unanimous consent that Mr. Jordan's impressive keynote address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Keynote Address by Vernon E. Jordan, Jr.

America's birthday party was celebrated on July 4th with parades, with mock batties, with processions of tall ships, with colorful fireworks, and with endless rhetoric. Our second century as a nation has ended, and in these first days of our third century, America must now confront the profound questions of national policy that will shape our future.

First among these great issues is that of racial justice. This issue lies at the core of most of our national problems—the fate of the cities, the future of the economy, the realization of democracy, and the proper role of governmental and private institutions.

This Conference is about the task of ensuring that America's third century will be one of racial equality and of the final fulfillment of the egalitarian ideas that inspired the founding of the nation. It is our task to take those bold ideas and progressive visions and make them into living ideals fit for the proud, free people of America's third century.

And there is no better place in which to affirm our vision of that future than in this City of Boston. It was here that the first tremors of the colonists' rebellion were felt. It was here that Crispus Attucks, a black man, was among the first Americans killed in the struggle for independence.

And it is in Boston today that America's deep-seated racial friction and tortured social *tensions* find their most vivid expression. It is no secret that because of those tensions, because of this City's resistance to change, because of lawless mob violence, many among us felt the National Urban League should not come to Boston.

But there are compelling reasons for us to be here. Boston is a microcosm of America; it is not an isolated exception; it reflects in a bolder light the polarization typical of the rest of the country.

Black people know this solemn truth—anything that happened in Boston, can happen anywhere in these United States. We face potential mob violence anywhere; we face discrimination in employment anywhere, we face racism anywhere.

If any city needs to hear our message, it is Boston. This City has been torn apart by the busing issue, but the real issue is the education of all of its children. The real issue is the historic racism that erected a dual school system designed to keep blacks separate and unequal. The real issue is not Judge Garrity or his busing orders, it is the obstructionism of the school board and mob violence in defiance of the law.

It is shameful that this City which helped birth a new democratic order in our land, should now symbolize resistance to the *constitutional rights* of little black children. It is shameful too, that some officials sworn to uphold that Constitution, should, by their words and deeds aid and abet that resistance.

There are some here in Boston who are saying "never," but they said "never," in the South too. Just a short decade or so ago we heard about "massive resistance" but today, most of those segregated southern school systems have integrated peacefully. Buses that once were used to segregate are now used to desegregate. If Alabama and Mississippi and South Carolina can do it, Boston can do it too.

Boston will have peaceful desegregation when its good people stand up and be counted; when its business community, its universities, its labor movement, its neighborhood associations, stand up and reject racism in all of its forms. Boston's citizens of all races must come to realize they have more to gain by working together than by fighting each other. The good people of Boston have seen that evil triumphs when good people are silent. They should remember too, Dante's warning that, "the hottest places in Hell are reserved for those who, in a period of moral crisis, maintain their neutrality."

Boston needs help, and it needs the encouragement of our national leadership. It needs wise and humane standards set by a caring leadership that respects the law of the land.

This election year offers temptations to politicians who may see votes in once again flogging the busing issue. There are too many real problems in our land to divert attention to a phony issue like busing. A bare handful of children are bused under court orders, and then only as a last resort to guarantee constitutional rights.

So tonight we ask both parties not to whip up emotions and heighten racial tensions by injecting the busing issue into the campaign. Let the courts and the rule of law prevail. Let justice take its course. Don't take the low road to try to win office on the backs of little black school children. Let this campaign be one that rises above the manipulative racial code words of the past.

And I call on Governor Carter and Senator Mondale, on President Ford and Governor Reagan, on all candidates in this election year, to publicly affirm their commitment to the *Brown* decision, to publicly denounce recourse to violence as a means of dealing with social and educational issues, and to publicly urge local authorities to comply with the law.

America's ethnic tensions and racial problems are not new, they were present at its birth and have ebbed and flowed with the time. So too, have the still unresolved issues of poverty and urban want. A hundred years ago, on the occasion of America's Centennial, Thomas Huxley said:

"As population thickens in your great cities and the pressure of want is felt, the gaunt spectre of pauperism will stalk among you . . . Truly America has a great future before her: great in toil, in care, and in responsibility; great in true glory if she be guided in wisdom and righteousness; great in shape if she fails."

Huxley's predictions of the coming urban crisis have come to pass, and the jury is still out on whether America's future shall shine in glory or be dishonored in shame.

America's future will be secured not by looking back at the tangled past, but by looking ahead to our next two hundred years. To that end, this National Urban League Conference is devoted to raising the issues that should be embodied in a new Bill of Rights extending traditional American freedoms.

Thus, we will consider such issues as:

The right to education, preparing all children for fuller, freer lives;

The right to economic security, which includes the right to a decent job at a decent wage for all and an income maintenance program that replaces the welfare system;

The right to health, and the need for a national health insurance policy that ensures decent health care for all;

The right to family stability, enabling families to survive the relentless pressures of poverty and discrimination;

The right to representation, enabling minorities to achieve full participation in the political process; and

The right to safe communities, so that no neighborhood need live in fear of crime and violence.

And implicit in these rights is the *right of our cities to survive,* to prosper, and to flourish as the centers of our economy and of our civilization, thus fulfilling their historic role in human history.

New York City's fiscal crisis symbolizes the bind many cities find themselves in—erosion of the tax base combined with declining public services. Instead of a creative response to this dilemma, cities are told to make even greater budget cuts and brutal slashes in services, which only compound and perpetuate urban problems.

America's fate is bound to the fate of its cities. Urban problems are national in origin and demand national solutions. And it is up to our national leadership to recognize its responsibilities for dealing with the urban crisis.

The revenue sharing program was cynically oversold as an answer to urban problems. Revenue sharing merely throws money at all State and local governments, whether they need it or not. Revenue sharing can become a vehicle for helping troubled cities only if its aid formula is revised so that funds are distributed based on need, and if strong civil rights enforcement and citizen participation are built into the program. Those federal dollars have to be sharply targeted to solve problems, not scattered to all comers.

The problems facing the cities ought to be a main theme of this year's crucial election campaign. The candidates have yet to address themselves to the issues that affect America's millions who are still ill-housed, ill-fed and ill-clad. And to that end, black people and poor people have to make their needs felt by voting.

Black citizens have a special responsibility to build on the bitter sacrifices of the past and to exercise the right to vote, a right bought with blood, tears and suffering.

There are over fourteen million black people of voting age but only about eight million are registered to vote and an even smaller number go to the polls. In the last Congressional election, about a third of blacks voted, and in last spring's primaries, less than a third of black registered voters went to the polls.

Black people face too many disadvantages to afford the luxury of ignoring the biggest weapon in our arsenal of self-defense—the vote. There can be no excuse for self-induced powerlessness. We have a responsibility to register, to understand the issues and how they affect black people, to vote, and to get our friends and neighbors to vote.

The goal of the black community ought to be 76 in '76—getting a minimum of 76 percent of eligible black citizens to register and to vote on Election Day, 1976. Close to eleven million black votes represent power.

The black vote can elect the next President of the United States. The black vote can decide who goes to the Senate in many states. The black vote can decide who goes to Congress in at least 120 districts. The black vote can help secure black interests; it can bring aid to our friends, and retribution to our enemies. We know from recent political history that the black vote can giveth and can taketh away. Blessed be the name of the black vote.

So let us get out that sleeping giant of American politics, the black vote.

The Urban League has never endorsed candidates and we will not do so this year. We have no partisan interest in favoring one party or another; rather our role is to encourage black voters to participate in both parties and on all levels of party life. We want blacks to influence both major candidates. We don't want one party to take us for granted, and the other party to ignore us. We want in with both parties, with both candidates.

This was the year for the Urban League and other black community organizations to conduct massive non-partisan voter registration and educational drives. But this is the year when the Foundations chose to reflect the negativism of the country; when they proved fearful and timid. Thus, the Foundation community has abandoned its responsibility to help mold a concerned, educated electorate, and refused to help overcome the effects of years of exclusion of black citizens from the political process.

So the Foundations won't help anymore—but we'll do it alone. The Urban League is committed to non-partisan voter registration and education to increase black participation in the democratic process. I urge every Urban League affiliate to make a maximum effort to go into its community and encourage people to register, to understand the issues and to vote on Election Day.

The Urban League will do its part in making it 76 percent in '76.

Every single additional black registered voter increases the chances that the candidates will begin talking about the real issues of urban decay and unemployment.

And one of the real, hidden issues no one is talking about these days is the terrible question of youth unemployment.

The National Urban League has been urging a National Full Employment Policy that guarantees jobs for all and we are now seeing some interest in that plan, but most of the current job-creation proposals deal only with adult employment. No one is talking about the masses of young people between the ages of 16 and 24 who are out of school and out of work and doomed to wasted lives.

It is unconscionable for America to move into its third century with what appears to be a deliberate policy of reducing its greatest resource—young people—to the rubbish-heap of economic surplus and dependency. While some are allowed through the gates of opportunity to take their place in the economy, millions of others are shut off from jobs, from training, and from the skills needed for future survival.

The awful facts speak for themselves:

The official unemployment rate for blacks 16 to 19 years old is over 40 percent; the Urban League's Hidden Unemployment Index shows the true figure at 64 percent.

A third of all black men and women between the ages of 20 and 24 are jobless, and that includes young black men who laid their lives on the line during the Vietnam conflict.

Black young people have been so relentlessly excluded from job opportunities that they've dropped out of the labor force in unprecedented numbers. Back in 1950, two out of three black men 16 to 19, were counted in the labor force, by 1975 only two out of five were in the labor force. And during that period, the percentage of white teenagers in the labor force actually rose. In the next age group, 20 to 24, labor force participation rates for black men dropped by almost ten percentage points in the past fifteen years.

Those young people didn't drop out of the labor force because they suddenly inherited large fortunes and retired to the islands. No! They were pushed out of the labor force. The opportunities for entry-level jobs declined and a new wall of credentialism was placed around many of those that remained, leaving millions of young people out of the running for jobs that used to be theirs. We see the tragedy of many of our young people—our future—pushed out of both school and the labor force. Denied the opportunity to equip themselves for self-sufficiency, they face enforced idleness, frustration, the temptations of the street, and lifetimes of poverty and dependence. These young people are like Ralph Ellison's *Invisible Man;* invisible because our society refuses to see them, to notice them, to help them.

Thus, America grooms millions of black and white youngsters for marginal existence; it fosters a future expansion of its welfare rolls, and it nurtures the smoldering fires of anger and rebellion.

America cannot write off a whole generation of young people. The American economy cannot survive its third century without utilizing the skills and talents and latent resources of its young people. The American social system cannot survive the threat of significant numbers of its young people deprived of a stake in society. We must not become a nation at war with its future.

Therefore, the National Urban League tonight urges a National Youth Employment Program that would include:

Establishment, by law, of the right of all young people to the education and job-training experiences that will equip them for full participation in the economy.

Passage of necessary laws, executive orders and the bringing of appropriate legal action to ensure that young people are not discriminated against in the job market by reason of age.

Formation of a federal Youth Employment Agency to deal with problems of youth employment and to provide expanded opportunities for young people.

Massive federal job-creation programs aimed specifically at young people, including public service jobs, expanded school-to-work programs, and incentives to the private sector. Such programs should be designed for maximum use of local community groups, with national coordination by the proposed Youth Employment Agency.

Just as young people were employed in saving our forests and streams in the old Civilian Conservation Corps, so too can today's young people find constructive work on the urban frontier in an Urban Conservation Corps that helps rehabilitate run-down housing, provides manpower for undernourished public services, and at the same time, gives young people training, work habits, and marketable skills.

And the private sector has a vital role to play too. Tonight I call for a voluntary effort by every corporation to sharply expand its job opportunities for young people, including the removal of unrealistic demands for unnecessary credentials, increased part-time work opportunities for in-school youth, and training programs.

We are not proposing a spending program; we are proposing an investment program that will pay off throughout our third century.

We of the Urban League movement have experience with the kind of investment in human resources that pays off, and pays off well. For the past nine years, our Labor Education Advancement Program has been recruiting and training young people for jobs in the construction trades. Some of these young people were on welfare. Some of them were on street corners and some of them, yes, some of them were keeping body and soul together in hustling and in crime. Many were high school drop outs. Most were on the outermost margins of our society, part of the growing pool of invisible black people ignored by the statistics-keepers.

Over the nine years of LEAP's life, the government has invested $22 million in the program. Last year alone, LEAP's 16,000 placements paid $31 milliion in taxes—or nine million more than Washington's total investment over nine years. Over the whole nine years, LEAP's placements earned a cumulative $380 million and their total taxes have come to $90 million. That means for every dollar the government put into LEAP, it got four back.

So we're not talking about spending, we're talking about an investment in the productive capacity of our nation and its people, an investment that will more than pay for itself in tax receipts and in brighter futures for our people.

The Urban League will fight for a National Youth Employment Program, and we will also make youth employment opportunities a major thrust of our programmatic activities in the coming year.

The survival of black Americans—and indeed all Americans—depends in part upon the ability of all young people to become an integral part of this economy. The alternative will be for an increasingly expendable, marginal population subject to oppression and dehumanization by a hostile society.

I have seen just how horrible that can be. I have seen the horrors wrought by an oppressive apartheid system against black people denied jobs, education, and the fundamental rights of human beings. I saw this last month in the racist state of South Africa.

While we of the Urban League movement discuss a new Bill of Rights, black people in South Africa have no rights at all.

The white minority, numbering perhaps one-sixth of South Africa's population, has imposed upon black people the neo-slavery of apartheid. Black children are denied education. Schooling is free and compulsory for whites, while blacks are charged for their non-compulsory schools. For every dollar spent on black education, 17 are spent on white education.

The job reservation system keeps blacks out of skilled work when whites are available to do it, and pay differentials result in four out of five black workers getting below even the South African government's poverty level.

In their own land, the land of their fathers, black people cannot own property, cannot vote, cannot bargain collectively and cannot strike. Black people are subjected to petty apartheid, or separate facilities, but even more devastating is the divide and conquer policy known as "separate development."

Separate development means the black majority could be forced onto reservations on 13 percent of the land area of the country. In these "homelands" South Africa proposes to create several mini-states for blacks. Instead of participating in a democratic, multiracial society in all of South Africa, black people would be citizens of the "homeland" areas and would be permitted into the 87 percent of the country designated as "white" only as migrant workers without any rights at all.

Thus, separate development is a *fancy* term behind whose sanitized facade the white minority proposes to continue to subjugate and brutalize black people.

Black Americans have a stake in this situation. First, we are tied to the African Continent by bonds of race and origin. Second, we are Americans, and our interest in our country's future demands we take an active interest in its foreign policy, most especially when that foreign policy has ignored Black Africa while supporting the white supremacist governments of southern Africa.

A bloody race war there is in no one's interest, least of all that of a majority black population vastly outgunned by the state's forces. Our policy should be to encourage peaceful change through the inclusion of black South Africans as full partners in their country.

Our government must make it clear that it finds apartheid intolerable and that unless South Africa changes its course it can expect neither aid nor sympathy, even if it is invaded by outside forces. Our government has shown itself adept at influencing other nations; it can now apply some of that talent toward pushing South Africa to change.

And this is an issue of profound importance to American corporations with interests in South Africa. The black South Africans I met were unequivocal in their opinion that American corporations should not withdraw from South Africa. They told me they need the jobs those corporations bring. But they also told me those corporations should make better use of their economic clout to pierce the walls of apartheid. Corporate leaders often justify their presence in South Africa with claims that they are a force for liberalization of that nation's racial climate. Thus, they should be responsive to new initiatives that will influence South Africa's rulers.

So tonight I propose American corporations with investments in South Africa take positive action to help South Africa change. I propose that all American corporations involved in South Africa's economy come together in a Corporate Alliance for Black Progress, a joint declaration that would include:

A statement to the government of South Africa opposing the system of apartheid and urging justice for black people;

Demands to the South African government for changes in labor laws that American companies say block their efforts to upgrade black workers and pay them fair wages;

Standards of social responsibility setting forth specific steps each company pledges itself to follow in the areas of affirmative action, education, and housing.

A promise to disregard the trappings of petty apartheid imposed by law. This means taking down the "white" and "black" signs and integrating their public facilities in the full knowledge that no South African government would punish multi-national corporations that ignore such inhuman rules;

A moratorium on future investment in South Africa until some signs of changed policy are given;

Refusal to invest in the homeland areas so long as they remain the cornerstone of a policy that denies to black South Africans citizenship in all of South Africa.

In this way our government and our multinational corporations can become forces for positive change. The alternative is to await the inevitable explosion and see America's prestige and economic interests throughout the Continent swept away in righteous anger.

The links between the developing giant that is Africa and this great nation are held strong through 25 million black Americans for whom Africa is the motherland. Our forebears came from there, not on the Mayflower, but in the stifling holds of slave ships.

More than ever, in this Bicentennial Year, we must remind a forgetting nation that we did not pass the Statue of Liberty and read its enduring words, "Give me your tired, your poor, your huddled masses yearning to breathe free. . . . I lift my lamp beside the Golden Door."

No lamp was lifted for us. Our golden door led to white cotton fields. We did not breathe freedom until 1865 and even then it was fouled by the stench of oppression and exploitation. But we survived. We endured. We overcame.

In this Bicentennial, we are here to say that we survived. We are here to remind this nation that its hero, George Washington, owned his fellow man. We are here to say that Thomas Jefferson, who wrote so eloquently about liberty, denied it to his own slaves. We are here to point to the fatal flaw in America's mythology, a flaw that overlooks the hypocrisy of the men who led its revolution, the hypocrisy of the words they wrote about freedom while it was denied to black people, the hypocrisy of today's America that extols democracy but tolerates abject poverty and ghetto slum.

We are here to remind this nation that black people remain among the few who truly believe in the inalienable rights of man, in freedom and in equality. No matter how dark the night, it was black people who kept aloft the torch of freedom and justice.

Let's tell our fellow Americans that we were here before the Pilgrims landed, that the first revolt for freedom on this Continent was not by white Englishmen in 1776, but by black Africans in 1526 in what is now South Carolina.

Let's tell our fellow Americans that two years before the slaveholders signed the Declaration of Independence, black people filed a petition to the Massachusetts General Assembly declaring that: "We have in common with all other men a natural right to our freedoms without being deprived of them as we are a freeborn people and have never forfeited this blessing by any compact or agreement whatever." Black people didn't need Jefferson to tell them about the rights of man!

Yes, let us talk in this Bicentennial of our black heroes whose dogged strength helped to keep us whole and to survive—not only the Frederick Douglasses, the Martin Kings, the Malcolms and the Whitney Youngs, but those proud heroes whose names are lost to most of us today.

I'm thinking of people like Robert E. Morris, one of the first black lawyers in our history, who in 1849 sued the Boston school system for forcing a little black girl to attend a segregated school instead of the white school near her home. That was in 1849, one hundred and five years before *Brown*. It took America 105 years to catch up to Robert Morris' argument that "the separation of the schools, so far from being for the benefit of both races is an injury to both."

I'm thinking too of a country preacher from Muskogee County, Georgia, who in 1944 decided he had the right to vote in the white primary in Georgia and he wasn't going to be intimidated. So Primus King filed suit and the case, King vs. Chapman, killed the white primary system and started the ball rolling to secure the right of black people to vote in Georgia.

When Primus King stood up in Georgia, not only did he stand alone but there was no mass influx of reporters and TV cameras to protect him through publicity. But Primus King stood firm like the tree planted by the rivers of water, and said, "Black people got the right to vote," and he was not moved, not intimidated, not weakened in his resolve.

Too many of us don't know who Primus King is but we ought to be familiar with his contributions and with those of other brave people who rose from the masses to bear witness in the black struggle for freedom.

The civil rights movement wasn't just Martin and Whitney and Roy, it was people courageous and unsung who one day rose up and said we're not taking any more. It was people like the lady who declined a ride during the Montgomery Bus Boycott, saying, "My feets is tired but my soul is rested." It was people like Fannie Lou Hamer, who said, "I'm sick and tired of being sick and tired." It was students who marched through firehose attacks and braved police dogs and got beaten and died so that black people could be free.

And we've got heroes today, too. Those black children from Roxbury who braved the stones thrown at their buses are heroes. Those folk in every community in this land who get out the black vote, who go to work from sunup to sundown, who raise their kids in city ghettos and parched rural farms, who make do with a few dollars from welfare to bring their kids up in dignity, who inspire their children to go on to college—they're all our heroes because they carry on black survival and hold their heads high in the face of adversity.

Black people helped make this country. We planted America's taters, we toted its cotton, we lifted its bales. We sank the canals and laid the railroad tracks that link the Atlantic and the Pacific. The tree of liberty is watered with our blood, our sweat and our tears. We've died in every war from Valley Forge to Vietnam.

So now we're telling America now is the time; now is the time to do right by us; now is the time to deliver on those broken promises. Now is the time for a new Bill of Rights with guaranteed jobs, urban and youth programs, income maintenance, and national health insurance. We've kept our faith in this land, and now is the time for this land to show its faith in us. Now is the time, America, to let the light of freedom shine on all your children; now is the time to make the Declaration of Independence and the Constitution real for all, now is the time to listen to our dreams, our hopes, and our needs.

Now is the time for all Americans to listen to the words of our anthem, to really listen to what James Weldon Johnson wrote:

"Stony the road we trod,
Bitter the chastening rod,
Felt in the days when hope unborn had died;
Yet with a steady beat,
Have not our weary feet,
Come to the place for which our fathers sighed?

We have come over a way that with tears have been watered,
We have come, treading our path through the blood of the slaughtered,
Out from the gloomy past,
Till now we stand at last,
Where the white gleam of our bright star is cast."

This is our history. This is our legacy. This is our hope!

NEW AGPLANE TECHNOLOGY WOULD BE VERY HELPFUL FOR PENNSYLVANIA

Mr. MOSS. Mr. President, I am informed by the Honorable Milton J. Shapp, Governor of the Commonwealth of Pennsylvania, that the use of agplanes in his State is limited because of the size of the fields on many of their smaller farms.

Nevertheless, he stated:

> New technology that would make aerial application possible on smaller farms, that would reduce the problem of drift and make it economically feasible for this size operation would be very helpful in providing more effective and efficient agricultural production in Pennsylvania.

Mr. President, I ask unanimous consent that Governor Shapp's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
Harrisburg, Pa., June 29, 1976.

Hon. FRANK E. MOSS,
U.S. Senate, Chairman, Committee on Aeronautical and Space Sciences, Washington, D.C.

DEAR SENATOR MOSS: The use of aircraft for seeding, fertilizing and various kinds of pest control does play an important role in agricultural production, especially in states where there are large acreages of one kind of crop, such as grain, corn, cotton—or orchards. In Pennsylvania, the use of aircraft has been more limited because of size of the fields on many of our smaller farms.

New technology that would make aerial application possible on smaller farms, that would reduce the problem of drift and make it economically feasible for this size operation would be very helpful in providing more effective and efficient agricultural production in Pennsylvania.

Sincerely,

MILTON J. SHAPP,
Governor.

MARGARET BRENT—FIRST FEMINIST

Mr. MATHIAS. Mr. President, August 26 was the 56th anniversary of the ratification of the 19th amendment, which gave women the vote. The occasion prompted Earl Arnett of the Baltimore Sun to recall in a column the great 17th century Marylander, Margaret Brent, who was in a sense America's first feminist. Margaret Brent was probably the New World's first woman advocate. On June 24, 1648, she stood before the all-male Maryland General Assembly and demanded that she be allowed to vote, a revolutionary notion that was swiftly denied. She was a remarkable woman whose memory, unaccountably, has been poorly kept. Mr. Arnett's column pays timely tribute to Margaret Brent, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Aug. 26, 1976]

WHO RECALLS MARGARET BRENT?

(By Earl Arnett)

The Nineteenth Amendment, granting American women the right to vote, was ratified 56 years ago today. It's one of those political anniversaries that will undoubtedly be celebrated with secular services, pleas and fervent calls to action.

Susan B. Anthony and Abigail Adams will probably be quoted among the pioneers of the feminist movement, and Gloria Steinem will say something somewhere. But who remembers Margaret Brent?

Ask a feminist and chances are, unless she's familiar with Maryland history, you'll get a blank stare. Then tell her that Margaret Brent demanded the vote in 1648, and you'll get a look of disbelief. That's right, 1648, more than a century before Abigail lamented to John that women ought to participate in politics.

Miss Brent not only demanded the vote; she insisted on two. She appeared before the Maryland General Assembly June 24, 1648, as the agent of Lord Baltimore and as one of the colony's foremost land owners. Both circumstances entitled her to a vote, she argued before the all-male body. No one recorded their reaction, just the result—a firm "No."

Who was this woman?

Unfortunately, the details of her life are obscure. No one knows what she looked like or why she acted the way she did. She appears in the historical record because she always seemed to be in court protecting Lord Baltimore's rights, suing somebody about a piece of land or demanding payment of a debt.

As one of the New World's first female lawyers (maybe even the first) she possessed what one writer has labeled a "passion for litigation."

She was born at the beginning of the Seventeenth Century in England and was related in some way to Lord Baltimore. When she arrived at the Maryland colony in 1638, she had two letters to Leonard Calvert, the proprietor's brother, who regarded her favorably. Then she proceeded to acquire land and rival the men as an enterprising, energetic colonist.

When Leonard Calvert was dying in 1647, he chose Miss Brent to watch over his interests. A new governor was appointed, but she set herself up as Lord Baltimore's official legal representative. She even sold some of the proprietor's cattle to pay a debt incurred when Leonard employed soldiers to recover the colony from Virginia soldiers-of-fortune.

This last action drew the lord proprietor's anger, but when he complained in a letter, the General Assembly stood up for her.

The colony's well-being "was better at that time in her hands, than any man's else in the whole province," the Assembly replied.

Miss Brent apparently so confounded the sexist discrimination of her time that the male politicians found it easier to regard her as another man. In the court records, she was often referred to as "Margaret Brent, gentleman."

She never married and finally retired to a manor in Virginia, where she died about 1670. No one knows where she is buried, and except for references in local histories, her existence has slowly disappeared from public view.

By the time feminists started demanding the vote in the 1870's, not very many people remembered the Maryland woman who had possessed the initial audacity for such a demand.

Mary Carter Roberts, a retired state travel writer and still an active freelance writer, has tried to interest national women's publications in Margaret Brent. But she has discovered both ignorance and disbelief, she said. Modern editors in cities such as New York have difficulty believing the story.

There are several Maryland school buildings named for her as well as an imaginary painting in the Old State House in St. Marys City. But as Ms. Roberts noted in a pamphlet: "Perhaps the strangest thing about her is that she has no great place in history."

When Margaret Brent asked the Assembly for two votes in 1648, she was merely demanding her rights as a land owner and as a legal official. She didn't insist on the vote for all women, but that shouldn't be surprising. It was incredible enough in that age to ask for just one woman.

Not until 1920 would the Congress put the official stamp on a new constitutional guarantee of the female vote.

REPORT ON SECTION 302(b), CONGRESSIONAL BUDGET ACT OF 1974

Mr. EAGLETON. Mr. President, on behalf of the Committee on the District of Columbia, I am submitting to the Senate the report required by section 302(b) of the Congressional Budget Act of 1974. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA PURSUANT TO SEC. 302(b) OF THE CONGRESSIONAL BUDGET ACT OF 1974

[Dollar amounts in millions]

Program	Budget authority	Outlays
Programs within the direct spending authority of the Committee	$47	$47
Community and regional development:		
Community development, other independent agencies, District of Columbia, advances to stadium sinking fund, armory board: 30-42-0145-0-1-451	1	1
Law enforcement and justice:		
Federal law enforcement and prosecution.		
The Judiciary, Judiciary trust funds, operation of the Public Defender service for the District of Columbia: 02-35-8120-0-7-751	2	2
Department of the Treasury, Secret Service, contribution for annuity benefits: 15-55-1407-0-1-751	4	4
Revenue sharing and general purpose fiscal assistance: Other general purpose fiscal assistance, other ndependent agencies, District of Columbia, repayable advances to the District of Columbia general fund: 30-42-0144-0-1-852	$40	$40
Entitlement programs requiring appropriations	0	0

ENERGY CONSERVATION IN EDUCATIONAL BUILDINGS IS NECESSARY

Mr. RANDOLPH. Mr. President, yesterday, the Senate accepted the Energy Education provision which can serve to provide trained workers in the coal mining industry. My distinguished colleague (Mr. MCINTYRE) amended the section to provide for solar energy training at the postsecondary level.

Both he and Senator Moss, who conceived this program and spoke eloquently on its behalf long before it was incorporated in the education bill, recognize the far-ranging implications of mining technology and the need not only to train energy production workers, but to utilize the technologies which are presently being developed. We must produce this basic energy source in the most efficient manner and we must also make sure that the use of coal is consistant with our environmental concerns.

In this regard, I call attention to the pressing need for energy conservation. It must be an integral part of a National Energy Policy which fosters greater energy independence. The adoption of energy conservation measures in our school buildings can significantly reduce the rate of growth in energy consumption without affecting economic growth.

One of the areas with significant potential for energy conservation is the heating and cooling of buildings. More than 25 percent of the U.S. total consumption of energy is for the space conditioning of structures where people live and work. This is almost equal to the consumption of energy for transportation which is our largest single use. This fact potential is recognized in S. 2657, the Education Amendments of 1976. In the provision providing loans for the construction of academic facilities, special provision is made in section 747 for loans for the reconstruction or renovation of academic facilities if the primary purpose is to conserve energy. By extending the loan guarantee provision of title VII, part C, to the reconstruction or renovation of existing buildings, the committee recognized the need to remove waste in energy consumption from present buildings such as academic facilities. I have been a strong supporter of this effort.

In addition to providing such loans to conserve energy under section 747(a)(1), an incentive is provided to stimulate reconstruction and renovation. Subsection (c)(2) provides that "in the event a loan pursuant to this section is repaid within 5 years, all interest charges would be waived."

Academic facilities thus could benefit not only from the reduced energy costs of operation from energy conservation but would be able to institute such improvements at virtually no cost. Experience has shown that energy conservation measures applied to existing buildings often repay their investment within the first 5 years.

Mr. President, one of the aspects of energy conservation is programs to reduce oil imports. This can be accomplished through the greater utilization of the United States most abundant energy resource—coal. Use of this resource is often restricted because of environmental requirements. However, many States such as West Virginia are blessed with vast deposits of coal.

By promotion of the utilization of coal for boiler purposes we are in fact promoting the conservation of petroleum. New technologies are under development with this objective in mind. The Energy Research and Development Administration has undertaken numerous projects, such as the fluidized bed combustion of coal. This technology offers significant improvement in energy efficiency as well as reduced environmental impacts. Work on this technology is being conducted at several institutions of higher education, including West Virginia University and Georgetown University.

In administering the loan program in S. 2657 for the construction and renovation of academic facilities, I would urge the Secretary of Health, Education, and Welfare to encourage education institutions to foster energy conservation. New technologies, such as fluidized bed combustion, offer an opportunity to conserve energy as well as reduce capital cost and cost of operation compared to conventional oil or gas fired boilers. This technology also offers the potential for use of high sulfur coal in compliance with environmental requirements.

Accompanying such energy conservation practices is the conservation of petroleum and a reduction in oil imports.

I would hope that my colleagues would join me in urging that the Secretary of Health, Education, and Welfare utilize this program to foster energy conservation and the greater utilization of coal.

BROWN CALLS NEGOTIATION MEANS TO MAINTAIN CANAL

Mr. McGEE. Mr. President, in an interview with the Minneapolis Tribune last month, Gen. George S. Brown, Chairman of the Joint Chiefs of Staff, made some very important observations concerning the Panama Canal Treaty negotiations.

I urge my colleagues to give serious consideration to what General Brown's perceptions are as they pertain to the need to negotiate a modern treaty relationship with the Government of the Republic of Panama.

As the general noted:

> I would hate to see the United States preparing to fight to stay in the Panama Canal . . . any attempt to hold the canal by force would require a corps of 100,000 men.

The general continued:

> You'd be fighting men you can't identify . . . at a time and place of their choosing. That's not the way, in my judgment, to assure the continued maintenance and operation of the canal.

As the leading military figure of the United States, General Brown also offered the assessment that the canal was not vital to United States security and that its prime importance was to the economic well-being of some South American countries.

I would hope that these observations by General Brown lay to rest many of the misconceptions and myths that surround the perceptions of some concerning the Panama Canal Treaty negotiations.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Brown Calls Negotiation Means To Maintain Canal

(By Bernie Shellum)

Gen. George S. Brown, the nation's ranking military man, endorsed negotiations of American rights to the Panama Canal Thursday and spoke against the use of troops.

His remarks buttressed the position taken by President Ford, and undercut the criticisms of Ford's presidential rival, Ronald Reagan.

The former California governor has argued that the Canal Zone is sovereign United States territory and that troops stationed there should be used, if necessary, to keep the canal open.

Brown, chairman of the Joint Chiefs of Staff, said in an interview that the uniformed leaders of the U.S. Army, Navy and Air Force have urged the president to "get on with negotiations."

"I would hate to see the United States preparing to fight to stay in the Panama Canal," Brown told reporters and editorial writers for the Minneapolis Tribune and The Minneapolis Star.

He added that any attempt to hold the canal by force would require "a corps of 100,000 men," and that many more men would have to be used to maintain supply lines.

"You'd be fighting men you can't identify," Brown said, "at a time and place of their choosing. That's not the way, in my judgment, to assure the continued maintenance and operation of the canal."

At issue in the dispute is a 12-year attempt to negotiate a treaty between Panama and the United States that would fix a date for transfer of the Canal Zone to Panama. The United States hopes to extend its military and operation control of the 53-mile-long, 10-mile-wide corridor for 50 years. Panama wants to take control in 25 years.

In 1974, Secretary of State Henry Kissinger and Foreign Minister Juan Antonio Tack of Panama signed a declaration of principles in which the United States agreed to abandon its claim to canal rights "in perpetuity."

Yesterday Brown said that the canal is "not vital" to United States security, and that its prime importance is to the economic well-being of some South American Countries.

Reagan, however, has described the Canal Zone as "sovereign U.S. territory every bit the same as Alaska," and declared that "No American has a right to negotiate away American property."

Earlier, Brown spoke with Twin Cities business leaders at a breakfast at the Radisson South Hotel, then addressed a Bicentennial celebration at Fort Snelling.

At Fort Snelling, too, Brown rebutted one of Reagan's campaign themes, saying that the United States "remains the most powerful nation in the world."

In the subsequent interview, Brown said that when the economy and other militarily related factors are considered, "We're far more powerful than the Soviet Union."

"If you talk about power alone," he cautioned, "it becomes less clear." He added, however, that "today, I am confident that we have equivalency in strategic arms."

HAROLD WALLACE ROSENTHAL

Mr. KENNEDY. Mr. President, all of us in the Senate—Members and staff alike—were shocked and saddened by the death of Harold W. Rosenthal in Istanbul on August 11.

We all feel a great sense of loss, that this man who was a friend to so many people here is dead. He was unusually talented and committed to his work, and showed great promise of playing a very significant role in the conduct of U.S. foreign relations in the future. It is always particularly saddening when someone so young dies before he has reached his full potential, when his most important achievements were yet to come.

Hal Rosenthal had already shown the qualtities of mind and dedication that marked him for important contributions, building on what he had already done. No one who ever worked with him in the Senate—or elsewhere—had any dobuts that this was a rare individual, to be admired for his professional gifts, and treasured as a friend.

Most important, however, were Hal Rosenthal's personal qualities. I did not have the privilege of knowing him, myself. But I have heard from so many of my colleagues, and from my own staff, about this unusual man. He was unfailingly helpful and generous to everyone—a truly giving person. He was known for his sense of humor, and a lightness of spirit that made it a pleasure to be with him. Everyone who knew him—who enjoyed his friendship—gained something extra in his or her own life. He will always be remembered, with deep affection.

I join with so many others in extending my condolences to his family. They can be truly proud of their son. I hope that the knowledge of what he meant to so many people will be some consolation to his family in their grief.

Mr. President, we in the Senate have a further reason for remembering Hal Rosenthal. For at the time he was killed, he was traveling abroad as part of his duties here in the Senate—answering the call of his own sense of commitment. Because he was deeply concerned to advance his understanding and ours about complex and important issues—because he believed that the most difficult problems could yield to human effort and good will—he was seeking greater knowledge about the conflict in the Middle East. I have no doubt that he would have been able to help in its resolution, that his own talents and insights would have benefited us all. He had already shown this in his work in other areas, especially in North-South economic relations; and would undoubtedly have given us new understanding of Middle East problems—and of other issues to which he would later turn.

No one in the Senate is untouched by

Hal Rosenthal's death, coming during a trip abroad on our behalf. He knew the risks—as do so many others here who also travel to difficult parts of the world as part of their responsibilities; but he accepted those risks as part of a life shaped by his commitments to seeking a better world, and doing what he knew to be right.

Mr. President, Hal Rosenthal's tragic death at the hands of terrorists imposes on us here in the Senate a clear responsibility, which we cannot deny. We must finally and firmly do all that we can to work for an end to international terrorism; and press for a universal condemnation by every nation of these criminal acts. At the same time, we in the Congress must continue and intensify our support for efforts to resolve the Middle East conflict. For only if we are unrelenting in our support of efforts for peace, can we meet our basic human and moral responsibilities. Only in that way can we honor the memory of this good man, Harold Rosenthal, who himself gave everything.

EXTRADITION AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, opponents of the Genocide Convention have often expressed the concern that ratification of this document would result in American citizens being tried in foreign courts without American constitutional guarantees. Closer examination of this section of the treaty should serve to dispel these fears.

First, I think we need to set the record straight on existing international law. At the present time an American traveling abroad who violates the laws of the country which he is visiting—no matter how capricious or arbitrary these laws may be—is subject to possible trial and imprisonment without benefit of American legal safeguards. In practice, harassment of our nationals is minimal but this is the current legal situation nevertheless.

Thus, an American national is subject to the laws of any nation he visits—including laws against genocide—whether we are a party to this convention or not. By ratifying the convention, and adopting the implementing legislation, we are setting the groundwork for a request for return of our nationals for trial here.

The convention contains a number of significant safeguards. The first point to remember is that this convention is not an extradition treaty. It is not self-implementing. The treaty merely requires that we consider the inclusion of genocide in bilateral extradition treaties that we have with other parties to the convention. But each of those treaties requires a separate vote by the Senate—a vote requiring two-thirds approval of the Senate. In the case of each and every nation, the Senate can express its will.

In addition, section 3 of the implementing legislation further strengthens these safeguards. It states that in negotiating extradition treaties, the Secretary of State must reserve for the United States the right to refuse extradition for any American national where: First, the United States is competent to prosecute the person whose surrender is sought and intends to exercise its jurisdiction; or second, where the person whose surrender is sought has been or is being prosecuted for such an offense.

I can foresee no instance where the United States would not exercise its jurisdiction. It is not the intention of the supporters of the convention to have Americans extradited abroad. We have made it quite clear—and the Senate Foreign Relations Committee has emphasized this point in understanding No. 3—that the United States reserves the right to try its own nationals for any act committed outside our borders.

Mr. President, I think it is important to clarify this point. The criticism reflects a valid concern but one that does not bear up under scrutiny.

OLDEST SMALL BUSINESS IN WYOMING HONORED

Mr. McGEE. Mr. President, small business in Wyoming is big business and has been for over a century as noted in an article that appeared in the Casper, Wyo., Star Tribune recently. The M. N. Baldwin Co. of Lander has been recognized as the oldest small business in Wyoming with its 110 years existence.

I ask unanimous consent, Mr. President, that the article "Oldest Small Business in Wyoming Honored," by Bonny Kier, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OLDEST SMALL BUSINESS IN WYOMING HONORED

(By Bonny Kier)

LANDER.—Ted Baldwin, president of the M. N. Baldwin Co., was presented a Small Business Bicentennial Award Certificate last week commemorating the 110 years the firm has been in business.

The award was presented by Gordon Roe, loan officer of the SBA, and was prepared through the cooperation of the Wyoming Bicentennial Commission, the Lander Chamber of Commerce and the Small Business Administration. The award recognized the M. N. Baldwin Co. as the oldest small business in Wyoming. It has been under the continuous ownership and management of one family.

It was established by Maj. Noyes Baldwin in 1866 to trade with the Shoshone Indian Tribe. The first store was located at the Bonneville Cabins near Hudson. He then built and opened the first store in South Pass in 1868, bringing in wagon loads of goods from Old Fort Steele. That same year he built a log store and home on Baldwin Creek near Lander. In 1869 Major Baldwin was forced to hastily move his family and goods to South Pass because of hostile Indians. In 1876, he established the present business in Lander, and in 1884, he built a red native stone building on the corner of Third and Main St. where the store has been located since.

Upon the death of Maj. Baldwin, Jan. 12, 1893, his son Melville N. Baldwin took over the management. He was followed by his sons, first Harry and then Chester. In 1932, Mrs. Belle Baldwin, wife of Chester, took over the active management of the business. Ted, who is the son of Belle and Chester, and the great grandson of Founder Maj. Noyes Baldwin, has been in charge of the business since 1961.

WILLIAM J. ROGERS ELECTED NATIONAL COMMANDER OF THE AMERICAN LEGION

Mr. MUSKIE. Mr. President, the American Legion chose wisely yesterday in selecting William J. Rogers of Kennebunk, Maine, to be national commander for 1976–77. I have known Bill Rogers for many years, and I can personally attest to his dedication to the cause of all veterans, and to his capacity for hard work in their behalf. I know Bill is not so much honored by his election as he is committed to using this year to improving the opportunities and lives of our veterans. I would like to extend my personal congratulations, and offer my thanks for all he has done and the work I know he will do.

Mr. President, I ask unanimous consent that a news article on his selection be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Portland Press Herald, Aug. 27, 1976]

LEGION ELECTS KENNEBUNK MAN COMMANDER

SEATTLE.—William J. Rogers of Kennebunk, Maine, Thursday was elected national commander of the American Legion for 1976–77 as the veterans group, the country's largest, closed its convention here.

Rogers won overwhelmingly despite a challenge by Edward T. Hoak of Camp Hill, Pa., who had charged that national commanders are "hand picked" by a few powerful men.

Rogers, the first Maine legionnaire to be elected to the top position, succeeds Harry G. Wiles, of Topeka, Kan.

Born in Auburn, Maine, Rogers attended local schools and graduated from Edwards Little High School. Upon graduation from the Hampton, N.H. Preparatory School, he entered *Syracuse University*, enlisting in the Navy after his third year there.

While at Syracuse, Rogers won letters in boxing, football and baseball.

A veteran of World War II, Rogers, 55, served as a pilot of both fighters and bombers in the Pacific Theater. He flew more than 30 combat missions and his awards include the Air Medal and his squadron's Presidential Unit Citation.

He is a member of the Navy Inactive Reserve.

Rogers returned to Auburn at the end of the war, residing there until 1963 when he was transferred to New York City and then Washington where he now serves as vice president in charge of government relations for the United States Brewers Association.

He is married to the former Constance Bearce of Auburn and they have a daughter and three sons. His family now lives in Kennehuck.

Rogers began campaigning for the prestigious one-year office 10 years ago, according to Maine Department Adjutant Daniel Lambert who put Rogers' name in nomination Thursday.

During his legion career Rogers has served in a number of Legion positions including Maine Department commander and national commander and national executive committeeman.

In the campaign leading to the balloting, Hoak charged that the commander is selected by the legion "machine." He said delegates aren't given a real choice.

"If we don't stop this thing now, it's going to create a political dynasty in the American Legion," he said.

The charges were denied by past national commander James Wagonseller of Lancaster, Ohio, one of the three men Hoak says holds power in the group.

"I've come up through the ranks of the American Legion, and I've made many, many friends," said Wagonseller. "We count on those friends to believe as we believe. It isn't really a handpicking of candidates."

DEVELOPING NEW FARM LEGISLATION

Mr. HUMPHREY. Mr. President, I wish to share with my colleagues a brief article by the Farmers Union on the recommendations of Secretary of Agriculture, Earl L. Butz, regarding how to proceed in terms of developing new farm legislation in 1977.

The Secretary gives great praise to his market-oriented policy whereby farmers are encouraged to maximize production.

What the Secretary neglects to mention is that the world's population has been growing by roughly 75 million people per year, and people throughout the world are demanding a better diet. The result has been an increasing demand for our agricultural produce, and this is the major reason for our increased exports of recent years—not the policy of Secretary Butz.

The Secretary points out that net farm income in the last 3 years has averaged $26 billion in contrast to the $12 billion of the early 1960's. He does not take into account that with prices nearly doubling since 1960, farm income would need to double just to keep pace with the inflation level.

The Secretary also neglects to point out the repeated embargoes which the Nixon-Ford administration has placed on our farm export sales. The lesson of the embargo on soybean sales to Japan was that the Japanese have since turned to Brazil to develop an alternative source of production. Now the Brazilians have become a significant competitor on the world soybean market.

These interventions were made in spite of the fact that our farmers were promised that they would have free access to the world's markets. They were urged to plant to the hilt, and they responded with record crops during the last 2 years.

In spite of this record production, some areas of our country have been hit with drought during the last few years. And some counties have been repeatedly affected, and this has impacted on our livestock production in these areas.

In the face of these trends, the Secretary of Agriculture wants to scuttle the disaster provisions of the 1973 act with an enlarged insurance program in its place. And his interest is in cutting outlays for farmers.

He apparently has not learned much from his experience since our farmers have needed these rather modest programs in recent years.

Our farmers find that today's emergency programs are totally inadequate and often run with very cumbersome regulations and an eye simply to saving money rather than meeting farm needs.

I hope that Congress will not follow the recommendations of Secretary Butz as it attempts to begin the process of developing new agricultural legislation. We need to learn from the lessons of the past rather than repeat our mistakes.

Mr. President, I ask unanimous consent that this article from the National Farmers Union Washington Newsletter be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Butz Says Nothing Wrong With His Programs; Seeks End to Disaster Payment Program

Although national farm purchasing power is stalled at a level equal to about 1934 depression levels, Secretary of Agriculture Earl L. Butz has told the Senate Agriculture committee that his programs under the 1970 and 1973 agricultural acts have been very successful and that "there is conclusive evidence that the direction of farm legislation should remain basically unchanged." (The national farm parity ratio currently is at 74%).

Secretary Butz's recommendations came in a letter to Senator Herman Talmadge, chairman of the U.S. Senate Committee on Agriculture and Forestry, responding to Talmadge's request for recommendations to be made to him by August 1 on the directions which should be taken in farm legislation in 1977. (General farm organizations and farm commodity groups were also requested to submit their recommendations.)

The USDA chieftain lavishly praises his "market-oriented" system for giving farmers a "maximum incentive" to maintain and increase food production, but neglects to mention that this incentive is in the form of CCC loan levels equal to only about 45% of the cost of production on wheat and feed grains.

Butz claims huge gains in net farm income from 1960 to the present time, citing the $12 billion total of the early 1960's and comparing it with the $26 billion average of the past three years. He does not adjust his recent net income totals for inflation. With the consumer price index having nearly doubled since 1960, farm net income would have had to double to keep pace with inflation. So there is only a nominal net gain, while costs and risks are exceptionally high.

Secretary Butz's statement strongly attacks the crop disaster payment program which is authorized under the 1973 Agricultural Act. He protests that payments to farmers under this program totalled over $550 million in 1974 and are about $283 million for the 1975-crop year. Butz complains that a "heavy concentration of payments has occurred in high-risk areas", something which might be expected from the purpose and nature of the program.

Butz recommends that the disaster provisions of the 1973 Act be terminated and that in its place there should be an expanded multi-peril crop insurance program. It is obvious he does not intend the crop insurance program will be funded at the levels prevailing in the crop disaster payment program.

The USDA statement contends that "the business of farming has become so economically attractive" that the rate of decline in the number of farms has slowed, that the mass exodus of people from farms is nearly over, that the decline in U.S. farm population has virtually been halted. He does not choose to notice that with massive unemployment in the nation, there is no place for farmers to go should they choose to leave farming.

The Butz statement talks at length about market orientation and absence of government controls or intervention, claiming the "government has moved out of the farmer's way," but never once mentions the shackles put on grain exports several times in the Nixon-Ford-Butz years.

Butz contends that producing plenty is the best grain reserve any nation can have and suggests that farmers and grain merchants are willing to carry the reserves "because they have a chance to profit by doing so." Farmers cannot absorb the cost of carrying large reserves and the major grain companies have said they cannot be expected to carry the needed reserves.

INDIAN WATER RIGHTS

Mr. KENNEDY. Mr. President, once again Congress has failed to meet its constitutional responsibility to safeguard the interests and resources of American Indians. Since April 13, S. 3298, the Central Arizona Indian Tribal Water Rights Settlement Act of 1976 has been pending before the Senate Interior Committee. This bill involves crucial and urgent Federal questions concerning the allocation of water from federally financed irrigation projects, and the water rights of the Five Tribes of Central Arizona. It is the outgrowth of oversight hearings held before the Interior Committee last October, during which the Chair indicated the desirability of a legislative settlement of the complex issues involved.

After more than 2 months of delay, hearings on S. 3298 were scheduled to occur on the 5th, 9th, and 10th of this month, and for weeks, the Five Tribes, as well as State and Federal witnesses, have been busy preparing valuable testimony. However, on August 3, 2 days before the hearings were to begin, the committee announced that the hearings were cancelled. It appears that the assistant minority leader, acting at the request of a colleague who preferred to remain anonymous, objected to the hearings under the unanimous-consent rule, and that the committee chose not to contest this use of a rule designed to facilitate Senate procedure but not to frustrate the democratic legislative process. Thus, the matter of our special responsibility to seek justice and equity for the Five Central Arizona Indian Tribes has been buried in the 94th Congress.

But the issue will not die, Mr. President. On August 5, the day hearings on S. 3298 were to have begun, the New York Times carried an eloquent plea for congressional action on the water rights of the Five Tribes by Gerald Anton, president of the Salt River Pima-Maricopa Indian Community. It is my hope that the 95th Congress, encouraged by citizens from all parts of the country, will choose to provide an affirmative and responsible response to Mr. Anton's petition for justice. As he says, Mr. President:

> We appeal to our fellow Americans to add their voices to ours, and maybe then we will be heard.

I ask unanimous consent that Mr. Anton's column, entitled "An Arizona Indian Asks Congress To Enact a Water-Rights Bill," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

An Arizona Indian Asks Congress To Enact a Water-Rights Bill

(By Gerald Anton)

Scottsdale, Ariz.—My people, the Pima-Maricopa Indians of central Arizona, and our friends the Papagoes and Mohave-Apaches, are in the midst of a desperate battle for enough water to survive as a people.

Our strength is in the law and in the good will of the American people and their elected representatives.

For 2,000 years the Pimas peacefully farmed the Salt and Gila River valleys and we prospered. We irrigated our crops of corn, pumpkins and beans through a vast and complex system of earthen canals constructed with wooden and stone tools and a high degree of engineering skill. We had developed our famous cotton, and early travelers prized the silken blankets woven from it.

We shared our abundance generously and no traveler left our land hungry. When Kit Carson offered to buy bread from the Pimas, our response was: "Bread is to eat, not to sell; take what you want." It is estimated that the Pimas fed, "with more than Christian charity," 60,000 suffering emigrants and gold-rushers on the trail to California, according to a contemporary observer.

A century ago settlers began diverting the rivers that irrigated our farms. Lush Indian farmland reverted to desert, and by the 1900's Indian people noted for their prosperity and generosity were starving to death. Now we must depend on welfare to buy the very provisions that we once produced abundantly ourselves.

If we had the water to which we are legally entitled, we could become self-sufficient again.

The United States Supreme Court in 1908 held that Indian tribes were entitled to enough water to make their reservations viable. However, the Interior Department charged by law to serve as trustee of Indian water rights, has in the past actively participated in collusions to violate the law and rob the central Arizona tribes of their water. Because of the shameful acts and omissions of the Interior Department, the Pimas and our neighboring tribes today have only enough surface water to farm an average of less than one acre per person.

While it has impoverished the tribes, Interior has been generous in bestowing Indian water on powerful commercial interests. Some large corporate farms irrigated by Federal reclamation projects use more surface water than all the 2,700 Salt River Pima-Maricopas or the 18,000 Papagos.

Having reduced the Indian people of central Arizona from prosperity and abundance to poverty and deprivation, the United States Government now pays out tens of millions of dollars per year to provide welfare and other special services to us. But the real cost is reflected in high rates of unemployment—about five times the current rate in New York City—alcoholism and family disintegration, and in grossly substandard housing, poor nutrition, sickness and shortened lives.

The past and continuing failure of the Interior Department to enforce Indian water rights is ultimately the failure of the office of the President as well. We appeal to President Ford to finally end a century of dishonor and act expeditiously to bring about a legislative settlement of our water rights.

Congress has before it the Central Arizona Indian Tribal Water Rights Act of 1976, introduced by Senator Edward M. Kennedy at our request. This legislation would restore the lawful water rights of the 30,000 Pima-Maricopas, Papagos and Mohave-Apaches of Arizona, allow our tribes to be self-sufficient again, and relieve the taxpayers of the costs of welfare for our people.

The bill would also eliminate the need to build the $1 billion Wellton Mohawk desalting complex in south-western Arizona—and save the American taxpayer from a staggering subsidy of $6.6 million per farm to the owners of 151 non-Indan farms.

We petitioned the President to support the bill or to submit legislation of his own believing that if the President and the Congress act quickly, there is still time this year for a water-rights bill to be enacted.

Hearings on the Kennedy bill were scheduled before the Senate Interior and Insular Affairs Committee. The five central Arizona tribes were invited to testify next week. Suddenly everything has been called off. Once more we are denied our constitutionally protected right to petition for redress of grievances. Where can we turn when both the President and Congress fail us? We appeal to our fellow Americans to add their voices to ours, and maybe then we will be heard.

TRIBUTE TO REPRESENTATIVE RHODES

Mr. FANNIN. Mr. President, Representative John Rhodes of Arizona has been a respected leader of the Arizona congressional delegation for 24 years and has served the people of Arizona well. We are all aware that in recent years he has distinguished himself as House minority leader by his spirit of good will and cooperation. He has also won the admiration of many of his colleagues by his authorship of "The Futile System," a thoughtful book on the effect of partisan politics on Congress.

I call the attention of my colleagues to a fine editorial in recognition of Congressman Rhodes' achievements which appeared recently in the Arizona Republic. This editorial expresses the deep desire of the citizens of my State that Representative Rhodes be returned to the House in November and the fervent hope of Arizonans, shared by those of us in Washington, that he will become Speaker of the House in the next Congress.

Mr. President, I ask unanimous consent that the complete text of the Republic editorial of August 20 be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Rhodes' Possible Dream

Rep. John Rhodes has represented Arizona in the U.S. House of Representatives for 24 years. He's running for re-election this year, but he also has a bigger goal in mind. He wants to be the next speaker of the House.

There are 435 members of the House. Only 144 of them are Republicans. Rhodes will need a total 218 votes to be elected speaker.

However, Rhodes doesn't believe the Republicans will have to pick up 74 additional House seats to assure his election as speaker. He thinks 10 conservative Democrats can be persuaded to vote for him if they think he will win. That would require a net gain of only 54 House seats. And Rhodes believes this is not an impossible dream.

In his new book, "The Futile System," Rhodes lays out his campaign strategy. Basically, it consists of a series of sweeping reforms which would make the House more responsive to the people.

This just might be the year for the voters to clean House. Two years ago the Republicans took their lumps because of Watergate. But this year the Democrats are the objects of those who would eliminate corruption in the Congress.

The housecleaning has already begun.

Rep. Wilbur Mills, D-Ark., announced in May that he would not seek re-election. A particularly well publicized sex-cum-alcohol scandal (remember Fannie Foxe?) led to his downfall. Miss Foxe is getting ready to star in a movie.

Rep. Wayne Hays, D-Ohio, bowed out of the House (although he insisted he could be re-elected) when Liz Ray told the world that Hays hired her as a secretary although she couldn't type or take shorthand.

Rep. Allan Howe, D-Utah, was convicted of soliciting sex. Mormons, who take marriage seriously, are going to try to replace him in November.

Rep. Robert Leggett, D-Calif., had three illegitimate children by a mistress and is in income tax trouble for deductions he took. He won't find re-election easy.

Rep. Robert Sikes, D-Fla., was reprimanded by the House for a conflict of interest involving his congressional work.

These are all Democratic members of the present House. They were all elected by voters who had lived through the Watergate scandals involving Republicans. The chances seem excellent that the same resentment against the current scandals will help Republicans get elected this year.

Whether John Rhodes can make it all the way to the speakership remains to be seen. First he has to be re-elected by the voters in Arizona's 1st Congressional District, which embraces Tempe, Mesa and parts of Scottsdale and Phoenix.

John Rhodes has served his district and the state well. His defeat at the polls may not be likely, but anything is possible in politics. The fact he has a chance to become speaker of the House, a job second only to that of the President, should persuade the voters that John Rhodes deserves overwhelmnig support at the polls this year.

THE NATIONAL MATERIALS POLICY, RESEARCH, AND ORGANIZATION ACT OF 1976

Mr. MOSS. Mr. President, on June 29, 1976, I introduced the National Materials Policy, Research, and Organization Act of 1976. I realized at that time that a busy calendar precluded immediate formal Senate consideration of this important matter. However, I wished to aid the general public debate on this subject by submitting it as much in advance of congressional discussion as possible.

In this context, a very important study by University of Utah economists has recently been completed. The 18-month study was conducted under a grant from the National Science Foundation and was directed by James P. Gander. Those involved in the research scanned over 600 scientific publications to determine the "relationship of technological change to the demand for and supply of raw materials."

The study worked from some very interesting hypotheses, and produced some rather unsuspected conclusions. To facilitate our future discussion of a materials policy, I wish to present these conclusions to those of my colleagues who are interested.

The study concludes that the increasing scarcity of resources is not general but refers to specific raw materials. It also concludes that technological changes can provide solutions to raw materials problems.

These conclusions, if accepted, would alter our thinking about materials policy. The University of Utah researchers foresee the emergence of such new technologies as ocean farming, weather modification, and satellite exploration.

These techniques will allow raw materials to be substituted for each other, lower the use of relatively scarce raw materials, and reduce the cost of supply and discovery.

In addition, innovations will help conserve existing resources by improving production, developing synthetics, and improving recycling and waste utilization.

The net result, says the report, is that natural resources, in general, will be considered renewable despite continuous exploitation.

The study notes that the speed of innovations is dependent upon such factors as profit, competition, and industry concentration, as well as Government policies.

Government policymakers "should not be concerned with the nature of the raw material but with the structure of the market and its degree of competitiveness," the researchers say.

Mr. President, I ask unanimous consent that the executive summary of this study be printed in the Record.

There being no objection, the study was ordered to be printed in the Record, as follows:

The Relationship of Technological Change and the Demand for and Supply of Raw Materials

(By James P. Gander, Department of Economics, University of Utah)

VOLUME I: EXECUTIVE SUMMARY

PREFACE

In the January 1972 *Annual Report of the Council of Economic Advisers,* Chapter 4, "Effective Use of Resources," the rationale for the Federal government to initiate efforts to improve our understanding of the processes and effects of technological innovation, taken broadly, was discussed. Subsequently, in August 1972 the National R & D Assessment Program was established in NSF and funded by Congress.

The present project is one of a number of state-of-the-art studies that have been funded by NSF. In terms of the overall Program, it fits into the B-Plan which is concerned with the socio-economic consequences of technological innovation. The A-Plan examines government policy options and technological innovation and the C-Plan goes into the processes, decisions, screens, and incentives that operate on technological innovation. The purpose of the project was to determine from the relevant economic and technical literature how technological change is related to the demand for and supply of raw materials and to assess this knowledge and identify gaps in it for future research. Hopefully, based on this knowledge, government policy makers will have an improved information base upon which to formulate and assess alternative technological options.

The output from the project consists of three volumes: Volume I contains the Executive Summary of the findings and suggested research areas; Volume II contains the Final Report which gives a detailed account of the evidence, assessments, conclusions, and future research topics and includes the master bibliography; and Volume III contains three anayltical appendices which serve to organize the abstracted and annotated literature used to write the Final Report and it also contains the abstracts and annotations themselves. While the volumes are all interrelated, each can stand by itself. The reader interested in only the undocumented findings should read Volume I. If the details are desired and the references, then Volume II should be read. Volume III provides a basis for one to develop different methodologies for examining the literature.

The work involved in this project has been tremendous and has been aided and carried out by several individuals. The principal investigator confined his work to its overall conception, in-term reports, and final outputs. The backbone of the project consists of the abstracts and annotations. This work was done by two very able researchers, Laurence Phillips and James Logan, and also at the start of the project, by David Halversen who left the project early for other employment. Another very able researcher, Verl (Buz) Hunt, joined the project team toward the end and confined his work chiefly to editing the bibliography and the appendices. The contributions to the project at Laurence Phillips should be especially praised. He served as my associate research director and contributed a great deal of time and effort to the project, often at the expense of his own dissertation writing time. The researchers are all Ph.D candidates in Economics at the University of Utah. The following paid consultants contributed to the bibliography: Dr. Richard M. Alston, Weber State College; Drs. Herbert Fullerton and Delbert Gardner, Utah State University; and Dr. Larry Anderson, University of Utah.

Staff assistance was rendered by the very able personnel in the Bureau of Economics and Business Research under the directorship of R. Thayne Robson. Special praise should go to Cathy Crawford for her excellent administrative guidance (and for numerous other tasks); to Mickee Roll for her excellent management of the financial records of the project; to Mari Lou Wood who served as the technical editor to the Final Report of the project; and Donna Porter who helped with the typing.

From the personnel at the National Science Foundation, R and D Assessment Section, I have received valuable guidance and assistance, in particular from Drs. Rolf Piekarz and Sumiye Okubo. I am especially grateful to Ms. Patricia McWethy of NSF who was a valuable source of information and inspiration during the early phases of the research proposal and project development.

An experienced economists upon reading the Final Report may wonder about the relatively small weight given to the theoretical aspects of the subject matter. This was intentional. The project was designed to survey and summarize the present state-of-the-art of primarily the empirical literature. Others have dealt with the theoretical literature. It should also be realized that much of the evidence upon which the conclusions are based can be subjected to varied interpretations, depending upon one's analytical frame of reference and preconceptions. In a study of this size, some of our own biases have undoubtedly crept into the conclusions but, unfortunately, this could not be avoided, only minimized. Overall, however, the Report and its conclusions are quite robust and it is hoped that it will serve the purpose for which it has been designed. It should prove helpful to many policy makers, students, and researchers in the area.

James P. Gander, Ph. D.,
Principal Investigator.

Salt Lake City 1976.

EXECUTIVE SUMMARY

1. Nature of the project

This summary presents an overview of the final report of the state-of-the-art project relating technological change to raw material demand and supply. The project attempts to spell out what is known, to assess the knowledge, to identify gaps, and to suggest future research to advance our knowledge.

It sets out to resolve or at least shed light on three policy issues: 1) Does increasing scarcity refer to raw materials in general or only to particular raw materials? 2) Can technological change, as the result of scientific and engineering activity, continue to provide solutions to raw materials problems? 3) Can the market mechanism with modifications) be relied upon to produce a technological solution to raw material problems? These policy issues must be resolved in order to formulate policy goals and instruments relevant to raw-material technology, federal R & D expenditures, and a host of related federal policies (antitrust, foreign, trade, education, etc.).

The information requirements necessary to resolve these policy issues were structured into three groups of hypotheses. Group I concerns the consequences of technological change on demand and supply (Hypotheses 1 and 6) and relates to the first policy issue; Group II deals with the determinants of technological change as an effect (Hypothesis 7); and Group III concerns the market adjustment characteristics of technological change (Hypotheses 8, 9, and 10). Groups II and III both relate to the second and third policy issues. The ten hypotheses all relate to the problem of understanding how technological change affects and is affected by market conditions. And, they are all derived from the general theory of supply-and-demand analysis under long-run dynamic conditions.

The general thesis of the project is that the nature of the raw material product (e.g., agricultural, forest, minerals, or fish and wildlife) makes no difference in terms of understanding how innovations are related to supply-and-demand problems of raw materials. In particular, we maintain that the traditional distinction between renewable and nonrenewable raw materials is both theoretically and policy-wise misleading, unnecessary, and undesirable under conditions of long-run technological change.

Under such conditions all raw materials are, in effect, renewable. All the individual demands are affected about the same way as a result of technological change. The costs of supplying them are affected about the same way. Also, the response of technological change to market signals is not dependent on the nature of the raw material product but on the structure of the market. Even the speed and stability at which technological change operates in the various markets are conditioned more by market structure than by the nature of the raw material product; although this aspect of the general thesis is complex and exceptions are possible. In assessing, therefore, a technological solution to raw material problems of increasing scarcity, government policy makers should not be concerned particularly with the nature of the raw material product but with the structure of the market (and its degree of competitiveness).

To fulfill the objectives of the project, a thorough and comprehensive search of the economic and technical literature relevant to the ten hypotheses was conducted. The literature surveyed focuses heavily on mineral and agricultural raw materials, to a lesser extent on forest resources, and only lightly on fish and wildlife resources. It consists mostly of scholarly economic journals, private studies, government publications, and monographs. The period covered was primarily the post-1950 period, although information from as far back as the late 1800's was also obtained. The master bibliography (Volume II) contains some 600 references. Of these, 398 were abstracted (Volume III).

2. Findings and conclusions

The three policy issues of this project relate to ten hypotheses concerning technological change and raw materials. The general thesis of the final report is the proposition that no distinctions among the various classes of raw materials are necessary. Our findings and conclusions pertain primarily to the U.S.

market, since the project scope had to be restricted to something less than the global raw material market. However, our conclusions are also relevant at the global level.

Evidence relating to the first policy issue seems to indicate that the phenomenon of a relative shortage (or increasing scarcity) has no useful meaning in general, but relates only to particular raw materials. The evidence strongly supports the hypotheses of Group I.

Group I: Consequences of Technological Change

1. Technological innovations occur which cause the demand to shift away from an increasingly scarce raw material and toward a relatively abundant raw material.

2. Technological change is a means to realize economies of scale in the use and production of raw materials.

3. Technological innovations result in reducing the real cost (in terms of labor, capital, and other resources) of supplying raw materials.

4. Technological innovations result in new sources for existing raw materials and new raw materials being discovered.

5. Technological change, in general, can be regarded as a fourth factor of production (along with labor, capital, and raw materials), thereby enabling an economy to escape its raw materials constraint on growth.

6. Technological progress has occurred in a direction such that the relative use of raw materials for energy and capital as opposed to labor has increased; i.e., technological change has been energy- and capital-using, labor-saving, and in some cases, raw material-saving.

In particular, the evidence on the demand side of the raw material markets strongly supports the first policy issue and the general thesis of the project. Because technological change can effect substitute uses for relatively abundant raw materials and lower the use intensity of relatively scarce raw materials, the demand for relatively abundant resources increases and the demand for relatively scarce resources decreases, thus conserving on their use. Technological change also increases the use of complementary raw materials (e.g., hybrid seed and fertilizer). This increases demand for all raw materials involved. Thus, the shift away from a relatively scarce raw material to a relatively abundant one may involve other raw materials, some scarce and some abundant in relative terms. If the market system is operating properly, however, technological change will reduce and conserve the use of increasingly scarce raw materials. This, it was shown, occurred regardless of the nature of the raw material product. In determining how technological change affects demands, therefore, we can treat all raw materials as a homogeneous product in the long run.

The evidence on the supply side of the raw material markets also strongly supports the general thesis and policy issue. No distinctions are necessary, and relative scarcity relates only to individual raw materials. We found technological change can lead to larger producing units (plant, firm, and industry), thereby creating economies of scale in the production and use of raw materials. In raw material production, this means a relative saving in factor inputs such as labor and caiptal (and energy, possibly). In raw material use, it means a reduction in the total real cost (in terms of all inputs together) of supplying final products. Cost, in terms of any one input being used, may actually rise as a result of economies of scale; but the evidence primarily pointed to an overall raw material savings. In some cases, however, we found technological change permitted smaller (not larger) producing units to exist. This tends to increase competition and make the industry more responsive, in the long run, to raw material problems and their solution.

A wealth of evidence showed how technological change can reduce the real cost of supplying raw materials (aside from its effect on economies of scale) by affecting factor input requirements, factor productivity, and substitutability of one input for another. As the real cost of supplying raw materials is reduced or prevented from rising faster, the problem of increasing scarcity is reduced.

We found technological change can and does operate in many ways, depending on the nature of the raw material product, to affect the cost of extracting raw materials from existing stocks. But, regardless of the specific ways cost reductions are effected, the end result is the same. Cost behavior is determined by technological change, given the industry structure involved.

One of the project's most significant findings is the evidence showing how technological change can increase future raw material stocks. As theory suggests the traditional distinction between renewable and nonrenewable raw materials only has meaning in a short-run context. In the long run, under the dynamic conditions of technological change, the distinction generally becomes meaningless. There are exceptions. The gestation period for technological change varies somewhat with the nature of the raw material product. To resolve the policy issue of increasing scarcity, however, it is better to ignore the exceptions.

The evidence clearly shows there are several ways technological change can augment the existing (and future) stock of raw materials. It can expand the scope or number of alternative natural sources (the air, the earth's surface, and the ocean), thus reducing the problem of increasing scarcity. It can also conserve existing sources by improving the processes of the joint supplying of raw materials and by effecting synthetic supply sources. It can also expand supply sources by improving recycling and waste-utilization techniques. The evidence specifically illustrates how technological change (for example, techniques of fire control, disease control, ocean farming, electrolysis, beneficiation, exploration and development, insect control, hybrid seeding, and soil control) can increase raw material stocks despite continuous exploitation. Such evidence strongly supports the general thesis concerning no distinctions and the policy issue of no general increasing scarcity of raw materials.

There is also evidential support for the second and third policy issues (Can technological change continue to provide solutions to raw materials problems?, and its corollary issue, Can the market system be relied upon to generate technological solutions?) These issues are related to the hypotheses of Groups II and III. The evidence is not as strong as in the previous issue. It is limited in scope and quality and is mixed in terms of supporting the hypotheses of Group II and III.

Group II: Determinants of Technological Change

7. Technological change can be induced by rising prices and profits, although the process of inducement appears to be more effective on the use side than on the production side.

Group III: Technological Change as an Adjustment Factor

8. Technological change is a relatively long-run adjustment factor with respect to the production of raw materials as opposed to the use of or demand for raw materials.

9. Technological change is limited in terms of its impact on adjustment speed by market imperfections such as industry structure, uncertainty, and institutional factors. The limit appears to be more significant on the supply side than on the demand (or use) side.

10. Technological change by influencing the demand for and supply of a raw material affects the stability of the adjustment process.

In particularly, Hypothesis 7 deals specifically with how market signals (prices and profits) induce technological changes. The evidence appears to support the general thesis that no distinctions among raw materials are necessary. Variations in the degree to which the market functions properly in terms of inducing technological change can be traced largely to variations in the industry structure in terms of seller and buyer concentration and the conditions of entry (for buyers and sellers) into the raw material markets. The evidence also supports the hypothesis that technological change does respond to market signals. The process of inducement appears to be more effective on the demand or use side than on the supply side. This is a relative matter, and our evidence is limtied.

Evidence largely related to the manufacturing industry but indirectly related to the raw materials industry indicates technological performance is strongly related to industry structure. The rate, direction, and speed of diffusion of innovations will vary with profitability, firm size, industry concentration, goals of the firm, public policy toward industry, uncertainty, how sellers' actions are coordinated within the industry (i.e., by market forces or by some form of collusion), potential for innovation, barriers to entry into the industry (e.g., patent protection), and other economic and institutional determinants.

Hypotheses 8, 9, and 10 are concerned with the market adjustment characteristics of technological change—its speed, limits, and stability. Because of variations in the nature of the raw material product, the gestation period (the time it takes for an innovation to produce its designed effect may vary. This affects the speed at which innovations solve raw material problems. As a general rule, however, the time-lags between basic research ideas, applied research results, and the development and adoption of innovations are probably determined by the industry structure as much as the nature of the raw material product. Until we have more evidence, we tentatively hold to the general thesis that no *distinctions* are necessary.

Technological change is typically a long-run adjustment factor. How fast innovations occur can only be established for certain raw material industries. The evidence on speed was very limited. We suspect a faster innovation pace on the use or demand side than on the supply side. For example, technological adjustments to increasing scarcity appear to occur faster in the area of resource conservation than in the area of resource development. But, we have no firm evidence to support this conjecture. It certainly needs further research and should be of utmost concern to policy makers.

The evidence on the extent to which market imperfections (such as industry structure, institutional factors, and uncertainty) limit the innovation pace is limited, usually indirect, and related primarily to the supply side of raw material markets. Our conclusions are mixed. For some raw materials, there is evidence of structural limits (the steel industry); for others, the evidence indicates just the opposite (the petroleum, coal, chemical, and agricultural industries). Some evidence indicates that scarcity of a complementary raw material input will limit how fast a technologically new raw material input will be introduced. We conclude that structural limits are probably no more or no less significant on the demand side than on the supply side, but this judgment obviously reflects the scarcity of evidence in this area.

The evidence on institutional limits to technological change is limited. When institutions are inadequate or lacking, the innovation rate may be adversely affected. Institutions can be a barrier to innovations, but they can also be a positive force. Some evidence even indicates that institutions themselves are often the result of innovation pace, rather than the reverse. Therefore, no general conclusion can be made. The evidence on uncertainty as a limit to innovation pace is also too limited to suggest firm conclusions.

Evidence on the effect of innovations on the stability of the market adjustment process, with the exception of agriculture, did not indicate that innovations have had a destabilizing influence. In some cases, in fact, the reverse has been observed. Innovations have altered the industry structure in a way that has tended to stabilize the industry. In general, we find the innovation pace, particularly on the supply side, too slow and market structures too concentrated for technological change to have a destabilizing influence on the supply and demand forces of the raw material market adjustment process. The general thesis of no distinctions among raw materials also appears valid here. Market conditions are probably as significant an influence on instability as is the nature of the raw material product.

Evidence relevant to the hypotheses in Groups II and III, generally supports the second policy issue of the continuance of a technological solution to increasing scarcity and its corollary issue of our reliance upon the market system to generate technological solutions. The evidence shows that the price mechanism (with all its modifications for market imperfections) does induce technological change and that market conditions are probably the primary determinants of the pace of innovations and whether it has a destabilizing effect on the market adjustment process.

What the evidence has not been able to establish (thus indicating a need for further research) is whether the market system in its present form can generate the socially optimum rate and direction of raw material related technological change. The need for the National Policy and Priorities for Science and Technology Act of 1974 (or macro-technological policy) suggests the market system is wanting in this regard. Because of external benefits and costs associated with technological progress, particularly in the areas of the return on investment in raw material oriented R & D and the environmental costs of raw material development, we would not in theory expect the market system to fare too well in determining the socially optimum path for technological change.

What we have established from all the evidence, therefore, is that: (1) raw materials in general are not scarce under conditions of technological change, (2) technological change is a solution to raw material problems, (3) the market system can generate technological change (although its speed and direction may not be adequate without some guidance from a macro-technological policy), and (4) distinctions based on the nature of the raw material product are not necessary for understanding the relationship between technological change and raw material demand and supply.

3. Suggestions for future research

With respect to the three policy issues and raw materials in general, we think the factual information or evidence contained in the literature surveyed has furthered our understanding and produced some useful insights. The evidence concerning the consequences to demand and supply of technological change (Group I hypotheses) is very supportive and informative. From here, the evidence tends to get weaker. The evidence on the inducement process for technological change (Group II) is respectable, but we would like to see more. Finally, the evidence on technological change as a dynamic adjustment factor (its speed and stability effect) is quite limited.

To characterize the literature surveyed, we would say that too much of it was descriptive and historical in methodology. Ideally, to gain the kind of factual information needed to "test" the hypotheses of this project and to resolve the policy issues considered, a dynamic form of econometric analysis is needed—one that involves both cross-sectional and time-series data. Few studies meet these criteria. As a second-best type of methodology, a comparative-static form of quantitative analysis should be used where possible. In its simplest empirical form, this is a "before and after" type of study. The literature did contain some, but not many, studies which meet this criterion. The literature did contain empirical models of the multiple regression analysis type, but all too few of them explicitly incorporated technological change into the model. We have had to exercise considerable judgment in interpreting the results of these studies in order to shed light on the hypotheses of the project. The methodological thrust of future research, therefore, should be in the direction of dynamic and comparative-static empirical analysis. This thrust, of course, will be dependent upon theoretical developments in this direction and on developments in data availability.

The following specific suggestions for future research have been made in the Final Report (Volume II). No particular effort has been made to classify these suggestions, although they do conform loosely to our previous hypotheses.

1. More empirical information is needed on the difference between price-induced factor substitution and technologically induced substitution. In the long run, the two are linked; the distinction depends to some extent on how broadly the concept of technological change is defined. In other words, we need to know the extent to which increasing scarcity is solved by price-induced substitution (given technology) and by technologically induced substitution (changing technology). We also need more information on the relationship between technological change and joint demand and supply of raw materials.

2. We need more empirical (and, for that matter, theoretical) information on the interaction between innovations affecting raw material extraction and innovations which, in effect, augment the stock (or reserves) of raw materials. We also need more information, on an industry basis, on the percentage of total production cost that is affected by technological change. Then we could get an idea of the significance of innovations for particular raw materials. We need to determine the extent to which existing technology (or knowledge) is being fully utilized. Additional information is needed, on a disaggregated industry basis, on the components of productivity growth and their share in such growth. We need to be able to differentiate between cost reductions caused by organizational changes in industry and those that result fror purely technological changes.

3. The interdependence between manufacturing and raw material industries needs to be examined to learn something about the way technology is transferred from one sector to another and what factors influence the transfer. Such information will also help us understand how cost-push inflation is transmitted through the economy.

4. Projections and forecasts of future raw material consumption need to incorporate technological change, relative price changes, and changes in consumer taste patterns. More research is needed on how to accomplish this.

5. We need more understanding of the external effects (benefits and costs) of specific (industry) innovations on the environment and on the cost of supplying other raw materials. (For example, how do innovations in animal feed affect human health? And, how do innovations in forest management affect fish and wildlife?)

6. We need more information about the workings of recycling programs and how such programs can be institutionalized into markets. Much of this information is locked up in the files of individual firms (e.g., Western Electric's recycling program for copper).

7. The concept of technological progress must be unbundled (basic, applied, and developmental research), and its components analyzed as to their contribution to solving raw material problems.

8. More information is needed on the extent to which market conditions and, particularly, industry structure influence the market system's effectiveness in generating technological solutions to raw material problems.

9. Information is needed on the relationship between technological change and obsolescence and their effect on the decision to invest in new machinery and equipment. More information is needed on the time it takes a raw material market to adjust to technological changes. The adjustment process should be broken down into entry of new firms (or capacity), growth of existing firms (or capacity), and technological change. We need to determine how much effect the nature of the raw material product has on the speed (and stability) of innovations as opposed to the influence of market structure and imperfections. We need to determine whether, and to what extent, the speed of adjustment to innovations is faster on the demand side than on the supply side.

10. Information is needed on what an optimum rate and direction of technological change in the raw materials market as a whole is and on how the optimum can best be achieved in terms of market structure and federal policy.

These research topics can be carried out at any perspective (micro, aggregated macro, or in-put-output macro) and at any market scope (regional, domestic, or international). Of particular interest is the input-output approach at a world level. This approach would be exceedingly useful. It would enable us to examine, not only within a country but also between countries, the interdependency between raw material markets and finished goods markets and the determinants and consequences of technological transfers (as they relate to raw materials). Such information would further our understanding of the three policy issues motivating this project (i.e., the issues dealing with the scope of the concept of increasing scarcity, the dependability of a technological solution, and the reliance on a "modified" market system).

All the suggested research topics relate primarily to the third policy issue. This concerns the appropriate form of market organization and the degree to which government intervention should occur to insure the maximum future social benefits of committing present economic resources to the development of raw material-related technological innovations. This issue is particularly important because of the large influence on the date and direction of technological change exerted by the federal government (and certain special interest groups) and because of the relatively long time span (or gestation period) between basic research and raw material constraint-reducing innovations. This is certainly true in the case of raw materials used to produce energy. The value, therefore, of these research topics is that the information gained would enable policy decision makers to set socially efficient guidelines for the evolutionary development of the raw material market system as a whole.

In addition to these major areas of research, there are a number of minor research topics indicated. The "Special Contribution" section of the prepared abstracts in Volume III contains numerous suggestions and implications for future research.

S. 3197—FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1976

Mr. KENNEDY. Mr. President, the Senate will shortly take up consideration of S. 3197, the "Foreign Intelligence Surveillance Act of 1976." This bill, which I introduced last March, and which has been favorably reported out of both the Judiciary and Select Intelligence Committees by overwhelming votes, would, for the first time, require the executive branch to secure judicial warrants before engaging in "national security" foreign intelligence electronic surveillance in the United States.

This legislation must be considered in light of existing law—which is, unfortunately, no law at all. There is currently no statutory restrictions whatsoever on the so-called "inherent power" of the President to engage in such foreign intelligence electronic surveillance.

For the last 5 years a small group of Senators, including myself, has labored unsuccessfully in an effort to restrict such power. Now, the chances look good that the Senate will, at long last, place foreign intelligence electronic surveillance under the rule of law.

The need for such legislation is strikingly highlighted by a front-page article of Bob Woodward's in today's Washington Post. The article is entitled "FBI Wiretaps Defied Kleindienst Ban." It asserts that although former Attorney General Kleindienst had issued a written directive on June 19, 1972, ordering the FBI to halt all "national security" domestic wiretaps of radical groups—a decision taken in light of the Supreme Court's Keith decision of that day—such FBI wiretaps continued for nearly 1 year after the order.

Mr. President, on June 29, 1972, I chaired hearings of the Subcommittee on Administrative Practice and Procedure concerning the efforts made by the Justice Department to comply with the Keith case. At that time I said in my opening statement that:

"Our goal here today is to relieve all Americans of that 'dread of unchecked surveillance power' and that 'fear of unauthorized official eavesdropping', by having the Justice Department make clear its commitment to change its ways not only in form but in substance. For unless the Department truly adopts as its own the Supreme Court's heavy emphasis on first and fourth amendment rights, the *Keith* opinion will become a fraud upon the Nation's citizens, a bare judicial promise of constitutional protection, but a promise that can be broken by the performance of the executive branch.

We are here to see that the constitutional promise is kept, that our right to be let alone, our right to privacy, our right to speak freely in public and in private, our right to have different views, and the other rights which keep our lives free from unwarranted government intrusion, are vindicated rather than evaded, preserved and not avoided, enhanced instead of circumvented.

Attorney General Kleindienst was quoted last weekend as saying that he disagreed with the Supreme Court's holding that his Department must obtain judicial warrants to tap and bug in the interest of domestic security. But fortunately, as I am aware he would agree, his sworn duty is to uphold the constitution as interpreted by the Supreme Court, regardless of his personal preferences. I am confident that he shares the views that nothing undermines respect for our legal system more than lawlessness by lawmen, and that—especially when interference with fundamental freedoms is at stake—official lawlessness cannot be tolerated or condoned.

Some facets of the *Keith* opinion are not yet clear, as we shall see this morning. But certain basic facts are clear:

1. Warrantless tapping and bugging of purely domestic organizations and individuals should have ceased on June 19.

Thereafter, the subcommittee heard the testimony of Kevin Maroney, then Deputy Assistant Attorney General for Internal Security. At that time, Mr. President, I questioned the witness at great length concerning the impact of the *Keith* decision on the practices of the Department of Justice and the FBI. My purpose was to assure both the Congress and the American people that warrantless wiretapping of American citizens on domestic security grounds had ceased. The following colloquy occurred between myself and Mr. Maroney:

Mr. MARONEY. Thank you, Mr. Chairman.

Mr. Chairman, I am happy to appear here today on behalf of the Department of Justice in response to your request for our views on the subject of electronic surveillance and in particular, concerning the impact of the Supreme Court's decision last week in the case of *United States* v. *U.S. District Court for the Eastern District of Michigan*, No. 70–153 decided June 19, 1972, and more popularly known as the *Keith* case.

The immediate impact of the *Keith* case was set forth clearly by Attorney General Richard G. Kleindienst in his statement of June 19, 1972. Let me quote:

"In accordance with the decision of the Supreme Court, I have today directed the termination of all electronic surveillance in cases involving domestic security that conflict with the Court's opinion. Hereafter, surveillance will be undertaken in domestic security cases only under procedures that comply with the Court's opinion."

Senator KENNEDY. Now, just at this point where Mr. Kleindienst said, "In accordance with the decision of the Supreme Court, I have today directed. . . ."

Whom did he direct with respect to the termination of all such electronic surveillance?

Mr. MARONEY. The FBI.

Senator KENNEDY. What procedures were to be followed by the FBI in making decisions whether the taps that they were operating fell within the purview of the *Keith* decision? Was there an outline of any kind of procedures? How was it left?

Mr. MARONEY. A review was made by the Attorney General of all the electronic surveillances which were then in place in light of the information which had been submitted to him in connection with the request for the initial installation. Based on that factual information and applying the standards of the *Keith* decision, the Attorney General directed that certain of those installations be removed, since they were covered by the prohibition of the *Keith* case.

Senator KENNEDY. Who applied the standards of the *Keith* decision? Who made those decisions? Was that the Attorney General himself?

Mr. MARONEY. Made by the Attorney General in consultation with the Assistant Attorney General of the Internal Security Division.

Senator KENNEDY. Well, who looked at the facts regarding each tap?

You see, there now is a Supreme Court decision setting up some standards, and I want to find out how you have been applying those standards to the actual taps that have been on. Is it the Attorney General himself who has been reviewing all the facts? Is he the one who has been deciding which taps fail to meet the standards and that therefore they should be lifted? Or are you telling the head of the FBI to do that? If you are telling the FBI to do that, then we want to know what procedures you have formulated. We want to know who has the authority and what instructions he has received from the Attorney General.

Mr. MARONEY. The legal decision as to the applicability of the *Keith* decision to installations that were then in place was made by the Attorney General in consultation with the Assistant Attorney General in charge of Internal Security based on the factual information which they had.

* * * * *

Senator KENNEDY. Excuse me for another interruption here about that quotation from the Attorney General's statement. The next paragraph of the Attorney General's original release stated:

"The Court invited Congress to legislate the standards and procedures for court-approved electronic surveillance in such cases—as Congress already has done in criminal cases.

"Therefore, I am also directing the appropriate officers of the Department of Justice to work closely with Congress in formulating legislative standards for domestic security surveillance."

Could you tell us where that stands now? The Attorney General said, "I am directing appropriate officers. * * *" I imagine that includes you.

You see, your statement didn't include the next two paragraphs that were in the Attorney General's statement.

[The complete text of the Attorney General's statement of June 19, 1972 follows:]

"DEPARTMENT OF JUSTICE

"JUNE 19, 1972.

"Attorney General Richard G. Kleindienst issued the following statement today:

"In accordance with the decision of the Supreme Court, I have today directed the termination of all electronic surveillance in cases involving domestic security that conflict with the Court's opinion.

"Hereafter, surveillance will be undertaken in domestic security cases only under procedures that comply with the Court's opinion.

"The Court invited Congress to legislate the standards and procedures for court-approved electronic surveillance in such cases—as Congress already has done in criminal cases.

"Therefore, I am also directing the appropriate officers of the Department of Justice to work closely with Congress in formulating legislative standards for domestic security surveillance.

"It should be noted that the Court's opinion was confined to the narrow issue of the use of electronic surveillance in domestic security cases, and it does not affect the use of electronic surveillance for the gathering of foreign intelligence in national security matters.

"The Internal Security Division is reviewing pending cases to determine the effect of the opinion and will make recommendations to me on whether to disclose information obtained by electronic surveillance to defendants or to dismiss the charges against them."

Is that process going on now?

Mr. Maroney. No, sir. As I indicated in my statement, for the present, we have decied not to seek amendatory legislation and to let the experience of the next months indicate whether or not there appears to be a legal void which we might suggest to the Congress for amendatory legislation. But for the moment, we do not intend to seek amendatory legislation and to let the experience of the next months indicate whether or not there appears to be a legal void which we might suggest to the Congress for amendatory legislation. But for the moment, we do not intend to seek such amendatory legislation from the Congress.

Senator Kennedy. Why did the Attorney General change his mind? He said in his June 19 press release that the Justice Department was going to work with the Congress in accordance with the Invitation by the Court. Why the change now?

Mr. Maroney. Well, we initially started on the preparation of, or at least looking at the possibility of draft legislation in light of the language in Justice Powell's decision. However, it was subsequently determined by the Attorney General that we would not at this point seek such legislation, we would let experience dictate the needs in the light of the requirements of the decision.

* * * * *

I wish to assure the committee on behalf of the Attorney General that the Department of Justice accepts both the letter and the spirit of the Court's ruling in the *Keith* case.

It is the intention of the executive branch to utilize electronic surveillance in present and future national security matters in full and ungrudging application of the rationale of the decision.

* * * * *

Senator Kennedy. Would you agree that there can be domestic groups with some significant foreign connection which still retain their primarily domestic character for purposes of the first and fourth amendments?

Mr. Maroney. Well, yes; I do think so.

Senator Kennedy. Have you issued any directives or memoranda containing your interpretation of where the dividing line is, or how you will decide which groups are on the foreign side of the line?

Mr. Maroney. No, sir; other than that, as I tried to indicate in the opening statement, and as I previously indicated, all these determinations are made personally by the Attorney General. He will make them in light of the fact situation at present and in the light of the court decision in *Keith*.

Senator Kennedy. How will anyone in the government know what is permissible unless you come up with some standards, guidelines, and interpretations?

Mr. Maroney. Because the Attorney General has to authorize each and every one of these.

Senator Kennedy. But how will a person out in the field know whether it is even worth asking for authorization, if he is not getting some guidelines as to what is legitimate and what is not?

Mr. Maroney. Well, more definitive guidelines may be laid down in the future. As of now, we have not had an opportunity to formulate any guidelines other than the reliance on the *Keith* case and the interpretation that I have tried to place on that particular part of it.

Senator Kennedy. Has the FBI issued any guidelines to its agents, for example, to give them a yardstick to decide whether they should request authorization for taps?

Mr. Maroney. Well, I do not know if—I mean they do have standing instructions and procedures. Whether they have done anything beyond bringing the *Keith* case to the attention of the people that need that information and the fact of the action of the Attorney General in directing the discontinuance in these particular instances——

Senator Kennedy. We would like to know whether after the *Keith* case there was any modification of any of the FBI's regulations so that they would conform to the decision? Could you find that out?

Mr. Maroney. I would be glad to try to.

Senator Kennedy. And if there was—or wasn't—would you let us know?

Mr. Maroney. Yes, sir.

Senator Kennedy. We would like to see those regulations. If there are any, I request that they be made available for our information. I would appreciate it if you would do that.

[Subsequent to the hearing, Deputy Assistant Attorney General Maroney submitted a letter to the subcommittee, dated August 2, 1972, containing the following answer in response to Senator Kennedy's request:]

* * * * *

"The committee further requested any written guidelines which had been issued by the Department as a result of the Supreme Court's decision in the *Keith* case. In view of the fact that almost all electronic surveillances now authorized by the Attorney General will be strictly in the area of foreign intelligence, and since all requests for electronic surveillance authorizations are thoroughly screened within the Federal Bureau of Investigation and personally by the Attorney General, it is not believed necessary to promulgate any additional guidelines as a result of the *Keith* decision.

* * * * *

Mr. Maroney. Well, these situations would go through as elaborate a process in the FBI—the person originating it, the investigative agent, his supervisor. If he were in the field, the special agent in charge; the supervisor here at headquarters, the Assistant Director in charge of the particular division, and subsequently, by the Director of the FBI. So at that stage of the thing, you have substantial review and input by career professionals.

Mr. President, it now appears that my subcommittee, the Congress, the American people, and even high officials in the Justice Department were deceived into thinking that the FBI had taken all necessary steps to comply with the Keith case. The facts appear to be to the contrary.

As already indicated in the above quotation from the subcommittee hearing record I specifically inquired of the witness as to how FBI agents in the field would "know what is permissible—electronic surveillance—unless you come up with some standards, guidelines and interpretations?" His response was the same type of response we in the Senate have been hearing for years—"Because the Attorney General has to authorize each and every one of these."

Mr. President, that pat answer will not do anymore. Statutory safeguards must be enacted now to insure that the litany of abuses surrounding warrantless national security electronic surveillance in the United States comes to a final end.

S. 3197 is a major step in the right direction. It would substitute a detailed, fair judicial warrant procedure for the arbitrariness of the present. It would dramatically circumscribe the so-called "inherent power" of the President. Most importantly, it would provide statutory standards and guidelines where none currently exist. Finally, it provides comprehensive, detailed congressional oversight to insure that this kind of executive branch deception will not reoccur.

To call for this bill's defeat, to jeopardize its passage in any way, is to risk a return to the lawless surveillance of the present. For too long the American people have lacked any legal safeguards protecting them against the abuses of foreign intelligence electronic surveillance. This bill would at last place such surveillance under the rule of law. It must be considered and passed this session.

TO WIN WE MUST DESERVE TO WIN

Mr. MATHIAS. Mr. President, on August 18 my distinguished colleague and good friend Senator Javits spoke to the Republican National Convention on the challenge confronting the Republican Party in this election year. It was one of the most important speeches to the convention. We are, as Senator Javits points out, the party of between a fifth and a quarter of the American people. We need more than Republican votes to win. We need to give Democrats and Independents good reason to vote Republican; we need to widen our appeal, and to strengthen our acquaintance with the rank and file of the American people. Senator Javits' speech bears reading by leaders of both political parties in this era of voter disenchantment, and I ask unanimous consent that it be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

The Republican Party—"To Win We Must Deserve to Win"

I am very pleased at the opportunity to speak at this particular moment before the Nominating Convention of our Party.

But before I begin, I have a personal message to the Convention. I thank you for adopting the strong anti-terrorism plank which you did in the Party's Platform.

Last week a young man died in a senseless killing at the airport in Istanbul, Turkey. Hal Rosenthal was a member of my staff who was on his way to a Conference on the problems of the Middle East when he lost his life in a terrorist attack on innocent and helpless people. He was 29 years old.

That blow, that extinction of a young life puts into sharp and agonizing focus a single fact that we all too frequently forget. *Politics is about people,* about individuals with individual problems, individual hopes and aspirations, and about individual agonies. And politicians must be dedicated to people. It is our duty, our reason for offering ourselves for office, our reason for offering our Party as a way—we think the best way—to govern our country; and I speak as a fellow Republican who has been successful, running as a Republican with progressive views in New York, the second largest State of our Nation with a 2–1 Democratic registration and, including the City of New York, long a Democratic Party bastion.

Our challenge is to broaden our base of support among the people and to give the people the reasons why they should vote Republican in November. And although in 1976 the dominant Republican voice may be conservative in impulse and tone, we are about to face a national election in which we must bespeak the aspirations and the will of millions of Americans who are Democrats and independents if we are to keep a Republican Administration in the White House.

This will not be done with rhetoric—but it can be done with reason.

Men and women in public life nowadays have every reason to be uneasy about surveys which show widespread disenchantment with the United States political process. And we Republicans, in particular, must be concerned with other surveys which indicate that our Party is the declared Party of only one fifth to one quarter of the American people. We need to—and we can—forge a Republican majority of the American people as we give them reason to understand that our Party is their Party . . . that we are a people's party. And, this is not only for ourselves, but for the two party system which is so essential to our freedom. For our two party system can hardly be sustained if the party division gets too lopsided.

We have always prided ourselves on being the Party of equal opportunity for the individual and the Party that is dedicated to the right of the individual as much as possible to live his or her own life. But we Republicans, while having many achievements at home and abroad have not yet cracked the way to deal with human vicissitudes and catastrophes with the aid of government but based upon Republican principles.

Cancer, stroke and heart disease always are expected to strike other people, not someone you or I know.

It's always someone else who is expected to be unemployed.

It's always someone else who needs a day-care center to care for her child so that she can hold a job.

Or someone else whose parents need housing or long term medical care.

It's always someone else, or it's a number of someone elses, or a class, or a headline.

Well, the headlines don't cry the tears of the individual hurt and the individual need. When the television cameras leave the supermarket, the prices are still too high for elderly peope on fixed incomes who are deprived—or bewildered. And they need their Social Security and they need their Medicare. And, when there is a recession and millions are laid off, the unemployed still suffer.

And that, my fellow Republicans, is what ploitics is all about.

It's about helping those who can't help themselves; and it's about making sure that every citizen has an opportunity to help himself or herself. It's about easing the burden of people—real people with real problems. It's about enabling them to make decisions about the kind of people they wish to be—the kind of country they wish to live in—and the kind of world they wish to shape.

The principles we Republicans expound, and the measures we take must ring true. They must be and they must appear to be responsive to the will and the needs of our fellow citizens.

Political programs must give practical answers to the problems and aspiration of people—they are not ends in themselves. Politicians worry about the jobless; about how to carry the welfare burden; they decry the crime rate; are alarmed by inadequate productivity; and feel the dangers of decay and bankruptcy in our great older cities. But behind every discussion of the jobless is an individual suffering the pain and the shame of being unable to provide for himself or his family. Behind the rising crime rate are individuals—people who have been hurt, maimed, robbed, or murdered—and whole families destroyed by a member who is an addict or a juvenile felon. Behind every food stamp and school lunch program is a life-giving potential for undernourished and hungry children.

Behind inadequate productivity is inadequate capital investment and lowered worker morale.

There are remedies and they can be Republican remedies. They can range from a strengthened private pension system which we are now beginning to get under the new Federal Pension Reform law, to stock ownership by workers, and cooperative programs with business for interim employment and manpower training and education of the recession type unemployed. Republican remedies can range from enhanced Federal welfare payments as an option in lieu of revenue sharing to government business projects for the rehabilitation of felons and addicts. They can include housing, health and education. The point is that we must accept our role, that we must find Republican solutions; solutions which are practicable and can be superior to the simplistic application of government money and bureaucratic administration of the Democrats. The Depression-bred nostrums of the 30's have either long since served their purpose, or are completely out of date.

And that, my fellow Republicans is also what politics is all about. It's about ideas about making a better life for the people who give us their trust.

And that's why the Republican Party is committed to private enterprise in the public interest. For the American economic system is the mechanism by which more people have been able to do more to help themselves to a better life than anywhere else on earth, ever, and that's why our duty as Republicans is to try to serve the many millions of Americans who intend to keep it that way.

The Republican Party must take advantage of that intention. If we are to win we must forge a coalition of common interests . . . among the many millions of Americans who operate the levers of production in firms small and large, as workers and managers and professionals, and those who service their efforts. The shop steward and the shop foreman, the second-rank executive, as well as the working men and women whose personal vision of the future is linked to the success of the private enterprise system to which they are committed. These are all part of the American public to which the Republican Party must appeal.

We have every right to make that appeal on the basis of our principles, of our record of what we are capable of accomplishing for the people. We have a President who has restored a sense of integrity to the nation's highest office; we have an economy recovering its vitality; people on jobs are at their highest and inflation is being abated. Our foreign policy has been featured by remarkable major successes—and we are at peace.

The United States economic system makes and the Government takes; but the Government can be the essential guarantor of the dominance of the public interest in our economic system. It is the Republican Party that best can implement that concept. Ours is the Party to make the system work. Ours is the Party to make the country work.

Ladies and gentlemen of the Republican Convention, there is no reason for us to be behind in this election. If we are the underdog, it's because we have not yet sent the American people the message that they want to hear. The Republican Party is the newest Party. It wants to conserve the best of the past, and it is committed to pursuing the best for the future. And, its founding principles are most compatible with the inner feelings of the American people.

As we are on the threshold of balloting for the most powerful and influential office on earth—notwithstanding the turbulence of the Convention floor—let us seek a moment of inner contemplation and reflection on our duty—for as we here act so may very well go the peace, the prosperity and the health of the American people.

I close with the Biblical injunction which applies so precisely to our condition.

"Behold you have been given a good doctrine. Do not forsake it."

A MESSAGE TO CONGRESS

Mr. MATHIAS. Mr. President, on July 4 there appeared in the Baltimore Sun a message by a man named John A. Williamson, who identified himself only as "an American citizen." The message is addressed to the Congress. It is elegantly written. In it Mr. Williamson comments with feeling on the great issues that trouble America in her bicentennial year. H. Beale Rollins, a distinguished Baltimore lawyer, brought it to my attention, and I would like to bring it to the attention of my colleagues. I therefore ask unanimous consent that Mr. Williamson's "Birthday Message" be printed in the RECORD.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

BIRTHDAY MESSAGE—AFTER 200 YEARS, A CITIZEN SPEAKS TO CONGRESS

(By John A. Williamson)

I am an American citizen.

I am one citizen, with one view, one voice and one vote—and with no delusions as to my own importance.

And yet, amidst the clamor of a bicentennial celebration, against a noise level of already deafening proportions, I presume to raise my voice. To speak up, and speak out, to the Congress of the United States, and to my fellow citizens.

It is my privilege to speak. To exercise the first and greatest of the rights that we celebrate today. But, much more compellingly, I conceive it as my duty to speak. To express a deep and urgent concern.

I do not propose to comment or to pay tribute to the glories and achievements of the past two hundred years except to say that I am proud of our country and our significant achievements. My concern is with the next one hundred years.

I know where our country has been. I wonder where it is going.

I know what we celebrate today. I wonder what we will celebrate on the 4th of July, 2076. Or on any of the anniversaries yet to come.

I wonder what we will have that will warrant celebration. What rights we will still exercise, what liberties we will still enjoy. What blessings we will acknowledge, what achievements we will hail, what accomplishments we will point to. What kind of America we will know, with what measure of joy in the knowing.

I wonder if self-reliance will still be a virtue or will our future generations be caught in the web of government dependency and cradle-to-the-grave security. Will our country be financially and morally bankrupt or will our financial strength and moral soundness be an inspiration for the world's peoples longing for sound guidance and leadership with character and integrity.

Dr. W. Philip Gramm, Professor of Economics at Texas A&M in an address to the Knights of the Million Dollar Round Table Foundation, San Francisco, June 16, 1975, said as follows:

"It is a great paradox that we have in the American free enterprise system the most successful system in history. We need only remember that, at the birth of our nation, 90 percent of our citizens by any definition were poor. Yet this system has elevated us into the most powerful agricultural and industrial nation on earth. So successful is our system, so high the aspirations of the American people, that we in this country define poverty at an income level that is higher than the average income level of the Soviet Union and 800 percent above average world income. Yet this system, which has given us so much in terms of freedom, is under attack at all levels of government and is being replaced by a system that historically has never worked and that is working effectively nowhere in the world today."

I wonder because, as we enter upon the third American century, we seem to be groping our way, confused and uncertain, along paths that appear to me increasingly forbidding and unpromising.

My concerns are many. The energy problem, and our fumbling and counter-productive attempts to deal with it. The uncontrolled power of unions, and the abuse of that power. The encroachment of government upon our personal and business lives. The conflict between social goals and individual freedoms. A foreign policy that I do not understand, and that I suspect its executors do not clearly understand.

But what concerns me most, because it affects everything else, is an attitude. An attitude that begins with condoning moral degeneration and fiscal irresponsibility and from there pervades all policies and all actions. Of all the dubious paths we are pursuing, the Primrose Path—symbol of folly and fecklessness—is the most perilous.

2,500 years ago, a troubled statesman said: "This city of ours will never be destroyed by the planning of Zeus, or according to the wish of the immortal gods. But the citizens themselves, in their wildness, are bent on destruction. And money is the cause."

Solon was right. Athens accomplished her own destruction. And in the long record of history, the rule has prevailed. Except for those few cases where a strong and healthy nation has been overwhelmed by armed aggression, every collapse—of a regime, of a rule, of a political system of any kind—has been preceded and brought on by moral and financial bankruptcy. Every failed society has accomplished its own destruction. And in most cases, morality and money—moral degeneracy and money wasted, squandered and become worthless—have been the prime causes.

The rule still holds. Surveying the scene from Britain to Western Europe, to Africa, to South America, to Asia, every tottering or subdued democracy is threatened or has been defeated by moral and economic decay and financial chaos.

It is in this sense that I say that, except for the possible stupidity of blundering into nuclear war, this nation stands in more danger from within than from without. The most direct road to destruction lies along the Primrose Path. The alluring path that invites the indulgence of every desire and every demand, without care, without regard, without responsibility, without concern for costs or consequences. We are most immediately threatened, in sum, by our own excesses—by our own endless demands, encouraged and abetted by our own appointed leaders.

The threat is that the excess of demand will destroy the American system. First, the economic system, and then, inevitably, the political system. And in the process destroy what we have come to know and cherish as the American way of life.

The City of New York is a vivid example of what fiscal irresponsibility and a devotion to the Primrose Path and contemporary liberalism can do to ruin a city. As one writer put it, "This wild excess of goodwill is bankrupt as a guide to public policy." New York City has now reached the point where it is entirely incapable of self-government.

Oh men of Congress can you not see that your policies are taking us down the same deplorable road? For sixteen of the past seventeen years you have operated our federal budget with huge deficits. This display of operational incompetence and fiscal irresponsibility is inexcusable.

The justification for a generation of deficits, leading to a colossal national debt, is not to be found in theory, but in hope. The vague, touching, but insubstantial hope that somehow, somebody, "Something will turn up."

If this hope is questioned, a simpler theory takes over. Which says, bluntly, what goes up must come down. Sooner, on our own heads—which would be bad. Or later, on our children's heads—which would be worse.

The questions are growing. The idea that "it can't happen here" has received a serious setback. What has happened to New York City can happen to Washington, D.C. Uncle Sam may be taller than Abe Beame, but he is just as vulnerable.

It has occurred to many. It does not appear to have occurred to Congress.

Let me be clear. There are those who distrust and dislike the American economic system, and who would deliberately demolish it. But they are few. The greater danger comes from those who believe in the system, but with more faith than understanding. From those who believe, or take it for granted, that the system has an infinite capacity. That is capable of providing, without limit and without end, whatever is demanded of it—if the demand is pressed with enough insistence. That it can withstand any strain, absorb any stress, endure any abuse, and keep on functioning, efficiently and uncomplainingly, world without end, amen.

So that it can fairly be said, we are not only in more danger from within than from without, we are also in more danger from our friends than from our enemies.

Over the past thirty-five years a gradual but dramatic change has occurred in the structure of our economy. The vast increases in the growth of services (personal, education, medical, legal, etc.) and the enormous growth in government (federal, state and local) have put a heavy strain on the productive base of our economy.

In a large measure the increased load on the productive base is directly attributable to the enormous growth in government at all levels. And this growth is in turn the result of a change in thought and attitude in our concept of the role of government, and in our expectations.

The Primrose Path, where there is no tomorrow, stands as the symbolic road to instant gratification of all desires and all expectations. It also stands as the avenue of escape for those responsible for satisfying or denying expectations, who seek to avoid their responsibility.

If this message is addressed to Capitol Hill, it is because it is there, in its latter guise, that the Primrose Path most conspicuously runs—a broad aisle, straight through the halls of Congress. A wide and welcoming thoroughfare, accommodating all men and all parties. And well used. For year after year thronged by a genial majority in annual procession, scattering largesse by the wayside and dancing its way to yet another multi-billion-dollar deficit.

Asking myself why, I conclude that you who are elected representatives are in fact representative. You as a politician are human, even as a citizen, I am human. But that, as it has been observed, some people are more human than others. And as many politicians seem to be human beings with common desires to be loved coupled with an uncommon, total, inability to say no. Which leads to predictable consequences. Perpetual pregnancy, on the one hand, perennial deficits on the other.

Which suggests that the old-fashioned remedy for the one human weakness may provide an answer for the other. To state it plainly, and not at all facetiously, there is nothing that Congress so sorely needs as the legal equivalent of a chastity belt. A pay-as-we-go requirement that would compel us to live within our means, except in case of an extreme national emergency. Pay as you go is a vital, but immediate first step.

In the Preamble to the Constitution the architects of the American government stated as one of their objectives, "to promote the general welfare." In an attempt to provide for, protect, safeguard, preserve, shelter, nurse, nourish, nurture, help, succor, maintain, minister to, cradle, cherish, comfort, and care for each and every citizen in each and every aspect and occasion of his personal and public life, you have gone far beyond what reasonable citizens can be expected to sustain.

We have reached the point where half of the national budget and one-fifth of our Gross National Product is devoted to the single purpose of welfare.

Criticism of the "welfare mess" has usually centered on the notorious waste and scandalous abuses engendered by a profusion of poorly designed, and loosely administered, federal programs.

Criticism of the extension of the welfare concept, from the provision of benefits to the provision of "protection" against all of the conceivable, and many of the inconceivable, hazards of life, has usually centered on the issue of intrusion.

I wonder what might happen if the government showed as much care in giving as it does in taking. If, that is, the welfare agencies exercised half the vigilance in dispensing money that the I.R.S. shows in extracting money. If, to say it plainly, nonworkers and noncontributors were subject to the same discipline and control as workers and contributors.

I wonder what might happen if we had or could obtain an honest accounting of the need for, and benefits of, our burgeoning protections against the costs of protection. The direct costs and the indirect costs, in terms of prices and inflation.

As an American citizen, I feel an urgent sense of responsibility for other citizens who are incapably lame, ill, too aged or too infirm to work. But, today there are far too many people riding in the wagon who are capable of pulling it!

There are other basic issues I feel compelled to consider and to speak up about. The energy crisis (to no small extent created by our government) has produced more congressional rhetoric, more political discussions, more improbable solutions and more confusion to the American public than any issue since civil rights.

What has been your approach to the solution? A loud cry of "energy independence" has been your objective. To accomplish this goal, however, your approach has been to restrict use rather than to expand supply.

Oh ye of little faith, don't you know that the creative talents available in our country can help to solve this problem? Business, industry and research can expand our energy supply and base if given a cooperative and understanding government whose mission is to help—but not control, to advise and consent—but not to manage.

My concern today, too, considers America's unions and the vast unbridled power they possess. This union power is a threat to the freedom of America and the orderly unhampered operation of a free Congress.

I am well aware that the union movement has made a significant contribution to the growth of America, the improvement of working conditions, and the balancing of labor-management relationships. Union negotiations have helped to earn a standard of living for laboring people and white collar workers they would not have otherwise. Unions, combined with a free enterprise system, and business—both small and large—have created a vast middle class of Americans who tend to make up the backbone of our country.

Just as government had to place restrictive laws on business through the Sherman and Robinson-Patman Acts, it is now time to curb the power of union leadership and return the control of unions to the union members. The average member in today's unions no longer has a voice. He is the forgotten man in the union movement.

Today's union leaders hold the power to bring our country to its knees at any given time. They have the power to shut down any industry and all industry, disrupt any transportation and all transportation, bankrupt any major company or many major companies, close any schools or school systems, and remove police protection from most major cities. Even many of you, the elected representatives of all the people, are caught in this web of power and are afraid to act without sanction of union leadership.

No group should have such power in this free America.

It seems to me to be a paradox of government, that lack of control on one hand and excess of control on another, brings a mixture that is difficult to understand for an ordinary and wayfaring citizen.

The growth of federal government control and regulation of Education, Business and Health Care has greatly increased costs in the operating structure of our economy. On the other hand, lack of control of unions, a failure to act on judicial decisions—such as forced busing of children, causes an unbalancing of power and a disrupting factor in our national life and gradually but surely restricts our cherished freedoms.

The freedom to work at a job of one's own choosing has been a great freedom of choice for an American. The principle of choosing a neighborhood with a good school has also been one of America's great freedoms of choice.

Now, however, our citizens no longer have these choices. Only with union sanction may the citizen work in many places. Only with judicial sanction may our children attend the neighborhood schools.

Your plea of innocence may be that your legislation ordered neither of these—but you cannot deny your inaction has permitted it!

As I view our world today, my concern includes our foreign affairs. As an American citizen, it is my firm conviction that everyone in the world has a right to be free, to live together in a society with a minimum amount of government intervention, and to have the opportunity to be what one is capable of being.

As Americans we cannot "will" the above for the rest of the world. We can—and must—undertsand that being free and recognizing freedom in other societies is a moral consideration of our lifetime—or any lifetime.

Our recent philosophy as expressed through our foreign policy has consistently scorned moral considerations. In many areas we of the western world seem to live on the principle that moral considerations have nothing to do with politics.

In today's world Americans seem to forget the moral considerations that were applicable in World War II. Today we are quite ready to recognize very quickly any power over any territory regardless of its moral character.

Tyrants, bandits and puppets have come to power in various countries of the world and we have given them speedy recognition.

As an American citizen I do not believe that the great principles of freedom end at the borders of the United States. Freedom is a moral consideration and we must be for it. We must value it, sacrifice for it, and be ready to defend it with our lives if that should be necessary. Being ready to defend freedom and liberty makes it mandatory that we have not only the will to defend, but the power to defend.

Around us we see a world of increasing and flourishing totalitarianism. Unless we are strong, we will not be able to withstand this unprecedented force of lust for power among the totalitarians. If we do not stay strong we can be intimidated, and being intimidated could cause loss of our willpower and eventually our spiritual strength. In time there will only be one result—an eventual loss of the freedoms we cherish.

As an American citizen I believe in peace and believe we should exhaust all possible measures to live in harmony with other governments. But, when the vote is cast to choose freedom or totalitarianism in other countries, our vote must always be freedom—and we must stay strong enough to defend that position.

In conclusion, may I as an American citizen commend the many of you who have labored long and hard to preserve our liberties and to build a better America. I challenge, however, those of you who have taken the easy Primrose Path. You have tried to curry favor with your constituents for your own self-gain. You have worked harder to be reelected than you have worked to do your job. It is not too late to change, however—to review—to take a new look—a new direction.

America needs statesmen! We so urgently need elected officials dedicated morally and spiritually who will look to the future. We need men of character and integrity who will to the best of their ability, take our country on the course that will preserve our freedoms and rededicate us to the most meaningful objective Americans can have—to secure the blessings of liberty to ourselves and to our posterity.

My concerns go beyond these few issues. But, there must be a start. This is the starting place. Let us, for our common good and mutual salvation, get started.

This is one citizen's way—my way—of saying, "Happy Birthday, America!"

Happy Birthday today, and Happy Birthday on July 4, 2076.

PUBLIC WORKS JOBS APPROPRIATIONS

Mr. BAYH. Mr. President, yesterday the Appropriations Committee completed action on H.R. 15194, the Public Works Employment Appropriations Act. This bill passed the House of Representatives on Wednesday, August 25. As passed by the House, the bill provided for a total of $3,452,433,000 in new budget authority, including $2 billion for title I—the full amount authorized—for the Economic Development Administration of the Department of Commerce for grants for State and local public works projects; $1.25 billion for title II—the full amount authorized—for the Treasury Department for an antirecessionary program of revenue sharing.

The House bill provided $200 million, or $500 million less than the amount authorized, for title III waste treatment works construction grants administered by the Environmental Protection Agency. Yesterday morning, the HUD-Independent Agencies Appropriations Subcommittee, after receiving testimony from the Treasury Department and the Environmental Protection Agency, recommended that title III funding be increased to $700 million. That same afternoon, the full Appropriations Committee, after hearing a motion to reduce title III funds, voted to sustain the subcommittee's action.

I supported the increased level of funding for title III at both the subcommittee and full committee.

Mr. President, I take a moment to briefly review the legislative history of this bill. The authorizing legislation, Public Law 94–369, known as the Public Works Employment Act of 1976, passed the Senate on April 13. One month later, on May 13, it passed the House. The conference report was agreed to by the Senate on June 16, and by the House on June 23. On July 26, President Ford vetoed the bill. The Senate overrode the veto by the overwhelming margin of 73 to 24 on July 21. On July 22, the House overrode the veto by the similarly wide margin of 310 to 96.

Barely 1 month after the authorization became law, we are prepared to send to conference the appropriation which will implement that law. This record is an outstanding tribute to the will of the Congress to do something—and do it quickly—about unemployment. It is a tribute to the leadership of both Houses, and particularly to the chairman of the authorizing and appropriating subcommittees and committees. I especially want to note that my colleagues on the Appropriations Committee, and our counterparts on the same committee in the House of Representatives, viewed the overwhelming rejection of the President's veto as a mandate for action.

The need for action is clear. According to figures released by the Bureau of Labor Statistics, the number of unemployed persons increased by 280,000 in July, bringing the total number of jobless to 7.4 million. Even more disturbing is the fact that the rise in unemployment recorded in July marked the second consecutive month of declining employment. The rate of unemployment for all workers in July was 7.8 percent, up from 7.5 percent in June and 7.3 percent in May.

As provided by Public Law 94–369, 70 percent, or $1.4 billion in title I funds, will be channeled to areas which have unemployment rates exceeding the national average, with second priority given to areas where unemployment is below the national unemployment rate, but above 6.5 percent. In addition, applications for projects must show that, if approved, onsite labor could begin within 90 days.

This appropriation will alleviate unemployment in geographic areas which have been hit the hardest by the recession; it will assist States and localities in building needed public facilities; it will assist in the recovery of an important sector of our economy—the construction industry, where unemployment reached 17.7 percent in July, or more than twice the national average.

Title II funds are intended to enable States and local governments to avoid cuts in basic services and further lay-offs through the mechanism of antirecessionary grants.

The title III appropriation will provide grants to municipal, intermunicipal, State and interstate agencies to assist in financing the planning, design, and construction of municipal waste water treatment facilities. Unlike title I projects, these title III projects will not be creating jobs in the immediate future. They will, however, help to sustain economic recovery and create lasting benefits in the form of water treatment facilities.

In sum, the funds provided in this bill will pay for brick and mortar projects and for public services. Most importantly, this bill will create jobs on both a long and short term basis.

It is most unfortunate that the threat of a veto hangs over this bill. I wish to state here and now that, in view of the defeat administered by both Houses of the Congress to the President's effort to kill the authorizing legislation, such a veto would be merely a stalling tactic at best, and an election year gesture at worst.

The economy of our country—but more importantly, the desperation and difficulty faced by each individual who wants work and cannot find it—must be a first priority of every elected official. This legislation may not be the very best approach to the jobs problem; it certainly is not the only approach. I do not know of anyone who is absolutely certain of the answer to our economic troubles; I doubt that there is a single answer. It would be misleading to the American public to suggest that this legislation will end the recession, or provide a job to everyone. But I sincerely believe that this approach is constructive, that it is worthwhile.

I am hopeful that the majority of my colleagues in the Senate will agree with me, and will vote in favor of H.R. 15194.

THE DAIRY PRICE SUPPORT LEVEL MUST BE INCREASED

Mr. CHURCH. Mr. President, Congress passed legislation last December to increase the dairy price support level to 85 percent of parity with quarterly adjustments. President Ford promptly vetoed the bill, and the Senate failed to override the veto in early February. The main reason the Senate was unable to override the veto was that Agriculture Secretary Butz promised to provide "an adequate price support level" and quarterly adjustments.

Well, at least he kept the second part of his promise; the Department of Agriculture has reviewed the price support level on a quarterly basis. However, the price support level has not been adequate. In order to maintain milk production and to prevent wild swings in prices, this price support level must be increased.

Price fluctuations hurt both dairy farmers and the consumers of their products. It is especially important that we assure farmers that dairy prices will not drop precipitously during the coming winter. Traditionally, winter is the time of year when dairy farm production costs are at their peak. An increase in the price support level now is necessary to let farmers know that they will receive a reasonable price for their product this winter. That, in turn, is necessary to assure that consumer prices do not rise sharply next spring.

Mr. President, I have today sent down to the Department my recommendations for the price support level for the quarter beginniing October 1, 1976. I ask unanimous consent that my letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS,
Washington, D.C., August 27, 1976.

Mr. DONALD L. GILLIS,
Director, Commodity Operations Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. GILLIS: This letter contains my comments pursuant to the August 6, 1976 Federal Register notice requesting data, views and recommendations relative to the adjustments to terms and conditions of price support for milk to become effective at the beginning of the quarterly period, October 1, 1976.

I believe that price support adjustments must be made during this quarter in order to protect dairy farmers against a drastic price decline this winter. Specifically, I recommend that the price support level for milk be increased on October 1.

The figures that I have been furnished by the dairy industry both in Idaho and nationally indicate that increasing the price support level at this time could be accomplished without raising market prices to farmers or consumers. A higher price support level would not increase market prices, and it would help to reduce drastic price fluctuations. It is these large fluctuations in price which are forcing so many American dairy farmers to close down their operations. Production costs for dairies are at their peak during the winter months. Without adequate price supports, farmers will reduce their herds to lower their costs. Such reductions will weaken the nation's productive capacity, and will put us in a situation where milk supplies are at a level which will not be adequate to meet anticipated needs.

A price adjustment on October 1 would cushion any price reductions to farmers between October and next April, and also avoid a dramatic price increase to consumers next spring.

There are a number of additional reasons why an increase in the price support level is justified. First, the cost of production for the dairy farmer is continuing to rise. The price of hay is up from last season. Other feed costs have also increased. Production costs other than feed are rising and all indications are that they will rise at an even higher rate this winter. These increases come at a time when the dairy farmer is faced with great incentives to abandon his milk production to undertake more financially lucrative alternatives for his land and capital.

Secondly, although milk production is reportedly above the levels of 1975, according to the dairy industry, production is still not keeping up with market requirements. Sales of milk and other dairy products are high because they reflect the increased purchasing power of American consumers. These greater demands for milk and dairy products have left inventories dangerously low. In addition, Commodity Credit Corporation purchases of dairy products for the child nutrition programs has been shamefully low. CCC purchases have been insufficient to meet even the basic needs of these nutrition programs. More stocks of cheese, butter, and non-fat dry milk must be made available for these programs. It seems to me that we should stimulate milk production at this time, not depress it. Only by keeping production levels up will we be able to meet current and imminent demands and avoid inflationary price increases in the future.

For these reasons, I strongly urge the Department of Agriculture to raise the price support level for milk on October 1.

Sincerely,

FRANK CHURCH.

AGPLANE IMPROVEMENTS WOULD BE OF GREAT VALUE TO NORTH DAKOTA

Mr. MOSS. Mr. President, in many cases the letter that I wrote recently to Governors was referred to an apropriate State official for detailed comment. Such was the case in North Dakota, where the Governor, the Honorable Arthur A. Link, asked the director of the aeronautics commission, the Honorable Harold G. Vavra, to reply.

Mr. Vavra cited the growing use of aerial applications in North Dakota and said:

> Aerial application of fertilizers and agricultural chemicals is a big industry in North Dakota.

He also states:

> North Dakota is very interested in any technology program for improvement of the design safety of agricultural aircraft to make such aircraft more crash-worthy and to minimize the chance of fire following an accident.

In his cover letter to me, Governor Link adds:

> I concur with Mr. Vavra's conclusion that an aerial applications technology program for improvements in agricultural aircraft would be of great value to farm operations in North Dakota.

Mr. President, I ask unanimous consent that the letters of Governor Link and Mr. Vavra be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

BISMARCK, N. DAK., *June 28, 1976.*

Hon. FRANK E. MOSS,
Chairman, U.S. Senate Committee on Aeronautical and Space Sciences, Washington, D.C.

DEAR SENATOR MOSS: Enclosed are comments I have requested from our State Aeronautics Commission regarding an aerial applications technology program for improvements in agricultural aircraft.

I concur with Mr. Vavra's conclusion that an aerial applications technology program for improvements in agricultural aircraft would be of great value to farm operations in North Dakota.

With best regards,

ARTHUR A. LINK,
Governor.

STATE OF NORTH DAKOTA
AERONAUTICS COMMISSION,
Bismarck, N.D., June 21, 1976.

Subject: Senator Frank E. Moss letter on agricultural aircraft.

Mr. ART MCKINNEY,
Administrative Assistant, Governor Arthur A. Link, State Capital, Bismarck, N. Dak.

DEAR MR. MCKINNEY: I have your note received June 15, 1976, regarding the attached letter from Senator Frank Moss, Chairman of the Committee on Aeronautical and Space Sciences in which he asks the Governor's opinion on the merits of requesting

NASA to develop for the Senate's consideration an aerial applications technology program for improvements in agricultural aircraft.

Aerial application of fertilizers and agricultural chemicals is a big industry in North Dakota. Attached is a summary of aerial agriculture activities in North Dakota during the past ten years.[*]

During the 1975 crop year the North Dakota Aeronautics Commission licensed 190 serial applicator operations which utilized 306 crop spraying aircraft and treated 3,900,000 acres of crop land.

During the 1976 crop year the Aeronautics Commission has licensed 193 aerial applicator operations utilizing a total of 327 aircraft, of which 7 are helicopters.

The aircraft utilized for crop spraying and fertilizing in 1976 have about 2½ times the load carrying capacity compared with those used ten years ago.

North Dakota is very interested in any technology program for improvement of the design safety of agricultural aircraft to make such aircraft more crash-worthy and to minimize the chance of fire following an accident. The nature of low level aerial crop spraying is such that there will be some accidents each year. It is, therefore, very important that the design of agricultural aircraft be improved where possible to minimize injury to the pilot.

Many new aerial agricultural aircraft are being used in North Dakota which range in price from $35,000 to $75,000, powered with aircraft engines from 235 to 800 horsepower.

Agricultural aircraft are used in North Dakota for fertilizing, weed, insect and grasshopper control.

An aerial applications technology program for improvements in agricultural aircraft would be of great value to farm operations in North Dakota.

Sincerely,

Harold G. Vavra,
Director.

ARMS CONTROL

Mr. KENNEDY. Mr. President, I call to the attention of my colleagues several worthwhile articles which appeared in the June 1976 issue of "Arms Control Today," the monthly newsletter of the Arms Control Association—ACA.

Arms control continues an issue of overriding importance to this Nation and to all nations.

The ACA has taken the position that both the treaty on underground explosions for peaceful purposes—PNE—and the threshold test ban treaty—TTB—are steps backward from responsibility. ACA has called for an end to all nuclear testing, a position I have long endorsed.

The article by Thomas A. Halsted, executive director of ACA, is entitled "Why Not a Real Nuclear Test Ban?" and covers the need for a comprehensive test ban treaty—CTB.

Halsted outlines the deficiencies and inadequacies of the TTB and PNE treaties, details the obstacles to a CTB, explains the domestic pressures for testing, and reconciles the issues of détente and the test ban.

Also included in the newsletter are the ACA's statement on nuclear test treaties and a perspective on the verification question for a CTB treaty.

I have found these articles to be most valuable, and I recommend them to my colleagues. I ask unanimous consent that they be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Why Not a Real Nuclear Test Ban?

(By Thomas A. Halsted)

On May 28, 1976, in separate ceremonies in Washington and Moscow, President Ford and Soviet General Secretary Brezhnev signed a Treaty on Underground Explosions for Peaceful Purposes (the "PNE" Treaty). It was negotiated as a companion agreement to a Treaty on the Limitation of Underground Nuclear Weapon Tests (the Threshold Test Ban or the "TTB" Treaty). Both Treaties are to be submitted to the Senate for ratification.

The Arms Control Association believes that both new Treaties represent a step backward from responsibility. Now is not the time for agreements which will tend to legitimize nuclear weapon testing at high yields and endow nuclear explosions for peaceful purposes with unwarranted new respectability. What is needed now is an end to *all* nuclear testing. Accordingly, the ACA has called on President Ford to reopen negotiations toward a comprehensive test ban treaty (CTB).

Why can't we quit testing nuclear weapons? In thirty-one years the United States and Soviet Union alone have conducted more than 1,000 nuclear tests between them, yet by agreeing to these two treaties they are declaring that there is a need for still more. Meanwhile a growing number of critics in the United States and abroad are complaining that agreements like the TTB and PNE Treaties, in the guise of setting new controls, are really only devices for setting new rules to continue doing as they please. As the ACA statement points out, the limits imposed by the Treaties are hardly limits at all. (There is even an escape clause in the PNE Treaty—Article III, Paragraph 3, allowing for tests larger than the 150 kiloton ceiling: "The question of carrying out an individual explosion having a yield exceeding [150 kilotons] . . . will be considered by the Parties at an appropriate time to be agreed.") Is it any wonder that some critics of the Treaties call them worse than nothing?

The reasons that the Threshold Test Ban and Peaceful Nuclear Explosion Treaties are inadequate are spelled out in the ACA statement (see page 4). The case for the harder, but only acceptable course—a complete test ban—is not a complicated one.

Simply put, a CTB would be a clear and unambiguous signal that the nuclear weapons states were at last willing to take a major step away from the nuclear brink. Since the nuclear weapons age began, only one of the arms control agreements between the nuclear superpowers—the 1972 ABM Treaty—has resulted in stopping a nuclear weapons development. After nearly twenty years of negotiations, the failure to achieve a comprehensive nuclear test ban treaty has become a symbol of superpower unwillingness to end a wasteful and destructive arms race which has produced more and more lethal weaponry, but has only diminished world security. Agreeing to a CTB would be a positive sign that the United States and the Soviet Union were at last moving away from dependence on nuclear weapons and from the beliefs that the possession of nuclear weapons is the hallmark of a great power, and that nuclear wars are thinkable, fightable, and even winnable.

Three of the six countries that have conducted nuclear tests are parties to the Treaty on the Non-Proliferation of Nuclear Weapons (the NPT). Year after year since that Treaty went into effect, and particularly at the 1975 NPT Review Conference, the non-nuclear weapons states party to the Treaty have warned the nuclear weapons states that they cannot go on forever building up nuclear arsenals, threatening to use nuclear weapons, and most of all, continuing to test nuclear weapons while still expecting other nations to agree to forego nuclear weapons of their own. A CTB would undeniably be a symbolic gesture towards these critics. By itself it would not end the arms race, but it would be a symbol badly needed if mankind is to avoid almost certain destruction at his own hand.

WHAT ARE THE OBSTACLES TO A CTB?

The Threshold Test Ban, like the Limited Test Ban and the Non-Proliferation Treaty, gives lip service to a commitment to end all nuclear weapons testing, but neither the United States nor the U.S.S.R. has adopted a public position which would make achievement of a CTB realistic. The United States contends that it would be possible for the U.S.S.R. to conduct militarily *significant* tests in secret unless the CTB included a provision for on-site inspection to resolve any ambiguities. The U.S.S.R. asserts that such inspections are unnecessary, but insists on the right to conduct PNEs, and further declares that all nuclear weapons states must be party to a comprehensive test—a condition to which China and France, neither of them a party to the 1963 Limited Test Ban or the Non-Proliferation Treaty, are unlikely to agree.

Both sides' arguments are a smokescreen for a more basic objection to a CTB: neither the U.S. nor the U.S.S.R. wants to give up the option to conduct nuclear weapons tests. As far as as the capability of identifying small nuclear tests is concerned, it is highly improbable that the Soviet Union could confidently conduct clandestine, *militarily important* nuclear tests without detection by a combination of seismic and other intelligence means—chiefly photographic satellites. On-site inspection is no longer necessary. Furthermore, a test ban observed by only the United States and Soviet Union, without the participation of other nuclear weapons states, would not affect the security interests of either superpower for many years, regardless of the amount of testing France or China conducted. The utility of PNEs is so dubious that further efforts should be made to persuade the U.S.S.R. to shelve its PNE program, as the United States already has. In no event should the unlikely prospect that they might some day prove to be useful be allowed to stand in the way of a ban on all nuclear tests.

A recent Energy Research and Development Administration (ERDA) report[*] provides for the first time some public details of the accomplishments of thirty years of U.S. nuclear testing: 74 different types of weapons have been tested, 50 of them accepted in the stockpile at one time or another, 26 of them currently in the stockpile in 33 different weapons systems. It can be assumed that Soviet weapons development is at a comparable level of diversity. There is hardly any theoretically possible development that has not been explored by now, at least by the two superpowers, and scant reason to expect such developments in the future. To be sure, weapons designers can always come up with new concepts to explore; under a CTB, they would have to make do with existing designs. Under the 150 kiloton TTB, in fact, the ERDA report acknowledges that such adaptation would be necessary for any higher yield weapons that might be required.

DOMESTIC PRESSURES FOR TESTING

Large and well established bureaucracies exist in the United States and the Soviet Union which have an unavoidable vested interest in the continuation of nuclear weapons programs, including testing. According to the ERDA report, last year the "weapons complex"—the U.S. weapons laboratories, the Nevada Test Site, and the seven government-owned plants which produce nuclear weapons "employed more than 40,000 people, had an operating budget of more than a billion dollars, and represented an investment of more than $2.6 billion." In the event of a comprehensive nuclear test ban, many of these individuals, a large number of whom may have devoted their entire lives to nuclear weapons, would need to acquire new skills and seek work elsewhere. They and their supporters in the Executive branch and Congress would be expected to strongly oppose a CTB. In a recent speech, Lt. Gen. Edward B. Giller, Director of Weapons Development for ERDA, expressed his concern about this possibility: "Above all we must not allow the nuclear weapons development and production complex to erode. In many respects this complex is unique and some of the assets are unreplaceable. The weapons laboratories represent a combination of trained manpower and physical resources that is available nowhere else in the West."

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[*] Summary retained in Committee files.

[*] Energy Research and Development Administration, *Funding and Management Alternatives for ERDA Military Applications and Restricted Data Functions* (*Wash., D.C.: ERDA Publication No. 97, 1976*).

A narrow view—one that has prevailed until now—suggests that ending nuclear testing, because it means foreclosing options to test in the future, is ipso facto a bad thing for the United States. But would CTB really hinder national security? There are scarcely any new developments "interesting" enough to justify further weapons testing; a CTB would inhibit Soviet as much as U.S. developments. The security issue therefore becomes one of whether the U.S. is better off in a situation where neither side is testing than in one where both continue to test.

Since the present trend in U.S. weapons development is toward more accurate delivery systems rather than higher yields, future concerns lie more in missile guidance developments than in nuclear weapon testing. If there are possible "breakthroughs" ahead, a CTB would inhibit their likelihood for both the United States and the U.S.S.R.

DETENTE AND THE TEST BAN

Finally, it has been suggested that to reject the TTB and PNE Treaties would be damaging to detente, already battered badly out of shape. But would it? Why would it not be more constructive for the U.S. and U.S.S.R. to agree to work out a test ban treaty with real arms control significance, rather than a transparent phony? Because the TTB and PNE Treaties are so inadequate, they tend to devalue detente rather than enhance it, and serve to further erode public support.

If the two nations, which have been engaged in a devastating nuclear arms race for over thirty years were instead to jointly take the first *meaningful step* toward ending that race, that would have more meaning for detente, not only for the two adversaries but for the entire world, than any step yet taken.

There is another aspect of the detente/arms control issue to remember: even if there were no detente, and relations between the two countries were far worse than they are today, arms control measures would *still* be in our net interest. We can survive with detente in a weakened condition, as long as we are honestly pursuing means of ending the arms race. The reverse is simply not the case.

The Threshold Test Ban and Peaceful Nuclear Explosion Treaties are more likely to prove to be stumbling blocks than stepping stones toward a comprehensive test ban. The TTB is an idea whose time is past; linking the PNE Treaty to it has ensured that no CTB will be possible as long as the Soviet Union maintains an interest in peaceful nuclear explosions. It is time to put aside PNEs as a costly and unnecessary obstacle to at last fulfill a thirteen year old commitment, first stated in the preamble to the Limited Test Ban Treaty, "to achieve the discontinuance of all test explosions of all nuclear weapons for all time."

ACA STATEMENT ON NUCLEAR TEST TREATIES: THE THRESHOLD TEST BAN AND "PEACEFUL" NUCLEAR EXPLOSIONS: STEPPING BACK FROM RESPONSIBILITY

On May 28, 1976, the Arms Control Association released the following statement.

The Arms Control Association today reaffirmed its opposition to the "threshold" test ban treaty signed in Moscow in July 1974 by former President Nixon and Soviet General Secretary Brezhnev, and to the companion treaty governing the conduct of nuclear explosions for peaceful purposes, which President Ford and Secretary Brezhnev have just signed in separate ceremonies.

The Association believes that the two treaties represent a disheartening step backward from responsible arms control policies. By permitting continued nuclear weapons tests of very sizable magnitudes and by establishing arrangements for conducting nuclear explosions for peaceful purposes, the agreements are likely to delay indefinitely the achievement of a long-sought treaty banning all nuclear tests, and to provide new respectability for the arguments of states which seek to develop nuclear weapon capabilities by professing an interest in peaceful explosions alone. By so doing, the proposed treaty sets back still further the prospects for preventing the spread of nuclear weapons to other countries, and for countering the grave threat to world peace and security such proliferation poses.

The Association continues to believe, as it did in 1974, that the President should not submit the treaties to the Senate for its consent to ratification. Instead, the President should reopen negotiations with the Soviet Union to obtain a treaty banning all nuclear weapons tests, and should instruct the United States delegation to the Conference of the Committee on Disarmament to undertake serious negotiations in that multilateral forum toward a treaty banning all nuclear weapons tests, in fulfillment of the commitment made by the United States government, along with all other parties, in the 1963 Limited Test Ban Treaty and the 1968 Non-Proliferation Treaty.

Five aspects of the proposed treaties are of particular concern:

(1) The Threshold: A limit of 150 kilotons has no relationship to verification capabilities, which now permit the reliable detection and identification of nuclear explosions underground at much lower yields, in most cases at such low yields that any tests which went undiscovered would be of small military utility. The 150 kiloton limit does, however, permit continued testing of nuclear weapons of considerable magnitude—more than ten times the size of the weapon that devastated Hiroshima.

(2) Peaceful Explosions Given New Respectability: Furthermore, it is clear that peaceful nuclear explosions (PNEs), which are indistinguishable from nuclear weapons tests, can be used by other countries as an excuse to justify nuclear weapons development. There was widespread skepticism when India announced that its May, 1974 nuclear explosion was entirely for peaceful purposes. Brazil, Argentina, and others have all expressed an interest in PNEs. By completing a treaty allowing such explosions, the United States and Soviet Union give new and unwarranted respectability to India and other nations which undoubtedly will use the new treaty to argue that their conduct of PNE programs has been vindicated.

(3) A Freeze On Further Test Limitations: The proposed treaties, if adopted, are likely to freeze the level of permissible nuclear tests at 150 kilotons for years to come. There is no provision for systematically lowering the threshold or number of tests to zero; furthermore, U.S. acquiescence in tieing peaceful explosions to the threshold test ban has made an eventual comprehensive test ban treaty hostage to the continued Soviet interest in PNEs.

The United States has quite properly, but belatedly, all but abandoned efforts to develop nuclear explosives for peaceful purposes. Years of experimentation and millions of dollars in research into ways of using nuclear explosives for excavation, underground engineering, and electric power generation have all led to the conclusion that PNEs cannot compete with conventional means of accomplishing the same objectives, when all economic, environmental, and political considerations are taken into account.

The value of PNEs may be seen in a different light elsewhere, but in no case should the prospect that PNEs might prove useful some day be used today as an excuse for preventing a total ban on all nuclear tests.

(It should be noted that the preamble to the Threshold Treaty at least reaffirms the principles of the 1963 Limited Test Ban Treaty which bars the presence of radioactive material outside the national boundaries of states conducting underground nuclear explosions. This provision almost certainly will prevent the Soviet Union from carrying out announced plans to excavate a large canal using nuclear explosives.)

(4) "On-Site Inspection" Provision Is No Breakthrough: References to the inspection provisions of the PNE treaty as a "breakthrough" are misleading. The complex and highly specialized procedure for inviting designated observers to a predetermined location to witness a preplanned explosion bears little relationship to the on-site inspections sought in the late 1950s and 1960s in connection with test ban negotiations.

The principle that U.S. negotiations then sought to establish involved the dispatch of U.S. or Soviet inspection teams, upon acquisition of suspicious information suggestive of nuclear testing, to any location, anywhere in the USSR or United States, at any time. In any event, care should be taken in future arms control negotiations that on-site inspections not be made a condition where they are not necessary.

Furthermore, the science of nuclear test identification has now reached the point where almost all seismic events which can be detected can also be identified, either as earthquakes or explosions, by national technical means, so there would hardly ever be any occasion to call for such an on-site inspection.

Finally, research on on-site inspection technology has shown that such inspections are easily made unreliable by a determined evader. Thus on-site inspection, as it was conceived years ago, would no longer contribute in any way to the verification of a comprehensive test ban. Such specialized verification techniques as have been devised for the PNE agreement might have some relevance to some equally specialized verification problems, but essentially none in the case of a nuclear test ban.

(5) Commitment To The Non-Proliferation Treaty: The United States and Soviet Union have been criticized widely in recent years for the non-implementation of their obligations under the Non-Proliferation Treaty, not only to end all nuclear testing, but also to bring about more rapid and meaningful progress at SALT and provide security assurances to parties to the Treaty which have been asked to forego nuclear weapons. The two superpowers have responded by saying, in effect, that how they handle their arms race is nobody's business but their own. But that is not true. The ending of all nuclear weapons tests is an essential goal of all nations; any test ban

treaty requires the participation of as many nations as possible. Bilateral actions by the two superpowers affect the world's future security and well-being, and cosmetic "arms control" agreements drawn up solely for their mutual convenience, to keep all possible options open, are not good enough.

The Arms Control Association therefore calls on the President to reopen negotiations with the Soviet Union to obtain a treaty banning all nuclear weapons tests, and to instruct the United States delegation in Geneva to negotiate with all parties in the Conference of the Committee on Disarmament a comprehensive ban ending all nuclear weapons tests for all time.

PERSPECTIVES

VERIFICATIONS IMPORTANT QUESTION FOR THE NUCLEAR TEST BAN

In the past, the question of adequate verification has been one of the primary obstacles to the negotiation of a comprehensive test ban (CTB) on nuclear weapons testing. Similarly, the issue of verification will be at the heart of any future debate on the Threshold Test Ban (TTB) Treaty and the Peaceful Nuclear Explosion (PNE) Treaty. This is especially true since Administration officials are likely to highlight the precedence of Soviet agreement to a form of onsite inspection in the PNE Treaty rather than the TTB's limited effect on the nuclear arms race. As discussed in the ACA statement (see p. 4) the "prearranged" on-site inspection procedures of the PNE Treaty are much less effective than the on-site inspection concept which once was an essential U.S. requirement for a CTB. Furthermore, in recent years the actual value of on-site inspection for detecting clandestine nuclear tests has been questioned by many experts including Defense Department officials.

One reason why on-site inspection is not as important as it once was is due to the significant advances in national means of verification such as seismic monitoring and surveillance satellites. Seismic detection relies upon very sensitive seismograph systems to detect the long-range vibrations or seismic waves created by nuclear explosions. In recent years great progress has been made towards solving the problem of distinguishing nuclear explosions from natural earthquakes at very low seismic leevls.

The lowest yield at which a nuclear test can be detected and identified with a high probability is still a matter of debate. Many experts believe that tests of only a few kilotons can be verified while Administration officials tend to place the threshold for detection at a higher level. (For a more detailed discussion of the issues of seismic detection and evasion see the May 1974 ACT.) Even including a conservative margin for verification, it is clear that the 150 kiloton ceiling of the TTB has little relationship to current detection capabilities. The high ceiling of the TTB is more likely the result of bureaucratic resistance within each country to greater restrictions upon nuclear weapons development.

The combination of improvements in seismic detection systems and satellite surveillance capabilities has led many arms control experts to conclude that a CTB could be adequately verified at the present time by national means. They stress that the verification question is not whether an extremely small nuclear test (a few kilotons) can go undetected, but rather whether the risks of not being able to detect such small tests would be of any military significance. Furthermore, the country contemplating such a violation of a CTB would also need to examine whether a weapons test of such a small yield would produce military benefits worth risking detection and the abrogation of the treaty.

A final concern of verification deals with the PNE Treaty. The U.S. position has been that there is no fundamental distinction between a nuclear test for "peaceful" purposes and one for weapons development. Consequently, the U.S. sought corresponding limits upon military and peaceful nuclear tests. The PNE Treaty is accompanied by a detailed eight-page Protocol dealing with the technical and information requirements which must be met before a peaceful nuclear explosion can be undertaken. The provisions of the Protocol are likely to be carefully examined in Congress since the implications of some are ambiguous such as Article III which suggests that individual PNE tests above the 150 kiloton ceiling might be permitted at a later time.

UNEMPLOYMENT, WOMEN, AND THE NEW ENTRANTS MYTH

Mr. HUMPHREY. Mr. President, I am a jobs man. I always have been and always will be. That means I believe in the work ethic. It means I believe anyone with the time and energy who wants to contribute to America's productivity should have the opportunity to do so, and earn a share of America's affluence for themselves at the same time.

It also means the American promise applies not only to white, middle-aged men who are heads of households, but also to women, youth, blacks and other minorities.

But that is precisely what some people are trying to tell us. And if their sudden revelation that "those who are important" aren't suffering through our incredibly high—and apparently rising—period of unemployment smacks a bit of election-year politics, well, that is the way it is.

Let us look at the facts. A July 1976 report from the Women's Bureau of the Labor Department spells it out. The report concludes what common sense makes apparent:

> Women work for the same reasons men do—most importantly, to provide for the welfare of themselves, their families, or others.

The plain facts are that 70 percent of the women in the labor force are single, widowed, divorced, or live with husbands who earn less than $10,000 per year.

In March 1975, there were nearly 37 million women in the work force. About 33.6 million of them had jobs. Of those who were not living with husbands, virtually all were working or seeking work for "compelling economic reasons." About 42.3 percent of women in the labor force fell into that category as this table illustrates:

WOMEN NOT LIVING WITH A HUSBAND
[Numbers in thousands]

	All women		Women of minority races	
	Number	Percent	Number	Percent
Never married	8,464	23.3	1,130	24.1
Married (husband absent)	1,606	4.4	604	12.9
Widowed	2,453	6.7	357	7.6
Divorced	2,873	7.9	442	9.4
Total (not living with husband)	15,396	42.3	2,533	54.0

Many women who were living with husbands were working or seeking work to bring the total family income in the range of the poverty level. About 9½ million women were married to husbands earning less than $7,000 per year—or 14.6 percent of the female work force. For minority women, 18.2 percent were married to men earning less than $7,000.

And then there are women with children. About 2.2 million mothers with children under 18 were working to supplement the low incomes of their husbands. Of those, 500,000 were minority wives and mothers. Then there are the 1.2 million wives of unemployed husbands and 1.7 million wives of husbands not in the labor force, disabled or otherwise, who were working or seeking work.

Mr. President, Sylvia Porter, that great journalist who for so many years has been explaining basic, usable economics to the country, wrote a column on this very subject on August 19. She points out that GOP policymakers are claiming we have inflated unemployment rate—an unemployment rate which would be more realistic if blacks, women, teenagers, and those over 45 were excluded. I think they forget that our country is heterogeneous, and we are all Americans. Few of us, women, men, Republicans or Democrats, work for "pin money"——we work because we have reasonable aspirations for ourselves and our families. Sylvia Porter concludes that there is "clear evidence that the two-worker family has helped to create and maintain our Nation's superior standard of living, to educate so many of America's children, to keep our economy functioning."

She goes on to deplore acceptance of the argument that teenage and female unemployment is somehow "less important" than that of others by saying:

> The prejudice, the ignorance, the "male chauvinism" so apparent in this argument makes me shudder. I fear for the candidate who even tries it out on a mixed audience this fall.

To blame the 7.8 percent unemployment rate not on mismanaged policies, but on new, less fortunate job market entrants is a phony. Of course, high unemployment is caused by a system run so that it cannot accommodate those who need jobs. But Mr. President, it is a cruel myth to charge that the scourge of unemployment is affecting mostly those who need jobs least.

Finally, let me repeat Sylvia Porter's warnings to politicians about this issue:

> Whoever tries to gather votes with this argument will be pulverized at the polls.

Mr. President, I ask unanimous consent that the Labor Department report and Ms. Porter's column as it appeared in the Washington Star be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WHY WOMEN WORK

Despite unfavorable economic conditions in the first quarter of 1975, an average of nearly 37 million women were in the labor force (working or looking for work) during the year. Of this number, almost 33.6 million were actually employed. During the decade 1965 to 1975, some 14 million additional jobs were developed in new or expanding industries. These new jobs have provided employment opportunities for more than 9 million women and nearly 5 million men.

Women work for the same reasons men do—most importantly, to provide for the welfare of themselves, their families, or others. This was true of most of the 8.5 million women workers who were never married. Nearly all of the 6.9 million women workers who were widowed, divorced, or separated from their husbands—particularly the women who were raising children—were working for compelling economic reasons. In addition, the 3.1 million married women workers whose husbands had incomes below $5,000 in 1974 almost certainly worked because of economic need. Finally, about 2.2 million women would be added if we take into account those women whose husbands had incomes between $5,000 and $7,000.[1] Forty-three percent of women workers had husbands whose incomes were $7,000 or more.

Among the 4.7 million women of minority races who were workers in March 1975, slightly more than half (54 percent) were never married, widowed, divorced, or separated from their husbands; about one-tenth (11 percent) were wives whose husbands had 1974 incomes below $5,000. In fact, only 1 out of 4 minority women workers was a wife whose husband had an income of $7,000 or more.

The marital status of women workers in March 1975 was as follows:

Marital status	All women		Women of minority races	
	Number	Percent distribution	Number	Percent distribution
Total	36,507,000	100.0	4,695,000	100.0
Never married	8,464,0000	23.3	1,130,000	24.1
Married (husband present)	21,111,000	57.8	2,161,000	46.0
Husband's 1974 income:				
Below $3,000	1,500,000	4.1	251,000	5.3
$3,000 to $4,999	1,633,000	4.5	251,000	5.3
$5,000 to $6,999	2,178,000	6.0	355,000	7.6
$7,000 to $9,999	4,194,000	11.5	514,000	10.9
$10,000 and over	11,601,000	31.8	799,000	17.0
Other marital status	6,932,000	19.0	1,403,000	29.9
Married (husband absent)	1,606,000	4.4	604,000	12.9
Widowed	2,453,000	6.7	357,000	7.6
Divorced	2,873,000	7.9	442,000	9.4

Women heads of families.—Of the 55.7 million families in March 1975, 7.2 million were headed by women. About 3.9 million, or 54 percent, of the women family heads were in the labor force, and nearly two-thirds of these women workers were the only earners in their families. About 1 out of 10 women workers was head of a family. Among the 2.0 million minority women heading families in March 1975, about half were workers. More than 1 out of 5 women workers of minority races headed a family.

Nearly one-third of the families headed by women had incomes below the poverty level in 1974.[2] This was true for more than half of all minority families headed by women. For those families headed by women who worked during 1974, however, about 1 out of 5 (2 out of 5 minority families) had an income below the poverty level. Among families headed by women who worked the year round at full time jobs, 8 percent (15 percent of minority families) were poor in 1974.

Mothers with husbands present.—Of the 21.1 million married women (husband present) who were in the labor force in March 1975, 11.4 million had children under 18 years of age. About 2.2 million of these mothers were working to supplement the low incomes of their husbands. Included were 517,000 mothers whose husbands had 1974 incomes below $3,000; 651,000 whose husbands had incomes between $3,000 and $5,000; and 1 million whose husbands had incomes between $5,000 and $7,000.

Among the 1.4 million minority women who were working wives and mothers in March 1975, about 500,000 had husbands whose 1974 incomes were below $7,000. Of these mothers, 105,000 had husbands with incomes below $3,000; 149,000 had husbands with incomes from $3,000 to $5,000; and 229,00 had husbands with incomes between $5,000 and $7,000.

Wives whose husbands are unemployed or unable to work.—In the 4.1 million husband-wife families, there were 2.3 million husbands (some 315,000 minority husbands) who were unemployed in March 1975, although they were in the labor force and actively looking for work; 7.9 million husbands (nearly 736,000 minority husbands) were not in the labor force. Some 1.2 million wives of unemployed husbands and 1.7 million wives whose husbands were not in the labor force were working or seeking work. Many of these women were the sole support of their families.

Women whose husbands are employed in low-wage occupations.—In March 1975 there were 562,000 married working women whose husbands were farm workers; another 728,000 had husbands who were nonfarm laborers; and 1.1 million had husbands employed in service occupations. The median wage or salary income of men in these occupations was low in 1974—$2,940 for farm laborers and supervisors; $2,368 for farmers and farm managers; $5,406 for nonfarm laborers; and $5,695 for service workers (except private household).

NOTE.—Figures are from the U.S. Department of Commerce, Bureau of the Census, and U.S. Department of Labor, Bureau of Labor Statistics.

Data for minority races refer to all races other than white. Negroes constitute about 90 percent of persons other than white in the United States. Spanish-origin persons are generally included in the white population—about 93 percent of the Spanish-origin population is white.

JOBLESS DATA DISTORTED

(By Sylvia Porter)

A hidden 1976 campaign issue which has emerged in private talks I've had with GOP policymakers during this Republican convention week has centered on how exaggerated the unemployment rates are—and how important it is for you, the U.S. voter, to realize this is so and why.

In brief:

1. The over-all unemployment rate of 7.8 percent obscures the fact that among workers who matter most (male household heads), the jobless rate is already down to 5.4 percent and on the way to a minimum at which scarcities of many types of skilled workers develop and lead to inflation-creating bottlenecks.

2. The key factor swelling the jobless rate and keeping it so high, even as the 1976 expansion has progressed, is the entrance of so many women into the labor force in recent years.

Since many women are working for reasons other than economic necessity, their presence has overstated the unemployment statistics and made the employment picture appear much darker than it really is.

A jobless woman worker cannot be given the same weight in the economy as a jobless man and should not be similarly counted.

3. Also distorting the pattern is the inclusion in the jobless totals of so many teen-agers unqualified for the jobs they seek and yet legally entitled to (and demanding) the same minimum wage as adults. The jobless rate among those aged 16 to 19 is a steep 18.4 percent, more than twice the overall rate.

4. The counting of blacks in the same way as the counting of white unemployed workers makes the over-all rate even more of a fiction. The jobless rate among blacks and other minorities is 13.3 percent, against 6.8 percent among whites.

5. Still another group obscuring the true pattern is the jobless worker over 45. The U.S. government has prohibited job discrimination against these workers by law. It is the prejudice of private employers against the middle-aged to older worker that has placed these Americans in the worst unemployment situation since the U.S. Labor Department began to collect statistics on them in 1948. Their plight is special.

Submitted as evidence are these figures on the composition of the U.S. labor force in 1976 vs. 1955, two decades ago: men, up 20 percent; women, up 75 percent; teen-agers, up 100 percent.

Another point made by the investment firm of E. W. Axe & Co., is that, although the jobless rate is so much higher now, a larger percentage of the population was employed in 1975 (55.3 percent) than in 1965 (55 percent). "This fact is not recognized by most Americans," says E. W. Axe. "We conclude that more than the total unemployment rate must be used to measure the labor situation."

(Translation: were it not for women, teen-agers and blacks, our showing would be far, far brighter.)

Or as one Republican delegate from Ohio

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[1] The Bureau of Labor Statistics estimate for a low standard of living for an urban family of four was $9,838 in autumn 1975. This estimate is for a family consisting of an employed husband aged 38, a wife not employed outside the home, an 8-year-old girl, and a 13-year-old boy.

[2] The low-income or poverty level is based on the Social Security Administration's poverty thresholds, adjusted annually in accordance with the Department of Labor's Consumer Price Index. Classified as poor in 1974 were those nonfarm households where total money income was less than $2,495 for an unrelated individual; $3,211 for a couple; and $5,038 for a family of four. (The poverty level for farm families is set at 85 percent of the corresponding level for nonfarm families.)

remarked: "The unemployment rate tells a dangerously false story, for which women are particularly to blame. This is not an economic problem. It's a sociological phenomenon."

Well . . . I'm sure no politician wants my unsolicited advice on this, but I'll volunteer an important warning: Whoever tries to gather votes with this argument will be pulverized at the polls.

And I, in turn, now submit some vital statistics:

Most of the 35 million women in the U.S. labor force work for the same reasons men do, the Labor Department itself says.

Of the total, 7 million are single women holding jobs to support themselves or others; another 6.3 million are widowed, divorced or separated working for compelling economic reasons; another 3.7 million are woman workers with husbands earning less than $5,000 and an additional 3 million have husbands with incomes between $5,000 and $7,000. These must work because of need.

Then there are one million wives with husbands not in the labor force and another 500,000, with unemployed husbands, who are their family's "sole support."

On top of all these figures is the clear evidence that the two worker family has helped to create and maintain our nation's superior standard of living, to educate so many of America's children, to keep our economy functioning.

The prejudice, the ignorance, the "male chauvinism" so apparent in this argument make me shudder. I fear for the candidate who even tries it out on a mixed audience this fall.

MISTY-EYED AMERICAN

Mr. ABOUREZK. Mr. President, one of my constituents, Mrs. Jean Gatch of Rapid City, S. Dak., was honored recently for submitting a winning essay in a Bicentennial essay contest sponsored by the Rapid City Journal and the League of Women Voters.

Mrs. Gatch, originally from Lincoln, Nebr., has taught speech and theater in several academic institutions, including the State University of New York and St. Mary's College, Notre Dame, Ind. She is now a freelance writer.

Her essay on amnesty, "To Bind Up the Nation's Wounds," appeared in the New York Times in 1974. She has also written children's books and is working on a book on education.

Mr. President, I ask unanimous consent that Mrs. Gatch's essay be printed in the Record.

There being no objection, the essay was ordered to be printed in the Record, as follows:

Misty-Eyed American

(By Mrs. Jean Gatch)

I am the variety of American who gets misty-eyed when the flag goes by in the Fourth of July parade, and a little lumpy saying the Pledge of Allegiance to the Flag in concert with a room full of nursery school size pieces of angelic patriotism! (Even when one of them pipes clearly, "one naked individual with liberty and justice for all").

At least that is the sort of American I once was—and would like to be again.

And I am downright mad at the folks who have cheapened all that by their jingoistic insistence that to be a patriot I must believe that my government is always, absolutely, and glowingly perfect; that no other government in the world is faintly decent, and that I must be willing to give my life and all of "their" lives to prove it.

There is something missing in the soul, it seems to me, if there is not a thrill akin to that an American feels as he stands at the foot of the Lincoln Memorial, when he finds himself in a British crowd when the Queen goes by, or listening to the Marseillaise on any spot of French territory.

It is a sense of pride in what all men have done, the soil they have all loved, and the bitterest and best of all the living they have done there.

Maybe it is because Americans don't travel enough—don't feel these things first hand. But that cannot be all of it.

I remember so well coming out of the Paris Opera to find the streets dotted with newsboys peddling special editions—the only words of which I could read were "Kennedy Assassinated." For hours very ordinary Parisians haltingly translated each edition to the little knot of Americans who gathered on the street corner. They stumbled over the words, but they read solemnly and some wept openly with us through that dismal evening until the English editions arrived.

Surely few, if any, of those people had been to the United States. And even then the official French policy was not always friendly to us. But they knew. They knew their government was good for them—and mine was good for me. And hundreds of them wore black bands on the day Jack was buried.

Perhaps we are too young, too brash, a country. Too impressed with the genuine brilliance of our system, and too little impressed with the generous portion of old world wisdom that made it possible.

Perhaps it is because we are less secure, less seasoned, that we must laugh at the elaborately beautiful Russian subway stations and suspiciously imply evidence of propaganda and manipulation when our newsmen report on happy children and clean streets in Peking or Havana.

This national paranoia is demeaning and unnecessary. I can credit Russia's fine subways without the slightest desire to switch to communism, and approve some Chinese public virtues, without recruiting myself for Mao's army.

I can brag enormously about most of my country, without having to bury the shameful facts of Watts or Appalachia. And I am deeply disturbed when my government decides that buying elections is an acceptable CIA project because we know best and, after all, it is only Chile.

It is time to find some new slogans. Slogans that help us to fit ourselves into a human scale replete with our failures, our limitations, and our considerable contrarinesses. "Democracy—We Tried It—We Like It." "Freedom Is A Dream, But We Are Working On It." "Choosing Up Sides Is For Kids—and Baseball Teams."

I'm not a champion slogan writer. But I am sure there is someone out there who can say it all, and say it well. And he may not even be an American. But I'll bet he cries at parades and coronations too!

I want my flag back! I don't want anyone else to lose theirs—but I deny anyone the right to define, for me, what that hank of silk means.

I object to the imposition of a loyalty oath for my imagination, or a security check for my dreams. At the same time I insist on my right to be very hard-headed about my government—to criticize it—to change it—and to, sometimes, be mad as hell at it.

And my right to choke up when a stadium full of tone deaf baseball fans struggle valiantly to sing the worst song ever written.

WISHING A QUICK RECOVERY FOR BOB LOUTHIAN

Mr. EAGLETON. Mr. President, it has come to my attention that our good friend Bob Louthian, a senior counsel of the Senate Legislative Counsel, has suffered a heart attack. I am pleased to report that his condition has stabilized at the intensive care unit of the Fairfax Hospital. I know that my colleagues share my affection for Bob. He is an extraordinary lawyer and a fine person. We are looking forward to his speedy return to the Senate.

WEST AFRICA ON THE AMERICAN BICENTENNIAL

Mr. ABOUREZK. Mr. President, it is always valuable to see ourselves as others see us.

West Africa magazine, published in London, is the leading journal on West African affairs and a keen observer of world politics. The issue for the week of July 5 contained an editorial which is both a tribute to the United States on our 200th birthday and a reminder that from the African point of view, America has wavered from the ideals of our own independence.

We can all learn about independence and self-government by reading the comments of those who have achieved it most recently. I, therefore, ask that the article "1776 and All That" from West Africa No. 3079 be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

1776 And All That

Two hundred years ago, and for the century and a half which followed, the United States was the beacon for oppressed mankind. It was a gentleman's revolution which culminated in the Declaration of Independence on July 4, 1776. But this was a world of kings, and gentlemen alone could effectively challenge them, as the Americans had done. At its beginning the French revolution, too, was the work of gentlemen: only later did it become an affair of lawyers.

Some of the American gentlemen, it is true, owned slaves. But Athens, mother of democracy, was based on slavery. And within "four score and seven years" the Union government was ready to wage what at times seemed to be a hopeless civil war to ensure the abolition of slavery. The Union victory brought little good to black Americans. But while today the position of black, and other, minorities is the most obvious scar on American democracy, it would be preposterous to claim that there had been no significant advance in their condition or that more cannot be expected.

The Americans also dispossesed the indigenous people of their lands. But in how many countries do the truly indigenous now possess the land?

The long, tedious, business of selecting Presidential candidates, and then a President, may show that money is essential for success in American politics. But who can deny that this is a far *more democratic* process than the one by which executive heads of most governments reach their offices? Watergate, a term covering an event of small significance in itself, showed that press freedom and judicial independence could in the United States ensure the most important guarantee of democracy—control of the executive by the people. Corruption, intimidation, gangsterism have their significant place in American politics as in those of nearly all newly independent countries. But they are not the essence of American politics.

As a melting pot of peoples, the United

States has so far failed to find the complete recipe. But in spite of the ethnic troubles—some, like the Puerto Rican one, brought by a colonialism more clumsy than that of the Europeans—the United States is slowly beginning to look more like a nation than, say, Britain, with its bloodthirsty Ulster separatists and its Welsh and Scottish nationalists. In spite of everything, the ethnic dissidents want to be more, not less, American.

Yet 200 years after the Liberty Bell tolled at Philadelphia, over much of the world the United States is regarded, usually sincerely, as the citadel of international reaction. Countries where the freedom of American elections has never been known, countries where ethnic minorities are persecuted, countries which have never heard of an independent judiciary, countries with reactionary, if not feudal, domestic systems, pillory the Americans in international gatherings.

The most conservative of all governments, that of the Soviet Union, takes a more or less successful lead in the anti-American crusade—the Chinese waver in their attitude. And it is the Soviet rather than the American side on which most of what have come to be called Third World governments find themselves.

DUBIOUS AID?

Even the unprecedented assistance the Americans have given in various forms to other countries or to world agencies is used to illustrate the sinister nature of American policy. The Soviet, and even the Chinese, governments have been obliged, owing to the failure of their economic orthodoxy, to resort to American food purchases to save their people from starving. Yet more in the poorer countries look to the Russians and the Chinese, than to the Americans, for an example in economic matters.

American leaders may justly feel that in this bicentennial year these are not matters to cloud their celebrations. But it is tragic that at this time the United States should not be—as it could be—celebrating its role as a leader of all the free world. You only have to look at the list of post-war West African graduates of American universities who regarded themselves, often no doubt wrongly, as progressive simply because they had been at American universities, to see that in Africa, at least, the American "anti-colonialist" reputation did not die with Franklin Roosevelt. What has happened?

First, Britain, France, Belgium, Spain and ultimately Portugal, have conceded independence to their colonies, the Americans, too long complacent in their anti-colonialism, find themselves lumped with the ex-colonial powers as "neo-colonialists". And as they are richer and more powerful than any of these powers, they are the main target. For the same reason they are seen as the standard-bearer of the rich nations in the endless "north-south" confrontation, or whatever term is used to describe the rich-poor dispute which is the most important development in international politics since 1945. Insofar as the dispute is racial the United States is also a loser, compared with, for example, Germany. The Americans, in short, are the victims of the change in international emphasis from the politics of anti-colonialism to the economics of neo-colonialism.

Yet the change really dates back to the Russian Revolution of 1917, when the Soviet communists, who fought against the national independence of the Czarist colonies they had inherited, gave currency to the idea that for imperialism to operate colonial political control was not necessary; and they provided a vocabulary to suit the rebellions.

Compared to these general considerations, detailed American policies may not be important. But Vietnam either confirmed the neo-colonist thesis for those who held it, or introduced it convincingly to those who did not. The folly and failure of Dr. Kissinger's Angola policy must dismay America's friends as well as comfort her enemies. To refuse recognition of the MPLA government in Angola because that government refuses to take the American view of Cuba shows either the arrogance of a government which sees itself as the world's schoolmaster, or the irresponsibility of politicans who would sacrifice everything in the interests of a domestic election campaign. Neither posture seems to fit the United States for international leadership in its 200th year.

It is only a little over 10 years since African leaders, including Dr. Nkrumah and President Sekou Toure, as well as President Tubman, felt that they had a sincere friend in the White House. John F. Kennedy's reputation is inevitably being tarnished today. Before becoming President he told the Senate, with regard to the then struggle in Algeria: "The single most important test of American foreign policy today is how we meet the challenge of imperialism, what we do to further man's desire to be free". Arabs and Africans, he said, could not be won over by "making them dependent on our handouts" or by "selling them free enterprise, by describing the perils of Communism . . ." America's "traditional and deeply felt philosophy of freedom and independence for all peoples everywhere" was still her strength.

In another speech the late president warned his countrymen against introducing the Cold War into Africa: "the people of Africa are more interested in development than they are in doctrine".

It is strange that one of the country's most brilliant Secretaries of State has been allowed by a later President to forget this essential advice, and to give "all the best tunes" to America's rivals.

LESSONS OF RUSSIAN 1968 TAKEOVER OF CZECHOSLOVAKIA

Mr. HRUSKA. Mr. President, on August 21 the free world observed the eighth anniversary of the Soviet Day of Shame when armed forces of the Warsaw Pact, led by the Soviet Union, shocked the world by their invasion of the Republic of Czechoslovakia.

It was in the very early part of that fateful year of 1968 when Alexander Dubcek assumed the leadership role in the Czech Communist Party. Under his leadership, guidelines were established to guarantee to the citizens of his country freedom of religion, speech, press, assembly, and travel. Additionally, the government was to be separated from the Communist Party. Multiple-choice, secret-ballot elections were to be allowed. Independent courts were to be established. Thus, while carefully affirming his regime's loyalty to socialism and the Warsaw Pact, Dubcek attempted to give his people rights which we in free societies regard as basic.

Of course, it was the reestablishment of these basic freedoms and rights which so greatly alarmed the Russians. They feared that had the torch of even limited liberty been allowed to burn within Czechoslovakia its fire would have ultimately spread to East Germany, Poland, Hungary, the Baltics, the Ukraine, and even Russia itself. It would have proven almost impossible for Russian leadership in the Kremlin to continue to control the captive nations of Eastern Europe. Therefore, in their opinion, the brief rekindling of the human spirit that took place during the Prague spring had to be stamped out and it was.

We in the West saw important lessons resulting from the 1968 Czechoslovakia experience.

First, the impressive speed and coordination with which armed forces from five Warsaw Pact countries occupied Czechoslovakia serves as a warning to all NATO countries that the Warsaw Pact is indeed a very real military threat to Western Europe.

Second, the Russians cannot within their empire tolerate those freedoms which are basic to western societies. This proves the total failure of the Communist system.

Third, we are reminded that despite the long years of Soviet domination and Communist rule, the idea of freedom still burns in the hearts and minds of the people of Eastern Europe. It will never die.

How we in the free world, and particularly the United States, profit from these lessons may determine the course of future history.

Mr. President, Nikita Khrushchev once said "We will bury you." Well, Mr. Khrushchev has gone to his judgment and America, as the entire world witnessed on July 4, still lives. Time is on our side. Soviet imperialism is like a star that must continue to expand outward, for once its growing process halts, the pressures from within become so strong that it collapses.

What we in the United States must do is remain faithful to the basic ideals upon which our great republic was founded and remain strong and powerful so no nation will dare attack us or our allies. If we do these things the time will come when one day the people of Eastern Europe will finally gain their freedom.

DROUGHT WORSE THAN THE THIRTIES NORTH OF WATERTOWN

Mr. ABOUREZK. Mr. President, one of the worst droughts in history is presently affecting a large area in the Midwest, including my State of South Dakota. Fields, which normally produce bumper crops of wheat, barley, corn, and oats, now stand parched, with little harvestable grain. Cattle herds which have taken most farmers years to build up are being sold as there is little pasture or hay for feed. Wells are in danger of drying up. One can readily see the drought in the precipitation recorded by Milbank, S. Dak. They have received only 4.95 inches of moisture compared with a normal 15 inches for this time of year.

I highly recommend to my colleagues an article on the drought that appeared in the Watertown, S. Dak., Public Opinion on July 31, 1976, entitled "Drought Worse Than the 30's North of Watertown," and I ask unanimous consent that the text of this article be printed in the RECORD following my remarks.

I strongly urge the members of the Senate Agriculture Committee to take speedy action on S. 3691, the Emergency Agricultural Relief Act of 1976, of which I am a cosponsor along with Senator McGovern. This relief is urgently needed by the farmers stricken by the drought. As it is, the effects of the drought will be felt for years to come in the prosperity of the affected communities. This legislation will help offset some of these effects, and prevent farmers from being forced from the land by the drought.

There being no objection, the article was ordered to be printed in the Record, as follows:

Drought Worse Than the 30's North of Watertown

(Editor's Note.—This article will be mailed to all four South Dakota representatives in Washington, D.C., plus all members of the United States Agricultural Committee (total of 56), Secretary of Agriculture Earl Butz, President Gerald Ford, presidential candidates Jimmy Carter, Ronald Reagan and vice presidential candidate Walter Mondale, Governor Richard Knelp and South Dakota Secretary of Agriculture Robert Duxbury. Your Public Opinion also invites you, the reader, to fill in the coupon below and state your comments and mail them to one or all of our Congressional Representatives.)

The only thing alive in Wallace Redlin's winter wheatfield are grasshoppers. Grasshoppers by the thousands!

No weeds, no rugged thistles, no angle worms . . . and worst of all, no wheat.

Only parched stubble as dry and as desolate as the Sahara Desert.

Wally farms 20 miles north of Watertown. He has land in the Sioux River Valley and also east and west of Highway 81. Three thousand acres total.

"This is the lousiest year I've seen in all the years I've been farming. Even worse than the '30's. Know why?

"Because we've had 40 years of farm technology to develop drought resistant crops, to improve farming methods plus the benefit of fertilizers. Heck, no one ever used fertilizers back in the '30's and those are the big differences today," Wallace said jumping down from his old combine.

MANY CROPS NON-EXISTENT

He and his son, Wallace Jr., have two IHC self-propelled rigs they use to harvest the huge acreage in normal years. "But this year with the crops either non-existent or so low we have to hunt the bottom areas to find the grain, it's just too tough on those $40,000 machines."

Wallace has been farming the area all his life. He completely took over the operation in 1938 when his dad died.

"This year is a complete disaster and my condition is average for this entire area.

"We've all gotten by the last three years by the skin of our teeth with moisture far below average during the growing periods. This year we had half an inch of rain in May, but that was just a tease and that's been it. The grain in most fields just never came up. Some got to stubble size, then dried-up and blew away.

"Those farmers depending solely on rainfall lost just about everything. If this drought continues, it will put some farmers out of business. Many are mortgaged to the hilt. They have to earn a crop every year," Wally said dejectedly walking towards an oat field that is a total loss.

This scorching saga of dusty destruction and desolation isn't completely without some good. "I don't want to misrepresent, because in those small bottoms worth harvesting, the quality is real good, but just not enough bushels to do much good." Wallace said with great concern.

HERDS HAVE DENUDED THE COUNTY

"We were big in stock cows once but started cutting back about 10 years ago and got out altogether when the moisture went short starting in '74," the longtime area farmer said.

The remaining herds in this part of northeastern South Dakota have practically denuded the country by grazing off all the grasses and brush. Cattlemen are looking for places to put their livestock. It looks grim. Some have inquired about shipping to Nebraska and Missouri. Some have indicated they may ship west to Montana and Wyoming. Others have and more will sell out at the local livestock auction barns, completely liquidating their herds.

It's hoped a few will hang on pending government help and home silage.

WATER TABLE GOING DOWN

If the drought continues, some farmers with shallow wells will be without water and those with deeper ones will be in trouble.

All streams are dry and have been for months. Many of the lakes throughout northeastern South Dakota are the lowest they have been since the '30's and going down almost daily.

NEW RELIEF ACTS WOULD HELP

"I was in Washington about two weeks ago visiting with our legislators and talking to them about our conditions throughout this area. I don't know if they can help, but they agreed help was essential and needed fast," Wally said.

Last week, South Dakota's senior senator, George McGovern, and junior senator Jim Abourezk co-authored a bill to provide drought relief.

Senate Bill 3691 titled Emergency Agricultural Relief Act of 1976 will provide relief for drought stricken upper midwest states, South Dakota, Minnesota and Wisconsin and possibly some other midwestern states.

NEEDS AREAWIDE SUPPORT

In visiting with Senator McGovern's office Friday, Public Opinion was informed this bill needs area-wide support to assure passage during this legislative session.

The legislation introduced, addresses itself through three separate titles to three distinct categories where federal assistance is needed.

The first title deals with the restoration of foundation livestock herds. It is fashioned after the Emergency Livestock Credit Act of 1974, but restricts itself to breeding stock.

Title II would aid eligible farmers with proven grain losses of at least one-third of normal return.

The third title would authorize direct loans to farmers whose "backs are against the wall".

WRITE YOUR CONGRESSMAN FOR HELP

McGovern's office urged area farmers to write to their congressman and your Public Opinion is making it easier to do so by publishing the coupon appearing on this page for easy mailing.

Wallace Redlin said that he doesn't believe in outright grants and that every farmer must put aside something for a bad year, but admitted 1976 is possibly the exception. "It's one in 50 and help is needed and needed fast," Wally said.

CORN ONLY KNEE HIGH

How bad are other areas north of Watertown?

Terrible. Corn isn't knee high in many fields. The show's over for sunflowers, most farmers are just going to disc them under.

One area farmer said, "The drought has been after us for three years now and we need help drastically."

In many areas north of Watertown, it goes from dry to drier, and begins to take on an appearance similar to the Baja.

Thirsty it is.

MILBANK RAINFALL 10 INCHES BEHIND

Roy Knutson's 66 Service at Summit, 35 miles N.E. of Watertown is an official government weather station. His rain gauge measures a total of 5.08 inches of precip for the year. Well below the nearly 14 inch average.

For the growing season of May, June and July the Summit area has had a scant 2.15 inches compared to a normal 9½ inches.

Over at Milbank the Port Of Entry Weigh Station is the official weather station. Rainfall for the growing season of May, June and July has been a meek 1.75. Well below the over ten inches in normal years.

Records have been shattered in Milbank. Instead of a normal 15 inches of rain for the first seven months they have received a desert-like 4.95. (Jan. .98, Feb. .27, March 1.28, April .67, May .14, June 1.12 and July .49.)

Bob Jacobs, manager of the Port of Entry said watch out for this winter. "I'm going to start checking the hair on cattle. You know, if the hair is long it means a long, hard winter."

If it comes with plenty of snow guess we'll all be thankful.

It's been a tough year. Very tough!

"We just have to keep praying for rain and hope it comes in abundance and soon," Wally said as he jumped onto his combine in search for some more bottom areas worth picking up.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The ACTING PRESIDENT *pro tempore*. Is there further morning business? If not, morning business is closed.

EDUCATION AMENDMENTS OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business (S. 2657), which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is on the amendment of the Senator from Kansas (Mr. Pearson), No. 2227, which the clerk will state.

The assistant legislative clerk read as follows:

> The Senator from Kansas (Mr. Pearson), for himself and Mr. Dole, proposes an amendment numbered 2227.

The ACTING PRESIDENT pro tempore. Time for debate on this amendment is limited to 10 minutes, to be equally divided and controlled with 5 minutes to each side.

Who yields time?

Mr. JAVITS. Mr. President, I ask unanimous consent that I may request a quorum call without the time being charged to either side.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PEARSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordeded.

Mr. PEARSON. Mr. President, under the unanimous-consent agreement of last evening, the time now is equally divided between the proponent of the amendment and the managers of the bill, 5 minutes on each side, with a record vote coming not earlier than 9:30.

Mr. President, just as a matter of review and as an accommodation to the managers of the bill this morning, let me once again indicate the thrust of this amendment and its intent.

As I said on last evening, it was the procedure established under legal requirements that where a school was under a desegregation plan the moneys under title I which are provided under the Primary and Secondary Education Act would follow the children under a desegregation plan from a district where there is a high concentration of low income families to the new school.

Some time later the Office of Education, under a legal opinion, ruled that that could not be done, and the committee in rewriting this bill provided in section 325 or 326, on page 102 or 103 of the report, that it should now be the requirement that title I funds would follow the students.

But it was limited. It was limited to those students already in schools who were under a desegregation plan, and further limited that it would be only in those plans which were court ordered.

The thrust of this particular amendment is to modify that in three particulars. First, it would provide for a desegregation plan for HEW in voluntary programs as well as court ordered; second, it would apply to a first-year student, a student raised in a community of lesser advantages and just as qualified as one in the second grade; and third, that it be limited to a period of 3 years, to accommodate the proper views of the committee that one would not want these title I funds all to be drained out in some way, and putting that proper limitation upon it.

It seems to me, Mr. President, that with these funds designated for children and not for districts, under the old concept of the money following the children under all these plans, this is a reasonable modification to the committee amendment; and it would facilitate further, I think, desegregation plans other than those that are merely and primarily ordered by the courts themselves.

Mr. President, I reserve the remainder of my time, if any.

Mr. PELL. Mr. President, I must reluctantly oppose the amendment of the Senator from Kansas. I understand his reasons in offering this amendment, and I certainly share with him the thought of making desegregation more acceptable to the communities where it is being implemented. It would be more acceptable if parents could be assured that needed services would be available to their children in the schools to which they would be transferred.

The problem is that title I funds now serve only a portion of those youngsters who should be served by them. If this amendment passed, we would greatly enlarge the number of people who would be served, and that would dilute the effectiveness of the program.

For example, next year, under the expected appropriation of $2.285 billion for title I, 5 million disadvantaged children will receive services. However, more than 11.5 million children are estimated now to be eligible for those services. Thus, we are serving less than half of the eligible students now, and this amendment would increase still further the pool of children eligible to participate in title I programs. Its net effect would be to water down the services and divert help from the children who need it the most, those in our very poorest schools.

For those reasons, in order to prevent this dilution of the title I effort, I must oppose the amendment.

Mr. PEARSON. Mr. President, will the Senator yield for a question?

Mr. PELL. Yes.

Mr. PEARSON. I have a backup amendment which was drawn by Senator DOLE, that I probably will offer in his behalf. It is the same type of amendment, except that it knocks out a 3-year extension of any sort. Does that modify or mollify the opposition of the managers of the bill in any respect?

Mr. PELL. We share the concern of the Senator from Kansas in his desire to serve these children. However, the proposed change does not modify our opposition to the amendment.

Mr. PEARSON. Does the removal of the 3-year limitation not meet the concern of the Senator from Rhode Island for the drawing out of a particular district?

Mr. PELL. It moves in that direction, but my own view would be that the amendment would still serve to move in a direction we do not want to go, which is to enlarge the pool of youngsters who are eligible.

Mr. PEARSON. The balancing factor of this is to reduce the turmoil which exists in cities with court-ordered desegregation plans, and thus help to provide some way to have the desegregation policy announced in the Brown v. Board of Education of Topeka decision 20 years ago remain in full force and effect, and do it in such a way that we do not have to back away from this cardinal principle of American educational policy.

Mr. PELL. I understand the words of the Senator from Kansas, and would observe only that the tumult in the cities over these court plans and desegregation plans, while still acute, is less each year than it was when we first started out. This is an indication that tensions are diminishing.

However, I would like to ask unanimous consent for a 1-minute quorum call to discuss an idea with the Senator informally. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

All time on the amendment has expired.

Mr. JAVITS. Mr. President, I ask unanimous consent that each side may have 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, Senator PELL and I have been trying to find a way to deal in some way with the problem. He has been helpful, and we believe we have found the solution. We hope that it will be satisfactory to Senator PEARSON.

The method chosen would be to provide for those children, without invading the funds available to other title I children, if this amendment were not in place. We would propose that any additional appropriations for this purpose, and we expect them, would look after the particular types of children whom Senator PEARSON had in mind in making his amendment.

If that is at least satisfactory to him, then it would be necessary for him to modify his own amendment. He is at liberty to do so, by unanimous consent. This is because we already have the yeas and nays. That would be an addition to section 325 of the bill at page 320, rather than a strike-out and insert, as is the text of Senator PEARSON's amendment.

Mr. PEARSON. Mr. President, will the Senator yield for a question?

Mr. JAVITS. I yield.

Mr. PEARSON. The modification is to the bill itself and not to my amendment.

Mr. JAVITS. That is correct.

Mr. PEARSON. So that the 3-year limitation that I had in my amendment would not be applicable.

Mr. JAVITS. That is correct.

Mr. PEARSON. I think this is a satisfactory resolution of the issue raised by the amendment, and I am agreeable to such modification and I shall ask unanimous consent to do so if that is necessary.

Mr. JAVITS. I gather it is because we have the yeas and nays ordered.

Mr. PEARSON. Mr. President, I so ask unanimous consent.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that we may vitiate the order for the yeas and nays.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, we are ready to vote on the modification. The language is right here.

The ACTING PRESIDENT pro tempore. Will the Senator send the modification to the desk?

UP AMENDMENT NO. 388

Mr. JAVITS. Mr. President, I send the modified amendment to the desk. It is Senator PEARSON's amendment as modified.

The ACTING PRESIDENT pro tempore. The modified amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 320, line 10, after "Sec. 325." insert "(a)".

On page 320, line 13, after the word "and" insert a comma and the following: "subject to the provisions of subsection (d) of this section,".

On page 320, line 17, after the word "order" insert "or plan."

On page 320, between lines 17 and 18, insert the following:

(b) Section 141 of such Act is amended by inserting at the end thereof the following new subsection:

"(d) No payment may be used under this title for programs and projects for children previously in schools in school attendance areas having high concentrations of children from low-income families transferred to a school outside such an area as a result of a desegregation order in any fiscal year unless the sums available for programs and projects for the school from which any schoolchild is transferred in the fiscal year in which the determination is made is greater than the sums so available in the fiscal year preceding such year.".

Mr. PEARSON. Mr. President, will the Senator yield once again?

Mr. JAVITS. I yield.

Mr. PEARSON. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. PEARSON. This is a modification to the bill itself and not to the so-called Pearson amendment?

The ACTING PRESIDENT pro tempore. This is a modification of the Pearson amendment which essentially becomes a substitute for the Pearson amendment.

Mr. PEARSON. I understand. I thank the Chair.

And I thank the Senator from New York.

Mr. JAVITS. Mr. President, we are prepared to vote on the amendment as modified.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time being charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senate will now proceed to the consideration of two amendments by the Senator from Idaho (Mr. McCLURE), with a total time limitation on the two amendments of 40 minutes, with votes thereon to occur immediately thereafter.

UP AMENDMENT NO. 389

Mr. McCLURE. Mr. President, I send UP Amendment No. 389 to the desk and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes unprinted amendment No. 389.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 213, between line 15 and 16, insert the following:

PART K—DISCRIMINATION BASED ON SEX

CLARIFICATION OF TITLE IX

SEC. 178. Section 901 of the Act is amended by adding at the end thereof the following new subsection:

"( ) Education program or activity defined.

"For purposes of this chapter, an educational program or activity means such programs or activities as are curriculum or graduation requirements of the institutions defined in (c) above."

Mr. McCLURE. Mr. President, this is the first of two amendments. Both deal with title IX regulations dealing with sex discrimination in the educational institutions of the United States. The amendment attempts to deal with the overreach of the regulations as promulgated by the Department of Health, Education, and Welfare.

HEW did not follow strictly the purposes set forth in the statutes in the congressional action but went far beyond in a sweeping mandate that all vestiges of different treatment of students based upon their sex should be wiped away, and that, I think, was clearly a reach far beyond that intended by Congress.

When the various educational institutions were first confronted with the results of the HEW regulation their responses were both astonished and outraged for some institutions that are not public in the sense of being supported by the taxpayers' dollars directly. They responded in a variety of ways. One in particular was those that are affiliated with church schools in which strong moral values are also sought to be inculcated at the same time that they are educating the youngsters in the academics. The young people are asked to abide by dress codes, for instance. One of the dress codes that may be required is that the boys and the girls, the young men and the young women, be dressed differently. The regulations seek to remove such a requirement.

On some campuses there is a code dealing with not only the manner of dress but also the length of hair with a difference based upon the sex of the students, and there are HEW regulations which say that that must be swept away.

I am not here to argue whether or not those dress codes are right or wrong, but I do argue as to the institutions which are not public in the sense of being taxpayer supported institutions, instrumentalities of the State, I think that clearly in those private institutions they have the right to make such regulations if they so wish and as to the students who go there those private institutions ought to be able to set their own codes and their students ought to be able to abide by those codes if, as a matter of fact, there is no invidious discrimination that is violative of the constitutional guarantees.

So what my amendment seeks to do is to remove the overreach in that direction of the HEW regulations without attempting at all to influence or to assert any attempt at all to remove the constitutional rights of the students that might be involved in such codes.

Another aspect of these regulations which is a little difficult to deal with, certainly, because as is true in many of these instances the lines are hard to draw, and that has to do with equal opportunity for women students in the field of athletics.

When we seek to expand the opportunity for female students to participate in intercollegiate athletics, we have in many instances pushed so hard that we remove and restrict rather than enhance and expand their opportunities.

It is one of two results, not just intercollegiate athletics but in all the athletic programs as well. First of all, with respect to many small colleges which cannot maintain as broad a variety of athletic education as they might desire, they nevertheless attempt to have both men's and women's sports; and if they are forced to make a choice, they will drop the women's sports and have only men's sports. Then the women's only access will be to compete for an opportunity on the men's team.

There is in my State a school that has a very fine women's basketball team. It is a basketball team which has brought some honor to the girls involved and the institution involved. They have gone to the national playoffs, and they are a very good women's basketball team. But I submit that probably not many of the women on the team could compete successfully for a place on the men's team, and that may be the result of this HEW regulation. Indeed, it might even be that the women's team would be eliminated; because there are some people who are pushing so hard in this area that they would say that the maintenance of separate but equal athletic facilities is prohibited under equal rights.

Separate but equal athletic facilities for men and women would not be equal in the same sense that separate and equal educational opportunities for the races were held not to be equal. Therefore, the only opportunity women would have in athletics, if you push this to its extreme, would be to say that they must be permitted to pursue the same athletic goals that the male students pursue, and their only opportunities would be if they could make the team on the same basis that men do, and I think that would be a ridiculous result.

There is a tremendous hue and cry about the reach of these regulations in both these ways.

Brigham Young University, in Utah, went to the extent of a very thoughtful, a very reasoned, and a very moderate approach to their resistance to the reach of the regulations and affirmed that, because of their moral convictions, they cannot abide by them. As a result, they adopted a university policy in contravention of the law. They said, "We will not abide by the law."

When a law gets to the extent of requiring an institution of that kind to make a formal public statement, a formal public action, that says the law is such that they cannot comply, to the extent that they bought and paid for and published ads in all the regional newspapers, explaining their reasons why they could not comply and why they did not intend to comply, then I think there is something obviously wrong with the statute, or at least with the regulations that have been issued pursuant to the statute.

President Ford, not long ago, in a campaign statement some time before the primary, went to the extent of criticizing the HEW regulations. I wrote to the President at that time and said:

> I think it is fine that you criticized the regulations. If you are really serious about it, all you have to do is to direct your Secretary of HEW to change them.

I suggest that HEW has no intention of changing them. The fact that the President criticized them and they remain unchanged shows the depth of that conviction in HEW. If they are to be changed, we have to do something about it here, in the Congress of the United States.

Mr. President, I ask unanimous consent to have printed in the Record the advertisement published by Brigham Young University.

There being no objection, the advertisement was ordered to be printed in the Record, as follows:

Notification of Brigham Young University Policy of Nondiscrimination on the Basis of Sex

Brigham Young University is committed to equal opportunity for men and women in education and employment. Its Board of Trustees has adopted a policy forbidding sex discrimination.

The University is already in compliance with many of the regulations issued under Title IX of the Education Amendments Act of 1972 by the United States Department of Health, Education and Welfare. Any past policy or practice of the University which may have implied discrimination on the basis of sex has been corrected.

While affirming the goal of equal opportunity, Brigham Young University challenges the legality and constitutionality of certain Title IX regulations because they exceed the statutory authority of the Department and infringe on religious freedom.

BYU's opposition to parts of 6 of the 43 designated regulations issued by an executive agency should not be taken as defiance of the law or of the Federal Government. The University believes its position is authorized by the Constitution and laws of the United States. BYU will comply with any regulations which the courts ultimately sustain as lawful.

This notification also states the position of Brigham Young University-Hawaii Campus, LDS Business College, and Ricks College.

REQUIREMENT FOR NOTICE

On July 21, 1975 the United States Department of Health, Education and Welfare published extensive regulations purporting to enforce Title IX of the Education Amendments of 1972, which prohibits sex discrimination in federally assisted educational programs. Section 86.9 of the regulations gives each educational institution 90 days to publish a notice that it does not discriminate among applicants for admission or employment or among students or employees on the basis of sex. Educational institutions are also required to state their policies for compliance with the Title IX Regulations.

POLICY FORBIDDING SEX DISCRIMINATION

The Board of Trustees of Brigham Young University endorses the goal of equal opportunity for men and women in education and employment. Brigham Young University does not discriminate on the basis of sex among its students or employees, or among applicants for admission or employment. We support the nondiscrimination laws and have modified various University policies or procedures which in the past may have been interpreted as discrimination on the basis of sex.

POSITIVE ACTIONS TAKEN

The University has taken major steps to insure equal opportunities for men and women. University scholarships are now awarded without discrimination. Women's athletic programs have received increased financial support, and women's access to facilities and their opportunities for participation have increased significantly. Housing regulations for women are no longer more restrictive than those for men. Salaries of women faculty and staff members are regularly reviewed to insure that women are receiving equal pay for equal work. Policies are in effect which guarantee nondiscrimination in hiring and promotion, and any inequities are being identified and corrected. University departments and colleges have been challenged to avoid sex stereotyping in textbooks, curriculum, and student advisement. University leaders are urging women students to pursue their educational interests with seriousness and vigor.

REFUSAL TO FOLLOW CERTAIN REGULATIONS

Title IX (the statutory law) forbids sex discrimination in every "education program or activity receiving federal financial assistance." However, the regulations issued by the Department purport to dictate policies and activities in many areas of the University, whether or not such policies or activities involve "education" and whether or not they concern a "program or activity receiving federal financial assistance." The regulations effectively ignore these important qualifying words in the statute. They extend government powers well beyond those granted by the statute by insisting that if any part or area of an institution receives direct or indirect federal financial assistance (such as by enrolling students who receive federal aid), then the entire institution is subject to federal regulation. We reject this all-inclusive interpretation, believing that many of the regulations are unlawful because they exceed the Department's statutory authority under Title IX.

BYU has traditionally refused all federal grants. We have limited our receipt of federal funds to a few programs in which the government receives a service equal in value to its payments. While some of our students receive federal assistance (such as veteran's benefits), the statute does not suggest that payments to students should be a basis for regulating every educational policy and activity of the institution. We therefore believe that most of our activities are not subject to the regulations.

We also believe that some of the regulations are unconstitutional because they violate the due process clause or the constitutional guarantee of the freedom of religion.

Nevertheless, we voluntarily choose to follow many of the regulations because we believe them to embody policies which are fair and just. But where we believe the regulations are unconstitutional or illegal and where they prohibit or interfere with the teaching or practice of high moral principles, we will not follow them.

UNLAWFUL REGULATIONS

H.E.W. regulations the University will not follow are:

1. § 86.2 (g) and (h): Contrary to the broad definitions in this regulation, a university program or activity not receiving federal financial assistance is not subject to the regulations. However, the University will not discriminate on the basis of sex in any university program or activity regardless of the applicability of the regulations.

2. § 86.12: The University will notify the Department that it is exempt from certain regulations on the ground of religious belief. However, the Constitution forbids the Department from making any judgment as to the content or sincerity of religious belief. We will resist any attempt by the Department to rule on the validity of our constitutional claim.

3. §§ 86.21(c), 86.40, and 86.57(b): Brigham Young University will not follow the provisions of these regulations to the extent that they prohibit certain inquiries into or actions based upon the marital or parental status or the pregnancy or termination of pregnancy of present or prospective students or employees. BYU teaches and enforces strict adherence to the highest Christian standards of sexual morality. Our standards of behavior and our admissions, hiring and dismissal policies related to sexual behavior are identical for both sexes. Where an inquiry or action prohibited by the regulations may be necessary to create or enforce the moral climate we desire at BYU, we will disregard the contrary requirements of the regulations.

4. § 86:31(b)(5): BYU will continue to enforce rules of appearance which differ for men and women because we believe that differences in dress and grooming of men and women are proper expressions of God-given differences in the sexes. We will resist the imposition of a unisex standard of appearance.

5. §§ 86.31(c) and 86.37(b): BYU will not discriminate in any federally financed student aid programs or in the University's own financial aid. BYU will also endeavor to persuade private donors to refrain from discrimination on the grounds of sex. Because this regulation would require us to breach agreements with previous donors, the University will continue to administer existing privately financed student aid according to the conditions imposed by the donors. We believe the regulations' requirement that universities not administer financial aid restricted to one sex deprives private donors of property without due process of law. Congress must not have intended that a statute forbidding misuse of federal aid serve as the basis for depriving private donors of their right to use their property as they see fit.

6. §§ 86.37(c) and 86.41: The sections of the regulations dealing with athletics are not clear. They have been the subject of widespread controversy over their meaning and coverage. We do not concede that these regulations apply to our athletic program, which is not an "education program or activity receiving federal financial assistance." Our women's athletic program is among the best in the nation. We are confident that our voluntary efforts to improve athletic opportunities for women will meet or exceed the requirements of the regulations within the three-year implementation period.

OUR POSITION IS LAWFUL

Our stand in opposition to these regulations should not be taken as defiance of the law or the federal government. We believe our position is lawful—that it is the Department of Health, Education and Welfare that is violating the constitutional and statutory law. Our Church teaches the necessity of "obeying, honoring and sustaining the law" (Articles of Faith 12) and of "befriending that law which is the constitutional law of the land" (Doc. & Cov. 98:6). Therefore, we will comply with any regulation ultimately sustained as lawful by the courts of the United States. In the interim we will follow the policies outlined above, which represent our best judgment on the meaning of the constitution and laws that govern us.

While we have based our refusal to comply with certain regulations on the grounds that they exceed statutory authority and violate our constitutional rights relating to religion, we also oppose such regulations on moral grounds. The teaching of honesty, integrity and chastity must not become exclusively the province of religion. If our government not only abandons the advocacy of moral standards but positively prohibits the practice of such values at teaching institutions, as these regulations appear to do, the destruction of America as a great nation will be both imminent and inevitable.

Mr. McCLURE. Mr. President, I wonder whether the opponents of the amendment desire to comment on it before I present the other amendment.

Mr. PELL. Would the Senator read his amendment?

Mr. McCLURE. Mr. President, this amendment should read:

> For purposes of this chapter, an educational program or activity means such programs or activities as are curriculum or graduation requirements of the institutions defined in (c) above.

Mr. PELL. As I understand this amendment, it would limit title IX's coverage to curriculum or graduate requirements. Is that correct?

Mr. McCLURE. That is correct.

Mr. PELL. But it would mean that schools could discriminate, if they wish to, against one sex and in all extracurricular activities.

For example, there could be a coeducational college with class officers and student government limited to individuals of one sex; in the matter of unrequired classes, such as vocational education, participation by women could be limited similarly.

So my view is that this amendment would be unacceptable.

Mr. McCLURE. Does the Senator desire to debate the issue further? I am not surprised that he finds the amendment unacceptable; but I thought he might state some reasons why.

Mr. PELL. I said that an amendment that permits a coeducational institution to say that all its class officers should be either male or female does not seem correct. It could be construed to exclude members of one sex, and that, simply and directly, is my argument.

Mr. McCLURE. I say to the Senator that my amendment, if as a matter of fact it violates any constitutionally guaranteed principle, would not reach any such violation of a constitutionally guaranteed right. It only seeks to deal with the regulations which have been promulgated by the HEW that go far beyond the kind of illustration the Senator gives. So the illustration he gives has absolutely no pertinence to the argument.

Mr. PELL. But, as I read the amendment, it still would permit such discrimination against a single sex.

Mr. McCLURE. Does the Senator think that under the Constitution of the United States and the 1964 Civil Rights Act, that kind of discrimination would be permitted?

Mr. PELL. It would seem unlikely.

Mr. McCLURE. Then, if it is unlikely under the Constitution and the 1964 Civil Rights Act, the amendment would have no effect upon that kind of discrimination.

Mr. PELL. I think that for us to adopt an amendment which, by its language, might be construed to work against the Constitution is not an altogether wise course.

Mr. McCLURE. It does not, by its language, go against the Constitution. It simply says that the HEW regulations in effect in educational programs per se cannot go beyond the curriculum requirements and graduation requirements of that institution. It has absolutely nothing to do with discrimination that might be forbidden by the 1964 Civil Rights Act or forbidden under the Constitution of the United States.

Mr. PELL. I see the line of argument of the Senator, but I do think it would weaken title IX by limiting it in this way, even though, as the Senator points out, any violation of the Constitution could be taken to court and obviously the Constitution would be supported.

I am compelled to oppose the amendment.

Mr. McCLURE. I understand.

Mr. President, I ask unanimous consent to have the following material printed in the Record: A letter from a firm of attorneys in Rexburg, Idaho, which is the home of Ricks College; a letter from the law firm of Wilkinson, Cragun and Barker, in Washington, D.C., dated July 3, 1975, addressed to me on this subject; a letter from Dallin H Oaks, president of Brigham Young University, dated October 1, 1975, and the response to that letter; and the testimony of Dallin H. Oaks, president of Brigham Young University, and a director and secretary of the American Association of Presidents of Independent Colleges and Universities, before the Postsecondary Education Subcommitee of the Education and Labor Committee of the U.S. House of Representatives, on June 24, 1975.

There being no objection, the material was ordered to be printed in the Record, as follows:

Law Offices,
Rigby, Thatcher & Andrus, P.A.,
Rexburg, Idaho, July 9, 1975.

Hon. James A. McClure,
U.S. Senator,
Washington, D.C.

Dear Jim: We are very concerned about the Regulations promulgated by the Department of Health, Education and Welfare under Title IX of the Education Amendments of 1972.

We enclose testimony of Dallin H. Oaks before the Postsecondary Education Subcommittee of the Education and Labor Committee of the United States House of Representatives, June 24, 1975.

We strongly and wholeheartedly endorse all of the comments of President Oaks.

The regulations would be burdensome to Ricks College, as I am sure they would be to our other colleges and universities in this state. Even more frightening than the inconvenience to Ricks College is the further bureaucratic encroachment upon our vital freedoms which these regulations represent.

We would certainly appreciate any help you could provide to stop implementation of regulations or to adopt remedial legislation.

We are also writing Senator Church, and Congressmen Symms and Hansen.

Sincerely,

Gordon S. Thatcher.

Wilkinson, Cragun & Barker,
Law Offices,
Washington, D.C., July 3, 1975.

Re Regulations, Title IX—Education Amendments of 1972.

Hon. James A. McClure,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

Dear Senator McClure: As you may know, the Department of Health, Education and Welfare has promulgated some very controversial regulations concerning the implementation of Title IX of the Education Amendments of 1972, dealing with sex discrimination.

One of the strong objections of the private institutions and the American Association of Presidents of Independent Colleges and Universities is that these regulations will extend federal supervision and intervention to all avenues of traditionally private institutions, even those parts of the institution which are not affected or involved with federal aid and assistance.

President Dallin H. Oaks of the Brigham Young University testified recently before the Postsecondary Education Subcommittee of the House Education and Labor Committee, on behalf of the Association of Presidents of Independent Colleges and Universities, noting that unless the Congress takes action to modify or eliminate the proposal, it will become law on July 21 and will make a dangerous and unauthorized jump in the quantum and extent of federal control over higher education, particularly private universities and colleges. I enclose herewith for your information a copy of President Oaks' testimony. Since President Oaks is a very competent lawyer as well as a very able administrator and college educator, you should find his comments very significant.

As you will notice from President Oaks' comments, the HEW regulations seem to provide that if an educational institution has received, even indirectly, a single dollar of federal money (for example, by student loans or ROTC) every decision, activity, facility, educational policy or communication of that institution is subject to review and regulation. This poses a great intervention into the activities of independent universities, a large number of which receive 2% or less of their budgets from direct or indirect federal financial aid.

We trust that you will want to give this matter careful consideration in view of the pending July 21 deadline.

Sincerely yours,
WILKINSON, CRAGUN & BARKER,
By: *ROBERT* W. BARKER,
Enclosure: President Dallin H. Oaks.

1875—BRIGHAM YOUNG UNIVERSITY
CENTENNIAL—1975,
October 31, 1975.

Re: Notification that Brigham Young University is exempt from certain Title IX Regulations.

Hon. DAVID MATTHEWS,
Secretary of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: This letter will serve as official notification that Brigham Young University and Brigham Young University—Hawaii Campus consider themselves exempt from portions of the provisions of Sections 86.21(c), 86.40(b), 86.57(b) and 86.31(b)(5) of the regulations published under Title IX of the Education Amendments of 1972 because such sections conflict with the religious teachings of the Church of Jesus Christ of Latter-Day Saints, which sponsors these institutions.

For example, all students and employees at B.Y.U. and B.Y.U.—H.C., male and female, agree to abide by the moral teachings of the Church as embodied in the University's enclosed "Code of Honor." We object to portions of these regulations because they would prevent us from advocating and practicing this religious standard of morality, including sexual morality, among the employees and students of the University. Portions of these regulations would bar our taking notice of or acting upon flagrant violations of this moral code. We intend to continue to practice our moral code, which applies on the same basis to men and women.

So far as we know, the sections of the Title IX regulations referred to above are the only ones which conflict with the Church's religious teachings. However, if other regulations are later interpreted in such a way as to bring them into conflict with our religious beliefs, we will notify you of our objections to such sections.

We assure you that Brigham Young University does not claim the right to discriminate against members of either sex. None of our policies or activities has the purpose or effect of promoting greater opportunity for members of one sex than the other or implying in any way that either sex is inferior to the other.

Enclosed is a copy of a notice entitled Notification of Brigham Young University Policy of Nondiscrimination on the Basis of Sex, which we have published in local newspapers as required by section 86.9 of the regulations. You will note from this publication that Brigham Young University considers most, if not all, of the Title IX regulations to be unlawful as applied to its programs, most of which receive no direct federal funding. Nevertheless, this notice proclaims our determination to maintain policies which are consistent with the regulations, except for the instances noted in the publication.

We do not concede that the Department of Health, Education and Welfare has the power to review our claim of exemption on the ground of religion. Our rights to the free exercise of religion are granted and fully protected by the United States Constitution, which prohibits any government inquiry into the truth of our religious principles or the sincerity of our belief in them. Title IX also exempts religious institutions.

We do not wish to be seen as defying the authority given to the Department of Health, Education and Welfare under Title IX or other civil rights statutes. We fully support the goal of equal opportunity for all persons. I am certain that as you review the enclosed notice you will see that Brigham Young University does not discriminate unlawfully against members of either sex and that a reasonable interpretation of Title IX and the regulations would find us in compliance.

I would be happy to correspond further with you and to confer with members of your Department concerning the information contained in this letter.

Sincerely,
DALLIN H. OAKS.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., March 17, 1976.

Dr. DALLIN H. OAKS,
President, Brigham Young University,
Provo, Utah

DEAR DR. OAKS: Secretary Mathews has asked that I respond to the letter in which you notified the Department that Brigham Young University and Brigham Young University-Hawaii Campus consider themselves exempt from certain provisions of the regulations published under Title IX of the Education Amendments of 1972. Your letter states that these provisions conflict with the teachings of the Church of Jesus Christ of Latter-Day Saints, which sponsors those institutions. I apologize for the delay in responding.

As you know, Section 86.12 of the regulation specifically exempts an institution from complying with any provision of the regulation which is in conflict with the religious tenets of the Church sponsoring the institution. We conceive of our responsibilities under this section as principally assuring that the institutions claiming exemptions have a full understanding of the provisions from which they believe themselves exempt.

It is not clear from your letter what aspects of the regulatory sections you identify conflict with the university's Code of Honor as the code reflects the religious tenets of the Church of Jesus Christ of Latter-Day Saints. As we interpret those sections, they do not preclude institutions from imposing standards of morality (so long as those standards apply equally to members of both sexes). It may be, therefore, that no conflict between the regulations and your code exists. It would be helpful for our discussion if you would identify more specifically the provisions of the sections you have cited which you feel conflict with particular practices of Brigham Young University which, in turn, are derived from the religious tenets of the Church of Jesus Christ of Latter-Day Saints.

The Department has no intention of reviewing the nature of the religious tenets asserted by a university to be in conflict with the Title IX regulations, as a general matter.

We do not understand your letter to assert that any tenets conflict with the provisions of those regulations governing equal opportunity in athletics programs.

Beyond the claim for an exemption based on a conflict with religious beliefs, your letter raised a number of additional questions about Title IX and the Department's regulations. Members of my staff will be in touch with the University over the next several weeks to resolve those issues. I look forward to those discussions.

Cordially,
MARTIN H. GERRY,
Acting Director, Officer for Civil Rights.

TESTIMONY

(By Dallin H. Oaks, president of Brigham Young University and a director and secretary of the American Association of Presidents of Independent Colleges and Universities before the Postsecondary Education Subcommittee of the Education and Labor Committee of the United States House of Representatives, June 24, 1975)

Mr. Chairman and distinguished members of the committee:

The American Association of Presidents of Independent Colleges and Universities, of which I am an officer and director, is pleased to have this opportunity to present its views concerning the legality and propriety of the Regulations promulgated by the Department of Health, Education and Welfare under Title IX of the Education Amendments of 1972. I also speak in my capacity as President of Brigham Young University, which has the largest fulltime enrollment of any private university in the United States.

Our Association, which was organized in 1968, is composed of the presidents of more than one hundred private colleges and universities located throughout the United States. Its purpose is to promote the interests of independent colleges and universities. We are determined that private higher education remain private and independent.

While our Association includes the presidents of large private universities such as Roosevelt, Pepperdine and Brigham Young, most of our member presidents lead small private colleges having an enrollment of less than 2,500 students. (A list of our members is attached.) The preservation of such small colleges was one of the purposes of the Higher Education Amendments of 1972. It is therefore ironic that the Regulations issued under Title IX of those Amendments threaten the Independence of private colleges. If private colleges lose their independence, they will have lost the capacity for uniqueness that makes their survival a matter of national concern.

I appear before this Subcommittee to express our members' alarm at the Title IX Regulations. These regulations represent a dangerous and illegal qauntum jump in the extent of federal control over higher education. They are of greatest concern to private colleges and universities since they would impose a straightjacket that would deprive private education of the diversity and flexibility it must enjoy in order to make its distinctive contribution to American higher education.

Title IX Regulations impose pervasive new controls on the conduct of the educational enterprise in all of the following areas:

Admissions and recruitment;
Student qualifications;

Access to educational programs and activities;

Conduct of educational programs and activities;

Housing, both on and off campus;

All other facilities;

Student financial assistance and employment;

Student health and insurance benefits;

Athletics;

Employment; and

Placement of graduates.

We believe that all friends of independent higher education should be alarmed at the fact that the federal government proposes to issue this comprehensive set of rules directing how the educational enterprise will be conducted and imposing extensive government reports and supervision.

Our position should not be interpreted as an expression of opposition to the goal of equal opportunity for all persons without regard to race, religion, or sex. The members of our association support this goal without reservation. We are therefore in harmony with Title IX's expression of the fundamental American principal of equal opportunity for all. What we reject is the pervasive, intricate, and unjustified regulatory mechanism proposed to implement it.

The Regulations promulgated by the Department of Health, Education and Welfare under Title IX are legally defective in at least three ways:

(1) The Regulations exceed the legal authority given the Secretary or Department of Health, Education and Welfare;

(2) The Regulations tend to deprive persons in higher education of their fundamental rights of free speech, thought and association; and

(3) The Regulations impose unproven social theories on educational institutions, endangering the diversity of thought and action that has been the strength of American high education.

1. The regulations exceed the legal authority given the Secretary or Department of Health, Education and Welfare.

Since we have been asked to limit our comments to the legality of the Regulations, I will focus primarily on this area. Title IX's proscription of discrimination on this basis of sex reads in pertinent part as follows:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under *any education program or activity receiving federal financial assistance . . .*" (20 U.S.C Section 1681) (Emphasis supplied)

On its face, this provision seems to restrict regulation to individual educational programs or activities actually receiving federal funds. The Department of Health, Education and Welfare, however, has not limited the application of these regulations to individual programs or activities. The Department has interpreted this clause to give it authority to prescribe policies for every one of an institution's programs and activities. The Regulations seem to provide that if an educational institution has received, even indirectly, a single dollar of federal money, every decision, activity, facility, educational policy or communication of that institution is subject to review and regulation by the Department.

Sections 86.2(g) and (h) of the Regulations provide that an institution is a "recipient" of "federal financial assistance" even if its receipt of federal assistance is only indirect or minimal. For example, they would apparently make an institution subject to control if it enrolled only one student receiving veteran's benefits or attending school under a federal grant or loan. In addition, the underlying premise of the Regulations—evident throughout—is that being a "recipient" subjects every institutional program or activity to regulation whether or not that particular program or activity receives federal financial assistance. The Department has therefore taken the position that if a college or university receives some direct or indirect federal financial assistance for its department of chemistry it must accept government supervision of all of its other academic departments, its dormitories, its admissions and financial aids policies, and every other aspect of its operations.

What is the Department's justification for disregarding the clear mandate of the statute that the sex discrimination regulations be confined to the "education program or activity receiving federal financial assistance?" In its comments to the Regulations at 40 Fed. Register 108, p. 24128 (June 4, 1975) the Department draws an analogy to *Brenden v. Independent School District* 742, 477 Fed. 2d 1292 (8th cir. 1973). But that case construed the broad sweep of the Constitution, not a statute specifically limited on its face.

In the *Brenden* case the court was asked to determine whether the equal protection clause of the Constitution applied to a public high school athletic program. Under well-established rules of constitutional construction, the court had to find some "state action" on which to base its jurisdiction. Purely private acts of discrimination are excluded from the reach of the constitutional prohibition. The court found that the athletic program in question has been created by state statute and that its rules were binding on high schools owned and operated by the state, thus clearly involving state action. There was no discussion whatsoever on the question of whether state funding of some other school activity would subject athletics to controls from which it would otherwise be free. Thus, the *Brenden* case does not support the proposition for which it is offered. In *Brenden* the court was considering a state-conducted activity. The Title IX Regulations purport to govern all activities, whether or not government operation or support is involved.

The intended reach of Title IX is clearly indicated by Section 902 of the Education Amendments [(20 U.S.C. 1682 (1972)], which states that violations of Title IX may be punished by terminating federal financial assistance, which ". . . shall be limited in its effect *to the particular education program or activity* or part thereof in which noncompliance has been found." (Emphasis supplied.) Clearly, the statute limits its reach to discrimination in the actual programs or activities receiving federal assistance.

It is inconceivable that Congress intended to punish colleges for discrimination in some academic or housing area by cutting off financial assistance going directly to veterans or other students. Yet this is precisely the proposition advanced by HEW. In support of this proposition, the secretary cites *Board of Public Instruction of Taylor County, Florida v. Finch,* 414 Fed. 2d 1068 (5th Cir. 1969). The case does not stand for the proposition for which it is cited, although it does contain a dictum that if discrimination becomes so pervasive that it taints every aspect of a school district's program the Secretary might be justified in terminating all federal aid. The holding of the case, however, involved a school district's appeal from a decision of the Secretary of HEW terminating all federal aid under Title VI of the Civil Rights Act, which contains language substantially identical to that of Title IX in restricting termination to programs in which discrimination occurs.

The court held that the Secretary was not authorized to cut off funds from programs not involving discrimination. In explaining its holding the court said:

"The legislative history of [Title VI] indicates a Congressional purpose to avoid a punitive as opposed to a therapeutic application of the termination power. The procedural limitations placed on the exercise of such power were designed to insure that termination could be pinpoint(ed) * * * to the situation where discriminatory practices prevail. . . .

"It is important to note that the purpose of limiting the termination power to 'activities which are actually discriminatory or segregated' was not for the protection of the . . . entity whose funds might be cut off, but for the protection of innocent beneficiaries of programs *not* tainted by discriminatory practices." (At page 1075.)

The court held that H.E.W. had erred in cutting off all federal aid to the district's schools, even though all the district's high schools and elementary schools had been operated in a discriminatory manner. There may have been other programs, such as adult education, operated in accordance with Title IX, and federal aid to these should have been continued.

The Title IX Regulations actually ignore the holding of the *Finch* case, and, relying on a dictum that does not apply, provide that even minimal federal assistance to one program or activity makes every institutional program or activity subject to regulation. A single act of discrimination, even in a program unassisted by federal funds, would be punished by total cessation of federal assistance. The Regulations as now drawn exceed the legal authority of the secretary and must be modified to limit their application to programs or activities directly assisted with federal funds.

An address by Yale University President, Kingman Brewster, to the Fellows of the American Bar Foundation (inserted in the Congressional Record by Senator Claiborne Pell) well expresses our fears and the fears of thousands of others in higher education concerning government domination of the educational process.

"My fear is that there is a growing tendency for the central government to use the spending power to prescribe educational policies. . . .

"Use of the leverage of the government dollar to accomplish objectives which have nothing to do with the purposes for which the dollar is given has become dangerously fashionable. . . .

"As one who presided over the admission of women to a college which had been 'For men only' for two hundred and sixty-seven years, and as one who also presided over a strenuous effort to recruit qualified minority students, I think I can be assumed not to be opposed to women's rights and equal educational and academic career opportunity for minorities and women. However, I do *object to the notion that the receipt of a federal dollar for some purposes subjects a private institution to federal regulation and surveillance in all its activities*. This is constitutionally objectionable, even in the name of a good cause such as 'affirmative action.'

"The essence of Constitutional restraint, I was taught, is that the worthiness of the end should not justify objectionable means. . . .

"Institutional diversity, autonomous trusteeship and faculty self-determination are the essence of the envied vitality of American higher education and its responsiveness to new fields of knowledge. *These strengths would be lost if, as a condition of receiving a federal dollar for some purposes, we were to be subject to federal regulations for all* *purposes.*" (Emphasis supplied.) *Congressional Record,* March 10, 1975, p. S3575.

Congress has very properly provided that federal funds shall not be spent to support programs involving illegal dsicrimination. But it is a giant leap from this logical and appropriate provision to a requirement that receipt of federal funds for any purpose, program or activity subjects or citizens to across-the-board control by agencies of the federal government. When we adopt this idea as an instrument of government policy, we will have sacrificed vital indicia of personal and institutional freedom. Private higher education will no longer be private, and all colleges and universities will be required to march in lockstep to the distant drumming of a few administrators and pressure groups in Washington.

II. The Regulations restrict the academic freedom of institutions and teachers.

The preservation of the freedom of colleges and universities is essential to the preservation of freedom in America. As the Snpreme Court has said in *Sheldon v. Tucker,* 364 U.S. 479, 487 (1968):

"The vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools. "By limiting the power of the States to interfere with freedom of association, the Fourteenth Amendment protects all persons, no matter what their calling. But, in view of the nature of the teacher's relation to the effective exercise of the rights which are safeguarded by the Bill of Rights and by the Fourteenth Amendment, inhibition of freedom of thought, and of action upon thought, in the case of teachers brings the safeguards of those amendments vividly into operation. Unwarranted inhibition upon the free spirit of teachers . . . has an unmistakable tendency to chill that free play of the spirit which all teachers ought especially to cultivate and practice; it makes for caution and timidity in their associations by potential teachers.' *Wieman v. Updegraff,* 344 U.S. 183, 195 (concuring opinion). 'Scholarship cannot flourish in an atmosphere of suspicion and distrust. Teachers and students must always remain free to inquire to study and to evaluate. . . .' *Sweezy v. New Hampshire,* 354 U.S. 234, 250."

Freedom of individual teachers can be preserved only in institutions that are free. We must, therefore, guard this freedom of the individual by protecting the freedom of the institution.

Because academic freedom is so essential, the State may not compel students to attend public schools by prohibiting or suppressing private schools and colleges. In *Pierce v. Society of Sisters,* 268 U.S. 510, 534 (1925), the Supreme Court said:

"The fundamental theory of liberty upon which all governments in the Union repose excludes any general power of the State to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the State; they who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations." *Cf. Wisconsin v. Yoder,* 406 U.S. 205 (1972).

The state may not impose curricula upon the private school by, for example, prohibiting the teaching of a particular subject. *Meyer v. Nebraska,* 262 U.S. 390 (1923).

The right of the private university to survive and to manage its own affairs is, therefore, a part of the liberty protected from government invasion by the due process clause of the Fifth and Fourteenth Amendments. Furthermore, as the preceding cases make clear, this academic freedom is also protected from governmental infringement because it is the foundation of First Amendment rights. Therefore, any regulation which restricts that freedom is invalid unless it meets certain stringent criteria.

First, the governmental action must bear a reasonable relationship to the effectuation of some legitimate and substantial governmental interest.

Second, although the governmental interest is legitimate, there must be an intimate and obvious relation between that interest and the conduct required by the governmental action.

Finally, the government must establish that the regulation which infringes upon academic freedom, is not overly broad but is the least restrictive means available to accomplish the governmental purpose.

See *Kusper v. Pontikes,* 414 U.S. 51, 58–59 (1973); *Gibson v. Florida Legislation Investigation Commission,* 372 U.S. 539, 546 (1963); *Shelton v. Tucker,* 364 U.S. 479, 488 (1960); *Lewis v. Buxley,* 368 F. Supp. 768 (D. Ala. 1973).

In recognition of these fundamental principles, Congress has frequently and expressly rejected the imposition of federal direction, supervision or control over the curriculum, program of instruction, administration, or personnel of any educational institution.

20 U.S.C. Section 1232(a) (1974) provides:

"*Prohibition against federal control of education.* No provision of the Act of September 30, 1950, Public Law 874, Eighty-first Congress; the National Defense Education Act of 1958; the Act of September 23, 1950, Public Law 815, Eighty-first Congress; the Higher Education Facilities Act of 1963; the Elementary and Secondary Education Act of 1965; the Higher Education Act of 1965; the International Education Act of 1966; the Emergency School Aid Act; or the Vocational Education Act of 1963 shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance."

Title IX is an amendment to the Higher Education Act of 1965, and is therefore covered by this prohibition. The Title IX Regulations, however, repeatedly violate Section 1232(a), as well as the constitutional principles I have previously discussed.

As another example, in an amendment to a supplemental appropriations bill passed late in 1974, Congress expressly directed the Department of Health, Education and Welfare:

"That none of these funds shall be used to compel any school system, as a condition for receiving grants and other benefits from the appropriations above, to classify teachers or students by race, religion, sex, or national origin; assign teachers or students to schools, classes, or courses for reasons of race, religion, sex, or national origin; or prepare or maintain any records, files, reports, or statistics pertaining to the race, religion, sex, or national origin of teachers or students, notwithstanding any other provision or law or any request by any agency of the federal government." *Congressional Record,* p. H9755 (October, 1974).

The offensive and intricate requirements of the Title IX Regulations disregard and violate this Congress directive.

Finally, it is significant that in 1974 Congress passed a law forbidding states from denying "equal educational opportunity to an individual on account of his or her race, color, sex, or national origin." This law prohibits "segregation by an educational agency of students on the basis of race, color, or national origin," but does not prohibit segregation on the basis of sex. Pub. L. 93–380, 20 U.S.C. Section 1703. Congress has deliberately put sexual segregation on a different footing than racial segregation.

The Title IX Regulations are in apparent defiance of the oft-expressed intention of Congress, illustrated by the three preceding examples.

Many of the institutions of which our members are Presidents have sought to minimize the aid they receive from the government so as to retain their vital independence and academic freedom. At the suggestion of a member of this Subcommittee, we have recently surveyed the members of our Association to determine the amount of federal assistance their institutions are now receiving. Of the 67 who have replied thus far, 20 receive no direct or indirect federal financial assistance of any kind, except that in most cases they enroll students who are receiving federal scholarships or loans; 20 receive assistance amounting to less than 2 percent of their total budgets; 17 receive assistance amounting to 2 to 10 percent or less of their budgets; 4 receive aid amounting to 11 to 25 percent of their budgets, and 6 received small amounts of aid that could not readily be related to percentage of their total budgets.

It is clear that most of our institutions have voluntarily refrained from accepting more than minimal federal assistance so as to retain control over and the academic freedom of their own programs. Nevertheless, the Title IX Regulations would subject nearly all these institutions to pervasive federal controls. The application of the Title IX Regulations should be restricted to programs or activities receiving federal funds directly. Only by this means can the independence and academic freedom of these institutions be preserved. In addition, there ought to be a *de minimus* level at which receipt of small amounts of federal financial assistance would not subject institutions to control in any case.

I have directed this portion of my statement primarily to academic freedom and restrictions on free speech and association. I should also refer to the Regulations' threat to the free speech and association. I should also refer to the Regulations' threat to the free exercise of religion. The question of the proper roles of the sexes in society and questions of sexual morality, pregnancy, parenthood and abortion are all matters of religious and ethical significance. Many institutions directed by members of our association are sponsored by or affiliated with religious groups; and many others are vitally concerned with ethical and moral values. The First Amendment protects religious belief and advocacy from government interference.

The Title IX Regulations touch directly on religious questions. For example, they provide that institutions must be blind to the occurrence of abortion—that hiring, admissions, and classroom policies must not take notice of the fact that a person may have had or procured an abortion. (86.40; 86.57) Many religious organizations believe abortion to be immoral and akin to murder. The Constitution guarantees freedom for the advocacy of this widely held opinion and for religiously affiliated or ethically committed institutions to refuse to admit to their association those who reject it.

In an apparent effort to avoid this problem the Regulations have posed an even greater threat to the fundamental guarantee of religious freedom. While purporting to exempt institutions operated by religious groups, Section 86.12 actually requires such groups to prove to the satisfaction of a government administrator that their "religious tenents" are inconsistent with the requirements of the Regulation. Thus, a government agency reserves the right to judge the content and application of a religious tenet, and, presumably, to deny an institution's assertion that its religious belief compels a certain action or teaching. By this means government and not the church becomes the final arbiter of religious worship, practice and belief. The First Amendment forbids this. Freedom to advocate and practice religious principles, like the other aspects of academic freedom mentioned above, must be protected from the encroachments of bureaucratic regulation.

Twenty years ago the Commission on Financing Higher Education sounded a warning that the government would extract control of higher education in return for financial assistance.

"We thrive on our diversities, on the competition of our American life, on our varying institutions and businesses, on our differing interests and loyalties, on the very vitality of our independence, free in its broader aspects from dominance and control. Such independence will be threatened if higher education is subjected to further influence from the federal government. . . . Diversity disappears as control emerges. Under control our hundreds of universities and colleges would follow the order of one central institution. And the freedom of higher education would be lost. . . .

"Direct federal control would in the end produce uniformity, mediocrity, and compliance. Verve, initiative, and originality would disappear. . . . This must not be. There must be no such control." *Nature and Needs of Higher Education: The Report of the Commission on Financing Higher Education* (Columbia Univ. Press, N.Y., 1952).

(For a more extensive discussion of the history of government involvement in education see "Principles in Default," remarks of Dr. John A. Howard, President of Rockford College, copies of which may be obtained from our association.)

The danger recognized in these prophetic words has now come to fruition in the stifling welter of federal controls imposed by the IX Regulations. Only dictation of course content and teaching methods remains to be covered, and even these are presaged in these Regulations.

Our Association is deeply concerned with the diminishing differences among our colleages and universities. A recent report on higher education (U.S. Department of Health, Education, and Welfare, March 1972, p. 12, Frank Newman, Chairman) referred regretfully to what it called the "homogenization of higher education." The report noted that nearly all of the 2500 colleges and universities have adopted the same mode of teaching and learning and that nearly all are striving to perform the same generalized educational mission. "The Traditional sources of differentiation—between public and private, large and small, secular and sectarian, male and female—are disappearing. Even the differences in the chapter of individual institutions are fading."

Even a cursory examination of the Title IX Regulations leaves no doubt that their effect will be to accelerate this trend toward uniformity. We ought not to risk the destruction of the vital diversity and freedom of American higher education in order to pursue the elusive goal of equality. The desirable goal of equal opportunity can be obtained by less dangerous means. The Regulations must be redrawn to confine their scope to the constitutional and statutory standard. They should be restricted to programs and activities that make direct use of federal funds, and to areas that will not stifle institutional differences in the vital areas of free speech, thought, association and religion.

III. Universities and colleages should not be required to integrate all instruction and to terminate all policies or practices differentiating between the sexes where no resulting harm to either sex has been shown.

Embodied in the Regulations is the assumption that sexually segregated instruction or any other recognition of differences between the sexes is harmful and must be prohibited. Some of our members choose to follow and are following policies based on such assumptions. In the absence of proof of the superiority of one social theory over another, however, others should be free to choose other policies that they believe will best promote the happiness and freedom of both sexes.

There is, to the best of our knowledge, no evidence whatsoever that an educational system segregated as to sex is harmful to either sex. It cannot be said that such classes are inherently unequal, as was said of racially segregated classes in *Brown v. The Board of Education*, 347 U.S. 483 (1954). Nevertheless, Section 86.34 dictates co-educational classes in every private university or college in every course. This regulation compels the adoption of a particular educational philosophy contrary to the freedom that a private educational institution ought to have to form and pursue its own philosophy.

It appears that Congress did not intend Title IX to require sexual integration of classes. On October 1, 1974, Congresswoman Edith Green, the author of Title IX's ban on sexual discrimination, engaged in the following colloquy with Congresswoman Marjorie S. Holt:

"Mrs. Green. It seems to me the people who are administering Title IX are going on the assumption that every group of every institution is guilty of discrimination until they are able to prove themselves innocent. This was never the intention. . . .

"A colleague from Texas has said that in some preliminary work HEW administrators have ruled that the physical education classes must be integrated. It seems to me the local school could decide whether they wanted boys' classes or girls' classes or integrated classes. As I understand the amendment offered by the gentlewoman this would eliminate that kind of nonsense. Schools would still keep records but the power of the Federal Government would not compel them to do certain things never intended by the Congress when it originally passed. Is this not one additional benefit of this kind of an amendment—I would ask the distinguished Representative from Maryland?"

"Mrs. Holt. Mr. Chairman, if the gentlewoman will yield; yes, it would give direction to HEW. It would point out this was not the intent of the Congress, that we want the local officials to administer our school system." (Congressional Record, vol. 120, pt. 25, p. 33365.)

Since Congress did not intend Title IX to require compelled coeducation, all such requirements in the Regulations should be withdrawn. By equating co-educational education with nondiscriminatory education the Regulations foist upon academic administrators the untested and unprovable notion that co-educational classes are somehow "better" than any other kind, despite the subject matter and the approach of the individual professor and despite the educational philosophy of the individual institution.

Following are other instances where the Regulations take unproven educational assumptions and translate them into government directives coercing educational institutions into the same mold.

The requirement that student teachers may not be trained at off-campus schools that do not conform to the Regulations, without regard to the quality of training offered by such schools (86.31);

The requirement of equal numerical recruiting forbidding selection on bases other than sexual if these bases would incidentally and unintentally produce sexual imbalance (86.21, 86.22, 86.23);

The requirement of inquiry into the practices of institutions from which students are recruited, without regard to the abilities, accomplishments and attitudes of particular applicants (86.22,23);

The requirement that colleges and universities investigate every company desiring to recruit on the campus to determine whether they has discriminated on the basis of sex. (86.38) (Note the unfairness of imposing on colleges and universities the obligation and expense of enforcing compliance with government policies among organizations outside their control.)

The requirement that institutions offer men's and women's housing in proportion to the number of applicants of each sex, without regard to the difficulties that fluctuations in applications will impose on institutions desiring to have separate buldings for men and women (86.32);

Restrictions on the design, quality, cost and supervision of student housing, without regard to the reasons for existing housing policies and without inquiry into the positive and negative effects of such policies (86.32 and 86.53);

Restrictions on the institution's right to provide different accommodations for men and women; toilet, locker room and shower facilities for men and women must be "comparable" (86.33);

The requirement that institutions restrict students' choice of where they will live off campus (86.32).

Our Association suggests that the Title IX Regulations be redrafted to provide simply that no student may be excluded from participation solely on the basis of sex in any education program or activity *which receives* federal financial assistance. This would insure that women, as well as men, students will be granted equal access to federally financed programs but guarantee against federally imposed co-education no matter how attenuated the relationship between the program or class and the receipt of federal aid.

Another aspect of social theory the Regulations impose is the notion that traditional standards of sexual morality are outmoded and must be eradicated by the Federal Government. Colleges and universities are prohibited from making distinctions concerning abortion or based on pregnancy, parenthood, or marital status, regardless of the order in which they occur (section 86.40). Furthermore, the Regulations prohibit the imposition of dormitory regulations more protective of one sex than another or from prescribing different appearance standards for men or women. In these and other ways the Regulations limit private institutions in the means they can employ to create and maintain a moral climate on their campuses and to teach certain values by practice as well as precept.

So far as our Association can determine, there is no evidence that persons who cast aside moral restraint are happier, better equipped to meet life, or better citizens. In the absence of such proof, private institutions should be free to advocate such moral standards as they consider most suitable for true education and to exclude from their campuses persons who have offended or may threaten the moral standards and climate these institutions desire to establish. The First Amendment guarantee of freedom of association requires this.

It should be obvious that distinctions can be made between the sexes without denying the equality Title IX demands. Discrimination means to make distinctions between persons based on bias. Distinctions based on reason and fact are not only permissable but desirable. In many cases differences in facilities or instruction may contribute to the welfare of the sexes. We believe the Department of Health, Education and Welfare should deal with distinctions between the sexes on a case-by-case basis without resorting to stifling and inhibiting blanket controls. We recommend that the Regulations be confined to general guidelines for equal treatment and that specific programs be left to the wisdom of educational administrators.

This statement has made no deference to the deleterious effect of the Title IX Regulations on athletic programs or the financial burdens the Regulations record-keeping and reporting requirements will impose on the straightened budgets of colleges and universities. These are grave problems, but they are not discussed here because they are likely to be covered in other testimony submitted *to the* Subcommittee.

IV. *Conclusion.*

In addition to advocating revision of the Regulations, as stated above, our Association, by resolution adopted unanimously in our last annual meeting, urges Congress, if necessary, to enact a statute clarifying the meaning of Title IX and similar legislation. We propose legislation embodying three points:

(1) An educational institution will not be deemed to have received "federal financial assistance," as that term is used in federal legislation, solely because of the receipt of federal loans, scholarships, grants, or other funds by students who are enrolled at the institution, even when it is anticipated that the students will pay equivalent amounts to the institution as tuition or for other educational purposes.

(2) An educational institution will not be deemed to have received "federal financial assistance," as that term is used in federal legislation, when the total federal financial assistance received by the institution in a particular year does not exceed a specified amount of fraction of the institution's total annual operating budget (such as $300,000 or 5%, or some other figures). (This so-called *de minimis* exclusion, for which there is considerable precedent in other federal regulatory legislation, is meant to protect the private institution that is trying to avoid receiving federal financial assistance but receives some indirectly, or only receives assistance in a minimal amount.)

(3) If an institution is receiving the requisite total amount of federal financial assistance to make it subject to federal regulatory controls, then for purposes of determining the extent to which it will be subject to such controls the language "program or activity" should mean only the constituent program or activity that is receiving such support, and not all programs and activities of the institution. (Thus, for example, the construction of a physical science building with federal loan or grant funds would only subject to federal controls the activities conducted in that building and would not subject to such controls other institutional operations not receiving federal financial support, such as athletics, housing, etc.)

We respectfully submit that enactment of these proposals would permit administration of Title IX in a simple and straight-forward manner. Furthermore, the federal government would be relieved of the expense and burden of administering the sweeping program the Department of Health, Education and Welfare has erected upon the 37 operative words of Title IX.

In concluding my testimony I appeal once again to the members of the Subcommittee to do all in their power to arrest the encroachment of federal control on the educational institutions which have contributed so much to our country's greatness. As direct and indirect federal tax support becomes a more and more significant factor in higher education, Congress should be increasingly sensitive to the danger that well-meaning government administrators will use such assistance as a means of compelling uniformity in all of higher education. The genius of the American system has been its willingness to accommodate individuals and institutions with diverse opinions and to permit the pursuit of truth along diverse paths. Often the most despised idea has proven of the greatest benefit in the long run. So long as our society tolerates diversity, such benefits are possible. As we begin to inhibit opinions, actions, methods of teaching, and academic values not currently in fashion in Washington, innovation and progress will diminish.

The sense of alarm we are trying to communicate on this question is conveyed in a resolution adopted at the annual meeting of the membership of our American Association of Presidents of Independent Colleges and Universities. After affirming our strong support for providing equal opportunity in education without regard to race, creed or sex, our member Presidents expressed our "deep conviction that if America's institutions of higher learning lose control of admissions, hiring, curriculum, and campus policy—in effect losing control of who attends, who teaches, and what standards are enforced—private, independent higher education will no longer exist." Because of their tendency to undermine the independence of higher education, we ask the Subcommittee to rescind the Regulations under Title IX.

[Exhibit A of Testimony of Dallin H. Oaks]

American Association of Presidents of Independent Colleges and Universities

1975 PAID MEMBERSHIP

College, Location, and President

Albion College, Albion, Mich., Dr. Bernard T. Lomas.

American Grad. School of Internat'l Mgt., Glendale, Ariz., Dr. William Voris.

Andrews University, Berrien Springs, Mich., Richard Hammill.

Augustana College, Sioux Falls, S.D., Dr. Charles L. Balcer.

Averett College, Danville, Va., Dr. Conwell A. Anderson.

Baptist College at Charleston, Charleston, S.C., Dr. John A. Hamrick.

Beloit College, Beloit, Wis., Dr. Miller Upton.

Benjamin Franklin Univ., Washington, D.C., Mrs. C. A. Kennedy.

Berry College, Mount Berry, Ga., Dr. John R. Bertrand.

Biola College, La Mirada, Ca., Dr. J. Richard Chase.

Brigham Young University, Provo, Utah, Dr. Dallin H. Oaks.

Butler University, Indianapolis, Ind., Dr. Alexander E. Jones.

California Inst. of the Arts, Valencia, Calif., Robert J. Fitzpatrick.

Calvin College, Grand Rapids, Mich., Dr. William Spoelhof.

Campbell College, Buies Creek, N.C., Dr. Norman A. Wiggins.

Central Methodist College, Fayette, Mo., Dr. Harold P. Hamilton.

Chowan College, Murfreesboro, N.C., Dr. Bruce E. Whitaker.

Cleary College, Ypsilanti, Mich., Lynn Brenneman.

College of Insurance, New York, N.Y., Dr. A. Leslie Leonard.

College of Mt. St. Joseph, Mount St. Joseph, Ohio, Dr. Robert E. Wolverton.

College of Notre Dame, Belmont, Calif., Sister Catharine Julie Cunningham.

Colorado Women's College, Denver, Colo., Dr. Dumont F. Kenny.

Detroit Institute of Tech., Detroit, Mich., Dr. Dewey F. Barich.

Divine Word College, Epworth, Iowa, Rev. Louis J. Luzbetak.

Dropsie University, Philadelphia, Pa., Dr. Abraham I. Katsh.

Duke University, Durham, N.C., Terry Sanford.

Earlham College, Richmond, Ind., Dr. Franklin W. Wallin.

East Texas Baptist College, Marshall, Tex., Dr. Howard C. Bennett.

Flagler College, St. Augustine, Fla., Dr. William L. Proctor.

Fort Lauderdale University, Fort Lauderdale, Fla., Dr. Stanley J. Drake.

Franklin Pierce College, Rindge, N.H., Dr. Frank S. DiPietro.

Friends University, Wichita, Kans., Dr. Harold C. Cope.

Gardner Webb College, Boiling Springs, N.C., E. Eugene Poston.

Grace Bible College, Wyoming, Mich., Dr. John T. Dean.

Grove City College, Grove City, Pa., Dr. Charles S. MacKenzie.

Hanover College, Hanover, Ind., Dr. John E. Horner.

Hebrew Union College, Cincinnati, Ohio, Dr. Alfred Gottschalk.

Hillsdale College, Hillsdale, Mich., Dr. George C. Roche III.

Howard University, Washington, D.C., Dr. James E. Cheek.

Immaculata College of Wash., Washington, D.C., Sister Marian Brady.

Inter Amer. Univ. of Puerto Rico, San German, P.R., Sol L. Descartes.

Internat'l Fine Arts College, Miami, Fla., Sir Edward Porter.

Judson College, Elgin, Ill., Dr. Harm A. Weber.

Kansas Newman College, Wichita, Kans., Rev. Roman S. Galiardi.

Kendall School of Design, Grand Rapids, Mich., Lawrence O. Mailloux.

La Roche College, Pittsburgh, Pa., Sister De la Salle Mahler.

Lee College, Cleveland, Tenn., Dr. Chester W. Conn.

Lewis University, Lockport, Ill., Dr. Lester Carr.

Manhattan College, Bronx, N.Y., Brother Gregory Nugent.

Maria Regina College, Syracuse, N.Y., Sister Mary Rosalie Brady.

Dr. Martin Luther College, New Ulm, Minn., Conrad I. Frey.

Mary Hardin-Baylor College, Belton, Tex., Dr. Bobby E. Parker.

Meredith College, Raleigh, N.C., Dr. John E. Weems.

Mid-America Nazarene College, Olathe, Kans., Dr. R. Curtis Smith.

Monmouth College, Monmouth, Ill., DeBow Freed.

Mount Mary College, Milwaukee, Wis., Sister Mary Nora Barber.

Mount St. Mary's College, Emmitsburg, Md., Dr. John J. Dillon, Jr.

National College of Business, Rapid City, S.D., John W. Hauer.

National College of Education, Evanston, Ill., Dr. Calvin E. Gross.

Northrop Institute of Tech., Inglewood, Calif., Dr. B. J. Shell.

Oklahoma Christian College, Oklahoma City, Ok., Dr. J. Terry Johnson.

Pacific Lutheran University, Tacoma, Wash., Richard Jungkuntz, Act. Pres.

Pepperdine University, Malibu, Calif., Dr. William S. Banowsky.

Phila. College of Textiles & Science, Philadelphia, Pa., Dr. Lawson A. Pendleton.

Phillips University, Enid, Ok., Dr. Thomas E. Broce.

Principia College, Elsah, Ill., Dr. David K. Andrews.

Puget Sound College of Bible, Seattle, Wash., Dr. James Earl Ladd.

Ricks College, Rexburg, Idaho, Dr. Henry B. Eyring.

Robert Morris College, Coraopolis, Pa., Charles L. Sewall.

Roberts Wesleyan College, North Chili, N.Y., Dr. Paul Lear Adams.

Rockford College, Rockford, Ill., Dr. John A. Howard.

Roger Williams College, Providence, R.I., Ralph E. Gauvey.

Roosevelt University, Chicago, Ill., Dr. Rolf A. Weil.

Salve Regina College, Newport, R.I., Sister Lucille McKillop.

Samford University, Birmingham, Ala., Dr. Leslie S. Wright.

St. Francis College, Loretto, Pa., Rev. Sean M. Sullivan.

St. Lawrence University, Canton, N.Y., Dr. Frank P. Piskor.

Saint Mary's College, Notre Dame, Ind., Dr. William A. Hickey, Act. Pres.

St. Mary's University, San Antonio, Tex., Rev. James A. Young.

School of the Art Inst. of Chicago, Ill., Dr. Donald J. Irving.

Sherwood Music School, Chicago, Ill., Walter A. Erley.

Simpson College, San Francisco, Ca., Dr. Mark W. Lee.

Sioux Falls College, Sioux Falls, S.D., Dr. Owen P. Halleen.

Southern College of Optometry, Memphis, Tenn., Dr. Spurgeon B. Eure.

Southwestern University, Georgetown, Tex., Durwood Fleming.

Spring Garden College, Chestnut Hill, Pa., Robert H. Thompson.

Steed College, Johnson City, Tenn., Dr. Howard S. Steed.

Sterling College, Sterling, Kans., Dr. Robert C. Baptista.

Thiel College, Greenville, Pa., Frank H. Bretz.

Thomas Jefferson University, Philadelphia, Pa., Dr. Peter A. Herbut.

Tiffin University, Tiffin, Ohio, Richard C. Pfeiffer.

University of Albuquerque, Albuquerque, N.M., Joseph M. Zanetti.

Viterbo College, LaCrosse, Wis., Father J. Thomas Finucan.

Wellesley College, Wellesley, Mass., Dr. Barbara W. Newell.

Wentworth Institute, Boston, Mass., Dr. Edward T. Kirkpatrick.

Wheaton College, Wheaton, Ill., Dr. Hudson T. Armerding.

William Jewell College, Liberty, Mo., Dr. Thomas S. Field.

Woodbury College, Los Angeles, Ca., Mrs. Dora E. Kirby.

York College of Pa., York, Pa., Dr. Ray A. Miller.

Lakeland College, Sheboygan, Wis., Dr. Ralph T. Mirse.

University of Richmond, Univ. of Richmond, Va., Dr. E. Bruce Heilman.

102–Upper Iowa University, Fayette, Iowa, Dr. Aldrich K. Paul.

Mr. BAYH. Mr. President, I think it would be a tragic departure from the whole concept of providing quality education to take this amendment.

It is my understanding that the Senator's amendment will exempt any courses not required for graduation from the purview of title IX. The impact of this amendment is enormous—it would exempt those areas of traditional discrimination against women that are the reason for the congressional enactment of title IX. These areas would include scholarship aid, employment and employment benefits and extracurriculum activities such as athletics.

As the distinguished manager of the bill has stated, the Senate Subcommittee on Education held extensive hearings on legislation which had a similar purpose in exempting athletics or revenue-producing sports from title IX. The testimony before the subcommittee as to existing discriminatory practices in college activities was overwhelming.

I am sure that my colleagues do not wish to provide any less protection for their daughters under title IX, than is provided for minorities by title VI. I urge the Senate to reaffirm its commitment to providing equal educational opportunity for girls and women, and reject this amendment.

UP AMENDMENT NO. 390

Mr. McCLURE. Mr. President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McClure) proposes unprinted amendment No. 390.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 213, between lines 15 and 16, insert the following:

PART K—DISCRIMINATION BASED ON SEX CLARIFICATION OF TITLE IX

SEC. 178. Section 901 of the Act is amended by adding at the end thereof the following new subsection:

"( ) Federal financial assistance received defined.

"For purposes of this chapter, federal financial assistance received means assistance received by the institution directly from the federal government."

Mr. McCLURE. Mr. President, this amendment also deals with the regulations issued under title IX and seeks to restrict some of the overreach of the regulations as they relate to sex discrimination in colleges. The statute does not require the breadth or the reach of the regulations. That has been pointed out so often that it need not be reiterated here except for the record. I think one of the frustrations that many people have about Government is that Congress may act, and does indeed act, and then the bureaucracy goes beyond that. Then Congress must seek to rectify the overreach by the bureaucracy.

There is no more perfect example than the title IX regulations. Yet, what happens when Congress seeks then to react to the overreach by the bureaucracy? Those of us who would have them put back into the context of the original congressional enactment are faced with the frustration of a committee that desires to overreach, but is not expressive of the will of the majority of Congress. That is absolutely the case in this particular matter, because there is no question that Congress did not intend the length and the breadth of the regulations under title IX. But the committee through which corrective legislation must pass is a committee that does not find that offensive at all. So a committee that is not representative of the will of the majority can block the corrective legislation that seeks to correct the bureaucratic excesses.

If there is to be any correction of the weight and the oppressiveness of a bureaucracy that legislates by regulation, then the committees of Congress are going to have to permit corrective legislation a real hearing in their committees. I say that with respect to title IX, because there are a number of us who, for 2 years, have been trying to get this committee to act on title IX regulations and the committee refuses to act. If we want to talk about filibusters on the floor of the Senate, how about the filibuster of inaction by committees that do not represent, committees that are not representative of the majority will of Congress, but sit on legislation years on end, because they desire the results of the bureaucratic excesses? This is one such example. Dozens of others could be given. OSHA examples are rife. We could give hundreds of examples of such action.

When it gets to the point, as the title IX regulations have, of the public outcry that has greeted these, that results in articles like the one in the May 1976 Reader's Digest, the article which appears under the title "Colleges Under the Federal Gun," then I think it is time to recognize that the bureaucracy has overreached again.

The example given, and my good friend, the Senator from Oregon (Mr. HATFIELD) gave one such example in private conversation as well as one recited here in this article, is of Reed College in Portland, Oreg., probably one of the most liberal universities in the United States. If ever there were a college at the cutting edge of the liberal movement in the country, it would be Reed College. Yet they are being put under the gun by HEW for sex discrimination. Based upon what? They have a male professor who is the head of a department—and this college is a rather small college. There is only one professor in that department. That is sex discrimination. What was the president of that college to do to correct this sex discrimination? He was directed by HEW to hire a woman to replace the man.

I think the president, quite properly, said the only way he could really solve the problem was to find some professor in that field who is bisexual and hire that individual as head of the department. Otherwise, *he is guilty* of discrimination. What kind of nonsense is that?

We seek in this instance, in the amendment that I have here as well as the other one, to limit that overreach by saying in this amendment that you cannot exert Federal control over an institution where the institution does not take Federal money directly, but the only Federal involvement is the aid that a student may get. HEW regulations seek to exercise control over colleges which have no more connection with the Federal Government or no Federal-aid programs directly to the college or university at all, but who may, as a matter of happenstance, have a veteran student who is going to school under the GI bill, or some student who has some kind of grant from some Federal program who is a student at that college, which then will subject the college to Federal control and Federal regulation.

Did Congress say so? Indeed not. Congress did not say so. HEW said so. That monster down there that seeks to extend its tentacles into the life of everyone directly or indirectly involved must, somehow, be brought back under control.

My amendment seeks only, in this instance, to say that that peripheral, that accidental, that indirect connection of a student with a Federal program does not subject the institution to Federal control. Even though the managers of the bill may not have seen fit to accept the other one, which is broader in its context than this one, I hope that it will be possible that they will at least see the wisdom of saying, "We may have desired a control of educational programs, for the institution itself is drawing money from the Federal Treasury; but when it is only the indirect effects of Federal moneys flowing in by way of student assistance, the institution should not be subjected to Federal control for that reason."

Mr. BAYH. Will the Senator yield for a question?

Mr. McCLURE. I am happy to yield.

Mr. BAYH. I do not want to interrupt his train of thought. If this is not the proper place to pose it, I shall refrain.

Mr. McCLURE. This is fine.

Mr. BAYH. Dealing with another matter on yesterday, the Senator from Indiana expressed his deep concern about certain regulatory abuses down at HEW, either here or in the field. I think it is important to understand that there are really no guidelines issued from HEW to those who are handling the interpretation of these regulations out in the field. As a result of my concern for this problem, as well as other aspects of the enforcement process, I have asked the GAO to conduct a thorough, intensive study of how we can do a better job of coming to grips with these problems.

The Senator from Idaho has pointed out an abuse relative to the firing of a professor from Idaho. I do not know all the facts of the situation. I do not know what the faculty balance was in other departments, which may have had some impact on it. If there is no woman hired in any department, you have to make the proper adjustments to achieve balance. But I take the assessment of the Senator from Idaho. I just want to know, and I apologize for the prelude leading up to it—first of all, let me say I think we have a responsibility to deal with abuse, either by getting the regulations changed or, if we cannot do that, by legislating. But how does the amendment of my distinguished friend from Idaho deal with the abuse he cited?

Mr. McCLURE. The particular abuse in this instance, the one that I am seeking to correct here—I shall give another example, because I am not sure what I could say about Reed in that instance: Hillsdale College, subjected to Federal controls by way of student assistance or a GI grant to a student. Hillsdale College has gone to great pains to avoid any appearance of Federal support. They have not participated in Federal aid programs. They desire to be completely independent of the Federal taxpayer in the support of the institution. They are being subjected to Federal control because some student may have Federal assistance. My amendment would simply say that it has to be a direct Federal assistance before they are subjected to the HEW regulations at all.

Mr. BAYH. In other words, the way you deal with this is not really going to the specific abuse but to exempt the whole college.

Mr. McCLURE. Because the specific abuse in this instance is attempting to subject a college to control what it has no Federal connection with at all, but a student may have a Federal connection, and that is the abuse. My amendment would seek to correct it directly.

Mr. BAYH. I do not want to take the Senator's time. I will speak to that at the end of his remarks. I appreciate his courtesy.

The PRESIDING OFFICER (Mr. CHILES). Who yields time?

Mr. BAYH. Mr. President, maybe this is an appropriate time to continue the thought that I was expressing.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. I yield 10 minutes to the Senator from Indiana, but I would also add that, to my mind, this amendment of the Senator from Idaho reraises the issue that the Senator from Oregon sought to address last night, and which the Senate rejected last night, that the enactment of this amendment would mean that no funds under the basic grant program would be covered by title IX.

While these dollars are paid to students they flow through and ultimately go to institutions of higher education, and I do not believe we should take the position that these Federal funds can be used for further discrimination based on sex.

Here I would yield 10 minutes to the Senator from Indiana.

Mr. BAYH. That is fine. I appreciate the Senator from Rhode Island yielding to me. I think it is important to understand here the question raised by the Senator from Idaho deals with a specific abuse, and yet the remedy he seeks is not to deal with how you make that particular problem better but to establish a vehicle by which you can take a certain class of colleges and institutions out from under the congressional mandate prohibiting discriminating against women.

I do not think we want to be in a position of saying certain schools do not have to conform to the standards established by Congress.

The matter before us or the specific vehicle which brings colleges under the regulations; namely, the receipt of direct or indirect Federal financial assistance directly to the university, but the inclusion of students who get Federal assistance is not unique. If we followed this route then the next step is to repeal title VI of the Civil Rights Act because the court has held in other civil rights matters that if a student gets assistance from the Federal Government the university itself is assisted.

The case of Bob Jones University against Johnson is a specific case in question. The two general benefits which were ascribed to the university as a result of the student going there were, one, that it is only natural when a student goes and pays tuition, that tuition being paid by the Federal Government, a part of that tuition goes to the general administrative expenses of the entire university.

Second, the court pointed out that by providing this kind of assistance it increases the pool of students who are eligible to go to school and thus make it possible for universities to have large new student bodies so that they can afford to stay in business.

So I think there is a very direct benefit to a university to have more and more students, particularly today, with the increased costs when it is important to keep the numbers of students up.

I want to emphasize that this application of title IX is not unique. Title VI of the Civil Rights Act applies the same standard.

Beyond that, I think we need to say, "Now, look here, we are either going to face up to the fact that the women students of America have been for too long discriminated against and we are going to put an end to that or we are not." To establish one class of institutions which can escape meeting the standards established by Congress I think would be a great departure from equity. It would set a terrible example and would open the floodgates to other efforts to destroy what we are trying to accomplish here.

I want to emphasize some of these matters brought to our attention. I used intemperate words, such as "idiotic abuse" in talking about the father and son banquets yesterday and the Boys' State and Girls' State, but it sounds to me like the Senator from Idaho has an abuse here as well. But what we ought to do, it seems to me, is to tailor the remedy, refine it, and go to the abuse, not undercut the purpose of title IX, which is to provide equal quality educational opportunity for all the women students of this country.

This particular example, contrary to some of those that have been raised here was raised before in congressional debate. I remember discussing it when I testified before the House committee when this very point was raised.

The House committee studied this interpretation. I emphasized at that time that title IX, which dealt with discrimination so far as women are concerned, is parallel in its language and enforcement expectations with title VI of the Civil Rights Act. The courts have held that title VI of the Civil Rights Act does apply if a student receives Federal aid. If a student is benefited, the school is benefited. It is not new law; it is traditional, and I think in this instance it is a pretty fundamental tradition, that we treat all institutions alike as far as requiring them to meet a standard of educational opportunity equal for all of their students.

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

I would like to speak directly to my colleagues about something that has impressed me in this debate. It is that Senators do not use the Senate committees enough.

I have no doubt that the bureaucracy in HEW, like the bureaucracy in every department, including our own offices, is full of mistakes, stubbornness, perversity, stupidity. But as Senators we are essentially ombudsmen. We are a rare kind of institution in the world. It is really unique, this institution of the Senate and the House of Representatives. These committees can screen complaints, can evaluate them and come to a judgment, and this will help Members enormously. That is really what these amendments are about.

May I say to the Senator from Idaho, I could not possibly be for these amendments. He knows that. But I can be really indignant, and I join the Senator in that, in regard to the administrative stupidity which brings us all this trouble and hurts the people of our country because nothing knocks down wonderful programs sooner than this kind of administrative bungling.

It seems to me that Members—and I certainly am experienced in the relations of Members to their constituents—can be enormously helped if the committee will evaluate a complaint.

You take this very startling example the Senator cites of the one professor, he is a man, and they want a woman. Why? It sounds ridiculous, but there may be a good reason. I am not the chairman of the committee, I am its ranking member. But it seems to me our committee's duty would be to entertain that complaint, investigate it, and evaluate it. Then we should come back to you and say, "Senator McClure, you are right, and we will beat their brains out until they change it," or "Senator McClure, you are wrong, and this is why."

I have never encountered a remotely reasonable constituent who has not been satisfied with an honorable effort to find out and a proper explanation even if he does not agree.

So I think this debate points up a better use of our committees. It is a way in which I do not think many of us have used them. And this is a very startling case in point.

Whatever happens to this amendment, it should be our duty to check into this if you want us to, and I hope you will, because this is the way in which we can save the programs in which we believe.

This to me comes as a very striking lesson from this debate and other debates which have centered around this rather new approach, but one which the times demand, of nondiscrimination on grounds of sex.

So I hope very much—it is a little peripheral to the debate but very important, and I think it very pertinent—that Members generally will realize that the committees, with the direct relation to the departments, can have an enormous effect and can be very helpful to them and to our Members and to themselves.

Mr. President, I reserve the remainder of my time.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. How much time remains?

The PRESIDING OFFICER. The Senator from Idaho has 1 minute; 6 minutes remain on the other side.

Mr. JAVITS. I yield the Senator 2 minutes from our time.

Mr. McCLURE. I thank the Senator for yielding his time.

First, let me respond to the Senator from Indiana regarding the question that is raised as to whether or not this specifically reaches a problem.

Most of the amendments dealing with curriculum, I think, do. They reach the specific problem of attempting to reach beyond what Congress intended into a lot of peripheral activities to bring all kinds of social conduct under the aegis of Federal control when Congress did not intend that.

HEW overreached congressional intention.

The second amendment reaches the specific problem of a similar nature of trying to reach the control of an institution that has no Federal connection, except to students who happen to be citizens of the country.

Under the federal system, the Federal Government has no business trying to control every facet of every life in this country, although perhaps there are differences of opinion in this body as to how far we can go.

Mr. President, I ask unanimous consent that Mr. Thurmond be added as a cosponsor of both amendments.

The PRESIDING OFFICER (Mr. Bumpers). Without objection, it is so ordered.

Mr. BAYH. Will the Senator from Idaho permit me to ask one question?

Mr. McCLURE. If we can get some time.

Mr. PELL. I yield time to my colleague.

Mr. BAYH. May I ask the Senator from Idaho, for the sake of consistency, would he also apply that same standard of relevance to title VI, to root out discrimination against minority citizens?

Mr. McCLURE. As I understand it, title VI, the minority citizen question, has been decided by the courts affirmatively under the constitutional provisions. It is not the same kind of an overreach or extension of power by the bureaucracy in regulations that go far beyond express congressional intention, as is the case here.

Mr. BAYH. Let me ask my friend from Idaho at his leisure to look at the case of *Bob Jones University* v. *Johnson*, 396 Fed. Supp. 597, and then after he has had a chance to study that, I would like to discuss it more completely with him, because in that particular case it covers title VI.

I suggest that we can disagree on this, but it certainly is the very strong opinion of the Senator from Indiana that the basis for the constitutionality is the same whether we are trying to stop discrimination against a majority of our citizens—women—or a minority who have been discriminated against.

Mr. McCLURE. Let me respond further to the Senator from Rhode Island, the amendment raised yesterday on this subject was not rejected by the Senate, but was withdrawn.

So the Senate has not acted upon that matter yet. That is the reason why I brought mine in today.

Mr. PELL. That is correct. It was withdrawn, not rejected.

Mr. McCLURE. In regard to the very thoughtful and kind comments of the Senator from New York, I do appreciate them.

We find oftentimes that the committees do not necessarily reflect the views of the majority. That is not true just of this committee, but oftentimes the committee has people who are particularly committed to a particular philosophy in this area of programs, and the result many times is that these are exercises in frustration.

We have had a bill pending for some time dealing with title IX regulations, and the bill has not received any kind of action, let alone much sympathy. Not even a sympathetic hearing. It may have had some hearing, but I could scarcely characterize it as sympathetic.

The same thing was true in the different examples but even the same kind of thing in OSHA regulations in which there have been myriads of proposals for modifications, I have testified before committees and they have never produced anything in spite of all their promises to make some changes, all of the promises to hold hearings, and, in all due respect to the Senator from New York, to hold a hearing where it is a change in the law.

It is not just simply somebody acting as an ombudsman, to hearing this and then say, "Go away." It does not amount to that here. To hear the complaint and do something. That is what we are talking about.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

Mr. HATFIELD addressed the Chair.

Mr. JAVITS. Does the Senator want to speak?

Mr. HATFIELD. I would like about 3 minutes.

Mr. JAVITS. I do not know if we have it, but I will just take 1 minute.

The PRESIDING OFFICER. There are only 2 minutes remaining.

Mr. HATFIELD. Will the Senator yield?

Mr. JAVITS. Yes, but I yield myself 1 minute to answer this question.

Obviously, we are not going to yield our views. Neither is the Senator from Idaho (Mr. McClure).

But I was talking about ridiculous instances of administration which bring on many controversies here and our ability to help to try to bring them to a conclusion. That was all.

But I thoroughly agree with Senator Bayh's analysis of this situation and intend to oppose the amendment.

Mr. HATFIELD addressed the Chair.

Mr. JAVITS. We have 1 minute.

Mr. PELL. Mr. President, I ask unanimous consent that we continue for another 3 minutes, giving 1 minute to the Senator from Oregon and 2 to the Senator from Indiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Could I have 2 minutes?

Mr. JAVITS. Would you make that 4, Mr. President, divided equally?

Mr. HATFIELD. I thank the Senator.

Mr. President, I hate to hear it, but the discussion here devolves into a civil rights issue.

I think we are missing the point entirely when we try to make civil rights the issue. That is like a lot of the most heinous crimes in history having been committed in the name of Christianity.

As far as I see the analysis, I think the key point we tried to make last night and which the Senator from Idaho is trying to make today, should not get sidetracked on civil rights, and it is this. The Family Education and Privacy Act of 1974 very clearly said that Federal funding to institutions does not refer to noncampus-based programs as far as Federal financial aid to students is concerned.

Then title IX regulations say that Federal funding is defined as including noncampus-based programs of Federal financial aid to students.

Here, again, is an example of the Federal Government talking out of both sides of its mouth.

The victim of all these instances comes right back down to the campus, to the college, the small colleges that cannot afford to put through all these Federal bureaucratic demands of paperwork.

We better make our decision very clearly and follow it through with a very clearly stated policy.

I refer back again to the fact that we talked about the GI bill of rights not violating church and state, separation of church and state, because it went directly to the student and not the others.

Now, under title IX, we can follow any kind of Federal money to any institution to control it, regulate it, and make these demands.

This is the inconsistency which I think we are trying to point out and call an issue of civil rights.

Mr. BAYH. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Indiana has 2 minutes, as the Chair understands, on his own time.

Mr. BAYH. I seldom disagree with my friend from Oregon, but frankly, I do not know how he escapes the fact, we are talking about a matter of civil rights here.

We may talk about inconsistencies between various statutes, but the question here right now is whether we are going to permit the classification or the establishment of a certain class of institutions that do not have to provide equal quality education for their daughters as well as for their sons.

If we are going to say that about title IX of the Education Act of 1972, then it seems to me, if we are going to be consistent, we would have to say it about title VI of the Civil Rights Act that deals with the age-old struggle to stop discrimination against minority citizens.

I believe that would be wrong.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Idaho. The yeas and nays have not been ordered.

Mr. McCLURE. Mr. President, I ask for the yeas and nays on both amendments.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is it not a fact that the vote on each amendment will come back to back?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. The question is, are the yeas and nays requested on both amendments?

Mr. McCLURE. Yes.

Mr. JAVITS. Then will the Chair have the clerk read what is the first amendment or which we will vote?

The PRESIDING OFFICER. The clerk will state the first amendment by Senator McCLURE upon which the Senate will now vote.

The legislative clerk read as follows:

On page 213, between lines 15 and 16, insert the following:

PART K—DISCRIMINATION BASED ON SEX

CLARIFICATION OF TITLE IX

SEC. 178. Section 901 of the Act is amended by adding at the end thereof the following new subsection:

"( ) Education program or activity defined.

"For purposes of this chapter, an educational program or activity means such programs or activities as are curriculum or graduation requirements of the institutions defined in (c) above."

The PRESIDING OFFICER. The yeas and nays have been ordered on both amendments.

Mr. McCLURE. A further parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Are these limited to 10-minute rollcall votes?

The PRESIDING OFFICER. The first rollcall will be 15 minutes, and the second one will be 10 minutes.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Will the Senators please clear the well and take their seats? There is an additional vote coming up after this one which will be a 10-minute rollcall. The clerk will suspend until the Senate is in order.

Will Senators please take their seats?

The Senate is still not in order.

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Maine (Mr. HATHAWAY) is absent attending the funeral of a friend.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. PACKWOOD), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent due to a death in the family.

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Ohio (Mr. TAFT). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Ohio would vote "nay."

The result was announced—yeas 28, nays 52, as follows:

[Rollcall Vote No. 537 Leg.]

YEAS—28

Allen
Bartlett
Bellmon
Byrd, Harry F., Jr.
Byrd, Robert C.
Curtis
Fannin
Fong
Goldwater
Hansen
Hatfield
Helms
Hruska
Johnston
Laxalt
McClellan
McClure
Morgan
Moss
Pearson
Randolph
Roth
Scott, William L.
Sparkman
Stennis
Stevens
Talmadge
Tower

NAYS—52

Abourezk
Bayh
Beall
Bentsen
Biden
Brooke
Bumpers
Burdick
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Eagleton
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Haskell
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Mansfield
Mathias
McGee
McIntyre
Metcalf
Muskie
Nelson
Nunn
Pastore
Pell
Percy
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevenson
Stone
Symington
Weicker
Williams
Young

NOT VOTING—20

Baker
Brock
Buckley
Dole
Domenici
Durkin
Eastland
Ford
Garn
Hartke
Hathaway
Long
Magnuson
McGovern
Mondale
Montoya
Packwood
Taft
Thurmond
Tunney

So Mr. McClure's amendment was rejected.

(Later in the day the following occurred:)

Mr. NUNN. Mr. President, on vote No. 537 I voted "yea." I had intended to vote "nay." I ask unanimous consent that my vote may be so recorded as "nay."

The PRESIDING OFFICER (Mr. Culver). Without objection, it is so ordered.

(The foregoing rollcall vote reflects the above order.)

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on agreeing to the second McClure amendment. It will be a 10-minute rollcall. The yeas and nays have been ordered.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. Durkin), the Senator from Mississippi (Mr. Eastland), the Senator from Kentucky (Mr. Ford), the Senator from Indiana (Mr. Hartke), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Maine (Mr. Hathaway) is absent attending the funeral of a friend.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from New Mexico (Mr. Domenici), the Senator from Oregon (Mr. Packwood), the Senator from Ohio (Mr. Taft), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

I further announce that the Senator from Utah (Mr. Garn) is absent due to a death in the family.

On this vote, the Senator from South Carolina (Mr. Thurmond) is paired with the Senator from Ohio (Mr. Taft). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Ohio would vote "nay."

The result was announced—yeas 30, nays 50, as follows:

[Rollcall Vote No. 538 Leg.]

YEAS—30

Allen
Bartlett
Bellmon
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Curtis
Fannin
Fong
Goldwater
Griffin
Hansen
Hatfield
Helms
Hruska
Huddleston
Johnston
Laxalt
Leahy
McClellan
McClure
Morgan
Nunn
Randolph
Scott,
  William L.
Sparkman
Stennis
Stevenson
Talmadge
Tower
Young

NAYS—50

Abourezk
Bayh
Beall
Bentsen
Biden
Brooke
Bumpers
Burdick
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Eagleton
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hollings
Humphrey
Inouye
Jackson
Javits
Kennedy
Mansfield
Mathias
McGee
McIntyre
Metcalf
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stone
Symington
Weicker
Williams

NOT VOTING—20

Baker
Brock
Buckley
Dole
Domenici
Durkin
Eastland
Ford
Garn
Hartke
Hathaway
Long
Magnuson
McGovern
Mondale
Montoya
Packwood
Taft
Thurmond
Tunney

So Mr. McClure's amendment was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of an amendment by the Senator from Oklahoma (Mr. Bellmon) on which there will be 20 minutes of debate.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a unanimous consent request?

Mr. BELLMON. I yield, without losing any of my time.

Mr. ROBERT C. BYRD. I thank the Senator for yielding. I ask unanimous consent that the time I consume not be charged against the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources of the Committee on Public Works be authorized to meet today, August 30, and 31, to consider the Water Resources Development Bill; that the Subcommittee on Buildings and Grounds of the Public Works Committee be authorized to meet on August 31 to consider a House-passed bill relating to the John F. Kennedy Center for the Performing Arts; and that the Committee on Interior and Insular Affairs be authorized to meet on August 31 to consider Federal reclamation projects and programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes.

The PRESIDING OFFICER. Before the Senator begins debate on his amendment, will the Senate please be in order? Senators who intend to remain will please take their seats. Others will retire to the cloakroom. The Senator is entitled to be heard.

AMENDMENT NO. 2208

Mr. BELLMON. Mr. President, I call up my amendment No. 2208.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. Bellmon) proposes amendment No. 2208.

The amendment is as follows:

On page 128, strike out lines 15 through 20.

On page 128, line 21, strike out "(c)" and insert in lieu thereof "(b)".

On page 129, line 6, strike out "(d)" and insert in lieu thereof "(c)".

On page 129, line 16, strike out "(e)" and insert in lieu thereof "(d)".

On page 129, line 19, strike out "(f)" and insert in lieu thereof "(e)".

On page 129, line 20, strike out "(g)" and insert in lieu thereof "(f)".

Mr. BELLMON. Mr. President, the Education Amendments of 1976, S. 2657, pose what I believe are some unique budgetary problems in the area of student assistance for higher education. There are currently a number of programs in the Higher Education Act which provide direct subsidies to students, and these programs allow access to college for students who otherwise would be unable to attend. I support the purposes of such programs.

However, we have before us a proposed change in two of the programs for student assistance: the basic educational opportunity grants and the guaranteed student loans. These changes will provide subsidies primarily to middle-income students. I do not believe it is desirable to pass several pieces of legislation which duplicate benefits to the same population. If the Congress wishes to subsidize higher education for such individuals, it should choose the best one of these alternatives.

Let us consider the specific impact of one of the changes proposed in S. 2657. The basic educational opportunity grant program was created in 1972 to provide assistance to low-income students attending post-secondary educational institutions. The program has grown from an expenditure of $48 million in the 1973–74 school year to over $1 billion in the 1975–76 school year. The estimated cost of the 1976–77 school year is $1.3 billion. Participation in the program was underestimated last year by 15 percent and a supplemental appropriation was necessary to maintain full funding. The participation rate the first year of the program, fiscal year 1974, was 32 percent. This increased in fiscal year 1975 to a

51 percent participation rate. Fiscal year 1976 saw an increase to a 74 percent rate.

The participation rate for fiscal year 1977 has been estimated at the actual fiscal year 1976 level of 74 percent. Judging from past experience, this may again be a low estimate. The current level of $1.3 billion could increase to $1.8 billion if all eligible students participated. This is a growing program which has not yet stabilized.

In the report on S. 2657, the committee makes comments on this issue. I quote from the report:

> It was the Committee's belief that the program is quite new, and its ground rules should not be changed at this time.

The report goes on to say that—

> To make substantial changes in the program at this time could only confuse students and financial loan officers.

I am in complete agreement with this assessment of the committee. I was extremely surprised, therefore, to learn of the major change in the program which would occur as a result of section 121(B)(1) of the bill.

This section raises the ceiling per grant from $1,400 to $1,800. In order to fully fund such change, the appropriation for the program would have to be significantly increased. The minimum additional cost for full funding, assuming the same rate of participation as in fiscal year 1976, is $600 million over the fiscal year 1976 appropriation. If the level of participation has been underestimated again, as is likely, the increased cost per year could be as high as $1.15 billion, an 89 percent increase if all eligible students participate. Obviously, the committee is recommending a major change in the basic opportunity grant program.

As the ceiling is used not only to limit the size of the grant, but also as a factor in determining eligibility, this change will increase the number of students eligible for the program. The new eligibles will be primarily from middle-income families.

The size of the grant will increase for many recipients particularly middle income students whose family income was such that the students were eligible for relatively small grants. As the size of the grant is limited to one half the actual cost of attendance at an institution, the grant size for low income students will increase primarily for such students in attendance at high cost institutions. Thus, the proposed change is aimed at subsidizing middle income students, the same population which will benefit from the tax credit and the increase proposed in S. 2657 in the guaranteed student loan program.

The basic opportunity grant is a quasi-entitlement program subject to appropriations with provisions for reducing the size of each grant should the appropriation be smaller than the amount needed to fund the full entitlement. As it currently is fully funded, increased participation would create great pressure to increase the appropriation to continue the full entitlement.

Attention should also be given to the results of the proposed change in the basic opportunity grant program if the Congress does not increase the appropriation. If this were the case, the provisions for reducing the size of each grant would go into effect. This would mean that the new middle income eligibles would participate at the expense of low income students. Over 400,000 new eligibles would be created by raising the ceiling. Regardless of the appropriation level, these newly eligible students would be entitled to a share of the funds. If the appropriations were not raised to accommodate the increase, the grants of all currently eligible students would be reduced to fund the new participants. This places us in the position of robbing a poorer Peter to pay a richer Paul. It will be extremely difficult to take money from current grantees to give to the new recipients. The nature and size of fully funding this authorization clearly makes the change a budget issue.

The budget process has established an orderly way to make changes of the magnitude required for full funding BEOGs. The 1974 Budget Act very carefully provided that the authorizing committees would have ample opportunity for anticipated changes to be considered in the budget process. When an authorizing committee tells the Budget Committee what changes in programs might be advisable from one year to the next, the committee considers the budgetary impact in adopting the budget targets.

The Labor and Public Welfare Committee in its March 15 recommendation to the Budget Committee specifically targeted $1.5 billion for this program which would allow for an increased participation rate at the $1,400 level. The cost of fully funding the increase will be a minimum of $1.9 million and could be significantly higher. The amount needed to fully fund the increase was not included in planning for the first concurrent resolution.

Because of the continuing growth of the program under the existing authorization, and because of the budgetary impact should the change become law, I have offered an amendment to strike the increase. The effect of this amendment will be to continue the program at its present ceiling of $1,400 per grant.

I am offering this amendment for budgetary reasons. The Budget Committee figures as prepared by the Congressional Budget Office are sound. Should the proposed maximum grant included in this bill be appropriated at the current rate of participation among program eligibles, it will absorb all but $0.1 billion of the remaining slack in the budget resolution target for Function 500 (education, Training, Employment and Social Services), resulting in a shift from elementary-secondary funding, for which a major portion of the existing margin was originally intended, to higher education. Any increases in participation that are fully appropriated would cause the functional target to be breached. In either case, there would be no more room in the function for supplemental appropriations for elementary and secondary education, including education for the disadvantaged and the handicapped.

I regret having to offer this amendment since like most Members of the Senate I am a supporter of education. This support does not mean, however, that we can close our eyes to the very serious budget problem before us. My concern is with the budget and appropriations process. If there is another way to alleviate this concern and to assure that the budget target of the 500 function will not be breached, we should consider such an alternative. I understand that other Senators are interested in speaking to this point and are prepared to take part in a colloquy which addresses my concern.

Mr. President, the problem that this amendment attempts to correct is simply this. When the Labor-HEW Committee communicated with the Budget Committee earlier this year, the impression was that the costs of the program that this amendment deals with would be about $1.5 billion. Under the terms of the proposed legislation as it finally has come to the floor, the cost of this program, if it were fully funded and if there were full participation, could be as much as $2.45 billion, which is roughly $1 billion more than the Budget Committee had anticipated.

This matter has been discussed with members of the Labor-HEW Committee and the floor managers of the bill, and I should like at this time to ask the distinguished Senator from Rhode Island, the floor manager, some questions that I think will bear on this matter and perhaps help us see just where we stand.

First of all, what has been the past history of the funding of the BEOG program?

Mr. PELL. The basic educational opportunity grants program was first enacted in 1973 at the figure of $1,400, but it was not fully funded until this year, 3 years later. I regret that delay. This, then, is the first year we have been able to have full funding on the BEOG program. The first year, I recall, the level of funding was $700 or $800, and it gradually moved up.

Mr. BELLMON. It is fully funded at the $1,400 level for the first time?

Mr. PELL. For the first time, this year.

Mr. BELLMON. Does the Senator expect full funding of the basic educational opportunity grants program in fiscal year 1977 if the maximum grant is raised to $1,800?

Mr. PELL. Expect, no; hope, yes.

Mr. BELLMON. That gives us a little leeway, it would appear.

What is the estimate for the BEOG funding in the Labor and Public Welfare Committee's March 15 recommendation to the Budget Committee?

Mr. PELL. We used $1.5 billion.

Mr. BELLMON. So that is the level of the funding which the committee anticipates?

Mr. PELL. That is correct.

Mr. BELLMON. The funding of the basic educational opportunity grants program at the higher level will compete with other programs for funds that remain in this 500 function and in the Labor-HEW Appropriations Subcommittee allocation. In other words, we understand there is going to be some competition.

Mr. PELL. There is competition already for these funds. That is why the committee is reluctant to accept other amendments for large amounts.

Mr. BELLMON. I call the attention of the distinguished floor manager to a statement inserted in the Record yesterday by the Senator from Alaska (Mr. Stevens), in behalf of Senator Magnuson, who says that when the Labor-HEW Subcommittee on Appropriations prepared its projects for the budget, we did not factor in any increase in the maximum grant level. The point is that the Appropriations Subcommittee is not prepared to fully fund this program, and I am sure the floor manager understands this.

Mr. PELL. Regretfully, I do.

Mr. BELLMON. I also point out that there is pressure on the 500 budget function and on the Appropriations Committee. I am of the opinion that we are all in agreement now, after this colloquy, that everyone is willing to try to live within the budget limitations that already have been adopted in the first concurrent resolution. Is this right?

Mr. JAVITS. Mr. President, if the Senator will yield to me, there is only one reservation. I joined with Senator Pell in these answers and I shall not repeat them so long as we are in agreement. But on this matter, I must make this point: The Senator knows that recommended amounts which we sent to the Budget Committee respecting education has been partially diverted to health programs by the Committee on Appropriations. We do not wish, by that diversion, to be concluded of what we viewed as the priorities. In other words, there is no prejudice either way. We have the right to fight about that in the usual manner, and this fact need not change the view of the ranking member of the Committee on the Budget. But I do not wish to sit silent and just accept that as the final disposition of the matter. I hope the Senator will agree with me: what the Budget Committee proposes does not foreclose a Senator or a group of Senators on a committee from protesting what the Committee on Appropriations may do to change the order of priorities which the legislative committee thought was the right one.

Am I correct in that?

Mr. BELLMON. Mr. President, I agree with the Senator. There is nothing in the budget process that prevents that kind of negotiation.

Mr. JAVITS. And contest, if need be.

Mr. BELLMON. Right.

Mr. PELL. I associate myself with the views of the ranking minority Member and floor manager in this regard.

Mr. BELLMON. Mr. President, before I yield the floor, I have some documents that I shall ask unanimous consent to have printed in the Record. They further state the case that I have been trying to make. I ask unanimous consent that these documents prepared by the staff of the Budget Committee be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Basic Educational Opportunity Grant Program*

I. BACKGROUND

The Basic Educational Opportunity Grant program provides grants to undergraduate students in order to assist them in achieving the benefits of postsecondary education. Eligibility is primarily based on the annually approved Family Contribution Schedule which is a formula designed to measure the financial strength of the student and his family. Grants can range from $200 to $1400 per academic year. Grants are made directly to students but, with a few exceptions, institutions act as disbursing agents on behalf of the Commissioner.

There are several characteristics of the Basic Grant program which make it particularly vulnerable to the misuse of public funds and fraud. These include:

A. Rapid Growth, Size, and Complexity of the Program—

The number of applicants has increased nearly fivefold in three years, from 513,000 in school year 1973–74, the first year of the program, to an estimated 2,450,000 in 1975–76.

The number of award recipients has increased even more dramatically from 177,000 in 1973–74 to 1,268,300 in 1975–76—more than seven times.

The number of participating institutions has increased from a zero base in 1972–73 to 4,300 in 1973–74 to 5,350 in 1975–76.

The number of proprietary or profit-making institutions in the program is second only to the Guaranteed Student Loan program and has increased from a zero base in 1972–73 to 839 in 1973–74 to 1,510 in 1975–76. Of the 75 "problem" schools which have been brought to the attention of the Basic Grant program, nearly all are proprietary institutions.

The funding of the program has grown from $122.1 million for the 1973–74 academic year to approximately $1 billion in the 1975–76 academic year.

The Office of Education increasingly has had to disburse funds directly to students with resulting loss of control over who receives the payment and less ability to verify information provided by the student. In most cases, postsecondary institutions act as disbursing agents for the Office of Education in making Basic Grant awards. However, the law entitles an eligible student to an award regardless of whether the institution is willing to act in this capacity; accordingly with the growth of the program, the Office of Education is disbursing directly an estimated $6 million to approximately 8,000 students in the 1975–76 academic year.

This is a substantial increase over the 1973–74 academic year when 630 students received $168,800. Because the Office of Education is physically removed from the institutions and the student, this process is more susceptible to fraud on the part of both students and institutions.

While every effort has been made to simplify the eligibility determination process, student applicants must still provide answers to questions concerning his or her status, including information on the applicant's parents. This information is necessary to provide for equitable treatment of applicants and to comply with the law. However, the application form and the information requested are still sufficiently complex to be vulnerable to error and possible misuse of funds.

Because of the entitlement nature of the Basic Grant program, there is a need for uniform national standards. Accordingly, the Basic Grant program publishes detailed regulations and procedures covering all aspects of the program's operations, including the student application process, the calculation and disbursement of awards, and institutional funding and reporting procedures. For example, regulations include such specifics as:

Allowance costs for room and board, books, and miscellaneous expenses.

Definitions of full and part-time students.

Uniform procedures for reducing awards when the students are enrolled on a part-time basis or for less than a full school year.

Definitions of undergraduate, dependent, and independent students.

In order to ensure uniform and equitable treatment it is necessary to publish these detailed and complex regulations. However, lack of staff has prevented the monitoring essential to enforcing proper compliance.

B. Frequent Changes in Rules and Regulations, Programs with Termination of institutional Eligibility, Other Characteristics of the Program and its Recipients—

Under the Basic Grant program, institutional eligibility is primarily based on accreditation by a recognized quality rather than stewardship for public funds. As a result, Basic Grant funds continue to go into schools regardless of the possible program abuses, until the eligibility of the school is terminated. The law, for the most part, conditions eligibility termination on loss of accreditation, a process which can literally extend into months of deliberation and administrative actions.

Data reported by students for the purpose of qualifying for awards is accepted as submitted. While the submission of false income and other data constitutes fraud, the limited verification possible because of staffing constraints makes the falsifying of such information a potentially serious problem.

The lack of staff to adequately monitor program activities makes it difficult to ensure that institutions do not inflate the demand for grant funds in order to receive more funds than are necessary to pay enrolled students and that they do not employ unethical admission practices using grant funds as a magnet to draw students into a school.

Many institutions participating in the Basic Grant program are new in the area of student financial assistance and staffing shortages in the U.S. Office of Education prevent the providing of technical assistance in the proper administration of Federal funds.

Because institutions simply act as disbursing agents and Basic Grants is a student entitlement program, the amount of funds made available to each school is dependent on the actual Basic Grant demand at the institution. Therefore, adjustments in the amount of funds going to each school are made throughout the year. The current HEW system for processing institutional authorizations is not sufficiently flexible to make the necessary adjustments in a timely and efficient manner. As a result, in order to meet the growing institutional pressures to release increased authorizations, adequate review and monitoring of these requests often suffers. The adjustments in the institutional requests are made on the basis of Progress Reports which are submitted three times per year or on an ad hoc basis. Between 15,000 and 16,000 reports are received during the year.

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*This discussion of BEOGs is reproduced from a letter dated February 16, 1976 from Under Secretary Marjorie Lynch of HEW to Senator Magnuson.

EXCERPTS

(From the March 15 Report of the Committee on Labor and Public Welfare to the Committee on the Budget on the Budget Proposed for FY 77)

Most importantly, the Committee recommends that the Basic Educational Opportunity Grants (BEOG) program be fully funded so that it might act as intended as a foundation for all financial aid programs. The Committee has included $1,500 million as its estimate of full funding for BEOG.

Participation rates

[In percent]

Fiscal year 1974	32
Fiscal year 1975	51
Fiscal year 1976	74
Fiscal year 1977	--

All FY 77 cost figures based on 74% participation—thus, cost figures may be low.

Cost data

(FY 76 program level was $1.3 billion)

[In billions]

	74 percent participation	*100 percent participation*
$1,400 grant limit	$1.3	$1.8
$1,800 grant limit	1.9	2.45

Relationship of S. 2657, the Education Amendments Act of 1976 and the budget targets for fiscal year 1977

[In billions of dollars]

	Budget Authority
Budget Target for Function 500 in first concurrent resolution (Function 500—education, training, employment and social services)	[1] $24.6
Education sector of Function 500	
Amount assumed for education programs	11.3
Less amount already appropriated	−7.5
Balance remaining for appropriation	3.8
Less amount assumed in budget target for education programs not yet authorized (including BEOG's $1,400 maximum per grant and 74 percent participation rate, and assuming GSL's at current levels of eligibility)	−3.2
Balance left over in excess of funding levels assumed in budget resolution	0.6
Added amounts for BEOG's and GSL's in excess of amounts assumed in budget targets (based on full funding of provisions of S. 2657 and based on last year's 74 percent participation rate)	−0.5
Possible balance left for future education needs if S. 2657 is enacted and BEOG's and GSL's are fully funded	0.1

[1] Function 500 includes Budget Authority of $13.3 billion for all programs other than education programs. These portions of Function 500 are not expected to exceed the target.

1. The above numbers assume a 74% participation rate which was the FY 73 figure. It should be noted that the participation rate in the last three years has grown from 32% in FY 74, to 51% in FY 75, to 74% in FY 76. Each additional percentage point participation rate costs an added $25 million.

2. The above tables show that no funds will be available for any additional future education requirements including an anticipated supplemental appropriation request for education, such as educational programs for the disadvantaged and the handicapped.

3. In addition to comparing S. 2657 with the Function 500 ceiling, it is also necessary to compare this bill with the spending amounts allocated by the Appropriations Committee to its Labor-HEW Subcommittee. As shown on page 32 of the Senate Scorekeeping Report, that Subcommittee allocation is already exceeded by about $0.5 billion considering action to date and foreseeable later requirements. The BEOG's level implicit in S. 2657 will add to that overage by an additional $0.5 billion.

Mr. CHILES. Mr. President, I am glad to hear the exchange of views and information among my colleagues on the Budget and Appropriations Committees and the chairman of the Education Subcommittee and the ranking minority member of the Labor and Public Welfare Committee.

I have long been a supporter of providing aid so that needy students have an equal opportunity for higher education. The basic educational opportunity grants program has grown rapidly over the last few years to become the backbone of this effort. As a member of the Labor, Health, Education, and Welfare Appropriations Subcommittee, I supported full funding of the basic grants program this year, even though it increased in cost from $166 million in 1975 to $1.5 billion in 1976. There is merit to the Education Subcommittee's contention that increases in cost of living justify an increase in the maximum grant amount. I, therefore, believe we should provide some significant increase this year.

Unfortunately, there were two difficulties with the original committee proposal. Due to the way basic grant eligibility is calculated, an immediate increase from $1,400 to $1,800 would not only increase the grant to low-income students, but would also greatly expand the eligible population. We would be faced with a cost increase of anywhere from 30 to 50 percent in a single year. This is also a year when we have pushed up against our education budget ceilings by providing major new funding at the elementary and secondary level for the handicapped, for aid to the disadvantaged and for forward-funding vocational education. We have already doubled basic grant funding to meet rapidly rising participation levels.

Just last month, the Senate voted a universal tax credit for college tuition which will cost over a billion dollars in 1978. That would be a tax expenditure to achieve the same purpose as the increase in basic grants.

In these difficult last 2 years of recession and inflation, Congress has worked to create a new budget process. I think we have achieved a reasonable economic policy, stimulating economic recovery by funding necessary programs and cutting taxes, while providing inflation allowances in programs serving the needy. At the same time, we have kept our deficit spending in bounds so as to not aggravate inflationary pressures. I am, therefore, glad that we have worked out this compromise that will allow us to provide significant cost-of-living increases in basic educational opportunity grants, while still keeping within the bounds of the congressional budget resolution.

Mr. BELLMON. Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. MORGAN). The Senator from Oklahoma has 4 minutes.

Mr. BELLMON. Mr. President, I yield 2 minutes to the Senator from Alaska.

Mr. STEVENS. Mr. President, I rise in support of the amendment offered by the ranking minority member of the Senate Budget Committee. If the authorizing committee had made any effort to streamline the existing duplicative student aid programs, I would have offered my full support to their efforts to increase the ceiling for the basic grants. I will go into this matter in greater detail a bit later when I present my amendment to the higher education section of the bill.

The Senator from Oklahoma is entirely accurate when he states that there would be great pressure placed on the Appropriations Committee to increase the basic grant funding to the fully authorized level. Just a few months ago, we added $800 million to the second supplemental appropriations bill so that approved applications could be funded.

Although I am not a member of the Budget Committee, I, too, hope that the process we have set up will work. As was pointed out, the Committee on Labor and Public Welfare did not inform the Budget Committee of the additional requirements that would be placed on the Federal budget as a result of this amendment. The Senate would show a complete lack of self-discipline if the increased ceiling is allowed to stand.

I, therefore, hope that the Senate will accept the amendment to maintain the present ceiling of $1,400 in view of the fact that no one can make an accurate estimate of the cost of the increased ceiling. HEW has no figures on the number of basic grants recipients who actually get the current $1,400 maximum. However, for the 1975–76 school year, 47 percent of those who applied for BEOG's were given a zero eligibility index which means that no family contribution could be expected. The 47-percent figure has to be an overestimate, so for the sake of argument, assume that 30 percent of the students who finally received grants were eligible for the maximum. Just to fund the $400 difference in calendar 1975–76 would have cost over $152 million.

This figure of $152 million does not take into account the increases in other grant awards that would be necessitated by the higher ceiling.

Until the Office of Education can provide Congress with some reliable data on who is getting what and how much legislative changes will cost, I must strongly agree with Senator BELLMON'S position in opposition to the increased ceiling.

BASIC EDUCATIONAL OPPORTUNITY GRANTS

The Department of Health, Education, and Welfare has no figures on the students who actually receive a BEOG's grant. The only figures they have compiled are based on the applications received. They do not know how many who are declared eligible on the application finally go to college or how much of a grant they are finally awarded.

School year	Appropriation	Total awards	Average	Maximum percent of $1,400 grants*
1975–76	$1,000,000,000	1,268,000	$800	47
1976–77	1,315,000,000	1,521,000	865	43

*These applications have been given a zero eligibility index which means that no family contribution can be expected. HEW does not know how many of these applicants actually went on to school or how many of them attended institutions with an annual cost of less than $2,800.

Mr. President, I expressed my viewpoint last night. While I support the Senator from Oklahoma, I shall certainly support whatever he decides to do with his amendment, also. I do think, however, that the Senate ought to keep in mind that there is a pressure on the Committee on Appropriations; that is the budget ceiling that is set for the total, overall HEW sector of the appropriation process. If we are going to approve an increase of from $1,400 to $1,800, that money, that $400 to $500 million, is going to have to come out of something—out of cancer, out of some sort of research, it is going to come from somewhere. What is more, it is misleading to try to tell the students of this country that they are going to get $1,800 a year. They are not getting $1,400. They never have.

I respectfutlly disagree with the ranking member of the committee, who states that they did not have full funding. We overfunded this program for 3 years. It is only this year that the applications are coming to the point where they are using the appropriations we have made available. As a practical matter, we are funding it somewhere around the $700 level now under a $1,400 authorization. This committee comes back and says, "Raise it to $1,800," and says to the Appropriations Committee, "Go to the budget process and find the extra money." Well, it is not there and the students of this country ought to know it is not there, and this committee should not have done what they did with this bill.

I made the point last night that they should have completely revamped the approach to student aid and saved the money that is currently being used in the administrative process—over $28 million, paid under the 3 percent that is paid to the institutions for processing the applications. I further pointed out that every student fills out two or three applications. The institutions are paid to process them, the HEW employees are paid to process them, and the students themselves are getting less and less money through a more frustrating process every year. We could have changed this program around and saved money.

Do not let anyone tell you that the students of this country are going to get $1,800 under this bill. The bill has never been funded the full amount yet.

Mr. PELL. If the Senator will excuse me, the program is funded fully for the first time.

Mr. STEVENS. It is not.

Mr. PELL. I was referring to basic grant authorizations.

Mr. STEVENS. I say to the Senator, it is funded fully to the extent that it is authorized, but the applications come in to the point where no student is getting $1,400.

I take that back. It is not no student, but the average student is getting somewhere around $685, let me put it that way.

Mr. PELL. That is correct, but if the student is fully eligible, he gets the $1,400.

Mr. STEVENS. That is not the testimony that is before the Committee on Appropriations. More than 50 percent of the applications are rejected and about 47 percent of those are eligible for full funding. What the total level of full funding is HEW cannot tell us. They do not keep those records.

Mr. PELL. They do not know. Some of these things are unpredictable.

Mr. STEVENS. Unpredictable? It is Federal money. They ought to be able to tell us how much each student is getting and they cannot.

Mr. PELL. Many of the students who apply are ineligible for the basic grants, so they are rejected. Others have an income level in their family that makes them ineligible for full funding. All of those who are eligible for full funding this year, for the first time in 3 years, are getting it.

Mr. STEVENS. We do not know whether they are going to get it or not. As I pointed out, last year, we came in with $800 million for a supplemental. We had to readjust our figures to add that $800 million for applications that were approved at the time of the original hearings. What will happen this year, we cannot predict. I think it is safe to say the Senator cannot yet. We do not know how many applications will be received. We have funded the full request. We do not know the number of applications that will be received.

What I am saying is that what the average a student gets now, under this very burdensome process is somewhat less than $700. If we were to change it to a program where each student filled out one application, an application for a grant to the extent of his eligibility, and a guaranteed loan beyond that, which is a piece of paper he can take to any bank and get the money, that would save us at least $28 million and put 35,000 more students under this program this year.

Mr. PELL. Without pursuing this argument too repetitiously, I say again we tried the idea of having a common form for all of these programs. However, under the law we passed in Congress, the Federal Government cannot ask for information that is not required for the particular program for which someone is applying. So we cannot have one form that asks for the information necessary for five programs. It is illegal.

Mr. STEVENS. We only need one program.

Mr. PELL. Well, we would like to find the magic program that helps the poor, the middle-income, and everybody else. It is pretty hard to find that one program, and that is why we have the building bricks.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

I believe this debate is based upon a premise which should be very clearly set forth. I am deeply concerned if the word goes out that we are saying $1,800, but we really do not mean it. The fact is that in advance of the applications for basic educational opportunity grants, HEW must estimate the amount which will be required. This demands not only an accurate guess of who will apply, but also their financial circumstances and the cost of their education, which can vary greatly based on what type of school a student selects. Their estimate can be way off, and it has been. Sometimes it is too high, sometimes it is too low. There is no way of accurately estimating these behavioral decisions of individual citizens, unless we want to throw money away by estimating the highest possible amount. There is just no way of doing it.

Mr. STEVENS. Will the Senator yield right there?

Mr. JAVITS. Of course.

Mr. STEVENS. Unless the Committee on the Budget is willing to give the Committee on Appropriations an additional half billion dollars, somewhere around, I would say, $700 million, this $1,800 cannot be financed this year. That is our point. It is misleading to tell the public that it is going to be done unless we have to eat it in terms of taking it out of cancer programs or out of some other form of appropriation that is requested under the HEW appropriation. That is what our committee chairman said yesterday. That is what I am saying.

I am further saying that even if it is increased to $1,800 and they give us the money it does not mean that each student is going to get full entitlement, because under this program, there is no way to predict how many applications are going to be made.

Mr. JAVITS. There is no question; I just said that, myself. As to the diversion of the money for medical research, that is what the Appropriations Committee has already considered, although the bill has not yet come before the Senate. We may like it, we may not. We may challenge the committee and defeat it.

Mr. STEVENS. We have not done it yet. We may have to do it.

Mr. JAVITS. I understand that, but that is the committee's choice. The Senate may disagree with the committee. I am deeply committed to that research, too, and have been for years. But we have to have some balance in this thing and it is the Committee on the Budget that is trying to outline what we think are the legislative priorities. If the Committee on Appropriations tries to go its own way, do not take it out of us on education. We can still fight about it.

Mr. STEVENS. That is 47 percent of the Federal budget this year, the HEW funds. The Senator is asking us to squeeze more out of that 47 percent. It cannot be done unless the Committee on the Budget gives us 50 percent, approximately, of the budget. All these things increase demand on this one area of the budget.

Mr. JAVITS. May I say to Senator STEVENS that he and I are passing each other in the night. All I am talking about is how to divide the 47 percent, and it can be divided in any number of ways. We may disagree on how the Appropriations Committee divides it. That is all I am talking about.

The last point, which is very important, is that you are never going to get every student $1,400 or $1,800. He is not supposed to get it. It depends on the kind of college he goes to and the financial condition of his family. These grants are all variable up to $1,800. That is the important point the country has to know. No student has a guarantee of $1,400 or $1,800 or any other figure. Those are the ceilings, and the average must be lower otherwise you would be appropriating twice what we are talking about.

The Senator's heart is in as much the right place as mine. But I must be sure that students and universities, and all the people involved, are sure about what we are talking. This is a ceiling. No student is promised $1,800. And I ask Senator PELL to join me in that because, let us get that very clear: no student is promised $1,800.

Mr. PELL. That is correct. The amount of the grant is based on the level of family income.

Mr. STEVENS. I think you ought to go further and say that no student is going to get more than $1,400 unless the Budget Committee gives us more money.

Mr. JAVITS. I cannot say that because that may not be so at all. But we do it as well if we say to the individual student, "Look, the ceiling is $1,800. What you are going to get depends on your condition financially or your family's condition, and the institution you go to," because we do not want this idea of a guarantee to go out. I thoroughly agree with you in that, and so we are making it crystal clear.

Mr. STEVENS. Mr. President, there is no way a student can be kept in school today with $1,800 or $1,400. I wish the Senator would go back to my point that after they go through that they then have to go to see if they can get a student direct loan, a guaranteed loan, eligible work study, and then come back with hat in hand to see if they are eligible for a supplemental educational opportunity grant.

These people are made to go to shopping centers. Instead of devising a program that helps the student, and tells him how much total Federal assistance he was going to get, and lets him scratch or borrow or do whatever he has to do to get the balance, this situation makes the student declare he is a pauper in order to get eligibility under the fifth program. That is what they did not like under the veterans program. The veterans finally rose up and knocked that down, and I hope the day will come when the students will stop it, because I do not see any reason why a disadvantaged child should have to go to four desks and then go back to the first one and say, "These other guys won't help me because I am not eligible in any of these programs, but I am absolutely broke. Will you give me a supplemental educational opportunity grant?"

That is what you divide. As I said last night, it is a retreat. I wish you all had children who were of college age trying to go through this thing, trying to go to college, and that you could go to families who cannot afford it, and then you would be able to understand it. I see these kids. They are friends of my kids, and they are having a tough time. The tougher you make it to get money the worse it is on them, and the more we are going to have dropouts.

There is no reason for five programs to determine whether a child is eligible for Federal assistance.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. Mr. President, I yield myself just 30 seconds because our time is very limited. We are supposed to vote at 12 o'clock.

I just want to say to Senator STEVENS that when the Senator said "You made it tough," I do not think he really meant that. Congress is trying to hold the balance between the taxpayer and the needy student, and I think he is one of the most ardent advocates of that. So do not tell us we made it tough. We are not "hard-hearted Hannahs" any more than he is. We are trying to do the best we can with limited resources, and to balance equities, and we will continue to do so.

Mr. BELLMON. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. BELLMON. If the distinguished Senator from Maine wishes, Mr. President, I would be glad to yield the remainder of my time to him.

Mr. MUSKIE. Mr. President, I want to thank the Senator from Oklahoma for his leadership in this colloquy on the education budget. It is vitally important that we stay within the budgetary limits Congress has adopted. I believe the colloquy among Senators from the three committees involved in this instance—Labor and Public Welfare, Appropriations, and Budget—will greatly assist the Senate in meeting our budget targets over the fiscal year about to begin.

Mr. President, I would like to take a minute to reiterate the importance of the bill before us today in a budgetary context, and I ask unanimous consent that a budget table be printed in the RECORD at this point.

There being no obection, the table was ordered to be printed in the RECORD, as follows:

Impact of S. 2657 on First Budget Resolution for fiscal 1977

[In billions of dollars]

	Budget authority
First budget resolution target for function 50 (education, training, employment and social services)	[1] 24.6
Education sector of function 500:	
Amount assumed for education programs	11.3
Less amount already appropriated	−7.5
Balance remaining for appropriation	3.8
Less amount assumed for programs not yet authorized	−3.2
Balance left over and above funding assumed in Budget Resolution	0.6
Added amounts for basic education opportunity grants and guaranteed student loans based on full funding of provisions in S. 2657	[2] 0.5
Balance left for education if S. 2657 is enacted and BEOG's/GSL are fully funded	0.1

[1] Function 500 includes budget authority of $13.3 billion for training, employment and social services programs. These sectors of the function are not expected to exceed the target. The major program not already appropriated is the CETA Title VI jobs program, for which $4.4 billion was assumed in the Budget Resolution.

[2] This amount assumes the current participation rate of 74 percent of eligibles will continue. If the rate increases, each percentage point will add $25 million to this estimate.

Mr. MUSKIE. This table shows that the budget authority target of $24.6 billion adopted in the first budget resolution for function 500 included $11.3 billion to cover all education programs for fiscal 1977. The Senate has already passed appropriations totaling $7.5 billion, leaving $3.8 billion for education not yet appropriated. Based on the assumptions used in developing the budget targets last spring, $3.2 billion of this $3.8 billion would be required for the programs included in S. 2657, leaving only $600 million in the congressional budget for all other education initiatives, including supplementals for those programs already considered in the regular appropriations bills.

However, the Appropriations Committee's latitude for education appropriations action must also be measured against their own allocations of the congressional budget by subcommittee, if we are to stay within the overall congressional budget ceiling. It is equally important that we examine the opportunity for higher education funding from the viewpoint of that Appropriations Committee allocation as well. Mr. President, I ask unanimous consent to have printed a table from the latest Senate scorekeeping report which shows the potential budget status for programs funded by the Labor-HEW Subcommittee of Appropriations.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEE ON LABOR; HEALTH, EDUCATION, AND WELFARE

[In millions of dollars]

	Fiscal year 1977 direct spending jurisdiction	
	New budget authority	Estimated outlays
I. First Concurrent Resolution Allocation	65, 900	69, 300
II. Action to Date:		
A. Enacted in prior years		
B. Enacted this session		
C. Passed Congress but not signed		
D. Conference agreement:		
Departments of Labor and Health, Education, and Welfare and Related Agencies Appropriation Bill, 1977 (H.R. 14232)	56, 391	[1] 62, 045
E. Passed Senate		
F. Reported in Senate		
Total action to date	56, 391	62, 045
III. Current Status:		
Under (—) or over (+) 1st Con. Res. allocation [2]	—9, 509	—7, 255
IV. Possible Later Requirements: [3]		
Additional requirements under existing entitlement legislation:		
AFDC and SSI	83	128
Medicaid	921	854
Allowance for new entitlement legislation:		
Child care legislation	200	200
Extension of special unemployment assistance	456	456
AFDC/UI legislation (H.R. 13272)	—61	—61
Health manpower authorization	550	302
Other health programs	286	55
CETA Title VI public service jobs not yet authorized	4, 400	3, 500
Education programs not yet authorized:		
Higher education programs	2, 900	732
Other education programs	300	300
Total possible later requirements	10, 035	6, 466
V. Potential Status:		
Under (—) or over (+) 1st Con. Res. allocation [2]	+526	—789

[1] Includes $17,909 million of outlays from prior-year authority.

[2] The allocations to subcommittees by the Committee on Appropriations were made to the nearest tenth of a billion dollars. Thus, differences of less than $50 million may be due to rounding.

[3] This listing includes all formal budget requests by the President that have not yet been considered by the Senate, plus other items that in the judgment of the Senate Budget Committee staff may require funding later in the fiscal year. The dollar amounts in this section are tentative and subject to change.

Mr. MUSKIE. This table indicates that appropriations action thus far leaves a remainder of $9.5 billion for supplementals covering not only education but all other Labor and HEW programs as well. But additional likely requirements add to $10 billion. Thus, a potential overrun of $500 million in budget authority may occur for that subcommittee allocation if these possible supplementals are enacted. Significantly the list of likely supplemental demands does not include the $600 million for education which the congressional budget contemplated. What has happened is that higher spending than anticipated is now likely in other areas—for example, $900 million due to medicaid reestimates and $300 million for other health supplementals. The very tight funding situation for these other HEW programs must be kept in mind in the consideration of S. 2657, since one provision of this bill will put great pressure on the appropriations committee to increase higher education spending.

That provision relates to the basic education opportunity grants, or BEOG program. When the budget resolution was developed, BEOG's was assumed to continue on a fully funded basis at the current maximum grant level of $1,400. However, the bill before us today would raise the level to $1,800, increasing program cost by over $400 million. On a fully funded basis, this provision and others relating to BEOG's and the guaranteed student loan program could use up $500 of the $600 million remaining in our target for education, and would add $500 million to the expected overrun for the Labor-HEW subcommittee. That would bring the total overrun to $1 billion.

Of course, the Appropriations Committee is not obligated to fund BEOG's in full, but the alternatives are not promising. Less than full funding could mean ratable reductions in individual students' grants or some other unpopular program limitation such as limiting the program to full-time students. So appropriations will be under considerable pressure to fund BEOG's at the higher grant level.

It is in this light that the assurance obtained by Senator BELLMON this morning regarding the likely BEOG funding levels are vitally important to our ability to stay within the overall congressional budget targets.

I hope this information will help my colleagues as they consider appropriations for the bill before us and the many amendments that have been offered. We are rapidly approaching the point where the remaining balances in the education budget target will be spent, especially if the BEOG provision should be fully funded. We are past that point so far as appropriations is concerned. If BEOG's is fully funded, other important education programs may be crowded out, since we must stay within the budget.

Again, I want to thank Senator BELLMON and the other Senators involved in this colloquy for their contribution to our joint efforts to stay within the budget.

I will simply try in 2 minutes to emphasize what I suspect has already been said. I have not heard all of the debate, but some of it.

First of all, with respect to the budget resolution which the Congress adopted this spring, this bill is consistent with the sums provided for education in the budget resolution which Congress adopted this spring.

Based on the assumptions used last spring $600 million is left in the congressional budget for all other education initiatives, including this bill and any other education supplementals for education of the disadvantaged or handicapped children, to name a few.

However, the fact is that given Labor/HEW appropriations actions to date $9.5 billion remains for supplementals covering not only education but all other Labor and HEW programs as well. But additional likely requirements add up to $10 billion. So that without the BEOG program and without the guaranteed student loan program there is a potential $500 million overrun if all of the likely future requirements are funded.

The Appropriations Committee, of course, has the discretion not to fund all of the likely additions. But that discretion, I would suggest, is very limited, as the Senator from Alaska has already indicated.

If we fully fund these proposed changes in the BEOG's and guaranteed student loan programs, the overrun projected for the Labor/HEW Subcommittee would expand from the currently projected $500 million to $1.0 billion.

One of the tables I have included in the RECORD is from page 32 of the current scorekeeping report. If you will refer to that page and focus on the possible later requirements, you will get some indication of the kinds of programs and attendant funding levels that are likely to absorb and exceed by $500 million the unappropriated slack remaining in the Labor/HEW Subcommittee budget allocations.

Frankly, Mr. President, it seems very unlikely that the Appropriations Committee could fully fund unappropriated programs at levels assumed in the first concurrent resolution, and in addition fund the $1,800 BEOG's grant or the guaranteed student loan program in this fiscal year and stay under the budget targets.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MUSKIE. I ask unanimous consent, Mr. President, for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. The Senator from Alaska has asked whether the Budget Committee would give the Appropriations Committee another $500 million. Well, we do not carry a bag of money around with us. The budget resolution sets the targets, and it is those targets we are talking about, and the pressures on the educational function are very great indeed.

If I were on the Appropriations Committee, I would contemplate with considerable trepidation the task of trying to fit everything into the available dollars that is now on the list of desirable possibilities.

The **PRESIDING OFFICER**. All time has expired. The yeas and nays have not been ordered.

Mr. BELLMON. Mr. President, I ask unanimous consent that I may proceed for 1 minute, with the intention of withdrawing the amendment after an explanation.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, there seems to be agreement here between the members of the Labor and Public Welfare Committee and all concerned that we will try to live within the functional totals set up by the congressional budget resolution; and on that basis that we will have to stay somewhere around the $1.5 billion for these programs for fiscal year 1977 we also, I believe, have a good understanding now of what we are up against here, and I believe the amendment I have offered will not be necessary.

Therefore, Mr. President, I ask unanimous consent that it be withdrawn.

The **PRESIDING OFFICER**. Without objection, the amendment is withdrawn.

UP AMENDMENT NO. 391

Mr. BURDICK. Mr. President, on behalf of the Senator from Kansas (Mr. DOLE) and myself, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Dakota (Mr. BURDICK) for himself and Mr. DOLE, proposes an unprinted amendment No. 391.

Mr. BURDICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 322, between lines 6 and 7, insert the following new section:

AMENDMENT RELATING TO PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

SEC. 328. Section 5(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by inserting "(1)" after the word "which" and by adding at the end thereof a comma and the following: "or (2) provides, for the fiscal year for which the determination is made, that unequalized revenues do not constitute more than 15 percent of the total State and local educational revenues for current operating expenses for that year".

On page 101 in the Table of Contents after item "Sec. 327.", insert the following new item:

"Sec. 328. Amendment relating to Public Law 874, Eighty-first Congress.".

Mr. BURDICK. Mr. President, I am pleased to cosponsor and offer this amendment in the absence of Senator DOLE, whose other commitments have made it impossible to be present during our consideration of S. 2657. I welcome the opportunity to bring it up also because it concerns a matter of mutual concern and importance to our two States of Kansas and North Dakota.

As Senators familiar with impact aid and so-called State "equalization" plans are aware, HEW has recently proposed some regulations to implement a provision in the Education Amendments of 1974 dealing with exceptions for school aid plans which are "designed to equalize expenditures." Unfortunately, our States—even though they were the ones who took the lead in that regard and have previously qualified for the exemption—could conceivably fall short of meeting the standard which has been developed.

For that reason, we are seeking to establish through specific statutory language contained in this amendment that both the Kansas and North Dakota systems were contemplated for coverage under the relevant Public Law 93-380 section. We would do that by, in effect, saying that the term "designed to equalize expenditures" shall be deemed to have been satisfied if at least 85 percent of State and local educational revenues are equalized.

It is my firm opinion that the currently proposed 90-percent level is overly restrictive and not in keeping with congressional intent as expressed at the time the underlying legislative provision was discussed on the floor of the Senate. For example, in a colloquy between Senator DOLE and Senator PELL on May 20, 1974, it was made quite clear that there was a need for flexibility in interpreting the words "designed to."

The distinguished subcommittee chairman also stressed in that same conversation that the purpose of the exception being created was to eliminate "windfalls" for 874 recipient school districts—which is precisely what the Kansas and North Dakota plans do. Yet in spite of this background—and the fact that the original exception upon which the current law is based was provided to respond to the special problems of our two States—we are now in danger of being excluded under the latest proposed test.

To me this is a highly inconsistent and unjustifiable situation. I think it is both reasonable and appropriate, therefore, to make it clear by this amendment that a fiscal neutrality standard of less than 15 percent is simply more rigid than ever intended by Congress—and that Kansas and North Dakota, which have truly been the leaders in the equalization area, should most certainly qualify under section 5(d)(2) of the law.

Mr. PELL. If the Senator will yield, I would just like to say that I am in basic agreement with the observations he has made and tend to share the view that our objective in 1974 was to provide for recognition of the types of school aid systems which have been adopted in North Dakota and elsewhere. Indeed, he is correct that in the colloquy between Senator DOLE and myself I indicated that the provision in question was designed to prevent windfalls to impacted districts.

To the extent that the Kansas and North Dakota plans accomplish that goal, I would readily concede that they fulfill the purpose of the exception which was created. I think all who are acquainted with the impact aid program understand that it was put in place to compensate districts affected by Federal activities, but not to further require—through a prohibition on State recognition of such payments—that State aid programs compensate them again.

Beyond that, I am not prepared to stipulate any particular percentage figure as reflecting what we had in mind at the time we drew up the "designed to equalize expenditures" criterion. Whether it should be an 80-, 85-, or 90-percent fiscal neutrality standard was never really considered because we simply did not have the data available to make such a determination. That is why we left it to HEW to study and come up with a recommendation.

I add, however, that the whole idea of an exemption came about as a result of the special and unique situations in Kansas and North Dakota—and that we legislated on the basis of their experiences. Accordingly, it is probably accurate to suggest that they were contemplated for inclusion within the exception, and if it takes a 15-percent threshold to reach them then that would seem to be realistic.

The problem here, though, is that this amendment would have the effect of "locking in"—perhaps to the exclusion of all other standards—a particular test as being applicable to all State plans, and I do not think it would be wise to do that by statute. The Senator is aware, I know, of all the difficulty that has attended the development of regulations on this subject already, and language of this sort would really be a disservice to an expedient resolution of the matter.

While we may well need to provide a clear statutory guideline when we have the impact aid program before us in the next session of Congress, I believe that at this stage to try to do so would be a mistake. On that basis, I would hope the Senator might be willing to withdraw his amendment and leave the final determination to the rulemaking process.

Mr. BURDICK. I thank the distinguished floor manager for his comments and accept his judgment that this type of amendment would not be a desirable addition to this bill. I think I can conclude from his response that he is sympathetic with our problem and supportive of the cause which we are advocating.

With what I interpret to be a view that our proposal should be given favorable consideration by the Office of Education, I see no objection to withdrawing the amendment. I believe the Senator from Kansas would concur with me on this and join in the satisfaction from the assurances we have received.

Mr. President, I withdraw the amendment.

The amendment was withdrawn.

AMENDMENT NO. 2203, AS MODIFIED

Mr. EAGLETON. Mr. President, I have an amendment which I send to the desk.

The **PRESIDING OFFICER**. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. Eagleton) proposes amendment No. 2203, as modified.

The amendment is as follows:

On page 164, strike out line 22 through line 24 and insert in lieu thereof a dash and the following:

(1) by striking out the word "and" after "1974,", and

(2) by inserting before the period a comma and the following: "$420,000,000 for the fiscal year ending June 30, 1976, and the transitional period beginning July 1, 1976, and ending September 30, 1976, $420,000,000 for the fiscal year ending September 30, 1977, $570,000,000 for the fiscal year ending September 30, 1978, $600,000,000 for the fiscal year ending September * * *".

Mr. EAGLETON. Mr. President, this is a modification of amendment No. 2203, offered on behalf of myself, Senator Kennedy, and Senator Tunney.

On line 6, we cut the figure back from $540 million to $420 million, and on line 8 we cut the figure $540 million to $420 million.

It should be noted in passing that in modifying this amendment I am taking into account the most recent statement on the floor here by the distinguished Senator from Maine (Mr. Muskie) and the distinguished Senator from Oklahoma (Mr. Bellmon).

The PRESIDING OFFICER (Mr. Morgan). The Chair inquires of the Senator, is this the amendment that unanimous consent was obtained on last night?

Mr. EAGLETON. Yes. This is an amendment we debated in part and set aside until today.

I am correcting the two figures. If I need unanimous consent for that, I so ask.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

Mr. EAGLETON. Briefly, Mr. President, this is a work-study program.

I discussed this matter with the distinguished chairman (Mr. Pell) and with the distinguished Republican minority member (Mr. Javits).

I believe that since we have cut back that figure on line 6 and on line 8, it would not run counter to the general precepts and principles as just recently enunciated by the Senator from Maine (Mr. Muskie).

Mr. President, my amendment deals with the authorization levels for the college work-study program. S. 2657, as reported by the committee, continues the existing authorization level of $420 million through fiscal year 1982. My amendment would, beginning in fiscal year 1978, raise the authorization in incremental steps to $720 million in fiscal year 1982.

The college work-study program was enacted in 1964 to stimulate part-time jobs in order to help students meet their college costs. I believe there is consensus in Congress and in the higher education community that this program is a highly effective way to provide students with financial assistance combined with valuable work experience.

In addition to earning part of the cost of their education, work-study students perform valuable services for their employers. In some instances students, particularly those at the graduate or professional level, work in skilled positions directly related to their academic programs. Other students employed by nonprofit organizations off-campus often enable such organizations to provide essential services for their communities which would otherwise be precluded.

In the 12-year period during which the program has been in operation, the number of participating institutions has increased from 720 to 3,215, and the number of participating students has risen to an estimated 973,000. If the programs were to be continued at existing authorizations levels, it will be impossible to keep up this kind of growth during the coming years.

For fiscal year 1976, Congress appropriated $390 million for college work-study, just $30 million short of the existing authorization, which is the same as the authorization proposed in the committee bill.

It is important to note that a recent U.S. Office of Education report announced that requests totaling $735 million have been received from colleges and universities for academic year 1976–77 for work-study. Regional review panels approved requests of $668.8 million, but because of inadequate appropriations, only about one-half of that amount was actually allocated to institutions

My amendment, bringing the total authorization to $720 million over a 6-year period, will still fall short of the amount institutions are now requesting. However, by raising the ceiling on appropriations, it will allow Congress to respond more flexibly to the growing need for funds under this valuable program.

I would also point out that my amendment parallels the authorization levels passed by the House for fiscal years 1978–80. Thereafter, the House bill provides a permanent authorization for the program of "such sums as may be necessary." I do not believe that establishing permanent authorizations for programs is a wise decision. Congress should periodically review every program it enacts and make necessary amendments. Thus, my amendment differs from the House-passed provisions in retaining existing authorizations for fiscal years 1976 and 1977 in establishing fixed authorizations for fiscal year 1981 and 1982.

Let me again emphasize, this is simply increasing authorization for the college work-study program. It does not in any way tie the hands of the Appropriations Committee, but it does allow the committee to substantially strengthen this program should it desire to do so in future years.

Mr. President, I would hope that the Senate will adopt this amendment.

Mr. PELL. Mr. President, I see the merit in this amendment, seeing that the appropriations already are very close to the total authorized ceiling.

The present appropriations are around $400 million and the $420 million level of the authorization level is not far from that.

The modification of the Senator from Missouri has reduced the original amendment to the present authorization level so there should be no impact on the budget. His figures are: $420 million in 1976, $420 million in 1977, and in 1978, 1979, 1980, 1981, and 1982, moving up in stages to $720 million.

That would seem about the correct level of appropriations.

I hope my colleague will agree to accept the amendment.

Mr. JAVITS. Mr. President, the amendment is acceptable to me on the basis that it represents no interference with the budget process and the budget estimates which we have made and which have been confirmed here this morning.

Mr. EAGLETON. I thank my colleague.

Mr. PELL. I yield back our time.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified, of the Senator from Missouri.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2228

Mr. GLENN. Mr. President, I call up my amendment, No. 2228.

The *PRESIDING OFFICER.* The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. Glenn), for himself, Mr. Stone, Mr. Taft, Mr. Kennedy, Mr. Humphrey, Mr. Gary Hart, and Mr. Jackson, proposes amendment No. 2228.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 317, between lines 11 and 12, insert the following new subsection:

(c) (1) Section 704 of such Act is amended by adding at the end thereof (following the subsection added by subsection (b) of this section) the following new subsection:

"(d) There are authorized to be appropriated in addition to the sums authorized under subsection (a) of this section $250,000,000 for each of the fiscal years 1977, 1978, and 1979, for the purpose of carrying out activities specified in paragraphs (13) through (16) of section 707(a) of this Act. The provisions of section 705, relating to apportionment among the States, shall not apply to sums appropriated pursuant to this subsection.".

(2) Section 707(a) of such Act is amended by adding after paragraph (12) of such section the following new paragraphs:

"(13) Construction, rehabilitation, and operation of magnet schools.

"(14) The pairing of schools and programs with specific colleges and universities and with leading businesses.

"(15) The development of plans for and the construction of neutral site schools.

"(16) Construction and development of education parks.".

(3) Section 720 of such Act is amended—

(A) by inserting after paragraph (2) the following:

"(3) The term 'education park' means a cluster of schools located on a common site.";

(B) by redesignating paragraphs (3), (4), (5), (6), (7), and (8), as paragraphs (4), (5), (6), (7), (8), and (9), respectively;

(C) by inserting after paragraph (9) (as redesignated by this paragraph) the following new paragraph:

"(10) The term 'magnet school' means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.";

(D) by redesignating paragraphs (9) and (10) as paragraphs (11) and (12), respectively;

(E) by inserting after paragraph (12) (as redesignated by this paragraph) the following:

"(13) The term 'neutral site school' means a school that is located so as to be accessible to substantial numbers of students of different racial backgrounds."; and

(F) by redesignating paragraphs (11), (12), (13), (14), and (15) as paragraphs (14), (15), (16), (17), and (18), respectively.

Mr. GLENN. Mr. President, my amendment is a very simple and direct one. It provides specific new legislative authority to the Emergency School Aid Act for:

First, the construction, rehabilitation and operation of magnet schools and specialized educational centers;

Second, the pairing of schools and programs with specific colleges and universities and with leading businesses;

Third, the development of plans for and the construction or rehabilitation of neutral site schools, and

Fourth, the construction and development of education parks.

My amendment asked for $250 million in additional nonformula money for these activities.

After discussions with both sides of the aisle, the leaders and floor managers of this bill, I am willing to accept a reduced amount. I understand that the amount of $50 million for 3 years would be acceptable to the floor managers of the bill on both sides of the aisle. While we fully realize that $50 million annually will not completely do the job that we want it to do, in fact, the original $250 million would be but even a start. At least $50 million annually on this bill for these purposes establishes the principle of placing the Federal Government behind these innovative educational efforts.

I have a memo from HEW which I will include in the RECORD that indicates that authority for doing the four items mentioned, and obtaining Federal support under FSAA is not now specifically authorized with respect to magnet schools, education parks and neutral site schools and only partially permitted with respect to the pairing of schools and programs with specific colleges and universities and with leading businesses.

Mr. President, I want to state the purpose and intent of my amendment as clearly and as directly as possible. My amendment provides Federal assistance for school desegregation methods that traditionally have not received adequate Government assistance. These activities have been much talked about politically but little initiative has been taken to encourage their implementation.

All of these activities, singly and in combination have been component parts of various desegregation plans. However, there is no clear, specific authority to help communities fund them. The ESAA, which is designed to provide funding for districts undergoing desegregation plans, seems a very appropriate place to provide this authority.

Mr. President, I would like to stress that this amendment and the authority in it, would operate irrespective of and independent of any considerations of the authority of any court to fashion a judicial remedy or to correct a constitutional wrong.

My amendment simply says that a school district, eligible for ESAA because it is under a desegregation order, may apply for funding for the activities mentioned above. The activities may, depending on the case, be themselves subject to, or have been ordered by a court of law.

My hope in encouraging increased use of these activities is that we might begin positive and constructive efforts to provide practical solutions in the overheated area of school desegregation.

Perhaps increased use of these methods can result in a decreased need for the use of mandatory transportation as a method of desegregation. If that results from my amendment it would result naturally as a result of creating exciting, integrated educational opportunities—as opposed to placing restrictions on the courts and interfering with basic constitutional protections.

Perhaps if some of these additional methods of desegregation are tried on a significant scale nationally, there will result both improved educational opportunities for all students and a diminishing of the tensions and passions that have so wracked our country.

Importantly, Mr. President, these activities have worked, whether singly, in combination, or in conjunction with mandatory transportation orders. They have reduced the need for much mandatory transportation. When I introduced a similar bill this spring, it received tremendous support. I also provided documentation of the effectiveness of these activities to the Senate and to a House subcommittee. I ask unanimous consent to have some of those materials printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WHAT PORTLAND DID TO CHANGE THE COMPLEXION OF A ONE-RACE SCHOOL

Martin Luther King School was built in 1927 to serve the needs of Kindergarten through eighth grade students. After World War II King School's racial composition changed rapidly, reaching 97 percent minority in the year of 1970 and serving a student body of 1,100. Portland Public Schools recognized the racial isolation of this school and instituted a volunteer busing program, which allowed minority students open enrollment to any school in the district that was composed of a majority population. This reduced the population of King School from 1,100 to 550 students. Although the population was reduced, the racial composition remained 97 percent minority. While the program was successful in integrating 550 minority students into other schools, a solution was still needed to correct the racial isolation at King School.

Planning began in 1973 by staff and community to design a program that would attract majority students to King School. The result of this planning was the development of a magnet program called the "Martin Luther King, Jr. 4–11 Continuous Progress Program."

To insure a total learning environment, the King staff was organized into teaching teams supported by instructional specialists. The underlying philosophy in curriculum development was to help each child develop within himself the concept of becoming a positive learner and to emphasize that the reward is in what the child gains from experience itself. Basic skills are interwoven and reinforced throughout the curriculum. The educational needs are based on previous performance and successes through a continuous scope and sequence record-keeping system. Activities are geared to what the child is ready to learn rather than what he or she must learn. The 4–11 skill continuum is not only unique and innovative in developing positive learners, but is designed to bring children of different backgrounds into an educational setting to learn about other cultures.

In order for the program to be successful, staff applicants were carefully screened for qualities to meet these basic philosophies. The new program was initiated in the school year of 1975–76 with great success. The enrollment was open to majority students from the entire district. Quotas were rapidly filled and a waiting list was maintained. The racial composition changed from 97 percent to 72 percent.

Recognizing the desirability of a facility to meet these program needs, architectural services were contracted to plan with staff and community. The school year 1975–76 was spent in designing this remodeling facility. The architects met with individual teaching teams, staff members, parents and administration to design this facility to be compatible with the magnet programs, teaching styles and total school philosophy. Included in this design planning were educational specifications such as controlled open space, team teaching areas, utilization of wasted space, redesigned restroom facilities, motor perceptual skills areas, a mall for more efficient use of office space and a parent meeting room. Also, a central multimedia center incorporating the library, teacher resource center and the video studio, reading lab area, science and math areas, a conference room and new playground design.

Included in the changes was the updating of the physical plant.

The new facility will be ready the fall of 1976, with long waiting lists. Racial balance for 1976–77 school year is predicted to be 65 percent minority and 35 percent majority.

MAGNET SCHOOLS HERE STEP UP INTEGRATION

(By Elmer Bertelsen)

Seven months ago, with approval from a federal judge, the Houston public schools began an experiment calculated to improve education and increase integration: the magnet program.

The objective was to encourage integration on a voluntary basis by offering at certain schools special programs not available elsewhere in the district.

For instance, a student interested, and possibly talented in music could enroll in a special music program in a distant school and get free transportation there.

Magnet schools were available for those interested in such subjects as ecology, fine arts, creative writing, science and mathematics.

For students interested in special careers, there were magnet programs in engineering, petrochemistry or aerodynamics, to name a few.

Houston Supt. Billy Reagan said at the time that such programs might slow white flight to the suburbs while stabilizing racial balance in the district.

The program was controversial but the U.S. Department of Justice agreed that it could be tried as a substitute for an unsuccessful pairing program that had yielded little integration and much controversy from blacks and browns.

When it began, administrators predicted that 75,000 of the district's 211,000 children would participate.

So far, only 25,204 students are enrolled in 34 magnet programs at 28 schools.

But the program has stepped up integration.

Since September, 11 more schools in the district have qualified as legally integrated schools. A legally integrated school is one with a student body of less than 90 per cent of one race.

This is twice as many schools as the district was able to integrate in each of the previous five years.

Today, there are 181, an increase of 27 since 1970. The 11 that achieved integration this school year compared with 16 for the previous five years, an average of about three per year.

John Brandstetter, assistant superintendent for the magnet program, says that integration is not the sole objective of the magnet program.

Magnet programs are intended to improve the quality of education in the district.

Evaluation of academic progress of children in the programs hasn't been made yet, he said.

The magnet plan replaced the pairing of 22 schools ordered in 1970 by the U.S. Fifth Circuit Court of Appeals.

The pairing order sought to achieve a better racial balance by moving or "pairing" students from one school to the same class in another school.

At that time, browns were not considered to be a minority race in the eyes of the law.

In many cases in the court-ordered pairing, a predominantly black school was paired with a predominantly brown one.

Many of the few white families in the paired areas moved to other neighborhoods to avoid the program. So the student bodies of the paired schools included less than 3 per cent white students.

The minorities protested and the magnet plan was suggested as a substitute.

Houston schools still use another program to stimulate integration, the majority to minority transfer.

Under this plan, a student who is in a majority in his neighborhood school may transfer to another school in which he would be in the minority.

Like the magnet plan, it is voluntary and the student is furnished transportation. Brandstetter says it is working with about 3,000 students exercising this option.

A total of 3,267 children in magnet schools are bused to a school out of their neighborhood. That figure includes 1,398 blacks, 1,353 white and 516 browns.

In addition to these children, many children attending their own neighborhood school choose to enroll in the magnet programs.

The racial makeup of the student body today is 78,412 or 37 per cent white, 90,034 or 42.6 per cent black and 42,962 or 20.3 per cent brown.

Total enrollment in the district, on the decline for a number of years, stabilized this year.

Brandstetter said he believes an improved school program and a tight economy may be factors in this stabilization.

An example:

Enrollment of white students at Poe Elementary, 5100 Hazard, jumped this year.

A check shows that a number of these pupils, new at Poe, were in private school last year. Brandstetter said he doesn't know whether conversion of Poe to a totally magnet school with fine arts emphasis prompted the increases of white students or whether it was the crunch of inflation that brought private school children to Poe. He said he did not have the specific number of the children now at Poe.

The number of whites at Poe, in a predominantly white southwest area, increased from 197 last year to 272 this year. The number of blacks is 208, one less than last year.

In most magnet schools, Brandstetter said attraction of white children to schools in predominantly black neighborhoods and blacks to schools in predominantly white neighborhoods, has been sufficient to bring significantly more integration than in the past.

He cited as examples schools in predominantly white areas with magnet programs: Bellaire High, Rice at Maples; Lanier Junior High, 2600 Woodhead, and River Oaks Elementary, 2800 Kirby.

Bellaire, with a foreign language academy, had an increase of blacks from 79 last year to 118 this year.

Lanier with a special program for bright children, called vanguard, had an increase of blacks from 457 last year to 489 this year.

River Oaks, also a vanguard school, increased its black enrollment from 123 last year to 173 this year. It now has 79 browns compared with 53 last year. Its majority race, the whites, dropped from 314 last year to 279 this year.

This same change has occurred in the predominantly white northwest area.

For instance, Wainwright Elementary, 5330 Milwee, which has a magnet program in science studies, increased its black enrollment from 31 last year to 72 this year and its brown enrollment rose from 65 last year to 70.

Changes also are occurring in predominently black areas as more white children enroll in magnet programs there.

Roosevelt Elementary, 6700 Fulton, which has a vanguard program, experienced an increase in white pupils from 47 last year to 134 this year. Roosevelt is in a predominently black-brown neighborhood.

MacGregor Elementary, 4800 LaBranch, increased its white enrollment from 6 last year to 88 this year. It has a magnet program in music.

"We believe this program is working for two reasons," Brandstetter said. "First, transfer to a magnet school is voluntary and second, we are providing a better opportunity for those who choose the programs by transferring.

"There will always be people who do not want to integrate and they are not forced to do so in the magnet programs. But as time passes, more and more people accept integration. Especially when they realize their children are learning more in magnet programs."

The magnet program is expensive. Generally the pupil-teacher ratio in magnet program schools is lower than in other schools. It is costing more than $1 million to bus children to the special programs.

To stimulate interest in magnet programs, the district furnishes transportation Monday through Friday from the district's central offices, 3830 Richmond, to one or more magnet schools for any interested citizen. The buses leave at 9 a.m. and are back at the central offices by 1:30 p.m.

[From the Wall Street Journal, May 19, 1976]

BOSTON GHETTO SCHOOL USES ACADEMIC MERIT AS INTEGRATION LURE

(By Liz Roman Gallese)

BOSTON.—Since the founding of the William Monroe Trotter School here five years ago, the waiting list for admission has grown to 235 white students.

It's not that the elementary school is an exclusive private refuge from the city's school integration upheaval, because the institution is neither private nor segregated. Indeed, Trotter's enrollment is 60% black, and it is located in Roxbury, Boston's worst ghetto.

But Trotter just happens to be considered about the best elementary school in Boston. So some white parents from townhouses on Beacon Hill, middle-class houses in Hyde Park and the working-class triple-deckers of South Boston and Dorchester are willing to wait two or three years to enroll their children in Trotter's two-year kindergarten and five grades.

Trotter was established 10 years ago by the Boston School Department with the idea of attracting whites to the ghetto-area school for quality education. A middle school and high school were set up in other areas of the city, but Trotter has proved to be the most successful of the three "magnet" schools.

PRINCIPLES OF MAGNETISM

The concept of magnet schools with the educational excellence to draw enough white students to accomplish voluntary integration has shown such promise that it is being viewed as a way to help Boston out of its school busing brouhaha.

Until last year, Boston's public schools were in fact largely segregated. Then, touching off an explosion that is still rumbling, Judge W. Arthur Garrity last June ordered 80 of the city's 200 schools to start busing 20,000 children last September to achieve integration. He also directed that the other 120 schools must fall in line in September 1975.

With the start of the busing last fall came angry demonstrations, violence in the schools and heavy absenteeism. Today, the incidents continue, and absenteeism remains around 25%, with some students staying away out of fear of violence and others out of opposition to busing.

In an attempt to avoid some of these problems this fall, Judge Garrity recently disclosed a plan for September that includes a citywide network of 22 magnet schools that students can choose voluntarily. Magnet schools were the key element of a proposal drawn up by four court-appointed masters and two desegregation experts advising the judge.

JUDGE'S APPROVAL

Judge Garrity has called magnet schools the "crux and magic" of Boston's new integration proposals, saying they would provide "an enormous safety valve." He added. "There's less likelihood of a rumble in the cafeteria" when students come voluntarily to a superior, though racially mixed, school.

Moreover, the magnet-school program is being viewed as a model for other areas of the nation. William J. Leary, Boston's outgoing school superintendent, envisions city and suburban schools that will attract "exchange" students from wide areas by offering special programs in such things as science and performing arts. "Over the long term, the entire country will have to look at such exchanges," he says. "If suburbs and cities don't share the goodies, we'll have more uprisings."

Marion Fahey, Boston's associate superintendent who will succeed Mr. Leary when his term expires Aug. 31, hasn't yet voiced her views of magnet schools. But Houston's public schools expect some 81,000 of the city's 210,000 public-school students to be attending 46 new or expanded magnet-school programs by September 1976. The magnet programs substitute for court-ordered busing of students between paired schools—a program that is blamed for driving many white families from Houston since it began five years ago.

If the Trotter School is any gauge, the magnet-school program will be eminently successful. Trotter's attractions include special music and art programs, guidance for children with problems and involvement by parents, who are allowed to visit the classrooms at will, for example.

White and black parents send their children for the same reason, "a better education," says Laura Horne, the school's liaison with parents. "We aren't promising we'll produce geniuses, but we won't produce dropouts," she says.

The new Trotter building was constructed near the old Boardman School site in 1969 for $2.7 million. Named after a local journalist and civil-rights leader of the early 20th Century, Trotter was the first school completed after the state's Racial Imbalance Law was enacted in 1965. The law, largely ineffective until this year because of suits and appeals, prohibited any school from having a nonwhite enrollment of over 50%.

REJECTING BLACKS TO ADMIT WHITES

Following the letter of the law, Trotter recruited a 50% white enrollment from as far as 30 miles away, even though some black children in the immediate neighborhood had to be turned away. (Judge Garrity's Boston desegregation order ironically brought the black enrollment up to 60% last fall by redrawing Trotter's district lines but allowing children from the old district to remain.)

Trotter started with 26 white and 18 black teachers, chosen with care, and tried to get parents involved by explaining the school's goals at afternoon teas. It hired Roxbury residents as aides, and these neighborhood people often became Trotter boosters.

At the outset, Trotter's enrollment included an inordinate number of children with problems, including half the white students. Many of these were sent by parents hoping Trotter's special programs would benefit the problem children.

HEXAGONS, PODS AND CENTERS

"We broke every rule in the book, and people said this place was a funny farm," Mr. Howard, the ex-principal says. "But our philosophy was to send home happy kids." (With the rise of the school's reputation, the number of problem pupils has declined, and now the ratio at Trotter is in line with the city's average.)

Sprawled over 2½ acres in a rundown neighborhood of storefronts and tenements, the brick-and-concrete school is a series of five two-story hexagonal buildings connected by corridors. The typical hexagonal "pod" has a "learning center" surrounded by six classrooms. In each learning center, two supplementary teachers help pupils from the adjoining classrooms by giving reading help to slow learners and courses in everything from mythology to map-reading to brighter children.

Modern techniques are also used in the classrooms. All classrooms except kindergarten are composed of two grade levels, such as third-fourth grades or fourth-fifth grades, with slow fourth graders in the former and advanced fourth graders in the latter, for example.

In a fourth-fifth grade class in one room recently, Barbara Sherman taught the metric system to a group of four children in a quiet corner. Meantime, two boys fed the class guinea pig, four children worked quietly at their desks and two boys practiced a puppet show they had written to help younger children learn multiplication tables.

Such decentralization in classrooms lessens pressure on children, a key Trotter aim. "There's no pressure to compete because they're all doing different things," Miss Sherman says. Pressure is further reduced because grades indicate only "good," satisfactory" or "needs improvement." Poor work means a conference with parents rather than an "F." Miss Sherman keeps things organized by passing out "contracts" for work each child must complete while she teaches others in small groups.

FEWER PUPILS PER TEACHER

Trotter's use of "open classrooms," electronic devices and other modern methods isn't unique by any means. These techniques became widespread in the 1960s and continue to be used in at least some classrooms in perhaps 75% of Boston's 135 elementary schools. But Trotter is firmly committed to many of the concepts, and is equipped to implement them. And Trotter's complement of 26 classroom teachers (for classes averaging 26 pupils) and 18 specialty teachers represents an overall teacher-student ratio that is better than the Boston average of one teacher for 22 childrn.

Teachers at Trotter often link classroom lessons to field trips to museums and other Boston attractions. Miss Sherman's students explored the open-air Haymarket when they studied consumerism and went to the Museum of Fine Arts when they studied Egypt.

All children also take one-hour art and music lessons at least once a week with separate teachers in special classrooms. And physically or perceptually handicapped children get special help during part of the day in three "resource rooms."

Despite the educational benefits at Trotter, the school hasn't managed to bring its children's reading scores quite up to the national norm, so Principal Barbara Jackson is setting up a "transitional first grade" to catch poor readers early.

"We've done much to get children to like school and have good attitudes, but we can do more in the cognitive areas," she says. Two assistants help Miss Jackson—Isabella Ravenell keeps track of enrollment, while Archie Macdonald makes sure busing runs smoothly.

Trotter's guidance counselor, John Fleming, has helped design programs to spark children's interest. His use of closed-circuit TV so motivated fourth graders in a summer program that Trotter hired a full-time television teacher who plays back children's book reports and gets the children to do news programs and quiz shows that tap what they've learned.

When a Boston clinic asked him to provide candidates to test new ways to teach reading, Mr. Fleming readily complied. Not only did those 20 children improve, but he got to refer 10 others. As a result, psychiatrists from the clinic now help teachers handle problem children. "When one child recently threatened to harm himself, they had someone here within two hours," he says.

USE OF PARENTS' RESOURCES

Despite its amenities, Trotter cost Boston only $1,103 a pupil last year, slightly above the average of $969 for all the city's schools. Trotter gets $738 of federal funds for each of the 264 pupils who come from "disadvantaged" areas, compared with a high of $515 for other Boston schools. But those funds have been pared in recent years and will be cut further next year.

Trotter pupils' parents obviously enjoy the role they themselves play. Parents have their own office at Trotter, and they frequently take advantage of their right to wander in and out of classrooms. Arlaine Bryant, a former teacher, spends Wednesdays helping her son's first-grade teacher with science lessons, and she built an aquarium in the class. "It's wonderful that a school can use parents' resources," she says. And the children like it so much that "if you're there more than five minutes, one will jump in your lap," she says.

Trotter parents also played an important role last summer after the court's desegregation order tipped the school's 50–50 racial balance. The court also ordered 15 of Trotter's 18 black teachers to report to schools with far fewer black teachers. Parents eventually got back six of the 15 teachers but failed to keep the student black-white balance from slipping to 60–40.

INTEGRATION EDUCATION

The school's racial balance itself is an attraction to many families. "Integration works," says Arthur Eskin, a white attorney from Boston's affluent West Roxbury section, who sends his two children to Trotter although a neighborhood school is minutes away from his home. "Education is more than book-learning," he adds. "It's learning about people."

Trotter evolved from the W.L.P. Boardman School, an archetypal ghetto school with 98% black enrollment in a dilapidated eight-room red-brick building. It was so bad that over half of the parents began boycotting it. In 1965 the Boston School Department funded Boardman as a model school, named a new principal and gave him carte blanche to hire and fire teachers.

Within two years the new program, which featured "open classrooms" where children could work independently or in small groups, was faring so well that it had a waiting list. "It was winked on, frowned on, suspected as too innovative, but something was happening to turn parents on."

Parents now are hoping to prevent any further transfers of students or teachers that could result from the pending new court order. But Thomas Welch, president of the Trotter Parent Association isn't overly optimistic, suggesting, "Its becoming more and more a fireman's type of job."

[From Phi Delta Kappan magazine, April 1976]

Magnet Schools in a Big-City Desegregation Plan

(By Daniel U. Levine and Connie C. Moore)

During the past few years, the magnet school approach has received a great deal of attention in planning and carrying out school desegregation efforts in big cities. Examination of the magnet schools in Houston (described at length in the preceding article) is particularly instructive for educators elsewhere, because this approach appears to have been soundly implemented there. At the same time, the account illuminates a number of basic issues in urban education. Our commentary will focus first on identifying policies and practices which may have been crucial to successful implementation or may have contributed notably to it. Second, we shall describe several interrelated issues raised in the course of establishing the magnet school program in Houston.

IMPLEMENTATION

Internal Planning and Selection of Principals—Following the goals and objectives of the Task Force for Quality Integrated Education, the Administrative Task Team prepared the actual plan for magnet schools. The team consisted of persons within the system, several of whom were released from other duties and all or nearly all of whom were able to spend a great deal of time in planning activities after March 24, 1975. Members were knowledgeable about programs and personnel in schools throughout the district, and thus were able to determine whether magnet concepts might work well in a given school. In particular, team members and other Houston central office personnel were willing and able to select building administrators likely to provide strong leadership in carrying out the plan in the schools.

Top Management Support—Equally important, top management consistently articulated and demonstrated strong commitment to the project, particularly in the form of support from the general superintendent and top-level administrators (who served as the Project Management Committee[1]), as well as from assistant area superintendents and central office personnel, who provided various forms of coordination and backing.[2]

The importance of this vigorous support can be illustrated in one of the most serious problems in a magnet school approach: persuading or preventing principals in the "regular" schools from subverting recruitment of students. (Outstanding principals may be even less willing than others to see some of their best students transfer to allegedly more "attractive" schools.)

On the one hand, top management helped select some magnet school principals willing to spend long hours recruiting eligible students; on the other hand, they have taken actions to help in communicating with and gaining access to potential students.

Incentive for Participating Magnet Schools—Related to this, schools in the magnet program received schoolwide benefits such as increased materials, smaller class size, and other gains, and their principals frequently exercised leadership in showing regular (i.e., non-magnet) faculty that they too could benefit from the program. At one time district officials considered the possibility of financially or otherwise rewarding home schools which had sent students to the magnet schools. While this idea eventually was discarded, it may be worth consideration later in Houston as well as in other districts designing magnet schools.

Resources for Planning—The Administrative Task Team was given isolated space where meetings and planning activities could go on uninterrupted, with resources for duplicating materials, clerical help, communications, and related services, so that work could proceed rapidly and efficiently.

Sufficient Planning Time—The approximately five months of time between appointment of the Administrative Task Team and the beginning of the school year proved sufficient—but just barely—for planning and implementation. In this regard it should be noted that the Houston plan is relatively unambitious in the sense that the magnet schools constitute a small fraction of the schools and only a few thousand students have changed schools. (The plan is ambitious however, with regard to objectives focusing on fundamental changes and innovation in instructional arrangements in some of the participating schools.)

In addition, it should be emphasized that the HISD already had completed a major school-level needs assessment, in which principals had worked with their communities to identify future goals and programs. Had this not been previously accomplished, or had the plan involved a total-district integration effort directly affecting a majority of the district's pupils, five months would have proved grossly inadequate for planning and implementation.

Similarly, Houston officials already had considerable experience in implementing "majority-to-minority" transfer arrangements, and these transfers were used to advantage by incorporating many majority-to-minority transfers into the magnet schools and by transporting others in magnet school vehicles. Had this not been possible, the number of students transferred to magnet schools might have been much smaller, and transportation would have been less efficient.

Acceleration of Regular Procedures—Serious obstacles related to time limitations almost destroyed chances for success in many schools during the crucial planning and implementation stages. For example, supplies and materials which had to be put on bid frequently were not available when school opened, the logistics of transporting pupils (some of whom travel as much as 25 or 30 miles) proved not only enormously difficult but very nearly overwhelming, and uncertainty regarding student assignment was rampant up to and after the opening of school.

In the end, vigorous action—such as occasional circumvention of normal communications channels, state department of education help in gaining priority for bids, and switchover to 16-passenger vans rather than regular school buses—overcame the obstacles. To avoid such "touch and go"—and frequently "no go"—situations in the future, educators must try to gain more time and resources for planning, as Houston officials are doing this year. Whether this can be done in other districts contemplating magnet schools will depend on court approval, which in turn will depend to some extent on the prior and current "good faith" shown by school officials. The courts could help through such key actions as mandating additional state funds for implementing integration plans and, if possible, temporarily waiving bidding and purchasing.

In sum, we believe that a magnet approach such as Houston has developed is dependent on strong administrative leadership, substantial resources, and a good deal of time for planning and implementing each stage in the development process. Such generalizations are of course neither startling nor original, but they do highlight some prerequisites for the success of a big-city magnet school approach. If confusion and conflict are widespread within the education staff or between educators and other participants such as school board members, teacher union officials, or community leaders, or if bureaucratic procedures are too rigid to allow for quick responses, the program can easily bog down. If this happens, a magnet plan that looked good on paper will fail to achieve its stated goals.

ISSUES IN URBAN EDUCATION

Racial Integration—As Houston school officials are the first to point out, the magnet school program there is not a racial integration plan for the district as a whole. It is an attempt to move toward integration on a small scale, following a program of court-mandated pairing of 22 schools which wound up with too few nonminority students to be considered sucessful as a desegregation plan.

The Houston experience suggests that the magnet school approach can help achieve some movement toward stable integration in a big-city district. During the current school year, for example, 587 minority students (black and brown) and 670 white students had transferred (as of December 12, 1975) into magnet schools which had enrollments between 25% and 75% minority during the previous year. One school changed from 1½% to 9½% white and another from 13% to 28% white, as least partly as a result of particiaption in the magnet program. While some of these transfers probably are attributable to white transfers from increasingly minority schools and to middle-class minority flight from low-status schools, they do represent gains in integration as compared with the situation that developed in the originally paired schools.

However, it should be noted that many of the magnet school concepts in Houston provide for very limited contact between pupils of differing social and ethnic backgrounds. At the elementary level for example, a large proportion of the students in the magnet school program (i.e., students in cluster school programs) join students of differing backgrounds for only one week a year. This contact may well be useful in acquainting students with others from differing groups, particularly if they have additional opportunity for contact outside the school (e.g., in neighboring settings, at athletic events, and summer recreation). It should be clear, on the other hand, that such an approach cannot be considered a promising "remedy" for the learning problems of masses of law-status students in inner-city schools (see Inner-City Education and Upward Mobility, below).

Economic Integration—Because participation in the magnet schools is voluntary and because only a relatively small number of students are reassigned and transported, integration in the magnet schools probably is most usefully discussed in terms of bringing together middle-status and upwardly mobile minority and nonminority pupils, who are most likely to request and meet eligibility requirements for participation. For example, students in the relatively elite School Within a School programs—approximately 3,500—are separated from the total student body in these schools for about 60% of the time. Similarly, at the high school level many of the students in the magnet curricula are in selective programs which existed before the magnet plan was implemented. However, there is little doubt that the magnet plan as it is developing in Houston is increasing opportunities for contact between minority and nonminority students outside inner-city schools (i.e., schools with a large proportion of poverty pupils from neighborhoods high in social disorganization).

Inner-City Education and Upward Mobility—The magnet school approach as developed in Houston is not designed to bring about substantial improvements in most inner-city schools, in which achievement is abysmally low and teaching/learning conditions are extremely difficult. However, it is possible that a magnet school approach could have some success in bringing about improvement in inner-city education, particularly if, as in Houston, it is closely tied to questions of staff selection and resource allocation, and helps open up situations in which outstanding principals and teachers can work together in a new learning setting.

Nevertheless, we do not know of schools in Houston or in other cities where the magnet school concept per se has demonstrably resulted in systematic reform in the organization and administration of inner-city schools. And the approach being followed in Houston has limitations, related to its emphasis on selectivity, which will prevent expansion to encompass all or most of a district. When some of the best students have been reassigned to magnet programs, class size may have been reduced elsewhere, but school officials then are faced with the problem of systematically *reforming* inner-city instruction with fewer of the leadership components necessary to accomplish the task.

Houston school officials are well aware of this situation, and, as in other cities, many are working to improve instruction in the inner city. They are also aware that some of the magnet programs are in predominantly inner-city minority schools with remote chances of attracting nonminority students. The hope is that the magnet curricula in these schools will improve education there.

As implied above, the magnet school approach at this time in Houston provides an opportunity for talented minority and low-status students to escape from schools which are not functioning well. Thus it exemplifies traditional mobility patterns wherein the most talented of the newcomers or the depressed groups in big cities can rise to success through education. Some school officials in Houston believe this does not necessarily harm regular inner-city schools, because it provides a chance for new groups of talented students to replace those going into magnet schools.

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[1] Included the superintendent for instruction, the executive deputy superintendent for instruction, the deputy superintendent for general instructional services, the deputy superintendent for administration, and the deputy superintendent for occupational and continuing education.

[2] John Brandstetter, Alvin Frankel, Paul Campbell, and several other veteran-administrators worked overtime for months to coordinate development of the magnet plan.

This may or may not prove to be true in Houston and other cities; in any case, minority and low-income communities in Houston appear to have generally accepted this traditional approach to opportunity and mobility.

However, such acceptance may be related to tendencies for minority leadership to be middle class or upwardly mobile, and to Mexican-American parents' desire to remove their children from predominantly black schools; children from these families are among the first to take advantage of magnet opportunities. Such acquiescence may not characterize other big cities with predominantly minority and/or low-status populations. In some of them, militant groups are grasping desperately for any remedy, such as districtwide reassignment of students, which they hope will somehow "integrate" and thereby "equalize" all schools in the district.

Education and Big-City Development—From a long-range view, the most important contribution of the magnet school approach in Houston may lie in its potential for helping to shape the city's future constructively. Whereas the pairing arrangements which it replaced apparently had accelerated middle-class and white withdrawal from the district schools and the city, the magnet approach can help stabilize and revive deteriorating neighborhoods, particularly where residents, both minority and nonminority, already are working to achieve stable integration but fear that local schools will be inundated with lower-class pupils.

In Houston, for example, young middle-status families are beginning to move into several older neighborhoods which they hope to restore and renew; this movement could become much more pronounced when relatively selective magnet schools are available, for these schools signify and provide "middle-class" opportunities. Similarly, several largely black and/or Chicano neighborhoods have substantial middle-status populations and may remain viable despite the threatened encroachment of lower-status families, provided that sepcial magnet opportunities for academically talented students are easily available within or near these middle-status centers. In time, stabilization of integrated neighborhoods and middle-status minority neighborhoods could provide a nucleus around which other parts of the city can be renewed on a still more substantial scale, given proper coordination between the public schools and other government agencies.

List of College-Public School Pairings In Boston, Mass., Desegregation Plan

a. Boston College will work with Community School District 3, West Roxbury, at all school levels from kindergarten through Roslindale High. It will collaborate with Harvard in the District's relation to the new Southwest 1 citywide high school.

b. Boston State College will work with Community School District 6, the Burke District, at all levels, including the Jeremiah Burke High School. In addition, Boston State College would work with Boston High School, a citywide magnet school.

c. Boston University will work with the Brighton-Mission Hill Community School District 1 and with the development of a citywide high school in human movement and dance for the Commonwealth Armory. In addition, it will continue its support and assistance to the Bilingual Hispanic programs located throughout the city.

d. Brandeis University will work intensively with the ctiywide magnet English High School, which will be both a comprehensive four year high school and a specialty school for the arts.

e. Bunker Hill Community College will work with the Charlestown school components of the Madison Park Community School District 8, giving special emphasis to the development of cooperative programs between Charlestown High and the College.

f. Emerson College will work intensively with the citywide magnet Copley Square High School.

g. Emmanuel College will work with the Hyde Park Community School District 4 at all levels, including Hyde Park High.

h. Harvard University will work intensively with the staff and students of Roxbury High School. It will share fully in the later transition into Madison Park Campus High. Harvard will also work intensively to support development of citywide Southwest 1 High School.

i. Massachusetts Institute of Technology will work intensively to redesign East Boston High School into the citywide East Boston Technical High School and with the Barnes Middle School, a new citywide magnet middle school. Both schools will stress aspects of environmental protection engineering and aviation maintenance technology.

j. Northeastern University will work with the Madison Park Community School District 8 at all levels. It will aid in the planning and development of programs for the new citywide Madison Park Campus High School.

k. Regis College will work intensively with the citywide magnet Boston Latin Academy, formerly known as the Girls Latin School.

l. Simmons College will work with Jamaica Plain High School, giving intensive attention to the modification in their vocational education program as set forth in the Court Plan.

m. Suffolk University will work to support and assist the schools included within the Title 1 Model Subsystem. It will also assist citywide Boston Trade School.

n. Tufts University will work intensively with the citywide magnet Boston Technical High School.

o. University of Massachusetts, Boston, will work with Community School District 7, South Boston, at all levels from South Boston High to elementary schools. This support includes help in developing the McCormack Middle School into a citywide magnet middle school featuring Basic and Remedial instruction in reading, writing, and mathematics.

p. Wellesley College will work intensively with citywide magnet Boston Latin School.

q. Wheelock College will work with Community School District 2, Jamaica Plain, at the kindergarten through middle school levels.

List of Business—Public School Pairings in Boston, Mass.

The list of businesses which have agreed to assume a responsibility for a specific school and the tentative pairing with high schools is as follows:

a. Prudential Insurance Company—Boston High School.

b. Federal Reserve Bank—Boston Latin School.

c. Boston Edison Company—Technical High School.

d. Ledgemont Laboratories (Kennecott Copper)—Boston Technical High School.

e. Honeywell Inc.—Brighton High School.

f. Liberty Mutual Insurance Company—Charlestown High School.

g. National Shawmut Bank—Copley High School.

h. New England Telephone Company—Dorchester High School.

i. Massport Authority—East Boston High School.

j. John Hancock Insurance Company—English High School.

k. International Business Machines—Boston Latin Academy (formerly Girl's Latin School).

l. First National Bank of Boston—Hyde Park Park High School.

m. Boston Gas Company—Jamaica Plain High School.

n. Traveler's Insurance Company—Jamaica Plain High School.

o. N. E. Mutual Life Insurance Company—Jeremiah Burke High School.

p. Blue Cross Blue Shield—Occupational Resource Center.

q. State Street Bank—Roxbury High School.

r. New England Merchants Bank—Roslindale High School.

s. Gillette Safety Razor Company—South Boston High School.

[From the Washington Post, Nov. 2, 1975]

A "Magnet" School in Boston Unaffected by Racial Strife

(By Lee Daniels)

BOSTON.—In contrast to the tension and uncertainty in many public schools affected by the desegregation court order here, it's been business as usual at English High school.

One of 22 "magnet" schools established in Boston as a means of making desegregation attractive to all races, English High has been so peaceful the police who patrol outside do nothing more strenuous than direct traffic.

School officials hope that the quality of education available in the magnet schools, designed to draw students from all over the city (and thus achieve desegregation) by offering distinctive programs will blunt the impact of busing students to them.

(Each magnet school is paired with a local college which helps develop and sustain such programs.)

From all indications, that hope appears well-founded. The percentage of students attending the magnet schools consistently has topped that of the entire school system since school opened Sept. 8.

For example, according to figures released by the school department, in early October just over 83 per cent of the 15,732 students enrolled in magnet schools attended school. School officials said 70 percent of the 54,085 students in regular public schools attended school.

At English High, 60 per cent of the school's 2,500 students attended class. School officials said the percentage of students attending the school has fluctuated between 60 and 70 per cent since school opened, a figure higher than for nonmagnet high schools.

English High students interviewed said busing is no problem there.

Gail Lindsay, a white 16-year-old junior from Boston's West Roxbury section, chose two years ago to be bused to English because "all my friends were coming and I wanted to come."

Gail, an officer in the school's National Honor Society, added that this year she again chose to be bused to the school.

Carmen Toon, a black 17-year-old senior from Mattapan, quipped that although not assigned to be bused, she rides a school bus instead of public transportation because "'I get to school quicker and it's free."

Relations between students once they reach the school appear equally free of tension. "I don't have any problems with anybody," Jesus Uriaite, a 17-year-old junior bused from Jamaica Plain said. "I don't see anything wrong with black and white kids going to school together."

Those interviewed attributed the relaxed atmosphere at English High, the nation's oldest public school, to its modern quarters, the success of its athletic teams, and the "human relations" work of just about the entire school community.

The school, a new 10-story glass and concrete structure in the Fenway section, looks like a modern office building and has such amenities as escalators, a library and media center where students can produce their own films, and an Olympic-size swimming pool.

"The building's so nice we don't want to mess it up," Toon said.

Robert Peterkin, the school's young, black principal, said that last year, except for one fight in October, the school escaped serious racial incidents.

Peterkin said the successes of the school's soccer team, its girls' athletic teams, and its boys' basketball team, state champions for two straight years, contributed to the racial peace.

Toon said, "We had 400 students out for some of the girls' games and blacks and whites came to watch the basketball team. We were all cheering the same team after school and that made it hard to fight each other during school."

Shirley Judge, a white West Roxbury parent whose daughter is bused to the school and who is active in school affairs, said that parents, teachers, and about 200 students held a human relations workshop "to discuss things and get to know each other."

"The attitude (at English) is very good," Judge said. "The discipline is firm, but not extreme, and we've got good teachers. We feel it's our school and it's up to us to take care of it."

English offers or is developing programs in physical education and health, the performing arts, visual and communicative arts, urban studies and humanities, in addition to its general education and college prep courses.

Other magnet school programs include a bilingual elementary school program teaching Spanish or English as a second language, another elementary school program emphasizes general and applied science, and another stressing creative writing and mathematics.

[From the New York Times, July 3, 1975]

CITY'S "MAGNET" HIGH SCHOOLS ARE PULLING

(By Leonard Buder)

The "magnet" high school, a new version of an old idea, may be setting a pattern for the future of secondary education in the city.

The magnets, theme-centered schools or institutes, emphasizing such areas as oceanography or communications, grew out of attempts in recent years to meet mounting demands for greater relevance in education and to find ways to attract white students to heavily black schools.

From the educational standpoint, officials say, the magnets have worked out very well. The special programs have added new dimensions to the secondary-school curriculum. Student attendance rates in the programs, one yardstick of success, are relatively high. But as a means of furthering integration, the magnets have had little impact on a school system that is now more than two-thirds black and Hispanic.

"Magnet schools are no panacea for all our problems," said James F. Regan, the former high-school teacher and dean who served as president of the Board of Education during 1974–75. "But at a time when we are trying to provide more educational options and alternatives, they appear to be one of our most promising developments."

A NEW CONCEPT

Although magnet schools as such are a relatively new development—the term "magnet" only recently entered the educational vocabulary—they are based on the simple and far from new idea that special programs will attract students, even those who live a considerable distance away, who would normally go elsewhere or might drop out of school altogether.

The city now has four high schools that are designated as magnet schools: August Martin (aerospace) and Beach Channel (oceanography) in Queens and Clara Barton (health professions) and Edward R. Murrow (communications arts and other options) in Brooklyn. A dozen other academic and comprehensive schools have magnet components—special institutes or schools-within-schools.

Two magnet schools are scheduled to open this fall. One, named in memory of a former president of the Board of Education, is the Murry Bergtraum High School for Business Careers in downtown Manhattan. The other is the Boys and Girls High School in Brooklyn, which will offer students a range of course options in urban planning, building and related fields.

PROGRAM EXTENDED

In September, the magnet school concept will be tried for the first time on the middle-school level in an attempt to bring a degree of racial balance to Mark Twain Junior High School in the Coney Island section of Brooklyn. Under a Federal Court-approved integration plan, Mark Twain, which is now predominantly black, will become a magnet school for gifted pupils.

The city's long-established special academic schools, such as the Bronx High School of Science and the Fiorello H. LaGuardia High School of Music and the Arts, are, in sense, magnet schools even though they are not categorized as such. So is Brooklyn's young and well-regarded experimental John Dewey High School, which features individualized programming, flexible schedules and independent studies.

Magnet schools receive no special budget allocation because they are magnets. But education officials noted that the allocation formula tries to take into consideration special school features. The few city schools that have extended school days, including August Martin, also receive an additional amount to cover the extra operating expense.

Apart from their special programs, magnet schools differ from most other schools in that they draw students on a voluntary basis from a much wider area, often the entire borough and sometimes the whole city. This gives these schools a broader geographic mix of students and is the reason why they are regarded, at least theoretically, as a means of promoting better racial balance.

"I take two buses and two trains to get here for a total daily travel time of three hours," said Kathleen Assevera, a 15-year-old sophomore at Samuel J. Tilden's School of Law, Politics and Community Affairs.

Kathleen lives in Jamaica, Queens, and Tilden is in the East Flatbush section of Brooklyn. But the long trip, she said emphatically, "is worth it—I like the school." As the result of interests kindled by her studies, Kathleen is thinking about a possible career in law.

MORE SCHOOLS PLANNED

Samuel Polatnick, the head of the Board of Education's high school division, said that the future trend in secondary education here would be "more and more" to magnet schools and special programs, even though they may not all carry such a designation.

"Virtually every high school in the city," he said in an interview at central headquarters, "will some day emphasize a special theme or area of interest."

New York City's first magnet high school—August Martin—was opened in 1971 and its experiences have demonstrated what magnets can accomplish in the way of education and what they may not be able to do in the area of social change.

Martin occupies a modern red-brick building in predominantly black South Jamaica that had formerly housed Woodrow Wilson Vocational and Technical High School. Wilson had been shunned by white students who did not want to attend a "black" school and by black students who objected to attending what they regarded as a school that was educationally inferior as well as racially segregated.

In 1970, with the enrollment down to a few hundred students, the decision was made to transform Wilson into a comprehensive school that would be geared largely to the aerospace field. The school was also renamed in memory of a black American pilot who was killed while flying a relief mission to Biafra in 1968.

Martin uses aerospace as the "motivational" theme in the academic as well as career areas, Dr. Lawrence Costello, the principal, said recently. Math and science classes, for instance, often draw examples from the field of aviation. The career-related courses include airport maintenance, aerospace medical technology, meteorology, airline administration, flying, travel and tourism.

SEVEN-HOUR DAY

"Our magnet is seven hours a day," Dr. Costello said. This gives Martin a longer day than most schools have. Some students find the hours and the pace too difficult and they leave. "They don't drop out of school, they just return to their neighborhood school," the principal remarked.

But the majority remain and they attend regularly. Martin's student attendance rate—consistently around 90 percent—is among the best in the city. The average academic high school attendance rate is 10 percentage points lower.

The early hope that the school might attract a racially balanced enrollment has not been fulfilled. Blacks make up 85 percent of the current student body of 1,500.

"In spite of magnets and everything else we try," said one high-ranking headquarters official, who preferred not to be identified, "we still can't overcome the fact that many white parents will not voluntarily send their children to a school in a minority area."

Attempts to promote integration—usually as the result of court mandates—have been behind the moves to magnet schools in several other cities, among them Boston, Detroit, Houston and Chicago. In cities where magnets are now operating their effectiveness as an integration technique has generally been a matter of debate.

Detroit's magnet high-school program, established four years ago, has been "utterly and completely a failure," according to Dr. Cornelius J. Golightly, the president of that city's Board of Education.

While the magnet schools have not had the integration effects originally hoped for, some aspects of the idea have been adapted in the special programs for regular schools. Erasmus Hall High School's Institute of Performing Arts is an example of a magnet program functioning within a larger school.

A public secondary school since 1896, Erasmus Hall was founded as a private academy in 1787, which makes it the oldest secondary school in the state and one of the oldest in the country. The old academy building, now a museum, stands in the school's quadrangle.

PERFORMING-ARTS PROGRAM

The school enrollment went from 10 per cent black and Hispanic in 1962 to 57.9 cent minority in 1972 as white families moved from the racially changing Flatbush neighborhood or sent their children to other schools. In an effort to stem the enrollment trend, the Board of Education decided to establish a performing-arts program at Erasmus Hall.

It now seems obvious that those who thought the institute, which started with 150 students and now has 580, could alter the racial balance of a school with 5,000 students had simply expected too much. As it turned out, the ethnic composition of the institute now matches that of the school—both are 78 per cent black and Hispanic.

"Integration is no longer a primary objective," said Fred Levenson, the assistant principal in charge of the institute. "The objective now is a viable school with interested kids in the arts."

That goal seems attainable. A total of 1,500 students interested in music, art, dance and drama applied for admission this fall. Of this number, 350 were accepted.

EXTRA CLASSES

Students in the institute attend school for an extra two periods, or 80 minutes, daily. Additional time is devoted to their special interest. They also have a heavy schedule of after-school activities which often includes performing in the community.

The dropout rate for students in the institute is relatively low—somewhere between 5 and 8 per cent, according to Harriet Oxman, the principal. The majority of students in the program, she added, are headed for college and many members of last month's first graduating class from the institution won full-tuition art and music college scholarships.

SOME CONCERNS

With all the enthusiasm they have sparked, the magnet schools and programs have also stirred some concerns.

One is that they will draw the best and most-motivated students away from the regular schools, which still educate the bulk of the city's 305,000 high school students.

Another is that the magnets could become havens for white students seeking to flee regular schools with higher minority enrollments. This is not regarded as a serious problem now, since most magnets are in heavily minority schools, but there is some feeling that it could be a factor in the future as more magnets are established.

School Chancellor Irving Anker has a further concern.

"There is a tendency in education," he said, "to oversell promising programs to the public—to give people the idea that they can accomplish everything. We feel that the magnets are an excellent concept, but we want people to understand what magnets can and cannot do."

EXCERPTS FROM REPRESENTATIVE BARBARA JORDAN'S INTRODUCTORY REMARKS TO THE NATIONAL CONFERENCE ON MAGNET SCHOOLS IN HOUSTON, TEX.—SIMPLE JUSTICE REQUIRES AN ALL-OUT EFFORT TO FOSTER INTEGRATION AND QUALITY EDUCATION

As I was coming in from Washington, I began to read a book by the title, Simple Justice. It's a big book. The book is all about the decision *of Brown* versus the Board, what that decision means and how it was arrived at.

The cover of the book is very interesting. On it are two photographs. One of the Warren Court and one of Linda Brown, the plaintiff in the case. And as I began to reflect on that cover, I thought about what the photographers went through as they tried to capture that subject matter for the cover of the book. They probably had a sturdy tripod. They probably spent several minutes trying to decide which combination of speed and distance and aperture setting would be useful in bringing the subject matter into focus and providing the best photographs.

Well we, I think, are like those photographers in a way. We have a tripod—three legs. The first is the constitution. It is a constitution which requires each generation to struggle to preserve the American idea of equality. There is a second leg, the courts. The courts have acted as the conscience of the nation when people have been denied their legitimate rights. The third leg: the support integration receives from the people.

If you notice the latest polls in the west, and Texas is included, 64 percent of the people favor desegregation of our schools. And like those photographers, we must determine a way to approach the subject. Just as the different aspects of the camera have to be brought into focus—distance, speed, adjustment—setting, so we must adjust all integration tools to bring into focus the subject matter. Magnet schools, pairings, cluster, busing, others. Work with them. Bring them into focus. Try to get the proper arrangement so that somehow we can meet the requirements of each particular school district. Our dilemma is we don't know how to approach the subject. We don't know how to bring that subject into focus. How can we best adjust the tools which are available to us?

Well, you are here in Houston to talk about the magnet school concept and how it can be made to work better. How you can work it in conjunction with other integration tools to bring into focus the subject matter which is quality education. It is an important task that brings all of you here. It is a task which forces us to focus on the most enduring problem of America—equality. There is no problem more enduring facing society than equality. It's a much used word in this year of celebration.

It is to some people just words on dried parchment in the national archives, that people can pass by and gawk at in the Declaration of Independence. It's familiar words, "We hold these truths to be self evident: that all men are created equal." Equal. One sentence and that one sentence seems to capture the lifeblood and spirit of America.

Equality is an abstract term. It can only be given meaning through the efforts of each generation. For the first 97 years of this country, black people were treated with indifference. And then in the second 91 years, we have tried to reverse the trends set in 1896 in Plessy versus Fergurson and separate versus equal or separate but equal. Ninety one years of indifference highlighted by Plessy. And then in 1954, Brown versus the Board.

WAUKEGAN PUBLIC SCHOOLS,
Waukegan, Ill., June 8, 1976.

DEAR ———: In our process of trying to integrate the Waukegan Public Schools it becomes a problem of money.

It would appear that a recent bill submitted by Senator Glenn from Ohio has much merit in the area of Desegregation. Senator Glenn's proposal in S. 3319 the School Integration Innovation Act of 1976 would make funds available for construction of buildings or upgrading sites for the purpose of aiding desegregation.

We feel strongly that S. 3319 needs your attention as a means of helping in desegregation of schools. We urge you to consider this bill closely. Should you need further information from us on how this bill might affect our district, please feel free to call or write.

We thank you for your consideration of our request.

Sincerely,

HARRY S. BOWEN.

OPENING THIS FALL IN HOUSTON, TEX.

With the first year of HISD's comprehensive Magnet School program completed, the district's 34 programs will be increased to 49 this fall under Magnet Phase II.

Many of the 15 new programs are extensions of existing ones like the four additional Vanguards for academically able students. New Vanguards are scheduled for Windsor Village, Oak Forest, and Hayes Road (under construction) elementaries. A first this year will be a senior high school Vanguard at Jesse Jones.

Students attending Cornelius Elementary will be allowed entry into a concentrated program of math and science with a careers' component.

Creative arts will be the key to programs at Longfellow Elementary and Fleming Junior High. These will feature music, drama, speech, art, dance and gymnastics.

Crawford, J. Will Jones and Hayes Road elementaries will have extended day classes from 3-5:30 p.m. The schools will be set up to offer three 45-minute enrichment classes that range from speech, drama, art and physical education to regular academics. There are even activities, like storytelling, for students in primary grades.

Following the successful lead of Burrus Elementary, Roberts Elementary will become a Physical Development academy this fall providing experiences for students in health and physical education. Special emphasis will be placed on lifetime sports activities like dance and aquatics.

Another program which is an outgrowth of an existing one will be the Contemporary Learning Center for students in grades six through eight. The CLC has been an overwhelming success on the high school level.

HISD's new Montessori School, at Dodson Elementary, will accommodate 85 four to seven-year-olds in the first year. The Montessori curriculum aims to improve the natural development of these youngsters using learning habits which include independence, responsibility, coordination order and concentration.

M. C. Williams High School will open a new magnet school of communications. The curriculum, which will include radio and television communications and training in theater arts, will be wrapped around a strong speech education component. The speech department at Williams has consistently fared well in state University Interscholastic League competitions either winning or placing near the top in one-act play competition.

Finally, Lincoln Community High School will provide educational alternatives to students who find little motivation in regular high school programs. Students will be allowed to pursue programs of independent study in their areas of interest.

URBAN-SUBURBAN INTERDISTRICT
TRANSFER PROJECT,
Rochester, N.Y., April 30, 1976.

Senator JOHN H. GLENN, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GLENN: We are very encouraged by your introduction of "The School Innovation Act of 1976", S. 3319, which would amend section 707(a) of the Emergency School Aid Act to expand the list of eligible activities.

I am enclosing a copy of our proposal which is attempting to establish the kind of school you appear to have in mind. Actually we have established such a school, and we were quite successful in accomplishing the objectives you are seeking. (See attached articles.)

Despite our success, we have experienced considerable difficulty in obtaining ESAA grants for our innovative voluntary program. The ESAA guidelines make it very difficult for an interdistrict program like ours which represents a voluntary alternative to busing.

It is our hope that with legislation such as that you, Representative Richardson Preyer, and Representative Udall are proposing we shall find a positive way to deal with the sensitive problem of school integration. If I can help, please call (716) 544-8605.

Cordially,

NORMAN N. GROSS, Ed., D.
Project Administrator.

[Material from National Conference on Magnet Schools, Houston, Tex.]

CENTER FOCUSES ON WORLD TRADE, OTHER CULTURES

Port Houston Elementary is a choice example of using an environment to its best advantage. It is at the same time a magnet school for bilingual and multicultural education and a center for studying world trade.

The International Trade Center, says Port Houston Principal Emily Cole, "is designed to improve the student's awareness of the international environment. This is done by exposing students to international communications, imports, exports, geography and economics." And it is all done in miniature.

The ITC is equipped with four laboratories where students get a realistic glimpse of the world scene. Students spend several days at this cluster center meandering through the map skills and money exchange lab, products and transportation, communication and port and industry labs. They do fun things like plot time changes in different parts of the world or pick up a few words of another language in the language lab.

The ITC is replete with field trips and other outside-the-center wanderings. Because the school's namesake (the Port of Houston) is in easy access, there is always the possibility of a foreign ship being docked in the channel.

On the surface, suggests Cole, the ITC is an enlarged show-and-tell. But the subtle points it makes is that other cultures are important and the prospects for living and working among these are limitless.

[From the Dayton Daily News, May 2, 1976]

INTEGRATION PROPOSAL OFFERS ALTERNATIVES TO BUSING

The proposal probably doesn't stand a snowball's chance in the current congressional session, but for the record, Sen. John Glenn (D-Ohio) has made a potentially valuable contribution to the school desegregation muddle.

Indeed, as its opponents say, busing really isn't the best way to get school integration in many circumstances, though it is hardly the terror eager fright-mongers and closet racists like to make it out to be. But for both moral and practical reasons, the challenge of getting over the deep racial crack that divides Americans like an earthquake fault-line remains among the most urgent social necessities.

Sen. Glenn has offered a sensible middle course. It would not create total school integration, and it would be no redress at all for the outright Jim Crow segregation that busing was first designed to wipe out. But his approach could seed substantial school integration—enough to free many communities from the necessity of busing.

The senator has introduced legislation that would provide about $1 billion annually in federal aid for school districts undertaking projects that would result in significant voluntary integration.

The funds could be used to develop and build "magnet" schools that attract students from a broad base because of the schools' special educational offerings. It would aid vocational or college preparatory courses sponsored either by businesses or universities. It would help with the construction of new schools in racially mixed areas and it would aid the construction of multi-school complexes called "educational parks."

All the approaches are, first, educationally sound and enriching, and where they have been well designed and conscientiously administered—as even in Dayton, to a limited degree—they have proved they can attract and hold stable, racially integrated enrollments. And, happily, they achieve integration without the kind of busing that has become the demagogues' best friend.

Alas, most senators and congressmen would rather harangue against busing than shell out hard money for alternatives that seek the same racial justice. Perhaps in time, Sen. Glenn's approach or some enlarged version of it will win the place in national policy that it deserves.

Certainly the persons who say they are against busing but favor school integration would be doing themselves and their nation a favor by rallying to this flag instead of seething in aimless frustration or taking out their emotions in pointless, often dangerous demonstrations.

[From the Akron Beacon-Journal, Nov. 2, 1975]

MAGNET SCHOOLS—CHILDREN SEEM TO LIKE THEM

(By Shelly Cohen)

BOSTON.—Jimmy and Susan missed the bus that usually takes them to Ohrenberger Elementary School, but that didn't stop them. They walked the three miles to their class at one of Boston's 22 "magnet" schools.

The two black youngsters marched through white neighborhoods, through traffic and along highways to get to "their" school.

U.S. District Judge W. Arthur Garrity Jr. has called the magnet schools "the crux and magic" of his integration plan for the school system in Boston, where forced busing has resulted in street violence and absenteeism. Jimmy, Susan and many of the 15,000 children attending the magnet schools (17 percent of Boston's school population) testify to their magic.

"My father says I've learned more here than anywhere," says Tracy Jackson, 9, a fourth grader. "He can't keep me in books anymore. I read too fast."

But as a tool of integration, magnet schools—schools that attract students by offering special programs—have a spotty record of success. Despite that record, they are being seized upon by courts and school officials as a possible alternative to forced busing.

In Philadelphia, where magnets were conceived 10 years ago as a way to revitalize inner city schools, they have improved attendance and reduced discipline problems, but have failed in most cases to increase integration. The Philadelphia school board is now under a court desegregation order.

New York City officials, after four years of magnet schools, also report better than average attendance and few discipline problems. The program serves 19,000 students, about 6 percent of total enrollment was achieved.

"It has had some effect (on integration)," says Samuel Polatnick, executive director of the Office of Specialized High Schools for New York City. "But I'd be dishonest if I said it solved the problem." The pull of neighborhood schools, particularly in white neighborhoods, remains stronger, Polatnick says.

But in a Minneapolis high school district and in the Dallas suburb of Richardson, magnets have worked to bring black and white students together without violence, without protest.

The magnet program at the Minneapolis school, started in 1970, reversed a declining white enrollment. In Richardson, the all-black elementary school became a maget this year, and 50 percent white enrollment was achieved.

In Boston, eight magnet schools, among them Ohrenberger, were established before the courts ordered the school system integrated last year. Their original purpose was to serve bright children, black and white, and they are successful at this today. But at some of the 14 new magnet schools opened this year by Judge Garrity, attendance figures show some resistance to integration.

Magnet schools take as many forms as there are cities using them. Some are for bright students, others for those with special interests such as art or music or science, and still others are for the poorly motivated, who otherwise might drop out.

What they all have in common is that students attending magnets have volunteered to do so, and the schools draw from outside the neighborhoods in which they are located.

Despite the resistance to integration in Boston, Trotter Elementary in the largely black Roxbury section has had no trouble attracting 51 percent whites. Parents seem eager to send their children to what they believe is a progressive school with such programs as open classrooms and team teaching.

The Richardson district, an upper middle-class white suburb of Dallas, was given two weeks by a federal court this August to attract 250 white pupils to Hamilton Park School.

School officials came up with a magnet program in drama and music, special gymnastics courses, and a 16-to-1 pupil-teacher ratio. By the deadline, 289 white students were signed up to balance the school's 265 black pupils.

Ohrenberger, in Boston's white West Roxbury section, is now in its fourth year as a magnet school and has a minority enrollment of 42 percent.

"Their attitude toward school is just a little different," Mary Connolly, the principal, said of the youngsters. "And that makes the relationships between parent and teacher different."

While white parents in some sections of Boston marched near schools to protest forced busing, parents at Ohrenberger were on hand to greet the buses the first day of school, to welcome the new pupils.

CINCINNATI COUNCIL OF
PARENT-TEACHER ASSOCIATIONS,
Cincinnati, Ohio, June 6, 1976.

Hon. JOHN H. GLENN,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR GLENN: The Cincinnati Council of PTA's recently voted unanimously to support S. 3319 which you introduced as the "School Integration Innovation Act of 1976".

As you are well aware, forced integration causes disruption, is expensive, and does nothing to insure quality education or encourage educational options which meet the varying needs of students.

In addition to a wide variety of vocational programs, many alternative programs have been started in the Cincinnati Public School system. They range from bilingual programs to a school for creative and performing arts. These programs not only provide a choice for those students who desire other than the traditional approach, but have voluntarily reduced racial isolation in the district since these programs must be racially balanced.

Many students, parents, and teachers in our district are excited about these innovative methods of reaching students. Many programs have waiting lists, but there is a limited amount of funds that can be used to expand present programs and add new ones. Staff and curriculum development and start-up costs the first year require more funds than regular programs. With school districts facing severe financial problems, funds from other sources are needed to develop programs which will integrate the schools and raise the achievement level of students.

We hope that your bill will pass quickly and are urging our members to write to Senator Taft to ask him to push the bill through the Education subcommittee.

We greatly appreciate your interest in the urban school districts and hope that other members of Congress can be persuaded to see the educational and integration benefits which can be provided by S. 3319.

Very truly yours,

ANN PATTY,
Legislative Chairman.

[Material from National Conference on Magnet Schools in Houston, Tex.]

DISNEY LAND A BIG ATTRACTION IN CHICAGO TOO

On the edge of Uptown, one of Chicago's bleakest neighborhoods, is one of Chicago's most exciting investments in the future—the Walt Disney Magnet School. A prepossessing glass structure along Marine Drive, with a magnificent view of the lakefront, it houses the inner-city's first major experiment in non-graded education, planned integration and magnet enrollment. All this at once, and on a large scale—1,800 children.

Such an ambitious project could not, and did not, spring forth fully grown. A 1967 report from the U.S. Office of Education detailing the implications of the Civil Rights Act led the Board of Education to hire Stanton Leggett's educational consultant firm. Two years and many meetings later, a 170-student experiment—the larval stage of Disney—was initiated. Under the direction of Dr. Lorraine La Vigne, now Disney's principal, it operated in an old U.S. Marine Hospital, converting wards to instructional pods.

The experiment was a success and now Chicago has what is intended to be the first of seven magnet schools. The magnet concept means that children are drawn from all over a city area and then bused to and from. Disney is open to elementary age children from the northern third of Chicago. Interested parents apply to the school and the choice of who gets in is made by computer to reflect the racial/ethnic balance of the community.

The idea here, of course, is to avoid the hostility and fear bred by unstable neighborhoods, and the crux of the plan is that parents choose to send their children to an integrated school. Pouring into the education process are the efforts of consultants, teachers, Northwestern University's education school, the Parents Advisory Council, and the Community Education Council—representing community organizations. It is this active, pluralistic input that imbues the project with such hope.

The open-plan, non-graded approach to education allows each child to progress at his own rate and to pursue his own interests. Disney has incorporated all the usual—but not for inner-city Chicago—techniques of open planning: team-teaching, paraprofessional aides, flexible space and learning resource center.

The 245,000-sq.-ft., $10 million complex, designed by Perkins & Will, is set on 11 acres along the lakefront. Six acres are occupied by buildings—including the school, a communication center and an 80-car underground garage. The remaining five acres, still being developed, will be both playground area for the school and a public park for the community. In addition, the roofs of the garage and the arts center will be playground plazas.

The school building has three levels, each for a different age group. Each level contains three 8,000-sq.-ft. pods (a pod serves 200 children), administrative area, gymnasium, dining multi-use area and teacher training space arranged around the centrally located faculty planning room. Shared facilities include the multi-media library, art and music workshops, science and math labs and health service suites.

The plan—a sort of a geometric figure eight—was dictated by the need to make the faculty planning area the hub of each level and the desire to give each pod a view of the lakefront. Corridors are kept to a minimum by having exits lead directly from the pods—with red-painted doors for easy identification.

Openness is paramount in this building. Classroom walls, of course, have been abandoned, but even administrative and conference rooms turn glass sides to the children in the pods. The two outside walls of each pod are floor-to-ceiling clear glass, creating a continuum from inside to outside—a physical corollary to the rich, unrestrictive environment provided by the educational approach. The danger of vandalism is bypassed by the use of unbreakable polycarbonite for exterior glazing.

On the facades, the poured-in-place concrete frame is extended beyond the window plane. This cagework has the practical advantages of screening the sun and simplifying window washing, although its rationale was primarily sculptural. The architects just did not want another box.

But perhaps the key to this school is its 600-person communication arts center. This "one acre under one roof" houses a theater-in-the-round and flexible space for every kind of art studio from music, dance and painting to weaving and photography. Besides providing open-ended possibilities for the school, it is intended for community groups, audit education and supplementary programs by other schools.

The program for the school was a joint effort of the Board of Education, the Public Building Commission and Perkins & Will.

[Material from National Conference on Magnet Schools in Houston, Tex.]

NORFOLK'S OLDEST HIGH SCHOOL: REJUVENATION PROJECT PROMPTS CHANGES BOTH INSIDE AND OUT

In the fall of 1971, staff members in Norfolk City's oldest high school, Mathew Fontaine Maury, were busy designing a new project which would result in a completely reorganized curriculum. The new design would provide for the individual needs of the students that formed the diversifiod student body. The school, in its role of leadership in education and in the community, appropriately named the three-year project "Regeneration: Inner-City School Survival."

Today the program, originally financed by a grant from Title III of the Elementary and Secondary Education Act, is nationally recognized as a model for other high schools. Recognition as a national model was announced for 1975–76 following a third-year evaluation made in the spring of 1974 by representatives of the State Department of Education and the United States Office of Education.

The broad curriculum which includes every phase of high school education provides opportunities for students to pursue individualized programs. In addition to providing an academic program suitable to their present and future lives, the students are given instruction and opportunities to help them assume responsibility for their learning, and to develop behavioral patterns which do not disrupt the learning processes of other students. Assistance is given to students so that their levels of intellectual achievement will be raised and the vocational skills required for employment will be upgraded.

Students may select from more than 350 courses, of which approximately 200 are taught regularly during each of the nine-week periods into which instruction is divided. Six to eight subjects are taken by students during each nine weeks, more than are taken by students in traditional school programs. Each course developed by staff members meets specific performance objectives. A curriculum guide, containing full information about each course, is available to students for planning their educational programs.

All courses are phase-elective with no restrictive requirements for enrollment. However, a few of the courses by necessity have prerequisites, and for some other courses students are required to have a certain number of credits in order to be eligible for graduation according to state standards.

Classes at Maury High School do not carry grade level identifications in order to provide greater opportunities for students to take courses which meet their needs and their interests.

Operational funds have been provided by the Norfolk City School Board since July 1, 1974, and grants for 1974–75 and 1975–76 made by the Department facilitate the dissemination of information about the project throughout the country.

Change also has affected the area around the school. When the staff members decided that broad reorganization of the instructional program was needed, the community, formerly composed of churches, privately owned homes, small duplex apartment houses, and neighborhood businesses, had deteriorated. The buildings have been moved and the former 6-acre campus has been expanded to 26 acres and surrounded by park areas.

As soon as planning began, project staff members set about laying the foundation for community involvement and acceptance of the new program by establishing contacts with parents, students, and the community at large. Various forms of communication were used to inform the public about the project and to promote understanding about its potential for success.

Minor renovations made to the school building during 1971–72, the first project year, converted the available space to usable, more flexible units. Some of the larger rooms were divided and other areas were combined. In some instances, space arrangements were especially designed according to curriculum needs.

That first year also was spent by project leaders and staff members researching and writing an instructional program for Maury's students. Special methods and materials were developed to implement the program. In the fall of 1972 the new courses were introduced into Maury's classrooms where they now are the basic curriculum.

A staff of 118 persons—106 teachers and the remainder administrators and counselors—operates the program. Since students are given an opportunity to select courses on a nine-week basis, increased administrative effort is required. In addition, everyone on the staff works harder in this student-centered environment than in the traditional setting.

Another innovative idea used at Maury provides for the cafeteria to remain open throughout the school day to serve breakfast, lunch, and snacks. The cafeteria area is supervised and many students gather there when they do not have classes. They study or prepare class assignments and participate in informal discussions and group work, as well as snack. This part of the program continues under close evaluation. While many students seemingly do not use their unscheduled time wisely, it becomes questionable if assigning them to study rooms would help them.

Many challenges have arisen in the project; however, the degree of commitment to the program by Maury's staff members and administrators is credited with having contributed significantly to its success.

"Regeneration: Inner-City School Survival" has been accomplished at Maury—in the school and in the community. Maury's prestige as a leader has continued. In the field of education its influence is nationwide the second time around.

Mr. GLENN. I also want my colleagues to notice that broad-based nonideological support that the amendment and the House bill has gathered. In the House, the distinguished chairperson of the Congressional Black Caucus, Ms. YVONNE BURKE, is a cosponsor. Additionally, page 301 of the August 24 report of the U.S. Commission on Civil Rights makes a specific recommendation for some of the activities authorized by this amendment. I ask unanimous consent to have that statement printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

FROM AUGUST 24, 1976, REPORT OF U.S. COMMISSION ON CIVIL RIGHTS

2. The Federal Government must strengthen and expand programs designed to facilitate the school desegregation process.

> For example, Congress should increase the funding and authority, under Title IV of the Civil Rights Act of 1964, of General Assistance Centers providing technical assistance and human relations training for desegregating school districts. Additional funding should be made available under the Emergency School Aid Act of 1972 for curriculum development and teacher training in desegregating school systems. Congress should provide funds to assist in the construction of new schools and additions to existing ones when such construction will maximize desegregation and lessen the need to increase student transportation for desegregation. Also, Congress should rescind its prohibition against the use of Federal financial assistance for student transportation for desegregation.

Mr. GLENN. So, Mr. President, this is a positive, sound, amendment. It has a broad base of supports. It is a harmony amendment, a unifying amendment. I strongly urge my colleagues' support of it.

Mr. JAVITS. Will the Senator yield?

Mr. GLENN. Certainly.

UP AMENDMENT NO. 392

Mr. JAVITS. I understand it is satisfactory to the Senator to include a provision which will clearly delimit that construction funds will only come out of this particular $50 million for this purpose by adding on page 2, line 2, after the period on that line, the following:

> Nothing in this subsection or section 707 shall be construed to permit funds authorized under any other subsection of this section to be used for construction.

Mr. GLENN. Yes; that is acceptable. It was not the intent of my amendment, I assure the Senator, to provide a means of robbing other funds to put in construction. The Senator's amendment is quite acceptable. It corrects that flaw.

Mr. JAVITS. Mr. President, I offer that as an amendment to the amendment. I ask unanimous consent that I may offer it now.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from New York (Mr. Javits) proposes unprinted amendment No. 392 to the Glenn amendment.

The amendment is as follows:

> On page 2, line 2, after the period insert the following: "Nothing in this subsection or section 707 shall be construed to permit funds authorized under any other subsection of this section to be used for construction.".

Mr. JAVITS. Mr. President, I have already explained the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. GLENN. Mr. President, I would add that cosponsors on this amendment were Senators Stone, Kennedy, Humphrey, Gary Hart, Jackson, Taft, Weicker, and Huddleston. I think that is a broad base. I think we can see that there are people on that list who have been voting on both sides, whether "for" busing or "against" busing, whatever stance these various people have taken. We have a broad spectrum of opinion. I look at this as a harmony amendment, as an amendment we can all get behind, which can improve education and perhaps reduce the necessity for court-ordered busing.

The features of this amendment have worked well in other areas, in various parts of the country, and this amendment will provide at least enough funds to start expanding those efforts.

One magnet school that was brought to my attention just this morning, the Trotter School, a school in the heart of the black Roxbury District of Boston, last year had a waiting list of 235 white students waiting to get in, because of the excellent education they would get when they entered. So the magnet school idea does have very great possibilities. I hope we can get the Federal Government moving into this area even at this very modest amount of $50 million more annually for the ESAA.

Mr. PELL. Mr. President, as the Senator from Ohio has said, we have discussed this both on the floor and informally. I see the merit of the proposal. We included the program in the law in 1972. At that time aid to construction was not a part of the program. The House forced us to take it out. We will make a gallant try to have it accepted this year. Perhaps the House will change its stand.

I yield back the remainder of my time. We accept the amendment.

Mr. JAVITS. The amendment is acceptable.

Mr. GLENN. Mr. President, I ask unanimous consent to have printed in the Record a statement by my distinguished senior colleague from Ohio who joins in sponsoring this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR TAFT

I am pleased to join my colleague from Ohio in co-sponsoring this amendment to provide funds for new innovative educational techniques that can provide a real alternative to busing.

I know that the Senator has been working with educational officials in Ohio and across the Nation in the preparation of the amendment and I think it is a good one.

In reviewing the amendment I did have a question on whether or not an educational center, such as those used in Cleveland and Cincinnati, where specialized programs are taught would qualify under the bill. I believe my staff has cleared a modification of your amendment by adding to the definitions section, 13, language that would clearly qualify centers, such as those in Cleveland and Cincinnati for ESAA assistance.

I know that in Cleveland they have a very successful program where once a week students are brought from all over the city to a science center where they study science at a special education center. The same thing is done for languages, the Arts and other programs in other cities. Students from the same grade, from different parts of the city, come to the learning center to take the special course. It is a very innovative idea that can help in our desegregation effort.

I am convinced, as I believe the majority of the Senate is convinced, that we must find an alternative to busing. I think that new evidence has shown that busing is counter productive to the goals of integration and quality education.

My position has been one of believing that we should not remove the jurisdiction of the courts to review transportation patterns that might promote or perpetuate segregation. At the same time I do not think that abnormal transportation plans are the proper manner to promote school desegregation and think that we must find an alternative course to busing. I am co-sponsoring this amendment because I believe it could well offer this alternative method.

I think from the cases that I have seen in Ohio that the office of civil rights in H.E.W. has sometimes been arrogant and irresponsible. I supported this year's H.E.W. bill that contained the Byrd amendment which limits HEW busing to the nearest school. I also believe that HEW should encourage the alternative methods that are provided for in this amendment. These ideas represent real alternatives to busing.

I realize that some will say that we cannot spend this additional money but I believe there can be no higher priority than the education of our Nation's youth. This program will not only help desegregation but will help quality education at a time when our educational system needs new innovative ideas.

I hope that the Senate adopts this amendment.

Mr. GLENN. Mr. President, I ask unanimous consent to have printed at this point in the Record a memorandum from the Department of Health, Education, and Welfare stating their need for this type of legislation, and also an editorial from the Dayton Daily News, dated August 9, 1976, in support of this legislation.

There being no objection, the materials were ordered to be printed in the Record, as follows:

MEMORANDUM

April 30, 1976.

To: Associate Commissioner for Equal Educational Opportunity. Through: DPD/Price.

From: Chief, Program Systems Branch.

Subject: Comparison of Activities Authorized in S. 3319 with ESAA Statute.

Three of the five activities authorized in S. 3319 are new concepts, i.e., not authorized nor permitted under the provisions of P.L. 92–318, as amended by P.L. 93–380. The activities are:

(13) Construction and operation of magnet schools.

(15) Development of plans for and the construction of "neutral site" schools.

(16) Construction and development of education parks.

Section 709(a) (3) of the Emergency School Aid Act (Public Law 92–318, June 23, 1972) provided for development of plans for and construction of education parks; however, this provision of the statute was deleted in Section 642(b) of the "Education Amendments of 1974," (Public Law 93–380, August 21, 1974).

METROPOLITAN AREA PROJECTS

Sec. 709. (a) Sums reserved pursuant to section 704(b) (1) shall be available for the following purposes:

(1) A program of grants to, and contracts with, local educational agencies which are eligible under section 706(a) (2) in order to assist them in establishing and maintaining integrated schools as defined in section 720(6).

(2) A program of any grant to groups of local educational agencies located in a Standard Metropolitan Statistical Area for the joint development of a plan to reduce and eliminate minority group isolation, to the maximum extent possible, in the public elementary and secondary schools in the Standard Metropolitan Statistical Area,

which shall, as a minimum, provide that by a date certain, but in no event later than July 1, 1983, the percentage of minority group children enrolled in each school in the Standard Metropolitan Statistical Area shall be at least 50 per centum of the percentage of minority group children enrolled in all the schools in the Standard Metropolitan Statistical Area. No grant may be made under this paragraph unless—

(A) two-thirds or more of the local educational agencies in the Standard Metropolitan Statistical Area have approved the application, and

(B) the number of students in the schools of the local educational agencies which have approved the application constitutes two-thirds or more of the number of students in the schools of all the local educational agencies in the Standard Metropolitan Statistical Area.

(3) A program of grants to local educational agencies to pay all or part of the cost of planning and constructing integrated education parks. For the purpose of this paragraph, the term "education park" means a school or cluster of such schools located on a common site, within a Standard Metropolitan Statistical Area, of sufficient size to achieve maximum economy of scale consistent with sound educational practice, providing secondary education, with an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, and which is representative of the minority group and nonminority group children in attendance at the schools of the local educational agencies in the Standard Metropolitan Statistical Area, or, if the applicant is a single local educational agency, representative of that of the local educational agency, and a faculty and administrative staff with substantial representation of minority group persons.

(b) In making grants and contracts under this section, the Assistant Secretary shall insure that at least one grant shall be for the purposes of paragraph (2) of subsection (a).

REPEAL OF RESERVATION FOR CERTAIN METROPOLITAN PROJECTS

SEC. 642. (a) Section 704(b) of the Emergency School Aid Act is amended by striking out paragraph (1) and by striking out "(2)" of such section.

(b) The matter preceding paragraph 1 of section 709(a) of such Act is amended to read as follows: "Sums available to the Secretary under section 708 for metropolitan area projects shall be available for the following purposes:".

AUTHORIZED ACTIVITIES

SEC. 707. (a) Financial assistance under this title (except as provided by sections 708, 709, and 711) shall be available for programs and projects which would not otherwise be funded and which involve activities designed to carry out the purpose of this title stated in section 702(b):

(1) Remedial services, beyond those provided under the regular school program conducted by the local educational agency, including student to student tutoring, to meet the special needs of children (including gifted and talented children) in schools which are affected by a plan or activity described in section 706 or a program described in section 708, when such services are deemed necessary to the success of such plan, activity, or program.

(2) The provision of additional professional or other staff members (including staff members specially trained in problems incident to desegregation or the elimination, reduction, or prevention of minority group isolation) and the training and retraining of staff for such schools.

(3) Recruiting, hiring, and training of teacher aides, provided that in recruiting teacher aides, preference shall be given to parents of children attending schools assisted under this title.

(4) Inservice teacher training designed to enhance the success of schools assisted under this title through contracts with institutions of higher education, or other institutions, agencies, and organizations individually determined by the Assistant Secretary to have special competence for such purpose.

(5) Comprehensive guidance, counseling, and other personal services for such children.

(6) The development and use of new curricula and instructional methods, practices, and techniques (and the acquisition of instructional materials relating thereto) to support a program of instruction for children from all racial, ethnic, and economic backgrounds, including instruction in the language and cultural heritage of minority groups.

(7) Educational programs using shared facilities for career education and other specialized activities.

(8) Innovative interracial educational programs or projects involving the joint participation of minority group children and other children attending different schools, including extracurricular activities and cooperative exchanges or other arrangements between schools within the same or different school districts.

(9) Community activities, including public information efforts, in support of a plan, program, project, or activity described in this title.

(10) Administrative and auxiliary services to facilitate the success of the program, project, or activity.

(11) Planning programs, projects, or activities under this title, the evaluation of such programs, projects, or activities, and dissemination of information with respect to such programs, projects, or activities.

(12) Repair or minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of instructional equipment) and the lease or purchase of mobile classroom units or other mobile education facilities.

In the case of programs, projects, or activities involving activities described in paragraph (12), the inclusion of such activities must be found to be a necessary component of, or necessary to facilitate, a program or project involving other activities described in this subsection or subsection (b), and in no case involve an expenditure in excess of 10 per centum of the amount made available to the applicant to carry out the program, project, or activity. The Assistant Secretary shall by regulation define the term "repair or minor remodeling or alteration".

(b) Sums reserved under section 705(a)(2) with respect to any State shall be available for grants to, and contracts with, local educational agencies in that State making application for assistance under section 706(b) to carry out innovative pilot programs and projects which are specifically designed to assist in overcoming the adverse effects of minority group isolation, by improving the educational achievement of children in minority group isolated schools, including only the activities described in paragraphs (1) through (12) of subsection (a), as they may be used to accomplish such purpose.

SPECIAL PROGRÂMS AND PROJECTS

SEC. 708. (a)(1) Amounts reserved by the Assistant Secretary pursuant to section 704 (b)(2), which are not designated for the purposes of clause (A) or (B) thereof, or for section 713 shall be available to him for grants and contracts under this subsection.

(2) The Assistant Secretary is authorized to make grants to, and contracts with, State and local educational agencies, and other public agencies and organizations (or a combination of such agencies and organizations) for the purpose of conducting special programs and projects carrying out activities otherwise authorized by this title, which the Assistant Secretary determines will make substantial progress toward achieving the purposes of this title.

(3) The Assistant Secretary is authorized to make grants to, and contracts with, one or more private, nonprofit agencies, institutions, or organizations, for the conduct, in cooperation with one or more local educational agencies, of special programs for the teaching of standard mathematics to children eligible for services under this Act through instruction in advanced mathematics by qualified instructors with bachelor degrees in mathematics, or the mathematical sciences from colleges or other institutions of higher education, or equivalent experience.

(b)(1) From not more than one-half of the sums reserved pursuant to section 705 (a)(3), the Assistant Secretary, in cases in which he finds that it would effectively carry out the purpose of this title stated in section 702(b), may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) to carry out programs or projects designed to support the development or implementation of a plan, program, or activity described in section 706(a).

(2) From the remainder of the sums reserved pursuant to section 705(a)(3), the Assistant Secretary is authorized to make grants to, and contracts with, public and private nonprofit agencies, institutions, and organizations (other than local educational agencies, and nonpublic elementary and secondary schools) to carry out programs or projects designed to support the development or implementation of a plan, program, or activity described in section 706(a).

(c)(1) The Assistant Secretary shall carry out a program to meet the needs of minority group children who are from an environment in which a dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. From the amount reserved pursuant to section 704(b)(2)(A), the Assistant Secretary is authorized to make grants to, and contracts with—

(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more educational agencies which are eligible for assistance under section 706, designed to meet the special educational needs of minority group children who are from environments in which a dominant language is other than English, for the development of reading, writing, and speaking skills, in the English language and in the language of their parents or grandparents, and to meet the education . . .

Two S. 3319 activities are partially permitted under current ESAA Statute

(14) the pairing of schools and programs with specific colleges and universities and with leading businesses." (It should be noted that the ESAA activity is limited to advanced mathematics and excludes profit-making organizations.)

SEC. 708(a)(3) permits a college or university, and other private nonprofit organizations to receive grants to provide services to one or more local educational agencies to provide advanced instruction in mathematics.

SPECIAL MATHEMATICS PROJECTS

§ 185.92 Eligibility for assistance.

Any private, nonprofit agency, institution, or organization, or a combination of such agencies, institutions, or organizations, may submit an application for a grant from sums reserved pursuant to § 185.95(b)(1) for the conduct, in cooperation with one or more local educational agencies implementing a plan or project described in § 185.11 or § 185.31(a), of special programs for the teaching of standard mathematics to both minority and nonminority group children attending schools affected by such a plan or project in which the proportion of minority group children enrolled is no less than 20 percent. Such special programs shall consist of instruction in advanced mathematics by qualified instructors with bachelor degrees in mathematics or the mathematical sciences from colleges or other institutions of higher education, or with equivalent experience. A cooperating local educational agency must be in compliance with the requirements described in § 185.43 or § 185.44.

(20 U.S.C. 1605(d) and 1607(a)(3))

§ 185.92-1 Authorized activities.

Funds made available for special mathematics projects described in § 185.92 may be used for compensation for instructors described in said section, purchase of textbooks, materials, and supplies necessary to conduct the instructional program, rental of space and equipment, compensation for auxiliary personnel, and administrative costs. Such funds shall not be used for construction, repair or remodeling of any building or facility, or for the purchase of any equipment which has a useful life of more than one year and is not consumed in use, except where it can be demonstrated that the purchase of specific items of . . .

"(17) Education programs especially designed to improve the quality of education in inner city schools, and the general use of 'education magnetism.'

This provision is authorized under ESAA pilot projects, Sec. 706(b) of the Act states;

(b) The Assistant Secretary is authorized to make grants to, or contracts with, (1) local educational agencies, which are eligible under subsection (a), for unusually promising pilot programs or projects designed to overcome the adverse effects of minority group isolation by improving the academic achievement of children in one or more minority group isolated schools, if he determines that the local educational agency had a number of minority group children enrolled in its schools, for the fiscal year preceding the fiscal year for which assistance is to be provided, which (1) is at least 15,000, or (2) constitutes more than 50 per centum of the total number of children enrolled in such schools.

SUBPART C—PILOT PROJECTS

§ 185.21 Eligibility for assistance.

(a) A local educational agency which is eligible for assistance under § 185.11 may apply for assistance by grant or contract for funds reserved pursuant to § 185.95(c), for unusually promising and innovative pilot programs or projects specifically designed to overcome the adverse effects of minority group isolation by improving the academic achievement of children in one or more minority group isolated schools, if the number of minority group children enrolled in the schools of such agency for the fiscal year preceding the fiscal year for which assistance is to be provided (1) is at least 15,000, or (2) constitutes more than 50 percent of the total number of children enrolled in such schools.

(Public Law 92-318, sections 705(a)(2), 706(b); Public Law 93-380, section 643(b))

(b)(1) A local educational agency shall be considered eligible for assistance under this subpart if it is implementing a plan described in § 185.11(a) or is implementing or will (if assistance is made available to it under the Act) adopt and implement a plan described in § 185.11(b), regardless of whether it applies for or receives assistance under subpart B of this part.

(2) In the case of applications submitted pursuant to a project described in § 185.11(d), a local educational agency shall be considered eligible for assistance under this subpart if it will (if such assistance is made available) establish or maintain one or more integrated schools as defined in § 185.11(d)(2), regardless of whether such agency receives assistance under subpart B of this part.

(Public Law 92-318, section 706(b); Public Law 93-380, section 643)

§ 185.22 Authorized activities

(a) Assistance under this subpart shall be made available to carry out the authorized activities described in § 185.12 with respect to the children or schools to be served by the proposed program, project, or activity.

(Public Law 92-318, sections 706(b), 707(b))

(b) Activities to be assisted under this subpart shall be directed toward improving the academic achievement of children in minority group isolated schools, particularly in the basic areas of reading and mathematics. In general, such activities should bear directly upon classroom performance, through remedial services; the provision of additional, specially trained professional or other staff members; recruiting, hiring, and training of teacher aides; and development and use of new curricula and instructional methods, practices, and techniques (and acquisition of related instructional materials); however, the Assistant Secretary shall consider other, indirect approaches which offer unusual promise in overcoming the adverse effects of minority group isolation.

(Public Law 92-318, sections 706(b), 707(b))

(c) The provisions of § 185.12 (b), (c), and (d) shall apply to assistance made available under this subpart.

(Public Law 92-318, sections 706(b), 707)

§ 185.23 Applications

Applications for assistance under this subpart shall comply with the provisions of § 185.13.

(Public Law 92-318, section 710(a))

§ 185.24 Criteria for assistance

(a) In approving applications for assistance under this subpart, the Assistant Secretary shall apply the objective criteria set out in § 185.14(a), except that a maximum of 25 points shall be awarded to any applicant under § 185.14(a)(2).

(Public Law 92-318, sections 706(b), 710(c)(1), (2), and (3)).

(b) The Assistant Secretary shall determine the educational and programmatic merits of applications for assistance under this subpart on the basis of the criteria set out in § 185.14(b), except that the Assistant Secretary shall also determine the replicability of the proposed program, project, or activity on the basis of the following considerations (8 points):

(1) The extent to which the application demonstrates special thoroughness and specificity in the areas of needs assessment and evaluation design;

(2) The extent to which the applicant proposes (i) to extend some or all of the activities to be carried out under the program, project, or activity to be assisted to schools operated by the local educational agency which are not included in such program, project, or activity; and (ii) to provide opportunities for interested parties to observe the program, project, or activity, inspect project materials, equipment, and facilities, and interview staff members of such agency responsible for design and implementation of the program, project, or activity;

(3) The extent to which the application provides for effective collection and organization of information on the educational results of the proposed program, project, or activity; and

(4) The extent (i) to which the proposed program, project, or activity includes activities of modest to average cost, and (ii) to which secondary operating costs and one-time developmental costs are clearly and separately identified in the application, regardless of whether assistance is requested to cover such costs.

(Public Law 92-318, sections 706(b), 710(c)(7), 710(c)(4).)

(c) In determining the amounts to be awarded to local educational agencies for assistance under this subpart, the Assistant Secretary shall apply the criteria set out in § 185.14(c).

(Public Law 92-318, sections 705(a)(2), 705(b)(3), 706(b), 710(c)(5))

§§ 185.25–185.30 [Reserved]

[From the Dayton Daily News, Aug. 9, 1976]

NOT ALL BUSING ALTERNATIVES ARE AGAINST DESEGREGATION

It's time for the NAACP to stop suspecting every antibusing proposal as an anti-integration dodge.

In particular, the bill backed by Sen. John Glenn (D-Ohio) and Rep. Charles Whalen (R-Dayton), to which NAACP Washington bureau director Clarence Mitchell has objected strenuously, is no such thing.

The bill would set aside substantial federal funds to create "magnet" schools whose unique programs would attract multiracial enrollments from throughout school districts. (Like Dayton's Living Arts Center and Patterson Co-Op, both of which have proved to be excellent educational facilities and successful integration tools.)

The bill would help school systems that want to achieve some desegregation on their own to do so without raising the busing issue that, as a practical political matter, usually kills the initiative. And it would permit judges an option in addition to the all-or-nothing one they now face when confronted by ambiguous cases. Where segregation has been gross, however, neither the courts nor the offending communities could duck full-busing redress.

Magnet schools have not succeeded everywhere, but the problem seems to be more with program design and execution than with any inherent defect in the concept. Where they do succeed, the resulting integration shows promise of being more durable than busing-only desegregation, which sometimes panics whites to the suburbs.

Mr. Mitchell and the NAACP are quite right in insisting that there be no let-up in desegregation, but busing wasn't envisioned as the be-all method when the process began and there is no reason why it has to remain the only means.

Mr. HASKELL. Mr. President, I ask unanimous consent that my name be added as a cosponsor to the amendment proposed by the Senator from Ohio (Mr. GLENN) and adopted to S. 2657.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I am pleased to add my name as cosponsor to the amendment offered by the distinguished Senator from Ohio (Mr. GLENN). This amendment would expand the Emergency School Aid Assistance Act to provide for funds to support the construction or operation of magnet schools, neutral schools, and educational parks. Under the act the funds would be available to those communities implementing both court ordered and voluntary desegregation plans.

I believe that this proposal is a positive effort to defuse many of the problems associated with desegregation efforts in our public school systems. While it will not completely eliminate some of the more serious problems, such as court-ordered busing, it will provide the means to implement new and innovative educational programs which may lessen the need for corrective court action. Upgrading of the educational process and providing incentives for voluntary desegregation will take us closer to our goal of equal quality education for all students.

The new programs invisioned by this amendment are looked on enthusiastically by leading educators across the country. A recent study by the board of education in Jefferson County, Ky., where court-ordered busing has taken its toll, indicates that innovative educational programs such as magnet schools are vitally needed. The board is taking administrative steps to begin planning for this new challenge. However, a serious lack of funds may delay any plan that could be developed. The tremendous expense imposed upon the school system by court-ordered busing has created a financial crisis that will seriously curtail important educational programs within the school system. An infusion of Federal funds for new educational programs would help them counterbalance the adverse effects of the deteriorating situation they now find themselves in.

Mr. President, other school systems and local communities have experienced similar difficulties as a result of court-ordered desegregation plans. The school systems have been thrown into disarray and substantial additional financial burdens have been placed on them. Communities have been disrupted and devisiveness has developed. In order to heal these wounds and restore order, we must begin to develop educational systems that accentuate the positive and that look ahead in a creative fashion. Court-ordered busing has not worked and is a bankrupt policy that has not delivered on its promise to provide equal quality education for all students. It has not worked because it attempts to force people to do what they do not want to do, and we all know that force cannot be used in education. The educational process can only succeed at its highest level if those who are participating in it have a desire to do so. Apprehension and discontent in these educational systems must be replaced with enthusiasm and a desire to participate. This can only be done if we make education attractive, stimulating, and rewarding. I believe that this amendment will give us a modest start in this direction.

SCHOOL INTEGRATION INNOVATION ACT OF 1976

Mr. **HUMPHREY**. Mr. President, I have joined with my distinguished colleague, Senator **Glenn**, in cosponsoring this proposal, which originally was introduced as S. 3319, the School Integration Innovation Act.

I commend Senator **Glenn** and our colleagues in the House who have endeavored to inject creativity and foresight into the effort to desegregate the public schools of America.

Let me make it very clear at the outset that my support for this legislation and the remarks I offer on the subject are intended to augment the assurances which have been made by my colleagues regarding the purposes of this legislation.

This proposal is in no way intended to represent a weakening of the commitment of the Federal Government to overcome racial isolation and the segregation of schools by means which have been determined to be necessary and appropriate by the Department of Health, Education, and Welfare or the courts.

Rather, this legislation is intended to facilitate the adoption, where appropriate and feasible, or other possible remedies to the unequal educational opportunities which results from racial segregation.

It is time to move beyond a position of being "for" or "against" busing. The challenge facing the Congress—as the reflector of public sentiment and the trustee of the public interest—is a demand for constructive thinking, innovative proposals, and decisive action to give all our children and youth the best possible education and a genuine experience of being contributing members of one American community.

Throughout America's history, education has been recognized as the functioning instrument of a stable democracy by being in all of its stages and dimensions an example of the democratic process. To segregate our schools or to allow them to remain segregated is to damage the instrument of education and thereby undermine the foundation of democracy. To segregate children of minority groups is to damage them intellectually and morally and to seriously impair the moral vision of the majority.

Our central goal must be to provide a genuine equal opportunity for all our children in education. School segregation not only denies equal opportunity, but it also cripples the educational development of thousands of American children.

Desegregation is a way to improve education for great numbers of children who otherwise would be disadvantaged throughout life.

In fulfillment of their responsibility to remedy legal wrongs, the courts have utilized busing in certain areas and under limited circumstances to redress the constitutionally unacceptable de jure segregation of students and to address the constitutionally required equality of access to educational opportunity.

Within limited financial means and within a limited time frame, busing has been utilized by the courts as a last resort to remedy a situation found to be incompatible with the Constitution. Busing is one tool to achieve desegregation, but it has by no means been the only tool employed by the courts.

Under title VI of the Civil Rights Act, the Department of Health, Education, and Welfare is prohibited from providing Federal funds to school systems engaging in unconstitutional segregation. The option of compliance or continued segregation is entirely left open to a local school district, except that no person, by reason of race, color, or national origin can be excluded from participation in, or denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

It is left to school systems to choose to take affirmative action in accomplishing school desegregation, if they wish to continue receiving Federal financial assistance.

Title VI is no more than an explicit statement of what clearly is implied under the 14th amendment to the Constitution; namely, that the Federal Government cannot be in the business of financing programs where racial discrimination is practiced as a consequence of State and local government policies and actions, thereby denying to some citizens the equal protection of the laws. Federal programs paid for by all American taxpayers should not benefit only one group of citizens and be denied to another group simply because that group happens to be nonwhite.

In its enforcement of title VI, HEW has utilized a number of measures exclusive of busing in the development and implementation of desegregation plans. Yet the Department continues to labor under restraints imposed by reluctance among some national leaders. This is reinforced by recurrent congressional actions which express opposition to school desegregation through busing.

The issue of busing has become the focus for an emotional discourse which too seldom includes a balanced discussion of the facts surrounding desegregation efforts.

The symbolic power of congressional action in the area of civil rights protection is immense. It is folly to allow our discussions of the subject to degenerate into emotional battles which can be construed by our people as a retreat from the struggle to protect the civil rights of all our people.

Mr. President, the pending amendment represents a positive and constructive aspect of our deliberations on how school desegregation and equal educational opportunity can be achieved.

It does not propose to replace solutions which have been found to be necessary in certain cases. Its authors do not claim that this bill is the new solution which can render previous remedies unacceptable or unnecessary. Rather, it is a constructive and creative approach which offers additional possibilities for achieving the goals we share.

The amendment amends section 707 (a) of the Emergency School Aid Act to clarify and add to the activities for which ESAA funds can be used by communities to implement both voluntary and court ordered desegregation plans and adds $50 million annually for fiscal years 1977, 1978, and 1979 to carry out new activities authorized in this amendment. These activities are:

Construction or rehabilitation and operation of "magnet schools," the pairing of schools and programs with specific colleges and universities and with leading businesses; the development of plans for and the construction of "neutral site" schools or education centers which offer specialized programs; and construction and development of education parks.

This proposal would not affect or reduce current authority to require busing. It would not affect the ability of the courts to require busing as a remedy or as part of a remedy. Rather, it would provide additional educationally sound remedies for consideration both by the courts and by the Department of Health, Education and Welfare in the development, with local school districts, of voluntary compliance plans.

The institution of "magnet schools," for example, has been found to be a valuable component of desegregation plans involving the implementation of other remedies as well. These plans have been attacked as ineffective alternatives in and of themselves. And the limited usefulness of magnet schools, for example, has been recognized in the implementation of desegregation plans.

Yet it also is important to remember that they have been valuable components of overall plans, often involving a combination of remedies. This bill would provide the resources for school administrators to build educational alternatives into desegregation plans which would include concepts such as magnet schools.

A magnet school is one which offers specialized course offerings to students. Its objective is to encourage voluntary integration by offering programs not available at other schools. This concept has met with a good deal of success in a number of districts around the country. It and the others proposed in this legislation deserve thorough consideration in the course of determinations on how best to bring about desegregation while, at the same time, enhancing the educational experience of the Nation's young people.

Our ultimate goal, Mr. President, and one that we have striven for with uneven progress, is quality education for every child and young person in America in an environment that fosters understanding and cooperation.

This cannot be achieved in an atmosphere of fear and distrust. It cannot be achieved in a system which allows rigid and arbitrary separation of the races. And it cannot be achieved without the full faith and firm commitment of the Federal Government.

Mr. GLENN. Mr. President, I am happy to yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment, as amended.

The amendment, as amended, was agreed to.

UP AMENDMENT NO. 393

Mr. PELL. Mr. President, on behalf of the committee I have a series of technical amendments to S. 2657, contained in an amendment, and I move adoption of the amendment.

The PRESIDING OFFICER. The technical amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL) proposes an unprinted amendment No. 393 as a technical amendment.

The amendment is as follows:

On page 107, line 22, strike out the word "is".

On page 129, line 22, strike out "(c)" and insert in lieu thereof "(d)".

On page 131, line 24, insert "excess" after the word "such".

On page 132, line 7, after the word "sum" insert "of $200,000,000 or more".

On page 144, line 17, beginning with the word "inserting" strike out through the word "following" in line 18 and insert in lieu thereof the following: "striking out the word 'and' after 'June 30, 1976,' and by inserting after 'September 30, 1976' a comma and the following".

On page 144, between lines 22 and 23, insert the following:

(3) Section 428(a)(5) of the Act is amended by striking out "September 30, 1976" and inserting in lieu thereof "September 30, 1982" and by striking out "June 30, 1979" and inserting in lieu thereof "September 30, 1986".

On page 146, line 1, insert after the word "by" the following: "striking out subsection (e) of this section" and inserting in lieu thereof 'subparagraph (1) of this paragraph' and by".

On page 147, line 6 strike out the word "of" the first time it appears in such line and insert in lieu thereof the word "to".

On page 148, line 9, after the word "payment" insert the following: "(including special allowance payments made under the Emergency Insured Student Loan Act of 1969)".

On page 149, line 23, after the word "State" insert the following: "or any nonprofit private institution or organization".

On page 150, line 1, after the word "State" insert "or non-profit institution or organization".

On page 150, line 9, strike out the word "STATE".

On page 150, line 13, after the word "State" insert the following: "or any nonprofit private institution or organization".

On page 150, line 15, after the word "State" insert the following: "or nonprofit private institution or organization".

On page 150, line 25, strike out the word "State".

On page 152, line 17, strike out the word "State".

On page 152, line 23, after the word "State" insert the following: "or any nonprofit private institution or organization".

On page 152, line 25, after the word "State" insert the following: or nonprofit private institution or organization".

On page 153, line 11, strike out the word "State".

On page 155, line 2, strike out the word "State".

On page 155, line 9, after the word "criteria" insert a comma and the following: "including criteria for total amounts loaned,".

On page 155, line 15, strike out the word "State".

On page 158, line 21, after the word "State" insert the following: "or any nonprofit private institution or organization".

On page 158, line 23, strike out the word "State".

On page 159, line 5, strike out the word "State".

On page 159, line 17, strike out the word "State".

On page 160, line 7, insert after the word "State" the following: "or the nonprofit private institution or organization".

On page 160, line 11, strike out the word "State".

On page 160, line 20, strike out the word "sets" and insert in lieu thereof "set".

On page 160, line 23, strike out the word "provides" and insert in lieu thereof "provide".

On page 161, line 1, strike out "sets" and insert in lieu thereof "set".

On page 161, line 1, insert after the word "State" the following: "or the nonprofit private institution or organization".

On page 161, line 5, insert after the word "State" the following: "or nonprofit private institution or organization".

On page 161, line 7, strike out "4 per centum of the amount" and insert in lieu thereof "2½ percent of the original amount".

On page 161, line 8, strike out the word "State".

On page 161, lines 9 and 10, strike out "and repayable" and insert in lieu thereof "and in repayment status".

On page 161, line 15, strike out the words "by the State" and insert in lieu thereof "for the purpose of this paragraph".

On page 163, between lines 11 and 12, insert the following:

(3) Section 435(g) of the Act is further amended by adding at the end thereof (after the matter added by paragraph (2) of this subsection) the following new paragraph*:*

"In considering an application by any lender, which is an eligible institution, for continuation of a certificate of insurance previously issued to any such lender pursuant to section 429, the Commissioner shall not deny any such application unless he determines, based upon studies and surveys satisfactory to him, that access to a loan by all eligible students who make an active and diligent effort to obtain a loan under this part will be otherwise available. In order to carry out the provisions of the preceding sentence the Commissioner shall periodically assess the availability of loans to eligible students through studies and surveys undertaken by him and through review of properly conducted studies and surveys made available to him.".

On page 178, after line 24, insert the following:

(B) Part F of title V of the Act is amended by adding at the end thereof a new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 555. There are authorized to be appropriated for the purposes of carrying out this part $25,000,000 for each of the fiscal years ending prior to October 1, 1977.".

On page 179, line 1, strike out "(B)" and insert in lieu thereof "(C)".

On page 179, line 1, strike out "(B)" and insert in lieu thereof "(C)".

On page 193, between lines 21 and 22, insert the following new section:

REVISION OF MAINTENANCE OF EFFORT

SEC. 157. (a) Section 604 (b) of the Act is amended by striking out all after the first sentence of such section and inserting in lieu thereof the following: "The Commissioner shall establish basic criteria for making determinations under this subsection.".

(b) Section 604 of the Act is amended by adding at the end thereof the following new subsection:

"(c) An institution of higher education shall be eligible for a grant for a project pursuant to this part in any fiscal year only if such institution has expended from current funds available for that year for instructional and library purposes, other than personnel costs, during the preceding fiscal year an amount not less than the amount expended by such institution from current funds for such purposes during the second preceding fiscal year. A combination of institutions of higher education shall be eligible for such a grant in accordance with regulations of the Commissioner prescribing requirements for maintenance of effort. The Commissioner shall establish basic criteria for making determinations under this subsection, and may waive so much of the requirement of this subsection as he determines is equitable in accordance with objective criteria of general applicability."

On page 209, between lines 14 and 15, insert the following:

(5) Section 966 of the Act is amended by striking out "July 1, 1978" and inserting in lieu thereof "October 1, 1982".

On page 212, line 9, before the word "subsection" insert the following: "the amendments made by".

On page 212, strike out lines 10 and 11.

On page 212, line 12, strike out "(e)" and insert in lieu thereof "(d)".

On page 212, line 14, strike out "paragraph (1) of this subsection" and insert in lieu thereof "subsection (c)".

On page 212, line 22, after the comma insert the following: "and to interstate compact postsecondary educational agencies approved by the Commissioner for the purpose of this subsection,".

On page 230, lines 19 and 20, strike out "as may be warranted by the evaluations" and insert in lieu thereof the following: "carried out in the year under review in meeting the program objectives set forth in the comprehensive Statewide long-range plan under section 106 and the annual program plan under section 108".

On page 283, line 13, strike out "fiscal year" and insert in lieu thereof "October 1,".

On page 283, line 17, strike out "(1)".

On page 284, line 1, strike out "(2)" and insert in lieu thereof "(b)".

On page 284, line 1, strike out "paragraph (1)" and insert in lieu thereof "subsection (a)".

On page 249, line 9, after the comma insert the following: "or the State and local expenditures for vocational education in a State exceed 10 times the Federal expenditure for vocational education in that State,".

On page 249, line 10, strike out the word "at".

On page 299, lines 5 and 6, strike out "established under part B of this title".

On page 309, line 9, strike out "July 1, 1975" and insert in lieu thereof the following: "October 1, 1976".

On page 317, between lines 11 and 12, insert the following new subsection:

(c) Section 716(b) of such Act is amended by striking out "September 30, 1976" and inserting in lieu thereof "September 30, 1979".

On page 321, line 5, strike out "he" and insert in lieu thereof "the Council".

On page 322, between lines 6 and 7, insert the following new sections:

ASSISTANCE TO STATES FOR STATE EQUALIZATION PLANS

SEC. 328. Section 842(a)(1) of the Education Amendments of 1974, relating to assistance to States for State equalization plans, is amended by striking out "July 1, 1977" and inserting in lieu thereof "October 1, 1978".

INDOCHINA REFUGEE CHILDREN ASSISTANCE ACT OF 1976

SEC. 329. The provisions of section 414 of the General Education Provisions Act relating to the contingent extension of applicable programs, shall not apply to the Indochina Refugee Children Assistance Act of 1976, or to any program financial assistance for educational purposes for Indochinese refugee children.

On page 337, between lines 9 and 10, insert the following:

SEC. 405. (a) Section 421 of the General Education Provisions Act is amended by inserting "(except as otherwise provided)" after the word "part".

On page 337, line 10, strike out "Sec. 405." and insert in lieu thereof "(b)".

On page 337, between lines 14 and 15, insert the following new section:

EXTENSION OF REPORTING DATES FOR CERTAIN PROGRAMS

SEC. 406. (a) Section 403(c)(3) of the General Education Provisions Act is amended by striking out "November 1" and inserting in lieu thereof "February 1".

(b) Section 422(b) of the General Education Provisions Act is amended by striking out "March 31" and inserting in lieu thereof "June 30".

(c) Section 4(b)(1) of the Special Projects Act is amended by striking out "February 1" and inserting in lieu thereof "March 1".

(d)(1) Section 825(a) of the Education Amendments of 1974 is amended by striking out "June 30, 1976" and insert in lieu thereof "August 31, 1977".

(2) Section 825(c) of such Act is amended by striking out "December 1, 1976" and insert in lieu thereof "August 31, 1977".

On page 100, in the Table of Contents, after item "Sec. 156." insert the following:

"Sec. 157. Revision of maintenance of effort.", On page 101, in the Table of Contents after item "Sec. 327." insert the following:

"Sec. 328. Assistance to States for State Equalization Plans.

"Sec. 329. Indochina Refugee Children Assistance Act of 1976."

On page 101, in the Table of Contents, after item "Sec. 405." insert the following:

"Sec. 406. Extension of Reporting Dates for Certain Programs.".

The PRESIDING OFFICER. Without objection——

Mr. STEVENS. Reserving the right to object, does this change the formula we discussed last night?

Mr. PELL. It has no effect on the formula whatsoever.

The PRESIDING OFFICER. The question is on agreeing to the technical amendments.

The technical amendments were agreed to.

UP AMENDMENT NO. 394

Mr. JAVITS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment No. 394.

The amendment is as follows:

On page 337, between lines 14 and 15, insert the following new section:

DELEGATION OF CERTAIN FUNCTIONS TO REGIONAL OFFICES

SEC. 406. (a) Section 432 of the Act is amended by adding at the end thereof the following new subsection:

"(c)(1) The functions of the Commissioner under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional offices of the Office of Education established pursuant to section 403(c)(2) of the General Education Provisions Act.

"(2) The functions which may be delegated pursuant to this subsection are—

"(A) reviewing applications for loan insurance under section 429 and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

"(B) receiving claims for payments under section 430(a), examining those claims, and, pursuant to regulations of the Commissioner, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

"(C) certifying to the central office when collection of defaulted loans has been completed, comprising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Commissioner issued under section 432(a)), and recommending litigation with respect to any such claim.".

On page 101 in the Table of Contents after item "Sec. 405." insert the following new item:

"Sec. 406. Delegation of Certain Functions to Regional Offices.".

Mr. JAVITS. Mr. President, the purpose of the amendment is to follow the statutory procedures for regionalization of functions of the Office of Education, as established in section 403 of the General Education Provisions Act. That section prohibits functions being added to regional offices without specific congressional approval evidenced by a change in statute. The amendment provides for the administration of certain specific functions of the guaranteed student loan program through Office of Education regional offices.

The amendment is requested by HEW, and will strengthen the administration of the guaranteed student loan program. The committee has worked long and hard to do just that, and S. 2657 contains many such provisions. The proposal was transmitted to the Congress after the Education Subcommittee had completed its consideration of S. 2657. However, in consideration of the fact that the proposal will add to the administrative effectiveness of the program, and that the Department has followed the correct procedure to regionalize these functions by submitting the amendment to the Congress, this warrants our favorable consideration.

The impact of the measure will be to provide for the administration at regional offices of specific functions such as review of loan applications receive claim payments and collect defaulted loans. Thus, the amendment allows that not all administrative activities of the program be centered only in Washington.

I understand that the proposed amendment has been cleared with the floor manager of the bill on the other side. I urge my colleagues to vote in favor of the amendment.

Mr. President, in summary, this is simply to give regional offices of the Office of Education the authority to deal with certain specified functions in student loan programs. It was requested by the Department as a way in which to strengthen and streamline the administration of the guaranteed student loan program.

Is this acceptable to my colleague?

Mr. PELL. Mr. President, while I have traditionally opposed regionalization of the Office of Education functions and enlargements of those functions, I realize it is not practical to run every program and every detail from Washington. For this reason in this instance, I find the amendment of the Senator from New York is correctly limited to a specific operation, appropriate, and acceptable.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JAVITS. I yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. The

question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, can we have the yeas and nays on final passage?

The PRESIDING OFFICER. It there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 395

Mr. BURDICK. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Dakota (Mr. BURDICK), for himself and Senator DOLE and Senator DOMENICI, proposes an unprinted amendment numbered 395.

The amendment is as follows:

On page 322, between lines 6 and 7, insert the following new section:

AMENDMENT RELATING TO PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

SEC. 328. Section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new paragraph:

"(C) In the application of subparagraph (A) of this paragraph to any State having a program described in such subparagraph (A) in effect on the date of enactment of the Education Amendments of 1976 no payment may be withheld from and no repayment may be required of any State or local educational agency for any period prior to promulgation of fund regulations or if the State is not in conformance with such regulations, until July 1, 1977.".

On page 101 in the Table of Contents after item "Sec. 327.", insert the following:

"Sec. 328. Amendment relating to Public Law 874, Eighty-first Congress.".

Mr. BURDICK. Mr. President, I am pleased to cosponsor and offer this amendment with Senator DOLE, and Senator DOMENICI who are not able to be present for our deliberation on S. 2657. I particularly appreciate the opportunity to do so because my own State of North Dakota is one of those which could conceivably be affected by the problem which it seeks to remedy.

As Senators from so-called equalization States such as mine are acutely aware, there has been a long delay by the Office of Education in implementing the provision from the 1974 amendments allowing the meshing of impact aid payments under certain school finance programs "designed to equalize expenditures" among their local school districts. In the meantime, these States have—under a ruling of the Office of General Counsel at HEW—continued to receive payments on the basis of their previous eligibility under the fiscal year 1974 exemption, upon which the relevant Public Law 93-380 language was predicated.

The purpose of this amendment is to insure that such States—that is, North Dakota, Kansas, Maine, and New Mexico—all of which have been preceding in the expectation they would ultimately qualify under the implementing regulation will not—in the unlikely event they should for some reason fail to so qualify—be subjected to any cut-off or repayment of funds before they have a chance to make modifications in their State laws necessary for compliance. The possibility of both actions being imposed, of course, is brought about by the retroactivity of the effective date of the eventual standards to July 1, 1974.

This is really a "fairness" type proposal intended to protect those States which have been waitinig patiently for guidelines on which to base any required changes in their school finance equalization laws. More specifically, it is to prevent them from being penalized—and their school districts from suffering—due to the inaction of the responsible rulemaking agency.

That is not to suggest that we in Congress are totally without fault in the underlying statutory language which we provided HEW, for most certainly, we could have gone further in defining the critical and very difficult terms which were instead left completely to regulation. Nevertheless, the Office of Education has failed to deal promptly with the matter, leaving our States and the local educational agencies within them in a position of confusion and uncertainty.

This amendment would alleviate considerably the uneasiness which plagues our legislatures and education departments by assuring them of a "hold harmless" status pending the opportunity to take remedial measures. It is in full keeping with the "no adverse action before notice" spirit of the same subsection of the law which it amends, and should, I believe, be acceptable to the committee on the basis of equity and budgetary stability alone.

Before yielding to the distinguished floor manager for his comments, it might be useful in further understanding the need for this provision to review the development of the "exemption" principle itself since fiscal year 1974. Prior to then States were prohibited by the Federal Government from considering Federal impact aid payments in determining State aid to local educational agencies.

This prohibition was placed in Public Law 874 because of congressional concern that if State aid were reduced in recognition of Federal payments, the purpose of the impact aid program—to compensate school districts for the impact for Federal activities—would be thwarted. This thesis was perhaps valid for State aid systems which operated on a flat grant of foundation basis, but was not valid as States began to enact equalization programs where State aid is allocated inversely to local wealth and taxing ability.

North Dakota, Kansas, and New Mexico were leaders in the enactment of a program of State aid to equalize the ability of local school districts to finance equivalent education programs. As our legislatures fashioned school aid programs which would entail both educational and fiscal equality, they ran into the problem of how to treat the three or four districts receiving signficant Federal impact aid payments.

If these were not treated as local resources, then some districts would have received more money than they could legally budget or spend and the other taxpayers of the State would bear the price through their Federal and State taxes. Accordingly, the State laws in Kansas, Maine, New Mexico, and North Dakota were adopted to treat impact aid payments as though they were derived from local taxes.

To resolve the conflict between State and Federal law and to remove an impediment in Federal law to the laudible objective of school finance reform, Senator DOLE and I sponsored legislation which was enacted in 1973 to suspend the prohibition of section 5(d)(2) of Public Law 874 for fiscal 1974 in any State with a program of State aid for free public education which is designed to equalize expenditures for education among local educational agencies. As I indicated earlier, a modified version of that language was included in the Education Amendments of 1974 as a permanent solution to the problem.

That legislation permitted "equalization" States to take impact aid payments into consideration in determining the fiscal resources and need of local educational agencies. The statute also provided that States may cut such aid in proportion to the share of the local revenues covered under a State equalization program or of total local revenues.

While the terms "State aid" and "equalize expenditures" were left to be defined by regulation, it seemed clear from the report of the Labor and Public Welfare Committee that congressional intent was to cover the kinds of programs which exist in Kansas, Maine, New Mexico, and North Dakota. Nevertheless, it took almost a year for proposed regulations to come out, another year to finalize those and propose further alternatives—with the result that the affected States *still* do not know whether or not they are covered.

Once that determination is made, any State which might have a problem would be expected to make appropriate revisions in its programs. Until then, however, they should not have to face the potential liability derived from retroactive application of regulations which are still in a state of flux.

I have discussed this amendment with the managers of the bill and I believe they have agreed to accept this legislation.

Mr. PELL. That is correct. It has been discussed. On behalf of this side of the aisle, I am glad to accept this amendment.

Mr. JAVITS. This is the one that was worked out this morning with the staff?

Mr. BURDICK. That is correct.

Mr. JAVITS. It is agreeable to this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 2226

Mr. PERCY. Mr. President, in behalf of the Senator from Georgia (Mr. NUNN) and myself, I call up amendment No. 2226.

The PRESIDING OFFCER. The amendment will be stated.

Mr. PERCY. Mr. President, I ask unanimous consent that the amendment be modified according to the terms which I now send to the desk.

The **PRESIDING OFFICER.** The clerk will state the amendment as modified.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes amendment numbered 2226, as modified.

The **PRESIDING OFFICER.** At this point, the modification requires unanimous consent. Without objection, the amendment will be so modified.

Mr. PERCY's amendment (No. 2226), as modified, is as follows:

On page 130, between lines 13 and 14, insert the following:

(c) Subpart 2 of part A of title IV of the Act is amended by adding at the end thereof the following new section:

"CRIMINAL PENALTY FOR UNLAWFUL PAYMENT

"SEC. 413E. Any prson who makes an unlawful payment to an officer or employee of the United States to obtain funds for supplemental grants under this subpart, and any officer or employee of the United States who accepts any such unlawful payment, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than 5 years, or both.".

On page 163, after line 24, insert the following:

(n) Part B of title IV of the Act is amended by inserting immediately after section 439 the following new section:

"CRIMINAL PENALTIES

"SEC. 440. (a) Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with an application for accreditation by a nationally recognized accrediting agency or association, or for a finding by the Commissioner under section 435(b)(4)(A) or (B), for the purpose of qualifying an educational institution as an eligible institution under this part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) Any person who knowingly and willfully makes any false statement to, furnishes any false information to, or conceals any material information in connection with the assignment of a loan, which is insured under this part, to another eligible lender, shall, upon conviction thereof, be fined not more than $2,000 or imprisoned not more than one year, or both.

"(c) Any person who makes an unlawful payment to an eligible lender as an inducement to make, or to acquire by assignment, a loan insured under this part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(d) Any person who knowingly and willfully destroys any application for a loan which is insured under this part, any application for insurance of a loan under this part, or destroys or conceals any other record relating to the making or insuring of loans under this part with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than five years, or both.".

On page 175, line 4, strike out "section" and insert in lieu thereof "sections".

On page 176, line 23, strike out the quotation marks and the period the second time it appears.

On page 176, after line 23, insert the following:

" 'SEGREGATION OF FUNDS

" 'SEC. 498C. (a) Any person who receives funds under the provisions of this title for the making of grants or loans as provided in this title shall be deemed a custodian of public funds and shall not disburse or otherwise use any of such funds for any purpose other than as expressly authorized by the provisions of this title. Such funds shall be maintained in separate accounts and shall not be commingled with the operating funds of any institution, nor with any other funds except as expressly provided in this title. Such persons shall maintain such records of such separate accounts as Commissioner shall by regulation require.

" '(b) Any person who violates any provision of this section, or any regulation prescribed pursuant to this section shall be fined not more than $10,000 or imprisoned not more than five years, or both.' ".

Mr. **PERCY.** Mr. President, the amendment which Senator NUNN and I have submitted to S. 2657 would significantly improve the student loan program through the establishment of criminal penalties for those who have been abusing the program for years.

Last fall, the Senate Permanent Subcommittee on Investigations, under the able leadership of Senator NUNN of Georgia, held a series of extensive hearings on the administration of the Federal student loan program and turned up substantial evidence of bribery, fraud, and related abuses. In short, we found that the present program was seriously flawed.

The principal defect is that there are no criminal penalties provided in the Higher Education and Vocational Education Acts for the kinds of wrongful activities that the subcommittee uncovered during its hearings. The absence of criminal penalties within the enabling legislation invites the kinds of abuses disclosed in our public sessions.

Those who abuse this worthy program for their own financial gain at the expense of needy students and Federal taxpayers are committing crimes against society and should, therefore, be treated as criminals by our legal system. We must make vivid the fear of a jail term in the minds of those who contemplate defrauding students associated with the loan program and, in turn, the taxpayers and Government of the United States.

During its hearings, the subcommittee learned that a program officer in the Office of Education in HEW's San Francisco office took deliveries of cash from a school seeking Federal grant funds, in return for which he was to facilitate authorization of grant money to the school.

The amendment offered today would specifically forbid any payment to a U.S. Government employee in return for which grants or loans are to be made. Violators would be criminally liable and be subject to a fine of not more than $10,000 and/or imprisonment for up to 5 years.

Mr. President, the ranking minority member and the floor manager of this bill, Senator JAVITS, can cite the Federal statute that provides for criminal penalties for bribery situations such as we have here. The purpose of including this in the bill was simply to emphasize the apparent flagrant abuse that has gone on in this program. It has contributed toward the problem of default. It was included in the bill at this time to emphasize this fact, and put it right in front of U.S. attorneys, that these are criminal activities, that bribing a Federal official is a criminal offense and should be treated as such.

School officials who willfully or knowingly misrepresent facts about their facility in order to obtain Federal loan or grant funds would be subject to the same criminal penalty of up to $1,000 and/or up to 1 year in jail. This would certainly force a school administrator to think twice before he falsifies material information about the institution's capital structure, curriculum, or faculty. And, by the same token, it would be unlikely, if this amendment were to become law, that some of the shady characters presently abusing the program would be able to continue doing business with the Office of Education.

The subcommittee learned during its hearings that the operator of West Coast Schools once faked his own murder, apparently to escape paying alimony to his first wife. He lived under an alias for years before the subcommittee uncovered his real identity and turned the information over to the Justice Department. He has since been arrested for filing a false passport application.

The subcommittee was also told that this same school sold about $1 million in federally insured student loans to a credit union nearly a year after the school had closed its doors. The proposal I advocate would provide a criminal penalty for any school operator selling such guaranteed notes to lenders without providing all material information relevant to the transfer or assignment of such notes.

The subcommittee also learned that it was common for commissions to be paid to officials associated with lending institutions which purchased student loan notes. This amendment would make such actions subject to criminal penalties.

An additional provision would attempt to prevent yet another dubious activity the subcommittee learned of during its investigations, whereby relevant records of West Coast Schools were directed to be hidden in an employee's garage to avoid the scrutiny of auditors. Anyone who, with intent to defraud the United States or to prevent the Government from enforcing any subrogation rights it has, knowingly and willfully destroys or conceals relevant material regarding a student loan, would be subject to criminal penalties.

Mr. President, we all know we are dealing with a multibillion-dollar program. It has been one of the greatest programs that the Congress of the United States has ever initiated. Its objective and purpose are absolutely right. It is on target.

That is all the more reason to penalize those who attempt to defraud and take advantage of taxpayers' funds intended to improve skills, learning abilities, and vocational opportunities of those seeking to advance themselves educationally. To defraud persons who enter into such a program, I think, is to commit as great a crime as robbing a bank.

This amendment would also impose such criminal penalties on the operator of any school who commingles Federal student loan or grant funds with other operating or general accounts. In the west coast schools case, we learned that the administrators commingled more than $1.2 million in grant funds with other accounts, some of them their personal accounts, for their own personal benefit.

Mr. President, this amendment is needed to encourage the Office of Education to deal squarely with the fact that there are fly-by-night hucksters in the field of education, just as there are in medicine, used car sales and just about any other facet of commerce. To allow such operators to continue to abuse this noble program with impunity is for the Congress, in effect, to condone such illicit activity.

Mr. President, the distinguished ranking Republican member of the Committee on Labor and Public Welfare has served also as the ranking Republican member of the Government Operations Committee, and has been a very valued member, for many years, of the Permanent Investigation Subcommittee. He is well aware of the committee's hearings held under the chairmanship of Senator NUNN, and is well aware of the abuses. With Senator PELL, he has adopted many of the proposals we have made to improve the program, and should be commended.

As always, I turn to him for advice in legal matters, and would value his advice on the matter pending before us.

Mr. NUNN. I am pleased to cosponsor with Senator CHARLES H. PERCY, amendments to the Higher Education Act of 1965, S. 2657, which will provide for criminal penalties for unlawful payments to secure grants under the student aid program, for the willful filing of false statements, for the willful destruction of records with an attempt to defraud the United States, and for the misuse of funds granted under the act.

This proposal stems from 6 days of hearings and a year-long investigation into abuses in the student loan program with the complete cooperation and assistance of Senator PERCY, the subcommittee's ranking minority member, to whom I am deeply indebted. Our examination of the federally guaranteed student loan program and other related financial assistance programs administered by the Department of Health, Education, and Welfare showed a lack of monitoring, accounting and auditing controls which created a fertile climate for abuse, mismanagement, and criminal conduct.

That unscrupulous individuals should engage in such criminal conduct is not difficult to understand since the stakes are so high: an approximately $8 billion guaranteed student loan program with perhaps $1 billion in potential defaults. Among those who suffer from the conduct of a small group of unscrupulous individuals who prey on unsuspecting young people and parlay Federal funds into financial empires are:

The taxpayers who are laying out millions of dollars on defaults and interest payments on obligations that may be totally without merit;

The students, basically the disadvantaged, who may enroll in a course and obligate themselves for large student loans, drop out and then be unfairly "dunned" for a debt which is invalid;

The schools that operate within the letter and spirit of the Federal program to aid and assist in the education of many who would otherwise not benefit from further education;

The many dedicated employees of HEW who are committed to make this program work so that its benefits can be utilized as foreseen by the enacting legislation.

Following our hearings Senator PERCY and I wrote to the Subcommittee on Education with a report on our findings and suggestions as to how we felt the program could be revised and upgraded to stamp out many of the abuses we uncovered. I am pleased to report that the subcommittee was responsive to many of our proposals such as in the area of inducing States to participate to a larger textent in the program and the result is a greatly strengthened bill. I ask unanimous consent that a joint letter of the distinguished chairman of the Education Subcommittee, Senator PELL, and the distinguished ranking minority member of the Labor and Public Welfare Committee, Senator JAVITS, who is also a member of our Investigations Subcommittee, which shows how the Education Subcommittee has acted in a very positive manner on our recommendations, be included in the Record at the close of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. NUNN. However, there is one area in which we made strong recommendations—stiff criminal sanctions for those who abuse the public trust—which was not acted upon by the subcommittee and which we feel should be included in the final bill as passed. It is my strong belief that putting those unscrupulous individuals on notice that they will face stiff penalties for abusing the student loan and aid program is an absolute necessity in trying to make this program function properly.

Accordingly, I strongly urge that the amendment here proposed be adopted. The amendment simply would provide for criminal penalties for: First knowingly and willfully making a false statement, furnishing any false information or concealing any material information in an application for accreditation or in connection with an application for a loan which is insured under the program and upon which there is a subsequent default; second, making unlawful payments to lenders; third, destroying records required under the program with an intent to defraud the United States; and fourth, using funds granted under the program for purposes other than expressly authorized by the act.

In conclusion, Mr. President, by putting teeth into the law, we can help to stem the tide of abuses and strengthen the program which, if operated effectively and efficiently, can benefit countless Americans.

EXHIBIT I

COMMITTEE ON LABOR
AND PUBLIC WELFARE,
Washington, D.C., August 10, 1976.

Hon. SAM NUNN,
Acting Chairman, Permanent Subcommittee on Investigations, Government Operations Committee, U.S. Senate, Washington, D.C.

Hon. CHARLES PERCY,
Ranking Minority Member, Permanent Subcommittee on Investigations, Government Operations Committee, U.S. Senate, Washington, D.C.

DEAR SENATORS: The Senate will shortly commence floor consideration of S. 2657, the Education Amendments of 1976. This bill includes reauthorization and improvements to the Federal student aid programs authorized by Title IV of the Higher Education Act of 1965. As both the Committee on Government Operations and the Committee on Labor and Public Welfare have held extensive oversight hearings on the operation of these programs, we wish you to be well informed as to the provisions of S. 2657 which have resulted from these joint efforts.

In your March 15 letter to Education Subcommittee Chairman Pell, you propose a number of recommendations which have been incorporated into S. 2657, which are listed below with the comparable provision:

PSI RECOMMENDATION

1. Shift emphasis to state programs by encouragement to set up their own programs.

S. 2657 PROVISION

1. (a) Increased percentage of loan reinsurance coverage to States conforming with their program eligibility to present Federal standards. (State option)

(b) These States may also be reimbursed for collection and default prevention expenses. (State option)

PSI RECOMMENDATION

2. Equitable sharing of collections between State and Federal governments.

S. 2657 PROVISION

2. States which opt under 1(b) for greater reinsurance will also adjust share of collections proportionately.

PSI RECOMMENDATION

3. Bonus payment to States which run their own loan insured program under SSIG.

S. 2657 PROVISION

3. Bonus provision included.

PSI RECOMMENDATION

4. Elimination of proprietary and correspondence schools as lenders.

S. 2657 PROVISION

4. (a) School-lenders with high default rates can be eliminated as lenders from program.

(b) New USOE authority to order fiscal audits and establish standards of fiscal responsibility and institutional capability for all HEA IV programs.

In addition to the incorporation of these specific PSI recommendations, there are a number of additional provisions which we believe can be highly effective in improving the programs along the lines of recommendations from oversight hearings in our respective Committees. The most important of these provisions are:

A. Establishment of a new mechanism to formulate special allowance rate, which will provide a more equitable return to lenders to better administer GSLP and stimulate capital investment in this program.

B. Prohibition of discharge of student loan obligations through bankruptcy within the first five years of repayment.

C. Student consumer information activities to mandate disclosure and better information to students by all educational institutions. Provisions also mandate USOE publication of statements of rights and responsibilities of students, educational institutions, and lenders.

D. Inclusion of additional HEW proposals to avoid abuses: (1) prohibition of legal minority as defense to loan repayment, (2) authorization of adjusted repayment schedule by mutual agreement of student and lender to avoid defaults, (3) authorization of reduction of minimum monthly payment when two spouses each have loans, (4) authorization and incentive for multiple disbursement of loan proceeds by lender to avoid default on single lump sum payment.

E. Prohibition of use by educational institutions of commissioned salesmen to promote student loan programs.

F. Authorization of a single period of one year suspension of repayment when student is unemployed.

We believe that this extensive revision and improvement of the Guaranteed Student Loan program will enable HEW, lending institutions, educational institutions, and student participants to work together in eliminating abuses from the program. Through a combination of incentives to participants, consumer information to students, and specific statutory prohibition on certain questionable practices, the program can be returned to a sound basis.

We are greatly indebted to the Permanent Subcommittee on Investigations, with its extensive capability for oversight and investigation of Federal programs, for aiding the Labor and Public Welfare Committee which has the responsibility for the authorization of these student aid programs. We are pleased to report that the efforts of PSI have been largely incorporated into the L&PW bill, and we hope that members of both Committees will actively support these provisions during floor consideration of S. 2657.

With best wishes,

Sincerely,

CLAIBORNE PELL,
Chairman, Education Subcommittee, Labor and Public Welfare Committee.
JACOB K. JAVITS,
Ranking Minority Member, Labor and Public Welfare Committee.

Mr. JAVITS. Mr. President, I yield myself the necessary time, and I shall be brief.

First, I feel that, as to the whole amendment as modified, while I am willing to take it to conference, we are going to have to work it out with the House, and I shall explain why as I go along.

First, as to the first section of the amendment, dealing with "criminal penalty for unlawful payment," that is already covered by section 201(d) of title XVIII of the United States Code, which deals with bribery in almost the same language as this particular page; it speaks of the word "public official," which is defined in the statute almost exactly as Senator PERCY has defined it, as an officer or employee of the United States.

So I hope that particular section, which is redundant, will be stricken. It is always dangerous to have a new section with some different type of language.

Second, I am pleased that Senator PERCY reduced the criminal penalties to misdemeanor penalties because we are dealing with college officials, and it is a serious matter for college officials to be subject to criminal penalties in dealing with records, et cetera, except where you have outright fraud.

Let us remember that all of these programs dealing with the financial condition of students are protected by Federal law relating to an affidavit, and in that connection it is already a serious crime to make false statements and false entries. That is covered by section 1001 of title XVIII.

And that has to be notarized, et cetera. So we are quickly and properly reducing these penalties.

Senator PERCY wishes to leave the felony for willfully destroying records which affect the United States, and I am worried about that again because of the very heavy penalty and the fact that we leave it to the custodian as to whether he has to keep the records forever. There is no period of years or statute of limitations. The only qualification is if he destroys with an intent to defraud the United States.

I am willing to take it to conference that way, but I know it is going to be reworked to deal with what I have just stated.

Finally on the segregation of funds question, which is contained in the amendment, there, too, we are dealing with college administrators; therefore, I hope that not be the felony penalty as this involves segregation of funds and escrow funds. A college official could easily get balled up in his own records and find himself subject to a criminal charge.

I would appreciate it if the felony penalty were reduced to a misdemeanor, to wit, $1,000 and not more than 1 year.

Only one other thing and then I shall be through, as our time is so short. I notice that in item (c) of the amendment on page 2, whereas items (a) and (b) speak of any person who knowingly and willfully, and so forth, item (c) does not. That is, it says that any person who makes an unlawful payment to an eligible lender. I believe that the words "knowingly and willfully" should be included there as well.

To recapitulate, Mr. President, I have three requests of Senator Percy. One, strike criminal penalty for unlawful payment on the ground that it is already covered in law; two, change (c) to include knowingly and willfully; and three, strike the felony penalty and insert the misdemeanor penalty in the last item "segregation of funds."

Mr. PERCY. Mr. President, the points made by the distinguished Senator from New York on section 413(e) are correct. As I indicated in my comments, I had incorporated this section in this bill to emphasize that this is a Federal offense and that U.S. attorneys should invoke the law. I cannot understand why they have not brought an indictment in the very case that has been brought to their attention. But I feel that with this colloquy in connection with the passage of this bill and this particular amendment, it would be redundant to include it.

I request unanimous consent, Mr. President, to omit from the amendment the section 413(e) beginning, "Any person who makes an unlawful payment to," and ending with, "5 years or both."

The PRESIDING OFFICER. The Senator has a right to modify his amendment. If he will send his modification to the desk, it will be so modified.

Mr. PERCY. Mr. President, with respect to subparagraph (c) unlawful payment, it is the understanding of the Senator from Illinois that when it is described as an unlawful payment that incorporates the implication that it has been knowingly and willfully done so that it would be redundant and unnecessary to include that language at the same time.

The Senator from Illinois concurs and asks unanimous consent to reduce the final paragraph, subparagraph (b) to a misdemeanor.

Mr. JAVITS. Mr. President, in that form it is agreeable to take the amendment to conference.

The PRESIDING OFFICER. The amendment will be so modified.

Will the Senator please send the modification to the desk so the clerk can have it.

Mr. JAVITS. I have it right here if he wants it.

Mr. PERCY. Yes.

The amendment, as modified, is as follows:

On page 163, after line 24, insert the following:

(n) Part B of title IV of the Act is amended by inserting immediately after section 439 the following new section:

"CRIMINAL PENALTIES

"SEC. 440. (a) Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with an application for accreditation by a nationally recognized accrediting agency or association, or for a finding by the Commissioner under section 435(b)(4) (A) or (B), for the purpose of qualifying an educational institution as an eligible institution under this part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) Any person who knowingly and willfully makes any false statement to, furnishes any false information to, or conceals any material information in connection with the assignment of a loan, which is insured under this part, to another eligible lender, shall, upon conviction thereof, be fined not more than $2,000, or imprisoned not more than one year, or both.

"(c) Any person who makes an unlawful payment to an eligible lender as an inducement to make, or to acquire by assignment, a loan insured under this part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(d) Any person who knowingly and willfully destroys any application for a loan which is insured under this part, any application for insurance of a loan under this part, or destroys or conceals any other record relating to the making or insuring of loans under this part with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.".

On page 175, line 4, strike out "section" and insert in lieu thereof "sections".

On page 176, line 23, strike out the quotation marks and the period the second time it appears.

On page 176, after line 23, insert the following:

" 'SEGREGATION OF FUNDS

" 'Sec. 493 C. (a) Any person who receives funds under the provisions of this title for the making of grants or loans as provided in this title shall be deemed a custodian of public funds and shall not disburse or otherwise use any of such funds for any purpose other than as expressly authorized by the provisions of this title. Such funds shall be maintained in separate accounts and shall not be commingled with the operating funds of any institution, nor with any other funds except as expressly provided in this title. Such persons shall maintain such records of such separate accounts as the Commissioner shall by regulation require.

" '(b) Any person who violates any provision of this section, or any regulation prescribed pursuant to this section shall be fined not more than $1,000 or imprisoned not more than one year, or both.' ".

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. PERCY. The Senator from Illinois simply expresses once again his appreciation to Senator Pell and Senator Javits for accepting the amendment and for improving the amendment here in the Chamber, to Senator Nunn for the distinguished leadership that he has provided, and to the staff, minority and majority, of the permanent investigating subcommittee that has brought this matter to the attention of the Senate.

I particularly also express my personal and deep appreciation to Stuart Statler, minority counsel, for the permanent investigating subcommittee, and to Mr. Jonathan Cottin, who so ably has conducted the investigation in this field. It involved a great deal of investigative work and the necessary followthrough. So many times we have hearings and investigations but we do not follow through. Here is a case where we actually have followed through.

Senator Kennedy also, I believe, has supported the principle and concept in the subcommittee.

I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I ask unanimous consent to print in the Record a letter which Senator Pell and I wrote to Senators Nunn and Percy showing that we had paid the most careful attention to the recommendations of the Permanent Subcommittee on Investigations of the Committee on Government Operations, and outlining the several provisions already included in S. 2657. This is a sterling example of the diligent and helpful work of that subcommittee, on which I serve, resulting in provisions of law to remedy a real problem.

There being no objection, the letter was ordered to be printed in the Record, as follows:

August 10, 1976.

Hon. Sam Nunn,
Acting Chairman, Permanent Subcommitte on Investigations, Government Operations Committee, U.S. Senate, Washington, D.C.

Hon. Charles Percy,
Ranking Minority Member, Permanent Subcommittee on Investigations, Government Operations Committee, U.S. Senate, Washington, D.C.

Dear Senators: The Senate will shortly commence floor consideration of S. 2657, the Education Amendments of 1976. This bill includes reauthorization and improvements to the Federal student aid programs authorized by Title IV of the Higher Education Act of 1965. As both the Committee on Government Operations and the Committee on Labor and Public Welfare have held extensive oversight hearings on the operation of these programs, we wish you to be well informed as to the provisions of S. 2657 which have resulted from these joint efforts.

In your March 15 letter to Education Subcommittee Chairman Pell, you propose a number of recommendations which have been incorporated into S. 2657, which are listed below with the comparable provision:

PSI RECOMMENDATION

1. Shift emphasis to state programs by encouragement to set up their own programs.

S. 2657 PROVISION

1. (a) Increased percentage of loan reinsurance coverage to States conforming with their program eligibility to present Federal standards. (State option)

(b) These States may also be reimbursed for collection and default prevention expenses. (State option)

PSI RECOMMENDATION

2. Equitable sharing of collections between State and Federal governments.

S. 2657 PROVISION

2. States which opt under 1(b) for greater reinsurance will also adjust share of collections proportionately.

PSI RECOMMENDATION

3. Bonus payment to States which run their own loan insured program under SSIG.

S. 2657 PROVISION

3. Bonus provision included.

PSI RECOMMENDATION

4. Elimination of proprietary and correspondence schools as lenders.

S. 2657 PROVISION

4. (a) School lenders with high default rates can be eliminated as lenders from program.

(b) New USOE authority to order fiscal audits and establish standards of fiscal responsibility and institutional capability for all HEA IV programs.

In addition to the incorporation of these specific PSI recommendations, there are a number of additional provisions which we believe can be highly effective in improving the programs along the lines of recommendations from oversight hearings in our respective Committees. The most important of these provisions are:

A. Establishment of a new mechanism to formulate special allowance rate, which will provide a more equitable return to lenders to better administer GSLP and stimulate capital investment in this program.

B. Prohibition of discharge of student loan obligations through bankruptcy within the first five years of repayment.

C. Student consumer information activities to mandate disclosure and better information to students by all educational institutions. Provisions also mandate USOE publication of statements of rights and responsibilities of students, educational institutions, and lenders.

D. Inclusion of additional HEW proposals to avoid abuses: (1) prohibition of legal minority as defense to loan repayment, (2) authorization of adjusted repayment schedule by mutual agreement of student and lender to avoid defaults, (3) authorization of reduction of minimum monthly payment when two spouses each have loans, (4) authorization and incentive for multiple disbursement of loan proceeds by lender to avoid default on single lump sum payment.

E. Prohibition of use by educational institutions of commissioned salesmen to promote student loan programs.

F. Authorization of a single period of one year suspension of repayment when student is unemployed.

We believe that this extensive revision and improvement of this Guaranteed Student Loan program will enable HEW, lending institutions, educational institutions, and student participants to work together in eliminating abuses from the program. Through a combination of incentives to participants, consumer information to students, and specific statutory prohibition on certain questionable practices, the program can be returned to a sound basis.

We are greatly indebted to the Permanent Subcommittee on Investigations, with its extensive capability for oversight and investigation of Federal programs, for aiding the Labor and Public Welfare Committee which has the responsibility for the authorization of these student aid programs. We are pleased to report that the efforts of PSI have been largely incorporated into the L&PW bill, and we hope that members of both Committees will actively support these provisions during floor consideration of S. 2657.

With best wishes,

Sincerely,

Claiborne Pell,
Chairman, Education Subcommittee, Labor and Public Welfare Committee.

Jacob K. Javits,
Ranking Minority Member, Labor and Public Welfare Committee.

Mr. JAVITS. Mr. President, several committee provisions warrant consideration in this regard, particularly the student consumer information provisions which I authored. The objective of this section—which is section 132 in the bill—is to insure that students have sufficient information about financial assistance and the institutions they select, and to be intelligent consumers in the educational marketplace. By providing for such information, it will help reduce the abuses associated with student aid programs. Avoidance of abuse is the purpose of Senator Percy's amendment. I should like to quote briefly from the committee report, on page 31:

> The Committee believes that students and prospective students can make intelligent choices about financing their education only if they have sufficient information. For many young people, education after high school represents the largest expenditure they have ever made.
>
> The Committee has also found that some students undertake obligations, particularly in student loan programs, without full knowledge of their responsibilities. Testimony before the Committee and before the Senate Committee on Government Operations indicates abuses have entered these programs partially due to lack of information by participants. Complete disclosure and understanding of student's rights and responsibilities in participating under Federal aid programs should result in a reduction of the abuses.

Another provision on improved fiscal responsibility will strengthen the administration of student aid by colleges and universities. It provides for standards as well as review of institutional aid activities. This also should insure that educational institutions participating in these Federal programs reflect the fiscal stability and administrative competence necessary to properly carry out these programs.

The committee also provides that a student may not discharge in bankruptcy his guaranteed student loan obligation for a 5-year period after his repayment period begins. This ensures that students will be held to the fiscal obligations they rightfully owe.

I believe each of these measures adds worthwhile improvements in the same vein as the criminal sanctions—to wit—to stop abuses of these fine programs. I hope that every Senator—and we have all heard horror stories about abuse of Federal programs and waste of taxpayers funds—will note that this bill has many strong provisions to combat abuses.

Mr. PELL. In connection with the amendment of the Senator from Illinois, I am sensitive about the taxpayers who must make good the losses we guarantee. They pay a great deal because HEW estimated the loan loss rate at 18 percent. GAO estimated an even higher rate of losses, 24 percent. It is not appropriate or fair to have them carry defaulters forever.

Therefore, to tighten the operation of the program and to cut the number of defaults we accepted many of the recommendations of the Committee on Government Operations that Senator Percy and Senator Javits offered to the Subcommittee on Education. We took these amendments and made them part of our bill, and it is greatly improved because of their work.

In committee deliberations we also considered the addition of criminal penalties to the program. At that time they were turned down; but recognizing the strength of feeling and the depth of investigation of the Senator from Illinois, on behalf of the majority side I am glad to accept this amendment.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment as modifield.

The amendment was agreed to.

Mr. PELL. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 2657.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

Mr. HUDDLESTON. Mr. President, I am pleased to be a cosponsor of the amendment which has been adopted by the Senate, to S. 2657, that calls for the Office of Education to coordinate its collection of information and data acquisition activities. The amendment also calls for the Commissioner of Education to provide for a justification of how information, once collected, will be used and an estimate of the manhours required by each educational agency or institution to complete the request.

Additionally, I think the annual report to the Congress on paperwork reduction actions by the Office of Education required by the amendment is a necessary step. Perhaps directives like this will allow the Office of Education to begin to clean up the extraordinary paperwork house which it has constructed.

I am particularly pleased to have cosponsored this amendment since it marks the beginning of what I hope will be a successful legislative strategy to relieve all segments of our society from the burdensome, costly and, in all too many instances, unnecessary demands of the Federal bureaucracy. Recently, Mr. Nunn, Mr. McIntyre, Mr. Roth, and I circulated a letter to our colleagues outlining this strategy. At this point in the Record, I ask unanimous consent to include the text of that letter.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., August 3, 1976.

Dear Colleague: Surely we are all concerned about the growing red tape and paperwork requirements resulting from more government regulation. And we should be particularly concerned about the impact of that mounting burden on those least able to cope with it.

We believe that the Senate should do everything in its power to cut unnecessary paperwork and red tape resulting from some of the legislation we pass. In this effort we are actively working with the congressionally established Commission on Federal Paperwork.

With your cooperation, we intend to move forward with the following plan.

First, we intend to raise four basic questions during debates on legislation which could produce unnecessary paperwork. The questions are:

1. Who will have to file and complete reports after the Federal bureaucrats take our legislation and publish regulations? For instance, we may want to know how a piece of legislation will affect our small businesses or our elderly citizens.

2. How long will it take the person affected by the regulations to fill out the required paperwork? Some bureaucrats call this "number of man-hours of reporting."

3. What steps do the sponsor or floor managers of the bills we question expect a Federal agency to take to limit the number of forms and the amount of time it takes to fill them out? We all know that many of those people who would have to fill out the forms are already hard at work complying with the existing paperwork burden.

4. What steps can be taken to insure that there is no unnecessary duplication in paperwork when the regulatory authority we give an agency already exists somewhere else and may have led to a reporting requirement?

After we have asked these questions, we will move to the second part of our plan: We intend to offer some language to legislation that we believe may have a significant paperwork impact.

We intend to work with the floor managers of the legislation we select in the hope that the amendment written below, or something like it, is enacted:

"Sec. —. In exercising authority under this Act, the (Secretary, Administrator, Director) shall take into account the burdens imposed by reporting, recordkeeping and other information requirements so as to avoid to the greatest extent practicable unnecessarily burdensome information requirements, particularly on those segments of the society which might experience difficulty or unwarranted costs because of Federal information requirements. The (Secretary, Administrator, Director) shall report to the Congress annually with respect to the agency's paper work and red tape reduction actions or legislative recommendations therefor."

We hope that you will join us in this fight to cut government red tape and paperwork. If you decide to join us, please talk with us on the floor of the Senate or have a member of your staff contact John Cross on the staff of the Select Committee on Small Business at 45175, Tim Dudgeon on Senator Huddleston's staff at 48290, or Leigh Snell on Senator Nunn's staff at 43521.

Sincerely,
Thomas J. McIntyre,
Walter D. Huddleston,
Sam Nunn,
William V. Roth, Jr.
U.S. Senators.

Mr. HUDDLESTON. Mr. President, the amendment adopted by the Senate is a step in the right direction. Many of the harshest critics of Federal paperwork requirements are the administrators of colleges and universities across the country. Recently, Mr. John Frazer, president of Centre College and executive director of the Council of Independent Kentucky Colleges and Universities, contacted me outlining some of the problems faced by the 1,485 independent colleges in the United States today. Mr. Frazer states:

> For every additional dollar we must spend on required federal paperwork, a cost currently estimated to be $2 billion, we must pass on at least 65¢ to our students.

Yet, cost alone does not dictate that we must reduce the burden. Every additional demand for Federal paperwork means that colleges, universities, high schools, and elementary schools must either hire more personnel or shift professionally trained faculty into at least part-time administrative and paperwork duties.

At a time when the quality of our Nation's educational system is being seriously questioned, we can ill afford to have faculty members away from the classroom. Yet, unless checked, the provisions of S. 2657 could dictate, according to estimates provided by the Commission on Federal Paperwork, approximately 1.3 million new required responses to information requests from the Office of Education to educational institutions, States, local educational agencies, and individuals.

With the Department of Health, Education, and Welfare already being the bureaucracy's second largest producer of forms, I am afraid that unless our amendment is successful in its purpose, we will see more teachers driven from the classroom.

Another Kentucky educator, Dr. Albert Cox, president of the Midway College, has told me:

Every time we turn around there is a new report and at the same time ten or twelve new pages are added to old reports. There is never any coordination until after the fact.

This procedure must change and I believe that the amendment passed by the Senate will at least get us started in the tremendous task we have before us.

Mr. THURMOND. Mr. President, although I have significant reservations about the annual authorization levels and cost of this bill, I have decided to vote for final passage.

During the next 5 years, we are committing ourselves to an authorization of $45.45 billion. A number of programs have been authorized above the current level, while, in my opinion, savings could have been realized by merely extending the current programs. A good example is the increase in the amount of adjusted family income from $15,000 to $25,000 in order to qualify for the student loan interest subsidy. By retaining the $15,000 figure, we would have saved almost $1 billion.

Unfortunately, instead of salvaging the necessary programs and eliminating duplicative ones, both have been augmented indiscriminately. This leaves me with the question in my mind as to whether the committee was willing to make some of the hard fiscal decisions necessary.

Mr. President, this is but one example among many in the bill. I am hopeful the conference will be able to recommend a more fiscally responsible measure.

I am pleased the Senate adopted the amendment to exempt Boys' State and Girls' State and mother-daughter and father-son banquets from title IX. I hope the managers on the part of the Senate will stand firm on this provision in conference. If the Senate had adopted other amendments such as the due process requirement for school districts faced with a loss of Federal funds and the antibusing amendment, I would be much more enthusiastic in my support of the bill.

Mr. President, Federal financing of public education has reached the point where a failure to enact a reauthorization would be disastrous for local districts. Therefore, Mr. President, I shall vote for S. 2657, but I do so with significant reservations.

Mr. MUSKIE. Mr. President, I ask unanimous consent that there be printed in the Record a statement on the pending bill by the senior Senator from Minnesota (Mr. Mondale).

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement of Senator Mondale on Education Amendments of 1976

As a member of the Education Subcommittee, I begin by expressing my appreciation to Senator Pell, chairman of the subcommittee, for his tireless work on behalf of this bill. Under his leadership, the subcommittee worked for two years on this bill, holding 15 days of hearings and several mark-ups. I also compliment Senator Williams, chairman of the Labor and Public Welfare Committee, and Senators Javits and Beall for their important roles in developing this important legislation.

During the hearings, we explored such key issues as student aid, continuing education, teacher training and vocational education. We looked at ways of improving existing programs and developing new programs to meet new needs. I am proud to have served as a member of the subcommittee which prepared this legislation, the enactment of which I regard as vital to the continued growth of American education.

S. 2657 amends and extends the various programs authorized under the Higher Education Act of 1965, and the Vocational Education Act of 1963. It also authorizes important new programs, including postsecondary continuing education, lifelong learning, and teacher centers. This legislation will significantly increase access to higher education by broadening student aid programs, and offers hope of solution of problems that developed in the implementation of the Guaranteed Student Loan Program.

The Committee bill also improves existing vocational education programs and includes new authorities for projects which would assist in overcoming sex bias and for expanded bilingual vocational training. Funds are also authorized for vocational programs in areas with high concentrations of unemployed youths, and for persons who are disadvantaged. The bill extends the Emergency School Aid Act and the Emergency Insured Student Loan Act of 1969. It creates new and expanded programs for career education and guidance and counseling programs. It also reorganizes the Education Division of the Department of Health, Education, and Welfare and extends authority for the Fund for the Improvement of Postsecondary Education and the National Institute of Education through FY 82.

I am especially pleased that the bill includes several programs and amendments which I authored and to which I am deeply committed. Perhaps the most promising of these is the new provision for a national strategy to offer "lifelong learning" opportunities to all Americans. The concept of lifelong learning is still being defined by the many individuals, organizations and institutions which are committed to shaping our educational system to meet the constantly changing educational needs of our country. For the purposes of this legislation, it is defined as including, but not being limited to, a variety of existing programs—adult education, continuing education and many others.

The new program authorized by this legislation would assist us in monitoring and assessing the many federally supported educational programs for adults; and would provide for similar assessments by the states. The U.S. Office of Education would also be required to examine the policies of other countries which have already developed programs of paid educational leave or similar arrangements which provide such opportunities for their citizens.

This new authority would also provide support for a variety of projects for the "development, testing and demonstration of better ways to meet the lifelong learning needs of adults", including training and retraining people to be educators and counselors for adults; curriculum development, and development of guidance and counseling techniques.

The original inspiration for this provision was the "Minnesota Learning Society," a unique project in which many of the fine educational institutions in my home state are participating. The initial focus of the "Minnesota Learning Society" has been on expanding opportunities for elderly learners. But the concept behind this program as well as behind the provisions in this bill offers hope for many groups in our society—women who require additional education or retraining in order to keep up with scientific and technological developments in their fields; and the many Americans who will want to expand their horizons through education as they have increased leisure time.

In short, the provisions in this bill represent a significant first step toward development of a long-range national policy of educational opportunity for all of us. If they are enacted, Congress should receive by January 1, 1978 a series of legislative recommendations on how a national policy of lifelong learning might best be implemented.

Another area of increasing concern to those of us committed to high quality in our educational system is continuing education for teachers. Teaching is a very special profession which demands that its members keep up with new ideas and teaching methods. The knowledge explosion of recent years has placed growing and changing demands on schools and their teachers. This has resulted in the establishment of programs known as "teach centers", which provide the continuing education that teachers want and need.

These centers are intended to meet the professional needs of local teachers as defined by teacher center policy boards. Such programs may include but are not limited to curriculum development, skill training, introduction to new teaching methods, and exchange of information or new ideas.

The teacher center provision of this bill, which I cosponsored with Senator Cranston, is an important step toward strengthening and expanding the work of these types of centers. It authorizes the Commissioner of Education to make grants to local educational agencies to assist them in planning, establishing, and operating teacher centers. In addition, institutions of higher education may receive 10% of the funds under this amendment to operate teacher centers.

This new program would recognize the fine work already done by the teacher center movement, and their contribution to the promotion of quality education.

The 1976 amendments also address a problem which has been of great concern to me—the tremendous cost squeeze of postsecondary education on middle-income families. As tuition and other costs of attendance continue to rise, many middle-income families are finding the costs of postsecondary education slipping beyond their means. We are approaching a situation in which only the very wealthy or those relatively few lower-income students who can get complete scholarship packages will be able to afford the costs of higher education.

I am therefore pleased that the Committee adopted my amendment to increase the level of adjusted gross family income which qualifies for the federal interest payment to the Guaranteed Student Loan Program from its present $15,000 to $25,000. Under this program the federal government pays the interest on a student loan while the student is in college.

Congress established the GSL program in 1967 especially for middle-income families. Since that time the Consumer Price Index has increased by 65% but the $15,000 ceiling has remained unchanged. As a result, many middle-income families are no longer eligible for the federal interest payment. This amendment reverses this decline in eligibility due to inflation and restores the original focus of the program to include these middle-income families. I believe that it is an important first step toward recognition by Congress of this serious problem.

I am also pleased that this bill contains an amendment which is designed to coordinate the educational resources of the various states. States have often felt the need to invest their scarce education resources in the development of specialized programs, even though the same programs are sometimes available in neighboring states. Often these expensive programs serve only limited enrollment and have led to inefficiencies and higher costs.

Section 177 of this bill would encourage cooperative educational projects—which would maximize the effects of scarce resources—on an interstate or regional basis. It authorizes an additional $2 million to be available to the existing State Postsecondary Education Commission designated to plan the use of postsecondary education resources in each state. These grants will be used to plan, develop, and implement cooperative educational projects.

In the area of vocational education, one of the problems identified by the Committee in this session has been the need to open up programs to members of both sexes.

While in recent years women have comprised over half of the enrollees in vocational education, a large majority of them have been confined to programs which are not designed to develop marketable skills, and to "women's fields", which often lead to low-paying, dead end jobs.

A General Accounting Office report on vocational education found that some states have practices that actually discourage women from preparing for nontraditional work roles. Some catalogs for vocational programs, for example, used the exclusive pronoun "he" for nearly all subjects, and used the exclusive pronoun "she" when describing secretarial and nursing courses. Another study noted that no woman is currently employed as a state director of vocational education or a state supervisor outside the field of business, distribution, health, or home economics.

Evidence such as this stimulated me to work with a number of interested education and women's organizations to develop some amendments designed to make our existing vocational education programs more responsive to the needs of women; and to eliminate the sex stereotyping which unnecessarily limits the employment horizons of both men and women. Among these amendments are a requirement that each state create an office for women which would monitor programs and take positive steps to make them available to and responsive to the needs of members of both sexes. The bill also provides for a new authority of $5 million to support special projects which show promise of overcoming sex stereotyping in vocational education.

The bill before us today represents the Committee's attempt to improve the quality of education in this country and provide access to education to all Americans, regardless of their age, sex or socio-economic status. I urge my colleagues to give it their most enthusiastic support.

Mr. WILLIAMS. Mr. President, I understand that following a colloquy with members of the committee, the Senator from Oklahoma withdrew his amendment.

Mr. President, the debate here on the provisions of the committee bill relating to basic educational opportunity grants, in particular, has raised an issue of fundamental importance to the proper place of the new budget process in our legislative endeavors.

The committee bill does not provide budget authority. It is not an appropriation bill. It is an authorization for appropriations. This authorization establishes policy goals and targets for specific programs in much the same manner as the budget process establishes policy priorities and targets for broad functional categories in the budget.

In answer to those who contend that, with respect to BEOG's, the committee bill would exceed the levels contemplated in the first concurrent resolution on the budget, I would make three points.

First, the first concurrent resolution on the budget does not constitute a set of ceilings on fiscal decisions of the Congress. On the contrary, as expressed on page 2 of the Budget Committee's report on the first concurrent resolution on the budget—Senate Report No. 94–731 to accompany Senate Concurrent Resolution 109:

> The first resolution on the budget sets targets to guide the work of Congress as it considers spending and revenue legislation for the coming year. The second resolution, which must be adopted by September 15, sets binding totals and may include a reconciliation provision to adjust spending and revenue legislation to these totals. This year, for the first time, Congress will vote not only on budget totals, but on figures for each budget function. In general, these functional totals are intended to represent broad priorities, and do not imply judgments as to the mix of programs which the authorizing committees and appropriations committees may subsequently wish to include within the established targets. Individual Budget Committee members did make certain judgments and assumptions about how funds might be distributed within each category as a basis for establishing the target figure, and Members of the Senate will undoubtedly wish to do the same during debate on the budget resolution; but the authorizing committees and appropriations committees have the ultimate responsibility for making recommendations as to that distribution.

Second, the provision of the bill questioned by the Senator from Oklahoma do not provide budget authority. They authorize subsequent appropriations, and the proper forum for discussion of the budget targets with respect to these programs is the Senate debate on the actual appropriation bill that would provide the budget authority.

Third, the objections that have been raised to the level of authorizations for just two programs within function 500—while worthy of consideration by the Senate—should not be the sole determinant. The amounts involved constitute only 7 percent of the $24.6 billion in budget authority targeted for function 500 in the budget resolution.

As my colleagues know, the budget resolution is quite general. Its targets are established only at the function level, not at the level of individual programs nor even at the more aggregated level of the higher education subfunction, 502.

In our report to the Budget Committee, we made the following statement:

> A third assumption employed by the committee is that the purpose of this report is to estimate and not to legislate. Consequently, our recommendations are advanced to make budgetary room for legislative actions projected for committee consideration prior to May 15. In a number of our priority determinations—primarily those concerned with jobs creation and emergency unemployment assistance—the committee urges that the budget committee include estimates of budget authority and outlays essential to implement those priorities without predetermining the source and content of exact legislation required. Thus, while no legislative jurisdiction is bound with respect to these priorities, the urgent nature of them has been agreed upon by the overwhelming vote of the committee.

Mr. President, the legislation before us was considered and acted upon by the Committee on Labor and Public Welfare after the Senate Budget Committee reported the first concurrent resolution—April 3, 1976. However, S. 2657 contained the BEOG provision referred to at the time the Senator from Rhode Island introduced the bill in November 1975. And the committee report to the Budget Committee going beyond the minimum data required, singled out the BEOG program as a high priority and in which the committee contemplated expanding the eligibility and asking for full funding.

We went on to make our legislative choices, our policy recommendations, in the customary due course of developing authorizing legislation; and we did so free of any indication of constraint by the budget resolution on either of these specific programs of student aid.

Thus let me say that the issues which the Senator from Oklahoma raises are not Budget Committee issues. They may be concerns the Senator has about the importance of this program, and therefore the likelihood of receiving funding. And they may be concerns he has based on his disagreement with the merits of this issue. But they are not issues which arise out of the budget process and will not become such as a result of the legislation here on the floor.

As the Senators from New York and Rhode Island and I pointed out in our letter to our colleagues, the increase from $1,400 to $1,800 in the maximum allowable grant level under the BEOG program is a minimal increase. It represents less than 5 percent per year when general inflation exceeded that rate, and the cost of college attendance rose faster than general inflation.

What the legislation before us allows the Congress to do is to make a choice to approve through the appropriations process an increase in funding which would allow a maximum award of $1,800. As my colleagues who have followed appropriations know, full funding of this program has only been provided once since this program was created in 1972, and it is well within the Congress ability not to approve the total amount authorized.

However, the funding for this increase is fully within the budget "target" approved.

I, therefore, wish to associate myself with the statements made by the Senator from Rhode Island and the Senator from New York on this matter.

TITLE IX—GRADUATE PROGRAMS

Mr. BROOKE. Mr. President, the list of problems facing this Nation is as profound as it is lengthy: the vitality and viability of our cities, environmental degradation, new sources of energy, transportation, improvement of our health delivery systems, new approaches to the dual problems of crime and poverty—the litany is familiar to all of us.

The solutions to these problems are not obvious nor will they be easy to come by. However, there is one element of the solutions that is doubtless true—we will need even better trained managers, engineers, scientists, and technologists to lead us into our third century as a nation. And the nation's superb and extensive network of graduate schools is the best mechanism available to develop the training programs for the leaders and scholars on whom we must rely to solve our identified problems and to identify our unseen problems.

Over at least the next decade, the primary need in graduate programs will not be broad expansion of enrollments and programs as it has been in the past decade, but elevation of the level of quality of graduate education, modification of graduate programs to meet the changing needs of society and modification to meet the needs of new kinds of students. Traditional graduate education tends to stress the training of students for research and teaching in academic fields. There are going to be fewer of these jobs in the future. At the same time, the Nation has an urgent need for persons equipped by rigorous advanced study to deal with problems such as energy, the environment, and the needs of the cities. Moreover, there are large new segments of society seeking graduate education: minorities, women, older and part-time workers in particular. All these factors indicate the need to transform substantial parts of graduate education through the revamping of curricula, the designing of new courses, establishment of new relationships with industry and government, and the creation of new problem-oriented entities within universities.

While these changes are being brought about, it is necessary to concentrate upon maintenance and elevation of standards in graduate education. "Better" rather than "more" must be the guide over the coming decade.

Many of the significant problems that lie before this Nation have a special impact on members of minority groups. The problems of our cities, including urban decay, crime, mass transit, and poverty, fall disproportionately on minority persons who are still in the process of overcoming generations of discrimination. It is imperative that we continue to increase the number of minority persons reaping the benefits of graduate training. We desperately need their contributions to changing social issues, particularly those that severely affect minorities. Programs to attract and support advanced training of minority members are needed not only to remedy the continuing effects of past discrimination but also to assure the unique perspective which minority members can offer in addressing the full range of continuing national concerns. The widely accepted objectives of equal opportunity for all our citizens will not become a reality until many more members of disadvantaged groups become trained professionals and managers, enter leadership positions in government and industry and join the faculties of our educational institutions. Support must be provided to improve programs to attract and involve minority individuals. Fellowship funds also should be authorized to assure that minority individuals will be encouraged to pursue their education and training to the limits of their ability.

In addition to the need to increase minority participation there are other ways that graduate education can assist in accomplishing national objectives. Just as the Federal Government turned to universities to educate the students, to train the manpower and to perform the research that were national priorities in the past, we should again turn to these institutions to do their share in education, training and research that we need to address our current and future priorities. The adaptation of graduate education to new goals, however, will be inadequate without outside assistance. The universities simply do not have resources adequate to reorient graduate education on the scale and within the time required. The National Board on Graduate Education and the Association of Graduate Schools have reported extensively on the needs and problems confronting graduate institutions in modifying graduate programs to respond to emerging national needs.

The National Board has aptly stated important national goals if graduate education is to continue to contribute effectively to society:

Insuring that graduate education contributes to the national commitment to eliminate discrimination based on race, sex, age, and socioeconomic status.

Stimulating changes that will encourage the most effective contribution of graduate education and research to the solution of urgent national problems.

Encouraging responsiveness to the needs of students, including the development of graduate programs that serve part-time and older students, as well as the needs of urban residents.

The response of the Federal Government to these national needs should be a program which encourages innovation and change in graduate faculties, curricula, courses, research and program organization. It would be folly for the Government not to provide the modest seed funds necessary to encourage this necessary innovation. This kind of adaptation is in the interest of society as a whole, and it is also often beyond the financial capacity of universities to design and carry out without special assistance. Much more than fellowships is required. New sequences of study must be designed. Faculties from different disciplines and schools must be linked creatively. New research programs must be integrated with new training programs.

The purpose of the graduate programs title of these higher education amendments is not to expand graduate education nor even to support current programs. Growth and expansion were Federal goals in the past and the graduate schools accomplished these objectives in remarkable fashion—so much so that one often hears tales of an excess or "glut" of Ph. D's, in the United States. The fact is that we do not have a glut of Ph. D's. so much as we have a mismatch between some graduate training programs, and a startling list of national problems. We are training individuals in programs that are not related to national needs while at the same time there is great need for thousands of individuals with advanced training to address the full range of national problems. We do not have an oversupply of trained people; on the contrary we need more trained people. We do not require fewer Ph. D's. so much as we require modifications of existing programs and perhaps creation of some new ones in order to educate and train the leaders and scholars we so desperately need to solve our problems.

The Nation is suffering from an undersupply of highly trained people who can contribute to solutions of national problems—petroleum and mining engineers to address our energy problems, geologists to inquire into earthquake predictions, metallurgists and solid state physicists to develop effective, efficient, and economical collectors of solar energy, administrators of public programs to improve our health care, education and other social service delivery systems, botanists, biologists, ecologists to investigate our environmental problems—the list could be extended indefinitely. Our significant problems are unlikely to be solved unless we update our graduate programs and train our people for the task. Title IX, the graduate programs section of these higher education amendments, addresses both of these needs.

Part A provides grants to graduate institutions to strengthen, improve and encourage innovation in graduate programs and to develop selectively new training efforts in areas of national concern. It will build on the strength and scope of our existing graduate programs and provide support for development and modification of curricula and training opportunities.

Part B of title IX provides fellowships to encourage and support students who enroll in approved graduate programs. Priority would be given to students who enroll in fields of high national priority especially to those individuals in nonacademic career fields such as business, government, or industry. Part C provides fellowship opportunities specifically for those pursuing careers in the public service—clearly an area of current national concern. Again consideration will be given to individuals with nonacademic experiences, especially those who have previously demonstrated a commitment to a career in the public service.

Part D provides fellowship for persons of disadvantaged backgrounds and also to those studying mining, minerals, and conservation. Each of those is clearly an area of high national priority.

Part E requires the Commissioner of Education to report annually to the Congress the recipients and amounts of program grant and fellowships fund awarded, together with an evaluation of how these awards contributed to the achievement of title IX priorities. This will assure that the Commissioner and the graduate schools are responsive to these legislative mandates and accountable to the Congress.

Title IX is clearly in the national interest. Trained and educated people are our most important national asset. We should actively encourage our graduate institutions and our most talented individuals to prepare themselves to respond to new national concerns. Title IX provides this encouragement and renews our clear national commitment to excellence in graduate education.

Mr. MATHIAS. Mr. President, I agree wholeheartedly with my distinguished friend and colleague from Massachusetts. During the decade of the 1960's we called on our institutions of graduate education to undertake unprecedented growth and expansion in order to meet a range of new national goals from space flight to health manpower. The institutions responded admirably, and our training objectives and goals were met fully.

In recent years, however, the Nation's priorities and needs have changed and worrisome problems, aptly described by the Senator from Massachusetts, have begun to appear affecting our future graduate-training capacity. During the 1960's broad expansion of graduate training programs was necessary. As we move into the 1980's innovation and renewal of these programs will be a major theme. In brief, our graduate-training programs need to be refurbished if they are to continue to help us meet the challenges ahead.

Title IX, part A provides a small program of grants to institutions to act as seed money to meet these needs. These funds would help institutions strengthen existing programs, create innovative and cross-disciplinary programs in new problem areas, design fresh organizational arrangements, retrain faculty and otherwise update our graduate-training capacity. Title IX authorizes $50 million for this purpose. I strongly urge its adoption, and I hope next year I can join with my colleague from Massachusetts and others in an effort to provide a reasonable sum to begin this important work.

EXEMPLARY EDUCATIONAL PROGRAMS

Mr. KENNEDY. Mr. President, I call to the attention of my colleagues four exemplary educational programs in Massachusetts. These programs were developed primarily by local school districts with financial assistance from the Office of Education.

More than 140 such programs are in existence nationwide. They have all been approved by an HEW panel of experts as programs educationally effective and worthy of consideration by school districts with similar local educational needs. The programs, including those developed in Massachusetts, were determined by the panel to have resulted in significantly improved student learning.

The four Massachusetts-based programs, which appear in the Office of Education's "Educational Programs That Work," are "Arlington's Title I Program," "MARS," "Project Adventure," and "AIRS." I ask unanimous consent to place in the RECORD OE's summaries, which include descriptions, target audiences, materials used, descriptors, financial requirements, contacts, authorizations, program evaluations, adoption criteria and services, demonstration/visitation, and training capability.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROJECT: ARLINGTON'S TITLE I PROGRAM

Description

A fundamental aim of this program is to help strengthen reading, language, and math skill development in kindergarten through sixth grade children whose needs require a supplementary learning experience beyond that which regular school programs provide. In addition, this program works to increase parental involvement, thus fostering collaboration and understanding between school and home life. Participating students come to a center for 30–40 minute periods for 3–5 days per week, depending on age and need. The centers appear informal and are run on a workshop basis whereby individual progress and small group activity can flourish simultaneously. Students are seen on a one-to-one basis if their needs indicate, but the majority of children are seen in small groups (up to five) to encourage collaborative learning and interaction. A two week planning and brainstorming session precedes each regular year program. Regular and inservice sessions usually occur two afternoons per month when all students are released early.

Contact: Timothy Wilson, Title I Director, Arlington School District, Arlington, MA 02174, (617) 646–1000, USOE JDRP Approval: 12/74, JDRP Number: 74–121.

Descriptors

Reading, Language, and Math Program.

Financial requirement

Per pupil costs for the 1972–73 program were $493 (based on 205 students).

Target audience

Students in grades kindergarten through sixth for whom a supplementary learning experience would best meet their academic needs.

Program evaluation

Test results from the Stanford Achievement Tests show that the project exceeded its goal of a mean gain of at least one month per month of instruction.

Materials used

A wide variety of materials are used including phonetic and programmed readers, reading games and materials, multi-sensory activities, creative writing, movement, pantomime activities, and developmentally based math materials.

Title I ESEA.

PROJECT: MARS

Description

Project MARS (Make All Reading Serviceable) consists of special intensive remedial instruction for children who show reading difficulties. Students are released from their classrooms at definite times for 35–45 minutes of daily small-group instruction with a special reading teacher. Groups are composed of six or fewer pupils; no teacher works with more than 30 pupils during the course of the day. A booklet entitled "Reading Recipes in Leominster" was compiled from descriptions of successful remedial reading techniques received from teachers. The primary objective of this project has been to raise the reading performance of pupils to a level consistent with their potential reading ability. The program also aims to foster academic motivation and favorable attitudes toward reading.

Contact; Miss Geraldine Merrick, Project MARS, 16 Cross Street, Leominster, Ma 01453 (617) 534–6508.

This project was identified as exemplary before the establishment of the Joint Dissemination Review Panel.

Descriptors

Reading, Individualized Instruction.

Financial requirement

Per pupil cost for 1974–75 was approximately $1,525 per student. The regular district yearly expense was $1,150 per pupil and the remaining $375 for Project MARS' students was provided by Title I.

Target audience

Pupils grades 1–6.

Program evaluation

Results of reading achievement test scores during the 1973–74 and 1974–75 academic years indicated that Project MARS' second-, third-, and fourth-grade pupils made gains in Word Knowledge and Reading achievement test scores which (with but few exceptions) were both statistically and educationally significant.

Materials used

Teachers are free to choose whatever resources that they find most useful. A wide range of commercial materials are available; numerous games, charts, cards, flannel boards, and manipulative materials are used. Since visual and auditory discrimination training is important to the program, filmstrips, tapes, and transparencies are widely used.

ESEA Title I.

PROJECT: PROJECT ADVENTURE

Description

Project Adventure was designed to add an experience base to a standard high school curriculum. It recognizes that, for many students, learning is essentially a passive process with little opportunity in the real world to take responsible action or to test the verbal abstractions of the classroom. It represents a combination of Outward Bound techniques and philosophy, plus a humanistic group-process approach to learning and teaching. The general approach encourages small groups of students to learn by actually working on specific reality-based tasks or problems. The role of the teacher becomes that of stating the problems and limitations so that students take responsibility for finding solutions.

The project supports a wide variety of teaching and learning styles. The approach is generally designed to involve students actively in learning situations that are often demanding, usually require cooperative effort, and are based on problem-solving experiences.

Descriptors

Physical education, environmental education, group counseling, Outward Bound, experimental curriculum.

Financial requirement

Exclusive of training, cost per learner for the physical education and academic curriculum is approximately $5.00 the first year. Continuing costs will run as low as $2.00 if the program is not expanded. Training costs, which vary according to need, are normally considered an essential ingredient. If the physical education program alone is implemented, initial equipment may run from $1,000.00 to $1,500.00.

Target audience

Primary focus has been high school (all ability levels) but four middle schools have enjoyed success and parts have been adapted to paratherapeutic summer-camp situations and upper elementary grades.

Program evaluation

Evaluation data show that participation in Project Adventure activities has significantly increased students' self-concepts, levels of achievement, motivation, and (for the physical education course) physical functioning on five out of six measures. Students and their parents tended to recognize growing self-confidence and more active involvement in available activities as outcome of the project.

Materials used

Units, available at low cost, are usable in a number of curriculum areas such as English, art, and physical education. Each curricular unit can be adopted and/or adapted singly. The process itself can be adopted without purchasing any materials.

Adoption Criteria:

General Criteria: Project staff are interested in locating interested, enthusiastic, and capable teachers ready for an action approach. They seek administrations willing to support "adventure curriculum" financially and structurally by providing flexibility in scheduling and openness to teaching styles. Teachers should be interested in an interdisciplinary approach.

Staffing: May be implemented without special staff. After training, regular classroom teachers can teach "adventure curriculum". It is often helpful, but not necessary, for some of the teachers to attend Outward Bound. Installation involving many teachers, courses, and programs may require coordination, especially if a school buys outdoor equipment.

Facilities/Installation: Facilities required depend on what aspects are adopted and how creative and resourceful potential adopters are. Whereas some resources would be best (a wooded area), other areas can be substituted (regular playing fields). Similarly, equipment costs will depend on which aspects are implemented. The need for outdoor gear depends on the degree to which the outdoor "adventure curriculum" is adopted. Building a rope course is an essential part of the physical education program.

Training: Attendance at workshops is essential to exploring and understanding the process. Generally a core group of teachers are trained at a one-week session; and follow-up workshops of 1 to 3 days may be held for other faculty and adopter schools or to build rope course facilities. Training may run from one day to several weeks, depending on the extent of implementation. Training may also be adapted to fit the needs of the adoption site.

Adoption Services:

Training materials

Awareness brochure, program description, and materials description available at no cost. Audiovisual presentation available—rental ($10.00), purchase ($100.00). Academic curriculum available moderate cost.

Demonstration/visitation

Visits are scheduled one day each month. Confirmation of visitors required one week in advance. Adopter sites can be visited with two weeks' notice. Contact D/D.

Training capability

Training is designed to meet each adopting district's needs. Adopters may choose among alternative formats or work with project staff to develop a format specific to their planned program.

Contact:

Mr. Robert Lentz, Dir., Ms. Mary Smith, Assoc., Hamilton-Wenham Regional H.S. 715 Bay Road, Hamilton, MA 01936 (617)468-1766.

Development Begun: 7/71, USOE JDRP Approval: 4/9. JDRP Number: 4.

PROJECT: ANDOVER'S INDIVIDUALIZED READING SYSTEM (AIRS)

Description

AIRS provides individualized skills instruction through lesson sheets keyed to diagnostic pretests, to help elementary pupils master basic reading skills. The emphasis is on phonetic skills and word recognition skills in beginning reading, but the program also emphasizes word meaning and comprehension starting from the end of grade one. This supports the second major goal of the program, which is to foster employment of literature.

Beyond the beginning reading level, at least half the reading period is spent reading and discussing trade books and literature skills. Instruction begins with a pretest which is analyzed by the teacher who records results and prescribes specific programed lessons. Programed lessons are keyed to a complete hierarchy of skills based on behavioral objectives and packaged as the Andover Skills Bank. Post tests used to evaluate growth are included for each skill. Students spend 8–10 hours a week on language arts.

Contact: Andover Public Schools, Mrs. Theresa G. Murphy, Jackson School, 36 Bartlett Street, Andover, MA 01810, (617) 475-2339.

USOE JDRP Approval: 4/29/74, JDRP Number: 74-25.

Descriptors

Reading.

Financial requirement

A publisher estimated the cost of the Skills Bank at $840 for a class of 30 to be prorated over three years. The cost of 90 hardbound trade books was estimated at $360; these would also be expected to last three years or more.

Target audience

Pupils grades one through six.

Program evaluation

Comparisons were made for each grade in the areas of Word Study Skills, Paragraph Meaning and Word Meaning with national norms and Andover norms for the two years prior to implementation of the program. The program produced mean gains in grades 1–6, in each of two fundamental reading skills, of at least a one-half standard deviation over district expectancies.

Materials used

A wide variety of reading materials are used.

Mr. CRANSTON. Mr. President, I rise in full support of the measure upon which we shall soon vote, S. 2657, the Education Amendments of 1976. I am pleased to be both a cosponsor of the bill and a member of the Senate Committee on Labor and Public Welfare, whose 2 years of hearings and work on the issue of higher education and vocational education has produced the present renewal of our basic congressional commitment to the cause of American education.

All Americans who share this commitment owe a large measure of thanks to the distinguished Senator from Rhode Island (Mr. PELL). His efforts as chairman of the Education Subcommittee, on which I am proud to serve, have set continually high standards for the programs in our charge. Our colleagues, the Senator from Maryland (Mr. BEALL) and the Senator from New York (Mr. JAVITS), ranking minority members of the Education Subcommittee and the Labor and Public Welfare Committee respectively, certainly share in the credit due for excellent service on the important issues we address in the context of this measure.

Mr. President, I do not seek to comment on each and every component of the bill. It is a large measure, a complex measure, and commentary on its many provisions would take much time. It is more important that we move as quickly as possible to a final vote, and then to conference to resolve the differences that exist between the Senate and the House versions. I simply wish to point out, at this time, that the issue of Federal support for the education programs contained in this measure is critical. We have compiled nearly 5,000 pages of testimony in the preparation of S. 2657, and I believe that in the process we have reaffirmed the need for the basic components that now make up our national list of Federal assistance programs in postsecondary and vocational education. We have also made revisions in how those programs operate, with the overall goal of more effectively serving the students for whom the programs are intended.

HIGHER EDUCATION

Building upon the original Higher Education Act of 1965, the committee *has* extended basic provisions through fiscal year 1982 while maintaining, in most cases, existing authorization levels. Among the highlights of title I of the act are new programs of continuing education and lifelong learning. College library assistance and library training and research programs are extended under title II, and we have added a new program of grants for research libraries.

Our critical national programs of student assistance received especially careful review by the committee. We have attempted to improve upon existing programs both by increasing levels of assistance wherever feasible, such as increasing the maximum basic grant to $1,800, and we have added two new programs to existing TRIO programs—serving students from disadvantaged backgrounds—and we have established educational outreach centers to more effectively promote and administer assistance programs. We have taken some steps to reduce the default level under the guaranteed student loan program, and we have increased the adjusted family income level—at which a student is eligible for an interest subsidy—from $15,000 to $25,000.

In all our actions relating to student assistance programs, we have kept carefully in mind the need for simplifying these programs. We have not always achieved our goals, and I believe there is much merit in suggestions that a more compact, well-targeted program or set of programs could make certain that more dollars reach students and less moneys are siphoned off through complexities of administration. I feel certain the committee will accelerate its review of these ongoing programs and make necessary adjustments as we move along.

THE EDUCATION PROFESSIONS

I have had a very special interest in sections of the legislation dealing with all facets of the education professions. For too long I believe we in Congress have assumed that a "surplus" of available teachers meant we could cease our programs of teaching education assistance. Nothing could be further from the truth, especially as we move, at all levels of education, to more adequately serve our student population. We need differing skills and new programs of specialized training and retraining in order to meet emerging national needs, such as education for the handicapped and bilingual education.

To more clearly address these needs, the committee adopted a provision I authored, with Senator MONDALE, providing three basic thrusts.

One, we have responded to a clear need for reliable, current data on employment and demand in the education professions by directing the National Center for Education Statistics—under supervision of a new Council on Teacher Training Survey and Assessments—to carry out a continuing survey of supply and demand for teachers and administrative personnel to meet the precise needs of schools; to determine what kinds of additional training program should be mounted to meeting emerging needs; and to assess the adequacy of pertinent Federal efforts to meet such needs. I regard the role of the Council to be of paramount importance to the success of this strategy.

Two, we have authorized a system of grants to local educational agencies to assist them in planning and establishing teacher centers, to be operated by local education agencies to serve teachers from public and nonpublic schools. Each center shall be operated under the supervision of a teacher center policy board, the majority of which is to be representative of elementary and secondary classroom teachers. The purpose of the centers are to meet the professional needs of local teachers as defined by the teacher center policy boards, and the programs may include curriculum development, skill training, introduction to new teaching methods, and exchange of information on new ideas. Senator MONDALE and I see these centers as being innovative, experimental, and—we feel certain—highly successful in promoting teacher input and confidence in the programmatic structure of schools.

Three, we enact a program of grants by the Commissioner of Education to institutions of higher education in order to train teachers, administrators, and other education personnel who are from minority or disadvantaged backgrounds in order to prepare such personnel to serve students from such backgrounds or for the further training of education personnel to meeting changing national education personnel needs. We also provide a system of grants for the improvement of graduate programs of education. Grants may also be used to train faculty for such purposes and to develop cooperative State and local arrangements.

COMMUNITY COLLEGES

In view of California's extensive and advanced system of community colleges, I was especially encouraged to see the committee review title X of the Higher Education Act concerning community colleges. The language of the committee bill, and the level of authorizations provided, do much, I believe, to insure both intrastate and interstate cooperative expansion efforts.

VOCATIONAL EDUCATION

The general area of vocational education programs received careful and thorough review. In historical terms, vocational education programs comprise some of the earliest of Federal education commitments. Over the years, since enactment of the Smith-Hughes Act in 1917, the Federal vocational education effort has grown to one of the largest of our Federal education programs. Not only has Federal participation increased, but State efforts have grown as well. Far too often, however, review of the total complex of Federal and State programs has revealed a rather loose set of priorities and insufficient articulation among varying programs at each level of government.

I applaud the committee for its determination to improve the governance system for vocational education. I am proud to serve as Senator from a State that is possibly the most advanced in the country with regard to providing a system of equal representation in the planning and carrying out of vocational education programs. California is also ahead of most States in its emphasis on the need for postsecondary vocational programs. Sadly, California is the exception, not the rule, and so I have supported the committee's movement toward a stronger system of governance for vocational education programs among all the States. The committee bill, effective in fiscal year 1978, rewrites the Vocational Education Act of 1973 to reflect the concerns expressed by expert testimony and to simplify the existing vocational education program, as well as increase flexibility in developing programs to meet State needs.

BILINGUAL VOCATIONAL TRAINING

I am in full and enthusiastic support of the committee's extension and expansion of bilingual vocational education and training programs under part J. The programs conducted under the bilingual vocational education authority will be coordinated with title VII of the Elementary and Secondary Education Act, and other bilingual education programs, under review of the director of the office of bilingual education. The revised program is authorized through fiscal year 1982, and it mandates State advisory council representation from school systems with concentrations of limited-English-speaking persons.

These improvements should help improve upon the situation pertaining in 1972, when the Project Baseline study found that of 9 million students enrolled in vocational education, only 6 percent were Spanish-surnamed Americans, 0.7 percent were Orientals, and 0.5 were American Indians. These participations simply must be improved.

EXTENSION OF THE VETERANS COST-OF-INSTRUCTION PROGRAM

Mr. President, I strongly support section 126 of the Education Amendments of 1976 which contains a series of amendments to section 420 of the Higher Education Act of 1965, as amended—the Veterans Cost-of-Instruction—VCI—program provision. The provisions of section 126 are derived from S. 2651, the "Veterans' Cost-of-Instruction Extension Act", which I introduced on November 11, 1975, with Senators HARTKE, RANDOLPH, STAFFORD, HUGH SCOTT, BAYH, BENTSEN, TUNNEY, HUMPHREY, and MONDALE.

Mr. President, the VCI program, which I authored in the Education Amendments of 1972 (P.L. 92-318), was designed to provide incentives and supporting funds for colleges and universities to recruit veterans and to establish special programs and services necessary to assist veterans in readjusting to an academic setting, especially educationally disadvantaged veterans. Institutions which meet various requirements of the legislation for special veterans programs are entitled to payments for each of certain categories of veterans enrolled in an undergraduate program. In return for such payments, the institution must establish and maintain a full-time Office of Veterans Affairs to provide counseling and tutorial services, outreach and recruitment activities, and special programs for educationally disadvantaged veterans. After providing the mandated services, the institution may use up to 25 percent of the award for its general academic program.

EXTENSION OF THE VCI PROGRAM

First, Mr. President, we have included in section 126 of this bill a provision for the extension of authorization for the VCI program for 7 years, through fiscal year 1982. The program authorization for VCI expired on June 30, 1975. However, under the general extension provision in section 414 of the General Education Provisions Act, the program authority has been automatically extended for an additional year.

DELIMITING DATE DISCOUNT PROVISION

Additionally, we have included an amendment to section 420 of the Higher Education Act to take into account the fact that effective May 31, 1976, veterans discharged prior to May 31, 1966, lost their eligibility for educational benefits under the GI bill. Chapter 34 of title 38, U.S.C., provides that veterans released from active duty after January 31, 1955 have eligibility for 10 years after release or until May 31, 1976, whichever is later.

Mr. President, this posed a major problem for the VCI program because enrollment in the more than 1,230 institutions of higher education receiving payments under the VCI program has been seriously affected by this expiration of eligibility. Although some veterans have been forced to discontinue their education due to loss of benefits, even those that have remained enrolled cannot be included in the count for the purposes of determining eligibility.

The significance of this is that institutions now participating in the VCI program must qualify for continued eligibility on the basis of their enrollment of veteran-students using the GI bill. Institutions of higher education are now eligible for VCI payments if the number of veteran-students receiving GI bill payments there equals at least 25 persons and is at least 110 percent of the number of such veterans in attendance the previous academic year, or if the number of such students is at least 10 percent of the total undergraduate enrollment and such percentage is no lower than it was for the previous academic year. An institution which has established eligibility for VCI payments for an initial year continues to be eligible in succeeding years if the number of GI bill veteran-students in attendance is at least equal to the number for the previous year or at least equal to the number which was needed to establish eligibility for VCI payments for the preceding academic year, whichever is the lesser.

The April application count of the VCI schools for the school year 1976–77 included veterans with pre-May 31, 1966 discharge dates. However, at the time of the first verification report (due in October), problems will be encountered since those pre-1966 veterans—now without GI bill entitlement—who reenroll cannot be counted for the purposes of determining eligibility. Since one out of every six veterans who had been receiving GI bill education benefits became ineligible for such benefits on May 31, we can assume that all the participating VCI schools will be affected by the delimiting date to some extent. The exact consequences, in terms of the VCI program, however, will not be fully realized until the October verification date. Without the adjustment we have provided for in our amendment, however, those institutions which fall below the count for VCI eligibility would not be permitted to continue in the program and would have to return the entire amount of their award—at least some portion of which they would have undoubtedly expended since the school year would already be underway.

Mr. President, we have resolved this problem by amending section 420 to allow schools to maintain their eligibility for VCI payments by directing the Office of Education to subtract from the October verification count the number of veterans whose GI bill eligibility expired on May 31, 1976. Thus participating schools are allowed a drop in enrollment equal to that figure which represents the number of GI bill veteran-students who became ineligible because of the delimiting date. In this way, a school, which met the eligibility requirements at the time of the April application date, will not become ineligible solely as a result of the May delimiting date and be forced to forfeit its award in October.

Mr. President, I wish to emphasize that this formula does not allow the schools to relax their recruiting and outreach efforts since they must continue to maintain their base-year qualifying count in all other respects.

Mr. President, we have anticipated that the Veterans' Administration will assist the Office of Education in this procedure by supplying a school-by-school breakdown of the number of students affected by the delimiting date. On August 4, Congressman Cornell—the sponsor of the VCI legislation in the House of Representatives—and I wrote to VA Administrator Roudebush requesting that preparations be undertaken to provide promptly the necessary data to the Office of Education for this purpose. I ask unanimous consent that a copy of our letter be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Committee on
Labor and Public Welfare,
Washington, D.C., August 4, 1976.

Hon. Richard L. Roudebush,
Administrator, Veterans' Administration,
Washington, D.C.

Dear Mr. Administrator: We are enclosing copies of an amendment concerning the operation of the Veterans Cost-of-Instruction (VCI) program which was passed by the House of Representatives on May 5, as part of H.R. 12581, and adopted by the Senate Labor and Public Welfare Committee as a part of S. 2657.

Subsection (a) of both the House and Senate amendments changes the eligibility formula for VCI institutions to reflect the effect of the May 31, 1976, delimiting date. This change will require the compilation of the number of veterans at each VCI school whose G.I. Bill education benefits expired as of May 31, 1976.

Because identical language is contained in both the House and Senate versions of the Higher Education Act Amendments, the chances are very good that this portion of the bill will be enacted into law.

Additionally, subsection (f) of the Senate amendment requires that "the Administrator of Veterans' Affairs shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section."

The Senate Committee has included language in its report on S. 2657 (Senate Report 94–882) which states that "it is anticipated that the Veterans' Administration will provide a school-by-school breakdown to the Office of Education of the number of students affected by the delimiting date. The VA advises that such a breakdown can be obtained with a computer run."

Therefore, we respectfully request that the Veterans' Administration begin preparations to provide promptly to the Office of Education and participating institutions data on the number of veterans enrolled in institutions participating in the VCI program whose educational benefits expired on May 31, 1976, and promote any other coordination between the VA and the Office of Education that may be necessary to further the purposes of the VCI program.

With best wishes,

Sincerely,

Alan Cranston,
U.S. Senator.
Robert J. Cornell,
Member of Congress.

USE OF GI BILL WORK-STUDY PROGRAM

Mr. CRANSTON. Third, Mr. President, we have included in our amendments a provision to emphasize the need to insure that educationally disadvantaged veterans are fully informed of the GI bill benefits and other opportunities available to them. This provision, contained in subsection 126(b), would encourage, by specific reference, the use in VCI programs of the VA work-study program as a means of providing outreach, recruiting, and counseling services to educationally disadvantaged veterans. Section 1685 of title 38, U.S.C., provides for an unlimited number of work-study slots to enable GI bill veteran-students to be paid an additional educational assistance allowance for the performance of certain services during or between periods of enrollment.

COORDINATION WITH VA PROGRAMS

Fourth, Mr. President, we have amended section 420 to require that the Commissioner of Education coordinate the activities of the VCI program with complementary and supplementary programs carried out by the Veterans' Administration. The Administrator of the VA also is required to provide to VCI programs and the Office of Education assistance, technical consultation, and information otherwise authorized by law. This provision is intended to insure that programs are conducted in a manner which will promote maximum effectiveness and is a coordinate of section 220 of title 38 which requires the Administrator of the VA to:

> . . . seek to achieve the maximum feasible effectiveness, coordination, and interrelationship of services among all programs and activities affecting veterans and their dependents carried out by and under all other departments, agencies, and instrumentalities of the executive branch and shall seek to achieve the maximum feasible coordination of such programs with programs carried out under this title.

IDENTIFIABLE ADMINISTRATIVE UNIT

Fifth, Mr. President, we have amended section 420 to require that the VCI program be administered by an identifiable administrative unit in the Office of Education. This is to insure that institutions receiving VCI awards receive adequate administrative assistance and program support in carrying out their responsibilities.

It is almost a prerequisite for an effective program to have a unit at the Federal level devoted to and advocating the interest of that segment of the population that it is mandated to serve—in this case, veterans. This is especially so since the administration has consistently opposed this program, refused to spend and proposed rescission of funds appropriated, delayed implementation, and otherwise done its best to downplay and downgrade the VCI program.

COMMISSIONER'S REPORT

Sixth, and finally, Mr. President, we have required that the Commissioner of Education prepare and submit to the Congress, within 90 days of the enactment of this bill, a report on the VCI program. The committee has anticipated that the Commissioner, in preparing the report, will conduct surveys of institutions receiving assistance under this program, incorporate any reports prepared by such institutions, and generally develop an information and monitoring system to carry out the reponsibilities mandated under present subsection (c)(1) of section 420.

This report will provide the Congress with a basis for making determinations with respect to the effective conduct of the program, as well as provide certain assistance in focusing our oversight responsibilities with respect to this program.

Mr. CRANSTON. Mr. President, at this time I would like to ask the floor manager of this bill, the chairman of the Subcommittee on Education, to clarify a minor, but nevertheless, important question that I have that relates to this bill.

I know that you are personally acquainted with the Veterans' Cost-of-Instruction program—VCI—that is conducted under section 420 of the Higher Education Act Amendments of 1965, as amended. I am most pleased that the committee has included in this bill the provisions of S. 2651, the "Veterans' Cost-of-Instruction Extension Act", which I introduced last November. These provisions, now contained in section 126 of the Education Amendments of 1976, extend the VCI program and make certain other changes in its operation which I feel will insure the continuation of this proven effective and valuable program.

However, in checking with the veterans' program branch which administers the VCI program in the Office of Education, I was surprised and dismayed to learn that certain amounts, totalling $2,287,160 over the past 3 years, have had to been returned to the Treasury Department as unused by the program. This is as a result of the decision by HEW. That in the event of award moneys being deobligated—either partially, because of an adjustment downward in award, or totally, because a school declines the award—these funds cannot be reallocated to other VCI schools or carried over into the next year by the veterans program branch.

I was startled to learn this, Mr. President, since I believed the there is ample authority for the Office of Education to reobligate and carry over funds not expended by programs funded by the Office of Education, which would allow for the reallocation of VCI appropriations. Would that not also be your understanding?

Mr. PELL. It would.

Mr. CRANSTON. And, would you further agree that given the entitlement nature of this program, and the way in which it has been conducted by the Office of Education, whereby an appropriated amount—much less than what would amount to full funding—has been allocated on the basis of a formula which takes into account the number and educational background of undergraduate veteran/students enrolled at participating institutions, is further basis for such reallocation of moneys?

Mr. PELL. I would agree.

Mr. CRANSTON. I thank the Senator for his time in responding to my questions on this matter. I would also like to extend my appreciation to the majority and minority members of the Education Subcommittee and their staff for their assistance and cooperation during our efforts to provide for the extension of this program. I particularly wish to thank my co-sponsor, Senator STAFFORD, who moved various provisions of section 126 during full committee mark-up last spring when I was not able to attend because of a conflict with a budget committee mark-up of the first concurrent resolution on the budget.

Mr. President, I would like to indicate that if it becomes apparent for any reason that legislative authority is necessary to rectify this situation—which I do not believe to be the case—I am prepared to introduce an amendment this session to make clear our intent.

CONCLUSION

Finally, Mr. President, I urge my colleagues to give their support to this much needed legislation, and I congratulate the floor managers for their excellent work in committee and on the floor on this bill.

Mr. BROOKE. Mr. President, for the last several years, the Emergency School Aid Act has been a mainstay in the successful implementation of desegregation. In its incipient years as the emergency school aid program and subsequently as the Emergency School Aid Act, ESA, as it is known, has been a symbol of Congress response to the difficult situations and its commitment to the people involved in public school desegregation. To consider continuing the act without an increased authorization in its special projects program, that program which operates most sensitively in helping districts under court order to desegregate, would be foolhardy at this juncture. The Emergency School Aid Act has the ability to respond to situations of serious need and to stimulate effective desegregation. It is my hope that we will extend and strengthen this legislation. This the Senate bill does.

In *Brown* v. *Board of Education* (347 U.S. 483) Chief Justice Warren noted that segregation of students generates—

> . . . a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be done.

What the Emergency School Aid Act has done is to help see this will not occur, and that students' constitutionally granted rights will be respected, by providing federally funded programs for effectuating school desegregation. The idea behind the Emergency School Aid Act is not just to funnel money haphazardly into the communities, but in fact to stimulate the establishment and maintenance of certain programs and activities to be undertaken in an effort to make the desegregation effective. There can be no doubt that most communities are too financially strained to undertake these activities by themselves. Consequently, the responsibility has fallen on ESA, a burden which it has carried and continues to carry well.

In some cases ESA has assumed major responsibility in desegregation efforts. Under the provisions for special projects, funding can be flexibly targeted on cities which need money on what is essentially an "emergency" basis. I know from experience that in Boston, for example, such funding has been of great help in the desegregation effort. In all, in fiscal year 1975 there were four cities receiving emergency special projects aid totaling $1,700,000 to assist them. Can we anticipate that the need will end? I think not. For each year, as the Nation progresses in guaranteeing students their rights under the Constitution, more and more cities will be added to the list of those starting new desegregation programs or revamping or continuing existing ones. This fall alone may see desegregation in such geographically diverse cities as Indianapolis, Wilmington, and Los Angeles, to cite but a few. Should any of these cities or others experience the need for targeted funds as offered under the emergency special projects provision, where will it come from if not from ESA? Further, targeted ESA funds already are available—some $40 million in fiscal year 1976, for example—and I believe Congress will provide more, as necessary. We have no right to threaten cities going through the difficult job of desegregating their schools with the extinction of this aid. I for one would not want to deny children in these cities a chance for educational betterment which ESA can help assure.

S. 2657 takes the very necessary step of increasing special projects funds by $100 million a year. This is the most crucial part of ESA and it is imperative that we provide it with the additional funds.

The need for the overall ESA program in general is great. Each year more applicants come to the Office of Education for funding under ESA than can be accommodated. In Massachusetts, for example, in fiscal year 1975 there were 12 applications for funding for pilot, basic, and nonprofit organization grants under ESA and only six were accepted. The Department of Health, Education, and Welfare has listed the total unmet need for funding in Massachusetts for those programs at $1,079,182. In other words there were projects in Massachusetts which would have been eligible for more than a total of $1 million if the money had been there. Is this a problem for just Massachusetts? No it is not. In fact, the unmet need nationwide under these activities alone in fiscal year 1975 was listed at a level of $56,076,748.

As for the use of the money, a recent Office of Education analysis of funding showed that among other activities—

Eighty percent of recipients used their funds for remedial services to assist newly desegregated students;

Approximately 50 percent were able to establish inservice staff training, new student activities, and community activities;

Forty-four percent used funds to supplement guidance and counseling activity;

Thirty-seven percent revised and redeveloped curriculum to be used with students of different racial and ethnic groups; and

Thirteen percent developed new career education programs.

I feel I should stress, too, that ESA is not simply an act which offers funding to districts which are in need of funding because they have been ordered to desegregate. In fact ESA funds districts under voluntary desegregation plans as well.

In fiscal 1977 Congress proposes funding ESA at a level of $240 million. I think this is a good indication of the need for ESA and the faith which both the House and the Senate have in this program.

I urge my Senate colleagues in joining with me to support the modest but needed extension of ESA as proposed in this bill.

Mr. KENNEDY. Mr. President, I rise to speak in favor of S. 2657, the Education Amendments of 1976, a bill I am pleased to cosponsor. Much of the credit for this bill belongs to the chairman of the Education Subcommittee and sponsor of the bill, Mr. Pell, to the chairman of the full committee, Mr. Williams, and to the Senator from New York, Senator Javits.

Both the subcommittee and the full committee reviewed existing federally aided education programs during the 94th Congress. The Education Subcommittee met on 15 days during 1975 on Federal vocational education programs, on Federal student assistance and other Federal aid to higher education.

This bill provides for the continuation of Federal support to both higher education and vocational education programs. It amends the Education Act of 1965 to extend major student aid and higher education programs including the Teacher Corps program through fiscal year 1982. The Vocational Education Act of 1963 would be amended to extend certain of its programs through fiscal year 1977; a major reform of vocational education programs would be phased into effect in fiscal year 1978 and continue through fiscal year 1981.

The need for this legislation is clear; its importance, obvious. For all the achievements of our Nation as we enter our third century, we face serious challenges and contradictions. The answers to the vital questions before us will come only if we are successful in educating the generation that must find those answers.

The challenge of education extends down to the schools in the local communities of Massachusetts and of America; but it also extends upward to the highest levels of National Government, to the Congress and to the executive branch. There must be more enlightened, vigorous, committed national leadership. A sense of direction, of purpose, and of ideals is needed from Washington. And, in no single area is that more crucial than in education.

Our national security rests as much on improving the quality of our schools as it does on adding more weapons to our nuclear stockpiles.

We have made considerable progress in the past decade in defining a major role for Federal assistance in improving education to young people. But continued progress depends on continuing national leadership.

We can point both to major indicators of progress and to persistent unsolved problems in the field of education. In 1960, only 40 percent of the population of adults over 25 had high school diplomas; by 1974, this had climbed to 60 percent, and each year 75 percent of all 17-year-olds graduate. In 1964–65, 500,000 individuals earned B.A.'s from our colleges and universities; in 1974, 1 million.

Still, there is a far less satisfying mirror image to these statistics—one which raises fundamental questions about the level of commitment to improving the quality of education and the equality of educational opportunity for all of our people. Twenty-five percent of all 17-year-olds do not graduate, and not all of those who do are fully prepared to move into the next stage of their life experience. Furthermore, a graduating high school senior from a family with an annual income of more than $18,000 is three times more likely to continue his education than his peer from a family with less than a $3,000 annual income. And, Federal support for education remains at barely 10 percent of the total cost of all education expenditures.

The Federal Government must continue to provide a basic impetus toward meeting the needs of the disadvantaged, of the limited-English-speaking and other minority groups—including women—for access to postsecondary education. It must insure that the families who struggled and sacrificed and finally succeeded in achieving a slightly better job and slightly more income do not become a new class of educational poor—ineligible for the basic Federal grant programs for the disadvantaged but denied any other assistance in its place. It must continue to be the key to innovation and research, promoting the exploration of new quests to improve the life of our people.

We can meet the challenges of the future only if we can produce men and women with the skills to cope with those challenges. Higher education and vocational education are the channels to attain that goal.

I am gratified that the committee adopted several amendments I had proposed to this bill. These amendments concern the Teacher Corps, emergency school aid, extension and expansion of the existing trio programs and a new special program for students from disadvantaged backgrounds, guidance counseling, and cooperative education.

TEACHER CORPS

The Teacher Corps amendment I introduced with Senator Nelson would extend this notable program, which Senator Nelson and I sponsored 10 years ago, through fiscal year 1982 and increase its funding; the authorization level would be $75 million in fiscal year 1978 and $100 million each of the following years. In addition to teachers and teacher aides, other educational personnel would be permitted to participate in the Teacher Corps program. Institutions could participate in the program for 5 instead of the present 2 years. A community council in each area served by the Teacher Corps would be established to participate in the planning, execution, and evaluation of projects. The trend to recruit current teachers is retained except that provision is made to assure continued opportunity for young minority entrants into the teaching profession. The Teacher Corps program reflects the recognition of the continuing need for additional educational resources in areas serving disadvantaged youngsters.

EMERGENCY SCHOOL AID

The Emergency School Aid Act, which was adopted in 1972 to authorize Federal assistance to school districts engaged in "the process of eliminating or preventing minority group isolation and improving the quality of education for all children," would be expanded by my amendment to permit the Commissioner of Education to spend $100 million for each year through fiscal year 1982 to assist major urban areas to meet added costs resulting from desegregation orders.

Communities engaged in implementing court-ordered or voluntary plans to achieve the goals of the Emergency School Aid Act often encounter severe financial burdens. The continuing progress of desegregation remains an emergency national need and its implementation often leaves local resources inadequate in the first transition years. The situation is particularly acute when court orders are involved.

The bill would extend the Emergency Aid Act through fiscal year 1979 and would authorize $1 billion. My amendment would permit the Commissioner to respond to specific areas, especially large city and metropolitan area districts, with unusually great needs. The authorization, separate from the $1 billion, would allow the Commissioner to carry out his discretionary responsibilities for special projects.

Boston is one of the major areas facing desegregation-related costs. Because of the limitations of the allocation formula of the Emergency School Aid Act, discretionary authority is necessary to focus additional assistance to Boston and other areas.

TRIO EXPANSION

The trio programs, special programs for the disadvantaged, would be extended under my amendment through fiscal year 1982 with the appropriation level of $200 million per year. The coordinating mechanism for these programs would be the National Center for Postsecondary Opportunity, to be located within the Office of Education. The coordination, administration, and evaulation of the trio programs would be improved to increase the number of persons served and to expand the character of services available; 750,000 individuals could receive services.

A new program of service learning centers would assure that not only the economically disadvantaged students but also a percentage, not to exceed one-third of the total, of those with significant educational disadvantages from non-low-income families—particularly blue-collar, middle-income families—would, for the first time, receive comprehensive counseling, guidance, and tutoring services. The service learning center program would be located on college campuses to provide such services for students with special education needs. Approximately $65 million would be authorized for the program.

BILINGUAL VOCATIONAL EDUCATION

My amendment to the vocational education programs would both provide special assistance to the limited English-speaking and also increase the level of funding to urban areas. Bilingual vocational education and training programs would be integrated into each State plan where significant numbers of limited English-speaking children reside. The Director of the Office of Bilingual Education would review those aspects of vocational education programs dealing with bilingual education to insure their adequacy.

A bilingual vocational education program to stimulate new efforts in this area would be authorized through fiscal year 1982 at $40 million each year. The committee also retained a special set-aside to insure some minimum assurance of attention to the needs of the limited English-speaking in areas of high concentrations of such persons.

The State advisory council would include representation from the school systems with concentrations of limited English-speaking ability, and State plans would include an assessment of the resources and needs required to provide bilingual vocational education. General programs, including development of vocational personnel preparation and of the State plan, leadership development awards, exemplary projects and programs, the State advisory council, and guidance and counseling programs, would have a specific component to assure the achievement of the needs of limited English-speaking students.

The vocational training program also would be extended to assist limited-English-speaking persons who are beyond the appropriate school age level or have dropped out of school. Authorizations for bilingual vocational training would be extended through fiscal year 1982 at the following annual levels: $40 million through fiscal year 1978, $60 million in fiscal year 1979, and $80 million through fiscal year 1982.

The lack of attention to the needs of limited-English-speaking students, documented by the findings of the GAO and the U.S. Civil Rights Commission, requires special attention and concern. The past failure to provide equal educational opportunity must be remedied, to end the pattern of marginalization that has meant fewer opportunities to the limited English speaking. The Spanish-heritage family has an income 21 percent less than the national average, and Spanish-heritage individuals are far less likely to attend college or be located in management and professional positions than the national average.

The lack of opportunity for many limited-English-speaking children to reach college indicates the necessity for other options that meet their special needs. The final report and recommendations of the teachers national field task force on the improvement and reform of American education emphasized the need to develop the capacity of schools to provide bilingual vocational education through curricula development and bilingual personnel preparation.

GUIDANCE AND COUNSELING

A new program of guidance and counseling, pursuant to competitive grants and contracts made by the Commissioner of Education, would be created by another of my amendments. The contracts or grants would improve supervisory services, provide training for technical and supervisory personnel having responsibilities for counseling and guidance, and improve the professional qualifications of counselors. Additionally, grants would be made to States in order to assist them to carry out programs coordinating existing and new programs of counseling and guidance.

This amendment recognizes that counseling and guidance activities are an essential component of all education programs, that Federal, State and local governments have failed to coordinate their counseling and guidance programs, and that increased and improved preparation of education professionals in the field of counseling and guidance is needed.

A new subpart of the Vocational Education Act, providing Federal assistance to States to enable them to develop and conduct vocational counseling and guidance programs and to improve existing programs would be authorized. There is a need for increased Federal assistance to the too often slighted field of vocational counseling and guidance as an integral part of preparing the students of this country to make informed career and occupational choices.

Additional Federal funds would be made available to assist vocational counseling and guidance efforts. Authorizations to carry out such programs would be as follows: $25 million for fiscal year 1978, $35 million for fiscal year 1979, $45 million for fiscal year 1980, $55 million for fiscal year 1981, and $75 million for fiscal year 1982.

Participating States would include details concerning their proposed allotment of funds among eligible recipients in the States' annual program plans. Included among services which could be supported with these funds would be vocational counseling for adults, youths, and children; vocational counseling and guidance training designed to acquaint counselors with changing work patterns of women, ways of assisting women to select careers based on their occupational interests and needs of effectively overcoming sex sterotyping, and including developing free career counseling materials; vocational counseling and guidance for the limited English-speaking; initiation, implementation, and improvement of high quality vocational counseling and guidance programs; job and educational placement services; and, educational and vocational counseling for prisoners.

COOPERATIVE EDUCATION

My amendment on cooperative education authorizes $15 million for fiscal year 1977, $20 million for fiscal year 1978, and $25 million for fiscal year 1979 through fiscal year 1982. Grants would be made to higher education institutions for planning, establishing, expanding, or carrying out of cooperative education programs. The definition of such programs would be amended so that programs alternating periods of study and part-time work would qualify for Federal assistance. The maximum program grant to an educational institution would be doubled from $75,000 to $150,000.

HIGHER EDUCATION

The bill would authorize appropriations to carry out the 5-year extensions of Federal aid to higher education programs. The States themselves would be granted funds to develop and support postsecondary continuing education programs. Libraries of higher institutions would also be aided, through separate appropriations.

Besides extending the Federal loan insurance program, S. 2657 provides that eligibility for Federal interest payments includes students with an adjusted family income level of $25,000, up from the previous $15,000 ceiling. Institutions would receive $10 per loan recipient per year to meet costs. Changes are made in student assistance programs to reduce the default level experienced under the guaranteed loan program. States would be encouraged to establish their own loan programs through the possibility of increased Federal reinsurance.

Among other programs extended by the bill are direct student loans, the supplemental educational opportunity grant program, the basic educational opportunity grant program, and work-study. Furthermore, maximum annual basic grants would be increased to $1,800 from $1,400.

The basic educational opportunity grant program enacted in the 1972 Educational Amendments which I cosponsored, has demonstrated its value. It is being extended now, with an increase in the maximum grant to recognize the impact of inflation on education costs.

If higher education programs were not extended in accordance with the bill's provisions and the original recommendations of the President's budget adopted vast numbers of students would find their assistance disappearing.

BASIC GRANT

It is essential that we continue to fund the programs that allow middle and low income students to continue their educations. The Basic Education Opportunity Grant, BEOG, program is in increasing demand. This is the basic program to provide improved access to postsecondary education to low income students. Some $467 million was obligated in 1975–76, with an average award of $800. Basic grants are our major Federal effort to open the door to higher education to the disadvantaged. We must keep that door opening wider, and we will do so by raising the ceiling of the grant per year from $1,700 to $1,800 in an effort to more fully meet the needs of low income students. The institutions would receive $15 per BEOG student per year in order to meet the administrative costs involved in conducting this program.

SUPPLEMENTAL GRANTS

The supplemental opportunity grant, SEOG, program provides assistance which now enables some 443,000 students with exceptional financial need to enter 3,500 colleges and universities. Grants range from $200 to $1,500 for each year of undergraduate study. Each grant requires provision of an equal amount of financial assistance to the student from at least one of the following sources: BEOG; institutionally provided loans, including the NDSL program; institutional, State, or privately financed grant aid; and compensation from employment provided by the institution, including employment under the work-study program. HEW has obligated $239 million for the SEOG program for 1976–77.

As an illustration of the value of this

program and the enhancement of choice it provides, while only 20 percent of the basic grant students are enrolled in private colleges and universities, nearly 75 percent of the supplemental grant students are able to attend these schools.

In Massachusetts, we know the value of the diversity that quality public and private higher education can mean to a State and to a nation. As David Truman said:

> On the enterprise of higher education, public and private, much of the future of the country depends.

That is why we must extend the SEOG program.

STUDENT LOAN

If we fail to extend the national direct student loan program—NDSL—what will happen to the 826,000 students receiving direct loans at 2,867 institutions in 1976–77? Where will their families suddenly obtain the new income that will permit them to replace these dollars and send their children to college? They are the middle-income families in every city and town of this Nation. Like all of us, they have been hit by recession, inflation, and rising costs. If the program is not extended, as the President's budget proposed, many of those 826,000 potential students would be forced to search for financial aid that simply would not be available. The sum of $317 million has been obligated by HEW for this program in 1976–77. These funds provide for 90 percent of each award, with the institution providing the remaining 10 percent.

RELATED EDUCATION PROGRAMS: EXTENSIONS AND REVISIONS

The Emergency Insured Student Loan Act would be extended. A Committee on the Process of Determining Student Loan Special Allowances would be established to propose regulations concerning the determination of the special allowance to be paid each quarter to holders of eligible student loans under the guaranteed loan program. Also extended are the provisions of titles III and IV of the National Defense Education Act of 1958 and those of the International Education Act of 1966.

WORK-STUDY

We must find not only ways to increase the level of access to postsecondary education, but also ways to help these students stay in school once they get there. The work-study program is one such way: 894,000 students will be aided in 1976–77 at 3,215 institutions; $388 million has been obligated by HEW to provide 80 percent of student payrolls. The remaining 20 percent will be provided by the institution or off-campus agency.

If this program is not extended, it will mean that many young people who are willing to work their way through college will be denied that opportunity. This bill would permit work at Federal, State, or local public agencies. Institutions would be required to assure that all students desiring such employment could participate in work-study programs.

HIGHER EDUCATION PLANNING AND COMMUNITY COLLEGE EXPANSION

A total of $15.7 million per year through fiscal year 1982 would be authorized for statewide planning for community colleges, and $150 million per year for establishment and expansion of community colleges, the current level; $4 million would be authorized per year through fiscal year 1982 to enable planning commissions to carry out their statewide planning activities; $2 million in additional funds would be authorized to be provided to State commissions to develop and expand their States' efforts toward increased educational planning and cooperation on a regional and interstate basis. Such activities would be designed to assist States in carrying out postsecondary educational programs in a more effective and economical manner, and to increase the accessibility of postsecondary educational opportunities for the residents of participating States.

FELLOWSHIPS

Fellowship grants awarded would be used to stimulate development of and innovation in professional and graduate programs. The Commissioner would consider national, regional, and State priorities with respect to the removal of institutional grant applications.

Fellowships would be awarded to individuals in other than academic fields that reflect importance to our national interest, as well as to individuals pursuing academic careers. The public service fellowship programs would be broadened to provide additional training for careers in public service and to include fellowship awards to individuals other than recent college graduates.

COLLEGE CONSTRUCTION

Grants for constructing academic facilities would be continued through fiscal year 1982 at the current authorization levels: $300 million for undergraduate and $80 million for graduate facilities per year. Loans for construction would be extended at their existing level of $200 million per year.

TEACHER TRAINING

Grants would be made by the Commissioner of Education to higher education institutions for training administrators, teachers, and other educational personnel from disadvantaged or minority backgrounds; for such personnel preparing to serve students from such backgrounds; or, for the further training of such personnel to meet changing national education personnel needs such as the national priority areas. Funds granted are intended not for general purposes of the institution or its component unit of education personnel training, but for direct use in supporting specified fellowships, training programs, and traineeships involving the designated individuals.

There is a compelling need for institutions of higher education engaged in training persons for education professions to build new and increased capacities for graduate programs that meet changing personnel teacher needs. In accordance with this need, and in keeping with the bill's emphasis on inservice rather than preservice programs, a system of grants would be authorized to encourage reform at the graduate education training level. Such grants could also be used for training faculty for such purposes and for developing cooperative local and State arrangements.

The bill repeals the Education Professions Development Act, except, as previously noted, for the Teacher Corps. A new mechanism for determining national priority areas for teacher training would replace that program. It will have to be closely examined to determine whether it is sufficient to meet education professional development needs.

VOCATIONAL EDUCATION

S. 2657 extends existing federally assisted vocational education programs through fiscal year 1977. The programs are changed for fiscal year 1978 through fiscal year 1982, in that States desiring to participate in the vocational education programs would be required to establish State planning commissions, which would develop and prepare comprehensive statewide long-range plans and advisory councils.

Appropriations are authorized for State planning processes and grants to States for vocational programs in areas with high concentrations of unemployed youths and/or disadvantaged persons. An office for women would be established within State boards to reduce sex stereotyping in vocational education programs.

Vocational education programs are just as vital to our national interest as are higher education programs. The committee's extension of the programs are in recognition of their importance. The revisions in vocational education programs are intended to simplify existing law by reducing the paperwork which must be submitted annually by the States.

State and local expenditures for vocational education have greatly overmatched the Federal dollar. In Massachusetts in fiscal year 1969, $6.74 was expended per dollar of Federal funds; in fiscal year 1970, $22.96; in fiscal year 1971, $11.53; in fiscal year 1972, $11.58; and in fiscal year 1973, $10.55. These statistics, as well as statistics on enrollment growth, illustrate the success of vocational education programs.

CAREER DEVELOPMENT AND GUIDANCE AND COUNSELING PROGRAMS

Passage of the bill would enable people of all ages in Massachusetts and the Nation to better help themselves through more effective guidance and counseling. States would be assisted in developing and conducting career development and education programs.

A new program of guidance and counseling, pursuant to competitive grants and contracts made by the Commissioner of Education through an administrative unit within the Education Division, would be created. The grants or contracts would improve professional qualifications of counselors, provide training for supervisory and technical personnel having responsibilities for guidance and counseling, and improve supervisory services.

The children of this Nation remain our most valuable resources. We owe them some measure of assurance that they and their families can afford the higher education they desire. Our existing Federal aid to education programs have made major breakthroughs which this bill preserves and enhances.

Higher education aid programs would not only be maintained under provisions of the bill, but would also be improved upon by broadening their bases. As a direct result of the changes made in the major programs, more and more students and their families will be eligible for the benefits, and would thus have the opportunity to continue their educations.

The Federal loan insurance program would broaden eligibility for Federal interest payments from a $15,000 adjusted family income level to $25,000. Basic grant ceilings would be increased from $1,400 per year to $1,800. Work-study would be amended to guarantee a job to all students willing to work their way through school. Such changes would recognize both the inflated cost of education and its effect on middle-class families, and the increased needs of low-income students.

In my State of Massachusetts, some 19,000 students receive supplemental grants, 44,000 receive jobs under work-study, 43,000 receive direct students loans, and 29,000 receive basic grants. The great majority of these students are dependent upon their aid and would, I fear, be unable to continue with their educations if these programs were not extended.

In education, as in other challenges confronting us today, we need more vigorous national leadership, not less; more enlightened national leadership, not less; and, more committed national leadership, not less.

Too often in recent years, education has been given low priority in the administration's budget. Last year, the Congress passed an education appropriations bill which increased spending by only 4 percent over the previous year. That bill was vetoed. When we overrode that veto, it meant $40 million more for Massachusetts for school assistance programs.

This year, the administration proposed a 14-point increase in defense spending, and a matching 14-percent decrease in education spending, which would mean $1 billion less for our educational institutions. To me, this represents a false reading of national priorities and an absence of national leadership in the vital field of education. If we are to assure equal access to higher education, such proposals must be rejected and higher education programs must be extended under the provisions of S. 2657.

The administration requested nearly $440 million in rescissions in higher education for the last fiscal year and a total cut this fiscal year in Federal support for higher education of some $660 million. This is based on the idea that we cannot afford to fund higher education programs. I, however, believe that we cannot afford not to fund and expand such programs.

We must continue to provide an impetus toward meeting the educational needs of the disadvantaged, of the limited-English-speaking and other minority groups, and assure that rising costs do not deny the children of the middle class the chance to obtain a college education. We must find ways to achieve basic equality of educational opportunity so that less adequate schooling is not inevitably the result for a child from a low income family. And we must find ways to insure that the process of education is a process of innovation and change, an exploration of new ways to understand and improve the human condition. S. 2657 represents a major step in the right direction, and I, therefore, strongly urge its passage.

I ask unanimous consent to place in the RECORD tables compiled from HEW data, of the awards currently obligated by HEW to Massachusetts under Federal aid to education programs.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

HEW OBLIGATED FUNDS—MASSACHUSETTS, 1976–77

College or university (includes vocational education programs affected by higher education programs)	Supplemental educational opportunity grant—131 schools		Work-study—131 schools		National direct student loan—110 schools	
	Award amount	Number of recipients[1]	Award amount	Number of recipients[1]	Award amount	Number of recipients[1]
American International College, Springfield	$92,070	171	$62,550	144	$89,095	232
Amherst College, Amherst	79,163	147	81,701	188	51,863	135
Andover Junior College, Andover	21,948	41	6,419	15	30,024	78
Andover Newton Theological School, Newton Center			77,811	179		
Anna Maria College for Women, Paxton	41,803	78	42,796	99	25,621	223
Aquinas Junior College Milton, Milton	22,618	41	12,087	28	33,274	87
Aquinas Junior College—Newton, Newton	24,854	46	6,224	14	28,474	74
Art Institute of Boston, Boston	22,100	41	23,743	55	19,159	50
Assumption College, Worcester	74,231	138	108,003	249	282,803	736
Atlantic Union College, South Lancaster	91,034	169	30,127	69	22,659	59
Babson College, Babson Park	11,594	22	19,603	45	42,030	109
Bay Path Junior College, Longmeadow	17,649	33	15,652	36	40,505	105
Bay State Junior College of Business, Boston	36,824	68	10,504	24	35,959	94
Becker Junior College, Worcester	10,445	19	9,726	22	18,637	49
Bentley College, Waltham	72,727	135	136,749	315	92,360	241
Berklee College of Music, Boston	98,005	182	109,254	252	129,616	338
Berkshire Christian College, Lenox	4,007	7	6,206	14	2,506	7
Berkshire Community College, Pittsfield	3,762	7	51,997	120		
Blue Hills Regional Technical Institute, Canton			10,693	25		
Boston City Hospital School of Practical Nursing, Boston	24,142	45	41,298	95	35,319	92
Boston College, Chestnut Hill	466,953	866	1,143,733	2,635	2,295,943	5,979
Boston Conservatory of Music, Boston	28,738	53	36,386	84		
Boston State College, Boston	246,159	457	472,117	1,088	174,848	455
Boston University, Boston	736,942	1,367	1,861,116	4,288	1,138,650	2,965
Bradford College, Bradford	12,182	23	7,003	16	19,289	50
Brandeis University, Walthem	75,154	139	241,256	556	393,184	1,024
Bridgewater State College, Bridgewater	42,325	79	239,243	551	193,815	505
Bristol Community College, Fall River	9,238	73	193,147	445	65,779	171
Bryman Schools, Inc—Brookline, Brookline	17,078	32			86,480	225
Bunker Hill Community College, Charlestown	180,619	335	719,733	1,658	273,668	713
Burdett School, Boston	9,007	17	3,734	9	76,356	199
Cape Cod Community College, West Barnstable	31,629	59	117,192	270	70,386	183
Carnegie Institute, Boston	15,236	28	39,489	91	22,454	58
Chamberlayne School and Junior College, Boston	102,311	190	10,921	25	47,593	124
Clark University, Worcester	185,971	345	350,151	807	437,598	1,140
College of Our Lady of Elms, Chicopee	25,605	48	15,468	36	1,291	3
College of the Holy Cross, Worcester	183,626	341	163,662	377	259,140	675
Control Data Institute, Burlington	18,495	34			97,580	254
Curry College, Milton	39,396	73	29,427	68	11,573	30
Dean Junior College, Franklin	21,874	41	68,473	158	6,387	17
East Coast Aero-Technical School, Lexington	29,578	55			151,739	395
Eastern Nazarene College, Quincy	35,779	66	36,749	85		
Emerson College, Boston	46,959	87	232,423	536	155,304	404
Emmanuel College, Boston	72,758	135	155,622	359	85,483	223
Essex Agricultural and Technical Institute, Hathorne			6,661	15		
Faulkner Hospital School of Nursing, Jamaica Plain	13,760	26				
Fisher Junior College, Boston	14,179	26	4,086	9	17,098	45
Fitchburg State College, Fitchburg	86,071	160	74,636	172	102,849	268
Forsyth School Dental Hygienists, Boston	23,284	43			22,415	58
Framingham State College, Framingham	64,290	119	146,172	337	101,454	264
Franklin Institute of Boston, Boston	8,498	16	3,749	9		
Garland Junior College, Boston	27,396	51	13,904	32	19,911	52

Footnote at end of table.

HEW OBLIGATED FUNDS—MASSACHUSETTS, 1976-77—Continued

College or university (includes vocational education programs affected by higher education programs)	Supplemental educational opportunity grant—131 schools		Work-study—131 schools		National direct student loan—110 schools	
	Award amount	Number of recipients [1]	Award amount	Number of recipients [1]	Award amount	Number of recipients [1]
Gordon College, Wenham	$62,464	116	$54,166	125	$71,667	187
Gordon-Conwell Theological Seminary, South Hamilton			32,729	75	7,652	20
Graham Junior College, Boston	136,592	253	140,622	324	86,795	226
Greenfield Community College, Greenfield	30,058	56	125,946	290	14,034	37
Hampshire College, Amherst	45,755	85	30,346	70	35,398	92
Harvard University, Cambridge	121,415	225	375,676	866	284,279	740
Hebrew College, Brookline			2,249	5		
Hellenic College, Brookline	5,192	10	6,613	15		
Hickox School, Boston	13,344	25				
Holliston Junior College, Holliston	16,448	31	6,995	16	17,125	45
Holyoke Community College, Holyoke	26,049	48	98,325	227	28,909	25
ITT Technical Institute, Boston	35,547	66	22,538	52	100,496	262
Kinyon and Campbell Business School, New Bedford	14,793	27	26,442	61		
Laboure Junior College, Dorchester	3,463	6	4,279	10	4,841	13
Lasell Junior College, Auburndale	41,381	77	24,191	56	17,670	46
Lawrence General Hospital School of Nursing, Lawrence			4,279	10		
Leicester Junior College, Leicester	13,413	25	8,559	20	17,956	47
Lesley College, Cambridge	22,166	41	63,280	146	92,036	240
Lowell Academy Inc., Lowell	1,390	3			1,829	5
Machseke Torah Institute, Brookline	6,265	12	17,718	41	3,729	10
Malden Hospital School of Nursing, Malden	15,012	28				
Marian Court Secretarial School, Swampscott			3,416	8		
Massachusetts Bay Community College, Watertown	27,316	51	58,553	135	25,821	67
Massachusetts College of Art, Boston	57,948	108	64,194	148	35,700	93
Massachusetts College of Optometry, Boston			26,455	61	104,278	272
Massachusetts College of Pharmacy, Boston	29,472	55	17,118	39		
Massachusetts General Hospital School of Nursing, Boston	28,623	53	23,999	55		
Massachusetts Institute of Technology, Cambridge	278,284	516	964,035	2,221	1,226,389	3,194
Massachusetts Maritime Academy, Buzzards Bay	38,729	72	69,969	161	35,007	91
Massachusetts Radio and Electronics School, Boston	5,724	11			13,992	36
Massasoit Community College, Brockton	66,987	124	77,555	179	56,765	148
Memorial Hospital School of Nursing, Worcester	20,120	37	8,690	20		
Merrimack College, North Andover	44,972	83	51,044	118	99,939	260
Middlesex Community College, Bedford	95,925	178	104,987	242	70,164	183
Mount Holyoke College, South Hadley	76,800	142	112,826	260	71,294	186
Mount Ida Junior College, Newton Center	23,711	44	44,315	102	13,569	35
Mount Wachusett Community College, Gardner	12,674	24	22,060	51	13,723	36
New England Baptist Hospital School, Boston	21,536	40	26,561	61		
New England Conservatory of Music, Boston	33,188	62	86,921	200	49,690	129
New England Deaconess Hospital School of Neurosurgery, Boston	12,066	22				
New England School of Law, Boston			71,906	166	60,125	157
Newbury Junior College, Boston	85,335	158	81,701	188	34,504	90
Newton Wellesley Hospital, Newton Lower Falls	3,508	7	7,499	17		
Nichols College, Dudley	26,000	48	9,728	22	33,482	87
North Adams State College, North Adams	41,927	78	272,651	628	102,487	267
North Shore Community College, Beverly	35,926	67	53,027	122	2,464	6
Northeast Broadcasting School, Boston	8,124	15	1,874	4		
Northeast Institute of Industrial Technology, Boston	10,230	19	10,312	24		
Northeastern University, Boston	465,406	863	1,433,892	3,304	1,482,178	3,860
Northern Essex Community College, Haverhill	99,869	185	320,808	739	240,831	62
Peter Bent Brigham Hospital School of Nursing, Boston	19,108	35	18,886	44		
Pine Manor Junior College	6,563	12	14,815	34	13,246	34
Quincy City Hospital School of Nursing, Quincy	2,224	4				
Quincy Junior College, Quincy			5,549	13		
Quinsigamond Community College, Worcester	17,652	33	63,143	145	13,461	35
RETS Electronic Schools, Boston	30,131	56	6,534	15	22,701	59
Radcliffe College, Cambridge	73,426	136	101,624	234	134,060	349
Regis College, Weston	83,782	155	131,049	302	42,568	111
Roxbury Community College, Boston	264,890	491	63,025	145	15,985	42
Saint John's Seminary, Brighton	3,376	6	7,238	17		
Salem State College, Salem	181,068	336	461,464	1,063	288,522	751
Salter Secretarial School, Inc., Worcester	19,613	36	23,418	54	19,004	49
School of Museum of Fine Arts, Boston	18,129	34	46,874	108	5,543	14
Simmons College, Boston	259,653	482	547,815	1,262	227,926	594
Simons Rock, Inc., Great Barrington	13,296	25	3,554	8		
Smith College, Northampton	101,474	188	98,257	226	38,429	100
Somerville Hospital School of Nursing, Somerville	622		3,022	7		
Southeastern Massachusetts University, North Dartmouth	103,517	192	381,235	878	174,842	455
Springfield College, Springfield	37,785	70	92,919	214	40,102	104
Springfield Technical Community College, Springfield	19,353	36	101,681	234	2,125	6
Stonehill College, North Easton	87,009	161	32,789	76	77,470	202
Suffolk University, Boston	12,822	24	92,698	214	100,457	262
Swain School of Design, New Bedford	12,246	23	11,343	26	11,509	30
Sylvania Technical School, Waltham	19,527	36			89,951	234
Tech-Age Business School, Malden	4,584	9	4,850	11		
Tufts University, Medford	240,206	446	441,597	1,018	565,038	1,471
University of Lowell, Lowell	111,815	207	151,148	348	75,861	198
University of Massachusetts, all Camden, Boston	1,560,198	2,895	2,754,743	6,347	1,671,351	4,352
Wellesley College, Wellesley	118,214	219	169,706	391	108,056	281
Wentworth College of Technology, Boston	7,215	13	2,104	5	1,804	5
Wentworth Institute of Technology, Boston	7,893	15	6,263	14	21,549	56
Western New England College, Springfield	99,675	185	127,952	295	183,292	477
Westfield State College, Westfield	221,525	411	218,176	503	147,831	385
Wheaton College, Norton	8,391	16	77,694	179	56,837	148
Wheelock College, Boston	42,415	79	108,973	251	87,229	227
Whidden Memorial Hospital School of Nursing, Everett			3,402	8		
Williams College, Williamstown	18,106	34	24,070	55	16,340	43
Worcester Junior College, Worcester	17,662	33	39,683	91		
Worcester Polytechnic Institute, Worcester	101,297	188	87,926	203	291,620	1,020
Worcester State College, Worcester	150,800	280	277,397	639	61,258	160
Worcester Industrial Technical Institute, Worcester			20,327	47		
Total	**10,008,070**	**18,572**	**19,145,298**	**44,112**	**16,630,866**	**43,311**

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[1] Estimated.

1975-76 BASIC GRANT PROGRAM

INSTITUTIONAL AGREEMENT AND AUTHORIZATION REPORT, MASSACHUSETTS

Summary statistics	Number of institutions	Covered by agreements	Number of authorizations	Initial allocation	Current authorization
Total, all institutions	242	217	182	$11, 656, 505	$24, 669, 461
Total by participation status:					
Participating	190	190	182	11, 646, 505	24, 669, 461
Independent campuses	180	180	179	9, 673, 395	21, 075, 476
Branch systems	3	3	3	1, 973, 110	3, 593, 985
Branch campuses	7	7	0	0	0
Nonparticipating	27	27	0	10, 000	0
Nonresponding	25	0	0	0	0
Total, by institution type:					
Public	44	43	40	5, 178, 625	11, 185, 029
Universities	3	3	3	1, 376, 640	2, 237, 171
Other 4-yr	12	12	11	1, 282, 755	2, 936, 637
2-yr	28	27	25	2, 509, 230	5, 993, 397
1-yr but under 2-yr	0	0	0	0	0
6-mo but under 1 yr	1	1	1	10, 000	17, 824
Private, nonprofit	133	121	106	$5, 736, 420	$11, 069, 590
Universities	16	16	15	2, 644, 870	5, 020, 130
Other 4 yr	62	53	45	1, 824, 100	3, 624, 183
2 yr	47	47	42	1, 227, 450	2, 391, 496
1 yr but under 2-yr	1	1	1	10, 000	10, 000
6 mo but under 1 yr	7	4	3	30, 000	23, 781
Private, profitmaking	49	45	36	741, 460	2, 414, 842
Universities	0	0	0	0	0
Other 4 yr	3	2	2	23, 140	59, 141
2 yr	14	12	11	307, 140	1, 140, 843
1 yr but under 2 yr	3	3	3	71, 250	191, 226
6 mo but under 1 yr	29	28	20	339, 930	1, 023, 632
All other	16	8	0	0	0

MINING AND MINERAL FUEL FELLOWSHIPS—MASSACHUSETTS

Graduate Program (Title IX D)	**Public Service Fellowship Program (Title IX A&C)**
Fiscal year 1975:	
1 Harvard	**7 Harvard**
2 MIT	**6 Tufts**
	$37,5500 institutional, Tufts
Fiscal year 1976:	
3 Harvard	**2 continuation, Harvard***
* 8 MIT	**2 continuation, Tufts***
	2 new, Harvard*
	2 new, Tufts*
	4 new, Boston University*
	4 new, Brandeis University*

*Staff recommendation only.

Mr. PACKWOOD. Mr. President, during consideration of the higher education bill yesterday, the Senate rejected the Beall amendment. This amendment would have deleted the requirement for the creation of State planning commissions to carry out the planning and administering of vocational education. In Oregon, the existing advisory council works closely with the State board of education to produce and coordinate excellent programs for vocational education. The mandate for a separate planning commission is unnecessary and, furthermore, sets an unwise precedent for Federal interference with what should be the jurisdiction of each State.

I regret that, for medical reasons, I was absent for the vote and, consequently, was unable to register my strong support for the amendment. I would like to go on record, however, as a firm advocate of the deletion of the planning commission requirement.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. PELL. Mr. President, I pay particular credit to Mrs. Jean Frohlicher and Carey Peck of the Education Subcommittee staff and to Blair Crownover of the Legislative Counsel's Office. This has been a baptism of fire for them. They, particularly our subcommittee counsel, Mrs. Frohlicher, have had to take on the responsibility for helping and advising me in writing and bringing this bill through passage, and they have done a truly superb job.

I also pay credit to our intern, Shelly Dane, who has done excellent work throughout. She sacrificed a paying job in order to help us. She, and the rest of the office staff, offered invaluable though unheralded assistance to this effort.

The bill's passage is a great credit to the excellent work done by everyone concerned.

I would also like to mention the preliminary work that laid down the foundation for our success today.

Much of the credit in this regard goes to Stephen Wexler, Mrs. Frohlicher's predecessor as subcommittee counsel, drew the outlines of this bill before his life was cruelly snuffed out by a drunken driver. We owe a great deal to his work.

I also extend my thanks to the Senate leadership, to our majority leader (Mr. MANSFIELD), and our majority whip (Mr. ROBERT C. BYRD) for the excellent job they did securing time agreements. From my viewpoint, it meant that instead of spending literally weeks in the well of this Chamber managing this bill, we were able to get through it in a day and a half.

Finally, I am most appreciative of the help and support of the chairman of the full committee (Mr. WILLIAMS), the members of our subcommittee and their staff: Nick Edes, Lisa Walker, George Lawless, Mark Schneider, Ellen Hoffman, Marcia McCord, Gary Aldridge, and Larry Gage. Finally, I am particularly appreciative of the contribution of the ranking minority member of the full committee (Mr. JAVITS) and of his assistant, Gregory Fusco.

Mr. JAVITS. Mr. President, I concur wholeheartedly with everything Senator PELL has said. I wish to include personal thanks to Gregory Fusco and Michael Shorr of the minority staff of Subcommittee on Education; and also to Chuck Warren, of my staff who worked on the civil rights and antidiscrimination aspects of the bill. I would also thank Ralph Neas, of Senator BROOKE's staff; Nick Edes and Lisa Walker, of Senator WILLIAMS' staff; Joseph Carter, of Senator BEALL's staff; Ellie Parker, of Senator TAFT's staff; Vic Maerki and Michael Frances, of Senator STAFFORD's staff; and René Bergman, of Senator SCHWEIKER's staff, who worked on this bill.

I also extend my gratitude to the leadership on both sides and to my beloved friend and colleague, Senator PELL.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Maine (Mr. HATHAWAY) is absent attending the funeral of a friend.

I further announce that, if present and voting, the Senator from Washington

(Mr. MAGNUSON), and the Senator from California (Mr. TUNNEY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BROCK) and the Senator from Ohio (Mr. TAFT) would each vote "yea."

The result was announced—yeas 78, nays 5, as follows:

[Rollcall Vote No. 539 Leg.]

YEAS—78

Abourezk
Allen
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Eagleton
Fong
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—5

Fannin
Goldwater
Helms
Laxalt
Scott, William L.

NOT VOTING—17

Baker
Brock
Buckley
Dole
Domenici
Durkin
Eastland
Ford
Garn
Hartke
Hathaway
Magnuson
Mondale
Montoya
Sparkman
Taft
Tunney

So the bill (S. 2657) was passed, as follows:

S. 2657

An act to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education Amendments of 1976".

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TRANSITION PERIOD AUTHORIZATION

SEC. 2. There are authorized to be appropriated such sums as may be necessary for the period July 1, 1976, through September 30, 1976, to carry out each program authorized by this Act and each program amended by this Act, except for any program which is to become effective in fiscal year 1977 or thereafter.

EFFECTIVE DATE

SEC. 3. The provisions of this Act and the amendments made by this Act shall take effect thirty days after the date of enactment of this Act except—

(1) as specifically otherwise provided; and

(2) that each amendment made by this Act (not subject to clause (1) of this section) providing for authorization of appropriations shall take effect July 1, 1976.

TITLE I—HIGHER EDUCATION

PART A—COMMUNITY SERVICES AND CONTINUING EDUCATION

EXTENSION AND REVISION OF PROGRAM

SEC. 101. (a) Section 101 of the Higher Education Act of 1965 (hereafter in this title referred to as "the Act") is amended to read as follows:

"STATEMENT OF PURPOSE

"SEC. 101. It is the purpose of this title to—

"(1) assist the people of the United States in the solution of community problems such as housing, poverty, government, recreation, employment, youth opportunities, transportation, health, and land use by enabling the Commissioner to make grants under this title to strengthen community service programs of colleges and universities; and

"(2) assist all people of the United States, regardless of previous education or training, sex, age, handicapping condition, social or ethnic background, or economic circumstances, to improve their personal well-being, to upgrade their workplace skills, and to participate more fully in the civic, cultural, and political life of the Nation, by making available a wide range of opportunities for lifelong learning, including postsecondary continuing education.

(b) Title I of the Act is amended—

(1) by redesignating sections 102 through 106 as sections 111 through 115, respectively;

(2) by redesignating sections 107 through 113 as sections 141 through 147, respectively; and

(3) by inserting after section 101 the following new section:

"APPROPRIATIONS AUTHORIZED

"SEC. 102. (a) There are authorized to be appropriated—

"(1) $40,000,000 for the fiscal year 1977 and for each of the succeeding fiscal years ending prior to October 1, 1982, for the purpose of carrying out the provisions of parts A and B of this title, of which not less than 75 per centum of the first $20,000,000 appropriated in any fiscal year shall be available only to carry out part A; and

"(2) $40,000,000 for the fiscal year 1977 and for each of the succeeding fiscal years ending prior to October 1, 1982, for the purpose of carrying out the provisions of part C of this title, subject to the provisions of subsection (b) of this section.

"(b) For any fiscal year in which the appropriation under clause (2) of subsection (a) is—

"(1) $5,000,000 or less the sum appropriated shall be available only for the purpose of carrying out section 133;

"(2) more than $5,000,000 but not more than $10,000,000, the excess over $5,000,000 shall be available only for carrying out the provisions of section 134, of which 5 per centum shall be available for clause (3) of section 134;

"(3) in excess of $10,000,000, the excess shall be available as the Commissioner may prescribe for carrying out the provisions of section 133 or section 134, of which 2½ per centum shall be available for clause (3) of section 134.".

(c) Title I of the Act is further amended—

(1) by striking out "title" in section 111 (as redesignated by subsection (b)) and inserting in lieu thereof "part".

(2)(A) by striking out "section 101" in section 112 (as redesignated by subsection (b)) and inserting in lieu thereof "section 102(a)";

(B) by striking out "reserved under section 106 (a)" in section 112 (as redesignated by subsection (b)) and inserting in lieu thereof: "allotted under section 121 or reserved under section 115 or section 122";

(3)(A) by striking out "section 103" in section 113 (as redesignated by subsection (b)) and inserting in lieu thereof "section 112";

(B) by striking out "section 105(b)" in section 113 (as redesignated by subsection (b)) and inserting in lieu thereof "section 114(b)";

(4) by striking out "title" wherever it appears in section 114 (as redesignated by subsection (b)) and inserting in lieu thereof the word "part";

(5) by striking out "section 107(c)" in section 114 (as redesignated by subsection (b)) and inserting in lieu thereof "section 141(c)";

(6) by striking out "section 103" in section 114 (as redesignated by subsection (b)) and inserting in lieu thereof "section 112";

(7) by striking out "section 101" in section 115 (as redesignated by subsection (b)) and inserting in lieu thereof "section 102(a) and available for this part";

(8) by inserting immediately before section 111 (as redesignated by section (b)) the following:

"PART A—COMMUNITY SERVICES PROGRAMS"; and

(9) by inserting after section 115 (as redesignated by this section) the following:

"PART B—POSTSECONDARY CONTINUING EDUCATION PROGRAMS

"STATE GRANTS FOR CONTINUING EDUCATION PROGRAMS

"SEC. 121. (a) The Commissioner is authorized to make grants under this section to States to pay the Federal share of the cost of the development and support of postsecondary continuing education programs, including the replication and expansion of successful postsecondary continuing education programs of demonstrated educational success.

"(b) Any State desiring to receive a grant under this section shall file a supplement to its State plan submitted under section 114 which shall include—

"(1) a description of the State's proposed program for the development and support of continuing education programs, and for the replication and expansion of successful continuing education programs;

"(2) the designation of a State agency to administer the program;

"(3) a description of the manner in which institutions of higher education will participate in the State's program, including assurances that all institutions of higher education in the State, including public and private four-year colleges and universities and community and junior colleges, have been given an opportunity to participate in the development of the State plan;

"(4) a description of the adult population which can be expected to benefit from the program;

"(5) a description of the procedures to be used to select and evaluate programs and projects to be replicated or expanded, or both under the State's program; and

"(6) such additional assurances as the Commissioner may reasonably require.

"(c)(1) Any State having a supplement to the State plan approved under this section shall be eligible to receive an amount which bears the same ratio to all of the funds available for this section as the ratio of the total adult population of that State bears to the total adult population of all States which have supplements to State plans approved under this section (A) except that no State shall be eligible to receive less than one-half of 1 per centum of the sums appropriated for the fiscal year for which the determination is made; and (B) the total amount allotted to Guam, American Samoa, the Virgin Islands, and the Trust Territories of the Pacific Islands shall not exceed 1 per centum of the sum appropriated for the fiscal year for which the determination is made.

"(2) For purposes of this section the term—

"(A) 'State' includes the District of Columbia and the Commonwealth of Puerto Rico except that for the purpose of clause (B) of subsection (c)(1) the term 'State' does not include Guam, American Samoa, the Virgin Islands, and the Trust Territories of the Pacific Islands.

"(B) 'total adult population' means the total population eighteen years of age or older, which shall be determined on the basis of the most recent satisfactory data available from the Department of Commerce.

"(d) No grant under this section shall exceed 66⅔ per centum of the cost of the program described in the supplement to the State plan submitted under this section.

"TECHNICAL ASSISTANCE AND ADMINISTRATION

"SEC. 122. (a) The Commissioner is authorized to reserve not to exceed 10 per centum of the amount appropriated for any fiscal year pursuant to section 102(a)(1) in excess of $14,500,000 for the purpose of this section.

"(b) From funds reserved under subsection (a) of this section, the Commissioner shall provide technical assistance to the States and to institutions of higher education. Such technical assistance shall—

"(1) facilitate the establishment and operation of programs carried out under section 121;

"(2) provide a nationwide exchange of information about successful continuing education programs;

"(3) assist with the adaptation and adoption of methods and techniques which have proved successful in such other education programs; and

"(4) assist with the improvement of planning and evaluation procedures.

"(c)(1) In providing assistance for any programs which may affect postsecondary continuing education under this title, the Commissioner shall consider the effects of other postsecondary continuing education on that program, including—

"(A) the development and support of research proposals and the assessment, application, and use of research results;

"(B) the dissemination of information regarding innovative projects and the encouragement of the analysis of such information and the possible replication of such projects by professionals in education, administration, counseling, health, and other related fields;

"(C) the retraining of professional personnel; and

"(D) the policies of the Office of Education which affect part-time students in institutions of higher education.

"(2) The Commissioner shall provide for coordination between postsecondary continuing education programs conducted by him with all other appropriate offices and agencies within the Office of Education, including such offices and agencies which administer vocational education programs, adult education programs, career education programs, and student and institutional assistance programs.

"(3) The Commissioner shall also establish or designate a clearinghouse for information regarding postsecondary continuing education.

"STATEWIDE PLANNING AND POSTSECONDARY CONTINUING EDUCATION

"SEC. 123. (a) Each State which receives a grant under section 121 of this title may allot up to 10 per centum of such grant to the agency responsible under State law for comprehensive planning for postsecondary education, for the purpose of statewide planning for postsecondary continuing education.

"(b) Each State alloting funds pursuant to subsection (a) of this section shall conduct a program of comprehensive statewide planning for postsecondary continuing education in that State which shall include—

"(1) a determination of the postsecondary continuing education needs of persons in the various regions and local communities in the State;

"(2) a survey of the educational resources of institutions of higher education in the State and their ability to meet the needs determined under clause (1);

"(3) advice to institutions of higher education of the State on unmet needs and unnecessary duplication of effort in postsecondary continuing education in the State; and

"(4) preparation of a long-range comprehensive statewide plan for improved and expanded postsecondary continuing education opportunities and services for the adult population of the State, through institutions of higher education, which plan shall be submitted, not later than March 31, 1978, to the Commissioner for his review and comment and reviewed and amended at least annually thereafter.

"(c) Each State which conducts a program of comprehensive statewide planning under this section shall—

"(1) assure participation in the planning process of representatives of postsecondary educational institutions in the State, and of persons familiar with or knowledgeable about postsecondary continuing education;

"(2) provide for coordination of planning under this part with planning within the State for vocational education and adult education; and

"(3) provide for coordination between planning under this part, and the planning and administration by the State agency designated under section 114.".

(d) Title I of the Act is further amended by inserting immediately after section 123 (as added by this Act) the following:

"PART C—NATIONAL STRATEGY FOR LIFELONG LEARNING

"FINDINGS AND PURPOSE

"SEC. 131. (a) The Congress finds that—

"(1) accelerating social and technological change have had impact on the duration and quality of life;

"(2) the American people need lifelong learning to enable them to adjust to social, technological, political and economic changes;

"(3) lifelong learning has a role in developing the potential of all persons including improvement of their personal well-being, upgrading their workplace skills, and preparing them to participate in the civic, cultural, and political life of the Nation;

"(4) lifelong learning is important in meeting the needs of the growing number of older and retired persons;

"(5) learning takes place through formal and informal instruction, through educational programs conducted by public and private educational and other institutions and organizations, through independent study, and through the efforts of business, industry, and labor;

"(6) planning is necessary at the national, State, and local levels to assure effective use of existing resources in the light of changing characteristics and learning needs of the population; and

"(7) more effective use should be made of the resources of the Nation's educational institutions in order to assist the people of the United States in the solution of community problems in areas such as housing, poverty, government, recreation, employment, youth opportunities, transportation, health, and land use.

"(b) The Congress declares that it is the policy of the United States that —

"(1) opportunities for lifelong learning shall be readily available to all persons without regard to previous education or training;

"(2) considerations of sex, age, handicapping condition, social or ethnic background, or economic circumstance shall not restrict access to lifelong learning opportunities by any person;

"(3) educational institutions shall be strengthened in order that they may assist the people of the United States in the solution of community problems such as housing, poverty, government, recreation, employment, youth opportunities, transportation, health, and land use; and

"(4) there shall be comprehensive planning and coordination at the National, State, and local levels among agencies, organizations, and individuals concerned with and involved in providing lifelong learning opportunities in order to assure effective and efficient use of resources for meeting the learning needs of the Nation.

"DEFINITION

"SEC. 132. For the purpose of this part 'lifelong learning' means programs intended to affect the knowledge, skills, and attitudes of persons who have left the traditionally sequenced educational system. Such programs may be carried out through formal or informal educational processes and include any project, activity, or service designed to serve the educational needs of adults throughout their lives. Lifelong learning includes, but is not limited to, adult basic education, continuing education, independent study, labor education, occupational education and job training programs, parent education, postsecondary education, preretirement and education for older and retired people, remedial education, special educational programs for groups or for individuals with special needs, and also includes educational activities designed—

"(1) to upgrade occupational and professional skills;

"(2) to assist business, public agencies, and other organizations in the adoption and the use of innovations and research results;

"(3) to assist in solving public problems; and

"(4) to serve family living needs and personal development.

"PLANNING, ASSESSMENT, AND COORDINATION OF LIFELONG LEARNING ACTIVITIES

"SEC. 133. (a) The Commissioner shall carry out, from funds appropriated pursuant to section 102(a) (2), a program of planning, assessing, and coordinated projects related to lifelong learning. In carrying out the provisions of this section, the Commissioner shall—

"(1) foster improved coordination of Federal support for lifelong learning programs;

"(2) act as a clearinghouse for information regarding lifelong learning, including the identification, collection, and dissemination to educators and the public of existing and new information regarding lifelong learning programs which are or may be carried out and supported by any department or agency of the Federal Government;

"(3) review present and proposed methods of financing lifelong learning, to determine—

"(A) the extent to which each promotes lifelong learning,

"(B) program and administrative features of each that contribute to serving the lifelong learning policy,

"(C) the need for additional Federal support for lifelong learning, and

"(D) procedures by which Federal assistance to lifelong learning may be better applied and coordinated to achieve the purposes of this title;

"(4) review the lifelong learning opportunities provided through employers, unions, the media, libraries and museums, secondary schools and postsecondary educational institutions, and other public and private organizations to determine means by which the enhancement of their effectiveness and coordination may be facilitated;

"(5) review existing major foreign lifelong learning programs and related programs in order to determine the applicability of such programs in this country;

"(6) identify existing barriers to lifelong learning and evaluate programs designed to eliminate such barriers; and

"(7) to the extent practicable, seek the advice and assistance of the agencies of the Education Division (including the Office of Education, the National Institute of Education, the Fund for the Improvement of Postsecondary Education, and the National Center for Education Statistics), other agencies of the Federal Government, public advisory groups (including the National Advisory Councils on Extension and Continuing Education, Adult Education, Career Education, Community Education, and Vocational Education), Commissions (including the National Commission on Libraries and Information Sciences and the National Commission on Manpower Policy), State agencies, and such other persons or organizations as may be appropriate in carrying out the Commission's responsibilities, and make maximum use of information and studies already available.

The review required by clause (3) of this subsection shall include—

"(i) a comparative assessment of domestic and foreign tax and other incentives to encourage increased commitment of business and labor;

"(ii) a study of alternatives such as lifelong learning entitlement programs of educational vouchers designed to assist adults to undertake education or training in conjunction with, or in periods alternative, to employment;

"(iii) review of possible modifications to existing Federal and State student assistance programs necessary to increase their relevance to the lifelong learning needs of all adults;

"(iv) the organization and design of funding for pre- and postretirement training and education for the elderly; and

"(v) modifications to Federal and State manpower training, public employment, unemployment compensation, and similar funding programs so as better to facilitate lifelong education and training and retraining, for employment.

"(b) In carrying out the provisions of this section the Commissioner shall issue reports summarizing research and analysis conducted pursuant to this section, and shall develop the resources and capability to analyze and make recommendations regarding specific legislative or administrative proposals which may be considered by the President or by the Congress.

"ARRANGEMENTS WITH STATES AND PUBLIC AND PRIVATE AGENCIES

"SEC. 134. In carrying out the provisions of this part the Commissioner is authorized—

"(1) to enter into agreements with, and to make grants to or to enter into contracts with, appropriate State agencies—

"(A) to assist in the planning and assessment, to determine whether in each State there is an equitable distribution of lifelong learning services to all segments of the adult population;

"(B) to assist in assessing the appropriate roles for the Federal, State, and local governments, educational institutions and community organizations; and

"(C) to assist in considering alternative methods of financing and delivering lifelong learning opportunities, including—

"(i) identification of State agencies, institutions, and groups that plan and provide programs of lifelong learning.

"(ii) determination of the extent to which programs are available geographically,

"(iii) a description of demographic characteristics of the population served, "(iv) analysis of reasons for attendance in programs of lifelong learning,

"(v) analysis of sources of funds for the conduct of lifelong learning programs, and the financial support of persons attending programs of lifelong learning;

"(2) to make grants to and enter into contracts with public and nonprofit private agencies and organizations for projects for the development, testing, and demonstration of better ways to meet lifelong learning needs of adults, and for development of procedures for achieving joint and cooperative projects among all sponsors and providers of lifelong learning programs, including but not limited to, projects for—

"(A) research and development activities;

"(B) training and retraining people to become educators of adults;

"(C) development of curricula and delivery systems appropriate to the needs of any such programs;

"(D) development of techniques and systems for guidance and counseling of adults and for training and retraining of counselors;

"(E) development and dissemination of instructional materials appropriate to adults;

"(F) assessment of the educational needs and goals of older and retired persons and their unique contributions to lifelong learning programs; and

"(G) planning, developing, and increasing the use of community learning resources by finding ways that combinations of agencies, institutions, and organizations can make better use of educational methods, communications technology, local facilities, and such human resources as will enable the provision of individualized learning opportunities for persons residing in the area being served; and

"(3) to make grants and enter into contracts with institutions of higher education and with public and nonprofit private entities for the development and demonstration of ways to—

"(A) increase the use of employer and union tuition assistance and other educational programs, educational and cultural trust funds and other similar educational benefits resulting from collective bargaining agreements, and other private funds for the support of lifelong learning;

"(B) stimulate the integration of public and private educational funds which encourage participation in lifelong learning, including support of guidance and counseling of workers in order that they can make best use of funds available to them for lifelong learning opportunities; and

"(C) encourage coordination within communities among educators, employers, labor organizations, and other appropriate individuals and entities to assure that lifelong learning opportunities are designed to meet projected career and occupational needs of the community, after consideration of the availability of guidance and counseling, the availability of information regarding occupational and career opportunities, and the availability of appropriate educational and other resources to meet the career and occupational needs of the community.

"REPORTS

"Sec. 135. (a) The Commissioner shall transmit to the President and to the Congress a report on such results from the activities conducted pursuant to section 133 as may be completed by January 1, 1978, together with such legislative recommendations as he may deem appropriate. The Commissioner shall similarly report annually thereafter.

"(b) The Commissioner shall prepare and submit to the President and to the Congress within ninety days after the beginning of each fiscal year a report on the activities conducted pursuant to section 134, together with such recommendations as the Commission may deem appropriate.".

(e) Title I of the Act is further amended by inserting before the section heading of section 141 (as redesignated by subsection (b)) the following:

"Part D—General Provisions".

(f)(1) Section 141(a) of the Act (as redesignated by subsection (b)) is amended—

(A) by inserting "(1)" after "(a)",

(B) by inserting "parts (A) and (B) of" before "this title" the first time it appears in such section,

(C) by inserting "part A of" before "this title" the second time it appears in such section,

(D) by striking out "section 105(b)" and inserting in lieu thereof "section 114(b) or section 121, or both",

(E) by striking out "$25,000" and inserting in lieu thereof "$40,000", and

(F) by adding at the end thereof the following:

"(2) The Commissioner shall pay the cost of the program, project, or activity for which the grant is made, or the contract or agreement is entered into, under part C of this title.".

(2) Section 141(c) of the Act (as redesignated by this subsection (b)) is repealed.

(3) Section 142 of the Act (as redesignated by subsection (b)) is amended by striking out "section 105(b)" and inserting in lieu thereof "section 114(b) or section 121" and by striking out "section 105(a)" and inserting in lieu thereof "section 114(a) or section 121".

(4) Section 143 of the Act (as redesignated by subsection (b)) is amended by striking out "section 105(a)" and inserting in lieu thereof "section 114 or section 121" and by striking out "section 108(b)" and inserting in lieu thereof "section 142(b)".

(5)(A) Section 145 of the Act (as redesignated by subsection (b)) is amended by striking out "section 105(b)" and inserting in lieu thereof "section 114 and section 121" and by striking out "through June 30, 1975" and inserting in lieu thereof "until the programs authorized by this title are terminated".

(B) Section 145 of the Act (as redesignated by subsection (b)) is amended by striking out "this title" each place it appears therein, and insert in lieu thereof "parts A and B of this title".

(6) Section 146 of the Act (as redesignated by subsection (b)) is amended to read as follows: "Nothing in this section shall modify any authority under the Act of May 8, 1914 (Smith-Lever Act), as amended (7 U.S.C. 341–348).".

Part B—College Library Assistance and Library Training and Research

EXTENSION OF AUTHORIZATION

Sec. 106. The first sentence of section 201 (b) of the Act is amended by striking out all that follows "authorized to be appropriated" and inserting in lieu thereof "$100,000,000 for each fiscal year ending prior to October 1, 1982.".

REVISION OF RESEARCH LIBRARY RESOURCES

Sec. 107. Part C of title II of the Act is amended to read as follows:

"Part C—Strengthening Research Library Resources

"FINDINGS AND PURPOSE

"Sec. 231. (a) The Congress finds that—

"(1) education, scholarship, and research are significant to the scientific, economic, and cultural development of the Nation, and that steady advances in the social and natural sciences are essential to solve the problems of a complex society;

"(2) the Nation's major research libraries are often an essential element in undergraduate education, and are essential to advanced and professional education and research; and

"(3) the expansion in the scope of educational and research programs and the rapid increase in the worldwide production of recorded knowledge have placed unprecedented demands upon major research libraries, requiring programs and services that strain the capabilities of cooperative action and are beyond the financial competence of individual or collective library budgets.

"(b) It is the purpose of this part to promote research and education of higher quality throughout the United States by providing financial assistance to major research libraries.

"APPROPRIATIONS AUTHORIZED

"Sec. 232. There are authorized to be appropriated $10,000,000 for the fiscal year 1977, $15,000,000 for fiscal year 1978, and $20,000,000 for each of the succeeding fiscal years ending prior to October 1, 1982, to enable the Commissioner to make grants to major research libraries in accordance with the provisions of this part.

"ELIGIBILITY FOR ASSISTANCE

"Sec. 233. For the purposes of this part, the term 'major research library' means a public or private nonprofit institution, including the library resources of an institution of higher education, an independent research library, State or other public library, having library collections which are available to qualified users and which—

"(1) make a significant contribution to higher education and research;

"(2) are broadly based and are recognized as having national or international significance for scholarly research;

"(3) are of a unique nature, and contain material not widely available; and

"(4) are in substantial demand by researchers and scholars not connected with that institution.

"(b) No institution receiving a grant under this part for any fiscal year may be eligible to receive a basic grant under section 202 of this title for that year.

"EQUITABLE DISTRIBUTION OF ASSISTANCE

"Sec. 234. The Commissioner shall establish criteria designed to achieve a reasonable regional balance in the allocation of funds under this part.

"LIMITATIONS

"Sec. 235. No grant may be made under this part for books, periodicals, documents, or other related materials to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity.

"CONSULTATION WITH STATE AGENCY

"Sec. 236. Each institution receiving a grant under this part shall periodically inform the State library administrative agency, and the State agency, if any, concerned with the educational activities of all institutions of higher education in the State in which such institution is located, of its activities under this part.".

Part C—Strengthening Developing Institutions

EXTENSION OF AUTHORIZATION

Sec. 111. Section 301(b) of the Higher Education Act of 1965 is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1982".

Part D—Student Assistance

BASIC EDUCATIONAL OPPORTUNITY GRANTS

Sec. 121. (a) Section 411(a)(1) of the Act is amended by striking out "June 30, 1975" and inserting in lieu thereof "September 30, 1982".

(b)(1) Section 411(a)(2)(A)(i) of the Act is amended by striking out "$1,400" and inserting in lieu thereof "$1,800".

(2) The amendment made by paragraph (1) of this subsection shall be effective for academic year 1977–1978 and thereafter.

(c) Division (iv) of section 411(a)(3)(B) of the Act is amended to read as follows:

"(iv) In determining the expected family contribution with respect to any student, any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student, shall be considered as effective family income and one-half of any amount paid the student under chapters 34 and 35 of title 38, United States Code, shall be considered as effective income for such student.".

(d) Section 411(b)(3)(B) of the Act is amended by redesignating divisions (iv) and (v), and all references thereto, as divisions (v) and (vi) and by inserting after division (iii) the following new division:

"(iv) If, at the end of any fiscal year, funds available for making payments under this subpart have not been obligated, such funds shall remain available for making such payments for three months after the end of such fiscal year but payments may be made under this division only with respect to entitlements established for that fiscal year.".

(e) Section 411(b)(4) of the Act is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1982".

(f) Section 411(b)(3)(C) of the Act is repealed.

(g) Section 411 of this Act is amended by adding at the end thereof the following new subsection:

"(d) In addition to payments made with respect to entitlements under this subpart, each institution of higher education shall be eligible to receive from the Commissioner the payment of $15 per academic year for each student enrolled in that institution who is receiving a basic grant under this subpart for that year. Payment received by an institution under this subsection shall be used first to carry out the provisions of section 493A of this Act and then for such additional administrative costs as the institution of higher education determines necessary.".

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

SEC. 122. (a) Section 413A(b)(1) of the Act is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1982".

(b) Section 413C(b)(4) of the Act is amended by striking out "464" and inserting in lieu thereof "494".

STATE STUDENT INCENTIVE GRANTS

SEC. 123. (a) Section 415A(b)(1) of the Act is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1982".

(b) Section 415C(b) of the Act is amended by redesignating clauses (4) and (5) of such section, and all references thereto, as clauses (6) and (7), respectively, and by inserting after clause (3) thereof the following new clauses:

"(4) provides that if the non-Federal portion of such grants in that State is less than 150 per centum of the Federal payment to that State made under this subpart, effective with respect to fiscal years beginning after September 30, 1977, in awarding student grants, there shall be no differentiation between students based on whether the student pursues his study within the State or outside the State;"

"(5) provides that, effective with respect to fiscal years beginning after September 30, 1976, all nonprofit institutions of higher education in the State are eligible to participate in the State program;".

(c)(1) Section 415A(b)(2) of the Act is amended by inserting before the period a comma and the following: "and to make bonus allotments to States pursuant to section 415E.".

(2) Section 415B(b) is amended by striking out the word "Sums" and inserting in lieu thereof the following: "Subject to the provisions of section 415E, sums".

(3) Subpart 3 of part A of title IV of the Act is amended by inserting at the end thereof the following new section:

"BONUS ALLOTMENT FOR STATE STUDENT INCENTIVE GRANT PROGRAMS

"SEC. 415E. (a)(1) Whenever the sum appropriated pursuant to this subpart for any fiscal year is in excess of $50,000,000 but less than $200,000,000, the Commissioner shall allot 50 per centum of such excess sum to each State having an agreement under section 428(b) an amount which bears the same ratio to such sum as the number of students in attendance at institutions of higher education in such State bears to the total number of students in such attendance in all such States.

"(2) Whenever the sum appropriated pursuant to this subpart for any fiscal year is $200,000,000 or more, the Commissioner shall allot such sum of $200,000,000 or more to each State having an agreement under section 428(b) an amount which bears the same ratio to such sum as the number of students in attendance at institutions of higher education in such State bears to the total number of such students in such attendance in all such States.".

SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

SEC. 124. (a) Section 417A(b) of the Higher Education Act of 1965 is amended by inserting before the period a comma and the following: "and $200,000,000 for each of the fiscal years ending prior to October 1, 1982".

(b)(1) Section 417B(a) of the Act is amended by striking out "section 417A(a)" and inserting in lieu thereof "subsection (b) of this section".

(2) Section 417B(b)(1)(A) of the Act is amended by inserting after the comma the following: "especially such youths who have delayed pursuing postsecondary educational training,".

(3) The first sentence of section 417B(b) of the Act is amended by—

(A) striking out "and" at the end of clause (3) of such sentence,

(B) striking out the period at the end of clause (4) of such sentence and inserting in lieu thereof a semicolon and the word "and", and

(C) adding at the end thereof the following new clauses:

"(5) programs to be known as special focus programs designed to assist students who desire postsecondary education but are disadvantaged because of backgrounds of severe rural isolation and programs to prepare students for particular careers in which disadvantaged individuals are substantially underrepresented; and

"(6) a program of paying up to 90 per centum of the costs of establishing and operating or expanding service learning centers at institutions of higher education and other postsecondary educational institutions serving a substantial number of disadvantaged students which—

"(A) will provide remedial and other special services for students who are enrolled or accepted for enrollment at that institution, and

"(B) will serve, as a concentrated effort, to coordinate and supplement the ability of that institution to furnish such services to such students.".

(4) Section 417B(b) of the Act is amended by adding at the end thereof the following new sentence: "Before making a grant or entering into a contract under clause (6) of the first sentence the Commissioner may require any institution subject to such a contract or grant to submit an application containing or accompanied by such information, including the ability of that institution to pay the non-Federal share of the costs of the project to be assisted, as he deems appropriate.".

(c) Section 417B of the Act is amended by adding at the end thereof the following new subsections:

"(e) In making grants or entering into contracts under clause (1) or (6) of subsection (b) of this section the Commissioner may permit students or youths from other than low-income families not to exceed one-third of the total served to benefit by the projects to be assisted pursuant to that grant or contract.

"(f)(1) The Commissioner is authorized to enter into contracts with institutions of higher education and other appropriate public agencies and nonprofit private organizations to provide training for staff and leadership personnel who desire to specialize in improving the delivery of services to disadvantaged students assisted under this subpart.

"(2) Financial assistance under this subsection may be used for (A) internships and exemplary programs for personnel engaged or likely to engage in assisting educationally or culturally disadvantaged students in successfully pursuing postsecondary educational objectives, (B) the operation of short-term training institutes designed to improve the skills of participants in such institutes, and (C) the development of inservice training programs for such personnel.

"(g)(1) The Commissioner is authorized to provide grants to institutions of higher education for the purpose of awarding fellowships, in accordance with the provisions of this section, for study in graduate programs for individuals who plan to pursue a career involving assistance to students from disadvantaged backgrounds. In making grants under this subsection, the Commissioner shall give priority to institutions of higher education awarding fellowships for (A) developing instructional and leadership personnel in the area of developmental skills at the postsecondary educational level and (B) developing guidance and counseling personnel specifically trained to address the unique needs of disadvantaged and first-generation students in assisting them to pursue successfully postsecondary education.

"(2) For the fiscal year 1977, not less than one hundred fellowships shall be awarded under paragraph (1) of this subsection. For the fiscal year 1978 and for each of the fiscal years ending prior to October 1, 1982, the number of fellowships shall be determined by the Commissioner after a consideration of a survey of the need for such personnel by the National Center for Postsecondary Opportunity.

"(h) It is the intention of the Congress to encourage, whenever feasible, the development of individualized programs for disadvantaged students assisted under this subpart.".

(d) Subpart 4 of title IV of the Act is amended by adding after section 417B of such subpart the following new section:

"NATIONAL CENTER FOR POSTSECONDARY OPPORTUNITY

"SEC. 417C. In order to meet the crucial need for national leadership and coordination in programs for assistance of students from disadvantaged backgrounds, the Commissioner shall establish or designate within the Office of Education a National Center for Postsecondary Opportunity. The Center shall—

"(1) coordinate and evaluate programs under sections 417A and 417B,

"(2) identify and assess innovative and effective programs, practices, and curriculums designed to assist disadvantaged students, and other students whose backgrounds do not include support for postsecondary education, in achieving a postsecondary education,

"(3) gather and disseminate information regarding effective and exemplary activities for such students,

"(4) furnish technical assistance and other assistance in the development of training programs for staff personnel engaged in assisting such students, "(5) assist in the development of effective evaluation of special programs for such students, and

"(6) provide a forum for individuals to discuss issues relating to the improvement of special services for such students.".

EDUCATIONAL OUTREACH PROGRAM

SEC. 125. Title IV of the Act is amended by redesignating subpart 5, and all references thereto, as subpart 6, and by inserting immediately after subpart 4 the following new subpart:

"Subpart 5—Educational Outreach

"PROGRAM AUTHORIZATION

"SEC. 418A. (a) The Commissioner shall, in accordance with the provisions of this subpart, make grants to States to pay the Federal share of the cost of planning, establishing, and operating of Educational Outreach Centers to provide educational outreach, guidance, counseling, information, referral, and placement services for all individuals, including individuals residing in rural areas, within a reasonable distance from their homes.

"(b)(1) For the purpose of enabling the Commissioner to carry out this subpart, there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1977, $30,000,000 for the fiscal year ending September 30, 1978, and $40,000,000 for each of the succeeding fiscal years ending prior to October 1, 1982.

"(2) The Commissioner shall allocate funds appropriated in each year under this subpart to each State submitting a plan approved under section 418B in proportion to the number of residents from each such State who received or are expected to receive basic educational opportunity grants authorized by subpart 1 of this title in the fiscal year for which the determination is made, except that for each fiscal year no State which submitted an approved plan shall receive less than $50,000 for that year. In making allocations under this paragraph, the Commissioner shall use the latest available actual date, including data on previous participation, which is satisfactory to him.

"(c) The Federal share of the cost of planning, establishing, and operating Educational Outreach Centers for any fiscal year under this subpart shall be 75 per centum, and the non-Federal share may be in cash or in kind.

"(d) For the purposes of this subpart, the term 'Educational Outreach Center' means an institution or agency, or combination of institutions or agencies, organized to provide services to a population in a geographical area no greater than that which will afford all persons within the area reasonable access to the services of the Center. Such services shall include—

"(1) outreach and talent search services designed to seek out and encourage participation in full-time and part-time postsecondary education or training of persons who could benefit from such education or training if it were not for cultural or financial barriers, physical handicap, deficiencies in secondary education, or lack of information about available programs or financial assistance;

"(2) information and referral services to persons within the area served by the Center, including such services with regard to—

"(A) postsecondary education and training programs in the region and procedures and requirements for applying and gaining acceptance to such programs;

"(B) available Federal, State, and other financial assistance, including information on procedures to be followed in applying for such assistance;

"(C) available assistance for job placement or gaining admission to postsecondary education institutions offering professional, occupational, technical, vocational, work-study, cooperative education, or other programs designed to prepare persons for careers, or for retraining, continuing education, or upgrading of skills;

"(D) competency-based learning opportunities, including opportunities for testing of existing competencies for the purpose of certification, awarding of credit, or advance placement in postsecondary education programs;

"(3) guidance and counseling service designed to assist persons from the area served by the Center to identify postsecondary education or training opportunities, including part-time opportunities for individuals who are employed, appropriate to their needs and in relationship to each individual's career plans; and

"(4) remedial or tutorial services designed to prepare persons for entry to postsecondary education or training programs, and including, such services provided to persons enrolled in postsecondary education institutions within the area served by the Center. Services may be provided by a Center either directly or by way of contract or other agreement with agencies and institutions within the area to be served by the Center.

"(e) Nothing in this subpart shall be construed to affect funds allocated to the establishment and operation of Educational Opportunity Centers for the disadvantaged pursuant to section 417B(b)(4) of this part.

"ADMINISTRATION OF STATE PROGRAMS

"SEC. 418B. (a) Each State receiving a grant under this part is authorized in accordance with its State plan submitted pursuant to subsection (b) of this section, to make grants to, and contracts with, institutions of higher education, including institutions with vocational and career education programs, and combinations of such institutions, public and private agencies and organizations, and local education agencies in combination with any institution of higher education, for planning, establishing, and operating Educational Outreach Centers within the State.

"(b) Any State desiring to receive a grant under this subpart shall submit for the approval of the Commissioner a State plan, which shall include—

"(1) a comprehensive strategy for establishment or expansion of Educational Outreach Centers, designed to achieve the goal, within a reasonable period of time, of making available within reasonable distance to all residents of the State the services of an Educational Outreach Center;

"(2) assurances concerning the source and availability of State, local, and private funds to meet the non-Federal share of the cost of the State plan required by paragraph (2) of subsection (a) of this section; and

"(3) such other provisions as the Commissioner may reasonably require.".

VETERANS' COST-OF-INSTRUCTION PAYMENTS

SEC. 126. (a)(1) Section 420(a)(1) of the Higher Education Act of 1965 is amended by striking out "June 30, 1975" and inserting in lieu thereof "September 30, 1982".

(2) Section 420(a) of the Act is amended by adding at the end thereof the following:

"(3) During the period beginning July 1, 1976, and ending September 30, 1977, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding paragraph (1), to a payment under this section, if the number of persons referred to in such paragraph (1) equals whichever is the lesser of (A) at least the number of such persons who were in attendance at such institution during the preceding academic year less the number of such persons whose eligibility for educational assistance under chapter 34 of title 38, United States Code, expired on May 31, 1976, by virtue of section 1662(c) of such title, or (B) at least the minimum number of such persons necessary to establish eligibility to entitlement under paragraph (1) during the preceding academic year less the number of such persons whose eligibility for educational assistance under chapter 34 of title 38, United States Code, expired on May 31, 1976, by virtue of section 1662(c) of such title."

(b) Section 420(c)(1)(B)(iii) of the Act is amended by inserting "(with special emphasis on educationally disadvantaged veterans)" after "outreach", and by inserting "(with special emphasis on the veteran-student services program under section 1685 of such title 38)" after "programs".

(c) Section 420 of the Act is amended by adding at the end thereof the following new subsections:

"(f) The Commissioner, in carrying out the provisions of this section, shall seek to assure the coordination of programs assisted under this section with programs carried out by the Veterans' Administration pursuant to title 38 of the United States Code, and the Administrator of Veterans' Affairs shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section.

"(g) The program provided for in this section shall be administered by an identifiable administrative unit in the Office of Education.".

(d) Not later than ninety days after the enactment of this Act, the Commissioner shall prepare and submit to the Congress a report containing a summary of the activities and programs (including the number and characteristics of veterans served) at institutions of higher education receiving assistance under section 420 of the Higher Education Act of 1965 (relating to veterans' cost-of-instruction payments) and a description of the steps taken (and the results thereof) to carry out his responsibility under subsection (c)(1) of that section to monitor and determine the adequacy of efforts by such institutions.

FEDERAL AND STATE INSURED LOAN PROGRAMS

SEC. 127. (a)(1) The first sentence of section 424(a) of the Act is amended by striking out the word "and" after "June 30, 1976," and by inserting after "September 30, 1976" a comma and the following: "and for the succeeding fiscal years ending prior to October 1, 1982".

(2) The second sentence of such section 424(a) is amended by striking out "June 30, 1979" and inserting in lieu thereof "September 30, 1986".

(3) Section 428(a)(5) of the Act is amended by striking out "September 30, 1976" and inserting in lieu thereof "September 30, 1982" and by striking out "June 30, 1979" and inserting in lieu thereof "September 30, 1986".

(b)(1) Section 427(a)(2)(A) of the Act is amended by striking out "except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, endorsement may be required,".

(2) Section 427 of the Act is further amended by adding at the end thereof the following new subsection:

"(d) No borrower who is otherwise eligible for a loan insured by the Commissioner under this part shall be under legal disability, by reason of minority, to execute a note or other written agreement for that purpose, and no such note or other written agreement may be disavowed because of the minority of such borrower.".

(c)(1)(A) Section 427(a)(2)(B) of the Act is amended by inserting "or unless the student, during the nine- to twelve-month period preceding the start of the repayment period, specifically requests that repayment be made over a shorter period" immediately following "repaid" in the second parenthetical phrase.

(B) Such section is further amended by striking out "and" after clause (ii) and by inserting after clause (iii) the following: "and (iv) that in the event a student has requested and obtained a repayment period of less than five years, he may at any time prior to the total repayment of the loan have the repayment period extended so that the total repayment period is not less than five years,".

(2) (A) Section 428(b) (1) (D) of the Act is amended by striking out "subsection (e) of this section" and inserting in lieu thereof "subparagraph (L) of this paragraph" and by inserting "(unless the student, during the nine- to twelve-month period preceding the start of the repayment period, specifically requests that repayment be made over a shorter period)" immediately following "not less than five years".

(B) Such section is further amended by inserting "(i)" after "except that" and by inserting before the semicolon ", and (ii) if a student has requested and obtained a repayment period of less than five years, he may at any time prior to the total repayment of the loan have the repayment period extended so that the total repayment period is not less than five years.".

(d) (1) Section 427(c) of the Act is amended by inserting immediately before the period at the end thereof a comma and "except that in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $360 or the balance of all such loans, whichever is less".

(2) Section 428(b) (1) (K) of the Act is amended by inserting immediately before the semicolon ", except that in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $360 or the balance of all such loans, whichever is less".

(e) (1) The first sentence of section 428(a) (3) of the Act is amended to read as follows:

"(3) (A) Except as provided in subparagraph (C) of this paragraph, the portion of the interest on a loan which a student is entitled to have paid on his behalf and for his account to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan which accrues prior to the beginning of the repayment period of the loan, or which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 427 (a) (2) (C) or section 428(b) (1) (L); but except as provided in subparagraph (C) of this paragraph, such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his behalf for that period under any State or private loan insurance program.".

(2) Section 428(a) (3) of the Act is amended by adding the following new subparagraph at the end thereof:

"(C) (i) In the case of any eligible lender (other than an eligible institution or any agency or instrumentality of a State), which is approved by the Commissioner pursuant to division (ii) of this subparagraph for the purpose of authorizing multiple disbursements and which enters into a binding agreement with a student to make a loan (I) for which the student is entitled to have a portion of the interest paid on his behalf under this section and (II) the proceeds of which loan are to be paid to the student in multiple disbursements over the period of enrollment for which the loan is made, but not to exceed twelve months, the amount of the interest payment (including special allowance payments made under the Emergency Insured Student Loan Act of 1969) which such lender may be paid under this section shall be determined as if the entire amount to be made available for that period of enrollment had been disbursed on the date on which the first installment thereof was disbursed. This subparagraph shall apply only in the case of loans paid in installments, in accordance with regulations of the Commissioner, based on the need of the student for the proceeds of such loan over the course of the academic year.

"(ii) The Commissioner may approve an eligible lender for the purposes of this subparagraph if he determines—

"(I) that such lender is making or will be making a substantial volume of loans on which an interest subsidy is payable under this section, and

"(II) that such lender has sufficient experience and administrative capability in processing such loans to enable the lender to make such multiple disbursements in accordance with regulations issued by the Commissioner under this subparagraph.".

(f) (1) Section 428(a) (2) (B) (i) of the Act is amended by striking out "$15,000" and inserting in lieu thereof "$25,000".

(2) Section 428(a) (2) (B) (ii) of the Act is amended by striking out "$15,000" and inserting in lieu thereof "$25,000".

(g) (1) Section 427(a) (2) (C) (i) of the Act is amended by adding at the end thereof the following: "or is pursuing a course of study pursuant to a graduate fellowship program approved by the Commissioner,".

(2) Section 428(b) (1) (L) (i) of the Act is amended by adding at the end thereof the following: "or is pursuing a course of study pursuant to a graduate fellowship program approved by the Commissioner,".

(3) Section 427(a) (2) (C) of the Act is amended by striking out "or" before "(iv)" and by striking out "title VIII of the Economic Opportunity Act of 1964" and inserting in lieu thereof "the Domestic Volunteer Service Act of 1973, or (v) not in excess of a single period not to exceed one year during which the borrower is unemployed".

(4) Section 428(b) (1) (L) of the Act is amended by striking out "or" before "(iv)" and by striking out "title VIII of the Economic Opportunity Act of 1964" and inserting in lieu thereof "the Domestic Volunteer Service Act of 1973, or (v) not in excess of a single period not to exceed one year during which the borrower is unemployed".

(h) (1) Section 428(c) (1) of the Act is amended by adding at the end thereof the following new sentence: "Any State or any nonprofit institution or organization having entered into a guaranty agreement under this paragraph may elect to enter into a supplementary guaranty agreement under section 428A of this Act whereby the Commissioner shall undertake to reimburse the State or nonprofit private institution or organization under such terms and conditions as he may establish, in an amount in excess of 80 per centum of the amount expended by it in discharge of its insurance obligation, incurred under its loan insurance program, with respect to such losses, as specified in such section 428A.".

(2) Part B of title IV of the Act is amended by inserting immediately after section 428 the following new section:

"LOAN INSURANCE SUPPLEMENTAL GUARANTY AGREEMENT

"SEC. 428A. (a) (1) The Commissioner may enter into a supplemental guaranty agreement, annually, with any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c) (1) whereby the Commissioner shall undertake to reimburse the State or nonprofit institution or organization under such terms and conditions as he may establish, in an amount equal to 95 per centum of the amount expended by it in discharge of its insurance obligation, incurred under its loan insurance program, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal (other than interest added to principal) of any insured loan with respect to which a portion of the interest (A) is payable by the Commissioner under section 428 (a), or (B) would be payable under such section but for the borrower's lack of need, if the Commissioner determines that the student loan insurance program—

"(A) authorizes the insurance of $2,500 in loans to any individual student in any academic year or its equivalent (as determined under regulations of the Commissioner), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the aggregate insured unpaid principal amount of all such insured loans made to any student shall be $7,500 in the case of any student who has successfully completed a program of undergraduate education, and $10,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part or by a State or nonprofit institution or organization with which the Commissioner has an agreement under this part made to such person before he became a graduate or professional student);

"(B) insures not less than 100 per centum of the unpaid principal of the loans insured under the program, whether or *not* such loans are eligible for interest subsidies under this part;

"(C) provides for the insurance of loans for part-time study at an eligible institution in the same manner as is provided under the Federal student loan insurance program;

"(D) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is a legal resident of the State, or if such a student is accepted for enrollment in or is attending an eligible institution within that State;

"(E) provides no restrictions with respect to eligible institutions that are residential institutions which are more onerous than eligibility requirements for institutions under the Federal student loan insurance program, unless (i) that institution is ineligible under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program, or (ii) there is a State constitutional prohibition affecting the eligibility of an institution.

"(2) The Commissioner may enter into a supplemental guaranty agreement, annually, with any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c) (1) whereby the Commissioner shall undertake to reimburse the State or nonprofit private institution or organization under such terms and conditions as he may establish, in an amount equal to 100 per centum of the amount expended by it in discharge of its insurance obligation, incurred under its loan insurance program, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal (other than interest added to principal) of any insured loan with respect to which a portion of the interest (A) is payable by the Commissioner under section 428(a); or (B) would be payable under such section but for the borrower's lack of need, if the Commissioner determines that the student loan insurance program—

"(A) authorizes the insurance of $2,500 in loans to any individual student in any academic year or its equivalent (as determined under regulations of the Commissioner), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the aggregate insured unpaid principal amount of all such insured loans made to any student shall be $7,500 in the case of any student who has successfully completed a program of undergraduate education, and $10,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part or by a State or nonprofit institution or organization with which the Commissioner has an agreement under this part made to such person before he became a graduate or professional student);

"(B) insures not less than 100 per centum of the unpaid principal of the loans insured under the program, whether or not such loans are eligible for interest subsidies under this part;

"(C) provides for the insurance of loans for part-time study at an eligible institution in the same manner as is provided under the Federal student loan insurance program;

"(D) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is a legal resident of the State, or if such a student is accepted for enrollment in or is attending an eligible institution within that State;

"(E) provides no restrictions with respect to eligible institutions that are residential institutions which are more onerous than eligibility requirements for eligible institutions under the Federal student loan insurance program, unless (i) that eligible institution is ineligible under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program, or (ii) there is a State constitutional prohibition affecting the eligibility of such an institution;

"(F) provides for the eligibility of the eligible institutions as lenders under the same criteria, including criteria for total amounts loaned, as is prescribed under the Federal student loan insurance program, unless (i) that eligible institution is eliminated as a lender under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (ii) there is a State constitutional prohibition affecting the eligibility of such an institution as a lender.

"(b) Each supplemental guaranty agreement entered into under subsection (a)—

"(1) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to insure proper and efficient administration of the loan insurance program, and to insure that due diligence will be exercised in the collection of loans insured under the program;

"(2) shall set forth adequate assurance that the requirements of paragraph (1) or paragraph (2) of subsection (a) of this section, as the case may be, are met;

"(3) shall provide for the making of such reports, in such form, and containing such information as the Commissioner may reasonably require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

"(4) shall set forth adequate assurance that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Commissioner pursuant to subsection (a) of this section, the undertaking of the Commissioner under the supplemental guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

"(5) shall provide that if, after the Commissioner has made payment under the supplemental guaranty agreement pursuant to this section with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Commissioner), there shall be paid over to the Commissioner (for deposit in the fund established by section 431) such portion of the amount of such payments as is determined (in accordance with regulations prescribed by the Commissioner) to represent his equitable share thereof, but shall not otherwise provide for subrogation of the United States to the rights of any insurance beneficiary: *Provided*, That, except as the Commissioner may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan; and

"(6) may include such other provisions as may be necessary to promote the purposes of this part.

"(c)(1) To the extent provided in regulations of the Commissioner, a supplemental guaranty agreement under this section may contain provisions which permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer.

"(2) For purposes of this section, the terms 'insurance beneficiary' and 'default' shall have the meanings assigned to them by section 430(e).".

(3) The amendments made by this subsection shall take effect October 1, 1976.

(i) Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Each eligible institution shall be eligible to receive from the Commissioner the payment of $10 per academic year for each student enrolled in that institution who is in receipt of a loan, described in paragraph (1) of subsection (a) of this section, for that year. Payments received by an institution under this subsection shall be used first by the institution to carry out the provisions of section 493A of this Act and then for such additional administrative costs as that institution determines necessary.".

(j) Section 428 of the Act (as amended by this Act) is further amended by adding at the end thereof the following new subsection:

"(f)(1) The Commissioner is authorized to make payments, in accordance with the provisions of this subsection, to any State or any nonprofit private institution or organization with a supplemental guaranty agreement under section 428A of this Act for the administrative costs of the collection of loans insured under the student loan insurance program subject to such guaranty agreement and the administrative costs of preclaim assistance provided with respect to such program.

"(2) For the purpose of this subsection, the term—

"(A) 'administrative costs of collection of loans' means any administrative costs incurred by a State guaranty agency which are directly related to the collection of loans on which default claims have been paid to participating lenders, including the compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to collection activities), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency, and

"(B) 'administrative costs of preclaim assistance means any administrative costs incurred by a guaranty agency which are directly related to providing collection assistance to lenders on delinquent loans, prior to the loans being legally in a default status, including the compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to collection activities) fees paid to locate missing borrowers, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency,

subject to such additional criteria as the Commissioner may by regulation prescribe.

"(3) No payment may be made under this subsection unless the State or the nonprofit private institution or organization submits to the Commissioner an application at such time, at least annually, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require. Each such application shall—

'(A) set forth assurances that the student loan insurance program subject to the supplemental guaranty agreement complies with clauses (A) through (E) of paragraph (1) or of paragraph (2) of section 428A(a), as the case may be;

"(B) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

"(C) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

"(D) provides for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

"(E) set forth assurances that the State or the nonprofit private institution or organization will furnish such data and information, including where necessary estimates, as the Commissioner may reasonably require to carry out the provisions of this subsection.

"(4) No payments may be made to any State or nonprofit private institution or organization under this subsection in any fiscal year in excess of an amount equal to 2½ per centum of the original amount of loans under the student loan insurance program subject to the supplemental guaranty agreement under section 428A and in repayment status in that year. Whenever the Commissioner determines that significant savings to the Federal Government may result from the prevention of default of loans subject to such an agreement, or from increased collections of loans subject to such an agreement, based upon an application made for the purpose of this paragraph, he may waive the limitation prescribed by this paragraph.".

(2) The amendments made by this subsection shall take effect October 1, 1976.

(k) Section 435(a) of the Act is amended by inserting before the period a comma and the following: "except that such term does not include any such institution or school which employs or uses commissioned salesmen to promote the availability of any loan program described in section 421(a)(1) at that institution or school".

(l) (1) Section 435(g) of the Act is amended by inserting before the period a comma and the following: "except that such term does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Commissioner determines, after notice and opportunity for a hearing, that for each of two consecutive years 15 per centum or more of the amount of the loans described in section 428(a)(1) made with respect to students at that institution and repayable in each such year is in default, as defined in section 430(e)(2)".

(2) Section 435(g) of the Act is further amended by adding at the end thereof the following new sentences: "Whenever the Commissioner determines that—

"(1) there is reasonable possibility that an eligible institution may, within one year after a determination is made under the preceding sentence, improve the collection of loans described in section 428(a)(1), so that the application of the exception contained in the preceding sentence would be a hardship to that institution, or

"(2) the termination of the lender's status under the exception in the preceding sentence would be a hardship to the present or prospective students of the eligible institution, after considering the management of that institution, the ability of that institution to improve the collection of loans, the opportunities that institution offers to economically disadvantaged students, and other related factors,

the Commissioner shall waive the provisions of the exception in the preceding sentence with respect to that institution. Any determination required under the preceding sentence shall be made by the Commissioner prior to the termination of an eligible institution as a lender under the exception of the first sentence of this subsection. Whenever the Commissioner grants a waiver pursuant to the second sentence he shall provide technical assistance to the institution concerned in order to improve the collection rate of such loans.".

(3) Section 435(g) of the Act is further amended by adding at the end thereof (after the matter added by paragraph (2) of this subsection) the following new paragraph:

"In considering an application by any lender, which is an eligible institution, for continuation of a certificate of insurance previously issued to any such lender pursuant to section 429, the Commissioner shall not deny any such application unless he determines, based upon studies and surveys satisfactory to him, that access to a loan by all eligible students who make an active and diligent effort to obtain a loan under this part will be otherwise available. In order to carry out the provisions of the preceding sentence the Commissioner shall periodically assess the availability of loans to eligible students through studies and surveys undertaken by him and through review of properly conducted studies and surveys made available to him.".

(m) Section 438(a) of the Act is amended by redesignating clause (3) as clause (4) and inserting the following new clause after clause (2):

"(3) the establishment by each eligible institution of policies and procedures under which the latest known address and enrollment status of a student who has received a loan insured under this part or insured by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b) are made available, upon request, to the Commissioner, to the State or nonprofit private institution or organization which has insured such loan to the lender who made such loan, or to the holder of such loan;".

(n) Part B of title IV of the Act is amended by inserting immediately after section 439 the following new section:

"CRIMINAL PENALTIES

"SEC. 440. (a) Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with an application for accreditation by a nationally recognized accrediting agency or association, or for a finding by the Commissioner under section 435(b)(4) (A) or (B), for the purpose of qualifying an educational institution as an eligible institution under this part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) Any person who knowingly and willfully makes any false statement to, furnishes any false information to, or conceals any material information in connection with the assignment of a loan, which is insured under this part, to another eligible lender, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(c) Any person who makes an unlawful payment to an eligible lender as an inducement to make, or to acquire by assignment, a loan insured under this part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(d) Any person who knowingly and willfully destroys any application for a loan which is insured under this part, any application for insurance of a loan under this part, or destroys or conceals any other record relating to the making or insuring of loans under this part with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.".

STUDENT LOAN MARKETING ASSOCIATION

SEC. 128. (a) Section 439(a) of the Act is amended by inserting "(1)" immediately after the word "section", and by inserting before the period at the end thereof a semicolon and the following: "and (2) in order to facilitate secured transactions involving insured student loans, to provide for perfection of security interests in insured student loans either through the taking of possession or by notice filing".

(b) Section 439(d) of the Act is amended by adding at the end thereof the following:

"(3) Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in insured student loans created on behalf of the Association or any eligible lender as defined in section 435(g) may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by said State law for perfection of security interests in accounts.".

WORK STUDY PROGRAM

SEC. 129. (a) Section 441(b) of the Act is amended—

(1) by striking out the word "and" after "1974,", and

(2) by inserting before the period a comma and the following: "$420,000,000 for the fiscal year ending June 30, 1976, and the transitional period beginning July 1, 1976, and ending September 30, 1976, $$420,000,000 for the fiscal year ending September 30, 1977, $570,000,000 for the fiscal year ending September 30, 1978, $600,000,000 for the fiscal year ending September 30, 1979, $630,000,000 for the fiscal year ending September 30, 1980, $670,000,000 for the fiscal year ending September 30, 1981, and $720,000,000 for the fiscal year ending September 30, 1982".

(b)(1) Section 444(a)(1) of the Act is amended by striking out the word "public" the second time it appears and by inserting in lieu thereof "Federal, State, or local public agency", and by inserting "agency or" before the word "organization" the second time it appears in such section.

(2) Section 444(a)(4) of the Act is amended to read as follows:

"(4) provide that no student who has entered employment under a work-study program under this part during a semester shall be required to terminate that employment solely on the ground that any income derived from additional employment together with income derived from employment under such program is in excess of the determination of the amount of such student's need for that semester under clause (3) of this subsection;".

(3) Section 444(a)(7) of the Act is amended by striking out "all eligible students in the institution in need thereof" and inserting in lieu thereof "all students in the institution who desire such employment".

(c)(1) Section 444(a) of the Act is amended by striking out "and" at the end of paragraph (7), and by redesignating paragraph (8), and all references thereto, as paragraph (9), and by inserting immediately after paragraph (7) the following:

"(8) include provisions designed to assure that, subject to the provisions of subsection (d) of this section, the institution will employ students under such work-study program for a number of hours equal to the average number of hours worked per week by a full-time financial aid counselor at that institution so that the number of hours worked by students under this paragraph is equal to—

"(A) the work of one such counselor for every eight hundred students for the first four thousand students in full-time equivalent enrollment at the institution;

"(B) the work of one such counselor for every one thousand students for any additional number of students in full-time equivalent enrollment at the institution when such number is four thousand or more but not in excess of ten thousand; and

"(C) the work of one such counselor for every two thousand students for any additional number of students in full-time equivalent enrollment at the institution when such number is ten thousand or more,

to provide all enrolled and prospective students (as defined in section 493A(a)(2) of this Act) the information and counseling described in section 493A(a)(1) of this Act, together with assurances that in complying with the provisions of this paragraph the institution will consult with its students; and".

(2) Section 444 of the Act is amended by inserting at the end thereof the following:

"(d)(1) Pursuant to such general criteria as he may prescribe, the Commissioner may waive the required amount of paragraph (8) of subsection (a) in whole or in part, whenever he determines that the agreement with such an institution contains satisfactory assurances that the institution is carrying out an effective program of institutional and financial information for students.

"(2) In developing criteria for this subsection, the Commissioner shall consult with organizations and institutions of higher education entering into agreements under this part.".

(d) Section 447(b) of the Act is amended by inserting "for" before the word "each" and by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1982".

COOPERATIVE EDUCATION

SEC. 130. (a) Section 451(a) of the Act is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1976, $15,000,000 for the fiscal year 1977, $20,000,000 for the fiscal year 1978, and $25,000,000 for each of the fiscal years ending prior to October 1, 1982".

(b) Section 451(a) of the Act is further amended by striking out "full time".

(c) Section 451(b) of the Act is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1976, $1,500,000 for fiscal year 1977, $2,500,000 for fiscal year 1978, and $3,000,000 for each of the succeeding fiscal years ending prior to October 1, 1982".

(d) Section 452(a) of the Act is amended by striking out "$75,000" and inserting in lieu thereof "$150,000".

DIRECT LOAN PROGRAM

SEC. 131. (a) Section 461(b) of the Act is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1982".

(b) Section 461(b)(2) of the Act is amended by striking out "June 30, 1976" and inserting in lieu thereof "September 30, 1983", and by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1982".

(c)(1) Section 464(c)(1) of the Act is amended by redesignating clauses (F) and (G) as (G) and (H), respectively, and by inserting after clause (E) the following new clause:

"(F) shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Commissioner;".

(2) The amendments made by this subsection shall take effect on June 23, 1972.

(d) Section 465 of the Act is amended by adding at the end thereof the following new subsection:

"(c) The provisions of this section shall not apply with respect to any loan made after the date of enactment of the Education Amendments of 1976.".

(e)(1) Section 466 of the Act is amended by striking out "June 30, 1980" wherever it appears and inserting in lieu thereof "September 30, 1987".

(2) Section 466 of the Act is further amended by striking out "December 31, 1980" wherever it appears and inserting in lieu thereof "March 31, 1988".

(3) Section 466(b) of the Act is amended by striking out "June 30, 1974" and inserting in lieu thereof "September 30, 1981".

(4) Section 466(c) of the Act is amended by striking out "July 1, 1980" and inserting in lieu thereof "October 1, 1987".

STUDENT CONSUMER INFORMATION

SEC. 132. (a)(1) Section 493(b) of the Act is amended by inserting "(1)" following "1958," and by inserting before the period a comma and the following: "and (2) shall be used by such institution to carry out the provisions of section 493A of this Act".

(2) Section 493(b) of the Act is further amended by striking out "$125,000" and inserting in lieu thereof "$400,000".

(b) Subpart 1 of part F of title IV of the Act is further amended by inserting immediately after section 493 the following new section:

"INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

"SEC. 493A. (a)(1) Each institution of higher education and each eligible institution which receives payments under sections 411(c), 428(e) or 493 of this title, as the case may be, shall carry out information dissemination activities to prospective students and to enrolled students who request information regarding financial assistance under parts A, B, C, and E of this title. The information required by this section shall be disseminated in written form as well as through personal interviews whenever reasonable. The information required by this section shall accurately describe—

"(A) the student financial assistance programs available to students who enroll at such institution,

"(B) the method by which such asssistance is distributed among student recipients who enroll at such institution,

"(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such applications and the review standards employed to make awards for student financial assistance,

"(D) the rights and responsibilities of students receiving financial assistance under parts A, B, C, and E of this title,

"(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest,

"(F) the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in clause (E) of this subsection,

"(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, (iii) the faculty and other instructional personnel, and (iv) data regarding student retention at the institution and, when available, the number and percentage of students completing the programs in which the student is enrolled or expresses interest, and

"(H) each person designated under subsection (b) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection.

"(2) For purposes of this section, the term 'prospective student' means any individual who has contacted an institution of higher education or an eligible institution requesting information for the purpose of enrolling in that institution, and who has specifically designated an interest in receiving information on financial assistance.

"(b) Each institution of higher education or eligible institution, as the case may be, which receives payments authorized under section 411(c), or 428(e) or section 493 of this title shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in the preceding subsection. The Commissioner may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution of higher education or eligible institution, as the case may be, in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

"(c)(1) The Commissioner shall establish such regulations as he deems necessary to carry out the provisions of this section to insure that institutions of higher education and eligible institutions receiving payments under this section expend such payments in a manner which is consistent with the provisions of this section.

"(2) The Commissioner shall make available to institutions of higher education and eligible institutions, by way of publication in the Federal Register and by other means he deems appropriate, descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (A) assist students in gaining information through institutional sources, (B) assist institutions in carrying out the provisions of this section, and (C) create greater uniformity in the administration of programs assisted under this title so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs.

"(d) During the one year period following the date of enactment of the Education Amendments of 1976, the Commissioner may waive any provision of this section whenever the institution of higher education or the eligible institution, as the case may be, provides, in the manner and at the time he requests, assurances satisfactory to him that the institution is making progress in compliance and will fully comply with the provisions of this section within such one year period.".

IMPROVED COLLECTION FOR INSURED LOAN PROGRAM

SEC. 133. (a) Title IV of the Act is amended by inserting immediately after section 498 the following new section:

"FIVE-YEAR NONDISCHARGEABILITY OF CERTAIN LOAN DEBTS

"SEC. 498A. A debt which is a loan insured or guaranteed under the authority of part B of this title may be released by a discharge in bankruptcy under the Bankruptcy Act only if such discharge is granted after the five-year period (exclusive of any applicable suspension of the repayment period) beginning on the date of commencement of the repayment period of such loan.".

(b) The amendment made by subsection (a) of this section shall be effective with respect to any proceedings begun under the Bankruptcy Act thirty days after the date of enactment of this Act.

FISCAL RESPONSIBILITY

SEC. 134. Title IV of the Act is further amended by adding after section 498A (as added by section 133) the following new sections:

"FISCAL ELIGIBILITY OF INSTRUCTIONS

"SEC. 498B. (a) Notwithstanding any other provision of this title, the Commissioner is authorized to prescribe such regulations as may be necessary to provide for—

"(1) a fiscal audit of any—

"(A) institution of higher education at which a student is enrolled who is receiving a basic grant under subpart 1 of part A of this title;

"(B) eligible institution having an agreement with the Commissioner under section 444 to provide assistance for the operation of work-study programs under part C of this title; and

"(C) institution of higher education having an agreement with the Commissioner under section 463 for the payment of Federal contributions for direct student loans under part E of this title;

"(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an institution of higher education in the case of programs described in clause (A) and clause (C) of the preceding paragraph or by an eligible institution in the case of a program described in clause (B) of the preceding paragraph of student financial aid with respect to funds obtained under this title;

"(3) the limitation, suspension, or termination, of any payment made under such subpart 1 of part A, part C, or part E, with respect to any institution of higher education, or eligible institution, as the case may be, whenever the Commissioner has determined, after notice and affording an opportunity for a hearing, that such an institution has violated or failed to carry out any regulation prescribed under this section.

"(b) The Commissioner shall, for the purpose of carrying out the provisions of this section with respect to subpart 1 of part A of this title, enter into special arrangements with institutions of higher education at which students receiving basic grants under that subpart are enrolled. The Commissioner shall include special provisions designed to carry out the provisions of this section in agreements with eligible institutions under section 443 and in agreements with institutions of higher education under section 463.

"SEGREGATION OF FUNDS

"SEC. 498C. (a) Any person who receives funds under the provisions of this title for the making of grants or loans as provided in this title shall be deemed a custodian of public funds and shall not disburse or otherwise use any of such funds for any purpose other than as expressly authorized by the provisions of this title. Such funds shall be maintained in separate accounts and shall not be commingled with the operating funds of any institution, nor with any other funds except as expressly provided in this title. Such persons shall maintain such records of such separate accounts as Commissioner shall by regulation require.

"(b) Any person who violates any provision of this section, or any regulation prescribed pursuant to this section shall be fined not more than $1,000 or imprisoned not more than one year, or both.".

REPORT ON HIGH SCHOOL EQUIVALENCY PROGRAM AND COLLEGE ASSISTANCE MIGRANT PROGRAM

SEC. 135. (a) The Commissioner of Education, in consultation with the Secretary of Labor, shall prepare and submit to the Congress not later than six months after the enactment of this section a report on programs and activities authorized by sections 417A, 417B, and 417C of the Higher Education Act of 1965, and on programs operated by the Department of Labor known as the High Echool Equivalency Program and College Assistance Migrant Program authorized under section 303 of the Comprehensive Employment Training Act of 1973. The report required by this section may include material from existing studies as well as material prepared by Federal agencies and by contractors, consultants, and experts.

(b) The report required by this section shall examine the purposes, administration, and effectiveness of the program specified in subsection (a) to determine in accordance with the intent of Congress expressed in subsection (c) if each of the programs so set forth should be administered by the Office of Education and, if so, the structure required in the administration of such programs by the Office of Education, including regional offices of that Office, in order to best carry out the objectives of such program.

(c) It is the intent of Congress that each program set forth in subsection (a) should remain and increase its visability, so that potential and current beneficiaries and participants of such programs are assured that the programs are not being eliminated or combined with other programs in such a way as to determine them, or to alter or diminish the objectives of the programs.

PART E—EDUCATION PROFESSIONS DEVELOPMENT

REVISION OF TITLE V

SEC. 151. (a)(1) The heading of title V of the Act is amended to read as follows:

"TITLE V—TEACHER CORPS AND TEACHER TRAINING PROGRAMS".

(2) Part A of such title is repealed.

(3) Title V of the Act is amended—

(A) by striking out

"PART B—ATTRACTING AND QUALIFYING TEACHERS",

and

(B) by striking out

"SURPART 1—TEACHERS CORPS".

(4)(A) Subpart 2 of part B, and parts C, D, and E of such title are repealed.

(B) Part F of title V of the Act is amended by adding at the end thereof a new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 555. There are authorized to be appropriated for the purposes of carrying out this part $25,000,000 for each of the fiscal years ending prior to October 1, 1977.".

(C) Effective September 30, 1977, part F of such title is repealed.

(5)(A) Section 511(a) of the Act (as redesignated by paragraph (1) of this subsection) is amended by striking out "subpart" and inserting in lieu thereof "part".

(B) Section 512 of the Act is amended by striking out "subpart" and inserting in lieu thereof "part".

(C) Section 513 of the Act is amended by striking out "subpart" and inserting in lieu thereof "part".

(b) The amendments made by subsection (a) (except the amendment made by paragraph 4(C) thereof) shall take effect on September 30, 1976.

TEACHER CORPS

SEC. 152. (a)(1) Section 511 of the Act is amended by inserting "(a)" after the section designation and by adding at the end thereof the following:

"(b) For the purpose of carrying out the provisions of this title there are authorized to be appropriated $50,000,000 for the fiscal year 1977, $75,000,000 for the fiscal year 1978, and $100,000,000 for each of the fiscal years 1979, and each of the fiscal years ending prior to October 1, 1982.".

(2) Section 511(a) of the Act (as redesignated by paragraph (1) of this subsection) is further amended by striking out the words "and teacher aides" both places they appear and inserting in lieu thereof a comma and the following: "teacher aides, and other educational personnel".

(b) Section 513(a) of the Act is amended—

(1) by striking out "two" the first time it appears in paragraph (1), and inserting in lieu thereof "five" and by inserting after "teacher aides" the following: "and other educational personnel";

(2) by striking out in paragraph (3) "teaching teams, each of which shall consist of an experienced teacher and a number of teacher-interns who, in addition to teaching duties, shall be afforded time by the local educational agency for a teacher-intern training program carried out under the guidance of an experienced teacher" and inserting in lieu thereof "Teacher Corps programs each of which shall include teacher-intern teams led by experienced teachers, and may include additional experienced teachers, teacher aides, and other educational personnel, who shall be afforded time by the local educational agency for a training program carried out"; and

(3) by amending paragraph (7) to read as follows:

"(7)(A) make available technical assistance to State and local educational agencies and institutions of higher education for carrying out arrangements entered into under this title; and

"(B) provide planning, technical assistance, monitoring, documenting, dissemination, and evaluation services for arrangements made under this title;".

(c) Section 513(b) of the Act is amended by striking out "for teacher-interns while teaching" and inserting in lieu thereof "for Teacher Corps members while serving".

(d) Section 513 of the Act is further amended by adding at the end thereof the following new subsections:

"(e)(1) No arrangement may be entered into under the provisions of paragraph (1), (2), (3), (5), or (6) of subsection (a) of this section unless that arrangement is prepared with the participation of a council which is elected in accordance with the provisions of this subsection. Each council shall be representative of the community in which the project subject to that arrangement is located and of the parents of the students of the elementary or secondary schools, or both, to be served by any such project.

"(2) Each council elected pursuant to this subsection shall participate with the local educational agency or institution of higher education, or both, in the planning, carrying out, and evaluation of projects subject to arrangements under paragraphs (1), (2), (3), (5), and (6) of subsection (a) of this section.

"(3) The Commissioner is authorized in each fiscal year to arrange for the payment of necessary secretarial and administration expenses of each council elected pursuant to the provisions of this subsection for the purposes of carrying out its functions under this subsection.

"(f) The Commissioner shall establish procedures designed to assure that, with respect to Teacher Corps members enrolled after the date of enactment of the Education Amendments of 1976, a ratio is maintained of five teachers who are employed by a local educational agency at the time of their enrollment to one individual who has not been so employed. The Commissioner may waive the requirement of this subsection if he makes a determination that there are insufficient applicants to maintain the ratio required by this subsection or that there are insufficient employment opportunities for individuals who are not so employed and submits a report to the Congress of such a determination.

"(g) Notwithstanding any other provision of law, the Commissioner shall develop and establish specific criteria for entering into arrangements under this part in order to assist applicants for assistance under this part to develop proposals to be submitted. Criteria established under this subsection shall be used by the Commissioner in selecting proposals under this title.".

(e) Section 514 of the Act is amended by adding at the end thereof the following new subsection:

"(f) The Commissioner is authorized to compensate local educational agencies for released time for educational personnel of the agency who are being trained in Teacher Corps projects assisted under this title.".

TEACHER TRAINING PROGRAMS

SEC. 153. (a) Title V of the Act is further amended by inserting immediately before the heading of section 511 the following:

"PART A—TEACHER CORPS PROGRAM"

and by adding at the end thereof the following new part:

"PART B—TEACHER TRAINING PROGRAMS

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 531. (a) There are authorized to be appropriated $75,000,000 for the fiscal year 1977 and for each of the fiscal years ending prior to October 1, 1982, to carry out the provisions of this part, other than the provisions of section 532. Of the sums so appropriated for any fiscal year not less than 10 per centum shall be available for each of the programs authorized by sections 533, 534, 535.

"(b)(1) There are authorized to be appropriated not to exceed $500,000 for any fiscal year for the purpose of enabling the Council on Teacher Training and Assistance to carry out its responsibilities under section 532.

"(2) There are authorized to be appropriated such sums as may be necessary for any fiscal year ending prior to October 1, 1982, subject to the provisions of section 532, to implement the plan established pursuant to that section.

"TEACHER TRAINING SURVEY AND ASSESSMENTS

"SEC. 532. (a) (1) The National Center for Education Statistics, subject to the guidance and supervision of the Council established pursuant to subsection (b), shall—

"(A) conduct a continuing survey of institutions of higher education and local educational agencies to determine the availability of and demand for qualified teachers and administrative personnel to meet service needs in local educational agencies and other educational agencies and institutions;

"(B) conduct a survey of the availability of such teachers and personnel to meet service needs in the national priority education areas;

"(C) assess additional training needs of teachers and administrative personnel who are otherwise available for service in national priority education areas;

"(D) assess the needs for such teachers and personnel in critical education areas which are emerging or are likely to emerge in the foreseeable future;

"(E) assess the existing training programs for such teachers and personnel, administered in the education division, to determine the extent to which such programs are preparing to meet the needs described in the preceding clauses of this paragraph; and

"(F) submit to the Congress at least annually a report on the surveys and assessments required under this paragraph, making recommendations for policies, programs, and activities to meet unmet needs relating to such teachers, personnel, and programs.

"(b) (1) The Commissioner shall establish, and appoint the members of, a Council on Teacher Training Surveys and Assessments, after receiving recommendations from professional, labor-affiliated, and scholarly associations of teachers and administrators, teacher educators, institutions of higher education, schools of education, and State and local educational agencies. The Council shall be composed of fifteen members generally representative of the members of such organizations and of persons with demonstrated interest and expertise in the field of teacher training. The Council shall engage such personnel and technical assistance as may be required to carry out its functions under this section.

"(2) (A) Not less frequently than once each year, the Council shall, on the basis of the survey carried out pursuant to clause (A) of paragraph (1) of subsection (a), assess the availability of qualified teachers and administrative personnel to meet service needs in national priority education areas.

"(B) For the purposes of this section, the term 'national priority education area' means any educational need or process which has been determined to require a national emphasis and priority as a result of—

"(i) enactment of legislation establishing a program of financial assistance to educational agencies or institutions to meet an educational need; or

"(ii) a report submitted in accordance with paragraph (3).

"(C) In making such assessment, the Council may initiate and conduct such other surveys and assessments as are appropriate and necessary. The Council may conduct such surveys and assessments in cooperation with State educational agencies and local educational agencies.

"(3) (A) Whenever the Council determines that there is a critical need for such teachers and personnel in an educational area for which the Congress has not enacted a program of financial assistance described in clause (i) of paragraph (2) (B), the Council shall submit a special report to the Congress recommending that educational area as a national priority education area.

"(B) Such report shall include recommendations with respect to the means by which the unmet need for qualified teachers in the national priority education area may be met and an estimate of the cost thereof.

"(C) Prior to submitting any report under this paragraph, the Council shall publish the initial proposal in the Federal Register, and provide notice of opportunity for a public hearing, including an opportunity to submit comments, with respect to any proposed determination of a national priority education area.

"(4) (A) After submitting each report under paragraph (3), the Council shall submit to the Congress a plan for carrying out aspects of the recommendations included in such report which require additional teachers and personnel or the improvement of the qualifications of existing teachers and personnel, as described in clauses (A) through (E) of paragraph (1) of subsection (a) of this section.

"(B) Prior to submitting any plan under paragraph (3) the Council shall publish the plan in the Federal Register, and provide notice and opportunity for a public hearing, including an opportunity to submit comments, with respect to the contents of the proposed plan.

"(c) (1) Not later than ninety days after the submission of the plan to the Council pursuant to paragraph (4) of subsection (b), the Commissioner shall prepare and submit to the Congress a cost estimate for implementing that plan.

"(2) The plan established under this subsection shall be implemented only upon the appropriation of sums specifically identified for implementing such a plan.

"TEACHER CENTERS

"SEC. 533. (a) (1) The Commissioner is authorized to make grants to local educational agencies in accordance with the provisions of this section to assist such agencies in planning, establishing, and operating teacher centers.

"(2) For the purpose of this section, the term 'teacher center' means any site operated by a local educational agency (or a combination of such agencies) which serves teachers, from public and nonpublic schools of a State, or an area or community within a State, in which teachers, with the assistance of such consultants and experts as may be necessary, may—

"(A) develop and produce curricula designed to meet the educational needs of the persons in the community, area, or State being served, including the use of educational research findings or new improved methods, practices, and techniques in the development of such curricula; and

"(B) provide training to improve the skills of teachers to enable such teachers to meet better the special educational needs of persons such teachers serve, and to familiarize such teachers with developments in curriculum development and educational research, including the manner in which the research can be used to improve their teaching skills.

"(b) Each teacher center shall be operated under the supervision of a teacher center policy board, the majority of which is representative of elementary and secondary classroom teachers to be served by such center. Such board shall also include individuals representative of, or designated by, any school board of the local educational agency served by such center.

"(c) (1) Any local educational agency desiring to receive a grant under this section shall make application therefor at such time, in such manner, and containing or accompanied by such information, as the Commissioner may by regulation require. Each application shall be submitted through the State educational agency of the State in which the applicant is located. Each such State agency shall review the application, make comments thereon, and recommend each application the State agency finds should be approved. Only applications so recommended shall be transmitted to the Commissioner for his approval.

"(2) Any local educational agency which has submitted an application in accordance with paragraph (1) of this subsection which is dissatisfied with the action of the apropriate State educational agency may petition the Commissioner to request further consideration by the State educational agency.

"(d) In approving any application under this section, the Commissioner shall insure that there is adequate provision for the furnishing of technical assistance to, and dissemination of information derived from, the proposed teacher center by the appropriate State educational agency. Such State agency shall be adequately compensated by the Commissioner for such review of applications, recommendations, submissions, technical assistance, and dissemination services.

"(e) Any local educational agency having an application approved under this section may contract with an institution of higher education to carry out activities under, or provide technical assistance in connection with, such application.

"(f) Notwithstanding the provisions of subsection (a) (1) of this section with respect to the requirement that teacher centers be operated by local educational agencies, 10 per centum of the funds expended under this section may be expended directly by the Commissioner to make grants to institutions of higher education to operate teacher centers, subject to the other provision of this section.

"TRAINING FOR HIGHER EDUCATION PERSONNEL

"SEC. 534. (a) The Commissioner is authorized to make grants to institutions of higher education to assist such institutions in the training of individuals—

"(1) preparing to serve as teachers, including guidance and counseling personnel, administrative personnel, or education specialists in institutions of higher education if such individuals are (A) from cultural or educational backgrounds which have hindered such individuals in achieving success in the field of education, or (B) preparing to serve in educational programs designed to meet the special needs of students from such backgrounds; or

"(2) serving as teachers, including guidance and counseling personnel, administrative personnel, or education specialists in institutions of higher education, if such individuals are to be trained to meet changing personnel needs, such as in areas determined to be national priority areas pursuant to section 532 of this title.

"(b) Grants made under this section may be used only to assist in paying the cost of courses of training or study, including short term or regular institutes, symposia or other inservice training, for teachers, including guidance and counseling personnel, administrative personnel, or educational specialists in institutions of higher education, and for fellowships and traineeships for such individuals.

"(c) The Commissioner may include in any arrangement with an institution of higher education made under this section provisions for the payment of such stipends (including allowances for subsistence and other expenses for such individuals and their dependents) as he may deem to be necessary.

"GRANTS FOR IMPROVEMENT OF GRADUATE PROGRAMS OF EDUCATION

"SEC. 535. (a) The Commissioner is authorized to make grants in accordance with the provisions of this section to institutions of higher education to assist them to strengthen and to improve programs of instruction in education at the graduate level in such institutions.

"(b) Grants under this section may be used by an institution of higher education to assist any school, college, or department of education in that institution to develop programs of instruction in education at the graduate level to meet changing personnel teacher needs, including such needs in areas determined to be national priority areas pursuant to section 532 of this part, and new and expanding professions having a need for teachers (including guidance and counseling personnel). Any arrangement entered into under this section may include in such program of instruction provisions for (1) use of research findings and new and improved educational techniques; (2) assistance in the development of cooperative arrangements with State and local educational agencies for inservice training for teachers, including guidance and counseling personnel, and administrators; and (3) assistance for training faculty at any school, college, or department of such institution for service in projects and activities assisted under this section.

"(c) No grant may be made under this section to any school, college, or department of education unless such school, college, or department is accredited by a nationally recognized accrediting agency which is determined by the Commissioner to be a reliable authority on teacher training programs.".

PART F—FINANCIAL ASSISTANCE FOR THE IMPROVEMENT OF UNDERGRADUATE INSTRUCTION

EXTENSION OF AUTHORIZATION

SEC. 156. (a) Section 601(b) of the Act is amended by striking out that part of the text thereof which precedes "to enable" and inserting in lieu thereof the following: "There are authorized to be appropriated $60,000,000 for each of the fiscal years ending prior to October 1, 1982,".

(b) Section 601(c) of the Act is amended by striking out that part of the text thereof which precedes "to enable" and inserting in lieu thereof the following: "There are authorized to be appropriated $10,000,000 for each of the fiscal years ending prior to October 1, 1982,".

REVISION OF MAINTENANCE OF EFFORT

SEC. 157. (a) Section 604 (b) of the Act is amended by striking out all after the first sentence of such section and inserting in lieu thereof the following: "The Commissioner shall establish basic criteria for making determinations under this subsection.".

(b) Section 604 of the Act is amended by adding at the end thereof the following new subsection:

"(c) An institution of higher education shall be eligible for a grant for a project pursuant to this part in any fiscal year only if such institution has expanded from current funds available for that year for instructional and library purposes, other than personnel costs, during the preceding fiscal year an amount not less than the amount expended by such institution from current funds for such purposes during the second preceding fiscal year. A combination of institutions of higher education shall be eligible for such a grant in accordance with regulations of the Commissioner prescribing requirements for maintenance of effort. The Commissioner shall establish basic criteria for making determinations under this subsection, and may waive so much of the requirement of this subsection as he determines is equitable in accordance with objective criteria of general applicability.".

PART G—CONSTRUCTION OF ACADEMIC FACILITIES

EXTENSION AND REVISION OF PROGRAM

SEC. 161. (a) Section 701(b) of the Act is amended by striking out all that follows "authorized to be appropriated" and inserting in lieu thereof the following: "$300,000,000, for each of the fiscal years ending prior to October 1, 1982.".

(b)(1) Section 721(a) of the Act is amended by inserting "(1)" immediately after "(a)" and by adding the following new paragraph:

"(2) The Secretary is authorized to make grants to or enter into contracts with institutions of higher education for the construction of facilities for model intercultural programs designed to integrate the educational requirements of substantive knowledge and language proficiency.".

(2) Section 721(b) of the Act is amended by striking out all that follows "authorized to be appropriated" and inserting in lieu thereof the following: "$80,000,000 for each fiscal year ending prior to October 1, 1982.".

(c) The first sentence of section 741(b) of the Act is amended by striking out all that follows "authorized to be appropriated" and inserting in lieu thereof the following: "$200,000,000 for each fiscal year ending prior to October 1, 1982.".

(d) Section 742(b) of the Act is amended by striking out "(1)" and by striking out all the matter following "1 per centum" and inserting in lieu thereof a period.

(e)(1) Section 743(b)(3) of the Act is amended by inserting after "agreement," the following: "except that he shall not foreclose on any property for which he has authorized a loan under this part without making a determination that the recipient of such loan is likely to cease operations in the immediate future or is otherwise unlikely ever to be capable of repaying such loan,".

(2) Section 743(b)(5) of the Act is amended by inserting before the semicolon the following: "including (A) the granting of a temporary moratorium on the repayment of principal or interest or both to any institution of high education or higher education building agency the Commissioner finds to be temporarily unable to make such repayment without undue financial hardship, if such institution or agency presents, and the Commission approves, a specific plan to make such repayment including a schedule for such repayment, and (B) the granting to any such institution or agency for which he has authorized a loan under this part prior to January 1, 1976, the option to pay into the fund established under section 744 an amount to be determined by the Commissioner, but not in excess of 75 per centum of the total current obligation of the institution or agency under this part, in full accord and satisfaction of such total current obligation, if such institution or agency desiring to exercise such an option makes payment from non-Federal sources prior to October 1, 1979.".

(f)(1) Section 745(b) is amended by striking out "section 744(b)(2)" and inserting in lieu thereof "section 742(b)".

(2) Section 745(c)(2) of the Act is amended by striking out "four" and inserting in lieu thereof "six", and by inserting before the period at the end thereof a comma and the following: "and October 1, 1977 and on October 1 of each of the four succeeding fiscal years".

(g) Part C of title VII of the Act is amended by inserting at the end thereof the following new section:

"RECONSTRUCTION AND RENOVATION LOANS

"SEC. 747. (a) The Commissioner shall make loans under this section from any unused amounts in the fund established under section 744, notwithstanding any prior restrictions on the use of such amounts, to institutions of higher education and to higher education building agencies, for the reconstruction or renovation of academic facilities if the primary purpose of such renovation or reconstruction is—

"(1) to conserve energy;

"(2) to enable such facilities to meet health or safety requirements imposed under Federal law, if such requirements were not in effect at the time such facilities were constructed; or

"(3) to make such facilities comply with the requirements of the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968.

"(b)(1) In determining whether the primary purpose of a proposed renovation or reconstruction is to conserve energy, the Commissioner shall consult with other Federal agencies which have specific expertise in energy conservation.

"(2) In determining whether the primary purpose of a proposed renovation or reconstruction is to enable such facility to meet health or safety requirements imposed under a Federal law, the Commissioner shall consult with the Federal agency responsible for the administration of such law.

"(3) In determining whether the primary purpose of a proposed renovation or reconstruction is to enable such facility to comply with the Act of August 12, 1968, the Commissioner shall consult with the Architectural and Transportation Barriers Compliance Board and the Administrator of General Services.

"(c)(1) A loan pursuant to this section shall be repaid within such period not exceeding twenty years as may be determined by the Commissioner.

"(2) In the event a loan pursuant to this section is repaid within five years, all interest charges shall be waived.".

(h)(1) Section 762(a) of the Act is amended by striking out "Office of Emergency Planning" and inserting in lieu thereof "Office of Emergency Preparedness".

(2) Such subsection is further amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1982".

PART H—NETWORKS FOR KNOWLEDGE

EXTENSION OF AUTHORIZATION

SEC. 166. Section 802 of the Act is amended by striking out all that follows "this title" and inserting in lieu thereof the following: "$15,000,000 for each of the fiscal years ending prior to October 1, 1982.".

PART I—GRADUATE PROGRAMS

EXTENSION AND REVISION OF GRADUATE FELLOWSHIPS AND ASSISTANCE

SEC. 171. (a)(1) Section 901(a)(3) is amended by striking out "clauses (2), (3), and (4)" and inserting in lieu thereof "clauses (1) and (2)".

(2) Section 901(c) of the Act is amended to read as follows:

"(c) There are authorized to be appropriated $50,000,000 for each of the fiscal years ending prior to October 1, 1982, for the purpose of this part.".

(3)(A) Section 902(b) of the Act is amended by inserting "(1)" before "sets forth", and by inserting before the period a comma and the following: "and (2) provides assurances that the institution has notified the appropriate State commission (established or designated under section 1202 of this Act) and that the State commission has been given the opportunity to offer recommendations on the application to the institution and to the Commissioner".

(B) Section 902 of the Act is amended by adding at the end thereof the following new subsection:

"(c) In considering an application under this part for a program of activities from an institution of higher education within a State, the Commissioner shall assure that consideration is given to the degree to which such program will be consistent with State, regional, or national priorities.

(4) Section 903(b) of the Act is amended by striking out the word "and" at the end of clause (4), by striking out the period at the end of clause (5) and inserting in lieu thereof a semicolon and the word "and"

and by adding at the end thereof the following new clauses:

"(6) the development of proposed graduate and professional programs; and

"(7) needed innovation in graduate and professional programs.".

(b) Part B of title IX of the Act is amended to read as follows:

"PART B—FELLOWSHIPS FOR GRADUATE AND PROFESSIONAL STUDY

"APPROPRIATIONS AUTHORIZED

"SEC. 921. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.

"NUMBER OF FELLOWSHIPS

"SEC. 922. (a) During the fiscal year ending June 30, 1973, and each of the succeeding fiscal years ending prior to October 1, 1982, the Commissioner is authorized to award not to exceed seven thousand five hundred fellowships to be used for study in graduate programs at institutions of higher education. Such fellowships may be awarded for such period of study as the Commissioner may determine but not in excess of thirty-six months except that the Commissioner may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period in addition to the thirty-six month period set forth in this section under special circumstances which the Commissioner determines would most effectively serve the purposes of this part. The Commissioner shall make a determination to provide such twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

"(b) In addition to the number of fellowships authorized to be awarded by subsection (a) of this section, the Commissioner is authorized to award fellowships equal to the number previously awarded during any fiscal year under this section but vacated prior to the end of the period for which they were awarded; except that each fellowship awarded under this subsection shall be for such period of study, not in excess of the remainder of the period for which the fellowship which it replaces was awarded, as the Commissioner may determine.

"(c) The Commissioner may allow a fellowship recipient to interrupt his studies for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that the Commissioner shall make no payments to the fellowship recipient for such period for stipends, travel expenses, or allowances for dependents or payments to institutions pursuant to the recipient's fellowship award.

"AWARD OF FELLOWSHIPS AND APPROVAL OF GRADUATE PROGRAMS

"SEC. 923. (a) The total number of fellowships authorized by section 922(a) to be awarded during a fiscal year shall be awarded by the Commissioner on such bases as he may determine, except that recipients of such fellowships shall be individuals who have been admitted or who are enrolled in graduate or professional programs approved by the Commissioner and who are pursuing a course of study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree. The Commissioner shall approve a graduate program of an institution of higher education only upon his finding that the application contains satisfactory assurance that the institution will provide special orientations and practical experiences designed to prepare its fellowship recipients (1) for academic careers at some level of education beyond the high school, or (2) for other than academic careers in professional career fields of importance to the national interest, as determined by the Commissioner.

"(b) In determining priorities and procedures for the award of fellowships under this section the Commissioner shall—

"(1) take into account present and projected needs for highly trained individuals in all areas of education beyond high school.

"(2) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority.

"(3) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups who have been traditionally under-represented in colleges and universities, but nothing contained in this clause shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of that group participating in or receiving the benefits of this program, in comparison with the total number or percentage of individuals of that group in any community, State, section, or other area.

"(4) assure that consideration in awarding fellowships under this part is given (A) to individuals who have demonstrated their competence outside of a higher education setting for at least two years subsequent to the completion of their undergraduate studies, (B) or to individuals with varied backgrounds and experiences who have acquired such backgrounds and experiences in other than academic settings.

"(5) seek to achieve a reasonable equitable geographical distribution of graduate programs approved under this section, based upon such factors as student enrollment in institutions of higher education and population.

"(c) No fellowship shall be awarded under this part for study at a school or department of divinity.

"FELLOWSHIP STIPENDS

"SEC. 924. (a) The Commissioner shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(b) The Commissioner shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study, such amounts as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"FELLOWSHIP CONDITIONS

"SEC. 925. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 924 only during such periods as the Commissioner finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Commissioner.

"(b) The Commissioner is authorized to require reports containing such information in such form and to file at such times as he determines necessary from any person awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Commissioner, stating that such person is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.".

(c) (1) Section 941 of the Act is amended to read as follows:

"AWARD OF PUBLIC SERVICE FELLOWSHIPS

"SEC. 941. (a) During the fiscal year ending June 30, 1973, and each of the succeeding fiscal years ending prior to October 1, 1982, the Commissioner is authorized to award not to exceed five hundred fellowships in accordance with the provisions of this part for graduate or professional study for persons who plan to pursue a career in public service. Such fellowships shall be awarded for such periods as the Commissioner may determine, but not in excess of thirty-six months except that the Commissioner may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period in addition to the thirty-six-month period set forth in this section under special circumstances which the Commissioner determines would most effectively serve the purposes of this part. The Commissioner shall make a determination to provide such a twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

"(b) In addition to the number of fellowships authorized to be awarded by subsection (a) of this section, the Commissioner is authorized to award fellowships equal to the number previously awarded during any fiscal year under this section but vacated prior to the end of the period for which they were awarded; except that each fellowship awarded under this subsection shall be for such period of study, not in excess of the remainder of the period for which the fellowship which it replaces was awarded, as the Commissioner may determine.

"(c) The Commission may allow a fellowship recipient to interrupt his studies for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that the Commissioner shall make no payments to the fellowship recipient for such period for stipends, travel expenses, or allowances for dependents or payments to institutions pursuant to the recipient's fellowship award.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.".

(2) Section 942 of the Act is amended by striking out the "and" at the end of clause (1), by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and the word "and" and by inserting at the end thereof the following new clauses:

"(3) attract persons other than recent college graduates to pursue a career in public service; and

"(4) provide additional training for individuals who by past activities, occupation, or training have demonstrated a commitment to a career in public service.".

(3) (A) Section 943(4) (A) of the Act is amended by inserting after "enter" the following: "or continue in".

(B) Section 943(4) (B) of the Act is amended by inserting after the word "enter" the following: "or continue in".

(4) Section 944(b) of the Act is amended by inserting before the period at the end thereof a comma and the following: "except that such amount charged to a fellowship re-

cipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.".

(d)(1) Section 961(b)(1) of the Act is amended by striking out "two" and by inserting after "fiscal years" the following: "ending prior to October 1, 1982".

(2) The third sentence of section 961(c) is amended by striking out "to exceed 3 years" and inserting in lieu thereof the following: "in excess of thirty-six months, except that the Commissioner may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period in addition to the thirty-six-month period set forth in this section under special circumstances which the Commissioner determines would most effectively serve the purposes of this part. The Commissioner shall make a determination to provide such a twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient".

(3) Section 961 of the Act is amended by adding at the end thereof the following new subsection:

"(d) The Commissioner may allow a fellowship recipient to interrupt his studies for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that the Commissioner shall make no payments to the fellowship recipient for such period for stipends, travel expenses, or allowances for dependents or payments to institutions pursuant to the recipient's fellowship award.".

(4) Section 963 of the Act is amended to read as follows:

"STIPENDS AND INSTITUTIONS OF HIGHER EDUCATION ALLOWANCES

"SEC. 963. (a) The Commissioner shall pay to persons awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supportive programs.

"(b) The Commissioner shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study, such amounts as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.".

(5) Section 966 of the Act is amended by striking out "July 1, 1978" and inserting in lieu thereof "October 1, 1982".

(e) Title IX of the Act is amended by inserting after part D the following new part:

"PART E—ANNUAL FELLOWSHIP REPORT

"REPORT ON GRADUATE FELLOWSHIPS AND ASSISTANCE

"SEC. 971. (a) Within one hundred and twenty days after the end of each fiscal year during which grants or fellowships are awarded under the provisions of this title the Commissioner shall prepare and submit to the Congress a report which—

"(1) specifies the authority for and amount of each grant or fellowship so awarded;

"(2) identifies the institutions which received such grants; and

"(3) identifies the institutions which students receiving such fellowships attended.

"(b) Each report required by this section shall contain an evaluation which—

"(1) examines the extent to which grants or fellowships awarded under this title emphasized studies relating to—

"(A) innovation in the field of graduate education;

"(B) emerging fields of knowledge;

"(C) areas of overriding national concern; or

"(D) the education and employment of personnel in areas which the Commissioner finds to be of special need; and

"(2) examines the extent to which grants and fellowships awarded under this title made substantial progress toward achieving the purposes of the various parts of this title under which they were awarded.".

LAW SCHOOL CLINICAL ASSISTANCE PROGRAM

SEC. 172. Section 1103 of the Act is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1982".

PART J—COMMUNITY COLLEGES AND STATE POSTSECONDARY PLANNING

EXTENSION AND REVISION OF TITLE X

SEC. 176. (a)(1) The heading of title X of the Act is amended to read as follows:

"TITLE X—ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLEGES".

(2) Such title is amended by striking out

"PART A—ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLEGES

"Subpart 1—Statewide Plans"

and insert in lieu thereof:

"PART A—STATEWIDE PLANS".

(3) Section 1001(a) of the Act is amended by striking out "subpart" and inserting in lieu thereof "part".

(4) Section 1001(b)(1) of the Act is amended to read as follows:

"(b)(1) There are authorized to be appropriated $15,700,000 for each of the fiscal years ending prior to October 1, 1982, to carry out the provisions of this section.".

(b)(1) Such title is further amended by striking out "Subpart 2" in the heading following section 1001 and inserting in lieu thereof "Part B".

(2)(A) Section 1011(a) of the Act is amended by striking out "subpart" and inserting in lieu thereof "part".

(B) Section 1011(b) of the Act is amended to read as follows:

"(b) For the purpose of carrying out this part, there are authorized to be appropriated $150,000,000 for each of the fiscal years ending prior to October 1, 1982.".

(3) Section 1012(b) of the Act is amended by striking out "subpart" and inserting in lieu thereof "part".

(c) Part B of title X of the Act as in effect prior to the amendments made by subsection (b) of this section is repealed.

(d) The amendments made by paragraphs (1), (2), and (3) of subsection (a), paragraphs (1), 2(A), (3) of subsection (b), and subsection (c) shall take effect on September 30, 1977.

AUTHORIZATION FOR STATEWIDE PLANNING

SEC. 177. (a) Section 1203 of the Act is amended by redesignating subsection (c) as subsection (d) and by inserting immediately after subsection (b) the following new subsection:

"(c) The Commissioner is authorized to make grants to State commissions established pursuant to section 1202(a), and to interstate compact postsecondary educational agencies approved by the Commissioner for the purpose of this subsection applying jointly for the purpose of this subsection to enable the participating commissions to plan, develop, and carry out interstate cooperative postsecondary education projects designed to increase the accessibility of postsecondary educational opportunities for the residents of the participating States and to assist such States to carry out postsecondary education programs in a more effective and economical manner.".

(b) Section 1203(d) of the Act (as redesignated by this section) is amended to read as follows:

"(d)(1) There are authorized to be appropriated $4,000,000 for each fiscal year ending prior to October 1, 1982, to carry out the provisions of this section other than subsection (c) of this section.

"(2) There are authorized to be appropriated $2,000,000 for each fiscal year ending prior to October 1, 1982, to carry out the provisions of subsection (c) of this section.".

PART K—GENERAL PROVISIONS

ANTIDISCRIMINATION AMENDMENT

SEC. 181. Title XII of the Act is amended by adding at the end thereof the following new section:

"ANTIDISCRIMINATION

"SEC. 1207. No institution of higher education receiving Federal financial assistance may use such financial assistance, whether directly or indirectly, to undertake any study or project or to fulfill the terms of any contract containing an express or implied provision that any person of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract: *Provided, however*, That nothing herein contained shall be deemed to affect any in-house study or project of an institution of higher education.".

TITLE II—VOCATIONAL EDUCATION

EXTENSION OF CERTAIN VOCATIONAL EDUCATION PROGRAMS

SEC. 201. (a)(1) The first sentence of section 102(b) of the Vocational Education Act of 1963 (hereafter in this title referred to as "the Act") is amended to read as follows: "There are authorized to be appropriated $60,000,000 for each of the fiscal years 1976 and 1977, for the purposes of section 122(a)(4)(A).".

(2) The first sentence of section 102(c) of the Act is amended to read as follows: "There are authorized to be appropriated $40,000,000 for each of the fiscal years 1976 and 1977, for the purposes of section 122(a)(4)(C).".

(3) Section 102(d) of the Act is amended by striking out "for each fiscal year" and inserting in lieu thereof, "for each of the fiscal years 1976 and 1977,".

(4)(A) Section 104(a)(4) of the Act is amended by striking out "five" and inserting in lieu thereof "seven".

(B) Section 104(a)(5) of the Act is amended by striking out "July 1, 1976" and inserting in lieu thereof "October 1, 1977".

(b) Section 142(a) of the Act is amended by striking out "five" and inserting in lieu thereof "seven".

(c)(1) Section 151(b) of the Act is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1977".

(2) Section 152(a)(1) of the Act is amended by striking out "July 1, 1975," and inserting in lieu thereof "October 1, 1977".

(3) Section 153(d)(2) of the Act is amended by striking out that part which follows "not exceed $5,000,000" and inserting in lieu thereof the following: "for fiscal year 1976, which amount shall be increased by $5,000,000 on October 1 of the succeeding fiscal year.".

(d)(1) The first sentence of section 161(a)(1) of the Act is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1977".

(2) The first sentence of section 161(c) of the Act is amended by striking out "five" and inserting in lieu thereof "seven".

(e) Section 172(a) of the Act is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1977".

(f) Section 181(a) of the Act is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1977".

(g) Section 189(b) of the Act is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1977".

(h) Section 193 of the Act is amended by inserting after "June 30, 1975" a comma and the following: "and for each succeeding fiscal year ending prior to October 1, 1977".

REVISION OF THE VOCATIONAL EDUCATION ACT OF 1963

SEC. 202. Effective for fiscal year 1978 and thereafter, the Vocational Education Act of 1963 is amended to read as follows:

"TITLE I—VOCATIONAL EDUCATION

"PART A—STATE VOCATIONAL EDUCATION PROGRAMS

"DECLARATION OF PURPOSE

"SEC. 101. It is the purpose of this part to assist States in improving planning in the use of all resources available to them for vocational education and manpower training by involving a wide range of agencies and individuals concerned with education and training within the State in the development of a vocational education plan. It is also the purpose of this part to authorize Federal grants to States to assist them—

"(1) to extend, improve, and, where necessary, maintain existing programs of vocational education,

"(2) to develop new programs of vocational education,

"(3) to develop and carry out programs of vocational education within each State so as to overcome sex discrimination and sex sterotyping in all occupations (including the occupation of homemaking), and thereby furnish equal educational opportunities in vocational education to persons of both sexes, and

"(4) to provide part-time employment for youths who need the earnings from such employment to continue their vocational training on a full-time basis,

so that persons of all ages in all communities of the State, those in high school, those who have completed or discontinued their formal education and are preparing to enter the labor market, those who have already entered the labor market, but need to upgrade their skill or learn new ones, those with special education handicaps, and those in post-secondary schools, will have ready access to vocational training or retraining which is of high quality, which is realistic in the light of actual or anticipated opportunities for gainful employment, and which is suited to their needs, interests, and ability to benefit from such training.

"AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS

"SEC. 102. (a) There are authorized to be appropriated $650,000,000 for fiscal year 1978, $750,000,000 for fiscal year 1979, $850,000,000 for fiscal year 1980, $950,000,000 for fiscal year 1981, and $1,000,000,000 for fiscal year 1982, for the purpose of carrying out this part.

"(b) There are also authorized to be appropriated $70,000,000 for fiscal year 1978, $80,000,000 for fiscal year 1979, $90,000,000 for fiscal year 1980, and $100,000,000 for each of the fiscal years 1981 and 1982, for the purpose of carrying out section 110(e).

"(c) There are also authorized to be appropriated $40,000,000 for the fiscal year 1978 and for each fiscal year ending prior to October 1, 1982, for the purpose of carrying out section 110(f).

"(d) There are further authorized to be appropriated for fiscal year 1978 and for each of the four succeeding fiscal years, such sums as may be necessary to pay the Federal share of the cost of the administration of State annual program plans.

"(e) Grants to States under this Act may be used for any programs and projects for vocational education described in the general application, including the construction of area vocational education school facilities.

"(f)(1) There are further authorized to be appropriated $5,100,000 for fiscal year 1978 and for each of the four succeeding fiscal years to enable States to establish or designate within the State board or any appropriate agency of the State, an office for women. Each such office shall assist the State board in fulfilling the purposes of this Act by—

"(A) taking such action as may be necessary to create awareness of programs and activities in vocational education that are designed to reduce sex stereotyping in all vocational education programs;

"(B) gathering, analyzing, and disseminating data on the status of men and women students and employees in the vocational education programs of that State;

"(C) developing and supporting actions to correct any problems brought to the attention of that office through activities carried out under clause (B) of this sentence;

"(D) reviewing the distribution of grants by the State board to assure that the interests and needs of women are addressed in the projects assisted under this Act;

"(E) reviewing all vocational education programs in the State for sex bias;

"(F) monitoring the implementation of laws prohibiting sex discrimination in all hiring, firing, and promotion procedures within the State relating to vocational education;

"(G) reviewing and submitting recommendations with respect to the overcoming of sex stereotyping and sex bias in vocational education programs for the annual State vocational education plan;

"(H) assisting local educational agencies and other interested parties in the State in improving vocational education opportunities for women; and

"(I) developing an annual report on the status of women in vocational education programs in the State and furnish the report to the State Commission of Vocational Education, the State board, the State and National Advisory Councils on Vocational Education, the State Commission on the Status of Women, and the Commissioner.

Each report prepared and submitted under clause (I) of this subsection shall be made available to all interested persons. Each such report shall contain the self-evaluations required by regulations implementing title IX of the Education Amendments of 1972 of institutions receiving Federal assistance.

"(2) From the funds appropriated to carry out this subsection each State shall receive $100,000 in each fiscal year in which an office for women has been established or designated in accordance with this subsection.

"(3) For the purpose of this subsection, the term 'State' means the several States and the District of Columbia.".

"ALLOTMENTS AMONG STATES

"SEC. 103. (a)(1) From the sums appropriated pursuant to section 102(a), the Commissioner shall reserve and transfer to the Secretary of Labor (upon terms and conditions as the Commissioner and the Secretary of Labor agree upon) an amount, not to exceed $5,000,000 in any fiscal year, for the conduct of national, regional, State, and local studies and projections of manpower needs, upon the request of Federal, State, and local education officials and of advisory councils having responsibilties under its title.

"(2) From the remainder of the sums appropriated pursuant to section 102(a), and from all of the sums appropriated pursuant to section 102(b) and section 102(c), the Commissioner shall allot to each State for each fiscal year—

"(A) an amount which bears the same ratio to 50 per centum of the sums being allotted as the product of the population aged fifteen to nineteen, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

"(B) an amount which bears the same ratio to 20 per centum of the sums being allotted as the product of the population aged twenty to twenty-four, inclusive, in the State in the preceding fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

"(C) an amount which bears the same ratio to 15 per centum of the sums being allotted as the product of the population aged twenty-five to sixty-five, inclusive, in the State in the preceding fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

"(D) an amount which bears the same ratio to 15 per centum of the sums being allotted as the amounts allotted to the State under subparagraphs (A), (B), and (C) for such year bears to the sum of the amounts allotted to all the States under paragraphs (A), (B), and (C) for such year.

"(b) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for such fiscal year for carrying out the program for which such amount has been allotted shall be available, from time to time, for reallotment, on such dates during such year as the Commissioner shall fix, on the basis of criteria established by regulation, among other States, except that funds appropriated under section 102(b) may only be reallotted for the use set forth in section 110(c). Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the next succeeding fiscal year and shall be deemed to be part of its allotment for the year in which it is obligated.

"(c)(1) The allotment ratio for any State shall be 1.00 less the product of—

"(A) 0.50; and

"(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), except that (i) the allotment ratio in no case shall be more than 0.60 or less than 0.40, and (ii) the allotment ratio for Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be 0.60.

"(2) The allotment ratios shall be promulgated by the Commissioner for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the three most recent consecutive fiscal years for which satisfactory data are available.

"(3) The term 'per capita income' means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

"(4) For the purposes of this section, population shall be determined by the Commissioner on the basis of the latest estimates available to him.

"STATE PLANNING COMMISSION FOR VOCATIONAL EDUCATION

"SEC. 104. (a) Any State desiring to participate in the programs authorized by this Act shall, in accordance with State law, designate or establish a State planning commission for vocational education which shall be responsible for the development and preparation of comprehensive statewide long-range plans and annual program plans for vocational education in that State. If the membership of a State board meets the requirements for membership of the State planning commission set forth in subsection (b) of this section, the State board may serve as the State planning commission, and if any such State board serves as the State planning commission of a State, that State board shall develop procedures to insure that secondary vocational education programs are coordinated in secondary schools of local educational agencies.

"(b) (1) The Membership of the State planning commission designated or established pursuant to subsection (a) shall include—

"(A) a representative of the State agency having responsibility for secondary vocational education programs, designated by that agency;

"(B) a representative of the State agency, if such separate agency exists, having responsibility for post-secondary vocational education programs, designated by that agency;

"(C) a representative of the State agency, if such separate agency exists, having responsibility for community and junior colleges, designated by that agency;

"(D) a representative of the State agency, if such separate agency exists, having responsibility for institutions of higher education in the State, designated by that agency;

"(E) a representative of a local school board or committee;

"(F) a representative of vocational education teachers;

"(G) a representative of local school administrators;

"(H) a representative of the State Manpower Services Council appointed pursuant to section 107(a) (2) (A) (i) of the Comprehensive Employment and Training Act of 1973, designated by that council; and

"(I) one representative each of business, industry, labor, agriculture, and the general public.

"(2) The chairman shall be selected by the members of the State planning commission from among the members.

"(c) The State planning commission shall—

"(1) develop and prepare the comprehensive statewide long-range plan for that State in accordance with section 106; and

"(2) develop and prepare the annual program plan in accordance with section 108.

"(d) (1) Each State planning commission is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable the commission to carry out its functions under this Act.

"(2) Of the amounts appropriated pursuant to section 102(a) and allotted to each State under section 103(a) 1¼ per centum, but not less than $150,000 nor more than $300,000, for each fiscal year shall be available only to pay the cost of the planning activities of the State planning commission.

"(e) If a representative of each of the State agencies referred to in subsection (b) (1) of this section certifies to the Commissioner that each such agency has had an opportunity to be a direct and active participant in the development, preparation, implementation, and evaluation of the comprehensive statewide long-range plan and annual program plans for vocational education in that State, and the Commissioner determines that such certification substantially fulfills the purposes of this section, the Commissioner shall waive the requirements of subsection (a) of this section. Upon approval of such certification, the State board shall carry out the functions of the State planning commission under this Act.

"STATE ADVISORY COUNCILS ON VOCATIONAL EDUCATION

"SEC. 105. (a) Any State which desires to participate in programs under this Act for any fiscal year shall establish a State advisory council, which shall be appointed by the Governor or, in the case of States in which the members of the State board of education are elected (including election by the State legislature), by such board. Each State advisory council shall include as members one or more individuals who—

"(1) are representative of, and familiar with, the vocational needs and problems of management in the State;

"(2) are representative of, and familiar with, the vocational needs and problems of labor in the State;

"(3) are representative of, and familiar with, the vocational needs and problems of agriculture in the State;

"(4) represent State industrial and economic development agencies;

"(5) are representative of community and junior colleges;

"(6) are representative of other institutions of higher education, area vocational schools, technical institutes, and postsecondary agencies or institutions which provide programs of vocational or technical education and training;

"(7) have special knowledge, experience, or qualifications with respect to vocational education but are not involved in the administration of State or local vocational education programs;

"(8) are representative of, and familiar with, public programs of vocational education in comprehensive secondary schools;

"(9) are representative of, and familiar with, private programs of vocational education;

"(10) are representative of, and familiar with, vocational guidance and counseling services;

"(11) are representative of State correctional institutions;

"(12) are representatives of local education agencies;

"(13) are representative of a State or local public manpower agency;

"(14) represent school systems with large concentrations of persons who have special academic, social, economic, and cultural needs and of persons who have limited English-speaking ability;

"(15) are familiar with the special experiences and special problems of women and problems of sex stereotyping in vocational education;

"(16) have special knowledge, experience, or qualifications with respect to the special educational needs of physically or mentally handicapped persons;

"(17) are representative of the general public, including a person or persons representative of and knowledgeable about the poor and disadvantaged; and

"(18) are representative of vocational education students who are not qualified for membership under any of the preceding clauses of this paragraph.

Members of the State advisory council may not represent more than one of the above-specified categories. In appointing the State advisory council the Governor or the State board of education, as the case may be, shall insure that there is appropriate representation of both sexes, racial and ethnic minorities, and the various geographic regions of the State.

"(b) Not less than ninety days prior to the beginning of any fiscal year in which a State desires to receive a grant under this Act, the State shall certify the establishment of, and membership of, its State advisory council to the Commissioner.

"(c) Each State advisory council shall meet within thirty days after certification has been accepted by the Commissioner and shall select from among its membership a chairman. The time, place, and manner of meeting shall be as provided by the rules of the State advisory council, except that such rules must provide for not less than one public meeting each year at which the public is given an opportunity to express views concerning the vocational education program of the State.

"(d) (1) Each State advisory council shall advise the State planning commission in the development of the comprehensive statewide long-range plan and the annual program plan for vocational education and shall advise the State board on policy matters arising out of the administration of programs under such plans.

"(2) The State advisory council shall also evaluate vocational education programs, services, and activities assisted under this Act, and publish and distribute the results thereof.

"(3) The State advisory council shall prepare and submit to the Commissioner and to the National Advisory Council created under section 192, through the State board, an annual evaluation report, accompanied by such additional comments of the State board as the State board deems appropriate, which (A) evaluates the effectiveness of vocational education programs, services, and activities carried out in the year under review in meeting the program objectives set forth in the comprehensive statewide long-range plan under section 106 and the annual program plan under section 108, and (B) recommends such changes in such programs, services, and activities as may be warranted by the evaluations.

"(e) Each State advisory council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this title and to contract for such services as may be necessary to carry out their evaluation functions.

"(f) (1) From the sums appropriated pursuant to this section for any fiscal year the Commissioner is authorized (in accordance with regulations) to pay to each State advisory council an amount equal to the reasonable amounts expended by it in carrying out its functions under this Act in such fiscal year, except that the amount available for such purpose for any State for any fiscal year shall not exceed 1 per centum of the amount allotted to such State under section 103, but such amount shall not exceed $150,000 and shall not be less than $50,000.

"(2) There are authorized to be appropriated for fiscal year 1978 and each of the four succeeding fiscal years, $8,000,000 for the purpose of carrying out this section.

"COMPREHENSIVE STATEWIDE LONG-RANGE PLANS

"SEC. 106. (a) Each State planning commission shall develop and submit to the Commissioner, through the State board, a comprehensive statewide long-range plan for vocational education within the State, covering a period of not less than four years nor more than six years. Such plan shall set forth the overall manpower and vocational education goals which the State intends to achieve during such period, together with specific descriptions of the planned use of Federal, State, and local vocational education funds for each such year, in order to achieve the stated goals.

"(b) In developing such a comprehensive statewide long-range plan, the State planning commission shall—

"(1) assess the needs, both actual and projected, of the State and, where relevant, the region and the Nation, for trained manpower, in various occupations and at various levels, together with the actual and projected enrollments in vocational education programs and other training programs within the State;

"(2) assess the existing capabilities and facilities for provision of vocational education, together with existing and projected needs for such education in all parts of the

State; including an assessment of the special needs of handicapped persons, persons who have academic, socioeconomic or other handicaps that prevent them from succeeding in regular vocational education programs, and persons who have limited English-speaking ability, and the resources necessary to meet such needs;

"(3) give thorough consideration to the most effective means of utilizing all existing institutions within the State capable of carrying out or supervising the kinds of programs assisted under this Act, including secondary schools, public and private community and junior colleges, area vocational schools, proprietary schools, technical institutes, manpower skill centers, institutions of higher education, and branches thereof;

"(4) develop general procedures for the delegation of the responsibilities for implementation of the vocational education programs under this Act by the State board to the State agencies described in clauses (A), (B), (C), and (D) of subsection (b) of section 104;

"(5) develop procedures to assure continuous planning and evaluation, including the regular collection of data which would be available to the State planning commission, the State board, State administering agencies, the State advisory council on vocational education, and other interested agencies, institutions, and individuals; and

"(6) develop criteria for coordinating manpower training programs conducted by prime sponsors established under the Comprehensive Employment and Training Act of 1973 with vocational education programs assisted under this Act.

"GENERAL APPLICATION

"SEC. 107. (a) Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this Act shall, through its State board, submit to, and maintain on file with, the Commissioner a general application providing assurances—

"(1)(A) that the State will provide for such methods of administration as are necessary for the proper and efficient administration of the Act, including any delegation by the State board of its responsibilities, in whole or in part, to any agency or official consistent with the comprehensive statewide long-range plan approved by the State board;

"(B) that the State will establish or designate an office for women in accordance with the provisions of section 102(f);

"(2) that the State will make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State or local educational agencies) under the Act;

"(3) that Federal funds made available under this Act will be so used as to supplement, and to the extent practical, increase the amount of State and local funds that would, in the absence of Federal funds, be made available for vocational education programs authorized by this Act, and in no case supplant such State or local funds;

"(4) that the State will make provision for making such reports as the Commissioner may reasonably require to carry out his functions;

"(5) that funds will be distributed to eligible recipients on the basis of annual applications which—

"(A) have been developed in consultation with representatives of the educational and training resources available to the area to be served by the applicant,

"(B) describe the vocational education needs of potential students in the area or community served by the applicant and indicate how, and to what extent, the program proposed in the application will meet such needs,

"(C) describe how the activities proposed in the application relate to manpower programs conducted in the area by a prime sponsor established under the Comprehensive Employment and Training Act of 1973, if any, to assure a coordinated approach to meeting the vocational education and training needs of the area or community, and

"(D) describe the relationship between vocational education programs proposed to be conducted with funds under this Act and other programs in the area or community which are supported by State and local funds;

"(6) that priority in approval of applications from eligible recipients shall be given to applicants which—

"(A) propose programs for persons with special needs for vocational education, including persons with academic, socioeconomic, mental, and physical handicaps which require additional services to enable them to succeed in regular vocational education programs, and persons with limited English-speaking ability,

"(B) are located in economically depressed areas and areas with high rates of unemployment, and are unable to provide the resources necessary to meet the vocational education needs of the areas without Federal assistance, and

"(C) propose programs which are new to the area to be served and which are designed to meet new and emerging manpower needs and job opportunities in the area and, where relevant, in the State and the Nation;

"(7) that funds will not be distributed on the basis of per capita enrollment or through matching of local expenditures on a percentage basis, and that no eligible recipient will be denied Federal funds for the establishment of new vocational education programs solely because of its inability to pay the non-Federal share of the cost of such programs;

"(8) that any eligible recipient dissatisfied with final action with respect to any application for funds under this title shall be given reasonable notice and opportunity for a hearing; and

"(9) that funds received under this Act will not be used for any program of vocational education (except personnel training programs under subpart 2 of part B, renovation programs under part E, and homemaking programs under part F) which cannot be demonstrated to prepare students for employment, be necessary to prepare individuals for successful completion of such a program, or be of significant assistance to individuals enrolled in making an informed and meaningful occupational choice as an integral part of a program of orientation and preparation.

"(b) The Commissioner shall approve any general application of a State board, or any modification thereof, which meets the requirements of subsection (a). The Commissioner shall not finally disapprove a general application, or modification thereof, except after reasonable notice and an opportunity for a hearing to the State board.

"ANNUAL PROGRAM PLAN

"SEC. 108. (a) If a State desires to receive the amount for which it is eligible for any fiscal year, the State planning commission shall prepare and submit to the Commissioner, through the State board, an annual program plan for expenditure of funds received under this Act, at such time, in such detail, and containing such information as the Commissioner deems necessary. The Commissioner shall approve a plan submitted by a State if he determines that the plan submitted for that year—

"(1) was prepared in consultation with the State advisory council for that State, which council has been actively involved in the development of the annual program plan;

"(2) reflects coordination of manpower activities within the State, through consultation with the State Manpower Services Council created under section 107 of the Comprehensive Employment and Training Act of 1973;

"(3) reflects the participation of local advisory councils representing business, labor, and community interests;

"(4) sets forth in detail the proposed distribution of Federal funds received under this Act for that fiscal year among eligible recipients, together with an analysis of the relationship of such expenditures to the comprehensive statewide long-range plan submitted pursuant to section 106 and the manner in which such expenditures comply with section 107(a)(6) relating to priority and the approval of applications;

"(5) contains a report concerning the distribution among eligible recipients of Federal funds received under this Act for the preceding fiscal year, together with an analysis as to which such distribution conformed to the pattern proposed in the annual program plan for that fiscal year;

"(6) updates the comprehensive statewide long-range plan through amendment or revision of its actual and projected manpower needs and planned vocational education programs to meet such needs;

"(7) has been submitted only after the State board (A) has given reasonable notice and afforded a reasonable opportunity for a public hearing on the annual program plan, and (B) has implemented policies and procedures to insure that copies of the State's comprehensive statewide long-range plan and annual program plan, and all statements of general policies, rules, regulations, and procedures issued by the State board and by State agencies and officials to which any responsibility is delegated will be made reasonably available to the public; and

"(8) sets forth the conduct of a thorough study of the policies, procedures, materials, and administrative procedures that the State will follow in vocational education programs so as to permit equal access to such programs by both men and women, including (A) a detailed description of the policies and procedures to be followed, (B) actions that will be taken to overcome sexism in all vocational education programs, and (C) incentives which will be provided to local educational agencies to develop model programs to reduce sex stereotyping in all occupations, and provides for making the results of the study required by this paragraph available to the public.

"(b)(1)(A) The Commissioner shall approve a State's annual program plan only after he has made specific findings, in writing, as to the compliance of such plan with the provisions of the Act and he is satisfied that adequate procedures are set forth to insure that the assurances submitted pursuant to subsection (a) of section 107 and the provisions of the annual program plan submitted pursuant to this section are being carried out, and that the annual program plan shows progress in achieving the goals set forth in the comprehensive statewide long-range plan.

"(B) In carrying out the provisions of this subsection the Commissioner shall submit each State's annual program plan to the Director of Bilingual Education for review and evaluation of that portion of each State's annual program plan which relates to vocational education for persons with limited English-speaking ability.

"(C) (1) The Commissioner shall not approve a State plan submitted under this section until he has received assurances that the office for women established by the State pursuant to section 122(d) has reviewed the plan, and that the State board has given due consideration to the needs of female students and the State board provides assurances that all vocational education programs described in the plan are designed to attract individuals of both sexes and that no sex stereotyping exists in such programs.

"(2) (A) The Commissioner shall not finally disapprove any plan submitted under this section, or any modification thereof, without first affording the State board submitting the plan reasonable notice and opportunity for a hearing.

"(B) The Commissioner shall not disapprove any plan submitted under this section solely on the basis of the distribution of State and local expenditures for vocational education.

"SUBMISSION OF PLANS; WITHHOLDING AND JUDICIAL REVIEW

"SEC. 109. (a) (1) No comprehensive statewide long-range plan prepared under section 106, and no annual program plan prepared under section 108, may be submitted to the Commissioner until that plan has been approved by the State board concerned.

"(2) Whenever the State board rejects in whole or in part the comprehensive statewide long-range plan or the annual program plan, the State board concerned shall return that plan to the State planning commission together with such suggestions for proposed changes as the State board deems appropriate.

"(b) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State board submitting a State plan approved under section 108, finds that—

"(1) the State plan has been so changed that it no longer complies with the provisions of section 108, or

"(2) in the administration of the plan there is a failure to comply substantially with any such provision,

the Commissioner shall notify such State board that no further payments will be made to the State under this Act (or, in his discretion, further payments to the State will be limited to programs under or portions of the State plan not affected by such failure) until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, the Commissioner shall make no further payments to such State under this Act (or shall limit payments to programs under or portions of the State plan not affected by such failure).

"(c) A State board which is dissatisfied with a final action of the Commissioner under this section or subsection 108(b) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record the Commissioner may modify or set aside his action. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

"(d) (1) If any eligible recipient is dissatisfied with the final action of the State board or other appropriate State administering agency with respect to approval of an application by such eligible recipient for a grant pursuant to this Act, such eligible recipient may, within sixty days after such final action or notice thereof, whichever is later, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the State board or other appropriate State administering agency. The State board or such other agency thereupon shall file in the court the record of the proceedings on which the State board or such other agency based its action, as provided in section 2112 of title 28, United States Code.

"(2) The findings of fact by the State board or other appropriate administering agency, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the State board or other such agency to take further evidence, and the State board or such other agency may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings.

"(3) The court shall have jurisdiction to affirm the action of the State board or other appropriate administering agency or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"NATIONAL PRIORITY PROGRAMS

"SEC. 110. (a) For any fiscal year, at least 10 per centum of each State's allotment under section 103(a) (2) shall be used to pay 60 per centum of the cost of vocational education for handicapped persons, who, because of their handicapping condition, cannot succeed in the regular vocational education program without special educational assistance or who require a modified vocational education program.

"(b) For any fiscal year, at least 15 per centum of each State's allotment under section 103(a) (2) shall be used to pay 60 per centum of the cost of vocational education for persons (other than handicapped persons) who have academic, socioeconomic, or other handicaps that prevent them from succeeding in the regular vocational education program.

"(c) For any fiscal year, at least 15 per centum of each State's allotment under section 103(a) (2) shall be used to pay 60 per centum of the cost of vocational education for persons who have completed or left high school and who are available for study in preparation for entering the labor market.

"(d) At least 5 per centum of the allotment of funds appropriated under section 102(a) for any fiscal year to each State which the Commissioner finds has areas of high concentration of persons of limited English-speaking ability shall be used only to pay 60 per centum of the cost of vocational education for such persons.

"(e) (1) For any fiscal year, funds appropriated under section 102(b) and allotted under section 103(a) (2) shall be allocated within the State to areas of high concentration of youth unemployment and school dropouts, and shall be used to pay the full cost of vocational education for persons (other than handicapped persons) who have academic, socioeconomic, or other handicaps that prevent them from succeeding in the regular vocational education program.

"(2) Such funds may be granted to eligible recipients only if (A) to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which the program or project involved is to meet, provision has been made for the participation of such students, and (B) effective policies and procedures have been adopted which assure that Federal funds made available under this subsection to accommodate students in nonprofit private schools will not be commingled with State or local funds.

"(f) (1) For any fiscal year, funds appropriated under section 102(c) and allotted under section 103(a) (2) shall be allocated within the State to areas of high concentrations of individuals with limited English-speaking ability and shall be used to pay the full cost of vocational education for such individuals.

"(2) Such funds may be granted to eligible recipients only if (A) to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which the program or project is involved is to meet, provision has been made for the participation of such students, and (B) effective policies and procedures have been adopted which assure that Federal funds made available under this subsection to accommodate students in nonprofit private schools will not be commingled with State or local funds.

"PAYMENTS TO STATES

"SEC. 111. (a) (1) The Commissioner shall pay, from the amount available to each State for grants under this part to eligible recipients an amount equal to—

"(A) 50 per centum of the cost of carrying out its annual program plan as approved pursuant to section 108, other than programs and activities for persons described in section 110;

"(B) 60 per centum of the cost of vocational education programs for persons with special needs described in section 110(a), 110(b), 110(c), and 110(d); and

"(C) 100 per centum of the cost of vocational education programs for persons with special needs described in sections 110(a), and 110(f);

except that in the case of the Trust Territory of the Pacific Islands and American Samoa, such amount shall be equal to 100 per centum of such expenditures.

"(2) (A) In addition, the Commissioner shall pay, from the amount available to each State for administration of State plans appropriated under section 102(d), an amount equal to the Federal share of the cost of administration of such plan.

"(B) For the purpose of this paragraph, the Federal share for any fiscal year shall be 50 per centum, except that (1) for fiscal year 1978 it shall be 85 per centum and for fiscal year 1979 it shall be 70 per centum, and (2) whenever the Commissioner determines that, for the fiscal year preceding the fiscal year for which the determination is made, the ratio of State and local expenditures for vocational education in a State to the Federal expenditure for vocational education in that State for that year exceeds twice the ratio of the national average of State and local expenditures for vocational education to Federal expenditures for vocational education for that year, or the State and local expenditures for vocational education in a State exceed ten times the Federal expenditure for vocational education in that State, the Commissioner shall set the Federal share for that fiscal year for that State in excess of the Federal share specified in clause (1), but not to exceed 100 per centum.

"(C) For the purposes of this paragraph, the term 'administration' means activities of a State necessary for the proper and efficient performance of its duties under this Act, including supervision and evaluation, but not including ancillary services such as teacher training, curriculum development, and research.

"(b) (1) No payments shall be made in any fiscal year under this Act to any local educational agency or to any State unless the Commissioner finds, in the case of a local educational agency, that the combined fiscal effort of that agency and the State with respect to the provision of vocational education by that agency for the fiscal year preceding the fiscal year for which the determination was made was not less than such combined fiscal effort for that purpose for the second preceding fiscal year or, in the case of a State, that the fiscal effort of that State for vocational education in that State for the fiscal year preceding the fiscal year for which the determination was made was not less than such fiscal effort for vocational education for the second preceding fiscal year; except that the Commissioner may waive so much of the requirement of this subsection as he determines is equitable to reflect the reduction in available tax resources to the relevant local education agency or the State, or both. The Commissioner shall prepare and establish objective criteria of general applicability to carry out the waiver authority contained in this subsection.

"(2) No payments shall be made in any fiscal year under this Act to any postsecondary educational institution unless the Commissioner finds that the amount spent by such institution from current funds for vocational education purposes for the fiscal year preceding the fiscal year for which the determination was made was not less than the amount spent by such institution from current funds for the second preceding fiscal year; except that the Commissioner may waive so much of the requirement of this paragraph as he determines is equitable, in accordance with objective criteria of general applicability.

"PART B—ANCILLARY SERVICES

"Subpart 1—Vocational Guidance and Counseling

"PURPOSE

"SEC. 121. It is the purpose of this subpart to provide Federal assistance to States to enable them to develop and conduct vocational guidance and counseling programs and exploration activities for individuals of all ages, and to improve existing programs and activities, in order to improve the understanding of educational and occupational opportunities among individuals served and to facilitate vocational development throughout the lifetimes of such individuals.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 122. (a) There are authorized to be appropriated for the purpose of this subpart $25,000,000 for fiscal year 1978, $35,000,000 for fiscal year 1979, $45,000,000 for fiscal year 1980, $55,000,000 for fiscal year 1981, and $75,000,000 for fiscal year 1982.

"(b) (1) From the sums appropriated pursuant to this subpart, the Commissioner shall reserve such amount, not to exceed 3 per centum thereof, as he may determine necessary and shall allot such amount among Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, according to their relative need for assistance under this subpart.

"(2) From the remainder of the sums appropriated, the Commissioner shall allot to each State an amount which bears the same ratio to such sums for such year as the population of the State bears to the population of all the States.

"USES OF FUNDS

"SEC. 123. Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this subpart shall set forth, in its annual program plan approved pursuant to section 108, its proposed allotment of funds among eligible recipients for vocational development guidance and counseling programs and services, including—

"(1) initiation, implementation, and improvement of high quality vocational guidance and counseling programs and activities;

"(2) vocational counseling for children, youth, and adults, leading to a greater understanding of educational and vocational options;

"(3) provision of educational and job placement services including programs to prepare individuals for professional occupations or occupations requiring a baccalaureate or higher degree, including followup services;

"(4) vocational guidance and counseling training designed to acquaint guidance counselors with (A) the changing work patterns of women, (B) ways of effectively overcoming occupational sex stereotyping, and (C) ways of assisting girls and women to select careers solely on their occupational needs and interests, and to develop improved career counseling materials which are free;".

"(5) vocational and educational counseling for youth offenders and adults in correctional institutions;

"(6) vocational guidance and counseling for persons of limited English-speaking ability;

"(7) establishment of vocational resource centers to meet the special needs of out-of-school individuals, including individuals seeking second careers, individuals entering the job market late in life, handicapped individuals, individuals from economically depressed communities or areas, and early retirees; and

"(8) provide leadership for vocational guidance and exploration programs at the local level.

"COOPERATIVE ARRANGEMENTS

"SEC. 124. Applications for funds under this subpart from eligible recipients shall set forth cooperative arrangements with such community groups and agencies as the public employment service, vocational rehabilitation service, community mental health agencies, and other community resources concerned with vocational development guidance and counseling, in order to avoid unnecessary duplication in the provision of services in the community or area to be served.

'Subpart 2—Vocational Education Personnel Training

"PURPOSE

"SEC. 126. It is the purpose of this subpart to provide training and retraining opportunities for persons serving or preparing to serve in vocational education programs, and to provide opportunities for potential leaders in vocational education to enroll in advanced study programs.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 127. There are authorized to be appropriated $55,000,000 for fiscal year 1978, $61,000,000 for fiscal year 1979, $67,000,000 for fiscal year 1980, $74,000,000 for fiscal year 1981, and $81,000,000 for fiscal year 1982, for the purpose of this subpart, other than section 129.

"TRAINING PROGRAMS

"SEC. 128. (a) The Commissioner is authorized to make grants to, or enter into contracts with, institutions of higher education, State educational agencies, State boards for vocational education, and, after consultation with the State board, to local educational agencies, for the purpose of carrying out programs or projects designed to improve the qualifications of persons serving or preparing to serve in vocational education programs, including teachers, administrators, supervisors, and vocational guidance and counseling personnel.

"(b) Grants or contracts under this section may be used for programs or projects—

"(1) to train or retrain teachers, and supervisors and trainers of teachers, in vocational education in new and emerging occupations;

"(2) providing in-service training for vocational education teachers and other staff members, to improve the quality of instruction, supervision, and administration of vocational education programs and to overcome sex bias in vocational education programs;

"(3) to train or retrain counseling and guidance personnel in the field of vocational guidance, including in-service training of such personnel designed to increase their awareness of vocational education opportunities at the secondary and postsecondary levels;

"(4) providing for exchange of vocational education teachers and other personnel with skilled workers or supervisors in business, industry, and agriculture (including mutual arrangements for preserving employment and retirement status and other employment benefits during the period of exchange), and the development and operation of cooperative programs involving periods of teaching in schools providing vocational education and of experience in commercial, industrial, or other public or private employment related to the subject matter taught in such school;

"(5) to prepare journeymen in the skilled trades or occupations for teaching positions;

"(6) to train and to provide in-service training for teachers and supervisors and trainers of teachers in vocational education to improve the quality of instruction, supervision, and administration of vocational education for persons with limited English-speaking ability and to train or retrain counseling and guidance personnel to meet the special needs of persons with limited English-speaking ability; and

"(7) providing short-term or regular-session institutes designed to improve the qualifications of persons entering or reentering the field of vocational education in new and emerging occupational areas in which there is a need for such personnel.

"(c) The Commissioner may include in the terms of any grant or contract under this section provisions authorizing the payment, to persons participating in the training programs supported under this section, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as he may determine, consistent with prevailing practices under comparable federally supported programs.

"LEADERSHIP DEVELOPMENT AWARDS

"SEC. 129. (a) In order to meet the needs of the States for qualified vocational education personnel, the Commissioner is authorized to make leadership development awards to personnel—

"(1) who are eligible for admission as graduate students in an approved program of higher education;

"(2) who have had at least two years of experience in vocational education, in industrial training, or in military technical training or, in the case of persons involved in vocational education research, experience in social science research which is applicable to vocational education with special consideration for personnel who have experience in vocational education for persons with special needs described in section 110;

"(3) who are currently employed in vocational education programs or personnel with reasonable assurance of such employment, who have successfully completed at least a baccalaureate degree program; and

"(4) who are recommended by employers or other qualified individuals as having leadership potential in the field of vocational education.

"(b) (1) The Commissioner shall pay to personnel selected for leadership development awards such stipends (including such allowances for subsistence and other expenses for such person and his dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(2) The Commissioner shall also pay to the institution of higher education at which such person is pursuing a course of study such amount as the Commissioner may determine to be consistent with the prevailing practices under comparable federally supported programs, but any amount charged such person for tuition and nonrefundable fees and deposits shall be deducted from the amount payable to the institution of higher education under this subsection.

"(c) The Commissioner shall approve the vocational education leadership development program of an institution which has demonstrated previous experience in graduate vocational education and has submitted an application only upon finding that—

"(1) such institution offers a graduate program in vocational education at the doctoral level, with adequate supporting services and disciplines such as educational administration, guidance and counseling, research and curriculum development;

"(2) such program is designed to substantially further the objective of improving vocational education through providing opportunities for flexible and individualized graduate training of vocational education teachers, supervisors, and administrators, and of university level vocational education teacher educators and researchers;

"(3) such program is conducted by a school of graduate study in such institution; and

"(4) such program is approved by the State board in the State in which such institution is located.

"(d) Persons receiving leadership development awards under this section shall continue to receive such awards only during such periods as the Commissioner finds that they are maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field of vocational education in an institution of higher education, and are not engaging in gainful employment, other than part-time employment by such institution in teaching, research, or similar activities, approved by the Commissioner.

"(e) There are authorized to be appropriated for purposes of this section $5,120,000 for the fiscal year 1978 and for each fiscal year ending prior to October 1, 1982.

"(f) From the amounts appropriated under subsection (e) the Commissioner shall make awards under subsection (b) to individuals to be selected by the various States, who shall be accepted for admission as graduate students in an approved program of higher education not less than nine months in advance of the starting date of such program. Such grants shall be made for study at not more than twenty institutions approved by the Commissioner, which offer a graduate program with a specialty in vocational education. Such grants shall be apportioned equitably among the States, taking into account such factors as the State's vocational education enrollments, and the incidence of youth unemployment and school dropouts in the State.

"PART C—INNOVATION

"Subpart 1—Exemplary Programs and Projects

"PURPOSE

"SEC. 131. It is the purpose of this subpart to authorize the Commissioner to make grants to, and enter into contracts with, States, local educational agencies, institutions of higher education, and other public and private agencies and organizations in order to develop, demonstrate, and disseminate the results of exemplary and innovative programs and projects designed to assist students in secondary school with special considerations for programs and projects designed to assist students who have special needs as described in section 110, youth who have left school, and students in postsecondary educational institutions in making occupational choices and acquiring necessary skills and understanding for career success.

"AUTHORIZATION OF GRANTS AND CONTRACTS

"SEC. 132. (a) There are authorized to be appropriated $25,000,000 for fiscal year 1978, $30,000,000 for fiscal year 1979, $40,000,000 for fiscal year 1980, $50,000,000 for fiscal year 1981, and $75,000,000 for fiscal year 1982, to enable the Commissioner to carry out the provisions of this subpart.

"(b)(1) From the sums appropriated pursuant to this subpart, the Commissioner shall reserve such amount, not to exceed 3 per centum thereof, as he may determine necessary and shall allot such amount among Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, according to their relative need for assistance under this subpart.

"(2) From the remainder, the Commissioner shall reserve 50 per centum which he shall use to make grants to, or enter into contracts with, States, local educational agencies, institutions of higher education, and other public and private agencies and organizations for programs and projects meeting national needs and priorities, pursuant to section 133(a).

"(3) From sums not otherwise reserved, the Commissioner shall first allot $200,000 to each State (except for those for which sums are reserved in paragraph (1)), and he shall then allot to each such State an amount which bears the same ratio to any residue of such remainder as the population aged fifteen to nineteen, both inclusive, in the State bears to the population of such ages in all such States. Such sums shall be used by the State for grants to, or contracts with, local educational agencies, institutions of higher education, and other public and private agencies and organizations for programs and projects set forth in its annual program plan approved under section 108 which meet the requirements of section 133(b).

"USES OF FUNDS; PRIORITY

"SEC. 133. (a) Grants or contracts made by the Commissioner may be used to pay all or part of the cost of programs and projects directed toward meeting one or more critical national needs or high national priorities for vocational education, which he has identified, by regulation. Such needs and priorities shall include—

"(1) the development of high quality vocational education programs for urban centers with high concentrations of economically disadvantaged individuals, unskilled workers, and unemployed individuals;

"(2) the development of training opportunities for persons in sparsely populated rural areas and for individuals migrating from farms to urban areas;

"(3) the establishment of guidance and placement centers to meet the training, counseling, and placement needs of unemployed youth and adults;

"(4) the development of effective vocational education programs for individuals with limited English-speaking ability; and

"(5) the establishment of cooperative arrangements between public education and manpower agencies, designed to correlate vocational education opportunities with current and projected needs of the labor market.

"(b) Grants and contracts made by the State may be used to pay all or part of the cost of programs and projects—

"(1) designed to meet the national needs and priorities identified by the Commissioner under subsection (a);

"(2) designed to broaden occupational aspirations and opportunities for youth, with special emphasis given to youth who have academic, socioeconomic, or other handicaps, including—

"(A) programs and projects designed to familiarize elementary and secondary school students with the broad range of occupations for which special skills are required and the requisites for careers in such occupations;

"(B) programs and projects for students which provide educational experiences through work during the school year or in the summer;

"(C) programs and projects for intensive occupational guidance and counseling during the last years of secondary school and in postsecondary vocational education, and for initial job placement;

"(D) programs and projects for young workers released from their jobs on a part-time basis for the purpose of increasing their educational attainment; and

"(E) programs and projects to facilitate the participation of employers and labor organizations in postsecondary vocational education.

"(c) In making grants or entering into contracts under this subpart the Commissioner or the State board, as the case may be, shall give priority to programs and projects designed to reduce sex stereotyping in vocational education.

"CONDITIONS OF GRANTS AND CONTRACTS

"SEC. 134. (a) A grant or contract pursuant to this subpart may be made or entered into by the Commissioner, under section 133(a), or by the State, under section 133(b), only upon a determination—

"(1) that effective procedures will be adopted by grantees and contractors to coordinate the development and operations of such grant or contract with the State plan approved under section 108 and with other public and private programs, including manpower programs, having the same or a similar purpose; and

"(2) that to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which the program or project involved is to meet, provision has been made for the participation of such students, and that effective policies and procedures will be adopted which assume that Federal funds made available under this subpart will not be commingled with State or local funds.

"(b)(1) Financial assistance under this subpart may not be given to any program or project for a period exceeding three years, except that a program or project of national significance assisted under section 133(a) may be supported for a fourth year if the Commissioner determines that its continuation for an additional year would serve to carry out the purposes of this subpart.

"(2) The State board shall set forth in the annual program plan submitted pursuant to section 108 the expected grants and contracts to be made under section 133(b), together with the expected amount and duration of Federal financial participation in such programs and projects. The annual program plan covering the final year of financial support for any such program or project shall indicate the proposed disposition of the program or project following the cessation of Federal support and the means by which successful or promising programs or projects will be continued and expanded within the State.

"PAYMENTS

"SEC. 135. (a) From the amount available for grants and contracts under this subpart pursuant to section 132(b)(2), the Commissioner shall pay to each applicant an amount equal to the amount expended by such applicant in accordance with the approved application. Such payment may be made on such terms as are approved in such application. Payment pursuant to grants under this subpart may be made in installments, and in advance or by way of reimbursement, with necessary adjustment on account of overpayments or underpayments, as the Commissioner may determine.

"(b) Notwithstanding any other provision of law, unless hereafter enacted expressly in limitation of the provisions of this subsection, funds available to the Commissioner pursuant to section 132(b)(2) shall remain available until expended.

"Subpart 2—Curriculum Development

"PURPOSE

"Sec. 136. It is the purpose of this subpart to provide Federal assistance for the development and dissemination of curriculums for new and changing occupations.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 137. There are authorized to be appropriated $10,000,000 for fiscal year 1978 and for each of the succeeding fiscal years ending prior to October 1, 1982, for the purposes of this subpart.

"USES OF FUNDS

"Sec. 138. The Commissioner shall, after consultation with the National Advisory Council on Vocational Education and appropriate State boards, make grants to, or enter into contracts with, institutions of higher education, States, and other public and nonprofit private agencies and institutions, or contracts with public or private agencies, organizations, or institutions—

"(1) to develop and disseminate vocational education curriculum materials for new and changing occupational fields and for individuals with special needs as described in section 110;

"(2) to develop curriculum and guidance and testing materials designed to overcome sex bias in vocational education programs and support services designed to enable teachers to meet the needs of individuals enrolled in vocational education programs traditionally limited to members of the opposite sex;

"(3) to survey, coordinate, and evaluate curriculum materials produced by agencies of the Federal Government, States, local educational agencies, and other agencies and organizations, and to disseminate the results of such effort; and

"(4) to train personnel in curriculum development and in the use of curriculums developed pursuant to this subpart.

"PART D—STUDENT PROGRAMS

"Subpart 1—Work-Study Programs for Vocational Education Students

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 141. There are authorized to be appropriated $45,000,000 for fiscal year 1978, $50,000,000 for fiscal year 1979, $55,000,000 for fiscal year 1980, and $60,000,000 for each of the fiscal years 1981 and 1982, for the purpose of carrying out this subpart.

"ALLOTMENT AMONG STATES

"Sec. 142. (a) From the sums appropriated under section 141 for each fiscal year, the Commissioner shall allot to each State an amount which bears the same ratio to such sums for such year as the population aged fifteen to twenty, inclusive, of the State in the fiscal year preceding the fiscal year for which the determination is made bears to the population aged fifteen to twenty, inclusive, of all the States in such preceding year.

"(b) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for such fiscal year for carrying out work-study programs under this subpart shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) for such year, but with such proportionate amount for any such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year, and the total of such reductions shall be similarly reallotted among the States not suffering such a reduction. Any amount reallotted to a State under this subsection during such year shall be deemed part of its allotment for such year.

"WORK-STUDY PROGRAMS

"Sec. 143. (a) Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this subpart shall set forth, in its annual program plan approved pursuant to section 108, its proposed allotment of funds among local educational agencies for work-study programs for vocational education students, which allotment shall give priority to applications from local educational agencies serving communities having substantial numbers of youths who have dropped out of school or are unemployed. Such work-study programs shall—

"(1) provide that employment shall be furnished only to a student who (A) has been accepted for enrollment as a full-time student in a vocational education program which meets the standards prescribed by the State board and the local educational agency for vocational education programs assisted under this Act or, in the case of a student already enrolled in such program, is in good standing and in full-time attendance, (B) is in need of the earnings from such employment to commence or continue his vocational education program, and (C) is at least fifteen years of age and less than twenty-one years of age at the commencement of his employment, and is capable, in the opinion of the appropriate school authorities, of maintaining good standing in his vocational education program while employed under the work-study program;

"(2) provide that employment under such work-study program shall be for the local educational agency or for some other public agency or institution and shall, to the extent practicable, be related to the vocational education program in which the student is enrolled; and

"(3) provide that, in each fiscal year during which such program remains in effect, such agency shall expend, from sources other than payments from Federal funds under this subpart, for the employment of its students (whether or not in employment eligible for assistance under this subpart) an amount that is not less than its average annual expenditure for work-study programs of a similar character during the three fiscal years preceding the fiscal year in which its work-study program under this section is approved.

"(b) Students employed in work-study programs under this subpart shall not by reason of such employment be deemed employees of the United States, or their service Federal service, for any purpose.

"PAYMENTS

"Sec. 144. (a) From a State's allotment under section 142 for any fiscal year, the Commissioner shall pay to such State an amount equal to 80 per centum of the amount expended for the compensation of students employed in work-study programs approved as part of the State's annual program plan pursuant to section 108.

"(b) In addition; the Commissioner shall pay, from such allotment, an amount, not to exceed 1 per centum of such allotment or $10,000, whichever is the greater, for the development of the work-study portion of the annual program plan and for administration of the program set forth in such plan.

"Subpart 2—Cooperative Vocational Education Programs

"PURPOSE

"Sec. 146. It is the purpose of this subpart to enable the Commissioner to make grants to States for the establishment and expansion of programs of cooperative vocational education, involving alternate academic and vocational study and public or private employment, that will not only afford students the opportunity to earn through employment funds which can assist them in continuing and completing their education, but also will, so far as practicable, give them work experience related to their vocational education and occupational objectives.

"AUTHORIZATION

"Sec. 147. There are authorized to be appropriated $25,000,000 for fiscal year 1978, $30,000,000 for fiscal year 1979, $35,000,000 for fiscal year 1980, $40,000,000 for fiscal year 1981, and $50,000,000 for fiscal year 1982, for the purpose of carrying out this subpart.

"ALLOTMENT AMONG STATES

"Sec. 148. (a) From the sums appropriated pursuant to this subpart for each fiscal year, the Commissioner shall reserve such amount, not to exceed 3 per centum thereof, as he may determine necessary and shall allot such amount among Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, according to their relative need for assistance under this subpart.

"(b) From the remainder, the Commissioner shall first allot $200,000 to each State (except those for which sums are reserved in subsection (a)), and he shall then allot to each such State an amount which bears the same ratio to any residue of such remainder as the population aged fifteen to nineteen, both inclusive, in the State bears to the population of such ages in all such States. The population of particular age groups of a State and of all the States shall be available estimates furnished by the Department of Commerce.

"(c) The amount of any State's allotment under this section for any fiscal year which the Commissioner determines will not be required for such fiscal year for carrying out programs authorized by this subpart shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, and on the basis of criteria established by regulation, among other States. Any amount reallotted to a State under this subsection during such year shall be deemed part of its allotment for such year.

"COOPERATIVE VOCATIONAL EDUCATION PROGRAMS

"Sec. 149. (a) Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this subpart shall set forth, in its annual program plan approved pursuant to section 108, its proposed allotment of funds among local educational agencies for the establishment and expansion of cooperative vocational education programs in which public and private employers participate, which allotment shall give priority to applications from local educational agencies in areas that have high rates of school dropouts and youth unemployment. Such cooperative vocational education programs shall—

"(1) provide training opportunities which may not otherwise be available and which are designed to serve individuals who can benefit from such programs;

"(2) be established in cooperation with employment agencies, labor groups, employers, and community agencies;

"(3) provide for reimbursement of added costs to employers for on-the-job training of students enrolled in cooperative programs, if such on-the-job training is related to existing career opportunities susceptible of promotion and advancement and does not displace other workers who perform such work;

"(4) to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served, whose educational needs are of the type which the program involved is to meet, provide for the participation of such students; and

"(5) provide such accounting, evaluation, and followup procedures as the Commissioner deems necessary, including effective policies and procedures to assure that Federal funds made available under this subpart will not be commingled with State or local funds.

"(b) Funds allotted under this subpart may be used to pay all or part of the costs of establishment and expansion of cooperative vocational education programs.

"PART E—EMERGENCY ASSISTANCE FOR REMODELING AND RENOVATION OF VOCATIONAL EDUCATION FACILITIES

"PURPOSE

"SEC. 151. It is the purpose of this part to provide emergency assistance, for a limited period of time, to local educational agencies in urban and rural areas which are unable to provide vocational education designed to meet today's manpower needs due to the age of their vocational education facilities or the obsolete nature of the equipment used for vocational training, in order to assist such agencies in the modernization of facilities and equipment and the conversion of academic facilities necessary to assure that such facilities will be able to offer vocational education programs which give reasonable promise of employment, including the remodeling and renovation of such facilities to make the facilities comply with the requirements of the Act of August 2, 1968, commonly known as the Architectural Barriers Act of 1968.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 152. There are authorized to be appropriated $25,000,000 for fiscal year 1978, $50,000,000 for fiscal year 1979, $75,000,000 for fiscal year 1980, and $100,000,000 for fiscal year 1981, to carry out the purpose of this part.

"APPLICATIONS

"SEC. 153. (a) Any local educational agency desiring to receive assistance under this part shall submit to the Commissioner, through its State board, an application therefor, which application shall set forth—

"(1) a description of the facility to be remodeled or renovated, including the date of construction of such facility and the extent of reconstruction necessary to enable such facility to provide a modern program of vocational education;

"(2) a description of the equipment to be replaced or modernized with the assistance of funds made available under this part;

"(3) a description of the extent to which the modernization or conversion of facilities and equipment, if assisted with funds made available under this part, would be consistent with, and further the goals of, the comprehensive statewide long-range plan developed pursuant to section 106;

"(4) the financial ability of the local educational agency to undertake such modernization without Federal assistance;

"(5) assurances that the facility to be remodeled or renovated will meet standards adopted pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;

"(6) the extent of State and local funds available to match Federal funds made available under this part, together with the sources and amounts of such funds ;

"(7) such other information as the State board determines to be appropriate; and

"(8) such other information as the Commissioner may require by regulation.

"(b) In approving applications submitted under this part, the Commissioner shall apply only the following criteria;

"(1) The need for such assistance, taking into account such factors as—

"(A) the age and obsolescence of the facilities and equipment for which emergency modernization assistance is sought,

"(B) the rate of youth unemployment in the labor market area served by the local educational agency,

"(C) the number of youth aged seventeen through twenty-one residing in the labor market area served by the local educational agency who are unemployed, and

"(D) the percentage such youth represent, as compared with the vocational education enrollment in the local educational agency,

"(E) the ability of the facility to comply with the standards adopted pursuant to the Act of August 12, 1968 (42 U.S.C. 4151–4156), commonly known as the Architectural Barriers Act of 1968.

"(2) The degree to which the modernization of facilities and equipment proposed in the application afford promise of achieving the goals set forth in the comprehensive statewide long-range plan developed pursuant to section 106.

"(c) The Commissioner shall rank all approved applications according to their relative need for assistance and, except as provided in subsection (d), shall pay, from sums appropriated for this part, 75 per centum of the cost of such approved applications, until such appropriation shall be exhausted.

"(d) The Commissioner shall consult with the Administrator of General Services and the Architectural and Transportation Barriers Compliance Board to determine whether the proposed remodeling or renovation will meet standards adopted pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968.

"(e) Upon a finding, in writing, that a local educational agency with an approved application is suffering from extreme financial need and would not, because of the limitation of Federal financial assistance to 75 per centum of the cost of the approved project, be able to participate in the program authorized by this part, the Commissioner may waive such limitation and may pay the full cost of the approved project.

"PAYMENTS

"SEC. 154. (a) Upon his approval of an application of assistance under this part, the Commissioner shall reserve from the appropriation available therefor the amount required for the payment of the Federal share of the cost of such application as determined under subsection (c) or (d) of section 153.

"(b) The Commissioner shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

"PART F—CONSUMER AND HOMEMAKING EDUCATION

"STATEMENT OF PURPOSE

"SEC. 160. It is the purpose of consumer and homemaking education to prepare males and females for the occupation of homemaking including, but not limited to, consumer education, food and nutrition, family living and parenthood education, child development and guidance, housing and home furnishings, home management, and clothing and textiles. Such programs, services, and activities are designed to affect learners of all ages, helping individuals and families improve home environments, improve the quality of personal and family life, and enhance employability.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 161. There are authorized to be appropriated $50,000,000 for fiscal year 1978, $60,000,000 for fiscal year 1979, $70,000,000 for fiscal year 1980, $75,000,000 for fiscal year 1981, and $80,000,000 for fiscal year 1982, for the purpose of Federal assistance for consumer and homemaking education programs.

"ALLOTMENT

"SEC. 162. (a) From the sums appropriated pursuant to section 161; the Commissioner shall allot to each State an amount which shall be computed in the same manner as allotments to States under section 103.

"(b) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for such fiscal year for carrying out the program authorized under this part shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, and on the basis of such factors as he determines equitable and reasonable, to other States which he determines to be able to use such reallotted funds. Any amounts reallotted to a State under this subsection during such year shall be deemed part of its allotment for such year.

"USES OF FUNDS

"SEC. 163. (a) Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this part shall set forth, in its annual program plan approved pursuant to section 108, its proposed allotment of funds among local educational agencies for educational programs which—

"(1) give greater consideration to economic, social, and cultural conditions and needs of all persons including special audiences such as teenage parents, older Americans, ethnic groups, the mentally and/or physically handicapped, institutionalized individuals, and persons in economically depressed areas;

"(2) prepare individuals for professional leadership;

"(3) are designed to prepare males and females for combining roles of homemaker and wage earner;

"(4) include consumer education, management of resources, promotion of nutritional knowledge and food use, and parenthood education to meet current societal needs;

"(5) are designed for males and females, who have entered, or are preparing to enter, the occupation of homemaking; and

"(6) provide for ancillary services, activities and other means of assuring quality in all consumer and homemaking education programs, such as teacher training and supervision, curriculum development, research, program evaluation, special demonstration and experimental programs, provision of equipment, and State administration and leadership.

"(b) At least one-third of the funds made available to each State under this part shall be expended in economically depressed areas or areas with high rates of unemployment for programs designed to assist consumers and to help improve home environments and the quality of family life.

"PAYMENTS

"SEC. 164. From a State's allotment under section 162 for each fiscal year, the Commissioner shall pay to such State an amount equal to 50 per centum of the amount expended for the purposes set forth in section 163(a), except that for each fiscal year the Commissioner shall pay an amount equal to 90 per centum of the amount used in areas described in section 163(b).

"PART G—SPECIAL ENERGY EDUCATION

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 166. There are authorized to be appropriated $6,000,000 for the fiscal year 1978, and $15,000,000 for each of the succeeding fiscal years ending prior to October 1, 1982 for the purpose of carrying out this part, of which $1,000,000 for the fiscal year 1978 shall be available only for carrying out the provisions of section 168, and $5,000,000 in each of the succeeding fiscal years ending prior to October 1, 1982 shall be available only for carrying out the provisions of section 168.

"GRANTS FOR ENERGY EDUCATION PROGRAM AUTHORIZED

"Sec. 167. (a) The Commissioner, after consultation and coordination with the Secretary of the Interior and with the Administrator of the Energy Research and Development Administration, is authorized to make grants to postsecondary educational institutions to carry out programs for the training of miners, supervisors, technicians (particularly safety personnel), and environmentalists in the field of coal mining and coal mine technology, including acquisition of equipment necessary for the conduct of such program.

"(b) In making grants under subsection (a) the Commissioner shall give priority to postsecondary educational institutions located in States having special need for such programs, as determined by the Commissioner.

"GRANTS FOR SOLAR ENERGY EDUCATION AUTHORIZED

"Sec. 168. The Commissioner, after consultation with the Administrator of the Energy Research and Development Administration, is authorized to make grants to postsecondary educational institutions to carry out programs for the training of individuals needed for the installation of solar energy equipment, including training necessary for the installation of glass paneled solar collectors, of wind energy generators and for the installation of other related applications of solar energy.

"APPLICATIONS

"Sec. 169. (a) Each postsecondary educational institution desiring to receive a grant under this part other than section 168 shall submit an application to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner deems necessary. Each such application shall—

"(1) describe with particularity its program for the training of miners, supervisors, and technicians in the field of coal mining and coal mine technology, including provision for supplementary demonstration projects or short-term seminars, which program may include such curriculums as (A) the extraction, preparation, and transportation of coal, (B) the reclamation of coal mined land (C) the strengthening of health and safety programs for coal mine employees, (D) the disposal of coal mine wastes, and (E) the chemical and physical analysis of coal and materials, such as water and soil, that are involved in the coal mining process;

"(2) insure that curriculums developed for such program, to the maximum extent practicable, be designed to meet the needs of existing personnel in the coal mining process and to enable coal mine employees to upgrade their skills; and

"(3) meet such additional requirements as the Commissioner may reasonably prescribe including appropriate requirements of sections 107 and 108.

"(b) Each postsecondary educational institution desiring to receive a grant under section 168 of this part shall submit an application to the Commissioner at such time, in such manner, and containing or accompanied by such information as the Commissioner deems necessary.

"PAYMENTS

"Sec. 170. From the amount available for grants under this part for any fiscal year, the Commissioner shall pay to each postsecondary institution the amount expended by such institution in carrying out its application under this part.

"Part H—Research

"AUTHORIZATION OF GRANTS AND CONTRACTS

"Sec. 171. (a) There are authorized to be appropriated $65,000,000 for fiscal year 1978, $75,000,000 for fiscal year 1979, $85,000,000 for fiscal year 1980, $95,000,000 for fiscal year 1981, and $100,000,000 for fiscal year 1982, for the purpose of carrying out this part.

"(b) (1) From the sums appropriated pursuant to this section, the Commissioner shall reserve 50 per centum which he shall use to make grants to, or enter into contracts with, institutions of higher education, public and private agencies and institutions, State boards, and, with the approval of the appropriate State board, to local educational agencies in that State for the purposes set forth in section 172(a), except that no grant may be made other than to a nonprofit agency or institution.

"(2) From sums not otherwise reserved, the Commissioner shall allot to each State an amount which bears the same ratio to any residue of such remainder as the State's allotment under section 103(a)(2) of this Act bears to the total of such allotments for all such States, for use by the State board, in accordance with its State plan, for paying up to 75 per centum of the costs of the State research coordination unit and for grants to, and contracts with, institutions of higher education, other public and private agencies, organizations, and institutions, and local educational agencies for the purposes set forth in section 172(b), except that no grant may be made other than to a non-profit agency, organization, or institution.

"(c) In making grants and entering into contracts under this part, the Commissioner and the State board shall give priority to programs and projects designed to reduce sex stereotyping in vocational education.

"USES OF FEDERAL FUNDS

"Sec. 172. (a) Funds available to the Commissioner for grants and contracts under section 171(a) may be used for—

"(1) research in vocational education;

"(2) training programs designed to familiarize persons involved in vocational education with research findings and successful pilot and demonstration projects in vocational education;

"(3) experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings;

"(4) demonstration and dissemination projects;

"(5) the development of new vocational education curricula; and

"(6) projects in the development of new careers and occupations, such as—

"(A) research and experimental projects designed to identify new careers in such fields as mental and physical health, crime prevention and correction, welfare, education, municipal services, child care, and recreation requiring less training than professional positions and to delineate within such career roles with the potential for advancement from one level to another;

"(B) training and development projects designed to demonstrate improved methods of securing the involvement, cooperation, and commitment of both the public and private sectors toward the end of achieving greater coordination and more effective implementation of programs for the employment of persons in the fields described in subparagraph (A), including programs to prepare professionals (including administrators) to work effectively with aides; and

"(C) projects to evaluate the operation of programs for the training, development, and utilization of public service aides, particularly their effectiveness in providing satisfactory work experiences and in meeting public needs.

"(b) Funds available to the States for grants and contracts under section 171(b) may be used, upon recommendation of the State research coordination unit or of the State advisory council, to pay 90 per centum of the cost of—

"(1) research and training programs;

"(2) experimental, developmental, or pilot programs designed to meet the special vocational needs of youths, particularly youths in economically depressed communities who have academic, socioeconomic, or other handicaps that prevent them from succeeding in regular vocational education programs; and

"(3) dissemination of information derived from foregoing programs or from research and demonstrations in the field of vocational education.

"APPLICATIONS

"Sec. 173. (a) A grant or contract under section 171 (a) may be made upon application to the Commissioner at such time or times, in such manner, and containing, or accompanied by, such information as the Commissioner deems necessary. Each such application shall contain—

"(1) a description of the nature, duration, purposes, and plan of the project;

"(2) the qualifications of the principal staff who will be responsible for the project;

"(3) a justification of the amount of grant funds requested;

"(4) the portion of the cost to be borne by the applicant; and

"(5) such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant.

"(b) The Commissioner may not approve an application until such application has been reviewed by a panel of experts who are not employees of the Federal Government.

"PAYMENTS

"Sec. 174. From the amount available for grants or contracts under section 171(a), the Commissioner shall pay to each applicant part of the amount expended by such applicant in accordance with applications approved pursuant to section 173.

"Part I—Special Project Grants To Assist in Overcoming Sex Bias

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 176. There are authorized to be appropriated, to carry out the purposes of this part, $5,000,000 for the fiscal year 1978, and for each of the succeeding fiscal years ending prior to October 1, 1982.

"PROGRAM AUTHORIZATION

"Sec. 177. (a) The Commissioner is authorized to pay the Federal share of supporting activities which show promise of overcoming sex stereotyping and bias in vocation education.

"(b) The Federal share shall not exceed 75 per centum of the cost of the application.

"Part J—Bilingual Vocational Training

"Subpart 1—General Provisions

"STATEMENT OF FINDINGS

"Sec. 181. The Congress finds that one of the most acute problems in the United States involves millions of citizens, both children and adults, whose efforts to profit from vocational training is severely restricted by their limited English-speaking ability because they come from environments where the dominant language is other than English; that such persons are therefore unable to help to fill the critical need for more and better trained personnel in vital occupational categories; and that such persons are unable to make their maximum contribution to the Nation's economy and must, in fact, suffer the hardships of unemployment or underemployment. The Congress further finds that there is a critical shortage of instructors possessing both the job knowledge and skills and the dual language capabilities required for adequate vocational instruction of such language-handicapped persons, and a corresponding shortage of instructional materials and of instructional methods and techniques suitable for such instruction.

"GENERAL RESPONSIBILITIES OF THE COMMISSIONER

"SEC. 182. (a) The Commissioner and the Secretary of Labor together shall—

"(1) develop and disseminate accurate information on the status of bilingual vocational training in all parts of the United States;

"(2) evaluate the impact of such bilingual vocational training on the shortages of well-trained personnel, the unemployment or underemployment of persons with limited English-speaking ability, and the ability of such persons to contribute fully to the economy of the United States; and

"(3) report their findings annually to the President and the Congress.

"(b) The Commissioner shall consult with the Secretary of Labor with respect to the administration of this part. Regulations and guidelines promulgated by the Commissioner to carry out subpart 2 of this part shall be consistent with those promulgated by the Secretary of Labor pursuant to section 301(b) of the Comprehensive Employment and Training Act of 1973 and shall be approved by the Secretary of Labor before issuance.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 183. There are authorized to be appropriated $40,000,000 for the fiscal year 1978; $60,000,000 for the fiscal year 1979; and $80,000,000 for the fiscal year 1980 and for each of the succeeding fiscal years ending prior to October 1, 1982, to carry out the provisions of subparts 2, 3, and 4, of this part, except that 65 per centum of such amounts shall be available only for grants and contracts under subpart 2 of this part, 25 per centum shall be available only for grants and contracts under subpart 3 of this part, and 10 per centum shall be available only for grants and contracts under subpart 4 of this part.

"Subpart 2—Bilingual Vocational Training Programs

"AUTHORIZATION OF GRANTS

"SEC. 184. (a) From the sums made available for grants under this part pursuant to section 183, the Commissioner is authorized to make grants to and enter into contracts with appropriate State agencies, local educational agencies, postsecondary educational institutions, private nonprofit vocational training institutions, and to other nonprofit organizations especially created to serve a group whose language as normally used is other than English in supplying training in recognized occupations and new and emerging occupations, and to enter into contracts with private for-profit agencies and organizations, to assist them in conducting bilingual vocational training programs for persons of all ages in all communities of the United States which are designed to insure that vocational training programs are available to all individuals who desire and need such bilingual vocational training.

"(b) The Secretary shall pay to each applicant which has an application approved under this part an amount equal to the total sums expended by the applicant for the purposes set forth in that application.

"USE OF FEDERAL FUNDS

"SEC. 185. Grants and contracts under this part may be used, in accordance with applications approved under section 189B, for—

"(1) bilingual vocational training programs for persons who have completed or left elementary or secondary school and who are available for training by a postsecondary educational institution;

"(2) bilingual vocational training programs for persons who have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing manpower needs, expand their range of skills, or advance in employment; and

"(3) training allowances for participants in bilingual vocational training programs subject to the same conditions and limitations as are set forth in section 111 of the Comprehensive Employment and Training Act of 1973.

"Subpart 3—Instructor Training Programs

"AUTHORIZATION OF GRANTS

"SEC. 186. (a) From the sums made available for grants and contracts under this part pursuant to section 183, the Commissioner is authorized to make grants to and enter into contracts with States, or educational institutions, either public or private, to assist them in conducting training for instructors of bilingual vocational training programs, and whenever the Commission determines that it will contribute to carrying out the purposes of this part, to make grants to, and enter into contracts with, States or educational institutions, either public or private, to assist them in conducting training for instructors in bilingual vocational training programs.

"(b) The Commissioner shall pay to each applicant which has an application approved under this part an amount equal to the total sums expended by the applicant for purposes set forth in that application.

"USE OF FEDERAL FUNDS

"SEC. 187. Grants and contracts under this subpart may be used, in accordance with applications approved under section 189B, for—

"(1) providing preservice training designed to prepare persons to participate in bilingual vocational training or vocational education programs as instructors, aides, or other ancillary personnel such as counselors, and inservice and development programs designed to enable such personnel to continue to improve their qualifications while participating in such programs; and

"(2) fellowships or traineeships for persons engaged in such preservice or in-service training.

"Subpart 4—Development of Instructional Materials, Methods, and Techniques

"AUTHORIZATIONS OF GRANTS

"SEC. 188. (a) From the sums made available for grants and contracts under this part pursuant to section 183, the Commissioner is authorized to make grants and enter into contracts with States, public and private educational institutions, and to other appropriate nonprofit organizations, and to enter into contracts with private for-profit individuals and organizations, to assist them in developing instructional material, methods, or techniques for bilingual vocational training.

"(b) The Commissioner shall pay to each applicant which has an application approved under this part an amount equal to the total sums expended by the applicant for the purposes set forth in that application.

"USE OF FEDERAL FUNDS

"SEC. 189. Grants and contracts under this part may be used, in accordance with applications approved under section 189B, for—

"(1) research in bilingual vocational training;

"(2) training programs designed to familiarize State agencies and training institutions with research findings and successful pilot and demonstration projects in bilingual vocational training;

"(3) experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings; and

"(4) other demonstration and dissemination projects.

"Subpart 5—Applications for Assistance

"APPLICATIONS

"SEC. 189A. (a) A grant or contract for assistance under this part may be made only upon application to the Commissioner, at such time, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Each such application shall—

"(1) provide that the activities and services for which assistance under this part is sought will be administered by or under the supervision of the applicant;

"(2)(A) in the case of assistance under subpart 2, set forth a program for carrying out the purposes described in section 185,

"(B) in the case of assistance under subpart 3, set forth a program for carrying out the purposes described in section 187, and

"(C) in the case of assistance under subpart 4, set forth a program for carrying out the purposes described in section 189;

"(3)(A) in the case of assistance under subpart 2, set forth a program of such size, scope, and design as will make a substantial contribution toward carrying out the purposes of this part;

"(4) in the case of assistance under subpart 3—

"(A) describe the capabilities of the applicant institution, including a listing of the vocational training or vocational education courses offered by that institution, together with appropriate accreditation by regional or national associations, if any, and approval by appropriate State agencies of the courses offered,

"(B) set forth the qualifications of the principal staff who will be responsible for the training program, and

"(C) contain a statement of the minimum qualifications of the persons to be enrolled in the training program, a description of the selection process for such persons, and the amounts of the fellowships or traineeships, if any, to be granted to persons so enrolled; and

"(5) in the case of assistance under subpart 4, set forth the qualifications of the staff who will be responsible for the program for which assistance is sought.

"(b) No grant or contract may be made under subpart 2 directly to a local educational agency or a postsecondary educational institution or a private vocational training institution or any other eligible agency or organization unless that agency, institution, or organization has submitted the application to the State board established under part A of this title, or in the case of a State that does not have such a board, the similar State agency, for comment and includes the comment of that board or agency with the application.

"APPLICATION APPROVAL BY THE COMMISSIONER

"SEC. 189B. (a) The Commissioner may approve an application for assistance under this part only if—

"(1) the application meets the requirements set forth in subsection (a) of the previous section;

"(2) in the case of an application submitted for assistance under subpart 2 to an agency, institution, or organization other than the State board, the requirement of subsection (b) of the previous section is met;

"(3) in the case of an application submitted for assistance under subpart 3—

"(A) the Commissioner determines that bilingual vocational training or vocational education programs requiring the services of the persons to be trained have been or will be actually conducted in any State being served and that enrollees will be selected from or for such programs;

"(B) the Commissioner determines that the applicant institution actually has an ongoing vocational training program in the field for which persons are being trained; and that the applicant institution can provide instructors with adequate language capabilities in the language other than English to be used in the bilingual vocational training program for which the persons are being trained; and

"(4) in the case of an application submitted for assistance under subpart 2 or subpart 3, the Commissioner determines that the program is consistent with criteria established by him, where feasible, after consultation with the State board established under part B of this title, for achieving equitable distribution of assistance under the appropriate subpart within that State.

"(b) An amendment to an application shall, except as the Commissioner may otherwise provide, be subject to approval in the same manner as the original application.

"PART K—GENERAL PROVISIONS

"DEFINITIONS

"SEC. 191. As used in this Act—

"(1) The term 'vocational education' means organized educational programs, services, and activities, including guidance and counseling, which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.

"(2) The term 'area vocational education school' means—

"(A) a specialized high school used exclusively or principally for the provision of vocational education to persons who are available for study in preparation for entering the labor market, or

"(B) the department of a high school exclusively or principally used for providing vocational education in no less than five different occupational fields to persons who are available for study in preparation for entering the labor market, or

"(C) a technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market, or

"(D) the department or division of a junior college or community college or university which provides vocational education in no less than five different occupational fields, leading to immediate employment but not necessarily leading to a baccalaureate degree, if it is available to all residents of the State or an area of the State designated and approved by the State board, and if, in the case of a school, department, or division described in (C) or (D), if it admits as regular students both persons who have completed high school and persons who have left high school.

"(3) The term 'school facilities' means classrooms and related facilities (including initial equipment) and interests in lands on which such facilities are constructed. Such term shall not include any facility intended primarily for events for which admission is to be charged to the general public.

"(4) The term 'construction' includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and includes site grading and improvement and architect fees.

"(5) The term 'Commissioner' means the Commissioner of Education.

"(6) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"(7) The term 'handicapped', when applied to persons, means persons who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired persons who by reason thereof require special education and related services.

"(8) The term 'State' includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(9) The term 'State board' means a State board designated or created by State law as the sole State agency responsible for the administration of vocational education, or for supervision of the administration of vocational education in the State.

"(10) The term 'local educational agency' means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program.

"(11) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

"(12) The term 'postsecondary educational institution' means a nonprofit institution legally authorized to provide postsecondary education within a State for persons sixteen years of age or older, who have graduated from or left elementary or secondary school.

"(13) The term 'eligible recipient' means a local educational agency or a postsecondary educational institution.

"(14) The term 'National Advisory Council' means the National Advisory Council on Vocational Education continued under section 182.

"NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

"SEC. 192. (a) The National Advisory Council on Vocational Education, established pursuant to section 104(a) of the Vocational Education Act of 1963, in effect prior to the enactment of the Education Amendments of 1976, shall continue to exist during the period for which appropriations are authorized under this Act. Individuals who are members of the Council on the date of the enactment of this Act may continue to serve for the terms for which they were appointed. Members appointed to succeed such individuals shall be appointed by the President for terms of three years. The Council shall consist of twenty-one members, each of whom shall be designated as representing one of the categories set forth in the following sentence. The National Advisory Council shall include individuals—

"(1) representative of labor and management, including persons who have knowledge of semiskilled, skilled, and technical employment;

"(2) representative of new and emerging occupational fields;

"(3) knowledgeable in the field of vocational guidance and counseling;

"(4) familiar with manpower programs and administration of manpower programs;

"(5) knowledgeable about the administration of State and local vocational education programs, including members of school boards and private institutions;

"(6) experienced in the education and training of handicapped persons and of persons of limited English-speaking ability (as defined in section 703(a) of the Elementary and Secondary Education Act of 1965);

"(7) familiar with the special problems and needs of individuals disadvantaged by their socioeconomic backgrounds;

"(8) having special knowledge of postsecondary and adult vocational education programs;

"(9) familiar with the special experiences and special problems of women and problems of sex stereotyping in vocational education;

"(10) representing the National Commission for Manpower Policy created pursuant to title V of the Comprehensive Employment and Training Act of 1973;

"(11) familiar with the special problems of individuals in correctional institutions; and

"(12) representative of the general public who are not Federal employees, including parents and students, except that they must not be representative of categories (1) through (10), and who shall constitute not less than one-third of the total membership. In appointing the National Advisory Council, the President shall insure that there is appropriate representation of both sexes, racial and ethnic minorities, and the various geographic regions of the country. The President shall select the chairman. The National Advisory Council shall meet at the call of the Chairman, but not less than four times a year.

"(b) The National Advisory Council shall—

"(1) advise the President, Congress, Secretary, and Commissioner concerning the administration of, preparation of general regulations and budget requests for, and operation of, vocational education programs supported with assistance under this Act;

"(2) review the administration and operation of vocational education programs under this Act, and other pertinent laws affecting vocational education and manpower training (including the effectiveness of such programs in meeting the purposes for which they are established and operated), make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this Act and such other pertinent laws) to the President, Congress, Secretary, and Commissioner;

"(3) make such other reports or recommendations to the President, Congress, Secretary, Commissioner, or head of any other Federal department or agency as it may deem desirable;

"(4) identify, after consultation with the National Commission for Manpower Policy, the vocational education and manpower needs of the Nation and assess the extent to which vocational education, manpower training, vocational rehabilitation, and other programs under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs;

"(5) conduct such studies, hearings, or other activities as it deems necessary to enable it to formulate appropriate recommendations;

"(6) conduct independent evaluations of programs carried out under this Act and publish and distribute the results thereof; and

"(7) provide technical assistance to State advisory councils established pursuant to section 105, in order to assist them in carrying out their responsibilities under this Act.

"(c)(1) There are authorized to be appropriated $250,000 for the fiscal year 1978, and for each of the four succeeding fiscal years to enable the National Advisory Council to employ such technical personnel as may be required to carry out its functions under this section.

"(2) There are also authorized to be appropriated such sums for the fiscal year 1978 and for each of the four succeeding fiscal years as may be necessary to carry out the provisions of subsections (a) and (b) of this section.

"SPECIAL EVALUATIONS

"SEC. 193. (a) The Commissioner shall prepare and submit annually to the Congress a report containing an indepth evaluation of the operation in at least five States of the programs authorized by this Act. In selecting States under this section, the Commissioner shall establish not more than three classifications of States, including an urban and a rural classification. The evaluation required by this section shall be made in at least one State that is substantially representative of each classification established pursuant to the preceding sentence.

"(b) The Commissioner shall submit a report of the findings and recommendations developed pursuant to the evaluation conducted under this section to each State subject to such an evaluation for comment prior to the submission to the Congress of the report or evaluation.

"(c) The report required to be submitted by this section shall also contain the reasons for the selection of the States. To the extent resources are available the Commissioner is encouraged to conduct evaluations in more than five States.".

TITLE III—EXTENSIONS AND REVISIONS OF OTHER EDUCATION PROGRAMS

Part A—Extension and Revision of Related Programs

EXTENSION OF THE EMERGENCY INSURED STUDENT LOAN ACT OF 1969

Sec. 301. Section 2(a)(7) of the Emergency Insured Student Loan Act of 1969 is amended by striking out "October 1, 1976" and inserting in lieu thereof "October 1, 1982".

IMPROVED DETERMINATION OF SPECIAL ALLOWANCE UNDER THE EMERGENCY INSURED STUDENT LOAN ACT OF 1969

Sec. 302. (a) The Emergency Insured Student Loan Act of 1969 is amended by adding at the end thereof the following new section:

"IMPROVED DETERMINATION OF INCENTIVE PAYMENTS

"Sec. 3. (a) In order to assure (1) that incentive payments on insured student loans authorized by this Act are paid promptly to eligible lenders, (2) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, and (3) that participating lenders will have a better opportunity to assess, prospectively, the incentive payment rate for a future quarter, the Congress finds that it is necessary to establish an improved method for the determination of the quarterly rate of the special allowance paid under this Act.

"(b) In order to establish a new and permanent method for the determination of the quarterly rate of the special allowance paid under this Act, there is established a Committee on the Process of Determining Student Loan Special Allowances (hereinafter in this section referred to as the 'Committee'). The Committee shall be composed of—

"(1) the Commissioner of Education;

"(2) the Secretary of Health, Education, and Welfare;

"(3) the Secretary of the Treasury;

"(4) a representative of State and nonprofit private institutions and organizations participating under an agreement under secton 428(b) of the Higher Education Act of 1965 appointed by the Commisioner from a list of individuals recommended by the National Council on Higher Education Loan Programs;

"(5) a representative of the Student Loan Marketing Association appointed by the Commissioner, from a list of individuals recommended by that Association;

"(6) a representative of the National Association of Collegiate and University Business Officers appointed by the Commissioner, from a list of individuals recommended by that Association;

"(7) a representative of the National Association of Student Financial Aid Administrators, appointed by the Commssioner, from a list of individuals recommended by that Association;

"(8) a representative of the participating eligible lenders (but not including any such lender which is an educational institution), appointed by the Secretary of the Treasury after consultation with national organizations of financial institutions, a substantial number of whose members participate in programs authorized under part B of title IV of the Higher Education Act of 1965; and

"(9) a representative of student organizations appointed by the Commissioner after consultation with appropriate student organizations.

"(c) Within one hundred and twenty days after the date of enactment of the Education Amendments of 1976, the Committee shall prepare and submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives regulations which propose an improved method or methods for the determination of the quarterly rate of the special allowance paid under this Act.

"(2) The Committee shall make every effort to reach a unanimous decision with respect to the method for the determination of the quarterly rate of the special allowance established under this section.

"(3) In developing the method for the determination of the quarterly rate of the special allowance under this section, the Committee shall consider—

"(A) the administrative costs of various types of eligible lenders under part B of title IV of the Higher Education Act of 1965,

"(B) relevant and widely available financial indicators which accurately reflect the costs of capital invested in programs under such part B, or substitute financial indicators which equitably represent the cost of such capital,

"(C) an administrative mechanism necessary to produce a prompt and rapidly disseminated determination of the quarterly rate of the special allowance, in order to avoid delays in the determination and dissemination of that rate and in the actual payment of the special allowance to eligible lenders, and

"(D) such other factors as the Committee considers necessary to carry out the purposes of this section.

"(4) In carrying out its responsibilities under this section, the Committee shall seek the cooperation and assistance of the official in the Office of Education directly responsible for the administration of part B of title IV of the Higher Education Act of 1965 and with such other appropriate officials of the Office of Education as the Committee deems appropriate.

"(5) In order to assist the Committee to carry out its functions under this section, the Commissioner of Education is authorized to hire consultants, and to enter into contracts, and pay the costs of such contracts from funds regularly appropriated for the purpose of administering programs authorized by part B of title IV of the Higher Education Act of 1965.

"(6) The Commissioner of Education shall convene the first session of the Committee within forty-five days after the date of enactment of the Education Amendments of 1976. The Committee shall select a Chairman from among its members who are not officials of the Federal Government.

"(7) The Committee is not authorized to employ permanent employees or to lease or obtain the use of permanent offices or to take other steps to extend its period of service beyond the time necessary to complete its responsibilities under this section.

"(8) The Committee shall cease to exist ten days after the effective date of regulations prescribed in subsection (d) of this section.

"(d)(1) The Committee shall submit the regulations proposing the alternative method or the alternative methods of determining the quarterly rate of the special allowance under this Act to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives in accordance with the provisions of this section.

"(2) No regulations proposing an alternative method of determining the quarterly rate of the special allowance shall be effective under the provisions of this section unless the Committee comes to an agreement with the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives.".

(b) Effective on the date on which regulations for the alternative method of determining the quarterly rate of the special allowance becomes effective pursuant to section 3 of the Emergency Insured Student Loan Act of 1969, section 2(a)(1) of the Emergency Insured Student Loan Act of 1969 is amended—

(1) by striking out "is hereby authorized" and inserting in lieu thereof "shall";

(2) by inserting after the word "regulation" the first time it appears in such section the following: "consistent with the method of determining the payment of the special allowance established pursuant to section 3 of this Act";

(3) by inserting "promptly" after "to be paid"; and

(4) by striking out "(after consultation with the Secretary of the Treasury and the heads of other appropriate agencies)".

EXTENSION OF TITLE III OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

Sec. 303. (a) The first sentence of section 301 of the National Defense Education Act of 1958 is amended by striking out "June 30, 1977" and inserting in lieu thereof September 30, 1978".

(b) The second sentence of such section is amended by striking out "July 1, 1977" and inserting in lieu thereof "October 1, 1978".

EXTENSION AND REVISION OF TITLE VI OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

Sec. 304. The text of section 603 of such Act is amended to read as follows:

"Sec. 603. There are authorized to be appropriated $75,000,000 for the fiscal year ending June 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, 1982, to carry out the provisions of this title.".

EXTENSION OF THE INTERNATIONAL EDUCATION ACT OF 1966

Sec. 305. Section 105(a) of the International Education Act of 1966 is amended to read as follows:

"Sec. 105. (a) There are authorized to be appropriated $40,000,000 for the fiscal year 1976, $20,000,000 for fiscal year 1977, $30,000,000 for fiscal year 1978, and $40,000,000 for each of the succeeding fiscal years ending prior to October 1, 1982, for the purpose of carrying out the provisions of this title.".

Part B—Other Education Programs

EXTENSION AND REVISION OF THE EMERGENCY SCHOOL AID ACT

Sec. 321. (a) Section 704(a) of the Emergency School Aid Act is amended by inserting after "1976" a comma and the following: "and $1,000,000,000 for the period beginning July 1, 1976, and ending September 30, 1979".

(b) Section 704 of such Act is amended by inserting "(b)" immediately before the word "From" and by inserting at the end thereof the following:

"(c) There are authorized to be appropriated, in addition to the sums authorized under subsection (a) of this section, $100,000,000 for the fiscal year 1976 and for each of the fiscal years ending prior to October 1, 1982, for the purpose of carrying out section 708(a), relating to special programs and projects. The provisions of section 705, relating to apportionment among the States, shall not apply to sums appropriated pursuant to this subsection.".

(c)(1) Section 704 of such Act is amended by adding at the end thereof (following the subsection added by subsection (b) of this section) the following new subsection:

"(d) There are authorized to be appropriated in addition to the sums authorized under subsection (a) of this section $250,000,000 for each of the fiscal years 1977, 1978, and

1979, for the purpose of carrying out activities specified in paragraphs (13) through (16) of section 707(a) of this Act. Nothing in this subsection or section 707 shall be construed to permit funds authorized under any other subsection of this section to be used for construction. The provisions of section 705, relating to apportionment among the States, shall not apply to sums appropriated pursuant to this subsection.".

(2) Section 707(a) of such Act is amended by adding after paragraph (12) of such section the following new paragraphs:

"(13) Construction, rehabilitation, and operation of magnet schools.

"(14) The pairing of schools and programs with specific colleges and universities and with leading businesses.

"(15) The development of plans for and the construction of neutral site schools.

"(16) Construction and development of education parks.".

(3) Section 720 of such Act is amended—

(A) by inserting after paragraph (2) the following:

"(3) The term 'education park' means a cluster of schools located on a common site.";

(B) by redesignating paragraphs (3), (4), (5), (6), (7), and (8), as paragraphs (4), (5), (6), (7), (8), and (9), respectively;

(C) by inserting after paragraph (9) (as redesignated by this paragraph) the following new paragraph:

"(10) The term 'magnet school' means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.";

(D) by redesignating paragraphs (9) and (10) as paragraphs (11) and (12), respectively;

(E) by inserting after paragraph (12) (as redesignated by this paragraph) the following:

"(13) The term 'neutral site school' means a school that is located so as to be accessible to substantial numbers of students of different racial backgrounds."; and

(F) by redesignating paragraphs (11), (12), (13), (14), and (15) as paragraphs (14), (15), (16), (17), and (18), respectively.

(d) Section 716(b) of such Act is amended by striking out "September 30, 1976" and inserting in lieu thereof "September 30, 1979".

EXTENSION OF THE ALLEN J. ELLENDER FELLOWSHIP PROGRAM

SEC. 322. Section 5 of the joint resolution approved October 19, 1972 (relating to the Allen J. Ellender fellowship program), is amended by striking out "two" and by inserting after "years" the following: "ending prior to October 1, 1976, $750,000 for each of the fiscal years 1977 and 1978, and $1,000,000 for the fiscal year 1979 and for each of the fiscal years ending prior to October 1, 1982.

MAINTENANCE OF EFFORT

SEC. 323. (a) (1) Section 403(a) (11) of the Elementary and Secondary Education Act of 1965 is amended: by striking "aggregate"; by striking "in section 421(a) for a fiscal year will not be" and by inserting in lieu thereof "under this title for the preceding fiscal year were not"; and by inserting "second" before "preceding fiscal year" the second time it appears in such section as amended by this section.

(2) Such section 403(a) (11) is amended by striking out the word "and" and inserting in lieu thereof a comma and by inserting after the word "agencies" a comma and the following: "and private schools in such State".

(b) Section 307(b) of the Adult Education Act is amended by striking "for such year will be" and inserting in lieu thereof "for the preceding fiscal year was"; and by inserting "second" before "preceding fiscal year" the second time it appears in such section as amended by this subsection.

(c) The General Education Provisions Act is amended by inserting after section 431 the following new section:

"MAINTENANCE OF EFFORT DETERMINATIONS

"SEC. 431A. (a) In prescribing regulations for carrying out section 403(a) (11) of the Elementary and Secondary Education Act of 1965 and section 307(b) of the Adult Education Act, the Commissioner shall—

"(1) determine the amount so expended on the basis of per pupil expenditure;

"(2) prescribe that the requirement for each such section is met if the amount expended in the preceding fiscal year was not less than 95 per centum of the amount so expended in the second preceding fiscal year; and

"(3) require that each agency intending to use the provisions of this section notify the Commissioner.

"(b) In any case in which the requirement set forth in clauses (1) and (2) of subsection (a) of this section cannot be met, the Commissioner shall reduce the amount of the Federal payment for the current fiscal year in the exact proportion to which the amount so expended was less than 100 per centum for the second preceding year as required by section 403(a) (11) of the Elementary and Secondary Education Act of 1965, and by section 307(b) of the Adult Education Act.

"(c) The Commissioner may waive so much of the requirement of section 403(a) (11) of the Elementary and Secondary Education Act of 1965, of section 307(b) of the Adult Education Act, and of this section as he determines is equitable to reflect exceptional circumstances, including those resulting from decreasing enrollments or fiscal resources to the relevant local educational agency or the State, or both. The Commissioner shall establish objective criteria of general applicability to carry out the waiver authority contained in this subsection.".

(d) The provisions of this section (except for the amendment made by subsection (a) (2) of this section) shall take effect on July 1, 1975.

PARTICIPATION OF NONPUBLIC SCHOOL CHILDREN

SEC. 324. Section 406(e) of the Elementary and Secondary Education Act of 1965 is amended by inserting after the word "he" the following: "may waive such requirements and".

SCHOOL ATTENDANCE AREAS FOR AID TO ELEMENTARY AND SECONDARY SCHOOLS

SEC. 325. (a) Section 141(a) (1) (A) of the Elementary and Secondary Education Act of 1965 is amended by inserting after "low-income families" the first time it appears in such section the following: "and, subject to the provisions of subsection (d) of this section, such children previously in schools in school attendance areas having high concentrations of children from low-income families transferred to a school outside such an area as a result of a desegregation order or plan".

(b) Section 141 of such Act is amended by inserting at the end thereof the following new subsection:

"(d) No payment may be used under this title for programs and projects for children previously in schools in school attendance areas having high concentrations of children from low-income families transferred to a school outside such an area as a result of a desegregation order in any fiscal year unless the sums available for programs and projects for the school from which any school child is transferred in the fiscal year in which the determination is made is greater than the sums so available in the fiscal year preceding such year.".

WOMEN'S EDUCATIONAL EQUITY

SEC. 326. (a) Section 408(f) (1) of the Education Amendments of 1974, the Women's Educational Equity Act of 1974, is amended by inserting the word "National" before "Advisory Council".

(b) Section 408(f) (3) of such Act is amended by—

(1) deleting the word "and" at the end of clause (C) of such section,

(2) striking out the period at the end of clause (D) and inserting in lieu thereof a semicolon, and

(3) by inserting at the end thereof the following new clauses:

"(E) make such reports as the Council determines appropriate to the President and the Congress on the activities of the Advisory Council; and

"(F) disseminate information concerning the activities of the Advisory Council under this section.".

(c) Section 408(f) of such Act is amended by striking out the subsection designation "(f)" the second time it appears in such section and inserting in lieu thereof "(g)".

WAYNE MORSE CHAIR OF LAW AND POLITICS

SEC. 327. (a) The Commissioner of Education (hereinafter referred to as the "Commissioner") is authorized to provide financial assistance in accordance with the provisions of this section to assist in establishing the Wayne Morse Chair of Law and Politics at the University of Oregon, of Eugene, Oregon.

(b) (1) For the purposes of this section the Federal share of the cost of establishing the Wayne Morse Chair of Law and Politics shall not exceed 66⅔ per centum.

(2) No financial assistance under this section may be made except upon an application at such time, in such manner, and containing or accompanied by such information as the Commissioner may reasonably require.

(c) There are authorized to be appropriated such sums, not to exceed $500,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

PARTICIPATION OF WOMEN IN CONSOLIDATED TITLE IV PROGRAM

SEC. 328. (a) Section 421(a) (1) of the Elementary and Secondary Education Act of 1965 is amended by inserting before the word "library" the following: "nonsexed biased".

(b) Section 431(a) (3) of such Act is amended by inserting before the semicolon a comma and the following: "and of programs to promote equal educational opportunities for women, including public information activities to increase the awareness of educational personnel concerning the problems incident to sex discrimination and the elimination, reduction, or prevention of sex discrimination in those agencies".

(c) Section 431(a) of such Act is amended—

(1) by striking out the word "and" at the end of clause (3),

(2) by striking out the period at the end of clause (4) and inserting in lieu thereof a semicolon and the word "and", and

(3) by adding at the end thereof the following new clause:

"(5) for carrying out demonstration projects designed to promote new approaches to expand educational opportunities for women, including the provision of comprehensive physical education programs and sports activities for women.".

AMENDMENT RELATING TO SEX DISCRIMINATION

SEC. 329. (a) Section 901(a) of the Education Amendments of 1972 is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out "This" in paragraph (6) and inserting in lieu thereof "this";

(3) by striking out the period at the end of paragraph (6); and

(4) by adding at the end thereof the following new paragraphs:

"(7) this section shall not apply to—

"(A) any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

"(B) any program or activity of any secondary school or educational institution specifically for—

"(i) the promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

"(8) this section shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex.".

(b) The amendment made by subsection (a) shall take effect upon the enactment of this Act.

COMMISSION ON PROPOSALS FOR A NATIONAL ACADEMY OF PEACE

SEC. 330. (a) There is established a commission to be known as the Commission on Proposals for a National Academy of Peace and Conflict Resolution (hereinafter in this section referred to as the "Commission").

(b) The Commission shall be composed of nine members as follows:

(1) Three members shall be appointed by the President by and with the advice and consent of the Senate.

(2) Three members shall be appointed by the President pro tempore of the Senate.

(3) Three members shall be appointed by the Speaker of the House of Representatives.

(c) (1) Any vacancy in the Commission shall not affect its powers.

(2) The Commission shall elect a chairman and a vice chairman from among its members.

(3) Five members of the Commission shall constitute a quorum.

(d) (1) The Commission shall undertake a study to consider—

(A) establishing a National Academy of Peace and Conflict Resolution consistent with the proposals contained in S. 2976, the George Washington Peace Academy Act, modified by considerations of size, cost, location, relation to existing public and private institutions, and the likely effect the establishment of such an Academy would have on such existing institutions, and the relation of such an Academy to the Federal Government;

(B) the feasibility of making grants and providing other assistance to existing institutions of higher education as an alternative to or as a supplement for a National Academy of Peace and Conflict Resolution; and

(C) alternative proposals available to the Federal Government to accomplish the objectives contained in that proposal.

(2) In conducting the study required by this section the Commission shall—

(A) review the theory and techniques of peaceful resolution of differences between nations, and draw on the experience of public and private institutions concerned with conflict resolution and of informal government leaders of peaceful methods of conflict resolution;

(B) conduct inquiries into existing institutions of international relations, labor-management, racial, community, and family relations; and

(C) consider proposals for combinations of mechanisms available to the Federal Government to strengthen the accomplishment of its peaceful purposes, including the establishment of a National Academy of Peace and Conflict Resolution.

(3) The Commission shall submit to the President and to the Congress interim reports with respect to the study and investigation and a final report, not later than one year after the date of the enactment of the education amendments of 1976, containing its findings and recommendations for such additional legislation as the Commission deems advisable.

(e) (1) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this section, take such testimony, and sit and act at such times and places as the Commission, subcommittee, or members deem advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission, or any subcommittee or member thereof.

(2) Each department, agency, and instrumentality of the executive branch of the Federal Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the chairman or vice chairman, such information as the Commission deems necessary to carry out its functions under this section.

(3) Subject to such rules and regulations as may be adopted by the Commission, the chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, shall have the power—

(A) to appoint and fix the compensation of such staff personnel as he deems necessary, including an executive director who may be compensated at a rate not in excess of that provided for Level V of the Executive Schedule in title 5, United States Code, and

(B) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

(f) Members of the Commission shall receive compensation at the daily rate specified for GS–18 under section 5332 of title 5, United States Code, for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(g) There are authorized to be appropriated, such sums, not to exceed $200,000, as may be necessary to carry out the provisions of this section.

(h) The Commission shall cease to exist sixty days after the submission of its final report.

STUDY OF STUDENT FINANCIAL ASSISTANCE

SEC. 331. The General Accounting Office is herein directed to conduct a detailed analysis of the extent and effects of the Federal Government's regulation of educational institutions where such regulation is based solely upon the presence at those institutions of students participating in Federal student assistance programs and/or where the institutions act as mere conduits for the distribution of Federal student assistance benefits. This study shall continue for a period of not more than nine months at the end of which time the General Accounting Office shall file a complete report of its findings with the Labor and Public Welfare Committee of the United States Senate and the Education and Labor Committee of the United States House of Representatives.

AMENDMENT RELATING TO PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

SEC. 332. Section 5(d) (2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new paragraph:

"(C) In the application of subparagraph (A) of this paragraph to any State having a program described in such subparagraph (A) in effect on the date of enactment of the Education Amendments of 1976, no payment may be withheld from and no repayment may be required of any State or local educational agency for any period prior to promulgation of final regulations or if the State is not in conformance with such regulations until July 1, 1977.".

ASSISTANCE TO STATES FOR STATE EQUALIZATION PLANS

SEC. 333. Section 842(a) (1) of the Education Amendments of 1974, relating to assistance to States for State equalization plans, is amended by striking out "July 1, 1977" and inserting in lieu thereof "October 1, 1978".

INDOCHINA REFUGEE CHILDREN ASSISTANCE ACT OF 1976

SEC. 334. The provisions of section 414 of the General Education Provisions Act relating to the contingent extension of applicable programs, shall not apply to the Indochina Refugee Children Assistance Act of 1976, or to any program financial assistance for educational purposes for Indochinese refugee children.

DEPARTMENTAL DAY CARE CENTER

"SEC. 335. Notwithstanding any other provision of law, the Secretary is authorized by contract or otherwise to establish, equip, and operate a day care center facility for the purpose of serving children who are members of households of employees of the Department. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Department of Health, Education, and Welfare employees or others who are beneficiaries of services provided by such facilities to pay for the cost of their operation and to accept money, equipment or other property donated for use in connection with the facilities.

TITLE IV—EDUCATION ADMINISTRATION

REORGANIZATION OF THE EDUCATION DIVISION

SEC. 401. (a) (1) Section 400(c) (1) of the General Education Provisions Act is amended by striking out clause (C) thereof and redesignating clauses (D), (E), and (F) as clauses (C), (D), and (E), respectively.

(2) Section 400(e) (1) of such Act is amended by striking out "Assistant Secretary" and inserting in lieu thereof "Commissioner".

(3) (A) Section 401(a) of such Act is amended by striking out "Assistant Secretary" and inserting in lieu thereof "Commissioner".

(B) Section 401(b) (2) of such Act is amended by striking out "Assistant Secretary" and inserting in lieu thereof "Commissioner".

(4) Section 402 of such Act is amended to read as follows:

"COMMISSIONER OF EDUCATION

"SEC. 402. (a) There shall be in the Department of Health, Education, and Welfare a Commissioner of Education, who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner shall be compensated at the rate specified for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(b) The Commissioner shall be the principal officer in the Department with responsibility for education programs and for the direction and supervision of the Education Division.".

(5) (A) Subsection 403(b) of such Act is amended to read as follows:

"(b) (1) The Office shall be headed by the Commissioner. There shall be in the Office an Administrative Deputy Commissioner of Education, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrative Deputy Commissioner shall be compensated at the rate specified for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(2) Subject to the general supervision and direction of the Commissioner, the Administrative Deputy Commissioner shall be responsible for the daily operation of the Office and shall perform such functions as the Commissioner shall prescribe.".

(B) Section 403(c)(2)(A) is amended by striking out ", after consultation with the Assistant Secretary,".

(6)(A) Section 405(c)(3) of such Act is amended by striking out "Assistant Secretary" each time the term appears in such section and inserting in lieu thereof "Commissioner".

(B) Section 405(d)(1) of such Act is amended by striking out "Assistant Secretary" each time the term appears in such section and inserting in lieu thereof "Commissioner".

(7)(A) Section 406(a) of such Act is amended by striking out "Assistant Secretary" and inserting in lieu thereof "Commissioner".

(B) Section 406(c)(4) of such Act is amended to read as follows:

"(4) The Commissioner shall serve as the presiding officer of the Council.".

(C) Section 460(d)(1) of such Act is amended by striking out "Assistant Secretary" and inserting in lieu thereof "Commissioner".

(D) Section 406(e) of such Act is amended by striking out "Assistant Secretary" and inserting in lieu thereof "Commissioner".

(E) Section 406(f)(1)(A) of such Act is amended by striking out "Assistant Secretary" each time the term occurs and inserting in lieu thereof "Commissioner".

(F) Section 406(g)(2) of such Act is amended by striking out "Assistant Secretary" and inserting in lieu thereof "Commissioner".

(8) Section 408(c) of such Act is amended by striking out the second sentence thereof.

(9) Section 418(a) of such Act is amended by striking out "Assistant Secretary" and inserting in lieu thereof "Commissioner".

(10) Section 424 of such Act is amended by striking out "Assistant Secretary" and inserting in lieu thereof "Commissioner".

(11)(A) Section 434(a)(1) of such Act is amended by striking out "Assistant Secretary" and inserting in lieu thereof "Commissioner".

(B) Section 434(a)(2) of such Act is amended by striking out "Assistant Secretary" and inserting in lieu thereof "Commissioner".

(12)(A) Section 445(b) of such Act is amended by striking out "Assistant Secretary" and inserting in lieu thereof "Commissioner" and by striking out "and Assistant Secretary's".

(B) Section 445(c) of such Act is amended by striking out "Assistant Secretary" and inserting in lieu thereof "Commissioner".

(C) Section 445(d)(3) of such Act is amended by striking out "Assistant Secretary" and inserting in lieu thereof "Commissioner".

(b)(1) Section 716(a)(2) of the Emergency School Aid Act is amended by striking out "Assistant Secretary's" and inserting in lieu thereof "Commissioner's".

(2) Section 717 of such Act is repealed.

(3) Section 720(1) of such Act is amended to read as follows:

"(1) The term 'Commissioner' means the Commissioner of Education."

(4) The Emergency School Aid Act is amended by striking out "Assistant Secretary" each time it appears in that Act (other than sections amended by the preceding paragraphs of this subsection) and inserting in lieu thereof "Commissioner".

(c)(1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(62) Commissioner of Education, Department of Health, Education, and Welfare.".

(2) Section 5315 of such title is amended by adding at the end thereof the following new paragraphs:

"(105) Administrative Deputy Commissioner of Education, Department of Health, Education, and Welfare.

"(106) Director, National Institute of Education, Department of Health, Education, and Welfare.".

(3) Paragraph (41) of section 5316 of title 5, United States Code, is repealed.

(d) The amendments made by this section shall take effect on January 1, 1977.

FUND FOR IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 402. Section 404(e) of the General Education Provisions Act is amended by inserting after "June 30, 1975" a comma and the following: "and for each of the succeeding fiscal years ending prior to October 1, 1982".

NATIONAL INSTITUTE OF EDUCATION

SEC. 403. (a) Section 405(b)(2) of the General Education Provisions Act is amended to read as follows:

"(2) The Institute shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Institute on priority research and development needs relating to—

"(A) improvement in student achievement in the basic educational skills, including reading and mathematics;

"(B) overcoming problems of finance, productivity, and management in educational institutions;

"(C) improving the ability of schools to meet their responsibilities to provide equal educational opportunities for students of limited English-speaking ability, women, and students who are socially, economically, or educationally disadvantaged;

"(D) preparation of youth and adults for entering and progressing in careers; and

"(E) improved dissemination of the results of, and knowledge gained from, educational research and development, including assistance to educational agencies and institutions in the application of such results and knowledge.".

(b) Section 405(c)(1) of such Act is amended by striking out "Eight members" and inserting in lieu thereof "A majority of the members".

(c) Section 405(c)(2) of such Act is amended by striking out "and" before "(B)" in the first sentence and by inserting before the period at the end of that sentence a comma and the following: "and (C) the term of office of each member shall expire on September 30 of the year in which such term would otherwise expire, unless a successor to that member has not been appointed by that date, in which case that member shall continue to serve until a successor has been appointed".

(d) Section 405(d)(1) of such Act is amended by striking out "level V" and inserting in lieu thereof "level IV".

(e) Section 405(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) The Director may establish and maintain research fellowships in the Institute, with such stipends and allowances, including travel and subsistence expenses, as the Director may deem necessary to procure the assistance of highly qualified research fellows from the United States and abroad.".

(f)(1) Section 405(e)(2) of such Act is amended by inserting before the period a comma and the following: "and not less than 25 per centum of the funds so appropriated shall be made available only for grants or contracts with regional educational laboratories and research and development centers pursuant to subsection (f) of this section".

(2) Section 405 of such Act is amended by redesignating subsections (g) and (h) and all references thereto as subsections (h) and (i), respectively, and by inserting after subsection (e) of such such section the following new subsection:

"(f)(1) In carrying out the functions of the Institute under this section, the Director shall make grants to, and enter into contracts with—

"(A) regional educational laboratories established by public agencies or private nonprofit organizations; and

"(B) research and development centers established by institutions of higher education

in accordance with the provisions of this subsection.

"(2) No grant shall be made and no contract entered into under this subsection unless—

"(A) proposals for assistance under this subsection are solicited from regional educational laboratories and research and development centers by the Director;

"(B) proposals for such assistance are developed by the regional educational laboratories and the research and development centers in consultation with the Director;

"(C) proposals are submitted in an application, containing or accompanied by such information as the Director may require, including assurances that the laboratory or center concerned will—

"(i) be responsible for the conduct of the research and development activities and for the evaluation of such activities;

"(ii) disseminate information developed as a result of such research and development activities including new educational methods, practices, techniques, and products;

"(iii) provide technical assistance to appropriate educational agencies and institutions; and

"(iv) provide training for individuals, emphasizing training opportunities for women and members of minority groups, in the use of new educational methods, practices, techniques, and products developed in connection with such activities;

"(D) the Director determines that the proposed activities will be consistent with the educational research and development program which is being conducted by the Institute; and

"(E) a Panel for the Review of Laboratory and Center Operations has reviewed the proposal and made recommendations on the proposal.

"(3)(A) The Director shall establish a Panel for the Review of Laboratory and Center Operations composed of not less than ten members nor more than twenty members who shall be appointed by the Director from a list of nominees submitted by regional educational laboratories and research and development centers which have submitted applications under the provisions of this subsection, and by associations of professional, commercial, scholarly and educational associations, particularly associations or organizations engaged in educational research.

"(B) The Panel shall—

"(i) review, and prepare recommendations, on proposals submitted under this subsection;

"(ii) review the operation of the laboratories and centers receiving assistance under this subsection and make recommendations for the improvement and continuation of individual laboratories and centers and for the support of new laboratories and centers; and

"(iii) not later than January 31 of each year submit a report to the Director and to the Congress containing such recommendations as the panel deems appropriate.

"(C) Members of the Panel shall serve for terms of five years except that—

"(i) in the case of initial members not

more than one-fifth of the number of members shall serve for terms of four years, not more than one-fifth of such members shall serve for a term of three years, not more than one-fifth of such members shall serve for a term of two years, and not more than one-fifth of such members shall serve for a term of one year;

"(ii) any member appointed to fill a vacancy shall serve only for the unexpired portion of the term to which his predecessor was appointed; and

"(iii) any member who is serving at the time his term expires shall serve until his successor has been appointed and qualifies.

"(D) Each member of the panel who is not an officer or employee of the United States shall, while engaged in the business of the panel, be entitled to receive compensation at not to exceed the daily rate specified at the time of such service for Grade GS–18 under section 5332 of title 5, United States Code, including traveltime; and while so serving on the business of the panel away from his home or regular place of business, shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons intermittently employed in the Government Service.

"(E) The Director, for the use of the Panel, and pursuant to their recommendations, is authorized—

"(i) to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and fix the compensation for, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general pay rates, such professional, technical and clerical personnel as may be necessary; and

"(ii) to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(4) Whenever the Director disregards the recommendations of the Panel established under paragraph (3), he shall report to the Panel in writing his reasons therefor.

"(5) No regional educational laboratory or research and development center receiving assistance under this subsection shall by reason of the receipt of such assistance be ineligible for receiving any other assistance from the Institute authorized by law.".

(g) Section 405(i) of such Act (as redesignated by this section) is amended by inserting after June 30, 1975, a comma and the following: "such sums as may be necessary for fiscal year 1976 and for the period from July 1, 1976, through September 30, 1976, $500,000,000, in the aggregate, for the period beginning October 1, 1976, and ending September 30, 1979, and such sums as may be necessary for each of the succeeding fiscal years ending prior to October 1, 1982".

REGULATIONS

Sec. 404. (a)(1) Section 431 of the General Education Provisions Act is amended by striking out "Sec. 431. (a)" and inserting in lieu thereof "(2)" and by inserting immediately after the section heading the following:

"Sec. 431. (a)(1) For the purpose of this section the term 'regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by the Commissioner.".

(2)(A) Section 431(a)(2) of such Act, as redesignated by this section, is amended by striking out "Rules, regulations, guidelines, or other published interpretations or orders" and inserting in lieu thereof "Regulations".

(B) Such section 431(a) is further amended by striking out "rules, regulations, guidelines, interpertations, or orders" and inserting in lieu thereof "regulations".

(b)(1) Section 431(b)(1) of such Act is amended by striking out "standard, rule, regulation, or requirement of general applicability" and inserting in lieu thereof "proposed regulation".

(2) Section 431(b)(2)(A) of such Act is amended by striking out "standard, rule, regulation, or general requirement" and inserting in lieu thereof "regulation".

(c) Section 431(c) of such Act is amended by striking out "rules, regulations, guidelines, interpretations, or orders" and inserting in lieu thereof "regulations".

(d)(1) Section 431(d)(1) of such Act is amended by striking out "standard, rule, regulation, or requirement of general applicability" and inserting in lieu thereof "regulation".

(2) Section 431(d)(1) of such Act is further amended by striking out "standard, rule, regulation or requirement" each time it appears and inserting in lieu thereof "regulation".

(3) Section 431(d)(2) of such Act is amended by striking out "standard, rule, regulation, or requirement" and inserting in lieu thereof "regulation".

(4) Section 431(d)(2) of such Act is further amended by striking out "standard, rule, regulation, or requirement" each time it appears in such section and inserting in lieu thereof "regulation".

(e)(1) Section 431(e) of such Act is amended by striking out "standard, rule, regulation, or requirement" and inserting in lieu thereof "regulation".

(2) Section 431(e) of such Act is further amended by striking out "proposed standard, rule, regulation, or requirement of general applicability" and inserting in lieu thereof "final regulation".

(f) Section 431(g) of such Act is amended by striking out "rules, regulations, and guidelines" each time it appears in such section and inserting in lieu thereof "final regulations".

(g) The heading of such section is amended to read as follows:

"REGULATIONS: REQUIREMENTS AND ENFORCEMENT". TECHNICAL REVISION RELATING TO PROHIBITION AGAINST FEDERAL CONTROL

Sec. 405. (a) Section 421 of the General Education Provisions Act is amended by inserting "(except as otherwise provided)" after the word "part".

(b) The text of section 432 of the General Education Provisions Act is amended by striking out all the matter preceding the word "shall" and inserting in lieu thereof the following: "No provision of any applicable program".

IMPROVED EDUCATIONAL PROGRAMS FOR WOMEN

Sec. 406. (a) Section 404(a)(1) of the General Education Provisions Act is amended by inserting before the semicolon a comma and the following: "including activities designed to improve the status of women in postsecondary education.".

(b) Section 404(a)(6) of such Act is amended by inserting before the semicolon at the end thereof, a comma and the following: "including the creation of innovative administrative and educational practices that respond to the special needs of persons who have or have had responsibilities of caring for dependents."

(c) Section 405(b)(2) of such Act is amended by inserting after the phrase 'including career education' a comma and the following: "and programs designed to meet the needs of women."

CONTROL OF PAPERWORK

Sec. 407. Section 406 of the General Education Provisions Act is amended by redesignating subsection (g) of such section as subsection (h) and by inserting after subsection (f) of such section the following new subsection:

"(g)(1)(A) In order to eliminate excessive detail and unnecessary or redundant information requests the Secretary and the Commissioner shall, in accordance with the provisions of this subsection, coordinate the collection of information and data acquisition activities of the Education Division and the Office for Civil Rights.

"(B) For the purpose of this subsection the term—

"(i) 'information' has the same meaning as is prescribed by section 3502 of title 44 of the United States Code; and

"(ii) 'educational agency or institution' means any public or private agency or institution which is the recipient of funds under any applicable program, including any preschool program.

"(C) The Commissioner shall establish and provide staff personnel to operate information collection and data acquisition review and coordination procedures to be directed by the Administrator for the National Center for Education Statistics. The procedures shall be designed to review proposed collection of information and data acquisition activities in order to advise the Commission and the Secretary on whether such activities are excessive in detail or unnecessary or redundant.

"(2)(A) The Administrator shall assist each bureau or agency directly responsible for an applicable program, and the Office for Civil Rights, in performing the coordination required by this subsection, and shall require of each such bureau, agency and office—

"(i) a detailed justification of how information once collected will be used,

"(ii) an estimate of the man-hours required by each educational agency or institution to complete the requests.

"(B) Each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, within thirty days prior to the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator on the collection of information and data acquisition activity.

"(C) Nothing in this subsection shall be construed to interfere with the enforcement of the provisions of the Civil Rights Act of 1964 or any other nondiscrimination provisions of Federal law.

"(3) The Administrator shall, insofar as practicable, and in accordance with the provisions of this title, provide educational agencies and institutions with summaries of the information collected and the data acquired by the Education Division and the Office for Civil Rights.

"(4) The Administrator shall, insofar as possible, develop a common set of definitions and terms after consultation with the head of each bureau or agency directly responsible for the administration of an applicable program.

"(5) The Commissioner shall prepare as part of the annual report to the Congress provisions relating to the progress made by the Secretary, the Commissioner, and the Administrator in meeting the objectives of this section and make to the Congress whatever legislative recommendations necessary for meeting the objectives.".

AMENDMENT TO TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Sec. 408. Section 901(a) of the Education Amendments of 1972 is amended by striking out "and" at the end of clause (5), by striking out the period at the end of clause (6) and inserting in lieu thereof "; and", and by adding at the end thereof the following new clause:

"(9) this section shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only so long as such pageant is in compliance with other nondiscrimination provisions of Federal law.

DELEGATION OF CERTAIN FUNCTIONS TO REGIONAL OFFICES

SEC. 409. (a) Section 432 of the Act is amended by adding at the end thereof the following new subsection:

"(c) (1) The functions of the Commissioner under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional offices of the Office of Education established pursuant to section 403(c) (2) of the General Education Provisions Act.

"(2) The functions which may be delegated pursuant to this subsection are—

"(A) reviewing applications for loan insurance under section 429 and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

"(B) receiving claims for payments under section 430(a), examining those claims, and, pursuant to regulations of the Commissioner, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

"(C) certifying to the central office when collection of defaulted loans has been completed, compromising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Commissioner issued under section 432(a)), and recommending litigation with respect to any such claim.".

EXTENSION OF REPORTING DATES FOR CERTAIN PROGRAMS

SEC. 410. (a) Section 403(c) (3) of the General Education Provisions Act is amended by striking out "November 1" and inserting in lieu thereof "February 1".

(b) Section 422(b) of the General Education Provisions Act is amended by striking out "March 31" and inserting in lieu thereof "June 30".

(c) Section 4(b) (1) of the Special Projects Act is amended by striking out "February 1" and inserting in lieu thereof "March 1".

(d) (1) Section 825 (a) of the Education Amendments of 1974 is amended by striking out "June 30, 1976" and insert in lieu thereof "August 31, 1977".

(2) Section 825(c) of such Act is amended by striking out "December 1, 1976" and insert in lieu thereof "August 31, 1977".

TREATMENT OF INDIAN POSTSECONDARY SCHOOLS

SEC. 411. The Act of November 2, 1921 (25 U.S.C. 13), is amended by adding at the end thereof the following new paragraph:

"Notwithstanding any other provision of this Act or any other law, post-secondary schools administered by the Secretary of the Interior for Indians, and which meet the definition of an "institution of higher education" under section 1201 of the Higher Education Act of 1965, shall be eligible to participate in and receive appropriated funds under any program authorized by the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.".

TITLE V—CAREER EDUCATION AND CAREER DEVELOPMENT

FINDINGS

SEC. 501. The Congress finds and declares that—

(1) a major purpose of education should be to prepare every individual to pursue a career suitable to that person's maximum potential ability;

(2) it is the obligation of all educational agencies and institutions, including, but not limited to, agencies and institutions of elementary and secondary education, higher education, adult education, employment training and retraining, and vocational education, to make available such preparation to all individuals;

(3) each State or local agency or institution of education should therefore be encouraged to expose every individual to the widest variety of career options through programs of career education and career development.

PURPOSE

SEC. 502. It is the purpose of this part to provide Federal assistance to States to enable them to develop and conduct career education and career development programs and activities for individuals of all ages, and to improve existing programs and activities, in order to improve the awareness, exploration, planning and decisionmaking of individuals served with regard to career opportunities and career development throughout the lifetimes of such individuals, through—

(1) developing information on the needs for career education and career development for all individuals;

(2) promoting a national dialogue on career education and career development designed to encourage each State and local educational agency to determine and adopt the approach best suited to the needs of the individuals served by each such agency;

(3) assessing the status of career education and career development programs and practices, including a reassessment of the stereotyping of career opportunities by race or by sex;

(4) providing for the demonstration of the best of the current career education and career counseling programs and practices by the development and testing of exemplary programs and practices using various theories, concepts, and approaches with respect to career education and through the development of a nationwide system of regional career education centers;

(5) providing for the training and retraining of persons for conducting career education and career development programs; and

(6) developing State and local plans for implementing programs designed to insure that every person has the opportunity to gain the knowledge and skills necessary for gainful or maximum employment and for full participation in our society according to his or her ability.

AUTHORIZATION OF APPROPRIATIONS; ALLOTMENT

SEC. 503. (a) There are authorized to be appropriated for the purpose of this title $25,000,000 for fiscal year 1978, $35,000,000 for fiscal year 1979, $45,000,000 for fiscal year 1980, $55,000,000 for fiscal year 1981, and $75,000,000 for fiscal year 1982.

(b) (1) From the sums appropriated pursuant to this title, the Commissioner shall reserve an amount not to exceed 10 percentum thereof or $2,000,000, or whichever is lesser, for the administration of this title, of which not less than 75 percent shall be available for the purpose of carrying out section 506 of this title.

(2) For the remainder of the sums appropriated under this title, the Commissioner shall reserve such amount, not to exceed 3 per centum thereof, as he may determine necessary and shall allot such amount among the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, according to their relative need for assistance under this part.

(3) (A) Of the remainder of the sums appropriated, the Commisisoner shall allot to each State an amount which bears the same ratio to such sums for such year as the population of the State bears to the population of all States."

(B) For the purpose of this paragraph the term "State" means the several States and the District of Columbia.

(c) The Federal share of funds allotted to States under this part shall not exceed 80 per centum of the total cost of programs assisted under this part in any fiscal year in which the appropriation does not exceed $25,000,000; 70 per centum of such total in any such year in which the appropriation exceeds $25,000,000 but does not exceed $35,000,000; 60 per centum of such total cost in any such year in which the appropriation exceeds $35,000,000 but does not exceed $45,000,000; and 50 per centum of such total cost in any such year in which the appropriation exceeds $55,000,000.

PROGRAM ADMINISTRATION

SEC. 504. The provisions of this part shall be carried out by the Commissioner through the Office of Career Education established pursuant to section 406(c) of the Education Amendments of 1974.

USE OF FUNDS

SEC. 505. Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this part shall submit an annual program plan for the development and improvement of career education and career development programs and services. Each such plan shall include—

(1) the designation of the State educational agency as the agency responsible for the implementation of the State plan in consultation with State Commission established pursuant to section 1202 of the Higher Education Act of 1965, through all appropriate educational institutions, including postsecondary educational institutions;

(2) proposals for extending career education and career development programs and services to all individuals in the State;

(3) proposals for extending the concepts of the education process beyond the school into the area of employment and community affairs, and to relate the subject matter curriculums of schools to the needs of individuals to function in society;

(4) proposals for the implementation of new concepts in career education and career development and for the replication of concepts which have demonstrated success;

(5) the development of training programs, including inservice training programs, for teachers, counselors, other educators, and administrators;

(6) assurances that the State will foster cooperative arrangements with such community groups and agencies as the public employment services, vocational rehabilitation service, community mental health agencies, education opportunity centers, and other community resources concerned with vocational development guidance and counseling, in order to avoid unnecessary duplication in the provision of services in the community or area to be served;

(7) assurances that State, local, and private funds will also be made available for programs and services funded under this title; and

(8) such other assurances as the Commissioner may reasonably require.

CAREER INFORMATION

SEC. 506. (a) The Commissioner shall provide, either directly or by grant or contract, for—

(1) the gathering, cataloging, storing, analyzing, and disseminating of information related to the availability of and preparation for careers in America, including information concerning current career options, future career trends, and career education;

(2) the ongoing analysis of career trends and options in America using information from both the public and private sectors, including such sources as the Bureau of Labor

Statistics, the Department of Commerce, the Tariff Commission, economic analysts, labor unions, and private industry;

(3) the publication of periodic reports and reference works using analysis prepared pursuant to this section and containing exemplary materials from the career education field, including research findings, results, and techniques from successful projects and programs, and highlights of ongoing analysis of career trends in America; and

(4) the conduct of seminars, workshops, and career information sessions for the purpose of disseminating to teachers, guidance counselors, other career educators, administrators, other education personnel, and the general public information compiled and analyzed under this section.

(b) In carrying out the provisions of this title, and to the extent practicable, the Commissioner shall (1) make use of existing offices, centers, clearinghouses, and research capabilities, (2) coordinate among the offices, centers, clearinghouses and research capabilities in carrying out his career information responsibilities, and (3) use the career information capabilities of the Education Division.

NATIONAL ADVISORY COUNCIL

Sec. 507. The National Advisory Council for Career Education established pursuant to section 406(g) of the Education Amendments of 1974 shall, in addition to its duties under that section, advise the Commissioner with respect to the implementation of this part.

TITLE VI—GUIDANCE AND COUNSELING

FINDINGS

Sec. 601. The Congress finds that—

(1) guidance and counseling activities are an essential component to assure success in achieving the goals of many education programs,

(2) lack of coordination among guidance and counseling activities supported jointly or separately by Federal programs and by State and local programs has resulted in an underutilization of resources available for such activities, and

(3) increased and improved preparation of education professionals are needed in guidance and counseling, including administration of guidance and counseling programs at the State and local levels, with special emphasis on inservice training.

APPROPRIATIONS AUTHORIZED

Sec. 602. There is authorized to be appropriated $20,000,000 for fiscal year 1978 and for each succeeding fiscal year ending prior to October 1, 1982, to carry out the provisions of this title.

ADMINISTRATION

Sec. 603. (a) The Commissioner shall establish or designate an administrative unit within the Education Division for purposes of—

(1) carrying out provisions of this section,

(2) providing information regarding guidance and counseling as a profession, guidance and counseling activities of the Federal Government, and, to the extent practicable, activities of State and local programs of guidance and counseling, and

(3) advising the Commissioner on coordinating guidance and counseling activities included in all programs which he is authorized to carry out, and, to the extent he deems practicable, how such activities may be coordinated with other programs of the Federal Government and State and local guidance and counseling programs.

(b) The Commissioner may reserve an amount not to exceed 10 per centum of the sums appropriated under this title to carry out the provisions of this section.

PROGRAM AUTHORIZED

Sec. 604. (a) The Commissioner is authorized, on a competitive basis, to enter into contracts and make grants to State and local educational agencies, to institutions of higher education, and to private nonprofit organizations to assist them in conducting institutes, work shops, and seminars designed to improve the professional guidance qualifications of teachers and counselors in State and local educational agencies and nonpublic elementary and secondary school systems, and to provide training for supervisory and technical personnel in such agencies and systems having responsibilities for guidance and counseling, and to improve supervisory services in the field of guidance and counseling.

(b) The Commissioner is authorized to make grants to States to assist them in carrying out programs to coordinate new and existing programs of guidance and counseling in the States.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DESIGNATION OF THE PHILIP A. HART OFFICE BUILDING—SENATE RESOLUTION 525

Mr. MANSFIELD. Mr. President, I send to the desk a resolution on behalf of Senators Hugh Scott, Robert C. Byrd, Griffin, Cannon, Hatfield, Allen, and Mansfield and ask that it be read.

The PRESIDING OFFICER. The resolution will be stated.

The second assistant legislative clerk proceeded to read the resolution.

Mr. MANSFIELD. I ask unanimous consent that further reading of the resolution be dispensed with. The substance is in the part which has been read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. At the present time, would the clerk read all of the cosponsors, again?

The second assistant legislative clerk read as follows:

> Mr. Mansfield, for himself and Mr. Hugh Scott, Mr. Robert C. Byrd, Mr. Griffin, Mr. Cannon, Mr. Hatfield, and Mr. Allen.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the resolution be placed on the calendar, and that it lie at the desk for the rest of the day so that all Senators who desire to do so may join as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I hope that the number will be 99.

Mr. HUGH SCOTT. Mr. President, if the Senator will yield, I simply want to express the same hope. I know that all Senators will wish to be included as cosponsors. We hope for prompt passage of the resolution.

The resolution (S. Res. 525), submitted by Mr. Mansfield (for himself, Mr. Hugh Scott, Mr. Robert C. Byrd, Mr. Griffin, Mr. Cannon, Mr. Hatfield, Mr. Allen, Mr. Abourezk, Mr. Bayh, Mr. Beall, Mr. Bentsen, Mr. Biden, Mr. Brooke, Mr. Bumpers, Mr. Burdick, Mr. Harry F. Byrd, Mr. Case, Mr. Chiles, Mr. Church, Mr. Clark, Mr. Cranston, Mr. Culver, Mr. Durkin, Mr. Eagleton, Mr. Eastland, Mr. Fong, Mr. Ford, Mr. Glenn, Mr. Gravel, Mr. Gary Hart, Mr. Hartke, Mr. Haskell, Mr. Hathaway, Mr. Helms, Mr. Hollings, Mr. Hruska, Mr. Huddleston, Mr. Humphrey, Mr. Inouye, Mr. Jackson, Mr. Javits, Mr. Johnston, Mr. Kennedy, Mr. Laxalt, Mr. Leahy, Mr. Long, Mr. Magnuson, Mr. Mathias, Mr. McClellan, Mr. McGee, Mr. McGovern, Mr. McIntyre, Mr. Metcalf, Mr. Mondale, Mr. Montoya, Mr. Morgan, Mr. Moss, Mr. Muskie, Mr. Nelson, Mr. Nunn, Mr. Pastore, Mr. Pearson, Mr. Pell, Mr. Proxmire, Mr. Randolph, Mr. Ribicoff, Mr. Roth, Mr. Schweiker, Mr. William L. Scott, Mr. Sparkman, Mr. Stennis, Mr. Stevens, Mr. Stevenson, Mr. Stone, Mr. Symington, Mr. Thurmond, Mr. Tunney, Mr. Weicker, Mr. Williams, and Mr. Young, and ordered placed on the calendar, reads as follows:

> *Resolved,* That insofar as concerns the Senate, the extension of the Senate Office Building presently under construction pursuant to the Supplemental Appropriations Act, 1973 (86 Stat. 1510) is designated and shall be known as the "Philip A. Hart Office Building."
>
> Sec. 2. Any rule, regulation, document, or record of the Senate, in which reference is made to the building referred to in the first section of this resolution, shall be held and considered to be a reference to such building by the name designated for such building by the first section of this resolution.
>
> Sec. 3. The Committee on Rules and Administration shall place appropriate markers or inscriptions at suitable locations within the building referred to in the first section of this resolution to commemorate and designate such building as provided in this resolution. Expenses incurred under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

TERMINATION OF NATIONAL EMERGENCIES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1102, H.R. 3884.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows: a bill (H.R. 3884) to terminate certain authorities with respect to material emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Government Operations, with amendments.

THE END OF 43 YEARS OF NATIONAL EMERGENCY

Mr. MATHIAS. Mr. President, over 5 years ago, I introduced a resolution to study the effect of terminating the state of emergency declared by President Truman in 1950 during the Korean war. In May 1972, Senator Frank Church and I introduced Senate Resolution 9, which created the Senate Special Committee on the Termination of the National Emergency. Over the following 2 years the work of the special committee involved many of the country's most distinguished legal scholars, all of the executive departments and agencies, the Library of Congress, and a number of other scholarly institutions. The committee held three sets of public hearings on the history of emergency government in the United States and the constitutional problems that were created as a result of those national emergencies.

The special committee ascertained that the United States was under not just one state of national emergency, but four which had been proclaimed in 1933, 1950, 1970, and 1971 respectively, and none of these four states of national emergency had ever been terminated. The committee also found that there were over 470 significant statutes on the books which are triggered by a state of national emergency. These statutes, if taken as a whole, confer on the President the power to rule the United States outside of normal constitutional processes.

It was clear from the special committee's hearings, studies, and inquiries that the full nature and extent of emergency powers statutes had never been understood. It was further evident that the pattern of the growth of emergency power statutes and unrelieved state of emergency Americans have lived under since 1933 had made crisis or emergency government the norm rather than the exception. What was most extraordinary about these statutes was that these powers were delegated by the Congress without a consideration of the consequences of the cumulative effect of these delegated authorities. The four successive proclamations of these states of emergency have provided the President with the statutory power, among other authorities, to seize property and commodities, control the means of production, call to active duty over 1 million reservists, assign military forces abroad, seize and control all means of transportation, restrict travel, institute martial law.

In this century the United States has been through four major wars, catastrophic economic depression and a series of intense crises—the energy crisis being the most recent. These wars, depressions, and crises have created patterns of government which were originally fashioned only to meet the crisis of the moment.

The most important achievement of the Special Committee on National Emergencies and Delegated Emergency Powers, aside from the writing of the National Emergencies Act and creating a heightened awareness of the nature and extent of emergency powers, has been to give the Congress and the country a clear perspective of the process of lawmaking in the United States over the past 40 years.

Despite the responsibilities to make the law conferred on the Legislature by the Constitution, most laws were framed by the executive branch and written in such ways that they gave virtually open ended authority to the executive branch to exercise the power contained in more than 470 emergency power statutes. The combined power contained in these 470 statutes, is far too broad to permit their continuation without constitutional checks.

In large measure, these laws were written by the executive branch and sent to the Congress in a crisis atmosphere. In fact, as was the case in 1933 when the Emergency Banking Act was passed, hearings were not held and there was not even a committee report. Only one typescript copy of the bill was available and the protests of the few Members in both Houses that great powers were being given without restriction went unheeded because of the pressures of the moment.

The pattern of passing bills without thorough consideration, so evident in the history of emergency powers legislation, is found throughout legislative history of the past four decades on a great many other important measures. One result of this tendency in which laws are largely, if not entirely, shaped and written by the executive has been that the Congress has failed to exercise its responsibilities for the making of law and policy. Indeed, in the last 40 years the executive has largely determined without significant legislative participation the shape of the broad area of national security policy and it has done so often under the umbrella of emergency or crisis requirements.

The work of the Special Committee on Emergency Powers has helped to point out that in all areas of legislation, but particularly in the national security area, the Congress must give itself the capabilities to make the judgments about what laws should be made and what policies should be reflected in those laws. Further, the experience of 40 years of emergency has underlined the strength of the view that there should be no subjects of policy, no matter how complex or secret which should be determined outside of our constitutional system.

It is clear that the requirements of national security sometimes require secret activity or extraordinary actions to meet threats to the well-being of the American people. But in every case, each of the three branches must be involved in meeting its responsibilities for the actions of the U.S. Government. Under the Constitution, only Congress can make the law. But in order for the Congress to do so, it must have the resources to make judgments which are to be contained in the law. Legislative proposals and recommendations should, of course, continue to be made by the executive branch, but each proposal must be examined carefully, and if the issues are sensitive and complex, the Legislature should be provided the information and staff assistance necessary to enable Members of the Congress to do their work.

It is vital that the Congress continue to strengthen its mechanisms and procedures to enable it to effectively carry out its oversight functions. In all areas of Government activity, the Congress must know what actions the executive branch has taken to fulfill national policies set forth in law and how it has expended appropriated moneys. In this regard, the record of accountability of all activities in the United States must be full and complete, and available to the courts and the Legislature so that they may meet their constitutional responsibilities.

The work done by the Special Committee on Emergency Powers has been a pioneering effort. It has laid the ground work, I believe, for bringing the whole area of national security and secret activities under constitutional processes. It has reaffirmed the necessity for an understanding of the lawmaking process as prescribed by the Constitution and has provided a framework for extending the full constitutional procedures into areas which for several decades have been left largely to the discretion of one branch alone.

In the aftermath of Watergate and Vietnam, and the turmoil of the past decade, we have begun to understand how those grievous mistakes of policy and failure of Government could have occurred. It is my belief that this understanding can lead to a strengthened Government. Our Government is stronger because it has reaffirmed its commitment to constitutional processes and each of the three branches is now more keenly aware of the duties, prerogatives, and responsibilities of the other two.

It is my belief that the National Emergencies Act is an example of how the three branches working together can resolve complex problems of Government and share power in ways which strengthen the ability of the Government as a whole to preserve and enhance the liberties, values, and well-being of all of our people.

THE NATIONAL EMERGENCIES ACT

Mr. CHURCH. Mr. President, it is with pleasure that I urge the passage today of the National Emergencies Act by the Senate. The legislation is, at the moment, little noticed and free of controversy, thanks to careful work by the Congress over 3 years time, cooperation with the administration of two Presidents, and a bipartisanship which all too seldom marks our deliberations.

First of all, I would like to extend my appreciation to Senator MATHIAS, who acted with me as cochairman of the Special Committee on National Emergencies and Delegated Emergency Powers, along with the other members of that committee, and our highly competent staff for the investigation and groundwork that made this bill possible. I also owe special thanks to Senator RIBICOFF and the members of his Committee on Government Operations for their excellent cooperation in bringing this bill to the floor.

From the beginning, we have also enjoyed the support of the leadership on both sides of the aisle. Senator MANSFIELD and Senator SCOTT lent their assistance whenever it was needed, for which I am very grateful.

Special mention is also due the executive branch of the Government. The cooperation of the Justice Department, the Department of Defense, and many other agencies was indispensable to the accomplishment of our mission. On one occasion, Senator MATHIAS and I met with President Ford and reached agreement with him on the principles underlying the bill now before us. The President is to be highly commended for his willingness to work with the Congress in developing a legislative formula for ending emergency rule and restoring normal constitutional practices. I also wish to express my gratitude to the members of the Judiciary Committee of the House of Representatives. From the outset, that committee worked in close concert with the Senate in furthering our common objective and fully shares the credit for this legislation. In particular, I want to express my thanks to Chairman RODINO and Representative FLOWERS.

Mr. President, the obscurity and anonymity which surround this bill should not disguise its importance. For more than four decades, this Nation has been governed, in part, by emergency law. The President has had at his disposal virtually dictatorial power, ready for use as he desires. Even now, the President has power under the authority delegated to him by emergency statutes to: seize property; organize and control the means of production; seize commodities; assign military forces abroad; institute martial law; seize and control all transportation and communication; regulate the operation of private enterprise; restrict travel; and, in a host of other ways, regulate the lives of all American citizens. And the President can exercise all these extraordinary powers, without so much as asking leave of the Congress.

These powers can be invoked by the President as long as the country remains in a declared state of national emergency. Presently, there are four such national emergencies still in existence:

The national emergency declared by Franklin Roosevelt on March 9, 1933, to cope with the banking crisis;

The national emergency declared by Harry Truman on December 16, 1950, to respond to the Korean conflict;

The national emergency declared by Richard Nixon on March 23, 1970, to deal with the Post Office strike;

The national emergency declared by Richard Nixon on August 15, 1971, to implement currency restrictions and to enforce controls on foreign trade.

This means that a majority of the American people have lived all their lives under emergency rule. For 43 years, protections and procedures guaranteed by the Constitution have, in varying degrees, been abridged by Executive orders that derive from presidentially proclaimed states of national emergency.

The purpose of H.R. 3884 is to terminate, as of 2 years from the date of enactment, powers and authorities possessed by the Executive as a result of existing states of national emergency, and to establish authority for the declaration of future emergencies in a manner which will clearly define the powers of the President and provide for regular congressional review.

In order to carry out this purpose, the National Emergencies Act would:

First. Terminate, as of 2 years from the date of enactment, powers and authorities available to the Executive, pursuant to approximately 470 statutes, as a result of the states of national emergency now in force;

Second. Provide for congressional review of future Presidential declarations of national emergencies no less frequently than every 6 months and congressional termination of states of emergency at any time by concurrent resolution;

Third. Provide for congressional oversight of and accountability for actions taken by the Executive in the exercise of delegated emergency powers;

Fourth. Repeal specific obsolete emergency powers statutes, while retaining in force certain others deemed necessary for ongoing operations of the government.

Emergency rule has always raised troublesome problems both in political theory and in constitutional practice. Since the failure of the Roman Republic, historians and philosophers have analyzed the problem posed to a legislature when it confers extraordinary power upon the Executive. Machiavelli, in his Discourses on Livy, acknowledged that great power may, on occasion, have to be given to the Executive if the state is to survive, but warned of the grave dangers in doing so. He cautioned:

> Yet it is not good that in a republic anything should ever happen that has to be dealt with extralegally. The extralegal action may turn out well at the moment yet the example has a bad effect, because it establishes a custom of breaking laws for good purposes; later with this example, they are broken for bad purposes.

Rousseau discussed the question of delegated emergency powers in his Social Contract. He wrote:

> Moreover, in whatever way this important commission may be conferred, it is important to fix its duration at a very short term which can never be prolonged. In the crises which cause it to be established, the State is soon destroyed or saved; and the urgent need having passed away, the dictatorship becomes tyrannical or useless.

Turning to the American context, I would like to stress that the word "emergency" is not found in the Constitution. As scholar Clinton Rossiter has observed:

> It never seems to have been seriously considered in the Convention of 1787, the *Federalist*, or the debates in the state ratifying conventions that the men who were to govern in future years would ever have to go outside the words of the Constitution to find the means to meet any crisis.

As a result, the authority to respond to a crisis must be derived from the powers that are expressly provided for in the Constitution.

The Supreme Court has indicated that there are clear restraints upon Executive action in times of emergency. In Ex parte Milligan Justice Davis, speaking for the majority of the Supreme Court, wrote:

> The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine, involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism; but the theory of necessity on which it is based is false; for the government, without the Constitution, has all the powers granted to it, which are necessary to preserve its existence . . .
>
> . . . It could well be said that a country, preserved at the sacrifice of all the cardinal principles of liberty, is not worth the cost of preservation.

Similarly, in 1934, Chief Justice Hughes held for a majority of the Supreme Court:

> Emergency does not create power. Emergency does not increase granted power or remove or diminish restrictions imposed upon power granted or reserved. The Constitution was adopted in a period of grave emergency. Its grants of power to the Federal Government and its limitations of the power of the States were determined in the light of emergency and they are not altered by emergency.

Nonetheless, the emergency powers made available to the President have steadily expanded. Foreign war and domestic crisis during the past 40 years, in addition to the inexorable growth of the executive bureaucracy under the leadership of aggressive Presidents, and the diminished role of the Congress in the making of policy—these factors have all contributed to the erosion of normal constitutional government.

Little review by the judicial branch was exercised until 24 years ago when the Supreme Court turned back an attempt by President Truman to take over the striking steel industry by means of an assertion of "inherent" emergency power. Speaking for the majority, Justice Black issued the Youngstown Steel opinion which still stands as the definitive statement in this area. Justice Black held that "the President's power, if any, to issue the order must stem from an act of Congress or from the Constitution itself." He characterized President Truman's action as an unconstitutional arrogation of "lawmaking power" by the Executive.

Justice Jackson's widely quoted and praised concurring opinion stressed that our system of government is a "balanced power structure" and pointed out that Executive power to act is a variable depending upon the collective will of Congress for its authority. Justice Jackson listed three situations which determine the extent of the President's power:

> 1. When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate . . .
>
> 2. When the President acts in absence of either a congressional grant or denial of authority, he can only rely upon his own independent powers . . .
>
> 3. When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter.

In setting forth these tests, authorities feel that Justice Jackson set up a workable analysis which provided a sound conclusion:

> The seizure of the steel mills by President Truman in face of a contrary congressional policy fell into the third of these categories and left presidential power "most vulnerable to attack and in the least favorable of possible constitutional postures." The court could sustain the President's action "only by holding that seizure of such strike-bound industries is within his domain and beyond control of Congress."

Justice Jackson's analysis is as important today as it was when written 24 years ago. As an example of its continuing importance, let me cite the counsel given to the special committee by the late Chief Justice of the Supreme Court, Earl Warren, just prior to his death:

> Chief Justice Warren said that while the Constitution provides that only Congress can make the law, the legislature had the obligation through enacting statutes to provide firm policy guidelines for the Executive branch. The former Chief Justice agreed with Justice Jackson's view that where there are statutory guidelines, a President is obliged to follow the precepts contained in the laws passed by the Congress. Inherent powers problems arise and the other branches act, he said, largely when Congress fails to act definitely, when it fails to make needed laws and when there is a necessity for legislative action and Congress fails to meet the challenge.

In writing the National Emergencies Act, we have accepted Justice Jackson's opinion as a basic guideline. It is our belief that the National Emergencies Act will provide long overdue statutory guidelines for the handling of national emergencies in the future. It is our belief, supported I would suggest, by Justice Jackson's opinion and the weight of constitutional scholarship, that our legislation will constitute the exclusive authority for the exercise of Presidential powers in an emergency. The Congress having acted, the President's power will be, in Justice Jackson's words, "at its lowest ebb." In the future, every type and class of presidentially declared emergency will be subject to congressional control.

It should be emphasized that nothing in this bill would interfere with the President's right to declare a national emergency in the future or deprive him of the necessary power to cope with such an emergency. The statutes conferring emergency powers remain on the shelf, to be pulled off and used as may be required in order to deal with some future crisis. But the procedures governing the use of emergency powers in the future will always be subject to congressional review and any declaration of an emergency may be terminated by a concurrent resolution of the Congress. Thus the legislative branch will be in a position to assert its ultimate authority.

To those who argue that the duration of a given emergency should be left exclusively to the President to determine, I would cite the precedent established by the British Parliament which, throughout the Second World War, delegated emergency powers to the Prime Minister for no longer than 30 days at a time.

The point is simply this: The Congress should be forewarned that it is inherent in the nature of government that the Executive will seek to enlarge its power. We already have a Presidency the powers of which are unrivaled in our history. The historic redemption of jurisdiction by the Congress which has gone on in this decade—in the form of the War Powers Act, the congressional intervention to circumscribe and finally end the war in Vietnam, the new budget authority and the regaining of some control over foreign policy—is long overdue and urgently needed. The Congress must not again trade away its responsibilities in the name of national emergency. Let that be one of the lessons learned from the investigation now cômpleted and the passage today of the National Emergencies Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendments were agreed to en bloc.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Emergencies Act".

TITLE I—TERMINATING EXISTING DECLARED EMERGENCIES

SEC. 101. (a) All powers and authorities possessed by the President, any other officer or employee of the Federal Government, or any executive agency, as defined in section 105 of title 5, United States Code, as a result of the existence of any declaration of national emergency in effect on the date of enactment of this Act are terminated two years from the date of such enactment. Such termination shall not affect—

(1) any action taken or proceeding pending not finally concluded or determined on such date;

(2) any action or proceeding based on any act committed prior to such date; or

(3) any rights or duties that matured or penalties that were incurred prior to such date.

(b) For the purpose of this section, the words "any national emergency in effect" means a general declaration of emergency made by the President.

TITLE II—DECLARATIONS OF FUTURE NATIONAL EMERGENCIES

SEC. 201. (a) With respect to Acts of Congress authorizing the exercise, during the period of a national emergency, of any special or extraordinary power, the President is authorized to declare such national emergency. Such proclamation shall immediately be transmitted to the Congress and published in the Federal Register.

(b) Any provisions of law conferring powers and authorities to be exercised during a national emergency shall be effective and remain in effect (1) only when the President (in accordance with subsection (a) of this section), specifically declares a national emergency, and (2) only in accordance with this Act. No law enacted after the date of enactment of this Act shall supersede this title unless it does so in specific terms, referring to this title, and declaring that the new law supersedes the provisions of this title.

SEC. 202. (a) Any national emergency declared by the President in accordance with this title shall terminate if—

(1) Congress terminates the emergency by concurrent resolution; or

(2) the President issues a proclamation terminating the emergency.

Any national emergency declared by the President shall be terminated on the date specified in any concurrent resolution referred to in clause (1) or on the date specified in a proclamation by the President terminating the emergency as provided in clause (2) of this subsection, *whichever date is earlier*, and any powers or authorities exercised by reason of said emergency shall cease to be exercised after such specified date, except that such termination shall not affect—

(A) any action taken or proceeding pending not finally concluded or determined on such date;

(B) any action or proceeding based on any act committed prior to such date; or

(C) any rights or duties that matured or penalties that were incurred prior to such date.

(b) Not later than six months after a national emergency is declared, and not later than the end of each six-month period thereafter that such emergency continues, each House of Congress shall meet to consider a vote on a concurrent resolution to determine whether that emergency shall be terminated.

(c) (1) A concurrent resolution to terminate a national emergency declared by the President shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be. One such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee, unless such House shall otherwise determine by the yeas and nays.

(2) Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

(3) Such a concurrent resolution passed by one House shall be referred to the appropriate committee of the other House and shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee and shall thereupon become the pending business of such House and shall be voted upon within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

(4) In the case of any disagreement between the two Houses of Congress with respect to a concurrent resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such concurrent resolution within six calendar days after the day on which managers on the part of the Senate and the House have been appointed. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed in the House in which such report is filed first. In the event the conferees are unable to agree within forty-eight hours, they shall report back to their respective Houses in disagreement.

(5) Paragraphs (1)-(4) of this subsection, subsection (b) of this section, and section 502(b) of this Act are enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(d) Any national emergency declared by the President in accordance with this title, and not otherwise previously terminated, shall terminate on the anniversary of the declaration of that emergency if, within the ninety-day period prior to each anniversary date, the President does not publish in the Federal Register and transmit to the Congress a notice stating that such emergency is to continue in effect after such anniversary.

TITLE III—EXERCISE OF EMERGENCY POWERS AND AUTHORITIES

SEC. 301. When the President declares a national emergency, no powers or authorities made available by statute for use in the event of an emergency shall be exercised unless and until the President specifies the provisions of law under which he proposes that he, or other officers will act. Such specification may be made either in the declaration of a national emergency, or by one or more contemporaneous or subsequent Executive orders published in the Federal Register and transmitted to the Congress.

TITLE IV—ACCOUNTABILITY AND REPORTING REQUIREMENTS OF THE PRESIDENT

SEC. 401. (a) When the President declares a national emergency, or Congress declares war, the President shall be responsible for maintaining a file and index of all significant orders of the President, including Executive orders and proclamations, and each Executive agency shall maintain a file and index of all rules and regulations, issued during such emergency or war issued pursuant to such declarations.

(b) All such significant orders of the President, including Executive orders, and such rules and regulations shall be transmitted to the Congress promptly under means to assure confidentiality where appropriate.

(c) When the President declares a national emergency or Congress declares war, the President shall transmit to Congress, within ninety days after the end of each six-month period after such declaration, a report on the total expenditures incurred by the United States Government during such six-month period which are directly attributable to the exercise of powers and authorities conferred by such declaration. Not later than ninety days after the termination of each such emergency or war, the President shall transmit a final report on all such expenditures.

TITLE V—REPEAL AND CONTINUATION OF CERTAIN EMERGENCY POWER AND OTHER STATUTES

SEC. 501. (a) Section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481 (a)) is amended—

(1) at the end of paragraph (9), by striking out "; or" and inserting in lieu thereof a period; and

(2) by striking out paragraph (10).

(b) Section 2667(b) of title 10 of the United States Code is amended—

(1) by inserting "and" at the end of paragraph (3);

(2) by striking out paragraph (4); and

(3) by redesignating paragraph (5) as (4).

(c) The joint resolution entitled "Joint resolution to authorize the temporary continuation of regulation of consumer credit", approved August 8, 1947 (12 U.S.C. 249), is repealed.

(d) Section 5(m) of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831d(m)), is repealed.

(e) Section 1383 of title 18, United States Code, is repealed.

(f) Section 6 of the Act entitled "An Act to amend the Public Health Service Act in regard to certain matters of personnel and administration, and for other purposes", approved February 28, 1948, is amended by striking out subsections (b), (c), (d), (e), and (f) (42 U.S.C. 211b).

(g) Section 9 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742) is repealed.

(h) This section shall not affect—

(1) any action taken or proceeding pending not finally concluded or determined at the time of repeal;

(2) any action or proceeding based on any act committed prior to repeal; or

(3) any rights or duties that matured or penalties that were incurred prior to repeal.

SEC. 502. (a) The provisions of this Act shall not apply to the following provisions of law, the powers and authorities conferred thereby, and actions taken thereunder:

(1) Section 5(b) of the Act of October 6, 1917, as amended (12 U.S.C. 95a; 50 U.S.C. App. 5(b));

(2) Act of April 28, 1942 (40 U.S.C. 278b);

(3) Act of June 30, 1949 (41 U.S.C. 252);

(4) Section 3477 of the Revised Statutes, as amended (31 U.S.C. 203);

(5) Section 3737 of the Revised Statutes, as amended (41 U.S.C. 15);

(6) Public Law 85-804 (Act of Aug. 28, 1958, 72 Stat. 972; 50 U.S.C. 1431-1435);

(7) Section 2304(a)(1) of title 10, United States Code;

(8) Sections 3313, 6386(c), and 8313 of title 10, United States Code.

(b) Each committee of the House of Representatives and the Senate having jurisdiction with respect to any provision of law referred to in subsection (a) of this section shall make a complete study and investigation concerning that provision of law and make a report, including any recommendations and proposed revisions such committee may have, to its respective House of Congress within two hundred and seventy days after the date of enactment of this Act.

Passed the House of Representatives September 4, 1975.

EXPORT ADMINISTRATION ACT EXTENSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent, in accord with the leadership's promise to the Senate, that the Senate now turn to the consideration of S. 3084, the Export Administration Act Extension.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 3084), to extend the Export Administration Act of 1968, as amended.

The Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing and Urban Affairs with an amendment to strike out all after the enacting clause and insert the following:

TITLE I—EXPORT ADMINISTRATION IMPROVEMENTS AND EXTENSION

SEC. 101. This title may be cited as the "Export Administration Amendments of 1976".

SEC. 102. The Export Administration Act of 1969, as amended (hereinafter in this title referred to as the "Act") is amended by striking "September 30, 1976" in section 14 and inserting in lieu thereof "September 30, 1979."

SEC. 103. (a) Section 4(b)(1) of the Act is amended by inserting at the end thereof the following: "In administering export controls for national security purposes as prescribed in section 3(2)(C) of this Act, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may deem appropriate. The President shall periodically review United States policy toward individual countries to determine whether such policy is appropriate in light of the factors specified in the preceding sentence. The results of such review, together with the justification for United States policy in light of such factors, shall be included in the semiannual report of the Secretary of Commerce required by this Act for the first half of 1977 and in every second such report thereafter.".

(b)(1) Section 4(h) of the Act is amended by striking the term "controlled country" in the first sentence of paragraph (1) thereof and the second sentence of paragraph (2) thereof and inserting in lieu thereof "country named by the President pursuant to the last sentence of section 4 (b)(1) of this Act".

(2) Section 4(h)(2)(A) of the Act is amended by striking "controlled" and inserting in lieu thereof "such".

(3) Section 4(h)(4) of the Act is amended by striking everything following the semicolon at the end of subparagraph (B) thereof and inserting a period in lieu of the semicolon.

(c) The amendments made by subsection (b) shall become effective upon the expiration of ninety days after the receipt by the Congress of the report referred to in the last sentence of section 4(b)(1) of the Act.

SEC. 104. Section 4(b)(4) of the Act is amended to read as follows:

"(4) The Secretary of Commerce, in cooperation with appropriate United States Government departments and agencies and the appropriate technical advisory committees established pursuant to this Act, shall undertake an investigation to determine whether United States unilateral controls or multilateral controls in which the United States participates should be removed, modified, or added with respect to particular articles, materials, and supplies, including technical data and other information, in order to protect the national security of the United States. Such investigation shall take into account such factors as the availability of such articles, materials, and supplies from other nations and the degree to which the availability of the same from the United States or from any country with which the United States participates in multilateral controls would make a significant contribution to the military potential of any nation threatening or potentially threatening the national security of the United States. As part of such investigation, the Secretary of Commerce shall explore ways of simplifying and clarifying lists of articles, materials, and supplies subject to export controls. The results of such investigation shall be reported to the Congress not later than 18 months after enactment of the Export Administration Amendments of 1976.".

SEC. 105. Section 4 of the Act is amended by adding a new subsection (j) thereto as follows:

"(j) Any person who enters into a contract, protocol, agreement, or other understanding for, or which may result in, the transfer of United States origin technical data or other information to any nation to which exports are restricted for national security or foreign policy purposes shall report such transaction to the Secretary of Commerce and provide him with copies of all documents pertaining thereto within thirty days of entering into such contract, protocol, agreement, or understanding."

SEC. 106. Section 4(g) of the Act is amended by adding at the end thereof the following: "In any denial of an export license application, the applicant shall be informed in writing of the specific statutory basis for such denial. Whenever the Secretary determines that it is necessary to refer an export license application to any multilateral review process for approval, he shall first, if the applicant so requests, provide the applicant with an opportunity to review any documentation to be submitted to such process for the purpose of describing the export in question, in order to determine whether such documentation accurately describes the proposed export.".

SEC. 107. (a) Section 5(c)(1) of the Act is amended by striking the word "two" in the last sentence thereof and inserting in lieu thereof the word "four".

(b) The second sentence of section 5(c)(2) of the Act is amended to read as follows: "Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (i) technical matters, (ii) worldwide availability and actual utilization of production technology, (iii) licensing procedures which affect the level of export controls applicable to any articles, materials, and supplies, including technical data or other information, and (iv) exports subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. Such committees shall be informed of the reasons for any failure to accept any advice or recommendations which they may render or make to officials of the United States Government.".

SEC. 108. Section 4(f) of the Act is amended by designating the existing paragraph as subparagraph (1) and adding at the end thereof the following new subparagraph:

"(2) Upon approval of the Secretary of Commerce, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed pursuant to section 3(2)(A) of this Act subsequent to such approval. The Secretary of Commerce may not grant approval hereunder unless he receives adequate assurance that such commodities will eventually be exported, that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to implement this subparagraph.".

SEC. 109. (a) Section 6(a) of the Act is amended by striking out "$10,000" and inserting in lieu thereeof "$25,000" and by striking out "$20,000" and inserting in lieu thereof "$50,000".

(b) Section 6(b) of the Act is amended—

(1) by striking out "Communist-dominated nation" and inserting in lieu thereof "country named by the President pursuant to the last sentence of section 4(b)(1)"; and

(2) by striking out "$20,000" and inserting in lieu thereof "$50,000".

(c) Section 6(c) of the Act is amended—

(1) by striking out "The head" and inserting in lieu thereof "Except as otherwise provided in the second sentence of this subsection, the head"; and

(2) by striking out "$1,000" and inserting in lieu thereof "$10,000".

(d) Section 6(d) of the Act is amended by adding at the end thereof the following: "In addition, the payment of any penalty imposed pursuant to subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) which may be imposed upon such person. Such a deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.".

TITLE II—FOREIGN BOYCOTTS

SEC. 201. This title may be cited as the "Foreign Boycotts Act of 1976".

SEC. 202. (a) Section 3(5)(A) of the Export Administration Act of 1969 (hereinafter in this title referred to as the "Act") is amended by inserting immediately after "United States" the following: "or against any domestic concern or person".

(b) Section 3(5)(B) of the Act is amended by inserting immediately after "United States" the following: "or against any domestic concern or person".

SEC. 203. (a) Section 4(b)(1) of the Act is amended by striking out the next to the last sentence.

(b) Section 4(b) of the Act is amended by redesignating paragraphs (2) through (4) and any cross references thereto as paragraphs (3) through (5), respectively, and inserting after paragraph (1) a new paragraph (2) as follows:

"(2)(A) Pursuant to such rulees and regulations as he may deem necessary and appropriate, the Secretary of Commerce shall implement the provisions of section 3(5) of this Act.

"(B) Such rules and regulations shall require that any domestic concern or person which receives a request for the furnishing of information, the signing of agreements, or the taking of any other action referred to in section 3(5) of this Act shall report that fact to the Secretary of Commerce together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the purposes of that section. Such concern or person shall also report to the Secretary of Commerce whether he intends to comply and whether he has complied with such request. Any report filed pursuant to this subparagraph after enactment of the Foreign Boycotts Act of 1976 shall be made available promptly for public inspection and copying: *Provided, however,* That information regarding the quantity, description, and value of any goods to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the domestic concern or person involved at a competitive disadvantage. The Secretary of Commerce shall report the results of such reports to the Secretary of State on a periodic basis for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the purposes of section 3(5) of this Act.

"(C) Rules and regulations implementing such provisions shall also prohibit domestic concerns and persons from (i) furnishing information regarding any person's race, religion, or national origin to or for the use by any foreign country, national, or agent thereof where such information is sought for the purpose of enforcing or implementing a restrictive trade practice or boycott against a country friendly to the United States or against any domestic concern or person, or (ii) refusing to do business with any other domestic concern or person pursuant to an agreement with, requirement of, or a request from, or on behalf of, any foreign country, national, or agent thereof made or imposed for the purpose of enforcing or implementing a restrictive trade practice or boycott against a country friendly to the United States or against any domestic concern or person. Any civil penalty (including any suspension or revocation of the authority to export) imposed under this Act for a violation of rules or regulations issued under clause (ii) of the preceding sentence may be imposed only after notice and opportunity for an agency hearing on the record in accordance with section 554 through 557 of title 5, United States Code. The provisions of this subparagraph (C) shall neither substitute for nor limit the operation of the antitrust laws of the United States. The provisions of this subparagraph (C)(ii) shall not apply to any conformity with requirements pertaining to the identity of any carrier on which articles, materials, or supplies are to be shipped so long as such requirements do not have as their purpose the enforceemnt or implementation of a restrictive trade practice or boycott against a country friendly to the United States or against any domestic concern or person.".

SEC. 204. (a) Section 6(c) of the Act is amended by adding at the end thereof the following: "The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $10,000 for each violation of section 4(b)(2) of this Act or of any rule or regulation issued thereunder, either in addition to or in lieu of any other liability or penalty which may be imposed under this Act. The head of any department or agency exercising any function under this Act relating to licensing, or any officer or employee of such department or agency specifically designated by the head thereof, may use the authority under this Act to suspend or revoke the authority of a person to export articles, materials, supplies, or information from the United States for each violation of section 4(b)(2) of this Act. Any charging letter or other document initiating proceedings by the Secretary of Commerce after enactment of the Foreign Boycotts Act of 1976 for the imposition of sanctions for violations of section 4(b)(2) of this Act shall be made available for public inspection and copying.".

(b) Section 7(c) of the Act is amended by striking the word "No" at the beginning thereof and inserting in lieu thereof the following: "Except as otherwise provided by this Act, no".

SEC. 205. Section 10(b) of the Act is amended by adding at the end thereof a new paragraph (3) as follows:

"(3) Each such report shall also contain a description of actions taken by the President and the Secretary of Commerce to effect the policy of section 3(5) of this Act.".

SEC. 206. Section 11 of the Act is amended by adding at the end thereof the following: "The term 'domestic concern' as used in this Act shall include but not be limited to banks, other financial institutions, insurers, freight forwarders, and shipping companies organized under the laws of the United States or or any State or any political subdivision thereof.".

TITLE III—DISCLOSURE

SEC. 301. This title may be cited as the "Domestic and Foreign Investment Improved Disclosure Act of 1976".

SEC. 302. Section 13(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended to read as follows:

"(d)(1) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is registered pursuant to section 12 of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, is directly or indirectly the beneficial owner of more than 5 per centum of such class shall, within ten days after such acquisition, send to the issuer of the security at its principal executive office, by registered or certified mail, send to each exchange where the security is traded, and file with the Commission, a statement containing such of the following information, and such additional information, as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors—

"(A) the background, identity, residence, and nationality of, and the nature of such beneficial ownership by, such person and all other persons by whom or on whose behalf the purchases have been or are to be effected;

"(B) the source and amount of the funds or other consideration used or to be used in making the purchases, and if any part of the purchase price or proposed purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the pupose of acquiring, holding, or trading such security, a description of the transaction and the names of the parties thereto, except that where a source of funds is a loan made in the ordinary course of business by a bank, as defined in section 3(a)(6) of this title, if the person filing such statement so requests, the name of the bank shall not be made available to the public;

"(C) if the purpose of the purchases or prospective purchases is to acquire control of the business of the issuer of the securities, any plans or proposals which such persons may have to liquidate such issuer, to sell its assets to or merge it with any other persons, or to make any other major change in its business or corporate structure;

"(D) the number of shares of such security which are beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly, by (i) such person, and (ii) by each associate of such person, giving the background, identity, residence, and nationality of each such associate; and

"(E) information as to any contracts, arrangements, or understandings with any person with respect to any securities of the issuer, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.".

SEC. 303. Section 13 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78m), is amended by adding at the end thereof the following new subsection:

"(g)(1) Every holder of record of, and any other person having an interest in, 2 per centum or more of any security of a class described in subsection (d)(1) of this section shall report such interest and such other information, in such form and at such intervals (but in no event more frequently than quarterly), as the Commission may, by rule, prescribe.

"(2) Any person required to make reports pursuant to paragraph (1) of this subsection shall file, publish, or disseminate such reports in such manner and to such persons, including the Commission, as the Commission may, by rule, specify. Any issuer which receives reports pursuant to this paragraph shall include in any filing or registration statement it makes with the Commission, under the Federal securities laws as defined in section 21(g) of this title, such of the information contained in such reports as the Commission may, by rule, require.

"(3) The 2 per centum figure in subsection (g)(1) of this section shall be reduced to 1 per centum on September 1, 1976, and to one-half of 1 per centum on September 1, 1977: *Provided, however,* That the Commission may shorten or extend such periods if the Commission first finds that such reduction or extension is not inconsistent with the protection of investors or the public interest, after giving appropriate consideration to, and receiving public comments, views, and data on, the following matters:

"(A) the incidence of avoidance of reporting by beneficial owners using multiple holders of record.

"(B) the cost of compliance to issuers and to record holders;

"(C) the effect on the securities markets of such action, including the system for the clearance and settlement of securities transactions;

"(D) the benefits to investors and to the public;

"(E) and bona fide interests of an individual in the privacy of his financial affairs;

"(F) the extent to which such reported information gives or would give any person an undue advantage in connection with activities subject to sections 13(d) and 14(d) of this title;

"(G) the need for such information in connection with the administration and enforcement of this title; and

"(H) such other matters as the Commission may deem relevant, including the results of any study or investigation it may undertake pursuant to this title and the information obtained pursuant to section 13(f) of this title.

The Commission shall report to the Congress on August 1, 1976, and again on August 1, 1977, the steps it has taken, or plans to take, to implement, accelerate, or defer the time periods set forth in this paragraph. In addition, the Commission shall no later than January 2, 1978, report to the Congress on the feasibility and desirability of reducing the per centum figure in paragraph (3) to one-tenth of 1 per centum, after studying the impact of such reduction on a reasonable sample of issuers, recordholders, and other persons required to report under this subsection and after full consideration of the matters referred to in clauses (A) through (H).

"(4) The Commission shall have the authority, by rule or by order, to exempt from the requirements of this subsection any security, issuer, or person, or any class of securities, issuers, or persons, if it finds that such exemption is not inconsistent with the public interest or the protection of investors.

"(5) It shall be unlawful for any person, in contravention of such rules as the Commission may prescribe, to make use of the mails or any other means or instrumentality of interstate commerce to effect any transaction (for his own account or the account of another) in any security of a class described in subsection (d)(1) of this section, if such person knew, or should have known, that information required to be filed, published, or disseminated in accordance with this subsection, either by the person effecting the transaction or by the person on whose behalf, directly or indirectly, the transaction is intended to be effected, has not been filed, published, or disseminated.

"(6) In exercising its authority under this subsection, the Commission shall take such steps as are within its power, including consulting with the Comptroller General of the United States, the Director of the Office of Management and Budget, the appropriate regulatory agencies referred to in section 34(D) of this title, and other Federal authorities which, directly or indirectly, require reports substantially similar to that called for by this subsection (A) to achieve uniform, centralized reporting of such information and (B) consistently with the objectives set forth in this subsection, to avoid unnecessarily duplicative reporting by and minimize the compliance burden on persons required to report.".

Mr. MANSFIELD. Mr. President, I yield to the Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that Carolyn Fuller, Bill Seale, and Roger Lemaster of my staff be permitted the privileges of the floor during debate and vote on the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, if I may have the attention of my colleagues——

The PRESIDING OFFICER. The Senate will be in order.

UNANIMOUS-CONSENT AGREEMENT TO VOTE NOT LATER THAN 2 P.M.

Mr. MANSFIELD. I would like to ask unanimous consent that the vote on final passage of the pending business occur not later than the hour of 3 o'clock. I do so——

Mr. TOWER. Why not make it 2 o'clock?

Mr. MANSFIELD. I will make it 2 o'clock. I have discussed this with the manager and the ranking Republican member who are handling the bill, and I do so with the knowledge that three of the most important amendments which were to be offered will not be offered.

The PRESIDING OFFICER. Will the Senator suspend? And rule XII be waived?

Mr. MANSFIELD. Yes.

Mr. JAVITS. Mr. President, is one of those the Church amendment on OPIC that will not be offered?

Mr. TOWER. If the Senator will yield, Mr. President, it is my understanding that that will not be offered.

Mr. JAVITS. With the gentleman's understanding that if it is offered we will need time to debate, and if it is not offered I am perfectly agreeable.

Mr. TOWER. Why not make the agreement contingent upon that amendment not being offered?

Mr. MANSFIELD. I do so.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Marcia Wolf and William Buell be permitted the privileges of the floor during the consideration of this legislation and all amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, will the Senator yield? I ask unanimous consent that Tony Cluff, Gil Bray and Lamar Smith of the Banking Committee staff be accorded access to the floor during the consideration and votes on S. 3084.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, one additional such request. I also ask unanimous consent that Stanley Marcuss of the Banking Committee staff be likewise permitted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, S. 3084 makes changes in U.S. international economic policy with respect to the national security export controls, agricultural export controls, foreign boycotts, and foreign investment.

Title I of the bill would extend the Export Administration Act for 3 years and make significant improvements in the implementation of national security and agricultural export controls.

Title II of the bill would expand and strengthen U.S. policy against foreign boycotts and protect the Nation from interference in its internal affairs.

Title III of the bill would tighten the disclosure requirements of the Securities Exchange Act of 1934 in order to provide systematic monitoring of the acquisition of controlling, or potentially controlling interests in U.S. companies by foreign, as well as domestic, investors.

Mr. President, title I of this legislation is needed to extend the Export Administration Act and improve the administration of national security export controls so that U.S. policy and procedures reflect the changing complexion of U.S. relations with other nations, as well as the implications of rapidly changing technology. Title I is also needed to permit foreign purchasers of agricultural commodities, under specified conditions, to store such commodities in the United States without fear of embargoes.

Title I would do the following:

It would provide for a continuing analysis of all factors which should govern national security controls. A country's Communist or non-Communist status would no longer be the sole determinant of U.S. policy. Instead, U.S. policy would reflect the foreign country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of U.S. exports in accordance with U.S. policy and such other factors as the President deems appropriate.

It would change the Defense Department's duty to review exports to Communist countries to cover all countries periodically designated by the President for the imposition of national security export controls.

It would provide for a review of national security export controls by the Secretary of Commerce, in cooperation with the technical advisory committees and appropriate Federal agencies in order to determine whether modifications of control lists and export control policies are necessary in light of evolving technology, the availability of controlled items from sources outside the United States, and the contribution a given export might make to the military potential of countries posing a threat to our national security.

It would improve the ability of the executive branch to monitor technology transfers to countries to which exports are restricted for national security or foreign policy purposes by requiring that arrangements, other than sales, for the transfer of technology to those countries be reported to the Department of Commerce.

It would improve the role of the technical advisory committees in formulating and implementing national security export controls by requiring that they be consulted on multilateral controls, by requiring that they be informed of the reasons for any failure to accept recommendations which they make, and by increasing the terms of industry members on those committees for 2 to 4 years.

It would permit agricultural commodities purchased for export to be stored in the United States free from future short-supply export control under conditions designed to protect the farmer and its national interest.

It would increase the penalties applicable for all violations of the Export Administration Act.

And it would improve the administration of U.S. export controls by requiring that exporters be informed in writing of the statutory basis for any denial of an export license application and by requiring that the exporter be given an opportunity to review any documentation submitted to COCOM for purposes of describing the proposed export.

Title II of this legislation is needed to provide an effective means of enforcing U.S. policy against foreign boycotts and to prevent foreign government interference in internal American affairs.

Title II would do the following:

It would require public disclosure of all requests to comply with a foreign boycott.

It would require concerns receiving requests to comply with a foreign boycott to disclose publicly whether they do comply with such request.

It would prohibit domestic concerns from refusing to deal with other domestic concerns pursuant to foreign boycott demands.

It would prohibit domestic concerns from furnishing information regarding an individual's race, religion or national origin where such information is sought for purposes of enforcing a foreign boycott.

It would insure that the antiboycott provisions of the Export Administration Act apply to all domestic concerns including intermediaries in the export process.

And it would otherwise strengthen U.S. law against foreign boycotts by increasing the penalties for violations of the antiboycott provisions of the act, by providing that export privileges can be suspended or revoked for violations of those provisions and by making public all inforcement proceedings for violations of those provisions.

Title III of this legislation is needed to provide an effective means of monitoring the acquisition of controlling or potentially controlling interests in U.S. companies without discouraging foreign investment in the United States.

Title III would do the following:

It would expand the disclosure requirements of the Securities Exchange Act of 1934 to require disclosure of the following additional information:

First. The residence, nationality, and nature of the beneficial ownership of the person acquiring the securities; and

Second. The background and nationality of each associate of the purchaser who has a right to acquire additional shares of the issuer.

In addition, title III would impose new disclosure requirements as follows:

Every holder of record of, and any other person having an interest in, 2 percent or more of any equity security of a U.S. company subject to the Exchange Act would be required to file reports as prescribed by the SEC at such time, with such persons, and containing such information as the SEC may require. The SEC would have authority to make exceptions not inconsistent with the public interest or the protection of investors.

The 2 percent threshold would be reduced to 1 percent on September 1, 1976 and one-half of 1 percent on September 1, 1977. However, the SEC would accelerate or defer such dates or grant exemptions from these disclosure requirements if, after public comment, it concluded that such change or exemption was not inconsistent with the public interest or the protection of investors.

Mr. President, this bill deals responsibly with these four sensitive areas of U.S. international economic policy.

First, this reform of national security export controls will diminish the tendency for rigid cold war perceptions of national security to dominate export policy. It will encourage a continuing reexamination of policy to insure that it reflects changing world conditions and the changing dimensions of national security. The bill will help to expand U.S. trade in many parts of the world while at the same time bringing about a more realistic assessment of national security interests.

Second, the bill will help remove one factor unnecessarily restricting agricultural exports from the United States. Except for the Soviet Union, a foreign buyer cannot now be certain it will be able to import agricultural commodities which it buys in the United States, as the infamous soybean embargo amply demonstrated. The Soviet Union enjoys a special status because of the administration's agreement not to exercise any export control authority with respect to certain amounts of corn and wheat promised that Nation over a period of 5 years.

To reduce this uncertainty for other buyers of agricultural commodities, the bill would authorize the Secretary of Commerce, in cooperation with the Secretary of Agriculture, to permit agricultural commodities purchased for export to a foreign country to be stored in the United States free from future export controls for short supply purposes if the Secretary of Commerce receives the following assurances: First, that the commodities will eventually be exported; second, that neither their sale nor export will result in an excessive drain of scarce materials and have a serious domestic inflationary impact; three, that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities; and fourth, that the purpose of such storage is to establish a reserve of such commodities for later use in the purchaser's country and not for resale to, or use by, third countries, all to the effect that the United States has not aided in speculation in American commodities by foreign powers.

The bill would, therefore, make a significant contribution toward improving the access of U.S. farmers to foreign markets, without impinging the President's authority to control exports in extreme situations.

The present restrictions prohibiting agricultural export controls when supplies are in excess of domestic needs remain in force.

Third, Mr. President, the bill directly attacks the most repugnant dimensions of the Arab boycott against Israel. It recognizes that Arab States regard their boycott efforts as part of a continuing struggle against Israel. And it would be unrealistic not to recognize that the use of economic measures as a weapon in the Middle East struggle will continue until there is an overall political settlement, no matter what the Congress does. Boycotts are a common, although regrettable, form of international conflict. And there are severe limitations on the ability of outside parties to bring such boycotts to an end.

Nonetheless, measures can be taken to strengthen the resistance of American concerns to demands that they aid efforts to destroy Israel or discriminate against other American concerns for political, racial, or religious purposes. This bill reflects a strong belief that the United States should not acquiesce in attempts by foreign governments to enlist American citizens in their battles against friendly nations by forcing them to participate in actions which are repugnant to American values, American traditions, and American law. It is a bill which defends the sovereignty of the United States.

By prohibiting compliance with boycott demands for discrimination against U.S. citizens, and by requiring disclosure of participation in foreign boycotts, the bill directly attacks attempts to interfere with internal American affairs. It resists foreign boycotts against countries friendly to the United States. It does so by requiring public disclosure of actions taken by domestic concerns in response to requests to boycott friendly countries. And it prohibits compliance by American firms with the most objectionable aspects of such boycotts. American firms would be prohibited from discriminating against other American firms in order to aid nations at war with nations friendly to the United States. In addition, American firms would not be permitted to disclose racial or religious characteristics of their ownership or management as a condition of doing business with foreign countries.

These requirements protect the most fundamental American rights from interference by foreign powers. They defend the sovereignty of the United States and prevent American companies from being drawn into the conflicts of foreign nations. They will enable American companies to resist efforts to enlist them in a war against Israel.

This act may cost some business in Arab nations. If so, then it will be known that the sovereignty of the United States and its principles of decency and fair play are not for sale. It will be known, too, that the commitment of the United States to the survival of Israel is unequivocal; Israel will not be sold out for petro dollars.

Having said that, Mr. President, I reiterate that this act will not stop the boycott. It will only be stopped by an overall political settlement—and that requires an even handed American initiative beyond the competence of the Congress alone.

Finally, Mr. President, the new investment disclosure requirements of the bill will provide a means for securing accurate information about the identities of investors in U.S. companies without interfering with the free flow of foreign capital to the United States.

This bill is an attempt to deal responsibly with difficult and important issues. It is not an hostile or unfriendly gesture toward any power—and it would not be necessary if foreign powers were not interfering with fundamental rights of this Nation and its citizens. I urge the Senate to act favorably on the measure.

Mr. President, the Senator from New Jersey (Mr. Williams) has played a large part in the development of this legislation and particularly with respect to the investment disclosure provisions of the legislation.

I will yield to him to describe further those provisions of the bill.

Before doing so, Mr. President, I ask unanimous consent that a detailed summary of the bill be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

SUMMARY OF S. 3084—EXPORT ADMINISTRATION, FOREIGN BOYCOTTS, AND INVESTMENT DISCLOSURE—AS ORDERED REPORTED BY THE SENATE BANKING COMMITTEE, MAY 6, 1976

TITLE I—EXPORT ADMINISTRATION

1. Extends the Export Administration Act for a period of three years from September 30, 1976 to September 30, 1979.

2. Amplifies existing law by providing that in administering export controls for national security purposes United States policy toward individual countries "shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may deem appropriate."

Requires periodic Presidential review of United States policy toward individual countries to determine whether such policy is appropriate in light of the above factors. The results of such review are to be reported to Congress annually.

3. Changes the Department of Defense's mandatory review responsibility from the review of exports to "controlled countries" (as defined in the Foreign Assistance Act of 1961) to the review of exports to countries designated by the President pursuant to the review process described immediately above. Effective date is 90 days after completion of first such review.

4. Requires the Secretary of Commerce, in cooperation with the appropriate technical advisory committees, to review existing U.S. unilateral and multilateral controls to determine whether such controls should be removed, modified, or added in order to protect the national security of the United States.

The Secretary of Commerce is also to explore, as part of such review, ways of simplifying and clarifying control lists.

The results of such review are to be reported to Congress within eighteen months.

5. Requires any person who enters into a contract or other arrangement which would transfer U.S. technology to nations to which exports are restricted for national security or foreign policy purposes to report same to the Secretary of Commerce within 30 days of entering into such arrangement.

6. Requires that in any denial of a license application, the applicant is to be informed in writing of the specific statutory basis for such denial.

7. Increases the term of industry members of the statutorily authorized technical advisory committees from two to four years.

8. Adds exports subject to multilateral controls to the matters on which technical advisory committees are to be consulted. In addition, it requires that such committees be informed of the reasons for any failure to accept any advice or recommendations which they may make or render to the government regarding export controls within their areas of responsibility.

9. Requires that whenever an export license application is referred to a multilateral control process for approval, the applicant, if he so requests, is to be given an opportunity to review the documentation to be submitted to such process for purposes of describing his proposed export in order to insure that it accurately describes the export in question.

10. Authorizes agricultural commodities purchased by or for use in a foreign country to be stored in the United States free from short supply export limits which may be imposed subsequently if the Secretary of Commerce, in consultation with the Secretary of Agriculture, receives assurance (i) that such commodities will eventually be exported, (ii) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (iii) that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and (iv) that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country.

11. Increases the maximum penalties for violation of the Export Administration Act as follows:

a. Judicially imposed penalties for a knowing violation of the Act or any rule or regulation thereunder: the first time $25,000 (now $10,000); the second and subsequent times, $50,000 (now $20,000).

b. Judicially imposed penalties for exporting anything contrary to the Act or any rule or regulation thereunder knowing that the export will be used for the benefit of any country designated by the President pursuant to the country review process described in paragraph 2 above: $50,000 (now $20,000 where violator knows that such export will be used "for the benefit of any Communist-dominated nation.").

c. Administratively imposed penalties for violating the Act or any rule or regulation thereunder: $10,000 (now $1,000).

d. In addition, authority would be given to the Government to defray or suspend the payment of any penalty during any "probation" period.

TITLE II—FOREIGN BOYCOTTS

1. Requires U.S. firms which receive a request to comply with a foreign boycott to disclose whether they intend to comply and have complied with such request.

2. Requires that boycott reports which U.S. firms are required to file with the Department of Commerce hereafter be made public.

3. Prohibits U.S. firms from furnishing any information regarding the race, religion, or national origin of its employees, shareholders, officers, or directors or those of any other U.S. company where such information is sought for purposes of enforcing a foreign boycott.

4. Prohibits U.S. firms from refusing to do business with other U.S. firms pursuant to a foreign boycott demand.

5. Increases the administrative penalties applicable under the Act for a violation of its anti-boycott provisions from $1,000 to $10,000 and makes it clear that existing law authorizes the suspension of export privileges for violations of the anti-boycott provisions of the Act as well as any other provision of the Act.

6. Requires public disclosure of Commerce Department charging letters or other documents initiating proceedings against U.S. companies for failing to comply with the anti-boycott provisions of the Act.

7. Require the Commerce Department to provide the State Department with periodic reports on the information contained in the boycott reports filed by U.S. firms.

8. Require that the Commerce Department's semi-annual reports to Congress under the Act include an accounting of all action taken by the President and Secretary of Commerce to effect the anti-boycott policy of the Act.

9. Makes it clear that the Act applies to banks, other financial institutions, insurers, freight forwarders, and shipping companies as well as all other domestic concerns.

10. Provides that the refusal to deal provisions of the bill neither substitute for nor limit the operation of the antitrust laws.

11. Provides that the bill's anti-boycott provisions apply to persons as well as corporations.

12. Provides that the bill's refusal to deal provisions do not apply to conformity with requirements pertaining to the identity of the vessel on which exports are to be shipped so long as such requirements do not have as their purpose the enforcement or implementation of a boycott. The purpose is to exempt from the reach of the refusal to deal provisions compliance with restrictions common in the maritime trade regarding the vessel on which goods may be shipped.

TITLE III—INVESTMENT DISCLOSURE

1. Amends Section 13(d) of the Securities Exchange Act of 1934 to expand the disclosure requirements thereunder to include disclosure of the following additional information:

a. the residence, nationality, and nature of the beneficial ownership of the person acquiring the securities; and

b. the background and nationality of each associate of the purchaser who has a right to acquire additional shares of the issuer.

2. Imposes new disclosure requirements as follows:

Every holder of record of, and any other person having an interest in, 2% or more of any equity security of a U.S. company subject to the Exchange Act would be required to file reports as prescribed by the SEC at such time, with such persons, and containing such information as the SEC may require. The SEC would have authority to make exceptions not inconsistent with the public interest or the protection of investors.

The 2% threshold would be reduced to 1% on September 1, 1976 and to ½ of 1% on September 1, 1977. However, the SEC could accelerate or defer such dates or grant exemptions from these disclosure requirements if, after public comment, it concluded that such change or exemption was not inconsistent with the public interest or the protection of investors.

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

Mr. President, the legislation we are considering today is entitled "The Export Administration Amendments, Foreign Boycotts, and Domestic and Foreign Investment Improved Disclosure Acts of 1976." Title I amends the Export Administration Act to improve the licensing process for high technology products and to extend the act for a period of 3 years. Title II also amends the Export Administration Act to clarify and strengthen U.S. policy opposition to foreign boycotts directed against U.S. firms or individuals and countries friendly to the United States. Title III amends the Securities Exchange Act of 1934 by enlarging the disclosure requirement under section 13(d) and by adding a new section which requires disclosure by any person or entity owning 2 percent or more of a class of an equity security.

While I believe that the amendments to the Export Administration Act contained in titles I and II of this legislation are necessary and desirable, I have strong reservations about the adoption of title III of S. 3084.

Title III is divided into two sections. Section 302 amends section 13(d) to require disclosure of the background and nationality of individuals who are the beneficial owners of more than 5 percent of a class of any registered equity security. I support this modification, and I believe that it will substantially contribute to our knowledge of both foreign and domestic ownership of U.S. corporations.

The second section of title III, section 303, is troubling. It adds a new disclosure subsection 13(g) to the Securities Exchange Act which would require every person or entity having an interest in 2 percent or more of any class of a registered equity security, to report such interest plus other information in such form and at such intervals—but in no event more frequently than quarterly—as the SEC may prescribe. In addition, this reporting threshold would be reduced at regular intervals down to one-half of 1 percent unless the SEC finds that the lower reporting threshold is not in the public interest.

It is my belief and that of several other of my colleagues on the Banking Committee that the 2 percent disclosure threshold is not in the public interest and should not be enacted until sufficient cause can be identified to reason such a low level of disclosure. In hearings held during March 1975, in the Securities Subcommittee and again in July 1975, in the International Finance Subcommittee, virtually all departmental and executive agency witnesses expressed strong concern and outright opposition to the various proposals relating to foreign investment. I recognize that the legislation before us today is a substantial modification of earlier proposals, however, it still lacks the endorsement of any regulatory agency.

During the hearings one benefit alluded to was that the legislation would better enable corporations to communicate with their shareholders. If there is a need for better communication, then the study presently being conducted by the Securities and Exchange Commission, to examine the adequacy of the communication system between the corporation and the stockholder, should provide a basis for reaching an acceptable solution of this problem.

Another benefit deriving from this legislation which was vaguely referred to during the hearings was that it would assist Federal regulatory agencies in detecting violations of Federal law. Again, no affirmative testimony was given by our Federal regulatory agencies as to the need or the desirability of such new legislation.

The potential cost border of this legislation is also troubling. Preliminary evidence indicates that the costs of collecting and processing this information will not be inconsequential to financial intermediaries or to Federal regulatory agencies. It has simply not been demonstrated that the benefits of this legislation will outweigh those costs. In the end, it is the investor and the taxpayer who will pay the cost of broader disclosure.

Another aspect of this legislation which has not been adequately addressed is the question of an investor's right to privacy. I firmly believe that a beneficial ownership disclosure level of 2 percent and possibly one-half of 1 percent should only be required if it can be demonstrated that there is an overriding regulatory purpose for such disclosure. To date no overriding need has been demonstrated.

The enforcement provisions of this legislation also pose serious difficulties which have yet to be explored and resolved. How is this legislation to be enforced in the case of foreign nominees who are subject to their local privacy laws? It is doubtful whether this legislation could be equally enforced on both foreign and domestic concerns. Any laxity of enforcement, regardless of how meritorious the intent, could result in a competitive advantage to the noncomplying foreign institution. Former SEC Chairman Garrett briefly addressed this issue when testifying before the International Finance Subcommittee:

> Another consideration is one of competitive fairness among fiduciaries—broker-dealers and trust companies and United States and foreign banks. The foreign part of the problem is not just one of even application of the law as written, but also as enforced. We have been engaged in long, and so far, futile, efforts to compel disclosure of bank customers in some countries, even for purposes of criminal investigations.

In addition, the legislation would make it unlawful for any person to effect a security transaction if he "knew or should have known" that there had been a violation of the legislation's reporting requirements by the person on whose behalf the transaction is effected. While it is not clear, this provision would appear to impose on any person performing a brokerage service a duty to make a reasonable investigation to ascertain whether a reporting violation had occurred. If so, the provision would place an undue burden on firms performing brokerage services that could raise the costs of securities transactions and adversely affect the functioning of the securities market.

I am not inextricably opposed to title

III of S. 3084. It may be a desirable piece of legislation, but I do believe that there are serious questions which have not been answered, that the need for this legislation has not been demonstrated.

Mr. President, I reserve the remainder of my time.

Mr. STEVENSON. Mr. President, I yield such time as he may require to the Senator from New Jersey.

Mr. WILLIAMS. I appreciate the Senator from Illinois yielding to me.

Mr. President, as a cosponsor of this omnibus bill, I first want to express admiration for the painstaking effort and attention that the members of the Committee on Banking, Housing and Urban Affairs have devoted to the important basic issues it addresses; namely, the domestic manifestations of the Arab boycott of Israel and the improved disclosure of foreign and domestic ownership of U.S. corporations.

As it is before us today, S. 3084 is a composite bill, incorporating features of many bills introduced over the past and present sessions and referred to the Banking Committee.

Numerous days of hearings were held before two separate subcommittees; each subcommittee then marked up the bill before forwarding it to the full committee.

At each stage, the members of the committee scrutinized and modified the bill.

Against this background, it is fair to say that the committee has been most attentive to the need to formulate workable legislative answers to complex problems.

Since Senator STEVENSON has already described in detail the purposes of the antiboycott provisions, I associate myself with his remarks with only these brief additional thoughts.

The free and open climate in international trade that has always been a cornerstone of U.S. policy can only be achieved by ending restrictive and discriminatory trade practices stemming from the Arab boycott.

Distortions in international commerce and unconscionable discrimination that are the collateral effects of the direct Arab boycott of Israel should not be tolerated by the Federal Government or our nationals.

In particular, I strongly believe that U.S. businessmen should be protected against harassment and intrusion into their business affairs by members of the Arab League.

The domestic consequences of the Arab boycott underscore the need for a new resolve by our Government to protect its citizens' integrity—individual as well as corporate—from erosion under present international economic and political realities.

Essentially, that is the purpose of this bill.

Intensified efforts to expand and enforce the Arab boycott have interfered with domestic commerce.

In documented instances, firms operating in the United States have refused to do business with each other.

Americans are being asked and coerced into discriminating against fellow Americans based upon religious grounds or ethnic origins.

While such conduct may not be illegal, it is clearly abhorrent to our national commitment to free trade and violative of constitutionally guaranteed protections.

Once S. 3084 is enacted, I believe U.S. businessmen would be required to observe our longstanding official policy in opposition to the boycott.

And I believe the Federal Government—specifically, the Commerce Department—would have no excuse for failing to administer the act in a manner that comports with national policies and the expectations of American businessmen and citizens.

In addition to the antiboycott features of this legislation, title III of the bill would improve significantly the availability and accuracy of information about the ownership of U.S. businesses by amending the Federal securities laws.

Two distinct, but interrelated, developments point up the need for better information concerning corporate ownership.

The first is the dramatic growth of foreign investment in the United States in recent years; the second is the longstanding difficulty, and in many cases the impossibility, of determining who actually owns and controls publicly-owned corporations.

Mr. President, each of these points is important enough in its own right to justify prompt action on S. 3084; taken together, the need is compelling.

Reports by the Federal Energy Administration, the Council on International Economic Policy, and the interim reports on foreign portfolio and direct investment submitted to Congress by the Treasury and Commerce Departments pursuant to the Foreign Investment Study Act of 1974, all concluded that U.S. Government monitoring of foreign ownership is inadequate.

Moreover, there is widespread agreement that our present data gathering capabilities are seriously deficient, thus handicapping ongoing analyses of the national and international economic and policy questions raised by the dramatic increases in foreign investment.

To remedy this shortcoming of our present disclosure requirements, title III of the bill would amend section 13(d) of the Securities Exchange Act of 1934, which I sponsored in 1968, to require additional disclosure concerning residence, nationality and nature of the beneficial ownership, as well as the background and nationality of each associate of the purchaser, acquiring more than 5 percent of a public company's stock.

With the benefit of this augmented disclosure, for the first time it will be possible to measure the extent to which foreign investors have acquired or seek to acquire controlling or potentially controlling interest in U.S. corporations.

And it will do this without discriminating against foreign investors or imposing on them any additional burdens.

While national policy toward foreign investment is assessed on a continuing basis with information that is essential to the intelligent formulation of sound policy, the United States "open door" toward investment from abroad will remain wide open unless and until events make it clear that revisions are warranted.

The second element of title III relates to disclosure of stock ownership in a broader sense.

The problems of determining who actually owns and controls American business dates back at least to the beginning of this century.

Immediate concern over the monitoring of foreign investment, however, has accelerated the search for an effective solution.

Title III would attack this problem by enlisting the aid of recordholders in securing public disclosure of essential information regarding the ownership and control of U.S. corporate securities.

Every recordholder of, and any other person having an interest in, 2 percent or more of any class of equity securities described in section 13(d)(1) of the Securities Exchange Act of 1934 would be required to disclose that interest and such other ownership information as the SEC may by rule prescribe.

These new reporting requirements would be applicable initially to persons having an interest in 2 percent or more of a corporation's securities.

The threshold would be reduced eventually, according to a specified timetable, first to 1 percent and, finally, to one-half of 1 percent.

However, the SEC would have discretion to shorten or extend these periods if, after considering certain matters set forth in the bill, it finds that such action is not inconsistent with the protection of investors or the public interest.

Several recent authoritative studies done by the Subcommittee on Securities—Securities Industry Study Report (1972); the SEC—Institutional Investor Study (1971); and the Senate Government Operations Committee—Disclosure of Corporate Ownership Study (1973), Corporate Ownership and Control (1975)—document the need for more effective disclosure of corporate ownership.

Immediate and far-reaching consequences result from present difficulties in obtaining accurate ownership information:

First, neither companies nor their stockholders have information which is needed to protect their own interests.

Second, neither Federal agencies, the executive branch, nor the Congress has available sufficient information upon which to base reasoned public policy.

Third, the present inadequacies may actually impede the availability of such information where required by law, mask activities which could entail civil or criminal penalties; and cause costly duplicative overlaps which the regulated companies, their shareholders, and the taxpayers must bear.

And I should add, Mr. President, that this is so despite the fact that adequate and accurate information concerning ownership has been required by Congress and mandated by many regulatory agencies for many years.

Clearly what is called for is improved disclosure of ownership information, and this bill is the enabling legislation.

Mr. President, public policy in support of enhanced disclosure in securities transactions follows a pattern which began with the Securities Acts of 1933 and 1934.

This legislation will complement continuing efforts within the executive branch, the regulatory agencies and the Securities Subcommittee to increase the availability of information which is vital to the development of sound policy in complex areas where important national and international issues are at stake.

I, therefore, urge its prompt passage today and, hopefully, enactment in the near future.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

UP AMENDMENT NO. 398

Mr. TOWER. Mr. President, I call up an unprinted amendment which I have at the desk, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Texas (Mr. Tower) proposes an unprinted amendment numbered 398.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Tower's amendment is as follows:

On page 10, line 17, before the period insert the following: ", *Provided, however*, That such rules and regulations shall not prohibit any domestic concern or person from refusing to pay, honor, advise, confirm, process, or otherwise implement a letter of credit where the domestic beneficiary thereof fails to comply with the conditions or requirements thereof except a condition or requirement regarding any person's race, religion, or national origin or the domestic beneficiary's dealings with other domestic concerns or persons, and any such conditions or requirement shall be null and void."

Mr. TOWER. Mr. President, my proposal would amend S. 3084 to eliminate a potential unintended and inconsistent consequence resulting from enactment of the legislation. My amendment provides that financial institutions will not be held liable under the refusal to deal provisions of the proposed bill when processing letters of credit except under certain circumstances. Under the terms of this amendment, if the domestic beneficiary fails to comply with the conditions or requirements of the letter of credit, the financial institutions may refuse to honor the contract except for conditions or requirements regarding any person's race, religion, or national origin or the beneficiary's dealings with other domestic concerns or persons. Therefore, should U.S. banks accept letters of credit which require certifications regarding a person's race, religion, or national origin or the exporter's business dealings with other U.S. firms, any such requirement would be unenforceable, and a bank's refusal to honor such a letter of credit if the beneficiary refuses to comply would constitute a violation of law.

Mr. President, I have talked this over with the manager of the bill (Mr. Stevenson), and I believe he is prepared to accept it.

Mr. STEVENSON. Mr. President, I believe this amendment is technical. It conforms the requirements of the antiboycott provisions with respect to exporters for the intermediaries in the export process, including banks. In fact, without such an amendment, it is possible that a bank would be guilty of violating the antiboycott provisions by refusing to honor a letter of credit in a situation where the exporter was complying with the antiboycott law.

So I have no objection to the amendment, and if there are no other objections, I am prepared to accept it.

Mr. TOWER. I yield back the remainder of my time.

Mr. ABOUREZK. Mr. President, I would like to ask a question, if I may, of the author of the amendment.

The prohibition against the refusal of the letter of credit is based on discrimination on the grounds of religion, race, or national origin; am I correct?

Mr. TOWER. That is right. That prohibition is made.

Mr. ABOUREZK. That is the only grounds upon which it is based?

Mr. TOWER. That is right.

Mr. ABOUREZK. I thank the Senator.

Mr. TOWER. I yield back the remainder of my time on the amendment.

Mr. STEVENSON. Mr. President, there is only one clarification with which I believe the Senator from Texas will agree. There is one other prohibition that would be made, and that is the prohibition against discrimination against other American businesses.

Mr. TOWER. That is correct.

Mr. STEVENSON. I thank the Senator for that clarification.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Sparkman). The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 399

Mr. HUDDLESTON. I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. Huddleston) proposes unprinted amendment numbered 399.

On page 8, between lines 4 and 5, insert the following:

Sec. 110. Section 3 of the Act is amended by adding at the end thereof the following:

"(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territory or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting or participating in acts of international terrorism. To achieve this objective, the President shall make every reasonable effort to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before resorting to the imposition of export controls."

Mr. HUDDLESTON. Mr. President, as the reading of this amendment in its entirety indicates, it is an amendment designed to increase our ability to deal with the escalating problem of international terrorism. The amendment adds a new section to the Export Administration Act, expressing that it is the policy of the United States to use export controls where they might be effective in encouraging other countries to take steps to prevent the use of their territory or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism.

I have discussed this amendment with the manager of the bill and I believe he is prepared to accept it.

Mr. President, I am offering an amendment today which I belive will increase our ability to deal with the escalating problem of international terrorism. My amendment would add a new section to the Export Administration Act expressing that it is the policy of the United States to use export controls where they might be effective in encouraging other countries to take steps to prevent the use of their territory or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting or participating in acts of international terrorism.

Terrorists are fanatically committed to their own political philosophy. They are prepared to commit any crime or carry out the most heinous of acts to further what they perceive to be their political goals.

Because they are totally dedicated individuals, only a firm and positive commitment from all countries throughout the world can hope to stop them. We must be committed to use every lawful weapon at hand to prevent and discourage acts of terrorism and to assure swift and certain punishment in accordance with law once the act has been perpetrated. Without this dedication terrorists will continue to enjoy the advantage of striking when and where they please with impunity.

The tragedy of terrorism has been brought even more forcefully home to us within the last few weeks. On August 11, a Senate aide was among those four innocent travelers killed by terrorists in Istanbul, Turkey. The four are now added to the growing list of approximately 800 people who have died and 1,700 who have been wounded by terrorist related attacks. To allow this list to continue to expand without doing everything within our power to prevent it would be a travesty.

Obviously, there is no one means of combatting terrorism. There are many avenues which should be pursued. I do not suggest in proposing this amendment that other activities should be abandoned or lessened.

However, I do think it important for us to demonstrate firmly and immediately that we do not—that we cannot—condone terrorist activity and that we as a Nation will seek to utilize various tools, whether they be diplomatic or economic, in our quest for a terror-free world.

With this amendment, we can make it clear that the United States will examine export controls as a possible means of limiting terrorism. Under it, the President would be free to consult with other nations regarding the role export controls should play in the battle against terrorist activity. He would be free to weigh the impact of possible use of such controls. He would be free to decide whether use of such controls or the threat of their use would be useful or counterproductive in achieving our goals.

At the same time we in the Congress and in this Nation would have sent a firm signal throughout the world that we intend to use whatever legitimate means we have at our disposal to discourage and prevent acts of terrorism. It will be a message which is clear and consistent with other antiterrorist legislation passed by this Congress.

Terrorism today knows no boundaries. No nation is free from its threat. Innocent victims, bystanders, and children are forced to suffer in places throughout the world.

We need to make it clear that terrorism, for whatever reason, arouses no sympathy. We need to make it clear that no cause, whatever it may be, justifies the resort to kidnapings, hijackings, bombings, and murder. And, we need to make it clear that each nation in an interdependent world has the responsibility to cooperate in efforts to prevent terrorism. For without this cooperation, no one—regardless of his political affiliation, will be safe from these senseless attacks.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I yield.

Mr. JAVITS. Mr. President, on yesterday, I submitted a general resolution respecting the effort to curb terrorists through our ability to afford landing and air service rights to other countries' aircraft and also including any relationships with other countries including commercial relationships by the United States. I welcome this amendment, and I am delighted that the Senator has offered it.

I ask the Senator what is the meaning, however, of the second sentence which on its face requires some explanation as to why in one breath we want very much to see the President use his power and in the next breath we say, however, he shall not use it?

Mr. HUDDLESTON. We are not saying that the President cannot use that power or should not use the power. We are giving him the discretion to use it if in his judgment it is appropriate and can be effective.

Mr. JAVITS. In other words, what the Senator is doing is seeking to give him a priority of remedy, that is, not to resort to export controls if it is possible to do it some other way.

Mr. HUDDLESTON. That is essentially correct.

Mr. JAVITS. But there is no design any way to negate what the first sentence gives, to wit, the policy of the United States, which it is the President's duty if we adopt this and it becomes law to implement.

Mr. HUDDLESTON. That is correct.

Mr. JAVITS. So that it is in order of priorities. Is that its only reason, simply so he should not have to use his most drastic remedy immediately?

Mr. HUDDLESTON. The general purpose is to give him this additional authority, perhaps effect an objective without resorting to other remedies.

Mr. JAVITS. I thank my colleague for that explanation.

Mr. HUDDLESTON. I joined as a cosponsor the resolution submitted yesterday by the distinguished Senator from New York.

I think this is a very serious matter. Certainly the time has come when all countries should begin to focus on this problem and add some resolution to it.

Mr. JAVITS. I thank my colleague very much.

Mr. HUDDLESTON. I yield back my time.

Mr. STEVENSON. Mr. President, I believe the Senate has passed similar legislation in a different context. I think this amendment is sound. Unless the Senator from Texas has any objection to it I am prepared to accept it.

Mr. TOWER. For the minority I may say that I heartily concur with the amendment and that I am certainly prepared to accept the amendment of the Senator from Kentucky.

Mr. STEVENSON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TOWER. I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 400

Mr. HUDDLESTON. Mr. President, I send an additional amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. Huddleston), for himself, Mr. Bellmon and Mr. McGovern, proposes unprinted amendment No. 400.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, between lines 4 and 5, insert a new section as follows:

Sec. 110. Section 4(f) of the Act is amended by adding at the end of paragraph (1), as designated by section 108 of this Act, the following new sentences: "However, no export controls on any agricultural commodity may be imposed pursuant to the President's determination that the exercise of the authority conferred by this section is required to effectuate the policies set forth in clause (B) of paragraph (2) of section 3 of this Act until (1) the President's determination has been transmitted to the Congress and (2) a period of 30 days has expired following the date of receipt of the determination by the Congress without the adoption by both Houses of the Congress of a concurrent resolution stating that the Congress does not favor the imposition of export controls pursuant to the President's determination. In the computation of the 30-day period, there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die.".

Mr. HUDDLESTON. Mr. President, almost without exception the American farmer produces more of the basic commodities than can be consumed within the United States. Therefore, foreign demand is inevitably a significant factor in determining commodity prices.

By approving the Agriculture Act of 1970 and the Agriculture and Consumer Protection Act of 1973, Congress reduced the farmer's dependence on Government price support programs solely on the premise of unlimited access to world markets. The Nation's farmers have responded by bringing 31 million acres back into production. The increased costs involved in that expansion must be recovered from prices determined by free access to world markets.

We now export about 60 percent of our wheat, 50 percent of our rice, 50 percent of our soybeans, 35 percent of our sorghum, 25 percent of our corn, 40 percent of our cotton, and 30 percent of our tobacco. This means U.S. agriculture is currently providing more than half the grain and soybeans moving in international trade.

In terms of volume of total agricultural trade, we expect to ship a record 103 million tons of bulk products in 1975–76, compared with 85 million tons last year and 100 million tons the year before. But as recently as 1969 we exported only 47 million tons.

There is no question that farm exports are vital to our balance of payments and are contributing significantly to a surplus in our international trade account. Fiscal 1976 farm exports reached $22 billion. The value of total agricultural trade for fiscal 1974 and fiscal 1975 were over $21 billion.

By the end of this century it is projected that this worldwide demand for agricultural products will increase substantially. This increased demand will be due to two things.

First, the Earth's population is increasing at an annual rate of 1.6 percent. This is a yearly population increase of 63 million people—approximately equal to the population of all the southern region of the United States.

Second, the Earth's billions are demanding better diets.

Most farmers welcome the concept of income dependence on the marketplace instead of Government payments. And they have responded by substantially increasing acreage devoted to major commodities.

Farmers will continue to respond to the incentives of the market, provided they have unfettered access to those markets. In my judgment, nothing is more counterproductive to the long-term interests of consumers or more unjust to the farmer than the erratic imposition of export controls which we have experienced during recent years.

In 1974 and again in 1975, the President acted to restrict exports of grain to the Soviet Union and other Eastern European countries. These actions by the President represented the first political reactions to the uncertainties inherent in our market-oriented farm programs.

If we are going to have a farm program geared to the market, as the Congress and the public have demanded, then we must allow it to work. The alternative is a continuation of the knee-jerk responses to market uncertainties that we have experienced with moratoriums and cancellations of export sales. This alternative will inevitably lead us back down the road to tight controls and large Government payments. It must be either or; it cannot be both.

Mr. President, section 4(f) of the Export Administration Act of 1969 permits the Secretary of Agriculture to approve export controls on an agricultural commodity even though it is in surplus supply, if the President determines controls are required to significantly further the foreign policy of the United States and to fulfill its international responsibilities or to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States.

No one can argue that the President should have the authority to impose export controls when necessary or even significant to the national security. In my judgment, however, the importance of export markets to the maintenance of a healthy farm economy to produce, process, and deliver food and fiber to the American people should outweigh nonsecurity diplomatic considerations—at least to the extent of requiring congressional approval before the imposition of export controls on the basis of such considerations.

The amendment I am introducing today provides for congressional approval of the imposition of export controls on agricultural commodities for nonnational security and noninflationary control purposes pursuant to the authority granted the President by the Export Administration Act of 1969 as amended.

If adopted, this amendment would require that no export controls be imposed on any agricultural commodity for the purpose of furthering foreign policy or fulfilling international responsibilities until: First, the President's determination that export controls are required to effectuate furtherance of foreign policy or fulfillment of international responsibilities has been transmitted to the Congress; and second, a period of 30 days has expired without the adoption by both Houses of Congress of a concurrent resolution stating that the Congress does not favor the imposition of export controls pursuant to the President's determination.

Mr. President, this amendment would provide for congressional approval of agricultural export controls being used for foreign policy purposes. It would not require congressional approval for export controls being imposed to reduce inflationary impact of foreign demand or for national security purposes.

We must curtail the temptation to use embargoes on farm exports to achieve some temporary or possible illusory diplomatic or political objective. The permanent damage such an embargo would cause to our domestic agricultural economy in the form of reduced farm income, reduced employment, reduced food production, and substantially higher food prices to consumers is irreparable.

I have discussed this amendment with the distinguished floor manager of the bill and I believe he is prepared to accept it.

Mr. McGOVERN. Mr. President, I am pleased to cosponsor the amendment of the distinguished Senator from Kentucky (Mr. HUDDLESTON). Agricultural exports have become so vital to our country that in the fiscal year just ended, the difference between our agricultural exports over our agricultural imports virtually bailed the country out of what would have been a drastic trade deficit.

Our farmers have responded to pleas from the administration to increase production. Farm production is now at a point where, in order to avoid tremendous carryovers with resulting price depressants, we must now export over 60 percent of our wheat, 25 percent of our corn, and half of our soybeans. Farmers, in order to take the risk of full production, must have the assurance from the administration that there will be no export controls except for national security matters of critical supply and related conditions.

The soybean embargo of 1973 and administration action in 1974 and 1975 to restrict grain exports to the Soviets and Eastern European nations produced a roller coaster market in which many farmers lost millions of dollars and some traders made corresponding millions depending on their market positions.

Presently, provisions of the Export Administration Act allow the President to impose export controls for a number of reasons including a provision to further foreign policy or fulfill international responsibilities. Few can take issue with the need for our Chief Executive, whoever he may be, to have the responsibility to guard our national security. On the other hand, foreign policy is as much a responsibility of the Congress as it is of the President. The amendment for consideration at this moment would require the President to consult with the Congress for a period of 30 days before imposing any controls on agricultural commodities for purposes of furthering foreign policy or fulfilling international responsibilities. In short, it would prohibit without congressional approval, export controls for foreign policy purposes.

The amendment adds a degree of protection for farmers in that it requires Congress to give its approval to what could be illusory diplomatic efforts on the part of an administration which chose to use the magnificent production efforts of the American farmer in a manner in which the farmer could quite possibly be the eventual loser. I urge the approval of the amendment.

Mr. STEVENSON. Mr. President, I have discussed this amendment with the distinguished Senator from Kentucky. I am sympathetic to its objective. I think it is a sound amendment, and I will accept it and take it to conference.

Mr. TOWER. Mr. President, I am sympathetic with the objective, because too often the American farmer has been misled into producing more than he has a future market for. This has been the cause for much of the travail that has been suffered by our farmers.

However, I think the method is questionable, and I wonder if it is not misleading. There are no expediting features in the proposed legislation, and I do have some serious questions about it.

I am concerned about restricting the flexibility of the President to act in foreign policy situations. I am, however, interested in seeing the development of markets abroad for American agricultural produce. We can produce more than we produce now, and we should expand our markets to absorb that capacity to produce.

I should like to consider this matter and ponder it as we take it to conference, so I am prepared not to oppose the amendment at this time and go to conference with it.

Mr. HUDDLESTON. I thank the distinguished Senator from Texas.

I yield back the remainder of my time.

Mr. STEVENSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 401

Mr. INOUYE. Mr. President, I submit an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE), for himself and Mr. FONG, proposes an unprinted amendment numbered 401.

The amendment is as follows:

On page 7, at the end of line 3, insert the following:

Petroleum products refined in U.S. Foreign-Trade Zones from foreign crude oil shall be excluded from any quantitative restrictions imposed pursuant to Section 3(2)(A) of this Act and the provisions of Section 103(a) of the Energy Policy and Conservation Act, *Provided however:* If the Secretary of Commerce in conjunction with the Administrator of the Federal Energy Administration shall find that a product is in short supply, the Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to limit exports in accordance with the Administrator's recommendations.

Mr. INOUYE. Mr. President, recently, the Federal Energy Administration—FEA—decontrolled a number of petroleum products. This action was taken primarily because the FEA found that those products are no longer in short supply in the domestic market.

This abundance has been achieved at least in part, because of expanded domestic refinery capacity during the last several years. However, that trend has recently begun to slow.

In order to further stimulate such growth and strengthen our position in the world energy market, I have offered an amendment to the Export Administration Act currently before the Senate.

The amendment removes short supply controls from petroleum refined from foreign crude oil in a U.S. foreign-trade zone. I would offer the following comments on its behalf.

The purpose of our current domestic energy program is to increase domestic oil production and refinery capacity with the end result of energy self-sufficiency during this country's third century. However, current short supply export controls severely restrict exports of refined petroleum products without regard to whether or not they were refined from foreign or domestic crude. The application of short supply controls to petroleum products processed entirely from foreign imported crude oil in a U.S. foreign-trade zone do not further the intent and purpose of the Export Administration Act of 1969. In fact, the application of the controls to FTZ refiners work contrary to the intent and policies enumerated in the act. The restrictions on U.S. foreign-trade zones exports of petroleum products processed from foreign imported crude oil neither drain a scarce material nor have an inflationary impact and are, therefore, unnecessary.

Rather than creating a drain on domestic supplies, the proposed limited exemption of petroleum products refined from imported crude oil in U.S. foreign-trade zone from short supply export controls would provide a needed incentive to expand domestic refinery capacity without the need for domestic price incentives, or draining domestic reserves. In fact, each barrel of refined petroleum product shipped from a U.S. foreign-trade zone improves our balance of payments by approximately $2, and thereby eases the burden of inflation but also greatly enhances the U.S. position in world energy markets.

Current Federal Energy Administration publications and recent congressional hearings indicate that there is no current domestic shortage of residual fuel oils, middle distillate products, or naphtha. Any impairment of our ability to export excess products on hand on a short-term basis, would not only have a negative impact on our balance of payments, but would restrict storage capacity for products currently needed and could force refineries to operate at reduced capacity and efficiency. It is basic economics that if a raw material is imported for processing, manufacturing or assembling, and then exported at a profit, the country in which it increased in value and is then reexported, will not only benefit from a better balance-of-payments position, but will gain additional jobs and taxes.

In short, this amendment does not create any extra authority to export. Rather, it imports jobs.

Let us not forget that the Export Administration Act, which we consider today, places equal emphasis on removing controls as it does on imposing them. It would be a tragedy of great magnitude if we lost sight of that balance—in order to gain a politically expedient goal at the expense of America's position in world trade.

Mr. President, I ask unanimous consent to have printed in the RECORD questions and answers we have formulated in connection with this amendment.

There being no objection, the questions and answers were ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS

Q-1. What does the Amendment do?

The proposed Amendment would exempt petroleum products refined from foreign, imported crude oil in U.S. Foreign-Trade Zones from quantitative, short supply export controls under the Export Administration Act and the Energy Policy and Conservation Act.

It would not amend any provisions of those Acts regarding National Security controls or emergency authority, thereby leaving full authority to act in an emergency or embargo situation.

Q-2. Won't that cause a lot of oil now being used domestically to leave the country?

No. Since the Amendment is limited to products refined from imported, foreign crude oil, there would be no drain on domestic supplies.

Furthermore, under the current FEA entitlement program, a $3.00 per barrel advantage is granted to those refiners selling this type of product in the U.S. That advantage, or "entitlement" is lost to the refiner if it exports the product. Therefore, in reality, only excess products would be exported; products for which there is no domestic market.

Q-3. Won't there be an inflationary impact?

Absolutely not. Each barrel of foreign crude processed in the U.S. and reexported brings in a $2.00 benefit to the U.S. balance of payments, thereby easing inflation, adding jobs, and bringing in additional tax revenues.

Q-4. Won't there be a rush to build refineries in Foreign-Trade Zones?

Setting up a refinery in a Foreign-Trade Zone is a two to three year process so there won't be a "rush".

The Amendment could attract some refiners to the Foreign-Trade Zone concept since it is an incentive to locate refineries in the U.S.. In other words, if the Amendment were to pass, U.S. companies now considering building refineries abroad could well decide to locate in the U.S., thereby adding to our domestic refining capacity.

Q-5. Why can't some other section of the Act be amended, such as Unique Hardship Relief?

The Act itself was never intended to apply to short supply controls in Foreign-Trade Zones. In fact, the authority for this type of limited exemption already exists in Commerce Department Regulations. (15 C.F.R. 377.1(b)). However, the Department of Commerce has never used it because of the lack of a clear congressional mandate.

Further, Commerce Regulations governing Hardship-Relief allow only limited relief, and will grant it only in the form of specific temporary licenses, covering a single sale of a specific comodity to a designated customer in a particular country. In the best of circumstances, each license takes a minimum of three weeks to obtain; effectively prohibiting exports to the volatile fast-moving world oil market where contracts are made by telephone on 24 hour commitments.

Also, current Commerce Department license-free export quotas, with very few exceptions, are in less than tanker-load lots. This makes a hardship license necessary for most shipments and further increases red tape and delay in completing a transaction.

Q-6. Is there precedent for such an exemption?

Yes. A similar, but much broader exemption already exists for agricultural products, and the authority for exempting all Foreign-Trade Zones already exists in Commerce Department Regulations. (See question 5 above)

All this Amendment proposes is a limited exemption of petroleum products of foreign origin.

Q-7. If another emergency or OPEC embargo were to occur wouldn't this Amendment render the government powerless to stop the flow of oil out of the U.S.?

No. First, the Amendment refers to "quantitative restrictions" only and leaves fully intact those controls based on National Security.

Second, the EPAA provides full standby authority for the reallocation of oil and refining capacity in the event of an emergency. That authority is not affected by the Amendment.

Mr. INOUYE. Mr. President, I have discussed this matter with the distinguished managers of the bill, the Senator from Illinois and the Senator from Texas, and it has been cleared. I have been assured that this measure will be received favorably.

Mr. STEVENSON. Mr. President, the Senator from Hawaii and I have discussed this measure; and I believe that, as submitted, it is in satisfactory form. It does contain provisions that would permit the imposition of export controls in the event of short supply situations. That being the case, I have no objection to the amendment.

Mr. TOWER. Mr. President, I believe that the amendment has been substantially improved through a compromise struck with the Senator from Illinois and the Senator from Hawaii. While I do not wax wildly enthusiastic about the measure, I am delighted to accept it because of the lucidity and the persuasiveness of the remarks by the distinguished Senator from Hawaii.

Mr. INOUYE. I thank the Senator from Illinois and the Senator from Texas.

Mr. President, I yield back the remainder of my time.

Mr. STEVENSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ABOUREZK. Mr. President, I should like to direct a question to the manager of the bill, Senator STEVENSON, with regard to title II, the foreign boycott provision.

Mr. STEVENSON. Mr. President, is the Senator offering an amendment?

Mr. ABOUREZK. I might.

Mr. STEVENSON. Mr. President, I am happy to yield to the Senator for a question.

Mr. ABOUREZK. With regard to the boycott provision, I ask the manager of the bill exactly what are the conditions which are tried to be prevented by the inclusion of this title in the bill—what kind of conditions of the boycott, and so forth?

Mr. STEVENSON. Mr. President, as I indicated earlier, it is not possible for Congress to legislate an end of the Arab boycott. That will happen only when, with the assistance of the United States, there is an overall settlement to the conflict in the Middle East.

This measure is intended to protect some fundamental rights of American citizens and the sovereignty of this country. Basically, the provisions to which the Senator alludes do three things; they seek to achieve those purposes by three methods.

One is simply to require full public disclosure of all demands against American citizens for compliance with boycotts against friendly countries by foreign powers and the actions of the companies in compliance, or not, with those demands. Public disclosure is one of the methods.

It also prohibits compliance by any American company with any boycott demand that would require that company or citizen to discriminate against another American firm in order to carry out the political objectives of a foreign power.

Finally, the only other prohibition in the proposed legislation is that it would prohibit American firms from discriminating against other citizens or firms on grounds of race or religion.

It also prohibits firms, in response to requests from foreign powers, to disclose the racial or the religious identity of their stockholders, their directors, their management.

That, in summary, is what this bill does in order to achieve those purposes.

Mr. ABOUREZK. I agree with the third section mentioned by the Senator from Illinois. I do not believe there should be any discrimination by anybody, nor should we allow it on the grounds of race, religion, or ethnic origin. I fully agree with that.

The part that I would question is the second one mentioned by the Senator, and that is a prohibition in this bill against anybody who takes part in the Arab boycott with regard to companies, as I understand it, under the terms of the Arab boycott, that aid Israel in any way, aid in their military activities against the countries with which it is at war.

I do not have any illusions about the outcome of this bill or of this title, for that matter. But it seems to me that if Congress is going to press that point, if it is going to say that one country, a third country, cannot boycott a fourth country with which it is at war, that we are doing nothing to hurt that country to prevent it from continuing its boycott, what we are doing is damaging the American economy by virtue of putting in this kind of provision. I think it is probably one of the more insane acts that we have participated in in the Senate since I have been here.

I think the Senator from Illinois (Mr. STEVENSON) sat with the Minister of Planning from Saudi Arabia at breakfast, along with about 25 other U.S. Senators, just a couple of weeks ago and heard his description of what might happen if antiboycott legislatiton were passed. That is simply this: The Arabs are not going to end their boycott against firms they considered as helping Israel; all they are going to do is go elsewhere to look for business. If that is what the Senate wants to do, I guess they are going to have to take responsibility for it one way or the other. But it seems to me it does not make much sense, unless we are so totally captivated by the lobby of the Government of Israel that we are going to damage the economy of the United States no matter what.

Mr. STEVENSON. Mr. President, my bill may, as I mentioned earlier, cost the United States some business, though not for all of the reasons that the Senator from South Dakota mentioned. I have met with Arabs and with many others to discuss this legislation. I find widespread misunderstanding about what, precisely, it does.

This legislation makes it known that the United States will not brook any interference in its internal affairs. It is an effort to protect the sovereignty of the United States and the most fundamental rights of American citizens. It does not, as the Senator said, attempt to prevent a foreign power from boycotting another foreign power. That would be impossible.

Mr. ABOUREZK. If the Senator will yield for just a minute; I thought he said it did prohibit that.

Mr. STEVENSON. What is more, it would also be hypocritical. Powers at war resort to whatever instruments are at their disposal. The United States, among other nations, has resorted to economic boycotts in the past. It would be naive for it to seek to prohibit boycotts. It does not attempt to prohibit boycotts by one power against another power. What it does do is say that when, in attempting to achieve your political purposes through an economic boycott, you interfere in the internal affairs of the United States by requiring one American company to discriminate against another American company or to discriminate against one citizen for reasons of race or religion, that is going too far.

Mr. ABOUREZK. As I said, I agree with that portion. I do not think there ought to be any discrimination on grounds of race or religion or ethnic origin. I wish that the Senator had restricted the title to it. I think it would have been, by far, more sensible and more acceptable to a number of people in the Senate.

The thing is that this nice language that the Senator has come out with, in which he is trying to prevent any interference in the sovereignty of the United States, is another way of saying that we are going to stop the Arabs from boycotting Israel. I really believe, and I think the Senators understand, too, that we are not going to do that. All we are going to do is lose business for companies in the United States.

Mr. STEVENSON. If they lose business, it will be known that our sovereignty and our principles are not for sale. My own feeling is that it will cost very little and that it will protect some American companies and help them stand up to requests for compliance with the most objectionable dimensions of the boycott, and without costing them business. There will be a monetary price, a small one, in view of what is at stake, it seems to me, including the sovereignty of the United States and its commitment to equal rights and fair play and justice.

Mr. ABOUREZK. It does not really have anything to do with equal rights and fair play. It goes beyond seeking to obtain equal rights and fair play. What it seeks to do is stop one nation from boycotting another. I think it is very clear, as we discussed earlier, that that is not going to happen.

I thought that probably ought to be said here on the Senate floor before we act on the bill.

Mr. STEVENSON. Mr. President, I appreciate what the Senator has said. I know something of the depth of his feelings and about the complexity of this issue. And there are some aspects of the conflict in the Middle East on which I agree wholeheartedly with the Senator from South Dakota. One such point is that this boycott will not be ended unless there is a political settlement. That is going to require a new and even-handed initiative from the United States.

Mr. JAVITS. Mr. President, will the Senator yield to me very briefly?

Mr. STEVENSON. Mr. President, I am happy to yield to the Senator from New York.

Mr. JAVITS. This is on the boycott provision, but not in any way to get into any debate on it, which I think the Senator from Illinois handled very well.

My own State of New York has passed a strong antiboycott law on the State level. Other States have such laws—for example, Maryland and Massachusetts. Others are working to pass one. My own State officials have indicated that they will welcome the Federal law, and in fact they have been working to get one, and they support this bill. It is clearly a problem which needs to be dealt with on the national level so that States which have acted will not be penalized for their actions.

We have stories, based on fact, that the Port of New York, the Port of Baltimore, and other ports are losing business because of the fact that they have acted and others have not. Therefore, I wish to add their approval, on these rather hard-headed economic grounds, of national legislation in this field because of the disadvantage which is coming to States which have acted in what I consider, and obviously, the manager of the bill considers to be the right spirit characterizing our country as far as this issue is concerned.

I thank my colleague.

I do not know whether the Senator considered preemption in connection with the bill? Did he or not? If so, I do not know about it.

Mr. STEVENSON. Mr. President. I appreciate the Senator's comments and am quite aware of the possibilities that exist, particularly in New York, and also in the State of Illinois, for injury to those States which take action and have legislation leveled against the boycott.

The question of preemption has been considered. It was not addressed squarely in the hearings. This bill, as the Senator knows, does not contain a preemption provision. Perhaps it should. My own mind is open on that subject. It does not because some States, including those represented by the Senator from New York and myself, have taken steps which are even more far-reaching than this. I think in several cases, at least, those more far-reaching measures have proved unworkable or unenforceable. It might be wise for Congress to consider preemption on grounds such as we are proposing for action today, which are not quite as extreme, but are going to be more effective. However, it was not addresed in committee. There is no such provision in the bill and, as far as I know, there is no intention on the part of any Member to offer such an amendment. My mind is open to further consideration of such a possibility.

Mr. JAVITS. And Senator STEVENSON himself does not have any such intention.

Mr. STEVENSON. No, I do not, for the reasons that I have already mentioned.

Mr. JAVITS. Of course, preemption is in the hands of each State in the sense that each State may act, repeal its law or change it to conform with a Federal standard.

Mr. STEVENSON. The Senator is absolutely right. The States can conform their own laws to the national law, although, in that situation, with no difference between the two, there would not be much cause for State action.

Mr. JAVITS. If there is no difference. But if there is a serious difference, then the Senator feels, really, that is the net implication of the fact that he adopted no preemptive position, and he feels that the State, having initiated the legislation, should do what it needs to do when a national standard is declared.

Mr. STEVENSON. Well, with the enactment of this legislation there will be national legislation. At that point, as the Senator indicates, the States will be perfectly free to either repeal their laws and rely on the Federal law or conform their laws in some respects to the national law or, failing that in the future, Congress should, in my opinion, consider a national preemption of the law.

Mr. JAVITS. I think that is pretty much the way it looks in the sense that I am not prepared now to offer a preemption amendment, the Senator is not and, I believe, Senators from other States, who are concerned, are similarly situated.

But I did feel the record should be clear that we welcome it in New York, we welcome the national legislation; and, second, that the State may, if it chooses, have initiated its own program dealing with that program according to what will be the Federal law.

Mr. STEVENSON. As the Senator has rightly pointed out, if the States are being injured, they are free to change their laws in order to prevent such injury, and with a national law they may do so. If not, we will carefully monitor the situation, and Congress may want to consider preemption by means of a national law.

Mr. JAVITS. I thank my colleague and I congratulate him on the legislation.

UP AMENDMENT NO. 402

Mr. WILLIAMS. Mr. President, I have an amendment at the desk, a technical amendment.

The PRESIDING OFFICER (Mr. HUDDLESTON). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes unprinted amendment numbered 402.

The amendment is as follows:

On page 16, line 8, strike "1976" and insert in lieu thereof "1977".

On page 16, line 9, strike "1977" and insert in lieu thereof "1978".

On page 17, line 12 strike "1976" and "1977" and insert in lieu thereof "1977" and "1978", respectively.

On page 17, line 15, strike "1978" and insert in lieu thereof "1979".

Mr. WILLIAMS. Mr. President, this is a technical amendment to the new ownership reporting requirements which title III of the bill would add to the Securities Exchange Act of 1934.

Under section 303 of the bill, initially, persons having an interest in 2 percent or more of a corporation's securities would be required to report; thereafter, the reporting threshold would be reduced to 1 percent on September 1, 1976, and one-half of 1 percent on September 1, 1977. This schedule, however, would be subject to the SEC's discretion to shorten or extend these periods subject to specified procedures and conditions.

Since it is already late August 1976, the time periods included in the bill are quite obviously unrealistic and in need of adjustment to reflect the passage of time since the provision was first drafted.

Accordingly, my technical amendment would simply move the key dates in section 303 ahead by 1 year without disturbing in any way the substance of the provision.

The dates reflect the situation as it was at the time of the introduction of the legislation, and they are out of date now. This is just to move it ahead 1 year.

The manager is familiar with this.

Mr. STEVENSON. Mr. President, this is a technical amendment, and I have no objection.

Mr. TOWER. No objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

UP AMENDMENT 403

Mr. WILLIAMS. Mr. President, I have another amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes unprinted amendment No. 403.

Mr. WILLIAMS. Mr. President, I will explain this. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, between lines 4 and 5, insert the following:

SEC. 110. Section 4 of the Act is amended by adding a new subsection (k) thereto as follows:

"(k) Notwithstanding any other provision of this Act, no horse may be exported by sea from the United States, its territories and possessions: *Provided, however,* That the Secretary of Commerce, in consultation with the Secretary of Agriculture, may establish regulations to grant a waiver which permits the export by sea from the United States of a specific consignment or horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines, in accordance with procedures contained in the regulations, that no horse in the consignment is being exported for purposes of slaughter.

Mr. WILLIAMS. Mr. President, this amendment would bring an end to an export trade which is economically insignificant, but which is very costly indeed in terms of suffering and death of American horses.

The amendment would ban the export of horses by sea. It would, however, authorize the Secretary of Commerce, in conjunction with the Secretary of Agriculture, to establish regulations for granting waivers for specific consignments of horses which are not intended for slaughter.

The purpose of the amendment is to stop the inhumane and unnecessary export of horses by sea for slaughter. The great majority of horses which are exported abroad for purposes other than slaughter are transported by air. However, there are some cases where air transport of horses for breeding, racing, riding, or show purposes, is impractical and indirect. For such cases, the amendment provides for waivers to allow shipment by sea. The value and intended use of these horses are the best insurance that they will receive proper care.

Horses which were once the prize possessions of Americans are reaching a painful end in European slaughter houses. As the price of beef has risen in Europe, so has the demand for horsemeat for human consumption. This has accelerated exports of live horses from the United States. The horses, many of them former pleasure mounts, are purchased at auctions throughout the United States. They are transported to Richmond, Va., and other eastern ports, where they are held until there are enough for a shipload. They are then shipped by sea to European ports, notably Le Treport, France ,and Bari, Italy.

There, some may be purchased for work or pleasure, but most of them are taken to slaughterhouses. Many never reach their destination. Horses are particularly ill-suited to long voyages by sea. Deplorable conditions and inadequate care aboard the ships—as well as the rolling of the sea—cause suffering and death. Since the animals will be slaughtered when they reach their destination, and their economic value is relatively low, little effort is made to insure their safety during the 13- to 17-day voyage. Those which die along the way are merely thrown overboard. The horses which do arrive are often sick, injured, emaciated or exhausted.

While the Department of Agriculture conducts routine inspections of the horses and conditions abroad ship at loading, there is no way to control what happens to the horses once they leave the United States. In response to protests over this sordid trade, the Department has proposed a study of future voyages. This approach promises to delay any real solution to the problem.

After an extensive investigation of exports by sea of horses from Canada, the Canadian Government imposed a ban on such exports in July 1974. The Canadian Ministry of Transport found that "horses cannot be carried in large numbers onboard ship without undue suffering." Public response to the ban has been overwhelmingly favorable. However, since the Canadian shipments have been cut off, the pressure for live horse exports from the United States has intensified.

The Department of Agriculture's National Horse Industry Advisory Committee recommended in its December 1975 meeting "that horses not be exported by water for slaughter in other countries." A ban on these exports is supported by American and international animal protection organizations, by horse industry groups, and by reputable horse expediters and handlers.

There have been no shipments of slaughter horses from the United States in recent months due to economic conditions in Europe. The severe drought there has temporarily increased the availability of European horses for slaughter. However, the American trade is expected to resume early next spring.

The amendment before us is the only practicable means of preventing these inhumane shipments. A similar amendment will be proposed in the House markup of the export administration bill by my colleague from New Jersey, Congresswoman MEYNER. I urge the Senate to adopt the amendment.

I have discussed this with the most able and distinguished floor leader of the bill. It was adjusted to reflect one minor reservation that he had, and I believe it is acceptable.

Mr. STEVENSON. Mr. President, we have discussed this amendment and it has been modified to eliminate the one problem that I had with it. Its objectives are humane, and I have no objection to the amendment.

Mr. TOWER. Well, if the Senator will yield, Mr. President, being a Texan and a horse lover I would never in good conscience raise my voice against such measure as that proposed by the Senator from New Jersey. I think in his honor we ought to call it the "Pete, the Wrangler, amendment." [Laughter.]

Mr. WILLIAMS. I will not wrangle over that comment, and I appreciate it.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. Now that we have stopped horsing around, Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

UP AMENDMENT NO. 404

Mr. STEVENSON. Mr. President, I have an unprinted amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes unprinted amendment No. 404:

On page 6, line 18, insert the following immediately after the word "assurance": "and, in conjunction with the Secretary of Agriculture, so finds".

Mr. STEVENSON. Mr. President, this is a technical amendment with respect to the provisions of the bill to permit exported agricultural commodities to remain in the United States immune under certain circumstances to subsequent embargoes. It is technical and it eliminates an ambiguity in the language of the bill as reported to the Senate.

I have discussed it with the distinguished Senator from Texas, and I do not believe there is any objection to it.

Mr. TOWER. No objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

UP AMENDMENT NO. 405

Mr. STEVENSON. I have an amendment at the desk, Mr. President.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes unprinted amendment numbered 405.

The amendment is as follows:

On page 8, between lines 4 and 5, insert the following:

SEC. 110. (a) It is the sense of the Congress that the President should actively seek, and by the earliest possible date secure, an agreement or other arrangement whereby—

(A) nuclear exporting nations will not transfer to any other nation any equipment, material, or technology designed or prepared for, or which would materially assist the establishment of, national uranium enrichment, nuclear fuels reprocessing, or heavy water production facilities until and while alternatives to such national facilities are explored and pursued;

(B) nuclear exporting nations will not transfer any nuclear equipment, material, or technology to any other nation that has not agreed to implement safeguards promulgated by the International Atomic Energy Agency;

(C) minimum physical security standards are established to prevent the unauthorized diversion of nuclear equipment, materials, and technology;

(D) arrangements are established for effective and prompt responses in the event of violations of any international agreement to control the use of nuclear materials and technology; and

(E) nuclear exporting nations, in cooperation with nuclear importing nations, pursue the concept of multinational facilities for the purpose of meeting the world's nuclear fuel needs while reducing the risks associated with the spread of national facilities for fuel reprocessing, fabrication, or enrichment.

(F) nuclear exporting nations establish arrangements for appropriate response, including the suspension of transfers of nuclear equipment, material, or technology, to any nonnuclear weapons country which has detonated a nuclear explosive device or which has clearly demonstrated the intention to embark upon a nuclear weapons program.

Within one year of the enactment of the Export Administration Amendments of 1976, the President shall report to the Congress on the progress made toward the achievement of international agreement or other arrangements on the matters specified herein.

(b) For purposes of this section, the term "nuclear exporting nations" means the United States, the United Kingdom, France, the Federal Republic of Germany, Canada, Japan, the Union of Soviet Socialist Republics, and such other countries as the President may determine.

Mr. STEVENSON. Mr. President, I had thought there would be a discussion today of nuclear exports and possible action on a proposal approved by the Government Operations Committee and the Senate Foreign Relations Committee with respect to nuclear exports. That is not the case, and apparently the subject will come up again and independently of this bill. But that is not by any means certain, and so I offer a modest amendment on the same subject. I do not believe there is any controversy over the amendment.

Mr. President, this amendment is designed to promote international efforts to stem the proliferation of nuclear weapons. For more than a year the nuclear supplier nations, the United States, the United Kingdom, France, the Federal Republic of Germany, Canada, Japan, and the Soviet Union have been meeting at intervals to discuss the growing danger of nuclear proliferation and the means to limit this danger. Some progress has been made. The supplier nations, even those which are not signatories of the Non-Proliferation Treaty, have agreed to insist on safeguards on future nuclear exports. They have agreed to require recipients to give a pledge against the making of nuclear explosives. Recipients are to insist on similar pledges and safeguards with respect to any retransfers. There has been an agreement on replication, that is, safeguards are to be required for recipient countries on nuclear facilities developed from the originally supplied equipment. Agreements such as this could have prevented India from joining the nuclear explosives club.

But much more needs to be done. Recent developments point up the dangerous spread of two of the key elements in nuclear weapons technology: reprocessing and uranium enrichment. The sale of West German enrichment technology to Brazil and French negotiations for reprocessing facilities in Pakistan, Iran, and Argentina are deeply disquieting, especially the French transaction with Pakistan. The prospect of two hostile neighboring powers, each apparently hell-bent to establish a nuclear weapons capability, has the most serious consequences for the peace and stability of the world.

An earlier French proposal to supply South Korea with reprocessing facilities was fortunately withdrawn after U.S. objection, promoted in part by a resolution which I, with the support of several colleagues, introduced in March of 1975.

This amendment calls upon the President—it is a sense-of-the-Congress amendment—it calls upon the President to seek international agreement or other arrangements whereby:

First, nuclear exporting nations refuse to supply any other nation with materials or technology which would materially assist the establishment of national nuclear enrichment, reprocessing, or heavy water facilities while alternatives to such national facilities are explored;

Second, nuclear exporting nations refuse to supply nuclear materials or technology to any other nation that has not agreed to implement international safeguards on all its nuclear facilities;

Third, minimum physical security standards are established to prevent the unauthorized diversion of nuclear materials and technology;

Fourth, arrangements are established for effective and prompt responses to violations of any multilateral agreement to control the use of nuclear materials and technology; and

Fifth, nuclear exporting nations, in cooperation with nuclear importing nations, actively pursue the concept of multinational facilities, as an alternative to national enrichment, reprocessing, and heavy water facilities, as a means of meeting the world's nuclear fuel needs.

The amendment urges the President to seek and secure such agreement by the earliest possible date and requires that he provide the Congress with a progress report within a year of enactment.

Mr. President, this measure identifies the principal sources of the nuclear proliferation problem: Sales of reprocessing, enrichment, and heavy water facilities; the absence of safeguards on all nuclear facilities; the lack of physical security standards; the lack of sanctions for violations of nonproliferation obligations; and uncertainty over the availability of nuclear fuel supplies. Congressional support for international resolution of these issues would signal to the President that these are matters of the highest priority. It would strengthen his hand in the international discussions now undeway. And by calling for a multilateral solution, with emphasis on the production of adequate fuel supplies to satisfy peaceful nuclear needs, it would signal to the rest of the world the U.S. desire for a solution which reflects the legitimate aspirations of the energy-poor nations. Adoption of this amendment would confirm the good faith of the United States and its willingness to seek and abide by an international solution to this most pressing of international problems.

Mr. President, this, as I say, is a sense-of-the-Congress amendment. It recognizes that international negotiations are now underway. I do not believe its objectives are inconsistent with those of the administration or, for that matter, the objectives of the other nuclear suppliers. It identifies the principal sources of the nuclear proliferation threat, the sales of reprocessing systems, of enrichment systems, and heavy water facilities, the absence of safeguards of all nuclear facilities, lack of nuclear security, and lack of sanctions for violations, and the uncertainty over the availability of nuclear fuel supplies.

I offer this amendment because it will not be inconsistent with any action which Congress subsequently takes, at least on the proposal reported from the Committee on Foreign Relations and the Committee on Government Operations, and because I believe that congressional support for this amendment would signal to the President that these are matters of the highest priority in Congress.

It would strengthen his hand in the international discussions now underway among the supplier countries by calling for a multilateral solution with emphasis on the production of adequate fuel supplies to satisfy peaceful nuclear needs.

It would signal to the rest of the world the United States desire for a solution which reflects the legitimate aspirations of energy-poor nations.

It would, if adopted, Mr. President, confirm the good faith of the United States in its willingness to seek an international solution to this most pressing international threat.

Mr. President, time is running out.

Two years ago when the Export Administration Act was being considered in the Senate, similar and more far-reaching proposals were offered, and they were not acted on.

The issue attracted little attention in the country, and for that matter in the Congress, though it was predicted then, as it had been before, that if we did not, in cooperation with other countries, act soon, it would be too late.

It may now be too late to act effectively with respect to the proliferation of nuclear reactors throughout the world, ostensibly for peaceful purposes, but with horrendous nonpeaceful potentials.

Though the hour is late, it is still not too late to make a concerted international effort to bring under control the reprocessing and enrichment facilities which can also proliferate throughout the world and giving access to nations everywhere, including subnational groups, terrorist groups, to plutonium and highly enriched uranium which are the components of nuclear weapons.

So I urge the Senate to act on this proposal as an expression of the importance which it attaches to the subject and in order, also, to strengthen the President's hands in the negotiations which are already underway among the nuclear supplier nations.

Mr. GLENN. Mr. President, I rise in support of the Stevenson amendment, which would establish goals for the President to seek to achieve in his negotiations with other nuclear supplier nations to combat the proliferation of nuclear weapons capability.

This is a very important amendment because it would put the United States on record, in the context of statutory law, as to the importance of attaining crucial nonproliferation objectives with the other nuclear suppliers. As can be seen from India's nuclear explosion of 1974, and from recent decisions by France and West Germany to export sensitive nuclear fuel facilities to Pakistan and Brazil, the proliferation problem is on the verge of running out of control. Only the establishment of meaningful ground rules among the nuclear suppliers can insure that the competition to sell nuclear powerplants will not degenerate into a free-for-all that will invite the misuse of peaceful nuclear technology and materials for weapons purposes.

While I heartily endorse the objectives of the Stevenson amendment, I also wish to inform the Senate that it may soon have before it another proposal to establish strict criteria to govern U.S. nuclear export policy as well as to serve as objectives to attain in the talks with the other nuclear suppliers. Under this proposal, the strict criteria would take effect 18 months after enactment, subject to an Executive order by the President delaying implementation of some or all of the criteria to permit him time and flexibility in his negotiations with the suppliers.

This proposal is contained in section 15 of S. 3770, the Nuclear Explosive Proliferation Control Act of 1976, which was introduced earlier this week by Senator Pastore, who was joined by Senators Percy, Ribicoff, Symington, Baker, Javits and myself and is also included in the House version of the bill H.R. 15273, which has been introduced by Congressmen Price and Anderson.

Senator Pastore's bill is now being considered by the Joint Committee on Atomic Energy, of which he serves as its distinguished and most knowledgeable chairman. I am hopeful, Mr. President, that the Senate soon will have the opportunity to express its will on this approach to the urgent problem of nuclear proliferation.

Mr. President, so that the Senate can be informed of the criteria contained in S. 3770 in relation to the objectives contained in the Stevenson amendment, I ask unanimous consent that section 15 of S. 3770 be printed at this point in the Record.

There being no objection, the section was ordered to be printed in the Record, as follows:

Sec. 15. (a) Effective eighteen months after the date of enactment of this Act, except as provided in subsection (b), paragraphs (1) through (6) of section 112 a. of the Atomic Energy Act of 1954, as amended, are amended to read as follows:

"(1) assurances shall be received from non-nuclear-weapon states that Agency safeguards shall be applied with respect to all nuclear activities in, under the jurisdiction of, or carried out under the control of that state;

"(2) assurances shall be received from non-nuclear-weapon states that no imported or indigenously developed material, facility, technology, component, or substance, and no special nuclear material produced through the use of any imported or indigenously developed material, facility, technology, component, or substance will be used for nuclear explosive devices for any purpose or for research or development of nuclear explosive devices for any purpose;

"(3) assurances shall be received that the recipient country will impose and maintain physical security measures for all of its nuclear activities which are sufficient to prevent theft or sabotage;

"(4) assurances shall be received that no imported or indigenously developed material, facility, technology, component, or substance, and no special nuclear material produced through the use of any imported or indigenously developed material, facility, technology, component, or substance shall be transferred to the jurisdiction of any other nation or group of nations unless such nation or group of nations agree to apply the controls set forth in this subsection;

"(5) assurances shall be received from non-nuclear-weapon states that—

"(A) they will forego development and acquisition of nuclear fuel reprocessing and uranium enrichment facilities and the stockpiling of weapons-grade material on a national basis, and will place any existing facilities and stockpiles under effective international auspices, management, and inspection;

"(B) no imported material and no special nuclear material used in or produced through the use of any imported material, facility, technology, component, or substance will be reprocessed by the recipient country, and no irradiated fuel elements containing such material which are to be removed from a reactor will be altered in form or content by the recipient country, and such material will be returned to the exporting country or to a facility under effective international auspices, management, and inspection located outside the jurisdiction of the recipient country; and

"(C) no indigenously developed material or special nuclear material used in or produced through the use of any indigenously developed material, facility, technology, component, or substance will be reprocessed by the recipient country, and no irradiated fuel elements containing such material which are to be removed from a reactor will be altered in form or content by the recipient country, except in a facility under effective international auspices, management, and inspection;

"(6) assurances shall be received from non-nuclear-weapon states that the controls set forth in this subsection will be applied to any material or facilities which are produced or constructed by or through the use of any imported or indigenously developed material, facility, technology, component, or substance.".

(b)(1) If the President determines that implementation of one or more of the six revised criteria set forth in subsection (a) at the expiration of eighteen months from the date of enactment of this Act would have a serious adverse impact on vital United States interests, and that a delay in the effective date of such criteria would not promote the acquisition by non-nuclear-weapon states of the capability or the material to develop nuclear devices of any kind, he may by Executive order delay the effective date of some or all of the revised criteria for not more than twelve months. Any such Executive order shall be promulgated not earlier than fourteen months and not later than sixteen months after the date of enactment of this Act, shall be effective not less than sixty days following its date of promulgation, and shall specify a new effective date for each of the criteria which are to be delayed. A delay in the effective date of some but not all of the six revised criteria shall not affect the implementation of the remaining six criteria.

(2) Upon promulgating any such Executive order, the President shall submit a report to Congress including—

(A) a detailed statement of the reasons underlying the President's determination that implementation of the revised criteria on the existing effective date would have a serious adverse impact on the vital United States interests;

(B) a detailed statement of the reasons underlying the President's determination that a delay in the effective date of the criteria to be delayed would not promote the acquisition by non-nuclear-weapon states of the capability or the material to develop nuclear devices of any kind;

(C) a report on his progress in obtaining adherence to each of the six revised criteria by the other nuclear supplier nations and by countries with which the United States has negotiated agreements for cooperation;

(D) an assessment of the impact of the proposed delay on the nonproliferation goals of the United States; and

(E) a statement of what legislative modifications in the revised criteria, if any, would in his judgment make it feasible to implement the revised criteria at an earlier date.

(3) If the President subsequently determines that implementation of one or more of any criteria which have been delayed pursuant to this subsection on the existing effective date would have a serious adverse impact on vital United States interests, and that a further delay, in their effective date would not promote the acquisition by non-nuclear-weapon states of the capability or the material to develop nuclear devices of any kind, he may, by Executive order effective not less than sixty days after its date of promulgation, further delay the effective date of such criteria for not more than twelve months each time he makes such a determination. Each time the President promulgates such an Executive order he shall submit a report to Congress in accordance with the procedures set forth in paragraph (2).

(c) Subsection 112(c) of the Atomic Energy Act of 1954, as amended, shall not apply to paragraphs (3) through (6) of the revised criteria set forth in subsection (a) of this section.

Mr. TOWER. Mr. President, the amendment of the Senator from Illinois is perfectly consistent with current U.S. policy. It is a good statement of policy in its own right.

For the minority, I am certainly prepared to accept it.

Mr. STEVENSON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HUDDLESTON). The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. METCALF. Mr. President, title III of S. 3084 addresses the longstanding problem of inadequate and often misleading disclosure of information regarding ownership and control of U.S. corporate securities. It would do this in two ways.

First, it would require disclosure of information regarding residence, nationality, and nature of the beneficial ownership of persons who acquire more than 5 percent of any class of securities described in section 13(d)(1) of the Exchange Act. Second, it would authorize the Securities and Exchange Commission to obtain from record holders information regarding stock when the record holder has an interest in 2 percent or more of a corporation's securities.

The SEC would have authority to reduce the reporting threshold to 1 percent in September, and one-half of 1 percent in September 1977. Additionally, the SEC would be required to report to Congress, no later than January 1978, on the feasibility and desirability of reducing the reporting threshold to one-tenth of 1 percent.

In studies and hearings beginning with publication of Senate Document 9362—disclosure of corporate ownership—in January 1974, the Committee on Government Operations and particularly the Subcommittee on Reports, Accounting and Management have considered the accuracy of present ownership reporting requirements, the enforcement or nonenforcement of those requirements, and the balance between burden on reporting companies and the need of Congress, investors, and the public generally to obtain such information.

In addition, at the suggestion of the General Accounting Office, an interagency steering committee, composed of senior staff from the independent regulatory commissions and the subcommittee staff, devoted 6 months of study to the subject and recommended certain uniform reporting requirements dealing with corporate ownership and control. Among the recommendations of the steering committee, which are now in various stages of consideration by the independent regulatory commissions, was one bearing specifically upon the threshold question.

The steering committee recommended that the reporting threshold be the top 30 stockholders, or those with holdings of one-tenth of 1 percent or more of a company's stock. Thus the threshold in the legislation being considered today—2 percent and eventually down to one-half of 1 percent, is modest alongside the recommendation of the Federal officials who have probably devoted the most time and study to the subject.

The Government Operations Committee hearing record, and the Banking Committee's report on S. 3084, contain numerous expert opinions on the ability of persons controlling a relatively small percentage of a company's stock to influence the company's management and decisions. The point I would emphasize here is that the Government's knowledge of these concentrations of control is inadequate, because of the deficiencies in existing laws and regulations.

One bank may have its holdings in a particular company in a dozen or more different nominee accounts. Banks and brokers may have additional holdings registered in the name of Cede & Co., at Depository Trust. As of the end of last year more than 2½ billion shares of stock in more than 8,000 companies were held in the name of Cede & Co. on behalf of 29 banks, 219 brokers, and 7 other entities. In some instances more than 20 percent of a company's stock is held by the banks and brokers in the name of Cede & Co.

This fractionalization of the holdings of individual major stockholders grossly distorts and understates their aggregate holdings in individual companies. The legislation before us today would help cut through the maze of nominee names which has led to this inaccurate understatement of holdings, in reports to Federal regulatory agencies, and present accurate, aggregate data on significant stockholdings.

Then the SEC could, under the authority provided under this bill, obtain additional information regarding these holdings, such as sole, shared or no voting rights, and establish where the major voting interests lie. That final step is essential, inasmuch as record holders sometimes have insignificant voting rights to the stock which they hold. Often the stock is controlled by investment companies—the mutual funds—or others whose identity does not surface as a record holder.

The Government Operations Committee Print of November 1975, "Corporate Ownership and Control," includes several case studies which show the importance of aggregating record holdings and then determining voting interests in order for the Government to obtain accurate ownership data. The Anaconda Co.—I can still refer to it by that name, rather than Crane—or Tenneco—or Atlantic Richfield—voluntarily supplied my subcommittee with a list of its 30 largest stockholders.

It appeared that there were nine holders of 1 percent or more of its stock—eight banks holding through numerous nominees and Merrill Lynch. The largest record holder in Anaconda held 3.6 percent of the shares. However, the largest voting influence within the company was found to be the Fidelity fund group, with 5.6 percent of of the shares.

Fidelity was not mentioned in any reports to the SEC, or in Anaconda's list of its 30 largest stockholders. The reason is simply that Fidelity has the stock dispersed in several nominee accounts in two different banks.

This example—and others may be found in "Corporate Ownership and Control"—points up the fundamental regulatory importance of the reporting system suggested by the Banking Committee in S. 3084. Congress and the commissions establish ownership limits, to prevent concentration of control and undue influence by large investors. But neither we nor the commissions police our own pious pronouncements and require filing of data which will show whether limits are honored. We have too often relied upon this understated, fractionated reporting. The distinguished senior Senator from Maine (Mr. Muskie) and I described the end result of this system in our December 1973, introduction to "Disclosure of Corporate Ownership":

> The FCC has several restrictions on ownership of broadcast companies. One is the duopoly rule, which prohibits ownership of two AM, FM, or TV stations which serve the same area. Another rule permits an investor—institutional or individual—to own up to 21 stations—seven AM, seven FM, and seven TV, provided that no more than five of the latter are VHF stations. Beyond those liberal provisions, no individual or bank was permitted until last year to own more than 1 percent of the stock of other broadcast companies with 50 or more stockholders. (Mutual funds have been permitted to own up to 3 percent since 1968.)
>
> In 1972 the Commission raised the ownership limitations for banks from 1 percent to 5 percent. It raised the limit because so many banks were in violation of the Commission's 1 percent regulation that, to comply with it, 19 banks would have had to divest themselves of $976 million in stock in 25 companies.
>
> The FCC did not know that the banks were in gross violation of regulations until the banks told the Commission about it. The data submitted by the banks were based on a survey conducted among the 19 largest banks in April 1969.

Mr. President, enactment of title III will be welcomed by many corporation executives whose companies are burdened by the difficulty and expense of getting through the veils of Cede & Co., bank nominees and brokerage firms to their principal beneficial owners. I recall especially the testimony on this point, before Senator Muskie's and my subcommittees, by Norman J. Fischer, board chairman of Medalist Industries, Inc., a Wisconsin firm with annual sales exceeding $85 million.

And I believe that some banks will find the legislation will decrease criticism now levied at them because of their large holdings in certain companies. If the SEC follows through and collects sufficiently detailed data regarding the major voting interests within the reported stockholdings, it will become clear that many banks have relatively insignificant voting rights to stock in their custody.

Mr. President, I commend the Senate Banking Committee for reporting this bill and urge its passage with title III intact.

THE APPLICATION OF TITLE III OF S. 3084 TO TENDER OFFERS

Mr. WILLIAMS. Mr. President, I ask unanimous consent to have printed in the Record a colloquy between the Senator from Ohio (Mr. Taft) and me on the subject of the application of title III of S. 3084 to tender offers.

There being no objection, the colloquy was ordered to be printed in the Record, as follows:

Floor Colloquy Between Senators Williams and Taft Regarding the Application of Title III of S. 3084 to Tender Offers

Mr. Taft. I have been concerned for some time that shareholders may be currently suffering from inadequate protection in the event that the company in which they own shares becomes the target for a takeover bid by another corporation. Late last year, I introduced legislation to provide a breathing space during which all tender offers could be carefully considered by the shareholders, by the management of the target company, and by other corporations which might possibly be interested in making a better deal with the shareholders of the target company than was being offered by the firm making the tender offer. The S.E.C. has recently published new regulations concerning tender offers, which provide a good deal more protection than current law.

Of some concern, however, is the situation in which the takeover attempt is made without the filing of a formal tender offer. Such takeovers are not easy to manage. They require the discovery of a group of large shareholders, each of whom owns a substantial percentage of the target company. These people must then be contacted privately, and an adequate block of shares must be pieced together in private dealings.

At the present time, anyone owning five percent or more of a registered corporation is required to report that fact to the S.E.C. Thus, shareholders of substantial size are already on record with the Commission, and the names and holdings of these shareholders are public knowledge. Section 303 of S. 3084, would increase the amount of such information available by requiring that anyone holding in excess of two percent of any class of securities of any registered corporation must report that fact to anyone whom the S.E.C. may designate. This threshold percent will drop to one percent in September and to one-half percent a year later.

I am concerned that, by requiring that relatively small blocks of shares may be reported to the S.E.C., and publicized for public scrutiny, Title III could provide a shopping list of major shareholders of small firms for the convenience of any conglomerate looking for an acquisition. While no one owns two percent of GM or IBM, many people may own that much Copperweld or Microdot. I fear that, within a very short time of the enactment of this section, enterprising young entrepreneurs will comb the S.E.C. records in order to compile such shopping lists. These lists would be invaluable to the Nation's larger corporations. A large buyer could contact the large shareholders of any of these smaller corporations between the close of business Friday and the opening of business Monday morning. I am concerned that this would enable such a buyer to make an attractive offer to as few as 30 or 40 individuals owning substantial quantities of stock, thereby purchasing the smaller firm without advance notice.

In my discussions with the Committee, I have been told that this is not the intent of the section. In fact, according to the Committee, the brokerage community is usually readily able to provide the names of major shareholders to prospective buyers. It appears to the Committee that it is the firms themselves which have trouble discovering the beneficial owners holding stock in street name, and whom the companies would like to be able to contact in the event that they become targets of takeover bids. The Committee feels that this legislation would be of help to management in defending the company against takeover attempts which it considered to be contrary to the interest of the company, or those offers which it considered to be of poor value for the shareholders. I wonder if the Committee could clarify its intentions with regard to this section.

I note, on page 40 of the report, that a number of guidelines have been laid down which the Committee expects the S.E.C. to consider in its writing of regulations for the implementation of this section. Among these are the cost of compliance to issuers and record holders, and the bonafide interests of an individual in the privacy of his financial affairs. In addition, the S.E.C. is expected to consider the extent to which such reported information gives, or would give, any person an undue advantage in connection with tender offers or other acquisitions. I take it that the Committee expects the Commission to consider the possibility that reporting requirements in the case of small corporations might increase the availability of information needed by acquiring corporations in the event that they wish to make a tender offer for such small firms. Is it the case that the Committee intends to leave it up to the Commission to use its judgment as to whether or not such reporting should be waived in the case of small firms, or at least directed to the firm itself, rather than to a public agency, in order that the material need not be made public?

Mr. Williams. I appreciate the continuing interest the Senator from Ohio, Senator Taft, has shown in the tender *offer provisions* of the federal securities laws which I sponsored in 1968. The Senator's chief concern—and one which I share with him—is to assure that in tender offer situations shareholders and public investors receive sufficient information and have sufficient opportunity to permit considered and informed investment decisions. Beyond this, he is concerned that the future and important role of small business in the United Sttaes may be endangered by any changes in the present law which make it easier for larger corporations to acquire smaller companies by means of a tender offer.

It is out of these concerns that the Senator wishes to know whether the improved disclosure of ownership information which would result from the enactment of Title III of S. 3084 would create "shopping lists" for larger corporations by requiring the public disclosure of shareholder lists of smaller corporations and thereby facilitate tender offers.

The answer to the Senator's question—whether the bill would leave it to the Commission as to whether or not such reporting should be waived in the case of small firms or at least directed to the firm itself rather than a public agency—may be answered in the affirmative by direct reference to the statutory language.

First, Title III would authorize the S.E.C. with explicit authority to tailor reporting requirements for different categories of persons and specify the manner and method in which the information required would be reported. (Section 13(g)(1))

In this connection, as the Committee report makes clear, new section 13(g)(1) of the Exchange Act would also give the S.E.C. power to determine the method for computing the reporting threshold. In each case of required disclosure, the S.E.C. must be governed by the statutory purpose and the regulatory need.

Second, the bill would give the S.E.C. discretion to prescribe the form and content of the ownership reports and the manner and the frequency with which they are to be "filed, published, or disseminated." Thus, persons required to file reports pursuant to this section may be able to do so by filing the information with the S.E.C. In the alternative, as Senator Taft suggests, the information may be reported directly to the company, where appropriate. It is left for the Commission, in accordance with procedures for agency rulemaking, to decide which technique best serves the underlying objectives.

Third, the bill expressly sets forth factors the Commission would be required to consider in implementing this authority. (Section 13(g)(3)) Among the matters enumerated for Commission consideration and public comment is "the extent to which such reported information gives or would give any person an undue advantage in connection with acquisitions or takeovers." (Section 13(g)(3)(F)). This is directly on point with Senator Taft's concern and I only wish to note that the Committee has provided for this mechanism.

Finally, Section 13(g)(4) would give the S.E.C. the authority, by rule or order, to exempt from the requirements of this new subsection any security, issuer, or person, or any class of securities, issuers, or persons, if it finds that such exemption is not inconsistent with the public interest or the protection of investors. This exemptive authority would certainly enable the Commission to do as the Senator suggests by waiving the reporting requirements for shareholders in smaller companies if the Commission deems such action necessary or appropriate.

Of course, in implementing the new reporting requirements as tender offers might be affected, the Commission must be attentive to the statutory and legislative history governing the tender offer provisions. In passing these provisions in 1968, Congress recognized that "although takeover bids should not be discouraged," regulation of tender offers was necessary for the purposes of disclosure of material information and substantial protection to investors. More to the point, Congress took "extreme care to avoid tipping the balance of regulation either in favor of management or in favor of the person making the takeover bid. The bill is designed to require full and fair disclosure for the benefit of investors while at the same time providing the offerer and management equal opportunity to fairly present their case." (S. Rept. 550, 90th Cong., 1st sess. 3(1967)). In response to the Senator's request for clarification whether this legislation would be of help to management in so-called "unfriendly" tender offers, I must respond that only to the extent that shareholder communication is facilitated will this legislation have any effect whatsoever in tender offer situations. Specifically, it is not intended to alter the present balance of competing considerations arrived at by the Congress in 1968.

In closing, I want to say to Senator Taft that I deeply appreciate his interest in the many aspects of the tender offer provisions of the securities laws. As the Senator has noted, the Securities and Exchange Commission earlier this month proposed for comment extensive new rules governing cash tender offers which hold a great deal of promise to perfect the original Congressional intent underlying these provisions. And I want to assure him that an important and continuing part of the Subcommittee's on Securities activities in the future will be to follow the Commission's progress in this area. Because of his interest, I will endeavor to keep the Senator informed on material developments.

Mr. FONG. Mr. President, I am cosponsoring today an amendment to the pending export administration bill of 1976, S. 3084, which would allow any U.S. refinery located in a foreign trade zone to refine foreign crude oil and export the refined product without a quota limitation.

The proposed amendment would add a new paragraph to section 108 of the bill and would read:

> Petroleum products refined in U.S. Foreign-Trade Zones from foreign crude oil shall be excluded from any quantitative restrictions imposed pursuant to Section 3(2)(A) of this Act and the provisions of Section 103(a) of the Energy Policy and Conservation Act, provided however: If the Secretary of Commerce in conjunction with the Administrator of the Federal Energy Administration shall find that a product is in short supply, the Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to limit exports in accordance with the Administrator's recommendations.

Mr. President, such an amendment would provide for more jobs for our Nation, more tax revenues for our States and Federal Government, increase our country's balance of payments, and increase our domestic refinery capacity. As you know, increasing our domestic refinery capacity is one of our Nation's goals in achieving energy independence.

All of the above can be achieved without taking away one drop of domestic oil since we are dealing only with foreign oil which otherwise would have remained on foreign soil. As you know Mr. President, it does not benefit our Nation one iota to have foreign oil refined on foreign soil—providing jobs and tax revenues only for foreign countries. With this amendment, we are transfering those foreign jobs and foreign tax revenues to our country. In doing so, we would also help our unemployment problem.

Moreover, this amendment would give an incentive to U.S. companies to build more refineries in the United States rather than abroad. Besides providing more U.S. jobs, this would help our balance of payments at the rate of $2 for each barrel of foreign oil refined in this country.

Thus, if this amendment is accepted, U.S. companies now considering building refineries abroad, could well decide to locate in the United States where they ought to be, providing more jobs, taxes, et cetera, for our Nation.

As you know, there is a precedent for such an exemption. There is already an exemption for agricultural products, and the authority for exempting all foreign-trade zones presently exists in the Commerce Department regulations.

All this amendment proposes is a limited exemption of petroleum products of foreign origin.

Finally, should another emergency or OPEC embargo occur, the Federal Government would still have the power to require that all U.S. refineries in foreign trade zones sell their refined foreign crude oil only in the United States. The authority for this lies in the Emergency Petroleum Act of 1973 (EPAA) (15 U.S. Code 751–760(h)).

Therefore Mr. President, this amendment can only help our Nation achieve energy independence. It will allow our Nation an opportunity to substantially increase our domestic refinery capacity—a goal which is vitally necessary to achieve energy independence.

I am, therefore, pleased to join with my colleague from Hawaii, Senator Inouye, in cosponsoring this amendment. I, therefore, urge my colleagues to support this amendment.

Mr. HUMPHREY. Mr. President, as we consider the extension of the Export Administration Act, it is important to bring to the attention of my colleagues the inadequacy and the uncertainty of the present policy as it relates to agricultural exports.

Export controls are a crude and abrupt method of protection against shortages. Such authority is necessary but only as a measure of last resort. Yet, the present administration has shown no reluctance, either directly or inadvertently, to employ such controls.

Lacking authority under the provisions of the Export Administration Act to place controls on the exportation of agricultural commodities, the current administration has developed and utilized other means referred to as "voluntary restraints" to control farm exports in circumvention of legislative authority. Major companies were approached and asked not to make additional export sales.

In plain terms, the administration evaded the law.

But further, the administration has no policy to encourage orderly marketing and reasonable prices when we have tight supplies or surplus production. Its response has been rhetoric about the free market while intervening without warning in spite of adequate supplies.

Three years ago, the administration invoked the authority of the Export Administration Act to place an embargo on the export of American soybeans.

While the embargo was soon lifted, the costs of the action were pervasive. The longstanding reputation of the United States as a reliable supplier of food commodities was tarnished.

Nations which had been longstanding customers of U.S. farm commodities scrambled for new sources of supply. Other nations, no longer certain of the availability of U.S. food supplies, intensified indigenous production even in the face of great economic cost vis-a-vis the procurement of agricultural supplies through trade with the United States.

As the availability of farm commodities improves throughout the world, the United States must regain the confidence of foreign customers in our ability to meet their long-term import needs. Yet, the policies of the present administration—which have resulted in export restraints of one form or another in 1973, 1974, and 1975—provide little assurance to those nations seeking a dependable supply of agricultural products.

While there is a need for Presidential authority to impose export controls when the national safety and well-being is seriously threatened, I believe such authority should be used only in exceptional circumstances. Such controls should be a mechanism of last resort, and when the requirements of the law have been met.

In a world characterized by uncertain grain supplies, a population which is growing by around 75 million each year and with possible changes in climate and weather patterns, our agricultural produce becomes an important vehicle for maintaining world peace and combating hunger and malnutrition.

To do this, we need to provide our producers with some predictability so that they know the governmental policy in advance. They also need to have higher supports to help cushion sharp price fluctuations since we have become increasingly dependent on volatile world markets.

Our agricultural exports have become very important in our balance of payments and also in our foreign policy. Gross agricultural exports now total around $22 billion, and of this about $12 billion is the net sales level.

Mr. President, I support the enactment of this legislation. I think that the Banking Committee has done a fine job in reviewing and improving the legislative authority relating to export administration.

I also am pleased with their proposed amendment to the Export Administration Act which would permit foreign countries to store agricultural commodities in the United States which, under carefully specified conditions, would be exempt from export controls.

The Subcommittee on Foreign Agricultural Policy, which I chair, held hearings on an identical proposal in May 1975. This provision can offer a very practical way of encouraging other nations to maintain adequate food stocks and to purchase from us on a regular basis.

The maintenance and expansion of U.S. agricultural exports on an orderly basis is essential to the health of the farm community and the American economy.

In this regard, we must make every effort to preserve our reputation as a dependable supplier of high quality agricultural commodities. But we need more than an export control policy.

In the coming months, we must begin to develop a policy which encourages full production and balances the needs of producers and consumers.

This bill is an important step in that process, and I urge its adoption.

Mr. CHURCH. Mr. President, I strongly support title II of the Export Administration Act amendments. In my view, the provisions contained in section 201 are the very least that is required to counter the Arab boycott against Israel, against American firms with Jewish ownership or management, and against U.S. firms doing business in Israel.

The Arab boycott is not merely a shibboleth. It is alive and well. The Senate Foreign Relations Subcommittee on Multinational Corporations, of which I am chairman, first brought the Arab League boycott of U.S. firms to public attention with its hearings in February 1975. The subcommittee looked into official U.S. policy on the boycott, what action our Government had taken to resist the boycott, how boycott negotiations related to overall diplomatic negotiations in the Middle East, and the degree to which U.S. firms were affected directly or indirectly by the boycott itself. The findings were disturbing on all counts.

Until November 20, 1975, when President Ford issued a revision of regulations dealing with boycotts, the administration's interpretation of existing law leaned in favor of acquiescing to the Arab boycott policy. The effect of this policy of acquiescence can be measured in the increased number of American companies being blacklisted under the boycott. In 1974, Business International, a respected American management consulting firm, reported that 167 U.S. firms were identified on the Arab League boycott list. In its February hearings, the subcommittee released the most recent updated boycott list which contained the names of over 1,500 U.S. corporations.

Moreover, I note that the Banking Committee report on S. 3084 refers to a study conducted by the House Interstate and Foreign Commerce Subcommittee which placed "the value of exports shipped in compliance with boycott demands for the first 11 months of 1975 at $253 million, with U.S. firms indicating that they intended to comply with boycott demands in over 90 percent of the transactions in the last quarter of 1975."

Despite the growing list of boycotted American enterprises and its direct impact on U.S. trade with the Arab nations, the administration is strongly opposed to any form of antiboycott legislation. Assistant Secretary of State Robert J. McCloskey wrote to me on June 19, 1976, outlining the administration's position on the boycott. I will quote one paragraph of this letter and ask unanimous consent that it be printed in its entirety at this point in the RECORD:

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, D.C., June 10, 1976.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: On May 25, the Senate Banking Committee reported out a bill (S. 3084) which would extend the Export Administration Act, with amendments including measures against foreign boycotts. These anti-boycott measures would (a) mandate disclosure of required reports by U.S. firms to the Commerce Department on boycott-related requests; (b) duplicate existing laws or regulations which bar discrimination in export transactions and (c) prohibit refusals to deal among U.S. firms pursuant to foreign boycott requirements or requests.

Additionally, H.R. 10612, as marked up in the Senate Finance Committee, would deny certain tax benefits to taxpayers who participate in international boycotts.

The Administration is strongly opposed to new anti-boycott legislation at this time and hopes that you will give careful consideration to the harmful effects to our overall national interests which we believe such legislation would risk. In summary, our concerns are the following:

Numerous actions already have been taken by the Administration to lessen the impact of boycott practices on U.S. firms.

Proposals at this time for stronger anti-boycott legislation are very likely to be seen as confrontational. Such confrontation would be harmful to our overall economic and political interests in the Middle East—the most important of which is our desire to promote progress toward a peaceful settlement of the Arab-Israeli dispute. Achievement of this objective depends to an important degree on maintaining relationships of cooperation and confidence with all the key countries of the Middle East, including those Arab countries which have lent support to our peacemaking efforts. Confrontation on the boycott issue would undermine such relationships.

A public attack on the boycott in the form of legislation could undo progress to date in promoting quiet case-by-case modification of boycott practices by foreign buyers or governments. A growing number of U.S. firms are actively engaged in finding ways to avoid involvement with boycott enforcement practices as a result of the Administration's overall encouragement to firms to refuse to take actions that further foreign boycotts and as a result of specific actions as in the field of antitrust enforcement.

A policy of confrontation could trigger stronger enforcement of boycott regulations against U.S. firms with a resulting loss of business and jobs to third country competitors (e.g., Japan, Europe, Canada or the Soviet Union which have no clearly established program of opposing boycotts comparable to existing U.S. antiboycott measures).

Continued encouragement to U.S. firms to work out case-by-case elimination of boycott conditions and language from their transactions offers *the best immediate* chance for lessening the impact of the boycott on U.S. commerce. An eventual overall solution to the boycott problem depends on further progress toward a negotiated Arab-Israeli settlement.

A more detailed explanation of our views is enclosed. Should you require further information, please inform me.

Sincerely your,
ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

Mr. CHURCH. The paragraph to which I call particular attention reads as follows:

> A public attack on the boycott in the form of legislation could undo progress to date in promoting quiet case-by-case modification of boycott practices by foreign buyers or governments. A growing number of U.S. firms are actively engaged in finding ways to avoid involvement with boycott enforcement practices as a result of the Administration's overall encouragement to firms to refuse to take actions that further foreign boycotts and as a result of specific actions as in the field of antitrust enforcement.

But the dismal record of the administration in failing to take this issue seriously until the matter was raised in Congress, hardly inspires confidence that the executive branch will take a tougher stance in the future without a strong legislative mandate. Testimony before the subcommittee by the Army Corps of Engineers, the Department of Defense, and the Department of State indicated that little or nothing had been done to convey our Government's objections to boycott policies followed by Arab League countries until the issue was raised publicly by the subcommittee at the hearing.

The administration's position is that adequate steps have now been taken and stronger action would lead to a direct confrontation with the Arab world and hence, be counterproductive. Apparently, foreign policy concerns predominate and dictate the Administration's go-slow, case-by-case approach. Secretary of the Treasury, William E. Simon, testified on June 9, 1976, before the House International Relations Committee, that—

> The Arab boycott has its roots in the broad Israel-Arab conflict and will best be resolved by dealing with the underlying conditions of that conflict.

He went on to say:

> More legislation would be detrimental to the totality of U.S. interests both here and in the Middle East.

I would infer from his remarks that the administration would have us wait until the whole Middle East conflict is resolved before we do anything more with respect to the boycott, even though compliance with such boycotts may lead American citizens to violate both the spirit and tradition of existing U.S. law.

I am among those who think that the costs, if it means discrimination and restrictive trade practices here at home, far outweigh the commercial benefits, and vague suggestions of friendlier relations with Arab countries. I commend Senator Stevenson and other members of the Banking Committee for designing legislation which will hopefully call a halt to these practices, whether or not the Arab boycott continues to remain in effect. I strongly endorse title II and would, at this point, like to direct one or two questions to Senator Stevenson, chief sponsor of the bill.

I would appreciate the Senator clarifying one or two points in the bill so that the intent of this legislation is unambiguous. First of all, how does the subparagraph 4(b)(2)(C)(ii) "prohibiting domestic concerns and persons from refusing to do business with any other domestic concern or person for the purpose of enforcing or implementing a foreign boycott" affect U.S. banks? Is it the intention of this section to apply to cases where an American bank in this country refuses to pay on a letter of credit because a domestic American payee fails to provide certification or other information relating to the Arab boycott?

Mr. STEVENSON. Yes, except as provided by the Tower amendment. Under the Tower amendment, banks could enforce letter of credit provisions so long as they do not require U.S. firms or persons to discriminate against other U.S. firms or persons pursuant to a foreign boycott.

Mr. CHURCH. Would U.S. banks be prohibited from withholding credit to those companies which comply with the refusal-to-deal provision?

Mr. STEVENSON. Absolutely.

Mr. CHURCH. I appreciate your helpful answers to these questions which fully satisfy any concerns I had in this regard.

As to the thrust and objectives of this legislation, I find it difficult to imagine that there would be strong opposition, notwithstanding the testimony of U.S. Government officials. The proposed legislation would merely tighten laws already in effect. I think, if anything, passage of this legislation would strengthen our Government's hand in negotiating an end to the Arab boycott. In answer to objections about its being too confrontational and endangering our interests in the Middle East, I say that the burden of proof rests on those who raise this excuse.

So far, U.S. trade with the Middle East has grown in leaps and bounds, despite the fact that the administration has been forced by Congress to take a harder stand against the boycott. Apparently governments in the Middle East have opted for an improvement in commercial relations with the United States despite strong and more frequent U.S. objections to the Arab boycott.

Furthermore, I do not think this legislation will place American firms at a long-term competitive disadvantage in their effort to secure contracts in Arab countries. American technology stands on its own, and time and again, we have seen Arab governments ignore their own boycott against a particular firm manufacturing a product or service which they wanted. At the same time, this legislation would strengthen, not weaken, our Government's efforts to negotiate an end to the boycott. Decisive action here will help, in my estimation, to convince other industrial nations to join us in this effort. It is a step toward international cooperation for the removal of one of the most onerous forms of restrictive trade practices.

Mr. TOWER. Third reading.

Mr. STEVENSON. Mr. President, I ask for the yeas and nays on final passage.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue.

The assistant legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 32]

Allen
Bumpers
Byrd,
  Harry F., Jr.
Hruska
Huddleston
Inouye
Mansfield
McGee
Muskie
Nelson
Stevenson
Stone
Tower
Williams

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Abourezk
Burdick
Byrd, Robert C.
Chiles
Church
Fong
Gravel
Hart, Philip A.
Helms
Leahy
McClellan
McIntyre
Moss
Pearson
Percy
Scott, Hugh
Stafford
Talmadge
Young

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to compel the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana to direct the Sergeant at Arms to compel the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. Durkin), the Senator from Mississippi (Mr. Eastland), the Senator from Kentucky (Mr. Ford), the Senator from Colorado (Mr. Gary Hart), the Senator from Indiana (Mr. Hartke), the Senator from Washington (Mr. Magnuson), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pastore), the Senator from Mississippi (Mr. Stennis), the Senator from California (Mr. Tunney), and the Senator from Louisiana (Mr. Long) are necessarily absent.

I also announce that the Senator from Maine (Mr. Hathaway) is absent attending the funeral of a friend.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from New Mexico (Mr. Domenici), the Senator from Arizona (Mr. Goldwater), and the Senator from Ohio (Mr. Taft) are necessarily absent.

I further announce that the Senator from Utah (Mr. Garn) is absent due to a death in the family.

The result was announced—yeas 78, nays 1, as follows:

[Rollcall Vote No. 540 Leg.]

YEAS—78

Abourezk
Allen
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Eagleton
Fannin
Fong
Glenn
Gravel
Griffin
Hansen
Hart, Philip A.
Haskell
Hatfield
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Williams
Young

NAYS—1

Weicker

NOT VOTING—21

Baker
Brock
Buckley
Dole
Domenici
Durkin
Eastland
Ford
Garn
Goldwater
Hart, Gary
Hartke
Hathaway
Long
Magnuson
Mondale
Montoya
Pastore
Stennis
Taft
Tunney

So the motion was agreed to.

The PRESIDING OFFICER (Mr. Bellmon). A quorum is present.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment, as amended. No debate is in order.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. STEVENSON. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

Senators will please take their seats. If they must converse, please retire to the cloakroom.

Mr. NELSON. The Senate is still not in order.

Mr. President, there are still Senators conversing in the aisles and in the well.

The PRESIDING OFFICER. Senators please take their conversations to the cloakrooms and retire to their seats.

Mr. NELSON. Mr. President, the Senate is not in order. There are still Members conversing with staff and each other in the aisles.

The PRESIDING OFFICER. Senators please take their seats, and clear the aisles.

The clerk may proceed.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. Durkin), the Senator from Mississippi (Mr. Eastland), the Senator from Kentucky (Mr. Ford), the Senator from Colorado (Mr. Gary Hart), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from Minnesota (Mr. Mondale), the Senator from Rhode Island (Mr. Pastore), the Senator from Mississippi (Mr. Stennis), the Senator from California (Mr. Tunney), and the Senator from New Mexico (Mr. Montoya) are necessarily absent.

I also announce that the Senator from Maine (Mr. Hathaway) is attending the funeral of a friend.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson) and the Senator from Rhode Island (Mr. Pastore) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from New Mexico (Mr. Domenici), the Senator from Arizona (Mr. Goldwater), and the Senator from Ohio (Mr. Taft) are necessarily absent.

I further announce that the Senator from Utah (Mr. Garn) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Ohio (Mr. Taft) would vote "yea."

The result was announced—yeas 66, nays 12, as follows:

[Rollcall Vote No. 541 Leg.]

YEAS—66

Allen
Bayh
Beall
Belmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Eagleton
Fong
Glenn
Gravel
Griffin
Hart, Philip A.
Haskell
Hatfield
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Leahy
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Weicker
Williams

NAYS—12

Abourezk
Bartlett
Curtis
Fannin
Hansen
Helms
Hruska
Laxalt
McClure
Scott, William L.
Tower
Young

NOT VOTING—22

Baker
Brock
Buckley
Dole
Domenici
Durkin
Eastland
Ford
Garn
Goldwater
Hart, Gary
Hartke
Hathaway
Kennedy
Long
Magnuson
Mondale
Montoya
Pastore
Stennis
Taft
Tunney

So, the bill (S. 3084), as amended, was passed, as follows:

S. 3084

An act to amend and extend the Export Administration Act of 1969 to improve the administration of export controls pursuant to such Act, to strengthen the antiboycott provisions of such Act, to amend the Securities Exchange Act of 1934 to enhance the investor disclosure provisions of that Act, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EXPORT ADMINISTRATION IMPROVEMENTS AND EXTENSION

Sec. 101. This title may be cited as the "Export Administration Amendments of 1976".

Sec. 102. The Export Administration Act of 1969, as amended (hereinafter in this title referred to as the "Act") is amended by striking "September 30, 1976" in section 14 and inserting in lieu thereof "September 30, 1979.".

Sec. 103. (a) Section 4(b) (1) of the Act is amended by inserting at the end thereof the following "In administering export controls for national security purposes as prescribed in section 3(2) (C) of this Act, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may deem appropriate. The President shall periodically review United States policy toward individual countries to determine whether such policy is appropriate in light of the factors specified in the preceding sentence. The results of such review, together with the justification for United States policy in light of such factors shall be included in the semiannual report of the Secretary of Commerce required by this Act for the first half of 1977 and in every second such report thereafter.".

(b) (1) Section 4(h) of the Act is amended by striking the term "controlled country" in the first sentence of paragraph (1) thereof and the second sentence of paragraph (2) thereof and inserting in lieu thereof "country named by the President pursuant to the last sentence of *section 4(b) (1) of* this Act".

(2) Section 4(h) (2) (A) of the Act is amended by striking "controlled" and inserting in lieu thereof "such".

(3) Section 4(h) (4) of the Act is amended by striking everything following the semicolon at the end of subparagraph (B) thereof and inserting a period in lieu of the semicolon.

(c) The amendments made by subsection (b) shall become effective upon the expiration of ninety days after the receipt by the Congress of the report referred to in the last sentence of section 4(b) (1) of the Act.

SEC. 104. Section 4(b)(4) of the Act is amended to read as follows:

"(4) The Secretary of Commerce, in cooperation with appropriate United States Government departments and agencies and the appropriate technical advisory committees established pursuant to this Act, shall undertake an investigation to determine whether United States unilateral controls or multilateral controls in which the United States participates should be removed, modified, or added with respect to particular articles, materials, and supplies, including technical data and other information, in order to protect the national security of the United States. Such investigation shall take into account such factors as the availability of such articles, materials, and supplies from other nations and the degree to which the availability of the same from the United States or from any country with which the United States participates in multilateral controls would make a significant contribution to the military potential of any nation threatening or potentially threatening the national security of the United States. As part of such investigation, the Secretary of Commerce shall explore ways of simplifying and clarifying lists of articles, materials, and supplies subject to export controls. The results of such investigation shall be reported to the Congress not later than eighteen months after enactment of the Export Administration Amendments of 1976.".

SEC. 105. Section 4 of the Act is amended by adding a new subsection (j) thereto as follows:

"(j) Any person who enters into a contract, protocol, agreement, or other understanding for, or which may result in, the transfer of United States origin technical data or other information to any nation to which exports are restricted for national security or foreign policy purposes shall report such transaction to the Secretary of Commerce and provide him with copies of all documents pertaining thereto within thirty days of entering into such contract, protocol, agreement, or understanding."

SEC. 106. Section 4(g) of the Act is amended by adding at the end thereof the following: "In any denial of an export license application, the applicant shall be informed in writing of the specific statutory basis for such denial. Whenever the Secretary determines that it is necessary to refer an export license application to any multilateral review process for approval, he shall first, if the applicant so requests, provide the applicant with an opportunity to review any documentation to be submitted to such process for the purpose of describing the export in question, in order to determine whether such documentation accurately describes the proposed export.".

SEC. 107. (a) Section 5(c)(1) of the Act is amended by striking the word "two" in the last sentence thereof and inserting in lieu thereof the word "four".

(b) The second sentence of section 5(c)(2) of the Act is amended to read as follows: "Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (i) technical matters, (ii) worldwide availability and actual utilization of production technology, (iii) licensing procedures which affect the level of export controls applicable to any articles, materials, and supplies, including technical data or other information, and (iv) exports subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. Such committees shall be informed of the reasons for any failure to accept any advice or recommendations which they may render or make to officials of the United States Government.".

SEC. 108. Section 4(f) of the Act is amended by designating the existing paragraph as subparagraph (1) and adding at the end thereof the following new subparagraph:

"(2) Upon approval of the Secretary of Commerce, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed pursuant to section 3(2)(A) of this Act subsequent to such approval. The Secretary of Commerce may not grant approval hereunder unless he receives adequate assurance and, in conjunction with the Secretary of Agriculture, so finds that such commodities will eventually be exported, that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to implement this subparagraph. Petroleum products refined in United States foreign trade zones from foreign crude oil shall be excluded from any quantitative restrictions imposed pursuant to section 3(2)(A) of this Act and the provisions of section 103(a) of the Energy Policy and Conservation Act: *Provided, however,* That if the Secretary of Commerce in conjunction with the Administrator of the Federal Energy Administration shall find that a product is in short supply the Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to limit exports in accordance with the Administrator's recommendations.".

SEC. 109. (a) Section 6(a) of the Act is amended by striking out "$10,000" and inserting in lieu thereof "$25,000" and by striking out "$20,000" and inserting in lieu thereof "$50,000".

(b) Section 6(b) of the Act is amended—

(1) by striking out "Communist-dominated nation" and inserting in lieu thereof "country named by the President pursuant to the last sentence of section 4(b)(1)"; and

(2) by striking out "$20,000" and inserting in lieu thereof "$50,000".

(c) Section 6(c) of the Act is amended—

(1) by striking out "The head" and inserting in lieu thereof "Except as otherwise provided in the second sentence of this subsection, the head"; and

(2) by striking out "$1,000" and inserting in lieu thereof "$10,000".

(d) Section 6(d) of the Act is amended by adding at the end thereof the following: "In addition, the payment of any penalty imposed pursuant to subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) which may be imposed upon such person. Such a deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.".

SEC. 110. Section 3 of the Act is amended by adding at the end thereof the following:

"(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territory or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make every reasonable effort to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before resorting to the imposition of export controls.".

SEC. 111. Section 4 of the Act is amended by adding a new subsection (k) thereto as follows:

"(k) Notwithstanding any other provision of this Act, no horse may be exported by sea from the United States, its territories and possessions: *Provided, however,* That the Secretary of Commerce, in consultation with the Secretary of Agriculture, may establish regulations to grant a waiver which permits the export by sea from the United States of a specific consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines, in accordance with procedures contained in the regulations, that no horse in the consignment is being exported for purposes of slaughter.".

SEC. 112. Section 4(f) of the Act is amended by adding at the end of paragraph (1), as designated by section 108 of this Act, the following new sentences: "However, no export controls on any agricultural commodity may be imposed pursuant to the President's determination that the exercise of the authority conferred by this section is required to effectuate the policies set forth in clause (B) of paragraph (2) of section 3 of this Act until (1) the President's determination has been transmitted to the Congress and (2) a period of thirty days has expired following the date of receipt of the determination by the Congress without the adoption by both Houses of the Congress of a concurrent resolution stating that the Congress does not favor the imposition of export controls pursuant to the President's determination. In the computation of the thirty-day period, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain or an adjournment of the Congress sine die.".

SEC. 113. (a) It is the sense of the Congress that the President should actively seek, and by the earliest possible date secure, an agreement or other arrangement whereby—

(A) nuclear exporting nations will not transfer to any other nation any equipment, material, or technology designed or prepared for, or which would materially assist the establishment of, national uranium enrichment, nuclear fuels reprocessing, or heavy water production facilities until and while alternatives to such national facilities are explored and pursued;

(B) nuclear exporting nations will not transfer any nuclear equipment, material, or technology to any other nation that has not agreed to implement safeguards promulgated by the International Atomic Energy Agency;

(C) minimum physical security standards are established to prevent the unauthorized diversion of nuclear equipment, materials, and technology;

(D) arrangements are established for effective and prompt responses in the event of violations of any international agreement to control the use of nuclear materials and technology;

(E) nuclear exporting nations, in cooperation with nuclear importing nations, pursue the concept of multinational facilities for the purpose of meeting the world's nuclear fuel needs while reducing the risks associated with the spread of national facilities for fuel reprocessing, fabrication, or enrichment; and

(F) nuclear exporting nations establish arrangements for appropriate response, including the suspension of transfers of nuclear equipment, material, or technology, to any non-nuclear weapons country which has detonated a nuclear explosive device or which has clearly demonstrated the intention to embark upon a nuclear weapons program. Within one year of the enactment of the

Export Administration Amendments of 1976, the President shall report to the Congress on the progress made toward the achievement of international agreement or other arrangements on the matters specified herein.

(b) For purposes of this section, the term "nuclear exporting nations" means the United States, the United Kingdom, France, the Federal Republic of Germany, Canada, Japan, the Union of Soviet Socialist Republics, and such other countries as the President may determine.

TITLE II—FOREIGN BOYCOTTS

SEC. 201. This title may be cited as the "Foreign Boycotts Act of 1976".

SEC. 202. (a) Section 3(5)(A) of the Export Administration Act of 1969 (hereinafter in this title referred to as the "Act") is amended by inserting immediately after "United States" the following: "or against any domestic concern or person".

(b) Section 3(5)(B) of the Act is amended by inserting immediately after "United States" the following: "or against any domestic concern or person".

SEC. 203. (a) Section 4(b)(1) of the Act is amended by striking out the next to the last sentence.

(b) Section 4(b) of the Act is amended by redesignating paragraphs (2) through (4) and any cross references thereto as paragraphs (3) through (5), respectively, and inserting after paragraph (1) a new paragraph (2) as follows:

"(2)(A) Pursuant to such rules and regulations as he may deem necessary and appropriate, the Secretary of Commerce shall implement the provisions of section 3(5) of this Act.

"(B) Such rules and regulations shall require that any domestic concern or person which receives a request for the furnishing of information, the signing of agreements, or the taking of any other action referred to in section 3(5) of this Act shall report that fact to the Secretary of Commerce together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the purposes of that section. Such concern or person shall also report to the Secretary of Commerce whether he intends to comply and whether he has complied with such request. Any report filed pursuant to this subparagraph after enactment of the Foreign Boycotts Act of 1976 shall be made available promptly for public inspection and copying: *Provided, however,* That information regarding the quantity, description, and value of any goods to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the domestic concern or person involved at a competitive disadvantage. The Secretary of Commerce shall report the results of such reports to the Secretary of State on a periodic basis for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the purposes of section 3(5) of this Act.

"(C) Rules and regulations implementing such provisions shall also prohibit domestic concerns and persons from (i) furnishing information regarding any person's race, religion, or national origin to or for the use by any foreign country, national, or agent thereof where such information is sought for the purpose of enforcing or implementing a restrictive trade practice or boycott against a country friendly to the United States or against any domestic concern or person, or (ii) refusing to do business with any other domestic concern or person pursuant to an agreement with, requirement of, or a request from, or on behalf of, any foreign country, national, or agent thereof made or imposed for the purpose of enforcing or implementing a restrictive trade practice or boycott against a country friendly to the United States or against any domestic concern or person: *Provided, however,* That such rules and regulations shall not prohibit any domestic concern or person from refusing to pay, honor, advise, confirm, process, or otherwise implement a letter of credit where the domestic beneficiary thereof fails to comply with the conditions or requirements thereof except a condition or requirement regarding any person's race, religion, or national origin of the domestic beneficiary's dealings with other domestic concerns or persons, and any such condition or requirement shall be null and void. Any civil penalty (including any suspension or revocation of the authority to export) imposed under this Act for a violation of rules or regulations issued under clause (ii) of the preceding sentence may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code. The provisions of this subparagraph (C) shall neither substitute for nor limit the operation of the antitrust laws of the United States. The provisions of this subparagraph (C)(ii) shall not apply to any conformity with requirements pertaining to the identity of any carrier on which articles, materials, or supplies are to be shipped so long as such requirements do not have as their purpose the enforcement or implementation of a restrictive trade practice or boycott against a country friendly to the United States or against any domestic concern or person.".

SEC. 204. (a) Section 6(c) of the Act is amended by adding at the end thereof the following: "The head of any department or agency exercising any functions under this Act, of any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $10,000 for each violation of section 4(b)(2) of this Act or of any rule or regulation issued thereunder, either in addition to or in lieu of any other liability or penalty which may be imposed under this Act. The head of any department or agency exercising any function under this Act relating to licensing, or any officer or employee of such department or agency specifically designated by the head thereof, may use the authority under this Act to suspend or revoke the authority of a person to export articles, materials, supplies, or information from the United States for each violation of section 4(b)(2) of this Act. Any charging letter or other document initiating proceedings by the Secretary of Commerce after enactment of the Foreign Boycotts Act of 1976 for the imposition of sanctions for violations of section 4(b)(2) of this Act shall be made available for public inspection and copying.".

(b) Section 7(c) of the Act is amended by striking the word "No" at the beginning thereof and inserting in lieu thereof the following: "Except as otherwise provided by this Act, no".

SEC. 205. Section 10(b) of the Act is amended by adding at the end thereof a new paragraph (3) as follows:

"(3) Each such report shall also contain a description of actions taken by the President and the Secretary of Commerce to effect the policy of section 3(5) of this Act.".

SEC. 206. Section 11 of the Act is amended by adding at the end thereof the following: "The term 'domestic concern' as used in this Act shall include but not be limited to banks, other financial institutions, insurers, freight forwarders, and shipping companies organized under the laws of the United States or any State or any political subdivision thereof.".

TITLE III—DISCLOSURE

SEC. 301. This title may be cited as the "Domestic and Foreign Investment Improved Disclosure Act of 1976".

SEC. 302. Section 13(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended to read as follows:

"(d)(1) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is registered pursuant to section 12 of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, is directly or indirectly the beneficial owner of more than 5 per centum of such class shall, within ten days after such acquisition, send to the issuer of the security at its principal executive office, by registered or certified mail, send to each exchange where the security is traded, and file with the Commission, a statement containing such of the following information, and such additional information, as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors—

"(A) the background, identity, residence, and nationality of, and the nature of such beneficial ownership by, such person and all other persons by whom or on whose behalf the purchases have been or are to be effected;

"(B) the source and amount of the funds or other consideration used or to be used in making the purchases, and if any part of the purchase price or proposed purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading such security, a description of the transaction and the names of the parties thereto, except that where a source of funds is a loan made in the ordinary course of business by a bank, as defined in section 3(a)(6) of this title, if the person filing such statement so requests, the name of the bank shall not be made available to the public;

"(C) if the purpose of the purchases or prospective purchases is to acquire control of the business of the issuer of the securities, any plans or proposals which such persons may have to liquidate such issuer, to sell its assets to or merge it with any other persons, or to make any other major change in its business or corporate structure;

"(D) the number of shares of such security which are beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly, by (i) such person, and (ii) by each associate of such person, giving the background, identity, residence, and nationality of each such associate; and

"(E) information as to any contracts, arrangements, or understandings with any person with respect to any securities of the issuer, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.".

SEC. 303. Section 13 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78m), is amended by adding at the end thereof the following new subsection:

"(g)(1) Every holder of record of, and any other person having an interest in, 2 per centum or more of any security of a class described in subsection (d)(1) of this section shall report such interest and such other information, in such form and at such intervals (but in no event more frequently than quarterly), as the Commission may, by rule, prescribe.

"(2) Any person required to make reports pursuant to paragraph (1) of this subsection shall file, publish, or disseminate such reports in such manner and to such persons, including the Commission, as the Commission may, by rule, specify. Any issuer which receives reports pursuant to this paragraph shall include in any filing or registration statement it makes with the Commission, under the Federal securities laws as defined in section 21(g) of this title such of the information contained in such reports as the Commission may, by rule, require.

"(3) The 2 per centum figure in subsection (g)(1) of this section shall be reduced to 1 per centum on September 1, 1977, and to one-half of 1 per centum on September 1, 1978: *Provided, however*, That the Commission may shorten or extend such periods if the Commission first finds that such reduction or extension is not inconsistent with the protection of investors or the public interest, after giving appropriate consideration to, and receiving public comments, views, and data on, the following matters:

"(A) the incidence of avoidance of reporting by beneficial owners using multiple holders of record;

"(B) the cost of compliance to issuers and to record holders;

"(C) the effect on the securities markets of such action, including the system for the clearance and settlement of securities transactions;

"(D) the benefits to investors and to the public;

"(E) and bona fide interests of an individual in the privacy of his financial affairs;

"(F) the extent to which such reported information gives or would give any person an undue advantage in connection with activities subject to sections 13(d) and 14(d) of this title;

"(G) the need for such information in connection with the administration and enforcement of this title; and

"(H) such other matters as the Commission may deem relevant, including the results of any study or investigation it may undertake pursuant to this title and the information obtained pursuant to section 13(f) of this title.

The Commission shall report to the Congress on August 1, 1977, and again on August 1, 1978, the steps it has taken, or plans to take, to implement, accelerate, or defer the time periods set forth in this paragraph. In addition, the Commission shall no later than January 2, 1979, report to the Congress on the feasibility and desirability of reducing the per centum figure in paragraph (3) to one-tenth of 1 per centum, after studying the impact of such reduction on a reasonable sample of issuers, recordholders, and other persons required to report under this subsection and after full consideration of the matters referred to in clauses (A) through (H).

"(4) The Commission shall have the authority, by rule or by order, to exempt from the requirements of this subsection any security, issuer, or person, or any class of securities, issuers, or persons, if it finds that such exemption is not inconsistent with the public interest or the protection of investors.

"(5) It shall be unlawful for any person, in contravention of such rules as the Commission may prescribe, to make use of the mails or any other means or instrumentality of interstate commerce to effect any transaction (for his own account or the account of another) in any security of a class described in subsection (d)(1) of this section, if such person knew, or should have known, that information required to be filed, published, or disseminated in accordance with this subsection, either by the person effecting the transaction or by the person on whose behalf, directly or indirectly, the transaction is intended to be effected, has not been filed, published, or disseminated.

"(6) In exercising its authority under this subsection, the Commission shall take such steps as are within its power, including consulting with the Comptroller General of the United States, the Director of the Office of Management and Budget, the appropriate regulatory agencies referred to in section 34(D) of this title, and other Federal authorities which, directly or indirectly, require reports substantially similar to that called for by this subsection (A) to achieve uniform, centralized reporting of such information and (B) consistently with the objectives set forth in this subsection, to avoid unnecessarily duplicative reporting by and minimize the compliance burden on persons required to report.".

The title was amended so as to read: "A bill to amend and extend the Export Administration Act of 1969 to improve the administration of export controls pursuant to such act, to strengthen the antiboycott provisions of such act, to amend the Securities Exchange Act of 1934 to enhance the investor disclosure provisions of that act, and for other purposes."

Mr. STEVENSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to S. 3084.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I yield to the Senator from Texas.

Mr. TOWER. Mr. President, I thank the distinguished majority leader for yielding to me. I simply wanted to set the record straight as to why I voted in opposition to passage of S. 3084. As I earlier stated, I had no objection to titles I and II. As a matter of fact, I think they are constructive legislation. I see no clear need for title III, the investment disclosure provision. I think that it can be potentially very costly to businesses and to investors. Therefore, I voted against the bill for that reason. Should this bill emerge from conference with title III dropped, I shall vote for the conference report.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

Mr. MANSFIELD. Mr. President, I yield to the distinguished assistant majority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 8532.

The Chair laid before the Senate the following message from the House of Representatives:

AUGUST 24, 1976.

Resolved, That the House insist upon its amendment to the amendment of the Senate to the bill (H.R. 8532) entitled "An Act to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Rodino, Mr. Brooks, Mr. Flowers, Mr. Sarbanes, Mr. Seiberling, Ms. Jordan, Mr. Mezvinsky, Mr. Mazzoli, Mr. Hughes, Mr. Hutchinson, Mr. McClory, Mr. Railsback, and Mr. Cohen be the managers of the conference on the part of the House.

Mr. ALLEN. I ask that it be read.

Mr. MANSFIELD. Mr. President, I send to the desk——

Mr. ROBERT C. BYRD addressed the Chair.

Mr. ALLEN. I ask that the message be read.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment to H.R. 8532, with an amendment.

The motion offered by Mr. ROBERT C. BYRD is as follows:

That the Senate concur in the House amendment to the Senate amendment to H.R. 8532, with an amendment as follows:

That this Act may be cited as the "Hart-Scott-Rodino Antitrust Improvements Act of 1976".

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TITLE I—ANTITRUST CIVIL PROCESS ACT AMENDMENTS

DEFINITIONS

SEC. 101. Section 2 of the Antitrust Civil Process Act (15 U.S.C. 1311) is amended—

(1) in subsection (a)—

(A) by inserting "and" after the semicolon at the end of paragraph (1);

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) by striking out "(A)" and ", or (B) any unfair trade practice in or affecting such commerce" in paragraph (2) (as redesignated by subparagraph (B)).

(2) by amending subsection (c) to read as follows:

"(c) The term 'antitrust investigation' means any inquiry conducted by any antitrust investigator for the purpose of ascertaining whether any person is or has been engaged in any antitrust violation or in any activities in preparation for a merger, acquisition, joint venture, or similar transaction, which, if consummated, may result in an antitrust violation;".

(3) by amending subsection (f) to read as follows:

"(f) The term 'person' means any natural person, partnership, corporation, association, or other legal entity, including any person acting under color or authority of State law;".

(4) by amending subsection (h) to read as follows:

"(h) The term 'custodian' means the custodian or any deputy custodian designated under section 4(a) of this Act.".

CIVIL INVESTIGATIVE DEMANDS

SEC. 102. Section 3 of such Act (15 U.S.C. 1312) is amended to read as follows:

"CIVIL INVESTIGATIVE DEMANDS

"SEC. 3. (a) Whenever the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to a civil antitrust investigation, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, to answer in writing written interrogatories, to give oral testimony concerning documentary material or information, or to furnish any combination of such material, answers, or testimony.

"(b) Each such demand shall—

"(1) state the nature of—

"(A) the conduct constituting the alleged antitrust violation, or

"(B) the activities in preparation for a merger, acquisition, joint venture, or similar transaction, which, if consummated, may result in an antitrust violation,

which are under investigation and the provision of law applicable thereto;

"(2) if it is a demand for production of documentary material—

"(A) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified; and

"(B) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(C) identify the custodian to whom such material shall be made available; or

"(3) if it is a demand for answers to written intrrogatories—

"(A) propound with definiteness and certainty the written interrogatories to be answered; and

"(B) prescribe a date or dates at which time answers to written interrogatories shall be submitted; and

"(C) identify the custodian to whom such answers shall be submitted; or

"(4) if it is a demand for the giving of oral testimony—

"(A) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(B) identify an antitrust investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted.

"(c) No such demand shall require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony, if such material, answers, or testimony would be protected from disclosure under—

"(1) the standards applicable to subpenas or subpenas duces tecum issues by a court of the United States in aid of a grand jury investigation, or

"(2) the standards applicable to discoveery requests under the Federal Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this Act.

"(d) (1) Any such demand may be served by any antitrust investigator, or by any United States marshal or deputy marshal, at any place within the territorial jurisdiction of any court of the United States.

"(2) Any such demand or any petition filed under section 5 of this Act may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this Act by such person that such court would have if such person were personally within the jurisdiction of such court.

"(e) (1) Service of any such demand or of any petition filed under section 5 of this Act may be made upon a partnership, corporation, association, or other legal entity by—

"(A) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

"(B) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity to be served; or

"(C) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

"(2) Service of any such demand or of any petition filed under section 5 of this Act may be made upon any natural person by—

"(A) delivering a duly executed copy thereof to the person to be served; or

"(B) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

"(f) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

"(g) The production of documentary material in response to a demand served pursuant to this section shall be made under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

"(h) Each interrogatory in a demand served pursuant to this section shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objection shall be stated in lieu of an answer, and it shall be submitted under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person or persons responsible for answering each interrogatory, to the effect that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted.

"(i) (1) The examination of any person pursuant to a demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian.

"(2) The antitrust investigator or investigators conducting the examination shall exclude from the place where the examination is held all other persons except the person being examined, his counsel, the officer before whom the testimony is to be taken, and any stenographer taking such testimony. The provisions of the Act of March 3, 1913 (Ch. 114, 37 Stat. 731; 15 U.S.C. 30), shall not apply to such examinations.

"(3) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the antitrust investigator conducting the examination and such person.

"(4) When the testimony is fully transcribed, the antitrust investigator or the officer shall afford the witness (who may be accompanied by counsel) a reasonable opportunity to examine the transcript in the presence of the officer or antitrust investigator; and the transcript shall be read to or by the witness, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the officer or the antitrust investigator with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within thirty days of his being afforded a reasonable opportunity to examine it, the officer or the antitrust investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reason, if any, given therefor.

"(5) The officer shall certify on the transcript that the witness was duly sworn by him and that the transcript is a true record of the testimony given by the witness, and the officer or antitrust investigator shall promptly deliver it or send it by registered or certified mail to the custodian.

"(6) Upon payment of reasonable charges therefor, the antitrust investigator shall furnish a copy of the transcript to the witness only, except that the Assistant Attorney General in charge of the Antitrust Division may for good cause limit such witness to inspection of the official transcript of his testimony.

"(7) (A) Any person compelled to appear under a demand for oral testimony pursuant to this section may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, either upon the request of such person or upon counsel's own initiative, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may properly be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person shall not otherwise object to or refuse to answer any question, and shall not by himself or through counsel otherwise interrupt the oral examination. If such person refuses to answer any question, the antitrust investigator conducting the examination may petition the district court of the United States pursuant to section 5 of this Act for an order compelling such person to answer such question.

"(B) If such person refuses to answer any question on grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18, United States Code.

"(8) Any person appearing for oral examination pursuant to a demand served under this section shall be entitled to the same fees and mileage which are paid to witnesses in the district courts of the United States.

CUSTODIAN OF DOCUMENTS, ANSWERS, AND TRANSCRIPTS

SEC. 103. Section 4 of such Act is amended to read as follows:

"CUSTODIAN OF DOCUMENTS, ANSWERS, AND TRANSCRIPTS

"SEC. 4. (a) The Assistant Attorney General in charge of the Antitrust Division of the Department of Justice shall designate an antitrust investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this Act, and such additional antitrust investigators as he shall determine from time to time to be necessary to serve as deputies to such officer.

"(b) Any person, upon whom any demand under section 3 of this Act for the production of documentary material has been duly served, shall make such material available for inspection and copying or reproduction to the custodian designated therein at the principal place of business of such person (or at such other place as such custodian and such person thereafter may agree and prescribe in writing or as the court may direct, pursuant to section 5(d) of this Act) on the return date specified in such demand (or on such later date as such custodian may prescribe in writing). Such person may upon written agreement between such person and the custodian substitute copies for originals of all or any part of such material.

"(c)(1) The custodian to whom any documentary material, answers to interrogatories, or transcripts of oral testimony are delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the return of documentary material, pursuant to this Act.

"(2) The custodian may cause the preparation of such copies of such documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any duly authorized official or employee of the Department of Justice under regulations which shall be promulgated by the Attorney General. Notwithstanding paragraph (3) of this subsection, such material, answers, and transcripts may be used by any such official or employee in connection with the taking of oral testimony pursuant to this Act.

"(3) Except as otherwise provided in this section, while in the possession of the custodian, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, so produced shall be available for examination, without the consent of the person who produced such material, answers, or transcripts, by any individual other than a duly authorized official or employee of the Department of Justice. Nothing in this section is intended to prevent disclosure to either body of the Congress or to any authorized committee or subcommittee thereof.

"(4) While in the possession of the custodian and under such reasonable terms and conditions as the Attorney General shall prescribe, (A) documentary material and answers to interrogatories shall be available for examination by the person who produced such material or answers, or by any duly authorized representative of such person, and (B) transcripts of oral testimony shall be available for examination by the person who produced such testimony, or his counsel.

"(d)(1) Whenever any attorney of the Department of Justice has been designated to appear before any court, grand jury, or Federal administrative or regulatory agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony may deliver to such attorney such material, answers, or transcripts for official use in connection with any such case, grand jury, or proceeding as such attorney determines to be required. Upon the completion of any such case, grand jury, or proceeding, such attorney shall return to the custodian any such material, answers, or transcripts so delivered which have not passed into the control of such court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

"(2) The custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony may deliver to the Federal Trade Commission, in response to a written request, copies of such material, answers, or transcripts for use in connection with an investigation or proceeding under the Commission's jurisdiction. Such material, answers, or transcripts may only be used by the Commission in such manner and subject to such conditions as apply to the Department of Justice under this Act.

"(e) If any documentary material has been produced in the course of any antitrust investigation by any person pursuant to a demand under this Act and—

"(1) any case or proceeding before any court or grand jury arising out of such investigation, or any proceeding before any Federal administrative or regulatory agency involving such material, has been completed, or

"(2) no case or proceeding, in which such material may be used, has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation,

the custodian shall, upon written request of the person who produced such material, return to such person any such material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) which has not passed into the control of any court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

"(f) In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced under any demand issued pursuant to this Act, or the official relief of such custodian from responsibility for the custody and control of such material, answers, or transcripts, the Assistant Attorney General in charge of the Antitrust Division shall promptly (1) designate another antitrust investigator to serve as custodian of such material, answers, or transcripts, and (2) transmit in writing to the person who produced such material, answers, or testimony notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have with regard to such material, answers, or transcripts all duties and responsibilities imposed by this Act upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred prior to his designation.".

JUDICIAL PROCEEDINGS

SEC. 104. (a) Section 5(a) of such Act is amended by striking out ", except that if" and all that follows down through the end of the sentence and inserting in lieu thereof a period.

(b) The first sentence of subsection (b) of section 5 of such Act is amended to read as follows: "Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any antitrust investigator named in the demand, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon such antitrust investigator a petition for an order of such court modifying or setting aside such demand.".

(c) The second sentence of subsection (b) of section 5 is amended by striking out the period at the end thereof and by inserting in lieu thereof: ", except that such person shall comply with any portions of the demand not sought to be modified or set aside.".

(d) Subsection (c) of section 5 is amended by striking out "delivered" and inserting in lieu thereof "or answers to interrogatories delivered, or transcripts of oral testimony given".

(e) Section 5 is further amended by adding at the end thereof the following:

"(f) Any documentary material, answers to written interrogatories, or transcripts of oral testimony provided pursuant to any demand issued under this Act shall be exempt from disclosure under section 552 of title 5, United States Code.".

CRIMINAL PENALTY

SEC. 105. The third paragraph of section 1505 of title 18, United States Code, is amended to read as follows:

"Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or".

EFFECTIVE DATE

SEC. 106. The amendments to the Antitrust Civil Process Act and to section 1505 of title 18, United States Code, made by this title shall take effect on the date of enactment of this Act, except section 3(i)(8) of the Antitrust Civil Process Act (as amended by this Act) shall take effect on the later of (1) the date of enactment of this Act, or (2) October 1, 1976. Any such amendment which provides for the production of documentary material, answers to interrogatories, or oral testimony shall apply to any act or practice without regard to the date on which it occurred.

TITLE II—PREMERGER NOTIFICATION

NOTIFICATION AND WAITING PERIOD

SEC. 201. The Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting immediately after section 7 of such Act the following new section:

"SEC. 7A. (a) Except as exempted pursuant to subsection (c), no person shall acquire, directly or indirectly, any voting securities or assets of any other person, unless both persons (or in the case of a tender offer, the acquiring person) file notification pursuant to rules under subsection (d)(1) and the waiting period described in subsection (b)(1) has expired, if—

"(1) the acquiring person, or the person whose voting securities or assets are being acquired, is engaged in commerce or in any activity affecting commerce;

"(2)(A) any voting securities or assets of a person engaged in manufacturing which has annual net sales or total assets of $10,000,000 or more are being acquired by any person which has total assets or annual net sales of $100,000,000 or more;

"(B) any voting securities or assets of a person not engaged in manufacturing which has total assets of $10,000,000 or more are being acquired by any person which has total assets or annual net sales of $100,000,000 or more; or

"(C) any voting securities or assets of a person with annual net sales or total assets of $100,000,000 or more are being acquired by any person with total assets or annual net sales of $10,000,000 or more; and

"(3) as a result of such acquisition, the acquiring person would hold—

"(A) 15 per centum or more of the voting securities or assets of the acquired person, or

"(B) an aggregate total amount of the voting securities and assets of the acquired person in excess of $15,000,000.

In the case of a tender offer, the person whose voting securities are sought to be acquired by a person required to file notification under this subsection shall file notification pursuant to rules under subsection (d)(1).

"(b)(1) The waiting period required under subsection (a) shall—

"(A) begin on the date of the receipt by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereafter referred to in this section as the 'Assistant Attorney General') of—

"(i) the completed notification required under subsection (a), or

"(ii) if such notification is not completed, the notification to the extent completed and a statement of the reasons for such noncompliance,

from both persons, or, in the case of a tender offer, the acquiring person; and

"(B) end on the thirtieth day after the date of such receipt (or in the case of a cash tender offer, the fifteenth day), or on such later date as may be set under subsection (e) or (g)(2).

"(2) The Federal Trade Commission and the Assistant Attorney General may, in individual cases, terminate the waiting period specified in paragraph (1) and allow any person to proceed with any acquisition subject to this section, and promptly shall cause to be published in the Federal Register a notice that neither intends to take any action within such period with respect to such acquisition.

"(3) As used in this section—

"(A) The term 'voting securities' means any securities presently or upon conversion entitling the owner or holder thereof to vote for the election of directors of the issuer or, with respect to unincorporated issuers, persons exercising similar functions.

"(B) The amount or percentage of voting securities or assets of a person which are acquired or held by another person shall be determined by aggregating the amount or percentage of such voting securities or assets held or acquired by such other person and each affiliate thereof.

"(c) The following classes of transactions are exempt from the requirements of this section—

"(1) acquisitions of goods or realty transferred in the ordinary course of business;

"(2) acquisitions of bonds, mortgages, deeds of trust, or other obligations which are not voting securities;

"(3) acquisitions of voting securities of an issuer at least 50 per centum of the voting securities of which are owned by the acquiring person prior to such acquisition;

"(4) transfers to or from a Federal agency or a State or political subdivision thereof;

"(5) transactions specifically exempted from the antitrust laws by Federal statute;

"(6) transactions specifically exempted from the antitrust laws by Federal statute if approved by a Federal agency, if copies of all information and documentary material filed with such agency are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General;

"(7) transactions which require agency approval under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), or section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842);

"(8) transactions which require agency approval under section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), section 403 or 408(e) of the National Housing Act (12 U.S.C. 1726 and 1730a), or section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), if copies of all information and documentary material filed with any such agency are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General at least 30 days prior to consummation of the proposed transaction;

"(9) acquisitions, solely for the purpose of investment, of voting securities, if, as a result of such acquisition, the securities acquired or held do not exceed 10 per centum of the outstanding voting securities of the issuer;

"(10) acquisitions of voting securities, if, as a result of such acquisition, the voting securities acquired do not increase, directly or indirectly, the acquiring person's per centum share of outstanding voting securities of the issuer; and

"(11) acquisitions, solely for the purpose of investment, by any bank, banking association, trust company, investment company, or insurance company, of (A) voting securities pursuant to a plan of reorganization or dissolution; or (B) assets in the ordinary course of its business; and

"(12) such other acquisitions, transfers, or transactions, as may be exempted under subsection (d)(2)(B).

"(d) The Federal Trade Commission, with the concurrence of the Assistant Attorney General and by rule in accordance with section 553 of title 5, United States Code, consistent with the purposes of this section—

"(1) shall require that the notification required under subsection (a) be in such form and contain such documentary material and information relevant to a proposed acquisition as is necessary and appropriate to enable the Federal Trade Commission and the Assistant Attorney General to determine whether such acquisition may, if consummated, violate the antitrust laws; and

"(2) may—

"(A) define the terms used in this section;

"(B) exempt, from the requirements of this section, classes of persons, acquisitions, transfers, or transactions which are not likely to violate the antitrust laws; and

"(C) prescribe such other rules as may be necessary and appropriate to carry out the purposes of this section.

"(e)(1) The Federal Trade Commission or the Assistant Attorney General may, prior to the expiration of the 30-day waiting period (or in the case of cash tender offers, the 15-day waiting period) specified in subsection (b)(1) of this section, require the submission of additional information or documentary material relevant to an acquisition by any person subject to this section, from such person or from any officer, director, partner, agent, or employee of such person.

"(2) The Federal Trade Commission or the Assistant Attorney General, in its or his discretion, may extend the 30-day waiting period (or in the case of cash tender offers, the 15-day waiting period) specified in subsection (b)(1) of this section for an additional period of not more than 20 days (or in the case of cash tender offers, 10 days) after the date on which the Federal Trade Commission or the Assistant Attorney General, as the case may be, receives from any person to whom a request is made under paragraph (1), or in the case of tender offers, the acquiring person, (A) all the information and documentary material required to be submitted pursuant to such a request, or (B) if such request is not fully complied with, the information and documentary material submitted and a certification of the reasons for such noncompliance. Such additional period may be further extended only by the United States district court, upon an application by the Federal Trade Commission or the Assistant Attorney General pursuant to subsection (g)(2).

"(f) If a proceeding is instituted or an action is filed by the Federal Trade Commission alleging that a proposed acquisition violates section 7 of this Act or section 5 of the Federal Trade Commission Act, or an action is filed by the United States, alleging that a proposed acquisition violates such section 7 or section 1 or 2 of the Sherman Act, and the Federal Trade Commission or the Assistant Attorney General (1) files a motion for a preliminary injunction against consummation of such acquisition pendente lite, and (2) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection—

"(A) upon the filing of such motion and certification, the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such district court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes; and

"(B) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to section 3161 of title 18, United States Code, and shall be in every way expedited.

"(g)(1) Any person, or any *officer, director*, or partner thereof, who fails to comply with any provision of this section shall be liable to the United States for a civil penalty of not more than $10,000 for each day during which such person is in violation of this section. Such penalty may be recovered in a civil action brought by the United States.

"(2) If any person, or any officer, director, partner, agent, or employee thereof, fails to substantially comply with the *notification* requirement under subsection (a) or any request for the submission of additional information or documentary material under subsection (e)(1) of this section within the waiting period specified in subsection (b)(1) and as may be extended under subsection (e), the United States district court—

"(A) may order compliance;

"(B) shall extend the waiting period specified in subsection (b)(1) and as may have been extended under subsection (e) until there has been substantial compliance, except that, in the case of a tender offer, the court may not extend such waiting period on the basis of a failure, by the person whose stock is sought to be acquired, to substantially comply with such notification requirement or any such request; and

"(C) may grant such other equitable relief as the court in its discretion determines necessary or appropriate,

upon application of the Federal Trade Commission or the Assistant Attorney General.

"(h) Any information or documentary material filed with the Assistant Attorney General or the Federal Trade Commission pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be required in any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to either body of Congress or to any duly authorized committee or subcommittee of the Congress.

"(i)(1) Any action taken by the Federal Trade Commission or the Assistant Attorney General or any failure of the Federal Trade Commission or the Assistant Attorney General to take any action under this section shall not bar any proceeding or any action with respect to such acquisition at any time under any other section of this Act or any other provision of law.

"(2) Nothing contained in this section shall limit the authority of the Assistant Attorney General or the Federal Trade Commission to secure at any time from any person documentary material, oral testimony, or other information under the Antitrust Civil Process Act, the Federal Trade Commission Act, or any other provision of law.

"(j) Beginning not later than January 1, 1978, the Federal Trade Commission, with the concurrence of the Assistant Attorney General, shall annually report to the Congress on the operation of this section. Such report shall include an assessment of the effects of this section, of the effects, purpose, and need for any rules promulgated pursuant thereto, and any recommendations for revisions of this section.".

EFFECTIVE DATES

SEC. 202. (a) The amendment made by section 201 of this Act shall take effect 150 days after the date of enactment of this Act, except that subsection (d) of section 7A of the Clayton Act (as added by section 201 of this Act) shall take effect on the date of enactment of this Act.

TITLE III—PARENS PATRIAE

PARENS PATRIAE ACTIONS BY STATE ATTORNEYS GENERAL

SEC. 301. The Clayton Act is amended by inserting immediately following section 4B the following new sections:

"ACTIONS BY STATE ATTORNEYS GENERAL

"SEC. 4C. (a)(1) Any attorney general of a State may bring a civil action in the name of such State, as parens patriae on behalf of natural persons residing in such State, in any district court of the United States having jurisdiction of the defendant, to secure monetary relief as provided in this section for injury sustained by such natural persons to their property by reason of any violation of the Sherman Act. The court shall exclude from the amount of monetary relief awarded in such action any amount of monetary relief (A) which duplicates amounts which have been awarded for the same injury, or (B) which is properly allocable to (i) natural persons who have excluded their claims pursuant to subsection (b)(2) of this section, and (ii) any business entity.

"(2) The court shall award the State as monetary relief threefold the total damage sustained as described in paragraph (1) of this subsection, and the cost of suit, including a reasonable attorney's fee.

"(b)(1) In any action brought under subsection (a)(1) of this section, the State attorney general shall, at such times, in such manner and with such content as the court may direct, cause notice thereof to be given by publication. If the court finds that notice only by publication would deny due process of law to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case.

"(2) Any person on whose behalf an action is brought under subsection (a)(1) may elect to exclude from adjudication the portion of the State claim for monetary relief attributable to him by filing notice of such election with the court within such time as specified in the notice given pursuant to paragraph (1) of this subsection.

"(3) The final judgment in an action under subsection (a)(1) shall be res judicata as to any claim under section 4 of this Act by any person on behalf of whom such action was brought and who fails to give such notice within the period specified in the notice given pursuant to paragraph (1) of this subsection.

"(c) An action under subsection (a)(1) shall not be dismissed or compromised without the approval of the court, and notice of any proposed dismissal or compromise shall be given in such manner as the court directs.

"(d) In any action under subsection (a)—

"(1) the amount of the plaintiffs' attorney's fee, if any, shall be determined by the court; and

"(2) the court may, in its discretion, award a reasonable attorney's fee to a prevailing defendant upon a finding that the State Attorney general has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

"MEASUREMENT OF DAMAGES

"SEC. 4D. In any action under section 4C (a)(1), in which there has been a determination that a defendant agreed to fix prices in violation of the Sherman Act, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

"DISTRIBUTION OF DAMAGES

"SEC. 4E. Monetary relief recovered in an action under section 4C(a)(1) shall—

"(1) be distributed in such manner as the district court in its discretion may authorize; or

"(2) be deemed a civil penalty by the court and deposited with the State as general revenues; subject in either case to the requirement that any distribution procedure adopted afford each person a reasonable opportunity to secure his appropriate portion of the net monetary relief.

"ACTIONS BY ATTORNEY GENERAL OF THE UNITED STATES

"SEC. 4F. (a) Whenever the Attorney General of the United States has brought an action under the antitrust laws, and he has reason to believe that any State attorney general would be entitled to bring an action under this Act based substantially on the same alleged violation of the antitrust laws, he shall promptly give written notification thereof to such State attorney general.

"(b) To assist a State attorney general in evaluating the notice or in bringing any action under this Act, the Attorney General of the United States shall, upon request by such State attorney general, make available to him, to the extent permitted by law, any investigative files or other materials which are or may be relevant or material to the actual or potential cause of action under this Act.

"DEFINITIONS

"SEC. 4G. For the purposes of sections 4C, 4D, 4E, and 4F of this Act:

"(1) The term 'State attorney general' means the chief legal officer of a State, or any other person authorized by State law to bring actions under section 4C of this Act, and includes the Corporation Counsel of the District of Columbia, except that such term does not include any person employed or retained on—

"(A) a contingency fee based on a percentage of the monetary relief awarded under this section; or

"(B) any other contingency fee basis, unless the amount of the award of a reasonable attorney's fee to a prevailing plaintiff is determined by the court under section 4C (d)(1).

"(2) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

"(3) The term 'natural persons' does not include proprietorships or partnerships.

"APPLICABILITY OF PARENS PATRIAE ACTIONS

"SEC. 4H. Sections 4C, 4D, 4E, 4F, and 4G shall apply in any State, unless such State provides by law for its non-applicability in such State.".

CONFORMING AMENDMENTS

SEC. 302. The Clayton Act (15 U.S.C. 12 et seq.), is amended—

(1) in section 4B (15 U.S.C. 15b), by striking out "sections 4 or 4A" and inserting in lieu thereof "section 4, 4A, or 4C";

(2) in section 5(i) (15 U.S.C. 16(i)), by striking out "private right of action" and inserting in lieu thereof "private or State right of action"; and by striking out "section 4" and inserting in lieu thereof "section 4 or 4C"; and

(3) by adding at the end of section 16 (15 U.S.C. 26) the following: "In any action under this section in which the plaintiff substantially prevails, the court shall award the cost of suit, including a reasonable attorney's fee, to such plaintiff.".

CONSOLIDATION

SEC. 303. Section 1407 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"(h) Notwithstanding the provisions of section 1404 or subsection (f) of this section, the judicial panel on multidistrict litigation may consolidate and transfer with or without the consent of the parties, for both pretrial purposes and for trial, any action brought under section 4C of the Clayton Act.

EFFECTIVE DATE

SEC. 304. The amendments to the Clayton Act made by section 301 of this Act shall not apply to any injury sustained prior to the date of enactment of this Act.

SHORT TITLES FOR CERTAIN ANTITRUST LAWS

SEC. 305. (a) The Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), is amended by adding immediately after the enacting clause the following: "That this Act may be cited as the 'Sherman Act'.".

(b) The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), is amended by—

(1) inserting "(a)" after "That" in the first section; and

(2) adding at the end of the first section the following new subsection:

"(b) This Act may be cited as the 'Clayton Act'.".

(c) The Act entitled "An Act to promote export trade, and for other purposes", approved April 10, 1918 (40 Stat. 516; 15 U.S.C. 61 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 6. This Act may be cited as the
(d) The Act entitled "An Act to reduce
'Webb-Pomerene Act'.".

taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (28 Stat. 509; 15 U.S.C. 8 et seq.), is amended by adding at the end thereof the following new section:

"SEC. 78. Sections 73 and 74 of this Act may be cited as the 'Wilson Tariff Act'.".

Mr. MANSFIELD. I send a motion to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will state it.

Mr. ALLEN. I asked that the message be read before the cloture motion was called for.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read it.

Mr. ALLEN. I called for the House message to be read. The Chair did not have it read.

Mr. ABOUREZK. Regular order, Mr. President.

Mr. ALLEN. The message has never been read. I called for it to be read.

The PRESIDING OFFICER. The clerk will read the cloture motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate upon the motion to agree to the House amendment to the Senate amendment to H.R. 8532, the Antitrust Parens Patriae Act, with an amendment in the nature of a substitute.

1. Mike Mansfield
2. Robert C. Byrd, Jr.
3. John C. Culver
4. Philip A. Hart
5. Edward M. Kennedy
6. James Abourezk
7. Joseph R. Biden, Jr.
8. Harrison A. Williams, Jr.
9. Stuart Symington
10. Robert T. Stafford
11. Patrick J. Leahy
12. Edmund S. Muskie
13. Adlai E. Stevenson
14. Daniel K. Inouye
15. Gale W. McGee
16. Lawton Chiles
17. Robert Morgan
18. Henry M. Jackson
19. Charles H. Percy
20. Jacob K. Javits
21. Lowell P. Weicker, Jr.

The PRESIDING OFFICER. The motion has been read. Is the Senator demanding that the message be read?

Mr. ALLEN. I asked that it be read, as the Chair knows. I hand up an amendment and ask that it be read.

The PRESIDING OFFICER. Does the Senator withdraw his request that the message be read?

Mr. ALLEN. The Chair withdrew it for me by not having it read prior to the handing up of the motion.

The PRESIDING OFFICER. The clerk will state the motion of the Senator from Alabama.

The legislative clerk read as follows:

I move that the Senator concur in the House Amendment to the Senate Amendment to H.R. 8532 with an amendment as follows:

Strike title III, that is, on page 30 starting at the end of section 4(b) strike all through section 303(3) on page 35.

Mr. ROBERT C. BYRD. Mr. President, I move to lay the amendment on the table.

Mr. ALLEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. MANSFIELD. I ask for the yeas and nays.

The PRESIDING OFFICER. A quorum has been suggested. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the call of the roll, and the following Senators answered to their names:

[Quorum No. 33]

Abourezk
Allen
Beall
Byrd, Robert C.
Griffin
Hart, Philip A.
Hatfield
Helms
Hruska
Jackson
Javits
Mansfield
Mathias
McClellan
McClure
McGee
McIntyre
Metcalf
Morgan
Muskie
Scott, Hugh
Scott, William L.
Symington
Williams
Young

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant-at-Arms be directed to compel the attendance of absent Senators.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), the Senator from Texas (Mr. BENTSEN), the Senator from Florida (Mr. CHILES), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Maine (Mr. HATHAWAY) is absent attending the funeral of a friend.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Vermont (Mr. STAFFORD), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent due to a death in the family.

The result was announced—yeas 71, nays 4, as follows:

[Rollcall Vote No. 542 Leg.]

YEAS—71

Abourezk
Allen
Bartlett
Bayh
Beall
Bellmon
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Culver
Curtis
Eagleton
Fannin
Fong
Glenn
Gravel
Griffin
Hansen
Hart, Philip A.
Haskell
Hatfield
Helms
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Laxalt
Leahy
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Williams
Young

NAYS—4

Biden
Hollings
Johnston
Weicker

NOT VOTING—25

Baker
Bentsen
Brock
Buckley
Chiles
Dole
Domenici
Durkin
Eastland
Ford
Garn
Goldwater
Hart, Gary
Hartke
Hathaway
Kennedy
Long
Magnuson
Mondale
Montoya
Pastore
Stafford
Stennis
Taft
Tunney

So the motion was agreed to.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. A quorum is present.

The Senator from Alabama.

Mr. ALLEN. Mr. President, I withdraw my amendment and seek recognition.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The motion is——

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until 9 o'clock Monday morning.

Mr. ALLEN. I sought recognition, Mr. President, before he made the motion.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. I thank the Chair.

I might say, it is a refreshing change that the Chair would recognize the first Senator on his feet.

Several Senators addressed the Chair.

Mr. ABOUREZK. Regular order. It is a motion to table; it is not debatable.

Mr. ALLEN. I do not yield. I do not yield. I withdraw my amendment, the motion to table——

The PRESIDING OFFICER. The amendment was withdrawn, the motion to table falls.

The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I shall not yield the floor any time soon until I have expressed my sentiments about what has taken place here today.

Mr. President, I do not suppose anybody in the Senate knows what is in this substitute. I do not suppose a single Senator knows what is in the substitute.

I have examined it there and it is a bunch of chicken scratching, mark out, add on, patchwork. Nobody knows what is in it.

I feel as though it is unfair for the leadership to sponsor a substitute of this sort.

Of course, they are going to get cloture on it. There is no doubt about that. That will come on Tuesday, I am sure. Well, there is supposed to be a vote on Tuesday, but the substitute will not be adopted Tuesday.

Mr. President, I recognize the cloture period is running but, at the same time, I did not appreciate the leadership seeking to recess the Senate without one word being said about this substitute.

Will the clerk hand me the substitute? I assume I have the right to look at it. I want to display it to the Senate so Senators will see what we are up against in legislating in this Chamber.

It has mysteriously disappeared, I understand, but I assume in time it will be available.

What happened on this——

The **PRESIDING OFFICER**. The Chair will advise the Senator from Alabama that copies of the substitute are being made.

Mr. **ALLEN**. I thank the Chair.

What happened is that the House had a bill over there, H.R. 8532. It came to the Senate and, as I recall, was met there at the door and placed on the calendar without going to committee. The Senate Judiciary Committee was studying its omnibus bill. This omnibus bill was in five titles. Toward the end there was a whole lot of give and take about whether the committee would be allowed to meet or what they were going to consider. They were making out like they were trying to reach an agreement there in the Judiciary Committee, indicating they were going to proceed on the Senate bill.

Anybody familiar with what goes on here in the Senate ought to have known that the Senate bill would not be considered, that it would be the House bill because it is that much nearer to passage.

Sure enough, after they negotiated for days, supposedly in good faith, instead of turning out the Senate bill they brought up the House bill.

The House bill just had one title, the parens patriae section. So the sponsors of the antitrust measure, reaching out to speed the thing up and bite off more than they could chew, actually, brought up the House bill of one title and then they added the omnibus bill with five titles.

Anybody familiar with procedure between the Houses knew that four of those titles were nongermane.

I am glad this amendment is in the form of a substitute because it will allow amendments if they do not block them off, which I expect they will do.

The Senate amendments to H.R. 8532 were in the main nongermane because they brought in four extra titles. The bill stayed over in the House. I guess the pro-antitrust representatives pondered what to do with it. Here was a bill with four nongermane titles added on to a one-title bill. So they hit on the idea of adding, as a House amendment to the Senate amendments to the House bill two more bills that had never been considered here in the Senate. I do not suppose anybody knows what those bills contain. They are part of the House amendments to the Senate amendments to the House bill. They came over to the Senate. They took about 6 weeks to do that, to solve that question of how they were going to make these nongermane amendments germane. That was the question to be decided in the House. I suppose they got some advice from over here, too.

In general, these two extra bills that had never been considered in the Senate cover the same subject as two of the titles of the Senate amendments to the House bill. I might say of the other two titles, one, I believe, was definitions and the other miscellaneous provisions and possibly not too important.

So the plan was to bail out the Senators who added the nongermane amendments. The House did not go to conference on H.R. 8532 as it came back to the House because the House started off with one title and the Senate put in four more titles. They could not go to conference on that because there would not be but one title that would be germane. So they sent back three bills, two of which had never been considered in the Senate, none of which had been to a Senate committee.

I guess we would have to say that none had been considered in the Senate though one was used as a framework for these amendments.

They had these two bills, and no one in the Senate has ever had the opportunity to study them.

The House concurred in the Senate amendments and added an amendment, which was these three titles. In that amendment, they said to strike all of the Senate bill and take these three titles. That is what came over here to the Senate.

Now what has happened?

I am hoping the substitute will be made available to me before long because I want to show the crazy patch quilt document that it is.

So that is what we have before us, a substitute on this very complicated procedure, very complicated bill. Did the Senator from West Virginia, the distinguished majority whip, care to explain some of these provisions? Of course he did not, because he did not know what the provisions were.

He did not care. He is not on the floor now. And I would hesitate to embarrass the distinguished Senator from South Dakota (Mr. ABOUREZK), who seems to be managing this effort, by asking him what is in this so-called substitute.

Here is a Xerox of it. Eight lines on the first sheet, three of them have been stricken out.

The next sheets says "Insert the attached."

Attached is a written and printed sheet, and then another hand-written sheet, and then there are some galley proofs here. Here is another interlineation.

I do not know why—well, I do, too, of course. But it is strange, it would seem to me, as to why the Senate did not concur in the wish and request of the House of Representatives that a conference committee be appointed. That is not the motion. The motion is to substitute this patchwork bill that nobody understands. I guess the staff got it up under somebody's—here is another paragraph marked out—under somebody's direction.

Is this the way for the U.S. Senate to legislate? I do not believe it is. It took us 10 days to arrive at the language of the Senate amendments to the House bill.

Here is another marginal addition, and another marginal addition.

I wish Senators would look at this double sheet affair. Half of it is marked out, and it has got two or three paragraphs written in handwriting on the side.

Is this the way we are going to legislate in the U.S. Senate? I do not believe it is, Mr. President. I do not believe this is the way we are going to legislate in this body.

Do you know what happens to this measure after the Senate rubberstamps the action of the leadership?

Look here. Here is the next page. It has got about 20 corrections on it in pencil. Is this the way we are going to legislate?

Here is another one: over half of it in scribbling.

I have seen steamrollers before. I have been run over by them here in the Senate. But I believe this is about the worst steamroller effort that I have seen.

What happens to the bill after we ram it through the Senate? Somebody will get around to reading it, I guess, sometime next week. The amendments will be made available, I assume. They can be blocked off; they know that. There will be very little chance to offer amendments, I feel sure. There will be some discussion of the bill before it is sent to the House.

(Mr. HELMS assumed the chair as Presiding Officer.)

Mr. **ALLEN**. What options does the House of Representatives have, Mr. President? What about comity between the two Houses? The House has been working on this, too, Mr. President. The Senate is not the only body that has been working on this issue; the House has been working on it.

What are we going to do in the Senate, though? There is a rather crude explanation that I think applies to what the leadership is calling on us to do here. They are going to call on us to thumb our nose at the House of Representatives. We are going to be asked to throw in the wastebasket the House effort on this subject.

The House has passed three bills. Three House-passed bills have come to the Senate. What did we do with them? Well, the first one we latch on to, H.R. 8532, the bill before us, we latch on to it and strike every bit of it and put in a Senate substitute. Then they pass two more bills and send over here, and they are in committee. And then the House says, "Well"—in effect—"let us put these bills together in an amendment and send it over there to the Senate, and see if they will give us a little bit of consideration on this matter. We have been working on it, too. We would like a little piece of the action."

So they package these three bills up, they package it up in a nice, neat package, and send over 35 pages on the subject. And that is what the leadership jumps on, and seeks to substitute this monstrosity here for this carefully planned measure.

I do not know that I would agree on every provision in the three House bills, but they are entitled to some consideration, Mr. President. The House is a coequal body. Why should the Senate take the House bill, H.R. 8532, knock out every single word in the bill, add its substitute, and send it back over to the House, when the House says, "Well, let us have a little bit of this action. You knocked out our bill, H.R. 8532, knocked out all the provisions, and then you added your conception; now let us put them together," the House in effect said. "Let us put in a package the three House bills, send them over there to the Senate, and let them consider them in connection with the Senate amendment."

Is that what we are doing? We may do that yet before it is over, if the Senate does not vote cloture. If the Senate approves this sort of strongarm tactic, we will do that.

But we say to the House, "Well, sorry about that. We are knocking out your amendments."

We knocked out the provisions of the first bill, Mr. President.

Then when we sent the Senate's version over to the House of Representatives, do you know what? We did not even ask for a conference. We said, more or less, here it is, here is what we have decided, and sent it over to the House of Representatives. Possibly it would be better for me to be making the speech over at the House of Representatives. I rather believe it is going to be made when the matter comes up for their consideration. But the House has been absolutely ignored in the drafting of this bill.

If the sponsors of this legislation had been content originally to turn out the Senate's bill with its omnibus provision, with five titles, act on that, and send that over to the House of Representatives, we would not have had the problem of nongermaneness. But the sponsors were so anxious to ram this bill down that they latched onto the House bill thinking that we could add the provisions of the Senate bill, send it back over to the House and they would take it, I guess, because we did not even bother to ask for a conference with the House of Representatives.

What happens when this substitute is adopted? You notice how quickly they file a cloture motion. They hardly finished reading the memorandum subsheet. If we had the substitute read—I do not know whether we could or not—we could ask to have the substitute read, let us put it that way. I believe that would be more accurate.

What is the haste in the matter? Why do they send up the substitute and then in the next breath or before you exhale that breath, for that matter, they slap a cloture motion down.

That is read while I am trying to get the House message read. But the House message was not read and the substitute was not read. I guess they have difficulty reading this scribbling here on the substitute.

I digress before I get to answer my own rhetorical question. What happens after this substitute is rammed through the Senate?

It goes over to the House of Representatives. Does the House of Representatives have an opportunity to amend it? No, they do not. They have no chance to amend it. They have three options.

One is to disagree with the action of the Senate. They are not going to do that because the majority of the House I feel sure would want fair, reasonable, and strong antitrust legislation. So they would not want to kill the latest Senate offering.

All right. They do not want to kill it. They could request a conference. Do you know what chance they would have getting a conference? About as much as they had when they requested it this time.

The Senate did not ask for a conference when they passed its amendment, and when the House asked for a conference this is the Senate's answer, this monstrosity here. And the Senate is going to be called on to vote up or down on this vast field of legislation incorporated in this gerry-built structure to send it over to the House of Representatives to, in effect, take it, leave it, or beg us to a conference. That is the message we send to the House. It will be dressed up in more polite language than that, Mr. President, but that will be the message from the Senate to the House of Representatives.

Take this, leave it, or beg us for a conference. Those are the three options that the House of Representatives is going to have when this bill is rammed down the Senate's throat, and make no mistake about it—it will be rammed down our throat.

I am going to make this proposal to the leadership. I feel as though it is a reasonable request and one that ought to be accepted, and it would be legislating in the open. It would be legislation that was hammered out here in the Chamber after over 10 days of debate. I am going to suggest that we take the Senate amendments as passed—and it was the fairly general feeling that they were not too bad—take the Senate amendments as passed, add to that just enough to make it a variation from the Senate amendments as passed, add a section that this bill shall go into effect on January 1, 1977, and send that back to the House of Representatives.

I dislike acting in that fashion but certainly it is something that we know what is provided by the legislation. No one knows, and I dare say when we vote cloture very few people will know what is in this mish-mash here.

But I would feel that that is a reasonable compromise that, in view of the lateness of the day, we ask the House again if they would not be willing to accept what the Senate did.

I believe that would be much more compatible with the traditional Senate's idea of fairplay, rather than to call on the Senate to act in the dark on a substitute that we may or may not have an opportunity to examine before the vote comes.

So, as of right now I would be willing to make that proposal, not to the extent, however, of yielding the floor, at this time. But I would feel that that would be a reasonable approach rather than a legislate in the dark on something that none of the Senators, I daresay, know a great deal about.

The distinguished assistant majority leader was mighty anxious to get out of here without giving an explanation of what is in the bill. He tried to get recognition for the purpose of recessing the Senate, but at this time he was a little late getting on his feet, and the then occupant of the chair, the distinguished Senator from Oklahoma (Mr. BELLMON), recognized, as the rules require, the Senator first getting to his feet and asking for recognition. That is something of a novelty, for the Senator from Alabama to be accorded that courtesy in a critical situation such as this.

I am not complaining about the recognition I receive on a routine matter. But when a situation gets to the point where it is closely and heatedly fought, the Senator from Alabama has had difficulty from time to time in being recognized, even though unquestionably he was on his feet seeking recognition.

So it is a comfortable feeling, Mr. President, to know that you can get recognition when you are entitled to it in the Senate; and it encourages the Senator from Alabama to feel that at a critical juncture in proceeding, we will not leave the Senate Chamber without finding out a little something about what is in a bill.

I trust that the substitute will appear in the RECORD. However, I am not going to ask unanimous consent that it appear in the RECORD, because I recall all too vividly that on one occasion in the Chamber, the Senator from Alabama, as the rules allow, did make a unanimous-consent request, and the Chair ruled that the Senator from Alabama lost the right to the floor by making that unanimous-consent request. That was clearly in contravention of the rules, but what could the Senator from Alabama do? He lost the right to the floor, and someone else was recognized. I am not going to make that request. I know that the same thing would not happen with the present occupant of the chair, but there is always an appeal from the ruling of the Chair, and all that while, the Senator from Alabama would be off the floor, unable to discuss this matter.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield so that I may make the request, with the understanding that the Senator will not lose his right to the floor and that it would not be considered a second speech against him?

Mr. ALLEN. I will not yield the floor for a question. I will yield the floor only for an answer to my offer to dispose of this matter tonight, and that is that we pass, as a substitute to the substitute, the Senate bill as it passed the Senate.

There is a lot of talk about a compromise having been reached to obtain the passage of this bill. A compromise was reached that we would have a vote on it. The distinguished Senator from Nebraska (Mr. HRUSKA), however, stated that there was no compromise. I use the word "compromise" loosely, because we did agree to let it come to a vote, that we would stop our debate on it. That was as far as the compromise went.

The distinguished Senator from Nebraska (Mr. HRUSKA) made it very clear that every Senator was entitled to take such action as he wished with respect to the bill and to continue his opposition to the bill. If, in fact, a compromise was reached, as some of the proponents of this legislation say, it seems to me that that is a compromise that would work both ways. If a compromise was reached that we were going to abide by the Senate bill, it seems to me that they would be more than glad to send the Senate bill back over there with the minor change I suggested and dispose of this matter tonight.

I hope the distinguished Senator from Nebraska will agree with that offer on my part. I state that unless the distinguished Senator from Nebraska feels that that is in order, I will not be willing to do that.

(At this point, Mr. LAXALT assumed the chair.)

Mr. ABOUREZK. Mr. President, will the Senator yield for a response to that so-called agreement?

Mr. ALLEN. I will yield only for a "yes" or "no" answer—or a "yes" answer. I will yield only for a "yes" answer to my question. [Laughter.]

Mr. ABOUREZK. How about a "maybe?"

Mr. ALLEN. Mr. President, continuing my remarks, I do not know what is behind this effort to pass this substitute. I am going to reiterate that offer at the time this matter comes up for a vote on cloture, and Senators will be given the option of accepting this bill as is, by voting cloture or by not voting cloture, and eventually accepting the suggested amendment of the Senator from Alabama.

If the proponents of this measure feel that they compromised, that they reached an agreement with respect to the Senate bill, and that the Senate bill was what we agreed to in the Senate, what has happened to that agreement? They say there was an agreement. I said there was no agreement. They say there was an agreement. I say we agreed to let the bill come to a final vote. That is the only agreement that was made. They say that an agreement was made to accept the Senate bill. Well, if they are sincere in that, Mr. President, let us see them put up or shut up. So here is an opportunity. We will see who is interested in throwing a monkey wrench into the proceedings of the Senate.

We get a lecture from the leadership about consuming time every time we have a discussion here.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield and inform the Senate as to who is lecturing the leadership at this time?

Mr. ALLEN. I did not understand the Senator, but I am not going to ask him to repeat it. I believe I will be as well off without hearing it, I say to the Senator, with all due respect. I doubt that it was a comment that would give a great deal of comfort to the Senator from Alabama. [Laughter.]

I am not yielding for any purpose, I state again.

Mr. President, let us review again: I think it might be a good idea to read this substitute into the RECORD, but I do not want to be too tedious about it. I am hopeful that the Official Reporters will see that it is placed in the RECORD, so that somewhere along the line we can find out what is in it.

I state to the leadership, which is so anxious to move the legislation on, that if they wish to make progress, it seems to me to be the fair thing to accept what the Senate has done. They say an agreement was made that this is what it would be. But if they want to go beyond what the agreement was, let us continue this discussion.

That is the danger, I say to the distinguished Senator from Nebraska (Mr. HRUSKA). We do not know what is in this bill, this substitute. We do know in a general way what is in the bill as it passed the Senate. If the proponents of this legislation want what the Senate passed, here is an opportunity to get it and get it in very short order, I would think. But if, in fact, they want to go beyond what they said the compromise was and put in this substitute that nobody knows what is in it, then let us have some filibuster on it, or discussion, and an explanation here. Instead of giving an explanation, the distinguished majority leader filed a cloture petition.

What kind of legislation is that? This is supposed to be a deliberative body and led in its deliberative efforts and discussion by leadership. What do we get? What do we have served up to us in the Senate, at a time when everybody wants to go home? We have this mishmash that has been tossed out as a substitute.

We know that the leadership, any time it wants to—I am not telling them anything; they know—can find another substitute to this substitute and there goes your amendment—the amendment in the second degree—and no further amendments. So that is what will happen—what is going to happen, I dare say.

But I want to protest that. I do not like that. I do not believe that is the way the tradition of the Senate should operate. I believe that if the leadership had wanted to deliberate on this matter, it would have explained what is in this substitute, given a little opportunity for explanation. Was one single word of explanation given? Not one.

Cloture is supposed to be used after debate has been drawn out for such an extended period that the necessary majority in the Senate do not want to have it carried on any further. Well, even under pretty strict rules, Mr. President, do you not think there ought to be 15 seconds of explanation of a bill before you apply cloture; 1 minute, possibly? One question, possibly? That is hardly conducive to harmonious relations, I say: that we not give an opportunity to know what is in a complicated piece of legislation.

I say again, we had the Senate amendments to H.R. 8532 under pretty close scrutiny. They were scrutinized by the trustbusters, scrutinized by the business community. The various provisions were weighed and discussed. Efforts were made to come to an accommodation on some of the provisions. Some provisions were agreed to, others were not. But, at least, the people's representatives here in Congress had an opportunity to know what was being forced upon the business community. They knew what was in there. They had an opportunity to amend, and many amendments were adopted, Mr. President. I even offered an amendment that was on the verge of passage until the distinguished Senator from West Virginia moved to adjourn. I offered an amendment to H.R. 8532, a substitute to it, as a matter of fact, that we send it back to the House, provided that on the parens patriae, which allows attorneys general throughout the country to file antitrust suits.

I redrafted that by having a substitute that had a provision that this rule would not be applicable in any State until that State, by law, elected to come under the provisions. That would have been a substitute. That would have taken place of 8532 and gone back to the House.

They made a motion to table it. That motion did not carry. It failed to carry by three or four votes, presaging, Mr. President, a favorable vote on my substitute.

Right before the vote, in comes a motion to recess and we go out, right at a time when we are about to take final action on this substitute of the Senator from Alabama. So that is the way this game has been played all the while.

I think just about the worst stroke is coming in here at what ordinarily would be quitting time on a Friday and seeking to ram this gerry-built structure down the throats of the country—of the country, not just the Senate, Mr. President. We are the people's representatives here. Are we legislating this?

Mr. President, if there were no discussion of this thing now, it could come to a vote, and this measure that not a single Senator knows the provisions of—not one—would be enacted, or we would pass it and send it to the House, as I said, giving it three options—take it, leave it, or beg us for a conference.

I must say that this is rather disillusioning, I think, to the public, to know that the Senate would be asked by the leadership, those that we have chosen to lead us properly here, in the Senate, to accept a measure like this.

I do not know whether you are outraged about it, but I am, that they would have so little respect for the Members of the Senate that they would ask us to take in, blind, a 25- or 30-page bill in fine print, in handwriting, in printing, in every single way except an orderly document. I believe this is just a little lapse in discretion. I am going to be charitable in this matter, Mr. President, as is my custom. I am going to view this action in a charitable light.

I am going to hope and feel that this is really not a serious effort to ram this measure down our throats; that the measure had to be called up at some stage of the proceedings, and they they would go through this strongarm tactic of getting cloture filed, and then they would use just a little bit of discretion, and a little bit of consideration, for the feelings of the Members of the Senate.

I am supposed to represent the people of Alabama and the people of the Nation. I am supposed to make decisions in these matters as to what is best for the people.

But when I am handed a document like this and told to vote on it, I believe I am carried just a little bit too far.

I like to follow the leadership, when I can, conscientiously, and I do. I want to. I strive to. But there are occasions when I am just asked to go a little bit farther than I can go, and this is one of them.

So I wish the distinguished Senator from West Virginia had called his staff around him, and other sponsors of the measure, and had given us an opportunity to query him about some of the provisions.

Mr. ROBERT C. BYRD. Mr. President, I did not call any of my staff.

Mr. ALLEN. Mr. President, I do not yield. I stated that I hoped, I would have thought, that the distinguished Senator might have done that in order that he could help answer some of these questions that come to our minds about what is in the bill. That is the big mystery in the Senate this afternoon, what is in the bill. I do not feel that it is a great deal of a compliment to Senators to put in a mishmash of a bill, a substitute that takes the place of everything we have done up to now, every single thing, action by the House, consideration over there. They spent weeks and months on this subject. The Senate has spent years on the subject. All that is going to be thrown in the wastebasket if the effort of the distinguished assistant majority leader is allowed to carry.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I will accommodate the distinguished Senator; yes, sir.

Mr. ROBERT C. BYRD. Mr. President, would the Senator have allowed the Senate to disagree to the amendment by the House and agree to the request by the House before a conference and the Chair appoint conferees?

Mr. ALLEN. I told the Senator what I would be willing to do.

Mr. ROBERT C. BYRD. No. Mr. President, will the Senator answer my question?

Mr. ALLEN. That is an iffy question. That question is not presented.

Mr. ROBERT C. BYRD. No. The Senator was presented with that question from time to time in our discussions here. I have the distinct impression that he would not have. He would have done everything he possibly could, within the rules, to have prevented the Senate from disagreeing to the House amendment.

Mr. ALLEN. I yielded for a question, I will say to my distinguished friend. That is too iffy a question because that has not come before the Senate, what the Senator speaks of.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. ALLEN. If the Senator had taken that action, I think it would have been much more constructive action because it at least would not have called upon the Senate to make a decision this afternoon on this complicated subject.

So if we are going to be called on to yield for questions like that in the future, well, there will be no further yielding until I have concluded giving my remarks about the tactics that are being used to ram this measure down the throats of the Members of the Senate, the Members of the House, and the whole American people. That is what we are called upon to do.

If the Senator from Alabama should sit down, the question would be on agreeing to the substitute. Of course, that question would not be there very long because we would have a motion to recess. That would be the next motion made after the Senator from Alabama sits down. That is the foregone. conclusion.

But I feel like what has been done here with respect to this bill needs to be brought to the scrutiny of the public, and I want to see whether this is the sort of tactics of which the country approves. That is what I would like to see, and that is the reason why I am carrying on this discussion at this time.

Mr. ABOUREZK. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I will not yield. I will yield only for a response, an affirmative response, to my question. That is the only yielding I will do, I will say to the distinguished Senator. I do not yield. I hope the Senator will quit asking me to. So, Mr. President——

Mr. ABOUREZK. It does not hurt to ask though even though I get turned down every time. It does not hurt to ask, does it?

Mr. ALLEN. Mr. President, all through the proceedings on this bill, why was it so important that rough tactics would be used to obtain its passage?

From the very start, Mr. President, of this measure corners have been cut in pushing this measure. Efforts, and successful efforts, I might say, have brought this measure to this point, and have been just a little bit measures that I would not want to give my approval to.

At the very time that the proponents of the measure were laying plans to go forward with the House bill, 8532, knowing they could add the Senate amendments and you would be one House ahead, so to speak, at that very time in the Judiciary Committee they were carrying on supposedly good-faith efforts to reach a compromise or agreement on S. 1284, I believe it is. I believe that was the companion Senate bill. The Judiciary Committee had a hard time from time to time getting to meet, but meetings were allowed. Right up to the last minute, Mr. President, while talking with the Senators opposed to the legislation, making out like that was the measure they were going to bring out and on which they were operating, they knew all the time, Mr. President, they were going to move on H.R. 8532.

They got an agreement on the floor that when the bill came over from the House it would not even go to a committee, that it would stop and go to the calendar. So while everybody was waiting for the Senate to report the Senate bill, S. 1284, what do they do? Why, they bring up the House bill.

Well, over here in the Senate, we do not have any rule of germaneness. They do over in the House. I suppose Senators knew that. That is one of the first things they learn around here. But knowing that four of these titles were nongermane they added the omnibus Senate bill as a great big amendment or substitute for the House bill.

Well, that was discussed at length, as I say, and it was pounded out in debate here in the Senate. It was not altogether free debate because they slapped a cloture motion on us right straight. But enough amendments were at the desk that had to be considered, amendments that improved the bill, and many of which were accepted, and it is a bill that was hammered out here on the floor.

How much hammering is there going to be on this bill? None. I am not telling the Senators, who have great knowledge of the rules, I am not telling them anything when I say that I know they will file a substitute to this substitute and cut off amendments. I realize that is what they are going to do.

They do not want to give the Senate any chance to make any improvements or any changes in this bill. They are going to stack it to where it would be unchangeable, like the law of the Medes and Persians we read about in the Bible.

I certainly am glad we do not have a system here in this country that the Medes and Persians had, I say to the distinguished Senator from Nebraska (Mr. HRUSKA).

The Bible tells us that the Medes and Persians had a system where, if they passed a law, it could never be changed, it remained from then on.

We read about that in the Bible, about Daniel. He was a great favorite of the king, but they had passed this law saying that all people in the kingdom had to worship the king and if they did not worship the king they would be put to death.

Daniel, being faithful to God and knowing that only God was God and the king was not God, refused to worship him. Then the king wanted to let Daniel go. He wanted to free him. Apparently, he did not have the right of pardon. He did not have the right to pardon Daniel. He did not have a right to change the law because the law of the Medes and Persians was permanent, unchangeable.

So regretfully, the king had him thrown in the lion's den. We all recall that he was saved from the lion's den by an angel of the Lord.

But I call attention to that to make a prediction about the further handling of this bill.

They will doctor it up a little bit, another substitute, to placate some Senators who are shocked by what they have done up to now. They will offer that as a substitute, then we cannot offer any more amendments. A substitute to a substitute, that is the end of the line.

So they will vote that and then it will be in a position, once a substitute to a substitute is adopted, that is where it becomes like the law of the Medes and Persians, it cannot be changed.

So they are not going to allow any changes, to change provisions that might shock the conscience of some Members of the Senate—and it might have to be a pretty severe provision, I say to the distinguished Presiding Officer, to shock the conscience of the Senate.

It will have to be a pretty bad provision, I say to the distinguished Presiding Officer, to shock some Members of the Senate.

I believe they will take most anything. That was handed out to them without too much study on this measure.

I have reason to think that because it was tossed in here today and the question was on voting it, the question was on the passage of the amendment, not one word of explanation given about the substitute. Yet we are expected to vote on it.

Copies made for Senators? Not one. Not one single copy available for any Senator who might request it.

The clerk was kind enough to make a Xerox copy for me, and I am sure that on request they would make others. Hopefully, it will be printed in the RECORD when it comes out tomorrow.

I just want the Senate to know what is being—I am not going to say "done"—I am going to use the word "perpetrated."

I just want the Senate and the people in this country to know what is being perpetrated here on the floor of the Senate in the guise of legislating on a terrifically complicated subject.

I am not an authority on antitrust law. I am not on the Judiciary Committee. I have not done too much study on this subject. But I understand that no major antitrust legislation has been passed by the Congress in quite a number of years.

All the while, it is being studied. It has been studied. The House has studied it for years, and the House, during this Congress, has studied it for months. The Senate committee has studied it for months.

I do not know who wrote the bill. No explanation was made. I am sure the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) did not write it, even though he offered it.

I pointed out, he gave no opportunity for questions to be asked of him as to the contents of the bill.

So after all of this study, after months and years of study, what the House has done is to be thrown out the window. What the Senate as a body has done is going to be thrown out the window. The recommendations of the Justice Department, antitrust division, are going to be thrown out the window.

What we are asked to agree to is this conglomeration of words and figures and marginal entries, erasures, block outs.

I pointed out, Mr. President, not only is this effort an affront to the Members of the Senate, it is an affront to the House.

Let me point out a little interesting thing here. It shows a whole lot of the method in the madness of the proponents of this measure.

The very first line of the bill—and it is put in as an afterthought because it is up above title I and it is not part of the caption—it does not have a caption, come to think of it, if I have the full bill here.

I guess they will get around to amending that, though, and make a substitute for the substitute.

This is rather amusing.

> This act may be cited as the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

Concerning Congressman RODINO, whom I admire and respect, and not indicating otherwise, it does not take very stronger vivid imagination to know why his name was put on there as not just one of the authors but one of the names to be used in citing the act.

We will speak of the act in years to come as the Hart-Scott-Rodino Act. I guess everybody, Mr. President, likes to live in history. The distinguished Senator from Nevada (Mr. LAXALT) will live in history not only for his outstanding service here in the Senate but for being national campaign manager for Governor Reagan who ran such a great race, such a gallant race, in his quest of the Republican nomination for the presidency. It was due to the fine leadership of the distinguished Senator from Nevada (Mr. LAXALT) that this campaign was waged so effectively. So the distinguished Senator from Nevada (Mr. LAXALT) will go down in history, and the three gents whose names will be attached to this bill will go down in history—Senator HART, Senator SCOTT—I assume that is Senator SCOTT of Virginia, though it does not say—Senator SCOTT, Senator HART, and Mr. RODINO, in the Antitrust Improvements Act of 1976.

The House is going to be called on to take this thing sight unseen, Mr. President, unless they read it in the CONGRESSIONAL RECORD, unless some time over the weekend copies are printed.

But this was sent from the House in such a manner that they knew this effort was an affront to the House. I hope those in the House who oppose this bill, and who oppose even more the tactics of those seeking to ram it down the throat of Congress, will check my remarks in the RECORD in order that they might see how some of us here in the Senate feel about what the Senate is being called upon to do.

I do not say what they are going to do, because I seriously doubt if they are going to.

So this effort is an affront to the Members of the Senate, to be called on to vote on a complicated measure like this without any opportunity to study it, without any opportunity even to have a copy.

And it is an affront to the House, Mr. President, after they worked so hard in this field, after they studied this question for months and years after they sent three bills to us; after one of them is seized upon by the proponents of this legislation and all of the provisions of the bill stricken out—it is left just a skeleton—and then the Senate provisions are put on there.

Why not go with the Senate bill? Do not ask them to do that because that might take a little time.

I urged them to go with the Senate bill. I called attention to the fact that the distinguished Senator from Michigan (Mr. HART) had worked in such a dedicated and fearless fashion to get a bill out of the Judiciary Committee that we ought to go with the Senate bill. But other minds in control of the effort thought they saw a shortcut:

> No, let us not send the Senate bill to the House. We already have the House bill that we can tie these provisions onto and thereby save some days, avoiding direct action by the House.

So that is what they did. They took H.R. 8532 from the House, abandoned their own Senate bill, S. 1284, completely disembodied the House bill, and tacked the provisions of the Senate bill onto it.

That was a shortcut, they thought. But they evidently did not stop to think that in putting the five title Senate bill or its provisions onto the House bill, which had just one title, they were adding a lot of nongermane titles.

So the bill gathered dust in the House because they did not want to go to conference on a House bill with one title to which had been attached a Senate bill with five titles. The House has a rule that anything added in the Senate has to be germane to the provisions of the House bill. It is a pretty good provision. Here in the Senate we do not have a rule of germaneness. We can have a bill on one subject and attach an entirely different subject onto that bill as an amendment. But when it goes to conference, they will not consider these nongermane amendments.

In their haste to ram this bill through, the antitrust Senators added four nongermane titles to the House bill. They are afraid they are going to lose the whole bill or four of its titles.

Somebody came up with the bright idea, "Well, we passed three bills. The Senate has not accepted any of them. Let us put them together in the form of House amendments." Here it is, 35 pages long. They sent that over to us.

The Senate disregarded the original provisions of the House bill and they are getting ready to disregard the amendments the House sent over here as amendments to the Senate amendments.

So that is a pretty good track record for the Senate in comity with the House of Representatives—completely disregarding the actions of the House, and saying, "We know best how to do it."

That is the effect of this substitute that has been wrapped together out of—it almost looks like out of paper sacks or something—at the desk, to take the place of years of study on the part of the Senate, years of study on the part of the House of Representatives, years of study by the Justice Department, years of study by the scholars on this subject, the legal profession; and yet here, this afternoon, we are called upon to act on a bill as to which no explanation whatsoever is given. Rather than give an explanation, the leadership sought to adjourn the Senate, or recess the Senate, until Monday.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. ALLEN. I yield for a question only.

Mr. HRUSKA. For a question, yes.

Is the recollection of the Senator from Nebraska accurate that the Senator now speaking refused, or seemed to be reluctant to yield for a question, unless there was first a favorable response to his question as to whether or not it would be a wise and an agreeable step to the questioner that his proposed substitute, or one that he would propose, would be made first?

Mr. ALLEN. Yes, that is true.

Mr. HRUSKA. Is it true that if the Senator from Nebraska gave such an answer, or such a response to the Senator's question, he would then qualify for a further question in that vein?

Mr. ALLEN. Yes, I would say that would certainly qualify the distinguished Senator. And another thing that would qualify the distinguished Senator is the fact that he has given so many years of study to this subject and is an acknowledged expert on the subject, and the Senator from Alabama feels that he could gain a great deal of information, a great deal of knowledge, from questions that the distinguished Senator from Nebraska might ask.

Mr. HRUSKA. The Senator is kind in making those observations. I should like to ask the Senator this question——

Mr. ABOUREZK. Mr. President, I make the point of order that the Senator from Alabama yielded only for a question. The Senator from Nebraska is now making a speech.

Mr. ALLEN. I yielded for a question only. If the Senator has departed from that, it is not the fault of the Senator from Alabama.

The PRESIDING OFFICER. Under the precedents, the Senator can be warned once if he yields for more than a question.

Mr. ALLEN. I will yield for only a question, I will say to the Senator from Nebraska, lest I lose the floor.

Mr. ABOUREZK. Mr. President, though the Senator says he yielded for a question, the fact is that he remained silent and allowed the Senator from Nebraska to make a speech, and my point of order——

Mr. ALLEN. Very well. If the Chair has given me one warning, then I will not yield further, lest the point be made and sustained that the distinguished Senator from Nebraska is doing more than ask a question.

Did the Chair rule that the distinguished Senator from Nebraska had gone beyond asking a question?

The PRESIDING OFFICER. The Chair has made no such ruling.

Mr. ALLEN. I understood the Chair to say that the Senator having the floor was entitled to one warning.

The PRESIDING OFFICER. That is correct.

Mr. ALLEN. One warning of a violation?

The PRESIDING OFFICER. That is correct.

Mr. ALLEN. Does the Chair hold that it has been violated one time, then?

The PRESIDING OFFICER. That is the state of the record.

Mr. ALLEN. Very well. I yield no further, then, Mr. President. And, by way of apology to the distinguished Senator from Nebraska, I will state that the Chair has held that the form of the Senator's question was more than a question, and that any further repetition of such a question would deprive the Senator from Alabama of the floor.

Mr. HRUSKA. The Senator from Nebraska is duly aware of the fact, Mr. President, that one warning has been issued. I have further questions.

The PRESIDING OFFICER. Very well.

Mr. HRUSKA. Is it not true, I ask the Senator from Alabama, that the consideration of the Senate-passed bill as it went from the Senate to the other body included extensive debates, discussions, and votes upon a number of subjects, such as the following: the authorization of attorneys general to sue under the parens patriae section of the bill; the question of duplicative damages; the question of the applicability of rule XXIII of the Federal Rules of Civil Procedure; the matter of notice in the parens patriae or class actions; the various types of notice; the question of measurement and assessment of fluid recovery, and the question of distribution of fluid recovery; and a number—a numerous additional list of questions?

Mr. ALLEN. That is correct; and I am sure the Senator is making a point that a great deal of legislative history has been established by the debate here on the floor, as questions were asked and as answers were given, as to the effect of those provisions of the bill and the effect of amendments on the bill, and that we are going to lose this legislative history on these provisions if we follow the course of accepting without question the substitute of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD).

Mr. HRUSKA. Would the Senator from Alabama agree with the Senator from Nebraska that the disposition of the several debates and the votes on the several questions which I have referred to give the Senate a chance and an opportunity for expressing its will on each of those propositions?

Mr. ALLEN. That is correct, yes.

Mr. HRUSKA. Let me ask the Senator from Alabama whether he is in a position to inform the Senate and the Senator from Nebraska whether or not there have been changes made in the expressions of the will of the Senate as made here on the floor, and the fashion in which the subjects that were decided there are now reflected in the bill, H.R. 8532, which was transmitted from the House to the Senate a day or two ago.

Mr. ALLEN. Well, of course, nobody knows what is in the substitute, and very few know what is in the House amendments that we are asked now to accept this substitute in lieu of. There has been no opportunity whatsoever to study the pending substitute. As I have stated, I am sure that the Senator who introduced the substitute has no knowledge of its contents.

Mr. HRUSKA. Would the Senator from Alabama agree with the Senator from Nebraska that if the observations just made by the Senator from Alabama pertain and apply to the bill as sent here from the House, they would apply doubly to the amendment in the nature of a substitute?

Mr. ALLEN. Yes, unquestionably.

Mr. HRUSKA. Because until this amendment in the nature of a substitute was handed to the clerk for attention, nobody knew what the content of that substitute was.

Mr. ALLEN. That is correct, and the House amendments that we will have so totally disregarded if we accept this substitute have been available for quite a number of days; and in addition to that, they do comprise the exact provisions of three separate bills that the House of Representatives passed. So a great deal of access has been available, or has been had by interested persons, to what the House amendments provide.

But under the substitute offered by the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) all of this will be thrown out the window, the original House bill, the House amendments to the Senate amendments and, in fact, the Senate amendments themselves that were hampered out here in the Chamber, as the distinguished Senator from Nebraska has pointed out.

Mr. HRUSKA. I thank the Senator.

Mr. ALLEN. I thank the distinguished Senator for asking these questions and directing my attention to them and also pointing out, by the nature of his questions, the deficiencies in the substitute bill that we are called upon to act upon. In fact it is the pending question right now, and if the Senator from Alabama should yield the floor it would be the duty of the Chair to put the question unless other Senators might care to speak, or if other Senators might care to speak would be a better word, because at the time the Senator from Alabama was seeking recognition a few seconds thereafter the distinguished assistant majority leader sought recognition for the purpose of recessing the Senate, not only to avoid answering questions about what in the world is contained in his particular substitute here but also preventing any discussion of the strange manner and method by which this substitute now is pending before the Senate.

The Senator from Alabama, of course, has had no opportunity whatsoever to read the substitute, nor has any other Member of the Senate, I daresay. So far as the Senator from Alabama knows there is only one copy of it, because when the substitute was filed and the Senator from Alabama asked for a copy of the substitute none were available, and a

Xerox copy was made. I daresay the distinguished Senator from Nebraska does not have one until this good moment unless he asked the clerk to prepare him one as well.

Mr. HRUSKA. Mr. President, will the Senator yield for a question?

Mr. ALLEN. Yes, for a question on this.

Mr. HRUSKA. Does the House bill, as we now have it before this body, contain provisions which make the act effective only for acts committed after the enactment of the bill into law?

Mr. ALLEN. No is the understanding of the Senator from Alabama.

Mr. HRUSKA. Does the Senate bill as it was approved here in the Senate and transmitted to the other body cut off the retroactive effect of the bill?

Mr. ALLEN. It is the understanding of the Senator from Alabama that the Senate bill does, yes.

Mr. HRUSKA. Does the Senator from Alabama believe that all States desire the parens patriae provisions contained in the bill which was transmitted to the Senate by the House of Representatives a few days ago?

Mr. ALLEN. It is highly doubtful in the judgment of the Senator from Alabama that they do, and it is for that reason that the Senator from Alabama offered an amendment, which was not tabled the day it was offered, which provided that the provisions of title 4—that is the parens patriae title—would not go into effect in a particular State until that State by law elected to come under its provisions. I thought that was a good amendment so I offered that on the original House bill, and as I related earlier an effort was made to table my substitute to H.R. 8532, the very bill we are considering now, and when the motion was made to table, it was not agreed to and, as the Senator knows, quite as is the practice here, once a tabling motion is made to a measure and that tabling motion fails, it is customary to go right on with the main question. But the Senate was prevented from doing that by a motion to adjourn quite early in the day by the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD).

The next day they had the troops together and were able to kill this amendment. They were not able to file another tabling motion but had an up-and-down vote on it and were able to defeat it by a narrow vote. But recognizing the equity of that position that the Senator from Alabama advanced, the floor manager of the bill, the Senator from North Carolina (Mr. MORGAN) took another amendment of the Senator from Alabama that provided the provisions of title IV, the parens patriae title, would remain in effect in a particular State until that State by law elected to come out from under the provisions of parens patriae. And he recommended to the Senate that it adopt this second amendment of the Senator from Alabama, and the Senate did adopt it, and that is in the Senate amendments that went to the House of Representatives.

I daresay, I have not looked for it but I expect I would look a long time before I found that provision in this substitute, even though the Senate has voted it by a rollcall vote.

So I would say in answer further to the Senator's question that I do not feel that the people of all the States want their attorneys general to be filing suits to build up their image in their respective State.

I have no fear of any such action in my own State because we have an outstanding attorney general who I feel will not depart from a high plane practice in this area, but in other States there may be that objection. Of course, we are legislating for the entire country.

Mr. HRUSKA. Will the Senator from Alabama agree with the Senator from Nebraska that should the bill from the other body not contain this opt-in or opt-out amendment or provision the result would be that whether or not the people of the State wanted it or whether or not the legislature of the State wanted it, their attorney general would be armed with the provisions contained in this bill to bring actions at his pleasure that would comply with the provisions contained in the bill that would be enacted into law?

Mr. ALLEN. That is my understanding, yes.

Mr. HRUSKA. I wish to ask the Senator from Alabama: Does the House bill that was transmitted here a few days ago permit contingent fees for private attorneys who are hired by State attorneys general in these class actions or the parens patriae action?

Mr. ALLEN. The bill does not make that provision, is the understanding of the Senator from Alabama. The House bill does not provide for that type of contingent fee.

Mr. HRUSKA. Is it not true that the Senate-passed bill did contain restrictions and prohibition upon the percentage contingent fee basis that might be extended by the attorney general to his engaging private attorneys in such cases?

Mr. ALLEN. That is scrapped under the House bill, as the Senator from Alabama understands it. Some of this possibly was in the legislative history in the House of Representatives just as the Senate made legislative history as it acted upon the various provisions and amendments to the Senate bill. So, the point that the Senator from Nebraska has been making, I believe, is that we are going to lose this legislative history. All of that is going to be scrapped along with the various provisions of the original House bill, the Senate amendments, and then the House amendments to the Senate amendments to the House bill. All that is going to be scrapped if we are going to follow the recommendation of the distinguished Senator from West Virginia.

Mr. HRUSKA. Is it not true, and does the Senator from Alabama agree with the Senator from Nebraska, that if the question would be propounded as to whether or not it would have been wise or would have been agreeable with the Senator from Alabama or the Senator from Nebraska to agree to a resolution referring the measure to conference, would not one of the responses to such a question be that it would be necessary to analyze the bill and the amendments in the nature of a substitute to the bill, to ascertain which of these changes had been made and which changes were desirable and which changes would not be desirable?

Mr. ALLEN. Of course, it is desirable to have that information before we make any such agreements. It would be incumbent upon the Senator from Nebraska and upon me to find out those provisions.

Another thing I might say as to a conference is that the whole subject has been opened wide, and the only limitation on provisions going beyond the Senate bill and going beyond the House bill would have been the question of germaneness only. So it is very dangerous to send it back to a conference. You have no idea what will come out of it. It would not be limited by the two bills.

Mr. HRUSKA. Is it the opinion of the Senator from Alabama that the parliamentary situation which faces us now allows for sufficient inquiry, for sufficient discussion, for sufficient give and take as to changes of language that might be necessary to reconcile the one bill with the other or the one bill and the amendment in the nature of the substitute with the House-approved bill?

Mr. ALLEN. No opportunity has been given, and quite obviously none will be given between now and the vote on cloture.

Mr. HRUSKA. Does the Senator from Nebraska recall correctly that the alternatives which the Senator from Alabama described would be available to the House in the event the amendment in the nature of a substitute was approved and was sent back are two in number: One, that the House could accept that product, or two, they could reject it?

Mr. ALLEN. Yes.

I added a third option they would have, which would be to beg us for a conference. They have done that, under the message we have now.

They would have three options: Take it, leave it, or beg us for a conference. Those are their three options; and I say that it is humiliating to the House, it is an affront to the House, to handle the matter in that fashion, to disregard completely what the House has done, and to say, "Take this or leave it," in effect. I do not believe that is the right attitude.

Mr. HRUSKA. I ask the Senator from Alabama whether it is true that the bill passed by the Senate, in the title pertaining to premerger notification, did not contain a provision, a mandatory stay provision, which would remain in effect until all proceedings at the appellate court level would be exhausted.

Mr. ALLEN. It is my understanding that it did not, that the House provision does not have that but the Senate bill does.

Mr. HRUSKA. My question was whether the Senate bill contains such a provision.

Mr. ALLEN. No; I think not.

Mr. HRUSKA. Is the Senator informed

on the point as to whether or not the House bill contains that provision?

Mr. ALLEN. It is my understanding that it does, yes.

Mr. HRUSKA. I thank the Senator.

Mr. ALLEN. I thank the distinguished Senator for his questions.

Mr. President, again I say that throughout this entire measure, tactics have been used in the legislative process that have not been conducive to a full, frank, and complete discussion of the issues on this bill.

It is true that debate did go on for some 8 days after cloture was voted, and that did give an opportunity to discuss amendments that were pending and that were up for consideration. But each Senator was limited to 1 hour for discussion of all amendments pending and for discussion of all the provisions of the bill. In order to get to a vote as quickly as possible, there was not a great deal of explanation even by the sponsors of the bill. They would respond to amendments. They would have to give some sort of response on that, though I do not think that would have been necessary, because they had sufficient votes to pass almost anything they wanted to pass or to reject whatever they wanted to reject.

That was some 8 days of debate that did result in the bill, with the Senate amendments, to 8532, that went to the House. The Senate did not bother to request a conference; and the attitude all along with the House has been, it would seem, "Well, you are going to go along with our amendments." They did not ask for a conference. The managers of the bill asked for no conference when we struck out all the provisions of the House bill and put in the Senate provisions.

Then, when the House got the bill, as I say, they waited for some 6 weeks or more. I do not recall just when the bill was passed in the Senate, back in late May or early June. It stayed in the House for many weeks before they acted on it.

I suggest the possibility that the reason they did not act, the reason they did not request a conference at that time, was that they did not want to go to conference with the Senate because the Senate bill has so many nongermane amendments. That was the reason for the reluctance to go to conference.

They repaired that damage by putting together in a package, as amendments to the Senate amendments to the House bill, the three bills that had been passed by the House, none of which bills ever had been referred to a Senate committee. So to this good day, the House provisions never have been to a committee. The three House bills never have been to a Senate committee. But they were put in this package and sent over here so that if it went to conference on those House amendments and the Senate amendments, the Senate amendments would be germane. In other words, as I see it, they were trying to bail out the antitrust Senators here who had been so anxious to pass the measure that they had added nongermane amendments to a House bill.

So now, what do we do? Do we consider these House amendments? Do we show the House the courtesy of considering their amendments? No. We do just what we did to the House bill originally. I say do—I anticipate that we are going to do it. The distinguished Senator from West Virginia put in a substitute to that effect.

Disregard the House amendments. Do not consider them. Consider what I put in here late this afternoon. That is what the "author"—and I guess I would have to put that in quotes—of the present, pending substitute says.

Somewhere along the line, Mr. President, I guess we shall get a copy of this substitute. We shall not have much opportunity to study it, because we are going to vote cloture on Tuesday. Then there will be practically no opportunity to offer amendments and very little discussion of the merits of the bill. As a matter of fact, I doubt if this measure is allowed to stay before the Senate for any great length of time on Monday. I do not imagine it will.

But, Mr. President, it seems to me that the whole attitude here of the leadership insisting on this substitute about which nobody has any knowledge, to insist on the Senate voting on this rather than on the Senate bill itself—when I say "Senate bill," I mean actions of the Senate in adopting a substitute to H.R. 8532; that is, in effect, the Senate bill, though the actual Senate number is 1284. But "Senate amendments" would be more accurate, the Senate amendments to the House bill, which the Senate passed, as I say, in May or June. That is what we are called on to do, to pass a measure about which no Senator has any knowledge, or very little knowledge, to take this instead of the amendments that were considered here on the floor and debated for some 8 days after cloture was invoked.

So, Mr. President, when the House bill came over, H.R. 8532, the bill that we now have before us, agreement was obtained to place that on the calendar, so it did not go to a committee. The Senate Committee on the Judiciary was considering the Senate bill and acting as though it were going to report that out. That would be considered. But instead, the House bill was used as a vehicle and the Senate provisions were added to the House bill, most of the bill being nongermane.

That could be done in the Senate, because the germaneness is not required, germaneness having to do, of course, with being on the same particular subject or point. But the Senate does have the rule of germaneness. When the Senate passes these nongermane amendments, it is all right to pass them here, but they could not pass muster over in the House. That is the reason we have before us now the House amendments to the Senate amendments to the House bill. But they are getting mighty short shrift. They are not being considered, they are not going to the committee, they are not being read.

The Senate message I tried to get read when it was introduced, but they rushed on to file this substitute and a cloture motion. So it has not even been read, much less considered. Now, in lieu of that, we are called on to act on this substitute and we are going to vote, on Tuesday, on whether we will have this to vote on, whether the debate shall end, shall be brought to a close on this amendment. I am hoping that the Senate will, if they want to go into this substitute, give the Senate an opportunity to study and offer amendments to it. Based on the insistence on early action on these measures, I am predicting that the right to offer amendments will be cut off by a parliamentary maneuver, so we shall have no opportunity to amend that substitute if we were able to pass some amendments.

So we are saying to the House, and I hope that the House will resent this as much as the Senator from Alabama does:

> It matters not that you have studied this matter for months and for years. You have considered it in committee, you have passed three bills, but we are rejecting every single bit of it. We rejected your 8532 by striking out every bit of it and putting in our own version. We are rejecting the amendments that you made to the Senate amendments to the House bill by the adoption of this substitute.

And then the substitute goes back.

Let us see if this is comity between the Houses. We rebuff H.R. 8532. The House wanted to handle this thing one bill at a time. They had three separate bills. The Senate says, "No, no, we can't consider them one at a time. We are going to put in an omnibus bill that the Senate has."

So that is what they did. They latched onto one of those three bills that came over and added the provisions of the Senate bill. Then the other two bills came over and they went to committee and never came out from the committee.

So we insisted—I say we did. The Senate voted that way at the instance of the sponsors of this legislation.

So, having voted down or cut out all of the provisions of the House bill, we added the Senate's version and sent that over to the House.

Then they sent back an order, to make these nongermane amendments germane, they sent back an amendment with the three titles in it. But does the Senate give consideration to those amendments? Well, we might do it if it were not for this substitute.

It knocks out all of those Senate amendments. It holds for naught all of the work of the House through the years. It holds for naught—or so it appears, not knowing what is in the bill, in the substitute—the work here in the Senate, the consensus or near consensus that was reached with respect to the bill. It throws out everything.

All that the Nation will have for years of work by the House, by the Senate, by the Department of Justice, by the legal profession, by university professors, by antitrust experts, by financial experts, all of that is going to be thrown out the window if we adopt this substitute.

Where did the substitute come from, Mr. President? Nobody knows. The sponsors of the measure apparently were unwilling to stand here on the Senate floor and tell the Senate what is in this mysterious package. Well, that is no way to legislate here in the once-called greatest deliberative body in the world.

When are we going to be allowed to deliberate? The introducer of the substitute instead of asking if anybody had any questions about the substitute or volunteering information himself, wanted to move to adjourn. Well, that is a strange way to do when we are supposed to have so much work to do here in the Senate.

The Senator from Alabama made a proposal that would have obtained action on this measure tonight.

(Mr. MORGAN assumed the chair at this point.)

The Senator from Alabama asked the sponsors of the measure if they would agree to that. Well, at best, Mr. President, this is going to take, I guess, a couple of days of discussion next week, unless they move to something else, which I rather suspect they will do. But is that the way to deliberate on legislation that has been in the making for more than 10 years? Is that the action that the greatest deliberative body in the world, once called, is that the type action we should take on this complex subject? I believe not.

(Mr. PROXMIRE assumed the chair at this point.)

Now, lest there be any doubt as to the position of the Senator from Alabama and the position of the distinguished Senator from Nebraska (Mr. HRUSKA), who so stated on the Senate floor, we would be willing to offer as a substitute to this mystery package—I guess that is a pretty good word for it, I will say to the distinguished Presiding Officer, because I feel sure he has not seen a copy of this mystery package, but I will say to the distinguished occupant of the chair, who has just come to preside over the Senate, the distinguished Senator from Wisconsin (Mr. PROXMIRE), that after some 10 years of study on the complicated question of desirable antitrust legislation, and after the House had studied this question for literally years and had sent three bills over to the Senate, after the Senate, through the efforts of the distinguished senior Senator from Michigan (Mr. PHILIP A. HART) had studied this question for more than 10 years, after the Senate spent over 8 days debating this bill, and came up with a bill that was hammered out here on the floor, and after the bill, H.R. 8532, was amended here in the Senate by striking out the House provision, sent back to the House, and after the House amended the Senate amendments to its bill, and sent back as a House amendment the provisions of the three bills that it had passed, and that House message was here before the Senate, a substitute to the House action was introduced by the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), the distinguished assistant majority leader, without one word of explanation of what was in it, with no copies available for anybody except the clerk, and one copy for him, the original bill itself, substitute itself, and the question immediately becomes shall we agree to the substitute.

Within 2 seconds of the filing of the substitute a cloture motion is filed. So the Senate is going to be called on on Tuesday to vote up or down on cloture. But the effect of this mystery package, Mr. President, which is supposed to contain the refined results of 10 years of study on this complicated subject, and that is thrown together with interlineations, with column additions, with strikeouts, with printed and handwritten extra pages, is what might well be called a shambles. That is what the Senate is being offered to vote on, disregarding all study, all work, all efforts by the House and Senate, and put together by a person or persons unknown, and that is what we are called upon to accept for and as a result of 10 years of study, 10 years of work, 10 years of legislative activity, and bringing it closer up to date, disregarding the work of the Senate itself on this very bill.

The Senate has spoken on this bill as recently as 2 months ago. That is being thrown out, Mr. President.

To what avail did the Senate use, I say 8, I think it was really 11—to what avail did the Senate use 8 or more days in shaping antitrust legislation if it is going to be thrown out the window, if the action of the House is to be disregarded, and we are to be called upon to accept this bill which, I would hazard a guess, has not been read by a single Senator in the United States Senate, not one?

That is the guess of the Senator from Alabama, and it is a calculated and educated guess, that not one, in the judgement of the Senator from Alabama, has read this substitute we are called upon to act upon.

Is that responsible legislation? I will tell you the thought occurs to me, I am an Alabama Democrat, and I am going to support the Democratic ticket this fall. But if I were the President of the United States attacking the Democratically controlled Congress, I would not want much better evidence of suggested irresponsible action than to have the Senate of the United States called on by the leadership in this body to pass upon a bill that has been thrown together in this fashion.

Talk about irresponsibility. If I were the President of the United States, I would seize this action. I would go a long way in proving what he has been charging.

Is this a deliberative body? Five or six Senators on the floor.

The so-called author of the substitute not explaining one single line of the bill.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. ALLEN. Yes, I yield.

Mr. ROBERT C. BYRD. Who is the so-called author?

Mr. ALLEN. The Senator offered the amendment. I used the term "introduceor" earlier. I thought that possibly did not reflect enough credit on the distinguished Senator from West Virginia. Since he had offered it and did not state he offered it by request, I assume he was the author of the measure.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for an observation without his losing his right to the floor and without its being counted as a second speech?

Mr. ALLEN. I am delighted to yield to my good friend, the distinguished Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the Senator from West Virginia is not the author of the substitute.

Mr. ALLEN. Well, I am glad to hear the Senator say that, and I do not wonder at his disavowing authorship of the amendment.

Mr. ROBERT C. BYRD. Will the Senator yield under the same circumstances for another observation?

Mr. ALLEN. That is right.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Alabama has elucidated for 3 hours on his concern to the effect that the substitute has not been read and has not been explained.

I am sure there are Senators around who are authors of the substitute who would be willing to answer the Senator's questions as to the contents of the substitute.

But I have seen no indication on the part of the very distinguished Senator from Alabama that he wants to ask questions as to those contents.

He has not addressed any questions to any Senators who are the authors of the substitute.

Mr. ALLEN. I thank the Senator at this time, at this belated time. Suggesting the possibility that he or others might be willing, I believe he did not include himself, that others might be willing to answer questions. I see none of them on the floor.

Mr. ROBERT C. BYRD. They are nearby. I will be glad to ask them to come quickly to the floor.

Mr. ALLEN. At this time. And I have only to draw attention to the fact that the Senator did not seem interested in giving any information because he, without being recognized, made a motion that the Senate recess.

So he did not give any indication that he wanted to explain anything about the bill. So if the Senator formed that idea, that plan, that willingness, it has been subsequent to the time that the Senator made his abortive motion to recess.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield under the same circumstances?

Mr. ALLEN. I do not believe we are accomplishing a great deal at this time and I prefer not to yield any further. I believe we are making no headway.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I know the Senator is going to make an observation, but I will go ahead and yield for a question.

Mr. ROBERT C. BYRD. The only reason I asked the Senator to yield for this purpose, and the reason I made the observation, was that I have been touched by the expressions of self-pity by the distinguished Senator from Alabama.

Mr. ALLEN. I thought the Senator was going to ask a question.

Mr. ROBERT C. BYRD. I am getting to the question.

Mr. ALLEN. Not rather hurriedly.

Mr. ROBERT C. BYRD. I have been

so touched that now I wish to offer to have Senators answer any questions that he wishes to propound.

Therefore, would he propound such questions today to other Senators about the substitute which will be printed in the Record?

Mr. ALLEN. I stated I hoped it would be put in the Record, and I believe under the resolution it will go in the Record. I am getting information to that effect.

But I am delighted that the Senator from Alabama has been able to influence the distinguished assistant majority leader to the point that he now says he is willing to call in other Senators who are not on the floor who will give information to the Senator from Alabama.

I am impressed by the fact that the Senator is disavowing authorship of this measure that he introduced. But I am not surprised that the Senator has disavowed authorship. I do not think I would want to claim authorship of it, either.

But the Senator has used his position of leadership here in the Senate to, I assume, stand behind this proposed legislation and to use the influence and prerogatives of his office to ram a cloture motion, or bring it to the desk when the Senator from Alabama was seeking recognition for the purpose of offering an amendment himself.

But, be that as it may, I am delighted that the Senator is now expressing a willingness to answer, to have questions answered. But since he made no effort to supply information at the time he introduced the resolution, I do not know that I care at this time to propound any questions.

Somewhere along the line, I assume there will be an explanation, and in due course the Senator from Alabama will yield the floor. There would be nothing to prevent the distinguished assistant majority leader from, at that time, calling in those Senators, if there be such Senators, who have some knowledge of this substitute.

I wonder, really, why the distinguished assistant majority leader would offer an amendment that he does not want to say that he authored, or he says definitely he did not author, that he would be willing to vouch, I assume—I vouch for every piece of legislation I introduce—that he would vouch for this measure by introducing it and taking this, apparently, in preference to what the Senator from Alabama offered to have adopted by the Senate, which is the original Senate version, and why the Senator from West Virginia would chose this measure here, about which I suspect he has very little knowledge—I am sure he would correct me if he stated he did have knowledge of it.

But I am surprised he would be willing to go along with a measure about which he knows so little in preference to the measure hammered out here on the Senate floor after some 8 to 11 days of debate.

Mr. ROBERT C. BYRD. Mr. President, will the Senator——

Mr. ALLEN. That is a mystery to the Senator from Alabama.

Mr. ROBERT C. BYRD (continuing). Yield for a question?

Mr. ALLEN. Wes.

Mr. ROBERT C. BYRD. Was the Senator addressing that question to me?

Mr. ALLEN. I do not believe I asked or propounded any question. It was a rhetorical question.

I did invite the sponsors of this measure, that if they did want to say "Yes," give an affirmative response to the offer of the Senator from Nebraska (Mr. Hruska) and the Senator from Alabama that we go to the provisions of the Senate bill, that if they would respond to that question in the affirmative, I would be glad to accept such an answer under conditions that would not require the Senator from Alabama to lose the floor. I am hopeful that that will be the method by which we can compromise this issue.

Mr. ROBERT C. BYRD. The Senator was wondering, though, why I introduced the measure. Was the Senator addressing that question to me for me to answer?

Mr. ALLEN. Only rhetorically.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. ALLEN. Now, Mr. President, in all seriousness, the leadership warns us about the time of the Senate. We all recognize it, and we appreciate the job that the leadership is doing in moving measures along. I commend the distinguished assistant majority leader for his expertise in keeping the flow of legislation moving steadily toward an early adjournment of the Congress. It is a tremendous job.

We are warned from time to time that we should not use up the time of the Senate, as referred to by the distinguished senior Senator from Rhode Island.

What I say will certainly be not disrespectful of the Senator and certainly I would not make such a reference whether he was here or not, and more especially since he is not here. I was teasing him about what I called his 6:45 speech every night when we are discussing matters from time to time here in the Senate Chamber.

Along about 6:45 in the evening the Senator from Rhode Island (Mr. Pastore) gets up and calls attention to the hour, to the fact we all need to get home to be with our families, and why can we not get on with the Senate's business? I appreciate that. I appreciate his desire to expedite the business of the Senate.

When we have extended debate here in the Senate we can always count on the distinguished majority leader, whom I admire and respect so much, whose leadership I follow, along with following the leadership of the distinguished assistant majority leader.

When we are discussing measures late at night he can always be counted on to get up and tell us that we are wasting the time of the Senate; that we are using up time that could be better spent acting upon the legislation before us.

So it is passing strange, Mr. President, to the Senator from Alabama that the leadership, knowing the problem we have in the Senate in disposing of the Nation's business and the Senate's business, that when we have an opportunity to state again the Senate's desire with respect to the legislation, to reaffirm the position we took, when we have an opportunity to reaffirm the action which the Senate took 2½ months ago, we would be forced to keep this matter from coming to a vote. I have the bill before me. It was passed on June 11. That is when we took this action. We spent, as I said, from 8 to 11 days hammering out the legislation.

The leadership have not said no, though I rather imagine after we discuss this a couple of days they will say, "yes, let us go ahead and accept the original Senate amendments." Why would we be forced to keep this measure from coming to a vote? Why would we be forced to discuss this issue?

We know we are going to discuss it some, even after cloture is invoked, even though there is no opportunity to amend. I rather imagine there will be no amendments at that time, no matter how many Members are present. However, each Senator in opposition to what is being done here would have the opportunity to speak for 1 hour.

The leadership was somewhat surprised on this other cloture motion. I did not count the Senators but somewhere around 16 or 18 used their 1 hour of time. The leadership possibly thought there were not too many Senators willing to take the hour, so they were somewhat surprised.

As a result, we were able to carry that discussion on for some 8 days after cloture was invoked.

With the admonition of the leadership from time to time of "Let us get on with the Senate work; let us agree on this time limit," I am a little bit surprised they are not willing to again pass this afternoon what the Senate passed on June 11.

That shows, to the mind of the Senator from Alabama, there is something in this mystery package which must go far beyond the provisions of the Senate bill.

What is in it? Not a word of explanation was given.

"We have some folks out of the Chamber who will come in and explain it."

Why did they not explain it when they introduced it? The only reason they are offering to explain it now is because the Presiding Officer of the Senate at the time this substitute was offered recognized the Senator from Alabama, at which time he withdrew a pending amendment that he had as to which a motion to table had been lodged and, in the same breath, asked for recognition.

Of course, the motion to recess was made while the Senator from Alabama had the floor. That showed the plans of the leadership to adjourn or recess, as the case might have been, without giving any opportunity whatsoever to discuss this measure.

Well, it has to be discussed some, though I recognize the power of the leadership to move to something else and not bring us back on this bill until right before the cloture vote. I would not be surprised to see that happen. I have seen a lot of strange things around here.

Mr. ABOUREZK. Will the Senator yield for a question?

Mr. ALLEN. No, I will not. After the

Senator from Alabama gives up the floor, the Senator from South Dakota can hold the floor as long as he wants to. Right now I am kind of enjoying the fact that I was recognized in a contest with the assistant majority leader. The Senator from Alabama does not generally get recognized when the Senator from West Virginia is demanding recognition 4 or 5 seconds afterward.

I rather enjoy getting recognized, and I appreciate that.

You know, I feel like the Senator from Idaho. He is not here right now, but he used an expression—I did not mention it to him at the time, but I am going to—in debate on this very matter, as I recall. He said that the one thing about the Senate that sets it apart from the House of Representatives is that the Presiding Officer of the Senate should not be, as he is in the House, an extension of the leadership. He decried the movement toward the Presiding Officer of the Senate being an extension of the leadership.

I want to say here and now that in my judgment the one force or factor that will do most discredit to the Senate as an institution, that will cause it to lose public esteem more than anything else, is when the presiding function in the Senate becomes a mere extension of the leadership. We will not have much of a Senate if we ever get to that sad day. And it would be a sad day in this country. I am not talking about the present leadership; I am talking about any leadership. It is too much power to put in the hands of the leadership for the Presiding Officer to be an extension of the leadership.

So Senator McClure made a statement that impressed me greatly when he said that he did not want to see the Senate become another House of Representatives in this regard, where the presiding function is merely an extension of the leadership, as it is, of course, in the House, where the Speaker is the presiding officer and is also the leader—of course, they have a majority leader as well, but he is the leader of the dominant party in that body.

So it was refreshing to the Senator from Alabama when, while he was clearly entitled to be recognized, he was in fact recognized.

I recall when we had another extended debate here, and my admiration for a certain Senator soared—I will not mention his name, of course—when he was Presiding Officer at a time when it was important that the Senator from Alabama be recognized, and various necessary steps under the rules took place, and the Senator from Alabama requested recognition, and this Senator had been sent to the chair and the Senator from Alabama did not expect too much cooperation from him, but to the surprise of the Senator from Alabama he was recognized by this Senator serving temporarily in the chair, and the Senator from Alabama was able to move forward in the area that he wanted to move.

So I went up afterwards and shook hands with this Senator, and told him that I was pleased with the way he had handled the duties of the Presiding Officer. I guess I ought not to say exactly what I told him, but I am going to.

I said, "Senator"—I called him by his first name—"I am surprised that you recognized me." I said, " I thought you had been sent to the chair to do the day's dirty work."

He said, "No, I did not come up here to do anybody's dirty work. I came up here to preside."

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. ALLEN. No, I cannot while I am talking. The Senator will have an opportunity when I yield the floor, and he will have the opportunity rather soon.

Mr. ROBERT C. BYRD. Will the Senator explain what he meant by the term "dirty work"?

Mr. ALLEN. I did not yield, but I will answer the question. To not follow the rules in the matter of recognition; that is what the Senator from Alabama had reference to. And the Senator from Alabama has not been recognized on a number of occasions when the rules would have required that he be recognized. It was in the light of that experience that the Senator from Alabama used that indelicate expression.

Mr. ROBERT C. BYRD. Will the Senator indicate who may have been the perpetrator of the so-called dirty work?

Mr. ALLEN. No, I have no wish to make allusions. I had reference to no one in particular. Just whoever might have had the duty of sending him to the chair. I had no particular person in mind.

Mr. ROBERT C. BYRD. The Senator does not have anyone in mind?

Mr. ALLEN. No particular individual.

Mr. ROBERT C. BYRD. If the Senator does, will he state the name to the Senate?

Mr. ALLEN. I have stated I do not. It is a faceless, nameless entity. It does not have reference to any particular individual, I will state to my distinguished friend.

Mr. ROBERT C. BYRD. I thank the Senator for the explanation of his rather weak charge, which he is unable to substantiate.

Mr. ALLEN. Well, I can substantiate it to my own satisfaction. You have your own conceptions of what is going on, and I was wrong in my conception of that particular Senator.

Mr. ROBERT C. BYRD. Could the Senator be wrong in his conception of "dirty work"?

Mr. ALLEN. No, the Senator could not be wrong as he sees it in what he meant by the expression he used. No sir, he could not be wrong. I certainly intend to cast no reflection on the distinguished assistant majority leader. The Senator from West Virginia knows that I am one of his strongest supporters, on the basis of the Senator's merit, for the office of majority leader of the Senate. The Senator knows that, and even though we disagree sometimes here on the floor. I have unbounded admiration and respect for the distinguished Senator.

Mr. ROBERT C. BYRD. Mr. President, if I may say so while protecting the Senator's right to the floor, that admiration is a two-way street. I have great admiration for the Senator from Alabama. We do stand at opposite ends of the pole occasionally. But I feel rather remorseful, as I sit and hear the leadership of the Senate berated all afternoon and I feel, while full of compassion and understanding for the distinguished Senator, who insists that he has been——

Mr. ALLEN. The victim of dirty work?

Mr. ROBERT C. BYRD. Choked and stomped and stepped upon and manhandled, I find that I am constrained to restrain my compassion for the moment by at least trying to defend an otherwise defenseless leadership.

Mr. ALLEN. I had not noticed that the leadership was defenseless, I will say to the distinguished Senator.

Mr. ROBERT C. BYRD. Well, the leadership is defenseless as long as the Senator from Alabama holds the floor.

I thank the Senator.

Mr. ALLEN. I thank the distinguished Senator from West Virginia.

Well, now, with that wonderful cooperation, and the spirit that everything is made for love that we hear so much about nowadays, I am sure that at some state of the proceedings the distinguished introduce-or—and I use that word advisedly, inasmuch as the distinguished Senator did not want to be designated as the author—but the distinguished introduce-or——

Mr. ROBERT C. BYRD. Is the Senator sure the word is not "introducer" rather than "introduce-or"?

Mr. ALLEN. No. I like "introduce-or."

Mr. ROBERT C. BYRD. Yes?

Mr. ALLEN. Yes. And I might consult Webster on that. I think he will find the word "introduce-or."

But now that he is in such a good humor, with respect to the proceedings, I am hopeful that he is going to recognize the action that the Senate took before, that is on June 11, and that he will prefer the action taken by the Senate on June 11 in passing its amendments to the mystery package that he introduced disclaiming, of course, and very wisely, any authorship of this measure and stating that there were certain anonymous Senators without the Chamber that would be glad to come in and explain the measure, adopting an entirely different tack, Mr. President, from the tack that he adopted at the time he introduced the measure.

Mr. ROBERT C. BYRD. Mr. President, I will again protect the Senator's rights to the floor. I did not want to interfere with the satisfaction that the distinguished Senator from Alabama has gained from his having gotten recognition.

Mr. ALLEN. The Senator did. He moved to recess.

Mr. ROBERT C. BYRD. I waited for 3 hours or more before making the observation that there are Senators present who can answer the Senator's questions if he will indeed ask questions, because I wanted the Senator to have his moment of joy and satisfaction at having been recognized.

Mr. ALLEN. It does not answer, as the Senator well knows, because he had no intention whatsoever of making any such offer as evidenced by the fact that he sought to adjourn the Senate, so he had no intention of making any such offer as the Senator realizes. How can he make such an offer with the Senate in recess?

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished Senator again I do not intend to seek to take the floor.

Mr. ALLEN. The Senator is using my right to the floor in a rather cavalier fashion, I would say.

Mr. ROBERT C. BYRD. No. I would defend to my last breath the Senator's right to the floor at this point.

Mr. ALLEN. As long as he can share it.

Mr. ROBERT C. BYRD. I do not intend to share the satisfaction of the Senator in his having been recognized, but what I was going to say is the Senator will undoubtedly have some time on Monday in which to ask questions of Senators who are the authors of the substitute as to its provisions. I should think that now that he has had 4 hours of comfort and satisfaction at having been recognized this afternoon, he would be willing to yield the floor now and let us go home and come back on Monday, and we can then have a clearing of the questions that are in the Senator's mind at some point during the afternoon surely. The substitute, moreover, will be printed in today's Record for all Senators to study.

Mr. ALLEN. I thought the Senator was going to have somebody explain the measure. Would it not be well to have someone do that then so it might be in the Record?

Mr. ROBERT C. BYRD. Yes. I would be very glad to stay as long as the Senator wishes to stay into this evening if he would ask questions.

Mr. ALLEN. It is not what the Senator from Alabama wishes. It is what the authors or the "introduce-or" of the substitute might care to offer in the way of information.

Mr. ROBERT C. BYRD. The Senator has not yielded for that purpose all afternoon.

Mr. ALLEN. The Senator seems to think I have. He is speaking as much as I am without asking my permission.

Mr. ROBERT C. BYRD. I am going to protect the Senator's right to the floor because of any interruption of mine.

Mr. ALLEN. It does not matter about the Senator's protecting the Senator's right. He has no right to the floor without asking the Senator's permission as the Senator realizes.

Mr. ROBERT C. BYRD. I understand that.

Mr. ALLEN. If the Senator wishes the floor, I would be delighted to yield it to him.

Mr. ROBERT C. BYRD. Does the Senator wish to speak longer?

Mr. ALLEN. The Senator says I ought to stop and I always——

Mr. ROBERT C. BYRD. No, I did not say to stop. I said the Senator ought to be willing to yield the floor unless he wishes to ask questions about the substitute.

Mr. ALLEN. I understood the Senator said I ought to stop.

Mr. ROBERT C. BYRD. I did not say he ought to stop. I was simply making the observation that the Senator could get answers to his questions on Monday——

Mr. ALLEN. On Monday? I see.

Mr. ROBERT C. BYRD. In view of the fact that he has not sought answers to his questions this afternoon.

Mr. ALLEN. I see. It would be hard to ask questions when we are in recess which we would have done if we followed the lead of the Senator from West Virginia. But I am delighted that the Senator now seems to feel that some elucidation of the subject should be given, but he did not have that opinion immediately on offering the substitute. He seemed to think we ought to adjourn at that time.

Mr. ROBERT C. BYRD. The Senator knows very well why I did not have that opinion at that time.

Mr. ALLEN. I can only imagine. I have no way of knowing, of course, because the Senator had not advised me. I am not able to read his mind, of course.

Mr. ROBERT C. BYRD. The Senator knows that the leadership had its own problems with the Senator, and sometimes it has to use the rules also.

Mr. ALLEN. That is very fine. I am glad the Senator made that statement. He states that the leadership has problems. I suppose one of those problems is expediting this legislation, and the Senator from Alabama has offered a way to have the will of the Senate as expressed by its vote after some 8 or 11 days of debate put to this effect.

I do not know why the Senator from West Virginia is not willing to accede to that holding.

Mr. ROBERT C. BYRD. The Senator from Alabama also indicated his intention to delay action on this measure.

Mr. ALLEN. It would be hard to delay action when we could have a vote in 5 minutes' time.

Mr. ROBERT C. BYRD. The Senator from Alabama has indicated his intention to delay action on sending this measure to conference.

Mr. ALLEN. That is not the question.

Mr. ROBERT C. BYRD. No, it is not now the question, but it was the Senator's intention if such motion had been made.

Mr. ALLEN. I am saying I am making an offer right now, backed by the distinguished Senator from Nebraska (Mr. Hruska), that we can have a vote on the Senate amendment.

Mr. ROBERT C. BYRD. Will the Senator agree to a time agreement?

Mr. ALLEN. I will agree to a vote on it.

Mr. ROBERT C. BYRD. Will the Senator agree to a time agreement on that proposal?

Mr. ALLEN. I will agree to an immediate vote.

Mr. ROBERT C. BYRD. Does the Senator want the authors of the substitute to have a little time to digest it?

Mr. ALLEN. Yes; I would agree with the agreement of the distinguished Senator from Nebraska to a time limit on the substitute which we will offer.

Mr. ROBERT C. BYRD. Is the Senator following the leadership of the Senator from Nebraska?

Mr. ALLEN. On this particular measure, yes.

Mr. ROBERT C. BYRD. On this particular measure.

Mr. ALLEN. On this particular measure.

Mr. ROBERT C. BYRD. The distinguished Senator from Alabama has three leaders in the Senate, the Senator from Montana, the Senator from West Virginia, and the able Senator from Nebraska.

Mr. ALLEN. On this legislation where the leadership is taking the position contrary to the position of the Senator from Alabama, he has to look elsewhere for leadership, and the Senator from Alabama is following the leadership of the distinguished Senator from Nebraska (Mr. Hruska) because of his expertise in this field and his service on the Judiciary Committee in studying this very question. If the Senator wants a time limit on the substitute of the Senator from Nebraska and the Senator from Alabama, putting back into effect the provisions of the Senate amendment, we can agree on that.

Mr. ROBERT C. BYRD. Will the Senator agree to a time limit that would encompass not only his proposal but also the motion that the Senator from West Virginia has made?

Mr. ALLEN. No; that is not the point. The point is that we accept the will of the Senate.

Mr. ROBERT C. BYRD. Why not have a time agreement overall so that the Senate could work its will on the proposal of the Senator from Alabama and on the substitute?

Mr. ALLEN. The Senate has worked its will.

Mr. ROBERT C. BYRD. In this way we could avoid going over to Tuesday, vitiate the cloture motion, and the Senate could work its will on Monday.

Mr. ALLEN. The Senator misses the point. The Senator from Alabama is suggesting that the Senate merely stand by the action which it took, an action which some sponsors of the antitrust legislation say was a compromise.

Mr. ROBERT C. BYRD. But would not the Senate then be sending back to the House of Representatives amendments that were not germaine?

Mr. ALLEN. Not germane?

Mr. ROBERT C. BYRD. The Senator from Alabama made that point earlier that the Senate in passing these amendments——

Mr. ALLEN. They are germane now.

Mr. ROBERT C. BYRD. I understand—had sent to the House a measure that the House had amended by adding three bills to make it germane.

Mr. ALLEN. Right. The Senator misses the point in that when this was sent over originally most of it was nongermane, but it would be germane now because the House of Representatives has sent over a message which would make this germane.

So what the Senator from Alabama is proposing, in concert with the distinguished Senator from Nebraska (Mr. Hruska), is that the Senate stick by its decision. I would think we could agree on that rather than have a time limit.

Mr. ROBERT C. BYRD. There may be

some Senators who might not feel they would agree on that. For that reason, why not have a time agreement that would allow debate on the proposal of the Senator from Alabama and would allow complete action on the motion and on matters relating to conference?

Mr. ALLEN. What has become of the assertion by the proponents of this measure that a compromise was reached? I did not know they went back on compromises. If a compromise was, in fact, reached, why not stick by the compromise and not open it up again? That is the point.

Mr. ROBERT C. BYRD. I have not heard any sponsors of the substitute make any reference to a compromise agreement today.

Mr. ALLEN. The Senator realizes that in meetings at which both he and I were present, it was stated that a compromise was reached. The Senator well knows that.

Mr. ROBERT C. BYRD. It was stated in those meetings. The Senator from Alabama also indicated in those meetings that it was his intention to delay action on this measure.

Mr. ALLEN. No, I do not know that the Senator from Alabama said "delay." I did say that I had some amendments that I would care to offer, and I offered one here a few moments ago, but the Senator moved to table it. He did not give it much consideration.

Mr. ROBERT C. BYRD. The Senator has a purpose——

Mr. ALLEN. That was not an amendment to the Senate position. I have not tried to amend that. I am willing to stick by that.

Mr. ROBERT. C. BYRD. Would the Senator like to reoffer his amendment?

Mr. ALLEN. No. I do not want to lose my right to the floor.

Mr. ROBERT C. BYRD. The Senator is continuing to feel satisfaction and comfort out of being recognized, so he intends to hold the floor longer?

Mr. ALLEN. If I see fit to, I will be glad to.

Mr. ROBERT C. BYRD. The Senator has that right.

Mr. ALLEN. I made an offer, and I asked the distinguished Senator from West Virginia if he would agree to it, and he keeps coming back with other suggestions. I merely want to know whether the Senator would be willing to see the Senate stand by its position of June 11.

Mr. ROBERT C. BYRD. The Senator from West Virginia is only one Senator. The Senate would have to determine that; and in order to get a determination on that, I ask the Senator whether he would be willing to enter into a time agreement that would be all-encompassing.

Mr. ALLEN. That was not my proposal.

Mr. ROBERT C. BYRD. I understand the Senator's proposal.

Mr. ALLEN. The Senator frequently makes unanimous-consent requests, and he can make one with respect to this, if he wishes, when I yield the floor. I am traveling now on the Senator's assertion that he sees that I will not lose my right to the floor.

Mr. ROBERT C. BYRD. Would the Senator care to inform the Senate as to how much longer he expects to hold the floor, so that Senators may inform their spouses?

Mr. ALLEN. I do not think it would be very long. I have been hopeful that, since the leadership is so anxious to expedite the work of the Senate, the Senator would not—the Senator has said that we would use Monday for discussion of the bill. We would use Monday for questions. Yet, we have the opportunity tonight to send back to the House the action of the Senate on June 11.

I wonder why the Senator wants a mystery package, the authorship of which he denies—why he prefers the mystery package over action of the Senate that was hammered out after days and weeks of debate. That is what the Senator from Alabama cannot understand.

Mr. ROBERT C. BYRD. Is the Senator asking me that question?

Mr. ALLEN. That is what I cannot understand. If the Senator wants to answer voluntarily, he may do so. I did not ask him for it.

Mr. ROBERT C. BYRD. Is the Senator addressing that question to me?

Mr. ALLEN. A rhetorical question, yes.

Mr. ROBERT C. BYRD. I thank the Senator. I have imposed on the Senator all too long.

Mr. ALLEN. That is all right. I am always glad to accommodate the distinguished Senator.

Mr. President, when we are discussing this matter on Monday and on Tuesday and on Wednesday, and we hear complaints made on the floor that we are holding up the work of the Senate, let us be reminded that it is not the Senator from Alabama who is causing the delay. He is offering—and the Senator from Nebraska is offering—to help resolve this matter, to vote tonight on the very same action that the Senate took on July 11, merely changing sufficiently so that the exact provisions of the Senate amendments would not be submitted again. The Parliamentarian advises the Senator from Alabama that any substantial change in this language would make a different proposal out of it.

So we are suggesting that the Senate, in its closing days, in order to expedite matters, send again to the House the provisions of the Senate amendments to H.R. 8532. This was a result that was reached after some 2 weeks or more of debate. That is what the Senate said its will was, and I do not know of any great upheaval that should have caused the Senate now to say that its will is something else. They do not go around changing their will every 10 weeks, I do not suppose.

So if we are sending this back, the chances are very strong that it would be accepted by the House.

Mr. President, I might make one other suggested amendment to this amendment. It is something that is added to the Byrd substitute. I suppose that even though he is not the author, the substitute will bear his name. That substitute has an interesting provision: That the bill would be called the Hart-Scott-Rodino antitrust amendments. The reason for that is this: The expectation that Mr. RODINO will ram this mystery package through the House because they cannot amend it.

It is something in the nature of an effrontery on our part to send this mystery package over to the House and tell them to take it or to leave it or to ask us again for a conference.

We are rejecting their request for a conference this time, it seems.

So I would be willing to add that proviso to our substitute to the substitute. When I conclude my remarks, Mr. President, I am going to check this matter up to the leadership. I am going to put in a substitute to the substitute—and I hope and believe that the distinguished Senator from Nebraska (Mr. HRUSKA) will join me—that will be the exact bill that the Senate passed on June 11, with two exceptions: It will provide that the bill will become effective on January 1, 1977.

I would as soon it would go into effect earlier. It does not make any difference to me, but to make the package different from the original amendments passed on June 11, there must be some substantive change. So a change in date would be sufficient.

Second, I would have a proviso that the act shall be called the Hart-Scott-Rodino Act, so that will have the same sweetener, Mr. President—for that is what it is, a sweetener for this bill. The proponents of the mystery package are pretty smart. I have to give them credit for that. They are pretty smart. When they enlist the service of the assistant majority leader, that is a pretty good combination. Then when they enlist the services of the majority leader, that is a pretty strong combination. Then, when they enlist the support of the distinguished Republican leader, Mr. HUGH SCOTT—I assume he is supporting it, he is one of the named sponsors of the act—and then they get the assistant minority leader, Mr. GRIFFIN, for it, they have a pretty strong hand. That will take care of this body. It will not have any trouble passing over here if all those are for it. So as soon as it comes to a vote, it will pass, of course.

But there might be enough Senators who do not like this high-handed tactic that, on next Tuesday, they will vote against this mystery package by voting against cloture; enough so voting, enough who are not going to be willing to legislate in the dark, enough who are not willing to throw away the work of the House, the work of the Senate, the work of the Department of Justice, the work of the legal profession, and rest our hopes in this package, with which no Senator seems to be familiar. I do not believe that enough Senators are going to vote for cloture. I do not believe they are going to be that anxious to vote for this substitute; especially, Mr. President, when they are given the option of taking something that has withstood the scrutiny of some of the best legal minds in the country, I assume, who have worked on this bill. The amendments came out of the Committee on the Judiciary after years of study. I do not believe 60 Senators are going to vote for taking this pig in a poke, taking that over the very bill that the Senate voted on June 11, that was studied for weeks and months and years and has withstood the scrutiny, as I say, of some of the best legal minds in the country. To turn that down and accept—I have no pride of authorship in this substitute. I shall be just like the distinguished Senator from West Virginia when he introduced his prize package—rather, his mystery package. I guess "prize package" is about as good as "mystery package," though, come to think about it.

One advantage the Senator from Alabama will have in offering this substitute will be that the Senator from Nebraska (Mr. HRUSKA) will join him in introducing it, and it has been subject to debate here, on the Senate floor, for some 2 weeks and was pounded out here on the Senate floor. I would put that bill up over the provisions of the mystery package.

Mr. President, I said before and I shall say again that I do not believe coming in here in the afternoon, when everybody wants to go home, and offering a complex substitute, rushing a cloture motion to the desk, without any explanation of the bill, to upset the work of the committees of Congress, to upset the work of the House, to upset the work of the Senate—I do not believe that could be labeled as responsible legislating.

I say if we want to give some ammunition to the President of the United States when he talks about irresponsible action in Congress, pass this mystery package that has come in here at the last minute and that is the pending question right now. Talk about irresponsibility. This is a prime example. If I were President of the United States, if I were running for President, I would sure jump on this issue. Here is an example of it: If you need any proof, find out what the Senate did on August 27, 1976, when this mystery package was offered and immediately became the pending question; the Senator from Alabama offered an amendment to it and, without allowing the Senator from Alabama to explain his amendment, a motion was made to lay it on the table.

Well, it may not have been the best amendment in the world, but why could not the Senator from Alabama have been allowed to explain what the amendment did? He thought it was a pretty good amendment. But without the Senator from Alabama being able to speak one word in defense of his amendment or in support of his, the leadership moved to table it, to protect this mystery package. Nothing must be done to thwart the passage of the mystery package. So when the Senator from Alabama offered an amendment, that had to be tabled. It offered a threat to the passage of the mystery package, a threat that should not be allowed to exist, a threat that should not be allowed to be explained, all to preserve this mystery package.

No copies were made available, and I guess we are supposed to take it on trust, I guess because it was introduced by the distinguished assistant majority leader, who is quick to say he is not the author of it.

Mr. ROBERT C. BYRD. Will the Senator yield for a question?

Mr. ALLEN. Yes, I will.

Mr. ROBERT C. BYRD. Each time the Senator refers to me in my capacity as majority whip, I shall feel that I have a right to ask the Senator to yield.

Why is the Senator so supportive of the Senate amendments today when he was so inclined to oppose them at the time they were adopted by the Senate?

Mr. ALLEN. For the very simple reason that I support a known position as opposed to an unknown position.

I have had an opportunity to study the Senate amendments and I find they can be lived with in preference to unknown provisions. So that is exactly the reason why the Senator from Alabama does favor the Senate position over the contents of the mystery package.

(Mr. MORGAN assumed the chair at this point.)

Mr. ALLEN. I would hope the Senator from West Virginia, not being knowledgeable of what is in this bill, I gather from what he said, would himself prefer the provisions of the known article rather than of the unknown article. It is just a little feeling on the part of the Senator from Alabama being a little careful of the unknown. About the most you can say about the mystery package is that its contents are unknown. It is not the policy of the Senator from Alabama to want to legislate in the dark.

I really have not heard the Senator from West Virginia say that he prefers this over the Senate amendments. I assume he would vote for it since he introduced it, although I guess there have been occasions when Senators have introduced measures and then, on being apprised of what is in the measure, have seen fit to vote against it. I believe that has taken place.

Mr. ROBERT C. BYRD. Very well. I thank the Senator.

Mr. ALLEN. I thank the Senator for his attention to my remarks.

Mr. ROBERT C. BYRD. Mr. President, I have paid rapt attention all afternoon.

Mr. ALLEN. I appreciate that.

Mr. ROBERT C. BYRD. And I will continue as long as the Senator holds the floor.

Mr. ALLEN. I am hopeful that somewhere along the line we will have an explanation of this mystery package and why it is so much better than the action the Senate took. That is what is a little bit surprising to the Senator from Alabama, that this so-called compromise—and I have never called it a compromise myself, but some of the proponents of the legislation spoke of it as being a compromise—it seems to me the compromise did not stay together very long. It kind of came unstuck.

Now, I am not satisfied with what the Senate did on June 11. But I will say this, with all this need for expediting the work of the Senate, the leadership has seen fit apparently—I am hopeful if not tonight, the first thing Monday, we will go ahead and accept the Senate position. I am arguing for the Senate position.

It is rather strange that the leadership of the Senate here would be opposed to the Senate position. That is rather surprising to the Senator from Alabama. Here is what the Senate did, and I am offering to accept what the Senate did, and it is the leadership of the Senate apparently that is putting in something in lieu of what I have suggested.

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow the Senator from West Virginia to propound a question to him?

Mr. ALLEN. Yes, I will yield for a question.

Mr. ROBERT C. BYRD. I will preface my question by saying that the distinguished Senator from Alabama opposed—with all the vigor he could summon—the amendments when they passed the Senate some weeks ago. Today he wishes to offer those same amendments now and give them vigorous support, I would assume. My question is this: Would the Senator enter into an agreement, whereby he would agree to allow the Senate to request a conference on the amendment he proposes to the substitute, and include in such agreement provisions that would place a time limit on the consideration of any conference report that comes back to the Senate from such conference?

Mr. ALLEN. Well, that is not what the Senator from Alabama is proposing nor is it what the Senator apparently is proposing because he could just as easily have made a motion, and offered a cloture motion with respect to it, to go to conference. So the Senator from West Virginia had the option. The Senator from Alabama did not have an option.

The Senator from West Virginia chose the option of putting in a mystery package. The Senator from Alabama had nothing to do with that.

Mr. ROBERT C. BYRD. As the Senator says, he "misses the point." The Senator from Alabama has proposed that the Senate now readopt the previously adopted Senate amendments with a slight modification and send them back to the House.

The House could let them lie, which would mean they would die. Or the House could accept them or the House could request a conference.

Mr. ALLEN. The same thing would happen if the Senator's substitute were adopted. It would not have a different fate, I would think.

Mr. ROBERT C. BYRD. I am suggesting this to the distinguished Senator, because I would like to lay into the record the parameters of a possible unanimous-consent agreement, so that the authors of the amendment can on Monday make a determination as to whether or not they prefer to accept the proposal of the Senator from Alabama or stay with the substitute they have drawn. Would the Senator be willing to enter into such an all-encompassing time agreement?

Mr. ALLEN. Well, the Senator is making a counter proposal. I assume he is rejecting the first proposal. We are going to find out what his position is when I get through with my remarks because I am going to file this substitute. If the Senator does not like that idea I assume he will move to table this effort. But the Senator misses the point here. What he is doing does not allow these various options. It is not like sending it to conference. What he is doing is saying, "Take it or leave it or ask for a conference." It gives those options.

Mr. ROBERT C. BYRD. No; I am not asking that.

Mr. ALLEN. That is what the substitute——

Mr. ROBERT C. BYRD. The House has those options.

Mr. ALLEN. That is what I say.

Mr. ROBERT C. BYRD. I am asking the Senator if the Senator would be willing—he has all afternoon suggested that he has a substitute for the substitute.

Mr. ALLEN. That is correct.

Mr. ROBERT C. BYRD. And his substitute would embrace the Senate amendments that were adopted some time ago—and which he then opposed—with only a slight modification as to a change in dates.

Now he has said he is willing to vote on that now.

Mr. ALLEN. That is correct.

Mr. ROBERT C. BYRD. All right.

I am asking the Senator if he is willing, in the event the authors of the amendment accept his proposal, would he be willing to allow the Senate to request a conference thereon and would he be willing to enter into an agreement that would provide for a limitation of time on any conference report that might come back to the Senate?

Mr. ALLEN. Well, the Senator is adding conditions that he does not have attached to his own substitute.

Mr. ROBERT C. BYRD. I am not talking about my substitute.

Mr. ALLEN. I am.

Mr. ROBERT C. BYRD. I am trying to help the distinguished Senator to get his proposal, which he opposed a few weeks ago——

Mr. ALLEN. Well, there is no——

Mr. ROBERT C. BYRD. I am trying to help him. I am trying to open up a way, if I can, to bring about negotiations between the Senator from Alabama and his colleague, the Senator from Nebraska, and those Senators who are proponents of the substitute.

Mr. ALLEN. I know what the Senator means.

Mr. ROBERT C. BYRD. I, in my position here, have to be a kind of mediator and the Senator has made a proposal this afternoon. Time and again, he has thrown down the gauntlet that the Senate vote on it immediately.

I am willing to have a vote on his proposal and not move to table it if he is willing, in turn, and will so state that there will be no objection to *sending his* proposal to conference—if the Senate adopts it—and he is willing to enter into a time agreement on any conference report that may come back to the Senate, as a result of the conference called for.

Mr. ALLEN. In answer to the question, and I hope the Senator will allow me to proceed before he breaks in again, I will state this: As to the matter before us at this time, the mystery package substitute, there is no time limit on any conference report that might have come back.

I am sure there will not be any conference if we buy the mystery package substitute. It will be checked at the House and this name that is being given to it, the Hart-Scott-Rodino law, I am satisfied the House is going to accept it.

But there is no such attachment to the Senator's substitute. Why should the Senator from Alabama agree to something in the dark, having no idea whatsoever, to come out of the conference and with the conferees not being bound by the parameters, as the Senator says, of the two bills?

It would be up for grabs after a conference.

The only limit would be germaneness and it is a worse mystery package than the Senator's substitute.

Of course, the Senator from Alabama is not going to agree to this. We have to take it one step at a time.

Mr. ROBERT C. BYRD. Will the Senator yield for a question?

Mr. ALLEN. Let me finish now, please.

Mr. ROBERT C. BYRD. I am sorry.

Mr. ALLEN. The Senator has a substitute here and if it is agreed to and it comes out in the form of a conference report, there is no time limit there. So why should the Senator from Alabama put a time limit on it?

I am just asking that instead of adopting a mystery package, that we adopt what the Senate did on June 11 and take it one step at a time.

That is all we would be doing, as soon as we waste 2 days on discussing this matter.

I think the leadership would be interested in expediting the work of the Senate, get the will of the Senate as expressed by the Senate itself on June 11, and enact it into law.

Mr. ROBERT C. BYRD. Will the Senator yield for a question?

Mr. ALLEN. Yes.

Mr. ROBERT C. BYRD. Would the Senator be willing to enter into a time agreement that would encompass both his proposal and the substitute that was offered today, with the provisions that whatever came back from conference there would be a time limit thereon?

Mr. ALLEN. That is exactly the same position we have now without the time limit, because if I did introduce this, the Senator could move to substitute, or if I introduced it as a substitute, the Senator could move to table it.

So all the Senator from Alabama would be giving up is 2 days that he has a right to discuss it.

Obviously, the Senator does not think the Senator from Alabama would accept a proposal like that.

Mr. ROBERT C. BYRD. Will the Senator yield for a question?

Mr. ALLEN. Yes.

Mr. ROBERT C. BYRD. The Senator has quoted the Bible today. There is a passage therefrom which says that the "wicked fleeth when no man pursueth."

I have not indicated that I was going to table his proposal.

Mr. ALLEN. I was stating the art of the possible.

Mr. ROBERT C. BYRD. I want to reassure the Senator on that point, I would be willing—as a mediator in my position, in an effort to bring both sides together and work our way out of this hassle—to propose a unanimous-consent agreement that would allow the Senator a vote on his proposal, and that would allow the Senate a vote on the substitute in the event the Senator from Alabama's proposal did not carry, if the Senator would agree to letting the measure then go to conference and would agree to a time limit on whatever conference report comes back to the Senate therefrom.

I would be willing to try to work this out if the Senator would indicate that he would go along with that course of action.

Mr. ALLEN. The Senator is speaking from the great strength of the majority view here in the Senate, naturally not making much of a proposition to the Senator from Alabama, because the Senator's position, as shown by the vote on June 11, is not the majority position.

Obviously, the Senator from Alabama cannot agree to that because the Senate is going to go along with what the Senator recommends. We know that. So why have an agreement on the matter?

Mr. ROBERT C. BYRD. I believe I voted for the bill that passed the Senate on June 11?

Mr. ALLEN. Yes, but the Senator is not willing to accept it now.

Mr. ROBERT C. BYRD. I do not know, I have not said that at all.

Mr. ALLEN. The Senator is saying a whole lot, other than that, I will say that.

Mr. ROBERT C. BYRD. The Senator from Alabama is attempting to read the mind of someone.

Mr. ALLEN. I have invited him to say that for about 3 hours and he has not said he would support it yet.

Mr. ROBERT C. BYRD. I do not feel there is any compulsion to do that at this point. But I voted for the package on June 11.

Mr. ALLEN. Yes.

Mr. ROBERT C. BYRD. Which the Senator from Alabama opposed.

Mr. ALLEN. Correct.

Mr. ROBERT C. BYRD. And did not vote for.

Mr. ALLEN. Correct.

Mr. ROBERT C. BYRD. And now which he supports with great ardor, and I merely asked if he would be willing to enter into that kind of all-encompassing time limit?

Mr. ALLEN. I am not, as to this bill, and in light of the tactics used with respect to the bill up to now, the Senator from Alabama will not agree to any time limit whatsoever with respect to these measures.

Mr. ROBERT C. BYRD. I thank the Senator. He has answered my question.

Mr. ALLEN. I hope that is clear enough.

What the Senator from Alabama would propose is that we not have a debate on and an opportunity to amend, but that the Senate stand by its position of June 11 with two changes: One, that the bill go into effect on January 1; and two, that we put in the same sweetener that the proponents of the legislation put in with respect to the naming of the bill, that it should be the Hart-Scott-Rodino law, antitrust law.

We know that it might be difficult over there to get the House to throw away all of its work through the years and go along with the Senate package. So what they have done is name the law after Mr. Rodino, the chairman of the Judiciary Committee. He is one of three men named there.

So that is the main ploy on getting this mystery package adopted.

I am suggesting we put this same sweetener in this bill as the only other change. That is what the Senator from Alabama is recommending in this regard.

Mr. NUNN. Will the Senator from Alabama yield for a unanimous-consent request for approximately a minute?

Mr. ALLEN. I will not only do that, I will yield the floor.

Mr. ABOUREZK addressed the Chair.

Mr. NUNN. Mr. President, I have a unanimous-consent request and then I would like to get the floor back to make a brief statement, but I will be glad to accommodate other Senators first.

ADDITIONAL STATEMENT

Mr. PHILIP A. HART. Mr. President, the distinguished majority whip, Mr. Robert C. Byrd, has with my support filed a motion to concur in the amendment of the House to the amendment of the Senate to the House Bill (H.R. 8532) with an amendment (in the nature of a substitute) and a petition for cloture on this motion. The cloture motion is signed by 21 Members of the Senate.

Ordinarily, the sponsors of this legislation, H.R. 8532, as amended by S. 1284—the Antitrust Improvements Act—would not be taking this extraordinary measure. On Tuesday, the House of Representatives adopted a resolution disagreeing with the Senate amendments, consolidating into one bill the three bills passed by that body (H.R. 13489, H.R. 14580 and H.R. 8532) and asking for a conference on H.R. 8532 as thus amended. In the normal course of events the Senate would appoint conferees, and the differences in the bills passed by each chamber would thereby be resolved. It is unfortunate that a conference is no longer a feasible means for working out the differences in the House and Senate passed bills in this case.

Last Wednesday, with the concurrence of Judiciary Committee Chairman James O. Eastland, I was prepared to move to have the Senate appoint as conferees the members of the Antitrust and Monopoly Subcommittee in addition to the distinguished Chairman of the Judiciary Committee and Senator Hugh Scott. Before doing so, I had a conversation with the junior Senator from Alabama (Mr. Allen) during which he indicated that if I did so he would file a motion which takes precedence over that of appointing conferees. The Senator from Alabama indicated that his motion would be to accept the House bill with an amendment striking the Parens Patriae title from the legislation. Such a motion is debatable, and the Senator from Alabama indicated that he expected to speak at some length on his motion, and on the motion to appoint conferees.

Let me emphasize that there has never been any dispute over the selection of the conferees. In a letter dated June 17, I suggested to Chairman Eastland that in addition to himself and Senator Hugh Scott, the members of the Antitrust and Monopoly Subcommittee be appointed. To my knowledge, no one has yet objected to that selection.

Later that same day, I attended a meeting of a number of Senators, including the Senator from Alabama, during which we discussed whether or not the terms of the compromise agreed to on June 10 precluded further extended debate on such things as a motion to appoint conferees. The Senator from Alabama made it clear that he did not believe that the compromise agreement of June 10 precluded him from exercising any of his rights under the rules of the Senate. My own recollection is that there was no specific discussion during those negotiations last June with respect to either a motion to appoint conferees or a motion to accept a conference report.

Mr. President, the leadership has made it clear that the target date for adjournment is still October 2. That leaves very few working days left for this session of the Senate. Last June the Senate devoted 10 long hard days to the consideration of this legislation. If my recollection is correct there were roughly 70 votes before a compromise was reached. Because of that experience and based upon my conversations with the Senator from Alabama, I concluded that the Senate faced two more filibusters relating to this legislation: One on the appointment of conferees and another on the conference report. I also concluded that these efforts are designed to kill the bill. In part, I reached this conclusion because of my belief that a clear majority of the Senate favors enactment of this legislation. The Chiles-Byrd compromise amendment, which put an end to the extended debate last June, was agreed to by a vote of 73–11. The vote on final passage on H.R. 8532 as amended was 65–19.

Given the time remaining, it is clear to me that the Senate could not break two additional filibusters on the antitrust legislation. There are simply too many other important pieces of legislation which should be considered before we adjourn. After some discussion with other Senators who support this legislation, I agreed that if we were to have a reasonable chance at a bill this year we could only risk the possibility of one filibuster.

Unfortunately, if we are to avoid the possibility of two additional filibusters then both the Senate and the House must give up the opportunity to go to conference. And if a conference is to be avoided then the Senate must have some idea of the kind of bill which the House will accept. Senator Kennedy, Senator Abourezk and the distinguished minority leader, Senator Hugh Scott, entered into informal negotiations with Chairman Rodino and the other members of the House Monopolies and Commercial Law Subcommittee as to what the House might favorably consider. The members of that subcommittee had been appointed by the House to serve as conferees. In spite of the extremely short time period involved, Chairman Rodino and the other members of the House subcommittee graciously acceded to the request of the Senate sponsors to meet and isolate the major differences between the two bills. Realistically, however, since it is the Senate who cannot appoint conferees, the Senate suffers a loss of bargaining power in such negotiations. Those who opposed this legislation last June should find this amendment in the nature of a substitute more acceptable.

To sum up, Mr. President, I regret that the Senate is being forced to avoid going to conference in order to have a reasonable chance to see this legislation enacted this year. Obviously, a conference would be a more appropriate process to iron out the differences between the two houses. Before taking this step, the leadership of both sides of the aisle, Senators Mansfield, Robert C. Byrd, Hugh Scott and Griffin were consulted. In addition, this motion to concur with an amendment was discussed with a number of other Senators including Senators Morgan, Chiles, Cranston, Percy, and Javits.

Mr. President, let me describe the substitute amendment referred to as the "mystery package."

The amendment consists of three titles:

Title I, amendments to the Antitrust Civil Process Act;

Title II, Premerger notification; and

Title III, parens patriae.

Almost all the miscellaneous provisions of H.R. 8532, as passed by the Senate, were deleted at the insistence of the House Members.

Of the roughly 41 identified points of difference between the Senate and House passed versions of H.R. 8532, approximately 25 were resolved in favor of the House position, 10 in favor of the Senate position and 6 resulted in a compromise.

Mr. President, I will not try to describe all the points of difference between the Senate and House bills. I will, however, describe the major differences between the Senate passed bill and the substitute amendment. If a provision of the Senate passed bill was a point of major controversy on the floor of the Senate, I also will describe its treatment in the substitute amendment if it is different than the Senate passed bill.

The titles deleted from the Senate-passed bill are:

First. Title I, declaration of policy;

Second. Section 202, grand jury and *nolo* contendere provision;

Third. Certain provisions of title III, miscellaneous amendments: Section 301, which broadened the Clayton Act's merger provisions to cover activities in or affecting commerce; and section 302, foreign actions; and

Fourth. Title VI, antitrust Review and Revision Commission.

ANTITRUST CIVIL PROCESS ACT

Title II—Antitrust Civil Process Act amendments—of the Senate bill was fairly close to the comparable title of the House passed bill. A major difference between the Senate and House bills related to the standard for quashing a civil investigative demand. The House passed bill contained a standard that included certain rules under the Federal Rules of Civil Procedure. The Senate bill contained no comparable provision. Such a provision is included in the substitute amendment.

The substitute amendment contains the provisions of the House bill respecting judicial procedure to compel a witness to answer questions on oral examination. The Senate bill authorized summary procedures, including contempt, for compelling a witness to respond to appropriate questions. The substitute amendment utilizes the more formalized petition and appeal procedures.

PRE-MERGER NOTIFICATION

Title V (Pre-Merger Notification) of the Senate bill also was fairly close to the House bill. The major modifications made to the Senate bill that are reflected in the substitute amendment are as follow:

First. Acquisitions subject to notification requirements—A third standard in addition to the $100 million—$10 million size tests was added; namely, that the transaction involve an acquisition of $15 million in stock or assets, or 15 percent of the voting securities, of the acquired company.

Second. Cash tender offers—The bill's 30 days plus 20 days notification period was shortened for cash tender offers to 15 days plus 10 days; and failure of the acquired company to provide the relevant information may not be used as a basis to delay consummation of the acquisition. However, the acquired company is required to comply and is subject to the penalty provisions of the title.

Third. Freedom of Information Act—The substitute amendment adopts the House provision exempting material filed under this title from the Freedom of Information Act. The Senate bill made such material subject to the Freedom of Information Act.

Fourth. Notification by additional companies—The Senate bill authorized the antitrust authorities to obtain notification from companies not meeting the size criteria in certain instances. The substitute amendment does not contain such a provision.

PARENS PATRIAE

The present Senate version of title IV, the Parens Patriae title, is a compromise between the House- and Senate-passed bills. In this compromise, the scope of the parens patriae action has been enlarged from the Senate version of per se violations and fraud on the Patent Office to the House version of the entire Sherman Act. However, the provisions relating to aggregation, or fluid damage class recovery, have been narrowed from the Senate version. The Senate bill allowed the state Attorney General to utilize the fluid class recovery method of computing damages for two offenses; price fixing and fraud on the Patent Office. The substitute amendment specifically authorizes aggregate damages for price fixing only.

The notice provision was modified to require notice in addition to notice by publication if required by due process of law.

The substitute amendment retains the prohibition on percentage contingency fees and contains some additional clarifying language with respect to other contingency fees.

The Senate provisions respecting retroactive application, State opt-out authority, damage distribution and consolidation are basically retained.

The Senate provision respecting federally funded programs is deleted.

SENATE RESOLUTIONS 528 AND 529—RELEASE OF DOCUMENTS AND DEPOSITION OF SUBCOMMITTEE STAFF

Mr. NUNN. Mr. President, I submit today two resolutions, one regarding the release of certain information to the insurance commissioner of the State of Florida and the other regarding a deposition to be given by a staff investigator in the case of *Bartels* v. *Field Enterprises, Inc.*, 75 Civ. 5930 (RLC).

The office of the commissioner of insurance of the State of Florida is conducting an investigation of certain insurers. The subcommittee, in the course of our labor investigation, obtained information relevant to the Florida inquiry. In a letter dated August 17, 1976, the office of the commissioner of insurance has formally requested that information.

In another matter, counsel to John Bartels, who has initiated a lawsuit against Field Enterprises, Inc., has formally requested, in a letter dated June 15, 1976, that staff investigator Philip R. Manuel be made available for deposition. Mr. Bartels, former Administrator of the Federal Drug Enforcement Administration, is suing the Chicago Daily News over a story written by two reporters who in their depositions, have cited conversations with Mr. Manuel.

Pursuant to rule XXX of the Standing Rules of the Senate, and the privileges of the Senate, information secured by staff members pursuant to their official duties as employees of the Senate may not be revealed without a resolution of the Senate.

Accordingly, Mr. President, I offer the following resolutions, approved by the Committee on Government Operations, and ask unanimous consent that these resolutions be adopted.

This has been cleared on the minority side of our committee.

The PRESIDING OFFICER. The resolutions will be stated.

The legislative clerk read as follows:

AUTHORIZATION OF DEPOSITION OF STAFF INVESTIGATORS

S. RES. 528

Whereas, John Bartels is the plaintiff in the matter *Bartels* v. *Field Enterprises, Inc.*, 75 Civ. 5930 (RLC) regarding an article which appeared in the Chicago Daily News on September 18, 1975; and

Whereas, in their depositions in this matter, the authors of that article refer to conversations with Philip R. Manuel, a staff investigator of the Permanent Subcommittee on Investigations; and

Whereas, counsel for John Bartels has formally requested in writing that Mr. Manuel be made available to be deposed regarding his alleged conversations with the authors of said article; and

Whereas, by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, no information secured by staff employees of the Senate pursuant to their official duties may be revealed without the consent of the Senate, therefore, be it

Resolved, that Philip R. Manuel be authorized to present himself and be deposed regarding any communications he may have had with the authors of that newspaper article which is the subject of litigation in the matter of *Bartels* v. *Field Enterprises, Inc.*, 75 Civ. 5930 (RLC).

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Eliot Lauer, Esq., 100 Wall Street, New York, New York, 10005.

S. RES. 529

Whereas, the Office of the Insurance Commissioner of the State of Florida is conducting an investigation into the affairs of certain insurers; and

Whereas, the Office of the Insurance Commissioner has requested in writing that the Subcommittee furnish documents, papers and other information which it might have with regard to the affairs of the insurers; and

Whereas, in the normal course of its investigative activities, the Permanent Subcommittee on Investigations obtained documents, papers and information regarding the affairs of the insurers; and

Whereas, by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, documents, papers and other information of the Senate may not be released without the consent of the Senate, therefore be it

Resolved, That the Permanent Subcommittee on Investigations is authorized, at the discretion of and at the direction of its Chairman, to provide the Office of the Insurance Commissioner of the State of Florida with any information in its possession relevant to the affairs of the insurers.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Philip F. Ashler, Insurance Commissioner, State of Florida, Tallahassee, 32304.

Mr. NUNN. Mr. President, I ask unanimous consent that the resolutions be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions (S. Res. 528 and S. Res. 529) were agreed to.

The preambles were agreed to.

ORDER OF BUSINESS

Mr. NUNN. Mr. President, I have about a 10-minute speech, but to accommodate other Senators if there is something needs to be said, at this point I will wait and make it later.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I ask unanimous consent that I may insert—or have prepared and that I may insert a substitute for the pending substitute in just a moment.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Reserving the right to object, does the Senator mean to just offer it, to introduce it?

Mr. ALLEN. That is correct.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON TUESDAY, AUGUST 31, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. PROXMIRE be recognized for not to exceed 10 minutes on Tuesday, August 31, after the two leaders have been recognized under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PRINT S. 2657 AS PASSED BY SENATE ON AUGUST 28, 1976

Mr. ROBERT C. BYRD. Mr. President, the Education Amendments of 1976, as passed by the Senate today be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HARRY F. BYRD, JR., CHANGED TO TUESDAY, AUGUST 31, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. HARRY F. BYRD's order for recognition for 15 minutes on Monday be changed to Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. (Mr. MORGAN). The Chair, on behalf of the Vice President, pursuant to Public Law 94-280, appoints the following Senators to the National Transportation Policy Study Commission: the Senator from New Jersey (Mr. WILLIAMS), the Senator from Indiana (Mr. HARTKE), the Senator from Alaska (Mr. GRAVEL), the Senator from Texas (Mr. TOWER), the Senator from Kansas (Mr. PEARSON), and the Senator from New York (Mr. BUCKLEY).

THE WEST POINT CHEATING SCANDAL

Mr. NUNN. Mr. President, Secretary of the Army Martin Hoffmann's announcement of August 23 represents, in my view, a positive step toward resolution of the EE304 cheating incident and restoration of a viable honor system commanding the full support and respect of the Corps of Cadets. A 1-year suspension is neither an unusual nor an unnecessarily harsh penalty for cheating. Most colleges and universities in the United States impose similar punishment for cheating, and in some schools expulsion is the only penalty.

I believe a more preferable means of settling the EE304 incident and restoring a viable honor system would have been to permit the Corps of Cadets as a whole to decide by referendum what changes it wished to make in the system and whether those changes should be applied retroactively to the class of 1977. In this regard, perhaps the supreme irony is that even were the corps to vote in a flexible, discretionary, honor system of the type now in effect at the U.S. Naval Academy and make it retroactive, the fate of most if not all the cadets who so far have been found guilty in the current cheating scandal would remain unchanged. None of these cadets were ignorant of the honor system's prohibition of cheating. None of these cadets were subjected to the kind of duress which traditonally has justified attenuated sanctions. And none, with perhaps one or two exceptions, voluntarily turned himself in.

Secretary Hoffmann did make significant concessions on many issues raised by the current scandal. First and foremost among these was his public admission that the Academy itself bears a degree of responsibility for the cheating which took place on the EE304 test. In so doing, however, he did not permit himself to fall victim to the bogus argument, now in vogue among defense counsel, that institutional culpability absolves individuals of all moral responsibility for their own actions.

Secretary Hoffmann also conceded that the honor system had to a large extent been taken out of the hands of the Corps of Cadets, and that cadet support of and respect for the system had subsequently declined. In this regard, his refusal to impose permanent changes in the honor system by Army fiat, instead leaving this issue in the hands of the Cadet Honor Committee for consideration—with the probability of a full referendum by the corps—is eminently supportive of the system's return to the corps.

While Secretary Hoffmann refused to state publicly that the honor system has broken down. I believe this conclusion was implicit in the very fact of his unprecedented intervention in the current scandal and in his continual characterization of the considerations which led to his intervention as "extraordinary circumstances." Like the owner of an old automobile, the Corps of Cadets must decide whether there is enough life left in the honor system to justify simply a complete overhaul or whether the present system is beyond repair and should be replaced by a new one or by a total abandonment of the honor code.

However, Secretary Hoffmann's response to other issues was, in my view, less reassuring. I cannot subscribe to the notion that allegations of intimidation of defense counsel can be largely dismissed as stemming simply from paranoid interpretations of abrupt reassignments, inexplicably derogatory efficiency reports, and subsequent unexpected promotion denials. Secretary Hoffmann is nevertheless committed to a thorough explanation of these allegations, and the subcommittee will insist on nothing less.

Moreover, despite protestations to the contrary, the scope of the Academy's investigation of cheating still appears to be confined to the EE304 examination and the class of 1977. It is important to realize, however, that it is the defense counsel themselves who bear the principal responsibility for the failure to conduct a thorough inquiry into the extent of cheating at West Point. Since May, defense counsel have been compiling sworn affidavits submitted by their clients containing allegations of cheating and other honor violations on the part of 600–700 additional cadets, including members of the classes of 1976 and 1978.

Yet, in a flagrant attempt to intimidate—some may say blackmail—the Army into reinstating their clients, they have refused to turn these affidavits over to the Army for investigation. Thus, on the one hand defense counsel berate the Army for not pursuing a thorough investigation of cheating at West Point, while on the other they refuse to make available information without which such an investigation is impossible.

The Army has repeatedly requested these affidavits and is pledged to investigate them thoroughly. If defense counsel are indeed serious about ascertaining the true extent of the cheating at the Military Academy, they should make these allegations public. Keeping them locked in the safe of a chaplain at West Point hardly serves the interest of a comprehensive and unfettered inquiry.

Mr. President, it is time for defense counsel to fish or cut bait.

In summary, Mr. President, before West Point can get back to the business of training young men and women to become Army officers, *it must dispose* of the following problems:

First, the known cases of cheating in the EE304 test must be resolved in an equitable fashion. The Secretary of the Army has moved in this direction.

Second, the honor system must be thoroughly reviewed with the aim of reform and this must be done by the cadets. The Secretary of the Army's action encourages and opens the way for this to occur, and it should occur quickly.

Third, any new allegations of cheating or other honor violations must be pursued vigorously to a satisfactory conclusion. The Army is pledged to do this, if only those who have made new allegations would step forward.

Finally, any suspicion of intimidation of defense counsel, prosecutors, or others involved in the current scandal must be investigated, and, if proven, rectified. The Army's actions in this area appear to have been less than satisfactory thus far.

Mr. President, I have been asked the question whether the Subcommitte on Manpower is going to conduct a so-called complete, independent investigation of the cheating scandal at West Point. If any member of the staff of the Manpower Subcommittee goes to West Point it will not be to conduct an investigation of any particular allegations of cheating. The guilt or innocence of the cadets at West Point must be determined by the adjudicatory process and in my view cannot be determined by our subcommittee, by the full committee, by the House of Representatives, or by the Senate. This is not part of our function. It is part of the judicial system to determine guilt or innocence.

There has been a discussion in our subcommittee of the possibility of interviewing some cadets who have not been accused of cheating in the class of 1977 and the other classes at West Point, to assess their attitudes about the future of the honor code.

The subcommittee has also discussed the possibility of having some cadets who are not involved in the present cheating episode appear before our subcommittee to get their views about the future of the honor code. These possibilities are under discussion, but have not been decided by the subcommittee.

Mr. President, that completes my statement, and I am glad to yield the floor.

MRS. DAVID C. DAVIS

Mr. THURMOND. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of a bill for the relief of Mrs. David C. Davis.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 3779) for the relief of Mrs. David C. Davis.

The PRESIDING OFFICER. Is there objection to the request of the Senator from South Carolina? Without objection, the bill will be considered as having been read twice, and the Senate will proceed to its consideration.

Mr. THURMOND. Mr. President, I ask unanimous consent that a letter from Mrs. Davis' son to me, dated August 22, 1976, be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

August 22, 1976.

Senator Strom Thurmond,
U.S. Senate, Senate Office Building, Washington, D.C.

Dear Senator Thurmond: I am writing you for assistance because I think you are probably the only one who would care enough and be influential enough to help me.

The problem: My mother who is 84 years old, wants to be buried with my father who is buried in cemetery No. 2, Fort Jackson, S.C. For this, we need official and written authorization.

Justification: My mother and father gave up their home and land when Camp Jackson was constructed in 1917. They lived, at the time, in what is now known as the Tank Hill area. They moved just outside the reservation boundary. In 1940, the Fort Jackson boundaries were expanded and my mother again had to relocate. By this time, my father had died and was buried in the old Beaulah Church cemetery—now Post Cemetery No. 2. Because the cemetery was not in an impact area, a fence was constructed around it and it was left intact.

The cemetery is located about one block off Percival Road which is the northern boundary of the Fort. It is also located just one hundred and fifty (150) feet to the rear of the U.S. Army Reserve Training Center as shown in photograph No. 1 on the attached sheet.

As you can clearly see in photograph No. 2, there is ample space for another grave in the fenced area.

Urgency: Mother recently fell and broke her leg between the knee and hip. She is still hospitalized and because of other health problems, she may not recover from this fall. We desperately need written authorization, probably from the Secretary of the Army, for Mother to be interred in Cemetery No. 2.

Anything you could do to expedite a decision will be appreciated. Thank you.

Most sincerely,

Richard I. Davis.

Mr. THURMOND. Property which was once Beaulah Church Cemetery is now Federal property within boundaries of Fort Jackson in Richland County, S.C., and known as Post Cemetery No. 2.

Mrs. David C. Davis—Mamie A.—84 years old, close to death, a blood clot in her lung, wishes to be buried next to her husband in Post Cemetery No. 2. Davis died October 13, 1940. It is necessary to pass this bill so that Mrs. Davis may be buried next to her husband.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of an Act entitled "An Act to establish eligibility for burial in national cemeteries, and for other purposes", approved on May 14, 1948 (62 Stat. 234; 24 U.S.C. 281), Mrs. David C. Davis may be buried next to her husband in Post Cemetery Number 2, Fort Jackson, South Carolina.

Mr. THURMOND. Mr. President, I thank the distinguished assistant majority leader for his courtesy and kindness in this emergency situation.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet on Tuesday, August 31, to consider nominations and international agreements; and that the Committee on Rules and Administration be authorized to meet on September 8, to consider the Government Economy and Spending Reform Act of 1976.

The PRESIDING OFFICER (Mr. Morgan). Without objection, it is so ordered.

ORDER DESIGNATING PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, AND FOR CONSIDERATION OF H.R. 13372, TO AMEND THE WILD AND SCENIC RIVERS ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday after the two leaders have been recognized under the standing order, there be a brief period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each, at the conclusion of which the Senate proceed to the consideration of Calendar No. 1100, H.R. 13372, the Wild and Scenic Rivers Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will convene at 9 a.m. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each, at the conclusion of which the Senate will proceed to the consideration of H.R. 13372, the Wild and Scenic Rivers Act.

Mr. ALLEN. Mr. President, reserving the right to object, has an order been entered for the consideration of this matter on Monday?

Mr. ROBERT C. BYRD. Yes, it has. I was merely trying to sum it up, to provide that immediately after morning business has closed, the new river bill would come up automatically.

Mr. ALLEN. What about the——

Mr. ROBERT C. BYRD. The order has already been entered authorizing the leadership to call up this matter at any time on Monday, and the leadership will endeavor to comply with the order already entered.

Mr. ALLEN. Very well, but what about the privileged item of the House message?

Mr. ROBERT C. BYRD. Under the order, the leadership is authorized, as I say, to call up the New River bill.

Mr. ALLEN. Well, authorized to call it up, but then the request should be made for the continuation of the consideration of the House message.

Mr. ROBERT C. BYRD. Well, the leadership will make that decision. The elected leadership of the Senate is not ready to surrender its prerogative.

Mr. ALLEN. Well, nevertheless, once a bill is called up, even if a bill is pending, any Member would have a right to call up a privileged item; would he not?

Mr. ROBERT C. BYRD. I do not think so, with an order pending.

Mr. ALLEN. The rules say so.

Mr. ROBERT C. BYRD. Well, he can by unanimous consent, but otherwise he would have to motion it up.

Mr. ALLEN. The Senator is mistaken about that.

Mr. ROBERT C. BYRD. You are suggesting a call for the regular order would bring the motion back?

Mr. ALLEN. No; not a request for the regular order, but a request for the consideration of the House message, which has priority.

Mr. ROBERT C. BYRD. But not priority over an order that has been entered by unanimous consent.

Mr. ALLEN. That is the reason why I asked if there had been unanimous consent that it be called up.

The PRESIDING OFFICER. The

Chair will state that there is an order to that effect.

Mr. ALLEN. That it be called up when?

Mr. ROBERT C. BYRD. That would be when the leadership wishes to call it up.

The PRESIDING OFFICER. At the discretion of the leadership.

Mr. ALLEN. Is there a time limit on it?

Mr. ROBERT C. BYRD. No.

Mr. ALLEN Very well, then; when it is called up, I will then call for the House message to be considered.

Mr. ROBERT C. BYRD. The Senator may resort to any options that he has.

Mr. ALLEN. Yes, sir.

Mr. ROBERT C. BYRD. And the leadership will do likewise

Mr. ALLEN. Well, I understood the Senator, in colloquy——

Mr. ROBERT C. BYRD. The Senator has made his position clear. I do not see why we have to hem and haw about this.

Mr. ALLEN. I understood the Senator, in colloquy, to say there would be plenty of time Monday to consider the Senator's substitute.

Mr. ROBERT C. BYRD. Hopefully.

Mr. ALLEN. Well, he did not say hopefully before. He said there would be plenty of time.

Mr. ROBERT C. BYRD. If the Senator wants to haggle over words, he may do so.

Mr. ALLEN. The right to consider the substitute is not haggling.

Mr. ROBERT C. BYRD. I would hope the Senator would save his haggling for Monday, and let Senators go home for tonight.

The PRESIDING OFFICER. Is there objection to——

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

RECESS UNTIL 9 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 9 o'clock on Monday morning.

The motion was agreed to and at 6:47 p.m. the Senate took a recess until Monday, August 30, 1976, at 9 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate August 27, 1976:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Thomas L. Lias, of Iowa, to be an Assistant Secretary of Health, Education, and Welfare.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Monday, August 30, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Fear not, for I am with you; be not dismayed for I am your God; I will strengthen you; yea, I will help you.—Isaiah 41: 10.

Almighty and eternal God, we turn to Thee at the beginning of a new day praying that by Thy spirit it may be the beginning of a new life for us. Make us men and women of vision and valor ready with clear minds, courageous hearts, and clean hands to meet the challenges which come to us and to carry the responsibilities which are ours. Grant that we may cultivate more than ever the spirit of justice, liberty, and good will among our people and among the nations of our world.

May the peace of Thy presence fill our hearts as we commit ourselves to Thee and to the highest good of our beloved country.

In the spirit of the Master we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 9153. An act granting the consent of Congress to the New Hampshire-Vermont interstate sewage waste disposal facilities compact.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3884. An act to terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies; and

H.R. 13713. An act to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, and for other purposes.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 3084. An act to amend and extend the Export Administration Act of 1969 to improve the administration of export controls pursuant to such act, to strengthen the antiboycott provisions of such act, to amend the Securities Exchange Act of 1934 to enhance the investor disclosure provisions of that act, and for other purposes;

S. 3395. An act to authorize appropriations for the construction of the Uintah unit of the central Utah project;

S. 3779. An act for the relief of Mrs. David C. Davis; and

S.J. Res. 206. A joint resolution providing for a National Leadership Conference on Energy Policy to be held during 1977.

The message also announced that the Vice President, pursuant to Public Law 94–280, appointed Mr. WILLIAMS, Mr. HARTKE, Mr. GRAVEL, Mr. TOWER, Mr. PEARSON, and Mr. BUCKLEY as members on the part of the Senate, of the National Transportation Policy Study Commission.

PERMISSION FOR SPEAKER TO DECLARE RECESS ON SEPTEMBER 23, 1976, FOR PURPOSE OF RECEIVING IN JOINT MEETING THE PRESIDENT OF LIBERIA

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Thursday, September 23, 1976, for the Speaker to declare a recess for the purpose of receiving in joint meeting the President of Liberia.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO SIT TODAY DURING 5-MINUTE RULE

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the Committee on Standards of Official Conduct may be permitted to sit today during proceedings under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

MAJORITY LEADER THOMAS P. O'NEILL, JR., SAYS PRESIDENTS MESSAGE ON PARKS IS *POLITICAL POLLUTION*

(Mr. O'NEILL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. O'NEILL. Mr. Speaker, I see that President Ford has suddenly become an environmentalist.

Just as Congress heads into the homestretch, the President says he is going to send up a big new parks bill—a billion and a half dollars for parks in the next 10 years.

If Congress had passed a bill like that last February, the President would have vetoed it. Just like he vetoed two strip mining bills. And the wildlife refuge bill. And TVA pollution control, rural conservation, and coal leasing which we overrode earlier this month. That is President Ford's veto-riddled record on the environment.

Until now, the environment has meant nothing to this Republican administration except big business exploitation.

Now President Ford is trying to exploit the environment for votes. He has invented a new kind of mining in national parks.

The President made his announcement in the right place. In front of Old Faithful geyser. It was hard to tell who was spouting the most hot air.

I want to welcome President Ford back from his vacation. I hope that he will join with the Congress in combating this new threat to the environment—political pollution.

CALL OF THE HOUSE

Mr. DAVIS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 670]

Abzug
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
AuCoin
Badillo
Bell
Boland
Brown, Mich.
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cohen
Collins, Ill.
Conlan
Conyers
Cornell
Cotter
D'Amours
de la Garza
Dellums
Dickinson
Diggs
Dodd
du Pont
Eckhardt
English
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fish
Fithian
Ford, Tenn.
Forsythe
Frey
Fuqua
Giaimo
Gilman
Gonzalez
Green
Gude
Hawkins
Hays, Ohio
Hébert
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Holland
Jacobs
Jarman
Jeffords
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Karth
Kazen
Keys
LaFalce
Landrum
Lehman
McCloskey
McDade
McEwen
Maguire
Matsunaga
Mikva
Mills
Mink
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Neal
O'Hara
Paul
Pepper
Peyser
Randall
Rangel
Rees
Regula
Riegle
Risenhoover
Rodino
Ruppe
Sarasin
Sebelius
Shriver
Sisk
Staggers
Stanton, James V.
Steelman
Steiger, Ariz.
Stuckey
Sullivan
Teague
Thornton
Ullman
Vander Veen
Wirth
Wydler
Wylie
Young, Alaska
Young, Ga.
Zeferetti

The SPEAKER. On this rollcall 322 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

LEGISLATION DESIGNED TO CLEAR THE WAY FOR PRESIDENTIAL DEBATES

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous material.)

Mr. JOHN L. BURTON. Mr. Speaker and Members of the House, today I am going to introduce a piece of legislation which would clear the way for nationally scheduled debates between President Ford and Governor Carter.

This bill would, for this year only, provide that financing those nationally televised debates would not be considered contributions as they apply to the Federal election law. This would permit the League of Women Voters to sponsor these debates. They are in the public interest, and the Federal Election Commission should permit these debates to go on.

I thank the Members for their attention.

PERMISSION FOR SUBCOMMITTEE ON WATER RESOURCES OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO MEET THIS WEEK DURING 5-MINUTE RULE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Water Resources of the Committee on Public Works and Transportation be permitted to meet this week during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, would the gentleman inform me as to whether this subcommittee will be marking up any bills?

Mr. ROBERTS. If the distinguished gentleman would yield to me, I will say that we have some 77 major projects. This is the week when Members testify and bring their delegations before the subcommittee. Some of them are coming a considerable distance, and we have a short week.

Mr. ROUSSELOT. So, the gentleman can assure us that this is primarily for hearings?

Mr. ROBERTS. It will be strictly for hearings. We are a long ways off.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's remarks, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

SUPPLEMENTAL SECURITY INCOME AMENDMENTS OF 1976

Mr. CORMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8911) to amend title XVI of the Social Security Act to make needed improvements in the program of supplemental security income benefits.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. Corman).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8911, with Mr. Bergland in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, August 26, 1976, the amendment in the nature of a substitute was considered as having been read and open to amendment at any point.

Pursuant to the rule, no amendments are in order to the bill or to the amendment in the nature of a substitute except amendments offered by direction of the Committee on Ways and Means and germane amendments printed in the Congressional Record at least 2 legislative days prior to the consideration of said bill for amendment. Said amendments shall not be subject to amendment except those offered by direction of the Committee on Ways and Means and pro forma amendments.

Are there further amendments to the amendment in the nature of a substitute?

AMENDMENT OFFERED BY MR. CORMAN

Mr. CORMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Corman: On page 21 (of H.R. 15080), after line 5, insert the following new section (and redesignate the succeeding section accordingly):

EXCLUSION OF CERTAIN ASSISTANCE PAYMENTS FROM INCOME

Sec. 18. Section 1631(b) of the Social Security Act is amended by inserting "(1)" after "(b)", and by adding at the end thereof the following new paragraph:

"(2) No part of any benefit paid to an individual under this title for any month beginnning before October 1, 1976, shall be considered an overpayment by reason of assistance paid under any provision of law with respect to a dwelling unit in which such individual was living if, under section 2(h) of the Housing Authorization Act of 1976, the value of assistance paid under that provision of law would not be considered as income or a resource for purposes of benefits under this title on or after that date.".

Mr. CORMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CORMAN. Mr. Chairman, this amendment deals with exclusion of certain assistance payments from income. The amendment would prevent the Social Security Administration from recovering any overpayment that was made to an SSI recipient prior to October 1, 1976, because they had benefited from Federal rent subsidies. This amendment is complementary to a provision in S. 3295, a bill that has been signed by the President, to extend and modify certain housing programs under the National Housing Act. The provision prevents reduction of SSI benefits after October 1, 1976, if the recipient benefits from Federal rent subsidies.

It has come to our attention that there have been some recomputations because the regulations have not been complied with. We do not want the SSI to go through some very expensive recomputation programs and to cut back on SSI payments.

Mr. VANDER JAGT. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Michigan (Mr. Vander Jagt).

Mr. VANDER JAGT. I thank the gentleman for yielding to me.

Mr. Chairman, I wholeheartedly concur in what the gentleman is trying to achieve. I have just one question. Is it the gentleman's intention that HEW shall not be expected to reopen cases in which retrieval of cases relating to housing assistance has already been achieved?

Mr. CORMAN. That is exactly correct.

Mr. VANDER JAGT. Mr. Chairman, with that clarification, I enthusiastically support the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Corman).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FRASER

Mr. FRASER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fraser: On page 21 (of H.R. 15080), after line 5, insert the following new section (and redesignate the succeeding section accordingly):

MAINTENANCE OF STATE SUPPLEMENTATION

Sec. 18. (a) Title XVI of the Social Security Act is amended by adding immediately after section 1617 the following new section:

"OPERATION OF STATE SUPPLEMENTATION PROGRAMS

"Sec. 1618. (a) In order for any State which makes supplementary payments of the type described in section 1616(a) (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66), on or after June 30, 1977, to be eligible for payments pursuant to title XIX with respect to expenditures for any calendar quarter which begins—

"(1) after June 30, 1977, or, if later,

"(2) after the calendar quarter in which it first makes such supplementary payments, such State must have in effect an agreement with the Secretary whereby the State will—

"(3) continue to make such supplementary payments, and

"(4) maintain such supplementary payments at levels which are not lower than the levels of such payments in effect in December 1976, or, if no such payments were made in that month, the levels for the first subsequent month in which such payments were made.

"(b) The Secretary shall not find that a State has failed to meet the requirements imposed by paragraph (4) of subsection (a) with respect to the levels of its supplementary payments for a particular month or months if the State's expenditures for such payments in the twelve-month period (within which such month or months fall) beginning on the effective date of any increase in the level of supplemental security income benefits pursuant to section 1617 are not less than its expenditures for such payments in the preceding twelve-month period."

(b) Section 401(a)(2) of the Social Security Amendments of 1972 is amended—

(1) by inserting "(subject to the second sentence of this paragraph)" immediately after "Act" where it first appears in subparagraph (B), and

(2) by adding at the end thereof the following new sentence: "In determining the difference between the level specified in subparagraph (A) and the benefits and income described in subparagraph (B) there shall be excluded any part of any such benefit which results from (and would not be payable but for) any cost-of-living increase in such benefits under section 1617 of such Act (or any general increase enacted by law in the dollar amounts referred to in such section) becoming effective after June 30, 1977.".

(c) The provisions of this section shall be effective with respect to benefits payable for months after June 1977.

Mr. FRASER (during the reading). Mr. Chairman, I have furnished the minority with a copy of the amendment, and they have it. I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRASER. Mr. Chairman, this amendment would require that, starting on July 1 of next year, States "pass through" to recipients cost-of-living increases in Federal SSI benefits. Our amendment says, in effect, that States cannot reduce expenditures for SSI at the expense of recipients.

Mr. Chairman, we have had a problem in our own State. In recent years, this Congress has enacted increases in SSI of $20. Our State government has put $10 of that in its pocket. The people who are supposed to get this money have not received it, and they are falling increasingly behind in the rising cost of living.

If the amendment here is adopted, it will require that the States actually see that the beneficiaries get the money.

Mr. Chairman, I am offering this amendment on behalf of my colleagues, the gentleman from Massachusetts (Mr. O'Neill), the gentlewoman from New York (Ms. Holtzman), and the gentleman from New York (Mr. Bingham).

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

Mr. Chairman, I hope my name can be added to that also. I heartily support this amendment. I think it is most desirable.

Mr. FRASER. Mr. Chairman, I am delighted to have the gentlewoman's support in respect to the amendment and I appreciate very much the gentlewoman's comment.

Mr. Chairman, there is just one other point I want to make. Some of our colleagues circulated a letter which implied that the budgetary impact of this might be as much as $55 million. That is simply not true. The budgetary impact for fiscal year 1977 is $1.9 million, which is well within the budget allocation for purposes of this legislation. Starting in fiscal 1978 the budgetary impact of the amendment would be roughly $7 million a year.

We have circulated to our colleagues a copy of a letter from the Congressional Budget Office certifying to the correctness of the figures I have just given.

Mr. Chairman, I hope we will adopt this amendment and make sure that the blind, the disabled, and the elderly get the cost-of-living increases they deserve.

Mr. VANDER JAGT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the arguments made for this amendment as it is presented are that it is in a way innocuous, that it is a fair amendment, and that it is an inexpensive amendment. In reality, it is far from innocuous, it is devastating to the very purpose of the SSI program, and it is far from fair.

This amendment would permanently grind into the law a blatant unfairness toward 3 States, and although it is inexpensive, since it would cost approximately $1.9 million as to this coming fiscal year, the cost increases 400 percent in fiscal year 1978. The reason why it is relatively inexpensive in the coming fiscal year is that it only applies to one-quarter of the year, but eventually the cost will go up to $55 million a year.

I will be glad to answer questions relative to those charges after I explain why this is the case. When this Congress in 1973, after 1 year of deliberations by the Committee on Ways and Means, adopted our only significant welfare reform, we said to the States, "As far as your programs for the aged, the disabled, and the blind are concerned, we, the Federal Government, will take them over, we will establish a uniform Federal minimum benefit program, and then, if you want to supplement in addition to that, that is your business on the basis of the needs of your people and the resources of your State."

So when we raise now the Federal floor which we established uniformly, the floor below which no disabled person would be able to fall, we are not saying anything about the specific benefits level as to the receipt of a specific recipient off in some State that chooses to provide supplemental benefits. We are speaking about the uniform Federal floor that shall apply across the board to all of our citizens.

This is what the Committee on Ways and Means said when it reported H.R. 1 to the floor in the 92d Congress.

The SSI program "leaves each State completely free either to provide no supplementation to Federal assistance payments or to supplement those payments to whatever extent it finds appropriate in view of the needs and resources of its citizens. Each State would also retain its freedom to revise at any time its terms and conditions as to what extent it would supplement Federal payments."

Mr. Chairman, this amendment repudiates that basic, underlying philosophy of H.R. 1 which was enacted by the 92d Congress and became the basis of our SSI program.

In addition, it does something worse than that. When we were selling it, there were recipients seven or eight States, so we said, "Wait a minute. We know the Federal payments that will be made under this new program will be less than the payments made under the old program, so," we said, "no recipient shall ever receive less than he was getting under the old program." To make sure that this would not happen, we guaranteed that the Federal Government would make up the difference between what the minimum Federal benefit payment is and what he used to be getting under the old program. So the recipients in those programs were getting the highest dollar of any recipients in America at no expense whatsoever to those States.

As the minimum Federal level has gradually raised, the amount that it takes to make up the difference has been correspondingly reduced.

The latest example is with respect to the States of New York, California, and Nevada, which passed out of the hold-harmless program, effective with the Federal increase of July 1, 1976, saving the taxpayers $100 million a year. However, now along comes the last three hold-harmless States in America, Massachusetts, Wisconsin, and Hawaii. They say, "We do not want it to apply to our States the way it has to everyone else. We are going to lock in that difference as of August 1976. Therefore, even when the Federal payment level matches what it used to be and there is no difference, we still want $55 million a year because that is what the difference used to be back in August of 1976."

Mr. Chairman, if I were from New York, California, or Nevada, I would say, "That is really unfair. What is the magic about August 1976? Why should it not be June 1976 so that my State is part of this $100 million bonanza each year."

Mr. KINDNESS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. VANDER JAGT. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Michigan.

Mr. VANDER JAGT. Mr. Chairman, I thank the gentleman from Ohio (Mr. KINDNESS) very much for yielding to me so that I may take about another 60 seconds to explain what is, indeed, a very complicated amendment.

The effect of this amendment, then, is that we would be subsidizing Wisconsin, Massachusetts, and Hawaii to the tune of $55 million a year to make up the difference when there is no longer any difference. The taxpayers of 47 States will be paying dollars to solve the problem in those 3 States, even when there is no problem.

Mr. Chairman, it is blatantly unfair to the taxpayers of the other 47 States. I point out that even without this amendment, every recipient in those States will be getting the top dollar that they were getting at no cost to that State. This is just a $55-million-a-year boondoggle.

Mr. Chairman, if we want to retain a modicum of respect as the most deliberative body in the world, we ought to reject this amendment because it is not innocuous; it is devastating. It is not fair; it is blatantly unfair, and it ultimately will cost us $55 million a year.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's yielding.

I wonder whether my colleague, the gentleman from Michigan (Mr. VANDER JAGT), could explain why this would be devastating to California. Many of us want to be sure of the gentleman's rationale.

Mr. VANDER JAGT. Mr. Chairman, if the gentleman from Ohio (Mr. KINDNESS) will yield further so that I might respond, I will be grateful.

Until June of this year, California was in a hold-harmless category. The amount of the Federal benefit was below what it used to be under the old State program.

As of July 1 of this year, the cost of living raised the Federal minimum benefit payment so that it now equals what it used to be under the old program, so there is no longer a hold-harmless situation in California which, along with New York and Nevada, passed out of the hold-harmless situation and would not be benefited by this amendment.

Now along come Wisconsin, Massachusetts, and Hawaii, who say, "we do not want to be treated like California so that when there is no longer a difference, we no longer can be paid. We want to continue as we were."

That is why, Mr. Chairman, if I were from California, New York, or Nevada, I would say that that cutoff date ought to be June when we were getting $100 million a year in hold-harmless payments, not August, when we were not getting anything.

Mr. ROUSSELOT. Therefore, Mr. Chairman, what the gentleman is saying is that this is for the benefit of 3 States, does damage to 47 States, and is not equitable.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. CORMAN. Mr. Chairman, I thank the gentleman for yielding.

Later I am going to ask my colleagues' attention so I can refresh their memory about what the effect of the hold-harmless provision really is. It was not quite accurately stated.

I hope that those who listened to that last colloquy will stay here so that in a later colloquy we can straighten out some of the complexities of it.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield, I can straighten it out now.

Mr. JOHN L. BURTON. Mr. Chairman, the reason California is not covered in here is because we passed a special law to deal with the problem.

I do not know how many Members have ever been members of State legislatures or how many Members have ever talked to senior citizens in their State. It is very difficult for the senior citizens to understand when they learn through the newspapers that they are getting an increase in dollars in a Federal program but all of a sudden, their total check is the same because the State reduces the amount.

They do not understand that. They want the additional money, it may be $7 or $10 or $15 but then when they get their paycheck it is the same old paycheck.

I have been to meeting after meeting and the people simply do not understand it. I try to explain to them that it is because that is how the law works. They say that it is a very unfair law.

I have to agree with them and I hope that the Members on both sides of the aisle here would agree with them because we are talking about elderly people who have to be poor to be on the program. We are talking about blind people and we are talking about disabled people, crippled and blind people receiving a cost-of-living increase funded by this Congress.

The Members know that we do not have to worry about letting them deduct moneys because we passed the revenue sharing bill and we have block grants and we have categorical aids, and so forth. Why should the elderly, the blind, and the disabled get ripped off so that the money goes into the State treasuries?

So I would say to the gentlemen from California, just in closing, and in a somewhat more moderate vein, because I fought this issue for 10 years in the State legislature and I get a little bit worked up over it, but California was taken care of and we are really giving the other States the same equity as California has. I think this is the very right thing to do. I say do not be conned by somebody saying, "If you are from California, there is no need for it, do not vote for it." But the people who were not from California, if they had not voted for it then our bill would not have passed.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield, will the gentleman respond to the point the gentleman from Michigan (Mr. VANDER JAGT) made that this amendment would provide an inequity except for three States? Why does the gentleman not respond to that?

Mr. JOHN L. BURTON. I am responding, I understand what the gentleman says that some States do not benefit from the cost-of-living increase in certain areas, and the Federal Government gives a cost-of-living increase and certain people do not receive it, some areas they do and in certain areas they are prevented from receiving it.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Chairman, the cost-of-living increase to SSI recipients runs in the order of $400 to $500 million a year. Three States, however—Massachusetts, Wisconsin, and Hawaii—will receive no additional Federal funds unless we adopt this amendment. The reason is that while we increase the basic Federal benefit payment, there is a corresponding decrease in the hold-harmless payment. What we give with one hand we take away with the other. Unless we pass this amendment, these three States will get not one penny in additional Federal funds to deal with the rising cost of living for the old people, the blind people, and the disabled people.

Mr. JOHN L. BURTON. Mr. Chairman, in closing, let me say that it is not the States that we are talking about, it is the people we are talking about.

Mr. ROUSSELOT. We all understand that.

Mr. JOHN L. BURTON. I was not sure the gentleman did from the statement he made.

Mr. O'NEILL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the

amendment offered by the gentleman from Minnesota (Mr. FRASER) of which I am a cosponsor.

The effect of this amendment is to require that the annual cost-of-living increase for SSI benefits be passed on to all recipients. Under the present system, cost-of-living increases are often absorbed by the States. Forty-five States can absorb it, or in some cases, it is the Federal Government itself that is denying that recipients will receive an increase in their SSI checks.

Mr. Chairman, when the SSI program was initiated in 1972, it was known as the income maintenance program for the aged, the blind, and the disabled. Nationally there are about 4½ million recipients of SSI benefits. Those that are receiving SSI supplements are the poorest of the lot. Nationally there are 1 million recipients of SSI supplements. In Massachusetts alone there are 130,000 people receiving Federal SSI benefits and State supplement.

In June of this year I sent a newsletter to my constituents. One of the items included in the newsletter was an announcement of the 6.4 percent cost-of-living increase for social security recipients and SSI recipients. As soon as the newsletter reached my constituents, the telephones were ringing off the hook in my Boston office with people telling me they did not receive the SSI cost-of-living increase. These people are the aged, the blind, and the disabled. I began looking into it, and I found it was true not only in Massachusetts but in other States. The situation is similar in Wisconsin and in Hawaii, and in 45 other States where the States do not want to pass through the money from the cost-of-living increase. So there are recipients in other States who will be impacted by this amendment.

When I voted for the annual cost-of-living increase for the SSI beneficiaries. I did not intend it to go into the State treasuries as it can in the 45 States, nor did I intend that it go into the Federal Treasury, as it does in three States: Massachusetts, Wisconsin, and Hawaii.

Nationally there are 4½ million aged, blind, and disabled recipients of SSI. Only the neediest of this group receive the supplementation. Nationally this is about 1 million people. These are the people who will benefit from this amendment—130,000 people in my State alone.

The Director of the Congressional Budget Office, Alice Rivlin, has reviewed the Fraser-O'Neill amendment and has estimated that the cost for fiscal year 1977 will be $1,900,000. As a member of the Budget Committee, I can tell the Members that this amendment is well within the congressional budget resolution. This amendment has been specifically endorsed by the National Council of Senior Citizens and by the AFL–CIO. I believe it lost in full committee by one vote. Additionally, the chairman of the Public Assistance Subcommittee, the gentleman from California (Mr. CORMAN), realizes its merit, and supports it.

Mr. Chairman, I urge support for this amendment so that 1 million of our national elderly, blind, and disabled will receive the SSI supplement and will actually receive the cost-of-living increase, next July.

May I say there are, as I understand it, three classifications of States with regard to SSI: First, States giving just the Federal minimum, $167 as of July 1976, Texas and Wyoming.

Second. States giving the Federal minimum plus a supplement consisting totally of State funds: 45 States.

Third. States giving the Federal minimum plus a supplement. This is a question of whether or not we want to help the aged, whether or not we want to help the disabled, and whether or not we want to help the lame, at a time when a cost-of-living increase comes along, because of inflation and they are denied what the rest of the Nation gets.

I think the amendment is a fair amendment, and I certainly hope that it passes.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. O'NEILL. I would be happy to yield to the gentleman from Hawaii (Mr. MATSUNAGA).

Mr. MATSUNAGA. Mr. Chairman, I am pleased to rise in support of the Fraser-O'Neill amendment, which seeks to pass the cost-of-living increases in supplemental security income benefits on to all SSI recipients in all States. As chairman of the Subcommittee on Federal, State, and Community Services of the Select Committee on Aging, I have been especially concerned about the welfare of older Americans who depend upon the benefits of the supplemental security income.

I do not believe that Congress in legislating the annual cost-of-living increases for the benefit of the poor, elderly, blind, and disabled intended to provide such increases to some and permit the increases for others to be converted into revenue sharing for the States where they happen to reside. This amendment will insure, to the extent possible, that the over 4 million SSI beneficiaries throughout the country will be treated equitably insofar as Federal cost-of-living increasess are concerned.

I am especially happy to see that the amendment addresses the dilemma of the hold-harmless States, such as my own State—the State of Hawaii. While almost all States which supplement payments save sufficient money to pass through the Federal increase, hold-harmless States like Hawaii, Massachusetts, and Wisconsin save nothing. Furthermore, the recipients themselves do not gain from the Federal increase. Rather, in these States the Federal expenditures actually drop because of the increases in social security benefits to SSI beneficiaries. For Hawaii to pass through the Federal cost-of-living increase to its SSI recipients, the State would have to pay 100 percent of the cost. Somehow, a situation which would necessitate the State to pay the price of a Federal cost-of-living increase—while the Federal expenditures decrease—seems most unfair. When such a situation is viewed in conjunction with the fact that Federal expenditures for SSI in non-hold-harmless States will increase as a result of the cost-of-living increase, the matter requires an equitable solution. I believe the Fraser-O'Neill amendment achieves such a solution.

I want to emphasize that this amendment requires the Federal Government to do no more in this instance for the elderly, blind, and disabled in my State than it would do for any other State in the Union.

I urge the Members from all States—including those from States which do not supplement and are not affected by this amendment, to support this proposal which will insure equitable treatment for all SSI beneficiaries insofar as the Federal cost-of-living increases are concerned.

I thank the distinguished majority leader for yielding.

Mr. O'NEILL. Mr. Chairman, I am in agreement with the gentleman from Hawaii.

May I say that the three States can never get an increase above the present level as the law is now written. The Fraser amendment is a good amendment.

Mr. STEIGER of Wisconsin. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I find myself in a somewhat difficult position since the State of Wisconsin is one of those States that are involved in the discussion of the Fraser amendment.

Perhaps it would be helpful to the committee if we stepped back for a minute. Under the old program for the aged, blind, and disabled, if my memory is correct, the Federal Government picked up the first and the last of the $10 or the dollars that were involved. Basically the support for what we now are calling SSI was a State function, not a Federal function. In 1972 when we undertook—and I think all the Members at the time understood it—a very profound change in the law, we federalized that program, and the impact of that decision to federalize was somewhat uneven. That is to say, a number of States such as Wisconsin and Massachusetts and Hawaii and California and New York had a payment level for their aged, blind, and disabled that was above that minimum floor established by the Congress in 1972. At the time the Congress said we will hold harmless those States so that at no point will a recipient get less than he or she received from the State partially supplemented by Federal funds.

Since that time we as a Congress and the Federal Government have increased that minimum payment level by virtue of cost-of-living increases.

What happens in a State such as Mississippi is that the people in that State receive more because the Federal Government pays the whole cost but in a State such as Minnesota or in a State such as Wisconsin the decision is a State decision.

I do not think I unfairly characterize the SSI program, may I say to my friend, the gentleman from California, in terms of its impact or in terms of what we have done.

Now we get to the decision on the Fraser amendment which would be in my judgment a serious step, a fundamental change in the law, because suddenly we are mandating in effect, uneven benefit payments. That is what the Fraser amendment comes down to. That is really the whole issue.

Should the Federal Government pick up and pay for more benefits in a State such as Wisconsin than it does for other States in the Union? That would be a profound change in the concept of a minimum benefit payment. It would mean that Wisconsin recipients would be paid more than recipients in other States, that payment coming from the Federal Government. It seems to me that the correct decision for this House would be to understand the implications of what we do today and to reject the Fraser amendment on this basis, that if the State wants to supplement above that minimum floor the States should be allowed to do so, but that is a voluntary decision.

Mr. Chairman, we ought not to mandate, as the Fraser amendment does, the States that now decide, as Illinois has decided, as Michigan has decided, as Minnesota has decided, I believe, not to pass on the cost-of-living increase, that that is a decision that the State must make; but the fundamental decision the Federal Government should make or understand and recognize is the extent to which we maintain an inequity in benefit payments.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Chairman, we are voting an increase to the old, the blind, the disabled, because of a rise in the cost of living.

Is the gentleman arguing that we should say to the State legislatures, "Go ahead and put this money in the State treasuries and forget about these people?"

Mr. STEIGER of Wisconsin. No, sir.

Mr. FRASER. That is the effect of the gentleman's position.

Mr. STEIGER of Wisconsin. I do not think it is.

Mr. FRASER. Yes; it is, because that is what has happened in my State and I am sure it has happened in other States.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. STEIGER) has expired.

(By unanimous consent, Mr. STEIGER of Wisconsin was allowed to proceed for 1 additional minute.)

Mr. STEIGER of Wisconsin. Mr. Chairman, in spite of what it does to my State, in spite of what it does to the recipients potentially in my State, the basic decision we have to make this afternoon is whether it is fair for the Federal Government, and I underline Federal Government, to pick up the payment level above every other State in three States. That is the whole issue of the Fraser amendment as it is; also, as to whether or not we say to the States, "You must pass through."

Please understand, no recipient across the country loses if we vote down the Fraser amendment; but the Federal Government will lose. The concept of a federalized program will be undone if this is adopted.

Mr. Chairman, I hope the amendment is defeated.

Mr. CORMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, public assistance laws are terribly complex; but I think we may have managed to misinterpret more in less time on this one than ever. Hold harmless has nothing to do with individual benefits. There is a section in the law which says that no beneficiary may receive less under SSI than under the previous program.

Hold harmless has to do with how much a State must contribute to the cost of SSI benefits in their State. We said when we wrote the SSI law that if a State did not increase their benefit levels above their January 1972 levels that we would hold them harmless from case load increases. It does enable hold-harmless States to pass through Federal cost-of-living increases, except at State expense.

The State of California and 5 other States did not keep their benefit levels at that point. The Federal SSI cost-of-living increase gradually replaced the hold harmless. In three States that has not happened; but we are really looking at the little piece of the pie and ignoring the big one, that is, the requirement that all States pass through the Federal cost-of-living increase.

Hold harmless will cost annually about $10 million.

Now, what we are saying to the States is that if the Federal Government requires all of them to increase their individual benefit levels, we will absorb that cost in the hold-harmless States. They still must put in all they are putting in now; but if we are mandating a $10-a-month increase, we will pay for it, because in the other 47 States that is exactly what we are doing. We are mandating an increase, but we are paying for that increase; so the other 47 States do not pay an additional penny. They pay whatever the supplement is demanding of them.

First of all, the gentleman from Michigan is totally correct in the original philosophy of what this was, that the Federal Government actually increase the benefits, and that eventually nobody will need to supplement the Federal benefit. Of course, SSI recipients cannot eat philosophy.

Let us look at what people are living on. In New Hampshire, the aged and blind person is getting $170 per month from both Federal and State governments. If the State would have passed through the SSI increase, the SSI recipient would be receiving $180.10. That is the great bulk of this amendment. It has very little to do with hold harmless.

We are saying that we believe that when we look realistically at the tiny number of dollars that the aged, blind, and disabled have to live on, we ought to, in a sense, require of the States to maintain their effort. Many States go beyond that. Our own State pays a cost of living on its portion.

We do not tell the States that they have to do that. We say, "When we in Congress decide that there has been a cost-of-living increase and we are going to give $10 more per head, go ahead and give it to the beneficiary. Do not cut back by $10 that little bit of other supplement." That is the thrust of this amendment.

The hold harmless is merely to say to all of the States, "We are not going to, by Federal law, require you to spend more dollars than you are now spending. We will not let you spend less, we will not require you to spend more." If we will do that for all 50 States, we have to deal with the three hold-harmless States.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding to me. As the gentleman in the well knows, I am in favor of this concept, particularly apropos of the remark relative to the fact that if we do give $10, we are going to pass that through and make sure that it goes to the recipient. I wonder if the gentleman in the well will tell me why he supports only $3 to the State of California.

Mr. CORMAN. The gentleman is referring to the food stamp proposal. The gentleman knows that California was a cash out State, and California had written into its State supplement $14 of State money.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent Mr. CORMAN was allowed to proceed for 5 additional minutes.)

Mr. CORMAN. The State of California wanted to continue to be a cash-out State on the theory, first, that it costs a lot to administer the food stamp program; and second, many of the beneficiaries do not get them. So, they said, "We would like to pass through $17 per month, and for that buy the right to continue to be a cash-out State."

It is a very different kind of argument from this one. The State of California will never be affected by this Congress decision on passthrough, or at least so long as they have their current philosophy, because they do pass through a percentage increase related to cost of living. We are not demanding that of any State. We say, "Just pass it through the Federal portion, which the Federal Government pays for."

Mr. KETCHUM. I just wanted to hear what the explanation was, because we argued this at some length just a few weeks ago.

Mr. CORMAN. But that was an entirely different subject matter. That had to do with whether or not we were going to let California continue to pay cash instead of food stamps.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. Of course, food stamps have nothing to do with the Fraser amendment. I wish to thank the gentleman from California for the clarity which he has brought to the amendment now pending.

Mr. CORMAN. I thank the gentleman.

Mr. KETCHUM. Mr. Chairman, if the gentleman will yield further, in response to the gentleman from Hawaii, the bill had a lot to do with it. It did not just deal with food stamps. It said to California, "You have a choice of giving food stamps or cash out."

My amendment to this particular bill said that is how a pass of $10 through is done in the State of California, and the bill we have before us allowed the Governor of the State of California to pass through only $3 rather than the total amount.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Chairman. I especially want to thank the gentleman for underscoring the fact that this debate about three States obscures the real purpose of this amendment. This amendment deals with all 50 States, and the hold-harmless provision is incidental to the amendment. Without our amendment, the three States would have to pay for future increases with State funds.

Mr. O'NEILL. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the distinguished majority leader.

Mr. O'NEILL. Mr. Chairman, may I just say that when the Federal Government voted cost-of-living increases for SSI beneficiaries, we did not intend that they revert to the State treasury; nor was it intended that they revert to the Federal Treasury, as in three States, including Massachusetts.

Mr. Chairman, I am absolutely in agreement. I am happy to be a cosponsor of the amendment, along with the gentleman from Minnesota (Mr. FRASER) and I want to thank the gentleman, a member of the subcommittee, for the excellent job he has done in informing the membership as to this issue because it is a terrifically difficult issue to explain to the Congress. This SSI is highly technical. I want to thank the gentleman.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I rise to express my support for the so-called passthrough amendment offered by my distinguished colleagues, Mr. FRASER and Mr. O'NEILL. It seeks to insure that SSI recipients in all States will receive future cost-of-living increases in benefits as intended by Congress under Public Law 93-368 enacted in August 1974. This law in practice fell far short of its promise. SSI recipients in certain States which supplement SSI Federal benefits did not receive the cost-of-living increases because the States decided to use all or part of the increase to limit their financial participation in what they perceived rightly or wrongly as a Federal program. Consequently, the announcements sent by the Federal Government informing SSI recipients that they would receive cost-of-living increases became a cruel hoax to those living in these States. In my State of New York the problem was especially acute because the cost of living was rising at a faster rate than nationally. Since New York was a hold-harmless State receiving a special supplemental hold-harmless payment from the Federal Government which was reduced every time there was a Federal cost-of-living increase, it did not receive any additional Federal money to "pass through" to SSI recipients in New York. What was already a cruel hoax for recipients became a cruel hoax for hold-harmless States. I am proud to say, however, that New York State and its local governments did on humanitarian grounds reach down in their already depleted treasuries to provide partial cost-of-living increases to SSI recipients in 1975 and in 1976. This cost them $34 million and $10 plus million respectively. I am sure my colleagues in the House are aware that this is money which New York State and her local jurisdictions can ill afford.

Many members of the New York delegation and other States faced with a similar situation sponsored corrective "passthrough" legislation in 1974, the first year of the program's operation. The legislation—H.R. 14419 and others, 93d Congress—was developed by myself, Ms. ABZUG, Ms. HOLTZMAN, and our former colleague and now Governor, Mr. Carey. While the passthrough provision in H.R. 14419 had the same purpose as the Fraser-O'Neill amendment before us today, it had one important difference. It reaffirmed the Federal responsibility for providing cost-of-living increases in the basic Federal SSI benefit by insuring that that increase would be paid in full by the Federal Government and not at the expense of State and local governments who were supplementing benefits.

In 1974 we obtained 70 cosponsors for our proposal from more than 20 States. When no action was taken in the last Congress on this important matter, we pursued it in this Congress by reintroducing the legislation (H.R. 2891 et al.) which was sympathetically received by our distinguished colleagues on the Public Assistance Subcommittee. After extensive hearings last year, I was delighted that the subcommittee reported out H.R. 8911 with a passthrough provision similar to the one we were advocating. However, this amendment was rejected by the full Ways and Means Committee by a vote of 16 to 14, presumably because of its $155 million cost.

The Fraser-O'Neill amendment offered today is a compromise approach to the passthrough problem which meets the cost argument by delaying its effect to the cost-of-living increases beginning July 1977 after New York, California, and several other States have had their hold-harmless payments eliminated. As a New York Representative, of course, I am not happy that New York will not benefit from the permanent hold-harmless protection in the Fraser-O'Neill offered to those States remaining hold-harmless. But I am willing at this time for the sake of SSI recipients in my State to support a maintenance of State/local effort amendment proposed by Mr. FRASER and Mr. O'NEILL. I can only hope the next Congress will address the injustice done to New York and others who have had to increase their liability for aid to the aged, blind, and disabled over the past 2 years because of Federal cost-of-living increases. A comprehensive reform of welfare programs which assumes a long-overdue Federal responsibility for these programs is desperately needed. Poverty is a national problem which demands a national solution.

In case my grumbling has obscured my basic support for this passthrough amendment, let me assure my colleagues I support the Fraser-O'Neill amendment and have and do urge those from New York and other justly or unjustly affected States to support it. SSI recipients deserve to have their meager benefits protected from national increases in the cost of living. Let us resolve to end the "cruel hoax" now.

I would like to also add that I supported the related Pickle passthrough amendment adopted on a voice vote last week. It protects persons who received social security and SSI payments from losing their SSI and medicaid eligibility every time there is an increase in social security. How many of us can remember the anger of constituents when they found that a few dollars increase in social security meant the loss of hundreds of dollars in medicaid protection. In my own State, we were faced with groups of social security recipients affected trying to give their increases back to the Government in order to remain eligible for medicaid. This passthrough or disregard of social security increases is an issue close to my heart and represents an idea I have advocated in legislative proposals for many years. I understand a separate vote may be demanded on the Pickle amendment. I sincerely hope the House will reaffirm its support for this most important correction in the SSI program.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I rise in strong support of this legislation.

I want to commend both the chairman of this committee and the chairman of our subcommittee, the gentleman from New Jersey (Mr. ROE), for the enormous effort they have put forth and for the excellent job they have done here.

Mr. Chairman, I rise in support of H.R. 8911, the Supplemental Security Income Amendments of 1976. This bill is the culmination of a year and a half effort of reexamining the SSI program and learning from our constituents of the problems suffered in the implementation of this program. I commend Representative CORMAN and the members of the Public Assistance Subcommittee for responding to the urgent problems of our SSI recipients.

While the SSI program has been successful as a replacement for the patchwork of Federal programs that previously existed, for thousands of individual SSI recipients the program has been a bureaucratic nightmare. I am sure that other district offices, like my own, have received hundreds of complaints about lost or stolen SSI checks or about the delay in processing applications.

A year and a half ago I introduced H.R. 165, a comprehensive reform of the SSI program. I am pleased that many of my proposals have been adopted in H.R. 8911.

A major defect in the original SSI legislation was the lack of a procedure for providing emergency assistance to these aged, blind, and disabled individuals. These recipients have no other income or resources and depend solely on their SSI check to cover their monthly living expenses. Yet, replacement of a lost, stolen, or undelivered check sometimes took weeks or months. In the meantime, these individuals were often shunted back and forth between the social security office and the local welfare office without getting a check. The committee noted this continuing problem and has provided for payments by the State agency with Federal reimbursement for such assistance. This provision, similar to the one I introduced, will allow local public assistance officials to provide immediate cash to SSI recipients.

The provision of my bill modifying the requirements of third party payees for alcoholics and addicts has been incorporated almost intact in H.R. 8911. This change will allow these individuals an opportunity to exercise responsibility over their own affairs.

I also recommended more flexibility in the provision regarding the valuation of an individual's home, since it was not the intent of the Congress to exclude otherwise eligible individuals simply because of home ownership, particularly since the value may be the result of inflation and not readily convertible into cash.

My bill also was concerned with the inequitable situation of SSI recipients living in the household of another and the drastic reduction in benefits suffered. While this bill does not make any statutory changes, the committee report reiterates that those recipients contributing toward household expenses should not suffer a grant reduction.

Finally, I want to urge my colleagues to support the Fraser-O'Neill amendment which provides for a passthrough of Federal cost-of-living benefits to individual recipients. In my bill, H.R. 165, I provided for a similar passthrough.

The basic SSI benefit is far too low to assure a decent standard of living to our aged poor, particularly those who reside in urban areas. Some States, like New York, are providing additional supplementation, yet even this amount is not sufficient.

In response to this critical economic problem faced by the elderly, blind, and disabled, the Congress has provided a yearly cost-of-living increase in the amount of Federal benefits. Yet many States have pocketed this increase, either partially or in its entirety, to offset the cost of its own supplement.

We cannot attempt to solve the fiscal problems of our States by taking dollars out of the pockets of the helpless. These aged, blind, and disabled individuals are almost all living at or below the poverty level. The cost of food, housing, and transportation have increased rapidly and the 6.4-percent increase provided barely will keep pace with the rising cost of living. This amendment, beginning in 1977, requires all States, as a condition of receiving SSI funds, to pass this increase on to the recipients. By mandating this passthrough we will not be requiring the expenditure of additional funds by any State. We will be insuring that the intent of Congress is carried out and that these increases benefit SSI recipients in every State.

Passage of H.R. 8911 will insure that the needs of the aged, blind, and disabled are met and that they can continue to live in dignity.

Mr. CORMAN. Mr. Chairman, I urge my colleagues to adopt the Fraser amendment. It is a tiny number of Federal dollars for a tremendous number of very poor people. It does not precisely fit into the philosophy of 1972, but it means a little bit to a lot of people, and that little bit means an awful lot to them because when we go down to the grocery store next week we are probably going to spend $10 more than we spent 3 years ago. I woud like to see the beneficiaries get this money.

Mrs. HECKLER of Massachusetts. Mr. Chairman, I rise in support of the Fraser-O'Neill amendment to H.R. 8911, the Supplemental Security Income Amendments of 1976, and urge my colleagues to join with me in backing this important amendment.

Last month nearly 1 million elderly and disabled recipients of supplemental security income did not receive the cost-of-living increases which had been granted by the Federal Government. Although the Social Security Administration notified these recipients that they would receive a $10.10 increase in their monthly benefit checks, almost a million of them did not. Why? Because many States chose not to "pass through" the increase. Instead they used the Federal increase to decrease the amount of the States' supplemental payment to the recipients. In Massachusetts and two other "hold harmless" States the Federal increase was deducted from Federal payments to the State to support its level of supplementation.

When the Congress voted annual cost-of-living increases it did not intend that the increases go into State treasuries as is presently an option in 45 States, nor did it intend that the money revert to the Federal treasury as in the cases of Massachusetts, Wisconsin, and Hawaii. The Fraser-O'Neill amendment remedies this situation by requiring that starting July 1, 1977, all Federal SSI cost-of-living increases be passed through to the recipients for which they were intended.

The Fraser-O'Neill amendment will not require States to spend more for SSI; it merely prevents them from reducing expenditures when the Federal minimum benefit level is raised. In those States affected by the hold-harmless provisions of the 1973 Supplemental Security Income Act, such as Massachusetts, the amendment also prevents the Federal Government from cutting back its supplemental payments.

The Fraser-O'Neill amendment would insure that in Massachusetts nearly 130,000 elderly and disabled citizens would receive annual cost-of-living increases in their SSI checks, and in no State would these increases be denied to recipients as in the past.

Mr. Speaker, the facts speak for themselves. The present situation is neither equitable nor just, and I once again solicit the support of my colleagues for this essential amendment to H.R. 8911.

Mr. FRENZEL. Mr. Chairman, the amendment of the gentleman from Minnesota (Mr. FRASER) is an interesting and well-intentioned attempt to bring deserved equity to SSI recipients. It is very hard to argue that SSI recipients should not get full value for each cost of living granted by the Federal law.

However, the amendment has some undesirable effects. First, it freezes in variable benefits floors in various States which is contrary to the intention of the original law. Second, it imposes new restrictions on State legislatures contrary to the concepts of federalism.

Finally, it will cost the Federal Government an additional $10 million in this fiscal year because of "hold harmless" agreements with three States.

My preference in this case would be for the State legislatures to act responsibly in the first instance. I regret that so many States have invited this amendment by cutting their supplemental payments, and, in effect, taking the COL payments out of the pockets of SSI people and into the State treasuries.

Because there seems to be no other way to get the cost-of-living increases directly to recipients, I shall vote for the amendment.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I would like to join with my fellow Members in supporting the amendment to H.R. 8911 being offered by Representatives FRASER and O'NEILL. The passage of their amendment would show that Congress really does care about the well-being of disadvantaged Americans and that we, the Representatives of the people of this Nation, are not willing to turn our backs on those Americans who need help. What my fellow Members must remember when considering this amendment is that in no way will it obligate States to increase their SSI expenditures. Rather, and this is why I support the amendment, it merely assures that SSI recipients will truly benefit from the cost-of-living increases granted to them by the Federal Government. Currently, when the Federal Government increases its SSI payment by including a cost-of-living increase, States will decrease their payment, and thus, keep the recipients' benefit at the same level. This type of action keeps SSI recipients at a severely depressed economic level, and deprives them of the opportunity to participate in the economic development of our country.

Granting the cost-of-living passthrough is the only equitable action that Congress can take. We have already passed legislation which allows California to provide this pass-through; it is time that we extend this throughout the country.

My fellow Members, we must pass this

amendment. It is unconscionable to think that Congress would continue to allow SSI recipients throughout the Nation to be deprived of necessary cost-of-living increases. These increases are necessary for people to merely survive while prices continue to rise. SSI recipients deserve fair treatment and it is up to Congress to see that they get it. I urge this House to accept this much needed amendment.

Mr. WHALEN. Mr. Chairman, I rise in support of the amendment being offered by the gentlemen from Minnesota and Massachusetts (Messrs. Fraser and O'Neill). In August of 1974 the Congress provided for cost-of-living increases in the supplemental security income—SSI—program, equivalent to the percentage of increase in social security benefits. This amendment is designed to insure that the intent of that legislation not be distorted.

Too often, although these cost-of-living increases have been legislated, the elderly, blind and disabled never realize any increase in their SSI benefits. Instead, that increase is used to the advantage of the States which supplement the incomes of SSI recipients. This year 18 States in all have not "passed through" Federal cost-of-living increases, but have chosen instead to cut back all or a portion of their supplement to recipients of SSI.

Earlier this session over 100 of our colleagues cosponsored resolutions expressing the sense of the Congress that when cost-of-living increases in social security were granted, other means-tested Federal programs should not be cut back. The Committee on Veterans' Affairs acted promptly to provide increases in their programs as well as to raise income limitations. In June, we passed an amendment to the Housing Act which would prevent social security recipients from receiving automatic rent hikes at public housing projects as a result of the July increase in their social security checks.

We have here another opportunity to follow through on our intent to insure that increases triggered by our continuing skyrocketing cost of living do indeed reach those for whom they are intended—the aged, blind, and disabled who are forced to live on small, fixed incomes.

Thus, I strongly urge that this amendment to H.R. 8911 be adopted by this body and promptly enacted into law.

Ms. HOLTZMAN. Mr. Chairman, as a sponsor, together with Representatives Fraser and O'Neill, of this amendment to assure cost-of-living increases to all SSI recipients, I strongly urge its passage.

Our amendment will allow the aged, blind, and disabled poor at least some hope of keeping up with inflation. It will guarantee that these most helpless people in our society receive the cost-of-living increases which Congress intended that they get and for which the Federal Government is already paying.

Two years ago, in response to the crushing effect of inflation on the elderly and disabled poor, Congress provided for annual cost-of-living increases in Federal SSI benefits. This year's increase, of $10.10 per month for an individual and $15.20 per month for a couple went into effect on July 1.

In at least 26 States, however, which have the great majority of SSI recipients, these people will receive only a portion of that increase, or no increase at all. Thus, for example, in New York State, the aged, blind, and disabled poor will not receive their cost-of-living increase until October 1. The 3-month delay may not seem like much, but to an elderly person forced to live on $218.55 a month—the current benefit in New York—an additional $10 monthly for food, transportation, or clothing can mean the difference between survival and despair.

Cost-of-living increases can be delayed or denied because most States supplement the basic Federal SSI benefit, and there is nothing to stop a State from lowering its supplement as the Federal benefit increases. In this way the State receives the financial benefit of a Federal cost-of-living increase and the recipients get nothing.

Our amendment would require that Federal cost-of-living increases be passed through to the aged, blind, and disabled poor. It would not require a State to increase its expenditure on SSI payments—indeed the amendment specifically provides that a State shall not have to spend more on SSI supplements in a particular year than it spent in the preceding one. But it would stop a State from taking the benefit of a Federal increase for itself.

As a Member of Congress from New York I know better than most the fiscal problems facing State and local governments. The Federal Government should bear a greater share of public assistance costs for both SSI and welfare. I have worked consistently toward this end and I will continue to do so.

I do not believe, however, that States should be allowed to take away a federally granted and paid cost-of-living increase in order to save money at the expense of the poorest, most helpless people in this Nation. Our amendment would prevent this cruel and unfair result. I urge my colleagues' support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. Fraser).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. VANDER JAGT. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Seventy-seven Members are present.

RECORDED VOTE

Mr. VANDER JAGT. Mr. Chairman, I withdraw the point of order that a quorum is not present, and I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 317, noes 52, not voting 62, as follows:

[Roll No. 671]

AYES—317

Abdnor
Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Flood
Florio
Flowers
Foley
Ford, Mich.
Fountain
Fraser
Frenzel
Gaydos
Giaimo
Gilman
Goldwater
Gonzalez
Goodling
Gradison
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kelly
Ketchum
Keys
Koch
Krebs
Krueger
Lagomarsino
Leggett
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCollister
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Steed
Stokes
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Thompson
Thone
Traxler
Treen
Tsongas
Van Deerlin
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki

NOES—52

Archer
Bauman
Brown, Ohio
Broyhill
Burleson, Tex.
Butler
Collins, Tex.
Conable
Crane
Daniel, Dan
Daniel, R. W.
Devine
Findley
Flynt
Gibbons
Ginn
Grassley
Hammerschmidt
Hansen
Hillis
Holt
Hutchinson
Ichord
Kemp
Kindness
Landrum
Latta
Levitas
McDonald
Mann
Martin
Mathis
Michel
Montgomery
Myers, Ind.
Myers, Pa.
Paul
Pike
Quillen
Robinson
Satterfield
Schneebeli
Spence
Steiger, Wis.
Stratton
Symms
Taylor, Mo.
Teague
Ullman
Vander Jagt
Waggonner
Winn

NOT VOTING—62

Alexander
Ashbrook
Badillo
Bell
Brown, Mich.
Chisholm
Clay
Cohen
Collins, Ill.
Conlan
de la Garza
Dickinson
du Pont
Eckhardt
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fithian
Ford, Tenn.
Forsythe
Frey
Fuqua
Green
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Hinshaw
Holland
Jones, Ala.
Karth
Kazen
LaFalce
Lehman
McCloskey
McEwen
Moorhead, Pa.
O'Hara
Peyser
Randall
Rees
Riegle
Risenhoover
Rodino
Sebelius
Shriver
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Thornton
Udall
Vander Veen
Wilson, C. H.
Wylie
Young, Alaska
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Zeferetti for, with Mr. Hébert against.

Mr. DUNCAN of Oregon and Mr. BEARD of Tennessee changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. PAUL. Mr. Chairman, no one gains any political advantage from a vote against a Federal aid program to the blind, the aged, and the disabled. After all, is not a vote against Federal aid to the blind actually a vote against blind people? "All those against blind people please stand up." When elected representatives sense that this kind of a challenge to their compassion is involved, hardly anyone stands up. So another multibillion-dollar program of coercive wealth redistribution goes on the books. In the case of H.R. 8911, the supplemental security income program's amendments, the bill in fiscal year 1977 is $69 million; for the 1977–81 period, the admitted total of Federal funds—not counting matching State funds—is $1.1 billion. Is this too much to give to help blind and disabled people? It depends on whether we are talking about a gift or confiscation. In principle, 1 cent should not be forced out of the pocket of one person for the exclusive benefit of another person, even if the State or Federal Government is the enforcer. Not for the blind, the aged, or the disabled.

The destruction of the dollar has to be stopped if this Nation is to avoid a political, economic, and social disaster. The U.S. Government has no revenue of its own that is not extracted from taxpayers, either directly—taxes—or indirectly—monetary inflation. We ran an admitted deficit of almost $70 billion last year, and the total Federal deficit expected over the life of existing programs may be as high as $7 trillion. Therefore, this Government has no revenues to share any more; it only has deficits to share. It will share them with all those citizens who have not sheltered their income and assets from the ravages of inflation. It will share its deficits, therefore, with those who do not have tax lawyers, costly newsletter subscriptions and advisory services, and expertise in the area of inflation avoidance. In short, inflation will, as always, destroy the hopes of those least able to defend themselves economically.

There is only one way to stop this juggernaut destroyer: cease voting new ways of taxing one group in order to provide benefits for another. Selective voting on the question of coercive wealth redistribution will inevitably bring cries of "special-interest favoritism" from the public. If the massive quantities of tax dollars that pour out of Washington are to be stopped, they must be stopped all across the board. A vote against one needy group must be matched by votes against every needy group. What all needy groups need from the Government is protection from fraud and violence. What all needy groups need from the Government is legal justice. These endless program of wealth redistribution have made the Government the source of both fraud and violence. The Government can no longer perform its primary tasks—defense and justice—efficiently because of the impossibly heavy burdens placed on it by every needy group and the Government bureaucrats needed to administer the programs created in the name of these needy groups.

Americans are not tightwads. They are charitable people. If they have discretionary income—income remaining after the tax collector and inflation get through with them—they give and give generously. But we are seeing the transfer of legal responsibility for charity passing to the civil governments at all levels. We see the transfer of power going along with the transfer or responsibility, and the bureaucracies get ever larger.

This bill, H.R. 8911, even creates a "get on board" program called "outreach." We are to see tax dollars used to find more potentially eligible people and sign them up for the free benefits—a program guaranteed to inflate the expected costs of operating this income supplement program. The costs will grow, the bureaucracies will grow, and the deficits will grow.

Politicians cannot seem to say no. A never-ending stream of new groups needing Federal aid flows through Washington—a stream which has become a roaring river dwarfing the Potomac. There are always needy groups. If we encourage them to believe that they have a legal claim on everyone else's income, we will keep them dependent upon the bureaucrats forever, or at least until the Nation's currency is debauched. Then the dependents will be in far worse shape than they are today. We create this sense of dependency to the Government, and then we pass more and more aid to new groups in a process that is guaranteed to wind up in a monetary debacle of international proportions.

It has to stop. It will not stop until we stop voting other people's money to needy groups. The Government is not only ill equipped to become the compassionate father of all needy people, it should never be allowed to do so. There are no more sources for tax dollars. The end of the redistributionist road is in sight. The taxpayers' subsidy is about to come back to us marked "insufficient funds."

A vote against wealth redistribution is a vote in favor of human freedom, meaning freedom from a growing bureaucratic state. Blind people need freedom, too. Blind people need a sound currency, too. Every citizen does. It is not a lack of compassion that led me to vote against this bill. It is my commitment to human freedom. It is freedom which will aid the blind and disabled most in the long run. Private compassion and charity within the framework of political freedom can do far more for the blind and disabled than the redtape-bound bureaucrats who administer these confiscatory Federal programs. The blind, the aged, and the disabled need less government.

To my colleagues who vote as if they think that Americans will never give money and help to the needy of this land, I can only say, "O ye of little faith"—little faith in Americans, and great faith in the profoundly erroneous principle of wealth redistribution through taxation. And when the debacle comes, and the currency is destroyed, and the Government checks buy nothing—including more votes—what will you say then? And what will the public say? And what kind of crisis-created leader will "come to the rescue"? I hate to think. I can say this much, however: the blind and disabled will not be the beneficiaries in that dark day. And the rest of us will not have very much left to help them with.

Mr. RIEGLE. Mr. Chairman, H.R. 8911 was the result of the first comprehensive review of the supplemental security income program by the Ways and Means Subcommittee on Public Assistance. This bill makes various changes designed to simplify the program's administration and to correct certain inequities. I strongly support these changes.

Many of the provisions included in H.R. 8911 were included in an SSI reform bill I introduced on June 9, 1976. These reforms include speeding up the payment of benefits, establishing a better outreach program, simplifying eligibility tests, and wider use of "presumptive eligibility."

One very critical issue not address by this bill now under consideration, but key to my bill is the need to provide an adequate income level for our elderly, blind, and disabled. The provision of a basic SSI income at least at the poverty level was the original intent of Congress. The committee reports describe the new program as assuring that aged, blind, and disabled people would no longer have to exist on below-poverty incomes. However, the amounts allotted for benefits were out of date even before implementation of the program began on January 1, 1974. The current SSI payments are inadequate to meet the basic needs of aging and disabled persons and equal only 75 percent of the poverty level. Furthermore, "passing through" cost of living increases is not enough. Since SSI payments and the poverty level are both adjusted according to changes in the Consumer Price Index, SSI payments will not increase relative to the poverty level without an increase in the basic Federal payment.

My bill would increase the Federal SSI payment to $333 per month for an individual—$4,000 per year; and $460 for a couple—$5,500 per year and place the responsibility for insuring the aged, blind, and disabled an adequate standard of living on the Federal Government. These benefit levels in my bill are between the poverty level and the intermediate budget of the Bureau of Labor Statistics which was recommended by the White House Conference on Aging, in 1971, as the minimum income level for the elderly. Raising the benefit level by this amount will permit aging, blind and disabled persons to have adequate income to manage their financial affairs with dignity and at the same time provide fiscal relief to the States by eliminating the need for most State supplementation and dual administration making this a truly Federal income maintenance program.

While traveling around my district and the State of Michigan, I have seen firsthand the economic hardship and despair of the elderly, blind, and disabled. I am hopeful that this bill, H.R. 8911, will be only the first step in reforming the SSI program to meet their needs. I am convinced that we must act now and with urgency to solve this problem. I consider this a moral imperative of the highest order.

Mr. BINGHAM. Mr. Chairman, I rise in qualified support of H.R. 8911 as amended by the House making many needed changes in the supplemental security income program established by law in 1972 (P.L. 92–603) for implementation January 1974. H.R. 8911 is part of a multistage effort on the part of Congress to correct a variety of inequities and unnecessary difficulties in SSI, the Federal Government's first comprehensive guaranteed minimum income program. The Federal Government is relatively new at this broad income security business, preferring in the past to leave the details of such income programs to the States. Consequently, we have made mistakes. A complicated and expensive program which affects the lives of more than 3 million low-income elderly, blind, and disabled by its very nature must go through a long perfecting process. Consideration of H.R. 8911 before us today is an important part of that process. I qualify my support for the bill only because much more needs to be done to fulfill the promise implied in SSI—true income security for our aged, blind, and disabled. I can only ask recipients to pardon the slowness of this perfecting process; however, the amount of tax dollars involved mandates careful consideration.

As we consider this complex and costly legislation, let us remind ourselves of the serious complaints we have been relatively receiving from constituents about this program over the last 2½ years. This bill is before us today precisely because of those complaints as our representative system of government works its will.

Those of us from States like New York vividly remember the shocked cries of aged, blind, and disabled as they were forced off State welfare programs on to SSI. What had we done to them they asked? They called for repeal of SSI so they could return to State welfare roles which offered better income protection in the form of housing supplements, food stamps, and access to emergency services. In addition, we were told that because of the lagtime between enactment of SSI and its implementation, many individuals actually lost income when they were transferred from the old State welfare programs to SSI due to loss of food stamps which were adjusted biannually. There were other problems with this new program, which was principally designed to encourage an estimated 3 million eligible aged, blind, and disabled persons to seek help under this new, more dignified, social security program.

The Social Security Administration had never before been faced with administering an income-tested program with complicated resource and income information to verify and compare against even more complex eligibility criteria. Temporary employees were hired to process applications and understandable, but not forgivable, delays in processing of 60, 90, and 120 days were not uncommon. What were aged, blind, and disabled persons to do in the meantime? The original law provided for an emergency payment not to exceed $100 for persons in immediate need and presumably eligible—mostly aged and blind—for 3 months, but this amount proved woefully inadequate and did not help those not presumably eligible. Complaints of lost, stolen, and undelivered checks were another administrative problem. Regular recovery procedures under the social security law were followed with checks having to be reissued out of the SSA center in Alabama and taking 7 to 10 days to reach the desperate recipient after the report of loss. A cooperative emergency program was worked out in 1974, at the urging of myself and others, with the States dealing with emergency situations, but it was far from perfect and left the burden of some of the costs involved to the States.

By far the most serious problem for recipients turned out to be the pass-through problem. They found that increases in social security, VA benefits, and other adjustments in their income meant corresponding reductions in their SSI payments. What the Federal Government gave with one hand it took away with the other.

These various complaints of our constituents did not fall on deaf ears. The New York State delegation led by myself, Ms. ABZUG, Ms. HOLTZMAN, and our former colleague and now Governor, Mr. Carey, developed comprehensive SSI reform legislation in April of 1974 to deal with these and other problems. We secured support for our bills from over 60 Members and pledges for action on some of our reforms in the 93d Congress—1973–74. Stage one of the perfecting process concentrated on the income protection problem.

The 93d Congress enacted a cost-of-living provision (P.L. 93–368) to the SSI law tied to annual automatic increases in social security. It gave States the option of allowing SSI recipients to be eligible for food stamps or continue to have the Federal Government pay $10 additional SSI benefits (P.L. 93–233). Finally, it mandated additional payments to persons transferred from State welfare rolls to SSI to bring them up to their December 1973 benefit levels.

This "grandfather" provision (P.L. 93–66) made sure no person would suffer a cash loss of income because of being transferred to SSI. All of these changes were fine and good for recipients in the great majority of States, but once again Congress discovered its law reforms did not meet expectations. In States like New York which provided substantial supplements to the regular Federal SSI benefits with the help of special hold harmless payments from the Federal Government—only up to the 1972 benefit level, no higher—the controlling change did nothing to help recipients. Everything there was a cost-of-living increase in the SSI Federal benefit, there was a corresponding decrease in the hold harmless payment. New York State found it had no additional Federal money to "pass on" to their recipients eagerly waiting for announced raises to meet rising rents, food and utility costs.

What a cruel hoax on both the State and its poor people. In 1974 the State ignored the storm of criticism, but in 1975 it bowed to humanitarian concerns and gave SSI recipients the 8-percent increase others were to receive, at a State-local shared cost of $32 million. In 1976 after a painful fiscal crisis mandating strict fiscal control, the State and localities dug deep into their depleted treasuries to provide a partial cost-of-living increase to SSI recipients effective this coming October 1 at a State-local shared cost of over $10 million. With this last increase in the Federal benefit, New York State's hold harmless payment was reduced to zero. From now on passing along cost-of-living increases will not cost the State any additional funds but it cannot be blamed for wanting to reduce its high level of participation in what it thought would be a Federal program.

In the 94th Congress, we began stage two of the perfecting process by reintroducing an updated and expanded version of our SSI reform bills (H.R. 2891 and H.R. 4308). The principal addition was a provision for a supplemental housing allowance of up to $50 monthly or $600 annually to correct a fundamental inequity in the SSI program—variations in the costs of shelter throughout the country. We again secured the cosponsorship of 70 of our colleagues from more than 20 States and pressed for action by the House Ways and Means Public Assistance Subcommittee. With several members on the subcommittee from affected States like New York, we received a very sympathetic hearing and many of our suggestions were incorporated in the two SSI reform bills H.R. 8911 and H.R.

8912 reported July 25, 1975, by the subcommittee. These provisioss included full pass-through of cost-of-living increases for every SSI recipient, supplemental housing allowance (H.R. 8912), emergency replacement of benefit payments, and modification of the third-party payee requirement for alcoholics and drug addicts. The passthrough and housing allowance provisions were defeated in full committee because of their estimated multimillion cost. The other two provisions are in H.R. 8911 as before us today.

Although our efforts were defeated in committee, we have pursued them on the floor in the form of the Rangel housing allowance amendment, the Fraser-O'Neill amendment offering a compromise on the passthrough issue and the Pickle social security increase disregard amendment. The first I am sad to say was rejected. The others because of their relatively low tax dollar impact were overwhelmingly agreed to. I have already discussed these amendments in detail in previous debate.

Now that we have finished consideration of this most complex subject. I urge the House to move to pass H.R. 8911 as amended so that the 94th Congress can have time to complete stage two of the perfecting process. As I have said before, much more needs to be done, but with enactment of this legislation added to the accomplishment of administration reforms—SSA's recent announcement of application processing delay reduction to 35 days for the aged and 59 days for the blind and disabled for example—important progress will have been made. In the next Congress we can continue the perfecting process and further close the gap between the promise of income security to the aged, blind, and disabled, and the program's performance.

Ms. HOLTZMAN. Mr. Chairman, I am pleased to support H.R. 8911, which makes long overdue improvements in the supplemental security income, SSI, program of aid to the aged, blind, and disabled poor.

Since SSI went into operation on January 1, 1974, the program's shortcomings have caused great hardship to poverty-stricken aged, blind, and disabled Americans. In my own experience with constituents I have encountered cases of elderly or disabled persons who are left with $50 or less each month to pay for food and other necessities, who are threatened with starvation because of a $15 rent increase, who have no money to buy a radio, travel the subways, or buy clothing, who are trapped in deteriorating buildings and frightening neighborhoods because they cannot afford to move, who are evicted and forced into nursing homes, who have no money to live on for weeks because their checks were stolen or never arrived.

As a result of the suffering SSI created among my constituents and hundreds of thousands of others throughout the Nation, I have worked over the past 2½ years to make vitally needed reforms in the program. I am pleased to note that the bill before us today contains provisions which resolve a number of the problems I have sought to correct. These provisions include:

Assurance that all SSI recipients will get cost-of-living increases. This requirement was added in the amendment sponsored by Mr. FRASER, Mr. O'NEILL, and myself.

A procedure for the emergency replacement of lost or stolen benefit checks.

An increase in the amount of emergency advance payments a recipient may receive from $100 to 3 months' worth of benefits.

Removal of the $25,000 limitation on the value of a home which may be owned by recipients—a limit which is totally unrealistic in many urban neighborhoods.

Assurance that a temporarily hospitalized SSI recipient can continue to receive benefits for 3 months and thus not be forced out of an apartment or home and into a nursing home.

As a result of these provisions which I recommended, and several other improvements, H.R. 8911 will help to ease the suffering of our aged, blind, and disabled poor.

As welcome as this bill is, however, I must express my deep concern that it has been delayed too long and does not go far enough. The delay in House action is unconscionable in view of the fact that SSI's problems were apparent from the beginning. Thus, in May 1974 I introduced comprehensive SSI reform legislation dealing with the inadequate benefit payments, the lack of emergency assistance, the need for cost-of-living increases, and many other problems. It should not have taken more than 2 years for the House to act on these matters.

In addition, this bill leaves many serious problems unresolved. It does not establish a comprehensive emergency assistance program to deal with such problems as the loss or theft of the proceeds of an SSI check, the destruction of furniture or clothing, the threat of eviction, or any of the other emergencies to which the aged, blind, and disabled are most vulnerable. The bill does not include relief for recipients whose rent or housing costs absorb most of their SSI benefits, leaving little money for food, clothing, and other necessities. Reform along these lines is essential.

I, therefore, urge my colleagues to support H.R. 8911, but to remember, as well, that we have much more to do in order to make SSI truly meet the needs of this country's elderly, blind, and disabled poor.

The CHAIRMAN. If there are no further amendments to be offered, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BERGLAND, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 8911) to amend title XVI of the Social Security Act to make needed improvements in the program of supplemental security income benefits, pursuant to House Resolution 1467, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. VANDER JAGT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 374, nays 3, not voting 54, as follows:

[Roll No. 672]

YEAS—374

Abdnor
Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Fountain
Fraser
Frenzel
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas

Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Regula
Reuss
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki

NAYS—3

McDonald
Paul
Schneebeli

NOT VOTING—54

Alexander
Badillo
Bell
Brown, Mich.
Chisholm
Clay
Cohen
Collins, Ill.
Conlan
de la Garza
Dickinson
du Pont
Eckhardt
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fithian
Ford, Tenn.
Forsythe
Frey
Fuqua
Green
Hawkins
Hays, Ohio
Heinz
Helstoski
Hinshaw
Jeffords
Jones, Ala.
Karth
LaFalce
Lehman
McCloskey
Meeds
Moorhead, Pa.
Peyser
Randall
Rees
Rhodes
Riegle
Risenhoover
Sebelius
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Thornton
Vander Veen
Wylie
Young, Alaska
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

Mr. Young of Georgia with Mr. Bell.

Mrs. Chisholm with Mr. Young of Alaska.

Mr. Badillo with Mr. Peyser.

Mr. Hawkins with Mr. Forsythe.

Mr. Zeferetti with Mr. Cohen.

Mr. Moorhead of Pennsylvania with Mr. du Pont.

Mr. Fuqua with Mr. Eckhardt.

Mr. de la Garza with Mr. Brown of Michigan.

Mr. Evans of Colorado with Mr. Evins of Tennessee.

Mr. Fithian with Mr. Esch.

Mr. Sisk with Mr. Frey.

Mr. Randall with Mr. Steelman.

Mr. Ford of Tennessee with Mr. Conlan.

Mr. Clay with Mr. Stephens.

Mrs. Collins of Illinois with Mr. Eshleman.

Mr. Helstoski with Mr. Dickinson.

Mr. LaFalce with Mr. Wylie.

Mr. Lehman with Mr. Steiger of Arizona.

Mr. Thornton with Mr. Karth.

Mr. Risenhoover with Mr. Jeffords.

Mr. Meeds with Mr. Heinz.

Mr. Alexander with Mr. Sebelius.

Mr. Vander Veen with Mr. McCloskey.

Mr. Green with Mr. James V. Stanton.

Mr. Hays of Ohio with Mr. Riegle.

Mr. Rees with Mr. Jones of Alabama.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DIRECTING ENROLLING CLERK TO MAKE TECHNICAL CHANGES TO CORRECT NUMBERING OF SECTIONS IN H.R. 8911

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that the enrolling clerk be directed to make such technical changes as may be necessary to correct the numbering of sections in the bill H.R. 8911, as just passed by the House.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the Fraser amendment, to be inserted just before the vote on the Fraser amendment, and that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 8911, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT AMENDMENTS OF 1976

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1283 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1283

Resolved, That upon the adoption of this resolution it shall be in order to move, the provisions of clause 2(1) (5) (B) of Rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9398) to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for a three-year period. After general debate, which shall be confined to the bill and shall continue not to exceed one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Massachusetts (Mr. Moakley) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Tennessee (Mr. Quillen), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1238 is the rule providing for the consideration of the Public Works and Economic Development Act Amendments of 1976 (H.R. 9398).

It is a 1-hour open rule providing for the committee substitute to be read as an original bill for the purpose of amendment.

The rule waives points of order against the report (House Rept. 94-1075) for failure to comply with clause 2(1) (5) (B), rule XI. This clause requires that any report containing an estimate and comparison of costs prepared by the Congressional Budget Office shall, on its cover bear notice that the report includes the CBO statement.

This phrase is not included in this report. However, I would stress that the CBO statement is printed in full in the report and appears on page 9.

The requirement of the rule can be satisfied by printing a supplemental report but this would be an unreasonable cost to incur over a purely technical violation.

The Committee on Rules thus reported this resolution, the adoption of which would waive the point of order.

Mr. Speaker, the bill represents a major overhaul of economic development programs aimed at our Nation's hard-pressed cities. The committee has noted that, since enactment of the Public Works and Economic Development Act in 1965, only 12.3 percent of total funding has been aimed at the Nation's 90 largest cities.

This bill would address this situation through a significant expansion and revision of the programs. And it would establish a new urban economic development program which would permit the Secretary to provide financial assistance to communities which have developed overall economic development programs.

Mr. Speaker, I urge adoption of the rule so that we may proceed to consider this vital legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I know of no objection to the rule. Although some provisions in the bill are quite controversial, hopefully they will be resolved when we get down to the debate on the bill itself in the Committee of the Whole.

Mr. Speaker, I urge the adoption of the resolution. The able gentleman from Massachusetts (Mr. Moakley) has explained the provisions of the resolution.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ROE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9398) to amend the Public Works and Economic Development Act of 1965 to extend the authorization for a 3-year period.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. Roe).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9398, with Mr. Mitchell of Maryland in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New Jersey (Mr. Roe) will be recognized for 30 minutes, and the gentleman from Arkansas (Mr. Hammerschmidt) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. Roe).

Mr. ROE. Mr. Chairman, I yield to the gentleman from Arkansas (Mr. Hammerschmidt).

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise to support H.R. 9398, a bill to extend the programs authorized by the Public Works and Economic Development Act of 1965 for an additional 3 years, through September 1979. The programs created under this act have been effective in stimulating economic development and creating jobs and should be extended; $3.7 billion is authorized for these programs—including funds for 3 years, plus the transition period.

The Public Works and Economic Development Act of 1965 was enacted to assist localities suffering from high unemployment and stunted economic growth. The programs authorized under this act have created jobs in the private sector and stimulated economic expansion through local initiatives. Funds are channeled into areas which are economically behind the rest of the Nation. Areas eligible to receive assistance—under this act—are those which have hard-core unemployment problems and are experiencing economic deterioration.

The public works grants program provides funds to local communities to construct water and sewer systems, vocational schools, and industrial parks. Since the inception of this program more than a million jobs have been created. Most of these are direct jobs created by new businesses locating in the area or through expansion of existing businesses. In addition, the indirect benefits of this program are immeasurable. Other jobs have been generated as a result of expanded company payrolls which increased the buying power of local residents. In many cases the entire community and area have found new hope through additional job opportunities and economic expansion.

Other EDA programs provide funds for economic planning, supplemental grants to States, business development loans, and assistance to redevelopment areas. As a result of funds through these programs, EDA has shown an impressive record of improving economic opportunities with a fairly small Federal investment. Seed money has been actively coupled with local dollars to expand job opportunities. Economic alternatives have been developed which have provided additional economic growth and stability for the areas.

In addition to extending the existing programs, this legislation makes several changes which will strengthen and improve the EDA programs. A new urban section is added to make these programs more responsive to the problems of the cities. Unemployment rates in major cities are the highest in the country and many of these areas are experiencing substantial outmigration. Due to the high cost of land and demolition of existing structures, as well as high taxes, it is almost impossible for urban areas to attract new industry. Several changes in this legislation would make it easier for urban areas to participate in the EDA program. These changes recognize and ameliorate problems cities have experienced in designation for EDA assistance.

This bill also restores the requirement that between 25 and 35 percent of the title I public works funds be used for the public works impact program. The public works impact program was instituted to create immediate employment in poverty areas or areas having high unemployment. It has provided EDA with additional flexibility to insure that funds reach the areas of the greatest need where they can make an impact in the shortest possible time.

H.R. 9398 increases the authorization for the business development program from $75 to $200 million. This increase is particularly important to assist many small businesses which are suffering financial strain and have had difficulty obtaining funds to expand their business. An interest subsidy provision will help businesses borrowing funds in the private market by paying up to 4 percent of the interest on such loans.

Title V of the Public Works and Economic Development Act authorizes the designation and funding of Regional Action Planning Commissions to help member States promote economic development. At the present time 33 States are members of the existing 7 regional planning commissions and I understand several other States are presently exploring this possibility. The legislation today would extend this program through 1979 and would provide assistance to regions for regional transportation, energy demonstration, health and nutrition demonstration, and education projects. In addition, this program has made supplemental funds available, enabling communities to move forward with projects in these areas.

The regional development and economic development programs provide maximum flexibility to local communities to solve their own problems. Local initiatives and local involvement are the key to the success of this program.

Permanent employment opportunities are provided through expansion of the private sector. As our economy is showing signs of improvement, it is essential that assistance be provided to thse economically depressed areas so that they can continue on the road to economic recovery. The EDA programs provide such assistance and the result of these funds is apparent in many communities throughout the country. I support their extension.

Mr. ROE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 9398, a bill to amend and extend the Public Works and Economic Development Act of 1965 for 3 additional years. Total authorizations for the 3-year extension, through fiscal year 1979, will be $3,712.5 billion. There can be no question that the extension of this legislation is both necessary and desirable. Economic development is not a partisan issue—it is, in a very real sense, the key to our Nation's future growth and prosperity. The Economic Development Administration—the Economic Development Districts, and the title V Regional Action Planning Commissions—have, since their inception in 1965, proven their success, not only in the creation of over a million jobs for the people in distressed areas of the country, but also as agencies that represent a genuine and effective partnership between Federal, State, and local governments.

The economic development programs under this legislation have provided the necessary tools, through planning and technical assistance, business development loans and guarantees, and public works facility grants, to assist depressed communities all across this country, areas that have continued to lag behind the growth and development of our Nation as a whole.

The EDA program has in many instances provided the first ray of hope for many Americans—the first opportunity to have a meaningful job, a steady income, and the first chance to make a contribution to one's community.

Mr. Chairman, although our economy has made progress toward a recovery during the past few months, the 1974–75 recession has left an aftermath of high unemployment which will remain high throughout the remainder of this decade. While we are all heartened by the continued reductions in unemployment levels during the past 6 months, it is obvious that the crisis is far from over.

In July, unemployment rose to 7.8 percent—that means that over 7.4 million Americans continue to be unemployed and as we all know, these official statistics from the Department of Labor do not reveal the magnitude of the unemployment problem. In April of this year—when unemployment stood at 7.5 percent, the AFL–CIO estimated that if all the unemployed who have given up their search for a job plus those who are obliged to work part time rather than full time were included in the Labor Department's calculations, the "true" unemployment figures for the Nation during this period would have been 9.7 million persons or 10.3 percent. Today the unemployment problem is unfortunately worse, not better.

Mr. Chairman, it is clear that the economic development programs authorized under the Public Works and Economic Development Act of 1965 are needed now as ever before. These programs have been tested. We know that the flexibility of these programs and the mechanisms of governance embodied in EDA are effective. Not only do these programs provide meaningful work for the unemployed but they also provide the necessary infrastructure and public facilities which many communities are lacking. These public facility projects such as streets, water supply lines, sewage treatment facilities, schools, hospitals, or recreation areas—are not make-work projects—the kind that are commonly referred to as leaf-raking projects—they are badly needed projects which will have a lasting benefit in providing services to communities all across this Nation.

The bill that is before you today, H.R. 9398, continues these programs for 3 years through fiscal year 1979. With the exception of the title V Commissions, which were authorized through fiscal year 1977 by the Regional Development Act of 1975, the programs under the current legislation expire June 30, 1976. H.R. 9398 is designed to assist both rural and urban areas addressing problems of long-term economic growth—prior to the actual occurrences of economic distress—as well as to assist in the rehabilitation of those areas where long-term economic deterioration has occurred. Amendments to the legislation will enable the States, the economic development districts and local governments to address these problems in a more efficient and effective manner.

Under H.R. 9398, the public facility grant program is amended to permit grants for cost overruns on projects that have been previously approved under title I without increasing the Federal share of these projects. In addition, title I is also amended to increase from 10 to 25 percent the minimum amount of funds that must be used from the annual appropriation for this title for projects authorized by the public works impact program—PWIP. This provision reinstates the 25-percent minimum that was in law prior to the amendments to the act in 1974.

Under title II of the act, H.R. 9398 amends the business development loan and guarantee program to increase the authorization level from $75 to $200 million each fiscal year. In addition, a new section authorizes the Secretary to pay to, or on behalf of, a private borrower an amount sufficient to reduce up to 4 percentage points the interest paid by such borrower on a guaranteed loan for the purchase or development of land and facilities for industrial or commercial usage—including construction of new buildings, the rehabilitation of abandoned or unoccupied facilities, and the alteration or conversion of existing buildings. This interest supplement is to be used when no reasonable interest rate is available in the private lending market for marginal firms applying for loans in the private market. The subsidy is to be used during times of high interest rates or when such interest rates would be prohibitively expensive for firms in need of financial assistance to continue current operations.

H.R. 9398 contains a new section in title IV of the act which authorizes the Secretary to designate a city with a population of 50,000 or more as a "redevelopment area" if it submits and has approved a redevelopment plan and, if it meets one or more of the following conditions: First, a large concentration of low-income persons; second, substantial outmigration; third, substantial unemployment or underemployment; fourth, an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment; or fifth, long-term economic deterioration.

This section also permits cities designated under this section to receive other assistance for economic development under the act. Once a city is designated under this section, a city may receive grants for loans and other assistance for the economic development of the distressed area. Upon repayment of the loans to the city, economic development revolving funds are set up for the purpose of reinvesting funds in the economic development of the city with the approval of the Secretary.

Each city receiving assistance under this new section must submit a complete report to the Secretary of Commerce evaluating the effectiveness of the assistance provided for under this section. The Secretary will in turn submit a consolidated report to the Congress by July 1, 1977, with his recommendations on the urban economic development assistance provided.

Mr. Chairman, during our committee hearings on H.R. 9398, the problems of urban areas and particularly the older, central cities were discussed by a group of urban economic development experts. These witnesses testified that unemployment is still at crisis levels in most cities—although the Nation as a whole is beginning to recover from the current recession. The contrast between national unemployment statistics and those for residents living in the older, central cities reveals the magnitude of their problems. For example, in 1975, according to the U.S. Bureau of Labor Statistics, nationwide unemployment stood at 8.5 percent, but the poverty areas in central cities registered a 15.1 percent unemployment level.

Mr. Chairman, Congress must not lose sight of the fact that the central cities in major metropolitan areas contain the pivotal economic functions which are crucial to the Nation's economic health and long-term prosperity. Since the Public Works and Economic Development Act was enacted in 1965, only 12.3 percent—that is less than one-eighth—of the total public works, business development, technical assistance, and economic adjustment assistance provided by the act has been directed to the Nation's 90 largest cities.

The urban panel testifying before the Committee on Public Works and Transportation, strongly urged that economic development assistance be focused in urban areas with chronically high levels of unemployment and where the basic public works and economic infrastructure, such as streets, sewers and utilities is already in place. These witnesses strongly supported the amendment under H.R. 9398 which will enable communities with a population of 50,000 or more to be more easily designated as redevelopment areas eligible for assistance.

H.R. 9398 amends the economic adjustment assistance program of title IX of the act to include long-term economic deterioration as a condition for which assistance may be provided. In addition, the relocation of businesses has been added to the list for which grants may be made. In order to be an eligible recipient under the long-term economic deterioration criteria, the unemployment rate of the area must exceed the national average for 6 consecutive months of the preceding 12 months; at least 15 percent of the population must be below poverty levels as defined by the Office of Management and Budget; and, there must be an economic development planning and management capability adequate to effectively administer the grant awarded under title IX. Seperate funding would be authorized under title IX for these recipients.

Mr. Chairman, these are the major amendments under H.R. 9398 to the Public Works and Economic Development Act of 1965. I believe that these amendments represent an innovative and realistic response to the economic development problems that plague both our urban and rural communities throughout the Nation. The fact that unemployment will continue to remain at unacceptably high levels throughout the remainder of this decade, and the fact that the Nation is spending over $19 billion for unemployment compensation in 1976 alone, are clear indications that a national economic development program, targeted to the distressed areas of high unemployment, is absolutely imperative if we are to restore the vitality of our Nation's economic health. The EDA programs have proven their effectiveness. They create meaningful and productive jobs and they provide the public works and economic development infrastructure and facilities that are the lifeblood of every community in this Nation.

Mr. Chairman, I urge my colleagues to join with me in support of H.R. 9398.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. HARSHA), the ranking minority member of the Committee on Public Works and Transportation.

Mr. HARSHA. Mr. Chairman, I rise in support of H.R. 9398, a bill to extend for 3 years the Public Works and Economic Development Act of 1965. This bill contains authorizations totalling $3.7 billion for activities under EDA to assist communities and States suffering economic deterioration and decline. Over the years EDA has provided over a billion dollars in public works grants, hundreds of millions of dollars in business loans and technical assistance to eligible areas needing a boost in their respective economies. EDA is a proven effective program for Federal assistance to boost the private sector for sustained economic growth and development.

Specifically in this legislation there is an amendment to the title II business loan provision, which provides for an interest subsidy for loans guaranteed by EDA. This interest subsidy may be up to 4 percent of the interest on the loan and the payment shall be made either to the borrower or to the lender, no less often than anually. I support this provision, because it is direct aid to the private sector, it stimulates lending activity in areas where loans may be otherwise prohibitively expensive, and it allows the greatest leverage of Federal spending in the private sector. Many marginal firms in need of capital improvement, repair of existing facilities, and additions to pollution controls and abatement facilities are in desperate need of finance capital. This interest subsidy will aid these firms greatly to meet the cost of borrowing. This provision allows EDA to review the loan, since only loans guaranteed by EDA are eligible for the interest subsidy. In my own district of Ohio there is a firm which, due to the age of the facility, was forced to lay off half of its 2,400 employees, due directly to environmental orders. This is a major source of employment in my district and this payroll is obviously of great importance and need to the local economy. Since this is a marginal firm, a loan to finance pollution abatement facilities would be prohibitively expensive. However, by providing an interest subsidy the loan may be within this company's financial capacity.

I support this provision and the other provisions of H.R. 9398, and I urge its passage.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. Don H. Clausen), a member of the committee.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of H.R. 9398. This bill authorizes $3.7 billion to continue the programs authorized under the Public Works and Economic Development Act of 1965 for 3 additional years.

These programs, administered by the Economic Development Administration within the Department of Commerce, provide funds to stimulate economic development and to provide long-term employment opportunities in areas of the country which are economically depressed. Assistance through a variety of programs is provided to communities which are suffering persistent unemployment or underemployment problems, to communities experiencing substantial outmigration due to a lack of job training facilities, and to areas having a high concentration of low-income residents.

A look at the past record of the EDA programs, from 1966 to present, indicates that they are having a positive impact on many of these communities. In areas where economic progress was previously at a standstill, job opportunities have been expanded, the level of income for the residents has improved, and the population has been stabilized.

Through EDA's business development program, loans have been provided to businesses which were about to shut down. The financial support has revitalized small businesses, saving jobs and creating additional jobs. Through the public works program, grants provided to local governments have enabled them to build industrial parks, job training facilities, access roads, medical facilities, and water and sewer projects. These funds have been invaluable to spur local projects which have stimulated industrial and commercial improvements.

The economic adjustment program has provided assistance to many areas of the country facing high unemployment due to structural changes in the area's economy. In some cases this type of assistance and planning has helped the community to divert an economic setback because it is able to anticipate the problem and take corrective action.

The people of the north coast of California are well aware of the key role the program for the Economic Development Administration play in advancing local initiatives designed to stabilize and revitalize our economic well being.

We have seen first hand how the resources of EDA combine with foresight on the part of the local people to achieve wise and careful economic improvements. EDA is particularly unique in that its primary mission is to create employment while at the same time it leaves lasting community enhancement in the form of new or improved public facilities of many kinds.

Our area has seen sewer systems constructed that permit the expansion of our industrial capability, new civic and cultural centers, fish processing plants, buildings for educational institutions, restoration of historic buildings, and many other significant accomplishments.

I believe the foregoing examples demonstrate that these programs are working. They are fostering economic development and creating jobs in communities through the Nation. There is genuine local enthusiasm for these programs and economic recovery is encouraged through the private sector. I do not think I need to elaborate on the financial and social agony associated with unemployment and economic distress. The programs deal with such a situation by encouraging private business to locate in the areas and to expand the jobs opportunities and training facilities. Permanent jobs, tax benefits, and increased income for residents have resulted from EDA's investment. It is a wise investment and should be continued.

I urge enactment of this legislation.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. Shuster).

Mr. SHUSTER. Mr. Chairman, I rise in support of H.R. 9398, the Public Works and Economic Development Act amendments of 1976.

Mr. Chairman, with few exceptions, the Economic Development Act has been a model of Federal, State, and private cooperation in erasing, or at least alleviating, the cruelest of human blights—economic depression. It has zeroed in on areas of greatest need, as identified in EDA eligible districts, and has reaped untold benefits. There is no way to assess the number of families it has saved from separation, or the number of towns and communities it has prevented from collapsing. But the benefits are there and should be measured equally in terms of what it prevented as in what it created. And what it prevented was utter disaster in many communities.

This bill, Mr. Chairman, extends these important programs for an additional 3 years, generally at previously authorized levels. It will keep in motion critical programs which not only create jobs in the private sector, but encourage private initiative which, over time, should be manifested in a self-sufficient prosperous local economy. It will put people back to work who, for reasons in large measure attributable to the Federal Government, find themselves with no way to support their families. And it will promote community pride by constructing public facilities of enduring value, such as community centers, museums, industrial parks, and firehouses. These objectives are worthwhile beyond dispute, Mr. Chairman, and on that basis alone, the bill merits passage.

But this legislation goes beyond even the obvious merits of a public works-type bill. This legislation attempts to restore much of the responsibility for developing economic programs at the local and regional levels. By encouraging a planning process that is built "from the ground up," this measure guarantees that State programs accurately reflect the needs and goals of local communities and economic development districts, rather than continuing to permit local needs to be dictated by isolated bureaucracies, far removed by geography and demography from the local problems. It further acknowledges the blunder potential of Federal redtape by permitting States, or even local governments, to furnish unemployment statistics. This, Mr. Chairman, will have a positive effect on streamlining the process whereby communities may become eligible for EDA assistance.

This legislation is very important to me, Mr. Chairman, because I have witnessed whole towns struggling to recover when a major industry packed up and moved, or shut down, throwing most of the labor force out of work. And I have suffered the pains these communities have felt in trying to pick up the pieces. It can be the hardest thing in the world, and it requires all the courage, all the raw guts, one can muster. But the job is made infinitely more bearable when you know that the Federal Government is behind you—not to pick up the pieces, but to help you pick them up. That is precisely the intent of this bill.

Mr. Chairman, I urge you and my colleagues to join me in support of H.R. 9398.

Mr. HAMMERSCHMIDT. Mr. Chairman, I have no further requests for time, but I reserve the balance of my time.

Mr. ROE. Mr. Chairman, I yield 1 minute to the gentlewoman from New York (Ms. Abzug).

Ms. ABZUG. Mr. Chairman, I rise in support of H.R. 9398, as amended, a bill to extend and amend the Public Works and Economic Development Act of 1965, as amended. I would like to commend the chairman of the Committee on Public Works and Transportation, Congressman ROBERT JONES of Alabama, and the chairman of the Subcommittee, Congressman ROBERT ROE of New Jersey, for his leadership on this bill and direct my comments to the new urban economic development sections of the legislation.

Mr. Chairman, the older cities of this Nation have been major victims of the current recession and the inflationary squeeze—the budgetary crisis that hit many cities not too long ago causing municipal strikes, and cutbacks in essential services, is not over. The basic problem of our cities lies much deeper than the current recession with its high unemployment—that problem is the gradual and continuing erosion of the economic base of cities. The continuing exodus of middle and upper income taxpayers and businesses from our central cities and the idling of valuable resources in land and labor has had a crippling effect on the economic health of our central cities. To the mayors and city councils, these population declines particularly in the Northeast and North Central States have resulted in reduced tax revenues at a time when their costs are increasing. The reason for this is all too obvious: the need for public services does not decline at the same rate that the tax base erodes. Our cities have thus been in a constant battle to equalize income and expenditures. To the workers in these cities, plant closings and industrial migration have had a severe impact—the loss of one's job. To young people, just entering the job market, it has meant that the struggle to find employment has become even longer and harder.

Congress has enacted a number of programs intended to reduce joblessness and assist local governments in meeting their financial obligations. All of these programs, including those for public service employment, general revenue sharing, and vocational education for job training, serve real needs and must be continued. However, none of these programs address the deep-seated problem of our cities—the need to end the erosion of the cities economic base and the need to restore the local market economy of commerce and industry—upon which all else depends. If private industry does not stay in the cities, and expand there, all efforts to reduce the depression-level unemployment in urban areas and make our cities self-supporting, shall certainly fail.

The Public Works and Economic Development Act is therefore of vital concern to the cities of this Nation—it is the only major Federal program that specifically is directed at providing jobs and strengthening local economies. The success of EDA leads us to recommend that the program be strengthened in urban areas and I believe that this legislation provides an excellent framework for providing the type of assistance our urban areas need. Under H.R. 9398 a new section will make it practicable for cities to be designated as eligible for EDA assistance. In addition, this bill will establish an urban economic development program, containing its own separate authorization for cities over 50,000 population so that the larger cities will, for the first time, receive specific assistance under this act.

I want to remind my colleagues that since the inception of the Public Works and Economic Development Act in 1965, less than one-eighth—that is 12.3 percent—of the total expenditures for public works, grants, business development, technical assistance, and economic adjustment assistance provided by the act have been directed to the Nation's 90 largest cities. In 1970, 24 percent of the U.S. population resided in these 90 cities. Fifty of the 90 cities had 12.5 percent or more of their families living below the poverty line in 1970. And, in September of 1975, the unemployment rates in 69 of the 79 labor market areas for these cities were over 6.5 percent and one-third showed unemployment rates well in excess of 10 percent. Yet, the cumulative dollar amount of EDA assistance to these economically distressed urban areas comes to only $280,000,000 over a 10-year period. In 1975 only 53 of the 90 largest cities in the Nation received any EDA assistance at all, and only 58 of these cities received funds from EDA during the 10 years the program has been in existence.

Mr. Chairman, I want to make it clear that we do not want to reduce the amount of EDA assistance going to the rural depressed areas. Instead we are trying to come up with a new urban economic development program that is designed specifically for cities, to bring them up to a level of parity with other communities in the Nation.

Under section 405, which authorizes urban economic development, cities of 50,000 or more are subject to the same criteria as other communities applying for assistance under the Act. The Secretary of Commerce is authorized to designate a city with a population of 50,000 as a "redevelopment area" if it submits and has approved a redevelopment plan, and if it meets one or more of the following conditions: First, a large concentration of low income person; second, substantial outmigration; third, substantial unemployment or underemployment; fourth, an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment; or fifth, long-term economic deterioration. Once a city is designated, it may receive grants for the purpose of providing loans, or other assistance which will enhance the economic development of the distressed area. Upon the repayment of the loans to the city, this section would authorize the city to set up economic development revolving funds to provide funds for reinvestment to meet other economic development needs in the area. Cities designated under this section would also be eligible to receive other assistance for economic development under the act. Each city which receives a grant under section 405 must submit a report to the Secretary of Commerce evaluating the effectiveness of the assistance provided. The Secretary will in turn submit a consolidated report to the Congress by July 1, 1977, with his recommendations for any modification of the urban economic development assistance extended to cities under section 405.

Mr. Chairman, it is clear that both the current recession and inflationary pressures have exacerbated the problems of economic decline in many central cities. First, double-digit inflation caused city government expenditures to rise faster than revenues. This put the squeeze on central city budgets. Recession then provided the second blow to our cities. The recession's effect was particularly acute in the older cities of the Northeast and the Midwest because these cities contain the older manufacturing facilities—those that are probably the first to be closed as production is reduced and the last to be reopened when demand increases. Today, with a year of economic recovery under our belt, our central cities continue to experience unemployment rates well above 10 percent because utilization of production capacity is still below 75 percent.

The recession has caused more than unemployment, however. It has also caused large revenue shortfalls for many central city governments, and has increased the demand on these governments for essential services. These revenue shortfalls and increased demands for services forced many cities to undertake austerity measures in 1975 to maintain balanced budgets or to limit the size of their budget deficits. The cyclical decline related to the recession has consequently accelerated the economic base decline that was already manifest in many central cities.

Mr. Chairman, the regional development programs authorized under the Public Works and Economic Development Act of 1965 have proven their effectiveness during the past 10 years. It is clear that these programs are needed because all regional and local economies do not experience simultaneous changes in economic conditions. Some communities will approach full utilization of labor and capital resources long before the national economy reaches a full recovery. Others, like the declining central cities, lag well behind national economic indicators; and some remain chronically depressed for long periods of time. Aggregate fiscal and monetary policies are simply not designed to respond to the widely varied economic conditions that individual regions experience. Those policies attempt instead to regulate aggregate demand in the hope that all regional and local economies will be reached by their effects. But we know that this has not happened.

Mr. Chairman, many cities are, in fact, lagging far behind the national rate of recovery. It is for this reason that we have provided the new urban economic development section under the Public Works and Economic Development Act. This assistance is directly targeted to the most distressed cities that are not sharing the benefits of economic growth. With the addition of this amendment, and other minor changes made under H.R. 9398, I believe that the EDA program now more fully represents an integrated regional development strategy that will upgrade the skills of the labor force, provide the capital necessary for investment, prevent the deterioration of public facilities and services, and offer positive incentives for the development of new employment opportunities in the most distressed urban and rural communities.

The key to strengthening the economies of declining central cities, is—as I said earlier in this statement—to encourage new private sector investments to locate in these areas. The EDA business development loan program is thus a natural complement to the new urban grant program for it provides long-term capital available at low interest rates to businesses that locate in declining areas. We have amended this business development loan program under H.R. 9398 so that the Secretary may reduce up to four percentage points the interest paid to a private borrower on a guaranteed loan for the purchase or development of land and facilities for industrial or commercial usage, including the construction of new buildings, the rehabilitation of abandoned or unoccupied buildings, or the alteration of existing buildings. This interest rate is to be used during times of high interest rates or when such rates would be prohibitively expensive for firms in need of financial assistance to continue current operations.

Mr. Chairman, we are proposing one more change to make the EDA program more effective in the older urban areas. Under title IX of the Public Works and Economic Development Act, we have amended this special economic adjustment and assistance program to include long-term economic deterioration as a condition for which assistance may be available, and we have added the relocation of businesses to the list for which grants may be made. In order to be an eligible recipient under this long-term economic deterioration criteria, the unemployment rate of the area must exceed the national rate, at least 15 percent of the population must be below the poverty level as defined by the OMB, and there must be an economic development planning and management capability to administer the grant.

Finally, Mr. Chairman, it is important that we realize that many of our central cities are not only suffering from declining economic bases, but also from deteriorating physical facilities. The assistance provided under the Public Works and Economic Development Act is directly tailored to meet these needs for the repair or rehabilitation of public facilities and to insure that the necessary infrastructures—roads, water, and sewer lines—are in place. In many respects, the rebuilding of the physical environment of the city is just as important as rebuilding the economic base.

Mr. Chairman, the new urban economic development program, the amendments to the business development loan program and those amendments to the economic adjustment assistance program are a product of many recommendations our committee has received to make the Public Works and Economic Development Act of 1965 more responsive to current and long-term economic needs in this country. I sincerely believe that the new assistance provided under H.R. 9398 will do much to solve the problems of our older urban areas in the country—particularly our central cities—as well as continue our assistance to distressed rural communities that have benefited from this program so much in the past. I strongly urge my colleagues to join with me in extending the Public Works and Economic Development Act for 3 years as provided for under H.R. 9398.

Mr. ROE. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. NOWAK).

Mr. NOWAK. Mr. Chairman, I would like to clarify the intent of section 903 (a)(3) of title IX of the Public Works and Economic Development Act Amendments of 1976.

I refer first to (A) of the eligibility criteria under this section which states:

> An unemployment rate during the twelve month period preceding the application for the grant which exceeded the national unemployment rate for at least six months during such period based on unemployment statistics provided by the Department of Labor or on locally generated data acquired using a methodology approved by the Secretary.

This methodology shall be made available to areas where the Department of Labor does not compile data. In addition, governmental units within SMSA's, for which the Department of Labor maintains statistics, may also utilize the methodology to determine their unemployment rate, upon notifying the Secretary. The Secretary then provides these governmental units with any current data which will expedite their own unemployment rate determination.

Section (B), which reads "at least 15 per centum of the population below the poverty levels defined by the Office of Management and Budget" means the poverty levels which result from the division of the total population of an area into the total number of persons below the poverty level. The source is the Bureau of the Census 1970, census of population publication "Poverty Status in 1969 and Ratio of Family Income to Poverty Level for Persons in Families and Unrelated Individuals, by Family Relationship Age and Race." For example, central cities having a population of 250,000 or more would use table 207 of this source, adding the categories "All Family Members" and "All Unrelated Individuals" to arrive at the total population, and the total number below the poverty level.

The section (C) provision requiring an economic development planning and management capacity adequate to administer the grant effectively, intends that the applicant political unit provide evidence to the Secretary of Commerce of that applicant's capacity to utilize the grant in a manner which will improve the economic climate of the area. Any unit of local government which has been granted funding through the Economic Development Administration, for the purpose of economic development planning, such as section 302 planning grants, will be eligible for funding under section 903.

Mr. ROE. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman from New Jersey for yielding to me.

EDA is a Federal Government program that makes sense. It works. It has been proven. It is one of the most effective Federal Government programs in terms of dollars invested and returns yielded to the American people. I have seen its effectiveness in my own congressional district over the past dozen years, going back to the days when EDA was created. I was privileged to be present at its creation; at that time I was a member of the staff of the House Committee on Public Works and also on the staff of my predecessor, the former chairman of this committee, John A. Blatnik, when, under his creative leadership the Accelerated Public Works Act and the Area Redevelopment Act were merged to form the new EDA. This program has enjoyed bipartisan support. It has tided us over in areas, like my own in Minnesota, that have had high and chronic unemployment, and enabled them to survive, give the people a new lease on life, and continue on.

So, Mr. Chairman, I urge support for EDA.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut (Mr. MCKINNEY).

Mr. McKINNEY. Mr. Chairman, the legislation before us to amend the Economic Development Act addresses an area of great concern to myself and the people of the Fourth District of Connecticut. In addition to extending existing programs, this bill authorizes $200 million annually for a new development program which is aimed at reversing conditions in depressed urban areas. As I am sure many of you are aware, this has long been one of my major concerns and an issue that I consider to be worthy of the highest national priority. I realize that the Northeastern region does not have exclusive claim to the problems of older cities, but there is no denying that we have a greater concentration of "problem" cities than any other part of the country.

Among the amendments we are considering is a reduction in the minimum population criteria for designation as a redevelopment area and development district eligible for grants. The fact that we are lowering the population level for eligible cities from 250,000 to 50,000 will permit a large number of urban areas desperately in need of economic assistance to qualify for these funds. I am acutely aware of the need to liberalize this requirement. Only last month the largest city in my district—Bridgeport, Conn.—and its thousands of unemployed teenagers were victimized by bureaucratic intransigence over population figures. Under CETA the Secretary of Labor was given discretion to allocate additional funds for summer jobs for inner-city youths. When I read the criteria that had been established to qualify for these funds—9 percent unemployment in cities of 150,000 population—I was certain that Bridgeport, with unemployment at 11 percent, down from 13 percent, and population in the 1970 census at more than 156,000 would be among the recipients. My years in Washington have taught me to take nothing for granted, however, so I checked with the Labor Department. Bridgeport was not among the recipient cities. My feeling of disappointment changed to one of disbelief when I was told that the rationale for excluding this depressed area was based on the estimated 1973 census which showed Bridgeport's population to be 148,337—1,663 below this arbitrary limit. When I checked with Census Bureau officials, I was informed that such a large decline was quite unusual and also there was an accepted "error" factor of 2 percent when using such results. Unfortunately the communications gap among offices of the Federal Government is so large that the officials administering the summer jobs for youth program refused to believe that discretion could also be used in accepting an "estimated" figure of 1.3 percent less than the minimum of 150,000. The result: Bridgeport lost out.

In standing up to speak in support of this bill I want to make known my determination that Bridgeport will not get shortchanged by such an arbitrary decision again. And you better believe that Stamford, Norwalk, Fairfield, and Greenwich and a lot of other cities in Connecticut and the Northeast will not be cut out, either. They all need help and they deserve it now. If this is a parochial view, let me remind you that the public works jobs bill included money for sewerage treatment projects that will never get to urban areas. Those of us living and working in the older, depressed cities of the North deserve the same consideration that we are asked to give to the rural regions of this country.

As I mentioned at the beginning of my remarks, we are doing more than just extending existing programs. Hearings held by the Public Works Committee demonstrated the need for additional assistance to central cities, especially those suffering from chronically high unemployment. One of the main points hammered home by the committee is the fact that more must be done to help cities cope with economic deterioration. The new Urban Economic Development grant program established in this bill is one such measure. This provision allows the Commerce Department to designate as a "redevelopment area" any city with a population over 50,000 which submits a plan for overall economic development approved by the Department and meeting one or more of the following conditions: First, a large concentration of low-income persons; second, substantial outmigration; third, substantial unemployment or underemployment; fourth, an actual or threatened abrupt rise of unemployment due to closing or curtailment of a major source of employment; and fifth, long-term economic deterioration. These criteria describe the woes of the typical Northeastern city, almost without exception.

Of paramount importance to us, however, is the population requirement of 50,000. In Connecticut, there are no cities currently with population greater than 150,000. In fact the entire State was excluded from eligibility in programs using the previous limitation of 250,000. Using the new criterion of 50,000 there are 11 cities in Connecticut which can now qualify on the population basis. Of these cities, five are located in the Fourth District. I am extremely pleased that the Congress is finally listening to myself and my colleagues who have been saying that, without economic assistance from the Federal Government, the Northeast corridor will become an economic wasteland. I hope that the passage of this bill will help us to speed up recovery, will substantially reduce high unemployment and provide funds to rebuild our cities. I am not asking for special treatment for these cities: I am asking that we pass this bill to help restore vitality and viability to the backbone of our Nation, our cities.

Mr. ROE. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Chairman, I thank the gentleman from New Jersey (Mr. ROE) for yielding this time to me for today is an important day to me. Normally I come back to Washington on Monday mornings from my district in Georgia, but I have waited for many weeks and days for this particular bill and so I came back yesterday evening, Mr. Chairman, to make very sure neither rain nor snow should keep me from this "appointed round."

It is a glad thing that after a 2-month appropriations and convention displacement the House is considering the proposed 3-year extension of authorization to the Public Works and Economic Development Act of 1965. The 3-year extension would authorize urgently needed Federal grant-in-aid programs throughout the country.

The first thing that I should do is to thank and also to apologize to the chairman of the subcommittee, the gentleman from New Jersey (Mr. ROE); the gentleman from Alabama (Mr. JONES), chairman of the Committee on Public Works and Transportation; the gentleman from Texas (Mr. WRIGHT), who helped me a great deal; the gentlemen from Georgia (Mr. GINN and Mr. LEVITAS), and the gentleman from Arkansas (Mr. HAMMERSCHMIDT). If they did in fact get headaches by my insistence that this legislation be expedited, it was all kindly intentioned and well meant because of the urgency to me and to my district of the passage of title V, as amended.

Mr. Chairman, title V affects my district in a very poignant way, for in 1975 a tornado ravaged the city of Fort Valley, and through this legislation, as amended, we will provide a door through which that town may become a Coastal Plains grantee. Obviously, the Governor of Georgia and the cochairman of the Federal Coastal Plains Regional Development Commission must provide that grant authority, but it is our business to provide that door through which they may go. For all of those many reasons, Mr. Chairman, I am grateful for the legislation being here today, and I thank all the gentlemen on the committee for their kindnesses and consideration shown to me.

Mr. Chairman, I urge passage of the measure.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Texas.

Mr. WRIGHT. I thank the gentleman for yielding.

As one member of the House Committee on Public Works and Transportation, I just want to observe that the gentleman from Georgia (Mr. BRINKLEY) has indeed been most diligent in impressing upon us the urgent need for this money to be made available for his area in Georgia. There can be no question in my mind but that it is urgent and that it is a need which fulfills every requirement of the law.

It is a tragedy that by reason of certain inadequacies of funds and authorizations those people smitten by that disaster have not already been completely relieved of their problems and total rehabilitation performed in those communities that the law intended should be performed.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROE. Mr. Chairman, I yield 1 additional minute to the gentleman from Georgia (Mr. BRINKLEY).

Mr. WRIGHT. If the gentleman will yield further, I would just like to congratulate and compliment the gentleman from Georgia for the total diligence with which he has pursued this matter of such great importance to his constituency and to say that to a very large extent the fact that it is being resolved is due to his work and his perseverance. Far from resenting his implorings in coming to our committee, we appreciate it very much because we think that is what an active Congressman should do.

Mr. BRINKLEY. I thank the gentleman from Texas for his comments.

If the gentleman would give me his further attention, I would also thank the gentleman's staff, and also my staff, and in particular Miss Ann Cheek for her diligence.

Mr. ROE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, in answer to the question of the gentleman from New York (Mr. NOWAK), the source of the information of the poverty level under that particular section of the bill is the Bureau of Census 1970 population publication, "Poverty Status in 1969 and Ratio of Family Income to Poverty Level for Persons in Families and Unrelated Individuals, by Family Relationship, Age, and Race."

The gentleman is absolutely correct. This is the method we intend to use and indeed, will use in computing poverty level criteria.

Mr. Chairman, we have no further requests for time, and I yield back the remainder of my time.

Mr. JOHNSON of California. Mr. Chairman, I rise in support of H.R. 9398 to extend the Public Works and Economic Development Act of 1965 for 3 years. As a member of the Subcommittee on Economic Development of the House Committee on Public Works and Transportation, I have worked closely with my colleagues to make this legislation more responsive to the economic needs of our depressed rural and urban communities throughout the Nation under H.R. 9398.

The EDA programs authorized under this act have proven their effectiveness during the past decade in targeting assistance—public works grants, business development loans, and technical assistance—to the most distressed areas of the country—areas that have suffered extremely high rates of unemployment, areas which have a large percentage of their population living in poverty, areas that have experienced substantial outmigration and areas that have undergone structural changes in their economies due to the closing or curtailment of a major source of employment. These criteria have insured that the assistance under the Public Works and Economic Development Act is concentrated only in the most needy areas of the country. The unique governmental mechanisms that have evolved under this program; that is, the economic development districts and the title V regional Action Planning Commission, have provided a flexible framework whereby local communities can effectively participate in developing priority needs. Today, this local initiative is spearheaded by more than 7,500 local leaders participating in the programs of the Economic Development Administration. The dynamic relationship that exists among the States, the local communities and the Federal Government has made the EDA program the success it is today—over 1 million jobs have been created since the inception of the program in 1965—and, these jobs have resulted in the construction or repair of badly needed local facilities in communities all across this country.

In my own district in northern California, the programs of the Economic Development Administration have provided the stimulus that our local communities need in carrying out programs that will create jobs through balanced economic growth. Our economy is tied to tourism and the lumber industry. Fluctuations in the national economy and the seasonal nature of our industries, plus the declining sources in our forests, make it imperative that we intensify efforts to diversify and strengthen the economy of our region.

EDA has provided the assistance needed for many important programs in my district: In Chico, Calif., the State university has established a center for business and economic development with EDA funds. This center will provide business management counseling and training as well as assist local communities to stabilize businesses and preserve jobs. Two northern California communities—Anderson in Shasta County and Oroville in Butte County—are among five selected by the State of California for participation in an EDA demonstration program that will help businessmen in nonmetropolitan areas. The goal of this program is to retain existing jobs and create new jobs through business expansion. Although we are just beginning to build a viable economic base for the future growth and development of northern California, the cooperative efforts of the Sierra Economic Development District has demonstrated to other counties the value of a regional approach to solving the problems of unemployment and lagging growth. The people of northern California need the assistance provided under the Public Works and Economic Development Act. We have many communities with unemployment rates hovering around 20 percent with little prospects of improving their situation without the continued assistance of the Economic Development Administration.

Mr. Chairman, a 3-year extension of the EDA programs as provided for in H.R. 9398 is absolutely imperative if we are to continue to bolster the economies of many economically depressed areas of our Nation. The current recession has caused undue hardship for many of our urban areas and it has exacerbated the economic problems of our nonmetropolitan communities. The amendments under H.R. 9398 which provide for new authority to assist in the economic development of our urban areas, and those which improve upon the public facility grant program, the business loan program, and the economic adjustment assistance program, are necessary in order to address the immediate as well as the long-term economic problems of these depressed communities. I strongly urge my colleagues to join me in full support of H.R. 9398.

Mr. JONES of Alabama. Mr. Chairman, I rise in support of H.R. 9393, as amended, a bill to extend for 3 years the Public Works and Economic Development Act of 1965. The need for this legislation today is as serious as ever in the past. There can be no question that the events of the past few years have shaken the U.S. economy to its very foundations. Inflation rates, interest rates, and unemployment rates have hit unprecedented levels, exacting a toll on every citizen in America. Consumers, businessmen, financiers, and Government policymakers have been battered by one piece of shocking news after another. Although double-digit inflation has been curbed during the past 2 years, this has been accomplished at a great expense to our citizens and to our economy in the form of unemployment, the deflated value of savings and of capital, and a lowering of the effective income levels for the majority of the American people.

There is no need to dwell excessively on the depressed state of our economy—for the facts are abundantly clear—during the past 2½ years the United States has experienced the severest recession since the Great Depression of the 1930's. Nor is there any question that public facilities across the Nation are badly in need of repair, replacement and expansion, and that there are many communities which lack even the basic infrastructures—the water and sewer lines, the roads and streets—that are necessary to make these public facilities economically viable. Several years of extremely high interest rates have clearly imposed a staggering burden on local governments trying to keep pace with the facility needs of their communities.

Under the Public Works and Economic Development Act of 1965, as amended, assistance is not only targeted to the most distressed areas of the country—areas that have a history of high unemployment and underemployment—but assistance is also directed to areas that are experiencing rapid growth but lack the public works and economic infrastructure that is necessary to support the demands of their populations. Federal assistance in the form of public works grants, business development loans, and technical assistance, is thus directed to rural and urban communities that are experiencing long-term economic deterioration and chronic unemployment as well as those communities that have the severe problems of short-term dislocation that have been caused either by unplanned and haphazard growth or by the curtailment or shutdown of a major source of employment.

The EDA program has proven its effectiveness—not only in the creation of over 1 million jobs since its inception in 1965—but also in establishing a unique partnership between the States and local governments. The title V Regional Commissions and the economic development district program have evolved over the years to represent a truly unique and innovative approach to solving the diverse economic needs of the Nation.

Mr. Chairman, it seems a bit ironic that at a time when our Nation continues to experience severe economic problems, including high levels of unemployment and shrinking tax revenues, that we also have communities all across this Nation that need to rebuild outmoded or deteriorating public facilities or to construct new facilities to keep pace with the growth needs of their populations. It seems to me that these vital public projects can provide substantial relief for the millions of unemployed that are seeking work as well as provide the infrastructure for long-term growth. These expenditures are surely a more human answer to the unemployed than unemployment compensation. The people of this country do not want hand-outs—more welfare—more unemployment compensation. But that is exactly what we are giving them. This year we are spending more than $19 billion in unemployment compensation benefits alone. What is even worse, is that we cannot keep pace with these short-term stop-gap measures: According to a recent survey released by the Department of Labor, only 25 percent of jobless Americans find employment after their unemployment benefits run out. Half of the successful 25 percent must accept lower pay than they received in their previous job. So it is not just a matter of people trying to find limited standards of employment; in today's economy the jobs are simply not available. These figures are extremely important, because the Labor Department has also reported that nearly 2 million jobless Americans will exhaust their unemployment benefits by the end of 1976.

Mr. Chairman, it simply does not make sense to spend more on maintaining the unemployed than we are willing to spend in providing them with productive work. H.R. 9398 authorizes a total of $3.7 billion over a 3-year period for programs that have proven their effectiveness in generating employment and in providing badly needed local public facilities. Surely this is a better investment for Americans than the $19 billion we are spending for unemployment compensation this year.

Mr. DRINAN. Mr. Chairman, I rise in strong support of the Public Works and Economic Development Act amendments of 1976, H.R. 9398. This bill would extend the very successful Economic Development Administration, which has been instrumental in helping communities around the Nation provide jobs to unemployed workers through business development grants and assistance.

In recent months the Nation has just begun to show the steady economic improvement that will be needed if we are to shake off fully the effects of economic recession. The Congress has taken major steps to promote economic growth and to reduce unemployment through actions such as the tax cut and the Local Public and Capital Development Act. This type of legislation has been instrumental in stimulating the economy even though the President has been reluctant to give it his full support. But the truth is, without the Congress continuing to exercise its continuing commitment to reducing unemployment, our economic recovery could very well stall.

Mr. Chairman, the bill which we debate today is typical of those measures which must be taken if we are to reduce further the joblessness rate. Unlike the public local works program, which stimulates employment through public service jobs, H.R. 9398 stimulates employment in the private sector. It does this by providing business development loans and loan agreements, programs which have been designed to stimulate directly the private sector by helping business operate successfully in economically distressed areas. In conjunction with the public works program, this bill provides the overall balanced economic effort which is needed if we are ever to regain full employment in the coming years.

It is clear that we cannot ignore the private sector in developing a coherent Federal employment effort. Almost 85 percent of American workers depend on the private sector for jobs and income. Even with the increasingly available public service jobs, most of the jobless workers will depend on growth in the private sector for renewed job opportunities. And it is here that the Economic Development Administration has been quite successful in prior years.

I and my constituents have been well aware of the importance of the Economic Development Administration in creating jobs. In 1974 a $1.2 million grant was awarded to the city of Gardner in my congressional district to establish a much-need industrial park. In 1975, a similar $1.8 million grant was received by the city of Fitchburg for the purpose of founding an industrial park. This latter effort was greatly aided by an additional $24,000 grant to Fitchburg to establish an economic development office, so that the goal of full utilization could be pursued properly for the recently funded industrial park.

These kinds of programs and grants illustrate the great importance of the continuation of the Economic Development Administration. The EDA can go out into communities and help hard-pressed cities and towns improve their economic and employment base through business aid. Although it does take some time for the future ramifications of these grants to manifest themselves fully on the local economies, the psychological effects of new growth and optimism for the future can only help to buoy the future prospects of the communities affected.

Mr. Chairman, H.R. 9398 increases the authorization level for the business development loan and guarantee program from $75 million to $200 million for each fiscal year. The bill also provides greater opportunities for technical assistance, research, and information which can help State and local officials in completing needed economic planning and investment. The Economic Development Administration would continue to be the chief conduit for these grants, with this new bill continuing to further the mandate of EDA's critical work in this field.

The legislation also sets up an innovative urban economic development program. This urban program would permit the Secretary of Commerce to designate as a redevelopment area any city with a population in excess of 50,000 which has submitted an overall economic development program to the Department of Commerce. Where substantial unemployment exists, the program can be used by cities for real estate development, rehabilitation, and renovation of empty factory buildings, promoting industrial parks and land acquisition, and pursuing other activities which could create economic development.

I think it is significant to note, Mr. Chairman, that the minimum population required for eligibility for assistance under this new program has been reduced from 250,000 to 50,000. I feel that this is an important change, due to the fact that municipalities in my district such as Newton, Brookline, and Waltham, which could benefit substantially from programs such as this can now qualify for this welcome assistance. And it is clear that if we are to make a meaningful dent in continuing the reduction of unemployment, the Federal Government will have to broaden the scope of its assistance to those areas where it could be most valuable. Certainly, in this case, I feel that this expanded eligibility will have this effect.

I urge my colleagues to give their favorable support to this needed and important legislation. I can testify as to the good work which the Economic Development Administration has done in my own district, and how these grants can be greatly encouraging to local officials and townspeople insofar as their economic future is concerned. By mounting this two-step program, encouraging both private sector and public service jobs, we may at last be able to beat back the specter of high unemployment in the United States.

Mr. LEGGETT. Mr. Chairman, we have another opportunity today to take a key step in behalf of the American economy. H.R. 9398 would extend for 3 years the Public Works and Economic Development Act, which was first enacted in 1965 to assist the regions of our country afflicted by high unemployment. The programs authorized by this bill are directed specifically at areas suffering from declining economic activity and above-average unemployment—those characterized by many as areas of structural unemployment—where the risk that application of economic stimulus will produce inflationary pressures is low indeed. The aim is to enable these depressed areas to help themselves, in large part via the private sector, develop the planning and financial capacity needed for enduring economic development and the creation of permanent jobs.

As we analyze the results of the first 10 years under this act, it is clear that, while our central cities are the locus of some of our most severe problems of structural dislocation, they have received far less attention under this program than the magnitude of their problems would warrant. The Nation's 90 largest cities have received only 12 percent of the funds authorized under this legislation for public works, business development, and technical and economic adjustment assistance.

Yet the contrast between the unemployment problems of the central city and those of the population as a whole has been, and continues to be, striking. Just two pieces of information will remind us once again of the gravity of the problem. In 1975, when nationwide unemployment averaged 8.5 percent, the rate for the poverty areas of our central cities was over 15 percent. Similarly, teenage unemployment in 1975 was 40 percent in the central cities, double the national average.

Mr. Chairman, enactment of H.R. 9398 will not eradicate America's structural unemployment problems—in the cities or elsewhere. Far from it. But it is a worthwhile step which can help our afflicted regions help themselves.

To increase the urban emphasis, the bill would authorize $200 million annually to create an economic development program keyed to cities. Title IV would permit the Secretary of Commerce to designate as a "redevelopment area" cities with populations of 50,000 or more which meet one or more of the following conditions: A large concentration of low-income people, substantial outmigration or unemployment, a sudden loss of jobs through the closing of a major employment center, or long-term economic deterioration. If a city meeting these criteria prepares an economic development plan, the Secretary is authorized to make a grant to the city for executing the plan, if he approves it.

The bill would increase the funding authorization from $75 million to $200 million for the business development loan and guarantee program, under which the Secretary can aid in financing the purchase of land, facilities or machinery for industrial or commercial usage within all redevelopment areas, urban and otherwise. The Secretary can also, under a new provision of the bill, finance an interest subsidy of up to 4 percent on such a loan when loans are not otherwise available in the private money market.

In addition, H.R. 9398 would provide $250 million annually for public works grants in redevelopment areas. It would also provide $75 million per year for technical assistance to State and local jurisdictions preparing economic development plans under authority of the act. Furthermore, the bill would authorize funds for grants to implement the plans of Regional Economic Development Commissions, and for assistance to areas which are suffering from long-term economic deterioration.

Let me emphasize one point, in conclusion. The aim of the programs included in this bill is to create jobs. The jobs it produces will not only bring in additional tax revenue, they will also cut welfare and unemployment insurance costs, partially offsetting the cost of this bill.

In my view, this bill will contribute to the health of both the public and the private sectors of our economy. I fail to see how our friends in the administration can oppose this bill if they really favor reductions in the unemployment rolls. I urge my colleagues to support H.R. 9398.

Mr. SHARP. Mr. Chairman, I wish to offer an amendment to the pending bill extending the authorization of the Public Works and Economic Development Act. My amendment would require the Economic Development Administration and the Secretary of Commerce to act within 60 days on overall economic development programs submitted to them for approval. I include this brief amendment at this point in the RECORD:

AMENDMENT TO H.R. 9398, AS REPORTED
OFFERED BY MR. SHARP

Page 9, immediately after line 11, add the following new section:

SEC. 113. (a) Section 401 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161) is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of this Act, the Secretary shall make a final determination with respect to each overall economic development program submitted to him under this Act not later than the sixtieth day after the date he receives such program. Failure to make such final determination within such period shall be deemed to be an approval by the Secretary of such program.".

(b) The amendment made by subsection (a) of this section shall apply to any overall economic development program submitted to the Secretary of Commerce on or after the date of enactment of this section.

Renumber succeeding sections accordingly.

Mr. Chairman, the requirement in the act for a community to prepare an overall economic development program is a worthy one. It ensures that grants and loans made under this act will be part of a coordinated development effort for the community or area applying for assistance. It also ensures that a broad cross section of the community will be involved in drawing up the development plans. But preparation of one of these programs is a lot of work. The Federal Government, through the representatives of the Economic Development Administration, comes to these communities and says, "We can help you with your development problems if you will involve your people and develop some thorough plans." Then, when the local people have done all this work, they often have to wait months for any sort of approval or suggested changes from EDA.

In my own State and district we have had several examples of this kind of delay. Henry County, Ind., submitted an overall economic development program to EDA on April 21, 1975, after having incorporated suggestions made by EDA on an earlier draft OEDP. They did not receive EDA's approval until August 5, 1975, and in the interim their application for a title X EDA grant was rejected in part because they were not designated as a redevelopment area. At the present time Rush County, Jay County, and Madison County are awaiting word on their OEDP's, all of which were submitted over 60 days ago. The regional OEDP submitted by region 6 Planning and Development Commission has been awaiting approval for almost 2 months.

I think a 60-day turnaround time for these plans is reasonable. In most cases it should take much less time. If we are serious about our desire to make the Federal Government work better, let us start by holding the agencies to some time deadlines.

Mr. ROE. We certainly share the gentleman's concern with excessive "redtape" in the administration of the program because I have had the same problem in Bergen County in New Jersey. I want to assure the gentleman that the Economic Development Subcommittee will investigate this problem and recommend any legislation that is needed.

Mr. SHARP. I thank the chairman for his concern and for his assurances of oversight hearings on the Economic Development Administration. With his indication that these hearings will be held early next year and that they will cover the problem of administrative delays, I will withdraw my amendment.

Mr. HAMMERSCHMIDT. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. This Act may be cited as the "Public Works and Economic Development Act Amendments of 1976".

SEC. 102. Section 2 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 312) is amended by inserting at the end the following new sentence: "Congress further declares that, in furtherance of maintaining the national economy at a high level, the assistance authorized by this Act should be made available to both rural and urban areas; that such assistance be available for planning for economic development prior to the actual occurrences of economic distress in order to avoid such conditions; and that such assistance be used for long-term economic rehabilitation in areas where long-term economic deterioration has occurred or is taking place.".

SEC. 103. (a) Section 101 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131) is amended by striking out subsection (e).

(b) The second sentence of subsection (c) of section 101 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131) is amended by striking out "may" each of the two places it appears and inserting in lieu thereof at each such place "shall".

SEC. 104. The first sentence of section 102 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3132) is amended—

(1) by striking out "and June 30, 1976," and inserting in lieu thereof "June 30, 1976, September 30, 1977, September 30, 1978, and September 30, 1979."; and

(2) by inserting immediately before "shall be available" the following: ", and for the period begining July 1, 1976, and ending September 30, 1976, not to exceed $7,500,000 of the funds authorized to be appropriated under such section 105 for such period,".

SEC. 105. Section 105 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3135) is amended—

(1) by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", not to exceed $62,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $250,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.";

(2) by striking out "and June 30, 1976," in the third sentence and inserting in lieu thereof "June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979,"; and

(3) by striking out "10 per centum" in the third sentence and inserting in lieu thereof "25 per centum".

SEC. 106. Title I of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131–3136) is further amended by adding at the end thereof the following:

"CONSTRUCTION COST INCREASES

"SEC. 107. In any case where a grant (including a supplemental grant) has been made under this title for a project and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has been increased because of increases in costs, the amount of such grant may be increased by an amount equal to the percentage increase, as determined by the Secretary, in such costs, but in no event shall the percentage of the Federal share of such project exceed that originally provided for in such grant.".

SEC. 107. (a) Section 201(c) (42 U.S.C. 3141) is amended to read as follows:

"(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section and section 202, except that annual appropriations for the purpose of purchasing evidences of indebtedness, paying interest supplement to or on behalf of private entities making and participating in loans, and guaranteeing loans, shall not exceed $170,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1973, and shall not exceed $55,000,000 for the fiscal year ending June 30, 1974, and shall not exceed $75,000,000 for the fiscal years ending June 30, 1975, and June 30, 1976, and shall not exceed $18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and shall not exceed $200,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.".

(b) Section 201 of such Act is further amended by striking subsection (d) of such section.

(c) Section 202(a)(1) of such Act is amended by adding after paragraph (1) the following new paragraph:

"(2) In addition to any other financial assistance under this title, the Secretary is authorized, in the case of any loan guarantee under authority of paragraph (1) of this section to pay to or on behalf of the private borrower an amount sufficient to reduce up to 4 percentage points the interest paid by such borrower on such guaranteed loans. Payments made to or on behalf of such borrower shall be made no less often than annually.

(d) Section 202(a) of such Act is amended by renumbering existing paragraph (2) as (3), including any references thereto.

SEC. 108. Section 202(a)(3) of the Public Works and Economic Development Act of 1965 (as redesignated by section 107 of this Act) is amended by striking out the period at the end thereof and adding the following: "(D) paying those debts with respect to which a lien against property has been legally obtained (including the refinancing of any such debt) in any case where the Secretary determines that it is essential to do so in order to save employment in a designated area, to avoid a significant rise in unemployment, or to create new or increased employment."

SEC. 109. The fourth sentence of subsection (a) of section 302 of the Public Works and Economic Development Act of 1965 is amended to read as follows: "Any overall State economic development plan prepared with assistance under this section shall be prepared cooperatively by the State, its political subdivisions, and economic development districts located in whole or in part within such State, and such State plan shall, to the extent possible, be consistent with local and economic development district plans.".

SEC. 110. Section 303(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3152) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", $18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $75,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.".

SEC. 111. (a) Section 304(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3153) is amended by inserting immediately after "June 30, 1976," the following: "$18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $75,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979,".

(b) Section 304(a) of such Act is further amended by striking out "titles I, II, and IV" and inserting in lieu thereof "titles I, II, III, IV, and IX".

(c) Section 304(c) of such Act is amended by striking out "title I, II, or IV" and inserting in lieu thereof "title I, II, III, IV, or IX".

SEC. 112. Section 401(b)(4) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161) is amended by striking out "two hundred and".

SEC. 113. Section 403(g) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3171) is amended by inserting immediately after "June 30, 1976," the following: "not to exceed $11,250,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $45,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979,".

SEC. 114. Section 404 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3172) is amended by striking out ", and June 30, 1976," and inserting in lieu thereof the following: "and June 30, 1976, not to exceed $6,250,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $25,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979,".

SEC. 115. Title IV of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161 et seq.) is further amended by adding at the end thereof the following:

"PART D—URBAN ECONOMIC DEVELOPMENT

"SEC. 405. (a) For the purposes of this section, the term 'city' means (A) any unit of general local government which is classified as a municipality by the Bureau of the Census, or (B) any other unit of general local government which is a town or township and which, in the determination of the Secretary, (i) possesses powers and performs functions comparable to those associated with municipalities, (ii) is closely settled, and (iii) contains within its boundaries no incorporated places as defined by the Bureau of the Census.

"(b) The Secretary shall designate as a 'redevelopment area' any city having a population of fifty thousand or more which he determines has one or more of the following conditions within its boundaries:

"(A) a large concentration of low-income persons;

"(B) substantial out-migration;

"(C) substantial unemployment or underemployment;

"(D) an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment;

"(E) long-term economic deterioration.

No city shall be designated a redevelopment area under this section until it has an approved overall economic development program in accordance with subsection 202(b)(10) of this Act. Any such redevelopment area shall be entitled to the assistance authorized by this Act, except that only funds authorized by subsection (d) of this section shall be expended in providing such assistance to a city whose only designation as a 'redevelopment area' is under this section. Nothing in this section shall be construed to prohibit the designation of a city as a 'redevelopment area' under this section in addition to its designation as a 'redevelopment area' under any other provision of this Act, and nothing in this section shall be construed to prohibit a city designated a 'redevelopment area' both under this section and another provision of this Act from receiving assistance under this Act through the expenditure of funds both under this section and under any other provisions of this Act.

"(c) In addition to any other assistance available under this Act, if a city that has been designated as a redevelopment area under this section prepares a plan for the redevelopment of the city or a part thereof and submits such plan to the Secretary for his approval and the Secretary approves such plan, the Secretary is authorized to make a grant to such city for the purpose of carrying out such plan. Such plan may include industrial land assembly, land banking, acquisition of surplus government property, acquisition of industrial sites including acquisition of abandoned properties with redevelopment potential, real estate development including redevelopment and rehabilitation of historical buildings for industrial and commercial use, rehabilitation and renovation of usable empty factory buildings for industrial and commercial use, and other investments which will accelerate recycling of land and facilities for job creating economic activity. Any such grant shall be made on condition (A) that the city will use such grant to make grants or loans, or both, to carry out such plans, and (B) the repayments of any loans made by the city from such grant shall be placed by such city in a revolving fund available solely for the making of other grants and loans by the city, upon approval by the Secretary, for the economic redevelopment of the city.

"(d)(1) Each eligible recipient which receives assistance under this section shall annually during the period such assistance continues make a full and complete report to the Secretary, in such manner as the Secretary shall prescribe, and such report shall contain an evaluation of the effectiveness of the economic assistance provided under this section in meeting the need it was designed to alleviate and the purposes of this section.

"(2) The Secretary shall provide an annual consolidated report to the Congress, with his recommendations, if any, on the assistance authorized under this section, in a form which he deems appropriate. The first such report to Congress under this subsection shall be made not later than July 1, 1977.

"(e) There is hereby authorized to be appropriated to carry out this section not to exceed $50,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $200,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.

"PART E—UNEMPLOYMENT RATE DETERMINATIONS

"SEC. 406. Whenever any provision of this Act requires the Secretary of Labor, or the Secretary, to make any determination or other finding relating to the unemployment rate of any area, information regarding such unemployment rate may be furnished either by the Federal Government or by a State or local government. Unemployment rates furnished by State or local governments shall be accepted by the Secretary unless he determines that such rates are inaccurate. The Secretary shall provide assistance to State and local governments in the calculation of unemployment rates to insure their validity and standardization.".

SEC. 116. (a) Section 509(c) of the Public Works and Economic Development Act of 1965 is amended by striking out the first sentence and inserting in lieu thereof the following: "The term 'Federal grant-in-aid programs' as used in this section means those Federal grant-in-aid programs authorized on or before September 30, 1979, by this Act and Acts other than this Act for the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including but not limited to grant-in-aid programs authorized by the following Acts: Federal Water Pollution Control Act; Watershed Protection and Flood Prevention Act; titles VI and XVI of the Public Health Services Act; Vocational Education Act of 1963; Library Services and Construction Act; Federal Airport Act; Airport and Airway Development Act of 1970; part IV of title III of the Communications Act of 1934; titles VI (part A) and VII of the Higher Education Act of 1965; Land and Water Conservation Fund Act of 1965; National Defense Education Act of 1958; Consolidated Farm and Rural Development Act; and titles I and IX of this Act.".

(b) The first sentence of section 509(d)(1) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3188a) is amended by striking out at the end thereof "and for the fiscal year ending September 30, 1977, to be available until expended, $250,000,000." and inserting in lieu thereof "and for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, to be available until expended, $250,000,000 per fiscal year.".

SEC. 117. Section 509(d)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3188a) is amended by striking out at the end thereof "and for the fiscal year ending September 30, 1977, to be available until expended, not to exceed $5,000,000." and inserting in lieu thereof "and for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, to be available until expended, $5,000,000 per fiscal years.".

SEC. 118. Section 704 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3214) is amended by striking out subsection (e).

SEC. 119. (a) Section 901 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241) is amended by inserting "(including long-term economic deterioration)" immediately after "economic conditions".

(b) Section 903(a)(1) of such Act (42 U.S.C. 3243) is amended—

(1) by inserting "(A)" immediately before "which the Secretary";

(2) by inserting ", or (B) has demonstrated long-term economic deterioration," immediately after "Federal Government)";

(3) by inserting "and businesses" immediately after "relocation of individuals"; and

(4) by striking out "and other appropriate assistance." and inserting in lieu thereof the following: "and other assistance which demonstrably furthers the economic adjustment objectives as stated in the plan.".

(c) Section 903(a)(2)(A) of such Act is amended by inserting immediately after "loan guarantees," the following: "payments to reduce interest on loan guarantees,".

(d) Section 903(a) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3) The Secretary is specifically authorized to make grants pursuant to paragraph (1) to those eligible recipients having long-term economic deterioration which demonstrate the following characteristics—

"(A) an unemployment rate during the twelve-month period preceding the application for the grant which exceeded the national unemployment rate for at least six consecutive months during such period based on unemployment statistics provided by the Department of Labor or on locally generated data acquired using a methodology approved by the Secretary;

"(B) at least 15 per centum of the population below the poverty levels defined by the Office of Management and Budget;

"(C) an economic development planning and management capacity adequate to effectively administer the grant.".

(e) Section 905 of such Act (42 U.S.C. 3245) is amended—

(1) by inserting "(a)" after "SEC. 905.";

(2) by inserting "(except for grants specifically authorized by section 903(a)(3))" after "to carry out this title";

(3) by striking out "and" before "$100,000,000";

(4) by striking out the period at the end thereof and inserting in lieu thereof the following: ", not to exceed $25,000,000 for the transition quarter ending September 30, 1976, and not to exceed $100,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979."; and

(5) by adding at the end thereof the following new subsection:

"(b) There is authorized to be appropriated to carry out the provisions of section 903(a)(3) of this title not to exceed $6,250,000 for the transition quarter ending September 30, 1976, and not to exceed $25,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.".

SEC. 120. Section 2 of the Act entitled "An Act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for titles I through IV through fiscal year 1971", approved July 6, 1970 (Public Law 91–304), is amended by striking out "June 1, 1976," and inserting in lieu thereof "September 30, 1979,".

Mr. ROE (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Are there any amendments? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MITCHELL of Maryland, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 9398) to amend the Public Works and Economic Development Act of 1965 to extend the authorization for a 3-year period, pursuant to House Resolution 1283, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HAMMERSCHMIDT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 372, nays 5, not voting 54, as follows:

[Roll No. 673]

YEAS—372

Abdnor
Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Fountain
Fraser
Frenzel
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Prichard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki

NAYS—5

Collins, Tex.
Crane
Kindness
McDonald
Paul

NOT VOTING—54

Alexander
Badillo
Bell
Brown, Mich.
Chisholm
Clay
Collins, Ill.
Conlan
de la Garza
Dickinson
du Pont
Eckhardt
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fisher
Fithian
Ford, Tenn.
Forsythe
Frey
Fuqua
Giaimo
Green
Hawkins
Hays, Ohio
Heinz

Helstoski
Hinshaw
Jones, Ala.
Karth
LaFalce
Lehman
McCloskey
Milford
Moorhead, Pa.
Peyser
Rees
Rhodes
Riegle
Risenhoover
Sebelius
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Thornton
Vander Veen
Whitten
Wilson, C. H.
Wylie
Young, Alaska
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

Mr. Lehman with Mr. Bell.
Mr. LaFalce with Mr. Wylie.
Mr. Helstoski with Mr. Karth.
Mr. Zeferetti with Mr. Conlan.
Mr. Badillo with Mr. du Pont.
Mr. Young of Georgia with Mr. Evans of Colorado.
Mr. Ford of Tennessee with Mr. Forsythe.
Mr. Fithian with Mr. Brown of Michigan.
Mr. de la Garza with Mr. Green.
Mr. Fuqua with Mr. Esch.
Mrs. Collins of Illinois with Mr. Evins of Tennessee.
Mr. Giaimo with Mr. Dickinson.
Mr. Hawkins with Mr. Hays of Ohio.
Mr. Charles H. Wilson of California with Mr. Jones of Alabama.
Mr. Whitten with Mr. Eshleman.
Mrs. Chisholm with Mr. McCloskey.
Mr. Alexander with Mr. Frey.
Mr. Fisher with Mr. Preyer.
Mr. Sisk with Mr. Riegle.
Mr. Thornton with Mr. Heinz.
Mr. Vander Veen with Mr. Sebelius.
Mr. Clay with Mr. Rees.
Mr. Eckhardt with Mr. Steelman.
Mr. Moorhead of Pennsylvania with James V. Stanton.
Mr. Risenhoover with Mr. Steiger of Arizona.
Mr. Milford with Mr. Young of Alaska.

Mr. BONKER and Mr. EDWARDS of California changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ROE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2228) to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a 3-year period, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

Sec. 101. The second sentence of section 101(c) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows: "In the case of any State, political subdivision thereof, or Community Development Corporation which the Secretary determines has exhausted its effective taxing or borrowing capacity, the Secretary may reduce the non-Federal share below such per centum or waive the non-Federal share in the case of such a grant for a project in a redevelopment area designated as such under section 401(a)(6) of this Act.".

Sec. 102. The first sentence of section 102 of the Public Works and Economic Development Act of 1965, as amended, is amended—

(1) by striking out "and June 30, 1976," and inserting in lieu thereof "June 30, 1976, September 30, 1977, September 30, 1978, and September 30, 1979,"; and

(2) by inserting immediately before "shall be available" the following: ", and for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $7,500,000 of the fund authorized to be appropriated under such section 105 for such period,".

Sec. 103. Section 105 of the Public Works and Economic Development Act of 1965, as amended, is amended—

(1) by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", not to exceed $62,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $450,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.";

(2) by striking out "and June 30, 1976," in the third sentence and inserting in lieu thereof "June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979,".

Sec. 104. (a) Title I of the Public Works and Economic Development Act of 1965, as amended, is further amended by adding the following new section at the end thereof:

"URBAN ECONOMIC DEVELOPMENT

"Sec. 107. (a) Any municipality with a population of fifty thousand or more which has been designated a 'redevelopment area' or which is within the boundaries of a 'redevelopment area' shall be eligible on a priority basis for the assistance as authorized by section 101(a)(1) of this Act if (i) or (ii) and either (iii) or (iv) of the following indicators of economic distress is determined by the Secretary to be present—

"(i) 15 per centum of a municipality's population below poverty level as defined by the Office of Management and Budget;

"(ii) unemployment at least 50 per centum above the national unemployment rate for the preceding twenty-four months;

(iii) significant decline in per capita employment over the preceding three-year period; or

"(iv) deterioration of a municipality's economic base including industrial, commercial, and other facilities, as determined by the Secretary.

"(b) Not to exceed 20 per centum of the first $250,000,000 appropriated under section 105 and not to exceed 35 per centum of appropriations in excess of $250,000,000 shall be available for eligible urban areas under this title. Any municipality qualifying for assistance under this section shall not be eligible for other assistance under title I of this Act.

"(c) Projects funded by this priority assistance program must relate to the number and needs of unemployed persons in the eligible areas and contribute significantly to the reduction of unemployment in the area for which the eligibility was determined.

"(d) Each municipality seeking assistance under this section must have a current approved overall economic development program or where appropriate prepare such a program for approval in accodance with subsection 202(b)(10) of this Act prior to receiving assistance under this section. Such planning programs should be coordinated with planning of other jurisdictions in the metropolitan area. The development program shall also be coordinated with activity in the city under the Comprehensive Employment and Training Act and the community development block grant program.".

(b) Section 401(a)(8) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(8) those areas which the Secretary of Labor determines, on the basis of average annual available unemployment statistics, were areas with unemployment at least 50 per centum above the national unemployment rate for the preceding twenty-four months.".

Sec. 105. Section 201(c) of the Public Works and Economic Development Act of 1965, as amended, is amended by striking the period at the end thereof and inserting the following: ", and shall not exceed $18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and shall not exceed $125,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.".

Sec. 106. Section 303 of the Public Works and Economic Development Act of 1965, as amended, is amended—

(1) by striking the period at the end of subsection (a) and inserting the following: ", $18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $75,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.";

(2) by inserting after "1976" in subsection (b) the following: ", not to exceed $3,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $15,000,000 in each of the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979,".

Sec. 107. Section 304(a) of the Public Works and Economic Development Act of 1965, as amended, is amended by inserting after "June 30, 1976," the following: "$18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $75,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979,".

Sec. 108. Section 401(a)(1)(A) of the Public Works and Economic Development Act of 1965, as amended, is amended by striking "available calendar year" and inserting in lieu thereof "twelve consecutive months".

Sec. 109. Section 403(g) of the Public Works and Economic Development Act of 1965, as amended, is amended by inserting immediately after "June 30, 1976," the following: "not to exceed $11,250,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $45,000,000 per fiscal year for the fiscal year ending September 30, 1977, September 30, 1978, and September 30, 1979,".

Sec. 110. Section 404 of the Public Works and Economic Development Act of 1965, as amended, is amended by inserting after "June 30, 1976" the following ", not to exceed $6,250,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $25,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979,".

Sec. 111. Section 509(c) of the Public Works and Economic Development Act of 1965 as amended, is amended by striking out the first sentence and inserting in lieu thereof the following: "The term 'Federal grant-in-aid programs' as used in this section means those Federal grant-in-aid programs authorized on or before September 30, 1979, by this Act and Acts other than this Act for the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including but not limited to grant-in-aid programs authorized by the following Acts: Federal Water Pollution Control Act; Watershed Protection and Flood Prevention Act; titles VI and XVI of the Public Health Services Act; Vocational Education Act of 1963; Library Services and Construction Act; Federal Airport Act; Airport and Airway Development Act of 1970; part IV of title III of the Communications

Act of 1934; titles VI (part A) and VII of the Higher Education Act of 1965; Land and Water Conservation Fund Act of 1965; National Defense Education Act of 1958; Consolidated Farm and Rural Development Act; and titles I and IX of this Act.".

Sec. 112. The first sentence of section 509 (d)(1) of the Public Works and Economic Development Act of 1965, as amended, is amended by striking out "and for the fiscal year ending September 30, 1977, to be available until expended, $250,000,000." and inserting in lieu thereof "and for the fiscal year ending September 30, 1977, September 30, 1978, and September 30, 1979, to be available until expended, $250,000,000 per fiscal year.".

Sec. 113. Section 104(e) of the Public Works and Economic Development Act of 1965, as amended, is amended by striking the period and adding at the end thereof the following: ": *Provided*, That this prohibition shall not apply to a publicly-owned utility which seeks financial assistance to cover the costs of transmission or distribution facilities for electric energy or natural gas. Such assistance shall be limited to the difference between the revenue derived over the project life from the sale of electricity or natural gas and the costs associated with the transmission and distribution of the electricity or natural gas.".

Sec. 114. Section 905 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking out the period at the end thereof and inserting the following. ", not to exceed $25,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $100,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.".

Sec. 115. Section 515(c) of the Public Works and Economic Development Act, as amended, is amended by deleting the following: "Not to exceed $5,000,000 of the funds apportioned to each regional commission under section 509 of this title shall be expended in any one fiscal year for the purpose of carrying out the energy-related provisions of this section and".

Sec. 116. Section 701 of the Public Works and Economic Development Act of 1965, as amended, is amended by adding the following new paragraph and renumbering subsequent paragraphs accordingly:

"(11) reobligate funds previously obligated under title I, section 201 of title II, or section 403 of title IV for projects which cannot be initiated or completed without regard to the purpose or locaton of the incomplete or uninitiated project: *Provided, however*, That such previously obligated funds must remain in the same State or States as the initial obligation and the project for which funds will be reobligated must meet all the requirements of this Act;".

Sec. 117. Section 1002 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking the entire section and inserting the following:

"Sec. 1002. For the purpose of this title the term 'eligible area' means any area, which the Secretary of Labor designates as an area which has a rate of unemployment equal to or in excess of 7 per centum for the most recent calendar quarter or any area designated pursuant to section 204(c) of the Comprehensive Employment and Training Act of 1973 which has unemployment equal to or in excess of 7 per centum, with special consideration given to areas with unemployment rates above the national average.".

Sec. 117. (a) Section 1003(c) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(c) Where necessary to effectively carry out the purposes of this title, the Secretary of Commerce is authorized to assist eligible areas in making applications for grants under this title.".

(b) Section 1003(d) of such Act, as amended, is amended to read as follows:

"(d) Notwithstanding any other provisions of this title, funds allocated by the Secretary of Commerce shall be available only for a program or project which the Secretary identifies and selects pursuant to this subsection, and which can be initiated or implemented promptly and substantially completed within twelve months after allocation is made. In identifying and selecting programs and projects pursuant to this subsection, the Secretary shall (1) give priority to programs and projects which are most effective in creating and maintaining productive employment, including permanent and skilled employment measured as the amount of such direct and indirect employment generated or supported by the additional expenditures of Federal funds under this title, and (2) consider the appropriateness of the proposed activity to the number and needs of unemployed persons in the eligible area.".

(c) Section 1033(e) of such Act, is amended to read as follows:

"(e)(1) The Secretary, if the national unemployment rate is equal to or exceeds 7 per centum for the most recent calendar quarter, shall expedite and give priority to grant applications submitted for such areas having unemployment in excess of the national average rate of unemployment for the most recent calendar quarter. Seventy per centum of the funds appropriated pursuant to this title shall be available only for grants in areas as defined in the first sentence of this subsection.

"(2) Not more than 15 per centum of all amounts appropriated to carry out this title shall be available under this title for projects or programs within any one State, except that in the case of Guam, Virgin Islands, and American Samoa, not less than one-half of 1 per centum in the aggregate shall be available for such projects or programs.".

Sec. 118. Section 104 of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"Sec. 1004. (a) Within forty-five days after enactment of the Emergency Job and Unemployment Assistance Act of 1974 or within forty-five days after any funds are appropriated to the Secretary to carry out the purposes of this title, each department, agency, or instrumentality of the Federal Government, each regional commission established by section 101 of the Appalachian Regional Development Act of 1965 or pursuant to section 502 of this Act, shall (1) complete a review of its budget, plans, and programs and including State, substate, and local development plans filed with such department, agency, or commission; (2) evaluate the job creation effectiveness of programs and projects for which funds are proposed to be obligated in the calendar year and additional programs and projects (including new or revised programs and projects submitted under subsection (b)) for which funds could be obligated in such year with Federal financial assistance under this title; and (3) submit to the Secretary of Commerce recommendations for programs and projects which have the greatest potential to stimulate the creation of jobs for unemployed persons in eligible areas. Within forty-five days of the receipt of such recommendations the Secretary of Commerce shall review such recommendations, and after consultation with such department, agency, instrumentality, regional commission, State, or local government make allocations of funds in accordance with section 1003(d) of this title.

"(b) State and political subdivisions in any eligible area may, pursuant to subsection (a), submit to the appropriate department, agency, or instrumentality of the Federal Government (or regional commission) program and project applications for Federal financial assistance provided under this title.

"(c) The Secretary, in reviewing programs and projects recommended for any eligible area shall give priority to programs and projects originally sponsored by States and political subdivisions, including, but not limited to, new or revised programs and projects submitted in accordance with this section.".

Sec. 119. Section 1005 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking such section and renumbering subsequent sections accordingly.

Sec. 120. Section 1005 of the Public Works and Economic Development Act of 1965, as amended, as redesignated by this Act, is amended by striking the period and inserting the following at the end thereof: "unless this would require project grants to be made in areas which do not meet the criteria of this title.".

Sec. 121. (a) Section 1006 of the Public Works and Economic Development Act of 1965, as amended, as redesginated by this Act, is amended to read as follows:

"Sec. 1006. (a) There are hereby authorized to be appropriated to carry out the provisions of this title $125,000,000 for each calendar quarter of a fiscal year during which the national average unemployment is equal to or exceeds 7 per centum on the average. No further appropriation of funds is authorized under this section if a determination is made that the national average rate of unemployment has receded below an average of 7 per centum for the most recent calendar quarter as determined by the Secretary of Labor.

"(b) Funds authorized by subsection (a) are available for grants by the Secretary when the national average unemploment is equal to or in excess of an average of 7 per centum for the most recent calendar quarter. If the national average unemployment rate recedes below an average of 7 per centum for the most recent calendar quarter, the authority of the Secretary to make grants or obligate funds under this title is terminated. Grants may not be made until the national average unemployment has equalled or exceeded an average of 7 per centum for the most recent calendar quarter.

"(c) Funds authorized to carry out this title shall be in addition to, and not in lieu of any amounts authorized by other provisions of law.".

Sec. 122. Section 1007 as redesignated by this Act is amended by striking "December 31, 1975" and inserting in lieu thereof "September 30, 1979".

Sec. 123. Title X of the Public Works and Economic Development Act of 1965 is further amended by adding at the end thereof the following new section:

"CONSTRUCTION COSTS

"Sec. 1008. No program or project originally approved for funds under an existing program shall be determined to be ineligible for Federal financial assistance under this title solely because of increased construction costs.".

TITLE II

Sec. 201. The President of the United States is authorized and requested to call a White House Conference on Balanced National Growth and Economic Development within one year of the date of enactment of this Act in order to develop recommendations for further action toward balanced national growth and economic development, and to take account of present conditions and trends as set forth in the report accompanying this Act. Such conference shall be planned and conducted under the direction of the domestic council with the cooperation and assistance of such other Federal departments and agencies, including the regional commissions established under the Appalachian Regional Development Act and title V of Public Works and Economic Development Act.

(b) For the purpose of arriving at facts and recommendations concerning the utilization of skills, experience, and energies and the improvement of our country's social and economic needs, the conference shall assemble representatives of government, business, labor, and other citizens and representatives of institutions who could work together for balanced national growth and economic development.

(c) A final report of the White House Conference on Balanced National Growth and Economic Development shall be submitted to the President not later than one hundred and eighty days following the date on which the conference is called and findings and recommendations included therein shall be immediately made available to the public. The President shall, within ninety days after the submission of such final report, transmit to the Congress his recommendations for the administrative action and legislation necessary to implement the recommendations contained in such report.

Sec. 202. In administering this joint resolution, the Secretaries shall—

(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate;

(2) give all reasonable assistance, including financial assistance, to the States to enable them to organize and conduct conferences on balanced growth and economic development;

(3) prepare and make available background materials for the use of delegates to the White House Conference on Balanced National Growth and Economic Development as they may deem necessary;

(4) prepare and distribute interim reports of the White House Conference on Balanced National Growth and Economic Development as may be appropriate; and

(5) engage such personnel as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 57 and subchapter 53 of such title relating to classification and General Schedule pay rates.

Sec. 203. For the purpose of this joint resolution the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

Sec. 204. The Secretaries are authorized and directed to establish an Advisory Committee to the White House Conference on Balanced National Growth and Economic Development composed of fifteen members of whom not less than five shall represent businesses in the private sector and the Secretaries of the Departments of Commerce, Agriculture, Housing and Urban Development, and relevant Federal program managers.

MOTION OFFERED BY MR. ROE

Mr. ROE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roe moves to strike out all after the enacting clause of the Senate bill S. 2228 and to insert in lieu thereof the provisions of the bill H.R. 9398, as passed, by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 9398) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2228, AMENDING THE PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965

Mr. ROE. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill (S. 2228) to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a 3-year period, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey? The Chair hears none, and appoints the following conferees: Messrs. Roe, Wright, Holland, Oberstar, Nowak, Hammerschmidt, and Don H. Clausen.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimouse consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING PRINTING OF ADDITIONAL COPIES OF PROGRAM RELATING TO PRESENTATION OF THE MAGNA CARTA

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up a resolution (H. Res. 1333) authorizing the printing of additional copies of the program relating to the presentation of the Magna Carta, and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1333

Resolved, That there shall be printed for use of the House of Representatives one thousand additional copies of the program on the occasion of the presentation of the Magna Carta to the American people on June 3, 1976.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING OF A COMPILATION OF MATERIALS COMMEMORATING THE YEARS OF SERVICE OF JUSTICE WILLIAM O. DOUGLAS

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up the concurrent resolution (H. Con. Res. 513) providing for the printing of a compilation of materials commemorating the years of service of Justice William O. Douglas, and ask for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. Con. Res. 513

Resolved by the House of Representatives (the Senate concurring), That there be printed, with an appropriate illustration, as a House document, a compilation of materials commemorating the years of service of Justice William O. Douglas on the occasion of his retirement from the United States Supreme Court, including: tributes by the Members of the House and of the Senate in the Halls of Congress; and various articles and editorials relating to the life and work of Justice William O. Douglas and his contributions to the well-being of the American people.

Sec. 2. There shall be printed and bound as directed by the Joint Committee on Printing four thousand six hundred copies of which one hundred copies shall be for the use of the House Committe on the Judiciary, one thousand seven hundred and seventy-five copies shall be for the use of the House Administration Committee, two thousand two hundred and ten copies shall be for the use of the House of Representatives, and five hundred and fifteen copies shall be for the use of the Senate.

Sec. 3. Copies of such document shall be pro rated to Members of the Senate and the House of Representatives for a period of sixty days, after which the unused balance shall revert to the respective Senate and House document rooms.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF 2,000 COPIES OF JOINT COMMITTEE ON ATOMIC ENERGY PRINT ENTITLED "REVIEW OF NATIONAL BREEDER REACTOR PROGRAM"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up the concurrent resolution (H. Con. Res. 592) authorizing the printing of 2,000 copies of a Joint Committee on Atomic Energy print entitled "Review of National Breeder Reactor Program" and ask for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. Con Res. 592

Resolved by the House of Representatives (the Senate concurring), That there shall be printed for the use of the Joint Committee on Atomic Energy two thousand copies of the committee print entitled "Review of National Breeder Reactor Program", a report by the Committee's Ad Hoc Subcommittee To Review the Liquid Metal Fast Breeder Reactor Program.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING OF DOCUMENT ENTITLED "THE WORKING CONGRESS"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administrat ion, I call up the concurrent resolution (H. Con. Res. 629) providing for the printing of a document entitled "The Working Congress" and ask for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. Con. Res. 629

Resolved by the House of Representatives (the Senate concurring), That there be printed as a House document a booklet entitled "The Working Congress". Such publication shall include a description of the operation of the Senate and the House of Representatives, the committee structure of the Congress, the relationship between the Congress and the executive and judicial branches of the Federal Government, and the process by which legislation is enacted.

SEC. 2. There shall be printed five hundred and forty thousand additional copies of which one thousand shall be for the use of the Joint Committee on Arrangements for the Commemoration of the Bicentennial and the balance shall be prorated to Members of the Senate and House of Representatives for a period of sixty days, after which the unused balance shall revert to the respective Senate and House document rooms.

SEC. 3. The Joint Committee on Arrangements for the Commemoration of the Bicentennial shall control the arrangement and style of the document authorized to be printed by the first section of this concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING OF ADDITIONAL COPIES OF REPORT OF SUBCOMMITTEE ON HEALTH AND LONG-TERM CARE OF SELECT COMMITTEE ON AGING

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up the concurrent resolution (H. Con. Res. 641) to provide for the printing of additional copies of a report of the Subcommittee on Health and Long-Term Care of the Select Committee on Aging of the House of Representatives and ask for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 641

Resolved by the House of Representatives (the Senate concurring), That there shall be printed for the use of the Select Committee on Aging of the House of Representatives one thousand five hundred additional copies of the report of the Subcommittee on Health Care and Long-Term Care entitled "New Perspectives in Health Care for Older Americans (Recommendations and Policy Directions of the Subcommittee on Health and Long-Term Care)".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING OF PUBLICATION ENTITLED "SUMMARY OF VETERANS' LEGISLATION REPORTED, NINETY-FOURTH CONGRESS"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up the concurrent resolution (H. Con. Res. 655) providing for the printing of the publication entitled "Summary of Veterans' Legislation Reported, Ninety-Fourth Congress," and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 655

Resolved by the House of Representatives (the Senate concurring), That after the conclusion of the Ninety-fourth Congress there shall be printed for the use of the Committee on Veterans' Affairs of the House of Representatives fifty-six thousand one hundred copies of a publication entitled "Summary of Veteran's Legislation Reported, Ninety-fourth Congress", with an additional forty-four thousand two hundred copies for the use of Members of the House of Representatives.

SEC. 2. After the conclusion of the Ninety-fourth Congress there shall be printed for the use of the Committee on Veterans' Affairs of the United States Senate twenty thousand copies of a publication similar to that authorized by the first section of this concurrent resolution, but with emphasis upon matters relating to veterans' affairs considered by the Senate or by the Committee on Veterans' Affairs of the Senate.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF BOOKLET ENTITLED "BLACK AMERICANS IN CONGRESS"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up the concurrent resolution (H. Con. Res. 682) to authorize the printing of a booklet entitled "Black Americans in Congress" and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 682

Resolved by the House of Representatives (the Senate concurring), That twenty-five thousand copies of a booklet entitled "Black Americans in Congress" be printed for the use of the Joint Committee on Arrangements for the Commemoration of the Bicentennial. Such booklet shall present a history of black men and women who have served as Members of Congress.

SEC. 2. The Joint Committee on Arrangements for the Commemoration of the Bicentennial shall control the arrangement and style of the booklet authorized to be printed by the first section of this concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF THE FOLDER "THE UNITED STATES CAPITOL" AS A HOUSE DOCUMENT

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up the concurrent resolution (H. Con. Res. 688) authorizing printing of the folder "The United States Capitol" as a House document and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 688

Resolved by the House of Representatives (the Senate concurring), That there shall be revised and reprinted as a House Document a visitors' information folder entitled "The United States Capitol" and that eight hundred and eighty-four thousand copies shall be printed for the use of the United States House of Representatives. One million copies shall also be printed for use of the Capitol Guide Board.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF COMMITTEE PRINTS OF COMMITTEE ON FOREIGN RELATIONS SUBCOMMITTEE ON MULTINATIONAL CORPORATIONS

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up the Senate concurrent resolution (S. Con. Res. 107) authorizing the printing of the following committee prints of the Committee on Foreign Relations Subcommittee on Multinational Corporations, and ask for its immediate consideration.

The Clerk read the Senate concurent resolution, as follows:

S. CON. RES. 107

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Committee on Foreign Relations five thousand copies each of the following hearings and committee prints entitled "Multinational Corporations and U.S. Foreign Policy" (volumes 1 and 2); "Multinational Oil Corporations and U.S. Foreign Policy, Report Together With Individual Views, January 2, 1976"; Multinational Corporations in Brazil and Mexico: Structural Sources of Economic and Noneconomic Power, Report to the Subcommittee on Multinational Corporations", by Richard Newfarmer and Willard F. Mueller; "Direct Investment Abroad and the Multinationals: Effects on the United States Economy", prepared for the use of the Subcommittee on Multinational Corporations by Peggy B. Musgrave.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF ADDITIONAL COPIES OF COMMITTEE PRINT ENTITLED "SOVIET SPACE PROGRAMS, 1971–1975"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up the Senate concurrent resolution (S. Con. Res. 113) authorizing the printing of additional copies of the committee print entitled "Soviet Space Programs, 1971–1975", and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 113

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Aeronautical and Space Sciences one thousand five hundred additional copies each of volumes 1 and 2 of its committee print entitled "Soviet Space Programs, 1971–1975", Ninety-fourth Congress, second session, prepared by the Congressional Research Service with the cooperation of the Law Library, Library of Congress.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF ADDITIONAL COPIES OF SUBCOMMITTEE ON CHILDREN AND YOUTH COMMITTEE PRINT TITLED "BACKGROUND MATERIALS CONCERNING CHILD AND FAMILY SERVICES ACT, 1975 (S. 626)"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up the Senate concurrent resolution (S. Con. Res. 114) authorizing the printing of additional copies of Subcommittee on Children and Youth committee print titled "Background Materials Concerning Child and Family Services Act, 1975 (S. 626)", and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 114

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Labor and Public Welfare, twenty-five thousand additional copies of its committee print compiled by its Subcommittee on Children and Youth entitled "Background Materials Concerning Child and Family Services Act, 1975 (S. 626)".

With the following committee amendment:

Immediately after line 7, page 1, add the following new section:

Sec. 2. There shall be printed for use of the House Committee on Education and Labor one hundred thousand additional copies of its committee print compiled by its Subcommittee on Select Education entitled "Background Materials Concerning Child and Family Services Act, 1975, H.R. 2966."

The committee amendments were agreed to.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from California (Mr. Wiggins).

Mr. WIGGINS. Mr. Speaker, I thank the gentleman for yielding. I would like to request that the gentleman from Indiana (Mr. Brademas) explain the nature of the publication entitled, "Background Materials Concerning Child and Family Services Act, 1975."

I do so, Mr. Speaker, because of the controversial nature of the act. The Members on this side have expressed a concern that the publication will be used for the purpose of selling the virtues of the act to the people.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, I thank my colleague, the gentleman from California (Mr. Wiggins) for yielding to me. The purpose of the publication of this committee print is similar to the purpose for which the committee print was prepared by the other body; namely, to make available information concerning the contents of the proposed bill, an analysis thereof, and commentaries by Members of the other body and the House and of individuals and groups of several sides of the issue.

Mr. WIGGINS. Mr. Speaker, I thank the gentleman for his explanation. I would like to say to several of my friends here in the Chamber who have questioned me about this resolution, that I have read the material which is to be printed and believe that the wide distribution of that material to the Members themselves will be helpful to them in answering the considerable volume of mail which has been produced on this issue. It is not an advocacy position at all, it is explanatory. I am certain that it will be useful to all of the Members in answering constituent inquiries.

Mr. BRADEMAS. I thank my colleague, the gentleman from California (Mr. Wiggins) for his comments.

The Senate concurrent resolution, as amended, was concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF BACKGROUND INFORMATION ON FOREIGN RELATIONS COMMITTEE AS A SENATE DOCUMENT

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up the Senate concurrent resolution (S. Con. Res. 115) authorizing printing of background information on the Foreign Relations Committee as a Senate document, and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 115

Resolved by the Senate (the House of Representatives concurring), That there be printed with illustrations as a Senate document background information relating to the history of the Senate Committee on Foreign Relations in connection with its one hundred and sixtieth anniversary (1816–1976); and that there be printed for the use of that committee seven thousand five hundred additional copies of such document.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF ADDITIONAL COPIES OF BOOKLET ENTITLED "THE SENATE CHAMBER, 1810–1859"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up the Senate concurrent resolution (S. Con. Res. 126) authorizing the printing of additional copies of the booklet entitled "The Senate Chamber, 1810–1859," and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution as follows:

S. Con. Res. 126

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Commission on Art and Antiquities of the United States Senate thirty thousand additional copies of the booklet entitled "The Senate Chamber, 1810–1859".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 14844, ESTATE AND GIFT TAX REFORM ACT OF 1976

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House resolution 1496 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1496

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14844) to revise the estate and gift tax laws of the United States. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. No amendment to said bill shall be in order except the following: amendments recommended by the Committee on Ways and Means; an amendment printed on page 25361 of the Congressional Record of August 3, 1976, by Representative Mikva; and amendments en bloc printed on pages 25361 to 25363 of the Congressional Record of August 3, 1976, by Representative Mikva; and said amendments shall not be subject to amendment except for amendments recommended by the Committee on Ways and Means. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Florida (Mr. Pepper) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. Anderson) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1496 is a modified rule providing 4 hours of general debate on the bill H.R. 14844, to revise the estate and gift tax laws of the United States.

Incidentally, there has not been a revision of these laws for a 30-year period. The rule provides that only two amendments may be offered, one of which would strike the exemption from the tax on generation-skipping trusts that is provided for parent-to-child-to-grandchild trusts of $1 million and less.

Mr. LANDRUM. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Georgia.

Mr. LANDRUM. I thank the gentleman for yielding.

I understood the gentleman to read just now that this rule will provide for only two amendments; is that correct?

Mr. PEPPER. Yes, that is correct.

Mr. LANDRUM. That means, then, that this will be a so-called modified open rule; is that right?

Mr. PEPPER. That is correct.

Mr. LANDRUM. I want to say to the gentleman and to the membership that a modified open rule, in the opinion of the gentleman now speaking, is a complete and total farce. There is nothing democratic about it, and this House of Representatives ought never to be called upon to consider a measure from a committee under a modified open rule. It should be either a closed rule voted all up or all down, or a completely open rule. A modified open rule does nothing but this: It leaves the gentleman from Florida, for example, unable to present an amendment that he might want to offer to the bill, and yet puts perhaps the gentleman from Georgia in the position of being able to offer an amendment. There is nothing fair; there is nothing just; there is nothing right about that method of legislating.

I just wanted this gentleman's feeling to go in the RECORD about a modified open or modified closed rule.

Mr. PEPPER. If the distinguished gentleman from Georgia will permit me to express my observation on this subject, I have been a member of the Committee on Rules for a good many years, and I am inclined to believe that it is in accordance with the will of this House and the desire of this House that we do have an opportunity to offer at least some amendments or to consider at least some amendments that might be supported by a large number of the Members of the House and which would seem to deserve consideration. As the distinguished gentleman from Georgia, an able member of the Committee on Ways and Means, knows, for many years it has been more or less the usual custom of the Committee on Ways and Means to ask the Committee on Rules for a closed rule, and most of the time the Committee on Rules has granted that request. But there has been a considerable impatience in the Committee on Rules itself from time to time expressed by members that there ought to be a little bit more latitude to permit Members to offer at least certain amendments, if not to offer any amendments. Nobody is proposing—I am sure the distinguished gentleman from Georgia is not—that a tax bill be thrown open to any kind of amendment. But we have tried to find a medium ground.

Mr. LANDRUM. Will the gentleman yield further?

Mr. PEPPER. I yield to the gentleman.

Mr. LANDRUM. I thank the gentleman for yielding.

There is no medium ground. We either consider it all and vote it all up or vote it all down. The gentleman from Georgia is not saying that he is in favor of any such proposition as the gentleman from Florida is bringing here from the Committee on Rules to open it up so that one Member from one State may offer an amendment, but one Member from my State may not offer an amendment. There is no representation of the American people in any such activity as that. There is a representation of only a few with specific interests.

Mr. PEPPER. What the distinguished gentleman from Georgia has said is that all tax bills, like most legislation, should be subject to an open rule and any Member should be permitted to offer any amendment.

Mr. LANDRUM. If the gentleman will yield further, I say it should be subject to an open rule or to a closed rule. Then a Member has his choice. He can vote against it completely, or he can vote for it completely, or it can be open where he can have at least the opportunity to amend it.

Mr. PEPPER. Let me point out what I believe is the justification for what the Rules Committee has done in this matter. These two amendments, if I am informed correctly, were in the original bill offered by the chairman of the Ways and Means Committee. After a rather close vote, as I understand it, the amendments finally, toward the end of the deliberations of that committee on this subject, were eliminated by a majority of the Ways and Means Committee. But the Democratic Caucus directed the Democratic members of the Rules Committee to support these two amendments because I suppose a majority of the Democratic Caucus thought the amendments had merit or at least they were of such merit and character as to deserve consideration by this House.

So what we have got is only two amendments, but they did have considerable support in the Ways and Means Committee. They did have apparently majority support in the Democratic Caucus, and apparently they did have considerable interest in the House in the opportunity to consider those two amendments.

That is the justification for the Rules Committee making those two amendments in order for consideration by the House.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Speaker, I thank the gentleman for yielding.

I think it only fair to point out to the body that when the bill came from the committee it was voted out by the Ways and Means Committee and there was practically a unanimous vote that the chairman of the Ways and Means Committee would take that bill to the Rules Committee and ask for a closed rule. I do not happen to be for a closed rule, but that was the will of the committee. Why and how, then, do we justify a closed rule that permits the offering of amendments by Members only of the majority party and thereby forecloses the offering of amendments by the minority side?

Mr. PEPPER. Mr. Speaker, the Rules Committee exercised whatever authority it may have not to deny to the Members of this House a reasonable opportunity for the fair consideration of the legislation and that includes limited amendments on legislation before this House. In this case, given the justification for the action of the Rules Committee, it is the reason, whether the gentleman can support them or not, that these two amendments did have such support in the Ways and Means Committee and apparently in the Rules Committee and apparently in the caucus, to give the House opportunity to consider these amendments.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I do not feel as strongly about the modified rules possibly as the gentleman from Georgia who has expressed himself so strongly on several occasions, but I do believe the Rules Committee has not been as open to considering the views of all Members of the House as I believe they should have been. The Democratic Caucus did recommend consideration of the two amendments and based on that the Rules Committee made consideration of these two amendments possible.

But I believe that is somewhat different from the case in the Unemployment Insurance Bill when we protested the closed rule. That rule was really closed, and did not leave it open for a motion to recommit with or without instructions. Yet when the House turned that closed rule down and we went back to the Ways and Means Committee we then came forward with the two amendments discussed in floor debate, and added a couple more amendments. The Rules Committee expounded the request in that instance.

In this instance we are not allowing any other amendments but we are getting only the two which came out of the Caucus which was attended by only a small number of people. They had only a quorum. Therefore this bypasses the Members who were not there, and did not have an opportunity to express themselves.

For instance, a vote on section 6 is not in order and it should have been made so. If we are to have a modified rule surely we should have added section 6, in all fairness, but we did not, and to that extent I think we have not been given an opportunity to express ourselves fully on this measure.

Mr. PEPPER. Mr. Speaker, I thank the able gentleman from Texas for his valuable contribution.

Mr. Speaker, the effect of the first amendment made in order under the resolution would be to impose the trust tax on all generation-skipping trusts. The other amendment would provide a two-tiered estate tax credit. Under that amendment, all estates would qualify for a certain credit, and estates comprised chiefly of farms or closely held businesses would receive an additional tax credit.

Mr. Speaker, in addition, the rule specifically provides that it shall be in order to move to recommit the bill with or without instructions. Thus, the minority will have an opportunity to work their will on this legislation through the use of that motion.

Mr. Speaker, I urge the adoption of House Resolution 1496 so that the House may proceed to the consideration of this important legislation.

Mr. Speaker, I am informed that there has not been a revision by the Congress of this subject of estate and gift tax laws for nearly 30 years.

It seems to me that this bill, whether we adopt the amendments or not, justifies the consideration and the approval by this House. Therefore, I hope the rule will be adopted and we will proceed to the consideration of the bill and I hope the approval of this measure.

Mr. Speaker, I yield to the distinguished gentleman from Illinois (Mr. Anderson).

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have already seen the opening of a very lively debate on what procedure ought to be followed in connection with the consideration of this very, very important bill, on the modification of the estate and gift tax law.

Mr. Speaker, I want to compliment the distinguished gentleman from Georgia (Mr. Landrum) for having fired the opening shot. To show that this is a bipartisan effort, I want to join the gentleman from Georgia in attacking the kind of rule that has been sought and obtained from the Committee on Rules on this legislation.

Mr. Speaker, I have in my hand a copy of a letter which was received by the chairman of the Committee on Rules, dated the 27th of July. I quote from the second paragraph of this letter:

> The purpose of this letter is to request that the Committee on Rules accord the Committee on Ways and Means a hearing, as soon after the bill is reported as possible, on a rule for consideration of this bill on the floor of the House.
>
> I am authorized and directed to request a closed rule providing for committee amendments only.

Well, once again, a funny thing happened on the way to the forum. The Democratic Caucus convened on the 10th day of August, and what did they do? They very selectively picked out two amendments, the amendments that were referred to by my friend, the gentleman from Georgia, or my friend, the gentleman from Florida (Mr. Pepper), the amendments that were placed in the Congressional Record of August 3, 1976, by the gentleman from Illinois (Mr. Mikva).

So what we have is a rule, in other words, that has been dictated to this House, not by the full membership, not by any standing committee or legislative committee or by the Committee on Rules even, but a rule dictated by King Caucus, a rule that is not the product of the normal and regular legislative process.

Mr. Speaker, let me say at this point, and I do not see my friend on the floor at the moment, I feel a little bit sorry for one of the Democrats who came before our committee, the gentleman from Ohio (Mr. Vanik). The gentleman had a couple of amendments that the gentleman wanted to offer and they were even on the agenda of the Democratic Caucus; but, unfortunately for him, the Democratic caucus, so the gentleman informed us in our hearing before the Committee on Rules, ran out of time before the caucus could even act on the gentleman's request to make the gentleman's revenue-balancing amendment in order. So I can sympathize with the gentleman's plight and even shed a few crocodile tears.

Mr. Speaker, the really indefensible part of this whole procedure is the violence, I believe, it does, not just to the rights of the minority, and that is an important consideration for me, but the violence that it does to the rights of every Member of this body. While that caucus may have been open, it certainly was not in order for any Republican to attend, other than to have a chair in the gallery. It was not in order for any Republican or minority Member of this body to ask for an amendment to be made in order from his seat in the gallery.

Mr. Speaker, it is interesting to note what the votes were on the amendments that were authorized by the caucus. They were 125 to 64. In other words, only 65 percent of the Democratic membership voted on these important matters, voted to dictate the narrow confining terms of this rule; but, more importantly, when we translate that into a percentage of the entire membership of this body, 125 out of 435, a mere 29 percent of the membership of this entire body has dictated to this House what it should do or what it can or cannot do in amending this very vital and necessary and important legislation.

I tried to support another distinguished Democrat Member of this body, the gentleman from Texas (Mr. Young), who may be here, when he offered another amendment to the proposed caucus rule, an amendment that would have permitted a vote on section 6, the so-called carryover basis rule which, according to some members of the Ways and Means Committee, would transform a bill that was intended to be a measure bringing tax relief would bring it to the point where it would actually reduce the tax relief provisions by about a billion dollars a year in the long run.

I am not going to go into the substantive arguments that can be made for or against section 6, but it is a highly controversial part of the bill. I have telegrams in my file—I am sure other Members have as well—telegrams from national organizations such as the National Farmers Union, for one, that just came to my attention a few minutes ago, urging that this particular section not be in the bill, that it destroys some of the tax relief that we intended to bring to all small family farm unit investments that have been made by the other provisions of the bill; that it compounds the liquidity problem of the small estate if we suddenly enact this particular provision.

I think I have said enough to indicate, Members of the House, that we are considering probably one of the most important bills to come before this Congress, this 94th Congress; one on which I have had hundreds and hundreds of letters, and I am sure other Members have likewise. Yet, this bill is emerging today in highly unsatisfactory form because we cannot exert the kind of amendatory action that should be within our power when we consider a bill of this importance. So, I think we have a rather simple solution, and I would commend it to the Members of the House at this point. That is simply this: Let us vote down—let us vote down the previous question. Let us let another rule be put forth which will enable the Members of this House to more adequately deal with some of the controversial provisions of this bill; be they, for example, the provision that was offered by the gentleman from Texas (Mr. Burleson), who wanted to see a $200,000 exemption instead of the $153,000 or $154,000 exemption that is now provided for in the bill; and that includes an opportunity for some Members to debate and to discuss whether or not section 6 ought to be in this bill at all, or whether it is an income tax provision, really, that does not belong within the consideration of an estate.

I know that my friend and others are going to say, "You can offer a motion to recommit. The minority always has that right." Yes, 5 minutes pro, 5 minutes con to discuss something as important as substantively difficult to talk about as the carryover basis provision of the bill. On the other hand, the gentleman from Illinois (Mr. Mikva), the Members who were enabled to get their amendments in in order, can strike the last word. They can offer pro forma amendments in support of or against those amendments. They can talk until such time as someone chooses to enter a motion on the record limiting debate. I do not think it is fair, therefore, to limit the minority simply to a motion to recommit.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Florida.

Mr. PEPPER. The able gentleman said something about the minority. Of course, he is aware of the fact that the rule provides that a motion to recommit, with or without instructions, which will be the prerogative of the minority, may be offered.

Mr. ANDERSON of Illinois. I would say in reply to my friend that I covered that point. I said that under the House rules we will only have 5 minutes to debate that motion for it, and 5 minutes against it. We are talking about something that is very difficult. I went through volume 2 over the weekend, and there are hearings that are very thick, with testimony from law professors, distinguished panels of experts from all over the country, discussing the carryover loss basis provision. I had a hard time understanding some of the very technical testimony which was offered in those hearings. I do not think 10 minutes is enough, under a motion to recommit, to consider something of that importance.

Mr. Speaker, I think it ought to be in order under the rule to consider it under the same provisions that have been made available to the gentleman from Illinois (Mr. Mikva) in connection with the two amendments that he will offer.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Florida (Mr. Pepper).

Mr. PEPPER. Mr. Speaker, the able gentleman has stated that if the previous question is voted down, there be an amendment to the rule offered on the gentleman's side of the aisle.

I think the House is entitled to know exactly what would be in the gentleman's proposed amendment if the previous question is voted down.

The gentleman said he included the Burleson amendment. Does the gentleman include the Vanik amendment?

Mr. ANDERSON of Illinois. Mr. Speaker, I will say to the gentleman that I would yield to my friend, the gentleman from New York (Mr. CONABLE), who is the next ranking member on the committee, to answer the gentleman's question.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I would like to associate myself with the gentleman's remarks. The purpose of voting down the previous question would be to provide some symmetry in this rule so we would not have imposed on us the opportunity to vote for liberal amendments without also some amendments reflecting the interests, small businesses and farmers.

I would urge that if the previous question is voted down, we make in order two additional amendments, one of which would offer the Burleson bill as a substitute. May I say, Mr. Speaker, there are many of my liberal friends in this House who have promised their farmers and their small businessmen back home they will vote for the Burleson bill, confident that under the procedure dictated here they would never have the chance to vote on it. Voting down the previous question will give them that opportunity, and I personally would like the opportunity honestly to see if they are going to follow through with their promises, cynically and politically given.

The second alternate amendment that I would suggest is to provide an opportunity to eliminate the cost basis carryover, section 6 of the bill. That is in order, as the gentleman from Florida says, as a motion to recommit. But there is no reason in the world why we should not permit this House to have the same opportunities for debate on that issue as are afforded the Mikva amendments made in order by direction of the caucus to the Committee on Rules.

Those two provisions would provide a degree of symmetry in the consideration of this measure that would give the House a much better chance to work its will than anything it will have under the procedure. Our goal should be to let the House work its will.

Mr. ANDERSON of Illinois. Mr. Speaker, I share the views just expressed by the distinguished gentleman from New York, and I think they constitute an adequate answer to the question raised by the gentleman from Florida.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself with much of what the gentleman from Illinois has said but I would like some clarification.

The gentleman has indicated that pro-forma amendments would be in order during debate on the two amendments authorized by the rule.

As I read the rule, however, pro forma amendments are not in order.

Mr. ANDERSON of Illinois. Mr. Speaker, I misspoke, I would say, in answer to the gentleman from Wisconsin (Mr STEIGER). What I meant to suggest was that when those amendments are offered, any Member of this body can get up and speak for or against those amendments for as long as the chairman, or someone else on the committee, permits the debate to run. In other words, there is no limitation, I do not think, in time.

Mr. STEIGER of Wisconsin. If the gentleman will yield further, I do not know, maybe someone can better answer the question, but one of the reasons for voting down the previous question is the fact that this House is severely injured by a rule in which in fact there is not sufficient time to debate, be it the section 6 issue, the split credit issue, or any of these other items. The House ought to have a chance to do that. I do not think this rule gives us that chance.

Mr. ANDERSON of Illinois. I thank the gentleman for his comments. I certainly agree with what the gentleman just said.

Mr. HAGEDORN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. I thank the gentleman for yielding.

Mr. Speaker, I think once again I want to join the gentleman in the well in his comments about the so-called modified open rule. I think it is an insult to the Members of Congress who are sent here to vote their true feelings; but more importantly, I think that King Caucus rears its ugly head once again. The move to restrict the House from voting its true feelings is an insult to the taxpayers of America and prevents us from having a fair and open consideration in this body.

Let us vote down the previous question in order that we may consider the Burleson amendment, along with other amendments with which we are concerned and on which we have all expressed ourselves in recent months with our constituents. I ask the Members to join with the gentleman in the well and me to vote down the previous question.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I want to reinforce, and in some respects, restate some of the remarks made by the gentleman from Illinois (Mr. ANDERSON) and by the gentleman from New York (Mr. CONABLE).

The Committee on Rules has, by edict of King Caucus, laid upon the membership of this House a very unusual and very unfair rule, through which we are allowed to debate only certain aspects of a very important issue, one that is even more important to all of our constituents than to us.

King Caucus has taken unto itself the responsibility to tell us that we cannot debate and cannot offer amendments on those sections which we think are the most important to our own individual constitutents.

This rule is not only unfair. It is graceless and in bad taste. Only the friends of King Caucus can have amendments offered. Those Members who only represent the people are not allowed to speak for the people. It is the worst kind of a gag rule that this House could put before use.

This rule is especially unfair at this time because those of us who wish to strike section 6 will be allowed to speak for only 5 minutes on behalf of that proposition when it is raised in the form of a motion to recommit.

Mr. Speaker, I think it is absolutely essential, to uphold the integrity of the House, that we vote down the previous question and get a decent rule under which Members of this House can debate and amend this bill and under which the people of the United States will have some confidence that we have given very close consideration to this most important measure.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Speaker, I thank the ranking minority member of the Committee on Rules for yielding me this time.

The saddest part about this whole rule is that it really does not address itself properly to the bill. This bill is totally and absolutely nonpartisan in nature, in that all of the people who fall into the categories of small farmers and small businessmen, those individuals in the United States who do pay and are subject to inheritance taxes, are interested in reform of the inheritance tax provisions. All of them are interested in this reform, and really all of them ought to have an opportunity to be heard here today and not be gagged by this rule that we are presented with now.

As I indicated in debate with the gentleman from Florida (Mr. PEPPER), it is astounding to me that a rule can come to this floor providing that only those amendments offered by a Member in the majority party will be offered, but that none on the part of the minority may be offered, nor even any amendments that might have been offered by other Members of the majority party on behalf of their constituents. This is absolutely the worst kind of a rule we could bring to this floor.

In the main, I have voted for open rules in the past. When this Congress convened almost 2 years ago, we were told that it was to be a reform Congress, and that if it was to be a reform Congress, the new Members of the majority party were the ones who were going to institute the reforms. Well, if this is reform, I do not think the people of the United States will buy it. This is not reform when we have a closed rule only when it is convenient to have a closed rule and when we have an open rule only if it is convenient to have an open rule.

I believe really that this body owes it to the constituency of the United States to open this rule. Let us vote down the previous question, and let us debate this issue, because, as I have indicated, this is a totally nonpartisan issue.

It affects almost everyone in the United States. It would be the crassest kind of display on the part of this House to allow only two amendments to be offered.

Mr. Speaker, as the gentleman from Florida (Mr. PEPPER) indicated, the vote was kind of close. We have all been on committees where we lost amendments and the vote was "kind of close."

Mr. Speaker, I urge the Members to vote down the previous question and to give this body an opportunity to exercise its will, which is the will of the people of the United States.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I take the additional minute because I do want to clarify what I think at this point represents some confusion in the record.

After reading the language which appears on page 2 of House Resolution 1496 as it deals with the two amendments that would be made in order by this rule, if adopted, and particularly the language contained on lines 5 through 7, we see this statement:

> Said amendments shall not be subject to amendment except for amendments recommended by the Committee on Ways and Means.

Mr. Speaker, pursuant to rule XXIII, clause 5, it would not be possible to have other than a 10-minute debate on those amendments.

I think that is another reason the previous question ought to be defeated.

Mr. Speaker, these are extremely complicated matters which were debated long and hard in the Committee on Ways and Means, which had very close votes on them. It seems to me, Mr. Speaker, that we are unduly limiting the time of Members to discuss these important amendments.

Mr. PEPPER. Mr. Speaker, I yield myself 2 additional minutes.

Mr. Speaker, I just want to say a few words.

In the first place, I want to repeat what the Members have heard me say before, that these two amendments that the Committee on Rules made in order were in the original bill offered by the distinguished chairman of the Committee on Ways and Means.

That is the first point. The second is that in the Committee on Ways and Means, one of these amendments was defeated by a vote of 19 to 18, I believe; and the other one was defeated by a vote of 19 to 17. These two amendments had the most substantial support, therefore, that any amendments not incorporated in the bill had in the Committee on Ways and Means.

Mr. Speaker, I am advised that the amendment of the distinguished gentleman from Texas (Mr. BURLESON) did not receive substantial support in the Committee on Ways and Means.

Another thing, Mr. Speaker: Under the rules—and I have verified this with the Parliamentarian—there will be only 5 minutes' debate on the Democratic side and 5 minutes' debate on the Republican side on these amendments. They are not, therefore, going to be entitled to lengthy consideration; and every Member will not have the usual 5 minutes to speak upon these two amendments.

The next point is that the gentleman from Illinois (Mr. ANDERSON) said that if the previous question is voted down, then a better rule could be offered on his side of the aisle. However, when I asked him as to what would be in the rule or what kind of rule it would be, I understood my distinguished friend to mention only the incorporation of the Burleson amendment as an additional amendment.

To repeat, Mr. Speaker, I understood him to say that he would only include as a new amendment the amendment offered by the distinguished gentleman from Texas (Mr. BURLESON). Then, of course, they would have their motion to recommit, which the rule provides for on their side.

Mr. Speaker, I see no reason that a motion to recommit could not include the Burleson amendment if the distinguished gentleman wishes to support that amendment.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I merely want to clear up one fact. I thought we had made it clear in the colloquy that if this rule is opened up and if the previous question is voted down, not only would the Burleson amendment, which would provide a $200,000 exemption be offered, but also an amendment dealing with the carryover provisions of the bill, as they are contained in the particular section, would be in order. Those two amendments would be in order.

The gentleman's response has been that we can take care of that in a motion to recommit.

Mr. Speaker, I do not think that we should have to debate this important amendment under the narrow constraints of a motion to recommit. I think we ought to have an opportunity to offer amendments freely on the floor so as to the point of considering a motion to reconsider those questions before we get to commit the legislation.

Mr. PEPPER. I yield to the distinguished chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I thank the gentleman from Florida for yielding to me.

Mr. Speaker, I think we should be crystal clear about the two amendments that would be offered if the previous question is voted down. In the long run, the combination of these two amendments would lose approximately $2.9 billion of additional revenue annually as compared to the committee's bill. The $200,000 exemption provision without the reform features of the committee's bill would mean an additional $1.9 billion loss in revenue. The other provision striking section 6 would fail to pick up an additional $1 billion of revenue.

So, Mr. Speaker, I think the Members ought to know that $2.9 billion here is just the same at $2.9 billion of increased spending or $2.9 billion less tax reform in a tax bill. At any rate, it is $2.9 billion less for the U.S. Government to operate on.

I believe we ought to be perfectly clear on that. If it had not been for the revenue problem we could have done these things. But I think my friends on the other side of the aisle are always talking about cutting back and about balancing the budget. Yet here we have $2.9 billion thrust at us on a very popular kind of a thing. All of us know how we go down this dizzy business of more and more spending. Everything we have voted for is very, very popular to the people back there and they want it. Certainly the people who have estates want a $200,000 personal exemption. I guess one cannot blame them for that, but it costs approximately $2.3 billion over the present law. You have to analyze: Can we afford it? The same way with the carryover basis. We pick $1 billion of revenue here. It is $1 billion if we do not vote for it because we do not have any substitute.

So, Mr. Speaker, when we vote on the previous question we have to look at all those alternatives. If we vote down the previous question, then each one of us will have to vote on these two very critical matters. You will either have to vote against some constituent back home or you will have to vote to increase the national indebtedness by $2.9 billion.

These are pretty tough questions and the committee faced up to these things. That is why we brought the bill to the House that we did. It is a balanced package. It does pick up revenue in the long run. I think that is very important.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I would like to ask the chairman of the committee, the gentleman from Oregon (Mr. ULLMAN), as to what kind of rule the Committee on Ways and Means asked for.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, the Committee on Ways and Means instructed me more or less to go before the Committee on Rules and ask for a closed rule with one motion to recommit by the minority. That is the rule that I asked for. But, also that was modified, as the gentleman from Idaho knows, by the caucus action which requested the Committee on Rules to add the two amendments.

Mr. SYMMS. Mr. Speaker, I think what bothers me is this: We have nearly 100 Members in this House who are cosponsors of the Burleson of Texas bill which is simply the $200,000 exemption, changing the $60,000 exemption we now have to $200,000 and increasing the marital deduction to $150,000 plus one-half of the adjusted gross estate in excess of $150,000.

It is very difficult for me to understand how it is possible because the Committee on Ways and Means did not see fit to give this a close vote, I do not know how close the vote was in the committee, but how you can come out with two amendments that come out with a 16-to-17 vote or a 17-to-21 vote, whatever the close call was that the gentleman from Florida (Mr. PEPPER) referred to, you get to have a vote here, even under the quasi-gag rule debate situation and yet on the Burleson of Texas amendment, on which 20 percent of the Members of this body are cosponsors of that legislation, we cannot even get a vote on it. It seems to me that is an outrageous travesty to the American people that this Congress can operate that way.

I cannot understand how the Committee on Ways and Means can go to the Committee on Rules and ask for this kind of rule to gag the other Members of the House. I think it is obvious that the caucus is running the Congress and not the Congress running the Congress.

Mr. PEPPER. The able gentleman's side of the aisle proposes to offer to the House an opportunity to vote on two amendments in addition to the two that the rule proposes that the House have an opportunity to consider. If the gentleman is talking about the right of the Members to express their wishes to have a fair opportunity to modify this bill, he can ask for an open rule, or if the previous question is defeated, we can adopt an open rule if the House favors it, and then every Member will have the opportunity.

Mr. SYMMS. That is exactly what I want to do.

Mr. PEPPER. And then we will have chaos.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I thank the gentleman for yielding.

I just want to point out that the gentleman has used the justification for bringing to this House to vote on the two so-called Mikva amendments—he has used as a justification for picking out those amendments—the fact that there were very close votes in the Committee on Ways and Means.

I am holding here a copy of the rollcall that was taken in the Committee on Ways and Means at 11:35 a.m. on the 8th of June, 1976, on the Waggonner amendment to increase in three steps the basic credit in the Estate and Gift Tax Reform Act which embodies the substance of the Burleson proposal, the $200,000 credit. The vote on that was 17 yeas and 19 nays, a close vote.

On what basis can the gentleman justify saying no, we are not going to permit a vote on that under the rule; we are going to pick out a couple of other close votes in the committee, and those, and those alone, can be submitted for a vote of the full membership? I think this proposal and the other one that was mentioned are entitled to consideration, not just by the Committee on Ways and Means but by the full House.

Mr. PEPPER. The gentleman will have a fair opportunity when the vote comes on the previous question to present his point of view on this matter.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

Mr. PEPPER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 162, nays 212, not voting 57, as follows:

[Roll No. 674]

YEAS—162

Adams
Addabbo
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Baucus
Beard, R.I.
Bedell
Bergland
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carr
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Delaney
Dellums
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Edgar
Edwards, Calif.
Eilberg
Evans, Ind.
Fary
Fascell
Fisher
Florio
Foley
Ford, Mich.
Fraser
Gibbons
Gonzalez
Hall, Ill.
Hanley
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Hechler, W. Va.
Hicks
Holtzman
Howard
Howe
Hughes
Hungate
Ichord
Jeffords
Jenrette
Johnson, Calif.
Jordan
Kastenmeier
Keys
Koch
Krebs
Leggett
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McCormack
McFall
McHugh
McKay
Madden
Maguire
Mann
Matsunaga
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Moss
Murphy, Ill.
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Preyer
Price
Rangel
Reuss
Richmond
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
St Germain
Santini
Sarbanes
Scheuer
Seiberling
Simon
Smith, Iowa
Solarz
Spellman
Stark
Stokes
Stratton
Studds
Symington
Thompson
Tsongas
Ullman
Vander Veen
Waxman
Weaver
Wilson, C. H.
Wirth
Wolff
Yates
Zablocki

NAYS—212

Abdnor
Allen
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Baldus
Bauman
Beard, Tenn.
Bennett
Bevill
Biester
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carney
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
Dent
Derwinski
Devine
Downing, Va.
Duncan, Tenn.
Early
Edwards, Ala.
Emery
English
Erlenborn
Fenwick
Findley
Fish
Flood
Flowers
Flynt
Fountain
Frenzel
Gaydos
Giaimo
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Tex.
Hamilton
Hammerschmidt
Hansen
Harsha
Heckler, Mass.
Hefner
Henderson
Hightower
Hillis
Holland
Holt
Horton
Hubbard
Hutchinson
Hyde
Jacobs
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Lent
Levitas
Lloyd, Tenn.
Lott
Lujan
McClory
McCollister
McDade
McDonald
McEwen
Madigan
Mahon
Martin
Melcher
Michel
Milford
Miller, Ohio
Mills
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Mosher
Mottl
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nichols
O'Brien
Paul
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Pritchard
Quie
Quillen
Randall
Regula
Rhodes
Rinaldo
Roberts
Robinson
Rogers
Roncalio
Rooney
Roush
Rousselot
Runnels
Ruppe
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sharp
Shipley
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Staggers
Stanton, J. William
Steed
Steiger, Wis.
Stephens
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Traxler
Treen
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wydler
Yatron
Young, Fla.
Young, Tex.

NOT VOTING—57

Abzug
Alexander
Badillo
Bell
Brown, Mich.
Chisholm
Clay
Collins, Ill.
Conlan
de la Garza
Dickinson
du Pont
Eckhardt
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fithian
Ford, Tenn.
Forsythe
Frey
Fuqua
Green
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Hinshaw
Jones, Ala.
Karth
LaFalce
Lehman
McCloskey
McKinney
Mathis
Moorhead, Pa.
Passman
Peyser
Railsback
Rees
Riegle
Risenhoover
Sebelius
Sisk
Slack
Stanton, James V.
Steelman
Steiger, Ariz.
Stuckey
Thornton
Udall
Wright
Wylie
Young, Alaska
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

Mr. Mathis with Mr. Rees.

Mr. de la Garza with Mr. Hébert.

Ms. Abzug with Mr. Dickinson.

Mr. Alexander with Mr. Esch.

Mr. Fuqua with Mr. Forsythe.

Mr. Badillo with Mr. Hays of Ohio.

Mrs. Chisholm with Mr. Bell.

Mr. Fithian with Mr. Heinz.

Mr. Lehman with Mr. Evins of Tennessee.

Mr. LaFalce with Mr. Frey.

Mr. Risenhoover with Mr. Karth.

Mr. Sisk with Mr. Brown of Michigan.

Mr. Slack with Mr. Eshleman.

Mr. Udall with Mr. Helstoski.

Mr. Wright with Mr. Conlan.

Mr. Zeferetti with Mr. McCloskey.

Mr. Young of Georgia with Mr. Passman.

Mrs. Collins of Illinois with Mr. du Pont.

Mr. Clay with Mr. McKinney.

Mr. Moorhead of Pennsylvania with Mr. Wylie.

Mr. Thornton with Mr. Young of Alaska.

Mr. Hawkins with Mr. Steiger of Arizona.

Mr. Green with Mr. Sebelius.

Mr. Eckhardt with Mr. James V. Stanton.

Mr. Evans of Colorado with Mr. Peyser.

Mr. Stuckey with Mr. Steelman.

Mr. Riegle with Mr. Railsback.

Mr. Ford of Tennessee with Mr. Jones of Alabama.

Messrs. ANDREWS of North Carolina, STRATTON, LEGGETT, ROSE, and SEIBERLING changed their vote from "nay" to "yea."

So the previous question was not ordered.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ANDERSON OF ILLINOIS

Mr. ANDERSON of Illinois. Mr. Speaker, I offer an amendment to the resolution.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of Illinois: Strike all after the resolving clause and insert:

That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14844) to revise the estate and gift tax laws of the United States. After general debate, which shall be confined to the bill and shall continue not to exceed 4 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. Only amendments printed in the Record prior to September 1. 1976, shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The Chair recognizes the gentleman from Illinois (Mr. Anderson) for 1 hour.

Mr. ANDERSON of Illinois. Mr. Speaker, just a few moments ago the Members of this body concluded what I believe was a very wise action in refusing to vote for the previous question which would have then made in order a vote on a rule which would have permitted only two amendments to the so-called estate and gift tax reform bill, those two amendments being amendments by the gentleman from Illinois (Mr. Mikva), which had previously been printed in the Record.

Mr. Speaker, I urged a "no" vote on the previous question because it seemed to me that it was unfair to the Members of this body to tie their hands by virtue of an action taken on the 10th of August by the Democratic Caucus and to deny not just Republicans but other Democratic Members of this body a right to offer amendments to this bill. I pointed out, as the Members will recall, those Members who were here, that the proposition that had been offered by the gentleman from Texas (Mr. Burleson), which would have provided for a $200,000 estate tax exemption, when it was offered in the form of a motion by the gentleman from Louisiana (Mr. Waggonner), lost by a vote of 19 to 17. And yet that amendment would not have been in order to be voted upon on the floor of this House under the rule under which it was proposed and voted out of the Committee on Rules.

Mr. Speaker, I indicated in the colloquy with my friend, the gentleman from New York (Mr. Conable), that if the previous question were defeated, it would then be my intention to try to draft a rule and offer it to this body, which would make in order a consideration of something like the Burleson of Texas amendment, which would afford a $200,000 exemption, and also permit Members of this body to discuss under an appropriate motion to strike all of section 6, which deals with the carryover basis provisions of the bill which are extremely controversial and have been the subject of much debate.

It was at that point, and only after I had said that, that the distinguished chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. Ullman), rose to his feet and in a colloquy with the gentleman from Florida (Mr. Pepper) said that if we were to adopt the original Burleson proposal, it could mean a loss in revenue of up to $2.5 billion to the Federal Treasury. As I recall, he even went on to chide Members on this side of the aisle for evidencing certain fiscal irresponsibility in suggesting that that amendment ought to be offered and debated and possibly adopted here on the floor.

It was then, after hearing the comments of the distinguished committee chairman, that I decided that the fairest thing, the fairest thing of all to this body, would be to propose, as the Clerk has just read, an open rule. We would not then be tied to an amendment which would cost the Treasury $2½ billion in revenue.

I am sure that either the gentleman from Texas (Mr. Burleson) or some other Member of this body can offer some variant of that proposal which would minimize that revenue loss. We can also then consider the very controversial proposition of carryover loss basis which has been incorporated in section 6 of the bill.

I know that the argument is going to be made, as I have heard it year after year during the 16 years I have served in this body, that there is going to be chaos on the floor of this House if we permit the Members of this body to have what they have had for almost 200 years on the other side of the Capitol, and that is the right to really legislate when a tax bill comes to the floor of Congress.

Mr. Speaker, if we would listen carefully to the reading of the amendment to the rule, we would see that we are limited to amendments printed in the Record on or before September 1, 1976. If any Member has a serious amendment to offer to this bill, it is going to have to appear in the Record, it is going to have to be printed; this Member and the distinguished chairman of the Committee on Ways and Means are going to be on notice, along with every other Member of this body, as to what that amendment is.

Let me ask the Members, why is that kind of a precaution then going to cause chaos on the floor of this House?

Mr. Speaker, I offer this explanation because a moment ago the chairman of the Committee on Ways and Means came over to me across the aisle and indicated that I had given my word that we were going to offer a certain kind of rule. I think that in the free flow of debate that takes place on the floor of this House circumstances change, and when he made his speech pointing out that to offer the Burleson amendment as it was incorporated in the original bill—and I think it was said some 20 percent of the Member of this body are now cosponsors of the amendment in question—it became established that that is going to affect the revenues of the Federal Treasury by $2½ billion; then it became apparent that it ought to be scaled down, and so we offered a more modest proposal. I do not think it is asking too much of the Members of this body that we give the Members an opportunity to decided on an amendment to get their amendments printed in the Record before September 1 and have a chance to freely debate them here on the floor of the House, together with the other matters that have been talked about.

During our earlier discussion of the rule, when many of the Members were not here, I mentioned that my friend, the gentleman from Ohio (Mr. Vanik), had regretted very much, when he testified before the Committee on Rules, that certain amendments he wanted to offer, revenue-balancing amendments that could allay some of the fears that have been expressed by the chairman of the committee, my friend, the gentleman from Oregon (Mr. Ullman), could not be offered. He regretted that there was not enough time on the agenda of the Democratic caucus, and he could not even get his amendment presented; therefore, they were not made in order under the rule.

I think the procedure we suggest in the rule is a good one, and with this precaution that we have mentioned of requiring a printing in the Record of those amendments to be offered, I believe that this can remain a deliberative process, during which the Members will have the right to freely debate and to amend, if necessary, one of the most significant bills to come before the 94th Congress.

Mr. Speaker, I urge the adoption of the amendment to the rule.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Oregon (Mr. Ullman), the chairman of the committee.

Mr. ULLMAN. Mr. Speaker, I thank the gentleman from Illinois (Mr. Anderson) for yielding.

Mr. Speaker, this House is now faced with a very difficult problem: How do we get a bill in the rapidly diminishing number of hours and days that we have left in this Congress?

One of the unfortunate problems, I will say to my friend, the gentleman from Illinois (Mr. Anderson), that the Members face is that when they voted on the previous question, as was stated by the minority, they voted on the supposition that the rule as amended would be one allowing two amendments—and it was clearly on the record—first, the Burleson amendment and, second, an amendment striking section 6. Therefore, we now have the House in a posture question based upon one assumption on the rule; and now we are faced with a different proposed rule altogether.

Mr. Speaker, as the Members know, the Committee on Ways and Means brought an energy bill to the floor under this kind of open rule last year. Many of us know the many hours and days that it took to dispose of that legislation. I am assuming that if we adopted the same kind of rule, it would take the same number of hours and days to complete this bill, and these are hours and days that we do not have.

Mr. Speaker, if my friend, the gentleman from Illinois, will indulge me for just another few minutes, let me suggest to my friend and the Members of the House the best way out of this dilemma: Again I refresh the memory of rule Members that we have a proposed rule before us that we really did not ask for; but I suggest that at this point we vote down the rule, with the assurance that I will call the Committee on Ways and Means together as quickly as possible. Bear in mind, however, that we have terrible time problems on the tax reform package, which is coming along, but still will take almost every minute that we have between now and Thursday night to complete. I must say that it will be a bill which I think we can all be proud of when we bring it, in conference form, to the Congress. Somehow the committees will get down here at 6 o'clock in the morning, if necessary, and have a committee meeting. Then we can go back to the Committee on Rules and attempt to accommodate the people who want a wider choice of amendments in this legislation which they can vote for.

Mr. Speaker, I will do everything in my power, if we vote down this rule, to come back to the Members with another, and broader, rule to bring the bill to the floor just as expeditiously as we possibly can. In my judgment, that is about the only way out of this dilemma in these closing moments of this Congress.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Speaker, perhaps I will not use the 2 minutes.

The argument that has just been made by the chairman of the Committee on Ways and Means is specious.

What in the world can the Committee on Ways and Means do in the next 10 days or in the next 2 weeks that they have not done already? Why cannot the 435 Members of this body participate in the writing of this bill?

Mr. Speaker, the Committee on Ways and Means has worked long and hard on this particular bill. The House has expressed its will, which is that they want an open rule with free and open discussion of all the issues that are involved.

Mr. Speaker, I urge the Members to vote for this rule; and let us get on with the people's business.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. STEIGER).

PARLIAMENTARY INQUIRY

Mr. STEIGER of Wisconsin. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. STEIGER of Wisconsin. Mr. Speaker, under the rule that is proposed by the gentleman from Illinois (Mr. ANDERSON), it says that the bill shall be read for amendment and that only amendments printed in the RECORD prior to September 1 shall be in order under the 5-minute rule.

My parliamentary inquiry, Mr. Speaker, is this: Will amendments to the amendments be in order so that we do not have to print in the RECORD pro forma amendments?

The SPEAKER. The Chair will state that any germane amendment, including pro forma amendments, to an amendment properly printed in the RECORD would be in order without being printed.

Mr. STEIGER of Wisconsin. I thank the Speaker.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I want to urge the Members of the House to vote in favor of the proposed amendment offered by the gentleman from Illinois (Mr. ANDERSON). If we do not pass this amendment, all of our constituents all across this country, who have been waiting years for estate tax reform, the small businessmen and the farmers, will correctly interpret a "no" vote as against their welfare and their best interests. As the Members know, many Members of the Congress have testified in support of estate tax reform as well as many experts in the field of taxation. This bill does not go far enough and needs amendments, especially the Burleson $200,000 exemption provision. We know what the issues are. I believe it is totally unreasonable to say that the House does not have the collective mentality or ability to deal with legislation of this type. As Members of the Congress, we can handle this under an open rule.

Mr. Speaker, I urge the Members to vote in favor of the amendment offered by the gentleman from Illinois (Mr. ANDERSON), otherwise the Members will have to go back to their constituents emptyhanded, to the farmers and to the small businessmen whose heirs will be wiped out by existing estate tax law. This is our chance to come to grips with this subject for the first time in 34 years.

I cannot believe that the majority leadership would fail to abide by the will of the majority if this rule is adopted. Surely they will bring the bill up as scheduled today and proceed with its swift consideration. If the majority does otherwise, they will be clearly to blame if estate tax reform fails to pass this year. This will be a tragic repudiation of millions of farmers and small business owners and their heirs. And it will be a repudiation that will not be soon forgotten.

Mr. DON H. CLAUSEN. Mr. Speaker, as a cosponsor of the original estate tax bill, I strongly support this approach to resolving the problems plaguing our small family farmers and small independent businessmen and women.

I have, therefore, voted to permit consideration of our original bill by voting for an open rule. I commend my colleagues for their willingness to allow this issue to be freely debated and to permit our bill to be offered as an amendment to the proposal presented by the House Ways and Means Committee.

I have received numerous letters from small farmers and small businessmen in my congressional district in support of our original bill. They have indicated to me their concern over the complexity of the committee bill and their steadfast support for the more straightforward, direct approach of our bill.

Our current estate tax laws are in urgent need of reform. Recent surveys have shown that the number of farms in the country is decreasing and, in particular, the small, family-owned farm is disappearing. The high cost of Federal estate taxes is a primary cause of this trend. The same is true of those engaged in comparatively small enterprises. Reform is critical to their survival.

Present law consists of a marital exemption which allows you to pass on 50 percent of your net taxable estate to your spouse tax free and a basic exemption of $60,000. Our bill simply adjusts the exemption figure upward from $60,000 to a more realistic, "inflation adjusted" amount.

This approach is, in my view, the only fair and equitable way of handling this problem. Economists estimate that a higher level of exemption is necessary to merely equal the purchasing power of $60,000 in 1942. In other words, we are simply making an "inflation correction."

Our proposal will also allow farming, woodland, and scenic open space to be assessed for tax purposes based on its current use rather than its higher potential uses.

In many cases, the situation exists where today's farm borders on urban land or land which has been developed for recreation or energy purposes. The higher assessed value of the land also raises the assessment on the farmland. My proposal prevents the increase in the assessment while at the same time it contains a safeguard to prevent us from giving any unfair advantages. To qualify the land must have been in such use for 5 years and remain in the same use for 5 more years.

Our family farm is a symbol of our heritage. It represents the essence of the principle of free enterprise and the freedom and independence which has been the foundation of our country.

It is imperative that we preserve the small family farm and small businesses by easing the present burden of the estate tax. I urge my colleagues to join me in supporting our original proposal as an amendment to the bill.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, as I have already suggested, I can assure the Members that under the terms of this resolution that all amendments must be printed in the RECORD prior to September 1. Any time they wish, the committee that is chaired by the distinguished gentleman from Oregon (Mr. ULLMAN), in spite of the dire prediction and picture that has been painted of hours and hours of debate, he, as the manager of the bill, can move, as I say, at any time, when the patience of the body has been exhausted, to cut off debate on any amendment himself.

Under the amendment to the rule that I have offered, we can have an orderly discussion of this bill and one which will permit the Members to offer amendments to the bill that are germane, amendments that should be debated on this floor, and thus we can proceed to a permanent disposition of the matter.

So, Mr. Speaker, I urge the Members not to reverse themslves, but to vote for the amendment to the rule.

Mr. Speaker, I move the previous question on the amendment and on the resolution.

The SPEAKER. Without objection, the previous question is ordered on the amendment and on the resolution.

There was no objection.

The SPEAKER. The question is on the amendment offered by the gentleman from Illinois (Mr. ANDERSON).

The question was taken; and the Speaker announced that the noes appear to have it.

Mr. ANDERSON of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 218, nays 157, not voting 56, as follows:

[Roll No. 675]

YEAS—218

Abdnor
Addabbo
Allen
Ambro
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Biester
Blanchard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carr
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
Dent
Derrick
Derwinski
Devine
Dodd
Downey, N.Y.
Downing, Va.
Duncan, Tenn.
Early
Edwards, Ala.
Emery
Erlenborn
Evans, Ind.
Fascell
Fenwick
Findley
Fish
Flowers
Flynt
Fountain
Frenzel
Giaimo
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hansen
Harsha
Heckler, Mass.
Hefner
Henderson
Hightower
Hillis
Holt
Horton
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Tenn.
Lott
Lujan
McClory
McCollister
McDade
McDonald
McEwen
McKinney
Madigan
Mahon
Mann
Martin
Melcher
Meyner
Michel
Milford
Miller, Ohio
Mills
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mosher
Mottl
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
O'Brien
Passman
Paul
Perkins
Pettis
Pickle
Poage
Pressler
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Rhodes
Rinaldo
Roberts
Robinson
Rogers
Rooney
Rose
Roush
Rousselot
Runnels
Ruppe
Russo
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Schulze
Sharp
Shriver
Shuster
Sikes
Simon
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steiger, Wis.
Stephens
Symms
Talcott
Taylor, Mo.
Teague
Thone
Traxler
Treen
Vander Jagt
Vanik
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wydler
Young, Fla.
Young, Tex.
Zablocki

NAYS—157

Adams
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Bergland
Biaggi
Bingham
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Conyers
Corman
Cornell
Cotter
Daniels, N.J.
Danielson
Delaney
Dellums
Diggs
Dingell
Drinan
Duncan, Oreg.
Edgar
Edwards, Calif.
Eilberg
English
Fary
Fisher
Flood
Florio
Foley
Ford, Mich.
Fraser
Gaydos
Gibbons
Gonzalez
Haley
Hall, Ill.
Hanley
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Hechler, W. Va.
Hicks
Holtzman
Howard
Howe
Hungate
Johnson, Calif.
Jones, Okla.
Jordan
Kastenmeier
Keys
Koch
Krebs
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McCormack
McFall
McHugh
McKay
Madden
Maguire
Matsunaga
Mazzoli
Meeds
Metcalfe
Mezvinsky
Mikva
Miller, Calif.
Mineta
Mink
Mitchell, Md.
Moakley
Moffett
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Pike
Preyer
Price
Rangel
Reuss
Richmond
Rodino
Roe
Roncalio
Rosenthal
Rostenkowski
Roybal
Ryan
St Germain
Santini
Scheuer
Seiberling
Shipley
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Steed
Stokes
Stratton
Studds
Sullivan
Symington
Taylor, N.C.
Thompson
Tsongas
Ullman
Van Deerlin
Vander Veen
Vigorito
Waxman
Weaver
Wilson, C. H.
Wirth
Yates
Yatron

NOT VOTING—56

Abzug
Alexander
Badillo
Bell
Broomfield
Brown, Mich.
Chisholm
Clay
Collins, Ill.
Conlan
de la Garza
Dickinson
du Pont
Eckhardt
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fithian
Ford, Tenn.
Forsythe
Frey
Fuqua
Green
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Hinshaw
Holland
Jones, Ala.
Karth
LaFalce
Lehman
McCloskey
Mathis
Moorhead, Pa.
Peyser
Rees
Riegle
Risenhoover
Sebelius
Sisk
Slack
Stanton, James V.
Steelman
Steiger, Ariz.
Stuckey
Thornton
Udall
Wright
Wylie
Young, Alaska
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Badillo against.

Mr. Brown of Michigan for, with Ms. Abzug against.

Mr. Dickinson for, with Mr. Hawkins against.

Mr. Forsythe for, with Mr. Clay against.

Mr. McCloskey for, with Mrs. Chisholm against.

Mr. Wylie for, with Mrs. Collins of Illinois against.

Until further notice:

Mr. Zeferetti with Mr. Broomfield.

Mr. Young of Georgia with Mr. Esch.

Mr. Alexander with Mr. Evins of Tennessee.

Mr. de la Garza with Mr. Jones of Alabama.

Mr. Eckhardt with Mr. Bell.

Mr. Evans of Colorado with Mr. Heinz.

Mr. Ford of Tennessee with Mr. Frey.

Mr. Fuqua with Mr. Holland.

Mr. Sisk with Mr. Conlan.

Mr. Slack with Mr. Hays of Ohio.

Mr. Stuckey with Mr. du Pont.

Mr. Udall with Mr. Karth.

Mr. Wright with Eshleman.

Mr. Helstoski with Mr. Mathis.

Mr. Fithian with Mr. Peyser.

Mr. Green with Mr. Riegle.

Mr. LaFalce with Mr. Sebelius.

Mr. Lehman with Mr. Steelman.

Mr. Moorhead of Pennsylvania with Mr. Young of Alaska.

Mr. Risenhoover with Mr. James V. Stanton.

Mr. Thornton with Mr. Steiger of Arizona.

Mr. STAGGERS changed his vote from "yea" to "nay."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the rule, as amended, as adopted.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONFERENCE REPORT ON H.R. 8410, PROTECTION OF LIVESTOCK PRODUCERS

Mr. POAGE. Mr. Speaker, I call up the conference report on the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. RHODES. Mr. Speaker, reserving the right to object, I would like to inquire what the order of business is for the balance of the day. It was my understanding that the House, rather overwhelmingly, adopted a rule to bring up the Estate and Gift Tax Reform Act of 1976. I just assumed that the next order of business would be for the chairman of the Committee on Ways and Means to move that the House resolve itself into the Committee of the Whole House on the State of the Union.

Could we please have an explanation as to what the House intends to do about this very important piece of legislation, and if there is a change in program, what it is?

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the distinguished majority leader.

Mr. O'NEILL. Mr. Speaker, to answer the gentleman's inquiry, the program for the remainder of the day is as follows. I am sure the gentleman, in his wise knowledge of strategy, appreciates that State aid to the farmer and aid to the small businessman apparently is ended.

Mr. RHODES. The gentleman from Massachusetts wielded the stiletto.

Mr. O'NEILL. I am sure the gentleman appreciates the fact that there are 23 days left between now and October 2, 23 legislative days, and we cannot conceive of any possible way in which we could open the tax code and debate it in September and possibly finish the program.

The gentleman from Illinois and the gentleman from Arizona both know that there is more than one way to skin a cat, and if that is the way they want to skin a cat, apparently that is the way it was done.

The gentleman was asking what the program is for the remainder of the day.

Mr. RHODES. Mr. Speaker, I have the time, and I would like to comment on the gentleman's statement before I yield further.

It seems to me that there is plenty of time to bring up this bill. We do not know how many amendments will be printed in the RECORD, as provided by this rule. There may not be very many. Would it not be well to proceed with general debate today on this bill so that, as it seems likely, we could bring up a bill for amendment tomorrow? That would be possible.

Mr. O'NEILL. The chairman of the Ways and Means Committee feels that it is not the proper time to continue forward.

Mr. RHODES. The gentleman from Massachusetts will be killing this bill, not us.

Mr. Speaker, I yield to the gentleman from Massachusetts.

Mr. O'NEILL. The Chair has recognized the gentleman from Texas (Mr. POAGE), and there are four conference reports we are going forward with:

H.R. 8410, Packers and Stockyards Act of 1921; to be followed by H.R. 11670, Coast Guard authorization; H.R. 11481, Maritime Administration authorization, and S. 2145, Indochina refugee children's assistance.

That is the program for the remainder of the day.

Mr. RHODES. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I wonder why the chairman of the House Ways and Means Committee left the floor so suddenly. I cannot understand why we do not take up H.R. 14844, a bill to revise the estate and gift tax laws of the United States. We have had a great deal of mail from our colleagues on the Ways and Means Committee about this bill. We all have had a great deal of constituent mail. We are perfectly capable of making a judgment on the few amendments that will be offered.

We have passed an appropriate open rule and a majority of the House evidently feels we should proceed to consider H.R. 14844.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I cannot give the gentleman the position of the leadership, but I can surely give him the position which I feel justifies the action taken by our leadership.

I listened with deep interest to every bit of the debate, and I agree with the minority position that I should have the right to vote on the amendment and change in section 6. It also recommended giving an opportunity to make appropriate amendments prior to September 1.

That is not what the debate proposed. I believe this House is run by the Democratic Party, and it will be. I think there was a little slight touch of deception that brought about the first vote.

Mr. ROUSSELOT. Mr. Speaker, I reserve the right to object.

Mr. YATES. Mr. Speaker, I demand regular order.

The SPEAKER. Regular order has been demanded.

Mr. ROUSSELOT. Mr. Speaker, I regret that the chairman of the Committee on Ways and Means was not present to answer questions as to why we are not proceeding with H.R. 14844.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 4, 1976.)

Mr. POAGE (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Texas (Mr. POAGE) for 30 minutes.

Mr. POAGE. Mr. Speaker, I am happy to bring back to the House substantially intact a bill which is badly needed if we are to protect livestock producers and assure an adequate and continuous supply of meat for all Americans.

This bill was reported by the Committee on Agriculture by a vote of 35 to 2 and passed the House by voice vote on May 5. It passed the Senate on June 17, also by voice vote. The Senate made a number of amendments most of which were clerical and of no consequence. However, there were a few substantive amendments which I will describe in a minute. The substantive differences between the House and the Senate were adjusted at a conference on August 3. The conferees on the part of the House and Senate unanimously approved the conference report and it was agreed to by the Senate on August 4.

This bill will go a long way toward correcting the problems confronting livestock producers and packers who operate in commerce. It gives the Secretary of Agriculture authority to require packers to be bonded; and it requires packers to hold all livestock, meats, and proceeds therefrom in trust until all producers who have sold livestock to the packer on a cash basis have been paid.

The House bill would have exempted from these requirements any packer who had average annual purchases of $1,000,000 or less. The Senate lowered the exemption to $500,000, which was the figure recommended by the House Committee on Agriculture in the first place. This is a good change and the House conferees accepted it. It provides uniform protection for producers and a uniform rule for packers without subjecting truly small packers to unnecessary Federal regulation.

The House bill required a producer to preserve his rights under the trust provision by giving notice to the packer and the Secretary of Agriculture within 15 days, if no payment was received, or within 5 business days if he received a bad check. The Senate extended these deadlines to 30 days, in the case of a producer who receives no payment, and 15 business days where he receives a bad check. The House conferees agreed to these amendments since they afford greater protection to the producer.

Under the House bill, both the packer bonding and prompt pay provisions preempt State law. The Senate amended the preemption provision to permit enforcement of State prompt pay laws for livestock purchased by packers at stockyards, so long as such laws are not in conflict with the Packers and Stockyards Act. The Senate also amended the act to provide that the preemption provision would not preclude a State from enforcing a State law with respect to a packer not subject to the laws relating to packers and stockyards. Again, these provisions should give more protection to the producer without unduly burdening packers and, accordingly, they were accepted by the House conferees.

The House bill gives the Secretary of Agriculture authority to order packers to cease and desist from operating while insolvent, or to cease and desist from so operating except under such conditions as the Secretary may prescribe. In addition, the Secretary will have specific authority to request the Attorney General to seek a temporary injunction in Federal district court, to prevent the irreparable injury to producers or members of the industry. Such injury might result if persons subject to the act were permitted to operate while insolvent or otherwise in violation of the act while administrative proceedings were pending. This bill also authorizes the filing in court of a private cause of action seeking damages against any person subject to the act arising out of his violation of any provision of the act, or of any order of the Secretary under the act, relating to the purchase, sale, or handling of livestock. None of these provisions were disturbed by the Senate.

The House bill authorized the Secretary to impose civil penalties of up to $100,000 on packers, market agencies, and dealers in order to facilitate enforcement of the Packers and Stockyards Act, especially in situations in which existing enforcement tools required him either to let the violator go unpunished as happens through the issuance of a cease-and-desist order or impose a punishment such as temporary suspension of his license which also hurts innocent third parties. The civil penalty provision provides the Secretary much more flexibility in issuing meaningful orders in administrative proceedings tailored to the particular offenses and market operations involved. The Senate struck this provision. This, too, would have seriously weakened the bill and the Senate receded. However, the House conferees agreed to reduce the maximum civil penalty to $10,000.

The House bill amended the Packers and Stockyards Act to clarify that brokers and wholesalers of meat and meat food products are subject to regulation as packers, and that all transactions of packers which operate in commerce, not merely those transactions which are themselves in commerce, are covered by the act. The Senate amended this provision to permit the Secretary of Agriculture to exempt certain brokers and wholesalers. A large and growing proportion of America's meat is being handled by such brokers and wholesalers. The Senate amendment would have seriously weakened the bill and the Senate receded.

Finally, the House bill would have required the Secretary of Agriculture to seek biennial authorizations of appropriations for the Packers and Stockyards Act beginning in fiscal year 1978. The House conferees agreed to accept in substitution for this requirement a provision which requires the Secretary of Agriculture to appear before the House and Senate Agriculture Committees each year to justify the administration's budget request for enforcement of the Packers and Stockyards Act.

Mr. Speaker, this bill comes to grips with the current problems in a fashion which is fair to both producer and packer. It will assure the continued economic viability of many small producers and the continuation of a reliable supply of meat for consumers. Livestock is probably the single most important source of protein in the American diet. The report has the unanimous support of both House and Senate conferees and has been accepted by the Senate. I urge the Members to likewise accept it so that we may speed the bill to the President and get this badly needed legislation into effect.

Mr. THONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a pleasure to speak on behalf of the conference report on H.R. 8410, a bill I introduced, with Mr. BERGLAND as a cosponsor, to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes.

This is a conference in which it was a pleasure to be a participant. All of our differences with the Senate were easily resolved, and the conference report was unanimously approved.

Before continuing further, I wish to commend my colleague, Mr. POAGE, across the aisle, for his leadership in moving this important piece of legislation successfully through the House and through a short but meaningful and harmonious conference.

I would also like to commend all of the House conferees for their efforts to resolve our differences with the Senate which permitted us to come to the House with a measure which is corrective of many of the problems that have persistently confronted our livestock producers and packers for years.

As I explained when this matter first came up on the floor some months ago in the spring of 1975 I was confronted by two young constituents of mine—a man and his wife—who had in their hands a substantial rubber check issued by American Beef Packers, who had declared bankruptcy. The young people were just starting farming, and this check represented a big chunk of their equity in their farming operation. It was a most dramatic meeting for me.

I promised myself at that time that I would do everything in my power to insure that this couple and others like them would not have to go through such a financial wringer again.

I recommend your adoption of this conference report as a necessary and reasonable piece of legislation—fair to both producers and packers. It will, in my opinion, prevent the reoccurrence of the tragic circumstance that befell many—such as the young couple in my concountry in recent years.

My friend from Texas, Mr. POAGE, has gressional district—throughout the set forth in detail the results of our conference, and there is not much I can add to his explanation. However, I would like to add a few comments:

First. Of prime importance, proposed section 201(c) as amended in the Senate, would have exempted general wholesale food brokers, dealers or distributors in instances where the Secretary determined that their inclusion as packers was not necessary to carry out the purposes of this act.

The Department has somewhat limited information with respect to the persons who are engaged in this business, and their relationships with other packers or with other wholesale brokers, dealers, or distributors. However, it is certainly known that a definite trend is established toward the marketing of meat by packers through "boxed" or other containerized procedures. Wholesale food brokers, dealers and distributors, not involved in the preparation of meat for sale, thus exercise a greater role in the marketing of meat than in the past. Some of these brokers have engaged in most questionable and illegal practices in the past!

Extensive information as to the nature of practices engaged in by many of these firms and the extent of problems in connection with "boxed" beef and similar marketing procedures is not yet fully available. Therefore, a fairly extensive and costly examination of this segment of the wholesale meat business would have been required just to determine who may have been exempted without impairing the ability of the Department to carry out a most important purpose of the act.

No serious regulatory burden is to be imposed upon any general wholesale food broker, dealer or distributor in connection with their handling of meat or meat food products. This is again accentuated in the conference report at the direction of the conferees. Also, these persons have not been made subject to either the bonding, the trust or payment provisions in this bill. They would have to conduct their meat operations, however, in a fair, competitive, manner in competition with slaughterers, meat processors and other persons selling meat at wholesale. "What's wrong with that?" I ask.

USDA is to make such investigations as necessary to eliminate unfair or competitive practices which adversely affect the marketing of meat and meat food products at wholesale. Of course, such jurisdiction as the Department exercises in this area is to be limited to the marketing of meat, meat food products and livestock products in unmanufactured form. Transactions with respect to other food products are currently under the jurisdiction of the Federal Trade Commission and are not, and would not be, subject to the jurisdiction of the Secretary.

In view of the limited provisions of the act which would be applicable to wholesale food brokers, dealers and distributors, I feel strongly that it would not be in the public interest to expend the resources necessary for those determinations and regulations required under the exception in section 201(c) and as explained above, I anticipate no serious regulatory burden upon any legitimate wholesale broker, dealer or distributor in being subject to the limited provisions of the act. Furthermore, much litigation would have resulted from regulations describing exemptions as to whether the exemptions were sufficiently inclusive, whether the determinations were valid or whether particular persons were or were not included in the described exemptions.

In summary, the Senate amendment, in attempting to provide for the possible exclusion of certain general food wholesalers whose sale of meat and meat food products at the moment had little effect upon the wholesale meat business, but would have created jurisdictional uncertainty, would have resulted in increased litigation, delay in the correction of illegal competitive practices, and unnecessarily increased the cost of administration of the act. Therefore, it was vital that the needed and most important provision in the House bill be retained, and it was.

Second. The conference report lowers the exemption for packers—from the bonding and trust requirements of the bill—from $1 million to $500,000. The latter is a more reasonable exemption for small packers, or locker plants, and it is the level recommended by the committee initially.

Third. The conference report incorporates a provision from the Senate which would increase from 15 to 30 days an opportunity to a producer to preserve his rights under the trust provisions by giving notice to the packer and Secretary if no payment was received and from 5 business days to 15 business days if a bad check is received. This extension is reasonable in the view of the House conferees.

It is sufficient to state, I believe, that the strong provisions which were included in the House version of this bill were retained in the conference. In some instances, such as lowering the exemption for packers—from the bonding and trust requirements of H.R. 8410—from $1 million to $500,000—the Senate provision was more reasonable in that it exempted only truly small packers and locker plants.

All in all, the House provisions which gave strength and meaning to this bill were retained, as Mr. Poage has explained in detail. Where we receded to the Senate, it was done in instances which we believed would result in a better bill for both producers and packers and assist in the better administration of the Packers and Stockyards Act.

I strongly urge you to support this conference report. It has been accepted by the Senate, and our prompt action in passing it will see the implementation of a good legislative measure at an early date, for I am confident that the President will sign it promptly and with pleasure.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. THONE. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report on H.R. 8410, a bill to amend the Packers and Stockyards Act of 1921, as amended.

First, Mr. Speaker, I wish to compliment Mr. Poage, the vice chairman of the Agriculture Committee, for the fine job he has done in shepherding this bill through the House and successfully concluding a good conference with the Senate.

I also wish to compliment my colleague, Mr. Thone of Nebraska, for taking the initiative in introducing this badly needed reform measure and tenaciously fighting on its behalf in committee, in the House, and in the conference. What he and the other conferees have brought you is a good resolution of the differences which existed between the Senate and House versions of this important measure.

I also wish to compliment my friend from Minnesota, Mr. Bergland, who cosponsored this bill in the House and who made important contributions to its consideration during the hearings and markup which took place in the committee and during the discussions in the House and in conference.

The differences which existed between the House and the Senate versions of this reform measure which have been satisfactorily resolved are recited for your information, in part, as follows:

The standard for the exemption from bonding of small packers has been reduced to $500,000 from $1 million and this is an improvement for it basically exempts only truly small packers and locker plants. The term packer as defined in the House bill was basically adopted. It embraces such groups as wholesale brokers, dealers, or distributors in commerce.

The House version of administrative civil penalties provision was adopted with an amendment to reduce the penalty to $10,000. This gives greater flexibility to the treatment and handling of penalties by permitting reasonable fines rather than requiring suspensions when enforcement proceedings are held.

These are representative of the resolution of differences reached by the Congress and I endorse the conference report and commend it to you for adoption on a favorable vote should it follow consideration of the report. The House version in my opinion, generally prevailed and I believe this is a considerable improvement over existing law.

Mr. THONE. Mr. Speaker, I thank the distinguished gentleman from Virginia (Mr. Wampler), who has been a tremendous help in the processing of this legislation.

Mr. BEDELL. Mr. Speaker, I rise in support of the conference report on H.R. 8410, a bill which will provide much-needed and long-overdue protection for livestock producers against financial losses after they sell their livestock to packinghouses.

At present, farmers and ranchers have little protection against losses should a packing company go bankrupt. Past history is replete with examples of the injustice and hardship which such a situation has caused producers. In January 1975, American Beef Packers, Inc., one of the largest meatpacking operations in the country, filed for bankruptcy. As a result, nearly 1,000 producers faced a possible loss of over $22 million on livestock which they had previously delivered to American Beef in good faith. In my State of Iowa alone, the potential loss was $6.6 million to 744 cattle producers.

And the American Beef incident is not an isolated case. Since 1958, 175 packers have gone out of business leaving thousands of producers holding worthless checks for over $47 million in sales. In many cases, we are asking producers to play Russian roulette with their livelihoods. It is clearly time that the Congress address this very serious problem—for the good of the producer and the consumer, and in the name of simple equity.

The livestock producer faces enough uncertainty and risks in preparing his cattle for market without subjecting him to the possibility of severe losses when he finally sells them. Packinghouses should be bonded, and the producer should be assured prompt payment for his product. H.R. 8410 would accomplish both objectives.

Mr. Speaker, H.R. 8410 is sound and responsible legislation. It offers necessary protection for the producer without placing unreasonable demands on the packer. It has been subject to thorough study and debate in both Houses of Congress. In my view, this bill will benefit the general economic health of the livestock industry and the Nation, and I urge its prompt enactment into law.

Mr. POAGE. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appear to have it.

Mr. THONE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 352, nays 3, not voting 76, as follows:

[Roll No. 676]

YEAS—352

Abdnor
Adams
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derwinski
Devine
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Eilberg
Emery
English
Erlenborn
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Fountain
Frenzel
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula

Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki

NAYS—3

Myers, Pa.
Paul
Wydler

NOT VOTING—76

Abzug
Addabbo
Alexander
Ashbrook
Badillo
Bell
Broomfield
Brown, Calif.
Brown, Mich.
Chappell
Chisholm
Clay
Collins, Ill.
Conlan
de la Garza
Derrick
Dickinson
Diggs
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fithian
Ford, Tenn.
Forsythe
Fraser
Frey
Fuqua
Green
Hawkins
Hays, Ohio
Hébert
Hefner
Heinz
Helstoski
Hinshaw
Ichord
Jones, Ala.
Karth
Kastenmeier
LaFalce
Lehman
McCloskey
McDonald
Mathis
Mikva
Moorhead, Pa.
Neal
Passman
Peyser
Preyer
Rees
Reuss
Riegle
Risenhoover
Santini
Scheuer
Sebelius
Sisk
Slack
Stanton, James V.
Steelman
Steiger, Ariz.
Stuckey
Teague
Thornton
Udall
Wright
Wylie
Young, Alaska
Young, Ga.
Zeferetti

The clerk announced the following pairs:

Ms. Abzug with Mr. Ashbrook.
Mr. Addabbo with Mr. Bell.
Mr. Chappell with Mr. du Pont.
Mrs. Chisholm with Mr. Wylie.
Mr. Hawkins with Mr. Peyser.
Mr. Moorhead of Pennsylvania with Mr. Brown of California.
Mr. Young of Georgia with Mr. Helstoski.
Mr. Zeferetti with Mr. Eckhardt.
Mr. Udall with Mr. Kastenmeier.
Mr. Teague with Mr. Broomfield.
Mr. Santini with Mr. Preyer.
Mr. Badillo with Mr. Conlan.
Mr. Fuqua with Mr. Karth.
Mr. Alexander with Mr. Edwards of Alabama.
Mr. de la Garza with Mr. Jones of Alabama.
Mr. Derrick with Mr. Brown of Michigan.
Mr. Evans of Colorado with Mr. Heinz.
Mr. LaFalce with Mr. McCloskey.
Mr. Lehman with Mr. Esch.
Mr. Mathis with Mr. Rees.
Mr. Thornton with Mr. Frey.
Mr. Sisk with Mr. Dickinson.
Mr. Slack with Mr. Fraser.
Mr. Ford of Tennessee with Mr. Risenhoover.
Mr. Fithian with Mr. Diggs.
Mr. Neal with Mr. Forsythe.
Mr. Mikva with Mr. Riegle.
Mr. McDonald with Mr. Eshleman.
Mr. Edwards of California with Mr. Scheuer.
Mrs. Collins of Illinois with Mr. Steelman.
Mr. Clay with Mr. Evins of Tennessee.
Mr. Hébert with Mr. Steiger of Arizona.
Mr. Hefner with Mr. Sebelius.
Mr. Ichord with Mr. Stuckey.
Mr. Green with Mr. Young of Alaska.
Mr. Passman with Mr. Reuss.
Mr. Wright with Mr. Hays of Ohio.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 8410, just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

CONFERENCE REPORT ON H.R. 11670, COAST GUARD AUTHORIZATION FOR FISCAL YEAR 1977

Mr. BIAGGI. Mr. Speaker, I call up the conference report on the bill (H.R. 11670) to authorize appropriations for use of the Coast Guard for the procurement of vessels and aircraft and construction of shore and offshore establishments, to authorize for the Coast Guard a year-end strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 28, 1976.)

Mr. BIAGGI (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill H.R. 11670, authorizes appropriations for the Coast Guard for fiscal year 1977, for the procurement of vessels and aircraft, for the construction of shore and offshore establishments, for the establishment of military personnel ceilings, and for the establishment of average military training student loads.

As the bill originally passed the House, the total authorization for vessels was $187,168,000; for aircraft, $92,500,000; and construction of shore and offshore establishments, $24,401,000.

The bill was amended in several particulars by the Senate, resulting in an authorization for vessels of $136,168,000; for aircraft of $24,300,000; for vessels and/or aircraft of $100,000,000; and for shore and offshore establishments of $24,401,000. The total Senate authorization amounted to $284,869,000, or $19,200,000 less than the House authorization. As indicated in the statement of managers, the conferees accepted the Senate amendments.

Another provision in the bill, not directly involving fiscal year 1977 authorization, provided for expansion of the annual authorization process to include operating expenses, improvements of existing facilities, alteration of obstructive bridges over navigable waterways, and research, development, and test evaluation items not presently subject to an annual authorization. In its amendments to the bill, the Senate proposed to delete that provision. As indicated in the statement of managers, the conferees supported the House provision.

In two further amendments to the House bill, the Senate added new sections prohibiting use of funds authorized or appropriated for the operation and maintenance of the Coast Guard for the purpose of enforcing the Federal Boat Safety Act of 1971 on certain waters within the State of New Hampshire. As indicated in the statement of managers, the conferees accepted the Senate position, with an amendment, which would limit its effect to fiscal year 1977.

The second Senate amendment added a new section which would authorize special treatment in connection with the issuance of permits for certain cargo-carrying vessels operating within the State of Alaska, where isolated communities cannot readily be supplied with fuel and stores without the relaxation of certain vessel inspection laws. As indicated in the statement of managers, the conferees accepted the Senate position, with an amendment, which inserted language clarifying the exact extent of this exemption.

I ask for the adoption of the conference report.

Mr. RUPPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to urge my colleagues to support the Conference Report for the Coast Guard Authorization bill for the fiscal year 1977. As one of the Conferees, I believe a number of sensible changes were made in the bill without sacrificing the basic position of the House.

Of major concern to me and residents in the Great Lakes is the need to expand the ice-breaking capability of the Coast Guard. The House version of H.R. 11670 included authorization for "four small domestic icebreakers" which were estimtaed to cost $52 million. The Senate amendment deleted specific reference to the four icebreakers and simply authorized $50 million "for procurement of vessels with ice-breaking capability to be used on the Great Lakes." While I would have preferred the specific authorization for the four ships, the basic thrust of the provision in the Senate-accepted amendment is the same. This new $50 million authorization recognizes the need for enhanced maritime safety and the realities of moving commerce on the Lakes in the winter season.

I would also like to point out that this legislation affords the United States an opportunity, consistent with the Buy American Act, to contract for the construction of icebreakers in Finland. The technical skills of the Finns have been acknowledged by the several foreign countries who have purchased Finnish-built vessels and by the Coast Guard who has had extensive liaison with the Finns in icebreaking technologies. Finnish shipbuilders offer what many consider a superior product, a vessel that is fully guaranteed both as to design and performance.

More importantly is the fact that our Department of State has indicated that procurement of Finnish icebreakers would help significantly to strengthen Finland's economic and democratic political system and that it would be in accordance with approved U.S. policy objectives, in Finland. Such procurement would convey the concern for the maintenance of Finnish independence and security, demonstrate U.S. appreciation to a country exposed to persistent efforts to tie its economy to that of the Soviet Union, and help the Finns instill political balance in their ship exports.

It would also provide a strong—and to many a most important—psychological boost to Finnish patriots who are striving against odds to maintain a Western orientation of Finnish foreign trade, and undercut criticism from the Finnish citizenry of the imbalance in United States-Finnish bilateral trade which has become heavily weighted in favor of the United States in recent years, largely as a result of Finnish purchase of American DC-9 and DC-10 aircraft.

Finally, I would like to note that the conference succeeded in reducing the total authorization level from $304 million to $284.8 million. This was done by making some sensible cuts which should not in any way reduce the effectiveness of the Coast Guard mission.

I would hope that the House will pass this Conference Report so that we may send it on to the President and begin the process of obtaining new additions to the Coast Guard inventory which have been needed for many years.

Mr. BIAGGI. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 11481, MARITIME APPROPRIATION AUTHORIZATION ACT OF FISCAL YEAR 1977

Mr. DOWNING of Virginia. Mr. Speaker, I call up the conference report on the bill (H.R. 11481) to authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 29, 1976.)

Mr. DOWNING of Virginia (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. DOWNING of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge approval of the Conference Report on H.R. 11481.

On March 11, 1976, by an overwhelming vote of 315 yeas to 42 nays, the House of Representatives passed H.R. 11481, the authorization request of the Maritime Administration for fiscal year 1977.

On June 15, 1976, the Senate passed, by a voice vote, H.R. 11481, with amendments.

The differences between the House-passed bill and the Senate amendments were resolved in conference on July 22, 1976, as set forth in the conference report on H.R. 11481 before the House at this time.

Permit me to comment on the contents of the conference report.

Mr. Speaker, there is but one substantive change between the House-passed bill and the Senate amendments. As pointed out in the conference report, the conferees on the part of the House agreed to the Senate amendment that would increase the amount authorized for research and development activities by $3 million—from $19.5 to $22.5 million. This increase is intended to accelerate an ongoing Maritime Administration research and development project to fund ocean testing of industrial plant ships, and to conduct the necessary studies regarding the long-term prospects for commercialization of ocean thermal energy.

I wish to point out to my colleagues that no hearings were held on this provision in the House, but the subject matter will be examined during the hearings on the fiscal year 1978 maritime authorization bill. However, as this $3 million has not been included in the appropriate appropriations act, the conferees on the part of the House agreed to this Senate amendment as an expression of support of this important provision.

The remaining Senate amendments agreed to by the conferees on the part of the House were the title to the bill, and the accompanying technical changes.

I urge my colleagues in the House to approve the conference report on H.R. 11481.

Mr. RUPPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 11481, which is to authorize appropriations for the Maritime Administration for fiscal year 1977. I should like to indicate, however, that, since the appropriations bill for the Department of Commerce has already been signed into law, what we do today has little consequence. If the process is to have any meaning, it is my hope that the Senate will act more quickly on this authorization in the future.

This conference report contains one significant change from the bill which originally passed the House. It increases the Maritime Administration's Research and Development budget from $19.5 to $22.5 million. The additional $3 million is to be used to fund research on seagoing ocean thermal energy development. The additional money was not included in the President's budget. Because the appropriation bill has already passed, this additional authorization will not result in the expenditure of any more money. However, the House conferees agreed to put in the additional amount to express Congress's support for this important project.

Other changes made by the conference are purely technical or conforming in nature. I ask all Members to join me in voting for the adoption of this conference report.

Mr. DOWNING of Virginia. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

DIRECTING CLERK OF THE HOUSE TO MAKE CORRECTION IN ENROLLMENT OF H.R. 11481

Mr. DOWNING of Virginia. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 134) directing the Clerk of the House to make a correction in the enrollment of H.R. 11481, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the Senate concurrent resolution as follows:

S. Con. Res. 134

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives in the enrollment of the bill (H.R. 11481) to authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce, and for other purposes, is authorized and directed to make the following correction: strike out "Sec. 4", and insert in lieu thereof "Sec. 3".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING AND DIRECTING CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 11670

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 133) to make certain corrections in the enrollment of H.R. 11670, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 133

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives is authorized and directed to make corrections in the enrollment of H.R. 11670 as follows:

That in the second section numbered "6" change the section number to "7".

That in the section numbered "7" change the section number to "8".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2145, INDOCHINA REFUGEE CHILDREN ASSISTANCE ACT OF 1975

Mr. PERKINS. Mr. Speaker, I call up the conference report on the Senate bill (S. 2145) to provide Federal financial assistance to States in order to assist local educational agencies to provide public education to Vietnamese and Cambodian refugee children, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 1, 1976.)

Mr. PERKINS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER. The gentleman from Kentucky (Mr. PERKINS) is recognized for 30 minutes.

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring before the House today the conference report on S. 2145, the Indochina Refugee Children Assistance Act. This conference report is a sound, reasonable compromise between the widely varying positions proposed in the House and Senate bills.

Before I describe the details of this compromise, however, I would like to reiterate what was stated so often during the earlier debate on this bill: the Federal Government bears some responsibility for assisting in the education of these refugees from Indochina because we as a nation decided to open our doors to their entry after last year's tragic events in Southeast Asia. This was a national decision, and the consequences of this decision must be borne by all levels of government, including the Federal Government.

At this point I would like to commend particularly Congressman ED ROYBAL and California State Superintendent of Public Instruction and Director of Education, Wilson Riles, for bringing to our attention so forcefully and eloquently the problems facing these refugees and for making such a strong case for Federal assistance in helping them.

And, there can be little doubt that these refugees have a great need for assistance in adjusting to American life. According to the Department of Health, Education, and Welfare, 64.7 percent of these refugees from Southeast Asia came into our country in 1975 with no facility in English. An additional 21 percent had only a limited knowledge of English.

As for the children, the HEW task force on refugees concluded recently that few of them had enough English to keep up in regular classrooms. The task force, in fact, found that almost half of the children attending school the first year had to repeat the subject matter they were taught the previous year in Vietnam due to a lack of familiarization with English.

During the 1975–76 school year the administration sought to fulfill the Federal responsibility for the education of these refugee children by assisting local school districts through a program entailing an expenditure of $15 million under the general authority of the Indochina Migration and Refugee Assistance Act. Another $5 million was made available for adult education. But this program expired on June 30 of this year, and the administration has been making no plans to extend this aid beyond that date.

What our conference report does, in effect, is to continue the administration's program for another year at approximately the same level of funding.

This course of action will permit us to provide assistance from the Federal Government to local school districts with a minimal amount of new paperwork and with few new regulations. And, we strongly urge the administration to keep to the absolute minimum the amount of paperwork and regulations used to implement this bill by continuing to use, wherever possible, the forms developed for last year's program.

It was very difficult for the conference committee to reach this agreement because the approaches proposed in the Senate and House bill varied so greatly. The Senate bill proposed a Federal grant to pay for the full cost of providing a basic education for these children during fiscal year 1976 and a grant for 50 percent of the costs during fiscal 1977. The Senate bill also proposed an additional grant for supplementary services for these children, assistance over and above their basic education. Last, their bill proposed Federal grants for adult education for Indochina refugees.

The House bill proposed a much more limited form of aid. Grants would have been provided only through fiscal 1976, and this assistance for local school districts would have been limited to the amounts which the school districts could prove were attributable to the extra costs involved in educating these refugee children. Furthermore, the House bill did not provide any type of assistance for adult refugees.

Given these widely varying approaches to fulfilling the Federal obligation, our task in conference was very difficult. As I have already stated though, we believe that our compromise makes a great deal of sense. And, it is an approach with the near unanimous support of the conferees.

The compromise can be described in the following six points:

First, we adopted the House formula for fiscal 1976, but this proposal was included solely to meet the rules of the conference. This provison will not take effect for fiscal 1976 because that year has already terminated.

Second, the Senate proposal was adopted to provide some type of aid during fiscal 1977, but this aid will be provided in the same form as the administration's program during fiscal 1976, namely $300 a refugee student for the first 100 students in a school district or for those refugee students composing 1 percent of a school district's enrollment, and $600 a student for those students in excess of those numbers. It will not be provided at the much higher figures proposed in the Senate bill.

Third, this aid will be provided through a simple application procedure showing that the refugee children are being educated within a particular school district and that these funds will be used to assist in this education. There will be no complicated procedure providing evidence of the precise expenditure of every additional dollar for these children as proposed in the House bill.

Fourth, the conference agreement incorporates the provisions from the House bill requiring the participation of refugee children in private nonprofit schools in programs receiving aid.

Fifth, the conference agreement incorporates the Senate provision authorizing the use of funds under the Adult Education Act for programs for adult refugees.

Sixth and last, the conference agreement treats Guam as a State for the purposes of making grants.

Mr. Speaker, I believe that this conference agreement is a sound compromise fulfilling the Federal obligation to assist in educating these children. This proposal will lead to an expenditure of approximately the same amount of money—$20 million—as the administration's program cost last year. And it will involve minimal paperwork and regulations. It deserves the support of the House.

Before I close, I would like to make one last point. After the Senate and House each passed its own version of this legislation, the Congress enacted and the President signed into law a bill amending the Indochina Migration and Refugee Assistance Act of 1975 to include refugees from Laos under this act. Since our conference report refers to this act for its definition of the children and adults to benefit from our conference report, we naturally are proposing that Laotian refugees be included as well as Vietnamese and Cambodians.

Mr. QUIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 2145, a bill to provide Federal aid to school districts for the education of Indochinese refugee children and to provide for adult education programs for the older refugees. The provisions agreed to by the conference committee for the most part extend the program originally initiated by the administration under general provisions of the Indochinese Refugee Migration and Assistance Act of 1975 for 1 additional year. Under the 1975 law, HEW has been making discretionary payments to school districts of $300 for the first 100 or 1 percent of the children in the district, with a payment of $600 for each child in excess of that number. To date, approximately $14.5 million have been expended in the support of local school district programs.

The House bill had called for the termination of the program at the end of fiscal 1976; however, it was agreed in the conference that there was need for an additional year's support to provide the the services necessary to bring these children up to a competitive level.

In addition, the conference members felt strongly that there is a pressing need for a program of grants to aid in the preparation of adult refugees for productive employment. Therefore, the conference accepted, with some modification, the provisions of the Senate bill which provides for discretionary grants to support adult education and manpower training prgorams for adult refugees. This was done in the face of compelling evidence that many refugees lack the language and occupational skills necessary to enable them to be self-supporting. It is estimated that $5 to $6 million will be needed for this purpose in the coming year.

It should also be noted that the conference agreement contains provisions of the House bill which require the participation of refugee children enrolled in nonpublic schools in agencies funded under this act.

It should also be noted that the conferees, and language is contained in the statement of managers, that it is not the intent of the conferees to permit the use of section 414 of the General Education Provisions Act with respect to this program. It is understood that appropriate language has been included by the other body to a pending education bill to make this language a matter of law. That language would insure that the provisions of this act will extend only through fiscal 1977, and may not be extended for another year under provision of the contingent extension authority of section 414 of the General Education Prosions Act.

I have received a copy of a letter to Mr. Rhodes from the Honorable Marjorie Lynch, Under Secretary of HEW, stating the administration's view on the conference report which I enclose at this point in the Record:

Department of Health,
Education, and Welfare,
Washington, D.C., July 19, 1976.

Hon. John J. Rhodes,
Minority Leader, U.S. House of Representatives, Washington, D.C.

Dear Mr. Rhodes: As the House of Representatives prepares to consider S. 2145, the "Indochina Refugee Children Assistance Act of 1976", I would like to share with you the Administration's position on this measure.

As the Department has stated on numerous occasions, we are generally opposed to provisions of this legislation relating to assistance for elementary and secondary education. We believe that the Federal government is providing appropriate assistance to State and local educational agencies to meet the refugees' immediate needs for supplemental educational services.

Under the Indochina Migration and Refugee Assistance Act of 1975, the Department has paid a total of $20 million during the current fiscal year to assist in the education of both the children and adult refugees ($15 million for children and $5 million for adults). Most school districts have already received their full grants from the Office of Education to provide supplemental services for the refugee children. The Department has provided $300 for each refugee child enrolled in every school district. An additional $300 was provided for each refugee child the district enrolls above 100 or 1% of its enrollment. Grants totaling approximately $700,000 were also given to State educational agencies for related leadership and training activities. In addition to educational assistance for school age children, the Department made grants to State educational agencies to offer English instruction to adult refugees under the Adult Education Program in the Office of Education.

We continue to believe that there is no additional need for Federal elementary and secondary education assistance for refugees. The remaining responsibility for providing basic educational costs should be borne by State and local governments. However, the conference report provisions would substantially reduce the authorized Federal expenditures for elementary and secondary assistance below the levels authorized in either the House or Senate versions of the bill, making such provisions less objectionable from the Department's standpoint.

The conference report would also accept the provisions of the Senate version of S. 2145 which would add a new section 315 to the Adult Education Act for the purpose of making grants to State education agencies to operate special adult education programs for refugees in fiscal year 1977. We have no objection to the adult education provision of S. 2145.

Under the authority of the Indochina Migration and Refugee Assistance Act of 1975, HEW is making special efforts to increase the employment of refugees and reduce the burden on public assistance. In addition to the $5 million already available to the States for adult education, HEW has provided $7 million for adult employment training projects that will enhance refugees' job skills and English-language abilities. Assistance also is available to communities through the CETA program to develop and improve job skills and promote employment of Indochinese refugees.

We are advised by the Office of Management and Budget that there is no objection to the presentation of these views from the standpoint of the Administration's program.

Sincerely,

Marjorie Lynch,
Under Secretary.

From the background work which was done in preparation for the conference, it is clear that one of the most pressing problems affecting the refugees is the lack of legal status designating them as permanent resident aliens. That is something which requires the action of the Judiciary Committee, and legislation has been introduced which would accomplish that change. I urge members of that committee to give urgent consideration to those proposals for without that change, refugees are denied benefits and opportunities in a number of areas in our society, including membership in trade unions and the ability to attend public colleges and universities without the payment of out-of-State tuition fees. The actions of the Education and Labor Committee can only go so far in meeting the needs of the refugees. Much of the remaining solution rests with the Judiciary Committee.

In any event, I feel that this conference report is reasonable and I urge its adoption.

Mr. PERKINS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

Mrs. MINK. Mr. Speaker, I rise in support of the conference report to the Indochina Refugee Children Assistance Act of 1976. It is a very modest proposal, authorizing only $15 million for fiscal year 1977 in grants to States for the education of refugee children.

This legislation is greatly needed by those school districts which were unexpectedly faced with an additional influx of students as a result of the administration's policy to admit these people into this country. It is only reasonable that the Federal Government assume some financial responsibility in the cost of the education of refugee children.

The conference report in essence, continues the administration program for 1 more year. For the school year 1976–77, a school would receive $300 for each of its first 100 refugee children or the number of children equal to 1 percent of the district's total enrollment. For each refugee child above 100 refugee children, the school district would receive $600.

The conference report covers only a small fraction of the total cost involved in the education of these children. Many school districts are faced with tight budgetary restricts and their fiscal problems have been compounded by this unexpected influx of students. Though the conference report provides less than I had hoped for, it at least gives school districts some financial relief for another year. Our schools need at least 2 years of Federal assistance to give them a reasonable period within which to absorb the full cost of educating refugee children into their school budgets.

I am pleased that the conference report authorizes the use of funds under the Adult Education Act for programs for adult refugees. This authorization is necessary to permit the use of adult education funds to provide supportive services and special projects to meet the unique needs of adult refugees in becoming productive members of society.

For these reasons, I urge my colleagues to join me in adopting the conference report.

STATEMENT OF HON. ROBERT McCLORY ON LAW ENFORCEMENT ASSISTANCE ACT

(Mr. McCLORY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous material.)

Mr. McCLORY. Mr. Speaker, the statement I am inserting in the Record relates to the Law Enforcement Assistance Act, which we will start debate on probably tomorrow. I hope the Members will take the occasion to read the remarks I am inserting in the Record at this point.

Mr. Speaker, my statement follows:

House report 94-1155, submitted by the Judiciary Committee in recommending favorable consideration of H.R. 13636, contains several statements which I believe require comment and clarification.

I recognize that the staffs of the Subcommittee on Crime and of the full committee were required to prepare the report within an extremely short period of time and doubtless attempted to present a comprehensive review of the testimony regarding the pending legislation. However, in several instances, statements are included in the report which, without further clarification, do not seem fully supported by the hearing record.

In making judgments regarding the success or failure of LEAA, we should be careful to measure the Agency according to the authority responsibility assigned to it by Congress. Has LEAA provided meaningful assistance to State and local governments and assisted in the improvement and strengthening of law enforcement and criminal justice? The testimony presented to the subcommittee overwhelmingly indicates that it has. I would refer skeptics to the testimony of the National Governors' Conference, the National League of Cities, U.S. Conference of Mayors, the National Association of Counties, the International Association of Chiefs of Police, and the American Correctional Association, among others.

A second point requiring clarification, Mr. Speaker, is the report's assertions—page 9—concerning the National Institute of Law Enforcement and Criminal Justice. Contrary to the impression reflected in the report, the National Institute has made significant contributions to criminal justice by tying together the products of its research with the funding policies of LEAA. The subcommittee was provided with information concerning 10 exemplary project profiles. Under the exemplary project program, the Institute provides detailed information regarding outstanding successful projects and distributes that information to localities across the Nation so that the project can be duplicated wherever there is a need.

In addition, the National Institute has developed prescriptive packages which synthesize the best available knowledge and operating experience in selected areas of criminal justice administration. Prescriptive packages cover such areas as police robbery control, managing criminal investigations, rape and its victims, multi-agency narcotics units and programs for special offenders in corrections institutions. According to information provided the subcommittee, 31 prescriptive packages have been developed by the Institute.

Mr. Speaker, a serious misstatement of fact in the report is the assertion on page 12 that "the committee resisted attempts to categorize the program." I wish that was true, but it is not. On the contrary, the committee has included two amendments in H.R. 13636 which would seriously erode the block grant funding concept. First, it established a separate category with authorized funding of $15 million for so-called community programs such as police neighborhood councils, clergymen in juvenile courts programs, and court watchers' programs. Then, to further categorize the program, the committee proposal would earmark one-third of all LEAA part C discretionary funds for court-related projects.

The wisdom of these categorizing amendments is questionable. But it is a fact that the committee failed to preserve the integrity of the block grant funding mechanism and is, instead, imposing congressional judgment over the priority-setting roles of State and local officials.

Another major error in the report, Mr. Speaker, is its statement that the committee found "no evidence that the program has helped to reduce crime or isolated specific programs that reveal why the crime rate increases and provide guidance on what to do to reduce it." The truth is that the hearing record is replete with evidence demonstrating specific instances of success in reducing crime in specific situations. The subcommittee received one document alone which contained more than 700 pages of project identifications describing activities which achieved measurable success in crime reduction, apprehension of criminals and criminal justice improvement.

It is one thing to state that LEAA has not produced a drop in the national crime rate, since it is unrealistic to believe that a relatively modest Federal grant-in-aid program could hope to achieve such a result. But it is seriously misleading to ignore the evidence which shows that LEAA-funded projects have succeeded in reducing crime in specific project situations. I might note, parenthetically, that LEAA's stated purpose has been to "carry out programs and projects to improve and strengthen law enforcement and criminal justice." Only this year did the committee add to LEAA's responsibility the "reduction and prevention of crime."

Finally, Mr. Speaker, I would like to comment on the report language concerning the length of authorization for LEAA.

It is indeed correct, as the report states, that—

> Extending this program for one year gives notice to LEAA that it is on trial status.

It is equally true that a 1-year extension virtually sentences the program to failure. The committee bill has added significant new provisions to the LEAA program and established a range of complex requirements which must be met by LEAA and by State and local governments. At the same time, the committee proposes to restrict the program's flexibility to respond to criminal justice needs by categorizing the available funds. Meanwhile, the House, in response to a recommendation of the House Appropriations Committee, has cut the LEAA funds in fiscal year 1977.

In this instance, the committee proposes to give LEAA 1 year to prove itself while, at the same time, heaping on new responsibilities and tampering with the block grant process so that the chances of success are minimized. The fact is that LEAA will have less than the 1 year which the committee purports to allow. By May 15 of next year, the deadline imposed by the Budget Act, the committee must review LEAA's performance. How is that to be properly accomplished by a subcommittee which will not be constituted, most probably, until March?

Mr. Speaker, several additional deficiencies can be found in the report accompanying H.R. 13636 but it is not my intention here to offer a continuing critique on the entire document. I would urge my colleagues, however, to simply discuss the LEAA program with criminal justice professionals in their home districts and review the very positive testimony of State and local officials in support of the present LEAA program. I believe you will conclude that this Federal activity in support of State and local law enforcement and criminal justice deserves our encouragement and continuation—substantially intact and for not less than an additional 3 years which I will propose in an appropriate amendment at the proper time.

WE SHOULD EXPAND AND IMPROVE OUR NATIONAL PARKS AND WILDLIFE REFUGES

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, those of us who serve on the Parks and Recreation Subcommittee of this body are well aware of the rapidly increasing use of the national parks, and the expansion of the national park system that has taken place in recent years. These trends have meant deterioration of facilities needed for public use of our parks and a slow pace of construction and rehabilitation of facilities.

Personally, I welcome the announcement President Ford made yesterday at Yellowstone National Park. The President will ask Congress to approve a $1.5 billion expenditure over 10 years to expand and improve our national systems of parks and wildlife refuges.

I have just returned from a tour of Yellowstone and Grand Teton National Parks. I found that visitation in these two parks is far above last year's level. For example, I was told that visitation in Grand Teton is up 40 percent from 1975.

Yet, the condition of the facilities and of the parks themselves cry out for funds to be used for development and maintenance. In Grand Teton, many of the campsites are covered with weeds. Parking at some of the most popular scenic areas is woefully inadequate. Employee housing in both parks is substandard and a reflection on this body. Roads in both Yellowstone and Grand Teton are inadequate. They are too narrow, and many miles need to be either resurfaced or resealed.

Yellowstone and Grand Teton are not unique in their deterioration. Last year I visited Yosemite, Grand Canyon, Bryce Canyon, and Zion Canyon.

If the President had visited Grand Canyon, he would have seen that all the campsites are taken by noon, that employees are living in temporary trailer houses or in rundown shacks, that parking is at a premium.

If he had visited Bryce Canyon, he would have seen sewer and water lines in need of repair or replacing, overflow campgrounds, and too few overnight cabins.

At Zion Canyon, he would have seen similarly inadequate sewage, water, and lodging facilities.

I do not think we can blame the tragic deterioration of our national parks simply on the dramatic increases in visitation. Rather, the fault lies with inadequate numbers of personnel and inadequate funding for maintenance of existing facilities and construction of new ones.

The President's proposal would add 1,500 personnel to the national parks and wildlife refuges which I heartily endorse. It would provide new spending authority for developing and upgrading the parks. The expenditures will have to be large. But, as the President noted:

> It is the soundest investment I can envision in the future of America.

This farsighted initiative on the part of the President deserves the wholehearted support of the Congress. For it will mean more parklands, wildlife sanctuaries and historic sites for the enjoyment of this generation of Americans. And it will mean the protection of these priceless resources.

THE FEDERAL BUDGET AND THE ECONOMY

The SPEAKER pro tempore (Mr. McFALL). Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 30 minutes.

Mr. CRANE. Mr. Speaker, even though the economy has taken a turn for the better in recent months, what with inflation and the unemployment rate declining, the Nation's economic situation still leaves much to be desired. Just as wage and price controls temporarily made things seem better in 1972, so too is heavy deficit spending by the Federal Government making things seem better today. But are things really better or, as I suspect, is deficit spending simply camouflaging the real problem and putting off the day of reckoning?

While they differ drastically in content, both wage and price controls and deficit spending have the same basic effect. Each is inflationary because each increases the money supply relative to productivity. On the one hand, wage and price controls discourage productivity while the money supply stays constant or increases while, on the other hand, deficit spending increases the money supply without any corresponding increase in productivity. Either way, you have more money chasing relatively few goods which means higher prices and, if the trend continues, unemployment. People often forget that, as prices increase and purchasing power declines, demand for goods is forced down, productivity decreases and, as a consequence, jobs are lost.

Thus, we must view with tremendous alarm, not only the $109 billion worth of Federal budget deficits in the last 2 fiscal years but the $51 billion deficit projected by Congress for the current fiscal year. Coupled with the ever-growing specter of Government regulation, which has a chilling effect on productivity not unlike that produced by wage and price controls, these deficits have the potential for setting off another inflation-recession cycle. Moreover, they take from the private sector funds desperately needed for capital investment without which business can neither keep up to date nor expand. This, in turn, will have an adverse effect on productivity and employment in the future.

Perhaps these problems could have been avoided if we had speculated a little less about economic theory and learned a little more from past experience. America has become the most prosperous and powerful nation on Earth, not by government doing things for people but by people doing things for themselves. Americans built this country, its business and its industry, by the sweat of their brow. The marketplace, uncluttered by excessive governmental regulation, determined success or failure through consumer democracy. The law of supply and demand ruled and ruled well: efficient producers were rewarded and inefficient ones fell by the wayside. Without undue restrictions the lure of new markets, at home and abroad, gave the efficient producer the incentive to expand and become still more efficient. Then, with the emergence of interchangeable parts, the assembly line, and new technology, we became the world's foremost agricultural and industrial power. Of course, we were lucky to have an abundance of resources, but the key ingredient was freedom—economic and political.

The Great Depression and the experience of World War II changed things. America survived both to become the preeminent world power economically and militarily. But, at the same time, many Americans who lived through those traumatic years were determined that their children would not have to face the same experiences. The result was that economic security became a goal coequal to economic prosperity.

Since the free market, by definition, involves a certain amount of risk, postwar Americans in their search for economic security sought to minimize those risks by turning to the Federal Government for protection. Gradually, regulations and subsidies that were begun in the 1930's as a response to the depression were expanded to provide financial security under very different circumstances than existed during that era. Sooner, or later, the internal inconsistency of seeking economic security, which necessitates a growth of Federal controls, and economic prosperity, which involves just the opposite, was bound to catch up with us. Unfortunately, in the drive for security many Americans forgot that our Nation was built by people taking risks and doing things for themselves, not by government trying to protect them and do an ever increasing number of things for them.

The first signs of difficulty came about as a result of the rapid increase in Federal spending. From a level of $9 billion in fiscal year 1940, Federal spending increased to $106 billion in fiscal 1962, to $211 billion in fiscal 1971 and then to $365.6 billion in fiscal 1976. For fiscal 1977, the Congress has passed a target level of $413.3 and the final figure is likely to be higher than that.

Unfortunately, Federal revenues have not been able to keep pace with such spending. Since the end of World War II there have been only 7 budget surpluses, totaling $23.4 billion, compared to 22 budget deficits that add up to an astronomical $275 billion. As a consequence, the national debt has soared from $268.7 billion in 1946 to a level of $576.6 billion at the start of 1976. Also, as a consequence, the 115 percent rise in the national debt has been more than matched by a 206 percent rise in the cost of living over the same period.

Alarming as those figures are, the picture for 1977 and beyond is even more grim. The anticipated deficit for fiscal 1977, which started last January at $43 billion and had risen by May to $50.8 billion, is still rising. Such a figure is surpassed—at least for the moment—only by the World War II-produced deficit of $57.4 billion in 1943 and the $65.6-billion deficit in 1976. Worse yet, it is anticipated that, for the next few years at least, we will see budgets with similar deficits.

Not only do these huge deficits produce large jumps in both the national debt and the cost of living. But, as mentioned previously, they also have a negative impact on the availability of capital for investment. Last year, Secretary of the Treasury William Simon estimated that all governments—Federal, State, and local—would soak up 80 percent of the investment capital available just to cover their deficits. If that as to make was correct, it left only 20 percent for business and industry which, in turn, will lead to higher interest rates and insufficient funds to finance the expansion and modernization programs so essential to increased productivity, higher employment, and economic recovery. As it stands now, we are already facing a severe capital shortage. One prestigious estimate places it at $1.5 trillion over the next decade, and others put it as high as $3 to $4 million.

Of course, as I mentioned earlier, the

lack of capital is not the only barrier to increased productivity. The proliferation of Federal rules and regulations is another major obstacle which, like Federal spending, has grown alarmingly in recent years. In more prosperous times the free enterprise system was considered the consumers' best protection against shoddy goods; nowadays, Government has taken it upon itself to protect people not only from others but from themselves. A person cannot even start a car these days without being remind or, in the case of many older cars, forced to buckle one's seatbelt.

Of course, all these things cost money—which means higher prices. In addition, all the redtape and paperwork businesses must put up with in order to get a permit or a license costs millions of dollars that could have otherwise been spent for plant expansion or equipment acquisition. For instance, a recent study done by the Federal Commission on Paperwork revealed that the total cost of Federal paperwork comes to an astronomical $40 billion a year, $20 billion for industry, and $20 billion for the Federal Government to prepare the forms, send them out, review the results, and store the data. Moreover, many of the rules and regulations that are the cause of all this paperwork, put a damper on competition rather than encouraging it as frequently intended.

Perhaps the most obvious examples of Government overregulation are the Interstate Commerce Commission, the Federal Communications Commission, and the Civil Aeronautics Board. In their respective areas, each has preempted the free market system by helping determine who gets what piece of the business and how they shall run it. Moreover, both the ICC and the CAB engage in rate regulation that amounts to price fixing just as surely as if a single company had developed a monopoly over the truck, railroad or airline industry.

For example, not too long ago, if one bought an airline ticket in California to fly from Los Angeles to San Francisco, it would cost $20.75. Yet if the same ticket were purchased in New York, where it becomes subject to CAB control, the cost would be $41. Likewise, the fare from Phoenix to Tucson is $26 on an interstate carrier and only $23.09 on an intrastate carrier. Similarly, one can realize a $7 saving by flying an intrastate carrier from Dallas to Houston instead of an interstate one.

Rather than a truly competitive system, what has emerged is a system that shuts out new entrepreneurs and jeopardizes the survival of established businessmen in at least two ways. First, it denies them the right to do things as efficiently as they might and, second, it adds arbitrarily to their costs and thus to the costs of the consumer. To cite an example, one of the representatives from the auto industry testified in Washington last year that the cost of mandated safety features plus emission controls will add $1,200 to the cost of "economy" model cars by 1978. All of this, of course, simply fuels the fires of inflation and leads successively to reduced purchasing power, lowered demand for goods, cutbacks in production, unemployment, and, finally, recession.

Trying to beat inflation by increasing the benefits paid to people under various income support programs or by providing make-work jobs is ineffective because it aggravates the basic problem. Expenditures of this sort contribute to greater deficits; increased deficits mean more inflation; more inflation means more business failures and unemployment. Put them all together and you have a vicious circle that can only end in depression. Putting the prime emphasis on fighting recession instead of inflation is to fight symptoms instead of causes. The effort is doomed to failure and all Americans, including the recipients of increased benefits, are likely to come out losers in the long run. A more appropriate remedy would be to increase productivity while reducing the spending deficits that cause inflation.

As long as increased Federal spending is combined with expanded Governmental regulation of the economy, the ingredients are present for not just a recession but for a major economic disaster. Yet, instead of an all out effort to cut the budget, Congress, which has been controlled by the Democratic Party 40 of the last 44 years, has been leading the charge in favor of rolling up bigger budget deficits. When the previous administration tried to hold down spending, Congress did everything it could to thwart those efforts. Now, when the present administration vetoes big spending bills, Congress overrides a significant number of them. Beyond that, the enactment of an expanded public works program and the refusal to legislate a reasonable cut in the runaway food stamp program give further indication of congressional unwillingness to exercise fiscal responsibility.

The picture is scarcely brighter with regard to cutting back on Federal overregulation. Today, we have 12 departments and 75 agencies strangling business. Twenty of the agencies have been created since 1967 and, if that were not enough, Congress has before it a Consumer Protection Act which, if it takes the form of the bill killed several years ago, would create a consumer superagency with the power to drag other Federal regulatory agencies into court. For businessmen who are already at a loss when dealing with Federal regulatory agencies, the prospect of one agency's rulings being challenged by yet another agency is almost too much to contemplate. There is no way they can plan for the future if they are left in constant doubt as to what they can or cannot do and when they can or cannot do it. Of course, the ultimate loser will be the very consumer the Consumer Protection Agency is supposed to protect.

In July 1975, and then again in May 1976, I made specific proposals to cut the budget and to reduce, or eliminate altogether, those Federal regulatory agencies that help contribute to both inflation and recession. For fiscal 1976 it developed that the President's proposed $52 billion deficit could have been converted into a $900 million surplus by some prudent cuts in spending. And, in fiscal 1977, practically the same cuts plus implementation of Congressman JACK KEMP's tax reform bill designed to stimulate capital formation, would have resulted in a budget surplus of almost $42 billion instead of the $43 billion deficit the President projected.

There are many good arguments that can be made for a tax reform bill of this nature. On the surface, it would seem that a tax cut at this time would run counter to a policy of reducing the Federal deficit, but the proper type of tax cut will more than pay for itself in increased tax revenues generated by the economic recovery thus stimulated. This is what happened when taxes were cut in 1964 and the same thing could happen today. Certainly, it is better to give private enterprise a boost and let it create productive new jobs than it is to spend the same amount of money on unproductive make-work jobs, unemployment benefits or welfare.

Another reason a tax cut is a good idea is that taxes are too high already. The average American pays out approximately one-third of his income in the form of direct taxes to all levels of government and the percentage is rising all the time. In 1974, while food costs were rising 12 percent, housing costs 13 percent and fuel costs 14 percent, taxes rose 25 percent. If people are to have the money to spend on goods and if companies are to have the capital to produce those goods, then we need to turn the tax trend around so that more money is available to the private sector. There is little incentive to produce when so large a portion of one's earnings are going to the Government in the form of taxes.

Congressman KEMP's bill which I have enthusiastically cosponsored along with 120 other Members, would address these problems decisively. This legislation which would reduce taxes by at least $28.8 billion, not only would provide the needed stimulus for adequate capital formation but from a budget standpoint, is likely to result in a $5.2-billion increase rather than a $22.2-billion decrease in Federal revenue. Such a conclusion is supported not only by an econometric study done by the economic consulting firm of Norman B. Ture, Inc., but also by the aforementioned U.S. experience with tax cuts in 1964 and a similar Canadian experience in 1973 when that Government reduced its corporate tax rate from 49 to 40 percent.

Basically, what the Jobs Creation Act would do is: First, allow a $1,000 yearly exclusion for a couple—from gross income of qualified additional savings and investments; second, end the double taxation of common dividends; third, grant a $1,000 exclusion from capital gains for each capital transaction qualifying; fourth, grant an extension of time for payment of estate taxes where the estate consists largely of small business interests; fifth, increase to $200,000 the estate tax exemption for family farm operations; sixth, reduce the corporate tax rate 6 percent; seventh, permanently increase the investment tax credit by 15 percent; eighth, allow taxable year price adjustments and increase the life class variances for purposes of depreciation; ninth, permit a 1-year writeoff of nonproductive pollution control equipment; and tenth, provide for employee stockownership plan financing.

Instead of reducing tax revenue by $22.2 billion as the President's tax package is estimated to do, this proposal is expected to raise revenue by an estimate $5.2 billion over what would otherwise be anticipated. In other words, the Jobs Creation Act, according to some estimates, at least, would raise Government revenues from the $351.2 billion level the President has proposed to somewhere in the neighborhood of $378.6 billion, while simultaneously lowering taxes and costs to consumers.

Another method of tax reform, and one that would be fair to people in all income brackets, would be what is known as tax indexing. Tying such things as tax rates, standard deductions, personal exemptions, depreciation allowances, and interest rates paid by the U.S. Government to the cost of living would give the American taxpayer protection against higher taxes due solely to inflation. As it stands now, wage increases in response to inflation simply push people into higher tax brackets without adding to their purchasing power. As a consequence, an ever increasing share of their income is paid out in taxes.

According to Dr. William J. Fellner, former member of the President's Council of Economic Advisers, personal income tax payments in 1974 increased $8 billion, and corporate tax payments went up almost $20 billion, simply on the basis of inflation. However, if Congress were to pass the tax indexing bill which I introduced in 1974, the savings to the American taxpayer would come to some $17.6 billion.

Tax indexing has one other advantage. It takes away from the Government any inventive it might have to promote inflation, it is easy to see how such an incentive could develop within the Federal bureaucracy. Whether it has or not is another question but, by enacting a tax indexing bill, we would make the answer academic.

Obviously, there are other measures that could, or should, be considered within the context of unraveling the mess into which we have enmeshed ourselves. But, by coupling sensible tax reform with equally sensible cuts in spending and redtape, we could go a long way toward overcoming the effects of inflation and its handmaiden recession.

The cure for all our ills will not be easy to come by, but if we work on the premises that Federal spending must be cut, Federal regulations must be reduced, and tax cuts must be used to stimulate economic recovery rather than to redistribute income, we will make the greatest progress in the shortest time in dealing with our immediate dilemma. More importantly, we will reestablish the economic vigor and strength that once made the United States the envy of the world.

PRESIDENT FORD'S COMMITMENT FOR FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. DEVINE) is recognized for 10 minutes.

Mr. DEVINE. Mr. Speaker, President Ford has taken a significant step in assuring the future development and preservation of the vast recreation resources of our Nation. His Yellowstone proposals should have direct benefit for Americans of every State.

In my own State of Ohio the people may look forward with confidence to speedier acquisition and development of lands for the Cuyahoga Valley National Recreation Area. We may look forward to the completion of restoration of the William Howard Taft National Historic Site as a living memorial to one of our great citizens. We may look forward to the preservation of the Perry's Victory and International Peace Memorial, a striking symbol of the rise of the United States as a new nation and the cementing of firm bonds of friendship with our neighbors to the north.

Our President's plans will give us an opportunity to look seriously at the possibility of creating a Lake Erie National Lakeshore which will serve the recreational needs of many of the citizens from my district.

This effort can give us a chance to develop an orderly and systematic approach to the establishment of sorely needed parklands, wildlife refuges, and recreational facilities. In this Bicentennial Year we can know that the open space heritage of a nation will be preserved for all time. It is now up to us to join President Ford in his commitment for the future.

WAYS AND MEANS HEALTH AND OVERSIGHT SUBCOMMITTEES ANNOUNCE JOINT HEARINGS ON HOME HEALTH SERVICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 10 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, on Monday, September 13, beginning at 10 a.m. in the Ways and Means Committee hearing room, the Health and Oversight Subcommittees will hold the first in their series of hearings on home health services under the medicare program.

On June 25, the two subcommittees announced the beginning of a major study designed to obtain data that will enable the subcomittees to assess recent allegations about the provision of excessive or unnecessary services, the billing of excessive costs to the medicare program, and the existence of certain questionable competitive practices of some home health care providers. At that time, it was indicated that the study would accumulate essential data on the demand for home health services among medicare beneficaries, the impact of home health care on patient health and use of other types of health care services, and the effects of existing statutory and regulatory limitations on the provision of home health services under medicare.

It is the intent of this study to eliminate the present uncertainty about the nature and extent of abuses and to provide the data that will permit the Ways and Means Committee to more effectively evaluate legislative proposals for changes in and expansion of the present home health benefit.

The first hearing on September 13 will concentrate on the Social Security Administration's role in the development of reimbursement policy for home health services and in providing guidance to intermediaries and providers on interpretation of policy. The scheduled witnesses will be the Commissioner of Social Security, Mr. James B. Cardwell, and the Director of the Bureau of Health Insurance, Mr. Thomas M. Tierney.

The second hearing in this series is tentatively scheduled for September 28. The details will be announced at a later date.

The Oversight and Health Subcommittees are interested in receiving any comments, information and data relevant to the purposes of this study from interested organizations and individuals. Correspondence should be addressed to the Subcommittee on Oversight, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515.

ON THE ANNIVERSARY OF THE BIRTHDAY OF SAINT ELIZABETH SETON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. DOMINICK V. DANIELS) is recognized for 5 minutes.

Mr. DONINICK V. DANIELS. Mr. Speaker, on August 28, the anniversary of the birthday of Saint Elizabeth Seton, celebrations were held around the country to commemorate the sainthood of this marvelous American.

Saint Elizabeth Seton was born in New York City on August 28, 1774. She was canonized and proclaimed a saint on September 14, 1975, at ceremonies in St. Peter's Basilica in Rome. During her life, Saint Elizabeth Seton was the founder of the first religious order for women in the United States and was also responsible for establishing the first Catholic parish school in the United States. The Sisters of Charity of St. Joseph of Emmitsburg, Md., remain as a lasting monument of the fine work of Saint Elizabeth Seton. Through her life and work, Saint Elizabeth Seton serves as an example to us all in our daily lives. Her great contributions to the religious and moral life of our Nation deserve continuous recognition. In this, the year of our Bicentennial, it seems fitting to honor such a woman. It was people such as Elizabeth Seton who built this country into something to be proud of.

I join with the people of our country in remembering the life and ideals of this fine American woman.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT AMENDMENTS OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. BAUCUS) is recognized for 10 minutes.

Mr. BAUCUS. Mr. Speaker, I rise to support H.R. 9398, the Public Works and

Economic Development Act Amendments of 1976. This legislation would extend the programs authorized by the Public Works and Economic Development Act for 3 additional years through September 30, 1979, at current authorization levels. Programs will be continued for public facility grants, energy projects, business loans, technical assistance, regional economic development commissions, and urban planning.

The maintenance of the national economy at a high level is vital to the best interests of our country. However, some regions, counties, and communities are suffering substantial and persistent unemployment that affects the well-being of many individuals and families, and wastes valuable human resources.

To overcome this problem the Federal Government, in cooperation with the States, needs an Economic Development Administration to plan and assist communities with their economic development. The Federal assistance, including grants for public works and development facilities to communities, industries, enterprises, and individuals in areas needing development, should enable such areas to help themselves achieve lasting improvement and enhance the domestic prosperity by the establishment of stable and diversified local economy and improved local conditions, provided that such assistance is preceded by and consistent with sound, long-range economic planning. This legislation authorizes money for the basic economic development program for our Nation.

This aid is certainly needed in my district—unemployment is at an alltime high with some areas reporting more than a 13-percent unemployment rate. The economy for the western district of Montana is sluggish with few if any new businesses starting. Many people have been unemployed for many months with little chance of finding a job.

There is one ray of hope though for these people. The Economic Development Agency has been working hard in my district to secure money for worthy public works projects. During the last 3 years, over 80 public works projects have been funded by EDA grants creating approximately 10,000 jobs and providing more than $11 million in revenues for the State.

Many Montanans notice the effects of EDA on their economy and quality of life. There is no doubt that my district would be in far more serious shape had EDA not come through to provide work for the unemployed. Not only do many people now have new jobs, but parks, recreational sites, street improvements among other numerous projects have been constructed, because of EDA grants. Technical assistance has been provided to many communities for economic development planning. Several loans have been given to businesses about to go bankrupt. Also, Montana is a member of the Western Interstate Higher Education Plan supported by an EDA grant which sponsors student interns to go into communities to help with economic planning. The program has proved beneficial to my district.

Some people say that this legislation authorizes funds for projects that are of no public benefit and only waste taxpayers' money. I think such views are misguided and reflect a misunderstanding of the operations and benefits of this program. EDA projects do a world of good for the people in my district. One town in particular, Anaconda, was in need of street and sewer line improvements. With some extra hard work, Anaconda secured a $500,000 grant from EDA to start improving these items. I understand that construction is underway, more than 50 jobs have been created, and as a side benefit, copper piping will be used to replace the corroded pipeline giving Anaconda a long lasting and durable sewer and water system for many years. This is but one of many examples I could describe to you of how EDA is helping my district.

In closing, I think reducing unemployment should be the Congress' No. 1 priority. Many people have differing views about how to do this, but I know for a fact that public works employment is a most beneficial and helpful program for my district. Western Montana's economy would be seriously harmed if this extension did not pass. We have a responsibility to maintain a healthy national economy and I think passage of this bill is a step in that direction.

AMENDMENTS TO THE ESTATE AND GIFT TAX BILL

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, at the appropriate point in the RECORD, I am printing two amendments which I may offer to the estate and gift tax bill, H.R. 14844. The precise amendment which will be offered will depend on the success or failure of other amendments being offered to the bill.

The first amendment will be offered if the Mikva-Fisher amendments relating to the split credit and generation skipping are accepted, The second amendment, which proposes a higher rate of tax, will be offered if the Mikva-Fisher amendments are not accepted. I am developing a third tax table to be offered in the event that the Burleson amendment is accepted.

The purpose of all of these amendments is to insure that there is no revenue loss to the Treasury as a result of the tax relief given to a relatively few, wealthy taxpayers because of the passage of H.R. 14844.

JUSTICE DEPARTMENT'S UNWISE AND HEAVY-HANDED POSITION AGAINST REALTY MULTI-LIST, INC.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BRINKLEY) is recognized for 30 minutes.

Mr. BRINKLEY. Mr. Speaker, I feel it is my duty to call to the attention of this body and the American people what I consider to be an unwise and heavy-handed position taken by the Antitrust Division of the Department of Justice against Realty Multi-List, Inc., RML, a nonprofit service corporation located in Columbus, Ga.

For more than 17 months, my office has attempted to be a catalyst to the amicable resolution of this case, under the law, and with fairness to RML. This organization took a substantial number of good faith steps aimed at an out-of-court settlement which, in my judgment, should have resolved this matter.

The Department of Justice did not see fit to accept the substantive concessions made by RML and on August 23, 1976, for the second time in 5 years, sued this organization in local Federal district court.

I have been personally familiar with the background in this instance, and fail to see where the public interest is being served by this suit. At this point, I wish to include in the RECORD my correspondence with the Department of Justice, as well as a status of the complete history of this matter.

I trust that officials in the Justice Department will take note of the legitimate points raised herein, and finally will cease and desist in this ill-advised action.

The material follows:

WASHINGTON, D.C., *January 22, 1975.*

Hon. THOMAS E. KAUPER,
Assistant Attorney General, Antitrust Division, Department of Justice, Washington, D.C.

DEAR MR. KAUPER: I am in receipt of a scholarly, seven-page letter from the law firm of Kelly, Champion, Denney and Pease, of Columbus, Georgia, which represents Realty Multi-List, Inc., a non-profit corporation.

Since October 23, 1973 the threat of litigation has been projected against Realty Multi-List by the Antitrust Division of the Atlanta Office of the Justice Department.

Realty Multi-List has already had to withstand tremendous expense in litigation with the Justice Department with reference to admission of one applicant on charges of violation of the applicant's civil rights, and the evidence in that case was so overwhelmingly in favor of the reasonableness of the rejection that the Justice Department dismissed its appeal to the Fifth Circuit. I do not believe that Realty Multi-List should be compelled to continue in litigation.

Toward that end I met this weekend with officials of Realty Multi-List who pledge reasonableness and accord. They urgently inquire as to the good faith proposals made in October of 1974 to the Atlanta Office and the counter proposal made by the Atlanta Office.

Next, may I inquire as to the impact statement as it relates to the following statistics, and otherwise:

Year	Total sales in Muscogee County based on transfer tax	Total realty multilist sales	Percentage of total sales in Muscogee County, Ga.	Total and percentage of realty multilist sales made by nonmembers
1970	$60,965,300	$6,715,783	11	$227,642—3.38
1971	86,795,950	12,101,722	13.94	575,908—4.75
1972	87,605,400	13,821,116	15.77	1,060,566—7.67
1973	85,998,000	19,621,039	22.81	1,687,601—8.60
1974	80,180,550	22,427,514	27.97	1,025,108—4.57

The percentage of total licensed brokers in Muscogee County, Georgia, in 1974 approximated 94, of which 26 active members were members of Realty Multi-List. This is approximately 26.75% of the total licensed brokers in Muscogee County, Georgia.

The total number of sales handled through Realty Multi-List members in the year 1970 were 456; in the year 1971—736; in the year 1972—654; in the year 1973—955; and in the year 1974—987.

It is our wish to be a catalyst to the amicable resolution of this case, under the law, and with fairness to Realty Multi-List.

Respectfully,

JACK BRINKLEY,
Member of Congress.

DEPARTMENT OF JUSTICE,
Washington, D.C., March 11, 1975.

Hon. JACK T. BRINKLEY,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BRINKLEY: Thank you for your letter of January 22, 1975, in which you inquired about the status of our investigation of Realty Multi-List of Columbus, Georgia, and particularly the proposals made by Realty Multi-List to our Atlanta Office and the counter proposals made by our Atlanta Office to Realty Multi-List.

As you know, our investigation of the activities of Realty Multi-List is continuing. Since this investigation is continuing, no determination has been reached as to what, if any, further action might be appropriate. You can be assured, however, that we will give this matter prompt and careful consideration.

Sincerely yours,

THOMAS E. KAUPER,
Assistant Attorney General,
Antitrust Division.

WASHINGTON, D.C., *March 13, 1975.*

Hon. THOMAS E. KAUPER,
Assistant Attorney General, Antitrust Division, Department of Justice, Washington, D.C.

DEAR MR. KAUPER: While I appreciate your letter of March 11, 1975 with reference to Realty Multi-List of Columbus, Georgia in response to my letter of January 22, 1975, my inquiry related to whether or not the Justice Department is being litigious. I have no wish to involve myself on one side or the other in a legal proceeding. The question relates to the factuality of the statistics supplied and to the proposals made in October 1974. In a Democracy citizens must have the benefit of even-handedness and predictability from their government and all of its agencies. If fair and equitable, the amicable resolution of differences serves justice best.

Sincerely yours,

JACK BRINKLEY,
Member of Congress.

DEPARMENT OF JUSTICE,
Washington, D.C., May 21, 1976.

Hon. JACK BRINKLEY,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BRINKLEY: This is in response to your letter of March 13, 1975, concerning Realty Multi-List of Columbus, Georgia.

The Atlanta Office of the Antitrust Division has been investigating the activities of Realty Multi-List and has recently forwarded its conclusions and recommendations to Washington for review. Pending the completion of this review, it would be inappropriate for me to comment on the merits of the case. If, after this review, the Antitrust Division concludes that the practices of Realty Multi-List violate the antitrust laws, we would institute suit. In the event that we should decide that a suit is appropriate, we would provide Realty Multi-List with the opportunity to negotiate a consent decree. This is the procedure which has been followed in other cases involving real estate boards.

As to the statistics supplied by your office, the staff reports that they have found them to be useful. However, the manner in which the sales of real estate are classified by the State of Georgia is overinclusive and tends to underemphasize the importance of Realty Multi-List in the sale of residential property in the Columbus area.

Sincerely yours,

THOMAS E. KAUPER,
Assistant Attorney General,
Antitrust Division.

WASHINGTON, D.C., *May 22, 1975.*

Hon. THOMAS E. KAUPER,
Assistant Attorney General, Antitrust Division, Department of Justice, Washington, D.C.

DEAR MR. KAUPER: I appreciate your letter of May 21, 1975, relating to Reality Multi-List of Columbus, Georgia. Of course, it would be inappropriate for you to comment on the merits of the case, or otherwise once the case is in the bosom of the court. But I have difficulty in understanding your position outlined which is that of negotiation following suit, if suit is initiated, rather than prior to suit. This is contrary to the conference in the Atlanta Office.

Sincerely,

JACK BRINKLEY,
Member of Congress.

JUNE 26, 1975.

Hon. JACK T. BRINKLEY,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BRINKLEY: We have received your letter of May 22, 1975.

After reviewing the recommendations of our Atlanta Office, we have concluded that certain practices of Realty Multi-List of Columbus, Georgia violate Section 1 of the Sherman Act.

Our Atlanta Office has been authorized to conduct prefiling negotiations with Realty Multi-List. If a consent judgment in the public interest is negotiated within a reasonable period, the proposed consent judgment and complaint will be filed at the same time. If the parties are unable to agree on a suitable judgment within this period, the Antitrust Division will file the complaint and prepare for trial. After the filing of the complaint, the Antitrust Division will, of course, remain open to further offers of settlement by Realty Multi-List.

Sincerely yours,

THOMAS E. KAUPER,
Assistant Attorney General,
Antitrust Division.

(Case: Realty Multi-List)
NOVEMBER 6, 1975.

Mr. ROY L. FERREE,
Antitrust Division,
U.S. Department of Justice,
Atlanta, Ga.

DEAR MR. FERREE: As the within correspondence from Mr. Forrest L. Champion, Jr. indicates, his client, Realty Multi-List, Inc., of Columbus, Georgia, has voluntarily taken a number of steps aimed at an out-of-court settlement of Justice Department action against it.

It is my strong belief that this five-point agreement represents the most absolute good faith on the part of Mr. Champion's client, and that said action would make unnecessary any contemplated litigation.

It is my further belief that by effecting such voluntary compliance, Realty Multi-List has done its part to assure an amicable resolution of this matter. As I interpret the law, the Justice Department's primary interest also is to resolve such matters through this means without litigation except as a truly final resort.

Sincerely,

JACK BRINKLEY,
Member of Congress.

U.S. DEPARTMENT OF JUTICE, ANTITRUST DIVISION,
Atlanta, Ga., November 4, 1975.

Please refer to: 60–223–51.

Hon. JACK T. BRINKLEY,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BRINKLEY: Receipt of your letter of November 6, 1975 regarding Realty Multi-List, Inc. of Columbus, Georgia is acknowledged. A copy of your letter has been forwarded to the Division's Office of Operations for consideration.

Sincerely yours,

THOMAS E. KAUPER,
Assistant Attorney General,
Antitrust Division.
By: JOHN R. FITZPATRICK,
Attorney, Atlanta Office.

JANUARY 5, 1976.

Hon. JACK T. BRINKLEY,
House of Representatives
Washington, D.C.

DEAR CONGRESSMAN BRINKLEY: This is in response to your letter of November 6, 1975, to Mr. Ferree of our Atlanta Office, which was forwarded to Washington for reply.

Realty Multi-List has been under investigation by the Antitrust Division. Based on this investigation and the recommendations of the staff, the Antitrust Division concluded that certain practices of Realty Multi-List violated the law, and that the Division should file suit. Having made this determination, we offered Realty Multi-List the opportunity to engage in pre-filing negotiations, during which the government and the prospective defendant arrive at a consent judgment enjoining the practices in the future and which is filed at the same time as the civil complaint. Many defendants have regarded this as a desirable procedure because it generally avoids the necessity and costs of litigation and minimizes adverse publicity connected with the filing of suit.

We cannot agree with Mr. Champion's proposal that, having found his client to be in violation of the antitrust laws, we should allow voluntary compliance to substitute for a binding court order. Without doubting their sincerity and present intentions, we and they cannot guarantee their future intentions or those of their successors. Without a court order binding them and their successors, the public would go unprotected against any future violations. For this reason, we do not regard as a last resort the filing of a case and the entering of a consent judgment enjoining future violations, but rather think of these as necessary steps inherent in enforcing the antitrust laws.

Sincerely yours,

THOMAS E. KAUPER,
Assistant Attorney General,
Antitrust Division.

RML CHARGES JUSTICE DEPARTMENT WITH BUREAUCRATIC HARASSMENT AND SPITE SUIT—JUSTICE DEPARTMENT CONTINUES TO HARASS RML—RML MUST WIN AGAIN

Realty Multi-List, Inc. (RML), a local private non-profit service organization, was sued the second time in five years on August 23, 1976, in the local Federal District Court by the Justice Department.

RML is composed of 45 active, full time real estate Brokers with approximately 382 real estate sales associates. The members constitute the vast majority of all active full time residential real estate Brokers with offices in Muscogee County, Georgia. Its basic purpose is to pool information as to available residential real estate for purchase. It affords the owner-seller maximum exposure to the public, with one listing Broker and one sign, and thereby effects a more prompt and orderly disposition of his home. It provides newcomers and purchasers with a quick résumé of virtually all residential real estate available for purchase in Muscogee County, Georgia. The concept of multiple listing services has proved to be of great value to the public as witnessed by its widespread use throughout the country.

RML was organized in 1967 by eight local real estate Brokers and has grown to its present membership. Its income is derived solely from its members, and its assets are devoted solely to the distribution of the listing information to its members. From its birth, members have been expressly free to deal with non-members. Prior to the organization of RML, more than one attempt had been made to provide Muscogee County with this proven service. These attempts failed because of unwillingness of Brokers to share all listings, and there existed no machinery to enforce the requirement of sharing the listing with fellow Brokers.

The latest suit filed by the Justice Department against RML charges it with conspiring with its members to unreasonably restrain trade and commerce in violation of Section I of the Sherman Anti-Trust Act. It asks the court to grant an injunction against alleged continued violation. RML promptly moved to dismiss the complaint on the ground that no factual basis exists for an injunction against it. It charged the Justice Department with smarting from losing its prior suit against RML, and with malicious bureaucratic harassment. The Justice Department had sued RML in 1971, charging it with violation of the Civil Rights laws. After an extensive trial and defense, at considerable expense to RML, Honorable J. Robert Elliott, Judge, U.S. District Court Middle District of Georgia, Columbus Division rendered a judgment finding no such violation by RML. The Justice Department filed a notice of appeal to the United States Circuit Court of Appeals for the Fifth Circuit but then dismissed the appeal before filing briefs in April, 1972. RML has today charged the Justice Department with maliciously using public monies and the courts to persecute and harass RML because it lost its prior suit against RML.

In October, 1973, eighteen months after dismissal of the appeal in the prior suit, the Justice Department advised RML that it was being investigated on charges of possible violation of the Sherman Anti-Trust Act in its charge for a membership share of stock, and its By-law requirement that a new member receive an affirmative vote of the existing members. It demanded a mass of information which RML collected and furnished the Justice Department in a conference with its attorneys in January, 1974. At this conference, RML advised the Justice Department that it did not consider its charge for a membership share of stock (which several of its more recent members had paid) unreasonable in the light of the company's underlying assets, and the assembled listings, which had been built up over the years, at the expense of the members. It was then admitted by the attorneys for the Justice Department that the underlying assets, including the book of listings, had value. RML further stated that its voting admission requirement was a reasonable one and had been necessary to maintain a cohesive organization of members who would adhere to its by-laws.

However, RML advised that it desired to be reasonable as to both points, and that it was not financially able to continue to litigate with the Department of Justice, and desired to settle the matter in all events without going to court. The Justice Department Attorneys then agreed that the voting requirement did not, on its face, violate the law, and if it was reasonable under circumstances, it did not violate the Anti-Trust Law. They also agreed that if the charge for the share of stock was reasonable, it did not violate the Anti-Trust Law. It was then indicated to RML's representatives that the Justice Department would study the matter and advise RML of its position with reference to the two matters before instituting suit. At a brief conference in late summer 1974, the Justice Department Attorneys suggested that a majority vote requirement for membership might be reasonable.

In October, 1974, the Justice Department requested RML to furnish an update of the information previously furnished. RML collected the data and delivered same to the Justice Department at a conference in Atlanta in January, 1975. At this conference, the Justice Department Attorneys for the first time took the position that any voting admission requirement, on its face, violated the Sherman Anti-Trust Act. It still took no position and did not advise what it considered to be a reasonable charge for a membership share of RML's stock.

Following this conference, and in an effort to avoid litigation, the members of RML, in April, 1975, voluntarily reduced its voting admission requirements to a simple majority vote, and reduced the charge for a member's share of stock, based on its estimate of the fair value of its underlying assets divided by the number of shares outstanding, and promptly advised the Justice Department Attorneys of their action.

No further word was received by RML from the Justice Department until August 1, 1975, when the Justice Department Attorneys advised RML that suit had been authorized against it by the Justice Department, and that the only way the matter could be settled was for RML to stipulate to the entry of a consent injunction. All this despite the fact that RML had never been advised of what the Justice Department considered to be a fair price for a membership share of stock, and also that RML had never before been advised that the matter could not be resolved without a consent decree.

The first draft of the consent decree submitted in August 1975, would have required RML to admit any Broker licensed by the State of Georgia (making available to him entry into approximately 900 local homes), irrespective of whether maintaining an office or actively doing business in Muscogee County, and irrespective of his credit rating or favorable reputation or financial responsibility. It also would have required RML to charge no more for its share of stock and monthly fees or dues than the amounts approximately related to the costs of operating RML, without regard to reasonable reserves for maintaining or improving it as a going concern, or the fair value of its underlying assets. While attempting to restrict RML's income to operate, the Justice Department continued to impose upon RML substantial legal expense. The proposed decree also would have enjoined RML from preventing any member from belonging to another listing service (although no other listing service then existed in Muscogee County), from restricting any member from advertising any type of real property (RML at the time restricted its members from advertising only open listings), and from restricting the members from engaging in cooperative sales or dealing with non-members (although RML never had any such restriction).

RML then requested a hearing in Washington, D.C., to attempt settlement without the necessity of filing suit and a consent injunction. A hearing was arranged on October 15, 1975, before the Director of Operations of the Anti-Trust Division of the Justice Department, who refused to consider any possible resolution of the matter without a consent injunction, even though at the time, no hint had been given by the Justice Department to RML as to what it considered to be a reasonable charge for the share of stock to new members. Suit had been authorized and was insisted on by the Justice Department before it ever made any investigation as to what was a fair charge for the new member's share of stock, and before RML was advised what the Justice Department's position in this respect was.

Following the hearing in Washington, D.C., and without specific guidelines from the Justice Department, the members of RML, on October 29, 1975, voluntarily:

(1) Partially liquidated its cash reserves and reduced its charge for the members share of stock to ⅓ of what its prior maximum had been.

(2) Abolished its majority vote admission requirement.

(3) Changed its Bylaws to provide for the admission of any licensed Broker who was and had been actively engaged in the real estate business in Muscogee County, Georgia, for six months before application for membership, who had a sound credit rating, and favorable business reputation, and who agreed to subscribe to and abide by its By-laws, Rules & Regulations, and Code of Ethics, and who subscribed to and paid for a share of stock in RML.

(4) Abolished any restriction on advertising of open listings by members and abolished the restriction against belonging to another listing service, and so advised the Justice Department.

The Justice Department then submitted a second draft of a proposed consent decree in which it sought to enjoin RML from charging more than "a nominal initiation fee" for the membership share of stock (which it intimated to be in the range of $200.00), and from charging any fees, dues or recurring charges not approximately related to the costs of operating RML. The word "nominal" is defined to be unrelated to reality. The second draft continued to enjoin RML from (a) establishing a time period within which no new members would be admitted (which RML had not had since 10/18/73), (b) from preventing any member from belonging to another listing service, (c) from restricting a member's advertising, and (d) from restricting any member from engaging in cooperative sales (none of which restrictions RML then had).

When the Justice Department submitted its second draft of the consent decree, it also forwarded two consent decrees entered in other cases and represented in these cases that charges of $1,000.00 for shares of stock were attacked. These two decrees enjoined the two listing services involved from charging amounts for membership shares of stock and monthly fees not approximately related to the costs of operating, maintaining and improving the listing service as a going concern, including the establishment of reasonable reserves for such purposes. RML then investigated the Justice Department statement that charges of $1,000.00 for the member's share of stock in these two cases were attacked, and found the statement to be simply incorrect. RML then refused to accede to the Justice Department demand that RML be enjoined from charging both initiation fees for the membership share of stock, and monthly recurring charges more restrictive than contained in the other two consent decrees forwarded, and insisted on being fed out of the same spoon, so to speak.

When RML refused to agree to the second draft of the proposed consent decree, the Justice Department came off its demand that only a nominal amount be charged for the members share of stock, and the monthly recurring charges be limited to the approximate cost of operating defendant, and agreed to the substitution of charges for stock and monthly charges being limited to costs of operating, maintaining and improving RML as a going concern, including the establishment of reasonable reserves for such purposes. RML reluctantly then agreed to abolishing its requirement that an applicant must have been actively engaged in the practice of the real estate profession six months before filing his application.

At a rush called meeting of RML's shareholders December 22, 1975, called at the instance of Justice Department pressure, the shareholders of RML directed its attorney to sign a stipulation for the consent decree, drafted and authorized by the Attorneys for the Justice Department. The consent decree was forwarded to the Justice Department on December 22, 1975, and was tendered on the sole condition that the word "conspiracy" be stricken from the complaint. This condition was later approved by the Justice Department, (but as later pointed out herein, the Justice Department sought materially to change its own consent decree).

The authorized consent decree would have enjoined RML from (a) placing a moratorium on applications for membership (which it has not had since 10/18/73), (b) from restricting a member's advertising (which applied only to open listings and had been abolished on 10/29/75), (c) from prohibiting its members from belonging to another listing service in Muscogee County (which no longer existed, having also been abolished 10/29/75), but which was reasonably necessary when there were two competitive listing services in Muscogee County, Georgia, and (d) from restricting any member from dealing with nonmembers or engaging in cooperative sales (which RML never had sought to regulate), and its Bylaws expressly provided that its members may freely deal with nonmembers.

The matter was then put to sleep by the Justice Department until June 11, 1976, when the Attorney for the Justice Department advised that it desired to strike the provision of the consent decree (which it drafted and submitted to RML and which RML had agreed to), requiring an applicant for admission to maintain an office in Muscogee County, Georgia, in accordance with zoning regulations, and be kept open during normal business hours. In this respect, the Justice Department had previously agreed with the National Association of Realtors that such a provision did not violate the Anti-Trust Law.

The shareholders of RML in utter dismay advised the Justice Department that it was willing to proceed on the basis of the stipulated consent decree previously forwarded to it on December 22, 1975, but declined to approve the Justice Department demand that the decree be changed. One court decision had upheld the right of a multiple listing service to require a member to maintain an active office in the County wherein the listing service operated.

RML filed its response to the complaint and charged the Department of Justice with acting in bad faith in its dealings with RML, with being stubbornly litigious and with causing the defendant unnecessary trouble and expense, and with maliciously using the process of the court against RML without reasonable grounds or probable cause, consisting in part:

(a) In January, 1974, admitting that the existing book of listings had value, and that the voting requirement was not on its face violative of the Sherman Anti-Trust Act.

(b) In advising RML in January, 1974, that it would investigate the matter and would advise it of its position with respect to each of the two matters, which it failed and refused to do.

(c) In suggesting a majority vote admission requirement in August, 1974, and then in January, 1975, taking the position for the first time that any voting requirement violated the Anti-Trust Laws.

(d) In advising RML in August, 1975 that the Justice Department had decided to file suit against it without having advised RML what it considered to be a fair price for a membership share of stock.

(e) In allowing RML to go through the expense of a hearing before another attorney for the Justice Department in Washington, without advising RML of its unpublished procedure that the only way to resolve a charge of Anti-Trust violation was by a consent decree, enjoining the defendant as provided by the consent decree.

(f) In falsely misrepresenting to RML that in two other consent decree cases against multiple listing service defendants, the Justice Department had attacked a $1,000.00 charge for a membership share of stock, which upon investigation RML found to be untrue and as a result of which the Justice Department came off its demand that the initiation fee be nominal.

(g) In filing this subject suit against RML, as twice stated by its attorneys, so as to accomplish the announced purpose of making an example out of RML, when RML had sought to comply with the vague suggestions of the attorneys for the Justice Department to avoid litigation.

(h) In procuring a stipulation for a consent decree drafted by the Justice Department from RML, and then seeking finally to alter it without reasonable cause.

RML contends that the Justice Department is discriminating against RML in filing this suit. It had previously agreed with the National Association of Realtors that certain specific requirements for admission to a listing service did not violate the Sherman Anti-Trust Act. RML incorporated these admission requirements into its bylaws. Yet the Justice Department picks out RML to sue to satisfy its stated objective to "make an example out of RML".

The insistence of the Justice Department in seeking an injunction against RML for doing things which it is not doing, is not in the public interest, constitutes another gross misuse of public tax monies, a crowding of an already overcrowded court docket, and is causing RML to spend substantial assets against unfair strong arm tactics of its government. The effect of all of this is to make the public suffer because RML is less able to furnish the public service for which it was organized and which it has consistently sought to furnish the citizens of Muscogee County, Georgia.

PUTTING AUTOMOBILE EMISSION CONTROLS IN CONTEXT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of California. Mr. Speaker, in the next few days we will be voting on various proposals to delay implementing existing automobile emission control standards. The issue has already been hotly debated, and the battle lines have been fairly clearly drawn. The debate appears to have boiled down to how much delay can the auto lobbyists gain, versus how much commitment to clean air will the Congress demonstrate. Other issues have been raised, but as is shown in my Extension of Remarks for today, these other issues are not substantive. This is especially true for the arguments raised about fuel economy and auto emissions.

At this time I wish to insert, for the RECORD, a "Dear Colleague" letter that I sent out today, and further urge my colleagues to review my Extensions of Remarks on this subject.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 30, 1976.

AUTO EMISSIONS IN CONTEXT

DEAR COLLEAGUE: This letter is an attempt to put the various proposals for automobile emission standards in context. As Chairman of the Environment and Atmosphere Subcommittee of the Committee on Science and Technology I have followed automotive pollution issues quite closely. As the debate over auto emission standards has developed, I know that the charges and countercharges have grown more confusing.

Basically, the Committee bill represents a position in between that of Congressmen Dingell and Broyhill and that of Congressmen Waxman and Maguire. While the Committee bill is in the middle-ground on auto emissions politically, the issue itself, the date for attainment of certain regulated pollutants, is not as simply described.

The existing law, which was enacted in 1970, required the auto industry to gradually, but continually reduce automobile emissions until certain emission standards, needed to achieve ambient air quality standards, were met in 1976. In 1974, primarily as a result of the energy crisis, the Congress decided to give the auto industry until 1977 to meet these final standards, unless the EPA Administrator decided an additional year was needed. The EPA Administrator was to make his decision early in 1975. Obviously the auto industry asked for another years' delay.

In March 1975 the EPA Administrator granted an additional year's delay, to quote from the EPA, "solely because of his concern as to the adverse health impact which might result from the higher levels of sulfuric acid emissions expected to accompany design chanegs made to reduce the other pollutant emissions." In April 1976, after prodding by my Subcommittee and others, the EPA concluded that they drastically overestimated the sulfuric acid emission problem in 1975, and no longer expected to regulate this pollutant. It is quite significant that the sole reason used for postponing the attainment of auto emission standard from 1977 to 1978 is no longer valid. This history brings us to the amendments before us.

For two pollutants, HC and CO, the Waxman-Maguire amendment is the same as the original subcommittee bill, which required a partial attainment of the 1978 standard in 1978, but did not fully meet the 1978 standard until 1980. Thus, the Waxman-Maguire amendment postpones the attainment of auto emission standards two years beyond existing law. The Committee bill maintains the present 1975 standards, until 1980, without any improvement in 1978 or 1979. The Dingell-Broyhill amendment, postpones the date of attainment until 1982, or four years beyond existing law. For the third regulated pollutant, NO_x, the Waxman-Maguire amendment and the Committee bill allow for postponement from the 1978 standard until as late as 1985. The Dingell-Broyhill amendment, in sharp contrast to all other proposals, contains no date for the control of nitrogen oxides (NO_x). This may mean a permanent freeze in NO_x controls.

As can be seen from the information above, none of the proposals are as stringent as existing law. All of the proposals give the auto industry more time for meeting auto emission standards. The standards which are delayed by all proposals are already being met in California, which is 10% of the auto market. Even the proposed 1980 standards in the Waxman-Maguire amendment have been met by a prominent automobile manufacturer.

In view of the information presented to me in my investigations of this matter, I can see little, if any justification for amending the existing law as drastically as any of the automobile emission proposals. While the Waxman-Maguire amendment, which is in reality the compromise proposal of the Subcommittee on Health and the Environment, is preferable to all other proposals, even this delay is not really justified. Technology which is effective at controlling pollutants, and economical to install, is now available. The auto industry, which is meeting stricter standards for 10% of its market and is currently enjoying record profits, can and should clean up their engines before 1980.

The Congress must now decide if its commitment to firm deadlines for clean air is still strong.

Sincerely,

George E. Brown, Jr.,
Member of Congress.

PERSONAL EXPLANATION

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I was unable to be present in the House of Representatives on rollcall 667, the vote on the Mikva amendment to H.R. 8911, the Supplemental Security Income Amendments of 1976. Had I been present I would have voted "aye."

HEW FOOT-DRAGGING?

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on June 23 and August 10, I placed statements in the Record describing my unsuccessful efforts to obtain from HEW a valid analysis of the comparative quality of care provided by the various types of nursing home and home health care modalities. Those who have followed this issue know that my inquiries are not new; that, indeed, my questions and HEW's delays on this subject have been matters of discussion for well over a year.

In my most recent correspondence with HEW Secretary David Mathews, dated August 3, I was pleased to hear that HEW has finally made a commitment to complete such a study. I was most distressed to learn, however, that this study would not be ready until sometime in 1978.

On August 16, I sent letters to numerous individuals and organizations knowledgeable in the area of nursing and home health care. My purpose in sending these letters was to get opinions from those outside the bureaucratic structure of HEW on the question of whether HEW in fact needs 2 more years to complete this study and whether the information HEW and the Congress needs might be available much sooner.

The appended responses to my letter indicate that HEW may already have this information in its possession but that it has not been adequately analyzed. If this is the case, the responses also indicate that it should take HEW only about a year to compile the necessary study.

A year and a half after my initial correspondence with HEW on this matter, I am, understandably I hope, concerned with what may be foot dragging on the part of HEW.

The letters I have received follow:

Center for Policy Research, Inc.,
New York, N.Y., August 19, 1976.
Hon. Edward I. Koch,
U.S. House of Representatives, Longworth Office Building, Washington, D.C.

Dear Congressman Koch: In reference to your letter of August 16th, there can be no question that HEW data now contain relevant information about the difference in quality of care provided by non-profit vs. proprietary nursing homes. True, the data are incomplete; but so will they be in 1978. Data are always stronger or weaker. If HEW wishes, all they need to do is to release the data they have and indicate their limitations by the various standard procedures available for this purpose.

Second, I have it on good authority that HEW's reluctance stems from the fact that the data are unfavorable to the proprietaries some of the officials involved favor on philosophical and other grounds.

This is not to suggest that the data are not weak. But much weaker data are routinely released by HEW, and other federal agencies.

I congratulate you for pursuing this matter.

Sincerely,

Amitai Etzioni,
Director.

The Assembly,
State of New York,
Albany, N.Y., August 26, 1976.
Hon. Edward I. Koch,
U.S. House of Representatives, Longworth Office Building, Washington, D.C.

Dear Congressman Koch: I have your letter of August 16th regarding the length of time HEW said that it requires to complete an evaluation on the comparative quality of care provided by non-profit and proprietary nursing homes and agencies.

I would venture to say that this information is readily available now. However, it seems to me that it takes agencies at least a year to put the information together in a report.

If I can be of further help to you, please do not hesitate to call upon me.

Kind regards.

Sincerely,

Herbert J. Miller,
Member of Assembly.

Coalition for Health Funding,
Washington, D.C., August 23, 1976.
Hon. Edward I. Koch,
U.S. House of Representatives,, Longworth Office Building, Washington, D.C.

Dear Mr. Koch: Thank you for your letter of August 16, 1976 regarding the comparative quality of care provided by non-profit and proprietary nursing homes and home health agencies.

Since I am not familiar with the HEW survey I do not know whether or not data is available to adequately measure the quality of care. I agree, however, that the data that is available could be furnished you and the public prior to 1978.

With best wishes, I am

Sincerely,

Robert W. Barclay,
President.

Community Research Applications, Inc.
New York, N.Y., August 25, 1976.
Congressman Edward Koch,
Longworth Office Building,
Washington, D.C.

Dear Congressman Koch: This letter is in response to yours of August 16, in which you asked for my reviews regarding the time required for HEW to prepare reports requested by you. As a preamble to my response, I would caution that I am currently on vacation, with the result that (a) I do not have all of the "facts and figures" before me, and (b) you will receive this letter "as dictated," so that the sequence may be somewhat jumbled.

First, let me say that I empathize with your efforts and your frustration. Over the years, I have found it nigh-on impossible to obtain information when requested. In responding to your letter, I think that it might be helpful to differentiate between nursing home care, and home health care, as there have been specific efforts addressed to each, as you know.

Dealing first with nursing homes, several thoughts come to mind. First, the "long-term care facility improvement study" involved, as I recall, only slightly less than 90% of all facilities participating in Medicare and/or Medicaid programs. Among those institutions included in the sample, approximately three-quarters were proprietary, and 10% voluntary, non-profit. While at first glance it would seem that this sample, which included a numeric total of over 6500 different facilities, would be sufficient for some analyses of the type you suggest. However, I do remember that, in the report, mention was made of the probable sampling insufficiency associated with the "non-profit" homes, and am not clear as to the specific sampling procedures used. Therefore, it may well be that the non-profit facilities included in the study are *not* representative of the universe of such facilities and that, therefore, valid generalization cannot, and should not, be made.

The question of adequate base for generalization becomes more acute, when one recognizes the highly complex interrelationships which exist among quality of care, characteristics of patients, cost of care, and profit/non-profit status. For example, our work suggests that the rates in non-profit institutions are often greater than those among the proprietaries; however, this differential might be accounted for by the fact that the non-profit institutions appear to provide more intensive service, for a more disabled population. I would hasten to add, however, that this is pure speculation, perhaps influenced by my bias in favor of the non-proprietaries. However, in the absence of any definitive knowledge as to the representativesness of the non-proprietary sample, I would share the feeling of HEW that great circumspection should be used in any attempt to generalize from these data. Thus, while I don't see why there should be any problem in analyzing the data along the lines you suggest, I think that the outcome might well be questionable.

As regards the timeframe of the current study, i.e., results no earlier than 1978, my feeling is that the design and implementation of the study as comprehensive as that being currently undertaken could well require the time period represented. Thus, while I feel that it is indeed regrettable that such data are not currently available, I can well understand the reluctance of HEW officials to provide any attenuated time estimates, or interim data.

Still addressing the topic of nursing homes, I would point out to you that there is an additional potential source of information as regards quality of care, namely, the Nursing Home Ombudsman Program, which was transferred from the Health Services and Mental Health Administration to the Administration on Aging in 1973. AoA funded a number of states, I believe 43 in all, for the operation of a Nursing Home Ombudsman program in July of 1975. Hopefully, there would be some data available from the state programs, which reflect upon the nature and quality of care provided, or not provided, at the state level. This might warrant your review. If such data are not currently available, there is little doubt in my mind but that congressional "stimulation" could be highly productive in this regard.

Turning to the question of home health services, somewhat the same observations are relevant. That is, the data collected thus far have been both rudimentary and fragmentary; the current study of home health service being undertaken by HEW should provide definitive materials; however, I am certain that they will not be available for some time.

In the interim, there have been some isolated attempts to quantify the home health care experience. For example, the Worcester, Massachusetts home care program, operating under a Section 1115 Medicaid waiver, provided comprehensive services to an at-risk elderly population. Community Research Applications was responsible for the service monitoring and cost analysis of this demonstration program—I must admit that the results were anything but conclusive, for a variety of program-related reasons. Another home health services program being conducted currently is that conducted in the State of Wisconsin (I believe), again under Medicaid waiver, with additional support provided by the Kellog Foundation. I am not acquainted with any of their reports, but recall that this is a comprehensive program, which might provide you with some specific relevant information.

In summary, I share with you a feeling of frustration as regards the current availability of vital program planning and management information. I feel that it is little short of reprehensible that such data have not been already collected, and made available. At the same time, while recognizing the absurdity of the situation, I must concur with the HEW representatives with whom you have been in contact in feeling that (a) a "sound" study cannot be mounted and completed in much less than 2 years, and (b) that it would probably be counter-productive to attempt any major acceleration of the process. On the other hand, at the personal level, I would hope that you could continue to act as a "gadfly," so that the study is not allowed to drag on interminably, as such efforts often have a way of doing. In the meantime, I hope that some of the other data sources I mentioned may be of some assistance to you.

Thank you for having given me the opportunity to unload some of my feelings about the current state of data collection. I am sorry that I could not honestly provide a more positive response to the central question raised in your letter. However, do, please, continue to ask these very pointed questions.

Sincerely,

Douglas Holmes, Ph. D.,
President.

ON THE CIVIC RIGHTS OF MUNICIPAL AND STATE EMPLOYEES

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I should like to bring to the attention of our colleagues a situation which recently existed in the City of New York and which may still exist elsewhere in the country.

One of my constituents came to see me in July and advised me that she was an employee of the city of New York. She told me that she wanted to participate on her own time in the political process—not on my behalf, I add parenthetically—and had been told by the board of ethics of the city of New York that while officers and employees of the city of New York are generally not prohibited against engaging in political activities, that "there are Federal Hatch Act provisions that apply to employees whose agencies receive Federal funds." And that as a result of that she was told "your activities in the political sphere must be reported to the head of your agency."

It was clear to me that counsel to the board of ethics of the city of New York was not aware of Public Law 93–443, section 401 which became law on October 15, 1974, which changed the prohibitions of the Hatch Act applying to the employees of municipal and State governments when all or part of their salary is federally financed. In an exchange of correspondence with S. Stanley Kreutzer, counsel of the board of ethics for New York City, I brought this change in the law to his attention and he has agreed that city employees no longer shall be required to report their political activities to the heads of their respective agencies, "but rather that agencies should inform its employees of any limitations or restrictions, if any."

Obviously, there is an important difference between advising employees of the city and State as to what they may and may not do under the law with respect to political activities and requiring them to report their activities to the heads of their departments.

As I said to Mr. Kreutzer in my letter to him of August 12, 1976, to require advance reporting of legitimate political activities is, in my judgment, an improper restriction. Such reporting would have a "chilling effect" on the legitimate political activities of public employees, and I am happy that this practice will now be stopped in New York City.

Regrettably, in his memorandum to the city employees, Mr. Kreutzer misinformed them as to one aspect of the Hatch provisions: city employees, contrary to Mr. Kreutzer's memorandum, may not be candidates for public office in a partisan State or local election. The only employees who are exempted from this restriction are those who hold local or State office, who may continue to run for those offices. Local and State employees who are covered by the restrictions may run for party office, as Mr. Kreutzer correctly states. I have informed Mr. Kreutzer of the error and suggested that he issue an amended memorandum.

I thought the correspondence would be of interest to our colleagues and I am appending it:

July 15, 1976.

S. Stanley Kreutzer,
Counsel, Board of Ethics,
City Hall, New York, N.Y.

Dear Stanley: A constituent, S P , came to see me recently and provided me with a copy of a memorandum you sent to her dated March 11, 1976 and I am enclosing a copy for your immediate reference.

The second page of your memo states "Your activities in the political sphere must be reported to the head of your agency. You cannot take time away from the official duties with your agency—but must engage in your political activities on your own time and in accordance with the rules and regulations of your department." I certainly agree that a City employee must use his or her own time if he or she engages in political activities but I question your statement, to wit: "Your activities in the political sphere must be reported to the head of your agency."

Why must a City employee who is not Hatched, and they are not as I understand the law, report what he or she does politically on his or her own time? Wouldn't that make City employees second class citizens? And suppose the head of the agency didn't like what the employee was doing, could that administrator require that employee not to so engage in the activities?

I look forward to hearing from you on this matter.

All the best.

Sincerely,

Edward I. Koch.

The City of New York,
Board of Ethics, City Hall,
New York, N.Y., August 3, 1976.

Hon. Edward I. Koch,
26 Federal Plaza,
New York, N.Y.

Dear Ed: This is in reply to your letter. I called to talk to you shortly after its receipt and was informed that you were in Washington and would call me up on your return. Not having heard from you, I am answering your letter and enclosing my exchange of correspondence with Mrs. P.

Generally speaking, it is our view that no employee of the City should be prejudiced in his or her official position because of political activity; that no employee should be under obligation to contribute to a political fund or to render any political service. Nor should a public employee be penalized in any way because of a failure to do so. The corollary is equally true, viz; that no public employer, no matter how high his or her official position, should interfere with the public service of any employee or threaten to do so because the public servant gave or refused to give a contribution of money or services for or on behalf of a party, cause or other political activity; nor should anyone be permitted to use official authority or influence to coerce a public employee into doing or refraining from engaging in any political action.

I also explained to Mrs. P that no one in City government should require her to reveal her political affiliation or the identity of the cause or political party with which she wishes to identify; or any identifying factor concerning her political activity; nor should one's political affiliation or activity be an element in the promotion or evaluation of an employee's public service.

I am almost certain that the Municipal Services Agency, in which Mrs. P is employed, does receive some funding from the Federal government. The Hatch Act applies to employees of the City government if their principal employment is in connection with an activity which is financed in whole or in part by federal loans or grants, as I am sure you know. The requirement of reporting political activities to the head of the agency in our local government probably finds counterparts in many federal agencies as well. I have been so informed by a representative of the United States Civil Service Commission. The purpose of reporting to the agency head is to make sure that the employee does not engage in political activities on City time and also to make sure that those activities are not in conflict with existing laws or official duties. For example, police officers and Civil Service employees are forbidden from engaging in political activities by law. There are many who do not think there should be such a law—but just so long as the law is there, it would seem to me that it would have to be complied with. Take another example, suppose an employee in the Board of Elections were to engage in a partisan political activity against a candidate. Question. Would it not be lack of objectivity for that employee to make decisions or participate in decisions by the Board of Elections?

If you have any further question concerning this, I would appreciate your suggestion as to how you think this matter may be resolved.

Cordially,

S. Stanley Kreutzer,
Counsel.

The City of New York,
Board of Ethics, City Hall,
New York, N.Y., March 11, 1976.
To: Mrs. P.
From: S. Stanley Kreutzer, Counsel.

This is in reply to your request for an opinion in connection with your participation in the forthcoming elections.

In view of the fact that there are legal questions involved we have taken this matter up with the Corporation Counsel who informed us that under New York law, officers and employees of the City are generally not prohibited from running for public office or for a political party office. Except for specific restrictions there is no prohibition against engaging in a political contest or activity of the nature described by you.

The Corporation Counsel has advised us that specified restrictions in the Charter prohibit police from joining a political organization and may not engage in political activity. (Sections 433, 439 of Charter); that Department of Personnel Employees are prohibited from holding office or serving on committees of political organizations or as delegates to a political convention.

There are federal Hatch Act provisions that apply to employees whose agencies receive federal funds. In his opinion, the Corporation Counsel said

". . . it should be noted that the acceptance of certain elective offices will in some cases require such officer or employee to relinquish his position because of specific statutory prohibition. For example, Section 1115 of the City Charter, with certain exceptions, prohibits any person holding City office, whether by election or appointment, from accepting or retaining any other civil office. In addition, there exists the common law principle which prohibits individuals from holding public positions which are incompatible . . . (when) performance by the same individual results in a conflict of duties so that the incumbent of one cannot with propriety discharge the duties of the other. *People ex rel. Ryan* v. *Green*, 58 N.Y. 295, 304–305 (1874)."

I enclose Opinion No. 170 which also involved political activity. City employees should comply with the rules, regulations and policies of their respective agencies concerning political activities. I also bring to your attention the enclosed Charter provisions, Sections 1100, 1108, 1115, 1124.

The special statutory provisions which form part of our Federal law known as the "Hatch Act," impose restrictions on government employees who work in agencies which are federally funded in whole or in part. Since the Hatch Act was amended (effective January 1975) city employees in federally funded agencies are permitted to participate in political activities as private citizens, although they are prohibited from engaging in political "arm twisting," "on the job" financial solicitation, or use of official authority to influence nominations or candidacies for elective offices or partisan political office.

For your information, I set forth in detail Title 5 of the United States Code (Sections 1502 and 1503):

"§ 1502. Influencing elections; taking part in political campaigns; prohibitions; exceptions

"(a) A State or local officer or employee may not—

"(1) Use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

"(2) directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes; or

"(3) be a candidate for elective office.

"§ 1503. Nonpartisan candidacies permitted

"Section 1502(a)(3) of this title does not prohibit any State or local officer or employee from being a candidate in any election if none of the candidates is to be nominated or elected at such election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential elector were selected."

Your activities in the political sphere must be reported to the head of your agency. You cannot take time away from the official duties with your agency—but must engage in your political activities on your own time and in accordance with the rules and regulations of your department.

House of Representatives,
Washington, D.C., August 12, 1976.
S. Stanley Kreutzer,
Counsel, Board of Ethics,
City Hall, New York

Dear Stanley: First let me thank you for your letter of August 3rd. Secondly, you are in error when you state that "The Hatch Act applies to employees of the City government if their principal employment is in connection with an activity which is financed in whole or in part by federal loans or grants, as I am sure you know." That was changed by PL 93–443, Sec. 401 and I am enclosing a copy of that and the Federal Register, Vol. 40, No. 180, September 16, 1975 which sets forth the changes.

In view of the changes, may I suggest that you change your opinion in this matter. I do not believe that notwithstanding whatever limitations there are on City employees concerning political activities, and there are appropriate ones, that they should be required to report those activities to their supervisors. Rather it seems to me that they should be notified as to what the limitations and restrictions are and if they violate those then they are subject to appropriate penalty. But to require advance reporting of legitimate political activities is, in my judgment, an improper restriction.

In view of this additional information which I have brought to your attention, I ask that you reconsider your decision in this case regarding Mrs. P and others similarly situated.

All the best and please advise.

Sincerely,

Edward I. Koch.

The City of New York,
Board of Ethics, City Hall,
New York, N.Y., August 23, 1976.
Hon. Edward I. Koch,
Congress of the United States,
House of Representatives,
Washington, D.C.

Dear Ed: I thank you for your letter of August 12. The information which you sent about the Hatch Act differs from that which was supplied to me by the U.S. Civil Service Commission. However, I accept your view. The views of the Federal Civil Service Commission seem to me to be in a state of flux at this time and probably reflect the uncertainties and hesitations of decision with which many a civil servant often grapples.

I read your letter very carefully. I agree with you that limitations and restrictions should be clearly set forth by agency heads. Obviously, they should be within constitutional limits and in accord with existing statutes of the federal, state and local governments.

I explained to Mrs. P a number of times that "Hatch" employees may take an active part in political campaigns; that a civil servant could be a candidate for political office; that she could hold membership or office in a political party, organization or club and could attend political conventions and express her views with respect to causes, candidates or subjects of a political nature.

Concerning political contributions, however, I bring your attention to Section 1108 of the Charter and once again refer to the fact that provisions of city, state, and federal laws must be complied with.

Consequently, having given consideration to the various aspects of the case with respect to Mrs. P, it is my opinion that she should not be required to report her political activities to the head of her agency, but rather that agencies should inform its employees of any limitations or restrictions, if any.

Thank you for helping to straighten this matter out.

Cordially,

S. Stanley Kreutzer.

Board of Ethics Memorandum

August 30, 1976.

Re: Political Activities.
To: City Employees.
From: S. Stanley Kreutzer.

Based on information given to me by a Congressman, employees who are "Hatched" are no longer subject to the previous limitations that heretofore existed. Under present law employees who are "Hatched" may take an active part in political campaigns; they may like all other employees be candidates for political office and hold membership or office in a political party, organization or club. They are also permitted to express their views concerning causes, candidates or subjects of a political nature and may attend and participate in political conventions.

There are exceptions such as Police Officers, Civil Service Commission employees and possibly others.

It is important to observe Section 1108 of the Charter (attached) which forbids political contributions from city employees under the penalty of forfeiture of public office or employment. A violation of Section 1108 is a misdemeanor.

Agency heads should set forth guidelines which may include limitations and restrictions provided they are reasonable and within constitutional provisions. Obviously, these limitations and restrictions should not only be within constitutional limits but also in accordance with Federal, State and local statutes.

House of Representatives,
Washington, D.C., August 30, 1976.
S. Stanley Kreutzer,
Counsel, The City of New York,
Board of Ethics, City Hall,
New York, N.Y.

Dear Stanley: I have your memorandum of August 30, and while I was delighted that you accepted my suggestion that city employees not be required to clear their political activities with their supervisors, and rather simply be informed about the acceptable limits of their political activities under the law, I regret to advise you that your memorandum was not entirely factual and should be corrected.

The memorandum is in error in stating that affected city and state employees may be candidates in a partisan election for public office. City employees who had formally been "Hatched" may not run for partisan public office, unless they are already holding elected office. They can run for party office. The restrictions are set forth in the Public Law and Federal Register which accompanied my letter of August 12. The Federal Register is that of September 16, 1975, not the date mentioned in your memorandum.

If you have additional questions on the matter, feel free to call me or the Federal Election Commission (toll-free 800–424–9531). I suggest that you send out an amended memorandum forthwith.

All the best.

Sincerely,

Edward I. Koch.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Helstoski (at the request of Mr. O'Neill), for today, on account of official business.

Mrs. Collins of Illinois (at the request of Mr. O'Neill), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hansen) and to revise and extend their remarks and include extraneous matter:)

Mr. Crane, for 30 minutes, today.

Mr. Devine, for 10 minutes, today.

(The following Members (at the request of Mr. Blanchard), to revise and extend their remarks, and to include extraneous matter:)

Mr. O'Neill, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Wolff, for 30 minutes, today.

Mr. Rostenkowski, for 10 minutes, today.

Mr. Dominick V. Daniels, for 5 minutes, today.

Mr. Baucus, for 10 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Brinkley, for 30 minutes, today.

Mr. Brown of California, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Brademas to revise and extend his remarks on the various printing resolutions from the Committee on House Administration today.

(The following Members (at the request of Mr. Hansen) and to include extraneous matter:)

Mr. Heinz.

Mr. Derwinski.

Mr. McClory in two instances.

Mr. Del Clawson.

Mr. Rhodes.

Mr. Anderson of Illinois.

Mr. Shuster.

Mr. Sarasin.

Mr. Paul in two instances.

(The following Members (at the request of Mr. Blanchard) and to include extraneous matter:)

Mr. Annunzio in six instances.

Mr. Brown of California in 10 instances.

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. Nolan.

Mr. Teague.

Mr. Downey of New York in four instances.

Mr. Mazzoli.

Ms. Abzug.

Mr. Bingham in 10 instances.

Mr. Dent.

Mr. Patten.

Mr. Drinan in five instances.

Mr. Roe in two instances.

Mr. Stephens.

Mr. Taylor of North Carolina.

Mr. Edgar.

Mr. Lehman.

Mr. Waxman.

Mr. Hall of Illinois in two instances.

Mr. Rangel.

Mr. McDonald in four instances.

Mr. Fary.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3395. An act to authorize appropriations for the construction of the Uintah unit of the central Utah project; to the Committee on Interior and Insular Affairs.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 9153. An act granting the consent of Congress to the New Hampshire-Vermont Interstate Sewage Waste Disposal Facilities Compact.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on August 26, 1976, present to the President, for his approval, bills of the House of the following titles:

H.R. 3650. An act to clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes;

H.R. 10370. An act to amend the act of January 3, 1975, establishing the Canaveral National Seashore;

H.R. 11009. An act to provide for an independent audit of the financial condition of the government of the District of Columbia;

H.R. 12261. An act to extend the period during which the Council of the District of Columbia is prohibited from revising the criminal laws of the District;

H.R. 12455. An act to amend title XX of the Social Security Act so as to permit greater latitude by the States in establishing criteria respecting eligibility for social services to facilitate and encourage the implementation by States of child day care services programs conducted pursuant to such title, to promote the employment of welfare recipients in the provision of child day care services, and for other purposes; and

H.R. 13679. An act to provide assistance to the Government of Guam, to guarantee certain obligations of the Guam Power Authority, and for other purposes.

ADJOURNMENT

Mr. BLANCHARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 16 minutes p.m.), the House adjourned until tomorrow, Tuesday, August 31, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3881. A letter from the President of the United States, transmitting his determination (No. TQ 3) that the sale of certain defense articles and services to Turkey are necessary to enable her to fulfill her obligations as a member of the North Atlantic Treaty Organization, and his suspension of the provisions of section 620(x) of the Foreign Assistance Act and section 3(c) of the Arms Export Control Act, pursuant to section 620(x) of the Foreign Assistance Act, as amended (90 Stat. 757) (H. Doc. No. 94–590); to the Committee on International Relations and ordered to be printed.

3882. A letter from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1977 for the National Commission on Libraries and Information Science (H. Doc. No. 94–591); to the Committee on Appropriations and ordered to be printed.

3883. A letter from the President of the United States, transmitting a budget amendment for fiscal year 1977 for the Department of Health, Education, and Welfare (H. Doc. 94–592); to the Committee on Appropriations and ordered to be printed.

3884. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report of actions taken on recommendations contained in the annual report of the Federal Council on the Aging, dated March 31, 1975, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

3885. A letter from the Deputy Assistant Secretary of Defense (Comptroller), transmitting notice of a proposed change to an existing system of records in the Department of the Air Force, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3886. A letter from the Administrator, Office of Federal Procurement Policy, Executive Office of the President, transmitting a report on the study of procurement payable from nonappropriated funds, pursuant to section 6(c) of Public Law 93–400; to the Committee on Government Operations.

3887. A letter from the Chairman, Federal Election Commission, transmitting amendments to the Commission's regulations governing the Presidential Primary Matching Fund Account, pursuant to section 316(c) of the Federal Election Campaign Act, as amended [2 U.S.C. 438] (H. Doc. No. 94–593); to the Committee on House Administration and ordered to be printed.

3888. A letter from the Deputy Assistant Secretary of the Interior, transmitting the third volume of the westwide study report entitled "Critical Water Problems Facing the Eleven Western States," pursuant to Public Law 90–537; to the Committee on Interior and Insular Affairs.

3889. A letter from the Chairman, Federal Power Commission, transmitting copies of publications entitled "Statistics of Publicly Owned Electric Utilities in the United States, 1974," and "Principal Electric Facilities, 1976," regional maps; to the Committee on Interstate and Foreign Commerce.

3890. A letter from the Acting Executive Director, Federal Communications Commission; transmitting a report on the backlog of pending applications and hearing cases in the Commission as of June 30, 1976, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

3891. A letter from the Vice President, Government Affairs, National Railroad Passenger Corporation; transmitting the financial report of the Corporation for May, 1976, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

3892. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112(b) of Public Law 92–403; to the Committee on International Relations.

3893. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to provide for protection of the spouses of major Presidential and Vice Presidential nominees; to the Committee on the Judiciary.

3894. A letter from the Executive Director, American Historical Association, transmitting the audit report for the organization for the year ended June 30, 1976, pursuant to section 3 of Public Law 88–504; to the Committee on the Judiciary.

3895. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend section 510(i) of the Merchant Marine Act, 1936; to the Committee on Merchant Marine and Fisheries.

3896. A letter from the Secretary of Transportation, transmitting a prospectus proposing construction of a new technical and administrative complex at the National Aviation Facilities Experimental Center (Federal Aviation Administration) near Atlantic City, N.J.; to the Committee on Public Works and Transportation.

3897. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Los Angeles-Long Beach Harbors, Calif. (H. Doc. No. 94–594); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

Received From the Comptroller General

3898. A letter from the Acting Comptroller General of the United States, transmitting his review of the proposed rescissions and deferrals of budget authority contained in the message from the President dated July 28, 1976 (H. Doc. No. 94–567), pursuant to section 1014(b) of Public Law 93–344 (H. Doc. 94–595); to the Committee on Appropriations and ordered to be printed.

3899. A letter from the Acting Comptroller General of the United States, transmitting a report on procedures for reducing Air Force war reserve requirements for spares and repair parts and improving the readiness posture of combat units; jointly, to the Committees on Government Operations, and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on August 26, 1976, the following report was filed on August 27, 1976*]

Mr. BROOKS: Committee on Government Operations. H.R. 14886. A bill to revise the appropriation authorization for the Presidential Transition Act of 1963; with amendments. (Rept. No. 94–1442). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on August 26, 1976, the following report was filed on August 27, 1976*]

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 13089. A bill to amend the Uniform Time Act of 1966 to change the period of observance of daylight saving time; with amendments (Rept. No. 94–1443). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BRINKLEY:

H.R. 15310. A bill to establish a council on judicial tenure in the judicial branch of the Government, to establish a procedure in addition to impeachment for the retirement of disabled Justices and judges of the United States, and the removal of Justices and judges whose conduct is or has been inconsistent with the good behavior required by article III, section 1 of the Constitution, and for other purposes; to the Committee on the Judiciary.

By Mr. JOHN L. BURTON:

H.R. 15311. A bill to provide that expenditures made in connection with certain debates between candidates during the 1976 Presidential campaign shall not be considered political contributions or expenditures for purposes of the Federal Election Campaign Act of 1971 or any other Federal law; to the Committee on House Administration.

By Mr. DAVIS:

H.R. 15312. A bill to repeal titles XV and XVI of the Public Health Service Act; to the Committee on Interstate and Foreign Commerce.

By Mr. GAYDOS:

H.R. 15313. A bill to amend title II of the Social Security Act to provide that the automatic cost-of-living increases in benefits which are authorized thereunder may be made on a semiannual basis (rather than only on an annual basis as at present); to the Committee on Ways and Means.

By Mr. GAYDOS:

H.R. 15314. A bill to provide for the monthly publication of a consumer price index for the aged and other social security beneficiaries, which shall be used in the provisions of the cost-of-living benefit increase authorized by title II of the Social Security Act; to the Committee on Ways and Means.

By Mr. JACOBS:

H.R. 15315. A bill to amend the Federal Trade Commission Act to provide that exclusive territorial arrangements used in the distribution or sale of a trademarked soft drink product or a trademarked private label food product shall not be deemed unlawful per se; jointly, to the Committees on Interstate and Foreign Commerce, and the Judiciary.

By Mr. MILLER of Ohio (for himself, Mr. Jones of Oklahoma, Mr. Rinaldo, Mr. Del Clawson, Mr. Hechler of West Virginia, Mr. Kindness, Mr. Whitehurst, Mr. Gaydos, Mr. Sebelius, Mr. Lent, Mr. Derwinski, Mr. Devine, Mr. Mollohan, Mr. Dan Daniel, Mr. Johnson of Pennsylvania, Mr. Bevill, Mr. Hughes, Mr. Ichord, Mr. Treen, Mr. Charles Wilson of Texas, Mr. Lagomarsino, Mr. Bafalis, Mr. Ketchum, Mr. Guyer, and Mr. Cederberg):

H.R. 15316. A bill to amend section 901(a) (relating to prohibition of sex discrimination) of the Education Amendments of 1972 to exempt from the prohibition of such section musical programs or activities, and social programs or activities designed for parent and students; to the Committee on Education and Labor.

By Mr. PRICE (for himself and Mr. Bob Wilson) (by request):

H.R. 15317. A bill to amend chapter 639 of title 10, United States Code, to enable the Secretary of the Navy to change the name of a publication of the Naval Observatory providing data for navigators and astronomers; to the Committee on Armed Services.

By Mrs. SULLIVAN:

H.R. 15318. A bill to authorize the construction of a replacement lock and dam for locks and dam 26, Mississippi River, Alton, Ill., and for other purposes; to the Committee on Public Works and Transportation.

By Mr. HUNGATE:

H.R. 15319. A bill to approve in whole or in part, with amendments, certain rules relating to cases and proceedings under setcions 2254 and 2255 of title 28 of the United States Code; to the Committee on the Judiciary.

By Mr. EDGAR:

H.R. 15320. A bill to designate the first Tuesday after the first Monday in November, in every even-numbered year, as a legal public holiday; to the Committee on Post Office and Civil Service.

By Mr. EDWARDS of Alabama:

H.R. 15321. A bill to amend part D of title IV of the Social Security Act to limit the amount of an individual's wages which is subject to garnishment thereunder, for the enforcement of child support and alimony obligations, to 50 percent of such wages (or such lower amount as may be provided by State law); to the Committee on Ways and Means.

By Mr. GUDE (for himself, Mr. Baucus, and Mr. Bedell):

H.R. 15322. A bill to amend the Federal employee health insurance provisions of title 5, United States Code, to require that notice and hearing be provided before the effective date of any reduction of health benefits or any exclusion of any type of provider of health services; to the Committee on Post Office and Civil Service.

By Mr. HEINZ (for himself, Mr. D'Amours, Mr. Lehman, Mr. Yatron, Mr. Coughlin, Mr. Buchanan, Mr. Sarasin, Mr. Howe, Ms. Abzug, and Mr. St Germain):

H.R. 15323. A bill to authorize the Secretary of Housing and Urban Development to make grants to local agencies for converting closed school buildings to efficient, alternate uses, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. HEINZ (for himself, Mr. Lehman, Mr. Yatron, Mr. Sarasin, Mr. Howe, Ms. Abzug, and Mr. St Germain):

H.R. 15324. A bill to amend the Internal Revenue Code of 1954 to encourage businesses to purchase surplus school or hospital buildings from governmental and nonprofit entities by providing rapid amortization for such buildings; to the Committee on Ways and Means.

By Mr. HEINZ (for himself, Mr. Baucus, Mr. Gilman, and Mr. Hamilton):

H.R. 15325. A bill to establish a program for repairing and replacing unsafe highway bridges; jointly, to the Committees on Public Works and Transportation, and Ways and Means.

By Mr. JONES of North Carolina:

H.R. 15326. A bill to amend the project for Atlantic Intracoastal Waterway bridges, Virginia and North Carolina; to the Committee on Public Works and Transportation.

By Mr. LAGOMARSINO:

H.R. 15327. A bill to amend title 39, United States Code, to provide for the mailing of correspondence to Members of the Congress free of postage, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MATSUNAGA:

H.R. 15328. A bill to establish the national diabetes advisory board and to take other actions to insure the implementation of the long-range plan to combat diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. MYERS of Pennsylvania:

H.R. 15329. A bill to strengthen Federal nepotism laws as they pertain to Members and employees of the Congress, and for other purposes; jointly, to the Committees on Post Office and Civil Service, House Administration, and the Judiciary.

By Mrs. MEYNER (for herself, Mr. AuCoin, and Mr. Baucus):

H.R. 15330. A bill to amend the Internal Revenue Code of 1954 to exempt farmers from the highway use tax on heavy trucks used for farm purposes; to the Committee on Ways and Means.

By Mr. QUIE:

H.R. 15331. A bill to require that imported palm oil and palm oil products made in whole or in part of imported palm oil be labeled, to provide for the inspection of imported palm oil and palm oil products, to require that imported palm oil and palm oil products comply with certain minimum standards of sanitation, and for other purposes; to the Committee on Agriculture.

By Mr. RICHMOND (for himself, Mr. Badillo, Mrs. Chisholm, Mr. Clay, Mr. Downey of New York, Mr. Eilberg, Mr. Flood, Mr. Gilman, Mr. Hawkins, Mr. Mezvinsky, Mr. Miller of California, Mr. Charles Wilson of Texas, Mr. Won Pat, and Mr. Zeferetti):

H.R. 15332. A bill to amend the Older Americans Act of 1965 to require the Commissioner on Aging to establish a special supplemental food program and medical examination and referral program for older Americans, and for other purposes; to the Committee on Education and Labor.

By Mr. SMITH of Iowa (for himself, Mr. Bergland, and Mr. Quie):

H.R. 15333. A bill to authorize the construction of a lock and dam project on the Mississippi River near Alton, Ill., to revoke authority for 12-foot channel studies on the upper Mississippi River and its tributaries, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. BRODHEAD (for himself, Mr. Andrews of North Carolina, Mr. Buchanan, Mrs. Chisholm, Mrs. Collins of Illinois, Mr. Edwards of Alabama, Mr. Flood, Mr. Ford of Michigan, Mr. Helstoski, Mr. La Falce, Mr. Lujan, Mr. Lundine, Mrs. Mink, Mr. Mollohan, Mr. Pickle, Mr. Rose, Mrs. Spellman, Mr. Quie, and Mr. Vander Veen):

H.J. Res. 1076. A resolution providing for the designation of the week beginning October 3, 1976, and ending October 9, 1976, as "National Gifted Children Week"; to the Committee on Post Office and Civil Service.

By Mr. HANNAFORD:

H.J. Res. 1077. A resolution to establish a national commission on housing for the elderly; to the Committee on Banking, Currency and Housing.

By Mr. JACOBS (for himself, Mr. Derwinski, Mr. Bevill, Mr. Andrews of North Carolina, Mr. Burgener, Mr. Cleveland, Mr. Russo, and Mr. Charles Wilson of Texas):

H.J. Res. 1078. A resolution to amend the Constitution of the United States to provide for balanced budgets and elimination of the Federal indebtedness; to the Committee on the Judiciary.

By Mr. KETCHUM:

H.J. Res. 1079. A resolution proposing an amendment to the Constitution of the United States to provide that no person 65 years of age or older may become President, Vice President, Senator, Representative, or be an officer of the United States; to the Committee on the Judiciary.

By Mr. ROYBAL (for himself, Ms. Abzug, Mr. Anderson of Illinois, Mr. Baucus, Mr. Beard of Rhode Island, Mr. Blouin, Mr. John L. Burton, Mr. Conte, Mr. Cornell, Mr. Early, Mr. Florio, Mr. Grassley, Mr. Hayes of Indiana, Mr. Lott, Mr. Mazzoli, Mr. Moffett, Mr. Mollohan, Mr. Oberstar, Mr. O'Neill, Mr. Sarbanes, and Mr. Sisk):

H.J. Res. 1080. A resolution authorizing the President to proclaim September 8 of each year as "National Cancer Day"; to the Committee on Post Office and Civil Service.

By Mr. BUCHANAN (for himself, Mr. Fascell, and Mr. Fraser):

H. Con. Res. 725. A resolution to state that Georgi Vins should be released and that the Soviet Government should permit religious believers within its borders to worship God according to their own conscience; to the Committee on International Relations.

By Mr. FLYNT:

H. Res. 1500. A resolution to provide for the additional expenses of the Committee on Standards of Official Conduct for the investigation authorized by H. Res. 1042; to the Committee on House Administration.

By Mr. SIKES:

H. Res. 1501. A resolution expressing the sense of the House regarding the closing of post offices; to the Committee on Post Office and Civil Service.

By Mr. SISK (for himself, Mr. Pepper, Mr. Murphy of Illinois, Mr. Young of Georgia, and Mr. Anderson of Illinois):

H. Res. 1502. A resolution amending the Rules of the House of Representatives to provide for television and radio coverage of the proceedings of the House; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON:

H.R. 15334. A bill for the relief of Pedro Berdnicoff Zadovsky; to the Committee on the Judiciary.

H.R. 15335. A bill for the relief of Zoila Anelda Munoz; to the Committee on the Judiciary.

By Mr. McFALL:

H.R. 15336. A bill for the relief of Eduardo Jose Araya Quispe; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

569. By Mrs. MINK: Petition of officers and members of credit unions in Hawaii, relative to the proposed "Financial Institutions Act of 1975"; to the Committee on Banking, Currency and Housing.

570. By the SPEAKER: Petition of Robert T. Crew, Jacksonville, Fla., relative to the use of fuel flow instruments on automobiles; to the Committee on Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10498

By Mr. BUTLER:

Amendment No. 1: Page 332, strike line 1 and all thereafter through and including line 10 on page 335, and renumber the following sections accordingly and make the necessary conforming changes in the table of contents.

Amendment No. 2: Page 332, strike line 1 and all thereafter through and including line 17 on page 334, and insert in lieu thereof the following heading:

"COSTS OF LITIGATION"

Page 334, line 18, delete "(b)" where it first appears and insert in lieu thereof: "Sec. 311. (a)".

Page 335, line 1, resignate "(c)" as "(b)".

Page 335, line 8, redesignate "(d)" as "(c)".

Make the necessary conforming changes in the table of contents.

Amendment No. 3: Page 332, beginning on line 5, delete "as otherwise provided in subsection (b)" and insert in lieu thereof: "in the case of actions before the Supreme Court".

Page 332, strike line 19 and all thereafter through and including line 24 on page 333.

Page 334, line 1, redesignate "4" as "b".

Page 334, strike lines 3 and all thereafter down through the first period in line 17.

By Mr. HUGHES:

On page 236, after line 12, insert the following new section:

TEMPORARY EMERGENCY REVISIONS

Sec. 116. Section 110 of the Clean Air Act (42 U.S.C. 1857c–5), as amended by section 103 of this Act, is amended by adding at the end thereof the following new subsection:

"(f)(1) Upon application by the owner or operator of a fuel burning stationary source, and after notice and public hearing on the record, an emergency revision of an implementation plan with respect to such source may be made by the Governor of the State in which such source is located and may take effect immediately pending approval or disapproval by the Administrator.

"(2) An emergency revision under this subsection shall be made only if the Governor of such State finds that—

"(A) there exists in the vicinity of such source an economic emergency involving actual or threatened high levels of unemployment;

"(B) such unemployment can be totally or partially alleviated by such emergency revision; and

"(C) such emergency revision, together with all other revisions effective under this subsection, will not result in emisions from such source of any air pollutant which may cause, or materially contribute to any delay in the attainment of, or preventing the maintenance of, any national ambient air quality standard for such pollutant.

"(3) A temporary emergency revision made by a Governor under this subsection shall remain in effect for a maximum of four months. The Administrator shall, within such four month period, approve such revision if he determines that it meets the requirements of paragraph (2) of subsection (a) of this section.

"(4) This subsection shall not apply in the case of a plan promulgated by the Administrator under subsection (c) of this section.

"(5) No emergency revision may be effective pursuant to this subsection if such revision contains any plan provision which has been disapproved by the Administrator (or any plan provision which would have the effect of a provision which has been disapproved by the Administrator) at any time during the 18 months preceding the date of application for such revision."

By Mr. KOCH:

Page 302, after line 7, insert:

CARBON MONOXIDE STANDARDS FOR SCHOOLBUS PASSENGER AREAS

Sec. 220. (a) Title II of the Clean Air Act (relating to emission standards for moving sources) is amended by adding the following new part at the end thereof:

"PART D—CARBON MONOXIDE STANDARDS FOR SCHOOLBUS PASSENGER AREAS

"ESTABLISHMENT OF STANDARDS

"Sec. 241. (a) The Administrator, in conjunction with the Secretary of Transportation, shall study the problem of carbon monoxide intrusion into the passenger area of buses and sustained-use motor vehicles. Such study shall include an analysis of the sources and levels of carbon monoxide in the passenger area of such buses and vehicles and a determination of the effects of carbon monoxide upon the passengers. The study shall also review available methods of monitoring and testing for the presence of carbon monoxide and shall analyze the cost and effectiveness of alternative methods of monitoring and testing and of alternative strategies for attaining and maintaining the standards promulgated under this section. Within one year the Administrator shall report to the Congress respecting the results of such study.

"(b) Not later than fifteen months after the enactment of this part, the Administrator shall issue proposed standards applicable to carbon monoxide in the passenger areas of schoolbuses which, in his judgment, are requisite to protect, with an adequate margin of safety, the health of passengers and to permit safe operation of such buses.

"(c) Not later than 180 days after issuance of proposed standards under subsection (b) and pursuant to the requirements of section 307(d), the Administrator shall, by regulation, promulgate, with such modifications as he deems appropriate, final standards applicable to the presence of carbon monoxide in the passenger areas of schoolbuses which, in his judgment, are requisite to protect, with an adequate margin of safety, the health of passengers and to permit safe operation of such buses. Such standards shall be reviewed from time to time and, where appropriate, such standards shall be revised.

"COMPLIANCE

"SEC. 242. (a) Each State shall submit to the Secretary of Transportation an implementation plan which shall include such measures as may be required, under regulations promulgated by the Secretary, to prevent the operation of any schoolbus in violation of the standards established under section 241(c) when such violation is attributable to such schoolbus. Such measures shall be required to be implemented as expeditiously as practicable (but not later than three years after approval of the plan). Such regulations may provide for such schedules and timetables as may be appropriate and shall require monitoring and, not less frequently than twice during any 12-month period, inspection of such schoolbuses. Such measures shall apply to schoolbuses manufactured before the effective date of this part (buses in use) as well as to schoolbuses manufactured on or after such date.

"(b) The Secretary shall approve the plan submitted by the State under subsection (a) if such plan meets the requirements of subsection (a). Such plan shall be approved or disapproved in such manner as shall be provided by regulation of the Secretary.

"(c) A schoolbus may not be registered, or otherwise authorized to operate, by a State after the date 34 months after the date of enactment of this section unless such bus is in compliance with a plan approved under this section. The Secretary may commence a civil action for appropriate relief including a permanent or temporary injunction whenever any person fails to comply with the preceding sentence. Any action under this subsection may be brought in the appropriate district court of the United States, and such court shall have jurisdiction to restrain such violation and to require compliance.

"DEFINITIONS

"SEC. 243. For purposes of this part, the term—

"(1) 'person' has the meaning provided by section 302(e);

"(2) 'passenger' includes the driver;

"(3) 'bus' means any passenger motor vehicle which is designed to carry more than 10 passengers in addition to the driver.

"(4) 'schoolbus' means a bus which the Secretary of Transportation determines is likely to be significantly used for the purpose of transporting primary, preprimary, or secondary school students to or from such schools or events related to such schools;

"(5) 'motor vehicle' means any self-propelled vehicle designed for transporting persons or property on a street or highway; and

"(6) 'sustained-use motor vehicle' means any diesel or gasoline fueled motor vehicle (whether light or heavy duty) which, as determined by the Administrator (in conjunction with the Secretary), is normally used and occupied for a sustained, continuous, or extensive period of time, including, but not limited to, taxicabs, and police vehicles.

"STATE LAW

"SEC. 244. Nothing in this part shall preclude or deny any State or political subdivision thereof the right to adopt or enforce any requirement applicable to the presence of carbon monoxide in the passenger areas of schoolbuses except that if any such requirement is in effect pursuant to this part no such State or political subdivision may adopt or enforce any such requirement which is less stringent than the requirement in effect pursuant to this part.".

(b) Each State shall adopt and submit a plan for the purpose of meeting the requirements of section 242 of the Clean Air Act not later than 30 months after enactment of this section. Not later than 4 months after submission of such plan, the Secretary of Transportation shall approve such plan or disapprove such plan.

Amend the table of contents on page 153 to insert the following items after the item relating to section 219:

"SEC. 220. Carbon monoxide standards for schoolbus passenger areas."

H.R. 12112

By Mr. HARKIN:

On page 31 (which is part of the Science and Technology Committee Amendment), strike the sentence beginning on line 14 through the period on line 23 and insert therein the following new sentence:

"The authorized indebtedness to be guaranteed under clauses (A), (B), and (C) of this paragraph shall be allocated by the Administrator so that no more than 50 per centum is for high-Btu gasification and related community assistance under subsection (k), no more than 30 per centum is for other fossil based synthetic fuels and biomass, which shall include, but is not limited to, animal and timber waste, urban and other waste, and sewage sludge, and related community assistance under subsection (k), and no less than 20 per centum for renewable resources and for industrial energy conservation and related community assistance under subsection (k)."

On page 69 (which is part of the Banking, Currency and Housing Committee amendment), strike the sentence beginning on line 15 through the period on line 23 and insert therein the following new sentence:

"The authorized indebtedness to be guaranteed under clauses (A), (B), and (C) of this paragraph shall be allocated by the Administrator so that no more than 50 per centum is for high Btu gasification and related community assistance under subsection (k), no more than 30 per centum is for other fossil based synthetic fuels and biomass, which shall include, but is not limited to, animal and timber waste, urban and other waste, and sewage sludge, and related community assistance under subsection (k), and no less than 20 per centum for renewable resources and for industrial energy conservation and related community assistance under subsection (k)."

On page 31 (which is part of the Science and Technology Committee amendment), line 4, strike all after the period through the colon on line 7 and insert therein the following:

"The amount of obligations authorized for any guarantee or commitment to guarantee under this subsection is $2,000,000:".

On page 69 (which is part of the Banking, Currency and Housing Committee amendment), line 4, strike all after the period through the colon on line 7 and insert therein the following:

"The amount of obligations authorized for any guarantee or commitment to guarantee under this subsection is $2,000,000,000:".

On page 37 (which is part of the Science and Technology Committee amendment), line 23, strike "initiated by the Governor".

On page 77 (which is part of the Banking, Currency and Housing Committee amendment), lines 22 and 23, strike "initiated by the Governor".

On page 38 (which is part of the Science and Technology Committee amendment), after the period on line 7, insert the following:

"Nothing in this section shall be deemed to restrict the right of any person to obtain judicial review under Federal or State law, as appropriate, of any Federal agency action or State agency action."

On page 78 (which is part of the Banking, Currency and Housing Committee amendment), after the period on line 7, insert the following:

"Nothing in this section shall be deemed to restrict the right of any person to obtain judicial review under Federal or State law, as appropriate, of any Federal agency action or State agency action."

H.R. 14238

By Mr. COUGHLIN:

Amendment 3–1: On page 2, line 15, strike the period and insert in lieu thereof: "*Provided,* That the expenditure of any appropriation contained in this Act, disbursed on behalf of any Member or Committee of the House of Representatives, shall be limited to those funds paid against a voucher, signed and approved by a Member of the House of Representatives, stating under penalty of perjury, that the voucher is for official expenses as authorized by law: *Provided further,* That any member of the House of Representatives who willfully makes and subscribes to any such voucher which contains a written declaration that it is made under the penalties of perjury and which he does not believe at the time to be true and correct in every material matter, shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $2,000, or imprisoned for not more than five years, or both."

Amendment 3–2: On page 2, line 15, strike the period and insert in lieu thereof: ":*Provided,* That the expenditure of any appropriation contained in this Act, disbursed on behalf of any Member or Committee of the House of Representatives, shall be limited to those funds paid against a voucher, signed and approved by a Member of the House of Representatives stating under penalty of perjury, that the voucher is for official expenses as authorized by law."

Amendment 4–1: On page 7, line 2, strike the period and insert in lieu thereof: ": *Provided,* That funds in this Act shall be limited to services provided by the Stationery Room, the House Recording Studio, the House Barber shops, the House beauty salon, and each food service facility, that are operated on an annually self-sustsaining basis including costs of personnel employed in those entities."

Amendment 4–2: On page 7, line 2, strike the period and insert in lieu thereof: ": *Provided,* That none of the funds in this Act shall be available for salaries or expenses related to services provided by the House Recording Studio, the House Barber shops, the House beauty salon, each food service facility, and the House Stationery Room, except for an allowance for official stationery supplies."

Amendment 5–1: On page 2, line 15, strike the period and insert in lieu thereof: ": *Provided,* That none of the funds contained in this Act shall be used to implement the

House Committee on Administration Order No. 30 of June 25, 1976, to increase the total allowances for any Member of the House of Representatives above the total allowances for which he would have been eligible prior to the issuance of that order."

Amendment 5-2: On page 2, line 15, strike the period and insert in lieu thereof: ": *Provided*, That none of the funds contained in this Act shall be used to increase the total allowances for any Member of the House of Representatives above the total allowances for which he would have been eligible prior to issuance of Committee on House Administration Order No. 30 of June 25, 1976."

Amendment 6: On page 2, line 15, strike the period and insert in lieu thereof: ": *Provided*, That none of the funds contained in this Act shall be used for increases in salaries of Members of the House of Representatives pursuant to Sec. 204a of Public Law 94–82."

Amendment 8: On page 4, line 11, strike the period and insert in lieu thereof: ": *Provided*, That none of the funds in this Act shall be used to provide or administer staff or consultant services for the Committee on House Administration in excess of the level in fiscal year 1976."

By Mr. SHIPLEY:

Page 2, line 15, after "$21,543,800" insert: ", *Provided*, That none of the funds in this Act shall be used to increase the compensation of members in excess of the annual rate of pay in effect on September 30, 1976".

Page 2, line 7, insert:

"For payment to Charles and Mildred Litton, father and mother of Jerry L. Litton, late a Representative from the State of Missouri, $44,600."

Page 7, line 18, strike the word "and" and on page 7, line 23, after "Representatives" insert the following: "; House Resolution 1368, Ninety-fourth Congress, establishing a Commission on Administrative Review in the House of Representatives; and House Resolution 1372, Ninety-fourth Congress, limiting the authority of the Committee on House Administration to fix and adjust allowances".

H.R. 14844

By Mr. VANIK:

Amendment No. 1: Beginning on page 3, strike out the rate schedule which follows line 9 and insert the following:

"If the amount with respect to which the tentative tax to be computed is:	The tentative tax is:
Not over $10,000	18 percent of such amount.
Over $10,000 but not over $20,000	$1,800, plus 20 percent of the excess of such amount over $10,000.
Over $20,000 but not over $40,000	$3,800, plus 22 percent of the excess of such amount over $20,000.
Over $40,000 but not over $60,000	$8,200, plus 24 percent of the excess of such amount over $40,000.
Over $60,000 but not over $100,000	$13,000, plus 27 percent of the excess of such amount over $60,000.
Over $100,000 but not over $150,000	$23,800, plus 30 percent of the excess of such amount over $100,000.
Over $150,000 but not over $250,000	$38,800, plus 33 percent of the excess of such amount over $150,000.
Over $250,000 but not over $500,000	$71,800, plus 36 percent of the excess of such amount over $250,000.
Over $500,000 but not over $750,000	$161,800, plus 39 percent of the excess of such amount over $500,000.
Over $750,000 but not over $1,000,000	$259,300, plus 41 percent of the excess of such amount over $750,000.
Over $1,000,000 but not over $1,250,000	$361,800, plus 44 percent of the excess of such amount over $1,000,000.
Over $1,250,000 but not over $1,500,000	$471,800, plus 48 percent of the excess of such amount over $1,250,000.
Over $1,500,000 but not over $2,000,000	$591,800, plus 52 percent of the excess of such amount over $1,500,000.
Over $2,000,000 but not over $2,500,000	$851,800, plus 56 percent of the excess of such amount over $2,000,000.
Over $2,500,000 but not over $3,000,000	$1,131,800, plus 60 percent of the excess of such amount over $2,500,000.
Over $3,000,000 but not over $3,500,000	$1,431,800, plus 64 percent of the excess of such amount over $3,000,000.
Over $3,500,000 but not over $4,000,000	$1,751,800, plus 68 percent of the excess of such amount over $3,500,000.
Over $4,000,000	$2,091,800, plus 72 percent of the excess of such amount over $4,000,000.

Page 16, line 8, strike out "$153,000" and insert in lieu thereof "$142,000".

Page 16, strike out lines 18 through 20 and insert: "1977, by substituting '$112,000' for '$142,000', and

"(B) in the case of a decedent dying during 1978, by substituting '$127,000' for '$142,000'."

Page 55, line 17, strike out "$345,800" and insert in lieu thereof "$386,200".

Amendment No. 2: Beginning on page 3, strike out the rate schedule which follows line 9 and insert the following:

"If the amount with respect to which the tentative tax to be computed is:	The tentative tax is:
Not over $10,000	18 percent of such amount.
Over $10,000 but not over $20,000	$1,800, plus 21 percent of the excess of such amount over $10,000.
Over $20,000 but not over $40,000	$3,900, plus 23 percent of the excess of such amount over $20,000.
Over $40,000 but not over $60,000	$8,500, plus 25 percent of the excess of such amount over $40,000.
Over $60,000 but not over $80,000	$13,500, plus 29 percent of the excess of such amount over $60,000.
Over $80,000 but not over $100,000	$19,300, plus 32 percent of the excess of such amount over $80,000.
Over $100,000 but not over $150,000	$25,700, plus 34 percent of the excess of such amount over $100,000.
Over $150,000 but not over $250,000	$42,700, plus 36 percent of the excess of such amount over $150,000.
Over $250,000 but not over $500,000	$78,700, plus 38 percent of the excess of such amount over $250,000.
Over $500,000 but not over $750,000	$173,700, plus 41 percent of the excess of such amount over $500,000.
Over $750,000 but not over $1,000,000	$276,200, plus 44 percent of the excess of such amount over $750,000.

"If the amount with respect to which the tentative tax to be computed is:	The tentative tax is:
Over $1,000,000 but not over $1,250,000	$386,200, plus 47 percent of the excess of such amount over $1,000,000.
Over $1,250,000 but not over $1,500,000	$503,700, plus 50 percent of the excess of such amount over $1,250,000.
Over $1,500,000 but not over $2,000,000	$628,700, plus 53 percent of the excess of such amount over $1,500,000.
Over $2,000,000 but not over $2,500,000	$893,700, plus 57 percent of the excess of such amount over $2,000,000.
Over $2,500,000 but not over $3,000,000	$1,178,700, plus 61 percent of the excess of such amount over $2,500,000.
Over $3,000,000 but not over $3,500,000	$1,483,700, plus 65 percent of the excess of such amount over $3,000,000.
Over $3,500,000 but not over $4,000,000	$1,808,700, plus 69 percent of the excess of such amount over $3,500,000.
Over $4,000,000	$2,153,700, plus 72 percent of the excess of such amount over $4,000,000.

Page 16, line 8, strike out "$153,000" and insert in lieu thereof "$142,000".

Page 16, strike out lines 18 through 20 and insert: "1977, by substituting '$112,000' for '$142,000', and

"(B) in the case of a decedent dying during 1978, by substituting '$127,000' for '$142,000'."

Page 55, line 17, strike out "$345,800" and insert in lieu thereof "$386,200".

FACTUAL DESCRIPTION OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in the CONGRESSIONAL RECORD of August 26, 1976, page 27914:

HOUSE JOINT RESOLUTIONS

H.J. Res. 1031. July 22, 1976. Post Office and Civil Service. Designates the John Philip Sousa composition known as the "The Stars and Stripes Forever" as the national march of the United States.

H.J. Res. 1032. July 26, 1976. Post Office and Civil Service. Authorizes and requires the President to issue a proclamation designating the week of October 17, 1976, as "National Credit Union Week."

H.J. Res. 1033.—July 27, 1976. Interior and Insular Affairs. Withdraws from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto; all minerals in a specified area within the Los Padres National Forest, California.

H.J. Res. 1034—July 27, 1976. Education and Labor; Post Office and Civil Service. Calls for the publication of economic and social statistics for Americans of East Asian or Pacific Island origin or descent.

H.J. Res. 1035.—July 28, 1976. Judiciary. Proposed an amendment to the Constitution of the United States to provide for a single six-year term for the President, and to limit to six the number of consecutive Congresses in which Senators and Representatives may serve.

H.J. Res. 1036.—July 28, 1976. Education and Labor. Authorizes and requests the President to issue a proclamation recognizing the contribution made by Americans who are working as school volunteers.

H.J. Res. 1037. July 28, 1976. Post Office and Civil Service. Designates the week beginning October 3, 1976, and ending October 9, 1976, as "National Gifted Children Week."

H. J. Res. 1038.—July 28, 1976. Post Office and Civil Service. Designates the week beginning on November 7, 1976, as "National Respiratory Therapy Week."

H.J. Res. 1039. July 30, 1976. Post Office and Civil Service. Designates the week beginning October 3, 1976, and ending October 9, 1976, as "National Gifted Children Week."

H.J. Res. 1040. August 2, 1976. House Administration. Authorizes the American Hungarian Bicentennial Monument, Incorporated, to erect a memorial in honor of the late Colonel Michael Korvats de Fabrici in the District of Columbia.

H.J. Res. 1041. August 2, 1976. Post Office and Civil Service. Designates September 8 of each year as "National Cancer Prevention Day."

H.J. Res. 1042. August 2, 1976. Post Office and Civil Service. Designates September 8 of each year as "National Cancer Prevention Day."

H.J. Res. 1043. August 2, 1976. Post Office and Civil Service. Designates September 8 of each year as "National Cancer Prevention Day."

H.J. Res. 1044. August 2, 1976. Judiciary. Proposes a constitutional amendment which provides that no law varying the compensation for the services of the Senators and Representatives shall take effect until an election of Representatives shall have intervened.

H.J. Res. 1045. August 2, 1976. Judiciary. Proposes a constitutional amendment to establish a Court of the States which shall have jurisdiction to hear and determine all cases arising under this or the tenth article of amendment to the Constitution, upon appeal from the Supreme Court.

H.J. Res. 1046. August 5, 1976. Judiciary. Proposes a constitutional amendment providing that the term of office of a Representative shall be four years. Limits the service of a Representative to three consecutive terms.

H.J. Res. 1047. August 5, 1976. Education and Labor; Post Office and Civil Service. Calls for the publication of economic and social statistics for Americans of Slavic origin or descent.

H.J. Res. 1048. August 10, 1976. Government Operations. Expresses the general policy of the United States Government to rely upon private commercial sources for the goods and services required to meet Government needs.

H.J. Res. 1049. August 10, 1976. Post Office and Civil Service. Authorizes the President to proclaim October 15 of each year as National Poetry Day.

H.J. Res. 1050. August 10, 1976. Judiciary. Proposes a constitutional amendment which provides that the term of office for Members of the House shall be three years. Limits to five the number of terms which a Representative may serve. Sets an age limit for Senators and Representatives.

SENATE—*Monday, August 30, 1976*

(Legislative day of Friday, August 27, 1976)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. JESSE HELMS, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord, our heavenly Father, almighty and everlasting God, who hast safely brought us to the beginning of this day; defend us in the same with Thy mighty power; and grant that this day we fall into no sin, neither run into any kind of danger; but that all our doings, being ordered by Thy governance, may be righteous in Thy sight; through Jesus Christ our Lord.

O Lord our Governor, whose glory is in all the world; we commend this Nation to Thy merciful care, that being guided by Thy providence, we may dwell secure in Thy peace. Grant to the President of the United States, and to all in authority, wisdom and strength to know and to do Thy will. Fill them with the love of truth and righteousness; and make them ever mindful of their calling to serve this people in Thy fear; through Jesus Christ our Lord, who liveth and reigneth with Thee and the Holy Ghost, one God, world without end. Amen.

—COMMON PRAYER.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 30, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. PROXMIRE thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Friday, August 27, 1976, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, it is my intention at the conclusion of morning business to call up, as the Senate has previously agreed to, calendar No. 903, S. 158. It is also my intention to consult with the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT) to see if it would be possible to reach an agreement to vote on the New River bill no later than 4 o'clock this afternoon, with the proviso that the distinguished Senator from Virginia, the senior Senator (Mr. HARRY F. BYRD, JR.), who is unavoidably absent at this time, would be given 1 hour's time prior to the vote. If that agreement can be arrived at and agreed to then that would allow time for further debate on the Allen amendment today. I hope that it will be possible to achieve this agreement. I only make this statement at this time to notify the Senate of the leadership's intention.

Mr. ALLEN. Mr. President, will the majority leader yield?

Mr. MANSFIELD. I yield.

Mr. ALLEN. As I understood the distinguished majority leader, we would be occupied with the New River bill until 4 o'clock this afternoon.

Mr. MANSFIELD. Until not later than 4 p.m., and I make the time that late because of a situation affecting a Senator, which I am sure the Senator understands.

Mr. ALLEN. How long would it be the thought of the distinguished majority leader that we might have to debate not only the Allen amendment but also the Byrd amendment?

Mr. MANSFIELD. I would say that beginning no later than 4 p.m., or approximately 4 p.m.; that would be up to the Senators most interested to decide.

Mr. ALLEN. It would not be the intention of the leadership to adjourn at an early hour then, would it, prior to some meaningful discussion of these two substitutes?

Mr. MANSFIELD. No; not at all.

Mr. ALLEN. Will the distinguished Senator yield in order that I might make a parliamentary inquiry affecting this situation?

Mr. MANSFIELD. I yield.

Mr. ALLEN. A parliamentary inquiry, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. ALLEN. The leadership has the authority under the previous order to call up the New River bill, which I supported, and I have a prepared statement to make in favor of the bill. Assuming that the bill is called up, will the Senator from Alabama under the rules have a right to call up the House message with respect to H.R. 8532, the antitrust amendments bill?

The ACTING PRESIDENT pro tempore. The Senator could move to take that up.

Mr. ALLEN. It does not take a motion, I believe. I feel he has a right to call up a House message. He might motion to call up a conference report, but he has, as a matter of right, the right to ask that it be laid before the Senate; is that not correct?

The ACTING PRESIDENT pro tempore. That is correct. But once it is up it would take a motion to proceed to it if objection were made.

Mr. ALLEN. I hope the Chair will give me an opportunity to convince him otherwise on that because a House amendment can be laid before the Senate without a motion.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. ROBERT C. BYRD. I support the Chair in what the Chair has said. The distinguished Senator from Alabama would have the right or any Senator would have a right to ask the Chair to lay before the Senate a message from the House of Representatives, that being a privileged matter, but once the clerk states it no Senator would be entitled to debate it because a point of order could be raised against a Senator beginning to debate it, offering an amendment to it, or making any motion in regard to it except a motion to proceed. And if the Senator sought to do that, began to debate it, I would make a point of order that he was proceeding out of order because it would be necessary for a motion to be offered to proceed to the consideration of that matter. As I indicated to the Senator last Friday, it would require a motion.

The ACTING PRESIDENT pro tempore. The Chair will read to the Senator from Alabama a precedent from the rules:

Under consideration of amendments between Houses, a motion to consider, upon objection:

> It is in order to take up such amendments on motion, and where the House amendments to a Senate bill have been laid before the Senate, a motion to agree thereto, upon objection, is not in order until the Senate on motion has proceeded to their consideration.

Mr. ALLEN. I thank the Chair for this information. I do understand that there will be ample time to debate the amendments.

Mr. MANSFIELD. Yes. On the basis of what has been stated, it will be up to those most vitally concerned to carry the burden and maintain the interest at that time.

So I would hope it would be possible. This is, I must repeat, subject to the agreement of the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT) that we could arrive at an agreement to vote not later than 4 p.m. on the New River bill, with the proviso that 30 minutes of the time before the vote would be given to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.).

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations beginning with the Air Force.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination will be stated.

U.S. AIR FORCE

The second assistant legislative clerk read the nominations of Lt. Gen. Donald G. Nunn, brigadier general, Regular Air Force, to be lieutenant general, and Lt. Gen. James T. Stewart, major general, Regular Air Force, to be lieutenant general.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed.

U.S. NAVY

The second assistant legislative clerk read the nomination of Rear Adm. Alfred J. Whittle, Jr. to be vice admiral.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force, in the Army, and in the Navy placed on the Secretary's desk.

Mr. MANSFIELD. I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(All nominations confirmed today are printed at the end of the Senate proceedings.)

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from North Carolina seek recognition?

Mr. HELMS. Mr. President, I thank the Chair, but I yield back the time allotted.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 5 minutes each.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

Mr. ALLEN. Mr. President, on last Friday, the House message on H.R. 8532, containing an amendment of the House to the Senate amendment to the House bill, was brought up for consideration. A substitute was offered by the distinguished assistant majority leader. No copies were available for any Senator to examine. No word of explanation was given on last Friday, the time of the submission of that substitute, of the contents of the substitute, which embodied the whole ramifications of the entire bill and would send that particular substitute back to the House for acceptance.

Mr. President, on page 28272 of the Record appears a statement by the distinguished senior Senator from Michigan (Mr. Philip A. Hart) which does seek to give some explanation of this substitute. To set the record straight, this speech was not delivered on the floor of the Senate; it was not read on the floor by any person. The Senator from Alabama, who was in the Chamber every minute of the time that this message was under consideration, can attest to the fact that no word of explanation by any Senator was given as to the contents of the substitute.

I give that information for the record.

Mr. President, there is pending to the Byrd substitute a substitute by the Senator from Alabama which would provide for a substitute which consists of the Senate bill as passed by the Senate on June 11, with two exceptions: one, the effective date is changed to January 1, 1977; two, the ultimate bill is to be named the Hart-Scott-Rodino bill, and that provision is in the Byrd substitute.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I yield.

Mr. ROBERT C. BYRD. Would the Senator mind referring to this measure as the Hart-Scott-Rodino substitute? My name is not on the substitute.

Mr. ALLEN. The Senator offered it.

Mr. ROBERT C. BYRD. I offered it for them, and the Senator very well knows that it is not the Byrd substitute. If he wishes to continue to needle me, that is all right—I will take it in good humor—but my name is not on it.

Mr. ALLEN. I beg the Senator's pardon. The Senator from Alabama is not seeking to needle the distinguished Senator from West Virginia. The Senator from Alabama did not hear the distinguished Senator from West Virginia say that he was offering it on behalf of anybody but himself.

Mr. ROBERT C. BYRD. I did not say I was offering it on behalf of anyone, or anything to that extent, and if the Senator will look at the bill, the Senator will not see my name on the bill.

The Senator very well knows that I had to make the motion, that it was my motion, but that does not entitle me to the honor of being an author of the substitute.

Mr. ALLEN. If the Senator wishes to disavow any connection with the bill, I can understand that position.

Mr. ROBERT C. BYRD. I am not wishing to disavow anything. I may very well vote for the substitute, or I may vote against it, but the leadership does have some responsibilities.

Mr. ALLEN. Would it be correct to say "the substitute offered by the distinguished Senator from West Virginia?"

The ACTING PRESIDENT pro tempore. The 5 minutes of the Senator from Alabama have expired.

Mr. MANSFIELD. Mr. President, I yield my 5 minutes to the distinguished Senator from Alabama.

Mr. ROBERT C. BYRD. Yes, that would be all right.

Mr. ALLEN. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the Senator from Alabama.

Mr. ALLEN. During the last few days, there has been a contention that a compromise was agreed upon, that compromise being the Senate bill. I do not feel that a compromise was reached, other than that the bill might be voted on, and it was voted on.

I note from Mr. Hart's statement that was inserted in the Record that he has this statement to make:

> The Senator from Alabama made it clear that he did not believe that the compromise agreement of June 10 precluded him—

I thought it was June 11, but I may be wrong.

> from exercising any of his rights under the rules of the Senate. My own recollection is that there was no specific discussion during those negotiations last June with respect to either a motion to appoint conferees or a motion to accept a conference report.

Certainly, there was no discussion as to that, and the only discussion had was with respect to the passage of the bill.

Mr. President, if, in fact, there was a compromise and that compromise was the provisions of the Senate amendment to the House bill—that is, the Senate amendment to H.R. 8532—if the proponents of the proposed legislation say there was a compromise, I am going to give them, and the substitute I have pending will give them, an opportunity to stand by that compromise, if in fact there was a compromise. So we are going to see if there was a compromise.

If there was a compromise, I assume that those who are now pushing the bill will vote for my substitute. They are going to be given that right, and we will see whether or not there was a compromise. If there was a compromise, my substitute will be adopted; and I stand on that test as to whether there was a compromise, in fact.

So the pending business will be, I assume—I ask the Chair that parliamentary question—when the House message with respect to H.R. 8532 becomes the pending business, what will be the pending question?

The ACTING PRESIDENT pro tempore. The amendment of the Senator from Alabama to the amendment offered by the Senator from West Virginia.

Mr. ALLEN. Is it not a substitute? Is it not in the form of a substitute?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. ALLEN. Very well.

I issue this challenge to those who support the antitrust bill: If there was in fact a compromise on agreeing to the Senate amendments to H.R. 8532, here is their chance to assert, on the Senate floor, by their votes, that there was in fact a compromise. I will be willing to abide by that decision. I do not think there was a compromise, and my vote will so indicate.

Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that Mr. Carl Gullick and Dr. James B. Lucier be accorded the privilege of the floor during discussion of the New River bill and any votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Will the Senator yield for a unanimous-consent request?

Mr. HELMS. Yes.

Mr. WILLIAM L. SCOTT. I ask unanimous consent that Jim Roberts of my staff be granted the privileges of the floor during the consideration of the pending bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Morgan). Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations and one withdrawing the nomination of Warren B. Rudman, of New Hampshire, to be an Interstate Commerce Commissioner which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:29 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the Speaker has signed the enrolled bill (H.R. 9153) granting the consent of Congress to the New Hampshire-Vermont Interstate Sewage Waste Disposal Facilities Compact.

The enrolled bill was subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Report of the Comptroller General—(S. Doc. No. 94–)*

A letter from the Acting Comptroller General of the United States transmitting, pursuant to law, a report on the rescission and deferral proposals in the President's July 28, 1976, special message (with an accompanying report); jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriation, the Budget, Agriculture and Forestry, and Labor and Public Welfare; and ordered to be printed.

Report of the Department of the Interior

A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a report entitled "Critical Water Problems Facing the Eleven Western States" (with and accompanying report); to the Committee on Interior and Insular Affairs.

Report of the Board of Foreign Scholarships

A letter from the Chairman of the Board of Foreign Scholarships transmitting, pursuant to law, a report on exchanges (with an accompanying report); to the Committee on Foreign Relations.

International Agreements Other Than Treaties

A letter dated August 27, 1976, from the Acting Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into during the past 60 days (with accompanying papers); to the Committee on Foreign Relations.

Report of the Office of Management and Budget

A letter from the Deputy Director of the Office of Management and Budget transmitting, pursuant to law, a report on recommendations to the President by the Federal Council on the Aging (with an accompanying report); to the Committee on Labor and Public Welfare.

Proposed Construction by the Department of Transportation

A letter from the Secretary of Transportation transmitting, pursuant to law, a prospectus for certain proposed construction near Atlantic City, N.J. (with accompanying papers); to the Committee on Public Works.

Reports of the Comptroller General

A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Smugglers, Illicit Documents, and Schemes Are Undermining U.S. Controls Over Immigration" (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Recruiting and Retaining Federal Physicians and Dentists: Problems Progress, and Actions Needed for the Future" (with an accompanying report); to the Committee on Veterans' Affairs.

PETITIONS

The ACTING PRESIDENT pro tempore laid before the Senate the following petitions, which were referred as indicated:

An excerpt from the minutes of a meeting of the Pacific Yearly Meeting of the Religious Society of Friends (Quakers) meeting at St. Mary's College, Moraga, Calif., relating to the proliferation of nuclear weapons; to the Committee on Foreign Relations.

Two resolutions adopted by the auxiliary to the American Optometric Association, one relating to passenger restraint systems, and one relating to the need for pedacyclist education; to the Committee on Public Works.

A letter from a corporation transmitting a brochure on a system for maximizing fuel economy; to the Committee on Interior and Insular Affairs.

House Joint Resolution No. 78 adopted by the Legislature of the State of Alabama; to the Committee on Agriculture and Forestry:

House Joint Resolution 78

"Whereas, the cost of food continues to rise; and

"Whereas, it is important for Americans to grow some of their own food; and

"Whereas, growing one's own food instills the 'back to nature movement and saves the consumer money'; now therefore

"Be it resolved by the Legislature of Alabama, both houses thereof concurring, That the United States Congress is hereby memorialized to pass House bill 5626 allowing food stamp recipients to use twenty dollars of stamps to buy seed and supplies to grow enough food to eat, can and freeze.

"Be it further resolved, That copies of this resolution be sent to the Vice President of the United States, the President Pro Tempore of the Senate, the Speaker of the House, and to each member of the Alabama delegation with the request that this resolution be read in both Houses of Congress."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Without amendment:

S. 3621. A bill to amend the International Claims Settlement Act of 1949 to provide for the determination of the validity and amounts of claims of nationals of the United States against the German Democratic Republic (Rept. No. 94–1188).

By Mr. JOHNSTON, from the Committee on Interior and Insular Affairs:

With an amendment:

H.R. 11455. An act to amend the act establishing the Indiana-Dunes National Lakeshore to provide for the expansion of the lakeshore, and for other purposes (Rept. No. 94–1189).

By Mr. HANSEN, from the Committee on Interior and Insular Affairs:

With an amendment:

S. 3430. A bill to amend the act approved August 18, 1970, providing for improvement in the administration of the National Park System by the Secretary of the Interior and clarifying authorities applicable to the National Park System, and for other purposes (Rept. No. 94–1190).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. STONE:

S. 3780. A bill to amend the Federal Election Campaign Act of 1971 with respect to the filing of reports with State officers. Referred to the Committee on Rules and Administration.

By Mr. THURMOND:

S. 3781. A bill to amend title 10, United States Code, to authorize a tuition assistance program for eligible enlisted members of the Selected Reserve of the Ready Reserve of the Armed Forces. Referred to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STONE:

S. 3780. A bill to amend the Federal Election Campaign Act of 1971 with respect to the filing of reports with State officers. Referred to the Committee on Rules and Administration.

Mr. STONE. Mr. President, today I am introducing a bill to amend section 316 (2 U.S.C. 439) of the Federal Election Campaign Act of 1971, which places certain responsibilities with regard to the public availability of Federal campaign finance reports, on the State Secretaries of State. This section provides:

(a) "Appropriate State" defined. A copy of each statement required to be filed with the Commission by this chapter shall be filed with the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer) of the appropriate State. For purposes of this subsection, the term "appropriate State" means—

(1) for reports relating to expenditures and contributions in connection with the campaign for nomination for election, or election, of a candidate to the office of President or Vice President of the United States, each State in which an expenditure is made by him or on his behalf, and

(2) for reports relating to expenditures and contributions in connection with the campaign for nomination for election, or election, of a candidate to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, the State in which he seeks election.

(b) Duties of State Officers. It shall be the duty of the Secretary of State, or the equivalent State officer, under subsection (a) of this section—

(1) to receive and maintain in an orderly manner all reports and statements required by this chapter to be filed with him;

(2) to preserve such reports and statements for a period of 10 years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preservd for only 5 years from the date of receipt;

(3) to make the reports and statements filed with him available for public inspection and copying during regular office hours,

commencing as soon as practicable but not later than the end of the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, requested by any person, at the expense of such person; and

(4) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate.

As a former Secretary of State of Florida, I am very aware of the problems that State officials have encountered with the State filing requirements. A number of these difficulties surfaced as long as 4 years ago when Francis Valeo, the Secretary of the Senate, wrote to 34 secretaries of state, pursuant to his authority as supervisory officer of Senate Elections. The purpose of his letter was to determine the degree of compliance and the extent of the problems that State officials had encountered in administering the act. Seventeen States responded and the replies were printed in the Federal Campaign Disclosure at the State Level With Respect to Elections for the U.S. Senate in 1972.

Two problems that were mentioned frequently were the long period of time that the States were required to preserve the reports—10 years, in most cases—which is creating storage problems, and the expense involved in complying with the section.

Mr. Valeo testified about these difficulties before the Subcommittee on Privileges and Elections of the Senate Rules Committee in 1973, during hearings which the subcommittee held on proposed amendments to the Federal Election Campaign Act. While extensive amendments were made to the act—Federal Election Campaign Act Amendments of 1974—the section relating to the filing of reports with secretaries of state remains essentially unchanged.

In October 1975, I wrote to all State secretaries asking their comments on section 316, with particular emphasis on the report preservation requirement. Thirty-seven States responded. Of these, 33 States expressed the desire to see the report preservation time shortened. Other problems which were mentioned were the need for Federal assistance, and the irrelevance to any one State of much of the documents filed in the States by multicandidate committees.

Shortly after I wrote to State officials, the Federal Election Commission sent a detailed questionnaire to each secretary of state—or equivalent State official. As of March 2, 1976, 47 States and the District of Columbia had responded. The results of this survey support the conclusions which I have drawn from my own informal survey and they form the basis for the legislation that I am introducing today.

The first subsection of my bill allows the States more flexibility in determining where the Federal election campaign reports are filed. The FEC survey revealed that 14 of the 47 jurisdictions have one office receiving Federal election reports and another receiving State reports. The comments that I received from State officials indicate that many would like to be able to keep all of their campaign reports—Federal and State—in the office that they had established to receive State reports. However, the way the law is worded, Federal reports must be filed in the office of secretary of state or if there is no secretary of state, with the equivalent State official. This wording, which was probably inadvertent, has created problems for a number of States which have a secretary of state but which would like to be able to send the Federal reports to the separate board or commission that they set up to handle State reports. In their survey report, the FEC recommends:

> That an amendment be offered to allow the states the discretion of selecting the location of the state office where these reports should be filed and maintained (p. 13).

My bill would allow the Governor of each State to designate the proper office in which to file Federal campaign reports. It is not the intention of the bill to take away from any State secretary of state the duties under the Federal law if that office is the proper one to perform these functions. However, in those States, such as Washington, in which the secretary of state's office would be duplicating a job already performed for State reports by a separate State commission, the Governor could designate the commission as the office in which the reports are to be field. This makes sense administratively, and it also would make public review easier as all election campaign reports would be available at the same location.

The problem of storing all of the Federal reports that have to be filed with the States is one which nearly all the States have mentioned. The present law requires the Commission to preserve reports and statements filed with it for 10 years. My bill would not change this requirement. What the bill would change is the unnecessarily long period of time during which the States are required to preserve their duplicate copies. Currently all reports and statements must be preserved by the States for 10 years, with the exception of reports relating to candidates for election to the House of Representatives, which must be kept for 5 years. Given the fact that the statute of limitations on prosecutions has been shortened to 3 years and that the FEC must preserve all of the reports for 10 years, there is little reason not to allow the States more leeway in this area. To quote from the recommendations at the end of the FEC survey report (p. 13):

> The overwhelming sentiment of most state elections offices was that the requirements for storage of federal reports was much too long. Many of the suggestions seemed to concentrate on retaining records for the term of the office sought or for shortening the Senate record retention period from 10 to 5 years. As a number of State officials have suggested, the Commission could then become the sole repository of these reports after these new time periods elapse.

My bill shortens to 3 years the time that reports relating to candidates for the House must be preserved. All other reports and statements may be destroyed after 5 years from the date of receipt. Let me stress that this provision is permissive in the sense that if any State feels that there will be a demand for these records beyond the 5- or 3-year period, it may keep them beyond that time. A State is not required to destroy the records, but after 5—or 3—years a State will be free to destroy or retain the reports, as it sees fit.

The bill also specifically allows the States to microfilm the reports and destroy the originals as soon as they are microfilmed. The microfilmed record is then subject to the 5- or 3-year retention requirement. Twenty-eight States which responded to the FEC survey indicated that they had access to microfilm or microfiche equipment but only two States use it for their Federal reports. Many States are uncertain as to whether the statute allows them to microfilm and whether or not they can then destroy the originals. My bill would eliminate any uncertainty on this question. Allowing the States to microfilm the reports would alleviate their storage problem to a large extent.

Reports filed by multicandidate committees make up the bulk of the papers field in the States. The FEC survey found that in 29 of the States that responded, 60 percent or more of the reports on file came from national, multicandidate committees. The FEC reports conclude—page 11:

> Most states felt that there was little, if any, interest in multi-candidate committee reports in their states. This relative lack of interest coupled with the almost two to one ratio of multi-candidate to within state reports that have to be received, processed and stored prompted a number of states to comment that the benefits of public access to these multi-candidate reports were not worth the cost of maintaining, processing, and storing them.

The FEC has proposed a regulation which would allow a multicandidate committee with contributes to a Presidential candidate, to file only with the Secretary of State in the State in which the recipient and contributing committees have their headquarters. While I agree with the intent of the regulation, I have doubts that this purpose can be accomplished by regulation as it would not be consistent with the present statutory language. Even if it can be accomplished by regulation, I think that the question of where these reports should best be filed is one which merits further study. Subsection (c) of my bill does not change the site of the filings, but it does give the States the option to sort through the report and throw away any portions which do not relate to expenditures made in, or to candidates from, that State.

Finally, the bill authorizes an annual appropriation of $500,000 to reimburse the States for their expenses in administering section 316. To quote once again from the conclusions reached in the FEC survey (p. 12):

> It should be noted that the responsibility for receiving, processing, making available for public inspection and storing these federal reports does, in fact, impose a heavy burden on most state elections offices. For the most part, state election officers have limited staff, money and space with which to perform their normal state elections functions and these federal reporting requirements present an additional burden on already overworked offices, especially during an election period.

More information will need to be gathered on the expenses to the States of administering the Federal election campaign laws. The $500,000 figure may prove too low, but it will serve as a focal point for discussion. If we are serious about giving the public easy access to campaign reporting information, then we should be willing to help the States with the financial burden which it imposes on them.

At the end of my remarks I shall have printed a table which combines the results of my informal survey with the results of the FEC survey.

The Federal Election Commission and, in particular, their Clearinghouse on Election Administration which conducted the survey to which I have been referring, have been very responsive to the problems raised by State election officials. I know that they are doing everything possible, within the framework of the act, to ease the burden on the States. But I think they have done as much as they can do without action from Congress. I believe that my bill will solve many of the problems that the States are facing in administering this act.

Mr. President, I ask unanimous consent that the text of the bill and the table to which I referred be printed in the RECORD.

There being no objection, the bill and table were ordered to be printed in the RECORD, as follows:

S. 3780

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 316(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 439(a)) is amended by striking out "the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer)" and inserting in lieu thereof "the Secretary of State, or if different, the officer of the government of each State who is charged by State law with maintaining State election campaign reports, to be designated by the Governor of that State".

(b) Section 316(b) of such Act (2 U.S.C. 439(b) is amended—

(1) by striking out "the Secretary of State, or the equivalent State officer," and inserting in lieu thereof the following: "the Secretary of State, or the officer designated", and

(2) by striking out paragraph (2) thereof and inserting in lieu thereof the following:

"(2) to preserve such reports and statements (either in the original filed form or in a facsimile copy of microfilm or otherwise) for a period of 5 years from date of receipt, except that reports and statements relating solely to candidates from the House of Representatives shall be preserved for only 3 years from the date of receipt;".

(c) Section 316 of such Act (2 U.S.C. 439) is amended by adding at the end thereof the following new subsection:

"(c) If a report filed with the State officer under subsection (a)(2) relates to candidates for election from other States, the duty of the State officer under subsection (b) to preserve and make the report available extends only to those portions of that report which relate to candidates for election in that State.".

(d) There is authorized to be appropriated to the Federal Election Commission the sum of $500,000 for use by the Commission in reimbursing State offices with whom statements are filed under section 316 of the Federal Election Campaign Act of 1971 for expenses incurred in carrying out their duties under that section. The Commission shall pay a reimbursement to a State upon application made therefor by the Governor and upon proof satisfactory to the Commission that the amount claimed as reimbursement accurately reflects additional cost imposed on the State government as a result of such section 316.

	States which indicated that the report retention time should be shortened	Other offices, departments, agencies in your building that use microfilm or microfiche		Reports (Federal) stored in what form			Reports fill			What percent Federal reports come from candidates running in your State and what percent come from national multicandidate committees?		Does the State use the same office for non-Federal campaign reports?		States which asked for Federal funds
		Yes	No	Original	Microfilm	Microfiche	File drawers	Cartridges	Cards	Multicandidate	State	Yes	No	
Alabama	X		X	X			10			99		X		
Alaska														
Arizona			X	X			5					X		
Arkansas		X			X		9			80	20	X		
California		X		X			3			70	30	X		
Colorado	X	X		X			4			25	75	X		X
Connecticut	X	X		X			6			75	25	X		
Delaware	X	X		X			6			90	10		X	
Florida	X	X		X			5			85	15	X		
Georgia		X		X			15					X		X
Hawaii			X	X			6			30	65	X		X
Idaho	X	X		X						75	25	X		X
Illinois	X													
Indiana		X		X			13			40	60		X	
Iowa	X	X		X			10			15	85		X	X
Kansas	X		X	X			14			65	35	X		
Kentucky														
Louisiana	X	X		X			10			85	15		X	
Maine	X		X	X			1			5	95	X		
Maryland			X	X			6			10	90	X		
Massachusetts	X	X		X			8			66	33		X	
Michigan	X		X	X			10					X		
Minnesota	X	X		X			8			85	15		X	
Mississippi	X	X		X								X		
Missouri	X		X	X			8			25	75	X		
Montana	X		X	X			(1)			95	5		X	
Nebraska	X	X		X			15			90	10	X		X
Nevada	X			X						87.5	12.5	X		X
New Hampshire	X			X			8			95	5	X		
New Jersey	X	X		X			10			25	75		X	
New Mexico	X		X	X			(2)			95	5	X		
New York	X		X	X			5			50	50	X		
North Carolina			X	X			5			85-90	10-15	X		
North Dakota	X	X		X			7			80	20		X	
Ohio	X	X		X			15			60	40	X		
Oklahoma	X												X	
Oregon			X	X			10			92	8	X		
Pennsylvania	X	X		X	X		20	10		65	35	X		
Rhode Island	X	X		X			6			80	20		X	
South Carolina	X	X		X						75	25	X		
South Dakota	X	X		X			10			70	20	X		
Tennessee	X			X			2-5			65	35	X		
Texas	X	X		X								X		
Utah		X		X						90	10		X	X
Vermont	X		X	X			10			40	60	X		
Virginia		X				X	(3)					X		
Washington	X		X	X			5			60	40		X	
West Virginia	X	X					2			90	10	X		
Wisconsin	X	X					10					X		
Wyoming	X	X					6			90	10	X		
District of Columbia			X										X	

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[1] 15-ft open shelf.
[2] 10 ft.[3]
[3] 10 boxes.

By Mr. THURMOND:

S. 3781. A bill to amend title 10, United States Code, to authorize a tuition assistance program for eligible enlisted members of the Selected Reserve of the Ready Reserve of the Armed Forces. Referred to the Committee on Armed Services.

Mr. THURMOND. Mr. President, today I send to the desk a bill to amend title 10, United States Code, to authorize a tuition assistance program for enlisted members of the National Guard and Selected Reserve of the Ready Reserve.

This legislation is in response to the declining enlisted strength of the National Guard and Reserve components. As of June 1, 1976, the six Reserve and Guard components were below authorized strength by about 72,000 personnel, approximately 69,000 of that number in the enlisted grades.

Especiallv hard hit were the Army Guard and Army Reserve units, short about 33,000 and 19,000 respectively.

Mr. President, the Guard and Reserve are our most economical military force. They provide us with fighting and support units at about one-fifth the cost of regular units. We cannot permit their strength to fall below the already minimum manning levels. To do so will ultimately be more costly than this tuition program.

This bill would provide tuition assistance to enlisted members of the Selected Reserve and National Guard who have completed their initial period of active duty training and are not on active duty for more than 30 days.

The tuition assistance would be limited to 50 percent during the initial 6 years and would be increased to 75 percent in subsequent years. Not more than 6 semester hours, or 9 quarter hours, would be allowed in a single term. It would permit aid for personnel attending only accredited institutions and allows enough flexibility for the service secretary to tailor the program to available funds.

While it is late in the session, Congress needs to consider this legislation or face even deeper Reserve component shortfalls.

Mr. President, I send this bill to the desk for reference to the appropriate committee and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3781

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 101 of title 10, United States Code, is amended by inserting the following new section after section 2001 and a corresponding item in the chapter analysis:

"§ 2001a. Enlisted members of the Selected Reserve of the Ready Reserve of the armed forces: tuition assistance program

"(a) To increase active participation in the reserve components, the Secretary of a military department under regulations prescribed by him and approved by the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, may establish and maintain a program to provide tuition assistance to eligible enlisted members of the Selected Reserve of the Ready Reserve of an armed force under his jurisdiction to enable such members to pursue studies at a post-secondary educational level.

"(b) Tuition assistance may be authorized under this section for an enlisted member if such member—

"(1) is a member of the Selected Reserve of the Ready Reserve of his armed force;

"(2) is not on active duty for a period of more than 30 days;

"(3) has completed his initial period of active duty for training; and

"(4) is receiving education at a post-secondary level from an accredited civilian educational institution (including a college or university) or training at a technical or trade institution.

"(c) Tuition assistance under this section may not be—

"(1) provided for more than 6 semester hours, or its equivalent, in any one term;

"(2) exceed an amount equal to 50 per centum of the tuition cost, or equivalent fee, if, when the term begins, the member has less than 6 years of qualifying service computed under subsection (d) (3) of this section;

"(3) exceed an amount equal to 75 per centum of the tuition cost, or equivalent fee, if, when the term begins, the member has at least 6 years of qualifying service computed under subsection (d) (3) of this section.

"(d) For the purpose of subsection (c) of this section—

"(1) 'term' means—

"(A) 'semester' in the case of an institution operated on a semester basis;

"(B) 'quarter' in the case of an institution operated on a quarter basis; and

"(C) the period of time prescribed in regulations of the Secretary concerned in the case of an institution operated on a basis other than semester or quarter;

"(2) the equivalent of 6 semester hours is (A) 9 quarter hours in the case of an institution operated on a quarter basis, and (B) the number of hours prescribed in regulations of the Secretary concerned in the case of an institution operated on a basis other than semester or quarter; and

"(3) a member's qualifying service is the total of—

"(A) his service on active duty (other than for training); and

"(B) any period of assignment to a unit of the Selected Reserve of the Ready Reserve of an armed force during which his participation in training programs of the unit was satisfactory, as determined under regulations of the Secretary concerned.".

SEC. 2. There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

ADDITIONAL COSPONSORS

S. 3182

At the request of Mr. TAFT, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of S. 3182, to amend the Occupational Safety and Health Act of 1970.

S. 3554

At the request of Mr. PROXMIRE, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 3554, to establish a National Commission on Neighborhoods.

S. 3581

At the request of Mr. TAFT, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of S. 3581, to establish an Office of Maritime Affairs Coordinator.

S. 3652

At the request of Mr. GARN, the Senator from Texas (Mr. BENTSEN), was added as cosponsor of S. 3652, to amend the Consumer Credit Protection Act.

S. 3704

At the request of Mr. HUGH SCOTT, the Senator from Michigan (Mr. ROBERT P. GRIFFIN) was added as a cosponsor of S. 3704, the mushroom import limitations bill.

SENATE RESOLUTION 525

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Georgia (Mr. TALMADGE), the Senator from Ohio (Mr. TAFT), the Senator from New York (Mr. BUCKLEY), the Senator from Tennessee (Mr. BAKER), and the Senator from New Mexico (Mr. DOMENICI) be added as cosponsors of Senate Resolution 525, to designate the Philip A. Hart Office Building.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MOTIONS SUBMITTED FOR PRINTING

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976—H.R. 8532

Mr. ALLEN submitted 11 motions which were ordered to be printed and to lie on the table, in connection with the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, as follows:

Motion to concur in House Amendment to Senate Amendment to the bill (H.R. 8532) to amened the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, with an amendment.

I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8532, with an amendment as follows:

At the end of the House Amendment add the following new title:

"IV. EXEMPTIONS

"SEC. 401. Nothing in any title of this Act shall apply, or be applied to, producers of livestock, poultry, agricultural crops, raw fish products, or other producers or processors of food for human or animal consumption."

Motion to concur in House Amendment to Senate Amendment to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust Actions, and for other purposes, with an amendment.

I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8532, with an amendment as follows:

At the end of the House Amendment add the following new section:

"SEC. 304. Any attorney fees awarded under the provisions of this title shall be based upon the quantity and quality of service rendered or the amount paid by the State for such services, whichever is less."

Motion to concur in House Amendment to Senate Amendment to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, with an amendment.

I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8532, with an amendment as follows:

At the end of the House Amendment add the following new section:

"SEC. 304. In the event an antitrust investigator as defined in this Act shall recommend to the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, that a civil or criminal proceeding be instituted against any person who has responded to a demand pursuant to Section 3 of this Act, the antitrust investigator shall advise such person of the nature of any indicated antitrust violations as they pertain to him. Upon request, such person shall have the right to submit a written statement setting forth his position in regard to the subject matter of the investigation, which statement shall be forwarded to the Attorney General or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, with the recommendation of the investigator."

Motion to concur in House Amendment to Senate amendment to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust action, and for other purposes, with an amendment.

I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8532, with an amendment as follows:

At the end of the House Amendment add the following new section:

"Sec. 304. This Act shall be effective January 1, 1977."

Motion to concur in House Amendment to Senate Amendment to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, with an amendment.

I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8532, with an amendment as follows:

At the end of the House Amendment add the following new section:

"Sec. 304. This Act shall be effective July 1, 1977."

Motion intended to be proposed by Mr. Allen in connection with the bill (H.R. 8532), an Act to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes:

I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8532, with an amendment as follows:

Strike titles I and II, that is, on page 1 starting at the end of the Table of Contents strike all through Section 204(b) on page 30.

Motion to concur in House Amendment to Senate Amendment to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, with an amendment.

I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8352, with an amendment as follows:

At the end of the House Amendment add the following new section:

"Sec. 304. No civil investigative demand permitted by this Act shall be issued to a person who has not been determined to be a potential defendant in a criminal or civil proceeding by the Attorney General or the Assistant Attorney General in charge of the Antitrust Division."

Motion to concur in House Amendment to Senate Amendment to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, with an amendment.

I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8532, with an amendment as follows:

At the end of the House Amendment add the following new section:

"Sec. 304. No person may participate in bringing an action under this title while seeking the nomination for election or election, to any state or federal public office."

Motion to concur in House Amendment to Senate Amendment to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, with an amendment.

I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8532, with an amendment as follows:

At the end of the House Amendment add the following new section:

"Sec. 304. In bringing action under this title, if the State fails to establish that the defendant acted in willful violation of the antitrust laws, only actual damages shall be recoverable."

Motion to concur in House Amendment to Senate Amendment to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, with an amendment.

I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8532, with an amendment as follows:

At the end of the House Amendment add the following new section:

"Sec. 304. In any action brought under this Title, the court shall award reasonable attorneys' fees and costs to a prevailing defendant. For purposes of this section, the term 'attorneys' fees and costs' is defined to include the reasonable expenses of witnesses or expert witnesses, the reasonable cost of any studies, analyses, engineering reports, tests, or projects which the court finds necessary to the litigation of the action, and reasonable attorneys' fees based upon the actual time expended by an attorney of a party and his or her staff in advising and representing a party (at prevailing rates for such services, including any reasonable risk factor component)."

Motion to concur in House Amendment to Senate Amendment to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, with an amendment.

I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8532, with an amendment as follows:

At the end of the House Amendment add the following new section:

"Sec. 304. No attorney fees permitted by this Act may be assessed against any defendant who did not act in an obdurate, dilatory, mendacious, or oppressive fashion during the conduct of the litigation."

AMENDMENTS SUBMITTED FOR PRINTING

INDIAN HEALTH CARE IMPROVEMENT ACT—S. 522

AMENDMENT NO. 2233

(Ordered to be printed and to lie on the table.)

Mr. JACKSON. Mr. President, I am submitting an amendment to the amended House version of S. 522, the Indian Health Care Improvement Act, for myself and Senator Paul J. Fannin, the distinguished ranking minority member of the Committee on Interior and Insular Affairs.

When the Senate takes up the House-passed version of S. 522, I shall move to have the language of this amendment substituted for the House version of S. 522.

My amendment consists of several clarifying and technical changes, with the exception of two substantive changes as follows:

The first substantive change would alter the definition of "Indian tribe" in section 4(d) to include not just Alaska Native villages and groups but also regional and village corporations. This would bring this definition in conformity with the definition of Indian tribe in the Indian Self-Determination and Education Assistance Act (88 Stat. 2203). Most of the programs in S. 522 in which Indian tribes would participate would require activities which would be difficult for the usually small Native villages and groups to perform. In most cases, the regional corporations with their wider jurisdiction and more skilled manpower, would be the entities most capable of participating effectively in S. 522's programs.

The second substantive amendment in section 201(e) would make both a significant clarifying change and a critically important substantive change.

Section 201(e) limits the total funding authorized for health services in fiscal year 1978 to $5 million. The health service authorizations for nine services contain no dollar figures; instead, each authorization states "sums as provided in subsection (e)." However, one health service authorization—treatment and control of alcoholism—does not refer to subsection (e) and has a specific dollar figure: $4 million. If the $4 million alcoholism authorization is included in the limitation, then the total funds available to the other nine services under the $5 million ceiling would be $1 million. We assume that the purpose of subsection (e) was to limit the total appropriations for the other nine services to $5 million and not $1 million.

The proposed change would, we believe, clarify the intent of subsection (e)—by removing the alcoholism program from its purview—and eliminate an otherwise debilitating restriction on some of the bill's most important programs.

The substantive change would be to raise the total authorization limitation on those nine health service programs from $5 million to $10,025,000 and provide for a ceiling on positions of 425. The Senate bill specifically apportioned a total of $12,775,000 and 455 positions among the 9 health services and the bill reported by the House Indian Affairs Subcommittee specifically apportioned $10,025,000 and 425 positions. We understand that the principal reason for the dramatic reduction in authorizations for the first year—by 61 percent from the Senate bill and by 50 percent from the House Indian Affairs Subcommittee-reported bill—was to diminish the bill's budgetary impact in fiscal year 1977. However, later amendments moved the initial authorizations back to fiscal year 1978. We, therefore, believe that the principal constraint on the first year authorizations for these critically needed services has been removed. Although we would prefer the full totals of $12,775,000 and 455 positions found in the Senate bill, to enhance these amendments' acceptability to the House of Representatives we suggest restoring the lower authorizations approved by the House Indian Affairs Subcommittee.

I am submitting these clarifying and substantive changes as an amendment so that interested Members of the Senate will have an opportunity to study such changes prior to Senate consideration of the House-passed version of S. 522. I am hopeful that Senate action can be completed prior to the Labor Day recess.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976—H.R. 8532

AMENDMENTS NOS. 2234 THROUGH 2243

(Ordered to lie on the table and to be printed.)

Mr. ALLEN submitted 10 amendments intended to be proposed by him to the pending amendment in the nature of a substitute to the House amendment to the Senate amendment to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

PUBLIC PARTICIPATION IN FEDERAL PROCEEDINGS—S. 2715

AMENDMENT NO. 2244

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY submitted an amendment intended to be proposed by him to the bill (S. 2715) to amend the Administrative Procedure Act to permit awards of reasonable attorney fees and other expenses for participation in proceedings before Federal regulatory agencies, and for other purposes.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976—H.R. 13367

AMENDMENTS NOS. 2245 AND 2246

(Ordered to be printed and to lie on the table.)

Mr. HUGH SCOTT. Mr. President, today I am submitting two amendments to H.R. 13367, the State and Local Fiscal Assistance Amendments of 1976. These amendments would provide only minor procedural changes in the administration of the revenue-sharing program, but these changes would make it much easier for small communities to provide a better and less costly service to their citizens.

Congressman GARY MYERS first brought these amendments to my attention when the House of Representatives failed to pass these improvements to H.R. 13367 due to the time constraints and controlled debate under which the bill was reported by the House Rules Committee. Since then I have heard from many citizens of small jurisdictions who have expressed their enthusiasm and support for these amendments.

The first amendment is aimed at communities whose revenue-sharing entitlement amounts to $2,000 or less. The Secretary of the Treasury would be authorized to issue full payment at the beginning of the fiscal year instead of forcing the jurisdiction to wait for four quarterly payments. Obviously, this minor change would provide more budgetary flexibility for small communities and would decrease administrative costs.

The second amendment would permit government units to join together and publish their proposed use reports in the same newspaper. The reports could be published in much less space and at a cheaper cost to the community. At the same time, the public will be better able to compare projects, budgets, and revenue-sharing expenditures with other communities who cooperate in this program requirement. This amendment does not eliminate in any way the quantity or quality of public disclosure under the act.

I strongly urge my colleagues to lend their support to these important modifications.

I ask unanimous consent that these amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 2245

On page 2, immediately before line 1, insert the following:

PAYMENTS OF LESS THAN $2,000

SEC. 3. Section 102 of the Act is amended by striking out the period at the end of the second sentence thereof and inserting in lieu thereof the following: ", except that, where the Secretary determines that the entitlement of a unit of local government to funds made available under this subtitle for an entitlement period will be less than $2,000, the payment not later than 5 days after the close of the first quarter of such entitlement period.".

Redesignate the following sections and any reference thereto accordingly.

AMENDMENT No. 2246

On page 2, immediately after line 21, insert the following:

"(3) COOPERATIVE PUBLICATION.—No provision of this subsection shall be deemed to prevent units of local government served by the same newspaper of general circulation from combining and consolidating the information required to be published under this subsection in a single joint publication, provided such a joint publication clearly identifies the required information pertaining to each such unit."

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Frank J. Violanti, of Illinois, to be U.S. attorney for the district of the Canal Zone for the term of 8 years, vice Lester Engler, resigning.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, September 6, 1976, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS

THE HONOR SYSTEM CONTROVERSY AT WEST POINT

Mr. BARTLETT. Mr. President, the current honor system controversy at the U.S. Military Academy at West Point has received a great deal of attention recently, both in the press and the Congress.

In two recent letters to the Secretary of the Army, Martin Hoffmann, I have outlined some of my thoughts and concerns regarding this situation, and I ask unanimous consent that those letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *August 30, 1976.*

Hon. MARTIN R. HOFFMANN,
Secretary of the Army,
The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: It is encouraging to me that you have become personally involved in the current West Point honor situation.

However, after having reviewed your statement of August 23rd, reflected upon your testimony, and personally discussed the matter with you, I still have concerns about the way in which you have proposed to resolve, for the present and the future, the problems of the honor system at West Point.

First, you stated on August 23rd that the honor system is "fundamentally sound" and doggedly disagreed with my contention that the honor system is patently unsound.

It is inconceivable to me that an honor system wih massive non-toleration, cheating, and alleged cheating is working. Obviously, it has broken down. An honor system should promote honor, not tolerate dishonor. It should be fair and just.

Though the West Point honor system has failed periodically, the Department of the Army has refused to admit that failure, but stubbornly continued that same unsupported, and hence unworkable, honor system to this day.

Except for the cadet who reported his own cheating on the EE 304 take-home problem, the massive cheating "found and reported" on this examination did not result from non-toleration or reporting of honor violations by cadets, but from the conclusive evidence obtained from intensive inspection directed by the officers at West Point of the EE 304 take-home problem.

It is significant that the officer defense counsels for cadets implicated in the cheating are overwhelmingly convinced that cheating has been pervasive at West Point and that many who cheated have not been reported or found guilty.

The starting point for the development of a sound workable honor system in the future is a candid appraisal of the current honor system, and a courageous admission of its failure, that it is not "alive and well."

Second, I am disappointed with the method you have chosen to judge the Cadets implicated in the EE 304 cheating scandal. While both you and General Berry have indicated that you support discretion and intermediate penalties for violations of a future new West Point Honor System, you have chosen to treat all violators equally in this current instance with a single sanction penalty of expulsion with the right to reapply for admission, and no requirement of two years service as an enlisted man.

Your penalty provision is open-ended, indeterminate, and delayed. There is no prescribed course of conduct for the Cadets to follow during the expulsionary period. It is doubtful that you have sufficient appointments to allow all of those Cadets who might wish to re-apply for admission, and whom you might desire to readmit, to actually be readmitted. Therefore, most likely, a large number of Cadets would, by hopefully following your procedures, be disappointed by being turned down at a later date for readmission. The penalties imposed must, out of fairness, be definitive, reasonably swift, and final.

If you believe the current honor system is inadequate, unfair and unjust for the future, you should believe it is equally inadequate, unfair and unjust for the present violations.

Your goal must be justice, not support of an unjust, unworkable honor system.

Three, Mr. Secretary, you indicated that you would instruct your Blue Ribbon Committee in their review of violations of the honor system at West Point to investigate the breadth, depth, and extent of cheating at West Point by the cadets of the current classes, as well as those in the recent past. I applaud you for this. Obviously, the honor system breaks down when cadets tolerate cheating and so painfully many have.

Mr. Secretary, new cadets are entitled to more than a system of dishonor in which cheating under the system is tolerated pervasively by their peers. This is the situation now in the Class of '77. Common sense leads me to think it possible, if not probable, that this may have been or may be the situation in other classes.

In a system where cheating has been flagrantly tolerated, is it fair to continue the single penalty provision of expulsion which has led to the unwillingness of cadets to report violators whom they do not believe deserve expulsion? I think not, Mr. Secretary. The system is so rigid that a cadet cannot even discuss the specific failures of the honor system with an officer without guaranteeing his own dismissal.

Although I am not involving myself in individual cases, I would expect that some violators deserve expulsion, some deserve suspension for varying lengths of time, and some deserve lesser, but nonetheless, stringent penalties.

I can't understand why, in this current controversy, a person who turns himself in should be expelled rather than receive a lesser penalty. This cleansing action would strengthen the individual cadet's character and help prepare the cadets to develop a workable and sensible system. Your adoption of a sensible but discretionary system of flexible sanction penalties would encourage honor in a system that desperately needs it.

If you do not set an example for the cadets, the cadets probably will not significantly change the honor system. Why, Mr. Secretary? Because they would be afraid to oppose the mystique and power of an honor system that is the nearest thing to God in the minds of those at West Point. It seems apparent that the honor system is frequently confused with the honor code.

These cadets are young men capable of leading our fighting units in the near future, but Mr. Secretary, while cadets, they are lower than a private, and too frightened to make the changes the system needs—changes that might not coincide with the conventional opinion of West Point officers. The cadets do not enjoy the freedom of expressing their thoughts and ideas on the honor system as do students in a college environment.

Cadets can, as has been the case, exist under an honor system substantially forced on them. But, the honor system will not work if the cadets do not support it—obviously they have not.

Mr. Secretary, you must work with the cadets to make certain that they do develop a workable honor system that they will support and, by which, they and the West Point officials, and you, may provide justice and honor in the future at West Point.

In summary, Mr. Secretary, it is my opinion that the cadets do support the honor code, but do not support the honor system. If they did, there would not be periodic failure in the system erupting in public. The cadets fail to support the code because they are unwilling to report violations for offenses they consider not deserving of expulsion. Their vote last summer clearly indicates they believe the single punishment of expulsion is too inflexible and too severe in all cases, which is the thinking today of virtually everyone familiar with the West Point honor system. A cadet, by not turning in himself or another cadet, tears slightly the edge of the fabric of the system. The growing number of cadets who tolerate the system finally tear it asunder. However, if there was discretion and were intermediate penalties, the cadets would be more eager to support the honor system.

Mr. Secretary, you have initiated efforts to resolve the problems at West Point. Your efforts must continue, and I hope you will give consideration to my suggestion that the use of flexible penalties will ultimately lead to a strengthening of the honor system at West Point. Give temporary honor system a chance to work now.

Sincerely,

DEWEY F. BARTLETT,
U.S. Senate.

P.S.: I have asked Mr. Fred Ruth of my staff to go this afternoon to West Point to look into the current honor problems so that we may be more familiar with them. I would appreciate Mr. Ruth receiving every reasonable courtesy.

WASHINGTON, D.C.,
August 12, 1976.

Hon. MARTIN R. HOFFMAN,
Secretary of the Army,
The Pentagon,
Washington, D.C.

DEAR SECRETARY HOFFMAN: The Honor Code rightfully has the seat of honor at West Point, yet beneficially pervades the cadet and officer life at the Academy as well as in the Army itself. But the Honor System has failed—failed to achieve the integrity of the Honor Code. This is clearly shown by the 199 cadets implicated and the 73 cadets found to have violated the Honor System to date. Further investigations by five Internal Review Sub-Panels currently are in progress.

Moreover, the Honor System, as far as the alleged violations on the take home examination of EE 304 is concerned, is no longer permitted to be a cadet responsibility—a cadet administered Honor System. General Berry, the Superintendent of West Point, by establishing the Internal Sub-Panels has superseded and usurped cadet authority. In effect by unilateral action, he has terminated, at least temporarily, the student administered Honor System, perhaps creating deep resentment among the cadets who will be called upon to develop and substantially approve a new and better Honor System.

I have attended all of the several meetings of Senator Nunn's Manpower Subcommittee on the West Point Honor System and the alleged violations and two meetings of the West Point Board of Visitors on the same subject. Testimony from virtually everyone, including cadets and officers at West Point and others, has been overwhelmingly convincing that the present Honor System is too rigid, that the system should be completely reviewed and overhauled, and that discretional use of more than a single sanction penalty be provided.

What concerns me, Mr. Secretary, is that this nearly unanimous opinion on the present system goes beyond the system's rigidity and inadequacy. It is really saying that the present system is not structured to provide just and fair treatment for those processed through it.

Yesterday, I recommended to the Board of Visitors at West Point that you, as Secretary of the Army, use discretion in your review of those recommended for dismissal because of honor violations. This, of course, is authority you already have, but I do believe that such backing by the Board of Visitors will be helpful. I have full confidence that you will seek diligently for justice in every decision you review.

But honestly, Mr. Secretary, I have doubts that it will be possible for you to achieve justice unless you become personally involved now in the honor violation matter. It could very well be that you would find necessary some adjustments in the present Honor System (with cadet approval) in order for this system to provide just and fair play for those it has been and is currently processing. I am referring to such changes as discretion in assessing penalties by Cadet Honor Boards, Officer Review Boards, and the Superintendent. For this reason, I recommend that the Board of Visitors request you to become personally involved now in the manner in which current honor cases have been and are being disposed.

In order for an Honor System to be successful it must have virtually unanimous support from the cadets. It is obvious from the review of a referendum last year at West Point, in which over half (54%) of the cadets voted to change the single sanction penalties to multi-sanction penalties, that solid support from the cadets at West Point did not, and does not, exist for the present Honor System. It follows directly and is most significant that an Honor System that is not well supported is conducive to flagrant cheating.

It is my opinion that the current honor scandal is, most likely, not an isolated incident, but rather is symptomatic of a system in which violations have frequently occurred and have been tolerated for years. Unfortunately, the officers at West Point have approached the current honor scandal as if it is an isolated incident and that cheating has not been and is not widespread at the Academy. Therefore, I suggest you make a thorough, objective investigation on cheating at West Point, not limited to the Class of '77 or the EE 304 examination. Such an in-depth investigation has not been made. It is most unlikely that the West Point Officers could make an objective study.

The current Honor System at West Point does not even provide any way for changes to be made in the system and there has been no record keeping for establishing precedents, "case law", if you will. It is significant that the major responsibility for structuring and maintaining the present Honor System has been invested in the officers stationed at West Point, but not the Cadets.

In order for an Honor System to be successful, the violators must receive their just due and, certainly, serious violations have occurred in the current honor scandal and should be resolved by expulsion. Mr. Secretary, I suggest that you see that the Honor System at West Point is returned to the Corps of Cadets for suggested changes and precise guidelines to be developed and implemented for its operation. I suggested that you see that a group of cadets be immediately appointed to rewrite a new Honor System which meets the Superintendent's approval and to submit it to the cadets for a referendum. Just as the Constitution of the United States is a living document and contains specific procedures to be followed for its amendment, so should the Honor System at West Point have set procedures for change.

I suggest, Mr. Secretary, that you study the feasibility of the Honor System applying only or mainly to the academic environment at the Academy so that enforcement of regulations would be entirely or mainly accomplished independent of the Honor System.

I recommend also Mr. Secretary, that you establish a "Permanent Office of Honor" at the Academy. This office with sufficient qualified personnel would be available to and work under the direct supervision of the Cadet Honor Committee. The staff would provide necessary secretarial work, compile records on honor violation cases for precedence and for consistency, and generally work towards the entire improvement and strengthening of the Honor System.

It is significant that 823 cadets were given one single take home examination to be completed over a two week period. This kind of exposure to temptation may be an imprudent and unnecessary form of faculty entrapment.

I have not mentioned many significant suggested improvements that have been made during our oversight hearings on the Honor System, I will see that they will be handed to you so that you may make certain that they will be brought to the attention of the Cadet Corps for their approval or disapproval. Above all, Mr. Secretary, this Honor System should always be the property of the Cadets—during crisis and at calm times.

In testimony during the hearings conducted by the Senate Armed Services Subcommittee on Manpower and Personnel, it appears that the acedemic community at West Point is not of the caliber it should be. The level of teaching experience for the majority of the faculty is extremely low—three years—the obvious result of the military practice of rotating officers to different assignments. There is a dearth of Ph. D's. I strongly recommend that you take such steps as to achieve an experienced faculty possessing high academic credentials and composed of a minimum of 30% civilians.

But I ask you, Mr. Secretary, can justice prevail in a system not supported by the majority of cadets, nor created by all the cadets, nor totally administered by the cadets, and that is considered unworkable by virtually all knowledgeable people.

Creating a just honor system for the future does not provide justice for the present.

It is my opinion that both the cadets at West Point and the Army officers charged with its operation share in the responsibility of the failure and demise of the present Honor System. You as Secretary of the Army are charged with the ultimate responsibility that out of the current controversy justice will prevail now and have a good prospect of prevailing in the future. In my opinion, you cannot fulfill your responsibility without intervening in the controversy at West Point.

I urge you to take immediate action to make the necessary but tough decision that only you can make.

Sincerely,

DEWEY F. BARTLETT,
U.S. Senate.

HAWAII HIGHLY ENDORSES AGPLANE PROGRAM

Mr. MOSS. Mr. President, the Governor of Hawaii, the Honorable George R. Ariyoshi, has written me a very interesting letter regarding the use of agricultural airplanes and the aerial application of fertilizers and pesticides in his State. He says flatly that such application "is one of the 'saviors' of agriculture." Regarding the proposed program of improved agplane technology development by NASA he says:

> Any technological improvements in this direction would help to reduce costs and increase productivity. We, therefore, highly endorse the development of such a program as proposed by your Committee and appreciate this opportunity to comment on it.

Mr. President, I ask unanimous consent that Governor Ariyoshi's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 21, 1976.

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautics and Space Sciences, U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: Thank you for your letter of June 4, 1976, regarding an aerial applications program for improvements in agricultural aircraft.

Both of our leading agricultural industries, sugar and pineapple, engage in the aerial application of fertilizers and pesticides. With the cost of labor and materials skyrocketing, aerial application is one of the "saviors" of agriculture. As such, any technological improvements in this direction would help to reduce costs and increase productivity.

We, therefore, highly endorse the development of such a program as proposed by your Committee and appreciate this opportunity to comment on it.

With warm personal regards, I remain,

Yours very truly,

GEORGE R. ARIYOSHI.

MEDICAID FRAUD AND BUDGET CUTS

Mr. BUCKLEY. Mr. President, today we are confronted with still more revelations about rampant corruption in the medicaid program. The report of the Senate's Subcommittee on Long-Term Health Care would be shocking if we had not already known that thousands of persons are systematically looting medicaid. In the process, they are not only stealing billions from the taxpayers. They are also devouring the financial resources set aside for the poor. They deserve the harshest penalties of the law.

But the subcommittee's report implicates more than medicaid cheats. It rightly blames the city and State officials whose incompetence and unconcern have turned medicaid into a free-for-all. In New York City alone, $2.5 billion is spent yearly for this program. That is 10 times its original cost only 10 years ago. Someone has betrayed the taxpayers of that city and of the entire country, and it certainly is not the poor and the sick.

Last spring, during the Senate's consideration of the first concurrent resolution on the budget, I called for a $1 billion decrease in Federal spending in the field of health—function 550 of the budget. I insisted that that amount could easily be cut out of the waste and fraud which afflict Federal health care programs. The Senate did not heed my suggestion. And so, today I make it again. I again call for a significant decrease—at least $1 billion—in function 550. I intend to press for such a reduction tomorrow when the Budget Committee takes up this function in the second concurrent resolution on the budget. In light of today's expose of medicaid, the taxpayers will be watching to see if the Congress will at last do its duty and crack down hard on health care crime. Like the taxpayers, I am not optimistic about the Senate's response.

Now that the American people have learned the ugly truth—that as much as $3.5 billion of their taxes is lost every year by medicaid alone—perhaps the Congress will be forced to seek realistic, hard-headed solutions to this odoriferous welfare mess. Every American who is covered by health insurance from a private insurance company knows that the Federal Government could purchase from those companies similar coverage for the poor at a small fraction of the cost of medicaid. Why, then, will this Congress not allow that? Why will the Federal Government not even experiment with this possible alternative, Why, indeed? It is no wonder that many Americans have lost faith in their Government.

It has not safeguarded their taxes. It has not protected the interests of the poor. It has little claim to the confidence of the American people.

ADM. NOEL GAYLER

Mr. JOHNSTON. Mr. President, today in Hawaii a distinguished American citizen and naval officer completes over 41 years of patriotic and dedicated service to the United States of America.

Adm. Noel Gayler, the commander in chief, Pacific, is retiring. His career in the service of our Nation exemplifies the moral courage, self-sacrifice, and high sense of patriotism that we have come to expect of our military leaders.

For the last 4 years Admiral Gayler has been the senior U.S. military commander in the Pacific and Indian Ocean areas. He directed Army, Navy, Marine, and Air Force operations across the more than 100-million square miles of the Pacific Command, an area that extends from the Arctic to the Antarctic and from the West coast of the Americas to the East coast of Africa.

Admiral Gayler, son of Navy Capt. Ernest R. Gayler and Anne Yates "Roberts" Gayler, was born on Christmas Day, 1914, in Birmingham, Ala.

He entered the U.S. Naval Academy from Hawaii, graduated in 1935, and won his aviator's wings at Pensacola, Fla., in 1940, after 5 years of fleet service in battleships and destroyers.

Both before and during World War II, he served as a carrier-based fighter pilot in the Pacific theater. He also served as the experimental fighter test pilot in the Flight Test Division of the Naval Air Test Center. He completed the war as air operations officer on the staff of the Commander Second Carrier Task Force during the knockout strikes against Japan. He was three times awarded the Navy Cross.

He has served as Deputy Director, Special Devices Center; head, Fighter Design Branch, Bureau of Aeronautics; with the Weapons System Evaluation Group of the Joint Chiefs of Staff; as commander, Air Development Squadron Three; in the Air Warfare Division, Office of the Chief of Naval Operations; and as Pacific Fleet operations officer. He put the Navy's first jet through flight test and holds the record for the longest jet flight ever made from an aircraft carrier. He has also served as the naval aide to the Secretary of the Navy, Thomas S. Gates, Jr.; and as commanding officer of the attack carrier U.S.S. *Ranger*.

After selection to flag rank in 1960, he served as naval attaché in London. In 1962 and 1963, he commanded Carrier Division 20 in the U.S. Atlantic Fleet. He then served as director, development programs, and later as Assistant Chief of Naval Operations—development. In 1967 as a vice admiral he became Deputy Director of the Joint Strategic Target Planning Staff. In 1969 he became Director, National Security Agency, Fort George G. Meade, Md., which he ran for 3 years.

On September 1, 1972, he became commander in chief, Pacific. Admiral Gayler has commanded our reduced military resources in the Pacific during a time of soul-searching and self-doubt at home and intense tests of our will in his area of responsibility.

Upon becoming the ninth naval officer to serve as commander in chief, Pacific, he was immediately plunged into the thick of the crises in Southeast Asia. In December 1972 he supervised the bombing of Hanoi and the blockade of Haiphong. These actions brought Hanoi to the bargaining table and led directly to the release of our prisoners of war the following year. In the spring of 1975, he commanded the delicate extraction of American citizens from besieged Phnom Penh in Cambodia. He also commanded the airlift of orphans, refugees, and American citizens from Vietnam. He was responsible for the planning and execution of the successful rescue of the U.S.S. *Mayaguez* and its crew from the hands of the Khmer Rouge.

But the tragedies and heartbreak of Southeast Asia were not his only concerns. He continued to bolster the United States and allied position in the strategic North Asian area. He has continually reassured the leaders and people of Asia of the continuing will of the United States to meet its commitments in that area.

A forthright and articulate spokesman of America's interests in the Pacific area, he has continually warned the American people and its executive and congressional leadership of the growing menace of the Soviet Union's naval buildup in the Pacific and Indian Oceans.

Mr. President, it is truly fitting and proper that we honor this dedicated, intelligent, great American. Certainly in these traubled times our country can ill afford to lose men of such outstanding capabilities.

We can hope that our country will continue to benefit from the advice and talents of this patriotic American. As a highly deserved tribute, I ask unanimous consent to have printed in the RECORD Admiral Gayler's article "The Pacific Command" for the consideration of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PACIFIC COMMAND

(By Adm. Noel Gayler)

This is a time of great change. The entire Pacific and Asia are in a state of flux seeking new directions, finding new leaders. I think the historic future lies in the great Pacific basin where most of mankind lives.

The Pacific and the Indian Oceans are a vast and complex area. There are problems and there are opportunities. I hope to be accurate in describing things as they might be, to the betterment of the United States and the region.

I have not forgotten that I am a military officer with a chain of responsibility which extends from the President to the Secretary of Defense, to the Chairman of the Joint Chiefs of Staff, and the Chiefs of Staff as a body to me; and from me to the Navy and Air Force component commanders, the U.S. Army CINCPAC Support Group, the commanders of established subordinate unified commands, representatives, and Military Assistance and Advisory Groups.

I do, however, want to address the political and economic and even sociological matters, as well as the military. They are indivisible. The Communists have learned this lesson well.

The military theater I am talking about now extends from the West Coast of the Americas to the east coast of Africa and includes all American forces of all services. It's helpful to me to think about it as six regions: America, Pacific Ocean, with our State of Hawaii in the middle of it and a bridge both to the ocean cultures and to the cultures of the Far East, Australia (Australia and New Zealand), Maritime Soviet Russia, for the USSR has two ends, and the Pacific end also is very important in the military sense as well as in many other ways; Asia (Northeast Asia, China, Southeast Asia, South Asia), the Indian Ocean (South Asia again, the Middle East and East Africa).

Now it is very natural to look principally at Europe, at NATO, and at the Middle East with all of their enormous importance. But I think we should also look to the West, and note particularly that in this vast area and Asia the change, and the rate of change, are probably the greatest in the world. A revolutionary area—revolutionary in so many ways. The impact of communications. Small villages, which for millenia have never known anything going on more than 20 miles away are now tied into the world through television, transistor radios, jet travel. They see the rest of the world and they want some of what the other fellow has.

The growth of industrial technology. Not only fully developed countries like Japan, but many other countries are having what I think you could call their third industrial revolution and will not only increase their capability to compete in world markets and their standard of living, but will have profound social changes as a result.

We see in Asia population growth at an unprecedented rate, and as one consequence, enormous migration to the cities. With the exception of the city of Phnom Penh, which was kind of abolished by the Communists when they took over, all of the great cities of Asia are swollen from in-migration as well as population growth; and they are suffering the social consequences of overcrowding.

The gap between the rich and the poor, both people and countries is, I'm afraid, increasing, if anything.

In all of the countries in this region political consciousness—almost unprecedented political consciousness—is increasing. And nationalism is strong. The consequence of rivalries, the consequence of the gap between what they are likely to have and what they hope to have, this renewed ethnic and national consciousness, and the impact of the new Communist technologies of control—all of this means that we can expect strife in this part of the world unless we and others can effectively dampen it.

So from the standpoint of importance, from the standpoint of change, from the standpoint of danger, from the standpoint of opportunity, this is an enormously important part of the world. Quite simply, it is where two-thirds of the human race lives.

Now let me discuss briefly some of the most important aspects of our relationships with the countries in this vast part of the world.

First, Maritime Soviet Russia. The military power of the Soviet state is still increasing at an open-ended rate. I'm not one of those who sees Russians, or even Communists, under every bed. And I do not ascribe any motivation or intention to Soviet Russia. But I must observe, and ask you to observe, the quite extraordinary current military buildup. No fewer than four Intercontinental Ballistic Missile systems, with all of the enormous developmental expenses involved, are under current deployment. A very long-range submarine-launch ballistic missile is already in Fleet service with at least two kinds of large nuclear submarines to carry them. Guided missile systems abound as if they were going out of style; two supersonic bombers operational and at least three new kinds of high-performance fighter deployed; and the continuous reequipping of their enormous armies with all of the latest materiel under development. Hardly a week goes by that I don't see some new Soviet fighting vehicle being introduced. And you know, of course, the Navy story—a story that is largely the story of one gifted and extremely effective naval officer, Admiral Sergei Gorshkov, who has been head of the Soviet Navy for 19 years and has brought it from a second-class coastal defense force to a first-class, seven-ocean Navy operationally capable, technically capable, well-drilled, and designed specifically to interrupt control of the sea. Admiral Gorshkov is not only a leader, but a thinker; and his writings on naval subjects mark him as a naval thinker comparable to our own Admiral Mahan, as well as a most effective leader and administrator. He understands sea power, the political, as well as the military use for it. He wants it for the fatherland and he's well on his way. He has a blueprint; he's effective in carrying it out; and he isn't finished yet. Previously they have specialized in submarines and guided missile ships.

Now, the Soviet Navy, in addition to all else, is challenging air control with the construction of new aircraft carriers to operate high-performance VSTOL (Vertical Short Take-off and Landing) aircraft and helicopters. With forty-odd division organizations opposite China, with their powerful fleet based in the Vladivostok area, and her strong integral air forces, the Soviet navy is a major factor in the Pacific.

Turning to the countries of Northeast Asia, Japan is, of course, our most important ally. Important because of its economic weight, its growing political clout, and its key strategic position, as well as the excellent understanding which exists between the Japanese and ourselves. I welcome the continuation and maturing of our security relationship with Japan which I think is developing along lines which are very much in the Japanese interest as well as in the United States interest. This is a complementary security relationship in which each partner contributes that which it best can to the common security of Northeast Asia, the Pacific Ocean areas and the United States. For our part, of course, it is the nuclear umbrella and the capability to deal with long-range threats. On the part of the Japanese and, in my order of importance, first, the bases which they make available to us which are absolutely essential to our being able to carry out our mission. Second, the access to the great Japanese industrial economy. And third, the defensive contributions of the small, but technically competent, Japanese Self-Defense Forces. These forces, by Japanese decision, will concentrate on air defense of the Japanese homeland and anti-submarine defense and sea surveillance of the waters in the Japanese region. Thus, it is a mission which is cearly defensive, consistent with the Japanese constitution, and yet potentially very useful as a component of our joint effort. One paradoxical consequence of the fall of Indochina is that the Japanese, as well as government, have become more conscious of and more engaged in security affairs with us, and this is an excellent development.

We turn to two Koreas—North and South. A bitter and uneasy truce, a military stalemate, but no contest economically. South Korea is winning that one hands down, in spite of the temporary setbacks due to the energy crisis. The Korean talent for hard work and good planning is paying off, unfettered by Communist economic control. As for the military situation, the threat remains and will remain while Kim Il Sung in the North maintains a posture ready to reunify the peninsula by military force whenever he thinks he can do it. I believe that the South Korean forces are in quite good shape to withstand an attack and the deficiencies that they have, they are moving out to correct—almost entirely with their own money. American forces there are an added and needed deterrence again agression and I believe that they should stay there until they are no longer needed.

The Peoples Republic of China is very much in the news these days. I have little to add to what you know, except an appraisal of the thrust of the military capability. Numerically, they have the world's greatest land army which is disposed both to trade space for time in the event of a Soviet attack, and for internal security in that vast country. The Chinese Air Force is not small, is concentrated on tactical types, particularly fighters and attack airplanes, and is becoming more competent with every year. Their Navy is not small either; runs mostly to patrol types and submarines although they have a few larger ships including guided missile ships. And in the strategic nuclear field, I think they have made clear their intent to get a secure nuclear strike force of intercontinental range. When they achieve this, and I know of no reason why they will not, they will then have a secure nuclear deterrent. And it is, of course, true that a rocket which could fly from China to Moscow could also fly to the United States. The Chinese attitude toward the United States is reasonably encouraging, and it is seen to be that by its neighboring countries. I do not see Chinese military aggression on a major scale as being in the cards, but I have no doubt that she will continue through party mechanisms to support the insurgencies and their allies which plague so many countries of Asia.

In southeast Asia we see mostly what we expected to see with the fall of Saigon: Vietnam integrated under strict Communist rule. Laos, with a fully Communist government under Vietnamese domination. Thailand, plagued with insurgencies and threatened by her Communist neighbors. Communist Cambodia, however, has interests and ideas of its own, and bitter fighting has more than once broken out between the Cambodian Communists and the Vietnamese over border territories. In the general sense, Hanoi can be seen to be facing toward Soviet Russia, and Cambodia toward China.

Indonesia, enormous in population and in resources and determined to evolve with a national resilience against trouble, still maintains a neutral, but friendly relationship with the United States.

Our classic allies, Australia and New Zealand, whatever their political situation will, in my judgment, maintain their full and traditional friendship and alliance with the United States.

The Indian Ocean, too, is enormous in area. Sometimes I illustrate this by superimposing a map of the United States on the middle of that ocean. It touches no significant land anywhere. Along the boundaries of the Indian Ocean are some of the largest and most populous states in the world: South Asia, the Middle East, and East Africa. The complexities there defy thumbnail description. One thing is clear and that is that the sea routes which traverse the Indian Ocean both from the Red Sea, the exit to the Suez Canal and from the Persian Gulf where more than 80 percent of the Middle East oil is shipped are vital to most of the countries of the world. The trade routes extending around South Africa to Europe, the trade routes running through the Indonesian Straits to Japan, East Asia and the United States. It is important that the Indian Ocean remain what it is now—an ocean available for the peaceful trade and the commerce, and the interconnection of all nations. And it is important that no one perceive that in a military sense the Indian Ocean has become a Soviet lake. We have no desire to dominate it but we cannot see it fall under the domination of any single power. Our strategy, therefore, is not to maintain a large force in the Indian Ocean area at all, but occasionally—once in a while go in there with a sizable naval force in order to demonstrate that the Indian Ocean is no one's lake. And here is where the tiny atoll of Diego Garcia comes in. It's right in the middle, an ideal place for communications and for observation; potentially a fleet anchorage, a storage place for oil, a few spare parts and a runway to support heavy logistic and patrol aircraft—nothing more. It's a big convenience and a cost avoidance, and it makes sense but it can in no way be considered to be a major operating base.

You're all familiar with the controversy that attended the discovery of the military missile, naval and air base at Berbera in Somaliland built by the Soviet Union on the southern edge of the Gulf of Aden. The facts are now well established and it is, indeed, not the only base under development in that country by the Soviets. From there they are in a position to dominate the approaches to the Suez Canal and to the Persian Gulf.

In Pacific Oceania, in the Trust Territory of the Pacific Islands, the strategic importance of those places to us as bases, in my view, primarily is that it gives us a capability to prevent hostile powers from establishing bases athwart our lines of communication and that we could establish in the area a fallback for our forward strategy if we have to have a fallback.

Pacific Oceania has great diversity. The U.S. has, I believe, a special responsiiblity for many of these islands and island groups with whose peoples we have had close and friendly relations for a long time. I am thinking particularly of Guam, the Trust Territory of the Pacific Islands which includes the 2,000 islands of Micronesia and of our responsibilities to share with other responsible countries (like New Zealand and Australia and to a certain extent, France and Great Britain) to protect our interests.

Now let me discuss our military forces in the command, and that discussion will be broad. As I said earlier, political, economic, military and sociological considerations are inseparable. In the Pacific Command that is institutionalized in our excellent working relationship with our American ambassadors in the region, with the State Department, and the other portions of government concerned with foreign affairs.

In fact, since World War II, there have been no purely military considerations. That is just as well considering the capabilities of modern weapons. Everything that we have had to do has had a political component, and usually political constraints. Sometimes dominant constraints. Nonetheless, we have major and indispensable functions. The protection of the United States, the maintenance of a free and secure system for the commerce, and politics of the region, the advancement of American policy.

And in the Pacific, of particular importance, is keeping open the lines of communication—sea and air—the life blood of so many of the countries and the peoples of this area, not the least the United States. Now among other ways, how we do this is with an American presence. Again, economic, political, cultural, as well as military. But the military is an indispensable component. And I think that presence is a good and necessary thing because it biases toward peaceful evolution, rather than warlike change. Because it provides an umbrella under which developing nations can get on with their nation building and with their regional associations which we very much support. Without our forward presence it would be extremely difficult if not impossible to provide for advancement of American policy, or even for the basic security of the United States.

The basic idea of the military component is the perception of power. I don't for a minute suggest that any of the countries in the region are necessarily going to start torpedoing each other's tankers or major aggressive incursion across the borders or amphibious attacks. What I do believe is that the perception of who has the power is a vital political fact. If it is perceived that a major military power is dominant in a critical area then that is a fact to which all of the nations in the area must accommodate. The best use of military power takes place when its presence is so clear, the inference so obvious, that no one tests it. Deterrence is accomplished. As an example, for many years the Republic of China on Taiwan has not been threatened in a military way, and the reason, of course, has been the presence of the American 7th Fleet and 7th Air Force. No patrols needed, no shots fired, no threats exchanged, just the fact of the power. It would be profoundly destabilizing in all of this vast area if that perception of American power should change.

Now for our military forces in the Pacific themselves. We have 125 thousand Navy, 49 thousand Air Force, 51 thousand Army and 61 thousand Marines—a total of a little over 286 thousand in this whole vast area. It's not really very much. They are based principally in Hawaii, 38 thousand; Guam, 6 thousand; Japan, including Okinawa, 51 thousand; the Philippines, 14 thousand; and in Korea 40 thousand. The remainder are principally Navy forces afloat and Navy and Marine units on the West Coast. In Taiwan and Thailand, we are in the process of drawing down almost to zero. Our other forces in the theater are very small. Our principal military concerns are to be able to: maintain open the sea and the air lines of communication, and our sea and air presence; achieve, if we must, local air superiority and presence; deter against war at every level.

So far as the nuclear war is concerned, Pacific forces, of course, are a small part of our national global force. And I believe that those forces, and our tactical nuclear forces are adequate in this area.

From the conventional level, and in this area that is by far the most important, we must be able to secure against interference with the contact between nations and against ground action and adventurism such as is possible, but I think unlikely, so long as we are there in Korea.

As for logistics, that fancy word which means beans, bullets, people, supplies, everything, I am concerned with the adequacy of our airlift and the sealift available. I have already noted the great importance of Japan. One other note, and that is that there are really two supply routes to the Middle East. One is the classic route through the Atlantic and the Mediterranean which is far shorter but maybe less secure in both a political and military sense, and the other the longer route from the West Coast of America through the Pacific and Indian Oceans to the same destinations. In some circumstances, the long way around may be the shortest way home.

The Navy is at full strain and has been for some years. The many areas to patrol, the tempo of operations, the necessity for continuous drill, training and tactical work means that men, ships and aircraft have been worked pretty hard, and are still being worked pretty hard.

Our capability for antisubmarine warfare, for ocean surveillance, to provide tactical air and sea control, and sealift are my greatest concerns.

For the Air Force, two major elements: tactical air and air transport. I really only have one major problem with the Air Force in the Pacific: there isn't enough of it. And I am deeply concerned that we are deploying so much back to the United States.

For the Army and the Marines, if I can lump them together for one moment, my concerns are that they continue to be properly based with a considerable component forward and that they be supported in such a way that they can be ready in both the strategic and the tactical sense. And as for the size of the forces, I observe only that in the theater where middlesize countries like Korea dispose of twenty divisions on each side, the total of our ground forces in the Pacific is two and two thirds divisions. Not very much.

The men and women in the Pacific forces are as good as any we have ever had in character, in capability, in determination to make a contribution. It's an all-volunteer force now and that's paying off in great benefits in morale, in capability, and in long-term cost avoidance, although admittedly, the front-end costs are high. I am often asked about morale and I think I can tell you that morale depends more than anything else on their perceived support by their country—America, and by the Congress. It would be particularly handy to avoid what can be seen as continuous sniping, or anything which can be construed as a breach of contract—particularly with our younger people.

Finally, I wish to mention the importance of our bases, particularly in Japan and in the Philippines. Each, needed for strategic reasons; and for both physical and monetary reasons—and I can tell you that at our present force levels or anything that we are conceivably likely to get, we would be severely handicapped without these bases.

Our major military concern is in fact the same concern that we see so much elsewhere—that of cost. We are making determined efforts at cost avoidance through efficiency, through cross servicing and by improving the teeth to tail ratio of our forces. But there is a limit to that. There are military specialists who are required and there are staff officers who are required, there are support facilities that are required, and there is research and development, as well as a requirement for training and advanced operations if we're not to become obsolete. In any case, the cost squeeze is hurting badly. The military suffers from three distinct inflations: the normal inflation, which is a problem for the entire country but which drives our base costs up, as indeed it does for everybody else. On top of that the temporary, recoverable, but with us now, first costs of the all-volunteer forces and the personnel costs elsewhere. Let me say again that it is not fair to take that problem out of the hide of our enlisted men and officers. And, of course, the costs of military hardware itself, in its increasing, but usually necessary, complexity. The result is that we're hard put to find the resources to do our job. There are adverse effects on our force levels, on our force capability, on our modernization and, I'm very sorry to say, on our people.

If the capability I have been talking about as so necessary is to be effective, it must be real. They say that in old pre-war China, in old imperial China, the strength of gunboats was judged by the number of stacks. And when somebody showed up with a seven-stacker, he was king of all he surveyed. Well, those days are gone for better or for worse. There are shrewd and competent military appraisers everywhere. And if our capacity is to be effective, it has got to be actual. There are also very important tangibles. I think we Americans can no longer expect, in case of trouble, that we will have the most of everything. We are quite likely to be the smaller force. That means we've got to be the smarter one—smarter in technology, smarter in savvy, in doctrine and in tactics. In point of fact, almost the most important single aspect of our military capability will be how smart our generals and admirals and commanders are. And the kind of smarts that I'm talking about can be developed and identified only through exercises. I have to tell you that I envy the scope and the sophistication of the Soviet military exercises that I see in this theater. And I'm particularly distressed at any prospective cut in our own exercise capability. And there's another problem of cost and that is that it generates an apparent withdrawal from the world. I see a great many of the policy makers in many of the countries of the East, and privately or publicly they are all concerned by what they perceive as the American withdrawal from the Pacific and from Asia. And I can wave my hands all I want to and tell them about squadrons and ships earmarked back home in case of necessity, but it makes no impression at all in their view; and I have to tell you I don't think they're wrong. The presence that's there, where they can see it, is what counts to them.

The United States has before it many considerations. Let me put some before you. The importance of the perception of power, the importance that deterrence be adequate across the board:

The question of the freedom of our action versus our perceived reliability as an ally.

The potential stress, not only between East and West, the Warsaw Pact and the West, but between North and South. Most non-Communist Asians are very conscious of their Asianness and of their nationalism, but they are not anti-American. And the Communists in China are far more reasonable than the new ones in Vietnam.

The importance of consultation and of participation by our friends, particularly in Japan.

American vulnerability, is a fact in a tough world, where major countries talk openly of going to war as a means of attaining their political objectives, and where the slaughter of the innocents is almost accepted as a legitimate means of political expression. In this world I think it will be very handy to keep our American powder dry.

You have to consider morality—what is right in foreign affairs. It's not a complete guide to what we ought to do but it's a very good beginning.

And, finally, I think we have to pay attention for the sake of us all, to reestablishment of American unity, ending the adversary relationship which sometimes exists for example between the Congress and the executive; between the military and the press; between patriotic Americans and patriotic Americans. I think Congress and the news media can contribute greatly to public education.

So we have our vulnerabilities and we need to pull ourselves together. But I do not for a minute believe that America is on the skids. We have reserves of strength, and of will that have yet to be tapped; and we have a place, a key place, a unique place in the development of the world toward what it ought to be.

Of the things I advocate as the way to go, I would put long-term planning at the top of the list—planning for a little bit more than tomorrow's horizon. Long-term planning can be sophisticated, but it can also be simple.

I think our objectives can be quite clear: To maintain our forward presence. To maintain the bilateral understandings with many a friend, which collectively mean peace and stability. To maintain a no-nonsense stance toward the major military powers, a supportive stance toward the lesser nonaligned nations; and a reliable stance toward our allies. To keep up our military strength and work to the best of our ability toward peace and the rule of law in the world.

NEW YORK JETS COACH PRAISES AIR FORCE PERSONNEL IN EUROPE

Mr. HELMS. Mr. President, I would like to share with my colleagues a letter sent to me by a close personal friend and former constituent, who now resides in New York.

He is Lou Holtz, head coach for the New York Jets professional football team, who for many years was head coach of the North Carolina State University football team in Raleigh, N.C.

Coach Holtz is an outstanding citizen, highly respected throughout the country for his drive, contagious enthusiasm, and dedicated commitment to Christian principles. He has inspired thousands of young people to develop high standards of moral conduct and has helped them to understand the importance of strong character and personal integrity in their daily lives.

Recently coach Holtz toured facilities of the U.S. Air Force in Europe. Upon his return he wrote to me to share his observations as to the dedication and efficiency of our Air Force personnel and operations there.

Lou Holtz' observations, as stated in his letter to me, are very encouraging. We all owe a debt of gratitude to those who serve in the military, in defense of our country. I know all Senators share my pride in, and my gratitude to, those young men and women serving in the Air Force in Europe, and elsewhere at home and abroad.

I ask unanimous consent that Mr. Holtz' letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

New York Jets,
June 29, 1976.

Senator Jesse Helms,
U.S. Senate,
Washington, D.C.

Dear Senator Helms: I hope this letter finds you enjoying good health. I am hopeful we will be able to get together this summer and allow me to reciprocate the numerous kindnesses you have extended to my family and me in the past.

I would like to talk to you about so many things, but time and space do not allow. However, I would like to convey briefly a few of the wonderful experiences that I enjoyed on my recent trip to Europe lecturing for the United States Air Force. If our football team here with the Jets could be run with half the degree of efficiency that our Air Force is, we would not have any problems except to decide where we want to house our team for the Super Bowl this year.

Going to Europe this year for the Air Force was a hardship on me to a certain extent, because I, like you, have so many things to do in such a short period of time. However, I returned to the United States convinced that we have the greatest country in the world and by far, the most dedicated Air Force. It was a healthy experience for me to watch people under pressure operate with a great deal of confidence and efficiency. Even though they were involved in numerous projects, they were extremely courteous and hospitable.

Colonel Spencer, Major John Granger and Sargeant Dave Zwicky of Ramstein Air Force Base in Germany, and Joe Shosid from Houston, Texas were primarily responsible for my being invited to go to Europe. I wish there was some way I could repay them for their efforts on my behalf, but how do you ever repay good friends?

While there, I had the opportunity to meet with General Richard H. Ellis, who is Commander of the Allied Air Forces in Central Europe, and Commander-in-Chief for the United States Air Forces in Europe. We had a super visit with him. Even though he was extremely busy, he took the time to spend an hour with us and answered numerous questions I had concerning the reason for his success and how he handled the multiple operations of the Air Force in Europe. You know from past experiences that I can ask a lot of questions in a very short period. He is an outstanding individual, extremely successful, I came away from our visit convinced that he would be a success regardless of the field of endeavor he chose. His modesty and frankness really impressed me.

I lectured at Ramstein Air Force Base in Germany and Bentwaters Air Force Base in England. I was extremely impressed with the efficiency of the operation at both bases. I understand that Major General Evan Rosencrans, Colonel Job Larson and Colonel Walter Williams, are the ones who were primarily responsible for the efficiency with which my trip to Bentwaters was handled. It was easy to do an outstanding job in Bentwaters because the Air Force coaches were enthusiastic and the previously mentioned people left absolutely nothing to chance. I left Bentwaters and headed for the clinic at Ramstein. This clinic was another repetition of outstanding efficiency. Brigadier General Cornelius Nugteren, and Colonel Jerry Welsh proved conclusively once again that we have outstanding men in our Armed Services.

Senator Helms, you and I believe along the same lines in so many things, and it really disturbs me when I see the sacrifice that our Armed Services are making to keep our country free, and I cannot understand why we can't place more emphasis on national defense and less on our give-away programs. If anybody should be allowed to wallow in self pity it is our Armed Service people overseas. However, never once did I hear a derogatory comment or any sign of self pity. From my observations, they are a group of dedicated individuals and are doing one heck of a fine job.

One problem that was brought to my attention by numerous servicemen in Europe, is that they miss football on TV. The games they do see are usually a couple of weeks old. We can video tape the football games right here at our Jet offices, put them on an airplane to Frankfurt, Germany and they could be shown on the Armed Services TV network the next day. I am sure that this would raise the morale of the Forces to an even greater height. At the present time, I have written Pete Rozelle of the NFL and Walt Byers of the NCAA in an attempt to receive permission to do the above. I am hopeful I will receive an affirmative answer.

In closing, Senator Helms, please tell your wife and family that the Holtz's send their love and their prayers. I remember you quite often in mine because I know what an important role you are playing in the future of our country. Keep up the good work and let me know how I can ever possibly reciprocate the numerous kindnesses you have bestowed upon me. I am sure that Senators are similar to our servicemen in Europe, in that you do not receive enough thanks for the outstanding job that you and some of your peers are doing. Please accept my sincere thanks.

Best wishes.

Sincerely,

LOU HOLTZ,
Head Coach.

MIKE REXROAD RETIRES

Mr. McGEE. Mr. President, at the close of business on Tuesday, August 31, the Committee on Appropriations will lose another of its longtime and valued employees with the retirement of Vorley M. "Mike" Rexroad. Mike's retirement will bring to a close a long and distinguished career in which he has devoted his entire adult life to public service in various roles.

Mike Rexroad began his distinguished military career with service in the Army Air Corps early in World War II. He served in the Flying Training Command and also served overseas with the Office of Strategic Services during that war. He served with distinction for several years during the Korean conflict as a counterintelligence officer in the Office of Special Investigations of the U.S. Air Force. He has maintained both his interest and proficiency in the Air Force, and at the present time holds the rank of general in the Air Force Reserve.

In addition to his military service, Mike has served a long and distinguished career with the Committee on Appropriations. He served on the staff briefly in 1955, returned in 1958 and has been a member of that professional staff in charge of the Military Construction Appropriations Subcommittee since that date. It is that role from which he will retire tomorrow.

Not only has Mike compiled a distinguished career in the service of his Government, but he has also been active in the academic community, both as a student and as a teacher. He began his academic career as a high school teacher in West Virginia just prior to our entry into World War II. Interspersed with his Federal career to which I have made reference, he found the time to pursue his educational pursuits with advanced degrees and further graduate work in universities in New Mexico and New York, pursuing areas of public administration, law, government, and economics. He has also taught at the university level in both New Mexico and New York as well as assuming some administrative roles in those institutions.

During his service on the Appropriations Committee staff, all of us have relied heavily on Mike. He has been a capable and cooperative staff member. He has been a professional staff man in the truest meaning of that term. In addition to that, he was a friend.

I do not know what plans Mike has for the immediate future. I know him well enough to predict that his retirement from the staff of the Appropriations Committee will not mean his retirement from an active and productive life. But it is obvious that he is well prepared and well equipped to assume what role he might choose and to meet any further goals which he might set for himself. That has been his history and I am confident that will be his future. Whatever direction the future takes him—or he takes the future—I wish him the very best.

IN THE NEXT QUARTER CENTURY FOOD PRICES WILL GO UP

Mr. HRUSKA. Mr. President, much has been written about the energy crisis that has been with us now for some time. Part of the problem we face was caused by artificially low prices brought on by restrictive Government regulations and plentiful supply of oil from overseas.

All of a sudden, about 3 years ago, the situation changed. Our foreign oil supplies were cut off and energy prices doubled, even trebled. They will go higher. Our life style has changed because of this new, higher energy cost. There are more conservation efforts. There is a concerted attempt to develop alternative energy sources.

In a recent article in the Omaha World-Herald, Dr. Robert L. Coppersmith, an economist at New Mexico State University, points out that our experiences in the Great Plains with soaring energy costs may be duplicated by the rise in the cost of food.

Dr. Coppersmith says:

> During the next quarter century in the Great Plains, society must be prepared to accept an increase in the real costs of food as well as an increase in the money costs.
>
> Environmental restrictions, water use costs, labor problems, possible capital shortages, increased competition for land from nonagricultural industry as a result of capital flight to avoid inflation, all made more severe by more government interference through a bloated bureaucracy, point to an increase in future real costs of food and fiber.

To maintain our quality of life, Dr. Coppersmith sees some basic changes in attitude that are going to be required:

> If our agriculture is to rise to the occasion and make its maximum contribution to our quality of life, we in agriculture and many of our publics will have to make some strenuous adjustments in thoughts and actions. These adjustments will require us to:
>
> 1. Re-evaluate the historical idea that farmers, ranchers and agri-business can continuously produce more agricultural products and sell them at a lower real cost.
>
> 2. Change the prevailing attitude of consumers indicating their belief in a right to relatively cheap food.
>
> 3. Decrease the burden on agriculture caused by unnecessary, impractical, and costly laws and regulations imposed by bureaucratic agencies and misguided legislators in response to ill-informed but often articulate nonagricultural pressure groups.

Dr. Coppersmith points out the problems that excessive governmental regulation causes for agriculture and the consumer:

> There is nothing in agriculture as frustrating as unnecessary but costly government regulation. Such regulations eventually lead to a smaller supply of food at a higher price. In the final analysis, such increased costs are borne by consumers, who, ironically, are often the people the regulations were originally designed to protect.

What this means is that continuing low cattle and grain prices will mean less production. Less production will translate into greater product demand and result in higher prices for consumers at the supermarket. As Dr. Coppersmith says, there must be an understanding of the agriculture production system and the realization of the cost of food.

Mr. President, so that my colleagues and others interested in Dr. Coppersmith's very important ideas may read them, I ask unanimous consent that the article, "Reconciliation of Conflicting Demands Is Midlands Key to the Quality of Life," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Omaha World Herald, July 18, 1976]

Reconciliation of Conflicting Demands Is Midlands Key to the "Quality of Life"

(By Dr. Robert L. Coppersmith)

The quality of life in today's world is an elusive concept—seldom adequately defined, often excessively maligned.

At one end of the spectrum, extremists cry out for the "good old days" when man, untrained and untamed, was bound to scratch out his existence without help from science and technology. At the other end of the spectrum, an equally devout group of extremists cry out for more crash programs of modern science and technology to help man live fully in a complicated world.

Each side has its own language, a jargon to be used by the faithful. Each group has its own high priests. Each group gathers in evangelistic fervor at its own ill-conceived temple of truth. Each group speaks but does not hear. Each group listens but is unable to understand any jargon foreign to its own.

It is from these uncompromising viewpoints that we must begin a search for intelligent compromise. We must not be bound by an "all or nothing at all" approach. The rule of reason must prevail.

If the quality of life in the Great Plains is to be maintained, changed, and improved during the next quarter century, it is crucial that we seek a road to reasonable reconciliation.

This road involves trade-offs to achieve an acceptable balance between the things that were, the things that are, and the things that can be. It is futile for man to ignore his past. It will be fatal if we try to live our future there.

If our agriculture is to rise to the occasion and make its maximum contribution to our quality of life, we in agriculture and many of our publics will have to make some strenuous adjustments in thoughts and actions. These adjustments will require us to:

1. Re-evaluate the historical idea that farmers, ranchers and agri-business can continuously produce more agricultural products and sell them at a lower real cost.

2. Change the prevailing attitude of consumers indicating their belief in a right to relatively cheap food.

3. Decrease the burden of agriculture caused by unnecessary, impractical, and costly laws and regulations imposed by bureaucratic agencies and misguided legislators in response to ill-informed but often articulate nonagricultural pressure groups.

Our history shows that during the last four to five decades, our agriculturists have, generally, been able to consistently produce more food and fiber at a decreasing real cost per unit.

This was made possible by the use of more and better management and scientific technology in the areas of chemical fertilizer, new crop varieties, chemical additives and controls, machinery, water use, animal and plant disease control, increased use of capital, and improved farm management and marketing.

During much of this period of time, money costs of production went up as inflation decreased, but real costs per unit for the most part went down if measured by the per cent of consumer disposable income spent on food and fiber.

During the next quarter century in the Great Plains, society must be prepared to accept an increase in the real costs of food as well as an increase in the money costs.

Environmental restrictions, water use costs, labor problems, possible capital shortages, increased competition for land from nonagricultural industry as a result of capital flight to avoid inflation, all made more severe by more government interference through a bloated bureaucracy, point to an increase in future real costs of food and fiber.

Public policy planners and agricultural leaders must be alert to these conditions if we are to put forth the necessary programs to maintain and improve our quality of life in the Great Plains as well as the rest of the nation.

During the last 40 years or more, consumers have become accustomed to food costs decreasing as a proportion of their total living costs.

For many years, the U.S. Department of Agriculture proudly published and many agricultural leaders proudly quoted a series of statistical data showing the decrease in the percentage of disposable income spent on food.

Equally popular and quoted was the statistical data series showing how many people, in addition to himself, one farmer could feed. This number always went up while the percentage of disposable income spent for food always went down.

Most secretaries of agriculture revelled in these statistics, and, if one could determine to what group the secretary would be speaking, it was relatively easy to guess which speech he would use to impress the audience with the efficiency of agriculture.

Consumers were set aglow by the "cheap food" speech while farm audiences were regaled with the "high production per man" speech.

Sometimes during 1973 and 1974, the statistical data on percentage of income spent on food showed an increase of a few tenths of a per cent. This change destroyed the value of the "cheap food" speech to consumers. Close behind this came the World Food Conference in Rome. Several of our agricultural leaders attended, and some returned wallowing in compassion for the less well-fed and overpopulated nations of the world.

In dealing with consumers and our other publics, we must avoid meaningless cliches. We need to tell our story as it is and do so in a way it can be understood and accepted. Our national slogan to consumers should not be, "If you eat, you are involved in agriculture." It should now be, "If you want to eat in the future, you must become involved in a healthy agriculture."

Our publics may find our agriculture confusing. Let's make sure they don't find the agriculture industry confused.

Agriculture was the "ugly duckling of the Depression." During the 1960s it became the "sobsister for subsidy" in the minds of some consumers and urban politicians. Today, agriculture is considered the "darling of our democracy," as a result of its being used as a partial cure for our balance of payments problem and as a bargaining tool in trading "food for crude."

Agriculture must exploit this new-found fondness to enable it to gain and keep favorable support from both consumer and political leaders.

There is nothing in agriculture as frustrating as unnecessary but costly government regulation. Such regulations eventually lead to a smaller supply of food at a higher price. In the final analysis, such increased costs are borne by consumers, who, ironically, are often the people the regulations were originally designed to protect.

Incomplete or inaccurate information in the hands of the incompetent is dangerous to our agriculture. There is perhaps nothing as immortal as a fake idea seen in print, flashed on TV, or spoken by a charismatic charlatan before a group of well-intentioned but emotionally-scarred misfits.

The incompetent, the charlatans, and the emotionally-scarred offer nothing positive in the way of problem solution. Their approach is to destroy, regulate, strangle, frustrate and agitate those who would produce food.

If allowed full sway, the end result of this approach would leave us with empty granaries, empty meat counters and grocery shelves and perhaps a vegetable supply consisting almost solely of "poke greens picked from the banks of the Pedernales River."

We must achieve a balance—a trade-off, if you please—between the benefits of our actions in relation to their costs, both economic and social. Such a balance can be achieved only if we choose a road to reasonable reconciliation.

A dogmatic, uncomprising attitude cannot succeed in a democratic society. The road to reasonable reconciliation need not be dogmatic and cannot be uncompromising. Proper arrangement of our priorities, along with dedicated research and action programs, can keep the negative effects of our actions to a minimum while permitting positive contributions to our quality of life.

PAPERWORK AND HIGHER EDUCATION

Mr. McINTYRE. Mr. President, on Thursday, August 26, the Senate passed an amendment I cosponsored with several other Senators that is designed to cut the paperwork that the Department of Health, Education, and Welfare's Office of Education and Office of Civil Rights can impose on the Nation's educational institutions.

Newsweek, in its August 30 edition, further amplified the problems facing higher educational institutions in dealing with Federal paperwork and redtape.

Because of its timeliness, I ask unanimous consent that the Newsweek article be printed in the Record at the conclusion of my remarks.

It is my hope that the conferees on the Higher Education Act amendments, S. 2657, will take the gist of this article to heart and insist that the paperwork amendment be included in the bill sent to the President for his signature.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Newsweek magazine, Aug. 30, 1976]

Red Tape Blues

The U.S. Government gives colleges and universities nearly $9 billion a year. But there is a catch. Frustrated educators find that they are spending a lot of this largesse not to teach students but to comply with arcane bureaucratic regulations. The University of Illinois, for example, may soon have to spend $557,000 to correct a minor violation of the Occupational Safety and Health Act. The school must repair an elevated walkway connecting the buildings of its Chicago Circle campus; the solid granite slabs that form its banisters fall 5 inches short of the OSHA specification that all railings must stand 42 inches high. Federal inspectors recently warned Stanford that the university's 6,000 chromium-plated fire extinguishers did not meet U.S. standards, which require that all such devices must be colored red. Exasperated officials figured out a way to comply: they wrapped the offending fixtures in red tape.

Since the mid-1960s, when both government funds and regulations began to accelerate at an unprecedented rate, the nation's colleges have labored especially hard to comply. They must meet all the standards required of corporate and industrial employers, such as health and hiring regulations, and at the same time fulfill a set of obligations designed for educational institutions alone. Every Federal regulation means inspections, corrections, record keeping and the possibility of costly court battles if a school's compliance is challenged. By the best estimates available, the Byzantine Federal rules now cost colleges and universities almost $2 billion a year—a figure that is roughly equal to the entire sum the institutions raise through voluntary donations. Noncompliance, of course, can be even more expensive. A school that does not meet the government's standards is in danger of losing its Federal assistance.

The American Council on Education has completed a new study of the problem that highlights the colleges' worst troubles. Using detailed figures of six representative institutions, from the private College of Wooster in Ohio to the cosmopolitan University of Illinois, ACE has determined that compliance costs between 1 and 4 per cent of the schools' operating budgets—enough in these tight times to force cuts in departmental funds. Many of the newest regulations, the report notes, concern employment, an area that hits the labor-intensive colleges much harder than it does an ordinary manufacturing concern.

Bureaucrats are little moved by protests that a university academic department is different from a factory assembly line. A college may want to add more blacks to its faculty, but that can be difficult when its only job openings are in eighteenth-century French literature or sub-particle physics and there are not enough black Ph.D.'s to go around. In their search for more women and blacks, many institutions have hired special personnel officers—and even outside "head hunters"—to prove their good faith.

Obligations: While most colleges support the principles that the Federal regulations are designed to uphold—from fair hiring to environmental protection—they deplore the sheer complexity of the bureaucratic demands. In order to fulfill their obligations under the new educational privacy act, for example, school officials not only must keep complete student records, but must painstakingly note every occasion on which anyone, anywhere, requests access to them. At Ohio State, this process costs $250,000 a year. Harvard president Derek Bok reports that the Harvard faculty spent more than 60,000 hours in the school year 1974–75 meeting the record-keeping requirements of Federal programs. "It's not hard to imagine a day," says Duke president Terry Sanford, "when faculties and administrators will spend all of their time just filling out government forms."

Perhaps worst of all, some educators see a threat of government intrusion in the classrooms themselves. When the Department of Health, Education and Welfare recently proposed a review of all college curriculums to root out racism and sexism, so many schools protested the censorship implications that HEW withdrew the request. Yale President Kingman Brewster thinks that interference is inevitable when the government spends so much money on higher education. "It's the old syndrome," he says. "'Now that I have bought the button, I have a right to design the coat'."

The last straw for some weary college administrators proved to be the regulations against sex discrimination in education known as Title IX, which, among other things, ordered schools to equalize their spending on athletic opportunities for both men and women. Last spring, two institutions—Hillsdale College in Michigan and Brigham Young University in Utah—refused to comply, and invited the government to retaliate. Neither of these colleges receives direct Federal money for any of its programs. But they do stand to lose all Federal financial aid to their students, about $200,000 for Hillsdale and $6 million to $7 million for Brigham Young.

For the many colleges whose Federal assistance is a fiscal necessity, however, such nose-thumbing is not feasible. Most administrators simply want to persuade the Federal government to make sense of its regulations. But even that lobbying effort runs into Catch-22. This fall, bills will be considered in Congress that may result in new Federal regulations limiting college lobbying.

BICENTENNIAL LAND HERITAGE PROGRAM

Mr. HANSEN. Mr. President, Sunday, August 29, President Gerald R. Ford, at Yellowstone National Park, unveiled a program to significantly expand our national parklands, wildlife sanctuaries, and historic sites, and to rehabilitate facilities in them, some of which have deteriorated in the past few years due to increased use.

I was with the President when he made this historic conservation initiative, and I am proud of the leadership he is exerting in this crucial area.

As ranking minority member on the Parks and Recreation Subcommittee, I am well aware of the love Americans have for these resources, and of the need future generations will have for more lands and improved facilities in them.

President Ford has already taken important initiatives in the conservation area by approving 400 additional staff positions for the National Park Service and recommending passage of legislation which will assure expanded recreational opportunities along with affording permanent protection for America's unique natural resources.

While the specifics are yet to be considered and debated, I am confident all Americans will agree and applaud the President for his vision and concern for improving the quality of life of our children's children.

I ask unanimous consent that the program be printed in the Record.

There being no objection, the program was ordered to be printed in the Record, as follows:

Bicentennial Land Heritage Program

The President is proposing to establish a 10-year program to double America's heritage of national parks, recreation areas, wildlife refuges, urban parks, and historic sites. This new commitment will be a Bicentennial gift that the American people will give to this and future generations of Americans.

BACKGROUND

Because of the vision of our forefathers, today's citizens have inherited vast and irreplaceable gifts of parks, historic sites, wildlife sanctuaries, and recreation areas. The National Park Service's 287 units comprise 31.0 million acres. The Wildlife Refuge System's 378 units comprise 32.2 million acres. Yet, with our Nation's growth, these resources are often overcrowded and overused. At the same time, many areas which would make superb parks, sanctuaries, or recreation areas are being lost forever because land values often make other uses more attractive in the short term.

The proposed initial commitment of $1.5 billion over 10 years would be a sound investment in America's priceless natural resources and avoid loss forever of an American heritage that cannot be replaced. It would mark again this Nation's commitment to preserve the best of our vast and beautiful continent. It would expand permanently the natural treasures future generations of Americans will inherit before these resources are priced out of the public domain.

DESCRIPTION OF PROGRAM

An appropriation request will be submitted to establish a $1.5 billion, 10-year program to:

provide $141 million to be used to acquire new parks, wildlife refuges, and recreation areas and historic sites through the Land and Water Conservation.

provide $700 million to develop new and existing parklands and refuges into recreation and conservation resources ready to serve the public.

provide $459 million for upgrading and increased staffing of current system of national parks and wildlife refuges.

provide $200 million of additional funds to the Community Development Bloc Grant Fund to be available to upgrade existing parks, particularly in urban areas.

A. Programs included and funding

1. Acquisition of new parks, wildlife refuges, recreation areas, and historic sites. ($141 million immediate appropriation from the Land and Water Conservation Fund to remain available for 10 years.) Additions to the National Park System—$110 million for parks, national rivers, recreation areas, and historic sites. Additions to the National Wildlife Refuge System—$31 million for the preservation of natural areas and habitat for wildlife, including endangered species.

The National Park Service currently purchases approximately 60,000 acres annually, utilizing approximately $77 million from the Land and Water Conservation Fund. At this time, 559,608 additional acres and $449,631,713 are required to acquire lands in congressionally authorized park and recreation areas and historic sites of the National Park System. Such purchases would be made in future years to the Land and Water Conservation Fund.

The Fish and Wildlife Service currently acquires approximately 85,000 acres annually, utilizing funds available from the Migratory Birds Conservation Account ($19.5 million in

1976) and the Land and Water Conservation Fund ($9.4 million in 1976). The President's Bicentennial Land Heritage Program will initially more than double the nation's total acreage of parks, recreation areas, and wildlife refuges. Over the 10-year period, it will continue to add acreage by building upon a growing Land and Water Conservation Fund. The Bicentennial Land Heritage Program will over these 10 years be annually coordinated with the increases in the Fund so as to best supplement, support and develop acreage added by expansions in the Land and Water Conservation Fund.

2. *Development of these new and existing parklands and refuges into recreation and conservation resources ready to serve the public.* ($700 million immediate appropriation to remain available for 10 years over and above existing development programs and funding for units already in the National Park and Wildlife Refuge Systems.)

Such funds are generally to be used to implement pary and refuge master plans, which include visitor facilities, roads and trails, resource management tools, and such additional improvements as may be necessary for effective park and refuge management.

National park units—$500 million

National wildlife refuges—$200 million

3. *Upgrading and increased staffing of current systems and national parks and wildlife refuges.* ($459 million, of which $259 million immediate appropriation to remain available for ten years for upgrading, and $200 million over ten years to be appropriated approximately $20 million annually for increased staffing.

Upgrading—$259 million for rehabilitation of deteriorated facilities with $194.3 million for national parks and $64.7 million for wildlife refuges, with emphasis to be given to those areas where public use opportunities are greatest.

Increased staffing—$200 million and approximately 1,500 permanent positions, with 1,000 for national parks and 500 for wildlife refuges to bring the present field employment up to a level that will insure the protection of the natural resources and meet the increasing public demand. ($20 million annually for ten years—$13 million for the National Park Service and $7 million for the Fish and Wildlife Service.)

4. *Increased funding of cities and states to be available for parks and recreation areas.* The Community Development Bloc Grant Progam at the Department of Housing and Urban Development makes available funds—on both a formula and discretionary basis to communities and states for community development purposes, including the development of parks and recreation areas. $200 million will be added to the FY 1977 level of $3.2 billion. Recipients will be urged to give high priority to upgrading existing parks, particularly in urban areas.

B. Spending requirements

While most of the program (all but $180 million) would be appropriated in FY 1977, spending in terms of outlays in FY 1977 would be about $185 million.

AN IMPROPER ROLE FOR THE CORPS OF ENGINEERS

Mr. **MUSKIE**. Mr. President, when the Committee on Public Works met last week to develop a committee amendment to S. 2710, I differed from a majority of my colleagues on the question of how dredge and fill materials should be regulated and by whom. I voted against proposals that were offered, including the successful Baker-Randolph amendment.

Because of my position on section 404, I shall explain my views in greater detail. The Senate needs to be aware of the history of this section. And the Senate needs to understand the degree to which the Corps of Engineers has abused its discretion, exceeded the intent of the Congress, and acted in a manner inconsistent with what I believe to be good public policy.

I shall attempt to put this issue in perspective and to provide the reasons why I am inclined to support striking section 404 from the act. I share my colleagues concern with the obvious and unwarranted extension of the Corps of Engineers' regulations into activities which were not intended by the Congress.

Section 404 was included in the 1972 act as an exception to the otherwise comprehensive regulatory program. It has had a damaging effect. It has not led to the end of open water discharge of dredge spoil—its primary purpose—as intended. It has led to a perception of needless interference into the affairs of farmers, foresters, miners, and others.

The confusion, the irritation, the divisiveness caused by the corps' attempted regulatory activity under section 404 must cease. That is why I have suggested repeal of section 404 to restore the basic Federal/State regulatory program under sections 402 and 208 of the act. In this way, point sources of discharge of pollutants, including dredge and fill material, would be regulated, as appropriate, by the Federal and State governments.

But more important to many Senators is that repeal would get the Corps of Engineers out of the business of regulating most farming, forestry, construction and mining activities. Without section 404, the intent that these activities be subject to State and local processes under section 208 will be restored.

Repealing section 404 would avoid the redundancy of permit programs and the cumbersome regulations that have resulted. The enactment of section 404 was premised upon regulation by the corps of the discharge of dredge spoil as a part of its authority to protect navigation. The corps has not done this.

I am afraid that the corps will have to find its justification in an area other than purported environmental regulatory effort. While the corps appears to regulate wetlands in the public interest, it continues to allow open water discharge of dredge spoil.

Mr. President, many have argued that section 404 is essential for environmental protection. Some environmentalists have become enamoured with the newly found interest of the Corps of Engineers in environmental protection. I reject the position of the environmentalists on this issue. To the extent that dredge and fill material is actually discharged from a point source into the navigable waters as defined in the Clean Water Act, it will be subject to regulation by the Environmental Protection Agency.

The proposed amendment from the House provides an excellent example of what happens from legislating exceptions. The House amendment would only compound the problem. Exceptions legislated on exceptions result in a law which is complicated and application of which is uneven. Redtape, overlap, frustrations are all functions of creating exceptions, especially exceptions which create authority for new agencies, new procedures, new criteria. The public becomes confused. And the Government loses credibility. Creating multiauthority to control the discharge of pollutants into the navigable waters was not good policy in 1972. The proposed amendments by the House make it clear that it is not acceptable in 1976.

Legislating by exception is an all too frequent practice by the Congress. We must adopt comprehensive programs which are coherent and which are as understandable as possible. People should be given the assurance that they can understand both procedural and substantive requirements which are required by Congress. This is best done by working with uniform administration. Creating exceptions, separate definitions, and separate procedures for matters which fall within a single heading such as the control of discharge of pollutants does a disservice to the American people. We confuse, we erode credibility as we give special interests special protection.

I urge my colleagues to review this statement carefully. The confusion under section 404 as intensified by the House action cannot be corrected by an amendment. There is only one way to inform a public agency that the Congress absolutely rejects confusion in the law brought about by legislating exceptions—that is through repeal of those exceptions.

Mr. President, in order to help the Senate understand the issue, let me summarize its history. It reveals how acts of Congress can become distorted almost beyond recognition at the hands of the executive branch.

LEGISLATIVE HISTORY

The section of the 1972 act which the House proposes to amend was not in the bill (S. 2770) which the Senate passed in 1971. An amendment which would have added a section 404-like provision was defeated in the Senate Public Works Committee by a vote of 9 to 6. During the Senate debate on this bill, S. 2770, Senator STENNIS offered an amendment similar to the amendment defeated in committee which would have added a section 404 to regulate, through the Corps of Engineers, the discharge of dredge spoil. As floor manager of the bill, I responded with an amendment to section 402 regarding EPA's authority to issue permits for the discharge of pollutants so as to provide for review by the Corps of Engineers of the impacts on navigation whenever dredge spoil was to be discharged. My amendment was adopted.

For those who are interested in reviewing the issues discussed at that time, I refer to the debate which has been reproduced in the legislative history documents printed as a committee print by the Committee on Public Works on pages 1386 to 1393. The philosophy of the Public Works Committee, and ultimately of the Senate at that time, was that the program authorizing the discharge of pollutants into the navigable waters of the United States would be best administered through a single program under the direction of the Environmental Protection Agency with the authority to delegate that program to States upon the qualification of State programs. Dredge spoil and fill were definitely considered pollutants. I continue to support that position.

In 1971, the House Committee on Public Works added a section 404 which separated the regulation of the discharge of dredge or fill material into the navigable waters from section 402 and placed the jurisdiction for the issuance of such permits with the Army Corps of Engineers. In addition, the House bill would have exempted Federal projects involving dredge or fill material from the 404 permit procedure and would have given EPA only a limited consultative, not authoritative, role in the issuance of permits for the discharge of dredge or fill. The text of this provision appears on page 1063 of the legislative history, volume 1. The provision reported by the House Public Works Committee was adopted by the full House.

As a result of conference, a provision was adopted which, although it provided authority for the Corps of Engineers rather than EPA to issue permits regarding the discharge of dredge or fill material in the navigable waters, gave the Environmental Protection Agency a veto role over the choice of any disposal site in the navigable waters specified by the Corps and did not include the exemption for Federal activities originally provided in the House bill. This provision became law.

This program authorizing the disposal of dredge and fill material at selected sites was an extension of the Rivers and Harbors Act of 1970 which authorized the corps to provide diked disposal areas, so as to, in the words of the Senate report on S. 2770, "reduce as much as possible the need to dispose of dredge spoil in the open waters." Public Law 92-500 struck the limitation on the corps' diked disposal authority which, prior to 1972, was restricted to the Great Lakes. Thus, the program was made applicable to all the Nation's waters after enactment of the 1972 act.

ADMINISTRATIVE HISTORY

However, the corps has not carried out this provision of section 404. It has not designated sites for the disposal of dredge spoil. It has not reduced or eliminated the open water discharge of dredge spoil. The practice continues unabated. The corps has not carried out the law.

I wrote to the Corps of Engineers, Senator BUCKLEY and I wrote to the Corps of Engineers, the staff of the Subcommittee on Environmental Pollution met with the Corps of Engineers, to urge that they pull in their horns, comply with the law, and cease to extend their jurisdiction beyond that which Congress intended. All of these discussions were to no avail.

Somehow the limited exception to the general permit program under section 402 of the act has become a major exception by the broadening of the charge of the corps under section 404 to all discharges of dredge or fill material, notwithstanding whether at specified sites or not. This has resulted in a confused, complicated program. This duality could have been, in large measure, avoided. Under the section 402 permit program, the Environmental Protection Agency was to issue permits for the discharge of all pollutants, including dredge or fill material, except for the discharge at specified sites of material dredged from the navigable waters.

One of the most important features of the 1972 Water Pollution Control Act was its definition of "navigable waters." This term was intentionally defined broadly to protect the Federal interest in the integrity of the Nation's waters. The expanded definition eliminated the arbitrary political distinctions of water which were not recognized by the natural system we were trying to protect. The Congress recognized in 1972 that the water system of the United States was a single aquatic system and that biological integrity could not be achieved and maintained without a comprehensive program for regulation of the discharge of pollutants into that system. This definition was in contrast to an earlier narrow Federal interest in interstate waters and to earlier definitions of navigable waters by various Federal agencies, including the U.S. Army Corps of Engineers under authority of other law. The Corps of Engineers' role under section 404 of Public Law 92-500 was a compromise to utilize the permit system that the corps had in place under section 10 of the Rivers and Harbors Act. It was not designed simply to protect the commercial interest of the Federal Government in the navigable waters.

With respect to the corps' role in water pollution prorgams, the most important definitions were in the context of section 10 of the Rivers and Harbors Act of 1899 and section 13—better known as the Refuse Act—of the Rivers and Harbors Act of 1899. These two sections, which authorized protection of navigable waters by the Corps of Engineers with respect to navigation, had different descriptions of navigable waters and have resulted in extensive litigation on that question.

As a result of the special section of the 1972 Water Act for the regulation of the discharge of dredge or fill material at specified sites, the Corps of Engineers had to somehow incorporate this new definition into its existing authority under sections 10 and 13 of the 1899 act. In doing so, it found itself perplexed as to the scope of the new provision. This uncertainty resulted in an extended period of rulemaking activity which only reached interim final stage in July of 1975, almost 3 years after enactment of the 1972 act.

This rulemaking activity was surrounded with bitter controversy within the administration and among all interested parties throughout the United States. The rules which have been adopted primarily through the energy of Russell Train, the Administrator of EPA, can be described as reaching middle ground, although some controversy continues. Notwithstanding the fact that these regulations have taken nearly 4 years to put into place, the House of Representatives, without any public hearings on this complicated issue, has now passed a provision which would create a new cloud of uncertainty over the program to protect and enhance the quality of the Nation's waters.

The House-passed provision would compound errors which were first made by legislating the section 404 exception. In fact, the proposed amendment would intensify the complexity of the 1972 act by creating additional exceptions to the fabric of the Federal Water Pollution Control Act. The House bill would withdraw from regulation many important polluting activities. The House provision achieves this result in several respects.

PROPOSED HOUSE AMENDMENT

First, the House provision creates an entirely new definition of navigable waters to govern the scope of the corps regulation of the discharge of dredge or fill material. This new definition would seriously restrict the waters into which the discharge of significant dredge or fill pollutants would be regulated. This is totally without support and is unacceptable.

Second, the House bill would reinstate, although in different language, the exception for Federal activities which the Congress rejected in 1972.

Third, the House, not content to limit the corps' authority, would further limit the role of the Federal Water Pollution Control Act by precluding any regulation under section 402 of the discharge of dredge or fill material in the navigable waters other than those under the new limited definitions of the House bill. The consequences of such restriction are that for the purposes of dredge or fill, the House would restore the old 1965 act limitation on Federal law which was so decisively rejected in 1972.

Fourth, the House bill would add a provision allowing the corps to authorize a State to issue permits under section 404. This provision would be added, notwithstanding the fact that without the special legislative exemption for dredge or fill materials under section 404, the permit program would be fully authorized for transfer to the States under the established and separate procedures of section 402 of the act. Twenty-seven States to date have been authorized under section 402, a provision that includes, as the House bill does not, sufficient criteria to protect the Federal interest in the integrity of the Nation's water.

A PREFERRED PROPOSAL

Mr. President, in 1972 the Committee on Public Works, the Senate and Congress worked very hard to enact a law to protect and enhance the integrity of the waters of the United States. The 1972 act attempted to establish an appropriate balance between the Federal and State governments. It attempted to create a Federal role as needed and maintain a State and local role where one was appropriate. For example, nonprofit sources such as agricultural activity, forestry practices, road building, and the like are to be regulated under section 208 by State and local governments. We did not want a mammoth Federal presence involved in these activities. But under section 404, insisted on by the House as it relates to the dicharge of dredge or fill material, we got just that.

Section 402, with its delegation provision both achieves the Federal purpose of protection of water, while providing for administration by qualified States.

Mr. President, as I stated earlier, I prefer that the Senate respond to the problems that have arisen in the 404 program with an amendment to the Water Pollution Control Act to strike section 404 so that the discharge of the dredge or fill materials will be regulated within the overall fabric of the 1972 act. The discharge of dredge or fill material into the navigable waters of the United States would then be regulated pursuant to section 402 of the act in accordance with its provisions for authorization of State regulation where a State has demonstrated the capability to administer the program. This avoids creating exceptions and the procedural and substantive complexity that exceptions bring. The number of permit issuing agencies would be reduced. There would be no ambiguity as to the relationship of the discharge of dredge or fill material under section 402 and the activities which are otherwise regulated under section 208. It would also be clear that Federal facilities would be treated as any other citizen, in accord with section 313, and not subject to any special exemptions. It would also be clear that the States could implement the program if they qualify under appropriate criteria.

But more important to many Senators is that this approach would get the Corps of Engineers out of the business of regulating most farming, forestry, construction and mining activities. Without section 404, the intent that these activities be subject to State and local processes under section 208 would be restored.

I print at this point in the RECORD support for this position—basically the position of the Senate in 1972—given by the then Administrator of the Environmental Protection Agency William Ruckelshaus, in a letter to the House of Representatives at the time they were marking up the 1972 amendments to the Water Pollution Control Act. Mr. Ruckelshaus stated as follows:

> Section 404, "Permits for Dredged or Fill Materials," would let the Corps issue permits for dredge or fill in navigable waters subject to EPA criteria and review, but no recommendation of EPA need be followed where the Secretary of the Army determines" there is no economically feasible alternative reasonably available." The bill would allow the Secretary to govern Federal dredge and fill projects by regulations rather than permits.
>
> We are strongly opposed to this action. We believe that all permits for discharges into navigable waters or the oceans should either be issued by EPA or subject to EPA review and concurrence with respect to environmental considerations. Moreover, we believe that it is overly complex and would be very difficult to administer.

When this committee amendment is adopted, the Baker-Randolph proposal becomes part of the Senate bill. I will not try to amend it; I will not offer my proposal. We will send Baker-Randolph back to the House. Maybe they will adopt it, maybe we will go to conference. I intend to continue to search for a solution and to continue to develop a position. I appreciate the efforts that have been made so far and hope they will continue.

LAFAYETTE COUNTY, MO., HONORS THE MARQUIS DE LAFAYETTE

Mr. SYMINGTON. Mr. President, on July 24 as a part of our Bicentennial, I had the privilege of joining the citizens of Lafayette County, Mo., in a celebration at Lexington, their county seat, in honoring a great friend of the American Revolution whose name was bestowed on this county in 1825, the Marquis de Lafayette.

Not even a year had passed since the signing of the Declaration of Independence when the marquis came to this country to assist our forefathers in establishing a nation where the preservation of individual liberty would be the foundation of government.

Throughout his life, Lafayette would serve as an ambassador of good will between the Republics of France and America, laying the foundations for ties which still link our nations today.

Missouri heritage is particularly rich in French cultural and political influence, as it was Frenchmen who first explored and settled our State.

The occasion was brightened by the presence of the mayor and his family of Chavaniac-Lafayette, France, the birthplace of the marquis and sister community of Lafayette County.

I had the honor to dedicate a bust of the marquis for the Lafayette County Courthouse done by the noted American sculptress and native of Lexington, Carey Boone Nelson.

Many people devoted much time and energy in preparing this splendid event. I especially noted the fine efforts of the Wentworth Military Academy; the Missouri National Guard, Company C, 110th Engineer Brigade; the Lexington-Lafayette Chapter of the Daughters of the American Revolution; the Lexington Woman's Club; the Lexington Garden Club; the Lafayette-Lexington Chapter, UDC; and the Lafayette County Bicentennial Committee chaired by Charles G. Coy, editor of the Lexington Advertiser-News.

I ask unanimous consent that a resolution offered by Missouri State Senator Ike Skelton of Lexington and passed by the Missouri State Senate praising this celebration, my dedicatory remarks, and the newspaper review in the Lexington Advertiser-News be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, the members of the Missouri Senate, Seventy-eighth General Assembly, are proud to extend their warmest welcome to M. and Mme. Georges Autuche and their son, Jean Marie Autuche, of Chavaniac-Lafayette, France, on their visit to Missouri; and

Whereas, M. Autuche is the mayor of Chavaniac-Lafayette, the sister community of Lafayette County, Missouri; and

Whereas, Chavaniac-Lafayette is the birthplace of the great French soldier and patriot, the Marquis de Lafayette, for whom Lafayette County was named in 1825; and

Whereas, in this Bicentennial Year of American Independence, on this land formerly owned by France, we must take this opportunity to recognize the indispensable contribution of the Marquis de Lafayette and the French people in the winning of American Independence and the development of our nation, and to renew the strong ties of friendship between the American and French peoples, a friendship rooted in a deep love of liberty and independence; and

Whereas, it is thus most fitting and proper that the Autuches are here to take part in the ceremonies in Lexington, Missouri, dedicating a bronze bust of the Marquis de Lafayette which will be placed in the Lafayette County Courthouse; and

Whereas, the bust was commissioned by the Lafayette County Bicentennial Commission and was sculptured by the internationally known sculptress Carey Boone Nelson, a native of Lexington; and

Whereas, the visit of our honored guests from France also provides the opportunity to recognize the Sister City Program of Sister Cities International which has contributed to building a better climate of world understanding through the interchange of information, ideas and people in the fields of education, government, culture, and economic and social relations;

Now, therefore, be it resolved that the members of the Missouri Senate, Seventy-eighth General Assembly, express heartfelt appreciation to M. and Mme. Autuche and their son, Jean Marie, for their participation in this great event and extend to them best wishes during their stay in our state; and

Be it further resolved that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for presentation to M. and Mme. Georges Autuche of Chavaniac-Lafayette, France; Jean Marie Autuche of Chavaniac-Lafayette, France; Carey Boone Nelson of New York; Charles Coy, Chairman of Lafayette County Bicentennial Commission and the Lafayette County Court, Lexington, Missouri.

THE BICENTENNIAL AND A GREAT FRENCH GENTLEMAN

It is a pleasure indeed to join with you at this bicentennial celebration; a celebration which honors here, in a Missouri county that bears his name, that consistent and courageous friend of the American Revolution, that ardent champion of democratic ideals, the Marquis de Lafayette.

The Marquis left France as a very young man—twenty years old to the exact—in order to lend assistance to the cause of an even younger nation. When he arrived, a single year had not passed since the signing of our Declaration of Independence.

Those first years were full of heavy hardships for this new nation. But we were blessed with the extraordinary energy and idealism of those determined to turn dreams into reality by establishing a country where the preservation of individual liberty would be the foundation of government; and that too was the ambition of our new young friend.

Throughout his life Lafayette remained a dedicated friend of the United States. He urged his own countrymen to follow the example of representative government set by the new government of the United States.

He would serve frequently as an Ambassador of good will between the republics of France and America. His was a primary contribution to laying the foundation of those ties which still link our nations today.

The people of our State share a strong cultural and political heritage with France. Missouri was first explored by such Frenchmen as La Salle, Marquette and Joliet. Later, French settlements were founded. The names of many of our municipalities reflect this French heritage—Paris, St. Louis, Napoleon, Laclede, Versailles, St. Charles, Ste. Genevieve, of course, Lafayette County, and many others.

It is widely known that the authors of our Declaration of Independence and Constitution were influenced by the writings of such French philosophers as Voltaire and Montesquieu; and the year 1789 was not only the year of our own constitution, but also the year when the French people, in their Declaration of the Rights of Men, enshrined in their own history the principles of liberty and equality for all.

Today this legacy of democratic thought and institutions enables the citizens of both nations to enjoy unparalleled social justice and economic prosperity.

These freedoms have not gone unchallenged. Twice in this century Frenchmen and Americans joined against forces threatening our liberties. Twice we together emerged victorious. A dedication to man's inalienable rights provided the strength necessary to overcome tremendous adversities.

Now we must look to the future. We must continue to meet and resist any danger from international threats and internal conflicts. We must work to build those three pillars of true national security—(1) military strength, (2) a sound economy, and (3) credibility, faith of the people in their government.

As of today, democracies are a minority in the family of nations. As the world faces many unique and unprecedented problems—nuclear proliferation, scarce energy, hunger and human want—an increasing number of nations have now turned to authoritarian solutions. But hopefully we will continue to build a better future by remaining true to those common principles forged in 1776 and 1789.

In the past, the people in France and the people of the United States have worked and have fought together for freedom. Today let us continue that fight, not only for ourselves, but for all people who seek the right to life, liberty and the pursuit of happiness.

On this day, as we celebrate this Bicentennial, let us reaffirm our total trust in the democratic ideals and principles of liberty which were set forth by this nation two hundred years ago; and for which the gentleman we honor today, the Marquis de Lafayette, struggled not only in his own homeland, but also in these United States of America.

[From the Lexington Advertiser-News, July 26, 1976]

A Good Time Was Had by All

(By Lu Jaworsky)

The dedication and unveiling of the bust of the Marquis de Lafayette went off like clockwork Saturday afternoon on the Court house lawn. The good planning and hard work that went into the event were plainly evident and produced a historic day that everyone in Lexington and all Lafayette County can be justly proud of.

Even the weather cooperated and though a bit warm the day was clear as the gentle breezes brought out the glory in the Bicentennial, French and American flags that were prominently displayed.

The Courthouse lawn was an ideal setting as hundreds of enthusiastic onlookers sat on lawnchairs, blankets, the Courthouse steps and on the grass. Young and old alike listened attentively and seemed to enjoy the pomp of the occasion.

The affair started shortly after 2 p.m. with the arrival of U.S. Senator Stuart Symington. The Rev. John W. Pfister, president of the Lexington Ministerial Alliance, gave a moving invocation and Master of Ceremonies Charles G. Coy welcomed the dignitaries and spectators.

The presentation of colors was deftly handled by the Wentworth Military Academy Honor Guard. The National Guard Company "C" Colonial Guard in their Red, White and Blue Bicentennial uniforms added vivid color to the pageantry and set the tone with a deafening musket blast that must have been heard in Carroll County.

A well practiced French National Anthem was sung by the LHS French Club, and although not many could accept the invitation to join in, the strains of the Marseilles was strangely moving though few could understand the words. The club later presented Mayor Autuche a bouquet of long stemmed roses.

Everyone understood the words of our National Anthem sung by the Bicentennial Choir in their usual professional manner.

The first speaker of the day was Mayor Georges Autuche who gave a gracious and well received speech as translated by interpreter Mark Poindexter, former news editor of the Adviser News. The mayor spoke on Franco-American friendship and the contribution of Lafayette to American independence.

He said "I find myself in America as I do in France. The only difference, alas, is that we speak another language, but I can see by your eyes that we understand each other. I will take back to France a message of good will from the many friends I have made here."

Next to speak was Jacques Charles Chicoineau, president of the French Society of St. Louis. He spoke on the life of the Marquis de Lafayette and the strong historic bounds that link the French and American Peoples.

Carey Boone Nelson next livened up the proceedings with an enthusiastic plea to enjoy the occasion as a joyous celebration. She said that the Marquis first heard about the American struggle at a party and this should be carried over to today's proceedings.

Mrs. Nelson, a Lexington native, is a sculptor of world renown and presently lives on Staten Island, New York. Her bronze bust of the Marquis will rest on a pedestal of Lafayette County walnut and will grace the Courthouse for a long time to come.

Next to speak was State Senator Ike Skelton, vice-chairman of the Missouri Bicentennial Commission, who spoke on Lafayette County history and how the county changed its name from Lillard to Lafayette County.

He also presented Mayor Autuche a resolution from the Missouri Senate marking the occasion. Skelton ended his remarks with "We are all sons of Lafayette."

Upon receiving the resolution, Mayor Autuche said "I will take this proclamation back to France with me and I will also take in my heart the State of Missouri."

The principle address by U.S. Senator Stuart Symington, marked the importance and national significance of the occasion.

"The people of our State share a strong cultural and political heritage with France. Missouri was first explored by such Frenchmen as La Salle, Marquette and Joliet. Later, French settlements were founded. The names of many of our municipalities reflect this French heritage—Paris, St. Louis, Napoleon, Laclede, Versailles, St. Charles, Ste. Genevieve, of course, Lafayette County, and many others.

It is widely known that the authors of our Declaration of Independence and Constitution were influenced by the writings of such French philosophers as Voltaire and Montesquieu and the year 1789 was not only the year of our own constitution, but also the year when the French people, in their Declaration of the Rights of Man, enshrined in their own history the principles of liberty and equality for all," Symington said.

Charles G. Coy, president of the Lafayette County Bicentennial Commission, then presented Mayor Autuche, Senator Symington, Carrie Boone Nelson and State Senator Ike Skelton, with a matched set of Lafayette County Medals and pewter Bicentennial plates. Bicentennial Medals were also presented to the other dignitaries.

Mayor James Hensevelt then presented his French counterpart a Lexington Bicentennial Plate bearing the new City Seal. He said that the day was a very special occasion for him, for not only was he celebrating the birthday of our country, but also his 52nd birthday.

Hensevelt then introduced Shirley Anderson and called her "the workhorse of our Bicentennial celebration."

Judge C. L. Summers then received a copy of the Charter national from Charles G. Coy.

Mrs. R. W. VanAmburg, representing the DAR, thanked Carrie Boone Nelson for her outstanding work.

Mayor Autuche presented Charles G. Coy a portrait of Lafayette made from native French stone.

A benediction by Father Russ ended the dedication ceremony.

The DAR sponsored brunch at the Holiday Inn Saturday morning drew over 200 to honor the Autuches and Carrie Boone Nelson. The food was good and plentiful and music was provided by Roseanne Gortenburg, a student at the UMKC Conservatory of Music, who delighted everyone with selections on the harp.

Following the unveiling, many attended the reception at the Fellowship Hall of the First Presbyterian Church sponsored by the Lexington Woman's Club and Garden Club. Carey Butler Boone was presented a certificate of appreciation by Mrs. James Shelby, president of the Lexington Woman's Club. Mrs. Boone is the mother of Carrie Boone Nelson.

THE ONLY FEDERAL JUDGE IN NEW HAMPSHIRE

Mr. McINTYRE. Mr. President, the September issue of Yankee magazine features an article titled: "The Only Federal Judge in New Hampshire."

The article profiles Judge Hugh H. Bownes, a man whose friendship I cherish and whose character I profoundly admire.

The author of the article, Andy Merton, has done a superb job of capturing in words the essence of a man of extraordinary wisdom, integrity and, above all, courage.

Merton writes, in a sentence highlighted typographically in the make-up of the article, that—

> A strong case can be made that the three most powerful men in the Granite State are Governor Meldrim Thomson, Publisher William Loeb—and Judge Hugh Henry Bownes.

The significance of that sentence is this: More often than not, Governor Thomson and Publisher Loeb, of the Manchester Union Leader, are pitted against the only Federal judge in New Hampshire.

It is to Judge Bownes everlasting credit that he does not flinch before such powerful adversaries. He makes his decisions on the law, the Constitution and the Bill of Rights. He makes them serene in the confidence that he has honored all three. And no matter how unpalatable those decisions may be for the Governor and Mr. Loeb—and all who think as they think—Judge Bownes stands firm, letting their verbal arrows blunt themselves against the shield of judicial integrity.

Because I believe all who read this article will be moved and inspired, I ask unanimous consent that the text of

Mr. Merton's article on Judge Bownes be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ONLY FEDERAL JUDGE IN NEW HAMPSHIRE

(By Andy Merton)

All New Hampshire license plates bear the same motto, "Live Free or Die." Last February 9, New Hampshire Federal District Court Judge Hugh Henry Bownes and two other judges ruled unanimously that state law forbidding drivers from covering up that motto violated the First Amendment to the Constitution—the free speech amendment. New Hampshire motorists may live free of the motto if they choose to do so, the judges ruled.

On February 11, New Hampshire Governor Meldrim Thompson commented on the ruling: "If the un-American decisions of misguided federal judges are allowed to continue unchallenged and unchecked, the judiciary will succeed in doing what no enemy has been able to do—namely, destroy America."

Also on February 11, William Loeb's Manchester Union Leader took exception to the decision in an editorial headlined, "How About Pink License Plates?" The editorial said, in part: "The ruling consists of lousy law, lousy logic, and lousy theology—and constitutes the best exemple conceivable of why judges should not be appointed for life."

This viewing-with-alarm did not change the fact that New Hampshire drivers may now cover up the motto without fear of prosecution. Nor did it bother Bownes, who says calmly, "I never read the Manchester Union Leader."

Hugh H. Bownes is the only federal judge in New Hampshire. He is short and solid, with a round, unremarkable face and thinning graying hair. At 56 he is in good physical condition; despite a leg permanently damaged in World War II, he rides to and from the new courthouse building in Concord on a bicycle, four miles each way. Going home, the last mile is uphill. Bownes has a tenacious look about him, like a man hurrying through a crowd. He likes things to happen on time. He fines lawyers who are late to court. George Bruno, head of New Hampshire's Legal Assistance Program, recalls that Bownes once fined him five dollars—a dollar for every minute Bruno was late—and then suspended the fine because there was a snowstorm.

Facing Bownes's desk in the judge's chambers on the fifth floor of the courthouse is a sign that says simply, "Slow." (Bownes says, "I should pay attention to it, but I don't.") Bownes's clerk, William Barry, points out that last year Bownes handled 452 cases, making him the ninth busiest federal judge in the country. The case load has increased by 90 percent since 1970, it is likely that Congress will create a second federal district judgeship for New Hampshire within the next year.

President Lyndon B. Johnson appointed Bownes to the judgeship in 1968. Since then, he has made dozens of rulings with which William Loeb, publisher of New Hampshire's only state-wide daily newspaper, and Meldrim Thomson, New Hampshire's governor, have strongly disagreed. He has, for example, decreed that homosexuals have the same rights as other individuals; that prison inmates may not be placed in solitary confinement or transferred without due process; that long-haired detainees awaiting trial in a county jail need not submit to haircuts; that women on welfare are entitled to state-subsidized abortions; that a New Hampshire law authorizing prayer in schools is "patently unconstitutional." He has also blocked construction of a superhighway through Franconia Notch. And in what he says was his most difficult decision, he allowed three of the Chicago 7 anti-war radicals—Abbie Hoffman, Jerry Rubin, and David Dellinger—to speak on the campus of the University of New Hampshire.

That was in the spring in 1970. President Nixon had ordered the bombing of Cambodia. College campuses across the country were in turmoil. The UNH student government invited Hoffman, Rubin, and Dellinger to appear on campus May 5. The UNH president, John McConnell, declared that he should be the one to make the final decision on allowing the three on campus. McConnell was caught between almost 10,000 angry students on one side and William Loeb and conservative politicians on the other. He deliberated for five days while the tension built.

On May 3, McConnell decided to allow the three to speak.

On May 4, in Ohio, National Guardsmen fired into a crowd of protesters at Kent State University. Four students were killed.

The State of New Hampshire asked Judge Bownes to forbid the Chicago 3 from appearing on the UNH campus. In Durham, there was talk of a strike.

Bownes ruled that the three could appear, but that their performance must take place between 3:30 and 6:30 p.m. "We had word that workers from surrounding towns planned to invade the campus," he says now. Still, "If it had not been for Kent State, there would have been no time restriction at all. But I had visions of somebody lying in a pool of blood. That was a tough decision, and I felt pretty lonely. I had a tough day."

Rubin, Hoffman, and Dellinger did not show up on time, and it was widely understood that they were purposely disobeying the court order. When they did show up, at 7:30, Attorney General Warren Rudman allowed them to speak. Their remarks consisted mostly of obscenities. But there was no violence. Bownes later cited Student Body President Mark Wefers for contempt of court—a citation that was later overturned on appeal.

A case can be made that the three most powerful men in New Hampshire are Thomson, Loeb, and Bownes—the chief executive, the owner of the chief medium of communication, and the lone federal judge. There is no single legislator or businessman able to make things happen, or not happen, as these three can. It is a fine balance. Thomson and Loeb speak for conservatives; Bownes was a liberal Democrat before he became a judge. (Thomson and Loeb think Bowne's liberal instincts influence his decisions). The three men have only one thing in common—all of them were born and grew up outside New Hampshire. Thomson is from Georgia, Loeb from Long Island, New York.

Hugh H. Bownes was born in New York City in 1920. His parents were both Irish Protestant immigrants. His father was a union printer. When Hugh Bownes was 12, Franklin D. Roosevelt was elected President.

My Democratic philosophy came about because my father started out with the union movement in New York, and we were poor," he says. "Roosevelt did a lot of things for the poor people. The country was supposedly going to the dogs. Democracy and the free enterprise system were saved by FDR. I always thought, and still do, that he was one of the greatest Presidents we ever had."

When Bownes came to New Hampshire in 1948, after graduating from Columbia Law School, he asked his new boss, Laconia attorney Arthur Nighswander, what political party he should join. "I told him all the county officers were Republicans," says Nighswander, "that if he wanted to get along, he should join the G.O.P. The next thing I knew, he had become a Democrat." Bownes says, "I was a Democrat at heart—by upbringing, by training, by inclination, by emotion. I just felt that I couldn't be a Republican and take an active part in Republican politics. It would be contrary to my personal beliefs."

Bownes was lucky to land in Laconia, where the fledgling New Hampshire Democratic Party was at least an active force. Thomas McIntyre, now New Hampshire's senior senator, was there, as was J. Oliva Huot, who went on to serve a term in Congress. All of them served as mayor of Laconia. (Bownes's term was 1963–65.) They became active in national politics in 1952, when Tennessee Senator Estes Kefauver came north seeking the presidential nomination. They backed Kefauver again in 1956, the year he wound up as Adlai Stevenson's running mate. McIntyre remembers the drive with Bownes to the 1956 Democratic convention in Chicago as "the closest experience we ever had." In 1962, with Bownes serving as Democratic National Committeeman from New Hampshire, McIntyre was elected to the U.S. Senate.

Six years later, when Federal District Court Judge Aloysius Conner died, McIntyre turned first to outgoing Democratic Governor John King—but King, after expressing interest in the job, turned it down to run for the Senate against Norris Cotton. (He lost). McIntyre then turned to Bownes, who had been an associate justice of the New Hampshire Superior Court since 1966. "In Hugh Bownes, you had the dream," says McIntyre. "He was a topnotch lawyer. He was a good Democrat. And he was a close friend."

President Johnson announced Bownes's nomination on July 18, 1968. Bownes came up for confirmation before the Senate Judiciary Committee one week later. It was supposed to be a routine matter. McIntyre remembers it as "a day of horror for me."

On that day, Bownes brought his wife, Irja, to Washington, where McIntyre planned to throw a party celebrating the event. McIntyre got up and "gave a little speech to Committee Chairman James Eastland about the qualities of this man." Bownes also made some remarks.

As Bownes spoke, Senator Strom Thurmond entered the hearing room and whispered something to Eastland. Eastland announced that Thurmond had filed an objection to the nomination. Thurmond had received a telegram from William Loeb. It was a long telegram, listing Bownes's liberal credentials and mentioning a feud that had simmered for years between Bownes and New Hampshire Congressman Louis Wyman. "I was paralyzed," says McIntyre. "I didn't know what to do. I ran in to my senior senator, Norris Cotton, and we got in touch with Strom Thurmond. And finally Thurmond agreed to see us.

"Well, the objection was all centered around the Loeb telegram. It was in my opinion a scurrilous telegram, and a mean one because of the timing. If we had had it a week or ten days ahead of time, we would not have been put in this embarrassing position."

McIntyre, Bownes, and Cotton persuaded Thurmond to withdraw his objection. Bownes thinks his war record helped convince Thurmond of his patriotism.

Bownes had been scheduled to enter Columbia Law School on a scholarship in 1941. Instead, he enlisted in the Marines. Three years and one silver star later, he was standing in shallow water off Guam, directing the transfer of troops from amphibious vehicles to the beach. He was approached by a colonel from a nearby engineering outfit. Some Japanese soldiers had barricaded themselves in caves along the shore. Bownes and the colonel discussed the use of flamethrowers to flush them out. As they talked, a mortar shell exploded a few feet away. "And the next minute I was sitting on my butt in the water with my leg up in the air and blood coming out," says Bownes.

He thought at first it was a minor wound, but it wasn't. A nerve in his right leg was injured; he lost a lot of blood; gangrene set in. Bownes spent most of the next two years in Navy hospitals. For a while, he thought he would lose the leg. He did lose his heel, a toe, and the flexibility of the foot below the ankle.

Bownes is proud of his record as a Marine. His years in the service, however, did not stop him from feeling bad about having to sentence a number of draft evaders to jail during the Vietnam war. In December 1968 Bownes sentenced a young man to five years at Pennsylvania's Allenwood Prison Farm. Shortly after being incarcerated, the man wrote to Bownes asking for a review of the sentence. Bownes wrote back:

"Your letter is not an easy one to answer. As a matter of fact, the sentence that I gave to you was one of the most difficult things that I ever did in my life.

"I understand and respect your conscientiously held beliefs. I want you to understand, however, that I, too, have a conscience and that conscience compels me to uphold the law to the best of my ability.

"I would also like to point out to you that there are many young Americans who feel honestly that the Vietnam war is immoral and wrong. Many of these young Americans have, however, obeyed the law and some of them have paid for that obedience with their lives in the jungles and swamps of Vietnam. That also is a great waste."

Warren Rudman, a Republican who was attorney general of New Hampshire from 1970–75, admires Bownes for his devotion to due process, and to the law. "I don't think he has an ego problem," says Rudman. "He's not worried about building a record. The State of New Hampshire was never treated unfairly during my six years .... I have never known Bownes to bend precedent."

Bownes has what amounts to a religious feeling about the Constitution and the Bill of Rights. Sometimes it shows up in his carefully drafted, carefully written opinions. Ruling in favor of the Gay Students Organization of the University of New Hampshire in 1974, Bownes wrote:

"In essence, this case is quite simple. The First Amendment guarantees all individuals, including university students, the right to organize and associate 'to further their personal beliefs . . . .' A university must recognize any bona fide student organization and grant to that organization the rights and privileges which normally flow from such recognition. Moreover . . . the 14th Amendment requires that the privilege be available to all organizations on an equal basis. From this it follows that the GSO has the same right to be recognized, to use campus facilities, and to hold functions, social or otherwise, as every other organization on the UNH campus."

Terri Lavelle, director of the New Hampshire Civil Liberties Union, sees Bownes's role as "protecting our Constitutional freedoms—interpreting them for the individual. Often you hear that there is too much concern for minorities, and not enough for the majority. Bownes is sensitive to the rights of individuals, no matter who they are. He is a very strong person."

Bownes's concern for the rights of individuals—even unpopular individuals—first surfaced in New Hampshire in the 1950s, during the Joe McCarthy era. The state legislature had appointed Louis Wyman a one-man committee to investigate possible subversive activities. Bownes's law partner, Arthur Nighswander, was president of the State Bar Association. "In those days," says Nighswander, "there were many lawyers who would tell you, 'I've defended murderers and rapists, but I'll never defend a Communist.' "

Dr. William Uphaus was a pacifist who ran a camp called the New Hampshire World Federation Center in Conway. Louis Wyman wanted Uphaus's guest registers for 1954 and 1955. Uphaus refused to turn them over; Wyman subpoenaed them. And Arthur Nighswander appointed Bownes to represent Uphaus. "There were not too many high points for us," says Bownes with a smile.

The New Hampshire Supreme Court ruled 3–2 in favor of Wyman, and the case went to the U.S. Supreme Court. "I told Uphaus, 'Don't worry, you'll never go to jail.' " says Bownes. But he was wrong. In 1959 the Supreme Court ruled 5–4 against Uphaus, who was sent to jail for a year; he was 68 at the time.

"Uphaus was a sincere, devout radical," says Bownes. "I believed in the principles he was fighting for, and had a great deal of admiration for him and his wife. There were people in the background who wanted him to become a martyr—and, in fact, he became one—but I really believed it (forcing Uphaus to turn over his records) was an abridgement of his rights."

But, says Bownes, Uphaus "had good lawyers, and he got due process. He wasn't spirited away in the night."

During the past three years judges have been in the news more than usual. John Sirica took an active role in forcing Watergate plumbers to reveal higher-ups who were involved in the coverup. W. Arthur Garrity has been in control of Boston's public school sytsem since busing to achieve integration was ordered two years ago. Frank M. Johnson of Alabama and Gordon West of Louisiana are running the prisons in those states. Like them, Hugh Bownes has been labeled an "activist judge," and a "liberal judge." But he says, "I find the term 'activist' elusive. For example, no one is more conservative or careful to follow precedent than Judge Garrity. He got stuck with the (busing) base—few judges would have taken the time to write the decision he wrote. I admire particularly the way he has stood up as a man and a human being under the stress that he is continually subjected to."

Bownes says judges do not want to take over the functions of other branches of government: "The judiciary is pushed into the situation because of the failure of responsible officials and legislatures—supposedly responsible—to meet their constitutional obligations."

Of his own decisions—particularly those involving civil liberties—Bownes says, "Any of these decisions would have been made by any federal judge worth his salt, whether he was a rock-ribbed Republican before he became a judge, or a liberal Democrat. I think the Bay Students case was mandated by the Constitution. The prayer decision was clearly mandated by the Supreme Court. The Franconia Notch case was decided in accord with the federal Environmental Protection Act."

Bownes reacts calmly to the criticism of his decisions by William Loeb and the Manchester Union Leader. "I don't see how you can set any limits on the freedom of the press . . . I believe with Thomas Jefferson that there shouldn't be any limits," he says. "At times the press is irresponsible to the extent of being mischievous, but that's the price you have to pay. And I think it's well worth it. The Union Leader has every right to slam the hell out of me if they don't like what I do."

Recently Bownes disqualified himself from a case involving William Loeb and Kevin Cash, author of "Who The Hell Is William Loeb?" Loeb's attorney requested that Bownes turn the matter over to another judge. The attorney cited numerous attacks by Loeb upon Bownes, and said Bownes could not possibly be objective in presiding over such a case.

"I felt," says Bownes, "that if Loeb feels I'm prejudiced against him, there is no way that I can convince him that I'm not. I was afraid of leaning over backwards in order to be fair . . . also it is important, not only that justice be done, but that the plaintiff (Loeb) feels that justice is being done."

Most attorneys in New Hampshire—Republicans and Democrats—feel that Bownes serves justice well. Gus McDonough, a prominent Manchester defense attorney, says Bownes "is more concerned with seeing justice done than worrying about whether people criticize him or not. He has a broad back; he's a good strong guy." And another Manchester attorney, Joseph Millimet, says the way Bownes runs his court—oblivious to the criticism of the moment—is one of the best arguments for the continued lifetime appointment of judges.

"Ever since this country was formed," says Hugh Bownes, "there has been a struggle to sustain the Bill of Rights against the encroachments that politicians in power—with honorable purposes—attempt to make. And this is the way it is going to be until, heaven forbid, some maniac reaches power and is able to persuade the country to do away with the Bill of Rights. But the Bill of Rights and the Constitution of the United States are the commandments. They are what we live by."

AMERICA'S ENERGY CRISIS CONTINUES

Mr. STONE. Mr. President, on August 27, 1976, the Senate adopted Senate Joint Resolution 206 which calls upon the President to convene a national leadership conference on energy policy. I introduced this resolution because the country as yet does not have a comprehensive, national energy policy. This is the case despite the fact that our dependence on foreign sources of energy is increasing and our vulnerability to any future embargo is greater than ever before.

A number of newspaper editorials over the past year have called upon Congress and the President to work together in developing an effective energy policy. These editorials wisely underscore the fact that the adoption of such a policy is absolutely critical to the well-being of our country. One of the best editorials in this respect that I have read appeared in the Pensacola Journal on August 12, 1976. Mr. President, I ask unanimous consent that the editorial, "A Grim Forecast," be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

A Grim Forecast

Anyone who doubts that America's energy shortage is serious should consider the attitude of the majority of the Organization of Petroleum Exporting Countries as they prepare for a December meeting to discuss new oil prices.

Alone among the major producers, Saudi Arabia is attempting to hold prices at the current $11.51 a barrel. Saudi Oil Minister Sheik Ahmed Zaki Yamani said his country will resist other members of the cartel (OPEC) who wants a "very drastic increase," perhaps a quadrupling of oil prices next year.

Failing to hold the line, the Saudis then will attempt to convince the other OPEC nations that any increase over 10 per cent will be unreasonable.

The struggle for an inordinate price increase is led by Iran, a major producer of crude oil and a nation with much influence among other cartel countries.

This is a dismal prospect. The United States now is well on its way to importing 50 per cent of its petroleum needs. Of this 50 per cent, 82 per cent is supplied by OPEC nations. The effect on the American economy would be devastating if Iran succeeds in getting just half the price increase it is fighting for.

Painting a dismal picture blacker is this nation's natural gas shortage projected for the coming winter. Shortages of past years have had an economic impact with some industries curtailing operations because of fuel shortages. But durng none of these years have domestic consumers suffered.

Prospects for this winter are grim, Federal Power Commission officials say. Projections forecast natural gas shortages for residential use, even after industry is drastically curtailed. If their projections are correct there will be cold homes this winter.

In sections of the country where electric utilities have not converted to alternate fuels such as coal there will be a drastic increase in power bills. The price of consumer goods will reflect the increased cost of OPEC oil, as will gasoline at the pumps.

This very possible quadrupling of the price of OPEC oil does not come as a surprise. Anyone following the news is aware that it has been a long-time Irani project.

But the U.S. Congress has performed as if there were no problem. After years of waiting, America has no real energy policy. Perhaps the 95th Congress will be stirred to action during a cold winter following December.

RESPONSIBILITY FOR GENOCIDE

Mr. PROXMIRE. Mr. President, the most important aspect of article IV of the Genocide Convention is that it extends the responsibility for genocidal acts beyond the traditional scope of responsibility.

Before World War II only nations had been widely judged to be subject to the pains and penalties of international law. Indeed, this line of defense was taken by the men who stood trial at Nuremberg and Tokyo. The defendants maintained that they could not be blamed or punished for their evil acts against humanity because they were "just carrying out the orders of their government."

The international war crimes trials refused to accept this specious argument and ruled against the defendants. The position of the courts was that these men had committed war crimes and did bear some responsibility for ordering and participating in reprehensible acts against humanity. Thus, these trials set a precedent that high government officials could be held accountable to the international community for their actions.

It was in this spirit that article IV of the convention was written. This article states:

> Persons committing genocide or any of the other acts enumerated in article constitutionally responsible rulers, public officials or private individuals.

Mr. President, it is important that this body not forget the lessons of Nuremburg and the atrocities that preceded it. Neither governments nor individuals should be permitted to commit such heinous crimes without engendering the moral indignation of the world community.

This convention, with its affirmation of the importance of human life, reflects the same important values that were so well expressed in our Declaration of Independence and Constitution. It deserves our rededication today through ratification of this important human rights convention.

DR. GEORGE V. IRONS OF SAMFORD UNIVERSITY

Mr. SPARKMAN. Mr. President, in 1933 Dr. George V. Irons, Sr., joined the faculty of Howard College in Birmingham, Ala. A member of one of Alabama's most distinguished families, Dr. Irons was a Phi Beta Kappa graduate of the University of Alabama where he distinguished himself as captain of Alabama varsity track and cross country teams and as one of the South's greatest long distance runners. During those depression years as a professor, there was little hope of financial reward from Howard College which was indebted some $400,000. However, Dr. Irons gave a wealth of leadership, dedication, and promise sorely needed by Howard.

During the next 43 years, Howard College, now Samford University, grew from a small financially troubled college to one of America's leading private educational institutions. Today, Samford has an enrollment of over 3,700 students and is fourth in size among the Nation's 43 Baptist senior colleges and universities. Samford is now Alabama's largest privately supported institution of higher learning. It has the largest professional school of law in Alabama—Cumberland School of Law—and excellent schools of business, nursing, pharmacy education, and music.

Samford University's remarkable and sustained growth as an educational institution has been achieved only through the strength and dedication of its faculty and administration. Dr. George Irons played a major role in Samford University's remarkable dynamic development.

Dr. Irons has also been recently honored by Freedom Foundation at Valley Forge, Pa., and his achievements have led directly to 16 consecutive Freedom Foundation medals and awards honoring Samford University for its advancement of the American way of life.

On May 28, 1976, Samford University properly honored Dr. George Irons at its annual candlelight dinner for his notable and enduring services to the university. Over 43 years, Dr. Irons distinguished himself at Samford. His greatest hallmark is the high esteem in which he is held by Samford's faculty, student body, and alumni.

Dr. Irons is a fine example of patriotism, scholarship, and dedicated citizenship. I ask unanimous consent to have printed in the RECORD an article which appeared in the Birmingham Post-Herald, together with a resolution adopted by the Samford University faculty in honor of Dr. Irons.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Birmingham Post-Herald, May 28, 1976]

IRONS "LUCKY TO BE HIRED;" NOW RETIRING AFTER 43 YEARS

(By Dale Grisham)

When Dr. George V. Irons leads Samford University's graduation processional Saturday-night, it will be his last official act as a faculty member after 43 years as a history professor there.

Irons said he was "lucky to be hired" in 1933 when he joined Samford's faculty, "because jobs were scarce in the Depression."

"We were accepting a side of beef and 12 dozen eggs for tuition in those years," he said. "Those were hard times. Nobody had cash, so we took produce instead."

In spite of the bad economic situation, there was still a lot of "lively school spirit," according to Irons. "The biggest event of the years was the Howard-Birmingham-Southern game. No matter who won the SEC, that game was the big game around here. We called it the Battle of the Marne, which was the first big battle of World War I. There was a lot of horseplay. We'd steal mascots and go through all sorts of negotiations to get them back. There were always gags, but it was fun to us."

Irons said one big difference between his past students and students of today is that those today react unfavorably to traditional class methods. He cited the increased use of simulation and class participation as examples, saying that students today "don't go in for the 'yellowed notes' lectures."

"Students now are more dubious about untested truths," he said. "They are better informed because of the influence of the mass media. They have quick, inquiring minds and they want documentation of facts. Nearly all of them are from Missouri, so to speak; they want to be shown, and I think that is good. It's a new generation. There's no question about it."

Irons received his PhD from Duke University in 1936. He served as head of Samford's department of history and political science for 22 years. A member of Phi Beta Kappa, Irons also holds the rank of Distinguished Professor of History.

Irons said that he will miss the classroom but plans to spend a lot of time researching at Samford's library. He said two of his special research projects are the secession of Georgia and early aviation in Birmingham. "I also plan to write about the severe discipline in the old Baptist churches in the 1840's and 50's," he said. "They would put members out of the church for doing anything associated with evil, like card playing, dancing, drinking . . . or consorting with Methodists," he added, smiling.

About his retirement, Irons said, "I've had a good time here, but it's time to go. I tell people not to pity my gray hairs, but to think of all the fun I've had putting them there."

GEORGE VERNON IRONS—A RESOLUTION

There have been few who have made contributions to Howard College and Samford University that would equal that of Dr. George Vernon Irons. For his long and distinguished teaching career, Dr. Irons would have earned a permanent place in our history, but his service to students, alumni, civic and professional groups, public and private education, and to the Baptist denomination add a unique lustre to his lifetime of achievement.

Born in Demopolis, Alabama, Dr. Irons received his doctoral degree in 1933 from Duke University, with post-doctoral studies at a number of major universities. He began his career in teaching as assistant principal at Perry County High School, 1925–1927. He was Master at the Darlington School for Boys in Rome, Georgia, 1927–1931, and an assistant in the history department at Duke University, 1931–1933. He came to Howard College in September 1933 and, completing his 43rd year of service, now holds the rank of Distinguished Professor of History at Samford University. He has served in many capacities during this time, including chairman of the division of social sciences and, for 22 years, head of the department of history and political science.

Dr. Irons came to old Howard College in the Great Depression years and, in the college's near bankruptcy period of the late 1930's, served as teacher and men's counsellor for the football players in old Renfroe Hall virtually without pay, until World War II brought in the Navy V–12 students. After a period of active military duty as Col. Irons, he returned to serve as veterans advisor at Howard. One of his services during his tour of military duty was the writing and publication of the War Department training manuals on antiaircraft automatic weapons and antiaircraft searchlights. In the 1940's and 1950's, he was a significant contributor to the implementation of the new "nuclear curriculum" of the post-war years, co-author of special syllabi for both U.S. and history of western civilization courses. During this time he published a number of articles in scholarly journals.

Over these years, Dr. Irons has discharged his duties in the department of history and political science and in the university committees with great distinction, having served on virtually every faculty committee, the graduate council, the academic council, and numerous ad hoc and special university committees. In his long career, he has brought experience, good judgment, and wisdom to the solutions of problems in almost every area of university life.

He has been active in a number of professional and academic groups including the executive board and editorial board of the Alabama Historical Association. He has served as the treasurer of the Alabama Writers' Conclave, as vice president of the Alabama Academy of Science, and has a member of the Southern Historical Association, the Alabama Guidance Council, the Alabama United Daughters of the Confederacy, the Alabama Baptist Historical Society, the Southern Baptist Historical Association, the Jefferson County Judicial Commission, and the Jefferson County Mental Health Association.

Many honors have come to Dr. Irons, including membership in Phi Beta Kappa, Phi Alpha Theta, Omicron Delta Kappa, Pi Gabba Mu, and Kappa Phi Kappa. He was an associate director of the Freedoms Foundation in Valley Forge, Pennsylvania, and has won the George Washington Medal awarded by the Freedoms Foundation. He is listed in "Who's Who in America," "Who's Who in the South and Southwest," "Directory of American Scholars," "Who's Who in American Education," and many other reference biographies. For years, he has prepared the university's entry in the annual Freedom's Foundation program and thus has been instrumental in the university's having won sixteen consecutive citations from the Freedom's Foundation for the university's programs that emphasize patriotism and good citizenship.

Dr. Irons was married to the late Velma Wright Irons of Wedowee, Alabama, whose memory has been preserved in the American citizenship award given in her honor each awards day at Samford. Their two sons are Dr. George V. Irons, Jr., a North Carolina Heart Specialist, and William Lee Irons, a Birmingham attorney. A longtime member of the Ruhama Baptist Church, Dr. Irons is a deacon now at the Southside Baptist Church. He holds a commission in the U.S. Army Reserve and is affectionately known by many as Col. Irons.

A great respected and beloved teacher and colleague, he has had the university annual, the Entre Nous, dedicated to him on four occasions: 1941, 1960, 1969, and 1974. He has been featured many times in the "Samford Today." His students still correspond with him from all over the United States and the world. The department's files are heavy with testimonial letters from hudreds, in classes that reach back to the 1930's, expressing affection and appreciation for him, and letters from friends, ranging from the President of the United States, Governors of Alabama, Members of the Congress, leaders in Education, and many cultural and civic leaders of the Birmingham area.

Dr. Irons was elected by his peers as faculty marshal, and in his brilliant blue grab he has served at many graduations with dignity and distinction. In 1972 his colleagues in the department inaugurated in his honor a number of George V. Irons scholarships for students, funded by gifts from alumni and friends each year in honor of Dr. Irons. On April 10, 1974, the university proclaimed "George V. Irons Day," and gifts and ceremonies involving all aspects of the University attested to the universal esteem in which Dr. Irons is held by students, faculty, administration, trustees, and friends of the university. Certainly, in the long history of the university, Dr. Irons must be ranked at the very top in terms of his widespread, beneficent influence, the love that former students evidence for him, and his impeccable character and qualities of modesty, humility, kindness, and selfless service to the university.

Dr. Irons is simply a unique person—one-of-a-kind, alert, witty, friendly, and charming in his own admirable way—one whose loss from the active teaching profession will be felt deeply in many areas of life. His retirement brings a sense of loss but also one of joy in the knowledge that he will still be active, indulging in the long-sought aim of relaxed reading and writing in the library and continuing on campus the many, many close associations and friendships that go back over the years. Therefore, we take this occasion to salute one of the truly great ones, Dr. George Vernon Irons, and wish him happiness, continued good health, and a full measure of joy in the years ahead.

BUDGET ALLOCATIONS UNDER JURISDICTION OF COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, in accordance with section 302(b) of the Budget Act, I am submitting to the Senate the fiscal year 1977 budget allocations for programs under the jurisdiction of the Committee on Banking, Housing, and Urban Affairs.

The committee does not have jurisdiction over any entitlement programs which require subsequent appropriations. The allocations for the programs within the spending jurisdiction of the committee are based on estimates provided by the Senate Budget Committee, in conjunction with the Congressional Budget Office.

It should be noted that the estimate for the Federal Housing Administration Fund under function 400 differs from that initially estimated by the Congressional Budget Office. This difference arises because the budget authority figure under the committee's jurisdiction is dependent, in a residual manner, upon the action of the Appropriations Committee. The Appropriations Committee appears likely to approve a figure different from that originally assumed by the Congressional Budget Office and the Senate Budget Committee. Accordingly, the figure for FHA budget authority under the jurisdiction of the Banking Committee has been modified in light of the more recent estimates available to the committee.

I ask unanimous consent that the above-mentioned report of the Committee on Banking, Housing and Urban Affairs be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS—REPORT TO THE SENATE PURSUANT TO SEC. 302(b) OF THE CONGRESSIONAL BUDGET ACT

[In thousands of dollars]

Function and program		Budget authority	Outlays
050	Defense production guarantees, 07–40–4080–0–3–051	0	200
150	Export-Import Bank of the U.S. Fund, 30–48–4027–0–3–153	2,925,000	0
400	Rural housing insurance fund, 05–75–4141–0–3–401	1,170	1,170
	Department of Treasury—Assessment funds (trust revolving fund), 15–57–8413–0–8–403.	0	3.874
	FHA administration fund, 25–02–4070–0–3–401	841	472
	Government National Mortgage Association management and liquidating functions, 25–03–4016–0–3–401.	0	−21,400
	Emergency Home Purchase Assistance Act, 25–03–4205–0–3–401	3,500	3,500
	Guarantees of mortgage-backed securities, 25–03–4238–0–3–401	0	−16,806
400	FHA Administration—National insurance development fund, 25–226–4235–0–3–403	0	−1,758
	Interstate land sales special fund, 25–27–5270–0–2–403	450	450
	Emergency loan guarantee fund, 30–44–4057–0–3–403	0	−4,507
	FDIC trust revolving fund, 30–64–8419–0–8–401	0	−767,281
	Federal Home Loan Bank Board revolving fund, 30–68–4035–0–3–401	0	92,320
	FSLIC fund, 30–68–4037–0–3–401	0	−328,875
	Federal Credit Union operating fund, 31–34–4056–0–3–401	0	−48
	Credit Union share insurance fund, 31–34–4468–0–3–401	0	−21,131
450	Revolving fund (liquidating programs), 25–02–4015–0–3–451; New communities fund, 25–12–4237–0–3–451; Disaster loan fund, 32–45–4153–0–3–453	34,000	41,000
500	College housing loans and other expenses, 25–02–4058–0–3–502	27,976	30,010
600	Homeownership and rental housing assistance, 25–02–0148–0–1–604	68	0
	Annual contributions for assisted housing 25–02–4041–0–3–604	5,500	0
	Rental housing assistance fund, 25–02–4041–0–3–604	0	−3,728
	Nonprofit sponsor assistance, 25–02–4042–0–3–604	0	2,360
800	Liquidation of Reconstruction Finance Corporation, 15–05–4170–0–3–803	0	−424
	Coinage profit fund, 15–25–5811–0–2–803	3,500	3,500
900	Department of Treasury—Interest on uninvested funds, 15–10–1860–0–1–902	8	8
Multiple functions—GNMA participation sales fund, 25–03–4206–0–3–999		0	−1,765

SUMMARY

Function	Budget authority	Outlays
050	0	200
150	2,925,000	0
400	5,961	−1,060,020
450	34,000	41,000
500	29,976	30,010
600	5,568	−1,368
800	3,500	3,076
900	8	0
Multiple function	0	−1,765
Total	3,004,013	−988,859

INDIA, PAKISTAN, AND TAIWAN; AND THE NEED FOR A STRICT NUCLEAR NONPROLIFERATION LAW

Mr. RIBICOFF. Mr. President, in recent weeks there have been several important and disturbing developments in the international nuclear community that serve to point up the need for congressional action this year on legislation that would impose strict controls on U.S. nuclear exports and would establish clear objectives in our dealings with other nations in seeking to curb the spread of nuclear weapons capability around the world.

Among the most significant developments:

On August 9, I released a letter from Secretary of State Kissinger acknowledging that there is a "high probability" that U.S.-supplied heavy water was used by India to produce its nuclear explosion of 1974;

Recent press reports indicate that Secretary Kissinger has been unsuccessful thus far in his efforts to prevent the planned export of a plutonium reprocessing plant by France to Pakistan—a sensitive facility that would give Pakistan the capability to equal India's dubious feat;

According to yesterday's Washington Post, U.S. intelligence reports indicate that Taiwan has been secretly reprocessing spent fuel from a research reactor—a development, which is confirmed, would comprise the first known violation of the Nuclear Non-Proliferation Treaty by a party to the treaty; and

The United States has concluded negotiations with Israel and Egypt, and is in the final stages of negotiation with Iran, on agreements that would permit the first major exports of U.S. nuclear technology to these countries under conditions that some experts believe are insufficient to prevent the spread of nuclear weapons to the Middle East.

Each of these developments, Mr. President, helps to sensitize the Congress and the American people to the need for taking effective action before the global spread of nuclear weapons technology runs out of control. Last week, there were two major actions in the Senate which provide hope that Congress will work its will on this terrible problem of proliferation in the little time remaining to act before Congress adjourns this year and in the early days of the next Congress in 1977.

In the first of these actions, the Senate Foreign Relations Committee reported the **Nuclear Explosive Proliferation Control Act of 1976**, which would establish strict criteria to govern U.S. nuclear policy as well as to serve as objectives in talks with nuclear supplier and customer nations. The bill is virtually identical to **S. 3770**, which was introduced by Senator PASTORE, the distinguished chairman of the Joint Committee on Atomic Energy, as a compromise substitute to S. 1439, the Export Reorganization Act of 1976, which had been reported by the Senate Committee on Government Operations. Senator PASTORE's bill is now pending before the Joint Committee. As chairman of the Government Operations Committee, I have worked closely with Senators GLENN and PERCY in inquiring into the proliferation problem and in developing organizational approaches for dealing effectively with it. I am very pleased that we have been able to work closely with the Joint Committee and the Foreign Relations Committee, and I hope very much that the Senate and the House soon will have the chance to vote on the resulting compromise measure, which combines important policy and organizational provisions.

I ask unanimous consent that an article from the Washington Post of August 2, 1976, "Hill Moves to Toughen Curbs on Exports of Atomic Material" describing Senate action on the bill, as well as the text of section 15 of the bill, containing the criteria that would govern U.S. nuclear exports 18 months after enactment of the act, be printed in the RECORD, as exhibits G and H respectively at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits G and H.)

Mr. RIBICOFF. In the other significant Senate action, the distinguished majority leader, Senator MANSFIELD, introduced and won approval of Senate Resolution 253, establishing the study on U.S. Security and Foreign Policy Interests in Middle East, Europe, and Other Areas. I am honored to have been named cochairman with Senator BAKER of this study, which will explore the problem of nuclear proliferation and focus in particular on the proposed nuclear agreements with Egypt, Iran, and Israel. These agreements are due to be presented to the Congress for its consideration early next year, and I anticipate that the delegation of 12 Senators headed by Senator BAKER and me will develop important information and recommendations in the course of visits to the International Atomic Energy Agency in Vienna, as well as to Iran, Egypt, and Israel. These visits are due to take place after the November election.

Mr. President, I ask unanimous consent that an article from the Washington Post, "Nuclear Reactors Sales Overseas Target of Study," describing the purpose and the membership of the study, be printed in the RECORD as exhibit I at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit I.)

Mr. RIBICOFF. Mr. President, the growing concern of Congress with the nuclear proliferation problem has been analyzed in considerable detail in two articles that appeared recently in Business Week and the New York Times. I ask unanimous consent that these articles, "Why the Nuclear Power Race Worries the United States," from the August 23 issue of Business Week, and "Conflict Continues Over U.S. Effort To Halt Spread of Nuclear Weapons," from the August 24 New York Times, be printed as exhibits J and K at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits J and K.)

Mr. RIBICOFF. These articles make clear that if the nuclear weapons club is not to be enlarged, the United States and the other nuclear supplier nations will have to agree soon to competitive ground rules that will limit nuclear exports to nations willing to accept international safeguards and to give a no-explosion pledge with respect to all of their nuclear activities, and also willing to agree to forego the reprocessing of plutonium and enrichment of uranium on a national basis.

The importance of attaining adherence to these ground rules by all the nuclear suppliers is made clear in the recent disturbing developments involving India, Pakistan, and Taiwan.

With respect to India, I am deeply disturbed by the disclosures contained in Secretary of State Kissinger's letter to me indicating that India has misused our peaceful nuclear assistance to develop its version of an atomic bomb. India proceeded with its nuclear explosion program, using plutonium derived from U.S.-supplied material, over the formal objections of the United States. To make matters worse, the Kissinger letter indicates that the United States is not prepared to restrict India's use of plutonium derived from the large quantities of heavy water we have provided for its research and power reactors to prevent use of the plutonium in devices that are no different than atomic bombs.

I wish to note, Mr. President, that the Secretary in his letter states that India has enough of its own indigenously produced heavy water to supply the research reactor in question and that, therefore, "U.S. heavy water was not essential to the production of plutonium for India's 1974 test." The fact remains, however, that India would not be able to operate its ambitious nuclear program, including a large heavy-water powerplant, without the substantial amount of heavy water provided by the United States. I believe, therefore, that the United States should use its still considerable leverage in the supply of heavy water and enriched uranium to India to insure that the plutonium derived from this material will not be separated and stockpiled on a national basis and will not be used for further nuclear explosions.

Mr. President, I ask unanimous consent that my original public announcement of the Kissinger letter, the text of the Kissinger letter, news coverage of the disclosures contained in the letter from the New York Times and the Washington Post, and editorial comment on the disclosures from the New York Times and the Hartford Courant be printed as exhibits A through F in the Record at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibits A through F.)

Mr. **RIBICOFF**. Our loose nuclear dealings with India have set a very dangerous precedent that may, in fact, encourage other developing nations, particularly Pakistan, to develop national plutonium stockpiles of their own that could easily be utilized for weapons purposes. The difficulty that Secretary Kissinger is encountering in seeking to prevent the French-Pakistani deal involving a reprocessing plant indicates that considerable damage has been done and may, in fact, be irreversible without some strong concessions from India. Clearly, even the threatened cutoff of economic and military assistance by the United States may be insufficient to pressure Pakistan to give up its nuclear-explosive option if India is free to pursue its present dangerous course. All the more reason, therefore, that the United States should not give India the required approval to begin reprocessing U.S.-derived plutonium, and should aggressively pursue present negotiations to buy back the spent fuel containing unreprocessed plutonium from the U.S.-supplied Tarapur nuclear powerplants.

I ask unanimous consent that articles from the Washington Post and the New York Times, dated August 8, describing Pakistan's refusal to drop plans for a reprocessing plant, and an article from the New York Times of August 25, describing France's refusal to drop plans to export the plant, be printed as exhibits L, M, and N at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibits L, M, and N.)

Mr. **RIBICOFF**. Further complicating the proliferation problem is the report, based on U.S. intelligence sources, that Taiwan may be secretly reprocessing plutonium in order to develop a nuclear arsenal. Taiwan is a party to the NPT and, as such, would be violating the treaty if it undertakes any nuclear activity—particularly the development of weapons-grade material—outside of the safeguards of the IAEA. If, in fact, Taiwan has engaged in such a dangerous unsafeguarded activity, it would be subject to strict international sanctions, as provided in the IAEA statute, and would also be subject to a cutoff of further nuclear assistance by the United States and other nuclear supplier nations.

It also should be noted, according to the Washington Post story, that although the United States turned down a request from Taiwan to purchase a reprocessing plant, the United States did provide certain component parts, such as special leaded glass, and also trained a Taiwanese nuclear scientist in reprocessing techniques for a full year at ERDA's Argonne Laboratory near Chicago.

This is yet another example of the action-hand not knowing what the policy-hand is doing in U.S. nonproliferation efforts.

I ask unanimous consent that the article, "Taiwan Seen Reprocessing Nuclear Fuel," from the Washington Post of August 29, be printed as exhibit O in the Record at the close of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit O.)

Mr. **RIBICOFF**. Finally, Mr. President, there is a report of a downward trend in the use of nuclear power in Europe, and of growing public opposition in Europe to the development of the breeder reactor, which will generate more plutonium than it consumes as fuel, as well as opposition to the continued export of weapons-sensitive fuel facilities by West Germany and France. These developments are discussed in an editorial, "Europe's Nuclear Turn," in the New York Times, of August 26, and I ask unanimous consent that this editorial be printed in the Record as exhibit P at the close of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit P.)

Mr. **RIBICOFF**. The editorial concludes as follows:

> With public concern now growing in West Europe, chances are improved for American efforts to win supplier agreement on embargo of plutonium reprocessing plants. That would help pin down the agreement of Third World countries, such as Iran and Pakistan, to ship their spent fuel rods back to supplier countries in exchange for safe uranium fuel, rather than to engage in dangerous plutonium extraction at home.

The international nuclear climate may be right, therefore, for enactment of the legislation that I discussed above. The Nuclear Explosion Proliferation Control Act would establish criteria governing U.S. nuclear exports that other nuclear supplier nations can still be persuaded to follow. Among these criteria are an embargo on reprocessing plants and a requirement that spent fuel rods be shipped back to supplier countries. I hope very much, Mr. President, that the Congress will give priority attention to these matters of utmost concern for the security of the United States and the benefit of all mankind.

Exhibit A

Kissinger Letter on Indian Nuclear Explosion

Washington, D.C.—Senator Abe Ribicoff (D-Conn.) today released a letter he received from Secretary of State Kissinger acknowledging that "misinterpretation" of assurances given by the Indian government and of technical data had led the State Department to the "incorrect" conclusion that no U.S. peaceful nuclear assistance was involved in India's nuclear explosion of 1974.

Kissinger, reporting the results of a staff inquiry that he had ordered at Ribicoff's request, stated that there now was a "high probability" that heavy water supplied by the United States was used by India to operate an unsafeguarded reactor during the period that plutonium was produced for India's so-called "peaceful nuclear explosion"—a device equivalent to the plutonium bomb that destroyed Nagasaki.

Ribicoff, Chairman of the Senate Government Operations Committee, said: "I am deeply disturbed by these disclosures by Secretary of State Kissinger because they indicate that India has misused our peaceful nuclear assistance to develop its version of an atomic bomb. Furthermore, India proceeded with its nuclear explosion program, using plutonium derived from U.S.-supplied material, over the formal objections of the United States. To make matters worse, the Kissinger letter indicates that the United States is not prepared to restrict India's use of plutonium derived from the large quantities of heavy water we have provided for its research and power reactors to prevent use of the plutonium in devices that are no different than atomic bombs."

Ribicoff, whose Committee has been inquiring into the adequacy of Federal interagency controls over the nuclear export program, was critical of the secrecy that has surrounded U.S. nuclear relations with India. On June 16, he made the first public disclosure that the United States had provided India with a rare and expensive substance, heavy water, required to operate an unsafeguarded research reactor that produced the plutonium used by India to set off its nuclear explosion. "The United States never publicly acknowledged that shipment of heavy water to India either before or after the 1974 nuclear test; nor did the State Department divulge the details of India's formal disagreement with the U.S. position that a nuclear explosion does not constitute a 'peaceful use' of our nuclear assistance."

The 1956 contract under which the United States exported the heavy water to India required that the material be used only for "research into and the use of atomic energy for peaceful purposes." The heavy water was placed in the CIRUS research reactor and was the essential ingredient for transforming the reactor's natural uranium fuel, which is unsuitable for use in a nuclear weapon, into plutonium, which is atom bomb material. A staff analysis attached to the Kissinger letter noted that in 1970, the United States sent an aide memoire to India stating that the United States would not consider use of the CIRUS plutonium in a nuclear explosive device of any kind to be a peaceful use of our nuclear assistance.

"India went ahead and used the CIRUS plutonium for its nuclear explosion anyway, and the State Department's public response was to pin the blame on Canada, which had exported the CIRUS reactor to India," Ribicoff said. When Ribicoff called on Kissinger in June to account for the role of the U.S. heavy water in India's nuclear explosion, the State Department responded by citing a letter from the Indian ambassador in 1974 and technical data supplied by the Energy Research and Development Administration to support the official United States position that U.S.-supplied heavy water was not present in the CIRUS reactor when the plutonium used in the explosion was produced.

Kissinger, in his letter to Ribicoff, stated that the staff review "establishes that in earlier efforts the previously indicated heavy water loss rate and certain related calculations were incorrect. Consequently, there is high probability—because of India's practice of co-mingling heavy water—that some U.S. heavy water remained in the CIRUS reactor during the period in question" (when the plutonium for the explosion was produced). The staff analysis forwarded by Kissinger stated that the earlier estimate that all U.S.-supplied heavy water in the CIRUS reactor had been depleted "was a misinterpretation of the loss rate estimates, and a miscalculation of the results of such a loss rate on any U.S. heavy water in the reactor."

The staff analysis also cited Indian Ambassador Kaul's 1974 letter to Kissinger in which Kaul stated, "We did not use or divert Canadian material; in fact, we used 100 percent Indian material, Indian technology and Indian personnel." The State Department staff analysis went on to say: "This statement makes no specific representation regarding the heavy water used in the CIRUS reactor that produced the plutonium. A reasonable reading of the letter and consideration of its context, does not indicate that any such representation was intended."

Ribicoff said: "This hardly seems like a reasonable interpretation of India's position in view of the fact that the State Department had never specifically inquired of India as to whether or not it used our heavy water in preparing for its nuclear explosion. It appears that we did not ask because we were afraid as to what the answer might be. Instead, we did not acknowledge our heavy water export to India, choosing to let Canada take the heat for India's nuclear test. Canada immediately cut India off from further nuclear assistance because of India's violation of its peaceful-use commitment. Our reaction was to look the other way."

Kissinger stated in his letter to Ribicoff that the United States had made known to the Indian government "our displeasure with the test" and withheld shipments of enriched uranium fuel for the Indian Tarapur nuclear reactors until assurance was obtained that the plutonium from these reactors "would not contribute to India's nuclear explosive program". Ribicoff noted, however, that no scheduled fuel shipment was actually held up, and that the assurance obtained from India was not a commitment to refrain from using the plutonium for nuclear explosions, but rather a so-called "functional equivalent"—namely to use the plutonium only for recycling as fuel in the reactors.

Ribicoff, noting that India has refused to ratify the Nuclear Non-Proliferation Treaty, said: "The best way for the United States to ensure that India does not use Tarapur plutonium, which now totals about 1,000 pounds or enough for 100 bombs, for more nuclear tests is for us to exercise the option we have to buy back that plutonium from India. Secretary Kissinger's statement that the United States is prepared to consult with India on a buy-back arrangement is insufficient. It should be made clear to the Indian government that continued shipment of enriched uranium for the Tarapur reactors will be conditioned upon India's agreement to ship the plutonium back to the United States for a reasonable price. In any event, the United States should not agree to permit India to reprocess plutonium from the spent fuel of the Tarapur reactors."

Under the United States agreement with India, the United States must consent before India can reprocess the Tarapur spent fuel.

As to the plutonium produced in India in other reactors utilizing heavy water supplied by the United States, Senator Ribicoff urged that the United States use whatever leverage it has to prevent the use of that plutonium for nuclear explosions. "Unfortunately, our heavy water was shipped to India, some of it through Canada, without first negotiating agreements with India that would have given us the same control over reprocessing of plutonium derived from the heavy water that we now have with respect to plutonium derived from our enriched uranium. India however is still heavily dependent upon the United States for its heavy water, and we should use this leverage to seek to obtain a no-explosion pledge—even at this late date." Ribicoff noted that the only present alternative supplier of heavy water to India would be the Soviet Union, which has been generally cooperative with the United States in non-proliferation efforts.

"Our loose nuclear dealings with India sets a very dangerous precedent and may, in fact, encourage other developing nations, particularly Pakistan, to misuse peaceful nuclear assistance for nuclear weapons purposes," Ribicoff said. "Unless the United States, as the world's leading nuclear supplier and technology nation, makes clear that we will not tolerate such abuses, the world may soon be put at peril by the rapid spread of nuclear weapons and capability. The prospect of regional nuclear wars triggering a Third World War, and even of terrorist groups using stolen nuclear material for purposes of blackmail and mass destruction, will become very real."

Exhibit B

The Secretary of State,
Washington, D.C., August 2, 1976.

Hon. Abraham Ribicoff,
Chairman, Committee on Government Operations, U.S. Senate, Washington, D.C.

Dear Senator Ribicoff: Thank you for your letter of June 16, raising a number of questions concerning the U.S. supply of heavy water to India. I am in full agreement with you that this represents a matter of great importance to our non-proliferation policy, both with respect to India and other nations.

Your letter raised several questions concerning Ambassador McCloskey's response to your earlier letter on this matter, and in particular, the information which was supplied concerning the possible loss and replacement of U.S.-supplied heavy water. As a result of your inquiry, I directed that there be a thorough review of earlier staff estimates. This review establishes that in earlier efforts the previously indicated heavy water loss rate and certain related calculations were incorrect. Consequently, there is high probability—because of India's practice of co-mingling heavy water—that some U.S. heavy water remained in the CIRUS reactor during the period in question. We nevertheless do not have enough information to conclusively establish that such heavy water was present at all times after 1965. A full statement of our current best understanding of the situation is contained in the attached Staff Analysis. The Nuclear Regulatory Commission has been provided with this information.

The key factors in this matter, in our view, are that by 1965 India had produced unsafeguarded heavy water in its own Nangal heavy water plant in excess of that needed to replace the heavy water supplied by the U.S. for the CIRUS reactor. Thereafter, Indian supplies of Nangal-produced heavy water continued to increase so that by 1974 it had produced several-fold the CIRUS requirements. Thus, U.S. heavy water was not essential to the production of plutonium for India's 1974 nuclear test, and our response to the Indian nuclear test took this important consideration into account.

Nonetheless, our displeasure with the test was made known to the Indian Government, and subsequently, export licenses for nuclear fuel shipments to the Tarapur Atomic Power Station were withheld until satisfactory reassurance was obtained that the continued supply of nuclear fuel from the U.S. would not contribute to India's nuclear explosive program.

During my visit to India in October, 1974, I publicly cited our strong opposition to proliferation and warned of its inhibiting effects on cooperation in peaceful uses of nuclear energy. In March of this year, I reiterated my opposition to the Indian development of nuclear explosive devices in my testimony before the Senate Government Operations Committee, when I said in part ". . . we deplore it strongly, and we have made clear to India that we saw no need for it. . . ." I also stated that ". . . a continuation of nuclear explosions by India would be a reckless policy that would undermine regional stability. . . ."

During recent months, in connection with the Nuclear Regulatory Commission's consideration of two Indian export license applications for slightly enriched uranium, questions were raised anew concerning our continued supply of nuclear fuel for the Tarapur reactors, which supply had been resumed following satisfactory reassurance from the Government of India that this material would not contribute to its nuclear explosive program, as is explained in the attached Staff Analysis. As a result, the issuance of these licenses was delayed and the continued efficient operation of the Tarapur Atomic Power Station was jeopardized. It was our belief that further delay in licensing these fuel shipments, for materials which we are legally obligated to supply, would raise extremely serious problems for our overall relations with India, including the furtherance of our non-proliferation objectives there.

It was for this reason that I asked Ambassador Saxbe to return to inform me and interested members of the Congress personally of the possible impact of this delay. Ambassador Saxbe has told me of his useful and constructive conversations with you and other concerned members of the Congress, and we both appreciate your understanding of the need to continue an on-going relationship as we reexamine the fundamental issues involved. Moreover, I am gratified that the Nuclear Regulatory Commission now has approved the first of the two above-mentioned export license applications, which should allow additional fuel for the Tarapur Station to be frabricated in sufficient time to prevent disruption of the Indian electric power supply.

As we have informed your staff, we are prepared—now that the public hearings before the Nuclear Regulatory Commission on the second of these Indian export license applications have been completed—to consult with the Government of India on various aspects of our peaceful nuclear cooperation. In the meantime, I am attaching for your information a Staff Analysis prepared in response to the questions included in your letter of June 16.

We appreciate your interest in this important matter, which I can assure you is receiving my personal attention.

Best regards,

Henry A. Kissinger.

Staff Analysis in Response to Questions Raised in Senator Ribicoff's Letter of June 16, 1976

Before attempting to respond to the individual questions, it is desirable to give some background information on the supply of heavy water available to India, the facilities in which it is utilized, and the manner in which India actually handled and accounted for heavy water. Since this subject is central to a number of questions, this approach will simplify our overall response.

The 21 tons of heavy water delivered by the US to India was the first export of such material approved under the Atoms for Peace Program, as indicated in the AEC's Major Activity Report for the period January–June 1956. This material was provided with the understanding that it would be used "in connection with research into and the use of atomic energy for peaceful purposes." It was not restricted to use in a specific facility, even though it was known that the planned initial use was in a research reactor (subsequently designated as "CIRUS") which Canada was providing under the Colombo Plan. There was no requirement in the contract for records to be kept of either the loss rate or use of the heavy water supplied. Although the heavy water was delivered during 1956, CIRUS did not come into operation until 1960, at which time about 19.7 tons of the US-supplied heavy water were used in the reactor and 1.3 tons reserved for inventory.

In 1959, India entered into a lease agreement with the US for 15 tons of heavy water to be used in a zero-energy research reactor known as "Zerlina." At Indian request, this agreement recognized that, as a result of normal operation, the heavy water would be commingled with other heavy water available to India (including that being used in CIRUS). It did not require that India actually account for the heavy water furnished under the agreement but rather that it be able to demonstrate the use of an equivalent quantity of material of like specifications for the purpose and in the manner specified in the end-use statement.

In 1962, the Nangal heavy water plant came into operation with a production capacity of some 12–15 tons of heavy water per-year. This Indian plant was built with equipment and technology from a variety of sources, and was not provided under any governmental agreements or understandings. Thus, there were no restrictions on this plant nor on the use of any heavy water produced in it. Heavy water produced in Nangal also was commingled with that supplied by the U.S. for both CIRUS and Zerlina.

It is estimated that by 1965 the quantity of heavy water produced by Nangal had exceeded the 21 tons supplied by the U.S. under our 1956 contract, and by 1966, when the CIRUS reactor achieved reliable operation, cumulative production from Nangal had reached some 38 tons. The growth of the Indian inventory of heavy water is evidenced by the fact that in 1964 it returned 5 tons of the material supplied for Zerlina in the original drums and in apparently unused condition and, in 1965, loaned 12 tons of heavy water to Belgium.

Except in those instances where it was required to do so by explicit agreement with the supplier, India has kept no separate records relating to use or losses of heavy water by source. As indicated previously, the heavy water supplied under the 1956 agreement did not require the maintenance of any special records. The lease contract for Zerlina did require such records (although recognizing the concept of substitution, explained below), and an equivalent quantity of material to that supplied under that contract was returned to the United States, the aforementioned five tons in 1964 and the balance in 1974.

In safeguards practice, including that of IAEA, unsafeguarded special nuclear material may be substituted for safeguarded material of the same quality and quantity for the purpose of demonstrating compliance with safeguards and peaceful restrictions. Applying this principle to heavy water, India could have demonstrated its compliance with safeguards—by having available for inspection, and subject to safeguards, a quantity of Indian-produced heavy water of like quality equivalent to that supplied by the U.S.

For the reasons cited above, it is technically impossible to determine the amount of heavy water initially supplied by the U.S. in 1956 for use in CIRUS which physically remains in India today. Neither is there any conclusive basis for establishing the origin of the heavy water present in the CIRUS reactor at the indeterminate time that the plutonium used in the 1974 nuclear explosive test was produced. As explained in greater detail in the response to Question 3, the 10 percent loss previously reported was based on the total amount of heavy water leaving the reactor, including material which can be recovered and subsequently reconcentrated, as well as irrecoverable losses. Although the latter are—except for isolated instances of large irrecoverable losses that are not uncommon in early years of reactor operation—significantly the smaller of the two, the 10 percent annual loss rate was inadvertently interpreted as applying over the entire period in question and to irrecoverable losses. Thus, the previously stated conclusion that U.S.-supplied heavy water in CIRUS would have been totally replaced by about 1970 was a misinterpretation of the loss rate estimates, and a miscalculation of the results of such a loss rate on any U.S. heavy water in the reactor.

With this general background, the following responses can be made to the specific questions in Senator Ribicoff's letter of June 16, 1976:

Question 1: Information provided this Committee by the Atomic Energy Control Board of Canada, and the calculations done for the Committee by the Congressional Research Service, indicate that a substantial amount of U.S.-supplied heavy water, possibly as much as 90 percent of the original shipment, remains in India. How is this heavy water now being used? Has the United States asked to see records pertaining to its use?

Answer: As indicated above, there is no firm basis for determining the amount of heavy water supplied by the U.S. in 1956 which still remains in India, and such heavy water as remains cannot be separately identified from other heavy water available to India. At the present time, heavy water is in use in India in:

(a) The RAPP–1 power reactor, built in cooperation with Canada, which has a heavy water inventory of 220–230 tons.

(b) The CIRUS reactor, furnished by Canada, which has a heavy water inventory of approximately 20 tons.

(c) The Indian-built Zerlina zero-energy research reactor, which has a heavy water inventory of about 15 tons, although this can vary over a rather wide range.

In addition to the 21 tons of heavy water supplied by the US under the 1956 contract, the known sources of India's heavy water inventory include:

(a) An additional 130 tons of heavy water of US origin, supplied by Canada in 1971 with US consent, for use in RAPP–1, which is currently under IAEA safeguards.

(b) The accumulative production of the Nangal plant, which is estimated to be of the order of 165 tons at the present time, and

(c) Probably some 50 to 60 tons being used in RAPP–1, obtained from sources other than the US, Canada or indigenous Indian production.

Detailed Indian heavy water production and use records are not available to the US and there are no agreements which require that such records be made available. However, other data appears to indicate that until such time as it is necessary to fill the RAPP–2 reactor, the Indians have a surplus of about 100 tons of heavy water. Further, several additional Indian heavy water production plants are under construction.

Question 2: If the US supplied heavy water is still being used in the CIRUS reactor, or in any other unsafeguarded Indian reactor for explosive applications, does the United States regard this as a violation of the original peaceful-use agreement?

Answer: Although the Department of State maintains the position set forth in the November 16, 1970, aide memoire that nuclear explosives intended for any purpose do not constitute "research into and use of atomic energy for peaceful purposes," the Government of India has not accepted the US interpretation. We have no indication that India is currently using US-supplied heavy water in a manner inconsistent with its assurances to us, and since we have made our strong views known to the Indians, we do not expect the situation posed in the hypothetical question to arise.

Question 3: How was the misleading calculation showing no US-supplied heavy water remaining in India arrived at? What is the Department's corrected calculation?

Answer: The estimate of 10 percent loss per year was based upon the total rate of removal, or losses, of heavy water from the reactor, including withdrawals for reconcentration, rather than upon that for irrecoverable losses, but was inadvertently interpreted to apply only to the latter. Upon further review of the matter, it is now believed that the 10 percent figure for total losses per year probably was appropriate for the early years of CIRUS reactor operation, but not as a sustained rate over the full operating period in question. For example, we are aware of an Indian loss from CIRUS reactor of about 2.5 tons which resulted from a single operating incident. However, based upon comparable Canadian experience that shows decreasing losses over time, current total heavy water withdrawals should be closer to 3 percent per year. After reconstitution of part of these losses, the irrecoverable losses, again based on Canadian experience, could presently be well under one percent per year.

With regard to our present estimate, it is not technically feasible to calculate the amount of U.S. heavy water not in the CIRUS reactor due to uncertainties regarding the actual total loss rates and irrecoverable loss rates over the history of the reactor operation, as well as the practice of commingling heavy water from various sources. Moreover, we do not know if reconstituted heavy water was returned directly to the reactor or replaced with other heavy water in stock.

The fundamental point, however, is that the availability to India of heavy water from its Nangal plant, on which use there are no restrictions, gave India the capability to substitute its own material for that supplied by the U.S. throughout most of the operating life of the CIRUS reactor.

Question 4: In view of revised calculations as to the depletion rate of heavy water in the CIRUS reactor, does the United States still accept the assertion of the Indian Government that no U.S. material was used in India's nuclear explosion program? On what basis did the United States accept the Indian assertion at the time of the explosion?

Answer: The letter of July 6, 1974 from Ambassador Kaul to Secretary Kissinger states "We did not use or divert Canadian material; in fact, we used 100 percent Indian material, Indian technology and Indian personnel." This statement makes no specific representation regarding the heavy water used in the CIRUS reactor that produced the plutonium. A reasonable reading of the letter and consideration of its context, does not indicate that any such representation was intended.

Later, in 1974, conversations took place between representatives of the USAEC and the India Atomic Energy Commission in Vienna. These conversations were directed primarily to the need for further Indian assurances that enriched uranium supplied by the U.S. for the Tarapur nuclear power plant would not be used in India's nuclear explosive program, and led to the exchange of letters on this subject with which you are familiar.

In a subsequent memorandum concerning these conversations, the USAEC official involved indicated that the Indian official had confirmed Ambassador Kaul's earlier advice that the Indian Government had used only "100 percent Indian material." It was then concluded that no further correspondence with Indian authorities was necessary on the question of whether any U.S. heavy water had been used in the production of that plutonium. However, it is our conclusion that these Indian statements were not intended to provide the U.S. with any assurance relating to the non-utilization of U.S. heavy water in the production of plutonium for the 1974 nuclear explosion, and that subsequent conclusions to this effect represent a U.S. misinterpretation of Indian statements in 1974.

Question 5: How much plutonium has been produced by India utilizing this heavy water? What was the status of this plutonium at the time of India's nuclear explosion and what is the status subsequent to the explosion? Has the United States asked to see Indian records pertaining to this plutonium?

Answer: We have no knowledge of the status of the plutonium produced during any specific time period, either before or after the Indian explosion of 1974, and we have no basis on which to require the examination of Indian records. In any case, however, since India had available to it the quantity of heavy water necessary for operation of the CIRUS reactor without reliance on the initial U.S. supply from about 1965 onward, only the quantity of plutonium produced prior to the mid-1960's was presumably dependent upon the U.S. heavy water. Although plutonium production in CIRUS currently may be on the order of 10 kgs/yr under optimum operating conditions, operational problems prior to 1965 indicate that this cumulative amount probably was less than ten kilograms.

Question 6: Why did the United States make no statement and take no action rebuking India at the time of the explosion in view of every indication that U.S.-supplied heavy water was used at some point to produce plutonium in the CIRUS reactor, and that it was plutonium from this reactor that was used in India's nuclear explosion? What distinction can be made between plutonium produced at different times in an unsafeguarded reactor?

Answer: In connection with the Indian test, the Department of State issued a statement on May 18, 1974, that: "The United States has always been against nuclear proliferation for the adverse impact it will have on world stability. That remains our position."

Since that time, the Department and Secretary Kissinger personally have indicated their strong opposition to the Indian nuclear explosion program on several occasions.

The action taken by the United States at the time of the explosion in July 1974 was to hold up further export licensing of slightly enriched fuel for the Tarapur reactors pending satisfactory reassurance that the plutonium produced in these reactors would not contribute to the Indian nuclear explosive program. Such reassurance was obtained through an exchange of letters beween the AEC Chairman of India and the US in September 1974. In this exchange, the Indian AEC agreed that plutonium derived from Tarapur would be used only to fuel Tarapur, unless otherwise agreed by the two governments.

With regard to the second part of this question, no distinction can be made between plutonium produced at different times in an unsafeguarded reactor, unless the irradiation history varies significantly from time to time and records subject to independent verification are available making it possible to relate the resultant differences in plutonium characteristics to different time periods. Because of this fact, it would be impractical to establish that plutonium employed in the Indian nuclear explosion was produced during any particular period of CIRUS operations.

Question 7: What action is the United States now prepared to take to ensure the peaceful use (i.e., no applications for explosions) of the heavy water and of all plutonium now in India as a result of United States nuclear assistance, including the plutonium in the spent fuel of the U.S.-supplied Tarapur reactors? For example, are we prepared to buy back the heavy water and all US-derived plutonium?

Answer: The question of whether the United States can and should seek to repurchase heavy water supplied under the 1956 supply contract and plutonium produced through its use involves both legal and policy issues which the Department of State is prepared to address in discussions with Indian authorities.

It should be noted that for plutonium produced in the Tarapur reactors, the situation is substantially different from that for US-supplied heavy water for CIRUS. Insofar as Tarapur is concerned, our Agreement for Cooperation with India accords the US a first option to purchase special nuclear material in excess of India's needs for such material in its program for peaceful uses of atomic energy, and we are now planning to explore with the Government of India possible arrangements under which this option might be exercised. For its part, the Indian Government has also expressed an interest in the transfer of irradiated material from Tarapur to the US. We are hopeful that our discussions on this matter will lead to agreed arrangements for the return to the US of this material. No such US right exists for the heavy water supplied under the 1956 contract, or for plutonium produced through its use.

Question 8: How are the United States' national interests being advanced by India's continued possession of this heavy water and plutonium, and by continued US nuclear assistance to India, if India continues to refuse to pledge not to use the materials and the assistance for nuclear explosions? In this regard, please explain the significance of India's agreement to recycle the Tarapur plutonium as fuel for the reactors, but its refusal to agree not to use the plutonium for nuclear explosions?

Answer: The question raises two separate issues relating to the US national interest and continued nuclear cooperation with India. The discussion above relating to heavy water supplied in 1956 under a one-time arrangement should provide full background with regard to this aspect of the question. Our only other substantial on-going cooperative arrangement relates to the fuel supply contract for Tarapur. As we have indicated to the Nuclear Regulatory Commission, the US believes that the national interest is served by continued fulfillment of this obligation, for reasons which have been presented in some depth during the recent NRC public hearings on this matter. Specifically, we believe that our failure to do so would call into question our credibility generally as a reliable supplier of nuclear materials, thereby greatly decreasing our capability to use such exports as a means of ensuring that the recipients impose adequate international safeguards over nuclear facilities and materials. In addition, a perceived US failure to fulfill its obligation could conceivably provide a rationale for the Government of India to regard itself as relieved of all obligations under the 1963 agreement, including those relating to safeguards arrangements. Finally, as a practical matter, interruption of the fuel supply would not impair India's nuclear explosive programs, since it is in no way dependent on plutonium produced in the Tarapur Atomic Power Station. In this connection, as noted previously, the US resumed fuel shipments to Tarapur in September 1974 only after we were satisfied that US material supplied for Tarapur would not be used in the India nuclear explosive program.

The September 1974 letter exchange between the US and Indian AEC Chairman referred to in the answer to question number 6, above, in which the Indian AEC agreed that plutonium derived from Tarapur would be used only to fuel Tarapur, unless otherwise agreed by the parties, effectively accords us a veto over any alternative use of such plutonium and we have advised India that use for nuclear explosives would be unacceptable to the US. We regard this as a clear functional equivalent of an Indian pledge not to use plutonium produced in the Tarapur Station for nuclear explosives.

Exhibit C

[From the New York Times, Aug. 9, 1976]

United States Sees A Role in India's A-Blast

(By David Burnham)

Washington, August 8.—Secretary of State Henry A. Kissinger has acknowledged that it is highly probable that material supplied by the United States was used by India to become the sixth nation in the world to explode a nuclear device.

The acknowledgement by Mr. Kissinger appeared to contradict State Department assertions in June that the material in question had not played a role in the Indian nuclear explosion in 1974.

Mr. Kissinger, in a letter to Senator Abraham A. Ribicoff, Democrat of Connecticut, said a "misinterpretation" of assurances by the Indian Government and of technical data had led the State Department to the incorrect conclusion that no United States materials were involved in the Indian test.

Consequently, Mr. Kissinger said, there is "a high probability" that heavy water supplied by the United States was used by India in the reactor that produced the plutonium for what India calls its "peaceful nuclear explosion."

The admission by Mr. Kissinger could affect the nuclear export policy of the United States, an area of growing diplomatic and economic importance as the number of nations using nuclear power to generate electricity increases.

The Senate Government Operations Committee, headed by Mr. Ribicoff, has already approved legislation reorganizing the procedures under which nuclear equipment and fuels are exported.

This legislation is pending before the Joint Committee on Atomic Energy and the Foreign Relations Committee. This suggestion of confusion on policy in the past has increased pressure on these committees to act.

The dispute over Indian use of American materials also is expected to play a key role with the Nuclear Regulatory Commission, which on July 20 held a hearing on a request for an export license for new shipments of uranium to India. The licensing has been challenged by a number of organizations, including the Natural Resources Defense Council and the Sierra Club.

In disclosing Mr. Kissinger's letter, Senator Ribicoff said in a statement that he was deeply disturbed "because it indicated that India has misused our peaceful nuclear assistance to develop its version of an atomic bomb."

The Senator further noted that India had proceeded "with its nuclear explosion program, using plutonium derived from United States-supplied material, over the formal objections of the United States."

Mr. Ribicoff charged that "our loose nuclear dealings with India set a very dangerous precedent and may, in fact, encourage other developing nations, particularly Pakistan, to misuse peaceful nuclear assistance for nuclear weapons purposes."

He said the United States should make it clear "we will not tolerate such abuses."

The other nuclear powers at present are the United States, Britain, the Soviet Union, France and China.

HEAVY WATER INVOLVED

The United States-supplied material in question was 21 tons of heavy water, an essential ingredient for transforming natural uranium into plutonium. Natural uranium cannot be used as an explosive, but small amounts of plutonium can easily be fashioned into a nuclear weapon.

Exhibit D

[From the Washington Post, Aug. 9, 1976]

United States Concedes Probable Role in India A-Blast

(By Don Oberdorfer)

In a reversal of its previous position, the United States now believes there is "a high probability" that American heavy water was used in producing India's 1974 atomic explosion, according to a letter from Secretary of State Henry A. Kissinger released yesterday.

Kissinger's letter and an accompanying State Department analysis blamed "incorrect" calculations and "a U.S. misconception" of Indian government statements for the previous American position that it was not involved in the explosion. The blast, India's first, created political shock waves in neighboring states and heightened fears throughout the world about the spread of nuclear weapons.

Canada permanently terminated its nuclear cooperation with India because a Canadian-supplied research reactor was used to make the material for the Indian explosive device, and because India refused to give satisfactory assurances it would not do the same thing again. The U.S. heavy water—supplied under an agreement that it was to be used only for "peaceful purposes"—was, and may still be, in use in the Canadian-supplied reactor.

"Heavy water" is an expensive man-made chemical containing more than the natural proportion of heavy hydrogen atoms found in ordinary water. It is essential to the operation of some types of atomic reactors.

The letter from Kissinger, dated last Monday, was released yesterday by Chairman Abraham A. Ribicoff (D-Conn.) of the Senate Government Operations Committee, to whom it was sent.

In an accompanying statement, Ribicoff said he is "deeply disturbed" by Kissinger's disclosures "because they indicate that India has misused our peaceful nuclear assistance to develop its version of an atomic bomb . . . over the formal objections of the United States."

The U.S. objection he referred to was a 1970 diplomatic note declaring that U.S. nuclear material supplied for "peaceful" purposes should not be used for "peaceful nuclear explosions," which is what India called its 1974 underground blast.

Until now the American position has been that U.S. material was not used in the Indian explosion and therefore there was no violation of U.S.-Indian agreements. The United States has continued shipping essential nuclear fuel to American-supplied power reactors at Tarapur, India, under agreements that are tighter than those applied to the U.S. heavy water.

The State Department recently asked the Nuclear Regulatory Commission to approve another shipment of uranium fuel for the Tarapur reactors, despite objections from several groups and some members of Congress.

While conceding that U.S. heavy water probably was used, Kissinger said in his letter that the United States does not have enough information to "conclusively establish" the fact. He said a "key factor" in the U.S. attitude is Indian production of its own heavy water in sufficient quantity to have replaced the American chemical in the reactor that made the explosive device. Kissinger did not claim that this actually was done.

As his letter to Ribicoff was made public, Kissinger was arriving yesterday in Pakistan for an overnight visit that deals in part with repercussions of the 1974 Indian atomic blast. One of the principal repercussions is a nuclear reprocessing plant that Pakistan plans to purchase from France over U.S. objections, including a letter from President Ford to Pakistani Prime Minister Zulfikar Ali Bhutto. Such a "reprocessing plant" would be capable of making bomb material from the irradiated "spent fuel" of civilian nuclear reactors.

There is little doubt that the Pakistani drive was spurred by the atomic blast of its neighbor-rival, India. Bhutto has vowed that Pakistan will match India's nuclear capacity even if Pakistanis have "to eat grass" to mobilize the resources.

A provision of the recent foreign military aid act would cut off U.S. economic and military aid if Pakistan goes ahead with the importation of the French reprocessing plant.

EXHIBIT E

[From the New York Times, Aug. 10, 1976]

BRING BACK THE BOMBS

Three decades after Hiroshima, only the five countries that are permanent members of the U.N. Security Council have become atomic weapons powers; but a great divide was crossed in May 1974.

A sixth nation, India, became the first developing country to explode a nuclear device, spurring the interest of other third-world nations in acquiring plants to extract plutonium explosive from spent reactor fuel rods. Pakistan and Brazil have now contracted to buy such reprocessing plants from France and West Germany. Iran and other developing countries have evidenced interest in doing the same. An adequate response to this proliferation danger has to be found.

India was known to have made its atomic explosive with spent fuel diverted from a Canadian research reactor. Now, after earlier denials, Secretary Kissinger has finally confirmed the "high probability"—diplomatese for "certainty"—that India also misused American heavy water provided on Indian assurances that only peaceful purposes were intended.

Canada has halted nuclear cooperation with New Delhi. The Ford Administration, incredibly enough, continued to ship nuclear fuel to India after failing to obtain an explicit commitment against extraction of plutonium for explosives from the spent fuel. Much vaguer assurances were accepted instead.

FIRST PUBLIC HEARINGS

But recently, the Nuclear Regulatory Commission—over the objections of the State Department—has delayed shipments of enriched uranium to India and staged the first public hearings on a nuclear export license ever held. The results have been salutary, in the case of Iran and Pakistan, as well as India.

On India, the N.R.C. now is awaiting the outcome of a new State Department proposal: to seek Indian resale to the United States of its spent fuel, including that already stored, which contains 400 kilograms of unseparated plutonium, enough for 40 to 80 Hiroshima-size bombs. The Indians evidently have indicated willingness now to pay a price of this kind for new fuel.

Until the 1960's, return of spent fuel rods to the United States for reprocessing or storage was mandatory in virtually all "atoms for peace" arrangements. But this vital nonproliferation policy was mindlessly abandoned by the old Atomic Energy Commission.

Revival of this policy is urgent now, and a beginning appears to have been made in the recent American agreement to sell power reactors to Egypt and Israel. Both countries, initially reluctant, have now agreed that their spent fuel rods will be stored abroad and reprocessed there, if that becomes necessary, in facilities acceptable to the United States.

HOPE FOR A FORMULA

Mr. Kissinger, on his current tour, has pressed Iran and Pakistan to accept similar arrangements. He appears to have had some success with Iran and—after threats to cut off economic and military aid—a formula may also be in sight to resolve the Pakistan issue. A general American "buy back" policy would be the most effective way to counter proliferation, particularly if France and West Germany are prevailed upon to follow suit.

What is most to be avoided is the accumulation around the world of stockpiles of separated plutonium, which could be diverted into bombs in a matter of days or weeks. But it is equally important to avoid any semblance of American approval for Indian plutonium reprocessing, which has no commercial purpose at present. The Indians may prefer to sell pure plutonium back to the United States rather than the spent fuel. That would help cover up reprocessing of any non-American fuel India may be able to obtain.

The United States will not be able forever to buy back and store the spent fuel of the entire world, as nuclear power production expands. Cooperation by other supplier nations and construction of multinational regional centers could ease the load. So could current research into possible ways to re-use spent fuel rods without extracting the plutonium first in explosive form. But, for the moment, many immediate dangers can be averted by a return to the old American policy of buying back dangerous spent fuel from nations the United States has supplied, especially when diversion to weapons production is suspected.

EXHIBIT F

[From the Hartford Courant, Aug. 16, 1976]

MR. RIBICOFF ADDS TO NUCLEAR RECORD

Thanks to the persistence of Senator Abraham A. Ribicoff, we now know much more about India's first nuclear explosion in 1974. The emerging facts cast little credit on this country, however.

In June, the Connecticut congressman charged that India's atomic blast may have been accomplished, in part, with the help of American-supplied heavy water—an essential component for plutonium production. The charge was greeted with silence from the State Department.

Now that silence has been broken by Secretary of State Henry A. Kissinger who has admitted in a letter to Mr. Ribicoff that there is a "high probability" India's explosion was set off with the use of some United States materials. He said the error was caused by a "misinterpretation" of assurances the State Department received two years ago that the blast had used "100 per cent Indian material."

In effect, the letter lends strong support to Mr. Ribicoff's claim that 21 tons of American heavy water given Indian in 1960 "for peaceful nuclear technology" could have been involved in the 1974 explosion.

That conclusion is disturbing for a couple of reasons. After the Indian blast, Canada took most of the blame since it supplied India with nuclear knowledge—with the strict limitation it not lead to an explosion. As Mr. Ribicoff has noted acidly: "Canada immediately cut off India from further nuclear assistance . . . Our reaction was to look the other way."

A second concern is the inconsistency of American atomic policy. Mr. Kissinger currently is trying to persuade Pakistan, India's hostile neighbor, to drop plans to develop its own nuclear reprocessing plant. Such a facility would produce, as a byproduct, plutonium that could be used for making atomic weapons. Understandably, Pakistan isn't likely to heed such pressure when it learns Washington has been a help to India, however unintentionally, in its nuclear venture.

EXHIBIT G

[From the Washington Post, Aug. 27, 1976]

HILL MOVES TO TOUGHEN CURBS ON EXPORTS OF ATOMIC MATERIAL

(By Don Oberdorfer)

Three committees of Congress took different actions yesterday on three different bills on the same topic—U.S. nuclear exports which may contribute to the spread of atomic weapons throughout the world.

There was no immediate recommendations of the Senate Foreign Relations Committee and the Joint Committee on Atomic Energy. But veteran legislators took the events as a sign of rising dissatisfaction and concern that is likely to lead in time to new laws or administrative policies.

"The emotions are growing. The peril is growing," said Sen. John O. Pastore (D-R.I.), chairman of the Joint Atomic Energy Committee. He made the remark after a fruitless attempt by the joint committee to agree on a compromise measure on export limitations worked out between Pastore and leading members of the Senate Foreign Relations and Senate Government Operations Committees. The joint committee—which traditionally has taken the lead in nuclear affairs—voted only to disapprove the draft of an earlier version of an export control bill.

The Senate Foreign Relations Committee, taking up the matter in closed session, approved the three-committee compromise 8 to 1 despite Ford administration objections. Secretary of State Henry A. Kissinger made telephone calls to Capitol Hill opposing the plan.

Several hours after the vote, he told a closed session of the Foreign Relations Committee he believes current nuclear safeguards are adequate and expressed fear that the United States may lose nuclear sales to European countries if stricter export controls are adopted, sources said.

The House International Relations Committee, in a separate action, approved narrower nuclear export limitations unanimously.

Rep. Paul Findley (R-Ill.), one of the bill's sponsors, said the action would provide "tight guidance for standards on nuclear reprocessing—the most dangerous part of the nuclear fuel cycle."

The House committee action, an amendment to the Export Administration Act, also would close the loophole by which India claimed the right to use U.S. nuclear material in an atomic explosion because it described that blast as "peaceful."

The 1974 Indian blast, which was aided by U.S. nuclear cooperation intended for civilian uses, set off a new wave of apprehension about the spread of atomic weapons to many nations. In speeches and hearings, legislators have been demanding stronger U.S. government efforts to halt the drift toward an atom-armed world.

The Ford administration has responded with claims that secret diplomatic efforts are being made among nations that supply nuclear materials and among some of those that seem to be seeking atomic weapon capabilities. President Ford also has ordered a high-level study of U.S. nuclear export policies. A report has been drafted, sources said, and is awaiting comment by a variety of departments and agencies involved.

Pastore charged that President Ford and the executive branch would like to have Congress "do nothing" to enact new export policies, preferring to handle the problem through diplomacy and administrative regulations. Pastore added that "in recent years we've become a lot more alert to the dangers" and implied that Congress is likely to take action.

The plan adopted yesterday by the Foreign Relations Committee would set extensive new guidelines for licensing exports of U.S. nuclear equipment, technology, or fuel. In effect, the United States would seek to require other nations to adhere to nonproliferation policies as a condition of continued American cooperation.

The most controversial sections of the proposal, to take effect 18 months after enactment, would require non-nuclear weapon states to place all their nuclear activities under international inspection and to forego national reprocessing of spent fuel (a process which can produce weapons grade material). However, the President would be permitted to waive such licensing requirements if they would have "a serious impact on vital U.S. interests."

Exhibit H

Section 15, S. 3770, Nucear Explosive Proliferation Control Act of 1976

Sec. 15(a). Effective 18 months after the date of enactment of this Act, except as provided in subsection (b), paragraphs (1) through 6 of Section 112(a) of the Atomic Energy Act of 1954, as amended, are amended to read as follows:

"(1) Assurances shall be received from non-nuclear-weapon states that Agency safeguards shall be applied with respect to all nuclear activities in, under the jurisdiction of, or carried out under the control of that state;

"(2) Assurances shall be received from non-nuclear-weapon states that no imported or indigenously developed material, facility, technology, component or substance, and no special nuclear material produced through the use of any imported or indigenously developed material, facility, technology, component or substance will be used for nuclear explosive devices for any purpose or for research or development of nuclear explosive devices for any purpose;

"(3) Assurances shall be received that the recipient country will impose and maintain physical security measures for all of its nuclear activities which are sufficient to prevent theft or sabotage;

"(4) Assurances shall be received that no imported or indigenously developed material, facility, technology, component or substance, and no special nuclear material produced through the use of any imported or indigenously developed material, facility, technology, component or substance shall be transferred to the jurisdiction of any other nation or group of nations unless such nation or group of nations agree to apply the controls set forth in this subsection;

"(5) Assurances shall be received from non-nuclear-weapon states that—

"(A) they will forego development and acquisition of nuclear fuel reprocessing and uranium enrichment facilities and the stockpiling of weapons-grade material on a national basis, and will place any existing facilities and stockpiles under effective international auspices, management, and inspection;

"(B) no imported material and no special nuclear material used in or produced through the use of any imported material, facility, technology, component or substance will be reprocessed by the recipient country, and no irradiated fuel elements containing such material which are to be removed from a reactor will be altered in form or content by the recipient country, and such material will be returned to the exporting country or to a facility under effective international auspices, management, and inspection located outside the jurisdiction of the recipient country; and

"(C) no indigenously developed material or special nuclear material used in or produced through the use of any indigenously developed material, facility, technology, component or substance will be reprocessed by the recipient country, and no irradiated fuel elements containing such material which are to be removed from a reactor will be altered in form or content by the recipient country, except in a facility under effective international auspices, management, and inspection.

"(6) Assurances shall be received from non-nuclear-weapon states that the controls set forth in this subsection will be applied to any material or facilities which are produced or constructed by or through the use of any imported or indigenously developed material, facility, technology, component or substance."

(b)(1) If the President determines that implementation of one or more of the six revised criteria set forth in subsection (a) at the expiration of 18 months from the date of enactment of this Act would have a serious adverse impact on vital United States interests, and that a delay in the effective date of such criteria would not promote the acquisitioin by non-nuclear-weapon states of the capability or the material to develop nuclear devices of any kind, he may by Executive Order delay the effective date of some or all of the revised criteria for not more than 12 months. Any such Executive Order shall be pomulgated not earlier than 14 months and not later than 16 months after the date of enactment of this Act, shall be effective not less than 60 days following its date of promulgation, and shall specify a new effective date for each of the criteria which are to be delayed. A delay in the effective date of some but not all of the six revised criteria shall not affect the implementation of the remaining six criteria.

(2) Upon promulgating any such Executive Order, the President shall submit a report to Congress including—

(A) a detailed statement of the reasons underlying the President's determination that implementation of the revised criteria on the existing effective date would have a serious adverse impact on vital United States interests;

(B) a detailed statement of the reasons underlying the President's determination that a delay in the effective date of the criteria to be delayed would not promote the acquisition by non-nuclear-weapon states of the capability or the material to develop nuclear devices of any kind;

(C) a report on his progress in obtaining adherence to each of the six revised criteria by the other nuclear supplier nations and by countries with which the United States has negotiated agreements for cooperation;

(D) an assessment of the impact of the proposed delay on the non-proliferation goals of the United States; and

(E) a statement of what legislative modifications in the revised criteria, if any, would in his judgment make it feasible to implement the revised criteria at an earlier date.

(3) If the President subsequently determines that implementation of one or more of any criteria which have been delayed pursuant to this subsection on the existing effective date would have a serious adverse impact on vital United States interests, and that a further delay in their effective date would not promote the acquisition by non-nuclear-weapon states of the capability or the material to develop nuclear devices of any kind, he may, by Executive Order effective not less than 60 days after its date of promulgation, further delay the effective date of such criteria for not more than 12 months each time he makes such a determination. Each time the President promulgates such an Executive Order he shall submit a report to Congress in accordance with the procedures set forth in paragraph (2).

(c) Subsection 112(c) of the Atomic Energy Act of 1954, as amended, shall not apply to paragraphs (3) through (6) of the revised criteria set forth in subsection (a) of this section.

Exhibit I

[From the Washington Post, Aug. 28, 1976]

Nuclear Reactor Sales Overseas Target of Study

A dozen senators were appointed yesterday to make an overseas study of the effect of nuclear reactor sales on U.S. security and foreign policy.

Majority Leader Mike Mansfield (D-Mont.) said one of the most important issues in the next Congress "will be the development of a policy to cope with the worldwide proliferation of atomic reactors."

Mansfield and others are concerned because plutonium, a byproduct of nuclear reactors, can be used to build atomic weapons.

"It is imperative that appropriate safeguards and security procedures are designed to prohibit the misuse of plutonium and other byproducts." Mansfield said.

The 12-member delegation, appointed under a resolution sponsored by Mansfield and Minority Leader Hugh Scott (R-Pa.), was drawn from three committees wrestling with legislation to establish controls on the export of nuclear materials and technology.

These are the Government Operations Committee, the Foreign Relations Committe and the Joint Committee on Atomic Energy.

Sen. Abraham A. Ribicoff (D-Conn.) was named chairman of the special study group; Sen. Howard H. Baker Jr. (R-Tenn.), vice chairman.

Others appointed were Sens. Howard W. Cannon (D-Nev.), Thomas F. Eagleton (D-Mo.), John Glenn (D-Ohio), Wendell H. Ford (D-Ky.). John C. Culver (D-Iowa), Dale Bumpers (D-Ark.), James B. Pearson (R-Kan.), Charles McC. Mathias (R-Md.), Henry L. Bellman (R-Okla.) and Paul D. Laxalt (R-Nev.).

EXHIBIT J

[Business Week, Aug. 23, 1976]

WHY THE NUCLEAR POWER RACE WORRIES THE U.S.

"The world may be headed toward a new Dark Age in which plutonium replaces gunpowder as the explosive of choice, and warfare and terrorism take on a nuclear dimension."—SENATOR ABRAHAM A. RIBICOFF.

Senator Ribicoff's dire warning reflects the fear in Congress that the long-standing U.S. effort to promote nuclear energy for peaceful purposes is having quite the opposite effect. The export of atomic reactors is accelerating the spread of nuclear weapons, Ribicoff contends, because some nations refuse to limit their use solely to generating electricity. Instead, they want to extract plutonium, created during the nuclear reaction, from the plant's spent fuel and use it to build atomic bombs.

Paul Leventhal, a staff member of Ribicoff's Senate Government Operations Committee, which has been studying nuclear proliferation, estimates that the reactor capacity outside the U.S. and Russia today would supply enough plutonium to make 1,500 small atomic bombs per year. More than 290,000 additional megawatts of capacity are operating or are planned outside the borders of the two superpowers, he says, and by 1990 reactors in the less-developed countries alone would be able to produce enough fissionable material for an estimated 3,000 bombs per year.

To try to curtail this arms race, Congress is working on a variety of bills that are designed in one way or another to slap stringent controls on the commercial sale of U.S. reactors, and to restrict government sales of enriched uranium—the fuel for today's reactors—to other nations. But U.S. reactor manufacturers, notably General Electric Co. and Westinghouse Electric Corp., are worried that these proposals will mean the sacrifice of lucrative export markets.

PERSUADING PAKISTAN

The Administration also insists that Congressional meddling could undo its own efforts to solve the problem through negotiation. An example of those efforts is Secretary of State Henry A. Kissinger's attempt this week to persuade Pakistan not to buy from France a fuel reprocessing plant—the kind of plant that can extract plutonium from spent fuel. Kissinger threatened to cut off nearly $200 million in foreign aid and to ban the sale to Pakistan of U.S. fighter-bombers if it did not agree. At mid-week, the Pakistani decision was still unknown.

The pressure from Congress probably stiffened Kissinger's posture. And it undoubtedly helped prompt President Ford late last month when he gave a special assignment to Robert W. Fri, deputy administrator of the Energy Research & Development Administration. Fri was ordered to review "our nuclear policy objectives and options, particularly on exports, reprocessing, and waste control."

Although Fri must complete the study by mid-September, his recommendations may come too late. "There's been no executive action," says Dwight Porter, a former U.S. ambassador to the United Nations International Atomic Energy Agency (IAEA) and now in charge of Westinghouse's international government affairs in Washington. "Congress wants to do something right now."

Porter and other industry representatives fear that restrictions on nuclear exports will cripple U.S. efforts to compete abroad at a critical time for the American industry. France, West Germany, Canada, and Sweden are mounting aggressive campaigns to win a larger share of the world reactor market—a market that may be worth $7 billion annually by 1985. So far this year, in fact, foreign suppliers have walked off with 9 of the 10 export orders for reactors.

GROUNDS FOR CONCERN

On the other hand, there are ample grounds for Congressional concern. Ribicoff and others point to a number of alarming events:

Detonation of an atomic bomb by India two years ago, Indian scientists painstakingly withdrew enough plutonium from a 202-megawatt research reactor, supplied by Canada, to build a bomb.

Purchase by Brazil of a complete nuclear package from West Germany last year. The sale included two 1,325-Mw. reactors, the technology for enriching uranium to provide the fuel, and the reprocessing technology for extracting plutonium from the spent fuel.

The growing certainty thal Israel has the bomb. The Central Intelligence Agency recently reported that Israel has a small stockpile of nuclear weapons based on material extracted from an Israeli reactor located at Dimona that has been in operation since the early 1960s.

Attempts by South Korea to purchase a reprocessing plant from France. The U.S. successfully pressured South Korea to abandon these plans just as it is now trying to dissuade Pakistan.

The ability to reprocess spent fuel is the key to making the bomb. But reprocessing is of interest not only to bomb makers. The economics of nuclear power become much more attractive if the spent fuel is processed to recover "unburned" uranium so it can be used again. And plutonium, the guts of the bomb, is also the element that will fuel what many expect to be a new generation of atomic reactors—the "breeders" that produce more fuel than they consume.

A LOOPHOLE

Still, Congress wants much tighter controls on reprocessing technology. It recently added an amendment to the foreign-aid authorization bill, passed in June, that would bar aid to any nation that reprocesses nuclear fuel unless it agrees to United Nations safeguards, administered by the IAEA, that are part of the nuclear non-proliferation treaty. However, that amendment would allow the President to ignore the ban if he felt that giving aid was in the best interest of the U.S., and some in Congress believe that this is too big a loophole.

Other Congressional proposals to limit the spread of the bomb are still in the talking stage. One bill, for example, would insist that the U.S. control the reprocessing of spent fuel from U.S. reactors sold abroad. The most controversial approach is advocated my Ribicoff, who calls it "carrot and stick." The carrot: The U.S. would help organize a cartel that would divide up the world nuclear market among today's major suppliers. The stick: Unless foreign suppliers agreed to do this, the U.S. would cut off shipments of reactor fuel to them and their customers. The U.S. still has a virtual monopoly on atomic fuel with its three massive uranium enrichment plants, built during and right after World War II.

All of these proposals tend to make government and industry officials shudder. In one way or another, they argue, such anti-proliferation ideas are naive, impractical, unworkable—and likely to backfire. For example, ERDA officials point out that the idea of cutting off nuclear fuel sales is naive because France, West Germany, the Netherlands, and Britain are currently expanding their small enrichment plants to commercial size and already are willing to take on contracts to supply enriched fuel.

A TURNING POINT

Ironically, the U.S. government is indirectly helping them. In 1974 it announced that its enrichment plants were fully booked for the immediate future. "It was a turning point, since we could no longer claim to be a reliable supplier of fuel," says an ERDA official.

That, in turn, affected a lot more than fuel contracts. Bitter executives at both GE and Westinghouse claim that the U.S. announcement helped push the Brazilians two days later into signing the package deal with Germany rather than choosing a U.S. supplier. "If countries can't rely on the U.S.," says James R. Birle, marketing manager at GE's Nuclear Energy Div., "they will proceed in their own best interests."

The difficulties of inhibiting nuclear buyers has led the U.S. State Dept. to see what it can do to with the sellers. Earlier this year the U.S. signed a "code of conduct" with Russia, Britain, France, Canada, West Germany, and Japan that would govern nuclear exports of equipment, material, and technology (BW–Feb. 16). Since then, the Netherlands, East Germany, Sweden, Italy, and Belgium also have signed the informal pact. At the heart of the agreement is a clause demanding that a nation purchasing a reactor abide by IAEA regulations and allow the agency's inspectors into its nuclear facilities.

But the agreement did not include exports of enrichment and reprocessing plants. So today the U.S. is pressuring France and Germany to drop plans its salesmen may have to offer such technology, and is having some small success. A German official reports that the order covering the sale of two 1,300-Mw. reactors to Iran by Kraftwerk Union contains stiff safeguard clauses, and that there is no provision in the contract for the future sale to Iran of reprocessing plants such as those sold to Brazil.

THE SUSPICIOUS FRENCH

The French, however, are skeptical about U.S. motives. They suspect one U.S. aim is to control the plutonium supply when the breeder era arrives. The French suspicions extend to one of the latest U.S. proposals—that reprocessing plants capable of producing plutonium be multinational entities. The U.S. is lagging in its program to develop a breeder reactor, while France is about to start on a full-scale commercial breeder (BW—Aug. 16). They suspect that the U.S. hopes to introduce uncertainty as to the supply of plutonium and thus discourage export sales of the French breeder, known as Super-Phenix.

Even in the U.S., though, the concept of the multinational reprocessing center meets with skepticism. It is "kind of an unnatural thing," says Carl Walske, president of the Atomic Industrial Forum, the nuclear industry's lobbying group.

Walske and others in the industry think that the whole issue of proliferation through reprocessing has been overblown—at least for the types of reactors the U.S. sells abroad. Small nations, they contend, cannot afford to operate a commercial reactor to provide electricity and also use it to produce enough material for a weapons program. Moreover, scientists claim that plutonium drawn from today's commercial reactors is so highly radioactive that it could produce a fizzle instead of a blast.

This does not convince Fred C. Ikle, director of the U.S. Arms Control & Disarmament Agency. Ikle is dubious about most of the control schemes that others are advocating, and he has his own simple—if drastic—idea of what to do instead. Drop the whole idea of reprocessing plutonium for the breeder, he says, and thus the need for dangerous reprocessing technology.

But men like Walske and Westingthouse's Porter just as firmly believe that the breeder era is near and that reprocessing will be forced on the world. Rather than banning exports, they say, the U.S. must work harder to strengthen the U.N.'s inspection force, which today has only 600 professionals and an annual budget of only $39 million. Beefing up the IAEA is a more realistic solution, the industry argues, than the unilateral actions that many in Congress want the U.S. to take.

EXHIBIT K

[From the New York Times, Aug. 24, 1976]

ISSUE AND DEBATE—CONFICT CONTINUES OVER U.S. EFFORT TO HALT SPREAD OF NUCLEAR WEAPONS

(By Leslie H. Gelb)

WASHINGTON, August 22.—The Ford Administration is engaged in protracted and intricate negotiations with more than a dozen nations to prevent the spread of nuclear weapons. At the same time, critics of these efforts have become more vocal, charging that the Administration's nonproliferation diplomacy is too little and * * *

At stake is whether the present nuclear weapons club, consisting of the United States, the Soviet Union, Britain, France and China, and perhaps India and Israel, is going to be enlarged.

Secretary of State Henry A. Kissinger recently traveled to Iran and Pakistan to try to persuade the leaders of these countries not to buy certain nuclear power facilities that could be used to make a nuclear bomb. He has been having similar talks with other potential buyers, such as Brazil, South Korea and Argentina, and with the suppliers—West Germany, France, Britain, the Soviet Union, Canada and Japan.

Administration officials working on the problem do not evince great optimism about the ultimate outcome, but they do point to progress in heading off the nuclear trend in South Korea and Iran.

As a backdrop, the arms control community, joined by a number of members of Congress, has kept up a drum beat of criticism. Most notably, Senator Abraham A. Ribicoff, Democrat of Connecticut, who is chairman of the Senate's Government Operations Committee, has been seeking to use the committee's powers under the Export Reorganization Act to prod the Administration.

It is Mr. Ribicoff's belief, shared by a number of his colleagues, that there is a good chance of preventing enlargement of the nuclear weapons club if only the Administration will attach stiffer terms to American nuclear exports.

THE BACKGROUND

The treaty to prevent the spread of nuclear weapons, known popularly as the nonproliferation treaty, entered into force in 1970, and there are now more than 100 participating nations. In the treaty, states possessing nuclear weapons pledged not to help others to gain a nuclear capability, and states without nuclear weapons promised to acquire them. The International Atomic Energy Agency, which is based in Vienna, was designated to monitor all nuclear activities in the states that had no nuclear weapons.

The treaty has some significant loopholes, including the right of a signer to renounce participation upon giving 90 days' notice and the right to carry on any nuclear activity short of actual manufacture of a nuclear weapon.

In May 1974, India, one of the many key nations that did not sign the treaty, exploded a nuclear device fashioned from resources and made in facilities provided in part by Canada and the United States. The explosion brought home to official Washington—as previous protests from arms control advocates had not—the link between the export of nuclear technology and facilities for peaceful purposes and the possible spread of nuclear weapons.

Three facts were responsible for this link. First, the United States no longer had a monopoly on the export of nuclear facilities and technology; other countries also could sell.

Secondly, the high price of oil and other fossil fuels, made nuclear energy an attractive alternative, and many countries now wanted to buy nuclear power plants.

Third, because of the increased demand for uranium to fuel these power plants and because the United States and the Soviet Union, now the sole exporters of enriched uranium, had not increased output to meet this demand, there was a shortage of nuclear fuel. Thus many countries wanted to buy reprocessing and uranium-enrichment facilities to produce their own fuel.

The United States does not export these facilities, but other countries do, and that is the problem. Weapon-grade nuclear material can be produced in them.

Almost all of the more than 400 nuclear power plants either operating, under construction or planned in almost 40 countries, are light water reactors. These reactors can be fueled by uranium enriched to less than 1 percent, far below the requirements for a nuclear bomb. They can also be fueled by weapons-grade plutonium chemically reprocessed from the spent fuel of a nuclear power plant.

As sweeteners for sales of nuclear power plants at about $1 billion each, France has agreed to provide Pakistan with a reprocessing plant and West Germany has promised to sell Brazil an uranium enrichment facility. The United States also continues to sell India fuel for its nuclear reactor, despite the Administration's acknowledgment that India diverted materials from previous sales to carry out its nuclear explosion.

Administration officials and critics agree that the goal is to prevent the sale of reprocessing and enrichment facilities: the issue is how. More specifically, the issue is whether and how to use the sale of nuclear fuel—the one area of exports where the United States still is dominant—to stop the sale of these facilities or to get strong safeguards against the diversion of weapons-grade fuel from these facilities to the production of nuclear bombs.

ADMINISTRATION VIEW

The Administration's position is based on the assumption that the nuclear cat is already out of the bag, that with the passing of the American monopoly and the widespread availability of nuclear technology and materials, many countries can now produce nuclear weapons if they are determined to do so. Thus the Administration has emphasized safeguards, not prevention.

The Administration has specifically rejected any idea of a unilateral embargo, or a bilateral embargo with the Soviet Union, on the sale of nuclear fuel for power plants as a means of preventing the sale of reprocessing and enrichment plants. Two reasons were given for this: a reluctance to work with Moscow against allies of the United States and a desire to avoid raising questions about the reliability of the United States as a long-term supplier of nuclear fuel.

The idea is to use the advantage the United States possesses as a fuel supplier to promote the sales of American nuclear power plants. This would provide a commercial advantage as well as the opportunity to impose stringent safeguards on all nuclear facilities in the buyer's country.

At the same time, the Administration has had some success in persuading suppliers to impose tougher safeguards against the diversion of fuel from peaceful power facilities to bombs. All suppliers now reportedly insist on inspection of facilities by the International Atomic Energy Agency.

In at least one instance where the Administration felt it had leverage to prevent a sale, it used the leverage. Thus, South Korea was dissuaded from buying a reprocessing plant from France when it was pointed out that completion of the sale would by law lead to a cutoff of American military sales to Seoul.

In all cases, the Administration has pressed home to the purchaser the point that reprocessing plants are highly uneconomical.

OPPOSITION VIEW

Mr. Ribicoff and others have argued that once a country has a reprocessing or enrichment facility in its territory, no safeguards are adequate. Mr. Ribicoff would favor an embargo on fuel sales to all suppliers and buyers of reprocessing and enrichment plants.

Specifically, Mr. Ribicoff wants the Administration to take a tougher stand on the proliferation issue before the United States' virtual monopoly as a fuel supplier comes to an end. By the mid-1980's a number of other countries will be able to provide low-grade uranium for power plants and enriched uranium and plutonium that could be used for bombs.

In the meantime, and in order to make his plea more acceptable to other supplier countries, he has proposed a market-sharing plan for the sale of nuclear power plants. The details of this plan are sketchy, but the idea is to work out ways for each supplier to gain some of the huge profits available from the sale of power plants without trying to gain a competitive advantage by offering to sell reprocessing and enrichment facilities as well.

THE OUTLOOK

The Administration and its critics seem to be moving toward a compromise approach that might also be acceptable to buyers.

The idea is to foster multinational reprocessing and enrichment plants as a substitute for nationally owned and operated plants. In return for not building their own plants, nations would be assured a reliable supply of uranium from the mutlinational plants Iran has reportedly agreed to this kind of approach, and efforts are under way to persuade Pakistan.

In the last analysis, it may be that the United States will have little influence over a nation's decision to build a nuclear bomb. The list of nonsigners of the nonproliferation treaty shows that local and regional conflicts and rivalries remain a dominant consideration. The nonsigners include India, Pakistan, Israel, Saudi Arabia, China and Taiwan, Brazil and Argentina.

Interested parties in the United States are doing what they feel they can to postpone the day of reckoning, hoping but not expecting that such a day will never come.

EXHIBIT L

[From the Washington Post, Aug. 9, 1976]

U.S. WARNING PAKISTAN ON NUCLEAR PLANT

(By Thomas W. Lippman)

LAHORE, PAKISTAN, Aug. 8.—U.S. Secretary of State Henry A. Kissinger flew here today to warn Pakistan that it risks losing all American economic and military aid if it goes ahead with the purchase of a nuclear fuel reprocessing plant from France.

American officials also hinted that the United States might block the possible sale to Pakistan of U.S. A-7 light attack bombers unless Kissinger receives assurances that Pakistan would give up the potential to make nuclear weapons.

Kissinger, who arrived tonight from Afghanistan, is to confer Monday with Prime Minister Zulfiqar Ali Bhutto.

Reporters on Kissinger's plane were told that the Ford administration, concerned about the spread of nuclear weapons, is "strongly against" the recently announced arrangement between Pakistan and France, that would enable the Pakistanis to use reprocessed fuel from their nuclear power plant near Karachi for nuclear weapons.

A senior official on the plane said it would be explained to Bhutto that Pakistan could lose its U.S. aid, which last year amounted to more than $162 million, under legislation passed last year requiring that aid be suspended to any country building reprocessing facilities without adequate safeguards to insure that the fuel will not be put to military use.

The official noted that Pakistan has not signed the nuclear nonproliferation agreement, and said the United States does not consider the safeguards in the agreement with France to be adequate.

In addition, he said, Pakistan's position on the nuclear fuel issue would be taken into consideration when it seeks to buy arms from the United States. An embargo on sales to Pakistan, imposed after the Indo-Pakistani war of 1971, was lifted last year, and Pakistan is reported to be interested in the A-7 jet attack plane, which can carry 15,000 pounds of bombs and two Sidewinder missiles.

A Pakistani air force team visited the United States in April to look at fighters and fighter-bombers, including the A-7.

The senior U.S. official noted that India, Pakistan's traditional enemy, has exploded a nuclear weapon, and said the United States is sympathetic to Pakistan's desire to defend itself.

Kissinger is visiting only friendly nations on this trip, which has taken him to Britain, Iran and Afghanistan and is to also include France and the Netherlands. Pakistan fits into the category of nations whose ties with the United States have been close, and Kissinger was welcomed as a friend. But he and Bhutto, in toasts at a dinner tonight, indicated that they expect difficult negotiations.

Bhutto made it clear that he is unhappy about American objections to the accord with France, and referred to a prospective agreement with Iran on nuclear reactors.

"What's good for the goose is good for the gander," he said.

He also referred to Lahore as "the place where we come to reprocess ourselves."

Kissinger responded that definitions of security are open to interpretation and the current talks will examine the issue. He said the United States was obliged to consider global as well as regional security issues.

The issue of reprocessing was also prominent in Kissinger's talks with the Iranian officials. Iran is seeking to buy six to eight plants, at a cost of several billion dollars, but the reprocessing issue has held up completion of the deal.

The press briefer on the Kissinger plane said today that Iran has accepted in principle the idea that it will not be allowed to reprocess the fuel on its own territory without American consent. The question that remains to be settled, he said, is who will pay the cost of moving the fuel out of Iran and back again if the United States decides not to allow it to be reprocessed in Iran, as it probably will, or to reclaim the fuel itself.

Kissinger flew to Lahore after a four-hour stop in Kabul, the Afghan capital, for talks with President Mohammed Daoud. Sources in Kabul said the Afghans requested the visit because they are slowly seeking to assert some independence from their influential neighbor, the Soviet Union.

Kissinger's talks with Bhutto were to have been held in Islamabad, the Pakistani capital, but much of the northern part of the country has been hit by disastrous floods after 10 days of rain and the capital is cut off.

Kissinger issued a statement tonight expressing "deep sympathy" for the flood victims.

EXHIBIT M

[From the New York Times, Aug. 9, 1976]

KISSINGER MEETS PAKISTANI LEADER ON NUCLEAR ISSUE

(By Bernard Gwertzman)

LAHORE, PAKISTAN, Aug. 8.— Secretary of State Henry A. Kissinger arrived here tonight for talks with Prime Minister Zulfikar Ali Bhutto aimed at averting a crisis caused by Pakistan's refusal to drop plans to develop its own nuclear reprocessing plant despite intense American pressure.

Reporters abroad Mr. Kissinger's Air Force jet plane were told that the United States strongly opposed construction of the French-designed plant on the ground that it had no economic justification and that, despite certain international safeguards, it seemed likely to raise concern that Pakistan was planning to match India by exploding a nuclear device of its own.

PLANE SALE MAY BE BLOCKED

Because of this, Mr. Kissinger was reportedly ready to tell Mr. Bhutto not only that the United States Government would not permit the sale of A-7 Corsair jet fighter-bombers to Pakistan, but Pakistan also ran a risk of having all its economic aid from the United States cut off under a new law.

[In Washington, Senator Abraham A. Ribicoff received a letter from Mr. Kissinger acknowledging for the first time that it was highly probable that India used material supplied by the United States in exploding its nuclear device in 1974.]

At a dinner given by Prime Minister Bhutto tonight for Mr. Kissinger, the two men exchanged pointed, but humorous, barbs about the nuclear issue, which has become a major point of contention between the two nations in recent months. A reprocessing plant would produce, as a byproduct, plutonium that could be used for making nuclear weapons.

REFUSAL APPARENTLY REAFFIRMED

Mr. Bhutto, referring to Lahore, the capital of Punjab, as the cultural center of Pakistan, said in his toast: "This is our reprocessing center, and we cannot in any way curb the reprocessing center in Pakistan."

The dinner guests, high-ranking Pakistanis and Americans, laughed at Mr. Bhutto's play on words in which he appeared publicly to reaffirm his refusal to change the plans for a nuclear reprocessing plant.

Mr. Kissinger, in his reply, said that governments must constantly review their policies—"to reprocess themselves"—and decide "what is worth reprocessing."

The guests also applauded Mr. Kissinger's turn of phrase, which diplomatically called on Mr. Bhutto to alter his nuclear plans.

But although the dinner, in a state guest house, was elegant and served by colorfully dressed Punjabis in a relaxed atmosphere, the main topic of conversation was concern over the severe floods that have destroyed about 3,000 villages in this area and left about half of Lahore—mostly the old part—flooded.

TWO WEEKS OF RAIN

Pakistani officials said that the floods, caused by heavy downpours over the last two weeks, were worse than those of 1973, when severe damage was inflicted.

Mr. Kissinger flew from Teheran, Iran, where he had spent the last three days, to Kabul, the capital of Afghanistan, where he spent several hours talking with President Mohammad Daud before flying here. General Daud, who has been gradually seeking to widen ties with the United States and balance the strong Soviet influence in Afghanistan, had asked for a high-ranking American to make a symbolic visit, reporters on Mr. Kissinger's plane were told.

The discussions with Mr. Bhutto that will take place tomorrow—in addition to the informal talks they had at dinner tonight—underscore the growing concern in Washington about the spread of nuclear weapons.

Pakistan has one small nuclear power reactor in Karachi, built with Canadian assistance. It plans to build 24 more medium-size nuclear power plants and has contracted with France to build a reprocessing plant.

DISAVOWAL BY BHUTTO

This plant would process spent uranium rods from nuclear reactors to prepare them for reuse as fuel, thus making the country less dependent on fuel from foreign suppliers. In the process, plutonium, which can be used for nuclear weapons, is also produced.

Mr. Bhutto has repeatedly said that Pakistan would not make a nuclear weapon, but since India used its reprocessing plant to do just that, the United States wants Pakistan—and other nations interested in reprocessing—to agree to the use of multinational reprocessing centers as an additional hedge against the spread of weapons.

According to Mr. Kissinger, Shah Mohammed Riza Pahlevi agreed in the last few days that Iran would accept multinational reprocessing so long as the United States guaranteed a source of enriched uranium for the reactors Iran will buy from the United States.

In addition, the United States agreed that if Iran had to spend extra money for reprocessing abroad because of the American concern, a way should be found to recompense Iran, either by American assumption of the full cost or by its being shared by the two countries.

KISSINGER OFFERS ASSURANCE

Mr. Kissinger would like the Pakistanis to accept the Iranian formula. Since Iran and Pakistan are close allies, it is thought possible that this will happen. In his toast, President Bhutto said that if the United States regarded Iran's security as important, it had to view Pakistan's in the same way. Mr. Kissinger said in response that Pakistan could count on the United States.

The Pakistanis are worried about an amendment attached to the latest foreign aid authorization bill approved by Congress that bars any aid to a country that builds a reprocessing plant.

The law has many escape clauses, however, and at the moment the $160 million a year that Pakistan receives—more than half of it in food shipments—is not in danger. But Mr. Kissinger planned to tell Mr. Bhutto that the mood in Congress was for cutting off such aid if a reprocessing plant was built.

Since March of last year Pakistan has been eligible to buy American military equipment, but so far it has limited its purchases to antitank missiles. The Pakistanis want sophisticated aircraft, but the quantities the Government seeks are viewed as too large by Washington, which also wants to use the plane purchases as leverage on the nuclear question.

EXHIBIT N

FRANCE PURSUING DEAL U.S. FOUGHT

PARIS, Aug. 25.—One of the last acts of the outgoing Cabinet of Prime Minister Jacques Chirac, who resigned today, was the announcement that despite American objections France would go ahead with the sales to Pakistan of a nuclear-reprocessing plant.

The deal, worth $150 million was completed in March after an agreement between the two parties with the International Atomic Energy Agency that reprocessed plutonium from the plant would be used for peaceful purposes only.

Initially the United States, which is represented in the Vienna agency, voiced no objection, but at a news conference at Lahore, Pakistan, on Aug. 10 Secretary of State Henry A. Kissinger said that if the deal was completed, the United States would cut off economic and military aid to Pakistan.

Mr. Kissinger's statement was in line with a law requiring the United States to cut off aid to third world countries acquiring reprocessing plants without adequate safeguards against military use. Apparently the United States Government had second thoughts about the adequacy of the Vienna agency's capability of inspection and control in Pakistan.

Mr. Kissinger, at a news conference two days later at Deauville, France, toned his declaration down somewhat, calling for friendly talks to find a solution.

The Pakistani Prime Minister, Zulfikar Ali Bhutto, while not ruling out "continuing talks with our American friends," said the deal was binding. He recalled that Pakistan, whose Indian neighbor has nuclear weapons, had formally pledged not to use the product of the reprocessing plant for such a purpose.

France, not a signer of the treaty against nuclear proliferation, considers that approval of the deal by the Vienna agency constitutes sufficient safeguard.

The Government has come under attack, notably from the leftist opposition, for contributing to the spread of nuclear potential for purely commercial considerations.

EXHIBIT O

[From the Washington Post, Aug. 30, 1976]

TAIWAN SEEN REPROCESSING NUCLEAR FUEL

(By Edward Schumacher)

U.S. intelligence reports over the past six months indicate that Taiwan has been secretly reprocessing spent uranium fuel, an operation that can produce atomic weapons material, according to officials of two U.S. government agencies.

Officials of the Arms Control and Disarmament Agency (ACDA) and the Energy Research and Development Administration (ERDA) who have had access to the closely held reports said it is unclear how long Taiwan has been engaged in the secret operation or how much bomb material may have been produced. However, they expressed doubt that Taiwan has amassed enough material to make an atomic bomb.

The United States, Taiwan's major supplier of nuclear power reactors and enriched uranium fuel, has not yet formally confronted Taiwanese officials with the reports of secret reprocessing according to knowledgeable officials.

The United States is said to be fearful of revealing the source of its intelligence particularly while still seeking to learn the full extent of the secret work.

Confirmation that Taiwan is producing nuclear weapons material would place the Ford administration in an agonizing position, especially during the pre-election period.

Strong U.S. sanctions, including termination of export licenses for Taiwan's ambitious nuclear power program, could cause serious repercussions in Taiwan and among Republican conservative in the United States.

Failure to take action could cause major difficulties with mainland China, multiply the nuclear worries of Japan and of less-developed Asian states, and accelerate a worldwide drift toward nuclear proliferation.

A Taiwan embassy spokesman denied that Taiwan is doing clandestine work.

Several usually knowledgeable U.S. officials disclaimed any knowledge of the reports of secret reprocessing, pointing out that Taiwan has openly acknowledged construction of a small scale "hot cell" reprocessing plant under international safeguards.

But another senior official confirmed the existence of the reports of secret work, and suggested that there is disagreement within the government about their significance.

ACDA officials said they have been stalling on an application to export two additional nuclear power plants to Taiwan, a move they hope will be taken by Taiwan as a signal to stop secret reprocessing. The export application was submitted in January.

Four other large U.S. nuclear power plants were approved for export in 1972 and 1974 as part of a Taiwan program designed to provide half of the island's electricity needs from nuclear sources in 1985.

The select group of U.S. officials aware of the secret intelligence reports is concerned not only that Taiwan can now produce plutonium, the nuclear bomb material, but also that it apparently is willing to jeopardize its civil nuclear program and to break international safeguard agreements designed to prevent the proliferation of nuclear weapons.

All of Taiwan's known nuclear reactors are subject to international inspection by the Vienna-based International Atomic Energy Administration (IAEA). Secret reprocessing of the spent fuel from these reactors would violate Taiwan's agreements with the IAEA. The status of these agreements is politically tenuous because Taiwan was ousted in 1971 as a member state of the IAEA.

There is a theoretical possibility that Taiwan could have purchased spent fuel from another nation as the basis for its reprocessing, a U.S. official pointed out. But there is no evidence that such a transaction has taken place.

A reprocessing plant can manufacture plutonium for nuclear weapons—or for use in recycled civilian fuel—from the irradiated refuse of an atomic reactor. Though generous with technical information and training about reprocessing in past decades, the United States has come increasingly to believe that reprocessing plants pose a grave danger of nuclear weapon proliferation.

India manufactured the plutonium for its 1974 nuclear explosion in its own reprocessing plant. In the past year the United States has dissuaded South Korea from purchasing a reprocessing plant from France, and is attempting to stop purchases of such facilities by Brazil and Pakistan. A provision of the recently enacted U.S. foreign military aid law cuts off U.S. economic and military assistance to any country importing a reprocessing facility.

In 1969 the Nixon administration turned down a request from Taiwan to purchase a reprocessing plant from the United States. This precluded Taiwan from importing major U.S. components that are on export control lists. However, ERDA officials said Taiwan did purchase widely available parts, such as special laboratory glass, which are not so controlled.

An ERDA spokesman said 713 Taiwanese have studied nuclear technology in U.S. government laboratories and universities under official U.S. sponsorship as a result of "atoms for peace" and successor programs.

Despite the U.S. change in policy about reprocessing, a Taiwanese nuclear scientist, Chung Woo, was trained in reprocessing for a full year ending this past June at ERDA's Argonne Laboratory outside Chicago, the agency said.

Since the early 1970s, Taiwan has been constructing a small-scale "hot cell" reprocessing facility at its Institute for Nuclear Energy Reaction with parts obtained from around the world.

This plant, which is reportedly undergoing "cold" test runs with water, has been visited by IAEA inspectors on the understanding that it will be placed under international safeguards.

Last October Taiwan informed the United States of its intention to reprocess spent fuel from a U.S.-supplied Thor research reactor in the "hot cell" plant, which is located at a campus-like research center near Lung Tan about 75 miles from Taipei.

Under bilateral nuclear cooperation agreements, the United Staes must give permission before American-supplied material can be involved in reprocessing.

A senior State Department official said Taiwan's request is still under consideration. "There's no final turndown, but they know we don't favor reprocessing," he said.

American, European and Canadian experts said that one-half pound to a pound of plutonium per year could be produced in the hot cell plant from the spent fuel of a large Canadian-supplied research reactor on the island. This amount is far short of the 18 pounds of plutonium estimated to be needed for a sophisticated nuclear device, though enough to provide knowledge of plutonium handling and explosive fabrication.

Taiwan has built an independent nuclear system around the Canadian reactor and its hot cell reprocessing plant which would make possible the creation of a small plutonium stockpile available for bomb uses without violation of present international safeguard standards.

The supply system begins with natural uranium imported from South Africa which does not list its imports with the IAEA.

In 1973 Taiwan constructed its own plant to fabricate the imported natural uranium into fuel rods suitable for use in the Canadian reactor.

This plant is listed with ERDA as having the capacity of fabricating 25 to 30 tons of uranium per year—twice the normal fuel rate for the Canadian reactor.

Canadian experts said that plutonium production could be maximized by running fuel rods through the reactor at a higher than normal rate.

The Canadian reactor is a large 40-megawatt "NRX" research reactor similar to the one used by India to produce the material for its 1974 atomic explosion.

Taiwan purchased the reactor in 1969 for $35 million. Taiwan also purchased 19.5 tons of Canadian "heavy water" for operation of the reactor, but its supply of this necessary chemical is running low, U.S. officials said.

Taiwan does not need outside approval to reprocess the spent fuel from the Canadian reactor to obtain plutonium. Canada has no agreement requiring its permission.

Canada broke diplomatic relations with Taiwan in 1970, further diminishing its authority over and interest in the uses of its reactor.

The fuel rod fabrication plant, Canadian reactor and hot cell reprocessing facility are listed with the IAEA under safeguard arrangements designed to account for all nuclear activity to prevent the clandestine development of nuclear weapons by nations which do not have them.

The safeguards in Taiwan include tamper-proof cameras, sealed fuel stockpiles, mechanical accounting devices and IAEA inspections about four times a year.

The safeguards, however, do not prohibit reprocessing or the building of a plutonium stockpile. With a supply of plutonium, Taiwan would be only a few steps away from a usable weapon, U.S. officials said.

Sources familiar with the U.S. intelligence reports of secret reprocessing on Taiwan said these did not emanate from the known hot cell pilot plant, which is not yet in operation. One souce said different stages of the secret reprocessing work apparently are being done in different places.

Taiwan is believed to be doing research on development of offensive missiles capable of delivering a nuclear weapon. Taiwan already possesses U.S. jet aircraft capable of making a bombing run across the Taiwan straits to mainland China.

China has exploded at least 18 nuclear devices, including thermonuclear (H-bomb) weapons since breaking into the ranks of atomic-armed states in 1964.

Chinese officials have recently said that Taiwan will have to be liberated by force. But it is considered unlikely that China would use atomic weapons against an island it considers its own and expects to control some day.

Taiwan has signed and ratified the Nuclear Non-Proliferation Treaty foreswearing the development of atomic weapons.

Premier Chiang Ching-quo's Nationalist Chinese government is believed to be divided between a large faction favoring concentrations on economic development and a small but powerful hawkish element which insists that Taiwan develop a nuclear deterrent as a last resort against an attack by China. The hawks argue that the U.S. commitment to defend Taiwan is weakening.

EXHIBIT P

[From the New York Times Aug. 26, 1976]

EUROPE'S NUCLEAR TURN

West Europe's lack of fossil fuel sources and its heavy dependence on Mideast oil led most countries there to step up plans for nuclear energy expansion even more than the United States in the wake of the 1973–74 embargo and five-fold oil price increase. But economic factors and public concern over safety, the environment and weapons proliferation now have led to a slowdown similar to that in the United States.

The Paris-based Organization for Economic Cooperation and Development has revised downward by about 20 percent its estimates for 1985 nuclear energy output in its 23 member nations, a level lower than that predicted before the oil embargo.

Mass demonstrations, scientific debate, reduced energy demand, lack of capital and difficulty in securing sites are even bringing a re-evaluation of the much-touted French lead in fast-breeder technology, the plutonium-fueled reactor once seen as Europe's chosen instrument to capture American-dominated export markets, starting in the 1990's. A new French-West German joint development pact for the plutonium breeder with an eye on third-country markets is being described by some Common Market experts as "another Concorde"—the British-French supersonic passenger plane that, after vast subsidies and delays still faces a highly uncertain commercial future.

MASSIVE PROTESTS

Thousands of demonstrators from France and neighboring countries clashed with police near Lyons last month while protesting the construction site chosen for France's Super-Phoenix, planned as the world's first large commercial fast breeder. Britain has ordered a five-month restudy of its breeder plans and the staggering problems that would be posed by the worldwide spread of plutonium, one of the most poisonous—and explosive—substances known to man.

What concerns scientists and other nuclear experts most is the double nature of plutonium, a nuclear reactor waste that does not exist in nature. It can be re-used not only as a civilian reactor fuel, but as little as 10 to 20 lbs. can be made relatively easily into a Hiroshima-sized atom bomb. In contrast, the 2 to 4 percent enriched uranium used in the American-designed light water reactor cannot be exploded.

UNACCEPTABLE RISK

Sir Brian Flowers, chairman of Britain's Royal Commission on Environmental Pollution and one of Europe's leading scientists, recently warned his countrymen that the fast breeder was "a billion-pound step down a technological path which may later prove unacceptable or even catastrophic."

The West German and French governments are still officially committed to the plutonium route. But, during the past year, their approval of sales to Brazil and Pakistan of reprocessing plants that separate plutonium explosive from spent reactor fuel rods has aroused growing concern about nuclear proliferation in the United States Congress and, belatedly, in the Ford Administration.

With public concern now growing in West Europe, chances are improved for American efforts to win supplier agreement on embargo of plutonium reprocessing plants. That would help pin down the agreement of third world countries, such as Iran and Pakistan, to ship their spent fuel rods back to supplier countries in exchange for safe uranium fuel, rather than to engage in dangerous plutonium extraction at home.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. The time for morning business has now expired. Morning business is closed.

WILD AND SCENIC RIVERS ACT AMENDMENT

Mr. MANSFIELD. Now, Mr. President, before I ask the Chair to honor the agreement made by the Senate to lay down Calendar No. 1100, H.R. 13372, I want to repeat what I said before, and add a little to it.

The leadership will endeavor to get an agreement to vote at 4 o'clock or no later than 4 o'clock on the New River bill—if the debate is not too extended—with the proviso that prior to the vote, some time prior to the vote, one-half hour be accorded to the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.).

If the debate does not take too long it would then be the intention of the leadership to proceed even before 4 o'clock to the message from the House relative to the antitrust bill.

Mr. ALLEN. I thank the distinguished majority leader.

Mr. MANSFIELD. I think that should be made clear.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. HELMS. The Senator is proposing to attempt to set the vote at no later than 4 o'clock to accommodate Senators who are unavoidably detained; is that correct?

Mr. MANSFIELD. Yes.

Mr. HELMS. May I say to the Senator again, as I have said earlier, the proponents of the bill are perfectly prepared to enter into whatever time limitation is available, and the shorter the better.

Mr. MANSFIELD. The Senator has made that plain to the leadership time and time and time again. The leadership is appreciative. But there are other Senators who have to be convenienced, but we will try.

Mr. HELMS. I thank the distinguished majority leader.

Mr. FANNIN. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. Yes.

Mr. FANNIN. The Senator from Arizona does not want to delay, but it is the understanding of the Senator from Arizona that we will await the arrival of the Senator from Virginia (Mr. WILLIAM L. SCOTT) before entering into a time agreement?

Mr. MANSFIELD. That is the reason why it has not been made before.

Mr. FANNIN. I thank the distinguished Senator.

(Later the following proceeding occurred:)

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the hour of 2 p.m. the Senator from Virginia (Mr. HARRY F. BYRD, JR.) be recognized for not to exceed one-half hour; that at the conclusion of that period of time the Senator from Virginia (Mr. WILLIAM L. SCOTT) be recognized for the purpose of offering an amendment to the bill, and that the time allotted to the Senator from Virginia (Mr. WILLIAM L. SCOTT) be not to exceed 1 hour.

The PRESIDING OFFICER. Is there objection?

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object, and I shall not object, 1 hour equally divided between the proponents of the amendment and the opponents.

Mr. MANSFIELD. Yes, under the usual procedure. And then at the conclusion of that hour, or that part of it which is used, that there be a rollcall vote on the Scott amendment.

Mr. WILLIAM L. SCOTT. Yes.

Mr. MANSFIELD. To be followed then by a vote on passage.

Mr. WILLIAM L. SCOTT. If the Senator will present it somewhat differently, with the final vote not later than 4 p.m. It might be that we would want to go back for a few minutes on the general bill in the event my amendment is rejected.

Mr. MANSFIELD. Fair enough. I make the request on that basis.

The PRESIDING OFFICER. And rule XII was waived?

Mr. MANSFIELD. That is correct.

The PRESIDING OFFICER. Without objeciton, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR ALLEN TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that upon the disposition of the pending business, the distinguished Senator from Alabama (Mr. ALLEN) be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. At what time?

Mr. MANSFIELD. As soon as the vote is over.

Mr. ALLEN. Upon the disposition of the New River bill?

Mr. MANSFIELD. That is correct.

Mr. ALLEN. I thank the Senator.

Mr. MANSFIELD. Now, Mr. President, I ask unanimous consent that, in accordance with the previous order, the Senate turn to the consideration of Calendar No. 1100, H.R. 13372.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 13372) to amend the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271), and for other purposes.

The Senate proceeded to consider the bill.

Mr. HASKELL. Mr. President, so that I may consult with one of my colleagues, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HASKELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Mr. President, I rise in support of the enactment of H.R. 13372. The purpose of this legislation is to insure protection of a 26.5-mile segment of the New River located in North Carolina. The New River which flows through North Carolina, Virginia, and West Virginia is a unique and valuable resource. It is considered by geologists to be 100 million years old and, as such, the oldest river in North America and perhaps the second oldest in the world.

The North Carolina Legislature and Secretary of the Interior have already decided that this segment merits inclusion in the National Wild and Scenic Rivers System. Favorable action on this measure would statutorily affirm the action taken by the Secretary in April when he designated this segment of river as a State-administered component of the National Wild and Scenic River System.

Protection of the New River was a hotly contested issue during the last session of Congress. At that time, the Senate overwhelmingly passed legislation which would have designated a 70-mile segment of the New River in North Carolina and Virginia for study to determine its potential as a component of the Wild and Scenic Rivers System. Companion legislation was reported favorably from the House Interior Committee but the bill was denied a rule by the House Rules Committee. The bill then had to be taken to the House floor under a procedure which required a two-thirds vote. The vote was 196 to 181 in favor, but it fell short of the necessary two-thirds.

Our situation today is somewhat different and I think considerably stronger. The North Carolina State Legislature has unanimously approved legislation designating this 26.5-mile segment as a wild and scenic river under State law to be administered by the State. On April 13, 1976, the Secretary of the Interior designated this river segment as a component of the National Wild and Scenic Rivers System, still to be administered by the State pursuant to the 1968 Wild and Scenic Rivers Act. On August 10, 1976, the House passed this identical legislation to that which we are considering today by a vote of 311 to 73. The Senate can now act with confidence that if we approve this legislation, we will in fact be enacting a law—a law that will protect this river segment from impoundment and inundation.

But if the State of North Carolina and the Secretary of the Interior have already acted to preserve this portion of the New River, why is it necessary for Congress to act? In June, 1974, the FPC issued a license to become effective on January 2, 1975, to Appalachian Power Co. to proceed with the Blue Ridge project, a proposal to build a hydroelectric pump storage project on the New River in Virginia. The legality of the license has been upheld by the Court of Appeals of the District of Columbia and the case is now being appealed to the Supreme Court.

On April 13, 1976, when Secretary Kleppe designated this 26.5-mile segment of the New River as a State-administered component of the Wild and Scenic Rivers System he stated that such designation would not take precedence over the conflicting license for the Blue Ridge project. Therefore, action on the part of Congress is necessary to protect this river segment and prevent many years of litigation which no one wants. While the legislation does not revoke the FPC license for the Blue Ridge project, it insures that no impoundment will inundate or otherwise destroy this particular portion of the river.

There was considerable controversy last Congress as to whether or not this river qualified for inclusion in the Wild and Scenic Rivers System. I feel that this issue has now been more than adequately resolved. The New River, and particularly this 26.5-mile segment, has been thoroughly studied by the State of North Carolina and Department of the Interior in an effort to assess its natural, historic, and recreational qualities. On the basis of this careful study and in accordance with procedures established by the Wild and Scenic Rivers Act of 1968, the Secretary found that this portion of the New River meets all the qualifications of a wild and scenic river and agreed to include it in the Wild and Scenic River System.

This 26.5 mile-segment of river is an excellent biological resource. A number of botanists have declared it to be a truly unique area in terms of the variety of flora. The same glaciers that changed the course of the prehistoric Teays River but stopped short of the New River are given credit for producing the unique combination of northern and southern vegetation in the area—the theory being that the area was close enough to the glaciers to maintain the northern evergreens and pines and yet far enough away to retain the flowering bushes and trees of the South.

The topography of the 26.5-mile segment, ranging from a broad floor plain to narrow valleys with a subsequent change in sites from wet to dry, insures a truly diversified vegetation. Approximately 60 percent of the segment's banks is in forest cover; the rest is primarily cleared lands devoted to pasture or crops.

The New River supports a significant fishery, with some 68 species of fish having been identified. Eleven of these species are thought to be rare and endangered. The North Carolina Department of Natural and Economic Resources has stated that the reach of the New River in Ashe and Alleghany Counties, N.C., to be designated by S. 158, as amended, is the largest and highest quality smallmouth and rock bass riverine habitat in the State.

In prehistoric and historic times, the New River served as a major migration route; today this segment of the river is rich in archeological and historical resources. There have been four preliminary reconnaissance archeological surveys made of the New River since 1964. Eighteen sites in Ashe and Alleghany Counties have already been identified, although the surveys were not extensive and were accomplished within a limited time frame. A variety of cultures and time periods are represented at these sites. They indicate that several different types of habitats were used by prehistoric Indians. In addition, this drainage was an important center in early historic times and the remains of several structures and farmsteads have been identified.

A variety of recreation uses currently take place along the river. The relatively light amount of development on the river banks has meant that the water quality of the stream has been little affected by man, and is well suited for recreation use. Assistant Secretary of the Interior, Nathaniel Reed, in testimony before the committee, identified the unique recreational opportunities which would be permitted by designation of the river as a wild and scenic river:

> The State of North Carolina has adopted a management plan which contemplates the development of four recreation activity areas in this 26.5 mile segment. These centers would total approximately 400 acres and would offer hiking and horseback riding trails, campsites, picnic tables, shelter areas and sanitary facilities. Annual public use is projected to include 50,000 visitors.

Mr. President, some construction union spokesmen have expressed opposition to the bill and support for the Blue Ridge project because of the potential construction jobs involved. Proponents of the power project claim that it would create as many as 1,500 jobs. However, these new jobs would be available only during the 5 to 9 years of construction and many of them would be temporary and seasonal. Once the project is completed few permanent jobs would be available because of the automated nature of the project.

On the other hand, some 3,000 local people would be displaced by the project and an estimated 600 permanent farm and farm related jobs lost. Additionally, some 40,000 acres of land—appropriately 29,000 of which are under cultivation or in pasture—would be lost forever. This will mean a permanent loss of agriculture production and of permanent farm jobs. We should realize that these lands cannot be replaced. In these mountainous counties, very little land is well suited for agriculture, and the valley bottom lands to be flooded here are in short supply. The real job impact is on these farming people.

I think it is also important to note that if AEP does not construct the Blue Ridge project as presently contemplated, they have the alternative of building other generating facilities. Other pumped storage projects—and even the FPC recognizes that there are several alternative sites in the general vicinity—will create construction jobs, too. A coal-fired base load which has also been mentioned as an alternative to the Blue Ridge would create not only temporary construction jobs but also many permanent jobs in the coal industry.

Mr. President, this bill is not an anti-jobs proposal. If anything it preserves the jobs of some 600 farming people—many of whom have lived in this river valley all their lives. I urge my colleagues to join with me in supporting this legislation.

It gives me a very considerable pleasure to support H.R. 13372 which, incidentally, is the same as S. 158.

This particular piece of legislation passed the Senate 2 years ago, if my memory serves me correctly, with an overwhelming vote. Very recently, the House of Representatives passed the bill that is before us by a vote of in excess of 3 to 1. The legislature and Governor of North Carolina has decided that this 26.5-mile segment of the New River that we are discussing merits inclusion in the National Wild and Scenic Rivers System and has petitioned the Secretary of the Interior to that effect. The Secretary of the Interior of the United States, Mr. Kleppe, has decided the same thing and has officially designated the river segment as a wild and scenic river.

Certain elements of organized labor apparently have opposed this piece of legislation. However, I should point out that the AFL–CIO in North Carolina is in favor of the legislation. I should point out that the United Mine Workers of America and the Amalgamated Meat Cutters and Butcher Workmen of North American are in favor of this legislation, and I am very pleased, indeed, to announce that on August 19, 1976, Mr. George Meany sent a letter to the National Committee for the New River in which he personally withdrew the AFL–CIO opposition to the bill.

I ask unanimous consent that this letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AFL–CIO,
Washington, D.C., August 19, 1976.

Mr. JOE C. MATTHEWS,
National Committee for the New River, Winston Salem, N.C.

DEAR MR. MATTHEWS: I have your telegram of July 30th with reference to the New River Project and very much appreciate your taking the time to express your views on this matter and an deeply appreciate of the motives which inspired it.

As you undoubtedly know by now, the House passed the legislation to save the New River and there are indications that it will pass in the Senate.

The special nature of the New River and the questionable need for, and utility of, the proposed dam make our past support for construction of this dam open to the serious questions which you and many others have raised. I think our support for it has to be seen against the background of the Nation's need for new energy sources and the broad scale efforts of some environmental groups to thwart every power project of whatever type. The combination of those two factors has led the AFL–CIO and a number of other organizations to support the development of new energy sources and to defend the established procedures for dealing with challenges to this type of project.

In this particular instance, it was our feeling that the 14 years which has passed since the first application to the Federal Power Commission for the permit or license to build the Blue Ridge project should have provided ample opportunity for the most thorough analysis of all of these questions and that, at some point, it is necessary to call a halt to the considerations of these issues, to make the decision, and to get on with these projects. Surely you know the history of the efforts to develop the Alaska Pipe Line and the more than seven-year delay in the development of that project brought about largely by the efforts of environmentalists to block construction, with the resultant doubling or tripling of the cost to the Nation of that project. For that reason, we have supported, and continue to strongly support the concept of having one all-inclusive examination of all the issues raised by the planned construction of dams and power plants, etc., with a sufficient period for adequate court review, but an end-point to the process so that these matters will not be unnecessarily dragged out through a variety of forums by any special interest groups, whether they are for or against the construction of the particular project.

In the case of the New River Project, we have followed a line of conduct which logically follows from these considerations. It was not a capricious decision and it was not dictated solely by the construction jobs involved, as some critics have alleged. The self-evident power needs of the nation and the long-term benefits to the economy that would result were our prime consideration.

It is now obvious to me that there were other factors and developments that we did not fully explore before testifying this year. The real impact of the dam on the people who live in the valley and the destruction of the natural beauty of the area, were really only brought home to me very forcefully during the past few weeks by strong representations made by some of our trade unionists in North Carolina, by letters such as yours, and by representations made by a group of residents and others who visited in our office in Washington.

I am sure you will understand that in saying that, I am not trying to avoid responsibility for the positions which we took, but rather only to explain them.

Sincerely,

GEORGE MEANY,
President.

Mr. HASKELL. I have personally visited the New River, Mr. President, and have actually walked along segments of it. Geologically it is unique. It thoroughly deserves the overwhelming support that has been given it—support from the House of Representatives this Congress, the Senate last Congress, from the Legislature of the State of North Carolina, from the Secretary of the Interior, and from the elements of organized labor I have mentioned.

So, Mr. President, it is my hope that this bill will become law and that this river will be preserved for the grandchildren and great grandchildren of the people now living.

With that, Mr. President, I yield the floor to anybody who desires it.

Mr. FANNIN. Mr. President, it has not been 3 full years since this country was under the specter of the Arab oil embargo. This embargo has shown us how dependent we are on foreign sources for most of our energy, indeed, since the embargo was lifted we have become even more dependent on these foreign sources.

Much of our domestic energy production has been curtailed by our own limitations, whether environmental or otherwise, placed on those companies engaged in producing this vital commodity. We have locked up our resources, preventing ourselves from using them, while our dependence upon foreign sources of energy grows from day to day. To a disinterested observer from another planet we would look much like the lemming rushing headlong to the sea.

The bill we have before us, Mr. President, is calculated to stop a power project that would help us move toward energy self-sufficiency. The only real achievement of this bill would be to block one of the best remaining hydroelectric damsites in the Eastern United States. Our Nation is in need of this source of energy.

Enactment of this legislation will cause the loss of 1,800 megawatts of electrical generation capacity. This energy would be inexpensive, nonpolluting, hydroelectric power. This power would be used to meet the peak power demands of the entire East-Central United States through the 97 interconnections of the American Electric Power Co.'s system.

The Federal Power Commission found that—

> The need for Blue Ridge power has been abundantly displayed in the record. . . . A review of the evidence in the record makes clear that all of the power that Blue Ridge can produce will fall short of meeting the peaking demands of the AEP system in the early 1980's. . . . This power is essential to insure the reliability of the system.

Peaking power has been criticized as being a net consumer of electricity. Opponents point to the fact that it takes kilowatts of electricity to pump uphill the water to generate 3 kilowatts of peak power. But engineering projections show that the American Electric Power system will consume less coal with the Blue Ridge project in line than it otherwise would, and the 1,800 megawatts of peaking power will be available to meet peak daytime needs. Part of the seeming anomaly is due to the efficiency of the Appalachian Power generating plants and part to the energy costs of startup and shutdown of these large generators to meet the peak demands.

The capacity of any system is dictated by the maximum load expected at the time of greatest demand. In addition, Reserves are needed so that emergencies and normal maintenance do not interfere with the needs of the system. The use of peak generation facilities will insure that the most efficient use is made of current generation facilities. The agencies charged with considering Americans' power demands have chosen peaking power as one of the desired systems for meeting our power needs.

There are few viable alternatives to the Blue Ridge project. The escalating costs and potential shortages militate against the use of oil as the primary fuel. The use of atomic power is increasingly under attack. The only alternative would seem to be a huge coal-fired generation facility that would be among the largest such facilities in the Nation. The cost of this plant would exceed the cost of the Blue Ridge facility by more than one-half billion dollars, to be ultimately borne by the consumer. Additionally, environmental constraints might preclude the construction of such a plant.

The Blue Ridge project, which this bill would prevent, in an environmentally beneficial project. Hydroelectric power consumes none of our Nation's nonrenewable resources. It produces no pollution. It is extremely efficient, the mountain lake recreation that would be provided by this project is of a scenic nature that is projected to be one of the most popular recreational facilities in the Eastern United States.

We cannot stand idly by and contribute to our energy dilemma. The need for this facility is readily apparent. The license for this facility has already been issued, and the company stands ready to meet the public need. It is time that we stop the shortsighted actions we take to keep us from meeting our energy needs. The Blue Ridge project is a beneficial project. I urge you to support energy independence and defeat this bill.

Mr. METCALF. Mr. President, will the Senator yield, with the permission of the Senator from North Carolina, because I know he has something to say about it?

Mr. HASKELL. I certainly would yield, and I do yield.

Mr. METCALF. I want to say I have long advocated the development of our streams for the generation of hydroelectric power. Such power is absolutely pure and unpolluting, and it is the highest standard of power we can have. There are still a few areas in the West that should be developed insofar as the generation of such hydroelectric power is concerned.

The New River is not such an area. The New River is, as has been pointed out, a unique stream. Senator Ervin used to be delighted to tell us that the New River was the second oldest river in the world. This particular segment is so rich in historical and archeological and recreation value that, in my view, it should be preserved.

I participated in the hearings, Mr. President, and certain statements were made about the fact that if Congress passed this law we would subject the United States to a series of lawsuits that might cost several millions of dollars.

I have done some research in the law and I just cannot concur in the opinion that was expressed at that time.

Mr. President, I am pleased to speak in favor of the bill, H.R. 13372, and to urge its passage.

The New River is reported to be the oldest river in the Western Hemisphere. This particular segment of the river is rich in historical, archeological, and recreational values and, in my view should be preserved.

Mr. President, there are several elements in the current controversy surrounding the New River and the proposed Blue Ridge project which I feel deserve careful attention. The FPC has said that there are several potential sites along the New River which could provide peaking power at significantly lower cost than the Blue Ridge project. Of 25 alternative pumped storage sites that were investigated, 22 had a lower installed cost per capacity than did Blue Ridge. Construction of this facility at its present location is justified, in large part, by the recreation benefits to be provided by the project. Mr. President, I believe that these potential benefits have been seriously exaggerated.

The FPC states that the lower reservoir with planned fluctuations up to 43 feet would not make a major contribution to recreation. However, the upper 26,000-arce reservior with fluctuations up to 10 feet is expected to be a major flat water recreation resource. Additionally, American Electric Power is to purchase lands for both a North Carolina and Virginia State park on the upper reservoir. The FPC projects an annual $6.1 million recreation benefit from the project based on a projected annual visitation of 6.23 million people. This is a larger annual visitation than Yellowstone and Yosemite Parks combined.

Look at the way in which the recreation benefits of this project were determined. First, the existing average per acre use of several nearby lakes was computed, and then applied to the entire acreage of the upper development, plus adding an additional 10 percent for use of the lower reservoir. So the beginning level of use assumes that additional people will materialize out of nowhere to immediately use this reservoir to the existing level of surrounding lakes. This assumes no satisfaction of demand whatsoever, which is obviously unrealistic. Over the 50-year project life, the use is then computed to rise at a constant level, again never considering that the demand may be something less than constantly increasing. All the economic benefits are based on these assumptions.

Mr. President, I have a letter dated August 3, 1976, from Mr. Ron Johnson, director of parks and recreation, North Carolina Department of Natural and Economic Resources to the chairman of the House Rules Committee. Mr. Johnson's office has conducted in depth reservoir and State park studies in North Carolina for over 5 years and his letter reflects his finding that there is already an existing surplus of the very type of recreation which the Blue Ridge might provide. A comprehensive study of proposed reservoirs as they relate to unmet recreation needs in North Carolina shows the Blue Ridge project reservoir ranks No. 32 in a priority listing of 83 projects in the State. Similarly, State park lands in the region in which the Blue Ridge Reservoir would be located already exceed current needs by over 2,500 acres as of July 29, 1976. Mr. President, I believe it is clear that the recreation benefits claimed by the proponents of this project are dubious indeed.

The Department of the Interior which knows more about recreation than the FPC points out that flatwater reservoirs suitable for recreation are becoming more and more numerous in this section of the country. In fact, there are nearly half-a-million acres of such reservoirs currently available within a 150-mile radius of the proposed development. But high quality, free-flowing streams of the caliber of the New River are an increasingly scarce and highly valued resource.

The Appalachian Power Co. has argued before the committee that enactment of this legislation would amount to a taking under the fifth amendment and thus obligate the Federal Government for millions of dollars in compensation.

H.R. 13372, as amended, provides that any license issued by the Federal Power Commission before or after enactment of S. 158 affecting the New River in North Carolina would remain in effect only for that portion of the river which is not included in the National Wild and Scenic Rivers System, and that no licensed project would be permitted to invade, inundate or otherwise adversely affect the designated 26.5-mile segment. Thus, it would leave unimpaired the authority of the FPC to license a hydroelectric project which does not adversely affect the designated river segment. It would, however, effectively nullify the FPC license insofar as it authorizes the construction of dams which would cause irreparable damage to the designated 26.5-mile segment of the river.

During the hearings on this legislation, the American Electric Power Co. argued that the United States would incur a $500 million liability—the difference between the cost of the Blue Ridge project and an alternate coal-fired generating plant—to the Appalachian Power Co. if the license is revoked. The utility submitted a memorandum by its attorneys which contains the argument that the FPC license is a contractual right and thus legally protected property within the meaning of the fifth amendment and its just-compensation requirement.

On the other hand the committee has received legal memorandums from the Department of the Interior and the American Law Division, Library of Congress, which argue that no taking would occur in this instance. These arguments are based on the well-settled rule of law that a license is a privilege not a contract or property right and that no contract implied or in fact can be found. In particular, these memorandums cite a string of cases which have established that the Congress may grant, deny, or revoke a license to obstruct or use navigable waters and that such action does not incur liability on the part of the U.S. Government.

Mr. President, it is important to note that no one has challenged the Congress constitutional authority to revoke an FPC license. Congressional revocation of the license is a valid exercise by Congress of its power under the commerce clause to regulate the navigable waters of the United States. As a memorandum of law submitted by the American Law Division, Congressional Research Service, Library of Congress, points out, the FPC has made an express finding that the portion of the New River which would be affected by the Blue Ridge project is navigable water of the United States (29 F.P.C. 445 (1963), cited in F.P.C. Opinion No. 698, June 14, 1973, at 3).

Mr. President, I have reviewed the several legal memorandums on this issue submitted by the Department of the Interior, the Library of Congress, and the power company. I feel that congressional revocation or limiting of the Blue Ridge project license is probably not a taking cognizable under the fifth amendment. I should hasten to add that I certainly recognize the right of the utility to press a claim for compensation by the Federal Government. Under the Tucker Act (28 U.S.C. 1491 (1970)), the Court of

Claims has jurisdiction to award compensation for claims based on a governmental taking of private property for public use. As H.R. 13372, as amended, does not repeal the Tucker Act or exempt the bill from the act's application, relief from the Court of Claims is available to the utility. However, it is my view that this legislation does not constitute a compensable taking and that the United States will not be liable to the Appalachian Power Co. should this legislation be enacted.

Mr. President, the New River is a beautiful river passing through mountain passes and wide valleys. Some areas are heavily forested while others are dedicated to agriculture. I am convinced that this section of this beautiful river should be preserved.

The New River is a beautiful river. It passes through mountain passes and wide valleys, a delightful recreational area.

It is a delightful recreational area, so we need to do nothing about the present river except to improve a little bit about its recreational facilities.

It is one of those that should be preserved and dedicated to the use of the people of the area.

I heartily concur and endorse the bill.

Mr. HELMS. Mr. President, I am immensely grateful to the able Senator from Colorado (Mr. HASKELL) and the able Senator from Montana (Mr. METCALF) for their patience with me and for their unyielding cooperation in connection with S. 158 and the companion bill, H.R. 13372.

Mr. President, I ask unanimous consent that Mr. Henry Poole, a member of the staff of the distinguished Presiding Officer, Mr. MORGAN, be granted privilege of the floor during the discussion of this measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, once more we have before us a bill to save the New River from being permanently lost to future generations. I need not repeat the history of the New River, its remarkable geology, its beauty, or its uniqueness. The Senate has already heard all of these arguments on other occasions and they have been put forward by speakers far more eloquent than I.

Nor is there any need to rebut the arguments of those on the other side, arguments which offer the generality that we must balance environmental questions with the need for energy, and that we must develop all sources of energy. There is no debate about those general principles. My colleagues have heard the Senator from North Carolina expound them himself on many occasions.

Indeed, there is a need for balance. The identical bill, H.R. 13372 and S. 158, are an attempt to supply that need. These identical pieces of legislation are saying to the people of the United States: We must find a way to listen to all the needs of our people, and not accept a decision in which two or three special interest groups attempt to overrule the rights and powers of the many.

Now, I do not deny that it is up to each group to look out for its own special interests. It is only natural, in fact, normal, that in a free country, each group should try to influence events to its own private advantage. I do not fault any group for doing that.

But the congressional system was established on our Constitution as a means of harmonizing all the competing interests so that the general interest of the Nation would emerge in the end. I am not one who believes that the public interest is something independent of and antagonistic to private interest. I just happen to think that the public interest is the sum total of all the interest sectors. What we are trying to do here today is to find that dominant expression of the public good.

So let us look at some of the various interests.

First, we have the American Electric Power Co. of New York, and its subsidiary, the Appalachian Power Co., a privately owned power company, that is seeking to destroy the New River for the benefit of its customers and owners. I believe it will be acknowledged that I am an advocate of private enterprise, and I strongly support the private sector as the most efficient producer of electrical power. I respect the duty of the managers of Appalachian Power to promote efficiency within their company to exploit our national resources in order to provide a service to the American people. It is reasonable to expect Appalachian Power to seek ways to meet the electric power needs of its customers, and to do it at the lowest price possible, and to earn a profit sufficient to attract the investment necessary to increase production.

However, all men make mistakes. There is no way to predict the future with certainty. Fifteen years ago, American Electric Power made some assumptions about the future, about the availability of fuels, and about energy needs. They proposed the Blue Ridge project.

Unfortunately, those assumptions turned out wrong. The whole energy situation has changed dramatically. The cost of fuels has changed, the cost of environmental protection has been increased by Federal regulation, the cost of electricity to the consumer has naturally gone up, and all the assumptions about the need for expansion have been undermined.

Indeed, American Electric Power's chairman of the board, Mr. Donald C. Cook, admitted in an interview—in Forbes magazine last year—that AEP was no longer enjoying its historic annual growth rate of 7 percent. Power demand for AEP grew only 1.3 percent in 1974, and demand actually fell by 4 percent in the first half of 1975. Mr. Cook, chairman of the board of AEP said:

> For the first time, we clearly overestimated the demand of the economy in our (service) area. We are grinding down our construction program. While there is going to be a power shortage in the United States, there will not be a power shortage on the American Electric Power system.

But for some reason, unknown to the public, AEP has not ground down its efforts to build the Blue Ridge project.

Indeed, AEP, although a private sector company, has not hesitated to use the authority of the Federal Government to force through a project that does not even seem to be in its own interest.

What reasons can we assign for this? I would hestitate to say. But could it be the momentum of a wrong-headed decision, in which there is a considerable investment of executive prestige, lawyers' expertise, and engineers' fees? No one likes to admit he is wrong, and the only way to recoup the comparatively modest investment—compared to the whole cost of the project—is to muddle on ahead, apparently.

Another factor is the attitude of the Federal Power Commission. Like every other agency of Government, the FPC has its own interest in self-perpetuation, and in the aggrandizement of its privileges and perogatives. It has recorded hours and hours of hearings, and published reams of documents. And finally, even though Congress continued to work on the matter, the FPC has issued a license to AEP, the EPC's attitude—being one of arrogance, to me, indicative of the arrogant attitude of all bureaucrats—has been enormously stiffened by this needless action. Now it appears that the FPC feels it cannot afford to lose face: It has issued the license, and it wants no new precedents set which suggest that it is not infallible.

Mr. President, the FPC is demonstrably fallible.

I think this Senate today should join the House of Representatives in setting a very worthwhile precedent.

I am not at all interested or concerned about the loss of face of the Federal Power Commission.

We must remember, Mr. President, that the FPC is the creature of Congress. Congress has the right and the duty to intervene when a mistake has been made. After all, it would be madness to assume that the FPC is the court of last resort. It would diminish the power of Congress, and derogate from Congress' own constitutional authority to set the precedent that the FPC is not answerable to Congress. By it very nature, the FPC is a rather narrow agency. It is not structured to be sensitive to the political aspects of its decisions; indeed, just the opposite is the case, but not all decisions which may involve electrical power issues can be decided on those issues alone. Congress is the representative of the people, not the FPC, and it must act to protect the interests of the people.

Congress must face up to the fact that the FPC decision is based on data that is 8 or 10 years old, and that has been outdated by intervening events. Congress must face the fact that our attitude toward conservation has changed, that the whole energy picture has changed, that our awareness of citizens' rights has been sharpened.

I am sure the Senate is aware that the FPC never held a hearing in the North Carolina counties most affected by this proposed project. Such a hearing would have given ordinary citizens in my State an opportunity to express their views. The closest hearing was 100 miles away, and was restricted to technical matters.

I wonder if the Senate is aware that the FPC failed to do detailed consideration of other alternatives. I wonder if the Senate is aware that there were 31 proposed, and that only 5 of them cost more per kilowatt than the Blue Ridge. And that nine of them had adequate capacity and still cost less per kilowatt than the Blue Ridge; and that these nine would require less flooding than the Blue Ridge? These are just some of the questions that are important in the consideration of this legislation.

But the justification the FPC gave for picking the Blue Ridge was that the Blue Ridge would also provide recreation benefits to justify its cost. In other words, the consumers of American electric power would be paying more in electricity costs to provide recreation for a potential service area of about 50 miles around the reservoirs. But that area is not exactly the most densely populated section of North Carolina, and it happens that there are already 20,000 acres of lakes and parks and gameland serving this area.

Also, I wonder if the Senate is aware that the efficient life of this project is only 20 years, there is a sharply decreasing scale of efficiency, due to the buildup of silt behind the dams. After 20 years, the Blue Ridge project will be able to operate only about 3 hours a day.

The FPC license is for 50 years, but nature's license is only for 20. Thus the project will be 8 years abuilding, 20 years in efficient use, and a river that flowed free for thousands of years will be destroyed forever.

Now what other interest groups are there behind this project? Needless to say, the construction firms and some of the construction unions have favored it. That has been self-evident. There will be some temporary jobs for a few years, until the engineers and the workers move on to some other site in some other State.

This is important to bear in mind, Mr. President:

No one is pretending that the jobs will go to the local people. The local people are farmers, and small businessmen, not engineers or trade union workers. The rate of unemployment is substantially below the national average, but among the local people it will rise drastically if they are forced from their homes, farms, and places of business.

It is not surprising that some of the firms and unions that directly gain have favored the project. But many other unions which have examined the situation dispassionately are strongly opposed, including the North Carolina AFL–CIO.

I am delighted with the announcement by Mr. Meany over the weekend that he, too, had withdrawn his objection to the pending legislation.

Finally, what other interests are involved? I would be less than candid if I did not admit that the citizens of Ashe and Alleghany Counties are bitterly opposed. It is their special interest not to want to have their lands destroyed. But there is more to it than that.

Mr. President, I submit that the interests of the people of Ashe and Alleghany Counties are identical with the interests of the vast majority of our citizens everywhere. Yes, they have a personal interest; but they also are protecting the rights of all citizens to the self-determination of their lives and futures. These are citizens whose way of life is inextricably bound up with the land of their forefathers, and with the customs and attitudes which they have inherited.

They have a right to be protected against the arbitrary—and in this case, misdirected—seizure of their property by a private company using the police power of the Federal Government. There may be monetary compensation, but there can be no true compensation for the senseless destruction of a life-style which has endured for generations. This project brings no benefits to them, nor indeed to any of the people of North Carolina. They are being asked to give up everything they have built for generations so that the gross mistakes of company managers and far-away bureaucrats who have no interest in the region can be prepared over and salvaged.

That is why the people of North Carolina have acted in this matter. All the citizens of North Carolina have rallied to the cause. Acting through the constitutional and democratic processes of our State, our citizens have unanimously sought to prevent this destruction. The commissioners of the counties involved have been unanimously opposed. The General Assembly of North Carolina has unanimously asked that the section of the New River which lies in North Carolina be included in the Federal wild and scenic rivers system. North Carolina's legislature has voted to assume all costs, for acquisition and operation, so that the Federal taxpayers at large will not be charged one penny. Our Governor has strongly supported this measure. The whole North Carolina delegation in Congress has unanimously supported this measure.

Mr. President, what is at stake here is not merely the preservation of the river. What is at stake is the preservation of the integrity of the constitutional and democratic process. The unanimous action of the people of North Carolina, taken through the proper processes of the State government, is about to be swept away by the arbitrary action of a handful of Federal bureaucrats—the Federal Power Commission—in league with a few special interest groups.

This Senator, Mr. President, contends that if we allow the FPC to veto the will of the people, constitutionally expressed, then the liberties of all the American people are endangered. Mr. President, that is the issue which we must decide here today, and it is an issue which touches the lives of us all.

Mr. President, I fervently hope that the Senate will approve H.R. 13372.

Mr. BUMPERS. Mr. President, first, I wish to compliment the Senator from North Carolina on his statement, much of which I am about to repeat; but, before doing that, Mr. President, I ask unanimous consent that Tom Williams, Steve Quarles, Dan Dreyfus, Fred Craft, Mike Harvey, and Ted Orf of the staff of the Committee on Interior and Insular Affairs have the privilege of the floor during the consideration of and voting on H.R. 13372.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I wish to speak for just a few moments about some of the issues concerning the legality of what we are doing—issues which have been raised by some of the opponents of this legislation.

Opponents of this legislation have argued that the Wild and Scenic Rivers Act is being used capriciously in this instance to block a duly authorized power project; the Blue Ridge hydroelectric facility.

I make this statement so that the record will set forth the very persuasive arguments against that argument.

Section 1(b) of the National Wild and Scenic Rivers Act of 1968 states—

> The Congress declares that the established national policy of dam and other construction at appropriate sections of rivers of the U.S. needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition. . . .

The House Interior Committee report on the 1968 Wild and Scenic Rivers Act states that it was the intention of the committee that the States ought to be encouraged to undertake the protection of free-flowing rivers and that "such Federal agencies as the FPC * * * will not upset (the States) plans by taking adverse action without the full knowledge and *consent* (emphasis supplied) of the Congress."

Clearly, the policy of the Wild and Scenic Rivers Act is to balance dam building and other construction programs affecting rivers with a program to preserve selected rivers in their free-flowing state. To accomplish this purpose, the act creates a system either by congressional designation or by State designation and approval by the Secretary of the Interior. Once a river is included in the system, or once it has been designated as a study river, it is protected by section 7 of the act from actions such as dam building that would impound the river or otherwise directly affect it. The act does not block projects, but rather preserves the free-flowing character of qualifying rivers.

Mr. President, by way of digression, I would like to say that the Buffalo River in my State is a river that has been so designated, and in the process we have preserved one of the finest free-flowing rivers in the Nation, which would obviously and without question have been dammed today had it not been for this legislation.

Mr. President, there has been considerable discussion about whether this legislation is unprecedented or not. Some have argued that by effectively cancelling an FPC license, the Congress would be moving into totally unchartered waters. Earlier in this Congress, we passed and the President signed into law, legislation creating the Hells Canyon National Recreation Area. In that legislation, it seems to me that we established a rather clear precedent for what we are doing here today.

I might say that the Hells Canyon area was certainly as controversial if not more controversial than the New River.

In 1964 the Federal Power Commission had licensed the High Mountain sheep project on the Snake River which is Hells Canyon. The license was contested by the Department of the Interior and although the Federal Power Commission was upheld in the court of appeals, the Department of the Interior won a reversal in the Supreme Court—Udall against Federal Power Commission—1967.

In 1973 the Commission reopened the proceedings to license the High Mountain sheep project. Subsequently the Hells Canyon National Recreation Area bill was introduced and passed to preserve the Snake River and to terminate further considerations by the Federal Power Commission of High Mountain sheep. In addition it specifically deauthorized the Asotin project downstream and withdrew the authority of the FPC to license the construction of any new dam, reservoir or project within the recreation area.

In the Colorado River Basin Project Act we specifically provided that the Federal Power Act "shall not be applicable to the reaches of the main stream of the Colorado River between Hoover Dam and Glen Canyon Dam until and unless otherwise provided by Congress."

In fact, Mr. President, the Wild and Scenic Rivers Act provides that the FPC:

> Shall not license the construction of any dam, reservoir, or other project works on or directly affecting any river which is designated as a component of the national wild and scenic rivers system or which is hereafter designated for inclusion in that system. . . .

These assertions of power by the Congress in these several instances underscore the controlling relationship which it may exercise over its agent—the Federal Power Commission. The Congress has the power to determine how our great river resources are to be used. In my view, this is the controlling and most important precedent; the well established rule of law that it is the Congress, under the commerce clause of the Constitution of the United States that determines the manner in which our Nation's navigable streams are to be utilized.

Mr. President, in my view, the Blue Ridge is not a model development. Let us be clear on this—the project site does not represent great hydroelectric potential. Appalachian Power Co. wants the site for pumped storage, not for the generation of new power. I have no particular problems with the need for peaking power facilities; the Federal Power Commission says that such peak loads must be met. But, I am amazed to find that the FPC and the power companies agree that there are other sites which could provide the needed peaked storage capacity at less cost.

The record shows that in the region to be served by the proposed project, there are potential pumped storage sites which have significantly higher heads and, as would be expected, lower capacity costs that the multipurpose Blue Ridge combination pumped storage project. In fact the FPC listed 22 other potential pumped storage sites which would have lower consumption costs than the Blue Ridge project. The Blue Ridge project was chosen because of the supposed recreation benefits—benefits which have been greatly exaggerated by the FPC and the proponents of the Blue Ridge.

Although the dams would be built by the Appalachian Power Co., the peak-load power they produced is to be transmitted to the Midwest for use by Appalachian's parent company, American Electric Power, which incidentally is the Nation's largest utility. Although AEP claims the project is needed to avert projected shortages in the 1980's, the company badly overestimated energy demand in the 1970's. In fact, last year, the AEP system sold 27 percent of its net generated power to other utilities, and from 1972 through 1974, it sold 23 percent of its net generated power outside its system. In view of these large sales of power to other companies and in view of the fact that it possessed a reserve margin of 18.3 percent last year, it is difficult to agree with the company's judgment that there is a pressing need for the peak-load power that would be provided by damming this segment of the New River. Moreover, the American Electric Power Co., itself does not expect the project to provide a significant amount of peaking power over a long period of time. The company predicts that during the first 20 years of operation, the amount of power generated by the project will fall by more than one-half.

In attempting to plan for future peak load demands, a system of peak load pricing would be a much better alternative, but the Federal Power Commission did not seriously consider this approach when it decided to grant the license to Appalachian. On the other hand, the Federal Power Commission contended that the project should be licensed because it would save an estimated 6 million tons of coal during its 50-year lifespan. But in view of the fact that AEP already burns 33 million tons of coal each year—and that the Nation is estimated to have enough coal to last several hundred years—it is difficult to reason that conserving less than four-tenths of 1 percent of AEP's coal consumption would be a major accomplishment.

Certainly all of us are concerned about how we are going to develop our power resources. However, it is my view that preservation of this stretch of the New River must take precedence over a pumped storage project. In the final analysis, the Blue Ridge project is replaceable; other alternatives for meeting national and regional energy needs exist. The upper New River, in its unique, free-flowing, and natural state cannot be replaced.

So I urge our colleagues to vote with me and with the Committee on Interior and Insular Affairs in favor of this measure to preserve this great and historic national asset.

Mr. President, the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT) was to follow me. I see he is not in the Chamber.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, it is seldom that my good friend the senior Senator from North Carolina (Mr. HELMS) and I are on different sides when issues come before the Senate. We are friends and seatmates in the Senate. I hate to oppose the bill in this instance. However, in my opinion, not only is the measure before us against the interests of the people of Virginia, but also, I believe it is against the interests of the general public.

There seems to be a general pattern among avid environmentalists to oppose all dams, all bridges, all highways, and industrial development. Of course, as the Nation becomes more heavily populated and industrial development increases, additional care should be exercised and a reasonable examination made of both public and private projects before they are constructed. But there are many environmentalists organized in the various States and nationwide who exert every effort against major improvements, and oftentimes they delay deserved projects and add appreciably to their cost. We are familiar with the tactics of organized lobbyists, whether they be paid professionals or dedicated volunteers. Most of us, especially those who have served on the Committee on Public Works, could point to one or more projects that have been lobbied to death.

I recall that during my campaign for election to my first term in the House of Representatives, my opponent appeared at the site of a proposed dam with the then Secretary of the Interior; and the Secretary, a member of the other party, told the assembled guests, "If you want this project, you had better elect a Democrat to Congress." Flood control had been a problem in the Fredericksburg, Va., area for many years; and the Corps of Engineers had made its first in-depth investigation around the turn of the century. Soon after I was elected to Congress, a recommendation was made by the Corps of Engineers that a high-level dam be constructed.

I am referring to the Salem Church Dam on the Rappahannock River, in Spotsylvania County, Va. Congress authorized the project. Preconstruction funds were appropriated for a period of years. Yet, organized lobbyists fought this project each year, and finally they were able to prevent its construction. They characterized the river as the last free-flowing river in the East, and the project was to include the highest dam to be built east of the Mississippi. Undoubtedly, these tactics have been followed in most areas of the country, and activists exert far more influence than their numbers justify.

The purpose of the measure before us today is purportedly to make the portion of New River in North Carolina a part of the National Wild and Scenic River System. Yet the Appalachian Power Co. proposes to build a major hydroelectric power project in Virginia, and the real purpose of this legislation is to prevent the construction of the dams. One difference in this measure and most that have been before Congress is that the project is to be constructed with private funds. No funds of the taxpayer are involved. It would provide much needed energy without damage to the environment.

I believe that electricity generated by

water does less damage to the environment than any other form of energy. It is to be constructed without any cost to the Government.

Bob Wiedrich, of the Chicago Tribune, wrote a column for the paper each day, Monday through Friday, of last week with regard to this bill. I ask unanimous consent that the first and last of these columns be printed in the Record following comments I shall make with regard to them.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WILLIAM L. SCOTT. His Monday column was written from Independence, Va., which is a small community in the area where the power company has obtained a license to construct the power project. The first portion of his column reads like this:

> Some of the Appalachian Mountain folk around here don't cotton to environmental crusaders.
>
> They'd rather have the millions of dollars generated in taxes and jobs by a proposed power company hydroelectric plant in this area than what they consider the doubtful benefits of saving 26.5 miles of rock riffled waters along the New River.

I notice that we have a rock on each Senator's desk, with a picture on it. I think this would be a nice souvenir, but it only emphasizes, in my opinion, that there are a lot of rocks in the river. I do not know that this goes to the merit of the project one way or the other.

The columnist continues, referring to the people in the area of the project:

> Besides, they view many of the nature lovers who have migrated here from big Northern cities in recent years as phonies "who have to prove to you they can carry water from the creek and use an outhouse."
>
> That is the somewhat harsh judgment of W. G. Roberts, a 60-year-old retired businessman who was among a group of local residents interviewed in Charles Cassell's real estate and insurance office on the town square.
>
> "Hell, I tell them we grew up that way 'cause we had to. But we don't want to keep living that way today. They're squatters for the most part.
>
> "Some of them are living in abandoned houses and on unemployment compensation checks from back home. Some of them won't use electricity even when it's available."
>
> Many of the mountain people share similar naked contempt for the hippy culture of outlanders who have become the center of environmentalist attempts to preserve the so called rural Appalachian lifestyle along the New River.

Let me add that Mr. Wiedrich concludes in this manner:

> "We're just a small, normal farming community. In the 14 years this project has been on the books, those who sold their land to the power company bettered themselves.
>
> "And now the homes they sold have been either rented or taken over by those hippies who make musical instruments but aren't mountain people at all."
>
> "We support the Blue Ridge project strongly," said Cassell, who belongs to the 3,000-member Grayson County Business Development Association. "The press has blown this thing out of proportion by saying the river and 40,000 acres of farmland will be destroyed.
>
> "Any national TV coverage has centered on Mouth of Wilson, a company-owned town of less than a hundred people on the mouth of Wilson Creek. They say the village will be lost to the water and imply that's what will happen to the rest of the region.
>
> "That isn't so. It could be the salvation of this county."

Then, Mr. President, Mr. Wiedrich had this to say in his column of last Friday—and I might add that this time, it was written from West Jefferson, N.C. West Jefferson—and I verified this by reference to a map last night—is on the North Carolina side in the same general area where the proposed dam would be built. He commences his column this way:

> The 19,500 residents of Ashe County here are far more in need of jobs than they are of 26.5 miles of river with which to indulge bird watchers and canoe enthusiasts.
>
> That is the basic issue some unemployed folks in this poverty riddled region believe lies at the heart of the dispute between environmentalists and the power interests that want to build an $845 million hydroelectric project on the nearby New River.
>
> Every morning, 27 per cent of this county's work force goes elsewhere to earn a living because there are so few jobs on this otherwise verdant Appalachian Mountain landscape.
>
> "For the past 30 years, people have been migrating from the area, leaving behind only the very poor and the very old," said Dr. James E. Rhodes, an optometrist and an Ashe County commissioner.
>
> "The only way to reverse that trend is to provide jobs and opportunities for economic development. If not, this could be a wasteland in a few years."

Then, further on in the article, the Chicago Tribune columnist writes:

> "In 1975," Dr. Rhodes continued, "we averaged 25 to 30 per cent unemployment in Ashe County. In one week, the figure hit 48 per cent. That's damned rough on people.
>
> "This project will generate a construction payroll of more than $200 million during the five to six years it takes to build it. It will produce between 1,500 and 2,000 jobs.
>
> "And the 40,000 acre mountain lake the Blue Ridge power project would create could furnish one of the finest recreational havens in the Eastern United States."

Then we have the comments of J. C. Jenkins. He is a retail automobile dealer who, the columnist says, "really gets hot about the environmentalist position."

> This scenic river designation is one of the biggest land grabs in history and it's all being done in the name of saving the environment," he declared between bites of baked beans while eyeing the succulent strawberry cobbler at his elbow.
>
> It is the same kind of controversy that could occur many times more in the United States as the environmentalists and power companies go head-to-head. Somebody is going to have to make a stand against this sort of thing now.
>
> "This county needs the economic benefits and employment to be derived from the project.
>
> "All we've got to sell here is good climate, good air, and good water. And that project should give us the finest mountain lake in the world.
>
> "The last thing we need is a scenic river designation because that places restrictions on the use property owners along the river can put to their land. It's restricting what they can do without compensation."
>
> Jenkins said 90 per cent of the canoeing along the 258 miles of New River doesn't take place within the 26.5-mile disputed stretch because it is too shallow and rocky.

Mr. President, I will not comment further on these columns. The Senators can read them in full in the Record if they care to.

[From the Chicago Tribune, Aug. 23, 1976]

People Here Get Quilts From Sears

(By Bob Wiedrich)

Independence, Va.—Some of the Appalachian Mountain folk around here don't cotton to environmental crusaders.

They'd rather have the millions of dollars generated in taxes and jobs by a proposed power company hydroelectric plant in this area than what they consider the doubtful benefits of saving 26.5 miles of rock riffled waters along the New River.

Besides, they view many of the nature lovers who have migrated here from big Northern cities in recent years as phonies "who have to prove to you they can carry water from the creek and use an outhouse."

That is the somewhat harsh judgment of W. G. Roberts, a 60-year-old retired businessman who was among a group of local residents interviewed in Charles Cassell's real estate and insurance office on the town square.

"Hell, I tell them we grew up that way 'cause we had to. But we don't want to keep living that way today. They're squatters for the most part.

"Some of them are living in abandoned houses and on unemployment compensation checks from back home. Some of them won't use electricity even when it's available."

Many of the mountain people share similar naked contempt for the hippy culture of outlanders who have become the center of environmentalist attempts to preserve the so called rural Appalachian lifestyle along the New River.

In seeking to save the 26.5 miles of river across the Virginia state line in North Carolina from flooding for a 40,000 acre hydroelectric plant lake, opponents have cited the sound of dulcimers and the sewing of quilts as evidence of the quaintness that prevails along the river banks.

"These hippies came down here from Detroit and Boston and as far as California and started making dulcimers and selling them in a store here in town," the indignant Roberts spat as his neighbors nodded in agreement.

"Down here, people get their quilts from Sears, they don't sew them. And they haven't got time to canoe on the river. They have to work too hard for a living."

Grayson County, Va., of which Independence has been the county seat since 1850, is one of three counties in this region that would be affected by the $845 million Blue Ridge Project of the Appalachian Power Co.

The others are Allegheny and Ashe Counties in Northwestern North Carolina. All three are beset by poverty nad unemployment.

Grayson County has a population just shy of 17,000 and an unemployment rate of 5 to 13 per cent, depending on where you stand on the mountain.

According to Cassell, there hasn't been a hard surface road built here that amounts to anything since 1933. There isn't even a four lane highway in the county.

But the Appalachian Power Co. would spend more than $43 million in relocating 85 miles of road on the Virginia side of the Blue Ridge project and more than $24 million to replace 31 miles of outmoded roads in North Carolina.

The dearth of modern roads last year prompted a prominent rubber manufacturer to abandon plans for a new factory in Grayson County after first deciding a former textile plant in Independence would do just fine.

Cassell said the rubber plant would have created several hundred jobs to replace 325 jobs lost two years ago when the textile mill's antiquated equipment couldn't convert to meet the pantyhose craze and closed.

It would also have contributed to the county's meager personal and real estate property tax base of $650,000 to run the schools and county government.

"The Blue Ridge project would pay in excess of $1 million in taxes to the county annually," Cassell said. "That would be a windfall and we could build some new schools and a new courthouse.

"We'd get new roads and recreation areas. And a beautiful mountain lake created by the dams would make our area even lovelier. There'd be no mud flats along the New River as the opposition claims.

"It's unproductive land near the river," Roberts offered. "It's rocky and hilly. The land is poor. The rich land is above where the waters of the project will come.

"The timber has never amounted to anything in my lifetime. The river banks are full of little tobacco farmers who work in the furniture factories and farm part time after supper five-tenths of an acre of tobacco as a cash crop.

"We're just a small, normal farming community. In the 14 years this project has been on the books, those who sold their land to the power company bettered themselves.

"And now the homes they sold have been either rented or taken over by those hippies who make musical instruments but aren't mountain people at all."

"We support the Blue Ridge project strongly," said Cassell, who belongs to the 3,000-member Grayson County Business Development Association. "The press has blown this thing out of proportion by saying the river and 40,000 acres of farmland will be destroyed.

"Any national TV coverage has centered on Mouth of Wilson, a company-owned town of less than a hundred people on the mouth of Wilson Creek. They say the village will be lost to the water and imply that's what will happen to the rest of the region.

"That isn't so. It could be the salvation of this county."

[From the Chicago Tribune, Aug. 27, 1976]

NEW RIVER BOILS DOWN TO OLD ISSUE

(By Bob Wiedrich)

WEST JEFFERSON, N.C.—The 19,500 residents of Ashe County here are far more in need of jobs than they are of 26.5 miles of river with which to indulge bird watchers and canoe enthusiasts.

That is the basic issues some unemployed folks in this poverty riddled region believe lies at the heart of the dispute between environmentalists and the power interests that want to build an $845 million hydroelectric project on the nearby New River.

Every morning, 27 per cent of this county's work force goes elsewhere to earn a living because there are so few jobs in this otherwise verdant Appalachian Mountain landscape.

"For the past 30 years, people have been migrating from the area, leaving behind only the very poor and the very old," said Dr. James E. Rhodes, an optometrist and an Ashe County commissioner.

"The only way to reverse that trend is to provide jobs and opportunities for economic development. If not, this could be a wasteland in a few years."

Dr. Rhodes was among a band of local business leaders sharing a luncheon table at the Shatley Springs Inn, where a fellow can wolf heaping platters of country fried ham and chicken while downing copious quantities of mineral water guaranteed to drive off boils.

The men were discussing the efforts of environmentalists from across the nation to scuttle a hydroelectric plant the Appalachian Power Co. wants to build so that the 26.5 miles of New River can be saved as a part of the National Wild and Scenic Rivers system.

And they were expressing dismay at the success the nature lovers have thus far enjoyed on Capitol Hill.

"In 1975," Dr. Rhodes continued, "we averaged 25 to 30 percent unemployment in Ashe County. In one week, the figure hit 48 per cent. That's damned rough on people.

"This project will generate a construction payroll of more than $200 million during the five to six years it takes to build it. It will produce between 1,500 and 2,000 jobs.

"And the 40,000-acre mountain lake the Blue Ridge power project would create could furnish one of the finest recreational havens in the Eastern United States."

J. C. Jenkins, a retail automobile tire dealer in town, really gets hot about the environmentalist position.

"This scenic river designation is one of the biggest land grabs in history and it's all being done in the name of saving the environment," he declared between bites of baked beans while eyeing a succulent strawberry cobbler at his elbow.

"It is the same kind of controversy that could occur many times more in the United States as the environmentalists and power companies go head-to-head. Somebody is going to have to make a stand against this sort of thing now.

"This county needs the economic benefits and employment to be derived from the project.

"All we've got to sell here is good climate, good air, and good water. And that project should give us the finest mountain lake in the world.

"The last thing we need is a scenic river designation because that places restrictions on the use property owners along the river can put to their land. It's restricting what they can do without compensation."

Jenkins said 90 per cent of the canoeing along the 258 milse of New River doesn't take place within the 26.5 mile disputed stretch because it is too shallow and rocky.

And Robert J. Troutman, a wood products manufacturer here, reported that in 1974, when the Appalachian Power Co. won its federal license to build the Blue Ridge project, 74.6 per cent of the property owners on the south fork of the river in this state opposed the Wild and Scenic River designation.

They represented 15,000 acres or 132 miles of river frontage when they signed the affidavits, Troutman said.

The Ashe County Citizens Committee, a pro-hydroelectric project group, obtained the signatures and dispatched them to Congress and the North Carolina state legislature and governor's office.

But they had about as much impact on drowning out the influential cries of the environmentalists from states as far off as California as a hunk of cold cornbread.

Were the Blue Ridge project to be constructed, only 3.8 percent of the land in Ashe County would be involved. And only about 3,000 people would be forced to relocate in the entire three-county sparsely populated area in North Carolina and Virginia.

An average of 1 person resides on every 13.7 acres in the total project area. That compares with an average of 1 resident per 5.8 acres throughout the rest of the two states.

"We live here," Dr. Rhodes concluded. "The people of this region should have been permitted to resolve the issue by a referendum. Our futures should not have been left to be decided by the state legislature and Congress. It is our livelihoods that are at stake."

Mr. WILLIAM L. SCOTT. I believe, Mr. President, we should place great emphasis on the fact that the two dam hydroelectric and pump storage projects the Appalachian Power Co. proposes to construct on New River in Virginia has a long history before the Federal Power Commission. The power company applied to the Commission for a preliminary permit in 1962 and the permit was issued the following year. Then in 1965 the Appalachian Power Co. filed an application to construct the Blue Ridge project. Various individual States and governmental agencies intervened over the years and the administrative law judge on three occasions recommended the granting of a license. Efforts have previously been made to have the Congress prevent the Power Commission from issuing a license for this private power project.

In January of 1974, an amendment was offered to a public works bill to prevent the Federal Power Commission from granting a license until 2 years after the Corps of Engineers had completed a study. It had previously been defeated in committee for while a study would be authorized, no funds for the study were to be included and it was an obvious device to prevent this Federal regulatory agency from fulfilling its function after many years of consideration. The Senate in this instance overwhelmingly defeated this first attempt by opponents of the project to have Congress substitute its judgment for that of the Federal regulatory agency.

However, a few months later, a new bill was reported by the Committee on Interior and Insular Affairs which would make that portion of the New River in North Carolina a potential part of the Wild and Scenic River System. It was amended on the floor to limit the study to 2 years and passed by the Senate but was not adopted in the House, and did not become law.

On June 14, 1974, the Federal Power Commission issued a construction license to the power company for the Blue Ridge project, making it effective as of January 2, 1975, to allow Congress to act on pending legislation.

It is my understanding the State of North Carolina appealed the decision of the Federal Power Commission, which I might add was unanimous, but the U.S. Circuit Court of Appeals for the District of Columbia upheld the license of the Blue Ridge project by a similar unanimous vote of the three-judge panel.

I believe it would be well, Mr. President, for us to look at this court decision of March 24, 1976 which the present bill seeks to override. It points out that the New-Kanawha River rises in the Appalachian Mountains in North Carolina and Tennessee and flows north through Virginia into West Virginia where it becomes part of the main channel of the Kanawha River. I would add, Mr. President, that the Kanawha River is formed by the Junction of the Gauley and the New River at Gauley Bridge, W. Va. and that just prior to the joining of these two rivers we have the beautiful and scenic New River Canyon in West Virginia but this is more than 200 miles from the place the dam would be constructed in the southern part of Virginia. Let me add that there are both Government and privately owned dams between the Blue Ridge project and the New River Canyon in West Virginia. It should be noted that only 5 miles of the main stem of New River is in North Carolina although there are north and south forks extending for an additional 20–21 miles below the main stem. It is my understanding that only the southern branch would be included in the Scenic River System under this proposal as there is some industry on the north branch, whereas the combined length of the New River in Virginia and West Virginia, before it joins the Gauley to form the Kanawha is more than 250 miles.

Mr. President, I might add parenthetically that I am thoroughly familiar with this area. I used to go swimming in the Kanawha River as a boy, and lived near the place where the New River Canyon is located perhaps 60 miles away. We have passed the area many times, and I would not want in any way to speak against preserving the New River Canyon in West Virginia. But again the proposed project is 200 miles away. There are several existing dams, four of which I recall, including two major dams, one built by the Corps of Engineers, the Bluestone Dam, and another built, I believe, by the power company, and two smaller dams.

Page 5 of the circuit court of appeals decision indicates that in its petition for review, North Carolina raised the following issues:

(1) Whether the FPC failed to consider the alternative of energy conservation;

(2) Whether the FPC had authorized inclusion in the project of water storage capacity for pollution dilution;

(3) Whether the FPC failed to analyze adequately certain costs of the project;

(4) Whether the FPC failed to consider as an alternative to the project the possibility that the river should be made a component of the National Wild and Scenic Rivers System.

Mr. President, the court ruled against North Carolina in each instance.

It also pointed out on page 13 of the decision that the New River is not one of those designated by the Congress in title 16, United States Code, 1274, as a component of the wild and scenic river system.

I understand, Mr. President, that 16 rivers have been so designated under a provision of the Wild and Scenic Rivers Act, that they have a combined length of 1,206 miles; but that in addition to the 16 rivers there were some 650 listed for possible inclusion, or further study to determine whether they should be included in the wild and scenic river system.

The New River was not one of these 650 to be studied for possible inclusion in the system.

I believe we should give serious consideration to the precedent Congress would be setting by the enactment of this bill.

First, it is a private project, a project before the Federal Power Commission for 12 years before the license was issued in 1974, a license that has been affirmed by unanimous decision of the court of appeals; and I understnad the issue is now pending before the Supreme Court.

Mr. President, I received a letter today from the Governor of Virginia, Mills E. Godwin, Jr. He asked that the senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) and myself make every effort to persuade our colleagues in the Senate to defer action upon this bill until such time as the validity of the license issued by the Federal Power Commission is determined by the U.S. Supreme Court.

I realize that we are now considering the measure and that there will be a vote on final passage not later than 4 o'clock by unanimous consent of the Senate. But I ask unanimous consent that a copy of the letter from the Governor of Virginia with its attachments be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
Richmond, Va., August 26, 1976.

Hon. WILLIAM L. SCOTT,
U.S. Senate,
Washington, D.C.

DEAR BILL: I am writing to urge your continued cooperation in efforts by the Commonwealth to block the passage of S. 158. The stated purpose of this bill is (a) to amend the Wild and Scenic Rivers Act of 1968 by designating a segment of the New River as a component of the National Wild and Scenic Rivers System; and, (b) to revoke the license issued by the Federal Power Commission to the Appalachian Power Company to construct and operate the Blue Ridge Project on the New River in Virginia. The Commonwealth has supported the construction and operation of this Project since it was first proposed. Accordingly, the Commonwealth is opposed to enacting this legislation.

I would greatly appreciate every effort you can make to persuade your colleagues in the Senate to defer action upon this bill until such time as the validity of the license issued by the Federal Power Commission is determined by the United States Supreme Court.

I have enclosed herewith a copy of the testimony presented by me before the Senate Interior and Insular Affairs Committee on May 20, 1976. The thrust of this testimony is that the decision of the Supreme Court may obviate the need for enactment of the pending legislation. If, on the other hand, the Supreme Court upholds the validity of the license, the Congress could, if it deemed it desirable, act thereafter to remove the license.

In sum, consideration of S. 158 may be deferred until such time as the Supreme Court has rendered its opinion without prejudicing in any way the rights of any persons interested in the New River and the Project.

Thanking you for your consideration and efforts in this matter which is of critical importance to the Commonwealth of Virginia, I remain

Sincerely,

MILLS E. GODWIN, Jr.

Enclosure.

REMARKS BY GOV. MILLS E. GODWIN, JR.

My name is Mills E. Godwin, Jr., and I am Governor of Virginia. I am appearing on behalf of the Blue Ridge Pumped Storage and Hydro-electric project proposed by Appalachian Power Company.

I want first to thank the members of the committee for giving me this opportunity to appear and present Virginia's position on the legislation before you, which has such far-reaching implications.

On its face, the issue would seem to be the familiar one of the economy versus the environment. I have followed this project from its beginnings, and I am convinced that on the contrary, its construction will be both an economic and an environmental plus.

As you know, the company plans to build two dams on the New River, which already includes four dams, and build a combined pumped storage and hydro-electric project.

The initial economic impact will include the expenditure of an estimated $845 million in private funds and the creation of 1,500 to 2,000 construction jobs in a relatively depressed area over a period of 6 to 8 years.

The New River runs through the fringes of Appalachia in Virginia and North Carolina into which the Federal Government and the respective states have poured millions of dollars over a period of years in order to stimulate the economy where geography is a severe handicap to economic development and where political subdivisions have been losing population.

The permanent economic benefit will be the creation of two lakes, totalling 40,000 acres. The upper lake of 26,000 acres, which includes most of the affected area in North Carolina, will be comparable in recreation attractions to the company's similar pumped storage facility at Smith Mountain Lake on the Roanoke River in Virginia.

Smith Mountain Lake, which is about the same size and has the same allowable drawdown as the upper Blue Ridge Reservoir, has proved a major economic boom, with a state park attracting between 200,000 and 300,000 people a year, boat ramps and camping areas, and waterfront lots selling in the neighborhood of $10,000 an acre, where the going price was perhaps $80 to $100 an acre before the lake was constructed. The impact on the economy in the entire area has been tremendous.

What we have now is a beautiful river which few people outside the area ever see except canoeists and those who maintain mountain retreats along its banks.

So far as adjacent land owners are concerned, it has been the universal experience of this and other power companies that as soon as the word goes out, the price goes up, and the land becomes worth far more than its value for farming purposes.

Those who are fortunate enough to retain land above the water line find that they have suddenly come into possession of very valuable property indeed.

But beyond these local considerations, the project has energy implications for most of the eastern seaboard and far inland.

Appalachian has interconnections directly with the Virginia Electric and Power Company, which serves the eastern half of Virginia and portions of eastern North Carolina, with Duke Power Company and North Carolina Power and Light, which serves customers in North Carolina, with TVA, and with the Ohio Valley Electric Corporation.

These companies share power among themselves as the need arises.

Beyond that, virtually all power companies are interconnected. For instance, both Appalachian and Vepco sent power through connecting companies to Con Edison in New York when that company was facing extended brownouts.

Brownouts occur during peak power demand periods, and the Blue Ridge Project is essentially a source of peaking power, which is the most valuable power there is.

A pumped storage project is operated by pumping water from a lower reservoir to an upper reservoir at night, during off-peak hours, using the most efficient equipment the company has, and then running it back again through generating turbines during periods of peak demand.

Appalachian generates power exclusively with coal and running water. We therefore have in the Blue Ridge Project an additional 1,800,000 kilowatts of peaking power available wherever it is needed over a good portion of the Eastern United States.

And this peaking power is not dependent on the Organization of Petroleum Exporting Companies.

Thus the question before you is not limited to economic versus environmental considerations in Virginia and North Carolina, but has national energy implications.

It is Virginia's position that the Blue Ridge project on balance will prove to be an economic plus, an environmental plus and an energy plus.

Gentlemen, I have tried to summarize for you as I see it a question which has been debated and explored for fourteen years.

In extended hearings over those years, the Federal Power Commission has compiled many volumes of testimony from every conceivable interested party on every conceivable point, and has granted the company a license to build.

The validity of that license is now before the United States Supreme Court.

The legislation before you would cancel the entire project. I urge you as strongly as I can not to take such precipitous action at this stage of the proceedings.

Mr. WILLIAM L. SCOTT. Mr. President, I do not have any doubt that the Congress has the right to reverse a Government regulatory agency, and at a later point in my remarks I want to discuss this point in greater detail.

There is a question, when a license has been granted, whether the licensee has a property right for which just compensation must be paid under the fifth amendment of the Constitution, because even though all countries, all sovereign states, have the right to take private property, our Constitution provides that private property shall not be taken for public use without just compensation.

This is a matter that the power company indicates it would litigate in the event that the license is revoked by the Congress.

The Federal Power Commission is of course a creature of the Government. The Government has created this quasi-judicial agency to hold hearings, to examine into all factors, to employ experts in the power development field, and to determine whether a private power company should be authorized to construct a hydroelectric project based on a given set of facts.

Since we have created the Federal Power Commission, since it has held extensive hearings, since there has been no suggestion of any impropriety in these hearings, it would appear to be irresponsible for us to reverse a unanimous decision of the Federal Power Commission on the matter before us, that was before the Power Commission for 12 years and affirmed by a unanimous decision of the Federal circuit court.

I believe we have held hearings in the committee for parts of 2 days. So there is quite a bit of difference in the attention given this matter by the committee and the attention given it by the Federal Power Commission over the past several years.

Both of the Senators representing the Commonwealth of Virginia, where the dams would be constructed, favor the FPC license, support the construction of the project, and oppose this bill.

It is my understanding that 2 o'clock has been set as the time that my colleague from Virginia (Mr. HARRY F. BYRD, Jr.) may present his comments with regard to the measure.

The Governor of Virginia has sent a mailgram to other Members of this body. Let me read the one that was sent to me by Governor Godwin, as follows:

Since 1966 Virginia has vigorously supported the Blue Ridge Pumped Storage and Hydro-electric project proposed by Appalachian Power Company. We believe it is an economic, environmental and energy plus.

The Federal Power Commission has granted the company a license to build and its action has been upheld by the United States Court of Appeals. This matter is now pending before the United States Supreme Court.

It is my understanding that S. 158, as amended in the committee, is identical with H.R. 13372, the House version of the bill, now before us.

S. 158 before you would cancel the entire project. I urge you as strongly as I can not to take such precipitous and unprecedented action at this time. I urge your support of the position of Virginia's Senators in this regard.

MILLS E. GODWIN, Jr.,
Governor of Virginia.

Mr. President, the power company has issued a pamphlet explaining what it calls, "Blue Ridge, the people's project; an energy project developed by industry, government, labor, and environmentalists in concert to bring great benefits to a greater number of Americans."

I would like to share portions of this pamphlet with my colleagues in the Senate.

It begins:

BLUE RIDGE—ITS CONCEPT AND GENESIS

Blue Ridge is a proposed two-dam pumped storage and hydro-electric project on the upper reaches of the New River in Grayson County, Va., and Ashe and Alleghany Counties in North Carolina. The project will have a generating capacity of 1,800,000 kilowatts.

Both dams will be located in Virginia. The upper lake will cover about 26,000 acres extending upstream 42.5 miles. Fourteen thousand acres will be in Virginia, 12,000 acres in North Carolina. The upper lake shoreline will be 425 miles. The lower lake will have a surface of 11,000 acres; 9,800 in Virginia, 1,200 in North Carolina. The lake shore line will be 260 miles.

Blue Ridge is today a licensed project. The license was granted by the Federal Power Commission on the basis of a nine-year proceeding, during which every significant aspect and potential alternative were exhaustively explored. Scores of expert witnesses in numerous disciplines testified under oath and were subject to rigorous cross examination. All parties wishing to intervene, testify or participate in cross examination, including the State of North Carolina, were permitted to do so.

During this nine year period, the project was modified, positive improvements were made and compromises were reached to satisfy government, industry and environmental concerns and to assure the best possible project with the most benefits for the most people.

When, in June of '74, the Federal Power Commission granted the license it did so by a unanimous 5–0 vote. This action has most recently been unanimously upheld by the United States Court of Appeals for the District of Columbia.

The company brochure, Mr. President, continues:

EXPERIENCE PROMISES MAGNIFICENT BENEFITS

The construction and the consequences of such a two-dam pumped storage and hydro-electric project is no fuzzy dream to the people at Appalachian Power Co. Their Smith Mountain Project on the Roanoke River in Virginia, developed in the early 1960's, fortifies them with experience and offers persuasive examples of the benefits and beauty that can and will result from the development of the Blue Ridge Project.

The first section of the pamphlet relates to recreational benefits.

Present use of the Blue Ridge Project site for recreational purposes is limited and in many ways specialized. According to the FPC, "The recreational potential of the area is enormous. Even now there are great attractions for visitors, but when water is added it is destined to become one of the principal recreation areas for the eastern portion of the United States."

Appalachian Power will purchase and give land for state parks—2400 acres for Virginia—3900 acres for North Carolina. In addition, Appalachian will provide an overlook picnic area at each dam, two bank fishing areas below the lower dam, nine major boat launching sites, at least 21 additional access points, and canoe portages around the dams.

The total annual recreational benefits resulting from the project have been estimated at $6.1 million by FPC's staff, $2.8 million by the Department of Interior and greatly in excess of $4 million by Appalachian's expert recreation witness, a former director of the National Park Service.

Fishery values alone are estimated at $276,400 annually.

Then there is a section called "Economic Benefits":

The counties affected by the Blue Ridge Project today produce an annual per capita income well below the national average. Blue Ridge will offer much needed economic benefits for these areas.

Perhaps that might be a response to the argument of the distinguished Senator from Arkansas a few minutes ago, that the electricity at this time was not needed.

During the 5 to 6 year construction period the construction payroll is expected to exceed $200 million.

Once in existence, the upper Blue Ridge Lake will offer great potential for economic growth. Year 'round and seasonal homes, motels, marinas and all types of commercial and service facilities will be built around the lake. These facilities will add to the tax base of the counties as well as provide employment and increased sales.

Mr. President, we hear oftentimes of people being against a project of this nature. Yet when the project is completed and we visit it, we see the beauty of the lake which has been created. We see both year round homes and summer homes that have been constructed. We see the many thousands of people enjoying the facilities, many more than could enjoy the rivers in their natural state.

Continuing, the brochure states:

Experience at Appalachian's Smith Mountain Lake is proof of the validity of these claims of economic benefits.

Finally, Appalachian Power, itself, will pay millions of dollars of property taxes over the life of its facilities. Taxes that will apply to the dams and all other associated facilities, as well as the land, including even that which is inundated.

Then there is a section called Road Benefits:

Appalachian Power will contribute an estimated $67.8 million, based upon current estimates, for the relocation of bridges and

> about 62 miles of primary and 54 miles of secondary roads in the project area. All roads will be built by the respective State Highway Departments to present day standards. Since many of the roads were built many years ago, the net result will be an improved road system in the vicinity of the project.

Mr. President, I do recall receiving correspondence about the need for road improvement in this general area, and believe the project would help provide an improved road system there.

The FPC, in issuing the license, said:

> A major public benefit of the project, and one beyond dispute, would be the 160,000 acre feet of flood control storage capacity that it would provide for the upper New River area—an amount endorsed by the Army Corps of Engineers. No flood control now exists between the lower reservoir site and the Federal Bluestone Dam at Hinton, West Virginia, and if the 1940 flood of record were to recur today, the Corps estimates that non-agricultural damages along the 146-mile route would total $2.4 million; Blue Ridge's flood control storage of 160,000 acre feet would reduce that damage by 72 percent.

I notice there is a map of the lake that would be created by this project, and a concise reference to the recreational benefits:

> 6,300 acres State park areas.
> 685 miles of shoreline.
> 9 boat-launching sites.
> 19 access points.
> 2 dam overlooks and picnic areas.
> 2 canoe portages.
> 2 bank fishing areas.
> 62 miles primary roads.
> 54 miles secondary roads.

Then it refers to the low-flow supplementation benefits:

> The West Virginia Department of Natural Resources finds inadequate the present flow of water during the peak recreational months of July to September. They therefore suggested, and Appalachian Power agreed, that it would be beneficial that the lower lake, (starting on March 1) would gradually accumulate 130,000 acre feet of water to be released gradually from July 1 to September 30—thus assuring, for thousands of Americans, the optimum flow for improved fishing and general recreational enjoyment.

Under the heading "Power Benefits":

> The need for electric energy from Blue Ridge has been definitively and resoundingly determined by the expert agency to which Congress delegated the task. The Federal Power Commission has stated: "We are wholly convinced that the electric power to be generated by this project is needed, and that the potential beneficiaries of that power will be a sizable part of the population of the Nation."
>
> Appalachian Power Company is part of the American Electric Power System. Blue Ridge will enhance the reliability of electric service, not only from Appalachian Power and the full AEP network, but also to the entire eastern seaboard, east central, and near south areas of the United States. For example, the AEP system is already interconnected with four electric utilities which serve the public in North Carolina: Duke Power Company, Carolina Power and Electric Company, Virginia Electric and Power Company, and the Tennessee Valley Authority. In recent years, Appalachian has delivered millions upon millions of kilowatt hours of electricity to these companies for use by their customers. Such deliveries and such benefits would continue after the Blue Ridge is completed . . . with even greater reliability.
>
> The New River, what is its future? The Federal Power Commission rightly points out that the New River will not be eliminated with the construction of the Blue Ridge Project. Some 70 miles of the river will be replaced with lakes, but over 200 miles of the river will remain in its present state. If there is to be any change in this vast stretch of river, it will more than likely be an improvement resulting from the low flow supplementation and flood control features of the project. The magnificent New River gorge in West Virginia, with its rugged terrain and precipitous cliffs that have earned it the title of "Grand Canyon of the East," will flow on uninterrupted by Blue Ridge. Its waters will be as turbulent, white and inviting to the adventurous float-trippers as ever; the major difference will be the greater use of this product of nature, and thus greater benefits for more people.

Mr. President, perhaps the best way to continue my arguments against this bill is to refer to the committee report. The statement beginning on page 17 represents the views of all of the minority members of the Committee on Interior and Insular Affairs. I might add that when a similar bill was reported by the committee in 1974, and was favorably acted upon by the Senate, although it failed to be enacted because the House of Representatives did not bring it to the floor, in that instance the committee's recommendation was unanimous. Now it is split along party lines. All of the minority members dissented from the committee bringing this measure before the Senate for consideration. They were the Senator from Arizona (Mr. FANNIN), the Senator from Wyoming (Mr. HANSEN), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. McCLURE), and the Senator from Oklahoma (Mr. BARTLETT).

After reciting that the concept of a wild and scenic river is a noble one which they had supported innumerable times in the past, they said that the inclusion of the particular segment of the river referred to in this bill would have the effect of blocking the needed Blue Ridge hydroelectric project that has already received a Federal license.

Mr. President, they number the reasons why they are opposed to the enactment of this bill, and I would follow along in the way that is presented in the committee report. Let me add, Mr. President, that this committee report relates to S. 158 rather than the House bill. The House bill number is H.R. 13372, but, as amended by the Interior Committee, the House bill and the Senate bill are identical. The leadership has seen fit to bring up the House bill rather than to bring up the Senate bill, but since they are identical in wording and intent, the arguments made by the minority of the committee, the Republicans on the committee, in their unanimous views, apply to the bill now before us.

In their analysis they first refer to energy.

Enactment of this measure will cause the loss of 1,800 megawatts, or 1.8 million kilowatts, of needed electrical generating capacity.

> This energy capacity would be inexpensive, nonpolluting hydroelectric power. This power is needed to meet the peak power demands of the entire Central United States through the ninety-seven interconnectors of the American Electric Power Companies System.
>
> The Federal Power Commission found that: "The need for Blue Ridge Power has been abundantly displayed in the record . . . A review of the evidence of the record makes clear that all of the power Blue Ridge can produce will fall far short of meeting the peaking needs of the AEP System in the early 1980's . . .".

Since it will take 5 to 6 years to construct this project that has been licensed, it is not a question of the need today but a question of the need when the project is completed.

This power is essential to insure the reliability of the system.

> Three full years have not passed since the spectre of the domestic crude shortage and the Arab Oil Embargo was upon the United States.

We know, Mr. President, from the meetings that we are importing more oil today than we have in prior years.

> Utilities, particularly in the eastern United States were dependent on oil for the generation of electrical power. Americans pondered the panorama of an America without power for productivity or play. Projections for the future portend even greater difficulties, yet by their actions, proponents of this measure are hiding their heads in the sand, refusing to face the realities of the energy crisis.

Mr. President, these are not my words, but they are the words of the five Senators on the Interior and Insular Affairs Committee who joined in filing the report of the minority.

> Peaking power has been criticized as being a net consumer of electrical power. However, the capacity of any system is dictated by the maximum load expected at the time of greatest demand.

We had a demand some years ago when New York City and parts of the State were blacked out.

> In addition, reserve is needed so that emergencies can be met. The use of peak generation facilities will insure that the most efficient use is made of current generation facilities.

It is my understanding, Mr. President, that if this project is permitted by Congress to be constructed, upon its completion it can reach its peak in the matter of 5 to 10 minutes; whereas, it would take a far greater time for any coal-generated electricity to peak.

> The agencies charged with considering American's power demands have chosen peaking power as one of the desired systems for meeting our power needs.
>
> There are few viable alternatives to Blue Ridge Project power. The escalating costs and potential shortage of petroleum militate against oil as the primary fuel. The use of atomic power is increasingly under attack. The only viable alternative is a huge coal-fired generating plant that would be one of the largest in the country. Air and water environmental constraints have made this alternative tenuous at best in the eastern United States.

Let me add parenthetically, Mr. President, that in the event one of these alternatives was given serious consideration and was about to be put into effect, I believe the same people who are opposed to this project would make a great deal more noise about any alternative method because water-created electric power is the cleanest power we can get and it does the least damage to our environment.

> In addition, the cost of a coal-powered plant would exceed the cost of the Blue Ridge Project by approximately one-half billion dollars. Those costs would ultimately be borne by the consumer.

Then the second reason given in the report why this project should proceed and the measure before us be defeated is:

> This is the first time that Congress to our knowledge has taken upon itself the burden of overruling a Federal Power Commission Permit. The usurpation of this regulatory function by Congress can have widespread ramifications.
>
> The Federal Power Commission was created by Congress to oversee the production and generation of electric power utilized in interstate commerce. The agency was made independent so that it would be insulated from the political arena. Experts in electrical power are on the commission payroll to insure that decisions are knowledgeably made. The rights of appeal from agency decisions was strictly limited in order that finality be assured. The decision-making process intentionally has been kept at the agency level instead of elsewhere.
>
> The question of the Blue Ridge Project was before the Federal Power Commission for twelve years. During this period, volumes of testimony was taken, and all parties were given the opportunity to be heard. The proper environmental impact statement was prepared. The final agency decision was unanimous—to build the Blue Ridge Project.
>
> The decision has been fully challenged in the courts. The court decisions have, to this date, upheld the decision of the Federal Power Commission. Opponents of the project have had their day in court and have not convinced anyone of the justice of their claim.
>
> It is inconceivable that the Congress would, on the basis of a few hours of legislative testimony, overrule the carefully considered decision of agency experts based on evidence produced over several years of intensive investigaton.
>
> Congressional revocation of a license granted by an independent regulatory agency could have serious repercussions. Under the precedent established here, any contestant in a case, unsatisfied with the decision of a regulatory agency or the court, will be tempted to carry his appeal to the Congress.

I understand, Mr. President, that there are a number of similar matters before the Federal Power Commission, involving projects in a number of the States of the Union; and Senators may want to check to see whether their own home States are involved in pending or licensed hydroelective projects that may be affected by such an unprecedented congressional action of this kind.

The report continues:

> The finality of agency decision will be doubtful. Who will make substantial investments based on license that may be revoked at any time by the Congress? Second guessing of independent regulatory agencies will create tremendous problems with the regulated industries.
>
> We cannot support this undermining of the administrative process. We must be able to have confidence in the decisions made through the established regulatory process.

Mr. President, in the event that there is any question as to the purpose of this bill, I have an amendment, amendment No. 2229, to be offered at a later time. I believe 2:30 is the hour that has been agreed upon for the offering of this amendment. The amendment would strike section 2 of the bill and then add the words "Nothing contained in the amendment made by the first section of this act shall be construed to affect the validity of any license issued by the Federal Power Commission."

Should my amendment be adopted, the portion of the New River specified in the bill still would be in the Wild and Scenic Rivers System but subject to the right granted by the Federal Power Commission under the license to construct the dam.

So the question before us by this amendment is whether we want to kill a project that has been studied, that has been before the Federal Power Commission for 12 years. I think we can remove the veneer of the wild and scenic river designation, because the total reason for this bill is to kill a project by a private power company.

Continuing, the views of the minority Senators state:

> The passage of this bill could result in governmental liability for "taking" an amount that may possibly be as high as $500 million.

Mr. President, rather than rely upon the views of the committee in this respect, let me just rely on my own background and experience in this field. Every sovereign nation has a right to take the property of its citizens. Many have the power to take, and in ancient days did take, private property for public use. The king took what he wanted, without paying any compensation. But in the fifth amendment to our Constitution, it is provided:

> . . . nor shall private property be taken for public use, without just compensation.

The question is, Is there property that is being taken? It is a license that has been issued by the Federal Power Commission. Is a license to construct a dam property?

The Appalachian Power Co. indicates that in the event that this bill is passed, they are going to bring this matter before the court, to determine whether or not this is a taking of property.

I think that the next question to be resolved is whether or not a valid license issued by the Federal Power Commission, upheld by the U.S. Circuit Court of Appeals by unanimous vote, is a taking of private property. Certainly if the license is property, the power company is being denied the right to utilize the license for the purpose that it was granted by the Federal Power Commission. So I submit that it is worthy of consideration by the Senate as to whether the license issued by the Federal Power Commission is a taking of property.

In the event that a license is property under the fifth amendment to the Constitution, and I am inclined to believe that it is, I do not doubt for a moment the power of Congress to pass this bill. There is no question in my mind that it would be a valid exercise of congressional authority, but in the event that Congress does see fit to pass this bill, is this property for which just compensation must be paid under the Constitution?

As my colleagues know, just compensation is the fair market value of the property taken. In other words, from a pecuniary point of view, the person whose property has been taken must be put in as good a position as he would have been in had his property not been taken. I submit that one reasonable method of determining the loss to the company, if this is property that was taken, would be to determine the cost of providing this power by the most reasonable alternative method and to subtract from that amount the cost of providing the power by the method specified in the license granted by the Federal Power Commission.

The committee report addresses itself to this question; and it says that if a taking has occurred, the damages may be as much as the cost of an alternative facility—that is, a coal-powered generation plant. That cost is estimated at $500 million. I believe that the report somewhat misstated its intention, because it is not the cost of an alternate facility; it is the difference between the cost of the project as licensed and the cost of an alternative project, which is estimated to be around $500 million.

This would be what the taxpayers would have to pay without getting the additional energy which we need. Again, Mr. President, it would appear irresponsible to subject the American taxpayer to a liability of $500 million and not provide something that the American people need—clean energy, with the cost of upwards of one billion dollars to build the facilities provided by private industry.

I know, of course, that ultimately the consumers bear the cost, because when a public utility provides electricity, it obtains the necessary funds at one stage or another from those who utilize the service, and the cost would be reflected in the electric bill. But with our supply of energy being short, with the continued increase in the importation of oil from foreign countries, it just seems to me that we should permit a private company to meet the needs of the American people through construction of this project.

The fourth reason given by the Senators in their minority report in opposition to this bill is:

> The Blue Ridge Project would create one of the great recreational attractions in the eastern United States. Two lakes will have almost seven hundred miles of shorelines with thirty-four wooded islands. The fisheries supported by the lakes would be many times greater than what is the "natural" river. Millions of Americans can use this recreation resource.

As I mentioned previously, Mr. President, when such projects are constructed, and all of us have seen them upon completion, homes appear nearby. People like waterfront property, both for their seasonal use, primarily during the summer months, and also for year-round homes. The value of property fronting on water is generally greater than that that is not fronting on water.

The committee report continues:

> It is worthy of note that in the testimony supporting the Wild and Scenic River, designation before the Committee, the proponents

> of the bill offered no pictures of the river segment in question. All the pictures offered in support of the designation of the New River as a component river were taken over one hundred miles away.

Mr. President, I believe it may well be over 200 miles away, because we are talking about a distance from the North Carolina-Virginia border, through the State of Virginia and then into West Virginia to the New River Canyon.

> The area of this river that is worthy of preservation is being saved—that is the portion of the river in the canyon in West Virginia. The only effect that the Blue Ridge Project will have on this superb section of river will be beneficial: the flows of the river will be augmented in summer for recreational use.

In addition to the statement in the committee report with regard to the misrepresentation of the river that is affected by this project, I am advised that names of many of the citizens who live in this general area were used in writing to the members of the committee and Members of Congress, although they, themselves, did not write the letters. It has been suggested that the opponents of this project looked in the telephone book and found names and then utilized these names in contacting Members of Congress, without the knowledge or consent of the individuals.

The report continues:

> Almost half of the river segment proposed to be preserved is agricultural in nature.

I might mention that this is in the Appalachian region. The report says that it is not unique.

> Creation of mountain lakes would provide at least an equally valuable resource.

I submit, Mr. President, that it would be a much more valuable asset to the locality.

Then, under point 5, the report says:

> Construction of the Blue Ridge project would provide significant employment opportunities for a depressed area.

I would like at this time, Mr President, to have printed in the Record a copy of a letter to the editor of the Washington Star by Jack Curran, legislative director, Laborers International Union of North America. He is in favor of the project and makes this statement regarding labor support:

> Although the New River bill passed by the House the other day and awaiting action by the Senate later this summer purports to set aside 26.5 miles of the New River as a part of the Wild and Scenic Rivers Systems, its admitted objective is to revoke the Federal Power Commission license to the Appalachian Power Co. to construct a hydroelectric power facility on the New River in Grayson County, Va.

I shall skip a part of it, but I do ask unanimous consent, Mr. President, that the entire letter to the editor, as well as an editorial from the Roanoke Times, be printed in the Record following my comments with regard to both the letter and the editorial.

The PRESIDING OFFICER (Mr. Bumpers). Without objection, it is so ordered.

(See exhibit 2.)

Mr. WILLIAM L. SCOTT. The letter from the labor organization states:

> The benefits to be derived from the Blue Ridge project, not the New River bill, are many:
>
> Jobs in the Appalachian region where billions of dollars of federal monies have been expended to help cure the misery of unemployment.
>
> 2,000 construction jobs and an additional 8,000 jobs in ancillary work (materials manufacture, transportation services, etc.).

There will be additional roads, Mr. President, as well as adequate water supply.

Then it says that the Virginia Governor and the Senators support this project, as did the Governors of North Carolina prior to the present Chief Executive.

> They support the Blue Ridge Project as did three previous North Carolina governors before the power project became a political football. Their support merits—

Now it is referring to the Virginia Governor and Senators—

> a greater deal of consideration since the two dams and two-thirds of the watershed will be on the Virginia side of the river, while only one-third of the watershed will be on the North Carolina side.
>
> Further delay in implementing the FPC and U.S. Court of Appeals decision can only further the cost of the hydro-power project which has already escalated and in the long run comes out of the pockets of the consumer. The Senate should not act in favor of the New River bill.

Mr. President, there is an editorial that I referred to earlier, which appeared in the Thursday, August 12, 1976, issue of the Roanoke Times. It is called "The Dam and the Damned." It refers to the action of the House of Representatives in passing the bill and makes this point:

> As our readers know, *The Roanoke Times* for a long while was troubled and neutral on the project; we believe it is no small thing to rearrange nature. We have been convinced by the fact that the one agency which has studied all the facts and spent the most time on the complex project—the Federal Power Commission—has come down unanimously in favor of it. We know of no reason why another opinion should be substituted for that of the FPC when the FPC has access to more facts and experience, and is unanimous in its opinion.

It refers to the fact then that the courts have approved it, and this was done unanimously, Mr. President, by the Circuit Court of Appeals. The matter is now pending before the Supreme Court on certiorari.

> But what has really convinced us—an outnumbered newspaper which happens to know more about the project than many of the majestic and distant experts who know it all—is the arrogance and insensitivity of the opposition.

Let me add, Mr. President, it is my understanding that the Appalachian Power Co. is headquartered in Roanoke, so that may be the reason for the editor's indicating that they are more familiar with the project. Of course, the project is not many miles from Roanoke.

> They have circulated false pictures, proclaimed the existence of cheaper alternatives not yet practical, have utterly failed to note that the New River project promises recreational benefits similar to those known to exist, and experienced, at Smith Mountain Lake, Buggs Island reservoir and other places.

Buggs Island, Mr. President, is located on the Virginia-North Carolina line also; and it is a Federal project paid for out of public funds, contrary to this project which would be paid for out of private funds.

> They fail to note that North Carolina customers are hooked onto the Apco system. The self-anointed experts will not accept any decision by competent authority which is contrary to their notions.

Then the editorial makes an interesting observation:

> In contemporary mythology the power company is supposed to be run by demons and a power company's critics are thought to be automatically angelic. In our experience, the Apco people have been more forthright, honest and earnest than many of their holier-than-thou opponents. We wish them well, and do spy just one ray of hope:
>
> The State of North Carolina's appeal to the Supreme Court is a weak thing legally; only a lawyer on salary, and able to keep a straight face, would make the state's legal argument. The purpose only is delay. If the high court refuses to hear the case and thereby confirms the judgment of the federal court system before the U.S. Senate acts, the Senate itself might be jolted by the implications of the decision made by the House. The chance is small but not completely hopeless.

Mr. President, unless the Senate acts today before the hour of 4 o'clock, to keep the proposed project alive, it will of course be a hopeless situation.

The heading with regard to employment in the committee report continues:

> 5. Construction of the Blue Ridge Project will provide significant employment opportunities for a depressed area. Construction of the Blue Ridge Project will provide jobs for twelve to fifteen hundred construction workers for a period of at least five years. In addition, there will be permanent jobs associated with the facility and with the increased recreational activities adjacent to the lakes.

That coincides with the union leader's letter to the editor that was just read in part and inserted in the Record.

> These would be permanent jobs, providing a boost by their economic impact to other areas of the local economy.
>
> Unemployment in the counties affected by the Blue Ridge Project has run to a high of twenty-two percent, and currently is in the area of nineteen percent. Construction workers are unemployed at a rate approaching forty percent. Construction of this project would help reverse this trend, without a use of governmental monies.

Then, Mr. President, on page 20 of the report, which is entitled "Conclusion," it does ask that this measure be defeated and that the Blue Ridge project, as licensed and approved by the courts, be permitted to proceed. But it adds:

> Preservation of the New River segment in question seems almost to be an afterthought by those who presented positions against the Blue Ridge project and lost. Passage of this legislation would give them another chance to defeat this needed project.

I have no doubt at all, Mr. President, that the sole purpose of this bill is to defeat this project rather than to include the area under the wild and scenic river concept.

Eighteen hundred megawatts of clean hydropower is so vital to our economic and social well-being that we cannot afford to ignore the tradeoff involved.

Mr. President, those are the views I have just been referring to of the distinguished senior Senator from Arizona (Mr. FANNIN), the Senator from Wyoming (Mr. HANSEN), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), and the Senator from Oklahoma (Mr. BARTLETT).

The PRESIDING OFFICER (Mr. BUMPERS). The Chair will inquire of the Senator was that a unanimous-consent request?

Mr. WILLIAM L. SCOTT. No, it was not. I just finished quoting from the report.

The statement by the Senators represents the views of all of the minority members of the Interior Committee and, I might add, when a similar bill was reported from the same committee in 1974 and favorably acted upon by the Senate, although it failed to be enacted by the House of Representatives, the committee recommendation in the first instance was unanimous. Now all minority members dissent.

After reciting that the concept of the wild and scenic river is a noble one that they have supported innumerable times in the past, the inclusion of the particular segment of the river referred to in this bill would have the effect of blocking the needed Blue Ridge hydroelectric project that has already received a Federal license. Now, their opposition is expressed, as I have stated it, Mr. President.

Let me suggest that it would be unwise for Congress to discouarge private industry in its efforts to help resolve our energy shortage through its own initiative and with its own funds by taking such an unprecedented action and having Congress overturn unanimous licensing decision of the Federal Power Commission.

Of course 1.8 million kilowatts of electricity is not going to eliminate our dependency upon other countries for energy but it is a step in the right direction. The addition of 1,500 to 2,000 construction jobs by the private sector in an area of high unemployment will not solve our unemployment problem but, once again, it is a step in the right direction. Clean energy at private expense is worthy of consideration. The Federal Power Commission has had this matter under consideration since 1962.

This is the Federal Power Commission, a creature of the Goverment. We created this in order to hold hearings, to employ experts, to consider in a proper manner whether or not a license to construct a powerplant should be granted.

It has reported 7,500 pages of sworn testimony, examined 300 exhibits and unanimously agreed to issue a license for the Blue Ridge project. The decision was upheld by a Federal circuit court also by a unanimous decision. The sole purpose of the bill before us is to block the licensed project through a political decision of the Congress. In order to bring that clearly into focus, I propose to offer an amendment at 2:30 this afternoon that provides for the striking of the portion of the bill that would revoke the license and insert in lieu thereof:

SEC. 2. Nothing contained in the amendment made by the first section of this Act shall be construed to affect the validity of any license issued by the Federal Power Commission.

Mr. President, the purpose of my amendment is to focus on the true intention of the bill, to prevent the construction of the dams and related facilities.

I am advised that the Federal Power Commission has before it a number of applications for licenses of private power projects in various States and undoubtedly Senators will want to consider what effect the passage of this bill overruling a decision of the Federal Power Commission and a Federal circuit court would have upon other projects. Would private companies be as inclined to file applications for licenses if they were led to believe that any decision made by the Federal Power Commission might be brought before the Congress and a political decision made regardless of the basic merits of the project? It certainly seems to me that this is worthy of consideration by all Senators.

Mr. President, I do want to speak further on this bill at a later time, but this concludes my comments at this time.

EXHIBIT 2

[From the Washington Star, Aug. 19, 1976]

LABORERS DEPLORE NEW RIVER BILL

Although the New River bill passed by the House the other day and awaiting action by the Senate later this summer purports to set aside 26.5 miles of the New River as a part of the Wild and Scenic Rivers System, its admitted objective is to revoke the Federal Power Commission license to the Appalachian Power Co. to construct a hydroelectric power facility on the New River in Grayson County, Va.

The decision to issue the license was not arrived at hastily. Indeed, the FPC conducted nine years of study and hearings with testimony coming from all sides on the issue. The 5-0 unanimous decision of the FPC, the proper government agency established by Act of Congress to rule on these matters, was upheld by a unanimous three-judge panel of the U.S. District Court of Appeals in March of this year. The next proper appeal is to the U.S. Supreme Court, not to the Congress of the United States.

The benefits to be derived from the Blue Ridge project, not the New River bill, are many:

Jobs in the Appalachia region where billions of dollars of federal moneys have been expended to help cure the misery of unemployment.

2,000 construction jobs and an additional 8,000 jobs in ancillary work (materials manufacture, transportation services, etc.)

Opportunity for new industry to locate in the area.

Improved recreational facilities, beautiful parks and lakes with picnic facilities, boating and fishing areas for use by the many, not just a few.

Flood control benefits.

1.8 million kilowatts of electrical energy needed now and in the future, produced by United States know-how without having to rely on foreign fuel oil imports.

The North Carolina delegation may be behind the New River bill, but most of the Virginia delegation and the governors of Virginia and West Virginia are opposed to it. They support the Blue Ridge Project as did three previous North Carolina governors before the power project became a political football. Their support merits a greater deal of consideration since the two dams and two-thirds of the watershed will be on the Virginia side of the river, while only one-third of the watershed will be on the North Carolina side.

Further delay in implementing the FPC and U.S. Court of Appeals decision can only further the cost of the hydro-power project which has already escalated and in the long run comes out of the pockets of the consumer. The Senate should not act in favor of the New River bill.

JACK CURRAN,
Legislative Director, Laborers' International Union of North America.

[From the Roanoke Times]

THE DAM AND THE DAMNED

The House of Representatives' overwhelming vote, 311 to 73, to make a small piece of the New River "scenic"—just enough to block a dam construction proposal—may spell the end of a 14-year drama. The victory has been correctly attributed to the national media and the environmentalist movement: including those who have never seen, nor will see—not even on a canoe—the river, nor will ever even study the proposal by the Appalachian Power Company to keep the price of electricity as low as it can.

As our readers know, The Roanoke Times for a long while was troubled and neutral on the project; we believe it is no small thing to rearrange nature. We have been convinced by the fact that the one agency which has studied all the facts and spent the most time on the complex project—the Federal Power Commission—has come down unanimously in favor of it. We know of no reason why another opinion should be substituted for that of the FPC when the FPC has access to more facts and experience, and is unanimous in its opinion.

We have been further convinced by the fact that a federal district court and a circuit court of appeals have ruled that the FPC did indeed, take into account all the facts and the logic and rendered a reasonable decision within its power. The appeal to the U.S. Supreme Court strikes us as simply a delaying technique for the end-run maneuver now under way.

But what has really convinced us—an outnumbered newspaper which happens to know more about the project than many of the majestic and distant experts who know it all—is the arrogance and insensitivity of the opposition. They have circulated false pictures, proclaimed the existence of cheaper alternatives not yet practical, have utterly failed to note that the New River project promises recreational benefits similar to those known to exist, and experienced, at Smith Mountain Lake, Buggs Island reservoir and other places. They fail to note that North Carolina customers are hooked onto the Apco system. The self-anointed experts will not accept any decision by competent authority which is contrary to their notions.

In contemporary mythology the power company is supposed to be run by demons and a power company's critics are thought to be automatically angelic. In our experience, the Apco people have been more forthright, honest and earnest than many of their holier-than-thou opponents. We wish them well, and do spy just one ray of hope:

The State of North Carolina's appeal to the Supreme Court is a weak thing legally; only a lawyer on salary, and able to keep a straight face, would make the state's legal argument. The purpose only is delay. If the high court refuses to hear the case and thereby confirms the judgment of the federal court system before the U.S. Senate acts, the Senate itself might be jolted by the implications of the decision made by the House. The chance is small but not completely hopeless.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Helms). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from North Carolina is recognized.

Mr. MORGAN. Mr. President, we in the Senate are today going to decide the fate of the upper New River Valley in northwestern North Carolina. The choice before us is basically a simple one: we can destroy the homes and lives of 3,000 North Carolinians or we can preserve intact an unspoiled free flowing river which has provided a home to generations of Americans from the Revolutionary War to the present date.

The question before the Senate is whether it will approve a bill (S. 158) which would first, designate the New River as a part of the National Wild and Scenic Rivers System or acknowledge such a designation by the Secretary of the Interior and, second, prohibit the damming of any part of the New River included in the designation as a proponent of the scenic river system.

My support for S. 158 is today unequivocal. This has not always been the case. As attorney general of North Carolina I did in fact oppose the construction of the proposed New River hydroelectric power project by the Appalachian Power Co. I took the legal position that the dam was not wanted by the State of North Carolina. The State to this date continues to be opposed to the project and my successor as attorney general presently has a case on the project in the U.S. Supreme Court.

However, when Senate bill 158 came before the Senate Interior Committee this past spring for consideration, I discovered that there was a part of North Carolina's State management plan which bothered me. A State management plan is required under the Wild and Scenic Rivers Act (28 U.S.C. 1261 et seq.) This plan sets forth in detail the measures which will be taken by the administering authority, in the case of the New River, the State of North Carolina, in insuring the designated river maintains its scenic status.

Therefore, in accordance with the National Wild and Scenic Rivers Act the State of North Carolina submitted to the Department of Interior a State management plan for the New River. My concern with the plan was that it provided for the use of floodway zoning as a first or primary method for land control along the New River.

Mr. President, floodway zoning is allowed under the National Flood Insurance program which was established by Congress in the National Flood Insurance Act of 1968 and expanded in the Flood Insurance Protection Act of 1973. Without question this is a good program. But also without question the program is intended solely for the protection of life and property and not for protection of the scenic beauty of a river.

My concern with the use of floodway regulations in this instance was that such use constituted a taking or diminution of property rights without compensation. This I considered to be, at the least, a perversion of floodway regulations and quite probably unconstitutional. Certainly if this scenic river designation was desired by the State it should use established forms of property acquisition such as scenic easement to obtain the required property control.

After extensive discussion between my office and the State of North Carolina I received assurance in the form of a letter from Dr. Ernest A. Carl, Director Office of Marine Affairs, North Carolina Department of Administration, that the State would not rely on floodway regulations concerning control of land along the river. Due to the personal or written assurances which I, and my offices have received, I am relying on the good faith of the State that it will not use floodway zoning as a form of land control along the New River. Also due to this assurance S. 158 now has my complete and unequivocal support.

In order to acquaint all of the Members of this body with my position I ask unanimous consent to have printed in the Record a portion of the statement, together with the attachments referred to therein, that I made before the Committee on Interior and Insular Affairs on May 20, 1976.

There being no objection, the portion of the statement was ordered to be printed in the Record, as follows:

Portion of the Statement of Senator Robert Morgan before the Committee on Interior and Insular Affairs

Mr. Chairman, it is indeed a privilege for me to have the opportunity to present my views to your Committee on this very important matter concerning the designation of the New River as a component of the National Wild and Scenic Rivers System. There are few issues directly affecting North Carolina which have consistently drawn as much attention in the past few months as this one.

The question before this Committee is whether to approve a bill which would (1) designate the New as a part of the national wild and scenic river system or acknowledge such a designation by the Secretary of the Interior and (2) prohibit the damming of any part of the New River included in the designation as a component of the scenic river system.

As Attorney General of North Carolina I opposed the construction of the proposed Blue Ridge Hydroelectric Power Project by the Appalachian Power Company. I took the legal position that the dam was not wanted by the state of North Carolina. The State had, early in the discussion of the dam, sought a compromise favoring the project, but total agreement was never reached. The state continues to be opposed to the project and my successor as Attorney General presently has a case on the project in the United States Supreme Court.

The people from the mountains of North Carolina, including Ashe and Alleghany Counties, are extremely hard working, diligent, and independent thinking Americans. I am confident that if they had their way, not only would the dam not be built but also the New River would not be designated as a part of the national wild and scenic river system. Basically, those folks simply want to be left alone with the least government intervention possible in their lives. This trait and these fine people I greatly admire and respect. I regret that this approach is not accepted by more of my colleagues in the Congress.

My particular interest with the designation of the New as a scenic river, and therefore my appearance before you today, concerns a small group of individuals who have been neglected in all of the proceedings concerning this designation. These are the people who own land along the 26½ mile stretch of the New river which is to be included as a component of the national wild and scenic river system. In my opinion these individuals have been neglected by the Congress. In fact, the foundation for such neglect was laid by the North Carolina Department of Natural and Economic Resources of the U.S. Department of Interior by their placing impediments on the full use and enjoyment of the land affected without provisions for adequate compensation. .

Under the Wild and Scenic Rivers Act, 28 USC 1271 et. seq., a river may be made a part of the wild and scenic river system in one of two ways. This may be accomplished by an act of Congress or, under section 1273 (a) (ii) by designation "pursuant to an Act of the legislature of the state or states through which they flow, that are to be permanently administered as wild, scenic or recreational rivers by an agency or political subdivision of the state or states concerned without expense to the United States, that are found by the Secretary of Interior, upon application of the governor of the state or the governors of the states concerned . . . to meet the criteria . . . and that are approved by him for inclusion in the system . . ." This last method is the one which has been followed to include the New river as a scenic river under the Act.

As part of this 2(a) (ii) designation the state must submit a plan for management of the river proposed as a component of the system. General guidelines in the Act for management plans in Section 1281 (a) read as follows:

"Each component of the national wild and scenic river system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration, primary emphasis shall be given to protecting its aesthetic, scenic, historic, archeologic, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and the development based on the specific attributes of the area."

Therefore, the burden is upon the state to insure the continuation of the particular trait or traits which caused the river's inclusion in the system.

The Department of Interior in February 1970 published its "Guidelines for evaluating wild, scenic and recreational river areas proposed for inclusion in the national wild and scenic river system under Section 2, Public Law 90-542." The twelve page pamphlet containing these Guidelines has a section specifically dealing with scenic river designations. Basically the scenic river is one which must be "free of impairments", "accessible in places by road", and have "shore lines or watersheds still largely primitive and shore lines largely undeveloped."

This last requirement means, according to the Guidelines, that "raw crops would be considered as meeting the test of 'largely primitive', as would timber harvest and other resource use, providing such activities were accomplished without a substantially adverse effect on the natural-like appearance in its immediate environment." In other words the Department's Guidelines also recognize the requirement that the status quo of the river must be maintained in order for it to qualify as a scenic river, and this maintenance can even go so far as restricting the harvesting of timber by property owners along the river.

In hearings before the House Interior Subcommittee on National Parks and Recreation in March of 1973, the Interior Department answered questions concerning the wild and scenic river system. One of the questions found on page 210 of the Hearing Record dealt with the type of constraints placed on property owners in the vicinity of a wild and scenic river system. The Department spokesman answered:

"There are constraints of scenic easements, access to the river (right of way), and the right for the public to divert the length of river along the bank and fish from the bank. All of these constraints are negotiated, where possible, but they can be acquired without the owners' consent, since the Act stipulates condemnation to require interest in land." Therefore it is obvious that landowners along a river designated as a part of the wild and scenic river system substantially lose the complete use and enjoyment of their land. Furthermore the Department indicates that scenic easements are the primary constraints envisioned and, by implication, are the primary method of protecting scenic rivers.

In 1971 the North Carolina General Assembly adopted the North Carolina Natural and Scenic Rivers Act. It provided for instituting a "North Carolina Natural and Scenic River System." In 1973 a part of the New River was included in that system and in 1975 the General Assembly included a larger segment of the river in the system. To date the New river is the only river in the State to be included in the State's system. Although the Act of the General Assembly provided for land acquisition by the State, to date no land has been acquired either through fee or scenic easements for protection of the New as a part of the North Carolina system.

In accordance with the National Wild and Scenic Rivers Act, the State of North Carolina submitted to the Department of Interior a State Management Plan for the New river. As required by the Act and the Guidelines, the management plan set for the State's proposals for land control measures to assure the continuation of the scenic beauty of the New river.

In two sections of the State's management plan it indicated its intention to rely on floodway zoning as the first or primary method for land control along the New river. On page 28 of the plan in the section entitled "Land Control Measures," under the subsection on "zoning" the plan provides that:

"One technique for the indirect control is zoning and land use ordinances. In North Carolina, the most immediate effective means for such control, and the most readily available, is implementation of the state's floodway regulation statutes. This law specifies means for regulation for artificial obstructions in floodways, indicates permissible uses in floodways and states that no damageable portion of a structure located outside the floodway will be below the elevation that will be obtained by the 100-year flood if the stream were contained with the floodway. This effectively limits the uses allowed within the 100-year flood plain and when combined with permit procedures for allowing specific uses within these boundaries, provides a very useful means of regulation. Ashe County is now in the process of implementing such legislation. . . . Local registrations on uses of flood plains will be examined first to determine the degree of protection that they confer on the river segment under consideration. Other protective strategies will be employed after the potential usefulness of flood plain restrictions is ascertained."

Furthermore, on page 32 of the State's Management Plan under the section entitled "Administrative Implementation," the subsection entitled "Application of Land Control Measures to Management Plan" provides:

"The characteristics of the land forming the river basin have been classified as flood plain, valley walls and bluffs, outcrops or ridge tops. Each of these land forms will support certain activities or facilities, and therefore, different combinations of land control methods will be needed in order to afford optimum or maximum protection for the land, the activity and the natural experience. In the flood plains along the river . . . major methods will be utilized to accomplish the control objectives. First control will be sought by use of floodway regulations as authorized in the General Statutes. Such regulation limits development in the flood plain and prohibits development in the designated floodway. Development allowed within the flood plain area must be limited to the specific types listed in local ordinances that implement the Act. The second method of management to be used in the flood plain is conservation easement . . ."

It is obvious that the State, as outlined in its management plan, fully intended to use floodway regulations as a means for land control along the New river. Of course, such regulations are through zoning ordinances by the counties involved or by the State and are non-compensible to the landowners.

Floodway regulations are allowed by both the United States Congress and the North Carolina General Assembly. They are a part of the National Flood Insurance Program which was established by Congress in the National Flood Insurance Act of 1968 and expanded in the Flood Disaster Protection Act of 1973. Basically, these acts are designed to provide flood insurance at rates made affordable through a federal subidy. In order to secure these rates, communities must adopt and administer local measures (floodway regulations) which protect lives and new construction from future flooding. The minimum flood plain management standards allowed by the federal government require (1) building permits for all new construction and substantial improvements and (2) a review of the permit to assure that sites are reasonably free from flooding.

Additional regulations are required which must stipulate that all new construction in identified areas of special flood hazard be elevated or flood-proofed. Flood plain regulations do not apply retroactively once adopted by a community and only affect existing structures when a substantial improvement is made in a structure.

What all this means is that once a community has adopted flood plain regulations the status quo in the area so designated will generally be maintained. That is to say that the use of the land is restricted, but for the specific purpose of protecting the lives and property of those individuals along the floodway.

As required under the federal legislation, the State of North Carolina adopted Floodway Regulations in 1973 (N.C.G.S. 143-215.51 et seq.). In the preamble to the State's Floodway Regulations, it states:

> The purpose of designating these areas as a floodway is to help control and minimize the extent of floods by preventing obstructions which inhibit water flow and increase flood height and damage, and thereby to prevent and minimize loss of life, injuries, property damage and other losses (both public and private) in flood hazard areas and to promote the public health, safety and welfare of citizens from North Carolina in flood hazard areas.

It is perfectly clear that the intent, not only of the U.S. Congress, but also the North Carolina General Assembly, is that floodway regulations have been adopted solely for the protection of life and property and not for the protection of the scenic beauty of a river.

Once a community has adopted floodway regulations, landowners whose lands are affected by the regulations are restricted in the use of their property. According to N.C.G.S. 143-215.54(b):

"The following uses may be made of floodways as a matter of right without a permit issued under this part:

(1) General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agriculture, wildlife and related uses.

(2) Loading areas, parking areas, rotary airlift ports, and other similar industrial-commercial uses.

(3) Lawns, gardens, parking, play areas, and other similar uses.

(4) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, swimming pools, hiking or horseback-riding trails, open space and others similar private and public recreational uses.

(5) Streets, bridges, overhead utility lines, railway lines and rights-of-way, creek and storm drainage facilities, sewerage or waste treatment plant outlets, water supply intake structures, and other similar public, private or utility uses.

(6) Temporary facilities (for a specified number of days), such as displays, circuses, carnivals, or similar transient amusement enterprises.

(7) Boat docks, ramps, piers, or similar structures.

(8) Dams."

All other uses of land located within the floodway require the securing of a permit from the governing body responsible for insuring compliance with the flooding regulations. In other words, if your land is within the area covered by the floodway regulations and you decide to build an addition to your house or build a new barn or cut timber from a forest, you must get prior permission.

It is easy to see that under both floodway regulations and scenic easements for scenic rivers these are some striking similarities in losses which landowners suffer. It is this similarity which undoubtedly intrigued the State to the extent that it decided to use floodway regulations for land control along the New river.

The National Flood Insurance Program is a good program and coupled with North Carolina's Floodway Regulations, it provides needed assistance to land owners in a flood plain. I favor the proper use of floodway zoning. It helps to protect our communities and in addition it provides subsidized insurance rates for land owners in those flood plain areas. I was pleased the Congress adopted the program in 1968 and expanded it in 1973.

My concern is not with floodway zoning or, for that matter, zoning of any type. The constitutionality of floodway zoning specifically and zoning in general has been upheld on numerous occasions. My concern in this particular instance is the use which the State is making of floodway regulations. Regulations (zoning) allowed under the flood insurance program were never intended for protection of scenic beauty along a river. The sole intent of both the federal and state legislation allowing floodway regulations was the protection of life and property—no more and no less.

I have been told that zoning is mentioned and sanctioned by the National Wild and Scenic Rivers Act. Zoning is mentioned in that Act in one section, section 1277(c). That section deals solely with federally administered plan where valid zoning ordinances are in effect in any incorporated city, village, or borough which conform to the purposes of the Act, i.e., river protection for wild, scenic or recreational purposes. The section does not allow floodway zoning for the protection of life and property but only zoning conforming with the overall purposes of the Wild and Scenic Rivers Act.

The North Carolina Natural and Scenic Rivers Act does not mention zoning in any way as a means of controlling land along a scenic river corridor. Rather in N.C.G.S. 113A–38(a) the General Assembly provided that the State may acquire "lands in fee title or a lesser interest in land, preferably 'scenic easements'." Furthermore, in Subsection (b) of the same section, the General Assembly specifically gave the State the right to exercise eminent domain in acquiring real property or an interest in property as set forth in G.S. 1132–38. By allowing condemnation the General Assembly recognized the fact that the only proper way to secure land control, other than by gift or cooperative agreement, is through fee simple purchase or scenic easement.

Although floodway zoning is not mentioned as a permissible tool for land control in the corridor of a scenic river in either the Act or the Guidelines established by the Department of Interior, the Department not only approved the State's management plan calling for the use of such regulations, but in fact encouraged that use.

In a letter from the Acting Secretary of the Interior, Kent Frizzell, of September 9, 1975, the Department inquired as to the current status of the activity by Ashe and Allegheny Counties in implementing floodway regulations. In responding to that request, the Secretary of the North Carolina Department of Natural and Economic Resources, James E. Harrington, on October 6, 1975, answered Secretary Frizzell stating that it was his opinion that "the Commissioners of Ashe and Alleghany Counties had every intention of controlling uses of the flood plain along the segment of the South Fork of the New River in question."

The Secretary went on to state:

"I wish to note that, if for any reason, either or both of the counties involved fail to act to adopt floodway regulations for the purpose of protecting the river, the state floodway regulation statute empowers the Environmental Management Council (of our Department of Natural and Economic Resources) to delineate a floodway and regulate uses therein when 'the reach of a stream in which a floodway is determined by the Environmental Council to be needed exceeds the jurisdiction of a single local government.' I have appraised the Commission, on an informal basis, of the need for floodway regulations in Ashe and Alleghany Counties pursuant to the State's efforts to preserve and protect the South Fork of the New River. I am prepared to request the Commission to act in the event of failure of the involved counties to act, and I am confident the Commission will respond."

The Secretary is acknowledging here in the clearest sort of language that floodway regulations are being used to protect the river rather than for their intended purpose of protecting life and property.

The Secretary in this letter is also making the point that the State has the power under N.C.G.S. 143–215.56(d) to establish floodway regulations if individual counties fail to do so. Therefore, if either of the two counties involved choose not to implement floodway regulations, the State has the power to do so without the counties' approval. In fact, while Ashe County has taken steps leading to final establishment of floodway regulations in that county, Alleghany County chose to ignore the deadline for submitting the proper request to the Department of Housing and Urban Development and in Alleghany County at this time there are no floodway regulations.

It is interesting to note, however, that on September 18, 1975, nine days after receipt of Secretary Frizzell's letter, the Board of County Commissioners of Alleghany County issued a statement of intention to comply with the North Carolina Floodway Regulations. This compliance obviously came about in order to conform with the State's management plan concerning the use of floodway regulations. In fact the county has no real choice in that if it fails to act Secretary Harrington acknowledged the intention of the State to establish the floodway regulations itself, even though the regulations would be implemented "for the purpose of protecting the river" rather than for their constitutionally intended purpose of protection of life and property.

In the entire national system of scenic rivers, there are only three which are administered by States with one other application pending for State control. Of the three presently designated scenic rivers one employed no zoning at all and a second employed no flood-plain zoning at all. In the third case, the Little Miami River in Ohio, floodway zoning was used to a limited extent. However, this zoning was done by the local governments involved and in conjunction with other zoning, all of which worked in conjunction with purchases of scenic easements and land in fee simple to assure river protection. Floodway regulations were established without coercion by the Ohio State government and as a part of regular zoning. The regulations were never used for any but their intended purpose and therefore were not a perversion of zoning. A fourth river which has applied for designation as a State managed plan does not intend to use floodway regulations whatsoever.

Therefore, the State management plan submitted by North Carolina for maintenance of the New River is in fact breaking new ground in the area of floodway regulations. No other State-managed scenic river relies on floodway regulations as North Carolina proposes to do in its plan. In addition, there is no floodway zoning relied upon by the Federal Government in any of the wild and scenic rivers which it manages throughout the country.

In the 93rd Congress, Senate Bill 2439 passed the Senate but failed in the House. This bill dealt with the New River and, while it was somewhat different in substance than the present legislation under consideration, the overall effect was the same. During the hearings in this Committee on that bill and during a very lengthy Senate floor debate, no mention was ever made of the property owners along the river. The fact that through the use of floodway regulations the property owners were going to be deprived of their property without payment and the fact that the use of floodway regulations for such a purpose is obviously a perversion of permissible zoning was never once mentioned.

Mr. Norman Smith, a Greensboro attorney representing the State of North Carolina in its legal action against the Federal Power Commission wherein it is trying to have the license granted by the FPC declared invalid, agrees with my position concerning the rights of the landowners. In fact, it was Mr. Smith who coined the phrase "perversion of zoning" which I find expresses my conception of what the State is doing very well.

In an effort to make my position clear, I issued a statement on April 30, 1976 explaining how I felt about these issues. I would like at this point to have that inserted in the record of the hearings.

(See Attachment 1.)

This statement points to the fact that my staff was trying to secure proper assurances from the State that while the State management plan indicates a reliance on floodway regulations when it came time to implement the plan the State would not in fact place such reliance on the regulations. I would like to insert a copy of my letter to the State at this point (see attachment 2).

Mr. Chairman, I believe the use of floodway regulations in controlling land along a scenic river is at the very least unethical and quite probably unconstitutional as a denial of due process: If the State of North Carolina wants the New river to be in the national wild and scenic river system, then the State should be willing to pay for such a designation. It should not use floodway regulations for a purpose (protection of the scenic beauty of the river) other than the purpose (protection of life and property) for which they were intended and constitutionally are allowed. I could not sit idly by and watch such a perversion of zoning, knowing it would take many years and thousands of dollars in legal fees for some affected land owner to prove the illegality of the State's action.

It has never been my intention to impede the action on this or any other legislation affecting the New river. However, I have consistently felt that I must have proper assurance, either by an amendment to the bill pending in your Committee or a statement from the State, that floodway regulations would not be relied upon as a means of controlling land along the New river once it is designated a scenic river. I believe the correspondence I inserted in the Record between my office and Dr. Ernest A. Carl, Director, Office of Marine Affairs, North Carolina Department of Administration provides such an assurance.

In the letter from Henry Poole, my Legislative Counsel, to Dr. Carl, Mr. Poole stated, "If Senator Morgan could be assured . . . that the State will not use zoning as a substitute for other forms of acquisition . . . then the objection which the Senator has . . . will have been removed."

In his response Dr. Carl stated, ". . . Senator Morgan can be fully assured that: (1) the State will not, through any pressure or action, attempt to cause flood plain zoning to be applied any differently in the area of the scenic river than such zoning would be applied anywhere else in the State . . . (2) the State will not use flood plain zoning in any way which would lessen its liability in acquiring (property) rights . . . (3) the right to public access . . . will be by gift or compensation."

I regret that this concern on my part, which has consistently been interpreted as a deliberate stalling tactic, has ever been necessary. I regret that the Department of Interior not only sanctioned but also encouraged the unconstitutional use of floodway regulation and I sincerely hope in the future that they will not do so. I regret that the State of North Carolina felt it could deprive an individual of the use and enjoyment of his property without compensating him for it. I now feel, however, that through my actions the landowners along that part of the New river to be designated a part of the national wild and scenic rivers system will be treated fairly and will be paid for any loss of their property due to such a scenic river designation.

The people of Ashe and Alleghany Counties have a long history of independence and a deep love of their hills and mountains. They never asked for the damming of the New River and they do not want the river designated as a scenic river, except as that now appears to be the only alternative to the building of the dam. No better people can be found in any corner of this country. These people are indeed the very backbone of our democracy and a living example of what makes this country great. Their only wish is to be left alone, but since that is no longer a viable alternative, I am convinced that my actions will at least ensure that the landowners along the New will be treated equitably and fairly.

I do not believe that we in the Congress can not only sanction but also be a part of any governmental entity violating an individual's constitutionally guaranteed rights. The use of floodway regulations for land use control along a scenic river corridor is wrong and in my opinion, illegal. The issue is that simple.

That is why I am indeed pleased that the State has agreed with me and acknowledged that it will not rely on floodway regulations concerning the control of land along the New River. Due to the personal and written assurances which I and my office have received, I am relying on the good faith of the State that it will not use floodway zoning as a form of land control along the New River and therefore now support the bill pending before your committee. I trust that it will receive a fair hearing and early passage.

ATTACHMENT 1

STATEMENT OF SENATOR ROBERT MORGAN ON THE NEW RIVER, APRIL 30, 1976

I have been opposed to the building of the dam on the New River for a number of years. As Attorney General of North Carolina I actively sought to protect the State from the unwelcome consequences which damming the New would bring.

I have, however, also been a consistent proponent of protecting the rights and liberties of each and every one of our citizens. This protection is one of the very foundations of our democracy and cannot be overlooked in any instance—even the desire to prohibit the dam on the New River. This is the reason I have been concerned that the rights of the property owners along the river not be overlooked in the rush to save this valuable natural resource.

However, I do believe that the individuals owning land along the New River can be protected and at the same time have Senate Bill 158 passed, which would prohibit the building of the dam.

In discussions of my position on the rights of property owners along the segment of the New River to be designated as a part of the national wild and scenic river system, the State and some individuals have stated that neither the Constitution of the United States nor the Constitution of North Carolina would allow that a citizen be deprived of the full use of his property without just compensation.

I agree with that position. In fact this point is made perfectly clear in both the Fifth and Fourteenth amendments to the United States Constitution. What is proposed here, however, is to avoid a full taking of the property by substantially restricting the property owners' use of their land through flood plain zoning and thus avoid compensating the owners.

The management plan for the New River submitted by the State in June 1975 specifically indicates in two different sections on pages 28 and 32 that it is the intent of the State to rely on floodway zoning as the first or primary method for controlling property along the banks of that part of the New River designated a scenic river. Under this zoning, which would be carried out by Ashe and Alleghany counties, the land owners would not be compensated for the restrictions placed on the use of their property. The State in its management plan indicated that it would use other protective strategies only "after the potential use of the flood plain restrictions is ascertained."

The reliance by the State on floodway regulations certainly constitutes a possible perversion of zoning, as has been pointed out by Norman Smith who is representing the State in its legal battle with the Federal Power Commission. Floodway legislation was passed by the United States Congress and the North Carolina General Assembly for the purpose of protecting life and property in a flood plain. This legislation was never intended to be used by the State as a means of acquiring rights in property along a river declared to be part of the wild and scenic river system.

Furthermore, it should be pointed out that the zoning of the lands along the New River under flood plain regulations is not the way to assure the preservation and protection of the river. Such zoning cannot completely restrict development or incompatible uses; and, the zoning would be subject to change by subsequently elected officials. Zoning, therefore, will not provide a guarantee to future generations that the New will remain a scenic river. The only way in which to guarantee such preservation is through the acquisition of property rights in these lands either by fee simple purchase, cooperative agreement, scenic easement or gift.

My staff is now attempting to get an assurance from the State that, in the new management plan required under Senate Bill 158, any reliance on floodway regulations will not be used as a substitute for other forms of acquisition such as fee simple purchase, gift, cooperative agreement or scenic easement. I am hopeful, and fully expect, that the State will make such an assurance, in which case I intend to fully support Senate Bill 158.

The position I have taken concerning the New River legislation is certainly not a politically popular one. Rather than the political expediency of unequivocally favoring the designation of the New River as a scenic river, I felt it was far preferable to insure that the rights of the property owners along the river were not being trampled upon. During the hearings on the bill which Senator Ervin introduced in the 93rd Congress on this matter, the interests of the property owners were never mentioned. Furthermore, when he so eloquently argued in favor of his bill on the Senate floor, a lengthy debate covering twenty-two pages in the CONGRESSIONAL RECORD, again no mention was made by Senator Ervin of the property owners.

My position has been declared to be unnecessary. To the contrary, my position is one which supports the individual rights of every citizen. A strong public desire to prevent the building of the dam is not enough to warrant achieving that desire by a shorter cut than the constitutional way of paying for the change—in this case, the paying of property rights by the State rather than the State relying on zoning by the counties.

My concern has consistently been the protection of the property owners. I have never sought to delay or impede the designation of the New as a scenic river. It has been stated that my appearance before the Senate Interior Committee was primarily for the purpose of delaying the New River legislation. However, the fact is that the morning I appeared before the Committee to present the issue of property owner compensation the meeting was attended by only 3 of the 14 members. It was this lack of a quorum which prevented the Committee from taking action on Senate Bill 158.

Subsequently the acting chairman, Senator Metcalf, decided to hold a day of hearings on Senate Bill 158. These hearings are to cover two primary areas: (1) what compensation, if any, will be due the Appalachian Power Company once the Congress revokes the FPC license and (2) a general review of the June 1975 State management plan which has not previously been presented to the Committee. I understand the Committee also intends to hear testimony concerning compensation for landowners unless assurances from the State no longer make this necessary.

Lastly, let me reiterate my profound disappointment in the widespread misinformation and misunderstanding which has surrounded my position. Unfortunately this is the penalty a politician must pay when he feels it necessary to take an unpopular position, particularly where emotions run so high on the other side of the issue. The goal of stopping the building of the dam is an altogether worthy one, but I simply cannot expeditiously dismiss the constitutional rights of the property owners affected.

I am most hopeful that the Congress will designate the New River as part of the national wild and scenic river system and that its natural beauty will be assured for generations to come.

U.S. SENATE,
Washington, D.C., April 28, 1976.

DR. ERNIE CARL,
Director, Office of Marine Affairs, Department of Administration, 116 West Jones Street, Raleigh, N.C.

DEAR DR. CARL: I am writing to confirm our conversation of April 23, 1976 concerning the State's proposed management plan for the New River.

Under the provisions of the pending Senate Bill 158 presented by Senator Helms to the Senate Interior Committee, a management plan is required to be submitted by the State to the Secretary of the Interior incident to the designation of the New River as part of the national wild and scenic river system. I understand that it is the intention of the State not to resubmit the management plan of June 1975 used for the Section 2(a)ii designation, but rather to write a new plan.

In the new plan which the State will submit it is my understanding that the plan will not rely on zoning as a method of acquiring property rights of the land owners whose land is located within the boundaries of the New River segment to be designated under S. 158 as a component of the national wild and scenic river system.

As I have pointed out to you, the State's present management plan of June 1975 (specifically on pages 28 and 32) states that "floodway regulation statutes" and "floodway regulations" would be used as the first or primary protection and control method along the New River.

This floodway zoning which would be made by Ashe and Allegheny Counties but relied on by the State as the first or primary method of protection and control, would, of course, be accomplished without compensation to the affected property owners whose property rights would be restricted. This is certainly a perversion of the intent and integrity of the legislation establishing floodway zoning.

The use of floodway zoning amounts to a taking of rights in the property, which taking by zoning has been declared constitutional on a number of occasions. As you know, Mr. Norman Smith, the Greensboro Attorney who is representing the State in its legal actions against the Appalachian Power Company, has stated publicly that he agrees wholeheartedly with Senator Morgan's position concerning the rights for property owners along the New River.

If Senator Morgan could be assured that the new plan to be submitted to the Secretary of the Interior in accordance with Senate Bill 158 will provide that the State will not use zoning as a substitute for other forms of acquisition, but rather that all property rights would be acquired by the State by acquisition in fee simple, by easement, by cooperative agreement, or by gift, then the objection which the Senator has to the passage of the bill in its present form as submitted by Senator Helms will have been removed.

The State has claimed that (1) it never intended to use zoning as a method of acquisition and (2) under the Constitution of the United States and the State of North Carolina, a property owner could not be deprived of his property without just compensation. I believe the first point will be clarified and corrected by the States' rewriting of its management plan clarifying the zoning issue.

As for the second point, the Senator is fully aware that the taking of someone's *full* rights in their property, without compensation, is indeed unconstitutional. However, in this instance the zoning of the land under floodway regulations would constitute a non-compensable taking of property rights, with the State relying heavily on such taking as outlined in the State management plan of June 1975. This is indeed allowed under both Constitutions but certainly is not a just and fair way for the State to conduct its affairs. Floodway regulations were enacted at the federal and state level for the purpose of protecting floodways, not for the purpose of property control once a river is declared to be part of the national wild and scenic river system.

I hope you will be able to provide the assurance which the Senator needs. He has been, and continues to be, opposed to the building of the dam on the New River but cannot sit idly by and let the State take advantage of the affected property owners.

Very truly yours,

Henry E. Poole,
Legislative Counsel.

Mr. MORGAN. I might add, parenthetically, Mr. President, that those records indicate that it was the clear intent of the State of North Carolina to use floodway zoning as evidenced by a letter of the Department of Natural Economic Resources to the effect that if the counties refused to zone it that the State would exercise its prerogative and do so. So there is no question but what that was the intent.

But today, Mr. President, my purpose is to persuade my fellow Senators that the bill now merits their approval and I think with the assurances of the State of North Carolina that it does merit the approval of the Members of the Senate.

My purpose today is a persuade my fellow Senators that this bill merits their approval.

The New River and the New River Valley are unique in this country. By building the Blue Ridge hydroelectric project we would be destroying this unique valley and its history. In discussing the history of the New River we can go back to the beginnings of recorded time. Geologists believe that the New is probably the oldest river in the Nation and the second oldest in the world. Recent surveys carried out by the State of North Carolina have shown that lands along the river contain stratified archaeological deposits which should provide exciting new chronological records of both the settlements and migrations of prehistoric man on our continent.

As far as we now know the history of modern man in the upper New River Valley begins in the 1700's. One of America's most famous pathfinders Daniel Boone, hunted bear in the valley's forests. Peter Jefferson, the father of Thomas Jefferson, surveyed the valley in the 1700's, discovered a river which had not yet been mapped, and called it the New River.

Settlement of the valley began in the 1750's, and increased considerably after the Revolutionary War, when much of the land along the New River was given by the Congress to veterans of the Revolutionary War. The early patriot settlers of the New River Valley were not rich men; they built simple homes on the land which had been given them; they farmed it carefully to produce a living for themselves and their children and as they prospered, they often made modest additions to their original log homes: planking would be added to cover the logs; new rooms and porches provided more space. These structures still stand and are inhabited for the most part by the descendants of the men and women who built them. There are no Mount Vernons or Monticellos in the New River Valley. What there are are homes which have been cared for and lived in since the birth of our Nation.

The New River is still clean and flows free; the land is still intact and fertile. The buildings and roads do not push nature aside, but are only as large as is necessary for shelter and movement. However, the valley has not stood still. We are not talking about a people or an area left behind by time. There are certainly factories, businesses and new roads, but all these things blend with nature and do not destroy it. The people of the New River Valley have shown more reverence and respect for their land than many other Americans have shown for other parts of our country.

Mr. President, we can vote today for H.R. 13372, thus saving the New River and reaffirming the spirit of the American Revolution in this great Bicentennial Year which we now celebrate or we can let the river perish. To this end I am reminded of a quote from Thomas Jefferson. He once said:

> The care of human life and happiness and not their destruction, is the first and only legitimate object of good government.

I urge all my colleagues to join me in casting a vote for H.R. 13372 and for the future of the New River.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, it is not often that I disagree with the distinguished Senators from Virginia, Mr. Harry F. Byrd, Jr., and Mr. William L. Scott, but I do disagree with their position with respect to preserving the New River.

Mr. President, John F. Kennedy once remaked:

> Poetry reminds man of his limitation . . . of the richness and diversity of his existence.

As we consider legislation which would protect and preserve the New River in its current natural life,We might paraphrase the late President to say, "Uature reminds man of his limitation . . . of the richness and diversity of his existence," transposing nature for poetry.

The New River is, unquestionably, one of the wondrous works of nature. Because of the New River's uniqueness because of its historical significance and its environmental and geological value, I am supporting legislation introduced by the distinguished Senator from North Carolina (Mr. Helms) and the distinguished Senator from North Carolina (Mr. Morgan) to give statutory protection to the New River.

H.R. 13372, as amended, would designate a component of the National Wild and Scenic Rivers System a 26.5-mile stretch of the New River which the State of North Carolina placed in its State natural and scenic rivers system. The measure also specifically invalidates the Federal Power Commission license to construct the Blue Ridge power project, a hydroelectric facility which would consist of two impoundments in Virginia and two reservoirs.

The Committee on Interior and Insular Affairs, in favorably reporting an identical bill, S. 158, concludes:

> The number of such rivers is dwindling and the opportunities to preserve them are few and far between.

I agree 100 percent with the committee's statement and I believe the Senate should approve H.R. 13372.

Mr. President, I made my decision to support H.R. 13372 after considerable thought and reflection and with full awareness of the need to reach a reasonable balance between meeting our Nation's energy needs and protecting the environment. The road that leads to this reasonable balance is difficult to traverse and often demands difficult decisions, such as the decision before us today.

Practically all of America's rivers have been changed; they have been dammed for flood control, navigation, hydroelectric power, water supply, and irrigation. These changes were necessary for the development and settlement of our great country. We still depend on our water resources and will continue to do so in the future, despite the application, in all areas of endeavors, of incredible technical advances.

However, the New River is special. It is one of the oldest rivers in the entire world and the designated segment is one of a very few rivers in the Eastern United States which remains basically in its natural state, relatively undisturbed by the works of man. Its preservation has been urged by citizens in every section of the country as well as the administration, the North Carolina congressional delegation, the Governor of North Carolina. Governor Holshauser was in the Senate Chamber earlier, as he is authorized to be under the Senate rules, because any sitting Governor does have privileges of the Senate floor. So it is quite evident that the people of North Carolina support this legislation. Also urging preservation of the New River are the North Carolina and West Virginia Legislatures, the commissioners of the affected North Carolina counties, the supervisors of the Virginia county in which the impoundments would be built, and the National Committee for the New River.

Construction of the Blue Ridge power project would mean the inundation of approximately 40,000 acres of farmland in Grayson County, Va., Ashe and Alleghany counties, North Carolina, and would displace, I am informed, 3,000 citizens. Many of these people are small farmers with less than 100 acres of land. Some 600 farms would be lost.

I therefore strongly suggest that efforts be directed toward developing an alternative generating facility—if in fact development of the energy source is crucial to the best interests of the Nation—or, at the very least, relocating the impoundments and reservoirs in an area where destruction of the natural values would be less damaging.

Many geologists believe the New River is the sole surviving remnant of the once mighty Teays River, which long ago drained the Eastern and Central United States and had as a mere tributary the now-mighty Mississippi River.

Since the canyon walls of the New River would be rendered inaccessible even by a lesser degree of inundation than that proposed by the Blue Ridge project, there is no way to measure the degree of importance of this kind of loss to the increasing knowledge we gain, or need to gain, in order to understand the evolution of the earth.

It is the overwhelming view of the people of North Carolina, as I understand it, particularly those who live in the affected region and are most intimately familiar with the New River, that it should be designated as a component of the Wild and Scenic Rivers System. I am in complete agreement.

As I understand it, if this is so designated, it would reverse, in effect, the decision of the Federal Power Commission; but not relying on that, it is my understanding that the bill itself does accomplish that purpose.

In this, our Bicentennial Year, it seems altogether appropriate to me, Mr. President, for Congress to act favorably on this measure in order to preserve one of our rarest gifts of nature, one of our most treasured resources—the New River.

I yield the floor, Mr. President.

Mr. HELMS. Mr. President, needless to say, I appreciate very much the comments of my able friend from Alabama.

The route to this vote this afternoon has been quite long and arduous. I introduced a bill similar to this one in 1973, and it was approved by the Senate in 1974; but, unfortunately, that measure died in the House for lack of action.

In the previous Congress, we had the distinguished Senator from North Carolina, Sam Ervin, who spoke eloquently in defense of the New River. We were able to achieve a satisfactory majority of Senators who supported the preservation of this river, which is believed to be the second oldest in the world, second only to the Nile.

So I do thank the Senator from Alabama for his comments. I trust that the vote this afternoon will put an end to this long, arduous journey that we have traveled and will save the New River.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISTRICT OF COLUMBIA APPROPRIATIONS 1977

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1101, H.R. 15193.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 15193) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

Mr. MANSFIELD. Mr. President, if we complete action on this bill between now and 2 o'clock, I ask unanimous consent that the rollcall vote following the debate occur immediately after the final vote on the New River bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I am pleased to have the opportunity to bring to the Senate the District of Columbia Appropriations Act for 1977.

As I reported to the Senate when we considered the fiscal year 1976 budget, there has been an inordinate delay in the submission of the 1976 and 1977 budgets. While the final fiscal year 1977 budget was not received until June 2, the subcommittee began its hearings on the fiscal year 1977 budget on April 7. I felt it was necessary to start the subcommittee's hearings on the budget before receiving the final budget to expedite the process and to help insure that the subcommittee meets the September 13 deadline for completion of the bill, as required by the Budget Reform Act of 1974.

The District of Columbia budget request for fiscal year 1977 is $1,128,075,600, of which $1,092,280,900 is for operating expenses and the remaining $35,794,700 is for capital improvements. The city's total request is $31,773,600 less than the amount approved by the Congress in the fiscal year 1976 Appropriations Act. The reason for the decrease is that the $35,794,700 requested for capital improvements in fiscal year 1977 is the lowest city request for capital improvements since 1959. The city's fiscal year 1977 request for operating expenses represents a $50,138,200 increase, or a 4.81 percent increase over the amount approved in the fiscal year 1976 Appropriations Act.

The subcommittee analyzed these requests in great detail. In addition to the regular hearings, the subcommittee held a special zero base review hearing on the city's health care delivery system.

I recommend a total fiscal year 1977 budget for the city of $1,119,983,300. This recommendation is $39,865,900 less than the fiscal year 1976 appropriation and is $1,123,500 more than the amount recommended by the House for fiscal year 1977.

While the recommendation is $1,123,500 more than the House, our recommendation for the Federal payment is $10,026,700 less than the House allowance. The reductions in the Federal payment are offset by various revenue-raising actions recommended by the committee requiring the District to raise more revenue through collecting delinquent taxes and billing individuals at the city's health care facilities. It should be noted that, while the House has reduced the Federal payment from the city-requested figure and I recommend a further reduction in the Federal payment, the net result is that the Federal payment will still be increased more than $11,000,000 over the level approved by the Congress in fiscal year 1976.

The financial plan for 1977 is balanced on a cash basis and there will be approximately $193,100 left in the city's treasury on September 30, 1977. The budget total, as recommended by the committee, is $32,921,700 less than the ceiling provided in the second concurrent resolution for the District of Columbia appropriations bill.

The bill provides funding for 140 new positions to help collect delinquent taxes and to establish a billing and collection system for the city's hospitals and clinics. The city estimates that delinquent taxes will total over $18,000,000 by the end of fiscal year 1977. This pool of money represents a source of funds to the city that will permit the city to raise needed revenue without further increases in the tax rates. I was alarmed to learn during hearings on the fiscal year 1977 budget that the number of delinquent tax cases that were prosecuted by the city dropped from 158, 2 years ago, to 3 last year, with a corresponding reduction in revenues of from $1,000,000 to $80,000. Providing the city with 49 additional positions for collecting delinquent taxes and 5 additional positions in the corporation counsel to prosecute delinquent tax cases will permit the city to raise $8,000,000 in fiscal year 1977 and $10,000,000 in each subsequent year and, thereby, provide a source of District funds permitting a reduction in the Federal payment required to finance city programs.

I chaired a special zero base review hearing on the city's health care delivery system. One fact that emerged from those hearings is that the city does not bill for services provided in the neighborhood health centers even to those individuals that have the ability to pay and the billing system at the three city operated hospitals is so chaotic that a great deal of potential revenue is lost to the city each year. This bill provides 86 new positions to implement and operate a billing system that will generate at least $3,000,000 in additional revenues each year. The billing system will still permit the indigent to receive free medical care but will require those with an ability to pay to do so and it will also, in a more systematic fashion, help the city to collect medicaid, medicare, and third-party insurance payments that they are entitled to. One additional financing change that is included in this bill is a reduction of $1,000,000 in the Federal payment and at the same time an increase of $1,000,000 in District funds which will require long overdue increases in numerous miscellaneous fees charged by the city.

Included in the bill is a budget action to require the city to increase the peak period bus fares in the District of Columbia by 10 cents. There has been no increase in the District's bus fare for the last 7 years. During this period of time Maryland and Virginia have both increased their bus fares and additional hearings are scheduled for the end of next month to consider additional fare increases in both Maryland and Virginia. Also during this period of time the operating deficit of the Metro system has increased from approximately $1,000,000 to over $50,000,000. The committee considered very carefully the socioeconomic arguments relating to a fare increase. The fare increase however, as recommended by the committee, is for peak periods only when the ridership is primarily made up of working people. The committee concluded therefore that the fare increase will not work an economic hardship on citizens of the District of Columbia and is long overdue and greatly needed as a fiscal measure.

I believe that the District must make every effort to collect the taxes and fees that are due to it and to periodically adjust its many fees for the effects of inflation. This bill is designed to encourage the District to do that.

Our major increase above the House allowance that is permitted in these totals is 188 positions and $2,738,600 for Forest Haven, the District of Columbia home for the mentally retarded. I am sure that the Members have heard reports of the beatings, sexual abuse, and generally primitive conditions that exist at this institution. The money provided in this bill will permit Forest Haven to meet all Federal standards and to remedy all significant deficiencies at the institution. The committee also recommends $1,500,000 to implement the financial management improvement program initiated by Senator EAGLETON which will improve the city's bookkeeping system to permit annual financial audits. The bill also provides funding for 50 positions to serve as caseworkers to help reduce the overpayment and ineligibility rates of the city's welfare programs which cost the city in excess of $8,000,000 of unnecessary expenditures and overpayments each year.

Total employment as provided for in this bill will be 39,317 which is 954 fewer positions than allowed in fiscal year 1976.

This bill takes a step toward restructuring the city's budget on a mission basis by putting all the transportation activities in one appropriation account. As the city's budget document was presented to us more than 50 percent of the dollar total associated with transportation activities were not in the transportation account. Restructuring the budget on a mission basis will make the budget request more understandable both to the Congress and to the public.

Title II of this bill will provide $36,450,000 for the Pennsylvania Avenue Development Corporation and is a one-time inclusion in the D.C. bill made at the request of Senator BYRD, chairman of the Interior Subcommittee on Appropriations. This item would have been included in the Interior bill except for the fact that the authorization for the Pennsylvania Avenue Development Corporation had not passed when the Interior bill was being considered. These funds will not count against District revenues.

Mr. President, this concludes my overall statement on the bill, and before I yield to the distinguished ranking minority member, I make the usual unanimous consent request that the committee amendments be agreed to en bloc, and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

The PRESIDING OFFICER (Mr. HASKELL). Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 1, in line 5, insert "and for the Pennsylvania Avenue Development Corporation".

On page 2, in line 4, strike out "$270,000,000" and insert "$259,973,000".

On page 2, in line 16, strike out "$100,000,000" and insert "$101,292,000".

On page 3, in line 7, strike out "$112,870,000" and insert "$84,550,800".

On page 3, in line 8, strike out "$4,561,600" and insert "$799,300".

On page 4, beginning in line 7, after "Mayor" insert a colon and the following: "*Provided further*, That not to exceed $15,000 of the appropriation for the period July 1, 1976, through September 30, 1976, shall remain available in fiscal year 1977 for expenses of the Advisory Neighborhood Commissions during fiscal year 1976".

On page 4, in line 17, strike out "$247,160,400" and insert "$246,258,800".

On page 5, in line 25, strike out "$267,955,800" and insert "$268,475,000".

On page 6, in line 18, strike out "$10,994,400" and insert "$13,733,000".

On page 6, in line 23, strike out "$25,810,900" and insert "$55,162,600".

On page 6, in line 24, strike out "$2,500,000" and insert "$6,262,300".

On page 7, in line 4, strike out "$69,078,000" and insert "$69,036,000".

On page 7, in line 24, strike out "$143,100" and insert "$166,600".

On page 9, in line 6, strike out "$35,794,700" and insert "$36,286,700".

On page 9, in line 7, strike out "$1,938,000" and insert "$1,554,600".

On page 10, in line 15, after "PROVISIONS" insert "—DISTRICT OF COLUMBIA".

On page 10, in line 17, strike out "1" and insert "102".

On page 10, in line 17, strike out "herein" and insert "in this title".

On page 10, in line 23, strike out "2" and insert "103".

On page 10, in line 23, strike out "Act" and insert "title".

On page 11, in line 4, strike out "3" and insert "104".

On page 11, in line 4, strike out "Act" and insert "title".

On page 11, in line 15, strike out "4" and insert "105".

On page 11, in line 15, strike out "Act" and insert "title".

On page 11, in line 19, strike out "5" and insert "106".

On page 11, in line 19, strike out "Act" and insert "title".

On page 12, strike out lines 3, 4, and 5.

On page 12, in line 6, strike out "7" and insert "107".

On page 12, in line 15, strike out "8" and insert "108".

On page 12, in line 15, strike out "Act" and insert "title".

On page 12, in line 21, strike out "9" and insert "109".

On page 12, in line 22, strike out "Act" and insert "title".

On page 12, in line 24, strike out "10" and insert "110".

On page 12, in line 25, strike out "Act" and insert "title".

On page 13, in line 18, strike out "11" and insert "111".

On page 13, in line 19, strike out "Act" and insert "title".

On page 13, strike out "12" and insert "112".

On page 13, in line 23, strike out "Act" and insert "title".

On page 14, in line 1, strike out "13" and insert "113".

On page 14, in line 1, strike out "Act" and insert "title".

On page 14, in line 7, strike out "35,250" and insert "35,145, exclusive of positions initially authorized or funded by this title".

On page 14, in line 14, strike out "14" and insert "114".

On page 14, in line 14, strike out "herein" and insert "in this title".

On page 14, in line 22, strike out "15" and insert "115".

On page 14, in line 22, strike out "Act" and insert "title".

On page 14, in line 25, strike out "16" and insert "116".

On page 15, in line 8, strike out "Act" and insert "title".

On page 15, beginning with line 10, insert:

TITLE II—PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

LAND ACQUISITION AND DEVELOPMENT

For Land Acquisition and Development, pursuant to the terms and conditions specified in section 6(10) of the Pennsylvania Avenue Development Corporation Act of 1972, as amended, the Pennsylvania Avenue Development Corporation is authorized to borrow from the Treasury of the United States the sum of $25,000,000, such sum to remain available until expended.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan approved under section 5 of the Pennsylvania Avenue Development Corporation Act of 1972, as amended, $11,450,000, to remain available through September 30, 1990.

This title may be cited as the "Pennsylvania Avenue Development Corporation Appropriation Act, 1977".

This Act may be cited as the "District of Columbia Appropriation Act, 1977 and the Pennsylvania Avenue Development Corporation Act, 1977".

Mr. CHILES. I yield to the distinguished minority member.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, I commend the distinguished chairman of the subcommittee (Mr. CHILES) for the very hard work he has done to produce a responsible appropriations bill working within some very difficult limitations.

The Nation's Capital, like cities throughout the country, faces serious financial pressure. In maintaining the financial health of the District it often requires some painful decisions by Congress as well as by the city's locally elected officials. The chairman has already presented the details of the bill so I would simply like to touch on some points of special importance.

I believe as a result of our hearings and our action on this bill, as well as in the legislative committees in the House and Senate, we have finally gotten the message across to the District of Columbia that they must move forward forthwith in dynamically improving the city's facility for the handicapped at Forest Haven. The money will be there; the personnel positions will be there; and we have had assurances from the District government that very best efforts will now be made to assure no less than a tremendous upgrading at this facility during the coming months. This committee, and I am sure many others in the Congress and outside the Congress, will be watching very closely to make certain that the prescribed improvements take place.

The committee bill supports the District of Columbia Police Department at their present operating level. In fact, the committee has recommended the full amount requested by the District of Columbia government. Although the House has provided more funds, the fact is that in the past few years the Police Department has not filled all of its existing approved positions and it is obvious that they would not be filling them even if we continued to approve additional funding.

It should be clear from reading the report that this committee does not recommend a cutback in police services; in fact, we have stated that this budget should not result in reductions in the police force beyond normal attrition, and the District government is to reprogram funds to insure that the present force will be maintained.

We have held the courts in the District of Columbia on a very tight fiscal rein. Perhaps too tight. In the fiscal year 1976 District of Columbia appropriations bill just passed in June, we managed to add additional clerk positions to the Court of Appeals. Unfortunately we have discovered that the courts have not had very much support from the District government for their budget requests and, in fact, what they consider to be their basic budget requirements have been cut back.

Funds in this bill represent a slight increase over the District budget request and it is hoped that the courts can operate efficiently and effectively within the amounts appropriated. We have taken special note of the financial constraints that have been imposed on the District of Columbia Court of Appeals and indicated that funds should be reprogramed to insure that the appellate court can meet essential obligations without cutting personnel. In the future, I hope that the city's budget requests will recognize that we cannot sustain reductions in the courts without serious repercussions on the entire criminal justice system. It may prove necessary to reconsider this matter in supplemental action.

Mr. President, the experience with the District of Columbia Board of Elections and Ethics is a matter of great concern to all of us who have worked to make self-government a reality in the Nation's Capital. Although the committee has recommended the city's full request for the Board of Elections, there is a clear need for additional resources to insure that the upcoming elections can be conducted without the difficulties that have plagued the city in the past. The committee has accordingly directed the city to take whatever steps are necessary to provide adequate resources—in terms of temporary personnel and management expertise as well as money—to allow the Board of Elections and Ethics to carry out its mission.

Finally, Mr. President, I am very pleased that the committee has recommended approval of $200,000 as the city's contribution to the Washington Area Convention and Visitors Bureau. The activities of this bureau actually result in making money for the District of Columbia in that they generate substantial revenues through sales and room taxes, far in excess of the city's contribution. while this bureau is primarily privately supported by local business, cities throughout the country contribute local tax dollars to support convention and tourist trade development. I believe it is money well spent, and that the District should be encouraged to devote locally raised revenues to activities that support the city's economic base.

UP AMENDMENT NO. 406

Mr. MATHIAS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an unprinted amendment numbered 406:

On page 6, line 24, strike "$55,162,000" and insert $57,562,600".

Mr. MATHIAS. Mr. President, I offer this amendment because I am concerned with the committee action in reducing by $2.4 million, which is the amount contemplated in the amendment, the funds appropriated for the city's contribution to Metro bus operations.

Fares have gone up in the suburbs, and in view of the financial pressures on the District of Columbia, a fare increase may be inevitable. Nevertheless, when the Washington metropolitan area is just recovering from another air pollution alert, it seems that we should be taking steps to encourage transit use through lower fares, not raising them. When bus ridership declines we all suffer with more traffic congestion and dirtier air.

In addition, the impacts of a fare increase on the low-income residents of the District are a matter for serious concern. For the poor who must depend on public transit, a fare increase can be a tremendous burden that limits their ability to travel around the city in search of employment and in carrying out their jobs. Public transit cannot be supported through the fare box alone and fares must be set with a view toward social and environmental as well as economic impacts.

I had agreed with the committee that in view of the fact that bus fares have not been raised in many years, we should encourage the city to conduct required public hearings to review the current fare structure. Changes in the Metrobus fares can only be implemented with the approval of local officials following full hearings that will take at least 4 months. I believe that the desired review of D.C. bus fares could have been achieved without denying the city's share of current bus operating costs. Of course, I think we should anticipate that if bus fare increases are not promulgated, then the District of Columbia will reappear before our committee with a supplemental budget request to assure that the city will meet its obligations to the Washington Metropolitan Transit Authority. And I think this amendment is necessary to relieve the confusion that such a procedure would cause.

Under these circumstances, Mr. President, I feel moved to offer the amendment to preclude the kind of confusion that would result if we have to resort to this supplemental procedure.

Mr. CHILES. Will the Senator yield on that point?

Mr. MATHIAS. I am happy to yield to the distinguished chairman of the subcommittee.

Mr. CHILES. The subcommittee, I think, considered the fact that there has been no fare increase in the last 7 years for the District of Columbia; at the same time, there have been fare increases both in Maryland and in Virginia; that the Metro Transit Authority has recommended an increase of 10 cents, and the city had not taken any action on it.

Certainly, it is nice to have cheaper bus fares, but someone is going to have to pay.

We set forth that the deficit has gone from $1 million to $50 million in the last 7 years, and that is continuing to increase. So it is not as if the city taxpayers are not paying for the operation of the Metrobus system. They are paying and they are going to have to pay more. It was our feeling that this fare increase was warranted and that it should be put into effect to help relieve the heavy burden already placed on the taxpayers of the District of Columbia.

It seems that the only way we are going to get a fare increase put in force is to go ahead and reduce the District's share of the Metrobus operating subsidy that is paid out of general tax revenue so that a fare increase would be required to cover the District's full amount of its share of the subsidy.

I mention and point out to the distinguished Senator from Maryland that this is an item that will go to conference because the House has not made a provision for this item. So the question will be up for further consideration at the conference.

We do know that there will have to be a supplemental later in the fiscal year because the provisions for pay raises are not in this bill. So if there is some failure on the part of the city to act, we will get a chance to look at it again. We also get a chance to look at this question again in the conference committee itself.

I hope the distinguished Senator from Maryland will take this into account and that he will not press his amendment to a vote at this time.

Mr. MATHIAS. I hear what the Senator from Florida is saying. I know that he is both fair and reasonable and will lead the Senate conferees. As he points out, this will be a subject for conference with the House. I hope that the strong arguments against the cut at this particular time will get his careful consideration.

I know that the District government is very much concerned. I have received communications from both Mayor Washington and from the chairman of the city council, Sterling Tucker, who have expressed their alarm as well as their concern at this particular cut.

Having in mind that there is another forum in which this can be resolved, Mr. President, I will rely on the consideration which the Senator from Florida has told us he will give as he leads the Senate conferees.

I withdraw the amendment.

Mr. CHILES. I thank the distinguished Senator from Maryland for his comments about the Senator from Florida being fair and reasonable. Maybe one more characteristic should be added, and that would be persistent. I am delighted he has made those comments.

Mr. MATHIAS. Mr. President, I glory in the fact that he is persistent. I hope he is persistent in pursuing the facts in this particular matter because I am sure they will bring about great enlightenment.

Mr. CHILES. I just wanted to add that one other trait because it is one that I see so strongly in the distinguished Senator from Maryland. It is an admirable trait. I only try to emulate the trait that the Senator from Maryland has, and thank him for his work on this bill. As he always provides great and able service to the Congress, he also certainly provides excellent service to us in this bill.

UP AMENDMENT NO. 407

Mr. BAYH. Mr. President, I have an amendment at the desk. I would like to call it up at this time.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (By BAYH) proposes on behalf of himself and Mr. BUCKLEY, an unprinted amendment No. 407:

On page 16, after line 5, add the following:

Title III—Department of Transportation Funds provided for the Coast Guard's Pollution Fund in P.L. 94-387 shall become available immediately upon enactment of this legislation into law.

Mr. BAYH. Mr. President, I purposely did not follow normal procedure, asking that the clerk not proceed with the reading of the amendment, because I think reading of the amendment explains it much better than can the Senator from Indiana.

Before proceeding, I compliment the Senator from Florida, as well as his counterpart, the Senator from Maryland, for the expeditious way in which he is handling this bill. Having had that responsibility earlier, I realize it is not an easy responsibility. I salute him in that regard.

I ask him tolerance to permit me, in a very nonlegislative description of what I am about to do, to piggyback onto the D.C. appropriation bill this amendment which, frankly, more properly belongs in the transportation bill. That bill has already been signed into law by the President.

What we are doing is making it possible for the funds which are now in the Coast Guard's pollution funds for expenditure in the next fiscal year to become available immediately upon enactment of this bill.

At the time we were considering the transportation bill, it was thought there was sufficient funding in the bill that we would not have to add to the money, some $9 million that were made available throughout fiscal 1976, in the pollution fund. However, a rather tragic and expensive oil spill has resulted in the Great Lakes region that is costing about $80,000 a day to clean up right now. By reasonable estimates, the fund will be dissipated as of the 15th of September.

We are not asking for additional money to be appropriated now so that we will not increase the cost of the D.C. appropriation bill. We will deal with that later when an appropriate vehicle comes along, probably the first of next year. But in the event, God forbid, but we have to be prepared for an eventuality, that there be another oil spill after we recess, sometime before this money that is in the fiscal year 1977 bill is available, we want to make sure there is enough funding so that the Coast Guard can go ahead and do the job that they do very well. Then we will come along next year and replenish the fund.

Mr. CHILES. I think the Senator from Indiana makes a compelling case to add another title to this bill. We would certainly have no objection to the amendment being included as title III.

Mr. BAYH. I appreciate the tolerance of my friend from Florida. Under normal circumstances I would not prevail on him, even with all of his generosity, because I know how hard he has worked on this. But it is an emergency and I appreciate his helping.

Mr. BUCKLEY. If the Senator will yield, Mr. President, I would like to join our colleague from Indiana in thanking the chairman of the subcommittee for the accommodation. It is an important matter. The possibility of an oil spill can strike any coastal State in the country or any State along the Great Lakes. Though the sum of money involved is modest, the damage that would have to be cleared up, if there is an oil spill, can have a terrible impact on the economy of the afflicted area.

We know that the Coast Guard is willing to work effectively, as it has on the St. Lawrence and along the Long Island beaches this past year. It is only prudent that we have money appropriated in case another emergency arises. I thank my colleague from Indiana.

Mr. MATHIAS. Mr. President, I believe this is a very necessary piece of legislation. We had a dramatic example when a barge filled with highly poisonous chemicals overturned in Chesapeake Bay a week or 10 days ago. These are the kinds of marine industrial accidents that can occur at any moment. They have an enormous impact.

In that particular incident, so far as we know there was relative watertight integrity of the barge. But had the barge ruptured, had its tanks been breached, it would have been a disaster of major proportions. The Coast Guard has to be ready at any minute to deal with problems of pollution, oil spills, and other industrial pollution problems which are of vital importance to every one of us.

The Senator from Indiana deserves a great deal of credit. I know he was supported by the distinguished Senator from New York in bringing this amendment before the Senate. I will say I not only support it, but I applaud it. I am very happy that he has brought it to the Senate in this form.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The amendment was agreed to.

Mr. MUSKIE. Mr. President, the Senate is now considering H.R. 15193, the District of Columbia appropriation bill. I would like to comment on the relationship between this bill and the first budget resolution.

There are two parts to this bill. The first includes payments and loans to the District of Columbia. For these purposes, this bill provides $365 million in budget authority and $436 million in outlays, including $10 million in outlays from prior year authority, these amounts are respectively $35 million and $64 million under the Appropriations Committee's allocation to the Subcommittee on the District of Columbia.

I commend Senator CHILES, chairman of the District of Columbia Subcommittee and Senator MCCLELLAN, chairman of the Appropriations Committee, for bringing in a bill which is well within the first budget resolution assumptions.

I understand a supplemental request for the District of Columbia may be made. I encourage the subcommittee to continue the work which they have begun so well and to maintain a budget which is consistent with the targets Congress has set.

The second part of this bill provides

$36.5 million in budget authority and $30.7 million in outlays for the new Pennsylvania Avenue Development Corporation action plan. These amounts are charged against the Interior Subcommittee's first budget resolution allocation.

The latest Senate budget scorekeeping report shows that if several possible later requirements are funded, the Interior Subcommittee could substantially exceed its allocation. Enactment of this part of this bill will place even more pressure on these allocations. This is a problem that the Appropriations Committee will have to consider carefully as the fiscal year proceeds, since we must stay within the budget.

The Budget Committee is now beginning its markup of the second budget resolution. I believe I speak for all members of the Budget Committee when I say we will try our best to keep the second budget resolution ceilings from exceeding the first budget resolution targets. That will be a tough job that will require the cooperation of the entire Senate.

Mr. CHILES. Mr. President, I move the bill be read the third time.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. By unanimous consent the vote on this bill has been scheduled to follow immediately upon the vote on the New River bill.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum briefly.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The following proceedings occurred during the consideration of the foregoing matter and are printed at this point in the RECORD by unanimous consent:)

UNANIMOUS-CONSENT REQUEST—ANTITRUST LEGISLATION (H.R. 8532)

Mr. ALLEN. Will the Senator yield?

Mr. CHILES. I yield.

Mr. ALLEN. Will the Senator be kind enough to yield to me for a unanimous-consent request, with the understanding that it not show as an interruption in his remarks?

Mr. CHILES. I yield.

Mr. ALLEN. I thank the distinguished Senator.

Mr. President, the majority leader obtained unanimous consent that, at the end of the vote on the New River bill, I might be recognized to bring up the House message on H.R. 8532. It was agreed that after that time, there would be a vote on the D.C. appropriation bill. I would like to ask unanimous consent that I be recognized at the end of the vote on the D.C. appropriation bill—which would be some 10 minutes later—and that if the distinguished Senator from Nebraska (Mr. HRUSKA) is present in the Chamber, he be recognized in lieu of the Senator from Alabama.

Mr. ABOUREZK. Reserving the right to object, Mr. President, I did not hear the first part of the request. I wonder if the Senator would restate it.

Mr. ALLEN. I stated that at the request of the distinguished majority leader, I was to be recognized following the vote on the New River bill to bring up the House message on H.R. 8532.

Subsequent to that time I acceded to his request that there be a vote on the D.C. appropriation bill immediately following that vote. No provision was made that I be recognized at the end of that vote, some 10 or 15 minutes later. I merely request at this time that I be recognized at the end of the D.C. appropriation vote, and that if the distinguished Senator from Nebraska (Mr. HRUSKA) is present in the Chamber that he and not I be recognized.

Mr. ABOUREZK. I wonder, Mr. President, if the Senator from Alabama would be willing to agree at this time to a time to vote on his amendment to H.R. 8532, perhaps tomorrow or right after the cloture vote or even——

Mr. ALLEN. I would hope we would have a vote much earlier than that, have a vote today.

Mr. ABOUREZK. We can do that. Would the Senator be interested in setting a time for the vote?

Mr. ALLEN. No, I am not willing to do that. I made a simple request. If the Senator does not want to accede to that request all he has to do is object to it. I am sure the majority leader will make the same request when he comes in. I am merely asking that this might come up——

Mr. ABOUREZK. I did not say I was going to object to it.

Mr. ALLEN. I am not ready to set a time. I think I would be ready to vote some time today on my amendment because it is a compromise amendment that the distinguished Senator from South Dakota, has spoken of and, I assume, since it expresses the will of the Senate as expressed on June 10, I assume the Senator would be glad to support it. But I renew my request. If the Senator wants to object I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Reserving the right to object——

Mr. ALLEN. I withdraw my request.

Mr. ABOUREZK. Then I withdraw my reservation.

(This concludes the proceedings that occurred earlier.)

ORDER FOR YEAS AND NAYS AND 10-MINUTE ROLLCALL VOTE—D.C. APPROPRIATIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at the appropriate time to ask for the yeas and nays on the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. And that the time allocated to that rollcall vote be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later the following occurred:)

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on final passage for the D.C. appropriation bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ORDER FOR RECOGNITION OF SENATORS—H.R. 8532

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the vote on the pending business which will follow on that on the New River, the distinguished Senator from Alabama be recognized, as previously agreed to, and if he is not in the Chamber that the Senator from Nebraska (Mr. HRUSKA)——

Mr. ALLEN. I will be in the Chamber, but if Senator HRUSKA is here he be recognized in lieu of me.

Mr. MANSFIELD. That Senator HRUSKA be recognized in lieu of the Senator from Alabama at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2 p.m.

There being no objection, the Senate, at 1:29 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GOLDWATER).

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Will the Senator from Virginia yield for 1 minute?

Mr. HARRY F. BYRD, JR. I yield.

RELEASE OF CERTAIN DOCUMENTS

Mr. NUNN. Mr. President, I submit today a resolution regarding the release of relevant portions of interviews by staff of the Permanent Subcommittee on Investigations of Helen Goldfarb.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 530) to permit withdrawal and release of certain documents, papers, or other information in the files of the Permanent Subcommittee on Investigations.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. NUNN. Mr. Goldfarb, who is a Government witness in *United States* v. *Anthony Provenzano et al.*, Second District of New York, and *United States* v. *Hyman Schwartz*, Second District of New York, was interviewed, at his request, by staff of the subcommittee. During portions of these interviews, Anthony Provenzano and Hyman Schwartz were mentioned.

The Justice Department has made a formal request in writing for any documents, papers, and information provided the subcommittee by Mr. Goldfarb.

Pursuant to rule XXX of the Standing Rules of the Senate, and the privileges of the Senate, information secured by staff members pursuant to their official duties as employees of the Senate may not be revealed without a resolution of the Senate.

Accordingly, Mr. President, I have offered this resolution, approved by the Committee on Government Operations, and ask unanimous consent that the resolution be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 530) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 530

To permit withdrawal and release of certain documents, papers, or other information in the files of the Permanent Subcommittee on Investigations

Whereas, Herman Goldfarb is a government witness in *United States* v. *Anthony Provenzano, et al.*, S.D.N.Y. and *United States* v. *Hyman Schwartz*, S.D.N.Y.; and

Whereas, Mr. Goldfarb presented himself voluntarily to the Subcommittee and was interviewed by staff investigators during the course of which interview Anthony Provenzano and Hyman Schwartz were mentioned; and

Whereas, the Department of Justice has made a formal request in writing for any and all documents, papers and other information furnished the Permanent Subcommittee by Mr. Goldfarb; and

Whereas, by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, documents, papers or other information secured by staff employees of the Senate pursuant to their official duties may not be revealed without the consent of the Senate, therefore, be it

Resolved, That the Permanent Subcommittee on Investigations is authorized, at the discretion of and at the direction of its Chairman, or Acting Chairman, to provide the Department of Justice or the respective trial judges with those relevant portions of the interviews by Subcommittee staff of Herman Goldfarb.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Attorney General of the United States.

WILD AND SCENIC RIVERS ACT AMENDMENTS

The Senate continued with the consideration of the bill (H.R. 13372) to amend the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271), and for other purposes.

Mr. HARRY F. BYRD, JR. Mr. President, the pending legislation, H.R. 13372, would effectively block construction of the Blue Ridge hydroelectric project on the New River in Southwest Virginia, although that project has been approved by the Federal regulatory agency established by the Congress to examine these matters.

The Federal Power Commission has studied this project extensively and has determined the need exists for this additional electrical energy generation capacity.

The Federal Power Commission rendered its unanimous approval of the project after 9 years of deliberations, compilation and consideration of 7,500 pages of sworn testimony and the submission of a complete Environmental Impact Statement in conformity with the landmark National Environmental Policy Act of 1969.

The sufficiency of that environmental review and the validity of the license granted by the Federal Power Commission have been challenged in the courts and have been upheld by a unanimous decision of the U.S. Court of Appeals for the District of Columbia.

The Congress has never before revoked a validly issued license of the Federal Power Commission.

The impact of such legislative action will certainly have a chilling effect upon the long-range planning of the electric utilities of this Nation as they review the lengthy, tortuous and expensive FPC licensing procedure if, at the end of that protracted process, the Congress has evidenced a willingness to overturn, with no technical review and little debate, the decisions of the independent regulatory body it created to consider such matters.

Consider that the FPC deliberated over this matter for over 9 years, considering every conceivable facet of the proposal with the constant scrutiny of the Government and the public and within the comprehensive requirements of Federal law. And yet, the House Interior Committee took but 1 day of hearings to recommend that this license be overturned and the Senate Committee took even less time than that.

Mr. President, it is important that the policies of our Nation strike a balance between economic growth and conservation.

When this project was first proposed, we had not yet awakened from our slumber of ignorance about our precarious dependence upon unreliable foreign sources of petroleum.

We know now the economic and social hardship which result from failure to meet those fundamental challenges and achieve that balance.

Indeed, the extreme price dislocations which resulted from the Arab oil embargo of almost 3 years ago are a daily reminder that there is still an energy crisis—that it is very real and is far from being satisfactorily resolved.

Total energy independence now seems unlikely in the foreseeable future, but independence remains a legitimate target: We must come as close to it as we can.

This means ending wasteful use of oil and gas, as well as development of our coal resources, with proper environmental controls. And it means wise development of our water resources and hydroelectric capabilities.

Taken by itself, the Blue Ridge project, of course, does not constitute the key to energy independence. But this project is an important step toward that end.

The New River legislation, taken in the context of congressional action to energy matters, in general, shows a disregard for the perilous situation which exists today in this country.

At a time when foreign sources of petroleum were plotting to plunge this Nation and the free world into economic chaos, the Trans-Alaska Pipeline legislation passed its crucial test in the Senate by a single vote.

In the face of the Arab oil embargo and the urgent necessity to utilize our vast coal reserves in a responsible manner, the Congress has voted twice to ban the surface mining of coal in many parts of the country, including southwest Virginia, despite the fact that Virginia has sound and strong surface mining and reclamation laws and despite the fact that Virginia's coal is low in sulfur, the most serious pollutant factor in the burning of coal.

In the field of nuclear power, the Congress has not raised roadblocks, but understandably concerned citizens have succeeded in holding up many projects. And more exotic forms of power generation—solar, wind, geothermal, tidal, nuclear fusion—are all many years away from commercial-scale utilization.

The Blue Ridge project means additional energy: One million, eight hundred thousand kilowatts of electrical capacity, not only for ordinary uses but for peak load demands. That is the type of capacity the Federal Power Commission has determined must be developed if we are to avoid future "brownouts" and "blackouts."

The Department of the Interior makes a compelling case for hydropower and pumped-storage projects in its 1974 Conservation Yearbook Series No. 10, appropriately entitled "Our Natural Resources—the Choices Ahead":

> Pumped storage and other hydropower are the only economically feasible means of storing commercial quantities of energy for use when needed.

In addition, the Blue Ridge project employs hydropower. As the U.S. Department of Interior has stated:

> Hydroelectric energy is clean and is one of the few forms of clean energy available in quantity.

The Senate Committee on Appropriations has addressed this subject with even greater eloquence and emphasis. In the committee report accompanying the public works appropriations bill for fiscal year 1977, H.R. 14236, Senate Report No. 94–960, the committee unanimously stated:

> The value of hydroelectric power production goes far beyond the relatively simple considerations associated with financial returns and even beyond the obvious savings in consumption of non-renewable resources. Among the not-so-obvious values of hydroelectric generation are: its ability to absorb with minimal operating difficulties the short-term variations in peak demands for

power in a large power supply system; its role as an attractive component of multiple-purpose water resource projects due to the fact it does not reduce the quantity or degrade the quality of the water resource; its contribution, as the cleanest source of electrical energy, to the national objective of improving environmental quality; and its potential to augment other types of generation, thereby improving the efficiency of existing and proposed thermal facilities and displacing the use of inefficient or obsolescent thermal generation sources for meeting peak demands. All of these factors are important considerations in national and regional power supply planning.

Although about 40 percent of the nation's conventional hydroelectric potential has been developed, substantial additions to our hydroelectric capacity are possible if an aggressive program of developing conventional and pumped-storage hydroelectric projects is pursued over the next 20 years. Such a program could add more than 25 million kilowatts of new conventional hydroelectric capacity and from 30 to 60 million kilowatts of pumped storage hydroelectric capacity. Increases of this magnitude are substantial and they could provide some relief to the nation's energy and environmental problems. For example, this magnitude of hydroelectric development would make it possible to realize an additional savings of more than 85 million barrels of oil or 22 million tons of coal annually. While these figures are relatively small, they accumulate to substantial quantities over a 50-year project life. At a price of $12 per barrel for imported oil the savings over the life of these projects would amount to more than $50 billion.

The Blue Ridge project will create jobs where none have existed.

During its 5- to 6-year construction term, the construction payroll alone is expected to exceed $200 million. That will generate 1,500 to 2,000 new jobs. The increase in supporting services and related employment, such as transportation, construction and consumer services will be several times that amount.

The legacy of the Blue Ridge project for southwest Virginia will be one of increased economic prosperity, social, and economic growth and a dramatic increase in local tax revenues to benefit schools and municipal services. And creation of these jobs and benefits will cost the taxpayers nothing.

When the Senate Committee on Interior and Insular Affairs gave its cursory consideration to this legislation, both the Governor of Virginia and the attorney general appeared to testify. Their remarks underscore the longstanding commitment of the Commonwealth of Virginia to this project, with its attendant benefits of energy capacity, recreation, and flood protection. I ask unanimous consent that the testimony of the Honorable Mills E. Godwin, Jr., Governor of Virginia, and the Honorable Andrew P. Miller, Attorney General of Virginia, be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. Goldwater). Without objection, it is so ordered.

(See exhibit 1.)

Mr. HARRY F. BYRD, JR. Mr. President, nor has the project gone unstudied by the press. While there has been much which has emphasized the emotional aspects of impounding a portion of the New River, a most thoughtful series was recently run in the Chicago Tribune. Written by Bob Wiedrich, that five-part series explores in an objective manner the local and national debate which has focused on the New River and the Blue Ridge project. This pro and con—objective appraisal—concludes the pending legislation and the precedent it would establish is most unwise.

Closer to the matter, but no less objective, in my view. is a recent editorial by the Roanoke Times.

The Times stated with candor its initial reluctance over the Blue Ridge project and its approval of it only after a most thorough study of the entire matter.

Its conclusion, I believe, is a most responsible one: the Congress should not act while the matter of the FPC license is still pending before the Supreme Court. I ask unanimous consent that the Roanoke Times editorial, "The Dam and the Damned," be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HARRY F. BYRD, JR. Finally, Mr. President, let there be no mistake about the view of this legislation which has been taken by the Senate Interior Committee. While the bill was raced through the Senate in 1974 with little rational review, the bill before us has generated minority, dissenting views from every minority member of that committee.

In the face of a divergence of views with their own administration, the five Republican members have had the courage to conclude:

> Consideration of the problems in this legislation will lead one to the same conclusion that we have reached—that this legislation is not in the best interests of the citizens of this country. We urge the defeat of this legislation.

The PRESIDING OFFICER. The time of the Senator has expired.

Under the previous order, the junior Senator from Virginia (Mr. William L. Scott) is recognized to offer an amendment.

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that the previous order be vitiated and that I be permitted the same time at such time as the distinguished Senator from Virginia finishes his remarks and a colloquy between the Senator from Colorado and the Senator from Utah is completed, but not later than 3 p.m.

The PRESIDING OFFICER. The Chair will call the attention of the Senator from Virginia to the fact that 4 o'clock is a factor in time.

Mr. WILLIAM L. SCOTT. I am quite aware of that, Mr. President. That will not interfere, as long as it is not later than 3 p.m. I would still have the 30 minutes for my side and the 30 minutes for the other side.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Reserving the right to object, Mr. President, my question is this: That does not vitiate the part of the order that is set to vote at 4 p.m., does it?

The PRESIDING OFFICER. No; it does not.

The senior Senator from Virginia continues to be recognized. Is that the desire?

Mr. WILLIAM L. SCOTT. That is the desire of the junior Senator from Virginia. That was the unanimous consent request, Mr. President.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the minority views of Senators Fannin, Hansen, Hatfield, McClure, and Bartlett be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. HARRY F. BYRD, JR. In conclusion, Mr. President, I would reemphasize the official position of the Commonwealth of Virginia by reading to the Senate a communication I have just received from Gov. Mills E. Godwin, Jr.

> Commonwealth of Virginia,
> *Richmond, Va., August 26, 1976.*
>
> Hon. Harry F. Byrd, Jr.,
> *U.S. Senate,*
> *Washington, D.C.*
>
> Dear Harry: I am writing to urge your continued cooperation in efforts by the Commonwealth to block the passage of S. 158. The stated purpose of this bill is (a) to amend the Wild and Scenic Rivers Act of 1968 by designating a segment of the New River as a component of the National Wild and Scenic Rivers System; and, (b) to revoke the license issued by the Federal Power Commission to the Appalachian Power Company to construct and operate the Blue Ridge Project on the New River in Virginia. The Commonwealth has supported the construction and operation of this Project since it was first proposed. Accordingly, the Commonwealth is opposed to enacting this legislation.
>
> I would greatly appreciate every effort you can make to persuade your colleagues in the Senate to defer action upon this bill until such time as the validity of the license issued by the Federal Power Commission is determined by the United States Supreme Court.
>
> I have enclosed herewith a copy of the testimony presented by me before the Senate Interior and Insular Affairs Committee on May 20, 1976. The thrust of this testimony is that the decision of the Supreme Court may obviate the need for enactment of the pending legislation. If, on the other hand, the Supreme Court upholds the validity of the license, the Congress could, if it deemed it desirable, act thereafter to revoke the license.
>
> In sum, consideration of S. 158 may be deferred until such time as the Supreme Court has rendered its opinion without prejudicing in any way the rights of any persons interested in the New River and the Project.
>
> Thanking you for your consideration and efforts in this matter which is of critical importance to the Commonwealth of Virginia, I remain
>
> Sincerely,
>
> Mills E. Godwin, Jr.

In the face of this clear and continuing support by Virginia for what is, in truth, a Virginia project; in the face of the unprecedented action which passage of this legislation will represent, overturning a validly issued license by the Federal Power Commission; and in the face of our present and continuing need to wisely develop our cleanest forms of energy production, I feel that passage of this bill to kill the Blue Ridge project would be most unwise.

I urge my colleagues to vote against it.

I thank my colleague from Virginia for yielding me additional time.

EXHIBIT I

REMARKS BY GOV. MILLS E. GODWIN, JR.

My name is Mills E. Godwin, Jr., and I am Governor of Virginia. I am appearing on behalf of the Blue Ridge Pumped Storage and Hydro-electric project proposed by Appalachian Power Company.

I want first to thank the members of the committee for giving me this opportunity to appear and present Virginia's position on the legislation before you, which has such far-reaching implications.

On its face, the issue would seem to be the familiar one of the economy versus the environment. I have followed this project from its beginnings, and I am convinced that on the contrary, its construction will be both an economic and an environmental plus.

As you know, the company plans to build two dams on the New River, which already includes four dams, and build a combined pumped storage and hydroelectric project.

The initial economic impact will include the expenditure of an estimated $845 million in private funds and the creation of 1,500 to 2,000 construction jobs in a relatively depressed area over a period of 6 to 8 years.

The New River runs through the fringes of Appalachia in Virginia and North Carolina into which the Federal Government and the respective states have poured millions of dollars over a period of years in order to stimulate the economy where geography is a severe handicap to economic development and where political subdivisions have been losing population.

The permanent economic benefit will be the creation of two lakes, totalling 40,000 acres. The upper lake of 26,000 acres, which includes most of the affected area in North Carolina, will be comparable in recreation attractions to the company's similar pumped storage facility at Smith Mountain Lake on the Roanoke River in Virginia.

Smith Mountain Lake, which is about the same size and has the same allowable drawdown as the upper Blue Ridge Reservoir, has proved a major economic boom, with a state park attracting between 200,000 and 300,000 people a year, boat ramps and camping areas, and waterfront lots selling in the neighborhood of $10,000 an acre, where the going price was perhaps $80 to $100 an acre before the lake was constructed. The impact on the economy in the entire area has been tremendous.

What we have now is a beautiful river which few people outside the area ever see except canoeists and those who maintain mountain retreats along its banks.

So far as adjacent land owners are concerned, it has been the universal experience of this and other power companies that as soon as the word goes out, the price goes up, and the land becomes worth so far more than its value for farming purposes.

Those who are fortunate enough to retain land above the water line find that they have suddenly come into possession of very valuable property indeed.

But beyond these local considerations, the project has energy implications for most of the eastern seaboard and far inland.

Appalachian has interconnections directly with the Virginia Electric and Power Company, which serves the eastern half of Virginia and portions of eastern North Carolina, with Duke Power Company and North Carolina Power and Light, which serves customers in North Carolina, with TVA, and with the Ohio Valley Electric Corporation.

These companies share power among themselves as the need arises.

Beyond that, virtually all power companies are interconnected. For instance, both Appalachian and Vepco sent power through connecting companies to Con Edison in New York when that company was facing extended brownouts.

Brownouts occur during peak power demand periods, and the Blue Ridge Project is essentially a source of peaking power, which is the most valuable power there is.

A pumped storage project is operated by pumping water from a lower reservoir to an upper reservoir at night, during off-peak hours, using the most efficient equipment the company has, and then running it back again through generating turbines during periods of peak demand.

Appalachian generates power exclusively with coal and running water. We therefore have in the Blue Ridge Project an additional 1,800,000 kilowatts of peaking power available wherever it is needed over a good portion of the Eastern United States.

And this peaking power is not dependent on the Organization of Petroleum Exporting Companies.

Thus the question before you is not limited to economic versus environmental considerations in Virginia and North Carolina, but has national energy implications.

It is Virginia's position that the Blue Ridge project on balance will prove to be an economic plus, an environmental plus and an energy plus.

Gentlemen, I have tried to summarize for you as I see it a question which has been debated and explored for fourteen years.

In extended hearings over those years, the Federal Power Commission has compiled many volumes of testimony from every conceivable interested party on every conceivable point, and has granted the company a license to build.

The validity of that license is now before the United States Supreme Court.

The legislation before you would cancel the entire project. I urge you as strongly as I can not to take such precipitous action at this stage of the proceedings.

STATEMENT OF THE HONORABLE ANDREW P. MILLER, ATTORNEY GENERAL OF VIRGINIA, CONCERNING S. 158, BEFORE THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. Chairman, members of this distinguished Committee, I appreciate the opportunity to join Governor Godwin in presenting the testimony of the Commonwealth of Virginia in opposition to the passage by the Congress of S. 158. In my remarks, I will focus upon the legal ramifications of favorable action at this time by the Congress on that bill.

The explicit purpose of S. 158 is to designate a segment of the New River as a component of the National Wild and Scenic Rivers System and to divest the rights of the Appalachian Power Company under the license issued by the Federal Power Commission to construct the Blue Ridge Project. That Project, as it is licensed to be constructed, is a two-dam, 1,800,000 kilowatt hydroelectric and pumped storage project to be located on the New River in Virginia with reservoirs extending into North Carolina. This Project will be primarily a Virginia project in that both dams, both powerhouses, all transmission facilities, and two-thirds of each reservoir are to be located within the Commonwealth. This Project is designed and licensed to provide needed electric generating capacity for the Appalachian Power Company System which serves the western half of Virginia.

The application for a license to construct the Blue Ridge Project was pending before the Federal Power Commission from 1965 to 1974. During the course of this extended and exhaustive licensing procedure, the Project was intensively studied and was modified several times. The Commonwealth intervened in that proceeding in 1967 to express to the Commission its views on the proposed Project, and continued to participate in that proceeding until 1974, when the Project was licensed by the Commission.

During the administrative proceeding, the Commission received a great deal of expert testimony concerning the need for the power from the Project, alternatives to the Project, and the costs and benefits of the Project. This testimony was presented by, among others, the Commonwealth, the State of North Carolina, and the United States Department of the Interior. It is difficult to imagine that any proposed project could receive more intense scrutiny than that to which the Blue Ridge Project was subjected by the Commission. After weighing all of the testimony, the Commission determined that the proponents of the Project had more than adequately demonstrated that the Project satisfied the statutory test for receiving a license. Accordingly, the Commission granted, on June 14, 1974, by unanimous vote, a license for the construction and operation of the Project.

Subsequently, the State of North Carolina appealed the decision of the Commission to the Court of Appeals for the District of Columbia. After full consideration of the issues presented to it, the Court of Appeals on March 24, 1976, unanimously affirmed the decision of the Commission below.

While these legal proceedings were going forward, the State of North Carolina applied to the Secretary of the Interior for designation by him, pursuant to the Wild and Scenic Rivers Act, of a portion of the New River in North Carolina as a component of the Wild and Scenic Rivers System. Subsequently, on April 14, 1976, the Secretary designated that portion of the New River as a component of the System.

The State of North Carolina has recently petitioned the United States Supreme Court for a writ of certiorari to the Court of Appeals, and has raised, among others, the issue as to whether or not the Commission gave adequate consideration in its licensing proceeding to the scenic river alternative to the Project. It is expected that the Supreme Court will hear argument on this matter, if it grants the writ requested, in its October term.

With this background, I will turn to the question as to whether the Congress should act now to block the Project. I submit, as a starting point, that the merits of the Blue Ridge Project far outweigh the merits of the scenic river designation. This conclusion, standing alone, should be sufficient reason for this Committee to reject S. 158. There are further reasons, however, which compel the same result. Favorable action on S. 158 would doubtless moot the matter pending before the Supreme Court. Such action would also precipitate a judicial controversy concerning the liability of the United States to the Appalachian Power Company for compensation for loss of the Company's property rights under the license. I have reviewed this matter and I have concluded that persuasive arguments can be made in support of the position that compensation would be required. This matter will, I am sure, be a substantial consideration in action by this Committee on the pending bill. Such a collision course, however, can be avoided. This Committee may reject, or defer action on, the pending bill until such time as the Supreme Court has acted. If the Supreme Court invalidates the license for the Project, the present scenic river designation by the Secretary, if not successfully challenged, may bar the issuance of a valid license for the Project. In view of this, I would respectfully suggest that the Committee reject, or defer favorable action upon, the pending bill until the legal proceedings have run their course.

With these considerations in mind, I would now like to call to your attention the respective merits of the Scenic River Proposal and the Blue Ridge Project.

I submit that the segment of the New River in question does not satisfy the requirements for eligibility for inclusion in the Wild and Scenic Rivers System. The segment certainly does not satisfy the definition of a "wild river," which speaks of rivers that are free of impoundments and generally inaccessible except by trail. Nor does the segment qualify as a "scenic river," which also requires that such segments be free of impoundments, have primitive watersheds, and undeveloped shorelines. The segment in question is impounded and is paralleled in many places by roads. Further, the segment does not satisfy the test for a "recreational river" because its recreational potential as a free-flowing stream is substantially less than the recreational potential of the Blue Ridge Project.

These conclusions are supported by the administrative and legislative history of the Wild and Scenic Rivers Act. When the Act was proposed, the Department of the Interior canvassed the entire United States to determine which river segments would be arguably eligible for inclusion in the System. This canvass resulted in a list of 650 likely river segments. The New River segment in question was not included on that list. Accordingly, it can be concluded that the Department of the Interior made a determination that the segment would not be eligible for inclusion.

Before leaving the Scenic River Proposal, I would like to suggest that this Committee examine that proposal with a view toward determining if it has a proper role in the most comprehensive and beneficial use of the entire New River. The segment in question is ideally suited, as the Federal Power Commission has decided, as a site for hydroelectric generation. Other segments of the New River are substantially better qualified for inclusion in the Wild and Scenic Rivers System. For example, the New River Gorge in West Virginia is uniquely qualified for such inclusion, and the Department of the Interior has recognized this fact by recommending that that segment of the New River be included in the System. My point is that the United States has an obligation to facilitate the optimum use of our Nation's water resources, including designation of those segments which are uniquely qualified to be scenic rivers, and licensing hydroelectric projects on those segments, like the one in question, that are uniquely qualified for that purpose.

The Blue Ridge Project will produce numerous and significant benefits. The Project will provide flood-control benefits to residences, commercial establishments, and lands adjacent to the entire stretch of the New River within the Commonwealth and in West Virginia. The Project will augment flows in the New River, thereby providing an enhanced and more reliable water supply for a large portion of the Commonwealth. The reservoirs of the Project will provide significant recreational benefits that will complement nearby upland recreational facilities. The construction of the Project will generate between 1,500 and 2,000 jobs directly, which will improve the economy of the Project area and result in considerable tax benefits to political subdivisions within that area. Moreover, the Project will produce 1,800,000 kilowatts of absolutely essential electrical energy, and it will generate that energy in an environmentally acceptable manner. The Blue Ridge Project will help to ensure that a reliable and continuous supply of electrical energy will be available to the citizens of the Commonwealth.

All of the foregoing benefits have been abundantly demonstrated upon the record made before the Commission. The benefits of the Blue Ridge Project far outweigh its costs, as the Commission found, and it is the least cost alternative to satisfying demonstrated power requirements.

For the foregoing reasons, the Commonwealth submits that the merits of the Blue Ridge Project far outweigh the merits of the Scenic River Proposal.

I would like to turn at this point to the question of the requirement for compensation if the pending bill is enacted. I have reviewed this question and have concluded that there is a substantial argument that revocation by the United States of a final and effective license issued under the Federal Power Act would entitle the licensee to payment of just compensation. A valid and final license is sufficient to create vested property or contractual rights in the licensee. This conclusion is supported by the fact that the Federal Power Commission did not reserve the right to revoke the license issued for the Project. Further, Section 28 of the Federal Power Act provides as follows:

"The right to alter, amend, or repeal this chapter is expressely reserved; but no such alteration, amendment, or repeal shall affect any license theretofore issued under the provisions of this chapter, or the rights of any licensee thereunder." 16 U.S.C. § 822.

This section cannot be construed to prohibit the United States from revoking a license. It does, however, support the conclusion that rights granted under a license are vested property or contractual rights which cannot be divested without the payment of just compensation.

There is no compelling reason that this Committee should act favorably at this time on the pending bill. The record made before the Commission clearly demonstrates that the merits of the Project far outweigh the merits of the Scenic River Proposal. If this Committee acts otherwise, it must do so based upon conflicting facts produced before it by unsworn, unexamined testimony. Further, if the bill is enacted now, there is substantial risk that the United States will, under the license, be held liable for the payment of compensation for property or contractual rights. In view of these considerations, this Committee should reject, or defer action upon, the pending bill until such time as the judicial proceedings are completed. Such action by this Committee will not prejudice the right of the Congress to act at a later time to divest the rights under the license. In the meantime, judicial action may moot the need for any future Congressional action. In conclusion, the Commonwealth urges that S. 158 be rejected. Thank you.

EXHIBIT 2

[From the Roanoke Times, Aug. 12, 1976]

THE DAM AND THE DAMNED

The House of Representatives' overwhelming vote, 311 to 73, to make a small piece of the New River "scenic"—just enough to block a dam construction proposal—may spell the end of a 14-year drama. The victory has been correctly attributed to the national media and the environmentalist movement: including those who have never seen, nor will see—not even on a canoe—the river, nor will ever even study the proposal by the Appalachian Power Company to keep the price of electricity as low as it can.

As our readers know, *The Roanoke Times* for a long while was troubled and neutral on the project; we believe it is no small thing to rearrange nature. We have been convinced by the fact that the one agency which has studied all the facts and spent the most time on the complex project—the Federal Power Commission—has come down unanimously in favor of it. We know of no reason why another opinion should be substituted for that of the FPC when the FPC has access to more facts and experience, and is unanimous in its opinion.

We have been further convinced by the fact that a federal district court and a circuit court of appeals have ruled that the FPC did, indeed, take into account all the facts and the logic and rendered a reasonable decision within its power. The appeal to the U.S. Supreme Court strikes us as simply a delaying technique for the endrun maneuver now under way.

But what has really convinced us—an outnumbered newspaper which happens to know more about the project than many of the majestic and distant experts who know it all—is the arrogance and insensitivity of the opposition. They have circulated false pictures, proclaimed the existence of cheaper alternatives not yet practical, have utterly failed to note that the New River project promises recreational benefits similar to those known to exist, and experienced, at Smith Mountain Lake, Buggs Island reservoir and other places. They fail to note that North Carolina customers are hooked onto the Apco system. The self-annointed experts will not accept any decision by competent authority which is contrary to their notions.

In contemporary mythology the power company is supposed to be run by demons and a power company's critics are thought to be automatically angelic. In our experience, the Apco people have been more forthright, honest and earnest than many of their holier-than-thou opponents. We with them well, and do spy just one ray of hope:

The State of North Carolina's appeal to the Supreme Court is a weak thing legally; only a lawyer on salary and able to keep a straight face, would make the state's legal argument. The purpose only is delay. If the high court refuses to hear the case and thereby confirms the judgment of the federal court system before the U.S. Senate acts, the Senate itself might be jolted by the implications of the decision made by the House. The chance is small but not completely hopeless.

EXHIBIT 3

VII. MINORITY VIEWS ON NEW RIVER OF SENATORS FANNIN, HANSEN, HATFIELD, MCCLURE, AND BARTLETT

S. 158, designating portions of the New River and the South Fork of the New River in North Carolina as a component of the National Wild and Scenic Rivers System is not in the best interest of the people of the United States. The concept of wild and scenic rivers is a noble one that we have supported innumerable times in the past. However, the inclusion of this particular segment of river will have the effect of blocking the needed Blue Ridge hydroelectric project that has already acquired a Federal license.

The passage of this legislation would raise significant questions of legislative policy that have been brushed aside during committee consideration of this measure. These questions are of significant import with far-reaching ramifications. A rational weighing of these issues forces us to oppose this legislation.

These issues are as follows:

1. The enactment will cause the loss of 1,800 megawatts of electrical generation capacity. This energy capacity would be inexpensive, non-polluting hydroelectric power. This power is needed to meet the peak power demands of the entire Central United States through the ninety-seven interconnectors of the American Electric Power Companies System.

The Federal Power Commission found that: "The need for Blue Ridge Power has been abundantly displayed in the record . . . A review of the evidence of the record makes clear that all of the power Blue Ridge can produce will fall far short of meeting the peaking needs of the AEP System in the early 1980's . . ." This power is essential to insure the reliability of the system.

Three full years have not passed since the spectre of the domestic crude shortage and the Arab Oil Embargo was upon the United States. Utilities, particularly in the eastern United States were dependent on oil for the generation of electrical power. Americans pondered the panorama of an America without power for productivity or play. Projections for the future portend even greater difficulties, yet by their actions, proponents of this measure are hiding their heads in the sand, refusing to face the realities of the energy crisis.

Peaking power has been criticized as being a net consumer of electrical power. However, the capacity of any system is dictated by the maximum load expected at the time of greatest demand. In addition, reserve is needed so that emergencies can be met. The use of peak generation facilities will insure that the most efficient use is made of current generation facilities. The agencies charged with considering American's power demands have chosen peaking power as one of the desired systems for meeting our power needs.

There are few viable alternatives to Blue Ridge Project power. The escalating costs and potential shortage of petroleum militate against oil as a primary fuel. The use of atomic power is increasingly under attack. The only viable alternative is a huge coal-fired generating plant that would be one of the largest in the country. Air and water environmental constraints have made this alternative tenuous at best in the eastern United States. In addition, the cost of a coal-powered plant would exceed the cost of the Blue Ridge Project by approximately one-half billion dollars. Those costs would ultimately be borne by the consumer.

We cannot stand by idly and contribute to our energy dilemmas. The need for this facility is readily apparent. The license for this facility has already been issued, and the company stands ready to meet the public need.

2. This is the first time that Congress to our knowledge has taken upon itself the burden of overruling a Federal Power Commission Permit. The usurpation of this regulatory function by Congress can have widespread ramifications.

The Federal Power Commission was created by Congress to oversee the production and generation of electric power utilized in interstate commerce. The agency was made independent so that it would be insulated from the political arena. Experts in electrical power are on the commission payroll to insure that decisions are knowledgeably made. The rights of appeal from agency decisions was strictly limited in order that finality be assured. The decision-making process intentionally has been kept at the agency level instead of elsewhere.

The question of the Blue Ridge Project was before the Federal Power Commission for twelve years. During this period, volumes of testimony was taken, and all parties were given the opportunity to be heard. The proper environmental impact statement was prepared. The final agency decision was unanimous—to build the Blue Ridge Project.

The decision has been fully challenged in the courts. The court decisions have, to this date, upheld the decision of the Federal Power Commission. Opponents of the project have had their day in court and have not convinced anyone of the justice in their claim.

It is inconceivable that the Congress would, on the basis of a few hours of legislative testimony, overrule the carefully considered decision of agency experts based on evidence produced over several years of intensive investigation.

Congressional revocation of a license granted by an independent regulatory agency could have serious repercussions. Under the precedent established here, any contestant in a case, unsatisfied with the decision of a regulatory agency or the court, will be tempted to carry his appeal to the Congress. The finality of agency decision will be doubtful. Who will make substantial investments based on license that may be revoked at any time by the Congress? Second guessing of independent regulatory agencies will create tremendous problems with the regulated industries.

We cannot support this undermining of the administrative process. We must be able to have confidence in the decisions made through the established regulatory process.

3. The passage of this bill could result in governmental liability for "taking" an amount that may possibly be as high as five hundred million dollars. S. 158 limits the license granted by the FPC by forbidding it to flood the portion of the river designated for Wild and Scenic River classification. The limitation will preclude the project's being built. There is a significant legal question as to whether this is a "taking" under the Fifth Amendment of the Constitution that requires just compensation.

Legal counsel has advised the Power company that there is a significant argument for the position that the action herein contemplated will require compensation. Counsel notes that the license granted by the FPC has many of the earmarks of a franchise or a vested property right.

The question is not one of easy resolution, and if this act is passed, is one that will ultimately be resolved by the courts. This Committee cannot predict with any certainty the ultimate decision.

If a taking has occurred, the damages may be as much as the cost of an alternate facility, i.e., a coal-fired generation plant. That cost is estimated at $500,000,000.

The payment of this compensation, although a contingent liability, is a question that must be carefully weighed.

4. The Blue Ridge Project would create one of the great recreational attractions in the eastern United States. Two lakes will have almost seven hundred miles of shoreline, with thirty-four wooded islands. The fisheries supported by the lakes would be many times greater than what is the "natural" river. Millions of Americans can use this recreation resource.

It is worthy of note that in the testimony suporting the Wild and Scenic River designation before the Committee, the proponents of the bill offered no pictures of the river segment in question. All the pictures offered in support of the designation of the New River as a component river were taken over one hundred miles away. The area of this river that is worthy of preservation is being saved—that is the portion of the river in the canyon in West Virginia. The only effect that the Blue Ridge Project will have on this superb section of river will be beneficial: the flows of the river will be augmented in summer for recreational use.

Almost half of the river segment proposed to be preserved is agricultural in nature and thus not unique or remarkable. The creation of mountain lakes would provide at least an equally valuable resource.

5. Construction of the Blue Ridge Project will provide significant employment opportunities for a depressed area. Construction of the Blue Ridge Project will provide jobs for twelve to fifteen hundred construction workers for a period of at least five years. In addition, there will be permanent jobs associated with the facility and with the increased recreational activities adjacent to the lakes. These would be permanent jobs, providing a boost by their economic impact to other areas of the local economy.

Unemployment in the counties affected by the Blue Ridge Project has run to a high of twenty-two percent, and currently is in the area of nineteen percent. Construction workers are unemployed at a rate approaching forty percent. Construction of this project would help reverse this trend, without a use of governmental monies.

CONCLUSION

The designation of this segment of the New River as a portion of the National Wild and Scenic Rivers System has had careful scrutiny over the past twelve years. This was not one of the segments chosen for study in the original act. Its recreational potential was fully considered in the Federal Power Commission deliberations.

The highly scenic portions of the New River located over one hundred miles downstream, in West Virginia, are being preserved. The Blue Ridge project will have no effect on the New River Canyon.

Preservation of the New River segment in question seems almost to be an afterthought by those who presented positions against the Blue Ridge project and lost. Passage of this legislation would give them another chance to defeat this needed project.

This project has been carefully considered in a number of forums over a period of years. Congressional action at this date would cast in doubt decisions by regulatory agencies made in the past and in the future. Passage of this bill might render the federal government liable for damages for the revocation of a power license.

Eighteen hundred megawatts of clean hydropower is so vital to our economic and social well-being that we cannot afford to ignore the tradeoff involved.

Consideration of the problems in this legislation will lead one to the same conclusion that we have reached—that this legislation is not in the best interests of the citizens of this country. We urge the defeat of this legislation.

Paul Fannin.
Clifford P. Hansen.
Mark O. Hatfield.
James A. McClure.
Dewey F. Bartlett.

ORDER FOR YEAS AND NAYS

Mr. MANSFIELD. Mr. President, at this time I ask unanimous consent that there be a yea-and-nay vote on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ORDER FOR YEAS AND NAYS ON THE SCOTT AMENDMENT

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the Scott amendment, which deletes title II.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 408

The PRESIDING OFFICER (Mr. Helms). The Senator from Utah.

Mr. MOSS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah (Mr. Moss) proposes an unprinted amendment numbered 408.

The amendment is as follows:

At the appropriate place add the following new section:

Section 1274(a) of title 16, United States Code, is amended by adding at the end thereof the following:

"(11) Colorado River, Utah.—The thirty-six-mile segment which flows from mile point 1063 to mile point 1027 (such segment being the segment which begins at the boundary between the States of Utah and Colorado and runs westward to the junction of the Dolores River with the Colorado River in the State of Utah); to be administered by the Secretary of the Interior: *Provided*, That the Secretary of the Interior shall take such action as is provided for under subsection (b) of this section within one year from September 1, 1976."

Mr. MOSS. Mr. President, my amendment is very simple. It would designate 36 miles of the Colorado River in Grand County, Utah, as a component of the National Wild and Scenic Rivers System.

The wild rivers designation, as the Senate well knows, is applied to certain selected rivers of the Nation which have remarkable scenic, recreational, geologic, or other values which should be preserved by keeping the river in its free-flowing state and its shoreline in its natural condition, so that generations to come may enjoy them unimpaired by man-made encroachments.

This stretch of the Colorado River in Utah qualifies on all counts. Its scenic value is unparalleled. There is one 13½ mile section through Granite Canyon that I consider the most exciting river in Utah. It has a series of rapids—Sock-It-To-Me, Wildhorse, Marble Canyon, Funnel Falls, Skull, and Last Chance—which tumble in quick succession through a narrow rugged canyon. Massive red sandstone cliffs rise high in the sky, broken by black granite and red and purple shales.

Numerous side canyons are home to deer, cougar, snowy egrets, Canadian geese, beaver, blue herons, and golden eagles.

The Interior Department is studying this river for "possible" inclusion in the wild rivers system but I see absolutely no reason to delay any longer. We have a habit of studying these things to the point where the original purpose can no longer be achieved. The New River will not wait, and neither will the Colorado. The region is remote, so there is still time, but not 2 or 3 years. Jeep roads are steadily pushing toward it, and development is sure to follow.

I urge the Senate to extend the protection of the Wild and Scenic Rivers Act to this portion of the Colorado River.

Mr. President, I believe we now know enough about it and its value is such that we should proceed forthwith with an amendment on the New River bill to designate this as a wild and scenic river.

The President, the day before yesterday in Yellowstone Park, talked about the need for preserving many of our scenic and outdoor wonders. I agree with him very much. This would fit right in with the general proposal the President has made.

Therefore, I am offering this amendment at this time.

The PRESIDING OFFICER. If the Senator will pause for a moment, the Chair would point out that the bill now under consideration is H.R. 13372, which is an identical companion bill passed by the House of Representatives. Does the Senator from Utah wish to modify his amendment to conform with that?

Mr. MOSS. I thank the Chair, and I ask that my amendment be modified to apply to that measure.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

Mr. HASKELL. Mr. President, I would, of course, have to oppose the amendment of our distinguished colleague from Utah, not because the stretch of the Colorado River that he speaks of is not a beautiful stretch and well worth preserving. As a matter of fact, this stretch could only be improved if it lay within the State of Colorado. It does not; it is situated within Utah.

Barring that, however, it is a glorious stretch of river.

I would like to point out, Mr. President, that there are really two reasons for opposing this amendment. First, I believe it is essential that the bill under consideration go through as it was passed by the House of Representatives, to avoid a conference, a possible deadlock, and possible loss of a valuable piece of legislation.

I would also point out that in a bill passed by the last Congress (Public Law 93-621), 19.5 miles of the 26-odd miles—I guess the Senator's amendment provided for 26 miles——

Mr. MOSS. Thirty-six.

Mr. HASKELL. Of the 36-odd miles is already designated for study. I sympathize with my distinguished friend from Utah in his desire, first, to speed up that study dealing with the 19 miles, and second to add to it the additional mileage, which I am sure merits consideration or my distinguished friend would not have included it in his amendment.

I would ask the distinguished Senator from Utah if he would consider withdrawing his amendment upon two promises that I make: First, I would hold hearings in January; and, second, I would immediately write the Department telling them that I expected at least a preliminary report by the time of that hearing in January on the 19.5 miles they are already directed to study, and I would consider in that hearing a bill, if the Senator so chose to introduce it, which would add, for the purposes of expedited study, the additional mileage on that river.

The Colorado River is well known in our part of the country and indeed nationwide. This is a very fine stretch of river, and unique in many ways, and I do agree with my distinguished friend that it would be a terrible shame if anything should happen to make it impossible to designate it a component of the National Wild and Scenic Rivers System.

But I would ask if my friend, based upon this conversation and these representations and promises that I make, would consider withdrawing his amendment.

Mr. MOSS. I thank the Senator from Colorado for his observations. I know that he is acquainted with this stretch of the river, which is very unique in the series of rapids it tumbles through. It is totally wild now and unimpeded, and it would be a tragedy indeed if it were impinged upon in any way, because it ought to remain in that condition. This is one of the favorite short runs on the river that can be made in 1 day, and still have the excitement of a lifetime going through there.

I appreciate what the Senator says about the fact that the bill before us is a sort of emergency type situation, and I recognize that waiting another 4 months or 5 months is probably not going to cause the river to be damaged in any way. So I am happy to accept the offer of the chairman to first indicate that in January of next year hearings will begin on the wild and scenic river designation of the Colorado River, of an area that would include at least what I have been talking about; and second, that he will so advise the Department of the Interior. A part of my frustration is that I have introduced this measure in previous Congresses, and all I have ever been able to get out of it is a promise to study it. Characteristically, it has been studied and studied over a long period of time. It seems to me so obvious that this particular section of the river should be protected that I do not see how the study could take all that time.

But based on the Senator's assurance, and knowing that my friend from Colorado is as anxious as I to protect this particular river and all wild and scenic rivers in our part of the country, I accept this offer and withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HASKELL. I thank my distinguished friend from Utah.

Just to repeat, I will forthwith get a letter off to the Secretary of the Interior concerning the projected hearings in January, at which time I would expect the Department to make a preliminary report on the 19.5-mile stretch, and also at which time we would entertain a bill to be submitted on the remainder of the mileage by the distinguished Senator from Utah.

Mr. MOSS. I thank the Senator from Colorado.

The PRESIDING OFFICER (Mr. Brooke). The 10 minutes of the Senator from Utah has expired. Under the previous order, the Senator from Virginia (Mr. William L. Scott) is recognized to call up an amendment.

AMENDMENT NO. 2229

Mr. WILLIAM L. SCOTT. Mr. President, I call up my amendment No. 2229, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Virginia (Mr. William L. Scott) proposes an amendment numbered 2229.

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 2, strike out lines 3 through 11 and insert the following:
>
> SEC. 2. Nothing contained in the amendment made by the first section of this Act shall be construed to affect the validity of any license issued by the Federal Power Commission.

Mr. WILLIAM L. SCOTT. Mr. President, in the measure before us, the first section would add to the wild and scenic rivers system that segment of the New River in North Carolina extending from its confluence with Dog Creek downstream approximately 26.5 miles to the Virginia State line. The second section of the bill provides that any license issued by the Federal Power Commission affecting the New River of North Carolina shall continue to be effective only for that portion of the river not included in the National Wild and Scenice Rivers System.

My amendment would strike section 2 of the bill, and would substitute therefor the following language:

> Nothing contained in the amendment made by the first section of this Act shall be construed to affect the validity of any license issued by the Federal Power Commission.

Mr. President, the purpose of this amendment is to put into proper focus the true intention of the bill, which is to kill the Blue Ridge project. I would call the Senate's attention to the fact that the Appalachian Power Co. applied to the Federal Power Commission for a preliminary permit to study the feasibility of the Blue Ridge project in June of 1962; to the fact that after considerable testimony—7,500 pages, as I recall, with some 300 exhibits—and the passage of many years, the Federal Power Commission, on June 14, 1974, issued a construction license to the Appalachian Power Co. for the Blue Ridge, making it effective January 2, 1975, to allow Congress time to act on pending scenic river legislation which has not to date been enacted; and that the action of the Federal Power Commission in granting the license, on review by the U.S. Circuit Court of Appeals for the District of Columbia, was unanimously upheld by an order of that court dated March 14, 1976.

My amendment, in effect, says, "Have your scenic river, but do not stop the construction of the dam." That is exactly the intention of the bill; so I would say, for practical purposes, it renders the bill ineffective. That is certainly my intention. I am sure the author of the bill would be in agreement that this is the purpose and practical effect of the amendment.

But basically I do this just to focus attention on this approach. We are not talking about wild and scenic rivers.

In my opinion, New River does not come within the definitions that in the United States Code. I just reviewed those, and yet Congress of course, can put any river it wants to under this act by direct action of Congress.

Mr. President, I referred earlier, as did my distinguished colleague from Virginia (Mr. HARRY F. BYRD, JR.), to a series of articles written by Bob Wiedrich of the Chicago Tribune with regard to this project. Evidently this gentleman from Chicago traveled into both North Carolina and Virginia and talked with the people who would be affected by this project, and in his article of Thursday, August 26, he was in Roanoke, where I understand the headquarters of the Appalachian Power Co. is located. I shall just quote the beginning and the conclusion of his column for that day. He says this:

> The nation's environmentalists don't like strip mining the low sulphur coal that generates electricity with a minimum of air pollution.
>
> Conversely, they don't approve of burning high sulphur coal in steam-powered generating plants because that stuff pollutes the air.
>
> Finally, the environmentalists are vigorously opposing the construction of hydroelectric generating plants because they tend to obscure the natural beauty of some of America's lovliest streams.
>
> So, one can only surmise that dedicated environmentalists prefer candlelight and wine to 150-watt bulbs and beef roasts broiled to perfection in an electric oven.

In concluding the column, Mr. Wiedrich wrote:

> Plans call for the Blue Ridge project to operate about 14 hours a day, using its electric muscle to ease the diversified peak demands of Appalachian Power's own 655,000 customers as well as those in the six other states served by AEPC subsidiaries.
>
> With the rushing waters of the New River controlled by twin-dammed reservoirs, the hydroelectric plant would be capable of achieving its full 1.3 million kilowatt capacity in 5 to 10 minutes from a dead start. A steam-powered generating facility usually requires 18 to 24 hours to achieve the same results.
>
> Such performance, utility experts point out, would be especially useful in the unlikely event of another power blackout like the one that threw New York City into near panic in 1965.
>
> In such a crisis, Blue Ridge power could be relayed directly to New York through power lines up the Atlantic coast. The TVA, for example, already sells excess power to New York utilities via Appalachian Power Co. lines.
>
> This discussion may well prove academic. The House has already chopped off one leg of the Blue Ridge project by its vote. The Senate could send the rest of the project tumbling into the chill waters of the New River.
>
> Then the environmentalists can light their candles in victory

Mr. President, that is exactly what I do not want to see happen. In my opinion, the people in the affected areas do not want to see this happen.

I have before me a copy of a letter dated August 23, 1976, from Charles S. Cassell, secretary, Grayson Business Development Association. Among other things, and I shall quote two pertinent paragraphs, Mr. Cassell states:

> We feel the Blue Ridge Project would enhance our area by creating a beautiful mountain lake, greatly contribute to our economic development, provide flood control and—

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The Senator may proceed.

Mr. WILLIAM L. SCOTT. Let me repeat, Mr. President:

> We feel the Blue Ridge Project would enhance our area by creating a beautiful mountain lake, greatly contribute to our economic development, provide flood control and supply our Nation with an economic and environmentally accepted means of generating electric energy. Our tax base would more than double, providing local government money to build needed schools, recreation, medical, and court facilities.
>
> In February, 1976, we conducted a survey in the local paper asking our citizens to express their view regarding a Wild and Scenic River. The results were 969 opposing the Wild and Scenic River and 272 favoring it.

Mr. President, this letter comes from Independence, Va., in Grayson County, where the dam would be constructed:

> More than 40,000 acres in our County is now owned by Federal and State Governments; namely the Mt. Rogers National Recreation and Grayson Highlands State Park. Our citizens strongly oppose further government control of our land.

I believe, Mr. President, that there are many benefits of this project that must be taken into consideration. It is a project that would create 1,800,000 kilowatts of electric generating capacity for the east central United States and this at a time when we do have a scarcity of energy and when we are importing even greater amounts of oil from abroad.

There would be no drain on oil or natural gas supply. There would be recreation-related benefits totaling $2 million to $4 million per year. There would be construction jobs for 1,500 to 2,000 people, with a construction payroll in excess of $200 million. Many nonproject-related jobs would be available due to the development of the affected area. There would be flood control. Some 160,000 acre-feet of flood control storage would be provided to protect an area downstream which today has no flood protection. The $845 million privately financed project would help to expand the local tax base. It would greatly improve an economically depressed area that we understand is losing population annually.

Mr. President, I am advised that this same situation relates to other hydroelectric projects licensed by the Federal Power Commission but not yet constructed, and if this bill is enacted, it could well be a precedent for further congressional consideration of projects that are licensed but not yet constructed, and I have a list of them. They include projects proposed for South Carolina, Georgia, Alabama, Arizona, North Carolina, Virginia, New York, Washington, California, Montana, two in Wisconsin, a second one in Alabama, and a second one in Virginia.

My colleague from Virginia and I put together a letter to our colleagues in the Senate with regard to this bill, and I shall simply review it for the benefit of those Senators who may not have seen the letter.

It says this:

> The sole purpose of this bill is to revoke a license granted by the Federal Power Commission to construct a 1.8 million kilowatt hydroelectric project within the State of Virginia, and we oppose the bill for a number of reasons:
>
> 1. The project would provide much needed energy without any damage to the environment.
>
> 2. There would be no cost to the taxpayer

as the $845 million project is privately financed by the Appalachian Power Company.

3. 1500–2000 jobs would be provided.

4. Several dams are already in existence on the New River within Virginia and West Virginia.

5. There are only five miles of the main stem of New River in the State of North Carolina compared with 250 miles within Virginia and West Virginia.

6. A license to construct the Virginia dam was granted by a unanimous vote of the Federal Power Commission after an exhaustive adversary proceeding lasting more than nine years.

7. The Circuit Court of Appeals for the District of Columbia unanimously approved the granting of the license.

The pending measure is precedent-setting legislation. We believe it is unwise for the Congress to override a quasi-judicial decision of a Federal regulatory agency arrived at unanimously after many years of hearings and to further handicap the private sector in its efforts to increase our domestic energy supplies.

Mr. President, all the Republican members of the Committee on Interior and Insular Affairs oppose the enactment of this legislation. They are Senators FANNIN, HANSEN, HATFIELD, MCCLURE, and BARTLETT.

In earlier comments, I have referred in some detail to the minority views in the committee report. I say they have opposed it; whereas, when the measure was before the Interior Committee earlier in a slightly different form, it was reported by that committee unanimously.

In summary, the thrust of my amendment is to provide that the license granted by the Federal Power Commission shall remain in effect and be valid even if this bill is passed.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, the amendment of the distinguished junior Senator from Virginia (Mr. WILLIAM L. SCOTT) has one purpose, and one purpose only: It is intended to leave the situation in the same condition of doubt and uncertainty that now exists. The Senator would simply eliminate the language in the bill which invalidates the FPC license and replace it with language which leaves the FPC license intact. The Senator does this because he has said that the only purpose of the bill is to prevent the construction of the Blue Ridge project.

Mr. President, I have tried to point out in my earlier remarks that the issue is far larger than the issue of preventing the construction of the dams on the New River. The issue is one of conflicting jurisdictions, and whether the will of the people of our State, properly expressed through our constitutional processes, shall prevail against a combine of Federal bureaucrats and outside interests.

This is not a simple case of the FPC issuing a license and the people changing their minds after the fact. Let us look at the whole situation. The FPC put the license in effect knowing full well that the people of North Carolina, acting through their Governor and their State legislature, had approved the necessary legislation and had asked the Secretary of the Interior to include the North Carolina section of the New River into the Federal Wild and Scenic Rivers System.

The Secretary of the Interior had the State of North Carolina's request under consideration at the time the license went into effect. Thus we not only had the will of the State in opposition to the proposed FPC action; we also had another agency of the executive branch in action whose jurisdiction is opposed to that of the FPC.

The fact is, Mr. President, that the action of the Secretary of the Interior, Mr. Kleppe, in designating the New River as part of the Federal Wild and Scenic Rivers System, has already taken place. The only issue remaining is whether Secretary Kleppe's action automatically cancels the FPC license. The statutes very clearly say that no FPC license can be issued for a river already included in the system; but they never anticipated that the FPC would be so arrogant as to take such an action after a State legislature had asked that a river be included in the federal system and while the request was under active consideration by the Secretary. In my judgment, the action of the FPC was clearly in opposition to the intent of Congress in passing the law, and its action is illegal.

If Congress does not settle this matter today once and for all, there will be long and expensive litigation. We have the opportunity to settle it now. The House has already acted decisively. It is not just a question of canceling the FPC license. It is a question of Congress making clear its earlier intention in passing the Wild and Scenic Rivers Act.

When the FPC acts in defiance of a State legislature and its Governor, when it acts in defiance of the intent of Congress, when it acts while the Secretary of the Interior is considering inclusion of the New River in the system pursuant to the authority granted to him by Congress, then it is up to Congress to settle the question of whose jurisdiction has precedence.

Mr. President, in the judgment of this Senator, we will be shrinking from our duty if we do not settle this question of the FPC's heedless action right now. I urge my colleagues to reject the amendment of my friend from Virginia.

The PRESIDING OFFICER. Who yields time?

Mr. STONE. Mr. President, will the Senator from North Carolina yield briefly?

Mr. HELMS. I yield.

Mr. STONE. Mr. President, the Senator from Florida has watched the Senator from North Carolina's efforts in this attempt to save a vital and valuable river for all in this country, and he approves of it.

Mr. President, I have devoted a large part of my time since coming to the Senate to the energy problems which continue to plague our country. I think I understand as well as anyone the importance of developing additional energy sources, to sustain our economy and standard of living.

It is not without an appreciation for the need for more energy that I support the enactment of legislation to save the beautiful New River from destruction. Although we need to do much more in developing domestic energy sources, we cannot afford to ruin the Nation's precious natural heritage in doing so.

There can be no doubt at all that the New River is a very special part of this country's natural heritage. Geologists tell us that it is the second oldest river in the world—second oldest to the Nile River. It has been a source of great enjoyment to hundreds of thousands of Americans since the early days of our Republic. Generations of farm families have made a livelihood and a life along its scenic borders. The plant and animal life sustained by the New River is an irreplaceable part of our Nation's national treasure.

I have weighed the arguments justifying construction of a pumped-storage hydroelectric project on this river against the scenic and recreational value of the New River to our people. In my judgment, the need for constructing this hydroelectric project does not begin to justify the loss of such a precious natural resource as the New River.

Congressional hearings on this matter more than adequately support this view. Indeed, the Senate itself during the 93d Congress voted by an overwhelming margin to preserve the New River in its present state. Now, the House of Representatives has done the same thing and I urge the Senate to affirm its previous action by adopting S. 158.

Mr. President, no more compelling argument has been made in favor of preserving the New River than a speech delivered to the Senate on May 28, 1974, by former Senator Sam Ervin, of North Carolina. Although I was not in this body at that time, I am confident that anyone who heard his remarks found it difficult to disagree with Senator Ervin's views on the subject. I ask unanimous consent that a portion of Senator Ervin's speech on the New River be printed at this point in the RECORD so that we will all be reminded of the importance of this beautiful river.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. ERVIN. Mr. President, today the Senate of the United States has an opportunity to preserve for future generations an important part of our country's natural heritage. I refer to the vote scheduled for today on S. 2439, a bill which designates a portion of the New River in North Carolina and Virginia as a potential component of the National Wild and Scenic Rivers System.

This legislation was reported favorably by the Committee on Interior and Insular Affairs on May 2, 1974. It was the subject of a legislative hearing on February 7, 1974, by the Subcommittee on Public Lands at which time many North Carolinians and Virginians came to Washington to plead for congressional action to save this beautiful river. This bill, sponsored by Senator HELMS and myself—and introduced by Congressman MIZELL in the other body—has the support of the U.S. Department of Interior, the Governor of North Carolina, the North Caroline Department of Natural and Economic Resources, the North Carolina General Assembly, the boards of commissioners in the two North Carolina counties directly affected, and many conservation and environmental organizations.

One of these organizations is the Conservation Council of Virginia, Inc. I ask unanimous consent to have printed in the RECORD a letter written to the dstinguished junior Senator from Virginia (Mr. WILLIAM L. SCOTT) dated May 25, 1974.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MAY 25, 1974.

Hon. WILLIAM L. SCOTT,
Senate Office Building, Washington, D.C.

DEAR SIR: The Conservation Council of Virginia, one of Virginia's major statewide conservation organizations consisting of 47 affiliating groups, unanimously approved the enclosed resolution supporting S. 2439, a bill authorizing and directing study of a section of the New River for potential inclusion in the Wild and Scenic Rivers System, at its May 19 meeting in Williamsburg.

The Council believes that adequate study to determine Wild and Scenic Rivers potential must be done prior to making any final decision on the Blue Ridge Project.

We urge that you give support to Senators Helms' and Ervin's bill, S. 2439.

Thank you.

Yours truly,

JOAN C. SKEPPSTROM,
Secretary.

Mr. ERVIN. Mr. President, I also ask unanimous consent to have printed in the RECORD a copy of the resolution adopted by the Conservation Council of Virginia, Inc.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

CONSERVATION COUNCIL OF VIRGINIA RESOLUTION ON BLUE RIDGE PROJECT, NEW RIVER, VA.

"Whereas, the New River in Virginia and North Carolina is the oldest river in the United States of America and second oldest in the world, and

"Whereas, the New River is one of the very few naturally free-flowing, unpolluted rivers in the East, and

"Whereas, the proposed Appalachian Power Company's Modified Blue Ridge Project would flood over 40,000 acres of fertile farmland and forested hillsides in rural Virginia and would flood over 40 miles of natural free-flowing streams, and

"Whereas, S. 2439, introduced by Senators Helms and Ervin would authorize and direct a study of this New River section for potential inclusion in the Wild and Scenic Rivers System, and

"Whereas, S. 2439 would halt the Blue Ridge Project while the Wild and Scenic Rivers study is underway, and

"Whereas, the Interior and Insular Affairs Committee of the Senate has reported S. 2439 favorably for action by the full Senate, Therefore,

"Be it Resolved, that the Conservation Council of Virginia does transmit this resolution to and urge the support of Virginia Senators Byrd and Scott for S. 2439."

Mr. ERVIN. Mr. President, in addition to these governmental bodies and conservation and environmental groups which ask for the passage of the bill, and the preservation of the New River, I would like to add that the preservation of the New River in its natural, free-flowing state has the determined support of thousands and thousands of Americans who have come to cherish this historic and beautiful river.

The New River, Mr. President, is truly one of the precious treasures of our natural heritage. Geologists tell us that it is the oldest river in the United States and the second oldest river in the world—second only to the Nile. It has been flowing for over a million years. It was named the New River by Peter Jefferson, the father of Thomas Jefferson, who discovered the river while surveying southwestern Virginia and northwestern North Carolina in the 1700's.

Botanists have confirmed what generations of New River valley residents have always known—that the vegetation along the banks of the New is great in variety and unspeakable in beauty. Northern evergreens and pines grow magnificently amidst flowering shrubs and trees of the South. Some 68 species of fish have been identified in the New River and 11 of these species are thought to be rare and endangered. I can assure Members of the Senate that the river and its valleys compose one of the most perfect and beautiful pieces of Almighty God's handiwork on Earth.

The river and its valleys have been home for generations of American families deeply rooted in this land. They have nurtured its soil, enjoyed its bounty, and respected its beauty. One observer has noted:

"It is one of those rare places where the names on the mailboxes can be matched with those on the decaying gravestones. It is a living, breathing history of everyday life, a continuous, unbroken thread of culture and heritage that stretches through more than 200 years of American history."

Those families who have lived on the New River for generation after generation know its treasures best and are therefore the most determined of all at this time to secure it from destruction.

Mr. President, my office has been flooded with letters, petitions, pictures, and photographs over the past year with the same message—save the New River. Schoolchildren have composed poems about the New River and newspaper columnists have taken to print, again, with the same message—save the New River. Young people who have just begun to enjoy fishing and canoeing on the New are just as concerned about its preservation as are their parents who have known its pleasures throughout their lives.

S. 2439 is necessary for the preservation of the New River because of a pending license application before the Federal Power Commission to construct a hydroelectric project on the New River. An FPC administrative law judge recommended licensing of the project on January 23, 1974. Almost certain to receive Commission approval in the very near future, this project would absolutely destroy the New River as we know it today. There is much controversy as to the necessity and efficiency of the type of power project proposed to be built on the New. The application is for a pumped storage hydroelectric facility which is criticized by some scientists and energy experts as an inefficient method of producing electricity. Some of these experts maintain that the Blue Ridge project as presently conceived will be obsolete before it can be built and begin operation. I am not an expert in the technology of producing electric power and, therefore, must leave the resolution of this particular controversy to others. But one thing is certain, Mr. President. Whether this project be technologically sound or not, its completion will destroy the New River. And, Mr. President, with respect to the New River and the joy it brings to those who know it, I do qualify as an expert. I am an expert as to its beauty because, like most other fellow travelers on this Earth, I have learned to appreciate the handiwork of Almighty God. We can rebuild buildings and cities and power plants if they become obsolete, but we can never rebuild nor match the perfect beauty of nature which God has given us. There may be confusion of facts and controversy over technology as to the Blue Ridge project itself, but as to the fate of the New River there can be no argument. Unless S. 2439 is enacted to protect the New from this project it will be lost forever.

Although many knowledgeable persons have expressed strong criticism of the Commission's consideration of this application—in which criticism I have frequently joined—the justification of enacting S. 2439 does not depend upon finding fault with the Federal Power Commission's actions. Designation of the New River as a potential component of the National Wild and Scenic Rivers System is justified because it is a river with characteristics which the Congress in 1968 decided to protect for future generations of Americans by enacting the Wild and Scenic Rivers Act (82 Stat. 906, 16 U.S.C. 1271) quite apart from the authority given to the Federal Power Commission by Congress.

In enacting the Wild and Scenic Rivers Act of 1968, Congress declared:

". . . the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes. (16 U.S.C. 1271). The Congress decided that rivers with . . . outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values, shall be preserved . . . for the benefit and enjoyment of present and future generations." (16 U.S.C. 1271).

Mr. President, no American with eyes to see the glorious beauty of the New River, with ears to hear the precious sounds of nature which echo along its banks, and with a heart to love the wonders of our good Earth could fail to conclude that the New River is exactly what the Congress intended to preserve by enactment of the Wild and Scenic Rivers Act.

After studying the testimony taken by the Subcommittee on Public Lands, pictures and maps and other evidence concerning the New River, the Committee on Interior and Insular Affairs concluded that the New River is—

". . . worthy of study for possible inclusion in the national wild and scenic river system." (Report No. 93–831, page 4.)

It is particularly important, Mr. President, that the committee's report makes detailed reference to the proceedings pending before the Federal Power Commission involving the New River. While the committee of course did not attempt to substitute its judgment for that of the FPC, the committee report correctly points out that:

". . . the Commission lacks competence to judge the potential of a river for wild and scenic river status. For example, virtually no attention was given in the FPC (environmental) impact statement for the Blue Ridge Project to the recreational or historic benefits of a free-flowing river." (Report No. 93–831, page 5.)

Mr. President, I want to emphasize that S. 2439 does not attempt to make the New River a component of the Wild and Scenic Rivers System without appropriate study by the Department of the Interior.

This bill merely designates a portion of this river as a "potential addition" to the system. Under the 1968 act, a river so designated is studied by either the Bureau of Outdoor Recreation of the Department of the Interior or the Forest Service of the Department of Agriculture to determine its suitability for inclusion in the system. When completed, the study is submitted to Congress which must enact further legislation should it wish to designate the river as a component of the wild and scenic rivers system. In its report on S. 2439, the Committee on Interior and Insular Affairs recommends that the study be completed no later than 2 years from the enactment of S. 2439.

The Senate has just adopted an amendment providing for a study within 2 years after enactment of the bill as one of the provisions of this act.

Assuming that this period of time permits the study to be properly concluded, I fully support the committee's recommendations.

During this period of study, the 1968 act wisely provides certain protections for the river aimed at maintaining the river in its existing state. Among these protections set forth very explicitly in the statute is a prohibition against the licensing of any dam or other water project under the Federal Power Act on or directly affecting the designated river.

The Wild and Scenic Rivers Act classifies rivers in the system as "wild river areas," "scenic river areas," and "recreational river areas." These categories of rivers are described in the 1968 statute. If a river is ultimately included in the wild and scenic rivers system it is classified, designated, and administered according to these categories. The administration of rivers in the system by the Interior Department varies according to a river's classification. The regulations and restrictions which are developed to preserve a wild river area are not the same as those which apply to a scenic river area or to a recreational river area.

Those persons who have studied this matter believe that the New would most probably be classified as a scenic or recreational river. According to the Interior Committee's report, in the case of recreational and scenic river categories—

". . . most traditional uses—roads, bridges, residences, farming, grazing, timber harvesting, hunting and fishing, and various commercial activities—may be allowed. Even the most restrictive management category—that of "wild" river—limits development activities less than is done in areas under the Wilderness Act."

This is important in understanding the impact of inclusion of a river in the wild and scenic rivers system.

In summary, Mr. President, I urge the Senate to implement the policy Congress established in 1968 to protect America's wild and scenic rivers by adopting S. 2439 to save the New River—a river which certainly qualifies for inclusion in the wild and scenic rivers system. In so doing, the Senate will be preserving for future generations of Americans the enjoyment of a very special part of this good earth. I share with other Americans anxiety about our energy problems and do not dispute the necessity of balancing the Nation's energy needs with conservation concerns. In the case of the New River, however, I must confess dismay as to how there could be doubt about the choice which should be made. I do not believe it is a close question. If America sacrifices the majesty and beauty of a river such as the New, it will be denying its own birthright to the handiwork of Almighty God.

The people who know and love New River sometimes write poetry about the New River. I received one from a little boy who lives in Sparta, N.C., dated May 16. He wrote:

"The matter of a dam has come up. We, the students of Sparta Elementary School, wouldn't want to see a big dam put on our beautiful river in the heart of the Blue Ridge Mountains. We would be ever so grateful if you could stop it. The dam would run people out of their homes. For generations people have enjoyed the natural beauty of this river. I hope that S. 2439 will be passed for the sake of all fishermen."

And I certainly hope for that also because when I announced that I would not be a candidate for reelection this fall, and I was asked what I was going to do, I said "I am going fishing." Since that time I have received three good rods, and I want to go over to the New River and try my luck at fishing. I am looking forward to that.

I got interested in the New River as a result of the efforts of one of the closest friends I ever had, a schoolmate of mine, Lloyd Crouse, who was born and lived on the New River and who did so much during his lifetime for the stocking of the streams in North Carolina with fish and who did so much for wildlife.

To continue with this letter:

"Great fishing is found at New River. I hope my plea is heard. I would hate to see a dam put on the New River. The people truly love this river, I am a boy, 12 years old, who lives within 5 miles of this river. The people of North Carolina have enjoyed picnics at the river for decades. Other students are writing to other senators. I wanted to write to you because I know that you get things done."

I hope that provides to be true, I venture to say.

"I know you are the finest Democrat I ever heard of."

I am inclined to think that this boy was brought up in the right political climate.

"This is what I want."

"Senator Sam—stop the dam."

And I appeal to the Senate to help Senator Sam stop the dam.

This is not the only child from this area that I have heard from. Here is a petition to the Senate from the students of Sparta Elementary School, who live in the county seat of a county which would be virtually inundated as far as the river and the river bottomland and the fertile land are concerned if this hydroelectric plant should be built.

This petition reads:

"Most people say children should be seen but not heard. We want to be heard. We think the dam on New River should not be built. Sure it will help the energy crisis, but it will ruin the homes of people and animals.

"We love our river!

"We love our country!"

Mr. HELMS. I thank the Senator from Florida for his generous comments. He is always most kind and gracious, and it is a pleasure to be associated with him in the Senate.

Mr. HASKELL. Mr. President, I join the distinguished Senator from North Carolina in opposing this amendment.

The distinguished Senator from Virginia mentioned a "Dear Colleague" letter which he and his colleague had sent. I should like to read the last paragraph of a "Dear Colleague" letter which was sent to all Members of the Senate, signed by Senator Jackson, Senator Metcalf, Senator Stone, Senator Church, Senator Bumpers, and myself.

I believe the last paragraph sums it up in a nutshell:

While we are certainly aware of our nation's energy needs, it is our view that preservation of this stretch of the New River must take precedence over a pumped storage project. In the final analysis, the Blue Ridge Project is replaceable; other alternatives for meeting national and regional energy needs exist. The upper New River, in its unique, free-flowing and natural state cannot be replaced. We urge you to vote with us in favor of S. 158 to preserve this historic national asset.

I ask unanimous consent that this "Dear Colleague" letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

August 25, 1976.

Dear Colleague: On August 10, 1976, by a vote of 311 to 73, the House of Representatives passed H.R. 13372—a bill to designate a 26.5 mile segment of the New River, North Carolina, as a component of the National Wild and Scenic Rivers System. The identical Senate bill, S. 158, is now scheduled for a vote next Monday, August 30. In the last Congress, the Senate passed a bill to protect the New River by a vote of 49–19 only to see the bill die in the House. This year the Senate can act with the confidence that it will be enacting a law—a law that will protect this magnificent stretch of the New River from the imminent threat of damming and flooding.

The New River, which flows through North Carolina, Virginia, and West Virginia, is a unique natural resource. It is considered by geologists to be 100 million years old and, as such, the oldest river in North America and perhaps the second oldest in the world. The New River served as a major migration route in prehistoric and historic times and this particular segment of the river is rich in archaeologcal and historical resources. Its zoological significance is recognized by the U.S. Fish and Wildlife Service which has identified 11 species of aquatic life in and along the river which exists nowhere else in the world. The river is a popular site for canoeists and campers because it provides relatively easy access and white water canoeing, which can be enjoyed throughout the year.

Earlier this year, Secretary of the Interior Kleppe formally recognized the unique qualities of the New River by designating a 26.5 mile segment of the upper New River as a component of the National Wild and Scenic River System. By passing S. 158 next week the Senate will be confirming this designation by statute.

Opponents of the legislation point to the value of this river segment as a potential site for a reservoir for a hydroelectric facility. Such a facility, known as the Blue Ridge project, is proposed for construction downstream in Virginia. The project would consist of two impoundments, both in Virginia, and two reservoirs, the upper one extending 70 miles into North Carolina and flooding 40,000 acres in the process, 29,000 of which are under cultivation or in pasture.

The Congress must enact S. 158 in order to prevent the construction of the Blue Ridge project as presently contemplated and to affirm statutorily the decision of the Secretary of the Interior. Preservation of the upper New River, as would be accomplished by enactment of S. 158, has been urged by the Administration, the entire North Carolina congressional delegation, the Governor and State legislature of North Carolina, the legislature of the State of West Virginia, the County Commissioners of the two affected North Carolina counties and supervisors of Grayson County, Virginia, the county in which the impoundments would be built.

While we are certainly aware of our nation's energy needs, it is our view that preservation of this stretch of the New River must take precedence over a pumped storage project. In the final analysis, the Blue Ridge Project is replaceable; other alternatives for meeting national and regional energy needs exist. The upper New River, in its unique, free-flowing and natural state cannot be replaced. We urge you to vote with us in favor of S. 158 to preserve this historic national asset.

Sincerely yours,

Lee Metcalf.
Richard (Dick) Stone.
Frank Church.
Henry M. Jackson.
Floyd K. Haskell.
Dale Bumpers.

Mr .HASKELL. Mr. President, a vote in favor of the amendment of Senator Scott really is a vote, as he said, to kill the bill. Let us be clear on one thing. We are talking about a 26-mile segment of the New River which has already been designated as wild and scenic by the Secretary of the Interior.

I rise in opposition to the amendment of the junior Senator from Virginia. A vote in favor of the amendment of my distinguished colleague would be identical to a vote against the bill itself. The amendment could have been phrased somewhat differently. It could have said "Nothing contained in this act shall be construed to mean or do anything."

Let us be clear on one thing. This 26-mile segment of the New River has already been designated a wild and scenic river by Secretary of the Interior, Thomas Kleppe. H.R. 13372 is necessary to provide statutory support to that designation. Statutory support is required, because the Federal Power Commssion had previously licensed the construction of the Blue Ridge project which would flood this historic national asset.

That license has been and continues to be the subject of litigation. The conflict between the Secretary's designation of this river segment as a component of the National Wild and Scenic River System and the Federal Power Commission's license permitting in effect its inundation will most certainly be litigated for years to come absent the enactment of H.R. 13372. The amendment we are now considering, introduced by the Senator from Virginia (Mr. Wm. L. Scott), would remove the operative language of H.R. 13372 and allow the conflict between the license and the secretarial designation to continue unabated. It is in the interest of all parties concerned to end once and for all this conflict. Yet the amendment of my distinguished colleague from Virginia would subject all parties concerned to many more years of litigation.

The existing section 2 of H.R. 13372 makes certain that no Federal Power Commission license issued, either before or after the bill's enactment, shall be effective for the 26-mile portion of the river which is included in the Wild and Scenic Rivers System by both the Secretary of the Interior and the bill. It states emphatically that no project so licensed shall be permitted to flood or adversely affect that river segment. It does not preclude the redesigning of the project under the existing permit so as to avoid the flooding of the designated segment of the New River.

In other words, they can put the project someplace else. I should point out that the FPC itself found at least 22 other locations that would be more beneficial from a hydroelectric viewpoint. Nor does it preclude the issuing of a new license for such a redesigned project or for a project at any of the 22 alternative pumped storage sites which the FPC itself has admitted have a lower installed cost per capacity than does Blue Ridge—sites for facilities which—I might add—would flood far less land than would Blue Ridge.

Mr. President, obviously if the Blue River project cannot be redesigned then this provision would in effect invalidate the Federal Power Commission license and the FPC would have to issue a new license for one of those alternative sites. Only by enactment of section 2 of H.R. 13372 can we insure that the New River will be protected for generations to come.

The FPC itself has said there are other and better sites. The amendment of my colleague would strike the provision and simply state that nothing in the act is to be construed so as to affect the validation of any license issued by the FPC. This amendment would make the bill meaningless. Therefore, I hope that my colleagues will vote no on the amendment and yes on final passage of the bill.

In issuing the license, the FPC, on June 14, 1974, stated that it would not take effect until the end of the 93d Congress so that Congress might act on pending legislation to protect the New River. In the less than half a year remaining, the Senate passed a bill 49–19; the House could muster a majority but not the two-thirds vote necessary to suspend the rules. Mr. President, the FPC, which took 9 long years to consider the license application, informed the Congress in effect that it had only 6 months to consider the wild and scenic river designation. The FPC placed a deadline on Congress and told it it had a 6-month period in which to act while the FPC itself took 18 times that long to take its own action. H.R. 13372, without my colleague's amendment, will once again remind that regulatory body of Congress ultimate authority on matters affecting interstate commerce.

I strenuously urge defeat of Senator Scott's amendment, an amendment which has as its avowed purpose to undo the bill.

I yield the floor.

Mr. WILLIAM L. SCOTT. Mr. President, generally speaking, I am in agreement with the comments that have been made by my colleagues from Colorado and North Carolina but I think they are incomplete.

The first time the Senate considered this matter was when it came before us from the Committee on Public Works. That was on January 22, 1974. At that time, the concept of studying the feasibility of making this area of the river a part of the scenic river system was defeated by a substantial vote, a vote of 51 to 31.

An amendment to the public works bill was offered by the former Senator from North Carolina, Sam Ervin. That was on January 22, 1974.

I do not believe that there is any doubt, really, as to where we stand now, because we can look at the chronology of what has gone on in the past. The license was issued by the Federal Power Commission on June 14, 1974. The Secretary of the Interior, on March 13, 1976, announced that in 30 days he would declare the 26.5 miles of New River and South Fork as part of the National Wild and Scenic River System. I think we should understand that there are only 5 miles of the river in the main stem. The remaining mileage includes one fork but eliminates the other from inclusion in the system. There is some industry on the other branch, so that is not included.

The circuit court of appeals, 11 days after Secretary Kleppe made his announcement, upheld by unanimous decision the validity of the action by the Federal Power Commission. After the circuit court of appeals said that the license was valid, the Secretary made his declaration.

I happened to be in the Secretary's office with a group of Virginia colleagues, and his solicitor was there with him at the time. It was clearly understood, and it was the advice of the solicitor, that the Secretary had no authority to cancel a license that had been issued by the Federal Power Commission. This is what the court said by its unanimous decision earlier this year.

I do not doubt for a moment that Congress does have such power. Certainly, we can reverse one of our created agencies, the Federal Power Commission. But if we do, that raises an increased specter of litigation, because the question arises: Are we taking a property right? Is a license issued by the Federal Power Commission a property right and is the property right being taken when the license is revoked by Congress?

Mr. President, as I indicated before, any sovereign State can take the private property of any of its citizens, but we have, in the fifth amendment, a provision "nor shall private property be taken for public use without just compensation." There is considerable concern that this is private property, a license to construct a hydroelectric power project granted after many years of consideration and the expenditure of large sums of money by the power company.

The power company has indicated that in the event that Congress passes this bill and does take away its license, it is going to ask for compensation. It advises that the difference between the cost of generating electricity by the next most desirable type of energy and the use of waterpower to generate electricity is about $500 million.

Mr. President, the distinguished Senators are quite correct as to the effect of my amendment. I offered the amendment just to point out that we are not talking about wild and scenic rivers; we are talking about vacating or overriding a Federal, quasijudicial agency to vitiate the license that it has granted. I call the Senate's attention to the definitions that are in title XVI, section 1274 of the code that defines the wild rivers. It says:

> Those rivers or sections of rivers that are free of impoundments, and generally inaccessible except by trail.

Certainly, that does not apply to this area.

The scenic rivers are: those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive.

This is not a primitive area.

Recreational rivers are those rivers or sections of river that are readily accessible by road or railroad that may have some development along their shorelines and that may have undergone some impoundment or diversion in the past.

Now, it might well fit within this third definition, but the Appalachian Power Co., in my opinion, will provide much greater recreation in conjunction with its proposed project than gained by the scenic river designation.

That is one provision of 1273. Another provision states that—

> The national wild and scenic rivers shall comprise rivers that are authorized for inclusion therein by act of Congress.

So Congress can do this while the Secretary of the Interior cannot unless a proposed inclusion meets the criteria.

Mr. President, I believe this is an unwise action that the committee has recommended by a divided vote, a vote strictly along party lines, with the Democratic members of the committee being in favor of the bill and the Republican members of the committee being opposed to it.

I do hope my amendment will be agreed to. I think it is a fair amendment. It is one that is based on Federal Power Commission hearings that consumed many years, many thousands of pages of testimony, and several hundred exhibits. The administrative law judge ruled in favor of granting the license on three separate occasions.

Mr. President, we have a rollcall vote ordered. I am willing to yield back the remainder of my time in the event the distinguished Senator from Colorado, the floor leader, is willing to yield back his time.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HASKELL. Mr. President, as I understand it, the Senator from Virginia is willing to yield back the remainder of his time. I am willing to yield back the remainder of my time.

Mr. WILLIAM L. SCOTT. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Virginia (Mr. William L. Scott). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Washington (Mr. Magnuson), the Senator from New Mexico (Mr. Montoya), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Minnesota (Mr. Mondale), the Senator from Mississippi (Mr. Stennis), the Senator from California (Mr. Tunney), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Idaho (Mr. Church), and the Senator from Iowa (Mr. Culver), are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Magnuson), and the Senator from Iowa (Mr. Culver) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Hawaii (Mr. Fong), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), and the Senator from Idaho (Mr. McClure) are necessarily absent.

The result was announced—yeas 13, nays 72, as follows:

[Rollcall Vote No. 543 Leg.]

YEAS—13

Bartlett
Bellmon
Byrd, Harry F., Jr.
Curtis
Eastland
Fannin
Hansen
Hathaway
Hruska
Long
Randolph
Scott, William L.
Tower

NAYS—72

Abourezk
Allen
Baker
Bayh
Beall
Bentsen
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Dole
Domenici
Durkin
Eagleton
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Helms
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Weicker
Williams
Young

NOT VOTING—15

Brock
Church
Culver
Fong
Hart, Philip A.
Hartke
Humphrey
Laxalt
Magnuson
Mathias
McClure
Mondale
Montoya
Stennis
Tunney

So the amendment was rejected.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be 10 minutes before final passage, the time to be equally divided between the Senator from Virginia (Mr. Scott) and the Senator from Colorado (Mr. Haskell), that following that the vote on final passage occur, and that there be a 10-minute time limitation on that vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, I yield 2 minutes to the distinguished senior Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, the pending legislation would overrule the unanimous decision of the Federal Power Commission.

The Federal Power Commission studied the matter as to what new or additional hydroelectric facilities are needed in the southwestern part of Virginia.

After studying the question for 9 years, taking 7,500 pages of testimony, hearing hundreds of witnesses, the Federal Power Commission unanimously reached a decision that additional hydroelectric power is needed.

As a result of that, the Federal Power Commission granted a license for such a facility to be built. The pending legislation would set that aside.

It would overturn the unanimous decision of the Federal Power Commission and prevent the construction of much-needed, new electrical power facilities for the southwestern part of the State of Virginia.

I think this legislation would be an unwise precedent. At no other time has the Congress overturned a unanimous decision of the Federal Power Commission. This legislation would do that.

At the same time, it would deny to a very important part of our Nation additional hydroelectric facilities.

I would urge my colleagues to vote against the pending legislation, which will come to a vote in a few minutes. Although the desire to keep the river as it is now has appeal, enactment of the pending legislation undoubtedly will increase the cost to the utility consumer in southwest Virginia.

I have spoken earlier in the Senate in more detail. But I say again, this legislation would be precedent establishing and it would set aside the unanimous decision of the Federal Power Commission that we do need additional hydroelectric facilities.

The PRESIDING OFFICER. Who yields time?

Mr. HASKELL. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HASKELL. The last amendment, the amendment of Senator William L. Scott, was defeated 13 to 72. That vote was really a vote on the bill because, as the distinguished Senator said, the purpose of the amendment was to nullify the bill.

The Secretary of the Interior, with the blessings of President Ford, has taken administrative action to designate this river as the bill would so do.

I might say to my distinguished colleagues on the other side of the aisle that Governor Reagan supported the designation of the New River as a wild and scenic river.

I should say today we received a copy of a letter from George Meany, which appears to withdraw the opposition of the AFL–CIO to the designation.

I should point out that the Federal Power Commission has stated that there are at least 21 other sites on the New River which, from a hydroelectric viewpoint, are preferable to the site that would inundate this stretch.

Mr. President, I think we have a real opportunity to preserve a historic site in the United States. We are not running into an energy-environmental conflict because, as I say, there are at least 21 other sites on the river which the FPC says are preferable from an energy viewpoint.

Mr. GOLDWATER. Will the Senator yield me 2 minutes?

Mr. HASKELL. I have 2½ minutes left. I will yield 1 minute and a half.

Mr. GOLDWATER. Mr. President, I rise to announce my opposition to this dam. That may sound funny coming from a man who was born and raised in the arid west. Of all the votes I have cast in the 20-odd years I have been in this body, if there is one that stands out above all others that I would change if I had the chance it was a vote I cast to construct Glen Canyon Dam on the Colorado.

Today we can build nuclear powerplants. We do not need to destroy running water. While Glen Canyon Dam has created the most beautiful lake in the world and has brought millions and millions of dollars into my State and the State of Utah, nevertheless, I think of that river as it was when I was a boy and that is the way I would like to see it again.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Will the Senator yield?

Mr. HASKELL. I yield to the distinguished Senator.

Mr. HELMS. Mr. President, I simply wish to thank the able Senator from Colorado and the able Senator from Montana for their leadership in behalf of this bill, and I thank my friend from Arizona for his eloquent comment.

I would say again only what has been said in this Chamber on countless occasions: That here we have an erroneous decision by the Federal Power Commission, and I cannot see any point in the Senate upholding an error by the Federal Power Commission.

We have a pumped storage facility that will consume more electric power than it will generate. We have a facility that, as has been acknowledged by all sides, will be silted over in 20 years and rendered almost totally inefficient.

There is no reason to approve this project, and I do hope that Senators will vote in favor of the pending measure.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAM L. SCOTT. Mr. President, my distinguished colleague from Virginia (Mr. HARRY F. BYRD, JR.) has made comments in opposition to this bill, we have jointly sent a letter to our colleagues. I would like to quote just a portion of that letter, because it may be that some of the Senators did not see it:

> The sole purpose of this bill is to revoke a license granted by the Federal Power Commission to construct a 1.8 million kilowatt hydroelectric project within the State of Virginia, and we oppose the bill for a number of reasons:
>
> 1. The project would provide much needed energy without any damage to the environment.
>
> 2. There would be no cost to the taxpayer as the $845 million project is privately financed by the Appalachian Power Company.
>
> 3. 1500–2000 jobs would be provided—

And that is in an area of high unemployment—

> 4. Several dams are already in existence on the New River within Virginia and West Virginia.
>
> 5. There are only five miles of the main stem of New River in the State of North Carolina compared with 250 miles within Virginia and West Virginia.
>
> 6. A license to construct the Virginia dam was granted by a unanimous vote of the Federal Power Commission after an exhaustive adversary proceeding lasting more than nine years.
>
> 7. The Circuit Court of Appeals for the District of Columbia unanimously approved the granting of the license.

Mr. President, the minority views of the Committee on Interior and Insular Affairs—and these are the views of Senators FANNIN, HANSEN, HATFIELD, McCLURE, and BARTLETT—are unanimously in opposition. They say:

> The passage of this legislation would raise significant questions of legislative policy.

They also say:

> The enactment will cause the loss of 1800 megawatts of electrical generation capacity.

Mr. President, this is the first time that Congress, to our knowledge, has taken upon itself the burden of overruling the Federal Power Commission, the expert agency that Congress created to determine such issues. The passage of this bill could result in Government liability for taking, in an amount that may be as high as $500 million.

There is a question: Is a license to construct a dam by the Federal Power Commission, affirmed by the circuit court of appeals, property for which just compensation must be paid under the fifth amendment?

The Blue Ridge project—which is the project that would be killed—would also create one of the great recreational attractions in the eastern United States.

Then, last, the construction of the Blue Ridge project—and this is an important factor—would provide significant employment opportunities for a depressed area. Construction of the Blue Ridge project would provide 1,200 to 1,500 construction jobs for a period of 5 years. There would be permanent jobs associated with the facility, and labor representatives have indicated their support for the project.

Mr. President, in conclusion, we are talking about killing a project that will provide the cleanest energy we can obtain in any manner without added costs of alternative power systems. I am in favor of nuclear projects, for example, but a great number of the people who are opposed to this bill are not in favor of the creation of energy through atomic power. We need to develop vast sources of energy to meet future demands, and hydroelectric power proposed at the Blue Ridge project would certainly help in producing additional clean energy within a few years, without cost to the general taxpayer.

Therefore, I hope that the bill will be defeated.

ADDITIONAL STATEMENTS

Mr. JACKSON. Mr. President, today the U.S. Senate has the opportunity to preserve for future generations an important part of our national heritage. By voting in favor of H.R. 13372, we can insure the protection of a 26.5-mile portion of one of the most beautiful rivers in the East.

Geologists tell us that the New River is the oldest river in the world—second only to the Nile. It has been flowing for over a million years. Botanists claim that the vegetation along the banks of the New River is great in variety and unspeakable beauty. Northern evergreens and pines grow amidst flowering shrubs and trees of the South. Some 68 species of fish have been identified in the New River and 11 of these species are thought to be rare and endangered.

The river and its valleys have been home for generations of American families rooted in this land. Those families who have lived on the New River for generation after generation know its beauty best and are most determined of all to preserve it.

S. 158 is necessary because the Federal Power Commission has issued a license to Appalachian Power Co. for the construction of a hydroelectric pump storage project on the New River just across the North Carolina border in Virginia. I am well aware of the various arguments pro and con regarding this project. I have concluded that preservation of this national historic asset must take precedence over this project. I am convinced that this segment of the New River should be saved.

Designation of the New River as a potential component of the National Wild and Scenic Rivers System is justified because it is a river with characteristics which the Congress in 1968 decided to protect for future generations of Americans by enacting the Wild and Scenic Rivers Act (82 Stat. 906, 16 U.S.C. 1271) quite apart from the authority given to the Federal Power Commission by Congress.

In enacting the Wild and Scenic Rivers Act of 1968, Congress declared:

> . . . the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes. (16 U.S.C. 1271). The Congress decided that rivers with . . . outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historical, cultural or other similar values, shall be preserved . . . for the benefit and enjoyment of present and future generations. (16 U.S.C. 1271).

I submit that the New River is exactly what the Congress intended to preserve by enactment of the Wild and Scenic Rivers Act.

Mr. President, last Congress when similar legislation was pending before the Senate—legislation which the Senate passed overwhelmingly—we were treated to the eloquence and poetry of our distinguished colleague Senator Sam Ervin. I think it is fitting that I conclude my remarks today by recalling Senator Ervin's final exhortation to us in this Chamber in May of 1974:

> I share with other Americans anxiety about our energy problems and do not dispute the necessity of balancing the Nation's energy needs with conservation concerns. In the case of the New River, however, I must confess dismay as to how there could be doubt about the choice which should be made. I do not believe it is a close question. If America sacrifices the majesty and beauty of a river such as the New, it will be denying its own birthright to the handiwork of Almighty God.

Mr. President, I urge the adoption of this legislation.

Mr. DOLE. Mr. President, the Senate is now considering a measure of great importance to the Nation as a whole, to the good cause of environmental protection, and to the State of North Carolina.

The pending legislation would reinforce the decision of Interior Secretary Thomas S. Kleppe that a 26.5-mile segment of the New River in North Carolina be placed in the National Wild and Scenic Rivers System.

Similar legislation has already passed the House, and the Senate can make complete the act begun by the Interior Department earlier this year of protecting one of America's priceless environmental resources.

I support this measure to protect the New River. It would have the effect of vacating a license by the Federal Power Commission that would create an electric power project and an artificial lake where the New River now flows.

Mr. President, the New River is as ecologically significant as it is old. It has flowed for some 100 million years. It is believed to be the oldest river in North America and, some say, the second oldest on Earth.

Interestingly, it is one of few rivers in the Northern Hemisphere which flows South to North. The ecosystem of the New River supports unquestioned natural beauty. Rare plant, animal, and aquatic life abound. Its less exotic creatures include trout and smallmouth bass.

Its waters, riverbeds, and banks, along with its various life forms, provide a living test tube for the sciences of man, literally from A to Z—archeology to zoology.

In April, Secretary of the Interior Thomas S. Kleppe designated a 26.5-mile segment of the New River in North Carolina as a State-administered component of the Rivers System.

The Congress has the opportunity of joining those concerned Americans by adding its approval to the actions of Secretary Kleppe.

I agree with the Secretary's decision, and add my voice to those who have spoken emphatically in favor of preserving that river segment in North Carolina's Ashe and Allegheny Counties.

When differences arise on the often conflicting commitments between energy, along with environmental protection, the one most favored call is for "balance."

To balance, we must weigh.

On one scale, we place the need for energy which could be generated by hydroelectric power, and some temporary construction jobs.

On the other scale, we weigh the natural heritage of the river segment, bountiful beauty, a fragile link to millennia past, and the human factor: damming would displace about 3,000 persons, with waters inundating 42,000 acres of farmlands, nearly a thousand homes, and dozens of churches and cemeteries.

Supporters of the New River and those bills which would add the 26.5-mile stretch in North Carolina to the National Wild and Scenic Rivers System include:

The entire North Carolina congressional delegation, the Department of the Interior, the Environmental Protection Agency, the House Interior Committee, the Senate Interior Committee, and groups which range from conservation organizations to clusters of local citizens.

During the Presidential primaries, Gerald Ford, Ronald Reagan, and Jimmy Carter all supported the compelling arguments for saving the New River.

I am pleased to add my own endorsement.

Mr. RIBICOFF. Mr. President, for the past 14 years the men and women of the New River Valley have been struggling to save their homes and their farmlands from destruction by a massive pumped storage power project. Living on lands settled by their forebears during the 18th century, these people have been battling one of the Nation's giant industries to preserve their rich heritage.

The New River—a beautiful, unspoiled stream running through North Carolina, Virginia, and West Virginia—is one of the oldest rivers in the world. It is considered to be the oldest river in the Western Hemisphere and the second oldest in the world. It abounds with fish, containing 11 different aquatic species, and wildlife feed along its shores. Traditions have deep roots in the area and countless generations have tilled the soil since before the American Revolution.

However, the proposed Blue Ridge power project will end this colorful history and will have disastrous consequences on the river, the land, and the people. Between 40,000 and 50,000 acres of fertile farmland will be inundated if the two dams planned for the power project are constructed. An estimated 900 homes will be lost and approximately 3,000 people will have to be relocated. The entire town of Wilson, Va., will be under more than 150 feet of water. More than $13.5 million a year in agricultural income will be lost. The tax base in many of the affected counties will be seriously disrupted, farm-to-market roads will be blocked and there will be a major upheaval of the well-settled pattern or rural life.

Those opposed to the Blue Ridge project are not opposed to progress. The fact remains, however, that the pumped-storage project proposed for the region will actually consume more energy than it produces, requiring 4 kilowatts to produce 3 kilowatts. Further, I understand that most of the region will not benefit from the power produced at the project.

Mr. President, the Secretary of the Interior took affirmative steps to designate the New River as part of the National Wild and Scenic Rivers System. Unfortunately, however, the decision by the U.S. District Court of Appeals for the District of Columbia has thrown this action into question. Thus, we must take prompt action to clarify the situation by enacting, without any crippling amendments, the measure before us today. Earlier this month the House overwhelmingly supported a similar bill and we should, again, as we did in the last Congress, adopt legislation to afford the needed protection to the New River. Should we fail to act to protect and preserve the New River, I fear that a dangerous precedent may be established and other scenic and historic rivers throughout the Nation will be endangered. I am, therefore, pleased to support H.R. 13372 and urge its enactment.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that a letter of August 24, 1976, to the Philadelphia Inquirer be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE NEW RIVER

To the Editor:

I am writing to commend you for your excellent editorial of Aug. 2, "The New River debate: Will lobbyists prevail?"

You chose a timely and interesting topic—one which might have remained a regional problem, save for a few pertinent details. For example, ironically enough (as you mention), the New River is in fact believed by geologists to be the second oldest river in the world—preceded only by the Nile.

Quite apart from its geological significance the New River Valley houses numerous highly productive farms. It is to my mind one of the most beautiful regions of the entire nation to remain yet untrammeled by the sophisticated but ill-fitting trappings of modern technology.

Further, the river itself is the last essentially unpolluted, free-flowing river in the East. It is my hope that it will remain so.

The issue, as you have stated it, is clear. The American Electric Power Company wants to begin construction on its pumped storage project, and, in spite of overwhelming sentiment to save the river from disaster, the will of the power company could prevail.

I have written to the chairman of the Senate Interior and Insular Affairs Committee, Sen. Henry Jackson, to express my strong support of S. 158.

I should like to join The Inquirer in urging concerned environmentalists "to make clear to each congressman your demand for favorable action by the Rules Committee."

Let us join in a determination that this issue shall not drift into the back-swirls and eddies of an overburdened Congress from which it may never emerge. Let us insist that the will of the majority be done, and that the New River be preserved in its gloriously natural state for this and for the generations to come.

HUGH SCOTT
U.S. Senator.

PHILADELPHIA.

Mr. RANDOLPH. Mr. President, I have carefully studied the intent of S. 158, to designate a segment of the New River in North Carolina as a component of the National Wild and Scenic Rivers System. The real purpose of the measure is to stop construction of the Blue Ridge pumped storage and hydroelectric project by the Appalachian Power Co.

I have received letters and telephone calls from constituents both supporting and opposing the project.

Included among the supporters of the Blue Ridge project is the Charleston Daily Mail newspaper in Charleston, W. Va. I ask unanimous consent that a well-reasoned editorial from the Daily Mail of Saturday, August 21, be printed at this point in my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

COST OF NEW RIVER BILL

Members of the United States Senate from West Virginia and most of its southern neighbor states had better take a hard look at a House bill, already approved, that would stop construction of a hydro-electric dam on the New River in North Carolina.

If they don't, all of their constituents are going to be jolted by a boost in their rates for electricity, or the U.S. treasury is going to have to shell out as much as $700 million.

Rep. Ken Hechler and other self-styled ecologists have pushed the bill through the

House, and the Senate much earlier had approved a similar bill.

Now Hechler and some of his hippy supporters are planning a celebration of the death of the dam down in the New River Gorge.

Hechler does not explain who is to make up the difference between the $1 billion Appalachian Power was willing to spend on the dam, and the $500 million more it will take to build a coal-fired facility to produce the 1.8 million kilowatts that the hydro facility would produce.

Given the present rate of inflation, the $500 million probably would grow to $700 million before the coal-fired plant can be put in operation.

The power company, which saw the dam approved unanimously by the Federal Power Commission and the U.S. Circuit Court of Appeals, retains some options.

It can go into the U.S. Court of Claims to get the $77 million or, hang onto your electric bill, it can go to the public service commissions in the states it serves to seek permission to raise your monthly rates.

Those like Hechler who say they want to keep New River as it is (with seven dams already on it) are spending your money.

Mr. RANDOLPH. Mr. President, I fully understand the problems with displaced families who would be relocated because of the project. This is a continuing and complex problem in the development of water resource, highway, and other projects not only in the area of Blue Ridge but in all parts of our Nation. I have endeavored to secure programs to alleviate relocations to the maximum extent possible.

For over 10 years since the Federal Power Commission granted a 2-year preliminary permit to study the power project I have studied the Blue Ridge project on the New River. I felt then as I do now that new energy supplies are needed for West Virginia, Virginia, and other States.

During the past few months many points have been debated, energy figures have been disputed and site replacements have been cited. Since 1963 the Federal Power Commission has been reviewing the project. It was openly argued in proceedings. The Federal Power Commission in June 1974 granted a license to Appalachian Power Co. for the modified Blue Ridge project which provided low-flow augmentation for recreational purposes for the New River in West Virginia.

The Federal Power Commission states convincingly and authoritatively that the Blue Ridge project will not adversely affect the flow of the New River in West Virginia. Claytor Dam, with its large storage capacity, will continue to release the same flows of water. Additionally, the New River travels a hundred miles before reaching Bluestone Lake. The only difference will be the augmentation of low flows during the summer recreation month. It should be noted also that there are presently several dams on the New River.

Some West Virginians fear that Bluestone Lake would be used for power generation if Blue Ridge is developed. With or without the Blue Ridge, I seriously doubt that the Bluestone Lake ever becomes a hydroelectric facility under the supervision of the Corps of Engineers. It would adversely affect the flow of the New River in West Virginia and would adversely impact flood protection in our State. Penstocks have been at Bluestone for almost 25 years, and I shall endeavor to prevent any use of a hydroelectric facility there, based on the current knowledge of the effects of such an installation at Blue Ridge.

I agree that Congress must act as an overseer of Federal agencies. But I question the precedent of Congress overruling a license unanimously granted by the Federal Power Commission, which the FPC recommended three times and was upheld by the Federal courts. Further, after the New River bill is passed today and the President signs it, several legal questions will remain because of the FPC approved license for the project.

As I did in 1974 I support the Blue Ridge project for its capability of providing growing peak demand energy needs. After more than 10 years of consideration, the Federal Power Commission has made its findings for the project's need and its recreational potential and the regulatory process should be allowed to continue.

Finally, Mr. President, I wish to stress that my vote today in no way diminishes my commitment or my efforts for a New River Gorge National Park in West Virginia. This unique gorge must be protected.

The **PRESIDING OFFICER.** All time has expired. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The **PRESIDING OFFICER.** The bill having been read the third time, the question is, Shall it pass?

Mr. MANSFIELD. Mr. President, just to reiterate, this will be a 10-minute vote, and the one immediately following will be a 10-minute vote.

The **PRESIDING OFFICER.** The Senator is correct.

The question is, Shall the bill pass? On this question the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. MONTOYA), the Senator from Idaho (Mr. CHURCH), the Senator from Washington (Mr. MAGNUSON), the Senator from Iowa (Mr. CULVER), and the Senator from Minnesota (Mr. HUMPHREY), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Hawaii (Mr. FONG), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BROCK) would vote "yea."

The result was announced—yeas 69, nays 16, as follows:

[Rollcall Vote No. 544 Leg.]

YEAS—69

Abourezk
Allen
Baker
Bayh
Beall
Bentsen
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Dole
Domenici
Durkin
Eagleton
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hart, Gary
Haskell
Helms
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Weicker
Williams

NAYS—16

Bartlett
Bellmon
Byrd, Harry F., Jr.
Curtis
Eastland
Fannin
Hansen
Hatfield
Hathaway
Hruska
Long
Muskie
Randolph
Scott, William L.
Tower
Young

NOT VOTING—15

Brock
Church
Culver
Fong
Hart, Philip A.
Hartke
Humphrey
Laxalt
Magnuson
Mathias
McClure
Mondale
Montoya
Stennis
Tunney

So the bill (H.R. 13372) was passed.

Mr. HASKELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table. The motion to lay on the table was agreed to.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1977

The Senate continued with the consideration of the bill (H.R. 15193) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes.

The **PRESIDING OFFICER** (Mr. PEARSON). Under the previous order, the issue now arises on the passage of the District of Columbia appropriations bill. The question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Mississippi (Mr. Stennis), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson), the Senator from Iowa (Mr. Culver), and the Senator from Minnesota (Mr. Humphrey) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Hawaii (Mr. Fong), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), and the Senator from Idaho (Mr. McClure) are necessarily absent.

The result was announced—yeas 85, nays 0, as follows:

[Rollcall Vote No. 545 Leg.]

YEAS—85

Abourezk
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—15

Brock
Church
Culver
Fong
Hart, Philip A.
Hartke
Humphrey
Laxalt
Magnuson
Mathias
McClure
Mondale
Montoya
Stennis
Tunney

So the bill (H.R. 15193) was passed.

The title was amended so as to read:

An Act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for the Pennsylvania Avenue Development Corporation for the fiscal year ending September 30, 1977, and for other purposes.

Mr. CHILES. Mr. President, I ask unanimous consent that the Secretary of the Senate, in the engrossment of the Senate amendments, be authorized to make any technical and clerical corrections.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I move that the Senate insist on its amendments, request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Chiles, Mr. Johnston, Mr. Huddleston, Mr. McClellan, Mr. Eagleton, Mr. Mathias, Mr. Schweiker, and Mr. Young conferees on the part of the Senate.

S. 158 INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar No. 903, S. 158, which is the Senate companion bill to the House New River bill, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The PRESIDING OFFICER. The clerk will state the pending business.

The legislative clerk read as follows:

August 24, 1976.

Resolved, That the House insist upon its amendment to the amendment of the Senate to the bill (H.R. 8532) entitled "An Act to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Rodino, Mr. Brooks, Mr. Flowers, Mr. Sarbanes, Mr. Seiberling, Ms. Jordan, Mr. Mezvinsky, Mr. Mazzoli, Mr. Hughes, Mr. Hutchinson, Mr. McClory, Mr. Railsback, and Mr. Cohen be the managers of the conference on the part of the House.

AMENDMENT NO. 2232

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 2232 of the Senator from Alabama.

The amendment is as follows:

I move that the pending motion to concur, with an amendment, in the House amendment to the Senate amendment to the text of the bill (H.R. 8532) be amended by substituting in lieu of the matter therein proposed to be inserted in lieu of the House amendment to the Senate amendment to the text of this bill (H.R. 8532) the following:

SHORT TITLE

Section 1. This Act may be cited as the "Hart-Scott-Rodino Antitrust Improvements Act of 1977".

TITLE I—DECLARATION OF POLICY

Sec. 101. (a) It is the purpose of the Congress in this Act to support and invigorate effective and expeditious enforcement of the antitrust laws, to improve and modernize antitrust investigation and enforcement mechanisms, to facilitate the restoration and maintenance of competition in the marketplace, and to prevent and eliminate monopoly and oligopoly power in the economy.

(b) The Congress finds and declares that—

(1) this Nation is founded upon and committed to a private enterprise system and a free market economy, in the belief that competition spurs innovation, promotes productivity, prevents the undue concentration of economic, social, and political power, and preserves a free, democratic society;

(2) the decline of competition in the economy could contribute to unemployment, inefficiency, underutilization of economic capacity, a reduction in exports, and an adverse effect on the balance of payments;

(3) diminished competition and increased concentration in the marketplace have been important factors in the ineffectiveness of monetary and fiscal policies in reducing the high rates of inflation and unemployment;

(4) investigations by the Federal Trade Commission, the Department of Justice, and the National Commission on Food Marketing, as well as other independent studies, have identified conditions of excessive concentration and anticompetitive behavior in various industries; and

(5) vigorous and effective enforcement of the antitrust laws, and reduction of anticompetitive practices in the economy, can contribute to reducing prices, unemployment, and inflation, and to preservation of our democratic institutions and personal freedoms.

TITLE II—ANTITRUST CIVIL PROCESS ACT AMENDMENTS

Sec. 201. The Antitrust Civil Process Act (76 Stat. 548; 15 U.S.C. 1311) is amended as follows:

(a) Subsection (a) of section 2 is amended by inserting "and" after the semicolon at the end of subparagraph (1), by striking subparagraph (2) thereof, and by renumbering subparagraph (3) and striking therefrom "(A)" after the words "with respect to," substituting a semicolon for the comma after the words "trade or commerce" and striking the remainder of the subparagraph.

(b) Subsection (c) of section 2 is amended to read as follows:

"(c) The term 'antitrust investigation' means any inquiry conducted by any antitrust investigator for the purpose of ascertaining whether any person is or has been engaged in any antitrust violation or in any activities preparatory to a merger, acquisition, joint venture, or similar transaction, which may lead to any antitrust violation;".

(c) Subsection (f) of section 2 is amended by striking out the words "not a natural person", by inserting immediately after the word "means" the words "any natural person or", and by inserting immediately after the word "entity" the words ", including any natural person or entity acting under colar or authority of State law;".

(d) Subsection (h) of section 2 is amended by striking out the words "antitrust document".

(e) Subsection (a) of section 3 is amended to read as follows:

"(a) Whenever the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to a civil antitrust investigation, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, or to answer in writing written interrogatories concerning such information, or to give oral testimony concerning such information, or to furnish any combination thereof.".

(f) Subsection (b) of section 3 is amended to read as follows:

"(b) Each such demand shall—

"(1) state the nature of the investigation and the provision of law applicable thereto or the Federal administrative or regulatory agency proceeding involved; and

"(2) (A) if it is a demand for production of documentary material—

"(i) describe the class or classes of documentary material to be produced thereunder, with such definiteness and certainty as to permit such material to be fairly identified; and

"(ii) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(iii) identify the custodian to whom such material shall be made available; or

"(B) if it is a demand for answers to written interrogatories—

"(i) propound with definiteness and certainty the written interrogatories to be answered; and "(ii) prescribe a date or dates at which time answers to the written interrogatories shall be made; and

"(iii) identify the custodian to whom such answers shall be made; or

"(C) if it is a demand for the giving of oral testimony—

"(i) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(ii) identify the antitrust investigator or investigators who shall conduct the examination, and the custodian to whom the transcript of such examination shall be given.".

(g) Subsection (c) of section 3 is amended to read as follows:

"(c) Such demand shall—

"(1) not require the production of any information that would be privileged from disclosure if demanded by, or pursuant to, a subpena issued by a court of the United States in aid of a grand jury investigation; and

"(2)(A) if it is a demand for production of documentary material, not contain any requirement which would be held to be unreasonable if contained in a subpena duces tecum issued by a court of the United States in aid of a grand jury investigation; or

"(B) if it is a demand for answers to written interrogatories, not impose an undue or oppressive burden on the person required to furnish answers.".

(h) Subsection (f) of section 3 is redesignated subsection (h) and the following new subsections are inserted immediately following subsection (e):

"(f) Service of any such demand or of any petition filed under section 5 of this Act may be made upon any natural person by—

"(1) delivering a duly executed copy thereof to the person to be served; or

"(2) depositing such copy in the United States mails, by registered or certified mail duly addressed to such person at his residence or principal office or place of business.

"(g) Service of any such demand or of any position filed under section 5 of this Act may be made upon any person who, in the opinion of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, is not to be found within the territorial jurisdiction of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. If such person has had contacts with the United States that were sufficient to, or if the conduct of such person has so affected the trade and commerce of the United States as to, permit the courts of the United States to assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this Act by such person that it would have if such person were personally within the jurisdiction of such court.".

(i) Section 3 is further amended by inserting the following new subsections immediately after subsection (h), as redesignated:

"(i) The production of documentary material in response to a demand for production thereof shall be made under a certificate, in such form as the demand designates, sworn to by the person, if a natural person, to whom the demand is directed or, if the person to which the demand is directed is not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production, to the effect that all documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

"(j) Each interrogatory in a demand served pursuant to this section shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer, and the answers shall be submitted under a certificate, in such form as the demand designates, sworn to by the person, if a natural person, to whom the demand is directed, or if the person to which the demand is directed is not a natural person, by a person or persons responsible for the answers, to the effect that all information required by the demand and in the possession, custody, or control of the person to whom the demand is directed, or within the knowledge of such person, has been furnished.

"(k)(1) The examination of any person pursuant to a demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit the transcript of the testimony to the possession of the custodian. The antitrust investigator or investigators conducting the examination shall exclude from the place where the examination is held all persons other than the person being examined, his counsel, the officer before whom the testimony is to be taken, and any stenographer taking said testimony. The provisions of the Act of March 3, 1913 (Ch. 114, 37 Stat. 731; 15 U.S.C. 30) shall not apply to such examinations.

"(2) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts personal business, or in such other place as may be agreed upon between the antitrust investigator or investigators conducting the examination and such person.

"(3) When the testimony is fully transcribed, the witness shall be afforded an opportunity to examine the transcript, in the presence of the officer, for errors in transcription. Any corrections of transcription errors which the witness desires to make shall be entered and identified upon the transcript by the officer, with a statement of the reasons given by the witness for making them. The witness also may clarify or complete answers otherwise equivocal or incomplete on the record, which shall be entered and identified upon the transcript by the officer, with a statement of the reasons given by the witness for making them. The transcript shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the transcript is not signed by the witness within thirty days of his being afforded an opportunity to examine it, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign, together with the reason, if any, given therefor. The officer shall certify on the transcript that the witness was duly sworn by him and that the transcript is a true record of the testimony given by the witness and promptly send it by registered or certified mail to the custodian. Upon payment of reasonable charges therefor, the witness shall be permitted to inspect and copy the transcript of his testimony to the extent and in the circumstances that he would be entitled to do so if it were a transcript of his testimony before a grand jury; and there may be imposed on such inspection and copying such conditions as the interests of justice require.

"(4) Any person compelled to appear under a demand for oral testimony pursuant to this section may be accompanied by counsel. Such person or counsel may object on the record, briefly stating the reason therefor, whenever it is claimed that such person is entitled to refuse to answer any question on grounds of privilege or other lawful grounds; but he shall not otherwise interrupt the examination. If such person refuses to answer any question on the grounds of privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18, United States Code. If such person refuses to answer any question, the antitrust investigator or investigators conducting the examination may request the district court of the United States for the judicial district within which the examination is conducted to order such person to answer, in the same manner as if such person had refused to answer such question after having been supenaed to testify thereto before a grand jury, and upon disobedience to any such order of such court, such court may punish such person for contempt thereof.

"(5) Any person examined pursuant to a demand under this section shall be entitled to the same fees and mileage that are paid to witnesses in the courts of the United States. The court shall award any person, not the subject of an antitrust investigation (or an officer, director, employee or agent thereof), who shall respond to, or be examined pursuant to a demand under this section, reasonable expenses incurred by him in preparing and producing documentary material or in appearing for examination, including reasonable attorneys' fees. A determination made pursuant to this paragraph (5) shall be made subsequent to compliance by such person with such demand.".

(j) Subsection (a) of section 4 is amended by striking the words "antitrust document", and by inserting immediately after the word "custodian" the words "of documentary material demanded, answers to written interrogatories served, or transcripts of oral testimony taken, pursuant to this Act".

(k) Subsection (b) of section 4 is amended by inserting in the first sentence immediately after the word "demand", first appearance, the words "for the production of documents", and by amending the second sentence to read as follows: "Such person may upon written agreement between such person and the custodian substitute true copies for originals of all or any part of such material.".

(l) Subsection (c) of section 4 is amended by inserting in the first sentence immediately after the word "any" the word "such", by inserting in the first sentence immediately after the word "material" the words ", answers to interrogatories, or transcripts of oral testimony", by inserting in the second sentence immediately after the word "material" the words ", answers to interrogatories, or transcripts of oral testimony", by inserting in the third sentence immediately after the word "material", in both places where it appears, the words "or information", by inserting in the fourth sentence immediately before the word "documentary" the word "such", and by adding after the fourth sentence the following new sentence: "Such documentary material and answers to interrogatories may be used in connection with any oral testimony taken pursuant to this Act.".

(m) Subsection (d) of section 4 is amended to read as follows:

"(d)(1) Whenever any attorney of the Antitrust Division of the Department of Justice has been designated to appear before any court, grand jury, or Federal administrative or regulatory agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony may deliver to such attorney such documentary material, answers to interrogatories, or transcripts of oral testimony for use in connection with any such case, grand jury, or proceeding as such attorney determines to be required. Upon the completion of any such case, grand jury, or proceeding such attorney shall return to the custodian any such materials so delivered that have not passed into the control of such court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

"(2) The custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony shall deliver to the Federal Trade Commission, in response to a written request, copies of such documentary material, answers to interrogatories, or transcripts of oral testimony for use in connection with any investigation or proceeding under its jurisdiction unless the Assistant Attorney General in charge of the Antitrust Division determines that it would not be in the public interest to provide such material to the Commission. Upon the completion of any such investigation or proceeding, the Commission shall return to the custodian any such materials so delivered that have not been introduced into the record of such case or proceeding before the Commission. While such materials are in the possession of the Commission, it shall be subject to any and all restrictions and obligations which this Act places upon the custodian of such materials while in the possession of the Antitrust Division of the Department of Justice.".

(n) Subsection (e) of section 4 is amended to read as follows:

"(e) Upon the completion of—

"(1) the antitrust investigation for which any documentary material was produced pursuant to this Act; and

"(2) any such case or proceeding,

the custodian shall return to the person who produced such material all such material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) which has not passed into the control of any court, grand jury, or Federal administrative or regulatory agency through the introduction thereof into the record of such case or proceeding.".

(o) Subsection (f) of section 4 is amended to read as follows:

"(f) When any documentary material has been produced by any person pursuant to this Act, and no case or proceeding as to which the documents are usable has been instituted and is pending or has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the course of such investigation, such person shall be entitled, upon written demand made upon the Attorney General or upon the Assistant Attorney General in charge of the Antitrust Division, to the return of all such documentary material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) so produced by such person.".

(p) Subsection (g) of section 4 is amended to read as follows:

"(g) In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material produced, answers to written interrogatories served, or transcripts of oral testimony taken, under any demand issued pursuant to this Act, or the official relief of such custodian from responsibility for the custody and control of such material, the Assistant Attorney General in charge of the Antitrust Division shall promptly (1) designate another antitrust investigator to serve as custodian of such documentary material, answers to interrogatories, or transcripts of oral testimony, and (2) transmit in writing to the person who submitted the documentary material notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have with regard to such materials all duties and responsibilities imposed by this Act upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred before his designation.".

(q) Subsection (a) of section 5 is amended by striking out all the words following the word "Act", and by striking out the comma after the word "Act" and inserting in lieu thereof a period.

(r) The first sentence of subsection (b) of section 5 is amended to read as follows:

"(b) Within twenty days after the service of any such demand upon any person, or at any time before the compliance date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such compliance date as may be prescribed in writing, subsequent to service, by the antitrust investigator or investigators named in the demand, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon the antitrust investigator or investigators named in the demand a petition for an order of such court modifying or setting aside such demand.".

(s) The second sentence of subsection (b) of section 5 is amended by striking out the final period and inserting a colon in lieu thereof, and by inserting immediately after the colon the words: "*Provided*, That such person shall promptly comply with such portions of the demand not sought to be modified or set aside.".

(t) Subsection (b) of section 5 is amended by inserting the following sentence at the end thereof: "Any such ground not specified in such a petition shall be deemed waived unless good cause is shown for the failure to assert it in such a petition.".

(u) Subsection (c) of section 5 is amended by striking out the word "delivered", and by inserting immediately after the word "material" the words "or answers to interrogatories delivered, or transcripts of oral testimony given".

(v) The third paragraph of section 1505 of title 18, United States Code, is amended by inserting between the words "any" and "documentary" the words "oral or written information or any", and by inserting between the third and fourth paragraphs the following:

"Whoever knowingly and willfully withholds, falsifies, or misrepresents, or by any trick, fraud, scheme, or device conceals or covers up, a material part of any oral or written information or documentary material which is the subject of a demand pursuant to the Antitrust Civil Process Act, or attempts to or solicits another to do so; or".

(w) Section 5 is amended by adding at the end thereof the following:

"(f) Any material or information provided pursuant to any demand under this Act shall be exempt from disclosure under section 552 of title 5, United States Code.".

SEC. 202. Section 5 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 16), is amended by adding at the end thereof the following new subsections:

"(j) A plea of nolo contendere in a criminal proceeding under the antitrust laws shall be accepted by the court only after due consideration of the views of the parties and the interest of the public in the effective administration of justice.

"(k) The Attorney General, unless he determines it would be contrary to the public interest, shall upon written request from the Federal Trade Commission, after completion of any civil or criminal proceeding instituted by the United States and arising out of any grand jury proceeding or after the termination of any grand jury proceeding which does not result in the institution of such a proceeding, permit the Commission to inspect and copy any documentary material produced in and the transcripts of such grand jury proceeding. While such materials are in the possession of the Commission, the Commission shall be subject to any and all restrictions and obligations placed upon the Attorney General with respect to the secrecy of such materials.

"(l) Any person that institutes a civil action under this Act may, upon payment of reasonable charges therefor and after completion of any criminal proceeding instituted by the United States in which a defendant enters a plea of guilty or nolo contendere and arising out of any grand jury proceeding, inspect and copy any documentary material produced by such defendant in and the transcript of the testimony of such defendant or any other officer, director, employee, or agent of such defendant in such grand jury proceeding concerning the subject matter of such person's civil action. Any action or proceeding to compel the grant of access under this subsection shall be brought in the United States district court for the district in which the grand jury proceeding occurred. The court may impose conditions upon the grant of access and protective orders that are required by the interests of justice.".

SEC. 203. (a) The provisions of this title, except as provided in subsection (b), shall be effective on the date of enactment of this Act, and the provisions providing for the production of documents or information may be employed in respect of acts, practices, and conduct, that occurred prior to the date of enactment thereof.

(b) The provisions of section 3(k)(5) of the Antitrust Civil Process Act, as added by section 201(i) of this Act, shall become effective on October 1, 1976, or upon enactment, whichever date is later.

TITLE III—MISCELLANEOUS AMENDMENTS

AFFECTING COMMERCE

SEC. 301. Section 7 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 18), is amended by striking out in the first sentence thereof the words "engaged in commerce" and "engaged also in commerce,"; by striking out in the second sentence thereof the words "engaged in commerce,"; by inserting in the first sentence thereof after the word "corporation", third appearance, the words ", where the activities of either corporation are in or affect commerce and"; by inserting in the first sentence thereof a comma between the words "where" and "in"; by inserting in the second sentence thereof after the word "corporations" the words ", where the activities of either corporation are in or affect commerce and"; and by inserting in the second sentence thereof a comma between the words "where" and "in".

FOREIGN ACTIONS

SEC. 302. It is the sense of the Congress that, in the interests of promoting an international rule of law and eliminating safe havens for wrongdoers, that in any civil action or proceeding before any court of the United States involving any act to regulate interstate or foreign trade or commerce, or to protect the same against unlawful restraints or monopolies where a party refuses, declines, or fails to furnish discovery, evidence, or testimony on the ground that a foreign statute, order, decree, or other law prohibits compliance, the court should consider utilizing all sanctions available under rule 37(b) of the Federal Rules of Civil Procedure in order to reach a fair and equitable determination of the action or proceeding. In determining proper sanctions under rule 37, the court should take account of good-faith efforts by the party to comply with the request for discovery, evidence, or testimony, the reasonableness of the foreign statute, order, decree, or other law prohibiting such compliance, and the pattern of enforcement thereof.

ATTORNEYS' FEES

SEC. 303. Section 16 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 26), is amended by adding at the end thereof the following new sentence: "In any action under this section in which the plaintiff substantially prevails, the court shall award the cost of suit, including reasonable attorneys' fees and other expenses of the litigation.".

SEVERABILITY

SEC. 304. If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

EFFECTIVE DATE

SEC. 305. (a) Section 301 of this title shall apply to acts, practices, and conduct occurring after the date of enactment of this Act.

(b) Section 302 of this title shall apply to all actions on file on the date of enactment of this Act or hereafter filed, in respect of noncompliance with discovery orders hereafter entered. Nothing contained in this subsection shall be deemed to limit the authority of any court to reenter any discovery order heretofore entered, and thereby make such section 302 applicable thereto.

(c) Unless otherwise specified, the effective date of this Act shall be the date of enactment thereof.

SHORT TITLES

SEC. 306. (a) The Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (26 Stat. 209; 15 U.S.C. 1 et seq.), as amended, is amended by adding at the end thereof the following new section:

"SEC. 9. This Act may be cited as the 'Sherman Act'.".

(b) The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 12 et seq.), as amended, is amended by adding at the end thereof the following new section:

"SEC. 27. This Act may be cited as the 'Clayton Act'.".

(c) The Act entitled "An Act to promote export trade, and for other purposes", approved April 10, 1918 (40 Stat. 516; 15 U.S.C. 61 et seq.), as amended, is amended by adding at the end thereof the following new section:

"SEC. 6. This Act may be cited as the 'Webb-Pomerene Act'.".

(d) The Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (28 Stat. 509; 15 U.S.C. 8 et seq.), as amended, is amended by adding at the end thereof the following new section:

"SEC. 78. Sections 73 and 74 of this Act may be cited as the 'Wilson Tariff Act'.".

TITLE IV—PARENS PATRIAE AMENDMENTS

SEC. 401. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 12), is amended by inserting immediately following section 4E the following new sections:

"SEC. 4C. (a)(1) Any attorney general of a State may bring a civil action, in the name of such State in any district court of the United States having jurisdiction of the defendant, to secure monetary and other relief as provided in this section in respect of any damage sustained, by reason of the defendant's having engaged in any activity deemed a per se offense, or arising out of the fraudulent procurement or enforcement of a patent, in violation of the Sherman Act, by the natural persons residing in such State, or any of them: *Provided*, That no monetary relief shall be awarded in respect of such damage that duplicates any monetary relief that has been awarded or is properly allocable to (i) such natural persons who have excluded their claims pursuant to subsection (b)(2) of this section, and (ii) any business entity.

"(2) The court shall award the State as monetary relief threefold the total damage sustained as described in subsection (a)(1) of this section; such other relief as is just in the circumstances to prevent or remedy the violation of the Sherman Act; and the cost of suit, including a reasonable attorney's fee and other expenses of the litigation.

"(b)(1) In any action brought under subsection (a)(1) of this section, the State attorney general shall, at such times, in such manner and with such content as the court may direct, cause notice thereof to be given by publication. If the court finds that notice by publication only would be manifestly unjust as to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case.

"(2) Any person may elect to exclude from adjudication in an action brought under subsection (a)(1) of this section the portion of the State claim for monetary relief attributable to him. He shall do so by filing a notice of such election with the court within such time as specified in the notice prescribed pursuant to subsection (b)(1) of this section.

"(3) The final judgment in the action brought by the State shall be res judicata as to any claim under section 4 of this Act by any person in respect of damage to whom such action was brought unless such person has filed the notice prescribed in subsection (b)(2) of this section.

"(c)(1) In any action under section 4C(a)(1) in which there has been a determination that a defendant agreed to fix prices or in which it has been determined that a defendant engaged in the procurement by fraud (other than technical fraud) of a patent or the enforcement of a patent procured by fraud (other than technical fraud) in violation of the antitrust laws, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

"(2) In any action brought under subsection (a)(1) of this section, the court shall distribute, or direct the distribution of, any monetary relief awarded to the State either in accordance with State law or as the district court may in its discretion authorize. In either case, any distribution procedure adopted shall afford each person in respect of damage to whom the relief was awarded a reasonable opportunity to secure his appropriate portion of the net monetary relief. In the event that any monetary relief awarded to a State is not completely distributed the court may, in its discretion, after the lapse of a reasonable period of time, direct that the undistributed portion be (A) utilized to reduce future prices of the commodity involved in the violation; or (B) deemed a civil penalty and deposited with the State as general revenues.

"(d) An action brought under this section shall not be dismissed or compromised without approval of the court after providing such notice to persons affected thereby as the court shall direct in the interests of justice.

"(e) In any action brought under this section, the amount of plaintiffs' attorneys' fees, if any, shall be determined by the court.

"(f) In any action brought under this section, the court may in its discretion award reasonable attorneys' fees to a prevailing defendant upon a finding that the State attorney general acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

"SEC. 4D. Whenever the Attorney General of the United States has brought an action under the antitrust laws, and he has reason to believe that any State attorney general would be entitled to bring an action under this Act based substantially on the same alleged violation of the antitrust laws, he shall promptly give written notification thereof to such State attorney general.

"SEC. 4E. (a) In any action under section 4 or 4C of this Act, the State or any other plaintiff shall be entitled to recover treble damages in respect to the full amount of overcharges incurred or other monetary damages sustained in connection with expenditures under a federally funded program notwithstanding the fact that the United States funded portions of the amounts claimed.

"(b) The Attorney General of the United States shall have the right to intervene in any such action to protect the interests of the United States.

"(c) Out of any damages recovered pursuant to this section, the United States shall be entitled to the portion of the overcharges or other monetary damages, untrebled, that it sustained or funded. Whenever another Federal statute or law provides a specified method of settlement of accounts between the State and Federal Governments, in respect of such recovery, such method shall be used. Otherwise, the court before which the action is pending shall determine the method.

"(d) In the event of multiple actions in respect of the same alleged overcharges or other damages relating to a federally funded program, the defendant shall not be assessed, in total, more than threefold such damages.

"SEC. 4F. For the purposes of sections 4C, 4D, and 4E of this Act:

"(1) The term 'State attorney general' means the chief legal officer of a State, or any other person authorized by State law to bring actions under section 4C of this Act, and shall include the Corporation Counsel of the District of Columbia, except that such term does not include any person employed or retained on a contingency fee based on a percentage of the monetary relief awarded under this section.

"(2) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

"(3) The term 'Sherman Act' means the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1), as amended or as may be hereafter amended.".

SEC. 402. Section 4B of such Act is amended by striking out the words "sections 4 or 4A" and inserting in lieu thereof the words "sections 4, 4A, or 4C".

SEC. 403. Section 5(i) of such Act is amended by striking out the words "private right of action" and inserting in lieu thereof the words "private or State right of action"; and by striking out the words "section 4" and inserting in lieu thereof the words "sections 4 or 4C".

SEC. 404. If any provision of this title, or the application of any such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected by such holding.

SEC. 405. Section 1407 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"(h) Notwithstanding the provisions of section 1404 or subsection (f) of this section, the judicial panel or multidistrict litigation may consolidate and transfer with or without the consent of the parties, for both pretrial purposes and for trial, any action brought under section 4C of the Act of October 15, 1914 (38 Stat. 730; 15 U.S.C. 12), as amended by section 401 of the Hart-Scott Antitrust Improvements Act of 1976. The authority granted by this subsection (h) shall be liberally construed and applied.".

SEC. 406. This title shall apply to any cause of action accruing subsequent to the date of enactment of this title.

SEC. 407. This title shall be applicable in a State until that State shall provide by law for its nonapplicability as to such State.

TITLE V—PREMERGER NOTIFICATION AND STAY AMENDMENTS

SEC. 501. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 12), is amended by adding a new section 7A to read as follows:

"SEC. 7A. (a) Notwithstanding any other provision of law, except as exempted pursuant to subsection (b) (4) of this section, until expiration of the notification and waiting period specified in subsection (b) (1) of this section, no person or persons shall acquire, directly or indirectly, the whole or any part of the stock or other share capital or of the assets of another person or persons, if the acquiring person or persons, or the person or persons the stock or assets of which are being acquired, or both, are engaged in commerce or in any activity affecting commerce and—

"(1) stock or assets of a manufacturing company with annual net sales or total assets of $10,000,000 or more is or are being acquired by a person or persons with total asests or annual net sales of $100,000,000 or more; or

"(2) stock or assets of a nonmanufacturing company with total assets of $10,000,000 or more is or are being acquired by a person or persons with total assets or annual net sales of $100,000,000 or more; or

"(3) stock or assets of a person or persons with annual net sales or total assets of $100,000,000 or more is or are being acquired by a person or persons with total assets or annual net sales of $10,000,000 or more.

"(b) (1) The notification and waiting period required by this section shall expire thirty days after the persons subject to subsection (a) of this section each file with the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereafter referred to in this section as the 'Assistant Attorney General') duplicate originals of the notification specified in paragraph (3) of this subsection, or until expiration of any extension of such period pursuant to subsection (c) (2) of this section, whichever is later, except as the Federal Trade Commission and the Assistant Attorney General may otherwise authorize pursuant to subsection (c) (4) of this section.

"(2) Notwithstanding any other provision of law or the applicability of subsection (a) of this section, except as exempted pursuant to subsection (b) (4) of this section no person or persons shall acquire, directly or indirectly, the whole or any part of the stock or other share capital or of the assets of another person or persons, if—

"(A) the acquiring person or persons, or the person or persons the stock or assets of which are being acquired, or both, are engaged in commerce or in any activity affecting commerce; and

"(B) the Federal Trade Commission, with the concurrence of the Assistant Attorney General, by general regulation requires, after notice and submission of views, pursuant to section 553 of title 5, United States Code, that such person or persons, or any class or category thereof, shall not do so until the expiration of thirty days following the filing of a notification (specified pursuant to paragraph (3) of this subsection), or until the Federal Trade Commission and the Assistant Attorney General may otherwise authorize pursuant to subsection (c) (4) of this section, whichever occurs first.

"(3) (A) The notification required by this section shall be in such form and contain such information and documentary material as the Federal Trade Commission, with the concurrence of the Assistant Attorney General, shall by general regulation prescribe, after notice and submission of views, pursuant to section 553 of title 5, United States Code.

"(B) The fact of the filing of the notification required by this section and all information and documentary material contained therein shall be considered confidential under section 1905, title 18, United States Code, until the fact of such filing or of the proposed merger or acquisition is public knowledge, at which time such notification, information, and documentary material shall be subject to the provisions of section 552 (b), title 5, United States Code. Nothing in this section is intended to prevent disclosure to any duly authorized committee or subcommittee of the Congress, to other officers or employees concerned with carrying out this section or in connection with any proceeding under this section.

"(4) (A) The Federal Trade Commission, with the concurrence of the Assistant Attorney General, is authorized and directed to define the terms used in this section, to prescribe the content and form of reports, by general regulation to except classes of persons and transactions from the notification requirements thereunder, and to promulgate rules of general or special applicability as may be necessary or proper to the administration of this section, insofar as such action is not inconsistent with the purposes of this section, after notice and submission of views, pursuant to section 553 of title 5, United States Code.

"(B) The following classes of transactions are exempt from the notification requirements of this section:

"(i) goods or realty transferred in the ordinary course of business;

"(ii) bonds, mortgages, deeds of trust, or other obligations which are not voting securities;

"(iii) interests in a corporation at least 50 per centum of the stock of which already is owned by the acquiring person or a wholly owned subsidiary thereof;

"(iv) transfers to or from a Federal agency or a State or political subdivision thereof;

"(v) transactions exempted from collateral attack under section 7 of this Act if approved by a Federal administrative or regulatory agency: *Provided*, That duplicate originals of the information and documentary material filed with such agency shall be contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General;

"(vi) transactions which require agency approval under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), as amended, or section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842), as amended;

"(vii) transactions which require agency approval under section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), as amended, section 403 or 408(e) of the National Housing Act (12 U.S.C. 1726 and 1730a), as amended, or section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), as amended: *Provided*, That duplicate originals of the information and documentary material filed with such agencies shall be contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General at least thirty days prior to consummation of the proposed transaction;

"(viii) acquisitions, solely for the purpose of investment, of voting securities, if, at the time of such acquisition, the securities acquired or held do not exceed 10 per centum of the outstanding voting securities of the issuer;

"(ix) acquisitions of voting securities, if, at the time of such acquisition, the securities acquired do not increase, directly or indirectly, the acquiring person's share of outstanding voting securities of the issuer; and

"(x) acquisitions, solely for the purpose of investment, of voting securities pursuant to a plan of reorganization or dissolution, or of assets, other than voting securities or other voting share capital, by any bank, banking association, trust company, investment company, or insurance company, in the ordinary course of its business.

"(C) For the purpose of subsection (b) (4) (B) of this section, 'voting security' means any security presently entitling the owner or holder thereof to vote for the election of directors of a company or, with respect to unincorporated issues, persons exercising similar functions.

"(c) (1) The Federal Trade Commission or the Assistant Attorney General may, prior to the expiration of the periods specified in subsection (b) (1) of this section, require the submission of additional information and documentary material relating to the acquisition by any person or persons subject to the provisions of this section, or by any officer, director, or partner of such person or persons.

"(2) The Federal Trade Commission or the Assistant Attorney General may, in its or his discretion, extend the periods specified in subsection (b) (1) of this section for an additional period of up to twenty days after receipt of the information and documentary material submitted pursuant to subsection (c) (1) of this section.

"(3) No provisions of this section shall limit the power of the Federal Trade Commission or the Assistant Attorney General to secure, at any time, information or documentary material from any person, including third parties, pursuant to the Federal Trade Commission Act or the Antitrust Civil Process Act.

"(4) The Federal Trade Commission and the Assistant Attorney General may waive the waiting periods provided in this section or the remaining portions thereof, in particular cases, by publishing in the Federal Register a notice that neither intends to take any action within such periods in respect of the acquisition.

"(d) If a proceeding is instituted by the Federal Trade Commission or an action is filed by the United States, alleging that a proposed acquisition or merger violates section 7 of this Act, or section 1 or 2 of the Sherman Act (15 U.S.C. 1–2), and the Federal Trade Commission or the Assistant Attorney General (i) files a motion for a preliminary injunction against consummation of such acquisition or merger pendente lite, and (ii) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection—

"(1) upon the filing of such certification the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes; and

"(2) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to 18 U.S.C. 3161, and shall be in every way expedited.

"(e) Failure of the Federal Trade Commission or the Assistant Attorney General to request additional information or documentary material pursuant to this section, or failure to interpose objection to an acquisition within the periods specified in subsections (b)(1) and (b)(2) of this section, shall not bar the institution of any proceeding or action, or the obtaining of any information or documentary material, with respect to such acquisition, at any time under any provision of law.

"(f)(1) Whenever any person violates or fails to comply with the provisions of this section, such person shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each day during which such person directly or indirectly holds stock or assets, in violation of this section. Such penalty shall accrue to the United States and may be recovered in a civil action brought by the United States.

"(2) Nothing in this section shall be construed as a limitation on the equity power of the courts of the United States, or as limiting the power of the courts of the United States as provided under section 1651 of title 28, United States Code.".

Sec. 502. The provisions of this title shall be effective one hundred and twenty days after the date of enactment of this Act. Effective upon the date of enactment of this Act, the Federal Trade Commission is authorized and directed to carry out the requirements of section 7A (b)(3) and (b)(4) of the Clayton Act, as amended by this Act.

TITLE VI—ANTITRUST REVIEW AND REVISION COMMISSION

PURPOSE OF THE COMMISSION

Sec. 601. There is hereby established an Antitrust Review and Revision Commission (hereinafter in this title referred to as the "Commission"). In pursuance of title I (Declaration of Policy), the Commission shall study the antitrust laws of the United States, their applications, and their consequences, and shall report to the President and the Congress the revisions, if any, of said antitrust laws which it deems advisable on the basis of such study. The study shall include the effect of said antitrust laws upon—

(a) price levels, product quality, and service;

(b) employment, productivity, output, investment, and profits;

(c) concentration of economic power and financial control;

(d) foreign trade and international competition; and

(e) economic growth.

MEMBERSHIP OF THE COMMISSION

Sec. 602. (a) Number and Appointments.—The Commission shall be composed of eighteen members appointed by the President as follows:

(1) four from the executive branch of the Government;

(2) four from the Senate, upon the recommendation of the President of the Senate;

(3) four from the House of Representatives, upon recommendation of the Speaker of the House of Representatives; and

(4) six from private life.

(b) Representation of Varied Interests.—The membership of the Commission shall be selected in such a manner as to be broadly representative of the various interests, needs, and concerns which may be affected by the antitrust laws.

(c) Political Affiliation.—Not more than one-half of the members of each class of members set forth in clauses (2), (3), and (4) of subsection (a) shall be from the same political party.

(d) Vacancies.—Vacancies in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

ORGANIZATION OF THE COMMISSION

Sec. 603. The Commission shall select a Chairman and a Vice Chairman from among its members.

QUORUM

Sec. 604. Ten members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

Sec. 605. (a) Members of Congress.—Members of Congress, who are members of the Commission, shall serve without compensation in addition to that received for their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) Members From the Executive Branch.—Notwithstanding section 5533 of title 5, United States Code, any member of the Commission who is in the executive branch of the Government shall receive the compensation which he would receive if he were not a member of the Commission, plus such additional compensation, if any, as is necessary to make his aggregate salary not exceeding $36,000 and he shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in the performance of the duties vested in the Commission.

(c) Members From Private Life.—The members from private life shall each receive not exceeding $200 per diem when engaged in the performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

POWERS OF THE COMMISSION

Sec. 606. (a)(1) Hearings.—The Commission or, on the authorization of the Commission, any subcommittee thereof may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee may deem advisable. Subpenas may be issued under the signature of the Chairman or Vice Chairman, or any duly designated member, and may be served by any person designated by the Chairman, the Vice Chairman, or such member.

(2) In case of contumacy or refusal to obey a subpena issued under paragraph (1) of this subsection, any district court of the United States or the United States court of any possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is being carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) Official Data.—Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

FINAL REPORT

Sec. 607. The Commission shall transmit to the President and to the Congress not later than two years after the first meeting of the Commission a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable. The Commission may also submit interim reports prior to submission of its final report.

EXPIRATION OF THE COMMISSION

Sec. 608. Sixty days after the submission to Congress of the final report provided for in section 607, the Commission shall cease to exist.

AUTHORIZATION OF APPROPRIATION

Sec. 609. There are hereby authorized to be appropriated such sums as may be necessary to carry out the activities of the Commission.

Sec. 610. Notwithstanding any other provision of law, this Act shall be effective not sooner than January 1, 1977.

Amend the title so as to read: "An Act to improve and facilitate the expeditious and effective enforcement of the antitrust laws, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Muskie, I ask unanimous consent that Mr. Jim Case, of Mr. Muskie's staff be granted floor privileges during the remainder of the Senate consideration of the conference report on H.R. 8532.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Chuck Ludlam, of my staff, and Tom Sussman, of Senator Kennedy's staff, and Buck O'Leary and Bernie Nash, of the subcommittee staff, have the privilege of the floor during the consideration of and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Nebraska.

Mr. HRUSKA. Mr. President, a parliamentary inquiry first of all: Is the pending business a message from the House on H.R. 8532?

The PRESIDING OFFICER. The Senator is correct.

Mr. HRUSKA. Mr. President, a request had been made that that message be read. A request had been made that the substitute amendment for the subject of the House message be read; and also, that the pending amendment, that of the Senator from Alabama, by way of a substitute, be read. I do not intend to ask that they be read, but I do believe it would serve some purpose if we had a statement of the substitute that was proposed on motion of the Senator from West Virginia, and also, the substitute that had been proposed by the Senator from Alabama. I make a request, therefore, that they be stated.

Mr. FORD. Will the Senator yield for a unanimous-consent request? The Senator has a question pending, I believe.

Mr. HRUSKA. I have, yes, after which I shall be happy to yield.

The PRESIDING OFFICER. The pending question is on agreeing to an amendment of the Senator from Alabama in the nature of a substitute for the amendment in the motion of the Senator from West Virginia.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Will the Senator yield for that purpose?

Mr. HRUSKA. Yes, I yield for a parliamentary inquiry.

Mr. ABOUREZK. Mr. President, I understood the Chair to say that the pending business is the amendment by the Senator from Alabama to H.R. 8532.

The PRESIDING OFFICER. That is correct.

Mr. ABOUREZK. I do not recall, Mr. President, that amendment ever having been called up.

The PRESIDING OFFICER. The amendment was called up by the Chair by unanimous consent and it is the pending question.

Mr. FORD. Will the Senator yield for a unanimous-consent request?

Mr. HRUSKA. I ask unanimous consent that I be allowed to yield to the Senator from Kentucky without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I ask unanimous consent that Amy Bondurant, of my staff, be allowed the privilege of the floor during debate and rollcall on this pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. I have a similar unanimous consent request for the presence on the floor of Peter Chumbris, of the subcommittee staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, we have a recurrence here of the legislative subject which has had a long and somewhat tortuous course in its life so far.

Before getting into some of the parliamentary ramifications and the intricacies which have resulted in its being back here, I wish to suggest, Mr. President, that all thoughtful persons who address themselves to the subject of antitrust legislation share a firm belief in the necessity of a vigorous and effective enforcement of our antitrust laws.

Compliance with the statutes and the court decisions and the regulations in this field is imperative if the Nation is to achieve maximum fulfillment of its potential as a mighty commercial and industrial nation. Those of us who oppose the pending measure are as fully dedicated as anyone else to this end. Several provisions we oppose in their entirety; others we would advocate if they were properly modified to eliminate inherent and substantial objections. In both cases, our concern is with an ultimate enactment which will truly produce the desired assurance of a competitive economic system which will produce and market goods with quality and with prices that will benefit consumers, and which will function in a climate that will permit the growth, expansion, and innovation which are so necessary in a thriving country of increasing population.

Mr. President, not all bills labeled as improvements or reforms are necessarily good bills. Not all bills so labeled truly produce beneficial results for the public and the consumer and for those entities which are engaged in producing and distributing merchandise and commodities in the marketplace.

The pending bill, on balance, Mr. President, proposes bad legislation. It will not benefit the consumers who, in the end, will needlessly pay higher prices for goods and services they must buy in the marketplace. It will also impose upon all business, professional, and service groups oppressive and punitive burdens. Such burdens will fall on small groups and individuals as well as large groups.

The bill is not needed for deterrence or for enforcement of those laws which are designed to protect the public from illegal and unfair practices in business. There is ample provision now for these purposes in our statutes, both civil and criminal. The bill is a revolutionary and radical revision of antitrust laws, proposed and processed in undesirable, faulty fashion for presentation to Congress. That applies to the later stages of the development of this bill as well as to its earlier stages.

This legislation will incite litigation to a massive degree and scope. It will not benefit the consumer because he will not, in the main, receive the fruits of any judgments recovered; it is legislation which will cause numerous litigation, in which the lawyers will be the chief beneficiaries, in many cases receiving more dollars in fees than the total distributed and paid to individuals for whose ostensible benefit the action was brought. It will encourage litigation which will aggravate a judicial crisis in our already overloaded court system. Finally, it is legislation which will discourage and greatly impair investment and allocation of capital which is so vitally necessary to a growing nation with expanding needs.

Mr. President, H.R. 8532, in the form which it now enjoys—or suffers, as the case may be—is brought about by a breach of regular order and sound legislative practice. I might suggest that we started on June 10, when the Senate passed an amendment consisting of six titles. Following that action, the House text of H.R. 8532 was stricken, and the six titles were substituted in the place of that text.

Mr. President, on August 24, the House struck all of the Senate-passed text and inserted in lieu thereof the three title texts which had been forwarded to this body with a House message.

The three titles superseded the six titles which the Senate had constructed and approved.

Immediately upon the introduction of the resolution of the House amendments to the Senate bill, there was a motion that the Senate concur in the House amendments to the Senate amendment for H.R. 8532, but with an amendment in the nature of a substitute.

Immediately thereupon a cloture motion was filed to apply to the bill recently sent over by the House with an amendment in the nature of a substitute.

Now, there is currently pending, Mr. President, a motion by the Senator from Alabama that the Senate concur in the House amendment to the Senate amendment as to H.R. 8532, with an amendment as follows: namely, to strike title III and some other minor changes and then to proceed to the consideration and approval of the measure.

Following the approval by the other body of its resolution last week, discussion as to procedure in the Senate brought reference to the Senate approval of the June 10, 1976, bill.

When it developed that resistance to the adoption of the House amendment to the Senate amendment appeared, it was suggested that to do so would constitute a breach of good faith; that the Chiles-Byrd compromise which had been agreed upon on June 10 culminating in votes on several designated amendments, and then upon final passage, was the agreed upon measure.

By this token it was argued, and it was suggested that all concerned should, therefore, agree to the Byrd substitute to keep the good faith of the Senate since this would make further progress toward the goal of enacting an antitrust reform measure.

Mr. President, I describe the situation mildly when I say that it was suggested that there would be a breach of good faith if any opposition and resistance were recorded and registered against the pending measure as sent over to us by the other body.

Exception during those conferences, Mr. President, was taken to suggestions that a "compromise" was now being disregarded and violated by those, such as this Senator, who resist the measure which is the subject of the House message and the substitute measure of the amendment of the Senator from West Virginia. I speak as one who participated in the negotiations last June to bring to a head and final passage the June 10 version of the bill.

The first question which arises is this: Was there a compromise? Mr. President, in all seriousness, and in all compliance with the record, I want to say that there was no compromise in the sense of a true compromise. The fact is, Mr. President, there was a unanimous-consent agreement during the session on June 10 in which the Senator from West Virginia stated:

> I ask unanimous consent that it be in order to offer and to consider en bloc the Chiles-Byrd compromise amendment to amendment 1701, the Hart-Scott substitute; that the vote on the Chiles-Byrd compromise occur no later than 7:45 p.m. today and, if adopted, that the vote on the Hart-Scott substitute, amendment 1701, as amended, occur immediately thereafter.

Mr. President, when the turn of the Senator from Nebraska came to comment upon that unanimous-consent agreement, which had repeatedly been referred to as a compromise, this Senator reserved the right to object to the unanimous-consent request, with the further statement that he would not object, and I did not object. I went on to say, Mr. President, that I would join in the unanimous-consent request for the vote upon the amendment and upon final passage.

But, Mr. President, when it was stated that the unanimous-consent request was a compromise, this Senator took exception. I took exception, Mr. President, in the following language, and I read from page 17541 of the Congressional Record:

> I think we ought to understand the real nature of the unanimous-consent request. . . .

Omitting some words because one of my colleagues suggested that we have order in the Senate Chamber, and the Presiding Officer thought that was a good idea, and continuing, I said:

> . . . especially since it is referred to as a compromise.
>
> The real meaning of "compromise" as I understand it, is that there is a settlement or an adjustment, or perhaps an agreement on several point of difference.
>
> In that sense, what we have before us is not a compromise as much as it is a proposal. It is a proposal which consists of a series of amendments, which will be the sum total of the amendments that will be acted upon before the final passage vote on this measure. The amendment process will be limited to these amendments that are contained in this proposal.

Now, Mr. President, here are the words which I want particularly noted by Members of this body. I continue reading from page 17541:

> The adjustment as among the Senators who participated in the conference, is this: That debate before final passage will be limited to these amendments contained in this proposal. There will be full freedom, and there was full freedom on the part of each Senator, not only those who attended the conference but also all Members of the Senate; they are free to advocate, resist, debate against and vote against, or debate for and vote for, the measure.
>
> The purpose is to bring to a close what has promised to be a very extended consideration of this bill, and it was thought that perhaps by this means, each party giving a little bit and gaining a little bit, we could reach the point where, after having acted on this so-called compromise proposal, we would then be ready to vote upon the Hart-Scott substitute; and in the event that it is approved, that we will then make it a part of H.R. 8532, eliminating all of that House-passed bill except the enacting clause and its number.

Mr. President, in order to prevent——

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. HRUSKA. Mr. President, to prevent the risk of taking these statements out of context——

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. HRUSKA. After a little bit, after I get this into the Record—I ask unanimous consent that there be printed in the Record at this point that portion of my remarks commencing in the sixth paragraph from the bottom in the second column over to and including in column 3 the first five full paragraphs.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

> Mr. Hruska. Mr. President, reserving the right to object, and I shall not object—in fact, at the conclusion of my remarks I shall join in the unanimous-consent request—this unanimous-consent request pertains to a so-called compromise in regard to the final disposition of the measures before us, H.R. 8532.
>
> I think we ought to understand the real nature of the unanimous-consent request—
>
> Mr. Pastore. May we have order, Mr. President? This is important.
>
> The PRESIDING OFFICER. The Chair agrees with the Senator from Rhode Island. The Senate will be in order.
>
> Mr. Hruska. Especially since it is referred to as a compromise. The real meaning of "compromise," as I understand it, is that there is a settlement or an adjustment, or perhaps an agreement on several points of difference.
>
> In that sense, what we have before us is not a compromise as much as it is a proposal. It is a proposal, which consists of a series of amendments, which will be the sum total of the amendments that will be acted upon before the final passage vote on this measure. The amendment process will be limited to those amendments that are contained in this proposal.
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>
> It will simplify the process, round it out, and bring it to a conclusion on a much more satisfactory basis for everyone concerned, not only in this Chamber but also in the other body and eventually in the White House, if it ever gets there, for the purpose of the President deciding whether he wants to sign it or not.
>
> It was in that spirit that we labored, and I was pleased, personally, with the spirit of good faith and good will that prevailed there, notwithstanding our rather sharp differences as to some of the substance of the amendments which we are about to discuss.
>
> So I suggest to my colleagues, Mr. President, that it would be well to join in this unanimous-consent request, and go along with the very reasonable and highly fruitful path which it describes.

Mr. HRUSKA. Now I yield for a brief question to the Senator from North Carolina.

Mr. MORGAN. The distinguished Senator read part of the statement made on that date down to this last sentence, and I am reading this as a preamble to my question. I believe the Senator said:

> The purpose is to bring to a close what has promised to be a very extended consideration of the bill, and it was thought that, perhaps, by this means each party giving a little bit and gaining a little bit that we could reach a point where, after having acted on the so-called compromise proposal, we would then be ready to vote upon the Hart-Scott substitute and, in that event and in the event that it is approved, that we would then make it a part of H.R. 8532, eliminating all of that House-passed bill, except, the enacting clause and its number.

I ask the Senator if he did not further say, following that:

> It will simplify the process, round out and bring it to a conclusion on a much more satisfactory basis for everyone concerned, not only in this Chamber, but also in the other body and eventually in the White House, if it ever gets there, for the purpose of the President's deciding whether he wants to sign it or not.

I ask the Senator if that was not also part of the Senator's remarks at the time?

Mr. HRUSKA. Mr. President, all I would suggest is that the opening words in the paragraph last read by the Senator says that it will simplify the process by which the following things will be done.

I find nothing in those words, nor any place else in the statement which has been ordered printed in the Record, which binds anyone to say they will comply with the result of that vote and the substance of the bill which would result from that vote.

In fact, there is in the first paragraph, in the paragraph immediately preceding that which the Senator read, an expressed reservation of the freedom of what Senators do as they choose, revise, advocate, modify an amendment, and so on, and that freedom, I take it, even without that caveat, would reside in each and every individual Senator.

Mr. MORGAN. Will the Senator yield for a further question?

Mr. HRUSKA. I am happy to yield.

Mr. MORGAN. Granting that caveat, in the so-called proposal or substitute, that each Senator was given the right to resist, advocate, or debate against and for the bill, would the Senator not say it was a fair conclusion to be drawn from all of his remarks that the purpose of the proposed compromise was to bring the prolonged debate on this matter to a conclusion, not only in this body, but in the Senator's words, also in the other body and eventually in the White House?

We had already debated it for 2 days at this time.

Would the Senator not say that would be a fair conclusion for one sitting in the Senate and listening to those remarks to draw from the Senator's statement on that date?

Mr. HRUSKA. Mr. President, I look in vain for the text of the remarks I made. I find no reference to delay and obstruction and preventing passage of the bill, and if those words occurred to the mind of the Senator they must be a product of his mind. They certainly were not in these remarks nor in the mind of this Senator.

In other words, Mr. President, there was no compromise. It was an agreement as to the procedural handling of the bill. There was no basis for the statement that good faith assurances had been violated.

Mr. President, I hope I am mistaken in the information I received. It was especially regrettable, if it did occur, that reference was made to the Senator from Alabama as one who was also guilty of violating good faith assurances because, as the record particularly shows, he did not attend any of the conferences which resulted in the so-called Chiles-Hart amendment.

That is made especially clear by the later remarks of the chief introducer of the bill, the Senator from Michigan (Mr. PHILIP A. HART).

If there was a "compromise" as implied and in the contentions of the advocates of the bill, what would it be?

Obviously, that the various Senators agreed to accept the Senate bill as the six titles were proposed and as voted by the Senate on June 10. And if that were true, Mr. President, that is not the question and the position of the advocates of the bill at the present time because they have abandoned the six-title bill that was approved by the Senate on June 10 and have gone to other matters.

They have gone to other areas and I will describe in a little bit where they are located and how they were processed.

They have forsaken, in other words, the June 10 version. They have even forsaken the three-title bill approved by the House last Wednesday.

They now favor this package, which one of our colleagues referred to as a mystery package, which is now referred to as the substitute for H.R. 8252, as amended by the House.

So I suggest that if there is any violation of good faith, Mr. President, it is not on the part of those who oppose the Byrd substitute, or the substitute which Senator BYRD motioned for consideration.

Mr. ABOUREZK. Will the Senator yield?

Mr. HRUSKA. I am happy to yield for a brief question.

Mr. ABOUREZK. I was going to not interrupt the Senator from Nebraska during his exposition of this matter, but the statements he is making I think require a bit of correction.

If the Senator will permit me to say a couple of words on that, I would appreciate it so we can get the record clear and straight on this.

First of all, those of us on the committee who favor the Antitrust Improvement Act would have gone through with the normal procedure of things, and that is setting up a conference committee on our part, meeting with the House, and bringing back a conference report to deliberate on and vote on here in the Senate, depending on what we came out with in respect to the House.

Now, for the Senator from Nebraska to stand up here and say that we are changing something on our own volition is really not a very accurate nor a valid statement, simply because the Senator from Nebraska, in conjunction with the Senator from Alabama (Mr. ALLEN), has, in effect, prevented us from going through the normal course of events.

The Senators have forced us into this position now of trying to find some ground close to where the House is, to deprive us of all our bargaining leverage with the House at a conference committee meeting, and to force us to accept a lot of compromises that we ordinarily would not do, by virtue of this threat to filibuster both the motion to appoint conferees and in the conference report, if we ever came back with that.

So to say that we are abandoning our position is really not very valid nor is it accurate, and I wish the Senator would stop using that sort of phrase. The Senator knows how I feel and the rest of us feel about the agreement we made in June.

The agreement was that you would stop delaying the antitrust bill if we weakened the antitrust bill, which we did, which was in an effort to stop the delays.

I just want to put myself on record on that point. I do not want to stand here and argue what everybody's intention was because everybody in the Senate, and especially those of us who were in on the agreement at the time, understood that the delay would be stopped. Now we find ourselves going through the same mish mash all over again.

I want to say one more thing before I yield back to my friend from Nebraska.

Whether or not this bill goes through in any kind of shape this year, I can guarantee, with whatever power I have, in the next session of Congress there will be a stronger antitrust bill that will protect the public much more than this one, and there will be no compromises on my part in the same manner that we entered into this year.

Mr. HRUSKA. Mr. President, I would like to take up one or two points.

Mr. ALLEN. Will the Senator yield for a question?

Mr. HRUSKA. Yes, indeed.

Mr. ALLEN. I have been interested in the Senator's remarks indicating, of course, that there was no compromise. I am wondering, and I wonder if the distinguished Senator could answer, if those who now say there was a compromise, that the Senate amendment was what was compromised upon, why is it, then, that instead of pushing the Senate amendment, as my substitute does, they have, instead, an amendment that no one knew anything about at the time it was introduced? If they say that the Senate amendment was the compromise, why do they now oppose the Senate amendment? I wonder if the Senator could enlighten the Senator from Alabama on that?

Mr. HRUSKA. There is another answer to the remarks of my good and neighboring Senator to the north of my State. He suggests that the agreement was that we would stop delaying on June 10.

Mr. President, I do not find that type of an order, nor that kind of implication in the agreement in its full text, nor anything that led to it, nor that was done afterward. In fact, there was the expressed reservation that every Senator retained what freedom he had "to advocate, resist, debate against and vote against or debate for and vote for." That is an expressed reservation of the freedom that we have in any event.

I find nothing in here to contradict that assumption.

The agreement was that we would limit the number of amendments that would be voted upon and then proceed to final passage. That is what the agreement was. All other rights were reserved.

Now let us get to the other point made by my good friend. He said absent this agreement, this compromise—which was not a compromise, but was a proposal we entered into on procedural grounds—absent that agreement, we would have gone through conference, we would have gone through all the agony of having arguments back and forth. We would have come back to the Chamber and I imagine the result probably would be that there would be a bill now enacted into law.

But let me suggest this point, which the Senator omits entirely from his description of the situation: The bill that came over here from the House had one title. The bill we sent back to the House had six titles. Mr. President, if there ever was room for the application of the nongermaneness rule which would have immediately resulted in a barring of the extra five titles, I would never hope to see such a clear example. There was nothing that the advocates of this legislation gave up by not going to conference. In fact, I would have an idea that if the decision had been made to go to conference on one evening, the next morning they would have reconsidered because they would know, upon reflection, that five nongermane titles would have been stricken in the conference out of hand, just that easily.

So they have given up nothing. The statement to that effect, I believe, does not carry any weight whatsoever.

Mr. President, I repeat, there was no compromise on June 10. It was an agreement to a proposal to limit the number of remaining amendments which would be voted upon before final passage was voted upon. Each Senator retained freedom to act and to vote for or against the end product just as he chose.

But if it be insisted that there was a compromise in which an end product would be agreed upon and enacted, then I say that the violation of good faith does not rest with the proponents of the substitute and the bill we are now considering, but, rather, on those who advocate it. It is they who have abandoned the fruits of the so-called June 10 compromise.

Now comes the substitute which is proposed by the motion offered by the Senator from West Virginia. I should like to discuss that a little bit.

The normal way to reconcile differences between the two bodies of this Congress is, as we all know, a conference—a conference of representatives of the respective committees who have managed the bill, who have processed it, who have drawn it, who have written the reports, and so on. That is healthy, wholesome, and fair. Representation of all sides of the items and the differences thereon is inherent in a conference committee.

The chairman of our committee on the Senate side heartily indicated pursuant to a request by the chief introducer of this bill that he would have appointed as conferees the entire Subcommittee on Antitrust and Monopoly, together with the majority leader, the mniority leader, and one other. That is the normal practice and it is a good practice. It is part of our system. That is the way we work things out.

But this practice and this procedure, Mr. President, I am sad to say, was sabotaged. It was altogether scrapped. It was totally disregarded to the detriment, I think, of the Senate as an institution, to the detriment of the procedures which we have developed here and by which we normally abide.

But this, it was said, and apparently was thought, is a different situation because we have to get a bill. We have to get a bill. And, there is some foundation for thinking, any kind of a bill. Let us get a bill and let us get it soon.

So that practice and that procedure was abandoned, that which we normally follow, and instead of a conference we had this scenario:

We had a number of the bills' advocates from both Houses meeting in secret session to ascertain "what the House might favorably consider." There was no sunshine in that meeting, Mr. President. When I look over the people who attended that meeting I have an idea that every one of them is a staunch advocate of open meetings and sunshine falling on all facets of the legislative process.

There was no sunshine in that meeting, Mr. President. There was no chairman of the Senate committee. He was not notified. He was not aware of the meeting. He was not invited. Normally, we consider the chairman as an integral part of the legislative process. No chairman was there.

The Senate was not represented except for the select proponents of the legislation. The conferees were not there, those who were contemplated, nor were representatives of the Senate Judiciary Committee composing different views of the committee.

All who were present at the meeting were selected proponents of some legislation. One is tempted to say almost any legislation, Mr. President. We have the situation where there were some 41 points of difference. There were some 41 identified points of difference between the House and the Senate passed versions of the bill. Approximately 25 were resolved in favor of the House, 10 in favor of the Senate and 6 resulted in a compromise.

Mr. President, that is fine. It is an excellent way of expediting legislation. Numerous changes resulted in great variation from the Senate-passed six-title bill which was the subject of the much vaunted "compromise" of June 10, and an abandonment of that June 10 compromise by those who so assiduously fought to get it approved by this body.

Mr. President, I suggest that is not a good, sound way to legislate. Those Members of Congress on both sides of the Capitol were entitled to be represented at any conference on the bill, whether it was a pseudoconference, a semisecret or secret conference, or an informal conference. They were entitled to be there so they could say, "Let us work together here and see if we cannot resolve some of these things in a way that will result in a more wholesome bill—one, for example, that would meet some of the strenuous views expressed during the debate, and one that would meet some of the views expressed by the President also on some topics."

But Congress did not follow that course, and the substitute amendment now pending before us by reason of the motion of the Senator from West Virginia first came to light, Mr. President, late Friday afternoon, in a highly interlined and changed form, superimposed upon the House-passed bill containing only three titles, and there were printer's corrections, changes, deletions, additions, and so on. No presentation of its nature or provisions were heard on the floor that day. Not until the Members of this body received and read the CONGRESSIONAL RECORD the next day, on Saturday, if they did not have travel or other plans that would lead them to other destinations; not until Saturday morning did the light of day shine upon the printed version of the so-called substitute for the House-passed amendment to the Senate amendment.

I say again, Mr. President, immediately, and with some difference of opinion as to who was entitled to be recognized and who wanted recognition from the floor, immediately a cloture motion was filed, and we are going to vote on that tomorrow.

Mr. President, that is not a sound way to legislate. Regular, seasoned processes were circumvented, bypassed, and ignored.

"A bill must pass": That was the watchword of all those negotiations. Almost any kind of a bill, but a bill must pass, and that just about sums up the matter.

Mr. President, there are three titles to this bill, the House amendment to the Senate amendment, and likewise three titles in the amendment in the nature of a substitute. There are inherent in these three titles the same objections that we had during the course of the Senate debate. There have been some improvements made. I shall call attention to a number of items here, however, which are still basically and very necessarily and inherently objectionable, and impair the usefulness and the place of this bill as a part of our statutory law.

In the field of parens patriae, for example, we have conceptually a highly harmful and unfair measure. The testimony on that is clear. It will be the source of a great deal of trouble, not only to the businessmen of this country but to the consumers, the courts, and the citizens generally, because of the high burden of increased litigation as well as for a variety of other reasons.

It is sound policy, in the minds of most thoughtful students, that if a State wants to vest its attorney general with certain powers to sue or to litigate, that State is the best place to look for such authority, and it should either grant that authority or hold it; or, if authority exists, it can be modified one way or the other, but the place to get that done is in the State legislature.

Not so in the pending bill. Not so at all. The bill now pending undertakes to assign and vest jurisdiction in the attorneys general of the States over the subject of parens patriae as expressed in title II. That is one of the first objectionable points.

It is true that the State legislature can opt out, as it were. But it takes affirmative action, and that is not the kind of pressure that we would expect a Federal Government to exert upon a State legislature, which should be free and untrammeled to originate, frame, phrase, and structure any authority or jurisdiction which it wants to vest in its attorney general.

Mr. President, what about these private antitrust transactions and the parens patriae? The second circuit, in one of its cases—and I shall read one or two excerpts, because we must bring back to mind, as we embark upon this later stage of the legislative process, what the real evils of the concept of parens patriae are.

The second circuit said:

> There is reason to believe that the practical effect of these procedures, and the fact that possible recoveries run into astronomical amounts, generate more leverage and pressure on defendants to settle, even for millions of dollars, and in cases where the merits of the class representative's claim is to say the least doubtful, than did the old-fashioned strike suits made famous a generation or two ago by Clarence H. Venner.

That was the second circuit court, speaking in the Eisen case.

As former solicitor general Lacovara testified:

> Once a *parens patriae* complaint is filed, with possible recoveries reaching the hundreds of millions of dollars, how could a prudent businessman, still presumptively innocent of any wrongdoing, fail to reach an out-of-court settlement? The *parens patriae* concept is, in short, the mechanism for systemized injustice.

And the American College of Trial Lawyers submitted that:

> No large consumer class action [has] been litigated through trial to a determination of damages. The enormous litigation expenses and undefined but potentially massive damages awards, often in excess of the defendants' net worth, have forced defendants to seek the insurance policy of a "global" settle-

> ment of all potential claims, irrespective of the merits of the claims.

Mr. President, the striking part of that quotation is this—and it is a fact:

> No large consumer class action has been litigated through trial to a determination of damages.

The reason is obvious. We are going to be asked to approve this title III in the pending bill. There have been some improvements made in the bill since it left the Senate, but not enough of them. I shall call attention to some of the items which remain to be done if we are going to have anything resembling fairness and justice, something we can repair to that will be constructive rather than oppressive, and something that will be wholesome rather than detrimental to consumer as well as investor interests in this Nation.

The items that we still have to do plainly call for a restoration of a sound, regular order and parliamentary procedure.

Methods should be used by which our congressional system works, and by the circumventing of these rules it seems to be a course that is pretty well obstructed.

One of the main points in the bill, as it remains today, has to do with the authorization to sue. It is found in section 4C(a) (1). That section limits State suits. It permits State suits for per se violation and for patent frauds, and that is all. Not so in the Byrd substitute and the House amendment. In those bills the paragraph and section 4C(a) permits treble damage suits, Mr. President, for damage for any violation of the Sherman Act. That was a point that was debated here in this Chamber at great length and with a great deal of attention, because everyone knows that to allow the courts to be available for this type of suit for any violation of the Sherman Act is extremely unfair and imposes exposures for unforeseeable violations, unrecognizable and unpredictable, which are difficult for small business people to perceive, particularly, and the reason is plain. The Sherman Act's "elastic" ban on restraint of trade is such that very often there is no way of telling when there is a potential violation and when there is not.

It penalizes by allowing an open-ended catalog of business activities to be subject to court scrutiny and on the basis of lawsuits because of the ever-broadening court interpretations that are forever coming out. The Senate bill wisely limited suits to activities to where the consumer gets hurt the most and where the violations of the act are easy to perceive, and that is in two areas: A price-fixing agreement and a patent fraud.

Where those violations occur I know of no thoughtful person who would say let us adopt legislation which will protect people who enter into that kind of conduct. There is no one in this Senate Chamber of whom I know who is advocating that. And certainly the same would be true in the other body.

Many acts assumed to be lawful for years and years, and even for the benefit of consumers and for business, are made unlawful by shifting court interpretation, and this leaves many enterprises at the mercy of blackmail class-action suits, where the mere filings of causes of action force settlements even if there is good faith, and even if there is a serious doubt as to the court holding one way or the other.

Of course, that has been very well documented during the course of our debates, but in order that again we have some concrete reminder of it, I ask unanimous consent that a brief passage from report No. 2, minority views, starting at the last full paragraph on page 181 and extending to the penultimate paragraph on page 182 be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

> Due to shifting court interpretations, trade practices assumed for many years to be lawful, and even procompetitive, may thus incur open-ended liabilities under title IV *parens patriae* actions and the risks of massive title IV retribution for a wrong guess may well inhibit aggressive competition. Multimillion dollar *parens partriae* actions may strike at—
>
> "Newspaper and other franchise restrictions on distributor resales; media rate practices; newspaper, gasoline, and other consignment price arrangements; lawyers' bar association fee schedules; real estate broker commission and listing practices; medical association restrictions on advertising; architects' fee and advertising standards; anesthesiologists' "value guides"; engineers', architects' and accountants' bidding restrictions; and optometrists', pharmacists' and druggists' price or advertising restrictions."
>
> Likewise, Sherman Act section 2's "monopolization" provisions may invite massive *parens patriae* actions aimed at—
>
> "Patent pools and patent licensing restrictions; acquisitions and mergers; "predatory" pricing; and "fraud on the Patent Office, * * * and other violations", unspecified, in the majority report." (P. 39.)
>
> Also our hearings revealed that labor unions may find themselves at the paying end of heavy *parens patriae* antitrust liabilities. Since unions have only a partial antitrust exemption, cut back recently by the Supreme Court interpretations, State attorneys general or their private deputies may name labor unions as defendants or coconspirators with employers for allegedly restrictive, collusive, or monopolistic activities charged as curtailing competition or raising prices at the consumer level.
>
> In sum, huge antitrust liabilities under *parens patriae* actions can hit not only alleged corporate price-fixers reaping "ill-gotten gains."
>
> Rather, they will create heavy antitrust exposures particularly for smaller firms, professional and service organizations, media, and even labor unions.
>
> According to Professor Handler's survey of recent Government retail price-fixing cases:
>
> "The largest single category of retail price-fixing charged by the Government related to fee schedules and codes of ethics adopted by various professional associations and real estate boards. No less than 15 of these suits have been brought against groups of lawyers, architects, engineers, accountants, anesthesiologists, veterinarians and real estate brokers." (Hearings, pt. 3 at 136.)
>
> He anticipated for *parens patriae* suits under title IV:
>
> "Based on the cases brought by the Government having a maximum impact on consumers, they open the doors wide for the assertion of claims of astronomical proportions against small business and professional people for conduct whose legality very few questioned until recently." (Hearings, pt. 3 at 137.)

Mr. HRUSKA. The approval of the proposed substitute would reinstate all these hardships and unfairnesses and that should not be done. The Senate version is superior to the substitute and the House amendment to the Senate amendment on this point.

Another example, Mr. President, which would have been brought to the attention of the conferees had a conference been held, is section 4C(a) (1), which provides for triple damages in case of damages incurred on account of violation of the Sherman Act and the pertinent provisions thereof. But that section has a proviso, Mr. President, It prohibits the award to a State of any monetary relief that duplicates any relief "that has been awarded or is properly allocable to, one, such natural persons who have excluded their claims pursuant to subsection (b) (2) and, two, to any business entity."

The House version, the House-passed amendment to the Senate amendment, and the substitute amendment has no such proviso, and the unfairness of the lack of that proviso is obvious. Yet it is going to become law if we are going to pursue the course that has been staked for us, and built right into that law will be that type of unfairness.

Mr. President, we have in another title of the bill, the premerger title, notice requirements which are applicable to companies of $100 million sales or assets. That point was also debated widely here.

It is a highly improvident provision because the testimony of the Chairman of the Federal Trade Commission is to its effect, and in these words, and I am reading from page 210 of part II of the report of the Senate committee. It was Federal Trade Commission Chairman Engman who said:

> If we had to conduct full investigation of all mergers exceeding the $100 million assets or sales test that is contained in the bill, the fruits of our efforts might not be worth the cost. Our own premerger notification program sets higher limits of $250 million of assets or sales and appears to be satisfactory for purposes of getting basic information on large mergers.

Mr. President, if we are going to load the law enforcement agencies and divisions of this Federal Government with that type of burdensome and fruitless effort, it seems to me we are not making progress in the right direction.

As originally proposed, this premerger notification act was not an act of regulation or monitoring, Mr. President. It was an act of prohibition.

In its original form and in the form that we debated it here in the Senate, it would have prevented all mergers, apparently, on the idea that all mergers are bad. Every businessman and every lawyer knows that is not true, and every legislator ought to be aware of that to the degree sufficient to bring him to the conclusion that the bill should be suitably modified. But there is no way of modifying it if we have no recourse to a conference and if we have no recourse to the regular orderly processes by which we have progressed heretofore in matters of this kind.

Obviously, Mr. President, more careful scrutiny is needed. Time in which to exercise that scrutiny should be furnished. There should not be a few select Members of each body deciding for 535 Members what and how we should vote on matters of this kind when there is such a radical departure from the usual way of handling these matters. There should be no secret meeting. There should be no hurried ill-prepared bill text, and so on.

There should be recognition of all these things. And there have been proposed some amendments that we hope will be given proper attention. We hope that some of them will be recognized for the merit they possess and that we can graft them to the corpus of the bill which we have before us in such a fashion that we will avoid at least some of the more glaring and some of the more obnoxious parts of the measure which is before the Senate at this time.

Mr. President, sometimes, in fact, often, reference is made to the fact that this bill has been in process for 10 years, which I deny and no use of commonsense would lend any credibility to such a statement. Sometimes it is said that we have overdebated this, we have overheard it, we have overprocessed it. But when we consider that in its original form it had seven titles, seven titles reaching into some of the most complex and far-reaching legislation affecting the entire economy and the economic and social structure of this Nation, when we realize that and we find that we have eliminated four of those seven titles and we are now down to three, yet those three are possessed of many defects which should be addressed more particularly and in greater detail—when we realize that, I think that any idea of criticism for the purpose of saying that we are overdoing this legislative process here falls into nothing and fades away.

Mr. President, we have prepared some amendments, as I say. Each of the amendments will have a brief explanatory statement. I do not believe many of them will need too much explanation or exposition or narrative. Some of them will. The more important ones will and should, because they address themselves to some fundamental notions of economics and to some of these elements which we hope, by proper and timely action, will avoid a great deal of permanent harm to our legislative picture and to the business and economic picture, and to the well-being of this Nation of consumers who, after all, are going to pay whatever price is attached to the legislation here by way of added expense, added administrative costs, court costs, and so forth.

Mr. President, the Senator from Alabama had expressed a desire to be in the Chamber before termination of the session today.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HRUSKA. I am happy to yield to the assistant majority leader.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the message from the House of Representatives announcing its action on the amendment of the Senate to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mr. HRUSKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I ask for the yeas and nays on my amendment, and I ask unanimous consent that it may be in order at this time to ask for the yeas and nays on the substitute offered by the Senator from West Virginia (Mr. Robert C. Byrd).

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ALLEN. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ALLEN. Mr. President, in order that we may have sufficient Senators in the Chamber for a sufficient second, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PHILIP A. HART OFFICE BUILDING

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 1111, Senate Resolution 525.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 525) to designate the extension of the Senate Office Building presently under construction as the "Philip A. Hart Office Building".

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MANSFIELD. I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Montana (Mr. Mansfield) proposes unprinted amendment No. 409: At the end of the first paragraph, strike the period and add a comma, and add "when completed."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ALLEN. Mr. President, the distinguished majority leader was kind enough to allow me to to be one of the original sponsors of this resolution. I joined in the resolution as a tribute to a great U.S. Senator, a man who has served with distinction in the Senate for many years. We all hate to see him retire from his career in the Senate; he is a gentle, lovable, and loving man. At the same time, he is dedicated and determined and strong. He has reflected credit upon his State and upon the Nation and he is, I believe, one of the most beloved Members of the U.S. Senate. I think it is entirely appropriate that this honor be accorded to him, that the extension of the Dirksen Senate Office Building be named in his honor. I know that the resolution does provide for appropriate markers to indicate that the building has been so named.

This building will commemorate the great career of the distinguished Senator from Michigan (Mr. Philip A. Hart) but Phil Hart, himself, will live in the minds and hearts of those who love him far beyond the length of time that this memorial will continue to be a tribute to his memory. I strongly urge the adoption of the resolution.

Mr. HRUSKA. Mr. President, I associate myself with and concur in the remarks just made by our colleague from Alabama. Shortly after his election to the Senate in 1958, the Senator from Michigan (Mr. Philip A. Hart) became a member of the Committee on the Judiciary. It was my good fortune to have been there a short while before he was placed there, but from the earliest entry to the ranks of the active members of that committee, there was formed a very high regard and a high respect for the personality, for the professional skill and the capability which the Senator has. And, of course, with it all, he is a gentleman and a gentle soul. He has been always fair, always willing to go that extra mile or so that extra distance which was necessary to accommodate a colleague if he could. It has been an enriching experience to have been with him and worked with him. I happily and gladly subscribe to the resolution as one of its cosponsors.

Mr. BAKER. Mr. President, I am very glad to join as a cosponsor of Senate Resolution 525, stating that the extension of the Dirksen Senate Office Building when completed shall be designated as the Philip A. Hart Office Building.

I wish to take this opportunity to state also, on behalf of Mrs. Dirksen and the Dirksen family, that they have asked me to express their full accord with this humane intuition.

Senator HART, who is retiring after 18 productive and constructive years serving his country in the Senate of the United States, has won the respect and affection of all with whom he has been associated. His monument is his work in the Congress, and his commemoration will speak in the hearts of his friends.

I compliment the majority leader, a good and close friend, as are many of us, for his initiative in moving to appropriately honor a respected retiring Member of this body.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution, as amended, was agreed to, as follows:

S. RES. 525

Resolved, That insofar as concerns the Senate, the extension of the Senate Office Building presently under construction pursuant to the Supplemental Appropriations Act, 1973 (86 Stat. 1510), is designated and shall be known as the "Philip A. Hart Office Building", when completed.

SEC. 2. Any rule, regulation, document, or record of the Senate, in which reference is made to the building referred to in the first section of this resolution, shall be held and considered to be a reference to such building by the name designated for such building by the first section of this resolution.

SEC. 3. The Committee on Rules and Administration shall place appropriate markers or inscriptions at suitable locations within the building referred to in the first section of this resolution to commemorate and designate such building as provided in this resolution. Expenses incurred under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CARE AND TREATMENT OF VETERANS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1097, H.R. 10394.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 10394) to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs with an amendment to strike out all after the enacting clause and insert the following:

That (a) section 641 of title 38, United States Code, is amended to read as follows:

"§ 641. Criteria for payment

"(a) The Administrator shall pay each State at the per diem rate of—

"(1) $5.50 for domiciliary care,

"(2) $10.50 for nursing home care, and

"(3) $11.50 for hospital care,

for each veteran receiving such care in a State home, if such veteran is eligible for such care in a Veterans' Administration facility.

"(b) In no case shall the payments made with respect to any veteran under this section exceed one-half of the cost of the veterans' care in such State home.".

(b) Paragraph (19) of section 101 of title 38, United States Code, is amended by striking out "of any war (including the Indian Wars)" in the first sentence and "of any war" in the second sentence.

(c) (1) The amendments made by subsection (a) of this section shall be effective on October 1, 1976.

(2) At the time of the first payment to a State under section 641 of title 38, United States Code, as amended by subsection (a) of this section, the Administrator of Veterans' Affairs shall pay such State, in a lump sum, an amount equal to the difference between the total amount paid each such State under such section 641 for care provided by such State in a State home from January 1, 1976, to October 1, 1976, and the amount such State would have been paid for providing such care if the amendment made by subsection (a) of this section had been effective on January 1, 1976.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CRANSTON. Mr. President, H.R. 10394, which I reported from the Committee on Veterans' Affairs on August 25, would raise the rates at which the Veterans' Administration reimburses State veterans' homes for care provided to eligible veterans. The measure passed the House of Representatives unanimously on December 15, 1975, and was ordered reported by the Senate Committee on Veterans' Affairs on June 16 of this year.

In 1976, 40 State veterans' homes provide care to an average of 11,000 veterans each day in 30 States and the District of Columbia. The total annual cost of running the State home system is nearly $80 million. The States now bear approximately 72 percent of that cost, or $57.8 million. The remaining 28 percent, or $22.2 million, is borne by the Federal Government in the form of reimbursements to the States on a per-diem, per-veteran basis.

Under current law, the VA reimburses State homes at the per-diem rates of $4.50 for each veteran who receives domiciliary care, $6 for a veteran receiving nursing home care, and $10 for a veteran receiving hospital care. These statutory rates of reimbursement have not been altered since 1973, despite an increase in overall State home operating expenses of close to 50 percent in the 3 years since the rates were last revised.

The purpose of H.R. 10394 as reported, Mr. President, is to insure that the Federal Government continue to support a reasonable proportional share of the costs of maintaining and operating the 40 State veterans' homes in the United States. The bill would raise the per-diem reimbursement rate for veterans receiving domiciliary care from $4.50 to $5.50, for veterans receiving nursing home care from $6 to $10.50, and for veterans receiving hospital care from $10 to $11.50. The bill would also apply these higher rates retroactively to January 1, 1976. The total cost of the bill would be $18.8 million in the first full fiscal year, fiscal year 1977 beginning October 1, 1976; $12.083 million in fiscal year 1978; $13.752 million in fiscal year 1979; $14.204 million in fiscal year 1980; and $15.082 million in fiscal year 1981.

I would also like to say a special word of thanks to my good friend and colleague from New Jersey, Senator HARRISON WILLIAMS, under whose chairmanship I am privileged to serve on the Committee on Labor and Public Welfare. He has taken a special interest in the subject matter of this legislation. Two of the country's finest State homes are located in New Jersey, and Senator WILLIAMS has introduced legislation of his own to support the State home system, and testified at our hearings last February. My colleagues on the Veterans' Affairs Committee and I profited greatly from his interest and concern.

Mr. President, I ask unanimous consent that appropriate excerpts from the committee report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, informal discussions with the House Committee on Veterans' Affairs indicate that the rates of reimbursement, the retroactive feature, and the technical changes contained in the Senate version of H.R. 10394 will be acceptable to the other body, and that the measure can quickly be sent to the President.

EXHIBIT 1

SUMMARY OF H.R. 10394, AS REPORTED

Basic purpose

The basic purpose of the Committee substitute, as amended, is to raise the rates at which the Veterans' Administration reimburses State veterans homes for care provided to eligible veterans in State veterans home facilities. Under current law (38 U.S.C. 641), the VA reimburses State veterans homes at the per diem rates of $4.50 for eligible veterans receiving domiciliary care; $6 for those receiving nursing home care; and $10 for those receiving hospital care. Since these rates are fixed by statute, the Federal proportional share of the cost of operating the State home system has declined as overall operating costs have risen over the past several years. The purpose of the Committee bill is to raise the per-diem rates of VA reimbursement, and thereby to ensure that the Federal Government continues to support a reasonable proportional share of the costs of maintaining and operating the 40 State veterans homes in the United States.

Summary of provisions

H.R. 10394 as amended would:

(1) Amend section 641 of title 38, United States Code, to raise the per-diem reimbursement rate for veterans receiving domiciliary

care from $4.50 to $5.50; the per-diem reimbursement rate for veterans receiving nursing home care from $6 to $10.50; and per-diem reimbursement rate for veterans receiving hospital care from $10 to $11.50.

(2) Apply the new, higher rates retroactively to January 1, 1976, thus entitling State veterans homes to the higher rates of reimbursement for any eligible veteran receiving care on or after that date although no payments will be made under the bill until on and after October 1, 1976.

(3) Eliminate the requirement that States be reimbursed only for veterans who served in the Armed Forces during wartime or after January 31, 1955, and permit reimbursement for all otherwise eligible veterans regardless of period of service.

(4) Make minor stylistic changes in section 641 of title 38, United States Code.

BACKGROUND AND DISCUSSION

Federal reimbursement to State veterans homes

Although various States established homes for the care of disabled or elderly veterans as early as the first third of the 19th century, it was not until almost 3 million veterans survived the Civil War that the construction of State veterans homes began on a significant scale. Between 1865 and 1885 12 States constructed veterans homes and operated the homes through a combination of State appropriations and private philanthropy. The Federal Government provides no financial assistance to State veteran homes; Federal support was limited to a small National Homes systems of five facilities.

By the 1880s, overcrowding in the National Home system had grown so severe that disabled veterans were sleeping on floors or in makeshift tents on the facility grounds. To relieve the strain, Congress passed the Act of August 27, 1888, the purpose of which was "to encourage the States to establish State homes" for the care of Civil War veterans. The Act authorized payment to the States by the Federal Government of $100 a year per veteran for care provided to "disabled soldiers and sailors of the United States who served in the war of the rebellion" in a State-run veterans facility.

The Senate Committee on Military Affairs, reporting on legislation that subsequently became the Act of August 27, 1888, justified the measure in these terms:

> It cannot be seriously doubted that the Federal Government, in the first instance, is justly chargeable with the care of its defenders, and more especially of those who aided to preserve the integrity of the Union in the late war, who, by thousands, have become, from the effects of service and the infirmities of age, physically disabled from earning a livelihood. In no proper sense can the responsibility for the entire care of the veterans of its wars be cast upon the States when the local burden always includes a liberal item of taxation for the support of the indigents usually found in every community. This is a sufficient strain, in that direction, upon the taxpayer.
>
> The care and support of the indigent and disabled soldier is essentially a Federal obligation, and, in the judgment of [the] committee, it is neither wise, just, nor patriotic for a nation, by delay or otherwise, to evade it. . . .
>
> It seems quite plain to [the] committee that a portion of this burden, yea, the greater part of it, should be borne by the Federal Government. The States have carried it over twenty years, and it is scarcely possible to say what the aggregate has been. They ask for no return of moneys thus expended, but they do demand that, in future, the nation assume its just and full share of an obligation that rests upon it alone. That the States, from motives of patriotism and humanity, have erected State homes and given inmates support therein in no wise absolves the Federal Government from its own obligation to extend future aid." (Sen. Rept. No. 754, 50th Cong., 1st Sess. (Mar. 26, 1888), pp. 1, 4.)

The $100 per-annum payment for each veteran receiving care in States veterans homes continued for 32 years. In 1920, legislation was enacted to raise the annual payment to $120; over the next 3½ decades, the payment rates were periodically raised by Congress, reaching $700 a year in 1954.

By 1960, the number of State veterans homes had risen to 33, and the Federal Government's annual contribution to the State home system had grown from a modest $250,000 in 1888 to more than $6.2 million. In 1960, Congress replaced the per-annum reimbursement mechanism with a more efficient and more generous per-diem mechnism, under which the Federal Government reimbursed State veterans homes at the rate of $2.50 for each *day* of care provided to eligible veterans. (Public Law 86-625, section 1.)

In 1964, as part of a concerted Congressional effort to improve the quality and availability of nursing home care for elderly or disabled veterans, Congress enacted legislation to reimburse State veterans homes at a new, higher per-diem rate of $3.50 for any veteran receiving nursing home care there. (Public Law 88-450, section 3(a).) Four years later, the per-diem rates of reimbursement were raised to $3.50 for veterans receiving hospital or domiciliary care, and $5 for veterans receiving nursing home care. (Public Law 90-432, section 1.)

In 1969, in recognition of the growing cost of providing hospital care and the increasing number of hospital beds in the State veterans home system, the per-diem rate of reimbursement for veterans receiving hospital care was raised to $7.50, thus establishing for the first time different rates of reimbursement for the three distinct types of care provided in State homes. (Public Law 91-178, section 1.)

Finally, in 1973, the reimbursement rates were raised to their current statutory levels of $4.50 for domicilary care, $6.00 for nursing home care, and $10.00 for hospital care. (Public Law 93-82, section 403(a).) These rates are codified in section 641 of title 38, United States Code.

State veterans homes today

In 1976, 40 State veterans homes provide care to an average of 11,000 veterans each day in 30 States and the District of Columbia. The total cost of running the State home system is nearly $80 million. States now bear approximately 72 percent of the total cost, or $57.8 million. The Federal Government now pays the remaining $22.2 million, or 28 percent of the total cost.

Although the Federal contribution has grown significantly in dollar terms during the past half decade, the Federal proportional contribution has declined in light of the dramatic rise in total costs. State governments are bearing a larger absolute and proportional share of the financial burden of running the State veterans home system. For example, the cost of providing domiciliary care in the State home system rose 50 percent between 1970 and 1975, while the VA's per-diem reimbursement increased only 29 percent. In 1970, the VA supported 40 percent of the total operating cost of the State domiciliary program; by 1975, the Federal contribution covered only 32 percent of the total cost.

Similarly, the Federal contribution to the cost of nursing care in the State home system declined from 32 percent of the total cost in 1970 to 26 percent 5 years later, and the Federal contribution to the cost of hospital care dropped from 28 percent to 24 percent over the same 5-year period. (See table 1.)

The effect of H.R. 10394, as reported

As of fiscal year 1975, the Federal proportional shares of the costs of nursing and domiciliary care in the State home system stood at their lowest point in this decade, and the Federal share of the costs of hospital care was also low. H.R. 10394, as reported, would raise the VA's per-diem reimbursement for all three types of care to levels which will keep the Federal proportional share of total operating costs at levels consistent with the average Federal proportional share during the past 5 years—approximately 30 percent.

TABLE 1.—VA SHARE OF PER-DIEM COSTS FOR DOMICILIARY, NURSING, AND HOSPITAL CARE IN STATE VETERANS HOMES, FISCAL YEARS 1970 TO 1975

Fiscal year	Per-diem operating costs	VA per-diem rate	Percentage paid by VA
Domiciliary care:			
1970	$8.81	$3.50	40
1971	9.30	3.50	38
1972	9.99	3.50	35
1973	11.08	3.50	32
1974	12.19	4.50	37
1975	14.04	4.50	32
Nursing care:			
1970	15.62	5.00	32
1971	15.79	5.00	32
1972	17.15	5.00	29
1973	18.43	5.00	27
1974	20.33	6.00	30
1975	23.20	6.00	26
Hospital care:			
1970	26.79	7.50	28
1971	31.22	7.50	24
1972	32.38	7.50	23
1973	35.54	7.50	21
1974	37.92	10.00	26
1975	40.97	10.00	24

Source: Figures supplied by the Department of Medicine and Surgery.

Domiciliary care.—H.R. 10394 would raise the VA per-diem rate of reimbursement from $4.50 to $5.50. If operating costs are assumed to increase at 10 percent per annum, then the Federal share, with the new, higher rate of reimbursement, would be approximately 32.5 percent of total costs in fiscal year 1977; without an increase in the rate of reimbursement, the Federal share would slip to 27 percent.

Nursing care.—H.R. 10394 would raise the VA per diem from $6 to $10.50. Again assuming a 10 percent annual increase in operating costs, the Federal share would be about 37 percent in fiscal year 1977. Without an increase in the rate of reimbursement, the Federal share would drop to 21 percent.

Hospital care.—H.R. 10394 the VA per diem rate would raise from $10 to $11.50. Assuming a cost increase of 10 percent annually, the Federal share would be 23 percent in fiscal year 1977. Without the increase, the Federal share would drop to 20 percent by that year.

The critical importance of nursing care

Under H.R. 10394, as reported, the largest expenditure of Federal dollars, both absolutely and in proportional terms, would be for the support of nursing care in State veterans homes. This is, in the Committee's view, wholly proper, because it is in this important area of care that VA facilities have comparatively the lowest capacity to meet the demand for such service.

There are now 2.2 million veterans over the age of 65 in the United States. That number will more than double in the next decade, due to the enormous number of veterans of World War II who will celebrate their 65th birthday in the next few years. The rapidly growing number of elderly veterans will mean an increasing demand for nursing care services. Although the VA plans to augment its own nursing care capacity by adding 2,000 additional nursing home care beds by fiscal year 1980 to the 8,000 beds now in operation, the Committee doubts that this 25-percent increase will be enough to cope with the enormous growth in the number of potential nursing care veteran patients.

The Committee believes, therefore, that efforts should be made to increase the nursing care capacity of the State home system. The State homes are expected to operate approximately 6,200 nursing care beds in fiscal year 1977. By increasing by 75 percent the per-diem rate of reimbursement for nursing care, the Committee intends to encourage, where appropriate, the conversion of existing but underutilized domiciliary and hospital care beds to nursing care beds and the construction of new nursing care beds in the State home system.

Elimination of wartime service requirement

Under current law, States are reimbursed for care furnished to a veteran only if the veteran served in the Armed Forces during wartime or after January 31, 1955. No reimbursement is currently made for care given to veterans who served during peacetime periods before the Korean conflict.

Public Law 93–82, enacted 3 years ago, eliminated this distinction between wartime and peacetime service for purposes of eligibility for hospital care, outpatient care, and nursing home care furnished by the VA directly, and for community nursing home care at VA expense.

Although the distinction was retained for purposes of eligibility for certain minor health care benefits, the committee has recently ordered reported legislation (S. 2908, the Veterans Omnibus Health Care Act of 1976) that would delete all reference to such a wartime/peacetime distinction in the context of the title 38 health care program.

Consistent with the committee's efforts to eliminate that distinction and with the committee's conviction that eligibility for health care benefits should not be determined on the basis of period of service, H.R. 10394 as reported would delete the existing reference to wartime service in section 641 of title 38. Under the committee bill, States would be reimbursed for care provided to all veterans, regardless of the nature of the period during which such veterans served as members of the Armed Forces.

The committee bill, in section 1(b), would also make necessary conforming amendments in section 101(19) of title 38—the definition of the term "State home"—to eliminate the references to wartime service in that definition.

Effective date

Section 401(b) of the Congressional Budget Act of 1974, 31 U.S.C. 1351, subjects to a point of order any bill providing entitlement authority which is to become effective prior to the first day of the fiscal year beginning during the calendar year of enactment—in this case fiscal year 1977 beginning October 1, 1976. Since H.R. 10394 as reported is entitlement legislation, the Committee bill provides for an October 1, 1976, effective date in order to avoid the possibility of a point of order on the Senate floor. Payments to State veterans homes at the new, higher per-diem rates provided by the Committee bill will thus be made effective on and after that date.

For the same reasons under the Congressional Budget Act, payment of sums accrued as a result of the bill's retroactive application feature cannot be paid until after the beginning of fiscal year 1977. Under section 1(c)(2) of the bill as reported, States would be entitled to a lump sum payment equal to the difference between the amount of reimbursement they have actually received from the Federal Government since January 1, 1976, and the amount they would have received had the new, higher rates of reimbursement been in effect for payments made after that date. That lump-sum payment would be added to the first payment in the new fiscal year.

COST ESTIMATE

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Pub. Law 91–510, 91st Congress), the Committee, based on information supplied by the Veterans' Administration and the Congressional Budget Office, estimates that the cost resulting from the enactment of H.R. 10394, as reported, would be $18,792,000 in fiscal year 1977; $12,083,000 in fiscal year 1978; $13,752,000 in fiscal year 1979; $14,204,000 in fiscal year 1980; and $15,082,000 in fiscal year 1981. A full justification for these costs is provided in the report of the Congressional Budget Office, set forth in the section entitled "Agency Reports," *infra*.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS ON SEPTEMBER 23, 1976, TO RECEIVE THE PRESIDENT OF LIBERIA

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on Thursday, September 23, the leadership be authorized to call a recess subject to the call of the Chair for the purpose of joining the House of Representatives in joint meeting to receive the President of Liberia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the message from the House of Representatives announcing its action on the amendment of the Senate to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have until 7:30 p.m. today to file amendments relative to the pending matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I renew my request for the yeas and nays on my substitute that is pending.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. I also request, in accordance with the previous order, the yeas and nays on the substitute introduced by Mr. Robert C. Byrd of West Virginia.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Stone). Without objection, it is so ordered.

SPECIAL ORDERS FOR TUESDAY

Mr. ROBERT C. BYRD. Mr. President, have orders been entered for the recognition of Senators on tomorrow; and if so, would the Chair advise those Senators?

The PRESIDING OFFICER. The Senator is correct. The Senator from Virginia (Mr. Harry F. Byrd, Jr.) for 15 minutes, the Senator from Wisconsin (Mr. Proxmire) for 10 minutes.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that following the two orders for the recognition of Senators previously entered, the distinguished Senator from Vermont (Mr. LEAHY) be recognized for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. It is understood, is it not, that those amendments that are filed in accordance with the order by 7:30 this evening will be treated as having been presented to the Journal clerk as of that time and in accordance with the requirements of rule XXII?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. For consideration if and when cloture is invoked.

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I thank the Senator.

ORDER FOR DIVISION OF TIME TOMORROW

Mr. ROBERT C. BYRD. Mr. President, at the conclusion of the orders for the recognition of Senators tomorrow, the time that remains prior to the expiration of the 1 hour under the cloture rule could be divided.

I, therefore, ask unanimous consent that the remaining time be divided and controlled by Mr. HRUSKA and Mr. ABOUREZK equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS TO 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 11 a.m. tomorrow.

The motion was agreed to; and at 5:52 p.m., the Senate recessed until tomorrow, Tuesday, August 31, 1976, at 11 a.m.

NOMINATION

Executive nominations received by the Senate August 30, 1976:

AMBASSADOR AT LARGE

Graham A. Martin, of North Carolina, a Foreign Service Officer of the class of Career Minister, to be an Ambassador at Large to serve as the Personal Representative of the President to conduct negotiations on the future political status of the Trust Territory of the Pacific Islands with the Congress of Micronesia and other Micronesian leaders.

INTERSTATE COMMERCE COMMISSION

Richard Gilbert Quick, of Pennsylvania, to be an Interstate Commerce Commissioner for a term of 7 years expiring December 31, 1982, vice Kenneth H. Tuggle, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 30, 1976:

IN THE AIR FORCE

The following officers to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10 of the United States Code:

To be lieutenant general

Lt. Gen. Donald G. Nunn, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

Lt. Gen. James T. Stewart, [redacted] FR (major general, Regular Air Force), U.S. Air Force.

IN THE NAVY

Rear Adm. Alfred J. Whittle, Jr., U.S. Navy, having been designated for commands and other duties of great importance and responsibility commensurate with the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

IN THE AIR FORCE

Air Force nominations beginning Robert G. Beabout, to be lieutenant colonel, and ending David J. E. Strate, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on August 6, 1976.

IN THE ARMY

Army nominations beginning Richard L. Abbott, to be first lieutenant, and ending Katherine Zimmerman, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on August 2, 1976.

IN THE NAVY

Navy nominations beginning Robert J. Backman, to be permanent lieuteant (jg.) and temporary lieutenant, and ending Jonathan J. Bridge, to be lieutenant (jg.), which nominations were received by the Senate and appeared in the Congressional Record on August 6, 1976.

WITHDRAWAL

Executive nomination withdrawn from the Senate August 30, 1976:

INTERSTATE COMMERCE COMMISSION

Warren B. Rudman, of New Hampshire, to be an Interstate Commerce Commissioner for a term of 7 years expiring December 31, 1982, vice Kenneth H. Tuggle, resigned, which was sent to the Senate on February 4, 1976.

EXTENSIONS OF REMARKS

THE YUGOSLAV-AMERICAN CLUB OF SAN PEDRO

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. ANDERSON of California. Mr. Speaker, on May 6, 1926, a small group of Yugoslav Americans met in the Point Fermin Cafe in San Pedro, Calif. They decided to form a club aimed at preserving their heritage and at the same time promoting patriotism as American citizens. These were the founding fathers of the Yugoslav-American Club at San Pedro: Anton Baraka, Nicholas Baskovich, Matt Bogdanovich, Steve Franetovich, Vincent Karmelich, Steve Lakich, Joseph Mardesich, Miho Marinkovich, Jack Mirkovich, James Mirkovich, Justo Pesutich, Luka Sekulich, Sam Simich, Steven Stambuk, Marin Suglian, Jack Trudnich, Nick Vilicich, Joseph Yaksitch, and Joseph Zokovick.

Today, 50 years later, the old cafe is still an operating business overlooking Point Fermin Park and the Pacific Ocean. And the Yugoslav-American Club of San Pedro has developed into a thriving social organization that is well known and respected throughout southern California, reflecting as it does the pride and self-awareness of the Yugoslav community of San Pedro.

The history of the Yugoslav community in Los Angeles goes back as early as 1841, when California was still a Mexican possession. Most owned restaurants or were merchants; but by 1879 hearty Dalmatians were fishing the coast off Los Angeles.

Southern California, with its mild coastal climate, bears a strong resemblance to the Adriatic Coast of Yugoslavia. Soon, the port town of San Pedro boasted a growing Slavic community. Yugoslav-Americans were instrumental in developing what was to become the greatest fishing fleet on the Pacific Coast.

By the 1920's, San Pedro's Yugoslavs comprised a significant portion of the town's population. May 6, 1926, is remembered as the day the Yugoslav-American Club was founded; it was formally incorporated on November 30, 1927.

For the first few years, meetings were held regularly at the Point Fermin Cafe, but as the club grew, the need for a larger, permanent meeting hall became apparent. Funds were raised; and on Labor Day, 1935, the Yugoslav-American clubhouse was officially opened. Yugoslav Hall, as it is often called, has served as a center for community activities ever since, providing a meeting place and hall for all San Pedro residents.

Today, comprised of over 700 families, the Yugoslav-American Club of San Pedro is as strong and as active as ever, still embodying the principles upon which it was founded. On December 18, 1926, the founders of the club issued a proclamation which reads in part:

> This event represents a new and bright page in the annals of our activities and the beginning of a fruitful and unified effort for the welfare and benefit of all people. We are leaving behind us a period of insecurity and entering into a new era of manhood, stability, and work. . . .
>
> . . . Therefore, we call upon all Yugoslavs—the Serbs, Croats, and Slovens, to unite brotherly hearts and to join us in this great undertaking, thus proving by actual deeds that we are true brothers who are aware of our duties and obligations.

Mr. Speaker, it is in that spirit that the members of the Yugoslav-American Club of San Pedro have contributed to the good of our community. On September 4, 1976, a golden anniversary banquet and ball will be held in the clubhouse to celebrate the 50-year history of the organization.

I would like to take this opportunity to congratulate the Yugoslav-American Club of San Pedro on an outstanding and productive 50 years of existence, and to wish the club and its many members continued productivity and good luck in the future.

CONGRESSIONAL SALUTE TO THE FAMILIES OF AMERICA DURING OUR NATION'S BICENTENNIAL YEAR

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 26, 1976

Mr. ROE. Mr. Speaker, I rise in support of the Family Life Movement which seeks to provide a forum for the sharing of the unique gifts of family tradition among our people during the celebration of our Nation's Bicentenntial Year and ask that you and our colleagues here in the Congress join with me in supporting the following resolution which I have introduced in the House today:

DESIGNATING SEPTEMBER 19 AS "NATIONAL FAMILY DAY" DURING THE CELEBRATION OF OUR NATION'S BICENTENNIAL YEAR

Whereas the celebration of the 200th anniversary of the birth of our Nation is a time to reflect on the history of our great country and the good deeds of our people which have placed our representative democracy second to none among all nations throughout the world;

Whereas America has gained its strength and fiber through the tradition of a strong family life which has truly enriched the educational, cultural, social and economic well being of our communities, states and nation;

Whereas the very basic foundation of our society in preserving our human values, nurturing our children, developing respect and understanding for others, caring for our elderly and perpetuating our cultural and spiritual heritage stems from family life;

Whereas our United States of America is comprised of family groups from all over the world, bringing varied expressions of familial solidarity which have been adopted by our people, adding to the quality of our American way of life;

Whereas the Family Life Movement in many areas throughout our Nation is celebrating September 19, 1976 as "Family Day" to celebrate and honor the family, which has contributed in large measure to America's evolution as a 200-year-old nation that has achieved global preeminence as a shining example of a united and compassionate family which continues to extend a helping hand to families in need throughout the world; and

Whereas it is indeed appropriate to honor the contributions and special place in America of families and those who labor to create the wealth and destiny of our country: Now, therefore, be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 19 of our Nation's Bicentennial Year be designated as "National Family Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day to reflect upon and reaffirm our belief in family life, demonstrate our support for the concepts of family life and provide a forum for the sharing of the cherished values of our heritage and the unique gifts of family tradition amongst all of our people.

Mr. Speaker, may I particularly commend to you and our colleagues the outstanding work being carried on in my congressional district in the Family Life Movement by the Reverend Finbarr M. Corr, Ed.D., director of the Diocese of Paterson, Family Life Bureau, Paterson, N.J. Father Corr and his program committee under the cochairmanship of Peg Murray and Ray Luchko have been busily prepared for the celebration of family day on September 19. Their program is, as follows:

FAMILY DAY, SEPTEMBER 19, 1976, CLIFTON STADIUM, N.J.

What: A celebration and reaffirmation of the concept of family—cultural, environmental, spiritual and social.

Why: To help stem the tide of negative attitudes towards the family unit by gathering in unity and purpose, to stand up and be counted as supporters of family life.

Who: The mothers, fathers and children of New Jersey as well as the extended family—business leaders, community and government leaders, ethnic and fraternal groups and their families. * * * And special guest, Mr. Pat Boone.

When: September 19, 1976 from 12 noon to 4:30 p.m.

Where: Clifton Stadium, Clifton, N.J.

Sponsor: The Family Life Board of Governors and local industrialists who support the family unit as a basic cell of society.

Events: Exhibits and displays by local industries.

Announcer, George Meade, WOR Radio.

Parade of family life supporters into Clifton Stadium.

Welcoming address by Rev. Charles Gallagher.

Entertainment by the West Point Glee Club.

Keynote address and musical celebration by Pat Boone, entertainer and family man.

Ecumenical service.

Join in with Mr. Boone and all the Family Day participants in a round of songs.

Mr. Speaker, I am pleased to have the opportunity to submit this resolution to designate September 19 of our Bicentennial Year as National Family Day.

FREEDOM TRAIN VISIT IS HISTORY

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. PATTEN. Mr. Speaker, the American Freedom Train visited New Brunswick, N.J. recently and conquered the hearts of more than 35,000.

The famous train came to New Brunswick as a Bicentennial project of Ross E. Rowland, Jr., of Bernardsville, N.J., and was enormously popular with those who visited it. It was, to say the least, an extremely successful project and the citizens of the New Brunswick area are grateful to him.

Another person, however, deserves great credit for the remarkable success of the Freedom Train—David Christman III, organizing chairman of the Raritan Valley Freedom Train Committee. He worked very hard on the project, dedicating himself completely. Dave Christman's fine leadership help make the visit of the Freedom Train memorable, so I commend both Mr. Rowland and Dave for their contributions—in time, patriotism, and enthusiasm.

I hereby insert an article in the Home News of New Brunswick, N.J., entitled, "Freedom Train Visit Is History":

FREEDOM TRAIN VISIT IS HISTORY

(By Dan McCARTHY)

NEW BRUNSWICK.—The American Freedom Train's steamdriven locomotive left here last night at about 11 and it will never be the same again.

Neither will the 35,000 people who either saw it, climbed into its cab, or clicked off Instamatic pictures, according to David Christman III, organizing chairman of the Raritan Valley Freedom Train Committee.

The locomotive puffed its way backward some 21 miles up the track to Newark because the Baldwin and Sandford streets site was not equipped to turn around the huge Reading T–1 engine.

Police reported about 600 people were on hand at 3 a.m. when the display, showcase and maintenance cars were backed up to Newark—this time, a little less dramatically, by a diesel engine. The locomotive and its cars were reassembled and headed for Bethlehem, Pa., stop No. 109 in the cross-country tour.

Christman said the Freedom Train takes with it some memories of each city in which it stops but it gives many more memories than it gets.

First, it brought area residents a history lesson they will never have a chance to see again. Christman said. Second, it proved the city could put on one of the most spectacular Bicentennial shows and third, 35,000 people found they could come to the city and enjoy themselves, he said.

"Middlesex County is on that train. It really started here 200 years ago," Christman said. "I'm only glad that 200 years later we could bring it back."

There were 45,000 tickets on sale for the train and although only 35,000 people attended, the train's stop was a success, Christman said.

He indicated the committee not only had to generate ticket sales but also had to motivate the public to come to the city.

"People didn't understand the full magnitude of the project and now 35,000 know what it meant," Christman said.

The Freedom Train's stop here was primarily the doing of Christman but it took a lot more than one man to make it work, he said.

The cosponsors of the train's visit were Johnson & Johnson, N.J. Bell Telephone, the VIP Club-Hotel, the city of New Brunswick and New Brunswick Tomorrow.

The train also receved the staff support of the Raritan Valley Regional Chamber of Commerce.

Bus drivers from United Transportation Local 1589, which represents the Suburban Transit and H.A.M.L. bus corporations, donated their time and put together a bus shuttle system between the Sears, Roebuck and Co. store on Route 1 and the train site.

The shuttle ran continuously and was one of the most successful features of the entire project, Christman said.

Approximately 85 per cent of the train's crew was housed for free by the Ramada Inn in East Brunswick, Christman said. The cost for the living quarters would have hit $3,000 he noted.

Last night's peak period had a line 1,200 feet long and five people deep. Christman said. Fifteen thousand people entered the 10 display cars depicting people, inventions and events from every decade of America's 200 years.

After the train's three-day stopover in Bethlehem, it will head back to New Jersey for stops in Trenton, Aug. 30-Sept. 1, Asbury Park, Sept. 2–6, and Atlantic City, Sept. 8–10.

The train will end its 21,000-mile, eight-state journey on Dec. 31 in Miami.

The Freedom Train is the Bicentennial

project of millionaire Ross E. Rowland Jr. of Bernardsville.

The red, white and blue, 26-car train lumbered out of Alexandria, Va., on March 28, 1975 "to touch as many lives as possible with this dramatic portrayal of American achievement in the past 200 years."

UNITED STATES SHOULD NOT ABANDON TAIWAN

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. McDONALD. Mr. Speaker, Ray S. Cline, formerly Deputy Director of the Central Intelligence Agency and currently director of studies at Georgetown University's Center for Strategic and International Studies, has written an excellent article explaining why we should maintain our commitments to the Republic of China. Entitled "U.S. Should Not Abandon Taiwan," it appeared in the August 29, 1976, issue of the Baltimore Sun.

In light of the escalating campaign in favor of recognizing Red China and abandoning Taiwan, I would like to bring this article to the attention of my colleagues.

The article follows:

U.S. SHOULD NOT ABANDON TAIWAN

"A campaign has been mounted recently in the United States in favor of establishing full diplomatic relations with the People's Republic of China and breaking off the long-standing U.S. relationship with the Republic of China, the non-Communist state on the island of Taiwan. This proposal, which automatically would abrogate the formal Mutual Defense Treaty of 1954 between the United States and the Republic of China, is justified by its proponents simply on grounds that Peking demands it—that is, requires that the United States give up its present links to Taiwan as the price for raising its liaison office in Peking to the status of an embassy.

"Peking's demand, and the U.S. campaign in favor of acquiescence, raise grave problems of morality and political strategy to which Americans ought to give serious thought. To please Peking, are we entitled to discontinue our support of Nationalist China and let it become highly vulnerable to pressures that eventually will bring it into line as part of the mainland dictatorship? Especially, we must ask, can we justify this step even though Taiwan's 16 million citizens are united in wanting to keep their open society, representative government, elected leaders, internationally oriented free-trading economy, and standard of living about three times higher than that in mainland China? It bodes ill for standards of decency in international relations, as well as for stability in East Asia, if we answer 'yes' to these questions.

"From President Eisenhower's day in the 1950's until now, U.S. support of the development of a free Chinese society in the Republic of China and U.S. guarantees of the defense of Taiwan have maintained strategic stability and peace in Northeast Asia. As a result, remarkable strides toward economic and political strength have been made, not only by Japan, the major country in the area allied with the United States, but also by the smaller nations of South Korea and the Republic of China. It is hard to see how the United States can gain by disrupting this stability.

"The Republic of China has a modern society firmly linked with the international trading countries essential to U.S. well-being and security. It has a steadily expanding Gross National Product, now at the level of about $15 billion annually. Its present annual foreign trade of about $12 billion is more than that of all of mainland China. Its trade with the United States is several times that of mainland China. It also maintains well-trained and equipped armed forces, about 500,000 strong, thus making a major contribution to the security of the East Asian island chain stretching from Japan to Indonesia, on which depend U.S. strategic defense of the West Pacific and protection of the vital shipping lanes on the periphery of all of Asia.

"The United States cannot give any kind of credible security assurance to Taiwan once we have formally recognized it to be legally a province—a subordinate part—of another state. If we withdraw formal recognition of Taiwan as an independent political entity, despite the fact it is now a state in every normal meaning of the word, our solemn treaty with it will have been unilaterally abrogated and we will invite a chain of similar opportunistic capitulations to Peking.

"This act of ours would make Taiwan the only country of any consequence in the world to be denied formal diplomatic ties to the main members of the international community of nations. It would surely be viewed as disgraceful and rather frightening in the eyes of other small nations for the United States to do this solely to satisfy the rival political claims of another state, however large and powerful.

"Despite these facts there now appears to be a quiet but concerted move by State Department officials to redeem former President Nixon's and Henry A. Kissinger's implicit promises to Mao Tse-tung, the Chinese Community party chairman, and the recently deceased Premier Chou En-Lai. They are supported by sinologists anxious to be admitted to the ancient seats of Chinese culture on the mainland, and by journalists representing news media which are hoping to get bureaus opened in Peking. They are also urged on by anti-Soviet geopoliticians who believe, naively I am afraid, that we can manipulate the vast disordered society of mainland China against the U.S.S.R. These groups constitute the new China lobby, which is agitating to extend diplomatic recognition to the People's Republic (Peking) and to withdraw it from the Republic of China (Taiwan).

"This proposal to betray a reliable ally of many years standing is justified by some proponents as fulfilling a tacit, implicit pledge in the Shanghai communique of February, 1972, a document of no formal legal standing signed by then-Premier Chou, now dead, and Mr. Nixon, ousted from the White House 18 months after the signing. Why secret understandings reached by these two men four years ago could possibly require the United States to do something now plainly contrary to its interests in East Asia is something that cannot be explained.

"The Republic of China is a political entity of some consequence, and its existence cannot be cavalierly disregarded in a rush to ingratiate ourselves with the politically troubled regime of the failing Chairman Mao. . . ."

TRIBUTE TO FEDERAL JUDGE WILLIAM J. LYNCH

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. McCLORY. Mr. Speaker, a longtime friend and former colleague in the Illinois State Senate, U.S. District Court Judge William J. Lynch, died recently in Chicago.

As a leading Chicago lawyer, as a lawmaker and able minority leader of the Illinois State Senate during the years when I served as a State Senator in Springfield, Ill., Judge Lynch demonstrated skill and dedication to the party and interests he represented.

Mr. Speaker, in addition to his ready grasp of legal, legislative, and political problems, Judge Lynch was skilled in public debate and was an astute strategist on the political scene. Never at a loss for words, Judge Lynch was always prepared with an appropriate repertoire. He was articulate and, on occasion, likewise eloquent.

Mr. Speaker, in addition to these personal and professional qualities demonstrated by the late Judge Lynch, he was at all times a most friendly individual and one whom I always regarded as a close personal friend throughout his lifetime.

Mr. Speaker, I join with the countless others who are honoring his memory, including my colleagues who at this time are paying tribute to a man of great talent and service, U.S. District Judge William J. Lynch.

At this time I extend my deepest sympathy to Judge Lynch's sisters, Mrs. Annamay Molloy and Margaret Lynch, and to other members of the family.

TO SET THE RECORD STRAIGHT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. DOWNEY of New York. Mr. Speaker, the administration is keeping its fingers crossed these days, hoping that their dreams of an early end to the business lull will come true. Business Week points out in its latest issue—September 6, at page 12—that economists "have been pinning their faith on a huge gain in personal income that will lead consumers to end their doubts about the future." The article notes that a strong rise in personal income in July which, barring a sharp increase in savings, will result in a boom in retail sales.

As we give thanks for the blessings of increased retail sales which are about to befall us, let us give thanks to the source of our new bounty. According to Business Week, of the $13.9 billion gain in income, some $5.7 billion came from higher transfer payments, including veterans benefits and social security payments—payments made only at the insistence of a Democratic Congress.

The Republicans' inability to manage the national economy is exceeded only by their ingratitude.

Prediction: The administration will direct the Federal Reserve Board to rescue them again by artificially stimulating the economy this fall to provide the GOP with a little political capital in November. For the record, the money supply increased at a rate of 10.3 percent last month, compared to 4.7 over the past year.

AUTO EMISSION CONTROLS AND FUEL ECONOMY: THE CALIFORNIA EXAMPLE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. BROWN of California. Mr. Speaker, as the time for decision on Federal automobile emission standards approaches, the misinformation from the supporters of the automobile industry grows. I do not know how many times and how many ways this needs to be done, but I feel compelled to again rebut the claims that automobile emission controls are responsible for losses in fuel economy, among other things.

The fact is that cars in California already meet emission standards which are more stringent than those proposed by any of the amendments, including the Waxman-Maguire amendment, between now and 1980. This fact alone has undermined a favorite old argument by Detroit, mainly that the technology is not available. With the old standby argument gone, the auto industry has continued its exploitation of the fuel economy issue in order to pick up votes for further delay. This tactic is used despite the fact that fuel economy and emission controls are not directly related.

California has faced these same problems, and decided to continue to enforce the auto emission standards that are necessary to protect the public health. This effort to enforce controls has been bipartisan, and quite effective.

A short, descriptive paper on the California experience was recently prepared, and, due to its relevance to the debate in Congress, is being included in the RECORD today. I urge all my colleagues who are interested in this subject to review this very relevant material. In addition, I wish to include a letter from the members of the Permanent Subcommittee on Air Quality on the specific auto emission amendments before us.

The material follows:

ASSEMBLY, CALIFORNIA LEGISLATURE,
PERMANENT SUBCOMMITTEE ON
AIR QUALITY,
Sacramento, Calif., August 27, 1976.

Memo: to Members of the Legislature.
From: Assemblyman Victor Calvo, Chairman.
Subject: Perspectives on automotive fuel economy and emissions control.

This is the first in a series of periodic reports to the Legislature on key air quality issues. A continuing effort will be made to better inform members of the Legislature of the current trends in air pollution policy.

In recent months, there has been a great deal of discussion regarding California's policies on new motor vehicle emission standards, as well as the relationship between California and federal emission control policies. The Subcommittee on Air Quality has heard numerous bills, held workshops and interim hearings involving technical experts, and its members have communicated on a regular basis with officials of the California Air Resources Board, the Federal Environmental Protection Agency, the auto industry, and members of Congress.

The following is a discussion of where we have been and where we hope to be going in automotive emission control in California, and a summary of the key issues in this field which have been addressed by the Subcommittee on Air Quality.

BACKGROUND

Since the early 1960's, California has been a pioneer in the setting of emission standards and in the development of widely used test procedures for measuring emissions from new motor vehicles. This leadership prompted the federal government in the passage of the 1970 Clean Air Act to specifically exempt California from the preemption on states setting their own motor vehicle emission standards. As a result, California is the only state permitted to establish emission standards for new motor vehicles which are more stringent than those of the federal government.

This authority to set more stringent standards has been used extensively by the Air Resources Board in an effort to make new motor vehicles sold in California as clean as possible, owing to the tremendous air quality problems in the urban areas of the state. For example, the California Air Resources Board has set more stringent California standards for new motor vehicles in the '74, '75, '76, and '77 model years. In each of these model years, California standards have been significantly more stringent than the federal government's and as a result, emission control technology which later appeared on a nationwide basis has appeared first in California. Moreover, California cars in the last five years are, on the whole, significantly cleaner than similar model year cars sold in the other forty-nine states. Thus, it can be demonstrated that California's stringent policy on motor vehicle emissions has led to major technological breakthroughs in emission control technology as well as significantly cleaner automobiles. As an indication, the Air Resources Board estimates that by 1980, the total contribution of motor vehicles to overall pollution levels will be less than 50%, down from 90% in 1970.

CONTROVERSY OVER CALIFORNIA'S 1977 STANDARDS

Since early 1975, there has been considerable discussion regarding California's proposed 1977 emission standards. The controversy has centered on the amount of emission control which would be achieved, the amount of the fuel penalty which would be suffered, and the additional costs which might be engendered by the more stringent 1977 standards. During most of 1975, the standards were the subject of a great deal of discussion, particularly among members of the Legislature and various interest groups. In addition to the feeling of panic which gripped the auto industry during the recent recession, one of the key reasons for the high level of controversy surrounding the '77 standards is that the federal government has for the last three or four years adopted a much slower progression towards the statutory emission standards originally mandated by Congress in 1970. As a result, the 1977 standards set by California were the most ambitious emission controls ever mandated by any government agency and served to underline the difference in policy between California and the federal government.

The rationale for California's action in setting the stringent 1977 standards was twofold. First, that the additional hyrocarbon control provided by the 1977 standards was essential to reduce ozone levels in the urban areas of the state. Second, that a more stringent oxides of nitrogen standard was necessary in order to force the development of improved emission control technology, since EPA had authorized continued delays which had reduced the incentive for research and development of NO_x control technology.

Although clearly California is entitled to set its own policies and directions with regard to emission controls, comparisons are unavoidably drawn between California's standards and the federal standards, particularly when that difference in standards results in different price levels of cars sold in California and different fuel economy levels. The penalties suffered by California motorists have been exacerbated by the reluctance of the federal government to follow California's lead in the application of strict motor vehicle emission standards. Thus, what has resulted in the last several years has been a "two-car strategy" whereby the manufacturers build one line of cars for sale in the forty-nine states and another car for sale in California. This practice enables automakers to increase the cost of California cars by charging extra for emission controls, which if applied nationwide would cost much less.

In an effort to keep the Legislature more apprised of the various elements of these important issues, the Subcommittee on Air Quality, under the Assembly Transportation Committee, has spent a great deal of time evaluating the issues surrounding the 1977 emission standards as well as the more complex issues involved in the State's policies versus those of the federal government. As part of this study process, members of the Subcommittee on Air Quality and the Assembly Transportation Committee went to Washington, D.C. and Detroit in the Fall of 1975 to meet with congressional and agency officials, as well as emission control scientists of the three major auto companies. The purpose of the trip was, in addition to fact-finding, to establish a dialogue between federal officials responsible for setting emission control policies and the "Big Three" auto makers so that the Legislature might become informed of future regulatory policies and projected improvements in emission control technology.

In addition, the Transportation Committee held two days of interim hearings in November of 1975 to evaluate the whole emission control/fuel economy equation for the short term, and to evaluate the alternative technologies which might be available to meet our long term fuel economy and air quality needs. Transcripts of those hearings are available from the Subcommittee and are very informative in terms of identifying the range of opinion at that point in time.

In recent months, attention has shifted from whether or not the '77 standards should be set to how those standards will be met, since after the hearings in November of 1975 the Committee saw no justification for statutorily overruling the Air Resources Board's decision to set the 1977 standards. Nevertheless, there was a great deal of uncertainty regarding the danger of excessive fuel economy penalties and price impacts reducing the sale of new cars in California. The sales issue is particularly crucial because the overall health of the auto industry is of obvious importance when considering continued tightening of emission standards. New car dealers and union officials were particularly concerned that in California's zeal to establish the toughest standards in the country, it was running the risk of reducing the overall sales of new cars, thereby keeping more dirty cars on the road.

You will recall that during 1974 and 1975, the auto industry suffered the greatest decline in sales since the depression and since that time, sales and profits have rebounded, exceeding pre-1975 levels. Thus, it appears that the sales issue is, for the meantime, much less significant than it was during 1975. Nevertheless, the Committee was concerned about possible fuel economy penalties and particularly the impact these could have on overall consumer confidence and the political support for California's tough emission standards policy.

Partly as the result of the concerns expressed by members of the Subcommittee, the Air Resources Board held a series of workshops with auto industry officials, dealer representatives and union officials in an effort to insure that the 1977 standards would not result in excessive fuel penalties and a loss of consumer confidence. As a result of these meetings, the Air Resources Board made a little noticed but very significant change in the test procedure for the certification testing of new cars to be sold in California. The effect of the change in the test procedure was to make the standards easier to meet and, as a result, reduced the projected fuel penalty and some of the drivability problems associated with the more stringent 1977 standards. This compromise was worked out without a great deal of acrimony and with a full sense of cooperation between the industry and the Air Resources Board, the dealers, and the union officials.

THE CATALYTIC CONVERTER AND FUEL ECONOMY

In the 1975 model year, California set the most stringent emission standards which had ever existed up to that time, and partially as a result, there was the widespread application in California of the catalytic converter. Although the auto makers had resisted introduction of the catalyst on the grounds that it would be too expensive and would reduce fuel economy, it, nevertheless, has been their favorite technology for achieving low levels of emissions. Part of the reason for this was that the catalyst does not involve expensive retooling and, therefore, can be applied very cheaply from the auto industry's point of view, since added costs can be passed on immediately to the consumer.

The results on 1975 California cars were conclusive enough to demonstrate to the auto makers that they could achieve up to a 15 to 20% increase in fuel economy with a catalyst. As a result, even though the 1975 and '76 federal standards were considerably less stringent than California's and would not normally require the use of a catalyst, most domestic manufacturers chose to install catalysts on almost all of their 1976 "forty-nine state" cars because of the fuel economy advantage. So here we have the prime example of a more stringent emission standard causing the introduction of a new technology and then that new technology being applied nationwide to improve fuel economy.

When the catalytic converter was first introduced, there were initial reports of a fire hazard associated with the device. These reports received tremendous coverage in the press and prompted a year-long investigation of catalysts by an interagency task force, composed of the State Fire Marshal, the Division of Forestry, the Highway Patrol and the Air Resources Board. The report found that catalyst-equipped cars posed no significant increase in fire hazards compared to non-catalyst cars, but recommended a more vigorous approach to the prevention of vehicle fires in general.

DYNAMICS OF CALIFORNIA AND FEDERAL CONTROL POLICIES

Since California has pretty much been alone in trying to set a fast pace in the area of emission control, the pressure on the auto industry has not been uniform, and Detroit seems happy with its "two-car strategy" and an increasing gap between California and federal standards. Detroit has not been able to convince California to adopt a slower pace, but it has convinced the federal government on numerous occasions to defer, to relax, and to basically allow a longer time frame for achievement of emission standards and development of emission control technology.

As a result of this slackening of the federal effort, attention has been drawn to the slight California fuel penalty and the increased cost of cars in California. Since the federal government and the Congress have been contained by the auto industry, the lobbying effort that was put on to try and reverse California's position on the 1977 standards is reflective of the auto industry's great concern with the pace which California sets.

Fortunately since 1970 California standards have been set by the Air Resources Board which has shown under two quite different administrations its ability to withstand auto industry pressure. It is clear that if California sets tougher standards than the federal government and shows that those standards can be met with a minimum of increased cost and an acceptable fuel penalty that there is going to be an increase in the pressure on the federal government to apply these standards and this technology nationwide. Therefore their concern with the California standards is not just for the California market but for the example that can be set for the rest of the country.

SIGNIFICANCE OF VOLVO "BREAKTHROUGH"

The auto industry has been very successful in promulgating the theory that as emission standards get tighter fuel economy gets worse. The auto industry's concern with fuel economy has perfectly coincided with rising public recognition of the energy crisis and the shortage of petroleum fuels. As discussed above this concern with fuel economy was the key argument in the debate surrounding the 1977 standards. One must note that in mid-1976 the Air Resources Board announced that the Volvo Company had developed a three-way catalyst for sale in California in 1977. A three-way catalyst as used by Volvo again turns the industry's theory on the emission standards upside down. The 1977 Volvo cars are expected to meet the toughest standards ever envisioned by any governmental agency, those being the ultimate statutory standards set by Congress in 1970. In preliminary testing, Volvo met these standards and exhibited better fuel economy than Volvo's 1976 forty-nine state cars. Thus, we again seem to have a situation where we are achieving greater fuel economy and meeting tougher emission standards. Attached please find a technical report by the Air Resources Board on the Volvo developments.

Surprisingly, the three-way catalyst is not the only technological improvement which has been accelerated by California's standards. General Motors has recently announced the introduction of an electronic spark timing system for the 1977 model year, and Pontiac will introduce two new engines that provide high levels of economy and performance, while meeting stringent emission standards.

Thus, it seems clear that California's 1977 standards were a good risk and have not only achieved positive air quality benefits but have also advanced automotive technology faster than had been thought possible.

RECENT ACTIVITIES OF THE SUCCOMMITTEE ON AIR QUALITY

As mentioned earlier, there is a great deal of debate in the Congress over the amendments to The Clean Air Act. Following the decision of the House Commerce Committee to freeze federal emission standards at present levels of three years the Subcommittee on Air Quality wrote a letter to the California congressional delegation urging Congress to reverse the decision of the Commerce Committee and to pursue stringent nationwide emission standards at a more rapid pace. A copy of the letter is attached for your review.

It was originally thought that The Clean Air Act amendments would be voted out of the House by the end of June; however, while the Senate has already voted on Clean Air Act amendments, a vote in the House is not expected until late August. I think it is important that California continue to not only make its voice known on federal policy but also to demonstrate to the Congress the progress that has been made and the kinds of breakthroughs that we believe can be forced by a tough regulatory policy on new car emission controls.

While the foregoing discussion is no doubt longer and more involved than is desirable for maximum impact, I am sure you appreciate the difficulty of condensing the many technical details and policy issues associated with California's automotive control program. I hope the information is useful, and I would appreciate any comments on this type of issue analysis and any suggestions for future topics.

As a final note, the Assembly Transportation Committee is holding an interim hearing on automotive fuel economy and emission system warranties on October 6, 1976, in Riverside. I would urge all interested members to join us for what I believe will be a most interesting and informative hearing.

ASSEMBLY, CALIFORNIA
LEGISLATURE,
PERMANENT SUBCOMMITTEE ON
AIR QUALITY,
Sacramento, Calif., June 1, 1976.

Hon. GEORGE BROWN,
Member of Congress,
Washington, D.C.

DEAR CONGRESSMAN BROWN: As members of the California State Assembly Subcommittee on Air Quality, we would like to address a very important matter which will soon be considered on the floor of the House—the 1976 amendments to The Clean Air Act.

While several provisions of the legislation are of specific interest to Californians, we are particularly concerned with the proposed delay in automobile emission standards. We believe the decision of the House Commerce Committee to freeze emission standards at present levels for three years is a poor one and in addition to its obvious impact on urban air quality in other states, could have a damaging impact on California's clean air efforts.

As you are no doubt aware, California has been a pioneer state in cleaning up automobile emissions. For the past several years, California's tough policy on emissions control has led to important breakthroughs in automotive technology. Yet, because federal standards have frequently been less stringent, Californians have served as guinea pigs for the rest of the nation, with new emission control devices in many instances receiving their first large-scale test on California cars. In addition to trying out Detroit's new technology, Californians have also suffered some economy penalties, which, although relatively modest, are irritating to our citizens when they learn that 49-state cars get better mileage and cost less to buy.

However, these sacrifices have yielded impressive results in California's struggle for clean air. By 1980, when many more cleaner cars will be on the road, we estimate that auto emissions will be responsible for less than 55% of total air pollutants in California, down from 90% just a few years ago.

Perhaps of equal importance is the fact that 1975 and 1976 model California cars had to meet the most stringent emission standards in the nation's history, yet fuel economy was up 15% in 1975, and an additional 9% in 1976, on a sales-weighted average. Moreover, preliminary data received by the California Air Resources Board suggest that 1977 models, which must meet even tougher standards, are nevertheless expected to achieve slight fuel economy improvements over their 1976 counterparts. Thus, California's experience with strong emission controls conclusively shows that emissions can be reduced without sacrificing fuel economy.

While we are confident that our stringent emission control program can continue to force major improvements in automotive techology, we are also greatly concerned that Congress may unwittingly contribute to a "divide and conquer" strategy if the Commerce Committee's 3-year freeze is allowed to stand. At present, 1976–77 49-state cars will have to meet standards which were already met in California three years ago. Under the Commerce Committee's proposal standards which will be successfully met in California in 1977 will not be required in the 49 states until 1981. This widening of the gap between California and federal standards is clearly inadvisable. California has, despite the industry's resistance, forced the development of new technology, but if this new technology is not quickly applied nationwide, there is a danger that the added costs will unfairly be borne by Californians.

We believe Congressmen Henry Waxman of California and Andrew Maguire of New Jersey have come up with a sensible compromise. What they propose is that the standards which California cars are meeting today be applied nationally in 1978, and that the statutory standards, which were originally intended to be met in 1975, be met in 1980. California would still be out in front, but not so much as to leave us vulnerable to manipulation by Detroit.

We believe the record in California clearly provides a simple lesson: If Detroit is given a tough standard with no way out, that standard will be met. We strongly urge you to support the Waxman/Maguire amendment to The Clean Air Act.

Sincerely,
Assemblyman Victor Calvo,
Chairman.
Assemblyman Frank Lanterman.
Assemblyman Michael Wornum.
Assemblyman Walter Ingalls.

CAREER CRIMINAL PROGRAMS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. MAZZOLI. Mr. Speaker, violent street crime has become one of the most serious problems facing urban America. While we must address the root causes of crime problem: unemployment; erosion of the role of the family; and, erosion of society's sense of morality, we must also meet the problem head on. We must deter the potential criminal from committing the crime in the first place.

To deter the career criminal we must promise him that when he is arrested he will receive swift and certain justice. Then we must make our promise stick.

In a recent study of felonies committed in the District of Columbia it was found that 7 percent of the criminals committed 25 percent of the felonies. Experts believe that this pattern would be found in any major city.

Unfortunately, the prosecutor's offices in most cities are so overburdened that two attorneys in the same office might be prosecuting the same man for different offenses and never know it.

As the following article shows, this problem can be met, and the career criminal given a swift trial with enough prosecutorial resources to insure a good chance of conviction followed by a stiff sentence. My home of Louisville has recently set up a career criminal program under the able leadership of our Commonwealth's attorney, Dr. David Armstrong, and I believe that it will make the streets of my district safer.

The article follows:

[From the Wall Street Journal, Aug. 19, 1976]

Experimental Program Musters Legal Forces Against Repeat Offenders To Boost Convictions

(By Timothy D. Schellhardt)

Columbus, Ohio.—Assistant Franklin County Prosecutor Mike Miller suspected that Myron Britton Jr. had committed more assaults than the rape and attempted rape with which he'd been charged. Both victims had been tied with an unusual knot, and by checking files of unsolved rapes, the prosecutor uncovered two other cases involving a similar knot.

At a trial last December, an expert brought in by Mr. Miller testified that the knot wasn't very common. Aided by that testimony, the jury found the 32-year-old ex-convict guilty of all four assaults; he subsequently was sentenced to a minimum of 24 years in prison.

"In 1965 when I came here we didn't win rape cases," says County Prosecutor George Smith. "But I don't know of a rape case we've lost recently."

At a time when the nation appears to be losing its battle to reduce the spiraling crime rate, a year-old federally funded experiment in this state capital is holding out some hope that crime can be reduced. The project, similar to ones underway in 17 other major U.S. cities, seeks to identify habitual, or so-called "career" criminals, to prosecute them speedily and to sock them with the longest possible prison sentences. Prosecutor Smith contends that without the help of this project, his assistant wouldn't have had the time to spend on the knot-rapist case and the defendant likely would have received a much lighter sentence.

Some critics of the new program charge that it may jeopardize the constitutional rights of criminal defendants by labeling them as repeaters. Some also feel that poor defendants who can't afford to hire their own lawyers get an especially raw deal because extra funds are being pumped into prosecutors' offices. Even the critics however, concede that the program appears to be attaining many of its goals.

SHRINKING CRIME RATE

The new emphasis on pursuing the career lawbreaker results from a belief that if authorities can corral the sizable group of hard-core offenders and lock them up for a long time, it will do a lot to shrink the crime rate.

Studies suggest that between 50% and 80% of many serious offenses are committed by repeaters. In Washington, D.C., for instance, repeaters committed 56% of the felonies reported in a recent five-year period. Almost one-fourth of the felonies were committed by persons who had been arrested at least four times during that period, says the Institute for Law and Social Research in Washington.

"Our aim is to put a Band-Aid on a spot that's hurting," asserts Philip Cohen, executive director of the National Legal Data Center, a Los Angeles-based research firm which is monitoring the career criminal projects. "We want to identify the habitual criminal quickly, prosecute him quickly and put him away quickly. That can be done without any damage to the constitutional safeguards of the accused. The Constitution, remember, doesn't prohibit a speedy trial."

Federal officials consider it too early to judge the full impact of the habitual offender projects. But in Columbus, and several other cities, initial statistics suggest there has been some slowing of the crime rate. In Columbus, where the number of serious crimes rose 62% between 1973 and 1975, the number of violent crimes—murders, rapes, robberies, assaults and burglaries—fell more than 17% in the first five months of 1976.

However, a 28% leap in larcenies, largely reflecting a wave of citizens band radio thefts, has pushed Columbus' overall serious-crime index up 4% during the period.

In New Orleans, where a similar project is underway, the serious crime rate fell 8% in the first six months of the year. There also have been reductions in other cities trying the experiment. And in most of the cities, conviction rates have climbed and the length of sentences has increased.

BOON FOR PROSECUTORS

In addition, prosecutors aren't watering down charges in an attempt to obtain guilty pleas. Last year, according to Mr. Cohen's data, 86% of the career criminal convictions were for the most serious felony with which a defendant was originally charged. In contrast, he notes that in Los Angeles County, which doesn't have such a program, the comparable figure was 29%.

The $240,000-a-year project here in Franklin County has provided federal funds to pay the salaries of five assistant prosecutors, two investigators and other personnel in a special career criminal unit. The five lawyers were switched from other duties on the county's prosecuting staff which was then reinforced with three attorneys hired with regular county funds.

The federal money means, among other things, that each of the five assistant prosecutors in the career criminal unit has a much lighter caseload—two or three cases a week—than each of the other 43 staff prosecutors, who must handle eight or nine cases a week. The reduced workload enables the five attorneys to prepare their cases more carefully.

"We can go to the mat on a case because we know it well and are confident we can win it," says Prosecutor Smith. "Furthermore, defense attorneys know we're not apt to baragin down charges to minor offenses." Also, a prosecutor generally sticks with a career criminal case from start to finish, handling all pleas and motions prior to trial as well as prosecuting the case. This enables a prosecutor to work more closely with police, victims and witnesses.

"We can build up some rapport with victims and witnesses. They don't feel they're being tossed from one attorney to another. That's especially helpful to rape victims," says Assistant Prosecutor Dan Hunt.

The career criminal unit is able to speed up its cases, often shaving 30 to 60 days off the normal period from arrest to conviction, by bypassing the preliminary hearing for defendants. Instead, attorneys in the unit see to it that their cases go directly to a grand jury for possible indictment.

FREEING BEST ATTORNEYS

Defense attorneys here acknowledge that the special unit is working. "It has freed up some of the prosecutor's best attorneys," says Timothy Gerrity, a Columbus attorney who defends some of the accused repeat offenders. "They seem better prepared and tougher in the courtroom. As a result, they're getting more convictions."

The average sentence of defendants convicted under the Columbus program has been eight years, which is more than twice the length of a typical felony sentence here. Officials believe the average sentence would be much higher if Ohio had a multiple-offender statute that would provide stiffer sentences for habitual criminals. Average sentences have been much higher in those cities with career criminal projects that are located in states having such laws. In the first year of the New Orleans program, for example, the average sentence was 16.4 years.

The chances of going to prison if convicted under the program are extremely high. During the first three months of this year, all of the convicted career criminals in Columbus, Dallas, Kalamazoo and Indianapolis received prison terms. In Columbus, during the first nine months of the program, the special unit obtained convictions in 156 of the 162 cases that went to trial, a 96% rate compared with an 80% rate for other felony cases.

While the career-criminal projects across the U.S. have won considerable support, they aren't without critics. Many public defense attorneys worry that labeling defendants as career criminals jeopardizes their constitutional rights. Franklin County Public Defender James Kura specifically attacks the practice here of identifying such cases on the court's docket with the initials "CCR" beside them. "What you're saying to the court is, 'Here's a red light; treat this person differently,' " he says. "The presumption of innocence until proven guilty fades away."

Mr. Kura adds, however, that so far he can't prove that the labeling has affected judges. Judges here insist it hasn't. "Certainly not," declares County Judge Frederick T. Williams. Still, Mr. Kura plans to ask that the labeling practice be banned.

Other complaints also have arisen. In Boston, attorneys formally objected in court to the prosecution of one of their clients by the local career criminal unit, claiming that the client didn't meet the selection criteria of the unit. The court rejected that motion. Similar complaints have come from lawyers in Detroit and San Diego.

Public defense attorneys also contend that the government is harming the legal rights of some impoverished defendants by pumping funds into the prosecution of their cases. Mr. Kura, for one, became so incensed by Prosecutor's Smith's special unit that he applied for, and received, a $114,000 federal grant to beef up his staff to handle repeat-offender cases. Prosecutor Smith says he doesn't see much wrong with the grant to the public defender's office, but some of his assistants are outraged by it. "I can't quite understand why the government gives funds to get these people off the street and then turns around and supplies the defense with the resources to help keep them on the street," says Mr. Miller.

While federal officials consider their career-criminal programs good ones, they're concerned that when federal funds run out, the communities won't support them with local funds. Franklin County commissioners, hard-pressed for funds like most local governments, concede it will be tough to find $250,000 in the budget to retain Prosecutor Smith's program. "It'll be up to George to sell the program. Finding that much money isn't going to be easy," says Don Brown, the county's finance director. But in Ventura County, Calif., the prosecutor's office plans to start its own program with local funds, and federal officials will be watching to see if other communities can set up similar locally funded units.

PERSONAL EXPLANATION

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. SARASIN. Mr. Speaker, on August 26, 1976, I was absent from Washington for part of the legislative afternoon. Had I been present, I would have voted in the following fashion:

Rollcall No. 662, H.R. 14578, Federal reclamation projects authorization, "yea."

ANDRO PUCIN AMERICAN-CROATIAN CULTURAL CENTER TO BE DEDICATED

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. McCLORY. Mr. Speaker, as many have observed, America is truly a nation of immigrants. Perhaps the most remarkable achievement in our great experiment with democracy has been our ability to blend our diverse cultures into a nation that has become the acknowledged leader of the free world.

But the success of our nationhood has not meant that we have forgotten our roots. Indeed, in our Bicentennial Year, Americans have looked more closely at the past, and have made special efforts to celebrate their national origins.

Mr. Speaker, a striking example of such an effort is taking place in my own 13th Congressional District in Illinois. On September 4, the new American-Croatian Cultural Center in North Chicago will be dedicated. This important event for both Croatian Americans and the entire North Chicago-Waukegan community takes place after years of dedication and hard work. This group, which began in 1972 with kolo dance lessons in the garage of Don and Julie Weakley, has now expanded to include four orchestras with 100 members, and three dance troupes with 30 participants.

I recently had the opportunity to see one of the center's Tamburitzan groups perform at the Waukegan Lakefront Festival, under the direction of Charles Elias. Their dancing, singing, and performance on native Croatian musical instruments were exceptional, and their authentic costumes, produced under the supervision of Julie Weakley, were truly outstanding.

The opening of the American-Croatian Cultural Center has been made possible by the generosity of the Andro Pucin family, who have been long-time leaders in the Waukegan community, and, I am proud to say, long-time friends of mine. The children of Andro Pucin—Michael (Jack) Pucin, Emilie Pucin Montes, and Stephanie Pucin Sulthin, who is the Lake County Circuit Clerk and was a delegate to the recent Republican National Convention—have donated to the Tamburitzans the building which formerly housed their family business.

This timely gift brings to fruition the first phase of the wonderful project that has been nurtured by the group's leaders: The Weakleys, Petar Cvitkovic, Frances Van Dyke, Joe Jurkovac, Frank Ress, Tony Serdar, and Matt Miholic.

The group's musical performances are already well known and popular throughout the local community, and they have recently sent performing troupes to Pennsylvania and to Gary, Ind. They are even contemplating a trip to Yugoslavia.

Mr. Speaker, the phenomenal growth of this organization, symbolized by the opening of their new American-Croatian Cultural Center, indicates a community spirit and a sense of self-worth that should serve as an example to everyone. Constructive activity in the present, based on our understanding and pride in the past, should clearly be the goal of all Americans in this Bicentennial Year.

OPPOSITION TO BLANKET PARDONS WIDESPREAD

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. SHUSTER. Mr. Speaker, widespread opposition exists to blanket pardons for Vietnam draftdodgers as proposed by Democratic Presidential candidate Jimmy Carter last week.

An excellent editorial on the subject appeared in the Chambersburg Public Opinion, a daily newspaper in my congressional district. I commend it to my colleagues.

The article follows:

OPPOSITION AND PENALTY

The question of pardons or amnesty, whichever term you prefer, for Vietnam war draft evaders is back in the headlines as a presidential campaign issue.

Jimmy Carter has said he would issue a "blanket pardon" to the draft law violators who, for one reason or another, were not affected by President Ford's earlier policy of pardons in return for an oath of allegiance and alternative service.

Those who evaded the draft, whether for ideological reasons or otherwise (and many are included in that "otherwise" category) chose a method of opposition which carried penalties.

Those who choose to oppose should be ready to accept the penalties that go with opposition. Opposition and penalty are two sides of the same coin.

Obviously those who evaded the draft for ideological reasons thought they were right. A majority of other people, however, thought them wrong.

Until minorities, however right, win the majority, however wrong, to their way of thinking, they will suffer penalties of some sort for their stands.

We appreciate the feeling of those draft evaders who believed the United States had no business in Vietnam, that the war, the way in which we entered it, and the method with which we conducted it, was wrong.

They took direct action to express their opposition. That opposition has helped to create the present atmosphere which frowns upon and, we hope, makes impossible future adventures of the same sort.

Nonetheless, these ideological draft evaders took an unpopular as well as an illegal stance and their situation now is the penalty. Those who refused to accept pardons under the terms offered by President Ford are aware of this—they know that to escape the penalty by taking an oath of allegiance and doing alternative service undermines their whole ideological position.

"Here I stand," they are saying, and no compromises are possible. They will drink the hemlock or be adjudged right, no intermediate conditions will suffice, including a "pardon" which presumes guilt.

Many who went to war did so for ideological motivations as strong as those held by the war evaders. They paid the penalty too.

We do not believe that those who evaded

the war and left the country to do so, or who deserted, should receive "blanket" pardons.

The opportunity to return was given them on terms they felt unacceptable. They saw acceptance as the negation of their position—they accepted the penalty. They are the "hard core" ideologists.

"Blanket" pardons would be an insult to them as well as an insult to those who served.

CREDIT UNION

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. DEL CLAWSON. Mr. Speaker, reaction across the Nation to the rising tide of Government regulation has been lively to say the least. A California credit union official has brought to our attention a satiric commentary by Dr. John Redman, president of the University of Kentucky Credit Union which appeared in the August newsletter of the Auto-Truck Federal Credit Union published by Mr. Robert Lincoln of Louisville, Ky. The frustrations of compliance with multitudinous regulations is illustrated in the form of a letter from a loan applicant to a credit union manager. It follows at this point in the RECORD:

Good Morning, Mr. Credit Union Manager:

I am here to apply for a loan for a purpose which I choose not to divulge. You do not have the right to remain silent.

Anything you say or do can and will be held against you in a court of law under the Truth in Lending Act, the Fair Credit Reporting Act, the Fair Credit Billing Act, the Real Estate Settlement Procedures Act, the Equal Credit Opportunity Act, Civil Rights Act and the State and Local Commissions thereof, Consumers Protection Act, the Privacy Act, the FTC "Holder in Due Course" regulation, the proposed Unfair and Deceptive Credit Practices regulation or under one or more of the regulations issued by the NCUA, Departments of Treasury, Housing and Urban Development, Health, Education, and Welfare, Defense, Labor, Army, Navy and Air Force, Federal Reserve Board, I.R.S., Securities and Exchange Commission, Federal Trade Commission, Social Security Administration or the Office of Economic Opportunity.

You have the right to talk to a lawyer and have him present while you are being questioned, but in reality he probably cannot protect you against all these regulations.

For your information, Buddy (you don't mind my calling you Buddy, do you?), you cannot use the established credit criteria, such as ability to repay, collateral, stability or employment, past credit experience or general credit rating, to approve or deny this loan application. You must use the criteria developed by Congress and these agencies in all their wisdom. Unless my loan is approved promptly, I will cause the wrath from all these to be focused upon you.

When I become delinquent on my account, you cannot discuss it with me unless I bring it up first. If all of this organic matter does not lead to increased cost of credit or restriction of available credit, I still have the Federal Bankruptcy Act and its proposed amendments in reserve.

By the way, I notice your office will fail to meet OSHA regulations. I'll be back to get my check within the hour. You must have it ready.

So long,

I.D.M. RIGHTS,
Credit Union Member.

ANNUAL FESTIVAL OF SOUTH FLORIDA BLUEGRASS ASSOCIATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. LEHMAN. Mr. Speaker, it is my pleasure to bring to the attention of my colleagues in the Congress the annual festival of the South Florida Bluegrass Association. This festival will be held on Sunday, September 5. In addition, Dade County Mayor Steve Clark and Hialeah Mayor Dale Bennett have proclaimed the week of September 6–13 as "Bluegrass Week" in South Florida.

Mr. Speaker, bluegrass music is a uniquely American musical form: a form that is the basis for so much of our music.

In helping to celebrate the festival and to bring the festival to the attention of my colleagues I would like to include with my remarks a short history of American bluegrass music. The history, prepared by the South Florida Bluegrass Association, follows:

BLUEGRASS MUSIC

Bluegrass Music is based on the folklore of America. It is the foundation of American Country Music. It is the sound of the hills and the mountains. It is the endless woods through which families hacked their way. It is the sound of string music played around camp fires, when folks lived away in solitary hollows. It is the old-time sound of string instruments, played in neighborhood joviality. It stems from an era when neighborliness was a priceless quality of the new frontier, as well as a necessity.

This sound matured in the Appalachians and the Ozarks for more than a hundred years. With the advent of radio, the sounds were taken from the mountains and given to all America to enjoy. With its speedy tempo, and close harmony, the seeds of Bluegrass Music were planted by the Monroe Brothers more than a third of a century ago. Bluegrass Music is not the invention of but one person, rather the logical development of string band music. Even though one person is not the creator of Bluegrass, Bill Monroe has earned the title of "The Father of Bluegrass Music". In the late 1930's, he resisted the trend to add amplified or electric instruments to his band. Preferring the purer sounds of the Mandolin, Banjo, Guitar, and the Fiddle in blend and solo in front of the heavy, but still unamplified, String Bass. Bill's version preserved the sound that typified the element of Mountain Music. Keeping those sounds from becoming cheap and gimmicky. With a rare and selective sense of what is fitting, he was able to delineate the music and insure its integrity. It was easy to identify Bill Monroe and the Bluegrass Boys in contrast to the many other string bands. As time went on, folks began to call his more authentic type of country music, "Bluegrass", taking the name from the groups title.

It's hard to paraphrase "Bluegrass", because Bluegrass is more than a style of music. It's a spirit. It's wild and free, yet, it is also folksy and sentimental, for it captures the memories of a land that's rich with legend and deep in feeling.

WISE MOVE ON OFFSHORE OIL

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. DERWINSKI. Mr. Speaker, both the House and Senate Democrat Party leaders bear the responsibility of the failure of the Congress to enact proper legislation directed to the long-term energy needs of the country. The Chicago Daily News properly comments on the positive developments involving offshore oil leases:

WISE MOVE ON OFFSHORE OIL

The federal government's sale of oil and gas leases in the Atlantic Ocean has proved to be a gusher in at least one respect: Oil companies bid a whopping $1.1 billion for drilling rights, more than twice the amount anticipated.

The money, however, was the least of the obstacles to drilling in about 1-million acres 50 to 90 miles off the mid-Atlantic seaboard.

The auction had been held up for many months while the state of New York, environmentalists and other groups tried to block the sale in the courts. Supreme Court Justice Thurgood Marshall wisely put an end to the delay by approving the sale. Whether any drilling actually takes place will likely be decided by a New York Appeals Court next month in a hearing on the over-all environmental effects of offshore oil production.

The oil companies already have proved to the satisfaction of the Environmental Protection Agency, among others, that they have reduced the risk of environmental damage to acceptable levels. Today the risk of damage, such as oil spills near shore and on beaches, is far more real when oil is imported in tankers than when the same amount of oil is pumped from offshore wells.

Currently New York, the most vociferous opponent of offshore drilling, is almost entirely dependent on imported oil for household and industrial heating and for generating electricity. Yet New York and other Northeast states also have been most fervent in demanding access to cheap, plentiful energy supplies—provided, it is understood, the oil comes from somebody else's back yard.

That argument is untenable. It is the entire nation that bears the burden of the Northeast's heavy dependence on imported oil, in the form of an adverse balance of payments and vulnerability to foreign embargoes.

There is one other factor that made the oil-lease sale imperative. Despite spending some $100 million on research, the oil companies have yet to see the first drop of oil from the field. They believe oil is there, based on geological studies, but there is no guarantee. It was only a couple of years ago that the industry bid $1.5 billion for equally promising Gulf of Mexico leases that proved uniformly dry.

With the risk of environmental damage at a minimum and the need for energy at a maximum, oil drilling in the Atlantic field should be permitted with the least possible delay.

CORPS' 404 PERMIT PROGRAM CONTROVERSY STILL UNRESOLVED

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. EDGAR. Mr. Speaker, an editorial appeared today in the Washington Post which should remind us that the controversy involving the Corps of Engineers section 404 permit program remains unresolved. I believe that the editorial merits the attention of my colleagues, and I insert it at this point:

DREDGING AND DUCKS

To a casual observer, the fight over wetlands protection may seem like an obscure boundary dispute in which environmentalists and developers are battling for control of a swamp. At issue is how extensive federal regulation of the nation's waterways, marshes and bogs should be. The high-water mark of regulation, if you will, was reached in 1975 with a court ruling that was widely read as giving the Corps of Engineers authority over nearly every puddle in the land. This spring, the anti-Corps forces regained a lot of territory when the House Public Works Committee voted to curtail the federal power substantially. The full House then approved a "compromise" by Rep. Jim Wright (D-Tex.) that left considerable authority to the states. Last week the Senate Public Works Committee rejected that, 7–6, and endorsed a plan sponsored by Sens. Howard H. Baker Jr. (R-Tenn.) and Jennings Randolph (D-W. Va.) that environmental groups greatly prefer.

The fight, which will come to the Senate floor shortly, is not just a dispute between anti-Washington and pro-Washington forces—or between the interests of developers and ducks. Through all the arguing, some issues have been eliminated and others clarified. There seems to be general agreement that farmers should not have to get federal permits to maintain ponds or drainage ditches—and so that spectre of overregulation, raised by the Corps and fed by its opponents, should be put to rest. The real questions outstanding include how much to regulate dredging and filling along small streams; whether the Federal role should be greater where discharges of toxic materials are involved; and how much responsibility should be left—or delegated—to the states.

These may seem to be dry issues, but vital and dwindling resources are at stake. Wetlands are not only the nation's most productive natural habitats. They also cleanse polluted water and serve as buffers for flood control. Moreover, wetlands damage and shoreline development are fluid problems in the strictest sense; water pollution tends to spread, and damage in one area can hurt resources many miles away. These are not arguments for exclusive federal control over every damp spot on the continent. They do illustrate, however, the importance of insuring that projects affecting wetlands and waterways will be looked at carefully by some competent public agency.

The Baker-Randolph proposal would focus federal review on the dredging, filling and other projects that are likely to have a real effect on the environment. Special attention would be given, as it should be, to dredging and dumping that involve toxic substances. The plan would also encourage the states to exercise their own responsibilities, but would not leave a vacuum if they fail to respond. Overall, this proposal would preserve many refuges for ducks, without barring development that is not damaging. It is a "compromise" worthy of strong support.

GEORGE W. DRAPER

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. CLAY. Mr. Speaker, in tribute to a great leader, I submit the following article from the St. Louis Sentinel published July 22, 1976:

GEORGE W. DRAPER BURIED IN WASHINGTON, D.C.

The Honorable George W. Draper II, 55, an Associate Judge of the Superior Court of the District of Columbia, died of a heart attack Friday evening at his home in Silver Spring, Maryland.

Judge Draper was born in Easton, Pennsylvania. He was a graduate of both Howard University, Washington, D.C., where he obtained his B.A., and L.L.B. degrees in 1947, and New York University, where he received his L.L.M. in 1948.

He was Assistant Professor of Law at Lincoln University Law School in St. Louis, Missouri from 1948 to 1950, practiced law in St. Louis from 1950 to 1952, and was an Assistant Circuit Attorney in St. Louis from 1952 to 1954. In January 1957, he was appointed as the Chief Trial Assistant to the Circuit Attorney of St. Louis.

Judge Draper became the Assistant Attorney General, Chief Criminal Appeals Section for the State of Missouri in November 1961, and served in that capacity until his appointment as the Director of Legal Services for the St. Louis Human Development Corporation in 1964. In 1965 Judge Draper moved back to Washington, D.C. where he served as Chief Counsel, for the Department of Housing and Urban Development.

From May 1968 until his appointment to the Bench by former President Nixon in 1971, Judge Draper was with the Equal Opportunity Commission in the capacities of Deputy General Counsel and Deputy Executive Director of the Commission.

He was a member of numerous civic, social, and legal organizations and the recipient of many awards. He was an active member of the Howard University Law Alumni Association and was the recipient of the Distinguished Law Alumnus of the year award for 1976. Judge Draper was the first President of the Tamarack Triangle Civic Association of Montgomery County; a life-time member of the Alphi Phi Alpha Fraternity, Beta Chapter; a member of the Bar of the State of Missouri, the District of Columbia, and of the Supreme Court of the United States.

Judge Draper is survived by his wife Bessie T. Draper of the home; three sons—George William III, age 22, Thornton Collin, age 19, Wesley Robert, age 17; his mother Mrs. Grace Draper Smith; and his brother, Mr. Harry Draper of Washington, D.C.

The viewing was held at McGuires Funeral Home, 7400 Georgia Avenue, N.W., on Tuesday, July 20, 1976 between the hours of 5 and 9 p.m. The funeral took place on Wednesday, July 21, 1976 in Rankin Chapel on the campus of Howard University.

In lieu of flowers, the family requests that donations be sent to the Howard University Law School to establish a scholarship and loan fund for married law students in his memory.

ABORTION

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. PAUL. Mr. Speaker, a good friend of mine, Phil Nicolaides of Houston, has a daily radio commentary on KLYX–FM in Houston entitled "A Closer Look—With Phil Nicolaides." The programs presented on August 5 and 6 concerned the matter of abortion, and the transcripts of them indicate a familiarity with the significance and seriousness of abortion that I wish were shared by all the Members of this body.

In the broadcast of August 5, Mr. Nicolaides emphasizes the importance of the words used to describe an abortion and an unborn child. It seems that Orwell's Newspeak has become the favorite language of the proabortionists, and that, if abortions are to be outlawed, a revolution in language as well as thought must occur.

In the broadcast of August 6, Mr. Nicolaides dissects the various evasions that proabortionists use to justify their position on the issue. I urge my colleagues to read these arguments and to reconsider their position on the question of abortion if they have supported it until now:

A CLOSER LOOK—ABORTION I, AUGUST 5, 1976

Remember the gripping 1951 motion picture, Detective Story? Perhaps you recall how the life of the hero, played by Kirk Douglas, is shattered when he learned that the abortionist he is trying to bring to justice had—many years earlier—operated on his wife.

Think of it, only 25 years ago most Americans regarded abortion as a despicable crime, its practitioners as loathsome criminals. Yet, since 1973, when the Supreme Court struck down all state laws protecting the lives of the unborn, abortion has become one of the most common "surgical procedures" in America. An estimated three million infants, still in their mothers' wombs, have been killed "legally" by "respectable" doctors.

"Killed"—is that too strong a word? Perhaps it is not strong enough.

Over the past 25 years the advocates of permissive abortion have sought to dull our consciences with a smokescreen of soothing words. Pregnancies are "terminated," or even "interrupted." The being that an abortion destroys is called a "foetus," or an "abortus"—never a baby. The first word means "little one" in Latin; the second means "the one who is aborted." Nice, technical euphemisms, much better than "baby"—if killing is what you have in mind.

This kind of dishonest word-play is at the root of the court's decision. The judges simply defined the unborn baby out of the human race. At the same time they discovered in the "penumbra" of various Amendments a new "right of privacy" which includes the mother's right to have her unborn child killed if she can find a willing medical accomplice.

Law, medicine, and common sense refute such verbal sleight-of-hand.

If a man dies leaving $30,000 to be divided equally among his living grandchildren, and if his only child has two children and is pregnant with a third, the inheritance is divided three ways: the unborn grandchild is entitled to an equal share. He has the legal right to $10,000, but not the right to live. Could anything be more absurd?

From ancient times doctors have taken the Hippocratic Oath in which they vow never to perform an abortion. Today medicine recognizes that when a woman becomes pregnant the doctor has two patients. What kind of medicine is it that permits the killing of one at the request of the other?

Doctor Bernard Nathanson, one of the founders of the National Abortion Rights League, resigned his post as head of a large abortion clinic. Why?—because, he said, he had become "deeply troubled" by the "certainty" that he had "presided over 60,000 deaths." Death is a harsh word. When one causes the death of another there is a harsher word, "killing." And when the victim is innocent and deliberately killed there is an even harsher but exact word. The word is "murder."

A few years ago Planned Parenthood put out a pamphlet which put it bluntly: "abortion kills the life of a baby." Ask yourself this question: what is it that an abortion destroys? Is the baby a human being ten minutes before it is born? Ten days? Ten weeks?

The March of Dimes is currently popularizing a slogan: "Be good to your baby before it is born." That slogan contains a truth to which the Supreme Court shut its eyes, that the unborn child is a human being and therefore entitled to that first of all rights, the Right to life.

A CLOSER LOOK—ABORTION II, AUGUST 6, 1976

In an earlier program on abortion I pointed out that the central issue is whether the unborn baby is a living human being. If the answer is 'yes," then we cannot escape the conclusion that abortion is killing.

Despite all the euphemisms and semantic evasions of abortion advocates, law, medicine, and common sense affirm the humanity of the unborn child. Yet there are those—from John D. Rockefeller III to Bella Abzug—who attempt to justify abortion. Their arguments do not withstand scrutiny.

The most common pro-abortion argument is that "a woman has the right to do what she wants with her own baby." Really? Suppose she wants to be grossly mutilated in order to become a circus freak? Surely no one would object to a law forbidding this, or criticize a surgeon for refusing to operate on her. But an abortion is not simply something a woman does with *her* body. Someone *else's* body is involved. That someone else, although very small, dependent, and defenseless, is a distinct human being with its own blood type, organs, heartbeat—even fingerprints.

What is really behind this argument is a resentment that one person can impose an obligation on another. There's no doubt that a growing baby within a woman limits her freedom. But does that justify killing it? A one-month-old baby also limits a women's freedom: it requires time and attention. Does this justify infanticide?

Sometimes you hear that anti-abortion laws discriminate against women, since only they bear children. What a strange inversion of values. Most women consider their ability to house and nourish new human life during its earliest stages as one of the glories of their sex. Defense of the unborn protects girls as well as boys—perhaps more. Indeed, medical advances in sex prediction have led some parents who wanted a boy to abort unborn females.

No one can deny that for some women in some circumstances a pregnancy can cause embarrassment, worry, and hardship. Not to recognize this and seek to help would be callous indeed. There are organizations, such as Birthright, set up to do just this. But the law should not condone homicide as a way of avoiding embarrassment, worry, or hardship.

Then, of course, there is the crass evasion used by some politicians: "I'm personally opposed to abortion, but I don't think the law should impose my moral values on others. After all, it's a private matter." Consider this parallel: "I'm personally opposed to battering and killing babies, but I don't want to impose my moral values on others. After all, it's their kids."

Finally, there's the 'red herring' approach—often with a subtle appeal to bigotry—which attempts to dismiss the whole subject as a "Catholic Issue." The Catholic Church does teach that abortion is an "unspeakable crime." But so does the Greek Orthodox Church, so does Orthodox Judaism. Two Protestant groups, American Citizens Concerned for Life and Baptists for Life, recently pointed out that "opposition to abortion . . . (has never) . . . been the concern of Catholics alone but is part of a shared Judeo-Christian ethic."

John Calvin, the founding theologian of Protestantism, is most explicit: "The foetus," he wrote, "though enclosed in the womb of its mother, is already a human being, and it is . . . a monstrous crime to rob it of . . . life."

BELLA S. ABZUG, FINANCIAL DISCLOSURE

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Ms. ABZUG. Mr. Speaker, I am reporting today on the personal finances of myself and my husband, Martin Abzug, on our 1975 income and assets:

BELLA AND MARTIN ABZUG STATEMENT ON JOINT ASSETS AS OF AUG. 25, 1976 AND 1975 JOINT INCOME

JOINT ASSETS	
Sergeant At Arms Checking Account, Bella Abzug	$8,526.47
Chase Manhattan Account, Bella Abzug	509.68
Partnership Interest in Greenwich Associates, Bella Abzug	3,400.00
Equity in Bella Abzug's Congressional Retirement Fund	12,039.98
Securities Account, Maurice (Martin) Abzug, stockbroker	41,400.00
Cash surrender value, life insurance policy, held by Maurice (Martin) Abzug	26,000.00
Greenwich Savings Bank Account in the name of Bella S. and Maurice (Martin) Abzug	14,960.83
Household furnishings, personal property and effects, books at residence, 37 Bank Street, New York, N.Y. (based on insurance appraisal)	15,000.00
Total	121,836.96
1975 JOINT INCOME	
Adjusted gross income, including $14,390.41 in honoraria after expenses for lectures and articles by Bella Abzug	$75,089.79
Federal, State, and New York City income taxes for 1975:	
Federal	19,723.34
State	5,632.72
City	1,350.45
Total taxes	26,706.51

Congresswoman Abzug and Mr. Abzug have no liabilities except for current unpaid bills.

NEW VETERANS' ADMINISTRATION HOSPITAL AT AUGUSTA, GA.

HON. ROBERT G. STEPHENS, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. STEPHENS. Mr. Speaker, on July 10, 1976—just 6 days after our Nation celebrated its 200th birthday—groundbreaking ceremonies were held for a new Veterans' Administration hospital in Augusta, Ga.

The 420-bed facility, which will replace the existing hospital, will be located adjacent to the Medical College of Georgia as an integral part of a large medical center. The new hospital will be a source of pride to the citizens of Augusta and, upon completion, will provide Georgia and South Carolina veterans with an outstanding medical care program.

Many people worked for years to bring this highly needed medical facility to this day of groundbreaking. It was first called to my attention that Augusta was the most logical and economical location for this veterans program by former Mayor Millard Beckum and the city's director of urban renewal for development and relocation, Bernon Williams. They set aside urban renewal land adjacent to the Medical College of Georgia, the Georgia Veterans Nursing Home, the Eugene Talmadge Memorial Hospital, and the University Hospital and held tenaciously to it for the veterans. Successor mayors, George Sancken and Lewis Newmen did the same. After years of advocacy by many persons of the need for acquiring this land, the House Veterans' Affairs Committee, chairmanned by former Congressman W. J. Bryan Dorn of the neighboring Third District of South Carolina, designated a special subcommittee of Congressman DAVID SATTERFIELD of Richmond, Va., to visit and report on the need to continue the plans for the hospital. This was after a push of great significance was given the administration by former Congressman Ben Blackburn and the then Congressional Liaison Officer of the Veterans' Administration, former Congressman Richard L. Roudebush. With all this help the funds were authorized and appropriated—some $2.5 million—to acquire the land and provide funds for architects and engineers to draw the required plans and specifications for the new VA hospital.

A couple of years ago in proper ceremonies at this same cite ceremonies were held with Congressmen Dorn, SATTERFIELD, and myself to transfer the deed to this land by Mayor Lewis Newman. From that time on the progress to breaking ground has been smooth and continuous under the present House Veterans' Affairs Committee, Congressman Ray Roberts of Texas, and Dick Roudebush, who has moved up to Administrator of Veterans' Affairs under President Gerald R. Ford.

On the Senate side the progress toward this day was made possible by the work of the late Senator Richard B. Russell of Georgia, by our senior Georgia Senator, Herman E. Talmadge, who has guided the plans as a member of the Senate Veterans' Affairs Committee, by our junior Senator, Sam Nunn, who picked up where his predecessor Senator Russell left off and by the cooperation and aggressive help of our neighbor across the Savannah River, Senator Strom Thurmond of South Carolina, whose interest in our veterans is unsurpassed.

On the day of the ground breaking the administrator of our present VA facilities in Augusta, Eugene Speer, organized a program of remarks by Senators Talmadge and Thurmond and myself and included participation by the Deputy Administrator of Veteran Affairs, Odell W. Vaughn, Dr. William Moretz, president of the Medical College of Georgia, and our highly respected director of Veterans' Services for Georgia, Pete Wheeler.

The Honorable Richard L. Roudebush, Administrator of the Veterans' Administration, delivered the address on the occasion of the groundbreaking, and I would like to share his remarks with my colleagues:

Groundbreaking, Augusta VA Replacement Hospital, Augusta, Ga., July 10, 1976

(Remarks by Hon. Richard L. Roudebush, Administrator of Veterans' Affairs)

These ceremonies this morning mark the official start of a project that will make better health care possible for citizens who have earned such care by service in the Nation's armed forces.

This is a day of importance to veterans of this area and a day of importance to the Veterans Administration.

It is the kind of day that VA officials look forward to, a day when growth and progress are obvious, and I am extremely glad to be here sharing it with you.

I feel honored to be associating with the distinguished persons who are on this platform and are part of the program and I am grateful for the interest shown by all who have chosen to be a part of our audience.

VA has had a long and successful history in providing medical treatment in this community but today we open a new era that will enable us to go far beyond what we have done in the past and what we are doing now. We break ground for what will be one of the finest hospitals in the entire VA system.

It will be a hospital that is needed and deserved by those who will use it. It will be a hospital of which all citizens of Augusta and of this area will be proud. And it will be a hospital that will carry on the tradition of VA service that is so firmly established here.

I think that this tradition is important and that it is important to emphasize the fact that this is a replacement hospital only in that it is replacing outmoded physical facilities. The non-physical attributes of a great hospital that have been so abundant here will be here beyond the period of construction, beyond the time that activities move to a new location and the hospital of the future begins its important work.

I speak of such attributes as the skill of the hospital's administration and staff, the dedication and loyalty of employees, the personal interest and the compassion they show and the esprit de corps that exists here.

These things have made the hospital successful, in both divisions and in the many activities conducted here in behalf of the very special citizens who have earned the right to its services.

To those who have conducted the affairs of the Augusta VA Hospital so well, I express my thanks and that of VA for what you are doing. I join you in looking forward to the greater opportunity the new hospital will give you to carry on your work more productively, more successfully and to the greater comfort and benefit of your patients.

Of course, there are those other than VA employees . . . and many of them . . . who have had a part in making the Augusta VA Hospital successful and who will play a big part in its future

No community where VA is located has given more valuable official support, no greater citizen support.

Veterans organizations and other groups in this area have provided help in many ways. They have not only given us the volunteers to whom we all owe such a great debt, they have given us wise counsel and the cooperation and assistance of their membership in countless projects that have helped the hospital to give better service.

And, of course, the relationship we have had with the Medical College of Georgia has been invaluable. This affiliation has not only made our hospital better, it has made the improvement and expansion we start today feasible and wise. We look forward to an even more productive association in the future.

The fact that this is the first ceremony of this kind that VA has conducted since the start of our third century as a nation may have little historical significance. But I think that the progress that it manifests by our gathering here this morning is in keeping with the aims and aspirations of the American people that have been described so profusely and so fluently during the past days and weeks.

We have been reminded as we have never been reminded before of the heritage that is ours and we have celebrated as never before our pride in our country and our gratitude that we have the good fortune to be Americans.

We have also had our responsibilities as citizens of this great nation described for us on countless occasions during the last few days, and we have been told of the great tasks and challenges that confront us.

The Bicentennial weekend is over. It was a memorable period that did honor to our country and it was observed in a manner appropriate to an important anniversary and in a way complimentary to the citizens of a great nation.

One week later we gather here in a smaller, quieter ceremony than those of a few days ago to signify that as the work of the Nation continues, we are still building and we are still improving the institutions and services that we recently celebrated so proudly.

President Ford said in his Bicentennial Message to the American people that what he termed the "great American adventure" has stirred the hopes and quickened the imagination of men and women throughout the world during the last 200 years and that it will continue to do so.

He said, "We have tried and will continue to strive to make the lives of individual men and women in this country and on this earth better lives—more hopeful and happy, more prosperous and peaceful, more fulfilling and more free. This is our common dedication and it will be our common glory as we enter the third century of the American adventure."

No one undertaking will accomplish more than a very minor portion of what the President is talking about. What we do here at this site, today and in the period ahead, will affect a relatively small number of persons, measured against all our cities and those throughout the world who look to us for help and leadership.

But what we do here is in keeping with the President's message. We are acting to make the lives of individual men and women better lives, as he said. What we do will eventually lead to their lives being more hopeful, happy, peaceful and fulfilling . . . our "common dedication," as the President expressed it.

And we will be doing something more to further the American adventure that President Ford talked about. He said that a hallmark of that adventure has always been an eagerness to explore the unknown, which we have done while clinging to the wisdom and experience of the past. This we will do at this new hospital, conducting medical research and always looking for new information, while educating and training by disseminating existing knowledge and instructing in proven practices and techniques.

But I don't want to make too much of the fact that today's program follows the Bicentennial so closely and that this is a fitting way for VA and for this community to complete a week of celebration.

This is a facility that has been planned over a long period and this program could well have taken place at a less unique time in our history. This is an observance that is ceremonial. The ground would have been broken and the building would have been started whether we were here or not.

What is important is how well we have planned and how well we will proceed with the work ahead of us. What is important is how skillful we are in making this new facility the important institution we have in mind, in how it accomplishes the mission we envision for it and takes its place with and complements the work of other hospitals in this area, in this VA medical district and throughout VA.

I think there is reason for great optimism that it will, in fact, be one of the finest hospitals in the country. That is our goal and we have the assets that I mentioned earlier that will help us reach it . . . VA determination that it will be as good a hospital as we know how to make it, the skill and dedication of employees, a productive medical school affiliation and the unstinting support of friends in this area.

I would be remiss, and my remarks would be lacking, if I did not also mention the interest and the support given the Augusta VA Hospital by members of both houses of Congress. We are grateful that they have seen the need for this facility and have responded with such sympathy and understanding. I am certain that the hospital will have their attention and their assistance in the future as it has to this time.

It is good to be with you on a day of such importance and of such promise. Let me once again express my gratitude and that of VA for your participation.

We are here to start the construction of a building that will be attractive and convenient, modern and serviceable in all respects . . . a building of which we will all be proud.

We are also here to reaffirm our belief in the importance of this hospital and to rededicate ourselves to its mission and to its future success.

We are here to proclaim that VA wants . . . and that the American people want . . . the very best health care possible for veterans of this area.

Let us proceed now with the rest of this program ... and get on with the construction.

THE INSTITUTE FOR POLICY STUDIES: PART II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. McDONALD. Mr. Speaker, the Institute for Policy Studies—IPS—is a New Left think tank pushing for a socialist America by a variety of means, some peaceful, some patently subversive. IPS has never discounted the role of violence and terrorism in what it terms "social change." IPS has always had on its staff supporters of terrorism, including Castroites with ties to the Cuban secret police, the Weather Underground, Puerto Rican revolutionaries, Trotskyite Communists, and others.

David Kelley, of Barron's, has written a well-researched examination of the many levels of IPS operations. The concluding section of his article, Barron's, August 30, 1976, follows:

GOING PUBLIC—THE NEW LEFT PLANS RADICAL SWITCH IN CONTROL OF CAPITAL

(By David Kelley)

Last week, in the first half of this two-part article on the Institute for Policy Studies, some of the basic tenets of the Washington, D.C., research organization were spelled out, including a decentralized socialist economy, small-scale technology and public allocation of capital. Another key element in this strategy for transforming society is the implementation of these ideas in experimental form at the local level. The Institute's co-founder and co-director, Marcus Raskin, guesses there's already a good deal of this going on; to judge by the range of activities connected with IPS itself, he's probably right.

The Institute's chief vehicle for involvement here is its Conference on Alternative State & Local Public Policies. The Conference is funded by IPS, and directed by IPS Fellow Barbara Bick and Lee Webb, a former SDS National Council member. Its purpose is to bring together New Leftists active in local government across the country.

The Conference has apparently succeeded in this aim: it's attracted over 1,200 participants to its national and regional meetings. At a recent convention in Austin, Texas, speakers included Sam Brown, who is on the Conference's Steering Committee (he was also a member of the Democratic Platform Committee this year); Justin Ravitz, a Detroit municipal judge; Chet Atkins, Massachusetts State Senator: Tom Hayden, SDS founder and recent contender for the Democratic nomination to the Senate; and aides to Senator James Abourezk (D., S.D.) and Rep. Michael Harrington (D., Mass.).

COLLECTIVE THEME

What unites this motley group? According to a grant request from Lee Webb to IPS's Transnational Institute, the Conference is an organization of "populist" and "activist" public officials. "We are particularly interested in initiatives involving the control of capital, tax restructuring, and the control of governmental institutions themselves." A report in IPS's house organ, *Link*, notes that "the central issue (at Conference meetings) was the need for capital control at the state or local level."

An example of state measures to achieve public control of capital is the program launched by Sam Brown in Colorado. Brown won the Democratic nomination for State Treasurer in 1974 on the strength of a letter to key Democrats outlining the largely unnoticed power of the Treasurer over business, especially banks. In particular, he recommended adoption of a plan, already followed in Illinois, of "linking deposits (of state money) to specific bank actions promoting state policies."

Since his election, he has kept his campaign promise. Brown introduced a system of competitive bidding to determine which banks would receive deposits of state funds, currently $154 million. Funds for long-term deposit (one year and longer), moreover, are awarded by a weighted bid, in which the loan policies of a given bank count along with the interest rate it offers.

Specifically, the bank must state what fractions of total assets are lent to agriculture, low-cost and older housing, students and other recipients viewed by the Treasurer as socially desirable. These ratios are added to interest rates bid, and deposits are awarded to banks with the highest scores.

PAPER TIGER

In nine months of operation, the program has shifted some state funds away from large commercial banks to smaller ones making the favored types of loans. However, according to Gerald Scarboro of the Colorado Bankers Association, while the program "makes good copy, it hasn't really had any effect on bank loan practices," chiefly because the paperwork for larger banks makes it too expensive to apply for state deposits.

It does, however, set a precedent since it gives the state some control, through the leverage which its own deposits exert, over the use of all bank capital in the state. The next step might be the full disclosure laws Brown is working for; the purpose, according to Scarboro, would be to give the state government power to allocate credit.

Meanwhile, reports an article in *Working Papers*, Brown is "encouraging Sixties activists in other states to take a close look at electoral jobs that control purse strings in the economy." One possibility, hotly pursued by Conference members, is the idea of a state bank. Proposals for such banks are now before the legislatures of six states—California, Florida, Massachusetts, New York, Oregon and Washington—and the District of Columbia.

Proponents of a state bank cite a number of anticipated benefits: a profit for the state, loans to depressed areas and community ventures which the private market won't touch, and a "yardstick" for commercial bank practices. Curiously, such arguments normally cite the one state bank now in existence—the Bank of North Dakota (Barron's, June 2, 1975)—even though it generally acts just like a private bank. (In 1974, for example, it turned a profit of $9.3 million by investing over half its funds in U.S. Treasury and other out-of-state instruments.)

However, another feature of a state bank makes it attractive to the Left. As Derek Shearer put it in a Conference pamphlet: "The basic thrust is to substitute public for private criteria in the investment of money . . . it would go far toward making government the equal rather than the handmaiden of the private sector."

The statement is no exaggeration. If the New York state bank bill had passed when proposed last year, for example, private banks would have lost $6 billion in deposits—the amount of state and local monies which by law would have to be placed in the state bank. Other privileges, such as tax-exemption, would give state banks competitive power to attract money from the private markets too.

Still better suited to this end is the concept of the community or regional development bank. Proposals to create such banks—which must invest their capital in depressed areas; community ventures, and the like—have been introduced in Congress repeatedly in recent years. (Most recent in the series is a bill dropped in the hopper last month by Rep. Michael Harrington that would create up to 10 regional development banks, capitalized at $1 billion each.)

None of these bills has passed, but a similar measure made it through the Massachusetts Legislature last winter, giving the Bay State a Community Development Finance Corp. The legislation was drafted chiefly by David Smith, a professor at the University of Massachusetts (and speaker at the Austin conference). Other contributors included members of the Center for Community Economic Development, an indirect IPS offshoot.

The Community Development Finance Corp., to be capitalized at $10 million, is required to invest that money solely in the equities of community development corporations (CDCs)—defined in the bill as non-profit corporations with voting membership open to all residents of the areas in which they function. The bank thus has a double virtue for the Left. First it strengthens local CDCs, which are favored vehicles of decentralization and participation. Second, it means that that much more capital is in public rather than private hands.

A Public Policy Reader, prepared for the Austin meeting of the Conference, lists over 50 other local initiatives, most in the areas of public enterprise and capital control. Besides these activities in local government, the New Left has been active in community organizing of all kinds, from the traditional workers' organizations to newer strains like tenants' unions. An interesting case of the latter has surfaced in Boston, where a realtor is suing a group of tenants' unions for conspiring to deprive him of his property.

The realtor is Max Kargman, whose First Realty Management Corp. built a number of apartment complexes via FHA mortgages. Tenants' unions have been organized at these projects, under the umbrella of the Tenants First Coalition. The suit charges that these groups, individually and in concert, have staged rent strikes, blocked evictions and engaged in other actions for the purpose of bankrupting the projects and forcing FHA foreclosure.

The suit, brought in May of last year, is still in court, and the outcome is unclear. What is plain is a publication introduced as evidence of conspiracy. The book, *Tenants First*, was written and distributed by one of the defendants, United Planning Aid.

UPA was formed in 1969 by James Morey, who subsequently left to join the Cambridge Institute, an IPS off-shoot. UPA was initially funded by OEO; for the past several years, it has been receiving $240,000 yearly from the Community Services Administration. Despite the terms of its federal grants, which were the alleviation of poverty, UPA has produced an impressive line of propaganda for Leftist causes, including Tenants First.

Concerned chiefly with FHA housing, Tenants First is a primer on how to conduct a successful rent strike. It explains how to pay rents to the tenants' union, creating a sizable strike fund; how to get favorable media attention; how to picket and demonstrate; how to block evictions for non-payment of rent. "Remember," it says, "that the courts can be helpful in winning delays, running up your landlord's legal bills."

The long-range purpose of the rent strike, according to the work, is "an alternative housing system." Here as elsewhere, "alternative" means socialist: "Eliminating housing as a commodity for private ownershrip and profit." And in the case of FHA projects, the means are at hand. If the tenants, through rent strikes and other tactics, can bankrupt the private developer, the government itself must foreclose and become owner. The hope expressed in Tenants First is that the tenants will then be allowed to run the projects collectively, as cooperatives.

When this and other UPA activities became known to the Community Services Administration, largely through the protests of the Cambridge Chamber of Commerce, CSA tentatively defunded the group, pending investigation. Several hearings and site visits later, CSA now has reduced its case to the single charge that UPA's tenant activities concentrated on tenants above the poverty line. A final decision is expected in September.

Meanwhile, back in Washington, the Institute for Policy Studies is working on the third of Raskin's vehicles for social change: the federal government.

One program now in the works is an entry in the health insurance sweepstakes. Unlike the liberal health insurance plans—which the IPS newsletter, Benchmarx, criticizes for relying on "private deliverers of health"—a model bill drafted by the Institute's Community Health Alternatives Project would create a complete government health system.

The project was inspired by a speech which Rep. Ronald Dellums (D., Calif.) made to a meeting of the American Public Health Association in 1974, arguing that everyone has a right to free medical care from the government, financed by progressive taxation. A group headed by Bascom Talley was formed to push these ideas into legislation; they received funds, through the ubiquitous Stern Fund, from the New York Community Trust and affiliated the project with IPS.

The model legislation, written in coordination with Dellums' staff, is now with the House Counsel's Office, which is rewriting it into an actual bill. Talley says the measure is currently stalled over a technicality, but expects it to come before Congress soon.

The proposed system is modelled on the public schools. At its heart is the Community Health Organization, a single agency which would provide primary care to a community of 25,000–50,000. These organizations would be governed by health boards elected from the community, together with a hierarchy of regional and federal authorities. Health workers—doctors, nurses, et al.—would be employes of the CHOs; somehow they would run the organizations on a democratic basis.

The system would provide free health care—in the model bill, this covers everything from emergency treatment to free drugs, eye glasses and services for the elderly—according to standards established by a National Health Board. The system would be financed by a steeply progressive tax on personal and corporate incomes.

The system also would take over medical education. All "health workers" would be trained in schools run by district boards, which would pay tuition and support. A mandatory period of service would be required after completion of training, with workers being distributed according to community needs. Curriculum at each school would be determined by the district board, which would be required to give priority to leading causes of illness in its district.

As for the future, the chief IPS program now in the works is "an alternative federal budget." Last year, at the request of 47 House Democrats, the Institute prepared a study of the President's 1976 budget. Composed mainly of essays by members of the study group, it also contained a number of legislative recommendations, including immediate increases in corporate taxes and taxes on "unearned" income; control of prices or bookkeeping practices to prevent these increased taxes from being passed to the consumer; enabling legislation to allow more community control over corporations, especially through purchases of productive facilities by eminent domain.

The study seems to have found a receptive audience, since this year some 55 members of Congress have asked IPS to bring out not just a study, but a full-scale alternative budget which reflects the Institute's social philosophy. "I think that will have," Raskin says, "during the period of transition here in Washington, on the assumption that the Democrats win the election, really a powerful effect."

COMMUNITY EFFORTS TO MOBILIZE AGAINST CRIME

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. BINGHAM. Mr. Speaker, this week the House is scheduled to vote on H.R. 13636, the LEA authorization. One of the provisions of this bill, section 110 (a), authorizes $15 million for the purposes of grants for citizen anticrime patrols and the encouragement of neighborhood crime prevention. As a proponent of this type of legislation for some years, I am pleased to see this provision in the bill. I shall expand on its virtues when the bill is called up in the House. But of particular interest to me today is the role such a provision will play in aiding a community effort to battle crime right here on Capitol Hill.

As the following letter from the Capitol East Community Crime Council notes, a citizen-initiated effort to deal with crime where it begins and where its effects are felt most severely—at the grass-roots community level—is behind the bureaucratic eight-ball most of the time. In this respect the council writes:

> Programs such as ours are just beginning and their funding is painfully meager. By the time state and local Boards and Commissions review all the requests for funding, the often non-represented citizen group—which is small and very local to the community area—finds little left for funding the citizen program.

I urge my colleagues to support H.R. 13636 and its provisions for funding community efforts to mobilize against crime; I commend to their attention the following letter from the Capitol East Community Crime Council:

CAPITOL EAST COMMUNITY
CRIME COUNCIL,
Washington, D.C., August 24, 1976.

Hon JONATHAN B. BINGHAM,
U.S. House of Representatives, Room 2241,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN BINGHAM: The Council wishes to express its appreciation for your support of citizen involvement in the prevention of crime.

Our Crime Council represents a very significant area of the District of Columbia and is a recently funded program by LEAA funds earmarked for citizen participation in the fight against crime The District has introduced this as a first thrust in the funding of individual community areas through citizen administration. Our program will develop volunteers from every block of the target area who will serve as block leaders of each block and train volunteers to monitor a court watch program. It will provide a monthly newsletter to the citizens that contains information about crime prevention, street and home safety from crime, information about activities of the criminal justice system. In addition to urging each home to utilize the Police ID marking of property, they will be asked to be the eyes and ears of the District Police Department in reporting suspicious activity and in coming forward as witnesses.

But programs such as ours are just beginning and their funding is painfully meager. By the time state and local Boards and Committees review all the requests for funding, the often non-represented citizen group which is small and very local to the community area finds little left for funding the citizen program. The block development program—as the smallest unit of community—is where the fight against crime and its causes must be waged. The individual citizen is the missing link in what has been an unsuccessful effort to turn around the rising crime rate in cities, suburbs, and rural areas.

We commend you and Congressman Conyers for your efforts on behalf of the stubborn funding problems through your bill, H.R. 13636.

Sincerely,
CHARLES B. LANKFORD,
Director.

LAKE MICHIGAN BEACH NATIONAL LAKESHORE

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. ANDERSON of Illinois. Mr. Speaker, on Sunday our President proposed a great new program to preserve the vital fabric of America for future generations. At Yellowstone National Park, President Ford proposed a comprehensive program which will protect the recreational, historical, and natural resources of America.

Today it is our turn. We now have an opportunity to join with our President in insuring the availability of park lands for people and reservations for wildlife which will have everlasting value to our Nation.

In Illinois we have little national parkland. The President's plan may enable us to share in the benefits long held by our fellow citizens in other States. The Lake Michigan Beach National Lakeshore proposed for the waterfront between Chicago and Milwaukee might be an invaluable asset for much of the upper Midwest. The President's proposal will enable us to take a serious look at the practicality of establishing such a park.

The President's Bicentennial Land Heritage program will make it possible for us to complete the long-delayed Indiana Dunes National Lakeshore to the east of Chicago. It will insure the preservation of millions of acres of Alaskan lands. It will offer the opportunity to study the vast recreational potential of lands in and near many cities.

Today the challenge rests with us in Congress to carry out the program proposed by our President and so important to our people.

NEW YORK'S ENVIRONMENTAL PROTECTION AGENCY ENDORSES THE WAXMAN-MAGUIRE AMENDMENT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. WAXMAN. Mr. Speaker, Peter Berle, the Commissioner of New York State's Department of Environmental Protection, has today endorsed, in a letter to the New York Times, the Waxman-Maguire automobile emissions amendment.

Mr. Berle's letter documents that Representative DINGELL's assertions to the contrary, tougher automobile emissions' controls are essential to protect public health from harmful tailpipe exhausts. Mr. Berle further points out that the cost of meeting these standards would add only 2 percent to the average price of the 1977 automobiles. Finally, Mr. Berle makes the telling argument that any extensive delays in reducing auto exhausts will only force our major urban areas into resorting to other unpopular and burdensome transportation control strategies to reduce pollution levels.

I urge my colleagues to review Mr. Berle's letter, which is attached, and to vote for the Waxman-Maguire automobile emissions amendment.

The letter follows:

FOR EMISSIONS CONTROL NOW

TO THE EDITOR: As the official responsible for preserving the environment of a state which will be one of the chief beneficiaries of cleaner auto exhaust, I must reply to Representative Dingell's defense to his amendment to delay automotive emission controls (letter Aug. 25).

The Dingell-Broyhill (Train) proposal, extending until 1982 the auto emission standard now mandated for 1978, will result in the continuation of conditions which jeopardize public health in certain sections of New York State. In midtown Manhattan carbon monoxide levels reach 24 ppm for eight hours. This is almost three times the standard established by E.P.A. as the maximum permissible level requisite to protect the public health (9 ppm). Thus, there must be a 65 percent reduction in carbon monoxide levels if public health standards are to be achieved.

The alternative proposal by Representatives Waxman and Maguire is, itself, a compromise measure, but would enable us to meet the 1978 standards by 1980, two years sooner than Mr. Dingell's. Contrary to his claims, there is widespread agreement among diverse expert groups that the technology exists to meet this standard.

The 15 percent fuel economy penalty of controlling emissions is overstated by Mr. Dingell. A joint analysis by the Federal Energy Administration and the Environmental Protection Agency in April 1976 calculated such a loss in the range of 3–12 percent for one or two model years. Since then, a light production automobile model with a conventional engine and three-way catalysts, has achieved emission standards with a 10 percent fuel improvement.

Mr. Dingell's claim that the retail price would be increased $340 by emissions controls is not supported by the conclusions of a F.E.A.-D.O.T.-E.P.A. report of April 1976 which states that achieving the same standards as proposed by Waxman and Maguire would boost the new car price about $120. At 2 percent of a $6,000 car, this seems a reasonable investment to achieve the $3–12 billion in benefits from reduced damages to health and property from auto-related pollutants projected in a 1975 National Academy of Sciences study.

The Dingell delay would require the imposition of overly restrictive controls on vehicle use in New York City and other major urban areas to protect the public from excessive pollution.

Mr. Dingell's appeal for swift legislative action is appropriate. But Congress must make it clear that air standards essential for public health must be achieved.

PETER A. A. BERLE,
New York State Commissioner Environmental Conservation, Albany, Aug. 27, 1976.

ERISA

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. DENT. Mr. Speaker, nearly 2 years ago the Congress enacted into law the Employee Retirement Income Security Act of 1974. We believed at that time that ERISA would prove to be a good and workable piece of legislation, and on the whole I believe that has been the experience.

But we also knew when we passed ERISA that it would not prove to be a perfect law. We realized that in a field as complex as Federal regulation of pension and welfare plans, problems would arise that were unforeseeable when the law was passing through the legislative process.

One of the most troublesome and persistent problems that has arisen involves the inability of the various agencies charged with administering the law to fully coordinate their activities.

I learned last week of an even more disturbing problem—the inability of even a single agency to coordinate its own actions. I would like to draw the attention of the House to this example of bureaucratic bungling, in the hope that other Members might help prevent similar occurrences in their areas of legislative oversight.

My letter of August 26 to Commissioner Alexander of the Internal Revenue Service follows:

AUGUST 26, 1976.

Hon. DONALD ALEXANDER,
Commissioner, Internal Revenue Service, Washington, D.C.

DEAR MR. COMMISSIONER: As part of its oversight activities, the Subcommittee on Labor Standards and its Pension Task Force are constantly reviewing developments involving the administration of the Employee Retirement Income Security Act of 1974.

One of the recurring problem areas has involved the joint Labor Department-Internal Revenue Service administration of much of the law. Difficulties of the agencies in coordinating their activities have on occasion produced confusion and unnecessary expense for pension plans.

I have recently, Mr. Commissioner, learned of a most troublesome development—the inability of different parts of even the same agency to coordinate policy and requirements within that single agency. The agency involved is the Internal Revenue Service.

It has come to my attention that a pension plan administrator on the West Coast submitted to the Regional IRS office a request to terminate a plan. The application was rejected as incomplete, because Form 5310, not yet issued, was not attached to the request to terminate. That a plan is unable to terminate because it has not completed a non-existent form is clearly a regrettable situation. But even more distressing, Mr. Commissioner, is the respone of an official in the I.R.S. National Office for Employee Benefit Plans; namely, that a completed Form 5310 is not even required in order for a pension to successfully terminate!

I am sure that you can understand the frustration produced by this series of agency non-communication and simple error. Admittedly ERISA is a complex statute and clearly the administration of its regulatory scheme is a difficult task. But situations like that involving Form 5310 must be avoided if ERISA is to work.

I urge you to take whatever action is necessary to avoid this kind of mix-up in the future. The effective administration of ERISA is sufficiently difficult without the confusion and frustration produced by episodes like that involving Form 5310.

With every kind regard, I am
Sincerely yours,

JOHN H. DENT,
Chairman.

EXPANDED FUNDING OF NATIONAL PARKS AND WILDLIFE REFUGES

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. RHODES. Mr. Speaker, President Ford's proposal, made yesterday at Yellowstone National Park, for expanded funding of our national parks and wildlife refuges, is a momentous one for our country. We had the first national system of parks in the world and, as you know, one of its leading attractions is the Grand Canyon in my own State.

Since 1966, the number of areas of the system has increased 28 percent while the number of Park Service employees has increased 24 percent. But in those 10 years the number of park visits has increased 101 percent—more than double 1966. In a single decade we have dropped from one employee for every 22,045 visits to one employee for every 35,695 visits.

Now the President has proposed this great new initiative. I do not need to tell you what it will mean in terms of protecting the vast and varied resources of the parks, refuges, and historic sites.

That is why I commend the action of the President, an action that will do much toward relieving the problems currently being faced by our parks and other prized outdoor areas.

HONOR CODE SINGLE SANCTION

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. DOWNEY of New York. Mr. Speaker, there is now before the House Subcommittee on Military Personnel hearings which are centered on the merits and shortcomings of Secretary of the Army Martin Hoffman's recently announced plan for administering justice of 202 cadets charged with violation of the honor code at the U.S. Military Academy. Mr. Hoffmann has proposed those cadets found guilty of collaboration be given a 1-year suspension from the Academy at which time they will be allowed to apply for readmission to the upcoming year's senior class. The plan offers an alternative to the single sanction before now, implicit within the honor code. The following memorandum, written by Michael T. Rose, Attorney for the cadets, offers some valuable insights into the single sanction question. While I may not agree totally with all the points made by Mr. Rose in his memorandum, I offer it to my colleagues for their edification.

The memorandum follows:

MEMORANDUM ABOUT WHY WEST POINT SHOULD NOT EXPEL EVERY CADET FOUND GUILTY OF VIOLATING THE CADET HONOR CODE

At the present there is only one penalty for violating West Point's Cadet Honor Code: expulsion. No other penalty is even considered. Several factors suggest that in some cases one or more penalties other than expulsion, such as probation, restriction to campus, "tours," demerits, or attendance at a mandatory ethics course, should be given a cadet for violating the Cadet Honor Code.

This memorandum describes reasons why West Point's policy of expulsion being the only penalty for an Honor Code violation should be changed permanently and why in particular the cadets currently accused of violating the Cadet Honor Code should not be expelled from West Point.

I. WHY EXPULSION SHOULD NOT BE THE ONLY PENALTY FOR VIOLATING WEST POINT'S CADET HONOR CODE

A. Not all honor code violations are alike. Cadets have been expelled from the academies as honor code violators for trivial acts, such as asking a roomate how to spell a word to be used in a research paper (considered cheating at West Point) and taking a dime left in the coin return of a pay telephone (considered stealing at the Air Force Academy). See Rose, *A Prayer for Relief: The Constitutional Infirmities of the Military Academies' Conduct, Honor and Ethics Systems* (New York University School of Law 1973) (hereafter "Rose, *A Prayer for Relief*"). These acts do not seem as serious as, for example, stealing a shirt from a store. Yet at West Point all honor code violators are treated alike. Acts of lesser importance would seem to warrant a penalty less than expulsion, if any.

B. Expulsion from a service academy is an extremely severe penalty having irreparable and permanent consequences. An expelled cadet loses an opportunity for an excellent West Point education and forfeits his chosen career as an Army officer. Cadets go to West Point by Congressional or Presidential appointment as the winner in some extremely stiff competition. One enters West Point with much prestige but leaves as an Honor Code violator in permanent disgrace. Reputable colleges and universities, such as the University of Notre Dame, the Citadel, the College of the Holy Cross and Miami University of Ohio, have said recently by letter that they would not even consider admitting to their school a person expelled from West Point as an Honor Code violator.

Several courts have recognized the severe consequences of expelling a student from college. As stated by federal District Court Judge Doyle, for example, in *Soglin v. Kauffman*, 295 F. Supp. 978, 988 (W.D. Wisc. 1968), *aff'd*, 418 F.2d 163 (7th Cir. 1969):

"I take notice that in the present day, expulsion from an institution of higher learning, or suspension for a period of time substantial enough to prevent one from obtaining academic credit for a particular term, may well be, and often is in fact, a more severe sanction than a monetary fine or a relatively brief confinement imposed by a court in a criminal proceeding."

In view of the magnitude to a cadet of the consequences of expulsion, it seems that a cadet should be expelled from West Point only for an exceptionally serious offense.

C. Failure even to consider a penalty less burdensome than that imposed can violate due process of law. See *Jacob Siegel Co.* v. *FTC*, 327 U.S. 608, 613–14 (1946); Rose, *A Prayer for Relief* at 105–107. Moreover, a penalty must be reasonable. See *FTC* v. *Royal Milling Co.*, 288 U.S. 212, 217 (1933); Rose, *A Prayer for Relief* at 105.

D. As stated in the *Report of [the] Superintendent's Special Study Group on Honor at West Point* (hereinafter referred to as the "*West Point Superintendent's Report*"), which published in May, 1973, the results of a several month official study by West Point of the West Point Honor System:

"The USMA Honor Code is a clear and simple statement *of an unattainable level of human behavior*. [O]n 1 October 1974, the Secretary of the Army expressed apprehensions concerning the Honor Code . . . summarized by General Berry, the Superintendent, as follows:

"West Point Honor Code does not equip the USMA graduate to deal with the 'realities' of today's world. *It is 'too idealistic, too absolute.'* 'Cadets are kicked out of USMA for actions considered 'honor violations' which junior officers would suffer no penalty for same action.

". . . It is unrealistic to assume that anyone complies fully with the prescriptions of the Code, yet the system is keyed to righteously imposing the ultimate sanction on a cadet whose transgression of the Code comes to its attention . . . by removing the facade of a decision that a man is honorable or dishonorable based on the commitment of a specific transgression, judgments will be necessary that will lack the simplistic purity they have had in the past . . . [T]his is the nature of human affairs and cadets should not be encouraged to believe otherwise; *men are not simply honorable or dishonorable, but fall along the continuum between these two positions.*"

Id. at 6. (Emphasis added.) "Although the Honor Code is a worthy goal, it is not a usable criterion of behavior." *Id.* at 9.

If, as the *West Point Superintendent's Report* concludes, the Cadet Honor Code sets a standard of human behavior that is unrealistic, unattainable and not necessarily indicative of whether or not a man is "honorable" or "dishonorable," it seems unreasonable to impose expulsion automatically for every violation of the Cadet Honor Code.

E. The cost of educating each cadet in the graduating class of 1974 was $97,200 for the Military Academy. "Student Attrition at the Five Federal Service Academies," a report by the General Accounting Office, March 5, 1976, cited in 122 *Cong. Rec.* 3485 (June 18, 1976) (remarks of Cong. Benjamin A. Gilman). Thus, each cadet expelled from an academy may represent the loss to the public taxpayer of thousands of dollars of public funds already spent on training the cadet. In recent years cadet attrition at the academies has been alarmingly high and growing at an unprecedented rate, causing many authorities to question the economic utility of even having the academies. See generally, Rose, *A Prayer for Relief*, at 158–165. Of uncalculable loss is the value to the United States of the services as a military officer of a cadet expelled from an academy.

F. "[A]s a recent study of college discipline demonstrates, the common notion that Draconian penalties alone decrease the incidence of campus misconduct is simply unfounded." Rose, *A Prayer for Relief* at 106–107, citing Salem & Bowers, *Severety of Formal Sanctions as a Deterrent to Deviant Behavior*, 5 Law & Soc. Rev. 21 (1970). This study concludes that factors other than the existence of a singularly severe penalty determine the extent of compliance with a college honor code. Rose, *A Prayer for Relief* at 106–107.

G. "A cadet convicted of an honor violation 'may truly [have] learned the lesson for which the Honor Code was intended' and be worthy of becoming an officer and an Academy graduate." Rose, *A Prayer for Relief* at 107 (citations omitted).

H. Apparently recognizing the above-stated principles, for years each of the other four federal military academies has permitted some Cadet Honor Code violators not to be expelled. Thus, at the Naval, Air Force, Coast Guard and Merchant Marine Academies a Cadet Honor Code violator may receive a penalty less severe than expulsion or even no penalty at all. See, *e.g.*, Rose, *A Prayer for Relief* at 105–107; *West Point Superintendent's Study*, Annex D. It is unrealistic to suppose that the standards of integrity or the severity of Honor Code violation penalties for the cadets or graduates of West Point need be any greater than that of the cadets or graduates of any of the other four academies. Indeed, there is no reason to suppose that the standards of integrity of West Point graduates in fact are higher than those of any other officers. As concluded by Congressman Thomas J. Downey, D.-N.Y., in his recent report about the present cheating scandal at West Point:

". . . West Point graduates are apparently as susceptible to the pressures to lie in the U.S. Army as other officers. For all we invest in the honor code, these graduates of the Academy were apparently no more or less dishonest than other officers of similar rank and experience."

122 *Cong. Rec.* 19764 (June 22, 1976) (remarks of Cong. Thomas J. Downey).

The Board of Visitors of the Air Force Academy has concluded formally that the Air Force Academy's practice of allowing some Honor Code violators to remain at the Academy instead of being automatically expelled in every case is "a definite step toward humanizing the honor code." *Report of the Board of Visitors*, U.S. Air Force Academy 16 (1967).

I. Also apparently recognizing the foregoing principles, within the last few years several authorities have strongly advocated that West Point abolish its expulsion only policy for all Honor Code violations. For example, the Superintendent's Special Study Group on Honor at West Point recommended formally that "the [Cadet] Honor Committee . . . have the authority to retain a violator" and that the U.S. Military Academy regulation requiring that an Honor

Code violator "*shall* be separated" from West Point be changed to "*may* be separated" from West Point. *West Point Superintendent's Study* at E-2, F-11. (Emphasis added.) Justification for this recommended change in policy includes the following:

> "The Honor Code and System should constitute a training vehicle which hopefully strengthens and complements high ideals of honor and integrity in the supposed character traits of incoming new cadets . . . If [the Honor Code] is to properly function as a training vehicle, the Code and System must allow *for further learning and maturing* of the individual cadet. The adoption of the . . . recommendation should strengthen the Code and System by tempering its spirit in the applications of its one sanction, separation, and afford the Honor Committee the opportunity to retain violators in unusual and limited circumstances."

Id. at E-2. (Emphasis added.) See Rose, *A Prayer for Relief* at 105-107.

Cadets, officers and others also have expressed support for penalizing some Honor Code violations other than by expulsion. As stated in the *West Point Superintendent's Study* at E-1.

> "The results of research in the area of public attitudes and the attitudes of the cadets and USMA staff and faculty indicate that a significant number regard the Cadet Honor System as being too absolute and inhumane in its administration of the Code. The research also reflects an expressed need for the adoption of some sort of 'second chance' concept."

The results of a survey of cadet attitudes published in the *West Point Superintendent's Study* at C-1-6, concludes that "[s]ixty-two percent of the Corps indicated that some honor violations should be considered 'minor' and therefore penalized by something short of separation" and that only 28% of the Corps of Cadets disagreed with that position. In the Fall of 1975, 54.6% of the Corps of Cadets voted to abolish the policy of expulsion as the only penalty for violating the Cadet Honor Code.

Within the past two weeks the Cadet Honor Committee formally recommended, for the first time within memory, that a cadet it found guilty of violating the Honor Code not be expelled. See *The New York Times*, July 24, 1976, at 26. The Honor Committee made this recommendation because it perceived that the cadet found guilty of violating the Cadet Honor Code nevertheless was an honorable man and would make a fine officer.

People of prominence, including Senators, Congressmen, the Secretary of the Army and the Superintendent of the U.S. Military Academy have expressed support for abolition of this expulsion only policy.

Recently Congressman Thomas J. Downey, D.-N.Y., concluded after investigating the current cheating scandal at West Point that:

> "[A]t West Point . . . values are imposed upon cadets in a manner which artificially elevates many of the daily vicissitudes of cadet life to the level of great moral dilemmas. Too often . . . relatively minor transgressions committed by young men at the Academy are converted by the system into great failings of character. As a result, many men of great potential are needlessly expelled; and those who remain are left confused and discouraged by the apparent unfairness of the system."

122 *Cong. Rec*. 19763 (June 22, 1976) (remarks of Cong. Thomas J. Downey).

II. WHY THE CADETS CURRENTLY ACCUSED OF VIOLATING THE CADET HONOR CODE BY COLLABORATING SHOULD NOT BE EXPELLED FROM WEST POINT

Despite the sound reasons and strong support described above for abolishing West Point's expulsion-as-the-only-penalty policy, that policy remains unchanged. A vote by the majority (54.6%) of the Cadet Corps was deemed insufficient to change the policy; a two-third vote was deemed necessary for this change in the Cadet Honor System due largely, evidence indicates, to the influence exerted on the Cadet Honor Committee by West Point faculty members against this change.

Change of the expulsion only policy is inevitable; as stated by one high-placed government attorney (who must remain anonymous), the real issue is whether the change will be made after or before the cadets currently charged are expelled.

There are significant mitigating factors which support a conclusion that the cadets currently accused of collaborating should not be expelled.

A. MUCH OF THE BLAME FOR THE COLLABORATION BY THE CADETS CANNOT BE PLACED ON THE CADETS BUT MUST BE SHARED BY THE OFFICIALS AT WEST POINT

Many cadets did collaborate on a "take home" problem assigned to them as part of an Electrical Engineering 304 course requirement. Those cadets who did so committed a wrong and may have violated the Cadet Honor Code. However, there are significant mitigating circumstances that suggest these cadets should not be expelled for their wrongdoing:

1. West Point significantly contributed to causing the cadets to collaborate. Throughout the first semester and the first half of the second semester of the Class of 1977's junior year, each cadet was given a home study problem to work as part of his preparation for each class of his two Electrical Engineering courses. These problems were not taken up by the instructors nor were they graded. The cadets were told they could collaborate, and in fact did collaborate, as the purpose of their working the problems was not to test the cadets' knowledge but to prepare for the quiz given the cadets during each class. Thus, by the time the cadets were given a "take-home" problem last March which was to be graded and on part of which they were not to collaborate, for over six months they had been collaborating on Electrical Engineering take-home problems with the faculty's approval and encouragement. By having helped get cadets in the habit of collaborating on take-home problems in this manner for several months, West Point, while not entrapping cadets, did induce the cadets to collaborate in a similar manner on the graded "take-home" problem given them in March, 1976.

The giving of a two-week "take-home" problem, permitting cadets to collaborate on part of the problem but prohibiting them from collaborating on another part of the problem, as well as the pressures and what many say is the poor quality of academic instruction at West Point also may have contributed to inducing the cadets to collaborate on the problem.

2. Several factors adversely affected the respect and regard the cadets who collaborated, almost all of whom are in the Class of 1977, have for their Cadet Honor Code:

a. The Chairman of the Cadet Honor Committee, who was in charge of the training of the Class of 1977 during its plebe year about the Honor Code and the Honor System, himself left West Point that same year on several counts of Honor Code violations. This has been recognized as having disillusioned these cadets during their freshman year at the stage which most significantly influenced their impressions about the Cadet Honor Code.

b. In years past initial training about the Cadet Honor Code focused on broad concepts of character and integrity with the Honor Code being one of the means of developing that end. With the Class of 1977 initial Honor Code training focused, according to West Point officials, on the Honor Code as the end. Honor training focused on what is and is not deemed an Honor Code violation instead of on the broader concepts and the traits which the Honor Code is meant to help instill. Consequently, cadets in this class had less regard for the Honor Code.

c. The Class of 1977 entered West Point during the Watergate crisis and in the aftermath of massive public evidence of gross breaches of integrity by academy graduates in high ranking positions. These breaches included the systematic falsification of bombing reports for 1½ years to mask the conduct of a secret war in Cambodia and the theft of top secret documents from President Nixon and Dr. Henry Kissinger at the direction of the Joint Chiefs of Staff. These events made it more difficult for a cadet to take the Cadet Honor Code as seriously as in the past.

3. Electrical engineering instructors used as experts in the prosecution of cadets have testified under oath that, based solely upon comparing the home study problem papers, a minimum of 400-600 of the 850 cadets in the Class of 1977 collaborated on the home study problem. It defies logic to conclude that collaboration on the "take home" problem by over half of what academy officials say is some of the "cream of the crop" of America's youths is attributable mostly to basic character flaws in each and every one of these young men.

B. THE COST OF EXPELLING 400-600 CADETS FOR COLLABORATING ON THE "TAKE HOME" PROBLEM FAR EXCEEDS ANY VALUE TO BE GAINED THEREFROM

By now about $75,000 has been expended to train each of the cadets being considered for expulsion. Thus, expulsion of 500 cadets in the Class of 1977 would cost the taxpayers directly over $37,500,000. The indirect cost of the loss of the services of these cadets as officers during an Army career is incalculable. Other losses to West Point by continuing the prosecution of cadets—losses in prestige, and internal strife within the academy's faculty and within the Corps of Cadets—are incalculable. In addition, over sixty military attorneys, or about 5% of all Army lawyers, from around the world now are stationed at West Point, at considerable cost to the American taxpayer, devoting full time to prosecuting and to defending cadets. Another fifty military attorneys are on stand-by to augment the more than sixty now there. The presence of these attorneys prosecuting and defending cadets has created a siege atmosphere at West Point.

In contrast, the value to West Point of expelling all these cadets instead of giving them a pardon or some sort of an intermediate penalty seems nonexistent or minimal.

C. THE SEVERITY OF IMPROPRIETIES COMMITTED BY WEST POINT IN HANDLING THIS CHEATING SCANDAL FAR EXCEEDS ANYTHING ANY OF THE CADETS HAVE DONE

The most serious single impropriety committed by West Point in handling this cheating scandal was to abolish the functions of the Cadet Honor Committee and to substitute therefor boards of officers called Internal Review Panels ("IRP's"). Such interference with the normal functions of the Cadet Honor Committee violates a sacred compact, understanding and contract between the cadets and West Point, as well as West Point's own regulations, providing that a cadet accused of an Honor Code violation will be judged by his peers and found guilty of violating the Honor Code only by a unanimous 12-0 vote using a standard of "beyond a reasonable doubt." Instead, cadets are now judged by a board of officers and found guilty by a mere 2-1 vote that there exists "some evidence" that an Honor Code violation has been committed. A tape recording is kept of the proceedings of each Cadet Honor Board but no record is kept of the proceedings of the Internal Review Panels.

The Internal Review Panels have committed numerous procedural improprieties which severely violate the statutory and the constitutional rights of the cadets:

1. Cadets appear before the Internal Review Panels thinking that they are to be only a witness but discover for the first time upon appearing before the IRP that they are the accused. Thus, cadets receive inadequate notice of the purpose and the scope of the hearing.

2. Cadets have been assigned a defense attorney with whom to consult before appearing before an IRP but in fact none was available for consultation. This violates Article 31 of the Uniform Code of Military Justice.

3. Cadets have been advised they have a right to remain silent during an IRP hearing but subsequently have been advised that remaining silent would imply their guilt or literally have been ordered to testify. This violates Article 31 of the Uniform Code of Military Justice.

4. A member of at least one IRP board had accused the cadet before him of plagiarizing. The cadet was unsuccessful in challenging off his IRP hearing panel for bias this officer who stood as his accuser. Thus, cadets are not permitted to challenge an officer off his IRP purely for cause.

5. Cadets are not present when witnesses testify or give information about them. Thus, cadets are denied a right to confront and to cross-examine witnesses.

6. Cadets acquitted by a Cadet Honor Committee have been retried for the same offense before an Internal Review Panel. Thus, cadets are placed in double jeopardy.

7. Cadets have been spoken to in an accusatorial tone, intimidated, and generally treated like criminals. In some cases it has been said by officers that the cadets have the burden of proving their innocence rather than that the government has the burden of proving the cadet's guilt.

Cadets have been segregated from the rest of the Corps, relieved of summer duty assignments, stripped of their rank and barred from certain areas of the Post—actions which directly contribute to an atmosphere of guilt—even though they merely have been accused and not yet finally found guilty by an officer board.

Some cadets are now being required to skip an internal review panel hearing altogether and to go directly to an officer board. These cadets are thereby deprived of the opportunities to confront and to respond to evidence given other cadets taken before an IRP.

In sum, while those cadets who are guilty of violating the Cadet Honor Code may have committed a wrong, their wrong simply does not warrant their expulsion. Any benefit accruing to West Point from expelling such a large number of cadets is so small in comparison with the irreparable injury caused cadets and the country by expulsion as to render expulsion unreasonable and unnecessary. Cadets in their formulative development stage of life should be given a second chance rather than automatically expelled, especially if they have learned from their mistakes and, as in this case, West Point has substantially caused the problem. (If President Nixon can be pardoned, why cannot these cadets?) Rather than subjecting the cadets to continued shame, humiliation, embarrassment and irreparable damage to their future lives and careers, attention should be focused on the more serious wrongs committed by West Point and on the defects that obviously must exist in a system in which two-thirds of an entire academy class are close to being expelled from West Point.

Abolition of expulsion as the only penalty for violating the Cadet Honor Code has been advocated by all authorities considering the matter. This overdue change must be made now, before the majority of the Class of 1977 is expelled. A pardon or a penalty less than expulsion is appropriate for these cadets in light of their having been lured by West Point to collaborate and of all the other mitigating circumstances.

The acts committed by these cadets under these circumstances do not mean necessarily that over one-half of a West Point class of the best of America's youths have the basic character flaw of dishonesty. To these cadets at West Point, collaborating on this take-home problem as they did was not a great moral transgression. It had little significance and was easy for them because the system at West Point made it easy and seemingly of little significance for them.

Again, while collaborating in this manner may not in itself be a matter of little significance, it was made to seem that way to these cadets by the West Point system itself. The very fact that over one-half of an entire West Point class heretofore considered to consist of honorable men collaborated on this "take home" problem for which they had so little to gain (it counted less than 5% of the final course grade) supports this conclusion. Collaboration in this manner was, in fact, merely a response of the cadets to the West Point system. They collaborated simply as they had been in the habit of doing, class after class, month after month. Cadets have little respect for a system which stresses above all else strict adherence to the unrealistic "letter of the code" under the threat of automatic explusion instead of adherence to the spirit of the Honor Code and emphasis on the Code merely as a means to the end of developing in cadets fundamental character traits such as honestly and integrity.

MICHAEL T. ROSE, Esq.,
953 Filmore Street,
Denver, Colo 80206, August 3, 1976.

EUROPEAN REACTION TO THE ARAB BOYCOTT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. ROSENTHAL. Mr. Speaker, the House International Relations Committee, of which I am a member, is expected to consider on Tuesday legislation to outlaw all American compliance with the Arab boycott. Few people in business or government question the desirability of an end to the boycott. It has a serious anticompetitive effect upon American business, hurts one of our country's staunchest allies and fosters discrimination based on race, religion, and sex. The principal argument raised against a strong antiboycott stance is its possible damage to American/Arab business relations.

I have reservations about whether the impact upon Arab/American trade should play a major role in any decision involving basic American principles. Nevertheless, I do feel a need to put in clearer perspective the real risk of diversion of Arab trade to other developed countries. The argument that this risk is substantial is founded upon two assumptions:

The first assumption is that the Arabs value the continuation of the secondary boycott more dearly than they value the preservation of mutually advantageous, long-standing, and lucrative trade relations. All indications are that this assumption is incorrect. I direct my colleagues' attention to my remarks of June 10, 1976—17585—in which I point out the numerous and increasing instances where the Arabs have abandoned political and boycott rhetoric rather than forego a contract with an American company, even with one explicitly on the blacklist. Furthermore, an increasing number of Arab businessmen are expressing private misgivings about the boycott which they consider to be an obstacle to rapid economic development.

The second assumption of those who warn of trade diversion is that European and other developed countries have taken a supine position on the issue of the boycott and would be only too pleased to welcome compliance with the Arab boycott as a price for additional Arab trade. This assumption is also manifestly false. Indeed, in some respects Europe may have taken a harder line against boycott compliance than the United States.

Germany offers a fine example. It is Israel's largest trading partner after the United States. It is also the principal competitor of the United States in the sale of high technology equipment and services to the Arabs. Yet German industry has vigorously opposed compliance with Arab boycott conditions. There are virtually no reported instances of German acquiescence in boycott demands. Indeed as recently as March, the Hamburg Chamber of Commerce labeled the Arab boycott as a "particularly grotesque strain of discrimination against freedom of trade." Since 1965, West German chambers of commerce have refused to validate all so-called negative certificates of origin, that is, declarations that goods are not of Israeli origin. This position has the support of almost all German business organizations. This resolve has evidently been successful since Bonn's Economic Ministry claims to have no record of any export contract breach resulting from this refusal to validate boycott documents. Although there are reportedly 200 German firms on the Arab blacklist, many businesses maintain parallel links with the Israelis and the Arabs.

One highly publicized instance of German resistance to boycott pressures involves a recent license granted by Volkswagen to an Israel firm for the production of the Wankel rotary engine. The Arab Boycott Committee had responded by threatening to place VW on the blacklist. VW refused to withdraw the license and to the best of my knowledge maintains its opposition to any Arab dictation related to its substantial Israeli trade.

The Common Market has also been outspoken in its opposition to the Arab boycott. Article 85 of the Treaty of Rome establishnig the EEC prohibits "the conclusion of contracts subject to acceptance by other parties of supplementary obligations which . . . have no connection with the subject of such contracts." In trade agreements concluded or being negotiated with Arab states, the EEC is insisting upon insertion of clauses outlawing discrimination among nationals, companies, or firms of the Common Market. While the Arab signatories, including Tunisia, Egypt, Lebanon, Morocco and Algeria, have issued reservations against these clauses, the EEC has informed Egypt that it considers a proper respect for the nondiscrimination clause essential to the full implementation of the trade agreement. As one member of the EEC Commission put it,

> The Commission considers [that] Arab discriminatory boycott measures are contrary to the principles of cooperation which the community wishes to establish with the Arab countries. . . .

The British position on the boycott was expressed in November 1975 by the then Secretary of State for Trade, Peter Shore, as follows:

> This Government deplores and is opposed to any boycott that lacks international support and authority.

In a celebrated case last winter, the British Foreign Office Race Relations Board required Gulf Oil Co. to award compensation and to reinstate a secretary whose promotion had been withdrawn when Gulf had discovered that she had married a Jew. British efforts directed against the boycott are coordinated by a committee composed of numerous influential businessmen and civic leaders. They are in the process of developing and promoting legislation which would outlaw all compliance with the boycott.

Other examples of European opposition to the boycott include the Dutch Government's prohibiting notaries from validating boycott documents and the adoption of Article 15 of the Convention establishing the European Free Trade Association, which prohibits "concerted practices between enterprises which have as their object or result in the prevention, restriction, or distortion of competition within the area of the Association." The former law has not prevented widespread and growing relations between Dutch industry and the Arabs. According to press reports, Saudi Arabia has recently placed huge orders with Dutch firms for the construction of harbors in Damman and Jubail and for the expansion of the Saudi telephone system. Moreover, Egypt is expected to place an important order for the construction of ships in Dutch shipyards.

In Canada, the 1975 amendments to the Combines Investigation Act forbid conspiracies to restrict competition. Parties to an agreement which reduces competition in Canada are subject to criminal prosecution.

The impression I and my staff gather from numerous conversations with foreign diplomatic officials is that the Arab boycott is a matter of great concern to other developed countries. Representatives of countries which have not outlawed compliance with the boycott expressed considerable interest in the prospect that a strong American initiative might prompt their countries to do likewise.

The above analysis should lay to rest the speculations of those who fear that U.S. opposition to the boycott would send the Arabs into the arms of a welcome and compliant Europe. Indeed, should some developed countries be slow to follow the American lead, the United States is not without recourse. The General Agreement on Tariffs and Trade—GATT—to which not only developed countries but even Egypt and Kuwait are parties almost certainly forbids the imposition of discriminatory boycotts such as the Arabs against third parties to a conflict. As long as the United States submitted to boycott pressures, it was naturally reluctant to raise these prohibitions with other developed countries. This reluctance should end with the passage of strong domestic antiboycott legislation.

While no one can predict to a certainty the impact on United States/Arab trade relations of antiboycott legislation, all the evidence suggests any trade diversion would be minor and shortlived. The Arabs are highly unlikely to allow enforcement of a secondary boycott to interfere with their long-term development plans and they are not going to find that other developed countries are substantially more willing than the United States over the long run to tolerate such discriminatory and anticompetitive practices.

REMARKS OF JIMMY CARTER AT TOWN HALL FORUM, AUGUST 23, 1976, LOS ANGELES, CALIF.

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. BRADEMAS. Mr. Speaker, I insert in the RECORD the text of an outstanding address delivered by Gov. Jimmy Carter at the Town Hall Forum in Los Angeles, Calif., on August 23, 1976.

The address follows:

REMARKS BY JIMMY CARTER AT TOWN HALL FORUM, LOS ANGELES, CALIF., AUGUST 23, 1976

During the past week, when the attention of the political world was focused on the events in Kansas City, I spent most of my time at my home in Plains, Georgia, reading, studying national issues, talking with friends and advisers, and trying to sort out my thoughts as I look ahead to the Presidential campaign.

I want to share some of those thoughts with you today, and I want to say at the outset that my mood is one of confidence and optimism. Not simply optimism over my own immediate political prospects, but optimism about the future of this country.

I think, and I believe the American people agree, that this is one of our most important elections, that this is one of those elections, as in 1932 and 1960, when we have a chance to break with the past and make a fresh start in our national affairs.

Every election is unique, of course. In 1932 our nation faced an economic disaster, and our people correctly judged that Franklin Roosevelt was the candidate whose personal character and political courage made him best qualified to lead us through that crisis.

In 1960 we faced not an economic crisis but a state of spiritual malaise, a sense of national drift, and the people correctly judged that John Kennedy, with all his youth and vigor, could keep his promise to get the country moving again, as in fact he did.

Today, as we face the election of 1976, I think there is a feeling in the land, much like those of 1932 and 1960, that we face an economic crisis, and that we are drifting and need to get moving again. But there is something more than that. After all we have been through in recent years, we need to have our faith in our government restored. We want to believe once again that our national leaders are honorable and competent and deserving of our trust. For if we cannot believe that, little else matters.

RESTORATION OF FAITH

I have thought for some time that this year's campaign was taking place on two distinct levels. At our level, and quite properly, there is policy, and the economy. In many hundreds of public forums I have discussed all these issues with our people for 20 months, and later this month I will make statements on defense and veterans' affairs, agriculture and economics. But today I would like to discuss with you the other level of this year's campaign, the less tangible issue, which is simply the desire of the American people to have faith again in our own government.

We have been through too much in too short a time. Our national nightmare began with the assassination of John Kennedy, and went on to include the assassination of Robert Kennedy, and of Martin Luther King, Jr., and the wounding of George Wallace. We watched the widespread opposition to the war in Vietnam, and the division and bitterness that war caused, and the violence in Chicago in 1968, and the invasion of Cambodia, and the shootings at Kent State, and revelations of official lying and spying and bugging, the resignations in disgrace of both Richard Nixon and Spiro Agnew, and a disclosure that our top security and law enforcement agencies were deliberately and routinely violating the law.

No other generation in American History has ever been subjected to such a battering as this. Small wonder, then, that the politics of 1976 have turned out to be significantly different from years past. I doubt that four years ago or eight years ago a former Southern governor with no national reputation and no Washington experience would have been able to win the Democratic nomination for President. But this year many voters were looking for new leaders, leaders who were not associated with the mistakes of the past.

This is suggested not only by my own campaign, but by the success that Governor Jerry Brown achieved in several of the Democratic primaries. For, however else we may differ, Governors Brown and Reagan and I have in common the fact that we are all outsiders as far as Washington is concerned, and committed to major changes in our nation's government if elected President.

To want a change, to want a fresh start, to want government that is honest and competent again, is not a partisan issue. Democrats and Republicans, liberals and conservatives, all share those fundamental concerns.

In the last analysis, good government is not a matter of being liberal or conservative. Good government is the art of doing what is right, and that is far more difficult. To be liberal or conservative requires only ideology; to do what is right requires sensitivity and wisdom.

PROGRESS AND PRESERVATION

I think that most Americans are not very ideological. Most Americans share a deep-seated desire for two goals that might, to an ideological person seem contradictory. We want both progress and preservation.

We want progress because progress is the very essence of our American dream—the belief that each generation, through hard work, can give a better life to its children. And increasingly in this century we have realized that it is a proper function of government to help make that dream come true.

But we do not want reckless change. We want to preserve what is best in our past—our political traditions, our cultural heritage, our physical resources—as guideposts to our future.

To walk the line between progress and preservation, between too much change and too little, is no easy task. It cannot be achieved by the extremists of either side, by those who scorn the past or those who fear the future. It can only be accomplished by leaders who are independent and imaginative and flexible in their thinking, and are guided not by closed minds but by common sense.

That is the kind of leadership the American people are looking for this year, and that is the kind of leadership that, if elected, I intend to provide.

LEADERSHIP OUT OF TOUCH

As I have observed the political world in recent years, it has seemed to me that there is a process at work, in both political parties and probably in all nations, by which over a period of time the political leadership becomes isolated from, and different from, the people they are supposed to serve.

It seems almost inevitable that if political leaders stay in power too long, and ride in limousines too long, and eat expensive meals in private clubs too long, they are going to become cut off from the lives and concerns of ordinary Americans. It is almost like a law of nature—as Lord Acton said, power tends to corrupt.

I think this process reached a peak a few years ago, when we had a President who surrounded himself with people who knew everything in the world about merchandising and manipulation and winning elections, and nothing at all about the hopes and fears and dreams of average people.

When government becomes cut off from its people, when its leaders are talking only to themselves instead of addressing reality, then it is time for a process of national self-renewal, time to look outside the existing governing class for new leaders with new ideas. I think that is what happened in the Democratic party this year. I think our party was ready for renewal, for new faces, for a changing of the guard. If the candidate had not been myself, I think we would have chosen someone else who was not part of the old order of things.

My sense is that millions of Americans feel that this is the year in which they will give the system one last chance. They do not want to be disillusioned again. They are going to study the candidates, examine our political records and our personal ability and character, and make a judgment as to which candidate can best restore competence and vision and honesty to our government.

I welcome their scrutiny, and have confidence in their judgment.

RENEWED LEADERSHIP

Obviously there are some outstanding political leaders in Washington—one of the most outstanding, Senator Mondale, is my running mate—and yet I think our people are correct in seeking leadership from outside Washington, new leadership which can approach the executive branch of government with fresh eyes and an open mind.

As a governor, I have been on the receiving end of our federal programs. Members of Congress may see the new programs on the drawing board, or hear about their theories, but governors and local and state officials deal with the realities. I have wrestled with the unnecessary regulations, and the paperwork and red tape and the overlapping jurisdictions. I know what it is to try to start a state drug-treatment program and have to negotiate with almost a dozen different federal agencies that have separate legal responsibility for the drug problem.

Let me say that, on the basis of my experience, I have never been more serious or more determined in my life than when I promise to carry out a complete reorganization of the executive branch of government.

Let me say also, in case there it any question in anyone's mind, that I am not anti-government. I am anti-waste in government. I don't believe in give-away programs. I don't believe in wasting money. I do believe in tough, competent management, and I have tried to practice it as a naval officer, as a farmer, as a businessman, and as a governor. I also believe in delivering services to those people who need those services in an efficient, economical, and sensitive way. That is not liberal or conservative. It's just good government, and that's what the American people want, and what I intend to provide.

I think the basic issue in this campaign is going to be whether we want government that looks confidently to the future, or government that clings fearfully to the past.

There's a song in the musical "Oklahoma" called "Everything's Up to Date in Kansas City", But I didn't think everything was up to date in Kansas City last week. We kept hearing the same old tired rhetoric about socialism and reckless spending that we've been hearing every four years since the Roosevelt years. I don't think the American people are much impressed by that kind of rhetoric. The American people don't believe that Social Security and Medicare were reckless spending, or that TVA and the minimum wage were socialism. The American people consider the source of those charges, and look at the record, and aren't deceived by the nay-sayers.

VETOES HURT PEOPLE

One of the real issues in this campaign is going to be President Ford's record of vetoes. It is a record that I cite more in sorrow than in anger, for it is a record of political insensitivity, of missed opportunities, of constant conflict with the Congress, and of national neglect.

In six years as President, Mr. Ford's predecessor vetoed 41 bills that had been passed by Congress. In only two years, Ford has already vetoed 53 bills, about four times as many bills per year as his predecessor—and to be four times as negative as Mr. Ford's predecessor is a remarkable achievement.

What did these vetoes accomplish? Did they save us from wasteful, reckless spending, as the Administration would like us to believe. I think not.

One of the bills President Ford vetoed was the Emergency Employment Act, which would have created nearly two million full and part-time jobs, to help those millions of Americans who have been rendered jobless by Republican economic policies. I think our government has a responsibility to help those people get back to word. When people can't find jobs, we pay the price over and over in increased costs of welfare and unemployment compensation and lost tax revenues.

Congress also passed a bill that would have granted those unemployed homeowners temporary help in meeting their mortgage payments. I think that was a responsible action for Congress to take. But Mr. Ford vetoed the bill.

When people are out of work, they and their children still have to eat, and Congress passed the School Lunch Act, to increase the number of families whose children were eligible for school lunch subsidies. But Mr. Ford vetoed that bill.

I had occasion, very close to home, to see what that kind of veto could mean to the real people who were on the receiving end of it. I know a young teacher who taught a remedial class for first-graders in the Plains Elementary School. Most of the students in this special class happened to be black, and were having a hard time getting started in school because of the devastating poverty in which they had been raised.

Free milk was provided twice a day, in the morning and at lunch, for needy students, but then there was a cutback and the morning milk was eliminated. So the young teacher began using her own money to see that all her students had milk. And when she ran out of money she went to her father and he saw to it that her students had milk every morning.

That is the sort of thing that happens when our leaders ignore the human factor in government, when they think in terms of statistics and economic theories instead of in terms of real human needs.

These leaders are so short-sighted. Doesn't it make more sense to spend money on milk and education today, to help children get a fair start in life, than to spend money on police and courts and jails ten years from now, when those children have grown up untrained for a productive life and turned against a society that treated their needs with indifference?

It has been my experience in government that the most profitable investment is in people, and that is the rule I will follow if I become your President.

GOVERNMENT BY VETO

There were many other vetoes. Mr. Ford vetoed a bill to provide loans and grants to train nurses. He vetoed a bill to send more doctors to rural areas and inner-city slums where there are far too few doctors. He vetoed a bill to provide job training and college educations for Vietnam veterans, the most unappreciated heroes in our nation's history.

These vetoes haven't helped our economy. They haven't balanced the budget—far from it. They have only contributed to needless human suffering.

An occasional veto may be justified, if legislation is poorly drafted or ill-considered, but 53 vetoes in two years demonstrates a negativism, a dormancy, and a fear of action that can only be harmful to this country. There is something seriously wrong when the members of Congress, all of whom were elected by the people, repeatedly pass legislation the country needs, only to have it vetoed by an appointed President. I believe those men and women in Congress are a great deal closer to the national mood than Mr. Ford has shown himself to be.

We have had enough of government by veto. It is time we had a President who will lead our nation, and who will work in harmony with Congress for a change, with mutual respect for a change, out in the open for a change, so the working families of this country can be represented as well as the rich and the powerful and the special interest groups.

UNEMPLOYMENT AS POLICY

Another major issue this fall is going to be the state of our nation's economy. Republicans have a long tradition of mishandling the economy, one that goes back to Herbert Hoover. Except in election years, when they sometimes manage to make the economy pick up by temporarily adopting Democratic economic programs.

During the Eisenhower, Nixon and Ford Administrations, we had five recessions. Under Kennedy and Johnson we had none. And we all know that recessions are hardest on those people who are weakest, who are poor and uneducated and isolated, who are confused and inarticulate, who are often unemployed and chronically dependent—in short, those members of society whom a good government would be trying hardest to help.

Do you know what the basic Republican anti-inflation policy has been? To put people out of work. Cooling down the economy, they call it, because that sounds nicer. I say to you that any economic policy that sees virtue in unemployment is morally and politically and intellectually bankrupt.

What's more, those policies have been dismal failures. In 1968, the last year of a Democratic administration, the unemployment rate was 3.6%. Today it's more than twice that—about 7.8% and rising. Under Kennedy and Johnson the average annual rate of inflation was 2%. During the Nixon and Ford administrations it has been almost 7%.

With all this human suffering, has the Republican administration balanced the budget? In the last three years, the accumulated deficits are about $160 billion, more than the previous 30 years combined. Under Kennedy and Johnson, the average deficit was less than $4 billion. Under Nixon and Ford the average deficit has been more than $24 billion a year.

In short, the Republican economic policies have not worked, and I believe they have failed to work because they were the creations of people who put economic theories and special interests ahead of the realities of human need in this country.

REDEDICATION TO COMPASSION

There are many other problems and many other issues in this campaign. I have been speaking about the breakdown of the American family, and I mentioned that among young people the second most prevalent cause of death is suicide and that in the past ten years the gonorrhea rate has tripled among children 14 years of age or younger.

I sensed that some people thought I shouldn't use those words, suicide and gonorrhea, because they are ugly words describing unpleasant facts. But there are many unpleasant problems in our society—children who need food, overcrowded jails and mental institutions, inadequate treatment for the young men who were maimed in Vietnam, and the heartbreak and family disintegration that unemployment can bring.

All these are ugly problems and it is a natural human instinct for us to want to tune them out. But we cannot tune them out. We can only succeed in tuning out our own humanity, including those qualities of compassion and concern without which no society, however rich or powerful, can be truly great.

"No man is an island," John Donne wrote many years ago; we are all part of the mainland of humanity. That is still true today, and as American citizens, most of us blessed with a good education and influence in society, we cannot ignore the needs and suffering of our less fortunate fellow citizens—not if we want this nation to remain great.

CONFIDENCE IN OUR NATION

"Ask not for whom the bell tolls," Donne went on to say; "it tolls for thee."

I think there is a bell tolling for all of us this year.

It is asking us what kind of America we want.

It is asking whether once again an American President can inspire patriotism and pride in all of our people.

It is asking if we can tear down the walls that have divided different races and different religions and different regions in America, and once more be a united nation.

It is asking if we are indeed a tired, worn out, cynical nation, or if we can once more be moved by optimism and hope and love for our fellow human beings.

It is asking if through our democratic system we can once again give this nation a government as competent and as good as our people.

I believe we can. We have lived through a time of torment, and now we are ready for a time of healing. I believe we are ready for new leadership, leaders who come from the people and who speak to the people and who care about the people. I believe we have reached a turning point in our national history, a time of cleansing and rededication, and I promise you I will do all in my power to bring this nation back to the greatness we deserve and that the world expects of us.

Thank you.

AUTOMOBILE PRICES AND THE CLEAN AIR ACT

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. MAGUIRE. Mr. Speaker, last week General Motors made official what had been rumored for weeks: new car prices will rise next year by an average of $338 per car, or 6 percent. The industry attributed this increase to higher costs for labor and raw materials. This new round of price increases means that the retail price of an average car has reached the astounding level of $6,000—a $1,500 increase since 1973.

Not once in any of the statements issued by General Motors or other industry sources were automobile emissions or other safety regulations mentioned as even a subsidiary factor in these new price increases.

Moreover, the industry pointedly stated that this huge price increase will have no effect on either automobile sales or employment—that in fact they expect next year's sales to be better than this year's record performance. It is important to place these price increases in perspective.

In September, Volvo will be marketing a series of models which will meet the full statutory standards for automobile emissions at a per-car increase of $50—one-sixth of this year's GM price rise. The worst-case estimate for full compliance with the statutory standards using a three-way catalyst—as Volvo does—is barely half GM's new car price increases. Others have placed these costs at an even lower figure. It is therefore apparent that meeting the Clean Air Act's requirements will have only a marginal effect on automobile prices, which has historically been the case.

Proponents of the Dingell-Broyhill amendment, which would permanently do away with a tougher NO_x standard, while postponing other emission standards until 1982, claim that meeting the statutory standards would have a devastating effect on both car prices and industry employment. It is, however, difficult to understand why the cost increases associated with pollution control would be so devastating while those due to labor and raw materials are acceptable, or why the American people would be reluctant to assume the first while having few qualms about the second.

It is therefore clear to me that the economic arguments leveled against the Waxman-Maguire amendment—which actually postpones the present statutory standards another 2 years—are opportunistic at best, and are seized upon by the automobile industry as a convenient excuse for avoiding the implementation of the statutory standards. Careful analysis shows that they have no rational basis whatsoever.

I urge my colleagues to study the following articles on these new car price increases, and to support the Waxman-Maguire automobile emissions amendment when the Clean Air Act is on the House floor:

[From the Wall Street Journal, Aug. 25, 1976]

CAR FIRMS PLAN BIG RISE IN 1977 PRICES, EXPECT BUYERS TO KEEP BUYING

(By Terry P. Brown)

DETROIT.—Auto makers are getting set to put through one of their larger now-model price increases in recent years. But unlike a year ago, this time they're betting consumers will hardly blink an eye.

Detroit will soon send its dealers prices for the 1977-model cars, which are already arriving in showrooms and will officially go on sale next month. In June, the "Big Three" auto makers hinted at an increase of up to 6%, or about $350 a car, on the new models. At that time, some industry observers thought that that figure represented a generous ceiling, and that domestic auto makers would come in with only about a 4% jump in prices.

Now it has become clear that that was wishful thinking. Just in recent weeks, new cost pressures have been mounting on the auto industry. For one thing, the steel industry's second price increase in three months, caught Detroit flat-footed. Moreover, there are signs that the cost of the badly needed labor peace with the United Auto Workers this fall may be higher than expected. As a result, many industry observers now expect auto makers to come in with close to the full 6% boost, and then some, depending on what marketing ploys they use to push new cars this fall.

UNUSUAL CONFIDENCE

But while auto makers have worried in some recent years that their pricing moves might injure sales, this fall they are confident that strong underlying demand for new cars will overwhelm any consumer resistance. "Pricing just doesn't seem to be the problem it was last year," one Big Three executive says. "The main battle now just seems to be getting the cars out the door to meet the demand." Adds a marketing analyst at a crosstown auto competitor. "Sales are strong and should continue strong next year. If there's ever been a year to hold a 6% increase, this is it."

This confident, relaxed attitude is quite different from just last fall. Then, Detroit pricing tacticians faced the delicate task of boosting prices on the 1976-model cars enough to recover costs, yet not enough to scare off recession-weary consumers who were just beginning to venture back into dealers' showrooms. Auto makers also hinted at a 6% boost last year, but in the end they increased new-model prices only 4.5%, or about $250. And they went to great lengths to blunt the possible psychological impact on consumers by juggling equipment prices and holding down increases in highly visible base model prices.

Auto executives had plenty of reason to worry then, too. In the fall of 1974, for example, they had pushed through an unprecedented 10% price boost, or $500 a car, and shortly thereafter industry sales had gone into their sharpest nosedive in decades. Many industry executives later conceded the big price increase was a major contributor to the slump.

INCREASES IN PAST

This fall's increase isn't expected to be anywhere near that big, of course. But if the anticipated boost of about 6% is implemented, it would be, on a percentage basis, among the larger increases of the past 20 years. According to statistics compiled by Automotive News, a trade publication, auto makers' 1957 model increase averaged 6.9%. Since then—except for the now-famous 1975 model increase—the next largest boosts were 5.9% on 1971 cars and 5.1% on 1974s. Most have been under 4%.

The most persuasive reason for the industry's optimism that this fall's price rise won't hurt sales is simply the continuing strength of demand. After two poor sales years, Detroit is reaping the benefits of many previously postponed car purchases. The upturn in the economy and a rebound in consumer confidence have sent the public trooping back to the showrooms in increasing numbers all year.

Auto sales experts have raised their sales predictions repeatedly this year. They now look for 1976 new-car deliveries (including imports) to reach as high as 10.8 million, up 26% from last year's 8.6 million. And they are forecasting more of the same. Some executives, for example, have predicted 1977 sales could hit 11.5 million cars, topping 1973's record 11.4 million.

RELAXED DEALERS

If their own sales forecasts aren't enough, auto makers are also getting ample evidence from the field that consumers don't seem worried about car prices right now. Dealers, for example, are rarely reluctant to squawk when they think Detroit is making it hard for them to sell cars. And "when we hinted at 6% in June, there was hardly a ripple of protest from our dealers," says a spokesman for one General Motors Corp. car division.

"Car prices just don't seem to be a major factor in buying a car these days," agrees Bill Atamian, a Boston dealer for Ford Motor Co. Adds Hugh Gibson, a Cleveland Ford dealer: "Buyers are pretty well resigned to paying more this fall."

Consumer surveys support this view. "People aren't satisfied with high prices, but they've become used to price increases," says Jay Schmiedeskamp, who supervises the University of Michigan's respected consumer sentiment surveys. "A 6% increase in autos would be in line with the overall inflation rate recently and wouldn't have much of an influence on buying intentions," he predicts.

That consumer psychology is a break for Detroit. Any earlier thoughts that might have been given to holding down prices on 1977 models were wiped out by the most recent steel price increase, auto executives say. In June, steel companies raised prices on flat-rolled and bar products, both essential to auto manufacturing, by nearly 7%. Then—to auto makers' surprise and dismay—U.S. Steel Corp. earlier this month announced another 4.5% increase in flat-rolled goods.

"We anticipated maybe a 2% steel increase late this year," one Big Three executive says, "but this latest increase hit us like a bolt out of the blue. It has forced us to go back and take another look at our 1977 pricing plans."

In addition to rising steel costs, auto makers say they have also taken recent "good doses" on copper, aluminum and zinc—all materials vital to making an auto. Early this month, for example, key aluminum producers raised prices of unalloyed aluminum ingot and various mill products that go to the auto industry as much as 9% (aluminum is being used in greater amounts in autos these days as Detroit tries to cut the weight of its products to improve fuel economy).

TIRE PRICES MAY RISE

Tire prices also may go up. Tire companies and the United Rubber Workers union recently reached a proposed settlement that would increase worker wages and benefits about 36% over three years, and auto makers expect the rubber companies to pass along some of those higher costs.

Moreover, the auto industry faces higher labor costs of its own. Both the auto companies and the UAW have indicated they would like to reach a settlement on new contracts this fall without a strike, but the price of peace may be high. The union has recently unveiled some specific and costly demands for a series of extra days off and for a major overhaul of the industry's supplemental unemployment benefit funds for laid-off workers.

Though it's far too soon to say with certainty, some Wall Street auto analysts think Detroit's labor costs ultimately could jump, as much as 10% annually once a new contract is worked out.

So some auto executives are even starting to wonder if they have boxed themselves in on their 1977 prices. "If the 6% estimate was high when we first mentioned it, it has been used up now," a Detroit financial man says. "And if it was just right, then we need more than that now."

FURTHER BOOST POSSIBLE

As a result, some observers think Detroit might try for a further price increase later on if its initial boost is eroded by further cost increases. This tactic has been used in some past years when costs jumped faster than anticipated. But whether any second boost will stick depends largely on General Motors, the acknowledged price pace-setter with more than half the domestic market.

For example, Ford Motor tried pushing through a second-round price increase on 1976 cars last winter, but GM refused to go along. Consequently, Ford was forced to rescind the increase in January. One GM source says that currently the No. 1 auto maker is leaning toward a one-time increase on its 1977 cars and will try to "eat (the anticipated costs of) the UAW contract in one shot."

How auto makers choose to implement some of their pricing decisions this fall will also affect how they are received by consumers and how well they cover costs. Industry analysts say they expect a "straightforward" increase for the most part, with the bigger price rises on models that have been selling best recently. At the same time, these sources say auto makers will be "conservative" in pricing cars that haven't been as successful.

For example, one Chrysler Corp. dealer says he has received a tentative price on a 1977 van—currently a popular model—that is about 12% above a comparably equipped 1976 model. Meanwhile, he says, the price of a slower-moving station wagon model that has been shipped to him appears to be up only about 2.5%.

OTHER PRICING PLOYS

Auto makers may also recover some costs by reducing what car buyers get for their money. For example, Chrysler recently disclosed it was scaling back on certain terms of the 1977-model warranty coverage. And there are signs the potential profitability of some models may be increased by forcing consumers to buy better-equipped versions. For example, the base version of GM's 1977 Vega subcompact this fall will be available this fall only with a more powerful engine and four-speed transmission—equipment that was optional previously.

One key unanswered question is how GM will price its new full-sized cars, which are about 700 pounds lighter and nearly a foot shorter than the comparable 1976 models. Some GM-watchers think the company will keep its traditional price gap between the new full-sized cars and its intermediate-sized models, even though both series will have very similar outside dimensions.

But one GM source says the company may decide to hold the price of the big cars down to the intermediates level so that former big-car buyers won't be tempted to buy the smaller, less expensive models. GM might accomplish this by reducing the size of the potential dealer profit markup included in the price of the larger models, some observers speculate. GM hasn't indicated its strategy, however.

[From the New York Times, Aug. 26, 1976]

G.M. RAISING RETAIL PRICE OF AVERAGE CAR TO $6,000

(By William K. Stevens)

DETROIT, Aug 25.—The General Motors Corporation announced today that the average retail price of its 1977-model cars, including optional equipment typically chosen by consumers would rise by 5.9 percent, or $338 a car.

General Motors traditionally is the price leader among the four American automobile companies, establishing a pattern for the other three. It was the first to disclose prices for its 1977 models, which are to go on sale in late September.

The increase means that for the first time, the average "sticker price" of a General Motors car with a typical array of options is likely to surpass $6,000. Most cars, however, actually sell at below the sticker prices.

The $338 increase compares with a rise of $268, or 5.7 percent, last year. Of the $338 rise, $269 represents the base price of a car, minus options. That is an increase of 5.8 percent, compared with $206, or 4.4 percent last year.

Thomas A. Murphy, the General Motors chairman, stated that he thought consumers would accept the rise. "We are confident," he said, "that the American car-buyer will recognize this G.M. price increase as moderate in the light of the value which these new 1977 models represent."

The company did not, however, announce the individual prices on its new line of standard-size cars, which are considerably smaller than those of its competitors, and more nearly comparable in length and weight to its own "intermediates," the next-smaller category that in the past has carried lower price tags than standard-sized cars. How the new line is to be priced is said to have been a subject of considerable concern in the G.M. executive suites.

Mr. Murphy said that the overall price increase, which includes the new line, was made necessary mostly by increased costs of labor and materials. He noted that steel, the principal material in automobiles, had risen by more than 12 percent this summer.

He said the company hoped that no additional, increases would be imposed during the model year. But he said this depended on whether a "reasonable" contract settlement could be reached in current negotiations with the United Automobile Workers, and on future increases in the cost of materials. He said the prices announced today would be subject to review.

In 1975, some auto makers raised the price of options and shipping charges during the model year. There were no mid-year rises during the 1976 model year. The Ford Motor Company instituted a general increase last January, but had to rescind it when the other companies refused to follow.

RECORD SALES PREDICTED

Mr. Murphy, in a customary statement issued on the eve of the new model year but separate from the announcement of the price increase, continued the optimistic theme that he sounded in predicting consumer acceptance of the price rise.

"We expect that total industry sales in calendar year 1977 will reach a new record," he said G.M. plans to spend for capital improvements at a record level of nearly $3 billion, he said.

Mr. Murphy predicted continued moderation in inflation. He forecast total domestic car sales of 11.25 million during the model year, and said that for the 1977 calendar year, car and truck deliveries combined "should eclipse the 1973 record of 14.6 million units—11.4 million passenger cars and 3.2 million trucks."

The $269 increase in base-model prices announced today by General Motors represented the difference, 1977 cars with standard equipment, and 1976 cars with the same equipment.

General Motors' 1977 prices continue a steady upward trend in the 1970's that has seen the base-model price tags of American automobiles increase by an average of nearly $1,500 since the fall of 1973.

However, in line with reduction in the economy's overall rate of inflation in recent months, this year's figures reflect a continuing moderation of the skyrocketing auto prices of 1974 (a $500 rise in base prices) and 1975 (a $400 rise in base prices).

The base-price increase on specific models announced today ranged from $23 for the Oldsmobile Starfire to $708 on the Cadillac Seville.

All of these figures refer to what is called the "manufacturer's suggested retail price," more familiarly known as the "sticker price." However, this price is frequently less meaningful than the wholesale price the auto companies charge their dealers. It is this cost figure on which most dealers base the actual prices they charge for cars.

In this case, General Motors increased its wholesale price by an average of $216 a car—the same amount as a year ago—or 5.8 percent.

MORE THAN HOPE IS NEEDED

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. RANGEL. Mr. Speaker, it is a terrible fear of mine that the trend away from a truly positive, active government, fueled by the fears of deficit spending, will have a disastrous long-run effect in this country and particularly in our urban areas. There is apparently a misguided feeling among many that problems will somehow solve themselves; that the crime, unemployment, and housing woes will somehow disappear and all will be well.

I think it is time that we realized that problems do not go away, but rather, and it is a sad realization for many of us, that unless specifically dealt with, they tend to be exacerbated. There can be no denying that some of the programs that emerged from earlier administrations have not accomplished all that they promised. But from this fact we cannot afford to conclude that the fight has been lost. Rather we must continue to provide aid to those most in need, recognizing that there may be short-run regressions, but always looking forward toward a goal of economic prosperity and social equality.

I would like to bring to the attention of my colleagues the following commentary by Roger Wilkins, from the August 20, 1976, New York Times. Not only does it shed light on the uphill battle faced by groups within my congressional district who are attempting to effect change with little funding, but it speaks eloquently to the point which I have attempted to summarize above.

The article follows:

The Motor-City Blues

(By Roger Wilkins)

The news from Detroit and from Kansas City came almost as a single blow. From Detroit there were frightening reports about roving gangs of black teen-agers shredding the tattered remnants of Detroit's civil fabric. And from Kansas City there came the Republican platform's analysis of America's urban ills: "Without an urban policy, the Democrat-controlled Congress has created a hodgepodge of programs which have all but destroyed our once vital cities." The platform statement so missed the point that one could wonder whether the urban analysts in Kansas City had been living in the country where Detroit and the other old American cities are located.

The news forced up the memory of an old warning issued by a black urban affairs official in the Johnson Administration who deemed Great Society efforts insufficient and predicted, in 1968, that continued inattention to the acute social, educational and employment problems of the nation's poorest urban blacks would leave their children with absolutely no stake in the society and could turn them into "urban savages." That warning was misunderstood by some blacks and largely ignored by whites.

But now eight years later, Kenneth Fireman, a Detroit newsman, describes his city. "Teen-age gangs have surfaced in menacing numbers, seemingly trying to outdo each other in boldness. Downtown businesses have been robbed in broad daylight, crowds watching a riverfront fireworks show have been terrorized; whole busloads of people have been shaken down highwayman-style, at gunpoint. The police, their ranks thinned to a bare minimum by recent layoffs, are barely holding their own . . . Detroit and other big cities are today paying the price for years of inaction. After all the years of talk about 'the urban crisis' the problems remain as intractable as ever."

Nevertheless, the Republican Party, having inveighed against "throwing money at problems" and having declared the Great Society experiments failures, now asserts in its platform that urban problems are the result, not of their closing so many program spigots, but of the programs themselves. An observer decided to give the Republican assertions a reality test by taking a trip uptown to the basement of a little church in Harlem where a small band of people run a community self-help effort called, "We Care."

The director is an engaging 27-year-old black man named Sam Walton, who has been running the program since he was 18. He said that the services available in Harlem were severely limited, that some governmental agencies charged with helping were slow and unresponsive and that the people in need had only limited information about the little help that was available. "We try to disseminate information and to help the people get the help they need," he said.

This summer, We Care has made housing its top priority. "We go out into the street and try to give people information on how to get housing assistance," Walton said, "but almost everybody who comes up to us needs a job. The first thing they ask is where they can go to get a job. But, with all these cutbacks, there's nowhere to send people. In the sixties when there was manpower money, you could send them to agencies like the Urban League, Neighborhood Boards or the community action agency for nurses' jobs, training to work in banks, all kinds of things. Now that's all gone and what little is available goes to people with political connections."

Over on 137th Street, across Adam Clayton Powell Boulevard, Agnes Preston, program director for Harlem Teams for Self-Help, echoed Walton's observations. "There are more youngsters out here now than in the sixties and fewer jobs for either them or their parents. The kids are passive and aimless. They've given up. The problem is idleness."

In many ways, helping neglected minority youngsters enter society constructively will be harder than raising people from slavery. Slaves were at least involved with functioning economic units. Inhumane as it was, slavery was at least a socializing process. Many inner-city youngsters are the leftovers of the current economy. They have not only functioned outside the economy, but many of their parents never had the opportunity to function productively in this society.

It was not government programs that wrought such human destruction, but the same failure of vision and will over the last eight years in Washington that is reflected in the platform. Remedying that neglect and repairing the gaping ugly rips that it has caused in the fabric of this society may be the most complex and difficult governmental task currently facing this nation.

HANDS TO SERVE THE POOR—A HEART TO LOVE THEM—A TRIBUTE TO MOTHER TERESA

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. FARY. Mr. Speaker, I was recently presented with a most interesting and heartwarming article, the contents of which I would like to pass on for its great worth concerning the compassion of an outstanding woman well known for her tremendous missionary work in Calcutta, India, Mother Teresa.

The gift of grace, faith, and courage that enables some Christians to heed Christ's injunction to "Give up all you have, and come and follow Me", is rare indeed. In this day of impersonal technology, of military conflict, of both moral and spiritual confusion, Mother Teresa is a woman with a very simple message, one of love and concern for His children—the poor of the world.

Born Agnes Gonxha Bojaxhiu, the Albanian nun was still a teenager when she joined the Sisters of Loretto and left her home for the missions in India. For the next 20 years, she taught at St. Mary's High School in Calcutta. But while on a train to Darjeeling in 1948, she experienced an impelling interior call. She asked permission to leave her order and to devote herself exclusively to the care of the poor in India's slums.

In 1952, the Indian Government gave Mother Teresa an old abandoned Hindu temple to which she and her nuns began to bring the disease-ridden outcasts they found dying in the gutters of Calcutta. To those who wonder what she does for these people, she says, "We want them to know that they are wanted. We want them to know there are people who really love them, who really want them, at least for the few hours they have to live."

This is Mother Teresa's message to today's increasingly depersonalized and computerized society: faith in the spiritual value of the human being, in the sacredness of each life, in the redeeming value of suffering, in the all-healing power of love. Of some 30,000 people brought from the streets of Calcutta to Mother Teresa's House of the Dying, more than half have recovered. Many are now able to work again.

Mother Teresa's nuns treat half a million patients a year in 125 dispensaries around the world and maintain centers for the poor as well as nursing homes. Today, the order has 1,500 sisters, 150 brothers, and 80,000 lay supporters working in 13 countries, including a project set up 4 years ago in Harlem. There are 32 homes for the dying, 67 leprosariums, and 28 orphanages.

Those who seek entrance to her Order are offered a lifetime of stark poverty, of hard work in squalid surroundings, of ceaseless prayer from which to draw strength. They must own nothing, they must share the food and the living quarters of the very poor, in whom Mother Teresa sees "Christ, the poorest of the poor." Yet women from every part of the world continue to ask to be admitted.

My colleagues I know will read with intense interest the following article by Janis Johnson of the Washington Post "A Pageant of Faith: 'Saint', Ceremony, Royalty, Renewal" regarding this remarkable woman—

A PAGEANT OF FAITH: "SAINT," CEREMONY, ROYALTY, RENEWAL

(By Janis Johnson)

PHILADELPHIA.—Her hands are captivating, oversized for her small frame. She is stooped over at the shoulders, a near wisp of a woman, pale, ascetic and with hundreds of deep creases in her face. Her eyes are tired. But her hands. They are strong, like a firm cushion to the touch.

It is in part these hands that have made Mother Teresa of Calcutta perhaps the closest thing to a living saint the Catholic church has today. With them, she rescues the "poorest of the poor"—her ministry since 1946 from the streets of Calcutta, maggot-ridden people, dying people.

To Mother Teresa, who has won world acclaim for her devotion to the dregs of society and who has sat with popes and beggars alike, the poor are "the hungry Christ, the naked Christ, our brothers and sisters.

"To help us go to heaven, Christ made one condition . . . When we come before Him, we will be judged on what we have been to the poor."

Thoughts like this put forth simply and frequently have wrapped something like a cult around the 65-year-old nun. A Yugoslavian who joined the Loreto nuns in Calcutta at age 18, she left the Loreto cloister in 1946 to work in the city slums and later founded the Missionaries of Charity religious order. In 1973, she won the Templeton Prize for "progress in religion" and the Dec. 29, 1975, cover of Time magazine carried her picture as one of a number of what it called "living saints."

Here at the 41st International Eucharistic Congress, Mother Teresa has to be escorted by heavy security. People throng around her. They want to talk to her, to touch her. Wearing her customary white sari edged in blue, she awkwardly manages to slip away.

"I feel sorry for them," she says later. "They are hungry for God. In me, they recognize the poor. It's not me they're interested in. I'm very sure of that."

Everyone gives her that veneration. Dom Helder Camara, archbishop of Olinda-Recife in Brazil, another "apostle of the poor" and the only person here among the showcase of the world church who could possibly upstage her, stopped himself during a speech, walked to the bent-over nun, bowed and kissed both of her hands—"in the name of the poor of all the world."

Mother Teresa, uncomfortable in a conversation, dismisses this talk of "living sainthood." "Sanctity is not the luxury of a few," she said. "It's in each one of us, you in your work, I in mine."

She does not want to talk about herself. Her large hands fidget. Her voice is wearing thin, trembling slightly. "She makes you feel that she is a human just like you," said an admirer. Perhaps it is her embracing smile.

No, she doesn't have visions, or dreams, or work mysterious miracles. She simply gives the poor love and claims she gets more in return. It is moving to hear her describe it, and her audiences are on the edges of their seats. She stays here in a convent and never partakes of the lavish feasts she attends.

Mother Teresa says she has been away from Calcutta much too long on her latest journey. On Monday she will return.

"People tell me we spoil the poor. I say it's good to have one congregation spoiling the poor, because everybody is spoiling the rich."

Mother Teresa is almost a paradox at this eight-day spiritual festival, which will end Sunday at a huge mass with a message from Pope Paul VI by satellite and with President Ford in the audience at John F. Kennedy Stadium. The Catholic church has traditionally excelled in staging pageants.

Upward of $2 million will be spent on this festival, its organizers estimate. Twenty thousand people pour into the Civic Center daily to walk through 700 exhibits, buy relics, and follow the princes of the church as they parade with police escorts, pray on their knees in silence before a makeshift altar. The traditional emotion and spirituality of Catholicism are here in a sweeping panoply. More nuns in full habits than can be seen most anywhere at once these days mill through the crowds, some hobbling on canes or walkers. A million pilgrims, including about 20,000 from outside the United States, are expected here before it ends.

But their church is in a crisis of faith, assaulted by changing world values, buffeted by liturgical reforms, challenged to be the "conscience of the world" by their own leaders and yet having trouble performing that role.

Nevertheless, pilgrims are talking about the "spiritual renewal" they feel from being here.

Critics said this would be just another lavish triumphalistic display, a waste of time, a sentimental venture back into the 1950s. But many in attendance feel that a renewal for Catholics is beginning here, and the cynics may be wrong.

Just as the medieval Christians paraded through the streets with magnificent tributes to the Blessed Sacrament, these Christians are participating in a modern-day rite. Eucharistic congresses are held somewhere in the world every four years for Catholics. Eucharist, the deepest mystery of Catholicism, the joining of humans and God through the partaking of bread and wine, means "thanksgiving."

In one specific action growing out of this congress, Catholic, Protestant and Orthodox Christian theologians announced that during a three-day symposium they found they have reached consensus on the meaning of the Eucharist, a step toward greater Christian unity.

The princes of the church, bedecked in ecclesiastical finery, whirl through the city in limousines, guarded by security police and escorted by young girls in parochial school uniforms. Some of these leaders prefer to walk, to hug their people, to worship alongside them. And the "princesses," Princess Grace of Monaco, Mother Teresa, 79-year-old Dorothy Day, founder of the Catholic Worker Movement in the New York City slums.

TODAY'S CHALLENGES TO PROFESSIONAL RESOURCE MANAGEMENT

HON. ROY A. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. TAYLOR of North Carolina. Mr. Speaker, the Fontana Conservation Roundup Foundation annually sponsors in my district a symposium discussing the vital conservation issues of our time. This symposium brings together outstanding leaders from business and government as well as concerned citizens from across the Nation and especially from the Southeastern part of the United States. This year the theme of the conference was "Today's challenges to Professional Resource Management." One of the speakers was the Honorable Thomas L. Kimball, executive vice president of the National Wildlife Federation. Mr. Kimball leads the Nation's largest citizen's conservation organization. He is a most articulate and knowledgeable spokesman for conservation. His speech at the Fontana Conservation Roundup is particularly relevant today. I recommend to my colleagues that they study very carefully the dimensions of the challenge outlined by Mr. Kimball:

TODAY'S CHALLENGES TO PROFESSIONAL RESOURCE MANAGEMENT

(Presented by Thomas L. Kimball, Executive Vice President, National Wildlife Federation, at the 17th Annual Conservation Roundup, Fontana Dam, N.C., June 11, 1976.)

Somewhere I read about an Eskimo hunter who asked the local missionary priest, "If I did not know about sin, would I go to hell?" "No" replied the priest, "not if you did not know." "Then why," asked the Eskimo earnestly, "did you tell me?" The professional resource manager may not know about many of the challenges facing the profession today so my assignment, like it or not, is to tell you about some of those challenges to be met.

I welcome the opportunity to speak to you tonight on the subject of challenges to professional resource management because I have some rather strong convictions about the role true professionalism should play in the formulation of national policy and in the natural resources decisionmaking process. Please remember that my observations and conclusions are based on personal experiences and perspectives gained over the past 38 years in dealing with wildlife and environmental management, both as a government administrator and as the executive head of the nation's largest private, conservation education organization.

First, let me quickly review several of the roles which professional resource scientists have traditionally served over the years and which are generally recognized throughout the profession.

I'm referring to such tasks as serving as research investigators, fountainheads of knowledge, consultants and advisors to decisionmakers to name a few. In sum, the resource professional has provided scientific knowledge for the benefit of resource professionalism and wise decisionmaking which enhances the general public welfare. With respect to research, I wonder, however, whether the individual scientist is really taking the lead—as I think they should—in identifying, prioritizing, and helping to obtain funding for the more realistically-pressing resource management problems of our time. Our resource problems grow more complex each day and decisionmakers are floundering because of the paucity of credible data.

While I fully recognize the need to continue basic research, there is a desperate desire on the part of resource decisionmakers to have better, more reliable information upon which to make both long-range management plans and day-to-day decisions. My own organization, the National Wildlife Federation, which sponsors a sizeable environmental conservation fellowship program, is making a greater effort to select study proposals aimed at providing better scientific data which aid in resolving some of the more perplexing natural resource conservation problems; applied research that contributes to problem solving rather than basic research that has little application. The resource scientists must more actively participate in the decision-making process. If not, resources will be managed more and more by emotionalism and economic pressure politics.

Another area in which the professional can lead out more aggressively, in my judgment, is in making themselves available—a pool of professional personnel to assist in developing public policy for the public good by increasing the input into the decisionmaking process by knowledgeable and experienced technicians. You don't have to be in this business very long before you realize that the citizen-based organizations—like NWF—are badly outgunned! How does an organization find the resources to adequately review a 17 volume draft environmental impact statement on an Alaskan natural gas pipeline or even identify—much less review—those few Corps of Engineers-sponsored EISs on truly critical water resource development issues when the flow of EISs from the Corps is so overwhelming.

Scientists should become actively involved in citizen action organizations so their expertise can aid them in determining sound policies, positions and programs. How can the people who live in the Great Smoky Mountains be accurately informed of the change in lifestyle brought about by the development and extraction of the vast amounts of coal in their backyards and the burning of that coal to supply electrical energy for industry and our ever-expanding urban complexes? What about the exploitation of the land and water and its effect on the quality of your lives? Is it in the best interests of the people of this great nation to continue to extol the virtues of unlimited growth as the only means to attain jobs and a healthy economy? What effect will such unlimited growth have on our life support systems? Where will the water come from to supply the insatiable appetite of agriculture, industry and the kitchen faucet when some of the water has already been reused seven times? What effect will constant reuse and increasing pollution have on fisheries values and tourism? What other water uses must be curtailed if tremendous amounts are to be used for unlimited energy production? How much additional heat load can our planet absorb before we have catastrophic shifts in our weather patterns?

These are but a few of the questions that must be answered by professionals along with a definition of the options that are available from other fuel sources to meet national energy needs. We think the answer lies not in weakening the National Environmental. Policy Act (NEPA) but in making better use of volunteer professionals who can inform and educate the public and encourage them to take part in those decisions that may materially affect the quality of their lives.

Turning to the role of professional societies—that of enhancing the exchange of professional information—we are fortunate to have in Washington, D.C., the Natural Resources Council of America (NRCA). About 45 private organizations are represented in the Council, including all of the professional natural resource groups such as the Society of American Foresters, the Wildlife Society, the American Fisheries Society, the Society for Range Management, and the Soil Conservation Society of America. Of course, most NRCA representation comes from citizen-based organizations such as NWF, American Forestry Association, Wildlife Management Institute, National Audubon Society, Izaak Walton League, and the Sierra Club.

As you might suspect, the NRCA makes no attempt to adopt positions on conservation issues because of the diverse interests involved. Instead, it serves as a clearinghouse for information, and, as such, serves an extremely useful role. For example, just in the past few months, NRCA has arranged top level, informal, off-the-record briefings on such disparate subjects as weather modification, the Corps of Engineers outdoor recreation and natural resources management activities, and new congressional budget review procedures. Annually, the head of each federal natural resource agency gives us his candid views on the proposed budget for the next fiscal year. That helps each of us to make a more intelligent effort, within an organization's particular legal constraints, to insure that conservation of natural resources gets a fairer cut of the budget. In my judgment, if we are to achieve our objective of a high standard of living, it is vitally important for the professional resource manager to assume more of a lead role, especially outside of Washington, D.C., in encouraging and promoting the exchange of information between government agencies, academia, and citizen groups.

Next, I want to discuss what I personally consider the most important role which the professional resource scientist can—and should—assume; namely, improving public acceptance of the competence and integrity of the individual scientist.

What happens to the credibility and influence of the scientist with the public when they hear differing conclusions from professionals who interpret this same data? Every government operating agency has its own professionals. So does industry. So does conservation organizations. The Wildlife Society has already proposed both an individual certification and code of ethics for professional conduct of the wildlife biologist. However, there are far too many environmental scientists—whose positions on controversial conservation issues seem to be dictated more by the paycheck than by scientific objectivity.

Too many tend to reach conclusions first and then proceed to gather and analyze data which support their preconceived notions and program plans. All those interested in furthering the science of natural resource management should actively support those programs and procedures designed to bring the charlatan and prostitute scientist to a timely accounting before their peers.

I recognize fully the sensitivity of the subject and the great emotionalism surrounding it. Nevertheless, I would be less than completely candid with you if I didn't express my disappointment at the reluctance of some of our professional societies to "bite the bullet" and come to grips more effectively with this matter. It seems to me that professional societies, as the leading representatives and spokesmen of the scientific community, must do more to help restore the credibility of their profession and reinstate their position as the fountain of truth. That means establishing ethic committees for all of the various natural resource disciplines. It means calling to account those who will not abide by the code of ethics and get away with selling their voice to the highest bidder.

I am also convinced that the professional resource manager, while maintaining a strict code of ethics, must become more actively involved in an advocacy role in environmental affairs. The scientist can no longer be content with publishing the methods and conclusions of a research effort or dispassionately handling his work assignments. In this modern day of the activist and much greater public participation in policy determination, the cool, calculated, objective and expert voice of the true scientist is badly needed in molding public opinion and in formulating guidelines that will direct our national policy toward an improved natural environment and a quality lifestyle for all Americans. Participation in action programs by the professional should be separated from his role as a scientist. Collecting and interpreting scientific data should be objective and dispassionate. Considering socioeconomic and political factors has a separate set of ground rules.

Make no mistake about it—more and more of the scientifically-sound resource management practices espoused, for example, by the professional forester and the wildlife biologist for many, many years and written up in textbooks as accepted management techniques are now being held up for re-examination by skeptical, emotional minorities and the non-professional public. While some professional resource managers have a tendency to underestimate the growing groundswell of radical resource protectionism, there is a concerted and growing effort to totally prohibit consumptive uses of any wildlife resource or to prevent any form of timber harvest and management on any portion of what remains of our nation's wilderness.

Lack of professionalism coupled with some injudicious decisions such as clearcutting on steep slopes, in fragile soils, and in too large blocs, or reducing the brood stocks of animals below the optimum sustained yield levels have added more fuel to the conflagration of adverse public opinion towards all professional management.

Also of great concern is the trend for an expanding array of protectionist citizen organizations to hire their own professional scientists trained in our best institutions of higher learning, and some with considerable experience. Their principal duty is to serve as advocates of their particular philosophy. The most discouraging fact is that no distinction is made between scientific fact and philosophy or moral judgments.

To me, at least, they appear to try to lend the credibility of a resource scientist to the caterwauling of the protectionist philosophy which sees the 50-foot wall excluding man as the only means to conserve resources. To me the concept of conserving resource by the application of man's knowledge should also be considered as a viable alternative. If the growing public resentment towards resource use is to be alleviated, it will be the professional resource scientist's ability to protect our nation's resources against misuse that will turn the tide.

The average U.S. citizen of the mid-70's is much more environmentally aware than his counterpart of a decade—or even five years—ago. It's up to the professional to meet the growing challenge of convincing the layman that the professional approach to natural resources management remains sound and still offers us the best chance of safeguarding those resources for the generations of Americans yet to be born, with at least something akin to the lifestyle we currently enjoy as a people.

It remains the resource scientist's challenge and burden to convince our policymakers that the American lifestyle can be maintained without ravaging the landscape, without the diminution of the productive capacity of renewable resources or without building a 50-foot high fence around our renewable resources as the best means of preserving them.

Remember that in your efforts to "sell" professional management of natural resources you will not be alone. The National Wildlife Federation, for one, devotes a major portion of its manpower and dollar resources to educating the public. Our publications—National Wildlife, International Wildlife, Ranger Rick, Conservation News, Conservation Report and various educational pamphlets—are constantly highlighting, in one form or another, the major environmental issues. Our conservation summit program—held annually in such great locations as the Great Smokies—makes a significant educational contribution, one in which the resource scientist does and must continue to play the pivotal role of teaching the layman. So do such special NWF programs as our backyard wildlife habitat program and our program to acquire bald eagle nesting and feeding habitat with the financial assistance of enlightened corporations in the private sector, such as Southland Corporation and Anheuser-Busch Corporation. Both of these programs, incidentally, have been accepted as official bicentennial projects by the American Revolution Bicentennial Administration.

In conclusion, the grassroots organization I have the honor to represent continues to take great pride in our reasoned, sensible position on environmental issues which consistently call for orderly development of resources but only with adequate environmental safeguards and with the absolute minimum adverse impact on plant and animal ecosystems. That is why the views of professional managers continue to be solicited by most national policymakers and will have the greatest impact in shaping our nation's future.

Professional societies composed of increasingly better trained and experienced scientists accepting and promoting the highest tenets of ethics and professional conduct can and must convince our policymakers that the continuing strength of our nation and the welfare of its people will depend upon wise use of our wealth of natural resources. I define wise use as utilization of both renewable and non-renewable resources with minimal adverse environmental impact. Our unofficial poet laureate, the late Robert Frost, once said, "What makes a great nation in the beginning is a good chunk of real estate," and I say what keeps a nation great in the end is how wisely the people conserve and use those resources that good chunk of real estate has so bountiously provided. We now celebrate our nation's 200th birthday, our bicentennial. Let it not be true what is being said by some that we are a nation of resource wastrels and as a consequence we are growing too old too soon for a country so young.

Our nation can look forward to an improving respected stature in the family of nations, of maintaining a high standard of living and enjoyment of our people, but only if we learn from the history of 21 previous civilizations that became weak and decadent from squandering both their human and natural resources. The resource scientists, armed with a body of knowledge and improved skills growing exponentially, can prevent our great nation from following that destructive path. Let the resource management scenario for our nation's next 200 years be filled with confidence and hope, bolstered by an ever-increasing body of knowledge collected by an ever-improving, better qualified body of professional resource scientists. Let it be said by future historians that our generation exercised a wise and professional stewardship of the great wealth of our nation's resources held in trust for those who come after us.

LOAN GUARANTEE BILL, H.R. 12112, FOR ENERGY TECHNOLOGIES

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. TEAGUE. Mr. Speaker, I wish to call the attention of all of my colleagues to a recent letter sent by the California Public Utilities Commission to the California congressional delegation in support of H.R. 12112.

California is faced with the possibility that its residential customers of natural gas will be curtailed by the 1980's. This is a very serious situation, because it means that there will be no gas available for industry, and jobs would be seriously affected, while families are trying to cut back their thermostats. To meet this severe gas shortage, the gas utilities of the State are trying to obtain supplies from every source possible: Alaska, LNG imports, and coal gasification. According to a study by the Lawrence Livermore Laboratory, gas from Alaska will only serve to replace gas from Canada, which the Canadians have said they will cut off completely by 1980. LNG offers promise for a good supply, but once again we would be relying on foreign imports for the Nation's energy, and at $3 to $4 per thousand cubic feet. By contrast, coal gasification offers the great advantage of utilizing our domestic resources at prices competitive to LNG imports, and from a relatively inexhaustible supply.

The California Public Utilities Commission is doing all that it responsibly can to meet this shortage. Because it has acted to indicate its public support of the bill H.R. 12112 to provide loan guarantees for the development of new energy technologies, I have included the statement and resolution, which was passed by the commission on June 8, 1976, for the benefit of members interested in this legislation:

Pacific Lighting Corporation,
Los Angeles, Calif., June 15, 1976.

Hon. Olin E. Teague,
House of Representatives,
Washington, D.C.

Dear Mr. Teague: I thought you would be interested in the attached California Public Utilities Commission communication to the California delegation, supporting H.R. 12112. We have heard that an endorsement is about to come from the California Energy and Conservation Commission also.

Sincerely,

Joseph R. Rensch.

Public Utilities Commission,
San Francisco, June 9, 1976.

Joseph R. Rensch,
President, Pacific Lighting Corporation, Los Angeles, Calif.

Dear Joe: Attached for your information is a copy of a letter, individually signed by all the Commissioners, which was sent to the entire California Congressional Delegation along with a copy of the Resolution supporting HR 12112.

Sincerely,

William R. Johnson,
Executive Director.

Attachment.

Public Utilities Commission,
State of California, June 8, 1976.

As you are aware, the State of California faces a serious and imminent natural gas supply crisis. Even if projected new supplies from Alaska and Indonesia come on line with a minimum of delay, the possibility of an end to Canadian exports (which represent 45% of Northern California's gas supply) in conjunction with curtailments in "lower 48" deliveries poses a danger to meeting basic residential and commercial needs in the early 1980's.

We are convinced that the development of a prototype commercial scale coal gasification facility is imperative if we are to properly explore this promising long-run source of additional gas supply. In particular the proposed Wesco coal gasification project, which would provide significant quantities of synthetic pipeline gas to California consumers, requires a loan guarantee to obtain necessary financing. Although we recognize the level of concern about the use of loan guarantees to promote technological advances, we feel that high Btu coal gasification meets the essential criteria for such a substantial level of government involvement. We are faced with the shortage of a fuel that is crucial to the economy, makes optimal use of existing transmission, distribution and end-use infrastructure, and has highly desirable clean burning properties. Although the technology for making pipeline gas from coal has proven successful in prototype, there are inevitable cost and construction time uncertainties associated with commercial-size scale-up. Large scale investment is required in a highly regulated industry and in a time of competition for limited capital. Therefore, commercialization will require government assistance to obtain the necessary financing.

For these reasons, the California Public Utilities Commission has passed the attached resolution urging the California Congressional delegation to support HR 12112, which would provide loan guarantees necessary to the development of a synthetic natural gas industry.

Very truly yours,

California Public Utilities Commission.

Attachment.

Public Utilities Commission of the State of California

RESOLUTION

Whereas, natural gas is the predominant residential and commercial fuel in California and conversion to alternative fuels would require costly replacement of existing capital stock; and

Whereas, there exists a large, well-developed gas infrastructure in the State which will minimize the transportation and distribution as well as end-use costs of new supply; and

Whereas, gas is the cleanest burning fossil fuel with the highest system use efficiency; and

Whereas, the substitution of other fossil fuels for gas as a boiler or home heating fuel would result in substantial increases in air pollution in critical air basins, resulting in significant negative impacts on public health and welfare; and

Whereas, supplies of natural gas in the lower 48 states are likely to continue to decline, while projected development and distribution of Alaska gas cannot meet all of California's or the nation's requirements and is certain to be very costly; and

Whereas, synthetic gas made from coal potentially represents a substantial new source of this clean gaseous fuel; and

Whereas, successful demonstration has occurred of the manufacture of synthetic high Btu gas via the Lurgi process on a semi-commercial scale in Westfield, Scotland and on a pilot scale with several other processes. Nevertheless, there are inevitable cost and construction time uncertainties associated with full commercial scale-up of such facilities; and

Whereas, because of the above uncertainties, the large scale of the required investment, the regulation of the industry, and current competition for limited capital, financial institutions have indicated that they require government guarantee of their investment in the first large scale commercial synthetic gas facilities; and

Whereas, H.R. 12112 provides for such loan guarantees for commercial demonstration facilities for making high Btu gas from coal; now therefore,

Be It Resolved: That we, the undersigned, strongly urge the California Congressional delegation to support H.R. 12112 as a necessary condition for the development of a synthetic natural gas industry that can generate an additional supply of this desirable and scarce fuel.

I hereby certify that the foregoing resolution was duly introduced, passed and adopted at a regular conference of the Public Utilities Commission of the State of California, held on the 8th day of June, 1976, the following Commissioners voting favorably thereon:

D. W. Holmes,
President.
William Symons, Jr.,
Vernon L. Sturgeon,
Leonard Ross,
Robert Batinovich,
Commissioners.
William R. Johnson,
Executive Director.

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. MAZZOLI. Mr. Speaker, due to responsibilities in my district, I was not present to vote on certain matters coming before this body on Wednesday, August 25, 1976. Had I been present I would have voted as follows:

Rollcall 656: Final passage of H.R. 14070, Guaranteed Student Loan Act Amendments of 1976, "yea."

Rollcall 657: An amendment to H.R. 15194, the public works appropriations bill, to strike language prohibiting funds being made available for projects where 10 percent of the personnel to be employed on the project have resided in the project area for less than 30 days, "yea."

Rollcall 658: A motion to recommit H.R. 15194 to the Committee on Appropriations, with instructions to report it back forthwith with an amendment that sought to reduce nonobligated expenditures by 5 percent, "nay."

Rollcall 659: Final passage of H.R 15194, the public works appropriations bill, "yea."

Rollcall 660: House Resolution 1489, rule to consider H.R. 14578, to authorize various Federal reclamation projects and programs, "yea."

TROTSKYISM AND TERRORISM: PART I—THE SOCIALIST WORKERS PARTY AND THE FOURTH INTERNATIONAL

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. McDONALD. Mr. Speaker, in recent months a great deal of mass media attention has been directed toward the Socialist Workers Party—SWP—and its youth arm, the Young Socialist Alliance—YSA—as a result of lawsuits filed by the SWP against various Federal and local law enforcement and intelligence gathering agencies.

Almost without exception, newsmen and editors have taken at face value the self-serving statements of Socialist Workers Party leaders. The basic SWP line is that the organization is a peaceful electoral political "third party" which has never engaged in any violence, which opposes terrorism, which has not been a member of any international political organization since 1940 when the SWP resigned from the Fourth International, the principal international coordinating body for Trotskyist communists, to comply with the Voorhis Act, and which is being "harassed" by the Government merely for being openly socialist and for openly dissenting from the established political and economic system.

The facts show the opposite. The Socialist Workers Party is the United States section of the Trotskyite Fourth International. Leading SWP officials serve on the highest bodies of the Fourth International—its United Secretariat and its International Executive Committee. Membership in the Fourth International is available only to national sections, not to individuals; and only representatives of national sections may serve in the Fourth International executive bodies. Therefore it is apparent that the SWP is lying when it denies such membership.[1]

For the past few years, the Fourth International is engaged in extensive internal discussions on whether terrorism is a useful and appropriate revolutionary tactic at this time. The majority of the Fourth International favor the immediate use of terrorism on the broadest scale feasible in as many countries as possible. The minority in the Fourth International which includes the Socialist Workers Party argues that while terrorism may be a useful tactic in the future under different circumstances, it is a counterproductive tactic at this time. While these discussions have proceeded, a number of Fourth International sections have been engaged in terrorism.

This report will document the relationships between the Socialist Workers Party and the Fourth International and the world-wide Trotskyite terrorist apparatus.

Footnotes at end of article.

BACKGROUND OF SWP AND FI

The Socialist Workers Party, the oldest and largest Trotskyist communist party in the United States, evolved in 1938 from earlier Trotskyist organizations. The American Trotskyists were led by James B. Cannon and Max Schathtman, prominent figures in the Communist Party, U.S.A. (CPUSA) who with other supporters of Trotsky were expelled from the Communist Party in 1928 and who then formed the Communist League of America. In 1934 Cannon's Communist League of America merged with a group led by A. J. Muste to form the Workers Party. In 1936 on Trotsky's orders, the Workers Party group went into the Socialist Party, U.S.A. where the Trotskyites tried to take over. Nearly two years later, the Socialist Party expelled the Trotskyites. Cannon then formed the Socialist Workers Party.[2]

In brief, the split between Trotsky and Stalin was a personality and factional fight which had political differences added as a facade to the quarrel. After the death of Lenin in 1924, Trotsky, a leading figure in the Russian revolution and founder of the Red Army, was unable to prevent Stalin's bid for absolute power. Expelled from the Soviet Communist Party and its Central Committee, Trotsky was deported from Russia in 1929 and assassinated by a Stalinist secret police agent in Mexico in 1940.

Trotsky is often represented, particularly by Trotskyists, as having been opposed to totalitarianism and terrorism and that this was one reason he opposed Stalin. The truth is exactly the opposite. Trotsky was Lenin's closest supporter and collaborator. Trotsky participated and supported the state terrorism set up by Lenin—the purges, the persecution of political opponents, the slave labor camps and deportations to Siberia.

In 1922, before his expulsion from Russia, Trotsky wrote:

> A victorious war, generally speaking, destroys only an insignificant part of the conquered army, intimidating the remainder and breaking their will. The revolution works in the same way: it kills individuals and intimidates thousands. In this sense, the Red terror is not distinguishable from the armed insurrection, the direct continuation of which it represents. * * *[3]

Despite the bitterness of the strife, Trotsky always maintained that the Soviet Union must be supported against the capitalist world. He argued that the Soviet Union was a workers state even if deformed by Stalinism.

> It is, consequently, the elementary and imperative duty of all workers, and especially of the revolutionary Party, to defend the Soviet Union unconditionally against any and every imperialist nation. * * *

Thus the SWP echoed Trotsky in the "Declaration of Principles and Constitution of the Socialist Workers Party," adopted at its founding convention.

Trotsky organized the Fourth International in 1938. The Socialist Workers Party played an important role in the formation of the new communist international.

However, the initial operations of the

Fourth International were seriously disrupted by a series of assassinations of Trotskyist leaders, including Trotsky, by Soviet GPU—now KGB—agents, by the 1941 Smith Act prosecutions in Minneapolis of 18 top Socialist Workers Party leaders who were jailed for advocating the overthrow of the U.S. Government by force and violence; and by World War II which virtually destroyed the organized Trotskyist movement in Europe. Some key cadres were killed by the Stalinists, others by the Nazis.

During the war the Trotskyist Communists continued to support the Soviet Union, stating that the Marxist-Leninist revolution was merely "deformed" by Stalin. James Cannon introduced a resolution at the SWP's 1942 convention, only 2 years after the murder of Trotsky, which stated:

> The war of the Soviet Union is our war, the war of the workers everywhere. * * * We are the Soviet patriots in war as in peace.[4]

At the end of the Second World War, the Socialist Workers Party was virtually the only organized and functioning Trotskyist communist party in the world. The SWP leadership selected Michel Raptis, a Greek who uses the alias Michel Pablo in the Trotskyist movement; and Ernest Mandel, alias Ernest Germain, a Belgian intellectual and Trotskyist theoretician, to reconstruct the Fourth International in Europe. Pablo served as secretary of the Fourth International.[5]

The Mandel-Pablo leadership of the Fourth International developed a theory that mankind must be prepared for "generations of deformed workers' states."[6] By this they meant that the Soviet form of communism, including the whole repressive terrorist state apparatus of secret police, slave labor camps, et cetera, would be the dominant force in the world for many generations. While they considered this form of socialism unfortunate, they felt that it was preferable to capitalism. It was the duty, therefore, of Trotskyists to support the Stalinist movement and to aid it in taking power.

Thus Mandel and Pablo advocated a program they termed "entrism" by which they called on the Trotskyist parties to dissolve as public entities and for Trotskyists en masse to enter the Communist parties in which the Trotskyists would then function as a secret faction.

The Socialist Workers Party leadership headed by James Cannon opposed the "entrist" policy. A middle position, supported by some Trotskyists, was that they should enter into the periphery or front organizations of the communist parties. When the SWP leadership discovered that an SWP faction supporting entrism had received secret help from the Fourth International leadership, the SWP precipitated a split in the International. The SWP joined with the Socialist Labour League in England—Healyites—and a French group—Lambertists—to set up a new organization, the International Committee of the Fourth International. The Pablo-Mandel group called themselves the International Secretariat of the Fourth International. This split, which began in 1953, lasted until 1963.[7]

During this period, Michel Pablo (Raptis) carried out "entrism" by serving as an underground agent for the communist faction of the Algerian terrorist National Liberation Front (FLN). Raptis was arrested and convicted in Holland in 1961 of offenses committed while carrying out that activity.[8]

The Socialist Workers Party broke with Healy and Lambert in 1963 and rejoined the International Secretariat which was then renamed the United Secretariat of the Fourth International.

A small group of Latin American Trotskyists actively engaged in terrorist activities then split away from the United Secretariat. This group, led by Juan Posadas, called themselves the Latin American Bureau of the Fourth International.

Shortly after the 1963 merger, Michel Pablo led another small group out of the Fourth International. For his services in the FLN underground, the Ben Bella government gave Raptis a job; however, after the Boumedienne coup Raptis was fired.

THE FOURTH INTERNATIONAL (UNITED SECRETARIAT)

The basic policymaking body of the Fourth International—FI—is the World Congress which is convened at varying intervals. Since the June, 1963, Seventh World Congress — Reunification — in Italy, World Congresses have been held in December, 1965—8th; April, 1969—(9th); and in February, 1974—10th—in Sweden.

The representatives of the national sections attending the Fourth International World Congresses select the members of the International Executive Committee—IEC—which is the ruling body between World Congresses. The IEC, by faction, in turn selects the members of the United Secretariat—USec—which meets roughly on a monthly basis and controls the Fourth International's day-to-day operations between IEC meetings.

The Fourth International's headquarters or Bureau are in Brussels, Belgium—76 rue Antoine Dansaert, Brussels 1000, Belgium—and its current confidential mailing address is in care of Gisela Scholtz—Mrs. Ernest Mandel—Boite Postale—Post Office Box—1166, Brussels 1000, Belgium.[9] Representatives of the Fourth International's member parties work at the FI Bureau. The representative of the Socialist Workers Party in the Fourth International Bureau is John Benson who uses the alias "Johnson" or "Benny Johnson." He has been an alternate member of the SWP National Committee snce 1971.[10] A John Benson was the leader of the SWP's Young Socialist Alliance branch in Philadelphia in the mid-1960s.[11]

SWP FUNCTIONARIES IN THE FOURTH INTERNATIONAL

The minutes and voting record of the 1974 Tenth World Congress of the Fourth International reveal that the Socialist Workers Party had a total of 24 full voting delegates present. Two of these were supporters of the International Majority Tendency (IMT), the controlling majority faction which supports the broad use of terror tactics now; and 22 of the SWP delegates were supporters of the minority faction. It is again noted that these records are contained only in confidential internal publications of the Fourth International and are not available to persons who are not disciplined members of the FI's national sections.[12]

A comparison of internal Fourth International memoranda circulated by Mary-Alice Waters dated November 28, 1975, and December 19, 1975, with material in other confidential SWP and Fourth International publications, the SWP Discussion Bulletin, vol. 33, No. 4, June, 1975, p. 45, and the International Internal Discussion Bulletin, vol. 11, No. 5, April, 1974, p. 201, reveals that six top members of the Socialist Workers Party serve on the United Secretariat and travel regularly to Brussels to participate in Fourth International organizational matters. They are:

*Jack W. Barnes, aka "Celso", SWP National Secretary; member SWP Political and National Committees.

*John Benson, aka "Johnson," alternate member SWP National Committee resident in Brussels and serving as a full-time SWP functionary in the Fourth International headquarters.

*Joseph Hansen, aka "Pepe," long a leader of the SWP, Hansen had been one of Trotsky's bodyguards and had taken most of them up onto the roof of Trotsky's house to check a new security system at the time GPU agent Ramon Mercader arrived with his ice axe. Hansen is editor of the Fourth International's weekly magazine, *Intercontinental Press*, which the SWP publishes for the FI. Hansen remains active in SWP relations with the Fourth International and with *Intercontinental Press*, but was removed from the Political Committee in a reorganization in May, 1975.[13]

*Gus Horowitz, aka "Galois," a member of the SWP National Committee living in Paris and serving as an SWP liaison with foreign Trotskyites. Since his international activities interfere with regular attendance at U.S. meetings, Horowitz left the SWP Political Committee in the May, 1975, reorganization.[14]

*Ed Shaw, aka "Atwood," a member of the SWP National Committee who because of his international activities also left the SWP Political Committee in the May, 1975, reorganization.[15]

*Mary-Alice Waters, aka "Therese," a member of the SWP Political and National Committees highly active in the work of the minority faction in the Fourth International.

The documents also show that all six of the Socialist Workers Party representatives in the United Secretariat are also leading members of the minority Leninist-Trotskyist Faction—LTF—steering committee and also are full members of the International Executive Committee. Other SWP members serve on the IEC as alternates—Mitchell, Pedro, and Susan—and on the EOC Control Commission—Bundy.

Two other Americans also serve on the IEC. They are John Barzman, alias "Hovis," and William Massey, alias "Moss." They are the leaders of a pro-terrorism-now faction. Most faction members were expelled from the SWP shortly after the Tenth World Congress for violating procedural rules, not for advocating terrorism. The Fourth Inter-

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Footnotes at end of article.

national majority is pressuring the SWP to readmit Barzman, Massey, and their followers.

SWP FINANCIAL AND OTHER SERVICES TO THE FOURTH INTERNATIONAL

The publications of the Fourth International include two confidential serial magazines, the International Information Bulletin and the International Internal Discussion Bulletin.

The International Information Bulletin's English language edition states it is "Published as a fraternal courtesy to the United Secretariat of the Fourth International" by the Socialist Workers Party.

The International Internal Discussion Bulletin issues state they are the "English-language edition of the internal discussion bulletin of the United Secretariat of the Fourth International" which "is published by the Socialist Workers Party as a fraternal courtesy to the United Secretariat of the Fourth International."

The public documents of the Fourth International include the bi-weekly magazine Inprecor—International Press Correspondent—which states it is the "fortnightly information organ of the United Secretariat of the Fourth International published in English, French, Spanish and German" in Brussels—76 rue Antoine Dansaert, Brussels 1000, Belgium.

Intercontinental Press is published by the Socialist Workers Party for the Fourth International in English in New York from P.O. Box 116, Village Station, New York, N.Y. Intercontinental Press, formerly World Outlook, states that "unsigned material stands on the program of the Fourth International." Its editor is Joe Hansen. The contributing editors are the three top leaders of the pro-terrorist IMT faction, Ernest Mandel, Livio Maitan and Pierre Frank; and George Novack, a veteran functionary of the Socialist Workers Party.

While avoiding technical violation of the Voorhis Act, the SWP picks up the expenses for the English language editions of the two confidential internal magazines and for the production of International Press.

A letter to Ernest Mandel in Brussels from Barry Sheppard, the SWP organization secretary on behalf of the SWP political committee dated June 28, 1974, makes clear the Socialist Workers Party is a section of the Fourth International and that it has used a variety of means to overcome the ban on financial contributions to its parent organization. Sheppard wrote:

> DEAR COMRADE MANDEL:
>
> The Political Committee of the Socialist Workers Party has considered the report from Comrades Johnson [John Benson], Atwood [Ed Shaw] and Therese [Mary-Alice Waters] that took place at the May meeting of the United States Secretariat under the agenda point designated as "finances."
>
> * * * * *
>
> However, at the last meeting of the United Secretariat, some comrades of the majority, we were told, even went so far as to make remarks like "We're getting tired of hearing about this Voorhis Act excuse," and comments of a similar nature. Threats were made by some to bring out alleged "records" to "prove" that the SWP has in the past given cash to the Fourth International. We can only assume that such comments stem from ignorance, since obviously there have been no such contributions.
>
> * * * * *
>
> On the substance of the matter, it seems to us that some of the implications are quite grave.
>
> Since the SWP is unable to affiliate with, accept financial support from, or contribute to the Fourth International, it was always understood that the SWP took responsibility for legitimate SWP expenses such as:
>
> 1. Living and travel expenses abroad for one or more SWP leaders;
> 2. Travel expenses for our observers, which are extremely high because of the fact that the headquarters of the world movement is located in Europe;
> 3. Printing and distributing free of charge as a fraternal courtesy to the United Secretariat an English-language internal discussion bulletin (in the last year this has been expanded to include a series of Spanish-language bulletins also);
> 4. Postage for international bulletins printed in the U.S.A.;
> 5. Purchase of substantial quantities of Trotskyist literature published in the U.S.A. to facilitate its circulation at reasonable prices in colonial and semicolonial countries;
> 6. Assuring the regular publication of *Intercontinental Press*, the weekly magazine of the Fourth International.
>
> Since these expenses come to many thousands of dollars a month (several times more than the contributions of the largest sections and sympathizing organizations) our cothinkers in the world Trotskyist movement have always agreed with us that morally this was equivalent to what official sections of the International contributed to the work of building the world movement.[16]

Sheppard goes on to say that this is the basis on which the SWP has operated with the Fourth International since reunification in 1963. In other words, the SWP is paying the living and travel expenses of John Benson and Gus Horowitz, its representatives at the Brussels Fourth International headquarters. It pays all travel expenses for SWP members traveling on Fourth International business. It prints and distributes the English language confidential internal Fourth International publications. It subsidizes the publication of "vast amounts" of Trotskyite literature and picks up the distribution costs. And the SWP publishes the Fourth International's weekly news magazine for the FI. These expenses are paid by the SWP in lieu of direct cash contributions and have been accepted as the SWP's fair share of Fourth International costs to be paid by each national section.

The fact that the Socialist Workers Party is actually a section of the Fourth International and that its "sympathizing" or "fraternal" status is a mere fiction is also shown by the fact that leading members of the Fourth International's International Executive Committee have attended sessions of the SWP national conventions open only to SWP delegates and top functionaries. At these sessions, even members of the SWP and YSA who are not delegates, but who are attending as observers are not admitted.

At the August 1973, SWP national convention, Livio Maitan, alias "Domingo" and "Claudio" spoke at length on behalf of the International Majority Tendency supporting terrorism. Maitan is the head of the Italian section of the FI and with Ernest Mandel and Pierre Frank of France is a top leader of the FI. Accompanying Maitan was Peter Petersen, another Fourth International IEC leader from the British FI section.[17]

In 1973, Charles Micheloux, a FI–IEC member and leading member of the Fourth International's French section, the LCR, toured the United States speaking to Young Socialist Alliance meetings in support of the proterrorism line of the IMT majority faction and supporting like-minded members of the SWP and YSA.[18] His tour was in accord with the Statutes of the Fourth International. Statute 14 states:

> The International Executive Committee cooperates with the national sections in helping to raise the theoretical, political, and organizational level of their internal life. * * * intervention of this kind (is) carried on by such activities as tours and visits by members of the International leadership. * * * the International has the right to send a representative to present its views.

Statute 14 continues:

> Such representatives are responsible to the United Secretariat and the International Executive Committee. The national leadership should cooperate closely, giving representatives of the International Executive Committee voice (but only consultative vote) in all leading bodies, enabling them to discuss freely with the membership, and permitting them to present motions if they wish.

Thus, in 1974, Micheloux attended a closed, as usual, meeting of the SWP National Committee as a representative of the IEC and its controlling "terrorism-now" majority.[19]

The fact that the Socialist Workers Party is under the discipline of the Fourth International was again demonstrated at the August, 1975, SWP National Convention. Both the majority and minority factions of the Fourth International have been trying to bring into the Fourth International other Trotskyist parties who had previously split with the organization in order to bolster their factions.

The Mandel leadership has been involved in unity maneuvers with Michel Pablo and his group. The SWP has carried on the same kind of activity with Lambert and his OCRFI. In 1971 Lambert broke with Healy.[20]

The SWP invited observers to attend its convention from the French Lambertist group, the OCRFI. As Jack Barnes explained:

> We invited the comrades of the OCRFI to observe the open sessions of our convention * * * with the proviso that the closed sessions will be closed to them as to other observers, and open only to the convention delegates and the IEC members of the Fourth International here as observers."[21]

In other words, even friendly Trotskyite observers from groups outside the Fourth International are barred from attending the closed sessions of the SWP convention, while the representatives of the Fourth International IEC are admitted as full participants.

FOOTNOTES

[1] "Statutes of the Fourth International," adopted without change at the Tenth World Congress, February 1974; *Intercontinental Press*, Vol. 12, No. 46, December 23, 1974, pp. 1837–1840.

[2] James P. Cannon, *The History of Ameri-*

can Trotskyism, Pioneer Publishers, New York.

[3] Leon Trotsky, *Dictatorship vs. Democracy,* Workers (Communist) Party of America, New York City, 1922, pp. 58–59.

[4] James P. Cannon, *The Workers and the Second World War,* Pioneer Publishers, New York, pp. 25, 26.

[5] Tim Wohlforth, *The Struggle for Marxism in the United States,* p. 54; *Education for Socialists: Towards a History of the Fourth International, Part 2,* National Education Department of the Socialist Workers Party, 1976 reprint.

[6] See *International Information Bulletin,* December 1949, "On the Class Nature of Yugoslavia," by M. Pablo; *International Information Bulletin,* January 1950, "The Yugoslav Question, The Question of the Soviet Buffer Zone, and Their Implication for Marxist Theory", *SWP Internal Bulletin,* February 1950, "The Problem of Eastern Europe," by Joseph Hansen.

The *International Information Bulletin* was published by the SWP from the *Internal Bulletin* of the International Secretariat of the Fourth International. Pablo was the name used by Raptis; Germain was Mandel.

[7] See *International Socialist Review,* New York (published by the SWP), Fall, 1963; *4th International,* Paris (published by the United Secretariat), October–December, 1963.

[8] *4th International,* Paris, Summer 1960; Winter 1960–61 (published by International Secretariat of the Fourth International).

[9] Letter from SWP National Secretary Jack Barnes to Pierre Lambert of the Central Committee of the Organisation Communiste Internationaliste (OCI), the French section of the Organisation Communiste pour la Reconstruction de la 4 Internationale, dated October 9, 1975, and circulated in a memorandum by Mary-Alice Waters dated November 1, 1975.

[10] *SWP Discussion Bulletin,* Vol. 31, No. 4, May, 1973, p. 5; *SWP Discussion Bulletin,* Vol. 33, No. 4, June 1975, p. 51; (SWP) *Internal Information Bulletin,* October, 1975, p. 10 No. 2 in 1975.

[11] *YSA Discussion Bulletin,* February, 1967, pp. 6, 7, 12, 13.

[12] *International Internal Discussion Bulletin,* Vol. XI, No. 5, April, 1974, pp. 13–14.

[13] *SWP Discussion Bulletin,* Vo. 33, No. 4, June, 1975, "Report on National Committee Perspectives and Election of Political Committee," by Jack Barnes, pp. 48, 50.

[14] Ibid.

[15] Ibid.

[16] *Internal Information Bulletin,* No. 8 in 1974, August 1974, p. 37.

[17] *Internal Information Bulletin,* No. 7 in 1973, December 1973, pp. 8, 9.

[18] *Young Socialist Discussion Bulletin,* December 1973.

[19] *Internal Information Bulletin,* No. 6 in 1974, July 1974, p. 58.

[20] *International Internal Discussion Bulletin,* Vol. XII, No. 6, October, 1975, (Documents and Correspondence Concerning the Organizing Committee for the Reconstruction of the Fourth International and their Request for Discussion With the United Secretariat); Mary-Alice Waters Memorandum "To the Leninist-Trotskyist Faction Steering Committee, "November 1, 1975 (Two Letters from Pierre Lambert, and a reply from Jack Barnes); *Internal Information Bulletin,* No. 9 in 1976, July 1976, (particularly "Relations with Trotskyist Organizations, or Groups Claiming to be Trotskyist, Which are Outside of the Fourth International" Motions adopted by United Secretariat meeting July 3–4, 1976; and "Translation of a letter from Michel Pablo to Ernest Mandel, dated February 11, 1976").

[21] *International Internal Discussion Bulletin,* Vol. 12, No. 6, October 1975, p. 39.

EMPTY SCHOOLS

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. HEINZ. Mr. Speaker, in March of this year, I introduced two bills which are designed to help recycle thousands of abandoned school buildings across the country. The Surplus School Conservation Act of 1976 would provide HUD grants to help communities renovate and convert abandoned school buildings into other community facilities. The Surplus School Conversion Act of 1976 would offer tax incentives for private developers to convert abandoned school buildings into commercial uses and thus restore them to the tax rolls.

My legislation has attracted strong support from educational and preservation groups across the country. In recent months, favorable articles concerning this proposal have appeared in Education Daily, Nation's Schools Reports, and several preservation publications. In addition, the New York Times, the Philadelphia Bulletin, the Washington Post, and several papers in Pennsylvania have featured editorials and articles endorsing this concept. I am pleased that nine of my colleagues are joining with me today as I reintroduce this important legislation. For my colleagues' benefit, I would like to include in the RECORD a Philadelphia Bulletin article, a Washington Post editorial, and a copy of a letter I wrote to the editor of the New York Times:

[From the Washington Post, Aug. 23, 1976]

EMPTY SCHOOLS: A NEW OPPORTUNITY

Whether or not "we are now entering the age of slowdown," as economist Kenneth Boulding predicts, we are already facing a slowdown in school enrollment in thousands of school districts around the country. At first the prospect of empty school buildings shocks the community. Once the sense of crisis has passed, however, many communities are beginning to see decreasing enrollment as an increasing opportunity—a new resource to improve education, improve the neighborhood and enrich the lives of persons of all ages. A vacant or partly vacant school building provides an opportunity to eliminate inefficient, badly located or otherwise undesirable buildings. It can also be used to expand libraries or provide better space for music, art, science and vocational and career programs—space that often had to be omitted when the school construction rush was on only a few years ago. Vacant school buildings can be converted into community centers (lately also called "human services centers"), for use by the elderly, or for adult education. In some instances, the availability of school buildings has helped the center city to attract families back from the suburbs.

In Washington, a public library branch now occupies the second floor of the Garnet C. Wilkenson Elementary School in Southeast, which will open this fall. The building was still under construction when it was discovered that the anticipated enrollment of 1300 pupils was 400 too many. The only structural change required to accommodate the library was to build a separate street entrance and elevator for it. In Arlington, the school district has so far re-used 12 buildings fully or in part for new purposes, sold one and is undecided about another. The watchword is community service, with a myriad of programs from expanded kindergartens to senior citizen lunches. Since there is a limit to the number of government programs that need housing, Arlington County has established a citizen committee that has recommended guidelines for selecting nongovernmental tenants in empty schoolhouses. The county is to retain ownership of the building and only lease the space. Youth activities are to have priority, followed by agencies that benefit the community and compatible enterprises.

The problems and opportunities of decreased enrollment are discussed in a new publication by the Educational Facilities Laboratories, a nonprofit organization that encourages and guides improvements in all kinds of educational buildings. Entitled "Surplus School Space: Options and Opportunities," the pamphlet surveys ideas and experiences from all over the country. Foxboro, Mass., for instance, converted a 1952 schoolhouse for use by handicapped children, a crisis telephone service, adult education, art club and programs for senior citizens and teenagers. Space in the Kalamazoo (Mich.) Central High School is leased to a private business school. In Rochester, N.Y., an elementary school and its adjacent 22 acres now serve the community as a nature center. In Rotterdam, N.Y., a surplus school has become a center for the blind; in Dayton, Ohio, one serves teacher training; in Boulder, Colo., one yielded studio space for artists. There are many more examples.

The toughest decision as to whether to abandon or convert is faced by center city school boards and neighborhoods. There is, of course, a great temptation to demolish surplus educational facilities in order to reduce maintenance costs and possibly pick up cash by selling the properties. In most instances this temptation should be resisted, however, because without at least school *buildings* the center city will lose what is left of its residential character and drive out what families remain. It would frustrate current efforts to improve the inner city and to accelerate the return of suburban middle-income families who are restoring deteriorated houses downtown. In Jackson, Miss., the EFL report relates, rebuilding of slum areas has been successful largely because the school buildings remain available. Most are currently put to other use. But the city will return the buildings to the children as soon as their families are settled.

[From the Philadelphia Bulletin, May 23, 1976]

SCHOOL CLOSINGS PUT PARENTS ON WARPATH

(By Carole Rich)

Loretta Miller understands why her school board wants to close a school next year.

She just doesn't understand why it has to be her children's school.

No single issue confronting school boards has generated as much emotion as the decision to close schools. And that decision, which was somewhat unusual a few years ago, has become commonplace throughout Montgomery, Bucks, Delaware and Chester counties. School boards have decided to close schools because enrollments are declining and the costs of education are rising.

Throughout the suburban Philadelphia area thousands of parents like Mrs. Miller are reacting to their school boards' decisions to close schools with anger, bitterness and frustration.

Mrs. Miller of 518 Hillside ave, Penndel in Bucks County tried to persuade the Neshaminy School Board against the closing next year of the Hoover Elementary School which two of her three children attend. The school board plans to close the Eisenhower Elementary School next year also.

"It was to no avail," Mrs. Miller said. "They (school board members) listened but they didn't hear. Their minds were made up even before they took a vote."

1,000 SIGNERS

Miles away in Montgomery County Mrs. George Parish sits in her Springfield Township home feeling bitter about her school board's decision to close the Wyndmoor Elementary School next year. She and her husband are co-chairmen of the school's PTA.

"We felt as though we had gotten it in the neck," Mrs. Parish said. "We circulated petitions (to keep the school open) and got over 1,000 names. I have a feeling they went into the trash. We had the feeling that most of the board members had already made up their minds."

Bernard Hoffman, assistant to the superintendent in the Neshaminy School District of Bucks County, says the parents are "no more upset than we are." The dispute over closing schools in the district was "the worst thing I have ever seen," he said.

"It's a hated decision," Hoffman said. "It's an ugly situation. The public does not trust the leaders in Federal Government and now they are beginning to look at school boards and school administrations the same way."

In addition to the Nesaminy, Bucks County, School District and the Springfield, Montgomery County, School District, other school districts which will close schools at the end of this school year are as follows:

Cheltenham in Montgomery County will close Ogontz Junior High this June and the Lynnewood and Rowland Elementary Schools in June 1977.

Perkiomen Valley in Montgomery County will close the Perkiomen Valley Junior High in Schwenksville.

Interboro in Delaware County will close the Interboro Junior High Echool in Prospect Park.

Chester-Upland in Delaware County will close in the Franklin Elementary School on Franklin st. in Chester. Centennial in Bucks County will close the Warminster Elementary School. Pupils from the Lacey Park Elementary School will be transferred to another school but the building will be kept open for other school programs. West Chester School District in Chester County will close the High Street Elementary School in June.

UNDER STUDY

School districts will studying the possibility of closing schools next year are Norristown in Montgomery county where the school board is considering closing the Clifton Heights Junior High School.

The Springfield School Board of Delaware County has decided to close the Central Elementary School in 1977.

The Abington School Board of Montgomery County is studying the possibility of school closings in 1977, but will not close any facilities next fall.

Both the Colonial School District in Montgomery County and the Bristol School District in Bucks County had considered closing some schools next year but decided against it because of parent opposition and recommendations from citizens who studied the situation.

In Cheltenham Township, where enrollments have been declining steadily for years, the school board's decision to close several schools over a three-year period was unpopular but not shocking. But when the school board first decided to close a school three years ago, parents protested vigorously. That 80-year-old building, the Shoemaker Elementary School, now nets the district $17,500 in rental fees from a private school which leases it.

ONLY 14 YEARS OLD

For Neshaminy School District residents, the issue of school closings is further compounded by the fact that most of the schools are relatively new—Hoover is only 14 years old and an addition to it was built 10 years ago.

Just seven years ago the population was still growing in this school district, which serves Lower Southampton and Middletown townships and Langhorne, Langhorne Manor, Penndel and Hulmeville boroughs.

Neshaminy **School Board** members predicted in 1969 that they would need to build a new elementary school by 1977. But the population trend reversed, the declining birth rate took its toll and next year the district projects a decrease of 600 pupils, leaving some 11,900 pupils in the system.

The Neshaminy School Board estimates that the two schools it plans to close next year will save the district about $225,000. But even with the savings, the board is considering layoffs of some 30 or 40 teachers, a five-mill increase in real estate taxes to 105 mills ($105 on each $1,000 of assessments on property) and a new occupational tax to finance a $22.4-million budget. The taxes are also needed to offset a loss of $1.2 million in state aid due to a revised state-aid ratio in Bucks County.

'THE WRONG SCHOOL.'

Loretta Miller said she understands that "sometimes it is necessary to close a school" to save money.

"I feel they picked the wrong school," Mrs. Miller said.

Hoover Elementary School parents are particularly distressed because the children currently in the school will be sent to four different schools next year. The parents submitted their arguments to the school board and even sought an injunction against the school closing from the Bucks County Common Pleas Court. But the court dismissed the suit on the grounds that the school board has the right to make such a decision.

Neshaminy School Board President Donald Markol said that no matter what reasons a school board gives for closing a particular school, the explanations will never satisfy some parents.

"I think it probably all stems from frustration," Markol said. "If they (parents) think that school boards have already made up their minds, nothing you say will change their thinking."

"Many people are frustrated with all levels of government and we're readily accessible," Markol said. "Their frustrations are taken out of us."

In the small Delaware County community of Clifton Heights, irate parents said they were frustrated with the school board because parents were told at an April board meeting that no schools would be closed in the Upper Darby School District next year. The next night at a school board budget session, the board announced it would consider closing the Clifton Heights Junior High School next year. The board will vote on this matter tomorrow night.

Upper Darby School Board member Mary Black said the main reason for considering the school closing is to save money. She said the circumstances surrounding the announcement would "definitely make parents feel kind of distrustful toward school boards, but I don't think it has to be that way."

TIME TO "RECYCLE" ABANDONED SCHOOLS

TO THE EDITOR:

On June 19 and 20, The Times published two news articles about the growing problem of school closings and the unused buildings which result. Thousands of school buildings throughout the country have been abandoned due to decreasing enrollment, population shifts, consolidation and other reasons unrelated to the building's structural condition. In Pennsylvania, 144 schools were closed between September 1974 and September 1975; 120 are to close this academic year. In New York State, over 200 schools were closed during the last academic year.

Demographic data points to an increase in this trend. A recent study in Providence, R.I., predicted that, because of declining enrollment, within ten years Providence would have twice as many schools as it will need. Thus, many school administrators are faced with the problem of closing relatively modern schools which have yet to be paid for.

Most abandoned schools are centrally located and could be converted into valuable community resources instead of empty targets for vandalism and disrepair. But financially strapped localities are finding that funds to convert the buildings to other public uses or suitable private usese are nearly impossible to obtain. Yet experience shows it can be done:

In Ithaca, N.Y., a school building was recycled into a shopping center, housing for the elderly and private offices.

In Dayton, Ohio, a 2,200-student high school was converted to a center for manpower training, adult basic education and community recreation.

Other cities have converted schools into community health centers or plants for light industry, and a school in Long Island City, Queens, was even converted into a community art center, as your June 20 news article illustrated.

Earlier this year I introduced two companion measures in the House to help communities convert their unused school buildings to new public and private uses. The first, the Surplus School Conservation Act (H.R. 12627), makes housing and urban development grants available to localities to cover 80 percent of the cost of converting the school buildings into other appropriate public uses. The second measure, the Surplus School Conversion Act (H.R. 12628), provides a tax incentive for private industry to purchase empty school buildings and develop them as commercial properties.

It is time to recognize that our resources are liimted and that we cannot afford to waste a single element—even buildings. In short, it is time to "recycle" our abandoned schools.

H. JOHN HEINZ III,
Member of Congress, 18th District, Pa.
WASHINGTON, *July 2, 1976.*

A HISTORY OF RURAL AMERICA

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. NOLAN. Mr. Speaker, our Bicentennial celebration has prompted many Americans to spend long hours searching dusty records for insights into the past. They have developed family and community histories which tell the story of generations of hard work and personal initiative. The following history, compiled by Dr. John Eddy of Howard Lake, Minn., is one such account of a family in rural America.

A HISTORY OF THE NURSERIES OF HOWARD LAKE: 1888–1976

(By Dr. John Paul Eddy, Professor at Loyola University of Chicago)

Howard Lake, Minnesota has been a center for the nursery business for Wright County and for Central Minnesota since the 1880's. At various times, Howard Lake has had as many as two operating nurseries under different management during the same period of time. The history of the first nursery begins with Mr. E. J. Cutts who in the 1880's founded the Howard Lake Nursery even as he grew grapes. As former Horticultural Editor of the *Northwestern Agriculturist* and state-wide lecturer on horticulture, Mr. Cutts was a devoted practitioner of horticulture and a dedicated Christian who witnessed of God in the growing of plants. One of Mr. Cutts' students, who worked for him for seven years, was Mr. William Henry Eddy Sr. Mr. Cutts died suddenly in the late 1890's.

Mr. Eddy was descended from John Eddy—son on an Anglican Priest from Cambridge, England—who came to America (Plymouth, Massachusetts) in 1630. Later, John bought land to farm from the Indians in 1640 and settled in Middleboro, Massachusetts having been part of both the Pilgrim and Puritan Communities at one time or another.

Mr. Eddy established the Victor Nursery in Victor Township Southwest of Howard Lake, Minnesota in 1895. On December 23, 1896, Mr. Eddy was married to Miss Ida C. Little, daughter of the Reverend David Little—a Methodist Minister who once did religious work with the Reverend Dwight L. Moody, Mr. Ira D. Sankey, and Mr. Philip P. Bliss. Together, Mr. & Mrs. Eddy moved their nursery headquarters to the village of Howard Lake in 1906 and in the Southeastern area of town built their building that housed the nursery facilities. Fruit orchards, arbors and patches were begun.

Under the ownership of Mr. & Mrs. Eddy, the Howard Lake and Victor Nurseries became one of the largest wholesale and retail businesses in Wright County for many years. During the months of April through June, it was—for years—the largest seasonal employer of persons as a commercial firm in the Howard Lake Region with as many as 42 full-time persons employed along with over a dozen part-time youth in the field work alone. Over 85 salesmen were employed at one time during the World War I Period and they sold stock in Minnesota, North Dakota, South Dakota, as well as throughout the Midwest. At one time, the Nursery packed "Wrap-A-Pack" nursery stock for Sears and Roebuck Company—one of the world's largest merchandise corporations—so plant materials were distributed nation-wide.

The two largest landscaping jobs done by the Nursery were the Veterans Hospitals in Minneapolis and St. Cloud, Minnesota. These planting projects were completed in the early 1930's. The stock now has a park like growth.

Mr. & Mrs. Eddy had eight children (Edwin, Eva, Paul, Priscilla, Ella, Ida, Howard and William Henry Junior) that lived, with one child (Clark) dying in childbirth. Over the years, children married and their spouses and children worked at various times with the Nursery and in general farming so it was like one big family reunion during some busy Spring planting seasons. The four sons of Mr. Eddy worked together with their father in the business for a number of years. Then, in the 1940's, Howard started a nursery in Hutchinson and Paul began a nursery west of Howard Lake. These two new nurseries grew following World War II.

In 1955, Edwin and William Henry Junior (Mill) assumed the management of the Nursery from their father, who lived until he was 95 years of age when he died in 1964. Ed sold his share to Mill in 1959. Then, in 1969, Mr. Larry Powers of Minneapolis purchased the Nursery and the name Victor was dropped after some 63 years of use. Mr. Gerald Sterner of Winsted bought the Nursery in 1971. From 1927 to 1973, Mr. Arthur Engle of Howard Lake worked for all five of the owners of the Nursery and put in over 46 years with many of them in the capacity of Field Foreman. At peak operation under Mr. Eddy Sr., proprietor, over 220 acres were under cultivation with about 60 acres in nursery stock and in 1976 less than 20 acres of stock remain that is grown and wholesaled by Mr. Sterner. Only the office building still stands in 1976 at the present Nursery site that once composed six sheds and two barns which contained the stock, equipment and other materials.

In addition to managing the Nursery, Mr. Eddy Sr. at one time was a leader (president and secretary) in the Howard Lake Fruit Growers Association—then one of the largest in Minnesota—that sent fruit throughout the Midwest. Howard Lake claimed itself to be the "Strawberry Capital of the World" in the 1940's and it was the leading center in the Midwest in the production of strawberries and raspberries. Shipments of berries sometimes took the train crew an hour an a half to load on the Great Northern Railway cars that carried them throughout the Midwest. Mr. Eddy was also the owner of one of the finest registered Jersey herds in the state with it winning the highest butterfat test for several years. Again, he was one of the officers of the Howard Lake Cooperative Creamery—that shipped milk and butter nationally—as he served as secretary-treasurer. He also gave community service as an officer of the Howard Lake Phone Company, Howard Lake City Council, Howard Lake School Board, and many other organizations.

Mr. Eddy, according to the 1915 *History of Wright County* by Franklin Curtiss-Wedge, originated the "Eddy Apple" which was an eating apple developed in Howard Lake in the early 1900's. In 1907, Mr. & Mrs. Eddy, had triplet children—Ida, Howard, and William Henry Junior—and a promotional advertising sheet was drawn with the three children transposed upon the picture of an apple. Consequently, this "picture apple" became famous throughout the region and better known than the real "Eddy Apple" that had a short-lived popular use. In the well known triplet apple picture, was the statement, "Our papa grows apple trees and we are fond of apples." Another slogan Mr. Eddy Sr. used was, "It isn't a home until it is planted." Hundreds of hardy northern varieties were sold.

In 1976, in Wright County, the largest active nursery is the Midland Nursery of Howard Lake. The Midland Nursery is the former Paul Eddy And Sons Nursery which was started by Paul Eddy who was a graduate of the University of Minnesota Department of Horticulture in 1923 and Minnesota State Representative from Wright County from 1950–1956. Mr. Harvey Foss and Mr. Terry De Marais of Minneapolis bought the Paul Eddy and Sons Nursery in 1975. The Midland Nursery has over 40 acres of nursery stock on its 70 acres.

As the author and his family travel over the state of Minnesota, there are certain plantings of trees, shrubs, and flowers—that can be identified from the soil of one of the nurseries of Howard Lake. Improved mental health for persons, improved appearance for property, and improved economic status for persons has come from using nursery stock. This nursery stock lives on to tell the story of the nurseries of Howard Lake. In an era when ecology experts warn of the environmental crisis of pollution to the planet, it is well to remember the value of nursery stock that brings beauty of plants, purity of air, and clarity of God's purpose to all of life.

No history can be accurately written without the verification of eye witnesses, primary written records, and/or secondary historical sources (all histories of Wright County were examined and studied). Therefore, the author is grateful for the many persons in this Bicentennial Year of the United States of America who have made contributions of information to make this history possible and hopes to add to the history as more information becomes available.

WEST POINT SCANDAL

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. DOWNEY of New York. Mr. Speaker, the cheating scandal at West Point has given rise to some of the most difficult and perplexing problems the Academy has ever faced. The honor system, the quality of education at the Academy, and the integrity of the Corps of Cadets have all been brought into question.

Dr. Robert Moore has played a very important role in assisting members of the Armed Service Committee of both Houses to fully understand the dynamics of life at West Point. And his counseling on the current situation at the Academy has been invaluable to me.

Professor Moore is the coauthor of the book "School for Soldiers: West Point and the Profession of Arms," widely regarded as one of the finest works ever written about the U.S. Military Academy. The book is based, in large part, upon his experiences as a professor of English at the Academy from 1968 until 1970. Currently, a professor of English at the University of Maryland, Dr. Moore is also executive secretary of the William Faulkner Concordance project in which the Academy is participating.

Mr. Speaker, I would like to call the attention of my colleagues to the testimony of Professor Moore before Senator NUNN's Armed Services Subcommittee on Manpower and Personnel on August 9, 1976, and before a House Government Operations subcommittee on March 17, 1976, as I believe that his remarks will provide very valuable insights into the problems currently faced by the Academy:

TESTIMONY OF DR. ROBERT H. MOORE BEFORE THE MANPOWER AND PERSONNEL SUBCOMMITTEE, HEARINGS ON SERVICE ACADEMY HONOR SYSTEMS, AUGUST 9, 1976

Mr. Chairman, members of the subcommittee, I am pleased to be here at your request to discuss issues arising out of the March 1976 West Point cheating incidents involving an Electrical Engineering home study exercise. My remarks this morning reflect the preliminary findings of my ongoing study into these incidents and related matters. It is not my intention today to make definitive statements on the actions and reactions of the individuals or groups in this most serious and complex situation. I am here to participate in the public dialogue to which this committee is making important contributions.

As you know, Mr. Chairman, my background as a former military school cadet, Army officer, West Point instructor and student of military life predisposes me to approach the current controversy as one sympathetic to the special problems inherent in American military institutions. In my current research, I have attempted, as Joseph Ellis and I did in *School For Soldiers*, to understand the context in which the current difficulties arose. To this end, I have been conducting in-depth interviews with many of the principals who are now aligned on various sides of this matter and I have studied many of the documents generated in recent months by those involved.

The purpose of my testimony is two-fold. First, to set forth what almost any knowledgeable observer of West Point would acknowledge as certain indisputable facts of Military Academy life and then I will sketch why these elements must be considered in any realistic assessment of the current scandal. Second, I will briefly outline some additional substantive issues which I believe are pertinent to these hearings.

"The mission" of the Military Academy, in the view of the present Superintendent, Lieutenant General Sidney Berry, "is to develop top quality Army officers who can lead the land combat forces of this nation in peace and in war, but especially in war." In pursuing this mission, West Point has developed a number of rigidly defined goals and they have formulated procedures to accomplish them. Four of these goals are especially germane to our discussion. These four are:

A. West Point seeks to develop an intense sense of camaraderie and cooperation within the Corps of Cadets, especially among members of the same year group and among members of the same cadet company. Consequently, cadets are required to cooperate in a wide range of daily activities which reinforce a pervasive sense of interdependency.

B. Second, the Military Academy attempts to teach cadets to operate under various forms of physical and mental pressures by arbitrarily creating situations of stress inside and outside of the academic class rooms. I might add that one of the most common patterns of stress occurs when cadets are placed on their honor. The issue may be something as trivial as a cadet being asked when he last shined his shoes, or it might involve being forbidden from collaborating on an activity such as a specific academic homework assignment.

C. A third goal West Point seeks to develop is what General Berry has recently called "rock-like integrity" in its cadets. This goal is pursued through an absolute and unbending code which carries the moral injunction—"A cadet will not lie, cheat, or steal or tolerate those who do." And as Army Secretary Hoffman expressed it before this committee, "the mechanism by which [the code] is implemented and administered" is the honor system. It should be noted that the rhetoric of senior Army officials is especially instructive. For instance, Secretary Hoffman's casual description of the Honor System as—"the mechanism"—is unintentionally revealing, particularly so as evidence mounts that the Honor System can on occasion be an alarmingly deficient piece of institutional machinery.

D. A fourth goal West Point seeks to realize is the cultivation of a sense of personal and group accountability, and a primary force in implementing this goal are the scores of cadet regulations which define the parameters of acceptable cadet behavior.

Each of the four goals I have just sketched is in and of itself admirable. And in the view of most Academy officials, the methods of implementation just cited are reasonable and should, they believe, accomplish the desired goal. However, Mr. Chairman, I regret to report that when the current methods of implementation come together in the day-to-day life of cadets, not only are the goals frequently not accomplished; but, some truly horrendous inconsistencies and contradictions frequently result. And a tragic example of such a development is starkly illustrated by the cruel ironies reflected in the electrical engineering home study exercise.

Even a cursory review of some of the essentially administrative facts pertaining to this exercise reveals how treacherous West Point's various systems for implementing worthy goals can be. For instance, the pattern of giving assigned study problems (ASP's) which elicited cadet collaboration was a weekly occurrence in electrical engineering. And since EE 304 is a difficult course for many cadets, the normal practice of cadet cooperation on out-of-class homework was particularly well-ingrained.

It should be noted at this point that not only does the Academy's mandatory core curriculum require cadets to take this course without regard to their interest in or aptitude for it, but most cadets see little relation between this course and their future careers as Army officers.

So in the midst of this incongruous situation yet another powerful factor was intruded—that of the stress of being placed on their honor. The challenge was to complete a difficult, time-consuming exercise which counted for about 5% of the semester grade in EE. The exercise was to be done by cadets over a two-week period without collaborating with any of their roomates and classmates who also had the same problem. This act was to be accomplished while the cadets were to continue collaborating on other homework in the same course; and, in fact, this very problem had a subsequent Part II for which collaboration was mandatory. Part II was in fact called—"a team project."

There would appear to be little question that hundeds of cadets by some accounts, perhaps as many as 400 cadets apparently were guilty of collaborating on this home study exercise. And under the terms of the West Point honor code and the challenge they were given, those who are officially found guilty are "cheaters." And unless the Secretary of the Army intervenes, they must be banished in utter disgrace.

Mr. Chairman, I would like to elaborate on what I've just said. The best available evidence suggests that cadets found guilty by Officer Boards will be banished. This will occur because those in authority seem determined to ignore the facts, facts which permit a rational analysis of this cheating incident. They ignore the specific circumstances of this incident by claiming they will not apply "a permissive society's view of 'situational ethics'" to those they curiously identify as "known cheaters." But his defensive claim conceals their real concern which is that an open airing of the specific circumstance of this incident would unequivocally demonstrate that the machinery—the Honor System—had malfunctioned.

They fear this admission for 2 reasons. First they view an admission of a mulfunctioning honor system as an admission of deficiency in their goal of "duty, honor, country" and this is not necessarily the case. Secondly, as a West Point lawyer noted at the Congressionally sponsored West Point Honor Code forum last week, "Academy officials at this point refuse to accept any portion of the blame" for this cheating incident.

And because of this failure of leadership on the part of Academy officials, the American public has been receiving a tragically erroneous impression of this event which has needlessly slandered both West Point as well as the implicated cadets. The erroneous image has arisen that West Point contains 100's of cadets who callously and flagrantly cheated on an examination when what in fact happened was far less dramatic and far more complicated.

Mr. Chairman, as I have been suggesting one of the most depressing aspects of this situation is that the details of the circumstances surrounding the EE 304 exercise have not to my knowledge been fully presented in the press, and thus few Americans have even a superficial knowledge of the context in which this widely publicized incident actually occurred.

I will be glad to return to any of these matters and discuss them in much greater detail if you wish. But before concluding my prepared remarks, I would like to make some general observations.

I believe that the majority of officers and cadets at West Point may genuinely feel that it would be a serious mistake if the cadets who are found guilty of unauthorized collaboration were to be reinstated.

Having said this, I would like to call the committee's attention to three revealing paradoxes which characterize what can be at times a kind of institutional schizophrenia:

First many West Pointers who believe that all cadets who are "found guilty" should be separated from the Academy hold to this view *even though* they privately acknowledge that this particular type of unauthorized collaboration on homework has probably been commonplace in recent years.

Secondly, they hold to the view *even though* they privately acknowledge that these sort of homework assignments will not be given in the future because, they now realize, much about the past practice smacks of entrapment.

And a third paradox, they hold to this view *even though* they privately acknowledge that this Fall the intermediate penalties concept is likely to replace the single sanction concept.

In short, there is little inclination at West Point to seriously take into account in their current deliberations specific factors that made Electrical Engineering home study exercise as morally hazardous as it was. This apparently stems from the fact that what the Academy wants most urgently is a solution to the immediate problem rather than an analysis of its causes. But the effect, in human terms, of this course of action is that it does not address the fate of those unlucky few hundred who were caught. The pervasive feeling seems to be that it is more acceptable for a few hundred to perish than for the Academy to run the risk of coming to terms with its institutional soul at this time.

It is simply not realistic to expect a proud, highly partisan, tradition-encumbered institution such as West Point to come clean on its own. I do not doubt that West Point has the capacity to make much needed reforms in its honor and conduct systems (some of which, as I have just suggested, seem imminent); but, I am convinced that it lacks the will to make those reforms (or to deal reasonably and fairly with those involved in the EE 304 controversy), unless persistent outside pressures are applied by appropriate Congressional forces.

But there are some aspects of institutional life which may be immune from even the most subtle and sensitive outside influence. And I think here of a common West Point passion to assign a moral dimension to almost every element of cadet life. This is commonly seen when the Honor System is used to enforce cadet regulations, a phenomenon which has been discussed at length in *School for Soldiers* as well as by Congressman Thomas J. Downey in his appearance here. This pattern drew an exasperated response from a government official in a conversation last week. "The Academy's major failing," he said, "is that they have totalitarianized every cadet to the point at which every act there has a potential moral dimension. And life just ain't that way. It's crazy to impose moral injunctions on activities which just don't have moral injunctions."

Is it too much to hope that the Military Academy may ultimately emerge from its current difficulties with its worthy goals still intact but with a chastened sense of its own limitations as a moralizing agency? And perhaps somewhere along the way the Academy may come to temper its severe sense of justice with compassion and an appreciation of its regenerative powers.

Before closing I would like to acknowledge for the record the assistance of my colleague, Dr. Mark Kimble, in preparing material for my appearance today and to add that he is working with me in a continuing effort to better understand the ramifications of the issues we are discussing.

Mr. Chairman, and members of the subcommittee, thank you for the opportunity to appear before you today. I would welcome your questions.

STATEMENT TO SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY, MARCH 17, 1976, DR. ROBERT H. MOORE

The impending admission of women to the federal service Academies and the recent completion of the U.S. General Accounting Office studies of these schools provide an invaluable opportunity for this Subcommittee and the Congress to perform their oversight function. Since others have spoken to the Academies' financial operations, military programs and student attrition problems, I will focus on academic matters with special reference to the faculties of the Air Force, Naval and Military Academies.

My perspective undoubtedly reflects my military and civilian experiences. In addition to serving two years as an active duty Army officer on the West Point faculty, I graduated from a military preparatory school and had a decade of U.S. Army Reserve affiliation which included two summer reserve duty tours at West Point. My civilian experiences encompass administrative and teaching positions in circumstances ranging from an all male college to large state universities.

In assessing the academic faculties of the three major Academies, one is immediately struck by the fact that career military officers make up 99% of the faculties at West Point and the Air Force Academy, while the Naval Academy faculty has a 50% civilian and a 50% military officer mix. These figures provide an especially instructive focal point for evaluating the quality of academic life. Thus, it is not surprising that in an April 1975 memorandum, the Defense Department's Committee on Excellence in Education dwelt on faculty composition and tenure policies. The Committee's response to these matters dramatizes an issue which is fundamental to any discussion of the Service Academies—Should these institutions be primarily indoctrination and training centers which prepare future junior officers for the combat arms? Or, should they be principally schools of academic excellence preparing men and women for service in a wide variety of Armed Forces specialties?

At present the Academies favor the former emphasis over the latter. However, their overwhelming preoccupation with producing combat officers (a preoccupation which, ironically, is reinforced by the Committee on Excellence in Education) results in a much narrower role than that defined by the law and by their own mission statements—to produce "career officers" for the services. As the GAO noted, "The difference in role interpretation is significant because, under current practices [of directing most graduates into combat assignments], graduates are automatically precluded from initial assignment to [many] major components or branches of the service. The difference takes on added significance in light of the impending admission of women to the academies."

The rather parochial view the Academies have of their mission is well illustrated by the current method of staffing their academic faculties with rotating groups of junior officers who have marginal academic credentials. As the GAO noted:

> Over 90% of the military faculties of the Defense Academies are not tenured and rotate every 3 to 4 years. Prior teaching experience is not required; consequently, the faculties of the Military and Air Force Academies are composed largely of inexperienced teachers. At the beginning of each academic year, the Military Academy's nontenured faculty have an average of only 1 year teaching experience, and the Air Force Academy's average is 1½ years experience. The Naval Academy faculty is more experienced because half its members are civilians with an average of 20 years exverience.

The GAO further found an "apparent anomaly" in the faculty selection process. "Civilian faculty," according to the GAO, "are selected on the basis of demonstrated ability, whereas military faculty members, at the time of selection, are not required to have either teaching experience or formal teacher training."

The response of the Committee on Excellence in Education to these staffing patterns reveals a deeply entrenched inclination to support the continuing militarization of Academy academic life. This inclination has, inexorably, led the Committee to cite as virtues some of the schools' most serious deficiencies. For instance, the Committee endorses the Academies' definition of "highly qualified" faculty. Highly qualified is defined as "military professionals with outstanding records of military service who, additionally, possess the requisite graduate education to teach credibly at the baccalaureate level." This definition becomes particularly worrisome when one notes that requisite graduate education simply refers to the minimum possession of "a Master degree in discipline relevant to the subject they teach." Certainly this notion of what constitutes a "highly qualified" faculty member, suggests a distressingly stunted view of undergraduate education. The sad fact is that this standard is applicable to junior colleges and community colleges, but not to four year colleges and universities. Indeed one would be hard pressed in 1976 to find a four year college which would accept the Academies' standard for any major segment of its faculty.

A second deficiency which the Committee regards as a virtue is the Air Force and Military Academies' pattern of an appropriate ⅓ turnover of non-tenured faculty each year. The Committee's justification of this pattern reveals a startingly parochial view of undergraduate education. The Committee states in a memorandum referring to West Point that, "Having almost a third of the faculty fresh from graduate school each year serves to preserve an active and up-to-date academic perspective which is definitely beneficial to the educational process." The pervasiveness of this notion at West Point is illustrated by an Academy department head who went on to become the Academic Dean. He gave this matter-of-fact explanation for restricting 90% of the faculty to three year terms:

> In the first year [the incoming faculty] are in the learning stages of being an instructor. While I don't think there is any question about their ability to put the materials across, it's a question of their ability to carry a class on to a certain extent. The second year they are here they have improved on that and the third year it's the maximum and they are gone. I think that sometimes when we keep the chaps for a fourth year they get a little stale.*

The most charitable observation one can make about this attitude is that it varies radically with civilian academic standards. Most American schools assume that two or more years may be required before a beginning teacher develops satisfactory control of his subject and confidence in his classroom ability. And in a civilian setting the rewards for successful faculty service are tenure and promotion, not reassignment to another job. However, the predominant view of the Service Academies is that after a third year an instructor's presence has reached the point of diminishing returns. This view tends to be shared by the nontenured instructors who do not conceive of themselves as uniformed educators, but as officers serving a tour at a military post that also happens to be a school. These instructors expect to move into and out of varied assignments every two or three years; consequently, they accept the pattern of being reassigned after having developed proficiency at one duty station.

In the context of the somewhat bizarre rationales which the Academies offer for their academic practices, and which the Committee generally supports, it is hardly surprising that the Committee developed one initiative which may well be its penultimate non sequitur, i.e. its recommendation that the Naval Academy increase its uniformed faculty from 50% to 60% by 1980. When one recognizes that both West Point and the Air Force Academy faculties consist of 99+% military officers, it becomes apparent that the Committee is in effect justifying the faculty mix of the Military and Air Force Academies at the expense—both in dollars as well as in institutional disruption—of the Naval Academy. Ironically, this action is being undertaken despite the fact that the Naval Academy civilian faculty is by far the most academically distinguished group of educators currently teaching at the federal service Academies.

Issues such as those I have sketched today clearly merit public exposure. They must not be left as the in-house prerogatives either of the Defense Department or of the various Academies. This is not to disparage the Committee on Excellence in Education (which makes some progressive recommendations) or the earnest efforts of officers who serve at the military Academies. However, questions about the nature and mission of America's service Academies inevitably involve national security considerations which must be openly and vigorously discussed. For in the final analysis, a democracy *is a democracy*.

EARTHQUAKE LEGISLATION PENDING IN THE HOUSE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. BROWN of California. Mr. Speaker, the Congress is now prepared to enact a small, but significant bill which could provide the necessary Federal support to predict catastrophic earthquakes, as well as mitigate other earthquake hazards.

The bill, S. 1174, passed the Senate several months ago, and passed, with amendments, the House Committee on Science and Technology only this month.

As one who is greatly interested in this pending legislation, I found an article on earthquakes in the Sunday Washington Star to be quite interesting. Among the points made in this article is the fact that due to shortages of funds and equipment the U.S. Geological Survey has had to move limited resources from northern California to southern California in order to properly evaluate changes in the Earth's crust that are believed to foretell a major earthquake.

If S. 1174 becomes law, this shortage of funds and equipment can be eliminated.

The article follows:

[From the Washington Star, Aug. 29, 1976]

WHY THE RASH OF "GREAT" EARTHQUAKES THIS YEAR?

(By Roberta Hornig)

Few things are as frightening or leave one so helpless as the unexpected wrenching of the ground, the shaking and twisting that topples mighty buildings and opens gaping chasms—the phenomenon called the earthquake.

And this year it looks as if the world is trembling more than ever.

Between Feb. 4 (when Guatemala City was struck almost dead center and 23,000 died) and July 27 (when a catastrophic quake killed at least 100,000 in an industrial center of Hopeh Province in Northern China) earthquakes—many of them killers—have been reported in the Philippines, Ecuador, Russia, Turkey, Bali and numerous islands spread throughout the Pacific.

There are also quite a few chilling statistics from the U.S. Geological Survey, the federal government's earthquake watcher.

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*This quote is from Joseph Ellis and Robert Moore, *School for Soldiers: West Point and the Profession of Arms* (New York: Oxfor University Press, 1974), p. 149.

For example, this year there have been twice as many "great" quakes, the designation for those measuring more than 8 points on the quake-measuring Richter scale.

The long-term average, meaning a 50-year time frame, for these giant shakers is 1.5 a year. So far, there have been three—in the Kermadee Islands just north of New Zealand last January, in China in July and in the Philippines earlier this month.

Another statistic is that the number of "big" quakes reported around the world this year has doubled since June.

All of this raises the question of whether something is going on in the earth's crust that people need to worry about.

Dr. Robert Hamilton, who heads USGS Office of Earthquake Studies in the United States does not think so.

While the number of "great" quakes may have doubled in 1976, "major" quakes—those registering between 7 and 7.9 on the Richter scale, are just about on target, he reports.

Normally the world can expect about 17 of these annually. So far this year there have been 10: two each in China and the Soviet Union; and one each in Guatemala, the Panama-Colombia border, the Kermader Islands in the Southwest Pacific, the Kuric Islands in the Western Pacific, Sumatra, and New Guinea.

What is really raising people's earthquake consciousness, Hamilton contends, is simply that "they're killing more people."

In effect, he says, earthquake awareness is really a byproduct of the population explosion worldwide. "They're happening close to cities and towns and so you're now getting big death tolls," a situation that's likely to continue, he says.

This year quakes around the world have killed about 130,000 people, the greatest number in 50 years. It is the largest tally since 1923 when about 143,000 persons were killed in an earthquake near Tokyo, and 1920, when about 180,000 fatalities were reported in the Kanau, China, region, both heavy population centers in their day.

Earthquakes have always been killers, particularly when they happen where people live. The largest death toll on record, for example, dates back to 1556, when nearly a million died in China.

"What's happened in all these cases is that we've had some unfortunate locations," the scientist says.

Hamilton's office does more, though, than just keep track of depressing statistics. What he conceives as one of its major roles is a relatively new art, but one aimed at saving lives—earthquake prediction.

Scientists now know, or strongly believe they do, what causes quakes. "They're caused when stresses build up in rocks buried deep in the earth's crust. What happens is the rocks can't be held in their slips because of their excess energy and they began moving, setting off tremors."

Hamilton's explanation for the layman is a scientific theory developed in the last 15 or so years, called "plate tectonics." According to the theory, the earth's crust is not a single, uniform layer. Instead, it's a discontinuous series of about a dozen vast, shifting plates, each 30 to 90 miles thick.

Floating on the earth's semimolten core, and propelled by as yet unidentified forces, the plates are in constant motion.

Because of the friction between the plate movements, stress builds up in the earth, rocking it, and eventually, the rock fractures, releasing unrestrained energy. It is this sudden release of the pent up energy that causes earthquakes.

What scientists don't really know at this point—but hope to in the future—is how to forecast accurately when and where earthquakes are going to happen.

"We're just in the development state, not a refined state yet," says Hamilton. "In the United States few earthquake predictions have been successful," he says.

There are signs, though, that earthquake predicting is not all that far away and within a decade or so may become as common as weather forecasting.

The National Research Council, a group organized by the National Academy of Science, said last month that "our level of scientific understanding warrants looking upon earthquake prediction as 'an achieveable goal' that could be realized in the next 10 years if a national commitment in a long-term research program is made now."

Four nations, the United States, China, Japan and the Soviet Union, are involved in attempting to improve the science, with China way out in front.

"The Chinese have made a major commitment and have over 10,000 people involved in their program," Hamilton says. "It's their Apollo program. There's just nothing like it elsewhere."

There is a good reason for the interest by the People's Republic. China suffers more quakes than any other nation. For example, it has 10 times the rate of tremors as the United States does.

The impetus for the current research program came in March 1966 when two killer quakes struck Hopeh Province. And the advanced state of the art there has apparently paid off a couple times.

The most cited incident was in February 1975, when in the early evening hours Liaoning Province in the northeast was rocked by a major quake that demolished the town of Haicheng. More than a million people lived near the quake's center and nearly 90 percent of the houses collaped. Yet apparently there were few casualties.

Why? Because, Hamilton says, the quake was predicted and people in the area were ordered to stay outside their houses. "That was a real success story," the scientist says.

While it has not been verified, it is generally believed the Chinese predicted the latest quake, a massive aftershock really, that shook the mainland July 28, the day after the big quake.

While the state of the predicting art is in the novice stage in the United States, scientists have a few telltale signs they believe forecast the likelihood of quakes.

One is "land deformation," a detectable rise of the land along a well-known fault. A second is a change in "electrical resistivity," a change in the electrical property within the earth. Third is magnetic field changes and, lastly, changes in the speed of seismic moves.

There are other indicators, though, one of them simply a rising of water levels in wells. The way this works, according to Hamilton, is that as stresses build up in rocks, the water gets squeezed and is pushed upward toward the surface.

Americans visting China nearly two years ago for more data on predictions also were told to pay close attention to the activities of animals that appear to precede earthquakes. For examples, the visiting Americans were told that snakes, lizards and burrowing animals leave their underground homes shortly before quakes strike.

Earthquake prediction activities have become more respectable, and more of a matter of concern, in the United States in the last few years although the emphasis is nowhere near China's.

For the present fiscal year, the federal government has earmarked around $11 million for earthquake research, with about $5 million of this for prediction work.

In the last couple months, Congress appropriated a special $2.1 million for studies to be done at Palmdale, Calif., near Los Angeles, a city that lies near the infamous San Andreas fault, a known earthquake belt that runs along the West Coast.

The reason for this special money is that earthquake predicters noticed one of their telltale signs, a peculiar foot-or-so landrise, or "deformation." The earthquake scientists are fairly cautious about an outright prediction that the Southern California community is destined for a severe jolt, but USGS researchers in Menlo Park, Calif., near San Francisco, have rushed southward with instruments and gadgets to keep a close watch.

This locale, in fact, may become the first major test of earthquake forecasting in the United States. One scientist—Dr. James H. Whitcomb, a geophysicist at the California Institute of Technology—predicted last April at a meeting in Washington that a moderately strong earthquake would occur before next April.

Most major U.S. earthquakes have occurred in the West in recent years, such as those in California and the big one in Alaska in 1964. Probably the most destructive quake in U.S. history occurred in the vicinity of New Madrid, Mo., in the winter of 1811–1812, not in terms of lives, because the population was sparse, but in terms of what it did to the land. The pattern of the Mississippi River changed to such an extent that swamps were formed where the river once flowed and lakes formed in what had been forestland.

But, Hamilton warns, East Coasters are wrong if they believe they are earthquake safe.

The two principal "high risk" areas, according to the scientist, are Boston and Charleston, S.C., and if quakes do occur there—and he says they are likely to within the next hundred years or so—they'll be felt, perhaps severely, throughout the East Coast.

Further, he warns, damage would likely be far greater than in the American West. "It's particularly serious because of the population density, building construction that is not as quake-resistant as buildings in the West and because of the land makeup that would send shockwaves a far greater distance."

Hamilton's latter point is that the West is much more mountainous than the East and therefore can "sop up" more earthquake waves.

"It's a completely different situation in the East," says Hamilton. "A smaller quake, say 6 points on the Richter scale, would do a lot more damage, a lot more, than it would in the West," he says.

BANKS CUTTING STUDENT LOANS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. PAUL. Mr. Speaker, the federally guaranteed student loan program appears to be as unpopular with the private banks that administer it as it is popular with the Congress. The redtape involved in the operation of the program, like so many other Federal programs, is strangling the life out of it. Bankers all over the Nation have either dropped the program or are considering the possibility of dropping it. The second largest bank in California, Security Pacific National Bank, stopped making guaranteed student loans last March. The Bank of America, the largest bank in the United States, is considering the possibility of abandoning the program next June. The delays in payment from both students and then from the Federal Government have discouraged bankers. An informative article on the failures of the student loan program was provided by the Washington Post in its Business & Finance section for Monday, August 30, which is reproduced below.

Banks Cutting Student Loans
(By Jane Bryant Quinn)

New York.—Students are finding it tougher than ever to get a guaranteed student loan this year. Lenders in various parts of the country have gotten so fed up with the program that they're pulling out, or cutting back on the funds they'll give.

There's no hard count on the numbers that have quit. The Office of Education, in its infinite wisdom, continues to count the dropouts as participating lenders so long as they have old loans on the books.

But Charles Zuver of the American Bankers Association says he's hearing from an increasing number that they have had it up to here. Take, for example, the situation in California:

The Security Pacific National Bank, second largest in the state, stopped making guaranteed loans to new borrowers last March, although, like many other dropouts, they'll continue lending to their present customers. Two other large banks—the Bank of California and the United California Bank—stopped some time ago, as have several savings and loans. The Bank of America—largest in the state—says that, if things don't improve by June, they too may pull out.

The withdrawal of Security Pacific alone means a loss of some $1.5 million to California students. Bank of America is lending to many of those turned away by SPNB and others, but to do it they've dropped their maximum loan from $2,500 a student to $1,500. This works a hardship on students with big tuition bills.

The Office of Education figure estimates that the Bank of America does about 50 per cent of the state's student-loan business—but B of A itself puts the figure at 70 per cent or higher. If that bank pulls out, it will be a major loss.

Why do lenders hate the program, not only in California but across the country? Several reasons:

The delays are unbelievable. Letters to program officials may take several weeks to reach the right desk, and then go unanswered, says Gregory Lancaster of Security Pacific. The interest subsidy that's supposed to be paid every three months is often late. When the lender puts in a claim on a defaulted loan, it may take up to a year for the government to pay.

Since February of this year, the Office of Education has had a new system for handling default claims, which they say will get everyone paid within 45 days. Wayne Baker of the Bank of America says that millenium hasn't yet arrived, but they're at least getting paid within three or four months instead of up to a year. A bill in Congress would make the government pay interest on claims outstanding which might help hurry payment.

Students often blame the lenders, not the government, for snafus. Example: When a student is in default, the lender can ask the Office of Education to send a telegram demanding payment. But by the time it finally arrives, the student may have caught up on his debt. When he gets the telegram, he calls the bank in a fury.

Students also get sore when they've been signed up by a suede-shoe salesman for a home-study or vocational training course that turns out not to be worth beans.

They quit the course, but still have a loan to repay. Lenders take the rap for that, too. Students who've never had a loan before don't fully understand that it must be paid even if the school was no good.

"We got into this program to build lasting relationships with young people," Lancaster says. "But when they have trouble with their loans, they take their frustration out on us."

The interest isn't high enough to make the irritations worth it. "Some small banks with low overheads can make money on the program," says Baker. "But not big banks. We'd be happy just to break even, but as it is, we're losing." Congress soon will begin debating a higher subsidy to lenders on guaranteed loans. If it doesn't pass, the Bank of America might be the first of another wave of lenders to head for the exits.

HIRING THE ELDERLY IS GOOD BUSINESS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. DERWINSKI. Mr. Speaker, I have introduced H.R. 2588, to terminate age discrimination in employment. May I direct to the attention of the Members a very positive editorial in the West Proviso Herald, serving communities in the western suburbs of Chicago, which appeared on August 25. The point is well made in this editorial that senior citizens have talents and abilities and the willingness to work that should be properly recognized and utilized.

The article follows:

Hiring the Elderly is Good Business

We often feature stories about our area's senior citizens, their problems and their pastimes. One of the recurrent themes we have encountered has been the uneasy fact, in most cases, of living on a limited budget.

Social security, we know, is designed only to supplement, not to compensate for, savings and income. But it seems the cost of living has risen disproportionately with social security allotments. Few senior citizens have an income. And most will admit that medical bills and "rainy day" expenses have eaten up nest eggs.

The result is that many senior citizens have had to sacrifice most of the pleasures of that long-anticipated retirement in order just to get by. Instead of leisure and relaxation, some elderly persons face frustration and relative poverty.

It needn't be that way in all cases. We are nearing the end of summer, and most of the high school and college students local businessmen have hired for part-time work will be returning to school.

We urge business persons to consider senior citizens to fill those part-time positions. Of course, not all senior citizens are capable of holding a job. The quality of work offered should be a consideration.

But we have found many persons over the age of 60 who are alert, capable and quite willing to test their skills against persons half their age. We believe such individuals deserve a chance.

Any person who can perform or learn a skill should not be discriminated against because of age. Certainly physical and mental health must be considered. But 20 hours of work each week do not place an undue strain on a relatively healthy person.

Senior citizens are allowed by law to work part time without losing their social security benefits. Often those extra few dollars each week could mean the difference between comfort and want.

Often employers are reluctant to hire senior citizens because they fear the responsibility and the possibility of work days missed. It should, however, be considered that few senior citizens have as full a social calendar as students or other young persons.

We believe many senior citizens would be more than willing to give their utmost to an employer who demonstrated the good faith to hire them.

The psychological benefit of hiring a senior citizen also should be a prime factor. Too often, we tend to treat our elders as we treat our children; as basically useless humans who only need to be cherished and amused.

We tend to forget the wealth of experience and understanding that are a part of having lived a long and full life. We forget what an important feeling it is to be needed.

We hear many senior citizens say they feel the rest of the world has pushed them aside; that they have outlived their worth. We believe hiring senior citizens can somehow prove to them that this is not so, or that it no longer will be so.

We are sure that the possible difficulties of giving a senior citizen work would be outweighed by the feeling of satisfaction in knowing the job is giving much needed revenue and a sense of value to the employee.

We know of one elderly woman who works at a local hospital who says, "I need my work. It gives me a reason to keep going." That feeling, we believe, is the best fringe benefit any employer could hope to offer.

TROTSKYISM AND TERRORISM: PART II—THE FOURTH INTERNATIONAL DEBATE ON TERRORISM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 30, 1976

Mr. McDONALD. Mr. Speaker, in 1961, 2 years prior to the reunification of the Fourth International, Argentine Trotskyites were sent to Peru to aid Trotskyite leader Hugo Blanco in his revolutionary terrorist campaign. In 1962 Blanco led a raid on a police station in which three police officers were killed.[1] Blanco was captured in May, 1963 and sentenced to twenty years imprisonment. The Peruvian Government granted him an amnesty in 1970 and expelled him in 1971 for continuing his revolutionary activities.

In 1962 the Argentine Trotskyite movement led by Nahuel Moreno sent the first group of cadre to Cuba for terrorist training.[2] Some of the Latin American sections of the Fourth International engaged in terrorist activities during the 1960's, often in close collaboration with Castroite groups promoted by the Cuban Government.

At the Ninth World Congress of the Fourth International held in 1969, a resolution was passed ratifying the turn toward "armed struggle," a term the Trotskyites use to cover all violent acts including terrorism. The resolution stated:

> Take advantage of every opportunity not only to increase the number of rural guerrilla nuclei but also to promote forms of armed struggle especially adapted to certain zones (for example, the mining zones in Bolivia) and to undertake actions in the big cities aimed both at striking the nerve centers (key points in the economy and transport, etc.) and at punishing the hangmen of the regime as well as achieving propagandistic and psychological successes (the experience of the European resistance to Nazism would be helpful in this regard).[3]

While the majority of the Fourth International supported terrorism and armed struggle as a tactic, a minority, led by the SWP, argued against the pre-

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Footnotes at end of article

mature use of violence. The debate still continues.

The two major factions in the Fourth International are the International Majority Tendency—(IMT)—led by Ernest Mandel, Livio Maitan and Pierre Frank; and the Leninist-Trotskyist Faction—(LTF)—led by Joseph Hansen and other SWP functionaries.

The Socialist Workers Party does not reject the use of violence in principle, but argues only that this may not be an appropriate time. As Peter Camejo, a member of the SWP Political Committee, stated in an answer to Ernest Mandel—Comrade Germain:

> Comrade Germain leaves the impression that Lenin opposed terrorism but supported guerrilla warfare. Lenin's approach was not that simple.
>
> Guerrilla warfare is only one form of the utilization of arms. It cannot be correctly counterposed to terrorism.
>
> The word "terrorism" is commonly used to mean the politics of those who believe that violent actions against individual bourgeois figures can bring about social change, precipitate a revolutionary situation, or electrify or help mobilize the masses even if undertaken by isolated individuals or groups. Terrorism in that sense is rejected by the Marxist movement. But under the conditions of civil war, terrorist acts can have a totally different political import. Their isolated nature fades. In the process of an insurrection, terrorist acts *may be* advantageous to the workers movement. They may also be damaging. But terrorist acts that are not part of a generalized mass armed struggle remain isolated and are detrimental to the workers movement.[4]

SWP National Secretary Jack Barnes accused Mandel of "attempts to smuggle terrorism under the name 'urban guerrilla war,' into the traditions of Leninism.* * *."[5]

Mary-Alice Waters, another member of the SWP Political Committee, characterized the debate in the International as follows:

> The majority held that they too were for building parties but that revolutionary parties could only be constructed today in Latin America if the Trotskyists proved themselves the best guerrilla fighters, arms in hand. Such was the only path to either the vanguard or the masses.
>
> The minority felt that such a strategy could only lead to the political miseducation of the entire world movement and the decimation of the small Trotskyist parties and cadres in Latin America. Logically it would have to be extended beyond Latin America to other parts of the world.
>
> * * * * *
>
> Other supporters of the Latin American majority document have tried to shift the discussion onto the axis of 'for or against armed struggle." We reject any implication that that is what the discussion is really about. If supporters of the minority view were against armed struggle, they would be Social Democrats or Stalinists, not Trotskyists. What we reject is the strategy of "pick up the gun" as the road to power. As a strategy it stands in the way of the construction of mass revolutionary parties throughout Latin America, and that is what the debate is about.[6]

The Socialist Workers Party has described the leadership of the IMT majority faction of the Fourth International in rather colorful terms. According to old-time SWP Political and National Committee member Tom Kerry:

> There is, of course, a division of labor among the Mandel-Maitan-Frank trio. Ernest Mandel is the ideologue of the group and among the "Old Husbands," is the one who fathers the political documents, although they, too, often bear the anonymous authorship of "IEC Majority Tendency."
>
> Pierre Frank is the org-spetz, who draws on his decades of experience to beget—in the name of "democratic centralism" of course—the belligerent, factional documents, that deal with the "organization question."
>
> Livio Maitan, since he fell from grace following the debacle of his Latin America line, is the "trouble-shooter" for the faction, the faction "fireman," who is dispatched to the "hot spots."[7]

The Canadian section of the Fourth International, the League for Socialist Action—LSA—has also split on the issue of whether or not to support terrorism at this time. One faction called the Revolutionary Communist Tendency has left the LSA and joined a rival Canadian Trotskyite group, the Revolutionary Marxist Group—RMG. The RMG is a sympathizing group of the Fourth International.

Before the split, the Revolutionary Communist Tendency argued:

> As Marxists, we do not believe in individual terror because it underrates the class struggle. We instead believe in increasing the struggle, in mass terrorism!
>
> * * * * *
>
> Let us make it perfectly clear to the CEC (Central Executive Committee)—that for Marxists, kidnappings can never constitute a strategy; a kidnapping is a tactical question. And further, the resolution on Latin America adopted by the 9th World Congress allowed for the employment of such a tactic within the general framework of the armed struggle; the resolution states that it is necessary to "undertake actions in the big cities aimed at striking the nerve centers . . . and at *punishing the hangmen of the regime as well as achieving propagandistic and psychological successes*". (our emphasis—RCT)[8]

The leadership of the LSA answered:

> Lenin, of course, did not reject terrorism "in principle"—as the supporters of the RCT have often pointed out. Marxists do not reject any method of struggle "in principle." We judge each method according to one criterion: "will this method, used at this time and in these circumstances, advance the cause of proletarian revolution?" If the answer is yes, then we use the method if we are able. If the answer is no, then we don't. We are concerned only with effectiveness, and anyone who reads the works of Marxism on terrorism, including the citations from Lenin made above, will see that effectiveness is the only criterion used.[9]

Terrorist activities have been conducted by sections of the Fourth International in Argentina, Bolivia, Peru, Spain, France, England, and Ireland, and the Middle East.

FOOTNOTES

[1] Letter from U.S. Department to Congressman Edward Koch dated January 29, 1976—CONGRESSIONAL RECORD, March 1, 1976, p. 4814.

[2] International Internal Discussion Bulletin, Volume XI, No. 5, April 1974, p. 18.

[3] Resolution on Latin America, Ninth World Congress of the Fourth International—Intercontinental Press, July 14, 1969, p. 720–721.

[4] International Internal Discussion Bulletin, volume X, No. 8, June, 1973, p. 11.

[5] International Internal Discussion Bulletin, volume X, No. 9, July, 1973, p. 11.

[6] Internal Information Bulletin, January 1972, No. 1 in 1972, p. 4, 11.

[7] Socialist Workers Party Discussion Bulletin, Volume 32, No. 1, December, 1973, p. 13.

[8] Internal Information Bulletin, June 1972, No. 2 in 1973, p. 4, 5.

[9] Ibid. p. 9.

HOUSE OF REPRESENTATIVES—*Tuesday, August 31, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The fear of the Lord is the beginning of wisdom and they who live by it grow in understanding.—Psalms 111: 10 (N.E.B.)

Eternal Father, we pause in Thy presence once again to listen to Thy still, small voice to receive strength for the day, wisdom for our decisions, and peace in our hearts. Thou art ever with us calling us to work with Thee in making justice and freedom and good will live in our world. May Thy spirit be so real to us that we shall develop in our land a moral strength and a spiritual power to which people can turn for healing and help in time of need.

Bless Thou our Speaker and the Members of Congress who represent our people on Capitol Hill. Support them, sustain them, and strengthen them that they may live through these days with wisdom, courage, and faith.

In the spirit of Him who is the strength of our lives we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 13372. An act to amend the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271), and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 10394. An act to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes; and

H.R. 15193. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 15193) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CHILES, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. MCCLELLAN, Mr. EAGLETON, Mr. MATHIAS, Mr. SCHWEIKER, and Mr. YOUNG to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2657. An act to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes.

TO EXTEND HIGHER EDUCATION ACT OF 1965

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes, and to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof, as one amendment in the nature of a substitute the provisions contained in the bills H.R. 12835, H.R. 12851, and H.R. 14070, as passed by the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. QUIE. Mr. Speaker, I reserve the right to object.

The SPEAKER. The gentleman from Minnesota reserves the right to object.

Mr. QUIE. Mr. Speaker, I would ask the gentleman from Kentucky (Mr. PERKINS) to explain what we are about to do in putting these three bills together as an amendment in the nature of a substitute and striking out everything after the enacting clause of the Senate bill S. 2657?

Mr. PERKINS. I would be delighted to explain to the distinguished gentleman from Minnesota if the gentleman will yield.

Mr. QUIE. I am happy to yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, on September 30, 1976, just a month away, all higher education programs including the insured loan program, a number of vocational education programs, and the National Institute of Education expire. In anticipation of this expiration date, and in an effort to make these education programs more effective, the House of Representatives had passed three major education bills earlier this year. On May 11, by a vote of 390 to 3, the House approved H.R. 12835 to amend the Vocational Educational Act of 1963. On May 12, 1976, the House approved H.R. 12851, extending and amending the Higher Education Act of 1965 by a vote of 388 to 7. On August 25 the House approved by a vote of 391 to 3, H.R. 14070, to extend and amend part V of title IV of the Higher Education Act of 1965, insured loans.

The other body chose to consider the extension of all of these programs and their modification in one omnibus education bill. That omnibus bill, S. 2657, the Education Amendments of 1976, was approved by the Senate last Friday, August 26, by a vote of 75 to 5, and the Senate-passed bill is now here in the House.

It is our purpose today to combine the text of the three House bills, as amended, with the comprehensive Senate education measure. By proceeding in this fashion, we will insure that the House position on each of the many, many issues involved will be before the conference committee. I repeat, the proposed House amendment to the Senate bill is identical to the text of three House-passed bills, each of which was approved by an overwhelming majority.

Mr. QUIE. Mr. Speaker, still reserving the right to object, what the House has done, then, was to pass three bills, one of them on vocational education and NIE; the other one, the higher education bill without any changes in the guaranteed student loan program, because we were not ready to bring out those changes; and then the last one the gentleman from Kentucky mentioned was the guaranteed student loan program. All three of those the House has taken action on.

The Senate put the contents of all three of those in one bill, and there is no way we can go to conference with only one of our bills because otherwise the action of the House taken on the other two would not be before the conference. So this will match up in one conference the action taken by this body on three bills with the contents of one bill in the Senate.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

In the three bills that the House has passed that would now be coordinated in one package, are there problems of germaneness in the Senate version of this legislation?

Mr. QUIE. There are no problems of germaneness in the Senate version that I know of. I yield to the gentleman from Kentucky if he desires to respond.

Mr. PERKINS. If the gentleman will yield, there are none that we are aware of. The Senate chose to consider education programs in one package whereas we considered them separately here. In order to expedite consideration, we must go through this procedure to get to conference.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

Are there many major items of disagreement between the Senate version and the coordinated package of our three bills?

Mr. QUIE. I would say that there are. Let me give the Members one example. If we had chosen, for instance, to go with one bill, our higher education bill with the Senate version, it would have left out from consideration of the Congress a number of amendments having to do with busing that the House adopted, and by including all three of them, and then those actions that the House took that the other body did not take, that will then be before the conference, and we will be able to have a chance to maintain the position of the House.

As the gentleman from California knows, some of those amendments—I believe all busing amendments were adopted here on the House floor and were not adopted by the Committee on Education and Labor.

Mr. ROUSSELOT. Will the gentleman yield further?

Mr. QUIE. I yield to the gentleman.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Is the authorization cost of all three of these House bills substantially less or more than the Senate version?

Mr. QUIE. The authorization in higher education would be substantially less because we provide for a 1-year extension of the Higher Education Act, and then with the automatic extender, it runs for 2 years. The other body extended it for 6 years, so it is far beyond ours. The other body has a higher basic educational opportunity grant program going up to $1,800, while we left it at $1,400, or the amount of the maximum grant.

So those are some of the examples of the differences.

Mr. PERKINS. Will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, I may say to the gentleman from California that the authorizations under the House vocational education bill is considerably less than the Senate.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's comment.

Will the gentleman yield?

Mr. QUIE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, many times we have seen the Senate tack in some unusual items in their original bills. Does this Senate omnibus bill, this all-inclusive bill they have written have any unusual items that the other body has included that we have not considered in our three bills?

Mr. QUIE. I would say to the gentleman, the one that comes to my mind is a proposal for reorganizing the U.S. Office of Education in its relationship to the Secretary of HEW. Their proposal I know meets with substantial approval in the Department of HEW. But that is an example of a difference from the House position, which leaves the administration the way it presently is. I do not recall right now—the gentleman from Kentucky may—any other basic differences from what we have. However, the basic approach, the basic ingredients of the bill are different in the bill of the other body because we go toward more consolidation than they do.

Mr. PERKINS. Mr. Speaker, if the gentleman will yield, I would say to the distinguished gentleman from California that the subject matter in the Senate bill is related to the subject matter in the House bills. As far as I know there is no extraneous matter in the Senate bill.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, I appreciate the gentleman's explanation. We know many times this year the House has been surprised by extra provisions the other body has stuffed into their Senate versions. Under the best understanding of my two colleagues, can we be assurred there are no surprises in this Senate omnibus bill, when the bill comes back as a conference report?

Mr. PERKINS. Mr. Speaker, if the gentleman will yield further, I can assure the gentleman from California there are no surprises in the Senate bill.

Mr. QUIE. And there is nothing we would expect as not germane that they had to twist around to make germane. The matters are definitely germane to the bill.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, we have then the assurances of our two colleagues that there will be a major attempt on the part of the House conferees, since our bills are much lower in cost, to keep them that way in the conference?

Mr. QUIE. I would say to the gentleman as one person, and I have talked to the chairman, that both of us are going to stand by the House position. I have talked to the chairmen of the other subcommittees which the gentleman from Kentucky also is chairman of and they also indicate their intention of standing firm on the House position.

Mr. ROUSSELOT. I thank our two colleagues, the gentleman from Kentucky and the gentleman from Minnesota, and I appreciate their assurances.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MOTION OFFERED BY MR. PERKINS

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. Perkins moves to strike out all after the enacting clause of S. 2657 and insert in lieu thereof as one amendment in the nature of a substitute the provisions contained in the bills H.R. 12835, H.R. 12851, and H.R. 14070 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2657 TO EXTEND HIGHER EDUCATION ACT OF 1965

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the House insist upon its amendment to the Senate bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none and appoints the following conferees: Messrs. Perkins, Thompson, Brademas, O'Hara, Hawkins, and Ford of Michigan, Mrs. Mink, Mr. Meeds, Mrs. Chisholm, Messrs. Biaggi, Andrews of North Carolina, Lehman, Benitez, Blouin, Cornell, Simon, Beard of Rhode Island, Zeferetti, Miller of California, Mottl, Hall of Illinois, Quie, Ashbrook, Bell, Erlenborn, Esch, Eshleman, Buchanan, Jeffords, and Goodling, and Mrs. Smith of Nebraska.

ELECTION AS CHAIRMAN OF COMMITTEE ON SMALL BUSINESS

Mr. McFALL. Mr. Speaker, I offer a privileged resolution (H. Res. 1503) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1503

Resolution electing a chairman of a standing committee of the House

Resolved, That Tom Steed, of Oklahoma be, and he is hereby, elected chairman of the Committee on Small Business.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION AS MEMBER OF COMMITTEE ON SMALL BUSINESS

Mr. McFALL. Mr. Speaker, I offer a privileged resolution (H. Res. 1504) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1504

Resolution designating membership on a standing committee of the House

Resolved, that Richard H. Ichord, of Missouri be, and he is hereby, elected a member of the Committee on Small Business.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE NIXON-FORD "PAUSE"

(Mr. RIEGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIEGLE. Mr. Speaker, I rise today to respond to Alan Greenspan's comment that our national economic recovery has now come to a "pause."

The invention of the word "pause" is clearly an election-period device to hide the sorry performance of the Ford administration's economic policies.

Now, here are the sad facts: National unemployment is once again rising and has now moved up to 7.8 percent nationally. It is over 10 percent in the State of Michigan.

Mr. Speaker, despite the terrible human suffering imposed on the American people by the "planned recession" of the Nixon-Ford economic advisers, nothing concrete has been done to actually deal with the root causes of inflation, and new inflationary pressures are building up at this point.

In the past 8 Nixon-Ford years, we have had 6½ years of serious recession.

Now the political "wordsmiths" at the White House have invented the coverup word "pause" to hide the failure of their economic recovery strategy.

No administration since the days of Herbert Hoover has had such a poor economic record.

After 8 years of gross mismanagement by this administration, I believe the American people will see through coverup words like "pause" and will elect new national leadership in November that will actually get our economy moving—will get our workers out of unemployment lines and welfare lines and back on the job.

COSTS AND ACHIEVEMENTS OF BILINGUAL PROVISIONS OF VOTING RIGHTS ACT AMENDMENTS OF 1975 SEEN AS ABSURD AND LIMITED

(Mr. KETCHUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KETCHUM. Mr. Speaker, I would like to bring to the attention of the House some interesting figures which attest to the absurd costs and limited achievements which have resulted from the bilingual provisions of the Voting Rights Act Amendments of 1975.

In Kern County, Calif., which I have the privilege to represent, the cost of printing a Spanish ballot for the June primary was $149.69 per ballot while the cost of an English ballot was $2.61. Total voter turnout was 91,008 and of that number, exactly 225 individuals used Spanish ballots. One-quarter of 1 percent of the citizens voting took advantage of the requirements of the new law.

In the neighboring county of Santa Barbara, the county clerk identified $13,101 of the primary election costs as directly attributable to the bilingual requirements of the 1975 Voting Rights Act amendments. Since only 17 voters used Spanish ballots, that brought the cost per ballot to $770.65. Those 17 voters represented seventeen-thousandths of 1 percent of the total voter turnout. In one city where 60 percent of the 627 registered voters were Spanish surnamed, only 3 voters chose Spanish ballots.

Mr. Speaker, it is clearly time to repeal these ill-conceived provisions. I have introduced legislation to accomplish this goal and I would hope that the Subcommittee on Civil and Constitutional Rights sees fit to schedule hearings soon.

PRESERVING AND PROTECTING OUR NATIONAL PARKS

(Mr. GUDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GUDE. Mr. Speaker, President Ford has proposed a great new program for preserving and protecting our national parks. Our parks are among the greatest treasures of this Nation—they embody the scenic, historical, and cultural values which all Americans cherish.

The Congress began establishing national parks as long ago as 1872. President Theodore Roosevelt accomplished much in his work to create parks and protect the environment. If the American people give President Ford time to implement his program, he will have done more for our national park system than any President since Theodore Roosevelt. His proposal stands to place him in exceptional company.

I am particularly happy to hear of the President's proposal because the national parks have been one of my special concerns as a Member of Congress. Earlier this year, the House Conservation, Energy, and Natural Resources Subcommittee, of which I am the ranking minority member, held extensive hearings on budgetary and personnel problems of the National Park Service. These hearings demonstrated that our Parks are deteriorating. We concluded that "the degradation of America's National Parks can be halted most quickly and economically by immediately increasing the budget and personnel ceilings of the National Park Service."

Only within the last month has Congress finally taken the needed beginning step when it added funds for maintenance and for over 500 new permanent positions. The President has advocated spending $1.5 billion to improve the parks. This represents a sound investment in the future of our great Nation.

I hope congressional action on this proposal can be quickly forthcoming so that we can begin to move forward immediately. As President Ford stated at Yellowstone National Park:

> This is a big job, one that requires Government action at all levels. . . . I call upon all Americans to join in a great new undertaking, to improve the quality of our lives and of our land.

AUTHORIZING APPROPRIATIONS FOR FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2862) to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2862

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 17. There are authorized to be appropriated to carry out the foregoing provisions of this Act, except section 11 of this Act, not to exceed $3,750,000 for the transitional fiscal quarter of July 1, 1976, through September 30, 1976, not to exceed $15,000,000 for the fiscal year ending September 30, 1977, and not to exceed $20,000,000 for the fiscal year ending September 30, 1978.".

(b) Section 16(b) of the Act of March 3, 1901 (15 U.S.C. 278f(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—For purposes of this section, there are authorized to be appropriated not to exceed $1,275,000 for the transitional fiscal quarter of July 1, 1976, through September 30, 1976, not to exceed $5,500,000 for the fiscal year ending September 30, 1977, and not to exceed $6,000,000 for the fiscal year ending September 30, 1978.".

Mr. TEAGUE. Mr. Speaker, I move to strike the last word.

Mr. Speaker, on March 24 by voice vote the House passed H.R. 12567, a bill to authorize appropriations for the Federal Fire Prevention and Control Act of 1974. The House bill contained three major provisions, one of which was the dollar authorization.

The Senate passed its own fire bill, S. 2862 on May 19. When it was sent to the House the Senate bill was kept at the Speaker's table because the House had already acted.

The Senate took up H.R. 12567 and passed it with amendment on June 15. The principal effect of the Senate amendment was to strike one of the three House provisions, a provision concerning the administration of fire research. On June 21 the House concurred in the Senate amendment to H.R. 12567 by unanimous consent.

The bill H.R. 12567 was vetoed by the President on July 7 because of the remaining nondollar provision of the House. That provision would have given Congress the authority to disapprove proposed expenditures for building a Fire Academy by concurrent resolution.

It is desirable to have a fire authorization bill, and the House decided not to try to override the President's veto. S. 2862 is an excellent substitute for the vetoed bill because it authorizes exactly the same amounts of money for the same time periods. The only real difference between S. 2862 and the vetoed bill is that S. 2862 does not have the provision the President did not like.

Both H.R. 12567 and S. 2862 make the following total authorizations:

Transition quarter	$5, 025, 000
Fiscal year 1977	20, 500, 000
Fiscal year 1978	26, 000, 000

The Senate bill, S. 2862, is still at the Speaker's table, and the National Fire Prevention and Control Administration needs an authorization to continue its important work. The Committee on Science and Technology agrees that S. 2862 should be passed. I recommend immediate passage of the bill.

The Senate bill was ordered to be read a third time, read the third time, and passed, and a motion to reconsider was laid on the table.

A BILL FOR THE RELIEF OF MRS. DAVID C. DAVIS

Mr. ICHORD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3779) for the relief of Mrs. David C. Davis, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could the gentleman explain briefly, is this a private bill or a consent bill?

Mr. ICHORD. This is a private bill for the relief of Mrs. David C. Davis, a constituent of the gentleman from South Carolina (Mr. SPENCE). This is a humanitarian request in his behalf.

I will read a letter placed in the RECORD by the sponsor of the bill in the Senate.

The letter follows:

AUGUST 22, 1976.

Senator STROM THURMOND,
U.S. Senate, Senate Office Building,
Washington, D.C.

DEAR SENATOR THURMOND: I am writing you for assistance because I think you are probably the only one who would care enough and be influential enough to help me.

The problem: My mother who is 84 years old, wants to be buried with my father who is buried in cemetery No. 2, Fort Jackson, S.C. For this, we need official and written authorization.

Justification: My mother and father gave up their home and land when Camp Jackson was constructed in 1917. They lived, at the time, in what is now known as the Tank Hill area. They moved just outside the reservation boundary. In 1940, the Fort Jackson boundaries were expanded and my mother again had to relocate. By this time, my father had died and was buried in the old Beaulah Church cemetery—now Post Cemetery No. 2. Because the cemetery was not in an impact area, a fence was constructed around it and it was left intact.

The cemetery is located about one block off Percival Road which is the northern boundary of the Fort. It is also located just one hundred and fifty (150) feet to the rear of the U.S. Army Reserve Training Center as shown in photograph No. 1 on the attached sheet.

As you can clearly see in photograph No. 2, there is ample space for another grave in the fenced area.

Urgency: Mother recently fell and broke her leg between the knee and hip. She is still hospitalized and because of other health problems, she may not recover from this fall. We desperately need written authorization, probably from the Secretary of the Army, for Mother to be interred in Cemetery No. 2.

Anything you could do to expedite a decision will be appreciated. Thank you.

Most sincerely,

RICHARD I. DAVIS.

This is just a humanitarian request that if death is imminent she be permitted to be buried by her husband.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman for his detailed explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3779

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of an Act entitled "An Act to establish eligibility for burial in national cemeteries, and for other purposes", approved on May 14, 1948 (62 Stat. 234; 24 U.S.C. 281), Mrs. David C. Davis may be buried next to her husband in Post Cemetery Number 2, Fort Jackson, South Carolina.

Mr. SPENCE. Mr. Speaker, S. 3779 will permit the burial of Mrs. David C. (Mamie A.) Davis next to her husband in Post Cemetery No. 2, Fort Jackson, S.C. Mrs. Davis is 84 years old, is in critical condition, with a blood clot in her lung. It is her wish, and that of the family, that she be buried next to her husband.

Mr. Davis died in 1940 and was buried in Beaulah Church Cemetery. When the boundaries of Fort Jackson were expanded during World War II, this cemetery became a part of the fort and is now known as Post Cemetery No. 2. There is a fence around it. Although the cemetery is very small, there is ample space for another grave.

Passage of this bill, considered by the Senate under unanimous consent on Friday, is necessary in order for Mrs. Davis to be buried next to her husband.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF ADDITIONAL CONFEREES ON S. 3149, TOXIC SUBSTANCES CONTROL ACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint three additional conferees on the Senate bill (S. 3149) to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, has the distinguished chairman consulted our minority side on this issue?

Mr. STAGGERS. If the gentleman will yield, I assumed it had been done.

Did the Clerk speak to the gentleman from Ohio (Mr. DEVINE)?

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentleman from the great State of Ohio (Mr. DEVINE), the ranking minority member on the committee.

Mr. DEVINE. If the gentleman will yield, I can say, Mr. Speaker, that I have not been consulted. I was consulted by the Clerk this morning, announcing that the gentleman from Nebraska (Mr. MCCOLLISTER) was requesting to be removed as a conferee and that I replace him. I am aware of that, but I am not aware of any additional conferees.

Mr. STAGGERS. If the gentleman will yield, the request is before the Speaker on the resignation of the gentleman from Nebraska (Mr. MCCOLLISTER) and the appointment of the gentleman from Ohio (Mr. DEVINE).

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following additional conferees: Messrs. BRODHEAD, SCHEUER, and RINALDO.

RESIGNATION AS CONFEREE AND APPOINTMENT OF CONFEREE ON H.R. 14032 AND S. 3149, TOXIC SUBSTANCES CONTROL ACT

The SPEAKER laid before the House the following resignation as a conferee:

WASHINGTON, D.C.,
August 30, 1976.

Hon. CARL ALBERT,
Speaker of the House,
Washington, D.C.

DEAR MR. SPEAKER: The purpose of this letter is to inform you of my decision to resign as a conferee during the upcoming House-Senate conference on the Toxic Substance Control legislation, H.R. 14032 and S. 3149.

Sincerely,

JOHN Y. MCCOLLISTER,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. The Chair appoints the gentleman from Ohio (Mr. DEVINE) as a conferee on the bill H.R. 14032 and on the Senate bill S. 3149 to fill the vacancy resulting from the resignation of the gentleman from Nebraska (Mr. MCCOLLISTER).

The Clerk will notify the Senate of the change in conferees.

NATIONAL EMERGENCIES ACT

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3884) to terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, strike out lines 16 to 23, inclusive, and insert:

SEC. 201. (a) With respect to Acts of Congress authorizing the exercise, during the period of a national emergency, of any special or extraordinary power, the President is authorized to declare such national emergency. Such proclamation shall immediately be transmitted to the Congress and published in the Federal Register.

Page 3, line 18, after "subsection," insert: "whichever date is earlier,".

Page 4, line 14, strike out "days," and insert: "days after the day on which such resolution is referred to such committee,".

Page 4, line 20, strike out "thereafter," and insert: "after the day on which such resolution is reported,".

Page 4, line 25, after "days" insert: "after the day on which such resolution is referred to such committee".

Page 5, line 2, strike out "days," and insert: "days after the day on which such resolution is reported,".

Page 5, lines 9 and 10, strike out "after the legislation is referred to the committee of conference." and insert: "after the day on which managers on the part of the Senate and the House have been appointed.".

Page 5, lines 11 and 12, strike out "in the Record".

Page 5, line 15, strike out "filed." and insert: "filed in the House in which such report is filed first."

Page 5, line 19, strike out "602(b)" and insert: "502(b)".

Page 6, line 15, strike out "the emergency is still in effect." and insert: "such emergency is to continue in effect after such anniversary."

Page 6, lines 18 and 19, strike out "emergency" and insert: "emergency,".

Page 10, line 12, strike out "it" and insert: "such committee".

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. MOORHEAD of California. Mr. Speaker, reserving the right to object, I want to ask the gentleman from Alabama (Mr. FLOWERS) to clarify the language in one of the Senate amendments. Section 201(a), as amended by the Senate, may be open to an ambiguous and troublesome interpretation. Could the gentleman please tell the House whether there is any intent here to limit either the President's power or flexibility to declare a national emergency?

Mr. FLOWERS. If the gentleman will yield, in my judgment, there is not. I do not think that we want to do that by legislation, in any event.

Mr. MOORHEAD of California. Mr. Speaker, further reserving the right to object, I will ask the gentleman, is the subject matter of the emergency or the timing of its declaration limited or affected in any way?

Mr. FLOWERS. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD of California. Yes, I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Speaker, in my judgment it is not. The Senate amendments really just pertain to the activation of the powers that would be accorded the President under the declaration of an emergency.

Mr. MOORHEAD of California. Mr. Speaker, with that assurance, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 8603, POSTAL REORGANIZATION ACT AMENDMENTS OF 1975

Mr. HENDERSON submitted the following conference report and statement on the bill (H.R. 8603) to amend title 39, United States Code, with respect to the organizational and financial matters of the United States Postal Service and the Postal Rate Commission, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94-1444)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8603) to amend title 39, United States Code, with respect to the organizational and financial matters of the United States Postal Service and the Postal Rate Commission, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Postal Reorganization Act Amendments of 1976".

Sec. 2. (a) Section 2401(b) of title 39, United States Code, is amended by striking out paragraph (3).

(b) Section 2401 of title 39, United States Code, is amended by adding at the end thereof the following new subsections:

"(d)(1) There is authorized to be appropriated to the Postal Service for fiscal year 1976 and for the period beginning July 1, 1976; and ending September 30, 1976, the amount of $500,000,000 to be applied against the accumulated operating indebtedness of the Postal Service as of September 30, 1976.

"(2) There is authorized to be appropriated to the Postal Service for fiscal year 1977 the amount of $500,000,000 to be applied against the accumulated operating indebtedness of the Postal Service as of September 30, 1977.

"(e) During the period beginning on the date of the appropriation of the funds under subsection (d)(1) and ending on the date on which the Commission on Postal Service is required to transmit the final report required under section 7(f)(1) of the Postal Reorganization Act Amendments of 1976 to the President and each House of Congress, the Postal Service shall not—

"(1) have in effect any permanent or temporary rate of postage or fee for postal services exceeding the rates and fees in effect on the date of enactment of the Postal Reorganization Act Amendments of 1976;

"(2) provide levels and types of postal services which are less than the levels and types of services provided on July 1, 1976;

"(3) close any post office where 35 or more families regularly receive their mail and which was providing service on July 1, 1976; or

"(4) close any post office where fewer than 35 families receive their mail and which was providing service on July 1, 1976, unless the Postal Service receives the written consent of at least 60 percent of the regular patrons of such office who are at least 18 years of age.

"(f) During the period beginning on the date of the appropriation of the funds under subsection (d)(1) and ending on the date on which the Commission on Postal Service is required to transmit the final report required under section 7(f)(1) of the Postal Reorganization Act Amendments of 1976 to the President and each House of Congress, the Postal Service shall provide door delivery or curbline delivery to all permanent residential addresses (other than apartment building addresses) to which service is begun on or after the date of enactment of the Postal Reorganization Act Amendments of 1976.

"(g) The Postal Service shall present to the Committees on Post Office and Civil Service and the Committees on Appropriations of the Senate and the House of Representatives, at the same time it submits its annual budget under section 2009 of this title, sufficient copies of the budget of the Postal Service for the fiscal year for which funds are requested to be appropriated, and a comprehensive statement relating to the following matters:

"(1) the plans, policies, and procedures of the Postal Service designed to comply with all of the provisions of section 101 of this title;

"(2) postal operations generally, including data on the speed and reliability of service provided for the various classes of mail and types of mail service, mail volume, productivity, trends in postal operations, and analyses of the impact of internal and external factors upon the Postal Service;

"(3) a listing of the total expenditures and obligations incurred by the Postal Service for the most recent fiscal year for which information is available, an estimate of the total expenditures and obligations to be incurred by the Postal Service during the fiscal year for which funds are requested to be appropriated, and the means by which these estimated expenses will be financed and

"(4) such other matters as the committees may determine necessary to ensure that the Congress is fully and currently consulted and informed on postal operations, plans, and policies.

Not later than March 15 of each year, the Postal Service shall appear before the Committees on Post Office and Civil Service of the Senate and the House of Representatives to submit information which any such committee considers necessary to determine the amount of funds to be appropriated for the operation of the Postal Service, and to present testimony and respond to questions with respect to such budget and statement. Each such committee shall take such action as it considers appropriate and shall advise the Postal Service of such action.

"(h) The failure of the President to request the appropriation of any part of the funds authorized by this section may not be deemed a failure of appropriations. The failure of the President to request the appropriation of any part of the funds authorized by this section shall not relieve the Postal Service from the responsibility to comply with the provisions of subsections (e) and (f) of this section.

"(i) The rates established under chapter 36 of this title for zone-rated parcels formerly entered under former chapter 67 of this title shall not be more than 10 percent less than the rates for such mail would be if the funds authorized under subsections (b) and (d) of this section were not appropriated.".

(*c*) Section 2003 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(*f*) Notwithstanding any other provision of this section, any amounts appropriated to the Postal Service under subsection (d) of section 2401 of this title and deposited into the Fund shall be expended by the Postal Service only for the purposes provided in such subsection."

Sec. 3. (a) Section 3601 of title 39, United States Code, is amended to read as follows:

"§ 3601. Establishment

"(a) The Postal Rate Commission is an independent establishment of the executive branch of the Government of the United States. The Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen on the basis of their professional qualifications and may be removed by the President only for cause. Not more than 3 of the Commissioners may be adherents of the same political party.

"(b) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under section 3602 of this title.

"(c) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

"(d) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.".

(b) The provisions of section 3601(a) of title 39, United States Code, as amended by subsection (a) of this section, shall not apply with respect to any Commissioner of the Postal Rate Commission holding office on the date of the enactment of this Act, except that such provisions shall apply to any appointment of such a Commissioner occurring after the date of the enactment of this Act.

Sec. 4. Section 3604 of title 39, United States Code, is amended to read as follows:

"§ 3604. Administration

"(a) The Chairman of the Postal Rate Commission shall be the principal executive officer of the Commission. The Chairman shall exercise or direct the exercise of all the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment of personnel employed under the Commission, except that the appointment of the heads of major administrative units under the Commission shall require the approval of a majority of the members of the Commission, (2) the supervision of the personnel employed under the Commission and the distribution of business among them and among the Commissioners, and (3) the use and expenditure of funds.

"(b) In carrying out any of his functions under this section, the Chairman shall be governed by the general policies of the Commission.

"(c) The Chairman may obtain such facilities and supplies as may be necessary to permit the Commission to carry out its functions. Any officer or employee appointed under this section shall be paid at rates of compensation and shall be entitled to programs offering employee benefits established under chapter 10 or chapter 12 of this title, as appropriate.

"(d)(1) The Commission shall periodically prepare and submit to the Postal Service a budget of the Commission's expenses, including, but not limited to, expenses for facilities, supplies, compensation, and employee benefits. The budget shall be considered approved—

"(A) as submitted if the Governors fail to act in accordance with subparagraph (B) of this paragraph; or

"(B) as adjusted if the Governors holding office, by unanimous written decision, adjust the total amount of money requested in the budget.

Subparagraph (B) shall not be construed to authorize the Governors to adjust any item included within the budget.

"(2) Expenses incurred under any budget approved under paragraph (1) of this subsection shall be paid out of the Postal Service Fund established under section 2003 of this title.

"(e) The provisions of section 410 and chapter 10 of this title shall apply to the Commission, as appropriate.".

Sec. 5. (a) Section 3624 of title 39, United States Code, is amended by redesignating subsection (c) as subsection (d) and by inserting immediately after subsection (b) the following new subsection:

"(c)(1) Except as provided by paragraph (2) of this subsection, in any case in which the Postal Service makes a request under section 3622 of this title for a recommended decision by the Commission on changes in a rate or rates of postage or in a fee or fees for postal services the Commission shall transmit its recommended decision to the Governors under subsection (d) of this section no later than 10 months after receiving any such request from the Postal Service.

"(2) In any case in which the Commission determines that the Postal Service has unreasonably delayed consideration of a request made by the Postal Service under section 3622 by failing to respond within a reasonable time to any lawful order of the Commission, the Commission may extend the 10-month period described in paragraph (1) of this subsection by one day for each day of such delay.".

(b) The amendment made by subsection (a) of this section shall not apply to any action or proceeding with respect to the recommended decision of the Postal Rate Commission relating to proposed changes in rates of postage, and in fees for postal services, requested on September 18, 1975, by the United States Postal Service in a request which bears, or which at any time has been included under, Postal Rate Commission Docket Number R76–1.

SEC. 6. (a) Section 3641 of title 39, United States Code, is amended to read as follows:

§ 3641. Temporary changes in rates and classes

"(a) In any case in which the Postal Rate Commission fails to transmit a recommended decision on a change in rates of postage or in fees for postal services to the Governors in accordance with section 3624(c) of this title, the Postal Service may establish temporary changes in rates of postage and in fees for postal services in accordance with the proposed changes under consideration by the Commission. Such temporary changes may take effect upon such date as the Postal Service may determine, except that such temporary changes may take effect only after 10 days' notice in the Federal Register.

"(b) Any temporary rate or fee established by the Postal Service under subsection (a) of this section shall be in accordance with the policies of this title and shall not exceed such amount as may be necessary for sufficient revenues to assure that the total estimated income, including appropriations, of the Postal Service shall, to the extent practicable, be equal to the total estimated costs of the Postal Service.

"(c) Notwithstanding the provisions of subsection (b) of this section, the Postal Service may not establish any temporary rate for a class of mail or any temporary fee for a postal service which is more than the permanent rate or fee requested for such class or postal service by the Postal Service under section 3622 of this title.

"(d) Any temporary change in rates of postage or in fees for postal services made by the Postal Service under this section shall remain in effect no longer than 150 days after the date on which the Commission transmits its recommended decision to the Governors under section 3624(d) of this title, unless such temporary change is terminated by the Governors before the expiration of such period.

"(e) If the Postal Rate Commission does not transmit to the Governors within 90 days after the Postal Service has submitted, or within 30 days after the Postal Service has resubmitted, to the Commission a request for a recommended decision on a change in the mail classification schedule (after such schedule is established under section 3623 of this title), the Postal Service, upon 10 days' notice in the Federal Register, may place into effect temporary changes in the mail classification schedule in accordance with proposed changes under consideration by the Commission. Any temporary change shall be effective for a period ending not later than 30 days after the Commission has transmitted its recommended decision to the Governors.

"(f) If, under section 3628 of this title, a court orders a matter returned to the Commission for further consideration, the Postal Service, with the consent of the Commission, may place into effect temporary changes in rates of postage, and fees for postal services, or in the mail classification schedule.".

(b)(1) The amendment made by subsection (a) of this section shall not apply to any action or proceeding with respect to the recommended decision of the Postal Rate Commission relating to proposed changes in rates of postage and in fees for postal services requested on September 18, 1975, by the United States Postal Service in a request which bears, or which at any time has been included under, Postal Rate Commission Docket Number R76–1.

(2) The provisions of section 3641 of title 39, United States Code, as such provisions were in effect on the day before the date of the enactment of this Act, shall apply to any temporary rate or fee established by the Postal Service pursuant to its request to the Postal Rate Commission, dated September 18, 1975, for a recommended decision, bearing Docket Number R76–1.

SEC. 7. (a)(1) There is hereby established the Commission on Postal Service (hereinafter in this section referred to as the "Commission"). The Commission shall be composed of 7 members, to be selected as follows:

(A) 3 appointed by the President of the United States, of whom one shall be appointed as chairman;

(B) 2 appointed by the President pro tempore of the Senate, of whom one shall be an individual who is a member of the work force of the United States Postal Service; and

(C) 2 appointed by the Speaker of the House of Representatives, of whom one shall be an individual who is a member of the work force of the United States Postal Service.

The Postmaster General of the United States and the Chairman of the Postal Rate Commission shall serve as ex officio members of the Commission, without the right to vote.

(2) The members of the Commission shall be appointed within 15 days following the date of the enactment of this Act. In the event that all of the members of the Commission have not been appointed at the close of such 15-day period, a majority of the members appointed to the Commission shall constitute a quorum for the conduct of business by the Commission.

(3) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(b) The Commission shall identify and study the problems facing the United States Postal Service and recommend actions to be taken to resolve those problems. The Commission shall not be limited to any particular subject areas for consideration but the Commission—

(1) shall identify and study the public service aspects of the United States Postal Service, shall recommend to what extent and by what means such aspects may be defined and costs thereof reasonably estimated, and shall, insofar as practicable, identify any difference between—

(A) the costs that the Postal Service should reasonably be expected to incur in providing postal services in accordance with the policies of title 39, United States Code, and

(B) the revenues that the Postal Service may reasonably be expected to receive from rates and fees for postal services, with due consideration to the fact that demands for postal services may be reflected by changes in the levels of such rates and fees;

(2) shall determine the extent to which the public service aspects of the Postal Service shall be supported by appropriations and shall recommend a plan for such appropriations with due consideration being given to—

(A) the economic and social benefits of the postal system to the user and recipient of the mail,

(B) the relative economic ability of the users of various classes of mail to absorb the costs of the postal system,

(C) the extent to which the costs of maintaining a system which would provide a reasonable degree of regular postal services to the entire public without regard to individual usage, and the degree to which such costs should be borne by the public generally rather than by mail users in particular,

(D) the relative economic and social benefits of other uses of private and public funds, and

(E) the need of the Postal Service for adequate and dependable funding and for systematic planning and ratemaking to provide efficient and economical postal services in accordance with the policies of title 39, United States Code;

(3) shall study the desirability and feasibility of—

(A) the ratemaking procedures established under title 39, United States Code, particularly the functions and responsibilities of the Postal Rate Commission, and shall develop recommendations for more expeditious and economical procedures that are responsive to the needs of the Postal Service and the public, including, if the Commission recommends the abolition of the Postal Rate Commission, a method of assuring that changes in postal rates shall be reviewed independently outside the Postal Service,

(B) a system in which changes in postal rates shall not exceed changes in consumer prices unless greater changes in such rates are approved by a body independent of the Postal Service,

(C) the ratemaking criteria established by section 3622(b) of title 39, United States Code, and

(D) a statutory requirement for cost attributions to particular classes of mail or types of mail service;

(4) shall review the appropriateness of current and future service levels and the extent to which, if any, such levels should be supported by appropriations; and

(5) shall review the long range impact of new electronic fund transfers and communication techniques, the effect of such transfers and techniques on mail volumes and revenues of the Postal Service, and the feasibility of the Postal Service operating such systems.

(c)(1) For purposes of carrying out its functions under this section, the Commission may sit and act at such times and places and receive such evidence and testimony as it considers advisable.

(2) The Commission may secure directly from any department or agency of the United States information and assistance necessary to carry out its duties under this section. Each department or agency is authorized and directed, to the extent permitted by law and within the limits of available funds, to furnish information and assistance to the Commission.

(3) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(4) All meetings, hearings, conferences, or other proceedings of the Commission shall be open to the chairmen of the appropriate committees of the Congress or their designees and reasonable notice of such meetings or hearings shall be given to such chairmen or their designees.

(d)(1) Except as provided in paragraph (2), members of the Commission each shall receive as compensation the daily equivalent of the annual rate of basic pay in effect for Grade GS–18 for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Commission.

(2) Members of the Commission who are full-time officers or employees of the United

States shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of service for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(e) The Commission may appoint and fix the compensation of such personnel as it considers advisable without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not to exceed the maximum rate authorized by the General Schedule. The Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for the maximum rate authorized by the General Schedule.

(f) (1) The Commission shall transmit to the President and to each House of the Congress a final report containing a detailed statement of its findings and recommendations, together with any individual views, on or before March 15, 1977.

(2) The Commission shall not be required to obtain the clearance of any Federal agency before the transmittal of its report.

(g) The Commission shall cease to exist 60 days after the transmission of its final report under subsection (f) of this section and all offices and employment under it shall then expire.

(h) There are authorized to be appropriated to the Postal Service Fund established under section 2003 of title 39, United States Code, without fiscal year limitation, such sums as may be necessary to carry out the provisions of this section. Expenses incurred by the Commission shall be paid out of the Postal Service Fund.

SEC. 8. Section 3623(b) of title 39, United States Code, is amended by striking out "Postal Service" the second place it appears therein and inserting in lieu thereof "Governors".

SEC. 9. (a) Section 404 of title 39, United States Code, is amended by inserting "(a)" immediately before "Without" and by adding at the end thereof the following new subsection:

"(b) (1) The Postal Service, prior to making a determination under subsection (a) (3) of this section as to the necessity for the closing or consolidation of any post office, shall provide adequate notice of its intention to close or consolidate such post office at least 60 days prior to the proposed date of such closing or consolidation to persons served by such post office to ensure that such persons will have an opportunity to present their views.

"(2) The Postal Service, in making a determination whether or not to close or consolidate a post office, shall consider—

"(A) the effect of such closing or consolidation on the community served by such post office;

"(B) the effect of such closing or consolidation on employees of the Postal Service employed at such office;

"(C) whether such closing or consolidation is consistent with the policy of the Government, as stated in section 101(b) of this title, that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;

"(D) the economic savings to the Postal Service resulting from such closing or consolidation; and

"(E) such other factors as the Postal Service determines are necessary.

"(3) Any determination of the Postal Service to close or consolidate a post office shall be in writing and shall include the findings of the Postal Service with respect to the considerations required to be made under paragraph (2) of this subsection. Such determination and finding shall be made available to persons served by such post office.

"(4) The Postal Service shall take no action to close or consolidate a post office until 60 days after its written determination is made available to persons served by such post office.

"(5) A determination of the Postal Service to close or consolidate any post office may be appealed by any person served by such office to the Postal Rate Commission within 30 days after such determination is made available to such person under paragraph (3). The Commission shall review such determination on the basis of the record before the Postal Service in the making of such determination. The Commission shall make a determination based upon such review no later than 120 days after receiving any appeal under this paragraph. The Commission shall set aside any determination, findings, and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

"(B) without observance of procedure required by law; or

"(C) unsupported by substantial evidence on the record.

The Commission may affirm the determination of the Postal Service or order that the entire matter be returned for further consideration, but the Commission may not modify the determination of the Postal Service. The Commission may suspend the effectiveness of the determination of the Postal Service until the final disposition of the appeal. The provisions of section 556, section 557, and chapter 7 of title 5 shall not apply to any review carried out by the Commission under this paragraph.".

(b) The amendments made by subsection (a) of this section shall take effect on the day after the date on which the Commission on Postal Service transmits its final report under section 7(f) (1) of this Act.

SEC. 10. Section 3622(b) of title 39, United States Code, is amended by striking out "and" at the end of paragraph (7), by redesignating paragraph (8) as paragraph (9), and by inserting immediately after paragraph (7) the following new paragraph:

"(8) the educational, cultural, scientific, and informational value to the recipient of mail matter; and".

SEC. 11. Section 3626 of title 39, United States Code, is amended by inserting "(a)" immediately before "If the rates" and by adding at the end thereof the following new subsections:

"(b) (1) For the purposes of this title, the term 'periodical publications', as used in former section 4351 of this title, includes (A) any catalog or other course listing, including mail announcements of legal texts which are part of post-bar admission education issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education; and (B) any looseleaf page or report (including any index, instruction for filing, table, or sectional identifier which is an integral part of such report) which is designed as part of a looseleaf reporting service concerning developments in the law or public policy.

"(2) Any material described in paragraph (1) of this subsection shall qualify to be entered and mailed as second class mail in accordance with the applicable provisions of former section 4352 through former section 4357 of this title.

"(3) For purposes of this subsection, the term 'institution of higher education' has the meaning given it by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(c) In the administration of this section, one conservation publication published by an agency of a State which is responsible for management and conservation of the fish or wildlife resources of such State shall be considered a publication of a qualified nonprofit organization which qualifies for rates of postage under former section 4358(d) of this title.

"(d) (1) For purposes of this title, the term 'agricultural', as used in former sections 4358(j) (2), 4452(d), and 4554(b) (1) (B) of this title, includes the art or science of cultivating land, harvesting crops or marine resources, or raising of livestock.

"(2) In the administration of this section, and for purposes of former sections 4358(j) (2), 4452(d), and 4554(b) (1) (B) of this title, agricultural organizations or associations shall include any organization or association which collects and disseminates information or materials relating to agricultural pursuits.".

SEC. 12. Section 3683 of title 39, United States Code, is amended by inserting "(a)" immediately before "Notwithstanding any other provision" and by adding at the end thereof the following new subsection:

"(b) The rates for mail matter specified in former section 4554(a) (1) or 4554(b) (2) (A) of this title, when mailed from a publisher or a distributor to a school, college, university, or library, shall be the rate currently in effect for such mail matter under the provisions of former section 4554(b) (1) of this title.".

And the Senate agree to the same.

DAVID N. HENDERSON,
MORRIS K. UDALL,
ROBERT N. C. NIX,
JAMES M. HANLEY,
WILLIAM D. FORD,
EDWARD J. DERWINSKI,
ALBERT W. JOHNSON,
Managers on the Part of the House.

GALE W. MCGEE,
JENNINGS RANDOLPH,
QUENTIN N. BURDICK,
TED STEVENS,
HENRY BELLMON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8603) to amend title 39, United States Code, with respect to the organizational and financial matters of the United States Postal Service and the Postal Rate Commission, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

POSTAL REVENUES, APPROPRIATIONS, AND REPORTS TO CONGRESS

Section 2 of the House bill revised the method of financing postal operations. Under current law, enacted in the Postal Reorganization Act in 1970, all revenues of the Postal Service are permanently appropriated to the Postal Service Fund, and Congress annually appropriates only the amounts due for public services ($920 million through fiscal year 1979), revenue foregone, and incidental expenses. The House bill established the method of postal finances which existed prior to 1970, which required that all postal revenues be deposited in the general fund of the Treasury and that Congress annually appropriate all of the Postal Service's funds. The House bill also revised the authorization for public service appropriations, which under current law are related to 10 percent of fiscal year 1971 appropriations for a definite period of time, by repealing existing law and substituting a general authorization for public service appropriations without specific financial or time limitations.

Section 2 of the Senate bill did not change the present authority of Postal Service finances, but added a new authorization for $500 million for each of the periods ending September 30, 1976, and September 30, 1977.

The conference substitute retains existing law relating to the permanent appropriation of postal revenues to the postal service and the existing law on authorizations for public service appropriations, revenue foregone, and certain incidental expenses. The conference substitute also includes an authorization for two appropriations of $500,000,000 each. It is the understanding of the managers that the Office of Management and Budget will transmit to the Congress a request for both appropriations immediately following the enactment of this legislation. The authorization under the new section 2401(d)(1) for $500,000,000 shall be made for the purpose of retiring the accumulated operating deficit incurred by the Postal Service as of September 30, 1976. The new section 2401(d)(2) authorizes an appropriation of $500,000,000 to be used to retire the accumulated operating indebtedness for the fiscal year 1977.

It is the intent of the managers that the $1 billion authorized to be appropriated under the conference agreement is to be applied toward the outstanding indebtedness incurred by the Postal Service during the respective periods.

The managers have concluded that application of the $1 billion in this manner will have the same effect as allowing the Postal Service to use these funds to pay current operating expenses, since under either application the total outstanding indebtedness will undoubtedly remain the same and further, the Postal Service will have available to it the same amount of funds needed for its operations.

The conference substitute also establishes new reporting requirements on the postal service. Under existing law, the Postal Service is required to submit a statement each year in compliance with the postal policy of section 101 of title 39, United States Code.

Both the House bill and the Senate bill expanded substantially upon the present reporting requirements. The conference substitute adopts the principles expressed in the Senate bill and also requires that the Postal Service appear before the Committees on Post Office and Civil Service of the House and the Senate before March 15 of each year to testify and respond to questions relating to the postal service.

The managers are particularly mindful of the need for effective oversight of postal operations to insure that the postal services provided the public shall continue at an effective level and at reasonable rates. The failure of the Postal Service to provide the kind of extensive information which can sustain legislative and public confidence in the Postal Service, whether intentional or the result of oversight, must not continue. The provisions of section 2401 of title 39, requiring an annual report concerning the Postal Service's compliance with the public service policy of section 101 of title 39 has never been more than a simple recitation of the number of post offices in rural areas which have been opened, closed, or changed in status since the last report. The new reporting requirements go far beyond that kind of enumeration and, coupled with the requirement for appearances by officials of the Postal Service before the legislative committees responsible for oversight of postal affairs, will promote better administration of congressional policy, and better relations between the Executive and Legislative branches.

DOOR AND CURBLINE DELIVERY STANDARDS

Section 2 of the House bill required the Postal Service to provide door or curbline delivery to residential addresses under conditions determined by local government authorities. Where permitted by local authority, the Postal Service could provide "clusterbox" delivery to residences. The imposition of these delivery requirements was conditional upon public service appropriations.

Section 2 of the Senate bill required the Postal Service, during the period beginning on the date of enactment of the new public service appropriation and ending on the date the report of the Commission on Postal Service is filed, to provide door to curbline delivery to all new residential addresses. No clusterbox delivery was authorized and local governmental authority was not involved.

The conferees are mindful of the problems that now exist in connection with the establishment of new delivery routes. However, it is also recognized that this matter is one proper for consideration by the Commission on Postal Service established by section 7 of the Conference Agreement. It is the intent of the conferees that the Commission include this matter in its studies and report.

The conference substitute adopts the Senate language.

MORATORIUM ON RATE INCREASES, SERVICE CHANGES, AND POST OFFICE CLOSINGS

The House bill did not include language regarding a moratorium on rate increases or service changes.

The Senate bill provided that during the period beginning on the date of enactment of the new appropriation and ending on the date the report of the Commission on Postal Service is filed, the Postal Service shall not increase any rate of postage or any fee for any postal service, shall provide services to all patrons in all areas at the same level, and of the same type, as were being provided on July 1, 1976, and shall not close any post office except in the case of very small communities where patrons of the office give their consent to the closing.

The conference provision adopts the Senate language.

PARCEL POSTAL RATES

Section 2 of the House bill provided that the public service appropriations to the Postal Service could not be utilized or expended in such a manner as would effect a reduction of more than 10 percent in the rates established under chapter 36 of title 39 for parcel post.

Section 2 of the Senate bill provided that rates for parcel post established under chapter 36 of title 39 could not be more than 10 percent less than they would be if the new appropriation were not enacted.

The conference substitute contains new language which adopts the principle of the House bill—that parcel post rates shall not benefit from the appropriation of funds to the Postal Service to an extent which would result in the establishment of parcel post rates at levels more than 10 percent below the levels which would be established if no appropriations for public services and for the purposes described in the new section 2401(d) were made.

FAILURES OF APPROPRIATIONS

The Senate bill contained language clarifying when there may occur a failure of appropriations within the meaning of section 3627 of title 39. Existing law authorizes the Postal Service to initiate proceedings under subchapter II of chapter 36 of title 39 if Congress fails to appropriate funds pursuant to section 2401(c). Beginning in fiscal year 1972, the President has refused to request some of the funds authorized to be appropriated, including the funds for extended phasing authorized under Public Law 93–328.

The Senate bill provided that the failure of the President to request the appropriation of any part of the funds authorized to be appropriated under section 2401 of title 39 may not be deemed a failure of appropriations, and also provided that the failure of the President to request the appropriations of such funds would not relieve the Postal Service from the responsibility to comply with the provisions of this legislation relating to the moratorium on rate increases and service changes, the requirement for door or curbline delivery, and the new reporting requirements to the Congress.

The House bill contained no provision.

The conference substitute adopts the Senate language except that the language is modified to eliminate the possibility of interpreting the language to establish a relationship between the appropriation of funds to the Postal Service and the reporting requirements imposed upon the Postal Service under this legislation. These provisions are entirely separate. In addition, it should be understood that a failure of appropriations occurs only when Congress enacts legislation appropriating funds to the Postal Service pursuant to section 2401 of title 39 and that legislation does not include an amount estimated to be necessary to pay the difference between reduced rates and full rates. In that case, a proceeding under section 3627 permitting rate adjustments in accordance with subchapter II of chapter 36 could be undertaken.

POSTAL RATE COMMISSION PROVISIONS

Both the House bill and the Senate bill included substantially similar language making changes in the organizational structure of the Postal Rate Commission.

The appointment of the Commission was changed from direct Presidential appointment to nomination by the President and Senate confirmation. Commissioners are allowed to continue in office until a successor has qualified, and the power of the chairman to exercise the executive authority for the agency has been clarified.

In the consideration of rate and classification cases, the House bill provided that both types of cases would be subject to a 10-month period for hearing and decision. The Senate bill adopted the 10-month provision for postal rates cases, but retained existing law, which imposes no limits, for mail classification cases. The conference substitute adopts the Senate provision.

In setting temporary rates and making temporary changes in mail classifications, the House bill applied a 10-month waiting period in both instances, while the Senate bill applied the 10-month period to rate increases, but retained the 90-day waiting period for classification changes. The conference substitute adopts the Senate language.

The House bill removed the proceedings of the Postal Rate Commission from the provisions of the Administrative Procedure Act (5 U.S.C. 556–557) and provided instead that the Commission would be authorized to hold hearings under less rigorous standards than those now required for its proceedings.

The Senate bill made no change in existing law.

The conference substitute adopts the Senate position.

The House bill required that Commissioners of the Postal Rate Commission appointed after the date of enactment of this legislation would be subject to Senate confirmation, but that the new requirement would not be applicable to an incumbent unless he were reappointed.

The Senate bill was similar to the House bill except that in the provision relating to incumbent commissioners, the requirement for Senate confirmation did not apply if the commissioner has served fewer than two years.

The conference substitute adopts the House provision.

The House bill contained 2 sections vesting authority from the Postal Rate Commission to review the activities of the Postal Service, to secure data from the Postal Service, to conduct hearings relating to the activities of the Board of Governors of the Postal Service and to issue subpenas to compel the production of evidence and the testimony of witnesses.

The Senate bill contained no similar provision.

The conference substitute contains no provision.

The managers wish to emphasize that, under existing law, the Postal Service must provide the Commission with prompt and reliable data in order for the Commission to carry out its responsibilities under the law. Under this legislation, the Commission has been granted the additional authority to suspend implementation of proposed temporary rates on a day for day basis when it determines that the Postal Service has engaged in undue delays during consideration of rate cases. This authority should be sufficient to insure Postal Service cooperation. If it is not, further consideration should be given this matter by the appropriate committees of the Congress.

CHANGES IN THE NATURE OF POSTAL SERVICES

The House bill provided a definition for the purpose of determining when the Postal Service must submit a request for an advisory opinion by the Postal Rate Commission under section 3661 of title 39. Under existing law, a change in the nature of postal service; which has a nationwide or substantially nationwide impact must be reviewed by the Commission, but the words "change in the nature of postal service" are not defined. Section 6(d) of the House bill defined the term to mean "any change or alteration in the type, quality, terms, or conditions of providing for the receipt, transmission, or delivery of mail matter of any type."

The Senate bill contained no provision.

The conference substitute adopts the Senate provision.

CRITERIA FOR FIXING POSTAL RATES

The House bill included a provision adding a new factor to be taken into account by the Postal Rate Commission in recommending postal rates. This new criterion is "the educational, cultural, scientific, and informational value to the recipient of mail matter."

The Senate bill did not contain any provision on this issue.

The conference substitute adopts the House provision.

MAILING PERMITS

The House bill provided that certain publications would be entitled to mail at second-class rates notwithstanding recent administrative efforts by the Postal Service to withdraw such mailing permits from these publications. Included in the provision were college and university course catalogs, periodicals relating to continuing legal education published by an educational institution or a nonprofit organization, and looseleaf publications relating to law and public policy.

The Senate bill contained no provision.

The conference substitute adopts the House provision.

The House bill also extended nonprofit mailing status to political committees qualified for tax credit contributions under the Internal Revenue Code, to one publication published by a state fish or wildlife agency, and broadened the definition of an agricultural nonprofit association or organization to include such associations engaged in the harvesting of marine life.

The Senate bill contained no provisions.

The conference substitute adopts the House provisions relating to publications of a State fish or wildlife agency and relating to the definition of an agricultural nonprofit association or organization. The conference substitute does not include the provision extending nonprofit mailing status to political committees qualified for tax credit contributions under the Internal Revenue Code.

BOOK RATES

The House bill contained a provision making the rates applicable for books mailed between schools and libraries applicable to the rates for books when mailed by a publisher or distributor to a school or library.

The Senate bill contained no provision.

The conference substitute adopts the House language.

PROCEDURES FOR CLOSING OR CONSOLIDATING POST OFFICES

The Senate bill included a provision requiring the Postal Service to give public notice of its intent to close or consolidate a post office 60 days in advance; to give the public an opportunity to express its views on the plan; to comply with specific criteria in making such determinations, and to issue a final decision 60 days before an office could be closed or consolidated. A postal patron of such a post office would be entitled to appeal the decision to a United States Court of Appeals for a judicial determination.

The House bill contained no provision on this issue.

The conference substitute adopts the Senate provision except that the right of appeal to a United States court of appeals is deleted and instead there shall be a right of appeal to the Postal Rate Commission. The managers intended that an appeal to the Commission under this new provision may be made only by a regular patron of a post office which has been ordered to be closed or consolidated. Also, the managers intend that this provision apply to post offices only and not to other postal facilities.

TEMPORARY POSTAL RATE INCREASE

The House bill provided a limitation on the amount of increase which could be made by the Postal Service in establishing temporary rates. This provision was adopted when the bill was reported by the House last year. Since that time, temporary rates have already been established and have subsequently been replaced by permanent rates. There is, therefore, no need for this provision.

The Senate bill contained no provision.

The conference substitute contained no provision.

USE OF LETTERBOXES BY NONPROFIT ORGANIZATIONS

The House bill contained a provision which authorized certain nonprofit organizations to use volunteers to deposit mail matter relating to the activities of the associations in postal patrons letter boxes without payments of postage.

The Senate bill contained no provision.

The conference substitute contains no provision.

APPOINTMENT OF THE POSTMASTER GENERAL AND DEPUTY POSTMASTER GENERAL

The House bill contained a provision which required that the Postmaster General and the Deputy Postmaster General be appointed by the President of the United States with the advice and consent of the Senate.

The Senate bill contained no provision.

The conference substitute contains no provision.

The conferees have taken note that a majority of the House of Representatives is of the opinion that the current method of appointment of the Postmaster General and Deputy Postmaster General should be revised. The conferees, therefore, expect the Commission on Postal Service to study and issue recommendations on the feasibility and desirability of alternative methods of appointment. In particular, the Commission should give attention to the length of terms of office, if any, and the alternative of appointment by the President with the advice and consent of the Senate.

COMMISSION ON POSTAL SERVICE

The House bill established the Commission on Postal Service consisting of five members appointed as follows: two, (including the chairman) by the President, and one each by the President pro tempore of the Senate, the Speaker of the House, and the Postmaster General. The Commission was to study specific areas—particularly the public service aspects of the Postal Service, and the method of establishing postal rates. In the House version, the Commission would report to the President and Congress within two years.

The Senate bill established the Commission on Postal Service consisting of ten members: four (including the chairman) appointed by the President, and three each appointed by the President pro tempore of the Senate and the Speaker of the House. One appointee of each House was to be a member of the Postal Service work force. The Postmaster General and the Chairman of the Postal Rate Commission were to be ex officio members without a vote.

The Commission in the Senate bill was required simply to study problems facing the Postal Service and issue recommendations to the President and the Congress by February 5, 1977. The only specific charge was that the Commission report on the feasibility and desirability of relaxing the Private Express Statutes.

The Conference concluded that a smaller commission would be more efficient. Therefore, they adopted language establishing a seven member Commission: three appointed by the President and two each by the President pro tempore of the Senate and the Speaker of the House. The language requiring that one appointee of each House be a member of the Postal Service work force was retained. The Postmaster General and the Chairman of the Postal Rate Commission were retained as ex officio members without a vote.

The general responsibility of the Commission to study postal problems was retained. However, the Commission was also required to study and issue recommendations on several specific areas of interest, including public service aspects of the Postal Service.

The conferees agreed that the Commission should not study areas relating to matters covered under chapter 12 of title 39, United States Code.

The conferees also adopted language requiring the Commission to report to the President and Congress by March 15, 1977. The conferees accepted Senate language requiring appointment of the members of the Commission within fifteen days after date of enactment. Thereafter, a quorum of those appointed can conduct business.

SIZE AND WEIGHT LIMITS

The Senate bill contained a provision expanding the size and weight limits for surface-air mail parcels addressed to military installations of the Armed Forces outside the 48 contiguous States. Under existing law, the maximum weight is 15 pounds and the maximum size is 60 inches in length and girth combined. The Senate bill would have increased these dimensions to 70 pounds and 100 inches (the limits which presently apply to incoming SAM mail).

The House bill contained no provision.

The conference substitute contains no provision.

David N. Henderson,
Morris K. Udall,
Robert N. C. Nix,
James M. Hanley,
William D. Ford,
Edward J. Derwinski,
Albert W. Johnson,
Managers on the Part of the House.

GALE W. MCGEE,
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HENRY BELLMON,
Managers on the Part of the Senate.

ANNUAL REPORT OF NATIONAL COUNCIL ON THE ARTS AND NATIONAL ENDOWMENT FOR THE ARTS FOR FISCAL YEAR 1975—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor:

To the Congress of the United States:

I hereby transmit to the Congress the Annual Report of the National Council on the Arts and the National Endowment for the Arts for Fiscal Year 1975.

Our Bicentennial year marks the beginning of a second decade for the Arts Endowment which, under the guidance of the National Council, has made a substantial contribution to enriching the quality of life in America. This is a time for us to reflect upon our history and to reassess our goals for the future. The arts have always been an expression of the diversity of America's richly varied cultural experience. We are beginning to appreciate how important the arts are as resources—to improve our cities—to bring creativity into our schools—to bring greater perception to all, young and old.

This Annual Report reflects the Federal government's continuing support for the arts and its concern that public funds be instrumental in generating private dollars. The efforts of the Arts Endowment in that regard are very gratifying and I hope that each member of Congress will share my enthusiasm for this agency's achievements.

GERALD R. FORD.

THE WHITE HOUSE, *August 31, 1976.*

CONFERENCE REPORT ON S. 5, GOVERNMENT IN THE SUNSHINE ACT

Mr. BROOKS. Mr. Speaker, I call up the conference report on the Senate bill (S. 5) to provide that meetings of Government agencies shall be open to the public, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of August 26, 1976.)

Mr. BROOKS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The gentleman from Texas (Mr. BROOKS) is recognized for 30 minutes.

Is the gentleman going to take time?

Mr. BROOKS. Mr. Speaker, I will ask permission to revise and extend my remarks.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. Certainly, I am delighted to yield to the ranking Republican member of the committee.

Mr. HORTON. Mr. Speaker, I think it would be in order if the chairman of the committee would explain to the House the action of the conferees on this bill. This is a rather important bill. It did carry by a large margin in the House.

We have concluded the conference, and we have concluded the conference report. There were some difficulties because of amendments that were adopted on the floor, but for practical purposes the conferees have agreed. There were diverse views during the conference, but those were reconciled.

Mr. Speaker, I personally support the conference report and urge its adoption, but I thought perhaps the chairman of the committee could explain briefly what the conference report does.

Mr. BROOKS. Mr. Speaker, the conference report resolves the differences between the House and the Senate. I am delighted that the gentleman has joined with me in supporting the conference report. We worked all day on it, and the conferees have agreed. I was very pleased to have the gentleman's help.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, if I may explain the bill briefly, what this is is the bill which we had a couple of weeks ago to provide for open meetings of legal bodies which, for all practical purposes, are those bodies headed by two or more individuals of the regulatory agencies.

We did have some difficulties with definitions of "meetings" and the requirement of transcripts.

This matter was referred to the Committee on the Judiciary sequentially from the Committee on Government Operations, and we did have a large vote on the floor after the amendments were adopted. Those amendments had to do with meetings and transcripts. The conferees reconciled those differences between the Senate and the House on those matters; and for all practical purposes, the amendments that were suggested by the Committee on the Judiciary were adopted by the conferees.

Mr. Speaker, as I have indicated, I think it is a good conference report and I urge its adoption.

Mr. BROOKS. Mr. Speaker, I thank my friend, the gentleman from New York (Mr. HORTON), for a splendid explanation.

Mr. Speaker, the Government in the Sunshine Act passed both the Senate and the House by overwhelming margins.

On August 3, 1976, the House and Senate conferees met to work out the differences in the two versions. After long hours of work, agreement was reached and on August 26 the conference report was filed in the House with the signatures of all House and Senate conferees.

I would like to mention the major aspects of this report. There was a major disagreement between the House and Senate on the definition of "meeting" as used in the bill. The compromise was worked out, the definition of "meetings" now reads "the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations required or permitted by subsections (d) and (e)." The conferees recommend this language as a reasonable compromise.

The second major area of disagreement between the Senate and the House versions was the Senate requirement of a verbatim transcript of each meeting closed to the public under this bill. The House version required that written minutes be kept of closed meetings. The compromise would have an agency make a verbatim transcript or electronic recording of each meeting closed to the public unless the meeting were closed under the following three exemptions: First, meetings to discuss regulation of financial institutions; second, meetings in which the information discussed might lead to financial speculation; and third, meetings dealing with adjudicatory proceedings or civil actions. If the meeting falls within one of these three exemptions, the agency may choose to make either a transcript, an electronic recording, or full and complete minutes.

Other issues dealt with by the conference are discussed in the conference report. I feel that the conferees, in this report, have come up with a measure which both the Senate and the House can and should accept. Along with the other 13 House conferees, I recommend this report to the House and urge its immediate passage so that the goal of Government in the sunshine can be reached.

Ms. ABZUG. Mr. Speaker, as the primary sponsor of the House version of the Government in the Sunshine bill (H.R. 11656) I am pleased and proud to rise in support of this conference report.

My subcommittee, the Subcommittee on Government Information and Individual Rights, the subcommittee ably chaired by the gentleman from Alabama (Mr. FLOWERS), and our full committees, headed by Chairman JACK BROOKS and Chairman PETER RODINO, have put an enormous amount of time and effort into this legislation, and I believe that it heralds a new day in relationships between the Federal regulatory agencies and the public.

The Government in the Sunshine Act will, for the first time in our history, require most of the Federal regulatory agencies to open their meetings to the public. Part of the disenchantment with the Federal Government has been the feeling of citizens that it does its work behind closed doors and in concert with special interests. This bill, which limits ex parte communications between regulated industries and agency commissioners in addition to opening agency meetings, will permit citizens to see for themselves whether the agencies are acting in the public interest.

MAJOR POINTS OF THE BILL

Some of the bill's major points are:

First, all meetings of a quorum of an agency's commissioners that determine or result in the conduct or disposition of agency business must be open unless they come within one of the bill's 10 specific exemptions;

Second, even if the subject matter of the discussion comes within one of the exemptions, it must be an open discussion if the public interest so requires, and the agency has the burden of justifying a decision to close a meeting;

Third, the agency must publicly announce, at least one week in advance of a meeting—except in emergencies—the time, place, and subject matter of the meeting, whether it is open or closed, and the name and phone number of an agency official who will respond to the public's questions about the meeting;

Fourth, the agency must keep a transcript or electronic recording of each closed meeting. For meetings discussing bank condition reports, or information whose premature disclosure may lead to financial speculation, or the agency's involvement in an adjudicatory proceeding or civil action, minutes may be kept instead. All portions of the transcript, transcription, or minutes that turn out not to contain exempt material must be released to the public after the meeting;

Fifth, any person may challenge in court the closing of a meeting or the withholding of information under the Sunshine Act. The court may enjoin further violations of the act by the agency, or order the disclosure of any nonexempt material in the transcript, transcription, or minutes, or grant other appropriate relief. Attorneys' fees may be awarded in appropriate instances; and

Sixth, persons interested in the outcome of adjudicatory proceedings—and some rulemaking proceedings—before administrative agencies will be prohibited from communicating with agency commissioners or other agency decisionmaking personnel unless the communications are placed upon the public record or all other parties to the proceeding have adequate advance notice that they will be made. A party violating this prohibition could be the subject of sanctions up to and including loss of the proceeding on the merits.

CONFERENCE COMPROMISES

Thomas Jefferson wrote that—

> At free conferences the managers discuss, viva voce and freely, and interchange propositions for such modifications as may be made in a parliamentary way, and may bring the sense of the two Houses together. Jefferson's Manual of Parliamentary Procedure, section 539.

The conference on this bill was no exception, and all 21 conferees worked long and hard to arrive at reasonable compromises of the differences between our version of the bill and the version that passed the other body last November. All 21 of us have signed this conference report.

We adopted the Senate's basic definition of what constitutes a meeting, but clarified the definition as one applying to deliberations that "determine or result in" the conduct or disposition of agency business, rather than deliberations that "concern" agency business.

With respect to the third exemption from the open meeting requirements—the exemption that incorporates other disclosure statutes by reference—we agreed upon the basic House position, clarified to include statutes lacking specific criteria only if their withholding requirement is absolute and without exception. I have been asked whether 50 U.S.C. 403g, a statute relating to CIA exemption from laws such as the Sunshine Act and the Freedom of Information Act, comes within the third exemption as recommended by the conference. I have examined section 403g and believe that it does come within the exemption.

On the issue of transcripts as opposed to minutes of closed meetings, the Senate had opted for the former and the House for the latter. The conference compromise requires transcripts or electronic recordings for closed meetings as a general rule. In the case of meetings dealing with bank condition information, or information whose premature disclosure might lead to financial speculation, or dealing with agency participation in adjudicatory proceedings or civil actions, the agency is afforded the option of keeping minutes instead.

On the question of venue, we have recommended the House provision, which permits actions under the Sunshine Act to be brought where the agency has its headquarters, where the meeting in question is held, or here in the District of Columbia. As provided in 5 U.S.C. 552b(k), as enacted by this bill, venue in actions pursuant to the Freedom of Information Act continues to be the plaintiff's residence or place of business, the location of the records in question, or the District of Columbia.

The conferees have recommended that the House accept what is in essence Senate language regarding judicial review of agency proceedings on the merits. When a court is reviewing substantive agency action on the merits, it is authorized to review Sunshine Act violations as well and to afford such relief as it deems appropriate. While this provision permits a court to overturn substantive agency action because of a violation of the Sunshine Act, such drastic relief should be awarded only where the violation is of a serious nature.

Finally, the conferees have recommended deletion of the Senate provision making agency members liable for attorney's fees where they are found to have intentionally and repeatedly violated the act. This is a provision that I would have preferred to see retained in the bill, and I expect to see it included in future amendments to this act if agency members abuse their trust in the area of open meetings.

Before concluding, I would like to observe that in the past day or so, I have received another of the weighty missives that have arrived regularly from the Federal Trade Commission during the last year. The essence of this letter seems to be a request for congressional approval of an approach to this legislation that has been rejected from the start; namely, the idea of establishing "functional categories" of agency business and permitting blanket closing of any discussion of business said by an agency to fall within one of these general categories.

That is not what this legislation provides. Under this bill, each item of business must be examined individually to ascertain whether it comes within an exemption. Further, even if a piece of information does fall within an exemption, the agency is bound to keep the meeting open if the public interest so requires.

I appreciate what may be an honestly felt need on the part of the FTC to have us explain exactly how each general category of its business should be treated, but under this act, neither we nor they can do that. The mere fact that a discussion falls into one or another general category does not guarantee its classification under this bill. Each item—and not merely each general category—must be considered on its own merits. If it is found that a given item comes within one or more of the exemptions and also that disclosure of the item would not be in the public interest, then the consideration of the item may be closed.

CONCLUSION

I strongly believe that the bill will ably carry out its purpose—to provide the public with the fullest practicable information regarding the decisionmaking processes of our Government, while protecting the rights of individuals and the ability of the Government to carry out its responsibilities. I fully expect that we in the Congress, and the public at large, will be vigorous in insisting upon the strict enforcement of the basic presumption of openness which is the keystone of this bill.

I urge adoption of the conference report.

Mr. HORTON. Mr. Speaker, I rise in support of the conference report on S. 5, the Government in the Sunshine Act. The conference report represents the work of the House and Senate in resolving many of the differences.

Definitions of meetings, minutes, and verbatim transcripts have been developed which should meet the dual requirements of the public's right to know and those legitimate occasions when a meeting must be closed.

The bill applies to all Federal agencies composed of two or more people. It requires all meetings of these boards, commissions, and so forth, to be open to the public except where the subject matter of the meetings falls under one of 20 categories of exemptions. The exemptions essentially parallel the Freedom of Information Act which protects national security, informative trade secrets, and other sensitive categories of Government documents from publication.

It is important, I believe, that this bill receive prompt approval by the President. The public's access to the deliberations of Government agenices which regulate their lives is essential in a free society.

At the same time, I hope the Congress will not hesitate to examine the implementation of this legislation after there has been ample time to test its impact. All too frequently, we have adopted legislative requirements for executive agencies which become overburdened with regulations which destroy the intent and the purpose of the act. Government in the Sunshine deserves a better fate.

I urge adoption of the conference report on S. 5.

Mr. FASCELL. Mr. Speaker, I rise in support of the conference report on S. 5, the Government in the Sunshine bill, and urge that it be adopted.

The bill is in the same form substantially as it passed the House by an overwhelming margin. Two important amendments were made in the House-Senate conference committee—

On the issue of the definition of a "meeting", the conference report accepts the Senate wording except that deliberations would have to "determine or result in" the joint conduct or disposition of agency business, rather than merely "concern" such activities. This language is intended to permit casual discussions between agency members that might invoke the bill's requirements under the less formal "concern" standard. At the same time, the conference report includes telephone conference calls under the definition of a "meeting" if they involve the required number of agency members and otherwise meet the definition.

On the issue of requiring transcripts to be kept of agency meetings, the conference report moves in the direction of an amendment accepted on the House floor by permitting the Federal Reserve Board and other agencies involved in the regulation of financial institutions to exempt sensitive meetings from the transcript requirement. In such cases, only minutes would be required.

The conference report resolves the other minor differences between the House and Senate bills in a manner which I feel is in keeping with the basic purposes of the legislation.

As the principal House sponsor of this important measure, I fully support the conference bill and recommend its adoption. It will provide an effective yet fair mechanism for assuring that the deliberations of our Federal Government agencies are open to public observation.

The bill incorporates adequate safeguards for assuring that matters which must be taken up in closed session in the public interest may receive this protection. Our agencies will be able to carry out their functions and duties in an efficient way, while the public will have greater confidence in the integrity of the decisionmaking process.

It is difficult to legislate ethics in a system as widespread and diverse as our network of regulatory agencies, boards, and commissions. Basic standards can be written into statutory law, but this could not cover the infinite number of situations which might arise over a period of years among the 50 or so agencies affected by the bill. By permitting the public to attend meetings, however, our people can decide for themselves when questions arise as to the propriety of decisions, or actions by agency members.

Congress has already applied the sunshine principle to its own meetings. We have found that it is a fine prescription for the healthy and proper conduct of public business.

The same will be true of the agencies affected by S. 5, whose adoption of which I strongly recommend.

Mr. MOORHEAD of California. Mr. Speaker, I support the Government in the Sunshine legislation for two reasons. First, I firmly believe that in most instances that the American public has a right to know how its Government decides important policy questions. Second, I also believe that increased public scrutiny of the administrative process can mean that an arbitrary and often unrepresentative bureaucracy will become more sensitive to the people that they are paid to serve.

However, at the same time, my endorsement of S. 5, as it comes from the conference committee, is not without certain reservations. The bill contains an ambiguous and potentially troublesome definition of "meeting." The compromise on the verbatim transcript requirement is, in effect, no compromise at all. And, finally, the bill still recognizes the right of "any person" to sue to enforce the provisions of a Sunshine law, a provision which I have viewed all along as being most ill-advised.

No one wants to be recorded against "Sunshine." I understand that and recognize the political realities. Furthermore, on balance, I think it can be said that this is needed legislation. But in fairness to both my constituents and my colleagues, I could not cast an "aye" vote without expressing some reluctance.

Mr. KINDNESS. Mr. Speaker, since I was, at best, a reluctant signatory to the conference report, I wanted to take this opportunity to share some brief observations with the membership of this House.

When the government in the sunshine legislation was debated on July 28, I expressed an ambivalent attitude about its value. Unfortunately, nothing occurred during the House-Senate conference on S. 5 to relieve me of my fears or misgivings.

It should be recalled when the House considered its version of the government in the sunshine bill (H.R. 11656), it approved two very important amendments offered by the gentleman from New York (Mr. HORTON). The first resulted in a revised definition of "meeting," so as to make it more specific and to make it clear we were not intending to cover mere chance meetings or social gatherings. A second amendment deleted the sweeping and onerous verbatim transcript requirement from the bill. Neither of these key amendments survived the deliberations of the conference.

So, what we are left with is a bill that has some very good provisions and some very bad ones. The government in the sunshine legislation recognizes, and rightly so, that the meetings and deliberations of Federal agencies should be open to public scrutiny. The other side of it is that certain governmental functions owe their very success to something less than total sunshine. S. 5 does not always recognize this distinction. The section on verbatim transcripts purports to exempt from its requirements those agencies, such as the Federal Reserve Board and SEC, that deal with sensitive economic matters. But, as an alternative they are still made subject to such detailed "minute requirements," that one is hard pressed to see any advantage.

For many Government agencies, compliance with this statute will be time consuming and counterproductive. As it comes from the conference committee, S. 5 may well represent the final triumph of procedure over substance. Like its philosophical predecessor, this legislation is based on a valid principle but its implementation might well result in some negative "surprises."

Mr. GILMAN. Mr. Speaker, I rise in support of the conference report on S. 5, the Government in the Sunshine Act. This act is an important legislative reform which merits our support and merits its implementation in the executive agencies as soon as possible. The opening of executive meetings to the public is a gesture which will encourage trust in these agencies and in the Government itself, a trust which has been diminished by an ever-growing and all pervasive bureaucracy.

It is imperative that Government be "conducted in the sunshine" because, in the words of the Government Operations Committee from which this bill originated, "the public is entitled to complete information concerning its decisionmaking processes, as long as individual rights are protected and the Government's ability to carry its responsibilities is not impaired." Indeed, such "sunshine" will enhance the Government's ability to carry out its responsibilities, since the Government's primary responsibility is to the public, of whom it is truly representative and in whom its power truly lies.

The maintenance of transcripts and electronic recordings which are required at closed meetings, and which must be made accessible to the public, will, I am certain, restore the faith of the public in their governmental agencies and will enable such agencies to function in a more equitable fashion. The fear and mistrust which have characterized the public's view of government and governmental agencies has seriously weakened its effectiveness. It is our obligation as representatives and legislators to eradicate that fear. The Government in the Sunshine Act is a step in the right direction, and the benefits to be reaped by opening executive agency meetings are incalculable.

Accordingly, Mr. Speaker, I urge support of the conference report on S. 5.

Mr. BROOKS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

Mr. LLOYD of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 384, nays 0, not voting 47, as follows:

[Roll No. 677]

YEAS—384

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Fraser
Frenzel
Frey
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roush
Rousselot
Roybal
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki

NAYS—0

NOT VOTING—47

Abzug
Ashley
Badillo
Bergland
Broyhill
Cederberg
Chappell
Clay
Collins, Ill.
Conlan
de la Garza
Evins, Tenn.
Fish
Ford, Tenn.
Forsythe
Fountain
Fuqua
Green
Hawkins
Hays, Ohio
Hébert
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Jones, Ala.
Karth
Lehman
McCloskey
Matsunaga
O'Hara
Passman
Patten, N.J.
Peyser
Quillen
Rees
Risenhoover
Rostenkowski
Runnels
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Taylor, N.C.
Wylie
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mr. Lehman with Mr. Sisk.

Ms. Abzug with Mr. Young of Alaska.

Mr. Matsunaga with Mr. Broyhill.

Mr. Zeferetti with Mr. Evins of Tennessee.

Mr. de la Garza with Mr. Forsythe.

Mr. Chappell with Mr. Cederberg.

Mr. Badillo with Mr. Heinz.

Mr. Hébert with Mr. Green.

Mr. Hawkins with Mr. Fish.

Mr. Fuqua with Mr. Jones of Alabama.

Mr. Rostenkowski with Mr. McCloskey.

Mr. Runnels with Mr. Conlan.

Mr. Taylor of North Carolina with Mr. James V. Stanton.

Mr. Passman with Mr. Quillen.

Mr. Fountain with Mr. Steelman.

Mr. Bergland with Mr. Peyser.

Mr. Ashley with Mr. Steiger of Arizona.

Mr. Clay with Mr. Karth.

Ms. Collins of Illinois with Mr. Wylie.

Mr. Ford of Tennessee with Mr. Rees.

Mr. Helstoski with Mr. O'Hara.

Mr. Patten with Mr. Hays of Ohio.

Mr. Risenhoover with Mrs. Heckler of Massachusetts.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 8800, ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTATION ACT OF 1976

Mr. TEAGUE. Mr. Speaker, I call up the conference report on the bill (H.R. 8800) to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 22, 1976.)

Mr. TEAGUE (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on the bill, H.R. 8800.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 8800 will establish a 6-year, $160-million project in the Energy Research and Development Administration—ERDA—for electric and hybrid vehicle research, development, and demonstration activities. The primary goal of the project will be to advance the technologies necessary for improved electric and hybrid vehicles and to demonstrate the commercial feasibility of such vehicles as a practical alternative to gasoline-powered autos for urban and rural use. The project will include an evaluation and demonstration program involving about 7,500 vehicles.

The bill H.R. 8800 was approved by the Committee on Science and Technology in July 1975, and passed the House on September 5, 1975, by a 308 to 60 vote. It passed the Senate on June 14, 1976, by the substantial vote of 72 to 16 and last week the conference report on H.R. 8800 was adopted by a voice vote in the Senate.

Electric and hybrid vehicles can play a significant role in reducing our dependence on imported petroleum for transportation through substitution of other energy sources and through improved energy efficiency. In addition, use of these vehicles will reduce urban air and noise pollution.

The two major components of the project established by H.R. 8800 are research and development on the one hand and demonstration on the other. It is critical that the current state of the art be significantly improved, especially with regard to batteries and other potential energy storage systems. This can only be accomplished by an aggressive research and development effort, utilizing the expertise of our scientific community, university experts, and private industry.

Research and development efforts must emphasize energy storage technologies including advanced storage batteries and flywheels. Other technologies need further R. & D. for hybrid vehicles using a power source utilizing fuels such as a Stirling engine or a fuel cell in conjunction with an electric motor. Some of the efforts on these electric and hybrid vehicle technologies under this act will benefit from, and contribute to, efforts associated with other ERDA programs. The objective of the research and development activities on these vehicles will be to maximize the energy efficiency, durability, and recyclability of the component parts. Associated studies will be conducted in urban design and traffic management to learn how to optimize the future transportation system with regard to electric and hybrid vehicles.

The demonstration will involve three phases. After an initial 1-year period for design studies and for setting performance standards based on in-use testing of existing vehicle technologies, ERDA will contract for the purchase or lease of 2,500 vehicles within 21 months for delivery within 39 months after enactment of this act. The ERDA will insure widespread distribution of these vehicles by enabling individuals or businesses to lease or buy them. Within 54 months, another 5,000 advanced vehicles, incorporating technological advances derived from the first phase of the project will be purchased or leased for delivery within 72 months after enactment. Demonstration maintenance programs will also be established. The Administrator can buy a lesser number of vehicles in each case but only if the response to the request for proposals is inadequate or if there is significant likelihood of displacing normal private procurement of these vehicles.

A loan guarantee program totaling $60 million will allow small firms with problems in raising capital to bid competitively for the ERDA contracts and establish manufacturing capability.

ERDA will also conduct studies of tax provisions, regulatory law, and other factors related to the transportation system and electric vehicles. These findings, as well as assessment of the long-range environmental and economic impacts, will be reported to the Congress on a regular basis.

I wish to particularly commend Congressman Mike McCormack, chairman of the Subcommittee on Energy Research, Development, and Demonstration; and Congressman Barry Goldwater, the ranking minority member of the subcommittee; and Congressmen Brown and Ottinger for their hard work and effort in bringing this bill to the floor.

Mr. Speaker, H.R. 8800 is a good bill. It received the unanimous endorsement of the members of the Committee on Science and Technology and the strong support of representatives of industry, universities, and the scientific community. I urge the support of each Member of this body.

I ask unanimous consent that all Members have 5 days to revise and extend their remarks in the Record when we have completed action on the conference report.

Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. McCormack), the chairman of the subcommittee which handled the bill.

Mr. McCORMACK. Mr. Speaker, H.R. 8800, the electric and hybrid vehicle research, development, and demonstration bill, as it comes before us today in the conference report, is esssentially the same as it was passed by the House by a five to one majority last September, except that it calls for a change in the schedule of the demonstration program for the purchase of the electric vehicles and it increases the flexibility for the Administrator of ERDA in the purchase of electric vehicles in the demonstration program.

Mr. Speaker, the bill sets up in the Energy Research and Development Administration an electric vehicle research and development and demonstration project. In addition to an accelerated and expanded R. & D. program for electric vehicles, batteries and related technology, the bill establishes a forward-looking demonstration program intended to accelerate the introdutcion of existing and new technologies into electric vehicles and make the American consumer aware of these improved electric vehicles as a viable choice for second cars.

At this point I would like to highlight the bill by describing the schedule of the demonstration program and some other important provisions. First, the Administrator will develop baseline data for measuring future progress by purchasing a cross-section of existing electric vehicles for testing and evaluation within the first 12 months after enactment of the bill.

Within 15 months he will promulgate performance standards based on the baseline evaluation program.

Within 21 months he will contract for the purchase of 2,500 electric or hybrid vehicles, as provided in the House version of the bill. These will be delivered within 39 months.

Within 48 months, the Administrator will promulgate revised performance standards, based on this experience with the 2,500 cars and with the results of the R. & D. efforts.

Within 54 months, contracts for the purchase of 5,000 vehicles will be made, to be delivered within 72 months. The Administrator may extend this delivery time by 6 months.

Mr. Speaker, the Administrator under this bill may reduce the number of vehicles to be purchased if insufficient cars for meeting the standards are available, or if he thinks his purchases will displace the private purchase of electric vehicles.

The bill authorizes a $60 million loan guarantee program to stimulate small manufacturers. The Administrator may guarantee up to 90 percent of a loan, with a $3 million maximum unless he finds a larger amount is necessary and so informs the Congress.

The bill calls for other Federal agencies to study the use of electric vehicles and consider their introduction into the Federal fleet.

Mr. Speaker, H.R. 8800 is one of the most significant energy conservation programs that has been devised for this country. If 10 million electric vehicles are introduced on the road as second cars and if they save the equivalent of 2 gallons of gas a day by using coal or nuclear energy as the source of generating electricty, the equivalent of 20 million gallons of gasoline a day can be saved. This is equivalent to half a million barrels a day and will save us $6 million a day, or $2.2 billion a year, in the cost of imported barrels of oil.

Mr. Speaker, this is the thrust of this bill and I recommend its support.

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Speaker, I would like to ask our distinguished subcommittee chairman one question. In discussing this conference report on the Senate floor, Senator Moss suggested that ERDA can and perhaps should emphasize the purchase of vehicles for "fleet applications" for use by commercial businesses. It was my understanding throughout our consideration of this bill in the House and in conference that primary emphasis could and should be placed on personal use vehicles, particularly family second cars. "Fleet applications" and other uses can be included in the program, but primary emphasis should be on personal use vehicles to the maximum extent possible.

I wonder if the gentleman from Washington would agree with that.

Mr. McCORMACK. Yes. I thank the gentleman from California and I do agree emphatically with what the gentleman has said.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, the gentleman used figures of 10 million electric vehicles on the highway in the future using electric energy and the tremendous saving in petroleum products this will bring about. Certainly such a goal is a desirable one and should be achieved if possible. But what about the electric energy required for these vehicles? Will we have sufficient electric energy to charge these 10 million vehicles by the time they are on our highways?

Mr. McCORMACK. In general use, the batteries of these vehicles are charged at night when the demand for electricity is substantially less than the peak daytime demand. The electrical generating capacity in this country is about twice the peak capacity load, so there is plenty of capacity to recharge the batteries of these cars at night.

Of course, there is going to be a large shift to coal and nuclear energy for use in the generation of electricity in this country, as we run out of petroleum and natural gas. Hence, we will be operating our cars essentially on coal and nuclear energy, but the fact is that the present electrical generating system, with its efficient capacity, can handle 100 million cars today without any impact requiring additional generating capacity.

Mr. MYERS of Indiana. That would provide, however, that the individuals using these electric vehicles would have to plug them in sometime after 11 oclock at night, and unplug them before 7 oclock in the morning or hours close to that. This might not be convenient and might not happen. It seems to me that it is going to have to bring about additional generating capacity, which I just do not see coming on. This concerns me very much. Without these additional electric vehicles, this Nation is going to be consuming a lot more electric energy. Where is it going to come from?

Mr. McCORMACK. The gentleman is quite correct about the generation of electricity. There is no doubt that we are going to rely more heavily on electricity, and the energy for this generation is going to have to come from coal and nuclear energy. These plants are being held up by intervenor lawsuits, court actions, and other delaying actions.

I want to assure the gentleman that the mechanism for recharging electric vehicles at night is quite simple. A simple timing clock in the garage or in the automobile itself is plugged in when a person gets home.

Mr. MYERS of Indiana. It seems to me that anyone who is intending to vote for this today—which I suppose just about everyone will—should also be thinking, at some time in the future probably, he or she must be prepared to vote to relax these very strict regulations and provisions that are being used today to prohibit the construction of needed generation facilities to increase our electric energy capacity for the future.

Mr. McCORMACK. I thank the gentleman for his remarks. There is not any doubt about the fact that we must look at this matter very seriously, and consider the possible necessity of eliminating these harassing lawsuits which use extraneous fine points in the law and stretch them beyond all reasonable limits.

Mr. MYERS of Indiana. I agree with the gentleman. If we are to solved the energy question for the future and we must, this motion must more forward in the construction of the facilities that will be needed. Those facilities should be started now or we will face much more severe energy problems and shortages in the future.

Mr. McCORMACK. Mr. Speaker, I want particularly to congratulate Chairman TEAGUE for his leadership on this bill and on numerous other important energy bills which have been considered and enacted by the Congress. By the longer term nature of research, development, and demonstration programs we frequently tend to overlook steady daily progress that is made toward the objectives of R.D. & D. legislation after its enactment. We are now beginning to see for instance, measurable progress in solar energy as a result of legislation enacted in the 93d Congress under Chairman TEAGUE's leadership, and we will see the fruits of this legislation in just a few years. I want to commend the gentleman.

I also want to make special note of the contributions of the ranking minority members on the committee and the Subcommittee on Energy Research, Development, and Demonstration—Messrs. MOSHER and GOLDWATER—who have worked in the true spirit of cooperation to perfect this legislation. Their constructive contributions are sincerely appreciated by the majority members of the committee.

In H.R. 8800, the Energy Research and Development Administration—ERDA—is directed to establish an electric and hybrid vehicle research, development, and demonstration project with an authorization for the next 5 years totaling $160 million. The primary goal of this project remains unchanged in the conference report from the original House version of H.R. 8800.

A primary goal is to encourage and accelerate research and development on electric and hybrid vehicle technologies. Another major goal is to demonstrate these technologies to the American people at large in order to stimulate the market for these vehicles. In order to facilitate the implementation of this goal, the Federal effort will be directed toward removing institutional barriers which may hinder the introduction of electric and hybrid vehicles, and toward broadening the range of applications of these vehicles for use by consumers, farmers, and industry.

Before I go into the details and changes contained in the conference report, I would like to take a few minutes to point out in more detail the importance of this legislation and some reasons why this conference report should be overwhelmingly adopted.

In the time since the House initially passed H.R. 8800 last September, our energy problems have not abated, and our air pollution problems seem to have grown worse, at least here in Washington, D.C.

The Energy Research and Development Administration in its document ERDA 76-1 has set the national plan for greatly reducing our energy dependence by the year 1985. When the ERDA was created the United States was importing almost a third of its crude oil requirements. Now that figure has risen to more than 40 percent. The Congress has initiated many ERDA programs which will aid in attaining that national policy goal. But the fact remains that we have fallen behind and more must be done.

As the Members in this Chamber are well aware, transportation now accounts for about 50 percent of our petroleum use. I have already stated that by using electric vehicles we can replace imported petroleum with electricity produced from coal, nuclear energy, hydroelectric, solar or geothermal sources. We will at the same time dampen the flow of petrodollars out of this country and develop the technology and infrastructure for a new personal transportation system in this country.

In addition to conserving petroleum, electric vehicles can make a significant impact on air and noise pollution. The extremely complicated job of controlling millions of moving internal combustion engines—present sources of pollution—in a single city can be transferred to the more tractable problem of controlling and monitoring emissions from a few electric generating plants.

The main objectives of this bill are not the replacement of the primary American family car, but rather the development of electric and hybrid vehicles for "second" cars for the American people, for delivery vans for business and Government agencies, and for rural and farm use.

Second cars make up about 40 percent of the cars presently on American highways. They are used for commuting and short trips in the neighborhood, such as round trips to the grocery store. These short trips are more numerous than one might think. In fact, 50 percent of the time you step into your car you travel less than 5 miles.

The driving range of existing electric vehicles is about 60 miles. With the concentrated research and development program emphasizing battery and storage technology, which this bill contains, this range can be greatly increased. These electric and hybrid vehicles may ultimately meet the requirements for the primary family car.

A 1974 Environmental Protection Agency—EPA—study concluded that nearly 98 percent of daily driving of second cars could be met by an electric vehicle utilizing a single daily battery charge. I would like to emphasize again at this point that since electric vehicles are normally charged at night this off-peak use of electricity for charging will actually increase the efficiency of our electric utility system.

This EPA report, entitled "Impact of Future Use of Electric Cars in the Los Angeles Region," also contains estimates on potential oil savings. It states that short-range electric cars could replace 1 million, or 17 percent, of the cars in the Los Angeles Basin by 1980.

By the following decade, 1990, nearly half of the area cars could be electric. Replacement of similar fractions of our 100 million gasoline-powered vehicles throughout the Nation would have extreme salutory effects, both on our petroleum supplies and on urban pollution. Replacement of 17 percent of the Los Angeles vehicles would affect about 15 percent of the automobile petroleum consumption; on a national level this would be equivalent to about 1 million barrels of oil per day.

Electric vehicles have a further effect on energy conservation when used in heavy traffic urban commuting. This is that electric vehicles do not require energy when not in motion. They are also more efficient than internal combustion engines at low speeds, which are encountered in urban driving. If regenerative braking systems are developed to recapture the kinetic energy normally lost in braking, the efficiency of electric and hybrid vehicles will increase even more.

The program this bill will initiate will not answer totally the problem of energy conservation in transportation, but it can be a vital part of the answer to that problem. It represents a step that we can take and we must take to achieve our goals of energy self-sufficiency in the near future.

Mr. Speaker, I should now like to describe some of the provisions of the conference report on H.R. 8800, the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976. This conference report is a responsible reconciliation of the differences between the House and Senate versions of H.R. 8800, while maintaining the principal intents of the House bill.

The major areas of difference between the House bill and the Senate amendment deal with the electric and hybrid vehicle demonstration program. The two specific areas of difference in the demonstration program were: First, the amount of time provided for the specific demonstration activities; and second, the amount of discretion left to the Administrator of the Energy Research and Development Administration in conducting the demonstration. The conference report, in accord with both the House and Senate versions of the bill, breaks the demonstration program basically in three phases.

The House bill called for a 4½ year demonstration program with scheduled events recurring at dates certain after enactment and with exact numbers of demonstration vehicles specified. This specific timetable was to provide the impetus for the earliest feasible introduction date for these vehicles to be on the market for an earlier impact on our energy problem.

The Senate amendment, on the other hand, included a 7-year demonstration schedule, with provisions for extension to a maximum of 9 years. Dates after enactment of scheduled events and exact numbers of demonstration vehicles were specified, but provisions were made for a time extension and changes in the number of vehicles delivered in the event of designated conditions. The Senate included these provisions to give the Administrator more flexibility in conducting the program.

As previously described, the conference substitute establishes a 6-year demonstration program with a specified timetable and exact numbers of vehicles for each phase, but the substitute does provide limited flexibility for a time extension and number changes under very specific circumstances. In the first phase the Administrator of ERDA will buy a sufficient number of electric and hybrid vehicles to get a cross-section of the existing technology. These vehicles will be tested and analyzed to permit the Administrator to promulgate performance standards within 15 months after the enactment of this Act. With these standards as a guideline the Administrator will, in the second phase, purchase or lease 2,500 electric and hybrid vehicles within 21 months for delivery within 39 months after enactment. These vehicles will be utilized by Federal agencies, State and local governments, and by persons for individual or business use—including agricultural use. After these vehicles have been used and evaluated, the program enters the third phase, where the Administrator promulgates, not later than 48 months after enactment, revised standards of performance to take into account the advanced state-of-the-art resulting from the ongoing research and development activities. The Administrator will purchase or lease within 54 months 5,000 advanced vehicles that meet these revised performance standards, to be delivered within 72 months of the date of enactment.

There are two additional provisos which should be pointed out to the Members. The first states that the Administrator is not required to buy the 2,500 or 5,000 vehicles specified in the two phases if he determines on the basis of responses to the solicitation for proposals that less than 2,500 or 5,000 vehicles which satisfy the relevant performance standards will be available during the delivery period.

In the latter case, the Administrator will notify Congress and he may then extend the delivery date by 6 months so that additional vehicles toward fulfillment of the contractual number of 5,000 can be delivered. This provision and the 18-month delivery periods in the two phases are intended to permit small manufacturers to participate without increasing their manufacturing facilities. Since the conferees expect that perhaps 10 to 20 companies may participate in each phase the number of vehicles for any one manufacturer will not be burdensome with the lengthy delivery schedules.

The second proviso takes cognizance of the fact that with the limited manufacturing capacity of small companies there may be competition between the private sector and the Government for these electric and hybrid vehicles. Hence, the conference substitute allows the Administrator to reduce the numbers of vehicles to 1,000 to 2,500 in the second and third phases of the demonstration program if he finds with a high probability that displacement of private purchases will occur. The conferees felt that a minimum demonstration program of these reduced levels was in the national interests even if displacement does occur.

The Administrator is to make these vehicles available for use by Federal agencies, by State and local governments, and to persons for individual and business use—including agricultural use.

In working out this substitute demonstration program, the conferees recognize that it is a crucial part of the act. The project will insure that present and future state-of-the-art electric vehicles will be put into use in different regions of the country, so that this performance can be evaluated under various driving conditions and for various uses.

It is hoped that the resulting visibility will heighten consumer awareness and lead to the creation of an electric vehicle "second car" market, thereby permitting the Nation to reduce its dependence on foreign oil.

Another area in which there was some difference in the House and Senate versions was in the area of loan guarantees. In dealing with loan guarantees, the substitute follows the provisions of the House bill with these modifications. First, we accepted the Senate version's language which states—

> No obligation shall be guaranteed by the Administrator unless the Administrator finds no other reasonable means of financing or refinancing is reasonably available to the applicant.

Second, the substitute provides a $3 million limit on a single borrower unless the Administrator, after notifying Congress, finds a larger sum is necessary in carrying out a promising research, development or demonstration project. The guarantees are also limited to 90 percent of the loan to insure that the industrial partners have a serious commitment to the program.

The committee of conference feels that the loan guarantee provision and the encouragement and protection of the small business sector will enable small business to play a vital part in the development of the electric vehicle industry.

The authorization figures in the conference substitute are as follows: not more than $30 million for the fiscal year ending September 30, 1977; $40 million for fiscal year 1978; $25 million for fiscal year 1979; $20 million for fiscal year 1980; and $45 million for fiscal year 1981. In the authorization of this $160 million we recognize that for the success of the program an initial emphasis must be placed in the research and development of battery technology. With this in mind, the committee of conference specified that at least $10 million of the funds authorized for fiscal year 1977 shall be allocated for battery research and development.

Mr. Speaker, I believe that this report of conference contains a reasonable compromise on the differences in the House and Senate versions of an important piece of legislation, H.R. 8800, the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976. This legislation passed the House and Senate initially with overwhelming support. I believe that the conference report can be supported in good faith by all those who voted for the initial passage of H.R. 8800. I urge, therefore, that this conference report be approved by the House.

Mr. TEAGUE. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. GOLDWATER), who has worked long and hard on this bill.

Mr. GOLDWATER. Mr. Speaker, I rise in support of H.R. 8800, the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976. This conference bill is an acceptable compromise between the House and Senate approaches to this critical research, development, and demonstration program in the Energy Research and Development Administration—ERDA. The bill incorporates a series of Senate modifications to the original House proposal for a major Federal demonstration program. The Senate modifications as adopted by the conferees reduce the rigidity of the demonstration program, while retaining the ultimate House goal of providing a timely and effective demonstration program to stimulate electric vehicle development in the private sector.

The heart of this bill is the demonstration program and a large majority of the $160 million authorized in the bill for Federal grants and loan guarantees will support the demonstration program. Briefly, the demonstration program will include the delivery of 2,500 purchased or leased electric vehicles within 39 months of enactment and of 5,000 electric vehicles within 6 years. These specified totals may be reduced in the event an insufficient number of adequate vehicles are proposed by electric vehicle manufacturers or if displacement of the private market would occur in the latter event, minimum totals of 1,500 and 2,500, respectively, must be procured, and ERDA must seek to obtain the participation of private sector purchasers in the demonstration program.

The distinguished chairman of our subcommittee has discussed in detail the various provisions of the demonstration program and the supporting R. & D. program. I join with him in his remarks and I generally endorse the detailed discussion of the bill's provisions in the statement of the managers. As an original cosponsors of this legislation, I will focus on the critical need for accelerated development of electric vehicle technology and also on the critical importance of early accomplishment of the demonstration program milestones by ERDA.

I strongly believe that H.R. 8800 is a significant step in the increasingly critical area of petroleum-based fuel consumption in the transportation sector. The problem, as we all know, is that the United States now and for the foreseeable future will consume much more petroleum consumed in the United States, with a resulting supply dependence on and cartel pricing by the oil-producing nations, OPEC. The transportation sector consumes about 40 percent of all petroleum consumer in the United States, which incidentally approximates our current level of oil imports, and it is a prime candidate for the substitution of alternate energy sources. H.R. 8800 will mandate a substantial Federal effort in the area of one of the primary alternate sources, electric propulsion.

In my own district, the Los Angeles area, electric vehicles can make a significant difference, perhaps as early as 1980. A recent study by the Environmental Protection Agency concluded that, at a minimum, electric vehicles with existing technology could replace a million second cars in Los Angeles in 1980, 17 percent of all area cars "with little sacrifice in typical daily driving patterns." Electric vehicles with advanced technology could constitute from 45 to 75 percent of all cars in Los Angeles in the 1990–2000 time frame, depending on supporting facilities. The obvious environmental benefits, as well as the resulting petroleum savings, clearly support our consideration of a timely demonstration of this electric vehicle potential.

The intended rigidity and schedules for the demonstration programs in the House bill reflected the critical need to get electric vehicle technology available for use in polluted areas of our country, such as the Los Angeles basin, and to provide a fuel substitution capability in the transportation sector to reduce dependence on foreign oil. The conferees, at the initiation of the Senate, have reduced the rigidity and extended the schedules in the conference bill. The changes represent reasonable compromises between the two Houses. At the same time, however, the conferees agreed to the critical need for ERDA to move with all deliberate speed in the demonstration program.

Specifically, the conferees expressed their sense of urgency throughout the discussion of the demonstration and in the following closing paragraph from that discussion in the statement of the managers:

> The schedule in the conference substitute for delivery of the advanced electric or hybrid vehicles could result in first demonstration of these vehicles in the 1983–84 timeframe. These time requirements should be considered as outside deadlines and the conferees encourage ERDA to make every effort to achieve initial demonstration of advanced vehicles which satisfy the applicable performance standards at the earliest possible date. Certainly, the planning for demonstration activities should not proceed on the basis of merely scheduling for the statutory deadlines. While the schedule may be demanding at certain points, the conferees believe that it is realistic and includes enough leeway for ERDA to move on a faster schedule. Of course, the conferees intend that ERDA will keep the Congress fully and currently informed on the progress of the demonstration, and in particular any scheduling difficulties which may arise under section 7.

This committee is aware that ERDA already is funding concept formulation and preliminary design efforts by three contractor teams. These efforts by contract already include preliminary "performance standards" developed by ERDA, which will be refined by the contractors in the conduct of their work. In fact, then, ERDA is already well on the way to the 15-month requirement for performance standards. The early promulgation of those standards will provide a quick start and acceleration of the demonstration program. I, for one, will be closely monitoring ERDA's progress on this first requirement. I will anticipate and expect that ERDA will complete the requirement in much less than 15 months.

We also have heard a great deal about the time required for ERDA to complete procurement actions in support of the demonstration program. While we have accommodated Senate concerns in this regard by extending some deadlines, we fully intend to closely monitor the ERDA performance system's support for the demonstration. Without prejudging the procurement system, I will state my intention to insure that the demonstration proceeds in a timely manner. We simply will not stand for any frustration of this program by unnecessary administrative delays. ERDA should be on notice of our intention to oversee that aspect of this program.

Mr. Speaker, I am convinced this bill will have a measurable positive impact on the Nation's energy future and the quality of our environment. I strongly support its passage and urge my colleagues to vote for it today.

Mr. BROWN of California. Mr. Speaker, it has been a pleasure to work with Chairman McCormack in the preparation of this legislation, and I find it an exciting prospect to be starting out today in the process which may result in the first major forward step in our transportation technology in more than 50 years.

One of the less obvious needs this legislation deals with is the difficulty our society seems to have in translating our vast technological potential into measures which improve our lives. Once we have set up a pattern of doing things, there seems often to be overwhelming barriers against improvement, even though opportunities are obvious. As in the Solar Heating and Cooling Act of 1974, we are trying here to break through these barriers by providing incentives and Federal leadership aimed at getting a ready technology into production and use. There are many opportunities for developments in transportation beyond electric vehicles, of course, and I hope that the action of the Science and Technology Committee in mandating a large research and development program in this area in the ERDA budget authorization process will help us pursue a wide range of these opportunities.

Similarly, the legislation studied last year by this committee, and which I reintroduced this session (H.R. 5557, the Ground Propulsion Systems Research, Development, and Demonstration Act) in which NASA would be given an explicit authorization for work in ground transportation, is another step to a broad transportation program. But the legislation before us today can provide a cutting edge to progress in all the areas of transportation technology, by providing a demonstration that a particular development, with proper goals and incentives, can be implemented now to the benefit of individuals and the country as a whole. The measures in the Electric Vehicle Research, Development, and Demonstration Act will get us started on reducing the air pollution which plagues our cities, and in reducing our dependence on liquid fuel, which is crippling our economy.

I want also to emphasize the planning and urban design studies which we have written into this legislation. Just as electric vehicles are a small part of transportation technology, transportation itself is just one aspect of urban design technology. It is time we take a step back from our blind random sprawl in living patterns, and begin to think about better ways to organize our living and commerce, so that all our citizens can have pleasant surroundings and reasonable access to their places of work and recreation. We have required in this bill that the administrator of the Energy Research and Development Administration study the energy consumption and pollution implications of current urban and transportation design patterns, and that he recommend ways of removing institutional barriers against more rational planning. His findings would be reported to the Congress, and we would hope then to have a framework for further legislation in this area if it is needed.

Mr. MOSHER. Mr. Speaker, I join my colleague from Arizona (Mr. GOLDWATER) in support of the conference report accompanying H.R. 8800, the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

The conference bill is similar to the bill which passed the House on September 5, 1975. Both the House bill and the bill of the other body established a 5-year Federal program to accelerate the development of electric vehicles. Both bills provided a total authorization for 5 years of $160 million.

The allocation of those funds had to be adjusted in conference to compensate for the fact that fiscal year 1976 was completed before the conference concluded its action. The conference bill allocates the funds as follows: $30 million in fiscal year 1977; $40 million in fiscal year 1978; $25 million in fiscal year 1979; $20 million in fiscal year 1980; and $45 million in fiscal year 1981.

The conferees recognize that the cornerstone of improved electric vehicles is the propulsion system; that is, the batteries. Consequently, the bill specifies that at least $10 million of the fiscal year 1977 funds shall be available for battery research and development.

This amount in no way is meant to become a ceiling on the funds available for battery research. The success of electric vehicles as an alternative transportation option rests primarily on improved battery performance. It would be shortsighted to commit the Federal Government to procure electric vehicles for demonstration around the country if they embodied primarily existing technology.

The purpose of this act is above all to foster the development of electric vehicles superior to those currently available.

A major feature of both bills is the Federal procurement of electric vehicles from the private sector. This insures that the private sector will participate in this program from the beginning. It will reduce the time lag in commercializing new electric vehicle technology which might otherwise result if the program were conducted solely within Federal facilities.

The vehicles will be distributed throughout the country. They will serve the dual purpose of demonstrating electric vehicle technology and of showing the public that they are a viable means of transportation. ERDA will purchase a total of 7,500 electric vehicles over the course of the program. There will be two installments: first, 2,500 vehicles and then, 5,000 vehicles. The purchases will be keyed to performance standards which ERDA will issue.

The concluding feature is a loan guarantee provision. The basic conference provision is identical to the House bill, that is, $60 million in total loan guarantee authority with a $3 million ceiling for any one borrower. The conferees went on to strengthen this section by requiring that a loan guarantee applicant demonstrate that no other reasonable means of financing was available to him.

ERDA also is given to discretion to guarantee more than $3 million for any one borrower in compelling circumstance. In the latter case, ERDA must certify to Congress that the higher amount is necessary.

Mr. Speaker, H.R. 8800 is a sound congressional initiative aimed at developing a more energy efficient transportation alternative. I urge the adoption of the conference report.

Mr. SCHEUER. Mr. Speaker, the conference report now before us on H.R. 8800, the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, has the potential to produce major enviornmental improvement in the United States, and I recommend its passage to you.

The motor vehicle is a major source of air pollutants for which the Environmental Protection Agency has set national ambient air quality standards. It is responsible for over half the carbon monoxide emissions, about half the hydrocarbon emissions, and nearly one-third of the nitrogen oxides produced by human activities in this country. These pollutants can produce photochemicals which are responsible for Los Angeles-type smog.

The adverse effects of these pollutants occur wherever vehicles are used, but they are particularly severe in our urban areas, where people and cars are so heavily concentrated. We are familiar with these effects here in Washington where hazardous air pollution levels have been common during our Bicentennial summer.

Congress has taken several steps to alleviate automotive air pollution. The Clean Air Act amendments have mandated major reduction in the exhaust emissions from internal combustion engines. Mass transit systems have been encouraged by Federal funding.

The Electric and Hybrid Vehicle Act is another step in this direction. Electric vehicles emit no pollutants and their use in urban areas would cause a substantial improvement in air quality. Of course, there would be air pollution from the electric powerplants generating the electricity to recharge the vehicles, but it is easier and less expensive to control the pollution from one stationary source than from thousands of mobile sources.

Electric and hybrid vehicles would also save energy in urban use, and thereby reduce the environmental impact associated with the production of the coal or nuclear fuel used by the powerplant. Much of the fuel consumed by internal combustion engines in a city is wasted at stoplights and in bumper-to-bumper traffic. Electric vehicles would waste little or no energy under these circumstances.

Another advantage of these vehicles is their quietness. It is an established medical fact that noise contributes to loss of hearing and it is known that motor vehicle sounds are a major contributor to public noise exposure. The use of electric and hybrid vehicles would be an important step in reducing noise.

There were once several electric vehicles on the market in this Nation. They were unable to compete with internal combustion engines for a variety of reasons, particulary their limited range. Since then we have improved storage batteries and electric propulsion and control systems. Further improvements are possible in the near future. Research in this area is worthy of support, and we need to demonstrate the economic and technical feasibility of these vehicles for urban use and certain other uses.

For these reasons, it is essential that H.R. 8800 be passed. I urge every Member of this House to vote for the passage of this bill.

Mr. GILMAN. Mr. Speaker, I rise in support of this significant energy-saving measure.

We are now living in a time of rapidly rising fuel costs. The average family is being forced to spend more and more on gasoline and motor oil, with no end in sight to this ever-increasing burden on their budgets.

One possible solution to our energy problem is the increased use of vehicles powered by electricity. First developed in the early 1900's, they were extremely popular until the 1930's when they were replaced by gasoline-powered vehicles. At that time gasoline was cheap and readily obtainable. Such is not the case now. In the mid-1960's fuel shortages and concern over air and noise pollution prompted calls for increased research on alternative power systems.

The legislation before us, the conference report to accompany the Electric Vehicle Research Development and Demonstration Act of 1976—H.R. 8800—will help provide this needed research. It authorizes the Energy Research and Development Administration to administer a 5-year program to promote the development of electric and hybrid vehicles and to demonstrate their commercial feasibility. Electrically operated vehicles may very well prove to be a viable answer to our Nation's quest for energy independence. Further research in that direction is certainly laudable and timely.

Accordingly, I urge my colleagues to join in supporting this worthwhile endeavor.

Mr. OTTINGER. Mr. Speaker, I rise in support of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 conference report. I have been interested in the development of electric vehicles for many years, introducing legislation with Senator MAGNUSON in 1966 to start electric car research which was adopted as an amendment to the 1966 Air Pollution Control Act. Last year I introduced legislation H.R. 7506 to promote research on electric and hybrid automobiles. During the past months, I have been actively involved as a member of the House Science and Technology Committee in the drafting of H.R. 8800. I am proud of the bill that has evolved from the work of our committee and the committee staff.

I welcome this moment to share with you my thoughts on some of the specifics of this legislation.

First, I would like to reinforce the need for legislation to promote electric and hybrid auto propulsion systems. A paper presented by Mr. P. A. Nelson of the Argonne National Laboratory last February stated that—

> The introduction of electric cars by about 1985 and a gradual build up to a total of

18,000,000 cars on the road by the year 2000 would result in a cumulative savings of petroleum of 1.3 billion barrels of oil.

A study by the Center for Strategic and Internal Studies at Georgetown University titled "Understanding the National Dilemma" showed that in 1970 energy conversion losses are greater for transportation than for all the major energy using sectors.

Not only would the use of electric vehicles save on the demand side of the energy coin, but it also would effect the efficiency of power source utilization since most electric generation would occur at off hours; that is, nighttime. At the present time powerplants must be banked down at night because of the drop in demand resulting in very inefficient use. The widespread introduction of electric vehicles would thus not result in any new requirements for powerplant construction and would permit more efficient use of existing plants.

The Electric and Hybrid Vehicle Research Development and Demonstration Act of 1976 is a very definite thrust to create a market and a development of vehicles for that market which hopefully will expand Mr. Nelson's projections.

I would like to stress two important provisions which are of particular interest to me; the inclusion of hybrid vehicles and provisions to assure participation by small business.

In 1972, a market study commissioned by the Electric Vehicle Council showed that 42 percent of the people in this country would be interested in buying a short-range, limited-speed electric car and this is precisely the market that is envisioned by our legislation. Statistics from Battelle Memorial Institute presented last April at the Design Engineering Conference, indicate that a 20-mile travel range would suffice for 50 percent of the urban trips of all U.S. auto drivers, while a 40-mile range would cover 67 percent of such trips. I think from the testimony that we have heard that this is possible with current state of the art.

The future of electric vehicles is far greater than the presently only limited range, limited use vehicles, however the potential exists for combining electric generation for urban driving with other systems more efficient for highway use in an all-purpose energy saving vehicle that would also be virtually nonpolluting.

It is, therefore, important to include concurrent research and development of those hybrid systems which may combine such technology as Sterling engines, flywheels, or more efficient internal combustion engines with an electric propulsion system. By combining different forms of energy there is the possibility of increasing the range of electric powered vehicles and still permitting significant energy savings and controlling of pollution. I note that S. 1632 does not include hybrids and would urge strongly that they be added.

Second, I wish to stress that a great deal of the research and development of electric and hybrid vehicles has been done by small companies. It is very difficult for these companies to get funds to promote promising technology. Investors risk loss of all rights to their inventions if they turn them over to major companies and there is no indication that major auto companies will push such developments. The act before us deals specifically with the encouragement and protection of small business by specifying that the Administrator of ERDA shall reserve a reasonable portion of the funds for contracts with small business, devise contract terms, conditions, and payment schedules to assist small business meeting the special needs of small business concerns and make available planning grants for developing, submitting and entering into such contracts.

Electric propulsion systems for cars have been underestimated and put down for too long in trade and popular publications. The legislation we are considering can do much to help achieve the great potential of these vehicles.

Mr. TEAGUE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 13655, AUTOMOTIVE TRANSPORT RESEARCH AND DEVELOPMENT ACT OF 1976

Mr. TEAGUE. Mr. Speaker, I call up the conference report on the bill (H.R. 13655) to establish a 5-year research and development program leading to advanced automobile propulsion systems, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 21, 1976.)

Mr. TEAGUE (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The gentleman from Texas (Mr. TEAGUE) is recognized for 1 hour.

Mr. TEAGUE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on H.R. 13655 recommends the establishment of a 5-year research and development program in the Energy Research and Development Administration with the primary goal of developing advanced, automobile propulsion systems and the secondary goals of developing other advanced automotive subsystems and of integrating these propulsion systems and other subsystems into test vehicles to evaluate their performance and compatibility with other automotiive technology.

The program is intended to accelerate the R. & D. effort in the technologies of advanced engines, drive train components and other subsystems so that the industry can make a decision by the early 1980's on the commercial viability of these advanced systems. The expected benefits to be derived from this program are automobiles which are more energy efficient, less polluting to our environment, and capable of using a broad variety of fuels as well as other benefits described in the bill.

The original House bill was approved overwhelmingly by a voice vote of the Committee on Science and Technology and was approved by the House on June 3, 1976, by a vote of 296 to 86. I believe the bill, as reported by the committee of conference, substantially preserves the intent of the House in its original version of the bill so that Members who voted for this measure on initial passage can in good conscience support this conference report.

Mr. Speaker, this bill represents a lot of hard work by the committee and its Subcommittee on Energy Research, Development, and Demonstration. I want to congratulate in particular the ranking minority member of the committee, CHARLIE MOSHER, who is retiring at the end of this session after an illustrious career in the House, for his excellent work on this bill. I also want to commend MIKE McCORMACK, the subcommittee chairman; BARRY GOLDWATER, JR., the ranking minority member of the subcommittee; and GEORGE BROWN, the prime sponsor of this legislation. It is through their efforts, primarily, that this bill has been perfected. This legislation is another positive congressional initiative to build a framework for meaningful energy conservation in this Nation without negative economic impacts.

The Nation's transportation system consumes 25 percent of our total energy use annually, and automobiles constitute about 60 percent of that consumption. With the advanced propulsion systems which will be developed under this program, expert witnesses predict that we can nearly double the fuel economy of the current automobile with internal combustion engines. In addition these new propulsion systems will emit far less of the pollutants which now plague many urban areas of the country.

The ERDA program established by this bill is designed to complement, supplement, and stimulate the efforts of private industry in advanced automotive technology; but as the conference report clearly states it is not intended to compete with or to displace the industrial activity. Our expectation is that as each automotive technology progresses from the research phase toward commercial reality the industry will be stimulated to invest more of its resources in related activities. Advisory panels should help keep the governmental program focused on realistic projects and goals leading to advanced propulsion systems and components which will be attractive to the industry for mass production in our future automobiles.

The committee on conference preserved a provision of the House bill which was included with the small businessman or individual inventor in mind. The bill provides that the ERDA Administrator will consider any reasonable new or improved technology which could contribute to advanced automotive technology and arrange for testing of suitable technology contributing to advanced automotive technology and being more energy-efficient.

Mr. Speaker, the achievement of the goals of this bill will require the efforts of the very best scientific and engineering talent in our Nation including those scientists and engineers in our great national laboratories. Accordingly, the ERDA Administrator must fully consider the capabilities of the ERDA, NASA, and other Federal laboratories in conducting the program.

To insure that the Congress is fully and currently informed regarding the activities and progress of the program, the ERDA is directed to prepare and annually revise a comprehensive program definition.

The authorization in fiscal year 1977 is set at $25 million. When this is coupled with the $12.8 million requested by the President for fiscal year 1977 and the $10 million added by the House in passage of H.R. 13350, there is a total $48 million program in this general area for fiscal year 1977. The funding authorization for fiscal year 1978 is $75 million with future years open to authorization after review of the program's initial progress.

Mr. Speaker, passage of H.R. 13655 will show the people of this Nation that the Congress recognizes the extreme importance of acting now to insure a viable, efficient, clean, personal transportation system tomorrow, and that the Members want to get the work started now at a rate that will be meaningful. This is a good bill and I urge the support of each Member of this body.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. McCormack), the chairman of the subcommittee.

Mr. McCORMACK. Mr. Speaker, the conference report on H.R. 13655 establishes a 5-year program of research and development primarily for advanced automotive propulsion technology in the Energy Research and Development Administration. At this point I would like to state a few of the highlights of this legislation. Its focus is on alternative engines—the Stirling engine, Brayton engine, and diesel engines and also on drive trains in general, including transmissions—for instance, the infinitely variable transmission.

The Environmental Protection Agency and the Department of Transportation will also participate in this program through the enactment of this bill. The bill provides for inventors and individual entrepreneurs to present their inventions for consideration by ERDA in the evaluation and testing program.

Under the bill, ERDA may do some research and development, such as basic materials research and engineering design development, in the national and other Federal laboratories. ERDA will also contract with universities and industrial laboratories to do R. & D. The program established by this bill is intended to supplement, but not supplant, industrial research and development in automotive technology. Information from this R. & D. will be available to the public. The patent policy of Federal Non-Nuclear Energy R. & D. Act will apply to all contracts. The bill authorizes $25 million for fiscal year 1977, in addition to about $18 million that has already been appropriated for ERDA for heat engine programs in fiscal year 1977, and authorizes $75 million for fiscal year 1978.

This conference bill does not differ substantially from the House version. Specifically, the conference report explicitly calls for the evaluation of integrated test vehicles, as was implicit in the House bill, but the Senate provisions for loan guarantees and production prototypes have been eliminated.

Mr. Speaker, for several years Members of Congress have recognized a great need for improving our automobiles in terms of energy efficiency and pollutants. Today we can take a significant step toward seizing that opportunity by voting for the adoption of the conference report on H.R. 13655, the Automotive Transport Research and Development Act of 1976.

This bill establishes as national policy vigorous pursuit of alternative automobile powerplants and other automotive subsystems for upgrading the personal transportation system of this country. It mandates a research and development program aimed at improving and creating alternatives to today's internal combustion engine as well as other automotive technology. These new engines hold promise to be significantly more efficient in terms of energy use; they will burn a broad variety of fuels so that our dependence on petroleum-refined fuels would be cut; and they will operate cleaner thus eliminating the degrading emissions of current engines that blight our environment and impair our health.

The personal transportation system in this country is second to none, and citizens move about the country with an ease and abandon now taken for granted. The average American's attitude toward the automobile evolved in a period highlighted by the use of vast sources of cheap energy and in a period when, seemingly, the atmosphere was considered as a dumping ground that could absorb pollutants without limit. The cars resulting from this evolution were admirable in many respects. Americans came to recognize that the extensive use of these cars was creating significant pollution in the Earth's atmosphere. As a result the Congress mandated clean air standards, and the industry response was the development and implementation of catalytic converters and pollution-controlling modifications of the internal combustion engine. These efforts required the investment of billions of dollars, but they have led to only partial solutions of the pollution problems while resulting in significant decreases in the energy efficiency of the internal combustion engine.

Further improvement to fuel economy can be achieved through changes to the automobile itself—such as weight reduction and transmission improvements. In fact, reductions of 25 to 45 percent in fuel use are possible, comparing today's large, heavy inefficient cars to tomorrow's smaller, lighter cars with more efficient engines. There are indeed further developments of the internal combustion engine which can lead to modest improvements in efficiency without increasing the pollutant emissions.

However, there are alternative engines which appear to be superior. With refinements expected from research and development, alternate engines, such as the Stirling—an external combustion engine—the Brayton—a gas turbine—or diesels, are projected to be significantly better from the standpoint of the efficiency versus emissions than the internal combustion engine. The primary aim of this legislation is to provide a vigorous program for the research and development needed to make these alternatives a reality.

These new engines are projected to be from 24 to 32 percent more efficient than the conventional internal combustion engine as improved in any way now known. They can use a broad variety of fuels. Furthermore, three of these alternative engines have already been shown in preliminary versions to meet the strictest mandated emission standards—0.4 grams per mile hydrocarbons, 3.4 grams per mile carbon monoxide, and 0.41 grams per mile oxides of nitrogen.

The economic health and national security of our Nation are closely tied to our highway transportation system. The automobile and associated industries are a significant part of the American economy. One out of every six or seven jobs is related to the automobile and motor vehicles and related industries account for about one-sixth of the gross national product. Considering this economic role of the auto in the country, it is not surprising that automobiles use about one-seventh of the Nation's total energy and about one-fourth of the petroleum consumed. The Federal program to be established in this act is intended to augment the very modest program which private industry has been pursuing for several years to insure the early development of these alternative engines and propulsion systems.

Mr. Speaker, the benefits to the American people of an adequate research, development and demonstration program on alternative propulsion systems and other energy-efficient automotive subsystems are clear. The potential fuel savings and health costs savings come to many billions of dollars per year. For instance, every 1-mile-per-gallon improvement in fuel economy for all autos on the road would result in a petroleum savings of 400,000 barrels per day. At the $11 per barrel import price, that is about $1.6 billion per year. Clearly, there is a need to find ways to achieve both clean air and maximum energy efficiency.

In this program we are talking of a program in the $50 to $75 million per year range for a period of only 5 years. Again, as with several other energy conservation programs enacted by the Congress, we are proposing to spend millions of dollars to save billions. The economic leverage of these programs is very large indeed.

Mr. Speaker, I want now to address the specifics of the conference report on H.R. 13655, the Automotive Transport Research and Development Act of 1976. The conference substitute is a reconciliation of significant differences between the original House bill which was passed by this body on June 3, 1976, by a vote of 296 to 86 and the Senate amendment in the nature of a substitute text for the House bill.

As I stated earlier the bill recommended by the committee of conference would establish a 5-year program, in the Energy Research and Development Administration—ERDA—to develop advanced propulsion systems, and advanced subsystems for automobiles. These automotive subsystems are envisioned to be independent of but compatible with the advanced propulsion systems in automobiles. This focus of the bill preserves two important aspects of the House bill. The conference substitute also calls for the construction and testing of integrated test vehicles. These vehicles will incorporate the advanced propulsion systems and other advanced subsystems for tomorrow's automobiles and will test the performance of such systems when one or more of them are incorporated in a compatible manner in a vehicle. This provision was not explicitly included in the House bill although the committee report expressed the intent that the advanced propulsion systems would be installed in a road vehicle for testing and evaluation, while the Senate amendment envisioned the development of a fleet of production prototypes. Instead the bill makes explicit the House intention to integrate the advanced propulsion and other systems into the vehicles. In the conference substitute a small number of integrated vehicles, perhaps 20 or 30, will be produced to be used for testing purposes.

The primary emphasis of the House bill was directed toward developing these advanced propulsion systems and testing their performance with respect to improving energy efficiency and reducing pollutant emissions. Once these systems were proved to be significantly better than existing engines, then the Committee on Science and Technology anticipated that industry would incorporate them in their vehicle designs. To insure that the program emphasis remains on the advanced propulsion systems the Statement of the Managers stipulates that from two-thirds to three-fourths of the funding under this program will go to the development of the advanced propulsion systems.

To reiterate the conference report reaffirms the House view that the Federal Government should not compete with the efforts of private industry's automotive R. & D. program. It expresses this point directly with respect to the basic aspects of the program. The ERDA program which is authorized by this bill must supplement the automotive R. & D. efforts of industry, but it should not result in any displacement or reduction of industry's R. & D. commitments. Also, the Managers stated that while there may be some necessary duplication of efforts in the conduct of related R. & D., the ERDA should not, in general, include R. & D. projects in the Federal program if the private industry sector is actively engaged in similar developments. The conference substitute also requires that ERDA shall intensify research in basic science areas, such as combustion and advanced materials research, which have placed limitations to date on the development of advanced automobile propulsion systems. The conferees feel that this guidance sharply defines the Federal program in a way which will expedite the introduction of these advanced systems technologies into the automotive industry. These systems are ready, they will make an impact on attaining our national goals of energy independence and conservation.

The committee of conference resolved differences pertaining to the duties of the Secretary of the Department of Transportation—DOT—with respect to this program. The Secretary is to make the facilities and expertise of the DOT available to the Administrator of ERDA for this program. The substitute also requires the Secretary to make an annual report to the Congress evaluating the extent to which the automobile industry is utilizing current technologies and advanced technologies as they are developed. This report will contain any recommendations that he may have to encourage further industry utilization of these technologies. The Department of Transportation will test and analyze each type of integrated test vehicle. The designs and data derived from these tests will be made available to private industry.

In dealing with the House and Senate differences over the coordination and consultation section of the bill, the conference substitute made some changes and further clarifications. The ERDA Administrator will have overall authority for carrying out the program. He shall use the expertise of the DOT, the Environmental Protection Agency—EPA—the National Aeronautics and Space Administration—NASA—and other Federal agencies, to the extent that these other agencies have capabilities for attaining the goals of the program. The ERDA Administrator is also required to periodically consult with EPA, DOT, and with representatives of science and industry. This section also gives him the authority to create any advisory panels he deems necessary. The committee of conference feels that this provision will result in proper coordinating of all interagency actions that must transpire in the conduct of this program.

An area of significant discussion by the conferees was loan guarantees. The House bill did not contain any provision for loan guarantees since its emphasis was directed toward research and development leading to advanced propulsion systems which would be picked up and utilized by existing private industry with the final resources and production capabilities of the existing industry.

The Senate amendment contained the provision for a large fleet of production prototypes for which there might be a need for such loan guarantees. Since the conference substitute calls for only a small number of integrated test vehicles, not a fleet, the consensus of the conferees was not to include provision for loan guarantees. As a result, the conference conferees felt that there was a need to look further into the matter of loan guarantees. As a result, the conference substitute requires a 1-year study of the applicability of loan guarantees in relation to the realization of the goals of this program. The ERDA Administrator is required to conduct a survey of developers, lending institutions, and others to make a determination as to whether, and under what conditions, research, development, and demonstration, and commercialization of advanced automobile technologies may be aided by such loan guarantees.

The provision of authorization for appropriations was another area of substantial difference in the House and Senate versions of H.R. 13655. The House bill provided an authorization for the program not to exceed $20 million for fiscal year 1977. This amount was in addition to approximately $23 million included in the fiscal year 1977 ERDA authorization bill for related activities. For each subsequent year the authorization was to be included in the annual authorization for the nonnuclear programs of the Energy Research and Development Administration. The Senate amendment contained authorization for $155 million over the first 2 years of the program; $55 million in fiscal year 1977 and $100 million in fiscal year 1978. The Senate felt that a more aggressive approach was required to achieve the goals of the program. Additionally, the manufacture of production prototypes was included in the large Senate authorizations.

The conference substitute recognizes the need for a stronger initiative for the program, but the figures are lower than the Senate amendment since the concept of the production prototypes was excluded. The substitute authorizes appropriations of $25 million for fiscal year 1977 and $75 million for fiscal year 1978.

Finally, the committee of conference deleted several sections of the differing versions of the bill. These sections were either repetitious of other sections in the substitute or of provisions of existing laws which would apply. For a detailed account of those sections which were deleted I refer the members to the statement of the Managers.

Mr. Speaker, I believe this report of the committee of conference contains a reasonable compromise on the differences in the House and Senate version of H.R. 13655.

I urge, therefore, that this conference report be adopted by the House.

Mr. TEAGUE. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. Goldwater).

Mr. GOLDWATER. Mr. Speaker, I rise in support of the conference report on H.R. 13655, the Automotive Transport Research and Development Act of 1976. In doing so, I commend the responsible leadership of my colleagues on the Committee of Science and Technology—Chairman Olin Teague, Subcommittee Chairman Mike McCormack, ranking minority member Charles Mosher, and Congressman George Brown. Together, the committee has brought back from conference a very responsible compromise and an acceptable automotive R. & D. bill.

This bill also demonstrates how the legislative process can work effectively and responsibly to provide full and open consideration of proposed Federal actions. While my colleagues have focused on the energy and environmental need for this Federal R. & D., I shall focus specifically on the bill itself.

As many of my colleagues are aware, H.R. 13655 and this conference report are before the House of Representatives, in part, because of the action of the House last December during consideration of the S. 622 conference report on the Energy Policy Conservation Act of 1975, the so-called oil deregulation bill. The S. 622 conference committee reported a bill which included a major automotive R. & D. program as part of the conversion title in the bill. That program had been originally considered and passed by the Senate earlier in the session as title II of S. 1883 but S. 1883 had not been considered or acted on by the House. I strongly opposed that program and the way in which the conference committee attempted to impose its will on the House of Representatives by including it in the conference bill.

The program in the bill was clearly within the sole jurisdiction of this committee. A similar bill, H.R. 9174, had been introduced by Messrs. TEAGUE, MOSHER, McCORMACK, and myself, the leadership, respectively, of the Science and Technology Committee and the Energy Research, Development and Demonstration Subcommittee to validate our jurisdiction. It was referred to this committee, but no further action was taken. Consequently, the House had not had any chance to consider the program and hold hearings on it, nor argue the merits of any amendments.

The mandated automotive R. & D. program would have authorized $130 million in direct funding over 2 years, and $55 million in loan guarantees for the research in the program. There were also a number of problems with the specific provisions in the program. The program was placed in the Department of Transportation, not in the Energy Research and Development Administration—ERDA. ERDA has the statutory authority for such R. & D. under section 104(g) of the Energy Reorganization Act and section 6(b)(3)(A)(iii) of the Federal Nonnuclear Energy Research and Development Act. The program was directly geared to production line technology and production prototypes, just the area where industry has the greatest expertise and the greatest economic incentive in light of foreign competition. That is also the area, conversely, in which the Federal Government is least capable of affecting meaningful research and development. These were some of my concerns with the program brought back by the S. 622 conference committee.

After a series of unsuccessful attempts to resolve this issue with the conference committee and the Senate, I chose to oppose the auto R. & D. part of the conference report. A point of order under Rule XXVIII that that auto R. & D. part was not germane to the conference bill was sustained, and, pursuant to that rule, I offered a motion to strike that part from the bill. I am proud to say that 300 Members of the House joined with me in knocking the program out of the conference bill. I do want to acknowledge the support of Subcommittee Chairman McCORMACK and many other members of the Science and Technology Committee in that effort.

As we all know, President Ford eventually signed that bill after bitter debate within the administration. Had we not acted so resolutely in opposition to the program then, it too would have been law today. Had we not acted, the American taxpayer would once again have been burdened with yet another, what I consider to be, expensive, unjustified, and ill-conceived program.

This conference bill is the final product of the opportunity for complete congressional consideration of a Federal automotive R. & D. program which our action in December preserved. The fruits of that preserved opportunity lie in the provisions of the conference bill—both what is in the bill and what is not. Importantly, the bill does not include loan guarantees, prototype vehicles, Government specification in the procurement of vehicles of the resulting prototype design, compulsory licensing of resulting patents, nor unjustified funding levels. None of these highly objectionable provisions contained in the S. 622 auto R. & D. title and the successor Senate companion legislation of H.R. 13655 were retained by the conference committee.

Rather, the conference committee reported a bill which closely parallels the fully considered House bill. The conference bill establishes a 5-year program for automotive R. & D. in the Energy Research and Development Administration—ERDA. Funding of $100 million is authorized for the first 2 years of the program. Funding for later years will be subject to subsequent authorization action, probably in the annual ERDA authorization. The primary focus of this 5-year program will be on advanced automotive propulsion systems. Two or three advanced engine concepts probably will be developed under the program. The statement of the managers emphasizes this primary focus on propulsion R. & D. by stating:

> The Committee of Conference anticipates that two-thirds to three-fourths of the funds available over the life of the program would be devoted to advanced automobile propulsion systems.

The remaining one-quarter to one-third of the funding under this bill, and the associated program activity, will be focused on incorporating advanced safety and damagability technology developed by the Department of Transportation under its ongoing R. & D. programs in those areas with the ERDA-developed advanced engines into test vehicles. The test vehicles are designated by the bill as "integrated test vehicles" to reflect the integration of the DOT advanced safety and damagability technology in the vehicles designed to test the advanced engines. The committee of conference stressed the engine test vehicle nature of these vehicles in stating that the vehicles must be satisfactory "without unduly compromising the advanced automobile propulsion system, which is the heart of the vehicle."

The conferees have made clear that these vehicles are purely for test purposes and are not in any way intended as production prototypes or any other variant of the Senate's original "advanced automobile" goal. This point is emphasized again in the conferees' discussion of the number of vehicles to be built under the program. The conferees state:

> While it is difficult to predict the precise number of integrated test vehicles that will be necessary for *full and complete testing* . . . it is clearly the conferees' intention that the vehicles produced may number twenty or thirty, but not in the hundreds or thousands. (Emphasis added).

They state categorically that the vehicles are not intended to satisfy the criteria of an advanced automobile but—

> Rather the technology must be developed, integrated and tested in a manner that will support *further* engineering development and tooling for use in a mass produced vehicle. (Emphasis added).

The "further engineering development and tooling" and the "use in a mass produced vehicle" will be accomplished by industry after transfer of the technology into the private sector for commercialization.

The respective role of the Federal Government and the auto industry in automotive R. & D. received considerable attention in the conference. The original House restriction that the Federal R. & D. "supplement but not supplant" that of the auto industry was expanded in the conference to "supplement, not supplant nor duplicate." Because of the critical importance I attach to this restriction and its operation to define and preserve a proper role for the Federal Government in relationship to industry in this R. & D., I will quote the full discussion of this restriction in the managers' statement.

> The conference substitute states that the program is "to supplement, but not supplant nor duplicate, the automobile research and development efforts of private industry".
>
> The conference substitute includes three basic elements in placing this requirement on the Federal program. First, the program must supplement the automotive R. & D. efforts of industry. While ERDA is not limited merely to "adding to" or "building on" projects initiated by the private sector, the Federal R. & D. should be supportive of the private sector's R. & D. and formulated to produce advanced technology which can be ultimately refined for incorporation in mass production vehicles. This also means that ERDA should make reasonable attempts to learn from the private sector's R. & D. successes and failures, and not "reinvent the wheel" in formulating its program. For example, if considerable R. & D. effort has been put into a new system and it has been decided for good reason that the system cannot be satisfactorily refined for mass production vehicles, ERDA should not attempt, in the absence of a new technological advancement or other significant consideration, to conduct Federal R. & D. on the system. Certainly, in any situation where ERDA does launch such a program, it should have the burden to justify to Congress why there should be such Federal R. & D.

> Second, the ERDA program should not be formulated in a manner which will supplant private sector R. & D. The program should not result in any displacement or lessening of industry's R. & D. commitment. The program, therefore, should be focused on R. & D. which the private sector has not and will not include in its normal program. Of course, ERDA will not be precluded from engaging in a project because the private sector may conduct it in the future or will conduct it, but at a time sufficiently distant so that the benefits resulting will not be available at a time which will achieve the goals of this Act.
>
> Third, the program should not duplicate private R. & D. While there may be some necessary duplication of effort in the conduct of related R. & D., ERDA should not include R. & D. projects in the Federal program if the private sector is engaged in similar development. ERDA, however, can conduct R. & D. on advanced generations of automobile technology and on advanced refinements to automobile technology in use or under development by the private sector. Additionally, as required by section 4(e), ERDA shall intensify research in basic science areas, such as combustion and advanced materials research which limits the development of advanced automobile propulsion systems.

The final paragraph of the discussion, which follows, effectively summarizes the critical impact of this restriction and also conclusively demonstrates how this conference bill is a far more responsible bill than either the S. 622 auto R. & D. title or the Senate version of this legislation. That paragraph states:

> The combined effect of the three elements of this requirement is intended to sharply define a Federal automotive R. & D. program which ultimately will advance the overall pace of development and state-of-the-art of advanced automotive technology. This cumulative advance will be accomplished not by wasting Federal R. & D. funds through unnecessary duplication and not by displacing or supplanting private efforts by having ERDA do the R. & D. for the private sector, but rather by establishing a Federal program which will supplement private R. & D. and be supportive of the private sector's ultimate development and design responsibility for transfer of the advanced technology into mass production vehicles. The conferees intend that the Federal automotive R. & D. program under this Act will be formulated and implemented in a manner which is consistent with each element of this requirement and with the overall combined effect of the three elements in advancing automotive technology.

The importance of industry's role in the advancement of automotive technology also has been recognized by the conferees in addressing the role of the Federal laboratories in conducting the R. & D. under this program. While I have the highest regard for the propulsion R. & D. expertise of several of our Federal labs, particularly NASA's Jet Propulsion Laboratory, I was concerned that the House bill placed too much emphasis on the role of Federal labs and too little on the role of industry in supporting the ERDA program. This concern centered on a House provision which imposed a 60-percent limitation on the amount of direct funding under the program expended in the labs.

It was clear in the consideration of this provision that some Members considered the 60 percent figure as a goal and fully intended that the program would be formulated in that way. The statement of the managers expressly rejected that intention stating:

> The 60 percent limitation is to be viewed not as a goal, but as a limitation. A lesser percentage is desirable.

Thus, industry will be a full partner in the conduct of the R. & D., as well as the ultimate user of the resulting advanced technology. Hopefully, this full partnership will insure that the technology is developed in a manner which will fully recognize and support that ultimate use.

Perhaps most important, these conference decisions have negated the clear implication in the Senate bill, as emphasized by the Commerce Committee's report, that the ultimate objective of this legislation was development of a Federally developed auto design for imposition on the industry. The prototype vehicle and Federal procurement aspects of the Senate bill were clearly intended to support that objective. Federal R. & D. would be used to support Federal imposition by statute and regulation on American industry. This bill on its face negates that goal and places Federal R. & D. in its proper role—support of American industry in advancing automotive technology to achieve energy efficiency and environmental improvements. While I remain concerned that there is still some potential for redirection to the original Senate intention, the conference bill establishes a statutory framework for diligent oversight of the R. & D. to resist such prostitution of this bill. Congress should not, and under the bill, will not, use Federal R. & D. as a technological hammer to impose the will of any Member or group on our free enterprise system. This bill, rather, retains and reinforces the Federal-industry partnership in R. & D. in our system.

All of these elements of the conference bill represent significant improvement over the S. 622 auto R. & D. title and the prospects for a conference involving the subsequent Senate companion legislation of H.R. 13655. I am convinced that the conference bill responsibly defines a statutory program for Federal auto R. & D. It effectively codifies the ongoing efforts in ERDA, DOT, NASA, and other Federal agencies into a single, cohesive program. That program for the first time is fully described, and the role of the Federal Government is fully defined and limited to an appropriate role. I support the program as described and the role as defined and limited by this bill and I urge the support of my colleagues for this bill.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Speaker, I want to compliment the gentleman for his cogent explanation of the details of the bill and also for the contribution he made to the precise definitions of the role of this program which he has referred to in his own remarks.

In any program of this sort there is always the possibility of not sufficiently defining the boundary between the responsibilities and the authority of the Federal Government and the responsibilities of the private enterprise sector. I want the Members of the House to know that the gentleman in the well made a most significant contribution toward clarifying that so that it would be in accord with the needs and even in many cases the expressed desires of the automotive industry for the kind of help that would be most useful to them in solving our problems of automotive transportation.

That, of course, is not the only contribution which the gentleman made. I will not bother to go into all of them, but I think that the House should be aware that many of the values in this bill, including some of the points he referred to such as removal of the loan guarantee program, as well as many other important aspects of the bill, were due to the contributions of the gentleman in the well.

Mr. GOLDWATER. Mr. Speaker, I certainly thank my friend and colleague, the gentleman from California.

I think that this bill demonstrates how the legislative process can work effectively and responsibly to provide full and open consideration of proposals and alternative viewpoints. This is a research and development effort to see if we can accelerate and find alternative propulsion systems for the automobiles that we use in our daily lives.

I thank the gentleman for his kind comments, and certainly I recognize the cooperative spirit that he and other Members on that side of the aisle afforded those on this side of the aisle. As a result, I believe we have a piece of legislation that hopefully will give us a clear direction and in fact accelerate the search for this alternate power source for automobile propulsion.

Mr. BROWN of California. Mr. Speaker, as the lead author of and a member of the committee on conference on H.R. 13655, I rise in support of the conference report.

I do not believe there is any controversy about this measure. The administration opposes the bill, at least officially, but the agencies charged with responsibility under H.R. 13655 have all indicated a willingness and an ability to implement this advanced automotive research, development and demonstration program. ERDA, which is the lead agency under this report, has even stated in its national plan and program an intention to do the work required by this legislation.

I believe the past votes by the House, and the nature of the compromises achieved in the committee on conference, have produced a final product which should result in an even stronger expression of support from the Congress.

I am pleased and proud of my association with this legislation and the fine legislators who helped make it possible to bring this report before you today. The adoption of the conference report on H.R. 13655 will be another significant action by the Congress to reduce our dependence on imported oil, and the implementation of this bill will move our country in the proper direction in energy use in the transportation sector.

Mr. MOSHER. Mr. Speaker, I believe that this bill is a conference product which represents considerable improvement relative to the versions of both Houses.

Those concerns that on the one hand, improvements in the advanced automotive engines would be compromised by inadequate systems integration in a vehicle have been largely alleviated. Also, there was some worry that ERDA would go beyond its proper function in the research and technology phases of automotive R. & D., and that has been considerably lessened by a careful delineation of the Government role.

I feel that this conference report outlines a proper phasing of Government and industry's roles as the program goes from technology demonstration through integrated test vehicle development.

The authorization is carefully tailored to the existing ERDA program to accelerate advanced engine development in an optimum fashion using available resources.

I do regret that the administration has doubts about this bill, because it is a responsible product of much careful deliberation.

This program should save 3 years in getting advanced concept Brayton and Stirling engines into the auto fleet.

We must get away from our dependency on petroleum, and implementation of this R. & D. ultimately means savings of billions of gallons of oil.

This bill initiates a new partnership between Government and industry, founded on the principle that, ultimately, energy technology must be done in and by industry with Government's support.

The ERDA/NASA expertise and the cost sharing plan for advanced engine research guarantee technology transfer to the private sector.

Mr. Speaker, I wish that all of ERDA's programs in conservation R. & D. had the vital ingredients of this approach. This automotive partnership will see ERDA and NASA serving as a "technical broker" between industry and the regulatory agencies; I feel certain they have the proven technical credibility to make it work.

Mr. TEAGUE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 344, nays 39, not voting 48, as follows:

[Roll No. 678]

YEAS—344

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cohen
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Eilberg
Emery
Erlenborn
Eshleman
Evans, Colo.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frenzel
Frey
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Leggett
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Lundine
McClory
McCollister
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Sikes
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki

NAYS—39

Archer
Ashbrook
Bauman
Brown, Mich.
Butler
Cederberg
Cochran
Collins, Tex.
Crane
Edwards, Ala.
English
Esch
Evans, Ind.
Hall, Tex.
Hammerschmidt
Hansen
Holt
Hutchinson
Ichord
Jacobs
Keys
Latta
Levitas
McDonald
McEwen
Montgomery
Moore
Paul
Roberts
Ruppe
Satterfield
Sebelius
Shuster
Snyder
Symms
Taylor, Mo.
Treen
Vigorito
Waggonner

NOT VOTING—48

Abzug
Bergland
Brooks
Broyhill
Chappell
Clay
Collins, Ill.
Conlan
de la Garza
Edwards, Calif.
Evins, Tenn.
Fish
Forsythe
Fuqua
Green
Harris
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Hinshaw
Jones, Ala.
Karth
Landrum
Lehman
Long, Md.
McCloskey
Matsunaga
Moffett
Nichols
O'Hara
Passman
Peyser
Quillen
Rees
Risenhoover
Roncalio
Runnels
Simon
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Wylie
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mr. Zeferetti with Mr. Stephens.
Mr. Lehman with Mr. O'Hara.
Ms. Abzug with Mr. Broyhill.
Mr. Matsunaga with Mr. Conlan.
Mr. Chappell with Mr. de la Garza.
Mr. Hawkins with Mr. Fish.
Mr. Fuqua with Mr. Wylie.
Mr. Passman with Mr. Steiger of Arizona.
Mrs. Collins of Illinois with Mr. Young of Alaska.
Mr. Clay with Mr. McCloskey.
Mr. Helstoski with Mr. Karth.
Mr. Risenhoover with Mr. Landrum.
Mr. Bergland with Mr. Heinz.
Mr. Sisk with Mr. Forsythe.
Mr. Green with Mr. Jones of Alabama.
Mr. Nichols with Mr. Evins of Tennessee.
Mr. Edwards of California with Mr. Harris.
Mr. Brooks with Mr. Peyser.
Mr. Hébert with Mr. Quillen.
Mr. Long of Maryland with Mr. Hays of Ohio.
Mr. Moffett with Mr. Steelman.
Mr. Roncalio with Mr. James V. Stanton.
Mr. Simon with Mr. Runnels.

Mr. YATES changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 217, REPEAL ACT—CONDEMNATION OF CERTAIN LANDS OF PUEBLO INDIANS, STATE OF NEW MEXICO

Mr. MEEDS. Mr. Speaker, I call up the conference report on the Senate bill (S. 217) to repeal the act of May 10, 1926 (44 Stat. 498), relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 26, 1976.)

Mr. MEEDS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MEEDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 217, as passed by both the Senate and the House, will repeal a 1926 statute which subjected the lands of the New Mexico Pueblo Indian Tribes to condemnation for right-of-way purposes under the laws of the State. It would also terminate any litigation initiated under that statute which had not gone to final judgment as of the date of enactment of this bill, but would preserve any appeal right on litigation which had gone to final judgment prior to enactment of the bill.

Under the general Federal law applicable to all other Indian tribes, the Secretary is authorized to grant rights-of-ways across tribal lands for all purposes. However, both by statute and by regulation, this grant is subject to the approval of the affected Indian tribe. Both the Senate and House agreed that the 1926 act was discriminatory against the Pueblo Indians and should be repealed. Upon repeal, the Pueblo Indians will have the same right of consent as other Indian tribes.

When the House considered and passed S. 217, it felt that renewals of existing rights-of-way across Pueblo lands should be treated in a different manner than grants of new rights-of-way. As a consequence, the House amended the bill by adding a new section which, among other things, would authorize the Secretary to grant a renewal of an existing right-of-way across Pueblo lands without Pueblo consent if the parties could not agree on a right-of-way renewal within 60 days after the request.

This was the provision which was in disagreement between the two Houses.

After two meetings of the committee of conference and extensive contact among staff and other interested parties, a compromise was struck. As indicated in the conference report, the Senate agreed to recede from their disagreement to the House amendment with a further amendment. The House conferees agreed to the Senate amendment.

The basic rationale for the original House amendment suspending Pueblo consent for renewals was the apprehension that the Pueblos might use the circumstances of an existing right-of-way to coerce the holder thereof in any renewal.

However, of the approximately 200 rights-of-way obtained on Pueblo lands, at least 184 were amicably negotiated between the affected Pueblo and the applicant for the right of way. In only 12 cases have rights-of-way been obtained through the use of the condemnation authority of the 1926 act.

The conferees agree that the suspension of the right of consent of the Pueblo to renewals ought to be tied to the 1926 act.

Therefore, conference language before the House today provides that, if attempts to negotiate a renewal fail after 90 days from the request, the secretary may grant one 10-year renewal of a right-of-way if that right-of-way had originally been obtained through litigation under the 1926 act.

Mr. Speaker, I urge the adoption of the conference report.

Mr. JOHNSON of Colorado. Mr. Speaker. I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of the conference report on S. 217.

This legislation restores the Pueblo Indians of New Mexico to a position of equality with other Indian tribes in the United States. It repeals a 1926 statute which subjects Pueblo tribal lands to a wider liability for condemnation than that of other federally recognized Indian tribes in the State and throughout the Nation.

The Senate passed S. 217 by voice vote and the House passed it under suspension of the rules. The only matter in disagreement was a House amendment concerning the right of renewal for existing rights-of-way across Pueblo lands. The House language guaranteed a right of renewal for all rights-of-way across Pueblo lands, regardless of how they were acquired. The conferees modified this language to guarantee a limited right of renewal only to holders of rights-of-way which were acquired pursuant to the 1926 statute.

S. 217 is supported by the 19 New Mexico Pueblos, the National Congress of American Indians, the National Tribal Chairmen's Association, the Governor of the State of New Mexico, and by the Ford administration.

As a member of the Subcommittee on Indian Affairs, I believe this legislation, as agreed upon by the conferees, is eminently fair and reasonable. I, therefore, urge the speedy adoption of this conference report.

Mr. MEEDS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 387, nays 0, not voting 44, as follows:

[Roll No. 679]

YEAS—387

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frenzel
Frey
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Roberts
Robinson
Rodino
Roe

Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki

NAYS—0

NOT VOTING—44

Abzug
Bergland
Brinkley
Broyhill
Chappell
Clay
Collins, Ill.
Conlan
de la Garza
Evans, Ind.
Evins, Tenn.
Fish
Forsythe
Fuqua
Green
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Hinshaw
Jones, Ala.
Karth
Landrum
Lehman
Matsunaga
Nichols
O'Hara
Passman
Peyser
Rees
Risenhoover
Roncalio
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stokes
Teague
Wilson, C. H.
Wylie
Young, Alaska
Zéferetti

The Clerk announced the following pairs:

Mr. Matsunaga with Mr. Young of Alaska.
Mr. Zeferetti with Mr. Broyhill.
Ms. Abzug with Mr. Fish.
Mr. Chappell with Mr. Wylie.
Mr. Hawkins with Mr. Steiger of Arizona.
Mr. Fuqua with Mr. Charles H. Wilson of California.
Mrs. Collins of Illinois with Mr. Karth.
Mr. Helstoski with Mr. Heinz.
Mr. Risenhoover with Mr. Forsythe.
Mr. Sisk with Mr. Peyser.
Mr. Green with Mr. Hays of Ohio.
Mr. Clay with Mr. Steelman.
Mr. Passman with Mr. James V. Stanton.
Mr. Lehman with Mr. O'Hara.
Mr. Bergland with Mr. Brinkley.
Mr. de la Garza with Mr. Conlan.
Mr. Nichols with Mr. Stephens.
Mr. Evans of Indiana with Mr. Roncalio.
Mr. Hébert with Mr. Rees.
Mr. Stokes with Mr. Jones of Alabama.
Mr. Teague with Mr. Landrum.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 13636, EXTENSION OF LEAA

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1246 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1246

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13636) to amend title I (Law Enforcement Assistance) of the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Illinois (Mr. MURPHY) is recognized for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House resolution 1246 is an open rule providing 2 hours of general debate on H.R. 13636, the Law Enforcement Assistance Administration authorization. The resolution also provides that the bill be read for amendment under the 5-minute rule by titles instead of by sections.

H.R. 13636 amends title I of the Omnibus Crime Control and Safe Streets Act of 1968 to reauthorize the Law Enforcement Assistance Administration for 1 year. This bill authorizes $895 million for fiscal year 1977, earmarking $15 million for grants for community crime prevention activities. An additional $220 million is authorized for the transition quarter.

An Office of Community Anticrime Programs is established by this bill to provide technical assistance to community organizations applying for grants from LEAA for programs to reduce crime.

H.R. 13636 requires that LEAA consult with States to establish minimally acceptable standards for State and local correctional facilities. This bill broadens the provision in the present act to also prohibit discrimination on the basis of religion and creed by recipients of LEAA funds and mandates the procedure to be followed by LEAA in the event of noncompliance.

The bill further provides that any annual appropriations for the Justice Department after October 1, 1978 must be authorized by a specific authorization.

H.R. 13636 focuses funding on programs to prevent crime against the elderly and authorizes the National Institute of Law Enforcement to study the relationship between street crime and drug abuse. It is significant that statistics show that the direct cost of drug abuse to the Nation ranges between $10 billion and $17 billion a year. Law enforcement officials estimate that almost 50 percent of all robberies, muggings and other property crimes are committed by addicts supporting their expensive habits.

Mr. Speaker, I urge the adoption of House Resolution 1246 that we may discuss and debate H.R. 13636.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, under House Resolution 1246 the House may resolve itself into the Committee of the Whole for the consideration of H.R. 13636, a bill to extend the Law Enforcement Assistance Administration for 1 year. This is a 2-hour, open rule providing for the legislation to be read for amendment by titles instead of by sections.

H.R. 13636 proposes to extend the authority of LEAA until September 30, 1977, at a total cost of $1,115,000,000. The bill would revise the standards for the comprehensiveness of State plans and the method of application for LEAA grants. The legislation is designed to develop initiatives for citizens to participate in fighting crime, and special attention is given to reduction of crime against the elderly. Provision is made for the use of discretionary funds to attack the criminal case backlog and delay. Finally, there is a requirement that minimally acceptable standards be developed for State and local correctional facilities.

The Law Enforcement Assistance Administration has been of significant benefit to State and local governments throughout the country in the development of their anticrime programs. While LEAA has not been a panacea in our efforts to reduce crime, it has aided in improving law enforcement techniques as well as the general administration of criminal justice.

Mr. Speaker, some reservations exist concerning certain aspects of this bill; and it is my understanding that amendments may be offered pursuant to these reservations. However, to my knowledge no one objects to the passage of the rule. I support its adoption.

Mr. Speaker, I have no requests for time.

Mr. MURPHY of Illinois. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, I object to to vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 388, nays 0, not voting 43, as follows:

[Roll No. 680]

YEAS—388

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bowen

Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frenzel
Frey
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki

NAYS—0

NOT VOTING—43

Abzug
Bergland
Bonker
Burton, John
Chappell
Clawson, Del
Clay
Conlan
Crane
de la Garza
Dickinson
Evins, Tenn.
Fish
Forsythe
Fuqua
Green
Hagedorn
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Hinshaw
Jones, Ala.
Karth
Lehman
Matsunaga
Mosher
O'Hara
Passman
Peyser
Rees
Roncalio
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stokes
Teague
Wylie
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mr. Zeferetti with Mr. Hagedorn.
Mr. Lehman with Mr. Fish.
Mr. Chappell with Mr. Conlan.
Ms. Abzug with Mr. Young of Alaska.
Mr. Hawkins with Mr. Steelman.
Mr. Helstoski with Mr. Wylie.
Mr. Hébert with Mr. Peyser.
Mr. Green with Mr. Steiger of Arizona.
Mr. Bergland with Mr. Forsythe.
Mr. Clay with Mr. Heinz.
Mr. Sisk with Mr. Del Clawson.
Mr. Bonker with Mr. Crane.
Mr. Matsunaga with Mr. Jones of Alabama.
Mr. Fuqua with Mr. Karth.
Mr. John Burton with Mr. Mosher.
Mr. de la Garza with Mr. James V. Stanton.
Mr. Passman with Mr. Rees.
Mr. O'Hara with Mr. Stephens.
Mr. Roncalio with Mr. Dickinson.
Mr. Stokes with Mr. Evins of Tennessee.
Mr. Teague with Mr. Hays of Ohio.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST FOR PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO MEET DURING 5-MINUTE RULE TODAY

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may be permitted to meet to consider routine printing and other matters during the 5-minute rule today.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman describe for us what the purpose of this unanimous consent is?

Mr. THOMPSON. If the gentleman will yield, yes. There are a number of printing resolutions, for instance. There is the additional requirement for printing of books on art in the Capitol and the additional requirement for printing of the magazine or typed description of the Capitol. There are two funding requests.

The gentleman from Alabama (Mr. DICKINSON), the ranking minority member, my staff informs me, was to make this request but he is not here to do so.

Mr. ROUSSELOT. Reserving the right to object; what is the cost of this request?

Mr. THOMPSON. The gentleman from New Jersey is unable to answer that.

Mr. ROUSSELOT. Are there any political documents to be printed at taxpayers' expense?

Mr. THOMPSON. There are no political documents.

Mr. ROUSSELOT. Further reserving the right to object, I yield to my colleague, the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I want to say to the gentleman from New Jersey that the gentleman from Alabama (Mr. DICKINSON) some days ago made a request to me to object to any requests for permission for the gentleman's committee to sit unless the gentleman from Alabama personally told me he had approved of it, and he has not changed that request and I regret that I must object.

Mr. THOMPSON. Mr. Speaker, will the gentleman from California yield?

Mr. ROUSSELOT. I am glad to yield.

Mr. THOMPSON. Mr. Speaker, I regret very deeply the need of the gentleman from Maryland (Mr. BAUMAN) to object, since there are important matters here and we are approaching the sine die adjournment. The matters are not controversial. If the gentleman would withdraw his objection, I could guarantee the gentleman that if there is any matter on the agenda objected to by the gentleman from Alabama (Mr. DICKINSON), that that matter would not be brought forward.

Mr. Speaker, there are routine matters of considerable importance and they are not political. They are not controversial in any manner. Now, if we can reach such an agreement, I would be extremely grateful to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I would like to comply with the gentleman's request and agree that the committee could meet for these purposes; but the gentleman from Alabama (Mr. DICKINSON) did make this request.

Perhaps the gentleman from New Jersey could withdraw his request and we could confer with the gentleman from Alabama and the gentleman from New Jersey could then make the request a little later.

Mr. THOMPSON. Well, Mr. Speaker, if the gentleman will yield further, I would hope so.

Mr. Speaker, I thank the gentleman and I withdraw my request.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. BAUMAN. Mr. Speaker, I object.

Mr. PEPPER. Mr. Speaker, may I have

the attention of the able gentleman from Maryland.

Is the gentleman objecting on account of the legislative appropriations bill? If I eliminate that from the request, will the gentleman then not object?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, will the gentleman tell us what rules are planned to be filed?

Mr. PEPPER. Mr. Speaker, if the gentleman will yield further, there would be the rule on H.R. 3605, reduction in beer tax for small brewers;

The rule on H.R. 6684, Exclusive Territorial Franchise Act;

The rule on H.R. 14886, Presidential Transition Act amendments;

The last one is the rule H.R. 14238, legislative appropriations, to which the gentleman objects.

Mr. BAUMAN. The gentleman is not requesting the legislative appropriations bill?

Mr. PEPPER. Mr. Speaker, if the gentleman will yield further, no, we are not.

Mr. BAUMAN. Mr. Speaker, I withdraw my objection, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

EXTENSION OF LEAA

Mr. CONYERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13636) to amend title I, Law Enforcement Assistance, of the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. Conyers).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 13636, with Mr. Rosenthal in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Michigan (Mr. Conyers) will be recognized for 1 hour, and the gentleman from Illinois (Mr. McClory) will be recognized for 1 hour.

The Chair now recognizes the gentleman from Michigan (Mr. Conyers).

Mr. CONYERS. Mr. Chairman, I begin this debate and discussion by yielding such time as he may consume to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. Rodino).

Mr. RODINO. Mr. Chairman, I rise in support of this legislation.

Before speaking in support of this legislation, I would like to commend the chairman of the subcommittee, the gentleman from Michigan (Mr. Conyers), and the gentleman from Illinois (Mr. McClory), who have ably guided the committee in its deliberations on this very comprehensive measure.

Mr. Chairman, I proudly sponsored this legislation back in 1968 when this legislation at that time was conceived as an important component of the Omnibus Crime Control and Safe Streets Act.

Mr. Chairman, a simple walk in too many of our communities will remind us that we in this Nation are not winning the tragic battle against street crime.

It has been nearly a full decade since the President's Commission on Law Enforcement and Administration of Justice told us what every American knew too well:

> There is crime in America, more than ever reported, far more than ever is solved, far too much for the health of the nation.

But the Crime Commission told us something else as well:

> America can control crime if it will . . . it must welcome new ideas and risk new actions. It must resist those who point to scape goats, who use facile slogans about crime by habit or for selfish ends. It must recognize that the government of a free society is obliged not only to act effectively but fairly. It must seek knowledge and admit mistakes.

In 1968, partly in response to the report of the President's Commission, we passed the Omnibus Crime Control and Safe Streets Act, a comprehensive Federal program to assist the States and localities in reducing crime and improving the Nation's criminal justice system.

Billions of dollars have been spent pursuant to that legislation, administered by the Law Enforcement Assistance Administration—LEAA—established within the Department of Justice by title I of the 1968 act.

Three times now the Congress has been asked to extend the life of LEAA. In 1970 and 1973, the Judiciary Committee concluded exhaustive hearings and we wrote in committee and on the floor numerous amendments addressing the deficiencies in the administration of the program.

It is that process that we are engaged in again today—it is a process that has consumed much of the time of the Subcommittee on Crime and the full Judiciary Committee since January of this year.

Severe criticisms have been leveled against LEAA's performance. Much of that criticism, I am afraid, is at least partially justified. But there have been some notable LEAA successes, and the Agency's potential at least is enormous.

LEAA has succeeded mightily, I believe, in fostering coordination between previously disparate elements of the criminal justice system, and has done a fine job of encouraging and developing the planning capabilities of local and regional units.

We are unquestionably better able today to assess and understand the interdependency of police needs, court needs, and correctional needs. We have put our local law enforcement institutions in better touch with each other, and have greatly increased their capacity to develop long-range planning.

But do we know—after 7 years and $5 billion—just what works and what does not work in the fight against crime? Do we better understand the causes of crime? Has LEAA developed its evaluation capabilities so that the Congress is better equipped to efficiently allocate scarce Federal resources to give the States and local communities the tools they need to prevent crime and to upgrade the criminal justice system?

In large part the answer to those questions is an unfortunate "no."

Therefore, a major feature of H.R. 13636 is language mandating the improvement of LEAA evaluation programs. It is essential that measurable standards and criteria be developed for the use of these Federal moneys. In that regard, the National Institute of Law Enforcement and Criminal Justice is being instructed to identify those projects which have demonstrated success and to disseminate information regarding those projects to the State planning agencies responsible for the administration of the grant program.

There are numerous other features of H.R. 13636 that greatly improve upon the present act. The Judiciary Committee 64-page report deals with them in great detail and I shall not take the committee's time to outline them all.

I would like to highlight at least several, however, in my remarks at this time.

Perhaps most important, four sections of the bill address the need for increased community participation in the crime prevention process.

The first of these new provisions creates a program of community anticrime assistance within LEAA. The bill also assures participation of community organizations and citizens at all levels of the planning process. Church groups, civil rights groups, neighborhood organizations, and individuals who speak for underrepresented segments of the community are all brought into the process. Planning units are mandated to make an active effort to recruit these representatives, so that nonprofessional concerned citizens can be heard just as are the more usual representatives of professional law enforcement personnel.

The act has been amended to allow block grant funding of community organizations by the SPA's. In addition, $15 million in discretionary funds are authorized for the encouragement of neighborhood participation in crime prevention through such programs as police neighborhood councils, neighborhood watch programs, escort service for the elderly and volunteers in gang control.

Other new provisions in the bill tighten the civil rights enforcement mechanisms so that discrimination in the grant program is kept in even firmer check, provide State legislative input into the criminal justice planning process, and establish as a special priority prevention of crime against the elderly.

Finally, I am greatly pleased that the committee adopted three amendments which I authored to coordinate research into drug abuse programs.

The committee received reports that the United States is experiencing a new epidemic of drug abuse and will probably experience a significant increase in drug related crime. In the White Paper on drug abuse prepared by the Domestic Council and in the President's recent message to Congress, it was estimated that the direct cost of drug abuse to the Nation ranges between $10 billion and $17 billion a year and law enforcement officials have estimated that up to 50 percent of all robberies, muggings, burglaries, and other property crimes are committed by addicts to support their expensive habits. There is still some argument as to the precise nature of the relationship between drug abuse and crime and a vacuum of hard data on the nature of that relationship.

At the present time, there is only sporadic coordination between the State planning agencies which fund drug abuse programs and the single States agencies which plan for treatment and facilities for drug abusers. The State planning agencies have not been reporting to Congress on the results of their programs and standards and regulations surrounding them. To remedy these problems, the committee adopted three amendments which would authorize the institute to do research into the relationship between crime and drug abuse, require coordination between single State agencies and State planning agencies and require reporting to Congress on the effects of their programs.

Mr. Chairman, let me conclude by saying that I need not remind the Members of the many criticisms of LEAA that are both current and valid. Too much has been spent on police hardware, too little has been done to upgrade evaluation procedures, too few results, quite frankly, are visible in the crime reduction statistics.

Congress must keep a steady hand on the administration of this program. Nothing is as close to our citizens as the safety of our communities, and given LEAA's overall record, and given the dollar amounts at issue, it would be irresponsible for this House to grant the agency any kind of multiyear extension. Let us take another look in a year. Let us see if the program cannot be turned around. The committee very wisely rejected Justice Department proposals to extend LEAA for 5 years, and amendments in full committee markup to grant a 3- or even a 2-year extension were soundly defeated.

I personally am committed to the future of a Federal anticrime assistance program, and I have no doubt that I shall be supportive of efforts in that direction at the appropriate time. But we must maintain the vigilance over LEAA that only a relatively short extension can provide.

I urge, Mr. Chairman, a favorable vote on H.R. 13636, and I commend the Subcommittee on Crime and its able chairman, Mr. CONYERS, and its distinguished ranking member, BOB MCCLORY, for their long and hard work in bringing it to the floor today.

Before concluding, Mr. Chairman, I wish to include the following remarks concerning title II of the committee's bill.

TITLE II

Clause II of rule XXI states that—

> No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law.

The Department of Justice was created by act of Congress in 1870. Under rule X, legislative jurisdiction of nearly all activities within the Department reposes within the Committee on the Judiciary. The Department, however, is not required to come before the Judiciary Committee, nor indeed before the larger Congress for authorization of appropriations. Each year, the Department is funded directly by appropriation bills not individually or specifically authorized by law. The act of 1870 creating the Department, and subsequent creation of subdivisions within the Department and authorization of certain activities of the Department have been treated in themselves as the requisite authorization of appropriations.

Title II of H.R. 13636 provides that no sums shall be deemed to be authorized to be appropriated for the Department of Justice for any fiscal year beginning after October 1, 1978. That is, beginning with fiscal year 1979 the Department of Justice will require authorizing legislation from the Congress in order to qualify for the appropriating process.

The committee believes that it cannot adequately or responsibly discharge its oversight responsibilities without enacting the provisions of title II. The constitutional trauma of recent years convinces us that our citizens require a responsible and vigilant oversight by the Congress if confidence is to be maintained in the institutions of Federal Government. No component of the federal system is more sensitive to abuse and more fundamental to our liberties than the administration of justice. The Department of Justice, of course, is at the heart of that process.

The committee believes that a thorough and orderly authorization scrutiny of Justice Department functions and activities will better serve the interests of Congress, and more importantly, the American people. The committee realizes, of course, that it may be that not every last activity within the Department is within Judiciary Committee jurisdiction. Certain isolated functions may be within the legislative jurisdiction of other standing committees, and no effort is contemplated that would in any manner interfere with or affect the legislative jurisdiction and prerogatives of any other standing committee.

Indeed, because of even the possibility of these very narrow and isolated areas of potential conflict, and in order to carefully plan for the appropriate discharge of its added responsibilities, the committee unanimously adopted an amendment postponing the effective date of title II from fiscal year 1978 to fiscal year 1979. But in passing the title, the committee is solidly committed to achieving that kind of oversight contemplated by every one of the recently enacted legislative reorganization acts, and to effecting that vigilance expected by the American people.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as the chairman of the subcommittee on the Committee on the Judiciary that has worked with this measure for over the last year, I am very pleased to hear the commendations from the chairman of the full committee, the distinguished gentleman from New Jersey (Mr. RODINO). Mr. Chairman, I sincerely appreciate his remarks.

It has been a difficult piece of legislation because at the heart of LEAA are the considerations of what the philosophy of crime ought to be at the Federal Government level. On that question, there are many honest and genuine differences of opinion. We think that we have, at least for the time being, satisfactorily reconciled a sufficient number of them to present to the Members H.R. 13636 and urge their considered support of the bill.

As the Members know, it was in 1966 that then President Lyndon Johnson signed into law this first attempt in our Nation's history to reduce and prevent crime at the State and local level with Federal aid, a difficult question, one that is fraught with constitutional considerations, as well as practical considerations. It was called the Omnibus Crime Control and Safe Streets Act. I say at the outset of this discussion it has never done what it was intended to do. If it had, we might not even be here with a bill today.

In Detroit, we have seen recent examples of the fear that has been generated on the part of some citizens and some homeowners because of youth gangs which make it unsafe for them to walk the streets in daylight or at night. This Nation, sadly enough, has experienced an increase rather than a decrease in violence over these last 10 years.

Mr. Chairman, last year alone reported crimes jumped 18 percent. This was thought to be the largest single increase since the FBI began collecting national statistics some 50 years ago. Not only that, the court systems of our Nation are overloaded and remain overloaded, notwithstanding that this committee has brought the speedy trial act into the Federal legislation, which is being emulated at the State level by many of the State courts.

But a program such as Operation Sting, in which decoy policemen were engaged in selling stolen articles to fences, points up one of the real sharp problems we are confronted with. A roundup of criminals trying to fence these stolen articles produced nine of whom had been arrested in a similar roundup before, but they had not adequately been processed by the criminal justice system. The courts were unable to deal with the problem. Far worse than that, the jails and the State prisons remain severely overcrowded. I cannot underscore too heavily the impact on our penal system, in terms of their inadequacy and, of course, the recidivist rate, which continues to mount, in which repeated offenders become those most likely to commit crimes once they are released.

I think we in this body owe our citizenry an obligation to consider the ramifications of the Law Enforcement

Assistance Administration legislation before us this afternoon. When some of these prisons and local jails get assistance in the form of Federal funds, as bad as I have described the situation, they frequently do not use them to improve the physical conditions to the point where they are habitual, so it only makes using the word, "rehabilitation," a cruel joke—a joke that does not go unnoticed, incidentally, upon the inmates whose bitterness, whose vindictiveness, and whose feelings of abuse are frequently reflected in their conduct when they return to the general population.

I commend to the Members the GAO's most recent report on this subject in which they analyzed it in great detail.

The increase in violence, even among law-abiding citizens, is one that I think ought to concern us equally. Television propagates this violence daily. Even though 70 percent of our Nation wants to increase the regulations that we have over gun control, we refuse to act despite the demands of the people.

I think that it is only fair to point out that 69 killings occur every day, and that 13,070 murders occurred last year through firearms in the United States. In the face of all this crime, in the face of this increased propensity for violence, and in the face of the increasing notation of violence in our television and media programing, it seems to me that this subcommittee had an overriding obligation to take a long, hard look at LEAA and bring to us, to the best of their abilities, their distinct impressions upon this subject as the representatives on the subcommittee.

This agency, created by the Omnibus Crime Control and Safe Streets Act, can attack the problem. The question is: What has LEAA done? It has as a matter of fact spent millions of dollars on research into advanced police technology. I do not mean to be disparaging, but they have perfected shoes with changeable soles for the police, they have studied therapy research to measure the heart beats of police officers, and they have provided $40,000 patrol cars.

I suppose that is research of one kind or another, but the point is they have done painfully little to research the root causes of crime.

No, I do not stand here before the Members charging the Research Institute of LEAA with the obligation of coming up with the answers to crime. They are not capable of that, and I would not force that upon them. We have asked them, though, to be more responsive and more incisive in examining some of the roots of crime and spelling them out to us instead of this constant overemphasis of hardware which cannot advance any of our understanding about the nature of crime and how we might treat it—not to end it but to reduce it, not to make it something that does not happen but to find out how we can get it under control and how we can treat it as governmental representatives far more responsibly than we have in the past.

Let me tell the Members about some of the interesting people who joined us in this kind of research that went on. One that left a profound impression on me was the police chief of Boston, Robert DeGrazia, who in his own way, I think, is a significant member of the law enforcement team that characterizes his police force and many others across the United States.

I say that because in a moment of candor he said, "Let's be frank about it. In one sense there is very little that even the police can do about crime. Violent street crime"—and this is coming from a police commissioner—he said, "is for the most part a product of unemployment, broken homes, usually a rotten education, and sometimes drug addiction or alcoholism."

They are victims, frankly, of many of the social and economic ills that we do not, when we talk about law enforcement and crime control, consider within the proper scope of the territory that we are to examine.

Mr. Chairman, I think that the gentleman has made an extremely important point; and it has guided my analysis of the subject matter. That was the responsibility of our subcommittee.

LEAA too frequently has become carried away with the mistaken notion that the police, in ever greater numbers and with more gadgetry alone, can control crime. I dispute that. I do not think that it can be done. I think that our experiences to date, 8 or 9 years later, establish at least that premise beyond peradventure.

Mr. Chairman, I must agree with the Commissioner of Police of Boston when he says that the system Congress has perpetuated now does very little to reduce crime; and in one sense, it lets crime continue.

I asked the Deputy Attorney General, Mr. Harold Tyler, himself a former distinguished judge, at our subcommittee hearings a very simple but important question: "What is the Justice Department doing to develop a policy to attack all kinds of crime and not just street crime? Your subcommittee chairman argues that street crime cannot be handled in isolation. The people who commit street crime are also aware of white-collar crime. They are also aware of organized crime. They are also aware of governmental crime and governmental lawlessness."

The Deputy Attorney General promised me on the record that he would send some material on the policy that has been developed by the Justice Department to attack all kinds of crime.

Mr. Chairman, as members of this subcommittee are my witnesses, I can say that 4 months later, to this date, he has sent me the copy of the latest LEAA Annual Report and the Justice Department Annual Report, along with a couple of his speeches.

This, I think, is not a totally adequate response to the policy statement question that I raised. If the Justice Department has espoused no real direction, how can we expect that LEAA, with its present direction of overemphasis on police technology, is going to do any better?

Therefore, I appear, Mr. Chairman, on behalf of the committee to seek passage of this bill reported to the House on May 15 of this year and, of course, receiving an open rule, to extend the authorization of the Law Enforcement Assistance Administration through September 30, 1977. That is 1 fiscal year plus a 3-month transition period.

Mr. Chairman, if the Members have not been able to detect it from my presentation, I have severe reservations about this bill. It does not answer the question sufficiently of what the root causes of crime are. However, I am not here to blame LEAA. I am here to guarantee that our subcommittee is going to begin the kind of oversight that will lead us, working with LEAA, to find what I consider to be the more likely causal factors that we must determine before we start talking about methods, before we begin passing on costly programs, and before we begin the work of legislating that too frequently, because of all the considerations with which we are familiar, require that we move at some time before we have done the preplanning and before we have undertaken the oversight.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I am pleased to hear the gentleman from Michigan (Mr. Conyers) making the statements that he has, for I join him in having great misgivings about what we have been doing in LEAA and in questioning how much money has been spent, how it has been spent, and possibly whether some of it was even needed.

Mr. Chairman, I have had the feeling that actually what we have had here is just another revenue-sharing program, without zeroing in on the areas that the gentleman has referred to and which we must do.

Therefore, Mr. Chairman, I am glad that this bill is just for 1 year. I am glad that the committee has looked into it as it has and that it feels unsettled about the record of LEAA.

I want to say that had we come up with a bill for a 5-year authorization I would have been constrained to vote against it for that simple reason. I am delighted that the committee came up with a 1-year extension so that we can better get into this and find out what has and could be done and what our policy should be.

Mr. CONYERS. Mr. Chairman, may I say to my colleague, the gentleman from Colorado (Mr. Evans), that this decision was not easily arrived at. I would remind the Members that we, 3 years ago, on an amendment offered by myself in the Committee on the Judiciary, voted a 1-year extension. We went to conference and compromised it to 3 years. We are back 3 years later and the one thing we were caught between was at least a 1-year extension or no years. Because we have come back with very little to show after nearly $1 billion has been consumed almost on an annual basis during that 3-year period. And I felt that we in the House at least should vote for a 1-year extension.

We think this is an important part of the logic on this bill. I appreciate the support of the gentleman from Colorado

(Mr. EVANS) on the premise under which we are operating.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the distinguished gentleman from Illinois (Mr. HYDE), a member of the Committee on the Judiciary.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding and I want to commend the gentleman for a superb job of shepherding this important and controversial legislation to the point it now is before this House.

I will agree with the gentleman that much more emphasis needs to be placed on penology, on developing more sophisticated methods of dealing with inmates in our jails.

It seems to me that at least in practice LEAA has spent an awful lot of time and effort on hardware and on building local police stations, things that should be done by local effort. Local resources are inadequate when they are directed toward the more complex problems of modern penology. In addition the court system, which is a very important part of law enforcement, still needs a lot of attention.

I look forward to the effective oversight that I know LEAA will be receiving from the gentleman's subcommittee.

Mr. Chairman, if I may just add a couple of more points, the gentleman from Michigan (Mr. CONYERS) has asked what the Justice Department is doing about the terrible problem of crime. I would ask what Congress is doing about helping restore the family as the basic unit of society? We look to all sorts of reasons why we have high crime, why the erosion of authority and the respect for basic rights is no longer there, and yet we see programs in this country designed to erode the concept of the family. For instance, we have a welfare system that subsidizes people for not keeping the family unit together.

Mr. CONYERS. Mr. Chairman, may I say to my colleague, the gentleman from Illinois (Mr. HYDE), that these are precisely the kind of questions that, too frequently in this body are not applied within the realms of law enforcement, crime prevention, and legislative responsibility. I quite agree that the social consequences, whether they be legislative, whether they be environmental, whether they be geographical or whether they have ethnic overtones, show why there is the increase in corrections, not only in the dispensation of these huge amounts of money, but in terms of trying to direct a national policy that will ultimately have far more success than we have had. We owe it, regardless of what conclusions we may ultimately come to about it, to at least examine it.

I am very deeply grateful to the distinguished gentleman from Illinois (Mr. HYDE), for the work that he has done on the committee, to his faith in the committee and to say that frankly that is what this subcommittee is going to be doing.

In 1971 we began examining corrections. As the Members know, there is politicking going on in terms of what parts of the law enforcement agencies receive what part of these programs. We put in a mandatory 20 percent for correctional institutions. That was probably one of the most important amendments that were adopted on LEAA. I am sorry to say to the Members that now that the GAO has reviewed our legislative work, they are not happy with the consequences that have resulted, even though we have earmarked it as a program that was supposed to be directed toward crime. And we want to emphasize to our legislative leaders so as to make sure that corrections, which does not have political clout in most States, could get more money. Those results have not, quite frankly, been successful, but we are going to continue to work on the point that the gentleman emphasized.

Mr. HYDE. Mr. Chairman, will the gentleman yield further for one more question?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Lastly, it just seems to me to be a classic demonstration of hypocrisy for the media in this country, the printed media, to editorialize against violence, and then to turn five or six pages over in their newspaper and find the most vicious, violent movies are advertised in all their lurid detail because there is a buck in it. Some day the molders of opinion in America will decide that the buck that they make out of that advertising is not worth the cost to society in glorifying crime.

I thank the gentleman.

Mr. CONYERS. I appreciate those comments.

What does the bill do? It attempts to redirect the priorities of LEAA modestly. I say that because we have not engaged in a full review of oversight. We have a projection that begins even in the final months of the 94th Congress, and we have been bold enough to project a tentative schedule into the 95th Congress in which we are going to begin to examine methodically the major components of LEAA. But here we make in this 1-year extension a very modest series of changes. We have found, first of all, that there is a lack of standards of objective criteria, which can simply indicate whether the grant, the project, the program to which LEAA has given money has been successful or has been a failure. We do not mean by that just to ride herd ruthlessly over four recipients of Federal money out in the States; we really seek an honest response to an honest question. Did the project work? If it did, is it being replicated?

This committee has found instance after instance in which a successful project in one State was unheard of in a neighboring State because they were going about it on a completely different tangent which, judging from the successes of the program in the neighboring State, would have been the best method for them to follow as well. We think this is a fair and serious criticism to level against LEAA at this time.

Several times we were told that there is an evaluation component. We know that there have been evaluation components. We know that there has been civil rights legislation in LEAA. But they have not worked. They have not been enforced. They have not been fully observed to this subcommittee's satisfaction.

Another item in the program that this bill focuses attention on is the program which would begin to give some special treatment to the high incidence of crime that afflicts the elderly, many of whom are living on rather low incomes, I am sorry to say, in this country and in whom the incident rate of crime is higher than it is for the rest of the population. We have an extensive amendment also which sets out procedures for a new way of enforcing the civil rights provisions of LEAA, a reasonable way that serves notice upon the parties, that does not operate presumptively, that sets about in a method to resolve fairly the allegations of discrimination, and I hope that it will be given thorough consideration.

In addition, H.R. 13636 requires developments of standards and criteria for renovation of the correctional facilities that the gentleman from Illinois has discussed.

We require now that LEAA report annually to the Congress the results of their projects designed to reduce crime and additionally, thanks to the chairman of the full committee, the gentleman from New Jersey, we now are focusing special attention upon the coordination and research of the many varied drug abuse programs that go on about the country in what I think is accurate to describe as a most uncoordinated fashion.

The Department of Justice presently exists under a continuing authorization and title II of this bill would require that the Department come ultimately under the jurisdiction of the Committee on the Judiciary for authorization purposes alone.

In addition we have created for the first time with the LEAA an Office of Community Anticrime Assistance, an office which would provide technical assistance to community organizations, neighborhood groups, and citizens who would want to work with local law enforcement people in preventing crime in their neighborhoods and reducing the amount of mischievous activity that might be going on with the young gangs or the like.

This bill allocates a modest $15 million for that purpose. I say to the Members that in one sense that is the most important part of the bill that I lay before this Committee today because I have tried now for 3 years to develop the notion that no number of police officers can end the crime in any city unless they have the cooperation of its citizenry. Detroit has a population of 1.3 million people and it has about 3,500 policemen even with the additional Federal funds. There is no way that small number of uniformed officers can effectively patrol the fifth largest city in the Nation.

So I have argued for the demystification, if I may say that, of law enforcement activity and the notion that all of us as citizens should begin to understand and participate and cooperate with our local law enforcement agencies.

But how can our citizens do that when

we have had case after case of a neighborhood group that would, if they had only a couple of walkie-talkie radios, fully supplement the police effort in a large police precinct in an urban area, but we have seen the frustrations and we have heard them before the subcommittee time after time, when they say they have had finally to go in desperation to their Senators or Congressmen or both, and the whole effort ended up running into such a bureaucratic mess that usually the group had disbanded in disgust with their morale completely shattered and their belief completely shattered that they could in any kind of effective way cooperate with their local police agency.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New Jersey, the chairman of the Committee on the Judiciary.

Mr. RODINO. I expressly break in here on the subcommittee chairman in order to point out that these community programs are very important. Only recently I read in the newspaper where a citizens' community program had effectively been able to curtail crime in its particular neighborhood.

In my own city of Newark, N.J., there have been several citizens' anticrime projects, community programs in which citizens have gotten together in order to try to help reduce crime. There was a senior citizens escort program in the North Ward, and a tenant security guards project in the Columbus Home and the Stella Wright and Stephan Crane housing projects. It was enormously difficult to maintain funding levels for these projects, and I am greatly pleased that some of these programs at least are in fact being continued.

This is one of the important areas of this legislation and something for which I commend the gentleman.

Mr. CONYERS. I thank the chairman, because the gentleman from New Jersey knows, coming from an urban area as he does, that the police cannot do it alone.

We see something far more important than a $15 million allocation involved here. This could be the beginning, I say to my colleagues, of the kind of cooperation that communities must necessarily give their police precincts if we are ever going to get on top of this problem. It is one thing for a policeman to come into a community wondering if he is welcome and liked or is going to be the subject of violence and hostility himself.

It is another thing for them to know that because of the provisions that we have made in this legislation for citizens, to cooperate with them. There is a real relationship that exists beyond the annual visit to the police station or the policemen's field day and those kinds of activities that are really, frankly, superficial at best.

So that we think we may have begun a much deeper beginning in terms of strengthening the relationship between people and their servants, the police.

Mr. Chairman, a couple other points I think we should know that are involved in this bill. One is the need for legislative review of State plans for the Federal criminal justice dollars that would insure conformity to a Federal criminal for State goals and priority procedures. What I am talking about is that now we have begun to expand beyond the Governor's office, I think that one of the things this hearing or this set of hearings have proved over the last several months is that too frequently the way a State office takes care of an LEAA program is that the Governor appoints one person who sets up an office and he becomes literally the czar of all Federal moneys dealing with crime. He is the spokesman and representative of the Governor, so his word, of course, means more around that State than any other person.

The committee has seen in its judgment the appropriateness of beginning to let these programs be reviewed with State legislators; that is, not giving them any authority to change them, but that they be brought before them. In some States now they have gone as far as including the LEAA funding moneys in the State appropriation process, so that it is made far more public and it is subject to examination for coordination in a way that it has not been before.

There are those who would go further and give the State legislatures more direct authority here than to have a discretionary review upon request of the State planning agency program for that particular State.

Mr. Chairman, we give attention to the need for State court planning to reduce the backlog and delays in criminal courts. We recognize the need, quite frankly, for at least two members of the judiciary to be participating in the State planning agency, and so we have provided for that in our legislation.

We endeavor to provide Federal control over the Federal moneys distributed, as well as to respond to the most urgent needs of the cities and of our citizens who are involved in sometimes fearful circumstances, sometimes exaggerated circumstances, and sometimes very, very real circumstances.

So out of those considerations, Mr. Chairman, I am going to offer an amendment to finish and I think perfect this bill concerning many block grants in which we will give some of those larger governmental units that opportunity to plan directly with LEAA in Washington; but at the same time be subject while going up the hill to the review of the State planning agency. We think this is a very important no-cost amendment.

The final result, Mr. Chairman, is that we have an authorization here for $895 million that will extend through the period of fiscal year, October 1, 1977.

Now, because of the exigencies of the way this Congress works, the appropriations bill, as we know, has already been passed; that is for $753 million, plus a transitional amount to be determined. We now present before the House a bill that sets up the planning grants in part B.

Part (C) deals with the very important action funds, the grants for law enforcement. The planning grants which are used for the purposes described in its title are $60 million annually. The action funds are to be divided between State planning agencies in each State, and is $355 million. Each State gets a $200,000 grant, plus an additional amount based on a population formula allocation.

Then, in part (D), we deal with the training, education, the research arm, the demonstrations and special grants such as the life program.

Part (E) deals with grants for correctional facilities, training and demonstration, $44 million 300 thousand. Correctional facilities grants for part (E) are $72 million.

The remaining provisions are administration, definitions, the criminal penalties and the requirement of the Attorney General's biannual report. I commend this bill, H.R. 13636, to the full committee's attention.

Mr. Chairman, President Lyndon Johnson, in 1968, signed into law the broadest attempt in our Nation's history to reduce and prevent crime at the State and local level with Federal aid. The Omnibus Crime Control and Safe Streets Act has never done what it set out to do—make our Nation's streets safe. I only have to look to my own home town, Detroit, to see fear on the part of citizens and home owners of youth gangs which make it unsafe for them to walk the streets in daylight or at night. This Nation has experienced an increase rather than a decrease in violence these last 10 years.

Last year alone reported crimes jumped 18 percent. This is thought to be the largest increase since the FBI started collecting national statistics 50 years ago. Not only that, the court systems of our Nation remain overloaded. A program as Operation Sting right here in Washington points that out. A roundup of criminals trying to fence stolen articles produced nine who had once before been arrested in a similar roundup but who had not been adequately processed by the court system. Far worse than that, local jails and State prisons remain in a severely overcrowded state. And when they do get some assistance in the form of Federal funds, they do not always use it to improve the physical conditions to a point where they are habitable, never mind capable of providing rehabilitation. This situation was best examined in GAO's most recent report on "local jails."

The increase in violence even among law abiding citizens worries me the most. Television propagates violence daily. Even though 70 percent of our Nation favors strong gun control laws, Congress refuses to act to respond to their demands; 69 killings occur every day and 65 of them are committed with handguns. In one year 13,070 murders were committed with firearms in the United States. The U.S. population is currently growing at the rate of 1 percent per year while handguns are multiplying at a rate of 6¼ percent per year. In the face of all this crime and violence and in the face of a proliferation of the instruments used to commit violent crimes—the Subcommittee on Crime took a long hard look at LEAA, the agency created by the Omnibus Crime Control and Safe Streets Act to attack the problem.

What has LEAA done? It has spent millions of dollars on research into advanced police technology. They have perfected shoes with changeable soles for police, Dick Tracy watches to measure a policeman's heartbeat, and 40,000 patrol cars; but they have done little research into the real causes of crime. Police Commissioner Robert DiGrazia of Boston has recently confessed that there is little police can do about crime. Violent street crime, he says, is for the most part the product of poverty, unemployment, broken homes, rotten education, drug addiction and alcoholism as well as other social and economic ills. LEAA has become carried away with the mistaken notion that police in ever greater numbers and with more gadgetry can alone control crime.

I must agree with the police chief of Boston when he says that the system Congress had perpetuated right now lets the rich get richer and the poor get poorer and lets crime continue.

I asked Deputy Attorney General Harold Tyler at our subcommittee hearings what the Justice Department is doing to develop a policy to attack all kinds of crime—streets crime, white collar crime, organized crime, and government crime. He promised me, on record, a voluminous amount of material on policy advanced by his department to approach a solution. After 4 months he sent me a copy of the LEAA annual report and the Justice Department Annual Report and a couple of his speeches. This is clearly an inadequate response and an inadequate policy statement. If the Justice Department has espoused no real direction and if LEAA's present direction is toward police technology, then where are we really going?

I am appearing today on behalf of the Committee on the Judiciary to seek passage of H.R. 13636. This bill was reported to the House on May 15, 1976 and received an open rule on June 2, 1976. It extends the authorization of the Law Enforcement Assistance Administration through September 30, 1977. But I have severe reservations about this bill. It does not answer the questions sufficiently of what are the root causes of crime and what can we do to get at them.

What the bill does do, is make an attempt to redirect the priorities of the Law Enforcement Assistance Administration. The committee found a lack of objective standards and criteria by which some indication of success or failure of the LEAA projects could be determined. Several times we were told of highly successful projects which had been identified by the Institute, but in no case was there any knowledge as to whether these projects had been replicated elsewhere. The bill contains an evaluation component which would remedy that situation.

This bill focuses attention on programs which would prevent, treat, and reduce crime against the elderly. H.R. 13636 contains an extensive amendment which sets out procedures for enforcement of civil rights legislation in the LEAA Act.

H.R. 13636 requires development of standards and criteria for the renovation and improvement of State and local correctional facilities and requires that LEAA report annually to Congress on the results of their projects designed to reduce crime. Additionally, the bill focuses attention on coordination and research of drug abuse projects.

The Department of Justice presently exists under a continuing authorization and title II of this bill would require that the Department come under jurisdiction of the Committee on the Judiciary for authorization.

We have created within LEAA an Office of Community Anti-Crime Assistance, which would provide technical assistance to community organizations and citizens who want to work to prevent crime in their neighborhoods. The bill would allocate $15 million for the purposes of improvement of police-community relations, community patrol activities, and encouragement of neighborhood participation in public safety efforts.

The committee was also concerned with the need for legislative review of State plans for Federal criminal justice dollars to insure conformity with State goals, priorities, and procedures. Section 103 of H.R. 13636 insures State legislature's advisory review of State plans upon request.

The bill gives attention to the need for a State court planning capacity toward reducing case backlog and delay in the criminal courts. It recognized the need for at least two members of the State planning agency supervisory board to represent the judiciary and mandates LEAA to spend one-third of its discretionary funds to programs to improve the administration of justice in courts. H.R. 13636 endeavors to provide Federal control over Federal moneys distributed for the purpose of reducing and preventing crime, as well as response to the most urgent needs of the citizens of our country who find themselves practically paralyzed by the fear of crime.

I know there still exist deficiencies in the agency that this bill does not address. The agency is in need of major restructuring. A 1-year trial period is offered to LEAA by this bill. During this year the Subcommittee on Crime will be conducting extensive oversight of the operations of the agency in carrying out the new mandates this bill provides. After this year I expect Congress will meet again to perform some major surgery on the agency and to address the needs and fears of the citizens of this country.

I thank my colleagues on both sides of the aisle for the analysis, the discussion, the debate and the compromise that brings this bill to the floor at this time.

Mr. McCLORY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not think I will undertake to respond to all of the deficiencies in the existing law, or the administration of it, over a long period of time, to which the chairman of the subcommittee, the gentleman from Michigan, has made reference; nor do I think I want to delineate in detail all of the accomplishments of the Law Enforcement Assistance Administration during the period of its existence since 1968. I think, however, it is important for us to recognize what this law was intended to do and what, in my opinion, it has largely accomplished.

If we look at the purposes of the law, we will find that it is not intended that an agency here in Washington should assume responsibility for taking care of the entire criminal justice system or its law enforcement responsibilities throughout the 50 States. Quite the contrary, we recognized in this legislation at its outset that we were looking to the local law enforcement agencies and we were looking to the States to handle the entire subject of law enforcement, and this measure was to provide some Federal direction, some Federal leadership, some Federal support for the local and State people to handle the job.

So, I think that when criticism is leveled, as it is, and it is a very popular them these days, at a Federal agency, we should recognize that the implementation of this entire program has been at the local and State levels. If there has been misuse or misapplication of funds, if we want to criticize the expenditure of funds for hardware, so-called, instead of allocating a greater share for police salaries, as some people would like LEAA funds to be devoted, we should criticize those who are in charge of law enforcement at the local level.

I rise in general support of this legislation to extend the law. I might say at the outset that I think it is clear that we should extend the law for not less than 3 years. When I think of extending this legislation for only 1 year with the year to start in just a few weeks, and think of the fact that we will have a new Congress in January, I can see only confusion ahead. The committee will not be organized until around February or March, and we will have other business to attend to. When we think how long it took us to handle this extension, it can be seen that it would be virtually impossible, during the few months that would be available next year, to undertake another whole revision of this entire subject.

So I think out of fairness to the agency, out of fairness to our States and to our local law enforcement people, to the local and State planning agencies, we ought to give them a chance at least to find out what changes we are making and how to apply the law with respect to the changes in the law which are being made.

Mr. Chairman, I rise in general support of H.R. 13636, to extend and reauthorize the Law Enforcement Assistance Administration, reported some months ago by the Committee on the Judiciary. I must state at the outset that there are several serious defects contained in the bill which should be corrected before it is passed by this body. But rather than beginning my remarks with criticism of the bill, I prefer to take a more positive approach at the outset by describing briefly the process which led to the favorable reporting of this legislation and by discussing a number of the issues raised by the bill itself.

Since its creation in 1968, the LEAA program has come up for congressional review twice—in 1970 and 1973. Each time, with some minor readjustments, the Congress extended and reaffirmed the concept of block grant assistance to the State and local governments in support of law enforcement and the administration of criminal justice. However, almost since LEAA's birth, the concept of block grant funding, and the LEAA itself, have come under some criticism from quarters both inside and outside the law enforcement, academic and congressional communities. Much of the criticism was directed at specific aspects of the program which were said to be deficient either in motivation or in administration. Based on a GAO report which is now more than 5 years old, some critics charge that local law enforcement officials spend too much of their grant funds on "hardware."

Mr. Chairman, let me interject at this point that the entire concept of a block grant program is that the ultimate decisionmaking should be in the hands of the grantees. In this case the local governmental bodies have the principal responsibility for law enforcement—and we want to keep it that way.

Certainly not all law enforcement hardware, including communications systems, correctional facilities, and all of the other tools that are involved in law enforcement and criminal justice—should be regarded as improper. Indeed, the needs of the local community are generally known best by the local law enforcement officials. By and large, those in local government are in strong support of this modified special revenue-sharing program. While it provides but a small percentage of the total expenditures made for law enforcement and criminal justice, this Federal program has provided virtually the only source of funds for innovations upon which improved programs of law enforcement and criminal justice must depend.

However, I must point out that in the subcommittee hearings substantial criticism was leveled at the LEAA program as a whole. Some of the criticism was based on a rejection of the basic philosophy of the program—that a block grant program of assistance to States and localities was fundamentally defective. Other criticism was based on the feeling that the success of LEAA was to be measured by the percentage decrease of the crime rate. Because the crime rate has increased, the conclusion was that the whole LEAA program, composed of thousands of separate projects was a failure.

It was in such an atmosphere that the hearings on the 1976 reauthorization were undertaken early this year. From February 19 to April 1, the Subcommittee on Crime conducted 10 days of oversight hearings into LEAA, at which 45 witnesses appeared. The hearings were essentially a superficial attempt to review the major areas of criticism of the agency and became primarily a forum for critics of LEAA to voice their various concerns. It seems fair to say that nothing of any real substance came from the hearings, and rather than any in-depth oversight they provided only a headline analysis of some rather complex issues.

Perhaps the most important issue considered during the hearings was the general question of whether there is adequate evaluation of the some 80,000 projects which are funded through the various LEAA funding processes. More simply stated the question was whether either LEAA as a national administration, or the State and local recipients of the LEAA funds have been paying sufficient attention to the identification of projects which are successful in the accomplishment of their goals. A similar concern was expressed during the reauthorization hearing of 1973, and the result of that process was to include in the 1973 reauthorization bill several provisions which required LEAA, primarily through the National Institute of Law Enforcement and Criminal Justice "to evaluate programs and projects . . . to determine their impact upon the quality of law enforcement and criminal justice and the extent to which they have met or failed to meet the purposes of this title."

Nothing could be more crucial to the success or failure of a program than a determination of whether its various component projects are a success or failure. To some extent it became clear that the National Institute had undertaken to fulfill the mandate of the 1973 act, by beginning a thorough process of review of funds projects. This new effort seeks to identify the projects many of which have been highly successful and to identify them and disseminate them through the law enforcement community. Another important preliminary conclusion that came from the hearings was that the science of evaluation was a new and emerging one. It seems that weighing the impact of a particular criminal justice program, or even devising a method by which that impact would be determined, are things not yet easily accomplished.

Mr. Chairman, it is most unfortunate that the committee report seems to indicate that LEAA's evaluation effort is virtually nonexistent. Nothing could be further from the true fact of the matter. The fact is that over the 3 years since the 1973 evaluation amendments, the National Institute has undertaken a careful plan to begin to effectively implement the mandate of Congress. The strategy of the National Institute has been first to assess the results of Institute-sponsored research and to evaluate criminal justice projects at the national, State, and local levels. Second, the Institute has sought to begin building an evaluation expertise in State and local agencies, and to devise better evaluation tools and methods. To implement these two goals several programs have been developed. The most promising is the national evaluation program which sponsors a series of phased evaluation studies of specific approaches and programs already operating within the criminal justice system. Each of these studies analyzes ongoing projects with similar objectives and strategies. In fiscal 1975 there were 18 evaluations in the first phase of study in the following topic areas:

Youth Service Bureaus.
Juvenile Diversion.
Alternatives to Incarceration of Juveniles.
Juvenile Delinquency Prevention Projects.
Alternatives to Custodial Detention of Juveniles.
Operation Identification Projects.
Citizen Crime Reporting Programs.
Citizen Patrol Projects.
Specialized Police Patrol Operations.
Police Crime Analysis Projects.
Traditional Preventive Police Patrol.
Neighborhood Team Policing Projects.
Police Intelligence Units.
Pre-Trial Screening Projects.
Pre-Trial Release Programs.
Court Information Systems.
Indigent Defense Programs.
Residential Inmate Aftercare (Halfway Houses).
Furloughs for Prisoners.
Intensive Special Probation.
Early Warning Robbery Reduction Projects.
Treatment Alternatives to Street Crime Projects.

In fiscal 1976 grants were to be awarded for evaluation studies in the following areas:

Police Juvenile Units.
Juvenile Court Intake Units.
Citizen Victim Service Projects.
Street Lighting Projects.
Security of Urban Transit Systems.
Co-ed Correctional Institutions.
In-Prison Disciplinary and Grievance Procedures.
Institutional Education Programs for Inmates.
Employment Services for Releasees and Probationers in the Community.

Clearly these studies will have significant impact on LEAA funding when they are completed.

Additional evaluation efforts within the National Institute are substantial. Within the Institute a central clearinghouse for evaluation information has been established within the National Criminal Justice Reference Service. The Office of Evaluation also maintains liaison with the planner/evaluators in each of LEAA's regional offices. In addition, the National Institute's Office of Evaluation has supported an evaluation results dissemination conference to help LEAA personnel learn about evaluation results and evaluative techniques through discussion of selected professional evaluations.

In the area of program evaluation, a number of important projects have been considered, including demonstration evaluation, evaluation of the development and implementation of criminal justice standards and goals, and an evalution of the LEAA grants totaling almost $4.5 million for career criminal programs. In the area of evaluative research, specific efforts have been directed at methodology development, methodology standardization, and deterrent effectiveness.

Mr. Chairman, another promising project is the model program development. Under this program an attempt is made to identify and develop model programs that have demonstrated success or shown promise.

Models are drawn from three sources: Exemplary projects, prescriptive packages, and research applications.

Exemplary projects focus national attention on outstanding criminal justice programs across the country which are suitable for transfer to other communities. To be considered exemplary, a project must have demonstrated consistent success for at least 1 year in reducing a specific crime or in achieving measurable improvement of a criminal justice service. Other criteria for selection involve cost effectiveness, availability of evaluation data, suitability for transfer, and willingness of the sponsoring agency or community to provide information to other communities on the project.

Approximately 10 exemplary projects are selected each year following a rigorous screening process. Nominations are submitted by State planning agencies—SPA's—LEAA Regional Offices—RO's—and other groups with an interest in criminal justice, provided they are endorsed by the appropriate SPA and RO. The candidate projects are then prescreened by the Institute, and the most promising programs are submitted to a contractor for on-site validation. The validation reports are then submitted to an advisory board which makes the final determination on the programs' exemplary status. The board is made up of representatives of the SPA's and LEAA central and regional offices.

For those programs designated exemplary, the Institute develops a brief brochure and a more detailed manual for widespread dissemination. For selected exemplary projects, audiovisuals and training materials are also developed.

Currently materials have been developed on community-based corrections, a prosecutor management information system, a public defender service, a juvenile diversion project, and a neighborhood youth resources center.

Prescriptive packages provide criminal justice practitioners with background information and operational guidelines in selected program areas that will assist them in implementing or improving activities in these areas. They are a synthesis of the best methods and procedures now in operation throughout the country.

In developing a prescriptive package, researchers visit projects throughout the country to cull and consolidate the most successful new techniques into a single handbook. While theory is not ignored, the emphasis is pragmatic and recommended procedures are based on the most current, hard information available. One or more model programs are presented in a sufficiently detailed manner for implementation in whole or part in a suitable environment.

Along with the composite program model, the prescriptive package identifies a number of planned variations derived from field experience: First, proven approaches which are not included in the composite model because of limited applicability, but which may be useful to specific communities, second, those approaches which appear promising for widespread application, but are not yet fully tested, third, entirely new concepts proposed by the grantee as a result of his research. The grantee should provide guidance in the experimentation and testing of such components as part of a systematic research plan to enhance the program's overall goal attainment and effectiveness.

Topic areas for fiscal 1976 Prescriptive Packages include the following:

Regionalization and Consolidation of Police Services.

Use of Technology in the Courts.

Prosecutor Case Screening.

Residential Treatment in Lieu of Incarceration.

Correctional Programs for Women.

Use of Paraprofessionals in Probation and Parole.

Solutions to School Violence Problems.

Current Prescriptive Packages include:

Crime Scene Search and Physical Evidence Handbook.

Evaluative Research in Corrections.

Guide to Improved Handling of Misdemeanant Offenders.

Methadone Treatment Manual.

Neighborhood Team Policing.

Police Crime Analysis Units.

Diversion of the Public Inebriate from the Criminal Justice System.

Improving Police Community Relations.

TO BE PUBLISHED

Amelioration of Physical Child Abuse.

Rape and Its Victims.

Use of Para-legals in Public Defenders' Offices and Correctional Institutions.

Use of Volunteers in the Juvenile Justice System.

Research applications are selected from research results in priority problem areas that promise immediate and widespread impact on criminal justice operations. The innovation is then tested, and materials are prepared for distribution which show an operating agency the advantages of the technique, how it should be implemented, what training is involved, and some idea of the costs.

Mr. Chairman, I have gone to these great lengths to describe the evaluation effort of LEAA because the Committee Report conveniently forgets to mention any of these innovative and exciting programs. Instead, the report implies a criticism of the agency for not accomplishing some undefined goal of tying evaluative efforts to the funding mechanism. It seems to me to be undeniably clear from my description of the evaluation effort that much valuable activity is underway. Clearly it is a disservice to the agency and to the Congress to insist that a process that might reasonably take decades to complete, be finished within 3 or 4 years.

Nevertheless, I do think that the new provisions in the bill will be of some value in aiding the administration in furthering its evaluation effort.

Mr. Chairman, I intend at the appropriate time to offer several amendments. One principal amendment which I hope will be accepted—or passed overwhelmingly would extend the authority of the Law Enforcement Assistance Administration for a period of 3 years—instead of the 15-month extension provided in the committee bill. With almost 3 months of the proposed 15-month extension already behind us—the present bill is barely a 1-year extension.

What with planning process at the local, regional, and State levels, and the new requirements imposed by this bill, it would seem to me to be illogical and unfair to all concerned to provide for less than a 3-year extension. The administration requested a 5-year extension. The other body has authorized a 5-year extension.

Some opponents of my 3-year extension amendment try to comfort me by assuring me that the 3-year extension will be approved in conference.

Let me say that that is not my way of legislating on the most important Federal program in support of local law enforcement and criminal justice. The local and State officials who are going to implement the programs which we are authorizing here deserve to have a law which will enable them to plan—and carry out law enforcement and criminal justice programs—responsibly.

Mr. Chairman, in addition to the issue of the evaluation of projects funded by LEAA, there were three important issues considered during the subcommittee's hearings on LEAA which are treated in this bill: community participation in the LEAA planning and funding process; LEAA's supposed failure to enforce its civil rights mandate; and the underemphasis of court funding in LEAA programs.

COMMUNITY PARTICIPATION

The current authorizing legislation permits, but does not require, LEAA and the State and local planning units to provide funds to citizen and community groups desiring to get involved in the criminal justice system. During the hearings of the Subcommittee on Crime, it appeared that the discretion to fund such groups had not been fully utilized by the national, State, and local planning units which disbursed Federal funds. During the hearings, representatives of local and national citizens groups, among them the director of the Washington Bureau of the National Urban League, who testified that there was a serious underemphasis of community involvement, especially minority community involvement in the fight against crime. They strongly urged that specific emphasis be added to the new authorization legislation which would encourage and require the involvement of citizens.

The bill as reported by the Committee on the Judiciary attempts to fulfill those recommendations by adding several new provisions to the enabling legislation. While I support the general concept of community involvement, and while the thrust of the new provisions is in the right direction, I have a serious concern that a few aspects of these provisions are undesirable. First, while I think that an Office of Community Participation is a desirable component of the national LEAA, I question the wisdom of creating such an office by legislative fiat. The difficulty is that such an office created by statute becomes perhaps too permanent an addition to the LEAA bureaucracy. Indeed, there seems to be little or no chance to alter this office or place it in a different section of the national LEAA office even if such alteration or placements is desirable for reasons of administrative or fiscal efficiency. It seems to me that it would have been far wiser to mandate that LEAA accomplish certain objectives of community involvement, and then leave it to them to determine in what office those objectives would fall.

However, that failing is not nearly as serious as the amendment to the act which deals with the requirement that funding to local groups be "approved" by the criminal justice agencies which will receive the assistance of such funded groups. The bill as drafted changes the current requirement of approval to one only of notification. So, if this bill were to pass, the criminal justice agency to receive assistance from community groups would have no power to prevent the funding of those groups, but would only be notified that such funding is to be granted. This, it seems to me, is extremely unwise because it bypasses the intelligent procedure set up to insure that citizen participation augment the already existing effort of local criminal justice and law enforcement agencies. Certainly, we do not want to force community groups on law enforcement without their consent and approval. This notification requirement seems to fly in the face of reasoned administration of the criminal law, and therefore, an amendment will be offered to restore the original provision.

CIVIL RIGHTS

The subcommittee spent one full hearing day on the issue of LEAA's enforcement of the civil rights provision added to the enabling legislation to the 1973 act. During those hearings, we heard from several persuasive witnesses from the American Civil Liberties Union, and the Chicago and Philadelphia police forces. These witnesses described to the members their strong view that police departments of many cities throughout the United States have, to varying degrees, been receiving LEAA funds after having been found to have discriminated against minorities—blacks, chicanos, and women—in hiring, promotion, and other personnel practices. Unfortunately, the subcommittee was not given the benefit of the views of the LEAA on this issue because there is now a civil lawsuit pending against LEAA and several of its officers, which states as a cause of action their supposed failure to enforce the civil rights mandate contained in the present act.

In my view, the factual allegations surrounding LEAA's exercise of its civil rights responsibilities are complex and confusing. Extensive pleadings have been filed in the pending lawsuit by the plaintiffs and the defendants, which have been at least briefly considered by some of the subcommittee members and their staffs. The responsibility of LEAA and its failure to enforce aggressively the pertinent civil rights provisions does not emerge from these pleadings as unmistakably clear. There is evidence that LEAA did try to influence the course of the hiring and personnel practices of the offending police departments, but there is also evidence that the influence was not remarkably successful. One thing that does emerge from the subcommittee's civil rights hearings and the various documents submitted to the members is that the several police departments in question were discriminating. It seems also clear that some of these departments were, during the course of this discrimination, receiving Federal moneys.

It is my view that the argument surrounding LEAA's performance in the area of civil rights is caused by a fundamental difference in the understanding of the purpose and intent of the remedies contained in the civil rights provisions of the act. On the one hand, there are those who believe that the termination provisions of the act, that is—the cutoff of Federal funds—should be used freely when evidence of discrimination is found. On the other hand, there are those who view the LEAA program as one primarily for assistance to State and local criminal justice agencies for use in the long range fight against crime. This latter school of thought holds that fund termination is the most drastic remedy available and should be used sparingly. Because of these differences certain ambiguities have arisen in the determination of how the civil rights provisions of the act should be administered. Therefore, in my view, a clarification of the intent of the Congress is needed to establish just when and how the various procedures contained in the act should be used.

The amendment added in the bill before us today sets essentially a timetable for procedures determining the entitlement of a local recipient of LEAA funds after that recipient has been found to have discriminated in violation of the act. Thus, the duties of LEAA will be clear, and the threat of fund cutoff will be equally as clear to the fund recipients. Hopefully, this amendment will eliminate charges and countercharges of what should have been done in this important area. Thereby the objectives of the act both as to criminal justice funding and nondiscrimination will be accomplished.

COURT FUNDING

Another important issue considered by the subcommittee was the degree to which the courts have been ignored in the disbursement and distribution of LEAA moneys. Led primarily by the National Conference of Chief Justices, the various court officials throughout the country argued that, as structured, the LEAA funding mechanism in the States was dominated by the law enforcement community. Therefore, it was argued, the courts, being underrepresented on State and local planning agencies, were receiving a disproportionately low share of LEAA moneys. The subcommittee gave these arguments serious consideration and concluded for a variety of reasons that the situation was not as dire as the judges portrayed it.

The basic conclusion of the subcommitte was that while it was true that the courts had been traditionally underfunded, the reason for such underfunding was not an institutional bias within the LEAA apparatus, but rather a slowness of judges and court personnel to become involved in the planning and funding process. This slowness was the result of the traditional conservatism of the judicial branch, and because of its reluctance to become involved in a process which was perceived to infringe on the traditional independence of the judiciary.

However, the testimony and evidence before the subcommittee demonstrated that when the judicial branch did become involved in the LEAA planning and funding process, it fared quite well. The subcommittee found that the best example of such judicial involvement was the State of Alabama in which the Chief Justice of the Alabama Supreme Court accomplished a modernization and unification of the State court system in part by the use of substantial LEAA funds—received both through the State block grant funding process and through the national LEAA discretionary funding mechanism. This modernization was also accomplished with no sacrifice of the judicial independence of the Alabama court system.

Thus the subcommittee concluded that the stringent categorization of the LEAA program in favor of the courts was not only unwise as a matter of general policy, but was also unwarranted by the facts. Instead, the subcommittee and the committee included provisions in the bill to encourage the judges to become more involved in the existing funding process. This was accomplished by a provision insuring that at least two members of the state planning agency for each State be selected from a list submitted to the Governor by the State's chief justice. Another provision was added which states in much more detail the requirements to which State planning agencies must look in evaluating the needs of the courts.

Unfortunately, in the full committee an amendment to the bill was added requiring that at least one third of the discretionary funds available to the national LEAA Administrator be used for the purpose of speeding criminal trials. That provision is unwise. It reduces the amount of discretionary funds for all other legitimate purposes. Also, it disregards the principle that States should have primary responsibility for reforming their own court systems. Thus a substantial proportion of the discretionary funds are earmarked for a certain purpose—a laudable one to be sure—when events could transpire to make it clear that such a proportional distribution of funds is not needed, or that another area of need is so much more compelling that the courts area should not be preferred. Because of these reasons, when the appropriate time occurs, I will offer an amendment to remove that earmarking.

Mr. Chairman, I am pleased to be able to tell you what has happened in Illinois generally and in my district, in particular, with LEAA funds. We have heard many criticisms of the use of LEAA funds for equipment. Let me give you some examples of the productive use of LEAA funds for equipment.

Geneva, St. Charles, and Batavia—in Kane County, have a tri-city dispatch system that has resulted in a coordinated communications system to reduce response time. This LEAA-supported project has led to a joint record system and has heightened cooperation among the three communities in the criminal justice area. In Lake and McHenry Counties, a judicial automated records system which provided a management information system and computerized records system for court services was supported by LEAA's technology transfer program. Other substantial use of LEAA funds was made in 1973 and 1974 with a work release program. The National Association of Counties selected this program as the best work-release program in the Nation at that time.

In Kane County, in my district, local officials have used both LEAA block and discretionary funds for a major, new criminal justice facility. This project was first funded in fiscal year 1972 and 1973, and I assure you it is an asset to the county. The National Clearinghouse for Criminal Justice Planning and Architecture at the University of Illinois, supported by LEAA, assisted our local officials and added a great deal to the utility and effectiveness of this facility. We are all very pleased when "brick and mortar" money comes from the Federal level to construct a worthwhile facility in our districts.

I can point to many excellent grants in my district—projects that have worked, are working, and are making a contribution to the improvement of criminal justice. Operation DARE, a project in cooperation with the Illinois Department of Corrections, has had the goal of lowering the recidivism rate among offenders by finding stable and meaningful employment upon release from prison. This LEAA program has been instrumental in finding jobs for approximately 2,000 ex offenders.

Another program of particular note is Family Crisis Intervention Training. This workshop has an outgrowth of earlier LEAA-sponsored research on techniques to help police handle one of their most frequent and dangerous assignments—family disturbances. Program results have demonstrated a reduction in police injuries and deaths, as well as a reduction in client assaults and homicides following the use of the intervention techniques. There are many other worthwhile training programs such as the Citizen Dispute Settlement Training Program, the Juvenile Diversion and Family Counseling Training, Police Crime Analysis Unit Training, Neighborhood Team Policing, and many others which increase the skills and knowledge of criminal justice practitioners. LEAA is constantly striving to improve and update criminal justice education. Through the Law Enforcement Education Program—LEEP—a significant contribution has been made in this regard. There are over 50 schools in Illinois utilizing the LEEP program to provide college education to law enforcement personnel.

Under the LEAA Discretionary Grant Program, Illinois was awarded funds to establish a combined Agency Drug Enforcement Unit. This led to en excellent block grant program, establishing Drug Enforcement Units on a regional basis throughout the State.

In Chicago, LEAA is funding the Chicago Cook County Treatment Alternatives to Street Crime program. This program is attempting to reduce drug related crime by diverting offenders from the criminal justice system into community-based treatment services.

Significant projects also have been funded in the courts, such as the Financial Crimes Bureau which provides specialized assistance to local prosecutors and the Illinois Statewide Trial Level Defender System in cases involving complex legal issues. LEAA also funds a Witness Information Services program which provides needed services for victims and witnesses in misdemeanor cases.

I, for one, want to see these efforts continued. These examples are more than adequate to justify the continuation of the LEAA program. I am certain my colleagues can also cite successful and outstanding LEAA-supported programs in their respective districts, and will agree that the continuation of the Law Enforcement Assistance Administration is essential.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I rise in support of this measure to authorize continued funding of the Law Enforcement Assistance Administration.

Created in 1968 for the purpose of assisting State and local governments in the prevention of crime, the LEAA is also dedicated to improvements in every phase of the criminal justice system. While the present authorization will continue under the assumption that crime is largely a local problem and that the tools to combat it must exist at the local level, the unpleasant truth remains that in spite of improvements in the criminal justice system, the crime rate continues to rise.

Incorporated in this bill are authorizations for community action programs, for the enforcement of civil rights legislation, for attacking the criminal case backlog, for improving correctional facilities, and for giving more attention to programs to combat crime against the elderly.

Even though the LEAA makes up only about 5 percent of a State's crime prevention funding, that 5 percent has done a considerable amount of good in the last 8 years. In that time, the LEAA has provided more than $4 billion through its block grant program to State and local governments. That money has supported more than 80,000 criminal justice projects, projects which have had a significant impact on the quality of justice in this country. As serious as the crime problem remains, without the LEAA it would be considerably worse.

While I join many of my colleagues in having reservations about certain portions of this bill, particularly in the overly short period of authorization, I am hopeful that we will correct some of those problems through amendments on the floor. In general, this bill authorizes a sound and proven approach to crime prevention and control, and I urge its adoption.

Thank you.

Mr. McKINNEY. Mr. Chairman, since its inception in 1968, the Law Enforcement Assistance Administration has been the focus of hard accusations and severe criticism, which in the face of an ever increasing national crime rate are difficult to contest. The agency has been cited for its inefficiency and ineffectiveness and has been referred to as "the biggest pork barrel of them all." Yet, in spite of the small return that the American taxpayer has received from the four billion dollars already expended by the agency, both Houses of Congress are prepared to commit an additional $1.1 billion to extend the life of these controversial programs.

Mr. Chairman, I do not question the wisdom of utilizing Federal tax dollars to assist our communities in their fight against crime. Nor do I concur with the over-ambitious expectations of those who hold the LEAA responsible for the elimination of crime's cancerous growth over and above the 5 percent contribution which this agency makes to our total State and local law enforcement expenditures. However, Mr. Speaker, the annual barrage of statistics, which this year alone reflect a 10-percent increase in the national crime rate, repeatedly warn us of the need to re-evaluate the spending priorities of our law enforcement programs.

Ever since the era of the Great Society, Americans have come to realize that massive Federal financial assistance is not the only answer to our Nation's ills. Clearly, the $4 billion expended on the LEAA programs bear this out. The outpouring of additional dollars in recent years, to the "high crime areas", specifically our urban centers, has not only resulted in a 10-percent increase in urban crime, but at the same time, crime in the suburbs rose 9.7 percent. New England alone experienced a 16.4 percent increase in violent crimes in the past year. Assuredly, the special financial emphasis placed on riot control procedures can hardly be credited with the elimination of the chaos and destruction which once plagued our cities.

What I have questioned in the past and fear in the future is continued emphasis being placed on development, promotion, and use of technically sophisticated anticrime apparatus, rather than on increased efforts to challenge and eliminate the source of criminal activity. Newly directed efforts must be waged to prevent todays neglected delinquents from becoming tomorrow's criminals. The development of diversion programs, rehabilitative and counseling activities represent a sound investment in our attack against crime and may well alleviate the demand for development of additional anticrime technology.

Wisely, the 1976 LEAA reauthorization bill we are discussing today, contains provisions which will assist state judicial systems in reducing court congestion as well as revising court criminal and procedural rules. Further, program evaluation requirements are gaining increased recognition and importance and should improve the effectiveness of LEAA programs.

Unfortunately, Mr. Chairman, pre-evaluation of these new directions are impossible and the number of those who are convinced of the capability to improve the agency's effectiveness are few in number. While the vote on the 1976 LEAA reauthorization may well be a forgone conclusion, the future existence and effectiveness of the Law Enforcement Assistance Administration is very much in question. I await the results.

Mr. CONYERS. Mr. Chairman, I yield

5 minutes to the distinguished gentlewoman from New York (Ms. HOLTZMAN) a member of the subcommittee.

Ms. HOLTZMAN. Mr. Chairman, I first want to compliment the gentleman from Michigan (Mr. CONYERS) for the leadership he has shown in bringing this bill to the floor. The bill, which incorporates many of the provisions of H.R. 12362, which I introduced, is designed to improve the Law Enforcement Assistance Administration in a way that will protect the interests of the public in effective crime fighting effort, and protect the interests of the Congress in having an agency that will do its job efficiently and successfully.

Mr. Chairman, LEAA has spent, since its creation, about $4.5 billion. There has been much criticism of its operation in the past. Much of that criticism is fully justified, and substantial improvement is needed.

I do not believe, in all candor, that this bill solves all of LEAA's problems. We are still going to need to improve the operation of this program. But the bill that is before us today makes an important beginning. It improves the operation of LEAA's programs substantially and, at the same time, holds the agency on a very short leash so that Congress can review its operation and come back in a short period of time with additional improvements.

Mr. Chairman, I would like to note some of the substantial improvements that I believe this bill makes.

First, the bill makes speeding criminal trials, on the State level, a specific objective of LEAA. I believe that all of us understand how much the failure of cases to go to trial quickly has demoralized the police and the public, and made people wonder whether justice truly can be done in the criminal courts. Crowded courts can lead to "revolving door justice" and to plea bargaining for too lenient sentences.

In addition, the bill requires that one-third of the discretionary funds available to the LEAA Administrator be spent to aid the States in speeding criminal trials. The money can be used to support the prosecutorial and defense functions, as well as the courts. It is important that people arrested for crimes be tried quickly and justice done.

The second major area in which this bill makes a substantial improvement over the law in the past is in its requirements with respect to evaluation. I think it is fair to say that whatever efforts have been undertaken by LEAA with regard to evaluation of LEAA programs, we need to do considerably more in the future to learn which programs have been effective and which have failed.

I believe this bill will achieve that end by requiring that State projects be evaluated to determine their impact on crime and by requiring the National Institute for Law Enforcement and Criminal Justice to identify successful projects and disseminate information about them.

This bill also makes a major improvement in the area of congressional oversight. I noted before the problems which I and many others have found with LEAA. One of the ways of avoiding problems in the future is to assure that the Congress engages in detailed oversight over operation of the program. This bill requires, for the first time, detailed reporting by LEAA to the Congress and provides for a 1-year authorization, so that we can review LEAA's progress next year.

The other areas that I think are important are ones that expand the scope of the LEAA anticrime effort. The bill requires State plans to include ways in which to deal with crime against the elderly. This is an area that has been long neglected, and I am pleased to see that the bill requires local efforts to deal with this problem. In a provision that was suggested by the chairman of the Committee on the Judiciary, LEAA will now have to focus its efforts on trying to deal with the very serious problem of crime caused by drug abuse.

I would also like to point out that the bill has very important civil rights provisions which will assure that all Americans, regardless of race, religion, or sex will be treated equally in LEAA-funded programs.

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. CONYERS. Mr. Chairman, I yield 1 additional minute to the gentlewoman from New York.

Ms. HOLTZMAN. I would also like to compliment the chairman of the subcommittee for title II of the bill which gives to the House Committee on the Judiciary the power to make authorizations for the Department of Justice. It is crucial for the Congress and for the country that the process by which the Department of Justice receives its funds receives the greatest amount of scrutiny and care, and I am very pleased to see the provision in the bill.

The CHAIRMAN. The time of the gentlewoman has again expired.

Mr. McCLORY. Mr. Chairman, I yield 1 additional minute to the gentlewoman from New York.

Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentlewoman for yielding.

I would like to commend the gentlewoman on her support of an amendment which she proposes to offer when we get to that stage which I will be supporting in behalf of the so-called program for the high crime area. This is something that is supported by the administration and by the Department of Justice, and it is extremely important that we utilize this program to the extent possible to focus on those areas where crime is most prevalent, where we have a very high rate of crime. I want to commend the gentlewoman on the amendment and indicate that I intend to fully support it.

Ms. HOLTZMAN. I will tell the gentleman that I appreciate his support and commend his leadership in this respect. I think the bill can be greatly improved now by making LEAA focus funds on assisting localities that suffer from a high rate of violent crimes, burglary, rape, and the like. It is essential that effective answers be found to these crimes which cause the greatest damage and fear to Americans.

Mr. Chairman, I yield back the remainder of my time.

Mr. McCLORY. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman, I have been a supporter of the Law Enforcement Assistance Administration program from its inception, and I want to be a supporter of this bill but, frankly, I am finding it increasingly difficult to be so. In order to best explain my concerns, let me recall a bit of history.

Congress found as a fact in 1968 that there was a high incidence of crime in the United States which threatened the peace, security, and general welfare of the Nation and its citizens. Although the problem was admittedly national in scope, Congress properly concluded that its solution required a vigorous local response. In 1968 we devised a structure to provide Federal funds to States and units of local government so as to allow State government the opportunity better to discharge these responsibilities. This approach was consistent with the concept of revenue sharing which was then in better favor than it is today. I supported that concept then and I do today, so long as its central premise is not abandoned. The centerpiece of revenue sharing, whether it be general or special, is Federal financial support of activities within the jurisdiction of the States, with a minimum of Federal control.

This concept if followed is supportive of our Federal system, rather than infected with the seeds of its destruction which may result from a proliferation of federally directed categorical programs.

And so it was in this spirit that LEAA was launched in 1968. Funds were provided and Federal control over the disposition of those funds was only minimal.

Since that great day in 1968 an evolutionary process has occurred which has gradually diverted this program into the more traditional Federal categorical program.

Amendments were added which required States to give emphasis to juvenile delinquency programs and State prisons. The bill before us carries the evolutionary process further by federally mandated community anticrime programs, the allocation of funds earmarked for the courts, and a mandatory focus upon the high crime areas. Amendments will be offered, I am told, permitting the Federal funding to be used more extensively for police payrolls and to require something called a "bill of rights" for police officers.

In addition it is proposed that we set construction standards for local detention facilities and mandate special State attention to drug offenders.

Oh, how far we have strayed from the original philosophical underpinnings of this special revenue sharing program.

And the end, I fear, is not in sight.

This evolutionary process is, I suppose, inevitable. Given our splendid ability to spend money and our self-delusion of infinite wisdom here in Washington, the ultimate destruction of a program, conceived with the best of intentions, may well be preordained.

My plea is not to kill this bill with good intentions. Have faith, I say to my colleagues, in the Federal system and the ability of our local government to do its job.

Realism prevents me from taking the time of the House under the 5-minute rule to offer a comprehensive set of amendments—although frankly I may test the waters a couple of times—which will remove the Federal Government from the law enforcement business.

At this juncture such a major restructuring of the bill is probably hopeless, but I strongly urge my colleagues: Do not do further damage than has already been done and resist those amendments representing a further encroachment upon local responsibility.

Now since my time has not fully expired, let me tell the Members some of the areas of this bill which trouble me.

We have had a Federal requirement in the bill to establish construction guidelines for local jails. Is that a good idea or a bad idea? I am prepared to admit that perhaps some of the local penal institutions are not models of liberalism but on the other hand proper respect for the Federal system gives the States the opportunity to do right and to make a mistake as well.

Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentleman from South Carolina (Mr. Mann), a member of the subcommittee.

Mr. HANSEN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 681]

Abzug
Adams
Alexander
Andrews, N.C.
Archer
Baucus
Beard, R.I.
Beard, Tenn.
Brademas
Brown, Mich.
Buchanan
Burke, Calif.
Burton, Phillip
Cederberg
Chisholm
Clay
Cochran
Collins, Ill.
Conlan
de la Garza
Derwinski
Diggs
Downing, Va.
Drinan
Duncan, Oreg.
Edwards, Calif.
Esch
Eshleman
Evins, Tenn.
Fish
Ford, Mich.
Forsythe
Fraser
Fuqua
Green
Gude
Harsha
Hawkins
Hays, Ohio
Heinz
Helstoski
Henderson
Hinshaw
Holt
Horton
Howe
Jacobs
Jarman
Jones, Ala.
Karth
LaFalce
Lehman
Lloyd, Calif.
Mathis
Matsunaga
Meeds
Mikva
Mosher
Neal
O'Hara
Passman
Peyser
Rangel
Rees
Riegle
Runnels
St Germain
Santini
Sarbanes
Scheuer
Sisk
Skubitz
Staggers
Santon,
James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Teague
Udall
Wright
Wylie
Young, Alaska
Zeferetti

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Rosenthal, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 13636, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 346 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The gentleman from South Carolina (Mr. Mann) is recognized for 5 minutes.

Mr. MANN. Mr. Chairman, I am sorry that those Members who are now here due to the quorum call did not have the opportunity of hearing the gentleman from California, Mr. Wiggins, a little bit earlier express his concern involving the further categorization of that block grant program known as LEAA.

You know, one of our problems is throwing money at a problem that we do not know the answer to and in the LEAA program we have such a program; and if money is to be thrown, then it might go across a little bit easier if we let it be thrown at the State and local levels, where, I submit, they are better able to identify the problem and to hit it effectively.

Mr. Chairman, if we really read a committee report sometimes we can find something significant in it. I did just that, I looked at the committee report and it says:

> The Omnibus Crime Control and Safe Streets Act of 1968 legislation was based on the acknowledgment that crime is essentially a local problem and the tools to combat crime exist at the local level. Federal criminal justice funding, therefore, has been administered through a block grant approach for the past 8 years.

The problem now is that we are getting away from that block grant approach.

If we look at the proposed LEAA budget for 1977, we will see it is for $753 million, which is in accord with the appropriation bill that we passed. If we look further, we will see that the grants to states out of the $753 million is $306 million, which is considerably less than 50 percent.

There are further grant funds of a categorical type, such as discretionary funds, made incidentally, on the basis of decisions in Washington on what is to be done with the money, and that is $54 million.

Then there are the high crime area grants, and that is $40 million; and there are funds for planning in the amount of $60 million.

There will be an amendment proposed by the gentlewoman from New York (Ms. Holtzman) and the gentleman from Illinois (Mr. McClory) suggesting an authorization of $50 million for the high crime area program. As I indicated in a Dear Colleague letter to the Members, most of the Members have gotten some uncertainties and some static about the LEAA program because of the failure of the high impact crime programs that we have already tried. But this one is going to be different, I guess. The Dear Colleague letter issued by the sporsors recites concerning their amendment:

> For example, we add a provision designed to insure that grants can be awarded only if grantees can demonstrate their ability to administer the grant effectively.

Isn't that remarkable. I shudder to think that we would ever let anybody have money unless they have demonstrated, at least to an agency, that they know how to spend it. What troubles me a little bit is that we have relied upon the support of States and local governments for increasing these funds, as we did in the House in June, on the basis that we would use those funds for State and local purposes.

The gentlewoman from New York (Ms. Holtzman) in her speech on the floor of the House recited support from the National Association of State Attorneys General, the American Bar Association, the National Association of Counties, the National League of Cities/U.S. Conference of Mayors, the National Governors Conference, and so forth. I am quoting:

> The reason these organizations have supported this amendment is because the appropriations bill will cut from LEAA's block grant programs for the States and localities anywhere from 33 to 49 percent of the moneys they received last year, depending upon what happens in the authorization bill.
>
> This is a very substantial cut which is going to devastate some of these programs.

The gentleman from Illinois (Mr. McClory) further said somewhat the same thing, and so we were able to increase the funding, holding it out to the States and local governments. But now we are going to take it back. We are going to put it in another category. We are going to earmark $40 or $50 million of it for a high impact crime program.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CONYERS. Mr. Chairman, I yield 2 additional minutes to the gentleman from South Carolina.

Mr. MANN. What is a high-impact-crime area? I am sure that they will say that they have broadened the discretion of LEAA in determining what a high-impact-crime area is.

The report of the FBI that came out last week showed that the increase in crime in this country for last year was 10 percent in suburban areas, 8 percent in rural areas, 7 percent in municipalities of 250,000 to 1 million, 6 percent in municipalities of 1 million or more. Where is the high-crime area?

Where do we need this money? Do we want $50 million worth of cure, or do we want $50 million worth of prevention? If we want $50 million worth of prevention, let us let it go under the general block C grant program to States and local governments.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

The point that I wish to pursue, and this continues our debate from the appropriation bill which inexplicably preceded the authorization bill, is that it is not justified that this money shall come out of the funds that will be going to State planning agencies, but more importantly, it is going into a program that has not proven to be workable. We have uncontroverted, impartial reports—LEAA funded—from corporations that were paid to evaluate it that said the impact cities and the pilot cities program did not work. That is why I do not support it.

Mr. MANN. LEAA paid $2.4 million to evaluate their high-impact program of $160 million, and the news that came from it caused law-enforcement-oriented Jim Mann, the prosecutor from Greenville, S.C., to receive many questions concerning his support for LEAA; because the high-impact program received such terrible marks.

So let us let the States and local governments have this money and do what they can do better than Washington can do.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. MANN. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I would like to respond briefly. The amount that both the House and the Senate voted for in the LEAA appropriation bill was substantially more than $100 million because the Congress believed that there ought to be additional money for effective crime fighting.

The amendment the gentleman from Illinois (Mr. McClory) and I will offer affects only $34 million of that additional appropriation of $154 million.

Secondly, our amendment does not deal simply with high crime areas. It deals with the incidence of violent crime. Rural areas could qualify, suburban areas could qualify, and urban areas could qualify.

The amendment we will offer differs substantially from the program that came under criticism before, but it does urge States and localities that suffer from a high incidence of violent crime, including burglary and assault and rape, to deal effectively with these crimes. That, I believe, is an important objective.

Mr. MANN. In response let me say that I think each community probably knows what its problems are.

Mr. McCLORY. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. Robert W. Daniel, Jr.).

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, critics of the LEAA program insist that it is, with this authorization extension, on trial—and rightfully so. No Federal program of this magnitude should be automatically and uncritically perpetuated. Nevertheless, I would like to submit, before we vote on this amendment, that a 15-month extension does not provide a fair and useful test.

A shortchanging of the law enforcement effort makes no more sense than the Congress delay in approving revenue-sharing money. With a mere short-term extension, the Law Enforcement Assistance Administration cannot hope for the long-term commitment of criminal justice officials, planners, experts, and highly qualified personnel. The new responsibilities this bill confers on LEAA—ranging from in-depth evaluation of its crime-fighting effectiveness, to the encouragement of community involvement—underscores the need for a more prolonged effort. Nothing about such a long-term crime-fighting program would prevent meaningful oversight by the Congress, and nothing in conventional wisdom would indicate that the Congress can responsibly carry out that oversight in the midst of an election season.

Mr. Chairman, I sincerely hope that my colleagues will not encourage LEAA to simply stockpile more hardware, a frequent criticism, by denying it the leeway to adequately plan anything more.

Mr. EDGAR. Mr. Chairman, I rise in support of H.R. 13636 which authorizes $985 million to extend the life of the Law Enforcement Assistance Agency for 1 year. I wish to congratulate the Judiciary Committee for its success in striking a responsible balance in responding to the dilemma of continuing the LEAA mandate. The committee clearly recognized that the accelerating crime rate faced by State and local authorities demands Federal financial assistance in the form of block grants. However, as pointed out in the report filed by the committee, the problems of the LEAA and the criticisms leveled at the Agency during the last several years were not glossed over. LEAA has failed to meet its minimum expectations after 7 years and over $4 billion. In recommending only a single year extension of the LEAA mandate, instead of for 5 years as proposed by the administration, the Congress will be serving notice that the Agency has much more work to do internally. The Agency must reassess its programs and management and tune them for providing a maximum punch for crime control, prevention, and related research.

Mr. Chairman, violent crime is no longer only symptomatic of urbanized areas. Virtually all of our citizens, whether in our cities, our suburbs, or our less-populated areas, live in fear of being victimized by hoodlums. Our quality of life has been threatened not only by crime, but also by the fear of crime. Thousands of career criminals mug, rob, and burglarize with virtual impunity because our present system of justice cannot cope with the necessary processing. For most of these criminals, crime does pay. My own congressional district, within Delaware County, Pa., is comprised mostly of small townships and boroughs. It has been the scene of a series of related, but so far unexplained and unsolved murders of young girls during the last several years. Criminal elements have operated without punishment for decades in Delaware County. Traffic in illegal drugs has reached disgraceful magnitudes. Local and State officials in my area have been virtually powerless to bring lawbreakers to justice.

Mr. Chairman, I feel that Congress has an important role in supplying resources for crime-fighting to State and local officials. But such resources must include more than helicopters and sophisticated wiretaps. More than expensive hardware is required to provide security to our citizens. LEAA has been criticized often for placing too much emphasis on the supplying of technologically advanced equipment, and not enough on improving other phases of the criminal justice system. Apprehending violators of the law is only the first step in the legal and judicial maze which characterizes this system. The other phases have been correctly described as a "revolving door." If we are ever serious about our attempt to rid society of this threat which terrorizes many of us, we must find an effective strategy for keeping career criminals off the streets, rehabilitate first offenders, and provide alternatives to a life of crime for our youth. There are few deterrents to criminals, because they are put back on the streets with probation, suspended sentences, and unrealistically lenient sentences. Plea bargaining also impacts negatively in being a deterrent to criminal activity. LEAA must provide the leadership to reverse this. Funds are needed for law enforcement hardware, of course. But funds are also needed for more courts, more judges, more district attorneys, and more correctional facilities. These important areas of law enforcement have been neglected, and I feel that priorities of the Agency, and also of local and State law enforcement, should be refocused upon these law enforcement needs other than hardware. I also strongly believe that crime-fighting funds should be targeted to reduce crime against senior citizens, and for reducing the epidemic of crime in our schools.

Mr. Chairman, I have cosponsored legislation which I feel promotes this redirection of priorities, and is sensitive to where the true need for funding lies. One such bill, H.R. 13897, would permit Federal and District of Columbia courts to deny pretrial release, under certain circumstances, to those charged with committing violent crimes. The bill would give to judges the discretion to detain a suspect based upon the suspect's threat to the community, after the first offense. Current law provides for this discretion only after repeat offenses. The bill makes other changes which are consistent with the philosophy of detaining those who are most likely to commit crimes upon release.

Another important step in fighting crime would be the enactment of H.R. 14014. I cosponsored and support this bill, which would establish a commission to promote the establishment of sentencing guidelines. I strongly believe that arbitrary sentencing fails to serve notice to a criminal that he or she can expect to serve a certain prison sentence for the commission of a crime. I have also endorsed and cosponsored two bills which would establish additional mandatory sentences for certain crimes. The first, H.R. 13016, would mandate an additional sentence for crimes committed with firearms. The second, H.R. 9914, would provide an additional sentence for those who attempt to obtain narcotics or other illegal substances from retail pharmacies by force.

To combat crimes in our schools, I have cosponsored and supported H.R. 9662, the Juvenile Delinquency in Our Schools Act. This bill is designed to allow every student to be educated free from the fear of personal harm and physical intimidation.

Mr. Chairman, it has not been demonstrated that the LEAA has been effective in either reducing crime, or even understanding why crime is committed. However, ending Federal support of crime-fighting activities will certainly not help. In supporting this bill, I will continue to monitor the activities of the LEAA. If the improvement in agency policies and results do not improve dramatically, I will support a different mechanism for providing aid to our crime-beleaguered communities. However, a 1-year reprieve for the LEAA is enough time for the Agency to show our colleagues in the Congress that it can improve its effectiveness and earn the right to continue as a separate agency.

Mr. ROGERS. Mr. Chairman, section 107 of this bill amends section 402(c) of the act to require the National Institute of Law Enforcement and Criminal Justice in conjunction with the National Institute of Drug Abuse to conduct studies to determine the relationship between drug abuse and street crime and to analyze the success of the various drug treatment programs in reducing crime.

I must say that I think it is appropriate that the Federal Government's efforts to combat crime should include the development of a better understanding of the interplay between drug abuse and the commission of crime.

As you know, Congress has already provided authority to the National Institute on Drug Abuse to condudct studies of the outcomes and effectiveness of the various types of drug abuse treatment programs. In 1972, in Public Law 92-255, we gave the Special Action Office on Drug Abuse the authority to evaluate treatment progams and treatment outcomes. This authority was delegated to the Division of Narcotic Addiction and Drug Abuse, now the National Institute on Drug Abuse. And just last year we passed legislation creating the Office of Drug Abuse Prevention in the White House.

Further, in sections 411 and 410(a)(6) of Public Law 92-255, the Secretary of Health, Education, and Welfare was authorized to conduct audits of the treatment programs to determine their outcomes and to conduct evaluations of these treatment approaches. Finally, in Public Law 94-237, we revised the technical assistance authority to include determination of program outcomes.

On the basis of these authorities, NIDA has been conducting studies of treatment outcomes, to determine the extent to which each approach has resulted in reduction of drug dependence by participants, the extent of return to dependence, and indeed I might say has included in all of its outcomes studies a determination of the commission of crime by program participants.

These medical studies, which have been conducted by the Department of Health, Education, and Welfare, will of course be available to the Justice Department, and I am certain HEW will continue to cooperate in including in its medical studies of treatment effectiveness information which will assist the Justice Department in developing a better understanding of the relationship between various treatment alternatives and crime.

Mr. BINGHAM. Mr. Chairman, I rise in support of H.R. 13636 and more particularly in support of section 110(a), which authorizes $15 million for the purpose of grants for citizen anticrime patrols and the encouragement of neighborhood participation in crime prevention. I am pleased to note that this program received a $15 million appropriation last June and that the Senate has passed on to us an authorization bill which anticipates expenditure of these funds forthwith by LEAA.

Moreover, I am highly gratified that H.R. 13636 affords Congress, for the first time, the opportunity to vote on a bill which contains the essential ingredients of legislation I first introduced in December of 1971, to provide moneys for community anticrime groups. I have reintroduced and testified upon similar legislation, which would authorize expenditure of Federal moneys to aid citizens' organizations, in the 93d and 94th Congresses. Finally today Congress has before it legislation which will put these programs into action.

Before I touch upon what I believe are the many strengths of this program as is, let me briefly note what this program is not. It is not a plan to fund citizen vigilante groups. It is not a program to replace our vital uniformed police officers. It is not a program to put weaponry into the hands of citizens who would help fight crime.

What this provision for aid to citizen anticrime groups does represent is a chance to help citizens involve themselves in our national fight against crime. The citizen anticrime patrol program offers a chance for communities to organize themselves in this effort, to help supplement our overburdened police forces, to offer them extra eyes and ears.

Since 1971, when I first introduced a bill entitled the Citizen Anticrime Patrol Assistance Act, I have heard from many citizen anticrime groups located around the country and they have indicated their enthusiastic support for this kind of legislation. While their costs are generally small, they support their programs out of their own pockets, and many citizens who would like to participate find it difficult to do so because of the cost. They report that small amounts of Federal assistance, such as would be provided by section 110(a) of H.R. 13636, would do a great deal to stimulate citizen involvement in organizing anticrime programs. And with the crime rate ever-climbing—indeed there was a 27-percent leap in just the past 2 years—I feel that it is crucial that citizens concerned about crime and afraid for their safety are offered this opportunity for involvement in our national anticrime efforts. The benefits reaped in terms of public confidence, neighborhood stabilization, and reduced incidence of crime far outweigh the relatively small cost to the Federal Treasury.

Since 1968, it has been the policy of the Federal Government to aid States in their fight against crime by offering nondiscretionary block grants. There have usually been no restrictions on how States spend this money, but for the stipulation that it aid in law enforcement. When the States have become pressed by the tight economy, they have applied these Federal grants to basic law enforcement necessities, instead of innovative programs like citizen anticrime organizations. Too often has Federal money ended up being spent for superfluous weaponry and hardware; too infrequently has it been spent to involve the community in fighting crime. Thus, I believe it important that Congress earmark this $15 million once again and channel it into this community-based program.

There is a community anticrime group operating right here on Capitol Hill under a small grant of $23,000 from LEAA discretionary funds. But as this group, the Capitol East Community Crime Council notes in a letter which was printed in Monday's RECORD at 28439:

> Programs such as ours are just beginning and their funding is painfully meager. By the time state and local Boards and Commissions review all the requests for funding, the often non-represented citizen group—which is small and very local to the community area—finds little left for funding the citizen program.

It is just this sort of bureaucracy—which insulates innovative community groups from sources of Federal support—which we must strip away by supporting H.R. 13636 and its provision for direct funding of citizen anticrime groups by LEAA.

Not long ago, I had the pleasure of riding in an anticrime patrol radio car from the Concourse-Mosholu Community Action Group as it made its rounds protecting a neighborhood in my district. I was impressed by the number of people on the streets after dark. These groups are not vigilantes. They are the eyes and ears of a local police force which cannot be everywhere; they serve to supplement the police force, to open lines of communication between concerned citizens and their peace officers. The group I visited includes some 2,000 families who employ foot patrols, block watchers, walkie-talkies, alarm systems, and radio cars in their rounds.

It is important for the Federal Government, which claims to be concerned about the continuous rise in the crime rate, to offer financial assistance to such citizens who are willing to donate their time and effort to fight crime. The citizen anticrime patrol moneys authorized in section 110(a) provide a focus for such action. For such a program to be effective, it is vital that Congress support this section and thus guarantee that help will go directly from the Federal Government to citizen anticrime groups, bypassing the massive State and local bureaucracy. This guarantee is provided in the appropriation bill, Public Law 94-362 and is anticipated by the Senate-passed LEAA authorization. I urge my colleagues here in the House not to tamper with this wisdom and to support H.R. 13636 and section 110(a) here today.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding, and I rise in support of H.R. 13636, the Law Enforcement Assistance Administration 1-year extension. This measure revamps LEAA evaluation procedures, authorizes grants to community crime prevention organizations, establishes minimum standards for LEAA-supported correctional facilities, provides funds to prevent crimes against the elderly, develops standards for programs to improve State and local correctional facilities, authorizes LEAA to initiate civil rights compliance investigations, provides for the coordination of and research into drug abuse programs, and requires the use of LEAA discretionary funds to be used to improve the administration of criminal justice in the courts.

Mr. Chairman, two areas of particular interest to me that are included in this measure are the prevention of crime against the elderly and drug abuse.

As cosponsor of H.R. 12464, one of several measures before the Judiciary Committee amending the Omnibus Crime Control and Safe Streets Act of 1968 in order to include the prevention of crimes against the elderly, I am pleased that the committee adopted this measure and that H.R. 13636 provides funds and planning authority to focus on the prevention of crime against our Nation's senior citizens.

Criminal attacks on senior citizens have reached serious proportions. According to the 1973 National Crime Panel survey report that was cited by the Judiciary Committee in its report accompanying H.R. 13636, the victimization rate for senior citizens is 31.6 per thousand which, translated into human tragedy, means that each year approximately 700,000 out of 22.4 million senior citizens have been victimized or are subject to victimization. This tragedy and human suffering is compounded by the fact that approximately one-half of all crimes against the elderly are unreported, making an accurate assessment of the problem that much more difficult.

With regard to drug abuse, the committee's report stated:

> At the present time, there is only sporadic coordination between the State Planning Agencies which fund drug abuse programs and the Single State agencies which plan for treatment and facilities for drug abusers. The State Planning Agencies have not been reporting to Congress on the results of their programs and standards and regulations surrounding them. To remedy these problems, the Committee adopted three amendments which would authorize the Institute to do research into the relationship between crime and drug abuse, require coordination between Single State Agencies and State Planning Agencies and require reporting to Congress on the effects of their programs.

Mr. Chairman, this is precisely the sort of thing that the newly created House Select Committee on Narcotics Abuse and Control, of which I am a member, is designed to examine and, hopefully, to remedy; namely, to develop a comprehensive study and review of all of the problems of drug abuse and control and to coordinate the work of the seven congressional committees having disparate interests in narcotics and the numerous Federal departments and agencies of the executive branch of the Federal Government administering a plethora of narcotic programs and policies.

Mr. Chairman, notwithstanding the numerous problems confronting LEAA, to which many of my colleagues have addressed themselves, I urge support of H.R. 13636 in order to help us wage an effective war against crime.

Mr. SCHEUER. Mr. Chairman, I would like to call attention to a provision in H.R. 13636 which is designed to help solve the serious problem of crimes against the elderly. This measure, which is similar to legislation which I introduced with 30 other Members last session, would require the States in submitting their plans for LEAA funds, to pay special attention to the problems of the prevention and treatment of crimes against the elderly.

We all are aware of the dismal statistics on the increase in crime. Serious crime in the United States rose 17 percent in 1974. While this statistic is frightening to everyone, it is more disconcerting to our senior citizens. A recent Harris poll indicates that the elderly rank fear of crime as by far their most serious problem.

Unfortunately, the fear is justified. In 1975, the Law Enforcement Assistance Administration conducted studies of victims of crime in 26 large cities. These studies indicate that elderly persons are victims of personal larceny at a rate of 19 per 1,000 as compared to a rate of 6 per 1,000 for 20-year-olds; that women over 65 are 6 times more likely to be robbed than other persons; that more than half of all robbery victims are women over 55; and that, in one large city, half the victims of crime who were over 60 suffered physical injury as a result of the crime.

Not only are older people singled out as objects of crime to a greater degree than other people, but also the effect of victimization upon them is generally far more devastating than the effects of criminal attack upon younger people.

Because an older person is more likely to have a reduced or low income, the impact of even a small financial loss through crime is relatively greater for him than for a younger person.

Because of greater physical frailty, an older person is more easily injured in an encounter, his injuries tend to be more severe, and he recovers more slowly—if at all.

The impact of criminal victimization on older people, however, is not confined solely to financial loss and physical injury—the social and psychological impact of victimization on the elderly can be just as severe. Older people are so afraid of becoming victims of street crime, that they impose self-imprisonment. This self-imposed isolation is particularly important because it affects all older people, both those who have actually been victimized and those who see themselves as potential victims. By remaining in their homes, elderly citizens are cut off from participation in many social service programs.

It is time for us to attack this problem by developing comprehensive programs on the State and local level to combat effectively crimes against the elderly. Programs to reduce the incidence of crimes against the elderly by educating elderly citizens about realistic ways to avoid victimization, reducing criminal opportunities, alerting the elderly to real dangers while at the same time dispelling imagined fears have been tried under different auspices, in different parts of the country.

Many of these programs do not require large outlays of funds. What is required is the Federal mandate to involve the States in the battle against elderly crime victimization. The LEAA authorization bill provides such a mandate. I commend the chairman and his committee for including this provision in the bill.

Mr. JOHNSON of California. Mr. Chairman, I strongly support the many programs of the Law Enforcement Assistance Administration.

The funds provided by LEAA to States and localities represent an important supplement to their law enforcement and criminal justice resources. While LEAA funds account for only 5 percent of the national expenditures for criminal justice activities, the impact of these funds is important. They permit States to be innovative and to experiment with new and advanced crime prevention techniques.

With LEAA help, California has developed a master plan for criminal justice information systems. A fairly extensive network of Youth Service Bureaus has been developed to divert young people from the formal juvenile justice system, offering alternatives to secure incarceration of these youths. The California Narcotics Information Network has greatly assisted narcotics enforcement efforts throughout the State, as well as surrounding States. Through the California Center for Judicial Education and Research, over half the State's judges have received continuing education, as have a majority of other court personnel.

I could go on for some time about the successful projects supported by LEAA funds in California which have been reported to me. In fact, the projects there have been so important that most have been continued with State or local funds after Federal startup funds have ceased. I am sure that the California experience with the LEAA program is not isolated, and that many other jurisdictions have similarly benefited.

The Federal Government cannot be expected to act on behalf of the States to perform their law enforcement activities and attempt to reduce crime. What it can do, however, is provide to the States resourcts with which to try new approaches in the field. LEAA has done a good job in this regard, and the agency's assistance to hard-pressed States and localities should not be substantially reduced at a time when this type of aid is so crucial.

In the First Congressional District, which I have the honor of representing, we have received over $37 million in LEAA block subgrant funds over the last 4 years. These funds have been used effectively and efficiently at the local government level to make a positive effect on the reduction of crime. Another $28 million came into the 14 counties of my district through LEAA nonblock discretionary grants.

I urge my colleagues to support continued authorization of the LEAA programs.

Mrs. SPELLMAN. Mr. Chairman, one of the most serious concerns of the citizens of our Nation is the ever-present threat of being the next victim of a criminal act. With this fact on our minds, we meet today to decide whether the Law Enforcement Assistance Administration should be allowed to continue, and, if so, in what form and at what cost to these same citizens.

Eight years ago our colleagues, faced with angry demands from their constituents to act to control the inexorable rise in the Nation's crime rate, enacted the Omnibus Crime Control and Safe Streets Act of 1968—creating the Law Enforcement Assistance Administration to assist and coordinate our State and local governments' efforts to reduce crime. Now, many Members of the House of Representatives question the wisdom of that action. For, after 8 years of existence, my respected colleagues on the Subcommittee on Crime, unable to ignore statistics which show that the national rate of crime has not been slowed, have concluded that LEAA has not achieved the goals that were promised.

We must realize that the rise in criminal activity which prompted the enactment of the Omnibus Crime Control and Safe Streets Act did not occur suddenly. The disrespect for our laws, symptomatic of so many of our society's imperfections, spread slowly, from city to city, city to town, town to town, over a period of many years. It was not as if our law enforcement agencies were overwhelmed by an explosive epidemic—unable to muster ample force, strategically deployed, to control the outbreak. Rather, this slow but steady rise demonstrated clearly that our law enforcement agencies were not equipped with the technology, organization, or knowledge to deal with this crisis.

In 1968, our colleagues understood that, in light of the deepseated causes underlying this situation, a complete restructuring of our criminal justice system was necessary. The long-range goals being, first and foremost, systems designed to prevent crime. If these preventions fail, systems had to be designed to apprehend, prosecute, confine, and rehabilitate offenders with the maximum effectiveness and efficiency. Because these reforms are so extensive, is 8 years long enough to complete them?

In Prince Georges County, Md., LEAA funds and technical assistance have been used to improve senior citizen protection, for prisoner rehabilitation, for law enforcement training, to create a paraprofessional program to reduce the workload of the police and the courts, for a system of criminal-justice evaluation. LEAA has helped to establish programs to prevent juvenile delinquency and to counsel juvenile delinquents; to establish a drug rehabilitation program, and a program to investigate white-collar crime, and to improve and streamline the court system. Most importantly, it has increase cooperation between our local law enforcement departments. All of these programs have shown great promise and many have resulted in constructive reductions in crime. I would not like to see those programs destroyed because LEAA has not been renewed.

I certainly agree that the structure of LEAA, as it now exists, could be improved. Its inability to monitor and distribute information concerning effective programs is a severe fault, as is its method of self-evaluation. However, H.R. 13636 corrects those faults. Furthermore, the amendments which have been proposed to encourage local planning units to study and develop the most effective methods to deal with their local crime problems, and provide State legislature with more significant input into the use of Federal funds, surely will enhance the sensitivity of grant distribution.

The many measures which have been put forth to strengthen LEAA confirm what I believe to be a widely held conviction among my colleagues—that the Law Enforcement Assistance Administration is an essential weapon in the fight against crime. Although it is imperfect, the Congress can, and must, correct these mistakes for the sake of the health and safety of all Americans.

I urge the Members of the House of Representatives to approve a 3-year extension of the Law Enforcement Assistance Administration, at full funding, to give this agency the time to fulfill its vital responsibilities.

Mr. McCLORY. Mr. Chairman, we have no further requests for time.

Mr. CONYERS. Mr. Chairman, we on this side of the aisle have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will read the bill by titles.

The Clerk read as follows:

H.R. 13636

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—LAW ENFORCEMENT ASSISTANCE

AUGMENTED AUTHORITY OF ATTORNEY GENERAL

SEC. 101. Section 101(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after "authority" the following: ", policy direction, and general control".

OFFICE OF COMMUNITY ANTI-CRIME PROGRAMS

SEC. 102. Section 101 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end the following:

"(c) There is established in the Administration the Office of Community Anti-Crime Programs (hereinafter in this subsection referred to as the 'Office'). The Office shall be under the direction of the Deputy Administrator for Policy Development. The Office shall—

"(1) provide appropriate technical assistance to community and citizens groups to enable such groups to apply for grants to encourage community and citizen participation in crime prevention and other law enforcement and criminal justice activities;

"(2) coordinate its activities with other Federal agencies and programs (including the Community Relations Division of the Department of Justice) designed to encourage and assist citizens participation in law enforcement and criminal justice activities; and

"(3) provide information on successful programs of citizen and community participation to citizen and community groups.".

STATE LEGISLATURES

SEC. 103. Part B of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new section:

"SEC. 206. At the request of the State legislature while in session or a body designated to act while the legislature is not in session, the comprehensive statewide plan, or any revisions or modifications thereof, shall be submitted to the legislature for an advisory review prior to its submission to the Administration by the chief executive of the State. In this review the general goals, priorities, and policies that comprise the basis of that plan, or any reviews or modifications thereof, including possible conflicts with State statutes or prior legislative Acts, shall be considered. If the legislature or the interim body has not reviewed the plan, or revision or modifications thereof within forty-five days after receipt, such plan, or revisions or modifications thereof, shall then be deemed reviewed.".

JUDICIAL PARTICIPATION IN PLANNING AGENCY

SEC. 104. Section 203(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting immediately before the last sentence the following: "Not less than two of the members of such State planning agency shall be appointed from a list of nominees submitted by the chief justice or chief judge of the court of last resort of the State to the chief executive of the State, such list to contain at least six nominees. State planning agencies which choose to establish regional planning units shall utilize, to the maximum extent practicable, the boundaries and organization of existing general purpose regional planning bodies within the State.".

CITIZEN AND COMMUNITY PARTICIPATION

SEC. 105. Section 203(b) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof the following: "; and"; and

(3) by adding at the end the following:

"(4) assure the participation of citizens and community organizations at all levels of the planning process.".

AMENDMENTS TO PART C

SEC. 106. (a) Section 301(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting immediately before "improve and strengthen" the following: "reduce and prevent crime and to".

(b) Section 301(b) of such Act is amended—

(1) by striking out paragraph (6);

(2) by redesignating paragraph (7) as paragraph (6), and, in such paragraph as so redesignated, by striking out "the approval of" and inserting "notification to" in lieu thereof;

(3) by redesignating paragraphs (8) through (10) as paragraphs (7) through (9), respectively; and

(4) by adding at the end the following:

"(10) The development, demonstration, evaluation, implementation, and purchase of methods, devices, personnel, facilities, equipment, and supplies designed to strengthen courts and improve the availability and quality of justice; the collection and compilation of judicial data and other information on the work of the courts and other agencies that relate to and affect the work of the courts; programs and projects for expediting criminal prosecution and reducing court congestion; revision of court criminal rules and procedural codes within the rulemaking authority of courts or other judicial entities having criminal jurisdiction within the State; training of judges, court administrators, and support personnel of courts having criminal jurisdiction; support of court technical assistance and support organizations; support of public education programs concerning the administration of criminal justice; and equipping of court facilities.

"(11) The development and operation of programs and projects designed to prevent crimes against the elderly person.".

(c) Section 303 of such Act is amended by striking out all that follows the sentence that ends with "and section 223 of that Act.", and inserting in lieu thereof the following:

"(b) No State plan shall be approved as comprehensive unless the Administrator finds that the plan—

"(1) includes a comprehensive program, whether or not funded under this title, for the improvement of juvenile justice;

"(2) provides for adequate assistance to deal with law enforcement and criminal justice problems in areas characterized by both high crime incidence and high law enforcement and criminal justice activity;

"(3) provides for attention to the special problems of prevention and treatment of crime against the elderly;

"(4) is a total and integrated analysis of the problems regarding the law enforcement and criminal justice system throughout the State, establishes goals, priorities, and standards, and addresses methods, organization, and operation performance, and the physical and human resources necessary to accomplish crime prevention, the identification, detection, and apprehension of suspects and offenders, and institutional and noninstitutional rehabilitative measures;

"(5) provides for the administration of such grants by the State planning agency;

"(6) provides that at least the per centum of Federal assistance granted to the State planning agency under this part for any fiscal year which corresponds to the per centum of the State and local law enforcement expenditures funded and expended in the immediately preceding fiscal year by units of general local government will be made available to such units or combinations of such units in the immediately following fiscal year for the development and implementation of program and projects for the improvement of law enforcement and criminal justice, and that with respect to such programs or projects the State will provide in the aggregate not less than one-half of the non-Federal funding. Per centum determinations under this paragraph for law enforcement funding and expenditures for such immediately preceding fiscal year shall be based upon the most accurate and complete data available for such fiscal year or for the last fiscal year for which such data are available. The Administration shall have the authority to approve such determinations and to review the accuracy and completeness of such data;

"(7) adequately takes into account the needs and requests of the units of general local government in the State and encourage local initiative in the development of programs and projects for improvements in law enforcement and criminal justice, and provide for an appropriately balanced allocation of funds between the State and the units of general local government in the State and among such units;

"(8) provides for procedures under which plans may be submitted to the State planning agency for approval or disapproval, in whole or in part, annually from units of general local government or combinations thereof having a population of at least two hundred and fifty thousand persons to use funds received under this part to carry out a comprehensive plan consistent with the State comprehensive plan for the improvement of law enforcement and criminal justice in the jurisdiction covered by the plan;

"(9) incorporates innovations and advanced techniques and contains a comprehensive outline of priorities for the improvement and coordination of all aspects of law enforcement and criminal justice dealt with in the plan, including descriptions of: (A) general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the extent appropriate, the relationship of the plan to other relevant State or local law enforcement and criminal justice plans and systems;

"(10) provides for effective utilization of existing facilities and permits and encourages units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment;

"(11) provides for research and development;

"(12) provides for appropriate review of procedures or actions taken by the State planning agency disapproving an application for which funds are available or terminating or refusing to continue financial assistance to units of general local government or combinations of such units;

"(1) demonstrates the willingness of the State and units of general local government to assume the costs of improvements funded under this part after a reasonable period of Federal assistance;

"(14) demonstrates the willingness of the State to contribute technical assistance or services for programs and projects contemplated by the statewide comprehensive plan and the programs and projects contemplated by units of general local government or combinations of such units;

"(15) sets forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would in the absence of such Federal funds be made available for law enforcement and criminal justice;

"(16) provides for such fund accounting, audit, monitoring, and evaluation procedures as may be necessary to assure fiscal control, proper management, and disbursement of funds received under this title;

"(17) provides for the maintenance of such data and information, and for the submission of such reports in such form, at such times, and containing such data and information as the National Institute for Law Enforcement and Criminal Justice may reasonably require to evaluate pursuant to section 402(c) programs and projects carried out under this title and as the Administration may reasonably require to administer other provisions of this title;

"(18) provides funding incentives to those units of general local government that coordinate or combine law enforcement and criminal justice functions or activities with other such units within the State for the purpose of improving law enforcement and criminal justice;

"(19) provides for procedures that will insure that (A) all applications by units of general local government or combinations thereof to the State planning agency for assistance shall be approved or disapproved, in whole or in part, no later than ninety days after receipt by the State planning agency, (B) if not disapproved (and returned with the reasons for such disapproval, including the reasons for the disapproval of each fairly severable part of such application which is disapproved) within ninety days of such application, any part of such application which is not so disapproved shall be deemed approved for the purposes of this title, and the State planning agency shall disburse the approved funds to the applicant in accordance with procedures established by the Administration, (C) the reasons for disapproval of such application or any part thereof, in order to be effective for the purposes of this section, shall contain a detailed explanation of the reasons for which such application or any part thereof was disapproved, or an explanation of what supporting material is necessary for the State planning agency to evaluate such application, and (D) disapproval of any application or part thereof shall not preclude the resubmission of any such application or part thereof to the State planning agency at a later date; and

"(20) provides for the development and, to the maximum extent feasible, implementation of procedures for the evaluation of programs and projects in terms of their success in achieving the ends for which they were intended, their conformity with the purposes and goals of the State plan, and their effectiveness in reducing crime and strengthening law enforcement and criminal justice.

Any portion of the per centum to be made available pursuant to paragraph 6 of this subsection in any State in any fiscal year not required for the purposes set forth in such paragraph 6 shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development and implementation of programs and projects for the improvement of law enforcement and criminal justice and in conformity with the State plan.

"(c) The requirement of subsection (b) (6) shall not apply to funds used in the development or implementation of a statewide program of evaluation, in accordance with an approved State plan, but the exemption from said requirement shall extend to no more than 10 per centum of the funds allocated to a State under section 306(a) (1).".

(d) Section 306(a) (2) is amended by inserting immediately after "to the grant of any State," the following: "plus any additional amounts that may be authorized to provide funding for the purposes of section 301(b) (7),".

(e) Section 306(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting between the present third and fourth sentence of the unnumbered paragraph the following: "Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and pursue such legal remedies as are necessary.".

(f) Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out section 307 and by redesignating section 308 as section 307.

(g) Section 307 of such Act, as so redesignated by subsection (f) of this section, is further amended by striking out "302(b)" and inserting "303" in lieu thereof.

AMENDMENTS TO PART D

SEC. 107. (a) Section 401 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting "reducing and preventing crime by" immediately before "improving law enforcement and criminal justice".

(b) Section 402(c) of such Act is amended—

(1) in the second paragraph, by striking out "to evaluate" and inserting in lieu thereof the following: "to make evaluations and to receive and review the results of evaluations of";

(2) in the second paragraph, by adding at the end the following: "The Institute shall, in consultation with State planning agencies, develop criteria and procedures for the performance and reporting of the evaluation of programs and projects carried out under this title, and shall disseminate information about such criteria and procedures to State planning agencies."; and

(3) by inserting immediately before the final paragraph the following:

"The Institute shall identify programs and projects carried out under this title which have demonstrated success in improving law enforcement and criminal justice and in furthering the purposes of this title, and which offer the likelihood of success if continued or repeated. The Institute shall compile lists of such programs and projects for the Administrator who shall disseminate them to State planning agencies and, upon request, to units of general local government.".

(c) Section 402(b)(3) of such Act is amended by striking out ", and to evaluate the success of correctional procedures".

AMENDMENTS TO PART E

SEC. 108. (a) Section 453(10) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(10) complies with the same requirements established for comprehensive State plans under paragraphs (5), (7), (9), (10), (12), (13), (14), (15), (16), (17), (18), (19), and (20) of section 303(b) of this title;".

(b) Section 453 of such Act is amended by—

(1) striking out "and" at the end of paragraph (11);

(2) striking out the period at the end of paragraph (12) and inserting "; and" in lieu thereof; and

(3) adding at the end the following:

"(13) sets forth minimally acceptable physical and service standards agreed upon by the Administration and the State to improve or renovate local jails. A plan incorporating such standards shall be a condition for acquiring Federal funds for *construction,* improvement and renovation of local jails.".

(c) Section 454 of such Act is amended by adding at the end the following: "The Administration shall, in consultation with the States, develop minimally acceptable physical and service standards for the improvement and renovation of local jails.".

(d) Section 455(a)(2) of such Act is amended by inserting immediately after "combinations of such units," the following: "or private nonprofit organizations,".

(e) Section 507 of such Act is amended—

(1) by inserting "(a)" immediately after "SEC. 507."; and

(2) by adding at the end the following new subsection:

"(b) In the case of a grant to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the costs of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to wave State liability and may pursue such legal remedies as are necessary.".

CIVIL RIGHTS ENFORCEMENT PROCEDURES

SEC. 109. (a) Section 509 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out "Whenever" and inserting in lieu thereof the following: "Except as provided in section 518(c), whenever".

(b) Subsection (c) of section 518 of such Act is amended to read as follows:

"(c) (1) No person in any State shall on the ground of race, color, creed, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, or be denied employment in connection with any program or activity funded in whole or in part with funds made available under this Act.

"(2) (A) Whenever there has been—

"(i) notice or constructive notice of a finding of discrimination in violation of subsection (c) (1) by a Federal or State court or administrative agency,

"(ii) notice or constructive notice of the filing of a lawsuit by the Attorney General alleging such discrimination, or

"(iii) an investigation resulting in an initial determination by the Administration (prior to a hearing under subparagraph (D)) that a State government or unit of general local government is not in compliance with subsection (c) (1),

the Administration shall, within ten days of such occurrence, notify the chief executive of the affected State, or of the State in which the affected unit of general local government is located, of the noncompliance, and shall request such chief executive to secure compliance.

"(B) In the event the chief executive secures compliance, the terms and conditions with which the recipient agrees to comply shall be set forth in writing and signed by the chief executive (and by the chief executive and the chief elected official of the unit of general local government in the event of a violation by a unit of general local government), the Administration and the Attorney General of the United States. Within fifteen days prior to the effective date of the agreement, the Administrator shall send a copy of the agreement to all complainants, if any. The chief executive (or the chief elected official) shall file semiannual reports with the Administration and the Attorney General detailing the steps taken to comply with the agreements. Within fifteen days of the receipt the Administration shall send to all complainants, if any, a copy of such compliance reports.

"(C) (i) If, at the conclusion of sixty days after notification, such chief executive fails or refuses to secure compliance, the Administration shall—

"(I) notify the Attorney General of such chief executive's failure or refusal to secure compliance, and

"(II) suspend further payment of any funds made available under this Act to that State government, or to that unit of general local government.

Such suspension may be limited to the specific program or activity cited by the Administration in the notice under subparagraph (A). Such suspension shall be effective for a period of not more than one hundred and twenty days (or not more than thirty days after the conclusion of a hearing under subparagraph (D)) unless within such period there has been an express finding by the Administration, after notice and opportunity for a hearing pursuant to subparagraph (D), that the recipient is not in compliance with subsection (e) (1).

"(ii) Payment of the suspended funds shall resume only if—

"(I) such State government or unit of general local government enters into a compliance agreement approved by the Administration and the Attorney General in accordance with subparagraph (B);

"(II) such State government or unit of general local government complies fully with the final order or judgment of a Federal court; or

"(III) after a hearing, the Administration finds that it has failed to demonstrate noncompliance.

"(D) At any time after the notification under subparagraph (A), but before the conclusion of the one-hundred-and-twenty-day period referred to in subparagraph (C), a State government or unit of general local government may request a hearing, which the Administration shall conduct within thirty days of such request or ninety days after notification, whichever is later. Within thirty days of the conclusion of the hearing, or, in the absence of a hearing, within the one-hundred-and-twenty-day period referred to in subparagraph (C), the Administration shall make a finding of compliance or noncompliance. If the Administration makes a finding of noncompliance, the Administration shall—

"(i) notify the Attorney General in order that the Attorney General may exercise his responsibilities under subsection (3);

"(ii) terminate payment of funds made available under this Act; and

"(iii) if appropriate, seek repayment of such funds.

"(E) Any State or unit of general local government aggrieved by a finding of the Administration under subparagraph (D) may appeal such finding as provided in section 511.

"(3) Whenever the Attorney General has reason to believe that a State government or unit of general local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, including the termination or repayment of funds available under this Act, or placing any further payments under the Act in escrow pending the outcome of the litigation.

"(4) (A) Upon application of the plaintiff, and in such circumstances as the court deems just, the district court may appoint an attorney and may authorize the commencement of the action without the payment of fees, costs, or security. A State court may do likewise to the extent such appointment or authorization is not inconsistent with the laws of that State.

"(B) The court may grant as relief to the plaintiff any temporary restraining order, preliminary or permanent injunction, or other order, including the suspension, termination, or repayment of funds available under this Act, or placing any further payments under this Act in escrow pending the outcome of the litigation, together with costs and reasonable attorney fees.

"(C) In any action instituted under subparagraph (A), the Attorney General or a specially designated assistant for or in the name of the United States may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.".

"(3) Whenever the Attorney General has reason to believe that a State government or unit of general local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section. Where neither party within forty-five days after the bringing of such action has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Administrator shall suspend further payment of any funds under this title to the program or activity of that State government or unit of general local government until such time as the court orders resumption of payment, notwithstanding the pendency of administrative proceedings pursuant to subsection (c) (2).

"(4) (A) In any civil action brought by a private person to enforce compliance with any provision of this title, the court may grant to a prevailing plaintiff reasonable attorney fees, unless the court determines that the lawsuit is frivolous, vexatious, brought for harassment purposes, or brought principally for the purpose of gaining attorney fees.

"(B) In any action brought to enforce compliance with any provision of this title, the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.".

EXTENSION OF PROGRAM; AUTHORIZATION OF APPROPRIATIONS

SEC. 110. (a) Section 520(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated for the purposes of carrying out this title not to exceed $220,000,000 for the period beginning on July 1, 1976, and ending on September 30, 1976, and not to exceed $880,000,000 for the fiscal year ending September 30, 1977. In addition to any other sums available for the purposes of grants under part C of this title, there is authorized to be appropriated not to exceed $15,000,000 for the fiscal year ending September 30, 1977, for the purposes of grants for community patrol activities and the encouragement of neighborhood participation in crime prevention and public safety efforts under section 301(b)(7) of this title.".

(b) Title I of such Act is amended by striking out section 512.

(c) Sections 513 through 528 of such Act are redesignated as sections 512 through 527.

ANNUAL REPORTS AMENDMENT

SEC. 111. Section 518 of the Omnibus Crime Control and Safe Streets Act of 1968 as so redesignated by section 10(c) of this Act, is amended to read as follows:

"SEC. 519. On or before December 31 of each year, the Administration shall report to the President and to the Committees on the Judiciary of the Senate and House of Representatives on activities pursuant to the provisions of this title during the preceding fiscal year. Such report shall include—

"(1) an analysis of each State's comprehensive plan and the programs and projects funded thereunder including:

"(A) the amounts expended for each of the components of the criminal justice system,

"(B) the methods and procedures followed by the State in order to audit, monitor, and evaluate programs and projects.

"(C) the descriptions and number of programs and projects, and the amounts expended therefor, which are innovative or incorporate advanced techniques and which have demonstrated promise of furthering the purposes of this title,

"(D) the descriptions and number of programs and projects, and amounts expended therefor, which seek to replicate programs and projects which have demonstrated success in furthering the purposes of this title,

"(E) the descriptions and number of program areas and related projects, and the amounts expended therefor, which have achieved the specific purposes for which they were intended and the specific standards and goals set for them,

"(F) the descriptions and number of program areas and related projects, and the amounts expended therefor, which have failed to achieve the specific purposes for which they were intended or the specific standards and goals set for them, and

"(G) the descriptions and number of program areas and related projects, and the amounts expended therefor, about which adequate information does not exist to determine their success in achieving the purposes for which they were intended or their impact upon law enforcement and criminal justice;

"(2) a detailed explanation of the procedures followed by the Administration in reviewing, evaluating, and processing the comprehensive State plans submitted by the State planning agencies and programs and projects funded thereunder;

"(3) the number of comprehensive State plans approved by the Administration without recommending substantial changes;

"(4) the number of comprehensive State plans on which the Administration recommended substantial changes, and the disposition of such State plans;

"(5) the number of State comprehensive plans funded under this title during the preceding three fiscal years in which the funds allocated have not been expended in their entirety;

"(6) the number of programs and projects with respect to which a discontinuation, suspension, or termination of payments occurred under section 509, or 518(c), together with the reasons for such discontinuation, suspension, or termination;

"(7) the number of programs and projects funded under this title which were subsequently discontinued by the States following the termination of funding under this title;

"(8) a detailed explanation of the measures taken by the Administration to audit, monitor, and evaluate criminal justice programs funded under this title in order to determine the impact and value of such programs in reducing and preventing crime; and

"(9) a detailed explanation of how the funds made available under sections 306(a)(2), 402(b), and 455(a)(2) of this title were expended, together with the policies, priorities, and criteria upon which the Administration based such expenditures.".

REGULATIONS REQUIREMENT

SEC. 112. Section 521 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by inserting immediately after subsection (c) the following:

"(d) Within one hundred and twenty days after the enactment of this subsection, the Administration shall promulgate regulations establishing—

"(1) reasonable and specific time limits for the Administration to respond to the filing of a complaint by any person alleging that a State government or unit of general local government is in violation of the provisions of this title; including reasonable time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint, and

"(2) reasonable and specific time limits for the Administration to conduct independent audits and reviews of State governments and units of general local government receiving funds pursuant to this title for compliance with the provisions of this title."; and

(2) by redesignating subsection (d) as subsection (e).

DEFINITIONS AMENDMENTS

SEC. 113. Section 601 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by striking out subsection (m);

(2) by redesignating subsections (n) and (o) as (m) and (n), respectively; and

(3) by adding at the end the following:

"(o) The term 'local elected officials' means chief executive and legislative officials of general units of local government.

"(p) The term 'local jails' means any public facility for the confinement and rehabilitation of individuals charged with or convicted of criminal offenses that houses such persons for longer than forty-eight hours but, generally, not more than one year.

"(q) The term 'court of last resort' means that State court having the highest and final appellate authority of the State. In States having two such courts, court of last resort shall mean that State court, if any, having highest and final appellate authority, as well as both administrative responsibility for the State's judicial system and the institutions of the State judicial branch and rulemaking authority. In other States having two courts with highest and final appellate authority, court of last resort shall mean that highest appellate court which also has either rulemaking authority or administrative responsibility for the State's judicial system and the institutions of the State judicial branch. The term 'court' means a tribunal recognized as a part of the judicial branch of a State or of its local government units having jurisdiction of matters which absorb resources which could otherwise be devoted to criminal matters.".

TRUST TERRITORY OF THE PACIFIC

SEC. 114. Section 601(c) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting "the Trust Territory of the Pacific Islands," after "Puerto Rico".

CONFORMING AMENDMENT TO JUVENILE JUSTICE ACT

SEC. 115. Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended bv striking out "section 303 (a) (1), (3), (5), (6), (8), (10), (11), (12), and (15)" and inserting in lieu thereof the following: "paragraphs (5), (7), (9), (10), (12), (15), (16), (19), and (20) of section 303(b)".

Mr. CONYERS (during the reading). Mr. Chairman, I ask unanmious consent that title I of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

Mr. CONYERS. Mr. Chairman, there is a series of committee amendments to title I of the bill. The amendments are printed in the report, and I ask unanimous consent that they be considered en bloc, with the exception of the so-called Jordan amendment at page 16 of the bill and the amendment that has been objected to by the gentleman from Illinois and the gentleman from California, the amendment to page 12.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. WIGGINS. Mr. Chairman, reserving the right to object, I ask the gentleman from Michigan if one of the committee amendments includes an amendment to Part E on page 16 of the bill dealing with construction standards for local correctional institutions and facilities.

Mr. CONYERS. Yes, we have that amendment. It would be included en bloc if the gentleman has no objection.

Mr. WIGGINS. I will ask the gentleman if he will separate that amendment out because of my intention to amend that portion of the bill.

Mr. CONYERS. Mr. Chairman, I ask unanimous consent to exclude the amendments at page 15 with the other two but have the rest of the committee amendments considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. BUTLER. Mr. Chairman, reserving the right to object, if I may have the attention of the gentleman from Michigan, in referring to the so-called Jordan amendment, the gentleman is referring to the amendment headed "Civil Rights Enforcement Procedures" beginning at page 23?

Mr. CONYERS. That is correct. Mr. Chairman, if the gentleman will yield, we have two bills, the reported bill and the printed committee bill, so if there is a confusion in pagination, that is the answer to it.

Mr. BUTLER. Mr. Chairman, I withdraw my reservation of objection.

Mr. WIGGINS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan (Mr. CONYERS)?

Mr. McCLORY. Mr. Chairman, reserving the right to object, does the gentleman also except from the unanimous-consent request the amendment which I think the gentleman stated was on page 12, but it is on page 13, with regard to the one-third discretionary funds for the courts?

Mr. CONYERS. Mr. Chairman, if the gentleman will yield, yes. I should say to my friend that has already been excluded from the amendments to be considered en bloc.

Mr. McCLORY. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The committee amendments to be considered en bloc are as follows:

Committee amendments:

Page 5, line 15, insert immediately after "criminal jurisdiction within the State;" the following: the development of uniform sentencing standards for criminal cases;

Page 11, line 23, strike out "and".

Page 12, line 6, strike out the period and insert in lieu thereof "; and".

Page 12, immediately after line 6, insert the following:

"(21) identifies the special needs of drug-dependent offenders (including alcoholics, alcohol abusers, drug addicts, and drug abusers) and establishes procedures for effective coordination between State planning agencies and single State agencies designated under section 409(e)(1) of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1176(e)(1)) in responding to such needs.

Page 14, immediately above line 9, insert the following:

"The Institute shall, in consultation with the National Institute on Drug Abuse, make continuing studies and undertake programs of research to determine the relationship between drug abuse and crime and to evaluate the success of the various types of drug treatment programs in reducing crime and shall report its findings to the President, the Congress, and the State planning agencies, and, upon request, to units of general local government.

Page 15, line 2, strike out "and (20)" and insert in lieu thereof "(20), and (21)".

Page 25, line 13, strike out "and".

Page 25, line 18, strike out "expenditures.'." and insert in lieu thereof the following: "expenditures; and

"(10) a complete and detailed description of the implementation of, and compliance with, the regulations, guidelines, and standards required by section 454 of this Act."

Page 27, strike out lines 4 through 8 and redesignate the succeeding subsection accordingly.

Page 28, lines 18 and 19, strike out "after October 1, 1977" and insert in lieu thereof "on or after October 1, 1978".

Page 29, lines 2 and 3, strike out "after October 1, 1977" and insert in lieu thereof "on or after October 1, 1978".

TECHNICAL AMENDMENTS

Page 6, line 2, insert a period immediately after "Act" but before the close quotation mark.

Page 13, beginning in line 2, strike out "between" and all that follows down through "paragraph" in line 4 and insert in lieu thereof the following: "immediately after the sentence beginning with 'In the case of a grant under such paragraph'."

Page 15, line 3, strike out the period immediately following "title" and insert a semicolon in lieu thereof.

Page 16, line 11, strike out "States" and insert "State" in lieu thereof.

Page 22, strike out lines 13 and 14.

Page 22, line 16, strike out "518" and insert in lieu thereof "519".

Page 22, beginning in line 17, strike out "as so redesignated by section 10(c) of this Act".

Page 27, line 2, strike out "general" where it appears after "officials of" and insert "general" immediately after "units of".

Page 28, line 4, insert a comma immediately after "Rico".

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 12, line 22, immediately after "(d)" insert "(1)", and page 12, immediately after line 25, insert the following new paragraph:

(2) Section 306(a)(2) is further amended by inserting immediately before the period at the end thereof the following: ", but no less than one-third of the funds made available under this paragraph shall be distributed by the Administration in its discretion for the purposes of improving the administration of criminal justice in the courts, reducing and eliminating criminal case backlog, or accelerating the processing and disposition of criminal cases".

Mr. McCLORY. Mr. Chairman, I rise in opposition to the committee amendment which would earmark one-third of LEAA's discretionary funds for use for court programs.

The effect of the provision would be to provide an overly disproportionate share of LEAA discretionary funds for court programs. As it is, part C discretionary funds represent only 15 percent of moneys appropriated for part C programs. The remaining 85 percent of the funds are allocated among the States as block grants. The amount of discretionary funding available is small. In fiscal year 1976, there was appropriated approximately $70 million for the part C discretionary grant program. Of the $70 million, about 20 percent or $14 million was required to be used for juvenile delinquency programs pursuant to section 520(b) of the Omnibus Crime Control and Safe Streets Act. That left about $56 million for the discretionary grant program. To set aside one-third of discretionary funds for court programs would drastically reduce the funds available for other innovative and worthwhile programs focusing on such areas as career criminals, organized crime, citizens initiatives, Indian programs, crimes against business, standards and goals efforts, et cetera.

The proposed earmarking may also discriminate against smaller States. Currently, LEAA, through the discretionary grant program, provides a small State supplement to assure the availability of a minimum part C block grant allocation of at least $1.065 million for all States. The following States are participating in this program: Alaska, Hawaii, Idaho, Montana, Nevada, New Hampshire, North Dakota, South Dakota, Vermont, and Wyoming, as well as the District of Columbia, American Samoa, Guam, and Virgin Islands. This provision in the bill could very well force LEAA to terminate providing part C block grant supplements to these States.

Any earmarking of discretionary funds would be an impediment in carrying out the objective of the LEAA discretionary grant program. LEAA is expected to use the discretionary grant funds to exert national leadership in search of new and innovative approaches to controlling crime and improving the criminal justice system in America. In carrying out this mission, LEAA must take into consideration the needs of all segments of the system. However, if one segment of the system is earmarked to annually receive a given percentage of what were previously discretionary funds, LEAA would be severely limited in effectively searching out the new and innovative approaches necessary to an improved and enlightened criminal justice system and its leadership role could be seriously—even permanently impaired.

It is my opinion that other provisions of the bill which insure that court programs are included in each State comprehensive plan and that court programs receive an adequate share of part C block funds is a preferable approach to remedy the concerns expressed by members of the State judicial bodies in testimony before the Senate Judiciary Committee.

Mr. CONYERS. Mr. Chairman, I rise in support of the committee amendment, and offer these considerations:

It has been proven in subcommittee; and this matter was debated very extensively in the full committee—that we ought to set aside for the judges, the one-third discretionary fund for the simple reason that our courts are in trouble and the judges clearly do not have the political clout to receive the kind of funding that would come out of the discretionary fund. This would not come out of the block grant. That means no money would be taken away from the States for that purpose.

I want to point out that the one-third we are talking about is only about $20 to $25 million out of the discretionary fund pot. LEAA allocated 22 percent of its fund for this purpose last year. The only problem that causes us to write it into the law in this manner—and our committee backs this fully—is the simple fact that LEAA, in exercising its discretion, may not give the courts 22 percent out of their discretionary funds this year. So, we are asking that this one-third be made available and distributed by the administration at its discretion.

They too will still have to determine where it will go, which courts it will go to, what States will benefit from it based on their impartial judgment, what types of court projects will be funded so we are not taking anything away from the LEAA administration. We are merely trying to make our views on this more emphatic to them.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I rise in strong support of the committee amendment. I would briefly say the following:

There is no question that one of the most serious problems confronting the administration of justice in this country is the "revolving door" type of justice that has plagued State court systems around the country. It seems to me terribly important for the Congress to take cognizance of this problem. In fact, it would be irresponsible for Congress to ignore this problem.

At issue is not whether the States will make a decision or the Congress will make a decision; the issue is whether the LEAA Administrator, a bureaucrat, will make a decision about crime fighting priorities or whether the Congress will make that decision.

We are talking about discretionary funds in the hands of the LEAA Administrator. We are not talking about block grant moneys that go to States. The question is whether the LEAA Administrator is to set priorities for the use of discretionary funds or whether Congress shall do so. I believe firmly that Congress should set those priorities.

I believe also that speeding criminal trials is a very important priority. If the Congress says today that speeding up the disposition of criminal cases is a problem that should be addressed, we can begin to make some progress in correcting this very serious problem that has undermined the morale of the public and has undermined profoundly the administration of justice in America.

Mr. CONYERS. Mr. Chairman, I support the arguments made by the gentlewoman from New York, and I urge that this provision be retained in the committee bill. Therefore, I urge a vote for the committee amendment.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Chairman, I want to explain what we are considering here is a committee amendment. In order for the committee amendment to be adopted, there would have to be an "aye" vote on the amendment. I am opposing the committee amendment. Consequently, a "no" vote would strike the committee amendment and would defeat the committee amendment.

Mr. FISH. I thank the gentleman.

Mr. Chairman, the chairman of the subcommittee, who brought this bill before us today, will remember that he and I were in the conference 3 or 4 years ago on this measure and a similar situation confronted us, where the Senate had earmarked some 20 or 30 percent of LEAA authorization for juvenile justice. It was very difficult for us to go over to the other body and say, "No, we do not want *x* percentage of these funds marked for upgrading juvenile justice."

I think we have the same issue here today, that no matter what the merits of stressing our criminal justice system are, the issue gets down to earmarking. Maybe someone would want one-quarter or one-fifth for judges, maybe someone else would want one-quarter for something equally important, and pretty soon we get away from the original concept and we have something different. We have the Congress mandating what should be done rather than having a block grant concept. No matter how meritorious any earmarking of these funds would be, I must oppose it because we simply open the door for one person's favorite over another person's.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. I thank the gentleman for yielding.

The gentleman has listed about the only exceptions that there are. It is the exception to prison corrections, 20 percent in part. For juvenile justice, we have earmarked $112 million. Now we have a limitation on personnel and salaries to one-third.

We have this matter for the judges, a $20 million amendment of one-third of the discretionary fund, when 22 percent was given by LEAA's discretion last year without any such provision. We are merely trying to show that we support what they did last year, and we would like to keep it at that level. The judges are not politicians. We give them this support and create a minor exception to the block grant approach, but I do not think it is a serious one when a $700 million bill has a $20 million categorical exception.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. I thank the gentleman for yielding.

Mr. Chairman, I would like to point out, as I mentioned before, that the committee amendment does no violence to the block grant approach. It does not even touch the block grant moneys. This amendment only deals with priorities that are discretionary with the LEAA Administrator, and the only issue is, who is to set the priority, the Administrator or the Congress?

The committee amendment does not deal solely with the courts. It deals with prosecutors and defense attorneys. It deals with how to eliminate the revolving-door system of justice, the complaints about plea bargaining, the disposition of cases, and whether it is inappropriate with a system to administer justice in an effective manner. I think we are not going to begin to deal with this problem unless Congress says, "We think this is a priority, and we are going to tell the LEAA Administrator what our priority is."

Mr. FISH. The gentlewoman, I am sure, is not inferring that there is anybody in this Chamber who is not very much aware of the problem the gentlewoman just enunciated. That is not the issue. There are so many crying needs, I wish twice as much money were involved here to deal with these issues. The question is not the urgency of the issue. The question is far more fundamental, and that is whether or not we ought to have a block grant concept or whether we are going to say, "This is what is important," and go back and say, "Forget about LEAA, forget about the block grant concept, forget about what we talked about since 1970," and say, "We in the Congress are going to say where you are going to spend the money."

Now, when we say that this is the way a certain extra percentage will be spent, that is quite a lot different from saying that in the case of salaries no more than a certain amount is going to be spent.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in modest opposition to the committee amendment; not with the full, vigorous opposition I may express later on to other provisions of the bill.

The gentlewoman from New York (Ms. HOLTZMAN) is, of course, correct that this is not destructive per se of the block grant concept, since we are dealing with that 15 percent set-aside of the discretionary funds, which is within the unique jurisdiction of a Federal officer, namely, the Administrator. But let us bear in mind that the 85 percent which is distributable pursuant to State plans can be used now for improvements in the administration of justice if the State planning agency is persuaded by the judiciary in a given State that the funds ought to be spent for that purpose.

Very frankly, I am concerned that States have given inadequate attention to the pleas of their judges and prosecutors in emphasizing within the block grants the needs of the criminal justice system.

The thrust of this committee amendment, Mr. Chairman, which is troublesome to me, is that we mandate a one-third set-aside. The funds within that category must be spent for the improvement of a criminal justice system. That will necessitate that the administrators of the criminal justice system come forth with proposals to the Administrator.

I want to tell the Members that probably no group in our governmental establishment is less competent in writing programs than is the judiciary. I suspect that they are not equipped to make claims at this time for a full one-third of these funds, but to the extent that a State judiciary is able to make a persuasive case to LEAA they are eligible for funding even if we do not adopt the committee amendment.

The problem is that we are limiting the appropriate discretion of the Administrator with respect to the expenditure of discretionary funds and mandating that one-third of the funds available to him be set aside for a purpose, even though the plans are not ready and probably will not be ready for the prudent expenditure of the funds. It is clear from the legislative history that this Congress is concerned about the judicial system. It is also clear to the Administrator that we expect that he will give greater attention than perhaps he has in the past to the needs of judicial administration. That ought to be enough without mandating the one-third set-aside.

Mr. Chairman, primarily for those reasons I intend to oppose the committee amendment.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, if my colleague, the gentleman from California, grants that the gentlewoman from New York (Ms. HOLTZMAN) is correct that the block grant question really is not involved here, would he object to our mandating that this 22 percent which was eventually given last year be fixed at 33 percent for this one single year? The gentleman must remember that this bill is an authorization for this period. It is only for 1 year, until October 1, 1977.

Mr. WIGGINS. Mr. Chairman, in answer to the gentleman, yes, I would.

Mr. CONYERS. Then I will urge that all the Members agree to the committee amendment.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, it seems to me that this is putting a unique provision into this law to mandate that not less than one-third of the discretionary funds be made available to the courts. That is quite inconsistent with the whole philosophy of this legislation in the past, and it deprives a State planning agency and the administrator of Washington of the opportunity to make the crucial decisions as to what the priorities should be in connection with the fight against crime in America.

Mr. WIGGINS. Mr. Chairman, just to conclude, this amendment is going to inhibit the States from dealing with this problem themselves. It is going to be very easy for State planning agencies to turn down requests from the State judiciary and say, "You fellows are taken care of separately under the discretionary funding available to the Administrator."

Mr. Chairman, it would be very unfortunate if it had that consequence. Therefore, I urge a no vote on this committee amendment.

Mr. BUTLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. BUTLER. Mr. Chairman, I expect to vote no on the committee amendment for many of the reasons outlined by the gentleman from California (Mr. WIGGINS).

The courts represent less than 10 percent of the State and local criminal justice budgets and probably less than 5 percent of the total number of State and local criminal justice personnel. A commitment of one-third of the discretionary funds, in my judgment, is out of proportion to their resources and their importance to the criminal justice system.

It seems to me entirely inappropriate to limit the use of discretionary funds as to this one-third, and I will vote against the committee amendment.

The CHAIRMAN. The question is on the Committee amendment.

The question was taken; and on a division (demanded by Mr. MCCLORY), there were—ayes 16, noes 22.

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

Ms. HOLTZMAN. Mr. Chairman, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Michigan (Mr. CONYERS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 173, noes 214, not voting 44, as follows:

[Roll No. 682]

AYES—173

Adams
Addabbo
Allen
Anderson, Calif.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baucus
Beard, R.I.
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr
Cleveland
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Delaney
Dellums
Dent
Derwinski
Diggs
Dingell
Dodd
Drinan
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Fary
Fascell
Fithian
Flood
Ford, Mich.
Ford, Tenn.
Fraser
Giaimo
Gonzalez
Gude
Hall, Ill.
Hanley
Hannaford
Harkin
Harrington
Hayes, Ind.
Hechler, W. Va.
Hicks
Holtzman
Howard
Hungate
Hyde
Johnson, Calif.
Jordan
Kastenmeier
Kazen
Koch
Krebs
Krueger
Leggett
Long, La.
Long, Md.
Lujan
McCormack
McFall
Madden
Madigan
Maguire
Mazzoli
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Nedzi
Nix
Nolan
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pike
Price
Rangel
Reuss
Richmond
Riegle
Rodino
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Simon
Slack
Solarz
Staggers
Stark
Steed
Stokes
Stratton
Studds
Sullivan
Symington
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Van Deerlin
Vander Veen
Vanik
Waxman
Weaver
Wilson, C. H.
Wirth
Wolff
Yates
Yatron
Young, Ga.
Zablocki

NOES—214

Abdnor
Alexander
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Bafalis
Baldus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Bowen
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collins, Tex.
Conable
Conte
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
Derrick
Devine
Dickinson
Downey, N.Y.
Duncan, Tenn.
Early
Edwards, Ala.
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Fenwick
Findley
Fish
Fisher
Florio
Flowers
Flynt
Foley
Fountain
Frenzel
Frey
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Tex.
Hamilton
Hammerschmidt
Hansen
Harris
Harsha
Hébert
Heckler, Mass.
Hefner
Henderson
Hightower
Hillis
Holt
Hubbard
Hughes
Hutchinson
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kelly
Kemp
Ketchum
Keys
Kindness
LaFalce
Lagomarsino
Landrum
Latta
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Lott
Lundine
McClory
McCloskey
McCollister
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Mahon
Mann
Martin
Mathis
Meeds
Michel
Milford
Miller, Ohio
Mills
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Natcher
Neal
Nichols
Nowak
O'Brien
Paul
Pettis
Pickle
Poage
Pressler
Preyer
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rogers
Roush
Rousselot
Runnels
Ruppe
Ryan
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
Spence
Stanton, J. William
Steiger, Wis.
Stephens
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Treen
Ullman
Vander Jagt
Vigorito
Waggonner

Walsh
Wampler
Whalen
White
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wright
Young, Fla.
Young, Tex.

NOT VOTING—44

Abzug
Ambro
Anderson, Ill.
Armstrong
Chappell
Chisholm
Clay
Collins, Ill.
Conlan
de la Garza
Downing, Va.
Duncan, Oreg.
du Pont
Evins, Tenn.
Forsythe
Fuqua
Green
Hawkins
Hays, Ohio
Heinz
Helstoski
Hinshaw
Holland
Horton
Howe
Jones, Ala.
Karth
Lehman
Matsunaga
Passman
Peyser
Rees
Roe
St Germain
Shipley
Sisk
Stanton,
  James V.
Steelman
Steiger, Ariz.
Whitehurst
Wydler
Wylie
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Ambro for, with Mr. Downing of Virginia against.

Mr. Zeferetti for, with Mr. Chappell against.

Mr. Hawkins for, with Mr. Evins of Tennessee against.

Ms. Abzug for, with Mr. Passman against.

Mr. St Germain for, with Mr. Conlan against.

Mr. Matsunaga for, with Mr. Steiger of Arizona against.

Mr. Helstoski for, with Mr. Whitehurst against.

Mrs. Chisholm for, with Mr. Wylie against.

Mr. Roe for, with Mr. Wydler against.

Mr. **WINN** and Mr. **COUGHLIN** changed their vote from "aye" to "no."

Messrs. **TSONGAS**, **BAUCUS**, and **STUDDS** changed their vote from "no" to "aye."

So the committee amendment was rejected.

The result of the vote was announced as above recorded.

The **CHAIRMAN**. The Clerk will report the next committee amendment.

Mr. **CONYERS**. Mr. Chairman, I ask unanimous consent that all the committee amendments relating to correctional facilities be considered en bloc.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Michigan?

Mr. **ROUSSELOT**. Mr. Chairman, reserving the right to object, will the committee amendments still be read?

The **CHAIRMAN**. The committee amendments will be read.

Mr. **ROUSSELOT**. Mr. Chairman, I withdraw my reservation of objection.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The **CHAIRMAN**. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 15, line 12, insert "construct," immediately before "improve".

Page 15, line 12, strike out "local jails" and insert in lieu thereof "State and local correctional institutions and facilities".

Page 15, line 14, insert "construction," immediately before "improvements".

Page 15, line 15, strike out "local jails" and insert in lieu thereof "State and local correctional institutions and facilities".

Page 15, line 19, insert "construction," immediately before "improvement".

Page 15, line 20, strike out "local jails" and insert in lieu thereof "State and local correctional institutions and facilities".

The committee amendments were agreed to.

The **CHAIRMAN**. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 16, strike out line 16 and all that follows down through line 18 on page 21 (section 109 of bill), and insert in lieu thereof the following:

CIVIL RIGHTS ENFORCEMENT PROCEDURES

SEC. 109. (a) Section 509 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out "Whenever the Administration" and inserting in lieu thereof "Except as provided in section 518(c), whenever the Administration".

(b) Section 518(c) of such Act is amended to read as follows:

"(c)(1) No person in any State shall on the ground of race, color, religion, national origin, sex, or creed be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or be denied employment in connection with any program or activity funded in whole or in part with funds made available under this title.

"(2)(A) Whenever there has been—

"(i) notice or constructive notice of a finding, after notice and opportunity for a hearing, by a Federal court or administrative agency, or State court or administrative agency, to the effect that there has been a pattern or practice in violation of subsection (c)(1); or

"(ii) a determination after an investigation by the Administrator that a State government or unit of general local government is not in compliance with subsection (c)(1); the Administrator shall, within 10 days after such occurrence, notify the chief executive of the affected State, or of the State in which the affected unit of general local government is located, and the chief executive of such unit of general local government, that such program or activity has been so found or determined not to be in compliance with subsection (c)(1), and shall request each chief executive, notified under this subparagraph with respect to such violation, to secure compliance.

"(B) In the event a chief executive secures compliance after notice pursuant to subparagraph (A), the terms and conditions with which the affected State government or unit of general local government agrees to comply shall be set forth in writing and signed by the chief executive of the State, by the chief executive of such unit (in the event of a violation of a unit of general local government), by the Administrator, and by the Attorney General. At least 15 days prior to the effective date of the agreement, the Administrator shall send a copy of the agreement to each complainant, if any, with respect to such violation. The chief executive of the State, or the chief executive of the unit (in the event of a violation by a unit of general local government) shall file semiannual reports with the Administrator and the Attorney General detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports the Administrator shall send a copy thereof to each such complainant.

"(C) If, at the conclusion of 90 days after notification under subparagraph (A)—

"(i) compliance has not been secured by the chief executive of that State or the chief executive of that unit of general local government and

"(ii) a court has not granted preliminary relief pursuant to subsection (c)(3);

the Administrator shall notify the Attorney General that compliance has not been secured and suspend further payment of any funds under this title to that program or activity. Such suspension shall be limited to the specific program or activity cited by the Administration in the notice under subparagraph (A). Except as otherwise provided in this paragraph, such suspension shall be effective for a period of not more than 120 days, or, unless there has been an express finding by the Administrator, after notice and opportunity for a hearing under subparagraph (E), that the recipient is not in compliance with subsection (c)(1) not more than 30 days after the conclusion of such hearing, if any.

"(D) Payment of the suspended funds shall resume only if—

"(i) such State government or unit of general local government enters into a compliance agreement approved by the Administration and the Attorney General in accordance with subparagraph (B);

"(ii) such State government or unit of general local government complies fully with the final order or judgment of a Federal or State court, if that order or judgment covers all the matters raised by the Administrator in the notice pursuant to subparagraph (A), or is found to be in compliance with subsection (c)(1) by such court; or

"(iii) the Administrator pursuant to subparagraph (E) finds that noncompliance has not been demonstrated.

"(E)(i) at any time after notification under subparagraph (A), but before the conclusion of the 120-day period referred to in subparagraph (C), a State government or unit of general local government may request a hearing, which the Administration shall initiate within 30 days of such request unless a court has granted preliminary relief pursuant to subsection (c)(3).

"(ii) Within 30 days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the 120-day period referred to in subparagraph (C), the Administrator shall make a finding of compliance or noncompliance. If the Administrator makes a finding of noncompliance, the Administrator shall notify the Attorney General in order that the Attorney General may institute a civil action under subsection (c)(3), terminate the payment of funds under this title, and, if appropriate, seek repayment of such funds.

"(iii) If the Administrator makes a finding of compliance, payment of the suspended funds shall resume as provided in subparagraph (D).

"(F) Any State government or unit of general local government aggrieved by a final determination of the Administrator under subparagraph (E) may appeal such determination as provided in section 511 of this title.

"(3) Whenever the Attorney General has reason to believe that a State government or unit of general local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section. Where neither party within 45 days after the bringing of such action has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Administrator shall suspend further payment of any funds under this title to the program or activity of that State government or unit of general local government until such time as the court orders resumption of payment, notwithstanding the pendency of administrative proceedings pursuant to subsection (c)(2).

"(4)(A) In any civil action brought by a private person to enforce compliance with any provision of this title, the court may grant to a prevailing plaintiff reasonable attorney fees, unless the court determines that the lawsuit is frivolous, vexatious, brought for harassment purposes, or brought principally for the purpose of gaining attorney fees.

"(B) In any action brought to enforce compliance with any provision of this title, the Attorney General, or a specifically designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.".

Mr. **CONYERS** (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the committee amendment be dispensed with, and that it be printed in the RECORD.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Michigan?

Mr. **BUTLER**. Mr. Chairman, reserving the right to object, is that the civil rights enforcement procedures amendment?

The **CHAIRMAN**. The gentleman is correct.

Mr. **BUTLER**. Mr. Chairman, I withdraw my reservation of objection.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Michigan?

There was no objection.

AMENDMENT OFFERED BY MR. BUTLER TO THE COMMITTEE AMENDMENT

Mr. **BUTLER**. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER to the committee amendment: On page 23 beginning with line 17, strike out all down through line 3 on page 29, and insert in lieu thereof the following:

(c) (1) No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any program or activity funded in whole or in part with funds made available under this title.

(2) (A) Whenever there has been—

(i) receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal court (other than in an action brought by the Attorney General) or State court, or by a Federal or State administrative agency (other than the Administrator under subparagraph (ii)), to the effect that there has been a pattern or practice of discrimination in violation of subsection (c) (1); or

(ii) a determination after an investigation by the Administrator (prior to a hearing under subparagraph (F) but including an opportunity for the State government or unit of local government to make a documentary submission regarding the allegation of discrimination with respect to the funding of such program or activity, with funds made available under this title) that a State government or unit of general local government is not in compliance with subsection (c) (1);

the Administrator shall, within 10 days after such occurrence, notify the chief executive of the affected State, or the State in which the affected unit of general local government is located, and the chief executive of such unit of general local government, that such program or activity has been so found or determined not to be in compliance with subsection (c) (1), and shall request each chief executive, notified under this subparagraph with respect to such violation, to secure compliance. For purposes of subparagraph (i) a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

(B) In the event the chief executive secures compliance after notice pursuant to subparagraph (A), the terms and conditions with which the affected State government or unit of general local government agrees to comply shall be set forth in writing and signed by the chief executive of the State, by the chief executive of such unit (in the event of a violation by a unit of general local government), and by the Administrator and the Attorney General. On or prior to the effective date of the agreement, the Administrator shall send a copy of the agreement to each complainant, if any, with respect to such violation. The chief executive of the State, or the chief executive of the unit (in the event of a violation by a unit of general local government) shall file semiannual reports with the Administrator detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports, the Administrator shall send a copy thereof to each such complainant.

(C) If, at the conclusion of 90 days after notification under subparagraph (A)—

(i) compliance has not been secured by the chief executive of that State or the chief executive of that unit of general local government; and

(ii) an administrative law judge has not made a determination under subparagraph (F) that it is likely the State government or unit of local government will prevail on the merits; the Administrator shall notify the Attorney General that compliance has not been secured and suspend further payment of any funds under this tile to that program or activity. Such suspension shall be limited to the specific program or activity cited by the Administration in the notice under subparagraph (A). Such suspension shall be effective for a period of not more than 120 days or, if there is a hearing under subparagraph (G), not more than 30 days after the conclusion of such hearing, unless there has been an express finding by the Administrator after notice and opportunity for such a hearing, that the recipient is not in compliance with subsection (c) (1).

(D) Payment of the suspended funds shall resume only if—

(i) such State government or unit of general local government enters into a compliance agreement approved by the Administrator and the Attorney General in accordance with subparagraph (B);

(ii) such State government or unit of general local government complies fully with the final order or judgment of a Federal or State court, or by a Federal or State administrative agency if that order or judgment covers all the matters raised by the Administrator in the notice pursuant to subparagraph (A), or is found to be in compliance with subsection (c) (1) by such court; or

(iii) after a hearing the Administrator pursuant to subparagraph (F) finds that noncompliance has not been demonstrated.

(E) Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, national origin, or sex in any program or activity of a State government or unit of local government which State government or unit of local government receives funds made available under this title, and the conduct allegedly violates the provisions of this section and neither party within 45 days after such filing has been granted such preliminary relief with regard to the law, the Administrator shall suspend further payment of any funds under this title to that State government or that unit of local government until such time as the court orders resumption of payment.

(F) Prior to the suspension of funds under subparagraph (C), but within the 90-day period after notification under subparagraph (C), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (G), prevail on the merits on the issue of the alleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under subparagraph (C) pending a finding of noncompliance at the conclusion of the hearing on the merits under subparagraph (F).

(G) (i) At any time after notification under subparagraph (A), but before the conclusion of the 120-day period referred to in subparagraph (C), a State government or unit of general local government may request a hearing, which the Administration shall initiate within 30 days of such request.

(ii) Within 30 days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the 120-day period referred to in subparagraph (C), the Administrator shall make a finding of noncompliance, the Administrator shall notify the Attorney General in order that the Attorney General may institute a civil action under subsection (c) (3), terminate the payment of funds under this title, and, if appropriate, seek repayment of such funds.

(iii) If the Administrator makes a finding of compliance, payment of the suspended funds shall resume as provided in subparagraph (D).

(H) Any State government or unit of general local government aggrieved by a final determination of the Administrator under subparagraph (G) may appeal such determination as provided in section 511 of this title.

(3) Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under this Act, or placing any further payments under this title in escrow pending the outcome of the litigation.

(4) (A) Whenever a State government or unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this Act, a civil action may be instituted after exhaustion of administrative remedies by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction. Administrative remedies shall be deemed to be exhausted upon the expiration of sixty days after the date the administrative complaint was filed with the Administration, or any other administrative enforcement agency, unless within such period there has been a determination by the Administration or the agency on the merits of the complaint, in which case such remedies shall be deemed exhausted at the time the determination becomes final.

(B) In any civil action brought by a private person to enforce compliance with any provision of this title, the court may grant to a prevailing plaintiff reasonable attorney fees, unless the court determines that the lawsuit is frivolous, vexatious, brought for harassment purposes, or brought principally for the purpose of gaining attorney fees.

(C) In any action instituted under this section to enforce compliance with section 518(c)(1), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

Mr. **BUTLER** (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment to the committee amendment be dispensed with, and that it be printed in the Record.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. **BUTLER**. Mr. Chairman, I offer this amendment in the nature of a substitute to the civil rights enforcement procedures of this bill for one basic reason—consistency. This amendment is offered to insure that this House of Representatives speaks clearly, concisely, and most importantly, consistently on the subject of civil rights enforcement for State and local governments' activities which are funded wholly or in part by Federal dollars. On June 10, 1976, this House adopted an amendment to the Fiscal Assistance Act Amendments of 1976—revenue sharing—offered by the gentleman from North Carolina (Mr. Fountain). The nondiscrimnation provisions contained in the Fountain amendment provided a major expansion of civil rights protections. Indeed, the amendment extended the prohibition against discrimination to all activities of local government.

In substantially every respect the amendment before you today coincides with the Fountain amendment you adopted by a vote of 233 to 172 on June 10. It is important to look at what it does and how it differs from the language in the bill, as reported.

The enforcement mechanism is composed of two separate tracks of activity. The first track permits the LEAA Administrator to determine, after an investigation by the agency or after a finding of discrimination by a Federal or State court or agency, that the recipient of the funds is in noncompliance with the civil rights provisions of the bill. When this occurs, funds will be suspended for 90 days after the recipient government is notified unless one of the following occurs: First, a preliminary hearing before an administrative law judge determines the recipient is likely to prevail on the merits; two, a voluntary compliance agreement is reached and agreed to by both LEAA and the recipient, or three, the Administrator determines that there is no basis for the charge of discrimination.

If there is no determination in a preliminary hearing within 90 days, funds will be suspended temporarily. During a subsequent 120-day period, final determinations may be made as to the existence of the discrimination. If a determination is made that discrimination exists, funds will be terminated until the recipient government comes into compliance with a court order or administrative finding. There will be no reinstatement of the funds until there is a final determination as to the existence or nonexistence of discrimination.

The suspension of funds shall not exceed 120 days after the end of the 90-day notification period or 30 days after the conclusion of a hearing unless there has been an express finding of discrimination by the recipient government.

The second track of activity is the suspension of funds as a result of a suit filed by the Attorney General. This will occur 45 days after the filing of a suit, unless preliminary relief has been granted in response to the recipient government. The Attorney General must allege a pattern or practice of discrimination in the use of the funds in the suit filed in order for funds to be suspended.

Finally, private civil actions are authorized against a State government or unit of local government where an officer or employee in an official capacity has engaged in a pattern or practice of discrimination prohibited by this section. The suit will be after the exhaustion of all administrative remedies which will be limited to 60 days from the filing of the complaint.

The most important difference between this substitute amendment and the language in the bill before you can be stated simply in two words, "due process." First, in my amendment section 2(A)(ii) provides that the recipient has an opportunity to submit documents which could help show that it has been acting properly before the Administrator decides that information supplied to him by his investigators in fact contains all the relevant information. Now the Administrator will be able to study both sides of the story before he determines that a recipient has been discriminating and decides to initiate the time schedule contained in the section.

Second, the language in the bill as reported, provides that if a court has not granted preliminary relief within 45 days of filing an action for relief, the Adminstrator must suspend payment of the funds after 90 days. If our paychecks were based on a court acting within 45 days as some police officers' might be, I think we would all go hungry. In any event, this amendment, like the Fountain amendment, provides for a preliminary probable cause hearing. If, in the hearing, the recipient can show that it is likely to succeed on the merits in a compliance hearing, the suspension will be deferred until the conclusion of the hearing on the merits. Remember, the burden of proof is on the recipient of the funds, not the complainant as it is in most administrative hearing procedures. If the recipient is unable to show that it is likely to succeed, the temporary 120-day suspension will proceed after the running of the 90-day period.

There are other minor changes, but most are consistent with the Fountain amendment. The following provisions of the Fountain amendment are not included in the proposal because they were not included in the committee amendment, as reported:

First. The inclusion of the words "age" and "handicapped status" in the nondiscrimination language of the section;

Second. The accompanying references to the acts which define the provisions of the nondiscrimination section;

Third. A paragraph which disclaims application of the section if the State or unit of local government proves by clear and convincing evidence that the program is not funded in whole or in part by revenue sharing funds—similar language, however, appears in both the substitute and the committee amendment;

Fourth. Authority for the Attorney General and the Secretary of the Treasury to share personnel and other resources with respect to civil rights compliance—not necessary since the LEAA Administrator works for the Attorney General;

Fifth. A requirement that regulations be promulgated by a date certain;

Sixth. A section defining the types of relief which the court may grant in private civil actions; and

Seventh. A section which authorizes the payment of reasonable attorneys' fees to prevailing plaintiffs.

The nondiscrimination language in this bill as reported was adopted at a full Judiciary Committee meeting on May 12, 1976. No witnesses testified and no views from the administration or from private witnesses were obtained. On the other hand, this substitute has been accepted by this House of Representatives. I hope this amendment will insure fair and effective enforcement of our civil rights statutes for all persons who work under and benefit from Federal funds.

Ms. **JORDAN**. Mr. Chairman, will the gentleman yield?

Mr. **BUTLER**. I yield to the gentlewoman from Texas.

Ms. **JORDAN**. Mr. Chairman, I thank the gentleman for yielding.

As the original author of this amendment as it appears in the committee bill, may I say that the amendment which has been offered by the gentleman from Virginia (Mr. Butler) does not do violence to either the concept of civil rights enforcement in this bill or to the methodology or the process which must be engaged in in effectuating and making real these civil rights provisions.

Therefore, Mr. Chairman, I would simply urge the adoption of the gentleman's amendment.

The **CHAIRMAN**. The question is on the amendment offered by the gentleman from Virginia (Mr. Butler) to the committee amendment.

The amendment to the committee amendment was agreed to.

The **CHAIRMAN**. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. **McCLORY**. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McClory: Page 29, lines 12 and 13, strike out "and not to exceed $880,000,000 for the fiscal year ending September 30, 1977." and insert in lieu thereof the following: "$1,000,000,000 for the fiscal year ending September 30, 1977, $1,250,000,000 for the fiscal year ending September 30, 1978, and $1,250,000,000 for the fiscal year ending September 30, 1979."

Mr. McCLORY. Mr. Chairman, what this amendment does is to extend the LEAA bill for 3 years, in pure and simple language.

I particularized the message with a "Dear Colleague" letter so that we all know what this is all about.

Mr. Chairman, certainly if we extended this measure for only 1 year, we can see the terrible dilemma we would be placing ourselves in, not to say all of the States and local areas that are expected to find out what is in this bill and to operate under it during the next year.

We can recognize, too, that if we only extend it for the next year and we wait for the new Congress to convene and to organize committees and to conduct hearings before we can have a further extension of the bill next year, we will just be in complete chaos insofar as this program is concerned.

Mr. Chairman, we are putting a number of new provisions into this law. The State planning agencies are going to have to get used to it. The local areas are going to have to adjust to the changes we are making. We are providing programs for the elderly, for instance. We are providing for neighborhood programs and community-type programs that are going to have to be funded under this legislation. To put the States and the local areas in the dilemma where they are not going to know whether or not the program is going to be continued for an additional year or 2 years, of course, would place them in a horrible situation.

Mr. Chairman, I know that this program has come under criticism. We have reviewed it. We have spent time on it. There may be further revisions that are indicated. I think the principal revision we will need, in addition to what we put into the bill, is more funds for the local and State areas in order to help them in their law enforcement programs.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield for a question?

Mr. McCLORY. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, without speaking to the merits of this amendment, I would like to raise a question of whether or not there has been any consultation with the House Committee on the Budget, which is making a serious effort to bring Government spending under control. One of the means by which we are attempting to do this is to examine zero-base budgeting.

Mr. McCLORY. Mr. Chairman, I will respond to the gentleman by saying that this was cleared with the Committee on the Budget with respect to this year's authorization. We are really only authorizing 1 year at a time; and of course, we are only appropriating 1 year at a time. However, we are extending the authority of this legislation for a period of 3 years.

Of course, next year the Committee on Appropriations and the Committee on the Budget would have authority to establish the budget and to fix the appropriations for this legislation.

But, it seems to me to be a great disservice to ourselves and to the Congress that will convene here next January and to the administration that will be charged with the responsibility of this legislation for all of the States and local areas that have to undertake to operate under this legislation, and it is entirely unrealistic. I do not think our criticism against this legislation should be taken out by this committee in short rein, nor do I feel we should say we will only extend it for 1 year because we will get 3 years in the conference. Indeed, the Senate did extend the program for 5 years, and that was the recommendation of the administration, and this may be the compromise that I am offering of 3 years. But anything less than that is irresponsible, unrealistic, and entirely unfair to every law enforcement agency in this country.

Mr. MITCHELL of Maryland. Mr. Chairman, I thank the gentleman for answering my question.

Mr. Chairman, will the gentleman yield further?

Mr. McCLORY. I will be happy to yield further to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I would ask the gentleman from Illinois (Mr. McCLORY), Does it not appear logical to assume that each time we go in for a 3-year authorization, or a 5-year authorization, in effect, we are beginning to lock in place a sustained level of Federal spending and that is precisely opposite to what the will of the House is, apparently?

Mr. McCLORY. With respect to the law enforcement program, it seems to me that, if you plan anything less than a 3-year program you are not planning, because even the moneys we are putting in now with respect to the elderly, it will take a year or 2 before these can be studied and implemented in a period of less than 3 years, or to continue the overall governmental responsibility to fight crime and reduce the incidence of crime in this country, and to support the local law enforcement agencies in the criminal justice system it seems to me we need at least 3 years.

I urge a favorable vote on the amendment.

Mr. MITCHELL of Maryland. Mr. Chairman, I must say that I find myself in disagreement with the gentleman and with the House Committee on the Budget on this issue, if indeed the Budget Committee favors a 3-year extension.

Mr. CONYERS. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I would like to remind the members of the committee that we voted for a 2-year extension of LEAA in 1973 and probably for the same good reasons I am citing today.

We have a program that has spent $4½ billion while the rate of crime has, as the Members know, gone up 18 percent, according to the FBI uniform crime reports of 1974.

The problem is not whether we need a long range planning effort of 2 or 3 years, but whether or not we are going to be able to effect the oversight that is needed. In 1974 the Members will recall the activities of the Committee on the Judiciary with respect to impeachment hearings. In 1975 this subcommittee began the consideration of another very large measure, and now we are prepared to move into the oversight that I must candidly confess has never come from either body on this subject.

When we say we want 1 year, it means that we might end up with 2 or 3 years anyway. I am sorry to report that if we vote for 3 years then we are getting into the position of going to 4 or 5 years. I think that is entirely too long in view of the very few modest changes that are represented in this legislation that we bring to the House in this bill.

So, Mr. Chairman, it seems to me that the judgment of the subcommittee and that of the full Committee on the Judiciary in this year, and in 1973, should be very carefully considered and sustained, in our judgment.

So I would invite the Members to vote no on the McClory amendment.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I rise at this point to say that I normally find myself in the position of favoring forward funding and in believing that local governments should have as much lead time as possible, particularly if we are going to change or phase out. But I must say that, as my chairman, the gentleman from Michigan (Mr. CONYERS) knows in the past, I am in complete accord with the gentleman on this point. I sat through the hearings. I do not think it is fair to say that I was totally unimpressed but I was singularly unimpressed with the ability of the LEAA to justify what they had done and their inability to answer because of what appeared to me to be a distinct lack of coordination.

I agree with the gentleman 100 percent. We need more oversight in this area.

Mr. CONYERS. I would point out to the gentleman, who is a member of the subcommittee, that we already have a proposed oversight that will not begin next year; it will begin this year. There is no reason why the subcommittees of the Committee on the Judiciary are not going to be able to operate, and we plan to do that. So logically we will begin to acquire the answers that we could not get during the hearings, which can only be obtained I think on a 1-year leash. It has been called a leash, and I think it has been correctly described.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

I would like to point out that this was extended the last time for 3 years. We have already run beyond 3 years. The law has already expired at the present time.

Mr. CONYERS. That is precisely why we know we are not going to have our

1-year pattern in the House. Even voting 1 year, giving them 3 years, we still come back with an LEAA that does not meet with the full satisfaction of the committee.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I rise in support of the amendment. I hope the House will forgive me if I read from a memorandum addressed to me by the Attorney General of the State of New Jersey. He speaks in favor of a long-term authorization.

> More important, however, is the fact that short term reauthorization is inconsistent with comprehensive, multi-level law enforcement planning. As I have noted before, we have 22 local planning units in New Jersey which are formally established and nine informal ones, all involving some 400 people. Advice and data from these units flows into the SLEPA central office staff and is translated into a State plan of almost 1,000 pages. This statewide plan is then extensively reviewed by SLEPA's 22-member governing board. Moreover, the process employed by SLEPA is that of financing promising projects for up to three years, winnowing out the bad ones on the basis of performance, and helping the good ones to continue to survive in the hope that they will be employed throughout the State. As you can see, this is a carefully and thoughtfully structured law enforcement laboratory. It cannot be sensibly sent off on new missions every few months. It requires long term reauthorization to be fully effective.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DON H. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment being offered by my colleague from Illinois (Mr. McCLORY) which would extend the reauthorization of the Law Enforcement Assistance Administration for an additional 2 years—for a total of a 3-year authorization.

LEAA has been the subject of much criticism in the past months and some of this criticism has led to constructive efforts to correct deficiencies in the LEAA program. But the limitation of this authorization is more of a punitive step and will lend nothing to the correction of any program faults.

In fact, an unrealistically short authorization period will do just the opposite—it will discourage the long-range planning of State and local governments and will make these entities exceedingly hesitant to commit both their limited resources and their manpower. By limiting the possible life of this important agency we will, in effect, be preventing the long-term efforts needed to reduce crime rates.

During its 8-year existence LEAA has played an important role in the American criminal justice system by providing State and local governments with funds to develop innovative anticrime programs. And amid all the criticism that crime rates have not dropped and that funds have been misused, two factors must be remembered. First, LEAA contributes only about 5 percent of the total criminal justice expenditures. Second, the reforms we have incorporated in this measure before us will help insure a more coordinated and constructive use of funds.

California's attorney general, Evelle Younger, recently wrote me that not only is LEAA a good concept, it is worth reauthorization for a longer period than just 15 months. I completely agree with this analysis that "a mere 1-year extension will show the staff and the criminal justice participants across the Nation that Congress has little confidence in the programs; consequently the imaginative programs will be deterred and the system's best efforts will be directed elsewhere."

Furthermore, the chiefs of police in towns throughout my district, the sheriffs, the district attorneys and the county boards of supervisors have told me of the positive impact the LEAA program has had in their local jurisdictions.

Crime or the fear of becoming a victim of crime is an issue which affects everyone of us. It is a frustratingly difficult problem to solve but one to which we must wholeheartedly dedicate our personal and financial resources. LEAA can be an effective tool in our fight against crime, but we must allow it to be through the reforms we have incorporated in this bill and the amendment which is being offered to extend its funding for 3 years. LEAA's greatest accomplishments can be found at the local level, where crime occurs and where it must be fought.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

I have had occasion to examine the Governors Commission on Criminal Justice Standards and Goals by former Gov. Jimmy Carter of Georgia, and his recommendation with respect to the program in Georgia concludes as follows. He says:

> The recommendation contained in the report will take several years to implement fully.

In other words, he recognizes that in order to implement these programs, it takes time, and 3 years is not too long a time.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

I would like to point out to my friend, the gentleman from Illinois, that he is prognosticating a little bit too far into the future. Mr. Carter's program is not envisioned, nor is it under debate in this particular bill that is before the Committee.

Mr. RODINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, reluctantly I must oppose the amendment that has been offered by the gentleman from Illinois. I know that he is vitally interested in the success of this program, but we have got to face reality, and we have got to be practical.

This program originally was intended for a 5-year period; we enunciated long-range goals, we were very optimistic. But the crime statistics have not been encouraging, and the results of LEAA programs have often been unsatisfactory. In fact, as the gentleman from Michigan has stated, some of these programs just got completely out of control because there was no opportunity to exercise oversight.

I bleieve that it is incumbent on us, if we now wish to properly manage the money that we allocate to fight crime under this program, to insure the opportunity to follow our legislative product—to insure the chance to examine what we have done. I believe we would be relinquishing the control that this House should exercise if we were now to recommend a 3-year program.

I believe that it is important for us to understand that once we go to conference with the Senate, which has proposed a 5-year program, that we will be in a position at least to engage in meaningful negotiation. I would hope, Mr. Chairman, we recognize the wisdom of not projecting beyond the 1 year.

I am sure the gentleman from Illinois if he has any apprehension as to where we go after this, will realize we can safely say that we will probably face more than 1 year in conference.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding.

I associate myself with the remarks of my chairman.

I am mindful of the way our attorney general and our Governor feel, and I can understand their point of view. The beneficiaries of most Federal programs would like to have 3 years or 5 years; but I do not think that we can plan or reorder priorities, as Congress is going to have to do, if we make long-term commitments without periodic evaluation and oversight of Federal programs.

The Subcommittee on Crime, on which I serve, has oversight responsibility over LEAA.

I would not have supported the LEAA program in committee if I had not been assured that we were going to do the oversight this year that we did not do last year.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, this whole idea of a 1-year authorization, in all deference to my chairman and subcommittee chairman, is simply foolishness. We really ought to know it lacks substantive merit and reject this 1-year authorization out of hand.

If there is anything that can be said about this whole LEAA program, it is that it mandates upon the States a high level of planning. And that is good, but how in the world can they plan for 1 year only and do so intelligently? The answer is: They cannot.

And yet how could a State make long-range comprehensive plans when the program under which its plans are to be implemented is due to expire in 1 year? That is a question I ask of the Members. There is only one answer to it: They cannot.

In addition to planning, Mr. Chairman,

the plans to be effective require competent people to make the plans work, competent people to execute the plans. Who in his right mind is going to forego the opportunity of public service in another sector and contribute his energies to a program with a 1-year life? The answer is: Not the best among us. They would not attach themselves to such a program.

We are discouraging the recruitment of good people by this 1-year authorization and we are discouraging the development of good plans.

The argument has been made of course that we need oversight, and to that argument I can say only that I agree.

But whether or not the subcommittee of the gentleman from Michigan (Mr. Conyers) conducts oversight is determined by his own energies and zeal, not by this authorization legislation. He can and should conduct oversight at any time. His duty and responsibility to conduct oversight is not triggered upon the expiration of this program. It is an ongoing responsibility and would be exercised, I am sure, under the gentleman's leadership even if we had a 3-year operation.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. Since I mentioned the gentleman's name, of course I yield.

Mr. CONYERS. Mr. Chairman, the reason I asked the gentleman to yield is the reason we bring up this new oversight capability. Spurred by my own zeal and energy, that is going to be a necessary prerequisite to any long-range planning.

Finally, there is not one program in the LEAA that is projected beyond 1 year. The system has always worked on a 1-year basis. There has never been any exception.

We understand there have been some attempts to do that, but they have never worked, so that we are appropriating 1 year, we are authorizing 1 year, we are oversighting and then we might get into the longer times.

Mr. WIGGINS. Mr. Chairman, there is a vast distinction between a program in LEAA continuing for 1 year and the entire administration continuing for only 1 year.

Mr. Chairman, let me direct my remaining remarks to the other Members in the body who are not in the Committee on the Judiciary. I ask them to call upon their experience. They have certainly had the experience of being on a committee panel with a deadline coming up later in the year in which a major ongoing program is about to expire. I will say that if your experience on other committees tracks the experience of the Committee on the Judiciary, we do our least effective oversight under that kind of time pressure. Yet we are mandating an annual crisis in the Committee on the Judiciary to respond to the expiration of this program.

Mr. Chairman, I wish to urge support for the proposal to extend the Law Enforcement Assistance Administration for 3 years.

LEAA programs are an essential element of the criminal justice and law enforcement effort in California. It is my feeling that this effort must be continued, strengthened, and expanded. This will not be possible under a 1-year reauthorization.

LEAA has provided California with the opportunity to implement desperately needed changes in criminal justice agencies on the State and local level. It has provided for the development of criminal justice planning at all levels, thereby influencing the lives of all Californians.

I would like to point to a few concrete examples of LEAA projects which improved the criminal justice system and law enforcement within my district.

The city of Santa Ana has been provided with $179,000 to assist in the evaluation of the Santa Ana community team policing program. The community team policing program has shown considerable success at reducing overall crime, particularly burglary. More important, the program has created a forum for open dialog between the police department and the citizens of Santa Ana and has fostered a better understanding between the department and the community as a whole. The LEAA funds will allow the successful Santa Ana project to be instituted by other communities across the country and therefore share in the successes achieved in the city of Santa Ana.

The State of California has awarded $1,750,000 in LEAA funds for a county-wide consortium project for diversion of juveniles from the traditional criminal justice system. Appropriate counseling and referral are available. In essence, this project consolidated several individual projects funded by LEAA into a single, county-wide program. Twenty-three of 26 cities in Orange County are participants in the project.

LEAA funds totalling $667,000 have been awarded by the State of California to Orange County for a countywide burglary prevention program. The main emphasis will be target hardening and a primary tool will be a full-blown public education project to prevent burglary.

Mr. Chairman, the projects I have mentioned amount to a minute portion of LEAA's overall contribution to the State of California. California has been the recipient of over $420 million in LEAA funds since the Agency was created in 1968.

If the committee's proposal for a 1-year reauthorization is adopted, existing, successful programs would be placed in serious jeopardy and potential opportunities for the California criminal justice system will never be realized.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I want to point out in addition to the expression of the Governor of New Jersey, the National Governors' Conference has expressed its support of this amendment. That organization is represented by all the Governors of the 50 States and they are charged with the primary responsibility for the planning agencies created under the Law Enforcement Assistance Administration, and funded through the States and the regional and local areas.

Mr. WIGGINS. Mr. Chairman, I urge an "aye" vote.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take all the 5 minutes.

I think this amendment is vitally important. We are here today past the expiration date of the last 3-year extension of the authorization of LEAA and if anybody thinks we will be back here next year within a 12-month period, it just simply is not realistic.

We have heard calls for a more effective LEAA of course, this is a goal we all share. Effectiveness, however, will come from oversight which our committee has and not from annual authorization which will come before in State and local planning.

I urge an aye vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McClory).

The question was taken; and on a division (demanded by Mr. McClory), there were—ayes 22, noes 57.

RECORDED VOTE

Mr. McCLORY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 119, noes 268, not voting 44, as follows:

[Roll No. 683]

AYES—119

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Armstrong
Bafalis
Beard, Tenn.
Bedell
Bell
Biester
Boggs
Bowen
Breckinridge
Brinkley
Brown, Mich.
Broyhill
Buchanan
Burgener
Butler
Carter
Cederberg
Clausen, Don H.
Cleveland
Cochran
Cohen
Conable
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
Derrick
Dickinson
Duncan, Tenn.
Edwards, Ala.
Emery
Erlenborn
Esch
Eshleman
Fenwick
Findley
Fish
Fithian
Frenzel
Gaydos
Gilman
Ginn
Goldwater
Goodling
Grassley
Gude
Hagedorn
Hammerschmidt
Harris
Hillis
Hutchinson
Hyde
Jeffords
Jenrette
Johnson, Pa.
Jones, Tenn.
Kindness
Lagomarsino
Levitas
Lloyd, Tenn.
McClory
McCloskey
McCollister
McKinney
Madigan
Martin
Mathis
Michel
Mineta
Mitchell, N.Y.
Moore
Mosher
Mottl
Myers, Ind.
Myers, Pa.
Nowak
O'Brien
Ottinger
Pattison, N.Y.
Pettis
Poage
Pressler
Pritchard
Quillen
Railsback
Rhodes
Rinaldo
Risenhoover
Robinson
Ruppe
Sarasin
Sarbanes
Schneebeli
Schulze
Sebelius
Seiberling
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Spellman
Stanton, J. William
Talcott
Thone
Traxler
Treen
Tsongas
Van Deerlin
Walsh
Wampler
Whalen
Wiggins
Wilson, Bob
Winn

NOES—268

Adams
Addabbo
Alexander
Allen
Anderson, Calif.
Andrews, N.C.
Annunzio
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Bauman
Beard, R.I.
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Clancy
Clawson, Del
Collins, Tex.
Conte
Conyers
Corman
Cornell
Cotter
Crane
Daniels, N.J.
Danielson
Delaney
Dellums
Dent
Derwinski
Devine
Dingell
Dodd
Downey, N.Y.

Drinan
Duncan Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fisher
Flood
Florio
Flowers
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frey
Gibbons
Gonzalez
Gradison
Guyer
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Hansen
Harkin
Harrington
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Holland
Holt
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce

Landrum
Latta
Leggett
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madden
Maguire
Mahon
Mann
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Oberstar
Obey
O'Hara
O'Neill
Patten, N.J.
Patterson, Calif.
Paul
Pepper
Perkins
Pickle
Pike
Preyer
Price
Quie
Randall
Rangel

Regula
Reuss
Richmond
Riegle
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Russo
Ryan
Santini
Satterfield
Scheuer
Schroeder
Sharp
Shipley
Simon
Slack
Smith, Iowa
Snyder
Solarz
Spence
Staggers
Stark
Steed
Steiger, Wis.
Stephens
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thornton
Udall
Ullman
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Waxman
Weaver
White
Whitten
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki

NOT VOTING—44

Abzug
Ambro
Bergland
Chappell
Chisholm
Clay
Collins, Ill.
Conlan
de la Garza
Diggs
Downing, Va.
du Pont
Evins, Tenn.
Foley
Forsythe

Fuqua
Giaimo
Green
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Hinshaw
Horton
Jones, Ala.
Karth
Lehman
Matsunaga
Passman

Peyser
Rees
St Germain
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stokes
Whitehurst
Wilson, C. H.
Wydler
Wylie
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Lehman for, with Mr. Ambro against.

Mr. Downing of Virginia for, with Mrs. Collins of Illinois against.

Mr. Heinz for, with Mr. Wydler against.

Mr. Conlan for, with Mr. Wylie against.

Mr. Steiger of Arizona for, with Mr. Zeferetti against.

Mr. Whitehurst for, with Mr. St Germain against.

Mr. Evins of Tennessee for, with Mr. Hawkins against.

Mr. Hébert for, with Mrs. Chisholm against.

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. Conyers: Page 7, line 14, strike out "gram" and insert "grams" in lieu thereof.

Page 16, line 22, strike out "oof" and insert "of" in lieu thereof.

Page 28, line 18, strike out "harassement" and insert "harassment" in lieu thereof.

Page 6, beginning in line 2 and ending in line 3, strike out "the elderly person" and insert "elderly persons" in lieu thereof.

Page 6, line 25, insert "of suspects; adjudication; custodial treatment" immediately after "apprehension".

Page 13, line 12, strike out "(b) (7)" and insert "(b) (6)" in lieu thereof.

Page 29, line 20, strike out "(b) (7)" and insert "(b) (6)" in lieu thereof.

Page 36, line 24, insert "(14)," immediately after "(12),".

Page 35, beginning in line 8, strike out "The term 'court' " and all that follows down through "criminal matters." in line 12, and insert in lieu thereof the following: Except as used in the definition of the term 'court of last resort', the term 'court' means a tribunal or judicial system having criminal or juvenile jurisdiction.

Mr. CONYERS (during the reading). Mr. Chairman, I ask unanimous consent that these technical amendments be considered as read, printed in the Record, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, may I ask how many there are.

Mr. CONYERS. If the gentleman will yield, there are nine technical amendments which have been agreed upon by the ranking minority member of the subcommittee.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

These technical amendments have been examined by the counsel for the minority and by counsel for the other side, and we have no objection to them.

Mr. ROUSSELOT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Michigan (Mr. Conyers).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Conyers: Page 8, line 18, immediately after "plan", and before the semicolon, insert the following: ", and under which approval of such a local comprehensive plan or a part thereof entitles the unit of general local government or combination thereof to a single annual grant to carry out such plan or part".

Mr. CONYERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Chairman, this is the last amendment that I shall offer to the LEAA authorization bill. The Members may find the effects of this amendment on page 8, line 18, to be rather elementary.

I will take a minute to explain it, and then will open myself for any questions that may occur.

This is called the miniblock grant amendment, which would merely make clear the original intent of the Congress since 1973 to allow units of local government with a population of 250,000 autonomy in administering their projects.

This is an amendment that has been supported by various Members on the other side.

In discussing the amendment, I would like to merely emphasize that the comprehensive planning structure remains unchanged. This miniblock grant amendment would permit the larger local units of government to, in a coordinated fashion with the SPA's, submit their programs for approval and then submit their plan to LEAA. After that they would be entitled to a single annual grant from LEAA without interference by the SPA's on individual projects. In other words, after the SPA approves of a major local grant, they would be awarded their money in a block.

The significance of this for the larger units means simply that they would not have to continually go back to State planning agencies once they have been approved by the SPA. This is found to be necessary for the simple reason that the major local unit of government is the one that has usually the greatest incidence of crime, it gets the largest amount of State money, and the highest population and it usually has the most complicated plans and this miniblock grant approach would free those major units of government in a way that will not cost any further additional sums in this bill. It changes no appropriations whatsoever.

I urge that this plan which has been suggested to us in the subcommittee be incorporated as an amendment to this LEAA authorization bill. I urge the careful consideration and support of the amendment by the Members.

Mr. McCLORY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this would change the whole philosophy of the LEAA program. It would change the philosophy in this respect that, instead of having a coordinated State program through which this is administered, the funds would go directly from LEAA to 58 different units of government that have this population equivalent of 250,000 people structure. Bear in mind that in the funding of LEAA projects, part of the funds come from the State, part come from LEAA but almost all of the programs are funded, at least in part, by the State, generally at the rate of about 50 percent. So this business of funding directly from the LEAA in Washington, directly to the local unit, is completely incongruous because the funds are going to have to come from the State anyway.

In other words, what we have done, we have imposed in the States the responsibility for establishing planning agencies. We have all of the programs coordinated through the States. The local areas develop their plans, the regional areas develop their plans, then the program is administered and funded through the State and this upsets that. Just upsets the whole program.

This is something that has been advanced by some aggressive county officials who would like to have this, and I have no doubt that the county governments are emphasizing more and more prerogatives all of the time, and they should, but in a program like this you have to operate it through the State planning agency.

I hope the amendment will be defeated, otherwise it will possibly bring chaos, and we will have a dual type of operation and administration.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. I appreciate the gentleman's yielding.

The gentleman mentioned county governments. How would this affect large cities like Chicago, these units of 250,000 or more?

Mr. McCLORY. I assume that the city of Chicago would qualify under the miniblock program, so they would be funded directly from the Federal Government. But let me point out that the funds from the State would still have to be applied for, and one would still have to go through the State planning agency for those funds.

Mr. ANNUNZIO. If the gentleman will yield further, but under this population formula of 250,000, in a city like Chicago where we have these mini-block grants, who would get the money—the city or the block organizations sponsoring the grants?

Mr. McCLORY. I would say it would be the city. But I think what the gentleman is talking about is another amendment that will be offered, because we do have to amend the bill in its present form. The bill would permit the funding of community projects without the approval of the local governmental officials just by notifying them, and that would be very, very bad. We must undertake that change, too. But it seems to me that this amendment offered by the gentleman from Michigan is not appropriate. It does change the program. It puts the LEAA in Washington in a totally different program from just being an administrative one to being an operating one where they would fund programs directly. I just do not think this would be prudent.

Mr. ANNUNZIO. I thank my colleague, the gentleman from Illinois.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

The question raised about Chicago is precisely what this amendment covers. That is that large units would be able to deal directly with Washington LEAA. They must get approval. They do not bypass the State planning agencies, but they are facilitated procedurally. Once their program is approved, the city program is approved, they do not have to keep going back to the State planning agency for approval for every part of it. It does not change any State authorization whatever.

Mr. McCLORY. Let me say this, that it would entitle them to their funds directly, but they would still have to get their allocable funds from the States, because the States enter into a sharing program. There are contributions from the States, and they would still have to go to the States. This would be very upsetting, very confusing, and I certainly hope that it will not be agreed to.

Mr. BINGHAM. Mr. Chairman, I rise in support of the excellent amendment proposed by the subcommittee chairman and wish to commend him for the fine work he has performed in shaping the legislation before us today.

The miniblock grant program to local governments serving populations of over 250,000 will greatly aid the efforts of our city governments to gain timely approval for their anticrime programs. It will help cut through the morass of redtape which presently lies between innovative ideas and fully operative programs, by permitting the cities to make a single grant application rather than going back time and again with individual applications. It will allow us to spend more money on crime prevention, less on bureaucracy.

Mr. Chairman, as just one example of how such a provision will aid our cities' efforts to battle crime, let me cite the experiences of a community group in my district, as recounted in a recent letter the group's director sent me.

This is a well-organized, expertly run community group with some expertise in cutting through the bureaucracy to gain grants for providing local services. It took these people a total of 20 months to move from original application to startup funding. They submitted draft after draft for their proposal—all of which circulated through a byzantine maze of Federal, State, and city planning agencies before they were finally returned for revisions—which then had to weather the same time-consuming process. Theirs is a horror story which is a compelling case in itself for Mr. Conyers' amendment. To add to these delays in the planning process, as this community group notes, under presently promulgated guidelines:

> Cash flow for the program is determined by a monthly vouchering process, but since it takes a minimum of 6 weeks for any voucher to be processed, first at the city level and approved, then at the state level and approved, and then for cash to be disbursed by the state to the city and from the city to the implementing agency, any project sponsor necessarily falls behind in meeting payroll and other expenses.

This is just the type of lockstep planning, with its seemingly endless paper shuffling and interminable delay, which discourages innovation and effective programing. It is the type of unnecessary bureaucratic insulation between people's needs and the sources of funding which this Congress must relentlessly strip away. The amendment of the distinguished gentleman from Michigan goes to the heart of this problem and I urge my colleagues to support his efforts.

The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS).

The question was taken; and on a division (demanded by Mr. McCLORY) there were—ayes 42, noes 50.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Hyde: Page 5, strike out all that follows (6) on line 1 through line 3 and insert a period.

Mr. HYDE. Mr. Chairman, one of the most important sections of this legislation concerns community service officers. The law presently reads:

> The recruiting, organization, training, and education of community service officers to serve with and assist local and State law enforcement and criminal justice agencies in the discharge of their duties through such activities as recruiting; improvement of police-community relations and grievance resolution mechanisms; community patrol activities; encouragement of neighborhood participation in crime prevention and public safety efforts; and other activities designed to improve police capabilities; public safety and the objectives of this section:

The operative language my amendment deals with is as follows:

> *Provided,* That in no case shall a grant be made under this subcategory without [the approval of] *notification to* the local government or local law enforcement and criminal justice agency.

Mr. Chairman, the bill before us changes the words "the approval of" and substitutes the words "notification to," so it reads: "Notification to the local government or local law enforcement and criminal justice agency."

The effect of this is that grants can be made, through the State of course, to local and community organizations, without the approval of the local police or local governmental authorities. It seems to me that this is wrong. This is undercutting and eroding local governmental authority.

The amendment I am offering strikes the new language and returns the language of the bill to the existing law which says these grants to local community service groups must have the approval of local government or local law enforcement agencies.

It seems to me that the primary responsibility for fighting crime is with the local police and with local governmental authorities. But to set up a form of vigilantism which can be funded without the approval of the local police, and this group is to work with local police in a cooperative effort, will create a situation that is unwise and unworkable.

Why should the LEAA reach behind, around, over, or under local governmental authority to fund community action organizations?

The community is known best by local police, by local government, by those people who run for office and are elected by the local people, and they know the community and its problems best. The problems of these communities are not known best by a State committee, not LEAA in Washington, but the local governmental authorities and the local police. So to backdoor these people, the elected people, the community people who are appointed by the community authorities, and the local police, and to permit the funding of these community action groups simply by notifying the local authorities is a giant step toward eroding the meaning and significance of local authority.

We should strengthen that government that is closest to the people, the elected government, rather than find ways to fund programs that may or may not be compatible with the local law enforcement effort.

I think we could have a very anomalous situation by sending money into the community to an ad hoc group whose activities and whose functions are not approved and may even be at odds with the local police and the local governmental authority.

I grant there may be certain circumstances where local government is wrong, where local police are wrong, but certainly we cannot pass a law based on these aberrational situations. The idea of funding community organizations is good and we should fund these community organizations to work hand in hand with the police, but it should be done with the approval of the local police and government and not around or under them.

So I simply wish to return the law to the way it is now rather than to change it and permit funding for community organizations to be made simply with notification to the local authorities rather than with their approval.

Mr. CONYERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think we should carefully examine the burden we are asking community service projects to be submitted to in connection with an application for funding.

First of all, the project would be reviewed by a competent criminal justice planner. Then it would be submitted to a local review board and there would be a vote of approval or disapproval by the local board. It is then submitted, as is every other grant, to the State planning agency and then there is a vote by the State supervisory board.

I submit that that is the procedure that every other grant goes through, and no more. Why, then, should we extend an additional provision, the burden of a veto, after going through these five steps. A community service project would, under those conditions, be subject to a veto, not only by a local government official, but by a local law enforcement officer.

Now, I say to the committee that to allow the local chief of police or the precinct commander to decide which community projects should be funded between perhaps competing community projects in a given neighborhood would have a disastrous effect.

I think the police would then be engaging in politics and that is too abhorrent for any of us to countenance. Let us keep the police out of the decisionmaking process. Let us not give anybody the veto. Let us leave it to the regular chain of command, which would logically scrutinize and evaluate any and all of these community projects.

Therefore, the committee in its judgment deleted the veto requirement by local law enforcement officers or a local government official. I think it is only logical that we stick with the committee's position in this regard.

Mr. Chairman, I strenuously urge a "no" vote on this amendment.

Mr. McCLORY. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Illinois (Mr. HYDE), to which I alluded during general debate, which would restore the requirement that part C grants must be "approved" by the local government or criminal justice agency affected by them. The bill as reported would change the current approval requirement to one of only notification. Thus, if this change were to be included in the final version, the agency designated to receive assistance from community groups would have no power to prevent the funding of those groups; they would only receive notification that the funding is to be granted. I believe this is an unwise change and one which would bypass an intelligent procedure set up to insure that citizen participation augment the efforts of local law enforcement and criminal justice agencies. It seems terribly unreasonable for the Federal Government to force community involvement with law enforcement functions without the consent of the agencies affected. I must, therefore, offer this change and urge its passage.

Mr. ALLEN. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I think the amendment is motivated by the highest purpose, but it seems to me there is a basic flaw in the concept. If we have lawless elements in a community who are operating in concert with elected sheriff or law enforcement officer, obviously we are not going to gain the consent of the sheriff or the chief of police to have someone come in and oversee what is going on in that police department. We all know that among certain sheriffs and among certain law enforcement officials there is corruption. This would tie the hands of the Governors of the States and others to provide money for the proper agencies to come in and see just how efficiently and competently the local law enforcement agencies are operating or whether or not, indeed, such law enforcement officers are being corrupted by the lawless elements of the community.

For that reason, I join with the distinguished chairman of the subcommittee and urge the Members to vote down this proposed amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. HYDE).

The question was taken; and on a division (demanded by Mr. HYDE) there were—ayes 38; noes 57.

RECORDED VOTE

Mr. McCLORY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 253, noes 133, not voting 45, as follows:

[Roll No. 684]

AYES—253

Abdnor
Alexander
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bevill
Biaggi
Biester
Blanchard
Boggs
Boland
Bowen
Breaux
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Butler
Carter
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Cornell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Delaney
Dent
Derwinski
Devine
Dickinson
Downey, N.Y.
Duncan, Tenn.
Early
Edwards, Ala.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Fary
Fascell
Fenwick
Findley
Fish
Fithian
Flood
Florio
Flynt
Ford, Mich.
Fountain
Frenzel
Frey
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Harsha
Hechler, W. Va.
Heckler, Mass.
Hefner
Hightower
Hillis
Holt
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
LaFalce
Lagomarsino
Latta
Lent
Levitas
Lloyd, Tenn.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Mahon
Mann
Martin
Melcher
Michel
Milford
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mosher
Motti
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Neal
Nedzi
Nichols
Nowak
O'Brien
O'Hara
Ottinger
Paul
Pepper
Perkins
Pettis
Pike
Poage
Pressler
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Rhodes
Riegle
Rinaldo
Risenhoover
Roberts
Robinson

Roe
Rogers
Rostenkowski
Roush
Rousselot
Runnels
Ruppe
Russo
Santini
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Staggers
Stanton,
  J. William
Steiger, Wis.
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Treen
Vander Jagt
Vander Veen
Vanik
Waggonner
Walsh
Wampler
Whalen
White
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wright
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki

NOES—133

Adams
Addabbo
Allen
Anderson,
  Calif.
Andrews, N.C.
Ashley
Aspin
AuCoin
Badillo
Bergland
Bingham
Blouin
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Conyers
Corman
Cotter
Daniels, N.J.
Danielson
Davis
Dellums
Derrick
Diggs
Dingell
Dodd
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Evans, Colo.
Evans, Ind.
Fisher
Flowers
Foley
Ford, Tenn.
Fraser
Gonzalez
Hannaford
Harrington
Hayes, Ind.
Henderson
Hicks
Holland
Holtzman
Howe
Jacobs
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Keys
Koch
Krebs
Leggett
Lloyd, Calif.
Long, La.
Long, Md.
McCormack
McFall
Madden
Maguire
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Mink
Mitchell, Md.
Moffett
Morgan
Moss
Murphy, N.Y.
Natcher
Nix
Nolan
Oberstar
Obey
O'Neill
Patten, N.J.
Patterson,
  Calif.
Pattison, N.Y.
Pickle
Preyer
Price
Rangel
Reuss
Richmond
Rodino
Roncalio
Rooney
Rose
Rosenthal
Roybal
Ryan
Sarbanes
Scheuer
Schroeder
Seiberling
Smith, Iowa
Solarz
Spellman
Stark
Steed
Thompson
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vigorito
Waxman
Weaver
Whitten
Wirth
Young, Ga.

NOT VOTING—45

Abzug
Ambro
Byron
Chappell
Chisholm
Clay
Collins, Ill.
Conlan
de la Garza
Downing, Va.
du Pont
Evins, Tenn.
Forsythe
Fuqua
Green
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Hinshaw
Horton
Jones, Ala.
Karth
Landrum
Lehman
Mathis
Matsunaga
Passman
Peyser
Rees
St Germain
Sisk
Stanton,
  James V.
Steelman
Steiger, Ariz.
Stephens
Stokes
Teague
Whitehurst
Wilson, C. H.
Wydler
Wylie
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Ms. Abzug against.

Mr. Passman for, with Mr. Byron against.

Mr. Chappell for, with Mrs. Chisholm against.

Mr. Teague for, with Mr. Stokes against.

Mr. Whitehurst for, with Mr. Hawkins against.

Mr. Wydler for, with Mrs. Collins of Illinois against.

Mr. Wylie for, with Mr. Clay against.

Mr. Young of Alaska for, with Mr. Helstoski against.

Mr. St Germain for, with Mr. Matsunaga against.

Mr. Downing of Virginia for, with Mr. Zeferetti against.

Messrs. SHARP, HIGHTOWER, and OTTINGER changed their vote from "no" to "aye."

Mr. GONZALEZ changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McClory:

Page 34, strike out line 14 and all that follows down through line 16.

Mr. McCLORY. Mr. Chairman, my amendment strikes the new definition of the term "local elected officials" which is included in section 113 of the bill. Under section 203 of the act, there is a requirement that regional planning units be comprised "of a majority of local elected officials." Since that requirement was added to the act, the following types of local elected officials were counted toward the majority in compliance reviews of local plans: Elected sheriffs, elected prosecutors, elected judges, as well as elected executive and legislative officials. By including all these officials, the broad spectrum of law enforcement, administrative, and fiscal responsibilities were represented on the regional planning units which determined how LEAA funds were to be disbursed.

The new definition of the term "local elected officials" would limit the majority of regional planning units to chief executive and legislative officials of general units of local government. Such a requirement, in my view, is unwise because it would give mayors, city councilmen, county board chairmen and members block control over the distribution of LEAA funds. If, for example, a regional planning unit is comprised of 10 members, 6 would, by this unfortunate definition, be required to be executive legislative officials. This would collide with the requirement of 603(a) that regional planning units be representative of law enforcement and criminal justice agencies, including the following agencies: Those charged with preventing juvenile delinquency, citizens groups, community organizations, law enforcement agencies such as police, prosecutors, sheriffs, and the courts. A minority of only four slots would remain for representatives of all these groups. I believe this patently inequitable limitation is unwise and will significantly narrow the scope of comprehensive planning demanded by this act.

Mr. CONYERS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois (Mr. McClory).

Mr. Chairman, the author of this amendment, the gentleman from Illinois (Mr. McClory) who was here in 1973 when this language went in, should fully know what possibly other members on the committee do not know and that is that the language the gentleman is seeking to strike, which attempts to clarify what was meant by "local elected officials."

If the Members go back to the original intent that was delineated in the hearings, and that appeared in the Congressional Record, they will see, as I refer to that Record of June 28, 1973, in which we clarify that we wanted the chief executive and legislative officials of the general units of local government.

That means we were trying to include by this definition of local elected officials the councilmen, the county commissioners, the local mayor and not simply the law enforcement officials who might be unintentionally considered local elected officials that we were trying to include, we were trying merely to clarify this language. This intention has been the intention of the Committee on the Judiciary not only in this year, but in 1973.

So in all fairness, if we want an LEAA that defines local officials with some specificity, I urge that we reject the amendment that is brought forward by the gentleman from Illinois (Mr. McClory).

Mr. Chairman, I call for a vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McClory).

The amendment was rejected.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wiggins: Page 3, strike out all of lines 3 through 16 and insert in lieu thereof the following:

"Sec. 206. At the request of the State legislature, or a legislative body designated by it, the comprehensive statewide plan shall be submitted to the legislature for its approval, amendment or disapproval of the general goals, priorities and policies that comprise the basis of that plan prior to its submission to the Administration by the chief executive of the State. If the State legislature, or the designated legislative body, amends or disapproves the general goals, priorities or policies in whole or in part, these differences must be mutually resolved by the chief executive officer of the State and the State legislature, or the designated legislative body, prior to submission of the plan to the Administration. The State legislature shall also be notified of any substantial revision of such general goals, priorities and policies embodied in any plan previously submitted to the Administration. At the request of the legislature, or the designated legislative body, the revision shall be submitted to it for approval, amendment or disapproval. If the legislature, or designated legislative body, has not approved, amended or disapproved the general goals, priorities and policies of the plan within forty-five days after receipt of such plan, or within thirty days after receipt of the substantial revision, such plan or revision shall then be deemed approved."

Mr. WIGGINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WIGGINS. Mr. Chairman, this amendment deals with a touchy problem. It deals with the question of who should approve a State plan within the State. I want to call the Members' attention to the present law. It says that the State planning agency shall be created or designated by the chief executive of the State and shall be subject to his jurisdiction. Mr. Chairman, this State planning agency is a creature of the chief executive of the State. He appoints the members of the State planning agency, and he alone has the power to select those who serve. The power vested in this permanent legislation in a Governor to influence the priorities and the goals of the criminal justice system is, frankly, enormous.

This Federal law has created what amounts to a State czar for criminal justice in each State and has designated the Governor as that czar. Many of us come from State legislative bodies, and I think that we can all appreicate the kind of tension that will develop within a State legislators and the Governor concerning the component elements of a State plan. The State legislators quite properly believe that they ought to have some say in what the priorities of the State are concerning law enforcement, especially since they are called upon to fund the State's share.

The committee recognized this problem and felt that the State legislature should have a greater voice in the development of the State plan and, accordingly, it recommended a new section to the bill, section 206 of the law, which simply says that the State plans will be passed by the State legislators for their advisory comment. Of course, the Governor need not pay any attention to the advice of the State legislators; indeed, he may reject it, and the plan which has been approved by his appointees goes to the administrator in Washington for ultimate approval.

I have proposed an amendment, Mr. Chairman, to section 206 which is in the nature of a substitute. It requires that the State plan or any major modification of the State plan go to the State legislature, and it requires that the State legislature and the Governor's representatives hammer out their differences so that when a State plan comes to Washington we know that it reflects the policy of the State itself and not just the Governor of the State.

I am mindful, Mr. Chairman, about the potential for mischief. I am mindful that Governors and their legislatures can be at such a loggerhead that they will not in fact reconcile their differences. But there is a penalty implicit in the bill which in my opinion will prevent them from failing to act. Unless the Governor and the legislature come to an agreement, they get no funding at all of course, and that is a powerful incentive for the legislature and the Governor to reconcile their differences.

Mr. Chairman, we have a choice. The choice is between the committee bill which simply asks for a nonbinding advisory opinion, or my amendment which requires that these differences between important agencies of the Government be reconciled before the plan comes to Washington. Which of the two is in the public interest? I submit to the Members that obviously I have opted for the latter since State policy is not the manifestation of the Governor's wishes alone but rather it is arrived at in concert with the Governor and with his State legislature.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words and I would ask a question of the author of the amendment.

As the gentleman from California and the committee know, this is new language inserted because of our concern that State legislators begin to have a little bit more say about this very large subject and that we defuse the LEAA czar, as it has been termed, a little bit, so we have now put in language that allows an advisory review by the State legislatures and indeed some States are already engaging in that.

I would ask my colleague, the gentleman from California, if he envisions any constitutional impediments in the language that he has offered because we have now a legislative body perhaps operating in the executive area?

Mr. WIGGINS. If the gentleman will yield, not at all. There is not nearly the problem here that there is in other sections of the bill to which I will call the gentleman's attention in a moment. All that is included in a State plan is the reflection of State policy with respect to law enforcement and the criminal justice system. The issue is: Who propounds that State policy? Is it the Governor or all of the State legislature and the Executive of the State government? And a decision which involves them both it would appear to me would be very superior to just one.

Mr. CONYERS. We have had testimony in the subcommittee in which members of course of the State legislatures appeared before the subcommittee asking that they be given an opportunity to definitively pass upon this legislation. And although I am not strongly opposed to it, the advisory review is the first step in this legislation and I would suspect that perhaps we ought to for 1 year see how that operates before we consider moving to extending the powers of the several State legislatures.

Mr. McCLORY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as the chairman of the subcommittee has indicated, we do have new language in this bill which does provide for input by the State legislatures and it is in response to the testimony that the representatives of the State legislatures presented to our subcommittee. We have required that the State planning agencies submit the plans to these State legislative agencies for their review and for their criticism.

If there is any conflict with existing statutes or anything of that nature, that has to be taken into consideration; but to give that State legislature the blanket authority to approve or disapprove, to accept or reject the State plan, seems to be quite inconsistent with the manner in which we have set up this legislation.

We have made a big step forward in the bill that is before us. It seems to me a good compromise, even from a legislative position.

Mr. Chairman, I am hopeful that the amendment offered by the gentleman from California will be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment was rejected.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this 5 minutes to discuss with the chairman of the subcommittee a problem that may reach constitutional magnitude. I wish to at least alert the Congress to the difficulty in the event that anyone takes exception to the language.

I call attention to pages 3 and 4 of the bill. Section 104 is included, which has language at the end of section 203(a) of the bill. The added language, the new language, ought to raise a question. It deals with the power of the Governor to make appointments. In this bill we say that the Governor can appoint to the State planning agency nominees to the State judiciary. Now, it requires two nominees by the State judiciary, which must be appointed by the Governor. If we were to draft something like this applicable to Federal law, I think clearly it would be unconstitutional.

The question is whether or not the principles of Buckley against Valeo which limit the intrusion of the executive power to make appointments is applicable to States. I do not say for one moment that Buckley against Valeo stands for the proposition that a State constitution cannot pass on the judiciary in a legislative branch other than the executive power to make appointments; but the fact is that most State constitutions track the Federal constitution and there is a common treatment of the power of the executive in most State governments, as there is in the Federal Government.

Now, if the Members are alert to the holding of Buckley against Valeo, then I ask them to read with care the language at the bottom of page 3 of the bill as contained in part of that decision.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I would say succinctly that, first of all, we are moving in a direction that would allow not less than two members of the State planning agency to be appointed from a list of nominees submitted by the Chief Justice.

Now perhaps therein lies a subtle wreath of distinction. If it does not, then these concerns may be well founded.

I would point out that the Senate has fallen into possibly the same trap, but I would assure my colleague that we will be examining this provision in terms of the court decision which the gentleman has cited much more carefully.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: On page 16, line 2, strike "(a)" and on lines 10 through 24, and on page 17, lines 1 through 5, strike the whole of section 108 (b) and (c).

Mr. CONYERS. Mr. Chairman, will the distinguished gentleman from California yield?

Mr. WIGGINS. I yield to the gentleman from Michigan.

Mr. CONYERS. It is our determination on this side, and I hope it meets with the gentleman's agreement, that the Committee rise at this time.

Mr. WIGGINS. I agree.

Mr. CONYERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROSENTHAL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13636) to amend title I (Law Enforcement Assistance) of the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON S. 2184, OLYMPIC WINTER GAMES AUTHORIZATION ACT

Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 2184) to authorize appropriations for the winter Olympic games, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 94–1447)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2184) to authorize appropriations for the winter Olympic games, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Olympic Winter Games Authorization Act of 1976".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) it is desirable for Americans of present and future generations to be assured adequate outdoor recreational resources and wilderness areas;

(2) the XIII international Olympic winter games, which are to be held in the United States at Lake Placid, New York in 1980, will further an awareness and appreciation of indoor and outdoor recreational activities and of the need for preserving wilderness areas:

(3) amateur athletics and amateur athletic competition have contributed to the health and well-being of the Nation and, as the host country for the XIII international Olympic winter games, the United States has a unique opportunity to encourage participation in such activities by furnishing limited financial assistance to assure the availability of adequate facilities, resources, and support for the Olympic winter games;

(4) the Congress has pledged its cooperation and support in the successful fulfillment of the XIII international Olympic winter games; and

(5) the Federal financial assistance authorized by this Act is provided in recognition of the unique economic circumstances of the Lake Placid area and should not be considered as establishing a precedent for any future Federal financial assistance for international athletic competitions.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "Olympic winter games" means the XIII international Olympic winter games to be held in 1980 at Lake Placid, New York.

(2) The term "Secretary" means the Secretary of Commerce.

(3) The term "winter games facilities" means existing or proposed winter sports and supporting facilities which are necessary to carry out the Olympic winter games, including—

(A) a field house;

(B) ski jumps;

(C) skating ovals or arenas;

(D) housing for athletes;

(E) a winter sports arena;

(F) administrative offices;

(G) dressing rooms, equipment, and storage facilities;

(H) a luge run;

(I) parking facilities;

(J) facilities for increased electrical power;

(K) sanitary and water facilities; and

(L) a scoreboard and other miscellaneous facilities.

FINANCIAL ASSISTANCE

SEC. 4. (a) GRANTS.—The Secretary shall provide financial assistance in the form of grants to—

(1) the Lake Placid 1980 Olympic Games, Incorporated, a not-for-profit corporation incorporated under the laws of the State of New York; or

(2) State, local, or other governmental agencies,

for purposes of assisting in the planning, design, and construction or improvement of winter games facilities, and for purposes of land acquisition and legal and fiscal fees in connection with the Olympic winter games. Subject to the provisions of subsection (b) of this section, such grants shall be provided in such sums, at such times, and under such conditions as the Secretary considers necessary and appropriate.

(b) CONDITIONS.—The amount of any grant for a winter games facility under subsection (a) of this section shall be based initially on the estimated cost of such facility. If the actual cost of any winter games facility is less than such estimated cost, the difference may be applied to meet the excess cost of any other winter games facility. If the actual cost of any winter games facility exceeds such estimated cost, plus any amounts applied to the excess cost under the preceding sentence, the Secretary shall not provide any grant for more than 50 percent of the remaining excess cost of such facility.

(c) REVERSION.—All revenues generated by the Olympic winter games in excess of actual costs shall revert to the Treasury of the United States in an amount not to exceed the total amount of funds appropriated under the authority of section 9 of this Act.

(d) OTHER ASSISTANCE.—The Secretary may provide financial assistance for projects related to the Olympic winter games under the authority contained in title I of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131–3136). Any such assistance (1) shall not be subject to the requirements for a non-Federal matching share set forth in section 101(c) of such title, and (2) shall be excluded from the limitation on the amount available to any one State set forth in section 103 of such title.

ENVIRONMENTAL PROTECTION

SEC. 5. In carrying out the provisions of this Act, the Secretary—

(1) shall require that all winter games facilities for which Federal financial assistance is provided under this Act are planned, designed, and constructed or improved in a manner which is consistent in all respects with State laws, rules, regulations, and plans governing the use, management, and development of Adirondack Park;

(2) shall not, as a condition on the receipt of Federal financial assistance under this Act, require any modification in any such State law, rule, regulation, or plan; and

(3) shall take such action as may be necessary and appropriate to assure that all activities relating to the Olympic winter games are carried out in a manner designed to recognize the outdoor recreational and wilderness values of Adirondack Park and the Lake Placid area and meet the needs of the Olympic winter games.

CONTINUED PUBLIC USE

SEC. 6. The Secretary, in coordination and consultation with State and local officials, shall take such action as may be necessary and appropriate to assure that all winter games facilities for which Federal financial assistance is provided under this Act are planned, designed, and constructed or improved in a manner which will provide maximum continued public use and benefit following the conclusion of the Olympic winter games.

REPORTS

SEC. 7. (a) INTERIM REPORTS.—The Secretary shall, within 3 months after the end of fiscal year 1977 and within 3 months after the end of each of the 2 succeeding fiscal years, submit an interim report to the Congress and to the President on the progress of the planning, design, and construction or improvement of winter games facilities under this Act. Each such report shall summarize and evaluate the progress made in preparing for the Olympic winter games, and include any recommendations for any further Federal involvement which the Secretary considers necessary or appropriate.

(b) FINAL REPORT.—The Secretary shall, within 3 months after the conclusion of the Olympic winter games, submit a final report to the Congress and to the President containing a summary of all actions taken under this Act, including a description of the action taken under section 6 of this Act to assure the maximum continued public use of winter games facilities.

RECORDS AND AUDIT

SEC. 8. (a) RECORDS.—Each recipient of Federal financial assistance under this Act, whether directly or indirectly, shall keep such records as the Secretary shall prescribe, including—

(1) records which fully disclose (A) the amount and the disposition by such recipient of the proceeds of such assistance, (B) the total cost of the winter games facility or related project for which such assistance is given or used, (C) the amount of that portion of the cost of such facility or project supplied by other sources, and (D) an identification of such other sources; and

(2) such other records as will facilitate an effective financial audit.

(b) AUDIT.—Until the expiration of 3 years after the completion of the winter games facility or related project referred to in subsection (a) of this section, the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of each recipient of Federal financial assistance under this Act which the Secretary or the Comptroller General considers relevant to such Federal financial assistance.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. (a) GENERAL.—There is authorized to be appropriated to the Secretary the sum of $49,040,000 for purposes of providing grants under section 4(a) of this Act for the Olympic winter games.

(b) ADMINISTRATION.—There is authorized to be appropriated to the Secretary the sum of $250,000 for the administration of this Act.

(c) AVAILABILITY.—Sums appropriated under this section are authorized to remain available until expended.

And the House agree to the same.

That the House recede from its amendment to the title of the Senate bill.

HARLEY O. STAGGERS,
FRED B. ROONEY,
BROCK ADAMS,
RALPH H. METCALFE,
JIM SANTINI,
J. SKUBITZ,
EDWARD R. MADIGAN,
Managers on the Part of the House.

WARREN G. MAGNUSON,
FRANK MOSS,
ERNEST F. HOLLINGS,
TED STEVENS,
JAMES L. BUCKLEY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2184) to authorize appropriations for the winter Olympic games, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the Senate bill struck out all of the Senate bill after the enacting clause and inserted a substitute text, and the Senate disagreed to the House amendment. The other House amendment amended the title of the Senate bill.

The committee of conference recommends that the Senate recede from its disagreement to the amendment of the House to the text of the Senate bill, with an amendment which provides a substitute text for both the Senate bill and the House amendment; and that the House recede from its amendment to the title of the Senate bill.

The differences between the text of the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by reason of agreements reached by the conferees and minor drafting and clarifying changes.

SHORT TITLE

Senate bill

No provision.

House amendment

The House amendment provided that this legislation may be cited as the "Olympic Winter Games Authorization Act".

Conference substitute

The conference substitute provides that this legislation may be cited as the "Olympic Winter Games Authorization Act of 1976".

CONGRESSIONAL FINDINGS

Senate bill

The Senate bill contained Congressional findings declaring it to be in the long-term interest of the United States that the Federal Government contribute to the construction of the permanent unique sports facilities for the XIII international Olympic winter games to be held in the United States at Lake Placid, New York, in 1980.

House amendment

The House amendment contained Congressional findings declaring that—

(1) it is desirable for present and future generations of Americans to be assured adequate outdoor recreational resources and wilderness areas;

(2) the XIII international Olympic winter games at Lake Placid in 1980 will further an awareness and appreciation of indoor and outdoor recreational activities and the need for preserving wilderness areas;

(3) the Congress has pledged cooperation and support in the successful fulfillment of the 1980 Olympic winter games; and

(4) financial assistance is provided under this legislation in recognition of the unique economic circumstances of the Lake Placid area and should not be considered a precedent for any future Federal assistance for international athletic competition.

Conference substitute

The conference substitute is the same as the House amendment, except that a finding is added declaring that amateur athletics and amateur athletic competition have contributed to the health and well-being of the Nation, and that, as the host country for the Olympic winter games, the United States has a unique opportunity to encourage participation in such activities by furnishing limited financial assistance to assure the availability of adequate facilities, resources, and support for such games.

FINANCIAL ASSISTANCE

Senate bill

The Senate bill authorized the Secretary of Commerce to make grants to the Lake Placid 1980 Olympic Games, Incorporated, a not-for-profit corporation of the State of New York, or any appropriate public authority, up to a total of $28 million to finance 100 percent of the estimated cost of providing sports facilities necessary for the XIII winter Olympic games. It also provided that he could make additional grants not to exceed 50 percent of any cost over and above this amount attributable to increases in construction costs.

The Senate bill also required the Secretary to use authorities and funding presently and otherwise available to the maximum extent possible. Any assistance extended by the Secretary under title I of the Public Works and Economic Development Act of 1965 for grants under this legislation was excluded from the limitation of section 103 of that Act, relating to the limitation on the amount of money which could be made available to any State, and from the requirements of section 101(c) of that Act, relating to the requirements for a non-Federal matching share.

House amendment

The House amendment required the Secretary of Commerce to make grants to the Lake Placid 1980 Olympic Games, Incorporated, a not-for-profit corporation incorporated under the laws of the State of New York, or to State, local, or other public agencies, to provide sports facilities in connection with the XIII international winter Olympic games. Such grants were required to be provided in such sums, and under such conditions, as the Secretary considered necessary and appropriate, except that if the actual cost of any facility for which a grant was made exceeded the estimated cost, the Secretary could not provide Federal funds for more than 50 percent of the excess over the estimated cost.

The House amendment also provided that all revenues generated by the XIII Olympic winter games in excess of actual costs must revert to the Treasury of the United States in an amount not to exceed the total amount of funds appropriated under this legislation.

The House amendment contained two specific limitations on the amount of money authorized to be appropriated under this legislation. The first was an overall limitation of $49,040,000 for purposes of providing grants to plan, design, and construct sports facilities for the 1980 Olympic winter games. The second was a limitation of $250,000 for administrative expenses incurred by the Secretary in carrying out this legislation.

The amounts appropriated were authorized to remain available until expended.

Conference substitute

Under the conference substitute, the Secretary is required to make grants to the Lake Placid 1980 Olympic Games, Inc. (a not-for-profit corporation incorporated under the laws of the State of New York), or State, local, or other governmental agencies, for purposes of carrying out this legislation. It is clear that the Secretary may make grants to either or both of the eligible recipients.

The conference substitute follows the House amendment in placing an overall limitation of $49,040,000 on the total amount of money authorized to be appropriated for the purpose of making grants for the 1980 Olympic winter games, and in providing an overall limitation of $250,000 for the administrative expenses incurred by the Secretary in carrying out this legislation.

The conference substitute modifies both the Senate bill and the House amendment with respect to the limitation of 50 percent on the amount of Federal funds which can be used for grants to pay costs of sports facilities which exceed the estimated cost. Under the conference substitute, the grant is based initially on the estimated cost of the project. Any cost savings may be applied to the cost overruns of any other project. If any project exceeds such estimated costs, plus any cost savings applied to such project, the Secretary cannot make a grant for more than 50 percent of the remaining costs of such project. The total amount expended for all grants must remain within the overall $49,040,000 limitation.

The conference substitute also modifies the Senate bill with respect to the mandatory use of existing authority and funding otherwise available to the Secretary. Under the conference substitute, the Secretary would be permitted, but not required, to use existing authority and funding otherwise available under title I of the Public Works and Economic Development Act of 1965 to carry out the provisions of this legislation. In any case in which assistance is extended by the Secretary under title I of the Public Works and Economic Development Act of 1965, such assistance would be excluded from the provisions of section 103 of that Act, relating to the limitation on the amount of money which may be granted to any State, and from the provisions of section 101(c) of that Act, relating to the requirements for a non-Federal matching share.

TYPES OF FACILITIES

Senate bill

The Senate bill authorized the construction of sport facilities necessary for the winter games, specifically those facilities needed for speed skating, figure skating, 90-meter ski jump, and luge events.

House amendment

The House amendment authorized the construction of "necessary winter sports and supporting facilities" in connection with the winter games.

Conference substitute

The conference substitute is a combination of both the Senate bill and the House amendment. It provides for the planning, design, and construction or improvement of existing or proposed "winter games facilities" in connection with the XIII international Olympic winter games. The term "winter games facilities" is defined to include a field house, ski jumps, skating ovals or arenas, athletes' housing (including dining, laundry, and related supporting facilities), a winter sports arena, administrative offices, a luge run, parking facilities, facilities for increased electrical power, sanitary and water facilities, dressing rooms, equipment, storage facilities, and a scoreboard and other miscellaneous facilities. It also authorizes grants for land acquisition and legal and fiscal fees in connection with providing the necessary facilities.

It is not the intent of the conferees that the provision relating to maximum continued public use of facilities constructed for the winter games (taken from the House amendment and included in the conference substitute) be construed in any manner to preclude the construction of any necessary facilities for which there can be no such continued public use. It is, however, the intent of the conferees to preclude construction of facilities of the type used by the public media to provide coverage for such events, which facilities are not necessary to the staging of the games.

ENVIRONMENTAL PROTECTION

Senate bill

No provision.

House amendment

The House amendment required the Secretary, in carrying out the provisions of this legislation—

(1) to coordinate activities and plans for the 1980 Olympic winter games in order to assure that such plans and activities were consistent in all respects with State laws, rules, regulations, and plans governing the use, management, and development of Adirondack Park and that such activities and plans would not require any modification in any such State law, rule, regulation, or plan; and

(2) to take such action as might be necessary and appropriate to provide that all activities relating to the staging of the 1980 Olympic winter games would be carried out in a manner designed to assure the preservation and enhancement of the outdoor recreational and wilderness values of Adirondack Park and the Lake Placid area.

Conference substitute

The conference substitute follows the House amendment with the following modifications:

First, the conference substitute provides that the Secretary shall require that all winter games facilities are planned, designed, and constructed or improved in a manner consistent with State laws, rules, regulations, and plans governing the use, management, and development of Adirondack Park.

Second, the conference substitute makes it clear that the Secretary cannot, as a condition to the receipt of financial assistance under this legislation, require any modification in any State law, rule, regulation, or plan.

Third, the conference substitute makes it clear that the Secretary is required to take whatever action may be necessary to provide that activities relating to the 1980 Olympic winter games will be carried out in a manner designed "to recognize" the outdoor recreational and wilderness values of Adirondack Park and the Lake Placid area and meet the needs of the Olympic winter games. As noted above, the House amendment originally required such activities to be carried out in a manner designed "to assure the preservation and enhancement" of such outdoor recreational and wilderness values. The conferees agreed that it would be impossible to preserve wilderness values absolutely while at the same time constructing an outdoor sports facility, although such construction may enhance outdoor recreational values. It is the intent of the conferees that the Secretary take such steps as may be necessary to preserve wilderness value to the maximum extent possible consistent with the provision of adequate sports facilities necessary for the 1980 Olympic winter games.

CONTINUED PUBLIC USE

Senate bill

No provision.

House amendment

The House amendment required the Secretary to take such action as may be necessary and appropriate, in consultation with State and local officials, to assure that all facilities designed and constructed with Federal assistance would be designed and constructed in a manner which would provide maximum continued public use and benefit following the completion of the 1980 Olympic winter games. Appropriate action could include a request by the Secretary for public comment with respect to maximum continued public use.

Conference substitute

The conference substitute is the same as the House amendment.

REPORTS

Senate bill

No provision.

House amendment

The House amendment required the Secretary to submit an interim report to the Congress on the progress of the design and construction of facilities under this legislation, together with his recommendations, if any, for further Federal involvement to assure a successful staging of the Olympic winter games. The interim report was required to be submitted within 3 months after the end of fiscal year 1977 and again within 3 months after the end of each of the 2 succeeding fiscal years.

In addition, the Secretary was required to submit a final report to the Congress containing a summary of all activities undertaken by the Secretary under this legislation within 3 months after completion of the 1980 winter Olympic games.

Conference substitute

The conference substitute is the same as the House amendment, except that each report must be submitted to the President at the same time it is submitted to the Congress, and each interim report must summarize and evaluate the progress made toward preparing for the Olympic winter games.

RECORDS AND AUDIT

Senate bill

No provision.

House amendment

The House amendment required each recipient of financial assistance under this legislation to keep such records as the Secretary might prescribe disclosing the amount and disposition of the proceeds of any such assistance, the total cost of the project in connection with which the assistance was given, the amount supplied by other sources, an identification of such other sources, and such other records as might facilitate an effective audit. The House amendment also provided that the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, would have access for the purpose of audit and examination to any books and records of each recipient of financial assistance which, in their opinion, might be relevant to grants made under this legislation. Such authority would continue until the expiration of 3 years after the completion of the project with respect to which the grant was made.

Conference substitute

The conference substitute is the same as the House amendment.

HARLEY O. STAGGERS,
FRED B. ROONEY,
BROCK ADAMS,
RALPH H. METCALFE,
JIM SANTINI,
J. SKUBITZ,
EDWARD R. MADIGAN,
Managers on the Part of the House.
WARREN G. MAGNUSON,
FRANK MOSS,
ERNEST F. HOLLINGS,
TED STEVENS,
JAMES L. BUCKLEY,
Managers on the Part of the Senate.

PROVIDING FOR CONSIDERATION OF H.R. 14238, LEGISLATIVE APPROPRIATIONS, 1977

Mr. BOLLING, from the Committee on Rules, submitted a privileged report to accompany the privileged resolution (H. Res. 1507, Rept. No. 94–1448), which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous material.)

Mr. O'NEILL. Mr. Speaker, I rise to announce the program for tomorrow. The business for today has been concluded.

When we adjourn today, we adjourn to meet at 12 o'clock noon tomorrow. The legislation for the day is as follows:

H.R. 14238, legislative appropriations for fiscal year 1977; with a modified closed rule and 2 hours of debate.

Then, we will have H.R. 13636, extension of LEAA; followed by H.R. 14886, Presidential Transition Act amendments, with an open rule and 1 hour of debate. That is the carryover money for the inaugural proceedings.

Then, we will take up H.R. 10498, Clean Air Act amendments, and continue consideration.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in connection with the legislation we have been considering, H.R. 13636.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PROVIDING FOR EXPENSES OF INVESTIGATION AND STUDIES TO BE CONDUCTED BY SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

Mr. THOMPSON, from the Committee on House Administration, submitted a privileged report to accompany the privileged resolution (H. Res. 1472, Rept. No. 94–1449), which was referred to the House Calendar and ordered to be printed.

AUTHORIZING APPOINTMENT OF SPECIAL COUNSEL TO REPRESENT THE SERGEANT AT ARMS IN THE CASE OF PRESSLER v. SIMON, ET AL.

Mr. THOMPSON, from the Committee on House Administration, submitted a privileged report to accompany the privileged resolution (H. Res. 1497, Rept. No. 94–1450), which was referred to the House Calendar and ordered to be printed.

SOVIET EMIGRATION POLICIES: ANOTHER CASE STUDY

(Mr. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRANE. Mr. Speaker, it is indeed disturbing, a year after the signing of the Helsinki Final Act, to be confronted with repeated instances of Soviet denial of the right of emigration to their people. Many of us hoped, in the wake of that act, that the circumstances which led Congress to make the Trade Reform Act of 1974 conditioned upon a Soviet commitment to liberalize its emigration policies would have at least resulted in implementation by now. However, no such implementation has taken place and we are faced with the question of what to do about it.

A look at history suggests several possibilities. First, we should recognize—and remember—that the Soviets interpret agreements their own way and use them to their own advantage consistently. Second, and this is a corollary to the first point; we must put the Soviets on notice that we are watching what they do as well as what they say and that we expect results, not just rhetoric.

One way to do this is to bring to the attention of the nation and the world specific examples of people being denied the right to emigrate. A number of Members of Congress have already done this by participating in a vigil on behalf of the aptly named "Orphans of the Exodus" and I wish today to join them. In the past, publicity about specific cases has had a salutory effect on the Soviets and it is my hope that this might be the case again.

One case that has been brought to my attention concerns Aron and Raye Vinkovetsky, an elderly couple living in Leningrad, who wish to go to Israel which they consider their ancestral home. Mr. Vinkovetsky, a shipbuilding engineer who has been retired for 13 years, and his wife have been trying to leave the Soviet Union for almost 3½ years but have been turned down for no adequate reason, unless one considers Mr. Vinkovetsky's writings about Yiddish musical folklore and Jewish culture in the U.S.S.R. adequate reason. All that these people want is the chance to live out their last years in the land of their hopes and dreams. And they should be given that chance.

I should also note that the Vinkovetskys have a son who, after much difficulty, was finally permitted to emigrate and is now in this country. For his sake, as well as that of his parents, let us hope that the Soviets see fit to make at least this one gesture in the direction of support for human rights and dignity. In the spirit of the Helsinki agreement, the Soviets are so obligated and I firmly believe we in Congress and freedom-loving people elsewhere have the responsibility to see that they live up to that obligation.

ANOTHER TRAGEDY FOR DEMOCRACY IN SOUTH KOREA

(Mr. FRASER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FRASER. Mr. Speaker, last weekend brought the sad news from South Korea that 18 prominent political, religious, and academic leaders were condemned to prison terms ranging from 2 to 8 years for signing a statement which called for peaceful restoration of democracy in their country. This miscarriage of justice is a tragedy: not only for those sentenced, but also for the people of South Korea, who now know the peril of speaking freely; and for the people of the United States, whose Government continues to give full support to the repressive regime of Park Chung-hee.

Those convicted and sentenced include former South Korean presidential candidate, Kim Dae-jung; former president of South Korea, Yun Po-sun, age 79; former foreign minister, Chung Il-hyong; his wife, Yi Tae-young, a prominent lawyer; and 75-year-old Hahm Sub-hon, known as "the Mahatma Gandhi of Korea" for his non-violent resistance to Japanese rule and the governments of Syngman Rhee and Park Chung-hee. When I had the pleasure of meeting each of these individuals during a visit to South Korea last year, I found them to be firmly committed both to democracy and resistance to North Korean Communist influence and aggression. The government of President Park, through a wide range of measures including the action taken against these people has made it clear that it regards democracy and resistance to North Korea as incompatible with each other.

The 18 South Koreans were arrested after associating themselves with the reading of a statement at Seoul's Myongdong Cathedral on March 1 entitled "Declaration on Democracy and National Salvation." The statement asserted that—

> In the midst of our bitter struggle against the communist regime of the north, we should always maintain our democratic force in coping with the north. Without the backing of democratic forces, national defense as well as economic power is like a house standing on the sand.

The statement went on to make several demands:

> The immediate rescinding of the existing Emergency Decrees which suppress the people;
>
> The release of good citizens and students who have been imprisoned for standing up for democracy;
>
> The return to the people of freedom of speech, press and assembly . . .;
>
> The restoration of the parliamentary system which was reduced to a skeleton by the Yushin Constitution.

Responsible protest such as this can hardly be regarded as encouragement for a North Korean takeover. Nor can the threat of North Korean attack against a militarily strong South Korea be a convincing justification for Park Chung-hee's retaliation against peaceful protesters. It is difficult to escape the conclusion that Park's real motive is merely a selfish determination to keep himself in power.

The policy of our Government suggests that no matter how repressive the Park regime becomes, the United States will continue to provide full military support, thus contributing indirectly to repression. This year that policy succeeded in authorizing $1.3 billion in military aid to the Park regime for the current 2-year period. Secretary of State Kissinger's most recent public statement on South Korea, in a July 22 speech, contains only the mildest reference to the dilemma of democracy there.

> And we will continue to remind the South Korean Government that responsiveness to the popular will and social justice are essential if subversion and external challenge are to be resisted.

However, even this mild intimation is countered by his next sentence:

> But we shall not forget that our alliance with South Korea is designed to meet an external threat which affects our own security, and that of Japan as well.

Such statements give Park Chung-hee a green light to proceed down the tyrannical road he has chosen.

LYNDON B. JOHNSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, last Friday would have been the birthday of Lyndon B. Johnson, whose Presidency began in unparalleled anguish and tragedy, rose to great heights and ended in his decision not to seek reelection. From that day forward, he was seen as a doomed man, scorned by many as a failure. He deserved better, and now I believe that history will record him among this country's strongest and successful Presidents. Lyndon Johnson's Presidential service changed this country in a profound way. He cared about the poor, the helpless, and the afflicted. His care was translated into Government programs that brought justice where justice had been denied; brought help to people in hopeless despair, and brought care to people who never believed it possible. These remarkable domestic programs were as great as any ever envisioned, let alone achieved, by the immortal Franklin Roosevelt.

It took a great man, one with a bold heart, to commit himself to the eradication of poverty, to the provision of medical care under social security, to civil rights laws, and to all the other efforts great and small that were part of Lyndon Johnson's vision of the Great Society. Not all of this could have succeeded, and not all of it did. The critics liked to say that it was all just a product of Johnson's ego, a sign of possible megalomania. After all, he lacked style in a time when stylishness seemed to be valued above all else. What was much worse, he happened to be President at a time when Americans began to realize that nothing comes easy; that it is no simple matter, no delight, to attack social ills that have existed for centuries.

In a time when we have witnessed scandals great and small, and have seen the meanness of Richard Nixon, we tend to forget that Lyndon Johnson was committed to a free and democratic government; that he respected the law; and that he did not tolerate scandal of any kind. No one in his administration violated the public trust. Honest public administration was the hallmark of Lyndon Johnson.

It is an article of faith now that Viet Nam was a tragedy, and it was. Yet, history will show that Lyndon Johnson once prevented an untimely and potentially tragic American intervention there at the time of the French defeat in the siege of Dienbienphu. When Johnson became President himself, he inherited the fact that Americans were already present in Viet Nam, and he maintained the course that had been set by his predecessor. His mistake was to follow the conventional wisdom, the advice of what one writer caustically called the best and the brightest.

But if Lyndon Johnson stumbled into a quagmire in Southeast Asia, he also took the decisive steps to end the deadlock. The peace for which Richard Nixon and now his appointed successor take credit, was initiated by Johnson. It was his fate to receive all the blame that befalls a loser, and none of the credit of finally ending a most tragic conflict.

Washington is a better and brighter place today, thanks to the work of President and Mrs. Johnson. His memory, and her monument, are fittingly in a little park. It is a place where many pass by, but few stop. It is, like Roosevelt's monument, too small to commemorate the debt the Nation owes to his leadership; it is big enough to attract only those who understand and appreciate what he attempted to do, who realize how astonishing his goals were, who know how magnificent his achievements finally were. It seems tragic, somehow. But his friends remember, and possibly that is what really counts. History may remember him better than we, and render him a kinder judgment than his contemporaries. As for me, he was a firm and unyielding friend, a man who cared, and cared in a way that counted. That was his greatness. He cared. In the end, he cared so much that it surely broke his heart. He ended his life where it began. He earned his rest, and should have received more gratitude than he did. He was a friend of the people, my friend, a people's man.

THE ARTHRITIS, DIABETES, AND DIGESTIVE DISEASES AMENDMENTS OF 1976

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. ROGERS) is recognized for 5 minutes.

Mr. ROGERS. Mr. Speaker, today I am joined by my colleagues on the Subcommittee on Health and the Environment, Mr. CARTER, Mr. PREYER, Mr. SYMINGTON, Mr. CARNEY, Mr. SCHEUER, Mr. WAXMAN, Mr. FLORIO, Mr. MAGUIRE, Mr. BROYHILL, Mr. HEINZ, and Mr. MADIGAN in introducing the Arthritis, Diabetes, and Digestive Diseases Amendments of 1976. This legislation would amend title IV of the Public Health Service Act to revise and extend the specific categorical authorities respecting arthritis, diabetes, and digestive diseases. Although research and training related to these diseases is supported by several institutes within the National Institutes of Health, the National Institute for Arthritis, Metabolism, and Digestive Diseases is primarily responsible for such research and training.

This legislation has the support of: The Arthritis Foundation, the National Commission on Arthritis and Related Musculoskeletal Diseases, the American Diabetes Association, the Juvenile Diabetes Foundation, the National Commission on Diabetes, the American Association for the Study of Liver Diseases, the American Gastroenterological Association, the American Society for Gastrointestinal Endoscopy, the Society for Surgery of the Alimentary Tract, the American Digestive Disease Society, and the National Foundation for Ileitis and Colitis.

Title I of the proposed bill deals with arthritis and related musculoskeletal diseases. Arthritis, a disease of the joints and connective tissue, afflicts approximately 22 million persons in the United States, and an estimated six million persons suffer from related musculoskeletal diseases. According to the Health Information Survey, arthritis is the greatest single source of prolonged pain. Arthritis is frequently considered to be a disease of old age, but this is not always the case. There are currently over 230,000 juvenile arthritis patients in the United States.

The cost of arthritis to the nation is astounding. Lost wages due to arthritis and related diseases amount to an estimated $4 billion annually. Lost homemaker services due to arthritis amount to approximately $1.3 billion annually. Total hospitalization of arthritis patients cost $1.5 billion in 1975. Arthritis patients spend $859 million annually in physician visits and $1.265 billion on drugs.

Most arthritis patients are treated by general practitioners. Few doctors, however, receive adequate training in rheumatology. Of the 114 medical schools in the United States, 26 have no full-time rheumatologist. Today there are fewer than a thousand rheumatologists and approximately 30 pediatric rheumatologists in this Nation. In the face of this shortage, only 100 rheumatologists are graduated from medical schools each year.

The National Commission on Arthritis and Related Musculoskeletal Diseases, established by Congress by the Arthritis Act of 1974—Public Law 93–640—made several recommendations for changes in the Public Health Service Act to more effectively deal with the problems related to arthritis. The legislation I am introducing today would implement the major recommendations of the Arthritis Commission. It would extend, for 3 years, the authorizations of appropriations for arthritis centers, arthritis demonstration projects, and the arthritis data system. In addition, it would establish an advisory board to make recommendations concerning the implementation of the arthritis plan to the Secretary of Health, Education, and Welfare. The board would be composed of scientists, health and allied health professionals, heads of Federal agencies, and members of the general public. I believe that this advisory board will assist in the coordination of arthritis activities and permit valuable input from arthritis victims as well as professionals in the field.

Title II of the proposed bill deals with diabetes. Diabetes is a chronic disease that causes changes in the amount of pancreatic hormones, especially insulin, in the body. As this disease progresses, severe vascular complications result. It is estimated that over 10 million people suffer from diabetes. This disease was the major cause of approximately 38,000 deaths in 1974, and a contributing factor in many more. The incidence of diabetes has been increasing by approximately 6 percent per year. The direct cost of illness for diabetes in 1974 was estimated at $2.54 billion. The loss in productivity and earnings in that year was $1.066 billion, bringing the total cost for that year to $3.586 billion. These cost estimates do not include many of the complications associated with diabetes, such as vascular disease, blindness, and problems during pregnancy.

Research in many areas of diabetes could prove productive in the near future. Insulin, discovered in 1921, has made it possible for juvenile diabetics to live past child-bearing age. Evidence is now appearing which suggests a genetic transmission of the disease. Because diabetes often first appears after a viral infection, the Coxsackie B virus is thought to be linked with the development of the disease, as well. It has been observed that changes occur in the basement membrane of the blood vessels of diabetics. This change could be related to the cause of macroangiopathy, microangiopathy, and retinopathy in diabetics. I believe that research in these areas, where success is close at hand and millions will be affected, should be given priority.

My distinguished colleague from Kentucky (Mr. CARTER) is a leading advocate of Federal diabetes programs. Earlier this session, he introduced H.R. 11626, the National Diabetes Advisory Board Act, and several identical bills which were cosponsored by several members of the Subcommittee on Health and Environment and many other Members of the House. Title II of the bill I am introducing today is similar to Dr. CARTER's bill.

Title II of the proposed bill would implement the major recommendations of the National Diabetes Commission—established under Public Law 93–354. The authorizations for appropriations for diabetes research and training centers would be extended for 3 years to provide for support of research and training in diabetes. A National Diabetes Advisory Board would be established by the Secretary to review, evaluate, and make recommendations with respect to the implementation of the long-range plan of the National Commission. The Board would be required to submit an annual report to Congress and the President describing Federal activities and expenditures related to diabetes. This advisory board would be composed of scientists, health and allied health professionals, and members of the general public with an interest in diabetes.

Title III of the proposed bill deals with digestive diseases. More than 13 million people are afflicted with one or more of the digestive diseases. Although these diseases are rarely fatal, their morbidity is high. The direct cost of illness for digestive diseases was $5.519 billion in 1972. The total cost of illness due to digestive diseases in that year was over $16.5 billion.

The etiology of many digestive diseases is unknown. Ulcerative colitis is often a precursor to cancer, but the nature of this relationship has not yet been defined. Diet, viral infection, and a faulty immune system response have all been suggested as contributing factors. It is apparent that more research is needed to gain an understanding of the disease processes in order to improve their treatment and control.

Title III of this bill would require the Secretary of Health, Education, and Welfare to establish a National Commission on Digestive Diseases, similar to the National Arthritis and the National Diabetes Commissions. The Commission would be directed to undertake a comprehensive study of the state of knowledge, facilities, resources, and programs available in the field. A long-range plan concerning research, prevention, diagnosis, education, training, and delivery of care in digestive diseases would be required to be developed by the Commission. Within 18 months, the Commission would be required to submit to Congress a report including the long-range plan, recommendations for future Federal expenditures, and any recommendations for proposed legislation.

Although the National Institute of Arthritis, Metabolism, and Digestive Diseases is the primary agency responsible for research and training in digestive diseases, several other Institutes of the National Institutes of Health and many other Federal agencies support digestive disease related activities. In recognition of this fact, the bill provides for the establishment of an Interagency Coordinating Committee. This committee would be composed of representatives of certain Federal agencies. It would be responsible for integration and coordination of Federal governmental activities related to digestive diseases. I hope that this committee will help reduce duplication and increase communication and coordination among Federal agencies in order to speed progress in combatting digestive diseases.

Mr. Speaker, chronic diseases pose a threat to the health of the Nation. Congress has long recognized the problems of arthritis, diabetes, and digestive diseases. It is now time to continue to provide the resources necessary to help control these diseases.

Mr. Speaker, the subcommittee will be holding hearings on this and similar legislation within the next 3 weeks. I am optimistic that enactment of this legislation may be possible this Congress, although I am not certain that there will be sufficient time to cross the numerous legislative hurdles before adjournment. However, I will do all I can to make that possible.

Mr. Speaker, for the interest and information of the members and the public, I am inserting in the Extensions of Remarks section of today's Record, a summary of the background and an analysis of the proposed legislation.

PRINTING OF AMENDMENT TO H.R. 14844, THE ESTATE AND GIFT TAX ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Vanik) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, at the appropriate point in the Record, I have today had printed an amendment which provides a "split-credit" designed to target to the relief provided by the Estate and Gift Tax Act (H.R. 14844) to legitimate farmers and small businessmen without providing windfall relief to wealthy, nonoperating estates.

The amendment would provide a credit which would exempt $90,000 of estates from taxation. Farm and small business estates of $200,000 would be freed from taxation.

In addition to providing relief in the areas where it is admittedly most needed, the amendment avoids the revenue loss created by the committee bill and most of the amendments being offered to it. In effect, the adoption of this amendment would keep the bill "neutral" from a revenue point of view by raising approximately $1.2 billion compared to the committee bill which will be losing about $900 million per year by 1980.

DESIGNATION OF THE ADMINISTRATOR OF OEBS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Dent) is recognized for 5 minutes.

Mr. DENT. Mr. Speaker, I would like to direct the attention of the House to the recent resignation of Mr. James D. Hutchinson as Administrator of Pension and Welfare Benefit Programs, U.S. Department of Labor.

Under his leadership the Department has made significant gains in the past year in overcoming the administrative problems which have plagued the implementation of ERISA. In the course of our oversight hearings the members of our subcommittee have come to know Mr. Hutchinson as an exceptionally talented and dedicated public servant. Much of his time before us was spent in the all too familiar adversary environment of oversight hearings. Jim's appearances were in many cases trying and difficult for him, but he always responded openly and directly to our questions. His aggressive advocacy for the Department's position was always present but tempered by his strict regard for the truth and genuine respect for conflicting points of view.

We all regret his leaving especially now when it appears that his efforts have had some tangible results. Many problems remain, but progress has been made in developing a clear and coherent rationale for the Department's regulatory effort, and the first tentative steps have been taken to upgrade the personnel in the Office of Employee Benefits Security. These changes while apparently of modest dimensions represent significant achievements and are, I am sure, the product of Herculean effort.

Our regret at his departure is of course accompanied by every best wish for his future.

A copy of Mr. Hutchinson's memorandum accompanying his letter of resignation follows and I commend it to the House. I can assure my colleagues that our committee will fully explore the unresolved problem areas which he mentions.

Labor-Management Services Administration, Administrator of Pension and Welfare Benefit Programs,
Washington, D.C., August 19, 1976.

MEMORANDUM FOR THE SECRETARY

From: James D. Hutchinson, Administrator.

During our conversation on August 12, 1976, when I submitted my letter of resignation, we discussed at length the Department of Labor's implementation of the ERISA program and you solicited my observations on the current status of our progress in this area and suggestions for priority issues in the future.

The year and one-half that I have been privileged to serve in the position of Administrator of Pension and Welfare Benefit Programs has been one of significant personal gratification. I have had the pleasure of working with a number of highly professional and dedicated people who bring great credit to the concept and practice of public service.

The challenge and personal gratification which have been mine over the last year and one-half are very much due to the law we have been charged with implementing and administering—the Employee Retirement Income Security Act of 1974 (ERISA). There is perhaps no single piece of legislation of recent years that has as much potential impact on employee rights, labor-management relations, and the economy.

While I believe the Department has accomplished much since this law was enacted on Labor Day, September 2, 1974, I leave the Department of Labor also believing that much more needs to be done before ERISA's full promise can be realized.

In my opinion, the Department of Labor has taken a number of significant steps under ERISA.

We have established a regulatory "tone" which recognizes the value and importance of meaningful public participation in developing regulatory policies.

We have adopted a principle that reporting, disclosure and other regulatory standards can be developed to minimize impractical, burdensome or duplicative requirements, while retaining the underlying purposes of the law.

We have developed a compliance strategy which focuses on the desire for voluntary compliance, but which makes maximum use of new broad-ranging civil remedies available under ERISA to ensure the sound administration of employee benefit plan practices so that plans truly operate in the best interests of participants and beneficiaries.

And we have planned and are executing a well-conceived and well-supported investigation of the Central States, Southeast and Southwest Areas Pension Fund.

On the other hand, it is my belief that there are several major issues which must be addressed in the near future if ERISA is to be fully and effectively implemented.

They include an administrative or legislative resolution of the problems of joint jurisdiction between and among three separate federal agencies administering the same law.

There should be, it seems to me, an examination of the proper role of private and public (including federal, state and local) retirement systems if we are to achieve an underlying national goal of broad-based retirement income security.

And, finally, there is a pressing need for greater personnel and organizational flexibility and creativity if the federal government is to be an effective mechanism for carrying out, in a reasonable period of time, the purposes of complex new regulatory schemes affecting major portions of our population and economy.

My decision to leave government service at this time is the result of both professional and personal considerations.

Professionally, I believe an infusion of new initiatives and individuals may stimulate progress toward achieving yet unaccomplished goals for implementing ERISA.

Personally, over the past few years of government service, I have spent less and less time with my very patient and supportive family. Public service can be so challenging and rewarding that, at times, we overlook life's other rewards.

So, while I have no specific plans for the future, I am looking forward to spending more time with my family in the coming months.

ESTATE AND GIFT TAX REFORM

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, Federal estate and gift tax reform is long overdue. No taxes have been affected more by inflation than those on property given away or left to heirs. Procrastination and neglect have resulted in a transfer tax system that threatens free enterprise as well as family ownership of farms and small businesses. The estates of farmers and small businessmen consist largely of illiquid assets and thus their executors are forced to either sell or partition the estate's assets to pay the Federal estate tax. The impact of inflation and the present low estate tax exemption sometimes amounts to little less than confiscation. Thus, there is a clear and compelling need to provide equitable estate tax relief and revision of an outdated Federal transfer tax system.

Opposition to this proposal is now being voiced because of the carryover basis provision which was included in the bill at the last minute. I concur that this is an income tax provision and has no place in an estate tax reform bill. In the bill the estate tax provisions of the bill are responsive to the basic problem. The level of tax-free estates is substantially increased through the basic estate tax credit. The marital deduction is liberalized and the problems of joint ownership are reduced. Family farms and businesses are provided an alternate evaluation standard which allows a portion of their assets to be valued at their current economic use, rather than according to the value which the Government determines to represent the highest and best use of the property. Liberalized extensions for payment of the estate tax at reduced rates of interest are provided for illiquid estates. Thus, H.R. 14844 represents a significant effort to alleviate the problems which presently require the forced sale of farms and small businesses to pay the Federal estate tax.

It has been conservatively estimated that the carryover basis provision will reduce the total relief provided in this legislation by more than $1 billion in the long run. This amounts to nothing less than a huge levy on capital. Thus, the present estate tax burden on farmers and small businessmen which H.R. 14844 seeks to alleviate will be replaced by an income tax burden of equal or possibly even greater magnitude.

In my opinion, the carryover basis will result only in unnecessary complication, confusion and inequity of our Federal tax law.

The Estate and Gift Tax Reform Act of 1976 started out as an attempt to make long overdue changes in the estate and gift tax area, with particular emphasis on the special problems faced by small businessmen and farmers. The inclusion of the carryover basis provisions can negate any relief which other provisions of the bill would provide for many subject to the estate tax. Property should neither be held nor disposed of for tax reasons only, but for basic business and personal reasons. "Carryover basis" violates this theory of sound tax policy.

Two provisions of the original bill, the split credit and the generation-skipping tax, which were tentatively adopted by the committee only to be stricken in final consideration should be reinstated by the House. Without them, the bill unnecessarily reduces revenues by almost $2 billion in the short run and close to $1 billion annually in the long run without providing relief we were told the farmer and small businessman need.

The Estate Tax bill was scheduled for consideration by the House but action has now been postponed indefinitely. I am disappointed that the Congress failed to enact this important and badly needed legislation. I consider it essential that floor consideration be rescheduled without delay and that a sound bill be passed.

MOTHERS PREFERRED TO GOVERNMENT: THERE IS NO SUCH THING AS A FREE LUNCH

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, a shocking pattern of fraud, waste, and inefficiency has been documented by my distinguished colleague, Congresswoman ELIZABETH HOLTZMAN, in her tireless investigation of New York's $1.5 million a day summer lunch program. Her inquiry has brought to light countless incidents of wasted food, illegal distribution of food to unintended recipients, kickbacks from vendors to program sponsors, unsubstantiated reimbursements and violations of Federal competitive bidding regulations on the part of the 140 program sponsors. Charges of malfeasance are not borne by the private sponsors alone. State and local authorities have been slow to expose and terminate abuses. In fact, massive irregularities in last summer's free lunch program were still the subject of official investigations some 9 months following completion of those programs when the current illegalities were exposed. While current investigation is limited to New York, past experience indicates that abuses are probably nationwide in scope. The misuse of public funds in the free summer lunch program is yet another chapter in a continuing saga of scandal—witnessed recently in the medicaid program, day care program and nursing homes. Disclosures in all these areas strongly suggest that the for-profit provision of health and social services may no longer be viable. With regard to the case at hand, I believe that a fundamental reorganization of the Nation's summer free lunch program is necessary if abuses associated with profiteering free lunch sponsors and vendors are to be eradicated once and for all.

The summer lunch program was well intended and, I believe, the needs which it attempts to meet are legitimate ones. However, in evaluating alternative approaches to distributing free lunches to needy children, I am struck by a familiar pattern of Government's response to what is often a relatively simple problem. Many families simply do not have adequate income to provide their children with nutritionally balanced lunches over the summer months. Hence, Government has made substantial public funds available and in doing so has spawned a huge administrative bureaucracy replete with waste and fraud. When that bureaucracy is chastised for its lax administration of the program in allowing fraud to flourish unchecked, it is the recipients, in this case the very poorest children, who must suffer. For they are truly the losers when neighborhood programs are terminated.

A more sensible approach is to provide parents with the necessary income through the food stamp program so that they can furnish lunches to their children. The food stamp program is a far preferable vehicle for providing nutrition benefits than the summer lunch program for several reasons. A USDA error rate study showed the program to be remarkably free of fraud. In fact, only .08 percent on the rolls are ineligibles. What a welcome contrast to the current summer lunch program! The low rate of fraud is largely attributable to the simpler administration of the food stamp program which provides benefits directly to recipients. There is less bureaucracy involved in administering the program and, therefore, fewer middlemen to exploit the program for their own benefits. Also, individual households must meet eligibility standards under the food stamp program whereas the summer lunch program is available on an area basis. Therefore, under the food stamp program benefits would be targeted to those individuals who are unquestionably most in need.

Under legislation which I am now drafting and which will be introduced immediately after the Labor Day Recess, food stamp eligible families with school age children would receive an additional allotment of food stamps to cover the cost of nutritionally balanced lunches over the summer months when the school lunch programs are now available. By way of another option, State and local authorities would have the alternative of continuing the regular school year's hot lunch program through the summer if they so desired. Children would then be permitted to redeem food stamps for hot lunches provided at their local school. Local school districts and Boards of Education would obtain Federal reimbursement through the Federal food stamp program for the cost of lunches under my plan.

When Government attempts to supplant one of the basic functions of a family, which at times is warranted when parents are unable to perform the job, it should do so with great trepidation, and only under the most unusual of circumstances. If I had to sum up my feelings in this matter as they apply to this program as well as to many others, it is that we must get the dead hand of Government off of our backs and out of our pockets. Yes, Government has a role, an important one, but that role has been overplayed and should be sharply reduced. When it comes to lunches mothers should be preferred to Government.

THE U.S. UNQUALIFIED SUPPORT OF SOUTH KOREA REPEATS THE HISTORY OF U.S. INVOLVEMENT IN SOUTH VIETNAM

(Mr. **KOCH** asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. **KOCH**. Mr. Speaker, the United States is faced with a dilemma in Korea, but in my judgment not one without a solution. On the one hand, there are those who favor our continued support for the Park regime and who make the point that it is in the interest of world peace to protect South Korea in order to protect Japan as well; and they are among those who take the point of view expressed by Secretary of State Henry Kissinger, who acknowledges that "the Korean human rights situation is an important element in our policy consideration," but then goes on to say, "At the same time, we cannot lose sight of our basic concerns over the security situation on the Korean Peninsula. And so far as I understand it, that security situation to which Kissinger refers is the security of Japan and not simply South Korea alone.

I was incensed, as I suspect almost every American was, that North Korea caused or allowed the savage deaths of the two U.S. Army officers who were recently attacked and hacked to death by North Korean guards at the Panmunjom truce site in the demilitarized zone. I suggest that it was necessary and reasonable for the United States, short of war, to make it clear that this brutality was intolerable. One can debate whether the reinforcement of the U.S. military presence in South Korea with additional squadrons of jetfighters and a Navy task force was the necessary response or was simply bravado. Fortunately, there has been a deescalation of the military situation, and North Korea, while not yet apologizing and punishing those officers responsible for this dastardly, murderous action, has indicated some "regret" and has sought to deescalate the rising hostile atmosphere.

However, I would like to ask whether it is in the national interest of the United States to keep its military presence in Korea when the State Department admits that the Republic of Korea is a repressive regime. That repression, all must acknowledge, is sponsored and condoned by the United States because we continue to pour millions of dollars into that country in military and economic grants and loans. For the coming year the Ford administration has requested $8.3 million in military grants to the Republic of Korea and an additional $275 million for loans to purchase American arms. In addition, the United States has promised $145 million in Public Law 480 food grants and loans. I believe that our situation in Korea is the same as that which took place in Vietnam, where two oppressive forces contended with one another. We ought not to have sided with either of these two totalitarian forces: North or South Korea. And, I think even the State Department today would acknowledge that it was a grave error on our part to support a repressive South Vietnamese regime, even though the North Vietnamese were the equal of the South Vietnamese in their repression. By continuing our assistance to the Republic of Korea, without demanding in exchange for that assistance an end to repression by the Republic of Korea againts its own citizens, we are repeating the sad history of the U.S. involvement in Vietnam.

I read in today's news that a judge of the South Korean court has found 18 prominent South Korean intellectuals and politicians guilty of anti-Government activities. They were sentenced to prison terms ranging from 2 to 8 years. They include:

Yun Po Sun, a 79-year-old former President of South Korea, who received an 8-year sentence; Kim Dae Jung, an opposition politician who narrowly lost to President Park in the 1971 elections, who also received an 8-year sentence; and Lee Tae Yong, the country's first woman lawyer, who received a 5-year sentence.

What were their crimes? They criticized the Government and its decrees outlawing free speech.

Mr. Speaker, if we continue our unqualified support for the Republic of Korea, the pain and blood of those just sentenced is on our hands.

PRESIDENT FORD'S PROPOSAL FOR THE IMPROVEMENT AND EXPANSION OF OUR NATIONAL PARK SYSTEM

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, earlier today I made note of the fine proposal for the improvement and expansion of our National Park System as put forward by President Ford at Yellowstone National Park this past Sunday. This proposal will be presented to the Congress today, so I should like to take this opportunity to place the full text of the President's remarks in the Record so that all readers can appreciate them.

Remarks of the President at Yellowstone National Park, Old Faithful Lodge

Tom Kleppe, Senator Hansen, representatives of the Department of Interior, Reverend Clergy, ladies and gentlemen:

Labor day, next weekend, marks the end of a glorious summer. It means one more carefree holiday before we all go back to school, back to work, back to the duties we must do to build a better life for ourselves, our children and our country.

For many, many families it means one last chance to get out of town, out into the sun, under the stars, close to nature's beauties and nature's creatures. For me, this is a moment that I have been looking forward to for a long, long time—to return to Yellowstone where I spent one of the greatest summers of my life.

Being a seasonal Park Ranger—we used to call them 90-day wonders, maybe they still do (Laughter)—was one of the most challenging experiences, one of the greatest jobs I ever had following my graduation from the University of Michigan.

Now it seems more like fun than hard work, though we had plenty of both.

I have been telling my family about that summer ever since. Maybe I overdid those bedtime stories about my fire-fighting exploits and my heroic bouts with the bears. (Laughter)

At least that is what Mike, Jack, Steve and Susan keep on telling me. (Laughter)

So, this time, I brought some of the family along. Jack, as you know, and has been mentioned, is no stranger to Yellowstone. Two years ago this month, he was working as a ranger at a tower station—actually he was out fishing—when he got a sudden summons to come to Washington to see his old man get a new job.

So, today, it is a sentimental return to the scene of wonderful memories for two of the Fords and a new experience for Susan, who hopes to get some good Yellowstone photographs like she did last summer at Yosemite.

Family vacations—especially among the majestic mountains of the West—are a tradition of our family. My parents always took my brothers and myself to lakes and woods in my State of Michigan before I was big enough to go myself as a Boy Scout. There is something wonderful about the wide open spaces that is almost a necessity for Americans. Being alone with nature strengthens our love for one another and for our country.

For those who live close to the land, this is nothing new. But as more and more Americans live in cities, the lure of the mountains, the beaches, the lakes and the rivers, becomes more and more compelling. So, I have a serious, as well as a sentimental, reason for this visit today.

Our Bicentenntial Fourth of July turned out to be a very profound experience for millions and millions of Americans. Amid the fireworks and parades, the Tall Ships and the trips to historic shrines in our joyous celebration of two hundred years of our Nation under God, we found new meaning for the words of freedom, equality and unity.

I always knew the Park Service was efficient and effective (Laughter), and they really proved it just a moment ago. (Laughter)

If I might say, with our Bicentennial Celebration, which was very meaningful, on the Fourth of July, we did find new meaning for the words freedom, equality and unity. Somehow, despite our difficulties and our differences—perhaps because of them—Americans recaptured the essential spirit and greatness that makes us a very special kind of people. We realized again what a wonderful thing it is just to be an American.

As I thought about the changes that have taken place in this great country—not only in the last two years, but during the last two centuries—I also thought about those things that must never change. Those unchanging things really make us Americans.

They are the things we must pass on to future generations. Some are intangible, invisible—our deep religious and moral convictions, our bonds of family and community, our political values embodied in the Declaration of Independence and the Constitution.

But we have other common treasures that are material and visible, that can be damaged and destroyed by man. We must be equally committed to conserve and to cherish our incomparable natural heritage—our wildlife, our air, our waters and our land, itself.

More than a century ago, we began to save our natural heritage for the enjoyment of future Americans, with the national park system, of which Yellowstone is the oldest and the largest. This year alone, we expect 260 million Americans to visit and enjoy our 287 national parks that spread from the Virgin Islands to Maine to Alaska and to Hawaii.

I am sure there are times when some of you thought that all 260 million were camping on your camp site. (Laughter)

We have had a wonderful Bicentennial. We celebrated what our patriotic founders and our immigrant ancestors handed down to us. We renewed our vows to their vision of free Government and equality. But, I found myself saying we ought to do more. Can't we do something special, as our Bicentennial birthday presents to future generations, a gift that will be gratefully remembered 100 years from now. We can.

I, therefore, decided upon a ten-year national commitment to double America's heritage of national parks, recreation areas, wildlife sanctuaries, urban parks and historic sites.

I will send to the Congress Tuesday a Bicentennial Land Heritage Act, which calls for a pledge of $1 billion 500 million during the next ten years. It will more than double our present acreage of land for national parks, recreation areas and wildlife sanctuaries; development of these new lands to make them accessible and enjoyable; improving facilities and increasing dedicated personnel at existing national parks; making available $200 million for urban parks, bringing the benefits of nature to those who live in our cities; and accelerating the development of parklands and sanctuaries now delayed for lack of manpower and of money.

This national commitment means we may have to tighten our belts elsewhere a bit, but it is the soundest investment in the future of America that I can envision. We must act now to prevent the loss of treasures that can never be replaced for ourselves, our children and for future generations of Americans.

This is a big job, one that requires Government action at all levels. But, like most of the big jobs Americans undertake, it cannot be left to Government alone. In the past, the cause of land conservation has been advanced by many concerned citizens, companies and private organizations.

The Rockefeller family, represented here today by Mary and Laurence Rockefeller, is an outstanding example of this dedication. I thank them and all such far-sighted Americans for their generous contributions to our national park system and the preservation of our priceless natural heritage.

I call upon all Americans—our Bicentennial generation which has enjoyed the blessings of liberty and the pursuit of happiness, ours for 200 years—to join in a great new undertaking, to improve the quality of our lives and of our land.

I recall that snowy day in 1961 when President Kennedy was inaugurated. I can still see that great American poet, Robert Frost, standing on the steps of the United States Capitol, reciting these moving lines:

"The land was ours before we were the land's. She was our land more than 100 years before we were her people."

I remember as a ranger the first time I stood alone on Inspiration Point over at Canyon Station looking out over this beautiful land. I thought to myself of how lucky I was that my parents' and grandparents' generation had the vision and the determination to have it for us.

Now it is our turn to make our own gift outright to those who will come after us 15 years, 40 years, 100 years from now. I want to be as faithful to my grandchildren's generation as Old Faithful has been to ours. What better way can we add a new dimension to our third century of freedom?

Thank you very much.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Helstoski (at the request of Mr. O'Neill), for today, on account of official business.

Mrs. Collins of Illinois (at the request of Mr. O'Neill), for today, on account of illness.

Mr. Whitehurst (at the request of Mr. Rhodes), from 4 p.m. today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Hr. Hansen), to revise and extend his remarks, and to include extraneous matter:)

Mr. Kemp for 15 minutes, today.

(The following Members (at the request of Mr. D'Amours), to revise and extend their remarks, and to include extraneous matter:)

Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Rogers, for 5 minutes, today.
Mr. Vanik, for 5 minutes, today.
Mr. Dent, for 5 minutes, today.
Mr. Ford of Tennessee, for 5 minutes, today.
Mr. Flood, for 60 minutes, on September 9.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Yates and to include extraneous matter.

Mr. Spence and to include extraneous matter prior to passage of S. 3779.

Mr. Bingham to revise and extend his remarks immediately prior to the recorded vote on the Conyers "mini-block" amendment in the Committee of the Whole today.

(The following Members (at the request of Mr. Hansen) and to include extraneous matter:)

Mr. Robinson.
Mr. Esch.
Mr. Johnson of Pennsylvania in two instances.
Mr. Conte.
Mr. Archer.
Mr. Lujan in two instances.
Mr. Paul.
Mr. Gilman in three instances.
Mr. Hansen.
Mr. Kemp in four instances.
Mr. Crane.
Mr. Brown of Ohio in two instances.
Mr. Wiggins.
Mr. Mosher.
Mr. Rousselot.
Mr. Ashbrook in three instances.

(The following Members at the request of Mr. D'Amours) and to include extraneous matter:)

Mr. Gonzalez in three instances.
Mr. Anderson of California in three instances.
Mr. Vanik in two instances.
Mr. Hamilton in 10 instances.
Mr. McCormack in two instances.
Mr. Roush.
Mr. Mezvinsky.
Mr. Maguire.
Mr. Rose.
Mr. Ryan in two instances.
Mr. Downing of Virginia.
Mr. Wolff in two instances.
Mr. Murtha.
Mr. Downey of New York.
Mr. Matsunaga.
Mr. Santini.
Mr. Rogers.
Mr. Harrington.
Mrs. Collins of Illinois.
Mr. McDonald in three instances.
Mr. Hungate in two instances.
Mr. Dingell in three instances.
Mrs. Keys in two instances.
Mr. Moorhead of Pennsylvania in 10 instances.
Mr. Dent.
Mr. Drinan in two instances.
Mr. Breckinridge.
Mr. Scheuer in two instances.
Mr. Nedzi.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 8410. An act to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes;

H.R. 11481. An act to authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce, and for other purposes;

H.R. 11670. An act to authorize appropriations for the Coast Guard for the procurement of vessels and aircraft and construction of shore and offshore establishments, to authorize for the Coast Guard a year-end strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes; and

H.R. 13372. An act to amend the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271), and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3779. An act for the relief of Mrs. David C. Davis.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on August 30, 1976, present to the President, for his approval, a bill of the House of the following title:

H.R. 9153. An act granting the consent of Congress to the New Hampshire-Vermont Interstate Sewage Waste Disposal Facilities Compact.

ADJOURNMENT

Mr. D'AMOURS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 6 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 1, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3900. A letter from the President of the United States, transmitting a report on his determination that the import relief recommended by the U.S. International Trade Commission for the U.S. industry engaged in the commercial production and extraction of honey is not in the national economic interest, pursuant to section 203(b)(2) of the Trade Act of 1974 (H. Doc. No. 94–596); to the Committee on Ways and Means and ordered to be printed.

3901. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a report on the agency's disposal of foreign excess property during fiscal year 1976, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949; to the Committee on Government Operations.

3902. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a special report on the Atlantic Intracoastal Waterway bridges in North Carolina (H. Doc. No. 94–597); to the Committee on Public Works and Transportation and ordered to be printed.

3903. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on the Mississippi River at La Crosse, Wis. (H. Doc. No. 94–598); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

3904. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on the Santee River system, North Carolina and South Carolina; to the Committee on Public Works and Transportation.

Received From the Comptroller General

3905. A letter from the Acting Comptroller General of the United States, transmitting a report on ways to improve Government efforts to control the evasion of immigration laws; jointly, to the Committees on Government Operations, and the Judiciary.

3906. A letter from the Acting Comptroller General of the United States, transmitting a report on the status of the Lake Pontchartrain and vicinity, Louisiana, hurricane protection project; jointly, to the Committees on Government Operations, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HENDERSON: Committee of conference. Conference report on H.R. 8603 (Rept. No. 94–1444). Ordered to be printed.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 13950. A bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes; with amendments (Rept. No. 94–1445). Referred to the Committee of the Whole House on the State of the Union.

Mr. ICHORD: Committee on Armed Services. H.R. 15136. A bill to authorize appropriations for construction of facilities on Guam, and for other purposes; with amendments (Rept. No. 94–1446). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee of conference. Conference report on S. 2184 (Rept. No. 94–1447). Ordered to be printed.

Mr. BOLLING: Committee on Rules. House Resolution 1507. A resolution providing for the consideration of H.R. 14238. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes (Rept. No. 94–1448). Referred to the House Calendar.

Mr. THOMPSON. Committee on House Administration. House Resolution 1472. Resolution to provide for the expenses of investigations and studies to be conducted by the Select Committee on Narcotics Abuse and Control (Rept. No. 94–1449). Referred to the House Calendar.

Mr. THOMPSON. Committee on House Administration. House Resolution 1497. Resolution authorizing appointment of a special counsel to represent the Sergeant at Arms in the case of Pressler v. Simon, et al.; with an amendment (Rept. No. 94–1450). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 1510. A resolution providing for the consideration of H.R. 3605. A bill to amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer) (Rept. No. 94–1451). Referred to the House Calendar.

Mr. YOUNG of Georgia: Committee on Rules. House Resolution 1511. A resolution providing for the consideration of H.R. 6684. A bill to amend the Federal Trade Commission Act to provide that exclusive territorial arrangements used in the distribution or sale of a trademark soft drink product or a trademarked private label food product shall not be deemed unlawful per se (Rept. No. 94–1452). Referred to the House Calendar.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 1512. A resolution providing for the consideration of H.R. 14886. A bill to revise the appropriation authorization for the Presidential Transition Act of 1963 (Rept. No. 94–1453). Referred to the House Calendar.

Mr. FOLEY: Committee on Agriculture. H.R. 12808. A bill to amend sections 358, 358a, 359, and 373 of the Agricultural Adjustment Act of 1938 and title I of the Agricultural Act of 1949 for the purpose of improving peanut programs, and for other purposes; with amendments (Rept. No. 94–1455). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. REUSS: Committee on Banking, Currency and Housing. H.R. 14829. A bill to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes; with amendments; referred to the Committee on Ways and Means for a period ending not later than September 24, 1976, for consideration of such provisions of the bill as fall within the jurisdiction of that committee under rule X, clause 1(v), and ordered to be printed (Rept. No. 94–1454, pt. I).

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARCHER:

H.R. 15337. A bill to amend the Internal Revenue Code of 1954 to increase the percentage limitation on the amount of the deduction allowable for charitable contributions made by corporations; to the Committee on Ways and Means.

By Mr. ESCH:

H.R. 15338. A bill to amend the Internal Revenue Code of 1954 to provide a credit for a certain portion of the expenses of higher education; to the Committee on Ways and Means.

By Mr. MAZZOLI:

H.R. 15339. A bill to amend section 901 of the Education Amendments of 1972 to allow mother-daughter and father-son events in elementary and secondary schools; to the Committee on Education and Labor.

By Mr. MITCHELL of Maryland (for himself, Mr. Dodd, Mr. Moffett, and Mr. Mikva):

H.R. 15340. A bill to amend the Small Business Act to expand assistance under such act to minority small business concerns, to provide statutory standards for contracting and subcontracting by the United States with respect to such concerns, and to create a commission on Federal assistance to minority enterprise, and for other purposes; jointly, to the Committees on Small Business, Government Operations, and Banking, Currency and Housing.

By Mr. PRICE (for himself and Mr. Bob Wilson) (by request):

H.R. 15341. A bill to authorize appropriations during the fiscal year 1977 and the transition quarter for procurement of aircraft, naval vessels, torpedoes and other weapons and research, development, test, and evaluation for the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. RANDALL (for himself and Mr. Pepper):

H.R. 15342. A bill to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such act regardless of their age; to the Committee on Education and Labor.

By Mr. ROBERTS (for himself, Mr. Wright, Mr. Nedzi, Mr. Oberstar, Mr. Price, Mr. Reuss, Mr. Riegle, Mr. Rostenkowski, Mr. Ruppe, Mr. Russo, Mr. Shipley, Mr. Simon, Mr. James V. Stanton, Mr. J. William Stanton, Mr. Steiger of Wisconsin, Mr. Traxler, Mr. Vander Jagt, Mr. Vander Veen, Mr. Vanik, Mr. Vigorito, Mr. Yates, Mr. Crane, and Mr. Fraser):

H.R. 15343. A bill to demonstrate the practicability of increasing the Chicago diversion in order to alleviate water damage to the shoreline of the Great Lakes, and to improve water quality in the Illinois Waterway; to the Committee on Public Works and Transportation.

By Mr. ROBERTS (for himself, Mr. Wright, Mr. O'Hara, Mr. Annunzio, Mr. Ashley, Mr. Aspin, Mr. Blanchard, Mr. Brademas, Mr. Brodhead, Mr. Broomfield, Mr. Brown of Michigan, Mr. Carr, Mr. Cederberg, Mr. Conable, Mr. Conyers, Mr. Diggs, Mr. Dingell, Mr. Erlenborn, Mr. Esch, Mr. Fary, and Mr. Ford of Michigan):

H.R. 15344. A bill to demonstrate the practicability of increasing the Chicago diversion in order to alleviate water damage to the shoreline of the Great Lakes, and to improve water quality in the Illinois Waterway; to the Committee on Public Works and Transportation.

By Mr. ROBERTS (for himself, Mr. Wright, Mr. Hall of Illinois, Mr. Horton, Mr. Hutchinson, Mr. Kasten, Mr. Kemp, Mr. Kindness, Mr. LaFalce, Mr. Latta, Mr. Madden, Mr. McClory, Mr. Metcalfe, Mr. Mikva, Mr. Mosher, and Mr. Murphy of Illinois):

H.R. 15345. A bill demonstrate the practicability of increasing the Chicago diversion in order to alleviate water damage to the shoreline of the Great Lakes, and to improve water quality in the Illinois Waterway; to the Committee on Public Works and Transportation.

By Mr. ROGERS (for himself, Mr. Carter, Mr. Preyer, Mr. Symington, Mr. Carney, Mr. Scheuer, Mr. Waxman, Mr. Florio, Mr. Maguire, Mr. Broyhill, Mr. Heinz, and Mr. Madigan):

H.R. 15346. A bill to amend the Public Health Service Act to revise and extend the provisions respecting arthritis, diabetes, and digestive diseases; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSE:

H.R. 15347. A bill to create within the Department of Agriculture an office specifically charged with the responsibility of assessing the fuel and energy needs of rural residents as such needs pertain to home heating and cooling, transportation, agricultural production, electrical generation, conservation, and research and development; to the Committee on Agriculture.

By Mr. STEED:

H.R. 15348. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. THONE (for himself, Mr. Horton, Mr. Rousselot, Mr. Crane, Mr. Patterson of California, Mr. Hagedorn, and Mr. Kasten):

H.R. 15349. A bill to establish national policies to promote the adoption of Government programs which can be expected to provide the greatest net public benefit and to prevent Government programs from having unreasonable public costs, to establish a system requiring regulatory cost benefit assessments to be prepared for any proposed legislation or regulation which may have a significant economic impact, and for other purposes; to the Committee on Government Operations.

By Mr. THONE (for himself, Mr. Hannaford, Mr. Kelly, and Mr. Kemp):

H.R. 15350. A bill to amend section 618 of title 38, United States Code, in order to authorize the Administrator to expand the current program providing therapeutic and rehabilitation activities for certain veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WHITEHURST:

H.R. 15351. A bill to amend the Fair Labor Standards Act to extend the overtime exemption to motorcycle dealerships; to the Committee on Education and Labor.

By Mr. WYDLER:

H.R. 15352. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for income tax purposes of expenses incurred by an individual for transportation to and from work; to the Committee on Ways and Means.

By Ms. ABZUG:

H.R. 15353. A bill to amend section 552 of title 5 of the United States Code, and for other purposes; jointly, to the Committees on Government Operations, and Armed Services.

By Mr. CRANE (for himself, Mr. Hinshaw, Mr. Schneebeli, Ms. Keys, Mr. Byron, Mr. Cleveland, and Mr. Gilman):

H.R. 15354. A bill to require that the U.S. Government prepare and make public annual consolidated financial statements utilizing the accrual method of accounting, and for other purposes; to the Committee on Government Operations.

By Mr. CRANE (for himself, Mr. Mann, and Mr. Paul):

H.R. 15355. A bill to amend title 39, United States Code, to eliminate certain provisions relating to private carriage of letters, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. CRANE for himself and Mr. Lujan):

H.R. 15356. A bill to increase competition in the airline industry, to encourage efficiency and low-cost services in the air transportation industry, to mandate flexibility in the regulation of air transportation prices, to better serve the air transportation consumer, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. FISHER (for himself and Mr. Koch):

H.R. 15357. A bill to amend schedule 8 of the Tariff Schedules of the United States in order to require proof of liability insurance for automobiles entered into the United States for personal use by nonresidents and foreign government personnel, and for other purposes; to the Committee on Ways and Means.

By Mr. FLOOD:

H.R. 15358. A bill to amend section 201 of the Appalachian Regional Development Act of 1965; to the Committee on Public Works and Transportation.

By Mr. FRASER:

H.R. 15359. A bill to authorize supplemental studies of alternative energy futures and to direct the publication of a report thereon, to establish an energy projection planning committee, and to supplement the authority of the Energy Research and Development Administration; jointly, to the Committees on Science and Technology, and Joint Committee on Atomic Energy.

By Mr. GUDE (for himself and Mr. Waxman):

H.R. 15360. A bill to amend the Federal employee health insurance provisions of title 5, United States Code, to require that notice and hearing be provided before the effective date of any reduction of health benefits or any exclusion of any type of provider of health services; to the Committee on Post Office and Civil Service.

By Mr. HARRINGTON (for himself, Mr. Hechler of West Virginia, Mr. Helstoski, Mr. Eilberg, Mr. Long of Maryland, Mr. Stark, Mr. Edwards of California, Mr. Downey of New York, Mr. Flood, Mr. Santini, Mrs. Keys, and Mrs. Burke of California):

H.R. 15361. A bill to provide for posting information in post offices with respect to registration, voting, and communicating with lawmakers; to the Committee on Post Office and Civil Service.

By Mr. JONES of Tennessee:

H.R. 15362. A bill to require that imported palm oil and palm oil products made in whole or in part of imported palm oil be labeled, to provide for the inspection of imported palm oil and palm oil products, to require that imported palm oil and palm oil products comply with certain minimum standards of sanitation, and for other purposes; to the Committee on Agriculture.

By Mr. KARTH:

H.R. 15363. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes; to the Committee on Agriculture.

By Mr. KASTENMEIER (for himself, Mr. Steelman, and Mr. Bafalis):

H.R. 15364. A bill to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions; jointly, to the Committees on the Judiciary, and Standards of Official Conduct.

By Mr. LEGGETT:

H.R. 15365. A bill to amend section 8332, title 5, United States Code, to provide for the inclusion in the computation of accredited services of certain periods of service rendered States or instrumentalities of States, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MATSUNAGA:

H.R. 15366. A bill to provide for the development of aquaculture in the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 15367. A bill to direct the Secretary of the Army, acting through the Chief of Engineers, to make a study of methods to develop, utilize, and conserve water and related land resources in the Hilo Bay Area, Hawaii, and to prepare a plan for the implementation of the findings of the study; to the Committee on Public Works and Transportation.

H.R. 15368. A bill to amend the Federal Fire Prevention and Control Act of 1974 to give priority in the making of training grants to programs which provide for the training of recruits through techniques that simulate fire experiences; to the Committee on Science and Technology.

By Mr. NOWAK:

H.R. 15369. A bill to increase the rate of duty on candles and tapers; to the Committee on Ways and Means.

By Mr. RINALDO:

H.R. 15370. A bill to amend title 39, United States Code, to increase to 60 days the period before an election during which a Member of, or Member-elect to, the Congress may not make a mass mailing as franked mail if such Member or Member-elect is a candidate in such election; to the Committee on Post Office and Civil Service.

By Mr. RODINO (for himself and Mr. Hutchinson) (by request):

H.R. 15371. A bill to provide for protection of the spouses of major Presidential and Vice-Presidential nominess; to the Committee on the Judiciary.

Mr. VAN DEERLIN (for himself, Mr. Wirth, Mr. Waxman, Mr. Brown of Ohio, Mr. Florio, and Mr. Rose):

H.R. 15372. A bill to amend the Communications Act of 1934 to provide just and reasonable rates, terms, and conditions for the use of certain rights-of-way by persons desiring to lease space for wire communication, and with respect to penalties and forfeitures; to the Committee on Interstate and Foreign Commerce.

By Mr. McFALL:

H.J. Res. 1081. A resolution designating May 1 of each year as "National Private Security Guard Day"; to the Committee on Post Office and Civil Service.

By Mr. BUCHANAN (for himself, Mr. Mahon, Mr. O'Neill, Mr. Rhodes, Mr. McFall, Mr. Michel, Mr. Phillip Burton, Mr. Anderson of Illinois, Mr. Morgan, Mr. Broomfield, Mr. Reuss, Mr. J. William Stanton, Mr. Adams, Mr. Conable, Mr. Staggers, Mr. Perkins, Mr. Hutchinson, Mr. Zablocki, Mr. Derwinski, Mr. Fascell, Mr. Rodino, Mr. Frey, Mr. Fraser, Mr. Vander Jagt, and Mr. Edwards of Alabama):

H. Con. Res. 726. A resolution to urge the Soviet Union to release Georgi Vins and permit religious believers within its borders to worship God according to their own conscience; to the Committee on International Relations.

By Mr. MATSUNAGA:

H. Con. Res. 727. A resolution expressing the sense of Congress that the Director of the Office of Management and Budget should defer implementation of proposed new regulations regarding the provision of service to the Government by private contractors until the Congress has an opportunity to review such proposed regulations; to the Committee on Post Office and Civil Service.

By Mr. BRADEMAS:

H. Res. 1505. A resolution disapproving certain regulations proposed by the Administrator of General Services on April 13, 1976, under section 104 of the Presidential Recordings and Materials Preservation Act; to the Committee on House Administration.

By Mr. FRASER (for himself, Mr. Fascell, Mr. Nix, Mr. Rosenthal, Mr. Wolff, Mr. Bingham, Mr. Yatron, Mr. Harrington, Mr. Ryan, Mr. Solarz, Mr. Bonker, Mr. Studds, Mr. Buchanan, Mr. Biester, Ms. Meyner, Ms. Collins of Illinois, Mr. Diggs, Mr. Riegle, and Mr. Gilman):

H. Res. 1506. A resolution relating to the sentencing of 18 South Koreans; to the Committee on International Relations.

By Mr. PATTISON of New York (for himself, Mr. Baucus, Mr. Phillip Burton, Mr. Dominick V. Daniels, Mr. Drinan, Ms. Fenwick, Mr. Krebs, Mr. Metcalfe, Mr. Miller of California, Mr. Pritchard, Mr. Santini, and Mr. Simon):

H. Res. 1508. A resolution to create a select committee on the fiscal problems of cities; to the Committee on Rules.

By Mr. SOLARZ (for himself, Mr. Biester, Mr. Bingham, Mr. Buchanan, Mr. Diggs, Mr. Fascell, Mr. Findley, Mr. Fraser, Mr. Harrington, Mrs. Meyner, Mr. Nix, Mr. Riegle, Mr. Ryan, and Mr. Studds):

H. Res. 1509. A resolution urging the President not to extend diplomatic or other recognition to the Transkei territory; to to Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BLANCHARD:

H.R. 15373. A bill for the relief of Robert Joseph Coen Weston; to the Committee on the Judiciary.

By Mr. BURKE of Massachusetts:

H.R. 15374. A bill for the relief of Zivka Jovanovic; to the Committee on the Judiciary.

By Mr. KAZEN:

H.R. 15375. A bill for the relief of Julio Ortiz-Medina; to the Committee on the Judiciary.

By Mr. PATTEN:

H.R. 15376. A bill for the relief of the Zena Co.; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

571. By Mr. MATSUNAGA: Petition of officers and members of credit unions in Hawaii, relative to the proposed "Financial Institutions Act of 1975"; to the Committee on Banking, Currency and Housing.

572. By the SPEAKER: Petition of the Society of Military Widows, Coronado, Calif., relative to the April 1976 recommendations of the Defense Manpower Commission; to the Committee on Armed Services.

573. Also, petition of Samuel B. Wallace IV, Washington, D.C., relative to the sale of certain antibiotics without a doctor's prescription; to the Committee on Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10498

By Mr. LEVITAS:

Page 321, after line 10, insert the following:

(e) Title III of such Act is amended by inserting the following new section after section 307:

"RULE AND REGULATION REVIEW

"Sec. 307A. (a) Any rule or regulation issued under the authority of this Act after the date of enactment of this section may, by resolution of either House of Congress, be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted. The Department or agency adopting any such rule or regulation shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

"(b) Congressional inaction on, or rejection of, a resolution of disapproval with respect to a rule or regulation shall not be deemed an expression of approval of such rule or regulation."

By Mr. MAGUIRE:

Amendment No. 1.:

Page 200, line 9, strike out ", class II, or class III" and substitute "or class II".

Page 201, strike out line 3 and all that follows down through line 9.

Page 201, line 10, strike out "(D)" and insert in lieu thereof "(C)".

Page 201, line 12, strike out ", (B), or (C)" and insert in lieu thereof "or (B)".

Page 201, line 22, strike out "(E)" and insert in lieu thereof "(D)".

Page 205, line 8, strike out "only" and all that follows down through line 13 and insert in lieu thereof: "as class II.".

Page 211, line 21, strike out "(D)" and insert in lieu thereof "(C)".

Page 213, line 10, strike out "(E)" and insert in lieu thereof "(D)".

Amendment No. 2: Page 206, line 14, before the period insert: "or that the State has arbitrarily and capriciously disregarded relevant environmental, social, or economic considerations in making such designation or redesignation".

Amendment No. 3, Page 203, strike out line 15 and all that follows down through line 7 on page 204 and insert in lieu thereof:

"(ii) No Federal lands may be designated or redesignated as class II unless the appropriate Federal agency (or agencies) having authority over such lands concurs in such designation or redesignation."

H.R. 12112

By Mrs. SCHROEDER:

On page 102 (which is part of the Banking, Currency and Housing Committee amendment), line 5, strike the word "applicable".

On page 61 (which is part of the Science and Technology Committee amendment), line 3, strike the word "applicable".

On page 126 (which is a part of the Interstate and Foreign Commerce Committee Amendment), line 10, strike the word "applicable".

On page 61 (which is a part of the Science and Technology Committee Amendment), on line 4, change the period to a colon and insert the following: "*Provided*, That the Administrator shall not issue any guarantee or commitment to guarantee or enter into an agreement under subsection (b) of this section unless the Administrator, in consultation with the appropriate Governor or Governors where such facility is located, is satisfied that the demonstration or modular facility will be constructed and operated in compliance with such laws and regulations and that all such permits, licenses, and certificates have been or will be obtained in a timely fashion."

On page 126 (which is a part of the Interstate and Foreign Commerce Committee amendment), on line 10, change the period to a colon and insert the following: "*Provided*, That the Administrator shall not issue any guarantee or commitment to guarantee or enter into an agreement under subsection (b) of this section unless the Administrator, in consultation with the appropriate Governors where such facility is located, is satisfied that the demonstration or modular facility will be constructed and operated in compliance with such laws and regulations and that all such permits, licenses, and certificates have been or will be obtained in a timely fashion."

On page 102 (which is a part of the Banking, Currency and Housing Committee amendment), on line 6, change the period to a colon and insert the following: "*Provided*, That the Administrator shall not issue any guarantee or commitment to guarantee or enter into an agreement under subsection (b) of this section unless the Administrator, in consultation with the appropriate Governor or Governors where such facility is located, is satisfied that the demonstration or modular facility will be constructed and operated in compliance with such laws and regulations and that all such permits, licenses, and certificates have been or will be obtained in a timely fashion."

H.R. 13636

By Mr. BREAUX:

Page 12, in line 10, strike out "and" and in line 18, strike out "needs." and insert in lieu thereof the following: "needs; and

"(22) provides for the direct grant to the chief law enforcement official of each county in the State of at least that percent of an amount equal to 10 percent of the money available under section 306(a) (1) of this title which equals the percent of the population of such State that resides in such county, as determined by the Administration."

H.R. 14238

By Mr. ARMSTRONG:

On page 33, line 24, strike the period and insert a colon and the following language: "*Provided further,* That this appropriation shall be available, as authorized by 31 USC 53, for the Comptroller General to conduct a review of the procedures of the House of Representatives related to the expenditure of funds appropriated for the various items of official expenses of Members, officers, and committees of the House and for Members' clerk hire, standing committee employees, special and select committee employees, and employees paid from the contingent fund of the House; and, to submit to Congress, not later than November 30, 1976, a report of recommendations designed to improve the accountability of funds appropriated for such purposes."

Page 35, immediately after line 11, insert the following new section:

"SEC. 1105. No part of the funds appropriated in this Act shall be used for the printing or purchase of either House Wall Calendars or U.S. Capitol Historical Society Calendars to be distributed gratuitously from, or under the name of, the offices of Members of the House of Representatives."

On page 35, immediately after line 11, insert the following new section:

"SEC. 1105. Except for the distribution of gratuitous copies of the Congressional Record to public or school libraries and except for documents or publications for use in a Member's offices or purchased with funds appropriated for a Member's official expenses, no part of the funds appropriated in this Act shall be used for the distribution, from the offices of Members of the House of Representatives, of gratuitous copies of publications or documents when such items are published or purchased with appropriated funds and not otherwise made available without charge."

By Mr. BAUMAN:

On page 7, after line 24, add the following new section 102:

"SEC. 102. None of the funds contained in this Act shall be made available for the purposes authorized by House Resolution 457, approved July 21, 1971 (Public Law 92–184), or authorized by H. Res. 1372, approved July 1, 1976, as a result of any order to be issued by the Committee on House Administration pursuant to the provisions of H. Res. 457, ninety-second Congress, or H. Res. 1372, ninety-fourth Congress for official expenses and allowances for Members, officers and standing committees of the House of Representatives."

By Mr. COUGHLIN:

On page 3, line 4, strike the period, and insert in lieu thereof: ": *Provided,* That expenditure of any appropriation contained in this Act, disbursed on behalf of any Member of Committee of the House of Representatives, shall be limited to those funds paid against a voucher, signed and approved by a Member of the House of Representatives stating under penalty of perjury, that the voucher is for official expenses as authorized by law: *Provided, further,* That any Member of the House of Representatives who willfully makes and subscribes to any such voucher which contains a written declaration that it is made under the penalties of perjury and which he does not believe at the time to be true and correct in every material matter, shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $2,000, or imprisoned for not more than five years, or both."

On page 7, after line 24, insert:

SEC. 102. Expenditure of any appropriation contained in this Act, disbursed on behalf of any Member or Committee of the House of Representatives, shall be limited to those funds paid against a voucher, signed and approved by a Member of the House of Representatives, stating under penalty of perjury, that the voucher is for official expenses as authorized by law: *Provided further,* That any member of the House of Representatives who willfully makes and subscribes to any such voucher which contains a written declaration that it is made under the penalties of perjury and which he does not believe at the time to be true and correct in every material matter, shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $2,000, or imprisoned for not more than five years, or both."

On page 3, line 4, strike the period, and insert in lieu thereof: "*Provided,* That expenditure of any appropriation contained in this Act, disbursed on behalf of any Member or Committee of the House of Representatives, shall be limited to those funds paid against a voucher, signed and approved by a Member of the House of Representatives, stating under penalty of perjury, that the voucher is for official expenses as authorized by law."

On page 7, after line 24, insert:

"SEC. 102. Expenditure of any appropriation contained in this Act, disbursed on behalf of any Member or Committee of the House of Representatives, shall be limited to those funds paid against a voucher, signed and approved by a Member of the House of Representatives, stating under penalty of perjury, that the voucher is for official expenses as authorized by law."

On page 4, line 2, strike the period, and insert in lieu thereof: ": *Provided,* That funds in this Act shall be limited to services provided by the Stationery Room, the House Recording Studio, the House Barber shops, the House beauty salon, and each food service facility, that are operated on an annually self-sustaining basis including costs of personnel employed in those entities."

On page 7, after line 24, insert:

"SEC. 102. Funds in this Act shall be limited to services provided by the Stationery Room, the House Recording Studio, the House Barber shops, the House beauty salon, and each food service facility, that are operated on an annually self-sustaining basis including costs of personnel employed in those entities."

On page 7, line 2, strike the period, and insert in lieu thereof: ": *Provided,* That none of the funds contained in this Act shall be used to implement the House Committee on Administration Order No. 30 of June 25, 1976, to increase the total allowances for any Member of the House of Representatives above the total allowances for which he would have been eligible prior to the issuance of that order."

On page 4, line 11, strike the period, and insert in lieu thereof: ": *Provided,* That none of the funds in this Act shall be used to provide or administer staff or consultant services for the Committee on House Administration in excess of the level in fiscal year 1976."

On page 7, line 13, strike the period, and insert in lieu thereof: ": *Provided,* That none of the funds in this Act shall be used to provide or administer staff or consultant services for the Committee on House Administration in excess of the level in fiscal year 1976."

By Mr. FRENZEL:

On page 5, line 12, strike the period, and insert in lieu thereof: ": *Provided,* That appropriations under this paragraph shall not be available for the salary of any person who at the same time receives a salary under any other paragraph of this Act."

By Mr. GRASSLEY:

On page 2, line 15, strike the period, and insert in lieu thereof: ": *Provided,* That none of the funds contained in this Act shall be used for increases in salaries of Members of the House of Representatives pursuant to section 204a of Public Law 94–82."

By Mr. REGULA:

On page 7, after line 24, insert:

"Sec. 102 Expenditure of any appropriation under this Act, available for disbursement by the Clerk of the House of Representatives, shall be limited to those expenditures included in the statement of expenditures, authorized by 2 U.S.C. 104a, which statement is updated daily, and will be available for sale at the United States Government Printing Office, in the amount of at least 5,000 copies, prepared in accordance with 2 U.S.C. 104a, and includes a job description of each employee, the location where services are rendered, blood or marriage relationship of each employee to any Member of the House of Representatives, and is available for public inspection during normal working hours each day, excepting only Saturdays, Sundays, and legal holidays.

On page 7, after line 24, insert:

"SEC. 102. The expenditure of any appropriation under this Act, available for disbursement by the Clerk of the House of Representatives, shall be limited to those expenditures where all records and documents pertaining thereto are available for public inspection during normal working hours each day, excepting only Sundays, Saturdays, and legal holidays."

By Mr. SHIPLEY:

Page 2, line 7, insert:

"For payment to Charles and Mildred Litton, father and mother of Jerry L. Litton, late a Representative from the state of Missouri, $44,600."

Page 2, line 15, insert in lieu thereof: "*Provided,* That none of the funds contained in this Act shall be used for increases in salaries of Members of the House of Representatives pursuant to Sec. 204a of Public Law 94–82."

Page 7, line 18, strike the word "and" and on page 7, line 23, after "Representatives" insert the following: "; House Resolution 1368, Ninety-fourth Congress, establishing a Commission on Administrative Review in the House of Representatives; and House Resolution 1372, Ninety-fourth Congress, limiting the authority of the Committee on House Administration to fix and adjust allowances".

By Mrs. SPELLMAN:

On page 2, line 15, strike the period and insert the following: "*Provided,* that none of these funds may be used to increase the compensation of Members during the 94th Congress."

H.R. 14844

By Mr. ARCHER:

Page 2, strike all after line 6 down through page 20, line 6 and insert the following:

SEC. 2. Section 2052 of the Internal Revenue Code of 1954 (relating to exemption for purposes of the Federal estate tax) is amended by striking out "$60,000" and inserting in lieu thereof:

(A) $150,000.00 for decedents dying during 1977;

(B) $175,000.00 for decedents dying during 1978; and

(C) $200,000.00 for decedents dying after 1978.

Section 6018(a) (1) of such Code (relating to estate tax returns) is amended by striking out "$60,000" and inserting in lieu thereof:

(A) $150,000.00 for decedents dying during 1977;

(B) $175,000.00 for decedents dying during 1978; and

(C) $200,000.00 for decedents dying after 1978.

The amendments made by this section shall be effective December 31, 1976."

Page 20, after line 6, add the following: "Section 2503(b) of the Internal Revenue Code is amended by striking out "$3,000" and inserting in lieu thereof "$6,000"."

On page 113 strike lines 18 and 19 and substitute in lieu thereof the following:

"(A) The day on which the interest becomes indefeasibly fixed, or".

Section 1: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 2: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 3: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 4: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 5: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 6: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 7: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 8: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 9: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 10: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

By Mr. BAFALIS:

Section 1: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 2: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 3: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 4: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 5: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 6: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 7: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 8: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 9: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 10: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

By Mr. BURLESON of Texas:

Strike all after the enacting clause and insert in lieu thereof the following:

That (a) section 2052 of the Internal Revenue Code of 1954 (relating to exemption for purposes of the Federal estate tax) is amended by striking out "$60,000" and inserting in lieu thereof "$200,000".

(b) Section 6018(a)(1) of such Code (relating to estate tax returns) is amended by striking out "$60,000" and inserting in lieu thereof "$200,000".

Sec. 2. The amendments made by the first section of this Act shall apply to the estates of decedents dying after the date of enactment of this Act.

Sec. 3. Increase in estate tax marital deduction.—

(a) Section 2056(c) of the Internal Revenue Code of 1954 (relating to limitation of aggregate marital deduction) is amended by inserting after "shall not exceed" in paragraph (1) "the sum of $100,000, plus".

(b) The amendment made by subsection (a) shall apply with respect to decedents dying after the date of enactment of this Act.

Sec. 4. Alternate valuation of certain real property.—

(a) Section 2031 of the Internal Revenue Code of 1954 (relating to definition of gross estate) is amended by adding at the end thereof the following new subsection:

"(c) Alternate Valuation of Certain Real Property.—

"(1) In general.—If the executor of an estate so elects, the value of any qualified real property included in the estate shall be determined by its value for the use under which it qualifies, under paragraph (2), as qualified real property.

"(2) Definition of qualified real property.—For purposes of this subsection, the term 'qualified real property' means real property substantially all of which is, and, for the 60 months preceding the date of death of the decedent, has been, devoted to—

"(A) farming (including the production of agricultural commodities and the raising of livestock),

"(B) woodland (including land use for the commercial production of trees and land used for scenic and recreational purposes), or

"(C) scenic open space.

"(3) Election requirements.—An election under this subsection shall be filed with the Secretary or his delegate at such time and in such form and manner as he may prescribe and shall contain, in addition to any other matter, the name, address, and taxpayer identification number of the person to whom the property passes under the terms of the decedent's will or by operation of law.

"(4) Revocation of election.—If property valued under paragraph (1)—

"(A) is sold or transferred, by or on behalf of the person to whom the property passed, within 5 years after the date on which the return of the tax imposed under this chapter was filed, or

"(B) is converted substantially to a use not described in paragraph (2) within that 5-year period by that person, the election made under this subsection shall be revoked and the difference between the tax actually paid under this chapter on the transfer of the estate and the tax which would have been payable on that transfer had the property not been valued under paragraph (1) shall be a deficiency in the payment of the tax assessed under this chapter on that estate.".

(b) Section 1014(a) of such Code (relating to basis of property acquired from a decedent) is amended by inserting before the period at the end thereof a comma and the following: "or, in the case of an election under section 2131(c) (relating to alternative valuation of certain real property), the value thereof as determined under such action for the applicable valuation date.".

Sec. 5. The amendments made by section 4 of this Act shall apply with respect to the estates of decedents dying after the date of enactment of this Act.

Section 1: Strike the requisite number of words.

Section 2: Strike the requisite number of words.

Section 3: Strike the requisite number of words.

Section 4: Strike the requisite number of words.

Section 5: Strike the requisite number of words.

Section 6: Strike the requisite number of words.

Section 7: Strike the requisite number of words.

By Mr. CLANCY:

Section 1: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 2: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 3: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 4: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 5: "(a) strike the requisite number of words."

(b) "strike the requisite number of words."

Section 6: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 7: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 8: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 9: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 10: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

By Mr. CONABLE:

Beginning on page 68, strike out section 6 (relating to carryover basis) and redesignate the succeeding sections accordingly.

Page 1, strike out the item relating to section 6 in the table of contents, redesignate the succeeding items in the table of contents accordingly, and insert the appropriate page numbers for such succeeding items.

Page 41, strike out line 23 and insert the following:

(d) Limitation on Basis.—Section 1014 (relating to basis of property acquired from a decedent) is amended by adding at the end thereof the following new subsection:

"(e) Property Valued Under Section 2032A.—

"(1) In general.—Except as provided in paragraph (2), if property is valued under section 2032A with respect to any decedent, then the value of such property in the hands of a person acquiring such property from the decedent or to whom the property passed from the decedent shall be the value of such property determined under section 2032A.

(2) Basis where additional tax has been imposed under section 2032A.—In the case of any portion on an interest in property described in paragraph (1) with respect to which an additional tax has been imposed by section 2032A(c), the basis of such portion in the hands of a person acquiring such portion from the decedent or to whom the portion passed from the decedent shall be the fair market value of such portion which would have been taken into account under chapter 11 for purposes of valuing the gross estate of the decedent but for the application of section 2032A.

"(3) Rules for the application of paragraph (2).—For purposes of paragraph (2)—

"(A) paragraph (2) shall be applied immediately before the transaction which gives rise to the additional tax imposed by section 2032A(c),

"(B) if the full recapturable amount for any interest has already been imposed with respect to prior transactions, each remaining portion of such interest shall be treated as if an additional tax had been imposed with respect to such portion, and

"(C) if the transaction giving rise to the additional tax occurs during the phaseout period provided by paragraph (3) of section 2032A(c), the increase in basis by reason of paragraph (2) shall be such increase multiplied by the fraction applicable to such transaction under such paragraph (3)."

(e) Clerical Amendments.—

Page 42, line 6, strike out "(e)" and insert in lieu thereof "(f)".

Page 100, strike out line 22 and all that follows down through line 4 on page 101.

Page 101, line 5, strike out "(c)" and insert in lieu thereof "(b)".

Page 103, strike out line 5 and insert:

(b) Step-Up in Basis for Property Acquired to Generation-Skipping Transfer.—Section 1014 (relating to basis of property acquired from a decedent) is amended by adding at the end thereof the following new subsection:

"(f) Property Acquired Pursuant to Generation-Skipping Transfer.—The basis of property in the hands of a person acquiring the property in a generation-skipping transfer—

"(1) with respect to which tax is imposed by section 2601, and

"(2) which occurs at or after the death of the deemed transferor,

shall be the value of the property taken into account for purposes of section 2601."

(c) Technical, Clerical, and Conforming Changes.—

Page 104, line 7, strike out "(c)" and insert in lieu thereof "(d)".

Section 1: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 2: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 3: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 4: (a) "strike the requisite number of words."

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Section 9: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 10: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

By Mr. CRANE:

Section 1: (a) "strike the requisite number of words."

(b) "strike the necessary number of words."

Section 2: (a) "strike the requisite number of words."

(b) "strike the necessary number of words."

Section 3: (a) "strike the requisite number of words."

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Section 9: (a) "strike the requisite number of words."

(b) "strike the necessary number of words."

Section 10: (a) "strike the requisite number of words."

(b) "strike the necessary number of words."

By Mr. DUNCAN of Tennessee:

Section 1: (a) "strike the requisite number of words." (b) "strike the requisite number of words."

Section 2: (a) "strike the requisite number of words." (b) "strike the requisite number of words."

Section 3: (a) "strike the requisite number of words." (b) "strike the requisite number of words."

Section 4: (a) "strike the requisite number of words." (b) "strike the requisite number of words."

Section 5: (a) "strike the requisite number of words." (b) "strike the requisite number of words."

Section 6: (a) "strike the requisite number of words." (b) "strike the requisite number of words."

Section 7: (a) "strike the requisite number of words." (b) "strike the requisite number of words."

Section 8: (a) "strike the requisite number of words." (b) "strike the requisite number of words."

Section 9: (a) "strike the requisite number of words." (b) "strike the requisite number of words."

Section 10: (a) "strike the requisite number of words." (b) "strike the requisite number of words."

By Mr. FISHER:

Split-Credit Amendment

Page 1, after line 7, in the item relating to section 2 which appears in the table of contents, insert after "exemptions" the following: "; additional estate tax credit for closely held business".

Page 2, line 9, strike out "EXEMPTIONS." and insert "EXEMPTIONS; ADDITIONAL ESTATE TAX CREDIT FOR CLOSELY HELD BUSINESS."

Page 5, strike out line 8 and all that follows down through line 18 and insert:

"(a) General Rule.—There shall be allowed as a credit against the tax imposed by section 2001 with respect to the estate of every decedent an amount equal to the sum of—

"(1) a basic credit of $29,800, and

"(2) the closely held business credit (if any) determined under section 2017.

"(b) Adjustment to Basic Credit Certain Gifts Made Before 1977.—The $29,800 amount set forth in subsection (a)(1) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed in respect of the decedent as a specific exemption under section 2521 (as in effect before its repeal by the Estate and Gift Tax Reform Act of 1976).

Page 5, line 19, strike out "(d)" and insert "(c)".

Page 7, after line 12, insert:

"(6) Closely held business credit.—Part II of subchapter A of chapter 11 (relating to credits against tax) is amended by adding at the end thereof the following new section:

"Sec. 2017. Closely Held Business Credit.

"(a) Entitlement to Credit.—The estate of any decedent who was (at the time of his death) a citizen or resident of the United States shall be entitled to the closely held business credit allowable under section 2010 (a)(2) if—

"(1) the closely held business percentage for such estate is 65 percent or more, and

"(2) the executor elects to have section 2010(a)(2) apply with respect to such estate and files the agreement referred to in subsection (f)(2).

"(b) Amount of Credit.—For purposes of this chapter, the amount of the closely held business credit is $25,000.

"(c) Phaseout of Credit Where Adjusted Gross Estate Exceeds $1,000,000.—If the adjusted gross estate exceeds $1,000,000, the amount of the closely held business credit shall be reduced (but not below zero) by the amount which bears the same ratio to the closely held business credit (determined without regard to this subsection) as—

"(1) the excess of the adjusted gross estate over $1,000,000, bears to

"(2) $1,000,000.

"(d) Closely Held Business Percentage Defined.—For purposes of this section, the term 'closely held business percentage' means the percentage determined by dividing the closely held business amount by the amount of the adjusted gross estate.

"(e) Other Definitions and Special Rules.—For purposes of this section—

"(1) Adjusted gross estate.—The term 'adjusted gross estate' means the excess of—

"(A) the value of the gross estate, over

"(B) the sum of the amounts allowable as a deduction under section 2053 or 2054.

"(2) Closely held business amount.—The term 'closely held business amount' means the aggregate value of the qualified interests in a closely held business.

"(3) Qualified interest in a closely held business.—The term 'qualified interest in a closely held business' means an interest in a closely held business which is included in determining the gross estate of the decedent and which is acquired or passes from the decedent to a qualified heir, but only if, during the 8-year period ending on the date of the decedent's death, there were periods aggregating 5 years or more during which—

"(A) in the case of a proprietorship, the decedent of a member of his family was the proprietor,

"(B) in the case of a partnership, 65 percent or more in value of the total capital interest in the partnership was held by the decedent or a member of his family, or

"(C) in the case of a corporation, 65 percent or more in value of the voting stock in the corporation was held by the decedent or a member of his family.

To the extent provided in regulations prescribed by the Secretary or his delegate, where the form in which a trade or business is conducted changes during the 8-year period ending on the date of the decedent's death, periods during such 8-year period which qualify under one of the subparagraphs of the preceding sentence may be added to periods during such 8-year period which qualify under one or more of the other such subparagraphs.

"(4) Interest in closely held business.—The term 'interest in a closely held business' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship;

"(B) an interest as a partner in a partnership carrying on a trade or business, if—

"(i) 20 percent or more of the total capital interest in such partnership is included in determining the gross estate of the decedent, or

"(ii) such partnership had 15 or fewer partners; or

"(C) stock in a corporation carrying on a trade or business, if—

"(i) 20 percent or more in value of the voting stock of such corporation is included in determining the gross estate of the decedent, or "(ii) such corporation had 15 or fewer shareholders.

"(5) Rules for applying paragraph (4).—For purposes of paragraph (4)—

"(A) Time for testing.—Determinations shall be made as of the time immediately before the decedent's death.

"(B) Certain interests held by husband and wife.—Stock or a partnership interest which—

"(i) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State, or

"(ii) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common,

shall be treated as owned by one shareholder or one partner, as the case may be.

"(C) Personal holding companies excluded.—An interest in a corporation shall not be treated as an interest in a closely held business if such corporation was a personal holding company (within the meaning of section 542(a))—

"(i) for that portion of its first taxable year ending after the date of the decedent's death which ends on such date (determined as if such portion constituted a taxable year), or

"(ii) for more than 3 taxable years out of the 8 most recent taxable years of such corporation ending before the date of the decedent's death.

"(6) Indirect ownership. — Property owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries. For purposes of the preceding sentence, a person shall be treated as a beneficiary of any trust only if such person has a present interest in the trust.

"(7) Member of family.—The term 'member of the family' means, with respect to any individual, only such individual's ancestor or lineal descendant, a lineal descendant of a grandparent of such individual, the spouse of such individual, or the spouse of any such descendant. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as a child of such individual by blood.

"(8) Qualified heir.—The term 'qualified heir' means, with respect to any interest, a member of the family of the decedent who acquired the property (or to whom such property passed) from the decedent. If a qualified heir disposes of any interest in a closely held business to any member of his family, such member shall thereafter be treated as the qualified heir with respect to such interest.

"(9) Community property adjustments.

"(A) Adjusted gross estate.—The adjusted estate (determined under paragraph (1) without regard to this paragraph) shall be increased by the amount (if any) determined under clauses (i), (ii), and (iii) of section 2056(c)(2)(B).

"(B) Closely held business amount.—The closely held business amount (determined under paragraph (2) without regard to this paragraph) shall be increased by the amount (if any) of that portion of the amount determined under clauses (i), (ii), and (iii) of section 2056(c)(2)(B) which is attributable to a qualified interest in a closely held business.

"(10) Value.—Value shall be the value for purposes of this chapter.

"(1) Certain residential structures taken into account.—

"(A) On farm.—An interest in a closely held business which is in the business of farming includes an interest in residential buildings and related improvements on the farm which are occupied on a regular basis by the owner or lessee of the farm or by persons employed by such owner or lessee for purposes of operating or maintaining the farm.

"(B) Principal residence not on a farm.—An interest in a closely held business includes an interest in any residence—

"(i) which does not qualify under subparagraph (A), and

"(ii) which, during the 8 year period ending on the date of the decedent's death, was used by the decendent as his principal residence for periods aggregating 5 years or more. An interest referred to in this subparagraph shall be taken into account only to the extent that its value does not exceed 25 percent of the decedent's adjusted gross estate.

"(f) Election, Agreement.—

"(1) Election.—Any election under subsection (a) shall be made not later than the time prescribed by section 6057(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary or his delegate shall by regulations prescribe.

"(2) Agreement.—The agreement referred to in this paragraph is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property which is a qualified interest in a closely held business with respect to the estate of the decedent consenting to the application of subsection (g) with respect to such interest.

"(g) Recapture Where, Within 15 Years, Interest Is Disposed of or Funds Are Withdrawn.—

"(1) Disposition of interest; withdrawal of funds from business.—

"(A) Imposition of tax.—If, within 15 years after the decedent's death and before the death of the qualified heir—

"(i) one-third or more in value of a qualified interest in a closely held business is distributed, sold, exchanged, or otherwise disposed of (other than a disposition by the qualified heir to a member of his family), or

"(ii) aggregate withdrawals of money and other property from the trade or business, an interest in which is a qualified interest in a closely held business, made with respect to such interest equal or exceed one-third of the value of such interest,

then there is hereby imposed an additional estate tax.

"(B) Certain reorganizations and exchanges.—Subparagraph (A)(i) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E), or (F) of section 368(a)(1) nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies; but any stock received in such an exchange shall be treated for purposes of subparagraph (A)(i) as a qualified interest in a closely held business.

"(C) Certain transfers not treated as dispositions.—Subparagraph (A) (i) does not apply to a transfer of property of the decedent to a person entitled by reason of the decedent's death to receive such property under the decedent's will, the applicable law of descent and distribution, or a trust created by the decedent.

"(D) Principal residences.—For purposes of subparagraph (A) (and for purposes of subsection (f)(2)), the interest in a closely held business does not include any interest which was taken into account for purposes of the 65-percent test of subsection (a)(1) solely by reason of paragraph (11) (B) of subsection (e).

"(2) Amount of additional tax.—The amount of the additional tax imposed by paragraph (1) with respect to a qualified interest in a closely held business held by any person shall be the amount which bears the same relationship to the tax difference with respect to the estate of the decedent as the value of such interest bore to the total value of all qualified interests in a closely held business with respect to such decedent. For purposes of the preceding sentence, the term 'tax difference' means the excess of what would have been the estate tax liability but for the credit allowable under section 2010(a)(2) over the estate tax liability. For purposes of the preceding sentence, the term 'estate tax liability' means the tax imposed by section 2001 reduced by the credits allowable against such tax.

"(3) Phaseout of additional tax between 10th and 15th years.—If the date of the transaction resulting in the imposition of tax under this subsection occurs more than 120 months and less than 180 months after the date of the death of the decedent, the amount of the tax imposed by this subsection shall be reduced (but not below zero) by an amount determined by multiplying the amount of such tax (determined without regard to this paragraph) by a fraction—

"(A) the numerator of which is the excess of the number of full months after such death in excess of 120, and

"(B) the denominator of which is 60.

"(4) Due date.—The additional tax imposed by this subsection shall become due and payable on the day which is 6 months after the date of the transaction resulting in the imposition of tax under this subsection.

"(5) Liability for tax.—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest.

"(h) Statute of Limitations.—If any transaction results in the imposition of an additional tax under subsection (g), then—

"(1) the statutory period for the assessment of such additional tax shall not expire before the expiration of 3 years from the date the Secretary or his delegate is notified (in such manner as the Secretary or his delegate may by regulations prescribe) of such transaction, and

"(2) such additional tax may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(7) Special lien.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324B the following new section:

"Sec. 6324C. Special Lien for Additional Estate Tax Attributable to Recapture of Closely Held Business Credit.

"(a) General Rule.—In the case of any estate with respect to which an election has been made under section 2017(a)(2), an amount equal to the recapturable credit of any qualified heir shall be a lien in favor of the United States on all property of such heir which is a qualified interest in a closely held business (as defined in section 2017(e)(3)) with respect to such estate.

"(b) Period of Lien.—The lien imposed by this section shall arise at the time an election is filed under section 2017(a)(2) and shall continue with respect to any qualified interest in a closely held business of a qualified heir—

"(1) until the liability (if any) for tax under section 2017(g)(1) with respect to such heir has been satisfied or has become unenforceable by reason of lapse of time, or

"(2) until it is established to the satisfaction of the Secretary or his delegate that no further tax liability may arise under section 2017(g)(1) with respect to such heir.

"(c) Certain Rules Made Applicable.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this section as if it were a lien imposed by section 6324A.

"(d) Substitution of Security for Lien.—To the extent provided in regulations prescribed by the Secretary or his delegate, the furnishing of security may be substituted for the lien imposed by this section.

"(e) Definitions.—For purposes of this section—

"(1) Recapturable credit.—The term 'recapturable credit' means, with respect to any qualified heir, the aggregate amount of the additional tax which may be imposed under section 2017(g)(1) with respect to qualified interests in a closely held business held by such qualified heir.

"(2) Qualified heir.—The term 'qualified heir' has the meaning given to such term by section 2017(e)(8).'

(8) Credit for tax on prior transfers.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

"(f) Treatment of Recapture of Closely Held Business Credit.—If an additional tax is imposed under section 2017(g)(1) with respect to any property included in the gross estate of the transferor before the date which is 2 years after the date of the decedent's death, for purposes of this section, such additional tax shall be treated as a Federal estate tax payable with respect to the estate of the transferor."

Page 8, strike out line 13 and all that follows down through line 17 (including the table below line 17) and insert:

"(1) $29,800, reduced by

"(2) the sum of the amounts allowable as a credit to the individual under this section for all preceding calendar quarters.

Page 8, line 18, strike out "(c)" and insert "(b)".

Page 9, line 1, strike out "(d)" and insert "(c)".

Page 13, line 9, strike out "$12,450" and insert in lieu thereof "$8,400".

Page 13, strike out line 14 and all that follows down through line 20.

Page 13, line 21, strike out "(4)" and insert "(3)".

Page 13, line 24, strike out "(5)" and insert "(4)".

Page 16, line 8, strike out "$153,000" and insert "$120,000".

Page 16, strike out line 14 and all that follows down through line 24 and insert:

"(3) Adjustment for certain gifts.—The $120,000 amount set forth in paragraph (1) and the $60,000 amount set forth in paragraph (2) shall each be reduced (but not below zero) by the sum of—

Page 18, before line 14, insert:

(iii) The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 2017. Closely held business credit."

Page 18, line 14, strike out "(iii)" and insert "(iv)".

Page 18, line 18, strike out "(iv)" and insert "(v)".

Page 18, after line 20, insert:

(vi) The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324B the following new item:

"Sec. 6324C. Special lien for additional estate tax attributable to recapture of closely held business credit."

On page 41, line 9, strike out "(f)" and insert "(g)".

Page 55, strike out lines 17 and 18 and insert:

"(A) $316,000; or

Page 60, line 15, strike out "6324B." and insert "6324B or 6324C."

Page 85, strike out line 19 and all that follows down through line 23 and insert:

"(3) Unused portion of basic credit.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, then the portion of the basic credit under section 2010(a)(1) (relating to unified credit) which exceeds the sum of—".

Page 103, line 14, strike out "(g)" and insert "(h)".

By Mr. FRENZEL:

Section 1: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 2: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 3: (a) "strike the requisite number of words."

(b) "strike the requisite numbef of words."

Section 4: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 5: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 6: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 7: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 8: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 9: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 10: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

By Mr. GIBBONS:

At the end of section 10 of the bill, insert the following new subsection:

(f) Computation of Adjusted Gross Estate.—Effective with respect to estates of decedents dying after December 31, 1976, section 2056(c)(2)(A) (relating to definition of adjusted gross estate) is amended by adding at the end thereof the following: "For purposes of this subparagraph the entire value of the gross estate shall be computed without taking into account any transfer made by the decedent during his lifetime to the extent a deduction is allowable under section 2055 on account of such transfer (determined without regard to the limitation provided in section 2055(d)(2))."

At the end of section 10 of the bill insert the following new subsection:

(h) Limitations on Charitable Deductions.—Effective with respect to estates of decedents dying after December 31, 1976, section 2055(d) (relating to limitation on deduction) is amended to read as follows:

"(d) Limitations on Deduction.—

"(1) With respect to any transfer.—The amount of the deduction under this section for any transfer shall not exceed the value of the transferred property required to be included in the gross estate.

"(2) Limitation on aggregate of deductions.—The aggregate amount of the deductions allowed under this section (computed without regard to this paragraph) shall not exceed the greater of—

"(A) $5,000,000, or

"(B) 50 percent of the amount by which the value of the gross estate exceeds the aggregate amount of the deductions allowed by sections 2053 and 2054."

At the end of section 10 of the bill, insert the following new subsection:

(g) Charitable Bequest Must Be Used in the United States.—Effective with respect to estates of decedents dying after December 31, 1976, section 2055(a) (relating to deduction for estate tax purposes of charitable bequests) is amended by adding at the end thereof the following new sentence: "A bequest, legacy, devise, or transfer described in paragraph (2) or (3) shall be deductible only if it is to be used predominantly within the United States or any of its possessions."

Proposed amendments to section 1, section 2, section 3, section 4, section 5, section 6, section 7, section 8, section 9, and section 10 of the bill H.R. 14844 or to any amendment to any section of the bill H.R. 14844: Strike out the necessary number of words.

Strike out the requisite number of words.

Strike out the next to the last word.

Strike out the last word.

By Mr. HAGEDORN:

On page 5, following line 11, insert the following new section:

"(c) Cost-of-Living Adjustment.—(1) At the beginning of each calendar year as soon as necessary data becomes available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report the ratio which the price index for the preceding calendar year bears to the price index for the base period. The dollar amount in subsection (a) of this section shall be multiplied by such ratio and, as multiplied, shall be the amount in effect for the calendar year in which such report is made.

"(2) For purposes of paragraph (1)—

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1976.

"(3) The amendments made by paragraphs (1) and (2) shall apply to taxable years beginning after December 31, 1978."

Renumber subsequent sections accordingly.

On page 8, following line 17, insert the following new section:

"(c) Cost-of-Living Adjustment.—(1) At the beginning of each calendar year as soon as necessary data becomes available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report the ratio which the price index for the preceding calendar year bears to the price index for the base period. The dollar amount in subsection (a)(1) of this section shall be multiplied by such ratio and, as multiplied, shall be the amount in effect for the calendar year in which such report is made.

"(2) For purposes of paragraph (1)—

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(b) the term 'base period' means the calendar year 1976.

"(3) The amendments made by paragraphs (1) and (2) shall apply to taxable years beginning after December 31, 1978."

Renumber subsequent sections accordingly.

On page 13, following line 20, insert the following new section:

(4) Cost-of-living adjustment.—(A) At the beginning of each calendar year as soon as necessary data becomes available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report the ratio which the price index for the preceding calendar year bears to the price index for the base period. The dollar amounts in section (1) and (2) (located on lines 1 through 13 of page 13) shall be multiplied by such ratio and, as multiplied, shall be the amounts in effect for the calendar year in which such report is made.

(B) For purposes of paragraph (A)—

(i) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

(ii) the term 'base period' means the calendar year 1976.

"(C) The amendments made by paragraphs (A) and (B) shall apply to taxable years beginning after December 31, 1978."

Renumber subsequent sections accordingly.

Page 16, following line 20, insert the following new section:

"(4) Cost-of-living adjustment.—The Secretary or his delegate shall adjust the amounts set forth in subsections (J) (i) and (J) (ii) [located on lines 3 through 11 of page 16] to reflect the cost-of-living adjustments made pursuant to section 2010(c), section 2505(c), and section 2102(c) (4)."

Renumber subsequent sections accordingly.

By Mr. HARKIN:

Page 111, strike out line 20 and insert:

(d) Divestment of Estate Tax Lien on Certain Property.—(1) Paragraph (1) of section 6324(a) (relating to lien upon gross estate) is amended by adding at the end thereof the following new sentence: "Any part of the property included in such gross estate transferred by the executor to a purchaser or holder of a security interest shall be divested of the lien provided by the preceding sentence and a like lien shall then attach to any proceeds from such transfer.".

(2) Paragraph (2) of section 6324(a) is amended by striking out "property included in the gross estate" in the first sentence and inserting in lieu thereof "property (other than property transferred to a purchaser or holder of a security interest) included in the gross estate.".

(e) Effective Dates.—

Page 112, insert after line 13 the following:

(4) The amendments made by subsection (d) shall apply to transfers after the date of the enactment of this Act.

On page 31 (which is part of the Science and Technology Committee Amendment), line 4, strike all after the period through the colon on line 7 and insert the following: "The amount of obligations authorized for any guarantee or commitment to guarantee under this subsection is $2,000,000,000:".

By Mr. JACOBS:

Page 77, strike out lines 3 through 5 and insert:

"(h) Adjustment to Basis for December 31, 1976, Fair Market Value.—

"(1) In general.—If the adjusted basis of any carryover basis property immediately before the death of the decedent reflects the adjusted basis of such property or any other property on December 31, 1976, and if the fair market value of such property (or such other property) on December 31, 1976, exceeded its adjusted basis on such date, then, for purposes of this section, such adjusted basis shall be increased by the amount of such excess.

"(2) Optional Method for Determining December 31, 1976, fair market value.—

"(A) In general.—If—

"(i) the fair market value on December 31, 1976, of any carryover basis property to which paragraph (1) applies is not readily ascertainable by a method other than appraisal,

"(ii) the value of such property (as determined with respect to the estate of the decedent without regard to section 2032) exceeds the adjusted basis of such property immediately before the death of the decedent (determined without regard to this subsection), and

"(iii) the executor makes an election under this subparagraph with respect to such property,

then, for purposes of paragraph (1), the fair market value of such property on December 31, 1976, shall be deemed to be equal to the value of such property (as so determined) reduced by an amount equal to the excess referred to in clause (ii) multiplied by the applicable fraction determined under subparagraph (B).

"(B) Applicable fraction.—For purposes of subparagraph (A), the term 'applicable fraction' means, with respect to any carryover basis property, a fraction—

"(i) the numerator of which is the number of days in the holding period with respect to such property which occur after December 31, 1976, and

"(ii) the denominator of which is the total number of days in such holding period. For purposes of the preceding sentence, the term 'holding period' means, with respect to any carryover basis property, the period during which the decedent (or, if any other person held such property immediately before the death of the decedent, such other person) held such property as determined under section 1223; except that such period shall end on the date of the decedent's death.

"(C) Election.—Any election under subparagraph (A) with respect to any property shall be made by the executor not later than the time prescribed by section 6075(a) for filing the return of tax under section 2001 (including extensions thereof), and shall be made in such manner as the Secretary or his delegate shall by regulations prescribe.

"(i) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section."

By Mr. KASTEN:

Page 23, line 22, insert "and" after ", or both,".

Page 23, strike out line 23 and all that follows down through line 3 on page 24.

Page 24, line 4, strike out "(C)" and insert "(B)".

Page 24, strike out line 7, and all that follows down through line 7 on page 25.

Page 25, line 8, strike out "(3)" and insert "(2)".

Page 26, line 16, strike out "to joint interests created after" and insert "with respect to decedents dying after".

Amendment to the substitute offered by Mr. Burleson of Texas (continuing the text of H.R. 1793):

Add at the end thereof the following new section:

Sec. 6. Fractional Interest of Spouse.—

(a) In General.—Section 2040 of the Internal Revenue Code of 1954 (relating to joint interests) is amended by adding at the end thereof the following new subsection:

"(b) Certain Joint Interests of Husband and Wife.—

"(1) Interest of spouse excluded from gross estate.—Notwithstanding subsection (a), in the case of any qualified joint interest, the value included in the gross estate with respect to such interest by reason of this section is one-half of the value of such qualified joint interest.

"(2) Qualified joint interest defined.—For purposes of paragraph (1), the term 'qualified joint interest' means any interest in property held by the decedent and the decedent's spouse as joint tenants or as tenants by the entirety, but only if—

"(A) such joint interest was created by the decedent, the decedent's spouse, or both, and

"(B) in the case of a joint tenancy, only the decedent and the decedent's spouse are joint tenants."

(b) Clerical Amendment.—Section 2040 of such Code is amended by striking out "The value" and inserting in lieu thereof the following:

"(a) General Rule.—The value".

(c) Effective Date.—The amendment made by subsection (a) shall apply with respect to the estates of decedents dying after December 31, 1976.

By Mr. KELLY:

On page 27 beginning with line 15, strike out all down through line 19, and renumber the subsequent subsections.

By Mr. KETCHUM:

Page 5, strike out lines 8 through 12 and insert in lieu thereof the following:

"(a) General rule.—A credit determined in accordance with subsection (b) shall be allowed to the estate of every decedent against the tax imposed by section 2001.

"(b) Amount of Credit.—

"(1) Decedents dying before 1982.—

In the case of decedents dying in:	The amount of credit allowable under subsection (a) shall be:
1977 ----------	$30,000
1978 ----------	35,000
1979 ----------	40,000
1980 ----------	46,800
1981 ----------	54,800

"(2) Cost-of-living adjustments for decedents dying after December 31, 1981.—In the case of decedents dying in any calendar year beginning after 1981, the amount of the credit allowable under subsection (a) shall be an amount equal to $54,800 multiplied by the percentage by which the Consumer Price Index published by the Department of Labor for December of the preceding calendar year exceeds such index for December of 1980.

"(c) Adjustment to Credit for Certain Gifts.—

Page 8, line 13, strike out "$40,000" and insert in lieu thereof "the amount determined under subsection (b)".

Page 8, strike out line 17 and the table following line 17 and insert in lieu thereof the following:

"(b) Amount of Credit.—

"(1) Decedents dying before 1982.—

In the case of gifts made in:	The amount of credit allowable under subsection (a) (1) shall be:
1977 ----------	$30,000
1978 ----------	35,000
1979 ----------	40,000
1980 ----------	46,800
1981 ----------	54,800

"(2) Cost-of-living adjustments for gifts made after December 31, 1981.—In the case of gifts made in any calendar year beginning after 1981, the amount of the credit allowable under subsection (a) (1) shall be an amount equal to $54,800 multiplied by the percentage by which the Consumer Price Index published by the Department of Labor for December of the preceding calendar year exceeds such index for December of 1980.

Page 13, line 9, strike out "$12,450" and insert in lieu thereof "the applicable amount".

Page 13, strike out lines 14 through 20 and insert in lieu thereof the following:

"(3) Applicable amount.—

"(A) In general.—For purposes of paragraph (2) (B), the term 'applicable amount' means, with respect to any decedent dying in any calendar year, an amount equal to the tax determined under the rate schedule set forth in section 2101(d) on the exemption amount for such calendar year.

"(B) Exemption amount.—For purposes of subparagraph (A), the term 'exemption amount' means, with respect to any calendar year, an amount (as determined by the Secretary or his delegate) equal to the maximum amount (rounded to the nearest $10) on which the tax determined in accordance with the rate schedule set forth in section 2001(c) reduced by the amount of the unified credit under section 2010 applicable to such calendar year does not exceed zero.

Page 16, strike out lines 3 through 23 and insert in lieu thereof the following:

(J) Return by executor.—Subsection (a) of section 6018 (relating to estate tax returns by executors) is amended—

(i) by striking out "$60,000" in paragraph (1) and inserting in lieu thereof "the exemption amount (as defined in section 2102(c) (3) (B)) for the calendar year in which the decedent dies";

(ii) by striking out "$30,000" in paragraph (2) and inserting in lieu thereof "$60,000"; and

(iii) by adding at the end thereof the following new paragraph:

"(3) ADJUSTMENT FOR CERTAIN GIFTS.—The amount applicable under paragraph (1) shall be reduced (but".

Section 1: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 2: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 3: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 4: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 5: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 6: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 7: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 8: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 9: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 10: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

By Mrs. **KEYS**:

Page 5, strike out lines 8 through 12 and insert:

"(a) GENERAL RULE.—A credit of $46,800 shall be allowed to the estate of every decedent against the tax imposed by section 2001.

"(b) PHASE-IN OF $46,800 CREDIT.—

In the case of decedents dying in:	Subsection (a) shall be applied by substituting for '$46,800' the following amount:
1977	$30,000
1978	38,800

"(c) ADJUSTMENT TO CREDIT FOR CERTAIN GIFTS.—

Page 8, line 13, strike out "$40,000" and insert in lieu thereof "$46,800".

Page 8, strike out line 17 and the table following line 17 and insert:

"(b) PHASE-IN OF $46,800 CREDIT.—

In the case of gifts made in:	Subsection (a)(1) shall be applied by substituting for '$46,800' the following amount:
1977	$30,000
1978	38,800

Page 13, line 9, strike out "$12,450" and insert in lieu thereof "$15,000".

Page 13, strike out lines 18 through 20 and insert: "1977, by substituting '$8,480' for '$15,000', and

"(B) in the case of a decedent dying during 1978, by substituting '$12,000' for '$15,000'."

Page 16, line 8, strike out "$153,000" and insert "$175,000".

Page 16, strike out lines 14 through 20 and insert:

"(3) PHASE-IN OF FILING REQUIREMENT AMOUNT.—In the case of a decedent dying before 1979, paragraph (1) shall be applied—

"(A) in the case of a decedent dying during 1977, by substituting '$120,000' for '$175,000', and

"(B) in the case of a decedent dying during 1978, by substituting '$150,000' for '$175,000'."

By Mr. LEVITAS:

Page 2, line 7, strike out "GIFT".

Page 20, beginning in line 7, strike out "DEDUCTIONS".

Page 68, line 17, strike out "BASIS".

Page 83, line 9, strike out "TRANSFERS".

Page 112, line 14, strike out "PROVISIONS".

By Mr. LONG of Louisiana:

On page 104 of H.R. 14844 insert at the margin after line 23, the following: "Any generation-skipping transfer arising from or provided for by a power of appointment created by a trust which was irrevocable on April 30, 1976, shall for the purposes of paragraph (A) be treated as a transfer under such trust."

By Mr. MARTIN:

Section 1: "Strike the requisite number of words."

Section 2: "Strike the requisite number of words."

Section 3: "Strike the requisite number of words."

Section 4: "Strike the requisite number of words."

Section 5: "Strike the requisite number of words."

Section 6: "Strike the requisite number of words."

Section 7: "Strike the requisite number of words."

Section 8: "Strike the requisite number of words."

Section 9: "Strike the requisite number of words."

Section 10: "Strike the requisite number of words."

By Mr. MIKVA:

Page 94, strike out line 21 and all that follows down through line 2 on page 95 and insert:

"(4) DISTRIBUTIONS SUBJECT TO GIFT OR ESTATE TAX EXCLUDED.—The term 'taxable distribution' does not include any transfer to the extent such transfer is subject to a tax imposed by chapter 11 or 12."

Page 97, strike out line 3 and all that follows down through line 19 and insert:

"(5) TERMINATIONS SUBJECT TO GIFT OR ESTATE TAX EXCLUDED.—The term 'taxable termination' does not include any transfer to the extent such transfer is subject to a tax imposed by chapter 11 or 12."

Page 97, line 20, strike out "(7)" and insert "(6)".

Page 98, after line 21, insert:

"(7) CERTAIN DISCRETIONARY TRUSTS TO DISTRIBUTE INCOME TO SPOUSE AND CHILDREN OF GRANTOR.—The term 'taxable termination' does not include the termination of an interest of a child of the grantor where—

"(A) the only interest of the child in the trust is as a permissible recipient of income under a power exercisable by an unrelated party,

"(B) the spouse of the grantor of the trust is a permissible recipient of income under the same power,

"(C) during the life of the grantor's spouse and children, only these individuals are permissible recipients of income from the trust, and

"(D) all children of the grantor who were permissible recipients of income under the power predeceased the grantor's spouse.

Page 122, insert after line 9 the following:

SEC. 11. LIFE INSURANCE INCLUDED IN GROSS ESTATE.

(a) IN GENERAL.—Section 2042 (relating to inclusion of life insurance in gross estate) is amended by adding at the end thereof the following new paragraph:

"(3) PREMIUMS PAID BY DECEDENT.—In the case of any policy on the life of the decedent with respect to which the decedent did not possess at his death any of the incidents of ownership, to the extent of the amount receivable by beneficiaries (other than the executor) as insurance which was purchased with premiums, or other consideration, paid directly or indirectly by the decedent, in the proportion that the amount so paid by the decedent bears to the total premiums paid for the insurance. In determining the proportion of premiums or other consideration paid directly or indirectly by the decedent (but not the total premiums paid) the amount so paid by the decedent on or before January 1, 1977, shall be excluded."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the estates of decedents dying after December 31, 1976.

Page 4, strike out the last item in the rate schedule preceding line 1 and insert the following:

Over $5,000,000 but not over $8,000,000.	$2,550,800, plus 70 percent of the excess of such amount over $5,000,000.
Over $8,000,000	$4,650,800, plus 77 percent of the excess of such amount over $8,000,000.

Page 104, strike out lines 13 through 23 and insert in lieu thereof the following:

(2) EXCEPTIONS.—The amendments made by this section shall not apply to any generation-skipping transfer before May 1, 1986—

(A) under an irrevocable inter vivos trust created before May 1, 1976, but only to the extent that the transfer is not made out of corpus added to the trust after April 30, 1976, or

(B) in the case of a decedent dying before January 1, 1977, pursuant to a will (or revocable trust) which was in existence on May 1, 1976, and was not amended or revoked at any time after that date.

Page 122, insert after line 9 the following:

SEC. 11. TAX ON APPRECIATION AT DEATH.

(a) GENERAL RULE.—Subtitle B (relating to estate and gift taxes) is amended by inserting before chapter 11 the following new chapter:

"CHAPTER 10— TAX ON APPRECIATION AT DEATH

"SUBCHAPTER A. Determination of tax liability.
"SUBCHAPTER B. Nonresidents not citizens.
"SUBCHAPTER C. Administration.

"SUBCHAPTER A—DETERMINATION OF TAX LIABILITY

"Sec. 1901. Imposition of tax.
"Sec. 1902. Taxable appreciation defined.

"SEC. 1901. IMPOSITION OF TAX

"A tax computed in accordance with the following table is hereby imposed on the transfer of property by every decedent who is a citizen or resident of the United States:

If the taxable appreciation is:	The tax is:
Not over $50,000	Zero.
Over $50,000 but not over $100,000	5 percent of the taxable appreciation in excess of $50,000.
Over $100,000 but not over $200,000	$2,500 plus 10 percent of excess over $100,000.
Over $200,000 but not over $500,000	$12,500 plus 15 percent of excess over $200,000.
Over $500,000	$57,500 plus 20 percent of excess over $500,000.

"Sec. 1902. Taxable Appreciation Defined.

"(a) General Rule.—For purposes of this chapter, the term 'taxable appreciation' means the excess of the gains on includible assets over the losses on includible assets.

"(b) Computation of Gain and Loss.—For purposes of this chapter—

"(1) In general.—The gain or loss with respect to any asset shall be the amount of gain or loss (as the case may be) which would have been realized if the asset had been sold on the estate valuation date for an amount equal to the value of such asset.

"(2) Estate valuation date; value—

"(A) Estate valuation date.—The estate valuation date is the date of the decedent's death or, in the case of an election under section 2032, the applicable valuation date prescribed by that section.

"(B) Value.—The value shall be the value of the asset for purposes of chapter 11 (determined without regard to section 2032A).

"(3) Adjusted basis.—The adjusted basis for determining gain or loss shall be the adjusted basis of the property immediately before the death of the decedent.

"(4) Adjustment to basis for December 31, 1976, value.—If the adjusted basis of property reflects the adjusted basis of such property or any other property on December 31, 1976, and if the fair market value of such property (or such other property) on December 31, 1976, exceeded its adjusted basis on such date, then the adjusted basis referred to in paragraph (3) shall be increased by the amount of such excess.

"(5) Losses on certain categories of property taken into account only to extent of gains.—The Secretary or his delegate shall by regulations establish categories for property which is neither held for use in a trade or business nor held for the production of income. In the case of any decedent, losses on property falling within a category shall be allowed only to the extent of gains on property falling within such category.

"(6) Capital loss carryover.—Any capital loss carryover under section 1212(b) from the decedent's last taxable year for purposes of chapter 1 shall be treated as a loss from an includible asset.

"(e) Includible Asset.—

"(1) In general.—For purposes of this chapter, the term 'includible asset' means all property acquired from or passing from a decedent (within the meaning of section 1014 (b)) which is not excluded pursuant to paragraph (2), (3), or (4).

"(2) Certain property not includible asset.—The term 'includible asset' does not include—

"(A) items of gross income in respect of a decedent described in section 691 or 104;

"(B) policies of life insurance on the life of the decedent;

"(C) a joint and survivor annuity under which the surviving annuitant is taxable under section 72, and payments and distributions under a deferred compensation plan described in part I of subchapter D of chapter 1 to the extent such payments and distributions are taxable to the decedent's beneficiary under chapter 1;

"(D) property included in the decedent's gross estate by reason of section 2035, 2038, or 2041 which has been disposed of before the decedent's death in a transaction in which gain or loss is recognizable for purposes of chapter 1;

"(E) stock or a stock option passing from the decedent to the extent income in respect of such stock or stock option is includible in gross income under section 423 (c) or 424(c)(1);

"(F) property described in section 1014(b) (5) (relating to stock or securities in foreign personal holding company);

"(G) property described in section 1014 (d) (relating to DISC stock); and

"(H) property described in section 1246(e) (relating to gain on foreign investment company stock).

"(3) Exclusion where executor elects carryover basis.—The term 'includible asset' does not include any asset with respect to which an election has been made under section 1023 (relating to carryover basis).

"(4) $10,000 exclusion for certain assets.—

"(A) Exclusion.—The term 'includible asset' does not include any asset which is not held for use in a trade or business and is not held for the production of income, if the executor has made an election under this paragraph with respect to such asset.

"(B) Limitation.—The value of all assets designated under this subsection with respect to any decedent shall not exceed $10,000.

"(C) Election.—An election under this paragraph with respect to any property shall be made by the executor not later than the date prescribed by section 6075(a) for filing the return of tax under section 2001 (including extensions thereof), and shall be made in such manner as the Secretary or his delegate shall by regulations prescribe.

"Subchapter B—Nonresidents Not Citizens

"Sec. 1911. Imposition of tax.
"Sec. 1912. Includible asset.

"Sec. 1911. Imposition of Tax.

"A tax computed in accordance with the following table is hereby imposed on the transfer of property by every decedent nonresident who is not a citizen of the United States:

If the taxable appreciation is:	The tax is:
Not over $25,000	Zero.
Over $25,000 but not over $50,000	5 percent of the taxable appreciation in excess of $25,000.
Over $50,000 but not over $100,000	$1,250 plus 10 percent of excess over $50,000.
Over $100,000 but not over $250,000	$6,250 plus 15 percent of excess over $100,000.
Over $250,000	$28,750 plus 20 percent of excess over $250,000.

"(e) Decedents Dying After December 31, 1976.—In the case of a decedent dying after December 31, 1976, this section shall not apply to any property for which an adjusted carryover basis is provided by section 1023."

(2) Adjusted carryover basis.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by redesignating section 1023 as section 1024 and by inserting after section 1022 the following new section:

"Sec. 1023. Adjusted Carryover Basis for Certain Property Acquired from a Decedent Dying After December 31, 1976.

"(a) General Rule.—The basis of carryover basis property acquired from a decedent dying after December 31, 1976, in the hands of the person so acquiring it shall be the adjusted basis of the property immediately before the death of the decedent (determined with the application of paragraph (4) of section 1902(b)).

"(b) Carryover Basis Property Defined.—

"For purposes of this subchapter, the term 'carryover basis property' means any property—

"(1) which would be an includible asset (within the meaning of section 1902(c)) but for an election under this section; and

"(2) with respect to which there is gain (determined under section 1902(b)(1)).

"(c) Election.—

"Sec. 1912. Includible Asset.

"For purposes of this subchapter, the term 'includible asset' has the meaning given to such term by section 1902(c), except that—

"(1) such term does not include any asset which is not includible in the gross estate of the decedent; and

"(2) paragraph (4) of section 1902(c) shall be applied by substituting '$5,000' for '$10,000' each place it appears therein."

"Subchapter C—Administration

"Sec. 1921. Administration.

"Sec. 1921. Administration.

"Insofar as applicable and not inconsistent with the provisions of this chapter, all provisions of law (other than section 6166), including penalties, applicable to chapter 11, section 2001, or section 2101 are hereby extended to and made applicable in respect of this chapter, section 1901, or section 1911, as the case may be."

(b) Tax Allowed as Deduction in Determining Estate Tax.—Section 2053 (relating to expenses, indebtedness, and taxes) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Tax on Appreciation at Death.—The tax imposed by chapter 10 (relating to tax on appreciation at death) shall be allowed as a deduction under this section."

(c) Adjusted Carryover Basis for Certain Property Acquired From Decedents Dying After December 31, 1976.—

(1) Amendment of section 104.—Section 1014 (relating to basis of property acquired from a decedent) is amended by adding at the end thereof the following new subsection:

"(1) In general.—Any election under this section with respect to any property shall be made by the executor not later than the time prescribed by section 6075(a) for filing the return of tax under section 2001 (including extensions thereof), and shall be made in such manner as the Secretary or his delegate shall by regulations prescribe.

"(2) Election must be agreed to.—An election under this section shall be effective with respect to any property only if there is filed with such election a written agreement, signed by each person in being who has an interest (whether or not in possession) in such property, consenting to the application of this section with respect to such property. To the extent provided in regulations prescribed by the Secretary or his delegate, this paragraph shall not apply to any property for which the decedent has by will expressed a desire to have the application of this paragraph waived.

"(d) Increase in Basis.—The basis of carryover basis property in the hands of the person acquiring it from the decedent shall be increased (but not above its fair market value) by an amount which bears the same ratio to the Federal and State estate taxes as—

"(1) the net appreciation in value of such property, bears to

"(2) the value of all property subject to such taxes.

"(e) Further Increase in Basis for Certain State Succession Tax Paid by Transferee of Property.—If—

"(1) any person acquires carryover basis property from a decedent, and

"(2) such person actually pays an amount of estate, inheritance, legacy, or succession taxes with respect to such property to any State or possession of the United States or to the District of Columbia for which the estate is not liable,

then the basis of such property (after any adjustment under subsection (d)) shall be increased (but not above its fair market value) by an amount which bears the same ratio to the aggregate amount of all such taxes paid by such person as—

"(A) the net appreciation in value of such property bears to

"(B) the value of all property acquired by such person which is subject to such taxes.

"(f) Special Rules and Definitions for Application of Subsections (d) and (e).—

"(1) Net appreciation.—For purposes of subsections (d) and (e), the net appreciation in value of any property is the amount by which the fair market value of such property exceeds the adjusted basis of such property immediately before the death of the decedent (determined with the application of paragraph (4) of section 1902(b)).

"(2) Federal and state estate taxes.—For purposes of subsection (d), the term 'Federal and State estate taxes' means—

"(A) the tax imposed by section 2001 or 2101, reduced by the credits against such tax, and

"(B) any estate, inheritance, legacy, or succession taxes, for which the estate is liable actually paid by the estate to any State or possession of the United States, or the District of Columbia.

"(3) Certain marital and charitable deduction property treated as not subject to tax.—For purposes of subsections (d) and (e), property shall be treated as not subject to a tax—

"(A) with respect to the tax imposed by section 2001, to the extent that a deduction is allowable with respect to such property under section 2055 (relating to charitable deduction) or section 2056 (relating to marital deduction), and

"(B) with respect to States estate taxes and with respect to the State taxes referred to in subsection (e)(2), to the extent that such property is not subject to such taxes.

"(4) Gift.—In the case of carryover basis property acquired from the decedent by gift, the increase in basis under subsection (d) or (e) shall not exceed the amount by which the increase under such subsection is greater than the increase allowable under section 1015(d).

"(g) Other Special Rules and Definitions.—

"(1) Fair market value.—For purposes of this section, when not otherwise distinctly expressed, the term 'fair market value' means value as determined under chapter 11.

"(2) Property passing from the decedent.—For purposes of this section, property passing from the decedent shall be treated as property acquired from the decedent.

"(h) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(3) Amendment of section 1016.—Section 1016(a) (relating to adjustments to basis) is amended by striking out the period at the end thereof and by inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

"(23) to the extent provided in section 1023, relating to adjusted carryover basis for certain property acquired from a decedent dying after December 31, 1976."

(4) Amendments of section 691.—

(A) Section 691(c)(2)(A) (relating to deduction for estate tax in case of income in respect of decedents) is amended to read as follows:

"(A) The term 'estate tax' means Federal and State estate taxes (within the meaning of section 1023(f)(2))."

(B) Section 691(c)(2)(C) is amended to read as follows:

"(C) The estate tax attributable to such net value shall be an amount which bears the same ratio to the estate tax as such net value bears to the value of the gross estate."

(d) Nonrecognition of Gain Where Certain Appreciated Carryover Basis Property Is Used in Satisfaction of a Pecuniary Bequest.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

"Sec. 1040. Use of Certain Appreciated Carryover Basis Property To Satisfy Pecuniary Bequest

"(a) General Rules.—If the executor of the estate of any decedent satisfies the right of any person to receive a pecuniary bequest with carryover basis property to which section 1023 applies, then gain on such exchange shall be recognized to the estate only to the extent that on the date of such exchange, the fair market value of such property exceeds the fair market value of such property on the valuation date used with respect to such property for purposes of chapter 11.

"(b) Similar Rule for Certain Trusts.—To the extent provided in regulations prescribed by the Secretary or his delegate, a rule similar to the rule provided in subsection (a) shall apply where—

"(1) by reason of the death of the decedent, a person has a right to receive from a trust a specific dollar amount which is the equivalent of a pecuniary bequest, and

"(2) the trustee of the trust satisfies such right with carryover basis property to which section 1023 applies.

"(c) Basis of Property Acquired in Exchange Described in Subsection (a) or (b).—The basis of property acquired in an exchange with respect to which gain realized is not recognized by reason of subsection (a) or (b) shall be the basis of such property immediately before the exchange, increased by the amount of the gain recognized to the estate or trust on the exchange."

(e) Limitation of Increase in Basis for Gift Tax Paid to That Portion of Gift Tax Attributable to Net Appreciation in Value.—Subsection (d) of section 1015 (relating to increased basis for gift tax paid) is amended by adding at the end thereof the following new paragraph:

"(6) Special rule for gifts made after December 31, 1976.—

"(A) In general.—In the case of any gift made after December 31, 1976, the increase in basis provided by this subsection with respect to any gift for the gift tax paid under chapter 12 shall be an amount (not in excess of the amount of tax so paid) which bears the same ratio to the amount of tax so paid as—

"(i) the net appreciation in value of the gift, bears to

"(ii) the amount of the gift.

"(B) Net appreciation.—For purposes of paragraph (1), the net appreciation in value of any gift is the amount by which the fair market value of the gift exceeds the donor's adjusted basis immediately before the gift."

(f) Information Requirement.—

(1) In general.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039 the following new section:

"Sec 6039A. Information Regarding Carryover Basis Property Acquired From a Decedent.

"(a) In General.—Every executor (as defined in section 2203) shall furnish with respect to the carryover basis property of the decedent to which section 1023 applies such information with respect to such property as the Secretary or his delegate may by regulations prescribe.

"(b) Statements To Be Furnished to Persons Who Acquire Property From a Decedent.—Every executor who is required to furnish information under subsection (a) shall furnish in writing to each person acquiring an item of such property from the decedent (or to whom the item passes from the decedent) the adjusted basis of such item immediately before such person acquired it."

(2) Penalties.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"Sec. 6694. Failure to File Information With Respect to Carryover Basis Property.

"(a) Information Required To Be Furnished to the Secretary.—Any executor who fails to furnish information required under subsection (a) of section 6039A on the date prescribed therefor (determined with regard to any extension of time for filing) shall pay a penalty of $100 for each such failure, but the total amount imposed for all such failures shall not exceed $5,000.

"(b) Information Required To Be Furnished to Beneficiaries.—Any executor who fails to furnish in writing to each person described in subsection (b) of section 6039A the information required under subsection, unless it is shown that such failure is due to reasonable cause and not to willful neglect, shall pay (upon notice and demand by the Secretary or his delegate and in the same manner as tax) $50 for each such failure, but the total amount imposed for all such failures shall not exceed $2,500."

(g) Return Requirement.—Subpart C of part II of subchapter A of chapter 61 is amended by adding at the end thereof the following new section:

"Sec. 6019A. Returns of Tax on Appreciation at Death.

"(a) Returns by Executor.—

"(1) Citizens or residents.—In any case where the taxable appreciation (within the meaning of section 1902(a)) at the death of a citizen or resident exceeds $50,000 and no return is required to be made under section 6018(a), the executor shall make a return with respect to the tax imposed by section 1901.

"(2) Nonresidents not citizens of the United States.—In any case where the taxable appreciation (within the meaning of section 1902(a)) at the death of a nonresident not a citizen of the United States exceeds $25,000 and no return is required to be made under section 6018(a), the executor shall make a return with respect to the tax imposed by section 1911.

"(b) Returns by Beneficiaries.—If the executor is unable to make a complete return as to any property of the decedent on which there is or may be taxable appreciation, he shall include in his return a description of such property and the name of every person holding a legal or beneficial interest therein. Upon notice from the Secretary or his delegate, such person shall in like manner make a return as to such property."

(h) Clerical Amendments.—

(1) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1023 and inserting in lieu thereof the following:

"Sec. 1023. Adjusted carryover basis for certain property acquired from a decedent dying after December 31, 1976.

"Sec. 1024. Cross references."

(2) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end thereof the following:

"Sec. 1040. Use of certain appreciated carryover basis property to satisfy pecuniary bequest."

(3) The table of sections for subpart C of part II of subchapter A of chapter 61 is amended by adding at the end thereof the following:

"Sec. 6019A. Returns of tax on appreciation at death."

(4) The table of sections for part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6039 the following:

"Sec. 6039A. Information regarding carryover basis property acquired from a decedent."

(5) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following:

"Sec. 6694. Failure to file information with respect to carryover basis property."

(6) The table of chapters for subtitle B is amended by inserting before the item relating to chapter 11 the following new item:

"Chapter 10. Tax on appreciation at death."

(i) Effective Dates.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

(2) The amendment made by subsection (d) shall apply to gifts made after December 31, 1976.

By Mr. MILLER of Ohio:

Beginning on page 83, strike out section 7 (relating to certain generation-skipping transfers) and redesignate the succeeding sections accordingly.

Page 1, strike out the item relating to section 7 in the table of contents, redesignate the succeeding items accordingly, and insert the appropriate page numbers for such succeeding items.

By Mr. SCHNEEBELI:

Page 5, strike out lines 8 through 12 and insert:

"(a) General rule.—A credit of $54,800 shall be allowed to the estate of every decedent against the tax imposed by section 2001.

"(b) Phase-in of $54,800 credit.—

In the case of decedents dying in:	Subsection (a) shall be applied by substituting for '$54,800' the following amount:
1977	$30,000
1978	35,000
1979	40,000
1980	46,800

"(c) Adjustment to credit for certain gifts.—

Page 8, line 13, strike out "$40,000" and insert in lieu thereof "$54,800".

Page 8, strike out line 17 and the table following line 17 and insert:

"(b) Phase-in of $54,800 credit.—

In the case of gifts made in:	Subsection (a)(1) shall be applied by substituting for '$54,800' the following amount:
1977	$30,000
1978	35,000
1979	40,000
1980	46,800

Page 13, line 9, strike out "$12,450" and insert in lieu thereof "$18,000".

Page 13, strike out lines 18 through 20 and insert: "1977, by substituting '$8,480' for '$18,000',

"(B) in the case of a decedent dying during 1978, by substituting '$10,480' for '$18,000'.

"(C) in the case of a decedent dying during 1979, by substituting '$12,450' for '$18,000', and

"(D) in the case of a decedent dying during 1980, by substituting '$15,000' for '$18,000'."

Page 16, line 8, strike out "$153,000" and insert "$200,000".

Page 16, strike out lines 14 through 20 and insert:

"(3) Phase-in of filing requirement amount.—In the case of a decedent dying before 1981, paragraph (1) shall be applied—

"(A) in the case of a decedent dying during 1977, by substituting '$120,000' for '$200,000',

"(B) in the case of a decedent dying during 1978, by substituting '$137,000' for '$200,000',

"(C) in the case of a decedent dying during 1979, by substituting '$154,000' for '$200,000', and

"(D) in the case of a decedent dying during 1980, by substituting '$175,000' for '$200,000'.

Section 1: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 2: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 3: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 4: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 5: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 6: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 7: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 8: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 9: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 10: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

By Mr. SKUBITZ:

Page 5, before line 12, insert the following:

"(c) Cost-of-Living Adjustments.—In the case of the 5-year period beginning January 1, 1982, and each 5-year period thereafter, the amount of the credit in effect immediately preceding such period under subsection (a) shall be increased with respect to decedents dying during such period by the percentage (if any) by which the Consumer Price Index for the first month of such period exceeds such Index for the 60th month preceding such month. For purposes of this subsection, the term "Consumer Price Index" means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics of the Department of Labor."

Page 5, line 12, strike out "(c)" and insert in lieu thereof "(d)".

Page 5, line 19, strike out "(d)" and insert in lieu thereof "(e)".

Page 8, before line 18, insert the following:

"(c) Cost-of-Living Adjustments.—In the case of the 5-year period beginning January 1, 1982, and for each 5-year period thereafter, the amount of the credit in effect immediately preceding such period under subsection (a) shall be increased with respect to gifts made during such period by the percentage (if any) by which the Consumer Price Index for the first month of such period exceeds such Index for the 60th month preceding such month. For purposes of this subsection, the term "Consumer Price Index" means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics of the Department of Labor.

Page 8, line 18, strike out "(c)" and insert in lieu thereof "(d)".

Page 9, line 1, strike out "(d)" and insert in lieu thereof "(e)".

Page 13, after line 20, insert the following:

"(4) Cost-of-living adjustments.—In the case of the 5-year period beginning January 1, 1982, and each 5-year period thereafter, the amount of the credit in effect immediately preceding such period under paragraph (2)(B) shall be increased with respect to decedents dying during such period by the percentage (if any) by which the Consumer Price Index for the first month of such period exceeds such Index for the 60th month preceding such month. For purposes of this paragraph, the term "Consumer Price Index" means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics of the Department of Labor.

Page 13, line 21, strike out "(4)" and insert in lieu thereof "(5)".

Page 13, line 24, strike out "(5)" and insert in lieu thereof "(6)".

Page 16, after line 20, insert the following:

"(4) Cost-of-living adjustments.—In the case of the 5-year period beginning January 1, 1982, the Secretary or his delegate shall prescribe an amount which will apply under paragraph (1) with respect to decedents dying during such period to take into account adjustments made under sections 2010(c) and 2102(c)(4).

Page 16, line 21, strike out "(4)" and insert "(5)".

By Mr. STARK:

Section 6 of the bill (pages 68–83) is struck, and replaced with a new section 6 as follows:

Sec. 6. Capital Gains Tax at Transfer: Carryover Basis for Certain Transfers.—

(a) Capital Gains Tax.—

(1) A new section 85 is added to Chapter 1 of the Internal Revenue Code of 1954 as follows:

"Sec. 85. Recognition of Gain on Transfer of Assets.—

"(a) General Rule. Except as reduced by other sections of this title (e.g., sec. 1202), the amount by which—

"(1) the fair market value of property transferred by gift or bequest, exceeds

"(2) the adjusted basis of the property (as defined in section 1011) in the hands of the donor or decedent,

shall be included in the gross income of the donor or decedent.

"(b) Exceptions.—Subsection (a) shall not apply to—

"(1) Gifts or bequests to a spouse; or

"(2) Gifts or bequests to a 'qualified heir' (as defined in section 2032A(e) of an interest in a family farm or business more than 65% of which is owned by the donor or decedent or members of his immediate family (as defined in Section 2032 A(e)); or

"(3) Gifts or bequests for public, charitable, or religious uses, as described in sections 2055 and 2522.

"(c) Effective Date.—This section shall apply to gifts or deaths occurring after December 31, 1976."

(b) Basis of Assets Acquired by Gift or Bequest.—

(1) Amendment of section 1014.—Subsection (d) of section 1014 (relating to basis of property acquired from a decedent) is amended to read as follows:

"(d) Decedents Dying After December 31, 1976.—In the case of a decedent dying after December 31, 1976, this section shall not apply to any property for which a carryover basis is provided by section 1023."

(2) Amendment of section 1015.—Section 1015 is amended to read as follows:

"Sec. 1015. Basis of Property Acquired by Gift.—Except for property for which a carryover basis is provided by section 1023, the basis of property in the hands of a person acquiring the property by gift shall be the fair market value of the property at the date it is acquired."

(3) Carryover basis.—Part II of subchapter O of chapter 1 is amended by redesignating section 1023 as section 1024, and by insert-

ing after section 1022 the following new section:

"Sec. 1023. Carryover Basis for Certain Property Acquired by Gift or Bequest.—In the case of property transferred by gift or bequest for which gain is not recognized to the donor or decedent pursuant to subsecsection (b) of section 85, the basis of the property in the hands of the donee or heir shall be the adjusted basis of the property in the hands of the donor or decedent immediately before the transfer or death."

Section 2(a) of the bill is amended by adding at the end thereof the following new section:

(6) Limitation on charitable deductions in the case of the estate tax—

(a) Estates of Citizens or Residents.—Section 2055(d) (relating to limitation on deduction for charitable transfers) is amended to read as follows:

"(d) Limitations on Deduction.—

"(1) With respect to any transfer.—The amount of the deduction under this section for any transfer shall not exceed the value of the transferred property required to be included in the gross estate.

"(2) Limitation on aggregate deductions.—

"(a) The aggregate amount of deductions allowed under this section shall not exceed 50% of the sum of—

"(A) the amount by which the value of the gross estate exceeds the amount of the deductions allowed by section 2053 and 2054; plus

"(B) the amount of adjusted taxable gifts; plus

"(C) the amount of gifts which were nontaxable due solely to the provisions of section 2522;

reduced by the amount of gifts which were non-taxable due solely to the provisions of section 2522.

"(b) Where the aggregate amount of lifetime gifts which were exempt from taxation due solely to the provisions of section 2522, exceeds 50% of the sum of (a) (A), (B), and (C) above, then the taxable estate shall be increased by the amount of such excess."

(b) Estates of Nonresidents not Citizens.—Subparagraph (D) of section 2106(a) (1) (relating to limitation on deduction for charitable transfers) is amended to read as follows:

"(D) Limitations on deduction.—

"(i) With respect to any transfer.—The amount of the deduction under the paragraph shall not exceed the value of the transferred property required to be included in the gross estate.

"(ii) Aggregate limitation.—The amount of the deductions allowed under this paragraph shall not exceed 50% of the sum of—

"(A) the amount by which the value of the gross estate exceeds the amount of the deductions allowed by paragraph (i); plus

"(B) the amount of adjusted taxable gifts; plus

"(C) the amount of gifts which were nontaxable due solely to the provisions of section 2522;

reduced by the amount of gifts which were non-taxable due solely to the provisions of section 2522.

"(iii) Where the aggregate amount of lifetime gifts which were exempt from taxation due solely to the provisions of section 2522 exceeds 50% of the sum of (ii) (A), (B), and (C) above, then such excess shall be included in the gross estate."

(c) Effective Date.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1976.

Page 3, strike out lines 7 and 8 and insert: "after December 31, 1976."

Page 6, strike out lines 11–25, and insert:

"(5) Repeal of section 2035 for gifts made after December 31, 1976.—Section 2035 (relating to transactions in contemplation of death) is hereby repealed for transfers made after December 31, 1976."

Page 7, strike out lines 1–12.

Page 9, insert after line 7, a new section 2(b)(4) to the bill as follows:

"(4) Amendments to section 2503.—Section 2503(a) (defining taxable gifts) is amended to read as follows:

"(a) General Definition.—

"(1) The term 'taxable gifts' means, in the case of gifts made after December 31, 1970, but before January 1, 1977, the total amount of gifts made during the calendar quarter, less than deductions provided in sub-chapter C (Sec. 2521 and following). In the case of gifts made before January 1, 1971, such term means the total amount of gifts made during the calendar year, less the deductions provided in subchapter C.

"(2) In the case of gifts made after December 31, 1976, the term 'taxable gifts' means the total amount of gifts made during the calendar quarter, minus the deductions provided in sub-chapter C (section 2521 and following), plus the tax imposed on such gifts under section 2501."

Page 1, after line 7, in the item relating to section 2 which appears in the table of contents, insert after "exemptions" the following: "; additional estate tax credit for closely held business".

Page 2, line 9, strike out "exemptions." and insert "exemptions; additional estate tax credit for closely held business."

Page 5, strike out line 8 and all that follows down through line 8 and insert:

"(a) General Rule.—There shall be allowed as a credit against the tax imposed by section 2001 with respect to the estate of every decedent an amount equal to the sum of—

"(1) a basic credit of $23,800, and

"(2) the closely held business credit (if any) determined under section 2017.

"(b) Adjustment to Basic Credit for Certain Gifts Made Before 1977.—The $23,800 amount set forth in subsection (a) (1) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed in respect of the decedent as a specific exemption under section 2521 (as in effect before its repeal by the Estate and Gift Tax Reform Act of 1976).

Page 5, line 19, strike out "(d)" and insert "(c)".

Page 7, after line 12, insert:

(6) Closely held business credit.—Part II of subchapter A of chapter 11 (relating to credits against tax) is amended by adding at the end thereof the following new section:

"Sec. 2017. Closely Held Business Credit.

"(a) Entitlement to Credit.—The estate of any decedent who was (at the time of his death) a citizen or resident of the United States shall be entitled to the closely held business credit allowable under section 2010 (a)(2) if—

"(1) the closely held business percentage for such estate is 65 percent or more, and

"(2) the executor elects to have section 2010(a)(2) apply with respect to such estate and files the agreement referred to in subsection (f)(2).

"(b) Amount of Credit.—For purposes of this chapter, the amount of the closely held business credit is $31,000

"(c) Phaseout of Credit Where Adjusted Gross Estate Exceeds $500,000.—If the adjusted gross estate exceeds $500,000, the amount of the closely held business credit shall be reduced (but not below zero) by the amount which bears the same ratio to the closely held business credit (determined without regard to this subsection) as—

"(1) the excess of the adjusted gross estate over $500,000, bears to

"(2) $500,000.

"(d) Closely Held Business Percentage Defined.—For purposes of this section, the term 'closely held business percentage' means the percentage determined by dividing the closely held business amount by the amount of the adjusted gross estate.

"(e) Other Definitions and Special Rules.—For purposes of this section—

"(1) Adjusted gross estate.—The term 'adjusted gross estate' means the excess of—

"(A) the value of the gross estate, over

"(B) the sum of the amounts allowable as a deduction under section 2053 or 2054.

"(2) Closely held business amount.—The term 'closely held business amount' means the aggregate value of the qualified interests in a closely held business.

"(3) Qualified interest in a closely held business.—The term 'qualified interest in a closely held business' means an interest in a closely held business which is included in determining the gross estate of the decedent and which is acquired or passes from the decedent to a qualified heir, but only if, during the 8-year period ending on the date of the decedent's death, there were periods aggregating 5 years or more during which—

"(A) in the case of a proprietorship, the decedent or a member of his family was the proprietor,

"(B) in the case of a partnership, 65 percent or more in value of the total capital interest in the partnership was held by the decedent or a member of his family, or

"(C) in the case of a corporation, 65 percent or more in value of the voting stock in the corporation was held by the decedent or a member of his family.

To the extent provided in regulations prescribed by the Secretary or his delegate, where the form in which a trade or business is conducted changes during the 8-year period ending on the date of the decedent's death, periods during such 8-year period which qualify under one of the subparagraphs of the preceding sentence may be added to periods during such 8-year period which qualify under one or more of the other such subparagraphs.

"(4) Interest in closely held business.—The term 'interest in a closely held business' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship;

"(B) an interest as a partner in a partnership carrying on a trade or business, if—

"(i) 20 percent or more of the total capital interest in such partnership is included in determining the gross estate of the decedent, or

"(ii) such partnership had 15 or fewer partners; or

"(C) stock in a corporation carrying on a trade or business, if—

"(i) 20 percent or more in value of the voting stock of such corporation is included in determining the gross estate of the decedent, or

"(ii) such corporation had 15 or fewer shareholders.

"(5) Rules for applying paragraph (4).—For purposes of paragraph (4)—

"(A) Time for testing.—Determinations shall be made as of the time immediately before the decedent's death.

"(B) Certain interests held by husband and wife.—Stock or a partnership interest which—

"(i) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State, or

"(ii) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common,

shall be treated as owned by one shareholder or one partner, as the case may be.

"(C) Personal holding companies excluded.—An interest in a corporation shall not be treated as an interest in a closely held business if such corporation was a personal holding company (within the meaning of section 542(a))—

"(i) for that portion of its first taxable year ending after the date of the decedent's death which ends on such date (determined as if such portion constituted a taxable year), or

"(ii) for more than 3 taxable years out of the 8 most recent taxable years of such corporation ending before the date of the decedent's death.

"(6) Indirect ownership.—Property owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries. For purposes of the preceding sentence, a person shall be treated as a beneficiary of any trust only if such person has a present interest in the trust.

"(7) Member of family.—The term 'member of the family' means, with respect to any individual, only such individual's ancestor or lineal descendant, a lineal descendant of a grandparent of such individual, the spouse of such individual, or the spouse of any such descendant. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as a child of such individual by blood.

"(8) Qualified heir.—The term 'qualified heir' means, with respect to any interest, a member of the family of the decedent who acquired the property (or to whom such property passed) from the decedent. If a qualified heir disposes of any interest in a closely held business to any member of his family, such member shall thereafter be treated as the qualified heir with respect to such interest.

"(9) Community property adjustments.—

"(A) Adjusted gross estate.—The adjusted gross estate (determined under paragraph (1) without regard to this paragraph) shall be increased by the amount (if any) determined under clauses (i), (ii), and (iii) of section 2056(c)(2)(B).

"(B) Closely held business amount.—The closely held business amount (determined under paragraph (2) without regard to this paragraph) shall be increased by the amount (if any) of that portion of the amount determined under clauses (i), (ii), and (iii) of section 2056(c)(2)(B) which is attributable to a qualified interest in a closely held business.

"(10) Value.—Value shall be the value for purposes of this chapter.

"(11) Certain farm residential structures taken into account.—An interest in a closely held business which is in the business of farming includes an interest in residential buildings and related improvements on the farm which are occupied on a regular basis by the owner or lessee of the farm or by persons employed by such owner or lessee for purposes of operating or maintaining the farm.

"(f) Election, Agreement.—

"(1) Election.—Any election under subsection (a) shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary or his delegate shall by regulations prescribe.

"(2) Agreement.—The agreement referred to in this paragraph is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property which is a qualified interest in a closely held business with respect to the estate of the decedent consenting to the application of subsection (g) with respect to such interest.

"(g) Recapture Where, Within 15 Years, Interest Is Disposed of or Funds Are Withdrawn.—

"(1) Disposition of interest; withdrawal of funds from business.—

"(A) Imposition of tax.—If, within 15 years after the decedent's death and before the death of the qualified heir—

"(i) one-third or more in value of a qualified interest in a closely held business is distributed, sold, exchanged, or otherwise disposed of (other than a disposition by the qualified heir to a member of his family), or

"(ii) aggregate withdrawals of money and other property from the trade or business, an interest in which is a qualified interest in a closely held business, made with respect to such interest equal or exceed one-third of the value of such interest,

then there is hereby imposed an additional estate tax.

"(B) Certain reorganizations and exchanges.—Subparagraph (A)(i) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E)-, or (F) of section 368(a)(1) nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies; but any stock received in such an exchange shall be treated for purposes of subparagraph (A)(i) as a qualified interest in a closely held business.

"(C) Certain transfers not treated as dispositions.—Subparagraph (A)(i) does not apply to a transfer of property of the decedent to a person entitled by reason of the decedent's death to receive such property under the decedent's will, the applicable law of descent and distribution, or a trust created by the decedent.

"(2) Amount of additional tax.—The amount of the additional tax imposed by paragraph (1) with respect to a qualified interest in a closely held business held by any person shall be the amount which bears the same relationship to the tax difference with respect to the estate of the decedent as the value of such interest bore to the total value of all qualified interests in a closely held business with respect to such decedent. For purposes of the preceding sentence, the term 'tax difference' means the excess of what would have been the estate tax liability but for the credit allowable under section 2010 (a)(2) over the estate tax liability. For purposes of the preceding sentence, the term 'estate tax liability' means the tax imposed by section 2001 reduced by the credits allowable against such tax.

"(3) Phaseout of additional tax between 10th and 15th years.—If the date of the transaction resulting in the imposition of tax under this subsection occurs more than 120 months and less than 180 months after the date of the death of the decedent, the amount of the tax imposed by this subsection shall be reduced (but not below zero) by an amount determined by multiplying the amount of such tax (determined without regard to this paragraph) by a fraction—

"(A) the numerator of which is the excess of the number of full months after such death in excess of 120, and

"(B) the denominator of which is 60.

"(4) Due date.—The additional tax imposed by this subsection shall become due and payable on the day which is 6 months after the date of the transaction resulting in the imposition of tax under this subsection.

"(5) Liability for tax.—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest.

"(h) Statute of Limitations.—If any transaction results in the imposition of an additional tax under subsection (g), then—

"(1) the statutory period for the assessment of such additional tax shall not expire before the expiration of 3 years from the date the Secretary or his delegate is notified (in such manner as the Secretary or his delegate may by regulations prescribe) of such transaction, and

"(2) such additional tax may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(7) Special lien.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324B the following new section:

"Sec. 6324C. Special Lien for Additional Estate Tax Attributable To Recapture of Closely Held Business Credit.

"(a) General Rule.—In the case of any estate with respect to which an election has been made under section 2017(a)(2), an amount equal to the recapturable credit of any qualified heir shall be a lien in favor of the United States on all property of such heir which is a qualified interest in a closely held business (as defined in section 2017(e)(3)) with respect to such estate.

"(b) Period of Lien.—The lien imposed by this section shall arise at the time an election is filed under section 2017(a)(2) and shall continue with respect to any qualified interest in a closely held business of a qualified heir—

"(1) until the liability (if any) for tax under section 2017(g)(1) with respect to such heir has been satisfied or has become unenforceable by reason of lapse of time, or

"(2) until it is established to the satisfaction of the Secretary or his delegate that no further tax liability may arise under section 2017(g)(1) with respect to such heir.

"(c) Certain Rules Made Applicable.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this section as if it were a lien imposed by section 6324A.

"(d) Substitution of Security for Lien.—To the extent provided in regulations precribed by the Secretary or his delegate, the furnishing of security may be substituted for the lien imposed by this section.

"(e) Definitions.—For purposes of this section—

"(1) Recapturable credit.—The term 'recapturable credit' means, with respect to any qualified heir, the aggregate amount of the additional tax which may be imposed under section 2017(g)(1) with respect to qualified interests in a closely held business held by such qualified heir.

"(2) Qualified heir.—The term 'qualified heir' has the meaning given to such term by section 2017(e)(8)."

(8) Credit for tax on prior transfers.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

"(f) Treatment of Recapture of Closely Held Business Credit.—If an additional tax is imposed under section 2017(g)(1) with respect to any property included in the gross estate of the transferor before the date which is 2 years after the date of the decedent's death, for purposes of this section, such additional tax shall be treated as a Federal estate tax payable with respect to the estate of the transferor."

Page 8, strike out line 13 and all that follows down through line 17 (including the table below line 17) and insert:

"(1) $23,800, reduced by—

"(2) the sum of the amounts allowable as a credit to the individual under this section for all preceding calendar quarters."

Page 8, line 18, strike out "(c)" and insert "(b)".

Page 9, line 1, strike out "(d)" and insert "(c)".

Page 13, line 9, strike out "$12,450 and insert in lieu thereof "$6700."

Page 13, strike out line 14 and all that follows down through line 20.

Page 13, line 21, strike out "(4)" and insert "(3)".

Page 13, line 24, strike out "(5)" and insert "(4)".

Page 16, line 8, strike out "$153,000" and insert "$100,000".

Page 16, strike out line 14 and all that follows down through line 24 and insert:

"(3) Adjustment for certain gifts.—The $120,000 amount set forth in paragraph (1) and the $60,000 amount set forth in paragraph (2) shall each be reduced (but not below zero) by the sum of—

Page 18, before line 14, insert:

(iii) The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 2017. Closely held business credit."

Page 18, line 14, strike out "(iii)" and insert "(iv)".

Page 18, line 18, strike out "(iv)" and insert "(v)".

Page 18, after line 20, insert:

(vi) The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324B the following new item:

"Sec. 6324C. Special lien for additional estate tax attributable to recapture of closely held business credit."

Page 41, line 9, strike out "(f)" and insert "(g)".

Page 55, strike out lines 17 and 18 and insert:

"(A) $316,000; or

Page 60, line 15, strike out "6324B." and insert "6324B or 6324C."

Page 85, strike out line 19 and all that follows down through line 23 and insert:

"(3) Unused portion of basic credit.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, then the portion of the basic credit under section 2010(a)(1) (relating to unified credit) which exceeds the sum of—

Page 103, line 14, strike out "(g)" and insert "(h)".

Page 1, after line 7, in the item relating to section 2 which appears in the table of contents, insert after "exemptions" the following: "; additional estate tax credit for closely held business".

Page 2, line 9, strike out "EXEMPTIONS." and insert "EXEMPTIONS; ADDITIONAL ESTATE TAX CREDIT FOR CLOSELY HELD BUSINESS."

Page 5, strike out line 8 and all that follows down through line 18 and insert:

"(a) General Rule.—There shall be allowed as a credit against the tax imposed by section 2001 with respect to the estate of every decedent an amount equal to the sum of—

"(1) a basic credit of $29,800, and

"(2) the closely held business credit (if any) determined under section 2017.

"(b) Adjustment to Basic Credit for Certain Gifts Made Before 1977.—The $29,800 amount set forth in subsection (a)(1) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed in respect of the decedent as a specific exemption under section 2521 (as in effect before its repeal by the Estate and Gift Tax Reform Act of 1976).

Page 5, line 19, strike out "(d)" and insert "(c)".

Page 7, after line 12, insert:

(6) Closely held business credit.—Part II of subchapter A of chapter 11 (relating to credits against tax) is amended by adding at the end thereof the following new section:

"Sec. 2017. Closely Held Business Credit.

"(a) Entitlement to Credit.—The estate of any decedent who was (at the time of his death) a citizen or resident of the United States shall be entitled to the closely held business credit allowable under section 2010 (a)(2) if—

"(1) the closely held business percentage for such estate is 65 percent or more, and

"(2) the executor elects to have section 2010(a)(2) apply with respect to such estate and files the agreement referred to in subsection (f)(2).

"(b) Amount of Credit.—For purposes of this chapter, the amount of the closely held business credit is $25,000.

"(c) Phaseout of Credit Where Adjusted Gross Estate Exceeds $500,000.—If the adjusted gross estate exceeds $500,000, the amount of the closely held business credit shall be reduced (but not below zero) by the amount which bears the same ratio to the closely held business credit (determined without regard to this subsection) as—

"(1) the excess of the adjusted gross estate over $500,000, bears to

"(2) $500,000.

"(d) Closely Held Business Percentage Defined.—For purposes of this section, the term 'closely held business percentage' means the percentage determined by dividing the closely held business amount by the amount of the adjusted gross estate.

"(e) Other Definitions and Special Rules.—For purposes of this section—

"(1) Adjusted gross estate.—The term 'adjusted gross estate' means the excess of—

"(A) the value of the gross estate, over

"(B) the sum of the amounts allowable as a deduction under section 2053 or 2054.

"(2) Closely held business amount.—The term 'closely held business amount' means the aggregate value of the qualified interests in a closely held business.

"(3) Qualified interest in a closely held business.—The term 'qualified interest in a closely held business' means an interest in a closely held business which is included in determining the gross estate of the decedent and which is acquired or passes from the decedent to a qualified heir, but only if, during the 8-year period ending on the date of the decedent's death, there were periods aggregating 5 years or more during which—

"(A) in the case of a proprietorship, the decedent or a member of his family was the proprietor,

"(B) in the case of a partnership, 65 percent or more in value of the total capital interest in the partnership was held by the decedent or a member of his family, or

"(C) in the case of a corporation, 65 percent or more in value of the voting stock in the corporation was held by the decedent or a member of his family.

To the extent provided in regulations prescribed by the Secretary or his delegate, where the form in which a trade or business is conducted changes during the 8-year period ending on the date of the decedent's death, periods during such 8-year period which qualify under one of the subparagraphs of the preceding sentence may be added to periods during such 8-year period which qualify under one or more of the other such subparagraphs.

"(4) Interest in closely held business.—The term 'interest in a closely held business' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship;

"(B) an interest as a partner in a partnership carrying on a trade or business, if—

"(i) 20 percent or more of the total capital interest in such partnership is included in determining the gross estate of the decedent, or

"(ii) such partnership had 15 or fewer partners; or

"(C) stock in a corporation carrying on a trade or business, if—

"(i) 20 percent or more in value of the voting stock of such corporation is included in determining the gross estate of the decedent, or

"(ii) such corporation had 15 or fewer shareholders.

"(5) Rules for applying paragraph (4).—For purposes of paragraph (4)—

"(A) Time for testing.—Determinations shall be made as of the time immediately before the decedent's death;

"(B) Certain interests held by husband and wife.—Stock or a partnership interest which—

"(i) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State, or

"(ii) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common,

shall be treated as owned by one shareholder or one partner, as the case may be.

"(C) Personal holding companies excluded.—An interest in a corporation shall not be treated as an interest in a closely held business if such corporation was a personal holding company (within the meaning of section 542(a))—

"(i) for that portion of its first taxable year ending after the date of the decedent's death which ends on such date (determined as if such portion constituted a taxable year), or

"(ii) for more than 3 taxable years out of the 8 most recent taxable years of such corporation ending before the date of the decedent's death.

"(6) Indirect ownership.—Property owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries. For purposes of the preceding sentence, a person shall be treated as a beneficiary of any trust only if such person has a present interest in the trust.

"(7) Member of family.—The term 'member of the family' means, with respect to any individual, only such individual's ancestor or lineal descendant, a lineal descendant of a grandparent of such individual, the spouse of such individual, or the spouse of any such descendant. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as a child of such individual by blood.

"(8) Qualified heir.—The term 'qualified heir' means, with respect to any interest, a member of the family of the decedent who acquired the property (or to whom such property passed) from the decedent. If a qualified heir disposes of any interest in a closely held business to any member of his family, such member shall thereafter be treated as the qualified heir with respect to such interest.

"(9) Community property adjustments.—

"(A) Adjusted gross estate.—The adjusted gross estate (determined under paragraph (1) without regard to this paragraph) shall be increased by the amount (if any) determined under clauses (i), (ii), and (iii) of section 2056(c)(2)(B).

"(B) Closely held business amount.—The closely held business amount (determined under paragraph (2) without regard to this paragraph) shall be increased by the amount (if any) of that portion of the amount determined under clauses (i), (ii), and (iii) of section 2056(c)(2)(B) which is attributable to a qualified interest in a closely held business.

"(10) Value.—Value shall be the value for purposes of this chapter.

"(11) Certain farm residential structures taken into account.—An interest in a closely held business which is in the business of farming includes an interest in residential buildings and related improvements on the farm which are occupied on a regular basis by the owner or lessee of the farm or by persons employed by such owner or lessee for purposes of operating or maintaining the farm.

"(f) Election, Agreement.—

"(1) Election.—Any election under subsection (a) shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary or his delegate shall by regulations prescribe.

"(2) Agreement.—The agreement referred to in this paragraph is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property which is a qualified interest in a closely held business with respect to the estate of the decedent consenting to the application of subsection (g) with respect to such interest.

"(g) Recapture Where, Within 15 Years, Interest Is Disposed of or Funds Are Withdrawn.—

"(1) Disposition of interest; withdrawal of funds from business.—

"(A) Imposition of tax.—If, within 15 years after the decedent's death and before the death of the qualified heir—

"(i) one-third or more in value of a qualified interest in a closely held business is distributed, sold, exchanged, or otherwise disposed of (other than a disposition by the qualified heir to a member of his family), or

"(ii) aggregate withdrawals of money and other property from the trade or business, an interest in which is a qualified interest in a closely held business, made with respect to such interest equal or exceed one-third of the value of such interest,

then there is hereby imposed an additional estate tax.

"(B) Certain reorganizations and exchanges.—Subparagraph (A)(i) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E), or (F) of section 368(a)(1) nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies; but any stock received in such an exchange shall be treated for purposes of subparagraph (A)(i) as a qualified interest in a closely held business.

"(C) Certain transfers not treated as dispositions.—Subparagraph (A)(i) does not apply to a transfer of property of the decedent to a person entitled by reason of the decedent's death to receive such property under the decedent's will, the applicable law of descent and distribution, or a trust created by the decedent.

"(2) Amount of additional tax.—The amount of the additional tax imposed by paragraph (1) with respect to a qualified interest in a closely held business held by any person shall be the amount which bears the same relationship to the tax difference with respect to the estate of the decedent as the value of such interest bore to the total value of all qualified interests in a closely held business with respect to such decedent. For purposes of the preceding sentence, the term 'tax difference' means the excess of what would have been the estate tax liability but for the credit allowable under section 2010(a)(2) over the estate tax liability. For purposes of the preceding sentence, the term 'estate tax liability' means the tax imposed by section 2001 reduced by the credits allowable against such tax.

"(3) Phaseout of additional tax between 10th and 15th years.—If the date of the transaction resulting in the imposition of tax under this subsection occurs more than 120 months and less than 180 months after the date of the death of the decedent, the amount of the tax imposed by this subsection shall be reduced (but not below zero) by an amount determined by multiplying the amount of such tax (determined without regard to this paragraph) by a fraction—

"(A) the numerator of which is the excess of the number of full months after such death in excess of 120, and

"(B) the denominator of which is 60.

"(4) Due date. The additional tax imposed by this subsection shall become due and payable on the day which is 6 months after the date of the transaction resulting in the imposition of tax under this subsection.

"(5) Liability for tax.—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest.

"(h) Statute of Limitations.—If any transaction results in the imposition of an additional tax subsection (g), then—

"(1) the statutory period for the assessment of such additional tax shall not expire before the expiration of 3 years from the date the Secretary or his delegate is notified (in such manner as the Secretary or his delegate may by regulations prescribe) of such transaction, and

"(2) such additional tax may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(7) Special lien.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324B the following new section:

"Sec. 6324C. Special Lien for Additional Estate Tax Attributable to Recapture of Closely Held Business Credit.

"(a) General Rule.—In the case of any estate with respect to which an election has been made under section 2017(a)(2), an amount equal to the recapturable credit of any qualified heir shall be a lien in favor of the United States on all property of such heir which is a qualified interest in a closely held business (as defined in section 2017(e)(3)) with respect to such estate.

"(b) Period of Lien.—The lien imposed by this section shall arise at the time an election is filed under section 2017(a)(2) and shall continue with respect to any qualified interest in a closely held business of a qualified heir—

"(1) until the liability (if any) for tax under section 2017(g)(1) with respect to such heir has been satisfied or has become unenforceable by reason of lapse of time, or

"(2) until it is established to the satisfaction of the Secretary or his delegate that no further tax liability may arise under section 2017(g)(1) with respect to such heir.

"(c) Certain Rules Made Applicable.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this section as if it were a lien imposed by section 6324A.

"(d) Substitution of Security for Lien.—To the extent provided in regulations prescribed by the Secretary or his delegate, the furnishing of security may be substituted for the lien imposed by this section.

"(c) Definitions.—For purposes of this section—

"(1) Recapturable credit.—The term 'recapturable credit' means, with respect to any qualified heir, the aggregate amount of the additional tax which may be imposed under section 2017(g)(1) with respect to qualified interests in a closely held business held by such qualified heir.

"(2) Qualified heir.—The term 'qualified heir' has the meaning given to such term by section 2017(e)(8)."

(8) Credit for tax on prior transfers.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

"(f) Treatment of Recapture of Closely Held Business Credit.—If an additional tax is imposed under section 2017(g)(1) with respect to any property included in the gross estate of the transferor before the date which is 2 years after the date of the decedent's death, for purposes of this section, such additional tax shall be treated as a Federal estate tax payable with respect to the estate of the transferor."

Page 8, strike out line 13 and all that follows down through line 17 (including the table below line 17) and insert:

"(1) $29,800, reduced by

"(2) the sum of the amounts allowable as a credit to the individual under this section for all preceding calendar quarters."

Page 8, line 18, strike out "(c)" and insert "(b)".

Page 9, line 1, strike out "(d)" and insert "(c)".

Page 13, line 9, strike out "$12,450" and insert in lieu thereof "$8,400".

Page 13, strike out line 14 and all that follows down through line 20.

Page 13, line 21, strike out "(4)" and insert "(3)".

Page 13, line 24, strike out "(5)" and insert "(4)".

Page 16, line 8, strike out "$153,000" and insert "$120,000".

Page 16, strike out line 14 and all that follows down through line 24 and insert:

"(3) Adjustment for certain gifts.—The $120,000 amount set forth in paragraph (1) and the $60,000 amount set forth in paragraph (2) shall each be reduced (but not below zero) by the sum of—

Page 18, before line 14, insert:

(iii) The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 2017. Closely held business credit."

Page 18, line 14, strike out "(iii)" and insert "(iv)".

Page 18, line 18, strike out "(iv)" and insert "(v)".

Page 18, after line 20, insert:

(vi) The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324B the following new item:

"Sec. 6324C. Special lien for additional estate tax attributable to recapture of closely held business credit."

Page 41, line 9, strike out "(f)" and insert "(g)".

Page 55, strike out lines 17 and 18 and insert:

"(A) $316,000; or

Page 60, line 15, strike out "6324B." and insert "6324B or 6324C."

Page 85, strike out line 19 and all that follows down through line 23 and insert:

"(3) Unused portion of basic credit.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, then the portion of the basic credit under section 2010(a)(1) (relating to unified credit) which exceeds the sum of—

Page 103, line 14, strike out, "(g)" and insert "(h)".

By Mr. STEIGER of Wisconsin:

Section 1: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 2: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 3: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 4: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 5: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 6: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 7: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 8: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 9: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 10: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Page 20, strike line 7 and all that follows down through page 23, line 3 and insert the following:

SEC. 3. ESTATE AND GIFT TAX MARITAL DEDUCTION.

(a) BEQUESTS TO SURVIVING SPOUSE.—

(1) Section 2056 of the Internal Revenue Code of 1954 (relating to bequests, etc., to surviving spouse) is amended by deleting subsection (c) and by redesignating subsections (d) and (e) as subsections (c) and (d).

(2) Subsection (a) of section 2056 of such Code is amended by striking out "subsections (b), (c), and (d)," and inserting in lieu thereof "subsections (b) and (c),".

(b) GIFT TO SPOUSE.—

(1) Subsection (a) of section 2523 of such Code relating to gift to spouse is amended to read as follows:

"(a) IN GENERAL.—Where a donor who is a citizen or resident transfers during the calendar quarter by gift an interest in property to a donee who at the time of the gift is the donor's spouse, there shall be allowed as a deduction in computing taxable gifts for the calendar quarter an amount equal to the value of such interest."

(2) Section 2523 of such Code is amended by deleting subsection (f).

(3) Section 2515 of such Code (relating to tenancies by the entirety) is repealed.

Page 42, strike out lines 11 through 15 and insert:

(a) GENERAL RULE.—Subchapter B of chapter 62 (relating to extensions of time for payment of tax) is amended by redesignating section 6166 as section 6166A and by inserting after section 6165 the following new section:

"SEC. 6166. ALTERNATE EXTENSION OF TIME FOR PAYMENT OF ES-".

Page 43, insert after line 23 the following:

"(4) ELIGIBILITY FOR ELECTION.—No election may be made under this section by the executor of the estate of any decedent if an election under section 6166 applies with respect to the estate of such decedent.

Page 56, strike out lines 20 and 21 and insert in lieu thereof the following: "6166 or 6166A (including any part of a deficiency prorated to any installment under such section),".

Page 58, line 24, strike out "6163 or 6166" and insert in lieu thereof "6163, 6166, or 6166A".

Page 59, line 2, strike out "Section 6166" and insert in lieu thereof "Section 6166 or 6166A.

Page 59, line 7, strike out "SECTION 6166." and insert in lieu thereof "SECTION 6166 or 6166A.".

Page 59, line 10, strike out "6166" and insert in lieu thereof "6166 or 6166A".

Page 62, line 22, strike out "6166(g)" and insert in lieu thereof "6166(g) or 6166A(h)".

Page 63, line 18, strike out "6166(g)" and insert in lieu thereof "6166(g) or 6166A(h)".

Page 64, line 2, strike out "6166" and insert in lieu thereof ""6166 or 6166A".

Page 64, line 13, strike out "6166" and insert in lieu thereof "6166 or 6166A".

Page 64, line 19, strike out "6166" and insert in lieu thereof "6166 or 6166A".

Page 65, line 3, strike out "6166" and insert in lieu thereof "6166 or 6166A".

Page 65, line 6, strike out "6166" and insert in lieu thereof "6166 or 6166A".

Page 65, strike out line 22 and all that follows down through line 15 on page 66.

Page 66, line 16, strike out "(3)" and insert in lieu thereof "(2)".

Page 67, line 14, strike out "(4)" and insert in lieu thereof "(3)".

Page 67, strike out "section 6166" in the matter following line 23 and insert in lieu thereof "6166 or 6166A".

Page 68, line 5, strike out "section 6166(g)" and insert in lieu thereof "section 6166(g) or 6166A(h)".

Page 68, line 10, strike out "6161 or 6166" and insert in lieu thereof "6161, 6166, or 6166A".

Page 68, insert after line 13 the following:

(5) The table of sections for subchapter B of chapter 62 is amended by striking out the item relating to section 6166 and inserting in lieu thereof the following:

"Sec. 6166. Alternate extension of time for payment of estate tax where estate consists largely of interest in closely held business.

"Sec. 6166A. Extension of time for payment of estate tax where estate consists largely of interest in closely held business.".

(6) Subsections (a) and (b) of section 2204 (relating to discharge of fiduciary from personal liability) are amended by striking out "or 6166" and inserting in lieu thereof "6166 or 6166A".

By Mr. VANDER JAGT:

Section 1: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 2: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 3: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 4: (a) "strike the requisite number of words."

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Section 5: (a) "strike the requisite number of words."

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Section 6: (a) "strike the requisite number of words."

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Section 7: (a) "strike the requisite number of words."

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Section 8: (a) "strike the requisite number of words."

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Section 9: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

Section 10: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

By Mr. VANIK:

Page 1, after line 7, in the item relating to section 2 which appears in the table of contents, insert after "exemptions" the following: "; additional estate tax credit for closely held business".

Page 2, line 9, strike out "EXEMPTIONS." and insert "EXEMPTIONS; ADDITIONAL ESTATE TAX CREDIT FOR CLOSELY HELD BUSINESS."

Page 5, strike out line 8 and all that follows down through line 18 and insert:

"(a) GENERAL RULE.—There will be allowed as a credit against the tax imposed by section 2001 with respect to the estate of every decedent an amount equal to the sum of—

"(1) a basic credit of $21,000, and

"(2) the closely held business credit (if any) determined under section 2017.

"(b) ADJUSTMENT TO BASIC CREDIT FOR CERTAIN GIFTS MADE BEFORE 1977.—The $21,000 amount set forth in subsection (a)(1) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed in respect to the decedent as a specific exemption under section 2521 (as in effect before its repeal by the Estate and Gift Tax Reform Act of 1976).

Page 5, line 19, strike out "(d)" and insert "(c)".

Page 7, after line 12, insert:

(6) CLOSELY HELD BUSINESS CREDIT.—Part II of subchapter A of chapter 11 (relating to credits against tax) is amended by adding at the end thereof the following new section:

"SEC. 2017. CLOSELY HELD BUSINESS CREDIT.

"(a) ENTITLEMENT TO CREDIT.—The estate of any decedent who was (at the time of his death) a citizen or resident of the United States shall be entitled to the closely held business credit allowable under section 2010 (a)(2) if—

"(1) the closely held business percentage for such estate is 65 percent or more, and

"(2) the executor elects to have section 2010(a)(2) apply with respect to such estate and files the agreement referred to in subsection (f)(2).

"(b) AMOUNT OF CREDIT.—For purposes of this chapter, the amount of the closely held business credit is $33,800.

"(c) PHASEOUT OF CREDIT WHERE ADJUSTED GROSS ESTATE EXCEEDS $1,000,000.—If the adjusted gross estate exceeds $500,000, the amount of the closely held business credit shall be reduced (but not below zero) by the amount which bears the same ratio to the closely held business credit (determined without regard to this subsection) as—

"(1) the excess of the adjusted gross estate over $500,000, bears to

"(2) $500,000.

"(d) CLOSELY HELD BUSINESS PERCENTAGE DEFINED.—For purposes of this section, the term 'closely held business percentage' means the percentage determined by dividing the closely held business amount by the amount of the adjusted gross estate.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ADJUSTED GROSS ESTATE.—The term 'adjusted gross estate' means the excess of—

"(A) the value of the gross estate, over

"(B) the sum of the amounts allowable as a deduction under section 2053 or 2054.

"(2) CLOSELY HELD BUSINESS AMOUNT.—The term 'closely held business amount' means the aggregate value of the qualified interests in a closely held business.

"(3) QUALIFIED INTEREST IN A CLOSELY HELD BUSINESS.—The term 'qualified interest in a closely held business' means an interest in a closely held business which is included in determining the gross estate of the decedent and which is acquired or passes from the decedent to a qualified heir, but only if, during the 8-year period ending on the date of the decedent's death, there were periods aggregating 5 years or more during which—

"(A) in the case of a proprietorship, the decedent or a member of his family was the proprietor,

"(B) in the case of a partnership, 65 percent or more in value of the total capital interest in the partnership was held by the decedent or a member of his family, or

"(C) in the case of a corporation, 65 percent or more in value of the voting stock in the corporation was held by the decedent or a member of his family.

To the extent provided in regulations prescribed by the Secretary or his delegate, where the form in which a trade or business is conducted changes during the 8-year period ending on the date of the decedent's death, periods during such 8-year period which qualify under one of the subparagraphs of the preceding sentence may be added to periods during such 8-year period which qualify under one or more of the other such subparagraphs.

"(4) INTEREST IN CLOSELY HELD BUSINESS.—The term 'interest in a closely held business' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship;

"(B) an interest as a partner in a partnership carrying on a trade or business, if—

"(i) 20 percent or more of the total capital interest in such partnership is included in determining the gross estate of the decedent, or

"(ii) such partnership had 15 or fewer partners; or

"(C) stock in a corporation carrying on a trade or business, if—

"(i) 20 percent or more in value of the voting stock of such corporation is included in determining the gross estate of the decedent, or

"(ii) such corporation had 15 or fewer shareholders.

"(5) RULES FOR APPLYING PARAGRAPH (4).—For purposes of paragraph (4)—

"(A) TIME FOR TESTING.—Determinations shall be made as of the time immediately before the decedent's death.

"(B) CERTAIN INTERESTS HELD BY HUSBAND AND WIFE.—Stock or a partnership interest which—

"(i) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State, or

"(ii) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common,

shall be treated as owned by one shareholder or one partner, as the case may be.

"(C) PERSONAL HOLDING COMPANIES EXCLUDED.—An interest in a corporation shall not be treated as an interest in a closely held business if such corporation was a personal holding company (within the meaning of section 542(a))—

"(i) for that portion of its first taxable year ending after the date of the decedent's death which ends on such date (determined as if such portion constituted a taxable year), or

"(ii) for more than 3 taxable years out of the 8 most recent taxable years of such corporation ending before the date of the decedent's death.

"(6) INDIRECT OWNERSHIP.—Property owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries. For purposes of the preceding sentence, a person shall be treated as a beneficiary of any trust only if such person has a present interest in the trust.

"(7) MEMBER OF FAMILY.—The term 'member of the family' means, with respect to any individual, only such individual's ancestor or lineal descendant, a lineal descendant of a grandparent of such individual, the spouse of such individual, or the spouse of any such descendant. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as a child of such individual by blood.

"(8) QUALIFIED HEIR.—The term 'qualified heir' means, with respect to any interest, a member of the family of the decedent who acquired the property (or to whom such property passed) from the decedent. If a qualified heir disposes of any interest in a closely held business to any member of his family, such member shall thereafter be treated as the qualified heir with respect to such interest.

"(9) COMMUNITY PROPERTY ADJUSTMENTS.—

"(A) ADJUSTED GROSS ESTATE.—The adjusted gross estate (determined under paragraph (1) without regard to this paragraph) shall be increased by the amount (if any) determined under clauses (i), (ii), and (iii) of section 2056(c)(2)(B).

"(B) CLOSELY HELD BUSINESS AMOUNT.—The closely held business amount (determined under paragraph (2) without regard to this paragraph) shall be increased by the amount (if any) of that portion of the amount determined under clauses (i), (ii), and (iii) of section 2056(c)(2)(B) which is attributable to a qualified interest in a closely held business.

"(10) VALUE.—Value shall be the value for purposes of this chapter.

"(11) CERTAIN FARM RESIDENTIAL STRUCTURES TAKEN INTO ACCOUNT.—An interest in a closely held business which is in the business of farming includes an interest in residential buildings and related improvements on the farm which are occupied on a regular basis by the owner or lessee of the farm or by persons employed by such owner or lessee for purposes of operating or maintaining the farm.

"(f) ELECTION, AGREEMENT.—

"(1) ELECTION.—Any election under subsection (a) shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary or his delegate shall by regulations prescribe.

"(2) AGREEMENT.—The agreement referred to in this paragraph is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property which is a qualified interest in a closely held business with respect to the estate of the decedent consenting to the application of subsection (g) with respect to such interest.

"(g) RECAPTURING WHERE, WITHIN 15 YEARS, INTEREST IS DISPOSED OF OR FUNDS ARE WITHDRAWN.—

"(1) DISPOSITION OF INTEREST; WITHDRAWAL OF FUNDS FROM BUSINESS.—

"(A) IMPOSITION OF TAX.—If, within 15 years after the decedent's death and before the death of the qualified heir—

"(i) one-third or more in value of a qualified interest in a closely held business is distributed, sold, exchanged, or otherwise disposed of (other than a disposition by the qualified heir to a member of his family), or

"(ii) aggregate withdrawals of money and other property from the trade or business, an interest in which is a qualified interest in a closely held business, made with respect to such interest equal or exceed one-third of the value of such interest,

then there is hereby imposed an additional estate tax.

"(B) CERTAIN REORGANIZATIONS AND EXCHANGES.—Subparagraph (A)(i) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E), or (F) of section 368(a)(1) nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies; but any stock received in such an exchange shall be treated for purposes of subparagraph (A)(i) as a qualified interest in a closely held business.

"(C) CERTAIN TRANSFERS NOT TREATED AS DISPOSITIONS.—Subparagraph (A)(i) does not apply to a transfer of property of the decedent to a person entitled by reason of the decedent's death to receive such property under the decedent's will, the applicable law of descent and distribution, or a trust created by the decedent.

"(2) AMOUNT OF ADDITIONAL TAX.—The amount of the additional tax imposed by paragraph (1) with respect to a qualified interest in a closely held business held by any person shall be the amount which bears the same relationship to the tax difference with respect to the estate of the decedent as the value of such interest bore to the total value of all qualified interests in a closely held business with respect to such decedent. For purposes of the preceding sentence, the term 'tax difference' means the excess of what would have been the estate tax liability but for the credit allowable under section 2010(a)(2) over the estate tax liability. For purposes of the preceding sentence, the term 'estate tax liability' means the tax imposed by section 2001 reduced by the credits allowable against such tax.

"(3) PHASEOUT OF ADDITIONAL TAX BETWEEN 10TH AND 15TH YEARS.—If the date of the transaction resulting in the imposition of tax under this subsection occurs more than 120 months and less than 180 months after the date of the death of the decedent, the amount of the tax imposed by this subsection shall be reduced (but not below zero) by an amount determined by multiplying the amount of such tax (determined without regard to this paragraph) by a fraction—

"(A) the numerator of which is the excess of the number of full months after such death in excess of 120, and

"(B) the denomination of which is 60.

"(4) DUE DATE.—The additional tax imposed by this subsection shall become due and payable on the day which is 6 months after the date of the transaction resulting in the imposition of tax under this subsection.

"(5) LIABILITY FOR TAX.—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest.

"(h) STATUTE OF LIMITATION.—If any transaction results in the imposition of an additional tax under subsection (g), then—

"(1) the statutory period for the assessment of such additional tax shall not expire before the expiration of 3 years from the date the Secretary or his delegate is notified (in such manner as the Secretary or his delegate may by regulations prescribe) of such transaction, and

"(2) such additional tax may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(7) SPECIAL LIEN.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324B the following new section:

"SEC. 6324C. SPECIAL LIEN FOR ADDITIONAL ESTATE TAX ATTRIBUTABLE TO RECAPTURE OF CLOSELY HELD BUSINESS CREDIT.

"(a) GENERAL RULE.—In the case of any estate with respect to which an election has been made under section 2017(a)(2), an amount equal to the recapturable credit of any qualified heir shall be a lien in favor of the United States on all property of such heir which is a qualified interest in a closely held business (as defined in section 2017(e)(3)) with respect to such estate.

"(b) PERIOD OF LIEN.—The lien imposed by this section shall arise at the time an election is filed under section 2017(a)(2) and shall continue with respect to any qualified interest in a closely held business of a qualified heir—

"(1) until the liability (if any) for tax under section 2017(g)(1) with respect to such heir has been satisfied or has become unenforceable by reason of lapse of time, or

"(2) until it is established to the satisfaction of the Secretary or his delegate that no further tax liability may arise under section 2017(g)(1) with respect to such heir.

"(c) CERTAIN RULES MADE APPLICABLE.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this section as if it were a lien imposed by section 6324A.

"(d) SUBSTITUTION OF SECURITY FOR LIEN.—

To the extent provided in regulations prescribed by the Secretary or his delegate, the furnishing of security may be substituted for the lien imposed by this section.

"(e) Definitions.—For purposes of this section—

"(1) Recapturable credit.—The term 'recapturable credit' means, with respect to any qualified heir, the aggregate amount of the additional tax which may be imposed under section 2017(g)(1) with respect to qualified interests in a closely held business held by such qualified heir.

"(2) Qualified heir.—The term 'qualified heir' has the meaning given to such term by section 2017(e)(8)."

(8) Credit for tax on prior transfers.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

"(f) Treatment of Recapture of Closely Held Business Credit.—If an additional tax is imposed under section 2017(g)(1) with respect to any property included in the gross estate of the transferor before the date which is 2 years after the date of the decedent's death, for purposes of this section, such additional tax shall be treated as a Federal estate tax payable with respect to the estate of the transferor."

Page 8, strike out line 13 and all tha follows down through line 17 (including the table below line 17) and insert:

"(1) $29,800, reduced by

"(2) the sum of the amounts allowable as a credit to the individual under this section for all preceding calendar quarters.

Page 8, line 18, strike out "(c)" and insert "(b)".

Page 9, line 1, strike out "(d)" and insert "(c)".

Page 13, line 9, strike out "$12,450" and insert in lieu thereof "$5,920."

Page 13, strike out line 14 and all that follows down through line 20.

Page 13, line 21, strike out "(4)" and insert "(3)".

Page 13, line 24, strike out "(5)" and insert "(4)".

Page 16, line 9, strike out "$153,000" and insert "$90,000."

Page 16, strike out line 14 and all that follows down through line 24 and insert:

"(3) Adjustment for certain gifts.—The $120,000 amount set forth in paragraph (1) and the $60,000 amount set forth in paragraph (2) shall each be reduced (but not below zero) by the sum of—

Page 18, before line 14, insert:

(iii) The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 2017. Closely held business credit."

Page 18, line 14, strike out "(iii)" and insert "(iv)".

Page 18, line 18, strike out "(iv)" and insert "(v)".

Page 18, after line 20, insert:

(vi) The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324B the following new item:

"Sec. 6324C. Special lien for additional estate tax attributable to recapture of closely held business credit."

Page 41, line 9, strike out "(f)" and insert "(g)".

Page 55, strike out lines 17 and 18 and insert:

"(A) $316,000; or".

Page 60, line 15, strike out "6324B." and insert "6324B or 6324C."

Page 85, strike out line 19 and all that follows down through line 23 and insert:

"(3) Unused portion of basic credit.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, then the portion of the basic credit under section 2010(a)(1) (relating to unified credit) which exceeds the sum of—

Page 103, line 14, strike out "(g)" and insert "(h)".

Page 3, strike out rate schedule which follows line 9, and insert the following:

Taxable estate tax bracket (thousands)	Tax on lower limit of bracket	Tax rate applicable to bracket interval (percent)
0–$10	0	25
$10–20	$2, 500	30
20–40	5, 500	35
40–60	12, 500	40
60–100	20, 500	45
100–150	38, 500	50
150–250	63, 500	55
250–500	118, 500	60
500–1, 000	268, 500	65
1, 000+	593, 500	70

By Mr. WAGGONNER:

Beginning on page 68, strike out section 6 (relating to carryover basis) and redesignate the succeeding sections accordingly.

Page 1, strike out the item relating to section 6 in the table of contents, redesignate the succeeding items in the table of contents accordingly, and insert the appropriate page number for such succeeding items.

Page 41, strike out line 23 and insert the following:

(d) Limitation of Basis.—Section 1014 (relating to basis of property acquired from a decedent) is amended by adding at the end thereof the following new subsection:

"(e) Property Valued Under Section 2032A.—

"(1) In general.—Except as provided in paragraph (2), if property is valued under section 2032A with respect to any decedent, then the value of such property in the hands of a person acquiring such property from the decedent or to whom the property passed from the decedent shall be the value of such property determined under section 2032.

(2) Basis where additional tax has been imposed under section 2032A.—In the case of any portion of an interest in property described in paragraph (1) with respect to which an additional tax has been imposed by section 2032A(c), the basis of such portion in the hands of a person acquiring such portion from the decedent or to whom the portion passed from the decedent shall be the fair market value of such portion which would have been taken into account under chapter 11 for purposes of valuing the gross estate of the decedent but for the application of section 2032A.

"(3) Rules for the application of paragraph (2).—For purposes of paragraph (2)—

"(A) paragraph (2) shall be applied immediately before the transaction which gives rise to the additional tax imposed by section 2032A(c),

"(B) if the full recapturable amount for any interest has already been imposed with respect to prior transactions, each remaining portion of such interest shall be treated as if an additional tax had been imposed with respect to such portion, and

"(C) if the transaction giving rise to the additional tax occurs during the phaseout period provided by paragraph (3) of section 2032A(c), the increase in basis by reason of paragraph (2) shall be such increase multiplied by the fraction applicable to such transaction under such paragraph (3)."

(e) Clerical Amendments.—

Page 42, line 6, strike out "(e)" and insert in lieu thereof "(f)".

Page 100, strike out line 22 and all that follows down through line 4 on page 101.

Page 101, line 5, strike out "(c)" and insert in lieu thereof "(b)".

Page 103, strike out line 5 and insert:

(b) Step-Up in Basis for Property Acquired Pursuant to Generation-Skipping Transfer.—Section 1014 (relating to basis of property acquired from a decedent) is amended by adding at the end thereof the following new subsection:

"(f) Property Acquired Pursuant to Generation-Skipping Transfer.—The basis of property in the hands of a person acquiring the property in a generation-skipping transfer—

"(1) with respect to which tax is imposed by section 2601, and

"(2) which occurs at or after the death of the deemed transferor,

shall be the value of the property taken into account for purposes of section 2601."

"(c) Technical, Clerical, and Conforming".

Page 104, line 7, strike out "(c)" and insert in lieu thereof "(d)".

Section 1: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

(c) "strike the requisite number of words."

Section 2: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

(c) "strike the requisite number of words."

Section 3: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

(c) "strike the requisite number of words."

Section 4: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

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(c) "strike the requisite number of words."

Section 10: (a) "strike the requisite number of words."

(b) "strike the requisite number of words."

(c) "strike the requisite number of words."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of August 30, 1976 (page 28336).

H.R. 14939. July 29, 1976. Post Office and Civil Service. Permits employees of the Panama Canal Company or the Panama Railroad Company to elect to designate prior service for which such individuals received credit under the Railroad Retirement Act of 1974 as creditable service for purposes of Federal civil service retirement benefits.

H.R. 14940. July 29, 1976. International Relations. Authorizes appropriations for fiscal year 1977 to carry out the Treaty of Friendship and Cooperation between the United States and Spain signed January 24, 1976. Stipulates the scope and policy of such Treaty. Authorizes the President to apply the proceeds from the lease of aircraft to Spain to the purchase of aircraft for such country, notwithstanding restrictions regarding the application of such proceeds.

H.R. 14941. July 29, 1976. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to require States which have programs of supplementation payments in addition to Federal Supplemental Security Income benefits, to continue to operate such a program, and to maintain a level of payments under such State program which is not lower than the level of payments for the first month that the program was in effect.

Stipulates that the maintenance of the level of supplementation payments is a condition for a State's eligibility for payments under Title XIX (Medicaid) of the Social Security Act.

H.R. 14942. July 29, 1976. District of Columbia. Includes Charles County, Maryland, within the National Capital region for purposes of comprehensive planning relating to the location of Federal agencies.

Requires that specified proposed leases within the National Capital region by executive departments and agencies or by the United States Postal Service be submitted to the National Capital Planning Commission. Empowers the Commission to veto any such proposed lease.

H.R. 14943. July 29, 1976. Banking, Currency and Housing. Establishes ten Regional Capital Development Banks vested with special authority to make loans to, and buy stock in, corporations with assets or gross sales not in excess of $10,000,000.

Directs each bank to undertake research and to facilitate exchange of concepts and techniques relating to capital financing of business enterprises and economic development.

H.R. 14944. July 29, 1976. Post Office and Civil Service. Specifies the number of Federal general schedule positions which may be classified at each pay grade higher than GS–13 by September 30, 1979.

H.R. 14945. July 29, 1976. Judiciary. Authorizes the Attorney General and the President to admit certain refugees to the United States. Permits such refugees to become permanent residents of the United States upon approval of the Immigration and Naturalization Service two years after admission.

H.R. 14946. July 29, 1976. Public Works and Transportation. Amends the Federal Water Pollution Control Act to increase penalties for discharges of oil and hazardous substances.

H.R. 14947. July 29, 1976. Education and Labor. Directs the President, through the Secretary of Labor, to carry out a program of demonstration projects designed to increase economic productivity and expand employment opportuntities. Establishes an Advisory Committee on Human Resources and Employment Opportunities to furnish advice and assistance in the administration of the demonstration projects program.

H.R. 14948. July 29, 1976. Agriculture. Prohibits the importation of palm oil and palm oil products unless the Secretary of Agriculture certifies that such products are pure and wholesome and meet sanitation standards. Authorizes the Secretary to establish such standards, and to inspect such imports. Requires that such imports meet the packaging and labeling requirements in effect in the United States and specify the country of origin. Makes all palm oil in the United States subject to the Federal Food, Drug, and Cosmetic Act. Sets forth labeling requirements for palm oil in the United States. Prescribes penalties for violation of this Act.

H.R. 14949. July 29, 1976. Interstate and Foreign Commerce. Amends the Federal Energy Administration Act of 1974 to extend the expiration date of such Act to August 10, 1976.

H.R. 14950. July 29, 1976. Banking, Currency and Housing. Redefines "State" for purposes of the State Taxation of Depositories Act in order to remove specified territories of the United States. Prohibits such territories from imposing tax on any insured depository having its principal office outside such jurisdiction.

H.R. 14951. July 29, 1976. Ways and Means. Amend the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act to guarantee the social security coverage of policemen's and firemen's positions covered by the Illinois Municipal Retirement Fund.

H.R. 14952. July 29, 1976. Agriculture. Directs the Secretary of Agriculture to provide financial assistance through loan guarantees and interest payment reimbursement to farmers for loans to restock their livestock herds and for meeting operational expenses in the event of a natural disaster or emergency. Authorizes the Secretary to make loans to farmers in areas which have been declared natural disaster or emergency areas two or more times since January 1, 1971.

H.R. 14953. July 29, 1976. Education and Labor. Amends the Education Amendments of 1972 to eliminate provisions of such Act relating to the apportionment of funds for specified special projects. Reduces the proportion of funds under such Act which must be reserved for projects under the Special Projects Act.

Eliminates the provision of the Special Projects Act relating to congressional committee review of the special projects spending plan.

H.R. 14954. July 29, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommuniactions industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commssion actions authorizing specialized carriers.

H.R. 14955. July 29, 1976. Interior and Insular Affairs. Directs the Secretary of the Interior to convey specified lands in the District of Columbia to Hadley Memorial Hospital.

H.R. 14956. July 29, 1976. Public Works and Transportation. Designates a certain public building in Smithville, Tennessee, as the Joe L. Evins Post Office and Federal Building.

H.R. 14957. July 29, 1976. District of Columbia. Amends the District of Columbia Code to apply provisions relating to pretrial detention of persons charged with capital crimes only to those defendants charged with first degree murder or forcible rape.

Limits the application of provisions relating to pretrial detention of defendants on parole, probation, or mandatory release pending completion of sentence to those persons charged with specified crimes.

Permits institution of pretrial detention hearings by a judicial officer on such officer's own initiative.

Extends the period after which certain defendants who are ordered detained pending trial must be released.

H.R. 14958. July 29, 1976. Interstate and Foreign Commerce. Amends the Natural Gas Act to limit Federal Power Commission authority to regulate prices of new natural gas produced from offshore Federal lands. Requires that prices for the sale of other new natural gas be consistent with the ceiling established for offshore natural gas.

Directs the Commission to prohibit the curtailment of natural gas supplies for essential agricultural purposes. Restricts the use of natural gas as boiler fuel.

H.R. 14959. July 29, 1976. Interstate and Foreign Commerce. Amends the Natural Gas Act to limit Federal Power Commission authority to regulate prices of new natural gas produced from offshore Federal lands. Requires that prices for the sale of other new natural gas be consistent with the ceiling established for offshore natural gas.

Directs the Commission to prohibit the curtailment of natural gas supplies for essential agricultural purposes. Restricts the use of natural gas as boiler fuel.

H.R. 14960. July 29, 1976. District of Columbia. Establishes three retirement funds encompassing (1) District of Columbia firefighters and police officers and specified Federal law enforcement personnel, (2) District of Columbia teachers, and (3) District of Columbia judges, respectively.

Establishes the District of Columbia Retirement Board to manage the retirement funds created by this Act.

Details provisions relating to the administration of such funds and revises provisions relating to specified retirement and disability benefits under the retirement programs of such personnel.

H.R. 14961. July 29, 1976. Ways and Means. Amends the Internal Revenue Code to require the Secretary of the Treasury to submit to Congress an annual report on the effects of inflation or deflation on the Federal income tax liabilities of taxpayers.

H.R. 14962. July 29, 1976. Judiciary Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 14963. July 30, 1976. Post Office and Civil Service; Appropriations. Appropriates a designated sum to the Postal Service Fund for the period ending February 15, 1977.

Prohibits the Postal Service from increasing postal rates or closing any post office between the enactment of this Act and February 16, 1977, except in accordance with specified provisions. Requires the Postal Service to provide through February 15, 1977, either door or curbline delivery to all permanent residential addresses to which service is begun after the enactment of this Act.

H.R. 14964. July 30, 1976. Rules. Amends the Legislative Reorganization Act of 1970 to require that each public bill or resolution reported by a Congressional committee be accompanied by a Paperwork Impact Statement which assesses the amount and character of the information that such bill or resolution will require of private individuals and businesses and the cost of time required of such individuals or businesses who must provide the information sought by such legislation.

H.R. 14965. July 30, 1976. Science and Technology. Amends the Solid Waste Disposal Act to authorize additional research and development activities, to be coordinated by an Intra-Agency Coordinating Committee in the Environmental Protection Agency. Lists specific areas as subjects for detailed reports.

H.R. 14966. July 30, 1976. Armed Services. Amends the Federal Civil Defense Act of 1950 to authorize States to use funds available under such Act for the purposes of providing emergency preparedness and operations in the event of disasters other than enemy-caused disasters.

H.R. 14967. July 30, 1976. Ways and Means. Amends the Internal Revenue Code to allow certain otherwise tax exempt organizations to operate a public entertainment activity in conjunction with a National, State, local, regional, or international fair or exposition without losing their tax exempt status, by excluding such public entertainment activity from the definition of the term "unrelated trade or business."

H.R. 14968. July 30, 1976. Veterans' Affairs. Provides that the fees payable to agents or attorneys who represent veterans in allowed claims under the veterans laws shall be paid by the Administrator of Veterans' Affairs rather than deducted from amounts awarded under the claims.

H.R. 14969. July 30, 1976. Ways and Means. Amends the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act to provide that attorneys' fees allowed in administrative or judicial proceedings under that program or under the Medicare program of such Act, in cases where the claimants are successful, shall be paid by the Secretary of Health, Education, and Welfare rather than deducted from the amounts awarded claimants.

H.R. 14970. July 30, 1976. Ways and Means. Amends the Emergency Jobs and Unemployment Assistance Act to extend the special unemployment assistance program for one year. Eliminates the special base period requirement for payments of special unemployment assistance under that Act.

H.R. 14971. July 30, 1976. District of Columbia. Amends the District of Columbia Self-Government and Governmental Reorganization Act to extend the loan authority for capital projects in the District of Columbia to include those projects for which construction and construction services funds have been authorized or appropriated by Congress prior to the end of fiscal year 1979.

Changes to February 1 the date by which the Mayor of the District of Columbia must submit to the Council of the District of Columbia a financial statement for the preceding fiscal year.

H.R. 14972. July 30, 1976. Public Works and Transportation. Directs the Administrator of the Environmental Protection Agency to establish research and demonstration programs for the control of sludge. Authorizes financial assistance for sludge removal programs. Establishes a permit program to control hazardous sluge.

H.R. 14973. July 30, 1976. International Relations; Public Works and Transportation. Revises the authorization for United States participation in the International Tijuana River Flood control project to decrease the amount authorized for construction purposes. Establishes additional criteria for United States participation in land acquisition for such project.

Stipulates that no funds may be appropriated for such project for fiscal year 1977.

H.R. 14974. July 30, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 14975 July 30, 1976. Interstate and Foreign Commerce. Amends the Medicaid program of the Social Security Act to include podiatrist's services as physician services for the purposes of the medical assistance program under Medicaid.

H.R. 14976. July 30, 1976. Ways and Means. Amends the Tariff Act of 1930 to authorize the Secretary of the Treasury to permit delayed and alternative payment of duty on imported merchandise.

Amends the Tariff Act of 1930 with respect to (1) such delayed and alternative payment of duty, (2) the release of imported merchandise from warehousing, (3) recordkeeping by importers, (4) import investigations and examinations, (5) the withdrawal of certain imported merchandise from warehousing, and (6) penalty and forfeiture procedures for import fraud or negligence.

H.R. 14977. July 30, 1976. Public Works and Transportation. Designates the Federal office building located at 355 Hancock Avenue, Athens, Georgia, as the "Robert G. Stephens Federal Building."

H.R. 14978. July 30, 1976. Government Operations; Rules. Abolishes specified Federal regulatory agencies on July 4, 1976 unless Congress and the President approve their continuation. Sets limits on the continued existence of Federal regulatory agencies. Sets forth the procedures to be followed by the President to transfer the functions, powers, and duties of terminated agencies to himself or to a successor agency.

H.R. 14979. July 30, 1976. Public Works and Transportation. Directs the Administrator of the Federal Aviation Administration to promulgate noise standards for certain civil subsonic turbojet powered aircraft. Authorizes the Administrator to provide grants to operators of noncomplying aircraft to retrofit or replace such aircraft.

H.R. 14980. July 30, 1976. Judiciary. Prohibits certain petroleum companies engaged in the production, transportation, refining, or marketing of petroleum assets from controlling any interest in another aspect of the petroleum industry. Directs the Federal Trade Commission to require divestment of ownership interests by affected companies.

Establishes a Temporary Petroleum Industry Divestiture Court to hear cases arising under this Act.

H.R. 14981. July 30, 1976. Government Operations. Creates a Federal Program Information Center to establish and maintain a computerized program information system which is capable of identifying all existing Federal domestic assistance programs.

Directs the President to publish an annual catalog of such programs which includes all information in the Center's data base.

H.R. 14982. July 30, 1976. Public Works and Transportation. Directs the Secretary of the Army to convey, subject to specified conditions, all interest of the United States in the Fort Gibson Reservoir project to the State of Oklahoma.

H.R. 14983. July 30, 1976. Public Works and Transportation. Directs the Secretary of the Army to convey, subject to specified conditions, all interest of the United States in the Tenkiller Reservoir project to the State of Oklahoma.

H.R. 14984. July 30, 1976. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency.

Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 14985. July 30, 1976. Interstate and Foreign Commerce. Authorizes the Federal Communications Commission to prescribe regulations with respect to electronic equipment that is susceptible to radio frequency energy interference. Allows retail dealers to issue conditional operator's licenses for citizen's band radios. Directs the Commission to increase the channels available for use in the citizen's radio service.

H.R. 14986. July 30, 1976. Veterans' Affairs. Increases by specified amounts the rates payable to eligible veterans for vocational rehabilitation and educational assistance.

H.R. 14987. July 30, 1976. Education and Labor. Amends the Service Contract Act of 1965 to redefine "service employees" for purposes of Federal service contract labor standards.

H.R. 14988. July 30, 1976. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain corporation in full settlement of such corporation's claims against the United States arising from certain inspections and certifications by the Federal Housing Administration.

H.R. 14989. July 30, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 14990. August 2, 1976. Government Operations. Amends the Intergovernmental Corporation Act of 1968 to require the Federal Government to coordinate any sale, purcase, or change of use of Federal real estate with State and local authorities. Requires as a condition for Federal areawide development assistance that State and local governments and areawide agencies prepare coordinated areawide development plans.

H.R. 14991. August 2, 1976. Interior and Insular Affairs. Directs the Secretary of the Interior to make payments on a fiscal year basis to each unit of local government in which are located specified types of Federal lands.

Directs the Secretary to make additional payments to local governments for five fiscal years with respect to lands acquired by the United States for addition to Redwood National Park pursuant to specified legislation or to the National Park System or National Wilderness Preservation System after December 31, 1970 which were subject to local real property taxes within five years preceding such acquisition.

H.R. 14992. August 2, 1976. Interstate and Foreign Commerce. Amends the Federal Trade Commission Act to prohibit the application of a per se rule of illegality under the antitrust laws in the case of certain market allocation agreements made as part of a contract or agreement (1) for the manufacture, distribution or sale of a trademarked soft drink product or (2) for the distribution or sale of a trademarked private label food product.

H.R. 14993. August 2, 1976. Public Works and Transportation. Deauthorizes the Lafayette Dam and Reservoir in Indiana.

H.R. 14994. August 2, 1976. Public Works and Transportation. Directs the Secretary of the Army, acting through the Chief of Engineers, to construct a flood control project in the Bassett Creek Watershed in Minnesota.

H.R. 14995. August 2, 1976. House Administration. Amends the Federal Election Campaign Act of 1971 to remove the requirement that political committees report to the Federal Election Commission changes in information relating to lists of candidates supported by such committees.

H.R. 14996. August 2, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to establish a minimum one year period with respect to a Presidential suspension of the right of air carriers to engage in transportation to or from countries which are determined to be aiding or abetting aircraft hijackers.

Removes the President's authority to issue such an order suspending an air carrier's right to engage in transportation with a country which maintains air service with such a country. Sets forth criminal penalties for violations of such a suspension order.

H.R. 14997. August 2, 1976. Ways and Means. Amends the Trade Act of 1974, with respect to developing countries which receive certain tariff preferences, to repeal the restrictions which prohibit the President from designating as a "beneficiary developing country" any country which is a member of an arrangement of foreign countries which participates in any action resulting in unreasonable price increases or disrupts the world economy.

H.R. 14998. August 2, 1976. Judiciary. Repeals provisions of present law regarding the increase or reduction in the number of Representatives to Congress for any one State as a result of decennial reapportionment of seats in the House of Representatives and the effects such changes shall have on the number of at-large Representatives and the number of Congressional districts in such State.

Prohibits any State entitled to more than one Representative in Congress from establishing Congressional districts more often than once every ten years.

H.R. 14999. August 2, 1976. Ways and Means. Amends the Internal Revenue Code to allow a tax deduction for State and local taxes paid or incurred for the rental of a dwelling unit. Excludes motels and hotels from the provisions of this Act.

H.R. 15000. August 2, 1976. Ways and Means. Amends the Internal Revenue Code of 1954 and the program of Old-Age, Sur-

vivors, and Disability Insurance of the Social Security Act to provide that the payment of social security taxes by a nonprofit organization on behalf of its employees shall constitute a constructive filing by such organization of the certificate otherwise required to provide social security coverage for such employees if it has not received a refund of such taxes.

SENATE—*Tuesday August 31, 1976*

(Legislative day of Friday, August 27, 1976)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Who shall ascend into the hill of the Lord? Or who shall stand in His Holy place?

He that hath clean hands and a pure heart; who hath not lifted up his soul unto vanity, nor sworn deceitfully.

He shall receive the blessing from the Lord, and righteousness from the God of his salvation.—Psalms 24: 3–5.

Almighty and ever-living God, in days when work is accelerated, sometimes stressful and fraught with partisan contention, grant us an inner sanctuary of poise and peace. Give us ears to hear Thy voice above all other voices. Grant us grace to obey the promptings of Thy spirit and courage to reject the temptations of self-will. May we walk and work with clean hands and pure hearts until our work is done.

In Thy holy name we pray. Amen.

AMENDMENTS SUBMITTED FOR PRINTING DURING THE RECESS

Under authority of the order of the Senate, the following amendments and motions intended to be proposed in connection with the message from the House on H.R. 8532, to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, were submitted during the recess of the Senate:

Amendments Nos. 2247 through 2258, by Mr. THURMOND;

Amendments Nos. 2259 through 2262, by Mr. HRUSKA; and

Eleven motions by Mr. HRUSKA.

MESSAGE FROM THE HOUSE

The following message from the House of Representatives was delivered to the Senate by Mr. Berry, one of its clerks:

H. RES. 1428

Resolved, That the House of Representatives hereby disapproves the proposed deferral of budget authority in the amount of $688,430 for Mines and minerals, Bureau of Mines, to design a replacement metallurgy research center to be established on the Fort Douglas Military Reservation, Utah (deferral number D76–110), as transmitted by the President to the Congress on May 13, 1976, under section 1013 of the Impoundment Control Act of 1974.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday, August 30, 1976, be approved.

The PRESIDENT pro tempore. Without objection, it is so ordered.

FEDERAL GRANT AND COOPERATIVE AGREEMENT ACT OF 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1113.

The PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1437) to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Government Operations with amendments:

On page 1, line 4, strike "1975" and insert "1976";

On page 7, beginning with line 8, insert the following:

(c) The authority to make contracts for the conduct of basic or applied scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research shall include discretionary authority, when it is deemed by the head of the executive agency to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such contract funds.

On page 8, line 4, after "with" insert "and to the extent practicable, involve";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Federal Grant and Cooperative Agreement Act of 1976".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) there is a need to distinguish Federal assistance relationships from Federal procurement relationships and thereby to standardize usage and clarify the meaning of the legal instruments which reflect such relationships;

(2) uncertainty as to the meaning of such terms as "contract", "grant", and "cooperative agreement" and the relationships they reflect causes operational inconsistencies, confusion, inefficiency, and waste for recipients of awards as well as for executive agencies; and

(3) the Commission on Government Procurement has documented these findings and concluded that a reduction of the existing confusions, inconsistencies, and inefficiencies is feasible and necessary through legislative action.

(b) The purposes of this Act are—

(1) to characterize the relationships between the Federal Government and contractors, State and local governments, and other recipients in the acquisition of property and services and in the furnishing of assistance by the Federal Government so as to promote a better understanding of Federal spending and help eliminate unnecessary administrative requirements on recipients of Federal awards.

(2) to establish Government-wide criteria for selection of appropriate legal instruments to achieve uniformity in the use by the executive agencies of such instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties;

(3) to promote increased discipline in the selection and use of types of contract, grant agreement, and cooperative agreements and to maximize competition in the award of contracts and encourage competition, where deemed appropriate, in the award of grants and cooperative agreements; and

(4) to require a study of the relationship between the Federal Government and grantees and other recipients in Federal assistance programs and the feasibility of developing a comprehensive system of guidance for the use of grant and cooperative agreements, and other forms of Federal assistance in carrying out such programs.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "State government" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State, and any multi-State, regional, or interstate entity which has governmental functions;

(2) "local government" means any unit of government within a State, a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, other interstate government entity, or any other instrumentality of a local government;

(3) "other recipient" means any person or recipient other than a State or local government who is authorized to receive Federal assistance or procurement contracts and includes any charitable or educational institution;

(4) "executive agency" means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office), a wholly owned Government corporation; and

(5) "grant or cooperative agreement" does not include any agreement under which only direct Federal cash assistance to individuals, a subsidy, a loan, a loan guarantee, or insurance is provided.

USE OF CONTRACTS

SEC. 4. Each executive agency shall use a type of procurement contract as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or

(2) whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate.

USE OF GRANT AGREEMENTS

SEC. 5. Each executive agency shall use a type of grant agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) no substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

USE OF COOPERATIVE AGREEMENTS

SEC. 6. Each executive agency shall use a type of cooperative agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient to accomplish a public purpose of support of stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

AUTHORIZATIONS

SEC. 7. (a) Notwithstanding any other provision of law, each executive agency authorized by law to enter into contracts, grant or cooperative agreements, or similar arrangements is authorized and directed to enter into and use types of contracts, grant agreements, or cooperative agreements as required by this Act.

(b) The authority to enter into grant or cooperative agreements shall include the discretionary authority, when it is deemed by the head of an executive agency to be in furtherance of the objectives of such agency, to vest in State or local governments or other recipients, without further obligation to the Federal Government or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such grant or cooperative agreement funds.

(c) The authority to make contracts for the conduct of basic or applied scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research shall include discretionary authority, when it is deemed by the head of the executive agency to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such contract funds.

STUDY OF FEDERAL ASSISTANCE PROGRAMS

SEC. 8. The Director of the Office of Management and Budget, in cooperation with the executive agencies, shall undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs, and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. Such study shall include a thorough consideration of the findings and recommendations of the Commission on Government Procurement relating to the feasibility of developing such a system. The Director shall consult with and to the extent practicable, involve representatives of the executive agencies, the Congress, the General Accounting Office, and State and local governments, other recipients and other interested members of the public. The result of the study shall be reported to the Committee on Government Operations of the Senate and the House of Representatives at the earliest practicable date, but in no event later than two years after the date of enactment of this Act. The report on the study shall include (1) detailed descriptions of the alternative means of implementing Federal assistance programs and of the circumstances in which the use of each appears to be most desirable, (2) detailed descriptions of the basic characteristics and an outline of such comprehensive system of guidance for Federal assistance programs, the development of which may be determined feasible, and (3) recommendations concerning arrangements to proceed with the full development of such comprehensive system of guidance and for such administrative or statutory changes, including changes in the provisions of sections 3 through 7 of this Act, as may be deemed appropriate on the basis of the findings of the study.

REPEALS AND SAVINGS PROVISIONS

SEC. 9. (a) The Act entitled "An Act to authorize the expenditure of funds through grants for support of scientific research, and for other purposes", approved September 6, 1958 (72 Stat. 1793; 42 U.S.C. 1891, 1892, and 1893), is repealed, effective one year after the date of enactment of this Act.

(b) Nothing in this Act shall be construed to render void or voidable any existing contract, grant, cooperative agreement, or other contract, grant, or cooperative agreement entered into up to one year after the date of enactment of this Act.

(c) Nothing in this Act shall require the establishment of a single relationship between the Federal Government and a State or local government or other recipient on a jointly funded project, involving funds from more than one program or appropriation, where different relationships would otherwise be appropriate for different components of the project.

(d) The Director of the Office of Management and Budget may except individual transactions or programs of any executive agency from the application of the provisions of this Act. This authority shall expire one hundred and eighty days after receipt by the Congress of the study provided for in section 8 of this Act.

The PRESIDENT pro tempore. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDENT pro tempore. The question is, Shall the bill pass?

The bill (S. 1437) was passed.

TOXIC SUBSTANCES CONTROL ACT

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3149.

The PRESIDENT pro tempore laid before the Senate a message from the House of Representatives insisting upon its amendment to the bill (S. 3149) to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MANSFIELD. I move that the Senate disagree to the amendment of the House to S. 3149, agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. MAGNUSON, Mr. HARTKE, Mr. PHILIP A. HART, Mr. DURKIN, Mr. TUNNEY, Mr. BAKER, and Mr. STEVENS conferees on the part of the Senate.

REMARKS OF SENATOR HUGH SCOTT AT MUSIC '76 ON THE MALL

Mr. MANSFIELD. Mr. President, on Sunday, August 29, 1976, the distinguished Republican leader, the senior Senator from Pennsylvania (Mr. HUGH SCOTT) delivered an outstanding address at Music '76 on the Mall, which I believe is worthy of the consideration of all our colleagues and all Americans. I applaud Senator SCOTT for his excellent and timely address, and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY U.S. SENATOR HUGH SCOTT

I think of so many things, so many different things, when I think about what America means to me. So it must be with each of you, for every heart responds to a different memory.

The American experience is shared today by our nearly 216 million people. As a Nation, we are 200 years old. We have come a long way over the years. But we've made it because we've stayed together. That special staying power is what keeps America great. We are one people made up of many peoples; that is what keeps America strong.

The America we celebrate is made up of many moments which sing through these two centuries. Some of them are happy, others sad. Some are quiet, others resound. But all of them are in cadence with the wonderful anthem that is America. May we, tonight, remember some of them together?

Remember the splendid impertinence of Patrick Henry declaiming to the First Continental Congress: "I am not a Virginian, but an American!"

Remember Jackie Robinson stealing home—and taking some of our prejudices away from us at the same time.

Think of George M. Cohan, whose songs

are a festival of the American spirit. We remember his "Yankee Doodle Dandy." On Times Square his statue still gives his regards to Broadway.

Think of where you were on July 21st, 1969. Neil Armstrong was on the moon. Or where you were on November 22nd, 1963. President Kennedy was in Dallas.

Remember Helen Keller, blind and deaf from the age of two, encouraging others: "Keep your face to the sunshine," she wrote, "and you cannot see the shadow."

Think of the four chaplains—Protestant, Jew and Catholic—aboard the U.S.S. Dorchester when she was torpedoed in World War II. They gave up their life jackets to men who didn't have any. Then, they linked arms and sang praises to God as they went down. That was what brotherhood meant.

Think of the brothers, bicycle-makers with a vision, daring to prove that man can fly.

Think of the Union troops and the Confederate troops encamped for the night; a narrow river, and a war, separating them. Think of them joining their voices, singing "Tenting Tonight on the Old Camp Ground," to relieve the melancholy of the dark and the fears for the morrow.

Remember the Alamo and the Maine and Pearl Harbor.

Think of Thomas Jefferson, of whom it was written: "A gentleman . . . who could calculate an eclipse, survey an estate, tie an artery, plan an edifice, try a cause, break a horse, dance a minuet and play the violin."

Remember President Lincoln, passing on the bereavement of a Nation to Mrs. Bixby of Massachusetts, who had lost two sons in battle: "I feel how weak and fruitless must be any words of mine which should attempt to beguile you from the grief of a loss so overwhelming."

Look just a few hundred yards from where we are tonight, and remember Martin Luther King telling the multitudes: "I have a dream."

Remember "Christina's World," shining and pure on the canvas of Andrew Wyeth. And the little town of "Whoville," which charms our children from the zany pages of Dr. Seuss. And "Our Town," which Thornton Wilder invites us to visit upon the American stage.

Remember Fort McHenry, guarding the Port of Baltimore during the long night of seige when Francis Scott Key penned the words to "The Star-Spangled Banner." The words are American, the melody Hessian. We have roots. Remember Crispus Attucks, the first American to fall in the Boston Massacre. He was black. We have roots.

Remember Bunker Hill and Mount Suribachi and Pork Chop Hill.

Turn to any page in any telephone book in America and tell me, what is an American name?

Remember, for Thurber's sake, that there's a little bit of Walter Mitty in the heart of all of us. You can't stop an American from dreaming.

No, indeed, you can't stop an American from dreaming. Nor can you, in this land blessed with freedom, stop an American from marching to a different drummer if he chooses. That's the way free people are.

My drum has been the gavel of Congress. When I retire at the end of this session, it will be my privilege to have served the people of Pennsylvania for 34 years, first in the House of Representatives and, for three terms, in the Senate. And, I will have served four terms as Minority Leader of the Senate.

Looking back, I see so much history has been made over this time. I hope the years will establish that we here on an historic Hill have tried our best and often helped to move the wheel of government creditably onward.

I remember, with pride, leading the fight to enact the Civil Rights Act of 1964.

I remember the War Powers Act: never again can this Nation go to war without the consent of the Congress.

I look with personal pride to the passage of my legislation to make Valley Forge a National Park. President Ford signed that bill into law on our magnificent Independence Day of this Bicentennial year.

I remember, also, so many faces . . . General Pershing leading victorious troops down Pennsylvania Avenue. General Douglas MacArthur delivering his emotional farewell to the Congress. Winston Churchill honoring a joint session with words of wisdom, warmth and wit. The late Senator Richard Russell, to my mind the greatest Senator I have ever known. My friend and colleague, Senator Mike Mansfield. He leads his party and I lead mine, but no aisle divides our trust in each other.

My great happiness and greatest pride is Marian, my wife for 52 years. She is with me this evening.

Now, let us look forward to an ever better progression for Nation and for people.

That is, after all, what America is all about. The growing. The learning. The making of friends. The keeping of trusts. The willingness to try. The joining together (as this evening) with fellow Americans to rejoice in our heritage, as we mark the first days of our Tricentennial.

So listen well. What we hear is the music of America—ringing the bells and telling the people.

The PRESIDENT pro tempore. Does the Senator from Michigan seek recognition?

Mr. GRIFFIN. No, Mr. President.

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Commerce be authorized to meet today on nominations to the Federal Communications Commission and pending legislation on FAA Act amendments, and Coast Guard personnel.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be authorized to meet today on mine safety bills and black lung legislation, and tomorrow on black lung legislation.

Mr. GRIFFIN. Mr. President, at the request of several other Senators, I must respectfully object.

The PRESIDENT pro tempore. Objection is heard.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Subcommittee on Military Construction of the Committee on Armed Services be authorized to meet on September 15 to consider the Air Force's proposal to move the Air Force Communications Service from Richards Gebaur Air Force to Scott Air Force Base.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum on my time.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

HAS LIFE TENURE OUTLIVED ITS TIME?

Mr. HARRY F. BYRD, JR. Mr. President, with the wisdom few men ever display and with the opportunity for reflection few are afforded, Thomas Jefferson wrote, toward the end of his life:

> At the establishment of our Constitution, the judiciary bodies were supposed to be the most helpless and harmless members of the government. Experience, however, soon showed in what way they were to become the most dangerous . . . In truth, man is not made to be trusted for life, if secured against all liability to account.

Mr. Jefferson's observation has been proven correct, time and again, during the history of our Nation whenever we became deaf to the admonition first expressed in Article 30 of the Massachusetts Bill of Rights, 1780: "(Ours is) a government of laws and not of men."

But while the delicate system of checks and balances in our novel Federal-State scheme of government could resolve the imbalance of power between the executive and legislative branches, the judicial branch has remained immune from such correction.

The independence of the Federal judiciary was the concept which the Framers of the Constitution sought to protect by employing life tenure for Federal judges.

But the real purpose of judicial independence was articulated by the eminent Constitutional scholar-lawyer, Professor Philip Kurland, several years ago when he testified before a Senate Committee:

> It should be kept in mind that the provisions for securing the independence of the judiciary were not created for the benefit of the judges, but for the benefit of the judged.

I believe this to be a cardinal principle.

Judicial independence should not be regarded as a fortress for the members of the judiciary, whether or not one believes that some judges are actual or potential oligarchs; on the contrary, it is supposed to be a shelter for the rights of the people.

This assessment was forcefully endorsed by the results of a recent poll run by the National Federation of Independent Business.

That organization of over 460,000 members, the largest individual membership of any business organization in the country, was presented with a five-question "Bicentennial Mandate," the third question being as follows:

> 3. Should Federal Judges including Supreme Court Justices be appointed for:
>
> (a) a single 10 year term
> (b) a 10 year term that is renewable
> (c) life
> (d) undecided

ISSUE

The fundamental issue is whether or not Federal Judges should have a limit on the amount of time they can hold office.

BACKGROUND

The Founding Fathers believed it necessary that the Judiciary be independent and insulated from public opinion, so that their decisions would be based on law and not popular sentiment. The result was our Constitution providing that Federal Judges shall "hold their office during good behaviour," in effect for life.

DEBATE

(a) A single ten year term guarantees a Federal Judge will be independent, but it prevents any one person from serving so long that he loses touch with the people who must live with his decisions. Because a ten year limit will create a greater turnover in judges, the court will have a greater tendency to reflect the current general attitudes of the people. In principle, no one should serve in a position of importance and power sometimes as long as 40 years or more without any effective means of review or removal. The terms should not be renewable because there might be some campaigning to obtain the second term and that would undermine the independence of the Judiciary.

(b) A ten year term that is renewable for a second ten years allows the President and the Senate to weed out judges who have performed badly, but take advantage of the ones who have performed well. The country then receives the benefit of keeping highly qualified people, while having an effective mechanism to relieve the less qualified of their duties. A single ten year term or a life term treats all judges equally even though it is obvious their abilities differ considerably. A ten year renewable term would also give judges an added incentive to hand down carefully reasoned decisions.

(c) A life term assures Federal Judges will be independent and takes advantage of the experience they have gained while serving. The country would lose the services of many talented people if judges were automatically replaced on a periodic basis. Because of relatively low pay and a heavy caseload, qualified people are hard enough to get anyway. A life term means the Judiciary will not be constantly changing its people and continuity in the interpretation of law will be maintained.

The response was clear and unequivocal: nationwide, 86 percent of those polled favored some form of limited tenure for Federal judges.

No State responded with less than 75 percent favoring either a single 10-year term or renewable 10-year terms for Federal judges.

A bare 11 percent favored retention of our present system of life tenure.

These results are dramatic evidence of the desire of the people to restore a sense of balance to our Federal Government, to return to the basics of government upon which our Nation was founded and upon which it prospered at a time when the other powers of the world were foundering as they engaged in less worthy forms of self-government.

I ask unanimous consent that the introduction of the National Federation of Independent Business' "National Mandate," the text of its issue No. 3 and its statistical analysis for each State with respect to that question be printed in the RECORD at the conclusion of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HARRY F. BYRD, JR. Mr. President, on January 27, 1975, I introduced Senate Joint Resolution 16, on behalf of myself and Senator ALLEN, Senator HELMS, Senator THURMOND, Senator TALMADGE, Senator NUNN, and Senator GARN. Senator GRAVEL was subsequently added as a cosponsor. I ask unanimous consent that the text of Senate Joint Resolution 16 be printed in the RECORD at this point.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 16

A joint resolution proposing an amendment to the Constitution of the United States with respect to the reconfirmation of judges after a term of eight years

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Notwithstanding the provisions of the second sentence of section 1 of article III of the Constitution, each judge of the Supreme Court and each judge of an inferior court established by Congress under section 1 of article III shall hold his office during good behavior for terms of eight years. During the eighth year of each term of office of any such judge, his nomination for an additional term of office for the judgeship which he holds shall be placed before the Senate in the manner provided by the law, for the advice and consent of the Senate to such additional term, unless that judge requests that his nomination for an additional term of office is so placed before the Senate may remain in office until the Senate gives its advice and consent to, or rejects, such nomination. If the Senate gives its advice and consent to an additional term of office, that term shall commence from the date of such advice and consent, or the day immediately following the last day of his prior term of office, whichever is later.

"SEC. 2. The terms of office established by section 1 of this article shall apply to any individual whose nomination for a judgeship is submitted after the ratification of this article to the Senate for its advice and consent."

Mr. HARRY F. BYRD, Jr. That proposal would require review and reconfirmation of Federal judges every 8 years.

With the judge's approval, his renomination would be automatically presented to the Senate during the 8th year of his term. Changes in the administration would have no effect upon this process.

A judge under review would continue to sit until his reconfirmation was disposed of by the Senate.

It would not affect any judge presently sitting.

Of course, it is a constitutional amendment. It is presented in the spirit of that statement of Thomas Jefferson, which is one of my favorites:

> In questions of power, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.

Indeed, Senate Joint Resolution 16 embodies an idea which is both the working system today in Virginia and an idea espoused by Jefferson, who called for renewable terms of 4 or 6 years, with periodic review and reconfirmation of judges by the Senate.

I believe it is time we abolished life tenure.

It is an anachronism in our constitutional framework, inconsistent with the basic notions of our democracy.

Basic questions about the nature of our democracy are involved in the issue of judicial tenure. Such basic questions are best decided at the level closest to the people themselves. This is the function of the constitutional amendment process and I believe the NFIB poll shows the people are ready to address this question.

This is why I am urging that the Congress initiate debates on this critical issue, so that it can be submitted to the legislatures. This will insure a national debate, which I am confident will result in a much-needed repair of our constitutional machinery.

Exhibit 1 follows:

EXHIBIT 1

NFIB MANDATE

July 1976.

This is the Bicentennial Mandate. On our 200th birthday the usual type of issues you are asked to consider have been set aside and replaced with issues that reach to the heart of our democratic system. Many of these same questions were considered by our Founding Fathers at the Constitutional Convention in 1789; some have developed more recently. But, each has been seriously discussed and eventually may be the basis for change in our democratic process.

3. Should Federal Judges including Supreme Court Justices be appointed for:
   a) a single 10 year term
   b) a 10 year term that is renewable
   c) life
   d) undecided

RESULTS: MANDATE 396

This National summary of votes was sent to all Members of Congress, Senators, Congressional committees, key officials in the Executive Branch and Governors.

3. Should Federal Judges including Supreme Court Justices be appointed for:

(Answers in percent)

a) a single 10 year term	34
b) a 10 year term that is renewable	51
c) life	11
d) undecided	4

NATIONAL FEDERATION OF INDEPENDENT BUSINESS—NATIONAL RESULTS OF MANDATE 396 BY STATE FROM JULY 1 THROUGH 23, 1976

[Results in percent]

State	Question 3				Total vote
	A	B	C	D	
Alabama	42	47	7	4	593
Alaska	27	58	10	5	278
Arizona	39	48	9	4	853
Arkansas	45	44	7	4	485
California	36	49	11	4	6,487
Colorado	32	51	12	5	1,600
Connecticut	26	52	17	5	464
Delaware	31	54	12	3	130
Florida	32	54	11	3	1,795

State	Question 3				Total vote
	A	B	C	D	
Georgia	36	50	10	4	1,134
Hawaii	30	49	15	6	466
Idaho	39	49	10	2	635
Illinois	33	51	12	4	1,924
Indiana	34	52	11	3	1,548
Iowa	26	58	12	4	1,646
Kansas	36	51	10	3	1,280
Kentucky	39	48	11	2	510
Louisiana	48	43	5	4	452
Maine	30	51	15	4	424
Maryland	32	50	15	3	573
Massachusetts	23	53	21	3	1,207
Michigan	31	52	13	4	2,260
Minnesota	30	52	14	4	2,063
Mississippi	41	46	9	4	447
Missouri	32	47	11	4	1,392
Montana	35	48	13	4	747
Nebraska	35	50	11	4	1,040
Nevada	37	50	9	4	246
New Hampshire	25	55	17	3	337
New Jersey	34	48	15	3	930
New Mexico	36	49	12	3	673
New York	29	54	13	4	2,646
North Carolina	39	50	9	2	1,129
North Dakota	35	51	11	3	375
Ohio	35	51	11	3	2,511
Oklahoma	37	51	9	3	1,218
Oregon	30	54	12	4	1,374
Pennsylvania	30	55	12	3	2,286
Rhode Island	32	47	18	3	100
South Carolina	35	51	10	4	569
South Dakota	36	49	10	5	491
Tennessee	36	48	12	4	1,038
Texas	42	45	10	3	5,265
Utah	37	50	10	3	651
Vermont	24	59	12	5	309
Virginia	26	62	9	3	936
Washington	34	51	11	4	2,088
West Virginia	33	52	12	3	301
Wisconsin	32	54	11	3	1,749
Wyoming	36	48	13	3	366
Washington, D.C	24	47	29	------	17

ORDER TO RESTORE SENATE JOINT RESOLUTION 16 TO SENATE CALENDAR

Mr. HARRY F. BYRD, JR. I now move, Mr. President, that Senate Joint Resolution 16, which was placed with subjects on the table on October 2, 1975, be restored to the Senate Calendar.

Mr. ROBERT C. BYRD. Mr. President, does the Senator ask unanimous consent?

Mr. HARRY F. BYRD, JR. I ask unanimous consent that it be in order at this time.

Mr. ROBERT C. BYRD. Why not ask unanimous consent that it be placed on the Calendar first?

Mr. HARRY F. BYRD, JR. I ask unanimous consent that Senate Joint Resolution 16, which was placed with subjects on the table, be restored to the Senate Calendar.

Mr. GRIFFIN. Mr. President, I shall not object, but I think that more precisely we might point out that this joint resolution has never been removed from the calendar. It is on the calendar; and as I understand the request, it would be that it be taken from subjects on the table and be placed under general orders on the calendar.

Mr. HARRY F. BYRD, JR. The Senator from Michigan is correct. That is the request.

The **PRESIDING OFFICER** (Mr. Glenn). Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I am delighted to yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, I commend the Senator from Virginia for his action this morning, and state to him what he already knows, that I share his concern and am honored to be a cosponsor of his proposal.

In the past few years, far too many Federal judges have gone well beyond what many Americans consider to be their prescribed constitutional duty of interpreting the law, and have moved into the domain of making the law.

This was not the intended function of the Federal judiciary, Mr. President, when our Founding Fathers established this Republic. Under our system of checks and balances, the making of laws is the proper role of the legislative branch, not the judiciary. Small wonder that more and more Americans are concerned that the Federal judiciary is no longer merely a coequal branch of Government, as the Constitution requires.

Rather, their well-justified concern is that the Federal judiciary has become the most equal branch of Government. They have seen both the Supreme Court and the lower Federal courts too often cast aside the doctrine of judicial restraint, one of this country's most hallowed legal principles.

Today, we have judges virtually accountable to no one, invading the sphere of the people's elected representatives, handing down decisions which have adverse impact on the lives of all of us.

Under existing law, Mr. President, the people have no real legislative remedy available. It is not possible to resurrect the doctrine of judicial restraint by legislation. Impeachment has proved itself an unsatisfactory check upon the injudicious use of judicial power. The system of checks and balances envisioned by the Constitution is out of kilter.

Therefore, Mr. President, there needs to be a clear-cut reminder to the Federal judiciary that the people will not allow judicial tyranny to be thrust upon them. That is what Senator Byrd proposes to do with his proposed constitutional amendment, and I am pleased to cosponsor this measure with him.

There must be a meaningful and lasting reform, aimed at restoring the historic balance that once existed between the judicial and legislative branches of our Government. Senator Byrd's proposal would supply that needed reform, without compromising the fundamental independence of judges that is necessary for them as they interpret the Constitution.

Mr. President, I wonder if I might ask the distinguished Senator from Virginia a few questions about this proposed constitutional amendment.

Mr. HARRY F. BYRD, JR. I will be delighted.

Mr. HELMS. Does the State of Virginia have reconfirmation of its judges?

Mr. HARRY F. BYRD, JR. Yes; Virginia started many years ago with the same system the Federal Government now has, being life tenure for its judges; but over the years we came to feel that under our democratic form of government, that system should be changed, and the State of Virginia now requires periodic reconfirmation of all of its judges, its circuit judges and the members of the Supreme Court of Virginia. And, indeed, every State in the Union with the exception of Rhode Island has some form of limitation on the tenure of its judges.

Mr. HELMS. North Carolina has a reconfirmation process which goes right to the people. The judges have to seek nomination and election; so the people have absolute control over the judiciary in my State.

The Senator had a great deal of historical precedent for this proposal; will he run that down again for me?

Mr. HARRY F. BYRD, JR. Yes. I might say that Thomas Jefferson proposed such an amendment in 1821. He saw that a judiciary, accountable to no one, was an omission by the framers of the Constitution—"of which none of us thought at the time," as he put it, which would destroy the harmony of the delicate system of checks and balances which were established to insure coequal standing by the Federal branches and a proper respect for the sovereignty of the States. Jefferson proposed that Federal judges be reviewed by the Senate every 4 or 6 years.

I might add that, of more recent vintage—and I cite this to indicate that in my judgment this is not a question of whether one be a conservative or a liberal in advocating the proposal which the Senator from North Carolina and the Senator from Virginia advocate—it was in the 1920's that the leading liberal of that day, Senator Robert LaFollette, Sr., took a strong stand against life tenure, a strong stand on behalf of the philosophy espoused by the constitutional amendment now proposed by the Senator from North Carolina and the Senator from Virginia.

So as I see it, it is not a question of whether one is a conservative or one is a liberal; it is a question of what is logical and sound, and what is in the best interests of the people of the United States.

And I submit it is not logical, sound, or in the best interest of the United States to have any public official appointed for life—accountable to no one. As a matter of fact, throughout the world today the only individuals who have life tenure are kings, queens, maharajahs, and U.S. Federal judges.

Mr. HELMS. That is correct.

I have been, as I count them, to something like 30 States during the past 12 months, and almost without exception this discussion has come up in one context or another. I have the distinct impression that the vast majority of American people look with favor upon the proposal of the Senator from Virginia. I wonder if he has that impression.

Mr. HARRY F. BYRD, JR. Yes, that is my distinct impression, I will say to the Senator from North Carolina. I appreciate his strong support for this proposal.

Mr. HELMS. What does the Senator think the sentiments of the American people are on this subject?

Mr. HARRY F. BYRD, JR. The recently released poll results of the National Federation of Independent Business are an overwhelming display of grassroots support for a limit on the tenure of Federal judges.

The NFIB has a membership of over 460,000. The reaction of 86 percent of its respondents shows that the people across the Nation want a change—to insure that judicial independence is not "a fortress for the members of the judiciary, but rather, a shelter for the rights of the people."

Review and reconfirmation by the Senate every 8 years would afford such accountability without adversely affecting judicial independence.

Mr. HELMS. I thank the Senator.

JUDICIAL TENURE: ARTICLE BY SENATOR HARRY F. BYRD, JR.

Mr. ALLEN. Mr. President, I am pleased to bring to the attention of our colleagues, an article written by the distinguished Senator from Virginia, Mr. Byrd, which appeared in the January 1976 issue of Judicature.

The Senator's article addresses a fundamental question that has concerned thoughtful people since the founding of the Republic, and more and more people in recent years, namely, has the concept of life tenure for the judiciary outlived its usefulness? There is little question in my mind that the answer to the question is "yes," but doing something to correct the flaw in our system seems almost a superhuman task inasmuch as few wish to engage in an all-out fight against the privileges and power which life tenure, and tradition, have conferred upon the Federal judiciary.

The Senator wrote his article with a specific legislative remedy in mind and I commend him for his aggressive pursuit of the goal of bringing balance to the "check and balance" system which we all revere. There are many legislative approaches that would put the country on the road to accomplishing this great goal and each initiative in this area is important for bringing the subject to the attention of the public. I hope the 95th Congress will address the problem of reforming the Federal judiciary; should it start on that task, all Members of Congress will find Senator Byrd's comments on the matter of significant interest.

Mr. President, I ask unanimous consent that the article by Senator Byrd be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Has Life Tenure Outlived Its Time?

(By Harry F. Byrd, Jr.)

Alexander Hamilton wrote in *The Federalist*, No. 78, that the judiciary was "beyond comparison the weakest of the three departments of power," having "neither force nor will, but merely judgment."

I submit that there is a well-founded sentiment in this nation today that some members of the federal judiciary are exercising a considerable amount of will, armed with too much force, and given to less than a full measure of judgment. There is widespread dissatisfaction with the existing system, under which some judges are exercising dictatorial powers.

I fully support the concept of an independent judiciary. A Constitutional amendment I have introduced (S.J. Res. 16) would however, provide a method by which the courts might be made more accountable.

My amendment provides that federal judges serve in office for a term of eight years, at the end of which term they would be *automatically* nominated for reconfirmation by the Senate, unless they requested otherwise. If reconfirmed by the Senate, the judges would serve for an additional eight years, after which they would again be subject to reconfirmation, and so on. The amendment would not affect any judge sitting prior to its ratification.

The question arises at once: Is this a radical proposal, out of keeping with American tradition, or is it instead a reasonable means of achieving accountability of judges without destroying their basic independence? I submit that it is the latter.

In the first place, 49 of the 50 states now have fixed terms for their own judiciary. Only Rhode Island has life tenure for judges. The present Virginia system, which is directly parallel to the method which I have proposed for the federal judiciary, has 'worked well. I know of no documented assertion that the independence or integrity of the judiciary has been compromised in any state as a result of fixed tenure.

For well over a century after the creation of this nation, the unwritten canon of judicial restraint, as expressed by many eminent justices, was one of our most hallowed legal principles. As Mr. Justice Cardozo wrote: "A jurist is not to innovate at pleasure. He is not a knight-errant, roaming at will in pursuit of his own ideal of beauty or of goodness."

But there has been a profound and pervasive erosion of the doctrine of restraint. In all too many instances the federal courts have gone well beyond the sphere of interpreting the law, and into the domain of making the law. Nor are these cases limited to a single theme or subject.

In his *Washington and Lee Law Review* article, "Some Random Thoughts on Judicial Restraint," the Honorable H. E. Widener, Jr., judge of the U.S. Court of Appeals for the Fourth Circuit, explored several complex doctrines and concluded: "Taken together, though, whether right or wrong, they show a drift toward judicial intervention which may not be ignored."

Under these circumstances, we are faced with a dilemma. Judges who are accountable to no one are invading the sphere of the elected representatives of the people, handing down decisions which have great impact on the lives of the citizenry. This situation is basically inequitable and contrary to the spirit of democracy.

Under existing law, no real solution is available for the present dilemma. It is not possible to legislate resurrection of the doctrine of judicial restraint. The Constitution established a subtle system of checks and balances; the question is whether the checks upon the mid-20th century judiciary are not entirely too subtle.

Impeachment has not provided a very useful means of policing judges. Thomas Jefferson referred to the impeachment process as "a bungling way of removing judges—an impractical thing—a mere scarecrow."

The proposal I have introduced is nondiscriminatory and would serve to guard the interests of the people, through their representatives in the Senate, without compromising the fundamental independence of the judges who would be subject to reconfirmation.

What is the real purpose of judicial independence? I think it was never better stated than by Professor Philip Kurland of the University of Chicago Law School. In a discussion of the proposal by former Senator Tydings of Maryland to create a commission of judges to police the judiciary, Professor Kurland stated: "It should be kept in mind that the provisions for securing the independence of the judiciary were not created for the benefit of the judges, but for the benefit of the judged."

I believe this to be a cardinal principle. Judicial independence should not be regarded as a fortress for the members of the judiciary; on the contrary, it is supposed to be a shelter for the true rights of the people. Indeed, to insulate a judge—or any other public official—from all accountability for his actions is to invite arbitrary action contrary to the will and welfare of the people of the United States.

Life tenure, devoid of restraint and accountability, is not consistent with democratic government. It should be remembered that Thomas Jefferson reflected years after the Constitution was ratified:

"There was another amendment of which none of us thought at the time and in the omission of which lurks the germ that is to destroy this happy combination [of federal and state powers] . . . Our judges are effectually independent of the nation. But this ought not to be."

Jefferson suggested review and reconfirmation of federal judges every four or six years. I, too, think it is time we abolished life tenure.

Basic questions about the nature of our democracy are involved in the issue of judicial tenure. Such basic questions are best decided at the level closest to the people themselves. This is the function of the Constitutional amendment process. To delay a critical reappraisal of this matter only allows this flaw in our Constitutional framework to continually work its mischief on the lives and liberties of the people.

Mr. HARRY F. BYRD, JR. Mr. President, I deeply appreciate the thoughtful remarks of my good friend and distinguished colleague, the Senator from Alabama (Mr. Allen). He is a cosponsor of Senate Joint Resolution 16 and has supported it, as well as other legislative initiatives he and others have proposed, for many years.

I share his hope that the Congress will proceed to a careful consideration and public debate on the subject of these proposals to end life tenure for Federal judges.

It is time to bring life tenure without accountability for public officials to an end.

I thank the able Senator for his remarks.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin (Mr. Proxmire) is recognized for not to exceed beyond 10 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for recognition of Mr. Proxmire and Mr. Leahy now be reversed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. LEAHY. I thank the distinguished assistant majority leader.

RURAL ENERGY OFFICE ACT OF 1976—S. 3782

Mr. LEAHY. Mr. President, with the energy crisis in a temporary lull, it would be tragic if we were to lose sight of long-range projections indicating future energy shortages. The Federal Energy Administration's National Energy Outlook: 1976 contends that:

> The reserves from which most of today's oil is being produced—mainly on-shore in the lower 48 states—will decline by almost two-thirds by 1985 and about 80% by 1990.

It is clear, therefore, that the energy crisis is not going to disappear. And, as those of us in the Northeast are painfully aware, the energy crisis does not affect all sections of the Nation equally. No fact has been more strikingly demonstrated during past energy shortages than their unequal impact on particular regions and sectors.

The May 1976 issue of Business Week pointed out that the major consequence of energy dislocations in recent years has been to accelerate population shifts in the direction of Southern and Western States and away from those in the Northeast and Midwest. Shifts which the Census Bureau had previously predicted would take 10 years to accomplish have taken place in less than half of that time. And with population movements go the inevitable flow of talent and capital. It is this phenomenon which Business Week refers to as "the Second War Between the States."

As a Vermonter, I have seen the energy crisis hit with special force. Vermonters experience very severe winters. Mean degree day units in Vermont's weather reporting stations regularly approach the 8,000 mark every year. Oil constitutes the major heating source in 80 percent of Vermont households, and even this figure is exceeded in all but one of the State's 14 counties. For example, Grand Isle County, located on Lake Champlain, has 90 percent of its households heated by oil.

While Vermont has only 0.22 percent of the Nation's population, it consumed 0.89 percent of the Nation's supply of No. 2 distillate oil in 1974, an amount four times greater than the national average.

In that regard, Vermont is similar to the other New England States where 5.8 percent of all Americans live, but which consumed 21 percent of the Nation's supply of No. 2 distillate in 1974.

However, to comprehend fully the energy problems of Vermont, it must be perceived not only as a New England State, but also as a rural State. In fact, Vermont is the most rural State in the Nation, and becoming even more rural. Between 1960 and 1970, the number of Americans residing in urban places increased by 19 percent; in Vermont there was a 5-percent decrease. Conversely, while the number of Americans residing in rural areas decreased slightly between 1960 and 1970, the number of Vermonters residing in rural areas increased by 25.4 percent.

As a result, there are genuine differences between Vermont and the other States within the New England region, especially with regard to energy. This shows up most vividly in the matter of residual oil—the fuel which fires many New England powerplants and moves the machines in the region's industrial sector. A simple comparison makes this clear. For every 100 barrels of residual oil consumed by Vermonters in 1974, 912 barrels of distillate and 1,047 barrels of motor gasoline were consumed. In contrast residents of the other five New England States consumed 81 barrels of distillate and 87 barrels of motor gasoline for every 100 barrels of residual oil consumed.

Vermont clearly has a different energy consumption pattern than other States in the region, but does have one very similar to that in other rural States.

The more we delve into the energy requirements of rural areas versus urban areas, the clearer it becomes that the energy needs of rural America have been shamefully neglected.

Therefore, on behalf of Mr. McGovern, Mr. Huddleston, Mr. Abourezk, Mr. Humphrey, and myself, I am today introducing legislation which would create within the Department of Agriculture a Rural Energy Office, charged specifically with the responsibility of assessing the fuel and energy needs of rural America.

Mr. President, identical legislation is being introduced in the House of Representatives by Congressman Charles Rose, chairman of the Subcommittee on Family Farms and Rural Development of the House Committee on Agriculture. This bill was developed jointly by our staffs, and I take this opportunity to thank the distinguished Congressman for his cooperation and great help throughout that process.

This proposed office will have two major functions. The first will concentrate upon gathering information. The Department of Agriculture has a well-functioning set of information-gathering offices: The Agricultural Research Service, the AMS, the Economic Research Service, the REA, the ASCS, the Cooperative State Research Service, the Extension Service, the Forest Service, the National Agricultural Library, the Soil Conservation Service, and the Statistical Reporting Service.

Individuals in each with expertise in energy-related subjects would be transferred to the new Rural Energy Office where they could concentrate their efforts in assessing the full dimensions of energy needs facing rural Americans. No new bureaucracy would be created. People would merely be transferred to an area where they can be more effective.

The second major activity of the Rural Energy Office would be to serve as a clearinghouse for energy legislation likely to impact heavily upon rural and agricultural interests. In this capacity, it would advise the Secretary of Agriculture on the conseqences of each proposal that might affect the Nation's food and fiber production or the quality of rural life.

The bill specifically mandates that the FEA Administrator, the ERDA Administrator, the Federal Highway Administrator, and the Chairman of the Federal Power Commission notify the Secretary of Agriculture of proposed regulations for his comments within a prescribed time period prior to their publication.

In promoting the energy interests of rural Americans, the Rural Energy Office would of necessity work with other Federal agencies in a variety of ways.

Its voice would be heard in the preparation of any allocation plans that might be necessary in the future.

It would assist rural residents in obtaining grants from the Energy Research and Development Administration for the development of nonfossil fuels for energy production. Compared to urban areas, rural America has an abundant supply of the nonfossil sources which ERDA has been researching: solar, wind, hydro, geothermal, and wood.

Also, given national anxiety about the possible hazards of nuclear energy and the growing propensity to locate nuclear plants in underpopulated areas, the REO would be consulted on future nuclear plant sitings having a direct impact upon rural America.

Activities of the FPC which directly affect either natural gas distribution or the production of electricity should come to the attention of the Rural Energy Office which, in conjunction with the REA would attempt to prevent serious dislocations in their availability.

Components of the Community Services Administration which relate directly to the "weatherization" of rural housing would also receive REO attention, as would the activities of the Rural Transit Office of the Department of Transportation.

Mr. President, I ask unanimous consent that the bill be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. LEAHY. Mr. President, in researching the urban-rural energy consumption problems, my office made inquiries at the FEA's Office of Consumer Affairs/Special Impact. We learned that no formal study of the energy needs of rural people had been prepared, despite the fact that FEA's own Project Independence report in 1974 indicated that one of the groups which would be hit especially hard by the energy crisis was the rural poor.

Being unable to obtain relevant information from the FEA, my office went through the publications of the Ford Foundation's excellent Energy Policy project. Once again we found little on the energy needs of rural people. Agricultural production was assessed only in passing.

As a result, we were obliged to develop our own statistics regarding urban-rural energy consumption. Using materials from the FEA, the FPC, the Federal Highway Administration, the Bureau of Mines, and the Census Bureau, outlines were able to be developed of meaningful urban-rural differences in the consumption of petroleum products—the Nation's scarcest and most critical energy source.

Mr. President, in order to focus more clearly on these differences, I have assessed each of the three major petroleum products in terms of how they relate directly to urban-rural differences. With regard to distillate fuel—the lighter weight fuel used primarily in home heating—the 10 States with lowest metropolitan percentages had a per capita consumption of 352.8 gallons in 1974, a figure 65 percent higher than the 214.2 gallons per capita consumed by all Americans.

In contrast, the 1974 per capita consumption of distillate oil in the 10 most metropolitan States was 212.5 gallons, slightly less than that consumed in the United States as a whole, and 40 percent below that consumed in the least metropolitan States.

Comparisons indicate that as each State's metropolitan percentage rises, per capita consumption of distillate oil decreases. Apart from climate differentials, housing patterns constitute the single most important reason. There are more single-family dwellings in rural areas, and they tend to be less fuel efficient than the multiple-unit apartment dwellings of metropolitan areas. In addition, as a report for last year's National Conference on Rural America pointed out:

> Rural areas . . . have about one-fourth of the nation's population and 60% of its substandard housing.

This housing is in most cases poorly insulated and energy wasteful.

However, rural areas are not wasteful when it comes to the consumption of residual fuel—the heavier weight oil used for industrial purposes and the generation of electricity. Residents in the 10 most metropolitan States consumed 310.4 gallons of residual oil in 1974, exceeding overall national consumption of residual oil by 120 gallons per capita and that of the 10 least metropolitan States by 142 gallons. This means that the most urban States had a per capita consumption figure 63 percent higher than that for the most rural States.

In direct contrast to distillate, as metropolitan percentages increase, per capita consumption of residual fuel also increases.

The primary reason for the high per capita consumption of residual fuel in metropolitan States is the dependence of those States upon electricity generated in oil-fired powerplants. Sixteen percent of the Nation's total kilowatt-hours are produced by oil-burning plants. However, in the 10 most metropolitan States, 45 percent of all the electricity comes from oil-burning plants.

Caribbean refiners produce most of the Nation's supply of residual. And it is the Caribbean refiners which are the most dependent upon foreign oil imports. Therefore, the actions of OPEC hit hardest those States with the highest consumption of residual fuel.

The reason for this is the fact that domestic refineries produce very little residual fuel. Most of their petroleum products are distillate oil and motor gasoline. According to FEA figures released in February, the normal yield pattern for a domestic refiner is 45 percent gasoline, 22 percent distillate, 8 percent residual, and 25 percent other petroleum products. Caribbean refiners, on the other hand, have a yield pattern of 10 percent gasoline, 11 percent distillate, 60 percent residual, and 19 percent other products.

Electricity production in rural areas is far less dependent upon oil. Only 9 percent of the kilowatt-hours produced in the 10 least metropolitan States comes from oil-fired plants. The vast bulk of rural electricity, 38.2 percent, comes from coal and hydropower which furnishes 35.4 percent. FEA's national energy outlook for 1976 contends that—

> At current consumption levels, we have enough coal reserves to last at least 300 years.

Therefore, the electricity sources most widely used in rural areas are not subject to the vicissitudes of international energy cartels.

Mr. President, the third major area where urban-rural differences must be assessed relates to motor gasoline. People living in the 10 least metropolitan States consumed 567 gallons of motor gasoline per capita in 1974. This is 31 percent more than that consumed in the 10 most metropolitan States, and 18 percent higher than that for the entire Nation.

Comparisons show that as metropolitan percentages in an area increase gasoline consumption decreases. This is not surprising. Rural people are very dependent upon their automobiles. There are no subways in rural areas. But service is sporadic and taxis seldom venture beyond town lines. Mass transit is not a factor in rural life.

A fact not often appreciated by some Federal bureaucrats is that most people living in rural areas are not farmers, and that even among farm families, USDA estimated in 1971 that "off-farm income represented about 53 percent of the average family's net income."

Readily available gasoline is crucial to making a living in rural areas. A report of the nationwide personal transportation study reveals that people living in the Nation's unincorporated areas made 34 percent of all automobile trips even though they constituted only 26.5 percent of the population. In addition to making more automobile trips, their trips are longer on the average. The average trip in the unincorporated areas was 11.0 miles, 28 percent higher than the 8.6 miles recorded for incorporated places.

Rural people have to make more trips because basic social services are not readily available to them. My own State of Vermont has 9 of its 14 counties classified as "hinterland" counties because of the absence of crucial health care and marketing facilities. Vermonters, like rural people elsewhere, have to travel great distances for their services. Eighty percent of Vermonters require their cars to get back and forth to work.

Compounding the distance problem in rural areas is the fact, according to a national opinion research center survey cited in FEA's Project Independence report that—

> The used cars the poor will be buying for the new decade will be the gas guzzlers of the last few years. Thus, gasoline consumption of the rural poor may actually increase over the next few years even though the price may rise.

Obliged to travel great distances for their employment and their social services in automobiles which are not fuel-efficient, rural residents are at a serious disadvantage. As if these problems were not bad enough, the rural resident has to face another crisis—the "pullout" of major gasoline marketers from rural areas.

During the 1960's when gasoline was abundant, a number of major gasoline companies sought to expand their retail outlets by moving into rural areas. This was particularly true of marketers moving beyond their "historic" retail areas. For example, Mobil, a major northeast marketer, moved heavily into markets in west Texas. Phillips Petroleum, headquartered in Bartlesville, Okla., moved decisively into the northern New England area. By 1972, Phillips marketed 5.8 percent of Vermont's gasoline and 4.8 percent of New Hampshire's.

With the energy crunch, many of these marketers decided to pull out of areas far removed from their "historic" markets and great distances away from their refineries. Others want to concentrate their retail efforts in the more highly profitable urban markets. The areas hardest hit by these pullouts will be rural ones.

In discussions with oil company officials and with informed observers of the industry, my office discovered 41 instances of anticipated pullouts by major oil companies. For example, the Atlantic Richfield Co. is planning a pullout from its midcontinent area. When specifics on this pullout were requested, we were told that the affected areas would be rural Wisconsin, southern Illinois, southern Indiana, southern Ohio, northern Michigan, Kentucky, Tennessee, Texas, and West Virginia. As is apparent, it is the rural States and the rural parts of urban ones that will bear the brunt of these pullouts. Similar moves by Phillips in northern New England and by Gulf in the States of the Great Plains will have a direct impact upon the rural gas supply. In fact, it is only the allocation provisions of the Emergency Petroleum Allocation Act that is keeping Phillips' retailers in Vermont supplied with gasoline today.

In order to slow this process, I recently introduced S. 3486, which would require that companies anticipating pullouts give sufficient notice to the Governor of the State involved so that alternate suppliers can be sought and gas availability to rural areas continue uninterrupted.

While this would be an important step, it would constitute only a short-range solution to the ongoing problems of getting adequate gasoline stocks to the rural areas.

If the Nation is truly committed to a balanced national growth policy, then insuring that adequate and economical motor gasoline is available to rural areas for agricultural and developmental purposes must have a high priority.

Mr. President, given the ever-mounting pressure for a more comprehensive conservation policy, it is important that Congress not take precipitous action which can create long-range harm.

Much of the conservation effort to date has focused upon reduction of motor gasoline consumption. I support this effort wholeheartedly in the area of requiring auto manufacturers to make more energy-efficient automobiles.

However, there are other aspects to the gasoline problem which have not been fully addressed. It appears as if the major thrust for reducing the consumption of gas is to free up the availability of crude oil for the production of residual fuel for industrial purposes.

My study of petroleum consumption reveals that there is no rural-urban difference in the per capita consumption total of motor gasoline and residual fuel combined. The 10 most metropolitan States had a per capita consumption of 742 gallons of residual and gasoline combined in 1974, while the 10 least metropolitan States had a per capita consumption of 735 gallons. But the problem arises from the fact that while the urban consumption is roughly balanced between gasoline and residual in rural areas three times as much gasoline is consumed as residual.

What this means simply is that any conservation effort which seeks only to reduce motor gas consumption in order to create greater supplies of residual fuel is an urban solution. Rural areas will not benefit from the increased availability of residual fuel. In fact, they will be hurt by the decrease in the available supply of gasoline.

Decisions as to whether to use crude oil for residual fuel or for motor gasoline raise fundamental questions about the future of American lifestyles.

This is not the only example of how "urban" solutions to the energy crisis may seriously harm rural citizens. Another involves the purchase of vast quantities of liquefied petroleum gases by industrial firms to compensate for natural gas shortages. Liquefied petroleum gases are crucial for agricultural production, particularly for crop drying. However, with shortages of natural gas in many industrial areas, liquefied petroleum gas is being purchased to cover the shortages. Too often agricultural producers have been outbid for the available supply.

Once again we may see the competition between urban and industrial interests on one side and rural and agricultural ones on the other. And it does not always seem as if those who make energy policy—including the Congress—are wholly mindful of this competition or of the potential hazards which it portends.

Mr. President, the energy crisis alerted Americans to the fact that virtually every aspect of our existence relates in some way to energy. Whether it be our jobs, our heating, our electricity, our transportation, or even our food, the availability of energy affects us all.

Rural Americans, no less than other citizens, have pressing and critical energy needs. Now is the time to create an agency which will assess those needs and to serve as an advocate for rural people and agricultural interests in the councils of government.

Mr. President, I ask unanimous consent to have printed in the RECORD four tables describing the petroleum consumption patterns of all 50 States with regard to distillate fuel, residual fuel, and motor gasoline and a narrative explanation of those tables.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. Mr. President, table I is based upon each State's proportion of the national consumption of a petroleum product—distillate, residual, and motor gas—and is divided by each State's proportion of the Nation's population. Thus, these figures represent the degree to which a State's consumption pattern of a petroleum product either exceeds or falls below the national average for that product. Vermont, for example, scores 2.040 on distillate consumption meaning that its residents consume 104 percent more distillate than Americans as a whole. However, its ratio for residual consumption is 0.252 which means that Vermont residents consume residual fuel at 75 percent less than national consumption rates. Each State's consumption ratio was ranked from 1 through 50 in this table.

The next three tables take all of the States and divide their consumption patterns into three groups: high, ranks 1–16; medium, ranks 17–34; and low, ranks 35–50. In this way it was possible to identify which States ranked high in consumption of one petroleum product and low in the consumption of another.

Two simple measures of association were used to determine the degree of relationship between the petroleum consumption patterns: Spearmans rho which compared each State's ranking on each product and Goodman and Kruskal's gamma which compared the consumption patterns within State groups. The results for each measure are presented below:

	Spearmans rho	Gamma
Distillate and residual fuels	+.326	+.449
Distillate and motor gas	−.063	+.041
Residual and motor gas	−.493	−.526

What these correlations indicate is that States which have higher rates of distillate consumption also have higher rates of residual consumption. However, there was no relationship between States with high rates of distillate consumption and those with high rates of motor gasoline consumption.

The strongest relationship of the three is a negative one. States with high rates of residual fuel consumption very often have low rates of motor gas consumption and vice versa. It is this relationship which is most pertinent to the question of the Rural Energy Office for it is along the high residual/low motor gas versus low residual/high motor gas dimension where urban and rural States differ the most.

These data appear in table 4. Also included in this table and the two preceding ones are 1973 metropolitan percentages of each State's resident population. With this information added, the urban-rural character of the relationship can be easily discerned. A summary is presented below.

PETROLEUM CONSUMPTION PATTERN

	Number of States	Mean Metro pop. pct.
High residual/low motor gas	10	81.2
High residual/medium motor gas	4	60.8
Medium residual/high motor gas	3	78.1
Low residual/high motor gas	8	43.8
Low residual/medium motor gas	5	49.5
Medium residual/high motor gas	6	46.5

Seventeen States show an urban-industrial petroleum consumption pattern while 19 States show a rural-agricultural one. Given the lack of industry and population concentration, the rural-agricultural States have a far lesser need for residual fuel. They have few factories to run; no major chemical plants; and no huge oil-fired electrical generating facilities. The rural areas rely more upon hydroelectric power, coal, and more recently, nuclear energy.

The high motor gasoline consumption ratios in the rural-agricultural States are a natural consequence of greater distances to travel, the lack of nearby social services, and the absence of sizable mass transit systems. Table 4 depicts the essence of the rural energy problem.

EXHIBIT 1

TABLE 1.—PER CAPITA PETROLEUM CONSUMPTION: STATE RATIOS AND RANKINGS

FEA region/States	State ratios: Distillate	State ratios: Residual	State ratios: Motor gas	Rankings: Distillate	Rankings: Residual	Rankings: Gas
Region I–Boston:						
Connecticut	1.403	2.731	0.892	13	4	43
Maine	2.152	3.221	1.031	3	2	33
Massachusetts	1.989	2.640	.822	6	5	48
New Hampshire	1.809	1.308	1.004	8	13	35
Rhode Island	1.694	1.465	.824	10	11	47
Vermont	2.040	.252	1.041	4	39	30
Region II–New York:						
New York	1.158	1.860	.687	22	10	49
New Jersey	1.814	1.924	.899	7	9	42
Puerto Rico	Not included in study.					
Virgin Islands	Not included in study.					
Region III—Philadelphia:						
Pennsyvlania	1.178	1.046	.844	21	17	46
Delaware	1.475	4.867	1.074	11	1	26
Maryland/District of Columbia	.997	2.105	.874	29	6	45
Virginia	1.016	1.937	1.032	28	8	32
West Virginia	.681	.211	.888	43	40	44
Region IV—Atlanta:						
Kentucky	.629	.137	1.037	46	44	31
Tennessee	.765	.047	1.097	40	49	17
North Carolina	.823	.569	1.091	37	30	18
South Carolina	.658	.759	1.086	45	19	21
Mississippi	1.201	.706	1.068	20	22	27
Alabama	.793	.648	1.081	38	28	23
Georgia	.787	.586	1.165	39	29	13
Florida	.536	2.058	1.079	48	7	24
Region V–Chicago:						
Illinois	.952	.566	.937	33	31	41
Indiana	1.329	.666	1.067	16	25	28
Michigan	.968	.361	1.041	32	33	29
Minnesota	1.226	.331	1.078	19	35	25
Ohio	.749	.171	.969	41	41	40
Wisconsin	1.114	.086	.975	23	47	38

TABLE 1.—PER CAPITA PETROLEUM CONSUMPTION: STATE RATIOS AND RANKINGS—Continued

FEA region/States	State ratios			Rankings		
	Distillate	Residual	Motor gas	Distillate	Residual	Gas
Region VI—Dallas:						
Arkansas	1.029	1.110	1.160	26	16	14
Louisiana	1.290	1.435	.968	17	12	39
New Mexico	1.334	.337	1.264	15	34	7
Oklahoma	.611	.098	1.283	47	46	5
Texas	.936	.694	1.223	34	23	8
Region VII—Kansas City:						
Iowa	.992	.049	1.197	30	48	10
Kansas	.974	.259	1.215	31	38	9
Missouri	.715	.110	1.142	42	45	15
Nebraska	1.104	.149	1.168	24	43	12
Region VIII—Denver:						
Colorado	.674	.281	1.082	44	36	22
Montana	2.038	.687	1.264	5	24	6
North Dakota	1.388	.413	1.342	14	32	4
South Dakota	1.030	.044	1.387	25	50	2
Utah	1.425	.808	1.090	12	18	19
Wyoming	3.736	1.284	1.701	1	14	1
Region IX—San Francisco:						
Arizona	1.020	.712	1.107	27	21	16
California	.397	1.117	.982	50	15	37
Hawaii	.462	2.993	.680	49	3	50
Nevada	.842	.266	1.386	36	37	3
Region X—Seattle:						
Alaska	3.658	.721	1.007	2	20	34
Idaho	1.761	.165	1.189	9	42	11
Oregon	1.274	.648	1.088	18	27	20
Washington	.922	.660	.995	35	26	36

TABLE 2.—STATE PER CAPITA PETROLEUM CONSUMPTION 1974 SALES OF DISTILLATE FUEL AND RESIDUAL FUEL

Residual fuel sales

Distillate fuel sales	High (States 1 to 16)	Medium (States 17 to 34)	Low (States 35 to 50)
High (States 1 to 16)	Connecticut, 88.7. Delaware, 69.6. Maine, 23.8. Massachusetts, 86.8. New Hampshire, 36.1. New Jersey, 93.3. Rhode Island, 91.1. Wyoming, 0.0.	Alaska, 44.2. Indiana, 64.3. Montana, 24.4. New Mexico, 34.2. North Dakota, 12.4. Utah, 79.2.	Idaho, 16.5. Vermont, 0.0.
	Mean=61.1.	Mean=43.1.	Mean=8.2.
Medium (States 17 to 34)	Arkansas, 40.8. Louisiana, 64.6. Maryland/District of Columbia, 87.7. New York, 88.8. Virginia, 66.0.	Arizona, 74.4. Illinois, 81.5. Michigan, 82.0. Mississippi, 22.3. Oregon, 60.6. Pennsylvania, 80.8. Texas, 77.0.	Iowa, 36.8. Kansas, 43.2. Minnesota, 63.2. Nebraska, 44.5. South Dakota, 14.4. Wisconsin, 57.9.
	Mean=69.6.	Mean=68.4.	Mean=43.3.
Low (States 35 to 50)	California, 93.1. Florida, 83.9. Hawaii, 81.6.	Alabama, 63.8. Georgia, 56.7. North Carolina, 45.6. South Carolina, 47.9. Washington, 71.9.	Colorado, 72.5. Kentucky, 48.3. Missouri, 64.2. Nevada, 75.1. Ohio, 80.3. Oklahoma, 55.6. Tennessee, 62.5. West Virginia, 37.1.
	Mean=86.2.	Mean=57.2.	Mean=62.0.

NOTE.—Resident metropolitan percentages, 1973. Distillate/residual: *gamma*=+0.449.

Sources: Distillate sales, 1974 and residual sales, 1974, both from the Department of the Interior, Bureau of Mines. Metropolitan percentages from the Department of Commerce, the Census Bureau.

TABLE 3.—STATE PER CAPITA PETROLEUM CONSUMPTION 1974 SALES OF DISTILLATE FUEL AND MOTOR GASOLINE

Motor gasoline sales

Distillate fuel sales	High (States 1 to 16)	Medium (States 17 to 34)	Low (States 35 to 50)
High (States 1 to 16)	Idaho, 16.5. Montana, 24.4. New Mexico, 34.2. North Dakota, 12.4. Wyoming, 0.0.	Alaska, 44.2. Delaware, 69.6. Indiana, 64.3. Maine, 23.8. Utah, 79.2. Vermont, 0.0.	Connecticut, 88.7. Massachusetts, 86.8. New Hampshire, 36.1. New Jersey, 93.3. Rhode Island, 91.1.
	Mean=17.5.	Mean=46.8.	Mean=79.2.
Medium (States 17 to 34)	Arizona, 74.4. Arkansas, 40.8. Iowa, 36.8. Kansas, 43.2. Nebraska, 44.5. South Dakota, 14.4. Texas, 77.0.	Michigan, 82.0. Minnesota, 63.2. Mississippi, 22.3. Oregon, 60.6. Virginia, 66.0.	Illinois, 81.5. Louisiana, 64.6. Maryland/District of Columbia, 87.7. New York, 88.8. Pennsylvania, 80.8. Wisconsin, 57.9.
	Mean=47.3.	Mean=58.8.	Mean=76.9.
Low (States 35 to 50)	Georgia, 56.7. Missouri, 64.2. Nevada, 75.1. Oklahoma, 55.6.	Alabama, 63.8. Colorado, 72.5. Florida, 83.9. Kentucky, 48.3. North Carolina, 45.6. South Carolina, 47.9. Tennessee, 62.5.	California, 93.1. Hawaii, 81.6. Ohio, 80.3. Washington, 71.9. West Virginia, 37.1.
	Mean=62.9.	Mean=60.6.	Mean=72.8.

NOTE.—Resident metropolitan percentages, 1973. Distillate/Motor Gas: *gamma*=+0.041.

Sources: Distillates sales, 1974 from the Department of the Interior, Bureau of Mines. Motor gasoline sales, 1974 from the Department of Transportation. Metropolitan percentages from the Department of Commerce, Census Bureau.

TABLE 4.—STATE PER CAPITA PETROLEUM CONSUMPTION 1974 SALES OF RESIDUAL FUEL AND MOTOR GASOLINE

Motor gasoline sales

Residual fuel sales	High (States 1 to 16)	Medium (States 17 to 34)	Low (States 35 to 50)
High (States 1 to 16)	Arkansas, 40.8. Wyoming, 0.0.	Delaware, 69.6. Florida, 83.9. Maine, 23.8. Virginia, 66.0.	California, 93.1. Connecticut, 88.7. Hawaii, 81.6. Louisiana, 64.6. Maryland/District of Columbia, 87.7. Massachusetts, 86.8. New Hampshire, 36.1. New Jersey, 93.3. New York, 88.8. Rhode Island, 91.1.
	Mean=20.4.	Mean=60.8.	Mean=81.2.
Medium (States 17 to 34)	Arizona, 74.4. Georgia, 56.7. Montana, 24.4. New Mexico, 34.2. North Dakota, 12.4. Texas, 77.0.	Alabama, 63.8. Alaska, 44.2. Indiana, 64.3. Michigan, 82.0. Mississippi, 22.3. North Carolina, 45.6. Oregon, 60.6. South Carolina, 47.9. Utah, 79.2.	Illinois, 81.5. Pennsylvania, 80.8. Washington, 71.9.
	Mean=46.5.	Mean=56.7.	Mean=78.1.

TABLE 4.—STATE PER CAPITA PETROLEUM CONSUMPTION 1974 SALES OF RESIDUAL FUEL AND MOTOR GASOLINE—Continued

Residual fuel sales	Motor gasoline sales		
	High (States 1 to 16)	Medium (States 17 to 34)	Low (States 35 to 50)
Low (States 35 to 50)	Idaho, 16.5. Iowa, 36.8. Kansas, 43.2. Missouri, 64.2. Nebraska, 44.5. Nevada, 75.1. Oklahoma, 55.6. South Dakota, 14.4.	Colorado, 72.5. Kentucky, 48.3. Minnesota, 63.2. Tennessee, 62.5. Vermont, 0.0.	Ohio, 80.3. West Virginia, 37.1. Wisconsin, 57.9.
	Mean=43.8.	Mean=49.3.	Mean=58.4.

NOTE.—Resident metropolitan percentages.

Source: Residual sales, 1974 from the Department of the Interior, Bureau of Mines; Motor gasoline sales, 1974 from the Department of Transportation; and metropolitan percentages from the Department of Commerce, Census Bureau.

EXHIBIT 2

S. 3782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rural Energy Office Act of 1976".

ESTABLISHMENT OF OFFICE

SEC. 2. (a) There is established within the Department of Agriculture an office to be known as the Office of Rural Energy Assessment and Development (hereinafter in this Act referred to as the "Office").

(b) There shall be at the head of the Office a Director who shall be appointed by the Secretary of Agriculture. The Director shall be assisted by an Assistant Director and a staff composed of a sufficient number of economists, statisticians, computer experts, and engineers to conduct the duties of the Office in a timely, efficient, and professional manner.

(c) The Director shall be subject to the supervision and control of the Secretary of Agriculture.

DUTIES OF OFFICE

SEC. 3. (a) The Office shall be responsible for identifying, locating, developing, classifying, and compiling data pertaining to all fuel and other energy needs of people of the United States residing in—

(1) areas outside standard metropolitan statistical areas; and

(2) areas within standard metropolitan statistical areas which are unincorporated or are specified by the Bureau of the Census, Department of Commerce, as rural areas.

(b) Information needed to carry out the duties specified in subsection (a) shall be obtained through independent development by the Office and through the solicitation of information from other governmental agencies at the Federal, State, and local levels, and from private entities.

(c) The Office shall, using the authority and information described in subsections (a) and (b), submit to the Congress, no later than February 15 and September 15 of each year, a report containing a detailed accounting of the findings and conclusions of the Office with respect to the following subject matters as they pertain to the needs of people residing in the areas described in subsection (a):

(1) the heating and cooling of residential dwelling units, especially with regard to—

(A) the methods and sources of heating and cooling existing dwelling units;

(B) anticipated new construction of dwelling units;

(C) energy sources which could be used in heating and cooling such newly constructed units; and

(D) the possibilities of converting existing dwelling units to heating and cooling systems which can be produced but are not widely used;

(2) transportation, especially with regard to—

(A) gasoline for motor vehicles used primarily on highways, including a specification of—

(i) amounts and retail prices of such gasoline;

(ii) the approximate number and location, by State, of existing retail outlets; and

(iii) anticipated changes in the marketing and availability of (and demand for) gasoline, anticipated responses to the changes, and the potential effect of research on these changes;

(B) all fuel, diesel and otherwise, available for farm equipment used primarily in areas other than highways, including a specification of the factors referred to in clauses (i) through (iii) of subparagraph (A) of this paragraph; and

(C) existing availability of intercity and intracity public transportation and the feasibility of expanding such transportation;

(3) the production of agricultural commodities, especially with regard to—

(A) the amount of liquified petroleum gases consumed in the production of various agricultural commodities;

(B) the amount of petrochemicals, fertilizers, and related byproducts consumed in the production of various agricultural commodities;

(C) the marketing and related costs involved in the production and transportation of agricultural commodities; and

(D) the amount of energy used to produce agricultural commodities on different-sized farms;

(4) energy needs of businesses and industries, especially with regard to—

(A) maintaining existing business and industry in rural areas;

(B) attracting new business and industry to such areas; and

(C) comparing the degree of dependence of such industry and business on conventional and on alternative sources of energy with the degree of dependence of urban industry and business on each such source;

(5) sources of electricity, especially with regard to—

(A) existing sources;

(B) short- and long-range anticipated needs for electricity;

(C) short- and long-range projected conversions from electrical to other sources of energy, including nuclear and solar energy;

(D) short- and long-range plans concerning the location of nuclear plants; and

(E) the estimated costs (in 3, 5, and 10 year intervals) of utilizing existing sources of electricity, meeting anticipated needs for electricity, converting from electricity to other sources of energy, and establishing nuclear plants; (6) conservation of energy, especially with regard to—

(A) the extent of existing programs designed to conserve energy; and

(B) the potential for developing new programs of conservation and the costs thereof, especially with regard to encouraging self-sufficiency by utilizing wood, solar energy, wind, and water to supply alternate sources of energy; and

(7) energy research and development, especially with regard to locating, identifying, developing, and providing information on alternate fuels and the potential use of energy technologies which have not been fully developed or widely utilized.

(d) The report submitted pursuant to subsection (c) shall be provided, by the Office, to the Committees on Agriculture, Interior and Insular Affairs, Interstate and Foreign Commerce of the House of Representatives, the Committees on Agriculture and Forestry, Interior and Insular Affairs, and Commerce of the Senate, and the Joint Committee on Atomic Energy. Such committees shall cooperate in publishing and making available to the public every six months a document containing the information provided them by the Office in its most recent report.

PENALTY FOR FAILURE TO SUBMIT REPORT ON TIME

SEC. 4. If the Director of the Office fails to submit to the Congress the report described in section 3(c) on or prior to the date on which the report is required to be submitted, the Director shall be assessed a civil penalty of $1,000 for each day in the period beginning on the day after the date on which the report is to be submitted and ending with the day preceding the day on which the report is submitted, except that no civil penalty shall be imposed (1) with regard to any report for which no funds have been appropriated, or (2) with respect to any day during any period specified by a resolution approved by the Committee on Agriculture of the House of Representatives and by the Committee on Agriculture and Forestry of the Senate as an extension period for the submission of the report. This subsection shall be enforced by the Attorney General of the United States through a civil action filed and litigated on behalf of the United States in the District Court of the United States for the District of Columbia against the individual who is the Director of the Office during the period for which the civil penalty is assessed. No Federal funds may be expended with regard to the payment of such civil penalty.

REGULATIONS OF OTHER AGENCIES

SEC. 5. (a) The Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, the Administrator of the Federal Highway Administration, and the Chairman of the Federal Power Commission shall submit to the Secretary of Agriculture a copy of any regulation proposed to be issued by such Administration or Commission, as the case may be, which relates to any energy matter referred to in this Act. Any such proposed regulation shall be submitted to the Secretary of Agriculture not less than 60 days prior to promulgation thereof.

(b) The Secretary of Agriculture shall submit to the Administrator or Chairman from whom any proposed regulation is received such comments and recommendations regarding such proposed regulation as the Secretary deems appropriate, taking into consideration the potential impact such regulation may have on rural areas.

AUTHORIZATION FOR APPROPRIATIONS

Sec. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EXPIRATION OF OFFICE

Sec. 7. The Office and the provisions of this Act shall expire five years after the date of enactment of this Act.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I believe that Mr. Proxmire is to be recognized at this time under the order. I ask unanimous consent, while we are waiting for Mr. Proxmire's arrival from a committee meeting, that the Senator from Wyoming be recognized for not to exceed 2 minutes and that the time be charged against Mr. Abourezk under the time for debate on the motion.

Mr. ABOUREZK. Does the Senator wish 2 minutes?

Mr. McGEE. Yes.

Mr. ABOUREZK. I yield the Senator 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

POSTAL ORGANIZATION ACT AMENDMENTS OF 1976—CONFERENCE REPORT

Mr. McGEE. Mr. President, I submit a report of the committee of conference on H.R. 8603 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8603) to amend title 39, United States Code, with respect to the organizational and financial matters of the United States Postal Service and the Postal Rate Commission, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of today's Record.)

Mr. McGEE. Mr. President, the bill as it was approved by the conference committee retains the salient features of the Senate version of H.R. 8603. It authorizes two appropriations of $500 million each before the end of September, 1977, and places a moratorium on rate increases and service cutbacks while a Commission on Postal Service studies postal operations.

The moratorium and study period were extended 1 month by the conferees until March 15, 1977. The size of the Commission was reduced from 10 to 7 members, with the Postmaster General and Chairman of the Postal Rate Commission serving as additional nonvoting members.

Conferees on the bill also approved a provision to insure annual oversight of the Postal Service by Congress. Also agreed to was a Senate amendment providing permanent procedures to be followed in cases where the Postal Service proposes to close or consolidate a post office and providing affected patrons the right to appeal to the Postal Rate Commission. Rate commissioners also would become subject to Senate confirmation in the future.

Mr. ALLEN. Mr. President, I object to its consideration at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that those 2 minutes not be charged to anyone.

The PRESIDING OFFICER. The Chair indicates it does not take unanimous consent to consider a conference report. A conference report is privileged business.

Mr. ABOUREZK. Then the time is not charged to my side of the debate; is that right?

The PRESIDING OFFICER. No. The objection of the Senator from Alabama is not in order. That was the point of the Chair.

Mr. RANDOLPH. Mr. President, I support the conference committee report on H.R. 8603, the Postal Reorganization Act Amendments of 1976, which has been presented by the able chairman of our Committee on Post Office and Civil Service, Senator McGee. The Senate-House conference committee members worked diligently through Monday to develop this compromise bill.

It is gratifying that the conferees approved with a modification my proposal to stop the indiscriminate closing and consolidation of post offices throughout the Nation. Under this amendment, the Postal Service must consider citizen comments on a local basis. Rural areas and small towns in West Virginia and throughout the country will have the assurance of a fair and thorough review prior to the closure or consolidation of any postal facility.

The Senate last week passed this proposal by a vote of 60 to 13. It would require the Postal Service to notify the patrons of a post office at least 60 days in advance of the intention to close or consolidate such office. The public would have an opportunity to present its views.

Further, the Postal Service must consider the impact on the public, postal employees, postal policy, and costs in reaching the decision to close or consolidate.

On any determination to close or consolidate an office, the Postal Service must issue its findings and decision in writing and must make them available to affected persons. The Postal Service cannot complete action until 60 days after the decision is made available to the public.

In the Senate-passed bill, a patron of the office could appeal the decision to any U.S. court of appeals within 30 days. The court could affirm or reverse the decision or return it to the Postal Service for further consideration. It was in this provision that a modification was made by the conference. The appeal was changed from the court of appeals to an administrative appeal to the Postal Rate Commission. The Commission would be required to adhere to the same standards and have the same authorities as contained in the original Senate appeals provision.

The effective date of closing and consolidation proposal is March 16, 1977.

Mr. President, this provision on the closings and consolidations of post offices, together with the moratorium included in the Senate bill and agreed on by the conferees, provides a mechanism to prevent the indiscriminate closing and consolidation of smaller post offices. The moratorium, inserted in the Senate bill as a result of our earlier legislation and at my urging, terminates on March 15, 1977. At that time the procedures that I have outlined on closings and consolidations will become effective.

As Senators know, under the moratorium the Postal Service shall not close any post office serving 35 or more families which was operating on July 1, 1976. Smaller post offices operating on that date could not be closed unless 60 percent of the adult patrons give written consent.

Mr. President, the action by the conferees is indicative of the concern of Members of the Congress that a maximum degree of effective and regular postal service must be provided in rural areas and smaller towns. I ask unanimous consent that the provision on closings and consolidations be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Sec. 9 (a) Section 404 of title 39, United States Code, is amended by inserting "(a)" immediately before "Without" and by adding at the end thereof the following new subsection:

"(b) (1) The Postal Service, prior to making a determination under subsection (a)(3) as to the necessity for the closing or consolidation of any post office, shall provide adequate notice of its intention to close or consolidate such post office at least 60 days prior to the proposed date of such closing or consolidation to persons served by such post office to insure that such persons will have an opportunity to present their views.

"(2) The Postal Service, in making a determination whether or not to close or consolidate a post office, shall consider—

"(A) the effect of such closing or consolidation on the community served by such post office;

"(B) the effect of such closing or consolidation on employees of the Postal Service employed at such office;

"(C) whether such closing or consolidation is consistent with the policy of the Government as stated in section 101(b) of this title, that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;

"(D) the economic savings to the Postal Service resulting from such closing or consolidation; and

"(E) such other factors as the Postal Service determines are necessary.

"(3) Any determination of the Postal Service to close or consolidate a post office shall be in writing and shall include the findings of the Postal Service with respect to the considerations required to be made under paragraph (2). Such determination and finding shall be made available to persons served by such post office.

"(4) The Postal Service shall take no action to close or consolidate a post office until 60 days after its written determination is made available to persons served by such post office.

"(5) A determination of the Postal Service to close or consolidate any post office may be appealed by a person served by such office to the Postal Rate Commission within 30 days after such determination is made available to persons served by such post office under paragraph (3). The Commission shall review such determination on the basis of the record before the Postal Service in the making of such determination. The Commission shall make a determination based upon such review no later than 120 days after receiving any appeal under this paragraph. The Commission shall set aside any determination, findings, and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

"(B) without observance of procedure required by law; or

"(C) unsupported by substantial evidence on the record.

The Commission may affirm the determination of the Postal Service or order that the entire matter be returned for further consideration, but the Commission may not modify the determination of the Postal Service. The Commission may suspend the effectiveness of the determination of the Postal Service until final disposition of the appeal. The provisions of section 556, section 557, and chapter 7 of title 5 shall not apply to any review carried out by the Commission under this paragraph.".

The **PRESIDING OFFICER**. The question is on agreeing to the conference report.

The conference report was agreed to.

The **PRESIDING OFFICER**. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 10 minutes.

ARMS SALES OUT OF CONTROL

Mr. PROXMIRE. Mr. President, today I wish to give notice of my intention to introduce a series of resolutions of disapproval to stop pending arms transfers to certain Middle East countries.

As of last Friday the Senate had received five requests for arms sales to certain Middle East countries. It will be observed, Mr. President, I keep saying "certain Middle East countries."

Why do I not refer to exactly which countries? Well, due to a classic case of misuse of the classification stamp, Members of this body cannot even identify the countries and the equipment they object to being sold overseas. The Pentagon and State Department have insisted on classifying these facts. This makes the congressional procedure for stopping these practices an almost impossible task.

The Pentagon is hiding behind the secret stamp when there is absolutely no justification for not telling the American people exactly where we are selling billions in arms and why. It precludes a rational debate in Congress but maybe that is what the arms merchants want since their arguments and justifications cannot stand the test of public examination.

What makes this entire issue doubly absurd is that a number of seemingly well-informed articles have appeared in the press documenting the scope and expense of these pending sales.

Therefore what facts and figures I will use today will come from the public press. I regret that Congress is being gagged by the State and Defense Departments. But that is a fact.

Recent press accounts have identified Iran and Saudi Arabia as having current sales requests for nearly $500 million in military hardware and services pending in Congress as of last week.

In addition to this there are indications that an additional $4 billion for 160 F–16's, Sidewinder, Phoenix, and Sparrow missiles will be requested for Iran this week. Saudi Arabia is thought to be requesting $573 million in sales of 1,000 Sidewinder missiles, 1,500 Maverick missiles, a naval training center, and military family housing. Pakistan is reportedly planning to receive $259 million for C–130 transports, Mk–46 torpedos, Sidewinder missiles, armored personnel carriers, and ammunition. Other reports suggest more sales to Korea and Singapore.

Mr. President, I do not vouch for the accuracy of these figures although I think they are pretty good. What we need before we go any further is a full public accounting of every recipient country with a pending letter of offer or notification letter coupled with the dollar amount involved and a description of the military equipment at issue. Then we should have a full public justification by the administration for each of these sales.

In lieu of a full public disclosure and justification for each of the examples cited above, I will introduce a series of resolutions of disapproval and urge the Foreign Relations Committee to give them speedy consideration. And if the 30-day time period for any of these proposed sales is growing near, I will move to bring this matter to a vote on the floor of the Senate in so far as Senate rules permit.

Mr. President, these potential arms transfers represent nothing less than U.S. encouragement of a massive arms race in the Middle East.

This policy is foolish beyond belief. We are arming both sides in the Middle East. Both Saudi Arabia and Iran, for example, are maneuvering for military dominance in and around the Arabian Gulf. The United States is helping build up the Iranian navy and will soon help build up the Saudis' naval capabilities. We will be selling weapons systems such as Maverick missiles and Sidewinder missiles which could be turned against Israel, another nation the United States is committed to assist.

Arming Pakistan with modern weapons could spark a new round of the arms race with India. In the past this has led to two disastrous wars during which both sides used U.S. equipment specifically sold to them only for self-defense.

I am convinced that the vast majority of the American public does not want our country to be the arms pusher of the century. It is time to call a halt to the policy of selling arms at any time to anyone for any reason.

Congressional procedure requires that notification of prospective arms sales be sent to Congress for a period of 30 calendar days. During that time the arms sale proposal can be killed by passage of a resolution of disapproval in both Houses.

I shall begin introducing the appropriate resolutions this week and shall urge the Senate Foreign Relations Committee to act favorably on them before their expiration dates even though some of the most critical information remains unfairly classified.

Mr. President, I ask unanimous consent that a number of recent newspaper articles detailing the proposed arms sales be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Aug. 25, 1976]

A DILEMMA FOR FORD: WHAT TO DO ABOUT PLANNED ARMS SALES IN AN ELECTION YEAR

(By William Beecher)

WASHINGTON.—The Ford Administration is grappling with a thorny political judgment over the prospective sale of more than $2.5 billion in modern arms to nine countries, including Saudi Arabia, Iran, Israel, South Korea and Pakistan.

Unless it notifies Congress soon, it will be barred by law from supplying the arms until sometime next year, after the newly elected Congress has had an opportunity to weigh the merits of each proposed deal. Obviously, the nations anxiously awaiting the weapons would not look kindly on such a delay.

But if the Administration makes all or most of the impending sales public at this time, it risks providing Jimmy Carter and his supporters with fresh ammunition over the "dumping" of additional billions of dollars in advanced weapons into troubled areas of the world.

Earlier this month the Senate Foreign Relations Committee castigated the Administration for ignoring "far-reaching foreign policy implications" in selling billions of dollars of arms to Persian Gulf nations, and especially to Iran.

And when word recently leaked out that the United States was considering selling 2000 additional Sidewinder air-to-air missiles to Saudi Arabia, a number of senators and congressmen objected. They felt the number was much greater than required by the Saudi air force and feared that some of the missiles might be rushed by the Saudis to Egypt in the event of another Arab-Israeli war.

Administration officials countered that the Sidewinder would not be very effective on Egyptian MIG fighters without major engineering modifications, but they are attempting to work out a compromise to reduce the number to 1000 or perhaps only 500 now, the rest to be deferred for consideration next year.

Congressional sources say the issue is sufficiently explosive politically that Secretary of State Henry Kissinger has agreed to confer with congressional critics of the Sidewinder sale this week in an effort personally to negotiate a compromise.

Under law, the Administration must give Congress 30 days after formal notification of an intention to sell arms to enable the Congress to object and thus block any particular deal. In addition, the Administration has privately agreed to provide an additional 20 days of "pre-notification" so that congressional staffs will have ample time to dig into the justification for various sales.

But with Congress scheduled to adjourn Oct. 2, there isn't time for the full pre-notification. And formal notification must be made no later than next week to comply with the law.

Well-placed sources say the list of prospective arms sales which has been building up over the last several months has reached logjam proportions. It is said to include the following:

Saudi Arabia: $57 million for 2000 Sidewinders; $66 million for 1500 Maverick TV-guided air-to-ground missiles; $130 million for a naval training center; and $80 million for military family housing.

Iran: $1.1 billion for seven AWACS command and control aircraft; $20 million for Mark 37 torpedoes; $25 million for H53D anti-submarine helicopters; $200 million for helicopter repair parts; and $105 million for ammunition.

Israel: $64 million for six Huey Cobra helicopter gunships; $46 million for Walleye TV-guided glide bombs; $32 million for Sidewinder missiles; and $27 million for cluster bombs.

South Korea: $79 million for 24 OV10 light armed reconnaissance planes and $21 million for Sidewinders.

Pakistan: $176 million for 18 C130 military transport aircraft; $16 million for Mark-46 torpedoes; $14 million for Sidewinders; $20 million for tank recovery vehicles; $13 million for 140 armored personnel carriers; and $20 million for ammunition.

Singapore: $118 million for a squadron of F5E jet fighters.

Morocco: $89 million for 20 T2 jet trainer aircraft.

Jordan: $33 million for an armored-vehicle rebuilding plant.

Australia: $28 million for two P3C long-range naval reconnaissance planes.

Administration officials say that if the Sidewinders for Saudi Arabia triggered such a strong resistance, there might well be even more fireworks when Congress learns of plans to provide that nation with 1500 more Maverick missiles to supplement the 1000 Mavericks already on order.

The Sidewinder, they note, is considered essentially a defensive weapon with which to shoot down invading airplanes. But the Maverick—designed especially for attacking concrete command bunkers, weapons storage sites and other hard targets—is regarded by some as a more offensive weapon. However, Maverick is even less useful than Sidewinder if transferred to a country lacking the sophisticated controls designed for the weapon, Administration officials point out. This may defuse the fear of Mavericks being transferred to Egypt.

A lot of other very expensive or otherwise controversial arms requests could be added to the list soon, officials concede. For example, Saudi Arabia is known to want antipersonnel cluster bombs and laser-guided bombs.

Pakistan has requested 80 to 100 A7 medium bombers, with a price tag of about $500 million. But the Administration has been delaying its response, trying to pressure Pakistan into either cancelling its deal to purchase a nuclear reprocessing plant from France or agreeing to much tighter safeguards for such a plant to minimize the chances of Pakistan diverting plutonium to make nuclear weapons. Some US officials are cool to the A7 request in any case for fear it will spark another arms race with India, which is currently encountering difficulty, getting some of the more sophisticated fighter-bombers in the Russian arsenal.

And Iran is known to be interested in 300 F16 and 255 F18 fighters and 100 new military transports having a total price tag of well over $4 billion.

[From the New York Times, Aug. 11, 1976]

Spread of Nuclear Weapons and U.S. Sales

(By Leslie H. Gelb)

Washington.—The disclosure that Pakistan's purchase of a nuclear reprocessing plant from France would jeopardize the sale of military jet aircraft the Pakistanis want from the United States shows the increasingly close * * * the problems of nuclear proliferation and conventional arms sales.

By law and by Administration policy, it is now virtually established that if a country takes steps to acquire the capability to build nuclear weapons, the United States will cut off all forms of aid except food. What is not clear is whether the Administration is prepared to sell conventional weapons that otherwise would not be sold as an inducement for a country not to develop nuclear armaments.

The trade-off for American leaders is this: the probability of setting off regional conventional arms races and creating imbalances is now weighed against the possibility of preventing a world filled with nuclear weapons.

So far, there is no clear-cut pattern in the way the Administration has dealt with this matter in the cases of Pakistan, Iran, South Korea and Brazil.

The weight of opinion in the Administration seems to be against selling the A-7 Corsair jet fighter-bomber to Pakistan unless the sale is the only means of getting Pakistan to cancel its contract to buy a French nuclear reprocessing plant. Such a plant is used to separate plutonium from the spent fuel of a nuclear power plant, and the plutonium could be used to produce a nuclear weapon.

SALE WOULD VIOLATE U.S. POLICY

If the sale of A-7's were to be judged on its own merits, independent of the nuclear proliferation issue, most Administration experts would be strongly opposed to it. They argue that the A-7 is an attack aircraft and thus its sale to Pakistan would run counter to the Administration's policy of selling only defensive weapons to nations in the Asian subcontinent. They say that the sale would further damage American relations with India.

The prospective $500 million sale of about 100 aircraft is, however, important to the A-7's manufacturer. The LTV Corporation officials said that without the sale LTV would have to shut down its A-7 production line.

Administration officials said that Secretary of State Henry A. Kissinger was inclined to deal with the Pakistani case along somewhat the same lines as he had with Iran—namely, to sell the arms if that would resolve the nuclear issue.

During Mr. Kissinger's visit to Iran last weekend, Shah Mohammed Riza Pahlevi reportedly agreed not to purchase a reprocessing plant in return for getting an American guarantee of enriched uranium to fuel Iran's nuclear power plants and of the use of a multinationally controlled reprocessing facility. At the same time, Mr. Kissinger and the Shah announced a $40 billion trade package, including $10 billion in sales of American arms to Iran.

NO DENIALS OFFERED

State Department officials were very reluctant to acknowledge that there was any link between the two matters, but they did not deny it either. As one said, "We're not about to put ourselves in a blackmail position where any country can get arms out of us by threatening to buy a reprocessing plant."

A Senate-staff study recently questioned the sale of many weapons systems to Iran that it said could be operated only by American personnel, and the Shah is said to want to buy even more sophisticated weapons.

In contrast with the cases of Pakistan and Iran, Administration officials insisted that no promises or even hints about future arms sales had been given to South Korea in return for the Seoul Government's agreement last January to cancel its order for a nuclear reprocessing plant from France.

As one official explained: "We simply made the negative clear to them, that if they went forward with the reprocessing plant, Congress would insist on the termination of further military credit sales. And they understood this.

Another official said, "That's right, but who's to say they won't come to us three years from now and start bargaining all over again."

Congress recently approved a law that would ban aid to any country that sold or received uranium enrichment facilities or a reprocessing plant that was not subject to adequate safeguards. But Administration officials noted that there were several loopholes in the language, including Presidential waiver authority, that still allowed for considerable flexibility. "In the case of South Korea, at least," an official said, "we were not about to play games; the Congressional intent was clear."

What will happen in regard to Brazil is not yet clear. Brazil has ordered an uranium enrichment facility from West Germany, but Brazil is not as dependent on or desirous of American arms as South Korea, Iran or Pakistan. Economic aid to Brazil is so small as not to be a factor either.

Thus far, the burden of the Administration's argument to Brazil and the other countries has been that reprocessing facilities are highly uneconomical, and that it is much cheaper for a country to buy nuclear fuel from the United States than to make its own. This argument seems to have carried some weight with the South Koreans and the Iranians. Whether it will continue to be persuasive is far from clear.

At this point, the overriding priority that the Administration has given to preventing the spread of nuclear weapons leads to thinking of arms sales as sweeteners. These sweeteners, some Administration officials are coming to believe, could prove almost as troublesome in the short run as the spread of nuclear weapons might become in the long run.

[From the New York Times, Aug. 11, 1976]

Iran and Britain Plan Arms Deal—Barter of Oil for Weapons Under Discussion May Be Worth $600 Million

(By Eric Pace)

Teheran, Iran.—Iran is negotiating with Britain to barter Iranian oil for as much as

$600 million in British-made arms, according to well-placed Iranian and Western officials.

The negotiations were mentioned by Iran's chief procurement officer, Gen. Hassan Toufanian, to a British reporter here yesterday, suggesting that they are being timed in part to underscore the fact that Iran can buy weapons from West European countries if it is ever snubbed by the United States, now her main arms supplier.

The general, who has had high praise for United States weapons in the past, could not be reached today. Asked about the deal, an aide said, "I won't be able to say anything about that."

But the Shah said at a news conference here last week that his Government would shop elsewhere if its armaments supplies from the United States were curtailed. He rejected criticism in a recent Senate subcommittee report of United States arms sales to Iran, which are expected to amount to $10 billion from 1975 through 1980.

Well-placed informants said today that the negotiations with Britain focused on additional purchases of the Rapier antiaircraft missile, which is made by the British Aircraft Corporation.

There were unconfirmed reports that the barter deal might also involve British-made Chieftain tanks, which the Shah has already bought by the hundreds.

It was understood that Iran would pay for the arms deliveries with oil shipments that would be marketed by the Anglo-Dutch Shell oil company, which has long been a dominant force in the marketing of Iran's oil.

Similar oil-for-arms deals involving United States arms were suggested here earlier this year and the United States is expected to absorb billions of dollars worth of Iranian oil in the next few years.

To clinch the British barter deal, General Toufanian is expected to journey to London within the next few days.

Iran's oil sales to the United States, which is expected to become its main trading partner, replacing West Germany, are now expected to total $14 billion for the six years from 1975 through 1980.

Under what terms Shell would undertake to market the oil involved in the British barter deal has not been made known here. Indeed, except for the remarks yesterday by General Toufanian, no official confirmation of the deal has been forthcoming.

The sources said it was possible that the general might wind up committing Iran to buy less than the $600 million worth.

* * * Government. The deal is "well advanced," according to a British Aircraft Corporation spokesman.

Shell is involved in the negotiations, which are expected to be completed soon, the spokesman said. They include other defense equipment orders, including Chieftain tanks and Scorpion tanks.

[From the New York Times]

WILL THE FLAG FOLLOW U.S. ARMS SALES?

(By Leslie H. Gelb)

Through its sales of weapons overseas, the United States has entered a period of intricate mutual dependencies that are hard to control and whose consequences are hard to calculate. In some ways, the arms arrangements are now the functional equivalents of treaties, but much more nebulous.

Recent Administration arms sales have put Iran in a position where it could not fight without thousands of Americans on the scene, Saudi Arabia in a position to become an arms storehouse for its Arab neighbors, and Kenya and Zaire on a track of military dependency that leads back to Washington.

The new period in American arms exports has been signaled by two developments: the sale of highly sophisticated weapons systems to developing countries that lack the skills to operate them, and the advent of what might be called "white collar mercenaries," thousands of privately employed civilians who descend on the buyers to teach them how.

Iran is an almost pure case in point, as a study by the staff of the Senate Foreign Relations Committee, made public last week, showed.

The study, based on interviews with Administration experts, held that Iran is now so heavily dependent on American personnel that it could not go to war "without U.S. support on a day-to-day basis." Iran has purchased some of the latest models of American artillery, missiles, and aircraft. The Iranian armed forces do not have the technological background to operate them "unless increasing numbers of American personnel go to Iran in a support capacity."

There are already more than 20,000 Americans in Iran, mostly connected with training Iranian armed forces. The report projected that by 1980, this figure could easily reach 50,000 to 60,000.

The point the Senate staff report was driving at was this: In reviewing arms sales, Congress has been paying attention almost exclusively to the primary decision whether to sell a particular country a certain amount of weapons, but virtually ignoring the secondary effects of the sale.

After the contract has been signed and the weapons delivered, Americans arrive en masse to do the administering and the on-site training for up to 10 years. Under pressure from Congress to reduce American military training missions, the Pentagon has increasingly turned these tasks over to private contractors. The civilians are relatively immune from American government control.

It might seem that Iran's dependency would give the United States a large measure of control over a decision by the Shah to use force. But in a way, the Americans could become hostages as well as trainers. If Washington were to choose not to back the Shah in conflict, it would risk rupturing relations with Iran, and risk placing the Americans in jeopardy.

Saudi Arabia's rulers do not have quite the same taste for prestige weapons as the Shah, but a similar kind of situation could evolve there. There are already several thousand American civilian-contractor personnel working on military matters in that country.

It looks as if more are to come. The Administration decided to sell the Saudis Sidewinder air-to-air missiles, TOW tube-launched optically tracked anti-tank missiles, Maverick air-to-surface missiles, and an early version of the laser-guided, so-called "smart bombs." The Saudis will have to import many more Americans to manage them.

Israeli concern that some of those weapons may be transferred to other Arab states surrounding Israel, Administration officials insist, is not well-founded. But the quantity of arms being sold is difficult to explain; the hypothetic model used by the Pentagon and the Saudis to justify the sales was a simultaneous attack against Saudi Arabia by Iraq and South Yemen. Similar questions could be raised about the threat to Iran. The Russians are the main potential enemy, but no amount of arms would be enough for that contingency. For all other eventualities, Iran has more than enough on paper.

The same cannot be said of the sales to Kenya and Zaire. It is simply a fact that their neighbors—Angola, Uganda, and Somalia, to name three—are much better armed.

The policy problem with the relatively modest aircraft and armor to Kenya and Zaire is that it will compel the United States to make decisions about the future of those countries than it did not have to make before.

Arms sales to Taiwan present a different, even more complicated problem. The Administration's stated goal is to make a possible military "self-sufficiency." If a future Administration were to decide to abrogate the defense treaty with Taiwan, "self-sufficiency" might make it easier to do so. And China insists on abrogation of the treaty before normal diplomatic relations with the United States are established. But from a short-term perspective, this arms policy could cause Peking to believe that Washington was trying to promote a permanent political separation of Taiwan from the mainland regime. This, in turn, could badly damage Chinese-American relations.

Arms exports are an incredibly complicated enterprise. The arguments cannot be reduced to "We do not want to be merchants of death" versus "If we don't sell, somebody else will," or even to the contention that selling creates a moral obligation to assist in combat. Not selling, and denying a nation the means to defend itself, is also a moral choice.

[From the New York Times, Aug. 28, 1976]

UNITED STATES TO SELL IRAN 160 NEW FIGHTERS—KISSINGER INFORMS SENATE PANEL WHOSE STAFF STUDY OPPOSED FURTHER SALES

(By Bernard Gwertzman)

WASHINGTON.—Secretary of State Henry A. Kissinger told a Senate Foreign Relations subcommittee today that the United States had agreed to sell Iran 160 F–16 fighter planes at a cost of about $3.4 billion.

Despite a staff study by the Foreign Relations Committee earlier this month that said Iran was unable to absorb the sophisticated equipment it already had bought in recent years, Mr. Kissinger told the closed-door meeting that the Ford Administration had decided to go ahead with the sale.

But he stressed that delivery of the new General Dynamics fighters would not begin until 1979, when 10 trainers would be shipped to Iran, with the remaining 150 planes due to be sent over the following four years.

According to participants in the two-hour session, Mr. Kissinger said that a formal notification would be sent to Congress Monday on the pending F–16 deal as well as an additional $600 million in Iranian orders for Sidewinders, Phoenix and Sparrow missiles, making a total of $4 billion.

The staff report, whose conclusions were rejected by Shah Mohammed Riza Pahlevi when Mr. Kissinger visited him in Iran earlier this month, said that "self-sufficiency is not attainable" for the Iranian Air Force if it makes no additional major purchases.

At the time the report was written, Iran's most modern plane was the F–14, a larger and more complex aircraft than the F–16. The F–16 is the plane of the future as far as most of America's European allies are concerned, since they have also ordered it in quantity.

SIDEWINDERS TO SAUDIS

Most of the discussion with Mr. Kissinger was on contemplated sales to Saudi Arabia, participants said, with Senators only raising a few questions about sales to Iran.

Mr. Kissinger told the Senators that the Administration planned to sell $573 million in equipment to Saudi Arabia, including some 1,000 Sidewinder air-to-air missiles, Maverick TV-guided bombs and construction equipment.

When the matter was discussed yesterday and several Senators raised questions about the size of the Saudi order, Mr. Kissinger agreed to seek a compromise today.

But in the discussion, according to participants, Mr. Kissinger only agreed to discuss with President Ford over the weekend the objections of the Senators and to see if the size of the order could be reduced.

The Administration plans to sell 1,500 Mavericks, and Senators argued that this should be reduced as well as the Sidewinder order.

CONGRESSIONAL VETO

By law Congress has 30 days once it is formally notified by the Administration, to veto by a majority vote in both houses any military sale over $25 million.

The Administration, faced with Congress's plans to adjourn on Oct. 2, must notify both houses by Thursday or else put off completing the sales until next year.

In this last-minute rush, the Administration plans to propose to Congress next week nearly $5 billion in new sales, the State Department said.

Besides the $4 billion to Iran and $573 million to Saudi Arabia, it intends to inform Congress of $90 million in orders for Israel, mostly for helicopters, and $84 million for Pakistan, including Sidewinders for its aircraft.

THREAT BY ROSENTHAL

Several supporters of Israel, including Representative Benjamin S. Rosenthal, Democrat of Queens, have threatened to introduce a resolution to block the sale of Sidewinder missiles to Saudi Arabia if the number is not reduced from 1,000 to 500.

Congress has not vetoed any projected sale since the law became effective last year. But by raising questions Congress has forced the Administration to alter some plans, such as the sale of anti-aircraft missiles to Jordan whose characteristics were changed.

Mr. Kissinger, according to a participant in the session, agreed to submit a study to the panel—the subcommittee of foreign assistance—justifying large-scale sales of military equipment. Such sales have amounted to more than $6 billion in the last two years.

The Secretary has consistently defended sales to Iran and Saudi Arabia as vital to insure that moderate regimes friendly to the United States are strengthened in the crucial Persian Gulf area.

Iran's purchases of about $10 billion in the last few years and another $10 billion estimated for the second half of this decade are said to reflect Iran's concern about having to defend borders with the Soviet Union and Iraq.

QUORUM CALL

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The Senate resumed the consideration of the message from the House of Representatives announcing its action on the amendment of the Senate to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the time remaining before the hour of 12 o'clock will be equally divided between and controlled by the Senator from Nebraska (Mr. HRUSKA) and the Senator from South Dakota (Mr. ABOUREZK).

Who yields time?

Mr. ABOUREZK. Mr. President, how much time does each side have?

The PRESIDING OFFICER. Each side has 13½ minutes.

Under the previous order, the time remaining before the hour of 12 is divided. The Senator from South Dakota used 2 minutes earlier. The Senator from Nebraska (Mr. HRUSKA) has 13½ minutes, and the Senator from South Dakota has 11½ minutes.

Mr. ABOUREZK. Mr. President, I shall explain why we are here undergoing a cloture vote to try to break a filibuster again today.

When the agreement was made with the other side on this antitrust issue in June of this year, the agreement was very clear to every Member of the Senate, that we would weaken substantially the portions of the bill that were distasteful to the other side, in return for an end to the delaying procedures and tactics that were being employed by the other side during the month of June.

This bill was up for consideration for 10 days to 2 weeks in late May and early June, and I was opposed to any kind of compromise. But due to the illness of Senator PHILIP A. HART, who was no longer physically able to keep up with the pace at that time—because this is Senator HART's bill, together with the Senator from Pennsylvania (Mr. HUGH SCOTT)—a number of of us who were involved in the legislation then agreed to go ahead with the weakening process.

Now, when we come to the time to appoint conferees, we find that the other side, the opposition to the Antitrust Improvements Act, has decided that it is once again time to put it to the Senate through the delaying tactics that they were going through in June and which they had agreed to end in June.

So we were faced with a choice of trying to break two filibusters, one for the appointment of conferees and going to conference, and another one for the conference report. The only real choice we had left was to make an effort, in view of the short time remaining before adjournment this year, to find out roughly what the House position would be; and we did so, just informally talking to the House Members, and we found out what they would be willing to accept.

We made a proposal, which is called the Byrd amendment. The motion was made by Senator BYRD the other day to concur with the House with an amendment. We were forced to do that. We were prevented from going to the conference by virtue of the threat of more filibuster and more delaying tactics on the part of the other side.

Although we no longer have any real bargaining position with the House, those of us on the Antitrust Subcommittee and the Committee on the Judiciary who favor this bill believe that we have a bill now—which is involved in the Byrd amendment—which is fair.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield.

Mr. ROBERT C. BYRD. It is not the Byrd amendment. Senator BYRD may vote for it or against it. He merely offered the motion. I think the Senator will want the record to be correct.

Mr. ABOUREZK. We will correct the record. I was just using that for identification purposes.

In any event, the motion we are discussing, on which there will be a cloture vote today, is an amendment that we think is fairly close to what the House will accept, and it is the bare minimum that those of us on the Judiciary Committee who sponsor this bill are willing to accept.

We have, in a statement put in the RECORD by Senator HART the other day, come down to 41 major points of difference between the Senate and the House-passed versions of the Antitrust Improvements Act. Approximately 25 of these, because of our lack of bargaining power, were resolved in favor of the House position, there were 10 resolved in favor of the Senate position, and 6 resulted in a compromise between both positions. It is impossible at this time, before the cloture vote, to try to describe all the aspects of the compromise we arrived at, but after the cloture vote is over with, I shall be happy to do so following that vote.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I yield myself 3 minutes.

With reference to the matter of appointment of a conference committee, and any resistance thereto, certainly, this Senator, who is the ranking Senator on the Committee on the Judiciary and on the Antitrust and Monopoly Subcommittee, has no knowledge of any rejection, of any opposition or resistance to the appointment of a conference committee.

In addition to that, I point to the statement of the chairman of the Subcommittee on Antitrust and Monopoly, as recorded in the August 27 RECORD, page 28272 in which Senator PHILIP A. HART stated:

> My own recollection is that there was no specific discussion during those negotiations last June with respect to either a motion to support conferees or a motion to accept a conference report.

Maybe there is some other source of information that escapes me.

Mr. ABOUREZK. Will the Senator yield?

Mr. HRUSKA. Surely, on the Senator's time.

Mr. ABOUREZK. On my time.

Would the Senator and his supporters, Mr. ALLEN and Mr. HELMS, agree to a time limitation, on a time to vote on the motion to appoint conferees, and also a motion on the conference report, a reasonable limitation that would provide sufficient time for debate?

Mr. HRUSKA. Is the Senator asking if that has been done?

Mr. ABOUREZK. Will the Senator agree to that?

Mr. HRUSKA. Well, we are on the time on cloture.

Mr. ABOUREZK. If the Senator is willing for a time limitation, we can vitiate the cloture motion.

Mr. HRUSKA. This comes at a late hour.

Mr. ABOUREZK. We have asked the Senators before. It is not too late.

Mr. HRUSKA. It is 11:40 a.m. now, and this request is in keeping with this idea, Mr. President, let us do something and let us do it quick, but let us do something.

Mr. ABOUREZK. I reserve the remainder of my time, Mr. President.

Mr. HRUSKA. It seems to me if there had been any seriousness to that request, it would have been communicated sooner so we could have discussed it among ourselves. If the Senator thinks there is enough time left, we are happy to discuss it.

Mr. STEVENS. Will the Senator yield?

Mr. HRUSKA. Yes, I yield.

Mr. STEVENS. I believe a bill of this magnitude ought to go to conference, and until that time I intend to oppose cloture.

Can the Senator tell me, is there opposition to this bill going to conference, naming conferees? I can understand there might be objection to a time limit to naming conferees on the conference report. That is a second subject. But is there opposition to going to conference on this bill?

Mr. HRUSKA. This Senator did not oppose it or resist it. I read the statement of the Senator from Michigan.

Mr. STEVENS. May I inquire, on the time of the Senator from Nebraska, does the Senator from Alabama oppose a conference on the bill?

Will the Senator permit me to ask the Senator from Alabama, is he opposing a conference on the bill as opposed to a time limit on the conference report?

Mr. ALLEN. I shall state that my position is to stand by the Senate amendment. It has been stated that there was a compromise on the Senate amendment. That is not the question. The question is whether we are going to ram this substitute of the rump conference down the throats of the Senate. That is the question now.

This motion, right now, could just as easily have been on going to the conference. They chose not to go that route. They chose to go this route.

I certainly would have no objection to withdrawing this and putting in the other move.

Mr. STEVENS. This Senator's question is, Is there opposition to going to conference? If there is, I intend to oppose it.

Mr. ALLEN. As things now stand, in the face of this cloture threat, yes.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Who yields time?

Mr. KENNEDY. Will the Senator from South Dakota yield to me?

Mr. ABOUREZK. I yield.

Mr. KENNEDY. How much time do I have, Mr. President?

The PRESIDING OFFICER. There are 5½ minutes remaining on the side of the Senator from South Dakota.

Mr. KENNEDY. I ask for ? minutes, Mr. President.

I am glad that the Senator from Alaska asked that question, because I think it is at the very heart of this issue we are debating. This issue underlies the reasons that the proponents of this approach feel that we deserve to have an opportunity to carry forward to final conclusion the action which has been taken by the Senate Antitrust Subcommittee, and the Committee on the Judiciary, and overwhelmingly by the Senate.

The fact of the matter is, Mr. President, as I think the membership knows, this whole issue, had been considered in subcommittee with 5 days of hearings, in full committee with 3 days of hearings and a total record of over 2,000 pages, with weeks of markup sessions in committee spanning up to 16 hours, with extensive debate on the floor of the Senate covering 10 days and some 70 votes. We finally reached a substantial compromise on the bill that came out of the Committee on the Judiciary.

Now, when the time comes to permit the Senate to continue its action with the House of Representatives, the members of that Judiciary Committee were told by opponents, "We are going to filibuster the appointment of conferees, too. We are going to filibuster that action, too." That is a more accurate and direct statement of the action that was taken by the Senator from Alabama.

Now we come back, given the exigencies of time, with the Senate schedule as it is, and respecting the position of the Senate majority leader and the leadership, trying to permit the Senate to act on a whole host of different legislative items. We have taken this extraordinary step to try to insure that we will not have to go to cloture on this two different times—cloture on this today to try to get to conference and cloture on the conference report. If we had been given assurance last week, which we have never been able to receive, that we would have the conferees appointed as suggested by the chairman of the Committee on the Judiciary, we would not be having this cloture petition here, and we would have taken our chances in a conference and also on facing the results of that conference.

We could get no such assurance. Neither the Senator from South Dakota nor I nor any other member of the Judiciary Committee is happy with this kind of procedure. We thought, many of us, and perhaps we were mistaken in thinking it, that at the time the compromise was worked out with the Senator from Florida, the Senator from New York, and a number of the other members, we were going to be able to permit the full action of the Senate to take place. The full action—at least I thought—meant the final vote and the appointment of Senate conferees. I never believed we were binding any Senator to accept the terms of a conference report, because completely different issues could have been raised at that stage. Everybody respects that right. But we have been denied the opportunity even to get to that stage.

Now, we hear those who are attempting to blunt the action of the Senator from South Dakota and myself and other members of the Committee on the Judiciary say "We are glad to go to conference now."

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. KENNEDY. Another minute and a half.

They say "We are glad to go to conference now." But that is not what was stated when we were meeting in the majority leader's office and trying to work out with the leadership an orderly process in trying to go forward last week.

This bill, I believe, is essential in terms of our economic situation in this country. A healthy economy is dependent upon vigorous competition in the marketplace. For anticompetitive business practices injure small businessmen and consumers alike, sapping our economy in the process. The inadequacy of existing investigatory, enforcement, deterrent, and procedural aspects of present antitrust laws has been fully documented by both House and Senate hearings. And both Houses have acted to do something about it.

We voted on 70 different issues in the Senate over a period of some 11 days of debate and discussion. We have compromised and compromised and compromised, to try to see if the essential aspects of that legislation could at least be considered. But we are seeing the ability of the Senate to address this issue totally frustrated.

When the Senate was faced with the bill, it invoked cloture and passed it overwhelmingly. Now we are being asked, because of the few Members of this body, to sidetrack what has been a major legislative effort, that has been addressed with seriousness and with thoughtfulness and bipartisanship. This represents a bipartisan effort. I do feel that we are justified in trying to succeed in the cloture motion at this time.

The PRESIDING OFFICER. The Senator's minute and a half have expired.

Mr. KENNEDY. I withhold the remainder of my time.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. There is 1 minute on the Senator's side. The other side was 10½ minutes.

Mr. ALLEN. Will the Senator from Nebraska, Mr. President, yield me 5 minutes?

Mr. HRUSKA. Yes, indeed.

Mr. ALLEN. I thank the Senator.

Mr. HRUSKA I yield 5 minutes to the Senator from Alabama.

Mr. ALLEN. Mr. President, this whole matter has been handled in a highly irregular fashion by the sponsors of this legislation. First, the House passed a bill with one title. The Senate had the opportunity to go forward with the Senate omnibus bill. Instead of that, they seized hold of the House one-title bill and added a bill with six titles, many of which were nongermane.

The measure then stayed in the House for some 6 weeks. They did not want to go to conference on the nongermane amendments. They hit on the idea of combining three bills that the House had passed into a message, and sent it back over here.

Now, Mr. President, the supporters of this measure held what might be called a rump conference. It was not a conference of the very members that the sponsors said they were going to have on a conference committee. They submitted a list of names and they did not appear. These were the conferees in the rump conference, which is not authorized under the rules, Senator KENNEDY, Senator ABOUREZK, and Senator HUGH SCOTT.

They met. Why not bring somebody else of the opposing viewpoint into this conference? This substitute that came out of this rump conference with some certain Members of the House, I assume all of whom approved of the legislation, was offered here on Friday without one word of explanation. The only word of explanation we have had with respect to the rump conference substitute is the little statement made by the distinguished Senator from South Dakota (Mr. ABOUREZK) and the distinguished Senator from Massachusetts (Mr. KENNEDY).

So what I have proposed—and the amendment is pending, the pending amendment, they said a compromise was reached on the Senate bill. Well, the substitute that I have offered, and the distinguished Senator from Nebraska (Mr. HRUSKA) supports the substitute, is the Senate bill.

So if the supporters of this legislation say there was a conference, let them abide by what the Senate did on June 10. That is exactly what my substitute, the pending substitute, would do. It makes two little amendments: One making it different from what it originally was, making the effective date January 1, and naming the act, as the substitute offered by Senator BYRD does, name it the Hart-Scott-Rodino bill. So it is the Senate position.

If there was a compromise made, why then have the supporters of that compromise departed from that compromise and offered the substitute prepared by a rump conference, reminiscent of the old days under Charles I and Cromwell in England where there was a rump Parliament which had no standing in law, and which was a remnant of the Long Parliament after Pride's Purge of that Parliament.

So this conference, this rump conference, held by Mr. ABOUREZK, Mr. KENNEDY, and Mr. HUGH SCOTT with individual Members of the House, was an extralegal body, and the great similarity to the rump Parliament should be obvious to all.

So this rump conference did come forward with a substitute that was put in the legislative mill last Friday without one word of justification or explanation of that substitute being offered.

So those who want this legislation, all they have to do is vote for what the Senate did on June 10. If they adopt that substitute, and that becomes the Senate position, there will be no further debate. All I am asking is that if there was a compromise, that we stand by the compromise. I am perfectly willing to vote right now. There is no need of a cloture vote. I am willing to vote right now on the Senate position on June 10.

So let us see if those who say it was a compromise are willing to stand by the compromise. I suggest they are not willing to stand by the compromise, else they would not have gone out and held this rump conference and come up with something entirely new. So——

The PRESIDING OFFICER (Mr. GLENN). The Senator's 5 minutes have expired.

Mr. ALLEN. I hope the Senate will——

Mr. ABOUREZK. Mr. President, I yield myself——

Mr. ALLEN. I have the floor. Since when——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ALLEN. I ask for an additional minute, Mr. President.

Mr. HRUSKA. Yes.

Mr. ALLEN. If those who want this legislation want to stand by what they say was a compromise, which was the Senate position on June 10 when we passed the Senate amendment, let them vote for this substitute offered by the Senator from Alabama, which is that Senate bill.

Mr. ABOUREZK. Mr. President, I yield myself 1 minute.

Mr. President, may I have the attention of the Senator from Nebraska? Would the Senator agree to a 2-minute extension of my time since I had to give it away to Senator MCGEE on a post office matter?

Mr. HRUSKA. Yes, indeed.

Mr. ABOUREZK. I ask unanimous consent, Mr. President, for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. I yield myself 1 minute, Mr. President.

Mr. President, back in South Dakota over the years people used to come through the countryside, and we used to call them snake oil salesmen. They had a bottle of magic potion that had really no ingredient, none of any substance, but it had a beautiful package and there was a beautiful spiel that came along with it. The snake oil salesman sold it all over the West country back a few decades ago. It smelled good, as Senator PASTORE just said.

That is exactly what is happening here. We preferred a conference, we wanted to go to conference, but we were prevented from doing so by the very same people who are up denouncing us for not going to conference.

Senator ALLEN from Alabama and Senator HRUSKA from Nebraska prevented us by virtue of a threat of a filibuster two different times. The threat of two filibusters has prevented us from going to conference. We would have preferred that course of action. Instead we were forced to go with the lack of bargaining strength that comes with a conference committee by virtue of submitting whatever the House is willing to offer us.

I think that common decency would require that they would at least admit to that fact, but, in fact, they will not. They get up and continue the charade, continue selling snake oil or trying to sell it.

Mr. STEVENS. Mr. President, will the Senator yield? The Senator will recall that when you get a snakebite you find out who your friends are. But in terms of this, this Senator believes that opposition to portions of this bill should have been resolved in the conference committee. If you say they threatened to filibuster, I again feel that the conference committee could have worked out a lot of the smaller details of this bill, particularly in the area of States rights involved in a State attorney general's powers under this bill. I do not know why you do not try to go to conference now.

Mr. ABOUREZK. Let me explain, if I might, Mr. President. The reason we will not try is because that would require two cloture motions when there is very little time left in the legislative year.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Who yields time?

Mr. KENNEDY. Did not the Senator——

The PRESIDING OFFICER. The Senator has 1 minute remaining. The other side has the time until 12:02, 3 minutes remaining on the side of the Senator from Nebraska.

Mr. KENNEDY. Mr. President, will the Senator yield me the last minute?

Mr. ABOUREZK. Yes.

Mr. KENNEDY. Mr. President, I think it is important to note that having heard a great deal about the institution and following the procedures, I would agree with the Senator from Alaska. We do not advance our position or respect for the institution of the Senate by denying an opportunity to go to conference, with conferees. This action on our part is not being taken lightly.

This is the first time, may I say to the Senator, since 1946 that there has been either a filibuster or a threat of a filibuster to the appointing of conferees by the Senate of the United States. That is what we were faced with, and that was as clear as could be when Senator ALLEN and Senator HRUSKA met in the majority leader's office last week. But the Senate was denied that opportunity. I think it is a real sham for opponents of this measure to say, having taken that position and stated to the members of the Judiciary Committee that it was their position, that now out here they are glad to go to conference and, in effect, to say to us that we have denied the opportunity for the Senate position to be advanced. This is the first time since 1946, we have been faced with such extraordinary action on the other side, and it calls for extraordinary action in response.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. ABOUREZK. Mr. President, do I have any time left?

The PRESIDING OFFICER. No. All time has expired. The only time remaining is that of the Senator from Nebraska.

Mr. HRUSKA. I yield 2 minutes to the Senator from Alabama.

Mr. ALLEN. Mr. President, the issue presented here by the choice of the sponsors of the legislation is such that they could just as easily have gone to conference and filed a cloture motion on that if they had that disposition. They chose to file cloture on the substitute prepared by the rump conference that was assembled by the supporters of the measure, without consultation with the chairman of the committee, without consultation with the ranking minority member.

So the issue is not whether you go to conference but whether the substitute of the rump conference is sent back to the

House or whether the Senate position of June 10 is sent back to the House for further consideration.

I stand by the Senate position of June 10. That is what is embodied in the pending amendment. I hope the Senate will stand by its position of June 10.

I will yield the remainder of my time to the distinguished Senator from Massachusetts or to——

Mr. ABOUREZK. Will the Senator yield just 10 seconds?

The Senator from Alabama said there was a mystery package. Senator HART, Friday, August 22, put an insert in the RECORD explaining exactly what we had done.

Mr. ALLEN. Nobody denies that. That was not given orally.

Mr. ABOUREZK. The Senator referred to it.

Mr. ALLEN. That was not given orally. Nobody knew about it until we read it in the RECORD.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. I yield back the remainder of my time.

Mr. BUCKLEY. Mr. President, I believe that extended debate of this legislation is appropriate to make sure that a bill we would live to regret will not be railroaded through the Senate.

The drafting of the parens patriae provision has ruined what could have otherwise amounted to a bill which was fair as well as tough.

The first thing wrong with this bill is its award of treble damages in the parens patriae situation. The rationale for treble damages is that they encourage the filing of risky suits by poorer defendants and provide a punishment where the violation was deliberate. But when the plaintiff is the State with all its resources, there is no need to retain treble damages as a means of encouraging suits. Moreover, I do not understand why a State should be entitled to treble damages against an unwitting and unwillful violator of the antitrust laws. I have always believed that the penalty should fit the crime, but the bill at hand makes no distinction between willful price fixing and other types of Sherman Act violations which may be unintended. This distinction is especially important when, as in the parens patriae situation, the mode of measuring damages becomes subject to error. As dissenting members of the House Judiciary Committee pointed out, the remedy for this injustice is a provision allowing the court to consider the defendant's degree of turpitude, his ability to stay in business, and other matters as justice may require. There is no reason why this parens patriae bill could not have been drafted to contain this type of provision. The original House bill contained such a provision, but it was deleted for some strange reason.

Another thing wrong with this bill is its provisions concerning attorney fees. As with existing Clayton Act violations, the State would be awarded reasonable attorney fees. A feeble attempt at impartiality is made with the provision that a defendant "may" receive fees, at the discretion of the court. However, just to make sure that the court doesn't feel sorry for a business which has expended thousands of dollars on a suit which is never brought to trial, the requirement is added that the State attorney general must have acted in bad faith or wantonly. Unlike the prior House bill, the prevailing defendant cannot recover attorney fees even if the suit was managed by a first year law student and turns out to be frivolous. A common criminal has a superior right to legal fees. There is no reason why prevailing defendants should not have a right to legal fees which is equal to that of prevailing plaintiffs.

Mr. President, I suspect that there are those who would like to provoke the President into vetoing a bad bill so that he can be unfairly accused of a pro big business bias. These people may believe that any bill with the antitrust label should be irresistible in an election year. I hope the President will stand firm, and veto the bill because the faults that I have pointed out have nothing to do with making the bill a more effective tool to curb abuses of business power. In fact, I would be voting for the bill if it had only been drafted with treble damage and legal fees provisions, for proponents of parens patriae are undoubtedly correct in arguing that class action suits became impractical when the injured parties are numerous and the damages per party are small. If the President is forced to veto this bill because of its defects, then it is this Congress, and not the administration, which will shoulder the blame for the failure to strengthen our antitrust laws.

CLOTURE MOTION

The PRESIDING OFFICER. All time having been used or yielded back and the 1 hour plus the 2 minutes having been added by unanimous consent earlier having expired since the Senate convened, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate upon the motion to agree to the House amendment to the Senate amendment to H.R. 8532, the Antitrust Parens Patriae Act, with the amendment in the nature of a substitute.

1. Mike Mansfield
2. Robert C. Byrd, Jr.
3. John C. Culver
4. Philip A. Hart
5. Edward M. Kennedy
6. James Abourezk
7. Joseph R. Biden, Jr.
8. Harrison A. Williams, Jr.
9. Stuart Symington
10. Robert T. Stafford
11. Patrick J. Leahy
12. Edmund S. Muskie
13. Adlai E. Stevenson
14. Daniel K. Inouye
15. Gale W. McGee
16. Lawton Chiles
17. Robert Morgan
18. Henry M. Jackson
19. Charles H. Percy
20. Jacob K. Javits
21. Lowell P. Weicker, Jr.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 34]

Abourezk
Allen
Baker
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Hawaii (Mr. FONG), the Senator from Nevada (Mr. LAXALT), and the Senator from Idaho (Mr. MCCLURE), are necessarily absent.

VOTE

The PRESIDING OFFICER (Mr. FORD). A quorum is present. The question is: Is it the sense of the Senate that debate upon the motion to agree to the House amendment to H.R. 8532, the Antitrust Parens Patriae Act, with an amendment in the nature of a substitute, shall be brought to a close? The yeas and nays are mandatory under the rule and the clerk will call the roll.

Mr. ROBERT C. BYRD. Will the Presiding Officer maintain order throughout the rollcall, Mr. President?

The PRESIDING OFFICER. The Chair will do his level best. Will Senators please take their seats? Will Senators please clear the aisles? Will employees please take their seats?

The clerk will not call the roll until Senators have taken their seats or retired to the cloakroom.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senate will please come to order. The clerk will suspend until order is restored. Senators will please continue their conversations in the cloakroom.

The clerk may proceed.

The rollcall was continued.

Mr. ALLEN. Regular order, Mr. President.

The PRESIDING OFFICER. The regular order is for Senators in the Chamber to vote.

Mr. ABOUREZK. Mr. President, how am I recorded?

SEVERAL SENATORS. Regular order, Mr. President.

Mr. HUGH SCOTT. Mr. President, a Senator is seeking recognition.

The PRESIDING OFFICER. The Chair will recognize a Senator seeking recognition.

Mr. ABOUREZK. Mr. President, how am I recorded?

The PRESIDING OFFICER. The Senator is recorded as having voted in the affirmative.

The rollcall was continued.

Mr. ABOUREZK. Regular order, Mr. President.

The PRESIDING OFFICER. The regular order is called for.

The rollcall was resumed and concluded.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. Church), the Senator from Washington (Mr. Magnuson), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Hawaii (Mr. Fong), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), and the Senator from Idaho (Mr. McClure) are necessarily absent.

The yeas and nays resulted—yeas 63, nays 27, as follows:

[Rollcall Vote No. 546 Leg.]

YEAS—63

Abourezk
Bayh
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Mansfield
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevenson
Stone
Symington
Taft
Weicker
Williams

NAYS—27

Allen
Baker
Bartlett
Bellmon
Brock
Buckley
Byrd,
Harry F., Jr.
Cannon
Curtis
Dole
Domenici
Eastland
Fannin
Garn
Goldwater
Hansen
Helms
Hruska
McClellan
Scott,
William L.
Sparkman
Stennis
Stevens
Talmadge
Thurmond
Tower
Young

NOT VOTING—10

Beall
Church
Fong
Laxalt
Magnuson
Mathias
McClure
Mondale
Montoya
Tunney

The PRESIDING OFFICER. On this vote, the yeas are 63 and the nays are 27. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The PRESIDING OFFICER. Each Senator now has 1 hour for debate. Who yields time?

The question is on agreeing to the amendment of the Senator from Alabama to the motion of the Senator from West Virginia. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. Church), the Senator from Washington (Mr. Magnuson), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from California (Mr. Tunney), are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Hawaii (Mr. Fong), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), and the Senator from Idaho (Mr. McClure), are necessarily absent.

The result was announced—yeas 27, nays 62, as follows:

[Rollcall Vote No. 547 Leg.]

YEAS—27

Allen
Baker
Bartlett
Bellmon
Brock
Buckley
Byrd, Robert C.
Curtis
Domenici
Eastland
Fannin
Garn
Goldwater
Hansen
Helms
Hruska
Huddleston
Long
McClellan
Randolph
Scott,
William L.
Sparkman
Stennis
Stevens
Talmadge
Tower
Young

NAYS—62

Abourezk
Bayh
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd,
Harry F., Jr.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Durkin
Eagleton
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Mansfield
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevenson
Stone
Symington
Taft
Thurmond
Weicker
Williams

NOT VOTING—11

Beall
Church
Fong
Laxalt
Magnuson
Mathias
McClure
McGee
Mondale
Montoya
Tunney

So Mr. Allen's amendment was rejected.

UP AMENDMENT NO. 410

Mr. ABOUREZK. Mr. President, I call up the substitute, which I have at the desk, and ask for its consideration.

The PRESIDING OFFICER. The substitute will be stated.

The legislative clerk read as follows:

> The Senator from South Dakota (Mr. Abourezk), for himself, Mr. Philip A. Hart, and Mr. Hugh Scott proposes unprinted amendment No. 410.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard. The amendment will be read.

The legislative clerk continued to read the amendment.

Mr. ABOUREZK. Mr. President, I ask unanimous consent, for the benefit of the clerk, that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will proceed.

The assistant legislative clerk resumed the reading of the amendment.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ALLEN. I object.

The PRESIDING OFFICER (Mr. Hollings). Objection is heard.

The assistant legislative clerk resumed the reading of the amendment.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ALLEN. Let us not delay it any further by making those requests because I am going to object.

The PRESIDING OFFICER. Objection is heard and the clerk may proceed.

The assistant legislative clerk resumed and concluded the reading of the amendment.

The amendment is as follows:

H.R. 8532

I move that the pending motion to concur, with an amendment, in the House amendment to the Senate amendment to the text of the bill (H.R. 8532) be amended by substituting in lieu of the matter therein proposed to be inserted in lieu of the House amendment to the Senate amendment to the text of the bill (H.R. 8532) the following:

That this Act may be cited as the "Hart-Scott-Rodino Antitrust Improvements Act of 1976".

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TITLE I—ANTITRUST CIVIL PROCESS ACT AMENDMENTS

DEFINITIONS

SEC. 101. Section 2 of the Antitrust Civil Process Act (15 U.S.C. 1311) is amended—

(1) in subsection (a)—

(A) by inserting "and" after the semicolon at the end of paragraph (1);

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) by striking out "(A)" and ", or (B) any unfair trade practice in or affecting such commerce" in paragraph (2) (as redesignated by subparagraph (B)).

(2) by amending subsection (c) to read as follows:

"(c) The term 'antitrust investigation' means any inquiry conducted by any antitrust investigator for the purpose of ascertaining whether any person is or has been engaged in any antitrust violation or in any activities in preparation for a merger, acquisition, joint venture, or similar transaction, which, if consummated, may result in an antitrust violation;".

(3) by amending subsection (f) to read as follows:

"(f) The term 'person' means any natural person, partnership, corporation, association, or other legal entity, including any person acting under color or authority of State law;".

4) by amending subsection (h) to read as follows:

"(h) The term 'custodian' means the custodian or any deputy custodian designated under section 4(a) of this Act.".

CIVIL INVESTIGATIVE DEMANDS

SEC. 102. Section 3 of such Act (15 U.S.C. 1312) is amended to read as follows:

"CIVIL INVESTIGATIVE DEMANDS

"SEC. 3. (a) Whenever the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to a civil antitrust investigation, he may, prior to the institution of a civil or criminal proceeding therein, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, to answer in writing written interrogatories, to give oral testimony concerning documentary material or information, or to furnish any combination of such material, answers, or testimony.

"(b) Each such demand shall—

"(1) state the nature of—

"(A) the conduct constituting the alleged antitrust violation, or

"(B) the activities in preparation for a merger, acquisition, joint venture, or similar transaction, which, if consummated, may result in an antitrust violation,

which are under investigation and the provision of law applicable thereto;

"(2) if it is a demand for production of documentary material—

"(A) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified; and

"(B) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(C) identify the custodian to whom such material shall be made available; or

"(3) if it is a demand for answers to written interrogatories—

"(A) propound with definiteness and certainty the written interrogatories to be answered; and

"(B) prescribe a date or dates at which time answers to written interrogatories shall be submitted; and

"(C) identify the custodian to whom such answers shall be submitted; or

"(4) if it is a demand for the giving of oral testimony—

"(A) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(B) identify an antitrust investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted.

"(c) No such demand shall require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony, if such material, answers, or testimony would be protected from disclosure under—

"(1) the standards applicable to subpenas or subpenas duces tecum issued by a court of the United States in aid of a grand jury investigation, or

"(2) the standards applicable to discovery requests under the Federal Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this Act.

"(d)(1) Any such demand may be served by any antitrust investigator, or by any United States marshal or deputy marshal, at any place within the territorial jurisdiction of any court of the United States.

"(2) Any such demand or any petition filed under section 5 of this Act may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this Act by such person that such court would have if such person were personally within the jurisdiction of such court.

"(e)(1) Service of any such demand or of any petition filed under section 5 of this Act may be made upon a partnership, corporation, association, or other legal entity by—

"(A) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

"(B) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity to be served; or

"(C) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

"(2) Service of any such demand or of any petition filed under section 5 of this Act may be made upon any natural person by—

"(A) delivering a duly executed copy thereof to the person to be served; or

"(B) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

"(f) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

"(g) The production of documentary material in response to a demand served pursuant to this section shall be made under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

"(h) Each interrogatory in a demand served pursuant to this section shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objection shall be stated in lieu of an answer, and it shall be submitted under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person or persons responsible for answering each interrogatory, to the effect that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted.

"(i)(1) The examination of any person pursuant to a demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken and transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian.

"(2) The antitrust investigator or investigators conducting the examination shall exclude from the place where the examination is held all other persons except the person being examined, his counsel, the officer before whom the testimony is to be taken, and any person taking such testimony. The provisions of the Act of March 3, 1913 (Ch. 114, 37 Stat. 731; 15 U.S.C. 30), shall not apply to such examinations.

"(3) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the antitrust investigator conducting the examination and such person.

"(4) When the testimony is fully transcribed, the antitrust investigator or the officer shall afford the witness (who may be accompanied by counsel) a reasonable opportunity to examine the transcript in the presence of the officer or antitrust investigator or in such other manner as determined by the Assistant Attorney General in charge of the Antitrust Division; and the transcript shall be read to or by the witness, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the officer or the antitrust investigator with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within thirty days of his being afforded a reasonable opportunity to examine it, the officer or the antitrust investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reason, if any, given therefor.

"(5) The officer shall certify on the transcript that the witness was duly sworn by him and that the transcript is a true record of the testimony given by the witness, and the officer or antitrust investigator shall promptly deliver it or send it by registered or certified mail to the custodian.

"(6) Upon payment of reasonable charges therefor, the antitrust investigator shall furnish a copy of the transcript to the witness only, except that the Assistant Attorney General in charge of the Antitrust Division may for good cause limit such witness to inspection of the official transcript of his testimony.

"(7)(A) Any person compelled to appear under a demand for oral testimony pursuant to this section may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, either upon the request of such person or upon counsel's own initiative, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may properly be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person shall not otherwise object to or refuse to answer any question, and shall not by himself or through counsel otherwise interrupt the oral examination. If such person refuses to answer any question, the antitrust investigator conducting the examination may petition the district court of the United States pursuant to section 5 of this Act for an order compelling such person to answer such question.

"(B) If such person refuses to answer any question on grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18, United States Code.

"(8) Any person appearing for oral examination pursuant to a demand served under this section shall be entitled to the same fees and mileage which are paid to witnesses in the district courts of the United States."

CUSTODIAN OF DOCUMENTS, ANSWERS, AND TRANSCRIPTS

SEC. 103. Section 4 of such Act is amended to read as follows:

"CUSTODIAN OF DOCUMENTS, ANSWERS, AND TRANSCRIPTS

"SEC. 4. (a) The Assistant Attorney General in charge of the Antitrust Division of the Department of Justice shall designate an antitrust investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this Act, and such additional antitrust investigators as he shall determine from time to time to be necessary to serve as deputies to such officer.

"(b) Any person, upon whom any demand under section 3 of this Act for the production of documentary material has been duly served, shall make such material available for inspection and copying or reproduction to the custodian designated therein at the principal place of business of such person (or at such other place as such custodian and such person thereafter may agree and prescribe in writing or as the court may direct, pursuant to section 5(d) of this Act) on the return date specified in such demand (or on such later date as such custodian may prescribe in writing). Such person may upon written agreement between such person and the custodian substitute copies for originals of all or any part of such material.

"(c)(1) The custodian to whom any documentary material, answers to interrogatories, or transcripts of oral testimony are delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the return of documentary material, pursuant to this Act.

"(2) The custodian may cause the preparation of such copies of such documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any duly authorized official or employee of the Department of Justice under regulations which shall be promulgated by the Attorney General. Such material, answers, and transcripts may be used by any such official or employee in connection with the taking of oral testimony pursuant to this Act.

"(3) Except as otherwise provided in this section, while in the possession of the custodian, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, so produced shall be available for examination, without the consent of the person who produced such material, answers, or transcripts, by any individual other than a duly authorized official or employee of the Department of Justice. Nothing in this section is intended to prevent disclosure to either body of the Congress or to any authorized committee or subcommittee thereof.

"(4) While in the possession of the custodian and under such reasonable terms and conditions as the Attorney General shall prescribe, (A) documentary material and answers to interrogatories shall be available for examination by the person who produced such material or answers, or by any duly authorized representative of such person, and (B) transcripts of oral testimony shall be available for examination by the person who produced such testimony, or his counsel.

"(d)(1) Whenever any attorney of the Department of Justice has been designated to appear before any court, grand jury, or Federal administrative or regulatory agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony may deliver to such attorney such material, answers, or transcripts for official use in connection with any such case, grand jury, or proceeding as such attorney determines to be required. Upon the completion of any such case, grand jury, or proceeding, such attorney shall return to the custodian any such material, answers, or transcripts so delivered which have not passed into the control of such court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

"(2) The custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony may deliver to the Federal Trade Commission, in response to a written request, copies of such material, answers, or transcripts for use in connection with an investigation or proceeding under the Commission's jurisdiction. Such material, answers, or transcripts may only be used by the Commission in such manner and subject to such conditions as apply to the Department of Justice under this Act.

"(e) If any documentary material has been produced in the course of any antitrust investigation by any person pursuant to a demand under this Act and—

"(1) any case or proceeding before any court or grand jury arising out of such investigation, or any proceeding before any Federal administrative or regulatory agency involving such material, has been completed, or

"(2) no case or proceeding, in which such material may be used, has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation, the custodian shall, upon written request of the person who produced such material, return to such person any such material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) which has not passed into the control of any court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

"(f) In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced under any demand issued pursuant to this Act, or the official relief of such custodian from responsibility for the custody and control of such material, answers, or transcripts, the Assistant Attorney General in charge of the Antitrust Division shall promptly (1) designate another antitrust investigator to serve as custodian of such material, answers, or transcripts, and (2) transmit in writing to the person who produced such material, answers, or testimony notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have with regard to such material, answers, or transcripts all duties and responsibilities imposed by this Act upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred prior to his designation.

JUDICIAL PROCEEDINGS

SEC. 104. (a) Section 5(a) of such Act is amended by striking out ", except that if" and all that follows down through the end of the sentence and inserting in lieu thereof a period.

(b) The first sentence of subsection (b) of section 5 of such Act is amended to read as follows: "Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any antitrust investigator named in the demand, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon such antitrust investigator a petition for an order of such court modifying or setting aside such demand.".

(c) The second sentence of subsection (b) of section 5 is amended by striking out the period at the end thereof and by inserting in lieu thereof: ", except that such person shall comply with any portions of the demand not sought to be modified or set aside.".

(d) Subsection (c) of section 5 is amended by striking out "delivered" and inserting in lieu thereof, "or answers to interrogatories delivered, or transcripts of oral testimony given".

(e) Section 5 is further amended by adding at the end thereof the following:

"(f) Any documentary material, answers to written interrogatories, or transcripts of oral testimony provided pursuant to any demand issued under this Act shall be exempt from disclosure under section 552 of title 5, United States Code.".

CRIMINAL PENALTY

SEC. 105. The third paragraph of section 1505 of title 18, United States Code, is amended to read as follows:

"Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or".

EFFECTIVE DATE

Sec. 106. The amendments to the Antitrust Civil Process Act and to section 1505 of title 18, United States Code, made by this title shall take effect on the date of enactment of this Act, except section 3(i)(8) of the Antitrust Civil Process Act (as amended by this Act) shall take effect on the later of (1) the date of enactment of this Act, or (2) October 1, 1976. Any such amendment which provides for the production of documentary material, answers to interrogatories, or oral testimony shall apply to any act or practice without regard to the date on which it occurred.

TITLE II—PREMERGER NOTIFICATION

NOTIFICATION AND WAITING PERIOD

Sec. 201. The Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting immediately after section 7 of such Act the following new section:

"Sec. 7A. (a) Except as exempted pursuant to subsection (c), no person shall acquire, directly or indirectly, any voting securities or assets of any other person, unless both persons (or in the case of a tender offer, the acquiring person) file notification pursuant to rules under subsection (d)(1) and the waiting period described in subsection (b)(1) has expired, if—

"(1) the acquiring person, or the person whose voting securities or assets are being acquired, is engaged in commerce or in any activity affecting commerce;

"(2)(A) any voting securities or assets of a person engaged in manufacturing which has annual net sales or total assets of $10,000,000 or more are being acquired by any person which has total assets or annual net sales of $100,000,000 or more;

"(B) any voting securities or assets of a person not engaged in manufacturing which has total assets of $10,000,000 or more are being acquired by any person which has total assets or annual net sales of $100,000,000 or more; or

"(C) any voting securities or assets of a person with annual net sales or total assets of $100,000,000 or more are being acquired by any person with total assets or annual net sales of $10,000,000 or more; and

"(3) as a result of such acquisition, the acquiring person would hold—

"(A) 15 per centum or more of the voting securities or assets of the acquired person, or

"(B) an aggregate total amount of the voting securities and assets of the acquired person in excess of $15,000,000.

In the case of a tender offer, the person whose voting securities are sought to be acquired by a person required to file notification under this subsection shall file notification pursuant to rules under subsection (d).

"(b)(1) The waiting period required under subsection (a) shall—

"(A) begin on the date of the receipt by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereafter referred to in this section as the 'Assistant Attorney General') of—

"(i) the completed notification required under subsection (a), or

"(ii) if such notification is not completed, the notification to the extent completed and a certification of the reasons for such noncompliance, from both persons, or, in the case of a tender offer, the acquiring person; and

"(B) end on the thirtieth day after the date of such receipt (or in the case of a cash tender offer, the fifteenth day), or on such later date as may be set under subsection (e)(2) or (g)(2).

"(2) The Federal Trade Commission and the Assistant Attorney General may, in individual cases, terminate the waiting period specified in paragraph (1) and allow any person to proceed with any acquisition subject to this section, and promptly shall cause to be published in the Federal Register a notice that neither intends to take any action within such period with respect to such acquisition.

"(3) As used in this section—

"(A) The term 'voting securities' means any securities presently or upon conversion entitling the owner or holder thereof to vote for the election of directors of the issuer or, with respect to unincorporated issuers, persons exercising similar functions.

"(B) The amount or percentage of voting securities or assets of a person which are acquired or held by another person shall be determined by aggregating the amount or percentage of such voting securities or assets held or acquired by such other person and each affiliate thereof.

"(c) The following classes of transactions are exempt from the requirements of this section—

"(1) acquisitions of goods or realty transferred in the ordinary course of business;

"(2) acquisitions of bonds, mortgages, deeds of trust, or other obligations which are not voting securities;

"(3) acquisitions of voting securities of an issuer at least 50 per centum of the voting securities of which are owned by the acquiring person prior to such acquisition;

"(4) transfers to or from a Federal agency or a State or political subdivision thereof;

"(5) transactions specifically exempted from the antitrust laws by Federal statute;

"(6) transactions specifically exempted from the antitrust laws by Federal statute if approved by a Federal agency, if copies of all information and documentary material filed with such agency are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General;

"(7) transactions which require agency approval under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), or section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842);

"(8) transactions which require agency approval under section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), section 403 or 408(e) of the National Housing Act (12 U.S.C. 1726 and 1730a), or section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), if copies of all information and documentary material filed with any such agency are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General at least 30 days prior to the date of consummation of the proposed transaction;

"(9) acquisitions, solely for the purpose of investment, of voting securities, if, as a result of such acquisition, the securities acquired or held do not exceed 10 per centum of the outstanding voting securities of the issuer;

"(10) acquisitions of voting securities, if, as a result of such acquisition, the voting securities acquired do not increase, directly or indirectly, the acquiring person's per centum share of outstandng voting securities of the issuer; and

"(11) acquisitions, solely for the purpose of investment, by any bank, banking association, trust company, investment company, or insurance company, of (A) voting securities pursuant to a plan of reorganization or dissolution; or (B) assets in the ordinary course of its business; and

"(12) such other acquisitions, transfers, or transactions, as may be exempted under subsection (d)(2)(B).

"(d) The Federal Trade Commission, with the concurrence of the Assistant Attorney General and by rule in accordance with section 553 of title 5, United States Code, consistent with the purposes of this section—

"(1) shall require that the notification required under subsection (a) be in such form and contain such documentary material and information relevant to a proposed acquisition as is necessary and appropriate to enable the Federal Trade Commission and the Assistant Attorney General to determine whether such acquisition may, if consummated, violate the antitrust laws; and

"(2) may—

"(A) define the terms used in this section;

"(B) exempt, from the requirements of this section, classes of persons, acquisitions, transfers, or transactions which are not likely to violate the antitrust laws; and

"(C) prescribe such other rules as may be necessary and appropriate to carry out the purposes of this section.

"(e)(1) The Federal Trade Commission or the Assistant Attorney General may, prior to the expiration of the 30-day waiting period (or in the case of a cash tender offer, the 15-day waiting period) specified in subsection (b)(1) of this section, require the submission of additional information or documentary material relevant to a proposed acquisition from any person required to file notification under subsection (a) of this section or from any officer, director, partner, agent, or employee of such person.

"(2) The Federal Trade Commission or the Assistant Attorney General, in its or his discretion, may extend the 30-day waiting period (or in the case of a cash tender offer, the 15-day waiting period) specified in subsection (b)(1) of this section for an additional period of not more than 20 days (or in the case of a cash tender offer, 10 days) after the date on which the Federal Trade Commission or the Assistant Attorney General, as the case may be, receives from any person to whom a request is made under paragraph (1), or in the case of tender offers, the acquiring person, (A) all the information and documentary material required to be submitted pursuant to such a request, or (B) if such request is not fully complied with, the information and documentary material submitted and a certification of the reasons for such noncompliance. Such additional period may be further extended only by the United States district court, upon an application by the Federal Trade Commission or the Assistant Attorney General pursuant to subsection (g)(2).

"(f) If a proceeding is instituted or an action is filed by the Federal Trade Commission, alleging that a proposed acquisition violates section 7 of this Act or section 5 of the Federal Trade Commission Act, or an action is filed by the United States, alleging that a proposed acquisition violates such section 7 or section 1 or 2 of the Sherman Act, and the Federal Trade Commission or the Assistant Attorney General (1) files a motion for a preliminary injunction against consummation of such acquisition pendente lite, and (2) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection—

"(A) upon the filing of such motion and certification, the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such district court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes; and

"(B) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to section 3161 of title 18, United States Code, and shall be in every way expedited.

"(g)(1) Any person, or any officer, director, or partner thereof, who fails to comply with any provision of this section shall be liable to the United States for a civil penalty of not more than $10,000 for each day during which such person is in violation of this section. Such penalty may be recovered in a civil action brought by the United States.

"(2) If any person, or any officer, director, partner, agent, or employee thereof, fails to substantially comply with the notification requirement under subsection (a) or any request for the submission of additional information or documentary material under subsection (e)(1) of this section within the waiting period specified in subsection (b)(1) and as may be extended under subsection (e)(2), the United States district court—

"(A) may order compliance;

"(B) shall extend the waiting period specified in subsection (b)(1) and as may have been extended under subsection (e)(2) until there has been substantial compliance, except that, in the case of a tender offer, the court may not extend such waiting period solely on the basis of a failure, by the person whose stock is sought to be acquired, to substantially comply with such notification requirement or any such request; and

"(C) may grant such other equitable relief as the court in its discretion determines necessary or appropriate,

upon application of the Federal Trade Commission or the Assistant Attorney General.

"(h) Any information or documentary material filed with the Assistant Attorney General or the Federal Trade Commission pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except in any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to either body of Congress or to any duly authorized committee or subcommittee of the Congress.

"(i)(1) Any action taken by the Federal Trade Commission or the Assistant Attorney General or any failure of the Federal Trade Commission or the Assistant Attorney General to take any action under this section shall not bar any proceeding or any action with respect to such acquisition at any time under any other section of this Act or any other provision of law.

"(2) Nothing contained in this section shall limit the authority of the Assistant Attorney General or the Federal Trade Commission to secure at any time from any person documentary material, oral testimony, or other information under the Antitrust Civil Process Act, the Federal Trade Commission Act, or any other provision of law.

"(j) Beginning not later than January 1, 1978, the Federal Trade Commission, with the concurrence of the Assistant Attorney General, shall annually report to the Congress on the operation of this section. Such report shall include an assessment of the effects of this section, of the effects, purpose, and need for any rules promulgated pursuant thereto, and any recommendations for revisions of this section.".

EFFECTIVE DATES

SEC. 202. (a) The amendment made by section 201 of this Act shall take effect 150 days after the date of enactment of this Act, except that subsection (d) of section 7A of the Clayton Act (as added by section 201 of this Act) shall take effect on the date of enactment of this Act.

TITLE III—PARENS PATRIAE

PARENS PATRIAE ACTIONS BY STATE ATTORNEYS GENERAL

SEC. 301. The Clayton Act is amended by inserting immediately following section 4B the following new sections:

"ACTIONS BY STATE ATTORNEYS GENERAL

"SEC. 4C. (a)(1) Any attorney general of a State may bring a civil action in the name of such State, as parens patriae on behalf of natural persons residing in such State, in any district court of the United States having jurisdiction of the defendant, to secure monetary relief as provided in this section for injury sustained by such natural persons to their property by reason of any violation of the Sherman Act. The court shall exclude from the amount of monetary relief awarded in such action any amount of monetary relief (A) which duplicates amounts which have been awarded for the same injury, or (B) which is properly allocable to (i) natural persons who have excluded their claims pursuant to subsection (b)(2) of this section, and (ii) any business entity.

"(2) The court shall award the State as monetary relief threefold the total damage sustained as described in paragraph (1) of this subsection, and the cost of suit, including a reasonable attorney's fee.

"(b)(1) In any action brought under subsection (a)(1) of this section, the State attorney general shall, at such times, in such manner, and with such content as the court may direct, cause notice thereof to be given by publication. If the court finds that notice given solely by publication would deny due process of law to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case.

"(2) Any person on whose behalf an action is brought under subsection (a)(1) may elect to exclude from adjudication the portion of the State claim for monetary relief attributable to him by filing notice of such election with the court within such time as specified in the notice given pursuant to paragraph (1) of this subsection.

"(3) The final judgment in an action under subsection (a)(1) shall be res judicata as to any claim under section 4 of this Act by any person on behalf of whom such action was brought and who fails to give such notice within the period specified in the notice given pursuant to paragraph (1) of this subsection.

"(c) An action under subsection (a)(1) shall not be dismissed or compromised without the approval of the court, and notice of any proposed dismissal or compromise shall be given in such manner as the court directs.

"(d) In any action under subsection (a)—

"(1) the amount of the plaintiffs' attorney's fee, if any, shall be determined by the court; and

"(2) the court may, in its discretion, award a reasonable attorney's fee to a prevailing defendant upon a finding that the State attorney general has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

"MEASUREMENT OF DAMAGES

"SEC. 4D. In any action under section 4C (a)(1), in which there has been a determination that a defendant agreed to fix prices in violation of the Sherman Act, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

"DISTRIBUTION OF DAMAGES

"SEC. 4E. Monetary relief recovered in an action under section 4C(a)(1) shall—

"(1) be distributed in such manner as the district court in its discretion may authorize; or

"(2) be deemed a civil penalty by the court and deposited with the State as general revenues; subject in either case to the requirement that any distribution procedure adopted afford each person a reasonable opportunity to secure his appropriate portion of the net monetary relief.

"ACTIONS BY ATTORNEY GENERAL OF THE UNITED STATES

"SEC. 4F. (a) Whenever the Attorney General of the United States has brought an action under the antitrust laws, and he has reason to believe that any State attorney general would be entitled to bring an action under this Act based substantially on the same alleged violation of the antitrust laws, he shall promptly give written notification thereof to such State attorney general.

"(b) To assist a State attorney general in evaluating the notice or in bringing any action under this Act, the Attorney General of the United States shall, upon request by such State attorney general, make available to him, to the extent permitted by law, any investigative files or other materials which are or may be relevant or material to the actual or potential cause of action under this Act.

"DEFINITIONS

"SEC. 4G. For the purposes of sections 4C, 4D, 4E, and 4F of this Act:

"(1) The term 'State attorney general' means the chief legal officer of a State, or any other person authorized by State law to bring actions under section 4C of this Act, and includes the Corporation Counsel of the District of Columbia, except that such term does not include any person employed or retained on—

"(A) a contingency fee based on a percentage of the monetary relief awarded or recovered by settlement of an action brought under section 4C; or

"(B) any other contingency fee basis, unless the amout of the award of a reasonable attorney's fee to a prevailing plaintiff is determined by the court under section 4C(d)(1).

"(2) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

"(3) The term 'natural persons' does not include proprietorships or partnerships.

"APPLICABILITY OF PARENS PATRIAE ACTIONS

"SEC. 4H. Sections 4C, 4D, 4E, 4F, and 4G shall apply in any State, unless such State provides by law for its non-applicability in such State.".

CONFORMING AMENDMENTS

SEC. 302. The Clayton Act (15 U.S.C. 12 et seq.), is amended—

(1) in section 4B (15 U.S.C. 15b), by striking out "sections 4 or 4A" and inserting in lieu thereof "section 4, 4A, or 4C";

(2) in section 5(i) (15 U.S.C. 16(i)), by striking out "private right of action" and inserting in lieu thereof "private or State right of action"; and by striking out "section 4" and inserting in lieu thereof "section 4 or 4C"; and

(3) by adding at the end of section 16 (15 U.S.C. 26) the following: "In any action under this section in which the plaintiff substantially prevails, the court shall award the cost of suit, including a reasonable attorney's fee, to such plaintiff.".

CONSOLIDATION

SEC. 303. Section 1407 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"(h) Notwithstanding the provisions of section 1404 or subsection (f) of this section, the judicial panel on multidistrict litigation may consolidate and transfer with or without the consent of the parties, for both pretrial purposes and for trial, any action brought under section 4C of the Clayton Act.

EFFECTIVE DATE

SEC. 304. The amendments to the Clayton Act made by section 301 of this Act shall not apply to any injury sustained prior to the date of enactment of this Act.

SHORT TITLES FOR CERTAIN ANTITRUST LAWS

SEC. 305. (a) The Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), is amended by adding immediately after the enacting clause the following: "That this Act may be cited as the 'Sherman Act'.".

(b) The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), is amended by—

(1) inserting "(a)" after "That" in the first section; and

(2) adding at the end of the first section the following new subsection:

"(b) This Act may be cited as the 'Clayton Act'.".

(c) The Act entitled "An Act to promote export trade, and for other purposes", approved April 10, 1918 (40 Stat. 516; 15 U.S.C. 61 et seq.) is amended by adding at the end thereof the following new section:

"Sec. 6. This Act may be cited as the 'Webb-Pomerene Act'.".

(d) The Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (28 Stat. 509; 15 U.S.C. 8 et seq.), is amended by adding at the end thereof the following new section:

"Sec. 78. Sections 73, 74, 75, 76, and 77 of this Act may be cited as the 'Wilson Tariff Act'.".

The PRESIDING OFFICER (Mr. Johnston). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I am hopeful that we can move very quickly to the Senate's voting on this particular substitute. It is primarily technical in nature.

A good deal was mentioned last Friday about the fact that the proposal that was being advanced in the Senate consisted of needed technical changes and alterations, and this particular amendment that is now before the Senate does just that.

I do not feel that it is necessary to get into a more detailed kind of explanation. As we mentioned, this is only technical. There are changes only in very few places, and those are technical in nature, changes from the earlier substitute.

I am hopeful we can have sufficient Senators present in the Chamber so that we will be able to get the yeas and nays on this particular amendment, and when we do have Senators in sufficient number here I shall ask for the yeas and nays.

UP AMENDMENT NO. 411

Mr. ALLEN. Mr. President, I have an unprinted amendment at the desk which I ask to be stated. It is a perfecting amendment to the Byrd motion.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Alabama (Mr. Allen) proposes unprinted amendment No. 411.

Mr. ALLEN. Mr. President, I ask that the amendment be fully stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment which was offered as follows:

I move that the pending motion to concur, with an amendment, in the House amendment to the Senate amendment to the text of the bill (H.R. 8532) be amended by adding at the end thereof the following:

Section 1. This Act may be cited as the "Hart-Scott-Rodino/Kennedy, Abourezk, Morgan Antitrust Improvements Act of 1976".

TITLE I—DECLARATION OF POLICY

Sec. 101. (a) It is the purpose of the Congress in this Act to support and investigate effective and expeditious enforcement of the antitrust laws, to improve and modernize antitrust investigation and enforcement mechanisms, to facilitate the restoration and maintenance of competition in the marketplace, and to prevent and eliminate monopoly and oligopoly power in the economy.

(b) The Congress finds and declares that—

(1) this Nation is founded upon and committed to a private enterprise system and a free market economy, in the belief that competition spurs innovation, promotes productivity, prevents the undue concentration of economic, social, and political power, and preserves a free, democratic society;

(2) the decline of competition in the economy could contribute to unemployment, inefficiency, underutilization of economic capacity, a reduction in exports, and an adverse effect on the balance of payments;

(3) diminished competition and increased concentration in the marketplace have been important factors in the ineffectiveness of monetary and fiscal policies in reducing the high rates of inflation and unemployment;

(4) investigations by the Federal Trade Commission, the Department of Justice, and the National Commission on Food Marketing, as well as other independent studies, have identified conditions of excessive concentration and anticompetitive behavior in various industries; and

(5) vigorous and effective enforcement of the antitrust laws, and reduction of anticompetitive practices in the economy, can contribute to reducing prices, unemployment, and inflation, and to preservation of our democratic institutions and personal freedoms.

TITLE II—ANTITRUST CIVIL PROCESS ACT AMENDMENTS

Sec. 201. The Antitrust Civil Process Act (76 Stat. 548; 15 U.S.C. 1311) is amended as follows:

(a) Subsection (a) of section 2 is amended by inserting "and" after the semicolon at the end of subparagraph (1), by striking subparagraph (2) thereof, and by renumbering subparagraph (3) and striking therefrom "(A)" after the words "with respect to," substituting a semicolon for the comma after the words "trade or commerce" and striking the remainder of the subparagraph.

(b) Subsection (c) of section 2 is amended to read as follows:

"(c) The term 'antitrust investigation' means any inquiry conducted by any antitrust investigator for the purpose of ascertaining whether any person is or has been engaged in any antitrust violation or in any activities preparatory to a merger, acquisition, joint venture, or similar transaction, which may lead to any antitrust violation;".

(c) Subsection (f) of section 2 is amended by striking out the words "not a natural person", by inserting immediately after the word "means" the words "any natural person or", and by inserting immediately after the word "entity" the words ", including any natural person or entity acting under color or authority of State law;".

(d) Subsection (h) of section 2 is amended by striking out the words "antitrust document".

(e) Subsection (a) of section 3 is amended to read as follows:

"(a) Whenever the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to a civil antitrust investigation, he may, prior to the institution of a civil or criminal proceedng thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, or to answer in writing written interrogatories concerning such information, or to give oral testimony concerning such information, or to furnish any combination thereof.".

(f) Subsection (b) of section 3 is amended to read as follows:

"(b) Each such demand shall—

"(1) state the nature of the investigation and the provision of law applicable thereto or the Federal administrative or regulatory agency proceeding involved; and

"(a) (A) if it is a demand for production of documentary material—

"(i) describe the class or classes of documentary material to be produced thereunder, with such definiteness and certainty as to permit such material to be fairly identified; and

"(ii) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying of reproduction; and

"(iii) identify the custodian to whom such material shall be made available; or

"(B) if it is a demand for answers to written interrogatories—

"(i) propound with definiteness and certainty the written interrogatories to be answered; and

"(ii) prescribe a date or dates at which time answers to the written interrogatories shall be made; and

"(iii) identify the custodian to whom such answers shall be made; or

"(C) if it is a demand for the giving of oral testimony—

"(i) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(ii) identify the antitrust investigator or investigators who shall conduct the examination, and the custodian to whom the transcript of such examination shall be given.".

(g) Subsection (c) of section 3 is amended to read as follows:

"(c) Such demand shall—

"(1) not require the production of any information that would be privileged from disclosure if demanded by, or pursuant to, a subpena issued by a court of the United States in aid of a grand jury investigation; and

"(2) (A) if it is a demand for production of documentary material, not contain any requirement which would be held to be unreasonable if contained in a subpena duces tecum issued by a court of the United States in aid of a grand jury investigation; or

"(B) if it is a demand for answers to written interrogatories, not impose an undue or oppressive burden on the person required to furnish answers.".

(h) Subsection (f) of section 3 is redesignated subsection (h) and the following new subsections are inserted immediately following subsection (e):

"(f) Service of any such demand or of any petition filed under section 5 of this Act may be made upon any natural person by—

"(1) delivering a duly executed copy thereof to the person to be served; or

"(2) depositing such copy in the United States mails, by registered or certified mail duly addressed to such person at his residence or principal office or place of business.

"(g) Service of any such demand or of any position filed under section 5 of this Act may be made upon any person who, in the opinion of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, is not to be found within the territorial jurisdiction of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. If such person has had contacts with the United States that were sufficient to, or if the conduct of such person has so affected the trade and commerce of the United States as to, permit the courts of the United States to assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this Act by such person that it would have if such person were personally within the jurisdiction of such court.".

(i) Section 3 is further amended by inserting the following new subsections immediately after subsection (h), as redesignated:

"(i) The production of documentary material in response to a demand for production thereof shall be made under a certificate, in such form as the demand designates, sworn to by the person, if a natural person, to whom the demand is directed or, if the person to which the demand is directed is not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production, to the effect that all documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

"(j) Each interrogatory in a demand served pursuant to this section shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer, and the answers shall be submitted under a certificate, in such form as the demand designates, sworn to by the person, if a natural person, to whom the demand is directed, or if the person to which the demand is directed is not a natural person, by a person or persons responsible for the answers, to the effect that all information required by the demand and in the possession, custody, or control of the person to whom the demand is directed, or within the knowledge of such person, has been furnished.

"(k)(1) The examination of any person pursuant to a demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit the transcript of the testimony to the possession of the custodian. The antitrust investigator or investigators conducting the examination shall exclude from the place where the examination is held all persons other than the person being examined, his counsel, the officer before whom the testimony is to be taken, and any stenographer taking said testimony. The provisions of the Act of March 3, 1913 (Ch. 114, 37 Stat. 731; 15 U.S.C. 30) shall not apply to such examinations.

"(2) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts personal business, or in such other place as may be agreed upon between the antitrust investigator or investigators conducting the examination and such person.

"(3) When the testimony is fully transcribed, the witness shall be afforded an opportunity to examine the transcript, in the presence of the officer, for errors in transcription. Any corrections of transcription errors which the witness desires to make shall be entered and identified upon the transcript by the officer, with a statement of the reasons given by the witness for making them. The witness also may clarify or complete answers otherwise equivocal or incomplete on the record, which shall be entered and identified upon the transcript by the officer, with a statement of the reasons given by the witness for making them. The transcript shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the transcript is not signed by the witness within thirty days of his being afforded an opportunity to examine it, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign, together with the reason, if any, given therefor. The officer shall certify on the transcript that the witness was duly sworn by him and that the transcript is a true record of the testimony given by the witness and promptly send it by registered or certified mail to the custodian. Upon payment of reasonable charges therefor, the witness shall be permitted to inspect and copy the transcript of his testimony to the extent and in the circumstances that he would be entitled to do so if it were a transcript of his testimony before a grand jury; and there may be imposed on such inspection and copying such conditions as the interests of justice require.

"(4) Any person compelled to appear under a demand for oral testimony pursuant to this section may be accompanied by counsel. Such person or counsel may object on the record, briefly stating the reason therefor, whenever it is claimed that such person is entitled to refuse to answer any question on grounds of privilege or other lawful grounds; but he shall not otherwise interrupt the examination. If such person refuses to answer any question on the grounds of privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18, United States Code. If such person refuses to answer any question, the antitrust investigator or investigators conducting the examination may request the district court of the United States for the judicial district within which the examination is conducted to order such person to answer, in the same manner as if such person had refused to answer such question after having been subpenaed to testify thereto before a grand jury, and upon disobedience to any such order of such court, such court may punish such person for contempt thereof.

"(5) Any person examined pursuant to a demand under this section shall be entitled to the same fees and mileage that are paid to witnesses in the courts of the United States. The court shall award any person, not the subject of an antitrust investigation (or an officer, director, employee or agent thereof), who shall respond to, or be examined pursuant to a demand under this section, reasonable expenses incurred by him in preparing and producing documentary material or in appearing for examination, including reasonable attorneys' fees. A determination made pursuant to this paragraph (5) shall be made subsequent to compliance by such person with such demand.".

(j) Subsection (a) of section 4 is amended by striking the words "antitrust document", and by inserting immediately after the word "custodian" the words "of documentary material demanded, answers to written interrogatories served, or transcripts of oral testimony taken, pursuant to this Act".

(k) Subsection (b) of section 4 is amended by inserting in the first sentence immediately after the word "demand", first appearance, the words "for the production of documents", and by amending the second sentence to read as follows: "Such person may upon written agreement between such person and the custodian substitute true copies for originals of all or any part of such material.".

(l) Subsection (c) of section 4 is amended by inserting in the first sentence immediately after the word "any" the word "such", by inserting in the first sentence immediately after the word "material" the words ", answers to interrogatories, or transcripts of oral testimony", by inserting in the second sentence immediately after the word "material" the words ", answers to interrogatories, or transcripts of oral testimony", by inserting in the third sentence immediately after the word "material", in both places where it appears, the words "or information", by inserting in the fourth sentence immediately before the word "documentary" the word "such", and by adding after the fourth sentence the following new sentence: "Such documentary material and answers to interrogatories may be used in connection with any oral testimony taken pursuant to this Act.".

(m) Subsection (d) of section 4 is amended to read as follows:

"(d)(1) Whenever any attorney of the Antitrust Division of the Department of Justice has been designated to appear before any court, grand jury, or Federal administrative or regulatory agency in any case or proceeding, the custodian of any documentary material answers to interrogatories, or transcripts of oral testimony may deliver to such attorney such documentary material, answers to interrogatories, or transcripts of oral testimony for use in connection with any such case, grand jury, or proceeding as such attorney determines to be required. Upon the completion of any such case, grand jury, or proceeding such attorney shall return to the custodian any such materials so delivered that have not passed into the control of such court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

"(2) The custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony shall deliver to the Federal Trade Commission, in reponse to a written request, copies of such documentary material, answers to interrogatories, or transcripts of oral testimony for use in connection with any investigation or proceeding under its jurisdiction unless the Assistant Attorney General in charge of the Antitrust Division determines that it would not be in the public interest to provide such material to the Commission. Upon the completion of any such investigation or proceeding, the Commission shall return to the custodian any such materials so delivered that have not been introduced into the record of such case or proceeding before the Commission. While such materials are in the possession of the Commission, it shall be subject to any and all restrictions and obligations which this Act places upon the custodian of such materials while in the possession of the Antitrust Division of the Department of Justice.".

(n) Subsection (e) of section 4 is amended to read as follows:

"(e) Upon the completion of—

"(1) the antitrust investigation for which any documentary material was produced pursuant to this Act; and

"(2) any such case or proceeding,

the custodian shall return to the person who produced such material all such material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) which has not passed into the control of any court, grand jury, or Federal administrative or regulatory agency through the introduction thereof into the record of such case or proceeding.".

(o) Subsection (f) of section 4 is amended to read as follows:

"(f) When any documentary material has been produced by any person pursuant to this Act, and no case or proceeding as to which the documents are usable has been instituted and is pending or has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the course of such investigation, such person shall be entitled, upon written demand made upon the Attorney General or upon the Assistant Attorney General in charge of the Antitrust Division, to the return of all such documentary material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) so produced by such person.".

(p) Subsection (g) of section 4 is amended to read as follows:

"(g) In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material produced, answers to written interrogatories served, or transcripts of oral testimony taken, under any demand issued pursuant to this Act, or the official relief of such custodian from responsibility for the custody and control of such material, the Assistant Attorney General in charge of the Antitrust Division shall promptly (1) designate another antitrust investigator to serve as custodian of such documentary material, answers to interrogatories, or transcripts of oral testimony, and (2) transmit in writing to the person who submitted the documentary material notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have with regard to such materials all duties and responsibilities imposed by this Act upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred before his designation.".

(q) Subsection (a) of section 5 is amended by striking out all the words following the word "Act", and by striking out the comma after the word "Act" and inserting in lieu thereof a period.

(r) The first sentence of subsection (b) of section 5 is amended to read as follows:

"(b) Within twenty days after the service of any such demand upon any person, or at any time before the compliance date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such compliance date as may be prescribed in writing, subsequent to service, by the antitrust investigator or investigators named in the demand, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon the antitrust investigator or investigators named in the demand a petition for an order of such court modifying or setting aside such demand.".

(s) The second sentence of subsection (b) of section 5 is amended by striking out the final period and inserting a colon in lieu thereof, and by inserting immediately after the colon the words: "*Provided,* That such person shall promptly comply with such portions of the demand not sought to be modified or set aside.".

(t) Subsection (b) of section 5 is amended by inserting the following sentence at the end thereof: "Any such ground not specified in such a petition shall be deemed waived unless good cause is shown for the failure to assert it in such a petition.".

(u) Subsection (c) of section 5 is amended by striking out the word "delivered", and by inserting immediately after the word "material" the words "or answers to interrogatories delivered, or transcripts of oral testimony given".

(v) The third paragraph of section 1505 of title 18, United States Code, is amended by inserting between the words "any" and "documentary" the words "oral or written information or any", and by inserting between the third and fourth paragraphs the following:

"Whoever knowingly and willfully withholds, falsifies, or misrepresents, or by any trick, fraud, scheme, or device conceals or covers up, a material part of any oral or written information or documentary material which is the subject of a demand pursuant to the Antitrust Civil Process Act, or attempts to or solicits another to do so; or".

(w) Section 5 is amended by adding at the end thereof the following:

"(f) Any material or information provided pursuant to any demand under this Act shall be exempt from disclosure under section 552 of title 5, United States Code.".

SEC. 202. Section 5 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 16), is amended by adding at the end thereof the following new subsections:

"(j) A plea of nolo contendere in a criminal proceeding under the antitrust laws shall be accepted by the court only after due consideration of the views of the parties and the interest of the public in the effective administration of justice.

"(k) The Attorney General, unless he determines it would be contrary to the public interest, shall upon written request from the Federal Trade Commission, after completion of any civil or criminal proceeding instituted by the United States and arising out of any grand jury proceeding or after the termination of any grand jury proceeding which does not result in the institution of such a proceeding, permit the Commission to inspect and copy any documentary material produced in and the transcripts of such grand jury proceeding. While such materials are in the possession of the Commission, the Commission shall be subject to any and all restrictions and obligations placed upon the Attorney General with respect to the secrecy of such materials.

"(l) Any person that institutes a civil action under this Act may, upon payment of reasonable charges therefor and after completion of any criminal proceeding instituted by the United States in which a defendant enters a plea of guilty or nolo contendere and arising out of any grand jury proceeding, inspect and copy any documentary material produced by such defendant in and the transcript of the testimony of such defendant or any other officer, director, employee, or agent of such defendant in such grand jury proceeding concerning the subject matter of such person's civil action. Any action or proceeding to compel the grant of access under this subsection shall be brought in the United States district court for the district in which the grand jury proceeding occurred. The court may impose conditions upon the grant of access and protective orders that are required by the interests of justice.".

TITLE IV—PARENS PATRIAE AMENDMENTS

SEC. 401. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 12), is amended by inserting immediately following section 4B the following new sections:

"SEC. 4C. (a) (1) Any attorney general of a State may bring a civil action, in the name of such State in any district court of the United States having jurisdiction of the defendant, to secure monetary and other relief as provided in this section in respect of any damage sustained, by reason of the defendant's having engaged in any activity deemed a per se offense, or arising out of the fraudulent procurement or enforcement of a patent, in violation of the Sherman Act, by the natural persons residing in such State, or any of them: *Provided,* That no monetary relief shall be awarded in respect of such damage that duplicates any monetary relief that has been awarded or is properly allocable to (i) such natural persons who have excluded their claims pursuant to subsection (b) (2) of this section, and (ii) any business entity.

"(2) The court shall award the State as monetary relief threefold the total damage sustained as described in subsection (a) (1) of this section; such other relief as is just in the circumstances to prevent or remedy the violation of the Sherman Act; and the cost of suit, including a reasonable attorney's fee and other expenses of the litigation.

"(b) (1) In any action brought under subsection (a) (1) of this section, the State attorney general shall, at such times, in such manner and with such content as the court may direct, cause notice thereof to be given by publication. If the court finds that notice by publication only would be manifestly unjust as to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case.

"(2) Any person may elect to exclude from adjudication in an action brought under subsection (a) (1) of this section the portion of the State claim for monetary relief attributable to him. He shall do so by filing a notice of such election with the court within such time as specified in the notice prescribed pursuant to subsection (b) (1) of this section.

"(3) The final judgment in the action brought by the State shall be res judicata as to any claim under section 4 of this Act by any person in respect of damage to whom such action was brought unless such person has filed the notice prescribed in subsection (b) (2) of this section.

"(c) (1) In any action under section 4C (a) (1) in which there has been a determination that a defendant agreed to fix prices or in which it has been determined that a defendant engaged in the procurement by fraud (other than technical fraud) of a patent or the enforcement of a patent procured by fraud (other than technical fraud) in violation of the antitrust laws, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

"(2) In any action brought under subsection (a) (1) of this section, the court shall distribute, or direct the distribution of, any monetary relief awarded to the State either in accordance with State law or as the district court may in its discretion authorize. In either case, any distribution procedure adopted shall afford each person in respect of damage to whom the relief was awarded a reasonable opportunity to secure his appropriate portion of the net monetary relief. In the event that any monetary relief awarded to a State is not completely distributed the court may, in its discretion, after the lapse of a reasonable period of time, direct that the undistributed portion be (A) utilized to reduce future prices of the commodity involved in the violation; or (B) deemed a civil penalty and deposited with the State as general revenues.

"(d) An action brought under this section shall not be dismissed or compromised without approval of the court after providing such notice to persons affected thereby as the court shall direct in the interests of justice.

"(e) In any action brought under this section, the amount of plaintiffs' attorneys' fees, if any, shall be determined by the court.

"(f) In any action brought under this section, the court may in its discretion award reasonable attorneys' fees to a prevailing defendant upon a finding that the State attorney general acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

"SEC. 4D. Whenever the Attorney General of the United States has brought an action under the antitrust laws, and he has reason to believe that any State attorney general would be entitled to bring an action under this Act based substantially on the same alleged violation of the antitrust laws, he shall promptly give written notification thereof to such State attorney general.

"SEC. 4E. (a) In any action under section 4 or 4C of this Act, the State or any other plantiff shall be entitled to recover treble damages in respect to the full amount of overcharges incurred or other monetary damages sustained in connection with expenditures under a federally funded program, notwithstanding the fact that the United States funded portions of the amounts claimed.

"(b) The Attorney General of the United States shall have the right to intervene in any such action to protect the interests of the United States.

"(c) Out of any damages recovered pursuant to this section, the United States shall be entitled to the portion of the overcharges or other monetary damages, untrebled, that it sustained or funded. Whenever another Federal statute or law provides a specified method of settlement of accounts between the State and Federal Governments, in respect of such recovery, such method shall be used. Otherwise, the court before which the action is pending shall determine the method.

"(d) In the event of multiple actions in respect of the same alleged overcharges or other damages relating to a federally funded program, the defendant shall not be assessed, in total, more than threefold such damages.

"SEC. 4F. For the purposes of sections 4C, 4D, and 4E of this Act:

"(1) The term 'State attorney general' means the chief legal officer of a State, or any other person authorized by State law to bring actions under section 4C of this Act, and shall include the Corporation Counsel of the District of Columbia, except that such term does not include any person employed or retained on a contingency fee based on a percentage of the monetary relief awarded under this section.

"(2) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

"(3) The term 'Sherman Act' means the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1), as amended or as may be hereafter amended.".

SEC. 402. Section 4B of such Act is amended by striking out the words "sections 4 or 4A" and inserting in lieu thereof the words "sections 4, 4A, or 4C".

SEC. 403. Section 5(i) of such Act is amended by striking out the words "private right of action" and inserting in lieu thereof the words "private or State right of action"; and by striking out the words "section 4" and in lieu thereof the words "sections 4 or 4C".

SEC. 404. If any provision of this title, or the application of any such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected by such holding.

SEC. 405. Section 1407 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"(h) Notwithstanding the provisions of section 1404 or subsection (f) of this section, the judicial panel on multidistrict litigation may consolidate and transfer with or without the consent of the parties, for both pretrial purposes and for trial, any action brought under section 4C of the Act of October 15, 1914 (38 Stat. 730; 15 U.S.C. 12), as amended by section 401 of the Hart-Scott Antitrust Improvements Act of 1976. The authority granted by this subsection (h) shall be liberally construed and applied.".

SEC. 406. This title shall apply to any cause of action accruing subsequent to the date of enactment of this title.

SEC. 407. This title shall not be applicable in a State until that State shall provide by law for its applicability as to such State.

TITLE V—PREMERGER NOTIFICATION AND STAY AMENDMENTS

SEC. 501. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 12), is amended by adding a new section 7A to read as follows:

"SEC. 7A. (a) Notwithstanding any other provision of law, except as exempted pursuant to subsection (b)(4) of this section, until expiration of the notification and waiting period specified in subsection (b)(1) of this section, no person or persons shall acquire, directly or indirectly, the whole or any part of the stock or other share capital or of the assets of another person or persons, if the acquiring person or persons, or the person or persons the stock or assets of which are being acquired, or both, are engaged in commerce or in any activity affecting commerce, and—

"(1) stock or assets of a manufacturing company with annual net sales or total assets of $10,000,000 or more is or are being acquired by a person or persons with total assets or annual net sales of $100,000,000 or more; or

"(2) stock or assets of a nonmanufacturing company with total assets of $10,000,000 or more is or are being acquired by a person or persons with total assets or annual net sales of $100,000,000 or more; or

"(3) stock or assets of a person or persons with annual net sales or total assets of $100,000,000 or more is or are being acquired by a person or persons with total assets or annual net sales of $10,000,000 or more.

"(b)(1) The notification and waiting period required by this section shall expire thirty days after the persons subject to subsection (a) of this section each file with the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereafter referred to in this section as the 'Assistant Attorney General') duplicate originals of the notification specified in paragraph (3) of this subsection, or until expiration of any extension of such period pursuant to subsection (c)(2) of this section, whichever is later, except as the Federal Trade Commission and the Assistant Attorney General may otherwise authorize pursuant to subsection (c)(4) of this section.

"(2) Notwithstanding any other provision of law or the applicability of subsection (a) of this section, except as exempted pursuant to subsection (b)(4) of this section no person or persons shall acquire, directly or indirectly, the whole or any part of the stock or other share capital or of the assets of another person or persons, if—

"(A) the acquiring person or persons, or the person or persons the stock or assets of which are being acquired, or both, are engaged in commerce or in any activity affecting commerce; and

"(B) the Federal Trade Commission, with the concurrence of the Assistant Attorney General, by general regulation requires, after notice and submission of views, pursuant to section 553 of title 5, United States Code, that such person or persons, or any class or category thereof, shall not do so until the expiration of thirty days following the filing of a notification (specified pursuant to paragraph (3) of this subsection), or until the Federal Trade Commision and the Assistant Attorney General may otherwise authorize pursuant to subsection (c)(4) of this section, whichever occurs first.

"(3)(A) The notificatiion required by this section shall be in such form and contain such information and documentary material as the Federal Trade Commission, with the concurrence of the Assistant Attorney General, shall by general regulation prescribe, after notice and submission of views, pursuant to section 553 of title 5, United States Code.

"(B) The fact of the filing of the notification required by this section and all information and documentary material contained therein shall be considered confidential under section 1905, title 18, United States Code, until the fact of such filing or of the proposed merger or acquisition is public knowledge, at which time such notification, information, and documentary material shall be subject to the provisions of section 552(b), title 5, United States Code. Nothing in this section is intended to prevent disclosure to any duly authorized committee or subcommittee of the Congress, to other officers or employees concerned with carrying out this section or in connection with any proceeding under this section.

"(4)(A) The Federal Trade Commission, with the concurrence of the Assistant Attorney General, is authorized and directed to define the terms used in this section, to prescribe the content and form of reports, by general regulation to except classes of persons and transactions from the notification requirements thereunder, and to promulgate rules of general or special applicability as may be necessary or proper to the administration of this section, insofar as such action is not inconsistent with the purposes of this section, after notice and submission of views, pursuant to section 553 of title 5, United States Code.

"(B) The following classes of transactions are exempt from the notification requirements of this section:

"(i) goods or realty transferred in the ordinary course of business;

"(ii) bonds, mortgages, deeds of trust, or other obligations which are not voting securities;

"(iii) interests in a corporation at least 50 per centum of the stock of which already is owned by the acquiring person or a wholly owned subsidiary thereof;

"(iv) transfers to or from a Federal agency or a State or political subdivision thereof;

"(v) transactions exempted from collateral attack under section 7 of this Act if approved by a Federal administrative or regulatory agency: *Provided*, That duplicate originals of the information and documentary material filed with such agency shall be contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General;

"(vi) transactions which require agency approval under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), as amended, or section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842), as amended;

"(vii) transactions which require agency approval under section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), as amended, section 403 or 408(e) of the National Housing Act (12 U.S.C. 1726 and 1730a), as amended, or section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), as amended: *Provided*, That duplicate originals of the information and documentary material filed with such agencies shall be contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General at least thirty days prior to consummation of the proposed transaction;

"(viii) acquisitions, solely for the purpose of investment, of voting securities, if, at the time of such acquisition, the securities acquired or held do not exceed 10 per centum of the outstanding voting securities of the issuer;

"(ix) acquisitions of voting securities, if, at the time of such acquisition, the securities acquired do not increase, directly or indirectly, the acquiring person's share of outstanding voting securities of the issuer; and

"(x) acquisitions, solely for the purpose of investment, of voting securities pursuant to a plan of reorganization or dissolution, or of assets, other than voting securities or other voting share capital, by any bank, banking association, trust company, investment company, or insurance company, in the ordinary course of its business.

"(C) For the purpose of subsection (b)(4)(B) of this section, 'voting security' means any security presently entitling the owner or holder thereof to vote for the election of directors of a company or, with respect to unincorporated issues, persons exercising similar functions.

"(c)(1) The Federal Trade Commission or the Assistant Attorney General may, prior to the expiration of the periods specified in subsection (b)(1) of this section, require the submission of additional information and documentary material relating to the acquisition by any person or persons subject to the provisions of this section, or by any officer, director, or partner of such person or persons.

"(2) The Federal Trade Commission or the Assistant Attorney General may, in its or his discretion, extend the periods specified in subsection (b)(1) of this section for an additional period of up to twenty days after receipt of the information and documentary material submitted pursuant to subsection (c)(1) of this section.

"(3) No provisions of this section shall limit the power of the Federal Trade Commission or the Assistant Attorney General to secure, at any time, information or documentary material from any person, including third parties, pursuant to the Federal Trade Commission Act or the Antitrust Civil Process Act.

"(4) The Federal Trade Commission and the Assistant Attorney General may waive the waiting periods provided in this section or the remaining portions thereof, in particular cases, by publishing in the Federal Register a notice that neither intends to take any action within such periods in respect of the acquisition.

"(d) If a proceeding is instituted by the Federal Trade Commission or an action is filed by the United States, alleging that a proposed acquisition or merger violates section 7 of this Act, or section 1 or 2 of the Sherman Act (15 U.S.C. 1–2), and the Federal Trade Commission or the Assistant Attorney General (i) files a motion for a preliminary injunction against consummation of such acquisition or merger pendente lite, and (ii) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection—

"(1) upon the filing of such certification the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes; and

"(2) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to 18 U.S.C. 3161, and shall be in every way expedited.

"(e) Failure of the Federal Trade Commission or the Assistant Attorney General to request additional information or documentary material pursuant to this section, or failure to interpose objection to an acquisition within the periods specified in subsections (b)(1) and (b)(2) of this section, shall not bar the institution of any proceeding or action, or the obtaining of any information or documentary material, with respect to such acquisition, at any time under any provision of law.

"(f)(1) Whenever any person violates or fails to comply with the provisions of this section, such person shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each day during which such person directly or indirectly holds stock or assets, in violation of this section. Such penalty shall accrue to the United States and may be recovered in a civil action brought by the United States.

"(2) Nothing in this section shall be construed as a limitation on the equity power of the courts of the United States, or as limiting the power of the courts of the United States as provided under section 1651 of title 28, United States Code.".

SEC. 502. The provisions of this title shall be effective one hundred and twenty days after the date of enactment of this Act. Effective upon the date of enactment of this Act, the Federal Trade Commission is authorized and directed to carry out the requirements of section 7A (b)(3) and (b)(4) of the Clayton Act, as amended by this Act.

AUTHORIZATION OF APPROPRIATION

SEC. 609. There are hereby authorized to be appropriated such sums as may be necessary to carry out the activities of the Commission.

SEC. 610. Notwithstanding any other provision of law, this Act shall be effective not sooner than January 1, 1977.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that further reading of this amendment be dispensed with.

Mr. ALLEN. I object.

Mr. ABOUREZK. Mr. President, I make a point of order that continued objections to that request are dilatory in that it is the second identical amendment, practically, that has been read.

The PRESIDING OFFICER. Under rule XX, the Presiding Officer will submit the question for decision to the Senate.

All those in favor——

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. ALLEN. Let us see. I do not see that there is a sufficient second.

The PRESIDING OFFICER. There is not a sufficient second.

The question is on agreeing to the point of order.

Mr. ALLEN. I suggest the absence of a quorum.

Mr. ABOUREZK. On whose time, Mr. President?

The PRESIDING OFFICER. Quorum calls do not come out of the time of Senators.

The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 35 Leg.]

Abourezk
Allen
Johnston
Kennedy
Muskie
Pastore
Roth
Tower

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

Mr. ABOUREZK. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators. I ask for the yeas and nays.

Mr. TOWER. Point of order, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. TOWER. Point of order. Is it in order to make that request before the absentees have been called?

The PRESIDING OFFICER. It is in order.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROEERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Maryland (Mr. BEALL), the Senator from Hawaii (Mr. FONG), the Senator from Wyoming (Mr. HANSEN), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. McCLURE), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

The result was announced—yeas 82, nays 3, as follows:

[Rollcall Vote No. 548 Leg.]

YEAS—82

Abourezk
Allen
Baker
Bayh
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Ford
Garn
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—3

Buckley
Goldwater
Weicker

NOT VOTING—15

Bartlett
Beall
Church
Fong
Hansen
Hartke
Laxalt
Long
Magnuson
Mathias
McClure
Mondale
Montoya
Packwood
Tunney

So Mr. ABOUREZK's motion was agreed to.

The PRESIDING OFFICER (Mr. WEICKER). A quorum is present.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER (Mr. WEICKER). The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the Allen substitute.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ABOUREZK. I ask for the yeas and nays on the Abourezk-Hart-Scott substitute.

Mr. President, I move to table the Allen substitute and ask for the yeas and nays.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator will suspend while I consult the Parliamentarian.

Until the point of order has been disposed of, it is not in order to ask for the yeas and nays.

The question is whether the point of order of the Senator from South Dakota is well taken, that the reading of an amendment under cloture is dilatory.

Mr. GRIFFIN addressed the Chair.

The PRESIDING OFFICER. That is the question for decision by the Senate at this time. It is not debatable.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Senate Rule XXI provides that every amendment shall be read unless such reading is waived by unanimous consent. I do not understand why the question is being put to the Senate.

Mr. ABOUREZK. Mr. President, is this point of order debatable, or not?

The PRESIDING OFFICER. The point of order is not debatable.

Mr. GRIFFIN. Well, I have a parliamentary inquiry: whether it is appropriate that the Chair put such a question to the Senate when the rules clearly provide that every amendment shall be read unless the reading is waived by unanimous consent. I refer the Chair and the Parliamentarian to page 31 of the manual on Senate Procedure.

So far as the substance of this legislation is concerned, I favor it. I have, and I shall, vote contrary to the Senator from Alabama on the merits of the legislation.

The PRESIDING OFFICER. The Chair is endeavoring to respond to the Senator from Michigan and will in just a minute.

Rule XX provides that any such question may be submitted to the Senate for its deliberation. Since there was no precedent, this is the option the Chair chose.

Mr. GRIFFIN. I would respectfully direct the Chair's attention to page 31 of the Manual on Senate Procedure——

Mr. ABOUREZK. Mr. President, regular order.

Mr. GRIFFIN. To point out that every amendment shall be read unless waived by unanimous consent.

Mr. ABOUREZK. Mr. President, either regular order or I would like to have equal time.

The PRESIDING OFFICER. Regular order would demand a vote be taken at this time, or rather, on the point of order raised by the Senator from South Dakota.

Mr. ABOUREZK. Well, if the Senator from Michigan is insisting upon debating the matter under the ploy of the parliamentary inquiry, I would like to have equal time to debate it myself.

Several Senators addressed the Chair.

The PRESIDING OFFICER. If I may have the attention of the Senate, the Chair could decline further parliamentary inquiries. It does not want to do so.

Mr. HRUSKA. It is a brief parliamentary inquiry.

The PRESIDING OFFICER. I just hope we could resolve this matter and get to the question which is before the Senate.

I will recognize the Senator from Nebraska and the Senator from Arkansas, but I repeat, the Chair has the option of declining further parliamentary inquiries.

But with that in mind, the Senator from Nebraska will state it.

Mr. HRUSKA. My inquiry is, what is the form of the question?

The PRESIDING OFFICER. The form of the question is whether the point of order of the Senator from South Dakota is well taken, that the reading of an amendment under cloture is dilatory.

Mr. GRIFFIN addressed the Chair.

The PRESIDING OFFICER. An "aye" vote would sustain the point of order.

Mr. ABOUREZK. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator from South Dakota will state it.

Mr. ABOUREZK. Mr. President, in the case of a Senator, under cloture, requiring the reading of an amendment that is 47 pages long, then offering an amendment himself which is identical to the first one, with a couple of words changed, that is 47 pages long, and requiring that reading, resisting all efforts to get unanimous consent to dispense with the reading, is that not dilatory under cloture?

Mr. GRIFFIN addressed the Chair.

The PRESIDING OFFICER. That is the question before the Senate at this time.

Mr. GRIFFIN. I ask that there be 10 minutes for debate, evenly divided.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered. Who yields time?

Mr. GRIFFIN. Mr. President, briefly——

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Has the Chair ruled on the point of order?

The PRESIDING OFFICER. The Chair has not. The Chair has laid that before the Senate as a whole, as is the prerogative of the Chair.

The Senator from Michigan.

Mr. GRIFFIN. Mr. President, it seems to me, what we are about to do here is to provide that——

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

Mr. GRIFFIN. We were about to——

The PRESIDING OFFICER. The Senator will suspend until there is order.

The Senator from Michigan.

Mr. GRIFFIN. It appears that we may be about to take a step which would mean that the Senate will waive or suspend its rules, not only without giving adequate notice in advance, but by a majority vote rather than the required two-thirds vote.

I want to make clear that I support this anti-trust legislation. I want to get to a vote on the merits. But I do not want to see the rules of the Senate sacrificed in the process.

Rule XXI states very clearly:

> All motions shall be reduced to writing, if desired by the Presiding Officer or by any Senator, and shall be read before the same shall be debated.

Page 31 of the Senate's own manual says:

> Under Rule XXI, and Senate precedents, an amendment shall be read by the Clerk before it is up for consideration or before the same shall be debated unless a request to waive the reading is granted; in practice that includes an ordinary amendment or an amendment in the nature of a substitute, the reading of which may not be dispensed with except by unanimous consent.

We might as well throw the rule book out the window if the Chair is not going to interpret and apply the rules of the Senate but instead submits every question of order to a majority vote of the Senate. On that basis, we would have no rules in the Senate at all. I would respectfully suggest that the Chair reconsider whether this question should be put to the Senate. It seems to me that the Presiding Officer should look at the rules and should decide the question, rather than submitting it to the Senate.

Mr. ROBERT C. BYRD and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. If I might be permitted to explain to my friend from Michigan exactly why I made the point of order, the Senator from Alabama and the Senator from Nebraska, who have done almost everything they can to stop this legislation, even after the cloture vote today, have undertaken dilatory tactics. That means—and I made a mistake—the first amendment that was offered was 38 pages long. They required that the entire amendment be read. There was a case for that to be made.

I felt during the reading of that amendment, when they forced the reading, that perhaps it might be a good thing to ask for a point of order as to whether or not it was dilatory. I discussed it with the distinguished majority whip and other people and they said perhaps he was entitled to have that amendment read.

But then when Senator ALLEN offered his own amendment, 47 pages long, and insisted that that be read, if we are sitting here in an empty Chamber, with the clerks trading off trying to read the amendment that he offered, the one that he prevented the reading from being dispensed with, it seems to me that that is nothing but a distortion of the rules.

I agree with Senator GRIFFIN. I think we ought to try to abide by the rules as much as possible. That is why we have a rule on cloture. Cloture means that the delay must come to an end.

Every Senator under cloture has 1 hour to debate. That is designed to allow sufficient debate on any measure upon which cloture has been invoked. Nevertheless, it is designed to put an end to delay, to bring some sort of finality, the finality we thought we had in June when we came to the agreement and compromised our position.

If the opponents of this bill are going to continue to be allowed by this Senate to make the clerk read the bill, to call quorum calls, to do everything they can to delay this measure beyond the recess and into the adjournment period, then what are the rules of the Senate going to mean to me or to anybody else? They will become absolutely meaningless.

Mr. GRIFFIN. If I may respond, I understand and share the Senator's frustration. On the other hand, the rules are here for the protection of the minority as well as the majority. I happen to be in the majority on this particular issue. Now that cloture has been invoked, I have no doubt that we will eventually get to a vote on this legislation. If he should persist, I suspect that the efforts of the Senator from Alabama will have their effect on the mood of the Senate. But I must observe that he has his rights under the rules as a Member of this body. He is entitled by the rules to insist that every amendment shall be read, unless the reading is waived by unanimous consent. I do not see that we can blithely put the Senate rules aside and say we are not going to abide by them merely because their application would be inconvenient.

Surely, a time will come when the Senator from South Dakota will be in the minority and will seek for himself the protection of the Senate rules. I hope I shall be available then to stand with him and support him, just as I find it necessary now to support the procedural position of the Senator from Alabama.

Several Senators addressed the Chair.

Mr. ABOUREZK. How much time remains, Mr. President?

Mr. SYMINGTON. Will the Senator yield me 30 seconds?

Mr. ABOUREZK. I yield.

Mr. SYMINGTON. If my able friend from Michigan is correct, then the entire question of cloture is strictly theoretical and does not mean anything. It is all form and no substance.

Mr. ALLEN. Mr. President, there is a limited number of lengthy amendments. I would hope the Senator would not deprive us from having these amendments read. That has been the trouble up to now. Practically none of these amendments have been read or understood, certainly not explained.

No one knows what is in the substitute the Senator has proposed. It makes a few changes? Nobody knows what is in the amendment. Only those amendments that are at the desk, which have been filed, are eligible to be voted upon. I would certainly hope we will not throw the rulebook out the window just because of the inconvenience occasioned by having the amendments read.

Mr. ABOUREZK. How much time remains to me and the Senator from Michigan, Mr. President?

The PRESIDING OFFICER. There are 2 minutes left to each side on this particular issue. The Senator from South Dakota has 2 minutes, and the Senator from Michigan has 2 minutes.

Mr. ABOUREZK. I yield 2 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Just to expand on what the Senator from South Dakota has mentioned, the Senate voted on an Allen substitute and that vote was 62 to 27. That was defeated. There was no objection to the unanimous-consent request to dispense with the reading of the proposal.

Then we came back to a technical amendment of the Senator from South Dakota that was basically the previous amendment with maybe very, very minor changes. That was required to be read.

Now what is being asked is the same amendment on which we basically voted, the previous Allen amendment, to be read to the Senate again. It was not read the first time. We have already acted with two small changes, one being the title in the bill and the other to strike two pages of it. It happens to be 47 pages long.

Basically and fundamentally, the issue about whether it is dilatory is the fact that it is the same issue on which we have just voted 62 to 27. There was no objection at that particular time, with two very small modifications. One was the change in the title and one was in terms of striking two pages.

I would agree with the Senator from Michigan concerning a new amendment or a different amendment. But this is basically and substantially the same issue that was before the Senate on which we just voted 62 to 27, and it happens to be 48 pages long. That, I think, is the reason why the Senator from South Dakota has made this particular point. I reserve the remainder of my time.

Mr. ALLEN. Mr. President, the amendment has never been read. The Senator pointed that out.

Mr. KENNEDY. It has just been pointed out.

The PRESIDING OFFICER. The Chair has to point out that the opponents of the amendment now have 1 minute.

Mr. ROBERT C. BYRD. Mr. President, who has the time?

The PRESIDING OFFICER. Does the Senator from Michigan care to yield?

Mr. GRIFFIN. I am delighted to yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, we are limited to the amendments that are allowed under cloture. If it takes too long to read them, our remedy is to change the rules. I would suggest to the distinguished Senator from South Dakota that he ought to do that. But as long as we have a rule that an amendment shall be read unless waived by unanimous consent, how can we as a government of law flout that and say it is an amendment we do not like, it is too long, it is too short, it has too many pages? How do we know? Furthermore, this is not a dead rule. This is the practice that occurs here day after day. An amendment will be sent to the desk and the Senator proposing it says, "I ask unanimous consent that the reading of the amendment be dispensed with."

An order is entered.

The distinguished Senator from Michigan is not reaching back and digging up a dead rule which has not been in operation.

I would suggest that the majority leadership take a position in defense of the rules of the Senate.

If they need revision, let us revise them. But until that happens, the country has a right to expect the leadership of this body not only to conform to the rules of the Senate, but to insist that the Senate conform.

The PRESIDING OFFICER. All time under the agreement has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that we may proceed for 3 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, under the way the point of order has been phrased, I will have to vote against the point of order. As I understood the Chair, the point of order is as follows: that the reading of an amendment under cloture is dilatory.

That means the reading of any amendment is dilatory. If the distinguished Senator had made the point of order that in this one instance the reading of the amendment is dilatory, I would go along, because of the fact that we have listened to one lengthy reading, and I think it is dilatory. But to make a blanket precedent here that the reading of an amendment under cloture is dilatory, I cannot vote to sustain that point of order.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I am glad to yield.

Mr. ABOUREZK. Mr. President, I think the Senator makes a good point. I will at this time withdraw my point of order.

Mr. ALLEN. Mr. President, I object. The yeas and nays have been ordered.

The PRESIDING OFFICER. The Senator has a right to withdraw it. The yeas and nays have not been ordered.

Mr. ALLEN. Oh, I thought they had been.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the reading of the Allen substitute be dispensed with.

Mr. CURTIS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ABOUREZK. All right. I renew my

point of order, Mr. President, that the reading of this amendment of 47 pages is dilatory; I ask that the question be submitted to the Senate, and I ask for the yeas and nays.

The PRESIDING OFFICER. The question is, is the point of order of the Senator from South Dakota well taken that the reading of this amendment is dilatory under cloture?

Mr. ABOUREZK. Under the circumstances.

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ABOUREZK. All right. I withdraw my point of order.

The PRESIDING OFFICER. The point of order falls.

Mr. ALLEN. I yield myself 2 minutes.

Mr. President, I call for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I ask for a division of my amendment.

The PRESIDING OFFICER. The Senator has the right to demand a division. Will the Senator specify how his amendment is to be divided?

Mr. ALLEN. Divided into its component parts.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

Mr. ALLEN. I would like the first vote on the very first section.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Has the Senator specified the division?

Mr. ALLEN. Every single section.

Mr. ROBERT C. BYRD. Mr. President, how many sections are there?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair is consulting with the Parliamentarian on the question of the division. Senators will suspend.

The amendment can only be divisible into those parts that will stand alone, and the Chair is consulting with the Parliamentarian at this time.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry. Was the Senator recognized for that purpose? I have been trying to get the floor.

The PRESIDING OFFICER. The Senator from Alabama had the floor. The absence of a quorum has been suggested, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard. The call of the roll will continue.

The second assistant legislative clerk continued the call of the roll.

Mr. MANSFIELD. Mr. President, evidently a quorum is present. I ask unanimous consent that the order for the quroum call be rescinded.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The call of the roll was continued.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. MANSFIELD. I object.

The PRESIDING OFFICER. Objection is heard.

The call of the roll was continued.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

The call of the roll was resumed and concluded and the following Senators answered to their names:

[Quorum No. 36]

Abourezk
Allen
Bartlett
Buckley
Bumpers
Byrd, Robert C.
Case
Chiles
Cranston
Ford
Garn
Glenn
Goldwater
Griffin
Hatfield
Hollings
Hruska
Inouye
Jackson
Javits
Johnston
Kennedy
Mansfield
McClellan
McGovern
Morgan
Moss
Muskie
Nelson
Pearson
Randolph
Ribicoff
Scott, William L.
Stafford
Symington
Thurmond
Weicker
Young

Mr. ALLEN. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to compel the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to direct the Sergeant at Arms to compel the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), and the Senator from Idaho (Mr. McCLURE) are necessarily absent.

The result was announced—yeas 83, nays 4, as follows:

[Rollcall Vote No. 549 Leg.]

YEAS—83

Abourezk
Allen
Baker
Bartlett
Bayh
Bellmon
Bentsen
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Mansfield
McClellan
McGee
McGovern
McIntyre
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—4

Biden
Goldwater
Metcalf
Weicker

NOT VOTING—13

Beall
Church
Curtis
Fong
Hartke
Laxalt
Long
Magnuson
Mathias
McClure
Mondale
Montoya
Tunney

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I move to table the amendment by Mr. ALLEN.

Mr. ALLEN. I call for the yeas and nays.

Thte PRESIDING OFFICER (Mr. SCHWEIKER). Is there a sufficient second? There is not a sufficient second.

SEVERAL SENATORS. Vote! Vote!

Mr. ALLEN. Mr. President, a parliamentary inquiry.

Mr. PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Does the motion to table apply to the first of the six divisions of the amendment?

The PRESIDING OFFICER. It only applies to division 1.

Mr. ALLEN. I see.

Mr. ABOUREZK. Regular order.

Mr. ROBERT C. BYRD. Mr. President, I move to table the amendment in its entirety.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. I make the point of order that it is out of order to move to table all six parts. The motion to table must be directed to part 1.

The PRESIDING OFFICER. It is the

Chair's understanding that it is only a motion to table division 1.

Mr. ALLEN. Very well, if that is the case.

Mr. ROBERT C. BYRD. Mr. President, I move to table the entire amendment by Mr. ALLEN.

Mr. ALLEN. I raise the point of order that that motion is not in order, except as to part 1.

The PRESIDING OFFICER. The Chair rules that the motion is not in order. Only division 1 can be tabled at this point.

Mr. ROBERT C. BYRD. Mr. President, will the Chair state why that is so?

The PRESIDING OFFICER. The Chair states that it has been divided for action, and therefore that is the only part of the amendment that is actively before the Senate at this time that is subject to a motion to table.

Mr. ABOUREZK. Regular order, Mr. President.

Mr. ALLEN. I call for the yeas and nays on the motion to table division 1.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ALLEN. The yeas and nays already have been ordered on the amendment. On the motion to table, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? It requires 18. There is not a sufficient second.

Mr. ALLEN. I call for a division vote.

The PRESIDING OFFICER (Mr. SCHWEIKER). All those in favor of the motion to lay division 1 on the table will rise and stand until counted.

All those opposed to the motion to lay on the table, please rise and stand until counted.

Mr. ALLEN. Mr. President, I again call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. HANSEN. Division on that.

The PRESIDING OFFICER. If the Members will let me, we are in the process of making a ruling.

Mr. HANSEN. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Are not only 11 required? One-fifth of the last vote.

The PRESIDING OFFICER. One-fifth of the last vote, I believe is 18. Eighteen are required.

If the Chair may proceed, we are on the motion to lay the division on the table and the motion has been agreed to.

Mr. ABOUREZK. Mr. President, I move to lay division 2 on the table.

The PRESIDING OFFICER. The question now is on division 2.

A motion to lay division 2 on the table has been made.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ALLEN. I suggest the absence of a quorum to get the Senators in to so vote.

The PRESIDING OFFICER. The clerk will call the roll for a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, and I ask for the yeas and nays.

Mr. HANSEN. Objection.

Mr. ALLEN. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. PASTORE. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. PASTORE. What seems to be the trouble, Mr. President?

The PRESIDING OFFICER. The Chair will have to state that debate is not in order during a quorum call.

The legislative clerk resumed the call of the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded in the hope that we can get a yea and nay vote on my amendment.

The PRESIDING OFFICER. Is there objection to the request to rescind the quorum call? The chair hears none.

Mr. PASTORE. I ask for the yeas and nays.

Mr. GOLDWATER. Objection.

Mr. ALLEN. I call for my amendment.

Mr. President, before the Chair makes the announcement that no quorum is present, I ask unanimous consent that the order for the quorum call be rescinded in order that I may request the yeas and nays.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. ALLEN. I call for the yeas and nays on part 2 of my amendment.

The PRESIDING OFFICER. The yeas and nays have already been ordered on division 2. The motion to lay it on the table is now before us.

Mr. ALLEN. I call for the yeas and nays on the motion to lay it on the table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The clerk will call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the rollcalls on these amendments be limited to 10 minutes.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 63, nays 21, as follows:

[Rollcall Vote No. 550 Leg.]

YEAS—63

Abourezk
Bayh
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Durkin
Eagleton
Ford
Glenn
Gravel
Griffin

Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Mansfield
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie

Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Weicker
Williams

NAYS—21

Allen
Baker
Bartlett
Bellmon
Brock
Byrd,
Harry F., Jr.
Curtis

Domenici
Eastland
Fannin
Garn
Goldwater
Hansen
Helms
Hollings

Hruska
Scott,
William L.
Sparkman
Talmadge
Thurmond
Tower

NOT VOTING—16

Beall
Buckley
Church
Fong
Hartke
Laxalt

Long
Magnuson
Mathias
McClellan
McClure
Mondale

Montoya
Stennis
Tunney
Young

So the motion to lay on the table division 2 was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I intend to move to table the next section, unless the Senator wants me to yield further.

Mr. ABOUREZK. No, I was going to do the same thing.

Mr. ALLEN. Will the Senator yield me 1 minute?

Mr. ROBERT C. BYRD. Yes, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. I yield myself 1 minute.

Mr. President, I hope the distinguished assistant majority leader will not move to table in order that we can have yea and nay votes on these parts and in order that some Senators who may care to speak will be allowed to speak. The Senator from Oklahoma wants to speak.

I will say this. I will not move to reconsider any vote by which amendments are defeated, but if the distinguished assistant majority leader persists in refusing to allow discussion of these amendments and moves to table, I will feel authorized to move to reconsider those votes.

I hope he will allow discussion of these.

Mr. ROBERT C. BYRD. Mr. President, my distinguished friend is very adroit, very adroit in putting the onus on the other fellow.

Of course, the reason why the Senator from West Virginia is moving to table is simply because a motion to table cuts off debate and we are trying to make some progress on this bill. Cloture has been invoked and if debate is allowed, even though a motion to table is made, then of course, this is exactly what the Senator from Alabama wants, it extends the time and delays action on the bill.

Mr. ALLEN. Why would the Senator want to deprive Senators of the right to speak?

Mr. ROBERT C. BYRD. It is not that I seek to deprive Senators of the right to speak. I have already stated my reasons.

I, therefore, move to table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea".

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 61, nays 19, as follows:

[Rollcall Vote No. 551 Leg.]

YEAS—61

Abourezk
Bayh
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Eagleton
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Leahy
Mansfield
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Stone
Taft
Weicker
Williams

NAYS—19

Allen
Baker
Bartlett
Bellmon
Brock
Byrd, Harry F., Jr.
Curtis
Domenici
Eastland
Fannin
Garn
Hansen
Helms
Hruska
Scott, William L.
Sparkman
Talmadge
Thurmond
Tower

NOT VOTING—20

Beall
Buckley
Church
Durkin
Fong
Goldwater
Hartke
Kennedy
Laxalt
Long
Magnuson
Mathias
McClellan
McClure
Mondale
Montoya
Stennis
Symington
Tunney
Young

So the motion to lay on the table division 3 was agreed to.

Mr. MANSFIELD. Mr. President, I move to table division 4, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table division 4 of Mr. ALLEN's amendment. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 62, nays 24, as follows:

[Rollcall Vote No. 552 Leg.]

YEAS—62

Abourezk
Bayh
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Durkin
Eagleton
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Mansfield
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Stone
Symington
Weicker
Williams

NAYS—24

Allen
Baker
Bartlett
Bellmon
Brock
Byrd, Harry F., Jr.
Curtis
Domenici
Eastland
Fannin
Garn
Goldwater
Hansen
Helms
Hollings
Hruska
McClellan
Scott, William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—14

Beall
Buckley
Church
Fong
Hartke
Laxalt
Long
Magnuson
Mathias
McClure
Mondale
Montoya
Taft
Tunney

So the motion to lay on the table division 4 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Arkansas (Mr. MCCLELLAN) without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCLELLAN. Mr. President, the record will reflect that I was absent and did not vote on the two previous rollcall votes. I should also like the record to indicate that my absence was occasioned by my being in conference with House conferees on H.R. 14262, a bill making appropriations for the Department of Defense.

We were convened at the other end of the Capitol, and it was difficult for us to carry out the work in that conference and respond to these votes. I decided temporarily to perform my duties there rather than to come to the Senate Chamber for these recurring rollcall votes.

Because of these votes, we had to adjourn the conference until tomorrow. Otherwise, we could have concluded today.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, I yield, under the same circumstances.

Mr. YOUNG. Will the Senator include me in that statement? I missed the votes for the same reason.

The PRESIDING OFFICER. The record will so indicate.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Mississippi, under the same circumstances.

Mr. STENNIS. I just make reference to the statement made by the Senator from Arkansas. We were all held at the same place, on the same mission. I think I missed more than two rollcall votes, which I regret.

Frankly, it was a matter of judgment at the time as to which was more important, and some key parts of this bill had to have our attention.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be an area in the Record for matters pertaining to routine morning business today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the message from the House of Representatives announcing its action on the amendment of the Senate to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to table the next section of the Allen amendment. I believe it is section 5.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table division 5. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 63, nays 23, as follows:

[Rollcall Vote No. 553 Leg.]

YEAS—63

Abourezk
Bayh
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Durkin
Eagleton
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Mansfield
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Stone
Symington
Weicker
Williams

NAYS—23

Allen
Baker
Bartlett
Bellmon
Byrd,
Harry F., Jr.
Curtis
Domenici
Eastland
Fannin
Garn
Goldwater
Hansen
Helms
Hollings
Hruska
McClellan
Scott,
William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—14

Beall
Buckley
Church
Fong
Hartke
Laxalt
Long
Magnuson
Mathias
McClure
Mondale
Montoya
Taft
Tunney

So Mr. ROBERT C. BYRD's motion to lay on the table division 5 was agreed to.

Mr. MANSFIELD. Mr. President, I move to table the next division, division 6, I believe.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table division 6.

The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that this be a 10-minute rollcall.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 61, nays 23, as follows:

[Rollcall Vote No. 554 Leg.]

YEAS—61

Abourezk
Bayh
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Leahy
Mansfield
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Stone
Symington
Weicker
Williams

NAYS—23

Allen
Baker
Bartlett
Bellmon
Byrd,
Harry F., Jr.
Curtis
Domenici
Eastland
Fannin
Garn
Hansen
Helms
Hollings
Hruska
Javits
McClellan
Scott,
William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—16

Beall
Buckley
Church
Dole
Fong
Goldwater
Hartke
Laxalt
Long
Magnuson
Mathias
McClure
Mondale
Montoya
Taft
Tunney

So the motion to lay on the table division 6 was agreed to.

Mr. ABOUREZK addressed the Chair.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

Mr. CHILES and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER (Mr. BARTLETT). The Senator from Florida.

Mr. ABOUREZK. Mr. President, I have been seeking recognition.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Mr. CHILES. Mr. President, I ask unanimous consent that upon the arrival of the papers concerning the conference committee for S. 5 I be allowed to take up the conference report under a time limitation of not to exceed 5 minutes.

Mr. ALLEN. Reserving the right to object——

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Rule XXII, of course, provides that we stay on this bill until it has been disposed of and I am hopeful that some time between now and 7 o'clock we can lay this matter aside until tomorrow and take up such matters as the distinguished Senator from Florida wishes to take up.

Also, the extension of the tax credits that the distinguished Senator from Louisiana wants to bring up.

But at this time I have to object to bringing this up during the pendency of the cloture.

The PRESIDING OFFICER. Objection is heard.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. I ask for the yeas and nays on the Abourezk-Scott-Hart substitute.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Vote.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I intend to offer an amendment here, and I think it is an important one. Whether Senators favor this bill or not, I think this amendment ought to be adopted.

The purpose of the amendment is to prevent abuse by private counsel, in conjunction with State officials, in filing large antitrust parens patriae actions for

State residents to enrich private counsel rather than the intended beneficiaries.

Courts and other experts have cautioned against the potential of large antitrust actions for permitting private counsel to obtain large financial benefits out of the pockets of business firms coerced into "blackmail settlements," in order to avoid the risk of potentially huge recoveries in costly and burdensome antitrust litigation whose outcome is inherently uncertain. In particular, smaller business firms charged as defendants or coconspirators—who are jointly and severally liable for the entire claim against all alleged conspirators—may be forced to buy their peace. They may make substantial settlement payments in order to escape the risk of a multimillion-dollar award, even though they are convinced their conduct was lawful and would ultimately be vindicated after full-scale litigation. However, the high risks and great costs of a defense in complex antitrust litigation, and the impairment of financing of a firm faced with large outstanding contingent liabilities due to pending antitrust litigation, may make settlement imperative or prudent as a matter of business judgment or survival.

The amendment I intend to offer would reduce the incentive of private counsel to foment such costly litigation. But they would permit States to secure the assistance of private antitrust counsel, if necessary, to conduct antitrust litigation on a normal compensation basis, comparable to other litigation on behalf of the State handled by special private counsel under customary State practice.

Mr. President, under rule 23 of the Federal Rules of Civil Procedure, private attorneys are the ones who have increased their wealth, not the consumer. That is the approach the parens patriae title of the substitute takes.

In other words, the judge would fix the fees. I think that is bad. I will give an example of the kind of fees which have been awarded in cases. The record speaks for itself. Here was $40 million for lawyers, $5 million for lawyers, $1 million for the State attorney general, $2.5 million for the lawyers. These are but a few examples.

Mr. President, I am a lawyer myself. I have tried many damage suits. I know lawyers whom the attorney general will appoint to bring these suits are going to be trying to enrich their own pockets. They will try to get as big verdicts as possible because they will get a cut out of it, or at least the judge will fix a fee that will be larger than it would be if the compensation was determined in some other way.

Under this amendment I intend to offer, the compensation would be measured on the same basis as compensation normally paid by the State to private counsel retained.

Mr. President, it would be much less if it is handled that way where private counsel is retained, such as where the State attorney general retains an assistant attorney general, or retains some other lawyer on a per diem basis or on a per case basis, or on some other basis, rather than for the attorney general to agree to give him a percent of the verdict, or to get the judge to fix the amount of the fee.

We all know that the judges come from the bar, of course, they come from the legal bar lawyers. They feel kindly to attorneys and are inclined to be liberal. They are inclined to be so liberal that one can see the kind of fees they fix. Therefore, it seems to me that we need an amendment to protect the public. We need an amendment to protect businesses being sued.

After all, when a business is sued and there is a verdict rendered—and in some cases verdicts are warranted, they are justified—it is not warranted to grant excessive attorney fees as are granted in cases of the kind I just mentioned, the idea of such fees as I mentioned, fees that are completely ridiculous—$40 million, $5 million, $1 million, $2.5 million.

Therefore, Mr. President, we feel an amendment of this kind will be helpful. It will certainly help this bill, if it is passed. If this compensation is measured on the same basis as compensation normally paid by the State to private counsel, it would be a much safer way to handle the situation, a much fairer way to handle the situation.

Though it seems that the majority of the Senate is bent on passing this dangerous antitrust bill, it seems that this could be a very helpful amendment to adopt.

In general, I want to say that this parens patriae is a dangerous provision for this Senate to pass. I have expressed myself heretofore on that.

I would urge my colleagues to take the time to read an article in the Yale Law Review, volume 85, No. 5, by H. Handler and M. Blechman. I believe this article will convince anyone who will take the time to read it that parens patriae is a dangerous policy for this Congress to pass and leave to the attorneys general of the States the right to bring these suits against the businesses of this Nation, against businesses doing business in their respective States.

> In recent years, a widespread assumption has developed in many quarters that the best way to protect consumers under the antitrust laws is through novel procedural devices which would permit very large numbers of small damage claims to be asserted in massive lawsuits. This view has been reflected in proposals for *parens patriae* and fluid class actions which have been rejected by the courts, but which are now being considered by the Congress as part of two pending antitrust bills of immense potential importance.
>
> As we shall show, the history of the *parens patriae* and fluid class innovations and a consideration of how they will function in practice suggest that this approach will neither confer significant benefits on consumers nor provide a workable deterrent for enforcing the antitrust laws in their interest. Therefore, the time has come to consider alternative means for realizing these objectives. Thus, if we separate the problem of deterrence from that of compensation, it is clear that a great deal could and should be done to guide and improve the Government's enforcement efforts so that they will produce far more economic benefit for consumers than is the case today. The problem of compensation can then be dealt with on its own terms by providing vehicles for reparation in those cases where compensation is in fact meaningful to the consumers themselves.
>
> I. The Search for a Procedural Panacea
>
> The effort to develop a procedural device for asserting small individual antitrust claims on behalf of massive groups of consumers had its initial impetus in the 1966 amendments to Rule 23. Prior to that time, a class action for treble damages was in effect a permissive joinder device which required affirmative action by any class member wishing to be represented in the lawsuit. By virtue of the 1966 amendments, however, each person within the category defined by the plaintiff in his complaint automatically became a member of a litigating class unless he took the steps required by law to "opt out." Thus, the consumer who had little or no financial stake in a lawsuit and who was therefore unlikely to take any action at all would, for that very reason, be included in the class. Consequently, a plaintiff's counsel could purport to represent very large classes with aggregate claims of astronomical dimension simply by drafting appropriate language in a pleading. It is doubtful that the draftsmen intended or even contemplated such results. Nevertheless, these new possibilities under Rule 23 led to the commencement of suits alleging such prodigious classes as 1½ million purchasers of bread in Philadelphia, tens of millions of retail purchasers of gasoline in various states, 20 to 40 million buyers of General Motors automobiles, 40 million hotel customers, all homeowners in the United States, all consumers of eggs in the United States, and even all 200 million or more persons in the United States.
>
> As a seeming procedural key for opening up the federal courts to millions of aggrieved consumers, the class action was hailed as "one of the most socially useful remedies in history." In fact, however, the reality never came close to matching the promise of this supposed panacea. As noted by Judge Medina in *Eisen v. Carlisle & Jacquelin*, "not a single one of these class actions including millions of indiscriminate and unidentifiable members has ever been brought to trial and decided on the merits." In some instances consumers were found to have suffered no compensable injury. In other instances the courts refused to certify classes because, among other defects, the sheer burden of processing millions of small claims through discovery and trial rendered the actions unmanageable. What is more, the supposed benefits to individual consumers were often so inconsequential that in the view of some courts the attorneys rather than the class members constituted the real parties in interest.

Mr. President that is the point I am trying to make here: Just as stated in this law review article, it turns out that the attorneys rather than the class members constituted the real parties in interest, because they would be the ones interested in getting big fees out of these cases, and in the end the companies that had to pay the verdicts in the damage suits, or had to settle the suits, would have to increase the costs of their goods. And whom does that fall upon? That falls upon the consumers.

So when we hear of these actions being brought under this parens patriae theory, we ought to remember that it will cost the consumers more, and the lawyers will get the biggest part of the compensation from this type of case.

> In an effort to meet some of these problems, state *parens patriae* suits were introduced to the antitrust landscape in the early 1970's. Actually, two distinct kinds of *parens patriae* claims were asserted under quite different legal theories. In the first category, the states sought to extend their traditional powers to protect the interest of

idiots, lunatics, and other incompetents by purporting to sue on behalf of their consumer-citizens allegedly injured by a claimed antitrust violation. The purpose of this kind of action was to allow the states to keep for their own use any unclaimed damages that might be recovered on the consumers' behalf. Since this procedural innovation circumvented all of the safeguards of Rule 23, it not surprisingly received short shrift in the courts. Moreover, just as the appointment of a guardian *ad litem* does not change the substantive rights of an incompetent party, this type of *parens patriae* could not in any event obviate the need to prove individual injury to each consumer on whose behalf suit was brought.

To overcome this obstacle, a second type of *parens patriae* action was devised which attempted to avoid the need for proving damages to individuals by relying instead on putative injury to the so-called general economy of the state itself. This second category of *parens patriae* was rejected by the Ninth Circuit in *Hawaii* v. *Standard Oil of California* on the ground that the "general economy" of a state is an "abstraction" which the court doubted could be the subject of independent harm. The Supreme Court affirmed, pointing out, among other things, that "[a] large and ultimately indeterminable part of the injury to the 'general economy' . . . is no more than a reflection of injuries to the 'business or property' of consumers . . ."

The article goes on to say:

The final judicial innovation for circumventing the problems of asserting treble damage claims based on supposed injuries to consumers was the "fluid class" device proposed by the plaintiff and accepted by the district court in *Eisen v. Carlisle & Jacquelin*. That case involved an alleged class of some 6 million odd-lot traders on the New York Stock Exchange who were estimated to have been overcharged an average of $1.30 per class member for brokerage services during the relevant period. As might have been expected in view of the modest stakes involved for each individual investor, "[n]o claimant in the six years of the progress of the action had shown any interest in Eisen's claim."

The district court had initially held the class action unmanageable because of the large size of the class and the minuscule size of the individual claims. On remand from the court of appeals, it adopted a "fluid recovery" procedure under which damages would be awarded in the aggregate to "the class as a whole." Those persons actually injured and wishing to file claims (which were expected to be relatively few in number) were to be paid out of the fund created by the aggregate damage recovery. The remainder of the fund would be disbursed by reducing future odd-lot brokerage fees by some judicially set amount until the fund was depleted—in effect distributing the "excess" damage recovery to future odd-lot purchasers, regardless of whether or not such persons had bought during the alleged conspiracy and therefore even arguably had suffered some injury.

The Second Circuit rejected this innovation, not merely because of the violence it did to Rule 23, but also "as an unconstitutional violation of the requirement of due process of law." If constitutional requirements were observed, the court noted, the alleged class would be unmanageable and the costs of processing individual claims would render the amounts payable to individual class members "so low as to be negligible."

Having come to a dead end in the courts, the search for a procedure to vindicate small consumer claims in antitrust suits moved to the Congress. One bill recently passed by the House and another presently pending in the Senate would adopt through legislation the devices of *parens patriae* and fluid class suits rejected in the courts. The proposed legislation would empower the attorney general of any state to bring *parens patriae* suit for damages sustained by natural persons residing in the state. The bills further provide that in *parens patriae* suits asserting the individual damage claims of state residents and in class actions brought under the antitrust laws on behalf of natural persons, "damages may be proved and assessed in the aggregate" using unspecified statistical, sampling, and other estimating methods. The legislation does not indicate what is to happen in class actions after such an "aggregate" damage fund is created. The bills provide that in *parens patriae* suits, unless specified by state law, the court shall have discretion to dictate a method of distribution, with the caveat that each of the purportedly injured natural persons on whose behalf suit was brought shall have a reasonable opportunity to secure his "appropriate portion" of the fund. Thus, the pending legislation would permit precisely the kind of "fluid recovery" procedure which the Second Circuit rejected in *Eisen*.

AMENDMENT NO. 2255

Mr. President, we feel that this is an important matter, and at this time I call up my amendment and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an amendment numbered 2255:

In title III, section 301 (section 4c(d)(1)) strike the semicolon after court and substitute in lieu thereof a period and add a new sentence. "The compensation will be measured on the same basis as compensation normally paid by the State to private counsel retained.".

Mr. THURMOND. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. CULVER). Is there a sufficient second? Evidently there is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second for the yeas and nays on the motion to lay on the table? Evidently there is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 2255) of the Senator from South Carolina (Mr. THURMOND). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea".

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from Wyoming (Mr. HANSEN), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 55, nays 23, as follows:

[Rollcall Vote No. 555 Leg.]

YEAS—55

Abourezk
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Cannon
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Leahy
Mansfield
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Stone
Symington
Weicker
Williams

NAYS—23

Allen
Baker
Bartlett
Bayh
Bellmon
Brock
Byrd,
Harry F., Jr.
Domenici
Eastland
Garn
Goldwater
Helms
Hollings
Hruska
McClellan
Roth
Scott,
William L.
Stennis
Stevens
Talmadge
Thurmond
Tower
Young

NOT VOTING—22

Beall
Buckley
Church
Curtis
Dole
Fannin
Fong
Hansen
Hartke
Haskell
Kennedy
Laxalt
Long
Magnuson
Mathias
McClure
McGee
Mondale
Montoya
Ribicoff
Taft
Tunney

So the motion to lay on the table was agreed to.

AUTHORITY FOR SUBCOMMITTEE ON PARKS AND RECREATION TO MEET ON SEPTEMBER 7, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Parks and Recreation of the Committee on Interior and Insular Affairs be granted permission to hold a hearing on Wednesday, September 8, 1976, to receive a presentation of the President's Bicentennial Land Heritage Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the message from the House of Representatives announcing its action on the amendment of the Senate to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mr. TOWER. Mr. President, the proponents of the antitrust bill that we are debating today are indeed presenting a convincing case illustrating the need for consumer protection.

Here we have a bill which supporters promise will produce prices, lower unemployment, and cut inflation. In reality, it is likely to do none of these things. It may, in fact, have a counterproductive effect.

Someone should warn our consumers—the taxpayers, voters, citizens—in whose name we govern this vast land. We are not operating in an economist's laboratory. We must form solutions that will work in the real world.

The bill promises to reduce prices. Yet, the threat of costly nuisance litigation, treble damage assessments, and a lowered threshold for proof of injury will inevitably be passed on to consumers via higher prices.

The bill promises to lower unemployment. It is more likely to impede business financing, threatening expansion and destroying job opportunities.

Similarly, the parens patriae section of the bill is being promoted by exaggerated claims, raising expectations that cannot possibly be realized. In short, it is perpetrating a cruel hoax on the American people.

By authorizing State attorneys general to sue for violations, antitrust law enforcement runs the risk of becoming greatly politicized. This will help no one—not consumers, not business—no one except politically ambitious attorneys general.

Maybe none of my colleagues here has ever had to face a reelection campaign against a popular attorney general. I have, and it is a very awesome experience, when I have to consider the fact that I am not, myself, a lawyer; thank God for that. Attorneys general have a way of making themselves popular by initiating spectacular lawsuits. I wonder how many of my own colleagues here have served as attorney general of their respective States. I see one, the very distinguished Senator from New York, who was an able and outstanding attorney general, made his reputation there, and came to the U.S. Senate. That is a good example of why, perhaps, an attorney general should aspire to membership in the U.S. Senate.

I can think of less inspiring examples, such as the attorney general who ran against me. In my view, this is an open invitation for ambitious attorneys general, who want to further their own careers, to do so, really, at the expense of the public without any real benefit accruing to the public.

By also allowing private attorneys to bring suits in consumers' names while being compensated on a contingent fee basis, the bill places enforcement of antitrust laws in the hands of private attorneys with a personal interest in the litigation. Again, it is not the consumer who will benefit. If anyone, it is the lawyers. This ought to be called the Lawyers' Benefit Act of 1976.

The medical malpractice problem, where a rash of suits have brought consumers higher medical fees and have lessened competition by driving out practitioners, who can no longer afford to pay the high costs of malpractice insurance, should serve as a warning of things to come if the antitrust bill is enacted.

The final and critical point which I want to see clarified for our constituents is that many of them may not only be the consumers sought to be protected by the bill, but may be those governed by its provisions as well. In many people's minds, antitrust laws are thought to be aimed at multimillion-dollar business corporations. However, our doctors, lawyers, real estate brokers, architects, engineers, accountants, pharmacists, union members, veterinarians, newsmen, and small businessmen should know that this bill will open the door for crippling parens patriae actions against them as well. People should bear in mind that they could very easily become the targets rather than the beneficiaries of this monstrous bill.

Mr. President, if ever a people in a free society were well protected against the potential for abuse and evil on the part of corporations, protected adequately against pools, mergers, commodity agreements, discriminatory pricing, and anticompetitive business practices, then it is the American people. We have created a climate in this country in which bigness is not bad, it is good. The legislation concerns of the consuming public are well protected. We have a climate in this country where bigness has produced the capitalization for our capacity for technology, for technological advance, for high rates of production, for expanded productive capability that provides jobs.

We always seem to want to sit around here and think up legislation that will impose further burdens on business. In this instance, we not only impose the burden on big business, we impose it on small business as well. I rather imagine that big business will be less harassed by the provisions of this act, as it may be implemented, than small business, so this bill does nothing, really, to advance the cause of the great American consuming public.

I wonder what would happen if we made these provisions applicable to big labor? Oh, no, no; labor has never abused its power. Or at least, we proceed on the fiction that it has not, when indeed, it has—when, indeed, it can abuse its power with impunity. Why do we not sit around here and think up some ways to restrain the power that is now unbridled, the power of organized labor, that has the greatest political and economic influence on this country of any segment in our society? The reason we do not is that we fear the political power of the unions.

Mr. President, I have several amendments to this measure, and shortly, I shall call one of them up. I shall not call it up at this moment, because I am sure that before I could drop any pearls of wisdom on this desirable legislation, my distinguished friend from South Dakota would be on his feet and would table me and silence my voice forever on this important matter. I prefer not to try my distinguished friend from South Dakota.

Mr. President, hidden away under the guise of conforming amendments is some very substantive language, of which my colleagues should be made aware. Section 302(3) of the House amendment would add the following language to section 16 of the Clayton Act:

> In any action under this section in which the plaintiff substantially prevails, the court shall award the cost of suit, including a reasonable attorney's fee, to such plaintiff.

What is not readily apparent from the reading of the bill is that the section thereby amended is limited to injunctive relief. This amendment is not merely conforming, but rather, embarks down a new, uncharted path. Historically, attorneys' fees and costs have been limited to suits where damages are sought. Under the House amendment, such costs and fees would, hereafter, be awarded in equitable actions as well. That the Senate should pass such a provision at all, much less without attention, thought, and study, causes me some considerable concern.

I view this as a public invitation to lawyers to dream up and drum up suits where the lawyers have nothing to lose and monetarily much to gain.

Mr. President, it is an open invitation to barratry which normally is considered to be illegal. We pass a lot of Federal legislation that encourages that practice so often, and this is a bill that is written with that invitation.

Mr. President, compounding my concern for this provision is the use of the word "substantial," as and where the plaintiff "substantially" prevails. Now what determines whether a plaintiff has substantially prevailed in a suit for injunctive relief if he gets a temporary injunction? Is that substantial enough, Mr. President? That provision should be wiped out for its ambiguity alone. It is too vague and too ambiguous to be properly interpreted and administered in a court of law. It should fall on the basis of its ambiguity.

Mr. President, further, the language of the House amendment is mandatory in requiring that the court shall award costs and attorney's fees. No discretion is left to the courts to determine when such an award is justified and warranted. Both the wording of the section and its overall intent cause me grave concern. I would think they would concern my colleagues, too, who have not even stopped to consider.

Now, section 302(3) is likely to give rise to a rash of nuisance suits that will benefit no one and which will benefit, least of all, the consumers in whose name this bill is being perpetrated.

Oh, how much evil we perpetrate in these Halls in the name of the welfare of the consumer. We do not have to have any great ground swell of support for proposed legislation here. We may not get one letter or one phone call or one wire from a constituent saying, "We need this," but we in our infinite wisdom, wanting to be the protectors and the defenders of the people, wanting to protect the downtrodden consumer, proceed on the assumption that the businessman is crooked, that the consumer is honest, and that government is infallible. I submit all of these assumptions are false.

I hate to confess it, because there are people in the gallery, but I must confess that the Congress of the United States has from time to time made a mistake, and too often we do not move quickly enough to rectify our own mistakes. We have been carrying some of them on the statute books for 50 years, all in the interest of the consumer who, from time to time, his only cry is not more consumer legislation but "When are you going to get the burden of big government off our backs?"

What was manifest for those people who voted for Jimmy Carter, those people who voted for Ronald Reagan, is an anti-Washington syndrome that is abroad in this land, and we had better recognize that. Our people do not want more government, they want less. But we are, in our infinite wisdom, going to give them more, because it is good for them. That is the worst arrogance of power that I can think of, and we in the Congress are guilty, guilty, guilty.

There are no laws in the land that we do not enact, there is no authority that does not derive from the Constitution or the laws we pass pursuant thereof, and if people are sick of big government, Mr. President, they ought to be sick of us.

Mr. President, I would like to call on my colleagues then to adopt this amendment and strike the provision which provides for court costs and attorney's fees in actions for injunctive relief against threatened loss or damage by a violation of the antitrust laws.

UP AMENDMENT NO. 412

Mr. President, I have an unprinted amendment at the desk which, I believe, is No. 412, and I call up that amendment and ask the clerk to state it.

The **PRESIDING OFFICER** (Mr. Culver). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. Tower) proposes unprinted amendment No. 412:

On page 36, strike out section 302(3), insert after the words " 'section 4, 4A, or 4C";' appearing in section 302(1) the word "and", and in lieu of the words ' "section 4 or 4C"; and' appearing in section 302(2) substitute the words ' "section 4 or 4C".'.

Mr. **TOWER**. I ask for the yeas and nays.

The **PRESIDING OFFICER**. The yeas and nays have been asked for. Is there a sufficient second? Evidently there is.

The yeas and nays were ordered.

Mr. **ABOUREZK**. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The **PRESIDING OFFICER**. On the motion to table there is a request for the yeas and nays. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **ABOUREZK**. Mr. President, I ask unanimous consent that this be a 10-minute rollcall.

Mr. **ALLEN**. I object.

The **PRESIDING OFFICER**. Objection is heard. There will be the regular order on the rollcall. The question is on agreeing to the motion of the Senator from South Dakota to lay on the table the amendment of the Senator from Texas. The clerk will call the roll.

The assitant legislative clerk called the roll.

Mr. **ROBERT C. BYRD**. I announce that the Senator from Idaho (Mr. Church), the Senator from Indiana (Mr. Hartke), the Senator from Washington (Mr. Magnuson), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from California (Mr. Tunney), the Senator from Arkansas (Mr. Bumpers), and the Senator from Colorado (Mr. Gary Hart) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson) would vote "yea."

Mr. **GRIFFIN**. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), the Senator from Idaho (Mr. McClure), and the Senator from Ohio (Mr. Taft) are necessarily absent.

The result was announced—yeas 58, nays 24, as follows:

[Rollcall Vote No. 556 Leg.]

YEAS—58

Abourezk
Bayh
Bentsen
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Griffin
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Mansfield
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevenson
Stone
Symington
Weicker
Williams

NAYS—24

Allen
Baker
Bartlett
Bellmon
Brock
Byrd,
Harry F., Jr.
Curtis
Domenici
Eastland
Fannin
Garn
Hansen
Helms
Hruska
Long
McClellan
Scott,
William L.
Sparkman
Stennis
Stevens
Talmadge
Thurmond
Tower
Young

NOT VOTING—18

Beall
Buckley
Bumpers
Church
Dole
Fong
Goldwater
Hart, Gary
Hartke
Laxalt
Magnuson
Mathias
McClure
McGee
Mondale
Montoya
Taft
Tunney

So the motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The **PRESIDING OFFICER** (Mr. Stone). The Senator from West Virginia.

SENATE CONCURRENT RESOLUTION 136—CONDITIONAL RECESS OF THE SENATE AND CONDITIONAL ADJOURNMENT OF THE HOUSE OVER THE LABOR DAY HOLIDAY

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that I may proceed for 2 minutes, hoping that the Senate will adopt a concurrent resolution in that time.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **ROBERT C. BYRD**. I send the concurrent resolution to the desk and ask for its immediate consideration, Mr. President.

The **PRESIDING OFFICER**. The clerk will state the concurrent resolution.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), for himself, Mr. Mansfield, Mr. Hugh Scott, and Mr. Griffin, propose the following concurrent resolution:

S. Con. Res. 136

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses on Wednesday, September 1, 1976, it stand in recess until 12 o'clock noon on Tuesday, September 7, 1976, and that when the House adjourns on Thursday, September 2, 1976, it stand adjourned until 12 o'clock noon on Wednesday, September 8, 1976, or in the case of each House until 12 o'clock noon on the second day after its Members are notified to reassemble in accordance with section 2 of this resolution, whichever event first occurs.

Sec. 2. The President pro tempore of the Senate and the Speaker of the House of Representatives shall notify the Members of the Senate and House, respectively to reassemble whenever in their opinion the public interest shall warrant it or whenever the majority leader of the Senate and the majority leader of the House, acting jointly, or the minority leader of the Senate and the minority leader of the House, acting jointly, file a written request with the Secretary of the Senate and the Clerk of the House that the Congress reassemble for the consideration of legislation.

Sec. 3. During the recess of the Senate and the adjournment of the House as provided in section 1, the Secretary of the Senate and the Clerk of the House, respectively, be, and they hereby are, authorized to receive messages, including veto messages, from the President of the United States.

The **PRESIDING OFFICER**. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the message from the House of Representatives announcing its action on the amendment of the Senate to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mr. **HRUSKA**. Mr. President, it will be my purpose to call up an amendment after a few brief remarks, and ask that the amendment be read, that we have the yeas and nays ordered on it, and then yield briefly for that inevitable motion to table, with a request for a rollcall vote.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield without losing his right to the floor so that I might propound a request on behalf of Mr. Jackson?

Mr. HRUSKA. Surely.

INDIAN CLAIMS COMMISSION AUTHORIZATIONS, 1977

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Jackson, I make the following statement and request:

On August 3, 1976, the House of Representatives approved an amended version of S. 2981 to authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes.

As approved by the Senate, S. 2981 authorized an appropriation of $1,650,000 to fund the Commission's activities for fiscal year 1977, and to extend the life of the Commission by 3½ years to September 30, 1980.

The House amended version resulted in the approval of the authorization of $1,650,000 but deleted the provision for authorizing the extension of the life of the Commission.

Mr. President, on behalf of Mr. Jackson, I move that the Senate disagree to the amendment of the House to S. 2981, request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

Mr. ALLEN. Mr. President, I object to this request as being out of order under cloture. I would like to suggest that, instead, we recess, or lay this matter aside until tomorrow, and take up such matters as this during the rest of the day. I would be in favor of that.

The PRESIDING OFFICER. Objection is heard.

The Senator from Nebraska.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the message from the House of Representatives announcing its action on the amendment of the Senate to the bill (H.R. 8432) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mr. HRUSKA. Mr. President, the situation I shall discuss falls within title III of the bill. It has to do with the measure of damages in instances where there is no establishing by the court and by the prosecution that the defendant in the case has acted in wilful violation of the antitrust laws.

The normal rule which would be provided for in the amendment before us is that if there is a violation of the law, if it is proved, damages are then assessed by the court by way of that magic fluid recovery, which is a sort of mysterious process, and then damages are established. They are multiplied by three. That is added to the court costs and the reasonable attorney fee and that is the judgment.

The Senate acted quite wisely in that matter because it confined that type of a situation to the violations of antitrust laws which are known as per se violations, where there is price fixing or where there is patent wrong. Those offenses are known as per se violations because the mere proof of either price fixing or of patent fraud immediately, per se, is, in and of itself, evidence, proof, and the basis for judgments under the antitrust law. But there are many other types of violations of the antitrust laws which are not, per se, violations. It takes a little more proof than simply the fact of the violation.

There is the rule of reason which governs the courts in those areas and, unhappily, there is a great deal of unpredictability in determining when a situation of restraint of trade exists, when a merger is illegal, or when selling below cost occurs to a point or under a situation that constitutes a violation of the antitrust laws. Also, the use of franchise comes into that area of doubtful, unpredictable construction by the courts. Also price discrimination; there is supposed to be competition and yet when some competitors compete, and they lower a price, there is a complaint by the merchant across the street to the effect that it is discrimination against that second merchant.

So we have those types of situations, and very often the courts will act upon a given situation, holding it to be not in violation, and yet 2 or 3 years later there will be a revised opinion by the court, an application of that rule of reason in such a way that that which had been held to be legal, upon a replay the decision is that they are in violation of the law.

Obviously the two situations, per se violations on the one hand and those where it is not proved to be a willful violation of the law on the other, are different situations. This Senator has shown his zeal for the prosecution of real violators of the antitrust laws in many ways in the years he has served here. I shall continue that policy, Mr. President, and I would hold no brief for anyone who engages in the type of per se violation included in the bill as it was passed by the Senate on June 10.

However, as to those areas in which the State fails to establish that the defendant, in an action, acted in willful violation of the antitrust laws, then I think the situation should be different.

If there is that holding, to be sure, he cannot be given absolution, he cannot be given condonation, and there would be an assessment of damages. But the point is, it should not be the assessment of treble damages, because that visits too great a hardship upon those areas and those situations where the situation is uncertain and cannot be forecast.

That type of situation imposes exposures upon small merchants particularly, small businessmen, which are extremely unfair and, therefore, amendment No. 2253 goes along that line; it would provide that if the State fails to establish that the defendant acted in willful violation of the antitrust laws, the mandatory relief shall be reduced from treble to single damages. I would urge the Members of this body, when that amendment is called up and brought to a vote, to consider the merit and the equity of the situation and the act, and to vote in favor of the amendment.

AMENDMENT NO. 2253

Mr. President, I call up amendment No. 2253, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. Hruska) purposes an amendment numbered 2253.

The amendment is as follows:

In title III, section 301, section 4c(a)(2) strike the period and insert in lieu thereof the following: ": *Provided*, That if the State fails to establish that the defendant acted in willful violation of the antitrust laws, the monetary relief shall be reduced from treble to single damages.".

Mr. HRUSKA. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I move that the amendment be laid on the table, and I ask for the yeas and the nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 2253. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Idaho (Mr. Church), the Senator from Indiana (Mr. Hartke), the Senator from Washington (Mr. Magnuson), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. Humphrey) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson) and the Senator from Minnesota (Mr. Humphrey) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), the Senator from Idaho (Mr. McClure), and the Senator from Ohio (Mr. Taft) are necessarily absent.

I further announce that, if present and

voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 57, nays 25, as follows:

[Rollcall Vote No. 557 Leg.]

YEAS—57

Abourezk
Bayh
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Mansfield
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Symington
Weicker
Williams

NAYS—25

Allen
Baker
Bartlett
Bellmon
Brock
Curtis
Domenici
Eastland
Fannin
Garn
Hansen
Helms
Hollings
Hruska
Long
McClellan
Roth
Scott, William L.
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower
Young

NOT VOTING—18

Beall
Buckley
Byrd, Harry F., Jr.
Church
Dole
Fong
Goldwater
Hartke
Humphrey
Laxalt
Magnuson
Mathias
McClure
McGee
Mondale
Montoya
Taft
Tunney

So the motion to lay on the table was agreed to.

WITHHOLDING TAX EXTENSION

Mr. LONG. Mr. President, Senators perhaps know that on tomorrow, the withholding rates of everyone's income tax is scheduled to go up. We are making fine headway and good progress on the tax bill, but it is an enormous measure; and even with the best everyone can do, it is going to take a few more days to conclude consideration of that conference report.

Meanwhile, there will be great confusion in this Nation when everyone's withholding tax rate goes up tomorrow. That is unnecessary and should not happen, in view of the fact that both sides have agreed that the withholding tax rates should not go up. But unless we act tonight, the withholding tax automatically will go up tomorrow on everybody's paycheck, and that will create great confusion around the country, until such time as we can find some way to try to get the situation back under control.

We should report and send to the Senate tonight a simple extender of the withholding rates, and the same with regard to corporations.

So, Mr. President, in order to avoid confusion in our tax laws, I ask unanimous consent that, without prejudice to the parliamentary situation that exists now, we might have unanimous consent to temporarily consider from the calendar H.R. 3052, together with an amendment to extend the withholding tax rates; that there be a limitation of one-half hour, to be divided between the manager of the bill and the minority leader; that after a half hour, we proceed to vote on the measure and any amendments to it that may be pending at that point.

Mr. ALLEN. Mr. President, reserving the right to object, I am entirely in sympathy with this request. As a matter of fact, I offered the amendment on the floor that extended the tax credit through 1977.

We are operating under cloture at this time, and the amendment is not in order. I believe that some time before the evening is over, we will be able to go to this bill. But at present, I object.

The PRESIDING OFFICER. Objection is heard.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the message from the House of Representatives announcing its action on the amendment of the Senate to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mr. BELLMON. Mr. President, if title III of H.R. 8532, as amended, is adopted today——

The PRESIDING OFFICER. Does the Senator call up an amendment?

Mr. BELLMON. I withhold the motion for the time being.

If title III of H.R. 8532, as amended is passed, the day will surely come when the Federal courts will find it unconstitutional. Title III is a sham, an ill-conceived attempt to clothe punitive sanctions in the garb of compensation for consumers. Not only is this device at odds with sound economic policy, it also raises fundamental constitutional questions. And the constitutional flaws in the parens patriae concept surely prove to be its undoing. We should not let it get that far.

Title III sets up the basic premise: any State attorney general would be empowered to bring a civil action to secure monetary relief for damages to the State's consumers caused by conduct in violation of the Sherman Act. Although the action would nominally be brought in the name of the State, designed ostensibly to redress consumer injury, the parens patriae concept clearly is in form a representatives action. Lest there be any doubt, title III creates a new technique for computing "damages" and makes it applicable both to parens patriae suits and to all consumer class actions brought under the antitrust laws.

But notwithstanding its form, the fact is that parens patriae actions would not truly be representative in operation. The accumulated experience with large consumer actions vividly demonstrates how little they actually benefit consumers. Although purportedly brought to compensate consumers for injuries too small to warrant the institution of a lawsuit, even though huge in the aggregate, these actions rarely result in direct benefits to consumers. The one fact that has emerged uncontroverted from the hearings on S. 1284 is that it is highly unusual for consumers actually to partake of the proceeds of recoveries supposedly obtained in their name.

One of the many examples is the experience of a tetracycline litigation. It will be recalled that in this litigation involving dozens of cases transferred to the Federal court in New York, *State of West Virginia* v. *Chas. Pfizer & Co.*, 314 F. Supp. 710 (S.D.N.Y. 1970), affirmed 440 F. 2d 1079 (2d Cir.) *certiorari* denied, 404 U.S. 871 (1970), the five defendants paid well over $200 million into a settlement fund, faced, as they were, with potential claims running well into the billions of dollars. Incidentally, even though the defendants paid these enormous sums to settle the massive claims against them, subsequent litigation with the Federal Government and with nonsettling plaintiffs resulted in judgments that the companies had not violated the antitrust laws. The tetracycline litigation, therefore, vividly illustrates the blackmail settlement that is an inevitable corollary to the parens patriae concept.

Even more striking, however, is that, of the over $30 million of the settlement fund earmarked to be paid to consumers, only $8 million, or somewhat less than 30 percent, was ever distributed to consumers. This dollar figure probably represents well under 30 percent of the consumer class members, for a significant number of the consumer claimants used tetracycline intensively, thus entitling them to a disproportionately large share.

Even these figures do not reflect the fact that in only a small number of cases was consumer recovery anything close to the 30-percent average. In Alabama, for example, $661,500 was earmarked for consumer compensation; only $74,000 was distributed. In Alaska $47,800 was earmarked for consumer compensation; only $1,000 was distributed. In Florida $948,000 was earmarked for consumer compensation; only $183,000 was distributed. And in Illinois $1,319,400 was earmarked for consumer compensation; only $135,800 was actually distributed.

In other words, in the litigation that proponents of the parens patriae action point to as representing the shining example of consumer class recovery, only a scant portion of the purchasing public ever received compensation paid in its name.

By contrast—and here, Mr. President, is another major objection to this whole proposition—the figures for attorneys' fees in these four States were $309,500, $10,000, $479,000, and $780,500, respectively—several times the amounts received by the consumers. In fact, millions of dollars more were actually paid in legal fees to the lawyers who brought the tetracycline cases than was refunded to consumers. There is little doubt, then, who are the real beneficiaries of large consumer class actions. Thus, despite the supposed character of suits like this as vindicating the interests of consumers, the vast majority of consumers in whose names consumer class actions have been brought and in whose behalf parens patriae actions would supposedly be brought have only the most attenuated interest in the outcome of these litigations. The plaintiffs' lawyers who construct these cases stand to profit most from parens patriae suits.

Those sections of title III that govern the manner in which a parens patriae action would actually be conducted confirm that representation of actual consumers is not really anticipated. Title III is illustrative, and provides:

> In any action brought under this bill, the State attorney general shall, at such times, in such manner and with such content as the court may direct, cause notice thereof to be given by publication. If the court finds that notice by publication only would be manifestly unjust as to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case.

Title III thus provides that in parens patriae actions, notice "shall" be by publication. Only in the exceptional case, and upon a judicial finding of manifest injustice, will notice of the action be given in any other way. Leaving aside, for the moment, the question of the constitutional adequacy of this provision, its draftsmen manifestly do not expect many consumers in fact to receive notice of the pendency of parens patriae actions. How could it be otherwise? How many people are aware of, much less read, legal notices published in the local newspapers? Does anyone seriously believe that this type of notice reaches more than a fraction of those to whom it is directed? Instead, by proposing notice by publication as the way to inform people that their rights are being litigated by someone purporting to act on their behalf, title III selects a method calculated to conceal that fact.

Rather revealing comments about the efficacy of notice by publication can be found in an article by David I. Shapiro, attorney for the plaintiffs in several large consumer class actions, one of the principal proponents of the parens patriae concept. In this article, entitled "Processing the Consumer's Claim," and which appears in volume 41 of the American Bar Association Antitrust Law Journal at page 257, Mr. Shapiro describes the response to notice by publication in the tetracycline antibiotic drug litigation. This notice was printed, not at the outset of the litigation, but after a settlement agreement had been reached in principle, in other words, when consumers clearly stood to gain financially by responding to the notice. Mr. Shapiro (at pages 263–264) describes the response to the notice this way:

> The Antibiotics consumer notice appeared once, on or about July 1, 1969, in every daily newspaper of general circulation in each participating jurisdiction; in addition to English language newspapers, notices were also published in Spanish and Japanese newspapers. The notice described the status of the litigation, advised consumers about their choice between opting out and being bound by the judgment and about their right to appear separately, and then went on to give instructions for the filing of claims, stating that failure to file a claim by August 16, 1969, would constitute an authorization for public utilization of unclaimed funds.
>
> The initial response to the printed notice was disappointing. Although counsel and the court had done their best to phrase the notice in language comprehensible to the layman and although the quarter-page notice, with a large heading, was calculated to catch the eye, relatively few claims came in the early days of the month-and-a-half claim period and some of the responses reflected a lack of understanding. (Citations omitted.)

Mr. Shapiro then writes of the extraordinary measures it took to elicit some consumer response:

> Accordingly, we began a hasty campaign to increase the publicity given the matter. We arranged for Ralph Nader, Esq. to appear on the "Today" television show to discuss the matter and encourage the filing of claims. We also enlisted the help of the National Association of Broadcasters in urging its member stations to broadcast announcements. The Federal Communications Commission was persuaded to classify them as "public service announcements" for purposes of the time accountings that the stations submit when seeking renewal of their licenses. In addition, the matter was publicized through communications by congressmen with their constituents, public statements by various state attorneys general, and coverage in various news media, union newsletters and the like.

The tetracycline litigation was extraordinary in its dimensions, and, as this excerpt from Mr. Shapiro's article illustrates, rather extraordinary means were used to publicize it. Nevertheless, as I mentioned earlier, far less than 30 percent of the consumers supposedly represented ever saw a penny of the millions paid in settlement.

As to the effectiveness of notice by publication, even Mr. Shapiro, at page 267, concludes that—

> Any kind of printed legal notice, however it may be dressed up, can serve only to intimidate or discourage those to whom it is addressed.

Not that Mr. Shapiro thinks that suitable methods of notification cannot be devised. He suggests, at page 268—

> . . . a comprehensive program of television and radio announcements during hours that will maximize exposure. In order to dramatize the message it should be given by a public official, for example the State Attorney General or perhaps even the judge presiding over the case.

Given the fact that H.R. 8532 has gotten as far as it has, even though absolutely astounding in many ways, one hesitates to brand any idea as pure fantasy. But the prospect of the Bicentennial minute which we all now see on our television sets being replaced by the daily prime time legal notice—propounded, no doubt, by Federal judges wearing pastel robes—is almost too bizarre to contemplate. How eager broadcasters would be to provide free time for plaintiffs suing their advertisers is another wrinkle that gives one pause; it is more realistic, it would seem, to conclude that title IV really does not contemplate actual notice reaching consumers.

This suspicion is confirmed by the provision title III makes for the distribution of damages. The bill provides for the distribution of damages—nominally awarded as compensation for consumer injury—"either in accordance with State law or as the district court may in its discretion authorize." Both proponents and opponents of title III agree that this provision was inserted to guide district courts in distributing recoveries that are certain to exceed severalfold the actual consumer claims. Thus written into the statutory language is the draftsmen's expectation, justified by experience, that the majority of the compensation awarded will never find its way to consumers.

The evident and irreconcilable contradiction between the form of the parens patriae action and its reality creates several constitutional problems. Foremost is whether a parens patriae action would really be a "case," as that term is used in the Constitution. Article III of the Constitution limits the judicial power of the U.S. courts to "cases" and "controversies." This has always been interpreted to mean that the Federal courts lack the power to entertain any lawsuit except one that places in issue concerted interests of actual parties, and it is for this reason that advisory opinions or hypothetical issues have always been held to be outside of the scope of the Federal judicial power. Once one understands that a vast preponderance of consumers have no knowledge of, much less any real interest in, lawsuits instituted purportedly on their behalf, it becomes clear that a parens patriae action, and even a consumer class action of sufficient breadth, does not present an actual controversy.

Let me illustrate. Assume that a person with a bit of time on his hands wrote the following letter to a Federal judge:

> DEAR JUDGE: A lawyer friend of mine told me he read that some consumers paid an extra dollar last year for popcorn at moviehouses, because the makers of bearings in popcorn-buttering machines got together and fixed their prices. I went to the movies last year. I don't know if anyone is planning to sue about this, but if they do, judge, print a notice in the paper. Better yet my lawyer friend says you should show it on T.V. between "The Price Is Right" and "Let's Make a Deal." If I see that notice and if I don't like the person bringing the lawsuit and I'd rather do it myself, chances are one in five I'll let you know. But if I don't write to you, assume anyway that I saw the notice and that I want the case to go forward in my name. You don't have to tell me anything if the case is lost; I'm not interested in bad news. But drop me a line in case I win anything, and tell me how much I stand to gain. Even if anybody did anything wrong, I only lost a dollar, but you never know, I might want to go to the trouble to collect my money, and even if I don't I guess someone could put it to good use.

Putting aside, for the moment, the question of a State attorney general's standing to represent the interests of consumers in his State, a parens patriae lawsuit calls upon a Federal court to exercise the Federal judicial power and to expend the energy and resources inherent in adjudication for something like a 30-percent probability that the ostensible beneficiary of the action will take any interest in it. How can this be called an actual "case"?

Erwin Griswold, formerly Solicitor General of the United States and dean of Harvard Law School, is one of the Nation's leading constitutional law scholars. In a thoughtful paper submitted to the Judiciary Committee, Dean Griswold concluded that a parens patriae action would not meet the constitutional "case or controversy" requirement. He explained:

> The persons on whose behalf recovery is attained make no claim, are not parties to the case, and provide no proof. For the most part, they are simply unknown. Although no precise authority on this question is known—probably because the possibility of such a contention has seemed so far-fetched—it seems obvious that a claim on behalf of such persons does not meet the requirements of Article III of the Constitution limiting the jurisdiction of the Federal courts to "cases and controversies" since such a claim does not arise between actual parties, presenting a real issue and supported by proof designed to show an actual, rather than a supposed or hypothetical, injury.

Another of the Nation's leading constitutional scholars and respected authority on the subject of the jurisdiction of the Federal courts, Frances R. Kirkham, has also expressed grave doubts about whether large actions, purportedly on behalf of consumers, are in fact "cases" as that term is used in Article III of the Constitution. Mr. Kirkham has noted:

> Under our traditional law, and under our Constitution, the business of the courts is to decide cases and controversies. It may well be questioned whether a proceeding to declare the rights of a person who lacks sufficient interest in his claim to bring himself before the court is justiciable as a case or controversy. In any event, the awarding of damages measured by a de minimis injury to a person uninterested in adjudicating the claim, or even in accepting damages, when awarded, can only be justified, as noted above, on the assumption that courts should change their role from a 'passive one' of dealing in compensation to parties before them to an 'active one' of extracting money, in the absence of a controversy, from alleged wrongdoers.

Mr. Kirkham's remarks were delivered before the National Conference on the Causes of Popular Dissatisfaction With the Administration of Justice, a conference recently held in St. Paul, Minn., to commemorate the 70th anniversary of Dean Roscoe Pounds' historic speech that gave the conference its name. Mr. Kirkham's topic was "Problems of Complex Civil Litigation," and I recommend his probing analysis in its entirety to the Members of the Senate.

Nor is the problem cured because some consumers may, indeed, be aware of a parens patriae action and have an actual interest in its outcome. To quote Dean Griswold again:

> Surely the fact that some members of the class may be properly before the court does not mean that there is a case or controversy with respect to other members of the class. The fact that there is a case or controversy with respect to a named or identified plaintiff, does not give the court jurisdiction to decide other and hypothetical or abstract questions. Thus, a plaintiff that is properly before the court could not say: "And, by the way, we would like to have you declare this other, unrelated, statute unconstitutional." Cf. *Muskrat* v. *United States,* 219 U.S. 346 (1911).
>
> Similarly, the fact that proof is provided by some members of the class who are before the court does not necessarily mean that there is a case or controversy with respect to other members of the class who make no proof at all, either of actual injury, or of damages. The fact that others may seek to provide some sort of proof on their behalf does not mean that there is an actual controversy on such matters before the court. Under Article III, the court has no constitutional power to decide such collateral questions, on behalf of parties not before the court, and making no claims, and the Congress should not seek to assign such powers to the courts under our constitutional system.

As responsible legislators who have taken an oath to uphold the Constitution, we should heed Dean Griswold's sound advice on the proper limits, imposed by the Constitution, on the uses to which the Federal courts can be put.

Mr. President, as I said at the beginning, I feel this legislation is another case where a great many of our constituents are going to consider that the heavy hand of government is reaching into places where we have no business.

I oppose the legislation in its entirety. I particularly dislike title III, as I have mentioned.

Mr. President, I yield to my colleague from Oklahoma without losing my right to the floor.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER (Mr. STONE). Objection is heard.

Mr. BELLMON. Mr. President, I yield to my colleague from Oklahoma for a question.

Mr. ABOUREZK. Mr. President, I object to that.

The PRESIDING OFFICER. The Senator may yield for a question.

Mr. BARTLETT. I was hoping my colleague would yield to me to make a unanimous-consent request, but if that is out of order I will not do so.

The PRESIDING OFFICER. The Senator can yield for a question. He cannot yield the floor while there is an objection to that unanimous-consent request.

Mr. BELLMON. Mr. President, I renew my request and ask unanimous consent to yield to my colleague from Oklahoma without losing my right to the floor.

Mr. ABOUREZK. For the purpose of making a unanimous-consent request?

Mr. BELLMON. For the purpose of making a unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Mike Roush and Ed King of my staff be accorded the privileges of the floor during the further consideration of this bill and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. I thank my distinguished colleague.

MOTION NO. 3

Mr. BELLMON. At this time I call up motion No. 3, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Oklahoma (Mr. BELLMON) proposes a motion No. 3:
>
> I move that the Senate concur in the House Amendment to the Senate Amendment to H.R. 8532 with an amendment as follows:
>
> On page 33, line 12, add a new sentence: "No portion of any monetary relief or recovery shall be paid, awarded, or allocated to any private counsel employed by the State, or any person other than the natural persons residing in such State in whose behalf such action was brought.".

Mr. BELLMON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I move to table that motion, and I ask for the yeas and nays.

Mr. BELLMON. Could I have 1 minute to explain the motion before we have the yeas and nays?

The PRESIDING OFFICER. The yeas and nays are called for. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota (Mr. ABOUREZK) to lay on the table the motion of the Senator from Oklahoma (Mr. BELLMON). The yeas and nays have been called for, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Ohio (Mr. TAFT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 52, nays 26, as follows:

[Rollcall Vote No. 558 Leg.]

YEAS—52

Abourezk
Bayh
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Hart, Gary
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Jackson
Javits
Johnston
Leahy
Long
Mansfield
McGovern
McIntyre
Morgan
Moss
Muskie
Nunn
Packwood
Pastore

Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Stone
Symington
Williams

NAYS—26

Allen
Baker
Bartlett
Bellmon
Brock
Byrd,
  Harry F., Jr.
Curtis
Eastland
Fannin
Garn
Griffin
Hansen
Helms
Hollings
Hruska
McClellan
Metcalf
Pearson
Roth
Scott,
  William L.
Stennis
Stevens
Talmadge
Thurmond
Tower
Young

NOT VOTING—22

Beall
Buckley
Church
Dole
Domenici
Fong
Goldwater
Hart, Philip A.
Hartke
Inouye
Kennedy
Laxalt
Magnuson
Mathias
McClure
McGee
Mondale
Montoya
Nelson
Taft
Tunney
Weicker

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I have just asked the clerk at the desk to give me an indication of the number of amendments and motions that remain at the desk. According to the count——

Mr. PASTORE. May we have order? This is quite important, Mr. President.

The PRESIDING OFFICER. The Senate will be in order. Will Senators take their seats?

Mr. ROBERT C. BYRD. According to the clerk, 79 amendments are yet at the desk. Thirty-four motions are yet at the desk. This makes a total of 113 amendments and motions which have been submitted in accordance with the rule and which may be called.

Those 113 amendments and motions have been submitted by seven Senators. The last amendment that was voted on was an amendment, I believe, by Mr. Thurmond, but was called up by Mr. Bellmon. So what we see here, in my judgment, is an effort to delay final action on a measure on which cloture has been invoked.

It is possible that some of these amendments have not been submitted for dilatory purposes. But I am constrained to feel that the purpose in offering 113 motions and amendments is dilatory in nature.

Paragraph 2 of Rule XXII states in part, once cloture is invoked:

> No dilatory motion, or dilatory amendment, . . . shall be in order . . .

Mr. President, I take the floor at this time simply to state that as of 2 hours from now it will be my purpose, upon getting recognition, to make a point of order that all remaining amendments and motions at the desk are dilatory and, therefore, are not in order.

I do not make that point of order at this moment because I want to give Senators an opportunity to make a selection from those remaining motions and amendments at the desk and call them up.

As far as I am concerned, I think we ought to give them an up and down vote on those amendments and motions and not have any tabling motions. Let the Senate speak its will on those motions and amendments that will be called up.

I think that out of fairness to Senators whose names are on those motions and amendments I should state now that 2 hours from now, to wit, no later than 9:15 tonight, it will be my intention to make the point of order that all remaining amendments and motions at the desk are dilatory in nature, that they have been submitted for that purpose. They are dilatory and, therefore, they are out of order.

If the Chair wishes to submit the question at that time to the Senate and let the Senate speak its will on that point of order, of course, the Chair may do so.

Mr. PASTORE. Will the Senator yield?

Mr. ROBERT C. BYRD. I ask unanimous consent that I may yield.

I yield the floor. The Senator can get the floor in his own right.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PASTORE. Mr. President, I think the spectacle that has been presented in this body today does not reflect on the good credit of this institution. As a matter of fact, I dare say that this is not the shining hour for the U.S. Senate.

There is no question at all that whatever legislation comes before this body cannot be accepted by all. There may be reasons why a person would like to amend. But it begins to appear to me there is a deliberate attempt here to delay.

It may or may not be a tactic to take advantage of the rules, but I think in this case the action of the majority leader is correct.

It is 7:20. Possibly if we recess for about 10 or 15 minutes to allow the majority leader to talk with the proponents of these various amendments, we could arrive at the conclusion he has stated, and determine which amendments are really important, and which are not and have dilatory purposes.

I firmly believe that no matter what happens, this is going to come to a final vote. I think Mike Mansfield is absolutely determined to have it come to a final vote, and in all probability when we come back here after Labor Day next week, he may go around the clock in order to accomplish that purpose. Ultimately it will come to a vote, and all I want to say to my good friends is, you have had your day. You have had your fun. You have accomplished your purpose.

The point is, if you have something of substance, confer with the majority leader and let us give you a vote up or down. You are entitled to that. But this is a disgrace. We came here early this morning, and have been going right along. I understand already we have had over a dozen votes registered, and it takes 15 minutes for each vote.

I wonder what the people up there in the gallery are beginning to think of the people they have sent here, at the cost of $45,000 a year, to do the business of this Nation.

Mr. JACKSON. Mr. President, at that point, will the Senator yield for a question?

Mr. PASTORE. Yes.

Mr. JACKSON. Does the Senator recall—and I ask this in an effort to corroborate the comments of the distinguished assistant majority leader, and to further corroborate the comments of the distinguished Senator from Rhode Island—how many rollcall votes took place in 11 days in connection with this measure when it was first brought up in the Senate? Does the Senator recall?

Mr. PASTORE. No, but there were many.

Mr. JACKSON. Seventy-three rollcalls. Think of it. And this measure has been ventilated once, and now we are going through it on a matter purely to concur in the action taken by both Houses. I cannot conceive of stronger corroboration for the allegation of dilatory tactics, which are prohibited by rule XXII, having occurred in this case.

Mr. PASTORE. Well, I do not want to go quite that far. I think there are some amendments lying at the desk that have some merit.

Mr. JACKSON. I would agree on that, but we have had 11 rollcalls today on them.

Mr. PASTORE. I think we ought to consider them, and those that are dilatory on their face I think ought to be rejected and ought to be withdrawn. I do not think they ought to be called up.

You have had a good day. You have had a nice time and all that. But it is not the right thing to do.

Mr. TOWER. Mr. President, we have heard a great deal about delay here, that this is legislation that is eminently to be desired, and that a handful of people are trying to prevent its passage.

Let me say, Mr. President, this is legislation that has no popular push behind it. It is nothing the people of this country are rising up and demanding. The fact of the matter is that the people of this country are demanding less government, and not more. But we, in our superior wisdom, want to give them more government, more interference in the affairs of business, more interference in the affairs of men.

The consumers of this country are not demanding this legislation. Oh, maybe a Ralph Nader, a self-appointed man here and there is, but we are not getting massive mail saying, "You must pass this, this is urgent legislation, therefore let us get on with it, and roll over those who oppose it."

Mr. President, there is an anti-Washington sentiment abroad in this land, and the reason it is there is because of what we have done. If a few of us delay, so be it; we will continue to delay, because we know what is being done here is that a few people have arrogated to themselves the decisionmaking process of this country. They decide what is good for the people.

This is the height of arrogance. To me, this is the same kind of mentality that leads to the establishment of benevolent dictatorships. That is what we are doing here. Yes, you are going to shove this down our throats. You are going to harass business. You are going to vote to impose more burdens on the economy. Ah, yes; that gives us more control over what they do.

There is no popular demand in this country, there is no concerted demand in this country for this legislation, and, yes, a few of us are saying we are tired of seeing the Congress continue to enact legisblation that imposes more burdens of government on the people, and I think we are justified in doing it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PASTORE. Now, Mr. President, that is a beautiful political speech, but that is the interests——

Mr. TOWER. It is not political.

Mr. PASTORE. Wait a minute. Did I interrupt you? Did I interrupt you?

Now, Mr. President, I did not rise from any political motive; and when you say that a "few" are trying to stampede the measure, you do not know what you are talking about.

You have not taken a count of the votes. Some of these amendments just got about 10 or 12 votes. The trouble here is that the minority is running the majority, and the concept of our Government is predicated upon the majority will.

I think you ought to have your day. I think you ought to have your debate. I think you ought to have a chance to bring up your amendments. But do not stand there saying you are being stampeded.

Why do you not wait for the vote? I am willing that you be given a vote up or down. I do not deny you that. But when you stand there and say you do not like this legislation, and you are going to make sure that it is killed, our Constitution was never written for that purpose, and I hope the rules of the Senate were not written for the purpose of letting the minority control the majority. The minority needs to be heard, and they are protected under the rules.

All we are saying is that if your purpose is dilatory—and you have just admitted as much—you are in violation of the rules. And that is all that the majority leader has said.

Several Senators addressed the Chair.

Mr. PASTORE. Do you want me to yield? I have the floor.

Mr. TOWER. Will the Senator yield?

Mr. PASTORE. For a question.

Mr. TOWER. I yield for a question.

Mr. PASTORE. No, I yield for a question.

Mr. TOWER. Does the Senator think he accurately reflects the majority of the people of this country in that statement? Each State is represented by two Senators. I represent 20 times more people than the Senator from Rhode Island. Should I have a greater proportionate vote, if we are talking about the majority having its way? Of course not. Of course not.

Mr. PASTORE. That argument is ridiculous on its face.

Mr. TOWER. Of course not. But there is no popular demand for this legislation.

Mr. PASTORE. How do you know? Did you talk to the people of the State of Rhode Island? Did you talk to the people of the State of New York? Did you talk to the people of the State of Pennsylvania? Who did you talk to? A few oil men down there in Texas?

Mr. TOWER. Whom did you talk to? How many people have communicated with you demanding this legislation?

Mr. PASTORE. Who are you trying to kid?

Mr. TOWER. Who has demanded it?

Mr. PASTORE. Who has demanded it?

Mr. TOWER. Yes.

Mr. PASTORE. Why, the committees of this Congress.

Mr. TOWER. Ah, the committees of Congress. Who ever wrote to you demanding it?

Several Senators addressed the Chair.

Mr. ALLEN. Regular order, Mr. President.

Mr. PASTORE. I have the floor.

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. PASTORE. If anyone is out of order, the Senator from Texas is out of order.

Mr. TOWER. So be it.

Mr. PASTORE. But I want to say one thing about him. There is one reason why I have tremendous admiration and affection for him. I can see eyeball to eyeball with him, because neither one of us has to look either down or up at the other.

Mr. TOWER. And sometimes that is very convenient. [Laughter.]

Mr. PASTORE. Absolutely, and tonight is very propitious.

All I want to say is, let us get going, and let us do what needs to be done.

Mr. MORGAN. Mr. President, I wish to make a plea to my colleagues on this issue.

I happen to be one of those who comes from a State that believes in the unlimited debate rule. We North Carolinians always have been slow to act whenever our actions involved changes in established laws and traditions. As a matter of fact, we were so slow to adopt the Constitution of the United States that we did not have an opportunity to vote for George Washington the first time, and we had no Representatives or Senators in Congress during the first session, because we wanted to deliberate on the contents of the Constitution and the necessity for a Bill of Rights.

As my predecessor, Senator Ervin, pointed out, we were so deliberate in our decision to leave the Union in the 1860's that we did not act in time to have an opportunity to vote for Jefferson Davis as president of the Confederacy.

I believe that the unlimited debate rule in the Senate is important for the future of this country.

As was pointed out in the Constitutional Convention, at Hillsborough in 1788, when we refused to adopt the Constitution, even elected representatives of the people cannot always be counted on to act rationally in the best interests of the people, in the heat of passions arising out of debate on emotional issues. Because of that, I think it is important that we have the right to debate on the floor of the Senate any issue that comes before us long enough so that the press will have the time to disseminate the substance of the debates and the people of this Nation have time to know what is going on in the Senate and voice their opinions.

I was one of those who came to the Senate in 1975 and voted against reducing the number that is required for cloture from two-thirds to three-fifths. I could not understand how the Members of the Senate could do that, realizing the importance of this rule and the importance of debate.

However, since that time, Mr. President, I have observed actions in the Senate that have led me to a better understanding of the reasons for the rule change—not that I support it now, not that I think it is right; but I can see coming now, from what we are doing here, another change. I have seen it for the last 2 years. We are coming around quickly to majority rule in the Senate not only on substantive matters but on procedurally as well. We may never change the rule, but what we are doing here may very well lead to such a new rule.

As the distinguished Senator from Michigan (Mr. GRIFFIN) pointed out this afternoon, when the question of dilatory tactics was raised against the distinguished Senator from Alabama who objected to the suspension of the reading of his amendment, the rules require the reading of any amendment be considered if anyone objects. But a point of order was raised; and as I understood one ruling of the Chair, it was that a reading of that particular amendment would have been dilatory. The point of order was later withdrawn; but as I understand the rules, if the ruling had stood and it had been appealed from, a majority of the Senate, in effect, would have suspended the rule requiring unanimous consent in the Senate to suspend the reading of a bill or amendment. In effect, it would have been reverting to majority rule in procedural matters.

I have been voting with the majority on this bill. I did so back in June. I think I voted 70 times or 69 times with the majority. I feel very strongly about this.

My convictions on this issue come from many years as a private lawyer engaged in antitrust litigation. I really am a country lawyer, but I would put my experience in antitrust litigation up against that of almost any other lawyer in North Carolina. As attorney general I was involved in many antitrust lawsuits.

I am not arguing the merits of the matter now, but I say that this is an antigovernment regulation bill. If you are going to have free enterprise, you have to have competition or regulation. This bill will promote competition, not regulation. But I am not arguing that point at this time.

If I had been called upon this afternoon, even though I had voted with the majority throughout the entire debate on this bill, I would have voted the position of the distinguished Senator from Michigan, because I do not believe that a majority should be able to suspend a rule of the Senate.

I do not believe the position of the distinguished majority whip as stated earlier tonight will be correct when he raises the question of a point of order 2 hours from now that every amendment and every motion on the desk is dilatory, and I shall vote to sustain my position.

But it does not matter what my feelings are, Mr. President. If a majority of the Senate vote to sustain the position of Mr. BYRD then there is no appeal.

If it were in any other body of the land, I would be willing to go to the Supreme Court and would wager that I could win the case, that is, that you could not rule every motion and every amendment out of order, en bloc, as being dilatory. But what I could do before the Supreme Court does not matter. If a majority of the Members of the Senate say it is, then it is, as I understand the rule. There is no appeal from the U.S. Senate on a procedural matter.

So I am making this plea to my colleagues: Let us not force this issue. We debated it 10 days before. I think we debated every amendment that I have heard debated this afternoon. If there are some new amendments that are relevant, let us debate those. But let us not force the issue so that we bring ourselves to the position that the majority rules in the Senate on procedural matters or that the majority can cut off debate in the Senate.

I have seen this trend coming since I have been in the Senate the last 18 months, and it is a trend that is bad. Unlimited debate should prevail in the Senate, but the debates should be material and relevant, and they should not be dilatory.

Mr. PERCY. Mr. President, I shall be very brief.

I should like to comment on two points, one made by my distinguished colleague—and I suppose we are keeping the colloquy at eyeball to eyeball level with all four of us.

The Senator from Illinois is deeply concerned now about what will happen if, after invoking cloture, after we have gone through all the procedure, we still find that we cannot act. I think there will be a tendency to overreact then and find some way to get around that, and that will do great damage to the tradition and the procedures of the Senate which have done much to protect the interests of the minority.

As the Senator from Rhode Island has said, I think it is going to be self-defeating in the end. I do not think any of us would want to hurry substantive amendments. They should be debated fully. I dislike very much casting a vote to table them. They should be voted up or down.

I hope the advice of the assistant majority leader will be followed in this case.

Second, with respect to the distinguished Senator from Texas, I think he is quite right. There is no mass public demand for this legislation. In fact, if we were to pass legislation by weighing our mail, the mail would be overwhelmingly on the side of killing this whole bill, because it is pretty well organized. It comes from many dear friends with whom I have been associated most of my life who are opposed to any legislation in this field.

But I have sat on the Multinational Subcommittee for a couple years now. I have been taken through the procedures of bribery, payoffs, and kickbacks, and what that does to the integrity of the free enterprise system. I have sat for hours talking with Rod Hills, as to what do we do about this kind of problem, and with the distinguished Senator from Wisconsin grappling with legislation. All of us wondered what we do and what are we trying to do. We are trying to preserve in that case the integrity of the system so the world believes in free enterprise, and it does not get the black eye that it is getting now in the eyes of the world because of the practices of an unscrupulous few led by a Government financed corporation, Lockheed. The Lockheed system is what we have been told time after time is what you have to do to do business abroad. We know that is not true.

In the same case here, we want to keep this enterprise system and have the faith of the people in this country deeply dedicated to it. Yet when we go to our colleges and our universities today and ask them the question, "Do you have faith in the integrity of this system?" we receive an overwhelming negative response. That is what terribly worries the business community.

What we are trying to do is say we believe in the market system, and we want to see it work. But a very few subvert that system, when they willfully engage in price fixing, when they have an utter and total disregard for the marketplace. Then all we are doing is saying that the people of this country, whether they write us letters or not, feel and have confidence Congress is going to do something about keeping the integrity of the very system we all believe in.

There is no division between Democrats and Republicans on that. Everyone in this body believes in that system. What we want to do is insure we keep the system.

I have had many concerns about certain aspects of this bill. I have discussed with the President certain of the concerns of constituents of mine. I have discussed them with BOB MCCLURE and others in the House of Representatives who have been working on the bill over there.

The bill that is before us today is a compromise bill. It is not perfect. There are certain things I would want to change. But I am convinced of my position after having talked to the head of the Antitrust Division of the Justice Department, who is leaving to go back to his academic life. He served in the Ford administration in a Republican administration. What he told me would curl your hair or George Humphrey's hair or the hair of anyone else about how much cost is being passed on to the consumer because of the subversion of this system by certain people who must pay the price if we engage in undercutting and discrediting this system.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. PERCY. I will yield for a brief question, of course.

Mr. TOWER. The Senator has expressed great concern for preservation of the market-regulated economy, and I agree with him. I know the Senator from Illinois is a great defender of the market-regulated economy. But we seem to be concerned about business thwarting the function of the market-regulated economy. Has big labor never done so? Has big labor operated within the framework of a market-regulated economy? No. They can demand and get wage and fringe benefits that have nothing to do with the man's productivity.

Mr. PERCY. Is that a question?

Mr. TOWER. There has been abuse after abuse by big labor and we never did a damn thing about it in this body. Does the Senator have any comments on that?

Mr. PERCY. I will be happy to comment.

Mr. TOWER. That is as to the abuses by big labor.

Mr. PERCY. The Senator from Illinois spent a great many years dealing with the abuse of power by a labor organization. The Senator from Illinois is the ranking Republican on the Permanent Subcommittee on Investigations of the Senate. We spent 6 years now investigating abuses in the Teamster's. Senator NUNN and myself have agreed we have to dig further, and we are now working with the Justice Department working out a program to stamp out those kinds of abuses. We are going after labor just as we go after anyone else that subverts the system.

Mr. TOWER. I submit we are not. We do not do anything about big labor in this body because we are mortally afraid of the power of big labor.

Mr. PERCY. Mr. President, do I have the floor?

Mr. ABOUREZK. This is on whose time?

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. PERCY. I thank the Chair very much.

The answer to the question proposed is yes, there are abuses on both sides. All we can do is take those abuses and try to identify them, if they involve the law, and we have.

Mr. TOWER. Take the course of least resistance.

Mr. PERCY. The Senator from Illinois has the floor, I believe.

The PRESIDING OFFICER. That is correct.

Mr. PERCY. We do what we can about them. I do not think, because there are abuses on the side of labor, the Senator from Texas would argue then it is rational for us to do nothing about certain abuses on the side of business. The Senator from Texas would be the first to agree there are abuses in business just as there are abuses in labor. It is our job to sort them out.

Mr. TOWER. Will the Senator yield for a question?

Mr. PERCY. I did not intend to give a speech tonight, and it is a very late hour.

Mr. TOWER. If the Senator will yield for a question, why do we not do anything in this body about big labor? We never do.

Mr. PERCY. The Senator from Illinois would be happy to work with the Senator from Texas, if appropriate, on legislation.

Mr. TOWER. Because of political power, because business is a convenient whipping boy, we can do it to them but cannot do it to big labor. We are scared and freightened to death of them.

Mr. PERCY. The Senator is absolutely

wrong about that. We are not scared to do that at all, and the Senator from Texas knows that.

Mr. TOWER. I do not know that.

Mr. PERCY. The Senator from Texas——

Mr. ROBERT C. BYRD. Mr. President, I ask for regular order.

The PRESIDING OFFICER. Regular order is called for.

Mr. PERCY. I suggest the Senator from Texas meet with the Senator from Georgia and me and be briefed fully on what the permanent investigating subcommittee intends to do, working with the Justice Department, on abuses.

Mr. TOWER. We investigate. We never legislate.

Mr. PERCY. Mr. President, does the Senator from Illinois have the floor?

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. PERCY. We are happy to work with the Senator from Texas. I think that is an isolated case. I think we now have before us certain abuses. We are talking about willful price fixing. I cannot think of a more dastardly thing that a businessman would do to undercut and subvert the free marketplace that he himself is supposed to be protecting and working within, and try for self-advantage; because for some reason he cannot make it honestly, he does it dishonestly, and is not willing to pay the price.

The Senator from Illinois is aware of the fact this is not perfect legislation. But the Senator from Illinois also feels if after the evidence has been produced Congress does nothing or through tactics that may be called dilatory is prevented in the final weeks of this session from doing anything, then I think we would be an impotent body.

The people of this country expect us to do something. I do not think the Senator from Texas has ever legislated just for the weight of his mail. We could do that. They would not need us down there if we just responded to the weight of the mail. There is not a lot of public pressure, I feel absolutely confident the people in this country expect us to do something. They will be bitterly disappointed, and if we do not do something, we will be advancing the cause of those who are trying to wreck the system, and no one would be more pleased about the corruption of this system than the very enemies of this Republic, that the Senator from Texas has spent his life fighting.

I yield the floor.

Mr. MANSFIELD and Mr. TOWER addressed the chair.

Mr. TOWER. Mr. President, will the Senator yield for a question? And I will de-escalate the rhetoric. I simply want to ask a question.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MANSFIELD. Mr. President, I think that the Senate has seen an indication and an illustration of how the cloture rule can be abused, how dilatory tactics can be put into effect, and how the will of the overwhelming majority of this body can be negated. We have had 13 votes so far since cloture was invoked.

My mind goes back to the days of Dick Russell and others who undertook to make their position substantially known on matters of great import affecting not only their part of the country, the South, but the Nation as a whole, and I refer specifically to the great civil rights debates in this body.

We do not have those kinds of debates anymore. But what has developed in the last 2 years has been a policy by means of which cloture is almost forced on the Senate on practically every piece of legislation of major significance which comes before this body. Not only that, but the substantial way Dick Russell and his colleagues used to handle the imposition of cloture, once it was invoked, has gone by the board. Substance has disappeared and form has taken its place. Dilatory tactics are the norm. They are not unusual anymore.

I agree with the distinguished Senator from North Carolina (Mr. MORGAN) that if the Senate keeps on in this way, what it is going to end up with is majority cloture, and those who are so much against cloture will be the ones who will be responsible for bringing it on this body.

I do not believe in majority cloture. I had my doubts about three-fifths; but when the Senate makes a rule, I believe in that rule, and I tell you, my colleagues, this: If this kind of dilatory tactics continues, you are going to have "reforms" in this body the like of which you have never seen before.

The idea of calling up a 47-page substitute and having it read and not charged against the Senator who asked that it be read is ridiculous and is demeaning. The same effort was made on another 47-page amendment—a few words changed here and a few words changed there. And when the question was raised about whether or not that was dilatory and it looked as if the Senate were going to decide that it was, what did the author of that amendment do? He withdrew it.

As to the author of that amendment, or the one who proposed that amendment, do you know how much time he has used up to this moment under his hour allotted under the cloture rule? Five minutes.

And his colleague on the other side; do you know how much time he has used, up to this time, on his hour? Eight minutes. But think of the time which has been used up by the Senate, disgracefully.

Mr. ALLEN. Will the Senator yield at that point?

Mr. MANSFIELD. Not at this moment. I have mentioned no names yet.

I point out that the tactics demean the Senate, and we have had 13 votes on what? On speeches which have been made by Senators which appeared to me to have been handed to them, because they did not seem to read them very well.

We have reached the stage, gentlemen, where we are going to have to fish or cut bait, to use an old phrase. The leadership has tried to outline a schedule by means of which we would adjourn sine die on October 2. If you continue in this vein, we will not adjourn sine die on October 2. We will not adjourn sine die October 10. But we will adjourn, and we will come back after the election to finish the business which should have been done before the election

I hope that the minority, which for 8 days kept the Senate in thrall, once cloture was invoked some months ago on the antitrust bill—8 days under cloture—violating the intent, the letter, and the spirit of the rule—I hope this minority will be aware of its responsibility to the majority and recognize that on every vote passed today, an overwhelming majority voted against what the minority was attempting to do.

The minority has its rights. They will be protected; they should be protected. But there is a breaking point. I hope that the Senate, both the majority and the minority, and members singly and in groups, will recognize that the institution means a great deal more than any of us. Because, if you do not face up to your responsibility, then you are going to have to pay the penalty in the months and in the years ahead.

It is my belief that, if this procedure, which has become normal, is allowed to continue next year, you will have a cloture rule which will be ironbound, under which no Member will be able to call up an amendment or a substitute or put in a quorum call and not have it charged to him. And I, for one, hope that, next year, the Senate does tighten up the cloture rule so that no Senator can put in a quorum call and not have it charged to him; that no Senator can have an amendment read and not have it charged to him. Because we have gone far beyond the bounds of parliamentary decency and what a minority is doing to the majority is, I must say once again, most demeaning to the Senate.

Mr. WILLIAM L. SCOTT and Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WILLIAM L. SCOTT. Mr. President, I have listened to the debate and I have listened to the emotion that has been generated. It is about 8 o'clock now. Sometimes we have a silly period after 8 o'clock, and I just wonder if the leadership might consider sleeping on this matter overnight. I wonder if, perhaps, we might not be able to resolve our differences and not have these passions.

I do not believe, and I say this with all due respect, that the distinguished Senator, the majority whip, knows whether these amendments that are at the desk are proper amendments or not, because I doubt very much that he has read each of them.

We have seen some extended debate or dilatory activities here today. I do not believe anybody on the Senate floor would deny this. But to say that every motion there, to have the Senate vote on it or to have, by a majority vote, a decision that every amendment at the desk is a dilatory amendment, I think, would be a very unwise thing for us to do. This is a continuing body and we do set precedents.

I hope that the majority leader and the majority whip and others charged with the responsibility of leadership in this body will carefully consider the emotional element that is involved and, perhaps, let this go over until tomorrow. Then, perhaps, it can be resolved in a much easier and more pleasant manner, a manner that would be within the dignity in which we expect it, as the Senate, to be conducted.

Mr. TOWER and Mr. MANSFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. MANSFIELD. Will the Senator yield?

Mr. TOWER. I yield to the Senator from Montana on his own time.

Mr. MANSFIELD. I asked the Senator from Virginia if he will yield because he has raised certain questions.

Mr. TOWER. I was recognized by the Chair.

Mr. WILLIAM L. SCOTT. I should be glad to yield to the Senator from Montana, except the Senator from Texas has been recognized.

Mr. TOWER. Mr. President, may I make the response; then I shall be glad to yield.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. William S. White once commented in his book, "Citadel" that the primary function of the Senate is to protect the minority from the precipitate and emotional tyranny of the majority. That is why we are allowed to have certain dilatory procedures in the Senate that the other body is not allowed.

Too, I note that the cloture motion was filed at the moment—at the moment—that the bill was laid down. If we could have had some debate prior to the time of the submission of the cloture petition, perhaps we would not have this trouble. But at the very moment the bill was laid down, the cloture motion was filed. So I think that has brought on a lot of this.

I further raise the question, how could the amendments be considered dilatory when most of the amendments at the desk are to put back into the bill before the Senate what the House has knocked out of the bill?

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, the Senator from Texas need have no fear, and should have no fear, that the rights of the minority have not been protected in this body. They always have been, they always will be. And if they are lost, it will be because of what the minority does.

The Senator also admitted, in effect, that dilatory tactics were being used, and the Senator is correct.

As far as the motion made by the distinguished assistant majority leader is concerned, I support him without question because 113 amendments at the desk indicate that they are there for one purpose only, and that purpose is dilatory.

The reason why the cloture motion was laid down was that the prime sponsor of the antitrust legislation, Mr. PHILIP A. HART of Michigan, and he so stated in the RECORD, approached the Senator from Alabama (Mr. ALLEN) and asked Mr. ALLEN what his intentions were if a motion was made to appoint conferees. Get that, if a motion was made to appoint conferees only, so that the Senate could go into conference with the House.

According to the RECORD Mr. PHILIP A. HART indicated, and there is no more truthful Senator in this body, no more truthful man, the Senator from Alabama indicated that he would oppose it, oppose it vigorously, and I think the language was a little more specific than that.

So I am one who believes in the rights of the minority and the protection of the minority. But I also believe that after a reasonable period of time, the rights of the majority should likewise be considered and the minority should recognize that fact.

I have been on the losing side in many a battle in this body. I have never once tried to delay the will of the majority, and I never will, because I think democracy is the right of the majority to be given the choice it wants to make, and the right of the minority is to be heard and make the arguments which it desires to make.

According to the rules of the Senate, and I now quote from rule XXII:

> And if that question—

This is cloture—

> shall be decided in the affirmative by three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting—then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

So it is the leadership's intention to stay with this cloture motion which is now in effect until this matter is disposed of one way or the other.

Again I want to remind the Senate that once the Senate invoked cloture some months ago on the antitrust legislation and the debate under cloture began, which allowed 1 hour to each of the 100 Senators, the Senate spent 8 days during that period and incurred about 76 or 77 votes when the issue, in effect, had been decided by the invocation of cloture.

Mr. CHILES. Mr. President, will the majority leader yield at that point?

Mr. MANSFIELD. Yes, indeed.

Mr. CHILES. I just wonder whether the majority leader in recalling that history will also recall at the conclusion of those 8 days or during those 8 days we did not completely run out the course on cloture but there was some form of a compromise reached at which time both sides seemed to feel like or were willing to give up something from the position they were then holding in order that we could resolve the question, and in order that we could get to a final conclusion on that question.

As the Senator from Florida remembers, because he had something to do with that, neither side—and I was not on a side as such at that time—particularly wanted to give up its position, and there were those who were supporters on either side who said they should not, that they should fight the battle out. But many felt that it had gone to the point at which nothing was being accomplished, that those 8 days had been in some instances, in many instances, a waste, and so there was a meeting of the minds at least that we have some finality to the question, and that we would be willing to give up something or both sides would be willing to give up something so we should have some finality on the question.

That is why the Senator from Florida frankly was very surprised to find we were going back into this question again because we had gone up and down the road, and I thought we did reach a good faith compromise in which people on both sides did give something of their position so we could have a finality to the question.

So I think the Senator from Florida feels as if much of what we are going over now is as though all of that was a complete waste, as the majority leader said, all of those 8 days, and also the sort of positions that people gave up at that time rather than go to the wall, and it was close to the time in which the majority at that time could have put the minority to the wall because most of the time had expired. But rather than do that in order to have a finality to the question there was a giving up of the thing, and that has just been an extension of that, and it makes one wonder whether in this body you can have some kind of a compromise, a good faith compromise, in which you are going to feel as if you are going to have people who can give up a position in order to have finality or whether that is going to happen or not.

Mr. MANSFIELD. The Senator is correct. There was no written agreement, there was no oral agreement. But I am quite sure that all of us who were involved at that time thought there was an understanding.

Mr. STEVENS addressed the Chair.

Mr. MANSFIELD. Pardon me, that is an old Senate custom, may I say. We do not ask you to put it down in blood, we do not ask you to write it, we do not ask you to make a definite promise, but we come to what could be called, I suppose, a gentleman's understanding.

I will say to the Senator from Alabama, who is on his feet, that he entered into no kind of agreement. I think that is what he wants to talk about. But I think the idea of an understanding still holds.

Yes, I yield.

Mr. STEVENS. This Senator remembers that at that time we contemplated that the House of Representatives would be involved and we would also have a conference committee.

Mr. MANSFIELD. That is correct.

Mr. STEVENS. I have great respect for the Senator from Montana, but I constantly hear him referring to the minority. This Senator was not conferred with in any regard with respect to the decision not to go to the conference committee. Many of us articulated some misgivings about this bill and several of the titles in it at the time it was before us previously, yet we cooperated with the majority leader in order to effect that compromise the Senator is talking about.

Mr. MANSFIELD. The Senator is correct.

Mr. STEVENS. I notice a propensity now to evade the conference committee technique and to come forward with some sort of a compromise that has been worked out by the proponents.

Mr. MANSFIELD. Ah, would the Senator——

Mr. STEVENS. The Senator from Alabama does not speak for the Senator from Alaska. May I say it was his threat apparently to oppose the appointment of the conferees that led us to the hiatus we are in right now.

Mr. MANSFIELD. That is correct.

Mr. STEVENS. We would have supported cloture on such an attempt, and I am sure everybody realizes it. But we now find—and I am referring now to the minority—we really were not very well represented in terms of the participation in this compromise that is before the body now.

I still have great misgivings about giving the State attorneys general the power to enforce Federal law with treble damages and with the concept of hiring private attorneys to carry out the Federal law which previously had been done by Federal attorneys on the Federal payroll, with the proceeds of the fines going into the Federal Treasury.

We articulated this problem. But the Senator lumps us all together—that is what I am saying to the Senator—and with due respect I ask the Senator not to do that.

Mr. MANSFIELD. All right.

Mr. STEVENS. Because I do not think it is fair.

Mr. MANSFIELD. But there are only two sides: You are either for the bill or you are against the bill. The Senator is correct when he states there was opposition to just the appointing of Senate conferees to meet with their House counterparts. That is what the progenitors of the bill tried to achieve in the first place. We were told it would be fought against tooth and nail. And, furthermore, if we were successful, once the conference report came back, the same cloture requirement would have had to be satisfied. So what the initiators of the proposal now pending proposed was something which, in effect, was forced upon them.

I hope the Senator does not take my remarks too personally, because he has been most considerate, most understanding, and has not tried to create a situation which has become involved so emotionally as to create the position which confronts the Senate tonight.

But I would point out to my colleagues that the leadership in this body does have certain responsibilities, and what we have tried to do is to face up to those responsibilities based on action and taking it to the appropriate committees.

We have done it in the past. We will do it in the future, because we think that is part of our job.

It disturbs me greatly to see the way in which the Senate is moving at this time because it can only mean ruin for the Senate in the long run, and the only institution that I really love is the Senate. I hate to see it go downhill because of tactics which have come into effect during the past 2 years, far beyond their normal intent, far beyond the letter of the rule, and far beyond the consideration which——

Mr. STEVENS. Will the Senator yield further?

Mr. MANSFIELD. Yes, indeed.

Mr. STEVENS. I know the Senator's respect for this body. I am sure every Member has respect for him and his service here.

But I would urge the Senator in his last days in his position not to let those who want to stampede legislation to so change the procedures that the minority—and I am referring to the minority on this side of the aisle—has no real participation in the formation of compromise.

So far as I know, no one who has expressed opposition to these particular provisions of this bill was consulted in the perfection of this compromise before the Senate now.

I still have great reservation to title III, and after 25 years of practicing law it is my opinion that title III will be ruled unconstitutional. Those of us who have expressed opinion on that were not consulted at all.

We had reason to believe our colleagues in the House would bring about some compromise under the conference procedure, but that has been avoided.

Again I say to the Senator, we are in this process now. I know at least two other bills being prepared to be handled in this fashion of circumventing the conference committee and coming forth with what purports to be a compromise, which is really a consensus of the majority proponents—and I use majority in the sense of the majority party in this body—and the Senator says——

Mr. MANSFIELD addressed the Chair.

Mr. STEVENS. We have majority rule right now, Mr. President.

Mr. MANSFIELD. Mr. President, I think the Senator is getting a little too political.

I cannot verify this, but I think I am accurate in what I am about to state. That is, members of the minority party were consulted on the motion which was presented to the Senate by the distinguished assistant majority leader.

Now, let me finish——

Mr. STEVENS. I did not state that, and I want to correct that.

Mr. MANSFIELD. All right, correct it.

Mr. STEVENS. I said members of the minority that opposed provisions of this bill were not consulted.

I know a member of the minority involved in the compromise.

Mr. MANSFIELD. I would say to my friend from Alaska, attempts were made to contact the Senator from Alabama (Mr. ALLEN) and the Senator from Nebraska (Mr. HRUSKA), and they were both in conference with Mr. HART, and others, who were interested in the bill.

We found them unyielding, no give, all take, and the result is that we were forced to undertake the position which confronts the Senate tonight.

Mr. JAVITS. Will the Senator yield for a suggestion on my time?

Mr. MANSFIELD. All right.

Mr. JAVITS. Mr. President, I yield myself 5 minutes out of my time.

I might say this to the majority leader, I am with him, and I think he is trying to preserve this body. But this body can be preserved by honorable rules, honorably handled, but also must have due process.

What concerns me about Senator BYRD's suggestion is its wholesale sweeping character. I suggest to the majority leader the following procedure.

I would wish, before I could vote to sustain a ruling by the Chair that all these amendments and motions were dilatory, to have each of them stated to the Senate and the reason why they are considered dilatory so that those who have proposed them may defend their position.

It will not take terribly long. But the motion itself, that is, the point of order, is not debatable, neither is the appeal, and I think that would be a rather tyrannous position, to sweep them all off the desk, sight unseen, for most of us.

So I would strongly urge the majority leader that we better think about due process and fairness ourselves.

Such a point of order can properly be made—I agree with the majority leader—under the rule. I read it exactly the same way. But I believe it needs to be preceded by a factual showing that this is actually so and not just that it will take our time if we go over every amendment.

That is our duty, even if we sit all night and day, and a few days after that. It is done in court. There are long, long trials which can seem as wasteful as this one.

But for the existence of our system, I most respectfully—and the majority leader knows my respect for him and what he stands for—submit that to the majority leader as a way in which to handle this situation.

Mr. MANSFIELD. Mr. President, the assistant majority leader, the distinguished Senator from West Virginia, and the Senator from Montana now speaking, have never been averse to compromise, honorable compromise, but we both have been very much averse to dilatory tactics and a degradation of the Senate.

But I want to reiterate again to my colleagues that we have a very heavy schedule. Incidentally, we are going to stay with this bill under rule XXII until it is finished, because we have no choice.

Let me repeat, and I quote:

> Then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

If the Senate wants to go through 8 days of this again, that is its business. As far as I am concerned, I am prepared, able, and willing to do so.

But I point out to the Senate that we have some important legislation aside from conferences having to do with military construction authorization, legislative appropriations, Federal Water Pollution Act, Rail Passenger Act amendments, revenue sharing, budget committee reconciliation, foreign operations appropriations, omnibus rivers and harbors, the sunset bill, the black lung bill, the wiretap bill, just to enumerate a few of the measures which are to come before us.

Tomorrow night the Senate will go out and stand in recess until Tuesday next, which is a week from today, and then we will come back and hopefully, or at least we had thought hopefully, we would be able to adjourn sine die on October 2.

If we get bogged down on this bill, the Lord only knows when we will adjourn sine die. But if we go through another 8 days it will mean—and you can take my word for it—that this Senate will be called back after election day to complete the business of the people which it is supposed to be responsible for.

So I hope that the Senator from Virginia (Mr. WILLIAM L. SCOTT) will understand that no emotions are involved, but the conduct of the Senate is. The responsibilities of the leaders are very apparent. We say things and we do things that our colleagues frown upon, or cheer on occasion, but we try to execute our responsibilities.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. MANSFIELD. But it is a responsibility which we cannot avoid, will not avoid, should not avoid, and we will do our best to see that the Senate carries out its responsibilities in the best possible manner and does not become a second-rate body subject to emotionalism, degradation, and demeaning.

I yield.

Mr. WILLIAM L. SCOTT. I did hear some voices raised and a little bit of shouting and it seemed like there was some emotion involved.

Mr. MANSFIELD. The Senator has very good ears, but his interpretation of raised voices is not necessarily the correct one.

I think the Senator from Alaska, for example, raised his voice far higher than I did mine, and the majority——

Mr. STEVENS. I certainly meant no umbrage to the majority leader by doing so.

Mr. WILLIAM L. SCOTT. Let me say that I was not referring to him, but I believe we even heard a little obscenity, which we would not have heard if there was less emotionalism.

Mr. MANSFIELD. I looked at my shoe and I thought I fitted it.

Mr. BELLMON. Mr. President, I yield myself 2 minutes.

Since the Senator from Oklahoma's motion was the last matter voted on and it seems to have brought up all this rhetoric, I would like to state the motion was not dilatory. The purpose was to prevent a new class of ambulance chasers to develop in the court, that go from State to State to pursue this type litigation. The motion did receive 26 votes. It was tabling, but that was the effect the motion had. And I am of the opinion that if most Members of the Senate realized what they were voting on, it might have come out the other way.

I resist the description that this was a dilatory motion. I feel it was a very meritorious motion, and I would like to have the chance to offer it again if the opportunity should arise.

Mr. MANSFIELD. Will the Senator yield?

Mr. BELLMON. Yes.

Mr. MANSFIELD. May I say I did not have the Senator from Oklahoma in mind because he is not dilatorily minded.

Mr. BELLMON. I thank the floor leader.

Mr. ALLEN. Mr. President, I yield myself such time as I may require.

The distinguished majority leader has spoken of an unspoken compromise, the compromise being, I assume, the Senate amendments to H.R. 8532. That was the Senate expression as to this bill on June 10. He quoted from a statement printed in the RECORD by the distinguished Senator from Michigan (Mr. PHILIP A. HART) as to whether any agreement had been made.

He did not read this part, however:

> Mr. HART. My own recollection is that there was no specific discussion—

Not even agreement——

> no specific discussion during those negotiations last June with respect to either a motion to appoint conferees or a motion to accept a conference report.

Now, Mr. President, going beyond that, the Senator from Alabama, joined by the distinguished Senator from Nebraska (Mr. HRUSKA), has stated that if, in fact, there had been an agreement, a compromise, and if that compromise was implemented by the enactment of the Senate amendment to H.R. 8532, then I would be willing, and the distinguished Senator from Nebraska (Mr. HRUSKA), to support an amendment that put into effect the Senate amendment to H.R. 8532, so it would compromise.

The Senate had an opportunity to endorse that compromise, to accede to it, to recognize its existence. That amendment was offered. The Senator from Alabama stated, joined by the Senator from Nebraska (Mr. HRUSKA), that if the Senate restated its position, readopted its position, of June 10, and it approved and agreed to this amendment of the Senator from Alabama, there would be no further discussion, that we would readopt the Senate position and sent that to the House for approval.

How fair can you get? There would have been none of this debate, none of this discussion, none of these tirades, had the Senate been willing to stick by its position. So it is not the Senator from Alabama and the Senator from Nebraska (Mr. HRUSKA) who have abandoned the Senate postion, who have abandoned the so-called compromise. That amendment was voted on here in the Chamber as the first vote after cloture. How did it come out? The very Senators who say there was a compromise belied their own statement by voting against it, by voting against the Senate position. So was there a compromise?

I offered the amendment. I voted for it. But the distinguished supporters of this rump conference substitute in effect voted that there was no compromise. They did not support again the Senate position of June 10.

What do we have before us? What demeans the Senate? I am delighted the distinguished Senator from Alaska (Mr. STEVENS) took exception to this rump conference committee substitute. It was that as it was pieced together and thrown together just in time to get it before the Senate. Not a single Senator had a copy of that substitute. Is that action which demeans the Senate?

I believe it is.

It is not the action of the Senator from Alabama and the Senator from Nebraska (Mr. HRUSKA) who offered the Senate the position to stand by its position of June 10.

The distinguished Senator from Alaska called attention to the fact that none of the Senators who were opposed to this legislation were called into that rump conference. Who represented the Senate, according to Mr. HART? Senator KENNEDY, Senator ABOUREZK, and the distinguished minority leader, Senator HUGH SCOTT.

Well, I would hardly leave up to them the shaping of antitrust legislation with which we would expect the Senate to agree.

They disregarded the chairman of the committee; they disregarded the very men they said were going to be on the conference committee. They held a rump conference in secrecy, disregarding the rules of the Senate requiring sunshine on all of our committee activities. They had nothing but darkness in that committee. No sunshine shown on those proceedings.

They came back in here and offered that amendment. Not one single word was spoken on the floor of the Senate on last Friday explaining that amendment. Not one single copy of that amendment was afforded to any Member of the Senate.

The distinguished assistant majority leader tried to recess the Senate before the Senator from Alabama and other opponents could make some inquires about it.

Does that demean the Senate? I believe it does.

Who knows what the pending substitute is, which was offered by the distinguished Senator from South Dakota? Has any Senator in the Chamber read that amendment? That is the amendment that will be adopted finally because no matter what we do to the Byrd motion, no matter what we do to the Byrd motion——

Mr. ABOUREZK. Mr. President—

Mr. ALLEN. I ask the Senator not to seek recognition.

Mr. ABOUREZK. The clerk read the amendment to the Senate, if the Senator will remember.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. ALLEN. This amendment, this substitute that was offered today with not a single copy available—so far as the Senator from Alabama knows who has inquired about a copy—that will be the ultimate legislation if the people, led by the distinguished Senator from South Dakota (Mr. ABOUREZK) have their way. It cannot be amended. No amendment is in order. Whatever we do to the Byrd substitute can be wiped out when this substitute is adopted.

As I said, it is like the law of the Medes and Persians: It cannot be tampered with. No amendments are in order. We can have 100 amendments to the Byrd amendment and this amendment that was offered today, an amendment nobody has seen and nobody knows what it contains, would wipe out the action of the Senate.

So what does demean the Senate? Not the action of the Senator from Alabama, the Senator from Nebraska, and those who supported them, because we are willing at this late date to stand behind the vote of the Senate on June 10, when we adopted these amendments. I would make that offer right now, that we pass that amendment now and send it over to the House. Restate our position of June 10. I am not seeking to hold up action on that. Stand by this so-called compromise of which they speak. We would have a vote on it.

Mr. ABOUREZK. Will the Senator yield?

Mr. ALLEN. Please do not interrupt. I will not yield under any circumstances.

The PRESIDING OFFICER. The Senator does not yield. The Senator from Alabama has the floor.

Mr. ALLEN. Now, Mr. President, how much time remains to the Senator from Alabama?

The PRESIDING OFFICER. The Senator from Alabama has 47 minutes remaining.

Mr. ALLEN. I thank the Chair.

Now, Mr. President, I want to comment on this amazing, I will say this unique, this very strange statement the assistant majority leader made at approximately 7:30. He is going to give the Members of the Senate until 9 o'clock to call up and get out all the amendments they want to have acted upon.

How many would that be, about three or four? At the outside four. And there are some 135. I have not counted them. He says 135, we are going to act on 4, and he is going to move that the remaining 131 are dilatory. Just blanket them all together. Shades of Joe McCarthy, Mr. President. If there was ever a similarity, this is it: to say that all 131 of those amendments are dilatory, that they are all guilty by association with 1 amendment that might possibly be dilatory, if there be 1. They are going to indict and they are going to convict 131 amendments just because they are not brought forward under his ultimatum and acted on by 9 o'clock.

I suggest, Mr. President, that you cannot even raise a point of order as to an amendment—this is elementary, and we all know it—you cannot even raise a point of order as to an amendment until it has been brought up and stated, and at that point you can raise a point of order.

So each one of these amendments is going to have to come up and stand or fall on its own merits. I would say that some minor amendment having to do with putting in a preposition or adding a word might well be construed to be dilatory, but just because it is in there with an amendment that strikes out this parens patriae section would not make the parens patriae amendment dilatory.

So, Mr. President, I resent it, every time we have a vote or action here in the Senate—we have been on this debate for approximately 8 hours—8 hours, and we are already charged with being dilatory.

They say we have had 12 votes. Well, I rather imagine three or four of those were calling on the Sergeant at Arms to produce the attendance of Senators. And who made those motions?

These votes, Mr. President, nine-tenths of them, were on motions by the distinguished Senator from South Dakota or the distinguished Senator from West Virginia moving to table amendments that were offered without the Senator offering the amendment being given an opportunity to discuss those amendments.

The distinguished majority leader upbraided the Senator from Alabama for having used only 5 minutes of his time. Do you know why I was not able to? I stood here on the floor—and it is in the RECORD—and beseeched the distinguished Senator from West Virginia not to move to table these amendments as they were being offered, but to give the distinguished Senators who offered them an opportunity to speak on the amendments.

He said, "No, I prefer to move to table."

So one of the reasons that Senators have not used up a great deal of their time is that they have not been able to speak on their amendments before a motion to table was made.

Mr. President, what do we have here in these lengthy amendments the distinguished majority leader spoke of? The Byrd motion was put in without having been read, without a copy being made available to anyone. The present susbtitute blocks off all amendments to the substitute, and it will be the final verdict; the yeas and nays have been ordered on it, and it cannot be withdrawn, so whatever is in that amendment is going to be the final enactment here, it is quite obvious, if they do not accept the proposal of the Senator from Nebraska and the Senator from Alabama that we go back to the Senate position and send that over to the House.

If there is a compromise, it looks as though Senators would be willing to go back to the compromise and go along with it. Who has broken off from the compromise, if any? I charge that it is the proponents of this legislation, because when the Senator from Alabama offered the motion and the amendment to go back to the Senate position of June 10, who voted against it? Why, the distinguished Senator from South Dakota, the distinguished majority leader, the distinguished assistant majority leader—they are the ones talking about compromise, but what do they do when they get the opportunity to vote for a compromise, and de-compromise this so-called compromise? Why, they vote against it.

Mr. President, I referred to this conference that was called by Senator KENNEDY, Senator ABOUREZK, and my dear friend the Senator from Pennsylvania (Mr. HUGH SCOTT) as a rump conference committee, and I used that expression advisedly. It reminds me of the Rump Parliament of English history, where, at the end of their Long Parliament under Charles I, this Parliament was dispersed by Pride's Purge. Pride arrested some of the members and would not allow the attendance of others, but the remnant of that Long Parliament became known as the Rump Parliament, because it had no standing and no legality, but yet they held on.

This conference committee disregarded the chairman of the committee, disregarded the ranking minority member, disregarded the opponents of this legislation, and met in secrecy, Mr. President, with Members of the House of Representatives, without any authority whatsoever. If that is not a rump conference committee, I do not know what it is.

They come in with the fruits of their efforts without giving anybody a copy, and file it, seek to recess the Senate, and now they have put in another one just as anonymous, just as mysterious. I hope that somewhere along the line—I hope we do not have to wait until in the morning when we read it in the CONGRESSIONAL RECORD. I would like to know what is in it. If it is such a good substitute, maybe we could agree on it. No one has copies, or at least I have not been furnished one, and have not been able to get one anywhere.

I do not know what we are going to be voting on. "Oh," they say, "it is not much different from the other one." That is what the distinguished Senator from Massachusetts (Mr. KENNEDY) said. "It is just a few technical changes."

I would like to know what they are. I would like to be able to read this thing we are going to have to vote on.

Mr. President, I resent being charged with abusing the rules, when all that we are doing is following the rules. And I object to tirades being made here about the ultimate effect of our actions, and that they are going to change the rules.

We change the rules pretty nearly every time we vote here in the Senate. If they do not like a ruling of the Chair, they appeal to the Senate and write a new rule. I liked the remarks of the distinguished Senator from North Carolina (Mr. MORGAN) when he said he did not approve of this business of writing the rules here on the floor, in effect, that he did not approve of this saying that the reading of the amendment was dilatory, and he did not approve of the suggestion of the distinguished assistant majority leader that he is going to convict 131 amendments on no evidence, that he is going to convict them en bloc, he is going to herd them all together and throw them all out.

That is high-handed tactics, Mr. President. It is not the tactics we would expect from those managing this bill, or those who are supposed to furnish leadership here in the U.S. Senate. There are other amendments here. We have not moved to reconsider as yet the defeat of the amendment of the Senator from Alabama that reinstated the Senate action.

I am hopeful that somewhere along the line we can come to our senses with regard to this legislation and realize that we can get action on this measure tonight if we just stick by the action of the Senate on June 10. Why change it if it was compromised? Why change it if a compromise was reached? The distinguished Senator from Florida (Mr. CHILES) spoke of a compromise. I wonder how he voted on this offering of the fruits of the compromise, the Senate amendments to the House bill?

It is strange to me that those who have been talking compromise and saying that the Senate amendment to H.R. 8532 was a compromise did not support that statement with their votes when it came up for a vote right after noon today.

Mr. President, the distinguished majority leader said something about how quickly they acted on the civil rights bill back in 1964. I had someone look that up here several years ago and after cloture, according to my best recollection—and I can be found wrong if in fact I am—it was found that from the time of the voting of cloture until the final passage of the bill it took more than 2 weeks. That is the recollection the Senator from Alabama has as to what he was informed as to how long that bill was pending before the Senate.

Now cloture has been invoked some 8 hours ago. And they are already saying that the tactics are dilatory. The tax bill was before us 4 or 5 weeks. Scores of amendments were offered. No one said that was dilatory. But we have been on this for 8 hours, and much of that time has been taken up by motions to table. We have had only one up-and-down vote on an amendment, and that was the first one. Only one. And then they say: "Why have you not used some of your time?"

Mr. President, I do not believe we are going to vote on any amendments between now and 9 o'clock, but we will just accept the challenge of the distinguished assistant majority leader and if he wants to try to get a ruling that all 135 of these are dilatory that threat is the most high-handed tactic I have seen offered in the Chamber. It does not make the Senator from Alabama want to knuckle under. I will say that.

I say this, also: If we had had an opportunity to study the original Byrd motion—that was put in one second, not even stated, not read, no motion to proceed to it, and a cloture motion was filed—which we did not have, or if we had an opportunity to study this present substitute to the substitute, there might be possibilities of agreeing on something. But to legislate in the dark, Mr. President, without knowledge of the facts, without knowledge of what this legislation is, without being given an opportunity to study it, the Senator from Alabama is going to resist that as long as he has the power to stand on the Senate floor.

I reserve the remainder of my time.

Mr. HELMS. Mr. President, there is not a Senator in this Chamber who can offer one scintilla of contradiction to what the distinguished Senator from Alabama has just said.

Mr. ABOUREZK addressed the Chair.

Mr. HELMS. The Senator will forgive me, but I do not yield and I ask regular order, Mr. President.

This is a railroad job, pure and simple. Every Senator knows it.

The Senator from Alabama alluded to the long drawn-out affair that we had on the tax bill. I did not hear the distinguished majority leader complain one iota when the distinguished Senator from Massachusetts used 2½ hours to discuss an amendment which had the effect of requiring the Senator from Washington (Mr. MAGNUSON) to ride day coach across this country if he were to take a train to his home State.

Everyone knows what is afoot here. I respect the distinguished majority leader. He is my friend, I admire him, and I regret that he will leave this body at the end of the year. But sometimes I think he is a little heavy-handed in his benevolent but stern schoolmaster lectures when things do not go to suit him.

I recall, for example, when the New York City bailout question was before the Senate. I remember the distinguished majority leader arising on that occasion and waving his arm and pointing his finger. He shouted that the opponents of the New York bailout bill were the same ones who always vote for foreign aid, to send the American taxpayers' money by the billions overseas.

Does the Senator remember that? I ask the Senator from Alabama.

Mr. ALLEN. Yes, I remember that.

Mr. HELMS. And the truth of the matter is that the three principal opponents of the New York City bailout——

Mr. ABOUREZK addressed the Chair.

Mr. HELMS. I cannot yield to the Senator. I desire to continue my line of thought.

Mr. ABOUREZK. Mr. President, I object to that and make a point of order against it.

The PRESIDING OFFICER (Mr. BUMPERS). The Senator from North Carolina has the floor and may yield only for a question.

Mr. HELMS. I thank the Chair.

I will say, Mr. President, that the three principal opponents of the New York City bailout bill were the distinguished Senator from Alabama (Mr. ALLEN), the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), and this Senator from North Carolina. And not one of us has ever voted for the foreign aid bill.

Yet that is the kind of thing that is said in the Chamber hoping that the gentlemen and gentleladies of the press will pick it up, and they do, and across this country those of us who are trying to resist this bad legislation are portrayed by the media as obstructionists. I resent it, because it simply is not true.

Sure, we belong to a minority, but I submit that we are standing up for the hard-pressed taxpayers who are sick and tired of Federal controls; they are fed up with seeing their tax money squandered.

Many times, in these lectures we have endured, the name of Dick Russell has been invoked. Let me say to Senators in the Chamber that I think the Senator from North Carolina knew Dick Russell about as well as anyone in the Senate. I have traveled with him. I worked with him. I knew him well. And I believe that if Dick Russell were alive and in this Senate today he would be applauding the efforts of the Senator from Alabama, because he believed in the proper use of rules. In fact, he would be standing with the Senator from Alabama in these fights on behalf of the people.

All sorts of threats are frequently made about adjusting the cloture rule. Do not try to kid the Senator from North Carolina. That is what they want to do. They are the ones who voted for the three-fifths rule, not this Senator from North Carolina, not the Senator from Virginia, nor the Senator from Alabama. No, sir. The steamroller crowd wants a simple majority to shut off debate. And I imagine they will move next January to get it.

As for disgraceful actions, to use the distinguished majority leader's characterization, and here I must refer to my distinguished friend from West Virginia, I was in the Chamber when that cloture petition was filed. I was one of the few Senators present. Frankly, I regretted that the Chair was shouted into confusion on that occasion. He failed to recognize the Senator from Alabama, who was on his feet seeking recognition. Thus the cloture motion was bulldozed onto the desk by the distinguished assistant majority leader.

So, let us not have all this obfuscation about who is doing what to whom. We know, do we not, I say to Senator ALLEN? Of course, we do. We know that this bill, this monstrosity, is not a piece of legislation with which even 10 Senators in this body are remotely familiar. I am tempted to challenge my good friend from South Dakota to tell us what is in it. The simple truth is he does not know. But I do not challenge him and do not yield.

Mr. ABOUREZK. Will the Senator allow me to do it?

Mr. HELMS. I do not yield to the Senator. He can use his own time and get the floor in his own right. I imagine that it would be entertaining to hear him explain this bill.

But what I am saying to the Senate, and I do not claim to be important around here, is that rules and pressure tactics can work both ways. If the Senator from West Virginia persists in his threat with his motion, there are responses that can be made to that. I would regret to see that happen.

For example, there can be a decision that there will be no more unanimous-consent requests in this body of any kind. If they want to ask for trouble, they can get it. I can guarantee that the Senator from North Carolina, if need be to protect the interests of his people, is willing to play the game right down to the end of the line.

So I hope, Mr. President, that tempers will cool, the strong-arm operation will be called off, and we can once more become a body of restraint, giving the minority a chance to express its will. How absurd it is to be charged with dilatory tactics after only 8 hours of debate.

Why, Mr. President, the distinguished

Senator from Massachusetts took that much time on just two or three of his amendments during the tax bill consideration. Not a mumbling word did I hear from the leadership about the manner in which the Senate's time was being consumed.

So let us put this matter in perspective, Mr. President. Let us ponder the question of who is doing what to whom in this Senate.

Here we have a bill that is a matter of total unfamiliarity to virtually all Senators in this body.

There are some who want to steamroller it, knowing that they have a majority that could enact a piece of Kleenex if the leadership accidentally sent it up to the desk. Sometimes, it seems that there is no disposition in this body to really consider legislation, let alone carefully analyze it. And that, Mr. President, is bad for the country.

As for this bill, there is no demand for it anywhere in this country. I have not had one piece of mail in advocacy of this legislation. Perhaps Mr. Ralph Nader has written to some other Senators, but he has not written to me; and if he did, I would not be very much impressed, anyhow.

No. It is the other way around. Small businessmen, who already are subjected to the burdens of a tyrannical Federal Government—and I do not overspeak myself with that description—write to the Senator from North Carolina and say, "For God's sake, can't we have some relief?" And that is precisely what those in the minority are trying to provide when we resist such legislation as is now before the Senate.

So, with all friendship and admiration for the leadership, I say to them that they can continue their threats; but this game can be played two ways. We will see how it comes out.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 2239

Mr. ALLEN. Mr. President, I call up my amendment No. 2239 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Alabama (Mr. Allen) proposes amendment No. 2239:
>
> At the end of the pending amendment in the nature of a substitute, add the following new section:
>
> Sec. 306. No person may participate in bringing an action under this title while seeking the nomination for election or election, to any State or Federal public office.

Mr. ALLEN. Mr. President, the amendment speaks for itself. It will provide that no person may participate in bringing an action under this title while he is seeking the nomination for election or election to any State or Federal public office, which would prevent the powers given under this bill from being used to advance the political fortunes of a person participating in bringing such an action.

Mr. ABOUREZK. Mr. President, I move to table the motion, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, out of curiosity, I would like to know how the Chair ascertained that. We were trying to get the yeas and nays on another matter that took 18, and I do not see 18 Senators in the Chamber.

Mr. ABOUREZK. Mr. President, regular order.

The PRESIDING OFFICER. The question is on agreeing to the motion. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. Church), the Senator from Indiana (Mr. Hartke), the Senator from Washington (Mr. Magnuson), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Wisconsin (Mr. Nelson), the Senator from California (Mr. Tunney), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Minnesota (Mr. Humphrey), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from Arkansas (Mr. McClellan), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Mississippi (Mr. Stennis), the Senator from Florida (Mr. Stone), the Senator from Missouri (Mr. Symington), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson) and the Senator from Minnesota (Mr. Humphrey) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bartlett), the Senator from Maryland (Mr. Beall), the Senator from Massachusetts (Mr. Brooke), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from New Mexico (Mr. Domenici), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), the Senator from Idaho (Mr. McClure), the Senator from Kansas (Mr. Pearson), the Senator from Illinois (Mr. Percy), the Senator from Virginia (Mr. William L. Scott), the Senator from Ohio (Mr. Taft), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. Taft) would vote "nay."

The result was announced—yeas 43, nays 21, as follows:

[Rollcall Vote No. 559 Leg.]

YEAS—43

Abourezk
Bayh
Bentsen
Biden
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Long
Mansfield
Morgan
Moss
Muskie
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevenson
Williams

NAYS—21

Allen
Baker
Bellmon
Brock
Bumpers
Byrd, Harry F., Jr.
Curtis
Eastland
Fannin
Garn
Griffin
Hansen
Helms
Hruska
Metcalf
Nunn
Roth
Sparkman
Stevens
Thurmond
Tower

NOT VOTING—36

Bartlett
Beall
Brooke
Buckley
Church
Dole
Domenici
Fong
Goldwater
Hart, Philip A.
Hartke
Humphrey
Kennedy
Laxalt
Leahy
Magnuson
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Mondale
Montoya
Nelson
Pearson
Percy
Scott, William L.
Stennis
Stone
Symington
Taft
Talmadge
Tunney
Weicker
Young

So Mr. Abourezk's motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. Will the Senators please take their seats? The Senate will suspend until all the Senators are seated.

The Senator may proceed.

Mr. ROBERT C. BYRD. Mr. President, earlier today, about 2 hours ago to be more precise, I stated that at this time, 15 minutes after 9, I would make a point of order to the effect that all remaining amendments and motions at the desk were dilatory and, therefore, not in order, my reasons being there were 113 motions and amendments at the desk at that time; the Senate had debated this measure, the antitrust measure, for several days, and in consideration of the circumstances that every indication had been given to the effect that any effort to appoint conferees and send the House bill to conference would be delayed; also in view of the fact that every effort had been made throughout the day, following the invoking of cloture, to use all kinds of motions and dilatory tactics to prevent the expedition of final action on the measure, it would be my intention, under those circumstances and based on the facts as I see them at this time, to make a point of order that all remaining motions and amendments at the desk were out of order because they were submitted for dilatory reasons.

I should state that in the first 60 years following the establishment of the first cloture rule in the Senate, no amendment, so far as any precedent can be found, there has never been an amendment ruled dilatory. Under the cloture rule, rule XXII, no dilatory motion, no dilatory amendment, is in order. But in those first 60 years, no amendments have been ruled dilatory. As to whether or not any point of order was ever raised in the first 60 years I do not believe a precedent can be found raising the point of order.

I think it can also be factually stated that in the first 60 years under this cloture rule, and certainly I can state it without any fear of rebuttal, that during my 18 years in the Senate, no effort has ever been made to filibuster the appointing of conferees and the sending of a measure to conference.

But in this instance we have had stated to us in no uncertain terms that any effort to appoint conferees or send the measure to conference would be delayed, meaning there would be a filibuster.

On last Friday I sought to get an agreement that would be all-encompassing, that would provide for a time limit on the amendment to be proposed by the distinguished Senator from Alabama which, in essence, was the Senate bill passed in early June and which he opposed at the time, which would also include a time limitation on the substitute and would provide for a time limitation on any conference report that came back to the Senate, if such a conference report came back.

The distinguished Senator from Alabama indicated he would object to any time limit of that sort.

So here is what the leadership has been faced with: They have been faced with the alternative of one filibuster or two filibusters, and when I speak of two filibusters I mean a filibuster on the appointing of conferees and sending the measure to conference, and then, if the measure came back from conference, a second filibuster on the conference report.

So the proponents of the substitute, having decided that one filibuster was enough, and attempting to avoid being confronted with two filibusters, came up with the idea of a substitute, which is a weaker package, as I understand it, than that which was passed by the Senate, but one which the House was more likely to accept, thus avoiding a conference report and a second filibuster.

Therefore, the leadership has been forced into these extenuating circumstances not because of any choice of our own but because of the facts as we saw them and the threat of two filibusters.

We have seen today six votes on one amendment. There was a division of that amendment and the distinguished Senator from Alabama, acting within his rights, of course, sought to get a rollcall vote on each of those six divisions.

Realizing that a motion to table would shut off debate and thus expedite action on the six sections, I and the majority leader moved to table them.

Had we not moved to table them, they would have been subject to debate and, of course, we could very well have been still debating the first section of the six sections of that one amendment.

I have been here, as I have said, 18 years. I have seen Senator Russell—whose name has been invoked here—quite properly lead filibusters. They were in good faith, and I am not implying that filibusters have been conducted since his passing which have not been in good faith. But the amendments that were drawn were amendments of substance and those who participated in the filibusters did not resort to the use of every rule, every precedent that was available, in order to obstruct and delay final action on a measure.

Once cloture was invoked, the amendments were called up, they were given a vote.

I can remember one day, I believe, in which there were nearly 40 votes which occurred. There was none of this effort to put in live quorum calls before the vote on each amendment and extend the time and prolong the action of the Senate.

The rules of the Senate are made for the convenience of those who wish to delay. Any Senator can make all kinds of motions and points of order, can appeal all kinds of rulings, put in quorums before the votes and then move to reconsider, get votes on the motion to reconsider, and prolong the debate.

When it comes to shutting off debate, the majority is at a disadvantage, and rightly so.

I have been a proponent of the filibuster rule in my 18 years here. But I must say, in all honesty, that in the last 2 years I have seen too many filibusters on too many bills for the good of the rule itself and for the good of the Senate.

Every Senator has a perfect right to oppose any measure, to vote against any amendment. But I think in the final analysis, the Senate ought to be allowed to work its will on these measures without every year being confronted with three, four, five or six filibusters. In this instance, a filibuster of a measure which has passed the Senate once after prolonged debate and invoking cloture, and the threat of a third fiilibuster in the event the measure is sent to conference and comes back to the Senate.

When I counted at the desk 113 motions and amendments offered by eight Senators, and having seen this pattern develop when the last filibuster occurred on this floor and cloture was invoked, having seen a number of amendments at the desk called up by Senators who are not authors of the amendments, but who had speeches to make in regard to those amendments, it became evident that the invoking of cloture generated a pattern of activity in the Senate which, indeed, extended the debate for several days, and I think the same is in evidence here in this instance.

So I said that at approximately 9:15 I would take the floor and make a point of order that all remaining amendments and motions at the desk were out of order because they were dilatory, and I would do so with great hesitancy and that it would be a harsh action to take.

But when one is confronted with the kind of deliberate obstruction of final action that we see here, and it is obvious to every Senator and it has been so stated by Senators who probably will not vote with me on this point of order, then there comes a time when we have to take some kind of harsh action to get a conclusion of this measure.

Mr. LONG. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. If the Senator would allow me to finish, and then I will yield.

So it would be a harsh action to take and I hesitate to take it, but something has to be done.

As the majority leader has pointed out, the mood of the Senate is becoming such that the filibuster rule is going to be tightened again and again, and eventually this Senate could reach a situation in which majority rule will be evidenced by a majority vote.

I do not want to see that time come. But if it comes, it will come because a few Senators—and I do not attempt to denigrate any Senator or to speak any disrespect for any Senator—have forced the Senate to the wall too many times, and the Senate is going to react in such a way as to possibly make all Senators regret the action taken.

So I listened to the debate that ensued following my statement and I benefitted from that debate.

The distinguished Senator from New York (Mr. JAVITS) made the point that if we could determine those amendments at the desk that were word for word like amendments that had already been voted on when the bill passed in June, or in substance were the same as were voted on then, or as have already been voted on today, that this would be a wiser and fairer approach.

I, therefore, have come to this conclusion, and I will make the point of order after I yield to the distinguished Senator from Louisiana.

I will make the point of order to the effect that all amendments at the desk that are word for word like amendments that were voted on back in June, or have been voted on already today, or are in substance the same as those amendments and motions which have already been voted on, will be held by the Chair as they are called up to be out of order.

I will rephrase my point of order just a little bit when I get ready to make it. But that, in essence, will be the point of order.

I realize that no point of order can be made against an amendment or motion until it is called up. Under ordinary circumstances, that is true. But we are not dealing now with an ordinary situation.

We are in a unique situation, and to wait until each of 113 motions and amendments has been called up and then to make a point of order at that time would be to further unnecessarily delay the final action of the Senate on this measure.

In other words, I would have to make 113 points of order or 100, or whatever it might finally work out to be, and then, of course, there would be a vote on each of those. So to go that route, which might be in accordance with the rules under ordinary circumstances, would be to inordinately delay final action on this measure. For that reason, I am soon going to make the point of order that I talked about. If the point of order is made that that point of order is not in order, then we will get a ruling on that also.

In other words, the Senate will work its will on this point of order. This point of order will not be like the one that was about to be made today earlier, which I was going to oppose, in fact I was going to move to table it, it having been submitted to the Senate. The point of order at that time was that the reading of an amendment under cloture is dilatory.

I could not support that point of order for the reasons that were very eloquently outlined by the distinguished Senator from Michigan (Mr. GRIFFIN). Fortunately, it was modified and withdrawn.

If this point of order carries, it will not set a specific precedent for the future. It will deal with an ad hoc situation that we have now and the Senate will be supporting a point of order which, under the circumstances and facts confronting this Senate at this moment, require this kind of drastic action.

I think it is legitimate that we rule out of order those amendments that have been voted on heretofore, either because they are word for word like amendments heretofore called up or that are in substance the same. I think it is a legitimate, reasonable approach. A future Senate, under circumstances at the time, can vote as it wishes on any points of order that may be raised at that time. This is not the kind of point of order that would set in concrete a precedent dealing with a very specific difficulty that we would have had today had we supported that point of order and had it go to a vote.

This point of order will deal with these circumstances, these facts at this particular time, and it will have no bearing on any future situation. Of course, if a similar situation develops in the future and a Senator wants to make the point of order, let the Senate work its will on it and that can be done.

Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Louisiana without losing my right to the floor, after which I will make my point of order.

Mr. CURTIS. Reserving the right to object, I wonder if the Senator will yield to me for a couple of minutes after he yields to the Senator from Louisiana.

Mr. ROBERT C. BYRD. Yes; if I am allowed to do that.

The PRESIDING OFFICER. Is there objection? If not, the Senator from Louisiana is recognized.

Mr. LONG. Mr. President, I would urge the Senator to not be in too much of a hurry to do what he proposes. I think he would be much better guided if he slept on this matter.

We in the Senate, finding ourselves in the majority and being frustrated by a minority, sometimes become impatient. I know how hard some Senators work, particularly the Senator from West Virginia. Under the fatigue and heavy burden that one such as the Senator from West Virginia bears, frankly, he would be justified in feeling sorry for himself.

But the right of free debate is one of the few real guarantors of American freedom. Free debate as we know it, does not exist in the House of Representatives. Free debate only exists here in the Senate.

The Senator has made a good case for amending the rules of the Senate to say more precisely what happens after cloture is voted. But in the future Senators may want to use the cloture rule as a standard way of doing business. For example, the Senator from Louisiana has moved cloture on some occasions when the whole purpose was to get to the germaneness rule, not to cut off debate but to limit the amendments to germaneness, to get on with the business and to act.

When we start changing the cloture rule, we should proceed with the greatest of care. The Senator may want to suggest that what he is doing here is not a precedent, but it would be.

The freedom of this country may some day depend on the right of Senators to stand here and say something that is unpopular at the time. I really do not think the Nation will little note nor long remember what this particular issue is. But when we drastically reduce the right of Senators to try to persuade others to see their way, irritate us though they may, if we do something that threatens the future freedom of Americans. We are taking grave risks with something very precious that many fine people have passed on to us for almost 200 years.

The Senator should be very careful about this matter. I have urged some changing of the rules relating to germaneness and matters of that sort that ought to be considered, and I would welcome very greatly the opportunity to appear before the Rules Committee, on which the Senator serves with great distinction, and suggest some of my thoughts.

I would hope that we are not going to repeal the right of free debate here by the seat of our pants. I would hope that we would give careful thought to these sorts of precedents that could very well plague us in the future.

The Senator made reference to the leadership of Richard Russell, who was one of the great Senators of all time by any standard. I would remind the Senator that we fought that civil rights filibuster. The Senator from West Virginia had great sympathy with us at that time. After cloture had been invoked, those of us who felt very strongly about the matter kept that fight going for 10 days, fully recognizing what the rights of the others were under the rules but exercising ours also.

Senators are talking about a situation now when the cloture has only been invoked this day. Senators are tired, they are weary, and I understand how that is. But in those types of situations people should reason with one another.

I hope the Senator will be very cautious about this matter. What he is suggesting now is not as drastic as what I feared he was going to suggest. I am happy to see that, but I would hope the Senator would think about this matter overnight before he seeks to set a precedent that may do violence to the future of this country. I know he would not want to do that.

Mr. ROBERT C. BYRD. Mr. President, I appreciate what the distinguished Senator from Louisiana has said. I have spent many sleepless hours, I have spent many hours, in the light of the interminable and increasing number of filibusters that have confronted this Senate in the last few years. I have spent many hours thinking about how we could deal with these filibusters in a way that would preserve the right of free debate. I want to preserve that right.

I have some ideas that are being formed in my mind.

But we have a situation that we have to deal with now. I do not believe my point of order would do injury to the right of free debate.

The distinguished Senator mentioned the civil rights debates and the cloture that was invoked on the 1964 civil rights bill. When that came back from conference there was no filibuster on that conference report. That is what we were threatened with here: not only a filibuster on the conference report but a filibuster on the appointment of conferees.

Mr. LONG. If the Senator will yield further, I hope the Senator keeps in mind that if those of us who waged that filibuster thought it would have done one little bit of good he can be sure that we would have filibustered that conference report.

Mr. ROBERT C. BYRD. Well, that may be true. I do not know.

Mr. CURTIS. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. CURTIS. I commend the distinguished chairman of the Committee on Finance for his suggestion. I hope it will be followed.

The distinguished chairman of the Finance Committee has struggled with the tax bill for this last month. We have heard countless witnesses before the committee, and then we came here on the floor, day after day and week after week. There was no move for cloture. It has been a long, weary thing.

We are in a long conference now. There are so many conferees that there is no place to meet in the Capitol; we have to go over to the House Office Building, in spite of all these rollcalls. I believe that, as one of the leaders of the Senate, his advice that this issue not be decided tonight is good advice.

As I understand the distinguished assistant majority leader, he says that he recognizes it is against the rules to make a point of order against amendments until they are called up, but nevertheless he is going to do it, not only ahead of time but en bloc, openly against the rules, because he could be sustained by a majority vote.

Mr. President, that is tyranny of the majority. There has never a free government fallen by choice; someone has said, "We are facing an extreme and unusual circumstance; therefore, I am going to destroy the rules of law."

What the leadership should do, if they do not like the way this filibuster rule is working out, is seek to amend the rules, and not by sheer power of votes put through a procedure that in their own statement they agree is against the rules.

I realize the great pressure to get the program moving, but I think some things are counterproductive. I think this will be. I believe, in retrospect, the lowering of the number of Senators required to bring about cloture was a mistake. We did not have these procedures before. We did not have them; but when the power of the majority—majority opinion, I mean; I am not referring to political parties—is such that it is exerted with too much vigor too often and too consistently, there is resistance to it, and it becomes counterproductive.

I think in the long run, referring to the tax legislation that we debated for weeks and weeks here, a very wearisome job for those who had to carry the load, a big bill, highly technical, misunderstood by a lot of the press and the general public, branded as corrupt and misleading and granting special favors when it was not that at all, yet under the leadership of the distinguished chairman, the Senator from Louisiana (Mr. LONG) we carried on, and I would hope now that we could find a way not to attempt to decide this question tonight and, if it is put to us for decision, I beg Senators, "Do not vote in favor of a provision that is openly stated to be in violation of the rules because we are facing an unusual circumstance."

Everyone who has ever destroyed a free institution of government has done so because, they said, "We face an unusual circumstance, so we are abolishing this right, we are taking away the power of the legislative bodies, we are handcuffing the courts; we do other things, we abolish certain writs, because we are facing an unusual circumstance."

It is shocking what we have been asked to do tonight: to vote for a procedure in violation of the rules, upon the argument that it is an unusual circumstance.

Part of the circumstance was created, Mr. President, by overzealousness on the part of the majority to quiet the minority.

SEVERAL SENATORS addressed the Chair.

Mr. PASTORE. Mr. President, will the Senator from West Virginia yield to me so that I may ask the Senator from Nebraska a question?

Mr. ROBERT C. BYRD. Provided that I may do so without losing my right to the floor.

Mr. JAVITS. Mr. President, will the Senator also yield to me following that?

Mr. HARRY F. BYRD, JR. Will the Senator yield to me following the Senator from New York?

Mr. HANSEN. Mr. President, will the Senator yield to me following the Senator from Virginia?

Mr. MANSFIELD. Mr. President, I ask for the regular order. A Senator cannot farm out time.

The PRESIDING OFFICER. The Senator from West Virginia yields to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I did not mean to be facetious about this. I am very impressed by what the Senator from Nebraska was saying. But will he admit that there are certain motions and amendments at the desk now which are intended solely and strictly as dilatory?

Mr. CURTIS. I have not read them.

Mr. PASTORE. Will he admit that?

Mr. CURTIS. I have been in conference all day.

Mr. PASTORE. I know, but the Senator is a reasonable man. He got up and made a big speech about freedom of debate. Will he admit that the whole procedure has been that there are certain amendments up there for this dilatory purpose, without any reflection on anyone as to what the motive was behind it?

All the majority leader has been saying, together with the Senator from West Virginia (Mr. ROBERT C. BYRD), is "Let us sift out those that are there for dilatory purposes, and vote up or down on those that have merit, preserve the right of debate, and stop all this sham."

Mr. CURTIS. If I understand the Senator, what the junior Senator from Nebraska was trying to say was, I raised objection to making points of order before amendments were called up, and en bloc.

Mr. ROBERT C. BYRD. Mr. President, I decline to yield further.

Mr. PASTORE. I do not know whether we should vote now, or whether we should rest and think it over further, but all the distinguished assistant majority leader has said is, "Let us sit down and visit with one another, determine those that are there for dilatory reasons, and take those that have merit and vote them up or down."

I think that is reasonable. It is his responsibility to lead the Senate; and that is what he is trying to do. The Senate seems to be trying to lead him, and that is wrong.

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, I voted for the proposal of the Senator from Alabama earlier today. I do not know how I will vote on the substitute. I may vote against it, or I may vote for it, but I think the Senate ought to vote one way or the other, up or down, and let Senators go home.

I may not be able to have my way and carry the battle all the time. I may lose. But I still think the Senator ought to have a vote. There are some instances in which I will not vote for cloture, but if cloture is invoked, I will not try to prevent the Senator from working its will.

Mr. JAVITS. Mr. President, will the Senator yield me 1 minute?

Mr. ROBERT C. BYRD. I call attention to the fact that of the 112—one amendment has been disposed of in the last 3 hours—of the 112 remaining amendments and motions at the desk, according to the staff, 14 printed amendments and motions are new, and 9 of the unprinted motions and amendments are new. So there is a total of 23 amendments and motions that have not been voted on, either word for word or in substance, heretofore.

My point of order would not touch any of those, and I would be happy to ask unanimous consent that of those 23 printed amendments and unprinted amendments and motions, we have a vote up or down on each of them, and not have any tabling motions.

My point of order would simply say—this is what it is, and I think it is very reasonable—that the Chair would rule out of any amendment or motion that has previously been voted on either in substance or word for word. That would eliminate all but 23 of the 112 motions and amendments that are at the desk.

What is unfair about that? What is unreasonable about that? The Senate should not have to vote again on something it has voted on heretofore. That is what my point of order would amount to.

I know Senators are disturbed over this. I am disturbed also. I do not want to make this point of order. I am trying to find a way to avoid making it.

I would ask unanimous consent, without relinquishing my right to the floor, that there be a vote on the proposal by the Senator from Alabama, a vote on the substitute, and a time limitation, and that once those votes have occurred, that be final.

Also, that there be a time limitation on any conference report that may come back. It is very doubtful that there will be a conference report on this, because if I am correctly advised, it is the sentiment of those who have been working with the House of Representatives they believe that the House will accept the substitute if it is sent over by the Senate. So I will not make this point of order if we can get some kind of a time agreement that will allow the Senate to work its will. Whatever its will is is all right with me. Frankly, I could not care less about this whole business. I have lived for 59 years, and antitrust has not bothered me in the slightest. So I frankly do not care which way the Senate goes on this. I intend to vote one way or the other. But if we can get agreement, if there is an indication here that we can get an agreement and avoid having to vote on a point of order of this type, I am willing for us to have a short quorum and work out that agreement, and let us go home then.

Barring that, I will make a point of order after which I will move that we recess and will not vote on that point of order tonight. There will be more Senators here to vote on that point of order later.

But before I do that I will ask unanimous consent that the Senator from Louisiana be recognized to call up his conference report on a matter which expires tonight.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has asked unanimous consent to yield to the Senator from Louisiana; is that correct?

Mr. HARRY F. BYRD, JR. Reserving the right to object.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. I have made the request, yes.

Mr. HARRY F. BYRD, JR. I have not made an objection.

Reserving the right to object, and I shall not object, providing I have an opportunity to make some comments on the pending question.

Mr. ROBERT C. BYRD. Mr. President, we can work out an agreement here that will allow a final vote next Tuesday when we return, or next Wednesday when we return, or tomorrow. And we will avoid this point of order business and also avoid all of this travail that we have been going through and getting nowhere.

So, Mr. President, I am going to yield the floor for now and in an effort to see if we cannot work out some kind of an agreement with the Senator from Alabama that will see a vote on his proposal.

Mr. ALLEN. My proposal has already been defeated.

Mr. ROBERT C. BYRD. I understood the Senator had some proposal we already voted on.

Mr. ALLEN. Yes, but the Senate ruled that out of order. I would be glad if we could have this same question. I would like for that to be part of it. But actually I have been suggesting this very same thing all along, but my proposal fell on deaf ears.

I would not agree to the last phase. The Senator said he thinks whenever we send it over there they will accept it. I think we have to take that chance.

But I am willing to have a quorum call to see if something could be worked out among all Senators concerned.

Mr. ROBERT C. BYRD. Why do we not let the Senator from Louisiana bring us his proposal dealing with tax withholding.

Mr. ALLEN. I shall follow the leadership of the distinguished majority leader who said we are going to stay on this until disposed of, so I must follow the leader.

Mr. HARRY F. BYRD, JR. Mr. President, I wish to make a brief comment. I have not spoken here today.

The PRESIDING OFFICER. Does the Senator from West Virginia yield the floor?

Mr. ROBERT C. BYRD. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I have not spoken on the pending legislation, and I did not intend to so speak. I find that one frequently can learn more by listening than by speaking.

In regard to the pending antitrust legislation, through the years I have been an advocate of strong antitrust laws. As to whether the pending measure goes too far, frankly I do not know at this point, I do not know how I will vote on the pending legislation on that.

But I am deeply disturbed by a possible effort to subvert the rules of the Senate. That is much more important to me than is the pending legislation.

I am very much impressed by what the Senator from Louisiana (Mr. Long) had to say. It is important that we abide by the rules.

Cloture was invoked only this afternoon. This is the first day that the Senate has been under cloture. I have not participated in any of the debates, but those Senators who have, have been operating under the rules. They have been doing what is permitted them to do under the rules of cloture.

More than 60 Senators voted to invoke cloture, thus making it impossible for each Senator to speak more than 1 hour. That is all right. That is according to the rules.

If it is the desire of the majority of the Senate, or two-thirds, if they can get two-thirds to agree to invoke cloture, at 51 or at 34, or whatever figure they want, that is a legitimate procedure. But I submit it is not legitimate to take the procedure that the assistant majority leader is contemplating taking.

I understand there are 113 amendments at the desk, according to the assistant majority leader. The proper procedure is to let those be called up and, if a point of order is made against any of them as being dilatory tactics, then the Senate at that time can decide.

There are 51 Senators or more who feel very strongly about this piece of legislation. Next week or next month there may be another 51 Senators or more who feel very strongly about another piece of legislation.

If we are going to scrap our rules, if we are going to say because we want to get on with the business, if we are going to say that 1 hour is too much for each Senator to speak, and if we are going to say we are not going to permit any amendments once cloture is invoked, then that is something that the Senate can do if it wishes to do it. But such procedure will put the minority, and none of us ever know when we will be in the minority, at a great disadvantage.

The Senator from Virginia frequently is in a minority and I must say I have no objection to being in the minority considering the legislation Congress has been enacting.

I go back to the people of Virginia, and I tell them I am in a minority, and up to this point they have not objected. They might object on November 2, but they have not objected up to this point.

I think it is very important that we protect the rights of each individual Senator to utilize the rules to whatever advantage it might be to that Senator at that particular point.

I hope that the Senate will not adopt a procedure that will go totally contrary to the rules of the game under which we have been operating.

I end by saying that I have made no decision as to how I will vote on the antitrust legislation. I favor antitrust laws. I may or may not vote for this legislation. I cannot determine yet whether it goes too far.

But one thing I am deeply concerned about is that we do not violate our own rules merely to speed up a little bit the procedure. We need to show some patience. If it takes us a little bit longer to abide by the rules we are being well paid for the job.

Mr. JAVITS. Mr. President, I shall only take 2 minutes. It looks now as if we will go over and have an opportunity to inspect the amendments on the desk, and there will be an opportunity for the leadership to inspect them, also I thoroughly agree with Senator Long. That is all I wish to say.

I have one other point, however, and that is Senator Robert C. Byrd of West Virginia may be interested in the suggestion I made to the leadership. I wanted to be sure that he understood it completely. I hope that Senator Clark, who is sitting in the manager's chair, will report that to him.

It would not only mean dealing with amendments which have been voted on before but also dealing with amendments which may come out of the Senate bill which are not included in this compromise. What we must understand is that the matters taken in the compromise were agreed upon between people in the House and people in the Senate.

For example, something that I was deeply sold on was left out—a commission to revise the antitrust laws—in which I joined Senator Hruska. If I wished to, I could have sought to put that into the compromise at this stage. Every Member should have the right to do that.

So I hope that whatever motion Senator Byrd makes will take into consideration the fact that anything that is in the Senate bill is, even though voted on again, an entirely legitimate proposition for a Member to raise here.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. Mr. President, when they go to sort out these amendments, I hope they will not disregard the fact that oftentimes someone is interested in a legislative proposal. They try it on a bill and do not get very much support, and they try it again. In the meantime, there are speeches, people think about it, and they keep on trying. The fact that an amendment has been considered before in similar legislation should not, in itself, be grounds for holding that it is dilatory.

Mr. President, the reason I rose to speak is that I wish to call the attention of all Senators to "Senate Procedure," by Dr. Floyd M. Riddick, U.S. Senate, 1974. On page 600, the rule is very clearly stated:

> A point of order cannot be made against an amendment until the amendment is pending before the Senate.

So, should the assistant majority leader proceed along the line that I understood he was talking about, he would be running counter not to a precedent, not to some ruling of the Chair, but to an established, written, and accepted rule of the Senate—that a point of order cannot be made before the amendment is pending in the Senate.

Mr. President, the Senate will be making a very grave mistake, and we would be rendering a disservice to the person who made such a point of order, if we were to vote to disregard such a rule.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CURTIS. I am happy to yield.

Mr. LONG. When the Senate undertakes to do something which is clearly contrary to the rules, we do violence to our rules, and then we set a precedent to do further violence to the rules. So it is not just the one precedent; it is not just that you have made one mistake; but you have, in fact, enthroned the theory that the end justifies the means, that might makes right, and that the rules are there only if a majority feels like abiding by them and that they do not mean anything otherwise.

When we get down to that type thing, Senators never know when the time will occur when something is before this body in which a Senator might find that his conscience requires him to stand up against something concerning which the majority does not understand the problem. When that happens, if he has time to make his position known and understood, he may prevail. But we could be brought to the point that a majority has precedent on their side, and they could point out how the leadership on this occasion or the leadership on that occasion got sick and tired of being bothered by someone exercising his rights under the rule, so they proceeded to throw the rule book in the trash can and, with the cooperation of the Presiding Officer, ran roughshod over those who would stand in their way. Then, all the great checks and balances and principles for which men fought and died for 200 years do not mean much. From that time on, we are going by the caprice of the majority, and that could lead to almost anything. It is impossible for the mind of man to conceive what that might be.

When people are tired, worried, and frustrated from long hours of hard work, they tend to do things they will regret later. That is not really necessary. We can reason together, and those things can be solved.

For example, there are some of us who voted for cloture—I voted for cloture on this measure—who at the same time respect the rights of those who are delaying a final vote on this matter, who would be willing to use their best efforts to help the Senate reach a conclusion in this matter. In other words, when you really get down to it, the powers of persuasion available to Senators to bring this matter to a conclusion really have not been exercised in this body as yet. We have many tools available to us other than simply to strike down our rules and say, "I do not care what the rules are; we are going to do it this way." As the Senator knows, when we get going down that road, it leads to the kind of situation in which legislation will be passed by the majority beating the other people into their seats, if need be. That type of thing is unworthy of the Senate, and it should not be done that way. There is a better way to do it.

We are seeing that patience is the best answer in situations such as that, even though it means that you have to put up with some weary, tiresome, dilatory efforts by those who are asserting their rights under the parliamentary devices.

Mr. CURTIS. The Senator is correct. I am thoroughly convinced that there are times when the way to make the best speed is tc go slowly.

I believe that in the past we have given an excessive amount of attention to how many votes it will take to vote cloture and have paid no attention in our discussion of rules to what should be the procedure after cloture is voted.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CLARK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Stone). Without objection, it is so ordered.

TAX TREATMENT OF SECURITIES

Mr. LONG. Mr. President, I ask unanimous consent that, without prejudicing the rights of anyone and without otherwise changing the parliamentary situation, we might temporarily lay aside the pending business and consider H.R. 3052, which is Calendar No. 1105.

The PRESIDING OFFICER. And an amendment thereto.

Mr. LONG. Pardon me, Mr. President, with a limitation of one-half hour to be controlled by the manager of the bill and the minority leader.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3052) to amend section 512 (b)(5) of the Internal Revenue Code of 1954 with respect to the tax treatment of the gain on the lapse of options to buy or sell securities.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 413

Mr. LONG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. Long) proposes an unprinted amendment No. 413:

At the end of the bill add the following new section:

Sec. 2. (a) The following provisions of the Internal Revenue Code of 1954 are amended by striking out "September 1, 1976" and inserting in lieu thereof "September 15, 1976":

(1) section 3402(a) (relating to income collected at source);

(2) section 6153(a) (relating to installment payments of estimated income tax by individuals); and

(3) section 6154(h) (relating to installment payments of estimated income tax by corporations).

(b) Section 209(c) of the Tax Reduction Act of 1975 is amended by striking out "September 1, 1976" and inserting in lieu thereof "September 15, 1976".

Mr. LONG. Mr. President, on September 1, which means tomorrow, the withholding tax is scheduled to go up because we have not been able yet to enact the Tax Reform Act which has a provision that would extend it. We have already agreed in the conference that we will extend the tax cut and withholding should not go up. That will be before the Senate as soon as we can complete action on the conference report. Meanwhile we are proposing to extend for only 15 days the current withholding tax rates so that there will be no increase in the withholding tax starting tomorrow on taxpayers until we can act finally on the Tax Reform Act.

Now, the pending bill is a bill that passed the House by unanimous vote and was reported unanimously from the Committee on Finance. It merely says that lapsed option income is not to be taxed to a tax-exempt educational, charitable or religious organization. In other words, investment income is not now taxed to these organizations, and lapsed option income in reality is a form of investment income so it is right to exempt this income as well. So this is a purely technical measure to make the law it is supposed to be and what most of us thought it was already.

The amendment is to continue for an additional 15 days the current withholding tax rate relating to withholding of income collected at the source and relating to installment payments on the estimated income tax by individuals, and relating to the payments of estimated income by corporations, so that we may take our recess and have enough time after we get back to finally act on the conference report of the Tax Reform Act which, if agreed to, would continue the withholding at the same time.

Mr. CURTIS. Mr. President, as the ranking minority member of the Committee on Finance, I support both the basic provisions of this bill (H.R. 3052) and the committee amendment offered by our chairman.

The bill itself deals with the tax treatment of gains on the lapse or termination of options to buy or sell securities written by exempt organizations. Under the bill, these gains generally will not be subject to the tax on unrelated business income. This bill will have a negligible revenue impact and the Treasury Department has no objection to its enactment.

The amendment offered by our chairman on behalf of the committee extends the existing level of Federal income tax withholding for a period of 2 weeks to September 15, 1976. This extension is necessary to permit the Senate and House conferees to complete action on the tax reform bill. The conferees are working diligently to complete action on this mammoth piece of legislation. However, it now appears that we will not be able to complete the conference in time to pass the bill by September 1. Thus, this additional extension of withholding rates is necessary to maintain the status quo while the conferees complete action on the tax bill.

I urge favorable action both on the bill and the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. LONG. Yes, I yield.

Mr. PROXMIRE. On the bill you say it passed the House unanimously?

Mr. LONG. Yes.

Mr. PROXMIRE. Does it have any revenue effect?

Mr. LONG. None, practically none. It is what they call negligible.

Mr. PROXMIRE. Less than $1 million?

Mr. LONG. Well, yes, less than $500,000—well, less than $1 million.

Tax-exempt organizations are not expected to pay tax on investment income, and the income one receives from the lapse of an option, an option that one is given lapses, that is income, but that is just something that someone did not think about because it is not a usual form of income, and it is just something that should be in the law and does not happen to be there.

Mr. PROXMIRE. Is there a Treasury position on this bill?

Mr. LONG. Yes, they are for it.

Mr. PROXMIRE. They support it?

Mr. LONG. Yes.

Mr. PROXMIRE. I thank the Senator.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered engrossed and the bill to be read a third time. The bill was read the third time and passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SPARKMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Florida is recognized.

GOVERNMENT IN THE SUNSHINE ACT—CONFERENCE REPORT

Mr. CHILES. Mr. President, I submit a report of the committee of conference on S. 5, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 5) to provide that meetings of Government agencies shall be open to the public, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of August 26, 1976, beginning at page 27866.)

Mr. CHILES. I urge the Senate to give final approval today to the conference report on S. 5, the Government in the Sunshine Act.

Final approval of this legislation will mark the beginning of a new era in the way our Government operates.

For the first time a large number of Federal agencies will conduct their most important meetings in public.

This has never been done before at the Federal level.

This act makes more meaningful the important principle that in a democracy, the public has a right to know not only what its Government decides, but why, and by what process. Today many people view their Government as too remote. They cannot identify with it. This legislation should help reaffirm that our Government is part of the people, not apart from it.

The overwhelming effect of this legislation should be to make our Government stronger and the public's confidence in our Government greater.

The bill will require agencies to make some adjustments in the way they do business. New attitudes may have to be learned, and old ones changed. But I am confident that the agencies can and will implement this act in a way that is fully in accord with the principles of openness on which the legislation is based.

As one Member of the Senate, I intend to do all I can to see that implementation of this bill is both full and reasonable.

The House and Senate passed versions of S. 5 were in most major respects similar. The bill agreed upon by the conferees is substantially similar to the bill passed by the Senate last November by a vote of 94 to 0.

All meetings among the commissioners that head independent regulatory bodies, or similar agencies, must be open as a general rule. Meetings may be closed only if the subject matter to be discussed falls within 10 specified exemptions for sensitive matters and the agency votes to close the meeting. The agency must keep a full record of any meeting that is closed to the public. Other provisions require timely public announcement of all agencies and whether they will be open to the public or not. An additional section of the bill contains for the first time a general statutory prohibition of ex parte communications relevant to the merits of agency adjudication. This section also specifies the remedial measures that must be taken in the event that an ex parte communication does occur.

A full description of the differences between the House and Senate versions, and the resolution of those differences is contained in the joint statement of managers.

The following is a brief summary of the resolution of the most important differences between the two bills:

First. Definition of meeting and related terms.—The Senate defined meeting to mean "the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations concerned the joint conduct or dispositions of official agency business."

The House defined "meeting" to mean "a gathering to jointly conduct or dispose of agency business by two or more, but at least the number of individual agency members required to take action on behalf of the agency."

The compromise version defines "meeting" to mean "the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations required or permitted by subsections (d) or (e)."

Second. Exemption for premature disclosure of information.—The Senate provision qualifying the exemption for premature disclosure of certain information applied to the entire exemption, including the portion applicable to any agency which regulates currencies, securities, commodities, or financial institutions, as well as to all other agencies. In the comparable House provision, the qualifications on the exemption did not apply to agencies which regulate currencies, securities, commodities, or financial institutions. The actual wording of the exemption was somewhat different in the two versions as well. The compromise position accepted the Senate language and made it applicable to all agencies other than agencies that regulate currencies, securities, commodities, or financial institutions.

Third. Exemption for limitations on disclosures in other statutes.—

a. SUNSHINE ACT

The Senate permitted an agency to close a meeting to protect "information required to be withheld by any other statute establishing particular criteria or referring to particular types of information." The comparable House clause exempts "matters specifically exempted from disclosure by statute—other than section 552 of this title—provided that such statute (A) requires that the matters be withheld from the public or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;"

The conference substitute applies only to a statute that either "(a) requires that the information be withheld from the public in such a manner as to leave no discretion on the issue, or (b) establishes particular criteria for withholding or refers to particular types of information to be withheld."

b. FREEDOM OF INFORMATION ACT PROVISION

The Senate did not amend the comparable provision now in the Freedom of Information Act exempting from disclosure information specifically exempted by other statutes. The House amended the comparable provision in the Freedom of Information Act to conform to the Sunshine Act exemption. The conference substitute is the House provision.

Fourth. Requirements for transcripts or minutes.—The Senate required an agency to keep a transcript or a electronic recording of closed agency meetings. The transcripts or electronic recordings were to be maintained for at least two years, but disclosure of transcripts containing sensitive matters was protected. The House did not require an agency to keep transcripts of closed meetings. Instead, it required the General Counsel to certify publicly that the meeting may be closed under one of the exemptions and to state the relevant exemption. This information would have been kept as part of the minutes of the closed meeting. The minutes would also have included information on the generic subject matter of the meeting and actions taken on them. The House also required each agency to maintain and disclose minutes of open meetings.

Under the compromise the agency is

required to keep a verbatim transcript or electronic recording of each meeting or portion closed to the public unless a meeting has been closed under exemption 8, concerning bank reports, exemption 9(a), concerning information likely to lead to financial speculation, and exemption 10, concerning adjudicatory proceedings or civil actions. In such case, the agency may elect to make either a transcript, an electronic recording, or minutes containing a full and clear description of all matters discussed and all views expressed on any matter discussed, as well as an accurate summary of any actions taken and the reasons expressed therefore.

The compromise substitute also requires that before a meeting may be closed the General Counsel or Chief Legal Office of the agency must certify that in his or her opinion the meeting may properly be closed and the reasons therefore.

Fifth. Venue.—The Senate provided that suit to enforce the act may be brought where the headquarters of the agency are located or where the plaintiff resides. In the House version, suit may be brought in the District of Columbia, where the headquarters of the agency are located, or where the meeting in question is held. The compromise substitute is the same as the House provision.

Sixth. Review by Appellate Court of compliance with act.—The Senate provided that a court that otherwise has jurisdiction to review an agency's action may, as part of that review, "inquire into violations by the agency of the requirements of this section, and afford any such relief as it deems appropriate." The House contained no comparable language. The conference substitute adopted the Senate wording.

Seventh. Personal liability of agency members for litigation costs.—The Senate authorized an individual agency member to be named as a defendant. It permitted a court to assess reasonable attorneys fees and other litigation costs against an agency member if the agency member had intentionally and repeatedly violated the Act. The House bill did not provide that an individual agency member may be held personally liable for such litigation costs. The conference substitute follows the House bill.

Eighth. Ex parte communications.—

A. DEFINITION OF EX PARTE COMMUNICATIONS

The Senate bill prohibited "ex parte communications relevant to the merits." The House bill contained a similar phrase, but in addition specified that an ex parte communication "shall not include requests for information on or status reports relative to any matter or proceeding covered by this subchapter." The conference substitute is the same as the House amendment, with a Senate amendment to strike the words "information on or."

B. APPLICABILITY OF PROHIBITION TO PERSON WHO CAUSES EX PARTE COMMUNICATIONS

The Senate prohibited an interested person from making, or knowingly causing to be made, an ex parte communication. The House provision did not include the word knowingly. The conference substitute is the same as the Senate language.

C. APPLICABILITY OF AGENCY SANCTIONS TO PARTY WHO MAKES OR CAUSES EX PARTE COMMUNICATION

The Senate provides that upon receipt of an ex parte communication knowingly made or knowingly caused to be made by a party, the agency may require the party to show cause why his claim should not be adversely affected. It authorizes the agency to rule against a party who has knowingly committed a violation of the rules against ex parte communications, or knowingly caused such a violation. The House did not require that such communications be made knowingly. The conference substitute is the same as the Senate version.

Ninth. Federal Advisory Committee Act.—The House amended the Federal Advisory Committee Act so that an advisory committee meeting may be closed for the same reasons applicable under the Sunshine Act to the closing of an agency meeting. The Senate contained no comparable amendments of the Federal Advisory Committee Act. The conference substitute is the same as the House language.

Mr. President, I think it is kind of fitting that on the 200th birthday of this country we determine that our people are mature enough after 200 years so that they will be able, be qualified and capable of seeing how their business is conducted by the Federal agencies, and I urge the adoption of the report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. CLARK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the message from the House of Representatives announcing its action on the amendment of the Senate to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The PRESIDING OFFICER. The question recurs on the Abourezk amendment.

Mr. CLARK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CLARK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRAL OF A BILL

Mr. CLARK. Mr. President, I ask unanimous consent that a bill introduced earlier today by the Senator from Vermont (Mr. Leahy) and others be referred jointly to the Committees on Agriculture and Forestry, Banking, Housing and Urban Affairs, Commerce, and Interior and Insular Affairs.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—EXECUTIVE O, 94TH CONGRESS, 2D SESSION

Mr. CLARK. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the International Convention for the Safety of Life at Sea, 1974, done at London, November 1, 1974—Executive O, 94th Congress, 2d session—transmitted to the Senate today by the President of the United States, and that the treaty with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message from the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to acceptance, the International Convention for the Safety of Life at Sea, 1974, done at London, November 1, 1974. The report of the Department of State is enclosed for the information of the Senate in connection with its consideration of the Convention.

I also transmit a copy of the Final Act of the International Conference on Safety of Life at Sea, 1974, held at London from October 21 to November 1, 1974.

Numerous technical amendments to the 1960 Safety of Life at Sea Convention have been proposed and accepted by the depository organization since 1966. The United States has accepted all of these amendments. However, none of them have received the necessary explicit acceptance by the required two thirds of the contracting governments to enter into force. The 1974 Convention incorporates all of the amendments and contains an improved procedure which will accelerate acceptance of future amendments to the technical regulations. I recommend that the Senate give prompt consideration to this Convention and consent to its acceptance.

Gerald R. Ford.

The White House, *August 31, 1976.*

WILLIAM S. MIDDLETON MEMORIAL VETERANS' HOSPITAL

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 1096, H.R. 9811, which has been cleared all the way around.

The PRESIDING OFFICER (Mr. Stone). The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 9811) to designate the Veterans' Administration hospital in Madison, Wisconsin, as the "William S. Middleton Memorial Veterans' Hospital," and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT 414

Mr. CRANSTON. Mr. President, I send to the desk an amendment, which is an amendment designed to permit the VA hospital system to join and participate in the swine flu program. It has been cleared on all sides.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment No. 44.

The amendment is as follows:

Add at the end of the bill the following new section:

SEC. 3. (a) In order to assist the Secretary of Health, Education, and Welfare in carrying out the National Swine Flu Immunization Program of 1976 pursuant to subsection (j) of section 317 of the Public Health Service Act (42 U.S.C. 247b), as added by Public Law 94–380, 94th Congress (August 12, 1976), the Administrator of Veterans' Affairs, in accordance with the provisions of such subsection (j), may authorize the administration of vaccine, procured under such Program and provided by the Secretary at no cost to the Veterans' Administration, to eligible veterans (voluntarily requesting such vaccine) in connection with the provision of care for a disability under chapter 17 of title 38, United States Code, in any health care facility under the jurisdiction of the Administrator. In carrying out such Program, the Secretary may provide the Administrator with such vaccine at no cost to the Veterans' Administration.

(b) Notwithstanding the provisions of subsection (k) of such section 317, any claim or suit for damages for personal injury or death, in connection with the administration of vaccine as authorized by subsection (a) of this section, allegedly arising from the malpractice or negligence of personnel granted immunity under section 4116 of such title 38 while in the exercise of their duties in or for the Department of Medicine and Surgery of the Veterans' Administration, shall be considered and processed in accordance with the provisions of such section 4116, and the recovery authority provided the United States under paragraph (7) of such subsection (k) shall not be applicable to such claims or suits.

Mr. CRANSTON. Mr. President, this amendment will permit the Veterans' Administration health care facilities to participate in the national swine flu immunization program. This amendment has been cleared by all members of the Committee on Veterans' Affairs, where I serve as chairman of the Subcommittee on Health and Hospitals, and will, I believe, be acceptable to the other body.

In April we appropriated $135 million in Public Law 94–266 for a national program of immunization against swine flu. August 12, 1976, we enacted the national swine flu immunization program of 1976, Public Law 94–380, establishing a clear legislative basis for that program, imposing certain conditions on the conduct of that program, and dealing with the difficult potential liability problem which had stalled initiation of the program by HEW.

The program is envisioned as a national cooperative effort, coordinated by the Center for Disease Control, to immunize our population against a predicted epidemic of this virulent and frequently fatal disease. The center will purchase and distribute the vaccine to State and local health agencies who will then provide for administration of the vaccine by health authorities and public and private providers. Costs of administering the vaccine will be shared by the local and Federal governments. In order for this massive effort to be successful, the cooperation of all health agencies will be required. The amendment will allow the VA to participate in this important program.

BACKGROUND

Under present law, the VA is only authorized to treat disabilities and diseases; authority is not generally provided for the VA to carry out any preventive health measures such as immunizations. S. 2908, which was reported on May 25 from the Subcommittee on Health and Hospitals and ordered reported on June 16 from the full Committee on Veterans' Affairs, would generally provide such authority on a generic basis. But because of the need to act expeditiously to permit the VA to participate in the swine flu program by administering the vaccine to its patients, we developed an amendment, which we did in close consultation with the Veterans' Administration, to deal specifically with the swine flu program. However, we decided to hold that amendment in abeyance when the national program became embroiled in the controversy over liability for potential claims, and efforts began in both Houses of Congress to develop legislation both to deal with the insurance/litigation/liability questions and to provide a basic legislative authorization for the national swine flu immunization program.

Subsequently, on July 19, 1976, the Administrator of Veterans' Affairs transmitted draft legislation to provide the necessary authority for VA participation.

Mr. President, the VA's draft legislation could not, of course, have taken account of the basic authorization legislation then under development in Congress which culminated in the enactment on August 12, 1976, of the national swine flu immunization program of 1976, Public Law 94–380.

Thus, in close consultation with the Veterans' Administration, we have revised our initial amendment to take into account the VA's draft of July 19—which was substantially similar to our own—and of the provisions of Public Law 94–380.

DESCRIPTION OF THE AMENDMENT

Mr. President, the amendment proposed today would specifically allow the VA to participate in the national swine flu immunization program by authorizing VA employees to administer the vaccine to veterans otherwise receiving care at VA health care facilities. The amendment requires that the vaccine be provided at no cost to the VA by the Secretary of HEW and makes clear the Secretary's authority to provide it at no cost. The cost of the incidental supplies—such as syringes, alcohol, and cotton—to administer the immunizations may also be provided by the Secretary under Public Law 94–380 using funds provided by Public Law 94–266, but under our amendment the VA could absorb some or all of these incidental costs. In any event, the amendment would authorize the expenditure of VA appropriations for the salaries and expenses of VA employees in connection with administration of the vaccine.

It is estimated that the swine flu appropriation in Public Law 94–266 includes sufficient funds to cover the costs of related supplies—$27 million for the total national cost of supplies. The VA cost of supplies will not exceed $150,000 even if all 2,900,000 veteran patients who receive care each year at VA health care facilities were to receive the immunization. In fact, the VA estimates in its July 19 transmittal letter that it will likely provide swine flu vaccine to 600,000 eligible veterans otherwise receiving care in VA health care facilities up to March 31, 1977.

Thus, the direct cost of this program to the VA will, under any circumstances, be minimal and would be far outweighted by the prevention of future costs and suffering that would be associated with any substantial swine flu outbreak. The amendment would not in any way affect the presently planned program for the VA to immunize its own employees which is authorized under title 5 of the United States Code.

The amendment specifically includes the following elements:

First, the VA's participation in the program is expressly conditioned on its receiving the vaccine at no cost from HEW, and HEW's authority to provide it at no cost is made explicit.

Second, the duration of the VA authority is made coextensive with the program authority in Public Law 94–380, until August 1, 1977.

Third, as was made clear in the legislative history surrounding enactment of Public Law 94–380, the vaccine will be administered to only those voluntarily requesting it.

Fourth, only veterans otherwise receiving care in VA health care facilities would be eligible to receive the vaccine.

Fifth, the VA would be charged with administering the swine flu vaccine in accordance with the provisions of the basic national swine flu immunization program authorization contained in new subsection (j) added to section 317 of the Public Health Service Act by Public Law 94–380. Most significant is the requirement in subsection (j)(1)(F) that the vaccine be administered only upon informed consent utilizing the form developed by HEW in consultation with the National Commission for the Protection of Human Subjects of Biochemical and Behavioral Research and supplied to the VA at no cost. The VA Department of Medicine and Surgery has already been in consultation with the Center for Disease Control in HEW regarding its participation in the entire program, including use of the HEW/Commission informed consent form.

It is important to note, Mr. President,

in understanding the VA's responsibilities under this program that the basic swine flu program authorization legislation contemplates in new subsection (j) (1) (E) that personnel will receive careful instruction in the proper use of the form, stressing the entirely voluntary nature of the program, and that careful research efforts will be undertaken. The VA should carry out both of these program aspects, as to research—for which the VA offers an ideal opportunity for controlled clinical studies—utilizing funds provided by HEW from the Public Law 94-266 appropriation to carry out a research effort including all elements identified in that clause (E).

In this connection also, Mr. President, the committee expects the VA to cooperate fully with the Secretary in connection with his quarterly program reports required under subsection (j) (2) and his semiannual claim and liability report required under subsection (k) (8), and to submit to the appropriate committees of Congress at the same time intervals separate program and claim and liability reports on the VA's experience.

Sixth, subsection (b) in the amendment provides that claims allegedly arising from the malpractice or negligence of VA personnel, granted immunity from suit and liability under present section 4116 of title 38, United States Code, while in the exercise of their official duties in the Department of Medicine and Surgery, will be considered and processed in accordance with that existing procedure under which the VA assumes any liability for those acts of its agents and immunizes those employees. Hence, the amendment expressly supercedes the HEW claim processing and litigation procedure established in Public Law 94-380—subsection (k) added to section 317 of the Public Health Service Act—but only as to such claims for the alleged malpractice and negligence of the section 4116-immunized VA personnel. The amendment thus also expressly supercedes the right of recovery given the United States against a negligent program participant—as defined in subsection (l) added to section 317 by Public Law 94-380—as to a VA employee covered by section 4116 as to whom the VA has made a settlement or paid a court judgment as a result of a claim arising from the administration of the vaccine.

However, as to any claim for personal injury or death, in connection with the VA's vaccination of a veteran, against the United States arising out of the alleged failure of any manufacturer or distributor of the vaccine to carry out any obligation or responsibility assumed by it under a contract with HEW, or the alleged negligence on the part of such manufacturer or distributor, or any other claim cognizable under subsection (k) other than a section 4116 claim, the provisions of Public Law 94-380 would apply in full, and claims would be processed by HEW and any eventual litigation would arise pursuant to the new subsection (k).

Finally, as to the interrelationship with the Public Law 94-380 program, let me note that the amendment, both its language and intent, has been fully cleared with the Committee on Labor and Public Welfare on which I also serve.

Mr. President, we are engaged in an historic effort to immunize our population against swine flu. The success of this effort will require the full participation of all health care agencies. This amendment will allow the VA, the largest health care system in the Nation, to participate effectively in this effort. I urge its adoption. As I indicated at the outset, I have every reason to believe the other body will agree to the bill as so amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill (H.R. 9811) was read the third time and passed.

QUORUM CALL

Mr. CLARK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until tomorrow at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the message from the House of Representatives announcing its action on the amendment of the Senate to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I am about to propound a unanimous-consent agreement as follows:

I ask unanimous consent that on Tuesday, September 7, 1976, at 2 p.m., the Senate resume consideration of the pending measure; that there be at that time two hours of debate thereon to be equally divided between Mr. Abourezk and Mr. Hruska; that the leadership meanwhile may be authorized to call up other measures and temporarily lay aside this measure; and that following the 2 hours of debate on Tuesday, September 7, 1976, the leadership be authorized to set this matter aside and proceed to other matters.

Provided further, that on Wednesday, September 8, 1976, at the hour of 2 p.m., the Senate resume consideration of the pending matter; that there be 1 hour of debate thereon to be equally divided between Mr. Hruska and Mr. Abourezk; that upon the expiration of the 1 hour or, to wit, at 3 p.m. on Wednesday, September 8, 1976, the Senate proceed to vote up or down, without any intervening motion or amendment, on amendment No. 2232 by Mr. Allen, which amendment has already been acted upon and rejected; that immediately upon the disposition of that vote, if the amendment No. 2232 is rejected, the Senate proceed to vote without any intervening motion or amendment on the motion by Senator Robert C. Byrd, and with the further proviso that the motion by Senator Byrd of West Virginia include any modifications in the substitute that have been previously agreed upon between Mr. Abourezk and Mr. Hruska.

Mr. ALLEN. Reserving the right to object, and I shall not object——

Mr. ROBERT C. BYRD. Excuse me.

And that in the meantime the pending substitute by Mr. Abourezk be pulled down.

Mr. ALLEN. Yes. That was what I wished to inquire about. Would it also be in order to state that at the time of commencement of the debate on Tuesday it would be in order for the Senator from Alabama to reoffer his amendment and that it will be in order, despite the fact that it has been rejected heretofore by the Senate?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. As modified, the unanimous-consent request is amended. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I wish to thank the distinguished Senator from Alabama (Mr. Allen), the distinguished Senator from Nebraska (Mr. Hruska), the distinguished Senator from South Carolina (Mr. Thurmond), the distinguished Senator from South Dakota (Mr. Abourezk), and all other Senators who have participated in the discussions that led up to the unanimous-consent agreement. I think it was a fine example of give and take, and everyone showed a fine spirit of cooperation and a desire to make progress toward the conclusion of this action on the matter involved.

ROUTINE MORNING BUSINESS

The following routine morning business was transacted today and is printed at this point in the Record by unanimous consent.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executve session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and withdrawing the nominations of Margareta E. White, of Virginia, and Joseph R. Fogarty, of Rhode Island, to be members of the Federal Communications Commission which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE NATIONAL COUNCIL ON THE ARTS AND THE NATIONAL ENDOWMENT FOR THE ARTS—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I hereby transmit to the Congress the Annual Report of the National Council on the Arts and the National Endowment for the Arts for Fiscal Year 1975.

Our Bicentennial year marks the beginning of a second decade for the Arts Endowment which, under the guidance of the National Council, has made a substantial contribution to enriching the quality of life in America. This is a time for us to reflect upon our history and to reassess our goals for the future. The arts have always been an expression of the diversity of America's richly varied cultural experience. We are beginning to appreciate how important the arts are as resources—to improve our cities—to bring greater perception to all, young and old.

This Annual Report reflects the Federal government's continuing support for the arts and its concern that public funds be instrumental in generating private dollars. The efforts of the Arts Endowment in that regard are very gratifying and I hope that each member of Congress will share my enthusiasm for this agency's achievements.

GERALD R. FORD.

THE WHITE HOUSE, *August 31, 1976.*

BICENTENNIAL LAND HERITAGE ACT—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred jointly, by unanimous consent, to the Committee on Interior and Insular Affairs and the Committee on Commerce:

To the Congress of the United States:

I am today submitting to the Congress the Bicentennial Land Heritage Act. This proposal establishes a 10-year national commitment to double America's heritage of national parks, recreation areas, wildlife refuges, urban parks, and historic sites. The Bicentennial Land Heritage Act would authorize and appropriate funds for the acquisition, improvement, rehabilitation, and maintenance of the National Parks System and National Wildlife Refuge System and increase grants to communities to improve park and recreation facilities.

Enactment of my proposal would establish a $1.5 billion program to:

—provide *$141 million* to be used to acquire lands for parks, wildlife refuges, and recreation areas, and historic sites.

—provide *$700 million* to develop new and existing parklands and refuges into recreation and conservation resources ready to serve the public.

—provide *$459 million* for upgrading and increased staffing for the national parks and wildlife refuges systems.

—provide *$200 million* for grants to cities to upgrade present park areas in disrepair.

This bill also contains a supplemental budget request for appropriations totaling $1.32 billion for fiscal year 1977, $1.30 billion to remain available for obligation until 1986.

The Bicentennial Land Heritage Program will significantly influence the future of the 31-million acre National Park System. The System, with its 287 areas, contains outstanding natural features and historical sites. These areas often suffer from overuse or deficient maintenance, and areas with high recreation potential often lack adequate access roads and visitor facilities.

Many of the nationally significant historical and archeological sites are deteriorating from lack of proper protection and suitable resource management planning and execution. The addition of lands to the System, coupled with effective resource management, will increase opportunities for outdoor recreation, as well as insure the protection and perpetuation of these resources for future generations. Their inclusion would also help to alleviate overcrowding problems at areas currently in the System, where sharply accelerated visitation during recent years has seriously impacted park resources.

The Bicentennial Land Heritage Program will also be important to the National Wildlife Refuge System. The 378 National Wildlife Refuges, which encompass 32 million acres, provide habitat for a wide variety of the Nation's fish and wildlife. The Refuge System, like the National Park System, has deteriorated seriously. In the last two decades, the System has doubled in size, and public visitation has quadrupled to 30 million visitors a year. Yet, staffing has not been increased in the last ten years. Many facilities such as roads, buildings, and water management structures have deteriorated for lack of maintenance. Of even more concern is the daily destruction of the Nation's essential wildlife habitat which is being bought, developed, polluted, or otherwise altered.

To assist in improving community parks and recreation facilities the Program would also authorize funds, pursuant to the Housing and Community Development Act of 1974, in the amount of $200 million to be available for communities to use in their recreation programs.

As part of the Bicentennial Land Heritage Program, I again urge the Congress to act expeditiously and to enact the proposed Alaska Conservation Act which has first proposed in December 1973 and resubmitted in March 1975. I am disappointed that the 94th Congress has failed to take action on this initiative. My hope is that the Congress will take positive action on this important conservation measure, which would add more than 64 million acres of land to the National Park System and the National Wildlife Refuge System and thus double the size of both of these systems.

The program I now present to the Congress will reaffirm our Nation's commitment to preserve the best of our vast and beautiful country and the wildlife inhabiting it. It will be a sound investment in America which will pay off handsomely by permanently insuring and enriching the natural treasures to be inherited by future generations. All Americans must stand committed to conserve and cherish our incomparable natural heritage—our wildlife, our air, our water resources and our land itself. As our nation begins its third century, we must renew our commitment to save this great natural heritage for the enjoyment of future generations of Americans.

Accordingly, I strongly urge the Congress to enact the proposed "Bicentennial Land Hertiage Act of 19"6", which establishes a program designed to insure the fulfillment of this national commitment.

GERALD R. FORD.

THE WHITE HOUSE, *August 31, 1976.*

JOINT REFERRAL OF A BILL

Mr. CLARK. Mr. President, I ask unanimous consent that a message from the President, the Bicentennial Land and Heritage Act, received today, be referred jointly to the Committees on Interior and Insular Affairs and Commerce.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

At 5:15 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House agrees to the report to the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13655) to establish a 5-year research and development program leading to advanced automobile propulsion systems, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2145) to provide Federal financial assistance to States in order to assist local educational agencies to provide public education to Vietnamese and Cambodian refugee children, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 217) to repeal the Act of May 10, 1926 (44 Stat. 498), relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico.

The message also announced that the House insists on its amendment to the bill (S. 2228) to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a 3-year period; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Roe, Mr. Wright, Mr. Holland, Mr. Oberstar, Mr. Nowak, Mr. Hammerschmidt, and Mr. Don H. Clausen were appointed managers of the conference on the part of the House.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 5) to provide that meetings of Government agencies shall be open to the public, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11670) to authorize appropriations for the use of the Coast Guard for the procurement of vessels and aircraft and construction of shore and offshore establishments, to authorize for the Coast Guard a year-end strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes.

The message further announced that the House has agreed without amendment to the concurrent resolution (S. Con. Res. 114) authorizing the printing of additional copies of Subcommittee on Children and Youth committee print titled "Background Materials Concerning Child and Family Services Act, 1975 (S. 626)."

The message also announced that the Speaker has appointed Mr. Brodhead, Mr. Scheuer, and Mr. Rinaldo, and Mr. Devine to be additional managers on the part of the House to the conference requested by the House on the disagreeing votes of the two Houses to the bill (S. 3149) to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes.

The message further announced that the House has agreed to, without amendment, the following concurrent resolution; and has passed, without amendment, the following bills:

S. Con. Res. 107. A concurrent resolution authorizing the printing of the following committee prints of the Committee on Foreign Relations Subcommittee on Multinational Corporations;

S. Con. Res. 113. A concurrent resolution authorizing the printing of additional copies of the committee print entitled "Soviet Space Programs, 1971–1975";

S. Con. Res. 115. A concurrent resolution authorizing the printing of background information on the Foreign Relations Committee as a Senate document;

S. Con. Res. 126. A concurrent resolution authorizing the printing of additional copies of the booklet entitled "The Senate Chamber, 1810–1859";

S. Con. Res. 133. A concurrent resolution to make certain corrections in the enrollment of H.R. 11670;

S. Con. Res. 134. A concurrent resolution directing the Clerk of the House to make a correction in the enrollment of H.R. 11481;

S. 3779. An act for the relief of Mrs. David C. Davis; and

S. 2862. An act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974.

The message also announced that the House has agreed to the following concurrent resolutions and has passed the following bill, in which it requests the concurrence of the Senate:

H. Con. Res. 688. A concurrent resolution authorizing the printing of the folder "The United States Capitol" as a House document;

H. Con. Res. 682. A concurrent resolution to authorize the printing of a booklet entitled "Black Americans in Congress";

H. Con. Res. 655. A concurrent resolution providing for the printing of the publication entitled "Summary of Veterans' Legislation Reported, Ninety-fourth Congress";

H. Con. Res. 641. A concurrent resolution to provide for the printing of additional copies of a report of the Subcommittee on Health and Long-Term Care of the Select Committee on Aging of the House of Representatives;

H. Con. Res. 629. A concurrent resolution providing for the printing of a document entitled "The Working Congress";

H. Con. Res. 592. A concurrent resolution authorizing the printing of two thousand copies of a Joint Committee on Atomic Energy print entitled "Review of National Breeder Reactor Program";

H. Con. Res. 513. A concurrent resolution providing for the printing of a compilation of materials commemorating the years of service of Justice William O. Douglas; and

H.R. 8911. An act to amend title XVI of the Social Security Act to make needed improvements in the program of supplemental security income benefits.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 8410. An act to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes.

H.R. 11481. An act to authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce, and for other purposes.

H.R. 11670. An act to authorize appropriations for the Coast Guard for the procurement of vessels and aircraft and construction of shore and off-shore establishments, to authorize for the Coast Guard a year-end strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes.

H.R. 13372. An act to amend the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271), and for other purposes.

S. 3779. An act for the relief of Mrs. David C. Davis.

The enrolled bills were subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

Report Relating to Import Relief for the Honey Industry

A communication from the President of the United States transmitting a report setting forth a Determination that import relief for the U.S. honey industry is not in the national economic interest (with an accompanying report); to the Committee on Finance.

Report of the Assistant Secretary of Defense

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report on a proposed change in the existing system of records of the Air Force (with an accompanying report; to the Committee on Government Operations.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions which were referred as indicated:

A resolution relative to Pro-Life, adopted by the Quadrennial National Convention of the Catholic Order of Foresters; to the Committee on the Judiciary.

Assembly Joint Resolution No. 63, adopted by the Legislature of the State of California; to the Committee on Veterans' Affairs:

"Assembly Joint Resolution No. 63

"Whereas, Veterans of the armed services deserve recognition from the government and its citizens for having served their country in a necessary and vital capacity; and

"Whereas, Veterans of the armed services generally assume that they are entitled to military honors at their funerals, but such a right is not specifically established in federal statutes; and

"Whereas, Due to the lack of specific provision for military honors in federal statutes, such honors have not been extended on a uniform basis; and

"Whereas, Requests for such honors have been denied in instances where they originate from the expressed wish of the veteran while living, or at the request of the veterans' family after death; and

"Whereas, Establishing a specific right of veterans to have military honors at their funerals is a worthy and desirable public policy; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation giving veterans of the armed services the right to military honors at their funerals, with the honor detail to be furnished by the nearest military installation; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 512. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3737 (Rept. No. 94–1191).

By Mr. LONG, from the Committee on Finance:

Without amendment:

H.R. 11997. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of certain divestitures of assets by bank holding companies (Rept. No. 94–1192).

By Mr. SPARKMAN, from the Committee on Foreign Relations and the Joint Committee on Atomic Energy:

With an amendment:

S. 1439. A bill to reorganize certain export functions of the Federal Government to promote more efficient administration of such functions (title amendment) (Rept. No. 94–1193).

By Mr. PASTORE, from the Committee on Commerce:

With an amendment:

H.R. 13325. An act to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the United States Railway Association (title amendment) (Rept. No. 94–1194).

By Mr. EASTLAND, from the Committee on the Judiciary:

Without amendment:

S. 3421. A bill to amend the Federal Trade Commission Act (15 U.S.C. 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful (together with additional views) (Rept. No. 95–1195).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs:

With amendments:

S. 1821. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Kanopolis unit of the Pick-Sloan Missouri Basin program, Kansas, and for other purposes (Rept. No. 94–1196).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

William G. Bradford, of Illinois, a Foreign Service Officer of Class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chad.

Robert J. McCloskey, of Maryland, a Foreign Service Officer of the Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee, William G. Bradford.

Contributions and amount:

1. W. G. Bradford, None.
2. Spouse: Joanne E. Bradford, None.
3. Children and Spouses: Mr. & Mrs. R. Hornbake, None; Miss Katherine Bradford, None; and Col. Bruce Bradford, None.
4. Parents: Mrs. C. E. Paulin, None; Mrs. C. E. Schwarz, None.
5. Grandparents: None.
6. Brothers and Spouses: None.
7. Sisters and Spouses: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

William G. Bradford.

Subscribed and sworn (or affirmed) before me this 16th day of July A.D 1976, at Washington, D.C.

Stella Makara.

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Robert J. McCloskey.

Post.

Contributions and Amount:

1. Self, None.
2. Spouse, None.
3. Children and Spouses, None.
4. Parents, None.
5. Grandparents, None.
6. Brothers and Spouses, None.
7. Sisters and Spouses, None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Robert J. McCloskey.

By Mr. EASTLAND, from the Committee on the Judiciary:

Wilfred J. Smith, of Virginia, to be a member of the Foreign Claims Settlement Commission of the United States.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE CONCURRENT RESOLUTIONS AND BILL REFERRED

The following concurrent resolutions and the bill, which was read twice by its title, were referred as indicated:

H. Con. Res. 688. A concurrent resolution authorizing the printing of the folder "The United States Capitol" as a House document; to the Committee on Rules and Administration.

H. Con. Res. 682. A concurrent resolution to authorize the printing of a booklet entitled "Black Americans in Congress"; to the Committee on Rules and Administration.

H. Con. Res. 655. A concurrent resolution providing for the printing of the publication entitled "Summary of Veterans' Legislation Reported, Ninety-fourth Congress"; to the Committee on Rules and Administration.

H. Con. Res. 641. A concurrent resolution to provide for the printing of additional copies of a report of the Subcommittee on Health and Long-Term Care of the Select Committee on Aging of the House of Representatives; to the Committee on Rules and Administration.

H. Con. Res. 629. A concurrent resolution providing for the printing of a document entitled "The Working Congress";

H. Con. Res. 592. A concurrent resolution authorizing the printing of two thousand copies of a Joint Committee on Atomic Energy print entitled "Review of National Breeder Reactor Program"; to the Committee on Rules and Administration.

H. Con. Res. 513. A concurrent resolution providing for the printing of a compilation of materials commemorating the years of service of Justice William O. Douglas; to the Committee on Rules and Administration.

H.R. 8911. An act to amend title XVI of the Social Security Act to make needed improvements in the program of supplemental security income benefits; to the Committee on Finance.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. LEAHY (for himself, Mr. McGovern, Mr. Huddleston, Mr. Abourezk, and Mr. Humphrey):

S. 3782. A bill to create within the Department of Agriculture an office specifically charged with the responsibility of assessing the fuel and energy needs of rural residents as such needs pertain to home heating and cooling, transportation, agricultural production, electrical generation, conservation, and research and development. Referred jointly, by unanimous consent, to the Committees on Agriculture and Forestry, Banking, Housing and Urban Affairs, Commerce, and Interior and Insular Affairs.

By Mr. JAVITS:

S. 3783. A bill to provide for a program to be carried out through the Secretary of Labor, of demonstration projects and an advisory committee to promote economic stability by increasing employment opportunities and improving productivity. Referred to the Committee on Labor and Public Welfare.

By Mr. BUCKLEY:

S. 3784. A bill entitled the "Economic Recovery and Sustained Growth Act of 1976." Referred to the Committee on Finance.

S. 3785. A bill to amend the Immigration and Nationality Act to authorize certain courts which have naturalization jurisdiction to retain up to $20,000 of the fees collected in naturalization proceedings held in such courts in any fiscal year. Referred to the Committee on the Judiciary.

By Mr. STENNIS (for himself and Mr. Thurmond) (by request):

S. 3786. A bill to authorize appropriations for construction of facilities on Guam, and for other purposes. Referred to the Committee on Armed Services.

By Mr. WEICKER:

S. 3787. A bill to save the whales. Referred jointly, by unanimous consent, to the Committee on Commerce and the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. McGovern, Mr. Huddleston, Mr. Abourezk, and Mr. Humphrey):

S. 3782. A bill to create within the Department of Agriculture an office specifically charged with the responsibility of assessing the fuel and energy needs of rural residents as such needs pertain to home heating and cooling, transportation, agricultural production, electrical generation, conservation, and research and development. Referred jointly, by unanimous consent, to the Committees on Agriculture and Forestry, Banking, Housing and Urban Affairs, Commerce, and Interior and Insular Affairs.

(The remarks of Mr. Leahy on the introduction of the above bill are printed earlier in today's Record.)

By Mr. JAVITS:

S. 3783. A bill to provide for a program, to be carried out through the Secretary of Labor, of demonstration projects and an advisory committee to promote economic stability by increasing employment opportunities and improving productivity. Referred to the Committee on Labor and Public Welfare.

HUMAN RESOURCES DEMONSTRATION ACT

Mr. JAVITS. Mr. President, today I introduce the Human Resources Demonstration Act of 1976.

In 1972, in connection with my effort to establish nationwide labor-management-public committees to deal with the issue of productivity, I proclaimed and helped in the activities of Mayor, now U.S. Representative LUNDINE, in the establishment of the Labor-Management Committee of Jamestown in Jamestown, N.Y. I now join with Representative LUNDINE, to introduce a bill which would authorize the funding of productivity improvement and job security demonstration projects in the private and public sectors of our economy. Projects funded with seed money under the Human Resources Demonstration Act would be designed to test new approaches: To improve labor-management cooperation; to expand employee participation in the decisionmaking process and in the free enterprise system; to stabilize employment through layoff prevention; and enlarge employment opportunities through new capital formation for the twin purposes of stimulating productivity and maintaining and increasing job opportunities in the private and public sectors.

Mr. President, I have long been a strong and active supporter of initiatives to enlarge the commonality of interests between labor and management. I continue to believe that in a climate of mutual trust, respect, and understanding, cooperation can be the rule in labor-management relations, and collaboration can replace strife.

In introducing this measure I recognize fully that two prerequisites must be satisfied in order for improved labor-management cooperation to take place. First, the contractual rights, benefits, and protections of the employees must not be infringed, as Bruce Thrasher of the United Steelworkers has emphasized repeatedly. Consistent with the National Labor Relations Act the contract between the employees and their employer is sacrosanct. Matters set forth in the collective bargaining contract, such as wages, hours, vacations, overtime, and other benefits and duties, cannot be placed on the agenda of labor-management committee meetings. Where adequate safeguards are taken to insure that employee rights under the contract are not abridged, the role of the trade union as the exclusive bargaining representative of the employees cannot be compromised or infringed upon. Consequently, workers need not fear that labor-management committees would be used to vitiate or abrogate what has been agreed to in the collective bargaining contract.

Second, employees must be convinced that cooperative efforts to improve productivity will not result in layoffs. In the past, some gain-sharing plans and other productivity improvement schemes have exerted deleterious effects on employment, because increased output per worker became translated into a reduced work force. This phenomenon was particularly acute in the 1950's and early 1960's, when chronic demand-insufficiency led to potential surplus production.

Labor must receive assurances that productivity improvements emanating from cooperative efforts, employee participation, and new capital formation will be adopted in conjunction with programs designed to enlarge product demand and otherwise maintain a stable work force. Once labor is convinced that the benefits of productivity improvement will be shared equitably with employees, and that a more efficient production process will be the basis of proportionately greater output instead of reduced employment, it will cooperate with management more vigorously to stimulate productivity growth.

There are some who argue that one or both of the above prerequisites cannot be satisfied and that labor will resist efforts to enlarge further the community of interest between labor and management. I cannot agree. I believe labor-management cooperation and employee participation are natural outgrowths of our system of industrial democracy. Furthermore, I believe industrial democracy can preserve what is best in our free enterprise system and assure that employees share in the future growth of the U.S. economy.

The recent report of the National Commission on Productivity and Work Quality, "Recent Initiatives in Labor-Management Cooperation"—see RECORD of July 23, 1976, pages 23639-23643—cites numerous examples to demonstrate that cooperation can and does replace conflict in the work place. An article in the New York Times of August 16 highlights the success that has been achieved with the "New Economic Process," as it is called, in upstate New York. Michael Sterne, of the Times, reports that the labor-management committee approach, by stabilizing labor relations and the level of employment, symbolizes "a shift from conflict to cooperation—and an improved quality of working life for the employees."

While emphasizing the inviolability of the collective bargaining contract, Tony Agate, president of the International Association of Machine and Automobile Workers local in Chautauqua County, recognized that—

> A stronger company is going to be able to pay us better, to keep us working steady and to hire more younger workers, which is a big concern for us. So we work on the committee and think it is a good thing.

So once again, Mr. President, we see that enlightened and progressive trade union leadership envisions the results in terms of job security, wages, and other benefits that are to be derived from enlarging the community of interest of labor and management through cooperative ventures.

Our experience with the oscillating roller coaster economy of the last decade, which was characterized by recurring inflation and recessions of increasing intensity, has taught us a valuable lesson, to wit: That the conventional macroeconomics of aggregate demand management seem unable alone to reach individual bargaining situations at the micro level. What is needed to solve the inflation-unemployment dilemma is both a macroeconomic policy geared to the maintenance of a full employment, noninflationary level of total demand and a microeconomic policy which addresses itself to the decisionmaking process at the plant and industry levels and gives the worker a voice in decisionmaking and a new dignity.

The Human Resources Demonstration Act would provide seed money for the development of plant-level projects to test whether the two prerequisites of effective labor-management cooperation can be satisfied and whether such projects can form a part of our overall policy initiatives. I am convinced that the pioneering efforts in Jamestown, N.Y., can be transferred to other localities and regions if seed money can be made available and if Congress is willing to demonstrate its fundamental commitment to productivity growth and job security by encouraging greater labor-management cooperation and worker participation.

The authorization and funding of seed money for demonstration projects is a first step toward our ultimate goals of full employment, price stability, and harmony in labor-management relations. But it will bring us nearer those goals than we have been and underscores the need for the systematic, multifaceted strategy that is required for their achievement.

I ask unanimous consent that the Times article and a more recent Washington Post article—August 23—on the productivity crisis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 16, 1976]

UPSTATERS TRY NEW THEORY OF CAPITAL-LABOR RELATIONS

(By Michael Sterne)

DUNKIRK, N.Y.—Like bathers dipping their toes into unfamiliar waters, government employees and public officials in the westernmost county of New York State are testing a new way of conducting their labor-management relations.

The new way is called New Economic Process to symbolize a shift from conflict to cooperation, and its hoped-for-benefits are higher productivity for government and an improved quality of working life for the employees.

If it takes hold in the public sector as well as it already has in some private industry, N.E.P. could help not only small cities like Dunkirk and Jamestown here in Chautauqua County, but also big cities like New York, where greater productivity by municipal workers is thought to be the key to maintaining public services at a time of fiscal stringency.

The New Economic Process does not get involved in wages, hours, vacations, overtime or the other traditional issues that are fought out over bargaining tables by unions and employers and then written into contracts. Instead, it tries to bring workers and managers together in committees to work on other projects of benefit to both.

SKILLS AND GAINS

In the private sector, since their start in Jamestown four years ago, labor-management committees have worked on programs to design new product lines, to upgrade skills, to lay out shops more efficiently, to cut waste of materials used in manufacturing and to share gains from increased production.

"Nothing we do in our committee is going to touch our contract, which is signed, sealed and delivered," said Tony Agate, president of the International Association of Machine and Automobile Workers unit at the Dahlstrom Manufacturing Company.

"But we also recognize," Mr. Agate said, "that a stronger company is going to be able to pay us better, to keep us working steady and to hire more younger workers, which is a big concern for us. So we work on the committee and think it is a good thing."

At Dahlstrom, which makes metal cabinets and housings for computers and office machines, the committee has organized training in blueprint reading, upgraded the skills of welders and recommended extending crane tracks closer to machines to facilitate loading of rolls of sheet steel and is helping to redesign a gear-making shop. Moreover, when the company was hit hard by the recession last year, many workers invested in its shares to help it raise working capital.

The company president, Harold Bolton, said: "One of the most important benefits for us is that the committee has softened the old adversary relationship we were in with our workers. Now I can talk man to man with their leaders without suspicion arising on the shop floor that the leaders are selling them out. We are all acknowledging that we have common interests."

APPLICATION IN GOVERNMENT

The applying of New Economic Process principles in local governments in Chautauqua County began a year ago, and hopes are high that the program will bring some fundamental changes.

Here in Dunkirk, for example, Esther Dolce, clerk of the City Court and president of Local 912 of the American Federation of State, County and Municipal Employees, sees "a great potential" for the two committees already at work in city departments.

"We have never had a strike here and relations are pretty good," she said, "but morale gets very low and this surely cuts efficiency."

Mayor Gilbert Snyder cited low morale as a big problem also in the street cleaning department. He said:

"We don't have enough effective leadership—just one supervisor and one foreman for 40 men covering a city of 17,000 people. The employees have good ideas on how to improve things, but until now they haven't had any way of bringing their good ideas forward."

James P. McDonnell, the New Economic Process coordinator who has been working in the program since its beginning in Jamestown, said:

"First we bring both sides together in the same room and open the floor to gripes. This can be pretty brutal, but even so we're not always sure the parties are talking about what really concerns them. So next we meet separately with each side, and from these sessions emerge the real problems. Then we call both sides together again and ask them to make proposals to solve some of the common problems."

In Jamestown, a factory city of 40,000 at the eastern end of Lake Chautauqua with a history of bitter strikes, the closing of the Art Metal Corporation plant in 1971, which idled 700 workers, suddenly dramatized the shrinking manufacturing base of the local economy.

"That closing made us realize that our conventional efforts at industrial redevelopment were failing because we had what businessmen called 'a bad labor climate,'" said Stanley N. Lundine, then Mayor of Jamestown and now Representative of the 39th Congressional District.

Early in 1972, Mr. Lundine brought the principal labor leaders and manufacturers of the city together and proposed that they try working cooperatively to save jobs and enterprises, to increase productivity and to make life better on the shop floor.

"Our job, as government, was to serve as mediators and to help in whatever ways we could," Mr. Lundine said. Mr. McDonnell was called in to be the working neutral head of the program, and when he returned to teaching labor history at the State University College at Buffalo, he was succeeded by James Schmartz, a former organizer for the United Federation of Teachers.

The effort succeeded better than either side hoped, and in the next three years there were no strikes, the unemployment rate dropped dramatically and several companies that had been about to close, among them Dahlstrom, were reorganized and expanded.

Moreover, a major new employer, the Cummins Engine Company, bought the former Art Metal plant to produce diesel engine parts. After starting production last year, it now has 110 employees and expects to have 1,500 in Jamestown by 1980.

Now organized as the Jamestown Area Labor Management Committee, with representatives from 27 local companies, the private-sector work continues under the direction of Mr. Schmartz, while work with public employees and authorities is directed by Mr. McDonnell, who is again on leave from his teaching post.

Funds from Chautauqua County and the cities of Dunkirk and Jamestown got the public-sector work started, and it is continuing with grants from the state and from the Appalachian Regional Council.

[From the Washington Post]

Productivity: Why So Low?

American productivity is no longer rising the way it used to. Currently the trend is hardly rising at all. You are not likely to hear this uncomfortable truth mentioned often in the political speeches of the coming weeks. It raises questions on which the parties themselves are divided, and the answers do not lend themselves to snappy campaign exhortations. But the stagnation of productivity is involved in all of the other economic issues about which you are going to hear a great deal: inflation, unemployment and the future of the Amerian standard of living.

Productivity in this country has doubled since the end of World War II (and quadrupled since the end of World War I). It is simply the statistical measure of the average American's ability to earn much more, with fewer hours' work, than his parents could. Productivity means output per man-hour, with the effects of inflation stripped out of it. The recent quarterly figures look pretty good, as they always do during the recoveries from recessions. But if you smooth the bumps and jolts out of the graph, you will find that in the United States (unlike Europe or Japan) the growth of productivity has been slackening steadily for two decades. In the early 1950s it grew at a rate of well over 3 per cent a year. The rate now is hardly 1 per cent a year. It means that, for the indefinite future, Americans' real earning power is apparently going to rise more slowly than in any sustained period since the Depression.

Why this slowdown? The reasons lie in the long-term changes overtaking this country's economy, and some of them—like the state of the educational system—go far beyond the usual bounds of economic analysis. The Congressional Budget Office published a useful summary earlier this month, in the last pages of its report, "Sustaining a Balanced Expansion." The CBO is frequently assailed (by Republicans) as a nest of inveterate Democrats. But its conclusions on productivity are not going to offer either presidential candidate much help toward easy answers on economic policy.

Workers' productivity is not rising at the accustomed rate, the CBO's economists say, partly because business investment per worker is not rising at its accustomed rate. Businessmen are still investing as much as they always have—but the labor force is growing faster. It's the baby boom of two decades ago, and the unprecedented proportion of women who are looking for jobs and finding them. Not only is the labor force growing unusually fast, but the greatest growth is in those categories of workers with the least experience and skill.

At the same time, a rising share of investment is going into equipment that is not—by the traditional definition—productive. Clean air and industrial safety are an important part of anybody's standard of living, but they don't count in the statistics. The new rules on pollution abatement, health and safety are worth a lot, but some of those costs turn up in the form of lower productivity.

To maintain its momentum, an economy as advanced as ours needs to invest in new technology at a rising rate. But the money that this country puts into research and development has actually fallen a little in recent years. Still another element in economic growth is, of course, education. Over the past generation there has been an astounding increase in the proportion of young people to finish high school and go on to college. That rise seems to have ended, and college enrollments have generally levelled off. If there are to be further productivity gains through education, they are going to have to be achieved by increasing the effectiveness of instruction within the present span of the average citizen's schooling. As the CBO points out, improving the reading ability of high school graduates might well make them more productive workers.

The prescriptions for raising productivity are neither simple nor certain. Tax incentives are probably necessary to increase investment—but these incentives, in their customary forms, are objectionable to most of the country as mere tax breaks for the wealthy and the corporations. It will require a considerable application of political skill—perhaps, you might even say, political genius—to work out formulations adequate to assure voters that these benefits will geniuinely flow to the whole country, not just to the investors.

There is one basic question: Does the country really want to put itself to the trouble of pushing for further productivity gains and economic growth? What about the argument that the United States is already rich enough, and ought to be content with what it's got? But the case for further growh has very little to do, at bottom, with economics or material wealth. It has a great deal to do with American ideals of social justice and opportunity. Economic growth makes it possible for the newcomers to move up the ladder without pushing down the people who got there before them. Education has been, for most people, the surest route up into the middle classes, and it was economic growth that made possible the past generation's massive expansion of this country's school and university systems. If productivity ceases to improve over the coming years, a lot of other things in this country will also cease to improve—and one of them is equality of opportunity.

By Mr. BUCKLEY:

S. 3784. A bill entitled the "Economic

Recovery and Sustained Growth Act of 1976." Referred to the Committee on Finance.

INTRODUCTION

Mr. BUCKLEY. Mr. President, I am today introducing legislation which will, if adopted, return us to the path of real job-producing growth and recovery which our economy requires. This proposal constitutes the first comprehensive legislative initiative to establish a program for a sustained economic recovery. Proposals made in the past have been, at best, incomplete.

Economists know that our national economic problem involves fiscal and monetary policies, as well as structural barriers established by Federal policy which actually contribute to the Nation's unemployment woes. We cannot hope to achieve our goals of economic growth and full employment without inflation unless we attack in a comprehensive manner the true fiscal, monetary, and structural problems that stand in their way. Over the last few months, a large number of other bills have been introduced in this body which make an attempt at providing a stimulus for economic recovery. While not attempting here to pass judgment on those bills, some of which may be very helpful in solving the Nation's economic woes, I would like to state that the essential ingredient of true stimulus is missing from them. This is true in part because they provide, in some cases, merely a shift of resources from the private to the public sector, and in other cases only short term, one-time incentives for the economy, rather than providing the type of incentives which are necessary for long-term growth and economic health.

I am introducing this legislation not only because the legislation which has just been passed under the label of "tax reform" is misleading and distorting to our economy, but also because, in a larger sense, we must be addressing the total picture of revenues and expenditures which help to influence our macroeconomic system. For our macroeconomic policy must be a two-part policy. First, we have a requirement to reduce taxes in order to allow more spending power to remain in the hands of our citizens. Second, we must reduce public spending as a complementary action to our reduction in taxes.

It is important for us to understand why both must be done simultaneously. If we reduce taxes alone and maintain Federal spending at current levels, two possible alternatives arise: One is an increase in borrowing by the Treasury. This increase in borrowing, however, is counterproductive to economic growth, as the Government demand for funds in the capital markets raises interest rates and discourages spending in the private sector. The second alternative would be to, in effect, print money. By increasing the money supply to accommodate Government spending, we put ourselves in the position of producing price level inflation to pay for these Government expenditures. Thus, neither of these alternatives is appropriate to the goals which we seek to achieve.

Mr. President, it is time we faced up to some hard economic realities, unless we wish to see the enormous productivity of the American economy wither away. Because of the steady growth in what is taxed away from the productive sector of our economy, and because of the disincentives to savings and investment that have been created by chronic inflation and by the provisions of our existing tax laws, we have seen a steady relative decline in what we are reinvesting in our economy as a percentage of our gross national product. Whereas West Germany and Japan are reinvesting about 30 percent of their GNP in making their industries and businesses more efficient, innovative and competitive, our own reinvestment is now at about 16 percent. In fact, we hold the dubious honor of ranking along with Great Britain and Italy at the bottom of the list of industrial nations in this respect. And this neglect of our capital needs is beginning to tell in ways that affect the welfare of every American. Whereas our commercial and business leadership once created a standard of living for Americans that was head and shoulders above that of any other nation, other nations are now catching up with us. In fact, in the last year or two, the economies of Sweden and Switzerland have achieved higher standards of living for their people than Americans now enjoy. Furthermore, whereas in the 1950's we were increasing the productivity of each American working man and woman by an average of 3 percent per year, that increase has slowed down to a current rate of about 1 percent. This reflects the insufficient investment in more efficient plant and equipment of the kind required to elevate our standards of living and to keep America competitive.

These developments reflect the fact that for too many years, the Congress has allowed itself to be misled by the incorrect Keynesian philosophy that increased Government spending causes increased economic activity in general. Modern economic theory tells us, instead, that increases in Government spending can do nothing to increase the total spending in the economy; they merely transfer resources from the private sector to the public sector where these resources are used with less efficiency. Keynesian theory has been too long a foundation for economic decisions made in the Congress and the dismal record of economic leadership over the last few decades is evidence of the failure of these Keynesian policies.

Modern economic theory, then, tells us that we must have a two-pronged attack on the economic problems facing us. We must reduce taxes to return spending power to the private sector, and we must reduce spending so that the reduction in taxes is not offset by increased borrowing or inflationary pressures generated by Government deficits.

The legislation which I am introducing today contains four key titles which will provide the necessary tonic for a sustained economic recovery. Let me review the titles briefly:

TITLE II—TAX REFORM

The first title of my legislation deals with certain reforms of the income tax code. It focuses on the need to encourage greater job-producing investment in the private sector in a manner that is equitable to all taxpayers. This legislation can go a long way toward a return to the road of a healthy economy, dominated by the free enterprise system and free of the shackles of excessive and wasteful Government spending and regulation.

Section 201 would provide that interest income from qualified savings deposits up to a limit of $100 would not be included in the calculation of gross income for tax purposes. The need for such a provision has been with us for some time, partly as a consideration of equity and partly as a consideration of a need to adjust for inflation. I have chosen a $100 limit for the interest income exclusion because this is the limit to which dividend income is excluded from the calculation of gross income; thus equity is established in the treatment of these two forms of investment income. This exclusion of interest income is also necessary in order to equalize the tax treatment between wealthy taxpayers who tend to invest heavily in equity securities paying dividends and those of more modest means whose investments are often limited entirely to savings accounts and U.S. savings bonds.

I think this exclusion is further required, because of the sustained rate of inflation which we have experienced in the past 10 years. The low rate of interest which is paid on these savings accounts in effect produces almost no real income for the saver, because inflation has in many years completely offset the real value of the interest earned. But excluding the first $100 of income, we can offset for the average saver the double taxation implied by this situation.

The second section of this title would eliminate the requirement that capital gains taxes be paid on the sale of securities when the receipts from these sales would be used to purchase other stocks or bonds. This provision would permit an increased degree of liquidity in financial markets, and establishes some degree of equity between the owners of other forms of investments and the owners of securities, since stocks and bonds have been explicitly excluded from the provisions of the Tax Code that allow rollover without immediate taxation.

The importance of this section cannot be underestimated. In the past, the expansion of existing businesses, the creation of new ones, and the development and testing of new technologies have depended heavily on the availability of venture capital. Yet all too often, those who are willing to assume the risks of this type of investment and who have shown the judgment to be able to determine which new enterprises have a chance for success will find themselves locked into a given investment that has succeeded—usually about 1 out of 10—for the simple reason that the tax cost of a sale can prove prohibitive. Section 202 would serve merely to defer the tax on capital gains so long as the proceeds of any sale are reinvested in another enterprise, as the original tax base would be carried forward. Adoption of this provision could, therefore, unlock a substantial amount of badly needed venture capital that could be put to work increasing the productivity of American workers, creating jobs, and improving the competitive position of American business.

Section 203 of this bill would eliminate the double taxation of corporate dividends. This would be effected by permitting corporations to deduct dividend payments to stockholders just as they currently deduct interest payments to bond holders. As tax policy now stands, the taxation of corporate earnings amounts to double taxation, since the earnings are taxed before dividends are deducted and then taxed once again when they are included in the taxable income of the share owner. This double taxation creates a bias against the equity form of financing and leads to an excessive degree of debt financing.

Section 204 of this bill would provide for indexation of corporate surtaxes and for purposes of computing corporate depreciation, so that increases in the general price level do not work a bias against the capital formation potential of this country. This bill allows an adjustment to the surtax and depreciation based upon the ratio of the consumer price index at the beginning and end of the calendar year and attempts to bring these tax policies in line with economic reality in these days of continuing inflation. This adjustment will allow businesses to replace depreciated plant and equipment out of retained earnings before taxes—as is the intent, but not the effect, of current law.

All four of the provisions of this title make a contribution to the requirement which this nation faces for the formation of a capital pool which will lead us out of our present recession and provide for a long-run trend toward economic growth with full employment. But I would like to remind everyone that this tax legislation by itself is not sufficient to insure an increased level of economic activity. It does no good to create savings and incentives for private investment in our productive plant and capacity if, at the same time, we continue the huge deficits that cause the Federal Treasury to compete for those savings in order to invest them in nonproductive public programs. We must, therefore, also make gains in the reduction of Government spending so that the tax reforms which I am proposing here will not merely lead to increased deficits and general price level inflation.

TITLE III—MONETARY POLICY

Mr. President, the second major portion of my legislation would provide for improved management in the monetary policy of the Federal Government. The inflation of the past several years can be traced directly to excessive expansion of the monetary stock. This expansion has been accomplished, because of the fiscal pressures applied by the Congress in its uncontrolled spending over the past 20 years. Section 301 of this bill would provide that the Board of Governors of the Federal Reserve and the Federal Open Market Committee will maintain a long-run growth policy for the money supply which is commensurate with the economy's long-run growth potential to increase production, such that the goal of stable prices, full employment, and sustained growth can be achieved. It also provides that the Chairman of the Federal Reserve Board consult with the Congress at quarter-annual hearings before the Committees on Banking with regard to the money-supply growth targets and other monetary policy actions which it initiates.

This title is required, Mr. President, because of past attempts by the Federal Reserve Board to unnecessarily expand the money supply in response to political pressure. The philosophy contained in this portion of the legislation has already been adopted by the Congress. Resolution, H.R. 133, passed by the Congress in early 1975 and sponsored by the Senator from Wisconsin (Mr. PROXMIRE) and myself, urged the Federal Reserve Board to adopt a monetary growth policy which I have just described. I think that it is time that this philosophy be incorporated into law.

TITLE IV—LIMITATION ON GROWTH OF FEDERAL SPENDING

Section 401 of this bill would provide that the Budget Committees of the House and Senate recommend to each House total expenditures each year which do not grow annually any faster than the anticipated annual growth rate in percentage terms of the gross national product. If we are to make any progress at all in stimulating the economy, it is essential, as I have noted before, that we not only reduce taxes, but also reduce the spending in the public sector. Merely reducing taxes is not enough. Reducing taxes fully leads to increased deficits and pressure on private capital markets. That pressure then leads to reduced private spending. Therefore, we must control the expenditure side of the Federal budget, placing a ceiling on total expenditures while we undertake the essential task of determining which of the existing programs can be reduced or eliminated altogether. Section 401 will make a major contribution toward this goal.

TITLE V—MINIMUM WAGE YOUTH DIFFERENTIAL

Section 501 of this legislation is an attempt to correct a grievous situation in today's economy. The situation to which I refer is the 20 percent unemployment rate among teenagers. Many of them are destined to become chronically unemployable or underemployed, because they are being artificially deprived of on-the-job opportunities to learn essential work habits and skills.

This unemployment picture is a direct result of the minimum wage legislation which the Congress has enacted. In effect, this legislation makes it illegal for employers to hire the untrained teenagers available today on the job market. This section of my legislation would provide for a youth differential equivalent to 65 percent of the adult minimum wage in order that unskilled teenagers will have an opportunity for employment and an opportunity to learn, through on-the-job training, the skills necessary to increase their standard of living. By creating this differential in the minimum wage law, we are making a major contribution by adding to the employability of the teenage work force.

This solution, unlike previous unsuccessful attempts at solving the teenage unemployment problem, can be successful, because it takes a reasonable and logically sound approach to the problem. The reason that teenagers have a very high unemployment rate, perhaps even higher than indicated by these statistics, is that employers are willing to hire individuals and pay them according to how productive they are. Unskilled teenagers are prevented from employment, because the minimum wage law which now prevails provides that employers pay these unskilled individuals at a rate higher than their productivity. This restriction on entry into the labor market works a particular hardship on teenagers in minority groups who often have fewer job skills than their more fortunate peers. We have generated the perverse situation that laws passed to supposedly improve the situation of American workers actually function to undermine their employability.

Mr. President, the social costs in this area are enormous and potentially devastating. Those teenagers, not yet in the workforce, are kept out and denied the opportunity to develop the skills and work habits so essential for their future success. Those distinguished economists who have studied the problem of very high teenage unemployment levels have recommended youth differentials designed to permit teenagers the opportunity to secure employment and obtain on-the-job experience. Paul Samuelson, a well-known economist, has asked, "What good does it do a black teenager to know that he must be paid—the minimum wage—if the fact that he must be paid that much prevents him from getting a job?" Since 87 percent of these unemployed teenagers are living at home and would become the second wage-earner in the family unit, removing this barrier to their entry into the labor market would actually increase the income level of the family.

Mr. President, it is only through the elimination of the real obstacles to employment and productivity, which this legislation attempts to remove, including a reduction in wasteful Government spending, that we can expect to really stimulate the American economy. Mere tax cuts or expenditure increases will not accomplish this goal. Therefore, I am introducing this legislation now because of the paucity of potential solutions which have heretofore been offered by the Congress and because I hope that the presentation of a comprehensive program will stimulate thoughtful examination of this all-important subject. Mr. President, I ask consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the Economic Recovery and Sustained Growth Act of 1976.

TITLE I: SHORT TITLE

SECTION 101. SHORT TITLE

This act may be cited as the "Economic Recovery and Sustained Growth Act."

TITLE II: TAX REFORM

Sec. 201. Exclusion for Interest Received from Qualified Savings Deposits.

(a) Part III of subchapter B of Chapter 1 of subtitle A of the Internal Revenue Code of 1954 is amended by redesignating Section 124 as Section 125.

(b) Part III of subchapter B of Chapter 1 of subtitle A of the Internal Revenue Code of 1954 is amended by adding between Section 123 and Section 125 the following new section:

"Sec. 124. Amounts Received as Interest from Qualified Savings Deposits.

"(a) In General.—Gross income shall not include amounts received as interest from qualified savings deposits.

"(b) Limitation.—The credit allowed by subsection (a) for a taxable year shall not exceed $100 ($200 in the case of a joint return under section 6013).

"(c) For purposes of subsection (a), any amount of interest properly allocable to a beneficiary under section 652 or 662 shall be deemed to have been received by the beneficiary ratably on the same date that the interest was received by the estate or trust.

"(d) Definitions.—For the purposes of this section—"(1) Qualified Savings Deposits—The term qualified savings deposits means amounts deposited in a savings deposit or withdrawable savings account in a financial institution.

"(2) Financial Institution.—The term 'financial institution' means—

"(A) a commercial or mutual savings bank whose deposits and accounts are insured by the Federal Deposit Insurance Corporation or otherwise insured under State law;

"(B) a savings and loan, building and loan, or similar association the deposits and accounts of which are insured by the Federal Savings and Loan Insurance Corporation or otherwise insured under State law;

"(C) a credit union the deposits and accounts of which are insured by the National Credit Union Administration Share Insurance Fund or otherwise insured under State law; and

"(D) a life insurance or mutual company duly chartered by a State, territory, possession or District of Columbia, and in a good standing therewith."

(c) Technical Amendment.—The table of sections for such part III is amended by redesignating Section 124 as Section 125, and adding between the entries for Section 123 and Section 126 the following:

"Sec. 124. Amounts Received as Interest from Qualified Savings Deposits."

(d) Effective Date.—The amendments made by section (a) of this section shall apply to qualified savings deposited and investment made after December 31, 1975."

Sec. 202. Capital Gains.—

Section 1036 of the Internal Revenue Code of 1954 (relating to stock exchanges) is amended to read as follows:

"Sec. 1036. Sale or Exchange of Securities.

"(a) No gain or loss shall be recognized on the sale or exchange of securities or bonds issued by a corporation to the extent that the proceeds from such sale or the value of the securities or bonds exchanged is applied against the purchase of securities or bonds issued by any other corporation; provided that such application is made within two weeks before or after such purchase or of the purchaser's entering into a binding commitment to make such purchase."

"(b) The basis of securities or bonds purchased pursuant to a transaction described in subsection (a) shall be the same as that of the securities or bonds sold or exchanged, increased by the value of any additional consideration paid for such securities or bonds, or decreased by the value of any proceeds received upon such sale or exchange on which a gain or loss is recognized."

Sec. 203. Deduction for Division Paid by a Domestic Corporation.—

Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 is amended to read as follows

"Sec. 189.

"(a) General Rule.—There shall be allowed as a deduction for a domestic corporation (other than those corporations granted deductions on dividends paid under Section 561 of part IV of subchapter G of this chapter) any dividends paid by that corporation to its shareholders during the taxable year.

"(b) For purposes of this section, the term 'dividend' shall, except as otherwise provided in this section, include only dividends described in Section 316 (relating to definition of dividends for purposes of corporate distributions)."

Sec. 204. Cost-of-Living Adjustment.—

(a) Section 1016 (a) of the Internal Revenue Code of 1954 (relating to adjustments to basis) is amended—

(1) By striking out the period at the end of paragraph (22) and inserting in lieu thereof a semicolon; and

(2) By adding at the end thereof the following new paragraph:

"(23) In respect to any period after December 31, 1975, before making any other adjustments of basis under this subsection, for an amount which is equal to the difference between—

"(A) The basis of the property, as determined under Section 1011, before adjustment under this section, multiplied by the ratio which the price index (average over a taxable year of the Consumer Price Index (all items—United States City average) published monthly by the Bureau of Labor Statistics) for the taxable year in which the property was acquired, or for the calendar year 1975, whichever is earlier, and

"(B) The basis of the property as determined under Section 1011 before adjustment under this section."

(b) Section 11(d) of the Internal Revenue Code of 1954 (relating to surtax exemption) is amended to read as follows:

"(d) Surtax Exemption.—

"(1) General rule.—For purposes of this subtitle, the surtax exemption for any taxable year is $25,000, except that, with respect to a corporation to which section 1561 or 19564 (relating to surtax exemptions in case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section.

"(2) Cost-of-Living Adjustment.—

"(A) At the beginning of each calendar year as soon as necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary or his delegate the ratio which the price index for the preceding calendar year bears to the price index for the base period. The dollar amount in paragraph (1) of this subsection shall be the amount in effect for the calendar year in which such report is made.

"(B) Definitions.—For purposes of paragraph (1)—

"(i) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics, and

"(ii) the term 'base period' means the calendar year 1974.".

(c) Section 167(a) of the Internal Revenue Code of 1954 (relating to depreciation) is amended to read as follows:

"(a) Allowance of Deduction.—

"(1) General rule.—There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear (including a reasonable allowance for obsolescence)—

"(A) of property used in the trade or business or

"(B) of property held for the production of income.

"(2) Cost-of-Living Adjustment.—

"(A) At the beginning of each calendar year, as soon as the necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary or his delegate the ratio which the price index for the preceding calendar year bears to the price index for the next preceding calendar year. The amount determined under this section to be a reasonable allowance for depreciation shall be multiplied by such ratio and, as multiplied, shall be the amount allowed as a depreciation deduction.

"(B) For purposes of this paragraph, the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.".

Sec. 205. The amendments made by this title shall apply only with respect to taxable years ending after the date of the enactment of this Act.

TITLE III: EXPENDITURE CONTROL

Sec. 301. Section 301(a)(1) of Public Law 93–344 is amended by deleting "authority;", and inserting in lieu thereof the following:

(a) ". . . authority, except that the outlays increase reported over the previous concurrent resolution shall not exceed the anticipated annual growth, in percentage terms, of the gross national product."

TITLE IV: MONETARY POLICY STABILIZATION

Sec. 401. The Congress finds:

(a) That failures in management of monetary policy have resulted in serious destabilization within our national economy;

(b) That sustained money supply increases beyond the economy's long-term potential to increase its production of goods and services results in general price level inflation;

(c) That sustained money supply contraction or inadequate growth will starve the economy of the essential medium of exchange, thereby limiting the economy's ability to sustain growth and causing a general price level deflation;

(d) That both inflationary and deflationary money supply policies have disrupted economic growth patterns, causing inflation or recession or both, most specifically the inflationary period of recession of 1975;

(e) The federal government, and its agencies, can maximize their contribution to an economic policy of growth without inflation by maintaining a relatively stable monetary policy, by eliminating federal deficit spending which contributes pressure on the Federal Reserve Board to increase money supply beyond prudential growth rates, or results in interest rates higher than they would otherwise be;

(f) That interest rates are primarily a function of the supply and demand for credit, and that attempts to increase the supply through increases in the money supply will result in higher interest rates if, for any significant period of time, the increases in the rate of growth in the money supply are at rates much beyond the economy's long-term potential to grow.

Sec. 402.

(a) Section 821 of title 31 of the United States Code is amended by inserting at the end thereof the following new subsection:

"(c) The Board of Governors of the Federal Reserve Board, and the Federal Open Market

Committee, shall maintain long-run growth of the money supply commensurate with the economy's long-run potential to increase production, so as to effectively achieve the goals of maximum employment, stable prices and sustained economic growth. Pursuant to this directive, the Federal Reserve Board, through its Chairman, shall consult with Congress at quarter-annual hearings before the Committees on Banking, about its money supply growth targets and other monetary policy actions required in the quarter immediately following the hearing and required in the four quarters immediately following the hearing:

TITLE V: EXPANDING EMPLOYMENT OPPORTUNITIES FOR YOUTHS

SEC. 501. Section 14(b) of the Fair Labor Standards Act of 1938 as amended, is amended to read as follows:

"(b)(1) Notwithstanding the minimum wage rate required by section 6(a)(1) or 6(b) any employer may, in compliance with applicable child labor laws, employ any employee—

"(A) to whom such rates would apply but for this subsection, and

"(B) who is (i) under the age of eighteen or (ii) eighteen or nineteen years of age and either in his first six months of full-time employment or a full-time student,

at a wage rate which is not less than 65 per centum of the otherwise applicable minimum wage rate prescribed by such section.

"(2) Notwithstanding the minimum wage rates required by section 6(a)(5), any employer may, in compliance with applicable child labor laws, employ in agriculture any employee—

"(A) to whom such rates would apply but for this subsection, and

"(B) who is (i) under the age of eighteen or (ii) eighteen or nineteen years of age and either in his first six months of full-time employment or a full-time student,

at a wage rate which is not less than 65 per centum of the otherwise applicable minimum wage rate prescribed by such section.

"(3) The special minimum wage for such employees in Puerto Rico, the Virgin Islands, and American Samoa shall be 65 per centum of the industry wage order rate otherwise applicable to them, except that in no case shall special minimum wage be less than that provided for under a wage order issued prior to the effective date of the Fair Labor Standards Amendments of 1974.

"(4) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable.".

By Mr. STENNIS (for himself and Mr. THURMOND) (by request):

S. 3786. A bill to authorize appropriations for construction of facilities on Guam, and for other purposes. Referred to the Committee on Armed Services.

Mr. STENNIS. Mr. President, by request, for myself and the senior Senator from South Carolina (Mr. THURMOND), I introduce, for appropriate reference, a bill to authorize appropriations for construction of facilities on Guam and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation explaining its purpose be printed in the RECORD immediately following the listing of the bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, D.C., August 12, 1976.

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is forwarded herewith a draft of legislation "To authorize appropriations for construction of facilities on Guam and for other purposes."

This proposal is for supplemental military construction authorization for Guam. This proposal is a direct result of the extraordinary damage incurred to Navy and Air Force facilities on Guam by Typhoon Pamela which struck the island on May 21, 1976. The Office of Management and Budget has advised that its enactment would be in accordance with the program of the President.

Title I of this proposal would authorize $104,491,000 for the design and construction of military construction projects resulting from the typhoon damage. Title II would authorize an additional $40,373,000 for work associated with the family housing facilities which were damaged by the typhoon.

In light of the extraordinary damage caused by Typhoon Pamela and the need to restore damaged or destroyed defense facilities at this isolated but strategically located base as soon as practicable, your support of this supplemental military construction requirement is requested.

Sincerely,

W. P. CLEMENTS, Jr.,
Deputy.

Enclosure

By Mr. WEICKER:

S. 3787. A bill to save the whales. Referred jointly, by unanimous consent, to the Committee on Commerce and the Committee on Finance.

Mr. WEICKER. Mr. President, I am today introducing the Save the Whales Act, legislation to provide economic sanctions against countries which violate international whaling quotas.

This bill provides for an immediate embargo of the fishery products of nations, which though engaged in the capturing or killing of whales, do not belong to the International Whaling Commission, IWC, and also against member nations of the Commission that violate the quotas set by the IWC during their annual meeting in June. It also places the embargo against nations that transfer by sale or otherwise any vessel or equipment used or designated to be used for the killing or capturing of whales. However, aboriginal communities or groups that hunt whales for purposes of subsistence are exempted from provisions of this act.

In 1972, the Endangered Species Act outlawed the importation of whale products into the United States. Mr. President, I believe enactment of this bill will be an important step toward saving the whale from extinction. The International Whaling Commission, composed of one representative from each of the 16 member nations meets annually to review the management of whale stocks, and to set new regulations deemed necessary for the conservation of the whales. All decisions reached by the Commission require a three-fourths majority of the members. These decisions are binding only on the member nations and only if they do not file an objection within 90 days of the meeting. Thus when a decision of the Commission is not in the economic interest of a member nation, that nation will not abide by the decision.

Furthermore, the Commission has no enforcement authority; each member nation enforces the agreements on itself. To make matters worse, several whaling nations do not even belong to the Commission. This legislation will hopefully induce foreign compliance with the Commission's quotas and encourage nonmember nations to join the Commission.

Mr. President, Japan and Russia are the two largest whaling nations. Together they were responsible for 85 percent of the 35,000 whales slaughtered in 1975. While the United Nations and the U.S. Congress have called for a 10-year moratorium on whaling, both of these nations have continually ignored these appeals. The least we can do is to take a strong action that will force them to obey the IWC quotas. It may soon be too late.

Every day whales are hunted and killed to near extinction only to produce mink food, soap, margarine, lubricating oil for Soviet missiles, and cosmetics. I find this abhorrent, since substitute products are readily available.

Mr. President, Congressman BELL of California has introduced a bill which would impose an embargo against all nations involved in commercial whaling. This bill has garnered the support of well over 60 cosponsors. A similar bill has been sponsored in the Senate by the distinguished chairman of the Commerce Committee, Senator MAGNUSON. Congressman MCCLOSKEY also of California has introduced a bill in the House identical to the measure I am introducing today. These measures reflect a growing national awareness of the whales plight and a desire to take action before it is too late. My own State of Connecticut showed their concern in 1975 by designating the sperm whale as its State animal.

In the early days of modern whaling, the whale industry chose as their target the great blue whale, the largest animal to have ever lived on Earth, for its size and economic benefits. Once numbering over 200,000, the blue whale faces commercial extinction. As the blue whale dwindled in numbers, the whaling industry turned to other species such as the fin, sei, and minke whales. Now, these other species are nearly extinct.

The sperm whale is presently the most heavily hunted by commercial whalers. The sperm whale has been overfished to such an extent that the average size of each whale killed has declined from 36 tons in 1968 to 21 tons in 1974. This indicates that the kill levels are much too high for the herds to thrive.

It is now time for the United States to prevent over-killing of whales by unscrupulous foreign interests. I urge my colleagues to afford this important legislation expedited consideration in this Congress. Time is growing dangerously short for most of the whales. We must act now. Unless we do, the whale will be placed next to the dinosaur as a museum piece, not as the most majestic creature of the ocean.

Mr. CLARK subsequently said: Mr. President, I ask unanimous consent that the Save the Whales Act introduced by Senator WEICKER be referred jointly to the Committees on Commerce and Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 3318

At the request of Mr. GARY HART, the Senator from Utah (Mr. GARN), the Senator from Wyoming (Mr. HANSEN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Montana (Mr. MANSFIELD), and the Senator from New Hampshire (Mr. McINTYRE) were added as cosponsors of S. 3318, the Federal Agency Pilot Termination and Review Act of 1976.

S. 3554

At the request of Mr. PROXMIRE, the Senator from Illinois (Mr. STEVENSON) and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of S. 3554, to establish a National Commission on Neighborhoods.

AMENDMENT NO. 1785

At the request of Mr. STEVENSON, the Senator from Wisconsin (Mr. NELSON) and the Senator from Virginia (Mr. HARRY F. BYRD) were added as cosponsors of amendment No. 1785 to S. 3084, to extend the Export Administration Act.

AMENDMENTS SUBMITTED FOR PRINTING

PAYMENT OF INTEREST ON PUBLIC DEMAND DEPOSITS—S. 3035

AMENDMENT NO. 2263

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill (H.R. 3035) to require the payment of interest on certain funds of the United States held on deposit in commercial banks, to provide for reimbursement of commercial banks for services performed for the United States, and for other purposes.

NUCLEAR FUEL ASSURANCE ACT OF 1976—S. 2035

AMENDMENT NO. 2264

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to the bill (S. 2035) to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched and isotope 235, to provide for authorization of contract authority therefor, and for other purposes.

BRETTON WOODS AGREEMENT ACT AMENDMENTS—H.R. 13955

AMENDMENT NO. 2265

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. HELMS. Mr. President, on Tuesday, August 24, I discussed the International Monetary Fund and the legislation pending before the Senate which would amend the articles of agreement of the IMF, and make certain amendments in related Federal legislation, H.R. 13955.

Today, I submit three amendments which would improve this bill:

AMENDMENT ON GOLD CLAUSE FREEDOM

The first would add a new section to the bill to repeal the joint resolution of June 5, 1933. I feel that this reform is long overdue. It would simply finish the job begun in 1974 when Congress amended the joint resolution to allow gold ownership. The present amendment would allow individuals to enter into gold clause contracts—contracts which called for payment in gold or in dollars measured in gold.

It is a simple matter. Presently, any American can enter into an enforceable contract which specifies payment in any commodity except gold, or in dollars measured in that commodity. The gold clause contract prohibition is anachronistic. It is a simple financial freedom that should be restored.

Before the freedom to own gold was restored, the Treasury Department and others predicted that there would be a mad rush to buy gold. This in turn would depress the value of the dollar. That would, in turn, force up the price of imports and inflation would accelerate and confidence in the dollar would be undermined.

Well, everyone knows that the average American does not keep a gold ingot under his bed, and every economist will point out that buying gold abroad for dollars has the same foreign exchange effect of buying anything else abroad. Yet, Treasury did not propose that we prevent people from owning Volkswagens.

Today, there is a parallel situation. The Treasury Department contends that gold clause contracts would undermine the value of the dollar, hinder the fight against inflation and lower confidence in the dollar. Those arguments just do not hold water. Inflation undermines the value of the dollar, and inflation is not caused by the kind of contracts into which people enter. Inflation is caused by the Federal Reserve Board pumping too many dollars into the economy in an effort to regulate the economy or ameliorate the effects of whopping Federal deficits.

In a letter I received from the Treasury Department on this issue, the telling argument against repeal of the joint resolution of 1933 is that the resolution, by prohibiting gold clause contracts, "helps to assure that gold will not assume a monetary role through widespread use in private transactions." It seems, therefore, it is not the economics of the matter that is of concern to Treasury Department folks, it is the particular material affected. Imagine the Treasury Department saying that they wanted to make sure that "peanuts will not assume a monetary role through widespread use in private transactions."

Treasury's argument rests on two shaky assumptions. The first is that gold clauses in contracts would be "widespread." The only reason for gold clauses in contracts is that they provide a hedge against inflation. Much like the indexing of salaries—such as Congressmen and civil servants now enjoy. The only reason people seek a hedge against inflation is when there is inflation, and the value of the dollar is declining. If that is the case, people should be free to try to protect themselves in any way they see fit. But, will gold clause contracts be "widespread?" I doubt it. Just as good ownership isn't particularly widespread. Or, for that matter, no single inflation-hedge is particularly widespread. In 1974, the Treasury feared the freedom of gold ownership would result in mass purchases of gold ingots. They now seem to fear that gold clause contracts would result in mass amendments to contracts.

Second, the Treasury seems to view the existence of gold clause contracts as a return of gold to the monetary system. But money must serve as a stable store of value, and a commodity freely traded and subject to the vagaries of the market does not serve as an absolutely stable store of value. The only reason people would choose gold clause contrasts is that the gold market might—just might—provide a better store of value than dollars. That is a subjective judgment. And, people should be free to exercise their judgment in the marketplace. They should be free to hedge against the declining value of the dollar in any medium they choose. As long as gold is subject to market swings, and to the sort of market manipulations such as the sales of gold by the International Monetary Fund, it is stretching things to say that gold would be used as money. It is a further reach to say that gold clauses in contracts means gold is assuming a monetary role.

I believe that reasonable men would agree with the arguments.

Chairman of the Federal Reserve Board Arthur Burns states that he personally has no objection to the repeal of the prohibition against gold clause contracts.

The Treasury Department officially opposes repeal of the gold clause prohibition, just as it opposed repeal of the gold ownership prohibition, but Secretary Simon has been quoted as personally not opposing the repeal. I have not spoken with him on this subject, but his staff says his official position is unchanged.

Since I introduced my bill on this subject, S. 3563, none of my arguments have been contested. I am afraid that the status quo is the main thing that the gold clause prohibition has going for it. The other thing is the unnatural fear of gold that all midlevel bureaucrats in the Treasury Department seem to have.

The text of my amendment is slightly different from that of the bill I have introduced on this topic. My amendment, if approved, would make enforceable, gold clause contracts entered into after the enactment of the amendment. It is intended to stand neutral with regard to the enforceability of gold clause obligations issued in the past. It has come to my attention that there is at least one case pending in the courts which would require gold clause bonds issued before the 1933 resolution, be paid in gold. Since this matter is in the courts, I would not want any legislation to prejudice the case one way or the other.

Mr. President, I ask unanimous consent that my amendment be printed in the Record at this point.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

At the end of the bill add the following new section:

Sec. —. The joint resolution entitled "Joint resolution to assure uniform value to the coins and currencies of the United States", approved June 5, 1933 (31 U.S.C. 463), shall not apply to obligations issued on or after the date of enactment of this section.

AMENDMENT NO. 2266

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. HELMS. Mr. President, I submit an amendment which would direct the U.S. representative to the IMF to oppose any future sales of gold by the IMF except to the nations who originally contributed the gold, at the official price of $42.22 per ounce.

Under the proposed amended articles of agreement, the U.S. representatives to the Fund could vote for added disbursements to the Fund for the Trust Fund or any other foreign aid program.

My amendment would leave it up to the respective nations what should be done with the gold those nations originally donated to the Fund. If nations wanted to give the gold or proceeds from the sale of gold to underdeveloped countries, they could. However, such actions would be volitional.

In the case of our Nation, it would mean that 30,000,000 ounces of gold could be restituted to our Treasury, and the United States would be the sole determiner of what would be done with that resource.

The amended articles of agreement provide that gold no longer has a purpose in the IMF for the settlement of international balance of payments. As such, the gold no longer serves the purpose for which the U.S. Congress provided the gold to the IMF.

In a study prepared for me by the Legislative Research Service of the Library of Congress, no record in the legislative history of the IMF can be found that the Congress ever contemplated the use of this gold for foreign aid purposes. It is only proper, therefore, that the gold be restituted to the nations that originally provided it.

I understand that it was the U.S. representatives to the Fund who advocated this Trust Fund. I believe that such a thing is unfortunate. The United States simply cannot continue to support foreign aid in an indiscriminate manner such as this. Resources allocated to an international organization for one purpose are now to be used for totally different purposes. It is the Nation which donated the resources in the first place that should decide what nations should receive those resources.

I believe it is ironic that over half of the nations which will be eligible for assistance under the IMF Trust Fund will be nations that voted in favor of the U.N. resolution equating Zionism with racism. Many of the nations eligible to receive aid are nations which would be ineligible for various reasons to receive direct aid. It is the circumvention of congressional policy on foreign aid, and the circumvention of normal appropriations processes.

Mr. President, I ask unanimous consent that my amendment and a study prepared for me by the Library of Congress be printed in the Record at this time.

There being no objection, the amendment and study were ordered to be printed in the Record, as follows:

Amendment No. 2266

On page 3, line 20, strike out the period and all that follows through the end of the line, and insert in lieu thereof a semicolon and the following:

"(h) request, consent to, or approve the further sale of gold held by the International Monetary Fund except for the sale of the gold held by the Fund on August 31, 1975, to those members that were members on that date and that agree to buy it, in proportion to their quotas on that date. The sale to a member under this clause (h) shall be made in exchange for its currency and at a price equivalent at the time of sale to one special drawing right per 0.888 671 gram of fine gold.".

The Library of Congress,
Congressional Research Service,
Washington, D.C., August 26, 1976.

To: The Honorable Jesse Helms.
From: Economics Division.
Subject: Uses of IMF Gold for Foreign Aid Purposes.

Within the time allotted for answering this request, it was not possible to thoroughly peruse the hearings on the Bretton Woods Agreements Act and on the increases in gold quotas in order to prepare a legislative history. Therefore, the 1945 hearings were reviewed selectively with particular emphasis on the testimony given by Harry D. White, Assistant Secretary of Treasury and a prime architect of the Agreement; E. M. Bernstein, technical advisor and executive secretary of the U.S. delegation; and Henry Morgenthau, Secretary of Treasury. In addition, "Questions and Answers on the International Monetary Fund", the U.S. commentary which was issued in June 1944, prior to the meetings at Atlantic City and Bretton Woods, was examined. The following conclusions suggests themselves:

I. The IMF was one of two organizations which were to provide post-war economic stability whose functions were clearly and deliberately separated, The IBRD was to provide funds for the reconstruction of war-devasted economics and for development of those countries which had not yet industrialized; the IMF was to providé balance of payments assistance. Morgenthau testified that "[t]he smaller countries can come to the international fund for monetary aid and to the world bank for reconstruction and development funds." (House hearings, p. 5) Later, Assistant Secretary of State Dean Acheson testified that "the purpose of the fund is to work toward stability and a balance of payments" and, slightly later, that "the fund is not designed to provide the money for long-term investments." (House hearings, p. 39)

Harry D. White testified on the purpose of the IMF as follows:

"The principal purpose, then, of the International Monetary Fund, . . . is twofold:

"The principal purpose, you will remember, is to get the countries of the world to agree to abandon economic warfare; to get the countries of the world to subscribe to a body of principles which would give hope to all countries of a high level of trade. It is to get the countries to agree to a group of principles which, in effect, are the cornerstone and the structure of free enterprise in the international field.

"The second purpose, which is tied up closely with that, which indeed is a corollary of the first, is to provide joint monetary resources so that the countries of the world, in time of emergency, can come to the fund for assistance, and thus be enabled to continue to adhere to the economic peace principles to which they subscribe as members of the fund."

With the experience of the 1930's to be avoided, rather than repeated, the IMF was established to provide balance of payments financing and exchange rate stability. These functions were clearly separated from the activity of reconstruction and development for which the World Bank was established. Indeed, Dean Acheson, amplifying earlier testimony by Dr. White, stated that White, a primary contributor to the design of the Bretton Woods agreements, "thought it was better to have two [organizations], because of the specialized nature of the word, the fact that it was a full-time job to be an executive director of one of these institutions, and that the quality of the training was somewhat different," although it could have been one organization. (House hearings, p. 252)

II. The overwhelming concern of Congress was with stable exchange rates and adjustment and not with the specifics of the use of the IMF gold subscriptions, but the financing of the deficits of developing countries, even on concessional terms, is not specifically precluded. Preoccupation with the experience of the 1930's, where competitive exchange depreciation and restrictions were common, and assumption of a continued monetary role for gold probably account for the emphasis on the mechanics of the gold subscription and not the use of the gold itself. There was some specific discussion of the scarce currency provisions (Art. VII, Sec. 2) because of the anticipated post-war shortage of dollars.

Among the discussions of the scarce currency provisions included within the Senate hearings is the article published in the Journal of Political Economy in March 1945 by E. M. Bernstein (Senate Hearings, p. 621–632. A copy has been attached for your convenience). With regard to scarce currencies Bernstein makes the following distinction:

"The concept of a scarce currency is used to connote a large and prolonged surplus in the balance of payments of one country, accompanies [sic] by deficits in the balances of payments of a considerable number of other countries.[2] Because of the special character of the problem, the general scarcity of a currency must be distinguished from the scarcity of exchange resources experienced by one or more countries as a result of persistent deficits in their balance of payments with many other countries."

Thus, the use of the scarce currencies provisions which permit the sale of IMF gold to obtain for use in its lending operations the currency which is scarce was apparently conceived within the context of an anticipated dollar shortage and not within the context of generalized disequilibrium or in relation to the problem of the persistent payments deficits of developing economies. Bernstein does not discuss the use of the scarce currency provisions within the context of the latter situations. However, it must be pointed out that these provisions essentially allow the IMF to exchange one asset for another for use in its operations. The failure to specify their use within the latter two contexts may not necessarily preclude such use.

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[2] It is, of course, possible to have a scarcity of two or more currencies. As the number of countries with a surplus in their balances of payments grows larger, the problem becomes one of widespread disequilibrium in international payments rather than one of scarcity of currencies. (Senate Hearings, p. 622)

III. The above conclusion that gold was to be used to obtain currencies for use in IMF operations is reinforced by examination of "Questions and Answers on the International Monetary Fund," especially Part Three, "Gold and the Operations of the Fund." (copy attached) "[T]he Fund is expected to hold gold, entirely for the purpose of assuring to member countries an adequate supply of any currency that may be demanded" and "is expected to buy and sell local currencies for gold when this becomes necessary for avoiding a fluctuation in exchange rates beyond the range established by the Fund." (IMF Documents, p. 152) IMF gold holdings are to be used for adjustment and stabilization. They "are regarded as a liquid asset equivalent to any member currency." (IMF Documents, p. 153) in 1945, however, IMF gold holdings were expected to increase. The present situation in which gold would be in the process of demonitarization was apparently not anticipated and, hence, not addressed. Nevertheless, since the gold holdings and currencies are viewed as equivalents, then an adjustment in the IMF holdings of one or the other can be viewed as an adjustment in the asset structure of the IMF.

IV. One final point—the question of using IMF assets for foreign aid purposes has historically been raised not in connection with the gold quotas, but rather in connection with the establishment of Special Drawing Rights (SDR's).

V. Sources:

1. U.S. Congress. House of Representatives. Committee on Banking and Currency. Bretton Woods Agreements Act. Hearings, 79th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1945. 2 v., 1334 p.

2. U.S. Congress. Senate. Committee on Banking and Currency, Breton Woods Agreements Act. Hearings, 79th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1945. 670 p.

3. Horsefield, J. Keith, ed. The International Monetary Fund, 1945–1965: Twenty years of international monetary cooperation. Volume III: Documents. Washington, International Monetary Fund, (1969) 549 p.

PATRICIA WERTMAN,
International Financial Analyst.

AMENDMENT NO. 2267

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. HELMS. Mr. President, I also submit an amendment which would direct the U.S. representative to the Fund to vote against loans or other forms of assistance to nations which give aid to terrorists. My amendment is based on amendments already approved by Congress as part of the Military Assistance and Foreign Relations Authorization Acts of 1976.

This amendment is a recognition that IMF loans in whatever form are a means of providing resources to other nations. Since a significant portion of resources provided are resources of the United States, it follows that our actions in the IMF should be consistent with the policies followed in other assistance programs.

This amendment is particularly important at this time because of the changing nature of the IMF. Under a system of floating exchange rates, its chief purpose is to provide resources to nations that inflate faster than others and develop balance-of-payments problems. This is certainly the case of the new Trust Fund, and, except for some unusual circumstances, is the case of regular Fund operations as well. With such a change of complexion in mind, it is important that our actions in the IMF reflect U.S. foreign aid policy.

Mr. President, I ask unanimous consent that my amendment be printed in the RECORD at this time.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 2267

At the end of the bill, add the following new section:

SEC. . (a) Except where the President finds national security to require otherwise, the President shall cause the Executive Director representing the United States in the International Monetary Fund to cast the votes of the United States against any loan or other utilization of funds of the Fund, or any agency or subsidiary of the Fund, for the benefit of any other country which is found by the President to aid or abet, by granting sanctuary from prosecution to, any individual or group which has committed an Act of international terrorism. The President may not thereafter allow any such vote to be cast affirmatively until the end of the one-year period beginning on the date of such termination, except that if during its period of ineligibility such country aids or abets, by granting sanctuary from prosecution to, any other individual or group which has committed an act of international terrorism, such country's period of ineligibility shall be extended for an additional year for each such individual or group.

(b) If the President finds that national security requires that a vote described in subsection (a) of this section should be cast affirmatively, he shall report such finding to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS—S. 521

AMENDMENTS NOS. 2268 THROUGH 2272

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT. Mr. President, today I am submitting several amendments to the House-passed Outer Continental Shelf legislation. These amendments, if adopted, will bring us one step closer to an acceptable OCS bill. I invite my colleagues to join as cosponsors in these amendments and to support them on the floor.

I ask unanimous consent that the amendments and the "Dear Colleague" letter which explains them be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 2268

(SEC. 205—REVISION OF BIDDING AND LEASE ADMINISTRATION—Information concerning lands within three miles of the seaward boundary of a State.)

Section 205(f) (1) (B), strike subparagraph (B) and substitute therefor, the following:

"(B) all relevant information in his possession concerning the geographical and geological characteristics of such lands, subject to the provisions of Section 26 of this Act.'"

AMENDMENT No. 2269

(SEC. 205—REVISION OF BIDDING AND LEASE ADMINISTRATION—Joint Leasing.)

At Section 205, strike paragraphs (2), (3) and (4) of subsection (f), and insert in lieu thereof the following:

(2) In the case of any lease issued after the date of enactment of this Section on which production may in the Secretary's judgment drain oil or gas from State lands, the Secretary shall either

(A) seek to establish an agreement for unitary development and production of the Federal and State properties, whenever such State properties have been or are about to be leased or otherwise committed to development and production by the affected State; or,

(B) whenever the State has not or is not about to so commit such properties to development and production, (i) include a term in the lease making the lessee a party to any suit for equitable division of proceeds from the lease among the lessee, the State, and the Federal government, and (ii) initiate such suit whenever he finds that drainage from State lands is occurring, except that no such term shall be included, or suit initiated, unless the State agrees to insert a similar term and to initiate similar suits concerning its own properties, where oil or gas operations on State lands may drain Federal lands.

AMENDMENT No. 2270

(SEC. 208—NEW SECTIONS OF OCSLA—Recommendations of Governors and Advisory Boards.)

Section 19(d) (2), strike all after the word "plan" and insert: "the Secretary shall fully consider such recommendations in light of national security, the desirability of obtaining oil and gas supplies in a balanced manner, and the policies, findings, and purposes of this Act. If the Secretary finds that he cannot accept such recommendations, he shall communicate, in writing, to such Board or such Governor the reasons therefor."

AMENDMENT No. 2271

(SEC. 208—NEW SECTIONS OF OCSLA—No Reduction in Safety or Protection to the Environment.)

At Section 21(c) (1) delete the period at the end of the last sentence and add: ", unless the Secretary shall compare the two regulations and find that the difference between them in costs to the Nation is sufficient to justify the difference between them in the degree of safety or protection to the environment."

AMENDMENT No. 2272

(SEC. 20B—NEW SECTIONS OF OCSLA—Best Available Technology.)

At Section 21(a) (2), after the words "economically achievable", insert the words "as determined by the Secretary".

U.S. SENATE,
COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS,
Washington, D.C., August 31, 1976.

DEAR COLLEAGUE: The Outer Continental Shelf legislation, S. 521, may soon be taken up on the floor.

If the United States is to achieve energy independence, the Outer Continental Shelf leasing program will certainly need to be accelerated. Regrettably, the bill passed by the House last month contains many provisions which will slow down, if not nearly bring to a halt, our OCS leasing program.

I have introduced some amendments, attached, which are intended to cure some of the defects in the House-passed bill.

Since the bill that passed the House has not yet been printed for our use on the floor, my amendments refer only to sections rather than to page and line numbers.

The amendment to subsection 205(f) (1) (B) is designed to cut down on the paperwork required by the House-passed bill between the Secretary of the Interior and the affected coastal state governor. More specifically, the purpose of subsection 205(f) is to resolve problems created by possible drainage of oil and gas from under state lands. This amendment restricts the provision of information to the governor under this subsection to data relevant to the drainage problem, and it conforms the section to the confidentiality requirement of section 26. As presently written, the subsection requires that "all information" be provided, regardless of its relevance, whether the Secretary has it in his possession, or whether its provision is barred under the confidentiality rules of section 26.

The amendment to subsection 205(f)(2) 4) is intended to clarify procedures which could come into play regarding federal leases adjacent to submerged lands under coastal state jurisdiction. This amendment fully protects states from loss of revenue by drainage, and at the same time, avoids the serious difficulties inherent in the "joint lease" concept now in the bill. For a state to become "lessor" of OCS lands, it would have to acquire rights over those lands, rights which it does not now possess under the Act. The joint lease concept therefore is tantamount to extending state jurisdiction beyond three miles. Furthermore, as now written, the procedure for joint leasing would have the effect of granting a state veto over leasing in the first three miles of federal waters. A state could exercise this veto by (1) accepting the Secretary's offer to lease jointly and then (2) refusing to find the lease terms "mutually acceptable." In any case, since the lease is to wholly federal lands, its terms should be a wholly federal decision.

The amendment to section 19(d)(2) subsumed under new section 208 of the House-passed bill is intended to facilitate OCS leasing by clarifying the relationships, rights, duties, and responsibilities between the Secretary of the Interior and the governors of affected coastal states. The language of the House-passed bill assumes that except in case of conflicts with national security or overriding national interest, whenever there is a disagreement between a governor and the Secretary over the size, timing or location of a lease sale or over a development plan, the governor is always right and the Secretary is always wrong. This is a fundamentally dangerous assumption for development decisions regarding a federally-owned resource whose benefits are nationally distributed and which does not lie within the territorial boundaries of any state. It is the Secretary, responsible to the President, who has a national, not a regional viewpoint which enables him to balance the benefits and costs of one region against those of others. No governor or regional group of governors can be expected to judge such issues in a national perspective. Therefore, there should be no presumption that, after giving them full consideration in light of Federal policy as embodied in the Act, the Secretary must accept governors' recommendations. Given the protections available to coastal States under the Coastal Zone Management Act, which are reaffirmed and strengthened in this bill, and given governors' full opportunity at important points to comment on OCS decision, there is no need for the language this amendment removes.

The amendment to subsection 21(c)(1) subsumed within new section 208 is intended to reduce the likelihood of substantial, unnecessary revision of OCS regulations designed to protect the environment which are now in effect. The language of the House-passed bill provides that no new safety regulation shall reduce the degree of safety or protection to the environment afforded by regulations previously in effect. The fact that the increment of protection provided by existing regulations or any revised regulations might be extremely costly to the Nation, if that were the case, could not be considered. The amendment would allow revision of safety or environmental regulations based on better information; however, it would permit the Secretary to consider whether the incremental costs incurred by the Nation are buying enough additional protection to make them worthwhile.

The amendment to subsection 21(a)(2) subsumed within new section 208 is intended to clarify the intent that OCS lessees use the best available technology. It provides that the Secretary shall make the judgment as to best available and economically achievable technology. This would prevent time wasting litigation over highly technical and abstract matters, all of which would slow down OCS development.

These are some of the amendments I intend to offer to S. 521. Their adoption would make a headstart toward improving the House-passed bill.

You are welcome to join me as a cosponsor on any or all of these amendments. If you desire to become a cosponsor or wish to support them on the floor, please contact me or Mr. Tom Biery of my staff on extension 4-4721.

Sincerely,

DEWEY F. BARTLETT,
United States Senate.

ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS—S. 3651

AMENDMENT NO. 2273

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL. Mr. President, for myself and Mr. STEVENS I submit an amendment to S. 3651—a bill to amend the Alaska Native Claims Settlement Act—to the desk and ask that it be printed at the appropriate place in the RECORD.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Beginning on page 1, line 3, strike everything down through and including "the" on page 2, line 3, and insert in lieu thereof the following:

"SEC. 1. (a) Section 16(a) of the Alaska Native Claims Settlement Act (85 Stat. 688, 705–706, as amended; 43 U.S.C. 1604, 1615) is further amended by striking 'Klukwan, Southeast.'.

"(b) Section 16(d) of such Act is amended to read as follows: '(d)(1) The' ".

On page 2, line 14, immediately after the colon insert the following new language: "*Provided further*, That no such lands shall be withdrawn from an area previously withdrawn as a forest reserve without prior consultation with the Secretary of Agriculture.".

On page 3, lines 6 through 8, strike "the date of enactment of this Act and prior to the date of enactment of this subsection" and insert in lieu thereof "December 18, 1971, and prior to January 2, 1976".

On page 3, line 12, after the word "value" insert a comma and add "to the extent possible,".

On page 3, line 15, strike "subsection" and insert in lieu thereof "paragraph".

On page 3, after line 23, insert the following new sections:

"SEC. 2. Notwithstanding any other provision of law, the Secretary is hereby authorized and directed to convey immediately to the State of Alaska, subject to valid existing rights, the following described lands for park, recreation, airport, or other public purposes:

Seward Meridan, Alaska

T. 13N., R.4W.

Section 28, E ½ W ½, E ½ W ½ NW ¼, W ½ NW ¼ NW ¼, E ½ NW ¼ SW ¼, E ½ W ½ SW ¼ NW ¼, NE ¼ SW ¼ SW ¼, E ½ SE ¼ SW ¼ SW ¼.

Containing 265 acres, more or less.

"SEC. 3. The first sentence of subsection 12(b) of the Act approved January 2, 1976 (P.L. 94-204; 89 Stat. 1145, 1151), is amended by changing the matter preceding the first colon to read as follows:

"(b) The Secretary shall make the following conveyances to the Region, in accordance with the specific terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled 'Terms and Conditions for Land Consolidation and Management in Cook Inlet Area', which was submitted to the House Committee on Interior and Insular Affairs on December 10, 1975, and clarified on August 31, 1976, the terms of which as clarified, are hereby incorporated herein and ratified as to the duties and obligations of the United States and the Region, as a matter of Federal law".

"SEC. 4. (a) The Secretary is authorized to convey lands selected by Village Corporations within Cook Inlet Region to the Cook Inlet Region, Incorporated, for reconveyance by Region to such Village Corporations. Such lands shall be conveyed as partial satisfaction of the statutory entitlement of such Village Corporations under section 12 of the Alaska Native Claim Settlement Act (ANCSA) from lands withdrawn pursuant to section 11(a)(3) and, with the consent of the Region affected, as provided in section 12 of P.L. 94-204, from lands outside the boundaries of Cook Inlet Region. This authority shall not be employed to increase or decrease the statutory entitlement of any Village Corporation or Cook Inlet Region, Incorporated, under ANCSA or to alter the obligations of the Secretary pursuant to section 12 of P.L. 94-204. For the purposes of counting acres received in computing statutory entitlement, the Secretary shall count the number of acres or acre selections surrendered by Village Corporations in any exchange for any other lands or selections.

"(b) After lands have been conveyed by the Secretary under subsection (a), the Secretary shall survey those lands in accordance with section 13 of ANCSA, except that for the purposes of this section he shall survey only the exterior boundaries of each entire area conveyed to Cook Inlet Region, Incorporated, and monument the boundary lines at angle points and at intervals of approximately two miles on straight lines. Each township corner located within the exterior boundaries of the land conveyed shall be located and monumented.

"(c) Conveyances made under the authority of subsection (a) of this section shall be considered conveyances under ANCSA and subject to the provisions of that Act, except as provided by this Act.

"SEC. 5. (a) The Secretary shall, within 60 days after the effective date of this Act, tender conveyance of the land described in subsection (b), subject to valid existing rights, to Cook Inlet Region, Incorporated. If the conveyance is accepted by the Region, such lands shall be considered 1,687.2 acre equivalents within the meaning of Paragraph I(C)(2)(e)(iii) of the Terms and Conditions as clarified August 31, 1976, and the Secretary's obligations under Paragraph I(C) of those Terms and Conditions will be reduced accordingly. If, however, said Section 12 of the Act of January 2, 1976 does not take effect then the entitlement of CIRI under Section 12(c) shall be reduced by B346 acres.

"(b) The land referred to in subsection (a) is described as a parcel of land located in Section 7 of Township 13 North, Range 2 West of the Seward Meridian, Third Judicial District, State of Alaska; said parcel being all of Government Lots 5 and 7 and that portion of the SE¼ NW¼ lying north of the north right-of-way line of the Glenn Highway, State of Alaska, Department of Highways Project No. F–042–1(2), and more particularly described as follows:

"Commencing at the North ¼ corner of said Section 7;

"Thence South 00° 12′ East, a distance of 1,320.0 feet, more or less, to the NE corner of said SE¼ NW¼;

"Thence West along the north line of SE¼ NW¼ a distance of 94.0 feet, more or less, to the north right-of-way line of the Glenn Highway and the true Point of Beginning:

"Thence South 53° 16′ 15″ West along said north right-of-way line, a distance of 1,415.0 feet, more or less, to a point of curve being at right angles to centerline Stations 216+51.35;

"Thence continuing along said north right-of-way line along a curve to the right with a central angle of 12° 51′ 34″, having a radius of 5,595.58 feet for an arc distance of 105.0 feet, more or less, to a point of intersection of said north right-of-way line with the west line of said SE¼ NW¼;

"Thence North 00° 12′ West along said west line, being common with the east line of Government Lot 5, a distance of 910.0 feet, more or less, to the NW corner of said SE¼ NW¼;

"Thence East along the north line of said SE¼ NW¼, a distance of 1,225.0 feet, more or less, to the Point of Beginning; containing 56.24 acres, more or less."

Amend the title so as to read: A bill to amend the Alaska Native Claims Settlement Act to provide for the withdrawal of lands for the village of Klukwan, Alaska, and for other purposes.

NOTICE OF HEARING

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public, the scheduling of an oversight hearing before the Subcommittee on Parks and Recreation of the Senate Interior and Insular Affairs Committee.

The hearing is scheduled for September 1, 1975, at 10 a.m., in room 3110 of the Dirksen Senate Office Building and is on the President's Bicentennial Land Heritage Program.

ANNOUNCEMENT OF HEARINGS ON S. 3486

Mr. HASKELL. Mr. President, the Senate Committee on Interior and Insular Affairs will hold a hearing on Wednesday, September 22, 1976 on S. 3486, a bill introduced by Senator Leahy which would require notice from major oil companies prior to withdrawal of petroleum marketing operations from any State.

This hearing will commence at 10:00 a.m. in room 3110 of the Dirksen Senate Office Building. The Committee and members of the National Fuels and Energy Policy Study will receive testimony from the Federal Energy Administration and selected private witnesses.

Inquiries with regard to this hearing should be directed to Ben Cooper of the Senate Interior Committee staff at 224–0611.

ADDITIONAL STATEMENTS

SEPTEMBER IS NATIONAL SICKLE CELL MONTH

Mr. GLENN. Mr. President, the month of September is National Sickle Cell Month. I wish to have printed in the Record an editorial from the Cincinnati Herald, a black newspaper, which describes the continuing concern in the national black community about sickle cell disease and its debilitating impact.

I share the Herald's concern that national attention has shifted away from the struggle against sickle cell disease. Too often have we at the national level allowed the shining light of media attention to dictate priorities of interest and funding of vital programs. When that light goes out and the cameras leave, the problem remains but interest and concern often disappears. This sad pattern cannot be allowed with respect to sickle cell disease.

We should use the month of September to press for renewed vigor in the battle against sickle cell disease.

I ask unanimous consent that the editorial "National Sickle Cell Month," from the August 28, 1976 edition of the Cincinnati Herald, be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

National Sickle Cell Month

September is National Sickle Cell Month. If the need to have such a month seems surprising, then that is precisely why the National Association for Sickle Cell Disease, Inc., has designated this period to focus on sickle cell activities. To paraphrase Mark Twain, the reports of the conquest of sickle cell disease has been greatly exaggerated.

Sickle cell anemia is an inherited blood disease which affects Black people primarily. One out of ten Black persons has been estimated to possess the sickle cell trait, approximately one out of 400 Blacks has sickle cell anemia. The problems posed by sickle cell disease are just as prevalent as they have ever been, but public interest and media coverage are on the wane.

While it is true that great strides have been made in improving the quality of life for persons with sickle cell disease, much remains to be done. The need for visible vocal public support of quality sickle cell programming is greater than ever.

The failure to maintain the momentum which marked the emergence of sickle cell as a prime concern of the Black community less than a decade ago, has ominous implications for all of us.

Public awareness is one of the most important weapons in the fight to overcome any problem, and it is doubly important when that concern is a major health problem.

The consistent, sustained support of an alert and informed public is needed to:

Make certain that local, state and federal agencies adequately fund programs and services for persons with sickle cell disease.

Enable established sickle cell programs within the Black community to continue programs and services.

Develop screening and education programs which will enable our young people to make informed decisions in their own best interest on matters such as marriage and child bearing.

Encourage research in the detection and treatment of sickle cell disease.

The Black community has much to gain from the continued impetus of the sickle cell disease program. Of prime importance is the conquest of a disease which has had a great impact on the lives of Black people, but equally important to us is the stimulus of participating in a successful program developed and conducted within and by the Black community. The expertise and techniques that brought the sickle cell movement this far will be equally effective when applied to other health, social or economic problems with our communities.

The job is not yet done; the battle is not yet won. During September each of the NASCD affiliate organizations will be conducting sickle cell awareness programs within their communities to remind us how far we have come—and how far we have yet to go.

OVERSIGHT ON CONSTRUCTION OF THE TRANS-ALASKA PIPELINE SYSTEM

Mr. JOHNSTON. Mr. President, on July 21 the Senate Committee on Interior and Insular Affairs held an oversight hearing on construction of the Trans-Alaska Pipeline System. Several governmental agencies, reports in the press and announcements by the Alyeska Pipeline Service Co. had previously indicated there were unsolved and serious problems with welds on the pipeline. An audit conducted by Alyeska of the radiographs of welds made in 1975 had disclosed that some of the radiographs were missing. In addition, the audit had revealed that some of the welds, for which valid radiographs exist, contained flaws and were not in compliance with the welding integrity standard Alyeska had agreed to meet.

Some of those welding problems still persist and the remedial effort required to correct the deficiencies could possibly delay the July 1977 startup of the pipeline.

Because of the great importance of the pipeline construction project to this Nation's energy supply situation, I will review and comment upon part of the series of events which had led to this situation.

BACKGROUND

Public Law 93–153, enacted November 16, 1973, provided the Secretary of Interior authority to grant a right-of-way across Federal lands for construction of the Trans-Alaska Pipeline System. An agreement granting that right-of-way was signed on January 23, 1973. The agreement includes a series of stipulations and procedures agreed to by all parties.

Stipulation 3.2 of that agreement and grant of right-of-way covers "Pipeline System Standards." Two sections of that stipulation are presently at issue. First, the agreement provides that all welds would be certified as meeting a technical welding standard known as API Standard 1104. Second, the agreement requires radiographic examination of 100 percent of the main line girth welds. The 100-percent requirement is unusual for oil pipelines, though it is required for Outer Continental Shelf oil pipelines and all natural gas pipelines.

The stipulations also gave the authorized officer, the Interior Department official who is the chief of the Alaska Pipeline Office, control over the quality control and assurance programs. Construction began on April 29, 1974 and pipeline welding began in the field in June 1975.

For purposes of construction, the pipeline's length is divided into six sections. A July 1975 routine investigation by Alyeska of the radiographs taken of welds in section 2 revealed a difference of opinion on whether the X-raying of the girth welds was being performed improperly. Alyeska ordered a partial and then a complete audit of the section 2 radiographs. Discrepancies also appeared in section 3, which was also audited. Finally, as a result of further investigations by its auditors, Alyeska decided to audit all radiographs taken in 1975.

On September 10, 1975, a former employee of one of the radiography contractors, Ketchaw, Inc., filed a civil suit in Fairbanks Superior Court alleging he had been fired in volation of the Alaska Resident Hire Act. He also filed a grievance with his union and filed a complaint with the Alaska Department of Labor. He alleged that he had been required by his superiors to falsify weld radiographs, substituting radiographs of good welds for those radiographs which revealed faulty welds. He believes he was terminated because he balked at the falsification scheme.

According to Interior Department records, Alyeska also first informed the authorized officer of the radiograph discrepancies on September 10, 1975. The final audit report for the entire pipeline was completed April 14, 1976 and was presented to the Department of Interior, Department of Transportation, and Alaska State officials. On May 4, 1976, after being briefed on the audit report, DOI Under Secretary Frizzell issued a directive on May 7, 1976, that no more welds were to be buried unless the contractor certified in writing that a valid radiograph had been made and interpreted and that the weld complied with the welding standards. Interior issued another directive on July 20 pertaining to recordkeeping for the radiographs. Presumably, all welds made since then have complied with these directives.

THE AUDIT RESULTS

The Alyeska audit of all radiographs made in 1975 involved 30,800 welds. The audit identified 3,955 questionable welds. Of this number, 1,403 welds were questionable due to problems with the radiography. The questions on the remaining 2,552 welds concerned the quality of the welds themselves. By August 1, the questions concerning 2,680 of the welds had been answered satisfactorily, leaving 1,275 questionable welds. Of that number 1,028 of the welds were buried.

During the audit, Alyeska identified 1,015 "critical welds," defined as "those welds located in sensitive and/or very difficult access related areas in which any remedial work will likely degrade the end product quality and/or create substantial environmental concerns." A limited number of these critical welds have been repaired and the remaining critical welds present the most crucial problem today.

The Department of Interior hired Arthur Andersen & Co. to audit Alyeska's audit. A preliminary report by Arthur Andersen was discussed at a House Public Lands Subcommittee hearing on July 2. The final report was presented to the Interior Committee at the July 21 hearing. The Arthur Andersen report found, in essence, that it was impossible to audit Alyeska's audit due to Alyeska's auditing procedures. A July 20 directive by Under Secretary Frizzell has ordered Alyeska to put their records in an auditable condition as soon as possible and to report its progress to him by July 30. Although Alyeska met the July 30 deadline, the Under Secretary was not satisfied with their report. On August 6, Alyeska responded to the Interior Department's criticism with a "White Paper" and the matter is still pending. The auditing procedures problem is of particular concern because the audit is presently the best evidence available to determine the number of defective welds on the pipeline. The Alyeska audit give rise to the questions concerning the interpretation of the radiographs. Therefore, if the audit cannot be relied upon, and if Alyeska is unable to resolve its record keeping problems, there will be no reliable indicator of how many defective welds actually exist.

REMEDIAL EFFORTS

Alyeska had hoped to be able to develop a new technology, known as acoustical imaging, to test those welds for which a reliable radiograph is not available. Acoustical imaging would have the advantages of requiring access to only one side of the weld, thus enabling pipeline workers to take a picture of the weld by crawling inside the pipe rather than exposing the buried welds.

The Interior Department hired experts to evaluate the Alyeska accoustical imaging proposal. However, efforts to develop the new technology did not proceed as quickly as Alyeska had hoped. In a press release dated August 5, Alyeska announced it had suspended, pending further review, its efforts to develop the acoustical imaging process. Today, there are 76 "critical welds" for which valid radiographs do not exist. Presumably these welds will have to be radiographed in accordance with the terms of the agreement. Alyeska has not yet made its plans known to either the committee or the Interior Department. I assume that information will be forthcoming shortly. There are welds other than critical welds for which radiographs are missing. Something will have to be done to remedy this situation, too, but it does not pose as large a problem because there is easier access to "noncritical welds."

The second major problem with the pipeline is that many welds do not meet the API standard 1104, which Alyeska agreed to meet. Alyeska hired the British Welding Institute to conduct a series of fracture mechanics tests on weld imperfections identical to those inperfections located along the pipeline. Alyeska hopes to utilize the results of these fracture mechanics tests to substantiate requests for waivers of the requirement that all welds meet API standard 1104.

A waiver of the stipulations will be required in order for Alyeska to use the fracture mechanics tests or standards resulting from those tests. That waiver will have to be granted by the Department of Transportation, whose regulations are incorporated by reference in the stipulation.

The committee has been informed that Alyeska intends to apply to DOT for a waiver of stipulations for at least 11 welds. The 11 welds contain imperfections which Alyeska characterizes as "negligible" and which the fracture mechanics tests indicate "are completely innocuous" in the context of the pipeline design and construction. All 11 welds are buried beneath rivers. It is fair to characterize the request for a waiver for these 11 welds as a "test case" and additional requests may well be forthcoming, depending upon the Department's response to this first request. The committee has requested access to the results of the fracture mechanics tests and has been told the information will be forthcoming. The chairman, Senator JACKSON, has written to the Department of Transportation requesting information concerning the criteria which will be utilized in evaluating the waiver request and whether public hearings will be held. A response to that inquiry has not yet been recevied.

There are nearly 1,000 welds with various imperfections. We do not have the necessary information to judge whether some or all of these welds need to be repaired in order to assure the integrity of the pipeline. The information necessary to make that judgment has not yet been released by the parties involved. As I stated in my statement at the opening of the July 21 hearings, we do not wish to impose unreasonable burdens upon Alyeska but neither do we intend to allow the pipeline to be so constructed as to pose unanticipated and unnecessary threats to the public safety and the Alaskan environment. The Lower 48 States need the North Slope crude—though I am not convinced that the necessary planning and preparation have been accomplished to accommodate it on the west coast—but we can neither afford to bring it to market at an unacceptable cost to the fragile Alaska environment nor allow it to escape through a leaky and faulty pipeline.

FUTURE DEVELOPMENT

Mr. President, my statement today should be considered a status report. All parties agree that there have been welding problems on the pipeline. Alyeska is aware that these problems must be remedied. Some welds will have to be uncovered to be radiographed or repaired. Alyeska may be able to convince the Department of Transportation and other interested observers, including the members of the Interior Committee, that not all of the welds which are out of compliance with API Standard 1104 need to be repaired.

The welding problem is not the only problem facing the pipeline project. Alyeska is currently 4 weeks behind schedule in construction. Some of the delay is due to the remedial welding efforts and some of it is simply due to the normal unanticipated delays which occur on a huge construction project.

The pipeline will be hydrostatically tested before it is put in operation. A section of pipe failed during one of the first hydrostatic tests. Alyeska reports that the pressure applied during the test was higher than the pipe was designed to withstand, although initial reports by the State pipeline coordinator indicated that the pipe ruptured at very low pressures. In either event, approximately 3 miles of the pipelne will have to be replaced due to damage resulting from the test.

Rumors persist concerning other quality control problems on the pipeline. Both the Department of Interior and Department of Transportation witnesses have testified before the Interior Committee under oath that there are no additional quality control problems of which they are aware. I assume this sworn testimony can be relied upon, Mr. President, and I intend to do so unless contrary evidence becomes available.

Simply put, it is Alyeska's job to build a sound pipeline and to assure the Congress that all quality control problems have been remedied. The Department of Interior and Department of Transportation both have oversight responsbilities for quality control and inspection. Neither Department has indicated they need additional legislative authority to discharge their duties and I assume that the problems revealed in the welding situation have been remedied. If that is not the case, I can assure my colleagues that the Interior Committee will pursue the matter to a satisfactory conclusion. I do not believe that the problems to date are either insurmountable or cause for great alarm. I intend to continue to monitor the situation to insure compliance with the commitments made by the Congress to the public when this pipeline was authorized.

THE NEW RULERS OF THE AMERICAN POLITICAL SYSTEM

Mr. GOLDWATER. Mr. President, one of the major political phenomenon of this century is once more upon us. This year, after a brief period of disunity, organized labor is again in the ring and slugging for the national Democrat ticket—and labor's well developed muscle is being felt from coast to coast.

Over the last few years, big labor's bosses have taken great pains to protect and expand their political powers—and are now aiming for a Republican knockout in 1976, a virtual end of the two-party system.

It is rare that the political efforts of organized labor are exposed to the glare of publicity in the public media. The American people have little opportunity to learn of the massive, calculated plan to grab hold of the national political system which is the clear aim of big labor. This is unfortunate because democracy depends upon an informed electorate—aware of the influences upon their attention and of ultimate designs to capture power in the Nation. For make no mistake about it, there is an all-out campaign by organized labor to become the new rulers of the American political system.

Mr. President, it is in order to bring a little light to the monumental reach of union political ambitions in the 1976 elections that I take to the floor today. It is difficult to know where to begin, but let us start our survey with the recent Democrat National Convention where great pressure was brought to bear upon delegates and events by the AFL–CIO's Committee on Political Education, COPE, and the Labor Coalition Clearinghouse.

The efforts of these groups were bolstered by the large numbers of delegates—over one-fifth of the entire convention—who were active union members or officers. This is more than in any previous convention.

Organized labor spent over a half million dollars electing these delegates, financing their travel and convention expenses and in some cases, even providing them pay for missed days of work.

It is no secret that the Democrat Presidential nominee, Jimmy Carter, and his advisers, are continuing to work closely with a number of big labor officials. Among numerous labor ties with Mr. Carter that can be documented from public reports are the following:

Leonard Woodcock, president of the United Auto Workers, is active in the Carter campaign, and, in fact, has been touted as a potential Secretary of Labor or HEW, should Mr. Carter win.

Jack Conway, another old United Auto Workers hand and former president of the self-styled "nonpartisan" lobby group, Common Cause, is taking a leave of absence from the American Federation of State, County, and Municipal Employees to work for Mr. Carter.

Mary Zon, assistant director of AFL–CIO's COPE will go directly to Atlanta to coordinate labor's efforts with the Carter campaign.

But the labor bosses' most important sources of power and influence are their direct and indirect contributions to the Democrat Presidential and selected congressional campaigns.

Interestingly, organized labor provided strong and vocal support for the new Federal Campaign Act, which imposes disclosure requirements and campaign spending limitations. The new election statute was intended to eliminate campaign financing abuses and bring campaign contributions and spending out into the open. It is based on the theory that the public has a right to know the source of a candidate's support.

Labor's support for the reform effort stopped at their own doorstep. Lobbyists for organized labor worked long and hard to exempt their own indirect political activities from the bill's provisions. And they apparently succeeded. As a result, we can only estimate the full extent of big labor's efforts behind the scenes on behalf of a Presidential or congressional candidate.

Organized labor can do anything and everything within their power, including the use of union dues, to elect candidates of their persuasion so long as their activities are restricted to their own members. The sole exception prohibits direct cash contributions from union treasuries.

The New York Times of January 18, 1976, quotes the AFL–CIO's interpretation of the new election law as allowing unions:

> To use treasury funds, derived from member's dues, to communicate with their members and their families on political issues and candidates; To use union treasury funds in non-partisan registration and get-out-the-vote campaigns; To contribute treasury money and union manpower to the national Committee on Political Education or to state or local central body political education committees to be used to communicate with or register union members and their families; To use Treasury funds to solicit voluntary contributions for a political fund and for the establishment and administration of such a fund; To use treasury funds to pay union personnel doing political work as long as they work under union direction and control, and are engaged in political activity aimed at union members and their families.

Thus while the labor "reformers" were pushing stringent requirements for all others, they seem to have been more than generous in protecting and allowing their own particular activities and contribution. And this year the labor bosses are taking full advantage of the loopholes they have created for themselves. In the interest of an informed electorate, I believe the American public should know what pressure organized labor has already exerted so far this year, and what is planned for the remainder of the campaign. The public must be aware of what influences are shaping the election.

First, direct-cash contributions. The law says unions themselves may not make cash contributions. So all the unions do is set up political action committees, which may make cash contributions under the law.

Since normal union dues may not be used, the political action committees are funded through what are on the surface "voluntary contributions" from union members. In fact, these voluntary contributions are not necessarily what an objective person might label "voluntary." Often, by use of a checkoff system, the contribution to a union political committee is automatically deducted from a worker's paycheck unless he goes on record and makes a formal objection. In other cases, the shop steward gives the workers a checkoff card providing for such a payroll deduction and its automatic forwarding to the unions. Now, I would ask, who is going to say no to his shop steward, especially when he can be singled out?

As of now, over 230 such voluntary funded political action committees have been established and registered with the Federal Election Commission.

Where are the huge amounts of voluntary contributions received by these committees being spent by the labor bosses?

Well, let us look first at Mr. Carter. Since he became the obvious Democratic Presidential candidate, large amounts have been poured into his campaign chests. These contributions have, of course, been matched with public funds.

Individual union PAC's which have so far given or directed to Mr. Carter amounts of $5,000 or more are as follows:

Communications Workers of America	$8,195
United Auto Workers	23,418
United Transportation Union	5,000
American Federation of State, County and Municipal Employees	5,000
Marine Engineers Beneficial Association MEBA (includes fund-raiser)	44,744
Amalgamated Clothing Workers	5,500
Retail Clerks Union (ABC)	15,100
Machinists NPPL	5,000
Engineers Political Education Committee	5,000
Seafarers SPAD	5,000
Hotel and Restaurant Employees and Bartenders International Union	5,000

Carpenters LIC	5,000
Railway Clerks Political League	5,000
Laborers Political League	5,000
Oil, Chemical and Atomic Workers	5,000
United Rubber Works	5,000
Transport Workers Union	5,000
Building and Construction Trades Department	5,000
Coal Miners Union	5,000
Maritime Engineers (fundraiser)	40,180
Total	207,137

The total of big labor cash contributions to Mr. Carter in gifts of all amounts is $259,444.55, this early in the campaign.

Senate candidates are also feeling the labor bosses' power of the purse. As of now—and remember, these figures will grow substantially as we approach November—the following contributions have been made by organized labor to incumbent Members seeking reelection or to other candidates for the U.S. Senate in the 1976 election:

Organized labor contributions

Maryland:	
*J. Glenn Beall, Jr. (R)	17,900
Paul Sarbanes (D)	71,595
Texas:	
*Lloyd M. Bentsen (D)[1]	36,750
Alan Steelman (R)	0
Tennessee:	
*William E. Brock (R)	0
James Sasser (D)	21,900
New York:[2]	
*James L. Buckley (R)	0
Peter Peyser (R)	23,178
Daniel Moynihan (D)	18,500
Paul O'Dwyer (D)	500
Robert Abrams (D)	300
Bella Abzug (D)	19,420
North Dakota:	
*Quentin Burdick (D)	25,500
Robert Stroup (R)	0
Virginia:	
*Harry Byrd, Jr. (I)	0
Elmo Zumwalt (D)	45,580
West Virginia:	
*Robert Byrd (D)[1]	79,300
Nevada:	
*Howard Cannon (D)	44,500
David Towell (R)	0
Florida:	
*Lawton Chiles (D)	0
John Grady (R)	0
Walter Sims (R)	0
Helen Hansel (R)	0
Arizona:	
*Paul Fannin (R)	retiring
Sam Steiger (R)	0
John Conlan (R)	0
Dennis DeConcini	4,100
Hawaii:	
*Hiram Fong (R)	retiring
William Quinn (R)	0
Spark Matsunaga (D)	26,650
Patsy Mink (D)	2,400
Michigan:	
*Philip Hart (D)	retiring
Donald Riegle (D)	4,700
James O'Hara (D)	103,278
Marvin Esch (R)	300
Indiana:	
*Vance Hartke (D)	101,775
Richard Lugar (R)	0
Nebraska:	
*Roman Hruska (R)	retiring
Edward Zorinsky (D)	4,300
John McCollister (R)	0
Minnesota:	
*Hubert Humphrey (D)[4]	95,175
Gerald Brekke (R)	0
Washington:	
*Henry Jackson (D)[4]	168,477
George Brown (R)	0
Henry Neilson (R)	0
Massachusetts:	
*Edward Kennedy (D)	55,550
Mike Robertson (R)	0
Wyoming:	
*Gale McGee (D)	41,794
Malcom Wallop (R)	0
Montana:	
*Mike Mansfield (D)	retiring
John Melcher (D)	21,650
Stanley Burger (R)	0
New Mexico:	
*Joseph Montoya (D)	41,200
Harrison Schmitt (R)	0
Utah:	
*Frank Moss (D)	58,475
Jack Carlson (R)	0
Orrin Hatch (R)	0
Maine:	
*Edmund Muskie (D)	27,863
Robert Moks (R)	0
Rhode Island:	
*John Pastore (D)	retiring
Philip Noel (D)	300
John Chafee (R)	0
Wisconsin:	
*William Proxmire (D)	0
Stanley York (R)	0
Delaware:	
*William Roth (R)	0
Thomas Maloney (D)	19,850
Pennsylvania:	
*Hugh Scott (R)	retiring
John Heinz(R)	1,500
William Green (D)	64,075
Jeanette Reidman (D)[3]	10,465
Vermont:	
*Robert Stafford (R)	7,850
Tom Salmon (D)	3,000
Mississippi:	
*John C. Stennis (D)	0
Missouri:[6]	
*Stuart Symington (D)	retiring
Warren Hearnes (D)	1,350
Jerry Litton (D)	800
James Symington (D)	47,600
John Danforth (R)	0
Ohio:	
*Robert Taft, Jr. (R)	3,700
Howard Metzenbaum (D)	52,743
James Stanton (D) *	30,969
California:	
*John Tunney (D)	118,583
Tom Hayden (D)[3]	1,000
S. I. Hayakawa (R)	0
New Jersey:	
*Harrison Williams (D)	115,750
David Norcross (R)	0
Total	1,642,195

*Incumbent.

[1] Includes aborted Presidential campaign.

[2] Primary not held yet.

[3] O'Hara lost primary to Riegle; Reidman lost to Green; Stanton lost to Metzenbaum; Hayden lost to Tunney.

[4] Includes Presidential campaign contributions.

[5] Primary on Sept. 15th.

[6] Cong. Litton died; Hearnes nominated by Central Committee.

Now, there is a very interesting fact here. Note that nearly all labor contributions have gone to Democrat candidates. The respective totals are $1,587,767 given to the Democrats compared with only $54,428 contributed to Republicans. The Republican share of union largess is a barely visible 3 percent.

But the list of union contributions does not end here. In addition to spending for individual candidates, organized labor also funds the major Democrat campaign committees. The Democrat Congressional Dinner Committee received $88,500 in 1975 from big labor, and has so far this year received another $127,500 from labor, all for use in the 1976 elections.

The Democratic National Committee has also enjoyed the favor of union money. To date, this Democrat group has received $266,289 during 1975–76 from big labor. Among the contributions are $50,000 from the Machinists; $15,000 from the Transportation Workers; $10,000 from the Communication Workers; $50,000 from the United Auto Workers; $25,000 from the National Education Association and $18,000 from the American Federation of State, County and Municipal Employees.

Then there is the Democratic Senatorial Campaign Committee. It alone has received $91,550 during 1975–76 from union coffers. The AFL–CIO COPE gave $25,000 of this total in 1976.

But the list is not complete yet. The Democratic Study Group here on the Hill now gets its share of substantial funding from the labor bosses. In 1976 alone, and the final figures are not yet in, this so-called independent group has received $15,100 in union contributions.

In addition to all of the above political gifts, various other national Democrat organizations have received an extra $35,700 from labor.

And yet the roll of union contributions still does not end. Additionally, the United Auto Workers have made their own cash contributions to several other union political action committees, including $22,500 to the Labor Coalition for "computerization of delegate files and contingency fund." The United Auto Workers also gave $25,000 to the 1976 Democratic Campaign Committee of Detroit, Mich., for what was called simply "Federal elections."

Moreover, there are the big labor contributions to candidates for the House of Representatives. Although the figures are changing every day, it is certain that unions have already poured in excess of $1.5 million to House candidates, even though those campaigns are just getting started.

In all, the total political cash contributions made by big labor to Presidential and congressional campaigns this early in the election year is at least $4,235,000. Of this amount, a scant portion—no more than 2 or 3 percent—has been given to Republican organizations or candidates.

Mr. President, when the official and final totals are in after the 1976 elections, I will report back to this body the full amounts of cash spent by organized labor to elect candidates of their choosing.

The sheer volume of big labor cash contributions revealed above is astounding. It is just the tip of an iceberg, however. You have not seen anything yet. Now let us take a look at the other part of labor's muscle—the part which the labor lobbyists carefully protected from their reform efforts—the indirect, so-called in kind contributions. These indirect efforts rely on that old nemesis of privacy—the computer.

Mr. President, the American public must understand the full dimensions of big labor's efforts to dominate the election; and nothing better illustrates the truth than the unchallenged fact that organized labor has developed, and plans to use to the greatest extent ever, its vast computer system to get Jimmy Carter and its own choice of Senate and House candidates elected. You can be certain Mr. Carter knows he needs the computer's help to register voters, canvas precincts by foot and phone, get crowds to rallies and try to get out the vote on election day.

An article in U.S. News & World Report of July 26, 1976, entitled, "Will Unions Deliver the Vote for Carter?" tells the story. Part of the article deals with the AFL–CIO computer:

> In 1968 C.O.P.E. could "blitz" the country with tens of millions of pamphlets favorable to Humphrey. But at that time there existed no single source of names of all union members in a city or state, their addresses and voter-registration status. Each of the unions affiliated with the A.F.L.–C.I.O. jealously guarded such data, fearful that rival unions could misuse the information if it were made available.
>
> Today, stored inside a computer at the A.F.L.–C.I.O.'s offices in downtown Washington are the names of more than 14 million members of unions belonging to the Federation—plus their addresses, phone numbers, party registration, if any, and the ward, precinct and Congressional district in which they live.
>
> From the bank of political data in the months ahead will come millions of address labels for mailing political brochures or reminders to register and vote. Telephone canvassers will be supplied with computer lists of unregistered union members in wards, cities and counties. Door-to-door canvassers will have lists of union members arranged even by the side of the street on which they live.

Frankly, Mr. President, the article left me a little in awe at the potential of this "Big Brother" machine—which the labor bosses possess, and have now put at the disposal of Jimmy Carter—for controlling and manipulating the political behavior of union members and their families.

This million dollar computer, which is housed in the new AFL–CIO Data Processing Center in Washington, is working around the clock in preparation for the fall campaign.

The computer has an interesting background. It stems from an action taken by COPE in 1964 at the time of my candidacy for President. As part of labor's efforts for Lyndon Johnson that year, unions in New Jersey produced a list of 400,000 union members. After the election, that list, compiled and maintained by hand, was still around. By 1965 COPE spotted the potential of computerization and decided to launch a pilot computer project.

In addition to New Jersey, Pennsylvania was chosen for the pilot. In 1966 the program was extended to Maryland, Virginia, Ohio, Colorado, California, and Texas. As the 1968 election approached there were 3.2 million names in the computer. In 1968 COPE made the data processing effort a year-round project. It is my understanding that the COPE computer now has lists from about 45 States ready to roll in use for this year's election.

Mr. President, the COPE computer is truly awesome. In sorting information it can read 350,000 numbers per second. In 1 hour it can turn out 30,000 3 by 5 cards, 75,000 mailing labels or 66,000 lines on a precinct listing. The computer can also send out specialized mailings from stored information about individuals. In the near future, in large city areas where both registration lists and the telephone company subscribers are on magnetic tape, the computer will be able to pass the COPE file of union members against those lists and electronically capture, in the same computer, the information on members and their telephone numbers—all without lifting a human hand. I do not know about others, but that scares the heck out of me.

Mr. President, this so-called in kind or soft money contribution by organized labor to their favored candidates is truly disturbing when you think of the dollar value and the enormous influence that labor will be able to put into this year's elections. In 1974, the AFL–CIO reported that 110,000 volunteers contributed millions of hours to COPE programs—register and vote campaigns, telephone banks, staffing, polling, canvassing, checking registration, distributing materials and just getting-out-their-vote. How you can put a true price tag on the value of the Big Brother computer, I do not know; but it is estimated that in 1976 organized labor will contribute by direct and indirect payments, and by in kind and volunteer time, between $40 and $60 million, for this, their most important election.

Mr. President, what do these disclosures of giant union intervention into this year's elections mean to the average American citizen and his or her way of life? Well, we can learn a lot by comparing what has happened in a democracy where big labor has already taken over. Last spring, Mr. Robert Moss, editor of the London Economist, "Foreign Report," commented on the trade unions in Great Britain. I call the attention of my colleagues to Mr. Moss' observations regarding the impact of concentrated union power on their political and economic system. He stated:

> [L]et me give you a little image of how I think that the kind of trade union power that has grown up in Britain could help to bring about the final destruction of our economy, and even the overthrow of our parliamentary democracy. That will sound a little exaggerated to you as I stand here before you, but I live with that, and my friends here tonight from England live with that day by day, and it is something that we do not take lightly for one moment.
>
> Now our trade unions are not just bargaining over wages or trying to get more men into their ranks, they are trying to dictate the whole shape of economic and social policy in Britain. More than that, they're trying to build themselves into our political process.
>
> For example, our Trade Union Congress [similar to the A.F.L.–C.I.O.] has proposed that non-elected trade union delegates should sit on every local council in Britain. Our local councils—municipal councils—are elected on the principle of one man, one vote. Now we have a proposal from the TUC that they should contain non-elected union officials who will have full voting rights. That is a direct attack, if it ever becomes law, on our constitutional system. It gives you one measure of how far the challenge is going, and what is TUC policy today in our country is often enough the policy of the Labor Party and the Labor government tomorrow.
>
> That recommendation has been accepted by the local government committee of our Labor Party. It has gone to the executive of the party, and I don't know, it could become a bill, and then legislation in the not too distant future.
>
> That gives you one little index. Next, I'll give you another little index. We had a new budget announced in Britain not long ago, and our Chancellor of the Exchequer stood up, and in his budget speech he made it openly plain to everyone that the key element in his policy, wage restraint, would not be government policy until it had been signed, sealed, and delivered by our TUC, our Trade Union Congress.
>
> He made that open. Now again, in our view, those are unconstitutional acts, because under our original Bill of Rights of the 17th century, power in Britain is vested in the people as represented in the Parliament, and in the throne. Apparently not. Apparently the TUC in Britain has become the non-elected upper house, our real Senate, since the House of Lords doesn't count for much in terms of real power today. Our TUC appears to be taking its place.
>
> So the aims of our trade union officers have become very ambitious indeed. They long ago stopped being just concerned with how much more they could screw out of the bosses, or what sort of cars they drove in. These are very subsidiary questions to them today. The real question involves power and the whole future of our form of society.
>
> Now, Britain is on the pretty rocky road to ruin, for the moment, economically. I've already mentioned the size of our deficit. Our deficit runs to 12,000-million pounds a year, which is a lot of money for an impoverished little group of islands off the northwestern coast of Europe. We can't afford it. The TUC's pressure forces our government to continue to overspend on this colossal scale, to continue to promote nationalization programs, particularly with the private firms, and to generally waste the taxpayer's and rate payer's money in whatever new ways they find from day to day.
>
> Now, I'm not altogether certain that in the not too distant future we won't see a situation emerge where there will be a new phase in the economic crisis in Britain where our long-patient foreign friends will get fed up with us and stop lending us money unless we set our economic house in order. And I'm not certain that at some point we won't have to face a fairly shattering kind of decision, a decision as to whether we go on further into the kind of socialism our trade union bosses want, further towards total state regulation of our economy, nationalization of our banks (which is another thing that the TUC is calling for) and so on—a communist kind of economy with high import controls, fixed exchange rates, and all the rest of it—or whether we go in a radically different direction by trying to restore sanity, by trying to cut excessive public spending, by trying to provide new incentives for people to make their own business decisions, and the rest of it.
>
> But I do know one thing: we will have to face that decision. And I know another thing, any government that faces that decision will not be allowed to make up its mind without a fairly devastating confrontation with our trade union movement, if it wants to go back towards curbing abusive union power, towards developing economic power back to the private sector, and towards cutting excessive public spending.
>
> In other words, what I'm saying to you here in a foreign land is that I see no way out of our crisis in Britain without widespread strikes, and I'm not confident, as I stand here before you tonight, that those strikes will be contained, or at any rate I'm not confident as I stand here at this moment that the elements in our society who are now convinced that the abuse of trade union power is one of our key problems, are organized to do anything about it.

Well, I didn't want to speak for too long. I think without exaggerating the picture that I may be beginning to give you some measure of where a society can go when it allows one pressure group—in this case, trade unions—to acquire and to practice monopoly power. That is where we are going.

Mr. President, we would do well to ponder what is happening in Britain because of the power of big labor bosses. The American people should be alert that we do not let them buy that kind of power here. The result would be the utter transformation of American society into an alien order where centralization, social planning, individual regimentation, redistribution of income and wealth, and the final collapse of the private enterprise-profit motive system are the legacy of our inattention now.

ENDPIECE

Mr. HOLLINGS. Mr. President, Mr. Ed Ward of Spartanburg, S.C., recently called my attention to an article in a South Carolina publication which I wish to share with my colleagues in the Senate today.

The article is in the form of an editorial commentary in Sandlapper magazine by the editor, Mr. Bob W. Rowland, and it pertains to our Bicentennial celebration this year. The editorial goes to the very heart, I think, of what the Bicentennial is all about, telling, as it does, of the greatness and strength of the American character through 200 years of our grand experiment in democratic government.

I commend Mr. Rowland's thoughts to the Senate and ask unanimous consent that his commentary be printed in the Record.

There being no objection, the commentary was ordered to be printed in the Record, as follows:

Endpiece

Shakespeare said it first (although one usually hears it misquoted as "It's an ill wind that blows no good") about 200 years before the founding of this nation of ours and 400 years before our celebration of independence.

It's a fairly appropriate comment to apply to the Bicentennial craze in which we find ourselves. Because, just in case you haven't noticed, just about everybody who can is cashing in (or trying to cash in) on the 200th anniversary of the founding of our nation. On every side we are being besieged with Bicentennial items, ranging from planters to prints and from plates to toilet seats and even *coffins*.

But perhaps before we go too far in decrying this trend we should look at the positive aspects of the Bicentennial fever we are experiencing.

One of the really wonderful, and at the same time amazing, things about this country is its dichotomy, its sense of mixture, of separateness and at the same time togetherness. For America is made up of many parts, of people of different cultural origins and folkways, of diverse religions and beliefs and mores, of different traditions and speech. It's a part of this nation which other nations still do not understand, sometimes sneer at: but they are constantly amazed at how it works.

We don't have a queen or a king or a dictator who is given to us whether we like them or not. People of other nations are amazed that every four years our nation divides up into fragments supporting the candidate of their choice for president, and basing that support on what their candidate says or looks like or the part of the country he comes from or his record of achievements or what he says he is going to do or what he has done. Americans talk and argue and try to influence one another to vote for their candidate and it goes on for months and months. Then comes the big day when people have a chance to go to the polls and vote for the candidate of their choice. Of course, some don't go to the polls at all, don't exercise their right to vote for some personal or private reason and again, that's a wonderful prerogative to have.

And then after the count is in and someone wins, Americans come back together. Everybody can't be a winner but generally no matter how disappointed Americans may be that their man didn't win, once we have a winner, Americans tend to come back together and say in effect, "Well, heck, I didn't vote for him, but he's our president now." And in general he receives the respect we accord our leader. This does not mean, of course, that when the leader does something which displeases the losers they don't say, "Well, I told you my candidate would be better" but they accept it in fairly good grace.

But the past decade has been a different time for America, a time when our nation has been in the agonies of divisiveness. We are divided up into more fragments than possibly ever before due to forces such as the Korean War, the Civil Rights movement, Welfare Rights, the Vietnam War; the Peace movement, the Hippie/Drug culture; Desegregation, Discrimination; Inflation, Unemployment; the assassinations of John Kennedy, Robert Kennedy and Martin Luther King; the attempted assassination of George Wallace; Watergate, and the resignation under fire of a vice-president and a president, leaving a nation with a leader who, for the first time in our history, was not elected.

And so we have been during the past decade more divided, more tormented, less united, than probably at any time in the history of our nation.

To me it seems both ironic and fortunate that at this time in our development we come to the Bicentennial of our nation. Although as a people and a nation no matter how much we may tire of hearing the word "Bicentennial" over and over again and no matter how much we may deplore some of the crass commercialism which may develop out of it, the Bicentennial does afford us a sorely needed chance to reflect, a chance to consider the agonies of our birth—to remember people who pledged their lives, their fortunes and their sacred honors to bring it about. We now have a chance to re-appraise the growth and development of America as a nation. In short, take a focus, in which all of us can say, "This is where we came from, this is where we've been, this is what we have done." With all the mistakes and problems and errors which we committed and caused during the past 200 years we have built something which nobody in 1776 would have given a chance in hell of developing, succeeding and lasting. We may not be perfect, but we did it, and by jove if we had it to go through over again we would.

REVENUE SHARING AND THE SO-CALLED ANTIDISCRIMINATION PROVISION

Mr. BUCKLEY. Mr. President, simply stated, revenue sharing is recycled fiscal assistance, with strings attached. I shall call attention to some of the strings that appear in the House version lest they be offered on the floor of this Chamber.

The House-passed bill, H.R. 13367, contains several objectionable features that should be forcefully opposed, the most noticeable of which is the expanded so-called nondiscrimination provision which has been expanded to include religion, age, and handicapped status. This provision would, in all likelihood, subject State and local government to the kind of quotas in the form of goals and timetables that are presently upsetting unions, businesses, and many local school districts. It is to the effects of this amendment that I wish to address the following remarks.

These additions may appear to many to be overdue and even laudatory, but their adoption and subsequent enforcement will make for ludicrous public policy and discredit the entire program.

Underlying the inclusion of these additional categories is the misguided social engineering assumption that confuses a homogenized society with an open one. It is the assumption that every inhibition and every activity should represent a multiethnic, cross-cultural-economic-religious-sexual microcosm of the Nation in large. In other words, every group situation must have its representative share of ethnic and religious minorities, atheists, the elderly, women, preadolescents, teenagers, homosexuals, the crippled, blind, impoverished, and so forth, or else run the risk of being branded racist, chauvinist, sexist, or worse.

Revenue sharing is the kind of congressionally created income redistribution program that encourages fiscal dependency and bureaucratic meddling. Although it came into existence as a well-intended emergency relief instrument, it is rapidly being transformed into an institution with its own constituency. If H.R. 13367 is adopted in its current form, it will also have an expanding bureaucracy, cumbersome reporting, and enforcement procedures and so forth. It is a shortcut route to what ought to be a long-term approach to intergovernmental reform. It should be gradually phased out over a period of a few years and replaced by a vastly improved and more equitable Federal tax structure that would insure each State a greater share of its own self-generated revenue.

What concerns me much more, however, is that if the Senate adopts the House's expanded nondiscriminatory provision, we will have succeeded in pushing existing civil rights legislation to an illogical extreme, thereby making it irrational and virtually unenforceable. As written, the amended provision provides the Office of Revenue Sharing with the authority to automatically suspend funds to local communities if, in the opinion of the Federal Government, antidiscrimination complaints are not satisfactorily resolved within 90 days. This is patently absurd.

Increasingly, *federally* sponsored social policy seems more and more prepared to ignore the fact that there are differences of degree as well as differences of kind. For example, men and women, children and the elderly, the physically abled and disabled clearly represent differences of kind. Each category requires special or "preferential" treatment in a host of areas to accommodate the unique needs of its condition, from day care centers to senior citizens' residences. With the amended language no preferential treatment can be made for the newly identified categories, without discriminating. In the light of the extremes to which HEW is willing to go these days, we can imagine a situation where denying an elderly woman her right to spend her waning years in a child day care center could result in a denial of revenue sharing funds to an entire jurisdiction.

Furthermore, there is absolutely no sane reason why religious or church-related institutions should be denied sharing funds, because they choose to afford preferential treatment to members of their faith. I know that it is fashionable in certain circles to equate church-related activities and memberships with those of country clubs, solely because both are "private." If this inclusion is designed to suggest that religious institutions are by their very nature discriminatory, therefore prejudiced, then one needs only to be reminded that in most instances it has been the religious organizations of this Nation that have long been at the vanguard of social reform, outdistancing the Government by decades, especially in the areas of support of labor unions, equal employment opportunity, school desegregation, and aid to dependent populations; that is, the orphaned, the infirm, the poor, and the aged.

I am a strong advocate of civil rights legislation and enforcement; noncompliance with such legislation should be penalized to the full extent of the law, but let the law then be a companion to reason and limit the opportunities for busybody meddling that we have recently witnessed in HEW edicts forbidding father-son breakfasts.

I urge my colleagues to strike this amendment from the revenue sharing bill so that the record will show that the Senate does indeed have sense.

EDITORIAL COMMENT ON THE WIRETAP BILL

Mr. CRANSTON. Mr. President, at the request of my distinguished colleague from California (Mr. Tunney), I ask unanimous consent to have printed in the Record the following editorials on S. 3197.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the New York Times, Aug. 29, 1976]

Moving Too Fast

Senator Edward M. Kennedy is working hard to rush the new national security wiretap legislation through the Senate. The measure, designed to impose order and restraint on wiretapping activities in areas where there have been no legislative restrictions in the past, was originally developed by a bipartisan group of Senators on the Judiciary Committee and by the Attorney General. After the bill had been considered by both the Judiciary Committee and the new Select Committee on Intelligence, Senator Kennedy, with apparent impatience, attempted to schedule it on a highly expedited basis with severely limited debate on Monday.

A long list of abuses has been rationalized by incantation of "national security." The first legislative effort to curb such practices is bound to be sensitive and fraught with uncertainty. For example, the proposed measure is marred by at least one major flaw: It authorizes wiretapping in instances which lack proof of crime or a showing of probable cause that a crime has been or is about to be committed. This runs counter to the explicit recommendation of the Church committee that such a showing be the basis for authorizing wiretaps. Senator Walter Mondale, chairman of the Church committee's task force on domestic intelligence, testified before the intelligence committee for two hours in opposition to this measure.

The one lesson that should have impressed the Congress after the long months of intelligence investigations and disclosures is that American citizens suffered from abuses precisely because Congress failed to do its job diligently. Rushing to a decision on so sensitive a bill without full debate and consideration would seem to suggest more of the same lack of diligence.

[From the New York Times, Aug. 31, 1976]

A Bill That Can Wait

(By Tom Wicker)

The Senate is about to debate Attorney General Edward Levi's national security wire-tapping bill, so it's necessary once again to ask the question: What emergency justifies a Democratic Congress in rushing to pass a Republican Administration bill so full of loopholes and ambiguities? Why shouldn't such an important matter be left to the next Congress, when either the Carter-Mondale Administration will be in office or the Ford Administration will have been given electoral legitimacy?

The general subject of protecting citizens' rights while still maintaining the national security, as a matter of fact, might usefully be discussed in the Carter-Ford debates apparently to take place during the fall campaign. That Walter Mondale, the Democratic Vice-Presidential nominee, has been one of the strongest opponents of the Levi wiretapping bill (S. 3197) is another good reason for a Democratic Congress to let this measure wait on the election returns.

It is depressing, moreover, that the first official act of the new Senate intelligence committee, set up with such fanfare to provide "oversight," of the F.B.I., the C.I.A., and other security agencies, should have been to clear the Levi bill. The committee did make improvements in the text that came to it from the Senate Judiciary Committee, but the two principal deficiencies of the measure—and many of its lesser ones—remain. On this showing, the intelligence committee is off to a weak start, although it is not the committee that is pushing for a quick passage.

It has reported a bill which, even as amended, would permit the wiretap surveillance of American citizens who are not engaged in criminal activity. And it has not fully rectified a provision of that bill that disclaims any intent "to affect the exercise of any constitutional power the President may have subject to determination by the courts to acquire foreign intelligence information."

Thus, S. 3197 implicitly confirms the idea that there is or may be some "inherent power" in the Presidency to acquire foreign intelligence information without even such restrictions as the bill provides, if "the facts and circumstances . . . are so unprecedented and potentially harmful to the nation that they cannot reasonably be said to have been within the contemplation of Congress." If a court determined that a President in such circumstances had acted unconstitutionally, the action would already have taken place and the damage would be done.

That is not only a loophole alert Americans should not wish to hand such a President as, say, Richard Nixon. It also directly contravenes one of the most important recommendations of the Church committee, which spent more than a year studying intelligence abuses and was the parent of the present Senate intelligence committee.

The Church panel's Recommendation One was stark in its simplicity: "There is no inherent constitutional authority for the President or any intelligence agency to violate the law." The accompanying report specifically cited "warrantless electronic surveillance" as an activity for which there was no inherent Constitutional authority and said: "Statutes enacted pursuant to these recommendations should provide the exclusive legal authority for domestic security activities."

Why then should the intelligence committee or the Senate in enacting a statute purporting to provide such legal authority for foreign intelligence wiretapping leave open even the possibility of some inherent Presidential power to conduct such tapping in violation of that statute?

Although the intelligence committee limited the definition of an "agent of a foreign power" eligible to be tapped, S. 3197 still includes among such agents any citizen who at the direction of a foreign power secretly transfers information which a reasonable person might believe harmful to the security of the United States.

But what a "reasonable person," whoever he or she might be, may believe does not necessarily define criminal activity. This section, as the American Civil Liberties Union charges in a memorandum of opposition to S. 3197, may well amount to "a new, all-inclusive and overbroad definition of espionage," which the Administration has not been able to persuade Congress to provide in other legislation.

Many other questions are raised by S. 3197; it does not require, for example, that for a warrant to be issued probable cause must be shown that specific evidence is being sought, and that it is likely to be obtained by the proposed tap.

Honest men might differ, of course, about many of the objections raised by the A.C.L.U., Senator Mondale and Senator John Tunney, the bill's principal opponent. But that is all the more reason to proceed slowly on a matter of this importance. Together with the possibility of a new Administration that may have new proposals, the questions about S. 3197 argue strongly for delaying action until next year.

[From the Boston Globe, Aug. 28, 1976]

Halfway on Wiretaps

Senator Edward M. Kennedy's bill to regulate national-security wiretapping which previously would have given the government broad authority to tap citizens not accused of any crime has been improved by the Senate Judiciary and Intelligence Committees.

But the bill, cosponsored by President Ford, retains at least three provisions that encroach needlessly on civil liberties.

Most easily remedied is the section that still permits non-criminal wiretap warrants, but only against agents of foreign intelligence networks who are clandestinely transmitting information to a foreign power and apparently violating national security.

That kind of activity is equivalent to criminal espionage, and ought to be regulated. Nonetheless, as the Church-Schweiker committee warned after reviewing FBI and CIA crimes, the government should never be allowed to tap citizens who are not breaking the law.

If the government needs to wiretap foreign intelligence agents, why not amend the espionage laws to make such activity specifically a crime?

More troublesome is the procedure for obtaining wiretap warrants. While the mere fact of requiring a warrant—and the written record the warrant provides—offer a vast improvement over warrantless and untraceable taps, the bill virtually compels a judge to issue a warrant without real opportunity to consider whether the intrusion of a wiretap is justified. The bill allows the government to go to any of seven designated judges or to two levels of appeal. Some greater measure of judicial discretion would not delay or deny the relatively small number of justifiable taps.

The greatest weakness of the bill, and another contradiction of the Church-Schweiker recommendations, is an indirect acknowledgement that the President may have authority to install taps without warrants and outside the law. Technically the bill is neutral on the question—but it mentions the possibility that such an authority may exist, instead of leaving the issue unspoken and up to the courts.

Some proponents of executive privilege claim not even the Supreme Court can control the President's wiretapping for national security, because surveillance is an executive function. To us it is clear that every wiretap, of a gambler or an organized crime leader or a spy, is an infringement of civil liberties which are constitutionally guaranteed and protected by the courts, and that taps can be justified only when legal evidence suggests an ongoing crime.

The Senate committees have recognized the need to control wiretapping and have produced a better bill. Further amendments would reassure all except the few who believe any wiretap violates the Bill of Rights—and those few must recognize that wiretapping will not be stopped and should be controlled.

U.S. DEFENSE NEEDS—A CAMPAIGN PERSPECTIVE

Mr. GOLDWATER. Mr. President, the Association of the U.S. Army has prepared a most interesting paper on "U.S. Defense Needs—A Campaign Perspective." Because the campaign is now underway and because defense will be a very important issue throughout this campaign, I ask unanimous consent that this paper be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Defense Needs—A Campaign Perspective

As we head into the homestretch of a Presidential election campaign, we share a clear and present danger of losing our bearings in the maze of rhetoric. Whatever golden hopes may be held out for further expansion of social welfare schemes, reduced unemployment and that perennial will-o-the-wisp the balanced budget, there is little real room for maneuver in the fields of foreign policy and defense.

Whether you approach these two important areas astride elephant or donkey, you still come out with similar solutions if our national interests are to be preserved. The principal reason is that the problems which impact most heavily on both foreign policy and national security are externally created and beyond our easy control. There is not a whole lot we can do to influence the continued malevolence and expanding ambitions of the Soviet Union. Overpopulation, a worldwide shortage of foodstuffs, dwindling energy resources, the exploitation of resources from the seas, and nuclear proliferation all make for a full checklist of problems that contribute directly to global tensions and unrest. Add to those the burgeoning discontent in many of the emerging nations, the flaming hatreds of centuries-old protagonists in the Mid-East, racism in Africa, the remaining vestiges of colonialism through parts of the world, and it becomes readily apparent why we cannot call the tune on what we require diplomatically and defensively to protect our very vital national interests.

So that we might maintain a clear perspective during the period between now and November, it is useful to review some of our basic foreign policy defense requirements lest they be neglected. What are the stresses and strains from outside our shores which we cannot escape?

As the comparative maps indicate, the flowing tide of communism during the period when we have had atomic weapons is a reality, not a right-wing rallying cry. The annexation of some 15 nations to the Communist fold in the last 30 years does not reflect the final outcome of political struggles in some countries of Western Europe, the littoral of the Mediterranean, Africa and Latin America. So we are dealing with ongoing momentum that cannot be described fairly as in the best interests of the United States.

The philosophy of communism prospers in a climate of want and unrest—and there are too many fertile fields in much of the world today that provide these ingredients. Burgeoning population growth is outstripping our ability to provide the foodstuffs needed to sustain life in much of the world. We are at the critical point where there is a direct correlation between a major natural disaster be it drought, floods or wind which impacts on harvests and a rise in starvation in other parts of the globe. Worldwide efforts to correct this tragic situation require stability, peace and cooperation to a degree the world has yet to attain.

In his new book Precarious Security, General Maxwell D. Taylor spotlights the problem. "By modern demographic methods, the growth of national populations can be estimated with fair accuracy to the end of the century, even though, in the meantime, governments may do their best to reduce the national growth rate. According to such calculations, by the year 2000 the world population will at least double with the greatest densities concentrated in countries least prepared to support them—South Asia, China, Indonesia, Africa, the Middle East, and tropical Latin America.

"By the end of the century, in South Asia, where starvation is frequent today in a population of 770 million, there will be about 1.4 billion people struggling for survival. China, which currently must often import large quantities of grain to feed 820 million, must find food for more than a billion to escape mass starvation. Indonesia, faced with the problem of accommodating over 230 million by the year 2000, will envy the vast open spaces of neighboring Australia, which by that time will be sustaining only about 20 million. Brazil, with over 200 million at the end of the century, will tower over its neighbors Argentina, Chile, and Uruguay, whose combined populations total only about a fourth of Brazil's.

Some 3 million Israelis are today encircled by 70 million hostile Arab neighbors who will double in number by the year 2000, while Israel adds perhaps 2 million. Mexican "wetbacks" now pour illegally into our southwestern states at an annual rate believed to be over 800,000. What will be the extent of the invasion at the end of the century when the population of Mexico will have nearly doubled or by 2025 when it may approximate that of the United States?

"Such considerations justify a conviction that population growth and population-related problems will be a dominant, pernicious factor in the future development of nations and their relations with one another. The consequences will endanger not just American security but that of the world community."

Our own interdependence with the rest of the world is reflected in the adjacent box which lists 35 strategic materials which we must import to maintain our own physical survival. Three of these materials are vital and irreplaceable—chromium, platinum group, and aluminum. These are not materials for munitions alone but are essential to keep the wheels of U.S. industry turning. Many of those imports come from countries which are not close allies—and from some, like Africa for instance, where our diplomatic track record is abysmal. We have been unable, for example, to come to any sort of easy or comfortable terms with the raw-material-producing countries south of the industrial democracies.

Mineral, percent imported, and major foreign sources.

Manganese, 100 percent, Brazil, Gabon, S. Africa, Zaire.

Cobalt, 98 percent, Zaire, Finland, Norway, Canada.

Titanium, 97 percent, Australia, India.

Chromium, 91 percent, USSR, S. Africa, Turkey, Philippines.

Aluminum, 88 percent, Jamaica, Surinam, Dom. Rep.

Tantalum, 88 percent, Australia, Canada, Zaire, Brazil.

Platinum group, 86 percent, USSR, S. Africa, Canada.

Tin, 86 percent, Malaysia, Thailand, Bolivia.

Fluorine, 86 percent, Mexico, Spain, Italy.

Nickel, 80 percent, Canada, Norway, USSR.

Tungsten, 60 percent, Canada, Bolivia, Peru, Mexico.

Germanium-indium, 60 percent, USSR, Canada, Japan.

Beryllium, 50 percent, Brazil, S. Africa, Uganda.

Zirconium, 50 percent, Australia, Canada, S. Africa.

Barium, 40 percent, Ireland, Peru, Mexico.

Iron, 23 percent, Canada, Venezuela, Liberia, Brazil.

Lead, 21 percent, Canada, Peru, Australia, Mexico.

Copper, 18 percent, Canada, Peru, Chile, S. Africa.

Trade, fuel, and a whole range of intercourse with many nations are essential to the economic survival of our country. One cannot visualize the prospects for peace being enhanced by our growing vulnerability to raw materials cartels. It will take energetic and imaginative diplomacy—adequately supported by a credible defense—to guide us through this highly intricate and delicate area. This is a good place to emphasize how closely meshed foreign policy and a credible defense posture really are. Frederick the Great said it best, "Diplomacy without armaments is like music without instruments."

Part of the difficulty that contributes to unrest and the inability to make greater progress in peaceful endeavors is the instability of many national governments. In the last 15 months, the head of government has changed 35 times in 30 countries. Italy, for example, has finally seated its 39th government in 33 years. Included among the changes of government in the last three years have been 15 successful coups. Such instability makes much of our efforts of international negotiation almost impossible but, even worse, provides a constant threat of outbreaks by arms.

The bedrock of our foreign policy and principal focus of our national interest continues to lie with our NATO alliance in Europe. With all its stresses and strains NATO has served the cause of world peace and prosperity well for a quarter of a century. We have reduced our military participation substantially and would only tempt fate by cutting further. Ever since the Treaty of Rome in 1957 there have been great efforts to establish a European economic and political community which would integrate the nations of Europe into a viable political entity. Progress toward an early solution to the many problems involved has been slow indeed. It would be difficult to forecast the day when our strong military presence in NATO can be safely terminated.

It would take a considerable amount of space to review the imminent dangers that arise from the civil war in Lebanon, the face-off in Cyprus, the tinderbox of Africa. In our own backyard there is real cause for concern about a peaceful solution in Panama. It will take a high degree of diplomatic and political skill to extricate ourselves from this dilemma in a way that will not alienate our neighbors to the South and at the same time protect our interests. Each of these situations has all the ingredients for potential trouble of a nature serious enough to warrant the availability of credible U.S. deterrent forces.

We cannot overlook either the dangers arising from terrorist incidents. Forty-nine nations have had at least one terrorist incident occur on their soil in the past three years.

Across the globe in the Far East, our prosperity is inextricably linked to the economy of the Pacific basin. Last year our trade with Asian nations exceeded our trade with Europe. Asian raw materials fuel our factories; Asian manufacturers serve our consumers; Asian markets offer outlets for our exports and investment opportunities for our business community. It is essential that we widen and strengthen our relationships in this important region of the world where we have already fought three wars in the last 30 years in an effort to secure peace.

The Pacific doctrine for the United States enunciated last year seeks to buttress our non-Communist allies and at the same time increase our cooperation and communication with the leadership of Red China as well.

The Pacific doctrine has had a favorable reception and it is still the considered view of most students of the area that most Asian nations, to include mainland China, want the U.S. to remain in the Pacific as a stabilizing force.

The U.S. projects a diminishing military profile in the Far East. With the withdrawal of all of our personnel from Thailand, we have no other troops in Southeast Asia. In the Western Pacific, including Japan, Okinawa, the Philippines, and South Korea, we have about 100,000 personnel. Additionally, manning the naval forces at sea in that area, we have another 24,000. In the absence of conflict, these forces would appear to be strong enough to support our country's Pacific doctrine.

Japan continues as our most important partner in the Far East. It occupies a unique status. In addition to being our largest foreign trading partner, it also is the largest for Russia and China.

Japan represents a commitment that we could not disown and also represents one of the greatest successes in American postwar foreign policy. Her growing trade with China similarly offers the best hope of bringing China more quickly into an active role in the international community.

Across the Sea of Japan, the Korean Peninsula has remained quiescent in recent months but no one predicts any early reconciliation between the North and South. The U.S. Congress has indicated that the time has come for the U.S. military to begin to look at ways we can reduce further our forces in Korea which now include only a corps headquarters, one division with supporting troops, air defense forces, and aviation. In our view, such a withdrawal now would be risky. Ongoing modernization of South Korean armed forces will require several more years to put them on a par with the North.

The Communist leadership in Hanoi has continued consolidating its hold on all of Vietnam and will remain preoccupied for a time yet in getting the country reorganized and in some sort of shape to become more self-supporting. However, Hanoi has already started looking outward and will be a factor of growing importance in far-eastern stability.

Now, as to the matter of defense. We must define the bounds of our defense requirements. Simply stated, the proposition of "How Much Defense Do We Need" should include at least the following:

We need enough, with our allies, to deter warfare at all levels and to defend our interests should deterrence fail.

We need enough to maintain U.S. technological superiority over the Soviet Union.

Above all, we need enough to provide the strength upon which further peace negotiations can be pursued.

These, it would seem, are basic, apolitical goals. Moreover, these are responsive to what the polls show our people really want. A recent poll sponsored by the Chicago Council on Foreign Relations shows that seventy-one percent of those polled believe that promoting the security of the United States should be the most important pillar of our national policy. Sixty percent added, as an adjunct, keeping peace in the world.

When we look at how much defense we need—we also have to look at what kind—especially in these days of strategic nuclear equivalency. Without getting bogged down in an unfruitful numbers game, most thoughtful observers agree that given the present strategic nuclear arsenals of the Soviet Union and the United States, the least likely form of conflict for the immediate future would be a major nuclear war. This will continue to be true so long as our nuclear arsenal remains viable, modern, and credible. This is one area where our investments in strategic weaponry—albeit costly—have provided insurance that all can understand and for which most are willing to pay. Of greater concern are the growing list of countries developing a nuclear capability. They especially, have to believe our strategic arsenal is credible as well as the Soviets.

Since 1945, there have been literally hundreds of situations of violence somewhere in the world. The U.S. has been involved in only 7 or 8.

So it is fair to say that we have not gone around the world looking for places we could intervene with our armed forces. The interesting point is that all of these armed conflicts have occurred during a time when we have had an overwhelming nuclear capability—and yet all were fought with conventional weapons. Think too of today's potential trouble spots—Korea, Mideast, Africa, Cyprus, Lebanon, Panama, to name the most obvious. If we were to become involved in any of these, it would most certainly be a conventional conflict.

So we have to be especially careful that our conventional forces are capable of supporting adequately our national objectives. This means an Army and Marine Corps adequately manned and equipped to respond affirmatively and effectively to this wide spectrum of potential troubles. This means a modern Navy to transport and support any necessary projection of land forces to distant lands—a Navy that can keep the sea lanes open. This means an Air Force sufficiently strong to provide air supremacy, support for the ground battle and the very rapid movement of men and equipment that would be required.

In today's climate where we quest for quick and easy solutions, there will be those who will advance as new the thought that land forces really aren't all that essential, especially when people costs are up.

A very realistic principle of conflict is that wars are fought for the control of land areas and the people who inhabit them. Although land, sea, and air forces are complementary, Army forces possess capabilities which set them apart. The Army can direct and support full-time and comprehensive control over the land, over its resources, and over its people. In peacetime, this power is the basis of the stability, law, and other essentials to a free society. In wartime it is the ultimate decisive act of occupying and securing of those land areas necessary to the achievement of our national objectives. This is particularly true in the limited war situation where there is an overriding requirement on the ground for forces that can occupy and continuously control the people in the contested area. Only Army forces can execute and support a requirement of this type for any period of time.

In its deterrent role, the political impact conveyed by military force is as important as the sheer destructive power it can wield. In the era of nuclear stalemate, the role of the Army has taken on even greater importance. It emerges as the really significant balance of employable power and has profound effect on the military relations between powers.

We have serious shortfalls across the board in our conventional forces—in equipment, munitions, and planes. It will take sizeable defense budgets over a period of years to provide the credible deterrence and backbone our national policy requires. There is no political legerdemain that can soften this fact.

When the discussion gets down to costs, it is especially important that we work from a factual perspective. It is popular on the campaign trail to talk about reordering priorities which to many politicians means taking money from defense for other programs.

This is exactly what we have been doing for most of the last 22 years. The Advisory Commission on Intergovernmental Relations has just published a study "Significant Features of Fiscal Federation—1976 Edition." It contains some interesting realities which will shape the policy choices all levels of government will be making in the next decade.

One table, for example, shows the extraordinary shift from defense to domestic spending in the past 22 years. In 1954, at the end of the Korean War, the federal defense budget was $47.1 billion. The same year $49.9 billion was spent for all domestic programs in the federal, state, and local budgets. So the two were substantially equal. This year, domestic expenditures have risen to seventy-eight percent of the government pie, while defense has shrunk to twenty-two percent. To put it another way, half of the past two decades' rapid growth in domestic spending has been financed by taxes and deficits and half by a shift from defense to civilian programs. So it's obvious that the priority reordering has already taken place and further shifts are not feasible if we are to have a credible defense.

There are those who feel that the military tend to view international events in militaristic terms. Although this increased sensitivity is undoubtedly for the best, as one of our colleagues so aptly put it: "No matter how much we adjust our focus or examine our lenses, we are still confronted with some of the same blindingly apparent conclusions about the world in which we live. Both the history of the Twentieth Century and the daily newspapers contain ample evidence that the international system is now, and will be for the foreseeable future, characterized by conflict and military competition. Our wishes to the contrary, a cold and rational examination of the world in which we live provides eloquent testimony to the fact that the maintenance of military force is still a national necessity and that peace is a consequence of military strength."

We look to the day for example when we may see some change in Soviet goals—when their outward projection of power is abated—but that is not now. As a matter of fact, Soviet military drive is at a higher point now than in the past.

It is not the purpose of this paper to discuss in detail specifically how much is enough for national defense or what the force structure should be to meet minimum U.S.

needs. The point is that current strengths and force structure are basely adequate in today's world, provided they are at full strength and fully equipped.

Political planners and campaigners must recognize this point if U.S. security is to be preserved. The dynamics of the world situation, beyond the control of the politicians or the military leaders is dictating what the U.S. must have militarily if our national interests are to be protected.

It is imperative that our adversaries as well as our friends and allies continue to recognize our country as a viable fulcrum in world power on the side of peace. They must see as we do that the Age of America is not declining. John F. Kennedy enunciated a goal that is worth remembering. What we really want, he said "is a peaceful world, that is fairly safe for diversity."

These are thoughts that we should keep before us as the campaign moves forward.

FOREIGN PAYMENT DISCLOSURE

Mr. RIBICOFF. Mr. President, I call to the attention of colleagues an editorial on the Lockheed affair in the Washington Post of August 2, 1976. The editorial endorsed the Church bill providing for immediate disclosure of corporate and individual payments to foreign countries, contained in S. 3379. I am a cosponsor of the Church bill and find that the disclosure aspects of the bill go to the root of the entire political corruption issue. The approach in S. 3379 is to establish a mechanism for the reporting and immediate disclosure of foreign payments. The administration approach would delay disclosure for 1 full year, thereby muting the desired effect of providing this information to the public and foreign governments for further evaluation when necessary.

Without the disclosure of the Lockheed payments by the Subcommittee on Multinational Corporations, we would not be seeing the wholesale political cleanup and in my estimation, the strengthening of the entire political party structure in Japan. S. 3379 would make this disclosure a permanent and ongoing governmental effort. The greater the delay in providing this information to the public, the greater the risk that parties involved would engage in a coverup.

The question is one of accountability for U.S. corporations and our own government. We owe it to the American taxpayer, the corporate stockholder, American business, and to foreign governments in whose countries U.S. corporations operate. As the Post editorial indicates:

> Under the Church requirement, Japanese prosecutors would have been automatically alerted to the inexplicably large fees that were being paid by Lockheed on the Tristar sale.

Mr. President, I ask unanimous consent that the editorial in the Washington Post be printed in the RECORD:

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MR. TANAKA AND LOCKHEED

First the Japanese government pitched its former premier, Kakuei Tanaka, into jail for three weeks in its investigation into the Lockheed case. Then it indicted him and released him on bail—the highest bail ever set by a Japanese court on a bribery charge. Japan is hardly unique in the excessive amounts of money drawn into its political life. But it is hard to think of any other modern democracy that has treated a man of equal rank with such dramatic severity. Even Mr. Agnew was never locked up.

As the prosecution of Mr. Tanaka proceeds, it is useful for Americans to remember that it takes two to commit bribery—and the money in the Lockheed case came originally from the United States. Both Japan and the United States will hold elections this fall. In both countries, the question of international bribery is being raised at a time when the politicians are forced to pay attention.

The drastic character of the Tanaka prosecution is related to the intense rivalries among the factions of the Liberal Democratic Party that has governed Japan for almost three decades. When Mr. Tanaka was forced to resign as premier in 1974, as a result of earlier and lesser scandals, he continued in control of one of the party's largest factions. He had always been a spectacularly successful fund-raiser, and the influence that he derived from the flow of contributions continued undiminished. He remained the most powerful man in the party, and he is not the forgiving sort.

His successor as premier, Takeo Miki, discovered last winter that either he would have to prosecute Mr. Tanaka or Mr. Tanaka would devour him. But Mr. Tanaka began to get help from some of the other party leaders—men who had had no part in the Lockheed affair but who apparently feared the effects of a thorough investigation on the party structure. In May, several of the factions joined in an attempt to oust Mr. Miki. Instead of going quietly, he hit back. He declared that he would not leave office until the Lockheed scandal had been resolved. A surge of public support sustained the premier in power and two months later Mr. Tanaka went to jail. This week he was formally charged with taking $1.7 million in bribes to persuade a domestic Japanese airline to buy 21 Lockheed Tristars.

It would have been unfortunate enough to have any American corporation involved in this kind of transaction. But Lockheed is not considered, in other countries, to be just another American company. It is the largest U.S. defense contractor, and it owes its existence to federally guaranteed loans. It is seen abroad as almost an arm of the U.S. government. Its misdeeds, thus, have done proportionately great damage to this country and its reputation.

What does the United States propose to do to prevent a repetition? Last spring Congress added a line to the military aid bill requiring defense contractors to report all foreign fees and commissions to the State Department. That is a beginning, but a very modest one. In the Japanese case, after all, Lockheed was selling civilian aircraft.

Sen. William Proxmire (D-Wis.) has called for criminal penalties for bribing foreign officials. The Ford administration, instead, has proposed a rule of disclosure of all fees paid by American companies to promote foreign sales. At first glance the disclosure rule might seem weak, but it promises to work more effectively in practice than Sen. Proxmire's criminal sanctions. Jimmy Carter, the Democratic candidate for President, derided the administration's position the other day as "a proposal to allow corporations to engage in bribery so long as they report such illegal transactions to the Department of Commerce." But Mr. Carter hasn't yet got a good grip on the issue. International bribery is typically carried on through layers of subsidiaries and intermediaries; it's very difficult to prove criminal intent at the point at which the money leaves the United States. If a transaction takes places in Japan, it's up to the Japanese courts to decide what's illegal.

But there is one gaping defect in the administration's disclosure plan. Payments would be made public only after a delay of one full year. Why give a year's grace? The best solution comes from Sen. Frank Church, whose Subcommittee on Multinational Corporations was mainly responsible for bringing the Lockheed case to light. Sen. Church recommends full and immediate public disclosure of all fees paid on foreign sales, except for the rare exception that would severely impair national security.

Under the Church requirement, Japanese prosecutors would have been automatically alerted to the inexplicably large fees that were being paid by Lockheed on the Tristar sale. Only the Japanese government could pursue the matter beyond that point but, as Mr. Miki is demonstrating, the Japanese government is quite prepared to follow the chain to its end.

There is one heartening aspect to the squalid affair of the Tristar bribes. In both Japan and the United States, voters have been outraged and the search for effective sanctions has become a campaign issue. An accusation of bribery has suddenly become unprecedentedly dangerous to a politician—as Mr. Tanaka can testify.

LONG LIVES OF PRESIDENTIAL CANDIDATES WHO LOST

Mr. MATHIAS, Mr. President, on August 19 there appeared in the Baltimore Sun a short piece by Theo Lippman, Jr., on the spirited patriarch of the Republican Party, Alf Landon. Forty years ago Mr. Landon was badly beaten in his well-remembered run for the Presidency against Franklin Roosevelt, a setback that failed to diminish the Kansan's wry sense of humor and tremendous political vigor. He has been a prominent and respected figure in our party ever since. At the venerable age of 89, Alf Landon is unimpaired in every way. Mr. Lippman's Sun column takes note of this and of the long lives of other Presidential candidates who lost lopsidedly, and as there may be some comfort in these examples in an election year, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY LANDON IS ALIVE AT 89

(By Theo Lippman, Jr.)

The Republicans put Barry Goldwater, who ran the third worst presidential race in Republican history, and Alf Landon, who ran the second worst, on the podium the same night. They might as well have made it a clean sweep and brought up Senator Robert Taft. His grandfather ran the worst Republican race ever.

Barry got 38 per cent of the major-party vote, carrying only six states in 1964. Alf got 37 per cent and two states in 1936. Taft got 36 per cent and two states in 1912. He is the only major party nominee ever to come in third in a Presidential race. Teddy Roosevelt running as a Bull Mooser came in second to Woodrow Wilson that year.

The worst performance in two-party competition belongs to a Democrat. John W. Davis got 35 per cent in 1924 (but carried 12 states).

As a rule, Presidents who die natural deaths live longer than the men they defeated. But Taft outlived Wilson. Alf outlived FDR. Barry outlived Lyndon, Davis outlived Coolidge. Could it be that suffering the political humiliation of a landslide loss toughens a man against mortal ills? It certainly gives a man a healthy sense of humor.

In a December, 1936, speech Landon summed up his reaction to the debacle in this delightful way:

"The Kansas tornado is an old story. But let me tell you of one. It swept away first the barn, then the outbuildings. Then it picked up the dwelling and scattered it all over the landscape. As the funnel-shaped cloud twisted its way out of sight, leaving nothing but splinters behind it, the wife came to, to find her husband laughing. She angrily asked him. 'What are you laughing at, you darned old fool?' And the husband replied, 'The completeness of it.' "

There is another theory about why Landon is so fit as he nears his 90th birthday. It seems that during that campaign H. L. Mencken got Alf's mouth watering for Maryland fare. He was used to plainer vittles. As Mencken explained, "On the steppes of his own state oysters are rare and costly, and eating them is looked upon as a somewhat risque pastime, almost like drinking champagne."

So after the election Landon was Mencken's guest at the old Southern hotel for: "Choice Chesapeake Bay oysters, Terrapin a la Maryland, Maryland beaten bisquits, chicken a la Maryland, Maryland ham, Maryland hearts of lettuce, Maryland water ice, Maryland whisky" and appropriate wines. Free State nutritionists say Landon is still hale and hearty at 89 because he ate such a meal. Kansas nutritionists say he is because he ate only one.

YOUTH SAVES ANONYMOUS FOURSOME

Mr. JACKSON. Mr. President, more often than not the news that we place in the Record of the Senate is bad or gloomy. Therefore, I think everyone will share my pride today in Martin Crapo, a 17-year-old resident of Olympia, Wash.

Martin is a student at Timberline High School. He keeps himself in good physical condition as a wrestler and a football player and, in his complete young life, he also happens to love the outdoors, especially fishing.

Martin's assets combined during the rough day on Offut Lake to give him the strength to save the lives of four persons who were thrown in the water from an overturned boat. Mr. Crapo will receive the Alert Youth Award, from the National Association of Mutual Insurance Agents, on September 19. And, I think the U.S. Senate also owes him a vote of thanks as a deserving young American.

Mr. President, I ask unanimous consent that the full article on Martin Crapo, which originally appeared in the Olympian, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Youth Saves Anonymous Foursome

(By Dave Hendrick)

A trip to a girlfriend's home, an afternoon fishing, a trip in a boat and the rescue of four persons who probably would be dead now if he hadn't happened by.

That was the way 17-year-old Martin Crapo, 7331 Ridgemont Drive SE, an 11th grader at Timberline High School, spent his Sunday afternoon last week.

With the fishing season opening last Sunday, Martin and his brother decided to go to Martin's girlfriend's house. His girlfriend, Sandy Blumberg, a 17-year-old attending Tumwater High School, lives in a two-story home on Offut Lake.

Martin's attention was not centered on Sandy, but the lake where fish were to be caught.

Martin, using the Blumberg sailboat, without the sail, rowed about 50 or 60 yards out onto the lake where he threw out his fishing line and patiently waited for the fish to chomp.

The water was choppy, believed to be the reason the fish weren't biting, according to Martin. But the afternoon soon became more than a fishing trip when the sound of a boat's propeller racing out of the water echoed on the lake.

Martin looked to see a flat-bottom boat tipping over. The two occupants, an elderly man and woman, fell into the cold water. They were wearing heavy clothing and no life jackets.

Realizing the man and woman were in trouble, the youth quickly rowed his unsteady skiff to the floundering, splashing couple.

"They were gagging and coughing," Martin said. "They were in trouble."

Martin clutched the woman's arm and pulled it over the side of the boat, then grabbed the man and put his arm over the side. When Martin turned to see the woman, she was falling away from the boat. Martin grabbed the woman's other arm, but it was holding something. It was a little boy.

Martin grabbed the blond child and pulled his arms over the side of the boat. He was spitting up water and coughing, Martin explained.

Then, Martin looked at the man and noticed blond hair just under the surface of the water.

"God," Martin said, "It was another kid."

Martin pulled the second boy out of the water by his clothing and draped his arms over the side of the boat. All four were upset, choking on swallowed water and clinging to the side of the tiny craft.

"The boat almost tipped over because they were holding on," Martin said. "If it had (tipped over), they would all have gone under. I wouldn't have been able to save them all without that boat."

Homeowners from the shore watched while the football letterman and wrestling buff rescued the four, none of whom could swim. A couple of the neighbors took boats out and picked up the four persons, leaving Martin behind.

Rather than row back to shore, Martin picked up all the litter which had fallen from the boat and put it in his boat.

"I just don't like that trash messing up the lake," he said.

When the collection was completed, Martin rowed his boat to a pier where the near-drowned victims had disembarked, heading for a house and warmth.

Martin dumped the trash and rowed back onto the lake, still wanting to catch a mess of fish for dinner. While out on the lake he thought about Sandy and the four people he had saved.

After about an hour of no fish, he went to find out how the four persons were doing.

"Hey kid," someone yelled at him. "D'ja find the old man's wallet?"

"No," Martin said he replied.

Martin went back to Sandy's house and watched television for the rest of the afternoon.

He said he would rather have been fishing, but the water was too rough. He never did learn the names of the four persons who owe their life to him.

SELLING ARMS

Mr. GOLDWATER. Mr. President, it is difficult today to observe or listen to any part of the media of the United States and not hear or see tirades against our country for selling arms to other countries. Iran is the particular target of those people who seem to have as their destiny the destruction of our aircraft industry because Iran has been purchasing some of our best equipment. One of the networks, for example, just this past week carried a 1-hour show entitled the "Selling of the F–14."

Now when a country makes a better product than another country, that product is going to be purchased; I do not care whether it is a mouse trap or a fighter plane.

The Shah of Iran probably knows better than any ruler in the world of the dangers of the Soviet Union placed as it is on his border and he must guard, not only against them by air, but by land and he is also fully aware, which we are not, of the strategic importance of the Indian Ocean. It would be folly for the Shah not to buy the best equipment he can obtain, but if we wind up not selling our equipment to anyone, including Iran, they will merely turn around and buy it somewhere else. For example, the French make a very good fighter aircraft that could be adapted to Iranian use, but I would hate to see our giant aircraft industry, which is the biggest one that we have, employs probably more people than any other industry, and covers more of the country than any other industry slowly go out of business because of some malcontents in this country who feel that the quickest way to peace is for us not to sell equipment to other countries.

Of great interest to me is why we do not see some of the networks conducting television shows on why Japan outproduces the United States in radios and televisions? In fact, if my figures are wrong it is because of a faulty memory, but it seems that Japan supplies us with about 70 percent of all radio and television equipment.

Now here we are the pioneers of modern communications and yet, we cannot even hold up our end in this very important industry. It would be interesting for some network to put on a show demonstrating why foreign automobiles are making such giant inroads into a field that we once dominated completely. As long as there is the threat of trouble in this world, wise nations and wise leaders will see to it that they are strong because the moment a country becomes weak that country begins to slip out of existence. There is nothing new about this. It has happened to every fallen country in the history of the world. I do not want to see it happen to the United States, nor do I want to see it happen to such an important ally as Iran which faces up to the threat of the Soviets as no other country does.

FULL EMPLOYMENT AND BALANCED GROWTH ACT: THE BASIC MORAL RESPONSIBILITY OF GOVERNMENT

Mr. HUMPHREY. Mr. President, more than anything else, the basic morality of our society and the quality of our democratic system are measured by one thing: the degree to which our people have the opportunity to live up to their full creative and productive potential.

Every willing and able man and woman denied meaningful work at decent wages constitutes a contradiction of our moral and political standards. Whether we admit it or not, a dangerous state of moral and political decay exists when millions of men and women are deprived of work and consigned to poverty and despair, as they are even in the absence of the increasingly frequent and severe recessions which plague our economy.

It is this prevailing weakness of our economy—this moral inadequacy because we have allowed substantial unemployment to exist even in the best of times—that the Full Employment and Balanced Growth Act of 1976 is meant to answer.

Mr. President, the view that the Naton's tragic unemployment is basically a moral problem has been eloquently expressed by Mrs. Coretta Scott King. Widow of the great Reverend Martin Luther King, Jr., Mrs. King is president of the Martin Luther King, Jr., Center for Social Change, and coleader of the National Committee for Full Employment.

In a recent article in Newsweek magazine, Mrs. King described the Nation's chronic unemployment as an essentially moral problem and the bill as an effective and long needed response to a condition which can no longer be tolerated. The legislation, which I have introduced in the Senate and which Representative AUGUSTUS HAWKINS has introduced in the House, mandates the Administration and Congress to develop and implement the long- and short-range policies and programs required to reduce adult unemployment to 3 percent within 4 years while maintaining adequate safeguards against inflation.

Fundamentally, the legislation sets forth the comprehensive framework and the procedures by which the administration and the Congress can achieve and sustain the economic circumstances which will promote maximum activity on the part of commerce and industry and thereby expand job opportunities in the private sector to the maximum. In acknowledgement that everyone willing, able and seeking work should have the opportunity for meaningful employment at decent wages. The bill requires that the shortfall between the employment goal of the measure and achievements of commerce and industry will be filled with temporary federally funded economic development, public works and facilities and public employment programs.

To the fullest extent possible, people would be taken off the welfare rolls and given public employment opportunities. In this way they will be paid to perform useful work instead of being paid to do nothing while they abandon hope for a better future. More importantly, the legislation directs that job training programs be established wherever they are needed to give the unemployed and underemployed a chance to acquire the skills that will allow them to become productive members of our competitive enterprise system.

Mr. President, by its very nature, the Full Employment and Balanced Growth Act of 1976, is a complex, and in some respects, a highly technical proposal. But underlying all of its provisions is the basic conviction that achieving and sustaining a full employment economy is a moral, first priority responsibility of our Government. That is why I ask unanimous consent to have excerpts of Mrs. King's remarks published in the AFL–CIO News printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

WHY WE STILL CAN'T CAMPAIGN FOR FULL EMPLOYMENT IS A SIMPLE DEMAND FOR JUSTICE

(The following is excerpted from an article that appeared in the Aug. 16, 1976, issue of Newsweek and is printed with permission. Mrs. King is president of the Martin Luther King, Jr. Center for Social Change and co-leader of the National Committee for Full Employment)

Twelve years ago, when my husband, Martin Luther King, Jr., sat in the Birmingham jail during the civil-rights campaign in that city, he received a letter from a group of concerned white clergymen. While they recognized the clear justice of his cause, they wondered would it not be better to ask for less and accept that one must wait for progress.

My husband's answer, written on scraps of paper and smuggled out of his cell, was one of the great documents of the civil-rights movement. The "letter from a Birmingham jail" laid out for all Americans the moral and social reasons why we can't wait."

I was reminded of Martin and the letter from a Birmingham jail recently when I went to Washington to testify in favor of the "Humphrey-Hawkins Full Employment and Balanced Growth Act of 1976"—a measure that would commit the government to take all practical steps to lower unemployment to 3 percent for adults by 1980. Although the issue was different, full employment rather than civil rights, and involved both black and white Americans, once again the less fortunate were being told that practical men had decided for them that it would be better to "wait."

My husband can no longer raise his voice in reply, but there is no question what his answer would be. There are three burning reasons why America's jobless cannot wait for some far-off day before we have full employment.

The first reason is that our current high unemployment is nothing less than a guarantee that America's future will hold deterioration rather than progress. The men and women bread-winners of America are not isolated individuals but a pivot on which the whole health of our community depends. A man with a decent job is a provider for his children and a model for their behavior. He is the support of his aging parents and a force for stability in his neighborhood and city. Clean and safe streets, decent housing, adequate medical care and even racial peace are all goals that can only come from a base of stable jobs. Without decent jobs, neither the "special programs" of the cautious nor the pious lectures of the uncaring can do anything but add the insult of indifference to the injury of unemployment.

Nothing less than the future of America is at stake. Right now a new generation is growing up, all too many in homes where the parent is without work. Tolerating high unemployment in 1980 will be nothing less than a guarantee that we shall walk down dirty streets, past bitter youths and sad-eyed old men, on into the 21st Century. High unemployment is nothing less than a vile investment in continuing decay.

The second reason why America's unemployed cannot wait is that the last 30 years have offered compelling proof that waiting is no solution at all. Do we really need to be reminded that the many postwar cycles of prosperity and recession have always left millions of Americans behind? Have we forgotten that in 1968, when the deceptive unemployment rate was below 4 percent the ghettos of America were in flames? Millions of people involuntarily work parttime or shuffle from one poverty-level job to another.

Genuine full employment requires a major improvement of our educational system and expanded job training to prepare the unemployed for good jobs. It requires tax and regulatory policies to ensure that jobs are located where people can reach them, and not policies that encourage the "export" of jobs to foreign countries. It requires not "leaf raking" but major investment in mass transit, in energy and a host of projects that will benefit all America. And not a single one of these things will be achieved by waiting. Full employment will be achieved by forceful government action or it will not be achieved. The proposal that we wait is in reality the proposal that we do nothing.

The final and more compelling reason why America's unemployed cannot be told to wait is that full employment is at base a moral issue, and questions of justice cannot be solved by waiting. We who support full employment know full well that there are realistic limits to our economic capacity and we do not ask for miracles. All we seek is an America where every person is given the chance to productively contribute to his country and where he can receive a fair and equitable share of the wealth that production creates.

There is no economic mystery in this; only a simple demand for justice. The current government policy, on the other hand, is deeply unfair. Accepting unemployment to control inflation amounts to choosing the people at the very bottom of the economic pyramid to bear the entire economic burden. In the so-called war against inflation, America's 10 million unemployed have been made the Administration's conscript army.

Yet, there are those who try to avoid this moral issue. Full employment is indeed a just and decent goal, they say, but it is just too complex to be solved with a clear and direct government commitment to its elimination.

For myself, if the alternative to full employment is simply to wait, to tolerate in silence the shattered dreams of jobless youth and the broken hearts of laid-off old men, then my choice is clear.

America's jobless cannot "wait," not only because waiting is no solution and not only because waiting has social consequences that are frightening to contemplate, but because to do nothing when we have the capacity to act is morally and socially wrong.

TV VIOLENCE

Mr. HATFIELD. Mr. President, many people have risen to decry the effects of violence on television. Emeritus Professor James T. Watkins of Stanford University, however, has called my attention to an innovative organization that puts action behind opinions.

This organization, the National Correspondence Group, is dedicated to making television a public asset, rather than merely a stage for the crowd-attracting violence that so often dominates prime time programs.

To do this, the group rates television shows on a violence scale covering incidents from fist fights to hangings. It then publishes its finding in a magazine entitled Viewer's Disgust. A weekly detective program in June earned a rating of 831 points. To merit this score, the program squeezed three shooting deaths, an attempted murder by poisoning, a torturing, six attempted killings, three threatened shootings, four death threats, one displayed corpse, one kidnaping, seven assaults, two displays of bondage and two displays of destruction into a brief hour.

The key to Viewer's Disgust is that besides analyzing broadcasts, it identifies the sponsors of a specific program. For each month, the "10 top subsidizers of violence" are then compiled in a feature labeled "The Hit Parade." This provides a target for consumer protest by letter or boycott. A letter blitz against companies making the top 10 may make commercial slots on violent shows less desirable and prompt their replacement by programs of a more worthy nature.

I commend the efforts of the National Correspondence Group. These concerned individuals have perceived a menace to American society, sought its causes, and designed an attack. Television violence is a menace. It has gained a prominent role in the family room not because it is particularly entertaining, informing or enlightening, but because it attracts crowds by reaching the lowest common denominator among viewers.

Because it is a powerful medium, control over television is an important responsibility. We can use it to educate and inspire or simply to massage inactive minds. In either case, the tube shapes the lives of millions of Americans. When an individual is bombarded with tortures and death followed by romantic bliss, the horror of human suffering, the vileness of crime and the preciousness of life are slowly beaten out of human consciousness.

Mr. President, I ask unanimous consent that an article from Campus Report describing the efforts to combat TV violence be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

New Network's Correspondents Wage War on TV Violence, Get Results

Two Stanford graduates are waging a small war to bring peace to television, and it's starting to pay off.

The two are Lewis R. Mills, who earned a doctorate in biophysics in 1973 after undergraduate work at Yale, and David Kilbridge, a Cornell graduate who earned a master's degree in mathematics at Stanford in 1970.

With the help of Stanford graduate students Paul Berka and Jerry Amundson, among others, they rate television shows on their own violence scale, ranging from 2 points for a push or a shove to 50 for murder.

With a small circle of Palo Alto friends, they formed the National Correspondence Group less than a year ago. They are dedicated to getting television back to sanity and away from rape, murder, exploding cars, indiscriminate shootings and all other forms of violence.

They publish their findings in Viewer's Disgust, a monthly magazine with up-to-date information on all TV programs with excessive violence, incluring their sponsors, and The Target List, a handbook for appalled viewers who want to write the sponsors and complain, or use the consumers' ultimate weapon—boycotting the sponsors' products.

Conversely, the list can also be used to offer praise for programs that meet their standards.

In five months, the NCG has grown to 800 members in 42 states, each of whom, they estimate, writes at least one letter a month admonishing networks or sponsors.

All this activity emanates from the attic of their old house in downtown Palo Alto, and their Post Office Box No. 1039, Palo Alto, Calif., 94302. (Ph. 329-1586).

At the moment both Mills and Kilbridge are devoting full time to their television rating project. So far they have had to dip into savings to keep the group and the publications going.

This all got started last June when they heard about a particularly violent and sadistic film, "The Texas Chain Saw Massacre."

"If we don't do anything," Mills recalls saying to Kilbridge, "that kind of stuff will be showing up on television."

RANDOM VIOLENCE

Mills, Kilbridge and their NCG members select violent programs at random from the Bible of the industry, *TV Guide*.

After they view the programs and rate them on their violence scale they come, up with a simple like the one in "Disgust" for January.

Top prize went to "The Super Cops," a CBS Friday Night Movie which garnered a violence rating of 975 for three shootings resulting in injuries, four attempted shootings, two shoot-outs, nine threatened shootings, two armed break-ins, three other displays of guns, one shooting of a phone booth, one attempted strangling, four death threats, six armed assaults, four other assaults, five fights, one display of a corpse, one purse snatching and "several displays of destruction of a building by a wrecking crew while the (police) rookies chase drug dealers through it."

Leading all others in the February-March period again was the CBS Friday Night Movie, "The Getaway," which polled a whopping 1,023 violence points.

Next was "The Rookies," 876, a movie, "The Taking of Pelham 123," 548, and City of Angels, 475. They were followed by Petrocelli, Joe Forrester, down through Jigsaw John, Hawaii Five-O and Cannon, to the Blue Knight, which polled a relatively calm 95.

Members of The National Correspondence Group subscribe at $4.50 per year. They propose:

"1) To persuade TV sponsors to stop subsidizing violence on TV;

"2) To get sponsors to start taking pride in the programs they sponsor;

"3) To help make television a force always on the side of sanity and civilization, never on the side of murder, mayhem and mediocrity, and

"4) To work for programming of greater variety and quality that can attract large audiences by appealing to people of different tastes, not programming that attracts large audiences by restricting itself to the basest common denominator in taste."

Initial sponsor response to letters of protest, the two report, was to pooh-pooh the complaints. Companies suggested that the protesters were seeking to "censor" the programs against the Constitutional right of free speech.

Several large sponsors, including Borden, Procter and Gamble, Bank of America, 3M Co., and Montgomery Ward, now subscribe to the digest and target list at the commercial rate of $15 a year.

The two are convinced their group was responsible for General Foods withdrawal of sponsorship of programs that NCG had cited as too violent, and bombarded with critical mail.

The NCG deals only with network programs at present. There are more members in the Midwest than on the East or West Coasts, but Mills and Kilbridge hope to build up strength in California, which has something like 20 million potential viewers.

Their correspondents make out numbered report cards which correspond to programs and sponsors on the "Target" list.

"We got a 60% response from the cards in January alone," Mills reported.

"There's really no evil intent on either side of the tube," Mills explained. "They're caught in a vicious circle. The sponsor knows a certain type of program attracts the largest viewing audience, which gievs him a better return for his advertising dollar. They seem to be caught in a cycle that they can't control, and the broadcasters are aware of this."

SPONSORS DON'T CARE

Mills and Kilbridge have read "hundreds" of research reports on the social and psychological effects of television violence, including the work of Profs. Alberta Siegel, Eleanor Maccoby, and Albert Bandura of Stanford and Prof. George Gerbner, professor at the Annenberg School of Communications at the University of Pennsylvania.

"None of them support it and all think it's bad, especially for children and for disturbed persons," Mills said, "but the sponsors don't yet care about the individual effects; they just want to sell their products."

They concluded that change in television programming can only come from outside—from economic reprisals, including boycott.

They would like to see the formation of viewers' clubs, which could meet once a week to compare notes on a wider variety of programs, and then write well-informed letters of complaint (or praise, if deserved) to the sponsors.

"We're just too understaffed to undertake more than we're doing at present," said Mills.

Their publication efforts are supported by Palo Altan Shirley Radl, in whose garage "Disgust" and "Target" are printed.

"As television regains its sanity, the NCG will shift its attention to the movie industry," Mills and Kilbridge promised.

REV. GEORGE DOCHERTY RETIRES

Mr. MATHIAS. Mr. President, on the Sunday of August 29 the Reverend Mr. George Docherty delivered his farewell sermon at the New York Avenue Presbyterian Church in Washington.

Dr. Docherty has been pastor of New York Avenue Presbyterian for 26 years. He is a man of God and a man of the people, who has never hesitated to join social conflict.

Dr. Docherty was born in Scotland. He and his wife became American citizens in 1960, for which I am grateful.

On August 30 Marjorie Hyer wrote of Dr. Docherty's career and retirement in the Washington Post, and I believe a glimpse of the life of this good and courageous man would interest those among our colleagues who do not have the pleasure of knowing him. Therefore, I ask unanimous consent that Ms. Hyer's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Docherty Says Farewell After 26-Year Career At N.Y. Avenue Church

A Scottish-born clergyman, who has led one of Washington's major churches through America's last quarter century, looked back over his sometimes tumultuous ministry yesterday and found no regrets.

"It has been one of the most extraordinary and fulfilling careers a man could have and I would not change it for any other," the Rev. George Docherty said in his final sermon from the pulpit of the New York Avenue Presbyterian Church. More than 1500 people gathered at two services yesterday to hear the retiring pastor preach.

In his lilting Scottish accent, which a quarter of a century in Washington has not tarnished, Dr. Docherty touched on the highlights of his 26 years at the church which were woven inextricably with the national crises that never stopped at the church's doors.

When he agreed to leave Scotland to take over the church of the renowned Peter Marshall, Dr. Docherty said he originally "decided to stay for five years and see what would happen. But history itself took charge."

In his sermon, he ticked off some of the highlights of that history: the era of Sen. Joe McCarthy "who was searching under the bed for Communists" and against whose tactics Dr. Docherty preached; the 1954 "historic judgment against segregation" by the Supreme Court; and 1958, "when a black lady in Alabama refused to give up her seat on a bus" and the civil rights revolution began.

Dr. Docherty was deeply involved in civil rights activities. Both he and Mrs. Docherty went to Selma, Ala. in 1965 to join the voter registration rights march for blacks led by Dr. Martin Luther King.

In 1960, the Dochertys decided that their destiny lay with the United States and that they should become citizens.

The naturalization process presented no problems for Mrs. Docherty, but the procedure at that time required men to agree to serve in the military defense of the nation should the occasion arise.

Dr. Docherty balked. "I wanted to know the nature of the war that was being fought before I agreed to fight it," he recalled. The chances of inducting a 49-year-old clergyman who was married and had three children, into the armed services were slight, but he viewed his stand as a matter of principle.

Dr. Docherty, who had served as a chaplain with Scottish forces in World War II, went to court with his then unheard of theory of selective conscientious objection. He won.

Yesterday he recalled his encounter with the woman examiner who administered the historical part of the citizenship test.

"She asked me only one question: 'Who was Abraham Lincoln?' " the pastor recalled.

The anecdote produced the best laugh of the day from the congregation. New York Avenue Presbyterian takes particular pride in the fact that Lincoln was one of 14 American Presidents who worshipped there, and Dr. Docherty, in the tradition of the place, annually preached a Lincoln sermon on the Sunday in February nearest Lincoln's birthday.

New York Avenue Presbyterian Church was founded in 1803 and claims to be the first Protestant church in the city of Washington. The church's downtown location combined with the convictions of its pastor have made the spacious structure a meeting place for a variety of social concerns over the years.

Dr. Docherty recalled yesterday that the church was the "headquarters of Resurrection City for white churches" during the 1968 Poor People's campaign.

Dr. Docherty was among the early opponents of the Vietnam war and the church was a center for antiwar activity.

"Gene McCarthy launched the Senate opposition to the Vietnam War here," the pastor recalled yesterday in chatting with a visitor. "What they needed was a public place to meet," he said.

More recently, the Washington Bar Association used the church for a luncheon "to explore the legal implications of what was for the first time beginning to be called Watergate," he said.

After his retirement, which becomes official Tuesday, Dr. Docherty will divide his time between writing and teaching. The teaching will be done at Episcopal Theological Seminary in Alexandria and the writing—"I hope to do a history of this church," he said—back in his native Scotland.

His successor at New York Avenue Presbyterian has not yet been chosen.

STUDIES QUESTION LEAA'S PERFORMANCE

Mr. BIDEN. Mr. President, several weeks ago, the Senate debated legislation to extend the life of the Law Enforcement Assistance Administration for another 5 years.

Because of doubts about the effectiveness of the LEAA in fighting crime, several of us sought to shorten its lifespan in order that a major restructuring could take place. Unfortunately, we were unsuccessful in this effort.

An article in the August 27 edition of the Washington Star points out many of the problems with LEAA that were raised during the debate in the Senate. In particular, the reporter cites two studies of the agency, one performed by the Center for National Security Studies and the other by the Twentieth Century Fund which have been highly critical of LEAA.

Because of the important questions raised by the article and the two studies, I commend it to the attention of our colleagues. I ask unanimous consent that the article from the Washington Star be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Safe Streets Act 8 Years Later: Crime Still Soars

(By Winston Groom)

"Shocked by the shooting of Sen. Robert F. Kennedy and angered also by steadily increasing nationwide violence and lawlessness, the House was determined to send a comprehensive crime control bill to President Johnson late today."—The Washington Star, June 6, 1968.

Less than two weeks later, President Lyndon B. Johnson signed into law the Omnibus Crime Control and Safe Streets Act, the broadest attempt in the nation's history to prevent crime at the local level by an injection of federal aid.

The very title of the act was a bold statement of its intent—to put the brakes on the criminal activity that was escalating so rapidly in city streets throughout America.

Several months earlier, the country had experienced the devastation of many inner city areas during the rioting after the murder of Dr. Martin Luther King Jr.

All through the early 1960s crime had been on the rise. During the space of a decade the number of robberies had tripled, murders increased by 75 percent and drugs and drug-related crimes proliferated in an alarming way.

Crime had become a public issue, and the federal government had decided to step in—into a province that previously had been left up to the states.

The major provision of the act signed by Johnson provided billions of dollars, mostly to states and local governments, for crime control and created a new agency under the Justice Department, the Law Enforcement Assistance Administration, to head the program and develop sophisticated new crime prevention techniques.

"Clearly," the president said at the time, the country's law-enforcement agencies needed "large-scale federal financial assistance to help them plan, organize and mount a concerted and effective attack on crime."

That was eight years ago, and the following problems prevail and persist:

Crime rates continue to soar. Last year alone, reported crimes jumped 18 percent, the largest increase since the FBI began collecting national statistics 50 years ago.

State and local courts, with few exceptions, remain overloaded.

Jails and prisons remain overcrowded and in poor condition.

Many legal procedures, such as sentencing, parole and probation, remain cumbersome and uncoordinated.

In the wake of these continuing difficulties, the very tenets of the Omnibus Crime Control and Safe Streets Act are increasingly being called into question.

During the past several months, three reports on the act's programs have been released by private study groups. Two of the reports were highly critical and the third, commissioned by LEAA itself, concluded that "the initial crime reduction goals set at the start were too ambitious."

As official articulator and administrator of the Safe Streets Act, the LEAA takes exception to much of the criticism, asserting that it was never intended to stop crime, but merely to help the states with their own crime prevention programs.

"There isn't any place in the law that says we have to be able to stop crime," says LEAA's deputy director, Paul Wormeli.

Wormeli says that the Safe Streets Act imposed three mandates: to encourage local police to plan their own war on crime, to give grants to states and local jurisdictions, and to perform research and development.

"How can we be expected to have a big impact on crime when we only control 5 percent of the total amount of money spent on crime control in this country?" Wormeli asks, adding that it is LEAA's opinion that the agency is fulfilling its mandates.

Critics of the program, however, feel that the billions spent under the act are being wasted. "If the LEAA thinks what it is doing is worthwhile, it may be the classic example of a case where the operation is successful, but the patient died," said one observer of the program.

A new report, due to be released this month, comes down especially hard on the act and LEAA's administration of it. In fact, it recommends that LEAA be disbanded.

"The nation is in no better position today than it was when the Omnibus Crime Control and Safe Streets Act of 1968 was enacted. Crime has increased and no solutions to the crime problem are on the horizon. It is the conclusion of this report that the LEAA program should be abolished," said the study, directed by Washington lawyer Sarah Carey, and published by the Center for National Security Studies, described as a private, nonprofit research group with headquarters here.

The study pays particular attention to the so-called "high impact" program, the most ambitious plan ever conceived by LEAA, under which $160 million was channeled to eight major cities in an effort to reduce the kind of "stranger to stranger" street crime that most citizens fear. The cities were Atlanta, Baltimore, Cleveland, Dallas, Denver, Newark, St. Louis and Portland, Ore.

According to the CNSS study, the high impact program was an "irresponsible, ill-conceived and politically motivated effort 'to throw money at a social program.' "

"The program imposed multiple levels of red tape," the study said. "It had no clear objective and no preconceived idea of what would work."

Finally, the study said the high impact

program, "did not produce significant results in regard to crime."

LEAA officials are furious over the CNSS study, and charge that it is arbitrary and unfair. LEAA Director Richard Velde told senators considering the agency's authorization bill that he has tried unsuccessfully to get a copy of the CNSS study, but was told that Carey ordered it to "not to be given to any government agency."

He criticized it by complaining that "neither the Center for National Security Studies, nor Mrs. Carey has an established reputation for expertise in criminal justice matters." Carey, he charged, "has little or no experience in the improvement of state and local criminal justice systems."

Indeed, Velde said, "the basis for many of her criticisms is a distortion of the contents of a lengthy, careful and independent study made public by LEAA (in March), by the Mitre Corporation," a private research firm hired by LEAA to do a $2.4 million examination of the high impact program.

Eleanor Chelimsky, director of the Mitre analysis, says this of Carey, according to remarks printed in the Congressional Record:

"She is quite comfortable with her monolithic view that crime is a simple problem and that we can make it go away if we just belong to the right political denomination or get rid of the bad guys."

The Mitre report is much less critical of LEAA and the Safe Streets Act program, but it pointed up shortcomings including confusion between states, local government and the federal government over their respective roles, unrealistic projections of crime reduction, inattention by supervising authorities and conflicts between rival government agencies.

While the Mitre study has found some crimes reduced in some cities, it concluded that robbery and other violent crimes "worsened over-all" since the program began four years ago.

Another study of Safe Streets programs conducted by the Twentieth Century Fund, a prestigious nonprofit group, falls somewhere in between the CNSS survey and the report provided by Mitre at LEAA's request.

But the fund's report comes down hard on LEAA for "encumbering the planning process with red tape.

"The agency has spent hundreds of man-hours and millions of dollars in bureaucratic hairsplitting with 55 state and territorial planning agencies over the adequacy of the plans," the report says.

Furthermore, it charges that the agency is reluctant to withhold grants to the states, so that even if a state agency submits what LEAA feels is an inadequate plan, "its negotiations with (the states) is sort of a ritualized bureaucratic dance, its threats a charade."

The fund's study makes numerous recommendations as to what should be done, including the suggestion that LEAA concentrate more of its energy on such problems as organized crime, developing more accurate methods of obtaining and reporting crime statistics, and less time and money on such things as comprehensive state planning and "showy but unproductive hardware."

The study urges Congress to "exercise more vigorous oversight" regarding LEAA activities and recommends that unless there is a general restructuring within the agency, its appropriations not be extended for more than two years.

LEAA reacts to this criticism with a certain kind of stoicism. "LEAA conducts its business in the open. It expects to be criticized when it is wrong," Velde said recently, adding that he is not entirely satisfied with some of its programs.

But over-all, the agency views itself as successful. Velde and his aides and supporters like to answer their critics by comparing LEAA with organizations pioneering medical or other complicated research into the unknown.

"Why would one abolish LEAA because crime rates are up?" says Chelimsky, "this is like abolishing the National Institutes of Mental Health because there is more schizophrenia."

And LEAA supporters point proudly to a highly controversial statistical method recently developed by the agency to measure criminal activity. Called a "victimization survey," the statistics showed that crime was actually down in many cities even though the FBI's Uniform Crime Reports showed it was on the increase. LEAA suggests that new and better crime reporting techniques have led more people to report crime, but that in many cases people are much less likely to be victims of crime than they had suspected.

Certainly it is welcomed by the states. "We'd be in a hell of a fix without it," a Midwestern police chief said in a recent issue of a government magazine.

In the end, however, the value of the Omnibus Crime Control and Safe Streets Act will most likely be judged in relation to the crime rate. Simply put, Congress seems leaning toward the question: Is all this money producing results? Are we stopping crime with it?

Carey and other critics of the way the act is administered say unequivocally, no—that most of the money has fallen victim to red tape and bureaucratic mismanagement.

But LEAA and its supporters argue that given the enormous crime problem, it is simplistic to believe that any significant impact can be generated in only seven years.

"How are we to know," says Deputy Director Wormeli, "that crime wouldn't be much worse than it is now without the federal funding provided by the act?"

THE CONCORDE

Mr. GOLDWATER. Mr. President, by now we have seen enough of the operation of the British-French Concorde to know even more fully that the United States, through the actions of Congress, made one of the biggest mistakes it ever made when it disallowed further development of American SST. I do not mean by this that the Concorde operation is profitable, it probably will not be profitable with the current aircraft, but they are doing a performance that would be the pride of any airline in America with its dependability of flights, turn around time, and so forth. An interesting article appeared in Aviation Week & Space Technology of August 23 on this whole subject, and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Concorde Economics Keyed to Utilization

(By Rosalind K. Ellingsworth)

London.—Annual average utilization rate of 2,750 hr. for Air France and British Airways Concordes will have to be reached before officials of either carrier will begin to judge the supersonic aircraft's economic viability.

That utilization rate is not likely to be reached in the near future because it depends on both carriers being able to operate to all planned gateways—New York and Tokyo for both airlines, Buenos Aires for Air France and Johannesburg and Melbourne for British Airways.

In Australia and New York, anti-noise groups are fighting Concorde landings even though both the U.S. and Australian governments have given approval. The Tokyo route depends on the USSR allowing the French and British to establish a Siberian transit station and government landing permission plus rights to Paris and London for the Soviet Tupolev Tu-144.

ROUTE DELAY

The Johannesburg route will be delayed for some time because of the sensitive problem of having to land Concorde in a black African nation on the way to South Africa.

Because of the limited number of routes available and resulting low utilization rate, British and French airline officials say it is impossible to determine a representative break-even load factor on Concorde operations today. For their total limited current systems, Air France accumulates only 48 revenue hours a week on its three-aircraft fleet, and British Airways accumulates only 25 revenue hours on its two aircraft.

"Our utilization rate is pathetic," according to Gordon Davidson, British Airways Concorde director. "I can tell you we're making money on Concorde now, but we aren't making a profit." Through Aug. 1 on the Washington-Europe route, with Air France carrying 4,015 passengers on 59 flights and British Airways carrying 3,300 passengers on 40 flights, Air France had revenues of about $3 million and British Airways had revenues of about $2.5 million.

"The profitability of Concorde today is really not a serious question," Jean Claude Martin, Air France deputy director-general corporate planning, said.

Martin and Davidson would speak of Concorde profitability only in terms of flying a total Concorde system with the 2,750-hr. minimum utilization rate. At that rate, Concorde break-even load factor is 60–61%. Daily utilization of each aircraft at the total system rate would still be only about 7.5 hr.

At the total system utilization rate, Davidson said British Airways' Concorde service would have a break even load factor of 65% on all routes using a 10-year amortization period. On a 14-year amortization schedule, Concorde would break even at a 60% load factor. Most U.S. carriers use a 14-year or longer amortization schedule for their subsonic aircraft.

Martin is more specific. At the total system utilization rate, Air France would have a 50–55% break-even load factor on New York-Paris and Rio de Janiero-Paris service, a 65–67% break-even load factor on a two-stop Paris-Tokyo route and a 60% break-even load factor on Washington-Paris service.

"Concorde is heavier on fixed costs and lighter on direct costs than subsonic aircraft," Martin said.

DEBT RATIO

Air France is still negotiating with the French government on the amount of private debt that should be assumed by the carrier in relation to the amount of government debt that will be assumed.

"If we are not very careful about where the Concorde debt is placed in the company, we won't have any more private funds available to purchase other aircraft," Martin said. "The problem is, the debt will have to be shared for some time or private bankers won't give us any more money because of our poor debt/equity ratio."

Air France would prefer the split on debt to be 35% private, 65% government. The government has not yet agreed to this ratio and wants a higher level of private debt.

"The same situation applied when we wanted to buy Airbus," Martin said. "The aviation minister clapped his hands and said, 'buy Airbus, buy dozens,' The finance minister said no."

British Airways is contemplating stretching the amortization rate on its Concordes from 10 years to 14 years, because, as Davidson puts it, there will not be a replacement for Concorde during the shorter amortization period.

"I think Concorde is the supersonic transport of this century," Davidson said. "If somebody says to me there's going to be a second generation, 300-passenger supersonic transport, I say rubbish."

PRODUCTION REQUIREMENT

Davidson theorizes that it would take an order of at least 40 aircraft to get a second-generation aircraft into production. He notes that the majority of orders for any new aircraft come from U.S. domestic airlines who are not likely to be ordering any supersonic transports for domestic service because of sonic boom problems.

"U.S. domestic airlines have no reason to buy a supersonic aircraft because they won't be allowed to fly it at supersonic speeds on domestic routes," Davidson added. "Let's face it, they make a big boom."

Davidson said the sonic boom of Concorde has been a decisive factor in British Airways route selections for the aircraft.

"Concorde routes have to be over water or desert because of the bang," he explained. "Then there is the fact that Concorde is a business jet. Therefore its market is limited. You have to find two points where the market is highly business-dominated that are separated mostly by water or desert."

Martin and Davidson are both convinced the Concorde must serve New York to be the profit unit they are expecting, because New York has a large amount of locally originating transatlantic traffic as well as feed. They believe Concorde service will make a big impact on the other carriers' first-class traffic out of that gateway.

"We've got this century's only supersonic transport, and we're really going to do a creaming job on first-class traffic," Davidson said confidently. "And it astounds me that the presidents of TWA and Pan Am have said they're going to let us do it."

Although neither airline has obtained rights on all the routes where it planned to introduce Concorde service, both are pleased with the aircraft and market performance of the limited Concorde system.

Martin and Davidson are still unsure of the real character of the Washington-Europe market. Martin believes at first there were a large number of "aviation enthusiasts" in Concorde traffic figures. Both men agree there is, at this point, a sizable amount of pleasure traffic in the market, but they emphasize the Washington-Europe market is dominated by business and professional people.

"Concorde doesn't necessarily carry the corporate executive," Martin said. "It carries professional people; it carries young dynamic heads of small businesses. The corporate business [executive] is only a small part of its clientele."

"Concorde is still a novelty out of Washington," Davidson said. "How much is novelty, we don't know. We won't know until about this time next year [July] what Concorde's real, hard-core, permanent market is."

The majority of passengers boarding Concorde in Washington are from connecting domestic flights originating all over the U.S., including some from Hawaii. British Airways officials said that 25% of U.S.-originating passengers come from the southern portion of the country and half of that 25% come from Texas. Davidson said that makes Dallas/Ft. Worth an enticing future gateway to Concorde.

Air France said that more than one-third of its Washington outbound passengers are from connecting flights, and about one-third of all incoming passengers connect with domestic flights.

TRAFFIC TAPPED

"We know we are tapping very large amounts of traffic that is non-Washington," Davidson said.

About 75% of the outbound Air France traffic is American, and 60% of the total Washington-Paris market is American.

U.S.-bound European passengers come from all over Europe, Martin and Davidson agreed. Davidson pointed out that the European businessman appears to have no preference on whether he "connects with Concorde in Paris or London to get to Washington."

"We have gotten very fine support of Concorde from European business people as a whole," Martin said.

He added that Air France Concordes carry more passengers from other European nations than French passengers. In non-U.S. markets, the traffic is about one-third South American, less than one-third French and more than one-third European.

Even though total dispatch reliability of Concorde has been less than the 100% both carriers want—only 83% for Air France and 90% for British Airways, Martin and Davidson believe the Concorde's total reliability has been good, because most problems have been of a minor nature—malfunctioning indicator lights.

Because Air France has only three aircraft, and British Airways only two, reliability is essential to schedule integrity and planning confidence. One of the Air France Concordes was leased from Aerospatiale as a back-up, and was to be returned when the third aircraft was delivered Aug. 4. British Airways is still awaiting delivery of its third Concorde, expected in September now that negotiations have resumed between British Aircraft Corp. and workers at its Fairford Flight Test Center. A dispute over closure of the center had blocked delivery.

The limited number of aircraft and crews has prompted both carriers to approach scheduling and payloads with caution. The possible diversion factor, which figures in fuel reserves, arrival terminal weather and congestion, for Concorde flights has been made about five times as stringent as that for subsonic aircraft. In other words, Air France and British Airways will assume five times the risk for diversion of a subsonic flight to another airport than they will for Concorde.

British Airways' Davidson calls this approach "rather conservative" but maintains the essence of Concorde service is "regularity."

Air France has been forced to use a back-up aircraft four times since scheduled service began, once on the Rio route because of a basic overheating problem and three times on the Washington route.

The first 4.5-hr. delay from Paris to Washington on June 6 was caused by a flaw in the first layer of the three-layer laminated droppable visor. After takeoff, the first layer developed cracks, and the captain turned the flight around (AW&ST June 14, p. 26).

Later investigation revealed it would have not been necessary to turn the flight around, but at the time it was a "no go" incident.

DEPARTURE DELAYS

Another 2-hr. 39-min. delay June 9 from Paris was caused by the need to replace an engine thrust reverser. On June 11, as a Concorde was leaving the blocks in Paris for Washington, the inertial navigation system (INS) malfunctioned, and a new INS control system had to be installed, causing a 51-min. delay.

All outbound Air France Washington flights have left the blocks on time, but some have turned around or aborted takeoff. In one case on May 29, an overheat indicator light came on during takeoff roll because of an incorrectly set reverser dial and the takeoff was aborted. The flight was quickly rescheduled once the problem was determined and the fuel load topped off.

On July 31, Air France canceled a Washington-Paris flight when a primary hydraulic system indicator showed a low level of fluid after takeoff (AW&ST Aug. 9, p. 30). A fuel dump was made, and a low-level flyover past the Dulles International tower was performed to assure the right main landing gear was down and locked because an auxiliary system had been used to lower it.

FERRIED TO PARIS

After a full maintenance check, the problem could not be detected in Washington, so the decision was made to cancel the flight and ferry the aircraft to Paris for a more thorough maintenance check.

On June 20, a British Airways Concorde returned to Washington after departure because the end of the secondary airflow door actuating rod broke and the door was stuck closed, preventing cooling secondary airflow through the engine bay.

Because of repeated attempts to actuate the door, the drive motor was burned out requiring replacement of both the rod and the motor.

On July 29, British Airways delayed a London-Washington flight 24 hr. because of malfunctioning hydraulic systems on two aircraft. One aircraft had taken off, but returned to the terminal after 2 hr. when the primary hydraulic system showed a low fluid level. The second aircraft had not left the ground when the hydraulic malfunction was discovered. Both airchraft required new hydraulic pumps.

These problems have left Air France with a dispatch reliability factor of 77% inbound to Washington and 98% outbound. British Airways reliability has been 96% inbound to Washington and 98% outbound.

"For a new airplane, its pretty good," Davidson said. "It's not perfect, but then no airplane is."

Because Concorde is so electronics intensive—"everything's a black box," an Air France official said—parts stocks at each of the stations are a considerable investment.

British Airways and Air France have a more than $2.2-million 50/50 parts pool at Washington's Dulles. Each airline said every part that was not redundant on the aircraft is stocked at Washington and other stations. British Airways owns the only spare engine at Dulles, but has an agreement with Air France to make it available.

An engine change would cancel a Concorde flight, even if the malfunction were apparent at landing at Washington. The spare engine in stock would have to be configured to make it compatible for use on either the left or right side of the aircraft. The accessories would have to be removed from the malfunctioning engine.

Air France maintenance officials estimated it would take more than 18 hr. to replace the engine on the first failure, because at least 7 hr. would be used in fitting the engine with right or left accessories.

Officials expect that time would be reduced with experience but are not hoping for the experience.

Maintenance representatives from British Aircraft Corp., Aerospatiale, Rolls-Royce and Snecma are available to aid airline maintenance personnel at each of the stations. Other subsystems are maintained by airline maintenance specialists alone.

On landing, a regular daily maintenance check is made on Concorde, and the aircraft is made flight ready. Any special problems noted by the flight engineer during the flight are verified and repaired if necessary.

A regular pre-flight check is made prior to takeoff.

The Concorde total system reliability

figures of 83% for Air France and 90% for British Airways are giving Martin, Davidson, station managers and crewmembers confidence in the aircraft.

Cockpit crewmembers praise Concorde's handling characteristics and instrument accuracy.

Pilots noted that because Concorde is a supersonic aircraft, crewmember training emphasizes quick response times.

"That's one of the things in training you must emphasize most," Capt. Brian Calvert, British Airways flight manager said. "We give the pilots more and better information than they've ever had before."

British Airways pilots are advised to completely pre-organize their flight, preorganize settings on navigational systems "more than ever before," Calvert noted.

"The way to cope with increased speed is pre-organization," he continued. "That way one is always prepared."

"Of course your reaction times are more limited," Capt. Andre Gely, an Air France pilot said, "but that's not insurmountable. It's something you're carefully trained for."

Pilots also noted that Concorde's three-axis stabilization system and combined control surfaces or elevons, make the aircraft easy to manage, or as Calvert said: "takes the sweat out of it."

Crew approval of Concorde is echoed by the passengers, according to Martin and Davidson. Both carriers ask passengers to fill out survey forms during flight commenting on various facets. Air France said 87% of its passenger survey forms have rated Concorde service good to excellent. British Airways said it rarely receives criticism of the service.

Air France, however, is in the process of rethinking its food service approach, which offers only one entre, because of a few passenger complaints that compare Concorde service with Boeing 747 first-class service.

Concorde costs per seat mile are close to meeting the projections of both Air France and British Airways, according to officials. Costs on the transatlantic route were projected at 11.76 cents per seat mile for Air France and 12.07 cents per seat mile for British Airways. These costs are a far cry from the 1972 estimated total costs of 4–4.5 cents per seat mile on an aircraft configured for 108–112 seats and 14 cents/gal. fuel.

Air France Concordes generally carry between 90 and 92 metric tonnes (198,505 lb.-202,768 lb.) of fuel for the transatlantic crossing and average fuel burn is 78 metric tonnes (171,912 lb.).

Concorde payload quoted by the manufacturers is 25,000 lb., but the U.S.-Europe markets are restricted on payload with Air France offering 80 seats for sale and British Airways making flexible adjustments to the number of seats available depending on temperature and wind at takeoff. Payloads from Washington have been averaging about 20,000 lb.

This payload restriction to only about 5% of gross take-off weight has brought airplane economics into sharper focus, according to airline officials.

"You have to do a tighter management job on Concorde than on subsonic aircraft," a British Airways official said.

Concern of both airlines now is to get to the point in the Washington-Europe market where all 100 seats can be offered for sale on a regular basis. Davidson and Martin said analysis is being completed on how to reduce the contingency fuel load on Concorde to allow the other 20 seats to be sold. Both carriers will make their decisions to increase the number of seats for sale by September when Washington weather cools.

"Quite frankly, we simply want to get to the point where we can sell the number of seats that are on the airplane," Davidson said.

British Airways is concentrating on ways to reduce equipment weight on the airplane, such as items used in the catering service, in order to reduce the amount of contingency fuel needed. Close operational planning by British Airways cockpit crews also is encouraged. Calvert has developed a chart of minimum contingency fuel needed for Concorde to divert to other airports if Dulles International cannot be used for weather or other operational reasons.

Air France is investigating revised fuel management procedures. "What we will be doing, if the decision is made, is exchanging two or three minutes of flight time for fuel efficiency," Martin said. "Just a 5% fuel savings can mean 25 more passengers, and that give us a full airplane."

Martin said Air France also was considering requesting the Federal Aviation Administration to allow Concorde to stay at high altitudes longer on its Washington approach.

"One of the biggest fuel consumption items is on arrival at Washington because we have to stay low for such a long time [25 min.]," Martin said.

The other troublesome problem to both airlines is the noise controversy. The first full month noise monitoring reports surprised few airline officials with readings 3.5 naut. mi. from the start of takeoff ranging from 105 to 130 pndb. (AW&ST July 19, p. 235). July figures were about the same.

Noise complaints from communities around Dulles Airport have started to decrease. A total of 47 complaints were received from the communities for 12 Concorde operations in May contrasted to 85 complaints received during June for 45 Concorde operations. Only 68 complaints were received during July on 47 operations. Davidson said British Airways officials are attempting to work out a compromise with the FAA to allow Concorde to depart Dulles International for the best community noise abatement instead of for the best Federal Aviation Regulation Part 36 noise monitoring equipment readings.

The British believe that flying for the FAR 36 monitors is increasing the noise impact on communities surrounding the airport and that making a sharp turn away from the communities might reduce the adequacy of the readings but it also would reduce the noise experienced by nearly residents.

The pending New York-New Jersey Port Authority case in court should be decided by this fall, airline officials hope. Argument is scheduled for Sept. 13.

The outcome of the New York case is pivotal for Concorde operations, according to Martin and Davidson. Both airline officials believe the New York case will impact on the decisions of other countries to allow Concorde access.

By the end of the year, British Airways will have four Concordes delivered, with the fifth due in 1977, and Air France will have all four of its ordered Concordes.

Both airlines will be ready to start New York service soon after the court decision is made.

"When we have a total Concorde system operating," Davidson said, "then we'll start thinking about whether or not Concorde is profitable."

UPDATED CONCORDE LOAD FACTORS

Paris—Air France carried 13,527 passengers on its scheduled Concorde flights up to the beginning of last week, recording an average load factor for all routes of 65.79%.

Highest seat factors were on the supersonic Paris-Washington route at 82.85%.

This figure is based on the 80-passenger maximum load limit established for the Washington flights to allow for adequate fuel reserves.

On the basis of the normal 100-passenger maximum loads for the Concorde, the load factor on the Paris-Washington and return flight averages 66.28%.

The route was inaugurated May 24.

Load factors on Air France's Concorde flights between Paris and Rio de Janeiro were averaging 67.33% up to the beginning of last week.

This was several percent higher than Air France officials had expected the load factors to be at this point.

The Rio services began last Jan. 21.

Lowest load factors for Air France Concordes were on the company's routes between Paris and Caracas.

These were averaging 35.41% last week, with the services having begun on April 9.

Airline officials conceded they had never had high hopes for the Concorde on this route, but said it was still better than leaving the aircraft idle while waiting for approval to put the Concordes on higher-density routes.

Non-French travelers account for more than half of Air France's Concorde clientele, all routes considered, and about 62% of the passengers on the Paris-Washington flights are Americans.

Around 30% of all passengers on Air France Concordes are women, and about 30% of all passengers queried are traveling on Concorde for other than business purposes.

RESPONSIBILITY FOR GENOCIDE—PART II

Mr. PROXMIRE. Mr. President, yesterday I discussed one of the more important aspects of article IV of the Genocide Convention. Today I continue that discussion.

The most important drawback to article IV, in the eyes of convention critics, is that the convention makes no provision for punishing governments which commit genocide. Their fear is that genocide is likely to occur with either the implicit or explicit support of a government. While this might be considered a drawback to the convention, the Committee on Foreign Relations pointed out that the international community has no way to effectively punish government-instigated genocide. This is true because there is no international law which covers genocide by governments.

However, it should be noted that charges against governments could be brought before the International Court of Justice in The Hague or before the United Nations. While these organizations have no power to punish offenders, they would be able to bring moral pressures and public opinion to bear. Under the convention, of course, any future government would be responsible for charging officials of the previous government with genocide.

Article IV represents a landmark because it would punish private citizens, not just government officials, for the reprehensible crime of genocide. Let me assure convention critics that American citizens do not have to fear being pulled from the streets of foreign cities and charged and tried for genocide. The convention is very specific about what actions constitute genocide. For example, lynching, school busing, the dispensing of birth control pills, and police actions against militant groups would not constitute genocide unless it could be proven that there was the intent to destroy the entire group. At the present time any American citizen visiting a foreign country can be charged and tried for any criminal offense, including murder. The only change that acceptance of the convention would make is that genocide would be added to the list of criminal offenses Americans overseas could be charged with. It would in no way modify or extend the jurisdiction of foreign courts over American citizens.

The intent of the convention is to make it possible for those persons involved in committing genocide, and only those persons, to be rightly charged with the crime of genocide. Those nations which ratify the convention thus declare to the international community that individuals must be held accountable for their actions. I ask the Senate for swift approval of this important international agreement.

BICENTENNIAL LAND HERITAGE PROGRAM

Mr. FANNIN. Mr. President, 40 years ago, in the summer of 1936, Gerald R. Ford, a football star at the University of Michigan, worked as a seasonal ranger in Yellowstone National Park.

Yesterday, as President of the United States, Gerald Ford revisited Yellowstone and unveiled a program to significantly expand our national parklands and wildlife refuges and to rehabilitate facilities which have deteriorated due to expanded use.

President Ford's proposal is an important one for the citizens of our Nation. As we have seen the population of our country expand, we have come to recognize that it is important to protect for all of us the magnificent physical beauty which is America.

One of our greatest natural treasures, the Grand Canyon, in my home State of Arizona. With the increased funding the President seeks, we can help insure that the Grand Canyon remains something of which we can all be proud.

Almost 2 million visits were made to this park in the first 7 months of the year, a 15-percent increase over 1975. That is why it is vital to have adequate financial and human resources committed to the effort to maintain and enhance the Grand Canyon, and the same consideration applies to our national system of parks, wildlife refuges, and recreation areas everywhere.

I fully support the President's Bicentennial land heritage program.

CONGRESS RESPONDS TO NEEDS OF RETARDED

Mr. HUMPHREY. Mr. President, I applaud the action of the Senate in passing H.R. 15193, appropriations for the District of Columbia for fiscal year 1977, as reported by the Committee on Appropriations.

I commend Senator Chiles and the committee for their recommendation to increase the budget for Forest Haven, the District of Columbia's facility for mentally retarded persons at Laurel, Md. This will enable Forest Haven to fully meet the urgent needs at the facility and with no further delays.

In 1973, I first learned of the shocking situation at Forest Haven and brought the matter to the attention of the Senate.

Congress, in the fiscal year 1976 appropriations for the District of Columbia made it clear that there should be no further delays in urgently needed improvement at Forest Haven and further has provided in the Senate reported fiscal year 1977 appropriations funds that should enable Forest Haven to meet all Federal standards. I fully support the committee in the increased funding for Forest Haven in fiscal year 1977 and am hopeful that the conference committee will agree to the increased level of funding in order to hire desperately needed staff.

The committee has been responsive to the major concern of safety and well-being of the residents through providing funding to enable the District government to hire 287 new employees. I hope that we will no longer read press stories on the horrible conditions at this institution. I hope that we can now begin to see the residents treated as human beings.

Mr. President, we now have the opportunity to help provide better conditions, to provide better treatment, and to offer some future opportunities for the residents. We now can directly respond to the threat of the loss of accreditation, the loss of Federal grants and other needed services at the facility because of the shortage of staff and services to meet basic requirements. Congress can now fulfill its responsibility to the previously neglected citizens who are residents at Forest Haven.

S. 521 (H.R. 6218), OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS

Mr. FANNIN. Mr. President, the House recently amended the Senate-passed Outer Continental Shelf bill, S. 521, by striking out the Senate text and inserting the language of H.R. 6218 plus a drove of floor amendments. The bill is at the desk awaiting further action by the Senate. The unofficial, limited-distribution print is 129 pages long. The comparative print of the two bills is 190 pages long.

Senators should take some time to find and read the two bills. Both are outstanding examples of how to prolong or prevent the development of our oil and gas resources of the Outer Continental Shelf.

The Wall Street Journal today editorialized about the Outer Continental Shelf bill. Its title was "Murphy's Law," referring to the chief author of the House-passed version and chairman of the ad hoc Outer Continental Shelf Committee in the House. In the event that Senators are unable to find, or to take the time to read, the bill, the Wall Street Journal editorial contains a good preview.

I ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Murphy's Law

There are several laws attributed to Murphy, the most notable being "Anything that can go wrong, will." We've never been able to find out who this Murphy is, but if H.R. 6218 is typical of the legislation drafted by Rep. John Murphy, the Long Island Democrat, we may have found our man.

Mr. Murphy's bill, an amendment to the Outer Continental Shelf Lands Act, has absolutely nothing in it that would make things better. And what there is in the bill that can go wrong probably will. It was thus made to order for this particular Congress, and easily passed the House in late July and is now being fitted to a companion bill written by Senator Jackson, which drew only 19 negative votes in the Senate. President Ford will have another veto opportunity in a few weeks.

There aren't many laws on the books that could not stand refining and improvement, but the existing OCS law has so clearly served the public interest that there is no percentage in opening it up for repairs of a major nature.

Both environmentally and financially, the legislation's record in the Gulf of Mexico is superb. In more than 20 years, 19,000 wells have been drilled with only one spill, and there was no permanent ecological damage from that. The oil industry has grossed $23 billion in oil and gas sales. Government has received $19.9 billion of that amount. The industry, which so far has spent $34 billion on development of the Gulf OCS, may eventually get a return on investment of no more than 7%. If there is anything here for U.S. taxpayers and consumers to complain about, it isn't evident.

Murphy's Law, though, is the equivalent of sending your Rolls-Royce down to Sammy's Garage for a ring and valve job at 20,000 miles, whether it needs it or not.

The least of its mischief is that it adds a few dozen more screening procedures on top of the more than 100 checkpoints an oil company now faces before it can start drilling. Taxpayers and consumers, of course, pay all the bills for ecological returns that are beyond the vanishing point. It is money thrown away to purchase delay.

Worse, though, are the innovative financial provisions that purport to maximize revenues from leasing and production, but which can logically only inhibit production and revenues.

Before offering a tract for lease, the Interior Department would be required to contract an exploration on behalf of the taxpayer. The idea is that the government will be able to get more in bonuses and royalties if it knows first hand if there's a jackpot under the OCS tract. In effect, the taxpayer is giving Interior Department bureaucrats a pile of money to gamble with, and if the bureaucrats lose, so what? It's not their money. Senator Jackson's version would actually set up a federal corporation with $500 million to play with.

The other innovation that can only go wrong is the requirement that the Interior Secretary let out so many tracts on royalty bidding instead of bonus bidding. The idea is to give Mom & Pop Oil Explorers a chance at the big time. Bonus bidding, now standard, requires up-front money by the explorer, which means he has a serious incentive to explore. Mom & Pop can compete on royalty bidding because there's no up-front money. They can promise to give the government 80% of production, win the tract, dig one well hoping for a North Slope, and abandon the tract if it's dry.

What's wrong with the current system? When the nine square miles of Baltimore Canyon tracts were put up to bid a few weeks ago, there were 410 bids on 101 out of the 154 tracts. The government rejected 8 of the bids as too low, and collected $1.127 billion in bonuses. It will be five years before the first drop of oil is produced. The reason Mom & Pop Explorers don't belong in this kind of game is exactly the same reason why they should steer clear of the baccarat tables in

Las Vegas. The same goes for the desk jockeys at Interior.

Unless Representative Murphy has some secret maps detailing OCS oil fields, which he will turn over to the federal explorers he is asking the taxpayers to finance, there's nothing in his law worth saving. When it hits President Ford's desk it should be vetoed, quietly, mercifully, and we will promise to forget about it if Mr. Murphy will.

FLORIDA WHOLEHEARTEDLY ENDORSES AGPLANE PROGRAM

Mr. MOSS. Mr. President, I have received an important letter from the Honorable Doyle Conner, commissioner of agriculture for the State of Florida.

Commissioner Conner states that most major agricultural producers in Florida are currently using some aerial means of applying pesticides and that anything that would improve the efficiency and reduce costs of such applications would be most welcome. He also said:

> The Florida Departmest of Agriculture and Consumer Services wholeheartedly endorses the National Aeronautics and Space Administration's program to try to improve aerial applications technology. Any technical breakthroughs or significant improvements which result in a reduction of pesticide applications could lower food production costs as well as lessen the impact of pesticides on the environment.

Mr. President, I ask unanimous consent that Commissioner Conner's letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

June 21, 1976.

Hon. Frank E. Moss,
U.S. Senate, Committee on Aeronautical and Space Sciences, Washington, D.C.

Dear Senator Moss: Your letter to Governor Askew concerning an aerial applications program for improvement in agricultural aircraft was forwarded to this department for a reply.

The Florida Department of Agriculture and Consumer Services wholeheartedly endorses the National Aeronautics and Space Administration's program to try to improve aerial applications technology. Any technical breakthroughs or significant improvements which result in a reduction of pesticide applications could lower food production costs as well as lessen the impact of pesticides on the environment.

Most of the major agricultural producers in Florida currently use some aerial means to apply pesticides. Improved aerial delivery equipment and techniques which would reduce drift problems, improve the efficiency of pesticide coverage on the target crop and reduce the cost and frequency of application would be most welcome.

It is most rewarding to see this interest in agriculture and such positive means taken to improve techniques so vital to continued high production of agricultural commodities.

With warm personal regards, I am
Sincerely,

Doyle Conner,
Commissioner.

NEED FOR US TO STAND FIRM IN KOREA IN FACE OF RECENT INCIDENTS

Mr. THURMOND. Mr. President, an editorial typical of many across the country appeared in the August 26 issue of the State newspaper, Columbia, S.C. The editors correctly noted that the U.S. must keep a firm hand on the troubled situation in Korea if larger problems are to be avoided.

This is truly a nonpartisan issue and must be met with firmness and unity from the Government and people of this country.

The need to maintain around 42,000 U.S. troops in Korea is merely proven again by the harshness of the recent incident. Our failure of many years ago to resolve the Korean matter left us sitting on a truce line a mere 30 miles from the capital of South Korea. This problem, coupled with a Communist dictator in North Korea, leaves us with a troublesome situation. President Ford has met this incident with a strong U.S. response which has shown our determination to meet any more trouble there.

Mr. President, I ask unanimous consent that the editorial appearing in the State entitled "United States Must Stand Firm Against North Korea" be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Columbia (S.C.) State, Aug. 26, 1976]

United States Must Stand Firm Against North Korea

The uneasy armistice which brought relative peace to Korea 23 years ago is all the more shaky today because of the North Korean attack last week upon Americans in the demilitarized zone separating the two Koreas.

Despite recurring incidents which have rocked the truce during the last two decades, Korea has been shoved onto the back burner in the minds of most Americans. Last week's violence brought it forward, especially for South Carolinians who witnessed the burial in Columbia of one of the two U.S. officers slain in the unprovoked attack.

Speculation over the motives behind the unwarranted assault must go beyond the surface appearances. It is possible, of course, that the North Koreans reacted spontaneously and viciously when a United Nations (which is to say, United States) party entered the DMZ to trim a tree which obstructed vision across the zone.

But, knowing the cunning and the tenacity of North Korea's Communist leader, Kim Il Sung, it is difficult to discard the notion that the incident was deliberately calculated to inject the Korean question into the American political scene as the Presidential contest begins to take shape.

The unrelenting and unremitting goal of the North Koreans is to get the United Nations garrison out of the country. And since the U.N. forces are almost exclusively U.S. forces, Kim Il Sung's main mission in life just now is getting Americans out of South Korea.

With typical Communist shrewdness, he may very well reason that—in the aftermath of the U.S. debacle in South Vietnam—American sentiment can be mobilized against the continued presence of our troops elsewhere in Asia. Thus, the adroit application of pressure through incidents such as that in the DMZ last week might produce a popular groundswell among American voters to "bring the boys home."

Here again, the United States is faced with a test of national character and of governmental policy. We are committed—by deed and document—to the safekeeping of South Korea, at least until that anti-Communist nation seems capable of defending itself against the almost certain renewal of North Korean aggression.

The issue is one which should transcend partisan politics, all the more so because Kim Il Sung may be counting on it to assume the proportions of a campaign issue.

But this is neither a Republican nor a Democratic matter. It is an ordeal of power and responsibility which rests upon the United States. It likewise deeply involves—or should involve—the United Nations. In the final analysis, however, the response must come from the United States.

It must be a firm response if the United States is to prevent further erosion of its role and its credibility as a bastion of freedom in the world. After all, we are committed not only by national inclination but by formal treaty to the defense of South Korea.

DEPARTMENT OF AGRICULTURE ANNOUNCES EARLY PURCHASES OF PUBLIC LAW 480 COMMODITIES

Mr. HUMPHREY. Mr. President, I wish to call to the attention of our colleagues two releases from the Department of Agriculture announcing the early purchase of 1.2 million tons or 45 million bushels of wheat, 300,000 million tons of rice and an unspecified volume of soybean oil for early shipment under the Food for Peace program.

I support this initiative to help our producers and also feed needy people.

I recall that at the time of the World Food Conference in 1974 I and other members of the congressional delegation urged more prompt purchases by the Department in order to avoid shipping problems late in the fiscal year.

At that time the Department held back in taking this step, and as a result, the shipment of Food for Peace commodities were heavily concentrated in the last quarter of the year.

In fact, the Department expanded its purchases, but was unable to meet its planned program target of 5.5 million tons. The Foreign Agricultural Policy Subcommittee, which I chair, has held hearings which recommended earlier programing of Food for Peace commodities in order to provide better planning of these humanitarian programs.

I am hopeful that the Department had this idea in mind, but I am also afraid that it may have been using its considerable authority under the Commodity Credit Corporation to influence the Midwestern farm vote during this election year.

Mr. President, I ask unanimous consent that these releases be printed in the Record.

There being no objection, the releases were ordered to be printed in the Record, as follows:

Early Programing of P.L. 480 Wheat and Rice Announced by (USDA)

Washington, August 23.—The U.S. Department of Agriculture (USDA) announced today that agreement has been reached among executive branch departments and agencies to program 1.5 million metric tons (MT) of food grain in early Fiscal Year (FY) 1977 under Title I of the P.L. 480 Food for Peace program. Fiscal Year 1977 begins Oct. 1, 1976.

Assistant Secretary of Agriculture Richard E. Bell said the agreement will permit early programming of 1.2 million MT (45 million bushels) of wheat for shipment in October-January and 300,000 MT of rice for shipment in October-December. He said that agreement on early programming in FY 1977 was reached in the Working Group of the

Agricultural Policy Committee established by President Ford last March.

Since the beginning of the current wheat marketing year (June 1), about 830,000 MT (30 million bushels) of wheat or wheat equivalent in flour have been reported shipped under Title I. In addition, approximately 1 million MT (37 million bushels) remain to be reported or scheduled for shipment by October 1.

Rice shipments under Title I since the beginning of the new rice marketing year (Aug. 1) are estimated at approximately 65,000 MT, with about 150,000 MT more scheduled for shipment by Oct. 1.

Assistant Secretary Bell said USDA believes there should be balanced distribution of P.L. 480 shipments over the year, but that commodity and budget uncertainties had prevented early programming during the past several years.

The P.L. 480, Title I, total budget for FY 1977 is $866 million which is expected to finance exports of about 4.6 million MT of U.S. farm commodities. Over 90 percent of these exports will be wheat and rice. In addition to Title I shipments, the Department plans to export about 800,000 MT of wheat and wheat products under P.L. 480, Title II, in FY 1977.

Mr. Bell said that the Department also will put greater emphasis in FY 1977 on wheat and rice in the CCC short-term commercial export credit program (GSM-4).

Assistant Secretary Bell said specific country and commodity programs for the early Title I program will be done in the P.L. 480 Interagency Staff Committee (ISC) which is responsible for day-to-day decision-making. Glen Tussey, USDA assistant sales manager for P.L. 480 programs, is chairman of ISC.

Title I sales involve long-term credit to friendly countries in association with their plans for self-help through agriculturally-related activities.

USDA To Procure Soybean Oil for Title II, P.L. 480 Donations for FY 1977

WASHINGTON, August 23.—The U.S. Department of Agriculture today announced it will buy soybean oil to fill vegetable oil orders under the Title II, Public Law 480 donations program during Fiscal Year (FY) 1977, Oct. 1, 1976–Sept. 30, 1977.

The current estimated budget quantity of vegetable oil to be exported under this program during FY 1977 is 121 million pounds which—at current market prices—would be valued at about $30 million.

Commodities shipped under the Title II program are donated to needy people in less-developed countries in all parts of the world.

Vegetable oil is used in various Title II maternal/child health activities, food-for-work projects, and school feeding programs, as well as emergency relief efforts.

FIREARMS CONTROL

Mr. BARTLETT. Mr. President, I have recently introduced Senate Resolution 526 and Senate Concurrent Resolution 135, which resolutions disapprove the recent enactment of the Firearms Control Regulations Act of 1975 by the Council of the District of Columbia. The same resolutions have previously been offered in the House by Dr. RON PAUL, Member of Congress from Texas.

In testimony before the House District of Columbia Committee, Congressman PAUL discussed in detail both the illegality and futility of the D.C. Firearms Control Regulation Act. In order that we might all have the benefit of Congressman PAUL's thinking on this matter, I ask unanimous consent that his remarks to the House District of Columbia Committee be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

Testimony of Dr. Ron Paul

I. THE FIREARMS CONTROL ACT OF 1975 IS UNCONSTITUTIONAL

1. The second amendment to the United States Constitution declares that "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." The ninth amendment states that "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." Artcle I, Section 8, Clause 17 of the Constitution provides that the Congress shall have power "To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of Particular States, and the Acceptance of Congress, become the Seat of Government of the United States. . . ."

2. Let me begin by discussing the last provision first. This provision, granting exclusive authority over the District, was added to the Constitution because of the indignities and personal threats that Members of the Continental Congress suffered in Philadelphia in 1783 at the hands of disgruntled soldiers. At that time, the local authorities could not come to the aid of Congress, and the Members had to flee the city. In Federalist No. 43, James Madison wrote that "The indispensable necessity of complete authority at the seat of government carries its own evidence with it. . . . Without it . . . the public authority might be insulted and its proceedings interrupted with impunity. . . ."

3. I raise this issue, not to attack home rule in the District of Columbia, but to call attention to the fact that the Firearms Control Act passed by the City Council contains no exemption for Members of Congress. Section 201(b) of the Act contains the list of persons exempted, and Members of Congress do not appear on that list. It would seem, then, that any Member elected for the first time after this law goes into effect, or any present member without a legally registered handgun or pistol, would be prohibited from bringing any pistol or handgun into the District of Columbia.

4. Furthermore, the Act would subject a Member of Congress to the same complex registration process that the Act imposes on all law-abiding residents of the District of Columbia. For the information of the Members who are present at this hearing, here is a list of the things a person is required to do in order to register a gun under this gun control law:

Persons seeking to register a gun must:

(1) be 21 years of age, or 18 and have the permission of their parents, who must assume all civil liability;

(2) not have been convicted of a crime of violence, a weapons offense, or a violation of this Act;

(3) not be under indictment for a crime of violence or a weapons offense;

(4) be free of convictions for 5 years past of any drug law, or of any threat to do bodily harm, assault, "or any similar provision of the law of any other jurisdiction so as to indicate a likelihood to make unlawful use of a firearm." (Section 203(a)[4][B]);

(5) not have been acquitted of any criminal charge by reason of insanity for the previous 5 years;

(6) not have been adjudicated a chronic alcoholic by any Court for the previous 5 years;

(7) not have been voluntarily or involuntarily committed to any mental institution for the previous 5 years;

(8) not appear to suffer from a handicap that would "tend to indicate that the applicant would not be able to possess and use a firearm safely and responsibly." (Section 203[a][7]);

(9) not have been judged negligent in a firearms accident causing death or serious injury;

(10) be eligible under present law to possess a pistol;

(11) pass a test on D.C. firearms laws devised by the Chief of Police;

(12) have vision equal to that required to obtain a valid driver's license in D.C.;

(13) provide his full name to the Chief of Police;

(14) provide his present address and each address for the previous 5 years;

(15) provide his present business address and each business address for the previous 5 years;

(16) provide his date and place of birth;

(17) record his or her gender;

(18) provide information concerning any denial or revocation of registration, permit, or license of a firearm;

(19) provide a description of any serious firearm accident involving the applicant;

(20) provide information on the intended use of the firearm;

(21) provide the caliber, make, model, manufacturer's number, serial number, and identifying marks on the firearm;

(22) provide the name and address and other identification of the person from whom the gun was obtained;

(23) tell where the firearm will be kept;

(24) tell whether the applicant has applied for any other registration certificates;

(25) provide "such other information as the Chief determines is necessary";

(26) provide 2 "full face" photographs, 1¾'' by 1⅜'', taken within the 30-day period preceding the date of application;

(27) appear in person when applying and, if required, to bring the firearm being registered;

(28) sign an oath attesting to the truth of all information provided;

(29) pay a fee set by the Mayor.

5. In addition to this comprehensive set of requirements, the Chief of Police may, at his discretion, require the fingerprinting of applicants. If this is the type of harassment that this Committee wishes to impose on Members of Congress, not to mention the people who live in the District of Columbia day in and day out, then I would suggest that this Committee and this Congress take no action to stop this law from becoming effective. If, however, the integrity of the Congress is to be preserved and its Members are to be allowed freedom from such unnecessary and irresponsible harassment, then this law must be disapproved by the Congress within the thirty (30) legislative days provided by the Self-Government and Governmental Reorganization Act. If this Act is not in actual conflict with the Constitution on this point, it is at least in conflict with the spirit of the Constitution and the legislative history of the provision of the Constitution which retains exclusive authority over the Federal District to Congress.

6. Let us now consider the second amendment to the Constitution which has been quoted above.

7. According to Section 302 of the Self-Government and Governmental Reorganization Act, the governing instrument of the District of Columbia Council, the "legislative power of the District shall extend to all rightful subjects of legislation within the District consistent with the Constitution of the United States and provisions of this Act. . . ." Since the City Council acts only by the permission of this Congress, which has retained exclusive authority over the District, it is Constitutionally barred from passing laws infringing upon the right to keep and bear arms. This amendment has been narrowly construed to mean that the Congress

or its agents can take virtually any action to control private ownership of weapons, despite the plain meaning of the words. The Amendment says: the right to keep and bear arms shall not be *infringed*. To "infringe," according to the Oxford English Dictionary, which quotes from Jefferson and Blackstone to illustrate the usage of this word, is to "break in upon or encroach." It is not necessary for a right to be totally destroyed or annihilated for it to be infringed. A right can be infringed by restricting it only a little. The history of gun control legislation in this country shows a gradually increasing infringement of the right to keep and bear arms.

8. Any literate individual who has any doubts that the Firearms Control Act would infringe on the right to keep and bear arms has not read even the introduction to the Act, in which the purposes of the Act are described as follows: to "limit the types of weapons persons may lawfully possess"; to "assure that only qualified persons are allowed to possess firearms"; and "to make it more difficult for firearms, destructive devices, and ammunition to move in illicit commerce within the District of Columbia." The express purpose of this law is to infringe upon the right to keep and bear arms. The issue is whether the City Council, acting pursuant to Section 302 of the Self-Government and Governmental Reorganization Act, can legitimately pass this law. If the language of the Constitution means anything at all, the Council, cannot pass it. It is the duty of this Congress, which is itself barred from enacting a piece of legislation like this, to strike down this Act before the residents of the District of Columbia are subjected to its onerous provisions.

9. The ninth amendment to the Constitution, quoted above, makes it abundantly clear that unenumerated rights are retained by the people. It is not sufficient to argue, as many gun control advocates have argued, that the second amendment is applicable only to the National Guard, an organization which was not created until the twentieth century. This deliberate misconstruction of the second amendment's meaning still faces the problem of what to do with the plain meaning of the ninth amendment. The federal government is a government of delegated powers; nowhere in the Constitution is the federal government given the authority to pass gun control laws. The specific Constitutional limitations on the federal government are written into the Self-Government and Governmental Reorganization Act.

II. THE FIREARMS CONTROL REGULATIONS ACT OF 1975 IS ILLEGAL

1. In section 601 of the Self-Government and Governmental Reorganization Act, Congress has retained plenary power over the District of Columbia to enact any legislation for the District on any subject, whether within or without the scope of the legislative power granted to the Council, including legislation to amend or repeal any law in force in the District.

2. In addition to this retention of plenary legislative authority, Congress reserved to itself exclusively many areas of law, including Title 22 of the District of Columbia Code. This specific denial of authority to the City Council is found in Section 602(a) (9), which states that:

"The Council shall have no authority to . . . enact any Act, resolution, or rule with respect to any provision of Title 23 of the District of Columbia Code (relating to criminal procedure), or with respect to any provision of any law codified in Title 22 or 24 of the District of Columbia Code (relating to crimes and treatment of prisoners) during the twenty-four full calendar months immediately following the day on which the members of the Council first elected pursuant to this Act take office.

3. The first elected City Council members took office on January 2, 1975. Obviously, the twenty-four month period had not expired when the District government passed this law in July, and it still has not expired. So there is no question that the exclusive authority which Congress retained over Ttitle 22 still remains. The question which now must be answered is this: does the Firearms Control Regulations Act of 1975 constitute "any act, resolution, or rule with respect . . . to any provision of any law codified in Title 22 or 24 of the District of Columbia Code"? The City Council answers in the negative. Let us examine their argument.

4. The Report of the Committee on the Judiciary and Criminal Law, a Committee of the District of Columbia Council, maintains that "This bill does not amend or conflict with the provisions of Chapter 32 of Title 22 of the D.C. Code. It specifically provides as much in Section 902." (For those who are not familiar with the D.C. Code, let me say that Chapter 32 of Title 22 is the Chapter that deals with weapons.)

5. The first thing that should be pointed out is that the Self-Government and Governmental Reorganization Act does not use the language "amend or conflict" when it denies authority to the City Council over criminal laws. The language of the Act is much broader—as broad as language can be. It says, and I repeat, that the City Council "shall have *no* authority to . . . *enact any act, resolution, or rule with respect to . . . any provision of any law codified in Title 22 . . .*" I want to emphasize the fact that the words "no," "any," and "with respect to" are used, and not "amend or conflict," as the City Council apparently believes. The word "any" is used four times in subsection (9) and the word "with respect to" twice. It is difficult to conceive of a formulation that is more sweeping in its scope or broad in its meaning than the formulation that appears in Section 602(a) (9). In the opinion handed down in the case *Maryland and D.C. Rifle and Pistol Association, Inc.* v. *Washington et al.*, 442 F.2d 123 (February 24, 1971) the Court declared:

"The first and perhaps most important indication of congressional intent springs from the words in which the statute is cast . . . Absent strong reason for a contrary reading, our function is to take this language for what it plainly says, for '(t) here is . . . no more persuasive evidence of the purpose of a statute than the words by which the legislature undertook to give expression to its wishes.' " (*U.S. v. American Trucking Associations*, 310 U.S. 334, 543 [1940].)

6. The legislative history of this section in the Self-Government and Governmental Reorganization Act corrobrates this understanding of the words in Section 602 (a) (9). For example, in the Conference Report on the bill, S. 1435, Report Number 93–703, the Conferees explain that "The House Amendment [the "major provisions" of which were adopted by the Conference substitute"] contained provisions, not in the Senate bill, providing . . . (3) the Council could not change building height limitations nor change D.C. criminal laws or the organization and jurisdiction of the D.C. courts." *Any* change at all in the criminal laws, if the language of the Conference Report means anything, is prohibited. Changes that result in more severe laws or new penalties or the creation of new offenses are prescribed, just as are any changes that would meliorate the severity of the laws.

7. If one wishes to trace the legislative history back further, he will find that this particular restriction on the power of the District City Council was not a part of the bill (H.R. 9682) reported from the District of Columbia Committee. Rather, the restriction was added during debate on the Floor of the House, October 10, 1973.

8. The restriction on the power of the City Council first appeared as part of an amendment in the nature of a substitute for H.R. 9682, the bill reported by the D.C. Committee. The substitute was sponsored by 15 members of the D.C. Committee, only eight of whom are still on the Committee. At the time there was a great deal of confusion about the Committee amendment, and serious questions were raised about the manner in which it was prepared and offered, but that is immaterial at this point.

What are important are the descriptions given by Brock Adams and Thomas Rees, sponsors of the amendment containing the provision restricting the Council's "authority over criminal laws." Mr. Adams said, "it prohibits the Council from changing certain specific titles of the District of Columbia Code. These are the titles of the District of Columbia Code which deal with the District of Columbia criminal laws." (*Congressional Record,* October 10, 1973, Page 33635.) Thomas Rees, another sponsor of the Amendment had this to say: "If individuals are worried about crime in the District, there is another Congressional reservation on Page 90, which is number (8) on line 5, which says that the City Council cannot enact any ordinance that affects in any way Titles 22 or 24 of the District of Columbia Criminal Code." (*Congressional Record,* October 10, 1973, Page 33647.) The language of the Self-Government and Governmental Reorganization Act itself is plain enough, but there can be absolutely no doubt about its meaning when one considers the descriptions of the section in question made by sponsors of the section itself. These descriptions, let me point out, were made during debate in the House, and the House passed the bill with the understanding that the language "with respect to" means exactly what it says: that the City Council cannot enact any ordinance that affects in any way Titles 22 or 24 of the District of Columbia Criminal Code."

9. Therefore, the entire legislative history of this restriction on the authority of the City Council confirms the plain meaning of the words found in section 602(a) (9), that the Council has no authority to enact any legislation whatsoever with respect to Title 22 of the D.C. Code. The opinion of the present Committee of the District of Columbia, most of whose Members did not serve on the D.C. Committee in 1973, regarding the proper interpretation of the language of Section 602(a) (9) of the Self-Government and Governmental Reorganization Act is, I might add, totally irrelevant, whatever that opinion might be. If anyone cannot understand the plain meaning of the section, let him examine its legislative history. It is improper and inadmissible for a Committee unilaterally to render an opinion on the meaning of language enacted by the entire Congress—language that is unmistakable in its interpretation.

10. The second point that ought to be made about the statement contained in the Report of the Committee on the Judiciary and Criminal Law is this: Section 709 of the Gun Control Act, which provides that "This act and the penalties prescribed in Section 605 [*Note*: there is no section 605 in the Act] of this act, for violations of this act, shall not supersede but shall supplement all statutes of the District and the United States in which similar conduct is prohibited or regulated," renders the entire act an absurdity. How do two different laws supplement each other without one superseding the other? If one law, for example, mandates one year imprisonment for an offense, and another law mandates two years for the same offense, one must supersede the other. There is no possibility of supplementation in such a situation.

11. To apply this principle to the instant case, Chapter 3201 of Title 22 of the D.C. Code defines a "sawed-off shotgun" as "any

shotgun with a barrel less than twenty inches in length." The Firearms Control Regulations Act, however, defines a "sawed-off shotgun" as a "shotgun having a barrel of less than 18 inches in length . . ." How, may I ask you, is this Firearms Act going to supplement Chapter 3201 of Title 22 on the matter of what constitutes a "sawed-off shotgun"? If the new Firearms Act is enforced at all in this regard, then it is superseding, not supplementing Title 22 of the District of Columbia Code.

12. Lest anyone think that this is the only example that can be given in which the Firearms Act supersedes provisions of Title 22 of the D.C. Code, I hasten to cite several others. The definitions of "pistol" and "machine gun" are also different in the Firearms Act from Title 22 of the D.C. Code. The registration requirements imposed in the Firearms Act are far different from those provisions found in Chapter 3206 of Title 22 of the D.C. Code. The regulations and recordkeeping requirements imposed on gun dealers are far different in the Firearms Control Act from what they are in Chapters 3208, 3209, and 3210, of Title 22 of the D.C. Code. Chapter 3215 of Title 22 describes the penalties for violations of the weapons laws of the District: up to $1,000 in fines and up to one year in jail, or both, unless specifically provided otherwise in Chapter 32. The Firearms Control Act, on the other hand, contains penalties of up to $300 in fines and up to 10 days in prison for the first offense, and mandates penalties of a $300 fine and at least 10 and no more than 90 days in prison for subsequent offers. Now, if we are to understand that the Firearms Control Act does not supersede the D.C. Code, Title 22, Chapter 3215, then what are we to conclude when a person, convicted of his second offense, may be sentenced to five days in prison under the Code, but must be sentenced to ten days in prison under the Firearms Control Act? Has the Firearms Act supplemented or superseded the Code? I believe the answer is obvious.

13. Chief of Police, Maurice J. Cullinane, displayed some awareness of the problem in his letter of April 15, 1976, to Councilman David A. Clarke. Chief Cullinane pointed out that:

"Because of the regulatory methodology employed, the bill creates new problems not encountered in the Police Regulations. The bill seeks to create a single regulatory standard by which pistols, rifles, and shotguns would be certificated, while a single standard might normally be an improvement over the admittedly, complicated arrangement found in Articles 50–55 of the Police Regulations, the District is confronted with Congressionally created standards for pistols and an absence of standards for rifles and shotguns. Thus, by establishing a single standard, the M.P.D. and prospective applicants for certification of pistols must perform a rather complicated exercise in mental gymnastics to ascertain what the bill requires over and above the Code and which portions of the bill conflict with the Code and are inapplicable."

It is obvious that Chief Cullinane recognizes the fact that this bill is, in fact, legislation "with respect to" Title 22 of the D.C. Code, and also in conflict with the Code.

14. If the Firearms Act changes the present provisions of the D.C. Code in any way—and I have just mentioned several ways in which it does—then it is in fact superseding the D.C. Code. The section of the Firearms Act that seeks to allow the Act to run through a loophole by claiming that it supplements rather than supersedes present D.C. law is either a nullity or it makes the Firearms Act itself of no effect.

15. The third point that ought to be made about Section 709 of the Firearms Act, which claims that the Act supplements rather than supersedes Federal law and the D.C. Code, is that it, in itself, is an admission that the Firearms Act is legislation enacted "with respect to" provisions of law in Title 22 of the D.C. Code, an action specifically prohibited by Section 602(a)(9) of the Self-Government and Governmental Reorganization Act. By including Section 709 in the Firearms Act, the City Council obviously intended to make an end-run around the express intent of Congress to reserve all authority over criminal laws in the District of Columbia for itself. However, not only does the end-run fail, it constitutes an explicit admission that the Firearms Act is in fact an act "with respect to" Title 22 of the D.C. Code.

* * * It is specifically argued that authority for enacting the Act may be found in Section 302 of the Self-Government and Governmental Reorganization Act. However, we have already seen that Section 302 places an express Constitutional limitation on the authority of the City Council. It is further argued that authority flows from the D.C. Code, Title I, Chapters 224, 226, and 227. However, if one examines those Chapters of the Code, one will find that Chapter 224 deals with penalties for violations of building regulations, for violations of leashing regulations for large dogs, and for police regulations dealing with such things as pawnbrokers, junk dealers, the storage of flammable substances, street vendors, fees for hackney carriages, herds of animals in the streets of the District, littering, fireworks and explosives, and loud noises such as horns and cries.

17. Chapter 226 grants the Council authority to make " all such reasonable and usual police regualtions . . . as the Council may deem necessary for the protection of lives, limbs, health, comfort, and quiet of all persons and the protection of all property within the District of Columbia." The question arises then, whether the Firearms Act is such that it is, in fact, "necessary for the protection of lives, limbs, health, comfort and quiet of all persons . . ." in the District of Columbia. That question will be treated below, under the third heading.

18. Chapter 227, the last of the Chapters cited in the argument for the legality of the Firearms Act, is the only Chapter cited which specifically authorizes the Council to make "all such usual and reasonable police regulations . . . as the Council may deem necessary for the regulation of firearms, projectiles, explosives, or weapons of any kind in the District of Columbia." It is upon this Chapter in the D.C. Code that the argument for the legality of the Firearms Act primarily rests. However, no authority is given in this Chapter or in any other Chapter cited by the Committee for imposing penalties for violations of these firearms regulations. The penalty-imposing power cited by the Report of the Committee on the Judiciary and Criminal Law is found in Title I, Chapter 224(a). However, if one looks at that Chapter, one will find that it grants authority "to prescribe reasonable penalties of fine not to exceed $300 or imprisonments not to exceed ten days [the Firearms Act contemplates imprisonments up to 90 days], in lieu of or in addition to any fine, for the violation of any building regulation . . ., any regulation promulgated under authority of section 1–228, and any regulation promulgated under authority of section 1–22, and any regulation promulgated under authority of section 1–226." There is no penalty-making power granted in 1–224(a) for violations of Section 1–227, the section dealing specifically with firearms regulations.

19. The argument for legality, if valid, would result in anomalous and absurd conclusion. The anomaly lies in the fact that if this Chapter authorizing the Council to enact police regulations can be used to justify the Firearms Act, then a regulation made pursuant to one Chapter of the D.C. Code can overturn, not another regulation, which would be entirely proper, but a Chapter of the Code. To use the analogy of Constitutional law and statutory law, it would be comparable to repealing or superseding part of the Constitution by passing a new statute. It is a well-established legal principle that laws can only be changed or superseded by laws of a similar nature. Regulations cannot supersede statutes, and statutes cannot supersede constitutions. The argument that police regulations made pursuant to Title 1, Chapter 227 of the Code can change other provisions of the Code is absurd. The City Council is not competent to make any law "with respect to" Title 22 of the Code, and it is doubly prevented from changing Title 22 by means of imposing new police regulations. As the Court in *Maryland and D.C. Rifle and Pistol Association, Inc.* v. *Washington et al.* declared, "To be sure, a municipal regulation cannot permit an act which the statute forbids, or forbid an act which the statute permits." (442 F. 2d 123, 130) [February 24, 1971].

20. Those who argue for the legality of the Firearms Act point out that "*In Maryland and District of Columbia Rifle and Pistol Association, Inc.* v. *Washington*, 142 U.S. App. D.C. 375, 442 F. 2d 123 (1971), the U.S. Court of Appeals upheld the authority of the former D.C. Council to promulgate the current gun control regulations." The plaintiffs argued in that case that in passage of those gun control regulations, the former Council was treading on ground that the Congress had reserved to itself. They lost the case. What relevance this Court decision has to the question at hand is not clear, for it was in reference to the former Council, not the present Council. The powers of the present Council have been explicitly circumscribed by Section 602(a)(9) which expressly prohibits tampering in any way with any provision of Title 22 of the D.C. Code. It would be perverse if a Court were to hold at this time, subsequent to passage of the Self-Government and Governmental Reorganization Act, that the Council could act in conflict with the express intention of Congress to reserve to itself control over the criminal laws of the District of Columbia. The citation of this obsolete Court decision is, then, irrelevant. About the only statement that the Court made in that decision that is worth considering is that "the exercise of authority (by the City Council) ought not to be questioned unless clearly inconsistent with the expressed will of Congress." Since the Firearms Act is clearly inconsistent with the expressed will of Congress to retain exclusive authority over criminal laws, then the authority of the City Council to pass that act is void.

III. THE FIREARMS CONTROL REGULATIONS ACT OF 1975 IS NOT NECESSARY TO PROTECT THE LIVES, HEALTH AND SAFETY OF THE PEOPLE OF THE DISTRICT OF COLUMBIA

1. Sixty years ago the liberals, who by today's standards might be considered conservative, were leading a campaign to outlaw the manufacture, sale, and transportation of goods that they believed were responsible for an untold number of deaths, broken homes, and a great deal of human misery in general. In 1919 they succeeded, and added the 18th amendment to the Constitution, prohibiting the manufacture, sale, transportation, importation, and exportation of intoxicating liquors. The Prohibition lasted 15 years, until its repeal in 1933. During the 15-year period Prohibition was in effect, organized crime emerged in America as a force to be reckoned with. But the only reason organized crime became so powerful is that the federal government created the conditions in which it could flourish.

2. Gun control laws are the Prohibition laws of the latter half of the 20th century. They are aimed at controlling guns, not beverages, but the mythology that surrounded

the liquor control laws applies. In both cases, some inanimate objects firearms or beverages) are regarded as the cause (not the instrument) of many evils. Responsibility is shifted from persons to objects, and laws are directed away from persons abusing or misusing firearms or beverages and toward the firearms or beverages themselves. In so prohibiting or curtailing traffic or commerce in goods that are desired by great numbers of people, the government creates a situation in which the people who want guns or beverages must buy in black markets, that is, markets that have been outlawed. Because these markets and transactions are illegal, the people most likely to flourish in them are not the law-abiding citizens, but persons who have no compunction about operating outside the law. When guns are outlawed, only outlaws will sell guns. If the D.C. Police Department thinks it has a difficult time now coping with the gray market in guns that already exists, they will have a much more difficult time if this law goes into effect. Instead of ameliorating the crime problem, the Firearms Control Act would greatly aggravate it. Organized crime would flourish in the District, just as it did throughout the nation during the era of Prohibition. The only people who will abide by this law are those who are law-abiding anyway, those whom it is allegedly designed to protect. It will not and cannot protect them, since it will result in their disarmament. It certainly will not result in the disarming of the criminal element.

3. A new study by the Bureau of Alcohol, Tobacco, and Firearms clearly indicates that the Firearms Control Act will not be able to achieve its stated purpose of "protect[ing] the citizens of the District from the loss of property, death, and injury by controlling the availability of firearms in the community." What will be controlled, of course, are legally registered firearms, but they are only a small fraction of the gun population of the city anyway. The A.T.F. study indicates that over 80% of the traceable hand guns seized in the District from mid-February through July originated outside the District of Columbia. The conclusion of the study is that tough local gun controls do not cut off the supply of handguns but simply increase the number of unregistered guns imported from other areas.

4. What the Firearms Control Act will do, then, follows a pattern set by all legislation that interferes with the functioning of the market. By creating the black market conditions in which crime can flourish, the Act will actually exacerbate the crime problem, not alleviate it. Then, in order to "correct" the new, enlarged crime problem, the District and/or Congress will be pressured into still more restrictive measures, including, perhaps, national legislation outlawing commerce in or possession of firearms. After all, in 1821 the U.S. Supreme Court declared that the Congress may enact nationwide legislation to the extent necessary to make local District laws effective. (*Cohens v. Virginia* 19 U.S. 264). I do not wish to imply, of course, that nationwide gun control would be any more effective than local gun control, because it would not. Effectiveness is the excuse that would be used to justify a nationwide law. Whether the law is local or national in scope it would be equally ineffective. One reason being, of course, that criminals are not legally required to register their guns. (*Haynes v. U.S.*, 390 U.S. 85) And the other being that the laws of economics do not stop at the boundaries of the District of Columbia.

5. Another indication of the ineffectiveness of gun control laws, including laws such as the Firearms Control Act, which contains mandatory sentencing provisions, is the study recently conducted by the Center for Criminal Justice at Harvard Law School. On the question of whether or not a mandatory prison sentence for violations—which is more severe than the mandatory sentence in the Firearms Control Act—reduced the availability of firearms, the study concluded: "There is no clear evidence that the general circulation of firearms in Massachusetts has declined."

On the more important question of whether the crime rate was reduced by the stiff Massachusetts law, the Harvard study has this to say:

"Crime data for early 1976 have reinforced this analysis; there has been a visible break in the growth of robbery in Boston. While that reduction has extended to firearm robbery, the drop in firearm robbery has not been any more extensive than drops in other forms of robbery. Thus, the proportional role of firearms in robbery has shown greater stability, but no clear reduction."

The Harvard study goes on to say:

"Within that broad framework, however, we must recognize a *brief* shift in weapon choice during the period around the time Bartley-Fox [the Massachusetts law] was taking effect. The use of the firearm in robbery declined during the first six months of 1975. This did not produce any drop in total (or armed) robberies during that period—other weapons took up the slack and the proportional contribution of weapons to robbery actually increased slightly during the same period."

The study concludes, however, that this shift has "dissipated" and that "no effect on the level of firearm use in robbery has occurred . . . "

6. If one wonders about the effect of the Massachusetts law on assaults, the Harvard study points out: ". . . the proportion of assaults which involved firearms dropped significantly in 1975, beginning in March . . . A further reduction in this proportional figure has occurred in early 1976. Firearm assaults showed a small increase over 1975; non-firearm assaults, however, increased explosively over the same period." As for homicide, "no clear drop in firearm assault deaths has been demonstrated to date."

7. The Harvard study also points out that Franklin Zimring, who has contributed so much to the mythology surrounding gun control laws by arguing that guns cause crime, has changed his position to one emphasizing that it is not the guns but the criminals who cause crime.

8. This revision of preconceived ideas is not limited to people in this country. In 1970, Cambridge University in England concucted a study of the 1920 British gun control laws banning private ownership of handguns and concluded that the law has had no effect on the level of violence in England. The authors of the Cambridge study point out that New York City has more restrictive gun laws than does England, but suffers from a far higher crime rate than England. Switzerland on the other hand, has the world's highest rate of per capita gun possession, but a minimal rate of violence.

9. A third study that ought to be mentioned here is one conducted last year at the University of Wisconsin. The authors of the Wisconsin study scrutinized the gun laws of every State of the Union and compared them to all relevant demographic, economic and other statistical data. They concluded that—and I quote—"gun control laws have no individual or collective effect in reducing the rates of violent crime."

The Wisconsin study goes on to refute the argument, which I mentioned above, that local gun laws are ineffective only because adjacent jurisdictions have lax gun laws. The authors point out that for about fifty-five years, New York State and Canada have had somewhat restrictive laws on handguns. Canada and New York border American States having lax gun laws, yet the homicide rate in Canada is less than half New York State's and less than one-quarter New York City's. There is a difference between the Canadian and New York State laws, however. In Canada, it is comparatively easy for a law-abiding citizen to get a permit to keep a handgun in his home or business.

10. One wonders how much argument and evidence is needed before the gun prohibitionists begin to realize that gun control cannot reduce the crime rate, but, in fact, may increase it. My own opinion is that some gun prohibitionists will never be convinced simply because they have developed a monomaniacal vendetta against firearms. I certainly hope that such is not the case in the present example of a gun control law. I would remind everyone, however, that one of the predecessor bills to the Firearms Control Act of 1975 would have banned toy guns, too. In view of the fact that less than one-half of one percent of all the guns seized by the D.C. police last year in connection with crimes were legally registered, it seems both futile and absurd to impose further registration requirements. Over 99.5% of all the guns seized were not registered; I fail to see how creating stiffer registration procedures is going to lower that percentage any. I also cannot understand how making registration more difficult than it already is will reduce crime, since the criminals obviously do not register their guns. The only sensible reason that one could favor gun control laws—and I hope this is not the reason the D.C. Council favors the Firearms Control Regulations Act—would be to disarm the innocent population so that the criminals and the government could prey on them at will. An article presenting this argument appeared in the June/July issue of *The Civil Liberties Review*. I have included it as an appendix to my testimony.

CONCLUSION

I have argued for the unconstitutionality, the illegality and the futility of the Firearms Control Regulations Act of 1975. I believe that if any one of these arguments is valid, this Committee and this Congress ought to disapprove the Firearms Act and prevent its provisions from becoming effective. Not only is the integrity of the Constitution and the Home Rule Charter called into question by this Act, but the safety of the residents of the District of Columbia will be further endangered if it becomes law. I strongly urge you to act quickly to protect the lives, property and safety of the people of the District of Columbia by disapproving this bill.

Thank you.

Mr. BARTLETT. Mr. President, I also call the attention of the Senate to a recent study by the Congressional Research Service of the Library of Congress. The Study concludes that the D.C. Firearms Control Regulations Act is invalid because it exceeds the authority of the District of Columbia Council. I ask unanimous consent that the Congressional Research Service's report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

FIREARMS CONTROL REGULATIONS ACT OF 1975

(Valid exercise of the authority granted by sections 1–224, 1–226, 1–227 (regulation of firearms, explosive and weapons) of the D.C. Code or violation of section 602(a)(9) of the District of Columbia Self-Government and Government Reorganization Act, 87 Stat. 894–95 (1973))

INTRODUCTION

The Firearms Control Regulations Act of 1975. D.C. Act No. 1–142, approved July 23, 1976 raises questions as to whether the Act is the valid exercise of authority granted by D.C. Code Sec. 1–227, 1–226, 1–224 or a violation of the limitation imposed on the legislative authority of the D.C. City Council by section 602(a)(9) of the District of Columbia Self-Government and Government Reorganization Act, 87 Stat. 894–95 (1973), D.C. Code Sec. 1–147(a)(9) (Supp. II). The conclusion of this report is that the Act is not valid.

Section 602(a)(9) provides:

The Council shall have no authority . . . to—

* * * * *

(9) enact any act, resolution, or rule with respect to any provision of title 23 (relating to criminal procedure), or with respect to any provision of any law codified in title 22 or 24 (relating to crimes and treatment of prisoners) during the twenty-four full calendar months immediately following the day on which the members of the Council first elected pursuant to this Act take office.

Sections 1–227, 1–226 and 1–224 of the D.C. Code state:

Section 1–227. Regulations relative to firearms, explosives, and weapons.

The District of Columbia Council is hereby authorized and empowered to make, and the Commissioner of the District of Columbia is hereby authorized and empowered to enforce, all such usual and reasonable police regulations, in addition to those already made under sections 1–224, 1–225, and 1–226 as the Council may deem necessary for the regulation of firearms, projectiles, explosives, or weapons of any kind in the District of Columbia.

Section 1–226. Regulations for protection of life, health, and property.

The District of Columbia Council is hereby authorized and empowered to make, and the Commissioner of the District of Columbia is hereby authorized and empowered to enforce, all such reasonable and usual police regulations in addition to those already made under sections 1–224, 1–225, as the Council may deem necessary for the protection of lives, limbs, health, comfort and quiet of all persons and the protection of all property within the District of Columbia.

Section 1–224. Police regulations authorized in certain cases.

The District of Columbia Council is hereby authorized and empowered to make and modify, and the Commissioner of the District of Columbia is hereby authorized and empowered to enforce, usual and reasonable police regulations in and for said District as follows:

First. For causing full inspection to be made, at any reasonable times, of the places where the business of pawnbroking, junk-dealing, or second-hand clothing business may be carried on.

Second. To regulate the storage of highly inflammable substances in the thickly populated portions of the District.

Third. To locate the places where licensed vendors on streets and public places shall stand, and change them as often as the public interests require, and to make all necessary regulations governing business.

* * * * *

Ninth. To regulate or prohibit loud noises with horns, gongs, or other instruments, or loud cries, upon the streets or public places, and to prohibit the use of any fireworks or explosives within such portions of the District as it may think necessary to public safety.

* * * * *

Eleventh. To prescribe reasonable penalties for the violation of any of the regulations in this section mentioned; and said penalties may be enforced in any court of the District of Columbia having jurisdiction over minor offenses, and in the same manner that such minor offenses are now by law prosecuted and punished.

BACKGROUND

Congress enacted legislation governing the carrying and selling of firearms in the District in 1892. 27 Stat. 116. Several years later it passed legislation governing the "killing of wild birds and wild animals in the District of Columbia," 34 Stat. 808 (1906) which included language similar to that currently contained in D.C. Code Sec. 1–227.

When the basic provisions of title 22, chapter 32 of the D.C. Code replaced the 1892 legislation, the District's regulatory authority under the 1906 Act was left unchanged, 47 Stat. 650 (1932), as amended, D.C. Code secs. 22–3201 to 22–3217.

In 1968, the District promulgated police regulations covering the possession, registration and sale of firearms and destructive devices, D.C. Police Regs. arts. 50–55. The Maryland and District of Columbia Rifle and Pistol Association challenged the validity of the '68 regulations on the grounds that in enacting D.C. Code secs. 22–3201 to 22–3217 Congress had preempted the field and withdrawn the delegation of legislative authority granted by D.C. Code sec. 1–227. They contended, alternatively, that the regulations exceeded the authority granted by the 1906 legislation which they argued should be read narrowly to permit only regulations associated with hunting of wild birds and animals.

The United States Court of Appeals rejected both of these arguments, *Maryland and District of Columbia Rifle and Pistol Association, Inc.* v. *Washington*, 442 F. 2d 123 (D.C. Cir. 1971). It noted that broad language contained in section 1–227 does not suggest the narrow interpretation offered and that by subsequently repealing all of the 1906 statute except the firearm regulation provision Congress intended section 1–227 to be interpreted as broadly as its language. The Court also observed with respect to the preemption issue:

"The important consideration, we think, is not whether the legislature and municipality have both entered the same field, but whether in doing so they have clashed. Statutory and local regulation may coexist in identical areas although the latter, not inconsistently with the former, exacts additional requirements, or imposes additional penalties. The test of concurrent authority, this court indicated many years ago, is the absence of conflict with the legislative will.

"We find, too, from the fact that section 1–224 was not repealed, either in 1932 when the gun control law was passed or in 1958 when the 1906 wildlife legislation was repealed, a satisfying assurance that Congress, having dealt with some aspects of weapons control, left others for regulation by the District. Indeed, as we have pointed out, we cannot fathom any other purpose to be achieved by leaving section 1–227 in force. We are aware of a brief observation in the legislative history of the 1932 act that it would effect a "comprehensive program of [gun] control," but we cannot accept that as an expression of intent to preempt the entire field. Examination discloses that the 1932 act is not comprehensive with respect to rifles and shotguns, and the regulations under review demonstrate a clear design to leave the areas preempted by the statute unaffected." *Id.* at 130–32.

When Congress delegated broad general legislative authority to the City Council in the District of Columbia Self-Government and Government Reorganization Act, it restricted its grant by providing that:

The Council shall have no authority . . . to—

* * * * *

"(9) enact any act, resolution, or rule with respect to any provision of title 23 (relating to criminal procedure), or with respect to any provision of any law codified in title 22 or 24 (relating to crimes and treatment of prisoners) during the twenty-four full calendar months immediately following the day on which the members of the Council first elected pursuant to this Act take office." 87 Stat. 894–95 (1973), D.C. Code Sec. 1–147(a)(9).

This subsection was added to the bill by House sponsors during debate, 119 Cong. Rec. 33353(1973). Under its provisions, one of the sponsors noted, "the City Council is prohibited from making any changes in the criminal law applicable to the District. The conference committee, "agreed to transfer authority to the Council to make changes in Titles 22, 23 and 24 of the District of Columbia Code, effective January 2, 1977. . . . It is the intention of the Conferees that their respective legislative committees will seek to revise the District of Columbia Criminal Code prior to the effective date of the transfer of authority referred to." H.R. Rep. No. 93–702, 93d Cong., 1st Sess. 75(1973). We have been unable to locate any further express indication of legislative intent as to the meaning of section 602(a)(9). Other than the language of section 404(a) there is no express indication as to whether the limitation applies to D.C. Code Sec. 1–227:

"Subject to the limitations specified in title VI of this Act [which includes sec. 602 (a)(9)], the legislative power granted to the District by this Act is vested in and shall be exercised by the Council in accordance with this Act. In addition, except as otherwise provided in this Act all functions granted to or imposed upon, or vested in or transferred to the District of Columbia Council, as established by Reorganization Plan Number 3 of 1967, shall be carried out by the Council in accordance with the provisions of the Act." 87 Stat. 787(1973).

ARGUMENTS THAT THE ACT IS BEYOND THE AUTHORITY OF THE COUNCIL

Congress reserved to itself legislative jurisdiction over criminal law and procedure in the District of Columbia until January 2, 1977 by enactment of section 602(a)(9). This fact is established by the legislative history cited above and the statements contained in this year's House committee report on the bill to extend that date, H.R. Rep. No. 94–1418, 94th Cong., 2d Sess. (1976). Any act which prohibits under criminal penalty the control, transfer, offer for sale, sale, gift or deliver of destructive devices such as explosives, poison gas bombs, tear gas, and tasers; the manufacture of firearms within the District of Columbia; and the possession of pistols acquired after the effective of the Act involves the exercise of criminal legislative jurisdiction.

By enacting section 602(a)(9) Congress imposed a moratorium over the Council's legislative authority over matters covered by titles 22, 23 and 24 so that the Congress could revise the District's criminal law and procedure including especially those matters currently contained within the three titles. The District of Columbia weapons control *statutes* are currently all found within title 22 including provisions for licensing weapons dealers, licensing those who carry pistols and prohibiting possession of certain firearms and weapons. This is the law which Congress intended to freeze by enacting section 602 (a)(9). Enactment of the Firearms Control Act alters the law with respect to those areas which Congress intended to examine in revising the D.C. criminal law and is therefore within the limitation of that section and beyond the legislative authority of the D.C. City Council until January 2, 1977.

The Firearms Control Regulations Act is an act with respect to title 22 because it is an act containing "general and permanent laws relating to the District of Columbia" which will have to be placed in the D.C.

Code, 1 U.S.C. Sec. 203, and the most, in fact only, logical repository for those provisions is chapter 32 of title 22.

The Firearms Control Regulations Act is an act with respect to title 22 because it deals with many of the same subject matters contained in chapter 32 of title 22: circumstances under which a pistol may be lawfully possessed, compare D.C. Code sec 22–3202 with D.C. Act No. 1–142, sec. 201, 202(d), 202(e), 706; licensing of those who deal in weapons, compare D.C. Code secs. 22–3209, 22–3210 with D.C. Act No. 1–142 secs. 401–409; regulation of the transfer of firearms compare D.C. Code secs. 22–3208 with D.C. Act No. 1–142 secs. 501, 502.

The Firearms Control Regulations Act is an act with respect to title 22 because it replaces and repeals D.C. Police Regulations Arts. 50–51 which deals with the same subject matter as chapter 32 of title 22, *Maryland and District of Columbia Rifle and Pistol Association, Inc.* v. *Washington*, 442 F. 2d 123 (D.C. Cir. 1971).

The Firearms Control Regulations Act is an act with respect to title 22 because the City Council intended it to supplement chapter 32 of title 22 as is evidenced by a comparison of the findings and purpose of the Act with the title of the 1932 Act which became chapter 32 of title 22: compare, "An Act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia . . ." 47 Stat. 650(1932) with D.C. Act No. 1–142, sec. 2.

The Firearms Control Regulations Act is an act with respect to title 22 because even if the Council could have passed *regulations* containing the same provisions as an exercise of municipal legislative authority under D.C. Code secs. 1–224, 1–226, 1–227 it chose to enact a *statute* under legislative authority first delegated in the District of Columbia Self Government and Government Reorganization Act, 87 Stat. 774 (1973), D.C. Code sec. 1–124 (Supp. II).

The Firearms Control Regulations Act is an act with respect to title 22 because no argument to the contrary is tenable. As noted earlier, even if the Act could have been promulgated as police regulations under the authority of D.C. Code secs. 1–224, 1–226 and/or 1–227, the Council did not elect that approach. However, it seems more reasonable to conclude that section 602(a)(9) limits the authority granted by D.C. Code secs. 1–224, 1–226, 1–227. The legislative history indicates that section was intended to freeze D.C. criminal law until Congress could work a general revision. Congress could not have therefore intended to prohibit amendments to titles 22, 23 and 24 covering things like firearms control, rape, assault, etc., but permitting the identical provisions to be validly enacted under the authority of D.C. Code secs. 1–224, 1–226, 1–227. Moreover, in spite of the fact that the language used in the Act, "An Act to protect the citizens of the District from loss of property, death, and injury . . . in order to promote the health, safety and welfare of the people of the District of Columbia . . ." suggests that the authority of D.C. Code sec. 1–226, ". . . police regulations . . . for the protection of lives, limbs, health, comfort and quiet of all persons and the protection of all property within the District of Columbia" was used, the Council's selection of penalties in excess of those permitted for regulations enacted under D.C. Code secs. 1–226, 1–224 negates any argument that the Act was passed pursuant to authority vested by those sections. (D.C. Code Sec. 1–224a provides that the maximum penalties established for violation of D.C. Code secs. 1–224, 1–226 may exceed imprisonment for 10 days; second and subsequent offenders of D.C. Act No. 1–142 are punishable by imprisonment for not more than 90 days, D.C. Act No. 1–142, sec. 706). The Act cannot be classified as primarily regulatory with only those criminal provisions which would be necessary to enforce any regulatory scheme because in its regulatory aspects the Act by and large simply reproduces the Police Regulations found in Articles 50–55 onto which new criminal prohibitions have been grafted, *e.g.*, prohibitions against various and sundry destructive devices, against possession of pistols by D.C. residents acquired after the effective date of the Act, and against manufacturing firearms within the District. Finally, the validity of the Act cannot be supported by reference to *Maryland and District of Columbia Rifle and Pistol Association, Inc.* v. *Washington*, 442 F. 2d. 123 (D.C. Cir. 1971). That case arose prior to the Home Rule Act and dealt with the issue of whether in the absence of an express limitation Congress had preempted the District's municipal legislative authority. The Firearms Control Regulations Act's validity turns on the applicability of section 602(a)(9), an express reservation of the legislative authority the District would otherwise have been delegated.

ARGUMENTS THAT THE ACT IS WITHIN THE COUNCIL'S AUTHORITY

The limitation of section 602(a)(9) is a restriction on the legislative authority, most comparable to that exercised by a state legislature, which the Home Rule Act vested in the City Council. It does not restrict the Council's authority to enact municipal ordinances. If it did, Congress could have and would have made that clear either in the Act or its legislative history.

The Firearms Control Regulation Act is regulatory in nature not criminal. Most regulatory schemes provide minor criminal penalties for violation. Two of the principal differences between regulatory and criminal provisions are the extent of noncriminal matter included and the severity of the penalties imposed. The basic thrust of the Frearms Act is administrative, regulatory. Maximum penalties of 10 days and $300 are the kind of sanctions that support the administrative dealings of a municipality with its businessmen and citizens; they are not the kind of penalties one establishes as a crime control measure.

Section 602(a)(9) restricts amendments to title 22, 23 and 24. The Firearms Act does not amend any of those sections.

Finally, if Congress fails to disallow the Act, it would serve as a further indication that section 602(a)(9) was not intended to restrict D.C. Code Sec. 1–227 or even gun control regulation under its general legislative powers.

CONCLUSION

An examination of the arguments suggests that the Firearms Control Regulations Act exceeds the legislative authority delegated to the City Council. Congress in enacting section 602(a)(9) intended to freeze those areas of criminal law and procedure contained in titles 22, 23 and 24. The fact that gun control legislation for the District of Columbia was then contained in title 22 makes it inconceivable that Congress did not intend to preserve the status quo in the area of weapons control.

Of course, Congress could enact the provisions of the Firearms Control Regulations Act, or in the absence of federal legislation the City Council could enact them after January 2, 1977.

WHO OWNS AMERICA?

Mr. NELSON. Mr. President, Wisconsin's distinguished journal of opinion, the Progressive, contains in its August issue an editorial that is appropriately complimentary to the work of the Senator from Montana (Mr. Metcalf). The editorial summarizes and comments on a report recently issued by the Senate Government Operations Subcommittee on Reports, Accounting, and Management, of which Senator Metcalf is chairman.

According to the editorial:

> The great challenge confronting corporate capitalism today is to continue the process of concentration while preserving the appearance of a competitive economy.
>
> * * * The myth of competition is a convenient rationale for the retention and expansion of corporate profits and power.

The Metcalf subcommittee's study is entitled "Institutional Investors' Common Stock—Holdings and Voting Rights." It reveals, the editorial notes, that bank trust departments control more than 30 percent of the stock in 35 of the 146 corporations studied, with the 25 largest banks controlling more than half of all trust department assets.

Concern is expressed that these trust departments often have substantial holdings in large "competing" firms within an industry. The editorial then quotes directly from the report:

> The potential for communities of financial interests that either exist or may exist in the future, as the same major financial institutions have significant stockholdings in the same companies in the same industry, merits continuing attention.

The Progressive editorial concludes:

> The Senate report is a long overdue attempt at ferreting out the labyrinthine patterns of economic concentration and control, but it is an effort that needs to be relentlessly pursued.

We may all be grateful for the Metcalf subcommittee's continuing fine work in these areas of vital concern. The Senate's appreciation was indicated when it recently agreed to a resolution for the reprinting of the "Institutional Investors" report as Senate Document No. 94–247. At the same time, another resolution was agreed to, calling for the reprinting of a companion report of the Metcalf subcommittee as Senate Document No. 94–246. That report is entitled "Corporate Ownership and Control."

Mr. President, I ask unanimous consent that the editorial, "Who Owns America?" from the Progressive, be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Progressive, August 1976]

WHO OWNS AMERCIA?

American reform movements have long been quite properly concerned with the growing concentration of economic power in the United States. In the Nineteenth Century, competition among giant rail interests produced waves of expansion, depression, bankruptcies, and ever greater economic concentration. The percentage of corporate assets and profits controlled by the largest corporations has grown steadily since the Civil War. As corporate giants find the rigors of competition unbearable, they increasingly resort to such devices as mergers, pools, and holding companies.

The great challenge confronting corporate capitalism today is to continue the process of concentration while preserving the appearance of a competitive economy. A recent staff study of the Senate Government Operations Committee's subcommittee on reports, accounting, and management suggests some of the subtle techniques now being used to intensify economic concentration. The report indicates that bank trust departments control more than 30 percent of the stock in thirty-five of the 146 corporations studied—and the twenty-five largest banks control more than half of all trust department assets.

Furthermore, these trust departments often have substantial holdings in large "competing" firms within an industry. "The potential for communities of financial interests that either exist or may exist in the future, as the same major financial institutions have significant stockholdings in the same companies in the same industry, merits continuing attention," the study notes.

The committee's report suggests two conclusions: While corporate ideology preaches the virtues of competition, corporate practice desperately strives to achieve stability and guaranteed profits by any device available. Competition obviously does not and can not work for these giants, as the whole history of our economy suggests. The vicissitudes of the system lead inevitably to greater efforts at self-regulation in the interest of corporate wealth. But the myth of competition is a convenient rationale for the retention and expansion of corporate profits and power.

As the webs of interlocking relationships grow, it becomes increasingly difficult to identify those persons and institutions that exercise effective economic power. The evidence we have clearly suggests that such power is not widely dispersed. The Senate report is a long overdue attempt at ferreting out the labyrinthine patterns of economic concentration and control, but it is an effort that needs to be relentlessly pursued.

ALLEGED CORRUPTION BY CURRENT EMPLOYEES OF THE DEPARTMENT OF THE INTERIOR

Mr. FANNIN. Mr. President, on July 26, 1976, I wrote a letter to Secretary of Interior Kleppe, regarding a local television newscast alleging criminal acts by four current employees of the Department of Interior. Mr. Fred M. Zeder, Director of Territorial Affairs, responded on August 11, 1976, on behalf of the Department. Because of the seriousness of these allegations and particularly the impact on these current employees, I feel the record should be completely aired.

The Senate Interior Committee held extensive hearings regarding these issues and published in February of 1975 a very thorough and complete staff report. Mr. Zeder's letter should put to rest these allegations of alleged corruption on the part of current employees of the Department.

I ask unanimous consent that my letter of July 26, 1976, and Mr. Zeder's letter of August 11, 1976, be printed in the Record in whole.

There being no objection, the letters were ordered to be printed in the Record, as follows:

July 26, 1976.

Hon. Thomas S. Kleppe,
Secretary of the Interior,
Department of Interior,
Washington, D.C.

Dear Mr. Secretary: It has come to my attention that WMAL television last week telecast during the local news a story regarding graft and corruption in Micronesia. I understand four current employees of the Department of Interior were alleged to have committed criminal acts.

For the record I would ask the Department of Interior to respond to the allegations presented in this program.

As you know, the Interior Committee has held a series of oversight hearings dealing with the problems of Micronesia. Your response will enable us to bring up to date that hearing record.

Sincerely,

Paul Fannin,
U.S. Senator.

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., August 11, 1976.

Hon. Paul J. Fannin,
U.S. Senate,
Washington, D.C.

Dear Senator Fannin: Secretary Kleppe has asked that I respond to your letter of July 26, 1976, in which you requested a response from the Department of the Interior to accusations regarding alleged graft and corruption in the Trust Territory of the Pacific Islands. These charges were made by WMAL television station on its local evening news programs of July 21 and 22. You have specifically requested information regarding the four persons who WMAL charged with having committed criminal acts.

By way of background, I think it important to recall the investigations and oversight hearings conducted by the Senate Interior Committee during the latter part of 1974 and the first three months of 1975. That exercise was prompted, in part, by the allegations of Mr. Richard Thorpe, a scrap dealer from New Mexico, who attempted to purchase some surplus generators in the Palau District of the Trust Territory. We understand that it was Mr. Thorpe who convinced WMAL to run the questioned news stories on the Trust Territory. As I am sure you will recall from the hearings before your Committee on March 10 and 12, 1975, Mr. Thorpe made essentially the same allegations and charges which WMAL has now restated as fact. None of these allegations have ever been proved, even though they were thoroughly investigated by the Senate Interior Committee staff, the General Accounting Office, the Department of Justice, the Naval Intelligence Service, the Army's Criminal Investigation Division, the Trust Territory Government and this Department.

One of the topics which was discussed at length in these investigations and hearings was the management of public works programs in the Trust Territory of the Pacific Islands. As the Department's response to concerns voiced by the Committee, I headed an investigatory team which toured the Trust Territory and analyzed not only the management of construction and procurement, but also the concept of physical infrastructure in remote island areas. In my report of this investigation, pin-pointed instances of bad management and loose controls on contract performance were shown. Also uncovered were substantial examples of inadequate accountability. We have already taken several comprehensive actions to correct these deficiencies. These are outlined in the enclosure to this letter. The Senate Interior Committee has been supplied with copies of my report and has been kept currently advised of what we are doing to correct problems in the Trust Territory of the Pacific Islands. What we did not find, however, was any evidence of criminal activity, fraud, graft, theft or kickbacks as Mr. Thorpe and WMAL allege. In this regard, my investigation corroborates the conclusions of the previous investigations, including those of the Senate Committee and the Department of Justice.

Before addressing the question of the four persons named in the WMAL report, I would just like to state for the record the method by which WMAL did its "investigative reporting." My staff was informed by WMAL that the station would be airing two news reports on the Trust Territory and desired to tape interviews with Mr. Emmett M. Rice, the Deputy Director of the Office of Territorial Affairs, and Mr. Peter T. Coleman, the Acting High Commissioner of the Trust Territory of the Pacific Islands. We were also informed before any interviewing took place and before we even knew the nature of the reporting that the Department of the Interior "would not like the report." Nevertheless, we cooperated fully. Messrs. Rice and Coleman spent close to two hours with the reporters from WMAL and responded to each of the charges. We also made available to WMAL in advance of the programs the document enclosed, which enumerates all the allegations which have been made, the source of the allegations and actions taken. Further, both Messrs. Rice and Coleman were interviewed on tape for fifteen minutes each and recounted fully the details of each issue addressed. WMAL elected to edit these interviews so severely that very little of the information which we supplied was aired. Also, no mention was made of our written submission to WMAL nor was it used at all in the preparation of the news script.

During the reports, a WMAL reporter twice made the statement that "investigators have uncovered a pattern of fraud, corruption, kickbacks, payoffs and theft." As we patiently explained to WMAL, the Department has yet to be presented with any evidence of such activity. Nowhere in any of the above cited investigations was any scintilla of evidence of criminal activity on the part of officials of the Trust Territory Government produced. Had it been, we would have taken appropriate action immediately. We would hope that if WMAL possesses new evidence from any source, it would make it available to this Department, to the Justice Department or the Federal Bureau of Investigation, or to the Senate Committee. We do not believe, however, that such evidence exists and feel that WMAL's allegations were unsubstantiated. The unwarranted statements made by WMAL's reporter reflect very poorly on the professionalism of that station and on the American Broadcasting Company.

Four individuals were *mentioned* in the WMAL report which imputed criminal activity to each of them. While each of these persons was present in and employed by the Trust Territory during the period covered by the investigations, there is absolutely no evidence to support even an inference that criminal activity was involved in their official actions. Their present situations are as follows:

Mr. Peter T. Coleman has been the Deputy High Commissioner of the Trust Territory since 1969. With the resignation of Edward E. Johnston as High Commissioner in June of this year, Mr. Coleman took on the added responsibilities of Acting High Commissioner. The Department has great confidence in Mr. Coleman's abilities and his commitment to effectively implement the several action programs which have been cooperatively developed to improve management, accountability and procurement. In just two short months, Mr. Coleman has established a "leadership by example" program and has moved decisively in the restructuring of the Executive Branch of the Trust Territory Government in ways that will prevent the type of poor management which had existed from being repeated.

Mr. Richard Miyamoto is the former Attorney General of the Trust Territory. WMAL alleges that Mr. Miyamoto was fired. In fact, Mr. Miyamoto was transferred to American Samoa at the same salary rate to become an Associate Justice of the High Court. As Mr. Rice explained at length to WMAL, the reason behind the transfer was that Mr. Miyamoto's background, his experience in the State of Hawaii and the Trust Territory, made him especially qualified to fill the High Court vacancy in Samoa. Mr. Miyamoto is performing his duties commendably in American Samoa. Additionally, as part of the Acting High Commissioner's efforts to institute tighter controls in the Trust Territory Government, the Attorney General's Office has been reorganized with a greater emphasis placed on investigation, enforcement and litigation.

Mr. Ronald A. Peterson is the former Director of Finance of the Trust Territory Government. WMAL's report stated that Mr. Peterson signed checks for dispensaries which have not been built. In fact, Mr. Peterson did not sign any checks for the outer island dispensary contract. Secondly, at the present time, six of the thirty-eight contracted dispensaries have been fully completed, six more sites have been prepared and the Trust Territory is in possession of the thirty-two prefabricated dispensary units. These are being constructed by the Trust Territory Public Works Department. In the case of Mr. Peterson especially, WMAL's reporting was totally unfounded in fact and may well be libelous. Mr. Peterson is now a staff member of the Office of Territorial Affairs for financial management. It is important to note that the Senate Committee and its staff investigators did not consider Mr. Peterson's activities of such significance to their investigation to warrant his presence during the March 1975, hearings. He is a dedicated professional who has been in the Civil Service for seven years.

Mr. Jesse R. Quigley has been, and is, the Trust Territory Liaison Officer in Okinawa. As such, he serves to procure for use in the Trust Territory excess property from the Federal Government—primarily the Department of Defense. WMAL stated that some $9 million worth of excess goods has been procured by Mr. Quigley but had never appeared in the Trust Territory. Evidence does not support this allegation. As the enclosure to this letter states on page 2, during a recent "on the ground" inventory in the Trust Territory, conducted by Federal personnel, no shortages were discovered. In order to be fully assured of this, the entire inventory is being computerized and will then be cross-checked against the card-file inventory presently in use.

In reference, once again, to the hearings of the Senate Committee, since March, 1975, the Office of Territorial Affairs has worked very closely with Senate Interior Committee staff, both majority and minority. We have been informed by the staff that the Committee is quite pleased with the investigations and actions we have taken. Further, we have been informed that the interest of the Committee is not in reviewing past instances of bad management but in the cooperative development of regulations and procedures which will prevent reoccurrence. Our information from the Committee is that we have satisfactorily met its concerns in this regard.

Along with Secretary Kleppe and Under Secretary Frizzell, I sincerely appreciate the opportunity to again set the record straight with regard to the issues involving the Government of the Trust Territory of the Pacific Islands. Please be assured, Senator Fannin, that the Department of the Interior will always be more than pleased to cooperate with your Committee in any meaningful and worthwhile attempts to improve the effectiveness and accountability of the Trust Territory Government. It is our hope that this ongoing process will be brought about by thoughtful and coordinated planning and will not be sidetracked by further unfounded allegations and irresponsible reporting.

Sincerely yours,

FRED M. ZEDER,
Director of Territorial Affairs.

ALLEGATION

No comprehensive planning exists for installation for infrastructure in the Trust Territory to further economic development. The Congress is constantly handicapped in authorizing and appropriating funds for Micronesian infrastructure. Priorities have never been set and specific needs identified.

SOURCE

Jackson Committee Report.

ACTION TAKEN

Mr. Zeder, Director of Territorial Affairs spent five weeks with a task force composed of a contract lawyer, an economist, and three Bureau of Reclamation contract specialists in the Trust Territory to assess the problem, identify needs, and take remedial action. Subsequently supervision of capital improvement program construction was turned over to Navy to do for the Trust Territory. Subsequently Mr. Rice, Deputy Director of Territorial Affairs and the Officer in Charge of Construction (OICC), U.S. Navy, Guam, toured the Trust Territory for five weeks consulting with all district legislatures, traditional chiefs, executive personnel in each district and municipal magistrates to specifically identify projects necessary for economic development and to summarize priorities. Full input and assistance was provided by the United Nations Development Program. Needs, specific projects, priorities, and Micronesian desires have all been fully and finally determined and Navy is proceeding with engineering logic and economy to supervise construction of this infrastructure. It is now a fully developed, logical, economic concept of infrastructure that is being managed pursuant to strict federal guidelines by Navy. The Trust Territory Public Works Department is now directing all of its energy and resources toward training Micronesians to properly maintain this infrastructure.

ALLEGATION

Irregularities and shortages in the foreign excess property procurement system from Okinawa and other sources.

SOURCE

Jackson Committee Report.

ACTION TAKEN

A full "on the ground" physical inventory of every piece of equipment in the Trust Territory has recently been completed. More than 25,000 items were inventoried in all six districts. This inventory has been placed on a computer. The computerized printouts will be reconciled with the manual card inventory that previously existed. Source of acquisition, acquisition price by the Trust Territory, original acquisition price and current fair market value after appraisement will be fed into the computer. Requisitions by the Trust Territory procurement office in Okinawa or elsewhere, shipping documents to the Trust Territory from Okinawa or elsewhere, and Trust Territory receipts documents will be reconciled and "outturn" reports prepared. Shortages and/or irregularities appearing on these outturn reports will be investigated thoroughly. This is a mammoth undertaking which will require much time and effort, but which is felt to be necessary by the Director of Territorial Affairs.

ALLEGATION

Inapplicability of desirable Federal laws to the Trust Territory.

SOURCE

Jackson Committee Report.

ACTION TAKEN

Political considerations negate extension of certain Federal laws to the Trust Territory that are desirable in the Continental United States. The Director of Territorial Affairs has prepared and transmitted to the Congress of Micronesia a complete administration package to tighten up the Trust Territory Code along Federal guidelines in important areas, both civil and criminal. This package will be considered by the Congress of Micronesia at its special session to be held in Ponape, Eastern Caroline Islands beginning July 19, 1976.

ALLEGATION

That certain Saipan water contracts, better known as the "Amelco" contract, were maladministered.

SOURCE

Jackson Committee Report.

ACTION TAKEN

This matter has been investigated repeatedly by the Trust Territory Internal Auditor, the U.S. Comptroller on Guam, and by the Office of Audit and Investigation, Department of the Interior. No irregularities have been found, and the settlement agreement entered into on this matter by Mr. Tidwell, of the Department of the Interior Solicitor's Office has been found to have been prudent, economic, and appropriate.

ALLEGATION

The Hanil Development Company Limited, despite poor performance was awarded contracts in the Trust Territory.

SOURCE

Jackson Committee Report.

ACTION TAKEN

All uncompleted Hanil Development, Ltd. work is now under the close scrutiny of either the Director of Public Works, Trust Territory, and/or OICC (Navy) Guam and all deficiencies have been corrected.

ALLEGATION

That irregularities existed in the award, supervision, and construction of the Palau Bridge which was being constructed by Aju Construction Company, a Korean firm.

SOURCE

Jackson Committee Report.

ACTION TAKEN

The Aju contract has been terminated. Aju's bonding company has substituted Socio Construction Company. The entire contract is under careful supervision. It is now on schedule and all irregularities have been corrected.

ALLEGATION

There were irregularities in the formation and management of Transpac, a Trust Territory shipping company.

SOURCE

Jackson Committee Report.

ACTION TAKEN

Transpac had been placed in receivership at the time of the Jackson hearings. A receiver was appointed who has virtually completed his task of winding up Transpac's affairs in the Trust Territory. A number of new shipping companies have been licensed to do business in the Trust Territory on a competitive basis. Goods and services are now moving between the districts in an appropriate manner.

ALLEGATION

That there were irregularities in the development of "Port Nixon" a ship repair facility in Peleliu, an outer island of the Palau district. Further, that an historic barge, once used as headquarters for General Douglas MacArthur had been permitted to fall into "rack and ruin."

SOURCE

Jackson Committee Report.

ACTION TAKEN

The entire two pages of the Jackson Committee Report were not the result of first-hand knowledge, but simply a recount of what one of the investigators had been told by another, in essence, "hearsay." A thorough investigation has been made into the matter. Operations at this facility have been geared down to a practical level, and it has been determined that the report that vessels could only enter and exit every 28 days at the full moon is erroneous. Records have been researched, Naval historians consulted, and a full investigation made into the charge in question. Not one scintilla of evidence has been adduced to reflect that MacArthur ever set foot on the subject barge. It has also been determined that the barge was severely damaged by dryrot prior to its acquisition by the Trust Territory.

ALLEGATION

That Medevac facilities in the Trust Territory were inadequate.

SOURCE

Jackson Committee Report.

ACTION TAKEN

A complete study was conducted as to feasibility and cost of such a program by aircraft services of the Department of the Interior. An adequate program was determined to have an annual cost of $1.5 million for the Trust Territory. This was considered excessive and other arrangements were sought. A privately-owned seaplane has been induced to locate in the Marshall Islands where it is chartered for medevac missions on a frequent basis. This provides full service capability for that district. A contract has been made with the Reverend Kalau of Yap, the Head of a Lutheran Missionary corporation to provide medevac services for the rest of the Trust Territory utilizing both seaplanes and STOL aircraft. Most of the cost of this program is funded through world-wide donations to the Lutheran Missionary activity. There is a very minimal cost to the Trust Territory Government and the service is adequate.

ALLEGATION

That there was inadequate accountability in financial management in the Trust Territory.

SOURCE

Jackson Committee Report.

ACTION TAKEN

A team of experts from the Assistant Secretary/Management's Office of the Department of the Interior were transferred to the Trust Territory to develop a new, automatic data processing financial management system for the Trust Territory similar to U.S. Government financial management systems. The whole manual system has been substantially automated, local personnel have been trained in its operation and maintenance, and it is hoped that the new system will be fully operative in the near term. This has been a massive undertaking which has required complete transfer of the old manual system to automation together with an extensive training exercise.

ALLEGATION

That there were irregularities in the sale of a Trust Territory barge to Philippine Packing Company.

SOURCE

Jackson Committee Report.

ACTION TAKEN

The matter has been fully investigated. The sale and deposit of proceeds in the Trust Territory Treasury were found to be lawful. The allegation that the charge would have brought more for scrap has not been borne out. No irregularities were found surrounding this transaction. The principal problem identified was that the initial acquisition of the barges was possibly imprudent. The Director of Territorial Affairs has subsequently ordered all of the barges sold for the best possible price.

ALLEGATION

That there was irregularity in the transfer of Mr. Richard I. Miyamoto, formerly Attorney General of the Trust Territory, to the position of Associate Justice, High Court of American Samoa.

SOURCE

News stories, Gannett News Service and Pacific Daily News.

ACTION TAKEN

The Task Force Report of Mr. Fred Zeder, Director of Territorial Affairs, reflected that the Trust Territory Attorney General's Office and staff lacked trial expertise and aggressive advocacy in dealing with Trust Territory matters. Mr. Miyamoto, an Army Reserve Colonel and a loyal and devoted U.S. citizen was transferred to the American Samoa position after careful consideration. It was determined that although he may lack aggression in the area of trial advocacy that he is an accomplished jurist of substantial intellectual capacity, learned in the law, and of judicial temperament. Accordingly he was transferred to a position where his talents could be better utilized.

ALLEGATION

That goods are often released from Trust Territory warehouses without receipt of document of title (Bills of Lading).

SOURCE

Jackson Committee Report.

ACTION TAKEN

Part of the Administration's legislative package developed by Mr. Zeder and staff remedies this very problem and makes it a crime for a warehouse operator to release goods without proper documents of title.

ALLEGATION

That many persons on the Trust Territory staff were inefficient and inadequate.

SOURCE

Jackson Committee Report.

ACTION TAKEN

The ex-High Commissioner has resigned and Mr. Peter Coleman, a career executive of proven capability is now the Acting High Commissioner of the Trust Territory. The Territorial Planner's contract was terminated. The Director of Transporation has been replaced. An aggressive new Attorney General has been recruited and is now on board. The Attorney General's office has been completely reorganized. The District Administrator of the Ponape District has been recently terminated. It is felt that Mr. Coleman will provide energetic new administration of the entire Trust Territory and that further personnel changes as appropriate will be made to promote overall efficiency.

ALLEGATION

That the Micronesia Princess, a new Trust Territory field vessel was improperly designed for its intended purpose and a careful review was needed for future field trip vessels.

SOURCE

Jackson Committee Report.

ACTION TAKEN

The Director of Territorial Affairs has personally sailed aboard the "Princess," reviewed its performance and log, reviewed future field trip vessel plans, and with the assistance of qualified Naval and Maritime personnel effected appropriate changes into the plans for future field trip vessels. The performance of the Micronesia Princess has indicated that it is indeed suited for certain of its intended functions but that modifications and refinements noted above were indicated.

ALLEGATION

That a recently resigned Trust Territory Chief Pharmacist was guilty of irregularities in purchases of pharmaceuticals for the Trust Territory.

SOURCE

Zeder Task Force Report.

ACTION TAKEN

The pharmacist in question was brought to trial on Saipan on one count of felony and two counts of misdemeanor. He was acquitted on all three charges. Further investigation is progressing, both, in the civil as well as in the criminal area on the matter, and depending upon the outcome of this extensive investigation further action will be taken.

ALLEGATION

That substantial irregularities existed in a Trust Territory dispensary contract with Kincaid Construction Company.

SOURCE

Zeder Task Force Report.

ACTION TAKEN

The matter has been fully investigated. The contract with Kincaid terminated, Title to all 38 prefab units secured for the Trust Territory, six dispensaries fully completed and plans made to complete the remaining 32.

ALLEGATION

That the Trust Territory Headquarters complex was unwieldy, excessive, uneconomic, and over staffed.

SOURCE

Zeder Task Force Report.

ACTION TAKEN

At the direction of the Director of Territorial Affairs a complete decentralization exercise has begun which will:

1. reduce headquarters personnel from 700 to 250 persons in the next five years.

2. be consistent with the future Government envisioned by the Micronesian draft constitution.

3. constitute a small, efficient, mobile unit that the Micronesians can afford under future status.

4. cause no severe economic impact on any district.

SUMMARY

Since taking office as the Director of the Office of Territorial Affairs in July 1975, Mr. Fred M. Zeder II has devoted himself and his staff to the investigation of each and every charge and allegation leveled at territorial administration. He has personally spent more than eight months in the field remedying situations where correction proved to be necessary. Investigations are on-going and substantial progress is being made in all areas.

THE WASHINGTON BALLET

Mr. McGEE. Mr. President, the Sunday, August 29, issue of the Washington Post contained an article by the Pulitzer Prize winning writer and critic, Alan M. Kriegsman, on The Washington Ballet.

Several months ago, I called to the attention of the Senate the efforts of Mary Day, director of The Washington Ballet, to inaugurate a local ballet company. I said at that time that Mary Day did not envision a major entity but rather a smaller repertory group that would give young dancers an opportunity to emerge in diversified choreographies. It would be a training ground for their future careers in the major companies of the world.

Perhaps Mr. Kriegsman said it best when he described this new proposal of Mary Day and The Washington Ballet as "a bridge between schooling and professional career for the company's dancers, as well as a springboard for the launching of new choreographic talent."

Last spring when this endeavor was inaugurated, I wished Mary Day well and the best of luck. I still do, Mr. President, but it is apparent from the Kriegsman article that she will need more than luck and good wishes. If this effort is to succeed, she will need the support of all concerned with the arts in Washington and I hope that this type of interest and support will be forthcoming.

In my opinion, Mr. President, the Washington area needs The Washington Ballet, for it represents one of its major cultural resources. The Washington Ballet certainly needs and deserves the support of the entire Washington area.

I ask unanimous consent that the article by Mr. Kriegsman to which I have made reference be printed in the RECORD.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Wing, a Prayer, a Prince

(By Alan M. Kriegsman)

One of Washington's oldest and most productive dance institutions is presently struggling for its future existence with a wing, a prayer, and a fairy-tale prince. The prince is the hero of that breadwinner among ballets, "The Nutcracker," which has long been the holiday economic lifesaver for Mary Day's Washington Ballet, with its associated Academy, School and performing company.

Almost incredibly, for the second time in a decade, Washington is about to have two "Nutcracker" productions to choose from as a Christmastime diversion. One, at Lisner Auditorium, will be the Washington Ballet's longstanding and colorful, but modest and only partly professional version, which has brought local audiences a special brand of Yuletide enjoyment for many years. The other, at the Kennedy Center Opera House, will be a new, glossy and glamorous production to be staged by the celebrated virtuoso Mikhail Baryshnikov for American Ballet Theater. The peril to the local troupe needs no underlining.

Once before, in the mid-'60s, this city was faced with two "Nutcrackers," both of them local creations. This was when the late, lamented National Ballet, the capital's fine professional company, and the Washington Ballet were each mounting their own versions at roughly the same time but in different theaters. That situation was at last sensibly resolved by a compromise. The two companies joined forces, the Washington Ballet primarily staging the first act of the ballet, and the National mostly responsible for the rest, with guest artists in some major roles. It had its problems, but it made sense as a survival tactic. This grand maneuver ended, however, when the National Ballet folded in 1974, collapsing under the weight of new economic strains (of which the greatly magnified costs of the move to Kennedy Center were a major component), competition from visiting companies, ill-coordinated management, and a lack of support, both from the community and from funding sources. The Washington Ballet then took up where it had left off, and mounted its own "Nutcracker" at Lisner again for the succeeding two Christmas seasons.

It would be too pathetically ironic if this latest collision of holiday ballets should end in the downfall of a second mainstay of the Washington dance scene. Yet, having to look the possibilities realistically in the eye, the Washington Ballet's founder and director, Mary Day, must face the prospect of closing her doors for good, unless her "Nutcracker" can hold its own, and new means of monetary sustenance can be found for her operation. To add to the potential irony, the National Ballet was at an artistic peak at the time of its demise, stronger in many respects than it had ever been before. The same could now be said of the Washington Ballet. Last spring, Day added something new to the company's activities—an attractive program series at the Marvin Theater, designed to serve as a bridge between schooling and professional career for the company's dancers as well as a springboard for the launching of new choreographic talent. Among the choreographers whose work was shown was Choo San Goh, a 28-year-old native of Hong Kong and a member of the Netherlands National Ballet, whose three contrasting ballets in the series disclosed creative gifts of a high order. Day herself was enthusiastic enough to invite the young man to join the Washington Ballet this fall as resident choreographer. He is due to arrive this month.

It is true, of course, that Mary Day's establishment is not the only such game in town. There are other excellent ballet schools in the area, including a number that present annual showcase programs featuring advanced pupils, sometimes with well-known guest artists. The fact remains that Mary Day and the institutions she has founded occupy a quite special place in the artistic development of Washington. A native Washingtonian, she opened the Washington School of the Ballet in 1944, with her co-founder and former teacher, Lisa Gardiner. In 1961, after a State Department-sponsored study tour of Russian ballet centers, she established the Academy of the Washington Ballet modeled along continental lines, offering professional training of the most exacting standards along with conventional academic studies. From under these wings have come such notable alumnae as actress Shirley MacLaine; Mimi Paul, former distinguished ballerina of the New York City Ballet, and later, American Ballet Theater; Marianna Tcherkassky, who was just promoted to principal rank in the ABT company; Virginia Johnson, principal dancer of the Dance Theater of Harlem; Kevin McKenzie, a leading dancer with the Joffrey Ballet; the Spanish dancer Maria Alba, and many others in the ranks of major companies in this country and abroad.

The performance history goes way back, too. The Washington Ballet began to present children's programs, including "The Nutcracker," in the late '40s, mostly in association with the National Symphony, and under the aegis of the D.C. Dept. of Recreation. In the course of those performances, Mary Day was responsible for giving Washingtonians their first chance to see such artists as Alicia Alonso, Erik Brunh, Alicia Markova, Maria Tallchief, Meliissa Hayden and Violette Verdy.

All this accomplishment, of course, has taken money, and as the years have gone by, increasingly greater sums. The 400 students in the academy and its ballet division (which offers ballet classes for everyone from children of 7 up through adults) require a large teaching staff and many services. To make attendance at the academy (yearly tuition, $2,850) possible for gifted students of little means, a large chunk of scholarship funding has to be amassed each year. The total annual school budget runs on the order of $200,000. Though the operation has been on a nonprofit basis in recent times, no help has been forthcoming thus far from the National Endowment for the Arts or other outside sources. Day says the Endowment people have listened sympathetically, but told her there is no grant category at the moment under which she could receive assistance. Local foundations, for whatever reasons, have turned her down. She has drawn a blank from the D.C. Commission on the Arts. The new Marvin Theater series has been an additional drain on resources. Thus far, she has managed to keep out of the red. But it is "Nutcracker" that has made the difference, filled the gap between tuition income and the costs of scholarships, running the Washington Ballet troupe, and staging the Marvin series.

What about mounting another festive holiday-oriented children's ballet at Christmastime, as a kind of surrogate "Nutcracker"? It's been tried in the past, Day maintains, and it doesn't work. "Nutcracker" has the irresistible magnetism of the familiar Tchaikovsky music, automatic performing opportunities for flocks of ballet pupils at every level of advancement, and hence, a built-in audience as well. It is, moreover, the only proven moneymaker in the entire ballet repertory that doesn't require superstars to attract audiences perennially. Local, community and regional ballets by the droves all across the country depend on its unfailing box-office magic. It is clear, then, that Mary Day can scarcely be expected to greet the arrival of an ABT "Nutcracker" with a sanguine heart. The Kennedy Center production may not only siphon off audience, but some of her students as well, who will understandably be eager to attach themselves to a production of such moment.

Lest it be thought that there's a villain in this piece, consider the situation from the ABT standpoint. It's true that this is one of the half-dozen greatest ballet companies going, during an era when ballet has suddenly become something of a popular craze. It's true too that ABT operates on a yearly budget in the neighborhood of $7 million, and that it boasts a more imposing roster of superstars in its present state than perhaps any other company in history. But it is equally true that ABT has suffered from chronic insecurities, and still does. Unlike every other comparable company in the world, it has no theater that it can call home. Its superstars attract mobs, but they also upset the company regulars who toil necessarily in their shadow, and who are now showing increasing signs of resentment. Which brings us to the biggest irony of them all—ABT needs a "Nutcracker" almost as much as the Washington Ballet, and for many of the same reasons. It cannot dare a "Nutcracker" in New York during the holiday weeks, because the New York City Ballet has pretty well preempted that market with the celebrated Balanchine production. At the same time, both Kennedy Center and the ABT management want to extend the company's visits to Washington, to satisfy the proliferating demand here for first-rate ballet performances. The logical, practical, shrewd answer is a new "Nutcracker."

There is no question of competition here—the two "Nutcrackers" will each be of an entirely different nature, as Mary Day is well aware. Amazingly, she seems to be not in despair, but hopeful. Not to tempt fate too much, this year she will offer the Washington Ballet "Nutcracker" in a series of reduced length, and start at an early date (Dec. 9), while ABT will still be doing standard repertory. She feels that some patrons will stick with her out of sheer old-fashioned loyalty, that some will wish to take advantage of the early schedule, that her increased efforts to attract group sales may pay off, and that a certain number will be drawn to Lisner simply because they cannot afford or would prefer not to pay Kennedy Center's high tariffs. And she'll also be praying that there'll turn out to be enough "Nutcracker" votaries to go around.

Is it inconceivable that an accommodation could be worked out between the two parties, the visitors and the natives, in the interests of cultural harmony and artistic welfare, in the spirit of the compromise which defused the earlier "Nutcracker" confrontation? That would all depend, of course, on the attitude of the relevant principals, and especially on whether ABT could be brought to see the value of a little generosity toward the indigenous artists of the city they are "invading." But great visiting orchestras, for example, have been known to engage the services of local choruses without compromising the integrity of their efforts, and the Bolshoi Ballet, when last here, used a sizable group of Washington children. So perhaps it's not beyond imagining that ABT could offer to incorporate a Washington Ballet contingent within its forthcoming "Nutcracker," and to credit the participation accordingly. This wouldn't necessarily rule out the use of additional Washington kids from elsewhere. And the tie might further be cemented by proffering an ABT soloist or two to dance as guest artists with the Lisner performances. A move of this kind would certainly be worth its weight in good will hereabouts. It might also help to demonstrate, on the part of ABT's hosts, that the Kennedy Center is not only *in* Washington, but to some degree, *of* Washington too.

SENATOR PROXMIRE AND THE FEDERAL RESEARCH ESTABLISHMENT

Mr. HOLLINGS. Mr. President, a most interesting article appeared in the September issue of Human Behavior, a social science news magazine, regarding the criticisms my colleague from Wisconsin, Senator PROXMIRE, has directed at Federal expenditures on scientific research activities.

Most, if not all, of us are familiar with BILL PROXMIRE's monthly golden fleece award for the most outrageous waste of the taxpayer's money and we are also aware of the fact that the senior Senator from Wisconsin has been roundly attacked in some circles as a philistine know-nothing who is out to wreck the scientific establishment. It is for this reason that I particularly wanted to bring Judith Miller's article on "The Proxmire Effect" to the attention of my fellow Senators today. The article, appearing as it does in a magazine read by the very social scientists that Senator PROXMIRE has often attacked, can hardly be accused of whitewashing his impact on the research community. Yet the piece does put those attacks in perspective.

Let me quote briefly from the article:

> The "public Proxmire" denounces frivolous government spending—in science and elsewhere. The "private Proxmire" is a consistent supporter of the NSF and of science; as head of the appropriations subcommittee that oversees NSF's budget, Proxmire jealously guards funds for NSF's hard science research mission.

The article goes on to describe some of the steps NSF has taken to beef up their review as a result of Senator PROXMIRE's criticisms.

The Miller article then makes an important distinction between efforts to see that Federal funds are wisely spent and attempts to attack the roots of Federal research funding in these words:

> Proxmire's jabs are irritants, but other forms of Congressional interference potentially are far more dangerous. "There are those on the Hill who wish to destroy the foundation," says one NSF official, "but Proxmire is not one of them.

Mr. President, all of us who from time to time attack specific agency problems, yet realize the importance of any agency's overall mission, recognize the distinction being made here between husbanding tax dollars and undermining an agency's basic mission. I ask unanimous consent that the article on "The Proxmire Effect" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PROXMIRE EFFECT

(By Judith Miller)

You might think that a senator who regularly hands out the Golden Fleece award for frivolous-sounding scientific research would clearly be an enemy of the behavioral scientists. In fact, his true role isn't quite that simple.

Judith Miller is the Washington correspondent for The Progressive magazine.

Mention his name at a gathering of behavioral scientists and feel the chill settle over the room. Whisper it in the corridors of the National Science Foundation (NSF), science's central bank and established church, and watch their public relations officials scurry to typewriters and telephones. Utter it to researchers whose work has been the target of his witty jabs, and see them lose their renowned objectivity.

Sen. William Proxmire, self-appointed gadfly of frivolous federal spending, provokes a wide range of reactions, but indifference is rarely among them. Lauded by some for his watch on federal waste, condemned by others for his "McCarthy-like" tactics, his name has become a symbol—rightly or wrongly—of increasing congressional skepticism about the value of scientific research.

The scientific community was initially stunned by Proxmire's barbs and what it perceived as the avalanche of criticism from Capitol Hill. Gradually, however, scientists understood that Congress has not, as many feared, "turned" on science but, rather, has embarked on a campaign of "fiscal responsibility" in this era of shrinking resources and increasing demand. Their worst anxieties allayed, scientists have begun to respond rationally to increased congressional scrutiny. The NSF has added a new layer to its peer review process to screen more carefully for "silly-sounding" research projects; it has strengthened its congressional relations office to improve contacts with potentially troublesome members. According to several scientists, researchers are becoming more cautious in describing their work in grant summaries—"Proxmire-proofing" their grant applications, as it's known in the trade.

Proxmire is certainly not the first senator to have garnered headlines by attacking frivolous research, but the Wisconsin Democrat has found an innovative vehicle for his critiques that has particularly infuriated scientists. For the past year and a half, Proxmire has pressented a monthly award—dubbed the Golden Fleece—to federal agencies that excel in the highly competitive field of egregious waste of taxpayers' dollars.

The senator has not limited competitors for the Golden Fleece to members of the scientific community; many federal agencies have been recipients of this uncoveted honor: the Selective Service System for a $98,000 study on the need for an all-volunteer army, completed long after voluntary service was implemented; the navy for flying 1,334 officers in 64 planes to a reunion in Las Vegas; the National Institute on Alcoholism for spending $102,000 to determine if drunken fish are more aggressive than sober fish; and the Federal Aviation Administration for spending $417,000 for meteorological instruments so its employees can make rain predictions while remaining indoors, to name just a few.

The awards that have generated the most publicity, however, have been those to scientists engaged in frivolous-sounding research. In fact, Proxmire launched his Golden Fleece with an award to the NSF: for an $84,900 study "to try to find out why people fall in love." In only partial self-parody, Proxmire lists his objections to the research in his first Golden Fleece press release: "I object to this not only because no one—not even the NSF—can argue that falling in love is a science; not only because I'm sure that even if they spend $84 million or $84 billion they would get an answer that anyone would believe. I'm against it because I don't want the answer."

The "love machine" study, as it was called, made headlines and caused consternation within the NSF. Five months later, Proxmire was at it again; he selected another behavioral research project for ridicule: the National Institute on Drug Abuse (NIDA) for funding one-million-dollars worth of research on marijuana's effect on sexual arousal, hypnosis and facial expressions. One project within this set particularly infuriated Proxmire: a NIDA grant to a researcher to study, as he described it, "the effects of marijuana on male sexual arousal resulting from the viewing of pornographic films by college students." Proxmire calls this project "one of the most shocking examples of the federal love machine I have ever found."

This study is an important example of the impact Proximire's attacks can have on research funding. For in the case of the "sex/pot" study (as it is known on Capitol Hill), Proxmire's fleece sparked a chain of reactions that culminated this summer in a congressional ban on all federal funds for the project—an action regarded by many scientists as an extremely dangerous precedent. Although Proxmire is not the only member responsible for the ban, he supported the effort to cut off federal support for the project, and his early attack on the study in his colorful fleece format played an important role in drawing Congress' attention to the grant.

Perhaps the project was bound to be controversial, since it contained two ingredients—sex and marijuana—that automatically turn heads on Capitol Hill. But Harris Rubin, the chief investigator and behavioral scientist at Southern Illinois University Medical School, had little idea exactly how controversial his work would become when he received funding more than a year ago. Rubin, who has specialized in research in human sexual behavior since 1965, says he was only slightly annoyed when a derogatory editorial appeared in the *St. Louis Globe Democrat*, describing his project as "tax-paid debauchery." But then came the Proxmire Golden Fleece. "That really hurt us in the community," says Rubin.

The Proxmire release received wide publicity; members of Congress began receiving outraged letters from their constituents about the project. In July 1975, as the controversy raged, Rubin applied to the Justice Department for a grant of immunity from federal prosecution, normally a routine step for scientists whose experiments require the use of illicit drugs. "Usually the immunity grant is automatic," says Rubin, "but when six months passed without receiving it, I began to realize that the project was in serious trouble."

The Department of Justice not only refused to process his application, but justice officials also asked the secretary of health, education and welfare (HEW) in January 1976 to reevaluate both the grant proposal and Rubin's competence as a researcher, an action described by HEW officials as unprecedented.

In March, the head of NIDA, the assistant secretary for health of HEW, the Food and Drug Administration administrator and several outside experts met to reconsider the grant. The session was said to be the highest ranking committee ever assembled to review an individual research project.

While HEW secretary David Mathews pondered the panel's recommendation, the House of Representatives took action. On April 13, 1976, on the eve of its Easter recess, the House passed a supplemental appropriations bill containing a provision cutting off federal support for Rubin's work. The provision, introduced by Rep. Robert Michel (R.-Ill.)—the House Minority Whip and the ranking Republican on the HEW appropriations subcommittee—was buried deep in the House appropriations committee report on the bill and originally had been passed without debate, and apparently with few members of the House even aware of its existence.

In May, acting on the strength of his prestigious panel's recommendation, a resolution of support for the project from the NIDA National Advisory Council—the highest advisory committee on drug abuses—and stunned protests against the House action from scientists, Secretary Mathews personally endorsed the Rubin project.

This double-tiered review, by the usual peer review process and by the special panel, was just one of the arguments the project's defenders used in its support when the matter was debated on the Senate floor. "Whether or not we agree with the need for this project—or its suitability for federal support—or the correctness of the decision to fund it," argues Sen. William Hathaway (D-Maine), "the real issue is the integrity of a carefully constructed government-wide mechanism for awarding research grants and contracts. . . . It is only at our gravest peril that the U.S. Congress adopt a 'know nothing' case-by-case approach to crucial federally funded research for health."

Hathaway's defense of the peer review system was definitely one of the loftier moments of the debate, but atypical of most of the discussion on the floor that day. Although he did not participate in the discussion, Proxmire's theme of "government waste" dominated the debate. "I must confess," says John McClellan, the crusty senator from Arkansas, "that I seriously underestimated the ingenuity and capacity of the federal bureaucracy when it comes to doling out dollars for useless projects and programs."

McClellan then outlined his understanding of the project. "A group of men are invited into a room, some are offered a 'joint' or two of marijuana and then told to sit back and enjoy what are euphemistically called 'erotically stimulating' motion pictures. At a certain point, the researchers measure their degree of sexual arousal, and it is compared with that of the non-marijuana smokers. . . . I am firmly convinced that we can do without this combination of red ink, blue movies and Acapulco gold."

The senators present that day apparently agreed with McClellan. Rubin lost his funds and is now hunting for private support for his research. Understandably, he is extremely angry about his tangle with Capitol Hill. He is particularly infuriated by McClellan's characterization of his work. "Contrary to McClellan's description," says Rubin, "a group of guys are not sitting around in a room smoking dope and watching dirty movies. Our subjects are isolated, given measured doses of marijuana through a machine—some receive placebos—and then their physical responses to visual stimuli, such as erotic films, are measured electronically." Rubin also points out that his work included monitoring blood levels and various sex hormones, such as testosterone.

Rubin claims his work was well within the congressionally established mandate of NIDA to study the societal and reproductive effects of abused drugs—and involves an area where scientific knowledge is primitive. "We know far too little about the effects of a substance used by an estimated 25 million Americans," says Rubin. "Young people are attracted to it because they hear that marijuana stimulates sexual arousal, but there are no objective data available to evaluate that claim."

He is especially critical of Proxmire, who supported the amendment to kill his project. Rubin objects not only to Proxmire's position on his work, which is not surprising, but to the senator's style of attack. "It's impossible for a scientist to fight against a war of press releases," says Rubin. "This tactic of singling out an individual for ridicule is pernicious and misleading. Proxmire knows that science research can only be properly evaluated by those in the field. Anything can sound frivolous! Had he been around then, Proxmire might have thought that experiments on bread mold (which serendipitously produced penicillin) sounded quite silly."

Not all scientists have taken what they see as Proxmire's demagoguery lying down. Although Rubin has sent letters to his colleagues warning against "the danger to scientific and academic freedom in this precedent," he has stopped short of action taken recently by Roland Hutchinson, an experimental psychologist whose work on aggression was selected by Proxmire for the second Golden Fleece award.

In April 1976, Hutchinson filed a $6 million lawsuit claiming that the senator's attacks have damaged his reputation and career. The libel suit, which encompasses both written and spoken defamation, has generated considerable glee among scientists, especially those who've been burned by the fleece, and has aroused much interest in Washington scientific circles, where resentment over the publicity gained by ridiculing research has been mounting.

Hutchinson, former research director of Kalamazoo [Michigan] State Hospital, has received $500,000 over seven years from NSF, the National Aeronautics and Space Administration and the Office of Naval Research to study aggression. The year before, Proxmire had awarded his Golden Fleece to these three agencies for funding Hutchinson's work, which Proxmire describes in his press release as an effort to determine "under what conditions rats, monkeys and humans bite and clench their jaws." In both a floor speech and the press release, Proxmire blasts the research: "The funding of this nonsense makes me almost angry enough to scream and kick or even clench my jaw." Adds Proxmire in his inimitable style, "Dr. Hutchinson's studies should make the taxpayers as well as his monkeys grind their teeth. In fact, the good doctor has made a fortune from his monkeys and in the process made a monkey out of the American taxpayer."

Hutchinson, now head of the Foundation for Behavioral Research that he established in Augusta, Michigan, argues that his studies of teeth clenching under stress constitute only a small segment of his project, aimed at studying the motives and origins of violence and aggression. In his suit, he alleges that Proxmire erroneously summarized his studies, misled the public about their value, caused him to lose some professional respect and contributed to the loss of some research support. Hutchinson refused to comment on the case, but those familiar with the arguments say that although the Constitution provides a senator with immunity from legal action stemming from statements made on the Senate floor or in press release form, Proxmire overstepped his constitutional immunity by lambasting the project on TV on the "Mike Douglas Show."

Congress, as well as scientists, take the suit very seriously. Because a question of congressional immunity is at stake, the Senate leadership said early in May that they would ask Congress to pick up the tab for private counsel. "The senator who has accused others of wasting taxpayers' money will now find himself dipping into the public trough to muster a good defense," says Colin Norman, the Washington, D.C., editor of *Nature* magazine, who has covered the suit from its inception.

Neither Proxmire nor his codefendant Morton Schwartz, an economist and former college teacher on Proxmire's staff who has helped select fleece recipients, would comment on the allegations in the suit. Senator Proxmire, however, thinks his fleece effort is having a salutary impact on federal agencies. "We recently completed a study of the effect of our fleeces," says the senator, and "we found that two-thirds of the projects we had criticized were either discontinued or improved significantly. In only two or three cases was nothing done."

Proxmire does not consider the funding cutoff for Rubin's project a "precedent." "It was just a project that had no business being funded by the taxpayers," says Proxmire. "Smoking marijuana and watching pornographic films to see if a man has a larger erection is not a useful expenditure of public funds. There is no moral content to my objection to sex/pot study, just plain common sense."

The Senator feels that scientists, in general, do a good job of awarding grants to meritorious work, but that "they're not God; they occasionally make mistakes, and therefore," he argues, "must be scrutinized."

He feels that scientists tend to suffer from what he terms an "elitist arrogance," a feeling that science is too important to allow politicians to interfere. "Hell," says Proxmire, "the Pentagon tells us that all the time; we're too 'ignorant' to evaluate the strategic importance of the B-1 bomber or a new missile system. Ignorant or not, this is a democracy, and we've got to make those kinds of decisions."

Daniel S. Greenberg, editor of *Science and Government Report* and a veteran science policy observer, argues that this is not really a fair analogy. "Politicians can assess the political and strategic implications of weapons systems, but Congress simply lacks the professional competence to evaluate highly esoteric basic research," states Greenberg. On the other hand, Greenberg argues that Proxmire is privately well aware of this distinction. The "public Proxmire" denounces frivolous government spending—in science and elsewhere. The "private Proxmire" is a consistent supporter of the NSF and of science; as head of the appropriations subcommittee that oversees NSF's budget, Proxmire jealously guards funds for NSF's hard science research mission.

"The NSF knows that Proxmire is not an enemy," says Greenberg. "His Golden Fleece campaign has alerted the community to the need for improved public relations in these troubled times of tight money He warns them that projects with silly sounding titles are likely to get into trouble."

Even Rubin partially agrees with this assessment. He concedes, as do many researchers, that had he chosen another title for his project, his work would probably have slipped by unnoticed. "Had I omitted the word sex from my project title and grant summary, I'd probably be doing the research now," admits Rubin.

Scientists have picked up the cue and Proxmire's warning; they are becoming more sensitive to the public relations aspect of their work. The NSF, for example, now receives hundreds of requests each month from Capitol Hill for titles and specifics about individual research projects. "We respond to every one of them," says an NSF official, "and we're damn careful these days about how we describe the research being conducted."

This recent attentiveness to good communications with the Hill has been Proxmire's major impact. Last winter, the foundation established an Award Review Board for each of its six directorates to study all grant proposals and projects before they become final. The boards are composed of NSF officials but have NSF nonscientists on them as well. "We not only review the titles and grant summaries—the window dressing," explains Joel Snow, an NSF troubleshooter who helped set up the boards; "we also examine the project in its entirety and ask ourselves, does this make sense?"

For large and important projects—those of more than $500,000 or $2 million in total commitment, or those that have unusual policy implications—NSF has a Directors Award Board, composed of members of the NSF board, the Foundation's policymaking overseers. "This system goes a long way towards meeting Congress objections to the way in which we operate; overall, it's been a positive development," declares Snow.

Proxmire's jabs are irritants, but other forms of congressional interference potentially are far more dangerous, and NSF officials are quick to make the distinction. "There are those on the Hill who wish to destroy the foundation," says one NSF official, "but Proxmire is not one of them."

Proxmire has, in fact, consistently opposed legislation, such as the bills introduced by John B. Conlan and Robert Bauman, that would have required the foundation to submit lists of proposed grants to Congress, which would then have 30 days to veto individual projects. Last year the House passed the amendment, much to the horror of the scientific establishment; but this year, thanks to legislators such as Proxmire, the measure was summarily rejected. The Conlan amendment was a real threat to science's integrity and autonomy; the Golden Fleece, and the publicity it generates, is not. Most scientists here in Washington understand the difference, and, as a result, they see the flamboyant senator from Wisconsin for what he is: a defender of the faith, a sheep in wolf's clothing.

WASHINGTON VOICES ENTHUSIASTIC SUPPORT FOR IMPROVED AGPLANE TECHNOLOGY

Mr. MOSS. Mr. President, as the result of my recent letter, the Honorable Daniel J. Evans, Governor of the State of Washington, took a quick sampling of the opinions of agriculturists in his State regarding the need for an improved agplane technology program to be conducted by NASA. This sampling "* * * disclosed enthusiastic support for this kind of a program and acute interest in its finding."

Governor Evans then proceeded to outline his principal interest in the program; namely, the prospect of significant energy conservation. This is what he said:

> I see an immediate benefit should the program develop aircraft and application techniques which could do the job with reduced quantities of pesticides. My office deals daily with energy conservation. I find the fact that aerial application efficiency might be increased by improved agricultural aircraft of significant interest. With more effective aircraft, many of the suitable lands in our state will then be treated by air. The energy to be saved thereby is no small item.

Mr. President, I ask unanimous consent that Governor Evans' letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF WASHINGTON,
Olympia, June 30, 1976.

Hon. FRANK E. MOSS,
Chairman, Committee of Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: You recently asked me for my opinion on the merits of a NASA program dealing with aerial application technology.

A quick sampling of the opinions of agriculturists in our state disclosed enthusiastic support for this kind of a program and acute interest in its findings. I join them in this support.

I have been concerned with the environmental impact of the occasional indiscriminate use of chemicals. I see an immediate benefit should the program develop aircraft and application techniques which could do the job with reduced quantities of pesticides.

My office deals daily with energy conservation. I find the fact that aerial application efficiency might be increased by improved agricultural aircraft of significant interest. With more effective aircraft, many of the suitable lands in our state will then be treated by air. The energy to be saved thereby is no small item.

Sincerely,

DANIEL J. EVANS,
Governor.

ARMS SALES

Mr. HUMPHREY. Mr. President, the Secretary of State, appearing on August 27 in closed session before the Subcommittee on Foreign Assistance presented a list of arms sales totalling nearly $5 billion for the remainder of the legislative year. Although the list is still classified, I have urged the State Department to declassify the notifications of these sales as quickly as possible so that the Congress and the public can openly debate the merits of these transactions.

As chairman of the subcommittee, I have informed the Secretary of my great concern over these massive arms sales. The subcommittee will be scrutinizing these items very closely, and as chairman I will make every effort to keep my colleagues informed on developments relating to these sales in light of the urgency of this issue.

DR. JOSEPH L. GOODMAN NAMED FOR PHYSICIAN'S AWARD

Mr. HOLLINGS. Mr. President, each year the American Medical Association and the President's Committee on the Employment of the Handicapped entertain nominations from the medical profession across the country to honor the physician who has done the most to aid handicapped persons.

Each year, the physician of their choice is honored with the prestigious Physician's Award, which calls attention to his or her contribution both to the improvement of conditions for our handicapped citizens and to the medical professional in general.

Mr. President, I take great pride in notifying the Senate today of the selection of Dr. Joseph L. Goodman of North Charleston, S.C., to receive the 1975 Physician's Award. He is the first South Carolinian so honored by his colleagues in the medical profession, and he joins some very select company.

Joe Goodman belongs in that company. He belongs because he cares what happens to his fellow man, and he especially cares about those who are less fortunate in their physical endowments. For 20 years, Joe Goodman has worked to promote the full development of the handicapped, a task to which he has devoted all the intelligence and skills in medical practice at his disposal. And he has gone further than the purely medical involvement; he, perhaps more than any one person in my memory, has done much to insure that the handicapped persons he treated have gone on to rich and rewarding lives. Over a period of years, for instance, he successfully placed disabled workers in companies such as Avco-Lycoming, Charleston Plywood Co., Charleston Rubber Co., Raybestos-Manhattan Inc., and American Brands, to name just a few.

Harold Russell, chairman of the President's committee, was quoted recently as saying of Dr. Goodman:

> Dr. Goodman has been tireless in his efforts to bring together disabled job seekers and employers to everyone's benefit. He is a pioneer in industrial medical programs which work to the advantage of both handicapped people and employers. He is a remarkable humanitarian.

He is, indeed, a remarkable humanitarian—and a remarkable man.

Joe Goodman will be honored on September 14 at a dinner in Columbia, S.C., by his many friends across our State. And on September 21, he will be presented with the Physician's Award during the 36th Annual Congress on Occupational Health of the American Medical Association at Rochester, N.Y.

I know my colleagues join me in expressing pride and satisfaction at Dr. Goodman's achievements and their recognition and in wishing him continued success in the future.

I would add that the American Medical Association has made an excellent choice in Joe Goodman and that his selection will only amplify the great distinction of this very worthwhile award.

AN ADEQUATE SUPPLY OF WOOL DOES EXIST

Mr. McGEE. Mr. President, it has been reported recently that some high procurement officials in the Air Force have made statements to the effect that our domestic wool production and processing capacity are insufficient to satisfy the needs of our armed services. Based on that erroneous allegation the suggestion has been made that the Department of Defense might be required to go to an all synthetic source for its clothing needs.

I ask unanimous consent that a letter from David A. Flitner, president of the Wyoming Farm Bureau Federation, to Air Force Secretary Reed be printed in the RECORD. As this letter indicates, the charge that this domestic industry cannot satisfy the needs of the armed services is totally inaccurate and without foundation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AUGUST 24, 1976.

Hon. THOMAS REED,
Secretary of the Air Force,
Washington, D.C.

DEAR SECRETARY REED: I received some disturbing news recently about some erroneous claims allegedly being made by Jack H. Ross, chief clothing buyer for the United States Air Force. I understand that Mr. Ross is stationed at Wright Patterson Air Force Base in Dayton, Ohio.

Mr. Ross is reportedly making tsatements which discourage the use of wool in military clothing. The allegations I've received indicate that Mr. Ross claims that (1) there is not enough wool produced in the United States for 100 percent and 50–50 percent fiber mixtures; (2) there is not enough worsted mill capacity for wool available; and (3) therefore the military will be forced to go to all synthetic materials.

To set the record straight, (1) In 1975, the U.S. produced 120 million pounds of shorn wool. All the U.S. armed forces combined used just under four million pounds (3,810,000 pounds); and (2) Burlington Industries alone produced 45 percent more worsted material than all our armed forces combined used. In addition to Burlington, there are many other mills in the U.S. producing worsted materials.

It's obvious that Mr. Ross is receiving the wrong information from somewhere. I request that you investigate this situation and take corrective action so that all Air Force clothing buyers know the facts about the availability of wool.

In addition, I have written Wyoming's Senators and Representative, asking them to set the record straight in Washington by immediately encouraging all branches of the military to continue the usage of wool.

Wool production is an important part of our state's and nation's agricultural economy. With coyote and labor problems, the sheep producers certainly don't need friends like Mr. Ross who doesn't have his facts correct.

On behalf of Farm Bureau members in all 23 Wyoming counties, your cooperation and assistance in this important matter will be appreciated.

Sincerely,

David A. Flitner,
President.

Mr. McGEE. Mr. President, the sheep industry is a vital one in the State of Wyoming and in many other Western States. The industry continues to exist notwithstanding the many problems with which it has been confronted during the past several years including, but by no means limited to the predator and labor problems to which Dave Flitner makes reference. It has survived largely due to the strong will and determination of the individual operator.

As Mr. Flitner points out, the industry is beset by enough problems. We certainly do not need the added problems of responsible Air Force officials erroneously reporting the inadequacy of the industry to produce.

Mr. President, I join Dave Flitner in requesting that Secretary Reed take immediate steps to clarify this situation so that all defense procurement officials will be aware of the productive capacities of both the woolgrower and the processor. In addition to making certain that procurement officials are made aware of the adequate supply of wool and wool products I would also urge the Secretary to stress the superiority of wool as one of our great natural fibers. This has been the traditional policy of the Department of Defense down through the years and I strongly urge that this policy be continued.

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. HUMPHREY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the Act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that 23 notifications were received on August 27, 1976.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

SENATE RESTAURANTS

Mr. HOLLINGS. Mr. President, the August 25, 1976, edition of the Washington Star featured an article "The Senate's New Look in Food" by Bailey Morris, which puts in print a fact that many of us have known; namely, that our Senate restaurants have really improved since Mr. Jay Treadwell came on the scene to manage them for us.

As the chairman of the Legislative Branch Appropriations Subcommittee, I have been working closely with the Restaurant Subcommittee, the Architect of the Capitol, and Mr. Treadwell to improve our restaurant facilities, the quality of the food, and to make sure that the prices are realistic.

It is evident to me that we have come a long way on each of these areas, a good example of which is the recent action in our Appropriations Committee to cut the annual restaurant subsidy in half. I look forward to the day when there will be no subsidy at all and certainly the good management over the last year or so gives me great hope that this idea may be possible.

I commend this article to the Members of the Senate and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Senate's New Look in Food

(By Bailey Morris)

It's still on the menu, but as Jay Treadwell puts it, a restaurant that had to depend on bean soup for its reputation, had a gastronomic problem—especially when it was losing one-half million dollars a year.

Bean soup is not anathema to Treadwell, you understand, it's just that he considers it an inappropriate food anchor for the restaurant that serves the most exclusive club in town.

Anwar Sadat, King Hussein, Betty Ford and King Juan Carlos of Spain may all love bean soup, of course, but there is no reason why a dish that down-home should be the only one of note at a club which routinely hosts the greats and near-greats of the world.

We're speaking of the Senate, of course, and of Treadwell—the first professional in the history of that august body to take over the operation of its food services.

And John Prince Treadwell IV, of New York City, Newtown, Conn., and now Chevy Chase, has ambitious plans for the restaurant of the U.S. Senate. In short, he wants it "to be the way it should be for the seat of government." And to Treadwell that means "it should be one of the best restaurants in the country."

That doesn't mean, he says, that he can spend the money to turn it "into a Lutece" (the most expensive restaurant in New York and to many minds, the finest).

But it does mean that there can be imaginative menus, first-rate ingredients that are well-cooked and beautifully appointed service in the several restaurants that fit under the umbrella heading of The U.S. Senate Restaurant.

Down-home cookery, it should be noted, is not excluded from first-rate food in Treadwell's mind. After all, it was Peggy Treadwell's cucumber soup—a soup conceived by a New York chef and later given her Sheffield, Alabama twist—which led off the Congressional luncheon honoring Egypt's Anwar Sadat.

And the food Treadwell wanted to serve to Queen Elizabeth and her party was strictly Americana fare but he never got the chance to show off his expertise. That still rankles.

"I was really looking forward to it (the Queen's luncheon)," says Treadwell, explaining that he wanted the opportunity to display to the world what his staff can do.

As often happens in Washington, however, politics intervened and the Speaker's Office took over the planning of the Queen's luncheon, using an outside caterer to execute it.

That meant that Treadwell's proposals for dishes to place before the Queen—which included Oregon pheasant, or Barnegat (N.J.) Bay oysters, or crabmeat or wild duck from Nebraska—never saw the light of day.

In the year he has been in Washington, however, Treadwell has had ample opportunity to show off the expertise he gained during his dozen years with Pan American World Airways—lastly as senior director of inflight services.

The ladies of the Senate—known collectively as the Senate Wives—are grateful to him, for example, and so are assorted other luminaries of staff personnel who prowl the corridors of the Capitol in search of good food served in idiosyncratic Congressional fashion. (No other restaurant, it should be noted, has to serve people who are constantly dashing out at the call of meaningful bells.)

They like the fresh flowers daily, the new china ordered by Treadwell, the country inn specials he has put on the menu, the pick-up picnics he made available in the cafeteria, the attention to detail and most of all, the improved food.

From the "inner sanctum" (the most exclusive of the private senate dining rooms), to the former family dining room, to the cafeterias, the change in the quality of food has been noted.

"The food has improved and he (Treadwell) has good ideas," says Sen. Henry Bellmon of Oklahoma.

"It's 100 percent better," in the opinion of Senate aide, Cathy Buchanan.

In the case of the Senate Wives—who take credit for exerting enough pressure to get a professional hired—Treadwell pleased them by performing well where others before him had failed.

Their annual luncheon for the First Lady was a red, white and blue bicentennial success this year instead of the unpleasent hassle it has been in past years when the Senate Wives "were often given the back of the hand", according to one veteran.

This year there was newly bagged quail flown in from Oklahoma and served with wild rice in addition to fresh asparagus accompanied by a lemon butter sauce, and a fattening array of "breads of America." All of this was washed down by a pleasant white wine—a Reisling—which could only be served because the First Ladies Luncheon is considered a special event.

During routine meals, wine, beer and other alcoholic beverages are prohibited by order of

Congress. Many of the Senate wives and others on the Hill would like to change this rule in favor of a more civilized arrangement under which beer and wine could be served with meals in the Senate dining rooms.

"Maybe Treadwell with the help of the Senate Ladies can pull that one off . . . if he did that his position in history would be assured . . . as the man who finally repealed Prohibition in the Senate eating rooms," says one wine lover who preferred to remain anonymous.

The Senate eating rooms, by the way, are a curious mixture of privacy and public people watching, of the rank and file as well as the privileged, of mellowed paintings and gilt, in addition to government-issue paint and plastic forks.

Pick a restaurant—any one of the restaurants—and the setting changes.

The "inner sanctum," for example, the most impenetrable of the eating rooms, consists of two gilt-lined rooms, complete with murals, large crystal chandeliers and historical portraits on the walls. Only senators may eat here and tradition dictates that GOP senators eat in one of the rooms and Democrats in the other. Members of the two parties never eat together here. It just isn't done.

Across the hall, in the Senator's dining room—the room they use when eating with family, staff, constituents and so on—the scene changes and is less like a cozy, exclusive club and more like a restaurant.

This is a room dominated by a stained-glass portrait of George Washington, by red velvet draperies and a large, round table in the center of the room which is perfect for people-watching.

And people-watching seems to be the favorite occupation here, even among the Senators, who are careful not to miss greeting a colleague and his guests.

The Senate wives are particularly fond of this room which they use often, to entertain out-of-town guests, to see their husbands during the day, to get a quick, inexpensive lunch.

Treadwell's innovations—the niceties—are apparent here. The art on the walls was his idea, using the Botanical Gardens to make up the flower arrangements on the tables was his idea. The new menus were his ideas.

Another Treadwell idea was to rename the former Family Dining Room and call it the Kitchen Kettle. This newly spruced up room—a light and sunny plant-filled room—is really the domain of senate staffers and their guests. Treadwell renamed it because he felt it was a "misnomer" to call it the Family Dining Room.

As for the kitchen that caters to this complex of restaurants, it is run by chef, Antonio Coia, who says his job has gotten a lot more interesting since Treadwell came to Capitol Hill.

Chef Coia oversees the food cooked for the Senate restaurants in the Capitol building, for special parties such as evening receptions, and for the luncheons for heads of state.

He says working with Treadwell has been "a challenge" and that putting together sophisticated menus for sophisticated visitors has been a pleasure.

He particularly enjoyed executing the menu he and Treadwell planned for Sadat which included cold cream of cucumber soup, fresh-baked cheese crackers and paupiettes of beef.

The Dirksen Office complex of eateries is the domain of chef James Lee who specializes in good, old Americana fare and is the one who executes the much-acclaimed Country Inn Specials innovated by Treadwell.

Recently, on a lunch-time visit to Chef Lee's stainless steel world, he pushed back his tall cap, wiped his brow and said:

I got in here at 6:30 a.m. and stuffed 350 peppers and they (Senate staffers in the cafeteria) are eating them like grapes and it's only 12:30."

Lee's world is one of pressure cookery in which stuffed peppers must be replaced, and the new dish washing machines must be kept running and steaks broiling under a grill must be watched.

Both chefs have to turn out food for large numbers of people daily in addition to handling the specialty items such as a small luncheon for a Senate wife and her guests or a state luncheon.

Treadwell says his kitchens do anywhere from 7 to 10 "special functions" a day and up to 50 of them a week. These range from a breakfast for 2 or 3 people, up to a luncheon or evening congressional reception for 600.

For such things as receptions, Treadwell says he has livened up the traditional "junk party food" cocktail fare—the egg rolls, the cheese spreads and so on—by adding to it items such as "a poached and decorated salmon with dill and sorrel sauce" and steamship rounds of beef.

He has also put lighter items on the luncheon menus. Such things as spinach quiche, and oriental chicken salad and shrimp-stuffed avocadoes with remoulade sauce.

The aim, he says, is to offer quality food at prices which are reasonable and yet adequate enough to make the restaurants pay for themselves.

And despite all the hullalaboo in recent years over senators and congressmen who do not pay their restaurant bills, Treadwell has succeeded in putting the Senate restaurant in the black "for the first time since anyone can remember." There had been a running yearly deficit of about $500,000 before he came, he says.

His real boss, Treadwell explains, is the Architect of the Capitol and not a specific senator although he does have to answer to a 3-member subcommittee of the Rules Committee—including Senators Allen, Hatfield and Williams—who concern themselves with pricing and other food matters.

Treadwell says although he sometimes encounters situations in which a little tact is called for, he is generally left to run his own show and has found most people to be "very supportive."

Prices, however, remain something of a sticky issue, he says, because if they go too high in the Senate restaurants "the Senators will complain" and if they are higher in the large-volume public restaurants than in the private Senates ones, the public "will scream because it shouldn't have to subsidize the food of government officials," Treadwell says.

So far, he seems to have the pricing matter well in hand, if a recent luncheon for three in the Senators' dining room is a valid indicator.

The tab for a meal consisting of fresh green salad with roquefort dressing, shrimp creole and rice, freshly-baked corn bread and muffins, raspberry sherbet and iced tea all around was $9—surely one of the best buys in town.

DIABETES IN CHILDREN

Mr. McGEE. Mr. President, Robert Pear of the Washington Star wrote a feature article on diabetes in children and Baltimore's Camp Glyndon which is helping diabetic children accept and adjust to their disease.

Programs like Camp Glyndon's are becoming more and more numerous and necessarily so as juvenile diabetes is much more difficult to control.

As we make strides toward preventing the disease, along with new discoveries of better ways to combat and treat it, our path takes us closer and closer to a cure. The battle to find a cure requires many efforts, not the least of which is public education on diabetes. Media coverage of the diabetes story is vitally needed and Mr. Pear's article merits special attention.

Mr. President, I ask unanimous consent that his article entitled "A Camp Is Teaching Children To Live With Diabetes" which appeared in the August 30 Washington Star be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A CAMP IS TEACHING CHILDREN TO LIVE WITH DIABETES—LESSONS INCLUDE INSULIN INJECTION, FOOD VALUES

(By Robert Pear)

REISTERSTOWN, MD.—Six-year-old Joanne Byrnes is a diabetic. She has brown eyes, an impish nose and hair so short she looks like a boy. Last week, at an unusual camp for diabetics, she gave herelf regular daily injections of insulin for the first time.

Joanne doesn't mind the shots. Indeed, she says she "can't wait till morning time to give myself a needle."

Teaching boys and girls like Joanne about their disease is the business of Camp Glyndon, located here outside Baltimore on 48 acres of rolling, secluded woodland.

The camp, founded by Dr. Abraham A. Silver, a specialist in internal medicine and endocrinology, is run by the Maryland Diabetes Association in cooperation with the D.C.-area affiliate of the American Diabetes Association.

In the Washington metropolitan area, according to the local affiliate, there are 50,000 known diabetics plus 18,000 to 20,000 people who are unaware that they have the disease.

Nationally, according to a commission established by Congress, diabetes afflicts some 10 million people, has become the third-ranking cause of death and is increasing rapidly, so that the number of Americans with the disease will double every 15 years at the current rate.

A spokesman for the American Diabetes Association in New York said there are 58 summer camps in 42 states serving 4,000 to 5,000 children with the disease. He described Glyndon as "one of the outstanding, longer established camps," noting that many others consist of brief summer sessions on the grounds of a YMCA or church camp.

There are also summer camps for youngsters with asthma, hemophilia and kidney disease.

At a Michigan camp for hemophiliacs, children play baseball with plastic bats and balls. At a camp in New York, boys and girls spend every other evening on an artificial kidney machine, but they canoe, cycle and frolic during the day.

Silver, who is 72, said that approximately half the children at Camp Glyndon come from the Washington area. About 670 youngsters have attended the camp this summer, in four two-week sessions designed for specific age groups, between 5 and 15.

"In four days," Silver said, "even the smallest child learns how to measure and administer his own dose of insulin. In one week they learn how to exchange one food for another in the same category. They know, for example, that one slice of bread is equivalent to one-half cup of potatoes."

Insulin therapy and diet regulation are two methods of controlling diabetes, a disease for which neither the cause nor a cure has yet been found.

Diabetes is often defined as an inability of the body to dispose of sugar properly. In children with diabetes, the pancreas usually does not produce enough of the hormone, known as insulin, that lowers the level of sugar in the blood.

As a result, abnormally high levels of sugar are found in the blood and urine. Other symptoms include hunger, excessive urination, thirst, weight loss and weakness or fatigue. Insulin is the key that unlocks the cell membranes to allow sugar to pass from the bloodstream into the cells where it is stored.

The blood sugar comes mostly from carbohydrates in the diet. In diabetics, the body loses some or all of its ability to break down and use the carbohydrates in food such as fruits, vegetables, cereals and other starches.

Before they come to camp, diabetic children have usually been receiving insulin injections from their parents.

On the day of the first self-injection, youngsters here get a "badge of bravery" saying, "I Gave My Own Insulin."

"If Tom and Dick take their own shots," Silver explained, "Harry is very pleased when he takes his." Silver calls the phenomenon "peer acceptance."

More broadly, the camp introduces children to a therapeutic ritual they will live with for years.

"Many of the kids have never seen another diabetic and don't know any," said Danny Markowitz, the camp director who teaches industrial arts in a Baltimore junior high school during the other 10 months of the year. "Here they see children their own age with the same problem."

Some doctors have criticized the practice of removing young diabetics from their environment, saying it reinforces the child's sense of being different. Those who defend the camps, on the other hand, say the whole purpose is to teach the diabetics about their disease so they can lead fairly normal lives.

Dr. Priscilla White, long-time director of youth programs for the Joslin Diabetes Foundation in Boston, said that camps provide "unique support to the psychological problems of a diabetic child, as well as education and treatment."

Silver traces his interest in diabetes partly to the fact that his mother died of the disease before insulin was discovered in 1921.

Camp Glyndon was founded at another location outside Baltimore in 1952. The first campers lived in tents. Silver bought the land on which the camp is now located in 1964 for $49,000.

It costs the Maryland Diabetes Association $275 for each child who spends two weeks at the camp. Only 10 percent of the children pay their own way.

"Most of the kids come from families that can't give them enough clothing to last for the two weeks they're here," Silver said.

The ratio of girls to boys is 5 to 4. Thirty percent of the campers are black.

According to the National Commission on Diabetes, women are 50 percent more likely than men to have the disease. Nonwhites are one-fifth more likely than whites to have it. And poor people earning less than $5,000 a year are three times as likely to be affected as more affluent people.

"The average pediatrician might have two or three diabetic patients at the most," said Silver, who has treated hundreds of youngsters with the disease.

Occasionally he must make "radical changes" in the amount of insulin that children had been receiving on doctors' instructions before they came to camp.

Leslie Schmid, a nurse at the camp, said that teaching the children is often difficult because "a lot of them can't count yet and it's hard for their small hands to handle the bottles and syringes."

Campers learn how to get their insulin from a vial into a syringe, and they also learn how to measure the amount of sugar in their urine by a simple, color-coded test.

Meals are another part of the training, since each child gets a "diet prescription," designed to regulate the intake of carbohydrates, fats and proteins in a consistent, predictable fashion.

Judy Boggs, another nurse, said: "The most important thing that kids learn here is that they're children first and diabetics second. We don't want them to feel that they're extremely different from other children."

In addition, youngsters learn how to control diabetes in order to prevent complications such as blindness, kidney disease and cardiovascular disease. These complications have become more prominent with the prolonged life span made possible by insulin.

For example, diabetic retinopathy—the growth of abnormal blood vessels in the eyes of diabetics—has become the leading cause of new cases of blindness, according to the National Eye Institute.

In addition, blood vessel disease accounts for at least 75 percent of all deaths among known diabetics. What happens typically is that layers of cells pile up on the inner wall, or basement membrane, of the vessel, blocking the passageway through which blood flows.

With such potential complications, "it can be a very traumatic experience for parents to have their children diagnosed as diabetic," said Thomas R. Peacock, executive director of the D.C.-area affiliate of the Diabetes Association.

Camp Glyndon has a staff of 32, including 24 counselors, two foodbuyers and five nurses. Its yearly budget is slightly more than $280,000.

The camp is encouraging insurance companies to pay at least part of the tuition cost, Silver said, "because it is truly treatment, education being a primary factor in the treatment of diabetes."

"We save the insurance companies money," Silver added. "Our kids don't end up in the hospital."

That's not to say that some children are not near a diabetic coma when they arrive at camp. Some youngsters come with very high blood sugar levels because they have not been taking enough insulin or getting enough exercise or following a measured diet, Silver said.

To help families adjust, Camp Glyndon this year introduced a seminar for parents, at which counselors share scientific information and practical tips.

Doctors distinguish between juvenile diabetes, which has a sudden onset in persons under 20 or 25, and "adult-onset" diabetes, which develops gradually after the age of 40. Doctors say the onset of diabetes is relatively uncommon between 25 and 40.

Whereas a juvenile diabetic may be totally without insulin, the pancreas of an adult-onset diabetic usually does produce some of the hormone.

Drugs known as oral hypoglycemic agents are widely used to lower the blood sugar of adult diabetics, but to date have not worked well in children, who must still take insulin injections.

Another problem is that blood sugar levels of juvenile diabetics may fluctuate widely, requiring closer monitoring than is necessary for those who develop the disease as adults.

Specialists in diabetes say they often encounter a misconception that the disease has been conquered, because many diabetics under proper control lead active lives and hold regular jobs.

The National Commission on Diabetes, in its report to Congress last December, estimated the direct and indirect costs of the disease at $5.3 billion a year, without considering the medical complications.

To cope with this cost, the commission offered a long-range plan for broadened research, education and control programs.

Diabetes thus has been added to those major categories of disease singled out for special political attention in recent years. Cancer and heart disease both received special status and substantially increased research funding in a similar manner.

Sen. Richard S. Schweiker, R-Pa., and Gale W. McGee, D-Wyo., have taken the lead in trying to persuade their colleagues of the need for a major assault on diabetes, arguing that research has been under-funded compared with the attention given to other health problems.

MEMORIAL SERVICE FOR HAROLD W. ROSENTHAL

Mr. JAVITS. Mr. President, in the August 11 terrorist attack at Istanbul Airport Harold W. Rosenthal, who worked for me as special assistant for foreign relations on the staff of the Senate Foreign Relations Committee, was murdered in this latest incident of the scourge of terrorism.

Hal was a brilliant and dedicated employee of the Senate, and he is sorely missed by his friends, loved ones and professional colleagues. Hal was vibrant and enthusiastic in both his work and personal life. In his work in the Senate, Hal was a professional with a tirelessly able and inquisitive mind.

Since his death, I have met many of his friends and his father and mother, two brothers and family, and I have been deeply touched by the severity of the sense of loss that his family and close friends have expressed. I, too, share this deep sense of loss.

Hal's wanton murder and the murder of so many other victims of terrorism before him are an outrage, which the civilized world must neither forget nor tolerate.

In an effort to bring some meaning and constructive consequences from this tragedy on last Thursday, with 19 cosponsors I introduced Senate Resolution 524 to urge the President to take steps to implement the provisions of U.S. law and to interdict from international air transportation any government or governments which are implicated in this or other acts of terrorism or their toleration of it. I intend that the introduction of this resolution is only the first step in the effort to bring some meaning out of Hal Rosenthal's senseless death.

Last Thursday a memorial service was held honoring Hal. In that service it was announced that a special Harold Rosenthal Memorial Fund is being established to support a Congressional Internship in Hal's honor. The fund will be administered by the American Jewish Committee.

Mr. President, I ask unanimous consent that this letter, some of the many letters of condolences that have been written concerning Hal's death and other material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRIBUTE TO HAROLD ROSENTHAL

(Remark of Senator WALTER F. MONDALE)

Words are so inadequate, they so poorly grasp the pain, the loss and the grief we feel at the death—the senseless and tragic death—of our friend Hal Rosenthal. Our prayers go out to his family and his friends.

Hal was such a bright example of a young generation of Americans who grew up in a war and worked for peace. He was so gifted. He was so alive. He was so decent. We all felt warmed by his generous spirit, sustained by his concern for others, and when the pressure of public affairs became great, we were all grateful for his quick and lively gift of humor. I never met anyone who smiled more easily than Hal.

I first met Hal when I was searching for an assistant in Foreign Affairs. He came to my office in the Senate, after having distinguished himself working for Hugh Carey. Hal was one of the first to recognize, as he wrote in a memo several years ago, that the role of the United States in the world has to be based on the deep-rooted values of our own people. He worked determinedly on behalf of those values. He tried to help those who are oppressed because of their desire for freedom, those who are exploited because they are poor, or those who are persecuted because of their beliefs.

In one very productive year on my staff, he helped focus the attention of the American people on the plight of dissidents in the Soviet Union; He worked tirelessly to help those who wished to emigrate to Israel because of religious persecution in the Soviet Union; he helped to mobilize opinion in Congress against the wanton sale of weapons of war and destruction throughout the world.

After he left my staff to join the Rockefeller Foundation, he continued his devotion to humanitarian concerns—in particular, world hunger, overpopulation and development.

But public service was his first calling. And he soon returned to the Senate to work for Senator Javits. His intense desire for peace in the Middle East led him to that fateful spot in the Istanbul airport. He had been warned not to go. But anyone who knew Hal knows that he would have to go; he would have to make what contribution he could, despite the risk.

So, today we mourn him—struck down so wantonly, so senselessly. It is a special tragedy that someone who stood for civilization, for compassion, for a just and creative international society had his life torn from him by a new barbarianism. These barbarians must be stopped, and the governments that aid and abet them deserve the contempt, censure and rejection of the community of nations.

Hal would want us to remember him by dedicating ourselves to the civilized values he so cherished. Despite the sadness and bitterness we feel today, he would want us to remember him by maintaining a generous spirit, a concern for peace, a determination to overcome the very forces of hatred and irrationality that took his life.

When I heard the tragic news of Hal's death I began going over some of his memos. The kind of world he sought came through clearly. There's one in particular that captures his character, his intelligence and his vision. It deals with the terrible problem of the spread of arms, and paints a world where, in his words . . . "The coming years could mark the achievement of significant agreements aimed at redirecting national efforts away from the destructive and wasteful obsession with military arms, and toward raising the standard of living and improving the quality of life. . . ." That is what Hal stood for and what, in his memory, he would have us seek as well.

We will never forget this magnificent human being.

TURKISH EMBASSY,
Washington, D.C., August 12, 1976.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR JAVITS: I was shocked to learn the death of one of your distinguished associates, the late Harold W. Rosenthal, who was yet another unfortunate victim of a terrorist action unfolded last evening at the airport of Istanbul.

Please allow me to extend to you and through you to the family of the deceased, my sincere condolences.

Sincerely,

MELIH ESENBEL,
Ambassador of Turkey.

BRITISH EMBASSY,
Washington, D.C., August 13, 1976.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR: I was very sorry to hear of the death in Istanbul of a member of your staff, Mr. Harold Rosenthal, as a result of a terrorist attack on an El Al airliner in Istanbul. This is yet another example of the senseless waste of lives caused by terrorism. Please accept my deep sympathy.

Sincerely,

JOHN MORETON,
Chargé d'Affaires.

DEPARTMENT OF STATE,
Washington, D.C., August 16, 1976.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: Ambassador John Sherman Cooper has requested that the following message be transmitted to you:

Quote:

"My deepest sympathy to the family of Harold Rosenthal and to you and all your staff. John Sherman Cooper."

End Quote.

Sincerely,

DAVID ANDERSON,
Director,
Office of Central European Affairs.

THE WHITE HOUSE,
Washington, D.C., August 13, 1976.

Mr. and Mrs. SIDNEY ROSENTHAL,
Philadelphia, Pa.

DEAR MR. AND MRS. ROSENTHAL: Mrs. Ford and I were greatly saddened to learn of the tragic death of your son in Istanbul. We want to assure you that you are very much in our thoughts and prayers in this time of sorrow. Your sense of loss is shared, we know, by all of Harold's friends and colleagues on Capitol Hill.

May the pride you take in his many accomplishments, and the happy memories you share, be a source of comfort for you and your family in the days ahead.

With our deepest sympathy to you and your family,

GERALD R. FORD.

U.S. SENATE,
Washington, D.C., August 13, 1976.

Senator JACOB JAVITS,
Russell Office Building,
Washington, D.C.

DEAR JACK: I was shocked to hear of the tragic death of your Special Assistant, Hal Rosenthal, in the terrorist incident in Istanbul. I didn't know Hal, of course, but I know of the special bonds that develop between Senators and their staffs, and I am sure that you are deeply saddened by his death, particularly under such senseless and unnecessary circumstances.

Please accept my condolences and, as you see fit, convey them to Mr. Rosenthal's family. I join you in condemning this kind of wanton, vicious, criminal act in the strongest possible terms.

Sincerely,

JAKE GARN, *U.S. Senator.*

NEW YORK, *August 14, 1976.*

Hon. JACOB JAVITS,
U.S. Senate,
Washington, D.C.

DEAR JACK: Just a word to tell you how distressed I was to read of the shocking murder by Palestinian guerrillas at the airport at Istanbul of your assistant, Harold Rosenthal. As you know, Harold worked for the Rockefeller Brothers Fund for a period of time before he went to work with you. Everyone who knew him at the Fund felt he was an outstanding young man. What a tragedy that his life should have been cut short in such a needless and fruitless way. I am sure his loss will be a blow to you, and wish to extend Peggy's and my sympathy.

Sincerely,

DAVID ROCKEFELLER.

JERUSALEM, ISRAEL, *August 13, 1976.*

Sen. JACOB JAVITS,
U.S. Senate,
Washington, D.C.:

Grieved at tragic death of Harold Wallace Rosenthal. Please convey my condolences to the bereaved family.

TEDDY KOLLEK.

DELEGATION OF THE COMMISSION
OF THE EUROPEAN COMMUNITIES
Washington, D.C., August 13, 1976.

Sen. JACOB JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: It was with a deep sense of shock that we learned this morning of the tragic loss of Hal Rosenthal.

He was an outstanding young man—brilliant, witty and immensely popular among his many friends in the field of foreign affairs in Washington.

Hal came to Europe last year on our visitors programme. He left an indelible impression on all those whom he met. It seems impossible to grasp that he has gone.

On behalf of the delegation, please accept my deepest sympathy and great sense of personal loss.

Yours sincerely,

——— ———,
Acting head of Delegation.

MESSAGE FROM SIR JOHN RENNIE, COMMISSIONER GENERAL OF UNRWA, AUGUST 13, 1976

Please convey my deepest sympathy to Senator Javits on the tragic death of Harold Rosenthal. I have valued my meeting with him in June and have been impressed by his obvious dedication to his work and his quick and sympathetic understanding of our problems.

(This message was phoned in by Mr. Von Wik who is the director of the UNRWA and Mr. Von Wik asked that his own personal sympathy be extended to the Senator.)

INTERNATIONAL LABOR OFFICE,
August 13, 1976.

Senator JACOB JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: I was very sad to learn of the death of Mr. Rosenthal in the El Al tragedy. I would like to share, if I may, in the mourning of his family and friends for this new victim.

Please accept my most sincere sympathy.

Sincerely yours,

FRANCIS WOLF,
Legal Adviser and Assistant Director-General.

EUROPEAN PARLIAMENT OFFICE,
Brussels, Belgium, August 13, 1976.

Senator JACOB JAVITS,
Russell Senate Office Building,
Washington, D.C.

Tragic events at Istanbul Airport and death of Hal Rosenthal came as most dreadful shock to Hal's friends in Europe who all remember him vividly from his recent study visit to the European community. On behalf of his many friends among members and staff of the European Parliament as well as in my personal name I wish to express deepest condolences and beg to convey our feelings to Mr. Rosenthal's family.

Sincerely,

GUY VANHAVERBEKE.

CONDOLENCES RE HAL ROSENTHAL

(Received Aug. 12, 1976, from Walter Smith, Director Israeli Affairs, Department of State (briefed Hal prior to trip) Charge d'Affairs and staff of U.S. Embassy, Tel Aviv, Israel)

Shlomo Avinere, Director General, Israeli Ministry of Foreign Affairs, sends following message signed by Yigal Allon:

"Please convey to the family of Harold Rosenthal my deep sorrow and shock at the tragic loss. We all mourn this useless loss of life perpetuated by such a ruthless act of terrorism."

It was with profound regret that we learned recently of the tragic death of Hal Rosenthal. Hal, who visited Europe as a participant in the European Community's visitors programme towards the end of last year clearly had a brilliant future ahead of him, and his senseless killing has surely deprived the United States of an outstanding future leader. In mourning with you his loss I would also wish to extend on behalf of the Steering Committee of the Secretariat of the European Community's visitors programme our sincere condolences to his family.

ESCARASCIA MUGNOZZA,
Vice President of the Commission
Willem, Member of the European
Parliament, Joint Chairman of the
Steering Committee of the ECVP
c/o COMEUR.

AMERICAN COUNCIL FOR ROMANIANS,
INC.,
New York, N.Y., August 16, 1976.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR JAVITS: We wish to express our sincere sympathy for the death of your aide, Harold W. Rosenthal, in the Arab guerilla attack at the Istanbul airport on August 11. We believe that swift justice should be meted out to these terrorists and wholeheartedly support your stand that priority should be given on an international basis to the punishment of all nations harboring all such terrorists.

Respectfully yours,

GEORGE P. DUMITRIU,
President.

SUPREME ALLIED COMMANDER EUROPE,
Shape, Belgium, August 12, 1976.

Hon. JACOB JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: I was shocked and disturbed to learn that Mr. Harold Rosenthal of your staff was one of the unfortunate victims of the terrorist attack in Istanbul yesterday. Despite the extensive precautions which have been taken in recent years, these senseless acts of violence seem to continue. I am sure that Mr. Rosenthal's loss will deeply affect you in both a personal and professional sense.

Please accept heartfelt condolences during this difficult period.

Sincerely,

ALEXANDER M. HAIG, Jr.,
General, U.S. Army,
Supreme Allied Commander.

INTERNATIONAL LABOUR OFFICE,
Geneva, August 16, 1976.

Senator JACOB K. JAVITS,
Russell Office Building,
Washington, D.C.

DEAR SENATOR JAVITS: I was deeply shocked to learn this morning of the death of your very capable young assistant, Hal Rosenthal in Istanbul. He was such a bright, engaging and capable person, a real asset to your staff and a man who I had worked with on several occasions during the past six months in connection with US/ILO matters. Truly a senseless loss and one which will be long remembered and regretted by his many friends.

Please pass on my condolences to Hal's family.

Sincerely,

JOHN W. MCDONALD, Jr.

BONN, WEST GERMANY, *August 20, 1976.*

Senator JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: I just learned about the sudden death of Harold Rosenthal. I want to share with you, along with the other members of our Institute who have met him, our sense of shock and grief. Harold Rosenthal visited us when he came through Bonn some time ago, and we were all impressed by the rightness of his mind and the openness of his character. I regret that it is such a sad occasion for which I communicate with you again since I had the pleasure of working for you when you chaired the Committee of Nine.

Sincerely yours,

KARL KAISER.

[From the New York Post, Aug. 12, 1976]

JAVITS COMMITTEE AIDE DIES IN ISTANBUL TERROR RAID

A young Senate aide who had been nominated to his post by Sen. Jacob Javits (R-N.Y.) was among four persons killed last night in an apparent Palestinian attempt to hijack an El Al airliner at the Istanbul airport, U.S. Embassy officials said today.

The Associated Press quoted embassy officials in Tel Aviv as saying the dead American was Harold Wallace Rosenthal, 29.

They said he was a former aide to Sen. Walter F. Mondale (D-Minn.), the Democratic vice presidential nominee, and was on his way to Jerusalem for a conference on the Middle East.

"It's a terrible, terrible tragedy," Javits told The Post today.

He said Rosenthal had been working as a "staff employe" of the Foreign Relations Committee, of which Javits is a member.

Javits, who said he had recommended Rosenthal to his staff post in Washington, described him as "a young man of extraordinary ability" with "very extensive" knowledge in the foreign relations field.

The Senator said, however, that Rosenthal had not actually worked as a member of his own staff. He confirmed that the dead man had been an aide to Mondale.

An aide in Javits' New York office said Rosenthal was a native of New York City and specialized in economic affairs.

The spokesman said Rosenthal had been employed by the Rockefeller Brothers Fund, a philanthropic enterprise, before he began working for the Foreign Relations Committee.

He said Rosenthal had been at his Washington job for "less than a year."

The Anatolia news agency said 26 persons were wounded or injured in the attack, including two American women in a party of Presbyterian tourists to the Holy Land from Portland, Ore.

The American Hospital said Margaret Shearer, 40, had a bullet wound in the ankle and was "considerably improved." But Miss Shearer's family in Portland said the injured woman was her sister, Nona, who was traveling with her.

Another member of the American party, Lucille Washburn, 52, suffered bruises on her arms and thighs, a hospital spokesman said.

The other dead were a Japanese, an Israeli and a fourth man believed to have been a Spaniard.

The pilot of the Israeli plane said he was told the attack was made by four police by the two captured terrorists, but accounts of the information given Palestinians indicated they acted alone.

According to police, the terrorists said they had been armed and financed by the Libyan government of Col. Muammar Khadafy, and had flown yesterday from the Libyan capital, Tripoli, to Rome before boarding an Alitalia flight to Istanbul.

The Anatolia news agency said the two men were carrying Kuwaiti passports and told police they belonged to the "Dr. George Habash Organization," presumably the Popular Front for the Liberation of Palestine, which Habash heads.

The two men said they smuggled their guns and hand grenades through the Rome airport, which has been the scene of numerous hijackings and terrorist attacks. The newspaper Hurriyet said their plan to hijack the El Al jetliner which was waiting to load passengers, was foiled when police began searching the luggage of transit passengers.

As the two terrorists approached the end of the line before boarding a bus to the plane, they opened their bags, hurled a grenade into the lined up passengers and began spraying the room with submachine guns, police said.

The four died when the grenade blast ripped across the exit gate, breaking windows and causing panic among the crowd. The passengers scattered, seeking shelter behind chairs and under a staircase.

The terrorists took a policewoman hostage and exchanged shots with airport security police who rushed to the lounge and kept them from reaching the jetliner on the runway about 100 yards from the terminal.

The two Palestinians surrendered after an hour-long standoff and negotiations with Istanbul Gov. Namik Kemal Senturk and other officials.

Police said the dead Japanese was a teenager with a gun in his shirt, leading them to believe he was one of the terrorists.

[From the New York Times, Aug. 13, 1976]

TURKS GIVE DETAILS OF GUERRILLA ATTACK AND ATTEMPT TO HIJACK AN EL AL JETLINER

ISTANBUL, TURKEY, August 12.—Turkish policemen and intelligence officers today questioned two Palestinian guerrillas who directed bombs and guns at passengers at the Istanbul airport after having failed to hijack an Israeli airliner.

Four persons died, including an aide to Senator Jacob K. Javits of New York, when the Palestinians set off explosions last night and raked an airport departure hall with automatic fire. More than 30 people were injured.

Legal sources said that the state prosecutor's office might demand the death penalty when the two guerrillas came to trial.

The attack was widely regarded as revenge for the Israeli rescue raid on Uganda's Entebbe airport last month, but it appeared curiously unsophisticated in view of the sweeping security precautions always mounted here for planes of the Israeli airline, El Al.

NOT BOOKED ON EL AL

The police said that the two gunmen, who might have been aided by a third, had not been booked aboard the Tel Aviv-bound flight. They were transit passengers supposedly waiting to fly to Baghdad.

The Governor of Istanbul, Manik Kamal Senturk, said the Palestinians had not taken into account El Al's security measures.

Being transit passengers, they evidently hoped to get to where the plane was waiting, without body and baggage searches.

The Governor said that only when they realized that they could not avoid detection at a special checkpoint did the gunmen decide to end their mission with random violence. He denied reports that the guerrillas had tried to take hostages before setting off their bombs.

FOURTH NOT IDENTIFIED

The four who died included Senator Javit's aide, Harold W. Rosenthal, 29 years old, of Philadelphia, a Japanese tourist guide, Yutaka Hirano, and an Israeli identified as Sano Sholomo.

The badly mutilated body of the fourth person has not been identified. The police said he might have been a member of the guerrilla group.

The police gave the names of the two captured guerrillas as Mehti Mohanned Zilh, 22, and Hussein Mohammed al-Rashid, 23, but they said these could be aliases. They traveled from Libya to Istanbul via Rome on Kuwaiti passports.

SECURITY TERMED LAX

TEL AVIV, August 12.—Israeli officials said today that Arab guerrillas were exploiting the laxity of security checks on transit passengers in international airports. They called for international cooperation to tighten supervision.

Prime Minister Yitzhak Rabin said that the terrorists who attacked waiting El Al passengers in Istanbul last night used the same tactic as those who hijacked an Air France plane in Athens in June. Both groups timed their arrivals to catch planes being prepared for takeoffs.

Speaking to antiterror units of the Israeli border police, Mr. Rabin said the Istanbul raiders had planned to murder, while the Athens hijackers had been seeking live hostages to be bartered for terrorists imprisoned in Israel. But he said the attempts to free imprisoned guerrillas were also calculated to further murders of Israelis.

Government sources here said that the Foreign Ministry had set up a team to enlist international cooperation for an antiterrorist drive.

Six slightly injured passengers who were flown here from Istanbul last night have been released from Israeli hospitals. More wounded are expected to be flown home from Istanbul tomorrow. Relatives of those who will still remain in Turkish hospitals were offered flights to Istanbul by El Al.

NOTABLE REPUTATION

Harold Wallace Rosenthal, an administrative assistant on foreign affairs to Senator Javits, had achieved a notable reputation as an aide to law makers.

He was going to Jerusalem to represent Senator Javits at a two-week conference on the Middle East and Israel at the Van Leer Institute when he was killed in the terrorist attack in Turkey.

Describing Mr. Rosenthal's death as "a stunning, awful and senseless tragedy," Senator Javits said he would urge the Republican Party to adopt a "strong plank against terrorism."

Mr. Rosenthal joined Senator Javits' staff eight months ago after having been a staff assistant on the international economic program of the Rockefeller Brothers Fund.

ONCE AIDED CAREY

Mr. Rosenthal began his Washington career as a legislative assistant to Hugh L. Carey, then a Democratic Congressman from New York and now Governor. Mr. Rosenthal was an administrative assistant to Senator Walter F. Mondale, Democrat of Minnesota, before joining the Rockefeller organization.

A native of Philadelphia and unmarried, Mr. Rosenthal received a bachelor of arts degree from Temple University in 1968, a master of arts degree in international affairs and economics from Cambridge University in 1969 and another master of arts in the same field from the Fletcher School of Law and Diplomacy at Tufts University.

He leaves his parents, Mr. and Mrs. Sidney Rosenthal of Philadelphia. Arrangements were being made yesterday to fly the body to the United States.

[From the Washington Post, Aug. 13, 1976]

JAVITS CONDEMNS TERRORISTS IN DEATH OF AIDE IN ISTANBUL

Harold W. Rosenthal, an aide to Sen. Jacob Javits (R-N.Y.), was one of four persons killed during an attempted hijacking of an Israeli airliner in Istanbul Wednesday.

Javits, who condemned the attack yesterday, said he will make an effort to get the Republican Party to adopt a "strong plank against terrorism" at its convention next week in Kansas City.

Rosenthal, 29, was on his way to a seminar on Middle Eastern problems at the Van Leer Institute in Jerusalem as part of his liaison work for Javits with the Senate Foreign Relations Committee.

An economist specializing in international affairs, he had joined Javits' staff eight months ago.

The four persons were killed by a grenade tossed by Palestinian terrorists when their attempt to hijack an El Al airliner was foiled by police.

Speaking in New York, Javits called Rosenthal's death a "stunning, awful and senseless tragedy" and said the hijacking attempt was part of a "spreading vicious insanity which much be stamped out.

"It is another bitter lesson that an international agreement must be given the highest priority," he said. "I am going to Kansas City to urge the Republican convention to adopt a strong plank against terrorism."

In Plains, Ga., Sen. Walter F. Mondale (D-Minn.), vice presidential candidate, called the death of Rosenthal "unbelievably tragic."

He said Rosenthal, who once had worked for him as foreign policy staff adviser, was a man of "vision" and great intelligence with a promising future.

"This reminds us again that the world simply has to do something about terrorism," Mondale said.

In Washington, Sen. Edward M. Kennedy (D-Mass.) said Rosenthal's "tragic and senseless killing is a great loss for us all."

Sen. Charles McC Mathias (R.-Md.) said the attack "puts a new brand of violence and terrorism on the Palestinian movement and raises new obstacles to the achievement of their goals."

Javits praised Rosenthal as a "brilliant young man, totally committed and with a complete dedication to his work in the field of foreign relations."

Rosenthal, who was from Philadelphia, was a graduate of Temple University. He held master's degrees from Cambridge University and the Fletcher School of Law and Diplomacy at Tufts University. He also had studied at Dijon University in France.

Before joining Mondale's staff in 1973, he had served as a legislative assistant to Gov. Hugh Carey of New York, who then was a member of the House of Representatives.

Rosenthal, a bachelor who lived at 16 4th St. SE., had worked for the Rockefeller Brothers Fund just before joining Javits' staff.

He is survived by his parents, Mr. and Mrs. Sidney Rosenthal, of Philadelphia.

[From the Washington Star, Aug. 13, 1976]

JAVITS' AIDE EULOGIZED AS BRILLIANT, DEDICATED

Arrangements were being made today to return the body of Harold Wallace Rosenthal, 29, a staff aide to Sen. Jacob Javits, R-N.Y., who was killed Wednesday night in Istanbul when terrorists attempted to highjack an Israeli airliner.

Pro-Palestinian terrorists at Istanbul airport threw a hand grenade and machine-gunned passengers boarding a bus for an El Al jet bound for Tel Aviv. Four persons were killed as the grenade exploded, including Rosenthal.

(In Istanbul, Prosecutor Nejet Ulgen said two pro-Palestinian guerrillas, captured during the raid, had told interrogators that they had been instructed to kill "as many Israelis as we can" in reprisal for Israel's July 4 raid into Uganda to rescue 103 hostages.

Ulgen said the two terrorists described themselves as "active warriors" of the Palestine Liberation Organization. They said they had joined the group six months ago and were on their first assignment. Ulgen quoted them as saying they had received their instructions in the Libyan capital of Tripoli.)

Rosenthal, a resident of 2nd Street SE, had worked in Javits' office since January, researching and helping to coordinate a foreign relations program.

Javits eulogized Rosenthal as "a brilliant, totally committed young man with a complete dedication to his work in the field of foreign relations."

His parents, Mr. and Mrs. Sidney Rosenthal of Philadelphia, were in seclusion. Mark Rosenthal, Harold's 26-year-old brother, said his parents "can't even think. They are completely incapacitated."

Before joining Javits' staff, Rosenthal worked from 1974 until 1976 as an adviser in international trade for the Rockefeller Brothers Fund in New York.

He also was a legislative aide to then Rep. Hugh L. Carey, now governor of New York, from 1971 to 1973, and the following year joined the staff of Sen. Walter F. Mondale of Minnesota.

Mondale called Rosenthal a man of "vision" with a promising future, stating that his death "reminds us again that the world simply has to do something about terrorism."

A native of Philadelphia, Rosenthal was graduated magna cum laude from Temple University in 1968. The following year he attended Cambridge University and received an M.A. in international relations. In 1970 he received another M.A. in international economics from the Fletcher School of Law and Diplomacy.

Rosenthal studied throughout Europe and the Middle and Far East on a total of seven fellowships and grants and currently was doing research for a doctoral thesis through Cambridge.

He was going to Israel to represent Javits' office at a two-week seminar on the Middle East at the Van Leer Jerusalem Foundation. A member of his family said he also planned to visit Aman, Jordan.

Besides his parents and brother Mark, he leaves another brother, Norman, also of Philadelphia.

The State Department said yesterday it was a matter of "the greatest urgency" that the United Nations move decisively to deter incidents such as the Istanbul assault.

Spokesman Frederick C. Brown expressed hope that Wednesday's events "will prod the leaders of the world into taking positive action on the question of terrorism."

[From the New York Times, Aug. 13, 1976]

OUTRAGE IN ISTANBUL

The instructions given in Libya to the Palestinian gunmen who attacked passengers with grenades and tommyguns in the Istanbul airport Wednesday were simple: Kill as many Israelis as you can. Although their plan did include hijacking the El Al airliner bound for Tel Aviv, it evidently did not call for the usual tactic of seizing hostages for bargaining purposes—just gun down or blow up as many passengers as possible in retaliation for Israel's rescue raid in Uganda last month.

What seems to have been prompt and effective reaction by Turkish security police thwarted the hijack and held the casualty list to four killed—two Israelis, one Japanese and a young American, an aide to Senator Jacob Javits of New York—and 26 injured. The two self-styled "active warriors" of the Palestine Liberation Organization are in custody and the world will watch with interest how Turkey's Government meets the next test: bringing the terrorists to stern justice while resisting inevitable Arab blackmail.

It would be comforting to be able to believe that this latest outrage—"murder for murder's sake," as Israel's Prime Minister aptly described it—could be the catalyst that ignited an aroused world community into effective collection action against terrorism, possibly at the United Nations General Assembly next month. Regrettably, this is most unlikely. Arab governments that might desire such action will still feel constrained to thwart any project aimed in part against Palestinian terrorists.

At some point, however, even Arab governments—the more moderate ones—will be forced in self-defense to take action against the international campaigns of terror and murder mounted with Soviet arms from Libya. It is not only destruction of Israel that Col. Muammar el-Qaddafi is seeking but the overthrow of many Arab governments, among others. Algeria is the only one of six neighboring governments that Libya has not attempted to undermine in the last six months.

President Gaafar al-Nimeiry of the Sudan is the most recent Arab head of state to be a target for Colonel Qaddafi's aggression—in this case a virtual invasion by soldiers financed, equipped with Soviet arms and trained in Libya. How long will it take for such Arab leaders to realize that, by condoning such Libyan-backed outrages as the attempted hijacking in Istanbul, they are encouraging a force also bent on their own destruction?

[From the New York Times, Aug. 12, 1976]

FOOTNOTE TO TRAGEDY

Harold Wallace Rosenthal, 29, was born in Philadelphia, went to Temple University, then to the Fletcher School of Law and Diplomacy, then to Cambridge University in England.

He worked for Hugh Carey when Carey was a Congressman, for Walter Mondale, for the Rockefeller Brothers Fund. These past seven months he'd been an aide to Jacob Javits. He lived on Central Park West and used to like to try to fly kites in Central Park, but friends said he always ran the wrong way, with the wind. Once he went skiing and broke his leg before he'd gone a hundred yards.

Harold Rosenthal was on his way to Tel Aviv for a Hebrew University conference on the Middle East when he happened to be standing in the wrong place Wednesday night. The wrong place was Istanbul Airport, where two terrorists armed and financed by the Libyan government of Col. Muammar Khadafy threw a grenade into a line of waiting passengers and sprayed the premises with submachine guns. Four people died, 26 were wounded. It was a ghastly ending for Harold Rosenthal's journey. It also symbolized the senseless inhumanity of "idealistic" terrorism.

[From the New York Daily News, Aug. 13, 1976]

SENATE AIDE DEAD IN TERROR ATTACK

(By Joseph Fried)

Jerusalem, Aug. 12.—One of the four persons killed in yesterday's Arab guerrilla attack at Istanbul's airport was identified here today as Harold W. Rosenthal, 29, an aide to the United States Senate Foreign Relations Committee and a former aide to New York Gov. Carey.

Israel appealed to nations with air links to this country to tighten security measures in view of the attack on passengers of the El Al Airlines flight.

Also killed was Japanese tour guide Yutaka Hirano, 39, and two Israelis identified by Turkish authorities as Salo Salomon and Ernest Elias.

Istanbul Gov. Namik Keman Senturk said the two captured guerrillas, who gave their names as Mohammed Mehdi El Mehdi and Hussein Mohamed Bin Rishid, were the only guerrillas involved in the attack.

Turkish prosecutor Nejat Ulgen said in Istanbul that the guerrillas told interrogators they had been instructed tp "kill as many Israelis as we can" in reprisal for Israel's July 4 raid on Entebbe airport in Uganda.

The U.S. Embassy said that Rosenthal was en route to Israel on a fact-finding mission for Sen. Jacob K. Javits (R-N.Y.) and the Senate committee.

Rosenthal was a former aide to Democratic vice-presidential candidate Sen. Walter F. Mondale, and earlier had been a foreign policy adviser to New York Gov. Hugh Carey.

(In New York, Javits said Rosenthal's death was "a stunning, awful and senseless tragedy." Javits said an international agreement to punish nations that harbor terrorists "must be given the highest priority.")

(In Plains, Ga., Mondale said Rosenthal was "a man of vision, great intelligence and a promising career. . . . The world simply has to do something about terrorism.")

LINKED TO POPULAR FRONT

Gov. Senturk said the two captured guerrilas "admitted under questioning that they were members of the George Habash group." Habash leads the Popular Front for the Liberation of Palestine, a member of the Palestine Liberation Organization, although it is not represented in the PLO executive committee.

The Popular Front also was blamed for the June 27 hijacking of an Air France airbus to Uganda's Entebbe Airport, where an Israeli long-range commando raid freed 103 of the hostages and crew and killed several hijackers.

In Beirut, a spokesman for the Popular Front denied involvement in the Istanbul attack.

FLEW IN FROM LIBYA

Senturk said the guerrillas arrived on an Alitalia flight from Tripoli, Libya, Kuwaiti passports and tickets for Baghdad. They said their mission was financed by Libya's Col. Moammer Khadafi.

Turkish police said the two guerrillas approached the end of a line of passengers ready to board a bus to the El Al plane, opened their bags, threw a grenade and began spraying the room with submachinegun fire.

At least 26 persons were injured in the shooting, including Nora Shearer, 40, of Portland, Ore., who was shot in the ankle.

U.S. BIDS UN ACT ON INTERNATIONAL TERROR

WASHINGTON, August 12.—The United States called today for the United Nations to take action against international terrorism as "a matter of the greatest urgency."

Reading a statement, State Department spokesman Frederick Z. Brown said that the U.S. hoped the terrorist attempt to seize an Israeli airliner in Turkey yesterday and the recent hijacking of a French airliner to Uganda would, together, "prod the leaders of the world into taking positive action on the question of terrorism."

Brown reaffirmed American support for a West German proposal for a UN convention committing all member nations to extradite persons involved in terrorist activities, expected to be put forward at the coming UN General Assembly session.

STATEMENT OF U.S. SENATOR JACOB K. JAVITS REGARDING THE DEATH OF HAL ROSENTHAL (HAROLD WALLACE ROSENTHAL)

It is a stunning, awful and senseless tragedy. Hal was the victim of a spreading, vicious insanity that must be stamped out if we are to maintain a civilized world.

He was a brilliant, totally committed young man with a complete dedication to his work in the field of foreign relations. I share with his family their sense of terrible anguish at the awful loss of a deeply loved young man at the very beginning of a great career.

There is a bitter irony for me because I have worked for years in the attempt to achieve international agreement that would restrain those nations that harbor terrorists. This is another bitter lesson that such an agreement is of the highest priority. We cannot condone nations which justify terrorism on political grounds.

I will continue to do my part in attempting to see to it that violent tragedies of this kind do not recur.

STATEMENT BY SENATOR EDWARD M. KENNEDY ON THE DEATH OF HAL ROSENTHAL, AUGUST 12, 1976

I am deeply saddened by the death of Hal Rosenthal. He was a fine person, admired and respected by all who knew him, and a valued friend and colleague. I join his many friends here in the Senate—where he gave so much—in mourning his death. Hal Rosenthal's tragic and senseless killing is a great loss for us all.

HUMPHREY URGES ACTION TO COMBAT TERRORISM; SADDENED OVER DEATH OF HAROLD ROSENTHAL

MINNEAPOLIS, MINN., August 12.—Senator Hubert H. Humphrey today issued the following statement regarding the death of Harold W. Rosenthal, staff member of Senator Jacob Javits, who was killed when guerrillas Wednesday attacked an Israeli El Al jetliner in Istanbul, Turkey:

"I was saddened to learn of the tragic death of Harold Rosenthal. I offer my condolences to his family and those in the Senate who worked with this fine man.

"International terrorism has taken yet another victim. There are certain to be more tragedies like this one, unless the international community acts promptly on a number of fronts to deny terrorists the opportunities they seek to disrupt the activities of the civilized world."

NEWS RELEASE FROM THE AMERICAN JEWISH COMMITTEE

NEW YORK, August 13.—The American Jewish Committee today expressed its condemnation of the massacre at Istanbul's airport, in which two Palestinian terrorists killed four passengers who were waiting to board a flight to Israel and wounded more than 30. Among those killed was Harold W. Rosenthal, administrative assistant to Senator Jacob K. Javits, of New York, and a member of the American Jewish Committee's Washington Chapter.

In a statement by Bertram H. Gold, the Committee's Executive Vice President, the organization urged "the international community to take practical steps to insure the safety of air travel through increased security measures at airports, and to outlaw countries which nurture and support such acts of banditry."

The text of Mr. Gold's statement follows:

"The American Jewish Committee joins with civilized men and women of all faiths in condemning the massacre at Istanbul's airport in which four innocent victims were killed and many more wounded. We are particularly saddened at the death of Harold W. Rosenthal, a member of our Washington Chapter and a dedicated protagonist of the cause of improved human relations among all people.

"We hope that this latest outrage, which served no rational purpose whatsoever, will finally rouse the international community to take practical steps to insure the safety of air travel through increased security measures at airports, and to outlaw countries which nurture and support such acts of banditry."

Javits Lauds Slain Aide, Vows Fight on Terrorists

Sen. Jacob Javits, R-N.Y., said yesterday a 29-year old aide who was one of four victims of the attack by terrorists at the Istanbul, Turkey, airport, was "brilliant" and totally committed to his job.

The U.S. embassy in Tel Aviv earlier announced Harold Wallace Rosenthal, a specialist in foreign, affairs for Javits, was killed Wednesday in the attack by Arab terrorists on passengers boarding an El Al Israeli flight to Tel Aviv.

The Israeli foreign ministry said two of the guerrilla attackers and a Japanese tour group leader, identified in reports from Tokyo as Yutaka Himo, 39, were also killed.

Rosenthal had been employed by Javits for less than a year, after working from February 1971 to March 1973 for Gov. Carey, then a Brooklyn congressman.

Rosethal also worked for Sen. Walter Mondale, D-Minn., now the Democratic candidate for vice president, and later for the Rockefeller Brothers Fund as a legislative investigator.

He was representing Javits on a factfinding mission at the time of his death and was scheduled to take part in a symposium at the Van Leer Institute in Jerusalem.

"Hal was brilliant, totally committed young man in the foreign relations fields," Javits said in a statement. 'This is just a stunning, awful and senseless tragedy.'

"He was a victim of a spreading insanity that must be stamped out if we are to maintain a civilized world," Javits said.

"Its bitter irony that I've worked for years for an international agreement designed to restrain those nations which offer sanction to terrorists."

The senator, who was preparing to fly to Kansas City for the Republican National Convention, promised to push for such a plank concerning terrorism in the party platform.

A spokesman said arrangements were under way to have Rosenthal's body returned to the United States for burial.

His parents live in Philadelphia, and Rosenthal maintained a residence in Manhattan, Javits' office said.

[From the Washington Post, Aug. 15, 1976]

Tribute to Hal Rosenthal

Hal Rosenthal, killed on his way to join a Senate staff visit to Israel last Wednesday, was a good friend to so many people. And his tragic death in the terrorist attack at Istanbul airport has brought a sense of loss to everyone who knew him.

For those who worked with him in the Senate, there is more than the loss of a friend and renewed awareness of the fragile nature of life. His death has brought home to us, in a way that no statistics can do—or even the recent drama at Entebbe—the human impact of senseless and brutal terrorism. And for those members of Congress and staff who travel to the world's trouble spots as part of their responsibilities—while so often the targets of editorial criticism about "junketing"—there is a further sense of kinship. Like American diplomats killed abroad in recent years, Hal died doing what he felt was right in the service of his country.

There is irony in Hal Rosenthal's being one of the group of Senate staff aides who work in foreign policy, and who are concerned to find a way of halting the international terrorism that took his life; and further irony in his visit to the Middle East, to gain greater understanding of a conflict that has now reached out to Turkey to claim more victims. What he would have learned in Israel cannot now be applied to help end that conflict, and lead toward peace for all peoples in that troubled area. By nature he was a peacemaker—and in Istanbul truly an innocent destroyed by a conflict not of his making, but to whose resolution he wished to contribute what he could.

In our view, there is only one way to make Hal Rosenthal's death mean something: for the United States to exercise more leadership in trying to gain the rejection by all states of terrorism as a legitimate weapon; and in seeking to promote an end to the Middle East conflict that has gone on too long, and claimed too many victims in so many countries. No one can have any illusions about the difficulties of reaching either goal; but neither can we ignore our country's responsibility to try. This effort can exact a heavy toll from those individuals caught in the line of fire—as we learned so intensely and personally last Wednesday. But Hal Rosenthal though the risks worthwhile; and we can honor his memory by sharing his commitment.

Robert E. Hunter,
Foreign Policy Adviser,
Office of Senator Kennedy.
Daniel L. Spiegel,
Legislative Assistant,
Office of Senator Humphrey.
Washington.

GOP Feels Death of Javits Aide

(By Miles Benson)

Kansas City, Mo.—The death of a young Democrat, Harold Rosenthal, 6,900 miles away in Istanbul, is making itself felt here at the Republican National Convention.

Rosenthal, an eager-beaver young congressional foreign affairs expert, was boarding a plane to Israel to attend a conference on Mideast problems when those problems found him. A terrorist's grenade exploded beside him, ending his short but active life.

The tragedy rocked 72-year-old Sen. Jacob K. Javits (R-N.Y.), who had appointed Rosenthal to his staff last January. Javits resigned his seat on the crucial convention rules committee so he could attend the funeral for Rosenthal in Philadelphia Sunday. He will address the convention Tuesday night.

Sen. Howard Baker (R-Tenn.) said he will raise the issue of terrorism himself in his keynote address to the convention Monday night.

"The last time I saw Harold he was dancing," a reporter here who knew him recalled. "He had a party at his house and some diplomatic people were there, and he danced all night."

On the morning Rosenthal departed on the first leg of his fatal trip, he ate steak and eggs at the Hawk and Dove Restaurant in Washington, D.C., with Karen Johnson, Taffy Colker and Toni Aluisi, three young women who had been his friends. He left them laughing and promised to bring back rings for all of them from Istanbul.

The next time they heard about him, a picture on their television screens showed his body sprawled on the cold concrete of the Istanbul airfield, one of four persons killed in a grenade and automatic weapons attack in which two pro-Palestinian terrorists were taken alive.

"This guy was 29 years old and he didn't have a bad bone in him," Miss Johnson said. "They blew up Harold, for God's sake."

Javits described his aide as "brilliant, totally dedicated to the foreign affairs field."

Rosenthal propelled himself through an accelerating career with a happy combination of luck and intellect. He held degrees from Temple University, Cambridge College and Tufts University.

He first went to Washington as an aide to New York Gov. Hugh Carey when Carey was still a member of the House of Representatives. Later, Rosenthal worked for Sen. Walter F. Mondale of Minnesota, now the Democratic vice presidential nominee. He left that job to roam the world for the Rockefeller Brothers Fund, identifying opportunities for philanthropy abroad until he joined the Javits staff early this year.

Technically, Rosenthal was on vacation when he was killed. He had been invited by the Israeli government, which paid his expenses, to attend a 10-day symposium in Tel Aviv. The stop-over in Turkey was a side trip he took on his own.

Rosenthal's death came as Republican policy makers here were putting the finishing touches on Republican platform planks dealing with terrorism and the Mideast. Javits, a member of the Senate Foreign Relations Committee and his party's leading voice in the Senate, had lobbied the Republican platform committee for restatement of support of Israel and a strong anti-terrorism plank.

Before leaving for Rosenthal's funeral on Sunday, Javits inspected the platform's language on these issues and pronounced it acceptable.

"Terrorism—both domestic and international—must be stopped," the platform states. The Republicans also urge collective action among all nations and urge "sanctions" against countries that aid terrorists.

"We applaud the daring rescue by Israel of innocent civilian hostages who were kidnaped by terrorists," the platform declares.

In their treatment of the Mideast as a whole, the Republican platform writers stressed U.S. "commitment to Israel."

"We have honored and will continue to honor that commitment in every way—politically, economically, and by providing the military aid that Israel requires to remain strong enough to deter any potential aggression.

"Peace in the Mideast now requires face-to-face, direct negotiations between the states involved, with recognition of safe, secure and defensible borders for Israel."

MIKE REXROAD—PROFESSIONAL; HE WILL BE MISSED

Mr. MANSFIELD. Mr. President, today marks the end of the distinguished career of Mike Rexroad as a professional staff member of the Senate Appropriations Committee.

Mike has handled the Military Construction Appropriations bill since 1958. During that period of time, he has served with distinction under the able chairmanships of the distinguished Senator from Mississippi, Senator Stennis, and the former great Senator from Nevada, Alan Bible. Since 1969, Mike has worked under my direction and the other members of the subcommittee.

The Military Construction bill is a difficult and complicated measure consistently running in the neighborhood of $3 billion annually in appropriations. Mike Rexroad has done an outstanding job in maintaining aggressive military construction programs throughout the world while being personally responsible for recommending deletions of unjustified projects running into the millions of dollars, thus saving the taxpayers from many wasted expenditures.

Senators have learned that Mike Rexroad is a professional staff person in the truest sense. He has served Democrats and Republicans alike and has always based his judgment on the true merits of various projects rather than the expressed desires of the services or of any individual Member.

Mike began his career as a high school teacher in Webster Springs, W. Va. in 1938. In 1942, with the onset of World War II, he enlisted as an aviation cadet and graduated to become an instructor in the Flying Training Command. In 1944, he served as a liaison officer with the Office of Strategic Services to the British 14th Army in Burma until the end of the war. While maintaining his status as an active Air Force Reserve officer, he returned to the University of New Mexico as a graduate fellow in 1946 and later became an instructor in government at New York University. Later he returned to be professor of government and assistant to the dean of the College of Arts and Sciences at the University of New Mexico in 1949. In 1958, Mike joined the professional staff of the Senate Committee on Appropriations where he has served until today.

Over the years, I have called on Mike to look into military construction matters in many parts of the world. One of the most recent investigations in which he participated was in the area of Diego Garcia in the Indian Ocean. His analysis of the situation there was extremely helpful to Members of the Senate during the lengthy debate on that subject. His knowledge of aircraft shelter requirements in Europe, sensitive ammunition storage facilities, troop cantonment areas, family housing, hospitals, missile sites, training areas, and naval port facilities throughout the world is unsurpassed. As a result of his inspections throughout the United States, many substandard bases were significantly improved which greatly assisted the transition to an all-volunteer force, the end of the draft, and a better standard of living for lower grade enlisted personnel in the Army, Navy, and Air Force. In particular, I have in mind Malmstrom Air Force Base in my own State of Montana which developed from a World War II temporary rundown base to one of the most attractive in the Air Force inventory. Mike Rexroad and his now retired colleague, Gordon Nease of the Armed Services Committee staff, deserve great credit for these forward looking actions over the past years which have done so much to improve the readiness of our Armed Forces.

The Senate and the individual military services owe a debt of gratitude to Mike Rexroad and men like him who unselfishly devote their careers in the service of this institution and to its Members. Mike will be missed. I will miss him, the Appropriations Committee will miss him, and the Senate as a whole will miss him.

I wish him every success in the future along with his wife, Ruth, and son, Michael.

SENATOR WEICKER ON THE ENERGY CRISIS

Mr. BELLMON. Mr. President, the Nation's growing dependence upon insecure energy sources has long been a matter of great concern to many Members of the Senate. The shock of the embargo and the severe economic jolt which followed are still fresh in the minds of most Senators. The dangers implicit in a future action of the same kind are very real. Unfortunately, since there are no longer lines at the gas pumps, the public awareness of this problem has sharply declined.

Mr. President, one Member of this body is doing an effective job of speaking out on this issue both to his constituents and to the Nation. I refer to the distinguished junior Senator from Connecticut, Lowell Weicker, who at least twice within recent weeks has laid out the dimensions of the energy crisis clearly and eloquently. I refer to a speech delivered to the Women Instituters of Connecticut, Windsor Locks, Conn., on June 1, 1976, and a more recent speech delivered by Senator Weicker to the Northeast Public Power Association, Wallingford, Conn., on Tuesday, August 17, 1976.

Mr. President, I believe each Member of the Senate will be helped by reading Senator Weicker's comments in understanding the danger this Nation faces from the present energy situation and the energy policies which the Congress has laid down. I ask unanimous consent that both of these speeches by Senator Weicker be printed in full in the Record.

There being no objection, the speeches were ordered to be printed in the Record, as follows:

Speech by Senator Lowell Weicker

How do you get the United States to believe that an energy crisis which is wounding us now will kill us later?

The last time I spoke on this subject in Connecticut, I was chastised for making certain anatomical references on America's posture on energy. I accept the grammatical criticism as deserved, but I'm also constrained to say that whatever it was we were flat on then, energywise, we're even flatter on it now.

So let's have another try this evening. I can't be nice about the subject of energy because OPEC isn't nice. The supplies aren't nice. The peril isn't nice. The only nice thing has been America's response. It's so nice it's killing us.

I note in this morning's *New York Times* the headline in the financial section read: "Sale of Arab Oil to U.S. Doubled." The statement is made "The situation leaves the U.S. more vulnerable to an Arab oil embargo than at any time in its history. . . ."

Nice?

Let me apologize in advance to those who are going to be offended because of the political moments in my speech. I realize that this is a non-political gathering. However, I think everyone knows the reality of an election year, and that reality in my case is a record of hardballing the Arabs and the energy crisis for three years. The hardballing is challenged on the one hand by the inaction of both political parties in Washington, and on the other by an opponent in Connecticut who would have people believe they can escape the brunt of any effective solution. Ladies and gentlemen, I'll say it now as I've said it before the election—we can't Mickey Mouse our way out of the energy crisis.

Postponing price increases to our children.

Controlling the American portion of the uncontrollable.

Making energy companies divest.

Changing the name of utility commissions.

Forcing by price the poor and the elderly to conserve.

Promising energy alternatives tomorrow when they are decades off.

All these don't conserve or discover a drop of gasoline or one MCF of gas.

When it comes to energy, any political words or solutions that don't ask for sacrifice in lifestyle, or money, or both are frauds for today and sellouts of tomorrow.

Samual Johnson said the future is purchased by the present. Because, since World War II, everyone has been burning up the future rather than buying, or, in other words, investing in it, we in the present are sitting on energy tacks rather than cushions. Like a bucket of water in the backyard—add just one eyedropper a day and it will stay forever full. Leave it and it will evaporate.

No one would have noticed the cost of a daily eyedropper of conservation and discovery of energy. But my generation now has to pay the cost of filling the whole bucket. I refuse to do a similar number on my children or yours.

There is something considerably more noble in Dr. Johnson's "The future is purchased by the present", than in the whinings of today's politicos who operate on a theory that "a future out of sight, out of mind is the best present".

And when we say purchased, I don't mean by the helpless of this country so the wealthy and powerful can do their thing unchanged. I mean purchased by each according to his or her resources. The greater you've been blessed by the United States of America, the greater your share of the burdens of solutions.

What are the burdens of solving the energy crisis? Simply this—use less, discover more.

Yes, I'm for mandatory fuel conservation because volunteerism hasn't worked and I'm ashamed of a nation that forces its poor, its elderly, its fixed income citizens, its low income people to conserve by virtue of the price of fuel, while the rest of this big, strong country day by day becomes a bigger and ruder energy pig.

I want some system, and it doesn't have to be World War II rationing, that says to us haves—"halve it."

Yes, I'm for decontrol. I'm tired of seeing American dollars go to Canada and the Mid East to finance their discoveries and the wages of their employees, while we tell our companies and our working people to suck political wind.

If we're going to pay to get out of this bind, let it be to Americans for American gas and oil. Cash, not controls, finances exploration, drilling, and ultimately, energy. And if you don't believe me, ask every producing nation in the world which is making a killing at America's expense because we've tied the hands of discovery behind our back.

Use less, discover more. Simple, tough, and if done, will bring America the price stability, supplies and security that three years of chicken politics has postponed.

Let me comment on certain aspects of this "chicken politics." Control of any prices is questionable at best, but this I know. I didn't raise the prices to today's levels. The American energy companies didn't. The utilities didn't. The Arabs did. And what we didn't control three years ago, we sure aren't going to control now, while using three times as much energy and producing 10 per cent less. All that is being controlled by the energy nuts is America's ability to tell the Arabs to go to hell.

Secondly, solar energy, nuclear energy, geothermal energy, mass transit, etc., are 10 to 20 years off. So support them as we should, but they will not save America today.

Third, I am not willing to trade off lives and health to gain more energy by lowering or delaying pollution standards. If the American people have gone to sleep at the switch, it's up to Detroit to wake them up, not sing them lullabies.

Breaking up energy companies doesn't save or produce one ounce of energy. All it will do is to transform the United States into a developing nation from a developed one, but this appeal, like all the others before, has the seeming political advantage of not involving the American people.

Do anything, but don't tell them the truth—to which I say: "NO."

Let me tell you, this nation is one step away from being its own executioner—to borrow from John Dunne.

So, far better you come down on my head than to lose yours.

Economically, militarily, energetically, unless we use less and discover more, the mouse that roared three years ago will be the rat that won.

Yes, I'm for sacrifice, and I understand its unattractiveness in a political year.

But I also understand my neighbor. My neighbor is compassionate when there is suffering, gutsy when there is danger, sacrificing for his children, responsive when leadership leads.

That is why this speech tonight. I don't fear it being used against me politically. My worry is that it won't be.

STRAIGHT TALK ON THE ENERGY CRISIS

(By Senator Lowell Weicker)

. . . No issue I've confronted in Washington is so riddled with deception or fraught with danger as the energy crisis.

Its resolution is going to require much straight talk and sacrifice by all Americans. Resolution in that form can bring adequate supplies, lower prices and independence *whereas* today's alternative of talk and evasion will continue the disaster around us.

First, is there a problem?

Facts, not my opinion, best answer that question.

So far in 1976 total petroleum imports are up 18 percent from 1975 and 27 percent from 1974.

In 1973 when the Arab oil embargo was imposed on the United States, Canada was our single largest source of imported oil. Today Saudi Arabia, one of the boycotters, is the largest single source of crude oil imports. Our imports from the Arab OPEC countries were up 45 percent in 1975 from the 1973 level.

Let's turn to domestic crude oil production. In 1971 it was 4.1 billion barrels. By 1975 it was 3.7 billion barrels. So far in 1976 it is dropping further. Rather the wrong direction for this famous independence everyone talks about.

In 1973 the cost of petroleum imports to this country was 7.5 billion dollars. In 1974 it was 24.1 billion dollars, in 1975 the cost was 24.8 billion, and the estimate for 1976 is 30 billion. That money is not going to American workers. It's gone.

So far in 1976 motor gasoline demand is up 6 percent from 1975, 11 percent from 1974 and 4 percent from 1973.

Recent auto sales show consumers going back to larger cars. Cadillac, Chrysler, and Lincoln have enjoyed large increases while smaller cars have lost market share.

You bet your bumpers there is a problem and everything we are doing makes it bigger.

There are those who will give you a political softball of vague references to solar energy, geothermal energy, more nuclear power, mass transit and so on. The key question to ask here is not "are you for it?" but "when?" I'm for all the above and more but it isn't the United States Cavalry for today, ladies and gentlemen. It's six to ten years off before taking hold and by that time the daisies will be blooming over our heads.

Second, let me address the falsehoods that we can solve the problem by warring on the Arabs, divestiture, controls or trading off the environment.

Divestiture. There are more companies and greater competition among American oil companies than in most other U.S. industries. No, I don't want Government in the oil business. It's all we can do to properly run what we've got. It's politically easy to point fingers at oil companies. They don't vote. But given the choice between Congress and the oil companies as to who ought to be spanked first—tell Congress to bend over. I do not absolve the oil companies from responsibility in this mess, but excess profits, taxes, and not divestiture is the road to travel.

Controls. You've heard about what would happen with decontrol. Let me tell you what did happen to the retail price of gasoline under controls.

1972—36.2; 1973—36.8; 1974—52.4; 1975—57.2.

My critics will say that that big jump wasn't controls it was the Arabs. Well they can't have it both ways. If it was the Arabs go after the Arabs, not United States companies. And the only way to go after the Arabs ex-war is not to buy their product.

If we truthfully manifest the law of supply and demand we're on our way to reversing the objectives and having lower prices and higher supplies.

Demand. It has to be lowered. Not by telling the poor, the elderly, the fixed income, the moderate income to stop driving and lower their thermostats so the rest of us can have a high old energy time. But lowered by a system that falls fairly across the shoulders of all Americans. The better off you are, the more sacrifice you contribute to the solution of lessened demand.

Supply. I want American oil and American gas, not foreign oil and foreign gas sold by Americans but oil and gas owned and controlled by American business and capable of being protected by the American Government.

I want every swinging derrick in the oil business out there looking and producing. Business should pay for the exploration and discovery, not the taxpayer. But that means decontrol so they have the money to risk to develop and to produce. Yes, in today's market that means we're all going to pay more than we did in the 60s and anybody that holds out a different promise is sticking lollipops in your mouth rather than gas in your tank. But decontrol also holds the possibility of prices lower than 1976—the possibility of freedom from being swept along with every OPEC increase of tomorrow.

Now, fellow people, if we ignore the talk of politicians and philosophers and act to lower demand and up supply, we're home. As it is now, we're caught between a rock and a hard place. And so is America.—Delivered to the Women Instituters of Connecticut (WIOCONS), Windsor Locks, Connecticut, June 1, 1976.

WATER POLLUTION AMENDMENT EXPLAINED

Mr. MUSKIE. Mr. President, the Public Works Committee amendment No. 2231 to the House-passed version of S. 2710 the pending water pollution measure, was printed in the CONGRESSIONAL RECORD for Friday, August 27, on page 28096. This amendment was approved by the Public Works Committee on August 26.

Because this proposal is a committee amendment there is no committee report to describe the committee's intent. At the same time Members have asked about the intent of this amendment. In order to respond to these requests and provide adequate legislative history for the committee amendment, I ask unanimous consent that a description of the amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DETAILED DESCRIPTION OF COMMITTEE AMENDMENT

AUTHORIZATIONS—SECTION 1

The Committee amendment includes authorizations for the extension of the water pollution control program through FY 1977. These same authorizations had previously been considered and reported by the Committee in the form of S. 3037.

A $5 billion authorization is provided for the grant program for construction of municipally-owned waste treatment works. Other authorizations are continued at their currently authorized levels. These authorizations include State program grants, research and development grants, areawide planning grants and other operating programs. Following is a breakdown of the authorizations provided in this Committee amendment:

Section 104	$10, 000, 000
Section 106	75, 000, 000
Section 112	25, 000, 000
Section 207	5, 000, 000, 000
Section 208	150, 000, 000
Section 314	150, 000, 000
Section 517	350, 000, 000

While there is currently $8 billion remaining in obligational authority for the construction grant program, information provided by both EPA and the National Governors Conference indicates that about half the States will run out of funds if a new authorization for FY 1977 is not provided. An authorization of $5 billion will be sufficient to carry all the States which would otherwise run out of funds. The Environmental Protection Agency indicates that approximately $1.5 billion can actually be obligated to specific projects next year but a total authorization of $5 billion is required to insure that each State capable of using its full allotment has sufficient funds made available. EPA estimates minimal fiscal year 1977 outlays, approximately $50 million, pursuant to the obligation of the $1.5 billion.

GRANTS FOR TRAINING FACILITIES—SECTION 2

The Committee amendment includes a proposal offered by Senator Culver which would raise the ceiling on individual grants for training facilities from $250,000 to $500,000. Experience to date indicates that the $500,000 ceiling would be more in line with current needs. This provision does not increase the overall authorization in the Act since these grants come out of the State's allotment of construction grant program.

REALLOTMENT—SECTION 3

The Committee approved an Administration amendment to extend by one year the date by which currently authorized funds must be obligated. There is approximately $8 billion currently outstanding in the construction grant progam. The States must obligate all of their current allotment by September 30, 1977, if they are to avoid losing those funds to reallotment. While some States will have no difficulty in obligating their total allotment, other States may find themselves in the position of losing funds on September 30, 1977. The Committee is concerned that funds are being misused by the States to avoid reallotment. Therefore, the Committee *extended the reallotment* date by one year, thereby making the currently allotted funds available to the States through September 30, 1978.

ALLOTMENT—SECTION 4

The Committee amendment also includes a formula for the distribution of the construction grant funds authorized for FY 1977. The formula distributes the funds on the following basis: 50% on the basis of partial needs (needs expressed by the States in the 1975 Needs Survey for secondary treatment, compliance with water quality standards, and interceptor sewers), 25% on the basis of total needs (needs expressed by the States in the 1975 Needs Survey for partial needs plus collector sewers, combined sewers, and infiltration/inflow), and 25% on the basis of 1975 population. This formula does not utilize any estimates of needs of treatment of stormwater.

The table below shows the percentage each State would receive of the appropriated funds under the construction grant program and the dollar amount each State would receive if the $5 billion were fully appropriated:

Alabama	.0110	55,000,000
Alaska	.0048	24,000,000
Arizona	.0064	32,000,000
Arkansas	.0109	54,500,000
California	.0831	415,500,000
Colorado	.0081	40,500,000
Connecticut	.0123	61,500,000
Delaware	.0040	20,000,000
District of Columbia	.0040	20,000,000
Florida	.0361	180,500,000
Georgia	.0201	100,500,000
Hawaii	.0070	35,000,000
Idaho	.0041	20,500,000
Illinois	.0526	263,000,000
Indiana	.0219	109,500,000
Iowa	.0111	55,500,000
Kansas	.0123	61,500,000
Kentucky	.0151	75,500,000
Louisiana	.0126	63,000,000
Maine	.0055	27,500,000
Maryland	.0382	191,000,000
Massachusetts	.0279	139,500,000
Michigan	.0473	236,500,000
Minnesota	.0152	76,000,000
Mississippi	.0076	38,000,000
Missouri	.0200	100,000,000
Montana	.0020	10,000,000
Nebraska	.0062	31,000,000
Nevada	.0030	15,000,000
New Hampshire	.0068	34,000,000
New Jersey	.0480	240,000,000
New Mexico	.0026	13,000,000
New York	.1062	531,000,000
North Carolina	.0209	104,500,000
North Dakota	.0019	9,500,000
Ohio	.0560	280,000,000
Oklahoma	.0136	68,000,000
Oregon	.0084	42,000,000
Pennsylvania	.0471	235,500,000
Rhode Island	.0040	20,000,000
South Carolina	.0132	66,000,000
South Dakota	.0016	8,000,000
Tennessee	.0150	75,000,000
Texas	.0434	217,000,000
Utah	.0051	25,500,000
Vermont	.0022	11,000,000
Virginia	.0222	111,000,000
Washington	.0155	77,500,000
West Virginia	.0218	109,000,000
Wisconsin	.0201	100,500,000
Wyoming	.0012	6,000,000
Virgin Islands	.0005	2,500,000
Puerto Rico	.0090	45,000,000
American Samoa	.0003	1,500,000
Trust Territories	.0020	10,000,000
Guam	.0010	5,000,000
	1.0000	$5,000,000,000

AREAWIDE PLANNING—SECTION 5

The Committee addressed two issues that have resulted from the extremely slow implementation of Sec. 208. The Congress had intended—and provided adequate funds—for the 208 plans to be completed by 1976 or 1977.

Firstly, the Committee amendment contains language which provides that, for the first two years of operation of any agency designated to conduct an areawide waste treatment management planning process under section 208, the amount of the Federal grant shall be 100 percent of the costs. The purpose of this amendment is to provide new designations equity with those agencies which were designated before June 30, 1975. Under the terms of the existing law, new designations are only eligible for 75 percent grants for the first two years planning costs.

Secondly, the Committee amendment assures that each Sec. 208 agency shall have a full three years, as provided in the original statute, to complete its initial plans.

LOAN GUARANTEES—SECTION 6

The Committee amendment includes a proposal offered by Senator Buckley to provide loan guarantees for grantees otherwise unable to raise the local share for construction of a sewage treatment facility. This provision provides the Administrator of the Environmental Protection Agency the authority to guarantee loans made by the Federal Financing Bank (by purchasing obligations issued by the grantee) for the non-Federal share of construction costs if the grantee is unable to finance its share at a reasonable rate.

In order for a grantee to be eligible to sell its bonds to the Federal Financing Bank, EPA would certify that the grantee is unable to obtain the necessary credit on reasonable terms and that there is reasonable assurance that the loan would be repaid. Such reasonable assurance would imply the adoption by the grantee of some system of user fees to assure repayment. Also, in the case of a default, any future reimbursement funds paid to the grantee would be available for repayment of the loan.

MUNICIPAL TIME EXTENSIONS—SECTION 7

The Committee recognizes that many municipalities, through no fault of their own, will violate the deadlines of achieving secondary treatment unless the law is amended. And the Committee recognizes that many industries have, in good faith, made commitments to join in municipal treatment systems. These industries would also find themselves in violation of the law through no fault of their own. The Committee has provided an extension on a case-by-case basis of the Act's time requirements to July 1, 1980 for municipalities to achieve secondary treatment effluent limits. The same time extension will be available to industries who have committed themselves to those municipalities so long as applicable pretreatment requirements are met.

The provision is consistent with the overall regulatory requirements of the Act for municipalities and industries. It will assure that municipalities who have not used their funds wisely and industries who have been avoiding compliance with the law are faced with enforcement actions.

For municipalities it requires assurance by the State that it is spending its money on essential projects designed to meet the Act's regulatory requirements. The State is the applicant for the extension. Lack of Federal funds or inability to finance the local share are certainly justifications for an exemption. Misuse or diversion of funds from the basic enforcement requirements of secondary treatment by 1977–78 are not.

For industries the provision requires either a permit, issued on or before January 1, 1975 (the Act's final date for permit issuance), or an enforceable contract, on or before that same date which stipulates the source's intention to discharge into a municipal system to which an extension is being granted. This was included to assure that industries which have deliberately not complied with their treatment requirements are not eligible for time extensions.

The Committee amendment: (1) authorizes the Administrator, upon application by the State, to provide case-by-case extensions to the 1977–78 requirements of the law;

(2) provides that no time extension shall extend beyond July 1, 1980;

(3) allows the exemption for municipalities where Federal financial assistance has not been available for sufficient time or inflation or other factors beyond the control of the community have made it impossible for them to raise their local share even though Federal funds are available;

(4) authorizes industrial sources an extension if the industry has previously committed to join the municipal system;

(5) requires industry to meet all applicable pretreatment requirements; and

(6) excludes Federally-owned treatment works from the extension provision.

The Committee is anxious to be fair and assure that municipalities and industries are not penalized for action they cannot control. We are equally anxious to be fair and not penalize the good citizens who are complying with the Act's requirements by allowing wholesale violation of the Act's deadlines by those communities which have been recalcitrant. For the first reason, we have provided an exemption with some discretion. For the second reason, we have limited the discretion to specific criteria.

In so doing we have attempted to create a balanced and fair exemption procedure.

PERMITS FOR DREDGE AND FILL MATERIAL—SECTION 8

This section of the Committee amendment modifies Section 404 of the Federal Water Pollution Control Act, P.L. 92–500 which provides regulation of discharge of dredged and fill material. This program was established as an exception to the Section 402 permit authority and was added to P.L. 92–500 in Conference with the House and derives from a provision in the House bill.

On July 25, 1975, the Corps of Engineers promulgated regulations for implementation of this authority. Those regulations are in effect for coastal waters and coastal wetlands contiguous or adjacent thereto and inland waters used for navigation together with contiguous and adjacent wetlands (described as Phase I waters in those regulations). Regulations applicable to the discharge of dredge and fill material into primary tributaries, lakes and adjacent wetlands (so-called Phase II waters) were scheduled to go into effect July 1, 1976, but have been delayed by Presidential Order to provide Congress an opportunity to review the issue. Discharges of dredge and fill material into the remainder of the navigable waters (Phase III waters) would be subject to regulation on July 1, 1977.

The Public Works Committee held oversight hearings on the Corps regulations on July 27 and 28, 1976 to determine the basis for the regulations and examine the controversy generated thereby.

The issues divide into five main categories:

1. Jurisdiction: intrusion of the Corps into regulation of waters beyond the scope of its navigation authorities;

2. The scope of review: the extent to which permit applications must be reviewed by other than the administering agency;

3. State Programs: the extent to which the States will be authorized to administer the program;

4. Exempt Activities: Regulation of activities which are administratively inappropriate, such as non-point source discharges resulting from farming, ranching and silviculture;

5. General Permits: regulation of routine activities of minimal environmental significance.

Each of these issues is dealt with in the Committee amendment.

SECTION 404 JURISDICTION

The initial issue in consideration of the Section 404 controversy was the extent of the waters in which discharges of dredged spoil and fill material will be regulated.

The 1972 Federal Water Pollution Control Act established comprehensive jurisdiction over the Nation's waters. This decision was the result of extensive and careful study and debate. In its report on that legislation, the Senate Public Works Committee stated "waters move in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source. Therefore, reference to the control requirements must be made to the navigable waters, portions thereof, and their tributaries."

It is the objective of the 1972 Act to protect the physical, chemical and biological integrity of the Nation's waters. Extension of jurisdiction narrowly to waters used or susceptible to use for navigation would not accomplish this purpose. Discharges of dredge or fill material into tributaries of these waters, toxic pollutants for example, which would disrupt the chemical biological integrity of the waters will directly and adversely affect their quality. To so limit the jurisdiction of the Federal Water Pollution Control Act with reference to discharges of the pollutants dredged or fill material would not achieve the Act's objectives.

The Committee amendment rejects the redefinition of navigable waters. It limits only the jurisdiction of the Corps of Engineers for control of those pollutants to waters regulated under the Corps' authority through Section 10 of the Rivers and Harbors Act of 1899 (and all contiguous and adjacent wetlands). Under the Committee amendment, the Corps retains this jurisdiction over the permit program until the approval of a State program.

The Committee also rejected the mean high water mark boundary for Phase I waters. Such a division is neither environmentally or administratively sound.

This mean high water line is an artificial boundary from an ecological standpoint since aquatic areas above and below the line are inextricably interrelated and interdependent.

From the administrative standpoint, the line is not ascertainable from the biological or physical character of the waters but must be determined by engineering surveys which have proved to be unreliable and expensive.

SCOPE OF REVIEW

Implementation of the Section 404 authority of the Corps of Engineers is complicated by application of the National Environmental Policy Act which requires a detailed review in addition to that contemplated by P.L. 92-500. This requirement expands the scope of review for issuance of permits to environmental considerations beyond the intent of the authority. Under Section 404, the Corps of Engineers must include a permit review in addition to water quality concerns, potential secondary impacts upon land, air and economic factors extraneous to the purpose of P.L. 92-500.

The Committee believes that administratively the breadth of review of the current program imposes an impossible burden on the permitting authority. The transfer of authority for permit control of discharges of dredged and fill material to Section 402 initially for Phase II and III waters but upon approval of State permit programs for all waters will streamline permit review and expedite issuances.

The Environmental Protection Agency and State permit programs under the Committee amendment would apply the criteria and guidelines of Section 404(b)(1). However, the scope of review would be water quality focused, since permit issuances under Section 402 authority are not subjected to NEPA review. For example, under Section 402 permit requirement, the 403(c)(1)(C) economic test applicable under the present program and included in EPA guidelines under the Committee amendment would be focused specifically on these economic impacts associated with fishing and other water-related commercial activities deriving directly from the effects of disposal of the controlled pollutants. For permits issued under Section 404 authority, these economic considerations may include the effects of future development due to permitted activities on the local tax base, labor market, etc.

STATE PROGRAMS

The Committee amendment is in accord with the stated policy of P.L. 92-500 of "preserving and protecting the primary responsibilities and rights of States to prevent, reduce and eliminate pollution." It provides for assumption of the permit authority by States with approved programs for control of discharges of dredged and fill material in accord with the criteria and with guidelines comparable to those contained in 402(b), 404(b)(1) and 404(c).

By using the established mechanism in Section 402 of P.L. 92-500, the Committee anticipates that authorization of State management of the permit program will be substantially expedited. At least twenty-eight State entities which have already obtained approval of the National Pollutant Discharge Elimination System under that section should be able to assume the program immediately.

The use of this mechanism will also expedite State authorization because the Administrator only has to amend guidelines under Section 304(h)(2) of the Act to establish the exact procedures and other requirements that a State must meet to achieve approval of its program.

Under the amendment, a State may elect to seek approval of a dredge and fill permit program independent of any application for approval of a National Pollutant Discharge Elimination System program. This will prevent any delay in processing applications for the National Pollutant Discharge Elimination System.

The amendment also provides that a State may elect to administer its dredge and fill permit program independent of the National Pollutant Discharge Elimination System program. Several States have already established separate State agencies to control discharges of dredge and fill materials. These agencies need not be the same as the National Pollutant Discharge Elimination System agency. The Committee expects the Administrator to insist that any designation of a non-National Pollutant Discharge Elimination System agency be accompanied by a demonstration of full capability to adequately administer this program.

Although discretion is granted to establish separate administration for a State permit program, the authority of the Administrator to assure compliance with guidelines in the issuance and enforcement of permits and in the specification of disposal sites which is provided in sections 402(c) through (k) and 404(c) is in no way diminished or compromised.

The authority for control of discharges of dredged and fill material granted to a State through the approval of a program pertains solely to the environmental concerns reflected in the specific guidelines set forth in the amendment, and the responsibility of the Corps of Engineers under the Rivers and Harbors Act of 1899 to protect navigation is not affected or altered by this amendment.

EXEMPT ACTIVITIES

The Committee amendment utilizes the point-source and non-point source distinction in the Act to clarify the control requirements for farming, silviculture and ranching.

While these non-point source activities are specifically exempted from the permit requirements relating to dredge and fill discharges, existing authorities in the Act for control of these activities are not abridged.

In addition to normal farming and silvicultural activities, the construction of farm and forest roads is exempted. The Committee feels that permit issuances for such activities would delay and interfere with timely construction of access for cultivation and harvesting of crops and trees with no countervailing environmental benefit. The guidelines for construction of exempt roads require that the construction, use, and maintenance of the roads not significantly alter the biological character or the flow and circulation of affected waters.

During the Committee's consideration of the existing Corps' program, the Department of Agriculture compiled an inventory and anticipated permit applications for farming activities. This exemption will allow a farmer or rancher to rotate lands in intensive agricultural use from one crop to another. For example, the "normal farming" exemption would preserve the opportunity to convert a field in alfalfa into a row crop without applying for a dredge or fill permit. Another example of "normal farming" activity would be the placement of fill for erection of farm buildings or tile lining a field in intensive agricultural use to enhance drainage.

Sediment retention reservoirs and other such structures installed as a part of a Section 208 program to prevent the release of silt or other pollutants into navigable waters would not require a permit under this legislation. This would assure that important erosion control practices will continue to be applied by the farmer or rancher to conserve his soil and water resources, without the duplication of regulation which would otherwise occur if both Section 208 and this section were applicable.

During the Committee's consideration of the existing Corps program, the Department of Agriculture provided a list of anticipated permit applications for farming activities. Over 80% of the permits needed according to that survey are for construction of maintenance of farm ponds. The Committee amendment specifically exempts these activities as well as construction and maintenance of agricultural irrigation ditches and the maintenance of agricultural drainage ditches. This exception does not in any way affect the Section 301 requirements regarding discharges from irrigation return flows.

During the Committee oversight of the Corps program testimony was received regarding potential disruption of mining operations due to delays *resulting* from permit review of routine filling activities. The Committee amendment excludes the construction of temporary mining roads for the movement of equipment from regulation. These roads must not only be designed and constructed in accord with the requirements for protection of the navigable waters applicable to roads, they must be removed in a manner consistent with those requirements.

This type of activity should have only a minor impact on water quality if performed in a manner that will not impair the flow and circulation patterns and the chemical and biological characteristics of the affected waterbody, and that will not reduce the reach of the affected waterbody.

The construction or maintenance of silt or sediment control impoundments associated with mining operations is also exempt since these structures are designed to protect water quality through management practices that get to pollution at its source. Construction and maintenance of these impoundments are best treated under section 208 as are those other activities that have been excluded from permit requirements by this amendment. The discharge of pollutants from these impoundments continues to be regulated as a point source under Sections 301 and 402.

The amendment codifies the permit exemption in the Corps of Engineers regulations for the maintenance and emergency reconstruction such as highways, bridge approaches, dikes, dams, and levees of currently serviceable structures. This exemption from a permit requirement is not intended to include maintenance activities that change the character, scope or size of the original structure. Emergency reconstruction must occur within a reasonable period of time after destruction of the previously serviceable structures to be eligible for this exemption.

The Committee amendment exempts discharges of dredge spoil resulting from maintenance dredging in Federal navigation channels and non-Federal access channels which directly intersect such channels when that dredged material is discharged into confined disposal areas specified under an approved State program. Disposal sites must be located landward of the mean high water mark.

An exemption does not become available until approval of a State program. The exemption under the State law may apply only to dredge spoil resulting from maintenance dredging and not from alteration, improvement or repair of channels. The Administrator is authorized to restrict or deny the designation of a disposal site, as under the existing program.

The disposal site must be confined and must be constructed and operated to prevent migration of pollutants that could cause water pollution or other environmental damage. Thus, if pollutants deposited in the confined area would be carried beyond the site by physical, chemical or biological means the State would be prevented from designating the area eligible for the exemption.

All exempt activities will be required to have permits if the activity results in the introduction of toxic materials into the navigable waters. For this purpose, toxic materials shall include those substances for which, because of their harmful properties, EPA is developing effluent limitation standards or guidelines pursuant to Section 301 or 307, and those substances which are listed, also because of their harmful properties, in the current Section 403(c) guidelines, and other substances which the Administrator determines may be appropriate.

The Committee amendment specifically requires a permit for any placement or discharge of dredged or fill material for the purpose of modifying the use of an area of the navigable waters if the flow, circulation or reach of the waters will be significantly affected. A permit would be required for instance for the conversion of a hardwood swamp to full scale timber production through construction of dikes or drainage. However, where an area of the navigable waters has been placed in intensive agricultural use, prior to enactment of this provision, improvements to drainage to enhance the productivity of that use would not be covered by this specific requirement and would be exempt under subsection (3)(A) of the amendment.

GENERAL PERMITS

The Committee amendment authorizes the issuance of general permits by EPA, the Corps and States with approved programs for classes or categories of activities which cause, individually or cumulatively, only minimal environmental impact.

The general permits mechanism is derived from the Corps of Engineers regulations. The Corps during the first year of administering the Section 404 program has issued general permits for approximately 100 classes of activity involving the discharge or disposal of dredged or fill material. These include streambank protection, stream alterations, backfill for bridges, erosion control, and, in at least one instance, a general permit for road fill and culverting on a statewide basis. For general construction activities, general permits issued on a statewide or regionwide basis will greatly reduce administrative paperwork and delay.

Under the authority of Section 404, the Corps of Engineers, in consultation with the Environmental Protection Agency, has sought to eliminate many farming and silvicultural activities from the program and to establish a mechanism for removing activities with minimal environmental impacts from the individual permit requirement. Where these activities are not exempt, they should be subject to general permits.

AUTOMOBILE EMISSION STANDARDS

Mr. WEICKER. Mr. President, a few weeks ago, I joined with my distinguished colleague from Colorado (Mr. Gary Hart) in offering amendments to the Clean Air Act that would have maintained the current timetable in which auto manufacturers must meet statutory standards on automobile emissions. Unfortunately, the Senate rejected our amendments and granted Detroit another reprieve. In short, tough auto pollution standards were delayed for the fourth time in 6 years.

Since that debate, Washington, D.C., suffered through its seventh air pollution alert of the year—the highest number ever recorded in the Nation's Capital. All of us were affected. For most, it meant general discomfort and irritations of the eyes and throat. For the elderly and those with respiratory ailments, it meant sickness and confinement.

In this area especially, air pollution is mainly caused by automobile exhaust. In 1974, the National Academy of Sciences concluded:

> Automobile emissions may account for as much as one-quarter of one percent of the total urban health hazard, for the whole United States population. Effects of this magnitude might represent as many as 4,000 deaths and 4 million illness-restricted days per year.

Therefore, Mr. President, it was a dreary day indeed when this body defeated the Hart amendment to maintain our drive to improve air quality. Unfortunately, for cities like Washington, D.C., it means many more dreary and unhealthy days ahead.

THE NUCLEAR ASSURANCE ACT

Mr. STEVENSON. Mr. President, many of us have been concerned about certain aspects of the Nuclear Fuel Assurance Act (S. 2035). This concern is evidently shared by many of our colleagues in the House, as we have seen by the knife-edge margin by which the House version was passed. It is generally recognized that our national capacity for the production of enriched uranium must be augmented, not only to meet the projected needs of our own nuclear power industry but to maintain the position of the United States as a reliable supplier of enriched uranium to other countries, under appropriate safeguards. Under existing legislation we have been unable to execute supply contracts with foreign countries for several years. Not only do we risk the loss of markets to the Soviet Union and other suppliers, we encourage other countries to go it alone, establishing full fuel cycles of their own. A notable recent case is Brazil.

However, I am not persuaded that the provision in S. 2035 for the participation of private industry in an expanded uranium enrichment program is the right way to solve the problem. Not only is this proposal questionable on economic and technical grounds—especially when it comes to the share of risks shouldered by the taxpayer—it appears to increase the dangers of the proliferation of nuclear weapons technology by opening the door to foreign participation in private enrichment enterprises.

Clearly this legislation will require a hard look when it comes to us for consideration. I have invited the views of three Stanford professors who are active in the study of nuclear proliferation problems.

I believe their comments make a valuable contribution to our own examination of this issue. Mr. President, I ask unanimous consent that a letter from Professors Lewis, Panofsky, and Platt be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Stanford University,
Stanford, Calif., June 29, 1976.

Hon. Adlai E. Stevenson,
U.S. Senate,
Washington, D.C.

Dear Adlai: We are writing concerning the Nuclear Fuel Assurance Act (S. 2035), which in May was favorably reported to the Senate and House by the Joint Committee on Atomic Energy. The Act, if passed, would amend the Atomic Energy Act of 1954, as amended and would authorize cooperative arrangements with private enterprise for the provision of facilities for the production of enriched uranium. It is our judgment that such authorization should be postponed and that for the present federally owned sources of enriched uranium under government auspices should continue to be used and augmented, if necessary.

We have two basic reservations about passage of this legislation at this time:

1. The first, and predominant one, is that turning over isotope enrichment technology to private hands may well deny the United States a tool essential in the control of proliferation of nuclear weapons. It should be noted that two stages within the nuclear fuel cycle—isotope enrichment and chemical reprocessing—are the key elements which must be controlled if operation of commercial nuclear reactors shall not become an excessive proliferation risk.

2. The second reservation is economic and technical. Demand for nuclear power has slowed considerably since the initial steps towards amplifying U.S. enrichment capacity were taken. Therefore the need for augmenting existing capacity has moved further into the future. At the same time new technologies probably more cost-effective (and in the case of photochemical laser technology, much more saving in terms of energy) have come into the forefront. Finally the interest of commercial firms in participating in the construction of a new U.S. enrichment facility has substantially decreased. The terms under which the proposed private corporation is to operate are such that the Federal Government assumes most burdens associated with risks of technological failure while a high rate of return is assured to the commerical supplier. Augmenting existing Federal enrichment capacity would be more economical than proceeding along the lines proposed in the Nuclear Fuel Assurance Act.

I. Proliferation. The Non-Proliferation Treaty obligates its signatories "not in any way to assist, encourage, or induce any non-nuclear weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices. . . ." An important aspect of this effort is based on U.S. dominance in uranium enrichment. This dominance has provided leverage for linking nuclear reactor sales with insistence on inspection and other controls. It is our opinion that at this time "privatization" of U.S. uranium enrichment capacity will seriously undermine our ability to stem the tide of proliferation of nuclear explosives.

Enrichment of uranium isotopes is currently being accomplished by the following technologies:

1. Gaseous diffusion
2. Centrifuge
3. The jet (Becker) nozzle.

A fourth technique, separation by photochemical reactions stimulated by a precisely tuned laser, is current under intensive development.

The President in his June 26, 1975 message to Congress stated that the uranium enrichment plants proposed "will be designed and built to produce low enriched fuel which is suitable only for commercial power reactors—not for nuclear explosives."

This statement lacks technical foundation. There is no difference in isotope enrichment technology required to increase the natural percentage of 0.7% of U235 in natural uranium to the 3% required for fueling commercial light water reactors from that needed to lead to an enrichment of U235 sufficient for nuclear weapons.* S. 2035 explicitly authorizes ERDA's Administrator to furnish "technical assistance, information, inventions and discoveries, enriching services, materials, and equipment" to encourage a "competitive private enrichment industry" that can be 60% foreign owned. The conclusion is therefore inescapable that any transfer of the knowledge of uranium enrichment to foreign nations adequate to provide fuel for light water reactors is equivalent to the provision of a knowledge of a full-blown nuclear weapons capacity, unless the most stringent safeguards are applied.

U.S. national policy concerning export controls on either nuclear fuel or elements of the fuel cycle are currently ill-developed and at times conflicting. Even the matter of jurisdiction between the Nuclear Regulatory Commission (not under Executive control) and Executive agencies such as ERDA, the State Department, and ACDA in the nuclear export field are far from clear.

A good deal of attention concerning the Act has centered on the fact that it will permit the participation of other governments in the financing of the enrichment facilities. Secretary Kissinger argued (in testimony of February 6, 1976) that this participation would "ease the demand on our resources" and give countries such as Japan and Iran "assurances of continued supply that they have every right to expect." Kissinger further stated in his testimony that 60 percent of the capital outlay by Uranium Enrichment Associates (which in late 1975 included the Goodyear Tire and Rubber Company, the Williams Companies, and the Bechtel Corporation) would be from foreign sources. Although the Secretary did not foresee a situation in which majority interests would be translated into foreign control and said the United States "would ask for an arrangement in which some of that 60 percent would be nonvoting stock," such foreign control is not precluded by the proposed legislation. In its May 14, 1976 Report on the Act, the Joint Committee did state that it would carefully examine all arrangements to be concluded under the Act and would insist that such arrangements would provide, inter alia, for "preclusion of control or domination of a private enrichment venture by an alien, a foreign corporation, or a foreign government."

Currently discussion among the supplier nations (including the U.S.A. and USSR) to bring under control the various elements of the fuel cycle, in particular enrichment and chemical reprocessing, are just beginning to lead to concrete results. Experience with oil tions have acquired dominance in international energy commerce, national regulation is exceedingly difficult to impose. Thus it appears premature, if not outright foolhardy, to "privatize" uranium enrichment at this critical point.

II. Technology. Legislation to "privatize" uranium enrichment was introduced over one year ago and the plans underlying this legislation further predate the introduction of the legislation. FEA projections for national energy growth have declined over that period (now only a total energy growth of 2.4% per year for the next decade is forecast) even without stringent conservation measures imposed by government.* Federal Government estimates of nuclear power to be generated in the U.S.A. by the year 1985 have dropped in one year from the 1975 (Project Independence) estimate of 204,000 MW_e (Megawatt-electric) to the 1976 (FEA National Energy Outlook) of 152,000 MW_e; even that estimate is agreed to be high by FEA. It is clear that the often-heard estimate of 1000 nuclear plants of 1000 MW_e in operation by the end of the century is wildly high.

Technology has also advanced. There are a number of proposals for building global or regional scale power facilities that will include all elements of the fuel cycle in a single location as well as proposals for new types of safeguards and new technologies for enrichment. In passing this Act the United States could be taking an irreversible step that impedes the realization of such proposals.

New enrichment technologies have advanced at such a rate that experts disagree about the wisdom of building further gaseous diffusion facilities. The reason is that we may soon have less expensive alternatives. The gaseous diffusion method requires expensive industrial installations that use large supplies of electricity. It would take 300 hours of operation at full power before the electricity consumed to produce the annual load of enriched uranium is exceeded by the electricity the enriched uranium produces. Several alternative technologies have already been developed and are in commercial use, principally abroad: the gas centrifuge and the nozzle process. While these processes also make considerable demands on electrical energy, they have certain merits in other respects.

The fourth process, i.e. laser beam separation, is only in the Research and Development stage. However it holds such enormous promise in terms of greater economy and, above all, minimal electric power demand, that it may well be economically justifiable to use the process for production even before it was developed for optimum performance.

There exists a fifth solution for deferring the demand for enriched uranium and that is "mining" our existing nuclear weapons stockpiles, in particular those devices which are clearly obsolete militarily. This proposal has been voiced at times by many sources and has been publicly endorsed by Dr. Harold Agnew, Director of the Los Alamos Scientific Laboratory.

III. Economics. Let us review some history. As the projections of the energy situation in the last quarter of this century became clearer in the last several years, American industrial interest in uranium enrichment added a new dimension of private commercial interest to the supply-control calculus. A report by IAEA and others suggested as a low estimate that nuclear power would increase 23 times by the end of the century, and according to a more recent statement by Secretary of State Kissinger, "Over the next two and a half decades these sales [of United States reactors and related goods and services abroad] could, if we are able to take advantage of the opportunities presented, total $140 billion" (February 6, 1976). In response to industry's interest in these opportunities, the Nixon and Ford Administrations agreed to move toward the "privatization" of uranium enrichment facilities.

The advent of a stronger commercial interest in the early seventies and potential involvement coincided (1) with the widespread recognition of a need to begin building a so-called "new increment" to America's gaseous diffusion enrichment facilities, and (2) with the emergence of active European competitors in the nuclear power reactor field. For the next increment, using gaseous diffusion technology, ERDA received a single proposal, one from Uranium Enrichment Associates, and that proposal was the immediate impetus for this legislation. Since that time some of the joint-venturers have dropped out of the original proposal and others have joined.

Presently we face the short-term problem of meeting our domestic and foreign obligations to supply enriched uranium for the next decade. To do this, we propose that Congress fund an addition to one of the existing government-owned gaseous diffusion plants. Such a possibility has been studied, and as of mid-1975, ERDA had spent over $4.1 million for a conceptual design for the government add-on plant. According to the Comptroller General's recent report, "Evaluation of the Administration's Proposal for Government Assistance to Private Uranium Enrichment Groups," "Additions to existing plants can be done at an estimated construction cost of $2.1 billion as compared to the estimated cost of the private group constructing a stand-alone plant of $2.7 billion."

The Joint Committee Report, however, put the estimated cost of the private diffusion project at approximately $3.5 billion; the proposed legislation also would authorize $255 millilon for FY 1977 to build an add-on to a public enrichment facility, presumably the one at Portsmouth, Ohio. Moreover, S. 2035 makes the U.S. potentially liable for a sum up to $8 billion in the event that the private ventures fail and the government has to take them over. Since the users of electricity would ultimately have to bear higher construction costs, privatization would be disadvantageous to the American consumer. Expansion of the public enrichment facilities would be cheaper than privatization and, as currently successful ventures, would require no guarantee of public money against failure.

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*In the processes (1)–(3) listed above uranium compound is passed repeatedly through many separating stages with only a small enrichment taking place at each stage. The work and cost required to achieve a specified level of separation is measured in kg-SWU's (kilogram separative work unit). The number of kg-SWU's required to go from natural uranium (0.7% U–235) to LWR fuel (3% U–235) and to go from LWR fuel to 90% U–235 weapons "Oralloy" are about the same. Equipment used is identical whether reactor fuel or weapons grade fuel is produced; however, the external piping and materials flow would have to be modified if the process is to be optimized for one or the other process. In the laser separation process essentially fully separated (i.e. weapons grade) uranium is reached in a single pass.

Specifically the separative work required, leaving 0.2% U–235 tails, from natural uranium to 3% material is 143 kg-SWU per kg of U–235 in the product while the additional effort or cost in separation to go from 3% enriched material to 90% (weapons grade) enrichment is only 109 kg-SWU per kg U–235 in the final product. In both cases one has to start with about 190 kg of natural uranium.

The following numbers give a sobering perspective: One thousand MW_e power plant requires 120,000 kg-SWU/year. One nuclear weapon assumed to contain 10 kg of 90% enriched uranium requires about 2300 kg-SWU or about 2% of the annual demand of a nuclear power plant for enrichment services. Present U.S. capacity is 17 million kg-SWU/year, i.e. sufficient to supply 142 plants operating at 100% capacity at 1000 MW. The planned addition is for 8.5 million kg-SWU,

*As a result of deferrals, domestic and foreign, requested by customers the "preproduction stockpile" of enriched uranium has increased from 20 million kg-SWU to 35 million kg-SWU in the first quarter of 1975 when ERDA permitted a postponement of firm orders.

IV. Conclusions. We are opposing enactment of S. 2035 for the reasons we elaborated above. Let us add those factors frequently cited by opponents of the Act to which we do not subscribe. First, our oposition to the Act should not be seen as opposing the growth of nuclear power or the building of new uranium enrichment capacity. In fact we support the idea of an added increment to existing Federally owned plants as soon as it is required by the revised forecast of energy needs. Second, our opposition to the Act does not reflect a bias against the current role of private industry in the nuclear power field. Industry has been in the nuclear field for years and has generally met the tests of adhering to classification regulations, safeguards, export controls and safety regulations. And third, while we oppose the privatization proposed in the present Act we do not wish to prejudge the situation over the long run once the issues, including those which are political, technical and economic, have become clearer.

Secretary Kissinger did not tie the issue of "privatization" to U.S. foreign policy objectives. In fact he identified the issue as providing additional enrichment facilities "so that we do not deprive ourselves of connections with other countries and influence with other countries that our enrichment capacity represents. *Whether that capacity is best provided by governmental sources or by private industry is not the primary considerations . . .*" (emphasis ours). ACDA Director Fred C. Ikle elaborated last year that future arrangements for uranium enrichment might include a combination of private and government facilities or government or private facilities alone.

In sum, we believe that the possible costs of S. 2035 outweigh the likely benefits. The problem to be solved has receded in time, solutions within current policy are at hand, and the wisdom of "privatization" of uranium enrichment cannot be evaluated without answers to technical, economic and profound international policy questions not now known. Accordingly, we urge you and your colleagues not to enact S. 2035 but to support legislation providing for the development and use of alternative sources of enriched uranium under government auspices.

Sincerely,

John W. Lewis.
Wolfgang K. H. Panofsky.
Alan Platt.

GENERAL REVENUE SHARING

Mr. STENNIS. Mr. President, I was extremely pleased last night when the Senate Finance Committee, under the able direction of the distinguished Senator from Louisiana (Mr. Long) completed action on the general revenue-sharing program. I had repeatedly warned that extension of this program could be jeopardized in the rush to conclude this session in early October. I am fully aware of the severe workload on members of the Senate Finance Committee and I commend them for the hard work in concluding this action.

I am convinced, Mr. President, that the existing general revenue-sharing program has been far more successful than many had thought possible and certainly much more productive and beneficial than many other programs by Federal agencies and departments. By the end of fiscal year 1976 general revenue sharing will have provided over $25 billion to 50 States and some 39,000 local governments. The proposed extension, which I strongly support, will provide for an additional 5¾ year life of the program at an immediate annual funding level of $6.9 billion. This amount would be raised an additional $150 million a year in the last 5 years of the program to compensate for inflation.

Mr. President, we are all keenly aware of a growing discontent across the Nation with the bureaucratic bungling of some Federal programs.

In all too many cases, the lack of efficiency and sensitivity by a huge bureaucracy totally frustrates the intent of Congress in providing assistance to the citizens we are elected to represent. The general revenue-sharing program bypasses much bureaucratic redtape. Funds are provided to State and local governments to use within their discretion to meet their priority needs. This is as it should be. Uses of money are decided at the levels of government closest to the people, not in faraway Washington.

While there may have been some abuses, I believe they were very, very minor in relation to the total program. I believe that, by and large, general revenue-sharing funds have been handled by the governments receiving them in a responsible and useful manner. I know this is true in the State of Mississippi. The present formula for distribution of revenue-sharing funds to the States, counties, cities, and towns, which has been in effect for the past 5 years, has proven fair and equitable. This formula existing under the present law will remain intact with this new legislation.

Mr. President, I urge that the Senate take up the extension of the general revenue-sharing program and give it overwhelming approval. Passage of this measure has already been delayed too long.

PICKERS RAKE IT UP IN MAINE, "SAUDI ARABIA" OF BLUEBERRIES

Mr. HATHAWAY. Mr. President, in yesterday's edition of the Washington Post, there appeared an article by Dan Morgan entitled "Pickers Rake It Up in Maine, 'Saudi Arabia' of Blueberries."

This article, datelined "The Barrens, Maine," describes the abundant 1976 blueberry harvest now underway in Washington County, Maine.

While the article ought to have been datelined "Somewhere in the Barrens,"—there being no township in Maine called the Barrens—this is undoubtedly a mere typographical or editorial error subtracting not a whit from Mr. Morgan's excellent description of the method of harvesting wild blueberries unique to the State of Maine.

Both within Maine and beyond her borders to the ends of the Earth, the wild blueberry of eastern Maine is prized for its taste and flavor in a variety of uses.

These qualities are not achieved easily however. Though wild, the Maine blueberry does require a great deal of cultivation, spraying and other attention and, in that connection, it is worth noting that Mr. Morgan pays homage to my good friend Hollis Wyman, of Milbridge, who, in addition to being a distinguished senator from Washington County, continues and improves upon a family business started nearly a century ago.

Mr. President, the excellent crop of blueberries in my State this year has come at a time of unusually high prices, owing to the drought in Europe and the resulting failure of European analogs to the Maine blueberry. I do not wish to rejoice at our good fortune when it is created out of the misfortune of others, but I believe that the growers and workers whose faith and hard work have seen them through a good many lean years recently deserve some reward for their efforts. Perhaps in this year their returns and earnings will be commensurate with what they have put into this ambitious undertaking.

Mr. President, so that all of my colleagues may have an opportunity to read of the harvesting situation in the barrens of eastern Maine, and, as well, for some insight into yet another of America's miraculous agricultural exports, I ask unanimous consent that the Post article by Dan Morgan be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Pickers Rake It Up in Maine, "Saudi Arabia" of Blueberries

(By Dan Morgan)

The Barrens, Maine.—A gentle breeze wafted the scent of sweet fern across these upland fields one day last week as Herman Paul ran a dustpan shaped device through low bushes and scooped up several quarts of blueberries.

"The berries are as good as I've seen 'em in 20 years," said Paul, a Micmac Indian who drove down from his home in Nova Scotia for the picking.

In Maine's Washington County, wild blueberries are harvested as a major cash crop. All through August a motley army of pickers, composed of local citizens, hippies, vacationing teenagers and Indians fanned out through the coastal fields and mountain heaths to "rake" the ankle high bushes. And the lonely back country was suddenly dotted with pickers' trailers, colored tents and occasional tepees.

The harvest is always crucial to the depressed economy of eastern Maine.

But this year, because of the quirks of the world's climate, the widening appeal of the delicious fruit and the dictates of global interdependence, the state's excellent crop of some 20 million pounds has taken on international significance.

Earlier this summer, a severe drought destroyed the crop in Poland, which usually supplies the berries used in yogurt, jams and ice cream in Western Europe and in the blueberry soup (blabarsoppa) consumed in great quantities by Scandinavians.

That disaster has left the Europeans heavily dependent on the 110 million pounds of blueberries grown in a few parts of North

America. And it has made Maine into a sort of Saudi Arabia of blueberries, as vital in the world's blueberry lifeline as the Arab state is in oil.

All that is good news on The Barrens, a vast expanse of heath 50 miles east of Bangor, bracketed by jutting, black topped mountains and crisscrossed by dirt roads. Blueberry bushes in fields close to the ocean were damaged by salt spray hurled up in a Feb. 2 storm. But the crop in The Barrens is so heavy that picking crews have been limited to 600 25-pound boxes a day because local freezers and canneries are full and the berries have had to be hauled to freezers as far away as Portland.

Because of the strong demand, canneries and freezers are paying a record 32 cents a pound, which could mean higher prices in supermarkets later for blueberry pies, cake mixes and cupcakes.

The acknowledged tycoon of the Maine blueberry industry is J. Hollis Wyman, a thrifty businessman and state senator from Millbridge. Newspaper articles invariably refer to him as the "blueberry king." Wyman owns or leases some 20,000 acres of blueberry lands on The Barrens and elsewhere, and his processing plants prepare more than 8 million pounds of frozen or canned berries for such firms as Pillsbury, General Mills, General Food, Betty Crocker and Duncan Hines.

Although his father started harvesting wild berries almost 100 years ago, Wyman says, "There's still an awful lot we don't know about them."

Philip Sheridan, executive director of the North American Blueberry Council in Marmora, N.J., calls blueberries the "All-American fruit," and adds that they were consumed by the Pilgrims, Champlain and Lewis and Clark.

Wyman boasts that all of the blueberries he harvests are wild, as they were then. But keeping these wild berries in shape is still a major agricultural undertaking.

In the fall and spring, Wyman sends flame throwers into the fields to burn off the old bushes, which never get much more than ankle high. This strengthens them and keeps down alien bushes and brambles so pickers can easily get at the berries later.

In late spring, hives of bees are brought in by flat truck from Pennsylvania to aid in pollination. Wyman estimates that the use of bees has doubled yields.

In New Jersey, North Carolina and Michigan, blueberries are grown from seedlings and cultivated like any other farm crop. They are large and plump and have what the trade calls "eye appeal" when sold fresh. But extollers of the Maine berries say the wild, local fruit is tastier and has a more delicate skin.

The cultivated berries grow on bushes as high as eight feet and are harvested by machines that shake the berries off the vines onto conveyor belts.

But in Maine, efforts to adapt mechanized cranberry pickers to the low bush blueberries have not yet achieved success, and the harvest today is not much different from 50 years ago.

This year, says Wyman, "we were overrun with pickers," many of them old hands who are experienced in the art of "raking." For the proficient picker, the money can be good. One family of six earned $750 in a single day. But for novices the art has to be learned.

Five weeks ago, Dan Goodwin, his girl friend, Donna Nedeau, and Goodwin's friend Bill Russell came up from Kennebunk to earn some money. They had bought some land and planned to spend the winter on it in a tent. Since then, they have earned close to $2,000.

At first, Goodwin said, the work was difficult. He had never used a blueberry rake—a metal tool shaped like a dustpan with the handle reversed and 55 tines spaced far enough apart to pass through the thin vines. Goodwin tried "sweeping"—making a scythe-like pass at the low bushes. But he found that "pushing," in which the picker flicks at the bushes, was easier, if slower. The buckets of picked berries are dumped into a crank-operated Rube Goldberg-like contraption called a winnower, which cleans the berries of leaves and dirt.

Of his experience, Goodwin says: "It was like a vacation, really. These people up here are all right, particularly when they see you're willing to work."

To the chagrin of Wyman's foremen, this year's high blueberry prices have attracted more than the usual number of blueberry bootleggers, who raid the fields at night and even in daytime.

At the North American Blueberry Council, Sheridan has visions of the blueberry conquering new worlds. The council may soon dispatch teams of blueberry promoters to Japan, the Philippines and Singapore. He also says that Europeans have sharply increased their orders for fresh American berries this summer. "The Europeans are very fruit oriented, and this is where we come in," he said.

MRS. JAMES F. BYRNES

Mr. THURMOND. Mr. President, it has been said that one's death, regardless of the circumstances, is always a tragedy for the living, for if it is not, then that life must have been tragic and uneventful.

The death of Mrs. Maude Busch Byrnes of Columbia, S.C., on July 23, 1976, was truly a tragedy for all those who knew her. For most of her 93 years she lived a full, rich, and rewarding life as the wife and widow of the late statesman-jurist-diplomat James F. Byrnes.

"Mrs. Maude," as she was affectionately known to all, dedicated her life to her husband during his lengthy and illustrious career. She was the statesman's constant and reassuring companion through his historic public service. Mr. Byrnes was successful as circuit solicitor, a Member of the U.S. House of Representatives and the Senate, associate justice of the U.S. Supreme Court, Director of the Office of Economic Stabilization, Director of the Office of War Mobilization—World War II, a principal negotiator at the wartime conferences at Yalta and Potsdam, Secretary of State under President Harry Truman, and Governor of his native South Carolina.

Mr. President, Mrs. Byrnes lived an exemplary and active life. She traveled the world, met and entertained heads of state, yet remained a South Carolinian at heart. She loved the people of the South and they returned this love. Especially close to her and Mr. Byrnes were more than 400 students who were able to attend colleges under Byrnes scholarships. These scholarships were established by the Byrneses in 1948, to aid needy, college-bound students who had lost one or both parents. Mr. Byrnes was keenly aware of the plight that faced needy and orphaned children because he lost his father at an early age.

Mrs. Byrnes was a gracious and Christian lady. She was born in Aiken, S.C., and it was there that she met James F. Byrnes in 1900. She was active in many civic activities and sang in the choir of the Saint Thaddeus Episcopal Church. It was at this church that the Byrneses were married in 1908, and began their careers of dedication and devotion to humanitarian endeavors.

Throughout her life, Mr. Byrnes was a lady who practiced and knew the qualities of gentleness and grace. Her deeds of charity and her words of kindness are a lasting legacy to her friends and her community.

Mr. President, at the time of her death, numerous articles and tributes were published in various newspapers. I ask unanimous consent that several representative accounts be printed in the Record.

There being no objection, the accounts were ordered to be printed in the Record, as follows:

[From the Columbia (S.C.) State, July 25, 1976]

A Great Lady Departs

Custom dictates, at least in South Carolina, that once a person becomes governor he retains that title even after he departs the office. Not so with the wives of governors, who relinquish their "First Lady" designation once they leave the Governor's mansion.

The exception to that rule was Mrs. James F. Byrnes, who remained South Carolina's "First Lady" from the time her husband was elected chief executive in 1950 until her death here in Columbia on Friday.

Seldom, if ever, has any lady left such a legacy of graciousness, of generosity, and of inspiration to youth than did Maude Busch Byrnes. And never has any lady, without children of her own, been "Mom" to so many South Carolinians. Less than a month ago, she was the honored and beloved guest at the annual meeting of James F. Byrnes Scholars, that "alumni" organization made up of those hundreds of men and women (some well into their own maturity now) who owe their college educations in whole or in part to the scholarship program initiated by the late Governor Byrnes and Mrs. Byrnes.

The scholars hold a double bond of affection for "Mom" and "Pop" Byrnes, stemming not only from their status as Byrnes Scholars but from realization that the scholarship program was tailored to assist young Carolinians who had lost one or both parents—as had Mr. Byrnes himself at an early age. (The late, great elder statesman was reared in Charleston by a working mother after the death of his father.)

But "Miss Maude" was a personage in her own right as well as the wife and later the widow of a famous American. Never projecting herself into the public or political limelight, she nevertheless was the constant companion and dependable support for "Jimmy" Byrnes as he moved influentially through administrative, judicial, and diplomatic assignments of major importance.

His death in 1972 at the age of 91 and now her death in 1976 at the age of 93 mark the final chapter of a joint career which combined service to humanity with a warm and loving marriage. In both respects, the lives of Jim and Maude Byrnes have provided an inspiring example for South Carolinians of yesterday, today, and tomorrow.

[From the Greenville News-Piedmont, July 25, 1976]

Mrs. Maude B. Byrnes

Wordsworth must have known a woman like Mrs. Maude B. Byrnes when he penned these words in his poem, "She Was a Phantom of Delight":

> The reason firm, the temperate will,
> Endurance, foresight, strength and skill;
> A perfect woman, nobly planned.
> To warn, to comfort and command.

"Miss Maude" Byrnes was unique. She did not live in the shadow of her great husband, Statesman James F. Byrnes. She was a partner in his every endeavor. Mr. Byrnes often said two women should receive credit for any success he achieved—his mother and his beloved Maude.

Throughout their long life, especially during their political years, Mrs. Byrnes bestowed an aura of regal graciousness upon every gathering of friends, political associates and constituents. She made people feel at ease.

Her keen, alert mind, active until the end of her life, dismissed the term "generation gap" as nonsense. There were no gaps in her relationships with people of all ages. She could communicate with children and with young people as easily as with those of her own age bracket.

The Byrnes never had children of their own, but they endeared themselves readily to the young. On one occasion Mrs. Byrnes held a girl, age 8, on her lap, telling her a true story which fascinated the child. At the same time her husband, then the Governor of South Carolina, was telling the girl's older brother the fascinating tale of a vintage automobile in the garage at the Governor's House.

A few hours later they were entertaining the Byrnes scholars, the orphans who were recipients of college scholarships through their generosity, and who were dear to their hearts.

This is an example of the many acts of kindness and moments of wit and compassion recalled by Mrs. Byrnes' many friends, especially her "family" of Byrnes scholars, as she is laid to rest today, following her death on Friday.

She knew the great and near-great during the many years when "Jim" Byrnes was at the center of national and world affairs as a leading senator, associate Supreme Court justice, assistant President, secretary of state, governor and United Nations delegate. She was her husband's refuge as well as his partner during those years; she was, as he said many times in public, his perpetual sweetheart.

It is remarkable that even in her nineties and after his death in 1972, this gallant, courageous lady spent most of her days conveying love and concern to others. The Byrnes scholars testify to that. And on the day of Richard Nixon's resignation, she wrote a note to Pat Nixon, with no political references, expressing concern for Mrs. Nixon and her family.

Except for a quirk of fate, Mrs. Byrnes would have been First Lady of the United States. She was a gracious First Lady of South Carolina and will forever be a First Lady in the hearts of those who came to know her.

[From the Charleston Evening Post, July 27, 1976]

MAUDE B. BYRNES

Wife of an American statesman whose memory is held dear in his native state of South Carolina, Maude Busch Byrnes was an ideal mate for a man in public life. She gave her husband the support he needed at home without intrusion into politics. Yet she was a woman of keen intelligence, with positive views of her own. Her charming and winsome ways unquestionably helped James F. Byrnes mount the ladder to greatness.

Unfortunately for Mr. and Mrs. Byrnes, both of whom were extremely fond of young people, their marriage was not blessed with children. They tried to make up for this lack in many ways, notably with a foundation that awarded scholarships to talented youths. The Byrnes scholars will carry on the heritage of a distinguished and lovable couple whose private life was as unblemished as the public service of James F. Byrnes. After her death at age 93, Mrs. Byrnes has rejoined her husband in Trinity Episcopal Churchyard in Columbia, mourned by countless friends and admirers.

[From the Columbia (S.C.) State, July 26, 1976]

"MRS. MAUDE" IS BURIED

(By Mary Whittle)

The body of Mrs. James F. Byrnes was buried Sunday alongside the grave of her statesman-jurist-diplomat husband in the graveyard of Columbia's Trinity Episcopal Church.

Mrs. Byrnes, who had been constantly at the side of her husband during his lengthy illustrious career, died Friday. She was 93, a year older than her husband when he died in April 1972.

The 4 p.m. service in Trinity was conducted by the Rev. James Stirling who remembered the good humor, graciousness, compassion and strength of the former First Lady of South Carolina.

"We thank Thee, oh God, for this Thy good servant," the Rev. Mr. Stirling said. "We send this Thy servant back to Thee, Lord."

A prominent place was reserved throughout the service for Byrnes Scholars, who were honorary pallbearers. There were about 50 Scholars in attendance, about 30 of whom are still in school.

Byrnes Scholars are recipients of scholarships from the proceeds of books written by Byrnes, the one-time secretary of state, governor and U.S. Supreme Court Justice.

Some 300 people, including a number of state and local politicians, attended the service which took place in 93 degree temperature.

Gov. James B. Edwards, who had earlier called Mrs. Byrnes' death "a tremendous loss to all the people of South Carolina," and his wife, Ann, were among the notables at the funeral.

Former governors of South Carolina who paid their respects at the service were Sen. Strom Thurmond, John West, Judge Donald S. Russell and Judge George Bell Timmerman.

Also attending were Gen. William Westmoreland and University of South Carolina President Emeritus Robert L. Sumwalt.

The casket, under a pink-and-white spray of carnations, chrysanthemums and spider mums, was wheeled out of the church and down the cemetery walkway, flanked by Byrnes Scholars, to the burial site. Governmental officials, old and new friends and several former employes of the Byrneses gathered in the shade of the tree-rich cemetery. And "Mrs. Maude" was buried.

[From the Columbia (S.C.) State, July 24, 1976]

STATESMAN'S WIDOW MRS. BYRNES DIES

Mrs. James F. Byrnes, widow of one of South Carolina's most distinguished politicians and the woman always at his side in his state, national and international public career, died Friday at the age of 93.

Maude Busch Byrnes died at 1:30 p.m. at South Carolina Baptist Hospital in Columbia where she had been in critical condition for three weeks following a stroke. She was the last survivor of her immediate family.

Services will be 4 p.m. Sunday at Trinity Episcopal Church with burial in the church cemetery.

A family spokesman said the Byrnes Scholars, recipients of a scholarship fund set up by the Byrneses in 1948, will be pallbearers.

The death of Mrs. Byrnes ended a life behind the political scenes that was strongly supportive of her husband but in which she studiously avoided a public role for herself.

Gov. James B. Edwards made this statement: "I was deeply saddened to learn that Mrs. James F. Byrnes died today, her death is a tremendous loss to all the people of South Carolina. She was an outstanding woman in her own right and had a tremendous impact on the distinguished career of her late husband, James F. Byrnes—one of our state's greatest patriots.

"Since our election," the governor continued, "Ann and I have had the opportunity to know Miss Maude, and we have both grown to love her very dearly. Even in her recent years of declining health, she maintained a pleasant spirit, a bright mind and strong faith in America and God.

"Our lives have been enriched by her friendship and on behalf of all South Carolinians, we want to express our heartfelt sympathy," the governor said.

Mr. and Mrs. Byrnes were married 63 years when he died at age 91 on April 9, 1972, only a month before what would have been their 64th anniversary.

Mrs. Byrnes was her husband's companion through an historic public service career that engaged him successively as a circuit solicitor, a member of the U.S. House of Representatives, United States senator, United States justice, director of the Office of Economic Stabilization, director of the Office of War Mobilization (World War II), secretary of state, governor of South Carolina and a brief term as a delegate to the United Nations.

The South Carolina statesman was a close personal friend and advisor to the late President Franklin Delano Roosevelt, who referred to Mr Byrnes as his "assistant president."

Despite her reliance upon a wheelchair or an aluminum "walker" in getting about in recent years, Mrs. Byrnes remained active and alert up until a few weeks before her death. As recently as June 12, she was the traditional guest of honor at the annual luncheon of the Byrnes Scholars in Columbia.

The Byrnes Scholars, now totalling some 400 South Carolinians who have been aided by the James F. Byrnes Foundation in obtaining their college educations, loomed large in Mrs. Byrnes' life since the foundation's establishment in 1948. In a very real sense, they comprised a "family" in addition to her own relatives for the scholars individually and collectively regarded her as "Mom."

Their bond of affection to her—and to the memory of her late husband—was strengthened by two factors: The Byrneses had no children of their own, and all of the Scholars had lost one or both of their parents (a factor of eligibility for a Byrnes Scholarship).

One latter-day by-product of the Byrnes Scholarship program has been the annual meeting in Columbia, at which time past and present scholars reunite and pay tribute to Mrs. Byrnes.

At her home in Heathwood Circle, Mrs. Byrnes was visited by numerous friends—old and young—up until her entry into the hospital. Several local Scholars made it a point to stop by periodically for friendly chats.

And always standing by was the ever-faithful Willie Byrd, whose long service to Gov. and Mrs. Byrnes over many years as chauffeur and domestic major-domo earned the recognition and appreciation not only of the Byrneses but of hosts of their friends and acquaintances. He, too, was honored by the Scholars in June with the presentation of a plaque expressing gratitude for his devoted service to the Byrneses.

Mrs. Byrnes died in the city that neither she nor Mr. Byrnes had reason to expect would be their ultimate home. But since his last public service was as governor and they had become attached to Columbia, they settled here in retirement.

At a banquet given in honor of the Byrneses in 1961 by the Columbia Chamber of Commerce, she told of finding a home here in one of her few public speeches. She said in conclusion: "I have met many people over the world, but, like the old song, there is no place like home."

At one of their many wedding anniversaries, this one at Spartanburg, Mrs. Byrnes said: "It has been a happy life. We are sorry we haven't another 50 years together."

It was at Spartanburg that the couple had their first home. Mr. Byrnes had resigned as secretary of state and they purchased a home, already under construction, on a five-acre tract outside the city.

She thought they had settled down there, "but he decided to run for governor."

Mr. Byrnes' election brought the couple to Columbia and Mrs. Byrnes became mistress of the Governors Mansion. He thought it more tasteful to call it the Governors House, but that didn't stick. Tradition was against it.

Meanwhile, they built a house at the Isle of Palms, near his native city of Charleston. Mr. Byrnes enjoyed fishing and swimming. This became known as the "Summer Capital," and was the scene of much entertaining of their friends.

The house they built in Columbia resembled in architecture the home they had had near Spartanburg. Mrs. Brynes lived in rooms containing many mementos, including autographed photographs of Presidents, prime ministers, foreign ministers and others.

It was as a young lawyer and newspaperman, moved up from Charleston to Aiken, her home, that James Byrnes met Maude Perkins Busch as the new century opened. She was still a student at Converse College, from which she graduated in 1902, and they were married May 2, 1906, on his birthday anniversary.

In his book, "All in One Lifetime," Mr. Byrnes wrote:

"When Maude came home after graduating from college she sang in the choir of St. Thaddeus Episcopal Church and I frequently accompanied her to rehearsals. For some time I had been attending St. Thaddeus instead of the Roman Catholic Church in which I had been baptized when a child."

"My marked attentions to Miss Busch soon became a subject of comment in the small community, which doubtless accounted for a tactful comment made to me by the parish priest while on a vist to my newspaper office. He courteously said it was rumored that I was to be married and that he should present the position of the church on 'mixed marriages.' After some discussion, I told him, with equal courtesy, that while I had no immediate plans to wed, I disagreed with the church's attitude on that subject. Thereafter, though I considered the question seriously, I saw no reason to change this view, and in time Maude and I were married by the Rev. T. W. Clift, rector of St. Thaddeus, and I began attending the church regularly, later formally becoming a communicant."

On their 63rd anniversary he said: "A marriage is the best recommendation for good behavior a man can get. Any man who is able to stay in the marital state proves that his wife is a very patient woman."

And Mrs. Byrnes said. "I wouldn't swap him for anybody else. I still love him. There is no secret to staying happily married for 63 years. I have tried to do what he wanted done."

And the former governor said: "She succeeded."

There is no record of Mrs. Byrnes ever having made a public statement on a public issue. She is known to have regarded that as unseemly for herself. When people sought her political opinion, or answers to public questions, her stock reply was: "You'd better ask him."

Mrs. Byrnes was the daughter of Henry Busch, of Germany, who settled in Aiken and married Mary Elizabeth Busch.

[From the Columbia Record, July 24, 1976]

"MISS MAUDE" TRIED TO REMAIN IN BACKGROUND

Mrs. James F. Byrnes was always at her husband's side in his notable state, national and international public career.

The death yesterday of Maude Byrnes, 93, ended a life which behind the political scenes was strongly supportive of her husband's extraordinary services, but in which she studiously avoided any semblance of a public role for herself.

Yet through a steady stream of smiling and gracious appearances with him and through friendships and acquaintances which numbered in the thousands, she was well known and well beloved.

Especially close to her were the more than 400 students that were able to attend college under Byrnes Scholarships. The Byrnes Scholars program was established by Mrs. Byrnes and her husband in 1948 to aid college bound needy students who had lost one or both parents.

The work of the Byrnes Scholars program continues under a trusteeship.

She died in the city that neither she nor Mr. Byrnes, who died April 9, 1972, at age 91, had reason to expect would be their ultimate home. But since his last public service was as governor of the state and they had become attached to Columbia and Columbians, they settled here in retirement.

At a banquet given in honor of the Byrneses in 1961 by the Columbia Chamber of Commerce, she spoke of finding a home here, in one of her few public "speeches," and one which many agreed "stole the show." She said in conclusion:

"I have met many people over the world, but, like the old song, there is no place like home."

Looking to his retirement from elective public life at the completion of his term as governor in January, 1955, the Byrneses built a home in the Heathwood section of Columbia. There they lived out happily the remaining years of their long lives.

Maude Busch Byrnes was the statesman's helpmate through an historic public service that engaged him successively as circuit solicitor, a member of the House of Representatives, United States senator, associate justice of the Supreme Court in the United States, director of the Office of Economic Stabilization, director of the Office of War Mobilization (World War II), Secretary of State under Presidents Franklin Roosevelt and Harry Truman, governor of his native South Carolina and a brief term as delegate to the United Nations.

At one of their many wedding anniversaries, this one at Spartanburg, when friends would do the Byrnes' honor, she said: "It has been a happy life. We are sorry we haven't another 50 years together."

It was at Spartanburg that the couple had their first home. He had resigned as secretary of state and they purchased a home, already under construction, on a five-acre tract outside of the city.

She thought they had "settled down there, she said: "But he decided to run for governor."

His election in 1950 brought him to Columbia and Mrs. Byrnes became mistress of the Governor's Mansion. He thought it more tasteful to call it the Governor's House, but that didn't stick. Tradition was against it.

Meanwhile, they built a house at the Isle of Palmes, near his native city of Charleston. Mr. Byrnes enjoyed fishing and surf-bathing. This became known as the "Summer Capital," and was the scene of much entertaining of their friends.

The house they built in Columbia resembled in architecture their home near Spartanburg. Mrs. Byrnes lived in rooms containing many mementos of his experiences, including autographed photographs of presidents, prime ministers, foreign ministers and others of global distinction—a distinction Mr. Byrnes himself reached.

Mrs. Byrnes was the daughter of Henry Busch, who was born in Germany and settled in Aiken, and Mary Elizabeth Busch.

She was born in Aiken in 1883.

It was as a young lawyer, moved up from Charleston, to Aiken, that Jimmie Byrnes met Maude Perkins Busch in 1900. She was still a student at Converse College from which she was graduated in 1902 and they were married May 2, 1908, on his birthday.

In his book, "All In One Lifetime," Mr. Byrnes wrote:

"When Maude came home after graduating from college she sang in the choir of St. Thaddeus Episcopal Church and I frequently accompanied her to rehearsals. For some time I had been attending St. Thaddeus instead of the Roman Catholic Church in which I had been baptized when a child.

"My marked attentions to Miss Busch soon became a subject of comment in the small community, which doubtless accounted for a tactful comment made to me by the parish priest while on a visit to my newspaper office. He courteously said it was rumored that I was to be married and that he should present the position of the church on 'mixed marriages.' After some discussion, I told him, with equal courtesy, that while I had no immediate plans to wed, I disagreed with the church's attitude on that subject. Thereafter, though I considered the question seriously, I saw no reason to change this view, and in time Maude and I were married by the Rev. T. W. Clift, rector of St. Thaddeus, and I began attending the church regularly, later formally becoming a communicant."

Thus the Byrnes went through married lives as Episcopalians.

They had been married 63 years when he died, only a month before what would have been their 64th anniversary. On their 63rd he said: "A marriage is the best recommendation for good bahavior a man can get. Any man who is able to stay in the marital state proves that his wife is a very patient woman."

And Mrs. Byrnes said: "I wouldn't swap him for anybody else. I still love him. There is no secret to staying happily married for 63 years. I have tried to do what he wanted done."

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There is no record of Mrs. Byrnes ever having made a public statement on a public issue. She is known to have regarded that as unseemly for herself. When people sought her political opinion, or answers to public questions, her stock reply was: "You better ask him."

[From the News and Courier-Charleston Evening Post, July 24, 1976]

MRS. JAMES F. BYRNES DIES IN COLUMBIA AT 93

COLUMBIA.—Mrs. James F. Byrnes, widow of the former U.S. Secretary of State and former governor of South Carolina, died Friday in Baptist Hospital here. She was 93.

Doctors said Mrs. Byrnes had been hospitalized three weeks ago when she suffered an apparent stroke.

Known to her friends as "Miss Maude," Mrs. Byrnes played a quiet role in the life of her husband, who served as director of war mobilization from 1942 to 1945 and secretary of state from 1945 until 1947. President Franklin D. Roosevelt referred to Byrnes as his "assistant president."

Maude Byrnes rarely made public statements on anything and never on public issues. She would refer reporters to her husband by pointing her finger and saying, "You better ask him."

They had been married almost 64 years when Byrnes died in April 1972. On their 63rd anniversary, Byrnes said, "A marriage is the best recommendation for good behavior a man can get. Any man who is able to stay in the marital state proves that his wife is a very patient woman."

"I wouldn't swap him for anybody," she said on the same day. "I still love him. There is no secret to staying happily married for 63 years. I have tried to do what he wanted done."

"She succeeded," he added.

They met when Byrnes, a young lawyer, moved from Charleston to Aiken. She was a student at Converse College in Spartanburg, but she frequently traveled to Aiken, where she had been raised and where her parents, Mr. and Mrs. Henry Busch, still lived.

Byrnes, a Roman Catholic, began accompanying her to St. Thaddeus Episcopal Church in Aiken, where they were later married. He later became an Episcopalian.

She took a keen interest in the foundation they set up in 1948 for college scholarships for needy young men and women who had lost both or one parent. Byt the time of his death, the couple had given financial help to more than 300 young persons. The foundation continues today.

Mrs. Byrnes continued an active social life after Byrnes' death, but she remained out of the public view. Occasionally she would attend a ceremony, such as the hanging of her husband's portrait at the University of South Carolina Law School in 1973.

The funeral will be 4 p.m. Sunday in Trinity Episcopal Church in Columbia. Burial will follow in the churchyard.

There were no immediate survivors.

[From the Spartanburg Herald, July 24, 1976]

"Miss Maude" Byrnes Dies

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[From the Columbia Record, July 29, 1976]

Memories: Byrnes Family Chaffeur, Companion Recalls Difficult, Rewarding Years

(By Betty E. Garrison)

"It wasn't always easy," Willie Byrd said. Not in a complaining tone, but with the satisfaction of a man who, despite adversity, has kept a promise.

To Byrd, chaffeur, housekeeper and companion to the late James F. Byrnes and his wife, that promise had meant years of dedication and service. And he recalls making it not as though it was years ago but yesterday.

"I was driving them through the park and they were talking about their health. Their eyes were failing them. You know, cataracts and everything. And they were worrying about what would happen when they could no longer care for themselves.

"And I said, 'Mr. Byrnes, I want to make an agreement. As long as the good Lord keeps me in good health, I will take care of you. I will drive night and day and will come whenever you need me, I will not fail you.' "

Byrnes expressed his gratitude but Byrd admits it wasn't likely that he was too surprised. "We'd been together for such a long time. I started chaffeuring for them around the last of 1940 and I came from Spartanburg when he was governor. They didn't have any close family. I've got two sisters in California and a godson in Spartanburg but my parents have been dead for a long, long time.

"He always said I was a member of the household. They were like a mother and father to me," Byrd recalls.

Byrd never married. "I just didn't have the time. With all the traveling they did, I wouldn't have been able to handle a wife," he laughed.

Byrd, now 64, admits his work schedule too would have left him little time for a wife. "At first, I was driving, but over the years I started looking after the house and cooking. In my spare time, I would go home and rest. And before Mr. Byrnes died, we'd go fishing sometimes," he remembers. "Mr. Byrnes was a ball game fan and he loved fishing. Sometimes we'd just fish for hours."

Like the memory of quiet pastimes, Byrd is quick to tell about the successes of his former employer and loves to tell anyone who hasn't read Byrnes' book, "All In One Lifetime," that he is included in it.

"Mr. Byrnes wrote that I was a religious man. And I am. I've been a member of the United House of Prayer here for a long time and I'm a deacon there. I've always been religious. Whenever we'd go on a trip and got back home, I'd put my foot out the door and say, 'Thank you, Jesus.' And then Mr. Byrnes would say, 'Willie, we want to join you and say thank you, Jesus, for a safe trip.'

"Then one time Mr. Byrnes had been on a trip abroad and it had been a rough trip and we'd gone to the airport to meet him. Finally he got off the plane and waved and he said, 'Willie Byrd, you don't have to say thank you, Jesus. I'll say it for you,' " Byrd laughed, recalling another memory.

Byrd, like the rest of the nation, mourned the death of the statesman in April 1972, but for him it also meant Mrs. Byrnes would need him more than ever.

"I really worried about her, her health was failing her, you know," he said. His service until the death of Mrs. Byrnes July 23 did not go unrewarded.

"I'll never forget it. Just weeks before she died, she called me in the room and said, 'Willie, I'm so proud the Lord has kept you in good enough health to help. I just don't know what I would have done without you,' " he said. For Byrd, her gratitude was enough.

Byrd, the ever-faithful servant and friend, is not sure what he'll do now. "Not too much has been planned. There just hasn't been enough time. I may do a little fishing. I've never been one to go out a lot."

He says he will remain in Columbia but, obviously, wherever he goes he'll carry with him over 35 years of pleasant memories.

[From the Charlotte Observer, July 26, 1976]

James Byrnes' Widow Buried Alongside Him

Columbia.—Maude Byrnes was buried Sunday alongside the grave of her statesman-jurist-diplomat husband, James F. Byrnes, in the graveyard of Columbia's Trinity Episcopal Church.

Mrs. Byrnes, who had been constantly at the side of her husband during his lengthy career, died last Friday. She was 93. Her husband died in April 1972.

The 4 p.m. service in Trinity was conducted by the Rev. James Sterling.

A prominent place was reserved throughout the service for the Byrnes Scholars, who were honorary pallbearers. About 50 scholars attended the service, about 30 of whom are still attending school.

Byrnes Scholars are recipients of scholarships from the proceeds of books written by Byrnes, a former U.S. secretary of state, governor and U.S. Supreme Court justice.

About 300 people, including a small number of state and local politicians, attended the service.

Gov. James B. Edwards, who earlier had called Mrs. Byrnes' death "a tremendous loss to all people of South Carolina," and his wife were among those attending the funeral.

Former S.C. governors attending were Sen. Strom Thurmond, John West, Judge Donald F. Russell and Judge George Bell Timmerman.

Also attending were Gen. William Westmoreland and University of South Carolina President Emeritus Robert L. Sumwalt.

REPORT ON WORLD HEALTH ORGANIZATION ACTIVITIES

Mr. DURKIN. Mr. President, I would like to submit to the Senate a copy of my report to the Committee on Labor and Public Welfare dealing with a recent trip I made to the World Health Organization Assembly in Geneva.

The report really speaks for itself, so I will not attempt to summarize it here today. I think the WHO is doing important and significant work, and doing it well. I am equally sure that there are many even more important frontiers to be conquered in the area of health care delivery and disease control. I resent the attempts of some countries to politicize world health problems. And I think the United States should participate even more actively in WHO programs, and increase its funding support—we have as much to gain from the rest of the world in terms of health care delivery as they have to gain from our advances in research and technology.

I ask unanimous consent that the report be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

Report of Senator John A. Durkin to Senate Committee on Labor and Public Welfare, on His Trip to Geneva, Switzerland, as Observer to the 1976 World Health Organization Conference

INTRODUCTION

They were the major diseases known to Man, and they spread rapidly, with little or no warning, without discrimination. Plague, yellow fever, and, finally, cholera—deadly diseases that traveled as quickly as explorers, traders and soldiers, throughout nineteenth-century Europe. With established shipping routes both overland and by sea, with the rapid expansion of developing countries and the attending advancements in transportation, the world was getting smaller. As nations shared more of their cultures and goods, they also had to share the spread of crippling diseases.

To combat this frightening spread of plague and other diseases, the first international effort to promote health was begun on July 23, 1851. Labeled as the first International Sanitary Conference, this limited meeting in Paris (designed to reduce the conflicting requirements of different nations on quarantine requirements) was the forerunner of what we now see as the World Health Organization, an international effort to promote health.

Although very limited in objectives, several more International Sanitary Conferences were held during the ensuing decades, and they dealt with the problems of cholera and plague. By 1903, participating nations decided to form a permanent international health bureau. In 1907, an "Office International d'Hygiene Publique" (OHIP) was established in Rome.

After the First World War, two independent international health organizations existed in Europe—OHIP and the Health Organisation of the League of Nations. On the other side of the Atlantic, there was yet another organization; the Pan American Sanitary Organization.

In 1945, the United Nations Conference on International Organization agreed to begin the necessary steps to establish the World Health Organization. Three years later, on September 1, 1948, the World Health Organization (WHO) was formed.

WHAT WHO IS

WHO, with headquarters in Geneva, is part of the United Nations System, and is a "specialized agency" which exchanges information and shares common administrative practices with the U.N. But WHO has its own budget, its own governing bodies, its own membership. It is not subordinate to the U.N.

According to its charter, the purpose of WHO is "the attainment by all peoples of the highest possible levels of health." To achieve that goal, WHO provides technical assistance to member countries; maintaining epidemiological and statistical services; undertakes programs of epidemic eradication and control; promotes the prevention of accidental injuries; establishes programs to improve nutrition, housing, sanitation, recreation, and working conditions; promotes cooperation among scientific and environmental groups; promulgates international regulations on health matters; conducts research and improves standards of education in the health professions; establishes international nomenclatures and standardized diagnostic procedures for food, biological and pharmaceutical products; and assists in developing an informed public opinion on health matters.

Occupational health programs

Most of the workers in the world start their employment without the benefit of a pre-employment medical examination. In developing countries where agriculture may be the predominant occupation, followed by small-scale mining and construction, prevalent diseases begin in the workplace.

The majority of the world's workers are farmers. A majority of the world's farmers are in developing countries, where often times there are not adequate medical facilities. As a result, those workers involved in agriculture today face especially serious health problems. They include:

(1) Diseases acquired by handling animals or animal products, diseases such as brucellosis, anthrax, leptospirosis, and tetanus. Studies indicate that the extent of such diseases, while declining in some countries, is alarming in many parts of the world.

(2) Pesticides Intoxication—The growing use of chemicals in agriculture has posed serious health problems. But almost none of the developing countries experiencing increased use of pesticides now have any system of reporting on chemical poisoning. In fact, in 1973, the Director General of the WHO requested all countries to report on chemical poisonings the next year, 1974. By 1975, only six countries had filed such reports. Field surveys have indicated that up to 40% of spraymen exposed to agricultural chemicals have had symptoms of poisoning.

There are other hazards in agricultural work besides chemical poisoning and animal-related diseases:

(3) Respiratory diseases such as byssinosis, farmers' lung, bagassosis, and occupational asthma also are health problems on a worldwide scale. Byssinosis, for example, a disease caused by exposure to dusts of cotton, flax, and soft hemp, has been shown in some studies to cause permanent pulmonary disability in up to 20% of affected workers. Up to 90% of affected workers have been shown to have some degree of the disease!

(4) Noise, vibrations, gases, smoke, heat—these are some of the other causes of agricultural health hazards, although we sometimes fail to remember the connection between agricultural machinery and health hazards.

WHO reported these activities in the occupational health program for agricultural workers:

(a) field research and the formulation of guidelines for adaptation of agricultural equipment and machinery, to be performed by the WHO Collaborating Center for Agricultural Health in Kiev, USSR;

(b) several epidemiological studies on health effects of exposure to rice husks, tobacco dusts in Indonesia; tea dust in Sri Lanka and mahogany dusts in Sudan;

(c) collaboration with Indonesia in developing its occupational health program; and

(d) activities relating to intoxification by pesticides and to zoonotic diseases.

Small industries

Small industries and mines employing fewer than 100 workers have an estimated 70% of the world's work force in manufacturing, mining, and related fields. Occupational health hazards in small industries are serious in both developing and highly-industrialized countries. Two examples: nearly all workers in a small battery factory in Lima, Peru, were found to have been affected by lead poisoning, while in highly-industrialized Japan, a 1972 study indicated lead poisoning in 5.5% of workers and ionizing radiation in 22%.

The list of scary statistics could go on for pages. But the salient point is that small industries are especially susceptible to high rates of occupational disease because of the lack of training, the absence of safety programs.

WHO reported that during the last five years, field investigations of small businesses have taken place in Colombia, Guinea, Indonesia, Iran, Kenya, Republic of Korea, Sierre Leone, Singapore, Sudan and Thailand. The investigations included a cross-sectional sampling study of small factories of different types, and systematic examination of the occupational hazards and workers' health. The Regional Office for WHO in the Western Pacific region has held three seminars to use and review the research data for planning and organizing new health care programs.

A serious occupational disease: cancer

Each year, the world turns up new facts on cancer, and each year the problem of "occupational cancer" grows. Even as we discover the dangers of the hundreds of new chemicals placed on the market each year, other studies indicate that substances in the workplace that were previously regarded as safe have been found to have definite causal relationships with cancer. Vinylchloride is one good example of an "old" chemical suddenly discovered as having certain alleged carcinogenic qualities.

WHO estimates some 45 general occupations pose significant carcinogenic risks, including farmers, miners, and coke-oven workers. The chemical, physical, and biological agents listed as potential carcinogens include 20 inorganic chemicals—such as industrial solvents or amino compounds—seven coal and petroleum products, sixteen different types of dusts, and radioactive substances.

The United States and other industrialized countries are closely studying the relationship between cancer and occupational health standards, but worldwide, epidemiological studies and reports are inadequate.

WHO is working to correct the problem of collecting adequate data on cancer in occupations. Large scale projects studying Industrial Toxicology, effects of exposure, and toxic substances have been underway during the past four years in Poland, Bulgaria, Japan, and Egypt. Guidelines on the early detection of health impairment in occupational exposure were released last year.

Occupational health manpower

It's very nearly the same story throughout the world—occupational health manpower is in very short supply. The problem facing every country, and WHO, is one of targeting sufficient numbers of health personnel to particular industries. In 1974, the Commission of the European Community proposed a standard that on average would require the appointment of one physician for each 2500 workers to carry out effective occupational health services. But such a ratio depends greatly upon the interest of each individual country, the number of physicians and trained personnel employed by industry, and the relative wealth of industries and countries. A WHO survey shows that as few as two percent of the physicians in many developing countries concern themselves primarily with the care of workers in industry, agriculture, mining and other trades. In other countries, the proportion of physicians concerned with workers health on a full or part-time basis may be as high as one-third. The average proportion in 23 developing countries is approximately 11 percent.

The industrial revolution was the starting point for many occupational health systems in industrialized countries. Legislation and the efforts of labor unions have continued the pressure for improved systems. But a recent WHO survey showed a less than satisfactory performance of health systems at the plant level.

In the United States, the first two federal laws written for occupational safety and health standards concerned regulation for miners in 1969, and the Occupational Safety and Health Act of 1970. (I have chaired oversight hearings on OSHA in Washington and New Hampshire in May, 1976, and while I found general support for the concept of a safe and healthy workplace, I have proposed some changes in the federal law that will improve OSHA. I also plan to conduct more hearings on this federal occupational safety and health act in the future.)

In the United States and elsewhere, what is most lacking is coordination between various government and private agencies which make up the total health system, including offices and agencies dealing in occupational health.

This is what is needed to approach the main objectives proposed for workers' health programs by WHO:

(1) Collaboration with WHO members in the identification and control of workers' health problems, and in the planning and development of comprehensive health care institutions and programs for workers in the main occupational sectors.

(2) The promotion of knowledge and practice in the evaluation and control of workers' health problems, including both prevention and treatment of work-related diseases.

(3) Intensified efforts to upgrade qualified occupational health technicians—doctors, nurses, medical trainees. It should be emphasized that training should be concentrated on those aspects that are of particular importance to developing countries, including training of general health problems.

(4) Monitoring of worker health should be upgraded not only to identify problems but also to control prevailing health problems.

Health Manpower Development

The Resolution of the World Health Assembly regarding the occupational health delivery systems and manpower development programs requested the Director-General to initiate the following steps:

(1) To assist member countries to develop comprehensive health manpower policies;

(2) To intensify efforts at developing truly integrated health services and manpower development programs within each country and among member countries;

(3) To collaborate with member countries in strengthening manpower planning as part of their overall social and economic planning;

(4) To encourage the development of health terms of trained technicans, nurses, para-professionals and doctors.

(5) To collaborate in establishing flexible evaluation processes to ensure necessary changes in an integrated health services system;

(6) To assist member states in restructuring the curricula for doctors in both undergraduate and post-graduate levels, to make them more relevant to the needs of society.

These objectives are ambitious, and undoubtedly will be decades in achieving. Limited financial resources and changing international political climates always loom as major roadblocks. But there is precedent for success.

Ten years ago, WHO embarked on a campaign to eradicate smallpox, and we learned happily at the Geneva conference this year that the job is almost done.

The 1966 World Health Assembly approved a program that laid out the objective and the plan to eradicate the most dreaded disease. Up to that point, no disease had ever been eradicted before, and in 1966, WHO knew only too well that in some 30 countries—many of them poor and underdeveloped—smallpox was endemic.

The original budget called for expenditure of $2.3 million. Vaccine was supplied by the USSR for India, Afghanistan, Burma and the WHO Special Account for Smallpox Eradication. The United States supplied support for programs in 20 West African countries. Funds were spent to train people in the local production of vaccine, which had to be freeze dried.

By 1973, the number of endemic countries had been reduced from 30 to 5. In the same year, an international commission proclaimed eradication of smallpox in the Americas. WHO is now waiting the required two years to pass without reported outbreaks before convening another international commission to proclaim worldwide eradication.

In its own quiet way, I think this achievement will be recorded by history as one of man's greatest achievements of medicine and diplomacy.

Unfortunately, the spirit of cooperation and diplomacy does not always reign at WHO conferences, and this year was no exception. Nations can, and do, work together in WHO for the best of causes. But even a subject as universal as health care can become politicized, as it was this year over the question of medical facilities in Israel-occupied areas of Jordan and Lebanon.

In 1973, at the insistence of Arab nations, a committee was formed to study health care in the Arab territories occupied by Israel since the 1976 war. Israel objected to the membership of the committees—doctors from Rumania, Indonsia and Senegal, all countries with which Israel has no diplomatic relations. But Israel did allow the three doctors to visit this year on separate tours nonetheless, and the doctors found that the quality of health care in the disputed areas was excellent, and that great progress had been made since 1976. Both in the availability and quality of care, the consensus of the doctors was that Israel was more than adequately meeting the health needs of these Palestinian people.

Ironically, the report was rejected on a move by several Arab and African nations in a political move. These countries argued that because the three doctors had not been allowed to visit as a unit, their findings were somehow based on inadequately gathered information.

Further, a resolution condemning Israel and demanding a second visit of the doctors was passed by a vote of 57 to 16. U.S. Representative Dr. S. Paul Erlich, Jr., put the United States' position succinctly when he complained that "whatever health concerns may originally have been embodied in this question have been discarded" by the new resolution.

He correctly stated that "the repeated introduction of such issues . . . detracts from the credibility and reputation of our organization as a world health body."

I, too, find it deplorable that the entire Middle East debate was rekindled at a non-political gathering of health experts. Who would be better served to concentrate on disease and health care delivery and leave the endless bickering and politics to the United Nations General Assembly. The irrelevant debate over the two resolutions did nothing to improve the health care of Palestinians in occupied territories.

Finally, I must report to the Senate that I came away from my visit to Geneva with admiration for the fine work done by WHO, the quality of preparation which went into the 1976 Assembly, and the knowledge and insight of the American delegation. I would also like to add to this report the remarks of Dr. Halfdan Mahler, Director-General of WHO, given at the opening session of the Assembly. Dr. Mahler's remarks point out the urgent needs for world health cooperation, and a blueprint for meeting them.

For the information of the Senate, I would also like to list the members of the fine U.S. delegation to the Assembly, who made my attendance as an observer all the more worthwhile. I would also like to extend my gratitude to the State Department Congressional Travel Office, Thea Toussig with the U.S. mission in Geneva, and the U.S. charge d'affairs in Geneva, Jeffrey Binda, without whose kind assistance I would have literally and figuratively been lost.

UNITED STATES OF AMERICA DELEGATION TO THE TWENTY-NINTH WORLD HEALTH ASSEMBLY

Chief Delegate—Dr. T. Cooper, Assistant Secretary for Health, Education and Welfare.

Deputy Chief Delegate—Dr. S. P. Ehrlich, Jr., Director, Office of International Health, HEW.

Delegate—Dr. P. G. Thomsen, Physician, Dolton. Illinois.

Alternates:

Mr. R. F. Andrew, Director, Directorate for Health and Drug Control, Bureau of International Organization Affairs, Department of State.

Dr. M. D. Leavitt, Director, Fogarty International Center National Institutes of Health, Department of HEW.

Dr. D. J. Sencer. Director, Center for Disease Control. HEW.

Miss F. G. Abdellah, Director, Office of Nursing Home Affairs, HEW.

Mr. H. J. Binda, International Health Attache, U.S. Mission, Geneva.

Mr. C. J. Grip, Counselor, U.S. Mission, Geneva.

Mr. A. D. Mason, Boston, Massachusetts, Attorney.

Dr. M. H. Merrill, Senior Consultant on Health, Agency for International Development.

Dr. D. P. Rall, Director, National Institute of Environmental Health Sciences, National Institutes of Health, Department of HEW.

Dr. R. B. Uhrich—Office of International Health, HEW.

Address by Dr. H. Mahler, Director-General of the World Health Organization, to the Twenty-Ninth World Health Assembly

SOCIAL PERSPECTIVES IN HEALTH

Mr. President, Honourable Delegates, Ladies and Gentleman:

I believe that the introductory pages to my Annual Report for 1975 comment adequately on the work accomplished during the year, and today I would ask your permission to reflect on the topic of social perspectives in health, because I consider this subject of extreme importance for health promotion in the last quarter of this century.

Throughout the century much has been said and written about public health. The very concept of health has changed constantly over the years, leading to the definition of health that is epitomized in WHO's Constitution. In the past 25 years in particular, health and the means of attaining it have been given an ever-widening interpretation, in which are comprised a growing variety of technical, social, economic, environmental, psychological and political factors and preference values. Health development is now widely accepted as an integral part of socioeconomic development, both contributing to it and benefiting from it. But does this mean that everything about public health has therefore been said?

We have witnessed in this century extraordinary advances in science and technology which have been applied to the prevention and treatment of disease, and the rehabilitation of the disabled and infirm. The pace of this progress has accelerated enormously in the past quarter century. However, its fruits have been enjoyed by a relatively small proportion of the world's population. We are still seeking by hard scientific endeavour to unravel the mysteries of some of the most serious health scourges of mankind. The desire to discover is insatiable, and in itself it is probably laudable; but we cannot stop at mere discovery. Technology for the sake of technology is a dangerous addiction-producing drug. We must always bear in mind the practical application of existing and new scientific knowledge for the benefit of the masses of the world's population. Here lies the challenge.

A social revolution in public health

For all the speed with which disease technology has been flourishing in recent years, it has been failing in its purpose because the social, economic and political contexts in which it is being applied have changed. The extension and refinement of this technology on the one hand and its increased complexity and cost on the other have led to a contradiction between the technical potential and the socioeconomic ability to apply it to all who need it. Also, because this disease technology has been largely institutional and patient-oriented, the emphasis on prevention has been sorely lacking. This state of affairs may have been tolerable when only a privileged few knew that such technology existed and therefore wanted to benefit from it, but we are now faced with a new situation in which there is increasing public awareness, knowledge, and expectation and an expressed goal of attaining total population coverage by health programmes and of doing so in a way that is equitable both within and between countries. Scientific and technological progress came about because it was needed to deal with emerging problems. Many social evolutions and revolutions have taken place because the social structures were crumbling. There are signs that the scientific and technical structures of public health are also crumbling, because they cannot cope with social needs at a price most societies can afford to pay.

In the rush for scientific and technical advance, perhaps we have overemphasized the refinement of knowledge for the sake of knowledge and of techniques for the sheer cleverness of them. Perhaps we have forgotten some of the simple social truths that in their days inspired scientific progress. Perhaps we have to restate the case for public health in social terms that will be relevant for all societies throughout the world.

Perhaps the technological explosion in public health must now give way to a social revolution in community health. Although everything may seem to have been said about public health, perhaps everything needs to be rethought. Perhaps we are on the threshold of a new era in community health. If so, it is our duty and our privilege to shape this new era and to chart the ways that lead to it.

What, then, might be the nature of the social revolution in community health? First of all, we must resist the mental stagnation that can so easily result from technological euphoria, freeing ourselves from dependence on technical development alone. We must clearly recognize that the attainment of health is not only an individual human goal; over and above that, it is a social goal, and we must assess technical developments in the light of their ability to contribute to this goal. This ability will naturally depend not only on the intrinsic quality of the technical solution being offered, but also on any society's operational and economic capability to apply that solution in a socially effective manner.

The key factors

Four key sets of factors are involved—social, technical, economic, and political—and these have to be interrelated in a fourfold process of defining social goals, identifying those components of health technology that will best help us toward these goals, selecting the most appropriate technology that society as a whole can afford, and mobilizing the political decision and will to ensure both the formulation of pertinent health policies and their proper translation into health programmes and services.

As for the first set of factors, it is necessary for a society to determine what social health goals it wishes to attain—an equitable distribution of essential health care to the population as a whole, or emphasis on high-risk or particularly vulnerable groups, or emphasis on certain economically important sectors of the population. These health goals are obviously closely related to other social goals, and it is necessary to determine the relationships as well as the boundaries between all of them. At this juncture I should like to re-emphasize that economic productivity is neither a worthwhile goal on its own nor a feasible one without social productivity, of which health promotion is an integral part. This is true of all societies. In the less developed countries debilitating disease and ill-health are important factors that hamper socioeconomic development. In many industrialized countries the attainment of health has proved an illusion. Many acute diseases of major public health importance have almost disappeared, only to be replaced by chronic debilitating physical and mental disease. Longevity has not brought the happiness that many assumed it would. Long life without improvement in the quality of life is one of the tragic sequels of technological development in many countries. It is therefore clear that in virtually every society a redefinition of health goals is required.

The second set of factors is technical. Most health problems can be dealt with technically in a variety of ways. There is a vast range of methods, techniques, equipment, materials and drugs that can be used in various combinations for the improvement of health. However, few societies can afford the luxury of applying indiscriminately the total range of available health technology, and even if they do so there are often negative repercussions on health such as side-effects and iatrogenic disease. Most societies therefore have to be selective and to narrow their choice of health technology.

This brings me to the third set of factors, namely, the economic factors. In selecting health technology, intrinsic technical excellence alone is not an adequate criterion. It is necessary to identify a narrower range of technology that is not merely sound but that society can afford. Otherwise, technical factors will conflict directly with economic factors, and the latter just cannot be denied. In passing I should mention that a not insignificant proportion of today's cost-explosive technology is lacking in scientific credibility.

Finally, there is the set of political factors. First, political will and decision are, of course, prerequisites for determining social goals. Secondly, having defined health goals in social terms, identified the appropriate technology, and selected that which is economically feasible, political mechanisms are again required to create the necessary organizational framework for formulating health programes and developing appropriate health systems to implement them. To paraphrase Virchow: health is politics and politics is health on a social scale.

Health technology and social goals

I propose now to revert to the technical factors and to dwell on them at greater length, because it is through them that the members of the health professions exercise their prerogatives and often dictate health policy, and it is with respect to them that there is often a tendency to confuse more with better and to allow wishful thinking to supplant sober judgment. At the risk of repeating myself I will state again that technical solutions must respond to social goals, not dictate them.

Health technology can be divided into three different types—namely, that which is fundamental to the solution of a halth problem, what might be termed placebo technology at the other extreme, and an intermediate palliative type. This classification is based on an assessment of health technology according to its results, and these have to be measured in terms of problem-solving and not in terms of the efforts expended or the efficiency of performance.

Some examples of fundamental technology are the provision of potable water and the adequate disposal of sewage, the elimination of disease vectors, the prevention of environmental pollution at the source, immunization against specific infectious diseases, specific chemotherapy including the use of antibiotics, some forms of surgery, and certain family planning methods.

Placebo technology includes not only the use of many drugs in vogue, but also much expensive equipment which is often applied in an unselective manner. As an example of the latter, I would mention the indiscriminate use in many countries of intensive care units, whose usefulness is really restricted to a very small proportion of patients. I would also include the kind of technology that has been called "life-support systems"; although this has useful life-saving properties when applied in a limited number of highly specific situations, it is most often deployed for what I would call "systems for delaying physical death", social death having already taken place.

Between these two extremes, palliative health technology includes a vast array of half-measures for prevention and medical care—many of them even without proper scientific proof. It cannot be denied, however, that the designation "palliative" will vary according to the health expectations of the society concerned and of the individuals who make up that society, as well as their economic ability to fulfill these expectations. This could apply equally well to placebo technology, since even placebos can be considered as useful adjuncts to health care. Again we find ourselves in a situation in which social criteria have to be used not only to determine health goals but also to choose health methods and techniques.

For the vast majority of the world's population this choice is very restricted, if it exists at all. They surely have the right to know what technology is *really* fundamental for health development. If their social goal is to reach universal population coverage with essential health care, then it is only reasonable that they should rely above all on fundamental health technology. Again, essential health care will naturally be interpreted in various ways in differing social and economic contexts. This implies a wide range of social goals in community health. As there is an equally wide range of methods and techniques for reaching each of these goals, the "new look" in public health—or at public health, if you prefer—consists in identifying those parts of each of these ranges that are most appropriate for the country or society concerned.

A lever for social development

The range of methods and techniques for solving health problems is not restricted to the health sector. I have mentioned potable-water and sewage-disposal facilities, the provision of which lies outside the health sector. This applies, too, to other factors that contribute to health development, such as food, housing, environmental control, education, and improved communications. In the struggle for the improvement of health, health technology therefore has to compete with the technology of many other sectors; and if competition there must be, it should be a competition based on social justice and not on vested professional or economic interests.

The protagonists of every sector are usually convinced of the supreme needs of their own sector. Publicc health protagonists are no exception, and have to be vigilant and to participate actively in decision-making concerning the allocation of resources for social goals. In many countries, to rely *on classical* economics to determine that portion of the total national resources that is to be devoted to the social sector, including its health component, carries the danger of being stranded with the minimum that will theoretically provide just enough human energy for economic production. In reality that will not generate the human energy necessary to produce sufficiently for the improvement of the quality of life, and this in the final analysis is the motivation that underlies individual efforts to raise production. Public health protagonists must therefore be equipped to defend their cause, which, quite apart from its humanitarian aspect, should be to facilitate the generation of human energy and creativity in an amount adequate to enhance social and economic efforts, which in return can advance health.

Ideally, of course, the resources of the diverse sectors involved should be applied in harmony and in the correct blend to achieve their common social goals. This implies a joint definition of goals and a common appreciation of the means to attain them. As I have often stated, I believe that public health activities can generate social awareness and can act as a lever for social development. All this adds a tremendous new dimension to community health practice. I also believe that the protagonists of community health will be convincing in promoting social development, and incidentally in protecting the interests of health promotion—and I stress health promotion and not the promotion of health services—only if they are imbued with the social purpose of community health as I am trying to outline it in this address.

Attaining social goals in community health

Let me illustrate the concepts I have been evolving by a few practical examples. I will start out by putting to you a basic social premise that I have often voiced before—namely, that the proper distribution of health resources is as important as their quality and quantity. I firmly believe that this is not only a moral imperative; it is an economic stimulus. The acceptance of this premise leads among other things to the definition of the goal of first and foremost providing essential health care *for all* members of a society. This in turn requires selecting those methods and techniques from among the vast range available that will effectively ensure this essential health care. If the developmental concepts of primary health care are adopted—as has been forcefully recommended by this Organization's governing bodies—economic constraints will in most countries limit further the range of options. The most appropriate technology will have to be decided upon not only within the framework of primary health care but also with respect to other tiers of the health system. Finally, political determination will have to be exhibited to ensure careful central planning for the preferential allocation of resources to the periphery and for a judicious selection of technology. This applies to countries at all stages of development, although naturally the technology ultimately selected, first of all for primary health care and then for the other tiers of the health system, will vary widely by country according to the socioeconomic capabilities of each.

From this very general example may I turn to a more specific one? A specific health goal might be to ensure the availability of essential drugs to all those who need them. Again, the connotation of what is "essential" is likely to vary from country to country. To attain this goal it might be necessary in some countries to control the production or the import of drugs, or both, even if that entails limiting the free choice of drugs by individual practitioners. It will be necessary to ascertain whether a country has the technical capability, or the potential technical capability, for drug manufacture. Economic considerations that will have to be taken into account include the cost of local production as compared with the cost of importation. The economic analysis may be complicated by the possibility of exporting certain drugs. Account will certainly have to be taken of the national capability of paying for the drugs considered essential, whether these costs are covered by the State, by social security systems, or by individual payment. At the political level it will be necessary to coordinate the drug-manufacturing industry and importing mechanism as well as to ensure the cooperation of the members of the health professions and of the public.

Another specific social goal might be to maintain a healthy physical environment. The methods for achieving this will vary by country and within countries according to geographical, cultural and agricultural factors, the degree of urbanization, and the degree and type of industrialization. The fundamental technology indicated would logically involve the prevention of pollution at its source. If this is applied to industrial production, the economic analysis must try to take account of such factors as the increased capital and production costs entailed in arriving at various degrees of prevention, as compared with the costs of combating the adverse effects of pollution once it has occurred. International considerations may also have to be taken into account, such as the effect of the increased costs of certain commodities on the country's international trade. Once decisions have been taken at the policy level, much would remain to be done to enforce these decisions, such as the enactment of appropriate legislation and the education of industrial leaders and employees as well as the public.

I will give as a final example the goal of generating new fundamental technology whereby the spread of certain diseases that are highly prevalent in a country can be reduced to a socially acceptable level. This goal could be approached by various kinds of local research, or by reliance on the research findings of other countries, or by a mixture of the two. In some countries the economic analysis may have to take into account the attraction that research exerts in order to retain skilled health manpower in the country, so that these persons could devote part of their time to the provision of health care and another part to research. Political direction might ensure that research funds are channelled to research that is directed toward the stated goal. This is not synonymous with demanding immediate research results, but it would demand a demonstrable relationship between the research activity and the health goal, and concentration on fundamental solutions to the problems involved.

The international dimension

An additional important element of public health is its wide international dimension. At one time that dimension was considered to be limited to the control of communicable diseases. It is now recognized that international collaboration is required for many more and diverse matters, including to mention but a few, the control of environmental pollution; the control of the production, distribution, and use of drugs; the standardization of diagnostic reagents; the improvement of the nutritional status of populations; and health research. The international social and economic implications of this evolution cannot be dodged either, sensitive issues though they may be. A more equitable distribution of health resources at the international level is a proper public health concern. The answer lies in social justice, solidarity and collaboration between countries for the generation of additional health resources in the less affluent countries and for reciprocal understanding of the different solutions to similar problems adopted in various countries. I would suggest that the assessment of the additional external and internal resources required, and the review of the appropriateness for any country of the solutions adopted in other countries, be made by the process that is the leitmotive of this address.

The health aspirations of society and of the individual

The social determination of technical priorities is not the prerogative of the health professions. As increasing numbers of people throughout the world learn to regard health technology without its present aura of mystery, it is they who will determine the priorities, and yet they may not have adequate technical knowledge on which to base their social judgment. They are only too likely just to go along with the providers of health care and merely to ask for more. It is therefore our obligation in the health professions to take the lead and to review our approaches in the light of social goals and economic realities. It is our duty to inform and educate the public so that they can participate fully in reaching the difficult decisions that have to be taken. The question is not whether the public is right in demanding what they consider to be better care. The problem is how to reach a proper balance between the most essential health needs of populations as a whole and the understandable desire of individuals to have what they consider to be the best health care for themselves. Social justice would imply that individual care be provided beyond what can be afforded for the population as a whole only when the total population has been provided with a level of care that society considers essential and is able and ready to pay for, even to the extent of making sacrifices in other areas.

In the majority of countries coverage by health care implies the application of the fundamental health technology I spoke of earlier; in a minority of countries palliative technology may be added; and in relatively few will it be possible to continue using expensive placebo technology. What then should we advocate with respect to those health problems for whose solution the fundamental technology does not exist, or if it exists cannot be paid for by the society concerned? Naturally, the search for fundamental solutions must go on; but, until then, what? A similar question could be asked with respect to those countries that consider some palliative technology essential but cannot afford it. In those circumstances one has to accept a certain amount of self-restraint and even fatalism, but at the same time to be on the alert so that as adequate methods and techniques are developed or resources become available they are applied as soon as possible to the whole population. In this way, the health of people can move forward steadily, without health class distinction, as the solutions are found and as socioeconomic development permits their universal application.

The human dilemma

It could be contended, of course, that this is an inhumane approach, since it might deprive individuals of care or comfort where cure is impossible. Which is the more inhumane, however—to look after the privileged few, with all manner of expensive placebos, and leave the vast majority of the world's population without even essential care; or to ensure a more equitable distribution of essential care? It is clear, again, that this dilemma cannot be resolved in technical terms but rather in social terms. I am aware that criticism could well be directed against this approach from all types of country. Developing countries might fear that they would be deprived of the glamorous medical care provided in the developed countries, whereas the latter might feel that such an approach would impede scientific and technical progress. I realize that progress in health technology that is non-essential according to my definitions is only one aspect of the interpretation by consumer societies of technical progress in general. It is possible that in those societies it would be politically extremely difficult to separate essential from non-essential technology. However, in view of the increasing awareness of the impossibility, due to spiralling costs, of continuing to accelerate the pace at which all can be provided with all types of health technology, this is precisely the challenge that these societies have to face.

In facing this challenge not only is political and educational leadership required, but also a mature philosophy concerning the social goals of community health. The mere prolongation of life, unaccompanied by an improvement in its quality, may not be as sacronsanct a goal as it appears in certain societies. Support for this contention is to be found in other societies that have for centuries pursued a rather different philosophy of life.

It is possible therefore that for some societies to attain the goal of total population coverage with essential health care a revolution may have to take place in their very concepts of the purpose of life.

Time for realism

It may seem that I am advocating an unrealistic approach. But the desire for health is so fundamental, and the inability to distribute all existing forms of health technology to the total world population on an equitable basis is so manifest, that conditions appear to be ripe for a truly critical re-evaluation in social terms of the means for attaining health. Perhaps such a revolution in our approach to health development has more chance than any other kind of social revolution to become truly universal in the near future. Social revolution in the health of the people needs social revolutionaries. They will require intellectual and moral courage to face realities, to draw conclusions from the present precarious situation, and to give practical application to a new interpretation of public health that takes full account of the social perspectives of the last quarter of this century into which we have just entered.

You may think that it is premature for me to raise these issues; for my part, I am convinced that, sooner rather than later, they will raise themselves. If you believe, on the other hand, that the time is ripe to rethink our approach to health attainment in social terms, as I have tried to outline it, let us reflect further on what we ought to be doing, and when we are ready let us use all our powers of intellectual and moral suasion with the politicians, the members of the health and allied professions, and the public at large to set realistic social goals for community health and to identify and apply the most suitable methods for attaining these goals in each society at a price it can afford. The question is simple: do we want social change to come about on purpose and by design?

Finally, Mr. President, if I have taken so much of the time of this Assembly with these reflections, it is because of my profound conviction that, since all this is a world matter and a health matter, a crucial role must be played by this World Health Organization.

RECOMMENDATIONS AND CONCLUSIONS

(1) The Senate Committee on Labor and Public Welfare should continue to send an observer from its members to the WHO annual Assembly, as well as a staff member who would be free to remain at the Assembly as an observer for the entire three-week conference.

(2) The United States is the undisputed leader in developing technology essential in eradicating disease and improving the quality of health care in the world. But despite our technological and scientific advantage, we can learn much from other industrial and less developed countries about the efficient utilization of health manpower and the delivery of quality health care, especially in rural areas. Our technology has progressed far faster than our ability to fashion a delivery system which can make people well and keep them well.

(3) Our failure to devise a workable health care delivery system in the private sector will unnecessarily delay the inauguration of comprehensive national health insurance. Until we can be sure that we have the proper health manpower deployed through an efficient delivery system, the cost of such a comprehensive federally-supported program will be much greater than need be. Some nations have jumped into a national health program without this foundation, and are suffering the consequences. We must learn from their experience.

(4) We are living on a shrinking planet where the most serious health problems are posed, in the long run, by environmental pollution. Problems of health and disease no longer respect national boundaries, if they ever did. The United States should step up its support of programs aimed at curbing environmental pollution worldwide, and identifying the sources of occupational diseases.

(5) The United States should increase its financial support for the World Health Organization and participate as actively as possible in every one of its programs. Despite our medical advances, the United States can still benefit directly from the examples of other countries and the programs administered and funded by WHO. And we can benefit directly from the well-being and happiness of all mankind, irrespective of political differences. The world will be a more peaceful and more humane place for our children if no man need worry about epidemic, or worry about the availability of medicines and personnel to reduce his suffering from famine and disease.

OVERREGULATION

Mr. THURMOND. Mr. President, on numerous occasions I have spoken about Federal Government overregulation and infringement on the private lives of our citizens.

Recently, I received a letter from Mr. Russell C. Ashmore, Jr., of Ashmore Brothers, Inc., in Greenville, S.C., which sums up the feelings of many citizens on this particular issue. Mr. Ashmore included a recent column by James J. Kilpatrick entitled "In Toledo, 2 Gallons of Gas," which very persuasively illustrates the problem of overregulation.

Mr. President, in order to share the letter from Mr. Ashmore and the column by Mr. Kilpatrick with my colleagues, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ASHMORE BROS. INC.,
Greenville, S.C., August 18, 1976.

Hon. J. STROM THURMOND
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR THURMOND: Enclosed is an article from the Greenville News. I have only one question. How much longer are we going to have to put up with this sort of junk?

Yours truly,
RUSSELL C. ASHMORE, Jr.

[From the Greenville News, (S.C.), Aug. 10, 1976]

IN TOLEDO, 2 GALLONS OF GAS

(By James J. Kilpatrick)

WASHINGTON.—At approximately 3:30 o'clock on the afternoon of Wednesday, May 5, on Douglas Road just past its intersection with Monroe, in the City of Toledo, Lucas County, Ohio, there occurred a four-car accident. The accident was of a type known as a sequential rear-end multiple collision. And thereby hangs a tale.

It is a sad tale, in its way, for it illustrates how far our government has drifted into the shoal waters of sheer balminess. What happened, you see, is that as a consequence of the sequential rear-end multiple collision to which reference has been made, supra, two gallons of gasoline leaked onto the aforementioned public way.

From that point, thanks to the efficiency of the Toledo Fire Department, the two gallons of gasoline were flushed into a storm sewer. The sewer runs into Peterson Ditch. Peterson Ditch runs into the Ottawa River. The Ottawa River runs into Maumee Bay, which runs into Lake Erie, all of which are waters of the United States within the purview of Section 1321(b)(1) of the Federal Water Pollution Control Act.

And someone is in a heap of trouble, son.

This all began, according to the report of Patrolman Larry Schultz, Badge No. 342, when an automobile driven by Gary L. Beckhoff, 35, proceeding north on Douglas Road, stopped to allow another car to turn into a private drive. Just behind the Beckhoff car was an automobile driven by Michael E. Harok, 22. Just behind the Harok car was a van truck, the property of Gogolin & Sons, Inc., driven by David L. Egan, 24. And just behind the Egan van was a red Chevrolet Nova sedan driven by William D. Long, 18.

The Long car hit the Egan van, which hit the Harok car, which hit the Beckhoff car. When the tinkling of shattered tail lights subsided, there could be heard the drip-drip-drip of leaking gasoline. The Egan van, bearing a license number of 4DF820, and having an odometer reading of 44,500, had sprung a seam.

Patrolman Schultz, dispatched at 3:34, arrived on the scene at 3:40. He summoned wreckers. He also summoned the Fire Department. And as luck would have it, just as these proceedings were proceeding, a Coast Guard inspector happened to drive by on his way home. The inspector's sharp eye perceived the pollutant as it flowed into Peterson Ditch. "This was noted by all witnesses." He identified the pollutant at once as gasoline. "All persons concerned agreed that the pollutant was gasoline."

Thereupon, on a visible sheen of regular gas, events floated into the balminess alleged aforesaid. On June 9, Ensign James J. Gordon, Jr., filed a report with the Marine Safety Office in Toledo, citing David L. Egan, driver of the Gogolin van, as the discharger of pollutants, to wit two gallons of leaked gasoline, into the waters of the United States.

MK1 C. J. Hoff, USCG, investigated and confirmed Ensign Gordon's report. MK3 Randall K. Heyer, USCG, was dispatched to photograph the horrid scene. Commander H. E. Gafford reviewed the incriminating evidence and bucked the report to Captain W. C. Ochman, UMCG, chief of the Marine Safety Division.

On June 24, Captain Ochman wrote Gogolin & Sons, Inc., threatening the company with a civil penalty of up to $5,000. "The specific allegation," he wrote, "is that on 5 May 1976 oil was discharged in harmful quantities into Peterson Ditch from a Gogolin Heating Company automobile, an onshore facility within the meaning of the FWPCA, and that you were the owner or operator of such onshore facility on that date." Captain Ochman asked how a $50 penalty would sit with Gogolin. "I have preliminarily determined that amount to be an appropriate penalty after a careful review of the investigatory report, based upon my assessment of the gravity of the violation."

The Gogolin people, outraged at the injustice of it all, have balked absolutely. Says

Elton E. Gogolin Jr.: "Why a small businessman should be subject to this classic example of federal harassment is beyond rational comprehension." And indeed it is.

But when this correspondent mildly suggested to Captain Ochman that the matter seemed too trivial to justify a $50 fine, the captain's reply was: "Nothing is trivial." And the sad part of the tale is that in the shoal waters of the federal bureacracy, 'tis true, 'tis true.

GOVERNMENT IN THE SUNSHINE

Mr. ROTH. Mr. President, as a long supporter of the concept of open Government, I am very pleased by today's final Senate action on the Government in the Sunshine Act, S. 5. This bill will give the public greater access to the meetings of about 50 multiheaded Government agencies, including many regulatory agencies. Originally S. 5 also included the provisions authored by Senator Chiles and myself to make meetings of Senate committees and conference committees open to the public as a general rule. Since the Senate approved these provisions last November by a separate resolution, S. 5 now comprises only those provisions that relate to the executive branch of the Government.

In addition to opening many meetings of Government agencies, S. 5 also prohibits secret, ex parte communications between agency officials and private parties which have an interest in the outcome of that agency's activities.

I believe that the Government in the Sunshine Act will help foster public interest in agency proceedings while making public servants more accountable to the people they serve. When it comes to making Government more open and responsive, the United States is the world's pioneer. The Government in the Sunshine Act should not be regarded as definitive in setting the kind of balance we want between the public right to know and the Government's need, in certain areas, to deliberate confidentially. It is an experiment; in time, experience will tell whether we can move even farther in the direction of openness or need to broaden the exceptions spelled out in this act.

FEDERAL WATER POLLUTION CONTROL AUTHORIZATIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 827, S. 3037, so that it may become the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3037) to extend certain authorizations under the Federal Water Pollution Control Act, as amended.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Public Works with amendments as follows:

On page 1, in line 3, strike out "That" and insert in lieu thereof "Section 1. (a)".

On page 1, in line 7, strike out "$7,000,000,000" and insert in lieu thereof $5,000,000,000".

On page 1, beginning at line 8, insert:

(b) Section 104(u) (2) of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended by striking out "1975" and inserting in lieu thereof "1975, $7,500,000 for fiscal year 1977,".

(c) Section 104(u) (3) of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended by striking out "1975" and inserting in lieu thereof "1975, $2,500,000 for fiscal year 1977,".

(d) Section 106(a) (2) of the Federal Water Pollution Control Act (33 U.S.C. 1256) is amended by striking out "and the fiscal year ending June 30, 1975;" and inserting in lieu thereof "and the fiscal year ending June 30, 1975, and $75,000,000 for the fiscal year ending September 30, 1977,".

(e) Section 112(c) of the Federal Water Pollution Control Act (33 U.S.C. 1262) is amended by inserting "$25,000,000 for the fiscal year ending September 30, 1977," immediately after "June 30, 1975,".

(f) Section 208(f) (3) of the Federal Water Pollution Control Act (33 U.S.C. 1288) is amended by striking out "and not to exceed $150,000,000 for the fiscal year ending June 30, 1975." and inserting in lieu thereof "and not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, and September 30, 1977.".

(g) Section 304(c) (2) of the Federal Water Pollution Control Act (33 U.S.C. 1324) is amended by striking out "and $150,000,000 for the fiscal year 1975" and inserting in lieu ", $150,000,000 for the fiscal year 1975; and $150,000,000 for fiscal year 1977.".

(h) Section 517 of the Federal Water Pollution Control Act (33 U.S.C. 1376) is amended by striking out "and $350,000,000 for the fiscal year ending June 30, 1975," and inserting in lieu thereof ", $350,000,000 for the fiscal year ending June 30, 1975, and $350,000,000 for the fiscal year ending September 3, 1977.".

Sec. 2. Section 208(f) (2) of the Federal Water Pollution Control Act (33 U.S.C. 2188) is amended to read as follows:

"(2) For the two-year period beginning on the date the first grant is made under paragraph (1) of this subsection to an agency, if such first grant is made before October 1, 1977, the amount of each such grant to such agency shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section, and thereafter the amount granted to such agency shall not exceed 75 per centum of such costs in each succeeding one-year period. In the case of any other grant made to an agency under such paragraph (1) of this subsection, the amount of such grant shall not exceed 75 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process in any year.".

Sec. 3. The second sentence of section 208 (f) (3) of the Federal Water Pollution Control Act (33 U.S.C. 1288) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "subject to such amounts as are provided in appropriation Acts.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Section 1. (a) Section 207 of the Federal Water Pollution Control Act, as amended (86 Stat. 839), is amended by striking the period at the end of the sentence and adding ", and for the fiscal year ending September 30, 1977, not to exceed $5,000,000,000.".

(b) Section 104(u) (2) of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended by striking out "1975" and inserting in lieu thereof "1975, $7,500,000 for fiscal year 1977,".

(c) Section 104(u) (3) of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended by striking out "1975" and inserting in lieu thereof "1975, $2,500,000 for fiscal year 1977,".

(d) Section 106(a) (2) of the Federal Water Pollution Control Act (33 U.S.C. 1256) is amended by striking out "and the fiscal year ending June 30, 1975;" and inserting in lieu thereof "and the fiscal year ending June 30, 1975, and $75,000,000 for the fiscal year ending September 30, 1977,".

(e) Section 112(c) of the Federal Water Pollution Control Act (33 U.S.C. 1262) is amended by striking "$25,000,000 for the fiscal year ending September 30, 1977," immediately after "June 30, 1975,".

(f) Section 208(f) (3) of the Federal Water Pollution Control Act (33 U.S.C. 1288) is amended by striking out "and not to exceed $150,000,000 for the fiscal year ending June 30, 1975." and inserting in lieu thereof "and not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, and September 30, 1977.".

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(h) Section 517 of the Federal Water Pollution Control Act (33 U.S.C. 1376) is amended by striking out "and $350,000,000 for the fiscal year ending June 30, 1975," and inserting in lieu thereof ", $350,000,000 for the fiscal year ending June 30, 1975, and $350,000,000 for the fiscal year ending September 3, 1977.".

Sec. 2. Section 208(f) (2) of the Federal Water Pollution Control Act (33 U.S.C. 2188) is amended to read as follows:

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Sec. 3. The second sentence of section 208 (f) (3) of the Federal Water Pollution Control Act (33 U.S.C. 1288) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "subject to such amounts as are provided in appropriation Acts.".

INDIAN CLAIMS COMMISSION AUTHORIZATIONS, 1977

Mr. ROBERT C. BYRD. Mr. President, in behalf of Mr. Jackson, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2981.

The PRESIDING OFFICER (Mr. Stone) laid before the Senate the amendment of the House of Representatives to the bill (S. 2981) to authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes, as follows:

Strike out all after the enacting clause and insert: That there is authorized to be appropriated to carry out the provisions of the Indian Claims Commission Act (25 U.S.C. 70), during fiscal year 1977, not to exceed $1,650,000.

Mr. ROBERT C. BYRD. Mr. President, I made the statement accompanying this motion earlier today, and it was objected to at that time.

What I wish to do is move, on behalf of Mr. JACKSON, that the Senate disagree to the amendment of the House of Representatives and request a conference on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. METCALF, Mr. JOHNSTON, Mr. ABOUREZK, Mr. FANNIN, and Mr. BARTLETT conferees on the part of the Senate.

SPECIAL ORDERS FOR WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, is there morning business ordered for tomorrow?

The PRESIDING OFFICER. There is no such order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders have been recognized under the standing order, the Senator from Connecticut (Mr. WEICKER) be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I was distracted earlier and was unable to hear what the distinguished majority leader did. Did he order the laying down of the bill?

The PRESIDING OFFICER. S. 3037 has been laid before the Senate.

Mr. ROBERT C. BYRD. Very well. Then I ask unanimous consent that upon the conclusion of routine morning business tomorrow, the Senate resume the consideration of Calendar Order No. 827, S. 3037.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT CERTAIN AMENDMENTS AT THE DESK NOT BE PRINTED

Mr. ROBERT C. BYRD. Mr. President, there are certain amendments to H.R. 8532 at the desk which have not been printed. In view of the fact that an agreement has been reached which in effect negates those amendments because there is no provision for their being called up, I ask unanimous consent, in order to avoid the expense involved, that those amendments not now be printed.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

DEATH OF BENJAMIN M. McKELWAY

Mr. HARRY F. BYRD, JR. Mr. President, Benjamin M. McKelway, the former longtime editor of the Washington Evening Star, died yesterday.

Ben McKelway was one of the ablest newspapermen I have ever known. Besides that, he was a warm friend and one of the finest individuals I have ever known. Mr. McKelway made great contributions to the Washington metropolitan area, including northern Virginia, during his longtime service as editor of the Washington Evening Star.

He served as president of the American Society of Newspaper Editors, and he served as president of the Associated Press. I had the privilege to know Mr. McKelway well, and I had great admiration for him. During his service both as director and then as president of the Associated Press, I had the opportunity to serve on the board of directors with Mr. McKelway, and also I served as a vice president of the Associated Press during his service as president.

I think Washington, the Congress, and indeed the Nation owe Mr. McKelway much. Never have I known a more fair-minded individual. His editorials were not only ably written and sharp, but they were written in a vein of fairness and reasonableness, and in a way to convince the readers to accept his point of view, rather than attempting to bang them over the head and say, "This is what you must think."

Therefore, I pay tribute to this longtime friend and outstanding newspaperman, Ben McKelway, and express my sympathy to his three sons in their great sorrow.

Mr. President, I ask unanimous consent to have printed in the RECORD an article by way of obituary and an editorial about Mr. McKelway, both published in today's Washington Star.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

BENJAMIN McKELWAY DIES; RETIRED EDITOR OF THE STAR

Benjamin M. McKelway, who rose from reporter to editor of The Star and shepherded it to an enduring era of distinction as one of the leading newspapers in the nation, died yesterday in Sibley Hospital after a brief illness. He was 80.

A man whose hallmarks were a quiet journalistic integrity and a warm wit, McKelway retired from The Star in 1963 after 17 years as its editor. He died of kidney failure.

McKelway, who led many campaigns for progress in the District, including voting representation in Congress and the right to vote for the president and vice president, also served as president of the Associated Press between 1957 and 1963.

He was a man of courtly manner and great reserve that, justifiably or not, could be interpreted as shyness.

It was the sort of distance which could command respect from those who worked under him as he worked his way up the ladder of The Star's managership to become the first editor who was not from one of the owning families. It was also the sort of manner that could generate great affection from those who knew him well.

"He was a soft-spoken man with the accents of a cultured Southerner, but he was capable of inspiring awe among the blithe and sometimes untamed spirits of those who worked for him in the old Star newsroom," said a Star reporter who worked under McKelway.

"This very proper and imposing man, who rarely took off his coat and never loosened his tie—even in the non-air conditioned summers of 30 years ago, was a man who administered discipline to the errant with a cold eye rather than the standard shouting and bellowing of other editors in that epoch," the reporter added.

There was recalled the time a copy boy punched another copy boy and was called onto the carpet in McKelway's office.

"Do you like working here?" McKelway asked in a tight-lipped whisper.

"Yes, sir," the boy nervously replied.

"If you want to keep on working here, keep your hands to yourself," McKelway said deliberately. "And if you ever do that again, I'll take you up on the roof and spank you. Go back out there and get to work."

Twenty years later McKelway told the culprit, by then a reporter, that it had been difficult to keep a straight face during the scolding.

For any in his audiences prepared to hear a man with a somewhat dour countenance sound off, there was a pleasant surprise in store. His flashes of dry wit and whimsy that never failed to delight made him sought after as a dinner speaker.

"Whether he was addressing an assemblage of Associated Press editors or a gathering of the Fairfax County Federation of Citizens Associations he showed an intimate and often witty awareness of their problems," said Edwin Tribble, who served as city editor under McKelway.

Many of McKelway's talks were on subjects that had occupied him and the Star's two previous editors for nearly a century: suffrage and representation for the District. Legislators on Capitol Hill welcomed his testimony because his studies had made him a foremost authority on the contitutional and historical arguments for District representation in Congress.

McKelway espoused voting representation in Congress instead of local self-government, which he felt would run contrary to the constitutional idea of a federal city.

He also fought for the right of District residents to vote for president and vice president, and one of his proudest moments came when the right was obtained with ratification of the 23d Amendment, a cause that had also been championed by his predecessors, Crosby S. Noyes and Theodore W. Noyes.

McKelway joined The Star in March 1920 as a copy reader, but he soon asked for a job as a reporter. He later became assistant city editor, then city editor, news editor, assistant managing editor and, in July 1937, managing editor at the age of 41.

In that position he began several roles, not only as editor, but as a civic leader and national leader in journalism.

He was president of the Washington Board of Trade in 1945 and 1946, and also served as a trustee of George Washington University, the D.C. Public Library and the National Geographic Society. He was president of the American Society of Newspaper Editors in 1949 and 1950.

Between 1942 and 1946 he served as associate editor, a kind of apprenticeship under Theodore Noyes. When it became clear that McKelway was to succeed as editor, the company's directors arranged for his purchase of a share of stock in 1942, a prerequisite to a seat on the Star's board.

McKelway thus became the first director outside the immediate families that owned the newspaper.

When Theodore Noyes died two years later, McKelway as the new editor took up several causes in behalf of the District: fairer financial treatment by Congress; mass transportation as well as better bridges and highways; closer cooperation among the metropolitan area governments, better schools and library facilities.

He continued to write editorials and occasional articles. In April 1945 Gen. Dwight D. Eisenhower invited 18 American editors to visit Nazi concentration camps. McKelway went for The Star and reported on Buchenwald and Dachau as follows:

"One who saw the concentration camps with human bodies stacked like cordwood outside still-smoking incinerators felt incapable of describing something that was in fact indescribable.

"There was no background against which to portray something that lay beyond the ken of human experience. It was a case where only seeing could be believing."

The Star and the St. Louis Post-Dispatch later sponsored a photographic "hall of horrors" exhibit at the Library of Congress to present evidence of the terror. The efforts by McKelway and Joseph Pulitzer II, publisher of the Post-Dispatch, did much to insure the Nazi war crimes trials.

A year later McKelway and two other editors made an 18,000-mile tour to Pacific military bases and interviewed Emperor Hirohito. Gen. Douglas MacArthur, Gen. George C. Marshall and Gen. and Mme. Chiang Kai-shek. He also reported from three South American capitals and from national political conventions.

He was elected a director of the Associated Press in 1949 and became its president seven years later. When he retired from the post in 1963, the AP board of directors said in a resolution:

"Relentlessly he fought for interest of a free press, but he fought cleanly and fairly, not vindictively. The measured, documented calm with which he marshaled his forces is a model for others who follow him in challenging restrictions on the flow of news."

While president of the American Society of Newspaper Editors, he warned his colleagues against imposing any sort of code of professional conduct upon its membership.

"A newspaper may deliberately refuse to conform to some seemingly praiseworthy pattern of conduct," he said in a lecture. "It may deliberately invite what Thomas Jefferson referred to as 'the punishment of public indignation.' It may deliberately ignore the regulatory force of what Mr. Jefferson called 'the censorship of public opinion.' But the vindication of such independent action is that the newspaper may prove in the end that it was right and that the favored patterns of behavior, supported by public opinion, were wrong."

As chairman here of the Laymen's Committee on Improving the Administration of Justice, he supported such steps as corrections in the jury system, a new courthouse and traffic courts. He opposed suggested pretrial restraints on crime reporting that might damage a defendant's case and argued that the danger to freedom of the press was greater than any that a prisoner might face.

"I do not believe that any freedom is unqualified," he said during a panel discussion at the District Judicial Conference in 1962, "or that one freedom can undermine another without danger to all freedoms."

He was also skeptical about federal public relations offices and warned that government management of information could make the media a tool of government policy.

The best way to maintain newspaper standards, he said, was through emulation and example. "Those fit for newspaper work would rather fail in it than succeed in anything else," he told a group of journalism teachers. "They are never satisfied with their results, for they could always have them better."

He was born Benjamin Mosby McKelway on Oct. 2, 1895, at Fayetteville, N.C., the son of the Rev. Alexander Jeffrey McKelway, a Presbyterian minister, and the former Lavinia Rutherford Smith.

His father was editor of the Presbyterian Standard. One of his uncles, St. Clair McKelway, was editor of the old Brooklyn Eagle. Of his three brothers, one, the Rev. Alexander Jeffrey McKelway, was a World War I chaplain, and another, St. Clair McKelway, became a writer and editor of the New Yorker magazine and also wrote for the screen and television.

The family moved to Washington when McKelway was 12, and he attended Western High School. After graduating he found himself at Virginia Polytechnic Institute in Blacksburg, studying to become a farmer.

However, he came back to Washington to work as a reporter on the old Times and to continue studying at George Washington University. World War I, however, interrupted this.

He enlisted in the Army and went to France as a second lieutenant. He saw action at St. Mihiel and the Argonne.

After the war he worked briefly for two Washington newspapers and the New Britain (Conn.) Herald before joining The Star in March 1920.

In 1961 he returned to VPI to speak at a convocation commemorating the 100th anniversary of the Land Grant Act, which made such colleges possible. He explained that he had embarked on a career in agriculture because his father was born the same year that Abraham Lincoln died and put much stock in Lincoln's declaration that "every blade of grass is a study, and to produce two, where there is but one, is both a profit and a pleasure."

But McKelway said that he soon wearied of getting up at 4 o'clock in the morning to begin his chores.

"By my junior year," he told his audience, "I had found that my secret desire to be a reporter had been greatly enhanced."

In fact, McKelway acquired a farm near La Plata, Md., with the notion of doing a little farming. However, he soon got over the idea and devoted much of his spare time to sailing and golfing.

When Newbold Noyes Jr. succeeded him as editor in 1963, McKelway continued as a director. He served on the board until Joe L. Allbritton assumed control of the paper a year ago.

"Ben McKelway contributed significantly to the Washington Star, to journalism and to the betterment of Washington during his many years of active leadership," Allbritton said yesterday. "His many friends will miss him."

McKelway was married in September 1920, a few months after he joined The Star, to the former Margaret Joanna Prentiss. She died in 1974. He is survived by a sister, Mrs. Ruth Scithers of La Plata; his brother, St. Clair, of San Antonio; three sons: Benjamin M., Jr., of Arlington, Dr. William P., of Chevy Chase, and John M., of Kensington, a writer for The Star.

A memorial service will be held at 1 p.m. Thursday in St. David's Episcopal Church, 5150 Macomb St. NW. Friends may call at the home, 4920 Palisade Lane NW, from 5 to 7 p.m. tomorrow. Burial will be private.

The family requests that expressions of sympathy be in the form of contributions to the Landon School, 6101 Wilson Lane, Bethesda.

MR. MCKELWAY

Benjamin M. McKelway, who edited this newspaper for 17 years, was the quintessential newspaperman. News, to Ben McKelway, was the world's most important commodity; the search for news the highest calling. He was one of the most modest men you could ever hope to know. But he was truly proud of his profession, and he spent a lifetime in hot pursuit of its ideals.

On The Star, Ben McKelway was responsible for the reporting of events as well as for commenting on them on the editorial page. Mr. McKelway (he never liked the modern newspaper style of referring to men simply by their last names) worked hard at both jobs, which meant he put in a long day at the office. Yet he found time to serve a host of journalistic causes, and over the years he was accorded virtually every honor his profession could bestow.

The one that meant most to him was his election in 1957 as the third president of the modern Associated Press, a position he held until 1963, the year he relinquished The Star's editorial reins. The AP's first president had been Frank B. Noyes, then president of the Star company. For all his modesty, Mr. McKelway thought the great news-gathering cooperative exercised gratifying good judgment in looking to The Star for its top leadership two out of three times in the first 57 years of its existence.

People trusted him; he had, as they say nowadays, credibility. He also had a reputation for an appealing strain of manly sweetness and gentleness, a reputation by no means undeserved. But Mr. McKelway also had a temper. The gap between aim and performance in his beloved craft on occasion inspired him to wondrous expressions of wrath. Junior colleageus recalled with awe the grinding of teeth and splintering of pencils that was likely to ensue when Mr. McKelway's reporters, or his city, or his country failed to measure up.

Nothing pleased him more or caused him a more genuine feeling of pride than the efforts of those junior colleageus to walk in his footsteps. When he felt the time had come to take a chance on turning his office over to one of them, he cleaned out his desk in an afternoon and never looked back. Thereafter, as a revered senior statesman of journalism, he remained available for consultation and support. But he never volunteered a critical word, firm in the belief that The Star would survive and prosper.

PROGRAM

Mr. MANSFIELD. Mr. President, it is the intention, hopefully, of the leadership, that the Senate will complete business on S. 3037 tomorrow. There is a time limitation.

If so, that will be followed by either Calendar No. 895 or Calendar No. 809, amending the Rail Passenger Service Act. It is anticipated also that on Tuesday next, the Senate will turn to the consideration of the Revenue Act, which has been reported out unanimously by the Committee on Finance, and sometime on Tuesday or Wednesday we will also endeavor to take up the Legislative Appropriation Act.

Mr. HANSEN. That is after the recess?

Mr. MANSFIELD. After the recess.

RECESS UNTIL 10 A.M.

Mr. HARRY F. BYRD, JR. Mr. President, I move that the Senate now stand in recess, under the previous order, until 10 a.m. tomorrow.

The motion was agreed to; and at 10:58 p.m. the Senate took a recess until tomorrow, Wednesday, September 1, 1976, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate August 31, 1976:

DEPARTMENT OF DEFENSE

Everett T. Keech, of the District of Columbia, to be an Assistant Secretary of the Air Force, vice Francis Hughes, resigned.

FEDERAL COMMUNICATIONS COMMISSION

The following-named persons to the positions indicated:

Margareta E. White, of Virginia, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1971, vice Charlotte T. Reid, resigned.

Joseph R. Fogarty, of Rhode Island, to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1976, vice Glen O. Robinson, term expired.

WITHDRAWALS

Executive nominations withdrawn from the Senate August 31, 1976:

FEDERAL COMMUNICATIONS COMMISSION

Margareta E. White, of Virginia, to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1976, vice Glen O. Robinson, term expired, which was sent to the Senate on July 19, 1976.

Joseph R. Fogarty, of Rhode Island, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1971, vice Charlotte T. Reid, resigned, which was sent to the Senate on July 21, 1976.

EXTENSIONS OF REMARKS

A GREAT AMERICAN

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. BROWN of Ohio. Mr. Speaker, as we are celebrating 200 years of American freedom, I would like to call to the attention of the Members of this House the story of one brave American who, during the struggle for our freedom two centuries ago, made an outstanding and honorable contribution to that great cause—Richard Stanup (Stanhope), a black American, who was born at Fredericksburg, Va., March 1, 1748, and died at the age of 114 years September 20, 1862. For more than 50 years he was a resident of Champaign County, Ohio.

Mr. Melwood Stanhope, who is the great, great grandson of Richard Stanup, still resides in Champaign County at Urbana, which is also my home. Mr. Stanhope is as proud of his country today as was his great, great grandfather before him. With the following words, Mr. Stanhope stated his pride in America and his hopes for our future in a recent letter to President Ford:

JANUARY 12, 1976.

PRESIDENT FORD,
The White House,
Washington, D.C.

MY DEAR MR. PRESIDENT: On July 4th we will celebrate the 200th anniversary of the founding of our Country, paying tribute to those who fought, bled and died for its independence. My Great, Great Grandfather, Richard Stanup, a name given by General Washington which was later changed to Stanhope according to Ballous Dollar Magazine of 1859. He is one American whose role has never been recognized.

Richard Stanup (Stanhope) was said to have been according to History, Chief of Servants and Body Guard of General Washington. He fought with him during the Revolutionary War. Being wounded several times and was at the bed of the First President when he died. For his service, he was given his freedom and a land grant of 400 acres in the territory of Ohio. The daughters of the American Revolution, a few years ago, placed a Plaque on his grave, which was greatly appreciated by the family being unable to join the organization because we were Black and my Great Great Grandfather was a slave.

We still reside in Urbana, Champaign County, Ohio and have not allowed his achievements to be forgotten. Taking pride in his role as a Patriot and a Citizen in America's founding, I am just as proud of my Country as was my Great Great Grandfather. We, as Citizens, are fortunate and blessed with the opportunity to live under and with one of the finest systems of Government ever developed in the History of the civilized world. It must be protected at any cost. The American people may be forced against their will to lose respect for and confidence in a President, but they must never never lose respect for and confidence in the office of the President. What I am hoping for Mr. President, is a leadership at this point in time, to call America and the world to obey God and build a moral and ethnic world for the United States and elsewhere that will stand on a foundation as solid as our forefathers built in the beginning of the Republic which gave us direction for the first 200 years of our existence. Let us call upon all America, Black and White together, to heed God's call to provide leadership that will guide us through the coming years so that America will be as strong 200 years from now as we are today.

Sincerely,

MELWOOD STANHOPE.

FTC SEEKS TO DESTROY BIG BUSINESS

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. ESCH. Mr. Speaker, one of the major concerns of the people throughout this Nation is the increasing involvement of the Federal Government in every aspect of our economic and personal lives. The increasing Federal interference makes it more and more difficult for our free enterprise system to plan effectively or to work efficiently. As the Government becomes more and more involved, it becomes harder and harder for American business to take new risks, to initiate new products and to create new jobs.

Mr. William E. LaMothe, president of the Kellogg Co., in a recent article in the New York Times, expressed the concern which is felt by thousands of businessmen throughout the Nation—and not just those who work for major corporations, either; but hundreds and thousands of small businessmen as well. While the specific problem which Mr. LaMothe discusses in his article is that of the big business, it is typical of the Government intervention in every sector of the economy, with Federal regulatory agencies "making laws" far beyond the express intention of the Congress when the laws were created.

I commend Mr. LaMothe's thoughtful article to you. It is well for all of us to remember that it is private enterprise which creates jobs and economic growth, not the Government. It should be the Government which passes the laws, not the regulatory commissions. I include Mr. LaMothe's article from the Sunday, August 8, New York Times at this point in the RECORD:

FTC SEEKS TO DESTROY BIG BUSINESS

(By William E. LaMothe)

(NOTE.—In recent days the motives of the staffs of two Government regulatory agencies have been severely criticized. In a statement printed below, William E. LaMothe, president of the Kellogg Company, attacked the Federal Trade Commission's new "shared monopoly" theory under which it is attempting to break up concentration in the breakfast cereal business.

(In another case, David I. Kraushaar, an administrative law judge of the Federal Communications Commission, ruled last week that the long distance rates of the American Telephone and Telegraph Company were reasonable and disagreed with an F.C.C. trial staff proposal on splitting A.T.&T.'s manufacturing arm, the Western Electric Company from its parent.

(By coincidence, the Federal Trade Commission also announced last week that it would begin a major antitrust investigation of the automobile industry. It is believed that the investigation is aimed, in part at least, at General Motors Corporation, largest of the four American car makers.)

There is a lack of trust, a bias, a negative feeling in our Government. It's an antitrusting attitude that has pervaded our Federal regulatory agencies and appears to have started them on a binge of negativism and destruction. It's a "we-don't-trust-you" notion that can lead to the same abuse of power and injustice, the same excesses manifested in Watergate.

Today, one of those mistrustful agencies, the Federal Trade Commission, is quietly launching one of the broadest, most massive and most expensive attacks by Government on corporations ever undertaken in America. And it's all rooted in mistrust, a blatant blinding mistrust of America's most outstanding resource—the efficient and successful business enterprise.

Evidence that government is stepping up its attack on American business is everywhere. In his 1974 economic message, President Ford asked for fines of $1 million for antitrust violations. In 1975 the Supreme Court slapped a $1,000-a-day fine on a corporation that is estimated to run into millions. Budgets have risen sharply for the antitrust activities of the Justice Department and F.T.C. Every day we read of some new effort by the F.T.C. to pull out of corporate America a corpus delicti, the evidence that a crime has been committed. What crime? What charges? Are the Commission's efforts preceded by evidence of something afoul? No. Are these expeditions for evidence founded on anything more than presumptions of guilt? No. Take the recent demand the F.T.C. made of the advertising industry. The commission subpoenaed eight major ad agencies to submit a mountain of materials, everything they've produced since last May.

Was there a charge of some wrongdoing? No. Conspiracy? No. It was simply a case of "give me the evidence so I can indict you for anything you might have done that I'll find out about," with the potential defendant's help, of course.

Take the case of the F.T.C.'s recently ordering six tobacco companies to supply it all the market research the companies conducted during the past 12 years. Whether you smoke or don't smoke, you might wonder if the F.T.C. is empowered by Congress to cut cigarette sales. It isn't.

And now take the unprecedented case against my industry, the cereal industry, the F.T.C.'s most ambitious project by far. The F.T.C. accuses the major manufacturers of breakfast cereals of being what the commission terms, a "shared monopoly." It seeks to break us up, strip away our plants, force us to give the exclusive right to make some of our most successful products, Rice Krispies and Special K. Furthermore, we would have to license the formula and trademark for every Kellogg cereal to anyone who wants to use them free of charge. And what did we do to be standing in the shadow of this guillotine? What are we accused of doing wrong? Nothing. We're not being accused of *doing* anything, but of *being* something. That's right. They're accusing us of being a shared monopoly which is their novel theory that a handful of companies can control a market even though there is no overt conspiracy.

The cereal industry is not charged with committing a single specific illegal act, but has been hauled into court because only four companies sell most of the cereal in this country. The F.T.C. claims that's too concentrated. Concentrated. That's another term they use. They claim that our "concentration ratio" is too high.

What's a concentration ratio?

It's a figure, a percentage, that shows what fraction of an entire industry's production and sales is attained by a limited number of companies. In other words, if 80 percent of the business of an industry is done by four companies only, the four firm concentration ratio for that industry is 80 percent. They say ours is 90 percent. That's very interesting because it shows that our industry is acting like most of the mature industries in America. According to the latest Bureau of the Census report, the four firm concentration ratio of industries from light bulbs to baking powder is way up there. The window glass industry, for example, is 100 percent concentrated; household washers and dryers 83 percent; chewing gum 84 percent; baking powder 89 percent; automobiles 93 percent; electric light bulbs 90 percent; television sets 95 percent; outboard motors 85 percent. And I can go on and on. Have these other industries been charged with anything? No. The F.T.C. first has to win its test case—and that's against us, the cereal industry. What happens if it wins? If the F.T.C. can convince the courts of the validity of its shared monopoly theory, it can declare over half of all the industries in America—producing over two-thirds of our manufactured products—guilty and break all of them, and along with it the free market system.

What is also foreboding and ominous about this is that a regulatory agency of the executive branch is using the cereal case to pioneer antitrust legislation that Congress hasn't even passed. The Government is attacking concentration per se as they see it and a regulatory commission is attempting to legislate an entirely new offense, this thing called a shared monopoly. There is no statute, no legal literature, not one adjudicated case, based on such an offense. In essence, there is no offense, but the F.T.C., with its enormous power and enormous budget and its enormous staff, is usurping the legislative powers of Congress. It is preempting Congress, preempting the laws of this land and interpreting laws to suit un-American objectives. This is precisely what got the Nixon Administration into trouble. And it's all related to mistrust, a mistrust of America's corporate talent and ingenuity that has provided you and me with the best products in the world, with jobs, with a future. A mistrust of skillful management and marketing techniques that are emulated throughout the world, mistrust of what sadly is becoming a great embarrassment in America, the embarrassment of success, a quality that seems to irritate a big bungling bureaucracy.

Why the cereal industry? Why were we singled out? It is documented that one of the primary reasons the cereal industry was singled out for this unprecedented case was because it was presumed we lacked political clout. That's right. We were literally picked because we were thought to be politically weak. Well, we're working on our clout and that's why I'm asking you this question: What happens if our industry is splintered, broken up because it is found guilty, guilty of success, guilty of making wholesome products, guilty of providing one of the best nutritional buys in America, guilty of succeeding in a system that has up till now rewarded success, not punished it, guilty of working and achieving within a system that has provided the incentive for us to grow and develop and become the greatest country on earth. Success. We're not ashamed of it. We're not embarrassed by it. We don't feel guilty over it. And we don't think it's a crime. And neither should you. Neither should America.

Now, there's a fiction, a fantasy, a simplemindedness growing in this land of ours that somehow breaking up the nation's large corporations will result in lower prices, that somehow this would be good for the consumer, that fractionating corporate America, compelling its leading corporations toward a costly, wasteful, time-consuming and contentious breakup is going to benefit consumers. Nothing can be further from reality, or from the truth.

It is no wonder that divestiture supporters rarely make outright promises of lower prices. They know if it happened at all, it would be only temporary.

Believe me, it just isn't realistic to think that the Government can fractionalize companies like the Big Three automakers into 10 or 20 car makers. Apart from the problem of producing a car that is going to run at all, the cost of producing a car in small manufacturing units would be astronomical. Since the days of Henry Ford, we've learned that mass production lowers the price per item. When production lags and overhead stays the same, the price per item must rise to cover that overhead. Even today, with the cost of materials, labor and energy going up year after year, we have quite a job trying to keep the price of a box of cereal in some relation to what's left in the average pay envelop. If the F.T.C. forces us to give up the economies of big scale production, distribution and marketing, the price of all of those products has to go up. And that's certainly what would happen if they broke up the cereal industry.

I don't really believe that will happen. American common sense is too well developed to allow the takeover of an industry by the Government under the name of "fostering free enterprise." But if we have to, we'll fight all the way to the Supreme Court to keep that from happening to the cereal industry. With companies like Kellogg's General Mills, General Foods, Quaker Oats, Ralston, Nabisco and Pet in a single industry, there's got to be competition, and there is, every single morning all over America. Don't let anyone force on you the notion that just because there are only a few companies in an industry that they're not competitive. That is another myth that should be kicked out into the open.

Today there's a general feeling that we've got too much government. I think the time is right, the time is now to impress upon representatives, to impress upon the Government just what its role should be. I believe this role should be built on trust—a fundamental trust of a system that has served this country so well for 200 years, a system not perfect, not without excesses, but one that allows you and me and our families to come pretty close to living the good life.

(NOTE.—William E. LaMothe is president of the Kellogg Company, and these remarks are excerpted from a recent speech given at 144th Annual Convention of the International Platform Association in Washington, D.C.)

HOUSE JOINT RESOLUTION 1074

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. CONTE. Mr. Speaker, I am pleased to join my fellow colleague from Massachusetts (Mr. HARRINGTON) in cosponsoring House Joint Resolution 1074, a resolution calling for a study of the marketing and misuse of infant formula in developing nations. The substitution of infant formula for mothers' milk under uneconomic and unhygienic conditions represents a serious threat to infant nutrition in many of these countries.

In a statement released in late 1973 by the United Nations' protein advisory group, pediatricians, and food industry executives agreed that—

> Infants of more affluent socioeconomic groups in industrialized and developing countries, in the absence of breast feeding, suffer no nutritional disadvantage when fed properly constituted and hygienically prepared processed commercial formulas . . .

The advisory group recognized:

> However, the early abandonment of breast feeding by mothers among lower socioeconomic groups can be disastrous to infants, particularly when this occurs without adequate financial resources to purchase sufficient formula and without knowledge of and facilities to follow hygienic practices necessary to feed infants adequately and safely with breast milk replacements.

When breast feeding was widespread among the poor, malnutrition usually did not become severe until the second year of a child's life. But the decline of breast feeding over the past two decades has caused the average age of children suffering from severe forms of malnutrition to drop from 18 to 8 months in some parts of the world.

Even if the mother herself is malnourished, breast feeding will probably provide a child with adequate nourishment for the first 4 to 6 months of life. Bottle feeding under the same conditions may well result in providing the child with overdiluted, contaminated formula in bacteria-laden bottles.

Mr. Speaker, because of my concern for the poor of the world, I have cosponsored this resolution calling for the President to conduct a study of the infant formula problem through the appropriate Executive branch channels, and calling on the Agency for International Development to promote breast feeding in its programs around the world.

For the vulnerable infant and young child, a reversal of the present trend away from breast feeding could be of greater significance than any other form of early childhood nutrition program. For that reason, I am pleased to cosponsor House Joint Resolution 1074, and urge my colleagues to cosponsor and work for its adoption.

BONNEVILLE TRICENTENNIAL

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. HANSEN. Mr. Speaker, I proudly submit for the CONGRESSIONAL RECORD the following resolution brought to my attention by Capt. Thomas J. Wadsworth of Idaho Falls, Idaho.

As executive director of the Bonneville County Bicentennial Commission, Captain Wadsworth and his fellow members have established the first Tricentennial Commission in America.

Captain Wadsworth's enduring image as a patriot is again to be commended:

ESTABLISHMENT OF THE BONNEVILLE TRICENTENNIAL COMMISSION

Whereas, the Bonneville Bicentennial Commission was formed May 1, 1973, by resolution of the Board of Bonneville County Commissioners and area mayors and the city-country area was named the first Bicentennial Community in Northwest America (Alaska, Washington, Oregon, Idaho, Montana), and

Whereas, the Commission has been among the most active in America in promoting love of Country and the fact that the United States is not just territory, that it is a way of life and a state of mind, inculcated with those unalienable and divine rights of life, liberty, and the pursuit of happiness, and

Whereas, the Commission has derived its strength from the areas young and old people alike, represented the wide spectrum of community groups and activities, spearheaded countless patriotic activities and programs dedicated to love of Flag and Country, and made it known July 4th, 1976, was directly and exclusively the 200th birthday of the most important, God inspired proclamation of religious and political principles ever declared to be the foundation of a new Nation, and

Whereas, on the morning of America's third century there is a continuing need to reaffirm and pledge ourselves to activities that will unite the nation in purpose and dedication and advance human welfare and dignity, and

Whereas, the continuing goal of the Commission is to inculcate present area citizens and those of generations to come with a sense of the greatness of America and to imbue in their hearts and minds determination to never surrender the sacred rights of individuals set forth in the Declaration of Independence and guaranteed in the U.S. Constitution and the original Bill of Rights.

Now therefore be it resolved by the members that the Bonneville Bicentennial Commission on this 29th day of July 1976 that the Commission with the approval of the Board of County Commissioners and Mayors of our communities shall continue its programs as the Bonneville Tricentennial Commission, meeting and working as in the past to forge a new Spirit of '76.

FEDERAL RESERVE DIRECTORS: A STUDY OF CORPORATE AND BANKING INFLUENCE

HON. ALBERT W. JOHNSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. JOHNSON of Pennsylvania. Mr. Speaker, in mid-August a report entitled "Federal Reserve Directors: A Study of Corporate and Banking Influence" was released by the Committee on Banking, Currency and Housing with publicity to highlight the report's questionable conclusions. Although it is noted on the cover in small print that "The report has not been officially adopted by the committee * * * and may not necessarily reflect the views of its members" that does not tell half the story. Not only had the committee not adopted it, so far as I know no member of the committee with the possible exception of a couple of members of the majority even knew it was being prepared until it was publicly released.

Furthermore, the committee staff, unlike the General Accounting Office, did not even afford the agency an opportunity to review and comment. As you know most GAO reports are submitted to the agency involved before they issue their reports and agency comments or disagreements are usually included in the GAO report to give readers a balanced outlook on the issues.

As the Federal Reserve was not accorded this courtesy, Chairman Burns took it upon himself to write Chairman REUSS expressing the Board's reactions to the report. As I believe the public deserves the opportunity to share these views I include a copy of that letter at this point in the RECORD:

AUGUST 26, 1976.

Hon. HENRY S. REUSS,
Chairman, Committee on Banking, Currency and Housing, House of Representatives, Washington, D.C.

DEAR CHAIRMAN REUSS: I am writing with reference to the release of a report by your Committee staff entitled "Federal Reserve Directors: A Study of Corporate and Banking Influence."

The conclusion of the report that the Federal Reserve is controlled by corporate and banking groups has no foundation in fact. The technique used by your staff to arrive at this strange conclusion could just as logically have been used to demonstrate that universities and colleges, or hospitals for that matter, have a dominant influence on Federal Reserve operations, since many of our directors are also trustees of universities, serve on the boards of hospitals, and are otherwise active in community work.

As far as business and banking are concerned, the Federal Reserve Act requires that three of the nine directors at each head office represent banks (that is, lenders) and that another three represent commercial, industrial and agricultural interests (that is, borrowers). Inasmuch as large and medium-sized businesses are the largest users of credit, it is only natural that executives from these business entities should be represented on our district Boards. Here, as in numerous other places in the staff report, a wrong conclusion is suggested: that the presence of these executives on Federal Reserve Bank Boards somehow works to the disadvantage of the public at large. The fact, of course, is that the business directors have a vital interest in a sound and growing economy, an interest shared by all business borrowers and households.

As for the three public directors, the Federal Reserve Act directs that both the Chairman and Deputy Chairman of each head office Board be selected from among these public directors. This provision limits the Board's ability to select candidates from a broad segment of the population since both the Chairman and Deputy Chairman must have executive abilities. Legislation already passed by the House to increase the number of public directors from three to six would help the Board in selecting a more broadly based category of directors at each head office. As you know, the Board favored this provision of the House bill. In fact, the Board had suggested an even larger proportionate representation by public directors.

It is well to keep in mind that many of our Bank directors are highly experienced managers, and that they put their managerial knowledge and skills at the Federal Reserve System's disposal. The benefits are reflected in the sharp improvement of productivity in conducting System operations. The measurable output of the Federal Reserve Banks has approximately doubled in the past eight years with only a 40 per cent increase in System personnel. In fact, the total number of individuals employed by the System will be a little lower in 1976 than it was in 1974, despite a large increase in the volume of Federal Reserve Bank operations. A great deal of credit for this must be given to the management advice provided by our directors.

In conclusion, let me repeat a statement that I made before your Committee on April 9 regarding the question of control:

"The control of the Federal Reserve resides firmly with the Board of Governors. The Federal Reserve Act empowers the Board to exercise supervision over the Federal Reserve Banks and to suspend or remove any officer or director of a Reserve Bank. The Board has exclusive responsibility for changes in reserve requirements, margin requirements, and banking regulations. True, changes in the discount rate originate at the Reserve Banks; but they require explicit approval by the Board of Governors, and we examine every discount rate proposal with utmost care. Open market decisions are made by the Federal Open Market Committee (FOMC), which consists—as you know—of the seven members of the Board and five Reserve Bank presidents. This structure of the FOMC avoids complete centralization of monetary policy decisions in Washington, but the Board Members are plainly in the majority on that body and the Chairman of the Board serves also as Chairman of the FOMC. Thus, responsibility for decision-making rests preponderantly with the seven members of the Board of Governors."

With kind regards,
Sincerely yours,

ARTHUR F. BURNS.

ASIA FOUNDATION SHIPS MILLIONTH BOOK

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. RYAN. Mr. Speaker, for more than 20 years the Asia Foundation in

San Francisco has conducted a program of assistance to Asian nations in behalf of the United States and U.S. ideas of freedom and democracy.

This year in celebration of our Nation's Bicentennial the foundation set a goal of 1 million books to be shipped to Asian nations. The foundation has already surpassed these goals. This foundation is sponsored from private, corporate contributions, and is an excellent example of our free enterprise system working to keep the world informed about our own country. The foundation should be commended for its efforts. The following letter and news release gives more details about this program:

MENTERI PENERANGAN DAN
TUGAS-TUGAS KHAS,
Malaysia, August 13, 1976.

Hon. Mr. HENRY KISSINGER,
U.S. Secretary of State,
Washington, D.C.

MY DEAR MR. SECRETARY: Shortly after my arrival in San Francisco to attend the International Harvard Seminar Alumni Meeting, I was accorded the privilege of taking part in a ceremony marking the one-millionth book to be donated to Asia under the Books for Asia programme for 1976.

Since the millionth book was to be presented to Malaysia and since it was coincidentally to represent the one-millionth book for Malaysia since the inception of the Book for Asia programme in 1954, I was pleased to accept a copy of the New American Heritage Dictionary as a symbol of this double event. I understand that the Asia Foundation has shipped more than 15 million books and journals over the past 22 years. This is a most remarkable achievement for which we in Asia are profoundly thankful.

While going through the ceremony of receiving the book from Dr. Williams of the Asia Foundation; I could not help associating it with the topic of the Seminar "The Meaning of Independence". The reason lies in the important role that books can play in extending the horizon of one's experience and thereby emancipating one's way of thinking. The transmission of knowledge through Book Programmes like the one administered by the Asia Foundation has no doubt the impact of strengthening one's attitude of Independence, and enabling one to play a more meaningful role in maintaining Independence. The Books for Asia programme has contributed in this process of knowledge transmission to countless millions of the people of Asia.

I warmly command to your attention this excellent programme, which is supported by generous donations of books and journals from publishers, universities, libraries and other sources. I for my part will certainly carry back to Malaysia an increased awareness of what Books for Asia is doing.

I was hoping that I could give you a call when I visit Washington on the 19th and 20th, August. However, since it is understandably difficult to arrange a mutually convenient date for us, let us hope there will be an occasion in the future when we can meet again.

ABDUL-TAIB.

ASIA FOUNDATION SHIPS MILLIONTH BOOK

SAN FRANCISCO, August 17.—The Asia Foundation has met its goal to help celebrate the U.S. Bicentennial by sending one million books overseas this year.

The occasion was marked amid thousands of books in the Foundation's 6,000 square-foot warehouse on Sixth Street when President Haydn Williams presented Malaysian Minister of Information Datuk Taib with the one-millionth book to be shipped to Asia this year.

After stating that under the Foundation's Books for Asia program, 15 million books and journals have been distributed to 19 Asian countries over the last 23 years, Dr. Williams explained:

"It is not so much that this is a unique record of service from one people to another as it is a communication of a whole body of knowledge from one people to another," he said. "Today thousands of institutions in Asia and many people have shared in this communication."

The year's millionth book—a dictionary—also is the millionth book being shipped to Malaysia since the program began in 1954.

Minister Taib, in accepting the book, noted, "The man who can read, and who has books to read, is a man who has independence, whatever, the political realities of the land in which he lives. Independence from ignorance, from poverty, from apathy: all of this can be gained from the knowledge stored between the pages of a book.

"Books for Asia has brought this opportunity to countless millions of people who might otherwise never have had it," the Malaysian minister added.

More than 150,000 books and journals are shelved at the warehouse at any one given time. They are donated by American publishers, book stores, libraries, school systems, professional societies, and individuals.

The Foundation's representatives in 12 offices in Asia keep the San Francisco staff informed of each community's needs and books are shipped as requested for use by students, scholars, businessmen, people in the professions, government administrators, civic leaders and the general public.

Requests always outnumber shipments, according to Books for Asia director Carlton Lowenberg.

The Asia Foundation is a nonprofit organization established in 1954 that assists 13 Asian countries from Japan to Afghanistan through grants of seed money for social and economic development. Areas of concentration are education; law and public administration; communications; management, manpower and economic development; population, food and nutrition; urban and rural affairs, and Asian regional exchange.

EDITOR'S NOTE.—To date in 1976, The Asia Foundation has shipped a total of 1,057,959 books and journals overseas. The breakdown is as follows: Afghanistan, 9,387; Bangladesh, 107,039; Indonesia, 45,832; Japan, 163,545; Korea, 25,791; Malaysia, 83,949; Nepal, 2,243; Pakistan, 80,826; Philippines, 403,106; Singapore, 98,852; Taiwan, Republic of China, 15,865, and Thailand, 21,424.

RED CROSS CERTIFICATE OF MERIT AWARDED

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. HANNAFORD. Mr. Speaker, Messrs. Robert Agalsoff of Lakewood, Calif., and Malcolm Smallwood of Huntington Beach, Calif., have been awarded the Red Cross Certificate of Merit. This is the highest award given by the American National Red Cross to a person who saves or sustains a life by using skills and knowledge learned in a volunteer training program offered by the Red Cross in first aid, small craft, or water safety.

On May 26, 1976, Messrs. Agalsoff and Smallwood, along with coworker Al Smith, succeeded in reviving a heart attack victim who had suddenly collapsed while working nearby in the hold of a ship. Mr. Smith, who reached the victim first, began to administer mouth-to-mouth resuscitation. After several minutes, Mr. Agalsoff arrived and took over for the tiring Mr. Smallwood. The two continued for several minutes until paramedics could safely transport the victim to a hospital. The faultless teamwork and quick action demonstrated by these three men undoubtedly saved the victim's life.

It is, indeed, an honor to bring to the attention of my colleagues the valorous deeds of Messrs. Agalsoff, Smallwood, and Smith. Their compassion and quick action demonstrate the highest level of service for a fellow human being in time of need. This high regard for human life will make our communities safer and more fulfilling places for all of us to live in. It is with extreme pride and gratitude that I congratulate Messrs. Agalsoff, Smallwood, and Smith. In so doing, I am sure that I express the thanks of all the people of the 34th Congressional District.

THE UNITED NATIONS' WORLD OF "NEWSPEAK"

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. CRANE. Mr. Speaker, the penchant of the United Nations for imposing false double standards is continuing.

The targets of the wrath of this world body are not the major oppressors of the world but, quite to the contrary, those countries which, despite their problems, have elected governments and rule by law.

The result is that Israel is regularly condemned, while the U.N. refuses to take a stand against terrorism. South Africa is repeatedly criticized, although not a word is said about the genocidal policies of such black African states as Uganda. Taiwan is expelled, and the totalitarian Communist Chinese regime is seated. A boycott is imposed upon Rhodesia, while trade with the Soviet Union and other truly totalitarian states is encouraged.

Recently, a meeting was held of the U.N.'s Committee on the Elimination of Racial Discrimination.

One session of this meeting dealt with both Canada and the Soviet Union. The culprit, according to the strange standards of the U.N., was, of course, Canada.

When it came time to discuss the Soviet Union, the delegates had only praise. As the Wall Street Journal recently pointed out, there was not "a word about treatment of Jews, Crimean Tatars or Central Asian Muslims. The 'expert' from Ecuador noted that 'since no discriminatory legislation had existed in the Soviet Union, no internal modifications had been necessary.' "

The Journal, in an editorial entitled "The World of Newspeak" in its issue of August 30, 1976, points out:

> This particular committee is no freak, either. . . . The United Nations does not share out esteem for civil and political liberty, and we should keep our distance from its distorted pronouncements on that subject.

It is high time that the Congress carefully review proposals which I and others have made concerning the need to sharply limit our contribution to the United Nations. The world body, unfortunately, is guilty of fostering the racism, persecution, and discrimination which it decries. American taxpayers should remove themselves from the position of paying for this betrayal of our values.

I wish to share with my colleagues the editorial, "The World of Newspeak," as it appeared in the Wall Street Journal of August 30, 1976, and insert it into the RECORD at this time:

THE WORLD OF NEWSPEAK

Newspeak now so permeates all the operations of the United Nations that anyone with a healthy respect for human liberty should approach that body's causes with deep suspicion, no matter how worthy they sound. UN commissions ostensibly formed to combat discrimination or advance human rights and the status of women have become snares for the naive and unwary. Anyone involving himself in their activities is liable to find himself advancing anti-Semitism, the most virulent form of discrimination in the 20th Century, and attacking the institutions of liberal democracy, like freedom of speech and the press.

Consider, for instance, the meeting of the Committee on the Elimination of Racial Discrimination earlier this month. This group was discussing reports from various countries on their steps to implement the "International Convention on the Elimination of All Forms of Racial Discrimination." One session dealt with both Canada and the Soviet Union, and the country which received the harshest criticism was, naturally, Canada.

Jose D. Ingles, "expert" from the Philippines, complained that Canada refused to punish "all incitement to racial hatred," as required by article four of the convention. Canadian law, he charged, only covered incitement leading to a breach of the peace, and didn't provide penalties "if the promotion of such hatred took place in private conversations." Igor Blishchenko of the Soviet Union accused Canada of failing to comply because it only prohibited racist activity, and wouldn't suppress "racist organizations" outright. (The delegates didn't spell it out, but since the UN declared last year that Zionism was another form of racism, the organizations to be suppressed would logically include any group giving support to Israel.)

When it came to the Soviet Union's report, however, delegates were all praise, without a word about treatment of Jews, Crimean Tatars or Central Asian Muslims. The "expert" from Ecuador noted "that since no discriminatory legislation had existed in the Soviet Union, no internal modifications had been necessary to ratify the convention." Other speakers praised its fight against apartheid in South Africa. The Bulgarian representative "was happy to note the 'multisided and different types of demonstrations of solidarity' with people struggling against all forms of racial discrimination, as evidenced by the Soviet Union's enumeration of the observance of certain days and other celebrations in that field."

This particular committee is no freak, either. The UN has promoted more than 20 "human rights" treaties, and most of them have some features repugnant to our constitutional tradition. The Covenant on Civil and Political Rights, an all-encompassing statement which entered into force this year, includes a section guaranteeing freedom of expression, but then it makes exceptions on grounds of national security and public order that render the whole thing meaningless. The document is so pitched to the lowest common denominator that for us to accept it as definitive would betray our commitment to liberty.

Although this UN newspeak reached its most blatant form in last year's General Assembly resolution on Zionism, the problem long predates the emergence of the Third World blocs. In fact, we think it comes from the very idea of the United Nations itself, in the attempt to bring the liberal West and the Communist world into the same framework on anything beyond most simple principles of international relations. As everyone must realize by now, the West and the Communist bloc have radically different theories on the meaning of personal liberty and the obligations of a government toward its citizens. These theories can't be amalgamated without distorting one or the other, and the Communists have done much better than the West in imposing their viewpoint on these international conventions.

Fortunately, the U.S. Senate has done the next best thing, and simply shunned them. Even though the U.S. signed the convention on eliminating racism, we were spared the embarrassment of Canada because the State Department never sent this document, or most of the others, to the Senate for ratification. The diplomats knew it would never be approved, and now perhaps they understand why. The UN does not share our esteem for civil and political liberty, and we should keep our distance from its distorted pronouncements on that subject.

DOCUMENTATION OF OUTRAGES AGAINST AMERICANS IN MEXICO

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. McDONALD. Mr. Speaker, since we have begun commenting upon deteriorating conditions in Mexico, we have received a large amount of information privately, some of which is quite alarming. Some of it bears upon a situation just recently described in the Wall Street Journal on August 30, detailing the hostile treatment, to put it mildly, received by a number of respectable Americans, not involved with drugs. The Journal article is worth presentation, as follows:

TRAVELERS' PERIL—MORE U.S. TOURISTS FIND TRIP TO MEXICO LANDS THEM IN JAIL—AMERICAN VISITORS CHARGE QUESTIONABLE ARRESTS, LACK OF U.S. ASSISTANCE—"IT COST ME EVERYTHING"

(By Kenneth G. Slocum)

Donald Postles went to Mexico to hunt doves. Joseph F. Sabo accompanied his friend Robert Wantland on a business trip. Alan Glickson and Marnin Steinberg crossed the border to buy handcrafted items.

All five men got tripped up by the often perverse and usually obscure Mexican system of justice. They were jailed and ignored; they finally paid dearly in order to obtain their legal release from Mexican prisons. Their separate but similar experiences seem to be best summed up by one lesson: A trip to Mexico may be hazardous to your health—and to your freedom.

That grim message is being voiced increasingly by middle-class tourists. Congressmen and businessmen as what had been a wrangle mainly over drug-related arrests escalates into a high-level confrontation that threatens to strain diplomatic relations between the U.S. and Mexico. The dispute centers around questionable arrests and alleged extortion and torture of Americans in a country that once offered obstacles to tourists no greater than Montezuma's Revenge.

Rep. Fortney H. Stark Jr. (D., Calif.) says that the U.S. should consider a tourist boycott of Mexico. "While perhaps every American going to Mexico may not be subject to the cattle prod, the stories coming from the prisons are true," he adds. "It can indeed be dangerous to travel to Mexico even if you're a simple and innocent tourist. The Good Neighbor policy is dead."

PRISONER EXCHANGE POSSIBLE

In June. Congress amended the International Security Assistance Act to require President Ford to communicate directly with the Mexican government about the issue of human and legal rights of Americans arrested there. The President is required to provide a progress report every four months. For its part, Mexico has proposed a possible exchange of American prisoners for Mexican nationals serving time in U.S. jails.

Today, some 600 Americans are in Mexican prisons. That figure has tripled in the last three years and now represents 20% of Americans held in all foreign jails. About 75% of the inmates in Mexico are charged with drug-related offenses, largely due to Project Intercept, a joint U.S.-Mexico venture to curb international drug traffic.

Because of this drug connection, tales of torture and inhumane treatment coming mostly from young people with middle and upper-middle income backgrounds aroused little sympathy in the U.S. until recently. But there is a growing awareness that the professional drug traffickers and careless youths out for kicks and quick profits aren't alone. A lot of ordinary Americans, including a number of corporate executives, without any apparent criminal connections or intentions are straying into serious and expensive trouble in Mexico.

No one knows how frequently these cases are occurring. The State Department, citing the sovereign rights of Mexico, says it has no grounds to reflect upon the judicial decisions of its neighbor to the south. Other Americans, however, who say they have suffered gross injustice at the hands of the Mexican government, insist they have grounds for reflection.

TROUBLE WITH WINCHESTERS

Donald Postles is one. The 50-year-old president of Moore & Moore Moving & Storage Co., Colorado Springs, Colo., drove into Mexico in February, 1975, on a dove-hunting vacation trip. With him were his brother, Norman, president of Northern National Bank of Colorado Springs, and two other friends. Included in their gear were two Winchester shotguns, which they said they registered in Donald Postles' name with the Mexican consulate in Denver.

The hunting party crossed the border at Nogales, Ariz., without any problem. They were then stopped at a nearby checkpoint where Donald Postles was told that the guns should have been registered at the Mexican border, not in Denver. "All they would have had to do was tell me that and I'd have done it," Mr. Postles observes. Instead, he was arrested on charges of illegal importing of firearms and contraband, possession of unregistered weapons and entering Mexico to commit a crime.

Mr. Postles was hustled off to jail. "I was under the impression that as an American, all I had to do was notify the American consulate and the wheels would start turning to get me out," he recalls. "Don't believe it. A man from the consulate came to talk to me maybe three times. And even though he would talk to over 25 American prisoners, he didn't even make notes."

ROTTING IN MEXICO

After hiring both American and Mexican lawyers, Mr. Postles' family started a wide-ranging campaign to secure his release. They enlisted the aid of Congressmen, governors and other politicians and bombarded the Mexican Tourist Bureau with daily petitions. After 3½ months in prison and expenditures of about $25,000 in attorney fees, travel costs and phone bills, the nightmare ended with the charges being dismissed. "I was given a formal apology by Mexican Immigration and told I could come back anytime," Mr. Postles says. "But I'm convinced that if you're a nobody, without any connections, and you get into trouble in Mexico, you'll rot there."

In Nogales, Mexico, Federal Prosecuting Attorney Pedro Mireles concedes that Mr. Postles might have been misinformed by the consulate in Denver, but says that that "isn't a legal excuse to break the law." The charges were dismissed, he says, because an investigation indicated that the alleged violations were unintentional.

Joseph Sabo, 61, had plenty of time on his hands after retiring from a 30-year job as a flight captain for American Airlines. Early last year he happily accepted an offer from a pilot friend, Robert Wantland, 43, to ride along on a hop to Mexico. Mr. Wantland is a Los Angeles aircraft rebuilder who specializes in flying damaged planes to a site where they can be repaired. He had an assignment to pick up and repair a fairly new $68,750 Bellanca that had landed at a small airport near Culiacan, Mexico.

"I just went along for the ride," Mr. Sabo recalls. But as their plane taxied into the airport at Culiacan, they were intercepted and arrested by federal police. "Apparently they felt initially that we were somehow involved in dope traffic," Mr. Sabo says. "But when they didn't find any dope and our papers were in order, they charged us with trying to steal the airplane we had come to recover."

Mr. Wantland, who had made 44 previous trips to Mexico to recover damaged planes, says, "I had letters from the owner, the lease operator and the insurance company authorizing me to fix and return the plane. I knew the ropes. I had credentials a mile long; everything was in perfect order."

Mexican police contended otherwise. The two spent the next eight days in a 10-foot square holding cell with nine other prisoners, no bedding and a single toilet. "All this time my family was looking for me, but the Mexicans kept denying that we were prisoners," Mr. Sabo says. The two were transferred to a nearby federal prison and were finally located there by pilot friends.

Despite persistent pressure from the American counsel at Mazatlan, a U.S. Senator and a Congressman, it was three months before the two men were released on $2,400 bond. Charges were later dismissed, but the bond hasn't ever been returned. Mr. Sabo had to pay more than $10,000 in legal fees and other expenses. The toll for Mr. Wantland was even higher. "It cost me everything," he says. "A $250,000 business, two airplanes, three cars and a 13-year marriage."

The Bellanca the two men had come to pick up had been stripped of its engine, wheels, propeller and other vital parts and had to be abandoned in Mexico. The plane they had flown to Mexico was missing some $3,000 in parts; these had to be shipped in from the U.S. before the plane could be flown back. "The Mexicans knew we hadn't done anything," concludes Mr. Wantland. "They had $120,000 worth of our airplanes, and they were trying to steal them."

In Culiacan, District Attorney Oscar Duran, who wasn't in office at the time the two men were arrested, says he knows nothing of the case beyond some meager information in the arrest records. At last count, around 140 American-owned airplanes are being held in Mexican custody, according to the International Aviation Theft Bureau, a plane-owners' group.

Alan Glickson, 25, and Marnin Steinberg, 29, are two free-spirited Atlanta entrepreneurs. They went to Mexico in the spring of 1975 to buy handcrafted items that they would in turn resell to retail stores. Mr. Glickson, sporting long hair and a flowing beard, was at first denied entry because of his appearance. He paid $10 to the border guards and got in, but later rued his persistence.

The two men say their bout with Mexican justice started with a chat in Mexico City with a freelance writer, Curtis Hartman. Mr. Hartman says he told them of the plight of young Americans being held in Mexican prisons and suggested they visit two young American women to cheer them up on the coming Easter Sunday. They went to the Federal Women's Prison in Mexico City and, at the women's suggestion, returned three days later.

When Mr. Glickson and Mr. Steinberg were leaving after the second visit, they were arrested by Mexican police for allegedly engineering the escape of another American woman prisoner on Easter Sunday. Records at the 17th Criminal Court contend that the two bribed two guards and delivered civilian clothes and a visitor's pass to Margaret Mary Hutchins, who then walked out of the prison undetected. The two American men say they don't know Miss Hutchins, never met her at the prison and had nothing to do with her escape.

There's some reason to accept their story. Polygraph tests were given to them for this newspaper by W. A. Robinson & Associates Inc., an Atlanta firm which handles lie detector tests for the Cobb County, Ga., police department. "They didn't do it," says Mr. Robinson, after administering the tests. "They had nothing to do with the girl's escape. In fact, they didn't know her and never met her according to the polygraph tests."

Miss Hutchins, safety back in the U.S., signed a notarized statement saying the two men had nothing to do with her escape. Mr. Hartman says the same thing, adding, "I personally know who did it." And Mr. Glickson observes with some logic, "If I had helped the girl escape, I sure as hell wouldn't have gone back for another visit."

Mr. Steinberg spent his early days in Lecumberri Prison on his hands and knees, naked, scrubbing down latrines. He and Mr. Glickson say they appealed for help from a representative of the U.S. consulate in Mexico City. Both insist they were told: "I don't even want to know what happened to you. Here's a list of Mexican lawyers, but we can't guarantee any of them."

A consular services spokesman for the State Department says in Washington that consular officials always issue a disclaimer. "While we try to see that the lawyer is efficient and honest, we aren't responsible if he loses the case." The spokesman says he doubts the representative refused to listen to the men because "it's part of our function to find out what happened."

A final verdict wasn't reached in the case. After spending a month in prison, Mr. Glickson forfeited a $7,500 bond and was deported. Mr. Steinberg, whose case was complicated somewhat by a question about the legality of his entry to Mexico, spent two months in jail, forfeited a $12,000 bond and was deported. Mexico still holds the men's van, assorted automotive tools and the handcrafted goods they had purchased, all of which they say is worth about $8,000.

LET'S NOT WAIT ON GETTING THE COUNTRY TOGETHER AND MOVING

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. KEMP. Mr. Speaker, displaying the editorial leadership for which it is renown, the Wall Street Journal asks why wait on eliminating the double-taxing of dividends when its elimination is desired by the American people, President Ford, the Republican Party platform, Jimmy Carter, Treasury Secretary Simon, Chairman AL ULLMAN of the House Ways and Means Committee, and Chairman RUSSELL LONG of the Senate Finance Committee? Everyone familiar with the issue knows that we cannot really get the U.S. economy on a path of sustained noninflationary growth without removing the tax bias against jobs-creating capital formation.

The terrible hardships of unemployment and inflation are not necessary. The elimination of this double tax should be immediately brought before the Congress so the people can see how their representatives stand on the issues of jobs and economic progress prior to the November elections.

Mr. Speaker, this is not a political issue and there is no reason to delay economic progress. As the Journal points out, as soon as we eliminate the discrimination and bias in our Tax Code against investment capital, the incentives to production and productivity would soar. As investment, production, and productivity increase, so would the tax base, thus increasing the government's tax revenues. In addition, as the Journal points out—

> Americans now content to remain on welfare and unemployment benefits that are financed by the productive sector would realize an economic bonanza is passing them by, as the real incomes of everyone in the work force moved upward and the value of financial assets, pensions and estates increased.

Mr. Speaker, there are millions of Americans who cannot afford to wait for economic growth and new jobs; so why wait?

[From the Wall Street Journal, Aug. 27, 1976]

WHY WAIT ON DOUBLE TAXING?

Jimmy Carter, in almost every discussion he's had with businessmen and the financial press this year, has said he favors ending the double taxation on returns to capital. President Ford and Treasury Secretary Simon not only concur with enthusiasm but have made that explicit proposal to the Congress. The Republicans have it as a plank in their platform and the Democrats are not negative. Nobody seems to dislike the idea.

So why wait? If it is such a sensational idea, and it is, there is absolutely no reason why the economy has to be burdened with the double tax for another week, let alone another six months or year. Mr. Carter wants to take a year or so to look at other aspects of tax reform, but on this one specific he has been so unequivocal that he has thrilled the business and financial community.

There is thus no political issue and no

reason to delay. Instead of keeping it wrapped up in a complex and controversial bundle of tax-reform ideas, President Ford should extract this one proposal and ask Democrats and Republicans in Congress to join hands in whipping it through forthwith, like next week. He should of course concurrently shower praise on Governor Carter for his statesmanship and sagacity in having pinpointed an effective and simple way to stimulate economic growth, and invite him to participate at the bill-signing ceremonies in the Oval Office.

There are very few times when man can play a presidential role even before they are inaugurated. Such a rare opportunity is now available to Mr. Carter, who would be acclaimed by a grateful people for his selflessness and bipartisanship.

We do not put forward this proposal frivolously. Although the issue is little understood by the man in the street, it is thoroughly familiar to the movers and shakers on Capitol Hill. Chairman Al Ullman of the House Ways and Means Committee knows full well that the U.S. economy cannot get back on a path of sustained non-inflationary growth without removing tax disincentives to capital formation. Chairman Russell Long of the Senate Finance Committee is no less keen than are we, or Mr. Carter and Mr. Ford, in desiring elimination of the double tax.

The reason the proposal has been dead in the water is best explained by Senator Long, who happens to be a Democrat. Mr. Long tells us that the Democratic Congress would not approve a measure of this magnitude because it was proposed by a Republican President. They are not about to give him the credit.

All right. Boys will be boys, and that's politics. But now that Jimmy Carter has been named leader of his party, almost by unanimous acclamation, the Democratic Congress surely would grant him this one wish. If Mr. Carter's current lead holds up in the public-opinion polls, he would be inaugurated next January during a lovely economic expansion, and could concentrate on promoting love and morality instead of dealing with a stagnant economy.

To show his sincerity, Mr. Ford should even permit Mr. Carter to decide which of the two taxes to eliminate, the tax on corporate profit or the personal tax on the dividend income that flows from already taxed corporate profit. In either case, the incentives to production and productivity would soar. Capital would flow into the U.S. from all over the world, and unutilized capital and labor in the United States would be called into play.

Not only would the tax base expand, multiplying revenues. But Americans now content to remain idle on welfare and unemployment benefits that are financed by the productive sector would realize an economic bonanza is passing them by, as the real incomes of everyone in the work force moved upward and the value of financial assets, pensions and estates increased.

Why should this cornucopia of economic delights lie beyond that national grasp only because Congress is Congress and Mr. Ford doesn't seem to know how to dynamite it into action? Even if Mr. Ford overtook Mr. Carter in November, getting the lion's share of the electorate's gratitude for the incipient expansion, Governor Carter would be remembered fondly by history for having made it all possible.

LT. COL. ALBERT SCOTT

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. WOLFF. Mr. Speaker, on September 8, Lt. Col. Albert Scott will leave his post as executive director of Booth Memorial Medical Center. After 7 years of devoted service, Lt. Col. Albert Scott is being promoted to territorial secretary with the Finance Administration in Manhattan, N.Y.

For the past 5 years, serving as executive director at Booth, Lieutenant Colonel Scott has been both the initiator and driving force behind the operation of the hospital. Under his qualified guidance, Booth Memorial Medical Center has developed into one of the premier medical institutions in New York. Top quality medical care has become synonymous with Booth Memorial.

The loss of Lieutenant Colonel Scott's services at Booth will be immense. He will, however, remain as a member of the board of trustees at the hospital. Replacing him as executive director will be the distinguished Lt. Col. Roland C. Schramm. It is my privilege to publicly acknowledge the achievements of such an esteemed individual, as Lt. Col. Albert Scott. Today, I ask my colleagues to join with me and the people at Booth Memorial Medical Center in congratulating Lieutenant Colonel Scott on his promotion, and applauding the great accomplishments he has attained in the area of health care for the communities of New York. I am proud to pay tribute to such a distinguished individual.

UTILITY RATES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. HAMILTON. Mr. Speaker, across the Nation there has been a 90-percent increase in consumers' utility bills since 1970. In Indiana an amount of electricity that cost $18 in 1970 cost $23.59 in 1975. This year costs have again risen, emphasizing the fact that the postwar trend of declining utility rates which lasted until the mid-1960's has given way to today's trend of steadily increasing rates.

The problem of ever-increasing power costs touches most of us once a month. Few problems are brought more frequently to my attention. What has happened? Must we continue to use more and more of our monthly paychecks to pay our electric bills?

A recent FEA study found that several factors have contributed to the rising cost of power, including increased construction costs, increased fuel costs, delays in the regulatory process of licensing and siting, inefficient capacity utilization, new environmental controls, and the uncertainty of future consumer demand levels.

Construction of powerplants is enormously expensive today. Due to environmental and safety requirements, increased construction time, higher interest rates and inflation, it costs five times as much to build a powerplant today as it did in 1967. And once built, powerplants, especially those dependent upon oil for electricity generation are increasingly more expensive to operate. Of the $7.4 billion revenue increases to investor-owned power companies in 1974, $5.3 billion was needed to cover added fuel costs. The bulk of this increase was the result of oil price increases, which have caused the rates in some States to double in the last year. Fortunately for Hoosiers, because of the availability of coal and the high cost of oil generation, Indiana uses only a small amount of oil in electricity—a fact which helps rank Indiana as the 12th lowest in electricity rates among the 50 States.

Numerous questions confront us as we seek to improve the present structuring of utility rates and to devise and implement national energy programs. Does abundant supply come first in energy considerations because of our dependence upon it? Or should the environment receive first priority wherever serious risk of harm is threatened? With the scarcity of resources becoming more critical, should Congress refrain from regulating prices in order to promote extensive investment in the development of new sources of energy?

Does total deregulation of prices, as was proposed in Congress with regard to natural gas, mean that wealthy consumers are allowed the privilege of using the resources while the poor are prevented from doing so? Should prices be manipulated to control levels of demand or to promote conservation? Should rate schedules be flattened, or should large users be permitted to pay less per unit than small consumers, as is often the case today?

Congress has recently taken several steps to investigate and make needed improvements in the structuring of utility rates. Recently passed legislation directs the FEA to develop voluntary guidelines to encourage State regulatory commissions to adopt "innovative" rate structures, including the flattening of rate schedules to treat all consumers equally. Assistance is authorized to those commissions making such changes. The Congress has also authorized grants to State consumer services which represent consumers in utility regulatory proceedings.

In addition, the Oversight and Investigation Subcommittee of the House Commerce Committee has recently undertaken an investigation in Indiana of the role of the Federal Power Commission in supplying power and setting rates. There are charges that the Commission has contributed to higher rates by not doing its job effectively.

Furthermore, the right of utilities to make automatic fuel cost adjustments in rates has been limited by the Indiana General Assembly. Companies must now present evidence and justify rate increases rather than simply passing them on to consumers *without prior* review.

Much more, however, remains to be done. More uniformity and more clarity needs to be instilled into rate structures and rate-setting procedures. Better definitions of what companies should be allowed to include in costs need to be drafted. Hearings on fuel adjustment clauses need to be required to protect consumers. Peak-period pricing concepts need to be explored and implemented where appropriate. And rates paid by different categories of consumers—residential, commercial, and industrial—need to be made more uniform. Subcommittee figures show that many residential users pay five or six times as much as some industrial users.

It is past time for a thorough examination and review of utility rate structures throughout the country and for specific steps to be taken in the direction of establishing fees based on actual cost of service. It hurts each of us when the rates charged some do not produce enough money to pay the cost of generating and delivering the electricity used.

OPEN RULE VITAL ON LEGISLATIVE APPROPRIATIONS LEGISLATION

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. ARCHER. Mr. Speaker, I would like to share with my colleagues the text of my statement to the House Rules Committee today in support of an open rule on the legislative appropriations bill, H.R. 14238:

Mr. Chairman, I am here today to strongly urge the Members of this Committee to adopt an open rule for consideration of H.R. 14238, the Legislative Branch Appropriations Act for FY 1977.

This would be far from an unusual procedure. As all of us know, it is virtually unheard of for any appropriations bill not to be open to all germane amendments on the floor. Given the widely publicized events of recent months and the erosion of public confidence in the Congress, it's inconceivable that this important piece of legislation could go to the floor under anything but an open rule.

We must demonstrate our willingness to bring the internal spending of the Congress out of the shadowy backrooms and into the open where the American people can see how each and every Congressman stands on Congressional spending. This is an opportunity for us to bring about meaning reform that will help restore the people's faith in their elected Representatives.

The granting of an open rule by this Committee in no way implies approval on the part of its individual members for any amendments that may be offered on the floor. It merely shows the American people that the Members of this Committee are willing to permit all Members of the House to stand up and be counted on the way they want to spend tax dollars on the legislative branch of government. If individual Members of the House then decide that they do not want spending reform, they should have an opportunity to publicly say so in a recorded vote.

I think the people of this country are tired of unfulfilled promises of government in the sunshine, unfulfilled promises of reform in the Congress—and I think they are tired of hearing about promises of greater restraint in the spending of tax dollars within the Congress itself. They don't want promises, they want action—and they are not going to get it if this committee imposes a gag rule on this bill.

Mr. Chairman, without an open rule on this bill, no professions of honesty and openness in government are going to be worth very much. This committee will have reinforced the all too commonly held opinion that this Congress takes care of its own.

If that is the image this Committee wants to convey, then it can certainly do that effectively by imposing a gag rule to protect those Members of the House who might desire the appearance of openness—without accepting the responsibilities of openness.

I strongly urge this Committee to give us the opportunity to restore confidence in the legislative branch by permitting all germane amendments to be offered on the House floor when this bill is debated.

Thank you very much.

VARIATIONS IN SOCIAL SECURITY CLAIMS PROCESSING TIMES: THE NEED FOR IMPROVEMENT

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. VANIK. Mr. Speaker, the Ways and Means Oversight Subcommittee has been studying the impact of the supplemental security income—SSI—program for the aged, blind, and disabled on Social Security Administration operations. We have encountered statistics showing wide variations among Social Security offices in processing times for various types of claims:

These statistics may indicate that some Social Security offices are considerably more efficient than others in processing the various types of retirement, SSI, and disability claims.

For example, through 6/23/76, Denver area offices were completing disability applications in 171 minutes, while the same type of claim was taking more than an hour longer to process—some 235 minutes—in the New York area.

Processing times for the regular retirement income claim—the claim that most individuals file to start their retirement checks flowing—varied from 96 minutes in the Atlanta area to 128 minutes in the Denver area.

SSI disability claims, which are probably the hardest to process, took from as little as 228 minutes in the Atlanta area to almost exactly five hours (292 minutes) in the New York area.

While there were some increases in productivity over the 3 years since the start of SSI, in general, it is now taking longer to process regular disability and SSI disability claims than it did 3 years ago.

I have written to Social Security Commissioner Cardwell asking for an explanation of the data. Portions of my inquiry to the Commissioner follow:

While the longer processing times in the disability areas may reflect a commendable effort to improve the quality and accuracy of determinations, the enormous variations in processing time are difficult to understand.

It appears that some Social Security areas may have developed better training and management techniques to increase productivity. As you know, because of the enormous number of claims filed each year, differences of as much as an hour or more in processing time can mean tens of millions of dollars in additional administrative costs charged to the hard-pressed Social Security Trust Funds.

I hope that Social Security will conduct a study to determine what causes these differences in productivity.

As you know, the Ways and Means Oversight Subcommittee has been concerned about the enormous variation in Social Security training programs and the fact that there is no set test or "final examination" before workers are sent to the field to begin processing claims. I am concerned that these large variations in processing times reflect the "casualness" of Social Security training policy.

BRITISH VISITOR LAUDS DEPORTMENT OF PITTSBURGH YOUTH

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, with all of the negative comments people seem to hurl at young people these days, it is a pleasure when one can point out exemplary behavior by the young.

And this is exactly what an English visitor to Pittsburgh, during our recent local Bicentennial celebration, did in a letter to the Pittsburgh Press.

Peter McDonough, a resident of Liverpool, in describing what he encountered in Pittsburgh on July 4, wrote:

I saw young Americans of all complexions acting towards each other and towards their elders in a manner which reflects great credit not only on themselves but on their parents and teachers.

Mr. McDonough also was very impressed with the quality of Pittsburgh's celebration.

I think all Americans can be proud that the people of Pittsburgh allowed a visitor from another country to return home with such wonderful impressions of this country.

It is with great pleasure that I include in the RECORD at this time Mr. McDonough's letter:

VISITOR ACCLAIMS PITTSBURGH BEHAVIOR

I am writing to offer my sincere congratulations and thanks to the people of the great and beautiful city of Pittsburgh.

As a visitor from Liverpool, England, I recently had the unforgettable experience of attending your Memorial Day program at Gateway Center and your Independence Day celebrations.

I cannot find words to describe the joy and exhilaration of witnessing Americans of all complexions, ages, shapes and sizes having fun together.

America's entertainers and musicians have always been your country's greatest and most beloved ambassadors.

I was not surprised, therefore, by the standard of professionalism and artistry displayed by them.

I must tell you, however, that nothing impressed me more than the behavior and deportment of your young people.

I saw young Americans of all complexions acting towards each other and towards their elders in a manner which reflects great credit not only on themselves but on the parents and teachers.

As a European long-accustomed to hearing nothing but bad publicity about you and your country, I want to thank you for showing this visitor to your city that people of all ethnic backgrounds, ages and occupations can work and play together!

PETER McDONOUGH.

LIVERPOOL, ENGLAND.

FIRST DISTRICT OF IOWA QUESTIONNAIRE

HON. EDWARD MEZVINSKY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. MEZVINSKY. Mr. Speaker, earlier this summer, I mailed a questionnaire to the residents of the First District of Iowa asking fellow Iowans for their opinions on several varied issues.

Using the input of three Congressional Outreach Offices and a mobile unit—in addition to contacts with our Washington office and during town meetings in Iowa—we atempted to raise issues which are of concern to the people I represent. I am pleased to report that the heartening response indicates that we were successful.

Approximately 20,000 Iowans responded, letting me know how they stand on issues that require the attention of all of us in the House of Representatives.

Beyond the readily apparent value of the information provided by response to our quesionnaire, a special benefit was that it served as a catalyst for hundreds of Iowans to go beyond the limits of the printed form's yes/no format. Additional comments—either written in the margins of the questionnaire or in separate accompanying letters—expanded on the questions posed and often detailed the writers' thoughts on separate issues. These comments were especially interesting and helpful to me.

We have now completed the tabulation of the questionnaire. I call my colleagues' attention to the results which follow.

First District of Iowa Questionnaire

1. Federal spending is always a major issue and the way our tax money is spent has a major impact on the economy and upon our lives. Listed below are many areas where federal dollars are spent. Please indicate if you would like to see (1) more; (2) less; or (3) about the same spent on each category.

[In percent]

	More	Less	Same
Defense	16.9	41.4	41.7
Revenue sharing	31.4	27.9	40.7
Crime control	54.2	10.9	34.9
Pollution control	50.5	17.3	32.2
Energy research	75.6	5.2	19.2
Public transportation	47.2	19.8	33.0
Education	42.4	16.3	41.3
Foreign military aid	1.1	89.1	9.8
Aid to the elderly	58.7	6.4	34.9

2. Which policy would you favor regarding Social Security?

(a) keep Social Security benefits at current levels, 29.8.

(b) increase benefits from general Treasury revenues, 28.2

(c) increase employee-employer contributions (now 5.85 per cent), 10.5.

(d) increase amount of earnings taxed (present ceiling $15,300), 31.5.

3. Where should the government devote its resources in seeking energy independence?

(a) further development of domestic coal & petroleum resources, 20.5.

(b) nuclear energy development, 14.3.

(c) alternative sources of energy: solar, geothermal, synthetic fuels, 61.4.

(d) other, 3.8.

4. Various proposals are before the Congress concerning the control of firearms. Which of the following do you favor?

(a) legislation requiring registration of all firearms, 31.1.

(b) legislation outlawing the sale and possion of handguns, 26.2.

(c) no now legislation in this area, 34.9.

(d) other, 7.8.

5. Regarding federal assistance to the needy, which approach would you favor?

(a) present system with welfare, food stamps, Medicaid, etc., 9.5.

(b) establish a minimum family income through the tax system, 17.2.

(c) provide public service jobs to all who are able to work but, cannot find jobs, 73.3.

6. What should be done regarding Locks and Dam 26 at Alton?

(a) repair the existing structure, 30.8.

(b) build a new lock and dam, 20.5.

(c) conduct a short-term study before deciding, 44.2.

(d) other, 4.5.

7. In regard to General Revenue Sharing with state and local governments, which of the following do you prefer?

(a) five-year blanket approval with no restrictions, 17.8.

(b) annual funding with periodic review and oversight by Congress, 61.9.

(c) no revenue sharing program, 20.3.

8. In view of evidence that the bankruptcy of a city or state could have severe consequences to the entire national economy, what policy do you thing Congress should adopt?

(a) a direct grant of funds, 5.3.

(b) loans with local spending/wage constraints, 65.3.

(c) no help, 29.5.

9. What action should the government take to help turn the economy around and get people back to work?

(a) put people to work in the public and private sector through jobs programs, 60.6.

(b) tax incentives to business, 23.7.

(c) no government action, 15.7.

POINTS TO NEED FOR HONEST PAY RAISE BILL

HON. CHARLES A. MOSHER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. MOSHER. Mr. Speaker, tomorrow the House is scheduled to begin debating H.R. 14238, the legislative appropriations bill. One of the amendments that will be offered—and I understand there are Members on both sides of the aisle who are prepared to offer it—would knock out the cost-of-living pay raise for Members of Congress during fiscal year 1977.

I expect to vote in support of this amendment, but I will do so with regret.

Mr. Speaker, I regret that we must attempt to correct our previous legislative mistake by means of an amendment to an appropriations bill. Also, I regret that the House has totally failed to respond to repeated suggestions that we improve our system of salary determination.

For a number of years, we muddled along under a terrible system that required special legislation to change the congressional salary level. The result was that we went for 6 years without any above board, forthright change in salary.

Meanwhile, inflation raged, the House Administration Committee devised a number of sneaky, backdoor devices to increase Members' nonsalary compensation, and top-level Federal civil servants suffered under a prolonged salary freeze.

Last year, under cover of the rush toward the August recess, and aided by exceptional parliamentary maneuvering, the Senate and House voted to put Congressmen on the Federal cost-of-living pay index system.

I voted against that move, as did a number of my colleagues, because I thought this was simply responding to a bad problem with a bad solution, and with bad procedures.

It is my very strong belief that we should not wait any longer to adopt a rational system whereby the Congress can make necessary salary adjustments for itself on a rational, above-board basis.

As you know, I proposed H.R. 9336 last September as an alternative, and I have been joined by a bipartisan coalition of about 50 cosponsors.

H.R. 9336 simply states that whenever Congress votes itself a pay raise, whether we do so by specific act or by a decision on cost-of-living increases, then that pay raise will not go into effect until the next Congress is seated.

In other words, I proposed that we require that a general election must occur between the time a salary increase is voted and the time it goes into effect.

This proposal parallels language that already exists in the constitution of my home State of Ohio. In fact, State legislatures in about 20 other States also are bound by similar constitutional or statutory provisions.

My purpose now is not to promote my legislation for any action tomorrow. Several of us tried to push it on various occasions in the past year, but the Post Office and Civil Service Committee has refused to schedule a hearing on it.

Rather, my purpose today is to remind my colleagues, and the public, that we have not yet taken any positive action to dig ourselves out of the hole we created last summer.

I do not care if we accept my specific proposal or one of the other, similar ideas that have been put forward. But I do want to note that sooner or later the Congress must adopt a rational policy regarding our pay raises, so that we do not again have to resort to "playing games" with amendments to appropriations bills, as we will tomorrow, in order to correct our legislative folly.

So, Mr. Speaker, I repeat, I will vote in favor of the expected amendment to prohibit, an automatic cost-of-living pay raise for Members of Congress during fiscal year 1977, but I will do so with regret.

LOOKING BACK AT VIETNAM

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. MURTHA. Mr. Speaker, if our foreign policy is to promote America's goals over the next decade, it is essential that we learn from our successes and mistakes of the past decade.

Certainly as time develops between the present and America's involvement in the Vietnam war, I believe it is essential that we continue to look back and judge what we did right and wrong in that conflict.

Toward that end, I would like to submit for the RECORD the following editorial from the August 9 edition of the Johnstown Tribune-Democrat:

ANOTHER LOOK AT VIETNAM WAR

When the United States was up to its ears in the horribleness of the Vietnam War, many Americans were wont to believe only those pronouncements coming from Hanoi—pronouncements generally to the effect that we were intruding on a domestic squabble, albeit a military one.

Therefore, maybe—just maybe—those same people will now listen to the words of one Gen. Van Tien Dung, North Vietnam's chief of staff. The Wall Street Journal, editorializing on the general's memoirs, noted some highly significant phrases; and those phrases decidedly put to rest the fantasy that the Vietnam War was a civil war—whether the doubters like it or not, And The Journal wraps up its opinion like this:

"The Vietnam War is better put behind us, since there were more than enough mistakes and errors in judgment to go around. But before the revisionist theory of how and why the U.S. got involved becomes official doctrine, from which no one dare dissent, it's worth mentioning that official Washington was right about one thing, at least: the Vietnam War was a war between two separate states, one of which invaded the other. And the recent unification (of North and South Vietnam) is not a sign that Saigon—pardon us, Ho Chi Minh City—is eager to become an appendage of the north. It is only a sign that aggression, like crime, sometimes pays."

The Journal, quoting from a New York Times account of the general's memoirs, notes:

"Apparently because the Communists have now essentially achieved reunification of the North and the South, Gen. Dung makes no effort to preserve earlier Communist claims that there was a separate movement in the South, which they called the National Liberation Front and the Americans termed the Viet Cong. On the contrary, Gen. Dung, who is a member of the Politburo of the Lao Dong or Workers' party, provides a vivid description of how the Politburo and the Central Military party committee, operating from what he calls 'Dragon House' in Hanoi, directed the war."

Okay. There it is. The United States did not stick its military nose into a private and civil war. This nation answered a legitimate call for help from another nation, revisionist nonsense to the contrary.

CALL FOR RESIGNATION OF JOHN CONNALLY FROM THE FOREIGN INTELLIGENCE ADVISORY BOARD

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. HARRINGTON. Mr. Speaker, for the benefit of my colleagues I am inserting in the RECORD a letter I sent to President Ford urging the removal of John Connally from the Foreign Intelligence Advisory Board. The text follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 14, 1976.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I write to urge that you request the immediate resignation of John Connally from the Foreign Intelligence Advisory Board. The conflict between Mr. Connally's public role as a member of the Board and his private role as chairman of the Citizens Alliance for Mediterranean Freedom—in which he openly advocates interference or, as he terms it, "meddling," in the internal affairs of foreign govetnments—can only be reconciled by his resignation.

In February you affirmed your commitment to a "comprehensive program" of reform of the intelligence agencies to halt documented past abuses. As part of the broader effort at reform, you expanded the membership of the Board and reappointed John Connally to it. Yet any promise of reform your action may have inspired is severely compromised by Mr. Connally's continued presence on the Board. To permit an individual who actively and professionally endorses the concept of U.S. intervention abroad to review our intelligence efforts represents a major step backwards in the concept of effective oversight.

For the Board to provide "independent, nonpartisan advice on the effectiveness of our foreign intelligence efforts," as you stressed on March 11, the members themselves must be impartial, dispassionate and objective. An individual who is devoting a portion of his private life to heading an organization whose express purpose is overt interference in the internal affairs of foreign governments can hardly be said to possess the degree of impartiality necessary to review covert interference in the affairs of these same governments by the intelligence agencies. The intelligence agencies themselves are capable and zealous advocates of their plans and programs. If the overseers and analysts are equally zealous advocates, then the oversight and review process becomes irretrievably impaired.

In a June 6 New York Times ad, John Connally announced the formation of the Citizens Alliance for Mediterranean Freedom, an activist organization that would concern itself with the "deteriorating situation in Southern Europe, the Middle East and Northern Africa." As its first order of business, Mr. Connally stated, the organization would attempt to warn Italian citizens "not to become beguiled by the unfulfilled promises of communism." To this end, Mr. Connally continued, an effort would be made to recruit "millions" of Americans to carry out a "vigorous program of activity" which would include the establishment of "communications" between "concerned Americans and their counterparts in Mediterranean nations." When asked if such activities constituted "meddling" in the internal affairs of foreign countries, Mr. Connally conceded that such action "probably is meddling" (Houston Post, May 4).

The case of Italy provides a clear illustration of the incompatibility of Mr. Connally's public and private sector roles. Last December, in briefings of congressional committees, then CIA Director William Colby reported your approval of $6 million in secret cash payments to individual anti-Communist political leaders in Italy . . . in an effort to prevent Communist gains" (New York Times, January 7). As a member of the Foreign Intelligence Advisory Board, whose purpose is to review the objectives, conduct and management of the overall national intelligence effort (Executive Order 11460), Mr. Connally would be expected to make recommendations on our intelligence efforts in Italy. But as head of a private group that is actively engaged in furthering specific political objectives in Italy, it is inconceivable that Mr. Connally would be in a position to provide the Executive Office with a detached and balanced assessment of the scope and direction of our foreign intelligence efforts in that country.

While Mr. Connally's public and private positions may not directly violate any conflict of interest statutes, his simultaneous roles as advisor and advocate contravene the spirit of public policy directed at intelligence community reform. Thus I find it clearly improper—indeed, alarming—that an individual charged with the serious responsibility of evaluation of intelligence activities should compromise this obligation by pursuing private ends through a course of action which in his own words constitutes "meddling" in the internal affairs of other countries. After a year of public debate over the need for intelligence community reform, Mr. Connally's continued presence on the Board only heightens the prevailing public skepticism about the seriousness of Executive efforts to strengthen the oversight and review process.

The history of abuses by our intelligence agencies can be directly traced to superficial or nonexistent oversight by Executive and Legislative authorities. In the interest of the reforms you affirmed earlier this year, I am taking this opportunity to urge in the strongest terms that you give this matter your immediate and most serious consideration. Clearly the only appropriate response is that you request Mr. Connally's immediate resignation from the Foreign Intelligence Advisory Board.

Yours sincerely,
MICHAEL J. HARRINGTON.

MAYOR DALEY DEPLORES PLIGHT OF CAPTIVE NATIONS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. BIAGGI. Mr. Speaker, on July 11 at the Statue of Liberty in New York, an inspiring and timely ceremony was held in honor of the captive nations of the world. Highlighting "The Bicentennial Salute to the Captive Nations," were speeches by the mayors of our two largest cities—Abraham Beame of New York and Richard Daley of Chicago. As I have many times in the past, I too was privileged to participate in what I believe was the most impressive captive nations event in many years.

Mayor Daley received a "Liberty Award" for his long-time contributions to the cause of the captive nations and peoples. In response, he declared in part—

I stand with you on behalf of the captive nations in your work for the day when all our brothers and sisters suffering under oppression are again free men and free women.

We look forward to the day when every captive nation in the world will have a statue of liberty.

I insert Mayor Daley's remarks in the RECORD at this point and commend them to my colleagues:

REMARKS BY MAYOR RICHARD DALEY OF CHICAGO

George Meany, Dr. Lev Dobriansky, chairman, National Captive Nations Committee, Georgetown University, Members and friends of the National Captive Nations Committee, fellow Americans:

I am very happy to be with you today to take part in this great Bicentennial salute to the captive nations.

It is so appropriate that this ceremony is taking place here at this unique and inspiring symbol of our country—the Statue of Liberty. Here the torch of liberty has been held high for generations of immigrants coming to our wonderful land.

We are all immigrants ourselves or the descendants of immigrants. Most of our forebearers came here with little in the sense of worldly goods, but they and we were given the gift of becoming Americans—with all of the blessings and opportunities that has meant.

Our forebearers would never want us to forget what this Statue of Liberty means—and would never want us to forget what it means not to have freedom.

In coming here today to salute the captive nations all of us are keeping faith with our heritage. We know that all nations have a right to be free—and we know there is a bond between America and all countries which seek liberty.

Captive Nations Week—and the work of the National Captive Nations Committee—are continuing reminders the United States will never let the world forget that the Captive Nations must be free.

We here today are united with the people of Eastern Europe, Asia, Cuba and captive nations everywhere in our determination that we will never rest until oppressed people have achieved the rights to which they are entitled.

It is particularly fitting that the AFL–CIO has played such an essential role in the continuing support for the aspirations of the captive nations. The men and women of America's free labor movement know there are no free labor movements in the nations under Communist domination. The role of labor in this Bicentennial salute is a tremendous tribute to George Meany and the leadership of the AFL–CIO.

And this ceremony here today is a tribute to the whole city of New York which, throughout American history, has served as the mother city for the immigrants of the world who have come to these shores.

I stand with you on behalf of the captive nations in your work for the day when all our brothers and sisters suffering under oppression are again free men and free women.

We look forward to the day when every captive nation in the world will have a Statue of Liberty.

TETON DAM

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. LUJAN. Mr. Speaker, I would like to include in the Record a brief report on the field hearings the House Interior Committee's Subcommittee on Water and Power held this weekend in Idaho concerning the failure of the Teton Dam.

The subcommittee, which has jurisdiction over the Bureau of Reclamation projects, met with Bureau officials for briefings on both Friday and Saturday past. We also inspected the damsite from the air and ground and also inspected the area downriver which suffered extensive damage as a result of the failure.

The Teton Dam is, of course, an extremely large project which was more than 3½ years in construction. It was a zoned earthfill embankment composed of five specific zones. It is important to note that Government inspectors were present at all times during the placing of the zones to see that requirements of the specifications were met.

At this moment, the Bureau of Reclamation is still seeking the specific cause of the failure, for while we know it was the result of internal erosion, the Bureau is seeking the specific cause of the erosion.

To this end the Bureau engineers are now excavating the side of the dam where they have determined the failure began. Hopefully, a definitive answer as to the exact cause of the failure will be forthcoming. That is the main concern of the subcommittee. We need to know what caused the failure to prevent any like event in the future.

In addition to meeting with Bureau engineers and reviewing the structural problems at the dam, we also inspected that area damaged by the failure and discussed what was being done by various Federal and local agencies to solve the many problems caused downriver.

I think there is a pressing need to free the river of the vast amounts of materials which were poured into the river at the time of the failure. It is necessary to get this dredging operation going as quickly as possible to avoid spring runoff flooding which is going to occur if the river is not cleared.

As for the question of whether the dam should be rebuilt, I think that is something which is properly left to the residents of the area who suffered through the disaster and who would have to foot the bill. It is probably something which should be decided through a referendum.

Putting present concerns aside, the most important issue is that of discovering the cause of the failure and making sure it doesn't happen again.

MEXICAN LAND INVASION DANGERS NOTED IN LOS ANGELES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. McDONALD. Mr. Speaker, the Los Angeles Times has at last taken cognizance of events south of the border to which we have been calling attention recently. While I do not agree with the casual attitude expressed by many of those quoted in the article, it is at least gratifying that a large-circulation American daily is beinning to note the scale and gravity of the attacks upon rural landholdings in Mexico, and the implications of them, which range from a threat to the food supply in both Mexico and the United States, to the revolution frankly desired by those who conduct—and tolerate—these invasions. The following article appeared on August 29:

THOUSANDS OF POOR INVADE MEXICO'S PRODUCE FARMS—OBSERVERS BELIEVE SITUATION IN TWO STATES COULD LEAD TO RURAL CIVIL WAR; VEGETABLES FOR UNITED STATES CURTAILED

(By Evan Maxwell)

CULIACAN, SINALO.—The rivers of northwest Mexico, the Maya, the Tamazula, the Yaqui, the Fuerte and the Sonora, wind down from the Sierra Madre to irrigate an international vegetable garden—and germinate the seeds of conflict between peasant farm workers and big landholders.

Brought under control by a series of large, earth-fill dams, the rivers now bring life to a land that was next to worthless from pre-Columbian times until less than 30 years ago.

Men still alive were the pioneers of this country—fighting a tropical climate where 110-degree heat and hurricane-spawned swamps yield disease-bearing clouds of insects and dense stands of head-high thornbush.

These pioneers endured the tropical discomforts, hacked back the thornbush and found soil that was perhaps the richest in Mexico. With water from their own irrigation systems and from their own irrigation systems and from the public works dams begun after World War II by the Mexican government, they turned the broad coastal valleys into the vegetable bin of Mexico.

Not only is it the most important single source of food for Mexico, but it also provides a large quantity of the fresh vegetables Americans consume during the winter.

Last year, according to the U.S. Department of Agriculture inspection station at Nogales, Ariz., more than 1.1 billion pounds of fresh vegetables crossed the U.S. border from Sinaloa and Sonora. That amounts to almost 60% of the produce, other than bananas, shipped into the United States in 1975.

At the height of the season, more than 300 trucks a day make the 16-hour trip from Culiacan to Nogales, where the produce is shifted to American transport lines and shipped all over the country.

But this year the flow of vegetables and other farm produce—both that bound for the United States and that bound for the population centers of Mexico—will be curtailed, some believe destroyed, by a social-political crisis with roots in Mexico's revolutionary tradition.

Modern Mexico was born of an agrarian revolution. "The campesinos (peasants) and the latifundistas (large landowners) have been struggling for centuries," said the manager of a large farm near Culiacan. "Our revolutions have always been sparked by fights over possession of the land. Now we have another one."

The situation in Sonora and Sinaloa has not yet broken down into revolution, most observers agree. But there have been incidents of violence and extreme unrest over the past six months that some feel may carry the seeds of a rural civil war, if those seeds are allowed to germinate.

Since last October, thousands of campesinos, the rural proletariat of revolutionary Mexico, have been invading the fields of proprietarios, private farmers who have banded together to hold perhaps a quarter of the land in the region and whose use of modern agribusiness methods have yielded them a disproportionate share of farm production.

The invaders, seeking possession of developed lands, have physically occupied farms, disrupting the farm routines. They have invaded in groups of 20 to 200, in what is clearly an organized campaign.

In some cases, their stays have been short, lasting only three or four weeks until they were bribed to leave by the landowners. Sometimes they occupied a property for a set period of time, say two weeks, before moving on to cause disruptions elsewhere to publicize their demands.

There have been cases, however, in which the landless campesinos took permanent possession of the land.

Although the farm invasions have been a nationwide phenomenon, the most intense and violent confrontations between campesinos and farmers have taken place in Sinaloa and Sonora.

The most serious incident took place last fall when the army was called out by Sonora Gov. Carlos Armando Biebrich, considered by many to be one of the brightest young leaders in Mexico, to clear the fields of a ranch near Ciudad Obregon.

In a bloody 10-minute battle, both sides suffered casualties. Seven of the campesinos were killed, and as a result, the federal government ousted Biebrich and replaced him with a man more in sympathy with the campesino movement.

The pitched battle of San Ignacio Rio Norte has not been repeated, but the invasions have continued, as has the resistance to them by the landowners, a wealthy and powerful group and the single most important body in the private sector of northern Mexico.

In a show of power unusual among private businessmen, the growers last November parked all their farm machinery along major highways during a three-day strike protesting what they said were officially sanctioned attempts to destroy private enterprise on the land.

They mounted extensive and expensive advertising campaigns in national newspapers, seeking to enlist support from other factions of the private sector.

Through the winter and spring and into the summer, the invasions continued. Grower sources in Culiacan say that on any given day, more than 30 properties of varying sizes are occupied.

In the past few weeks, the campesinos have broadened their campaign. Last week outside Culiacan, the leader of a farm employe union friendly to growers was kidnaped by an armed band and held for 24 hours.

The offices of El Debate, a Culiacan newspaper sympathetic to the growers, were stoned and then surrounded by a crowd of 200 campesinos intent on preventing publication. The crowd remained for two days.

And in Culiacan, already known for an extreme violence as a result of internecine battles between rival narcotics traffickers, there were reports last week that campesino groups had been planning torchlight parades through wealthy neighborhoods to intimidate growers and other members of the upper class.

These seeds of ferment and violence in Culiacan and elsewhere have fallen on ground that is always fertile—the longstanding, almost eternal, tension between those who have land and those who do not.

Other volatile elements have been added to the situation this year, not the least of which is the process that is perhaps the most important in Mexican politics—the transfer of power from an old president to a new one every six years.

Wednesday President Luis Echeverria is to give his final formal address to the Mexican National Congress. The speech, or "informa," will, according to the president's spokesmen, recap the highlights of Echeverria's six years in power and will make some "suggestions" about the possible course of his successor, José Lopez Portillo.

Echeverria's final "informa" will be very closely watched by the northwest landowners, by the leaders of the campesinos and by others. "We expect that speech to be very important," said a leader of Mexico's private sector. "That may tell us whether the private landowners and all of the private sector are really in trouble."

Echeverria is blamed by the landowners for many, if not most, of their problems. His action in ousting the Sonoran governor, Biebrich, last October was seen as a signal to the campesinos that their cause and their method—invasion—had government support.

In the interim, Echeverria has done little about the conflict, the growers say. In fact, many of his government's actions have increased the difficulty, they say.

The Secretariat of Agrarian Reform has, for instance, called into question the constitutionality of ownership of more than 20% of the privately held land.

"In March, we were told there was no legal problem with our title to the land," said one worried grower. "Then in July, we were told we held the land illegally, that the government would confiscate it."

The order, issued July 14, pertains to 40,000 hectares (one hectare equals 2.47 acres) of prime irrigated land in Sinaloa and 80,000 hectares, half of it irrigated, in Sonora.

According to an American familiar with Mexican agrarian law, the July 14, order, made by Agrarian Reform Secretary Felix Barra Garcia was based on a particular reading of the Mexican Constitution.

The constitution states that every man is entitled to 100 hectares of land; no person could own more than that. The law was an outgrowth of the revolutionary Mexican goal—to break up the vast land holdings of the wealthy latifundistas.

Barra Garcia's order held that the constitution meant to prohibit the holding of more than 100 hectares by a single family group or any group acting in concert. That view is challenged by many others, including those who farm large holdings in the northwest. They maintain that it is not illegal for family groups to hold more than 100 hectares, each parcel in the name of a family member.

The distinction is crucial to those privately held operations in which family members and others have joined to form varying types of cooperatives and to apply modern technology, machinery and business methods to the overall management of the land, usually in intensive farming of vegetables for export.

"My family came here in the 1940s, fought the land, and built their farms," said one American-educated ranch manager. "Now the government tells me that because my father's land is being farmed in cooperation with his brother's and my brother's and mine and others—because we all grow vegetables and pack them in the same packinghouse, because of that we are the new latifundistas.

"Latifundista is the worst kind of insult you can call a Mexican farmer, but that is what they are calling us, and they are taking away our land because of it."

Most dispassionate observers agree that the constitutional system of land ownership has been abused to some degree, particularly by "name-borrowers" who secure land by encouraging friends and distant relatives to sign deeds and then allow the name-borrower to keep effective use, and nearly all the profits, from the land.

But those same observers say that the abuses have not been nearly as widespread as indicated by the Secretariat of Agrarian Reform and by the statements of Echeverria, who has called numerous times in the past six months for destruction of the latifundias and the dispersion of their lands among the campesinos.

Accomplishment of this would, according to the large growers, mean that the privately held land now in labor-intensive crops like vegetables would revert to 100-hectare fields of wheat, soybeans or less-intensive crops.

"The ejiditario (homesteader) farming a small parcel can't afford the large capital outlay and doesn't have the know-how for the export crops," said one grower from Ciudad Obregon.

"The vegetable crops mean many thousands of jobs for Mexico and millions of dollars in income from foreign trade, but somehow the secretary for agrarian reform and Echeverria don't seem to care about that. All they want is land for the campesinos," he said.

Other views are less critical of Echeverria and Barra Garcia. "This whole process is characteristic of the wind-up of an administration," said one observer in Mexico City. "Every president wants to go out a national hero by reviving the old revolutionary ideals—land for the masses—one more time.

"So far the growers have been treated to a great deal of nasty rhetoric from Echeverria. But they have not really been hurt too badly."

That view is echoed by others who consider the invasion and turmoil perfectly predictable in the process of Mexican politics. There may be more pressure on the private landholders at the end of Echeverria's term, they say, but that too is explainable.

"Because farming has been so successful in Sinaloa and Sonora, the population growth there has been even higher than in the rest of Mexico, as much as 4% a year, as more people try to go there," said one diplomatic source.

Other economic factors have intervened. A miserable world market for cotton has resulted in fivefold cutbacks in plantings in southern Sonora.

"Normally, perhaps 50,000 workers would be involved in that crop for four to six months" said an American who is familiar with the situation. "They come from all over Mexico, work for six months and then go home with their savings to live the rest of the year.

"Because of the cutbacks in planting, many of them came but could not find work. They had no way of getting home, so they are stranded in Sonora. Those stranded workers have been the shock troops of the invasions because they are desperate."

Within this view, Echeverria's rhetoric, so discomforting to the private landholders, has been nothing more than a part of the necessary political process of absorbing the pressure generated by large, hopeless masses of campesinos.

It is a process that comes to a head each six years and has always in the past, resulted in the granting of some concessions to the campesino forces, concessions that even some growers agree are necessary.

"This is a country that has been built on the backs of the campesinos," said one Culiacan businessman who is in general sympathy with the growers.

"There are 30 million small farmers in the country who have no water, no electricity; they, too, deserve something. All Echeverria is trying to do is to see that they get it."

But there are other, less moderate views of what is going on in Sinaloa and Sonora. much more threatened by the current events of the past six months, "When the invasions first started, many of my friends said it was just the same old thing, that it would end up with the growers losing 20,000 hectares to the campesinos and then all would be quiet again.

"But these friends no longer feel the same way. This time things are different."

He said the situation is different because of the intensity of the pressure for land when there is no unoccupied, arable land to give, and because the private landholders feel much more threatened by the current events than they have in previous years.

"They have begun to feel that the government is out after all their land, not just a small part of it. And some of them feel very distinctly that the agrarian reform problem is only part of a larger campaign against the entire private sector—commerce and industry as well as agriculture."

The belief that the private landowners are the standard-bearers of the private sector is common among growers. One grower from Los Mochis said, "Echeverria is out to do away with us. He and some forces in the government are moving toward the left with great speed. When they are done with us, they will take all the other forms of private enterprise."

That sentiment may be extreme, particularly in ascribing radical leftist aspirations to Echeverria.

To those of other political persuasions, Echeverria's actions on the land question, taken in conjunction with moves to solidify his own personal power base even as his presidency draws to an official close, signal an attempt to retain a large degree of control in his successor's administration.

"He has packed the congress and some of the unions with men loyal to him," one Mexico City observer said.

"Lopez Portillo is going to have a very rough time weeding out the government," he said, "a much rougher time than previous presidents. He starts with many strikes against him."

Lopez Portillo has been relatively quiet on the land question in the months since he was named as the candidate for president by PRI, Mexico's dominant political party.

One of the few public statements on the matter, issued this month, indicated to growers that he might be more favorably disposed toward their position than Echeverria had been.

The statement said, in effect, that the old rhetoric about land ownership should be soft-pedaled and that the nation should get on with the important job of agricultural production.

The growers seemed to take the statement as a sign that Lopez Portillo would sanction their continued existence on grounds that they had shown themselves to be highly productive members of the agricultural sector, more efficient certainly than the ejidos, small communal farms that result from expropriation of private land.

But Lopez Portillo's statements have not calmed all the fears of the private landholders of Sonora and Sinaloa. The invasions continue unabated, and the July 14 order to turn over the 120,000 acres of land, though stayed by the Mexican courts for the present, still hangs over the as-yet-unplanted fields of the northwest.

One grower said, "We must be able to clear up this question of private ownership if we are to continue to farm using the methods we have developed.

"We feel we have obtained our land lawfully and that we should be able to organize into cooperatives to farm and to market our produce. We have to be allowed to form economically efficient units of production.

"As long as this question is unresolved, it will take a lot of guts to plant crops this year."

ARTHRITIS, DIABETES, AND DIGESTIVE DISEASES AMENDMENTS OF 1976

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. ROGERS. Mr. Speaker, today I was joined by 11 other members of the Subcommittee on Health and the Environment in introducing the Arthritis, Diabetes, and Digestive Diseases Amendments of 1976.

The proposed legislation would revise and extend the program and authorizations of appropriations under title IV of the Public Health Service Act, relating to arthritis, diabetes, and digestive diseases for 3 years through fiscal year 1980.

I am inserting herewith a summary of the background and an explanation of the proposed legislation:

BACKGROUND

ARTHRITIS

On January 4, 1975, the Arthritis Act of 1974 was enacted (P. L. 93-640). This law authorized programs of support for the development, modernization, and operation of centers for arthritis research, screening, detection, diagnosis, prevention, control, treatment, education and rehabilitation relating to arthritis. For support of arthritis centers, this law authorized to be appropriated $11 million for FY 1975, $13 million for FY 1976, and $15 million for FY 1977. Subsequently, Title VI of P. L. 94-278 revised the authorization levels for FY 1976 and FY 1977 to read $15 million and $20 million, respectively. P. L. 94-278 also made a number of purely technical and clarifying amendments to the Arthritis Act.

The Arthritis Act of 1974 also authorized the establishment and support of demonstration projects for the development and demonstration of methods for arthritis, screening detection, prevention, and referral and for the dissemination of these methods to the health and allied health professions and directed the Secretary to establish the Arthritis Screening and Detection Data Bank for the collection, storage, analysis, retrieval and dissemination of certain data related to arthritis. For both of these purposes this law authorized to be appropriated $2 million for FY 1975, $3 million for FY 1976, and $4 million for FY 1977.

In addition, the Arthritis Act directed the establishment of an Arthritis Coordinating Committee, composed of the representatives of the various Federal departments and agencies involved in research, health services, or rehabilitation programs affecting arthritis. This law directed the Committee to meet at least four times a year and to prepare an annual report detailing its work in seeking to improve coordination of departmental and interdepartmental activities relating to arthritis during the preceding year.

Lastly, the Arthritis Act of 1974, established the position of Associate Director of Arthritis and Related Musculoskeletal Diseases in the National Institute of Arthritis, Metabolism and Digestive Diseases, and created the National Commission on Arthritis and Related Musculoskeletal Diseases to develop a long-range plan to combat arthritis and make its final report to Congress and the Secretary this year. Under section 16 of S. 2548, the Senate-passed EMS legislation, this Commission would cease to exist on December 3, 1976, if the provision is accepted by the House. For further reference see: sections 434, 437, 438, and 439 of the Public Health Service Act (42 U.S.C. 289c-1(b) and (e), 289c-4, 289c-5, and 289c-6); P. L. 93-640; and P. L. 94-278.

DIABETES

On July 23, 1974, the National Diabetes Mellitus Research and Education Act was enacted (P. L. 93-354). This law authorized programs of support for the development and expansion of centers for research and training in diabetes. For support of diabetes centers the law authorized to be appropriated $8 million for FY 1975, $12 million for FY 1976, and $20 million for FY 1977.

In addition, this law directed the establishment of a Diabetes Mellitus Coordinating Committee, composed of representatives of the various Institutes in the National Institutes of Health and other Federal departments and agencies involved in research and other programs affecting diabetes. This law directed the Committee to prepare an annual report for the Director of NIH detailing its work in carrying out its activities in coordinating the diabetes activities of NIH and other Federal departments and agencies.

Lastly, the National Diabetes Mellitus Research Act established the position of Associate Director for Diabetes in the National Institute of Arthritis, Metabolism and Digestive Diseases and created the National Commisison on Diabetes to formulate a long-range plan to combat diabetes and make its final report to Congress this year. Under Title VII of P. L. 94-278, this Commission shall cease to exist after September 30, 1976. For further reference see: sections 434, 435, and 436 of the Public Health Service Act (42 U.S.C. 289c-1(d), 289c-2, and 289c-3); P. L. 93-354; and P. L. 94-278.

DIGESTIVE DISEASES

On May 19, 1972 legislation was enacted to designate the Research Institute on Arthritis, Rheumatism and Metabolic Diseases in NIH as the National Institute of Arthritis, Metabolism and Digestive Diseases (P.L. 92-305). This law also established the position of Associate Director for Digestive Diseases and a committee within the NIAMDD Advisory Council to advise the Director of the Institute respecting the Institute's activities concerning digestive diseases and to review and make recommendations respecting applications for research projects concerning digestive diseases. In addition, this law authorized an intramural research program for digestive diseases and extramural programs for research and training in digestive diseases. For further reference see: section 434 of the Public Health Service Act (42 U.S.C. 289c-1(a) (b) and (c)); and P.L. 92-305.

EXPLANATION OF PROPOSED LEGISLATION

The proposed legislation (Arthritis, Diabetes and Digestive Disease Amendments of 1976) would amend Title IV of the Public Health Service Act (hereinafter referred to as "the Act"), as follows:

TITLE I—ARTHRITIS AND RELATED MUSCULOSKELETAL DISEASES

1. Eliminates the function of arthritis "prevention" under section 438(a) of the Act for arthritis demonstration projects since the state-of-the-art in arthritis has not yet advanced enough to demonstrate "prevention".

2. Amends section 438(b) of the Act to require arthritis demonstration projects to include programs which emphasize the development and demonstration of new and improved methods of public education with respect to arthritis.

3. Revises section 438(c) of the Act to eliminate the requirement that an arthritis data bank be established and to require the establishment of an arthritis data system which is more technically and economically feasible.

4. Revises section 438(c) of the Act to broaden the scope of data that may be collected, stored, analyzed, retrieved and disseminated by the arthritis data system.

5. Separates the authorizations of appropriations for arthritis demonstration projects and the arthritis data system under section 438(d) of the Act; authorizes appropriations of $3 million for FY 1978, $4 Million for FY 1979, and $5 million for FY 1980 for arthritis demonstration projects and authorizes appropriations of $1 million for FY 1978, $1.25 million for FY 1979, and $1.50 million for FY 1980 for the arthritis data system.

6. Requires arthritis centers, under section 439 of the Act, to conduct training programs for physicians and other health and allied professionals in arthritis research.

7. Revises the three-grant limitation for

arthritis centers under section 439(f) of the Act to permit support of a center for a period of not to exceed three years which can be extended for additional three-year periods by the Director of the National Institute of Arthritis, Metabolism and Digestive Diseases after review of the operations of a center by an appropriate scientific review group.

8. Extends the authorizations of appropriations for arthritis centers for three years at levels of $18.7 million for FY 1978, $19 million for FY 1979, and $20 million for FY 1980.

9. Adds a new section 440 to the Act which requires the Secretary of Health, Education and Welfare to establish a 22-member, ongoing "National Arthritis Advisory Board" within 90 days after enactment.

10. Directs that the Board's "appointed" membership be composed of the following:

(a) Eight individuals who are scientists, physicians and other health professionals of which 3 shall be clinical rheumatologists, 2 shall be orthopedic surgeons, 2 shall be rheumatology investigators, and 1 shall be an allied health professional;

(b) Six individuals with an interest in arthritis who as a group have knowledge and experience in the fields of medical education, nursing, community program development, health education, data systems and public information,

(c) one individual who is also a member of the National Arthritis, Metabolism and Digestive Diseases Advisory Council and who is an expert in arthritis, and

(d) four public members of which at least two shall be persons who have arthritis and one shall be the parent of a child who has arthritis.

11. Directs that the Board's ex-officio "nonvoting" membership be composed of the following persons, or their designees—

(a) the Assistant Secretary of Health;

(b) the Director of the National Institutes of Health, and,

(c) the Associate Director of Arthritis of NIAMDD.

12. Requires the Board to review and evaluate the implementation of the Arthritis Plan formulated pursuant to the National Arthritis Act of 1974 and to advise and make recommendations to the Secretary with respect to such plan and the guidelines, policies, and procedures of Federal programs relating to arthritis.

13. Requires the Board to hold regular quarterly meetings.

14. Requires the Board to submit to the Secretary and the Congress (one year after its establishment and each year thereafter) a report which

(a) describes its activities for the year for which the report is made,

(b) summarizes expenditures made by the Federal government for arthritis for such year,

(c) describes and evaluates the progress made in such year in arthritis research, treatment, education, and training and

(d) which contains any recommendations by the Board for changes in the Arthritis Plan.

15. Requires the Secretary to provide the Board with such administrative support services and facilities, professional and clerical staff, information and the services of such consultants as the Secretary determines to be necessary for the Board in carrying out its duties.

16. Includes the customary provisions for the administration of the Board and for the compensation and expenses of Board members while in the performance of their duties and services as Board members.

17. Waives the two-year limit upon the duration of the existence of the Board to be consistent with section 14 of the Federal Advisory Committee Act.

18. Authorizes appropriations of $100,000 for FY 1978 and such sums as may be necessary for each of the next two fiscal years for the Board.

TITLE II—DIABETES

1. Directs the Secretary, within 90 days after the date of enactment to establish a 19-member, ongoing National Diabetes Advisory Board.

2. Requires that the Board be composed of the following ex-officio members or their designees:

(a) the Assistant Secretary for Health,

(b) the Director of the National Institutes of Health,

(c) the Director of the National Institutes of Arthritis, Metabolism and Digestive diseases,

(d) the Director of the Center for Disease Control,

(e) the Administrator of the Health Services Administration,

(f) the Administrator of the Health Resources Administration and

(g) the Associate Director for Diabetes of the National Institute of Arthritis, Metabolism and Digestive Diseases.

3. Permits ex-officio members of the Board to vote on matters before the Board meetings but prohibits designees of such members from voting on Board matters.

4. Requires that the Board be composed of the following members appointed by the Secretary:

(a) seven individuals who are health and allied health professionals or scientists representing the various specialties and disciplines involved with diabetes mellitus and related endocrine and metabolic diseases, and

(b) five members from the general public of which at least one shall be a person with diabetes and two shall be persons who are each a parent of a diabetic child.

5. Requires the Secretary to provide the Board with an executive director, assistant director and with such administrative support services and facilities, additional professional and clerical staff, information, and the services of such consultants as the Secretary determines is necessary for the Board to carry out its functions.

6. Requires the Secretary to consult with and consider the recommendations of the Board with respect to staff, contracts, and other arrangements for the Board.

7. Requires the Board to review, evaluate and advise with respect to the "Diabetes Plan" formulated by the National Commission on Diabetes under the National Diabetes Mellitus Research and Education Act and to recommend additional measures and legislative proposals it finds necessary for the successful implementation of the long-range plan to combat diabetes and the most effective utilization and organization of national diabetes resources.

8. Requires the Commission to:

(a) conduct a comprehensive study of the present state of knowledge of the incidence, duration, morbidity, and social and economic impact of digestive diseases,

(b) evaluate public and private facilities and resources for the diagnosis, prevention, and treatment of, and research in, such diseases,

(c) identify programs in which, and the means by which, improvement in the management of digestive diseases can be accomplished, and

(d) develop and recommend a long-range plan for the use and organization of national resources to effectively deal with digestive diseases based upon the study, evaluation, and identification made pursuant to (a), (b) and (c).

9. Requires Federal entities administering health programs and activities related to digestive diseases to assist the Commission in making its study, evaluation and identification.

10. Specifies in detail the elements which the long-range plan respecting digestive diseases, must encompass.

11. Requires the Commission to recommend the estimated expenditures necessary for each of the Institutes within the National Institutes of Health to carry out its activities related to digestive diseases.

12. Require the Commission to publish and transmit directly to Congress a final report within 18 months after its first meeting and requires the report to contain:

(a) the long-range plan respecting digestive diseases;

(b) the expenditure estimates for digestive diseases activities by each of the Institutes within the National Institutes of Health and

(c) any recommendations of the Commission for legislation.

13. Provides that the Commission will cease to exist on the 30th day following the date of submission of its final report to Congress.

14. Includes other customary provisions for the administration of the Commission and for the compensation and expenses of the Commission members while in the performance of their duties and services as Commission members.

15. Authorizes appropriations of $1,500,000 for the purposes of carrying out the activities of the Commission.

16. Provides for a new section 440A of the Act which requires the Secretary to establish a Coordinating Committee for Digestive Diseases to be composed of the following members or their designated representatives:

(a) the Directors of each of the Institutes of the National Institutes of Health involved in digestive disease research.

TITLE III—DIGESTIVE DISEASES

1. Directs the Secretary, within 60 days after enactment, to establish a 23-member National Commission on Digestive Diseases.

2. Directs that the Commission's appointed membership be composed of the following:

(a) ten individuals who are scientists, physicians, and other health professionals of which two shall be gastroenterologists, one shall be a surgeon, one shall be an expert in liver disease, one shall be an epidemiologist, one shall be an allied health professional and two shall be basic biomedical scientists,

(b) four members from the general public of whom at least two shall have personal or close family experience with digestive diseases, and

(c) one member of the National Institute of Arthritis, Metabolism and Digestive Diseases Advisory Council whose primary interest is in the field of digestive diseases.

3. Designates as ex-officio members of the Commission the following or their designees:

(a) the Director of the National Institutes of Health,

(b) the Director of the National Institute of Arthritis, Metabolism and Digestive Diseases,

(c) the Directors of the National Institute of Allergy and Infectious Diseases, the National Cancer Institute and the National Institute of General Medical Sciences,

(d) the Associate Director for Digestive Diseases and Nutrition of the National Institute of Arthritis, Metabolism and Digestive Diseases,

(e) the Director of the Center for Disease Control, and

(f) the Chief Medical Officer of the Veterans' Administration.

4. Requires the Commission to meet at least three times and at the call of its chairperson who must be an appointed member of the Commission and who is selected by the members of the Commission.

5. Authorizes the Commission to hold hearings, take testimony, and sit and act at such time and places as it deems advisable.

6. Authorizes the Commission to appoint and fix the pay of an executive secretary, consistent with Federal laws and regulations governing such competitive appointments and public employee compensation.

7. Requires the Secretary to provide the Commission with such additional professional and clerical staff, such information, and the services of such consultants as the Secretary determines to be necessary for the Commission to carry out its functions effectively.

8. Authorizes the Board to collect data and conduct or sponsor conferences, workshops and related activities and to establish working committees composed of Board members and non-member consultants as it deems advisable and necessary to carry out its functions.

9. Requires the Board to hold regular quarterly meetings and to submit to the President and to the Congress an annual report which:

(a) describes the Board activities for the prior year,

(b) describes and evaluates the progress made during such year in diabetes research, treatment, and education with reference to the long-range diabetes plan,

(c) describes the Board's proposed activities for the next year,

(d) includes an analysis of current expenditures and suggests recommended expenditures for the forthcoming fiscal year for diabetes related activities of the Federal government, and

(e) discusses recommended changes in the long-range plan to combat diabetes mellitus necessitated by developments in the field.

10. Waives the two-year limit upon the duration of the existence of the Board to be consistent with section 14 of the Federal Advisory Committee Act.

11. Authorizes to be appropriated $500,000 for FY 1978 and such sums as may be necessary for each of the next two fiscal years for the Board to carry out its functions and activities.

12. Includes other customary provisions for the administration of the Board and for the compensation and expenses of Board members while in the performance of their duties and services as Board members.

13. Extends the authorizations of appropriations for diabetes research and training centers, under section 435 of the Act, for three fiscal years and authorizes $12 million for fiscal year 1978, $20 million for FY 1979, and $20 million for FY 1980 for this purpose.

(a) the head of the Alcohol, Drug Abuse and Mental Health Administration,

(b) the head of the National Institute of Occupational Safety and Health,

(c) the Commissioner of the Food and Drug Administration,

(d) the head of the Veterans' Administration,

(e) the head of the Center for Disease Control,

(f) the head of the Department of Defense,

(g) the head of the Department of Agriculture,

(h) the head of the Health Services Administration,

(i) the head of the Health Resources Administration,

(j) the head of the Social Security Administration, and

(k) the head of the National Research Council of the National Institute of Medicine.

17. Provides that the Coordinating Committee shall be chaired by the Director of the National Institute of Arthritis, Metabolism and Digestive Diseases and that the Associate Director for Digestive Diseases and Nutrition shall serve as vice-chairman.

18. Requires the Coordinating Committee to meet at the call of the Chairman and not less than three times a year.

19. Requires the Coordinating Committee to be responsible for the coordination of the activities of the entities represented on the Committee respecting digestive diseases.

20. Requires the Coordinating Committee to submit to the Secretary an annual report detailing its activities.

GUN CONTROL: GOVERNMENT INTERFERENCE IN THE MARKETPLACE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. PAUL. Mr. President, recently the Washington newspaper, Newsworks, featured an article on gun control that is unusual in its approach. Beginning with the premise that gun control is in fact an interference by the Government in the free market, the article asks the question, "Who stands to benefit from such an interference"? And the answer, unsurprisingly enough, comes back clearly: the big gun manufacturers. Just as the 1968 gun control law reduced competition for the gun manufacturers by outlawing the mail order sale of guns, so the current gun control proposals would further eliminate the competition for the major gun manufacturers by outlawing the so-called "Saturday Night Specials," that is, the inexpensive handguns that the poor people can afford. As gun control laws become more restrictive, the price of both legal and illegal guns increases, and the ones who will benefit from that are the manufacturers of guns and the blackmarketeers who defy the law and sell them.

The article follows:

Follow the Money: The Real Big Guns Behind Gun Control

(By John Aquilino)

The Great American Gun Control Debate is perhaps the first issue since Vietnam to polarize the nation into two hostile camps, with each claiming a lock on God, country and right reason.

On one side are the pro-gunners, who see the movement afoot to disarm America as a fundamental threat to the Constitution and the Rights of Man. They are portrayed in the anti-gun press as beer-swilling, potbellied Bambi-killers with little more brain matter than a slightly rotted potato.

On the other side are the anti-gunners, who number among their ranks the Eastern liberal press, CBS, nearly every bearer of a Harvard law degree, Cleveland Amory, Mary Tyler Moore, and Robert Redford.

Both sides agree that the nation must rid itself of crime. But neither agrees on how that is to be done. Meanwhile, certain members of Congress are offering National Handgun Control legislation as an instant antidote.

But is it? In fact, just what effect will national handgun legislation have?

A close examination of the Federal Firearms Act of 1976, now pending before the House Subcommittee on Crime, shows that one measurable impact it and similar bills will have is the elimination of some 30 or 34 firearms manufacturers—and a considerable purse-fattening of the remaining four. In short, the real beneficiary of this particular bit of federal legislation is Big Business—which means the Big Four handgun manufacturers—Colt, Smith & Wesson, Sturm-Ruger, and High Standard.

Colt Firearms, which accounts for but five percent of Colt Industries' revenues, is a 71-million-dollar-a-year business. Colt's firearms production is divided 50–50 between military and non-military markets. And its non-military market is further subdivided into the sporting market and police markets. Just how Colt's non-military business breaks down between the two is not possible to determine. But it's an accepted rule of thumb that most law enforcement agencies in this country issue either Colt or Smith & Wesson sidearms.

Smith & Wesson, like Colt, is no slouch when it comes to making bucks. A subsidiary of the Bangor-Punta conglomerate, Smith & Wesson does 66 million dollars' worth of business annually. It claims 25 percent of its handguns are shipped overseas, while 48 of the nation's 50 state police departments pack Smith & Wesson revolvers.

Sturm-Ruger, owned largely by the Ruger family, is a 34-million-dollar business that also sells handguns and carbines to the military and police both here and abroad.

(On High Standard, the fourth big gunmaker, information was not available.)

Among themselves the Big Four control between 55 and 70 percent of the domestic non-police, non-military handgun market.

Since the Gun Control Act of 1968, the trend in anti-gun legislation has been toward the gradual elimination of privately owned guns. And despite protestations of the gun lobby to the contrary, the next step on both the local and federal levels will be an outright ban and confiscation of handguns. (Already the staff of the House Subcommittee on Crime has devised a two-year income-tax-break plan for reimbursing the public for its firearms confiscated under future legislation. It is estimated that the payback scheme, incidentally, would cost Uncle Sam some two-and-a-half to three billion dollars.

The effect of this incremental elimination on the firearms industry is simple: the majors would be in, the indepedents out.

Under its present form—that is, free from the highly controversial Russo Amendment, which would have banned as "Saturday Night Specials" some 75 percent of all handguns (including Dirty Harry's gargantuan 14-inch .44 magnum Smith & Wesson hand cannon)—the Federal Firearms Act of 1976 (H.R. 11193) now before the House is perfectly acceptable to the major handgun manufacturers. Their few handguns affected would need only different barrels or slight retooling. And the revised Saturday Night Special proviso "would not have any effect on us because we don't make that type of gun," said Colt's Public Relations Vice President, John Campbell. It likewise will have little effect on Smith & Wesson, Sturm-Ruger, or High Standard. But H.R. 11193's effect on the rest of the industry would be devastating. Most small manufacturers would lose from 50 to 100 percent of their *product line.*

In short, "we'd be out of business," said James Bowers of Bowers Firearms. So, too, would be Dan Wesson, Sterling Arms, Charter Arms, and so on down the line.

Since they've nothing to lose and everything to gain, it stands to reason the Big Four would push for "acceptable" Saturday Night Special laws. And push they have.

During the final days of eight months of hearings on gun control held by the House Subcommittee on Crime, Ronald Gainer, acting director of the Department of Justice's Office of Planning and Policy, had an interesting exchange with the chairman, John Conyers, Jr. (D-Mich.).

Conyers asked Gainer if the "reputable" gun manufacturers—Colt, Smith & Wesson, Sturm-Ruger and High Standard—were "in on" formulation of the legislation (HR 9022) then under discussion. Gainer said he had met with representatives of these companies. He said the discussions were *at the companies' request* and that they had "indicated a great willingness to assist the Department of the Treasury in attempting to define what is meant by that colloquialism (*Saturday Night Special*)."

Another interesting bit of voluntary cooperation between the major manufacturers and federal folk had occurred six months earlier.

In April 1975, Conyers' House Subcommittee on Crime sent letters of inquiry to the country's 34 federally licensed handgun manufacturers. The letter asked 21 questions on production details the Subcommittee felt would be helpful in "its evaluation of existing law."

On the surface, such action appears innocent enough. After all, in 1972 the Subcommittee then chaired by Emanuel Celler had sent virtually the same letter. This time, however, certain embellishments in it raised the hackles of the majority of independent manufacturers even more. First, the information sought was highly confidential (as it was in 1972); any leaks to competitors "would play hell with my business" as one independent firm's spokesman put it. And according to Timothy Hart of Conyers' Subcommittee, the Bureau of Alcohol, Tobacco and Firearms (ATF) agreed with the manufacturers. The Subcommittee had originally sought the information from ATF but was told such data, supplied to ATF on a voluntary basis by the manufacturers, constituted "industrial intelligence" and therefore could not be released.

Hart and the Subcommittee claimed quite the opposite. But the Subcommittee "decided to go to the manufacturers rather than fight" ATF over the matter. Hart said the Subcommittee could have obtained the ATF statistics but that it would have meant going to Conyers for a "signed opinion"—a formality Hart characterized as "nonsense."

After 23 companies balked at detailing specifics of their businesses, they received two follow-up letters—one from Conyers' Subcommittee and one from the Sporting Arms and Ammunition Manufacturers Institute (SAAMI). The Conyers letter informed the reluctant manufacturers that their names had been forwarded to federal investigators to determine if they were in violation of the 1968 Gun Control Act. The SAAMI letter contained a copy of Conyers' first letter (in case the manufacturers' copy had been lost in the mail) and urged full cooperation with the Conyers Subcommittee. It closed with the statement, "For SAAMI, and its member-companies that have already submitted the information asked of them, I can only add that it seems a matter of prudence and good judgment serving the broadest interests of an (sic) industry to cooperate. . . ."

What's more interesting about the SAAMI letter is that SAAMI is the trade association of the major firearms manufacturers in the nation; members include Colt, Sturm, Ruger, and High Standard as well as the big long-gun makers such as Remington, Winchester, and Savage.

Of course, no one would dare suggest that such reputable firms might have ulterior motives behind their eagerness to aid the federal lawsmiths.

No one, that is, who is unfamiliar with the evolution of the Gun Control Act of 1968.

Prior to 1963 and the assassination of John Kennedy, the American firearms industry, including both long gun and handgun manufacturers, tried no less than twelve times to freeze out military-surplus importers, mail-order distributors, and foreign manufacturers whose guns were cheaper (in price, not in quality). They had already tried claiming economic hardship; this was doomed as too honest an approach. They had tried claiming the gun-control legislation was needed for national defense; this was an excuse so lame that even the gun industry's main man in Congress, then-Senator Tom Dodd of Connecticut, couldn't peddle it with a straight face.

Then, in 1963, as Robert Sherrill points out in his book *Saturday Night Special*, New England's gunmakers and Congress discovered crime—but not, curiously enough, "until they needed it."

The year 1963 was the year crime was first linked with efforts to gain more restrictive federal gun legislation. Such legislation was to be "restrictive" only in the sense of preserving the American market in both long guns and handguns for American manufacturers.

Crime, coupled with the rash of political assassinations that seemed to be the national pastime from 1963 to 1968, proved just the ticket the gun industry needed. Within weeks of the assassinations of RFK and Martin Luther King, Jr., the Gun Control Act of 1968 was rushed into law and the American firearms industry sat fat, happy, and protected against bothersome competition.

A year later, Winchester-Western Vice President W. E. Talley was quoted as saying, "Elimination of mail-order sales as we know them and the restriction that ammunition and firearms must be sold only by licensed dealers increases the dealers' share of the market considerably.

"In addition to this, the drying up of the military-surplus market will permit the local dealer to capture this market with new merchandise at better profit levels."

The effect of gun control on the American handgun industry might be tolerated if, and only if, such legislation actually proved effective in stemming the tide of crime. But two recent studies involving England's half-century without guns, Switzerland's national fascination with guns, and America's decade of experimenting with its version of gun control, as a panacea to the nation's crime problem, is indeed a cruel hoax conjured by the gun industry, evangelized by unscrupulous or just plain dumb politicians, and perpetrated by a careless press. The studies, one by the University of Wisconsin and one by Cambridge University, concluded that peaceful societies do not need anti-handgun legislation, and violent societies (like the US) do not benefit from gun control at all. The Wisconsin study went on to say, "Gun control laws have no individual or collective effect in reducing the rate of violent crime."

Likewise the contention that, since most murders are spontaneous passion slayings of friends or loved ones, ridding private citizens of handguns would reduce the murder rate falls flat, upon close scrutiny. A "gun murder profile" puzzled together by the Senate Subcommittee on Juvenile Delinquency from 125 biographies of DC murder defendants sheds a little more light on the matter. Granted that 81 percent of the victims were "wives or relatives or friends", and that of that number, 88 percent were killed during a lovers' quarrel or drunken brawl. But in nearly all cases, the murderer "had been piling up a criminal record for ten years," including previous arrests for serious crimes and crimes of violence—hardly your average law-abiding citizen. Further, the study points out the findings in DC were consistent with similar statistics for 120 other US cities.

Still, regardless of whether HR 11193 passes the next session of Congress, the Big Four handgun manufacturers will survive handily. If the 1968 act remains the law of the land, they will maintain their command over the "civilian" market. If HR 11193 becomes law, they will fall heir to the entire civilian market. And if, as is being predicted, in ten years private ownership of handguns is outlawed, at least three of the Big Four will still be around merrily filling orders for the military, police, and foreign export markets they now monopolize.

What's most interesting about the (intentionally or accidentally) federally orchestrated consolidation of the Ameriacn handgun industry is that the small manufacturers recognize what's happening, yet refuse to believe it.

Said James Bowers, President of Bowers Firearms, "Perhaps I'm just overly naive. I don't think they (the federal government and the major manufacturers) would do that. I would hate to think that way." NW

LIMITING SST POLLUTION EMISSIONS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. SCHEUER. Mr. Speaker, on August 16, 1976, Environmental Protection Agency, EPA, Administrator Russell E. Train promulgated standards for the emission of air pollutants from supersonic, SST, aircraft. In a press release issued on that date EPA stated:

> The new emission levels will still be about four times higher than comparable subsonic engines meeting EPA standards in 1980.

Such emission levels are unacceptable, especially to those who live in and around airports which will be servicing SST's.

Accordingly, I have redrafted my amendment to section 206 which I previously published in the Record. My new amendment while substantially the same as the old one would require the repromulgation of SST emission standards based on certain criteria. The test of the amendment follows:

AMENDMENT TO H.R. 10498, AS REPORTED OFFERED BY MR. SCHEUER

Page 278, strike out line 6 and all that follows down through line 13 and insert in lieu thereof the following:

"(4) In the case of nonmilitary supersonic aircraft or nonmilitary supersonic aircraft engines manufactured before January 1, 1979, regulations under this section shall contain emission standards which reflect the degree of emission limitation achievable through the application of the best system of emission reduction which the Administrator determines to be available upon the effective date of such standards. In the case of any such aircraft or engine manufactured on or after January 1, 1979, such regulations shall contain emission standards which require a level of emission reduction for each air pollutant which is no less stringent than the level permitted under the least stringent standard for such pollutant applicable to any class or category of subsonic aircraft or aircraft engines. Any regulations under this section applicable to nonmilitary supersonic aircraft or nonmilitary supersonic aircraft engines which were promulgated before the date of enactment of this paragraph shall be revised (after fulfillment of the procedural requirements contained in paragraph (3)) in accordance with the requirements of this paragraph. Such revised regulations shall take effect not later than the date 6 months after the date of enactment of this paragraph.

Page 278, after line 13, insert:

(c) Section 232 of such Act is amended by adding the following new subsections at the end thereof:

"(c) No certificate referred to in this section may be issued to any nonmilitary supersonic aircraft or aircraft engine manufactured on or after January 1, 1979, unless the Administrator determines that such aircraft or engine complies with applicable emission standards without an increase in the noise level above the noise level which such aircraft or engine would exhibit but for the application of such standards.

"(d) Nothing in this title shall be construed to affect or impair any right, privilege, or authority respecting air pollution which may be exercised under State or local law by the owner or operator of any airport or airport facility."

(d) Upon the date 18 months after the date of enactment of this Act, the Secretary of Transportation may not permit any nonmilitary supersonic aircraft to land in the United States unless such aircraft has been certified by the Secretary to be in compliance with the emission standards promulgated as required in section 231(a)(4) of the Clean Air Act.

TRIBUTE TO STEVE SHEPPARD—OLYMPIC CHAMPION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. BIAGGI. Mr. Speaker, it is with great pride that I pay tribute to an outstanding young man from the Bronx, Steve Sheppard, who was a member of the gold medal winning U.S. basketball team, which competed in the summer Olympic games.

Certainly, the performances turned in by our basketball team had to be considered the highlight of an overall successful Olympics for the American athletes. The American basketball team, under the able tutelage of Dean Smith from the University of North Carolina, knew they were a talented squad, but also knew they would have to play together as a team if they were to get by their tough opponents. This they did, and were able to beat Italy, Czechoslovakia, Puerto Rico, and ultimately a strong Yugoslavian team to capture the gold medal.

Steve Sheppard's contribution to the team was two-fold in nature. In addition to his fine playing, his enthusiasm while on the bench also helped the team immeasurably. This contribution should not be overlooked for while many of the players on the Olympic basketball team are accustomed to being starters on their own teams, the wealth of talent can sometimes relegate an outstanding player to the role of a substitute. The mark of a champion is one who accepts this role, plays to his best capabilities when he does play, and provides support to his fellow players when not playing. This was Steve Sheppard.

For Steve, being on an Olympic gold medal team while still a junior in college must have been a thrill. He now looks forward to completing an outstanding basketball career as a starting forward for the University of Maryland basketball team, which has been ranked in the top 10 for most of the time that Steve has played with them. Capturing a national championship is Steve Sheppard's next goal, and all who know or have seen Steve on the court, realize his goal may be achieved this year.

Steve's family, friends, and teammates at Maryland are all proud of his accomplishments. His community helped express their sentiments when a Community Committee to Honor Steve Sheppard, led by Dorothy Stovall and Sarah Townsend, held "A Salute to Steve Sheppard Day" on August 21. I am proud to join with Steve's many friends and fans in congratulating him for an outstanding achievement and extend to him, my best wishes for continued success in the future.

COMPENSATING VICTIMS OF CRIME

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. HUNGATE. Mr. Speaker, as we consider the problems of crime and its victims, the following article from McCall's September 1976, may prove helpful:

COMPENSATING VICTIMS OF CRIME

(By Ann O'Shea)

Thousands of people are injured or killed every day in violent crimes in this country, according to FBI estimates. Some are the actual victims of robberies, assaults, rapes and homicides; some are bystanders or Good Samaritans attempting to stop a crime in progress. Not only must these innocent people and their families endure the trauma of the crime, but they often end up paying for all or part of the medical—or funeral—expenses incurred as a result of the crime.

In an attempt to ease this financial burden, 16 states (Alaska, California, Delaware, Florida, Hawaii, Illinois, Louisiana, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New York, North Dakota, Virginia and Washington) have Crime Victims' Compensation Boards. These are supposed to reimburse victims—or their dependents—for any expense or lost income that is uncollectable from any other source and is a direct result of the crime. However, most of these state programs are woefully underfunded and understaffed. There is just not enough money in the state treasuries to pay all the victims who qualify or to staff the compensation offices adequately. The New Jersey Compensation Board, for example, averaged about 43 claims a month until an advertising campaign to make people aware of the board more than doubled that figure. Now the Newark office alone receives about 120 claims each month, 40 of which the small staff is able to process. The rest join the growing backlog.

"It's clear that the federal government has got to assist the states in caring for the victims of crime," says Carl Jahnke, Co-Chairman of the International Association of Crime Victim Compensation Boards. "All of our [federal] criminal-justice programs are offender-oriented, and the funds for these programs come from the pockets of taxpayers—among them the victims themselves who should be entitled to some of this money."

According to Justice Department figures, $15 billion was spent on criminal justice in 1974—more than 97 percent of which went to offender-oriented activities, which, according to Mr. Jahnke, "don't deter, prevent or rehabilitate criminals. I'm not suggesting that we stop trying to rehabilitate criminals," he explains. "I'm only saying that if these programs can fail for fifteen billion dollars, why can't they fail for fourteen billion dollars, so we can allocate the difference to programs that aid victims."

A bill (H.R. 13158) that would supply federal grants to states with victim compensation boards is currently before Congress. It would provide $40 million to such states in 1977, $50 million in 1978 and $60 million in the third year, 1979, after which the programs would be reviewed. If your state does not have a Crime Victims' Compensation Board, you can write your state representatives to ask for one. To support H.R. 13158, write your congressional representatives.

VFW 77TH NATIONAL CONVENTION

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. WOLFF. Mr. Speaker, on August 16, I had the honor and pleasure to attend the 77th National Convention of the Veterans of Foreign Wars at the New York Hilton in New York City. On that occasion, 12,000 delegates registered and 40,000 people attended—truly a remarkable showing.

The Veterans of Foreign Wars have been highly effective in gaining and protecting the rights and welfare of this country's veterans. In addition, the VFW has always been extremely active in community affairs, enhancing the quality of life in thousands of towns and cities spread across the entire Nation. Through their dedication and patriotism, these veterans have made significant contributions to the United States in the difficult and trying times of peace as well as war, and their annual convention is certainly a proud occasion, indeed.

As many of my colleagues are aware, the purpose of this annual convention is to guide the organization for the coming year, through mandates which are resolutions adopted by the delegates.

The VFW also elects its national officers, and at the 77th Convention, R. D. "Bulldog" Smith of Atlanta, Ga., was voted to be Commander-in-Chief for 1976–77.

Former Secretary of Defense Dr. James R. Schlesinger was presented with the Dwight David Eisenhower Award at the Distinguished Guests Banquet, where he delivered the following speech. His remarks concern the defense posture of this country and the need to build mutual security and to emphasize the distinctive American values and freedoms which represent the foundation of our strength. I insert this address in the RECORD and commend it to the attention of my colleagues:

ADDRESS BY JAMES R. SCHLESINGER BEFORE THE 77TH NATIONAL CONVENTION OF THE VETERANS OF FOREIGN WARS

I deeply appreciate both the opportunity to be with you at the 77th National Convention of the Veterans of Foreign Wars and the signal honor you have done me through presentation of the Dwight David Eisenhower Award.

The course of Dwight Eisenhower's life from Dennison, Texas and Abilene, Kansas to Supreme Allied Commander and ultimately to preeminent world leader symbolizes so remarkably well the change in America's role and America's responsibility. Eisenhower personified the emergence of the United States from the backwaters of international politics to center stage in a new world in which the survival of freedom, of national independence, and of diversity depended on the continued strength of the United States. Not only did he represent the graceful acceptance of this altered concept of America's role, but in his person he became the very symbol of the concept of mutual security—the understanding that the democracies of this world must hang together in the protection of their common interests and aspirations, that our liberties depend upon other nations just as their survival depends upon us. He recognized that the most immediate threat to the United States was the indirect one overseas, thus providing a new dimension to Ben Franklin's oft-quoted jest:

"We must all hang together or we will assuredly all hang separately."

Your selection of your former commander and former Commander-in-Chief for this honored role, it should be underscored, speaks abundantly of the parallel development and parallel beliefs etched in the history of your organization. Tracing back to the first tentative emergence of the United States on the world scene in the Spanish American War, the Veterans of Foreign Wars has reflected the expanding role of the United States in the Twentieth Century as the principal guardian of freedom and the barrier to totalitarian ambitions. The Veterans of Foreign Wars require no lessons to persuade them of the need to neutralize external threats overseas before they arrive on American shores. You understand the necessity for the prudent use of America's power. From participating in coalition wars in the past, you fully understand the need for mutual security, just as did General Eisenhower. To keep hostile forces from American shores—an awareness strongly reinforced by some events recalled during this Bicentennial Year—is indispensable but it is not sufficient. In this shrunken world we must also have allies and sympathetic states overseas—to insure a world environment in which our social order can flourish. Not for you the easy temptation of neoisolationism. The physical defense of North America can start at the water's edge or the mid-Pacific, but the security of this nation also remains overseas. The Veterans of Foreign Wars understand in their very bones that if we are unprepared to help defend places other than North America, we shall soon enough have nothing but North America to defend.

Given a challenge that will continue as far as we can see into our Third Century, how well prepared is our nation to cope with the arduous task ahead? How fares this great Republic? The report is brief and encouraging: her health is returning; her vision is improving. From a low point of discontent, reflecting the divisiveness of the Vietnam War, the internal divisions, and domestic political travail, one can distinctly see a change in the national mood. All about one can see the signs, some tentative, of the restoration of the national spirit. Indeed this is a volatile nation—a cause of concern abroad, but very much a part of our national strength. Once again the American people have demonstrated, to the surprise of some, that ours remains the most resilient nation on earth.

Yet, having recovered our equilibrium, how well have we addressed ourselves to the fulfillment of the tasks at hand? Here, the uncertainties are greater; the verdict must be postponed. How deep is our understanding of the complex requirements for our defense and foreign policies—and how firmly will we demonstrate our determination to accomplish the tasks before us? Let me examine these fundamental questions in some detail.

First, let me address the all-important question of the nation's defenses. For in a world to a remarkable degree still militarily bipolar, the United States inescapably remains the only available counterweight to the steadily growing military power of the Soviet Union. We remain the indispensable source of strength to sustain other free nations. We must provide that supplemental margin of power that permits the survival of independent nations adjacent to the main power of the Soviet state. Yet, we cannot and should not be required to shoulder an undue share of the total responsibility. Vigorous action by our allies, more vigorous than has been shown to date, is also indispensable in order to maintain the military balance. Our allies must recognize that American power is no longer preeminent—and therefore they must shoulder additional responsibility. We must continue to pool our collective strength.

Through strength lie effective deterrence and the preservation of peace. The critics of America's military strength, now happily diminishing in number, have failed to grasp that fundamental point. It is weakness that invites the pressures which lead to war—or to retreat. Strength is indispensable for effective deterrence.

Effective deterrence does not come from pious hopes or wishful thinking or "too little and too late." Instead it comes from a carefully conceived strategy for responding to clear threats or provocation. To deter, a strategy must be one that can be successfully executed—and visibly so to a potential foe. A posture which is a mixture of an accumulation of divers weapons and of ill-formed plans and aspirations need not successfully deter.

In brief, three elements are indispensable for effective deterence. First, a compelling strategy, recognizably so to a potential foe. Second, the forces necessary to back up that strategy, deployed so it could be successfully implemented. Third, the resources and logistical support necessary to sustain those forces. Each represents a leg of a stool, and without all three legs, the stool will not stand.

Those who would risk deterrence on a strategy that cannot be implemented or who refuse to provide and deploy the forces necessary to underwrite an adequate strategy, one should observe ironically, may be the true warmongers. Deterrence cannot be based on wishful thinking. It requires the strategy and forces to provide for effective response. Without those ingredients, we run the risk of generating more veterans of foreign wars.

In the critical processes of planning and budgeting for the forces to underwrite our strategies, how well have we fared? General Eisenhower emphasized the need to avoid feast or famine and to develop a plan for the long haul. The need to take the long view has historically been a weak point in our defense budgeting. The Armed Forces should have a plan that they can execute. Regrettably the tendency has been one of repeated intervention that precludes the execution of such a plan. It has resulted in stops and starts—that run up costs, and serve no visible purpose. Defense planning should not be a political football. If defense is blown thither and yon with each shift of the political wind, it is the Nation's security that suffers as much as the Armed Forces.

In the past year we have seen some improvement. The Administration, inclined just last November severely to cut back its own Five-Year Defense Plan, happily reversed itself. The Congress has displayed far greater understanding and judgment in its handling of appropriations requests. There is a greater understanding of the need for, and the financial requirements of, maintaining force readiness. Moreover, it is now widely understood that forces deployed overseas contribute to deterrence in a way that forces stationed in the United States cannot.

Yet, misunderstanding continues regarding the elements of a credible strategy. Those who express misgivings, correctly in my judgment, regarding a strategy unduly dependent on nuclear threats—too frequently turn out to be the very ones who urge budget slashes and the reduction of our conventional forces. This is illogical. It represents an astonishing gap between a nominally preferred strategy—and the forces necessary to underwrite it.

Yet, it remains altogether too commonplace. The only way to reduce dependence on nuclear threats, to keep the nuclear threshold high, is to maintain the conventional forces that provide suitable options for the policymakers—and reduce the likelihood of our positions being tested.

Thus, the answer to the question—how well are we faring?—is that we see clear signs of improvement, yet serious deficiencies remain.

Let me turn now to the subject of detente. The close connection of detente with defense is best suggested by the widespread though mistaken belief that somehow or other detente is a substitute for defense. For many in the West there has been an illusion that detente eliminated the possibility of conflict, and, consequently, we were free to disarm. That is almost the reverse of reality. Whatever the prospects for detente, they rest on the maintenance of an equilibrium of force, the retention of adequate deterrence structures.

The Soviets understand this full well. Repeatedly, they have asserted that detente is the consequence of the growing military power of the Soviet Union—to which the West has been forced to make accommodation. And they believe that detente will be a continuing process marking the shift of the so-called "correlation of forces" in favor of the Soviet Union and against the West. Obviously, it is a prescription that we cannot afford to accept. But it does underscore the Soviet view that detente is a reflection of rather than a substitute for the balance of power. From it we must necessarily draw the correct conclusions regarding the maintenance of our own defenses—and reject the false hopes of the earlier years of this decade.

For the Soviets, detente has meant only the renunciation of the doctrine of the inevitability of war. It has not meant that they have renounced their belief in the inevitable triumph of their own form of social order. They have specifically rejected that detente means acceptance of the status quo. Chairman Brezhnev has recently reiterated that detente in no way repeals the laws of class warfare. Nor does it mean an end to the global struggle against imperialism. It is only in the minds of Westerners that detente has ever connoted genuine reconciliation.

Here in America we need a better understanding of these sharply contrasting interpretations of detente. Ironically, it will both improve international understanding, as well as permit us to protect ourselves with fewer disappointments. For the Soviets peaceful coexistence means nothing in the way of real accommodation; it means only that the superpowers need not reach a direct military clash. When the Soviets denounce those in the West whom they describe as anti-detente, it may be largely for purposes of propaganda. Yet, it is not only propaganda. From their standpoint—viewed through the highly distorted filter of Marxist-Leninist theory—being anti-detente implies acceptance of the likelihood, if not the inevitability, of major armed conflict. So, given their peculiar party doctrines, one can understand that there is genuine concern.

The American view is entirely different. Criticism of the Soviet interpretation of armed conflict—irrespective of the twists and turns of Communist Party logic. We, of course, are prepared to accept "peaceful coexistence," if that is all that can be attained. But we must be under no illusion; we must accept this framework with a full understanding of Soviet attitudes and Soviet tactics. And we should understand that the Soviet interpretation of "peaceful coexistence" is almost identical to what we formerly called the "cold war." It implies a continuing struggle between the two social orders; it implies a rejection of the status quo; it implies support by the Soviets of wars of national liberation; and it implies the legitimacy of Soviet attempts to undermine or subvert Western-oriented governments.

The Soviets have been remarkably candid about these attitudes. It is only we in the West who have been inclined to delude ourselves by our hopes rather than the realities. While we in the West have tried to achieve through detente the relaxation of tension, the Soviets have persistently stated that detente requires an intensification of the ideological conflict. Intensification of the ideolgical struggle does not sound much like the relaxation of tension.

We have been ill prepared to cope with the ideological conflict, barely recognizing its existence. The consequence has been something like a unilateral suspension of the ideological conflict. The Soviets are prepared to use rough tactics to expand their influence; we throw up our hands in consternation. When taxed with our disappointment in their behavior, the Soviets quite bluntly point out that it is our view of detente as "live and let live" which is in error. It would be better, they suggest, to drop our term "detente" and adopt their term "peaceful coexistence"—so that there might be less misunderstanding. In any event, in our negotiations as well as in determining our defense policy—we should take them at their word. They are deadly serious.

Yet, we must not draw the conclusion that negotiations are useless. As the enlightened party in the continuing conflict, we must retain hope both that negotiations can provide concrete results and that ultimately Soviet attitudes will change. But for us, negotiations must be based upon full comprehension of Soviet beliefs and Soviet tactics. For the Soviets, negotiations are but another instrument in the continuing conflict. In no way do they accept a shared goal or a joint interest in achieving international stability. They will bargain hard, always seeking those marginal advantages, which they renounced on paper in 1972.

It is our moral obligation to negotiate, but we are under no obligation to accept bad agreements in order to "preserve" detente. We are ill advised, if we set deadlines for agreements, first, because the Soviets will regard it as a sign of undue eagerness and of weakness on our part, and, second, because, tactically speaking, the Soviets have repeatedly indicated that the great gains are made in the final stages of negotiations—in the "last twenty minutes," as they say. We are also ill advised, if we believe that unrequited concessions will elicit goodwill. For the Soviets, eagerness to please is but a sign of weakness to be exploited. For our part, we should recognize that the Soviets value negotiations as much for tactical advantages in the ideological struggle as for their content.

Earlier I spoke of the change in the national mood in the recent past, of the clear signs of the restoration of the national spirit, of the resiliency of this nation. All of this is true and is reflected in the national mood. But I fear there continues to be one deficiency, one missing element, and it is related to what the Soviets call the ideological struggle. We need more than an absence of internal tension: we need an affirmative vision. The lack reflects an insufficient awareness of the distinctiveness of our nation, of the positive values that give meaning to our national life. Our long-term strength is intimately bound up with the appreciation of our distinctive values—the stress on individual freedom, on civil and religious liberty, and on the pursuit of truth. They must not be blurred. They remain the ultimate source of our national strength. Some three hundred years ago, John Milton wrote in his "Areopagitica":

"Give me liberty to know, to utter, and to argue freely according to conscience, above all liberty."

In that statement Milton framed the ultimate belief of our Western Civilization. It is this belief that distinguishes our nation and other free states from the totalitarian states. It is these beliefs that we must cherish and strengthen. For it is these beliefs that inspire us—and inform all of us why our nation and our civilization are worth protecting.

These are beliefs that General Eisenhower represented in his life and in his career. But since I have mentioned General Eisenhower, it seems appropriate also to mention his two-time opponent for the Presidency, Adlai Stevenson.

For Stevenson also exemplified these beliefs—and articulated them with great eloquence. Moreover, the association of Dwight Eisenhower and Adlai Stevenson tells us something more about the American Republic. They represent the quest for nonpartisanship in our external affairs—our attempt, insofar as possible, to have our politics cease at the water's edge. They represent the search for consensus, which must in a democracy undergird the successful pursuit of foreign policy. We are, of course, most keenly aware of the need for consensus, when, as in recent years, it has partly broken down. And, finally, Eisenhower and his opponent embody to a large degree the successful attainment of national unity and purpose.

In a speech in 1952 to a companion organization, the American Legion, Stevenson identified an additional element of national strength—indispensable, too easily neglected or even mocked, but in this Bicentennial Year becoming better appreciated. It is patriotism—the cohesive force in our society. Stevenson's comments are moving:

"And those voices which we have heard most clearly and which are best remembered in our public life have always had the accent of patriotism.

"It was always accounted a virtue in a man to love his country. With us it now is something more than a virtue. It is a necessity, a condition of survival. When an American says that he loves his country, he means not only that he loves the New England hills, the prairies glistening in the sun, the wide and rising plains, the great mountains, and the sea. He means that he loves an inner air, an inner light in which freedom lives and in which a man can draw the breath of self-respect.

"Men who have offered their lives for their country know that patriotism is not the fear of something; it is the love of something. Patriotism with us is not the hatred of Russia; it is the love of this Republic and of the ideal of liberty of man and mind in which it was born, and to which this Republic is dedicated.

"With this patriotism—patriotism in its large and wholesome meaning—America can master its power and turn it to the noble cause of peace. We can maintain military power without militarism; political power without oppression; and moral power without compulsion or complacency."

In facing the challenge of our Third Century, with all the responsibilities that America must bear, we shall need that cohesive force to sustain American strength. We shall need a restraint on partisanship and a restored consensus. We shall need a full appreciation of those distinctive values that define us as a nation. Through the efforts of the Veterans of Foreign Wars and the many free associations across this land, I am sure we will achieve these great ends.

Again, thank you for this honor. Good night. God bless you all.

IN SUPPORT FOR A CHANGE IN AFRICA

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. YOUNG of Georgia. Mr. Speaker, I have often cited in the past few years the desperate need for substantive change in South Africa. I have argued that a nonviolent, peaceful approach would be the best way to hasten such change on the part of the minority white Government of South Africa.

Well, Mr. Speaker, the schoolchildren of Soweto marched peacefully to show their opposition to current educational practices. Their parents petitioned peacefully to support their children. Workers struck peacefully to protest the inequities of the workplace and the Government's oppressive polices.

South Africa's response so far has been a hail of police bullets, indiscriminately killing men, women, and children alike. So far, I, for one, can see no sweeping changes to loosen the bonds which dominate and subjugate the human spirit in South Africa. Whites refuse to give up their privileges which are built upon the backs of cheap black labor. And blacks, especially the young, refuse any longer to live under the same oppression of their parents' generation, and those before them. And they are right to no longer wish to live the broken lives of their parents, to daily experience the crushing weight of technological "apartheid" in an era of history unparalleled in its movement toward social justice and political self-determination.

A country, as great and large and rich as ours, has a special responsibility, Mr. Speaker, to use its good offices to influence the white minority regimes of southern Africa to accept majority rule. South Africa in particular should be made to face the reality that the interests of the United States are not coterminous nor reconcilable with those of the present Vorster government. U.S. industrialists and bank presidents should ask themselves how long they can continue to make viable profits in an increasingly unstable environment or remain productive in the face of their cheap labor's work stoppages. Commonsense should tell U.S. participants in South Africa at all levels, economic, diplomatic, and cultural, that the country is undergoing convulsive change despite the Government's refusal to recognize the obvious. South Africa may become even more repressive toward its majority population, but it will never again maintain the same status quo.

The special contribution of the articles by Anthony Lewis in the New York Times is their comprehension of this essential fact: The South African facade has been exposed for all to see; the myth that blacks in South Africa are content has been exploded to bits. Secretary Kissinger's overtures to Vorster on the Rhodesian and Namibian questions have been seriously hindered by this revealed cancer within South Africa and by his tendency to practice a bankrupt personal diplomacy. If one reads Godwin Matatu's article on Soweto in Africa magazine, one is truly disturbed by the intransigence of South Africa's whites to accede power and by black response to this obstacle. The time for cosmetic changes are over, Mr. Speaker. Racial dignity and social justice, along with political liberty, can no longer be denied.

[From the New York Times, Aug. 26, 1976]

Reckoning in Africa: I

(By Anthony Lewis)

During the last two months, while Americans have been preoccupied with their own politics, events likely to be of much more lasting significance have been taking place half a world away. The disturbances in the black townships of South Africa, and the white reaction to them, have a profound import for world politics—and for one's view of human character.

There have been explosions of black unrest in South Africa before; tension is hardly surprising in a country where more than 80 percent of the people are condemned by their race to be treated forever as serfs. But the events of 1976 are very different. Black protest has gone on much longer; and the white government's response has been uncertain, indeed contradictory.

In the past, the common pattern has been a single incident, met by unyielding repression. But the trouble that began with the riots in Soweto last June 16 has spread, not stopped. More than 250 people have been killed and 1,500 injured.

For protest to continue so long is extraordinary under the conditions of black life in South Africa. Urban blacks must live in satellite townships such as Soweto, outside Johannesburg, where they can easily be confined by the police and the military in case of trouble. Food has to be brought in from outside. Blacks are forbidden to have any weapons. Leading blacks believe, with reason, that the security police have planted agents among them.

On top of these normally restrictive circumstances, the blacks are under particular economic pressure right now. South Africa is suffering from a falling gold price and domestic recession. Unemployment among urban blacks is now 20 percent, and they have no unemployment compensation. Most men with jobs would hesitate to risk them by joining in protest, however aggrieved they felt at earning one-tenth of white wages or suffering other racial indignities.

Yet the protest has gone on. The spark has come from precisely the source that many blacks predicted when I was there a year ago: the young. Children as young as 13 have been willing to face guns—and have been killed by the police. There is a generational change of mood.

The Government gave way quickly to the students' original demand: It dropped the requirement that Afrikaans, language of the ruling whites, be used as a medium of instruction in black schools.

Then the Government took a conciliatory step of even greater significance. It granted blacks the right to buy the little concrete houses in townships such as Soweto instead of living there as tenants. Until now they have been forbidden to own any real property, and the change is philosophically inconsistent with the official view that blacks are mere temporary sojourners in the "white" areas that cover 87 percent of South Africa.

Such concessions to black opinion go against the whole history of South Africa, and they must signify some changes in attitudes.

But along with the concessions have come strong reassertions of the basic Government ideology: that South Africa is a white country in which blacks will never have any political rights. Officials have repeated that blacks are given passes to enter white areas only to sell their labor. Authorities even announced that by 1983 Pretoria, the capital, will be "white by night": The black servants who now have rooms in back yards will have to move to barracks-like hostels outside the city.

For those who hope to see official rigidity ease, the most discouraging aspect of the last two months has been the Government's sweeping use of its power to detain any supposed security risk indefinitely without trial. So far about 170 persons are known to have been arrested, a few of them white journalists and lecturers, most black church and community leaders.

Arrest in South Africa is a more frightening thing than most Americans would readily understand. To take an exceptionally mild example, among the whites picked up last month was an English woman, Mrs. Susan Rabkin, who was six months pregnant. She was held in solitary confinement for two weeks, until finally external pressure—including an appeal by Mrs. James Callaghan, wife of the British Prime Minister—won her release on bail. She has still not been told what charges she faces.

Prisoners who are not foreigners, and especially blacks, are not so lucky as Mrs. Rabkin. In recent years 23 South Africans died while in police custody of mysterious bruisings and "suicides." Children as young as five, arrested for stealing, are beaten with canes.

The South African Government has responded in the last two months with contradictory signals. The impression blacks are bound to have is that there is no real change—no recognition of shared humanity—but only grudging concessions to pressure. That is a recipe for continuing confrontation.

[From the New York Times, Aug. 30, 1976]

Reckoning in Africa: II

(By Anthony Lewis)

The frank language of white supremacy in South Africa has been officially replaced by such terms as "apartheid" (separateness) and more recently the blander "separate development" and "separate freedoms." All are intended to convey the Government's basic political theory: that the black majority will have rights only in small tribal "homelands" while the whites keep total control of 87 percent of South Africa.

The pretensions of that official doctrine have been stripped away by the explosions in the black townships. No rational person can believe, any longer, that apartheid assures peace and contentment—or that the millions of urban Africans want to be citizens of a far-off, backward "homeland" that they may never have seen, while being treated as alien serfs where they live and work.

Some important figures among the dominant white group, the Afrikanders have called for fundamental rethinking of their political theory. Privately, a few will say that the doctrine of separate development is dead. But it is extremely hard for the Government to abandon, and outsiders should understand that.

Prime Minister B. J. Vorster finds much of his basic constituency among deeply conservative Afrikaner farmers and workers. When the blacks make trouble, the talk in a bar is likely to be about "killing Kaffirs," not about political theory. The sheer weight of numbers is bound to make most whites uneasy about concessions: They are less than 18 percent of the population. And so, even when policies have demonstrably failed, compromise is painfully difficult.

Recently, for example, leaders of the African "homelands" issued a statement criticizing restrictions on freedom of movement and calling for free, compulsory education for blacks. The leading white businessmen—who have become wary of relying for labor on a rootless, frustrated, dehumanized mass—issued a statement of their own making the same two points.

The right to work where you can find a job, and to bring your family with you; the right to public education for your children. Americans would regard those as among the most elementary human expectations, but they are beyond the expectation of black South Africans. They cannot enter any city or other white area without a special pass, and they cannot ordinarily bring their families with them until they have kept a job and residence in a white area for many years.

To give way to black yearnings for a decent education in the townships, or freedom of movement, would imply acceptance of blacks as permanent citizens of South Africa. To us that seems the acceptance of reality. But to many white South Africans it would be an alarming abandonment of basic premises.

It is not surprising, therefore, to see the South African Government caught in a kind of immobilism. Fifteen or 20 years ago it would have repressed the black unrest with unconcerned brutality, as it did at the time of the Sharpeville massacre in 1960. Today it worries too much about foreign, especially American, opinion to do that. But it has been too worried about its own constituents' opinion to make any real change in policy.

Mr. Vorster himself has said almost nothing during these turbulent months. His ministers have alternately blamed conspiracies by black power advocates for all the trouble, and hinted at constructive reforms. The most concrete Government action has been to detain hundreds of blacks, without charge on suspicion of political troublemaking.

The situation cries out for talks between black leaders and the Government. Moderate blacks are almost as afraid of chaos or revolutionary change as the whites, and they are eager to talk. The Minister of Justice, James Kruger, has now called a meeting with urban blacks.

But here again there are obstacles that outsiders would not readily understand. Most of the natural African leaders have been jailed or banned by the Government: Nelson Mandela, a prisoner on Robben Island, Robert Sobukwe confined to the small town of Kimberley. And whenever new leaders arise, as in the recent protests, they are immediately lopped off. The Government instinctively imprisons those with whom it should be talking.

In short, the South African situation is complicated, and the outlook is gloomy. Moreover, the time is out of joint. Years ago, people used to talk about revolution coming soon in South Africa. That proved quite wrong, and nothing significant would change for a very long time. That was wrong, too.

All this has important consequences for the United States. Secretary of State Kissinger discovered southern Africa this year and made a policy. It was to get Mr. Vorster's support for change on the fringe of his country, in Rhodesia and Namibia, while postponing until later any consideration of the larger issues in South Africa itself. But the assumptions underlying that policy have been shaken.

The turmoil at home limits Mr. Vorster's ability to supply leverage against the Rhodesian white minority. And the central issues of racial peace and justice in South Africa can no longer be avoided—by its government.

[From Africa (magazine), August 1976]

SOUTH AFRICA AFTER SOWETO

(By Godwin Matatu)

In the immediate aftermath of last month's rebellion in Soweto and other Black suburbs in the Transvaal in which, according to official figures, 176 people died, South Africa's Department of Bantu Education reversed the ruling that made it compulsory for Black schoolchildren to be taught certain subjects in the medium of Afrikaans. It was this language issue that set aflame the deep-seated bitterness of Black South African society and pierced through the deceptive calm that prevailed in the country since the Sharpeville Massacre 16 years ago.

The government's *volte face*, no doubt, represents a victory for the children of Soweto. However, if it was intended to spirit away the inherent problems that characterize South Africa today, it manifestly failed; Soweto represented much more than can be disposed of by statutory abolition. It symbolized all the facets of South African society: Black resistance, White repression, White misperceptions of Black South Africa, the absurdity of the policy of Bantustans and South Africa's pariah status in the international community.

The resistance that Soweto sparked off has not subsided and there are indications that the entire country may soon be engulfed in a wave of violence. Throughout last month there were reports of clashes between the police and the Black community in various parts of South Africa. The largest and most serious to date was in Mitbank, 75 miles east of Johannesburg, where about 4,000 people marched on the offices of the local administration. In the ensuing disturbances, police opened fire and killed four people, wounding many others; government buildings, shops, cars and schools were burned down. There were also other disturbances in Randfontein, Hartebeesfontein and Fort Hare University in the Eastern Cape Province in which buildings were set ablaze.

The situation in Soweto itself is potentially explosive and heavily armed police and army units maintain a 24-hour patrol in the city. Black schools have been closed indefinitely; they were scheduled to have been opened on July 20. The Minister of Justice, Police and Prisons; Jimmy Kruger stated that the schools would remain closed because of "continued agitation and intimidation in Soweto and other areas aimed at renewed rioting when schools re-open in spite of the fact that the language issue had been resolved". He believed that the detention of more than 30 schoolchildren in John Vorster Square Police headquarters would be "used as an issue by agitators".

It is also understood that Black organizations in Soweto are organizing a general strike; should this occur, there is a strong possibility that, like last month's disturbances, it will spread to other parts of Witwatersrand, if not the entire country. Equally, a general strike is likely to be met with repression. By all accounts the situation is tense. As one Soweto resident put it: "Our anger has not subsided; we smell blood in the air, not just smoke anymore."

Just as draconian legislation followed Sharpeville, escalated repression has followed Soweto. The era of widespread internment has arrived in South Africa with the announcement by the Minister of Justice on July 15 that the preventive detention sections of the Internal Security Act, poignantly known as the "SS" Act, would become immediately operative to counter what he termed "agitation in the Black areas". The preventive clause in the Act provides the Justice Minister with powers to detain a person for one year without trial or charge, this period is renewable on expiry. There are fears in the Black community that the Act will be used against a substantial majority of the 3,000 people detained after Soweto against whom no specific charges have so far been made.

In addition, a nationwide ban on gatherings and public meetings has been imposed. Jimmy Kruger promised that "law and order will be maintained at all costs" and that strong police units would be on hand to deal with any trouble. "These units," he said, "will have instructions to protect law-abiding citizens at all cost and to do so with all the means at their disposal."

The autopsy on Soweto by White South Africans revealed the extent to which they misperceive the predicament that faces the country. The government and the ruling National Party establishment appear not to have learnt anything from Soweto, and they have turned a blind eye to the fundamental cases of the disturbances. They have ignored and underplayed the seriousness of the situation and the underlying bitterness and frustration of the Black community. Their response to the situation in the midst of calls for reforms, however cosmetic, has been to re-affirm apartheid and introduce tightened security. In the South African Parliament, for example, bitter attacks were launched on the Progressive Reform Party (PRP)—South Africa's fast growing liberal party, which might replace the United Party as the Opposition at the next elections. The Party was accused of instigating the disturbances, of being a "fifth column" and working for a "Black socialist alliance". The PRP had done no more than call for a broader inquiry into the underlying causes of Soweto.

The Party establishment also made it clear that it was not going to deviate one iota from the basic principles of apartheid. In fact, the rank and file of the National Party are calling for "stricter control" of Black people. It is confidently predicted that the removal of petty apartheid, which the South Africa government has been selling to the world as an earnest of the move toward change will be reversed. It is expected that when the Transvaal Congress of the National Party—representing half of the National Party Caucus — is convened in September, the rank and file will censure the government for being "too soft" with the Black community. Thus, if anything, South Africa is moving further to the right.

It is true that the enlightened or liberal elements of White South African society, have drawn some lessons from Soweto and called for change. However, their perception of the problem is limited. For them, the problems confronting South Africa are those of the "urban Blacks" and the absence of any channels of communications between Blacks and Whites. Hence they have been calling for political rights to be extended to urban Blacks and a greater say in the administration of the townships. Specifically, they suggest security of tenure for urban Blacks, increased power for the Urban Bantu Councils and Black control of the Bantu Administration Boards. While such suggestion would undermine the tenet of apartheid that designates Blacks in "White areas" as migrants or temporary sojourners, in essence it implies no more than the bantustanization of Black suburbs. At any rate, the liberal answer is only peripheral to the central issue in South Africa—Black control of political power at a national level.

Soweto, itself a monument to the absurdity of apartheid because of its ethnically heterogenous population, also exposed the myth that the true spokesmen of the Black masses are the homeland leaders. The Bantustan leaders manifestly had very little power to influence events during the rebellion, and their pleas for calm were ignored. Further, the fact that the rebellion spread to some homelands also exposed the fiction that Blacks in the homelands are content with their leaders. In many respects, the rebellion was as much against the homelands as it was against the entire system.

The apartheid regime has been at pains to project Soweto as no more than a ripple in a calm lake. The government is still assuring its allies that a new dawn is breaking in South Africa; that it is introducing changes that, coupled with the "independence" of the homelands, will take care of the "Black problem" for all time. However, the reality is different; and Soweto was only part of it. Perhaps the beginning of the end is being enacted in a courtroom in Pierermaritzburg where ten members of the African National Congress (ANC) are on trial on charges of recruiting young men for training in guerrilla warfare. As ANC Acting President Oliver Tambo intimated at the OAU Summit in Mauritius, now there will *no longer* be the need for recruiting; the children of Soweto will just come and swell the ranks of the guerrilla army. South Africa after Soweto will never be the same.

PROPOSES NATIONAL GEM TO BE TURQUOISE

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. LUJAN. Mr. Speaker, as the sponsor of House Joint Resolution 274, the bill to name turquoise as the National Gemstone, I would like to include in the RECORD the resolution passed by the board of directors of the International Turquoise Association in support of my resolution. It is as follows:

Be it therefore resolved that the Board of Directors of the International Turquoise Association, a non-profit corporation, do hereby by unanimous vote urge Congress to approve and pass the Honorable Manuel Lujan, Jr. bill naming turquoise as our National Gemstone, particularly to coincide with our current Bicentennial Year.

Our country has no national stone. We believe that when Americans think of turquoise, they think of it as not only American, but of its relationship with the jewelry made by our native American Indians.

Turquoise truly reflects our traditional, historical and esthetic values. No other stone in America meets the qualifications in beauty, desirability, rich history and culture so inter-woven with this beautiful natural heritage. It is truly a gemstone we can be proud to call, "Our National Gemstone".

STIFF PRISON SENTENCES A BLOW TO SOUTH KOREAN OPPOSITION

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mrs. COLLINS of Illinois. Mr. Speaker, over the weekend of August 28, 1976 the South Korean Government handed down verdicts in the controversial civil liberties case involving former Presidential candidate Kim Dae Jong and other prominent civilians in the country.

Those of us who have been interested in the trial and the question of the treatment of nonviolent political dissenters in South Korea are discouraged by this verdict. The men and women sentenced in this case are elder statesmen and stateswomen of South Korea who have been committed for years to the maintenance of democratic principles in their land. The prison sentences in this case will, I fear, go a long way toward discouraging peaceful dissent in South Korea. As my colleagues know, the act for which these men and women were tried was the simple act of publishing a document calling for the restoration of democratic freedoms in their country.

While none of us in this Chamber can dispute the importance of South Korea as a frontier of American interests in Asia, we cannot condone assaults on human rights in any society however important the region may be to American interests.

Because this trial is an important indicator of the level and standard of human rights activity in South Korea, I wish to include a report of the sentencing for my colleagues' use:

[From the Washington Post, Aug. 29, 1976]

STIFF PRISON SENTENCES A BLOW TO SOUTH KOREAN OPPOSITION

(By John Saar)

SEOUL.—The nonviolent opposition to the government of South Korea suffered a severe blow today when a Seoul judge handed down stiff prison sentences for 18 Christian leaders.

One by one, priest, ministers, professors, theologians and political figures rose in a packed and hushed courtroom to receive sentences ranging from two to eight years for their roles in writing and disseminating a manifesto demanding the full restoration of democracy. They had been charged with agitating for the overthrow of South Korean dictator Park hung Hee after the document was read at an ecumenical service in Seoul's Roman Catholic Myongdong Cathedral March 1.

The central figure in the case, Kim Dae Jong, a charismatic political leader, hobbled from the courtroom on sciatica-crippled legs with a defiant smile and an eight-year sentence. He acknowledged shouts of "carry on your fight" with a victory sign and a wave.

A photograph in his home shows him in the same pose waving to a huge crowd during the 1971 election when he almost defeated President Park.

"It is a sad day for Korea. The law has perished," one of the seven defendants who was freed pending appeal told reporters.

Gloom and shock over the sentences more severe than expected—was apparent in the courthouse grounds after the remaining defendants were driven away in two curtained buses.

Steven Cardinal Kim called the verdict "a tragedy for the country."

"It's a real setback for the opposition," observed a foreign missionary, "because it lowers the level of courage. People will be much more afraid to speak out."

Also among the 18 defendants were:

Former president Yun Po Sun, a frail man of 79 who stood erect clutching a panama hat by the brim: eight years.

American-educated theology professor Mun Ik What, eight years, and his brother, the Rev. Steven Moon, five years.

Hahm Suk Hon, 75, a legendary leader of nonviolent resistance with flowing white hair and beard. A veteran of detentions under Japanese and Russian occupiers and the government of Syngman Rhee, Hon wore a beige funeral robe to court: eight years.

National Assemblyman Chung Yil Hyung, 72, by reputation a gentle and courageous man: five years.

Chung's wife, Yi Tae Young, South Korea's first woman lawyer and winner of a Magsaysay Award for her legal work among the urban poor: five years.

Behind the trial is a clash of wills between a Western-influenced elite who continue to seek democracy though their numbers are low and organization poor, and a powerful ruler cut from the Confucian mold.

While guiding the country through 15 years of staggering economic growth, President Park has steadily eliminated political freedoms in the name of unity against North Korea.

Observers believe that Seoul government officials carefully calculated the risks of arousing American public opinion over the Myongdong trial and decided they were acceptable. The recent killings of two American officers at Panmunjom and the usual domestic preoccupations of a U.S. presidential campaign can be expected to soften the American reaction.

[News agencies reported from Panmunjom that North Korea and the U.S.-led United Nations command agreed to hold lower-level staff meetings to discuss new security arrangements in the truce village.]

American embassy officials say they lobby unofficially but effectively to moderate the South Korean government's treatment of political offenders.

An expanding sense of military and economic self-confidence, however seems to have bred a willingness to disregard American public opinion if necessary. Some officials here privately hold that the relationship between the two countries is slowly crumbling.

In a clear public relations effort, Information Ministry officials threw a buffet lunch for visiting foreign correspondents today immediately after the Myongdong verdicts were announced. Immaculate in a dark suit and popping black grapes into his mouth as he spoke, Vice Minister Kim Dong Hwie said: "We are acting with prudence and restraint . . . This is only a small tiny thing."

The vice minister denied that Kim Dae Jung and the other defendants constituted a loyal opposition.

"They are breaking the law and the law is made by ourselves . . . The people on this land are Koreans, not foreigners," he said.

The very fact that he was able to speak freely with foreign correspondents proved that freedom exists here, the vice minister said.

117TH ANNIVERSARY OF THE WORLD'S FIRST OIL WELL

HON. ALBERT W. JOHNSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. JOHNSON of Pennsylvania. Mr. Speaker, an important historical event occurred Friday, August 27, in this Bicentennial Year. It was the 117th anniversary of the drilling of the world's first oil well, which took place August 27, 1859, and ultimately changed the destiny of man.

The well was drilled by the fabled Col. Edwin L. Drake along Oil Creek near Titusville, Pa. It took some time for the outside world to learn about Colonel Drake's success. Seventeen days after his successful effort, a correspondent for the New York Daily Tribune on September 13, 1859, reported:

> The excitement attendant on the discovery of this vast source of oil was fully equal to what I saw in California when a large lump of gold was accidentally turned out.

To commemorate the 1859 drilling, the Department of the Interior has published an attractive, interesting historical vignette describing the events and persons that played a part in Colonel Drake's successful quest.

The vignette is titled "Success at Oil Creek" and was written by Charles E. Wallace of the Department of the Interior's public affairs staff and is for sale by the Government Printing Office. I am including herewith the Interior Department news release describing the publication. I am confident that historians, journalists, and others will find this vignette extremely readable and informative.

DRAMA LEADING TO DRILLING OF WORLD'S FIRST OIL WELL DESCRIBED IN VIGNETTE

The Department of the Interior has published its second Bicentennial historical vignette—Success at Oil Creek—which describes the drama and events that led to the drilling of the worlds first oil well in 1859 by Colonel Edwin L. Drake near Titusville, Pennsylvania.

The recognized birth of the petroleum industry in the United States occurred August 27, 1859, along Oil Creek in western Pennsylvania. There, the famed Colonel Drake, a former railroad conductor and jack-of-all-trades, proved that oil could be found in quantity by drilling into the earth.

At 69½ feet, the hole he bored filled with oil to signal monumental changes in the development of the world and the history of man.

"Few," the vignette states, "could visualize the magnitude of Drake's accomplishment. The first newspaper mention of the event came 17 days later. Drake's well and subsequent oil drilling apparently were not reported on by Secretaries of the Interior until many years afterward.

"But, along Oil Creek, interest soared in Drake's achievement. As news of his success spread, western Pennsylvania became the scene of the biggest land rush since the scramble for gold in California in 1849."

The groundwork for Drake's success began in 1853, when Dr. Francis B. Brewer arrived at Hanover, New Hampshire, carrying a tiny xvial of petroleum taken from the old oil spring two miles south of Titusville.

A Dartmouth chemistry professor found

the oil very valuable but doubted enough could be produced for commercial purposes. Later, a Yale professor analyzed quantities brought from the oil spring and declared Dr. Brewer's supporters had in their possession a raw material from which could be manufactured "very valuable products."

An oil company was formed and Colonel Drake was named General Agent to go to Oil Creek and drill for oil. Following numerous disappointments, Drake finally attained his objective Saturday afternoon, August 27, 1859.

The 24-page illustrated Bicentennial Vignette, Success At Oil Creek, is for sale for 65 cents by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The stock number is 024-000-00823-1.

HOWARD C. VAN ARSDALE

HON. THOMAS N. DOWNING

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. DOWNING of Virginia. Mr. Speaker, on a recent visit to Williamsburg, Va., I was fortunate to hear an address given by Mr. Howard C. Van Arsdale of Alexandria, Va., regarding the role of the Dutch during the American Revolution. Mr. Van Arsdale is councilor general of the Virginia society and an ardent historian.

I would like to take this opportunity to share with my distinguished colleagues Mr. Van Arsdale's enlightening remarks:

BIOGRAPHICAL SKETCH ON HOWARD C. VAN ARSDALE

Howard Van Arsdale of Alexandria, Va., is Councilor General for the newly-formed Virginia Society and also a life member of the Maine Society. He is 10th in line from Simon Janson van Aertsdalen, one of the original founders of New Amsterdam. He is a former vice-president of the Holland Society of New York and founded its Potomac Branch in Washington. He is also a member of the Huguenot Society and many other genealogical groups. He headed the Nationalities Division of the Republican National Committee and has been twice presented to the Royal Family of the Netherlands for his outstanding contributions to the Dutch. His business career has been exciting and varied and includes early promotion of Miami Beach with Steve Hanagan, and Asheville, N.C., with Luke Lee, and development of AAA clubs in New England. With his wife, the former Ruth Torr, he is now involved with real estate investments.

ADDRESS BY MR. HOWARD VAN ARSDALE

The discovery of America by Columbus in 1492, the settlement at Jamestown by the English in 1607, the founding of Quebec by the French in 1608, and the discovery of New Netherlands by Henry Hudson in 1609, are among the most important events and fraught with the most wonderful results in all history.

The people of the Netherlands had thrown off a dominion they opposed. Then they gave harbor and home to the Pilgrims from England. At least three men in the company—Bradford, Allerton, and Priest—had, by payment of extra taxes, become citizens of Leyden, thereby enjoying certain municipal privileges, while three or four of the educated men—Robinson, Brewster, Brewer, and Bastwick—were already members of the university, and several more were property owners. Among them were several printers, of whom Brewer and Brewster were busily engaged in publishing not only works acceptable to all lovers of learning and literature, but in issuing controversial pamphlets in the interest of soul-freedom, as they saw it. The publications of this Pilgrim Press in Choir Alley, Leyden, between October, 1616, and June, 1619, were as red-pepper in the eyes of King James, whose wrath was so roused by two anonymous pamphlets that he would have had the whole nest of Separatists exterminated had it been possible. King James was not happy over Holland and these Dutchmen, who had made him ridiculous in the eyes of the world.

The Speedwell and the Mayflower both sailed from Plymouth in mid-August. The Mayflower came into port. The Speedwell anchored outside. Aboard the Speedwell were the ringleaders King James was looking for, especially Brewster. He had been trying to get his hands on him for some time and would no doubt have hanged him. The signing of the Mayflower Pact was a part of the price agreed on when Brewster hired the Mayflower for the voyage.

They did not come to America until Hudson had shown to Holland the way to a continent large enough and remote enough for the safety of all who regarded themselves as the victims of persecution for opinion's sake.

I am puzzled to know why there has been so long unsounded this lost chord in American history. I suppose several things contributed to this neglect. One reason may lie in that quiet modesty of the Dutch, in which the Yankee does not share at all. A larger reason doubtless lies in the fact that politically New Amsterdam early ceased to be a Dutch colony, and became officially English. The English have written the books. The English have told the story. If John Bull ever suffered his light to be hidden under a bushel, I cannot recall the occasion.

There was a tablet in the court of the recently demolished Produce Exchange near the Customs House in downtown New York that marked the location of the first school in New Amsterdam, taught by Adam Roelandsen. It was also the first school of which there is any record in America.

Another first: In 1648, when the northernmost limits of the town extended no further than Wall Street, Governor Pieter Stuyvesant laid the basic foundations of New York's and the nation's volunteer fire-fighting system when he appointed four fire wardens.

A Medical first in America: When the 17th century began, doctors cured much more by personality than by their remedies and practices. As a consequence, this era witnessed the discoveries of Anthony van Leeuvwenhoek, who built the microscope and was the first to describe the corpuscular formation of the blood, and those arising from Christian Huyghens' epochal studies in the field of optics. Dutch colonial America was the scene of several probable "firsts", notably the first coroner's inquest (1658), and establishment of the first hospital (1659).

First Naval Engagement in American Waters was between the English and the Dutch: It will be recalled that the Seventeenth Century saw England at war with the Netherlands. And in this contest, "New England" did not come out unscathed. On June 4, 1667, Newport News witnessed a one-sided naval engagement when five Dutch warships under one Abraham Crimson sailed into Hampton Roads, passed some twenty small vessels of England's tobacco fleet at the mouth of the James, and continued up the river. Several miles upstream the Netherlanders encountered the British frigate Elizabeth, mounting forty-six guns, which was the sole defender of Chesapeake waters.

The Dutchmen were flying the English colors and, as they passed the tobacco ships, they even sang out the soundings in English. But as they approached the Elizabeth they opened fire. Taken completely by surprise, the frigate could offer no resistance. Her captain was ashore attending a wedding, and the remainder of her crew was forced to surrender after firing only one volley. Having disposed of the Elizabeth, the Netherlanders retraced their course to overtake the tobacco fleet. Some of its vessels were burned and the other made prizes.

The first American book was written by a Virginian, John Smith, one year after its settlement. The next one, maybe, was written by a New England Governor; it was not very long after this time that books were written about New York, but as they were published in Dutch, the world has forgotten they belonged to American literature. But if we pass over the journals and sermons and come to the real beginning of American literature, we find that its father was born in New York in 1783, lived his life in New York and died in his beautiful home on the Hudson in 1859, where his grave is a shrine to this day in Sleepy Hollow Cemetery. He was the creator of Rip Van Winkle and Diedrich Knickerbocker.

Since our school days we have heard the story of the Boston massacre, March 5, 1770, when Crispus Attucks, who was a gentleman of color, fell, and we have read the story of the Boston Tea Party. But the world has never known the fact that in the same quarrel, that a whole year earlier, the people of New York, in resisting the landing of the tea, organized their Indians, which they called "Mohawks" and thus set Boston the example, and that in July, 1973, when the 10 year quarrel came to a head, some of the people of Boston used this same idea. The story is that the East India Company was commissioned to deliver tea to Charleston, Philadelphia, New York and Boston, but were turned away at all ports except Boston, the first of the ships arriving there on November 28, 1773, the other two shortly afterward.

Once again the English wrote the story—this time of the Boston Tea Party—but omitted giving credit to the Dutch and other citizens of New York who originally mobilized their "Mohawks". In Boston on the 16th of December in the Old South Meeting House, Samuel Adams uttered the immortal words "Let there be freedom": and, thus the signal was given for the Boston Tea Party. From the doors of the meeting house emerged men disguised as Mohawk Indians, among them Paul Revere and John Hancock, and from under his Indian blanket, Hancock's lace cuffs protruded making him easily identifiable. He was a "dandy" in those days.

And now let us note that the first blood that was shed in the war was not shed in the Boston Massacre or at Lexington, but in the battle of Golden Hill near the corner of John and Williams streets in New York when the British soldiers were put to flight by the New York citizens, mostly Dutch. Let us give honor to Lexington and Concord and Bunker Hill, but let us not forget what lay between Lexington and Bunker Hill. In the month of May the Americans captured Fort Ticonderoga, which was the first successful battle of the Revolution. Remember that Boston was freed of the British by the army of Washington, in the first year of the war, and from that time throughout the Charles River flowed unchecked to the sea. But remember that after the battle of Long Island, which occurred in the same year, the British took possession of New York City and the lower valley of the Hudson and New Jersey, which they made the base of all their operations, and which was a captive community for eight long years. No other community ever suffered one-half so much as New York, and although we do not know it there is no other place on the continent, Boston not excepted, where there are so many historic revolutionary shrines as in and about

New York. It was here that Washington fought his first battle. It was here that the Declaration of Independence was first read to the army. On the 9th of July, 1776, New York received news that Congress had adopted the Declaration of Independence by the vote of twelve of the Colonies. New York not voting as her delegates had not received instructions. On the evening of the same day by order of Washington, it was read before every brigade of his army then stationed in New York.

On July 26, 1581 a step was taken which could never be retraced. It was after long hesitation and deliberation that the Act of Abjuration was signed at the Hague, which solemnly declared their independence of Phillip and renounced their allegiance forever. Patrick Henry was given credit in our history, with the help of a few others, of writing our Declaration of Independence. I wonder just how much of our Declaration of Independence was original. If you will get and read the English translation of the Act of Abjuration which is found in Lord Somer's Tracts and reprinted in full in the Old South Historical Leaflet #72, Boston, 1896, it is very interesting to compare the text of this Dutch document with our Declaration of Rights and the Act of Abjuration from Phillip the Second and with the American Declaration of Independence signed on July 4, 1776.

Fort Amsterdam was erected in 1626 and its successor, Fort George was demolished in 1790. To commemorate the exploration of the Hudson River by Henry Hudson in September 1609, the founding of New Amsterdam May 4, 1626, and the establishment of American Independence 1775–1783.

When the British left New York on the morning of November 25, 1783, they were supposed to haul down the flag they had flying over Fort George at the Battery. Instead they unreefed the halyards, knocked all climbing cleats off the pole and then greased the pole, top to bottom. When General Washington got to the Battery, John van Arsdale, a young sailor, tried in vain to get the British banner down. Finally he ran to Goelet's hardware shop in Pearl Street, got a fistful of large hand-made nails and used them for footholds.

He carried a thirteen-starred American flag with him. He put this in place after he got the British flag down.

Let's not forget the heroic women who also took part in our struggle for freedom. The gallant defense against the Hessian Troops by the Maryland and Virginia Regiment 16 November 1776 was shared by Margaret Corbin the first American woman to take a solider's part in the War for Liberty.

About 1772, Margaret married John Corbin, a Virginian by birth, and when, at the beginning of the Revolution, he enlisted in Capt. Proctor's First Company, Pennsylvania Artillery, she, having no children to demand her care at home, accompanied her husband, giving woman's care to him and his comrades in the army.

She resided in Westmoreland County, beloved, honored, and respected by every one. She died about 1800, DeLancey writing of the capitulation of Fort Washington, he wrote: The deed of the Maid of Zargoza was not nobler, truer, braver, than that of Margaret Corbin, of Pennsylvania.

From the battle of Lexington, on the 19th of April, 1775, when untrained Minute Men defeated British veterans and drove them in panic to the shelter of their entrenchments, to the surrender of Cornwallis at Yorktown, on the 19th of October, 1781, the story of American valor is written in living letters. What memories of heroic conflict are associated with the names Bunker Hill, Fort Washington, Trenton, Princeton, Ticonderoga, Bennington, Brandywine, Bemis Heights, Monmouth, Stony Point, King's Mountain, Cowpens, Gulford, Eutaw Springs!

I believe first and foremost in the God given freedom of the individual. I believe the Constitution of the United States was the greatest instrument ever devised by man for the protection and preservation of that freedom, that is the Constitution as written by the founders of the American Republic and as taken from the Dutch Constitution of 1529, but not as rewritten in the past 23 or 24 years by the Supreme Court.

For my own part I have faith and no fear. Our State and nation will preserve the form the founders impressed and broaden the faith the fathers felt. Freedom and Union will safeguard us from the tyranny of power and from the stagnation of anarchy. Liberty will shield us from license. Equal to our day our strength will be, and equal to that our duty. Liberty sometimes is spoken of as though it were a catch word for the populace, but liberty is the simplest thing in the world if we interpret it rightly. What is meant by individual liberty is not license, but liberty under law. Any man is a good patriot who stands firmly for personal, individual rights and fights for them, if necessary; but he is only half a patriot if he does not go the other step and do the same thing for his neighbor's rights. That is all there is in the question of individual liberty.

A belief in a thing is frequently a start toward its attainment, and it only becomes possible of attainment when men live it and exemplify it in their lives. Platforms, beliefs, convictions, pronouncements and declarations never become tangibles in the social order until men insist upon them and set out determined to carry them forward. It is more satisfying to the mind and conscience to look forward and upward, for it is only the man who looks forward and upward who passes out of the shadow and into the light.

We are only the trustees of our American heritage—the freedom heritage. We do not own it. We have no right to dissipate it. Our obligation, our responsibility, is to pass it on to our children better and greater even than when we received it in trust.

With the heritage that our heirs assume, the obligation and thus this wealth of ineffable beauty and value is kept by them for a little while to be passed on eventually to their children's children—to generations unborn.

The colors of United Netherlands, the colors which we have kept ever since in our flag; the colors that we were the first to salute on November 19th, 1776, on the Island of St. Eustatius, the colors of the Star Spangled Banner:

"God built this Empire, for the last great act,
One spendid Empire, one plastic fact;
Its mountain ranges answer back the truth,
Its rivers see it in eternal youth,
Its plains unfolded to the setting sun—
One land, one tongue, one destiny and God."

KEEPING ABREAST OF THE HAZARDS OF SILICONE INJECTIONS

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. SANTINI. Mr. Speaker, with Congress becoming ever more conscious of the tremendous technological advancements being made daily in the field of medicine, I feel it is important that my colleagues have the true facts regarding a most controversial and hazardous medical treatment. I am speaking, of course, about the ill-conceived practice of injecting liquid silicone into the body for cosmetic purposes.

A good friend of mine, Dr. Chuck Vinnik of Las Vegas, has championed the fight in Nevada against this dangerous practice and was instrumental in the final passage of a State law making it a felony to inject liquid silicone into the body.

Below is an editorial, authorized by Dr. Vinnik, which appeared in the August 23 edition of the Journal of the American Medical Association. I think you will find his comments most enlightening:

THE HAZARDS OF SILICONE INJECTIONS

The problems that have followed liquid silicone injections to the breast raise concern about and have implications for use of silicone injections in other sites.

Similar clinical problems and histologic skin changes have been reported after silicone injections to the face, extremities, abdomen, and penis, as well as breasts.

Facial skin discoloration, induration, and subcutaneous nodule formation may follow silicone injection, but these are relatively minor complications compared with the aesthetic problems that patients with hemifacial atrophy and lipodistrophy may have to endure without treatment by the silicone procedure. There is no argument that the benefits for these patients outweigh potential local risks.

Quite the opposite may be true for patients seeking injections merely for cosmetic purposes. Here, the risks may far outweigh any possible benefit.

Physicians have assumed that problems associated with silicone injections were caused by adulterated liquid silicone. This is not the case. In Las Vegas and elsewhere, the injections of sterilized, unadulterated medical-grade fluid has also been implicated in adverse reactions.

It has been argued that the complications reported have resulted from use of contaminated silicone. Exposure of large aliquots of the fluid to air has been suggested as the source of physical contamination, and packaging in small glass ampules sealed from air is advanced as the solution. This hypothesis has not been confirmed by either animal or clinical research. Fluid is aspirated from the depths, not the surface of aliquots of liquid silicone, and, therefore, contamination is unlikely.

Liquid silicone is reported to cause histologic responses in animals identical to those reported in humans. Severe clinical problems often develop in humans even though the histologic appearance is remarkably bland. In our experience, breast complications occurred in humans in an average of five years after injection. In a number of patients, facial problems seem to occur 8 to 15 years after silicone injection. Animal studies have not been conducted for any period approaching this length of observation because cost factors of maintaining an animal colony for such periods were believed to preclude long-term animal studies. However, one large primate, killed eight years following injection of silicone, was reported to have "fat necrosis" in the breast. This may be comparable to what occurred in some humans with florid histologic responses.

At least half the patients that I have seen who have had silicone injection into the breasts are having clinical problems. Optimism with respect to the incidence of facial complications may well be premature, when one considers the longer subclinical latent period before such complications occur.

Conflicting viewpoints regarding long-term safety and efficacy of silicone injections in areas other than the breast may be legitimately based on differences in technique and motivation. The individual plastic surgeons authorized by the Food and Drug Administration (FDA) for silicone injection investigation have been scrupulous in terms of patient selection and technique of injection, and they have been extremely conservative in their injection volume. There are all important factors, and the number of problems reported thus far in their patients has not been numerous. In contrast, thousands of complications have been reported as a result of liquid silicone injections by operators who may have had liquid silicone as their only tool.

Investigators treating cosmetic lesions have used very small volumes as an adjunct to plastic surgical techniques, thus limiting any potential problems to minute areas.

Let us assume that future use of liquid silicone is limited by the FDA to facial injections. Except in Nevada, where the administration of silicone by injection is a felony, FDA regulations will be merely advisory, and professional liability may be a stronger deterrent to unlabeled uses of silicone. Mandatory training in proper techniques has been suggested but would be impractical without statutory restrictions on the medical use of silicone. Approval by the FDA will make the material available to all medical and osteopathic physicians, dentists, podiatrists, and, in at least one State, chiropractors for use by them or their designated aides. The availability of liquid silicone to large numbers of untrained operators will predictably create an incidence of complications dwarfing that now being seen. For these complications, there is no known satisfactory remedy.

Silicone for injection offers benefits for certain rare and bizarre disfigurements and some benefit for cosmetic panacea by an American public searching for a "fountain of youth." Until this careful appraisal can be made, glowing reports of this "miracle" substance in the medical and lay press are premature.

THE CARTER POSTURE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. ASHBROOK. Mr. Speaker, the air is beginning to go out of the balloon. The computerized candidate, Mr. Carter, was programed to say what he thought people wanted to hear, smile at the right moment, and avoid issues or take both sides when in his interest. That carried him a long way but all of a sudden veterans are starting to look at his amnesty bit, small businessmen look at his big spending proposals, and more Government regulation envisioned in the Consumer Protection Agency, the farmer wants none of his controlled economics and the sieve begins to leak.

Bill Buckley has hit the nail on the head with his recent column on the Carter posture. It is accurate, informative, and deserving of your close study.

The article follows:

THE CARTER POSTURE

(By William F. Buckley, Jr.)

NEW YORK.—When a typical Democrat promises full employment without inflation, or full and "free" medical care, the public begins, finally, to sense that it is being trafficked with. Jimmy Carter is not only less than concrete, he seems to take the position that it is somehow vulgar to be concrete. When he is forced to take a direct stand on an issue—forced, for instance, in front of labor union tribunals to drink to the repeal of 14B—then he appears to be doing so less out of conviction than out of good nature. A matter of indulgence. "If you want to go to the World Series that bad, sonny, why I'll just dig into mah savings and get you a ticket."

Thus, to a black audience Jimmy Carter announces that he is for school integration. And to a white audience he says he is against forced busing. In fact the two positions are not always incompatible. In fact, Jimmy Carter hasn't said what is his position in such parts of the United States where the two positions are indeed incompatible. South Boston, for instance. He would prefer to urge his listeners to believe that under his leadership tensions would dissolve: Why should anybody be mad at anybody else, when Jimmy Carter isn't mad at anybody and loves us all equally?

I tell you, brothers and sisters, it is a formidable posture. And it is in my judgment, and in the judgment of men more practiced in cynicism (the sharp-eyed, sharp-tongued Richard Reeves, for just one example) entirely sincere, even if it is amorphous. I happen myself to believe in the coming of the Lord, but I do not believe that the Lord takes an emphatic moral position on 14B, even if I believe that if Jimmy Carter wanted to exclude all but theological arguments, I could make a monkey out of him in a debate on 14B.

It is most commonly assumed that religion is mere incantation. A nice ritual, suitable for baptisms, weddings and funerals and best delivered by Hallmark. Carter says it in an entirely different context. "In 1967, I had a profound religious experience that changed my life. I accepted Christ into my life."

That, really, is a terrifying statement. And I do not doubt that it is the source of the awe and horror some people are experiencing as Carter heads for the nomination, all but secured by his victory in Pennsylvania. The prospect of a president who would attempt to rule according to the Word is not only anti-cosmopolitan, it is in the nature of heresy against the commandments of the secular state. Could it be that a President Carter would come out against a particular measure on the grounds that he thought it wrong?

That is the nature of the Carter problem. It is likelier that the system will break him, rather than that he will break the system. It is also quite possible that the general temper of his indulgence would bring him to stress good nature to the breaking-point of discipline. It has been calculated that, while governor, the whole of his administrative indulgences was equal to more than the sum of its parsimonious parts. Promise them simplicity and a decent austerity and give them Macy's window. He will be pressed to the wall in the coming months but my own guess is that he's going to make it.

FRIENDS OF THE EARTH, A NATIONAL ENVIRONMENTAL GROUP, ENDORSES THE WAXMAN-MAGUIRE AMENDMENT TO THE CLEAN AIR ACT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. DRINAN. Mr. Speaker, I know my colleagues will be interested in the following excellent article from the Boston Globe of August 31, 1976.

The article is written by Ann Roosevelt, the New England representative of the Friends of the Earth. Ms. Roosevelt argues against the Dingell amendment to the 1970 Clean Air Act and argues persuasively that without the enactment of the Waxman-Maguire amendment to the Clean Air Act "millions of people would be unnecessarily exposed to higher levels of dangerous air pollutants."

The article follows:

WAXMAN-MAGUIRE AMENDMENT TO THE CLEAN AIR ACT

(By Ann Roosevelt, representative, Friends of the Earth)

The American public is being told that a nation which put a man on the moon cannot build a relatively pollution-free automobile. But the Swedes already have done it with a Volvo that will be sold in California in 1977. If the Swedes can do it, why can't the US companies?

The Detroit automakers are putting on a blitz of lobbying pressure to get Congress to accept a weakening of automobile emissions requirements. If they are successful, the toll in human misery will be great. The National Academy of Sciences has estimated that pollution caused by automobile emissions is responsible for 4000 deaths and 4 million days of illness a year. The economic cost is "conservatively" estimated at up to $10 billion a year.

The controversy centers around control of the three most dangerous auto pollutants: hydrocarbons, carbon monoxide and nitrogen oxides. These pollutants are responsible for the smog which affects most major cities. In the Clean Air Act of 1970, Congress established statutory standards expressed in terms of grams per mile for these three pollutants and gave Detroit until the 1975 model year to meet the standards. The automakers' answer was carried in a letter to US Sen. Edmund S. Muskie, written shortly before the Clean Air Act vote in 1970. E. M. Cole, then president of General Motors, wrote: "Accomplishment of these goals . . . is not technologically possible within the time frame required."

The statutory standards still have not been met. They have been postponed by administrative and legislative action three times. The last delay required compliance by 1978, but a further postponement is under way. None of the proposals now under consideration by Congress requires full compliance until 1980, at the earliest. Detroit wants to delay final compliance until well into the 1980s. Once again the auto-makers echo their 1970 statement that compliance before then is technologically impossible.

The facts contradict that statement. Volvo has developed a 1977 car for California which holds emissions below the statutory standards and gets 10 percent better fuel economy than their 1976 California model. It uses a three-way catalyst system to achieve the emissions standards. The Engelhard Co. of New Jersey, which developed the catalyst system, is confident it could be adapted to American cars.

Responding to Volvo's breakthrough, Ford's Herbert Misch astounded members of Congress when he admitted: "We have been developing a three-way catalyst for some time and tentatively plan to introduce it in limited production in the 1978 model year."

Finally laying to rest the automaker's assertions of impossibility, the National Academy of Sciences has concluded that the statutory standards for hydrocarbons and carbon monoxide could definitely be met by 1978 and the standards for nitrogen oxides probably could be met. Note the year 1978. The proposals in Congress don't require the statutory standards until 1980 at the earliest.

In the face of such scientific opinion and demonstrated ability, how can Detroit assert that the technology is unavailable? Philip Handler, president of the National Academy of Sciences, has one explanation: "There has been an apparent reluctance on the part of the manufacturers to assemble in a demonstration vehicle the component emissions control technologies which the manufacturers have in hand. In this way, they can maintain with some consistency that the required technology 'has not been demonstrated.'" In other words, the automakers have the technology, but they are unwilling to demonstrate it to anyone yet.

The National Academy of Sciences also has exploded the often-repeated myth that Detroit can't provide both the statutory standards and good fuel economy. The NAS Conference Report concludes that the 1978 statutory standards "could and should be achieved while improving fuel economy." In fact, the academy states the technology developed to reduce auto emissions may actually improve fuel economy as well. The 1977 California Volvo's 10 percent gain in fuel economy is an example of this improvement.

Moreover, these gas-saving, clean cars will not cost significantly more. A government study has estimated that the sticker price increase for a three-way catalyst system to meet the statutory standards would only be $120. Volvo's increase is only $50. Measured against the toll in deaths and illnesses under the current system, the small increase in sticker prices seems very worthwhile.

The last-ditch effort to weaken the automobile emissions requirements is riding on a proposed amendment by U.S. Rep. John Dingell of Michigan. This amendment would reset the statutory standards for nitrogen oxides at a much higher level and freeze them at the new level. It also would delay the hydrocarbons and carbon monoxide statutory standards until 1982.

The Dingell amendment represents a major retreat from the goals of the 1970 Clean Air Act and a grave threat to public health. In addition to the known health hazards from hydrocarbons and carbon monoxide, scientists have found a high statistical correlation between the number of cancer deaths and the level of concentration of nitrogen oxides. Recent evidence also suggests that nitrogen oxides are combining with other chemicals in the air to form nitrosamines, one of the most powerful cancer-producing agents known to man. It is imperative that Congress defeat the Dingell amendment to protect public health. This amendment is not only a health menace, it is patently unnecessary because the technology exists to provide cleaner cars.

Consumer and environmentalists are supporting an amendment which will be offered jointly by U.S. Reps. Henry Waxman of California and Andrew Maguire of New Jersey. The Waxman-Maguire amendment provides continual progress over the next few years in cleaning up the nation's autos, even though it postpones full compliance with the statutory standards until 1981. The amendment does not even require new interim technology. It merely imposes nationwide standards for 1978 equivalent to those now in effect in California. For 1979 and 1980, the amendment would require Federal standards to those being met by next year's California cars.

It is time to get the auto industry up and moving. Without the Waxman-Maguire interim compliance program, the automakers could sit on their hands for several years and then claim to be far behind schedule. They could then return to Congress and ask for further delays of the statutory standards. In addition to the opportunity for more delay, the cost in suffering from pushing back the Waxman-Maguire timetable would be great because millions of people would be unnecessarily exposed to higher levels of dangerous air pollutants.

DINGELL-BROYHILL (TRAIN) AUTO EMISSION AMENDMENT CITATIONS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. DINGELL. Mr. Speaker, as the Clean Air Act amendments, H.R. 10498, nears the floor for further consideration, I insert at this point for the benefit of my colleagues the citations in the CONGRESSIONAL RECORD of documentation supporting the Dingell-Broyhill (Train) auto emission control amendment to section 203 of the bill:

CONGRESSIONAL RECORD CITATIONS OF DOCUMENTATION SUPPORTING THE DINGELL-BROYHILL (TRAIN) AUTO EMISSION SCHEDULE AMENDMENT TO THE CLEAN AIR ACT AMENDMENTS, H.R. 10498

April 27, 1976, pages 11430-11436, FEA-EPA-DOT auto emission analysis.

May 11, 1976, pages 13453-13455, Dingell Dear Colleague, Dingell News Conference statement, and Dingell summary of FEA-EPA-DOT auto emission analysis.

May 24, 1976, pages 15243-15245, Dingell, Broyhill, and others, Dissenting Views re: auto emission standards, House Commerce Committee Report, H-Report 94-1175.

May 27, 1976, page 15885, Fuel-Efficient Automobiles Absolutely Necessary in Light of OPEC Threats of Higher Oil Prices.

June 11, 1976, page 17835, American Automobile Association Announces Support for the Dingell-Broyhill (Train) Automobile Emission Control Amendment to the Clean Air Act Amendments of 1976.

July 26, 1976, pages 23761-23762, Auto Emission Test Corrected, re: California Air Resources Board and Governor Brown misleading claims on Volvo prototype test car emissions.

July 27, 1976, pages 24159-24160, Motor Vehicle Letter Comments on the Volvo Emissions Myth.

August 3, 1976, pages 25401, Commercial Travelers Support Dingell-Broyhill (Train) Amendment.

August 3, 1976, page 25395, Supporters Listed for Dingell-Broyhill (Train) Auto Emission Amendment.

August 3, 1976, page 25393, Railroads and Rail Labor Support Dingell-Broyhill (Train) Auto Emission Amendment.

August 3, 1976, page 25375, Administration Officers Write in Support of Dingell-Broyhill (Train) Auto Emission Amendment to the Pending Clean Air Bill.

August 3, 1976, pages 25379-25380, Administrator Train of EPA Writes in Support of Dingell-Broyhill (Train) Amendment to Clean Air Bill.

August 3, 1976, page 25388, IUE Supports Dingell-Broyhill (Train) Amendment to Clean Air Bill.

August 3, 1976, pages 25370-25372, Dingell-Broyhill (Train) Amendment printed.

August 4, 1976, page 25439 and pages 25451-25455, Congressman Dingell's floor statement upon opening of debate on Clean Air Acts Amendments, H.R. 10498 (auto emissions).

August 4, 1976, pages 25707-25710, The Dingell-Broyhill (Train) Auto Emission Control Amendment: A Response to Rrepresentative Paul Rogers.

August 10, 1976, pages 26971-26972, Imported Car Auto Dealers Clarify Position on Dingell-Broyhill (Train) Auto Emission Amendment to Clean Air Bill.

August 25, 1976, page 27799, Wall Street Journal Endorses the Dingell-Broyhill (Train) Standards.

August 26, page 28078, A response to the New York Times on Automobile Emission Controls.

RURAL ENERGY OFFICE

HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. ROSE. Mr. Speaker, today I am introducing legislation to create within the Department of Agriculture an office specifically charged with the responsibility of assessing fuel and energy needs of people who live in rural America. This Rural Energy Office—REO—will serve those citizens who reside outside standard metropolitan statistical areas, looking to such needs as home heating and cooling, transportation, agriculture production, electrical generation, conservation, and research and development.

My colleague in the other body, Senator PATRICK LEAHY is introducing companion legislation today. I am indebted to Dr. Garrison Nelson, consultant to Senator LEAHY and professor at the University of Vermont, who has prepared the charts included in our presentation with the help of personnel at House Information Systems, and my legal counsel, Carol Forbes. We have always known that computers can be of great assistance in compiling information to help solve the many problems facing our Nation. It is particularly satisfying to us that Dr. Nelson has combined agricultural research and computer technology in this endeavor.

In May, Business Week declared that the major consequence of energy dislocations in recent years has been to accelerate population shifts in the direction of Southern and Western States and away from Northeastern and Midwestern ones. Shifts which the Census Bureau had predicted would take 10 years to accomplish have taken place in less than half of that time. And with population movements go the inevitable flows of talent and capital. It is this movement which Business Week sees as leading us to "the second war between the States."

Using materials from the Federal Energy Administration, the Federal Power Commission, the Federal Highway Administration, the Bureau of Mines, and the Census Bureau, we have been able to develop the outlines of meaningful urban-rural differences in the consumption of petroleum products—the Nation's scarcest and most critical energy source.

The 10 States with the lowest metropolitan percentages are: Vermont, Wyoming, North Dakota, South Dakota, Idaho, Mississippi, Maine, Montana, New Mexico, and New Hampshire. These States had a per capita consumption of 352.8 gallons of distillate oil in 1974. This figure is 65 percent higher than the 214.2 gallons per capita of distillate consumed by all Americans in the same year.

Metropolitan States show a pattern similar to national consumption of distillate oil. The 10 most metropolitan States in 1973 were: New Jersey, California, Rhode Island, New York, Connecticut, Maryland and the District of Columbia, Massachusetts, Florida, Michigan, and Hawaii. The 1974 per capita consumption of distillate oil in these States was 212.5 gallons, slightly less than that consumed in the United States as a whole, but 40 percent below that consumed in the least metropolitan States.

The following table is based upon each State's proportion of the national consumption of a petroleum product—distillate, residual, and motor gas—and is divided by each State's proportion of the Nation's population. Thus, these figures represent the degree to which a State's consumption pattern of a petroleum product either exceeds or falls below the national average for that product. Each State's consumption ratio was ranked from 1 through 50 in this table:

TABLE I.—PER CAPITA PETROLEUM CONSUMPTION: STATE RATIOS AND RANKINGS

FEA region/States	State ratios			Rankings		
	Distillate	Residual	Motor gas	Distillate	Residual	Gas
Region I–Boston:						
Connecticut	1.403	2.731	0.892	13	4	43
Maine	2.152	3.221	1.031	3	2	33
Massachusetts	1.989	2.640	.822	6	5	48
New Hampshire	1.809	1.308	1.004	8	13	35
Rhode Island	1.694	1.465	.824	10	11	47
Vermont	2.040	.252	1.041	4	39	30
Region II–New York:						
New York	1.158	1.860	.687	22	10	49
New Jersey	1.814	1.924	.899	7	9	42
Puerto Rico	Not included in study.					
Virgin Islands	Not included in study.					
Region III—Philadelphia:						
Pennsyvlania	1.178	1.046	.844	21	17	46
Delaware	1.475	4.867	1.074	11	1	26
Maryland/District of Columbia	.997	2.105	.874	29	6	45
Virginia	1.016	1.937	1.032	28	8	32
West Virginia	.681	.211	.888	43	40	44
Region IV—Altanta:						
Kentucky	.629	.137	1.037	46	44	31
Tennessee	.765	.047	1.097	40	49	17
North Carolina	.823	.569	1.091	37	30	18
South Carolina	.658	.759	1.086	45	19	21
Mississippi	1.201	.706	1.068	20	22	27
Alabama	.793	.648	1.081	38	28	23
Georgia	.787	.586	1.165	39	29	13
Florida	.536	2.058	1.079	48	7	24
Region V–Chicago:						
Illinois	.952	.566	.937	33	31	41
Indiana	1.329	.666	1.067	16	25	28
Michigan	.968	.361	1.041	32	33	29
Minnesota	1.226	.331	1.078	19	35	25
Ohio	.749	.171	.969	41	41	40
Wisconsin	1.114	.086	.975	23	47	38
Region VI—Dallas:						
Arkansas	1.029	1.110	1.160	26	16	14
Louisiana	1.290	1.435	.968	17	12	39
New Mexico	1.334	.337	1.264	15	34	7
Oklahoma	.611	.098	1.283	47	46	5
Texas	.936	.694	1.223	34	23	8
Region VII—Kansas City:						
Iowa	.992	.049	1.197	30	48	10
Kansas	.974	.259	1.215	31	38	9
Missouri	.715	.110	1.142	42	45	15
Nebraska	1.104	.149	1.168	24	43	12
Region VIII—Denver:						
Colorado	.674	.281	1.082	44	36	22
Montana	2.038	.687	1.264	5	24	6
North Dakota	1.388	.413	1.342	14	32	4
South Dakota	1.030	.044	1.387	25	50	2
Utah	1.425	.808	1.090	12	18	19
Wyoming	3.736	1.284	1.701	1	14	1
Region IX—San Francisco:						
Arizona	1.020	.712	1.107	27	21	16
California	.397	1.117	.982	50	15	37
Hawaii	.462	2.993	.680	49	3	50
Nevada	.842	.266	1.386	36	37	3
Region X—Seattle:						
Alaska	3.658	.721	1.007	2	20	34
Idaho	1.761	.165	1.189	9	42	11
Oregon	1.274	.648	1.088	18	27	20
Washington	.922	.660	.995	35	26	36

Our perpetual energy crisis is not over for rural people. Prices for fertilizer, gasoline, insecticides, fuel oil, and gas continue to escalate as a result of international cartels and political maneuverings. In 1973, it took the equivalent of 80 gallons of gasoline to produce an acre of corn. Today it takes the equivalent of nearly 100 gallons. Many rural farms simply cannot pay the price for these gallons. Before too long, consumers may not be even able to pay for the food these farmers produce.

As American farmers are called on to produce greater and greater amounts of food, feed, and fiber for the world, they are shackled by the yoke of inflated energy costs. To feed our own population in the next 25 years, our agriculture's energy needs must increase 60 to 180 percent. To help feed that world's hungry people, that percentage will double. A farmer in Maryland recently said that the future of farming "always comes down to spending more of my dollars."

Yet in spite of these increased demands on energy for agriculture and rural areas, availability of resources for these areas has fallen. The Federal Energy Administration's "National Energy Outlook: 1976" contends that:

> The reserves from which most of today's oil is being produced—mainly on-shore in the lower 48 states—will decline by almost two-thirds by 1985 and about 80% by 1990.

The natural gas situation in my home State of North Carolina in the last few years has been, at best, in a state of flux. Our citizens are continually subjected to threats of limited supplies or virtual cutoffs. As a result, some industries which rely heavily on a steady supply of this energy resource have sought more stable energy areas for their companies. Such activities perpetuate the problems of unemployment and poverty in rural areas and are directly related to energy problems.

Liquefied petroleum gas, LPG, is used by tobacco farmers to cure tobacco for market. The price for this commodity has gone nearly out of sight for farmers in my Seventh District. The 10 highest consumer States of LPG are rural States. Yet these citizens are being penalized as they struggle to keep pace with rising populations and demands for food and fiber.

Gasoline prices for cars and trucks and farm machinery in rural America have surpassed those for urban drivers because few independent companies can afford to establish businesses in remote rural areas. Rural citizens cannot choose between Good Gulf at 61 cents a gallon and Getty regular at 56 cents a gallon. Chances are, they will have to pay 65 cents a gallon at the Gulf station.

People living in the 10 least metropolitan States consumed 567 gallons of motor gasoline per capita in 1974. This figure is 31 percent higher than that for motor gasoline consumption in the 10 most metropolitan States and 18 percent higher than that for the Nation as a whole.

Comparisons among the States on their metropolitan percentages and per capita motor gasoline consumption indicate that as metropolitan percentages increase, motor gasoline consumption decreases.

A report from the nationwide personal transportation study, "Home to Work Trips and Travel" reveals that people living in the Nation's unincorporated areas made 34 percent of the trips even though they constituted 26.5 percent of the population. In addition to making more trips, their trips are longer on the average. The average trip in the unincorporated areas was 11 miles, 28 percent higher than that recorded for the incorporated places—8.6 miles. Rural people have to make more trips because basic social services are not readily available to them.

And in spite of the inroads and income major oil companies have undoubtedly made in rural areas, several have announced they are pulling out of the markets which are great distances from their refineries. The areas hardest hit by these pullouts will be rural ones.

Mr. Speaker, rural Americans are caught in a vicious spiral when it comes to transportation. They do not have the advantages of a rapid transit system or computerized trains. The automobile is often the only way to get from one place to another.

And since most rural people are not wealthy, they cannot afford new, more efficient cars. Frequently, they must rely on secondhand cars which are often gas guzzlers.

In a like manner, in the area of home heating and cooling, rural residences are less efficient than most urban housing. In the first place, the units are usually single-family units and many of them are substandard. With one-fourth of the Nation's population, rural areas have 60 percent of the Nation's substandard housing. And these citizens do not have a choice between an apartment complex and a well-insulated townhouse. Insulation repairs on an old house are exhorbitant and often do not seem worth the price.

In North Carolina, we have the highest per capita consumption of kerosene for heating and we are No. 2 in the Nation for total use of kerosene. Even this relatively inexpensive petroleum byproduct is getting increasingly expensive to use. Inefficient and untidy, kerosene is used most often by the poor who do not have the opportunity or the money to switch their furnaces to oil.

The next three tables take all of the States and divide their consumption patterns into three groups: High, ranks 1 to 16; medium, ranks 17 to 34; and low, ranks 35 to 50. In this way it was possible to identify which States ranked high in consumption of one petroleum product and low in the consumption of another.

Two simple measures of association were used to determine the degree of relationship between the petroleum consumption patterns—Spearman's rho which compared each States ranking on each product and Goodman and Kruskal's gamma which compared the consumption patterns within State groups. The results for each measure are presented below:

	Spearman's rho	Goodman & Kruskal's gamma
Distillate and residual fuels	+0.326	+0.449
Distillate and motor gas	−.063	+.041
Residual and motor gas	−.493	−.526

What these correlations indicate is that States which have higher rates of distillate consumption also have higher rates of residual consumption. However, there was no relationship between States with high rates of distillate consumption and those with high rates of motor gasoline consumption.

The strongest relationship of the three is a negative one. States with high rates of residual fuel consumption very often have low rates of motor gas consumption and vice versa. It is this relationship which is most pertinent to the question of the Rural Energy Office for it is along the high residual/low motor gas versus low residual/high motor gas dimension where urban and rural States differ the most.

These data appear in table 4. Also included in this table and the two preceding ones are 1973 metropolitan percentages of each State's resident population. With this information added, the urban-rural character of the relationship can be easily discerned. A summary is presented below:

Petroleum consumption patterns	Number of States	Mean metropolitan population (percent)
High residual/low motor gas	10	81.2
High residual/medium motor gas	4	60.8
Medium residual/low motor gas	3	78.1
Low residual/high motor gas	8	43.8
Low residual/medium motor gas	5	49.5
Medium residual/high motor gas	6	46.5

Seventeen States show an urban-industrial petroleum consumption pattern while 19 States show a rural-agricultural one. Given the lack of industry and population concentrations, the rural-agricultural States have a far lesser need for residual fuel. They have few factories to run; no major chemical plants; and no huge oil-fired electrical generating facilities. The rural areas rely more upon hydroelectric power, coal, and more recently, nuclear energy.

The high motor gasoline consumption ratios in the rural-agricultural States are a natural consequence of greater distances to travel, the lack of nearby social services, and the absence of sizable mass transit systems. Table 4 captures the essence of the rural energy problem.

Tables 2, 3, and 4 follow:

TABLE 2.—STATE PER CAPITA PETROLEUM CONSUMPTION 1974 SALES OF DISTILLATE FUEL AND RESIDUAL FUEL

Residual fuel sales

Distillate fuel sales	High (States 1 to 16)	Medium (States 17 to 34)	Low (States 35 to 50)
High (States 1 to 16)	Connecticut, 88.7. Delaware, 69.6. Maine, 23.8. Massachusetts, 86.8. New Hampshire, 36.1. New Jersey, 93.3. Rhode Island, 91.1. Wyoming, 0.0.	Alaska, 44.2. Indiana, 64.3. Montana, 24.4. New Mexico, 34.2. North Dakota, 12.4. Utah, 79.2.	Idaho, 16.5. Vermont, 0.0.
	Mean=61.1.	Mean=43.1.	Mean=8.2.
Medium (States 17 to 34)	Arkansas, 40.8. Louisiana, 64.6. Maryland/District of Columbia, 87.7. New York, 88.8. Virginia, 66.0.	Arizona, 74.4. Illinois, 81.5. Michigan, 82.0. Mississippi, 22.3. Oregon, 60.6. Pennsylvania, 80.8. Texas, 77.0.	Iowa, 36.8. Kansas, 43.2. Minnesota, 63.2. Nebraska, 44.5. South Dakota, 14.4. Wisconsin, 57.9.
	Mean=69.6.	Mean=68.4.	Mean=43.3.
Low (States 35 to 50)	California, 93.1. Florida, 83.9. Hawaii, 81.6.	Alabama, 63.8. Georgia, 56.7. North Carolina, 45.6. South Carolina, 47.9. Washington, 71.9.	Colorado, 72.5. Kentucky, 48.3. Missouri, 64.2. Nevada, 75.1. Ohio, 80.3. Oklahoma, 55.6. Tennessee, 62.5. West Virginia, 37.1.
	Mean=86.2.	Mean=62.0.	Mean=57.2.

NOTE.—Resident metropolitan percentages, 1973. Distillate/residual: *gamma*=+.449.

Source: Distillate sales, 1974 and residual sales, 1974, both from the Department of the Interior, Bureau of Mines, Metropolitan percentages from the Department of Commerce, the Census Bureau.

TABLE 3.—STATE PER CAPITA PETROLEUM CONSUMPTION 1974 SALES OF DISTILLATE FUEL AND MOTOR GASOLINE

Motor gasoline sales

Distillate fuel sales	High (States 1 to 16)	Medium (States 17 to 34)	Low (States 35 to 50)
High (States 1 to 16)	Idaho, 16.5. Montana, 24.4. New Mexico, 34.2. North Dakota, 12.4. Wyoming, 0.0.	Alaska, 44.2. Delaware, 69.6. Indiana, 64.3. Maine, 23.8. Utah, 79.2. Vermont, 0.0.	Connecticut, 88.7. Massachusetts, 86.8. New Hampshire, 36.1. New Jersey, 93.3. Rhode Island, 91.1.
	Mean=17.5.	Mean=46.8.	Mean=79.2.
Medium 17 to 34) Low	Arizona, 74.4. Arkansas, 40.8. Iowa, 36.8. Kansas, 43.2. Nebraska, 44.5. South Dakota, 14.4. Texas, 77.0.	Michigan, 82.0. Minnesota, 63.2. Mississippi, 22.3. Oregon, 60.6. Virginia, 66.0.	Illinois, 81.5. Louisiana, 64.6. Maryland/District of Columbia, 87.7. New York, 88.8. Pennsylvania, 80.8. Wisconsin, 57.9.
	Mean=47.3.	Mean=58.8.	Mean=76.9.
Low (States 35 to 50)	Georgia, 56.7. Missouri, 64.2. Nevada, 75.1. Oklahoma, 55.6.	Alabama, 63.8. Colorado, 72.5. Florida, 83.9. Kentucky, 48.3. North Carolina, 45.6. South Carolina, 47.9. Tennessee, 62.5.	California, 93.1. Hawaii, 81.6. Ohio, 80.3. Washington, 71.9. West Virginia, 37.1.
	Mean=62.9.	Mean=60.6.	Mean=72.8.

NOTE.—Resident metropolitan percentages, 1973. Distilate/Motor Gas: *gamma*=+.041.

Source: Distillate sales, 1974 from the Department of the Interior, Bureau of Mines. Motor gasoline sales, 1974 from the Department of Transportation. Metropolitan percentages from the Department of Commerce, Census Bureau.

TABLE 4.—STATE PER CAPITA PETROLEUM CONSUMPTION 1974 SALES OF RESIDUAL FUEL AND MOTOR GASOLINE

	Motor gasoline sales		
Residual fuel	High (States 1 to 16)	Medium (States 17 to 34)	Low (States 35 to 50)
High (States 1 to 16)	Arkansas, 40.8. Wyoming, 0.0.	Delaware, 69.6. Florida, 83.9. Maine, 23.8. Virginia, 66.0.	California, 93.1. Connecticut, 88.7. Hawaii, 81.6. Louisiana, 64.6. Maryland/District of Columbia, 87.7. Massachusetts, 86.8. New Hampshire, 36.1. New Jersey, 93.3. New York, 88.8. Rhode Island, 91.1.
	Mean=20.4.	Mean=60.8.	Mean=81.2.
Medium (States 17 to 34)	Arizona, 74.4. Georgia, 56.7. Montana, 24.4. New Mexico, 34.2. North Dakota, 12.4. Texas, 77.0.	Alabama, 63.8. Alaska, 44.2. Indiana, 64.3. Michigan, 82.0. Mississippi, 22.3. North Carolina, 45.6. Oregon, 60.6. South Carolina, 47.9. Utah, 79.2.	Illinois, 81.5. Pennsylvania, 80.8. Washington, 71.9.
	Mean=46.5.	Mean=56.7.	Mean=78.1.
Low (States 35 to 50)	Idaho, 16.5. Iowa, 36.8. Kansas, 43.2. Missouri, 64.2. Nebraska, 44.5. Nevada, 75.1. Oklahoma, 55.6. South Dakota, 14.4.	Colorado, 72.5. Kentucky, 48.3. Minnesota, 63.2. Tennessee, 62.5. Vermont, 0.0.	Ohio, 80.3. West Virginia, 37.1. Wisconsin, 57.9
	Mean=43.8.	Mean=49.3.	Mean=58.4.

NOTE.—Resident metropolitan percentages 1973.

Source: Residual sales, 1974 from the Department of the Interior, Bureau of Mines; Motor gasoline sales, 1974 from the Department of Transportation; and metropolitan percentages from the Department of Commerce, Census Bureau.

Mr. Speaker, at every turn of the road, rural Americans suffer energy deprivation not experienced by the rest of America's people. Those among us who provide the food we eat and clothes we wear are now being penalized for providing these services and we must help them.

Our study of petroleum consumption reveals that there is no rural-urban difference in the per capita consumption total of motor gasoline and residual fuel combined. The 10 most metropolitan States had a per capita consumption of 742 gallons of residual and gasoline combined in 1974, while the 10 least metropolitan States had a per capita consumption of 735 gallons. While the total consumption figures are virtually identical, the residual versus motor gas components are not. In the 10 least metropolitan States, residual fuel represents only 23 percent of the combined total while in the 10 most metropolitan States residual fuel represents 42 percent.

What this means simply is that any conservation effort which seeks only to reduce motor gas consumption in order to create greater supplies of residual fuel is an urban solution. The rural areas will not benefit from the increased availability of residual fuel. They will in fact be hurt by the decrease in the available supply of motor gasoline.

The 10 States which rank highest in the Nation in their per capita consumption of residual fuel and which rank lowest in their per capita consumption of motor gasoline have a mean metropolitan percentage of 81.2. The eight States which rank lowest in residual consumption and highest in motor gas consumption have a metropolitan mean of 43.8 percent.

At no point does the urban-rural factor in petroleum consumption become clearer. The tradeoff between using crude oil for residual fuel or for motor gasoline raises fundamental questions about the future of American lifestyles.

The shameful result of these energy-related trends in rural areas is that fewer and fewer Americans can afford to live there and own farms. Today most people living in rural areas are not farmers and those who are earn the majority of their income in nonagricultural employment.

As the number of family farms dwindles and the number of corporate farms increases, energy needs also increase. Corporation agriculture is energy intensive rather than labor intensive, and if these farmers cannot have access to fuel supplies at costs competitive with urban industries, our Nation may reverse itself as a producer and exporter of food and become a consumer and importer of food.

For these reasons, Mr. Speaker, I believe that a Rural Energy Office in the Department of Agriculture would greatly improve the flow of information regarding energy for rural citizens. And passage of this bill will demonstrate that the Congress of the United States, representing rural people in every state, is making a sincere effort to serve them.

The REO will be charged with the responsibility of assessing the fuel and energy needs of rural residents as those needs pertain to home heating and cooling, transportation, agricultural production, electrical generation, conservation, and research and development.

The office will have two functions. First, it will gather information. Contained within the Offices of the Agricultural Research Service, Economic Research Service, Rural Electrification Administration, Agricultural Marketing Service, Agriculture Stabilization and Conservation Service, Cooperative State Research Service, Extension Service, Forest Service, National Agriculture Library, Soil Conservation Service, and the Statistical Reporting Service are individuals who have extensive knowledge of the rural areas most likely to be affected by changes in the availability of various energy sources. They are also well aware of the concerns of rural residents regarding energy.

Mr. Speaker, we are not advocating the establishment of a new bureaucracy. The Federal Energy Administration has a mandate to oversee the energy needs of all Americans, but we believe that rural citizens have been overlooked in this area. Besides, an office within the Department of Agriculture which already mobilizes such expertise will not require a huge expenditure of the taxpayers' money.

The Secretary of Agriculture will then direct and transfer those USDA statisticians and economists who are already engaged in matters related to energy, and have them concentrate their efforts in assessing the full dimensions of energy needs facing rural people.

The second function of the REO will be to serve as a clearinghouse for energy legislation likely to have a direct impact on rural citizens and industries. Those energy experts within REO will be directed to look for alternative approaches and consequences as well, and they will be encouraged to initiate legislation when appropriate.

This bill addresses seven specific energy areas. The first is home heating and cooling methods. Rural residents hear little or nothing about improved insulation techniques and materials. Solar and wind energy experiments pass them by. Yet rural homes are often situated in areas which have long sunlight hours and where wind currents are strong and sunlight concentrated. The REO will be responsible for making information on current heating and cooling research available to residents in rural areas.

Second, the bill directs the REO to assess the energy needs related to transportation in rural areas: How much gasoline is needed? Is it available? Which areas are to be cut off from supply? When? What will be the impact of such withdrawal? And can the supply of gasoline be met by others?

Third, the REO will be required to provide information related to the production of agricultural commodities, such as LP gases, insecticides, fertilizers, and to assess the impact of fluctuating prices on rural areas.

Fourth, information on energy needs for business and industry in rural America will be sought. How can new industries be encouraged to invest in underdeveloped rural areas, and how can those already there be maintained? Can energy needs be met to sustain economic growth in rural areas?

Fifth, the REO is charged with acquiring information on the sources of electricity—where it is generated, what the long-term needs are likely to be, what the future of nuclear plants is in rural areas. And what the costs will be to residents.

Sixth, the bill directs the REO to develop information on conservation of energy, to inform rural people of conservation methods, and to develop programs encouraging energy self-sufficiency.

And finally, the REO is charged with doing research to identify and develop information on alternative fuels and the potential of energy technologies which have not been fully developed or widely used.

Mr. Speaker, the successful production of food and fiber is based on meeting the energy requirements of agriculture. The strength of rural America is based on the fabric of family farms and rugged individualists who rely on energy and fuel to make a living from the land. We render these citizens powerless when we do not meet their needs.

Fuel is the life blood of our agricultural society. Without it, the Nation cannot survive. Today, through the penalties of high prices and lack of information, this delicate system is suffering from hardening of the arteries. If we do not give it a transfusion, it may not be able to do what we know it must do if we are to maintain our standard of living.

For these reasons, I urge my colleagues in this Chamber to join me in support of a Rural Energy Office. Identical legislation is being introduced in the other body by Senator Leahy of Vermont. If implemented as we intend, this office could provide the mising link in our long overdue rural development effort.

To rural Americans, information about energy is as important as information about soil or weather or water levels or markets. And it is high time we give our valiant citizens the sort of service they require in this critical area of their lives.

In the course of research for this bill, we developed data on per capita consumption ratios of the three major petroleum products: Distillate oil, residual fuel, and motor gasoline. The sources for this data were: "Sales of Fuel Oil and Kerosene in 1974," Mineral Industry Surveys, Washington, D.C., U.S. Department of the Interior, Bureau of Mines, 1975; "Monthly Motor Gasoline Reported by States," Washington, D.C., U.S. Department of Transportation, Federal Highway Administration, 1975; "Preliminary 1974 Power Production, Capacity, Fuel Consumption Data," Washington, D.C., Federal Power Commission, 1975; and "Estimates of the Population of States: July 1, 1973 and 1974," Washington, D.C., U.S. Department of Commerce, Bureau of the Census, 1974.

Other sources used in the preparation of the data were two publications of the Federal Energy Administration, "Project Independence Report," November 1974, and the "National Energy Outlook," February 1976; two reports from the Committee on Agriculture of the House of Representatives, "Agriculture and the Fuel Crisis," 1974, and "Energy Crisis and Its Effect on Agriculture," 1973; and one from the Committee on Agriculture and Forestry of the U.S. Senate, "The Effects of Uncertain Energy Supplies on Rural Economic Development", 1974. In addition, valuable information on this subject could be found in the series of reports prepared by the Congressional Research Service entitled "Toward a National Growth Policy: Federal and State Developments," 1972–75.

AUGUST 30 ACCIDENT AT HANFORD

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. McCORMACK. Mr. Chairman, yesterday morning, August 30, about 3 a.m., there was a small localized explosion inside chemical processing equipment involving waste recovery at the Hanford, Wash., plant of the Energy Research and Development Administration. This was not a nuclear accident, and it did not occur at a nuclear powerplant. It had nothing to do with nuclear energy production or the fabrication or reprocessing of nuclear fuels. The explosion was probably caused by a chemical reaction, and occurred in an americium recovery facility. The operator received superficial cuts on the face and on one side, and was contaminated by the americium solution.

Americium is a radioactive element used in industrial measuring. It does not require heavy shielding, but does require contamination control. It was, therefore, necessary, after the operator had showered, for him to go to the Hanford Environmental Health Facility, a special industrial-medical unit in Richland which treats cases where the skin has been broken and where there is probable contamination. There were nine other persons involved, who were contaminated, one of them significantly, in assisting the operator in leaving the room and in decontaminating him. Eight of these men were decontaminated by washing, and have been released. One is being held for further decontamination, as is the contaminated operator. The room in which the facility is located was contaminated, and will require extensive decontamination. There was no significant contamination outside the building.

It is apparent that the significance and magnitude of this accident has been exaggerated by the way it has been handled by some elements of the press. If this accident had occurred in some nonnuclear facility, it would not have been reported at all by the press, but if strong acids or caustics or certain organic or inflammable materials had splashed on the operator in such an accident in a nonnuclear facility, the accident would have been far more serious. The accident, while regrettable, has no impact on the Hanford plant, nor on the nuclear energy program.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. RYAN. Mr. Speaker, it is obvious from the number of complaints I have received from the 11th Congressional District of California that the operation of the Occupational Safety and Health Administration is a major source of aggravation and resentment toward the Federal Government for many American businessmen. I know from personal experience that many of the criticisms are justified.

OSHA's penchant for enforcing trivial and petty regulations have consistently taken precedent over the more serious dangers facing American workers. I think it is important to note that 98 percent of the 1 million citations issued by OSHA have been for "nonserious violations." This record is a disservice to the goal of protecting the real welfare of the working men and women of America and a constant irritation to the American businessman.

Mr. Speaker, I rise to offer the following reply to one such comment on OSHA which may be of interest to my colleagues of the Congress:

> Dear NFIB Member: Since my election to the United States Congress four years ago, I have been besieged by complaints concerning the operation of the Occupational Safety and Health Administration and I suspect many of those complaints have been justified.
>
> Instead of addressing major problems of health and safety, the agency has all too often directed its attention toward areas which could best be served by local fire departments or state public health services. Rather than control worker exposure to dangerous chemicals such as benzene which has been tied to leukemia, the agency has all too frequently used its limited resources for measuring the distance between aisles in the local hardware store or handing out citations at the neighborhood garage because the coffee pot doesn't have the proper kind of plug. Congress had no intention of injecting the federal government in many of

these areas and yet it bears the brunt of much of the small business communities aggravation with OSHA's regulation.

In the last 3½ years for example, OSHA inspectors have issued almost 1 million citations to employers for violations. 98 percent of these have been for "non-serious violations" as defined by OSHA. The average penalty is $25. I doubt that the threat of such a small fine adds to an employer's willingness to comply with the regulations. I think such fines serve to breed disrespect for the law and a government which seems to delight in unnecessarily questioning the good intentions of those it is supposed to serve.

Last year the House began to address the serious problems and resentment OSHA was generating. On November 17, 1975, the House passed and sent to the Senate HR 8618, a bill which would provide onsite consultation for OSHA standards, a major complaint of many employers. Only fifteen Members of the House voted against this bill which has not yet been considered by the other body.

Recently I talked with Congressman David Obey (D-Wisc) and other Members of the Labor-HEW Appropriations Subcommittee who explained the strong action the Subcommittee had taken in the 1976 Labor-HEW budget. I want you as a businessman to be aware of the new policies OSHA has been directed to follow:

(1) Immediate steps to dramatically upgrade the skills of OSHA inspectors through intensive retraining. This retraining should be conducted irrespective of a possible reduction in the number of inspections completed during the coming year and should accomplish the following objectives:

(a) provide each inspector with a clear sense of priorities as to which workplace hazards pose the greatest threat to the health and well-being of workers

(b) provide inspection procedures to insure that citations, fines, and abatement orders are based on those priorities

(c) provide a clear understanding of the meaning of each OSHA standard by all inspectors and develop the technical skills necessary to concentrate enforcement efforts on workplace hazards which pose the greatest threat to the well-being of the workers, particularly in the area of health

(2) Review and simplification of existing OSHA standards and elimination of so-called "nuisance standards" or standards which do not deal with workplace conditions that are clearly hazardous to the health or safety of workers or are more properly under the jurisdiction of State Departments of Public Health.

(3) Redirection of enforcement programs to place increased emphasis on problems related to worker health. The Congress notes that the overwhelming number of inspections have been in the field of safety despite reports by the Administration that deaths due to occupational health problems exceed 100,000 per year while problems involving safety account for 11,000 deaths per year.

(4) Substantial redirection of inspection efforts away from industries with good worker health and safety records so as to permit increased inspection in industries with the greatest health and safety problems.

(5) Development of fine-free on-site consultation programs which are available to employers throughout the United States are clearly understood by employers and are staffed by competent consultants qualified to advise employers of the application of *OSHA* standards in their workplace. An evaluation of the on-site consultation program shall be completed and transmitted to the House and Senate Appropriations Committees.

With regard to the second directive above, OSHA has complained that its efforts to revise section 6(a) standards, have been thwarted by a general lack of data upon which to base proposals or revisions more relevant to employee safety and health. It is my understanding that the agency continues to encourage interested parties to participate in the revision process by submitting written comments. I would also like to encourage you to participate because it is important to the small business community and the American economy that we minimize the damage being done by OSHA. Please make your comments available to:

Director, Office of Standards Development, OSHA, U.S. Department of Labor, Room N-3718, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

To make sure comments are directed to the appropriate officials, those on walking-working surfaces should be directed to Docket D; Fire Protection, Docket L; and Anhydrous Ammonia, Docket AA.

While I have serious doubts about the effectiveness of OSHA in furthering the goal of safeguarding the working men and women of America, as long as the agency continues to exist I intend to do what I can to make its standards and procedures more rational than they have been in the past.

Sincerely yours,

Leo J. Ryan,
Member of Congress.

NADER IN CHARGE?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. ASHBROOK. Mr. Speaker, the recent news from Georgia concerned the Democratic standard bearer's receiving Ralph Nader as his visitor to his recently established political court. Following their meeting, according to news stories, both Governor Carter and Mr. Nader took turns in spreading compliments thick as peanut butter.

In view of this Carter-Nader mutual admiration club, I think it appropriate to bring to the attention of my colleagues two recent editorial commentaries, one from the Wall Street Journal and the other from the Washington Post, which reflect criticism indicating a growing disenchantment with scattershot Nader attacks on American industry.

In former times Mr. Nader has been made to appear an irreproachable defender of consumer interests. These editorials from the Journal and the Post point up a sharp change in attitude.

I commend the reading of these editorials to my colleagues, as well as Governor Carter and his staff:

[From the Wall Street Journal, Aug. 5, 1976]

Cause and Cure of Cancer Discovered

While the U.S. government has already dumped $3 billion into the "war on cancer," a Washington lawyer with no medical credentials working with limited financial resources has located a leading source of cancer. Browsing through hearings of the Senate Commerce Committee held earlier this summer, we note that Mr. Ralph Nader disclosed, "Corporations are a cause of cancer."

Because Mr. Nader has occasionally taken issue with our comments on his myriad activities and because we aspire to be at least as accurate as the studies that bear his imprimatur, we quote the relevant part of his statement:

"In the public health area, health specialists are beginning to be concerned about cancer as an environmentally caused disease. That means pollution, carcinogenic drugs, food additives, cigarets, and the like; all of which are developed, promoted, carelessly handled by corporations, including the relenlentless promotion to make millions of Americans addicted to cigarets. Even the addiction area, in substantial part, can be laid at the door of these companies. So that the phrase 'corporate carcinogenesis' is beginning to come into play. Corporations are a cause of cancer."

This is a remarkable breakthrough. The bulk of the medical profession, perhaps influenced by sinister forces, holds that there are statistical correlations between certain industrial and consumer activities and cancer, but still lacks a credible theory of what makes body cells go tumorous.

Not content with discovering a cause of malignant neoplasms, Mr. Nader also offers a cure. To wit, in the name of public health, Congress should legislate the federal chartering of corporations.

Well, that should be easy enough. But Mr. Nader's prognosis raises a few questions. After all, it was the Royalty Chartered Virginia Company that introduced tobacco to the world. The historians are silent about what corporation promoted nicotine addiction among the Indians, who taught it to the Europeans. Also, a Czechoslovak medical journal reports the Soviet cancer rate to be approximately the same as the U.S.; the Soviet Embassy advises us there are no corporations in the U.S.S.R.

It occurs to us that those epidemiologists working day and night in Philadelphia could save themselves a lot of trouble by calling in Mr. Nader. By his logic, clearly, the Pennsylvania mystery disease is caused by veterans' conventions.

[From the Washington Post, Aug. 6, 1976]

Windbags and Airbags

There seems to have been a certain amount of windbaggery at the air bag hearings held by Secretary of Transportation William T. Coleman on Tuesday. At issue was a decision Secretary Coleman has promised to make by January 1: whether or not automobile manufacturers should be compelled to install air bags (or other "passive restraints," as they are known) on all new cars as a safety measure. Over the years the air bag argument has been very intense. Both the cost and the prospective efficacy of the device have been at issue between manufacturers and consumer groups. Thus Secretary Coleman, a public official known for his willingness to assume personal responsibility for tough and politically controversial decisions and for a corollary insistence on getting all the facts he can, delayed a ruling until he could acquire a wide range of information. Tuesday's hearing was part of the process.

The windbaggery was initiated by Ralph Nader, whose commitment to the mandatory installation of air bags seemed to have overwhelmed both his judgment and his ability to deal straightforwardly. In his prepared statement, Mr. Nader sought to rig the game and also to personalize it in a particularly offensive way. He did so by suggesting that the real issue was Mr. Coleman's character, the idea being that the Secretary was in fact in the process of deciding whether or not to sell out, as distinct from deciding the merits of the case. But hear Mr. Nader:

It really boils down to whether you have the moral fortitude to stand up to the giant auto corporations and the White House that has serviced them so faithfully in the last few years. That is the issue . . . It is whether William T. Coleman has the guts to stand up to General Motors and the Ford Motor Co. as he had the guts to stand up on civil rights years ago—and, after too many months, to stand up soon, before, not after the November elections.

Mr. Nader had already suggested that the hearing was being used as a means of delaying a final ruling, prompting Mr. Coleman to interrupt with the observation that he didn't much care to have the "integrity" of the process impunged in this fashion. There was also a flare-up over Mr. Nader's reference to Secretary Coleman's feelings about "rights for black people," which he had brought up in a ham-handed way, prompting Secretary Coleman liken him to "bigoted people"—a term for which the Secretary subsequently apologized on the grounds that in his job he should not "irritate" citizens.

Not very pleasant, you will probably agree; but the point is larger than that. It is that Mr. Nader's insinuations of bad faith, which ran in an unmistakable, if elusive, undercurrent through his statement, were inappropriate, unnecessary and unwise. In the particular case this is so because Secretary Coleman is a public official of demonstrated integrity and courage. Unsupported suggestions that he is not are genuinely reckless. More generally we would just observe that loose insinuations about a public official's character are no more defensible or attractive than similar assertions about—let us say—his loyalty to his country. It has always struck us as odd that so many of the well-intended folks on the left who understand one half of this proposition don't seem to understand the other. Mr. Nader, in this episode, is a case in point. We would remind him that the issue is the efficacy of the air bag, not the potential corruption of Mr. Coleman. Very possibly we will disagree with the Secretary's final judgment on the matter ourselves. But we have not the smallest reservation about the objectivity and good faith with which he will reach it. Neither should Mr. Nader.

FORD'S PARK PLAN TOO LITTLE TOO LATE

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. MOORHEAD of Pennsylvania. I was pleased to learn this past weekend of President Ford's proposal to establish a 10-year, $1.5 billion program designed to preserve and protect the natural and historic treasures that are embodied in our national park system. The President's program would double the size of the Nation's park, wildlife refuge, and recreation areas, and provide nearly $500 million for improved maintenance and increased staffing which is so desperately needed.

The House Government Operations Subcommittee on Conservation, Energy and Natural Resources, which I chaired until 3 months ago, conducted an extensive investigation on the effects of personnel and budgetary shortages imposed upon the Park Service. We learned that park buildings, roads, bridges, trails, and historic sites were not being maintained according to the Park Service's own standards.

In June of this year the House Government Operations Committee unanimously approved a report based on the subcommittee's investigation, recommending that Congress increase the National Park Service budget and that the OMB increase the ceiling on permanent personnel for the Park Service to a level equivalent to that authorized by Congress. The committee felt that this would be the quickest and most economical way to halt the degradation of America's national parks. It is for this reason that I commend that portion of the President's appropriations request which, if approved, would provide $194.3 million for the Park Service for maintenance, and $200 million for an additional 1,000 positions for the Nation's parks over the next 10 years. Although the President's request also provides $700 million for development of new and existing park areas and $141 million for acquisition of new park land, it is essential that more money be earmarked for maintenance of existing facilities, some of which are shamefully inadequate, rather than for construction of new facilities.

The President's recent action is both commendable and long overdue. For 8 years now indifference and neglect have been the hallmark of Republican administrations that have passively watched the continuing degradation of our Nation's parks. The President's 10-year program represents an important commitment to the preservation of the scenic, historical, and cultural values that are an integral part of our national park system. It is unfortunate, however, that the President's sudden interest in the Nation's resource protection problems had not been displayed sometime before the end of a legislative session and prior to the deterioration that has already taken its toll on visitor services and facilities within our national parks.

WIRETAP SURVEILLANCE

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. DRINAN. Mr. Speaker, I know that my colleagues will be interested in a bill (S. 3197, H.R. 12750) which is being rushed to enactment by the Senate. This bill would permit the wiretap surveillance of aliens and others who are not engaged in criminal activity, but whose conversations are deemed relevant to the plans of the State Department.

This bill has been vigorously advanced by Attorney General Edward Levi and the administration.

The attached editorial from the Boston Globe of August 28, 1976, another editorial from the New York Times of August 29, 1976, as well as an excellent article by Tom Wicker in the New York Times on August 31, 1976, show the serious inadequacies and indeed the perniciousness of this proposal.

These items follow:

[From the Boston Globe, Aug. 28, 1976]

HALFWAY ON WIRETAPS

Sen. Edward M. Kennedy's bill to regulate national-security wiretapping, which previously would have given the government broad authority to tap citizens not accused of any crime, has been improved by the Senate Judiciary and Intelligence committees.

But the bill, cosponsored by President Ford, retains at least three provisions that encroach needlessly on civil liberties.

Most easily remedied is the section that still permits non-criminal wiretap warrants, but only against agents of foreign intelligence networks who are clandestinely transmitting information to a foreign power and apparently violating national security.

That kind of activity is equivalent to criminal espionage, and ought to be regulated. Nonetheless, as the Church-Schweiker committee warned after reviewing FBI and CIA crimes, the government should never be allowed to tap citizens who are not breaking the law. If the government needs to wiretap foreign intelligence agents, why not amend the espionage laws to make such activity specifically a crime?

More troublesome is the procedure for obtaining wiretap warrants. While the mere fact of requiring a warrant—and the written record the warrant provides—offer a vast improvement over warrantless and untraceable taps, the bill virtually compels a judge to issue a warrant without real opportunity to consider whether the intrusion of a wiretap is justified. The bill allows the government to go to any of seven designated judges or to two levels of appeal. Some greater measure of judicial discretion would not delay or deny the relatively small number of justifiable taps.

The greatest weakness of the bill, and another contradiction of the Church-Schweiker recommendations, is an indirect acknowledgement that the President may have authority to install taps without warrants and outside the law. Technically the bill is neutral on the question—but it mentions the possibility that such an authority may exist, instead of leaving the issue unspoken and up to the courts.

Some proponents of executive privilege claim not even the Supreme Court can control the President's wiretapping for national security, because surveillance is an executive function. To us it is clear that every wiretap, of a gambler or an organized crime leader or a spy, is an infringement of civil liberties which are constitutionally guaranteed and protected by the courts, and that taps can be justified only when legal evidence suggests an ongoing crime.

The Senate committees have recognized the need to control wiretapping and have produced a better bill. Further amendments would reassure all except the few who believe any wiretap violates the Bill of Rights—and those few must recognize that wiretapping will not be stopped and should be controlled.

[From the New York Times, Aug. 29, 1976]

MOVING TOO FAST

Senator Edward M. Kennedy is working hard to rush the new national security wiretap legislation through the Senate. The measure, designed to impose order and restraint on wiretapping activities in areas where there have been no legislative restrictions in the past, was originally developed by a bipartisan group of Senators on the Judiciary Committee and by the Attorney General. After the bill had been considered by both the Judiciary Committee and the new Select Committee on Intelligence, Senator Kennedy, with apparent impatience, attempted to schedule it on a highly expedited basis with severely limited debate on Monday.

A long list of abuses has been rationalized by incantation of "national security." The first legislative effort to curb such practices is bound to be sensitive and fraught with uncertainty. For example, the proposed measure is marred by at least one major flaw: It authorizes wiretapping in instances which lack proof of crime or a showing of probable cause that a crime has been or is about to be committed. This runs counter to the explicit recommendation of the Church committee that such a showing be the basis of authorizing wiretaps. Senator Walter Mondale, chairman of the Church committee's task force on domestic intelligence, testified before the intelligence committee for two hours in opposition to this measure.

The one lesson that should have impressed the Congress after the long months of intelligence investigations and disclosures is that American citizens suffered from abuses precisely because Congress failed to do its job diligently. Rushing to a decision on so sensitive a bill without full debate and consideration would seem to suggest more of the same lack of diligence.

[From the New York Times, Aug. 31, 1976]

A Bill That Can Wait

(By Tom Wicker)

The Senate is about to debate Attorney General Edward Levi's national security wiretapping bill, so it's necessary once again to ask the question: What emergency justifies a Democratic Congress in rushing to pass a Republican Administration bill so full of loopholes and ambiguities? Why shouldn't such an important matter be left to the next Congress, when either the Carter-Mondale Administration will be in office or the Ford Administration will have been given electoral legitimacy?

The general subject of protecting citizens' rights while still maintaining the national security, as a matter of fact, might usefully be discussed in the Carter-Ford debates apparently to take place during the fall campaign. That Walter Mondale, the Democratic Vice-Presidential nominee, has been one of the strongest opponents of the Levi wiretapping bill (S. 3197) is another good reason for a Democratic Congress to let this measure wait on the election returns.

It is depressing, moreover, that the first official act of the new Senate intelligence committee, set up with such fanfare to provide "oversight" of the F.B.I., the C.I.A., and other security agencies, should have been to clear the Levi bill. The committee did make improvements in the text that came to it from the Senate Judiciary Committee, but the two principal deficiencies of the measures—and many of its lesser ones—remain. On this showing, the intelligence committee is off to a weak start, although it is not the committee that is pushing for a quick passage.

It has reported a bill which, even as amended, would permit the wiretap surveillance of American citizens who are not engaged in criminal activity. And it has not fully rectified a provision of that bill that disclaims any intent "to affect the exercise of any constitutional power the President may have subject to determination by the courts to acquire foreign intelligence information."

Thus, S. 3197 implicitly confirms the idea that there is or may be some "inherent power" in the Presidency to acquire foreign intelligence information without even such restrictions as the bill provides, if "the facts and circumstances . . . are so unprecedented and potentially harmful to the nation that they cannot reasonably be said to have been within the contemplation of Congress." If a court determined that a President in such circumstances had acted unconstitutionally, the action would already have taken place and the damage would be done.

That is not only a loophole alert Americans should not wish to hand such a President as, say, Richard Nixon. It also directly contravenes one of the most important recommendations of the Church committee, which spent more than a year studying intelligence abuses and was the parent of the present Senate intelligence committee.

The Church panel's Recommendation One was stark in its simplicity: "There is no inherent constitutional authority for the President or any intelligence agency to violate the law." The accompanying report specifically cited "warrantless electronic surveillance" as an activity for which there was no inherent Constitutional authority and said: "Statutes enacted pursuant to these recommendations should provide the exclusive legal authority for domestic security activities."

Why then should the intelligence committee or the Senate in enacting a statute purporting to provide such legal authority for foreign intelligence wiretapping leave open even the possibility of some inherent Presidential power to conduct such tapping in violation of that statute?

Although the intelligence committee limited the definition of an "agent of a foreign power" eligible to be tapped, S. 3197 still includes among such agents any citizen who at the direction of a foreign power secretly transfers information which a reasonable person might believe harmful to the security of the United States.

But what a "reasonable person," whoever he or she might be, may believe does not necessarily define criminal activity. This section, as the American Civil Liberties Union charges in a memorandum of opposition to S. 3197, may well amount to "a new, all-inclusive and overbroad definition of espionage," which the Administration has not been able to persuade Congress to provide in other legislation.

Many other questions are raised by S. 3197: it does not require, for example, that for a warrant to be issued, probable cause must be shown that specific evidence is being sought, and that it is likely to be obtained by the proposed tap.

Honest men might differ, of course, about many of the objections raised by the A.C.L.U., Senator Mondale and Senator John Tunney, the bill's principal opponent. But that is all the more reason to proceed slowly on a matter of this importance. Together with the possibility of a new Administration that may have new proposals, the questions about S. 3197 argue strongly for delaying action until next year.

TROTSKYISM AND TERRORISM: PART III—LATIN AMERICAN TERRORISM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

ARGENTINA

Mr. McDONALD. Mr. Speaker, the first section of the Fourth International to adopt terrorism as a tactic was the group in Argentina called Palabra Obrera, led by Nahuel Moreno. Moreno arranged for Argentine Trotskyite cadres to be trained in Cuba in all aspects of revolutionary armed struggle, including terrorism, as early as 1962.[1] This was consistent with the policy of "entrism" developed by Pablo and Mandel. Trotskyites discovered among the membership of Communist organizations had been expelled, or in some cases were murdered by the Stalinist Communists. For example, 500 Trotskyite Vietnamese cadres were killed by the Stalinists under Ho Chi Minh.[2] Only the Cuban Communists accepted the Trotskyites as allies.

In 1961, terrorist acts were carried out by the Trotskyites in Tucuman. Activities included an "expropriation" the euphemism for a bank robbery.[3] In 1963, Palabra Obrera merged with the Castroite group, Frente Revolucionario Indoamericano Popular, FRIP. This group pressed for an escalation of "armed struggle." In 1965, the organization was renamed Partido Revolucionario de los Trabajadores, PRT. The PRT leaders were Moreno and Mario Roberto Santucho.

Under the Santucho leadership, a PRT cadre in Tucuman led violent street mobs throwing Molotov cocktails and firing pistols at police officers and stations.[4]

In 1968 the PRT split over a combination of personality and tactical disputes. Santucho's group, the PRT-Combatiente, openly espoused and engaged in terrorist activities. The PRT-Verdad, headed by Moreno, played down the armed struggle aspects of revolutionary activity, and emphasized electoral action.

The Ninth World Congress of the Fourth International held in 1969 recognized the Santucho group as the official Argentine section of the Fourth International and the Moreno group as a sympathizing section. Since that time the Moreno group merged with the Coral faction of the Argentine Socialist Party to form the Partido Socialista de los Trabajadores, PST—the Argentine Socialist Workers Party.

The Tenth World Congress of the Fourth International held in 1974 voted to continue the PST as a sympathizing section although they were allowed to participate and vote at the Congress. A secret resolution was passed with the admonition that it not be published in the public press of the International. The resolution passed by the proterrorist IMT majority in the World Congress excoriates the PST for dodging "the problems of armed struggle, of the violent destruction of the bourgeois state, of the formation of workers' militias" and for using "ambiguous formulas in its press that give the impression that the proletariat could win simply through propaganda against the army, directed to soldiers and noncommissioned officers, without necessarily forming armed detachments of the proletariat and without armed confrontations with the bourgeois repressive apparatus." (The full text of the resolution appears in the appendix following this section.)

The Santucho faction held a secret congress on July 19–20, 1970, at which the decision was made to organize their armed units into the Ejercito Revolucionario Popular, ERP, which was to be tightly controlled by the political leadership of the PRT. The PRT resolution stated in part:

> The Central Committee and executive committee of the party will make up the collective leadership conducting the war. It will appoint the national military secretary, the military leaders of the various units, the respective political commissioners and the military committee of the party. In the countryside, these military leaders will make up the branch and section executive committees of the party. On all levels the cells of

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Footnotes at end of article.

the party that are in the army will assure that the military directives coming from the Central Committee and the executive committee are steadfastly and correctly applied.

Groups and individuals from outside the party who join the ERP will do so under the condition that they accept the party's military leadership and the political commissioners it designates.[5]

From 1971 through mid-1975 the ERP was the most successful revolutionary terrorist group in the Western Hemisphere, raising many millions of dollars in ransom from kidnap victims. The ERP made a speciality of assassinating aged retired military officers, ambushing police and small military units, and robbing banks for additional funds. Executives and employees of multinational corporations were made special targets for ERP kidnapings and assassinations.

Santucho himself was captured by the Argentine police, but in August 1972, led a spectacular jailbreak from Trelew prison. Santucho and some guerrillas hijacked an airplane and fled over the Andes to Chile where they received a warm welcome from Chile's Marxist-Leninist President Allende who aided them in traveling to Cuba where they were given a very warm welcome and refuge.[6]

In 1973, Santucho led his PRT/ERP out of the Fourth International. A very small faction remained in the FI and continued terrorist activity. This group, which called itself the ERP-Red Faction, kidnaped in May 1973 a business executive, Aaron Bellinson, and received $1 million for his release. Bellinson was released on June 3, 1973. The ERP-Red Faction turned $100,000 of this sum over to Livio Maitan, an official of the Fourth International. Half of the money was to go toward Fourth International operations, and half was to be transferred to the MIR terrorists in Chile.[7]

Less than 2 months after receiving the extortion money, Maitan appeared at the national convention of the Socialist Workers Party, held in Ohio, August 5–10, 1973. Maitan, attending the convention as a leading FI–IEC official, spoke in support of terrorism as an immediate tactic at the convention.[8]

A series of Argentine police raids during 1975 broke the back of the Red Faction which had changed its name to the Revolutionary Communist League, LCR.[9]

The Santucho majority of the ERP became the cornerstone of a Latin American "terrorist international" called the Revolutionary Coordinating Committee, JCR. This apparatus was created late in 1973 to coordinate the activities of the Castroite Tupamaros of Uruguay, the MIR of Chile—which also had a Castroite orientation but a Trotslyite origin—and the ELN of Bolivia, a Trotskyite successor to Che Guevara's group of the same name.

In June 1974, $5 million that had been extored by the ERP from the Exxon Corp. as a result of the kidnaping of Victor Samuels, Exxon operations manager in Argentina, was divided among the three other JCR terrorist groups."

Each of the JCR groups supplied cadre to the others to engage in terrorist activities throughout Latin America. The JCR has also established three European offices in Rome, Lisbon, and Paris to maintain contact with other terrorist organizations.

Effective action by the governments of Uruguay, Chile, Argentina, and Bolivia has wiped out a substantial portion of the JCR leadership. On July 19, 1976, Mario Roberto Santucho was killed in a shootout with Argentinian counter-insurgency forces in the town of Mercedes in Buenos Aires province.

The PST, led by Moreno, serves as a major force in the Leninist-Trotskyist Faction of the Fourth International. However, a dispute has developed between the Moreno organization and the U.S. Socialist Workers Party which controls the faction. This has resulted in the possibility that Moreno may pull his group out of the Fourth International, thus greatly reducing the strength of the Socialist Workers Party's LTP.[11]

BOLIVIA

The Bolivian section of the Fourth International, the Partido Obrero Revolucionario, POR, is headed by Hugo Gonzales Moscoso. He is a leader of the proterrorism now IMT faction of the Fourth International. In 1967, the POR established an underground terrorist armed branch, the ELN, which was named for the group led by Che Guevara in Bolivia which had been wiped out that year.[12]

Hugo Gonzales Moscoso wrote in the September 22, 1969, issue of Intercontinental Press, that the POR and ELN had suffered severe losses in combat with the police, but that on July 14 they had resumed activity by murdering a man who had allegedly assisted the police in tracking down Guevara's group.

Martine Knoeller, a leader of the IMT faction in the Fourth International, boasted in 1973 that "the Bolivian comrades adopted their turn toward armed struggle long before the Ninth World Congress," of the Fourth International.[13] Although decimated by police and military actions, the Bolivian Trotskyites continue to attempt to organize among the tin miners, particularly in the Siglo district.

An appendix and the footnotes to this text follow:

APPENDIX

Resolution passed at 10th World Congress of the Fourth International, February, 1974, and expurgated from the text of the resolutions published in *Intercontinental Press,* December 23, 1974. The secret resolution was published in the *International Internal Discussion Bulletin,* Vol. XII, No. 1, January, 1975, p. 10.

[Point 36 of the majority resolution "Argentina: Political Crisis and Revolutionary Perspectives" is published internally only, in accordance with a motion adopted by a majority of the United Secretariat in May 1974.]

36. The World Congress draws a balance sheet on the organization recognized at the Ninth World Congress as a sympathizing organization. It can only be an extremely critical one.

First of all, the *La Verdad* group has publicly attacked several sections in Latin America in its press, and especially some leaders of the International who were guilty of defending the orientations decided on by the last World Congress.

Secondly, *La Verdad* has made clear its fundamental misunderstanding of the necessities of armed struggle at the present stage of the class struggle in Argentina, engaging in a political line that is in the first place purely syndicalist, and secondly, electoralist—for example, its election campaign in which it maintained complete silence on the necessity to destroy the bourgeois state apparatus.

Prepared to pay any price within its legalist perspective it reached an agreement, on the basis of a centrist political line, for political and organizational fusion with the Coral faction of the PSA (Argentine Socialist Party), a small left Social-Democratic current with no influence in the working class. The new party, the PST (Socialist Workers Party), confronted Peronism with a combination of purely propagandist positions and clearly opportunist attitudes. For example, it appealed to Peron to "put himself at the head of struggles"; it demanded that slates of FREJULI, the bourgeois Peronist party, be made up of "80 percent workers candidates"; it demanded that Campora, the bourgeois, form a government "with a majority working-class composition"; it carried on a respectful and responsible (sic) dialogue between Coral and the bourgeois finance Minister Gelbard, etc., etc.

The daily practice of the PST reflects a tail-endist and legalistic concept of building the party. It dodges the problems of armed struggle, of the violent destruction of the bourgeois state, of the formation of workers militias, not only in terms of present tasks but even in its programmatic formulations, as, for example, in the La Verdad-PSA fusion protocol. In its press it conducts no systematic propaganda for arming the workers, not even for workers self-defense. It uses ambiguous formulas in its press that give the impression that the proletariat could win simply through propaganda against the army, directed to soldiers and noncommissioned officers, without necessarily forming armed detachments of the proletariat and without armed confrontations with the bourgeois repressive apparatus.

The PST has several thousand members and organized sympathizers. Most are students and workers who sincerely want to struggle for socialism and who sympathize with Trotskyism. Consequently, the World Congress favors maintaining fraternal links between the Fourth International and the PST as a sympathizing group. But the International cannot grant recognition as an "official" section to an organization with a political line and practice that are so far removed from the principles and tradition of our movement.

FOOTNOTES

[1] International Internal Discussion Bulletin, Volume XI, No. 5, April, 1974, p. 18, "Letter to the World Congress from Luis" describing the early history of Trotskyist "armed struggle" in Argentina and Peru.

[2] Ibid., p. 16, "Letter to the World Congress from the Bolshevik-Leninist of Vietnam". *The Fourth International* (N.Y.), published by the SWP, November-December, 1951, reported the arrest of the leaders of the Vietnam Trotskyites by the Viet Minh authorities. Despite this, they said, "In Vietnam our reorganized forces will also attempt to work in the organizations influenced by the Stalinists, naturally including its armed formations. They will grant critical support to the Ho Chi-min regime in its struggle against imperialism, while distinguishing themselves from it on the goal of this struggle and the best means to lead it to victory."

[3] Ibid., p. 18.

[4] International Internal Discussion Bulletin, Volume X, No. 5, April, 1973. Resolutions of the Fifth Congress of the P.R.T., p. 4–7.

[5] Ibid., p. 20.

[6] Intercontinental Press, September 11, 1972.

[7] Trotskyite Terrorist International, hearing before the Senate Subcommittee on Internal Security, July 24, 1975, p. 112–113.

[8] Internal Information Bulletin, December, 1973, No. 7 for 1973, p. 3–5, and Internal Information Bulletin, August, 1974, No. 7 for 1974, p. 3–4.

[9] Trotskyite Terrorist International, op. cit., p. 112.

[10] Ibid., p. 114.

[11] Mary Alice Waters, memo to the steering committee on the Leninist-Trotskyist Faction, November 28, 1975.

[12] World Outlook (Now Intercontinental Press), July 14, 1976.

[13] International Internal Discussion Bulletin, Volume X, No. 24, December, 1973.

A STEP IN RESTORING THE ECONOMIC HEALTH OF THE NORTHEAST-MIDWEST CORRIDORS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. SCHEUER. Mr. Speaker, on September 2, the initial meeting of the Northeast-Midwest Economic Advancement Coalition—NMEAC—will take place. I wish to commend my colleagues Mr. REUSS, Mr. HARRINGTON, Mr. MOORHEAD, Mr. ASHLEY, and Mr. HORTON for the leadership they have demonstrated by forming this long-needed coalition. The primary functions of this coalition will be to examine the economic decay of the Northeast and Midwest corridors and to examine ways in which this decay can be arrested and economic health restored.

I have written a preface to a book to be published within the next few months by Prof. Alan Barton of Columbia University. The preface details the discrimination by the Federal Government toward the declining cities of the Northeast-Midwest corridors. It pinpoints the kinds of discrimination involved in Federal policies and programs—housing, transportation, and Federal employment—both military and civilian, toward cities in general, and documents the urgency of our search for solutions to the fiscal crisis that is now beginning to afflict virtually all of our major cities, North and South, East and West. The text of the preface follows:

PREFACE FOR THE BARTON BOOK

". . . Now just a word about campaign strategy. I will have no Southern strategy; but I will have an Eastern one—saw it off and let it float away. . . ."—Senator BARRY GOLDWATER.

Knowingly or unknowingly, the federal government has joined hands with the state governments, and through implementation of a complex web of programs and policies which systematically discriminate against the Northeast and North-central regions of the United States, they have in effect adopted Senator Goldwater's eastern campaign strategy.

However, there is every indication that large cities in general—not simply the declining cities of the Northeast—will be coping with increasingly greater fiscal problems. For the most part, the afflicted cities are those which are located in the ailing states of the Northeast and Central industrial corridors. However, there are several notable exceptions including Atlanta, Birmingham, New Orleans, and San Francisco, all of which have very serious financial problems.

The existence of a national pattern of urban decline makes it clear that there are fundamental and widespread urban problems which contribute greatly to the cause of individual city crises. Different cities will continue to experience varying degrees of excessive debt, above average unemployment, and unacceptably high costs of living.

Indeed, recent evidence suggests that suburban regions of the United States are beginning to experience many of the same financial ills as urban areas. The U.S. Conference of Mayors solicited financial information from 469 cities across the nation. In June of 1976 the Conference reported that the country's suburban and sun-belt communities—places such as Beverly Hills and Phoenix, which experienced substantial economic and population growth in the early 1970's—are beginning to show the first symptoms of financial crisis.

It is critically important to divorce self-inflicted urban problems from those problems that occur due to forces beyond the control of local governments. New York City is an almost perfect case study in the financial problems of local governments caused predominantly by national and state programs and policies utterly beyond the City's control. Although New York City has no doubt in many ways contributed to her own near demise, nevertheless, the federal government, the state government, and certain institutional factors seem to be the major culprits.

In fact, New York City has managed to turn its economy around somewhat in the past eight months. However, monumental problems still afflict the local, regional, and state economies, all of which continue to perform less well than the national economy.

The New York Times of July 22, 1976 reported that the nations, unemployment rate fell 2.1 percentage points, from 8.8 to 6.7 percent from January to May. The unemployment rate for New York, however, fell only 1.2 percentage points, from 10.4 to 9.2 percent in the same time period.

Most interesting was a set of Labor Department figures which illustrate that while the City and State continued to lose jobs from January to May, the decline was almost entirely attributable to government jobs and in construction jobs dependent on government expenditures.

The one year loss of jobs in New York State was 107,300 with 91,500 of them in government and 12,800 in construction. The private sector, with a loss of only 3,000 jobs, therefore, has essentially stabilized its employment levels.

This employment example points out the futility of City efforts to improve its financial position without federal cooperation. Because of the Federal government's size, the impact of its programs and policies far outweigh the economic policies of an individual local government, even New York City—with a $12 billion budget—equal to the 18 smallest state budgets taken together.

I am convinced that significant changes in the federal and state programs and policies which now cripple the City will not occur without:

—well documented justifications for changes in these policies and programs. It is in this area that increased social science research must play an invaluable role. It should be the primary goal of our researchers to produce credible and workmanlike documentation of the discrimination against our cities. We know that it exists, but its exasperatingly difficult to document!

—the proper climate in the United States. Every citizen of the U.S. must perceive New York City and other major urban centers as integral components of our nations. Congressmen simply will not vote to help cities if it means taking dangerous flak from their constituents.

Perhaps the upbeat themes symbolized by Operation Sail and by the Democratic National Convention have helped to dispel the ugly myth that New York is too far gone—and too evil—to bother saving.

Let's look now at New York City's fiscal problems.

CITY EXCESSES

City Services: New York City provides a vast array of expensive services that other cities simply do not provide, or provide on a very modest scale. The 1975–76 municipal budget included (apart from pension costs): $447 million for higher education; $890 million for municipal hospitals; $586 million for charitable institutions (most of which consists of payments to private hospitals); $90 million for the health department; $71 million for addiction services; $137 million for various housing activities; and $180 million in subsidies for mass transportation. Although State and Federal Government grants take up the lions share of these costs, the City's taxpayers must contribute more than a billion dollars annually to fund these programs.

The two most flagrant excesses are in public welfare expenditures and in health and hospital expenditures. New York City spends $199 per capita for public welfare programs as opposed to the national average of only $32 per capita. And, the City spends $82 per capita on health and hospitals versus the national average of only $29.

Fringe Benefits: No study of New York can ignore the question of public employee fringe and retirement benefits. In this fiscal year, employee fringe benefits such as pensions, health insurance, uniform allowances and the like, will cost New York City taxpayers more than $2 billion. Now hear *this:* Based on a full time municipal working force of 232,000, this cost averages out to more than $8,600 per employee! In other words, New York City's taxpayers spend more per employee on fringe benefits alone ($8,600) than the average American's total annual income ($6,059)!

Some of New York's unique fringe benefits include:

$36 million annually into Union Annuity Funds which provide still more retirement benefits in the form of annuities to certain groups of employees.

$107 million in direct payments to municipal unions for such fringe benefits as free dental care, eyeglasses, psychiatric counseling, and legal services.

$19 million for uniform allowances that go not only to policemen and firemen, but also to marine engineers, aqueduct captains, speech and hearing therapists, public health nurses, nurses aides, ambulance technicians, deckhands, and swimming pool operators.

$1,165 million in pensions which are distributed under the most generous formula in the Unitd States. For example, a New York City employee who retires at age 65 with 25 years of service, receives annually in net after tax retirement income an amount equal to 125% of his after tax income in his last year on the job. The equivalent percentage in Atlanta is 43%, in Chicago 47%, in Dallas 52%, and in Los Angeles 54%. Only Denver and Detroit at 91% and 104% even approach New York's generosity.

City Action: Yet the City has taken responsible actions to rectify these problems. New York has attemped to stem its flow of fiscal hemorrhaging through widespread wage and hiring freezes, layoffs, cutting back on uniform allowances, and other politically difficult but necessary measures. For example, from December 1974 to February 1976, New York City has terminated employment through layoffs and attrition of more than 43,000 of its nearly 370,000 employees for a savings and more than $600 million."

In addition, in March of 1976, the City proposed draconian budget cuts and requested state and federal action that taken together, would lop $379 million off the City budget in fiscal year 1977 and $862 million off the budget in 1978. Included in the City's proposed cuts are phasing down city support for CUNY City Colleges ($113 million); reduction in welfare costs not mandated by statute ($60 million); and reduction in certain employee benefits ($24 million).

$250 million of the cuts are part of the FY 1976–77 budget reduction program. This program includes cutting education costs by $47 million; police costs by $40 million; fire department costs by $8.5 million; sanitation costs by $8.7 million; Health and Hospitals Corporation costs by $27 million; and social services costs by $12 million.

Unfortunately, as the Congressional Budget Office of the U.S. Congress reported in October, 1975: "At this advanced stage of the fiscal crisis, few, if any, options remain open to the city acting alone." These budget cuts are the only methods available to bring the city's outflow of resources under control.

However, there is also the need to revitalize the inflow of resources. A primary element of this program must be the reconstituting of our tax structure once again to make the City viable and competitive. And that means tax reduction.

Unfortunately, New York has been forced to do just the opposite—they have increased their taxes. They have implemented new taxes designed to yield $500 million from December 1, 1975 through June 30, 1978 including higher taxes on personal income, estates, and cigarettes, an increase in the minimum corporate income tax, and an extension of the sales tax to cover personal services. The City has also increased real estate taxes in an attempt to raise $400 million.

New York's municipal tax system already encourages the continued erosion of the City's tax base by perpetuating the high cost of living, working, and producing in the City. Already there are more types of municipal taxes—22—and higher per capita municipal taxes—$648 per man, woman, and child—weighing on New Yorkers than in any other municipality in the nation.

When the steady increasing cost of doing business in New York City appear to justify the expense and dislocation of moving out of the City, the businessmen move. Questions of civic obligation and fairness do not enter their calculations of costs and benefits. Until the day comes when businessmen conform to a different standard of motivation than that of profit and loss, we had best avoid political rhetoric and concentrate on creating the financial environment that will keep them at home. This does not include raising taxes.

Essentially, New York City has done all it can. Yet the crisis still exists for New York City and for other local governments. And thus we will have to look at other factors as primary causes of local fiscal crisis.

THE ARCH VILLAIN: FEDERAL PROGRAMS AND POLICIES

Federal spending: The discriminatory effects of current federal spending are staggering. It is clear that we urgently need to reevaluate some of our national programs and policies with respect to their impact on cities and then to recast them without their discriminating elements. For current federal actions not only have contributed to urban decline, but also have accelerated the process. For example:

There is a tremendous disparity in the current allocation of the federal pay check. In 1973, according to the Department of Commerce, military and civilian pay checks accounted for 10 percent of the total payroll dollars of our fourteen fastest growing states: Arizona, Florida, Colorado, Alaska, Idaho, Mississippi, Utah, Arkansas, Virginia, Hawaii, South Carolina, North Carolina, Tennessee, and New Mexico. During that same time period, in the five states which are declining the fastest—New York, Massachusetts, Connecticut, Ohio, and Illinois—the federal military and civilian payroll accounted for only 2.5% of the total payroll dollars of those states. The federal payroll stimulus is going where it is needed least.

Compounding this disparity is an equally unfair and discriminatory allocation of military construction dollars. Fiscal Year 1976 Department of Defense military construction authorizations included $102 million for the northeast and midwest industrial corridors with a population of 85.5 million people. The same bill included $800 million for the southern states with a population of only 54.1 million—a pattern of discrimination of 12.6 to 1.

Aside from the immediate employment payoffs of such a biased construction allocation, we know that for every dollar spent on military construction in a state, the multiplier effect results in an increase of the payroll of that state by $2.50. Thus, from a basepoint of the current 3 per cent/12 per cent disparity in Federal military and civilian payroll, we compound the differential first, by the immediate employment effects of the military construction; second, by the multiplier effects of the construction; and third, by the further disparity in federal payroll—through the military and civilian personnel who will be employed in the new military facilities so unfairly distributed—'til the memory of man runneth not.

Particularly revealing is a comparison of the 1973 Federal civilian employees per 1000 population ratios of several states:

New York	0.92
Massachusetts	1.09
Kentucky	1.24
South Carolina	1.31
Montana	1.53
Nevada	1.71
Wyoming	1.74
Georgia	1.78
Louisiana	2.26
New Mexico	2.54
Utah	3.46
Hawaii	3.96
Alaska	5.73

Note that it is New York and Massachusetts with the fewest civilian employees per 1000 in population.

The Congressional Research Service released the following data on May 20, 1976:

PERCENT INCREASE IN FEDERAL CIVILIAN AND MILITARY WAGE AND SALARY DISBURSEMENTS BY REGION AND SUBREGION, 1964–74

[Dollar amounts in millions]

Region	1964	1974	Percent change
United States	$27,765	$58,134	103.4
Northeast	4,767	8,519	78.7
New England	1,373	2,227	62.2
Middle Atlantic	3,395	6,292	85.3
South	11,909	26,173	119.8
South Atlantic	7,372	16,508	123.9
East south-central	1,710	3,631	113.3
West south-central	2,828	6,033	113.3
North-central	4,554	9,204	102.1
East north-central	1,707	3,480	103.8
West north-central	2,855	5,724	99.8
West	6,535	14,238	117.8
Mountain	1,635	3,774	130.8
Pacific	4,900	10,465	113.6

This chart deals with the total percentage increase in civilian and military payroll from 1964 to 1974 broken down by region and subregion. Note the following items:

The Northeast and Northcentral regions of the United States, with more than 85.5 million population, had less than $18 billion in payroll disbursements in 1974. However, the South, with a population of only 54.1 million, had more than $26 billion in disbursements.

From 1964 to 1974 the Federal payroll more than doubled—109.4 percent increase.

During the same time period, the payroll in the Northcentral region just barely doubled—102.1 percent increase—while the payroll in the Northeast only increased by 78.7 percent. However, the South and West regions experienced growth percentages far above the national average—119.8 percent for the South and 117.8 percent for the West.

Finally a more general symptom of decline can be documented by examining the fluctuation in the private sector work force. From 1970 to 1973 loss of jobs was acute in both Boston (16,000) and New York (244,000). At the same time the work force increased in such cities as Atlanta (41,000) and New Orleans (16,000).

Welfare: The national welfare program is a disaster for New York City and indeed for many of the welfare recipients themselves. The City's welfare rolls have tripled in the past twenty years. One in eight of New York's residents is on welfare, a burden the City can no longer afford to shoulder unassisted.

We have to eliminate incentives in our welfare programs which attract welfare families to the high cost of living metropolitan areas of the Northeast. We need a national welfare standard that over a period of time will result in welfare families migrating to where their fixed incomes will buy them the most goods and services—regions where a simpler life style will allow their welfare dollars to give them a better life.

Moreover, right now, by attracting these people to our teeming metropolis, we are almost dooming both parents and kids to perpetual failure, because, in all too many cases, neither parents nor kids can cope with the demands for sophisticated urban skills which cities like New York require.

Finally, it is important to realize that the real costs of welfare are far above the states expenditures. When one adds to New York City's $2.5 billion welfare bill the escalating extra costs of public housing, remedial education, law enforcement, and health care, which a large welfare population requires, the total cost of government per welfare family boggles the mind. For just one example, the City of New York spends $2500 per year on just the health care of each welfare family.

Housing: New York City's vast Federally assisted public housing complexes have also proven to be a great burden on the City, demeaning and dangerously threatening to the poor, especially the elderly poor, destabilizing to neighborhoods surrounding the projects, and further eroding the already threatened urban tax base. Federal public housing was meant to stabilize and improve neighborhoods—to be a plus, not a threat to the very existence of the neighborhood.

We should declare a halt on the construction of additional high-rise public housing projects until we can resolve the problems which result from the concentration of a seemingly permanent low income, marginally skilled population in New York City demonstrably unable to cope.

It is vitally important to the City of New York to receive federal assistance in providing middle class housing at shelter costs which make it feasible and attractive for middle class families to continue living in the City.

Only with these two steps can we fulfill the original legislative intent of the Housing Act—to stabilize neighborhoods by providing housing for the working poor and by providing a new flow of truly middle class housing.

As Lawrence M. Friedman pointed out in his book, The Government and Slum Housing (1968): "Under the Housing Act program, tenants were not to be given charity; they were going to 'pay their own way.' They could well imagine that they were paying the 'true' rent for their units, that is, the current operating expenses. The requirement of a rental sufficient to meet expenses would, furthermore, tend to restrict public housing to the honest, working poor. Dependent families, families with no income, and problem families would be usually too poor for public housing . . . Public housing was originally aimed at the submerged and potential middle class which was lower class in income, but middle class in values or aspirations . . ." Would that it had been thus!

Transportation: Federal transportation expenditures provide another time tested pattern of systematic discrimination against New York City and other urban areas.

In the past four decades the two thirds of our nation's citizens who live in cities have, through their $80 billion in tax contributions, literally built the federal highway systems which coupled with the FHA home mortgage insurance program and 100% federal grants for sewer and water projects make suburbia viable. It's high time that the cities began to receive a little help for their transportation problems.

Both revenues and ridership on New York City public transportation have continued to decline. Fare increases have traditionally stimulated decreases in ridership. By the year 1980 it is estimated that the combined operating deficit for the public transportation systems in New York State will reach $1.4 billion.

The national average for federal mass transit subsidy is 5.09 cents per ride. Yet New York receives only 1.07 cents per ride while Denver, Houston, Los Angeles, Louisville, Albuquerque, Tulsa, Dayton, Fort Worth, Tampa, Wichita, Akron, and Grand Rapids all receive more than 11 cents per ride, with Grand Rapids unaccountably receiving more than 45 cents per ride. If the federal government subsidized New York City at the national average of 5.09 cents per ride the operating assistance to New York would go up two and a half times.

Because these funds are distributed on the basis of percentage of total population rather than percentage of mass transit ridership, the New York metropolitan area, with 10 percent of the nation's population, receives just about 10 percent of the mass transportation assistance, instead of the 40 percent to which it is entitled by serving 40 percent of the nation's mass transit riders. Thus, the funds that have been allocated over the six year life of the program include only $41,000 per vehicle in New York, yet more than $400,000 per vehicle in San Bernardino, California.

These figures cannot be justified by any reasonable person. New York is given by far the least amount per rider and per vehicle when, in fact, if the federal distribution formula had been based on ridership, the Metropolitan Transportation Authority would have received in excess of $150 million in operating assistance rather than the $62 million they received.

Tax/expenditure policies: As a symptom of all of the above problems an examination of total Federal tax and expenditure policies is revealing. A survey published by the National Journal in June 1976 showed that the five Great Lakes states and the Middle Atlantic states of New York, New Jersey, and Pennsylvania contributed $28.6 billion more in taxes than they received in federal outlays. The study also disclosed that, at the same time, the federal government poured $22.1 billion more into the Southwest and West than it collected in federal revenues.

Discrimination against the Northeast and Midwest in the various forms of federal payrolls, federal construction, welfare housing, and transportation policies all add up to a significant burden that no single local government can cope with—even through the implementation of harsh and draconian budget cuts. It is clear that solutions to our localities' financial problems hinge critically on making changes in federal programs and policies.

HURTFUL STATE REQUIREMENTS

New York State operates on a unique fiscal structure which emphasizes the role of the local government. The State continues to be characterized by a relatively large local sector. In New York State local governments raise 52 percent of state and local revenues from their own sources, compared to 47 percent for the nation as a whole. In New York State local governments account for 78 percent of direct state and local expenditures, compared to 63 percent for the nation as a whole. New York City, as the home of 43 percent of the state's residents thus starts off with a relatively larger burden than the average city.

However, numerous state policies have harmful effects which serve to aggravate this already unfair situation. New York State is well known for the generous size of its budget for government services; total per capita state and local expenditures are nearly 65 percent above the national average. New York is particularly generous in the social welfare area. Per capita expenditures for welfare and health are more than two and half times larger than the national average. Yet it is precisely in these areas where all local governments play an unusually large role. In other words, New York City pays the lion's share of the burden for New York State's generous social welfare standards.

Welfare policies: The best example of this discrimination is in the area of welfare. Under the federal law the states set the benefit levels for their residents. Yet New York City (as 5 counties) pays 25% of the total cost of the program (half the non-federal share.) Thus, for every $100 increase in benefits mandated by the State, New York City must pay $25. While Los Angeles in 1973 spent less than .1% of its total budget on welfare and Chicago contributed only 1.1%, New York City was saddled with a bill of almost $2.5 billion or 21.6% of its total budget—200 times the proportion Los Angeles is forced to pay and 20 times the proportion Chicago is forced to pay!

If the state is going to continue to mandate costly and incomparably generous cost of living increases in welfare payments, medicaid rates, and other social services, it should also be prepared to foot a larger percentage of the bill.

Court, probation, and correction services: A second area in which the state costs the City substantial sums of money is that of court, probation, and correction services. Currently these services cost the City of New York more than $270 million, the State more than $300 million, and other counties more than $160 million. The cost to the state of assuming just the City's costs would be $273 million—only $3 million more than the City has to pay.

The arguments in favor of state assumption of court costs include administrative, financial, and equity arguments. Currently, due to the decentralized nature of the courts, there is massive inefficiency. Centralization of court costs would solve this problem. The Temporary Commission on City Finances reported that court operations could be more productive and less expensive if the state both financed and administered the program. And, because of the diverse funding levels throughout the state, an argument can be made that sentencing inequities result from the current administration of justice.

Similar arguments can be made for state assumption of probation and correction costs. The U.S. Advisory Commission on Intergovernmental Relations, the Temporary Commission in City Finances, and the American Bar Association Commission on Standards of Judicial Administration all argue that the state should assume court, probation and correction costs on the equity and efficiency arguments alone. Add to these arguments the City's fiscal crisis and such state action seems imperative and long overdue, the more so, inasmuch as the State acquiesced to the budget gimmicky that over the years put the City where it is today.

State action is needed: What is clear is that the City has shown good faith through draconian budget cuts. Yet the fiscal crisis continues unabated. Within this context, State and Federal action would seem mandatory.

The state sets benefit levels and reimbursement rates for social welfare programs including welfare and medicaid, and the state maintains little or no financial responsibility in many areas within their province including courts, probation, and correction facilities.

The state must be prepared at a minimum either to assume some of these burdens, or more importantly, to alter some of its key policies and programs by which it imposes a level of services and costs on New York which no other City is required to meet.

DEMOGRAPHIC AND INSTITUTIONAL CAUSES OF THE CRISIS

We've examined actions the City has taken on its own that have led to its current fiscal crisis. We've also scrutinized hurtful state and federal policies and programs which discriminate against the City. A final category of problems are institutional factors harmful contributions that are not clearly caused by the city, the state, or the federal government.

Psychological factors: The immediate fiscal crisis stemmed from a loss of investor confidence in the credit-worthiness of the city. Although some of the loss of investor confidence must be due to the City's questionable accounting practices over the years the sudden shift in investor attitudes was due largely to psychological factors, for surely the City's long run economic prospects, which determine its ability to pay off its long term debt, cannot be much different today than it was a year or two ago.

Inflation: The severe inflation has had an effect on the fiscal position of New York. Although the long run inflation may increase the value of the tax base sufficiently to compensate for decreased purchasing power, in the short run expenditures tend to be far more responsive to inflationary pressures.

Migration: For the past decade or two cities in general and New York in particular have been called upon to assimilate a new wave of immigrants from the South and the Caribbean. This rural migration to the Northeast industrial centers *took place* just as a major shift of employment opportunities was occurring from the industrial core cities to the suburbs. As a result of the immigration of primarily unskilled labor from the South, the out-migration of jobs and middle class residents to the suburbs, and the *natural* aging of the population, those more heavily dependent on City services—the poor, the uneducated, the non-English speaking—comprise an ever increasing segment of the City's population.

Inadequate tax base: Finally, the City's tax base has failed to grow as rapidly as its level of expenditures for public services. This situation has been attributed to shifts in the location of economic activity as well as to the continued suburbanization of middle and upper class residents. Coupled with the increasing level of City services, the slow rate of growth of the tax base which has lagged far behind the inflation of both the per unit cost and the volume of city services and facilities—has been crippling.

Indeed, the Congressional Budget office concluded that: "The City can exert little influence over either the population shifts or the tax base trends. Together, they have produced a steady increase in city tax levels which has, in turn, probably affected the types of persons and businesses willing to remain in or move into the City."

Undeniably, there have been excesses in City spending. But the City is struggling valiantly to bring the excesses under control. And other Cities have been following suit. Yet, financial crisis continues to plague city after city, and, if the Mayor's Conference Reports is to be believed, the creeping financial crisis is beginning to reach suburbia and the sun belt states as well.

The widespread nature of this phenomenon in spite of local governmental action requires us perforce to look elsewhere for the root causes of urban financial instability. And we are led irresistably—by the logic of events and causes—to the conclusion that it is the state and federal governments that are the prime contributors to the problem, aided and abetted by certain institutional factors which are not under anyone's direct control.

Happily, both the State and the Federal governments clearly do have the power to correct their policies and programs. And, most significantly, the federal government has the power both to right its current discriminatory policies and also to institute compensatory programs not only righting the wrongs they have committed but also offsetting some of the institutional problems not caused by any level of government, but simply produced by the myriad private decisions of the classical market place.

As yet, the federal government has shown a reluctance to move in this direction. And Congressmen, Senators, and City Fathers have little in the way of factual research providing hard core justifications for implementation of such compensatory programatic changes.

Current statistics do little to prove the case of federal discrimination. The use of the Standard Metropolitan Statistical area (SMSA) as an accounting region does not show the clear discrimination, since SMSA's include suburban areas as well as urban areas, making it unclear as to how well the city alone fares in comparison to the entire region. Similarly, the use of Counties as an accounting region does not reflect the inequities to which urban areas are subjected. In short, there is no comprehensive set of truly urban statistics which deal with the boundaries of a city as an independent political unit.

A second, related function of social science research must be to develop technologies so that we can apply all of our technological and behavioral science know-how to making social service delivery programs work. Right now our social service delivery systems such as education, health, welfare, and law enforcement, are ineffectual, wasteful, and ofttimes destructive of the goals they are wrought to achieve. Applied "soft" research in the social sciences would help stretch the beleagured city dollar further by improving the effectiveness and cost/benefit ratios of governmental social service expenditures.

There are solutions to our fiscal crisis short of sawing off the Eastern seaboard and letting it float away. Strong coordinated action by the federal, state, and local governments is necessary.

Just as saving the farmers and building suburbia were the major goals of the United States in the 1930's and 1940's, rebuilding our cities and restructuring their beleagured economies must be a major national goal of the 1970's and 1980's.

THE BALANCE(S) OF POWER: IV (iv)

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. BRECKINRIDGE. Mr. Speaker, as a part of my discussion of the strategic defensive balance in my series on "The Balance(s) of Power," I inserted an article in the August 23, 1976, CONGRESSIONAL RECORD by Sidney D. Drell who argued that the price of civil defense is too high in relation to the degree of protection it buys.

Today I wish to insert an opposite viewpoint regarding civil defense as expressed in an article, "Civil Defense in Limited War—A Debate: Have Recent Developments in Strategic Weapons Given Us Reason To Look at Civil Defense in a New Context? in Physics Today, part II—main edition, May 13, 1976. The argument made by Arthur A. Broyles and Eugene Wigner suggests that civil defense can be effective as a defense against nuclear attack.

Arthur A. Broyles is professor of physics and physical science at the University of Florida, Gainesville, and Eugene Wigner is professor emeritus in the department of physics at Princeton University.

The article follows at this point:

CIVIL DEFENSE IN LIMITED WAR

Should the American people be protected from the effects of nuclear War? Let us first narrow that intensely studied question[1] to one that lies within the realm of physics to answer—namely, can such protection be effective? Evaluations of various evacuation and shelter systems show that they can greatly reduce the number of casualties in a nuclear encounter. Our response thus agrees entirely with the statement by V. Chuykov in the *Civil Defense Handbook* of the USSR: "Although the discussed means of destruction are called mass means, with knowledge and skillful use of modern protective measures, they will not destroy masses of people, but only those who neglect the study, mastery and use of these measures."[2]

The question then broadens into one with psychological and political aspects and cannot be answered precisely or completely. Nevertheless we feel that our nation's civil-defense preparations may determine the balance of power in some future nuclear crisis. Civil defense is more important than ever at a time when other nations have extensive civil-defense plans and when the balance of terror that has reigned to date is being upset by the development of new types of weapons.

The protective measures against nuclear explosions and their effectiveness can be evaluated on the basis of a wealth of data gathered by the Atomic Energy Commission in its nuclear testing program. Besides making quantitative measurements of such phenomena as blast-wave pressures fallout intensity patterns and heat-ray intensities, the AEC constructed buildings and other structures in the vicinity of nuclear explosions and observed the resulting damage.[3] This information has been used by the AEC (now ERDA) laboratories, Stanford Research Institute, RAND Corporation, the Hudson Institute, the National Research Council and other institutions to devise and determine the effectiveness of methods for protecting people. Their results are in surprisingly close agreement.

Unfortunately the general public is not well informed about such studies, probably because a large fraction of the physics community as a whole is not aware of them. And yet so much physics is involved that physicists bear a responsibility to understand it themselves and to pass on the information through the classroom and other contacts. A clear presentation of the facts is essential because it is possible, as we shall see, that a nation's civil-defense preparedness may determine the balance of power in some future nuclear crisis.

The principal sources of danger and the most effective measures against them are listed in the table on this page. (Of course a far more convincing display of the data requires something like the elaborate descriptions in the USSR handbook.) Because of the short time available for action to protect against effects of nuclear weapons, survival depends very heavily on previous planning and preparation. The effectiveness of all the protective measures would be much increased if the population were familiar with them well before the attack. The stockpiling of relatively simple tools can also help in the long-term recovery effort. Because this subject is complicated and requires extensive considerations, we shall limit our discussion to the problems of survival of the initial effects of the attack that are listed in the table.

The most obvious way of protecting against all these effects is to prevent the bombs from exploding. For example, the U.S. might attack the enemy launch site before the missile leaves it. Such an attack is the purpose of the "smart bombs" bemoaned by Bernard T. Feld in the July 1975 issue of Physics Today. Or, the U.S. might destroy the incoming missile with its own missile—the Anti-Ballistic Missile. Despite extensive debate over the ABM, it cannot be generally implemented now. As a result of the SALT I treaty, the ABM is restricted, as far as nonmilitary defense is concerned, to Moscow (with a population of 4.5 million) and Washington, D.C. (population of 1.5 million). Nevertheless, even a small ABM system could be very effective. By destroying the first wave of incoming missiles, it can give time to the people to enter shelters or to protect themselves in other, although less effective ways.

Once a bomb does strike, the first effect is the electromagnetic pulse. This pulse threatens electric power transmission rather than human lives, although the disruption of radio transmission is of concern during an emergency.

The protection against the other effects of nuclear explosions can be provided in two ways—evacuation and shelter. Evacuation takes very much longer than the missile flight time and hence cannot be considered to be a truly defensive measure. If evacuation is undertaken during a crisis, it will greatly aggravate the situation. It can be effected before provoking a showdown and serve as an aggressive move. Hence, since the advent of missiles, our country did not seriously propose it until the elaborate evacuation preparations of the USSR became known. Now it is being seriously planned as a "counterevacuation," that is, as a response to a possible evacuation of the cities of the USSR. The Ponast study, which was organized by the National Security Council,[4] considered a nuclear attack in which the USSR aimed two thirds of its destructive force at civilian targets. This attack would destroy 45% of the U.S. population under present circumstances. The preparation for the "counterevacuation" would cost about $500

Footnotes at end of article.

million—one day's welfare expenditure—and would reduce the population loss to 11%. Because the USSR population is less crowded into cities than ours, their losses would be smaller yet—less than 5% according to our calculations.[5] This loss is half of that experienced by the Soviets in World War II.

SHELTER DESIGN

The defense measure advocated in the U.S., and installed by the Chinese, is the provision of shelters. The technical problem is to design a shelter with maximum blast resistance, minimum access time and minimum cost. The Chinese appear to have conquered the problem. U.S. scientists, during a 1970 study at the Oak Ridge Civil Defense Project,[6] estimated that effective shelters could be built at a cost of $23 billion. In similar conclusions four years later, the Ponast study found that a $35-billion investment—very much larger than that needed for preparation for counterevacuation and one tenth of one year's federal expenditures—would reduce the casualties caused by an attack by the USSR to 5.5%.[4] For this reason we can not possibly accept Feld's conclusion in Physics Today that "there is no defense against nuclear weapons, now or in the foreseeable future." Actually, as we have just described, the effectiveness of shelters should not be surprising: If shelters were ineffective, the expenditure on their construction by the government of China, the government of a nation much poorer than ours, would be entirely unjustifiable.

A third intermediate arrangement for defense, also indicated already in the Soviet handbooks on civil defense,[2] is to move most city dwellers away from densely populated areas but not as far as the pure counterevacuation proposes. Instead, the Soviets would build "expedient shelters" using materials at hand. Rather ingenious designs, which can be built by untrained prospective occupants, give a blast resistance of 30 pounds per square inch. Such a system, not significantly more expensive than the simple evacuation plan (not much over $500 million, according to the Ponast study) could reduce the fatalities as well as does the elaborate and rather expensive shelter system referred to above. However neither one can provide protection against a sudden attack.

In the design of shelters, prompt nuclear radiation can generally be ignored in comparison with the blast wave unless the blast protection is very good or the weapon is very small. The reason is that prompt-radiation effects decrease much more rapidly with distance than do blast effects. To see this, note that the blast pressure in pounds per square inch from a W kiloton explosion at a distance r in kilometers is given approximately by

$$p = \frac{1.6\ W^{2/3}}{r^2}$$

The intensity of the prompt radiation decreases more rapidly than $1/r^2$ because of the absorption by air. Thus, according to the equation, blast shelters designed for 100 psi will be effective agains a 1-megaton weapon for distances greater than about 1¼ km. The area within which the pressure exceeds a given amount is inversely proportional to this pressure. Thus the area where the pressure exceeds 5 psi—the pressure often considered as a survival pressure for unprotected people—is twenty times the area for 100 psi.

The effects of blast decrease more rapidly with bomb yield than do those from prompt nuclear radiation. For very small nuclear weapons, prompt radiation can be more harmful than the blast. Thus for a 1-kiloton bomb, neutron and gamma radiation at 750 meters are 700 and 400 R if no protection is provided. The blast pressure at that distance is 5 psi—quite tolerable. Indeed the midlethal blast pressure for a well instructed person, who knows how to protect himself from flying objects, is well in excess of 30 psi.

Blast shelters are designed not only to diminish the air pressure to which a person is subject, but also to protect him from flying objects. A properly designed blast shelter will also place sufficient mass between a person and the outside fallout particles to shield him adequately from the radiation. One foot of earth cover reduces radiation perpendicular to it by a factor around ten, and more than that for slanting rays. Shelters also provide cover against heat radiation and external fires. Two feet of earth will provide adequate protection from activity burning fire.

GLOBAL CONSEQUENCES

Worldwide effects from the detonation of a nuclear explosion naturally demand as much concern as the immediate effects. Many wonder whether the global consequences such as fallout might not be so severe as to deter any nation from even precipitating an attack. The most recent investigation of this question, the Nier report by the National Academy of Sciences,[7] verified previous conclusions that world-wide fallout produced in a nuclear attack would not be sufficient to deter the attack. It found, however, that the depletion of the ozone layer could be more serious. Increased radiation might force people to adopt special protection against sunburn, and it would lead to an increase in the skin-cancer rate by a factor of almost two. The depletion of ozone would also upset some ecological systems in important ways. Athough this study calls for additional research to answer some remaining questions regarding world-wide effects, Philip Handler, President of the National Academy, makes the following statement in his letter accompanying the Nier report:

"At the same time, the governments of the United States and of other major nuclear powers should be alert to the possibility that a geographically distant, populous other nation might determine that the degree of short-term damage to itself in this report, would be 'acceptable' and that, since long-term recovery woud be highy likely, might conclude that its own self-interest is compatible with a major nuclear exchange between other powers."

In other words, we cannot count on global effects in themselves as deterrents.

Even though civil-defense measures can be effective as population protection, the US lags behind many nations of the world in building such systems. The Chinese have installed extensive blast shelter systems; the Russians have preferred an evacuation procedure that removes the city population to outlying areas where hasty shelters are to be constructed from materials at hand. Admittedly, this system would lose effectiveness if another nation initiated the war: It takes two or three days to evacuate cities and to build emergency shelters. However, if such time is available, the USSR system is cheaper and probably more effective than the Chinese blast shelters. The Chinese, however, can occupy their shelters in a very short time and thus be prepared for an attack with very little warning. Evidently the Chinese are afraid that someone will attack them with little notice, while the Russians believe that they are in a position to determine when the nuclear exchange will come and that they can carry out their evacuation and construction in time.

POLITICAL ASPECTS

The United States, on the other hand, has essentially no civil-defense system. This lack is deliberate, and the reasoning behind it is clearly evident in the hearings before Congress on military matters.[8, 9] Our leaders recognize that, if the nuclear powers have the capability of destroying the opposing nuclear attack forces, they will be tempted to strike first. If they wait, their own weapons may be destroyed first and they would be defenseless. Thus the US, until quite recently, carefully designed its nuclear strike force to be effective against the population of an opponent but ineffective against his weapons. We also did not protect our people. This inaction assured him that we would not attack first and therefore, that he need not strike a preventive blow.

The trouble with our strategy was that the Soviets, and more recently the Chinese, have not accepted this "balance of terror." The Soviet's large missiles are effective against our land-based missiles and their killer submarines can attack our Polaris submarines. In addition, our population is so exposed that it is doubtful we would accept the casualties required to participate in any stage of nuclear war through a second, third, or any strike with our missiles. Perhaps such considerations led Secretary of Defense James R. Schlesinger to propose the addition to our arsenal of missiles that would be effective against sheltered enemy ICBM's.[8] However we are disappointed that Washington has not given strong support for measures that will protect the US population from the effects of a nuclear war.

As a final remark we wish to add that it disturbs us greatly that passionate opponents of the protection of our own civilians against nuclear attack do not oppose, and do not even mention, the elaborate preparations of the USSR in this direction. The Soviet handbook on civil defense is circulated in millions of copies. (It has been carefully studied at the Oak Ridge National Laboratory.) The USSR gives instruction on civil defense in the high schools, they carry out exercises in their factories and, most distressingly, they have made elbaorate preparation to evacuate their cities preceding a confrontation. If the opponents of the civil defense feel that these preparations are not even worth *mentioning*, why do they consider the protection of our own civilians objectionable and even provocative?

H-BOMB MAJOR IMMEDIATE EFFECTS

ELECTROMAGNETIC PULSE

Expanding charged particles from bomb explosion.

Damage to electronic equipment up to hundreds of miles; power stations at shorter ranges.

Special protective equipment related to lightning security devices; no effects on humans.

PROMPT NUCLEAR RADIATION

Nuclear reactions during bomb explosion.
Normally less than blast.
(Normally negligible compared to blast.)

HEAT RADIATION

Radiation from the hot fireball generated by the explosion.

Fires ignited a few tens of miles but greatly reduced by clouds or smog and dampness.

Eliminating exposed inflammable material; shelters including large *public* buildings.

BLAST WAVE

Expansion of hot bomb material pushes air into a wave of wind and high pressure.

Destruction of buildings as well as serious injuries to people from flying objects and falling buildings from five to ten miles.

Evacuation blast shelters; reinforced public buildings.

FALLOUT

Radioactive products of nuclear fission mixed with vaporized earth.

Heavily wind dependent; can be the order of one hundred miles.

Sheltering by large public buildings or special shelters for a few days or weeks until the radiation level has died down.

Footnotes at end of article.

FOOTNOTES

[1] *Civil Defense,* a Report to the Atomic Energy Commission by a Committee of the National Academy of Sciences, Washington, D.C., 1968. Available as TID-24690 from Division of Technical Information Extension, ERDA, P.O. Box 62, Oak Ridge, Tennessee 37830; T. L. Martin, D. C. Latham, *Strategy for Survival,* University of Arizona Press, Tucson (1963); C. M. Haaland, *Systems Analysis of US Civil Defense Via National Blast Shelter Systems,* Oak Ridge National Laboratory, Oak Ridge, Tennessee, Report ORNL-TM-2457 (1970).

[2] *Civil Defense,* (N. I. Akimov, ed.), Moscow, 1969. Translated by S. J. Rimshaw, ORNL-tr-2306 (1971).

[3] S. Glasstone, *The Effects of Nuclear Weapons* (revised edition), US Government Printing Office, Washington, D.C. (1974).

[4] R. H. Sandwina, "Ponast II," *Proceedings of the Radiological Defense Officers Conference,* South Lake Tahoe, 23-25 October 1974, State of California Governor's Office of Emergency Services.

[5] E. P. Wigner, "The Myth of Assured Destruction," in *The Journal of Civil Defense* (*Survive*), July-August 1970, P.O. Box 910 Starke, Florida.

[6] D. L. Narver, Jr., D. T. Robbins, *Engineering and Cost Considerations for Tunnel Grid Blast Shelter Complex,* ORNL-tm-1183 (1965); D. T. Robbins, D. L. Narver, Jr., *Engineering Study for Tunnel Grid Blast Shelter Concept for Portion of City of Detroit, Michigan,* ORNL-tm-1223 (1975).

[7] *Long-Term World Wide Effects of Multiple Nuclear-Weapons Detonations,* The National Research Council (Committee Chairman, Alfred O. C. Nier); The National Academy of Sciences, Washington, D.C. (1975).

[8] *Analyses of Effects of Limited Nuclear Warfare,* prepared for the Subcommittee on Arms Control, International Organizations and Security Agreements, of the Committee on Foreign Relations, US Senate, September 1975.

[9] Hearings before the Subcommittee on International Organization and Disarmament Affairs of the Committee on Foreign Relations, US Senate, Ninety-first Congress.

A 5-CENT CUP OF COFFEE

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. ROUSH. Mr. Speaker, the good ole' days of penny candy and 25-cent movies are still very much alive in my Fourth Congressional District of Indiana, the heartland of America, as evidenced by a small, country pharmacy in Topeka, Ind. I want to inform my colleagues that at the counter in Turner's pharmacy, you can still buy a cup of excellent homemade real honest-to-goodness coffee for just 5 cents. Tom Turner admitted to me during my recent visit there that the pressures of inflation had forced him to contemplate doubling his price to 10 cents a cup. He explained, with tongue in cheek, that he did not want to add to the many pressures causing and contributing to our spiraling inflation, so he intends to hold out a while longer before increasing his coffee prices. I appreciate businessmen like Tom Turner who are making the low-cost "good ole' days" more than just a memory.

ON THE B-1 BOMBER DEBATE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. KEMP. Mr. Speaker, it is no secret that for some time now a strong debate has been underway over our country's national defense and the potential contribution to our national security of the B-1 bomber. Mr. Francis Hoeber, an expert on these matters and researchist at the Georgetown Center for Strategic and International Studies, has made a fine contribution to this debate in an article in the August 22, Los Angeles Times. Mr. Hoeber says that the B-1 bomber makes a vital contribution to our Nation's national security and to peace in the world, and that without it the United States may not have, in the eyes of the Russians, a credible deterrent for much longer. It should be read by all Members, regardless of whether they are for or against the B-1.

The article follows:

B-1 DELAY COSTLY IN MONEY AND U.S. STRENGTH

(By Francis P. Hoeber)

The massive lobbying effort against the B-1 strategic bomber will resume this week as Congress ends its recess and a House-Senate conference committee prepares to take up the question. Led by the National Campaign to Stop the B-1, a coalition of 27 groups opposing various defense appropriations, the lobby wants Congress to delay funding the bomber until "the next President" can make that important decision.

Such a postponement would be expensive, even if the President decides promptly in February to order production of the first three planes (the first of 241 to be built over the next eight years). Three prototype B-1s already are flying, and contracts have been let for the three production models. Further delay, even for a few months, will cost an estimated $500 million because existing subcontracts will have to be canceled and work forces disbanded, requiring new contracts, hiring and training if the program is resumed. Inflation in the meanwhile could make the figure larger.

Still, those who press for delay sound reasonable and temperate. The truth, however, is that they want the program delayed forever.

The basic argument of the anti-B-1 lobby is that the bomber represents overkill: We have more than enough missiles to destroy all the Soviet cities, and bombers would only come along later and "bounce the rubble," in Winston Churchill's vivid phrase. The missiles' potential for accomplishing the "assured destruction" of Soviet population and industry is seen as sufficient to make war impossible.

Assured destruction, however, never was an adequate concept of deterrence, and it is rapidly becoming infeasible because the Russians have implemented an aggressive war-fighting, war-winning, war-surviving doctrine. For example, a massive Soviet civil-defense effort, accelerated in the early 1970s, includes training the population for evacuation of cities, building shelters, dispersing industrial plants and making them blast-resistant. Making no secret of this program, they publish detailed "how to" manuals on civil defense. According to Russian claims, their losses from a U.S. mass attack would be only 5 to 8% of their urban population and essential production would continue.

Even if they do only half that well, we could still not achieve the level of assured destruction that has long been considered necessary to deter the Russians from attacking us: obliterating 20 to 25% of the population and 50 to 67% of their industrial capacity.

Meanwhile, the Russians are rapidly approaching strategic superiority. Taking full advantage of concessions they received under the SALT I interim agreement on offensive arms signed in 1972, they are building more and larger missiles. Three new Soviet ICBMs are larger and each is equipped with several individual nuclear warheads.

In addition to this, they are developing a "new generation" of ICBMs. The Russians have tested a land-mobile missile that can be moved around to evade our weapons. They are deploying a new 4,200-nautical mile submarine-launched missile on a new class of submarine (years before our 4,000-mile Trident 1 missile, which is still in development), and they are deploying a new supersonic bomber, the Backfire, capable of reaching the United States.

In the early 1980s they will have more strategic nuclear power than the United States and will be capable of partially disarming us while withholding enough forces to make it suicidal for us to retaliate.

This growth in Soviet capabilities makes it imperative that the United States take action to maintain its policy objectives of (1) "credible deterrence," meaning the Russians will be convinced we are as strong as we say we are; (2) "assured retaliation" against dispersed military, economic and political targets; (3) flexibility to respond to less than all-out threats or attacks; and (4) "equivalence"—that is, denying the Russians the advantage they would obtain militarily and psychologically if they achieved actual and apparent superiority.

Modernization of our bomber force is one of the keys to achieving these policy objectives:

Credible deterrence: Is it credible for us to threaten, when faced with Soviet provocation or attack, to push the button that irrevocably sends massive numbers of U.S. missiles to the Soviet Union? The Russians and many of our allies think not. Only the bomber offers the President a rational alternative that retains America's credibility. He can launch all or some of his bombers and keep them subject to recall, gaining several hours in which to negotiate. Because the bomber is recallable, its very slowness is a virtue.

Assured retaliation: Far from being able to merely "bounce the rubble," a manned bomber—with a pilot responsible for assessing the success of an attack and switching targets if necessary—could carry out the much more difficult task of seeking out the many dispersed targets which, if destroyed, would deny the Russians victory in war and survival as a superpower.

American ICBMs still may be able to do this job, but that may not be true much longer because they are becoming increasingly vulnerable. The new, large Soviet missiles are more accurate than our ICBMs and by the 1980s will be able to knock out many of our Minuteman and Titan missiles unless we "launch on warning"—that is, unless we fire our own missiles in fear of losing them by not using them.

Similarly, our submarine-launched missiles conceivably could do the job, but their warheads are both smaller and less accurate than those of either the ICBMs or our strategic bombers. Moreover, the Russians have increasing antisubmarine capability to sink our submarines—not all at once, perhaps, but certainly one at a time. Would we want to bomb Soviet cities—thus risking the loss of our own—all because they torpedoed a few U.S. submarines?

Beyond that, communications with submarines are inherently difficult: Only very large, low-frequency transmitters can reach subs beneath the water, and if the Russians were to knock these out, our subs would be beyond our control.

Flexible options: The bomber would also provide a special, flexible capability for limited attacks. Using bombers instead of missiles for early, small responses would create less psychological incentive for escalation.

Equivalence: Given the small size and number of U.S. missiles relative to the Russians, the bombers, with their large payloads, contribute immensely to both real and perceived equivalence.

For these reasons, it is important to continue to have an effective bomber component in our strategic forces. However, even if this point is granted, foes of the B-1 argue that it is the wrong bomber; in their view, cruise missiles are a better alternative since the B-1 is not the ultimate bomber and is too costly.

B-1 opponents propose that a cheaper, better substitute for the B-1 would be the new cruise missile, launched from outside the Soviet airspace from a wide-bodied aircraft like the Boeing 747. The problem is that the time required to design, test and produce both the longer-range cruise missiles and a new transport would mean that the system would not be ready until the late 1980s at best. We need new forces by the early to mid-80s; and the B-1 would be ready.

Moreover, there are serious doubts whether the cruise missile could perform all the necessary missions, whether the 747-type carrier would survive and whether the combined system would be cheaper, let alone as effective as the B-1.

Cruise missiles that can be built in the next eight to 12 years could not carry the "penetration aid" used by the B-1 to ensure that most of the bombers will get through Soviet defenses—for example, electronic devices to fool enemy radar and missiles. Nor does the cruise missile have the bomber's ability to perceive that a given target has already been hit and to select another target.

The United States is certain to lose equivalence in the early 1980s if we do not push on with existing plans while preparing new initiatives in both force modernization and arms control proposals. The only new systems we can deploy by that date are those now under way: not only the B-1 but also the Trident subs and their missiles.

The B-1 clearly is the best bomber for its purposes that can be built now. If we start over and develop a new strategic bomber—even one that takes advantage of new technological developments—we might come up with a bomber for the 1990s, but our delay would assure the Russians reaching superiority in the preceding decade.

In any event, we are told that the B-1 "would be the most expensive weapons system in history" and would be a drag on the economy. The opposite is true: production would stimulate the economy, but that is not the reason we need the B-1. Furthermore, the $92 billion figure for 244 B-1s which has been bandied about is blown up by a series of accounting tricks. It includes 30 years of operating costs; it includes predictions of inflation; it includes new tankers which will be built for other purposes and at most shared by the B-1, and it includes improved weapons that will be built for the B-52 if there is no B-1.

In reality, the 244 B-1s will cost about $1 billion a year in 1976 dollars, if they are used for 30 years, or 1% of the defense budget—far less than the amount that has customarily been allocated to strategic bombers.

At this reasonable cost, the B-1 has a far better chance to maintain our capability for assured retaliation and flexible options against improving Soviet air defenses than the far less capable B-52, which would require an estimated $40 million per plane—three-quarters of the cost of a B-1—for modernization and rebuilding so that it could keep flying for one-half the life of the B-1.

For all these reasons, Congress should decide to get on with B-1 production—not because the Air Force pilots want it, not because it would provide jobs, but because it is a plane that can do what is required in time to help meet the mushrooming Soviet threat and to help provide the essential strength from which the United States can try to negotiate acceptable arms-control agreements.

TRIBUTE TO THE HARD-WORKING PEOPLE OF THE THEATER

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. YATES. Mr. Speaker, in this Bicentennial Year as we acknowledge and remember our vast resources, I believe it fitting to pay tribute to the dedicated and hard-working people of the theater—particularly the volunteers throughout the land—who with their many talents have contributed so much to the enjoyment and richness of lives.

There is an all-volunteer theatrical group in my congressional district in Chicago—the Old Town Players, 1718 N. North Park—who are most worthy of special attention. This theater company is now in its 44th season—its 10th in Chicago's Old Town.

On September 10, this remarkable group will stage its 1,000th performance at its present location with a spirited production of Moss Hart's "Light Up the Sky." As of midsummer, this group had played to an audience well over 68,000 persons, all in the 98-seat lovely and historic St. James Church.

In their 44 years, the Old Town Players have earned an outstanding reputation throughout the country. Drama critics have been lavish in praising both the players and their hard-working director, Frank Carioti. In a recent review of the Old Town Players' production of "After the Rain," the Chicago Sun-Times declared:

> . . . Carioti is obviously a meticulous craftsman when it comes to technique. The pace, the lighting and the sound effects are remarkably expert. And few would know that it is all done on a shoestring and a big box of tinfoil. Here is a production that has been prepared with a great deal of care and ingenuity and there is not one player ill-suited to his role.

Not only has this group made theatrical history in Chicago, it has also succeeded in getting Chicago's municipal code revised so that its tiny auditorium could be rezoned for theatrical use. When city officials threatened to close down their theater, the Old Town Players rallied support from the Old Town Triangle community which had enthusiastically welcomed the actors and their patrons. Together they enlisted the aid of Mayor Daley and soon a new code for not-for-profit theaters was enacted by the city council. They now hold the first license to be issued by the city of Chicago as a theatrical community center.

We, in the Ninth District of Illinois are proud of the contributions and achievements of the Old Town Players.

THE SMITHSONIAN'S S. DILLON RIPLEY, ON THE MEANING AND EFFECTIVE USE OF MUSEUMS

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. NEDZI. Mr. Speaker, all Members of Congress have a tremendous amount of required reading to do.

We read in the office, and we read at home. We also read on planes and at airports.

It is my habit to put aside magazine articles, speeches, and other matters of interest for my "airplane reading" file, and this file invariably becomes quite bulky.

So it was that on a recent flight from Detroit to Washington I finally had a chance to read a very perceptive and interesting speech delivered some time ago by S. Dillon Ripley, secretary of the Smithsonian Institution.

I was favorably impressed with Mr. Ripley's remarks and regard them as timely and appropriate reading for a wider audience.

Accordingly, under leave to extend my remarks in the Record, Mr. Ripley's Memorial Day 1976 speech is set forth below:

Speech by S. Dillon Ripley

(The text of a speech prepared by S. Dillon Ripley, Secretary of the Smithsonian Institution, for delivery at the opening session of the 71st Annual Meeting of the American Association of Museums, Monday, May 31, at the Sheraton Park Hotel in Washington, D.C.)

Here in the Bicentennial year, I am minded of the happy events of eleven years ago when I had first come to the Smithsonian and when I had an opportunity to address the delegates to the Bicentennial celebration of James Smithson's birth, as well as the world meeting, here and in New York City, of the International Council of Museums. Now as indeed I said then, we all perceive one central truth: "Museums and their activities are playing a larger and larger part every day in our cultural scene, and yet the purposes for which they exist and the *meaning* of museums still manages to elude the public and the world of affairs." Why is it that museums even today find themselves viewed as so largely out of the main stream, the real world?

It seems to me that there are two main reasons, one to do with education, the other connected with the assumptions of our adult life. The world of education is in a terrible dilemma today, the certitude and self-righteousness of past years replaced by self-doubt over failing standards, diminishing numbers of young students and incredible inflationary pressures. Throughout our whole history in the United States we have been dedicated to the goal of education for everyone, an inalienable right of freedom. But in the new land of freedom where this had been achieved by uniting and by forging together a democratic society, life itself had a solemn responsibility to the state, to the family, to other citizens; and to the community. It was in this context that every citizen deserved the best in training and discipline of the mind which a real education could produce.

In order to achieve this demonstrable goal, a century or more of increasing support for education from state and federal sources, gradually replacing, especially recently, much of the earlier highly-motivated private or religious philanthropy, has produced a massive series of formulas for education. The complex web of paternalistic regulations and accreditations has achieved an immense infrastructure of competitive yet complacent institutions providing careers to a welter of bureaucrats and teachers to teach teachers. All of this is assumed to refine skills—learning and the transfer of training as life goals rather than the acquisition of knowledge or the creation of patterns of discipline of the mind.

In this juggernaut car ponderously careening down main street, museums still have no defined role. As latecomers on the scene we continue to be decorations, frills or ornaments, and as such viewed as potentially dispensable in a time of fiscal crunch.

In eleven years I have not seen a rush by any major segment of the educational establishment to clasp museums to its bosom. In special areas of conservation and art history, yes to a limited extent. In Anthropology a toe in the door perhaps under the rubric of the social sciences. In the natural sciences suspicion of organismic biology coupled with prejudice over environment and economic confrontations continues to produce bias in thought and deed.

And yet there are beginning to be cracks in the monolithic facade of assumptions. Education is a vast ecclesiastical structure. Like some of our most established churches the ravelled sleeves and hems are showing. In the past decade there has been a marked increase of school participation in museum experiences, at the early school level, and training at graduate levels, an interplay in course structure and job and career training in museum careers. Will this be added to? As I see it yes in several ways. Education itself has declined overall in quality. This is partly due to its very massiveness, its ponderous rules, its denial of individuality through rote teaching, as well as succumbing to the new luxurious modes of thought of the sixties, the mindless drive towards self-fullfilment, which so often merely masks a lack of discipline and loss of faith. With this has come the eerie after-effect of nearly a generation of watching television, the conduit for cultural values in the American home, as Eric Barnouw has described it, displacing Grandpa, Grandma, school and church.

I have been interested recently to read in the papers that the *Soap Opera Digest,* chronicling the day-to-day loves and hates and dreams of all the 14 daytime dramas, is the fastest growing magazine in the country. As the slogan goes, "These are the women you want to reach . . . the women who load up their shopping carts weekly with soaps and cereals . . . beauty and health products . . . paper and sanitary goods . . . baby and pet foods . . ." Truly the medium has become the message.

But why do I dwell so much on education and its present problems? Obviously because I do not believe museums have anything to gain in the long run without allying themselves somehow with the destinies of education in this country.

But how shall we order our lives to achieve this result? We must begin to learn how to make more effective educational use of the several thousand museums that exist in the United States. They represent virtually untapped resources within the academic community, and one would hope that the educational establishment would explore how best to integrate the assets of museums—their curators, their collections, their research and their physical environment—into the teaching mosaic. In recent years American museums largely on their own have dramatically widened the range and increased the extent of their educational activities. Museums are a community educational resource; they represent human capital. Museums are sylvan sacred groves in which the fruits of the human condition are seen at their finest and preserved for future generations, waiting to teach the past, and expose presentiments for the future.

All of us in museum work believe this and yet often we are skeptical of the possibilities. With the lower grades yes; the "Discovery Rooms" of sight, feel and touch are marvelous for children; with the graduate students by all means; we are comfortable with teaching at that level and with the hope of replicating our own professional competence. But at the college level we continue in the main to fail to interact between museums and college course curricula. I noted this in my book, *The Sacred Grove,* that college courses are too tunnel-like, careers and the pressure competitive track systems too acute for museum work to manage to capture the interest of most teachers and students in the constant race for time and minimal attention span.

It is not for lack of trying. The Smithsonian's National Museum Act has sought to improve museum techniques and provide training and the National Endowments for the Arts and Humanities have been most effective life-savers, not only for individuals as sources of research and performance grants, but to a significant extent for museums as institutions. However, the report *Museums and Education* (1968), which called for a research and development program for museum education, generated no action in the major government department (Health, Education and Welfare) concerned.

Museums can be only a small part of the programs of the endowments because of the competition with the performing and plastic arts, folklife and other interests. Nonetheless, a start has been made in the current reauthorization bill for the endowments in the new title establishing an institute for the improvement of museum services in the Department of Health, Education, and Welfare, providing for a program of grants for rehabilitation and construction of museum facilities and operating expenses. Whether the institute will rest with the endowments or in HEW is still subject to debate. From a practical political point of view, the large sums of money authorized would seem modest when swallowed in the cavernous recesses of the budget of HEW, the largest department of government in fiscal terms. As such a sum of forty million dolalrs could be far more vulnerable as well as visible in the smaller budgets of the endowments. And in an election year, as the diminished bird song in Washington's Spring season reminds us, fiscal austerity is the watchword.

As museums come closer to success in establishing a precedent for government funding for services and for services rendered, akin to the massive support for colleges and schools, it would be wise to look ahead and consider that with federal funding come certain reciprocals: oversight, control, bureaucratic management, accountability, and increased administrative and overhead responsibilities. All governments and other very large granting bodies require this today.

I would urge one and all to recall that the education apparatus in this country now suffers to an extent from vast federal support. The prescription of policies stem from the spending power. Money begets power, but the ultimate power rests with the dispensers of the money. Vast money produces regimentation and pedantry. Museums would do well to measure thus their independence against their eventual dependence on government funds.

Turning from education to public exposure, there is no doubt that television, the most promising of the new techniques of exposing an object, talking about it, and increasing the appeal of the museum experience, continues to be a failure. In eleven years I have yet to see adequate use made of museum collections in this medium. The one program which spoke to me, and to the public, "What in the World," put on by the University Museum of Pennsylvania as a brilliant exposition of Art and Ethnography, flopped for lack of a sponsor. At least two great series done by the BBC, Clark's "Civilization" and Bronowski's "Ascent of Man," were narrated by geniuses, and utterly successful, saved only at the last moment, over the objections of the major networks, embedded as they have been in the rituals of soap opera and other bread and circuses for the masses, designed not to interefere with the ads.

Now at last public television may come of age, and save us all, citizens and museums alike, from the numbing conformity meted out by the tube. To counter this and restore the use of language to its rightful place, I have recently recommended, at the level of basic training in writing and literate skills, that we use television, the erstwhile enemy, to develop new programs in training. Here on the screen we could associate words beautifully with objects exhibited, a museum-like technique, but performed the way Mme. Montessori showed us a year ago, so that we reinforce the learning process in a way that children have always responded to—with touch, sight and a deeper perception. Perhaps in this way, museums could find a firmer, a more committed involvement with the new media techniques and in the process produce our new open university. Somewhere out there, in the museum world, someone is waiting to pull it off!

I have not mentioned the slow but promising growth of corporate support for museums. This is a welcome nascent phenomenon, often hindered in its progress by the impersonality and restlessness of corporations themselves. Here leaders alone count, men and women able to attach ultimate values of environmental health of their employees to the urban surroundings in which these employees live. But executive rotation and impersonal management are a hindrance to real corporate responsibility, and every effort should be made to encourage a continuing dialogue between museum and corporate management.

As we all know, I think museums do possess some of the ultimate weapons for the future. As possibly the last legitimate growth industry, museums will continue over the years to amass more of the world's artifacts, those made by the hand of God as well as those made by man.

They thus are the eventual repositories of the truths of conservation, the testament of history, and the measure of the sustainable degradation of our planet. Here is a weapon for the future, the roster and the tally of the grains of matter slowly disappearing before our eyes. Museums thus have a moral responsibility to preserve these objects with newly refined skills, and on the part of the Smithsonian Institution I can testify to our desire to serve as a leader in the field of conservation, but also the right to point out, as in a kind of world Farmer's Almanac, how much more, how long and for what purposes we the people can continue to sully our planetary nest.

And so as the Spring goes and the bird songs diminish, I can testify to one thing as I have before: Over this world of ours winds of change are blowing. From whence they come and whither they go no man knows. Only the rate may be measured in finite terms, the rate, the time change. No people are better trained to ring the changes of this relentless progression than those who do their research in museum laboratories. To develop and foster such research is one of the most important goals in the world today.

KEYS' TESTIMONY SUPPORTS INCREASED LAW ENFORCEMENT SERVICES AT CORPS OF ENGINEERS WATER RESOURCES PROJECTS

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mrs. KEYS. Mr. Speaker, the Subcommittee on Water Resources of the House Public Works and Transportation Committee is holding hearings on the Water Resources Development Act of 1976. One of the proposals being discussed for possible inclusion in this act is a bill which I introduced, H.R. 14005. This legislation would authorize the Secretary of the Army to contract with States and their political subdivisions for the purpose of obtaining increased law enforcement services at water resources development projects under the jurisdiction of the Department of the Army. Today, I testified before the subcommittee in support of this legislation. My remarks follow:

Statement of the Honorable Martha Keys

Mr. Chairman, I appreciate this opportunity to appear before the Members of the House Subcommittee on Water Resources to express my strong support for legislation introduced by me regarding law enforcement aid to areas with Federal reservoirs. My proposal is to authorize the Corps of Engineers to contract with States and their political subdivisions for increased law enforcement services at water resources development projects under the jurisdiction of the Department of the Army. There is a strong need for this type of legislation and it is my hope that it can be included in the Water Resources Development Act of 1976 which you are now considering.

In Northeastern Kansas, attendance at Corps of Engineer reservoirs continues to climb. Visitors to Milford, Tuttle Creek, Pomona, and Perry Lake total more than 6 million during the summer months, nearly three times the entire population of the State of Kansas. The strain on local law enforcement officials and their capacity to respond to emergency situations created by this influx of people outstrips what the local taxpayers can provide. The millions of people enjoying the recreational facilities at these lakes are left with little recourse in seeking help. This bill would authorize funds to be appropriated as necessary to insure continued enjoyment by visitors at lakes and to help with the growing problem of crime and the need for help to local officials.

At the beginning of this summer, over the Memorial Day weekend when I was in the Second District, I stopped by the Tuttle Creek Reservoir and visited with Mr. Willis Penhollow, Director of the Riley County, Kansas, Police Department. We talked about law enforcement needs at Federal recreational area projects such as Tuttle Creek. Because of a lack of additional funds, it takes an ingenious sheriff or director to juggle personnel schedules and responsibilities to be able to respond to emergency calls and/or law enforcement problems and to cover all bases adequately. Fortunately, no really serious problems have developed in any of the reservoirs in the Second District and surrounding areas. It is a great credit to the personnel in those areas and their efforts in making their limited funds and staff reach the areas of need. In recognition, however, of the increasing numbers of people using these facilities and the demands on local officials, legislation such as H.R. 14005 which I introduced to provide additional personnel and funds as necessary to meet the increased demands for additional law enforcement personnel at Corps of Engineers projects is seriously needed. In talking with him on Memorial Day, Mr. Penhollow said such funding would allow him to stabilize his operations in Riley County.

Jefferson County Sheriff Carl Eisenhower of Lake Perry has also worked with my office in support of this legislation. I would like to use Lake Perry, one of the reservoirs in my area, as an example to illustrate the magnitude of this problem.

Jefferson County has a population of 10 to 12 thousand and Lake Perry is entirely within this county. The lake encompasses 159 miles of shoreline, 39,338 acres of fee lands, and 12,200 acres of water. During the months of April through October, more than 1.5 million people visit this recreational area—people with motor boats, sail boats, campers, Boy Scout hikers, bicyclists, swimmers, and picnickers. Sheriff Eisenhower has a five-man force each of whom are presently working an 80-hour week at a salary of approximately $675 per month. The local county government has no additional sources of revenue to support either greater salaries or more personnel.

Despite this increased number of manhours and work schedule, over-all crime in the county increases 150 percent during peak-use periods. Theft alone increases more than 300 percent. Crimes of a less violent nature often go unreported. The Sheriff's department details two men to assist in dredging and land support operations when a drowning occurs who are on duty until the body is located. On several occasions, this period of time has stretched into two and three days. With such a small staff, you can see that their ability to respond to emergency calls relating to water accidents or other personal medical emergencies is severely strained.

As you already know, both the Office of Management and Budget and the Department of the Army have recommended that this legislation be favorably considered. In addition, the report of the Secretary of the Army to the Congress on visitor protection service at Corps of Engineers lakes, dated December 1974, indicated that a reasonably significant level of criminal activity exists at a majority of Corps lakes. The report also states that criminal activity, or the threat of it, results in a significant and unquantifiable diminution of the value of the recreation experience of the visitor.

Thus, I believe that passage of the legislation I have introduced will provide the needed assistance to local law enforcement officials so that they will be better equipped to provide additional visitor protection services at peak-use times at Corps of Engineers lakes in the Second District of Kansas and throughout the United States.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago, on August 30, 1776, in an effort to expedite the communication of intelligence throughout the colonies, the Continental Congress resolved:

> That . . . there should be employed on the several post roads, a rider for every twenty five or thirty miles, whose business it shall be, to proceed through his stage three times in every week, setting out immediately on the receipt of the mail, and travelling with the same, by night and by day, without stopping, until he shall have delivered it to the next rider; and that the post master general be desired, either by the use of way bills, or by such other means as he shall find most efficacious, to prevent delays in the riders, or to discover where they happen, that such dilatory riders may be discharged.

LETTER WRITING CAMPAIGN

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 31, 1976

Mr. ASPIN. Mr. Speaker, in the last week or so many Members have been inundated with mail calling on Congress to vote money for the B–1 bomber program. As Members of the Congress we need to hear from our constituents or we cannot do our job. But some things about this latest letter-writing campaign have disturbed me. First, employees of Rockwell International Corp., the prime contractor for the B–1, have been prompted—perhaps ever pressured—to write these letters. Second, from the mail I have received it is apparent that many employees who have nothing to do with the B–1 program have been misled into believing their jobs may depend on the B–1 program.

Let me quote from a few letters I have received to illustrate the corporate pressure behind this mail:

From a constituent in Beloit, Wis.:

> I support the bomber project. OK, OK. I'm really a player just working for Rockwell and they told me to write something.

From a constituent in Fontana:

> I have been asked by the company I work for to write to you about the B1 bomber project and I would like you to know that I am not for the B1 at this time, and I doubt if I will change my mind.

And from another constituent in Beloit:

> This letter is being written on Rockwell Inter. time, dealing with the B1 bomber. I am against it and since Rockwell is paying me to write this letter and send it here it is.

About 90 percent of the mail I have received came with the *same* "E Pluribus Unum" postage stamp while the remainder came with the same Harvard, Ill., postage meter. A member of my staff reached an executive at the Harvard Admiral plant, which is wholly owned by Rockwell. The executive confirmed that the company, at the behest of the parent firm, gave its employees paper, envelopes, stamps and time for the purpose of writing their Congressmen.

The Harvard plant makes television products—exclusively. It has nothing remotely to do with the B–1 bomber. Yet a number of employees were clearly induced to write out of concern that their jobs would be at stake if the Congress did not give Rockwell all it wanted for the B–1.

For example, a constituent from Delavan, Wis., wrote:

> I am in full support of the B1 bomber project for our protection and our jobs.

Another wrote:

> I fully support the B1 bomber project and strongly urge you to vote [in] favor of it. Sincerely (need a job). . . ."

A woman from Williams Bay wrote:

> What's this nonsense about the downfall of the B–1 bomber?
>
> I am in favor of the project. Evidently there will be a war in the near future. Why should our country be behind the others? Besides, I work for Rockwell International and the bomber project could mean saving my job. As scarce as jobs are now I sure don't want to lose mine. . . .

A gentleman from Beloit, Wis., showed concern for his job—but also a certain skepticism that his job was really involved:

> I'm in favor, IF we are promised twelve months a year & a 40 hour week. We don't need a six month lay off or trips to Mars & outer space. If otherwise, I'm NOT in favor.

Another wrote very succinctly and to the point:

> Please see to it that Admiral Rockwell works good this year.

The bulk of the mail, of course, supported the B–1 program. More than one-third of all the mail I personally received contained the same one-word sentence of support:

> I fully support the B–1 bomber project and strongly urge you to vote in favor of it.

One woman was such an enthusiastic supporter that she sent three letters, with the same name and return address, but using a slightly different handwriting each time.

We here in Congress want to hear from our constituents and need to hear from them if we are to do our job. But letterwriting campaigns run by corporations who twist the arms of their employees by wrongfully implying their jobs are on the line are a perversion of the democratic process.

In fact, Wisconsinites who were deluded into believing support for the B–1 meant support for their jobs were actually supporting a tax loss for themselves. In the years from 1970 to 1985 Wisconsinites will be taxed to the tune of $469 million to finance the B–1, according to calculations made by the gentleman from Ohio (Mr. Seiberling), but Wisconsin firms will get only $60 million in B–1 contracts.

Thus the Harvard plant employees, whose employment depends not on the B–1 but on the television market, are being asked to lobby Congress—not to save their jobs, but to support a tax drain amounting to $240 for each and every Wisconsin taxpayer. When the company asked these people to write Congress, I will bet they never explained that to them.

There is one other issue here that disturbs me. Rockwell saw to it that the employees did their lobbying with company stamps, paper and time. Since the Harvard plant was not doing Government work, that appears to be within the firm's legal right. But many of Rockwell's 120,000 employees around the country work exclusively on Government projects. If they were told to lobby on company time, it appears that the Government was, in effect, paying to have itself lobbied, which would appear to be a violation of the law. I have asked the Secretary of Defense to investigate and determine if any of the direct and/or indirect costs of the Rockwell lobbying campaign were in any way passed on to the U.S. Government.

In conclusion, I would like to share with you three other letters I received in the Rockwell mass mailing. One gentleman wrote:

> Let's get a bunch of the B1s built before the Ruskis' Backfires get us.

While a woman wrote:

> I do not strongly support this B1 bomber project. I feel it is a great disaster to our nation and also Rockwell corporation throughout the nation. All employees should feel the same way, because if not they are insane.

And finally one unsigned letter has me scratching my head. Addressed "Dear Honorabe Lee A Spine", it said:

> I full Suppose the B1 Bomp. that you Have vote in Favarity of. Becauese I feel like it would be wathl your while to give it a change and well the company and the people belive it So I Hope you will give it a charge. See what ary why. and you Decides what?

SENATE—*Wednesday, September 1, 1976*

(Legislative day of Friday, August 27, 1976)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. Patrick J. Leahy, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who makest the light to shine out of darkness, we thank Thee for the light of this new day. Grant that we may welcome its opportunities, waste none of its precious hours and fail in none of its duties. Give us poise and patience and power. Spare us from impatience, from being touchy, quick to take offense and slow to forget it. Grant to us something of the manliness of the Master. Teach us again the dignity of all work when done in Thy name, and especially the high trust of work in this place. At the end grant us the gift of rest and the miracle of a renewed mind and body.

We pray in the name of the Great Carpenter, who went about doing good. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The legislative clerk read the following letter:

> U.S. Senate,
> President pro tempore,
> *Washington, D.C., September 1, 1976.*
>
> *To the Senate:*
>
> Being temporarily absent from the Senate on official duties, I appoint Hon. Patrick J. Leahy, a Senator from the State of Vermont, to perform the duties of the Chair during my absence.
>
> James O. Eastland,
> *President pro tempore.*

Mr. LEAHY thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, August 31, 1976, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of William G. Bradford, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chad.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Robert J. McCloskey, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

Mr. MANSFIELD. Mr. President, I wish to say a few words about Ambassador McCloskey, who has performed superbly as the congressional liaison chief between the Department of State and Congress. In that capacity, he had the title of Assistant Secretary of State for Congressional Affairs.

Mr. McCloskey used to be the chief press officer for the Department of State before he became Ambassador to Cyprus, and when the present Secretary of State, Dr. Henry Kissinger, was appointed to his present position, he recalled Ambassador McCloskey from Cyprus to take over his very responsible position in establishing a relationship between Congress and the Department of State.

He is indeed an extraordinary man,

a good man, an efficient man, an honest man, and a man who did much to keep the lines of communication open between the Department of State and Congress.

It is a pleasure for me to say these few words in support of this outstanding ambassador.

Mr. PELL. Mr. President, yesterday the Foreign Relations Committee recommended Senate confirmation of an outstanding career Foreign Service officer, Robert J. McCloskey, as Ambassador to the Netherlands. Mr. McCloskey is currently serving with great distinction as Assistant Secretary of State for Congressional Relations.

I applaud the administration's decision to nominate a career officer as Ambassador to an important Western European post. Too often, our country's chief representatives in Western Europe—where America's vital national interests are most heavily engaged—have been chosen on the grounds not of the degree of their competence but rather on the basis of the size of their Presidential campaign contributions. Foreign Service officers, on the other hand, have been picked to enter the service of their country through a rigorous and highly competitive process; yet they have for the most part been relegated to relatively minor and decidedly uncomfortable posts.

It is my hope that Mr. McCloskey's appointment signifies a trend to assign more career officers as chiefs of mission abroad in keeping with an amendment to the fiscal year 1977 State Department authorization act which I introduced declaring that "it is the sense of the Congress that a greater number of positions of ambassador should be occupied by career personnel in the Foreign Service."

In this connection, I urge the administration not to submit to the Senate any further noncareer nominations until after the November election unless there are special or urgent circumstances involved. In view of the possibility that a new President will take office in January, it makes little sense for the Senate to act on nominees who may serve at their posts for only a few months.

Mr. President, today's Washington Star published an excellent account of the Foreign Relations Committee's deliberations on Mr. McCloskey's nomination, and I ask unanimous consent that the article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star, Sept. 1, 1976]

Panel Okays McCloskey as Dutch Envoy

(By Jeremiah O'Leary)

It used to cost half a million dollars in campaign contributions to secure an ambassadorship to countries such as Belgium, the Netherlands or Luxembourg.

Yesterday the Senate Foreign Relations Committee applauded and unanimously approved the nomination of a career Foreign Service officer, who lives on his salary and does not contribute to political campaigns, to represent the United States as ambassador to the Netherlands.

He is Robert J. McCloskey, assistant secretary of state for congressional relations. McCloskey, 53, has been Secretary of State Henry A. Kissinger's liaison man with Capitol Hill for a year and a half.

Considering the hostility between Kissinger and a large segment of Congress about the conduct of foreign policy, it was a major personal triumph for McCloskey to receive the unusual volume of praise he drew from the committee at his nomination hearing.

McCloskey, who became a national figure as the principal press spokesman for American administrations through much of the Vietnam war, apparently succeeded over the past 18 months in pleasing both the exacting secretary of state and the Congress.

Member after member outdid the other in lauding McCloskey as a man of his word and an excellent choice to represent America in The Hague. One after another, Sens. John Sparkman, Jacob Javits, Dick Clark, George McGovern, James Pearson, Clifford Case and Claiborne Pell praised the Philadelphia-born former Marine, bartender and newspaper reporter for doing what they called a superb job under difficult circumstances.

It was Pell, Democrat from Rhode Island and a former foreign service officer himself, who referred to the former practice of giving the ambassadorships to Belgium, the Netherlands and Luxembourg, to fat cat campaign contributors. "The new campaign contribution laws have changed that," Pell said. "It used to cost half a million to go to the Benelux and it is refreshing to see a career officer going to Western Europe instead of somewhere in tropical Africa."

McCloskey responded in kind when it became clear that his confirmation is a foregone conclusion. "There is a renewed willingness in the State Department and the executive branch," he said, "to work more cooperatively with this committee. We will continue to have differences but I am sure we'll eliminate some of the fever."

Javits, R-N.Y., urged McCloskey to make it clear to the Dutch people that the recent trauma involving Prince Bernhard and the Lockheed scandal will not have the slightest effect on America's deep regard for the Netherlands. Javits said the payer of a bribe is as much to blame as the receiver and said he hoped McCloskey would convey the goodwill of the United States to the royal family and the Dutch people.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

FOREIGN CLAIMS SETTLEMENT COMMISSION

The second assistant legislative clerk read the nomination of Wilfred J. Smith, of Virginia, to be a member of the Foreign Claims Settlement Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATOR HAROLD HUGHES, CHAIRMAN, COMMISSION ON THE OPERATIONS OF THE SENATE

Mr. MANSFIELD. Mr. President, I am in receipt of a letter from Senator Harold Hughes, Chairman, Commission on the Operation of the Senate, with regard to the work of that Commission. I ask unanimous consent to have the letter printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., September 1, 1976.

Hon. Mike Mansfield,
U.S. Senate,
Washington, D.C.

Dear Senator Mansfield: At its meeting on August 25, 1976, the Commission on the Operation of the Senate reviewed its work in terms of what has been accomplished to date and what remains to be done prior to the submission of our report to you and Senator Scott in December.

Over these months we have endeavored to seek the views of all those who are knowledgeable about the Senate and are concerned about the need for improvement in its operations. We have talked with Senators, with Senate officers, committee staff, personal staff, support agency staff, and administrative staff. We have also been in contact with many outside the Senate who have made valuable contributions.

Nonetheless, because of the brief time allotted to the Commission's work, it is possible that we have not heard from all interested individuals and organizations. We would appreciate it, therefore, if you would be kind enough to announce on the floor of the Senate that the Commission would welcome the comments, suggestions, and recommendations about the Senate's operation from any Member, individual or organization wishing to submit them.

It would be helpful and preferable for such contributions to be made in writing and sent no later than September 30th to Mr. Vincent P. Rock, Staff Director, Commission on the Operation of the Senate, 201 Senate Courts, 120 C Street, N.E., Washington, D.C. 20510.

I want to take this opportunity to thank you and Senator Scott, to whom I am also writing, for the warm cooperation you have extended to the Commission since its formation last fall. We very much appreciate your assistance.

Sincerely,

Harold E. Hughes,
Chairman.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the acting minority leader seek recognition?

Mr. GRIFFIN. No, Mr. President.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Connecticut (Mr. Weicker) is recognized for not to exceed 15 minutes.

LOCKHEED AIRCRAFT CORP.

Mr. WEICKER. Mr. President, 5 years ago, this Senator engaged in his first debate in the U.S. Senate—joining Senators Proxmire and Taft in opposition to the Lockheed loan guarantee.

Now, in 1976, it becomes clearer with each passing day the Lockheed Aircraft Corp. is undeserving of the assistance of the citizens of this Nation, be it in the form of loans to underwrite the Lockheed TriStars or moneys to finance defense contracts.

This dismal chapter in the history of American business has besmirched the governments of nations all over the world. In Japan, 18 top government and business leaders have been indicted. Among those charged with accepting his share of the $12.6 million is the former Prime Minister, Kakuei Tanaka, who stands accused of having accepted a $1.6 million bribe to arrange the purchase of—guess what—the Lockheed TriStar passenger jet. In Italy, a Parliamentary commission is investigating evidence developed by the Subcommittee on Multinational Corporations of the Committee on Foreign Relations that a former Prime Minister was involved in Lockheed payoffs to influence the sale of C-130 cargo planes. In the Netherlands, the monarchy itself has been jeopardized by revelations that the Prince Consort, to quote from the report of the Dutch Commission, "showed himself open to dishonorable requests and offers." In Turkey, it is alleged that $876,000 was provided for "gifts" to third parties to promote Lockheed sales. Investigations by the West German Government are proceeding.

In short, it would be difficult for Communists and Fascists to develop a strategy better suited to undermining international confidence in the integrity of this Nation's business community, and ultimately, the Nation itself.

When any American enterprise deals in the gutter of the international marketplace, our Nation is cheapened. When the ethics of American business turn sour each of us is shamed and when there are those who suggest or explain bribery as "business as usual," they in effect advocate we clasp the dagger of our national suicide.

When we treat neighbors in a way we would not tolerate in our own system of laws, we make it easier to practice similar abuses at home; we rightfully lose our role as leader of the free world.

As the 20th century world becomes more and more a single community, it is not possible to practice a double-standard of government. In the 20th century, you cannot have two constitutions: one for us, and one for everybody else. You cannot have two systems of law: one for domestic use and one for export.

Unfortunately, Lockheed bribery goes part and parcel with the ethical slovenliness into which this Nation has been drifting for all too long.

Two hundred years ago, we as Americans pledged our lives, our fortunes, and our sacred honor to the proposition that all men—not just Americans—are created equal. That all governments—not just ours—derive their just powers from the consent of the governed—that justice was to be equal for all.

Yet, the revelations of the past few years, in all areas of our endeavor—be it politics, be it business, be it in our communities, be it in any other area of endeavor in this country—show a leadership structure in this country that is dedicated to self-survival and personal profit rather than to those who have yet to grasp in reality any part of the American dream.

It is time to reaffirm to ourselves and to the world that our Constitution is not just some 18th century American document, but an expression in law of principles for all people for all time.

And we can start by refusing to finance any foreign American enterprise, private or governmental, which has as part of its act the repudiation of what we teach our children and each other at home.

What happened to that young America that had strength far beyond its numbers or resources because it was engaged in living the highest purposes of God and man?

Is it ready to substitute cunning for strength, expediency for growth, payoffs for quality?

I do not think so. We are an idealistic, compassionate, gutsy people. If the leaders of America want to turn tail on life and run, its people do not.

For every Lockheed there are millions of Americans who build rather than bribe. I think those people not the boardroom in Burbank is where it is at for a nation that is 200 years young.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 5 minutes each.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs be authorized to meet today for an oversight hearing on commercial bank activities in the securities business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE FEDERAL PREVAILING RATE ADVISORY COMMITTEE—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States which was referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

In accordance with section 5347(e) of title 5 of the United States Code, I hereby transmit to you the 1975 Annual Report of the Federal Prevailing Rate Advisory Committee.

In March of this year, I sent to the Congress a legislative proposal to reform procedures for setting pay under the prevailing rate system. In my July 22, 1976 legislative program message, I urged action on the proposal before adjournment of the 94th Congress. I am convinced that the bill will help correct inconsistencies in the prevailing rate system and I wish to reiterate my concern for its passage.

GERALD R. FORD.

THE WHITE HOUSE, *September 1, 1976.*

MESSAGES FROM THE HOUSE

At 11:05 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed the bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes, with an amendment on which it insists; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Perkins, Mr. Thompson, Mr. Brademas, Mr. O'Hara, Mr. Hawkins, Mr. Ford of Michigan, Mrs. Mink, Mr. Meeds, Mrs. Chisholm, Mr. Biaggi, Mr. Andrews of North Carolina, Mr. Lehman, Mr. Benitez, Mr. Blouin, Mr. Cornell, Mr. Simon, Mr. Beard of Rhode Island, Mr. Zeferetti, Mr. Miller of California, Mr. Mottl, Mr. Hall of Illinois, Mr. Quie, Mr. Ashbrook, Mr. Bell, Mr. Erlenborn, Mr. Esch, Mr. Eshleman, Mr. Buchanan, Mr. Jeffords, Mr. Goodling, and Mrs. Smith of Nebraska were appointed managers of the conference on the part of the House.

ENROLLED BILLS SIGNED

At 12:45 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the Speaker has signed the following enrolled bills:

S. 5. An act to provide that meetings of Government agencies shall be open to the public, and for other purposes.

S. 2862. An act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974.

H.R. 8800. An act to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. Leahy).

At 3:14 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House agrees to the amendment of the Senate to the bill (H.R. 3052) to amend section 512(b)(5) of the Internal Revenue Code of 1954 with respect to the tax treatment of the gain on the lapse of options to buy or sell securities.

The message also announced that the House has agreed to without amendment the concurrent resolution (S. Con. Res. 136) providing for a conditional recess of the Senate from September 1 until September 7, 1976, and a condition adjournment of the House from September 2 until September 8, 1976.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Approval of Loans by the REA

Two letters from the Administrator of the Rural Electrification Administration, each transmitting a report on the approval of, first, an REA-insured loan to Big Rivers Electric Corp. of Henderson, Ky.; and second, a non-REA loan to Big Rivers Electric Corp. of Henderson, Ky. (with accompanying papers); to the Committee on Appropriations.

Report of the Agency for International Development

A letter from the Assistant Administrator of the Agency for International Development transmitting, pursuant to law, the 1976 report on disposal of foreign excess property (with an accompanying report); to the Committee on Government Operations.

Reports of the Comptroller General

Two letters from the Comptroller General each transmitting, pursuant to law, first, a report entitled "The Fifth International Tin Agreement—Issues and Possible Implications"; and second, a report entitled "Cost, Schedule, and Performance Problems of the Lake Pontchartrain and Vicinity, Louisiana, Hurricane Protection Project" (with accompanying reports); to the Committee on Government Operations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Without recommendation:

H.R. 13555. An act to amend the Federal Metal and Nonmetallic Mine Safety Act and to transfer certain functions relating to coal mine health and safety under the Federal Coal Mine Health and Safety Act of 1969 (Rept. No. 94–1197).

With an amendment:

S. 1302. A bill to provide safety and health in the mining industry, and for other purposes (Rept. No. 94–1198).

By Mr. HARTKE, from the Committee on Commerce:

Without recommendation:

S. 3425. A bill to provide for comprehensive fish and wildlife studies of the Upper Mississippi and Illinois Waterways, and for other purposes (Rept. No. 94–1199). Referred to Committee on Public Works.

By Mr. HUMPHREY, from the Committee on Foreign Relations:

S. Con. Res. 138. An original concurrent resolution expressing the sense of the Congress reaffirming the right of every person to food and calling for U.S. foreign and domestic policies designed to combat hunger and improve nutrition (Rept. No. 94–1200).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. ROBERT C. BYRD, from the Committee on the Judiciary:

Kenneth K. Hall, of West Virginia, to be U.S. circuit judge for the fourth circuit.

John T. Copenhaver, Jr., of West Virginia, to be U.S. district judge for the southern district of West Virginia.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, September 1, 1976, he presented to the President of the United States the following enrolled bills:

S. 5. An act to provide that meetings of Government agencies shall be open to the public, and for other purposes;

S. 2862. An act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974; and

S. 3779. An act for the relief of Mrs. David C. Davis.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolution were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. METCALF:

S. 3788. A bill to amend the Wild and Scenic Rivers Act to designate a segment of the Flathead River in Montana as a component of the National Wild and Scenic Rivers System, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. TAFT:

S. 3789. A bill for the relief of Mrs. Chong Sun Yi Rauch. Referred to the Committee on the Judiciary.

By Mr. ALLEN:

S. 3790. A bill for the relief of Camilla A. Hester. Placed on the calendar.

By Mr. BAYH:

S. 3791. A bill for the relief of Dora Alicia Adan. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METCALF:

S. 3788. A bill to amend the Wild and Scenic Rivers Act to designate a segment of the Flathead River in Montana as a component of the National Wild and Scenic Rivers System, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. METCALF. Mr. President, Montana has two candidates for inclusion in the National Wild and Scenic Rivers System during this Bicentennial Year. One is the Missouri Breaks, a 149-mile stretch of historic and scenic river in central Montana. My bill, S. 1506, passed the Senate in December of 1975 and is approaching markup in the House Interior Committee.

I am pleased to introduce a similar bill to include the three forks of the Flathead River in the national system. This magnificent stream has its headwaters in three separate forks in the Glacier National Park area. The bill I introduce today is identical to H.R. 10747, a measure offered by my colleague, Congressman Max Baucus.

I send the bill to the desk and ask that it be appropriately referred.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 1285

At the request of Mr. Humphrey, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 1285, a bill for Federal payment in lieu of taxes for public lands.

S. 3182

At the request of Mr. Taft, the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of S. 3182, to amend the Occupational Safety and Health Act of 1970.

AMENDMENT NO. 2219

At the request of Mr. Hatfield (for Mr. Muskie), the Senator from Minnesota (Mr. Humphrey) was added as a cosponsor of amendment No. 2219, intended to be proposed to H.R. 14846, the military construction authorization bill.

SENATE CONCURRENT RESOLUTION 138—ORIGINAL CONCURRENT RESOLUTION REPORTED RELATING TO HUNGER AND NUTRITION THROUGHOUT THE WORLD

(Placed on the Calendar.)

Mr. HUMPHREY, from the Committee on Foreign Relations, reported the following resolution.

S. Con. Res. 138

Expressing the sense of the Congress reaffirming the right of every person to food and calling for United States foreign and domestic policies designed to combat hunger and improve nutrition.

Whereas in this Bicentennial Year we reaffirm our national commitment to the inalienable right of all to life, liberty, and the pursuit of happiness, none of which can be realized without food to adequately sustain and nourish life, and we recall that the right to food and freedom from hunger was set forth in the Universal Declaration of Human Rights and in the World Food Conference Declaration of 1974; and

Whereas the report entitled "The Assessment of the World Food Situation," prepared for the 1974 World Food Conference, estimated that four hundred and sixty million persons, almost half of them young children, are malnourished; and

Whereas nearly half of the human race lives on diets seriously deficient in proteins or other essential nutrients; and

Whereas most of this hunger and malnutrition is suffered by the poor in developing countries whose poverty prevents them from obtaining adequate food; and

Whereas the demand for food is accelerating and the unprecedented growth in population will add a billion persons to the world's population in less than fifteen years; and

Whereas the Food and Agriculture Organization, and other recognized authorities, currently estimate that by 1985 the developing countries will experience an annual food deficit of eighty-five million tons; and

Whereas it is in the interest of the United States and all nations to overcome food shortages which cause human suffering and generate economic and political instability; and

Whereas the United States proposed, and all nations at the World Food Conference of 1974 accepted, the bold objective "that within a decade no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted by malnutrition"; and

Whereas the international community has repeatedly urged the industrialized nations to increase their official development assistance to seven-tenths of 1 per centum of their total national production (GNP); and

Whereas the elimination of global hunger and malnutrition cannot succeed without expanded self-help efforts by the developing countries: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring) That it is the sense of Congress that—

(1) the United States reaffirms the right of every person in this country and throughout the world to food and a nutritionally adequate diet; and

(2) the need to combat hunger shall be a fundamental point of reference in the formulation and implementation of United States policy in all areas which bear on hunger including international trade, mone-

tary arrangements, and foreign assistance; and

(3) in the United States, we should seek to improve food assistance programs for all those who are in need, to insure that all eligible recipients have the opportunity to receive a nutritionally adequate diet, and to reduce unemployment and insure a level of economic decency for everyone; and

(4) the United States should expand and emphasize its assistance for self-help development among the world's poorest people, especially in countries seriously affected by hunger and malnutrition, with particular emphasis on increasing food production and encouraging more equitable patterns of food distribution and economic growth; and such assistance, in order to be effective, should be coordinated with expanded efforts by international organizations, donor nations and the recipient countries to provide a nutritionally adequate diet for all.

NOTICE OF HEARING

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, September 8, 1976, at 9:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Peter T. Fay, of Florida, to be U.S. circuit judge for the fifth circuit, vice David W. Dyer, retiring.

Any persons desiring to offer testimony in regard to this nomination, shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

The subcommittee consists of the Senator from Arkansas (Mr. McCLELLAN), the Senator from Nebraska (Mr. HRUSKA), and myself as chairman.

NOTICE OF HEARINGS

Mr. PROXMIRE. Mr. President, I wish to announce that the Committee on Banking, Housing and Urban Affairs will conduct oversight hearings on the operations, costs, and effectiveness of the Government National Mortgage Association tandem plan program for assisting the housing market under the Emergency Home Purchase Assistance Act of 1974.

The oversight hearings will be held September 20, 21, and 22, beginning each day at 10 a.m., in room 5302 of the Dirksen Senate Office Building.

The committee will welcome statements by interested persons for inclusion in the hearing record.

NOTICE OF HEARING ON AMENDMENT TO RAILROAD RETIREMENT ACT

Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Labor will hold hearings on S. 3662, a bill to technically amend the Railroad Retirement Act of 1974. The hearings will be held on Wednesday, September 8, 1976, at 9 a.m. in room 4232 of the Dirksen Building. Anyone wishing to submit testimony is invited to contact Mr. Ian Lanoff of the Labor Subcommittee staff in G-237 Dirksen or at 224-9865.

ADDITIONAL STATEMENTS

SENATE COMMITTEES

Mr. STEVENSON. Mr. President, the Temporary Select Committee To Study the Senate Committee System intends to make recommendations on structural reforms before the Senate adjourns in October. This will permit the Senate to consider such proposals when the 95th Congress convenes in January.

The committee, on August 31, released a staff report which presents three alternative models for reorganization of the Senate's committee system. This staff report has been circulated to all Senators. Our hearings, scheduled for September 14, 15, and 16, at 10 a.m. in room 235 of the Russell Building, will focus on the staff report, and we expect one of the models will serve as the starting point for the select committee's recommendations. I urge all Senators to review the staff report, and to participate in the September hearings.

Mr. President, I ask unanimous consent that the characteristics and major features of the three starting points, as described in the staff report, be printed in the RECORD. Additional details of the jurisdictions of committees in the starting points are available in the staff report which each Senator has received.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM THE REPORT OF THE STAFF OF THE TEMPORARY SELECT COMMITTEE TO STUDY THE SENATE COMMITTEE SYSTEM

The three Starting Points are not recommendations of either the staff or the Committee, but rather are initial bases for discussion, organized to accommodate the principal structural criticisms which have been made, by Senators and others, of the current committee system. These structural criticisms are:

1. The jurisdictions of Senate committees, last codified in 1946, do not permit an efficient division of labor on such contemporary public policy issues as energy conservation and development, environmental protection, health care, transportation, communications, or science and technology.

2. Narrowly conceived and fragmented jurisdictions inhibit Senate committees in their development of systematic, coordinated and comprehensive policies.

3. Legislative and oversight work are not evenly distributed among Senate committees.

4. Legislative and oversight powers—chairmanships, ranking memberships and choice assignments—are not equally or fairly distributed among Senators.

5. Senate committees are not uniformly representative of the Senate or the Nation.

6. Proliferation of Senators' committee and subcommittee assignments—from an average of four per Senator in 1946 to an average of eighteen per Senator in 1976—is out of control and violates the principles of the Legislative Organization Act.

7. Jurisdictional overlaps and the proliferation of assignments have created scheduling conflicts for Senators, inefficient use of Senators' time, unsystematic lawmaking and oversight, and inadequate anticipation of major probems.

8. Proliferation of subcommittees and fragmented jurisdictions place an undue burden on agency officials in reporting to committees and subcommittees.

Acting on these criticisms, the Committee directed the staff to describe in three Starting Points the likely details of what would happen to Senate committee numbers, sizes and jurisdictions when three principles of organization are applied to correct the argued deficiencies. Those three principles are:

I. Limit revisions in the number and jurisdictions of present committees to a few or to none, but strengthen assignment limitations, bill referral procedures, scheduling mechanisms, and the managerial authority of the Senate party leadership.

II. Substantially consolidate subject jurisdictions along functional lines, assigned to significantly fewer committees and subcommittees, and substantially reduce the number of assignments Senators may hold.

III. Substantially consolidate subject jurisdictions in the smallest reasonable number of committees organized on broad functional lines, with a minimum number of subcommittees and tight restrictions on numbers of assignments, but also build in better mechanisms for managing work, setting goals, and responding effectively to new problems.

Starting Points I, II, and III respectively illustrate one way of implementing each of these principles. The presentation of each in the staff report outlines its major characteristics, identifies significant options, and describes the component committees in terms of the likely assignment of subject-matter jurisdiction and the likely assignment of the work of the current subcommittees of the Senate.

Starting Points II and III feature major alterations in the existing committee system. Starting Point II describes a system of twelve committees organized along functional lines, with a maximum of 120 subcommittees. Starting Point III describes a system of five functional-management committees, with a total of 60 subcommittees.

Of course, the distributions of subjects or subcommittees stated in the staff report are only illustrative. Any organization plan considered or adopted by the Senate will be described in amendments to the Standing Rules which state subject jurisdictions as precisely as possible. In such a plan, the Senate may specify and structure subcommittees, or leave such matters to the individual committees.

Starting point I—31 committees

Characteristics

*Retains present committee system of 31 standing, select, special, and joint committees organized generally along functional, process, or beneficiary bases with options for new or merged committees.

*Keeps distinctions among Class A, B, and C committees, and the existing exclusivity guidelines.

*Limits Senators to *two* standing committees, *one* select, special or joint panel, and *one* temporary committee, a slight modification of current rules.

*Reduces somewhat the sizes of committees.

*Restricts Senators to eight subcommittee assignments.

*Limits a Senator's subcommittee chairmanships to one on each of his committees.

*Establishes a Senatorial Scheduling Service to minimize committee conflicts.

*Permits the joint referral of measures by motion.

*Codifies and modernizes committee jurisdictions to reflect contemporary referral practices.

*Strengthens the party leadership role in resolving jurisdictional conflicts through creation of ad hoc panels and developing legislative, oversight, and foresight priorities.

Some Major Options

*Merge the Committees on Armed Services and Foreign Relations into a National Security Committee.

*Constitute the Interior Committee as the Committee on Energy.

*Constitute the Committee on Public Works as the Committee on Environment.

*Constitute a Committee on Commerce and Transportation.

*Establish a Science and Technology Committee.

*Reduce the program responsibilities of the Finance Committee.

*Assign the responsibilities of the Joint Committee on Atomic Energy to appropriate standing committees.

*Construct a Committee on Health and Nutrition.

*Rotate committee memberships and chairmanships.

*Establish annual oversight priorities for the Senate and its committees.

General Features

This minimal change starting point provides a basis for incremental improvements. It outlines alternatives in several major areas: committee structure and jurisdiction; rotation; party leadership; oversight; bill referral; and scheduling. Its fundamental objective is to retain the basic organizational features of the current committee system, while still giving some relief from major problems such as scheduling conflicts, too many assignments and weak procedures for joint bill referral.

This starting point emphasizes eight general goals:

To facilitate comprehensive decision-making in selected policy areas through the creation of ad hoc panels in place of jurisdictional juggling;

To modestly reduce and limit committee assignments allowed each Senator;

To provide a stronger role for party leaders in setting legislative, foresight, and oversight priorities for committees and resolving jurisdictional disputes among them;

To modestly reduce the total number of subcommittees;

To improve the scheduling of committee and floor activities so as to minimize conflicts;

To enhance the conduct of oversight but retain each committee's flexibility in doing so;

To strengthen the process for joint referral of bills; and

To reduce the influence of seniority on the attainment of significant assignments through the rotation of committee members or chairmen.

As a whole, provisions of this starting point are intended to reduce the scheduling conflicts of Senators, lessen jurisdictional strife, and facilitate comprehensive decision-making and oversight.

Committee Sizes and Assignments

Committee assignments of Senators are limited to *two* standing committees, *one* select, special, or joint committee, and *one* temporary select, special, ad hoc, or joint panel. The total number of positions on the 18 standing committees is thus set at 200. Currently, there are 256 slots on these panels. That figure is derived as follows: 222 positions on the major standing committees and 34 on the minor panels. The current 22 "excess" major committee positions result from "grandfather" and "great-grandfather" rights: 16 on the Budget Committee of which 15 are scheduled to expire in January, three on the Aeronautical and Space Sciences Committee (Symington, Cannon, and Stennis), and three on the Government Operations Committee (Jackson, McClellan, Javits). Hence, the grandfathered positions in "excess" of the 200 limit would be few, and the size of some standing committees would be reduced.

Positions for select, special, and joint committees are limited to 100, a departure from the present weak limit. Such committee positions now total 142. Select and special panels thus would be reduced in size. However, some exceptions might be required because of the statutory requirement that members of certain standing committees be members also of companion joint committees (Library, Printing, Defense Production, and Internal Revenue Taxation).

Subcommittee Numbers and Assignments

The number of subcommittees is limited to 120, compared to today's 174, for all the standing, select, and special committees and Senate members of joint committees. In addition, Senators are limited to chairing one subcommittee on each of their four committee assignments (*two* standing, *one* select, special, or joint, and *one* temporary panel). A Senator may not be assigned to more than eight subcommittees unless so authorized by his respective party leader. Currently, the average number of subcommittee assignments for all Senators is 14.

There are several ways to reach the 120 subcommittee limit or a number close to 120. Senate or party rules could specify the maximum number. Party committees or caucuses, or a joint leadership agreement, or a resolution at the beginning of a Congress may distribute that number among the standing, select, special, or joint committees. The number of subcommittees could be specified as that number which is twice the number of majority party Senators at the beginning of a Congress. That is, if the party ratio were 62:38, there would be 124 subcommittees. If the ratio were 51:49, there would be 102 subcommittees. Fluctuations in the number of subcommittees may not be desirable. The number could be maintained at 120 through relaxation of the two chairmanship limitation, or by appointment of minority chairmen when the number of majority Senators is less than 60.

Another method is to specify limits for each committee in Senate or party rules, for example, that all standing committees, except Appropriations, are entitled to create no more than six subcommittees. Exceptions could be permitted with the consent of the Rules and Administration Committee. This method controls standing subcommittee formation while permitting committees to respond to unforeseen problems arising in midsession. Party leaders or conferences or committees themselves could be given authority to create special or ad hoc subcommittees or task forces and panels without the approval of the Rules and Administration Committee, or such groups could be prohibited. Subcommittees might be distributed in proportion either to size or class of committees, for example, limiting all Class A committees, except Appropriations, to six subcommittees and Class B panels to three. Similar rules would apply to the special, select, and joint committees.

Finally, since minority party Senators might be required to serve on many more subcommittees than those of the majority, particularly if the ratio is heavily skewed toward one party, Senate or party rules may be necessary to insure that ranking minority subcommittee positions are equitably distributed.

Jurisdictions

Codify and Modernize Current Committee Practices

Important to this starting point is the codification of current practices in the referral of legislation. The subjects of many important issues of 1976 and the Senate's actual practice are not correctly stated in jurisdictional assignments made by rules written in 1946. For example, the 1946 LRA assigned jurisdiction for the "school-lunch program" to the Labor and Public Welfare Committee. That subject is actually handled by the Agriculture and Forestry Committee. Consumer legislation is basically within the purview of the Commerce Committee, although that referral practice is not specifically ordered in its jurisdictional mandate. The "Weather Bureau" is listed under Commerce's jurisdiction, although the Weather Bureau has been reorganized out of existence and is now part of the National Oceanic and Atmospheric Administration. The codification and revision process would include close examination of all referrals made in recent years and an effort to suggest how complex subjects appropriately could be divided among fewer committees. The creation of committees with comprehensive jurisdiction in, say, energy, the environment, or transportation would go far to meet the system's alleged deficiencies. Codification of current referral practice and a consequent revision of Rule XXV to clarify the primary jurisdiction of existing committees would be an important substitute reform.

Enhance the Jurisdictional Role of Party Leaders

The Majority Leader, in consultation with the Minority Leader, is authorized by Senate rule to create, subject to Senate approval, ad hoc committees, panels, or task forces with legislative authority, and each leader is authorized to name their members without Senate approval. This power to create these ad hoc units would constitute the leadership's ultimate solution to jurisdictional conflict which prevents quick and effective committee examination of comprehensive issues that cut across the jurisdictions of several standing committees. The potential alone to create ad hoc panels, combined with deadlines and primary responsibilities set in joint referral motions, might make their creation unnecessary in most instances. The membership of the ad hoc panels would be derived from the concerned committees and appointed by the Leaders as today, after consultation with appropriate committee chairmen and ranking minority members. The chairman of each ad hoc committee would be designated by the Majority Leader.

In addition, party conferences (or policy committees) are directed by Senate rule to adopt legislative, oversight, and foresight priorities or an agenda for each legislative session, based on proposals of the leaders. The leadership will communicate such agendas to each committee, monitor progress, and report periodically on such progress to the conferences and the Senate. The joint leadership is further directed to coordinate committee schedules with floor schedules.

Party leaders could also be directed to initiate or encourage means to expand the involvement of citizens in the decision-making process, which might take the form of regional Congressional conferences on important public issues, setting aside time for additional field hearings, or formal leadership meetings with state and local officials.

Permit Joint Referrals by Motion

As Majority Leader Mansfield has recommended (S. Res. 46), the rules are amended to permit the joint referral of omnibus measures by majority vote approval of a motion. The rules now permit such referral by unanimous consent. Under this recommendation, the objection of a single Senator or a minority could not prevent a measure from being multiply referred. The motion may set primary responsibility and deadlines. Referral disputes would be aired on the floor in public with the Senate deciding the issue.

The rule may require a joint report as is now the practice of the Senate. That is, unless the committees of reference agree to issue a joint report on a multiply referred measure, the bill will not be scheduled for floor consideration. Currently, if one committee issues a report before the others, that report is held in abeyance until all committees agree to a joint report.

Scheduling

Senatorial Scheduling Service

The appropriate Senate office or committee—the Committee on Rules and Administration or the Secretary of the Senate, for example—is ordered to establish a system for the central scheduling of committee meetings in order to avoid conflicts, and Senators and chairmen are required to participate in it. The use of hearing and meeting rooms also could be scheduled from a central computerized facility. In 1974, the House directed its

House Information System (HIS) group to develop a computerized system to minimize scheduling conflicts among committees and subcommittees.

Starting Point I may be usefully augmented by several options, some of which are described below:

Rotation Options

Rotation of Committee Members

As Senators and others have proposed, the periodic rotation of Members from one committee to another may be ordered. One suggestion would restrict Senators to no more than six years of continuous service on a committee, then require rotation to another assignment, but with an option to return to the original committee after a four year period, if the party steering committee or other authority approves. Rotation could be ordered without the option to return to a committee, or with variations in terms of service allowed. Rotation may be ordered only for exclusive or Class A committees. Alleged benefits from rotation include opening key assignments to more Senators and encouraging generalist talents.

Rotation of Committee Chairmen and Ranking Minority Members

Under this proposal, committee chairmen and ranking minority members would give up their positions after such service in two or three Congresses. "Rotating" chairmen or ranking members would not be required to leave the committee, but would go to the bottom of the committee rankings and be encouraged to seek leadership positions elsewhere, apply to the steering committee for reinstatement as chairman after a period of years passes, or in the case of subcommittee leaders, move to the leadership position of another subcommittee. Rotation is proposed as a way to enable many more Senators to have leadership opportunities. Rotation of committee leadership posts might be applied alone, or along with rotation of committee memberships.

Major jurisdictional options

1. *Create a Committee on National Security and Foreign Relations.*

The Senate could create a Committee on National Security and Foreign Relations, which would merge the jurisdictions of Foreign Relations and Armed Services, and include the national security component of the Joint Committee on Atomic Energy. In the detailed description contained in the staff report, the Committee on National Security and Foreign Relations is not given the jurisdiction of the new Select Committee on Intelligence, on the assumption the recent decision of the Senate to create this Committee affirms a separate committee would be retained. The Senate could exercise the option to combine its jurisdiction in National Security and Foreign Relations, or the further option to send Intelligence to Government Operations.

2. *Consolidate Jurisdictions for Committees on Energy and the Interior on the Environment and Public Works, and on Commerce and Transportation.*

The consolidation of jurisdictions for such committees would meet needs expressed for more comprehensive Congressional leadership in the three most important and complex policy areas. No existing standing committee would be abolished or consolidated with another panel. Instead, the Interior Committee would become the Energy Committee; Public Works would be transformed into an Environment Committee; and Commerce would become the Transportation Committee.

3. *Create a Committee on Science and Technology.*

A Committee on Science and Technology could be created, by adding to the jurisdiction of the Aeronautical and Space Sciences Committee. Senator Moss has recommended that such a committee be given the jurisdiction over science, engineering technology, aeronautics and space, and energy research and development (other than weapons systems and military operations), as well as ERDA, NASA, Office of Science and Technology Policy, National Bureau of Standards, National Science Foundation, National Oceanic and Atmospheric Administration, Office of Technology Assessment, and Federal Coordinating Council for Science, Engineering and Technology. The Committee on Science and Technology would include the jurisdictions of the current Aeronautical and Space Sciences Committee, and the Technology Assessment Board, as well as portions of the jurisdictions of Commerce, Interior, Labor and Public Welfare, Public Works, and other Senate committees.

4. *Re-allocate the Program Responsibilities of the Finance Committee.*

The program responsibilities of the Finance Committee could be shifted to other authorizing committees. For example, program aspects of income maintenance and health could be sent to the Labor and Public Welfare Committee, of trade to the Banking Committee, and of transportation to the Public Works Committee. The Finance Committee would continue to retain jurisdiction over the tax or revenue aspects of those programs.

5. *Augment the Jurisdiction of the Rules and Administration Committee.*

The jurisdictional responsibilities of the Joint Library Committee, the Joint Printing Committee, the Joint Committee on Congressional Operations, and the Select Standards and Conduct Committee could be transferred to the Rules and Administration Committee. This would eventually require amendment of statutes, but amendments of rules by simple resolution possibly could implement temporarily.

6. *Assign the Responsibilities of the Joint Committee on Atomic Energy to Other Committees.*

Although ultimately this will require amendment of statutes, it is likely the Senate by resolution could assign military nuclear jurisdiction to the Armed Services Committee and its domestic nuclear authority to the Interior Committee, or provide for such committees to supply the Senate Members of the Joint Committee on Atomic Energy in the interim.

7. *Create a Committee on Health and Nutrition.*

A new Committee on Health and Nutrition could be established, as a 19th standing committee. Its jurisdiction would include: the non-tax aspects of medicare and medicaid from Finance; nursing home construction from the Banking Committee; the health jurisdiction of the Labor and Public Welfare Committee; food stamps, nutrition, and school lunch from Agriculture; and Indian health care from the Interior Committee, as well as the Special Committee on Aging and the Select Committee on Nutrition and Human Needs.

Starting point II—12 functionally organized committees

Characteristics

*Consolidates the jurisdictions and assignments of the present 31 standing, select, special and joint committees and distributes them among 12 standing committees.

*Committee jurisdictions functionally based with minimum overlap.

*No exclusive committees.

*A limit of two committee assignments for each Senator.

*Size of committees left to the Senate to decide each Congress.

*Maximum of 120 subcommittees.

*A limit of one full committee chairmanship for each Senator.

*A liimt of two subcommittee chairmanships for each Senator, unless party ratios dictate otherwise.

*Fewer meeting conflicts because fewer committees and subcommittees.

*Fewer joint referrals because of reduced overlap.

*Increased leadership responsibility, to legislative, oversight and foresight agendas, create ad hoc legislative committees, set and propose joint referrals by motion.

Committees

Agriculture and Rural Development.
Appropriations.
Banking, Housing and Small Business.
Budget.
Commerce, Transportation and Communications.
Energy, Science and Environment.
Finance.
Governmental Affairs and Oversight.
Human Resources (or: Labor, Veterans, Aging and Public Welfare).
Judiciary.
National Security and Foreign Relations.
Rules Administration and Standards.

Major Options

*A separate Committee on Science and Technology.

*Retaining some or all select, special and joint committees.

*Dividing committees into "A" and "B" categories and restricting Senators to a choice of one from group "A" committees and one from group "B."

*Oversight subcommittees for each committee.

*Exceptions to membership limitations for temporary and ad hoc committees.

*Rotation of committee members and/or chairmen.

Purpose

This starting point is intended to rationalize the jurisdictions of committees and minimize overlap among them by organizing the committee system according to major functional categories. Proliferation of committee and subcommittee assignments also would be substantially reduced by limitations on the number of subcommittees and the assignments and chairmanships of each Senator. These changes would result in fewer conflicting meetings and fewer joint referrals of bills. Greater responsibility in the hands of the leadership for managing the committee system would help the committees operate more effectively.

Subcommittee Numbers, Sizes and Assignments

The number of subcommittees would be reduced from the present 174 to a maximum of 120. Subcommittee chairmanships would be limited to a maximum of two for each Senator, although this requirement would be relaxed when required by party ratios. For example, when the majority party had only 51 Senators, the Senate could decide to allow more than two chairmanships in some cases so that there would be more than 102 subcommittees.

The identity and jurisdiction of subcommittees, and the number of subcommittees in each committee, would not be permanently set in this Starting Point. These matters would be left to the party leadership, caucuses, and committees to decide at the beginning of each Congress.

Appropriations and Budget Process

There would be no changes necessary in the appropriations or budget processes. Both the Appropriations and Budget Committees would be retained, exercising the same jurisdictions as at present. However, there is no inherent reason why either of these committees could not be changed in a functionally-organized system if the Senate so desired. For instance, it would be possible to have a functional system in which the responsibilities of Appropriations and Budget were merged, or in which the authorizing committees were given appropriations authority.

Oversight

Authorizing committees would continue to have major responsibility for oversight of the program within their respective jurisdictions. The Governmental Affairs and Oversight Committee would have broad authority to oversee Federal programs generally. Each authorizing committee could decide whether to establish oversight subcommittees or to carry on these activities within programmatically organized subcommittees or even the full committee. The activities of the Appropriations and Budget Committees also would have definite implications for oversight. If sunset legislation were passed, the oversight responsibility would rest with the authorizing committees, each of which would determine how to carry it out. Or the party leadership or majority caucus could adopt general guidelines for implementing sunset legislation, but any such guidelines need not be an inherent part of a functionally-organized committee system.

Staffing

The hiring of professional staff could be handled in a variety of ways. Presumably, there would continue to be both committee and subcommittee staff and staff of individual Senators, including S. Res. 60 staff. The major issue concerns how to merge the staff members of the committees that would be consolidated. Staff of the Appropriations and Budget Committees, whose structure would be unchanged, would not be directly affected.

Staff of the Judiciary Committee, which also would be unchanged, might be affected, if its 15 subcommittees were consolidated.) The size of each committee's staff would increase with consolidation. Staff would move from their old duties to new ones on the basis of their expertise in particular functional areas. Staff who have had varied duties would have a number of possible new positions.

Bill Referrals

Fewer joint, sequential and split referrals would be needed in a system of functionally organized committees with minimized jurisdictional overlap. Some residual overlap would persist over issues like foreign trade, education and income maintenance legislation that transcend functional categories. For such issues, some form of referral to more than one committee could be used. These occasions, however, would be far less frequent than at present. In the vast majority of cases, a single committee clearly would have jurisdiction over a bill.

Leadership Role

Greater responsibility for the leadership is a necessary component of a functionally-organized committee system. The leadership would have the duty of keeping the system operating smoothly. This could include authority to set priorities for each session, coordinate committee and floor activities, refer bills by motion and establish ad hoc committees and subcommittees.

Starting point III—5 functional-management committees

Characteristics

- consolidates the present 174 subcommittees and 30 committees into 60 subcommittees, functionally grouped under five functional-management committees with 20 members each.
- the 5 functional-management committees would, each session, establish a program, set goals and review their performance of the previous session, with respect to legislation, oversight, foresight, and representation.
- functional-management committees would legislate, authorize and appropriate funds for the programs within their functional jurisdictions, within ceilings set by the budget component of the Monetary Resources functional-management committee.
- 1 functional-management committee assignment per Senator.
- 3 subcommittee assignments per Senator, 2 on the parent committee and 1 external assignment on another management committee.
- 1 subcommittee chairmanship per Senator, except where party ratios necessitate a second chairmanship.
- committee and subcommittee assignments to be made by party committees and caucuses.
- rotation of committee memberships and chairmanships.

Senate Functional-Management Committees (20 members each)

Governmental Resources.
Human Resources.
Financial Resources.
Defense and Foreign Policy.
Natural Resources.

Major Options

The Senate might retain the Appropriations Committee as a separate committee, with 20 members, four each from the five functional-management committees; thus, appropriations and authorization would be kept separate, and 20 Senators would have two committee assignments, instead of the one in the plan above.

Subcommittee Numbers, Sizes, and Assignments

Under this plan, there are a maximum of 60 subcommitees, with a maximum of 12 per functional-managment committee. Senators are limited to one subcommittee chairmanship and three subcommittee assignments, except when party ratios necessitated a second chairmanship or an additionl assignment for some Senators. Each committee has 60 subcommittee slots to allocate among its subcommittees. For example, a committee might elect to have 12 subcommittees with five members each, 6 subcommittees with ten members each, or 2 subcommittees, each with ten members, and 8 subcommittees, each with five members. Most Senators serve on two subcommittees on their parent committees, and on one "external" subcommittee of one of the other four functional-management committees. The "external" assignments are distributed after members of the parent committee have chosen their own subcommittee assignments, and with the additional provision that at least one half of the membership of any subcommittee comes from the parent committee.

Rotation of Memberships and Chairmanships

Senators would rotate off their management committee after a maximum of 8 years, and could return to their original assignment after 4 years on another committee (all assignments would continue to be made by party committees). Functional-management committee chairmanships would rotate every Congress.

Purpose of Functional-Management Committees

Each of the five functional-management committees would be responsible for all legislation within their jurisdiction, distributing it among its subcommittees and would subsequently ratify legislation reported out of the subcommittees.[1] Subcommittees would have names, but the management committee would refer legislation based on the workload of the subcommittees, and on the breadth or importance of the legislation. Management committees would be free to combine two or more subcommittees to handle broad legislation; for example, the Natural Resources Committee might combine an energy subcommittee with an environmental subcommittee to handle on an ad hoc basis a shale oil bill, or it might merge a science and technology subcommittee and an energy subcommittee to handle a solar energy bill. At the beginning of each session of Congress, functional-management committees would be required to present a detailed schedule of anticipated activities for the coming session, including agencies, departments and programs that would receive oversight scrutiny, acticipated major legislation, and plans for bringing the public into their decision-making through field hearings or other means, and they would tentatively allocate these activities to their subcommittees. Each document would also include a survey of the committee's activities in the previous session, with explanations of why activities mentioned in the previous schedule were not completed. The functional-management committees would also manage activities generated within a legislative session. While subcommittees would have titles, subcommittee chairmen would be able to petition the full committee to hold hearings or to investigate any topic in the overall committee jurisdiction; the full committee would decide whether a subcommittee would be allowed to have several days of hearings on a subject that was outside the subcommittee's normal subject area, but was topical, neglected, or especially important.

Leadership Role

The Majority Leader, in consultation with the Minority Leader and both party policy committees, could authorize subcommittees from two or more functional-management committees, to consider an omnibus bill. For example, an omnibus transportation bill might be considered by an energy subcommittee from Natural Resources, an urban affairs subcommittee from Human Resources, and a tax subcommittee from Monetary Resources; an international trade bill might be considered by international trade subcommittees of Monetary Resources and Defense and Foreign Policy. To the extent possible, the policy committees would attempt to identify such bills in the Congressional session preceding their consideration, to notify the relevant functional-management committees for their schedules of activities. Accordingly, the majority party policy committee would be required to present a detailed schedule of anticipated legislative activities in the coming session, which would be circulated to the five functional-management committees.

Party leaders would be expected to accept delivery of the projected schedules of the functional-management committees each session, and to evaluate the performance of the committees in the previous session. Leaders could ask the committees to explain why projected activities were not undertaken, and could require the committees to undertake additional activities that the leader, through the party policy committee, felt important to do in the next session of Congress. In addition, the majority party policy committee would have to come up with a projected schedule of its own, available in early December of each year, so that the functional-management committees would be able to make use of it in formulating their own schedules of activity.

Appropriations and Budget Process

The Appropriations Committee would be divided into five components, one subcommittee each on the five functional-management committees. The Budget Committee would serve as a subcommittee on the Monetary Resources Committee, and would continue to work according to the guidelines of the Budget Act, setting ceilings for each of the five functional groupings. The Appropriations subcommittees on each of the five management committees would then be responsible for appropriating money for their committee programs, within the ceilings set by the Budget panel. Other subcommittees on the management committees would handle the authorizations for the programs.

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[1] Note: When a functional-management committee would meet to consider legislation reported by one of its subcommittees, "external" subcommittee members would be considered ex-officio voting members of the committee.

Oversight

Oversight responsibilities would center mainly, but not exclusively, in oversight subcommittees attached to each functional-management committee. Before each session of the Senate, the full functional-management committee would outline the agencies and programs that would be evaluated in a thorough fashion in the coming year. The major oversight activity would be done by the oversight subcommittees, but programs and agencies would also be assigned to other subcommittees, depending on workload, historic involvement in an area, technical expertise, and legislative focus. If sunset were adopted by the Senate, the same method would be used, with the additional provision that over 5 (or 8) years, depending on the nature of the sunset legislation, all the agencies and programs would be covered in the functional-management committees' schedules.

Staffing

The five functional-management committees would have very sizable core professional staffs. In addition, each subcommittee would have professional staff as follows: two people hired by the chairman, and one professional each hired by the other subcommittee members. These staff would be the employees of the individual Senators, assigned to handle subcommittee functions, in much the same way that S. Res. 60 staff are now used. As the functional-management committee assigned legislation to its subcommittees, it would also assign professional staff from the core committee, to assist the subcommittee.

Bill Referrals

With this kind of system, the need for joint bill referrals would diminish considerably, since present narrow legislative areas would be grouped in broad functional categories. However, some overlaps would persist; issues like health, transportation, and energy cannot be classified easily into single functional slots. However, there would be no joint or sequential referrals with the functional-management concept. Rather, as noted, subcommittees from two or more of the management panels would be temporarily merged to discuss legislation which cut across committee boundaries.

ENERGY

Mr. GARN. Mr. President, once again, the media are lending increased emphasis to the need for sufficient growth in electrical energy capacity to assure the United States of a healthy economy overall. Signs are reappearing that the public is experiencing renewed awareness of the danger of overdependence on imported oil, which constitutes a far greater portion of our energy supply than at the time of the Arab embargo.

In one sense, then, a number of us felt uncomfortable in the company we were keeping when we voted this week to defeat the dam on the New River. We felt that a great deal of the opposition to the dam was simply opposition to any growth in the United States. For myself, I recognize the need for power in this part of the country, and will be happy to support alternatives to the dam for supplying it, including nuclear alternatives. I am very much afraid, however, that many of those who voted against the New River Dam will also vote against the nuclear powerplants which will have to take up the slack. I am afraid that the necessary relaxation of air quality regulations will be opposed by these same people, and that the needed power will never be produced.

In my view, the Senate cannot ignore the need to take vigorous steps to assure adequate supplies of our two most viable domestic energy resources—coal and uranium. To ignore either of them is to court disaster.

Taken together, recent pieces in the Wall Street Journal, the Washington Post, and the New York Times, dramatize our potential energy plight and the direct relationships between domestic energy growth and essential economic growth.

I ask unanimous consent that the newspaper articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 23, 1976]

PRODUCTIVITY: WHY SO LOW?

American productivity is no longer rising the way it used to. Currently the trend is hardly rising at all. You are not likely to hear this uncomfortable truth mentioned often in the political speeches of the coming weeks. It raises questions on which the parties themselves are divided, and the answers do not lend themselves to snappy campaign exhortations. But the stagnation of productivity is involved in all of the other economic issues about which you are going to hear a great deal: inflation, unemployment and the future of the American standard of living.

Productivity in this country has doubled since the end of World War II (and quadrupled since the end of World War I). It is simply the statistical measure of the average American's ability to earn much more, with fewer hours' work, than his parents could. Productivity means output per man-hour, with the effects of inflation stripped out of it. The recent quarterly figures look pretty good, as they always do during the recoveries from recessions. But if you smooth the bumps and jolts out of the graph, you will find that in the United States (unlike Europe or Japan) the growth of productivity has been slackening steadily for two decades. In the early 1950s it grew at a rate of well over 3 percent a year. The rate now is hardly 1 percent a year. It means that, for the indefinite future, Americans' real earning power is apparently going to rise more slowly than in any sustained period since the Depression.

Why this slowdown? The reasons lie in the long-term changes overtaking this country's economy, and some of them—like the state of the educational system—go far beyond the usual bounds of economic analysis. The Congressional Budget Office published a a useful summary earlier this month, in the last pages of its report, "Sustaining a Balanced Expansion." The CBO is frequently assailed (by Republicans) as a nest of inveterate Democrats. But its conclusions on productivity are not going to offer either presidential candidate much help toward easy answers on economic policy.

Workers' productivity is not rising at the accustomed rate, the CBO's economists say, partly because business investment per worker is not rising at its accustomed rate. Businessmen are still investing as much as they always have—but the labor force is growing faster. It's the baby boom of two decades ago, and the unprecedented proportion of women who are looking for jobs and finding them. Not only is the labor force growing unusually fast, but the greatest growth is in those categories of workers with the least experience and skill.

At the same time, a rising share of investment is going into equipment that is not—by the traditional definition—productive. Clean air and industrial safety are an important part of anybody's standard of living, but they don't count in the statistics. The new rules on pollution abatement, health and safety are worth a lot, but some of those costs turn up in the form of lower productivity.

To maintain its momentum, an economy as advanced as our needs to invest in new technology at a rising rate. But the money that this country puts into research and development has actually fallen a little in recent years. Still another element in economic growth is, of course, education. Over the past generation there has been an astounding increase in the proportion of young people to finish high school and go on to college. That rise seems to have ended, and college enrollments have generally levelled off. If there are to be further productivity gains through education, they are going to have to be achieved by increasing the effectiveness of instruction within the present span of the average citizen's schooling. As the CBO points out, improving the reading ability of high school graduates might well make them more productive workers.

The prescriptions for raising productivity are neither simple nor certain. Tax incentives are probably necessary to increase investment—but these incentives, in their customary forms, are objectionable to most of the country as mere tax breaks for the wealthy and the corporations. It will require a considerable application of political skill—to work out formulations adequate to assure voters that these benefits will genuinely flow to the whole country, not just to the investors.

There is one basic question: Does the country really want to put itself to the trouble of pushing for further productivity gains and economic growth? What about the argument that the United States is already rich enough, and ought to be content with what it's got? But the case for further growth has very little to do, at bottom, with economics or material wealth. It has a great deal to do with American ideals of social justice and opportunity. Economic growth makes it possible for the newcomers to move up the ladder without pushing down the people who got there before them. Education has been, for most people, the surest route up into the middle classes, and it was economic growth that made possible the past generation's massive expansion of this country's school and university systems. If productivity ceases to improve over the coming years, a lot of other things in this country will also cease to improve—and one of them is equality of opportunity.

[From the New York Times, Aug. 23, 1976]

COMPLACENCY ON OIL

Pledges of American energy independence by 1980 or 1985 resounded from the Nixon White House less than three years ago as the country reeled under the impact of the Arab oil embargo, and long lines at gas stations briefly became a daily trial for millions of Americans. With the embargo and empty gas pumps only fading memories, there seems little public awareness that the United States is more dependent than ever on Middle East crude oil—and therefore more vulnerable to Middle East oil embargo threats. The situation is likely to get worse as the current business recovery continues.

This nation's heavy dependence on imported oil emerges from these statistics: In the first half of 1976 the United States consumed a daily average of about 16.9 million barrels of oil—6.6 million barrels or almost 40 percent of it, imported crude and refined oil. In June alone, a 34 percent increase in oil imports was the key factor in the creation of a balance-of-trade deficit, following the previous month's surplus.

The role of Middle East oil imports emerges most clearly from the latest statistics on crude oil imports. In the first half of 1976, Saudi Arabia passed Venezuela as the chief source of this country's crude oil. In the same timespan, imports of Arab crude oil increased a million barrels a day over the same period in 1975, and reached 44 per cent of this nation's crude oil imports as against only 29 per cent a year earlier.

These statistics add up to the disconcerting message that a sudden closing of the Arab oil faucets could produce major economic damage in this country within a brief period as production declined and unemployment rose in response to the energy shortfall.

The inescapable conclusion from such figures is that the United States today is exceedingly vulnerable to oil embargo threats. The situation clearly does not justify the current mood of public and official complacency. Neither the Republican Ford Administration nor the Democratic-controlled Congress has been willing to confront the facts with measures to stimulate conservation and to encourage the search for energy substitutes for oil.

The absence of an effective policy pushes ever farther into the future any lessening of America's dependence on unreliable and politically volatile sources of energy. It gives to Arab oil-producing countries a power over the American economy that constitutes a political as well as economic threat.

[From the Wall Street Journal, Aug. 17, 1976]

Worried Utilities: Electricity Use Begins To Top Forecasts, Stirs Fear of Lag in Capacity—Pickup in Industrial Demand Chills Hope for Cutbacks In Power Plant Spending

(By Hal Lancaster)

A year or so ago, the nation's problem-plagued electric utilities thought they saw a glimmer of hope.

They projected a slackening in the growth of demand for power as huge rate increases, forced by a surge in fuel prices and other costs, spurred conservation of electricity. They expected demand to be moderated further by slower population growth. And thus they hoped to be able to cut back costly projects to add generating capacity.

But the hope may be fading.

The utilities are beginning to see indications that demand may exceed the sharply reduced forecasts made in the wake of the Arab oil embargo. A resurgence of demand, if continued, would have serious import for utilities and power buyers.

Utilities could face unexpected strains on their capacity. And higher-than-anticipated demand would aggravate their other problems: uncertain fuel supplies, huge increases in plant costs, environmental opposition, tangles of regulatory red tape, and diminished financing capacity.

Power buyers could face blackouts and brownouts in some areas. Some pessimistic observers already are predicting industrial production cutbacks, lost jobs and occasionally juiceless households.

ENERGY MALNUTRITION

"We've already cast the die for trouble. We are headed for energy malnutrition," says Chauncey Starr, president of the industry-supported Electric Power Research Institute.

Environmentalists battling big generating projects argue that the power companies are crying wolf. But evidence that lower growth in demand is far from a certainty keeps trickling in.

Figures from the Edison Electric Institute, another industry group, show the trend. Following 1973's 6.8% rise in total electricity consumption—for many years, a typical gain—growth collapsed to zero in 1974 in the wake of the oil embargo and was only 2.2% in 1975. But last year was deceptive; a sizable decline in use by industry, which generally was operating far below capacity because of the recession, masked a substantial rise in residential and commercial use. Clearly, families and shopkeepers had become accustomed to the higher electricity rates and weren't switching off the lights as much as expected.

Now, with the economy recovering, industrial use is no longer declining. Total consumption in the first 32 weeks of the year has grown 5.2% and the growth rate is "moving upward," an Edison institute spokesman says. The institute expects growth to reach 6% for the whole year.

UNEVEN IMPACT

Although all utilities would be affected by an unexpected surge in demand, some companies and areas would be particularly troubled. One such area is the Southwest, where the power industry is having its most spectacular conflicts with environmentalists and where utilities already are straining to cope with a boom in population.

Utilities in those six states—California, Arizona, New Mexico, Utah, Nevada and Colorado—haven't ignored the fact that the area's population gain, at 8.2% since 1970, has far exceeded the 4.8% national average. They have projected power growth rates higher than most utilities'. But within the past year or so they, too, have lowered their projections on the assumption that energy conservation was here to stay. Now some of those reduced projections are being overrun.

Southern California Edison Co., for example, originally predicted a power consumption growth rate of 6% a year for the next few years, and gradually lowered it to 4.1%. But the company, one of the nation's biggest utilities, has chalked up actual growth of 5% through July, and demand is still picking up.

Even utilities managing to stay within lowered forecasts now discern the beginnings of a surge in demand. An unusually mild winter kept power consumption in bounds at both Arizona Public Service Co. and Public Service Co. of Colorado through May. But Arizona PS had 13% increases in June and July from a year earlier and the Colorado utility about 8%; both rates topped forecasts.

LITTLE LEEWAY

However, utilities in the Southwest and elsewhere have little reason to be seriously concerned about consumption just yet; it will take much longer to see whether the preliminary indications become a long-term trend. But if they do, power companies will have to try to meet the extra demand at a time when their options are severely restricted.

Even now, fuel supplies are a major problem. Experts agree that supplies of natural gas, the cleanest source of boiler fuel, are in an irreversible slide. Most utilities already have had to stop using gas as boiler fuel except in emergencies, and some industrial users of gas are seeing their supplies interrupted more and more frequently so that residential and commercial customers can get enough. To save fuel, Arizona has banned all new gas hookups, and California is curtailing low-priority uses. Meanwhile, plans to import liquefied natural gas and to make gas from coal are still untested on a large scale and are certain to be costly.

With gas fading as a generating fuel, additional pressure will be put on nuclear, coal and oil suppliers. No one sees much help coming before the end of the century from so-called exotic sources such as geothermal energy, solar power and wind. "Anyone who says differently is perpetrating a fraud on the public," declares Mr. Starr of the Power Research Institute.

Nuclear power passed a severe test in June, when California voters defeated a proposal that utilities say would have throttled the use of nuclear energy in the state. To placate antinuclear sentiment, however, the legislature passed stringent safety bills that will increase lead times and costs of new plants. And 15 to 20 other states are preparing similar measures. But in any event, nuclear power isn't suitable for meeting unexpected demand quickly. Nuclear plants cost more than any other type, and red tape makes it nearly impossible to get them from the proposal stage into operation in less than 10 years.

More oil is being burned by gas-short utilities. But oil, though currently in ample supply, involves the danger of another embargo since so much of it is imported. Also, air-quality standards in some areas practically rule out anything but low sulphur oil which is in hot demand world-wide and, at about $15 a barrel, is the most expensive of generating fuels.

Coal is relatively cheap and is abundant domestically, particularly in the West, and many utilities use it extensively. They plan to use more; an Arthur D. Little & Co. study indicates that power companies' appetite for coal will double by 1980 to 925 million tons a year.

But coal—even low-sulphur coal—raises many environmental problems. Needed reserves may not be developed, due to resistance to strip-mining projects and the possibility of tough federal restrictions on them. Coal shortages and higher prices are likely, Bruce Old, senior vice president of Arthur D. Little, says. And even if utilities get enough coal, they face increasing resistance to burning it; in a growing number of places, coal simply can't be burned at all, even with the latest antipollution equipment, because of tightening air-quality standards.

Utilities say a constricting net of environmental legislation and regulation also is stifling their plant-building plans. For example, preparation of environmental-impact statements alone can cost several million dollars and has added about two years to the "lead time" for major projects. Then still more time is consumed in negotiating with, and getting approvals from, a horde of other federal, state and local agencies.

COSTLY DELAYS

The delays have had a crushing impact. After seven years, Pacific Lighting still is trying to nail down the more than 100 regulatory approvals from 40 different agencies needed before it can build a big coal gasification plant in New Mexico. During the years of paper-shuffling, the plant's projected cost has risen from $600 million to $850 million; at that price, Pacific Lighting says, it must get federal loan guarantees, or financing can't be obtained and the project is dead. In addition, a utility group led by Southern California Edison has already given up on plans for a mammoth coal-fired plant in Utah; years of delay had pushed the costs out of sight.

Plant costs have soared also because of big wage settlements with construction unions and the extra expense of legally mandated safety and pollution-control gear. Southern California Edison's San Onofre Nuclear Unit No. 1 cost $215 per kilowatt of capacity in 1968; two additional units currently under construction will cost about $1,000 a kilowatt. In six years, prices of some coal-fired plants have tripled, mostly because of pollution-control equipment. Utah Power & Light Co. is spending $54 million to fit its Mountain No. 3 unit with a coal scrubber; that's $2 million more than the whole unit cost in 1971.

Such cost increases, along with projected declines in consumption growth rates, have led utilities to cut back or delay construction plans, even though right now they would have difficulty meeting a big surge in demand. Many plants originally scheduled to operate in the late 1970s won't open until the 1980–85 period, when the industry is expected to go on a spending spree—if it can get the money.

MONEY-RAISING PROBLEMS

Utilities' ability to attract capital at reasonable rates has been drastically reduced by the soaring costs. Rate-setting regulators, aghast at the huge rate increases the utilities were seeking, dug in their heels; in many states, rate hearings have dragged on for 18 months or more, and when finally granted the new rates (often far less than the companies had sought) already had been outstripped by inflation. The companies' short-term debt ballooned, their earnings suffered and their coverage of bonded debt shrank. Bond ratings fell, raising the cost of borrowing. Investors, noting the havoc, cooled on utility stocks, and share prices slumped. Many utilities were forced to sell common stock at bargain-basement rates.

Despite some recent recovery, the industry still has major financial woes. "We just finished selling stock at 53% of our book value," laments Charles Lenzie, vice president, finance, at Nevada Power Co. "We were dragged into it, kicking and screaming. But the banks get pretty exercised when you run your short-term debt up to $85 million." To raise money, San Diego Gas & Electric Co. recently sold and leased back its own headquarters building; its stockholders didn't want dilution of their equity through more stock sales.

There isn't any assurance utilities will be healthier four or five years from now, when they will have to build heavily. Meanwhile, they are trying to squeeze the most out of present plants with power pooling and experiments in trying to flatten peak usage (utilities' capacity must cover the peaks in daily or seasonal demand, not just average demand). Some are charging more for power during peak hours. But what really is needed, they insist, is quick rate relief and higher permissible rates of return on investments in new plants.

One possible solution is an indexing plan similar to New Mexico's under which utility rates are raised or lowered quarterly in accordance with a formula based on all of a company's cost and the level of its earnings. In effect for a year, indexing has already saved Public Service Co. of New Mexico about $2 million in interest costs alone, Jerry Geist, president, says.

Power companies also claim they badly need an accommodation with environmental and regulatory interests to allow faster plant construction. That may be hard to get. Environmentalists still consider utilities' demand projections too high, their building plans excessive and their encouragement of conservation unconvincing. Utility project plans remain environmentally offensive, says John McComb, Southwest regional chief for the Sierra Club, adding, "There are none I'd really like to praise."

Some other observers, however, are wondering whether the cost of protecting the environment is outrunning the benefits. "We really have to take a look at what it is costing us to reduce sulphur content from 1% to 0.5% and whether it adds significantly to health or environmental protection," says Abraham Gerber, senior vice president of National Economic Research Associates, Inc. He adds that it is the consumer who eventually has to pay the bill.

MRS. HARRISON A. WILLIAMS TALKS ABOUT FEDERAL LEGISLATION AND ROLE OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE IN IMPROVING OPPORTUNITIES FOR WOMEN

Mr. KENNEDY. Mr. President, several weeks ago Harvard University hosted the annual summer conference of the National Advisory Committee on Mental Health Services and Women. The keynote address at that conference was delivered by Mrs. Jeanette S. Williams, senior professional staff member of the Senate Labor and Public Welfare Committee and the wife of the committee's chairman, Senator HARRISON A. WILLIAMS, Jr.

In her address, Mrs. Williams gives special emphasis to the problems women face in American society and points out the major role the Senate Labor and Public Welfare Committee has played in helping guarantee the Nation's women equality of rights and opportunities for a full life. She told the conference:

> Beginning with the Equal Pay Act of 1962, new Federal commitments have been made to help women secure economic justice—the Equal Employment Opportunity Act, the Equal Credit Opportunity Act, and the minimum wage amendments that extended protection to work performed primarily by women have all been instrumental in furthering the cause of equal rights.

Mrs. Williams also emphasized the vital activities of the Labor Committee in the areas of health care, education, and alcoholism treatment. And in speaking about the Presidential veto of the comprehensive child care bill which was developed in the committee, she accurately reflected that "such disappointments are not the gravestones for futile efforts, but milestones along the difficult road to permanent change."

Mr. President, I have known Jeanette since the time I first began serving on the Labor and Public Welfare Committee, 14 years ago. The keynote speech which she delivered at Harvard is a superb summary of one of the many important national issues which the members of the committee and its staff have dedicated themselves to resolving. I know that all of my colleagues will be interested in Mrs. Williams' speech as it so effectively outlines what more needs to be done and what has been accomplished so well and with such sensitivity to women's changing role in our complex society.

Mr. President, I ask unanimous consent that Mrs. Williams' keynote speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

JEANETTE S. WILLIAMS KEYNOTE SPEECH

It is often asserted—too often asserted—that the women's movement coalesced and matured during the last 15 to 20 years in this country.

The reality, of course, is that American women were seeking independence from their assigned "proper place" at the same time as the colonies were fighting for independence from the British crown.

The history of all of the past 200 years, and more, is rich with the contributions of women—and with our efforts to make it possible to contribute more fully.

Women have known all along the special pain of being only members of the auxiliary, but rarely full participants in the political, economic, and social life of the Nation.

What has happened in the past 15 to 20 years is that American men have awakened to the need for helping American women secure their just rights under law. And we are grateful for the assistance, however belated.

The result has been a profound improvement in the lives of many American women; profound disappointment for others; and profound stagnation for many more. We have a great deal farther to go.

How far may be gauged from the exhaustive and comprehensive report of the National Commission on the Observance of International Women's Year—a report entitled "Justice for American Women."

In its report, the Commission very frankly acknowledged that it did not have the resources to establish a committee on health problems, including mental health, confronting women.

The Commission is not to be criticized for by-passing women's mental health problems. What it by-passed, for more extensive study by groups such as this, were issues related to the direction and adequacy of research and treatment of mental illness.

But the Commission addressed in thorough and complete fashion the full range of economic, social, and political deprivations that women suffer—deprivations which are among the root causes of the stress and tensions that endanger the mental health of women.

In doing this, the Commission has pointed the way for women to have good jobs, good education, good social environment, and a generally positive life situation. And this is the stuff of which good mental health is made.

What has also happened in the last 15 years is the laying of the basic legal foundation and the construction of the basic legal framework by which women can achieve equality of rights and of opportunities for a full life.

I am particularly proud that the Senate Committee on Labor and Public Welfare has been the wellspring for much of the legislation.

Beginning with the Equal Pay Act of 1962, new Federal commitments have been made to help women secure economic justice—the Equal Employment Opportunity Act, the Equal Credit Opportunity Act, and minimum wage amendments that extend protection to work performed primarily by women.

In education, Federal financial assistance has opened classroom doors to thousands of women, and anti-discrimination legislation has given women the right to equal access to skill training and vocation education opportunities formerly reserved to men.

We have explored the special problems of aging women whose lonely lives in their later years would be wasted, but for our programs to help them have companionship, recreation, and opportunities to help younger generations build their lives.

We have developed far-sighted child development and day care programs to help young mothers bear the double burden of childrearing and family support.

The Committee's health legislation spans the full range of deep concerns:

Disease control and prevention.

Research and treatment of genetic diseases, cancer, heart disease, and the other grave scourges.

Safe and effective family planning techniques.

Regulation to insure the safety and quality of food, drugs, medical devices and cosmetics.

Expanded health care services through community centers, better hospitals, and health maintenance organizations.

And still to be enacted Comprehensive National Health Insurance.

In all of these efforts, and many more, we have persevered in the belief we were making positive contributions, not only to the well-being in millions of women, but to the prevention of mental health problems as well.

This is not to say that we have ignored treatment of mental illness while concentrating on prevention of its causes. A major proportion of the Committee's efforts has been dedicated to the establishment of—and the preservation of—treatment programs for alcoholism, drug abuse, and mental illness.

In this, we have had modest success in the face of significant opposition. Support for Federal treatment programs has been tepid and erratic on the part of the Executive Branch, which has tried for six years to transfer financial responsibility to the States who are ill-equipped to bear the burden.

In other areas, we have met with disappointment. A comprehensive child care program fell to a Presidential veto, and an important proposal to help strengthen the American family had to be deferred in the face of stringent and distorted public criticism.

Such disappointments are not the gravestones for futile efforts, but milestones along the difficult road to permanent change. There will always be another day, as long as we don't lose sight of the realities about the development of public policy.

When policy is being formulated in the highest councils of government, the outcome is often predictable in several respects.

Those problems that are easiest to solve will be the first addressed.

Those solutions that are easiest to devise will be the first proposed.

Revolutionary ideas, proposing significant change, are kept in the closet in favor of tinkering with the existing system.

Thus, the solution to unemployment involves no more than greater unemployment compensation . . .

A proposal for full employment is whittled down to a set of procedures for finding out how to achieve it;

The energy crisis is attacked only through the established power monopolies;

Tax reform becomes an exercise in protecting existing tax privileges;

The breaking-up of American families is met with policies that coerce them into staying together.

In all of these cases, progress is made in small steps along the road to perceptible and meaningful change.

In these endeavors, as well as in women's efforts to win their just place in society, change is both our ally and our enemy.

It is our ally to the extent that people yearn for something better, however vaguely they perceive what it is.

It is our enemy to the extent that it is seen to be the source of greater stress and new pressures that absorb emotional energy.

This is all the more true in the search for answers to mental illness—answers we only vaguely perceive.

The evidence at hand, however, clearly points the direction.

We know that mental health is adversely affected by poverty, by racial discrimination, by poor education, by crumbling neighborhoods, by work hazards, and by job discrimination.

We know that nearly half of the Nation's children are living with only one parent—the vast majority with their mother.

We know that many more poor and minority women are forced to work to provide family support.

We know that aging women too often lack the skills for satisfying work or meaningful social participation.

One disadvantage piles upon another, creating an impossible burden for so many women.

As we begin this conference on changing sex roles and its impact on the mental health of women, I think we should ask ourselves how much sex roles are really changing—and for whom?

In answering the question, we should remember that a large segment of American womanhood, throughout the history of the Nation, has been in the daily work force. They have been a source of cheap labor, not only for their employer, but for their family as well—carrying the double burden of mother and breadwinner.

We should remember that the highest rates of treatment for mental illness are among women in the 25–44 age group . . . that suicide attempts are concentrated among women under the age of 30 . . . and that the women who are most vulnerable to mental health problems are nonwhite, low income, poorly educated, and trying to rear young children alone.

The sharp rise in the divorce rate helps to account for many of these vulnerable women. But to what extent do they comprise women who, like their mothers and grandmothers, are trying to tend to the needs of a job, a household, children, and a husband?

Thus, a second fundamental question arises for us to explore in this conference: How much of our effort should be focused upon women in their historic role, and how much on those who must cope with a new role in society?

It may well be that women who seek or are thrust into a new role in society may find their worst anxieties dissolved by equality:

Equal pay for equal work;

Equal treatment in seeking credit;

Equal opportunity to compete for jobs;

Equal access to educational institutions and the professions;

And equal credibility in public forums.

Achieving these ideals, all women will have found a better life. But for the poor woman, working out her destiny as a mother, housekeeper, a wife and a breadwinner, it will not be enough.

Her aspirations are at a lower level—closer to the means for simple survival:

Child care that is more than custodial;

Government assistance provided with sensitivity;

Security in her old age;

A decent house;

A feeling of pride.

Finally, I believe we must ask ourselves: How do we assess the needs of a new generation of women, as compared with the needs of their mothers and their aunts?

Rising rates of teenage alcoholism, drug abuse, and mental illness must be explored for their peculiar causes.

In this area, the changing role of women may well have its most profound impact.

As we endeavor to find answers for the many questions before this conference, we know that our findings will be eagerly received in the Congress—perhaps not so easily in the corner bar or the coffee-klatch, where personal attitudes are formed or changed.

Deep-seated attitudes are not easily changed—and almost never, in this age, unless the vagaries of outmoded beliefs are challenged, explored, debated and acted upon in the making of national policy.

Our efforts here to understand will bear fruit, if we take special care to translate our understanding into public discussion—and ultimately, public understanding.

As a final note, let me say that Dr. Bert Brown and the National Institute of Mental Health deserve the gratitude of women everywhere fcr sponsoring an intensive, three-year study of mental health services and women. This advisory committee is an important part of that vital effort.

It also represents important recognition of the need for women to take—and have greater opportunity to take—a much larger role in confronting the mental health problems that beset them.

Many more professional women are needed at every level—making policy, designing research, participating as subjects in research, and perhaps most important, delivering mental health services.

We are ready, if we can surmount the barriers we have faced in years gone by.

CONSUMER COMMUNICATIONS REFORM ACT OF 1976

Mr. CURTIS. Mr. President, I rise to support the Consumer Communications Reform Act of 1976.

In Nebraska, general advocacy of this legislation has been very great, culminating in the Nebraska Public Service Commission's unanimous passage of a resolution supporting the act. This resolution reflects my views exactly and concisely.

Mr. President, I ask unanimous consent that the Nebraska Public Service Commission's resolution be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

RESOLUTION

RE: CONSUMER COMMUNICATIONS REFORM ACT OF 1976

Whereas, the Nebraska Public Service Commission is vitally concerned with the quality and cost of telephone service to the general public, and

Whereas, certain Federal Communications Commission decisions have resulted in competition in the communications industry, and

Whereas, such decisions have resulted in conflicts between the several state regulatory agencies and the Federal Communications Commission with respect to jurisdiction over telecommunications common carriers, and

Whereas, such competition will result in higher costs and/or a lower quality of service for the average telephone user, and

Whereas, legislation known as the Consumer Communications Reform Act of 1976 has been introduced in the Congress of the United States which would reaffirm the intent of Congress with respect to the structure of the telephone industry and reaffirm the authority of the states to regulate terminal equipment, now therefore, be it

Resolved, that the Nebraska Public Service Commission urges the Nebraska Congressional Delegation to support the Consumer Communications Reform Act of 1976.

PERSPECTIVES: MODEST COST HOUSING

Mr. HUMPHREY. Mr. President, when the Marvin H. Anderson Construction Co. of Minneapolis started building homes in 1952, its average price was $13,500 for a 1,056-square-foot, three-bedroom rambler with a single car garage. According to Marlin D. Grant, president of the company, the same house today would cost $40,000.

Why this dramatic inflation in the price of new homes has occurred, and what can be done to moderate it, is the subject of the July–September 1976 issue of Perspectives, the quarterly publication of the Metropolitan Council of the Twin Cities area. The subject of this issue is: Modest Cost Housing.

Each of the short articles in this publication tackles the problem of rising home prices from a different perspective, including that of a consumer, a builder, a financial community representative, a local government official, and a member of the Metropolitan Council. They are interesting and informative articles, and illustrate the complexity of this problem and the deep thought it will require to find a solution.

I ask unanimous consent that the articles on modest cost housing from this publication be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

OUR HOUSING THICKET

(By John Boland, Metropolitan Council Chairman)

"Build your future here. A refreshingly spacious townhouse with three bedrooms, brick fireplace, air conditioning. And a room for your family to grow into. All nestled in the tall stands of timber, the rolling hills, and close to a silvery pond in a wooded glade, $45,940."

It sounds like something many of us would like to own, doesn't it? However, the median cost newly constructed home in the Twin Cities Area was $46,000 in 1975, and only 12 percent of our population can afford to buy a house at this range. That means 88 percent of the population *cannot* afford a home at this price unless residents choose to spend more than the recommended 25 percent of annual income on housing.

Year after year more people are priced out of affordable and adequate housing. In 1949, 52 percent of the national population could afford to buy the median priced home.

As you read this issue of *Perspectives* you will see frequent mention of factors that influence the high cost of housing: restrictive municipal zoning ordinances, builders' prices, cost of materials, environmental regulations, inflation, and consumer demands for amenities.

It reminds me of a dense, impenetrable thicket. One branch entwines another until it's difficult to tell where one begins and another ends. And, worse still, it's almost impossible to pull it all apart.

But the Minnesota State Legislature has told us to try. In its 1976 session, the Legislature directed the Council to appoint a Modest Cost Housing Advisory Committee to study the effects of governmental regulations, taxes, financing, and housing industry practices on the cost of housing, and to make recommendations for reducing these costs.

The committee appointed in late May, consists of 15 local elected officials, builders, union representatives, consumers, and mortgage bankers.

The authors for this issue of *Perspectives* write their articles from the viewpoints of a consumer, a builder, a financial representative, a local governmental official, and a Metropolitan Council member.

In addition, our *Perspectives* poll includes comments from a number of the new committee members on what they think is the single most important step that could be taken to substantially reduce the cost of housing.

The Council's new committee must report its recommendations to the Legislature by January 15, 1977. It is our hope the committee can begin to untangle our housing thicket and help clear the way to affordable housing for every Metropolitan Area resident.

EXISTING HOUSING: A NEW CONSUMER CONSCIOUSNESS

(By Ruth Murphy, Executive Director, Community Design Center)

Despair and frustration are common feelings for those who look closely at the housing market today. Emotions run high in discussions of who and what are to blame for high and rising housing costs. But, despite the desires of many who want to reduce the cost of housing, prices—like clocks—keep moving on, never to be turned back.

And yet, the high cost of housing could be of tremendous benefit to the central cities. It may have caused a revolution of sorts. Young couples who envisioned moving to a split-level suburban "dream house" now discover it is exactly that—a dream. And families whose houses are getting older can't simply pack up and move to a new one; they must stay and renovate instead.

People have been forced to think about alternatives in housing. Our housing consciousness has been raised. We can see it all around us.

Since 1960 at least 117 neighborhood organizations have become active in Minneapolis and St. Paul. Most of these were formed and are centered around land use and housing issues. These groups are busy organizing residents, preventing houses from being boarded, cleaning up neighborhoods, and developing necessary resident education programs.

The Community Design Center, located at 118 East 26th Street, Minneapolis, is taking advantage of this consciousness, and using the new central city energy to propel ideas into action. CDC is in the non-profit business of showing people that their present resources are both renewable and adaptable.

CDC is composed of professionals in the design field who volunteer their time to numerous projects which include not only housing assistance, but also design assistance in day care centers, family clinics, and churches. Mostly, we help lower income residents and groups get the know-how they need to improve their homes and buildings.

Our work in housing takes shape in several different ways: through workshops, an information center, and a continuing program of providing technical assistance in demonstration projects.

CDC currently forms a link between the Minneapolis Housing and Redevelopment Authority and one designated neighborhood in sponsoring workshops on housing rehabilitation.

The workshops help homeowners assess their problems, develop a plan for rehabbing a house, and contract out the repair work. Residents are given "assertiveness training" in dealing with the contractors who would rehab their homes. They are walked through a variety of common plumbing, electrical, and interior and exterior improvements or repairs. Workshop participants learn some of the simpler repair and finishing jobs.

The program also tries to stimulate a "can-do" attitude in homeowners about needed renovation projects. Other workshops will be modeled on this effort, helping individuals and community groups throughout the cities to upgrade and stabilize their housing stock.

Also, CDC is currently assembling a housing information center as a way of getting the consumers and the needed skills together. This will be an accessible comprehensive resource center for information on energy conservation, renovation skills, and children's environments as they relate to day care centers.

Through the center, the homeowner will be able to get practical and understandable information on how to do a variety of simple home repair or remodeling projects, how to finance the repair projects, code regulations, neighborhood zoning laws, contracting for repairs, and ways to make energy-saving improvements.

In addition, CDC has become involved in several demonstration projects which would convert to cooperatives existing multi-family units owned by absentee landlords. Cooperative housing transfers ownership and management to the residents.

A co-op has many benefits. Because the building is covered by a single mortgage, the cost of refinancing is eliminated. Experience with co-ops in other parts of the country has shown that transiency is greatly reduced compared to a rental situation. People living in a co-op tend to be more concerned with the upkeep, security, and appearance of their building.

Financial benefits are also significant. Property taxes are lower because individual units are homesteaded. Equity and tax benefits occur because general monthly costs are lower. Residents are allowed to deduct interest payments on mortgages as well as property taxes from their personal income.

There are several cooperative demonstration projects taking place in Minneapolis. CDC has completed the feasibility for one co-op and has been instrumental in developing local and city-wide co-op conversion guidelines, as well as doing the schematic design for individual buildings.

We see cooperative conversion becoming one solution to the tremendous cost of housing for low and moderate income people. It means that resident needs come first, that tenants can become owners with the right to protect their property from land speculation, thus keeping housing at a level one can afford.

The cities and our existing housing are going to be renewed, slowly but surely.

In Aesop's fable about the race between the turtle and the hare, the turtle prevailed because the fleet-footed hare fell asleep along the way.

In the urban crisis low income people in the inner city saw their chances of having decent housing collapse in the dust of the rush to the suburbs. Then they were given inferior public housing which quickly became obsolete and out of touch with the neighborhoods and the people it was built for.

Now, with the lull in new construction brought on by exorbitant prices and the energy crisis, people in the inner city are once again discovering their existing housing can be renewed.

The turtle is moving ahead, at home in its shell, finding a very livable space through all seasons in the Twin Cities community.

MODEST COST HOUSING FROM A BUILDER'S POINT OF VIEW

(By Marlin D. Grant, President, Marvin H. Anderson Construction Co.)

When our company started building homes in 1952 we were building what was considered moderate cost housing at that time. Our homes started at $11,999. Our average price was $13,500 for a 1,056 square foot, three bedroom rambler with a single car garage. Today that same house would cost about $40,000.

What has caused this increase? A large share of it, I think, is inflation, although the housing industry hasn't been as affected as other industries have.

Housing costs have also risen because of increased costs in land, labor, materials, financing, utilities, and extra costs incurred because of more governmental and environmental restrictions.

Our same staff that built 300 housing units a year in 1952 can now build only 150 units a year, not only because the houses are larger, but because of these numerous regulations. While our staff has stayed the same in number and quality, we must hire outside professionals such as ecologists and hydrologists to assist us in dealing with municipal and other agency standards.

I wondered how the cost of each major section of a home had increased over the past 10 years, and made a comparison of one of our basic homes built in 1966 and now. The increases, by percentage, are as follows: job site labor, +108 percent; materials +84 percent; financing, +45 percent; building permit, +866 percent; marketing and overhead, +199 percent; builder profit, −286 percent.

As you can see there is no single culprit on which to blame the high cost of housing today. However, I think some of these items may be adjusted so costs can be reduced.

Land values are up primarily because of increased holding costs such as real estate taxes, special assessments, and interests. There is no way to reduce the cost of raw land other than, in certain cases, using a housing and redevelopment authority write-down program. Therefore, we must look at other ways of possible savings such as in land improvements and increased density of housing units.

Zoning ordinances are another area of potential change. Municipalities should strongly consider reducing minimum lot and house size requirements. The City of Bloomington reduced its minimum lot size from 16,000 to 11,000 square feet and its minimum house size from 1,400 to 1,040 square feet. The result was a definite decrease in the cost of housing.

Lot improvement changes could be made in the sanitary sewer systems, municipal water, storm sewer, and curb and gutters. All of these have excessive specifications. For instance, a typical minimum residential street width is 36 feet. I question the use of this on every residential street, especially cul de sacs, where traffic is much reduced.

A recent report by the Urban Land Institute, the American Society of Civil Engineers and the National Association of Home Builders recommends that most residential streets have a maximum width of 26 feet, or a minimum width of 20 feet, in the case of limiting parking on one side of the street.

Another item involves the inequities between buyers of new versus existing housing. Some municipalities with more than enough park land require a cash donation to a park fund for every new house platted. I think park improvements, which these dollars supposedly support, should be paid for by all property owners through real estate or ad valorem taxes.

In addition to changes in minimum lot sizes, I think communities could alter ordinances regarding houses. Some communities require that garages be built on houses in the 1,000-1,100 square foot range. I think this should be eliminated so consumers who can't afford a garage at the beginning of homeownership can still buy a house and build one later. These same homeowners could also have the option to build onto their house first, and add a garage after that.

I also think the minimum square foot requirement for a single family detached home should be reduced to about 780 square feet for a two-bedroom home and 900 square feet for a three-bedroom home.

Modern technology has found a few ways to reduce the cost of houses, but has a long way to go to find any appreciable savings. For example, we currently use a single layer plywood floor system which is actually stronger than two individual layers, and we are able to eliminate the labor of the second layer. Roof trusses and prehung door units have also been welcome labor saving and cost reducing components of a home.

The lumber industry is currently testing new products such as wall studs made from wood or wood fibers, which may eventually help reduce construction costs.

Another possibility for a savings is the use of plastic plumbing instead of cast iron and copper. We are not using this yet, however, since we still have questions about its durability.

Excessive building codes also add to the cost of housing. The local housing industry is currently studying these codes to make recommendations to the State on possible changes.

I applaud the State Legislature for establishing an advisory committee to study the modest cost housing situation. Consumers, municipal officials, bankers, union representatives, and builders must all work together if they are truly dedicated to find ways to reduce the cost of housing.

Builders—The Newest "Endangered Species"?

(By Farnum W. "Nick" Nichols, Assistant Vice President, Northland Mortgage Co.)

Modest cost housing. What is it? Does it exist? Webster defines moderate as "kept within due bounds; observing reasonable limits; not excessive; restrained." None of these definitions describe the housing situation as it currently exists in the Twin Cities Metropolitan Area, or, for that matter, in the State of Minnesota.

The factors that keep housing from being modest or moderate are many, varied and complex.

Financial institutions can assist developers in obtaining the money that is available through governmental agencies and conventional sources, but beyond this, lenders can't do much until other major areas concerning housing are altered: restrictive municipal ordinances, layers of governmental agency reviews, real estate taxes, and consumer demands. All of these make the search for modest cost housing akin to hunting ducks on the Sahara Desert.

In writing this article, my thoughts kept coming back to who it is we all look to for production of housing. The answer, clearly, is the Builder/Developer. But he has been burdened with so much red tape that soon we won't have to concern ourselves with low cost, moderate cost, or any other cost of housing. Instead, we'll have to find some entity to replace the Builder/Developer, whom I call the newest "Endangered Species."

We look to the Builder/Developer to produce our housing but we do not provide the assistance, cooperation, and team play necessary for him to accomplish his task.

To illustrate, let's look at a development in a metropolitan suburb where a Builder/Developer plans to construct 150 detached, single family homes in the upper $30,000 to middle $40,000 sales bracket. He wants to be able to sell at this range because his marketing information shows this is the price most people can still afford.

So, he develops plans for a three-bedroom, one-bath house that contains few frills such as double, attached garages, expensive exterior designs, etc., with 1,000 to 1,200 square foot living sizes.

Now, what does he have to do? Merely purchase the land, stake off the lots and begin construction of his model homes? Think again! Here are some typical steps generally followed before he can start construction.

Site Selection (one to four months): The Builder/Developer carefully looks for a piece of ground that is: 1) properly zoned in an area where sewer, water, and other utilities are available; 2) convenient to shopping facilities and mass transit service; 3) close to schools and parks; and 4) "reasonably priced."

Municipal Approval (one to four months): Next, he takes his plans to the municipality involved where he must obtain planning commission and council approval. There will be charges for sewer hookups amounting to over $300 per house, water hookup charges, and park donation charges of "x" amount per house. Then, he is told the lot size restrictions, population density requirements, and the fact that he will have to pay for all the streets with concrete curb and gutters, storm sewers, underground utilities and street lights.

Financial Aspects (along with government agency reviews, six months minimum): Next he goes to a financial institution to structure a financial package designed to insure the financial stability of the development over a certain period of time. Here, he is informed of the costs for the land development loan, construction loan, and the ultimate buyers individual mortgage loan package. Appraisals are made of the property, costs statements are examined, and interest rates are discussed.

Government Agencies: Our Builder then submits application to a government agency like HUD/FHA for approval, and he is now informed of: 1) the agency's requirements for insuring a subdivision's individual mortgages; 2) the amount of time it will take to approve his plans; 3) the Metropolitan Council review authority of the plan; 4) environmental regulations; 5) extra costs involved in obtaining these various approvals.

By now, literally months have passed, much money has been spent and still a shovel hasn't dented the ground. Construction costs and interest rates have probably risen and he must rethink his original selling price. The Builder now makes his decision to either proceed with the project or to abort it.

The point is, no new housing opportunities have been offered, no new jobs created; in short, nothing has happened.

Is there hope for modest cost housing? I believe there is, but it will only happen when all participants in the housing business, i.e. municipal government, government agencies, financial institutions, labor unions, material suppliers and consumer groups will cooperate and act as team members.

If, on the other hand, each group continues to go its own way, the housing situation will certainly worsen. We do not need more planners, theorists, or red tape. We need action people who will take positive, direct steps to work together so our Builder/Developer can produce our housing and be firmly and finally removed from the "Endangered Species" list. Then, we can possibly have modest cost housing.

A Local Government Look at the Housing Dilemma

(By Philip Cohen, Mayor, Brooklyn Center)

Over the past few years the increasing cost of housing has often been attributed to local government. In my estimation, the factors that have the greatest influence on the cost of housing are the costs of construction, materials, builder's profits, financial practices, land, and homeowners' desires.

For a long time a high percentage of suburban communities have had lot and house size requirements which I consider reasonable—lots with 75 feet or less width and lot areas of 10,000 square feet and under—along with very few mandatory requirements.

Let's look at how those lot and house sizes developments historically. After World War II most suburban communities did not have municipal water and sewer and permitted on-site cesspools and wells. Ten thousand square feet was considered the minimal lot size necessary for sufficient land separation so wells would not be contaminated. Also, people moving to the suburbs for the first time wanted larger lots than they had had in the cities.

As the new residents of growing suburbs became involved in their communities' planning process, they proceeded to chart their destinies, setting standards which resulted in zoning and land use controls.

High property taxes predominated in suburban areas during the 1950's and 1960's primarily because schools depended on these taxes to support their increasing enrollments.

The needs of municipalities and counties also increased as more people demanded more governmental services. That evidently motivated the move toward more expensive homes in some communities to provide a better tax base.

The home that has been referred to as the "typical basic home" of the 1950's and 1960's cost $13,000 then and now costs about $30,000 to $35,000. This type of house today requires a monthly payment of some $350 and an income of $15,000.

I think the construction of a lesser quality single family home is not the answer, nor is it feasible considering the major factors that bear on housing costs, the minimum construction standards of the uniform State Building Code, and the public's standard of living.

Building lesser quality housing for one segment of our population because of its financial position would be an insult. Placing poor people in poor housing has already proven to be a failure by the government and the private sector.

People with lower incomes need quality housing with built-in maintenance so their households strained by mortgage payments aren't stretched further with the costs of unexpected home repairs.

Land costs are going to continue to inflate, and one way that cost per housing unit may be held down is to consider the alternatives in medium density housing, such as townhouses. But we should also provide optional condominium provisions for cluster housing so residents can build an equity and eventually, if they desire, step into the single family detached house.

Developers seem inclined to build more expensive homes when they can realize a greater profit and have little difficulty getting a financial commitment from upper income homeowners.

In Brooklyn Center, homes which are built on reasonable house and lot sizes are filled with amenities. These lot sizes could hold structures in the $30,000–$35,000 range, but instead support houses in the $40,000–$50,000 range.

I think several things will have to happen before we can buy the best single family unit at the lowest construction cost of $30,000 to $35,000. There would have to be a massive commitment by the federal government in this area. Lending institutions would have to encourage lowest cost housing and mortgage financing. Builders would have to be willing to develop housing at this price range. State and local governments may also have to consider land banking or land write downs to further encourage lower cost housing. And, finally, homeowners would have to consider streamlining their tastes and forego some of the frills that increase the cost of housing.

And, even after these are accomplished, an income subsidy might be necessary to help people with less than $15,000 income to make monthly payments of taxes, interest, principal, and insurance.

I continue to feel that any arbitrary reduction of lot and house size requirements would not necessarily reduce the cost of housing without reducing quality of life and living conditions. Also, reduction of lot sizes and increased density in a community must be measured against the municipality's ability to respond with adequate utilities and other services.

Many factors play a part in the responsibilities for reducing housing costs. At this time I think local government has a minor part, however, and the success of producing lowest cost housing hinges on the other factors I've mentioned.

THE BUREAUCRATIC BRAMBLEBUSH—AND HOW IT GOT STARTED

(By Robert L. Hoffman, Metropolitan Council Member)

The trouble with the future is that it usually arrives before we're ready for it. Today a lack of housing is occurring at a time in history when there is an unprecedented demand for it.

This has occurred for several reasons.

A surge of people will enter the 20–34 year old category in the next 15 years. We experienced an all time high birth rate from the early 1950's to the early 1960's, and this group is just now entering the housing and job market.

In addition, we have felt significant changes in lifestyles. Forty percent of the women in this country now remain single until the age 20–24, compared with only 20 percent in 1960. Fewer Americans marry, more are getting divorced, and more young and elderly people live alone.

These trends have resulted in the need for separate households which did not exist under our lifestyle 20 years ago. In 1974 the average American household consisted of less than three persons. This substantial increase and demand for separate households, which is expected to continue, has strong implications for the housing stock.

Housing costs have risen since World War II and today fewer than 20 percent of the families can afford the average priced new house.

Housing costs are determined by many factors none of which, by itself, can be classified as the determining factor of high cost housing. These factors include the cost of land; cost of serving the land with improvements such as sewer, water, and roads; cost of materials in the house; the nature of the house as determined by municipal requirements such as lot size and house size; cost of financing and taxes; and the cost of lengthy processing procedures.

Of these factors the cost of land improvements, the nature of the house, and the cost of lengthy processing can be controlled by local units of government. This article is limited to those factors.

After World War II a tremendous demand for housing required production at a level not previously known. Suburban areas which could accommodate substantial tracts of housing were developed.

The first type of house usually built had less than 1,000 square feet, its own well and septic system, no garage, gravel driveway, no carpeting, appliances, or air conditioning. Municipal services were minimal. Most streets were 33 feet wide without a curb, gutter, or sidewalk. Storm drainage was usually to a ponding area and dedication for parks was not required.

As the suburbs developed a pattern evolved. After several years the initial residents improved their homes by adding garages, family rooms, trees, blacktop driveways, etc. And as the second wave of residents appeared, the "original settlers" determined that the basic house was no longer adequate.

Minimum house and lot sizes were increased. Wide streets became a requirement. Pollution necessitated municipal water and sewer. And since it was preferable not to tear up streets frequently, it made sense to install storm sewers when the water and sewer systems were required.

Soon curbs, gutters, and sidewalks became a natural addition. Unsightly utility lines were placed underground. Blacktop driveways were required. Garages became a necessity, particularly to house campers and trailers, which were considered unsightly.

Burning was banned and garbage disposals were looked upon as desirable. Dedication for parks and open space became a requirement.

Suburban communities without industry faced tremendous tax burdens for new schools and municipal services. Consequently, houses that "paid their way" were financial necessities. This resulted in requirements for larger houses, larger lot sizes, greater set backs, etc. to produce more expensive homes.

One requirement after another, layered like bricks, built a wall which began to prevent reasonably priced new housing. Each requirement, in itself, was adopted for what appeared at the time to be a valid reason. The cumulative effect, however, was disastrous.

In addition, while suburban communities were adopting requirements that increased housing costs, developers were responding to market demands with carpeting, built-in appliances, ceramic tile and other features which also increased the cost.

If local communities want new housing they must analyze land use regulations to determine if zoning, subdivision regulations, and processing procedures extend beyond minimum provisions for the health and safety of residents.

Larger lot size not only adds to the initial cost of land, but also adds increased utility and municipal service costs. During the processing of a development, officials may require costly amenities or improvements, not always defined by ordinance, as a condition for approving the development. Such negotiations may result in what some consider a high quality living environment, but they also make that environment unattainable to many.

Communities should give home buyers the opportunity to select housing that is appropriate for their family needs and income. Garages, family rooms, blacktop driveways, and additional bedrooms can be added over time.

Today, because of the proliferation of regulations at various levels of government, the processing of a development can take one and a half to two years before housing production can even begin. During that time, the developer's carrying costs add substantially to the ultimate cost of a house without physical benefit to the buyer.

It is not unusual for a development to be subjected to: several hearings before a local planning commission; several hearings before a local city council; review and hearings by the local environmental or natural resource commission; review by a watershed district commission; hearing before the Department of Natural Resources if there is any standing water on the property; a hearing before the State Environmental Quality Council if a petition is submitted by 500 persons who don't want the development; several reviews by the U.S. Department of Housing and Urban Development or other financing agencies; and several months' delay while local communities consider ordinance changes.

Most land, today, is burdened with an almost endless set of regulatory measures. Yet, these measures have not solved urban congestion, suburban sprawl, the loss of primary agricultural lands, or the disappearance of natural areas. And, most serious of all, these regulations have not produced housing that is affordable for fully half of our population.

This proliferation of regulatory requirements has resulted in identifiable burdens to medium priced housing, with costs tremendously escalating for both private and public projects.

Several years ago a developer could find his way through relevant regulations without legal help. Today, the mass of new laws, the number of new agencies involved, and the complex procedures make a lawyer indispensable. Yet he is only part of the team a developer needs. Others include a land surveyor, traffic engineer, appraiser, economist, civil engineer, sanitarian, ecologist, hydrologist, limnologist, auditor, banker and others.

Although government action may be nonduplicative most of the review process is duplicating.

The purpose of many of the recent regulations was to reduce uncertainty. They have, however, only succeeded in decreasing predictability. It is very difficult for a developer entering a project to know what permits are required, how long it will take to secure them, and what the approval will cost.

Lastly, the cumulative effect of these factors is something not at first apparent. That is, there is an inverse relationship between predictability and creativity; when the risks are unknown, one does not seek to introduce more variables. The greater the unpredictability of a development, the fewer the people willing to assume the risk.

Never in our history has creative development been so necessary, and never have the cards been so stacked against it. There are endless single purpose agencies, special land use regulations, and ad hoc committees which mostly compound, not solve, housing production problems. The decision-making is highly diffused, extremely complex and produces inadequate results.

The notion that higher standards are always in the "public" interest and lower standards help only the "selfish" developer is an over-simplification. The quest for environmental quality on the one hand and the quest for reasonably priced housing on the other hand create a conflict between two fundamental goals of orderly urban development. Both quests relate closely to problems of individual choice.

A balance between the objectives of preserving all natural environment and producing affordable housing must be reached. In enacting regulations, governmental agencies must weigh each separate regulation as to its effect on increasing the cost of housing. Developers must not add unnecessary overhead costs that do not benefit the consumer, and must structure flexible organizations that can adapt to changing governmental regulation.

A partnership between the public sector and private sector must be forged if the consumer is to be the beneficiary of the housing he needs and deserves.

PRIME MINISTER OF AUSTRALIA SPEAKS AT NATIONAL PRESS CLUB

Mr. HATFIELD. Mr. President, when the Prime Minister of Australia visited the United States in late July, I was invited to a breakfast meeting with him at Blair House. I was impressed with Prime Minister Fraser, as I know all of my colleagues were who met him. He exhibited a clear grasp of issues facing our two countries on a bilateral basis, as well as understanding the complex multilateral issues facing all countries in the world today.

During the Prime Minister's visit, he spoke to the National Press Club to share his perceptions of Australia's role in the world and the relationship between Australian domestic policies and international affairs.

I now have received a copy of both the speech of the Prime Minister, as well as a transcript of the question and answer session which followed. As always, the questions ranged across a broad range of issues.

Because of the importance of the role of Australia, particularly in the Pacific, I would like to share his comments with my colleagues. Representing a Pacific coast State, I have a particular interest in his remarks.

Mr. President, I ask unanimous consent that the speech by Prime Minister Fraser at the National Press Club on July 29, 1976, and the question and answer session that followed, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record as follows:

Address by the Prime Minister at the National Press Club, Washington, D.C., July 29, 1976

Thank you for having me as your guest. I am pleased to celebrate with you a remarkable two centuries and what is perhaps the greatest venture in popular government the world has known.

Part of the reason why your nation has been so successful is because your founding fathers saw clearly the necessity for a balance of power and interest.

Your Constitution is the product of their recognition that Liberty's best safeguard lay in distributing power as widely as possible and in achieving a balance between the different regions of the country, and between the different arms of government.

Today I would like to talk about balance in domestic and international affairs and as it relates to the domestic situation in Australia.

In both domestic and international arenas, in a pluralist and imperfect world, a stable balance of forces provides our best hope for stability and peace. In the international context such a balance implies not only an equality of physical and technical capability but also an equality of will. That is the only sure foundation on which to establish procedures which will stabilise relations and contain conflict.

Much depends on the people conducting international affairs. Their constant task must be to maintain balance and to strengthen the fabric of peace and stability. In this, their efforts to improve personal understanding are, I believe, of very great importance.

Balance in the international arena—stabilised by realistic discussions and negotiations—works to prevent the dominance of one nation over others, and to create the conditions in which all nations can work out their future in the interests of their own people.

Our major foreign policy effort is naturally, directed to areas close to Australia.

In South East Asia our main concern is to support the ASEAN countries in their efforts to promote internal development in the region. And to ensure that great power competition in the region does not frustrate these goals or upset the existing equilibrium. We believe that the ASEAN countries are making significant progress to these ends. And that it is vital to maintain the conditions which will allow this progress to continue.

Australia stands at the confluence of the Indian and Pacific Oceans. Crossing these oceans are trade routes which are of vital strategic and economic significance not only to Australia but also many other nations including Japan.

In the Pacific area there are many independent and soon to be independent countries. Australia wants to work and cooperate with them and believes that they should be enabled to pursue their own development free from outside interference.

The idea of the Indian Ocean as a "zone of peace" is a noble idea. It is difficult to see the circumstances in which it can be achieved. Consequently my Government has supported the extension of facilities in Diego Garcia by your Government and offered to your Navy access to our naval facilities in Western Australia, which we are expanding for our own Australian purposes.

Here, as elsewhere, we believe that balance is a precondition for stability. We are also concerned that further efforts by the U.S.S.R. to enhance its strategic status in the Indian Ocean should be discouraged or adequately matched.

I have previously stated our attitude towards the growth of the military power of the Soviet Union. Recent NATO communiques have expressed a concern similar to ours in almost identical terms. I only want to add here that if the concern we have expressed on the evidence before us is misplaced, it is within the means of the Soviet Union to make this clear. We fervently hope that it will do so.

Australia desires nothing more than friendly and cooperative relations with a Soviet Union whose basic purpose is world peace and stability. We already have important and extensive relations with the Soviet Union on which we place considerable value, and we would wish to extend these to our mutual advantage.

In our foreign relations we deal with other countries not on the basis of their ideology but on the basis of common interests. We believe that in the end, relations based on common interests are the only relations that can be depended upon.

We believe that there is considerable scope for more extensive discussions between nations. Such discussions are essential to secure a stable international balance.

Last month I visited Japan and China to further extend Australia's relationship with these two major Asian powers. Japan has a role of great importance and even greater potential in our quarter of the globe. She is Australia's major trading partner; we are the principal supplier to Japan of many vital raw materials; we both have defense treaties with the United States; trade between Australia, Japan and the U.S. is complementary. Japan's treaty with the U.S. is of great importance for stability in the North West Pacific as is the Australian and New Zealand Treaty with the United States for the Pacific.

Both Japan and Australia are determined to do what we can—acting in our own ways—to advance the economic interests of the region.

It is only recently that Australia established diplomatic relations with China. For too long, China has not been adequately involved in discussions and communications with the wider international community. The fault, I suggest, was not solely China's. We are seeking to play our part in redressing that situation as a matter of greatest importance.

The purpose of my visit to China was to learn and to improve communication between our two countries. This might sound a very limited purpose but given the differences in our history and cultures and a long period of non-communication, it is a very necessary beginning.

We do not expect any dramatic results or any vital changes next week, next month, next year. We are prepared over decades if necessary to seek to build relationships and consultations which will develop a greater understanding between our two governments and our two peoples.

In our discussions the Chinese leaders made it plain that they regarded the broad international situation as being of greatest importance in their relations with the United States and other nations. This followed from the way they expressed their views on the Association of South East Asian nations, the United States, on government to government and party to party relations and the nature of their support for the objective of an Indian Ocean zone of peace.

Whatever view one takes of China's ideology, it is clear that Chinese society manifests a sense of purpose and self-reliance. A stable equilibrium in international relations is not possible unless China is more fully involved in the international community.

Agreements reached, for example, between the Soviet Union and the United States, which affect other major states, the European Economic Community, or China, will only be workable if these are seen as protecting the interests of these other states.

Our most important relationship with a great power is our relationship with the United States of America. America plays a vital, an irreplaceable role in maintaining the balance of power and in preserving world peace and stability. It is not only in politics that the U.S. has a major role—the U.S. produces about 40% of the O.E.C.D. gross national product.

As free peoples with common philosophical commitments, the United States and Australia will often have a common view and cooperate in the pursuit of common goals. But we do not expect the American people to accept responsibilities which other nations disavow. You have just passed through your Congress a very large defence budget. We are supporting an expanded five year defence programme.

This relationship between a country of Australia's size and position with a super power like the United States may be misunderstood by some—at home and abroad—who believe that concurrence and common action means subordination to the larger nation.

Such problems have always existed in relations between the largest states and others—such relations must be treated with some sensitivity. Australia's policies are based on a fully independent assessment of Australia's national interests.

The problems of balance in international relations relates not only to politics—instability can arise also from lack of balance in economic relations.

There is such an imbalance in the international economic system between the developed and the developing nations. The causes of this imbalance lie not so much in the economic system as such but in the policies pursued by some nations. Many developed countries seem more concerned with pursuing freer trade in the products in which they excel, than in opening their markets to the products of the developing countries.

An improvement in trade would make a major contribution to lifting standards of living in the developing countries. It would enable countries to concentrate on the things they can do best.

Equally there is a need to focus on policies aimed at the creation of wealth rather than its redistribution. Redistribution alone can provide no real solution to economic problems. There are no panaceas. Encouraging inappropriate policies and raising expectations which cannot be fulfilled only add to instability in economic relations.

This applies within countries as it does internationally. Sustained domestic economic growth requires a balance between public and private expenditure, between wages and profits.

We have recently experienced the effects of such imbalance in Australia. Between 1972 and 1975 Government expenditure in Australia increased dramatically. The Australian economy, which incidentally was largely insulated from the oil crisis, was thrown out of balance. In one year Federal Government outlays increased from 24% of G.D.P. to 30%.

Excess expenditure was financed by deficits of an unprecedented magnitude. There was an inflationary growth in the money supply. These domestic problems were of course not helped by international economic developments. Most other countries were pursuing similar domestic policies. These led first to inflation and then, inevitably, to world recession.

Against this background, my Government found when it came to office that people had naturally tended to draw into themselves, to become cautious, to lose their initiative.

We have moved to reverse this. Government expenditures are now being firmly and substantially controlled. Our purpose is to bring down the Government's share of resources so as to make room for people, for individuals, for businesses: to give the productive sector of the economy confidence and the room to breathe. The number on the Government's payroll has been substantially reduced for the first time in 24 years. In 1975 the money supply grew at a rate of 20%. This year it has grown at less than half that rate—9%. This is higher than we would like but, in economic matters changes in direction cannot be too sudden or too swift. We have also taken action to restore profits. Without adequate profits there will not be enough investment. Without investment there won't be enough jobs. The dramatic fall in profits and in G.D.P. which followed the great rise in Government expenditure and the rapid growth in wages, was a major factor in the rise in unemployment—to the highest levels since the Great Depression.

There are now increasing signs in Australia that the interrelationship between excessive wage increases, inflation and unemployment are being recognised. There are also encouraging signs of a downward trend in both wage and price increases. A year ago inflation was down to an annual rate of 10%.

Overcoming inflation is essential to the balance and health of the Australian economy. It is a prerequisite for renewed growth and the development of our great natural resources. Both Australia and the rest of the world need that development.

We need overseas capital to develop our natural resources and that is why we welcome overseas investment in Australia. Our policy is to obtain joint ventures in partnership with Australian concerns. My Government's attitude to foreign capital differs substantially from that of our predecessors. We understand the benefits it can bring and take a more balanced view of its costs. Our foreign investment guidelines reflect this and they have been deliberately kept flexible so that we can take up proposals that will help us develop our resources.

But we know that it is not only our attitude to foreign investment that is important to foreign investors. I hope it will be clear that the whole thrust of the policies I have mentioned is directed at improving the investment climate in Australia, for foreign and domestic investors alike.

I know there has been considerable interest in our exchange rate policy. There has already been a downward trend in wage and cost increases. With recovery overseas strengthening our external prospects are swinging back into balance. A downward movement in the exchange rate would have inflationary effects contrary to our primary domestic aim. I do not think I need say any more on that.

Our whole economic policies are directed to achieving stability and restoring balance between the private and public sectors. In domestic politics, in international politics and in economics our purpose is the pursuit of an appropriate balance.

The purpose your founding fathers sought to enshrine in their Constitution still states in the clearest possible terms the nature of the objectives which politicians in free societies should pursue. Without power there can be no balance, but a balance of power is not the only one necessary. There is a need for a balance between realism and aspiration. Means must be appropriate to objectives. Nations pursue their own interests, but they must always strive to give effect to their ideals.

Finally, in a world subject to accelerating change, there must be a balance between tradition and innovation. In a little more than a generation, the world's population will have doubled. There will be profound technological changes expanding the limits of the possible and creating new problems of control and coordination.

Your country's role in this world will be crucial. For your country, 1976 is not only the end of two centuries but the beginning of a decisive quarter century, one in which your vision of a better world and determination to work for it will be more important than ever before.

VISIT BY PRIME MINISTER: QUESTIONS AND ANSWERS AT NATIONAL PRESS CLUB, JULY 29, 1976

The following are the questions and answers:

Q. You arrived here with the headlines describing you as one of the world's most outspoken anti-Russian leaders. Since arriving you have been careful to keep such views under your belt. Do your accurately-recorded anti-Soviet views still hold? Have you changed them as a result of your talks this week? Have you been silent out of deference to your host government?

A. I don't think my views have changed—I think maybe that reputation preceded me because the views expressed in Australia on the June 1 might have surprised Australians and Australian commentators who were not aware that the views I was expressing on behalf of the Australian Government were, virtually, identical to the views that had previously been expressed by the NATO powers, which of course, as everyone knows, includes at least three Socialist governments. But these reports, and no doubt communiques, had not been widely reported and not known when I was still in Australia, and the changed attitudes that I believe have come to be accepted in much of Europe, and given a voice to, and perfected in the communique between your President and myself was something that Australians maybe were not aware of. That I think is why that reputation of a particular kind preceded me—my views have not changed and I also believe they are in line, and expressed in almost identical terms, with those of the NATO powers.

Q. Would you agree that it was in Australia's interest to be friendlier with both China and the Soviet Union than either is with each other?

A. Well, we try to be as friendly as we can be with everyone. But China, of course there needed to be a shift because there had not been communication, so we wanted a closer relationship than there had been. But with the Soviet Union, we wanted to make quite sure that we understood each other and that there were no mis-apprehensions about each other's attitude. I think that also works towards more realistic faces than pretending that certain realities of the world situation don't exist. It would not be very difficult to be more friendly with both, than either is at the moment with each other.

Q. How do you believe the Soviet Union can be discouraged from building up its forces in the Indian Ocean?

A. Probably only by the knowledge that it will not be allowed to dominate the area and therefore it is not worthwhile starting.

Q. Would Australia object to the United States supplying India with additional nuclear fuel? Does Australia consider safeguards adequate to prevent diversion to Indian military uses?

A. We are very much opposed to the proliferation of nuclear weapons and would very firmly want to support all measures designed to reduce nuclear proliferation. There are considerable uranium resources in Australia, and depending upon the results of an environmental enquiry, we would be taking the most rigid controls in accordance with international practice and guidelines, to make sure that exports from Australia do not add to the possibility of nuclear proliferation. But I must say that determination of future government policy is dependent upon a royal commission and that royal commission's environmental report.

Q. Does Australia have diplomatic relations with Taiwan? Do you believe the United States should withdraw its ambassador there?

A. The previous administration withdrew recognition of Taiwan and it was the considered judgment of my government that the decisions, once taken, and in the necessity we believed for greater communication with China, and greater understanding between China and Australia, and for that matter China and many other countries, would not merit any attempt to alter the terms of that recognition that was earlier consummated. I don't really think that at this particular time it is appropriate for me to comment on what the United States ought, or ought not to do.

Q. What effect will United States' recognition of Peking have on the security of Asia and the Pacific, if it is done at the cost of breaking the U.S. defense treaty with Taiwan?

A. Again, I think that this is a question that is really seeking comment on United States' policy, or certain aspects of United States' policy, and I really do believe that this is an inappropriate year in which a stranger should make comments on that sort of thing.

Q. From this perspective a question arises—Australia and New Zealand seem to have so much in common politically, economically and strategically, is there a prospect of an anzac federation?

A. I think the first part of the question might also have appropriately have been directed to the kind of relationship between Canada and the United States. I think the independence of New Zealand is assured and the independence of Australia is assured. We co-operate and work closely together but I think that's the way both countries want it to be. Of course, there is always room for closer consultation, closer co-operation. Both the New Zealand prime minister and myself are determined to try and achieve that.

Q. It is common knowledge that the Whitlam government was opposed to the friendly association between Australia and the United States, born during the Holt/Johnson years. Can you please give a reason for such opposition?

A. Well, I did give reasons for that during the election. Again I don't really want to export Australian politics to this forum any more than I want to comment on United States' policies in this particular year.

Q. What is the Australian government's present position regarding immigration of Americans to Australia?

A. We would be delighted to see you.

Q. Do your immigration laws limit Japanese, Chinese, blacks?

A. There is no discrimination on the grounds of race, colour, creed, or nationality of any kind and we recently, in relation to Japan, signed a special treaty of friendship and understanding which is designed to achieve greater co-operation and understanding of two peoples whose cultures and backgrounds are very different. There has been a close and strengthening commercial relationship, but both Japan and Australia now believe that commercial relationship alone is not enough and that we ought to try and develop the circumstances in which there can be the same in-depth understanding as I believe there is between Australia and the United Kingdom or Australia and Canada, or Australia and the United States.

Q. What is Australia's position on the future of the control of the Panama Canal as a vital trade link between the Atlantic and the Pacific nations?

A. Well, I haven't swam through it, but again, I seem to detect that there is an element of United States' politics in this particular matter. I have heard the subject mentioned over the last few days, but I don't consider myself well enough informed to offer a view.

Q. Does Australia plan to increase its production of——

A. Mr. Adaman, the former minister for primary industry, in an earlier coalition government, was a member of that profession, Mr. Peterson, Premier of Queensland, is also a member of that profession.

Q. When can we expect the Australian Government to announce their policy on export of uranium?

A. We've quite deliberately refrained from taking any policy decisions in relation to this matter until we have the report of a royal commission in the hands of a most significant member of the judicial community of Australia—it's an environmental enquiry and it's important to get his honor's report before the government makes decisions in these particular matters. We ought to have that report within a few weeks and it will enable us to make policy decisions. We recognize that there are many countries interested in Australia's longer term objectives and policies in these particular areas. We'll certainly lose no time in making decisions based on Mr. Justice Fox' report.

Q. Is there an Australian counterpart to the U.S. criticism of big government and, if so, what is your government doing about it?

A. Well, we're trying to abolish it.

The circumstances in Australia have been that about 80 per cent of all revenues came to be collected by the federal government. A fair bit of that is given back to the States but often with tags tied to it—you know, you've got to spend it this way, the way we believe is right. State governments therefore were able to say in Australia, well they can't do this and they can't do that, the commonwealth collects all the money, we've got no independence of our own. Local governments were in a very similar positions. We've looked very closely at what Canada has done in relation to the tax-sharing and we've already come to agreements with the states along similar lines to those that have applied in Canada for some time, designed to provide a greater financial basis for the states so that governments with direct responsibility for providing services can also have a greater responsibility for raising the money to pay for those services. We strongly believe that politicians who spend money ought also, to the maximum extent, be responsible for raising that money, then they have to weigh the balance of both sides of the coin. The popular side of providing the service, the unpopular side of taxing to pay for it.

Q. Mr. Prime Minister, does your government plan to make the income tax rebate provisions of law applicable to nonresidents, as well as residents of Australia?

A. I'd have to defer to a treasury adviser before I could give a proper answer in relation to that. I'm sorry.

Q. Do you have or contemplate any incomes' policy, or wage and price controls?

A. The industrial power of the Commonwealth government is one that enables us to establish a body to settle industrial disputes and then only disputes which are national or interstate in character. So it is a very limited power. Such a body has always been part of the Australian scene and the theory of it is that both sides get an arguement of case before the arbitration commission as it's called; there is a determination which both sides are meant to accept—as industrial matters there are no absolute laws and both sides haven't always accepted the determinations of the arbitration commission. But the Commonwealth's role in these matters is to argue what it believes to be right in the economic circumstances of Australia and we have achieved some significant changes in the guidelines being used in the wage-fixing process over the last six months which will help significantly to wind down inflation. But I think that one of the main motivating forces, apart from wages and inflation, in Australia is the rate of increase in government expenditures, which I think I might have mentioned, went up 46 per cent one year to the next, and government expenditures and the budget to be revealed on the 17 August will indicate an increase in government expenditure of a mere fraction of that. So there are many things that we have to do to overcome inflation. There is a prices justification tribunal but we don't, in fact, have rigid price and wage-fixing powers and, therefore, whether or not they should be used has not really been a matter of consideration. The constitutional power does not exist.

Q. A listener, hearing your answer that you would abolish big government—or are trying to abolish big government in Australia—asks me to explain how you would cut down the size of government in Australia.

A. By having policies, I believe, that encourage the independence of people. It is very easy to have welfare programs, for example, that are based solely on spending more of other people's money. But that is not always a solution to problems of poverty or difficulty within a community. The problems are sometimes more a problem of human relationships, lack of capacity to operate within a modern and complex society and, therefore, the solution is much more complex than merely one of spending money and having a government program designed to do it. Our policies are designed to encourage the independence and strength of the individuals in the Australian community. That does not mean to say that for those who need some special help that that could not be provided in full measure but because of the policies that we are seeking to introduce that will enable us to be in a better position to do more for those who are really disadvantaged and who deserve extra help.

Q. In light of the recent general strike called by the Australian Council of Trade Unions over the medi-bank issue, what if any, legislative action will your government be proposing in the area of industrial relations?

A. Industrial legislation has already been passed and is being proclaimed for the future. Elective officials in the trade unions will need to be elected by secret ballots—in the past some unions have followed that practice in a proper and very adequate manner—but there are some significant trade unions where people have not really had a free opportunity to vote. In one significant, and to a certain extent militant, union, a significant official was elected on a massive vote of 1.8 per cent of the union membership. We believe that secret postal ballots, properly applied, will give people a greater say in determining their own union's affairs. That particular national strike did not get all that much national support. A large number of people did not obey the directions of union officials. In the heavy industrial areas, of course, where people would find it more difficult to operate on production lines where you pretty well find everyone turning up, those who obeyed the strike order would have been in the majority but over many areas of Australia, despite the call for a national strike, life operated in a pretty reasonable manner. I don't think those who called the strike would take a great deal of heart from the degree of support it got. In polls conducted about the week afterwards, indicated that between 75 and 80 per cent of the Australian community felt that the trade union movement had too much power and disapproved of the strike. More industrial legislation is in contemplation, some of it in part borrowed from the study of American practice.

Q. Mr. Prime Minister. Has industrial unrest inhibited foreign investment in Australia?

A. I think it can, but I would believe that inflation has probably been one of the major factors but also it has come at a time when there hasn't been a great deal of foreign investment in any country because of the world recession and one of the things that of which I have been advised is that the United States recovery is likely to lead to a revival in demand for additional resources and that therefore more investment is likely to flow. Indeed some significant coal projects where agreement has already been reached, they should go ahead. Their development would involve some hundreds of millions of dollars and this I think is an indication of what is likely to come in the future. As world recovery proceeds I believe we will see more foreign investment in Australia and I have found from people I have met in this country foreign investment guidelines are understood and fully accepted.

Q. You stated that your party welcomes foreign investment and yet the opposition feared environmental damage to the natural resources. Has your party taken any steps to safeguard the natural resources from foreign investors?

A. Well, I think there are two elements to that question. Perhaps if we believe that a particular project can affect the environment there is a capacity to have an environmental inquest statement so that it can properly be assessed. It would not be our intention that that should be a device to hold up particular matters but merely to make sure that all factors are taken into account before major developmental projects proceed. And there are guidelines for foreign investment which are intended to preserve a significant degree of Australian equity in new ventures and partnerships but some projects are so large that Australia certainly is not able to supply all the capital that she wants for the development of natural resources and other matters and very significant overseas investment is required. I believe that not only in Australia's interest but in the interest of other countries who would want more iron ore and bauxite and natural gas and other matters that are waiting for development.

Q. Australia has ordered new warships from the United States. The cost growth of these ships has been great. Will Australia still be able to afford them?

A. Oh—we will be able to afford them, yes. We would like to see the United States if she could, place some orders for some more things in Australia. There is a trade balance in the United States' favour. I already mentioned that the defense vote is going to increase steadily over the next few years because we believe that is necessary. I don't think you need have any fear—the bills will be paid.

Q. Would you make an assessment of the agricultural situation in Australia? Do you expect Australian grain and beef exports to continue to come into competition with American products in the world markets?

A. Yes. I don't know how much wheat we will have for export next year as there has been a very severe drought in many of the wheat producing areas and many of the sheep producing areas which hadn't broken when I left Australia and in a number of wheat growing areas the grain had been planted dry and as farmers would know that is a risky proposition. There is a real possibility that the wheat crop will be very significantly down although we won't know that probably for the next three or four weeks when we will be able to get fairly accurate estimates. We had a capacity to supply beef to the United States and at any time that you are willing to take a larger share of Australian beef I think we would be very happy to make it available to you. After all it is only repaying some kind of a debt that I think we owe as there was a starving colony in about 1792 and it was probably saved from starvation by a shipment of United States well cured over the nine months trip in a ship called Philadelphia. Well that is a debt we feel we have an obligation to repay and to go on repaying.

Q. During your visit have you made any progress on the beef carryover dispute with the United States?

A. I think that, I can say, is an area where two good friends are having a vigorous discussion. The vigor of that discussion will continue.

Q. Following the stonehouse affair, has any action been taken to restrict the right of free access hitherto accorded members of Parliament from the United Kingdom? That is are they now required to complete the same immigration formalities as are other aliens?

A. Well, I believe that everyone should really comply to common rules in these particular matters and that is the general thrust of our policies.

Q. In Australia do environmental impact statements embrace economic impact considerations? Is the economy in other words considered a major component of the environment legally, or is it a matter of policy?

A. Well in any project that is being undertaken obviously the economy is very much a part of it, but the environmental impact statements as such are more related to the natural environment of to the human environment and the way the particular projects or developments are likely to have an impact on that. I think the economic element tends to be assessed separately.

Q. How will Australia escape the cycle of wage increases, more inflation and then more wage increases?

A. By continuing to support the policies of the present government in Australia.

Q. One more beef question. How does American beef compare in tenderness, taste and flavour to Australian beef?

A. Well, I think that depends upon habits and practice and we are probably each entitled to our own national prejudices. There are some things I could say about this but again it could perhaps be an intrusion in this particular year.

President of National Press Club then said:

Before the final question I would like to present to you Mr. Prime Minister the National Press Club Certificate of Appreciation.

And also for your trout fishing trip to Great Slave Lake in Canada we have the coveted National Press Club windbreaker in the extra large size especially for Australian prime ministers.

Q. And now for the final question. Are you the same Fraser who used to play on the Australian Davis Cup Team?

A. Well you know, after I had been a member of Parliament for about ten years one of my constituents came up to me and said:

"I don't know how you do it. You are in Parliament, you report weekly to your electorate and I get reports every few minutes that you are here and there playing tennis in the United States and Britain and you had a wonderful match last Saturday but I thought you were down at that tea party opening a new hall." I don't think we are any more related than Smiths are related to Smiths. We are not.

MARCHING FURTHER TOWARD NUCLEAR ARMAGEDDON

Mr. SYMINGTON. Mr. President, some of the more significant developments in nuclear proliferation over the past few years have included: the Indian nuclear explosion, the German-Brazilian arrangement, the pending French-Pakistan sale, and the recent report on Taiwan.

The following aspects of American diplomacy on these nuclear developments have come to light.

When India in 1974 chose to interpret the "peaceful uses" condition of her nuclear contract with the United States as not proscribing the development and detonation of a nuclear explosive device, the United States apparently went along with that misinterpretation and made no official protest.

When in 1975 West Germany agreed to sell Brazil a complete nuclear fuel cycle, the administration testified that the United States had protested and tried to stop that sale; but following this administration testimony, the Chancellor of West Germany stated at a news conference in Bonn that the American Government "has not expressed a word of criticism to us." A year later, in July 1976, during a visit of the West German Chancellor to the United States, the Chancellor reaffirmed his country's decision to sell Brazil this equipment.

Regarding the French sale to Pakistan of a nuclear reprocessing facility, the administration testified that the United States had requested France not to go ahead with this sale. Administration officials met with the leaders of both France and Pakistan on this matter. One of the last acts of the outgoing Cabinet of Prime Minister Jacques Chirac, who resigned on August 25, however, was to announce that despite American objections France would make the sale to Pakistan.

Now we have the news regarding Taiwan's possible secret development of a reprocessing capability which could be used for a nuclear weapons program; and all of us should be interested in what the administration's policy is with regard to this latest possible problem of proliferation.

THE NEED FOR ACCELERATED TUITION ASSISTANCE FOR VETERANS

Mr. TAFT. Mr. President, on December 15 of last year I introduced S. 2789, a bill to provide new educational opportunities for Vietnam-era veterans through accelerated tuition assistance. Accelerated tuition assistance would enable veterans to attend the trade and vocational schools they need if they are to find productive jobs.

Today, the Veterans' Affairs Committee marked up legislation on the veterans' education and employment programs. Unfortunately, the bill as reported by the committee contains no provisions for accelerated tuition assistance.

Mr. President, Stars and Stripes of July 8, 1976, contained an article which described the problems faced by Vietnam veterans, in terms of their efforts to get useful training. This article notes that:

> Veterans needing trade, technical, vocational or professional training * * * are the most discriminated against by the current structure of the GI bill. * * * Many of the most needy and deserving Vietnam era veterans would be far better served by a technical or vocational education. But because educational expenses consume most of their monthly GI bill payment, they must find supplemental income in order to meet their living expenses. This is often impossible.

Mr. President, in order to bring to the attention of my colleagues the great need for more and better opportunities for Vietnam era veterans to receive trade and vocational training, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Tuition Assistance for Veterans

The World War II GI bill provided all veterans an equal opportunity to attend the educational or training program of their choice. Under the current GI Bill's structure, most of the private colleges, universities, trade, technical, and vocational institutions that educated WWII veterans are closed to Vietnam era veterans who can not pay their "educational expenses."

The current GI Bill pays only a monthly subsistence allowance to veterans enrolled in school. If a Vietnam era veteran can not pay the "educational expenses" needed to enter an education or training institution, he will receive none of the readjustment benefits he is entitled to.

"Educational expenses" are not a significant factor in a WWII veteran's choice of education and training programs and institutions because the GI Bill paid the full cost of "educational expenses".

"Educational expenses" are a major factor in a Vietnam era veteran's choice of educational and training programs and institutions because the veteran must pay for "educational expenses".

"Educational expenses" determine not only if a Vietnam era veteran will be able to use his benefits at all, but substantially limit the type of education and training programs and the number and locations of education and training institutions available to Vietnam era veterans without substantial supplemental income.

Under the WWII GI Bill, 50% of the veterans in college level programs attended private colleges and universities. The average cost of "educational expenses" at a private institute of higher learning under the WWII

GI Bill was $446 for an ordinary school year (9 mos.) $54 under the $500 a school year GI Bill "education expense" tuition payment.

The 1976 cost of "educational expenses" at private college-level institutions is an average of $2568 a school year. This completely rules out a private education for veterans without substantial supplemental resources. "Educational expenses" at a private institution are greater than a single veterans total yearly GI Bill benefits. Only 18.4% of the veterans in college-level training are enrolled in private colleges and universities.

The accessibility and effectiveness of the current GI Bill is directly related to the availability of low-cost readily accessible community and junior colleges. The VA recognizes that:

"There is a marked difference in participation rates between states in the eastern section of the nation and the western section of the nation. This is due in part to low tuition costs, and greater access to public institutions (particularly junior colleges) in the west."

Veterans Administration DVB information Bulletin, April 1973.

The Congressionally commissioned Educational Testing Service study of the GI Bill confirmed the VA's contention that access to readjustment benefits was a function of ready access to low-cost public institutions:

"The accessibility of post-secondary education for the Vietnam conflict veteran is a function of not only his military service but also of his state of residence. The effectiveness of the benefits is directly related to the availability of low-cost readily accessible public institutions. The current veterans seeking to use their education benefits finds that equal military service does not provide equal readjustment opportunities with respect to attendance at post-secondary schools.

"It appears that the states are subsidizing the cost of education for veterans of the Vietnam conflict as compared with earlier subsidization by the VA. Since higher costs of education appear to reduce participation, this is a significant factor in determining whether the veteran in a particular state will participate in education."

Report of the Educational Testing Service, Sept. 19, 1973.

Analysis of participation rates states indicates a direct correlation between GI Bill college level participation and the availability of low-cost easily accessible community and junior colleges. The VA's "Veterans Benefits Under Current Educational Programs" information Bulletin (DVB IB 20–76–3) accurately analyzes the utilization of community colleges:

"Junior college training: Junior college training has expanded faster than other types of college training so that it now constitutes the majority of the college level chapter 34 (Veterans Educational Assistance) trainees.

"Of the 1,294,517 chapter 34 trainees enrolled at the college level on November 30, 1975, 55% were in junior colleges. (The rate for peacetime post-Korean veterans is 70%) . . .

"One reason for this (the extensive use of community colleges) is that the benefit for veterans is a fixed amount per month to assist with tuition and subsistence expense and training in low tuition public junior colleges enables veterans to retain more of the benefit for subsistence purposes. The group that choose junior college training most often are the peacetime post-Korean conflict veterans.

"Growth: Over the 3 year period, Nov. 1972 to Nov. 1975, the number training in junior colleges grew from 279,935 to 711,413, an increase of 431,478. The total number training in college (including correspondence training) grew from 759,063 in Nov. 1972 to 1,294-517 in Nov. 1975, an increase of 535,454.

"This mean that 80.6% of the increase in college training during this period can be attributed to the growth in the number of junior college trainees. There are several possible causes for the upsurge in junior college training when compared with other college training:

Junior colleges have continued to become more readily available in many communities all over the United States.

The substantial increase in monetary benefits in both October 1972 and December 1974 probably enabled many veterans to enter these primarily low-cost institutions who previously had felt unable to make it financially.

Junior college training is an alternative to unemployment, particularly for veterans with less than a high school education who have GI Bill benefits available. Untrained veterans are the most likely to be affected adversely by unemployment and many choose to train when unemployment rises. Junior college is more often the type of training chosen when this occurs, for the following reasons:

1. Junior colleges offer a low-cost way to train and receive needed financial assistance.

2. Junior colleges are usually in urban communities where they are readily accessible for training.

3. Most junior colleges offer practical vocational and technical training (this is particularly true in the South, other states the majority of veterans continue to pursue liberal arts programs) which on completion gives trainees a good chance for employment.

4. Junior colleges generally have lower academic standards and a more open admission policy, thereby attracting veterans who usually may not qualify for 4 year colleges."

(Note: Many junior colleges also have liberal attendance requirements and lax standards of required progress, factors contributing substantially to the overpayment problem.)

Despite the many advantages offered by low-cost community colleges, there are also numerous disadvantages associated with the extensive reliance by veterans on junior college training:

1. There is the obvious incentive to attend a community college for the supplemental income accorded by the GI Bill.

2. While many junior colleges offer trade, technical or vocational training, there is still a heavy reliance on liberal arts college level training (over 90% of the veterans in junior colleges are taking college level training). Job opportunities for liberal arts graduates are extremely scarce (15% employment rate for recent B.A. graduates). Veterans with dependent responsibilities often can not afford to accept the low entry salaries or job requirements of the younger nonveteran graduates.

3. The substantial attraction community colleges offer to earn supplemental income contributes to not only overpayments, but diminishes the incentive for the veteran to use his benefits for education and training that would facilitate his effective readjustment, and enhance his prospects for productive employment.

4. Community and junior colleges often enable veterans to use their benefits as a form of financial subsidy to perpetuate maladjusted or alternative life styles that will preclude their effective readjustment and reintegration into society once their benefits expire.

5. The many financial and other attractions of junior colleges often detour veterans from pursuing programs of education and training that would be far more beneficial to their readjustment and future employment needs.

6. Junior colleges being the reference point by which many persons measure the effectiveness of the GI Bill detracts from the attention and assistance required by veterans without access to low-cost community colleges. The principal advocates and organizations "representing the Vietnam veteran" are almost entirely based out of low-cost junior colleges.

7. With the proliferation of students in community colleges and their generally lower academic standards, a degree from a community college may have little value despite the expectations of the veteran and the expenditures by the taxpayer on GI Bill benefits.

8. Taxpayers in states without extensive junior college systems are subsidizing the benefits paid veterans in states with low-cost public education systems while the veterans in their own states are not only denied readjustment assistance but must pay for other veterans' educations in low cost states.

9. Taxpayers in states and communities with low-cost public junior colleges in many instances are not subsidizing educational programs but the most expeditious method for many veterans to collect their benefits. Unless educated or trained for productive and available employment, these veterans may become a future drain on community resources because they have failed to successfully readjust.

10. States with low cost or free educational systems tend to attract veterans from out-of-state to take advantage of the benefits low-cost schools offer. The state of California (with no tuition at its community colleges) accounts for the greatest number of veterans in training with 300,595 trainees. This is about two and one-half the number for the next largest states, New York and Texas, with 123,391 and 109,747 respectively.

Veterans needing trade, technical, vocational or professional training (in areas without low-cost, readily accessible public institutions) are the most discriminated against by the current structure of the GI Bill. They must not only pay "educational expenses" at proprietary institutions averaging in excess of their total yearly benefits ($2600), but they are also required 22 or more clock hours classroom attendance a week to qualify for full-time benefits (12 hours attendance is sufficient to qualify a veteran in a college-level program to full-time benefits). Most vocational programs are such that their hours and requirements are not sufficiently flexible to permit effective evening or weekend training.

Many of the most needy and deserving Vietnam era veterans would be far better served by a technical or vocational education. But because educational expenses consume most of their monthly GI Bill payment, they must find supplemental income of employment in order to meet their living expenses. This is often impossible. One consequence of the GI Bill's denial of effective access to trade, technical, vocational and professional programs is that it forces veterans to rely upon notoriously poor and ineffective correspondence courses. The completion rates for correspondence courses is 43.2%. Veterans Administration statistics show that over one-half a million veterans have failed to complete correspondence training, costing the taxpayer close to a billion dollars.

In the Southeastern states where there are extensive and high quality public trade technical and vocational training programs, veterans have high participation rates in those institutions.

IV. DENIAL OF EFFECTIVE READJUSTMENT ASSISTANCE TO EDUCATIONALLY DISADVANTAGED VETERANS

The participation rates for the over 1,500,000 educationally disadvantaged veterans (veterans with less than a high school education) are only 38% compared to 55.5% for all other veterans. Thus the veterans with the greatest need for education and training and readjustment assistance are the least users of the GI Bill. This is attributable to many factors:

1. The structure of the GI Bill is geared to college level programs rather than the trade, technical, vocational, and professional training most educationally disadvantaged veterans require.

2. Many educationally disadvantaged veterans lack the preparatory background or basic skills and the necessary self confidence to pursue GI Bill training.

3. Many educationally disadvantaged veterans have dependent responsibilities necessitating full-time employment and cannot afford either the time or the money to pursue educational training.

4. Many of the veterans' self-help, assistance and outreach (particularly the Veterans Cost of Instruction Program) are based in areas where there is infrequent contact with educationally disadvantaged veterans. This is particularly true of educationally disadvantaged veterans who live in states with high cost public education and lack community and junior colleges with trade and technical training.

5. Many educationally disadvantaged veterans are unaware of their benefits, unsure of their eligibility, or afraid to cope with the VA bureaucracy.

6. Educationally disadvantaged veterans are often the prime victims of unscrupulous proprietary and correspondence programs and thus are easily "ripped off" or are afraid to get involved in training programs.

7. Educationally disadvantaged veterans are more likely to have family or personal adjustment problems (many evolving from their military service, since they served disproportionately in combat situations) that interfere with the pursuit of GI Bill programs or force them to drop out of education and training readjustment programs because of psychological readjustment problems. These individuals are often the most reluctant to seek counseling or help for personal adjustment problems or admit serious educational deficiencies.

8. Many educationally disadvantaged veterans require greater assistance in planning realistic career objectives and choosing training compatible with their abilities.

9. Many educationally disadvantaged veterans live in fixed locations and cannot afford to move their families and belongings to a state or location with effective readjustment opportunities. Many of the low-cost community and junior colleges offering the best access to readjustment programs are located in the more affluent suburbs where educationally disadvantaged veterans can not afford to live.

While there has been a substantial increase in the participation rates for educationally disadvantaged veterans since 1973, the Veterans Administration attributes "much to the increase in training by educationally disadvantaged veterans to the PREP program and other programs such as 'Free Entitlement' and 'Tutorial' ".

These programs have been invaluable in attracting principally educationally disadvantaged veterans separated after 1972. But the programs have been substantially less successful in reaching or assisting veterans separated during the height of the Vietnam war (1966–1972). Many of the programs designed to assist educationally disadvantaged veterans are dependent upon access to low-cost community, junior or low-cost public institutions and colleges. In states without readily accessible low-cost educational institutions, little assistance is available to the educationally disadvantaged veteran. Many of the most needy and deserving educationally disadvantaged veterans will be precluded from pursuing a four-year program by their delimiting date expiring.

V. DENIAL OF EFFECTIVE READJUSTMENT ASSISTANCE TO UNEMPLOYED AND UNDEREMPLOYED VETERANS

While it is not the intent of the GI Bill to be an unemployment compensation or income supplementation program, it is being used as such by many veterans denied access to effective readjustment assistance. Unemployed veterans without access to low-cost institutions can not afford to pursue educations or training programs, support families and fulfill financial obligations such as mortgages, car payments, etc. Many of the most needy veterans denied readjustment assistance have strong roots in their communities and can not relocate to areas offering effective readjustment opportunities. The vast majority of unemployed and underemployed veterans do not have the mobility traditionally associated with young, single veterans and non-veteran students.

Veterans forced to work at low wages or part-time (underemployed) are often reluctant to let go of their current jobs, fearing loss of any employment in the current labor market beset by high unemployment. The skills and training most unemployed and underemployed veterans require are trade, technical, vocational and professional rather than college level; the GI Bill is most discriminatory against these veterans.

VA COMPARISON OR DOLLAR VALUE OF WORLD WAR II BILL VERSUS VIETNAM ERA GI BILL

[In constant dollars as of January 1975; maximum possible difference for any trainee]

	World War II				Vietnam era				Difference in buying power			
	Monthly SA	Period	Maximum tuition	Maximum yearly buying power	Monthly SA	Period	Tuition	Yearly buying power	World War II maximum	Vietnam era maximum	Maximum yearly difference	Maximum monthly difference
No dependents	162	9	2,860	4,318	270	9	0	2,430	4,318	2,430	1,888	210
1 dependent	227	9	2,860	4,903	321	9	0	2,889	4,903	2,889	2,014	224
2 dependents	260	9	2,860	5,200	366	9	0	3,294	5,200	3,294	1,906	212

DIET RELATED TO KILLER DISEASES

Mr. McGOVERN. Mr. President, on July 27 and 28, the Select Committee on Nutrition and Human Needs, which I am proud to chair, held hearings on the relationship between diet and the various killer diseases. The hearings focused on the role of diet in preventive health care, and the degree to which diet affects the causation of the killer diseases.

The hearings attracted active, bipartisan interest and participation by members of the committee.

I intend to make this subject a major area of concentration in the year ahead and introduce legislation in the next Congress aimed at making preventive health care an integral part of our health policy.

I ask unanimous consent that a summary of the hearings be made a part of the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF HEARINGS

JULY 27TH: ROLE OF DIET IN PREVENTIVE HEALTH CARE

The term "malnutrition" is usually associated with the problems of under-consumption and poverty. This certainly has been and continues to be a significant part of the malnutrition problem; however, the problem of malnutrition in the U.S. is also one of over-consumption and under-education.

The hearings were appropriately titled "Diet Related to Killer Disease" because 6 of the 10 leading causes of death in the U.S. have been connected to the diet: heart disease, stroke and hypertension, cancer, diabetes, arteriosclerosis and cirrhosis of the liver. Arteriosclerotic disease, diabetes, hypertension and cancer account for almost two-thirds of all deaths in the U.S. today, and heart disease killed one-third of all those who died in the U.S. in 1973.

Dr. Beverly Winikoff of the Rockefeller Foundation indicated that one-third of the U.S. population is overweight to a degree which has been shown to diminish life expectancy, and that obesity is a risk factor in many diseases such as coronary artery disease, hypertension, diabetes and arthritis. The 1973 Framingham Study found that each 10% reduction in weight in men 35–55 would result in about a 20% decrease in the incidence of coronary heart disease and would save approximately 140,000 lives a year.

Dr. Ted Cooper, Assistant Secretary for Health at HEW, and our nation's top health official, reported that mortality from cirrhosis of the liver in obese males is 249% of the expected in non-obese males. Dr. Jerry Knittle of Mount Sinai Hospital, New York, testified that the prevalence rates of obesity are on the increase, occurring in younger and younger age groups, and that once the overt clinical state is achieved, obesity is exceedingly difficult to treat.

All the witnesses emphasized the importance of proper nutrition among pregnant women, especially adolescents, to ensure that the fetus develops to its full potential. Low birth weight babies account for two-thirds of our infant mortality, and simply feeding pregnant women more calories will reduce the incidence of small babies by up to 50%. Twenty percent of the pregnancies in the U.S. occur among adolescents.

From an overall perspective, Dr. Winikoff stated that there is good evidence that the dramatic drop in mortality rates of industrializing Europe during the last century was due more to improvements in nutrition and the availability of good diets than to advances in science, to breakthroughs in preventive and curative medicine, or to availability of hospitals and health care.

In the same vein, Dr. Phillip Lee of the University of California School of Medicine, San Francisco, cited studies undertaken at UCLA by Dr. Breslow which indicate that seven health-related behaviors have more impact on our health than all of the medical care that we have received or the developments in medical care since the turn of the century. Of these seven, four are related to nutrition: (1) limiting alcohol consumption to one or two drinks a day; (2) eating three meals a day without eating between meals; (3) eating breakfast; and (4) keeping our weight within a normal range. The other three behaviors are: regular physical exercise, seven or eight hours of sleep a night and not smoking cigarettes. A white male who follows these seven behaviors will live more than 11 years longer than a person who follows three or fewer of these behaviors. All of the improvements in medical care since 1900 have added less than four years of life expectancy to men aged 45.

As to the importance of nutrition, Dr. Cooper began his testimony by stating that the relationship between nutrition and health was a subject integral to present and future improvements in the health status of the American people. He added that the most important thing besides general self-care and self-responsibility is proper nutrition. Dr. Knittle testified that nutrition is the base from which an organism responds to any insult in any pathological condition. Dr. Lee offered that nutrition is the single most important factor in the prevention of killer diseases in the U.S., and Dr. Winikoff thought that, with the exception of accidents, nutrition is the single most important component of preventive health care.

Some of the other major points and observations raised at the hearings were:

(1) That the U.S. health care system is oriented toward the prevention of death rather than toward the promotion and maintenance of health.

(2) That sound nutritional practices must be initiated during infancy, and therefore parents and other caretakers of infants and young children must play a strong and knowledgeable role.

(3) That it is very important to educate our youth about basic nutrition, food purchasing and food consumption. However, at present we have no effective program nor the right kind of expertise to make a significant impact.

(4) That we must learn that eating more does not necessarily mean eating better.

(5) That Americans have increased their consumption of fats (primarily of animal origin), sugar and salt, and decreased their consumption of dietary fiber. In general, this change in eating habits, besides contributing to a number of disease problems such as coronary artery disease, may lead to obesity as a result of eating less bulky, less satisfying and more caloric food.

(6) That upon graduating from medical school, our medical students know more about heart transplants than about nutrition. No knowledge of nutrition is required by the testing boards in order to become licensed as a physician.

(7) That all preventive health care has a relatively low prestige in medicine because the high technology fields are considered to be the high prestige fields.

(8) That there are no hard and fast rules, or simple norms which allow one to make a menu that will fit the needs of 200 million individuals.

(9) That in 1975, $118.5 billion, or 8.3% of the GNP, was spent on medical care in the U.S. Only 5%–10% of this total was spent on preventive health care programs. The Federal Government spent $30–$35 billion on health care and contributed most of the preventive health care expenditures.

(10) That a USDA study estimated that with an adequate diet we could reduce by 25% the number of heart disease sufferers, and in turn save $30 billion.

(11) That if everyone had good nutritional habits we could reduce the yearly cost of medical care by up to 20%.

With respect to possible programs or strategies to combat America's malnutrition problems, Dr. Cooper reported the following five aspects in HEW's on-going and/or proposed efforts:

(1) research, monitoring and nutrition surveillance;

(2) education of the public with special emphasis on children in schools, and professional health personnel;

(3) incorporation of nutrition services into the health care delivery system;

(4) regulatory efforts, including food labeling activities of the FDA; and

(5) improved interdepartmental communication.

Dr. Knittle recommended that nutritional programs be established which concentrate on the earliest periods of human development, and which take into account the total nutritional environment while keeping in mind individual variations in response.

Specific points and recommendations were made in the subsequent four major areas:

1. Research

a. We need to know more about the connection of risk factors to causation in the case of killer diseases.

b. We need to know more about the way in which changes in diet affect our overall health and perhaps even our behavior.

c. We need to know more, preferably beforehand, but certainly by monitoring and surveillance, about what are the effects of food additives, preservatives, colorings and sweeteners.

d. We need to improve our understanding of how nutrients interact with each other and with drugs.

e. We need to improve our knowledge of human nutritional requirements, and the variability of requirements between and within individuals.

f. We have or are gathering much nutritional data from the food stamp, WIC and school feeding programs that can and should be used for evaluation purposes.

2. Health care delivery system

Health professionals need to be given good reasons and incentives to spend time on nutrition in patient care. Incentives can be related to:

a. the organization of health services,

b. the prestige accorded to nutritional matters,

c. the economic reward for using professional time to impart nutrition information.

Specialty boards should emphasize the importance of nutrition. In general, health professionals need more specific nutrition information in order to do their job.

3. Regulation of the food industry

a Nutrition labeling efforts must be continued and supported.

b. The FDA should continue its efforts to maintain and improve the nutritional quality of the American food supply.

c. It is important that the FDA develop a positive role as a consumer advocate as opposed to the present negative, regulatory image it has among many observers.

4. Education

The problem of education for health, as it has been practiced, is that it has been education in isolation from the real pressures, expectations, and norms of society which mold and constrain individual behavior. It is useless, and may be cruel, to educate people and then make it difficult for them to do what you have taught; that is, we offer nutrition and health education at the same time that we offer barrages of commercials for soft drinks, sweet snacks, high-fat foods, cigarettes and alcohol.

The question arises, how can government persuade people to take personal responsibility for their health without trampling on individual choice and freedoms?

Dr. Cooper cited the HEW programs as appropriate government activity, and offered that at present a major problem is just how to include preventive nutritional health practices in the health care financing system without creating opportunities for abuse.

Dr. Winikoff submitted the following statement of government activity:

"Real attention to the problem of poor nutrition requires political leadership at the highest level of government. . . . The nutrition of people is not affected only by what scientists know or by what doctors tell them, or even by what they, themselves, understand.

"It is affected by decisions in the area of agricultural policy, in economic and tax policy, in export and import policy. . . . Nutrition is a complex subject which involves decisions of food production, transportation, processing, marketing, consumer choice, income, and education, as well as food availability and palatability. . . . [In short,] nutrition is not simply a scientific issue, it is also a political issue and an economic issue."

Dr. Lee closed out the testimony by citing the Committee's role in earlier years in awakening Americans to the problems of malnutrition and poverty, and submitted that the Committee's expansion into the broader area of nutrition and health signaled the beginning of a process which would once again raise the consciousness and in turn improve the health of the American public.

JULY 28TH: CANCER AND DIET

Cancer is the second biggest killer in the United States and perhaps our most dreaded disease. Cigarette smoking is related to 30% of the cases of cancer, and there is now strong preliminary evidence that nutritional imbalances in the diet contribute to at least another 30%in men and 50% in women of the cancer cases. For example, positive correlations have been found between high fat consumption and breast cancer and colon cancer; and between a lack of fiber and cancer of the lower intestinal tract.

While it must be emphasized that correlation does not mean causation, definitive causation should not be required before thorough consideration and action is warranted. I think it is time for a major initiative in the United States to eliminate all types of malnutrition, and below is an outline of what I envision:

(1) A comprehensive nutrition surveillance system. We have been so negligent in this area that we don't even know what we eat.

(2) A nutrition education program from the first grade to medical school.

(3) Increased emphasis by the medical community and the government on preventive health care and the creation of a nutrition profile, or examination, so that an individual will know what is best for him or her to eat.

(4) Greater coordination by the different governmental agencies in the area of nutrition and health with a centralized office, and greater emphasis on health in our food and agriculture policy.

(5) Greater research in the area of human nutrition and on the effects of additives.

(6) Prevention made an integral part of any health insurance program we undertake.

The following highlights from the second day of hearings may prove useful in determining the appropriateness of a program of action such as the one outlined above, and more specifically suggest avenues to pursue in order to reduce the toll taken by cancer.

Dr. Gio Gori of the National Cancer Institute stated that we need accurate tests for assessing nutritional status, and that in one or two years we could develop good surveillance methods, which presently are unavailable. At present we cannot provide health personnel with sufficient information about cancer and diet. Education can play an important role, but first we must have the correct information to distribute, and thus the educational problem cannot be solved overnight.

Dr. Ernst Wynder of the American Health Foundation suggested that all of us suffer from what he calls the illusion of immortality, and thus even when we develop the appropriate nutrition information and a means to convey it, there will be an effectiveness problem because we all believe that it (cancer, diabetes, hypertension, etc.) will not happen to us. In order to be overcome the illusion of immortality, we must have an interdisciplinary approach to nutritional carcinogenesis, coordinated by NIH or HEW.

In conjunction with education, we must institute "managerial preventive medicine" which is an organized program, involving nutritionists in the scientific and medical community, government agencies and members of the food industry, to promote product modification that conforms to an American diet and yet represents the best in nutritional values. Dr. Wynder suggested that this is an area where the Committee can play a particularly important leading role.

In addition to "managerial preventive medicine," Dr. Wynder presented another program directed at America's youth that would attempt to apply, through education, the practical nutrition information we have learned. The program, which has already been trial-tested by the American Health Foundation, is called "Know your body. Nobody takes better care of you than yourself." Schoolchildren are tested for cholesterol, blood pressure, and other risk factors, and then they receive a health passport with their health profile. By involving the children in their health care, the program should make America's youth more responsible for its personal health.

Dr. Mark Hegsted of the Harvard School of Public Health underscored that, while America most definitely has problems of over- or improper consumption, under-consumption is still a greater problem and is easier to combat than over-consumption. He also asserted that everything we know about the killer diseases indicates that it is prudent for Americans to modify their diet. Americans should eat less food in general and specifically eat less meat, fat, especialy saturated fat, cholesterol, and sugar; and eat more unsaturated fat, fruits, vegetables, and cereals, especially whole grain cereals. He reiterated that the risks are high under our present diet, and that there are no identifiable nutritional risks associated with shifting our diet in the direction described above.

Dr. Wogan of the Massachusetts Institute of Technology concluded the day's testimony by stating that cancer is a preventable disease and we should do everything that we can do to formulate a prevention strategy. He seconded Dr. Kritchevshy of the Wistar Institution, Philadelphia, in emphasizing that we must examine the total diet and the interaction of the multiple components, and raised the question of possible synergistic effects. Reinforcing a position taken by all of the witnesses, he concluded that if we are to develop an accurate preventive strategy for cancer, or any other disease, we must continue in our research efforts to identify the causal factors.

THE NATIONAL NEIGHBORHOOD POLICY ACT

Mr. PERCY. Mr. President, I am very pleased to have my name added to the list of cosponsors of S. 3554, the National Neighborhood Policy Act. This legislation, introduced by the able chairman of the Banking Committee (Mr. PROXMIRE) and our distinguished colleague, Senator GARN, establishes a National Commission on Neighborhoods which will have 2 years to make an assessment of existing policies, laws, and programs that affect neighborhoods and to make recommendations. Among the many items to be considered are:

1. New mechanisms to promote reinvestment in existing City neighborhoods;
2. More effective means of community participation in local governance;
3. Policies to encourage the survival of economically and socially diverse neighborhoods;
4. Policies to prevent blockbusting, redlining, resegregation, speculation in reviving neighborhoods, and to promote urban homeownership;
5. Policies to encourage better maintenance and management of existing rental housing;
6. Policies to make maintenance and rehabilitation of existing structures at least as attractive from a tax viewpoint as demolition and development of new structures;
7. Modifications in local zoning and tax policies to facilitate preservation and revitalization of existing neighborhoods;
8. Reorientation of existing housing and community development programs, and other tax and subsidy policies that affect neighborhoods, to better support preservation objectives.

Mr. President, such a study is urgently needed. The alarming decline of our great urban centers, underlined so emphatically last year by the New York City crisis, has pointed up the value of an examination of Federal policies and programs that have aggravated and contributed to the problems of the cities. We have finally awakened to the fact that our neighborhoods are important national resources, the heartbeat of our cities, and the unique depositories of the various cultural and economic traditions our cities have inherited. Certainly, my own city of Chicago is one of the outstanding examples of a city rich with neighborhood culture and identity. These neighborhoods are the breeding ground for the activities needed to revitalize our urban areas.

Cities are living things. They grow and develop, flourish and then die like the great civilizations of which they are integral parts. But our American cities are too young to die and if they are prematurely weakened then it may be that we are killing them off with unthinking policies and programs. To identify the factors associated with the decline of our neighborhoods is the first step toward reversing the trend of urban deterioration and reinforcing the promise of our cities as havens of hope and opportunity for all people.

Mr. President, I endorse the principle and substance of this legislation and strongly urge its prompt consideration by the Senate.

CURRENT WELFARE PROGRAMS INADEQUATE

Mr. HUMPHREY. Mr. President, I would like to call to my colleagues' attention an article that appeared in the August edition of Dun's Review. It was written by Leonard M. Greene, the president of the Institute of Socioeconomic Studies and is entitled "Doing Away With Welfare."

In this article, Leonard Greene urges the "cashing out" of the present welfare system and advocates replacing it with Federal income maintenance based on a national tax credit system. He believes that our system is counterproductive because it fosters disemployment by discouraging entry into the job market. He states that the "staggering economic and social disutility" of this system should be changed to one that provides minimum subsistence with strong incentives to work, to become self-supporting, and contribute to the national economy. He darkly reminds us of the words of Franklin D. Roosevelt who warned that continued dependence upon relief "is a subtle destroyer of the human spirit." This article represents one of several approaches to the complex and demanding issue of welfare reform.

Mr. President, Mr. Greene discusses this proposal in greater detail in his article which I commend to my colleagues' attention. I ask unanimous consent that Leonard Greene's article "Doing Away With Welfare," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DOING AWAY WITH WELFARE

(By Leonard M. Greene)

Millions of informed Americans are profoundly apprehensive. Amidst the enthusiasm and good feeling generated by the 200th anniversary of the Declaration of Independence, there is graved concern that the threat that massive welfare spending poses to our way of life.

Former Health, Education and Welfare Secretary Caspar W. Weinberger bluntly warns that, at current growth rates, public assistance will consume more than half our Gross National Product by the year 2000. One-half of the American people will be working to support the other half. Like any number of critics, he feels that welfare reform is today's top priority.

Welfare's contribution to the financial plight of our cities was one of the big headlines of 1975. Yet Presidential candidates, for the most part, have been conspicuously cautious in addressing the topic in 1976.

A more popular campaign issue has been unemployment, a complex effect of both political and market factors. But what of disemployment—the widely acknowledged result of the economic disincentives caused by the present welfare system? What of the lives ruined by a system that discourages entry into the job market? What of the businesses that struggle—and often fail—because welfare recipients can't afford to go onto their payrolls?

Consider the staggering economic and social disutility of the present system. An army of 160,000 unproductive welfare bureaucrats (one for every 1,320 Americans) distributes billions of unearned dollars to millions of our neighbors.

Today, virtually no citizen will deny that jobs or pay increases for poor welfare families often impose severe economic penalties; or that gains in income often cancel out such benefits as housing, Medicaid and food stamps; or that such cash assistance as Aid for Dependent Children often is severely reduced (at what amounts to a 67% tax rate) if families go to work.

The Institute for Socioeconomic Studies has been exploring the feasibility of "cashing out" all present welfare programs and substituting federal income maintenance based on a national tax-credit system.

Advocates of welfare programs based on cash grants and tax credits represent a *Who's Who* of America's leaders. Among them are the governors of New Jersey, New York, Pennsylvania and Wisconsin, who recently warned that "the harm done by the [welfare] system has been well documented. It tolerates unacceptable variations between different parts of the country that cannot be explained by regional differences in the cost of living. It encourages family instability and disintegration. It does too little to help the working poor. It permits excessive levels of ineligibility and fraud. It is unworkable for the family in need and is fast becoming too costly for the taxpayers."

TAXABLE ALTERNATIVE

Governor Ella Grasso of Conneticut has called for consolidating "the existing food stamp, SSI and AFDC programs into a single federally financed cash system providing a floor to the income available to every family with an appropriate federally funded cost-of-living escalation."

Economist Milton Friedman has long urged replacing the dole with taxable income maintenance. Sympathetic editorials have appeared in a wide spectrum of news media.

Former Rep. Martha W. Griffiths of Michigan, long Congress' resident expert on welfare reform, pioneered legislation to cast out the welter of benefit programs. Senator Jacob Javits of New York introduced the Griffiths proposal to the Senate as the "Tax and Allowances Act of 1976." The bill calls for a system of rebatable tax credits and cash grants guaranteeing a family of four a minimum annual income of $4,300. Throughout the nation, the levels of other federal-assistance programs would be uniform.

The basic idea is to provide minimum subsistence with strong incentives to work, earn, become self-supporting and contribute to the GNP. Every citizen would receive an annual tax credit. For example, a family of four might receive credits of $1,500 per adult and $750 per child, or a total of $4,500. Should there be no income, the family would receive the full amount in cash. A family gets its credit *and* the money it manages to earn, subject to income tax.

How would a family with an income around the poverty line (roughly $5,500 for a family of four) fare? If, for example, its earned income came to $4,500, that, plus its tax credit, would bring gross income to $9,000. Standard income tax rates might cut that to a net of $8,000. In short, this family would have gained $3,500 in spendable income. Moreover, it would have a strong incentive to try to earn more—and more.

That is in sharp contrast to the same family's plight under existing law. If through various programs it were receiving aid totaling $4,500, the addition of earned income amounting to $4,500 could very well deprive the family of all of nearly all of its present $4,500 in "benefits." It could work hard—and not gain a cent in income. Incentive to get a job is, obviously nil.

The tax-credit idea differs from the negative income tax idea in several ways. First, it is universal and not given only to the poor. Second, it requires no means test. Third, it works through the existing federal tax system.

Ultimately, this third point provides the rational basis for gradually retiring (or redirecting) the battalions of welfare workers who minister to so many dependent Americans. "Cashing out" current programs will drastically reduce administrative costs. The *single* federal transfer payment might not require *any* staff beyond what the IRS now uses to handle income-tax refunds.

Can we afford a national tax credit program? Based on the credits cited above, total cost would be approximately $270 billion. But the American taxpayer already pays more than $200 billion in a failed effort to help the poor and needy with a broad range of public assistance and social insurance programs.

With savings from programs "cashed out," plus replacement of the standard personal exemption with tax credit—plus the increases in GNP as work replaces welfare—a $270 billion savings seems a reasonable target.

And is the price we pay merely an economic one?

In the wake of Watergate, our rising crime rate and other national scandals, much is said about moral crisis in America. What forces brought about these grave symptoms of the weakening of community values? How much blame lies with the demoralizing influence of life on the welfare roles?

It was Franklin Delano Roosevelt who warned that "continued dependence upon relief . . . is to administer a narcotic, a subtle destroyer of the human spirit." How timely his words seem today when millions turn to real narcotics and other escapes from productive involvement in community life. One can only wonder at the extent of welfare's damage to our national work and civic ethic. And one can only hope that our people will meet the problem in time.

ARE SUNSET LAWS THE ANSWER?

Mr. BROCK. Mr. President, the realm of big Government is once again being attacked, and sunset laws are one of the more recent weapons used in the battle against it. These laws, if passed by Congress, would allow for a reevaluation of existing agencies after a specified period. The idea of sunset laws brings to light the fact that there is an ever-increasing constituency in support of a smaller Government role in their lives. Arlen J. Large discusses various aspects of past and present sunset laws in a recent newspaper article and I ask unanimous consent that Mr. Large's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ARE SUNSET LAWS THE ANSWER?

(By Arlen J. Large)

WASHINGTON.—It's not written down anyplace, but the working motto of Congress might as well be painted on the Capitol dome: "We dont want to hurt anybody."

So everyone's precious tax gimmicks stay stubbornly on the books, despite all the speechmaking about tax "reform." Programs for loans, subsidies, grants and other ingenious forms of "aid" roll on and on, unexamined by all but friendly committee chairmen. Federal agencies become immortal, lest one's death bruise the ego of its constituency.

But its easy-going motto is getting Congress in increasing trouble, and as good politicians the members know it. The clearest note sounding in their ears this year is a strong general dissatisfaction with growing government, a collective unhappiness with the sum total of federal busy-work which somewhere pleases the fractional constituencies. To be perceived as responding to the strong anti-government mood, the members must see to it that axes start falling. *Congress must hurt someone.*

Better, though, that the axing appear impersonal, the inevitable and automatic result of how the rules work. Sorry, old man, the system did it. Don't blame me.

And that explains the growing popularity among legislators, here and elsewhere, of the "sunset" approach to government. An existing federal program must be put to a special test of its worth, say, every five years. The bureaucrats who manage it must justify the first dollar they want to spend, not just the latest increase over last year's budget. In the jargon that's called zero-base budgeting, and if the test isn't met the program must automatically die. The sun sets on it, while billions of dollars are saved and millions of voters cheer.

A sunset mechanism is already in effect in Colorado, and other legislatures around the country are considering it. To apply the idea to the massive federal machine would take quite a leap, but a serious start is under way. The Senate Government Operations Committee intends to write a federal sunset bill after the Democratic Convention recess. There may not be time to pass a bill through both houses this year, but sponsors console themselves with the thought of having help next year from a newly elected President Carter, who extolls zero-base budgeting. Support for sunset laws and zero-base budgeting has even found its way into the 1976 Democratic platform.

In the Senate the bill has 56 co-sponsors, from Kennedy to Goldwater. The attraction is that Senators like Edmund Muskie of Maine, the chief sponsor, can promise: "If this bill becomes law, there will be a dramatic change in the operations of the federal government."

THEORY VERSUS REALITY

On paper, there would seem to be no need for dramatic change in the method by which Congress spends the people's money, guards against waste and stamps out boondoggles. First a federal program must be "authorized" by a law written by House and Senate committees that specialize in the subject. An authorization law sets broad policies and imposes ceilings on money appropriated from the Treasury. Many programs must be re-authorized every year or so, giving the specialist committees a chance to review results and let the bummers expire.

And there's another check. Every year almost every agency must go before the House and Senate appropriations committees to justify its budget request. Lawmakers preparing the annual appropriations bills are free to root out errors and abuses by asking the bureaucrats nasty questions. During floor debate any member of the House or Senate can propose cutting an agency's appropriation all the way to zero. All it takes is a majority vote.

In short, Congress has all the power and opportunity it needs to pull the string on big government. But the power is mostly unused, the opportunities are passed up.

The merchant marine subsidy program must be re-authorized each year, and friendly members of the House and Senate authorizing committees can be depended on to swear that the payments are essential to the nation's survival. Teachers' groups rally every three years to make sure there's no hitch in the routine re-authorization of aid to schools. The armed services committees occasionally will kill an authorization for a tank or a helicopter, but they mainly sing the Pentagon's song. At appropriations time, the members habitually focus on the increases in an agency's budget from the preceeding year, and not on whether the outfit should get any money at all.

If spending programs have proven hard to stamp out by legislative will, so have special preferences in the tax laws. Four years ago no less a power than Wilbur Mills, who was chairman of the House Ways and Means Committee, hit upon a crutch he thought would make it easier for Congress to confront the "loophole" problem. All tax preferences would come up for review over a fixed three-year schedule, forcing Congress to decide which ones had enough merit to be continued. His bill even won favorable mention in the 1972 Democratic platform. Though nothing came of it, this "action-forcing" notion became a precursor to the current crop of sunset proposals.

Another inspiration for the sunset concept is the new congressional budget control system. It sets deadlines that Congress must meet at fixed times during a session for decisions to be made on spending totals and individual appropriations bills. Sponsors boast that the new budget machinery is working beautifully and can serve as a model for requiring deadlines for scrutinizing federal agencies.

"In the absence of these kinds of action-forcing procedures," says Sen. Robert Byrd of West Virginia, "reform proposals are likely to fall victim to the potent opposition of special interest groups."

Sen. Byrd is a co-sponsor, along with Sen. Charles Percy of Illinois, of a bill that would pose a sunset threat to federal agencies that regulate business. The President would have to follow a timetable for recommending changes, say, in the powers of the Civil Aeronautics Board, and Congress would face deadlines in approving his plan or devising its own. If all plans are blocked by airline industry efforts to retain the regulatory status quo, the sun would set on the CAB's power to award exclusive routes or confer other economic benefits.

When the Senate Government Operations Committee starts considering sunset proposals this month, it's more likely to start with Sen. Muskie's bill applying to all government programs, not just regulatory activities. As did the old Wilbur Mills proposal, the bill would require tax preferences to be put to a fixed schedule of review by the House and Senate tax-writing committees.

The bill would require budget officials in the Executive Branch to follow the same five-year cycle as Congress in putting federal programs to a zero-based spending test. Ford administration men aren't very keen about that. The requirement is "far too mechanical and inflexible," White House budget boss James Lynn has testified. Other veteran bureaucrats warn that requiring every agency to justify all spending would just produce mounds of paper and require a bigger federal work force.

During the Kennedy administration the Agriculture Department experimented with zero-base budgeting, but abandoned it after a year. "It was just too much," recalls William Carlson, now retired, who helped plan the effort. Mr. Carlson says the exercise "is probably a good idea" for a new Cabinet officer wanting to learn just what his department does, but that "it's impossible to do every year." Zero-base budgeting can indeed spot programs having little value, he says, "but what you discover is that the lowest priority things are there for political reasons."

That brings the question right back to the political will of Congress to end somebody's federal benefits, despite the crutch of "action-forcing" timetables. One skeptic is Ernest Gellhorn, dean of Arizona University's College of Law. "If the will is there," he has testified, "putting it into statutory form does not change anything. If the will is not there, the next Congress is going to change it." He pointed specifically to clean-air deadlines set in 1970 that Congress this year is pushing back.

REFORM RHETORIC

The Federal Energy Administration faced a sunset situation under existing law last June 30 when its old authorization expired, but Congress voted to extend its life. To some, this showed a lack of backbone. The extension demonstrated, complained Rep. Abner Mikva of Illinois, "that while regulatory reform is a fine topic for a rousing campaign speech, it is considerably less popular when the opportunity to translate talk into action arises."

If it appears that a sunset bill is making progress, special interest groups are sure to start begging for exemptions. A spokesman for the Veterans of Foreign Wars already has declared it would be "both unnecessary and discriminatory" to expose veterans benefits to to the sunset threat. Sen. John Glenn of Ohio, a co-sponsor of the Muskie bill, has suggested Congress itself might want to spell out sunset exemptions for some civil rights and energy-research programs. Also, Sen. Glenn isn't sure how the sunset principle would apply to such long-standing government institutions as the Navy. "That's a grey area," he says.

With the armed services committees in charge of its zero-base budget review, the Navy doubtless will be pretty safe. Indeed, the problem of the friendly committee could make the proposed zero-base budgeting requirement a fairly prefunctory exercise, with almost all programs routinely passing the test.

"There's no perfect check on a friendly committee," concedes freshman Rep. James Blanchard of Michigan, sponsor of a sunset bill in the House. Nevertheless, he thinks the independent streak being shown by more House members lately "is already breaking up the grip of friendly committee heads over programs."

And changes in public attitudes toward government may make the old we-don't-want-to-hurt-anybody motto more outdated than Capitol Hill cynics think. Sen. Abraham Ribicoff of Connecticut, chairman of the Government Operations Committee, has for 13 years watched Congress take care of each program's narrow constituencies and he thinks things are changing. "Sure, there are small constituencies behind each program," he says, "but there's a bigger constituency out there that's tired of too-big government, and those small constituencies can't stand up against that."

The first instinct of Congress when confronted with something new is to seek an institutional fix: set up a new committee, set deadlines, tinker with the rules. Bureaucratic Mickey Mouse often disguises a failure to act on substance, and the current sunset fad could quickly descend to play-acting. But if it's only a mental crutch to get the members to thinking about the status quo in a fresh way, the exercise may be worthwhile. Politicians need all the help they can get in screwing up their courage to yell "No" when it's time to vote.

MONTANA DAY

Mr. METCALF. Mr. President, the District of Columbia has imaginatively made a part of the Bicentennial celebration a series of days dedicated to the States of the Union. Yesterday was Montana Day. This is the 41st of these "days." A program of this day is as follows:

MONTANA DAY IN THE NATION'S CAPITAL

U.S. Capitol Ceremony—West Front Terrace, 11 A.M. Rainsite: Rotunda of Russell Senate Office Building.

Greetings by Master of Ceremonies, Dr. A. Knighton Stanley, Executive Director, D.C. Bicentennial Office.

The National Anthem—The Great Falls Bicentennial Chorale of Great Falls, Montana.

Remarks and proclamation of "Montana Day"—D.C. Mayor Walter E. Washington.

Recitation of an original poem written in honor of Montana by a D.C. student poet.

Remarks—Senator Mike Mansfield.

Remarks—U.S. Representative John Melcher.

Remarks—U.S. Representative Max Baucus.

Performance of "Montana, My Montana"—The Great Falls Bicentennial Chorale.

Concluding remarks by Master of Ceremonies.

Montana Congressional Luncheon, 12:15 p.m., B339 Rayburn House Office Building.

Introduction of Master of Ceremonies—Dr. A. Knighton Stanley, Executive Director, D.C. Bicentennial Office.

Greetings by Mistress of Ceremonies—Mrs. Connie Fortune, former D.C. President and current National Board Member of the League of Women Voters.

Performance—The Great Falls Bicentennial Chorale of Great Falls, Montana.

Introduction of special guests by Mistress of Ceremonies.

Welcoming remarks—D.C. Councilman William Spaulding (elected representative of D.C.'s Montana Avenue neighborhood).

Recitation of an original poem written in honor of Montana—D.C. student poet.

Remarks by the Montana Congressional Delegation.

Concluding remarks by Master of Ceremonies.

The Bicentennial Parade of American Music Concerts—4:15 and 5:30 p.m.

Sponsored by the National Music Council and Exxon Corporation.

4:15 p.m. In the Kennedy Center Grand Foyer, The Montana Woodwind Quintet, The Great Falls Bicentennial Chorale.

5:30–6:30 p.m. In the Kennedy Center Concert Hall pianists Nelita True and Randolph Wendt—The Montana Woodwind Quintet, The Great Falls Bicentennial Chorale.

One of the very interesting parts of this continuing series is a recognition of the streets in the District of Columbia named after the various States. Students in schools nearest to such streets study the special history, art, and literature of the State to which they are assigned and the students write reports and essays and poems on these studies. Wilson Elementary School is nearest to Montana Street in the District of Columbia and Ronnie Shaw of Wilson Elementary was chosen to take part in the program and read his poem which follows:

American's Dream

Hail to the land of silver and gold;
Your wonderful treasures can never be told.
You are the answer to our nation's prayer,
With coal, oil, and gas everywhere.
Montana, shining like a forever beam,
Montana, you're an American Dream.

—RONNIE SHAW.

Ronnie touched a very contemporary theme when he told of the coal and gas and oil of the Treasure State and then suggested that we keep Montana shining like a forever beam. This is what Montanans are seeking in insisting upon saving Montana's prairies and forests and streams while contributing to aid in alleviating some of the Nation's energy shortages.

The original poem at the luncheon was written and recited by Steven Briscoe who was admittedly the star of the occasion. His poem "Montana the Great" was:

Montana the Great

Montana
Gee what a great State;
You did your part to help
Make America great.
Even though you came in 1889,
You produce like you've been
Here a long time.
Your farmlands just can't be Beat.
You give us both winter and spring wheat.
Montana,
You're a beautiful State, gosh,
Montana, you're just great.

—STEVEN BRISCOE.

CONFERENCE REPORT ON S. 5, GOVERNMENT IN THE SUNSHINE

Mr. PERCY. Mr. President, the consideration of the conference report on S. 5 is the culmination of many long months of work by the Senate Government Operations Committee and by the House Judiciary Committee.

I wolud like to pay particular tribute to those members of the Government Operations Committee who have contributed so much to this legislation. Senators CHILES, WEICKER, and ROTH have been working on this legislation since the subcommittee stage and are to be highly commended for their efforts. Senators RIBICOFF and JAVITS took an active role within the full committee and contributed to the development of this legislation. It has been a pleasure to work with all of them throughout committee consideration, the original Senate floor debate and finally the conference with the House which we had about 3 weeks ago.

The basic purpose of S. 5 is to provide that meetings of Government agencies shall be open to the public, except under certain specified circumstances. The thrust of this policy enacted in this legislation is to entitle the public to the fullest practicable information concerning the decisionmaking processes of the Federal Government.

S. 5 is applicable to any agency where the collegial body comprising the agency consists of two or more individual members, at least a majority of whom are appointed to such position by the President with the advice and consent of the Senate. Such meetings shall be open except for certain specified reasons. These reasons include closing meetings on grounds of national security, internal personnel rules and practices, individual privacy, disclosure of information compiled for law enforcement purposes, the disclosure of trade secrets of financial or commercial information, and several other reasons which are clearly spelled out in the legislation. To close a meeting, the majority of the entire membership of the agency must vote to close the meeting, and the vote of each agency member is to be recorded. S. 5 requires that public announcement be made of meetings ahead of time including when the meeting is to occur, the place of the meeting, the subject matter of the meeting, and whether the meeting is to be open or closed to the public.

A transcript, electronic recording, or complete minutes must be kept of any closed meeting or any portion of a closed meeting. For financial regulatory agencies the minutes requirement applies. This includes agencies such as the Federal Reserve and the Securities and Exchange Commission. For other agencies, the electronic recording or transcript requirement applies.

The legislation vests in the U.S. District Courts jurisdiction to enforce the requirements of this legislation. Any person may bring an action prior to or within 60 days after the meeting in question, and this action may be brought where the meeting was or is to be held, where the agency has its headquarters, or in the District of Columbia. The legislation authorizes the court to assess against any party reasonable attorney fees and other litigation costs reasonably incurred by any other party who substantially prevails in the court action. However, the legislation specifically does not set up a new standard of individual agency member liability as was the case in S. 5 as originally passed by the Senate.

S. 5 also establishes new rules concerning ex parte communications to prohibit outside contacts designed to influence the course of agency proceedings.

Mr. President, there has been a good spirit of cooperation throughout this entire process among the Senate Government Operations Committee, the House Government Operations Committee, the House Judiciary Committee, and the executive branch. I feel that our final product is one that will open up the decisionmaking process of the executive branch, but not in a way as to hamper the work of the executive branch agencies affected by this legislation. I commend this bill to my colleagues in the Senate and am pleased that the conference report has been adopted and that this legislation will be enacted into law shortly.

EFFICACY OF HUMAN RIGHTS TREATIES

Mr. PROXMIRE. Mr. President, I have long felt that Senate ratification of the Genocide Treaty would serve as a catalyst to action among these nations that are not yet signatories to this important document. I have also stated my belief on many occasions that ratification would induce stronger opposition on the part of all nations toward genocidal acts. Passage would also enable the United States to again assume the leadership role which it once maintained in the area of human rights and which has been hindered too long by the inaction of the U.S. Senate.

This leadership, together with international support which would be generated, would present a powerful front to potential perpetrators of genocide in the world today and tomorrow. Mankind cannot afford to pay the price of additional delay.

Mr. President, the fact that genocide remains an ever-present threat was clearly demonstrated during the tragic events in Burundi during the Nigerian civil war. In 1973 I wrote to Mr. Marshall Wright, the Assistant Secretary for Congressional Relations at the Department of State and asked for the Department's view whether our efforts to halt the genocide in Burundi would have been more effective had we ratified this treaty.

Mr. Wright responded that the Department did not feel that the U.S. Government would have acted any differently during this crisis because of ratification of the treaty but that ratification would have added needed strength to our efforts to bring the bloodshed to an end.

He also suggests, as I have, that passage of the convention by the United States might induce other nations to follow our lead and demonstrate their contempt for acts of genocide.

Mr. President, I ask unanimous consent that the reply I received from Mr. Wright be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
July 16, 1973.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: The Secretary has asked me to reply to your letter of June 29, 1973, concerning Burundi and the Genocide Convention. As you know, the Department of State vigorously supports ratification of the Genocide Convention. We are pleased that President Nixon's initiative of resubmitting the Convention in 1970 is on the verge of resulting in consideration of this important treaty by the full Senate. The Convention defines the crime and declares it to be a crime under international law. The Administration could not support ratification more strongly.

With regard to the events in Burundi last year, it is doubtful that the United States having been a party to the Convention would have made any significant difference in our actions. We thought then (and still do) that the answer lay with the African leadership in persuading the Government of Burundi to cease the killings. Quite frankly, there was very little the USG could do to stop the killings while they were taking place. The sole opportunity for immediate action lay with the African neighbors of Burundi. For this reason, the focus of our efforts was the African leadership individually and at the OAU. Unfortunately, they failed to deal with the problem.

The role of the United States last year and again this year was one of moral leadership in opposition to the killings in Burundi. The fact the United States was not a party to the Convention on Genocide weakened our position. The Governments of Rwanda, Tanzania, Kenya and Uganda, who expressed concern over the events in Burundi, are also not parties to the Convention and this may well have been a factor in their reluctance to act. Hopefully ratification by the United States Government and our encouragement of others to do the same would strengthen the opposition to such crimes as took place in Burundi and would serve as a warning against such activities in the future.

I hope that this information has been responsive to your inquiry. However, if you have any further questions please let us know.

Sincerely yours,
MARSHALL WRIGHT,
Assistant Secretary for Congressional Relations.

THE GOVERNMENT ALONE CANNOT PUT BRITAIN BACK ON ITS FEET

Mr. BROCK. Mr. President, Denis Healey, the Chancellor of the Exchequer of Great Britain, recently had an article published in the London Sunday Times as a rebuttal to Robert Bacon and Walter Eltis' "Declining Britain" articles which were printed in the RECORD on June 23 of this year. The Chancellor supported their three basic propositions: First, the underlying objective of economic policy should be to maximize a long-term rate of economic growth, second, faster economic growth depends on the rate of expansion of manufacturing growth, and third, this expansion of manufacturing growth requires more investment in industry. Healey also feels the "root cause" of England's slow growth of output and decline in manufacturing output is due primarily to the fact that they increased the consumption of imported goods over British made goods. The "Declining Britain" articles are very ably analyzed by Chancellor Healey, and I request unanimous consent that his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE GOVERNMENT ALONE CANNOT PUT BRITAIN BACK ON ITS FEET

The "Declining Britain" articles have provided the most stimulating and comprehensive analysis of our economic predicament which I have yet seen in a newspaper. The subsequent comments on the Opinion Page have shown how wide a range of disagreement there is even on the fundamental causes of our weakness, still more on how to put them right.

I too disagree with some of the arguments advanced by the authors (Robert Bacon and Walter Eltis of Oxford University) and with some of their emphases. But I strongly support their three basic propositions.

First, it should be the underlying objective of our economic policies to maximise the long-term rate of economic growth, since this is the only means by which we can improve the standard and quality of living in Britain.

Second, faster economic growth depends on raising the rate at which we expand our manufacturing output; there is no other way of paying for all the increased imports which growth will require.

Third, a faster growth of our manufacturing output will require more investment in industry; this will not be possible unless we limit the increase in the claims on the nation's resources which are made by public and private consumption.

I think, however, that Bacon and Eltis failed to identify the root cause both of our slow growth of output and of the decline in our manufacturing capacity as a proportion of the gross domestic product. These were not due, as some people would maintain, to the fact that we preferred the consumption of services (including public services) to the consumption of goods. It was due to the fact that we met a rapidly increasing share of our consumption from imported goods rather than goods produced at home. In this respect our experience was not very different from that of other industrial countries. But unlike these other countries, we have not been able to match the increasing use of imported manufactures in the home market with an increasing penetration of our own goods in foreign markets.

LOW RATE OF INVESTMENT

It is because the growth of exports failed to keep pace with the growth of our imports of manufactures that the net demand for our manufacturing output increased so much more slowly than that of other countries. Our comparative failure in exports was mainly due to our comparatively low level of manufacturing productivity. The Organisation for Economic Development (OECD) has published figures showing that the output of each industrial worker in Britain, expressed in dollars, is well under half what it is in France, Germany and the USA, and not much more than half what it is in Japan. These figures require correction since exchange rates do not fully reflect true purchasing power, but they still point to our central problem—an inadequate rate of investment compounded by inadequate use of investment.

For each worker in industry British firms have been investing only two-thirds as much German firms and only one-third as much as French firms. In addition a study in the West Midlands has shown that, on average, machines in factories stand idle for half the day, that production workers spend only about half their time actually operating machines, and that only one-fifth of the time it takes to process a product is spent in production.

We must raise the productivity of our manufacturing industry either by using existing machinery more efficiently, for instance by planning production better and by reducing over-manning, or by investing in more up-to-date machinery. In my view one will not be possible without the other.

It is not enough to raise productivity if the result is simply to reduce the number of jobs in industry. The trade unions have every right to make this point. Although we are not the only country to have experienced a fall in the relative size of our manufacturing sector, the fall has been steeper in Britain than in most other advanced economies, while in some countries, for example Italy and Japan, the ratio of manufacturing output to gross domestic product has been rising.

The contrast is even starker if we look at the employment figures: between 1955 and 1973 manufacturing employment in the UK fell by 13 per cent while in France it rose by 11 per cent, in the USA by 19 per cent, in Germany by 31 per cent, in Italy by 57 per cent and in Japan by 155 per cent. In many of these cases, of course, the increase in manufacturing, as in service employment, was achieved at the expense of employment in agriculture—a source far less available to us.

BREAKING INTO A VICIOUS CIRCLE

If this trend continues, industry cannot expect enthusiastic support from working people in the attack on overmanning. But by the same token, the unions cannot expect employers to increase investment to create new jobs unless they can count on an adequate return on the capital invested. Such a return is unlikely so long as the increase in output per unit of new investment in British industry is so low compared with its competitors—for example, only half of what it is in Germany and one-third of the rate in France.

Somehow we must break into this vicious circle and achieve simultaneously both a better use of existing capital, and more capital investment. That is the key to halting the decline in our manufacturing industry. We cannot hope to raise our productivity fast enough to balance our overseas accounts and increase our rate of growth if the share of resources devoted to manufacturing continues to fall.

This process of industrial regeneration is bound to be a gradual one, but however pressing our other problems we must now make a start. In the end this regeneration must be achieved by both sides of industry at the level of the individual firm. But the Government has a vital contribution to make both at the micro-economic level and through its general management of the economy.

We have already made a concerted attack on the problem at the micro-level through policies directed specifically at industry or at particular sectors of industry.

In my April Budget I allocated £100m to a scheme of selective assistance to encourage firms to bring forward major capital projects, and to assist industries to restructure and modernize themselves, and this scheme has been so successful that we have extended it with further allocations coming to £00m. The value of the investment stimulated in this way can be six times the cost to public funds.

We have introduced a whole series of measures—more will be announced this week—to improve the supply and mobility of skilled labour, to create jobs in areas of high unemployment, and to encourage employers to hold on to labour in preparation for the next upturn. We cannot ignore the need to take remedial action in cases where failure during the recession could permanently cripple a key manufacturing sector which otherwise has a future.

We are also making a special study of the areas where bottlenecks are most likely to emerge when the upturn comes and of what can be done to avoid them. Most important of all, progress has been made, with the Chequers meeting of the National Economic Development Corporation and, subsequently, on developing an industrial strategy in co-operation with the TUC and CBI. This will soon give us a comprehensive framework in which to examine the problems of individual industries and pick out the areas where we have the best prospects of raising productivity and stimulating growth. The Government must also create the conditions in which the manufacturing sector as a whole can thrive and expand.

IMPORTANCE OF HOME MARKETS

At the moment we face a high level of unemployment, together with substantial deficits both in our balance of payments and in public sector finances at home; the need to finance these deficits sets severe limits on the scope in the short run for stimulating home consumption. Recovery must be led by exports and investment.

But industry will not invest unless it is confident that there will be a market for the additional goods produced and that its investment will earn a reasonable rate of return. Not all the extra demand can come from export markets; by the time the new plant and machinery is turning out new goods, home markets will have to play a part in taking up the increased production. It is the lack of confidence in a rapidly growing market which explains more than anything else the difference between our own investment performance and that of, for example, Germany, where firms have consistently undertaken a higher rate of investment out of an apparently lower rate of post-tax profitability. They have made up for lower profit margins by very much higher sales.

We will not be able to sustain continued growth until we have brought down the rate of inflation and strengthened our balance of payments. We are now making good progress toward both of these objectives. North Sea oil will soon be giving us massive help toward the second. Indeed in the longer term North Sea oil offers Britain advantages in the restructuring of its economy which no other European country can match.

But we shall not be able to exploit these opportunities when they come, unless we prepare for them well in advance. The additional manufacturing capacity must be ready when it is needed and our economic policies must give first priority to the needs of industry.

This priority must shape our policy in at least three fields. We must ensure that British firms remain competitive in foreign markets. We must ensure that companies can achieve an adequate return on capital. We must ensure that the public services do not pre-empt resources which industry will require.

To stay competitive we must bring down our rate of inflation to the level of our foreign rivals and to stay there. This is the objective which we stated in the July White Paper The Attack on Inflation and it will remain a key element in all our policies.

In its first four months, not a single settlement in breach of the £6 pay limit has been maintained and the policy is winning increasing support in the trade union movement. While a voluntary policy for incomes of this nature will remain essential if we are to master inflation, its success will depend to a large extent on the success of our industrial policy, particularly in creating new jobs.

As regards the return on capital, the Government has always asserted the need for a private sector of industry which is vigorous, alert and profitable. The changes in the Price Code last year and the massive relief of the tax on stock appreciation backed these words with deeds. Company profits fell too low last year in Britain, as in many other countries. We must accept that our industrial strategy will not work unless profits can rise.

Some of the contributors to the debate on the Bacon and Ellis articles seemed to imply that public spending is somehow intrinsically bad for economic welfare. I totally disagree with any such view. The social wage is an important part of the standard of living for every family in the country and is an indispensable means of achieving greater fairness in society by directing help to those who need it. But if we want continuing progress in this direction, we must now give first priority to industrial growth. If we raise public spending in the short term, at the expense of productive investment, we shall destroy our chances of improving public services in the future.

CO-OPERATION BY ALL PARTIES

The contribution which the Government can make in these fields is a necessary but not sufficient condition for the regeneration of our manufacturing industry. It is on the managers of industry, the providers of finance and the men and women who work in industry that the main responsibility will fall.

The managers must be more ready to improve plant efficiency and exploit new technologies; to re-establish and extend their markets, especially overseas; to increase investment and to set aside any rise in profits for this purpose.

The financial institutions must co-operate to make money available for manufacturing industry more readily than in the past. The trade unions must help management to increase the efficiency with which existing and new plant is used. I do not believe we can solve our industrial problems without this kind of co-operation between the Government and those directly concerned. Both the so-called "Left" and "market sector" solutions which Bacon and Eltis present as the only alternative policies give far too little recognition to the need for such co-operation in any democracy which has a mixed economy.

Like it or not, the structure of our industry, like the structure of our democracy, depends on co-operation between working people and their employers at their place of work. It depends no less on co-operation between the trades unions and the great employers' organisations at the national level. It depends also on co-operation between both and the Government of the day. No policy which ignores this fundamental fact of our national life can hope for success.

CHILE'S SECRET POLICE: AN INSTRUMENT FOR THE SUPPRESSION OF FREEDOM

Mr. KENNEDY. Mr. President, since the Chilean junta seized power over 3 years ago—the junta's notorious secret police—the DINA—has violated the law and international covenants in its abuse and repression of thousands of innocent Chileans. Prisoner mistreatment, torture, and unlimited and illegal detention are just some of the weapons used by the junta's Gestapo in order to intimidate the Chilean people and repress any opposition to the junta's domestic policies.

This tragic record is just a major reason why the American people continue to oppose any support to the junta and continue to hope for the restoration of Chile's democratic tradition.

A few weeks ago the Boston Globe carried an informative article regarding the DINA's abuse of human rights in Chile, and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

DINA: Chile's Secret Police—Torture Took Five Lives in 1976

(By Paul Heath Hoeffel)

Santiago, Chile.—Although President Augusto Pinochet's junta is indisputedly the prime target for political change, it is Pinochet's secret police, known as the DINA (Direction de Inteligencia Nacional), which will determine any real change in Chile's human rights situation.

The recent waves of arrests, carried out by the DINA before and after the Organization of American States (OAS) conference, have led many observers to believe that either Pinochet is lying about concrete steps towards a better image or that he is losing control over his secret police.

In either case, it is clear that the DINA's influence is ubiquitous, not only in its torture centers but in high-level political and economic policy decisions.

The DINA, a police intelligence network consisting of an estimated 7,000 military personnel, 5,000 civilians and 8,000 informers here and abroad, is answerable by law only to Pinochet. It is directed by Colonel Manuel Contreras Skpulveda, an intimate of Pinochet and the most notorious of "that special breed of wolves," as a father of a dead DINA victim described them. They include scores of Chilean officers who have received special intelligence, antiguerrilla and, word has it, sophisticated "interrogation" or torture training in Washington, Texas, or at the Pentagon's School of the Americas in the Panama Canal Zone.

The DINA, according to documented Catholic Church and Human Rights Committees investigations, is responsible for at least five torture deaths this year. Although Pinochet claims that a number of torturers have been court-martialed for abuses, there is no doubt that torture is carried on in a half dozen unofficial detention centers. The Church has seriously considered imposing its maximum punishment—excommunication—to pressure the DINA to refrain from tortures.

Last year the DINA contended that 119 persons, whose relatives said had been arrested by the secret police, in fact had been killed in shootouts with security forces abroad—an allegation later proved false. This year the number of disappearances has risen to 1,058.

As for the release of prisoners, promised after arm-twisting by the U.S. State Department in May, only 305 prisoners have been freed. "They might as well put revolving doors in the prison camps," remarked one socialist who has spent two years in a variety of detention centers. "For every person released, another four go in."

Church sources estimate that 95 percent of the 90,000 political arrests since September 1973 were carried out illegally, even under the arbitrary laws set down by the junta. Pinochet decreed that arrest procedures ensure that the victim's family be informed within 48 hours of the place of detention, name of arresting officer, and charges. This virtually is never carried out.

The DINA rarely responds to a writ of habeas corpus. When the president of the Supreme Court recently requested information concerning a long list of detained persons, Contreras formally responded that he was not obliged to release such information unless specifically ordered to by Pinochet.

"These arrests are little more than kidnapings in reality," said one of Santiago's best lawyers. "The DINA's immunity from the legal apparatus of our court system inspires such insecurity that everyone feels vulnerable."

While most observers believe that Contreras remains Pinochet's obedient hatchet man, one of ex-President Frei's closest advisers fears that the DINA is now out of Pinochet's control, a Frankenstein's monster which inspires the fears of even junta officers.

"Hitler's Gestapo at least obeyed its commander," the adviser said. "But it's becoming increasingly evident that the DINA doesn't take orders anymore. It functions as a private army responsible to no one but itself."

The DINA's role in the formulation of both national and international policies has been pointed out. It was instrumental in such decisions as the closing of the Interfaith Committee for Peace in Chile, a Church-based organization designed to help the victims of the regime, especially political prisoners.

The DINA had a role in the application of the free market economy measures of Finance Minister Alberto Cauas, which have deepened recession and raised unemployment to nearly a third of the work force. It is also behind Chile's decision to negotiate with Bolivia over the latter's demand for a seaport seriously upsetting relations with neighboring Peru.

Since much of the financial aid desperately needed by the junta is preconditioned on signs of a genuine improvement of the human rights situations, diplomats here watch the Pinochet-DINA relationship like hawks. If, as many suspect, Pinochet must rely on the DINA as his most forceful political resource, then his *tacit permission* to continue its sinister operations might well prove to be his economic undoing.

The question arises: how long can Pinochet survive with a base of terror instead of politics?

TAIWAN PARTICIPATION IN XXI OLYMPIAD

Mr. BROCK. Mr. President, the recent inexcusable action by Prime Minister Trudeau of Canada disallowing Taiwanese participation in the XXI Olympiad has once again brought politics into the games. Prime Minister Trudeau appears to have become the "bully" while Taiwan has become the "mouse that roared." The governments of the world must surely realize that these games are for friendly athletic competition and not politics. The games have represented good will throughout their existence and now is not the time to change this by the intervention of politics in these or future games. I ask unanimous consent that articles by Will Grimsley and William F. Buckley, Jr., be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

TAIWAN BECOMES MOUSE THAT ROARED AT GAMES

(By Will Grimsley)

MONTREAL.—Twenty-four hours before the opening of the XXI Olympic Jeux, let's erect an imaginary medal stand and drape the first gold around the neck of Taiwan.

Victory in the first of the Games' escalating hassles should go to the mouse that roared.

Only this plucky, virtually abandoned island off the coast of China emerged from the week-long, closed-door deliberations with any spine showing.

The International Olympic Committee, with its impressive board of princes and lords, characteristically took the cowardly way out.

After juggling the issue like a red-hot iron for days, seeking compromise and the soft ground, the body decided to try to save face by talking Taiwan into changing its name.

It was a sacrifice of principle for the sake of survival.

The question arose in every body's mind: How long can this once proud and idealist movement—dedicated to freedom and good will among men of all nations, colors and creeds—endure?

Certainly not long.

Once the erosion begins in the foundation of ideals, decay becomes a steady and irreparable process. The erosion began several years ago. No one—not Avery Brundage, or Lord Killanin—has had the iron will to shut it off.

Prime Minister Pierre Trudeau of Canada has seen his prestige badly tarnished.

He allowed himself to be tossed into the role of the consummate politician, more subject to the pressures of the People's Republic of China and profitable wheat deals than to basic principles.

On the streets of Montreal and in the shops, Trudeau's own citizens are grumbling that he couldn't be elected dogcatcher.

Furthermore, he allowed Canada's normally friendly relations with its southern neighbor, the United States, to be severely damaged.

The United States and its conscientious Olympic chief, Philip Krumm, deserve at least the silver medal for support of Olympic principles in the Taiwanese cause.

However, some of the moves were obviously self-serving and there were periods of vascillation during the long siege at the Queen Elizabeth Hotel—"We may pull out," "We won't pull out," "Yes, we will," "No, we won't."

President Ford got into the act—perhaps a bit unwillingly—and every day there was something coming out of the White House with the President's press secretary, Ron Nessen, saying the President was doing this and the President was doing that.

Yet, in Montreal, Krumm was insisting that Ford was not sticking his nose into the controversy at all, merely expressing concern and asking to be kept advised of developments.

In the wings was the shadow of Ronald Reagan, who also wants to be President, pressuring Ford to react as in the cases of the Panama Canal and detente with the Russians.

More political gobbledygook with the youths who run, jump and swim—a case of the Olympic Games becoming again a stage for personal attention.

Everybody keeps walking on eggs whereas what is needed is a tough guy with a sledgehammer and devotion to principles moving in to whale away at plastic gods.

Whether they march behind the sun-splashed red banner of their national color or a soiled hankerchief, whether they compete or don't compete, the Taiwanese have stood their ground gamely and provided the IOC with at least one favor of inestimable value.

They have occupied the IOC sessions to such exhaustion that the stage has been yanked from beneath the boycott-threatening African nations. With little chance now to turn their threat into an attention-grabbing, world-watching maneuver, they may just call off their bluff and find an excuse to hang around.

TRUDEAU'S "BULLY" ROLE

(By William F. Buckley, Jr.)

Concerning Mr. Trudeau's holy war against the Republic of China, a few observations:

1. The romancing of Red China has been an avocation of Mr. Trudeau for a good many years and threatens, now, to become something of an obsession. The commonly accepted explanation for Mr. Trudeau's taking on the job of deciding what an Olympic team may call itself, what flags it may display and what songs it may sing, is that he is frightened at the prospect of displeasing the Red Chinese lest, in reprisal, they stop eating Canadian wheat.

The Chinese do set great store on pride, but the choice before the Chinese isn't shall they stop eating Canadian wheat, but rather shall they stop eating? The Communist Chinese do not trade with Canada out of any sentimental attachment to Canada's policies. They trade because they need Canadian wheat, even as the Soviet Union needs American wheat. If it is correct that Trudeau succumbed to diplomatic intimidation on this point, then he is more naive than a prime minister ought to be.

2. If—as I suspect—Mr. Trudeau was not so much yielding to mainland Chinese pressure as indulging an appetite for anti-anti-Communist waspishness, it pays to examine seriously the claims he puts forward. He announced that since Canada recognizes the government of mainland China, it cannot recognize another government laying claim to sovereignty over mainland China, which is correct.

It is not correct that it follows that an Olympic team representing the competing government should not be allowed to play, exhibiting its own plumage. In fact, Mr. Trudeau's intervention is a clear violation of the rules of the International Olympic Committee, which reserves the right to exclude a particular team.

That right is not subject to pre-emption by any host government, and it is perhaps the least attractive feature of Mr. Trudeau's action that he issued his ultimatum precisely at a moment when the Olympic Committee had no practical alternative than to submit. Mr. Trudeau had as hostages several thousand athletes from all over the world. In that sense, however attenuated, the spirit of Munich survives in the Olympic Games.

3. The passion of Mr. Trudeau for diplomatic and juridical punctilio calls into question his sensitivity to logical consistency and philosophical decorum. Why should it offend him that a Taiwanese athlete should run around the stadium holding up a flag adopted by China after the revolution of Sun Yatsen?

If nomenclature is his habit, why does he object to Taiwan's calling itself the Republic of China? Taiwan isn't a republic, and mainland China's government is after 25 years as yet unvalidated by The People.

If Mr. Trudeau's point is that Taiwan's passion to govern mainland China is an impulse to imperialism, why does he permit the Soviet Union, which squats over East Europe, to participate? Is it his point that imperialists manques are not okay, but successful imperialists are?

Where does France come? Somewhere in between? In his last visit to Canada, the president of France uttered the strangled cry, *"Quebec Libre!"*

Should France be permitted to play? Should Canada's flag be hoisted in the name of those Quebecois who insist on independence? Will Mr. Trudeau, while he is at it, settle for us the 100-year dispute between Chile and Peru on the matter of their proper frontiers?

Or is it easier to conclude (4.) that Mr. Trudeau doesn't care about consistency, rules, agreements, but enjoys his role as bully in behalf of avante-garde Communist designs?

The enslavement of Taiwan by the mainland should occupy a place in the priority of international concerns somewhere in the area of the liberation of Quebec.

PARKS AND RECREATION—AN INNOVATIVE MUNICIPAL SERVICE

Mr. HARRY F. BYRD, JR. Mr. President, I have recently seen a copy of the August 1976 issue of Virginia Town & City, the official magazine of the Virginia Municipal League.

That magazine carries a fine article on municipal parks and recreational facilities, entitled "Parks and Recreation—An Innovative Municipal Service." In it, the authors, Phillip T. Hester and Shurl R. Montgomery, have briefly explored the challenges facing the professional park planners and list the highlights of innovative park and recreational programs which have been undertaken in the Commonwealth of Virginia.

I believe we must encourage a strong local and State commitment to the preservation and development of urban open spaces and large recreational areas within easy accessibility of our major population centers.

I am proud of the record which has been made by Virginia's cities, counties, and towns in this regard. Not only does the State government have a strong program for statewide planning and development of recreational facilities, but the localities reflect and reinforce this priority.

Adequate recreational and leisure areas are not only an integral part of a healthy social environment—they are necessary to its creation.

The fine programs of the cities of Richmond, Alexandria, Williamsburg, Danville, and the many other areas around Virginia mentioned in the article are indicative of this philosophy.

I ask unanimous consent that the article by Messrs. Hester and Montgomery from Virginia City & Town be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Parks and Recreation: An Innovative Municipal Service

(By Phillip T. Hester and Shurl R. Montgomery)

The acceptance of public recreation and parks as a viable function of municipal government has accelerated at a record-setting pace within recent years, and all indicators point to much greater advances in the future. Recreation and parks is no longer the stepchild of local government but is one of its fastest growing public services.

The recreation and parks professionals must realize that they cannot rest on their laurels; there is too much change taking place for them to do this. "We currently live in an era of immense change in terms of technology, international affairs, social values and relationships, medicine, education, population trends, family life, career choices, business practices, mobility and leisure."[1] What must be remembered is that this rate of change is constantly accelerating. That which was popular a year or two ago may quickly lose public favor.

In order for the park and recreation profession to continue this necessary growth, park and recreation professionals must become "future gazers," to be innovative and creative, and to shift their thoughts to the future tense. While the park and recreation professionals in Virginia have done an adequate job in the past, they must step up the tempo of their efforts to make innovative thinking and programming a way of life, constantly striving for new ideas and programs that keep the profession in the main stream of life.

Before discussing some of the many innovative and creative programs currently being offered by the Virginia recreation and park professionals, we should briefly look at these two words, innovation and creative. Innovation means to introduce something new—a new idea, method or device. Creative is defined as the act of inventing or making—an original work. These are rather broad definitions and park and recreation agencies tend to perceive these terms in different ways. Although all park and recreation agencies are trying to meet the needs of their communities through innovative and creative programming, what may be an innovative idea in one community may not be as unique in another area. As one recreation and park professional in our state remarked, "A variety of new programs have been tried with considerable success. These programs are not innovative as much as they are new. Innovative programs to us are ones which employ an old idea and work it from a new slant to give it a fresh look."[2] Although all Virginia park and recreation agencies share the same goal of trying to meet the needs of their communities by providing recreational services to all, each department has its own idea of the type of innovative programming that will be successful in their particular community.

The following activities give an account of the novel programming by Virginia recreation and park professionals.

SPORTS AND ATHLETICS

Because of their great popular appeal, sports and athletics play a significant part in most public recreation programs and attract more participants than any other form of organized recreation. Park and recreation departments are promoting and providing games and sports for children, young people and adults on various levels of skills, ranging from the beginner to the highly skilled individual. Recreation opportunities are provided on playgrounds, at recreation buildings and indoor centers, on ball fields for league and team play, and at swimming pools and skating rinks where individuals may engage in informal self-directed activity. Many of the areas and facilities are lighted for evening activities, which have further extended play and the number of participants.

Athletic programs provided by park and recreation departments vary from baseball to boxing to coed activities with a magnitude of activities in between.

The City of Richmond has emphasized a number of athletic programs through its Lifetime Sports program. Through this program, the Richmond Parks and Recreation Department attempts to provide opportunities and facilities for individuals to learn the basic skills involved in tennis, golf, bowling, and badminton in hopes that they will continue competition and participation in later years.

The Town of Marion has expanded its youth baseball program by developing a tee ball program. Tee baseball, an excellent program for youngsters six through nine, is an informal training program intended to teach young children the fundamentals of baseball by the simplest method, letting them play the game. Only the fundamentals of the game are to be emphasized, where to run, when to run and how to catch and field. The key point in this program is emphasis on participation and learning the fundamentals rather than on winning.

Bristol and Richmond have taken advantage of the tennis boom by participating in the National Junior Tennis program. This program provides free tennis play on teams for all children of all backgrounds on public courts; it especially introduces tennis to youngsters who have never played before. Every chid is assigned to a team and no one is turned away because of lack of equipment, court space, time or supervision.

Another interesting innovation has been the development of "mobile" recreation program units by the City of Petersburg, in cooperation with the Pepsi Cola Bottling Company. This program is designed to bring tennis instruction and play to neighborhoods through the use of mobile units and permanent sites. Mobile tennis vans, provided by Pepsi Cola, are taken to designated play areas on a regular basis. The vans are staffed by instructors and contain all the equipment required for play and practice.

Many park and recreation departments have joined in the trend toward water sports by building swimming pools and initiating activities in aquatics. The Cities of Norfolk, Charlottesville and Richmond are but a few localities that have developed interesting aquatic programs. Special course offerings include synchronized swimming, lifesaving, water shows and scuba.

The Performing Arts: Music, Dance and Drama

Community park and recreation departments have been extremely active in promoting the arts. Orchestras, choral groups, bands, modern dance and ballet companies, instructional programs, little theater groups, drama workshops and other similar activities have sprung up throughout the State. Many local park and recreation departments have developed or cooperated in the promotion of cultural programs.

The Alexandria Department of Recreation and Cultural Activities sponsors several musical organizations. The Alexandria chapter of Sweet Adelines, Inc., is a four-part harmony group for women. The group not only performs for local organizations but also competes on a local and regional level. Another musical organization, the Alexandria Choral Society, presents concerts to the public each year. The City of Alexandria Pipes and Drums is a Scottish bagpipe band, and its purpose is to promote Highland piping and drumming.

The City of Wililamsburg also sponsors a very successful musical program. The Colonialettes is a precision marching and twirling unit which is extremely popular in the Williamsburg area.

The Virginia Beach Department of Parks and Recreation offers a wide variety of cultural activities, including creative dramatics, children's improvisations, and children, teen and adult theatre workshops. The department sponsors three companies which are active in presenting programs throughout the year. These are "The New Playmakers," a teen acting company, the "Children's Theatre Company," and "The Puppet Company," which presents skits showing the history of Virginia Beach.

The Richmond Department of Recreation and Parks had a leading role in establishing The Federated Arts of Richmond, which is composed of non-profit groups promoting participation and interest in music, drama, art, dance and literature. The Arts Council presents the free summer Festival of Arts series which is organized and produced by the Parks and Recreation Department. The series features programs presented by community arts groups such as the Richmond Symphony, the Children's Theatre, the Shakespeare Players and many others. The department also offers a series of Mobile Arts programs for the more than 50 summer playgrounds. These include a music unit, combination storytelling and creative dramatics unit, and an art appreciation unit.

Several Virginia municipal park and recreation agencies are involved in a folk arts program. Cities like Virginia Beach and Danville hold folk arts festivals which feature the works of skilled craftsmen, offer entertainment such as folk, bluegrass, barbershop quartets, wandering minstrels, and offer instruction and classes in a number of traditional skills handed down through the generations.

OUTDOOR RECREATION AND ACTIVITIES

Many agencies throughout Virginia have sponsored new programs concerned with outdoor recreation and nature activities.

The City of Danville has developed a number of unique classes. The recreation department has an arrangement with a local airport to offer ground lessons and flights. In cooperation with a commercial stable, the department offers lessons in horseback riding. Working with the Danville Community College, the City has established an environmental and outdoor recreation course teaching backpacking, canoeing and mountaineering. In addition, the Danville Ski Club, initiated by the Parks and Recreation Department, participates in numerous trips and clinics throughout the year.

The recreation departments of Portsmouth, Virginia Beach, Danville, Chesapeake and Norfolk have developed nature centers, wildlife displays, regular film presentations, guided nature walks and special trails for the handicapped.

SPECIAL EVENTS

In addition to the regular ongoing program activities, all park and recreation departments in Virginia feature special events for their citizens. It is in this area that many departments introduce ideas which are extremely novel.

The Charlottesville Parks and Recreation Department has operated the City Market, a place where people can buy and sell silver jewelry, leather crafts, quilts, paintings, ceramics, pottery and vegetables. Monthly entertainment, planned for the market, has included the East Coast Egg Tossing Championship, Virginia State Watermelon Seed Splitting Contest and live bands.

The Virginia Beach Department of Parks

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[1] From Kraus and Curtis, *Creative Administration in Recreation and Parks,* St. Louis. 1973; The C. V. Mosby Company, p. 223.

[2] From Greiz, D. L., *Innovative Programs in Virginia Municipal Recreation Agencies,* Independent Study, 1975.

and Recreation sponsors a number of events in conjunction with the Virginia Beach Neptune Festival. These include milk carton boat races, a fishing rodeo and the log rolling contest. The department is the patron for a number of other special events which include the Lake Trashmore Open Water Ski Show and Tournament, Little Miss Virginia Beach Pageant and the Tidewater Soap Box Derby.

Many departments celebrate holidays with special events. Bristol sponsors "Santa Calling" at Christmas where local children are called by Santa Claus. The Portsmouth Department of Parks and Recreation supports a "Christmas Lighting of Olde Town" where people gather in a park to go caroling through Olde Town. The people then return for hot cider, roasted chestnuts and a Christmas tree lighting.

Other community-wide celebrations are based on the traditional holidays of Halloween, Thanksgiving and Easter. Each of these days suggests a special theme, certain kinds of activities and a unique set of purposes which the local departments facilitate.

PROGRAMS FOR SPECIAL GROUPS

The facilities and activities of the park and recreation departments are generally available for everyone. Nevertheless, park and recreation professionals in Virginia realize that one of their important functions is to provide special services for such groups as the youth or teenagers, the handicapped, the aging and others who may be unable to take part in much of the regular program.

YOUTH PROGRAM

The Danville Parks and Recreation Department sponsors the Mayor's Youth Council, which is involved with radio and television shows and distributes an eight-page monthly newspaper called "Youth Review." The Youth Council conducts outdoor holiday activities such as camping, backpacking and weekend retreats. The Mayor's Youth Council is actively involved with the City Beautiful Committee, bringing into the City special speakers, personalities and entertainment and Family Focus activities. Another aspect of this Council is a Youth Employment Commission which locates jobs for interested teens.

The Town of Vienna sponsors a teen employment agency which is a community service, providing area residents with youthful part-time assistance. The Falls Church Recreation and Park Department also sponsors a Youth Employment Service (YES). This service has even been expanded to include senior citizens.

THERAPEUTIC PROGRAMS

When the City of Richmond began offering recreation programs for its mentally and physically handicapped citizens during the Fall of 1967, it became one of the first municipalities in the country to do so. Now many other communities around the State have followed in the footsteps of Richmond, even to the extent of modeling their own programs after Richmond's, and are now offering recreation programs to their special populations. The program in Richmond serves the mentally and physically handicapped including individuals with mental retardation, cerebral palsy, polio, multiple sclerosis, epilepsy, blindness and deafness. The department cooperates with and provides consultative services to the special populations. Activities offered by the Richmond Department include movies, music, nature and wildlife studies, arts and crafts. Special activities include indoor tennis, bowling, dinners, dances and trips to local points of interest. During the summer, the department offers a summer camp program which includes mobile nature programs, special trips and tennis.

The Town of Vienna has a therapeutic recreation program which is designed to aid children who have mild problems caused by lack of physical fitness and physical coordination, obesity, emotional disturbances, social difficulties, speech or auditory disabilities, and perceptual difficulties. The program's objective is to improve the various aspects of the total fitness for living of the child through an approach to improvement through physical activity, arts, crafts and music.

The Town of Galax conducts a weekly therapeutic swimming program for its mentally retarded citizens. The participants not only develop basic swimming skills but also receive an exciting social and recreational experience.

Suffolk, Newport News, Norfolk, Virginia Beach, Danville and Portsmouth also have full-time professionals working with the mentally or physically handicapped in their localities.

SENIOR CITIZENS

Most park and recreation departments in Virginia sponsor or cooperate in programs for their senior citizens.

The City of Hampton provides an extensive program of activities while Newport News conducts a two-week day camp program for its senior population. Activities include arts and crafts, horseshoes, folk dancing, row boat rides, archery, golf, nature walks and pottery making. In addition, a hot lunch was provided each day by the Peninsula Agency on Aging.

The Danville Senior Citizens Center offers a Halloween Carnival featuring a kissing booth. Old Fashioned Week, another popular special event, includes such activities as watermelon cuttings, pony cart rides, square dancing, and picnicking in the park. Easter egg hunts with grandchildren and trips also provide senior citizens with a social function.

PENAL PROGRAMS

Some public recreation departments in Virginia have taken on the added responsibility of recreation programming in penal institutions. The Norfolk County Jail's recreation program was established by the parks and recreation department to serve the recreation needs of over 200 inmates on a weekly basis. The City Jail's recreation staff consists of a full-time recreation leader and two part-time specialists who coordinate such activities as ping pong, volleyball, basketball, horseshoes, talent and drama shows, tumbling, and a movie once a week.

The Danville Parks and Recreation Department conducts recreation activities for the City Prison Farm. Such activities include recreation programs, concerts, dances, and arts and crafts. Similar activities are also conducted at the Juvenile Detention Home.

As can be seen, "the forms of recreation vary as widely as the interests of a single individual throughout his lifetime and are as diverse as the differences between people." With this thought in mind, parks and recreation professionals at all levels should continue to take the time to look for challenging and innovative ideas. They must dare to challenge the tradition and status quo. They should try to make the parks and recreation movement the leader in innovative and creative services by constantly striving for trends and ideas and thinking. Through this type of attitude, the broad field of recreation and parks will be able to further establish itself as an integral aspect of government and community life.

ACTING ON ENERGY

Mr. PERCY. Mr. President, on August 14, 1976, President Ford signed into law the Energy Conservation and Production Act—Public Law 94-383. This bill started as a simple extension of the Federal Energy Administration—FEA—but extensive amendments added to the bill on the floor of the Senate transformed it into the most comprehensive energy legislation in this session of Congress.

I would like to bring to the attention of my colleagues an excellent editorial on this bill from the Friday, August 6 issue of the New York Times. I ask unanimous consent that this editorial be printed in the RECORD at the conclusion of my remarks.

There being no objection the article was ordered printed. (See exhibit 1.)

Mr. PERCY. Mr. President, I know that there are currently no empty gas pumps, but the fact is that the fundamental problems that caused the Arab oil embargo of 1973 are, in many ways, getting worse.

America is consuming more oil this year than last year and U.S. crude oil production dropped earlier this year to its lowest point in more than a decade—8.1 million barrels per day. We are thus becoming more dependent on foreign oil imports.

In the first half of 1976, the U.S. consumed a daily average of about 16.9 million barrels of oil; 6.6 million barrels of this, or almost 40 percent, was imported crude and refined oil. The Arab OPEC share of oil imports has increased to 37 percent, up from 22 percent before the oil embargo. Thus, the United States is more vulnerable than ever to Middle East embargo threats, and this situation is likely to get worse as the current business recovery continues. Gasoline demand, for example, increased by about 5 percent through the first half of 1976, as compared to the same period in 1975.

The best way to reduce our dependence on imported fuels is through increasing the efficiency with which we use energy. This type of energy conservation activity demands no change in our lifestyles, since it is energy efficiency we are discussing, not energy curtailment. There is wide agreement that the potential for increasing the efficiency with which we use energy is extensive.

Unfortunately, Mr. President, while a large quantity of Federal dollars has been spent on programs to increase energy supplies, there has been relatively little effort made to reduce unnecessary demand. The passage of the Energy Conservation and Production Act is indicative of the fact that at last we may have begun to reverse this tendency to overemphasize supply at the expense of conservation.

The legislation provides for a wide range of energy conservation measures designed to take advantage of available, but currently untapped, opportunities for reducing the Nation's dependence on foreign energy sources by improving the efficiency with which we use energy.

More specifically, the conservation programs include the following:

First, Federal energy conservation performance standards for new residential and commercial buildings. It is estimated that implementation of this program alone will save 6 million barrels of oil equivalent per day by 1990.

Second, a program of $200 million in

grants to low-income persons over the next 3 years to weatherize existing homes and reduce fuel requirements.

Third, a program to provide homeowners and owners of public and commercial buildings with reliable information on the costs and benefits of investments in energy conservation. State governments will be the principal administrative agents in carrying out this program of information and public education.

Fourth, a $2 billion program of Federal loan guarantees to encourage energy conservation investments in public and commercial buildings and in industrial plants.

Fifth, a $200 million program for homeowners and tenants to demonstrate various financial incentives that encourage energy conservation investments in existing homes, including such items as home insulation, storm windows, clock thermostats, heat pumps, and upgrading of heating systems. This program will also provide financial incentives for the installation of solar energy equipment and other devices that rely on renewable energy sources.

Mr. President, the passage of the Energy Conservation and Production Act begins to provide this country with a more balanced energy policy. As the New York Times editorial I referred to earlier states:

> In this legislation, both the Democratic Congress and the Republican Administration can take satisfaction in their efforts to start cutting out the waste in the use of this country's dwindling energy supplies.

EXHIBIT 1

ACTING ON ENERGY

Congress has now brought to the verge of enactment a set of far-reaching energy conservation measures, providing tangible financial inducements for householders and businessmen who take positive steps to save energy.

To the surprise of some energy planners in the executive branch, who theoretically support the bulk of the program, a House-Senate conference approved the conservation measures largely intact last Friday, as part of an Administration bill to prolong the life of the Federal Energy Administration. The final legislative hurdle is to be faced within the coming week when both houses have to vote on the conference report.

Energy conservation is a complex and poorly understood process, involving many small and often seemingly insignificant steps, and clashing directly—for all their lip service to the contrary—with the natural tendencies of powerful vested interests. The present bill falls far short of a comprehensive blueprint for achieving the savings that are possible by more efficient use of energy. But it represents a significant approach to conservation in commercial establishments and residential housing, a sector which consumes 29 percent of all energy in the United States.

Rebates and loan guarantees are authorized for individual initiatives to retrofit existing structures—insulation, installation of efficient heating and cooling equipment and such—and low income families could receive direct grants up to a total of $200 million for weatherizing their homes. Loan guarantees would also be authorized for larger businesses and non-profit institutions embarked on capital improvements for energy conservation. A series of related tax incentives cleared the Senate Tuesday in a separate but complementary action.

A breakthrough of principle was achieved in the mandating of energy-efficiency standards for all new construction, though as a sop to the building industry there is a further opportunity for Congress to veto the enforcement of these national standards once they are drawn up.

The Federal Energy Administration has estimated that a variety of conservation steps, including those in the present bill, could cut in half the rate of growth of energy demand in the household and commercial sector over the decade immediately ahead. And, as the Energy Research and Development Administration argued, "in many instances, it will cost less to save a barrel of oil (for instance, through more energy-efficient home heating) than it will to develop a new barrel of supply."

Advocates of energy conservation, which include almost every expert on the subject outside the boardrooms of the oil industry, have a more complicated message—and far less political clout—than corporations whose natural interest is to produce, and sell, ever more oil. Perhaps this is why, rhetoric aside, meaningful conservation measures have such a slippery path through the political thicket, particularly in an election year.

In this legislation, both the Democratic Congress and the Republican Administration can take satisfaction in their efforts to start cutting out the waste in the use of this country's dwindling energy supplies.

EXPORT ADMINISTRATION ACT EXTENSION—S. 3084

Mr. STEVENSON. Mr. President, on Friday last the Senate passed S. 3084, the Export Administration Act extension. I ask unanimous consent that a summary of the bill as reported and a summary of the amendments proposed to the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 3084 (EXPORT ADMINISTRATION, FOREIGN BOYCOTTS, AND INVESTMENT DISCLOSURE) AS ORDERED REPORTED BY THE SENATE BANKING COMMITTEE, MAY 6, 1976

TITLE I—EXPORT ADMINISTRATION

1. Extends the Export Administration Act for a period of three years from September 30, 1976 to September 30, 1979.

2. Amplifies existing law by providing that in administering export controls for national security purposes United States policy toward individual countries "shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may deem appropriate."

Requires periodic Presidential review of United States policy toward individual countries to determine whether such policy is appropriate in light of the above factors. The results of such review are to be reported to Congress annually.

3. Changes the Department of Defense's mandatory review responsibility from the review of exports to "controlled countries" (as defined in the Foreign Assistance Act of 1961) to the review of exports to countries designated by the President pursuant to the review process described immediately above. Effective date is 90 days after completion of first such review.

4. Requires the Secretary of Commerce, in cooperation with the appropriate technical advisory committees, to review existing U.S. unilateral and multilateral controls to determine whether such controls should be removed, modified, or added in order to protect the national security of the United States.

The Secretary of Commerce is also to explore, as part of such review, ways of simplifying and clarifying control lists.

The results of such review are to be reported to Congress within eighteen months.

5. Requires any person who enters into a contract or other arrangement which would transfer U.S. technology to nations to which exports are restricted for national security or foreign policy purposes to report same to the Secretary of Commerce within 30 days of entering into such arrangement.

6. Requires that in any denial of a license application, the applicant is to be informed in writing of the specific statutory basis for such denial.

7. Increases the term of industry members of the statutorily authorized technical advisory committees from two to four years.

8. Adds exports subject to multilateral controls to the matters on which technical advisory committees are to be consulted. In addition, it requires that such committees be informed of the reasons for any failure to accept any device or recommendations which they may make or render to the government regarding export controls within their areas of responsibility.

9. Requires that whenever an export license application is referred to a multilateral control process for approval, the applicant, if he so requests, is to be given an opportunity to review the documentation to be submitted to such process for purposes of describing his proposed export in order to insure that it accurately describes the export in question.

10. Authorizes agricultural commodities purchased by or for use in a foreign country to be stored in the United States free from short supply export limits which may be imposed subsequently if the Secretary of Commerce, in consultation with the Secretary of Agriculture, receives assurance (i) that such commodities will eventually be exported, (ii) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (iii) that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and (iv) that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country.

11. Increases the maximum penalties for violation of the Export Administration Act as follows:

a. Judicially imposed penalties for a knowing violation of the Act or any rule or regulation thereunder: the first time $25,000 (now $10,000); the second and subsequent times, $50,000 (now $20,000).

b. Judicially imposed penalties for exporting anything contrary to the Act or any rule or regulation thereunder knowing that the export will be used for the benefit of any country designated by the President pursuant to the country review process described in paragraph 2 above: $50,000 (now $20,000 where violator knows that such export will be used "for the benefit of any Communist-dominated nation.").

c. Administratively imposed penalties for violating the Act or any rule or regulation thereunder: $10,000 (now $1,000).

d. In addition, authority would be given to the Government to defray or suspend the payment of any penalty during any "probation" period.

TITLE II—FOREIGN BOYCOTTS

1. Requires U.S. firms which receive a request to comply with a foreign boycott to disclose whether they intend to comply and have complied with such request.

2. Requires that boycott reports which U.S.

firms are required to file with the Department of Commerce hereafter be made public.

3. Prohibits U.S. firms from furnishing any information regarding the race, religion, or national origin of its employees, shareholders, officers, or directors or those of any other U.S. company where such information is sought for purposes of enforcing a foreign boycott.

4. Prohibits U.S. firms from refusing to do business with other U.S. firms pursuant to a foreign boycott demand.

5. Increases the administrative penalties applicable under the Act for a violation of its anti-boycott provisions from $1,000 to $10,000 and makes it clear that existing law authorizes the suspension of export privileges for violations of the anti-boycott provisions of the Act as well as any other provision of the Act.

6. Requires public disclosure of Commerce Department charging letters or other documents initiating proceedings against U.S. companies for failing to comply with the anti-boycott provisions of the Act.

7. Require the Commerce Department to provide the State Department with periodic reports on the information contained in the boycott reports filed by U.S. firms.

8. Require that the Commerce Department's semi-annual reports to Congress under the Act include an accounting of all action taken by the President and Secretary of Commerce to effect the anti-boycott policy of the Act.

9. Makes it clear that the Act applies to banks, other financial institutions, insurers, freight forwarders, and shipping companies as well as all other domestic concerns.

10. Provides that the refusal to deal provisions of the bill neither substitute for nor limit the operation of the antitrust laws.

11. Provides that the bill's anti-boycott provisions apply to persons as well as corporations.

12. Provides that the bill's refusal to deal provisions do not apply to conformity with requirements pertaining to the identity of the vessel on which exports are to be shipped so long as such requirements do not have as their purpose the enforcement or implementation of a boycott. The purpose is to exempt from the reach of the refusal to deal provisions compliance with restrictions common in the maritime trade regarding the vessel on which goods may be shipped.

TITLE III—INVESTMENT DISCLOSURE

1. Amends Section 13(d) of the Securities Exchange Act of 1934 to expand the disclosure requirements thereunder to include disclosure of the following additional information:

a. the residence, nationality, and nature of the beneficial ownership of the person acquiring the securities; and

b. the background and nationality of each associate of the purchaser who has a right to acquire additional shares of the issuer.

2. Imposes new disclosure requirements as follows:

Every holder of record of, and any other person having an interest in, 2% or more of any equity security of a U.S. company subject to the Exchange Act would be required to file reports as prescribed by the SEC at such time, with such persons, and containing such information as the SEC may require. The SEC would have authority to make exceptions not inconsistent with the public interest or the protection of investors.

The 2% threshold would be reduced to 1% on September 1, 1976 and to ½ of 1% on September 1, 1977. However, the SEC could accelerate or defer such dates or grant exemptions from these disclosure requirements if, after public comment, it concluded that such change or exemption was not inconsistent with the public interest or the protection of investors.

S. 3084 SENATE FLOOR ACTION, AUGUST 27, 1976

Adopted, by vote of 65 to 13, the bill as reported (see attached summary) with the following amendments:

1. STEVENSON

Nuclear proliferation

Calls upon the President to seek agreement among nuclear exporting nations.

(a) to terminate exports of enrichment, reprocessing, or heavy water production facilities while alternatives to national facilities are being pursued;

(b) to refuse to export nuclear materials and technology to countries which do not accept international safeguards;

(c) to establish minimum physical security standards;

(d) to establish arrangements for sanctions in the event of violations of any international agreement to control the use of nuclear materials and technology;

(e) to pursue the concept of multilateral fuel facilities; and

(f) to establish arrangements for appropriate response, including the suspension of transfers of nuclear equipment, material, or technology, to any non-nuclear weapons country which has detonated a nuclear explosive device or which has embarked upon a nuclear weapons program.

The President is to report progress to Congress within one year of enactment.

2. HUDDLESTON

Terrorism

States that it is U.S. policy to use export controls to encourage countries to prevent use of their territory to aid and abet terrorists.

3. HUDDLESTON

Agricultural exports

Gives Congress 30 days to override controls imposed on agricultural exports for foreign policy purposes.

4. TOWER

Letters of credit

Permits banks to refuse to honor letters of credit where beneficiary fails to comply with conditions thereof so long as such conditions do not pertain to a person's race, religion, or national origin or the beneficiary's dealings with third persons. Without the amendment, the bill would have prohibited banks from enforcing any letter of credit condition relating to a foreign boycott.

5. STEVENSON

Agricultural exports

Would require that the assurances which the Secretary of Commerce must receive before agricultural commodities may be certified for exemption from export controls under section 108 of the bill also be accompanied by *findings*, developed in conjunction with the Secretary of Agriculture, reflecting those assurances.

6. INOUYE

Oil exports from U.S. foreign trade zones

Exempts petroleum products refined in U.S. foreign trade zones from short-supply export controls unless Secretary of Commerce, in conjunction with Federal Energy Agency Administrator, finds that such products are in short supply.

7. WILLIAMS

Exports of horses by sea

Bans exports of horses for slaughter by sea.

8. WILLIAMS

Dates for increased disclosure requirements

Advances by one year the effective dates for reducing the 2% threshold for the increased investment disclosure requirements of the bill.

POSITION ON VOTES FOR AUGUST 23–AUGUST 27, 1976

Mr. DOLE. Mr. President, the Senator from Kansas wishes to indicate his position on votes that he was unable to vote on last week. This will allow all interested parties to know where I stand on these issues. I ask unanimous consent that a table indicating votes by rollcall number with my position indicated be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Rollcall number, issue, and vote position:

524. H.R. 8603, to amend the laws with respect to organizational and financial matters of the U.S. Postal Service and the Postal Rate Commission, 79 yeas to 9 nays, passed—Y.

525. Allen motion to agree to House amendment with an amendment (unprinted amend. no. 371) to eliminate the $240 million funding for child care services; 65 yeas to 22 nays, tabled (H.R. 12455)—Y.

526. House amendment to Senate amendment, thus clearing bill for the White House; 72 yeas to 15 nays, Agreed. (H.R. 12455)—Y.

528. S. 3091, to establish guidelines for improved management of the National Forest System; 90 yeas to 0 nays, passed.—Y.

527. Randolph amendment no. 2215 to give full consideration to uneven aged management in the Eastern mixed hardwood forest; 64 yeas to 25 nays, tabled. (S. 3091)—Y.

529. Motion to recede from its amendment no. 68 to strike from the bill section barring use of funds to pay for abortions or to promote or encourage abortions (so-called Hyde Amendment); 35 yeas to 53 nays, rejected (H.R. 14232) Positioned at time of vote.—Y.

530. Motion to further insist on its amendment no. 68 requesting a further conference with the House; 53 yeas to 35 nays, agreed. (H.R. 14232) Positioned at time of vote.—N.

532. Fannin amendment no. 2155 to exempt the American Legion Boy's State Program and The American Legion Auxiliary Girl's State Program from Title IX of 1972 Education Amendments; 88 yeas to 0 nays, agreed. (S. 2657)—Y.

531. Eagleton amendment no. 2221, in the nature of a substitute for Fannin amendment no. 2155; 47 yeas to 41 nays, rejected. (S. 2657)—N.

533. Buckley unprinted amendment no. 379, to require a hearing on alleged violations of federal law before federal funds to educational institutions may be withheld; 44 yeas to 42 nays, rejected. Y.

534. Motion to reconsider; 45 yeas to 40 nays, tabled. (S. 2657)—Y.

535. Modified Beall amendment no. 2094 to delete Planning Commission provisions from the bill and substitute procedures to require active participation of various parties in the planning process; 36 yeas to 50 nays, rejected. (S. 2657)—Y.

536. Roth amendment no. 2122 to repeal the Scott-Mansfield language dealing with the segregation in schools enacted in the Education Act Amendments of 1974; 46 yeas to 38 nays, tabled. (S. 2657)—N.

539. S. 2657, authorizing funds through fiscal year 1982 for vocations and higher education programs, after agreeing to committee amendment in the nature of a substitute; 78 yeas to 5 nays, passed. Y.

537. McClure unprinted amendment no. 389 to limit the coverage of Title IX to curriculum or graduation requirements; 28 yeas to 52 nays, rejected. (S. 2657)—Y.

538. McClure amendment no. 390 to define further the term "federal financial assistance with a view to eliminating discrimina-

tion based on sex in colleges; 30 yeas to 50 nays. (S. 2657)—Y.

541. S. 3084, to strengthen and extend for three years the Export Administration Act, after agreeing to committee amendment in the nature of a substitute; 65 yeas to 13 nays. (S. 2675)—Y.

540. Motion to direct the Sergeant at Arms to compel the attendance of absent Senators; 78 yeas to 1 nay, agreed. (S. 3084)—Y.

542. Motion to direct the Sergeant at Arms to compel the attendance of absent Senators; 71 yeas to 4 nays, agreed. (H.R. 8532)—Y.

WYOMING STRONGLY IN SUPPORT OF COMMITTEE'S AGPLANE TECHNOLOGY PLAN

Mr. MOSS. Mr. President, I have received a thoughtful letter from the Honorable Ed Herschler, Governor of Wyoming, regarding his State's utilization of agricultural aircraft, or agplanes.

He is rightly concerned about both the economic and environmental aspects of such utilization, but feels that it would increase with the development of better applications techniques. Governor Herschler then said:

> I am advised that agricultural applicators are strongly in support of your Committee's [agplane technology] plan. I believe that the project is meritorious and could have definite beneficial effects upon agricultural productivity in Wyoming.

Mr. President, I ask unanimous consent that Governor Herschler's letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

July 8, 1976.

Hon. Frank E. Moss,
Chairman, Senate Committee on Aeronautical and Space Sciences, Senate Office Building, Washington, D.C.

Dear Senator Moss: Thank you for advising me of your Committee's request to the National Aeronautics and Space Administration to develop an aerial application technology program for improvements in agricultural aircraft.

You have identified what appear to me as the two major considerations in such a project, which are to make the operation more attractive economically and environmentally. We have some special considerations in Wyoming regarding the economic aspects. We are somewhat limited in the areas where such aircraft can be used, with the major areas of use being on irrigrated farm land and in grasshopper control. Our short growing season also causes some economic problems for those who might consider commencing an aerial application business.

However, with the development of better application techniques, the use of aircraft for pesticide applications would increase. We also expect to see an increase in use of aircraft for weed control. Further, if the restrictions on control of sagebrush were removed by federal agencies, we would have a great deal of sagebrush control through use of aircraft.

I am advised that agricultural applicators are strongly in support of your Committee's plan. I believe that the project is meritorious and could have definite beneficial effects upon agricultural productivity in Wyoming.

Yours sincerely,

Ed Herschler.

IS TAIWAN BUILDING AN ATOMIC BOMB? THE NEED FOR CONGRESSIONAL ACTION

Mr. GLENN. Mr. President, recent press reports based on U.S. intelligence sources, but still unconfirmed by the State Department, indicate that Taiwan has been secretly reprocessing plutonium from the spent fuel of its civilian nuclear program for the purpose of developing a small atomic arsenal.

If this report is true—and I emphasize in all fairness we do not yet know whether it is—Taiwan's action would constitute the first known violation of the Nuclear Nonproliferation Treaty. It would give considerable weight to the warnings of many arms-control experts that the present system of international safeguards is insufficient to prevent the misuse of peaceful nuclear technology for weapons purposes. Most seriously, this report, if confirmed, would support our worst fears that the spread of nuclear weapons capability among nations of the developing world has been accelerated almost beyond the point of control.

Unless the United States is prepared to take decisive action with respect to any alleged violations of the NPT, and with respect to our nuclear dealings generally with other nations, it soon may be too late to prevent the rapid development of a nuclear armed world. As the Washington Post commented in its lead editorial of August 31:

> . . . The United States cannot afford to leave anywhere the impression that it is not really serious about halting the spread of nuclear weapons. In this particular case, a flabby stand could dramatize American relations with Peking and with Tokyo alike. And American efforts to limit proliferation elsewhere would be a shambles.

I ask unanimous consent that the editorial, "A Nuclear Taiwan?" be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. An article in the August 31 issue of the New York Times quotes administration officials as having received indications that South Korea and Pakistan, as well as Taiwan, have made the decision to manufacture their own atomic weapons. This report also states that the administration has received clear indications that "at least some important people are interested in going nuclear" in Argentina, Brazil, Libya, and South Africa—that is, interested in developing their own nuclear arsenals as well.

I ask unanimous consent that this article, "U.S. Fears Spread of A-Arms in Asia" also be printed in the Record at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. GLENN. Mr. President, these are extremely disturbing reports—especially so since because in each case these nations would not be able to develop nuclear weapons capabilities, at least not on a short-term basis, without substantial assistance from the nuclear supplier nations. The time has come to face squarely the world-threatening problem posed by an inadequately controlled atoms for peace program. Although the day-to-day operation of the U.S. nuclear export program and of our nonproliferation efforts with other nations is a responsibility of the administration, Congress ultimately bears the responsibility for insuring that these activities are carried out effectively and efficiently and are guided by sound, up-to-date policies.

Congress may soon have an opportunity to express its will on a major piece of legislation dealing with the proliferation problem. This bill, the Nuclear Explosive Proliferation Control Act of 1976, is now pending before the Joint Committee on Atomic Energy. Its principle sponsor is the distinguished chairman of the Joint Committee on Atomic Energy, Senator Pastore, who is joined by Senators Ribicoff, Symington, Percy, Javits, Baker, and myself. This measure, S. 3770, has won the approval of the Committee on Foreign Relations and represents a compromise substitute for a reorganization bill that was reported by the Senate Government Operations Committee following extensive hearings into the proliferation problem, which I was honored to chair.

Mr. President, the substitute bill represents a considerable improvement over the original reorganization measure, because it contains strong policy guidance for dealing with the danger posed by increased proliferation of nuclear weapons capabilities. The bill would maximize the leverage that the United States still has as the world's leading nuclear technology and supplier nation in negotiating a meaningful set of nuclear-export groundrules with other nuclear supplier nations. If all the suppliers, as the bill proposes, would condition their exports upon receiving assurances from customer countries that all nuclear activities will be safeguarded, that explosive devices will not be developed and that no weapons-grade material will be produced or stockpiled on a national basis, then there is still hope that the atom can be controlled internationally for peaceful purposes.

Mr. President, the rapidly accumulating evidence of the proliferation danger underscores the need for prompt action by Congress in the time still remaining before adjournment. I hope very much that it will be possible for Congress to enact the Nuclear Explosive Proliferation Control Act this year.

Exhibit 1

A Nuclear Taiwan?

The American intelligence system reports—ominously—that the Republic of China on Taiwan is taking a key step to becoming able to make its own nuclear bomb. It is reprocessing spent uranium fuel from one or more of its nuclear power reactors into weapons-grade plutonium. A country with a stockpile of plutonium can quickly—under some conditions, even within days—build a bomb. This sheds the "safeguards" by which the International Atomic Energy Agency seeks to prevent signatories of the Nuclear Nonproliferation Treaty (NPT), such as Taiwan, from diverting peaceful nuclear activities into bomb-making. Some details remain hazy. It is unclear whether the spent fuel being reprocessed comes from a reactor supplied by Canada in 1969; the Canadians shifted their diplomatic ties to Peking in 1970 and thereby lost the capacity to keep a close eye on "their" reactor. The spent fuel might come from someplace else—in which case, if the fuel is not under safeguards, Taiwan has violated the NPT. Nor is it clear just what unsafeguarded reprocessing facilities, beyond its American-supplied "hot cell" research plant, Taiwan may have. What is known, however, is troubling enough: The Republic of China could conceivably be on its way to becoming a nuclear power.

Why? In the face of Taiwan's denials, one can only speculate that some Chinese officials believe a nuclear capability to be prudent insurance against an uncertain future, in particular, against the uncertainties of future American support. Some Chinese Nationalist officials might argue—correctly, in our view—that if Taiwan were to break its word as a signatory of the NPT, it would jeopardize not just its vital peaceful nuclear links with the United States but also its overall political ties. Other Chinese officials might respond that the United States would understand and perhaps even respect Taiwan's concern for its own defense. One can imagine a tentative decision in Taiwan to move forward discreetly, waiting to see what the reaction of the United States, other interested nations and the International Atomic Energy Agency might be.

In the relatively short time since signs of Taiwan's questionable reprocessing activity were detected, the United States has reportedly conveyed its urgent concern on a political level and put a warning hold on the sale of two more nuclear power reactors. The IAEA is also said to be fully aware that its status and effectiveness as administrator of the NPT hinge in large measure on its performance in this case. Now that the matter has become public, the stakes are even higher. We think this is to the good. There may be limits to the extent to which the United States can press Taiwan publicly without producing a nationalist backlash that would torpedo the non-proliferation cause. But the United States cannot afford to leave anywhere the impression that is not really serious about halting the spread of nuclear weapons. In this particular case, a flabby stand could traumatize American relations with Peking and with Tokyo alike. And American efforts to limit proliferation elsewhere would be a shambles.

The impulses which may make a bomb seem attractive or even compelling to some officials on Taiwan are not, we would emphasize, frivolous. Taiwan looks across the Pacific at the United States, and back over its shoulder at Peking, and it is bound to wonder what its future holds. If the United States will not stand still while Taiwan builds it own bomb, then Taiwan has a strong claim on alternative security arrangements based on clear political understandings in Washington, Peking and Taipei. By wise and patient diplomacy, the United States has it within its power to provide such arrangements over the years of change in East Asia which lie ahead. Those who would have the United States shift its diplomatic allegiance forthwith from Taipei to Peking, by the way, would do well to bear in mind the impetus to proliferation which such a switch would impart. There is a delicate strategic and diplomatic equation to be written. A way must be found to do it.

EXHIBIT 2

U.S. FEARS SPREAD OF A-ARMS IN ASIA—PAKISTAN AND SOUTH KOREA ARE CAUSING CONCERN

(By David Binder)

WASHINGTON, August 30.—High-ranking Administration officials, elaborating on reports that Taiwan has begun producing weapons-grade plutonium, said today they were equally concerned about the nuclear intentions of South Korea and Pakistan.

"We don't want to jump on Taiwan alone," one official said, adding "that the United States Government had received indications that all three Asian countries have made the decision to go nuclear," that is, to manufacture their own atomic weapons.

In addition, he said, the Administration has received "clear indications that at least some important people are interested in going nuclear" in Argentina, Brazil, Libya and South Africa. He said the Arms Control and Disarmament Agency currently viewed these four countries as being "in the realm of speculation" as far as their nuclear-weapons potential was concerned.

The officials said, however, "that it was apparent that a psychology of retrenchment" had overcome a number of "third-world governments" because of the realization that the United States was pulling back from international security commitments.

Another United States official said the Ford Administration was under no illusion that it could single-handedly stop countries like Taiwan or Pakistan from developing nuclear weapons. "Our policy is one of containment rather than stopping what we know we cannot stop," he said.

This official noted that as a result of India's 1974 detonation of a nuclear device using American and Canadian equipment and nuclear-fuel supplies the Administration had "tuned up our antennas" on detecting future diversions of atomic materials into the making of explosive devices.

As a result, he continued, the Administration has been receiving a much larger flow of information from other countries on development of nuclear technology.

He pointed out that last spring the Administration had succeeded in persuading South Korea to cancel a contract for a French nuclear-fuel reprocessing plant and had since attempted to apply pressure on Pakistan not to purchase an identical reprocessing plant.

Reprocessing of spent uranium fuel rods into more or less pure plutonium is regarded as a key step in developing an atomic bomb. It takes about 18 pounds of plutonium to manufacture a small atomic weapon.

Speaking of Taiwan, the official said that the Administration was "frankly concerned that there is an overreaction here to indications that have been around a long time, as well as indications from other countries that they may have made the decision to go nuclear."

H.R. 14237—AGRICULTURE APPROPRIATIONS CONFERENCE REPORT

Mr. BAYH. Mr. President, on June 23 the Senate passed H.R. 14237, the agriculture appropriations bill for fiscal year 1977. The bill included $8.1 million for soybean research. Although I submitted an amendment to the Agriculture Appropriations Subcommittee calling for an increase in this important area compared to the President's budget request of $7.3 million, I was in the hospital at the time of the subcommittee markup. My good friend and colleague, Senator EAGLETON, who shares my interest in improving the research effort for this agricultural product, came to my assistance, and I want to thank him for that now.

Although the conference report does not earmark amounts for specific commodities, I am confident that a fair proportion of the $7 million increase provided by the Congress for the Agricultural Research Service—for a total appropriation of $270 million for ARS—will be devoted to increased soybean research.

Mr. President, I would like to point out the importance of additional funding for research of this important commodity. It is essential to the American farmer who is trying to meet the rapidly growing competition from foreign edible oil imports, as well as to starving nations around the world which depend on the United States for food.

During the past 4 years, agricultural production and trade have made front page headlines, not only in small farm communities but also in major urban centers. Most Americans have come to realize what farmers have known all along: agriculture is a major factor in the well-being of the U.S. economy.

In fiscal year 1976, the value of agricultural exports reached an all-time high of $22.15 billion, the sixth straight year of record farm exports. In retrospect, it seems hard to believe that as recently as 1971 Americans were amazed at the then-record value of $7.8 billion in farm exports.

In recent years the Nation has come to depend on agricultural trade to keep the overall trade balance in the black. In fiscal year 1976, nonagricultural trade recorded a deficit of $8 billion, but an agricultural trade surplus of $12 billion gave the Nation a $4 billion favorable balance.

Mr. President, soybeans have played a major role in recent U.S. export trade and in the past 25 years have risen from obscurity to prominence. I am proud to say that Indiana has contributed its share to soybean production and trade. Among the 30 States that grow soybeans, Indiana ranked third in production and export shares in fiscal year 1975, and accounted for 8 percent of U.S. soybean exports.

But soybean yields must be improved. Over the past 15 years, the average rate of increased yield per acre was only 1.1 percent annually. This is, indeed, far too low. Soybean yield progress depends on research which has enabled us to effectively utilize our resources of good land and climate. The United States has excelled in food and fiber production because our unique agricultural system has been goal-oriented. Scientists have not conducted research primarily for the sake of accumulating knowledge alone. Their efforts have improved the efficiency and production of usable commodities. And, as a result, we have been privileged to provide our people with high quality food in abundance.

With the United States as well as other countries so dependent on soybeans as a vital commodity, it is unfortunate that during the development of the soybean industry in this country, we have neglected to properly nourish the soybean research program. As a result, yields have been stagnated and the crop is no longer strongly competitive for acreage. Acreage of soybeans will decline this year because yields are too low to make the crop competitive enough with corn in the Midwest and cotton in the South.

Soybeans have taken up the slack in acreage withheld from other crops for many years. A great industry has been developed with the soybean. From production on more than 50 million acres of cropland in 30 States, the processed oil and protein products are found in every home in this country. But the future is in jeopardy.

The incentive to produce food in this country is based on profitable returns to the farming enterprise. Soybean production must be profitable or the 50 million acres of cropland now in soybeans will be planted to other crops. Such a shift in production would create an imbalance in the supply-demand situation for other crops. Profitable soybean production is essential to the economic health of all U.S. agriculture. This means that soybean yield improvement must be accelerated immediately. Additional ARS research scientists working on soybean yields will provide us with the necessary information to speed the process of yield improvement.

Mr. President, I would like to discuss why the soybean is such an important commodity. It is an unusually nutritious crop. Foods based on the soybean are important to many nations; they have long been a staple food in China, Japan, and Indonesia, for example. Its protein content is 40 to 45 percent the weight of the bean. Soybean oil forms the basis of salad oil, margarine, and shortening. Soybean meal is incorporated into animal feed to produce meat, poultry, and dairy products. Soy flour is an ingredient in breads, cereals, and baby foods. Textured soy protein is used as a meat extender or even as a meat substitute. This product is of growing importance in affluent markets such as Japan and Western Europe, which have small livestock herds in relation to their populations. Processing industries in these countries are also experimenting with soy isolates, a powdered form of soy protein that can be used to make substitute foods. Both soy protein and soy isolates are exceptionally high in protein content, varying from 50 to 95 percent protein.

In a world where severe food shortages are being experienced, many nations are taking a second look at the soybean and its products. For poorer nations, products made from soybeans offer the hope of a high protein diet without the investment of time and money necessary to develop adequate livestock herds. Nations with limited agricultural land note with interest that raising livestock to produce a given quantity of meat requires 15 to 20 times more land than producing soybeans needed to make the same quantity of textured soy protein.

Mr. President, another reason why extra funding for soybean research is needed is due to growing competition from palm oil produced by other countries. Additional funding is necessary to aid American farmers and processors in meeting that competition. Today, the foreign aid and foreign trade policies of the U.S. Government with respect to the production and importation of palm oil portend serious trouble for domestic food prices and domestic commodity markets. Those policies need to be examined, and they need to be changed—to avert that trouble. In short, Mr. President, palm oil imports jeopardize the stability of domestic commerce. There are four key facts to confirm this logic: First, an increasing tonnage of relatively cheap palm oil is being imported into the United States, undercutting domestic producers of competing oils, including soybean oil; second, the American taxpayer is indirectly subsidizing the foreign production and importation of palm oil; third, prospective damage induced by palm oil on the markets for U.S. soybean oil will entail higher prices for soybean meal as producers cut output; and fourth, increased prices for soybean meal will cause both its reduced usage in animal feeds as well as higher priced feeds—which will in turn stimulate higher meat, poultry, and dairy prices. The conclusion is that current Government policy on palm oil will ultimately bring price increases to the American supermarket.

Total imports of palm oil into the United States rose from 440 million pounds in calendar year 1974 to 960.4 million pounds in calendar year 1975, an increase of 118 percent by volume in 1 year. In each of the last 3 months of 1975—October, November, and December—palm oil imports increased by over 100 million pounds from 1974 levels.

The impact of recent palm oil imports on domestic American markets has been serious. According to the U.S. Department of Agriculture, potential sales of 43 million bushels of soybeans to domestic edible oil users have been lost as a direct result of increased palm oil imports in 1975. Unfortunately, this damage promises to worsen. USDA estimates that total palm oil imports may well reach 1 billion pounds for the calendar year 1976, representing an additional loss of 30 million bushels of soybean sales by U.S. growers to their customers.

In short, the soybean producer now faces serious problems which, if not resolved constructively, will harm the American consumer and the American farmer. It is an important step in the right direction that soybean research conducted by the Agricultural Research Service will increase more in the future and I shall do my best to assure that this is the case.

In closing, Mr. President, I want to extend my thanks and my congratulations to Senator McGEE, chairman of the Agriculture Appropriations Subcommittee, for moving a large and complex appropriations bill very rapidly through the Senate and through the conference. As we all know, this bill became law on July 12; together with the Public Works appropriations bill, the first appropriations bills for fiscal year 1977 to become law this session. Early enactment will enhance the efficient use of the funds appropriated by facilitating early and orderly planning.

FEDERAL NARCOTICS ENFORCEMENT

Mr. NUNN. Mr. President, last week the Permanent Subcommittee on Investigations held 4 days of hearings on Federal narcotics enforcement. We now have had the benefit of receiving 22 days of testimony on this subject. I believe it would be beneficial to pause for a moment to reflect on our hearings spanning well over a year.

It is my belief that this subcommittee has played an important role in helping to stimulate actions which have improved our overall Federal narcotics efforts: a new DEA management team which has redirected the major efforts of the Agency; a Domestic Council white paper on drug abuse which confirmed problems we had surfaced in our investigation and hearings and which proposed solid and constructive recommendations; a closer cooperation between DEA and the Bureau of Customs to strengthen interdiction of drugs at our borders; a closer cooperation between DEA and the Internal Revenue Service to make vigorous use of the tax laws against top level narcotics violators; a shift of emphasis from the street arrests to the concentration on major violators, and other changes too numerous to mention here.

I compliment majority and minority staff who worked as one unit with untiring efforts in helping to produce these results. Specifically, I would like to thank staff lawyers and investigators Keith Adkinson, Bob Sloan, Bill Gallinaro, Philip Manual, and Fred Asselin for their work. Howard Feldman, chief counsel, and Stuart Statler, chief counsel for the minority, blended the talents of their respective staffs so as to produce a highly instructive and productive set of hearings.

Raising the issues and problems is one thing; having a committed and coordinated effort to resolve the problems surfaced is another. In this regard, I want to commend Attorney General Levi, Deputy Attorney General Tyler, former Acting Administrator Dogin, and the present Administrator, Peter Bensinger, Commissioner of Customs Acree, Commissioner Alexander, Assistant Treasury Secretary Macdonald, FBI Director Kelley, and Ambassador Vance for their dedication and sincerity in working to improve our narcotics efforts.

Mr. Bensinger holds one of the toughest jobs in the Government. I believe him to be a man of competence and integrity. I want to help him in all ways possible.

But the major question in my mind is whether the new approaches and techniques he has implemented at the command level are being translated into action by those in the field. For the field results will dictate whether in fact we have stabilized the inflow of heroin into this country and can now press ahead to reduce it.

As I view it, one of the most important contributions we can make to the Federal narcotics effort is to establish standards by which to measure the success or failure of DEA.

The executive branch and DEA need standards which will serve as an incentive for them to produce positive results; one always does better if he knows there is a system by which he is being measured.

But Congress and the American people, through the media, must understand that these are sophisticated standards not generally apparent or easily understood. A reeducation process is necessary for all of us. For the executive branch is not alone in its duty to create the right incentives for its agents. Congress, the public and the news media have vital roles to play.

Meaningful standards and measures of success must be established.

No longer should we be looking to merely the number of arrests and the pounds of powder seized; if we continue to do so, law enforcement efforts will continue to be centered on low level street traffic rather than on major violators. Questions must be asked; but they should be the right questions.

The one method of measuring success that nearly all witnesses at our hearings agreed upon is the national retail purity level of heroin. A reduction in the level of heroin purity is a strong indication that less heroin is coming in to this country, thus forcing the dilution of the final product for street sale.

The fourth quarter of this fiscal year, April 1, 1976 to June 30, 1976, showed a dip in national retail heroin purity from 6.6 percent to 6.4 percent. But it must also be pointed out that retail heroin purity has been rising steadily, on an annual basis since 1974.

Administrator Bensinger testified that his goal for retail purity of heroin is 6.0 percent by December 1976 and 4.5 percent by June of 1977, which are, indeed, laudatory goals.

We should also look at the number of heroin deaths; if they start dipping we are making progress against this deadly menace.

We should closely examine the percentage of top violators—so-called class I and II violators—being arrested as well as the percentage of undercover funds and manpower being assigned to track down and apprehend these individuals. If these figures increase we will know that our emphasis continues to shift to those individuals who have the resources and systems to perpetuate the narcotics traffic. Of course, we must be assured that the classification system is truly accurate.

But success in apprehending and arresting major violators means nothing if they are released on low bail or given lenient or suspended sentences so that they might become fugitives and/or perpetuate further narcotics offenses.

I was shocked to hear DEA Administrator Bensinger testify that almost 2,500 narcotics violators are fugitives at this time. A breakdown of that information shows that of this total, roughly 1,100 had been arrested but later did not appear at trial. Senator PERCY and I are communicating with the Attorney General and the Chief Justice of the Supreme Court to ask for their assistance and views on how to alleviate this problem.

The narcotics problem is not one that can be handled by one agency, one department or one nation. It is, first of all, an international problem which requires nations to band together against highly sophisticated, well-bankrolled, international criminals who move their deadly cargo skillfully across international borders. Next, it must be viewed as a national problem which no longer is concentrated in our urban areas. We need the cooperation between Federal, State and local law enforcement agencies. Finally, as we have seen clearly during our hearings, from a Federal standpoint, this is not a problem that can be handled by one agency or one department; it is a problem that cuts across jurisdictional and operational responsibilities of our major Federal law enforcement bodies. As such, the closest kind of cooperation between the agencies and departments is necessary.

When our investigation commenced, interagency cooperation was abysmal. It has improved. It needs further improvement. The Commissioner of Customs testified that he is still not getting the proper intelligence he needs from DEA to interdict narcotics at the border. I was astounded to hear testimony this week that it was not until July of this year that DEA furnished the FBI, at the request of the FBI, the identities of major class I narcotics violators; the FBI heard about such a list being turned over to the IRS and thought it would be a good idea if they also had it. It was apparently only then that DEA requested that any information contained in the FBI files be turned over to it.

Sound and accurate intelligence is absolutely critical to successful enforcement and goes hand in hand with cooperation between the various bureaus, agencies, and departments. The responsible Government agencies must amass, correlate, and make available all pertinent information for other enforcement agencies. This is still not being adequately accomplished.

Finally, one of the most effective tools in fighting narcotics traffickers must be fully utilized: tax prosecutions and audits. These people are making huge amounts of money; if they cannot be caught with the narcotics, they can be caught with money from unaccountable sources and thus move to incarcerate and immobilize them.

For whatever the reason, there has been a 2-year moratorium in the conducting of a vigorous program to attack major narcotics violators with the tax tool. I commend the President for his recent directive to reinvigorate this program.

Success will not occur overnight. It will be a long, arduous, and continuing task requiring the marshaling of the full resources of Federal, State, and local governments. It will require all the monitoring, constructive criticism, prodding, and legislative assistance Congress can supply.

The executive branch and its components, Congress and the judiciary all have vital roles to play in this battle against an enemy which has the ability to attack and destroy the very fabric of our society.

CONNECTICUT SEES POTENTIAL FOR AGPLANE-HELICOPTER

Mr. MOSS. Mr. President, my effort to persuade NASA to develop a comprehensive plan for agricultural airplane—I have shortened this to "agplane"—technology includes not only aerodynamic and avionic characteristics of the vehicle, but also the technology of the application of pesticides and fertilizers from these vehicles. And such vehicles should not be limited to single engine, single wing aircraft that one frequently associates with agplanes, but includes other types of aircraft, specifically helicopters. In fact, helicopter-agplanes may be the preferred vehicle for areas that are divided into smaller fields.

Such seems to be the case in Connecticut, as I am informed by the Honorable Ella Grasso, Governor of that State. In fact, Governor Grasso sees potential use for helicopters in aerial fall seeding of winter cover crops and in application of fertilizers, pesticides, and weed control materials for Connecticut's bedding plant and turf industries.

Mr. President, I ask unanimous consent that Governor Grasso's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF CONNECTICUT,
Hartford, June 29, 1976.

HON. FRANK E. MOSS,
U.S. Senator, State of Utah, Committee on Aeronautical and Space Sciences, Washington, D.C.

DEAR SENATOR MOSS: Thank you for your letter informing us of your committee's request for the National Aeronautics and Space Administration to develop an aerial program for improvements in agricultural aircraft.

Connecticut Agriculture is a dynamic part of our total economy. However, since we must compete in a labor market that pays high wages, we are always looking for the most efficient ways of doing business.

Connecticut is geographically small (three million acres). Our farm acreage is also quite small and is divided into small fields with the exception of a few farms in the Connecticut Valley area.

We can see a potential use for helicopters in aerial fall seeding of winter cover crops. Helicopter could be used in the aerial application of fertilizers, pesticides and weed control materials for our vegetable bedding plant and turf industries.

I appreciate your courtesy and hope you will keep us informed of future actions of your committee on this matter. If we can be of any further assistance, please feel free to contact Commissioner George M. Wilber, of the Connecticut Department of Agriculture at the State Office Building, Hartford, Connecticut 06115.

With best wishes,
Cordially,

ELLA GRASSO,
Governor.

PROPOSED ARMS SALES

Mr. HUMPHREY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD information which I have just received concerning 36 proposed sales. Due to the unusual number of notifications and the imminent recess of the Senate, we are departing from our usual format for advising the Senate of these latest proposed sales.

The information listed in tabular form below is regrettably fragmentary. Despite our strong protests, the executive branch persists in treating as classified much of even the general description of these sales, this despite the fact that much of this information is already in the public domain.

The total of the sales listed below is approximately $6 billion.

The submission of such a large number of notices at one time should not be misinterpreted. It reflects the executive branch response to the insistence of the Committee on Foreign Relations that the Congress be given an adequate opportunity to review all major pending arms sales before the anticipated October adjournment. Submission now will allow the full 30-day period provided for by section 36(b) of the Arms Export Control Act. Even so the staggering total of the proposed sales underlines the need for urgent review of worldwide U.S. arms sales procedures.

I ask unanimous consent that the information be printed in the RECORD.

The being no objection, the information was ordered to be printed in the RECORD, as follows:

Country and transmittal number	Quantity description	Value (million of dollars)	Approximate country subtotal
Israel:			
76-AJ	Bombs	Classified	
76-BC	do	Classified	
76-BH	Missiles	Classified	
76-AU	Helicopters	Classified	
Approximate Israel subtotal			$169, 000, 000
Saudi Arabia:			
76-BD	Missiles	Classified	
76-BF	do	Classified	
76-BM	Construction	Classified	
76-BP	do	Classified	
7T-AB	Training equipment	Classified	
7T-AS	Vehicles	Classified	
7T-AT	Aircraft	Classified	
7T-AW	Air defense weapons	Classified	
7T-AX	Antitank weapons	Classified	
7T-AZ	Construction	Classified	
Approximate Saudi Arabia subtotal			$660, 000, 000
Iran:			
7T-AI	Torpedoes	Classified	
7T-BD	Missiles	Classified	
7T-BE	do	Classified	
7T-AP	Aircraft support	Classified	
7T-BF	Missiles	Classified	
7T-AQ	Ammunition	Classified	
7T-AR	Helicopter parts	Classified	
7T-AV	Aircraft	Classified	
Approximate subtotal, Iran			$4, 458, 000, 000, 000
Pakistan:			
7T-AF	Torpedoes	Classified	
7T-AJ	Missiles	Classified	
7T-AL	Vehicles	Classified	
7T-AM	do	Classified	
7T-AN	Ammunition	Classified	
Approximate subtotal, Pakistan.			$83, 000, 000
Korea:			
7T-AE	Aircraft	Classified	
7T-AK	Missiles	Classified	
7T-BG	Tanks	Classified	
Approximate subtotal, Korea.			$137, 000, 000
Norway: 7T-BC	Missiles	Classified	Classified
Philippines: 7T-BB	Aircraft	Classified	Classified
Australia: 7T-AO	do	Classified	Classified
Germany: 7T-BA	Aircraft maintenance and training.	Classified	Classified
Morocco: 7T-AC	Aircraft	Classified	Classified
Singapore: 7T-AD	Aircraft and missiles	Classified	Classified

Mr. HUMPHREY. Mr. President, in addition to the above notices, on August 30th, the Committee on Foreign Relations received the attached documents relating to proposed sales for Turkey totalling $125 million for fiscal year 1976/7T. The attachments include a Presidential determination permitting these sales to Turkey pursuant to section 620(x) of the Foreign Assistance Act as well as a letter from the President to Senator SPARKMAN, chairman of the Committee on Foreign Relations stating that these sales are also subject to section 36(b) of the Arms Export Control Act.

Mr. President, I ask unanimous consent that the material referred to may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: In accordance with section 620(x) of the Foreign Assistance Act of 1961, as amended, I wish to inform you that I have exercised my authority under that provision of law in order to permit the sale of defense articles and defense services to Turkey during the period beginning July 1, 1976, and ending September 30, 1976, and in order to permit financing for Turkish procurement of such defense articles and defense services under the Arms Export Control Act. Justification for this action and a statement concerning specifics of the proposed purchase by Turkey are enclosed. I have determined that the specified defense articles and defense services to be sold are necessary to enable Turkey to fulfill her defense responsibilities as a member of the North Atlantic Treaty Organization. This letter also serves as formal notification of proposed letters of offer for those proposed sales as are subject to the requirements of section 36(b) of the Arms Export Control Act, as amended.

Sincerely,

MEMORANDUM FOR THE SECRETARY OF STATE

THE WHITE HOUSE,
Washington, D.C.

Subject: Determination under Section 620 (x) of the Foreign Assistance Act of 1961, As Amended to Permit the Sale of Certain Specified Defense Articles and Defense Services to the Government of Turkey

Pursuant to the authority vested in me by section 620(x) of the Foreign Assistance Act of 1961, as amended, (the Act), I hereby:

(a) Determine that the defense articles and defense services specified in the attached list are necessary to enable Turkey to fulfill her defense responsibilities as a member of the North Atlantic Treaty Organization, and

(b) Suspend the provisions of section 620 (x) of the Act and of section 3(c) of the Arms Export Control Act, as amended, for the fiscal year 1976 and the period beginning July 1, 1976, and ending September 30, 1976, in order that such defense articles and defense services may be sold to Turkey and Turkish procurement of such defense articles and defense services may be financed under the authority of the Arms Export Control Act, as amended, within the limitations specified in section 620(x) of the Act.

This determination and the attached list of defense articles and defense services shall be published in the *Federal Register*.

TRANSMITTAL FOR PROPOSED FMS FOR TURKEY (PD TQ3)

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

a. *Prospective Purchaser:* Turkey

b. *Total Estimated Value:* $124.98 Million

c. *Description of Articles or Services Offered:* * Ground, naval and air equipment as listed below.

d. *Military Department:* Army, Navy and Air Force

e. *Date Report Delivered to Congress:* August 30, 1976

Ground Forces Equipment: Spare parts for helicopters, tanks and other equipment, training and publications, TOW missiles and equipment, and electronic surveillance equipment. For $19.75 million.

Air Force Equipment: Forty (40) F/RF-4E aircraft spare parts, navigational equipment, radar spare parts, publications and engine overhaul work. AGE spares, maverick missile spare parts, guide bomb spare parts, and test equipment. For $88.15 million.

Naval Equipment: Ammunition, cryptographic equipment, long-lead-items for Sparrow missiles, aircraft rebuild, underwater demolition team equipment, laboratory equipment and equipment repair. For $17.08 million.

STATEMENT OF PROPOSED SALES

Item description ground forces command	Estimated dollar value	U.S. Armed Forces	Date LOA expected to be issued
Spare parts for:			
(1) Helicopter and aircraft	$2,000,000	Army	August 1976.
(2) Tank, armored personnel carrier, and self-propelled howitzer.	3,000,000	do	Do.
(3) Weapons and optical materiel and related items.	1,980,000	do	Do.
(4) Wheeled vehicles, including engines and assemblies.	6,000,000	do	Do.
(5) Engineer equipment	100,000	do	Do.
(6) Signal equipment	100,000	do	Do.
Training and publications:			
(1) Training	50,000	do	Do.
(2) Publications	20,000	do	Do.
TOW weapons and ammunition:			
(1) 2 TOW companies with 12 launchers each and the required support equipment, spare parts and additional launchers.	3,000,000	do	September 1976.
(2) TOW ammunition	3,000,000	do	Do.
Sound Electronic Surveillance Command:			
Electronic warfare equipment spare parts.	200,000	do	August 1976.
High performance electronic warfare equipment.	300,000	do	September 1976.
Air Forces command:			
40 F/RF-4E aircraft (long items)	64,400,000	Air Force	Do.
Aircraft spares, electronics	1,500,000	do	August 1976.
Aircraft spares, expendable	5,750,000	do	Do.
Aircraft spares, repairable	4,800,000	do	Do.
Helicopter spare parts	100,000	do	D9.
Tactical air navigation, ground control approach, and ground radio spares.	1,000,000	do	Do.
Radar spares	800,000	do	Do.
Technical publications	250,000	do	Do.
Time change technical order includes Class IV modifications.	700,000	do	Do.
Engine overhaul (J-57, J-79, J-85, T-33, T-56, J-69, and J-33 engines).	$3,000,000	Air Force	Do.
Aerospace ground equipment (AGE) spares.	450,000	do	Do.
Photo spares	100,000	do	Do.
Film requirement	100,000	do	Do.
Maverick air-to-ground missile (AGM-65) spares.	50,000	do	Do.
Electro-optical guided bomb system spares.	50,000	do	Do.
Guided bomb system spares	50,000	do	Do.
Cartridge activated devices/propellant activated devices items.	150,000	do	September 1976.
U.S. origin equipment (AGE)	3,580,000	do	Do.
Weapon systems technicians contract engineer technical services).	500,000	do	August 1976.
Precision test equipment for precision measuring equipment laboratory.	400,000	do	Do.
Training	420,000	do	Do.
Naval Forces:			
Ordnance equipment and ammunition.	4,000,000	Navy	Do.
On-line crypto equipment	785,000	do	September 1976.
300 Sparrow air-to-air missiles (AIM-7)—long-lead items.	9,500,000	do	Do.
Training	1,164,000	do	August 1976.
Ship/maritime patrol aircraft build	720,000	do	Do.
Explosive ordnance disposal/underwater demolition team equipment (for specific air services and sensor application teams).	506,000	do	September 1976.
Laboratory for weapons systems	340,000	do	August 1976.
Equipment repair	80,000	do	Do.
S2E catalog and documentation	5,000	do	Do.

Note: Letter of offer to sell defense articles and/or defense services. Items qualifying as significant combat equipment on U.S. munitions. Items requiring congressional review under sec. 36(b) of Arms Export Control Act, as amended.

JUSTIFICATION OF PRESIDENTIAL DETERMINATION TO PERMIT FOREIGN MILITARY SALES AND FINANCING FOR TURKEY

Section 620(x) of the Foreign Assistance Act of 1961, as amended (the FAA) suspended, prior to its amendment by the enactment of the International Security Assistance and Arms Export Control Act of 1976 (PL 94-329), all grant military assistance (MAP) as well as foreign military sales to Turkey. However, the amended Section 620(x), effective June 30, 1976, permits the President to suspend the provisions of that section and section 3(c) of the Arms Export Control Act with respect to cash sales, credits and guaranties under the latter Act. As amended, Section 620(x) of the FAA permits, during FY 1976 and the Transition Quarter, the sale and financing under the Arms Export Control Act of such defense articles and defense services valued at not to exceed $125 million as the President determines "are necessary to enable Turkey to fulfill her defense responsibilities as a member of the North Atlantic Treaty Organization."

This determination to permit foreign military sales and financing for Turkey is necessary to redress the continuing deterioration in the ability of Turkey's armed forces to meet their important NATO responsibilities on the southeastern flank of NATO. Turkey is a loyal and steadfast member of NATO and plays a significant role in the Alliance. Much of this stems from her strategically important geographic position. She has common borders with two Warsaw Pact countries (Bulgaria and the USSR), and she sits astride the straits between the Black and Mediterranean Seas. Turkey's military establishment (some 500,000 men) serves as a barrier to potential Soviet expansionist tendencies into the eastern Mediterranean and affords a base in the event of a conflict with the Warsaw Pact. Turkey is an important link in NATO's command and control and communications arrangements on the southeastern flank of the Alliance.

Turkey is an enthusiastic participant in the NATO military structure. Virtually all her land and air forces are officially committed to the integrated alliance military structure. Her naval forces, while not so committed, could fulfill necessary NATO-related defense functions and figure in NATO defense planning.

Article 3 of the North Atlantic Treaty calls for the parties to maintain and develop their individual and collective capacity to resist armed attack. NATO defense planning authorities who develop proposals to implement Article 3 agreed in 1974 that Turkey's program to modernize its armed forces and acquire more and better materiel be pursued vigorously over the next five years. The Turks committed themselves to this ambitious program but pointed out, with NATO concurrence, that external aid would be needed for a major part of the equipment purchases. As an illustration, this NATO-agreed program involves new tanks, armored personnel carriers, anti-tank weapons systems, F-4 or MRCA-type aircraft and helicopters. The program for 1975-76 called for procurement of much of the helicopter and all the anti-tank/armor weapons recommended by NATO for the five-year period.

As a result of the restrictions on United States aid and sales to Turkey, this program is in nearly total disarray. NATO authorities have concluded that the re-establishment of the flow of spare parts and equipment is essential to the operational effectiveness of this NATO ally. They believe that under the recent statutory restrictions Turkey's military capability to conduct sustained combat operations in support of NATO has been seriously impaired. They also believe that Turkey's ability to sustain her vital contribution to NATO depends upon the flow of equipment from the U.S., overwhelmingly her major supplier. NATO Secretary-General Joseph Luns made these concerns clear when he visited the United States in September 1975 to argue in favor of lifting the restrictions on U.S. sales to Turkey. This problem continues to be of serious concern to NATO as evidenced by the recent creation of a special committee to review Turkey's military problems.

Section 620(x) of the FAA has precluded the Government of Turkey from obtaining MAP materiel or training since February 5, 1975. Although PL 94-104 partially lifted the restriction of Section 620(x) in order to enable Turkey to receive FMS materiel for which sales contracts had been signed before February 5, 1975, there remains a critical shortage of spare parts to maintain Turkey's U.S.-origin equipment, which accounts for the bulk of Turkey's military materiel inventory. The urgent requirement for spare parts for tanks, armored personnel carriers, howitzers, wheeled vehicles, engineer and signal equipment, electronic warfare equipment, aircraft, helicopters, radar, cameras, missiles and guided bombs is reflected in the allocation for spare parts of about $27.8 million of the $125 million authorized for foreign military sales.

The potential tank superiority of Warsaw Pact forces in the critical open terrain of western Turkey requires the Turkish army to develop a modern anti-tank capability to fulfill its NATO defensive responsibilities. To fulfill NATO recommendations to counter this potential tank threat Turkey's ground forces need the TOW anti-tank missile system. They also require improved electronic warfare equipment for intelligence gathering and border surveillance.

A considerable part of the Turkish air Force consists of now obsolescent aircraft for which replacement is recommended by NATO planning authorities. The U.S. embargo not only interrupted this modernization program but also seriously reduced Turkey's ability to keep her existing aircraft fully operational. Turkey's inadequate air defense requires the purchase of additional F-4E/F aircraft to replace obsolete aircraft and the procurement of modern air-to-air missile systems to meet corresponding Warsaw Pact capabilities. Furthermore, the Turkish air force needs to overhaul a variety of engines, purchase time change technical orders (TCTO) for U.S.-origin aircraft and cartridge and propellant activated devices (CAD/PAD) to operate such equipment as aircraft ejection seats, procure aerospace ground support equipment (AGE) and spare parts, and obtain precision test equipment for its calibration requirements.

To overcome a serious shortage of munitions to meet NATO recommended war readiness levels, Turkish naval forces need ordnance equipment and ammunition of various calibers valued at $4 million. Since the majority of Turkish communications equipment is of Korean War vintage or earlier and is rapidly becoming obsolete and unsupportable, the Turkish navy desires to purchase cryptographic equipment. The Turkish navy also wishes to purchase explosive ordnance disposal/underwater demolition team (EOD/UDT) equipment, enroll students in post graduate programs that were originally programmed under MAP and procure a weapon testing laboratory. These later cases are designed to increase the effectiveness of the Turkish naval forces in the defense of Turkey's extensive sea frontier.

Other purchases of contract engineer technical services for weapon systems, training and technical publications are required to upgrade the efficiency of Turkey's armed forces in meeting their NATO responsibilities.

Turkey's falling foreign exchange reserves and continued substantial balance of payments deficits have seriously reduced Turkish ability to purchase urgently required defense articles and services from domestic resources. Accordingly, in order that Turkey may acquire those articles and services necessary to meet her NATO defense responsibilities, financing for such purchases will be provided under the Arms Export Control Act through the issuance of loan guaranties. The repayment obligation on these guaranteed loans is within Turkey's financial capacity.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

FEDERAL WATER POLLUTION CONTROL AUTHORIZATIONS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 3037, which will be stated by title.

The second assistant legislative clerk read as follows:

> A bill (S. 3037) to extend certain authorizations under the Federal Water Pollution Control Act, as amended.

The ACTING PRESIDENT pro tempore. The time for debate on this bill is limited to 2 hours, to be equally divided and controlled by the majority and minority leaders or their designees, with 1 hour on any amendment in the first degree and with 20 minutes on any amendment in the second degree, debatable motion, appeal, or point of order.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the following staff members of the Committee on Public Works be allowed the privilege of the floor during the consideration of and any votes on the pending measure: John Yago, Philip T. Cummings, Richard Harris, Richard Grundy, Leon Billings, Sally Walker, John Freshman, Bailey Guard, Ric Herod, James Range, Harold Brayman, Jackee Schafer, Kathy Cudlipp, Judy Parente, and Steve Swain.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I ask unanimous consent that S. 3037 be laid aside and that the Senate proceed to the consideration of S. 2710, as passed by the House, in lieu thereof. I will explain to the Senate later why that is necessary.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The ACTING PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 2710) to extend certain authorizations under the Federal Water Pollution Control Act, as amended.

(The amendments of the House are printed in the RECORD of June 3, 1976, beginning at page 16570.)

Mr. MUSKIE. Mr. President, does the time agreement apply to S. 2710?

The ACTING PRESIDENT pro tempore. By unanimous consent, the time agreement does apply.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. MUSKIE. The time not to be charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I yield 5 minutes to the distinguished Senator from Alabama, from the 2 hours on the bill, to speak on a morning hour item. If we need the 5 minutes later, I will ask the Senate to provide it.

Mr. ALLEN. I thank the distinguished Senator from Maine.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

Mr. ALLEN. Mr. President, an agreement was reached last night whereby the House message with respect to H.R. 8532 would be carried over until next week before a vote is had in the Senate with respect to an amendment I have pending and the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD), in the event my amendment is not agreed to.

Statements were made on the floor about the fact that dilatory tactics were being used to prevent a final vote on this measure, and I should like to point out an unusual circumstance with respect to the absence, in fact, of dilatory tactics with respect to this bill that I learned from the Journal Clerk in response to my question to him.

During a period of 6 hours and 10 minutes last night—that is, from 3:18 in the afternoon through 10:00 in the evening—not one quorum call was called for. I do not believe that there ever has been a period of 6 hours and 50 minutes in the Senate during which a quorum call was not made, other than this period of 6 hours and 50 minutes, after cloture was invoked yesterday.

So, far from dilatory tactics, I say to those who oppose the enactment of H.R. 8532—the antitrust improvements bill, so called—that during the time that cloture was invoked with respect to that bill, for 6 hours and 50 minutes no quorum call was called for in the Senate. I believe that is a unique situation, under cloture or not under cloture, because frequently quorum calls are made every 5 or 10 minutes, especially when so-called dilatory tactics are being used.

Another unusual circumstance that frequently has been charged as being used in the way of dilatory tactics is the practice of calling for reconsideration of votes that have taken place. During the entire time that this bill was operating under the cloture rule, not one motion was made to reconsider a vote that had been cast in the Senate with respect to this bill.

So these two unusual situations certainly indicate that no dilatory tactics were being used. After all, considering the very nature of the word "filibuster"—which it was charged was being engaged in—it actually was not extended. We were on it for only about 11 hours in all, on yesterday. So no dilatory tactics were used, even though if it were a filibuster, that in itself implies some sort of delay. Otherwise, we would have a vote. So, naturally, the filibuster, if there were one, would seek to delay any final outcome of the bill.

I am also interested in a prediction made by the Senator from Alabama on Friday evening in discussing this bill.

I ask for an additional 5 minutes of the Senator from Maine.

The ACTING PRESIDENT pro tempore. Does the Senator from Maine yield some time?

Mr. MUSKIE. Mr. President, how much more time does the Senator want?

Mr. ALLEN. Five minutes.

Mr. MUSKIE. I yield 5 minutes to the Senator from Alabama.

Mr. ALLEN. On Friday, I pointed out that when this matter came under discussion on yesterday, along about 6:45, the distinguished Senator from Rhode Island (Mr. PASTORE) would get up and make a speech with respect to bringing this matter to a vote and that, after that, the majority leader would get up and make a speech, saying how we are wasting the time of the Senate. It is interesting to note what I said in my remarks on August 27, appearing in the CONGRESSIONAL RECORD on page 28266, in the third column, which remarks I shall indicate to the reporter.

I stated on Friday evening:

> Along about 6:45 in the evening the Senator from Rhode Island (Mr. Pastore) gets up and calls attention to the hour, to the fact we all need to get home to be with our families, and why can we not get on with the Senate's business? I appreciate that. I appre-

> ciate his desire to expedite the business of the Senate.
>
> When we have extended debate here in the Senate we can always count on the distinguished majority leader, whom I admire and respect so much, whose leadership I follow, along with following the leadership of the distinguished assistant majority leader.
>
> When we are discussing measures late at night he can always be counted on to get up and tell us that we are wasting the time of the Senate; that we are using up time that could be better spent acting upon the legislation before us.

So, Mr. President, I was not far off in my prediction of what was going to happen. The distinguished Senator from Rhode Island, whom I am happy to see is here on the floor, waited this time, instead of 6:45, until about 7:15, when he made his predicted remarks. I call attention to the fact that everything moved according to Hoyle and according to the formula that takes place with respect to debates here in the Senate that are extended for a short time.

Mr. PASTORE. Will the Senator yield?

Mr. ALLEN. Yes, I yield.

Mr. PASTORE. Can we not admit that sanity was restored and we did reach unanimous consent?

Mr. ALLEN. Yes.

Mr. PASTORE. And that it shortened much of the conversation. That is all I was trying to do. I was trying to achieve results.

Mr. ALLEN. I was trying to compliment the Senator from Rhode Island.

Mr. PASTORE. I hope that the Senator from Alabama went beyond trying to accommodate me.

Mr. ALLEN. I said "compliment."

Mr. PASTORE. I hope he went beyond trying. I hope he actually does compliment me.

Mr. ALLEN. Yes, I do. I compliment the distinguished Senator for his conciliatory efforts. The point I was making is that I knew what was coming. I knew that at about 6:45, we would have a fine speech by the distinguished Senator from Rhode Island, suggesting that we get on with the business, and that we would have a speech, not so conciliatory, by the distinguished majority leader, warning us of bad things to happen in the future if we did not allow this thing to come to a vote.

Mr. PASTORE. I quite agree with the Senator. I say very frankly that I have the highest esteem, respect, admiration and affection for this body, but nothing is more sacred than the family and the sanctity of the home.

Mr. ALLEN. I certainly agree with the Senator and I admire him for his feelings in this regard.

Mr. PASTORE. And we should so regard it at all times.

Mr. ALLEN. I thank the Senator. I thank the distinguished Senator from Maine for yielding to me.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 2710) to extend certain authorizations under the Federal Water Pollution Control Act, as amended.

Mr. MUSKIE. I yield myself possibly 10 minutes to begin.

Mr. President, I do not know that I need that much time to present the essentials of the pending legislation. However, because we are waiting for the first amendment, I shall use that time to explain the bill, if I may. I shall be happy to terminate my discussion of the bill at such time as the author of the first amendment appears on the floor to present it.

Mr. President, the Senate has pending on the calendar an authorization bill for the Federal water pollution program. That legislation was reported prior to May 15 in order to comply with the requirements of the new congressional budget process. At the time, the Committee on Public Works was deeply involved in pending clean air legislation and could not attend to the more complex and urgent questions related to the Federal water pollution law.

In addition, last year the Senate passed and sent to the House an authorization measure for water pollution programs other than the construction grant program. That bill has been returned to the Senate with a House amendment. The House amendment is comprehensive in scope. It deals with a number of issues which have not been considered in detail by the Senate Committee on Public Works. In fact, we decided that a number of the issues in the House bill could appropriately await a comprehensive review of water pollution programs next year.

Thus, there are pending in the Senate two bills: S. 2710 as amended by the House and S. 3037, which is a bare bones authorization. The Committee on Public Works has met since the recess to decide on a course of action with respect to these bills.

The committee tried to isolate those matters which were absolutely essential for consideration this year. We have developed an amendment which includes six major items and two minor items. Five of the major items are in some form addressed by the House. The committee proposes to offer these eight items as an amendment to the House-passed bill. We expect the House to ask for a conference on the disagreements between the Senate amendment—in the second degree—and the House amendment to S. 2710.

Further, it is our intention to withhold action on S. 3037, the bare bones authorization bill. We will, if necessary, ask for Senate action on S. 3037 at such time as it appears that a conference agreement on the more comprehensive and controversial issues addressed by these amendments cannot be reached.

Mr. President, I ask unanimous consent that a detailed description of the committee amendment be included at the end of my prepared remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. Mr. President, I included that description in the RECORD for yesterday but for purposes of continuity in today s legislative history I have asked that it be printed again.

This description, in lieu of a committee report, is intended to provide the type of legislative history that would be in a committee report. This description reflects the intention of the committee and, therefore, should be useful in the future to those who look to legislative history for a more complete understanding of the actions of Congress. I would like to comment briefly on the provisions of the amendment.

One of the most controversial elements with which we had to deal was the question of the regulations of the Corps of Engineers regarding the discharge of dredge and fill material in the Nation's navigable waters. For a variety of reasons these regulations have stimulated great controversy. There have been a number of solutions proposed to that controversy.

As I have indicated in a separate statement of this issue, I personally preferred a course of action which would have eliminated the authority of the corps to become involved in this important environmental control program. Conversely, the House amendment provides that the discharge of dredge and fill material will, for all practical purposes, not be regulated from an environmental point of view.

The committee amendment, sponsored by Senators RANDOLPH and BAKER, is a middle ground. It seeks to exempt from regulation those normal human activities which might otherwise be construed as resulting in the discharge of dredge or fill material, but which were never intended to be regulated by the Congress in the Clean Water Act. I think it is important to underscore this point.

The 1972 Clean Water Act intended to regulate the discharge of pollutants from point sources. It was our intention to control that which we could control though the application of technology, process change, and innovative control methods. We knew when we passed the 1972 act that nonpoint sources could not be regulated in the same manner. We knew that there were serious institutional inhibitions to mounting a major Federal regulatory effort to control the normal runoff of farm and forestry operations and the myriad of other activities which, while resulting in water pollution, were not point source discharges.

The Baker-Randolph amendment exempts from regulation specifically the following activities:

> Normal farming, timbering and ranching activities including ponds and ditches;
>
> Maintaining existing structures, such as dams and dikes;
>
> Constructing and maintaining forest and mining roads that meet basic environmental criteria;
>
> Disposal of dredge and spoil in EPA-approved areas where the State administers the program.

Mr. President, let the record show that the Senate committee, hopefully with the concurrence of the Senate, does not intend to permit the intrusion of the Federal Government in those many individual activities which the Corps of Engineers without authorization would seek to regulate.

The Baker-Randolph amendment is important in another respect. It gets the Corps of Engineers out of the business of making environmental decisions in all but those portions of the navigable waters which relate to, are adjacent to, or contiguous with traditional and historical navigation. The corps' responsibility to protect navigability is recognized. The corps' inability to make environmental decisions is recognized.

The purpose of this legislation is to keep the corps in the navigation maintenance business and keep the Environmental Protection Agency in the environmental protection business.

Mr. President, as important to the Nation as the section 404 controversy has become, the legislation before the Senate would not have been considered except for the important question of continued funding of the water pollution construction grant program. A number of States will run out of money for construction grants beginning shortly after the end of this fiscal year.

The administration has proposed no new construction grant funds. The House bill proposes a 3 year, $17 billion authorization. This amendment proposes $5 billion to be apportioned among the States on the basis of a formula which is designed to reflect needs and population and, hopefully, political support.

These funds are needed. In my State, they are essential to environmental improvement and employment. They are needed to keep momentum in the water pollution program. And they are limited.

We have limited the authority to 1 year because we want to have the opportunity to comprehensively review the Water Pollution Control Act next year. Hopefully, at that time we may find a better way to apportion these funds.

In addition, Mr. President, this legislation provides an extension for the date for reallotment of funds previously allocated to the States. This amendment is important to certain States which, for a variety of reasons including impoundment, will not be able to use the funds allocated to them prior to September 30, 1977. These States will use the money. They have a backlog of projects. They need more time to obligate those funds efficiently.

Not to extend the reallotment date would mean that these States would spend moneys on projects such as collection sewers, which were not intended to receive a high priority under the 1972 Water Pollution Control Act. The committee hopes and expects that the Administrator, with this additional time for obligation, will act to insure that these funds as well as the new funds are not obligated for projects which are not required to meet the deadlines and the effluent limitations for municipalities established in the act.

And these deadlines for municipalities are important. For a variety of reasons including impoundment, underestimation of the demand for funds, excessive bureaucratic interference and deliberate slowdown in the distribution of funds, a number of communities will not meet the deadlines for achieving effluent limitations reflecting secondary treatment. The existing Act provides a remedy. Enforcement orders must be issued and civil and criminal penalties must be assessed.

Although the absence of Federal funding is not a defense to compliance with the deadlines for communities, those deadlines were premised on the availability of Federal funds. Therefore, this legislation extends the deadlines for municipalities to 1980.

That new date is a recommendation of the National Commission on Water Quality. It is a sufficient extension to permit the Congress time to adequately reevaluate the construction grant program and the regulatory requirements associated therewith. In addition, this provision takes into account the fact that certain industries may have made the decision to participate in municipal waste treatment facilities rather than build their own independent facilities. This extension is available to those industries that had prior to December 31, 1974—the final date of which permits were required under the 1972 act—established their intention to discharge through a municipal system.

Finally, Mr. President, there is an amendment sponsored by Senator BUCKLEY of New York comparable to a provision in the House bill sponsored by Congressman NOWAK. This amendment is intended to provide financial assistance to those communities which because of limitations on local financial capability have been unable to finance the local share of project cost. Its purpose is to insure that communities can move ahead to meet the requirements of the law where excessive interest rates and inflation have forced them to delay or defer the construction of these needed projects.

The committee considered and decided not to include a proposal offered by Senator BENTSEN to provide authority and funding for States to manage the construction grant program. Senator BENTSEN's proposal was similar to a provision of the House bill entitled "State Certification."

Members of the committee recognize the value of decentralization of the construction grant program. However, the committee believes this amendment should be deferred pending an overall review.

The decentralization of the program, while important, represents only one of the issues that the committee feels needs to be examined, along with such questions as eligibility, percentage of Federal grants and long-range Federal financial commitments. The committee has stated its intention to conduct a full examination of all of the major water pollution issues in 1977. At that time, Senator BENTSEN's amendment will be a high priority.

In deferring action on this proposal, the committee took into account the fact that many of the Nation's major metropolitan sewage agencies would prefer to deal directly with the Federal Government. It is their contention, expressed through the Association of Metropolitan Sewerage Agencies, that they have the technical management and engineering capability to receive Federal funds directly.

In addition, members of the committee have expressed concern about the problems of small communities which lack the ability to determine what kind of waste treatment system would be most appropriate for their area and lack the management capability to oversee the consulting engineers and the contractors who come in to do this work. The committee would hope to find a way for the States to become the grant applicant and grant manager for these communities.

Mr. President, the House of Representatives addressed a number of other controversial but less urgent amendments to the Water Pollution Control Act in their amendments to S. 2710. The committee determined that in addition to time constraints, the need for a comprehensive review of the act suggested a more austere course of action. The committee recommends that the Senate limit consideration to a minimum bill including only those items critical to the operation of the water pollution control program.

The amendment proposed by the Senate Public Works Committee achieves that purpose. The committee will undertake a complete examination of the water pollution control program next year. The remaining issues in the House proposal will be considered at that time. For the benefit of the Senate, I ask unanimous consent to include a description of those provisions following the description of the committee amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. MUSKIE. Mr. President, one further comment on the difference between the House and the Senate approach to this problem this year.

In the House, the jurisdiction over clean air and clean water legislation is divided. The House Commerce Committee has jurisdiction over clean air legislation and the House Public Works Committee over clean water legislation.

The Senate Committee on Public Works has jurisdiction over both.

On the Senate side, we have been preoccupied all this year and all last year with clean air legislation which the Senate enacted just a few weeks ago.

That severely limited our ability to engage in a comprehensive review of water pollution legislation. It is only for that reason that we have not been able to match the efforts of the House Public Works Committee—and I do not denigrate their efforts at all—this year. Hopefully, we can get on track next year.

This bill is an effort to at least deal with the major and immediate issues in the field.

EXHIBIT *1*

DETAILED DESCRIPTION OF COMMITTEE AMENDMENT

AUTHORIZATIONS—SECTION 1

The Committee amendment includes authorizations for the extension of the water pollution control program through FY 1977. These same authorizations had previously been considered and reported by the Committee in the form of S. 3037.

A $5 billion authorization is provided for the grant program for construction of municipally-owned waste treatment works. Other authorizations include State program grants, research and development grants, areawide planning grants and other operating programs. Following is a breakdown of the authorizations provided in this Committee amendment:

Section 104	$10,000,000
Section 106	75,000,000
Section 112	25,000,000
Section 207	5,000,000,000
Section 208	150,000,000
Section 314	150,000,000
Section 517	350,000,000

While there is currently $8 billion remaining in obligational authority for the construction grant program, information provided by both EPA and the National Governors Conference indicates that about half the States will run out of funds if a new authorization for FY 1977 is not provided. An authorization of $5 billion will be sufficient to carry all the States which would otherwise run out of funds. The Environmental Protection Agency indicates that approximately $1.5 billion can actually be obligated to specific projects next year but a total authorization of $5 billion is required to insure that each State capable of using its full allotment has sufficient funds made available. EPA estimates minimal fiscal year 1977 outlays, approximately $50 million, pursuant to the obligation of the $1.5 billion.

GRANTS FOR TRAINING FACILITIES—SECTION 2

The Committee amendment includes a proposal offered by Senator Culver which would raise the ceiling on individual grants for training facilities from $250,000 to $500,000. Experience to date indicates that the $500,000 ceiling would be more in line with current needs. This provision does not increase the overall authorization in the Act since these grants come out of the State's allotment of construction grant program.

REALLOTMENT—SECTION 3

The Committee approved an Administration amendment to extend by one year the date by which currently authorized funds must be obligated. There is approximately $8 billion currently outstanding in the construction grant program. The States must obligate all of their current allotment by September 30, 1977, if they are to avoid losing those funds to reallotment. While some States will have no difficulty in obligating their total allotment, other States may find themselves in the position of losing funds on September 30, 1977. The Committee is concerned that funds are being misused by the States to avoid reallotment. Therefore, the Committee extended the reallotment date by one year, thereby making the currently allotted funds available to the States through September 30, 1978.

ALLOTMENT—SECTION 4

The Committee amendment also includes a formula for the distribution of the construction grant funds authorized for FY 1977. The formula distributes the funds on the following basis: 50% on the basis of partial needs (needs expressed by the States in the 1975 Needs Survey for secondary treatment, compliance with water quality standards, and interceptor sewers), 25% on the basis of total needs (needs expressed by the States in the 1975 Needs Survey for partial needs plus collector sewers, combined sewers, and infiltration/inflow), and 25% on the basis of 1975 population. This formula does not utilize any estimates of needs of treatment of stormwater.

The table below shows the percentage each State would receive of the appropriated funds under the construction grant program and the dollar amount each State would receive if the $5 billion were fully appropriated:

Alabama	.0110	$55,000,000
Alaska	.0048	24,000,000
Arizona	.0064	32,000,000
Arkansas	.0109	54,500,000
California	.0831	415,500,000
Colorado	.0081	40,500,000
Connecticut	.0123	61,500,000
Delaware	.0040	20,000,000
District of Columbia	.0040	20,000,000
Florida	.0361	180,500,000
Georgia	.0201	100,500,000
Hawaii	.0070	35,000,000
Idaho	.0041	20,500,000
Illinois	.0526	263,000,000
Indiana	.0219	109,500,000
Iowa	.0111	55,500,000
Kansas	.0123	61,500,000
Kentucky	.0151	75,500,000
Louisiana	.0126	63,000,000
Maine	.0055	27,500,000
Maryland	.0382	191,000,000
Massachusetts	.0279	139,500,000
Michigan	.0473	236,500,000
Minnesota	.0152	76,000,000
Mississippi	.0076	38,000,000
Missouri	.0200	100,000,000
Montana	.0020	10,000,000
Nebraska	.0062	32,000,000
Nevada	.0030	15,000,000
New Hampshire	.0068	34,000,000
New Jersey	.0480	240,000,000
New Mexico	.0026	13,000,000
New York	.1062	531,000,000
North Carolina	.0209	104,500,000
North Dakota	.0019	9,500,000
Ohio	.0560	280,000,000
Oklahoma	.0136	68,000,000
Oregon	.0084	42,000,000
Pennsylvania	.0471	235,000,000
Rhode Island	.0040	20,000,000
South Carolina	.0132	66,000,000
South Dakota	.0016	8,000,000
Tennessee	.0150	75,000,000
Texas	.0434	217,000,000
Utah	.0051	25,500,000
Vermont	.0022	11,000,000
Virginia	.0222	111,000,000
Washington	.0155	77,500,000
West Virginia	.0218	109,000,000
Wisconsin	.0201	100,500,000
Wyoming	.0012	6,000,000
Virgin Islands	.0005	2,500,000
Puerto Rico	.0090	45,000,000
American Samoa	.0003	1,500,000
Trust Territories	.0020	10,000,000
Guam	.0010	5,000,000
Total	1.0000	5,000,000,000

AREAWIDE PLANNING—SECTION 5

The Committee addressed two issues that have resulted from the extremely slow implementation of Sec. 208. The Congress had intended—and provided adequate funds—for the 208 plans to be completed by 1976 or 1977.

Firstly, the Committee amendment contains language which provides that, for the first two years of operation of any agency designated to conduct an areawide waste treatment management planning process under section 208, the amount of the Federal grant shall be 100 percent of the costs. The purpose of this amendment is to provide new designations equity with those agencies which were designated before June 30, 1975. Under the terms of the existing law, new designations are only eligible for 75 percent grants for the first two years planning costs.

Secondly, the Committee amendment assures that each Sec. 208 agency shall have a full three years, as provided in the original statute, to complete its initial plans.

LOAN GUARANTEES—SECTION 6

The Committee amendment includes a proposal offered by Senator Buckley to provide loan guarantees for grantees otherwise unable to raise the local share for construction of a sewage treatment facility. This provision provides the Administrator of the Environmental Protection Agency the authority to guarantee loans made by the Federal Financing Bank (by purchasing obligations issued by the grantee) for the non-Federal share of construction costs if the grantee is unable to finance its share at a reasonable rate.

In order for a grantee to be eligible to sell its bonds to the Federal Financing Bank, EPA would certify that the grantee is unable to obtain the necessary credit on reasonable terms and that there is reasonable assurance that the loan would be repaid. Such reasonable assurance would imply the adoption by the grantee of some system of user fees to assure repayment. Also, in the case of a default, any future reimbursement funds paid to the grantee would be available for repayment of the loan.

MUNICIPAL TIME EXTENSIONS—SECTION 7

The Committee recognizes that many municipalities, through no fault of their own, will violate the deadlines of achieving secondary treatment unless the law is amended. And the Committee recognizes that many industries have, in good faith, made commitments to join in municipal treatment systems. These industries would also find themselves in violation of the law through no fault of their own. The Committee has provided an extension on a case-by-case basis of the Act's time requirements to July 1, 1980 for municipalities to achieve secondary treatment effluent limits. The same time extension will be available to industries who have committed themselves to those municipalities so long as applicable pretreatment requirements are met.

The provision is consistent with the overall regulatory requirements of the Act for municipalities and industries. It will assure that municipalities who have not used their funds wisely and industries who have been avoiding compliance with the law are faced with enforcement actions.

For municipalities it requires assurance by the State that it is spending its money on essential projects designed to meet the Act's regulatory requirements. The State is the applicant for the extension. Lack of Federal funds or inability to finance the local share are certainly justifications for an exemption. Misuse or diversion of funds from the basic enforcement requirements of secondary treatment by 1977–78 are not.

For industries the provision requires either a permit, issued on or before January 1, 1975 (the Act's final date for permit issuance), or an enforceable contract, on or before that same date which stipulates the source's intention to discharge into a municipal system to which an extension is being granted. This was included to assure that industries which have deliberately not complied with their treatment requirements are not eligible for time extensions.

The Committee amendment: (1) authorizes the Administrator, upon application by the State, to provide case-by-case extensions to the 1977–78 requirements of the law;

(2) provides that no time extension shall extend beyond July 1, 1980;

(3) allows the exemption for municipalities where Federal financial assistance has not been available for sufficient time or inflation or other factors beyond the control of the community have made it impossible for them to raise their local share even though funds are available;

(4) authorizes industrial sources an extension if the industry has previously committed to join the municipal system;

(5) requires industry to meet all applicable pretreatment requirements; and

(6) excludes Federally-owned treatment works from the extension provision.

The Committee is anxious to be fair and assure that municipalities and industries are not penalized for action they cannot control. We are equally anxious to be fair and not penalize the good citizens who are complying with the Act's requirements by allowing wholesale violation of the Act's deadlines by those communities which have been recalcitrant. For the first reason, we have provided an exemption with some discretion. For the second reason, we have limited the discretion to specific criteria.

In so doing we have attempted to create a balanced and fair exemption procedure.

PERMITS FOR DREDGE AND FILL MATERIAL—SECTION 8

This section of the Committee amendment modifies Section 404 of the Federal Water Pollution Control Act, P.L. 92-500 which provides regulation of discharge of dredged and fill material. This program was established as an exception to the Section 402 permit authority and was added to P.L. 92-500 in Conference with the House and derives from a provision in the House bill.

On July 25, 1975, the Corps of Engineers promulgated regulations for implementation of this authority. Those regulations are in effect for coastal waters and coastal wetlands contiguous or adjacent thereto and inland waters used for navigation together with contiguous and adjacent wetlands (described as Phase I waters in those regulations). Regulations applicable to the discharge of dredge and fill material into primary tributaries, lakes and adjacent wetlands (so-called Phase II waters) were scheduled to go into effect July 1, 1976, but have been delayed by Presidential Order to provide Congress an opportunity to review the issue. Discharges of dredge and fill material into the remainder of the navigable waters (Phase III waters) would be subject to regulation on July 1, 1977.

The Public Works Committee held oversight hearings on the Corps regulations on July 27 and 28, 1976 to determine the basis for the regulations and examine the controversy generated thereby.

The issues divide into five main categories:

1. Jurisdiction: intrusion of the Corps into regulation of waters beyond the scope of its navigation authorities;
2. The scope of review: the extent to which permit applications must be reviewed by other than the administering agency;
3. State Programs: the extent to which the States will be authorized to administer the program;
4. Exempt Activities: Regulation of activities which are administratively inappropriate, such as non-point source discharges resulting from farming, ranching and silviculture;
5. General Permits: regulation of routine activities of minimal environmental significance.

Each of these issues is dealt with in the Committee amendment.

SEC. 404 JURISDICTION

The initial issue in consideration of the Section 404 controversy was the extent of the waters in which discharges of dredged spoil and fill material will be regulated.

The 1972 Federal Water Pollution Control Act established comprehensive jurisdiction over the Nation's waters. This decision was the result of extensive and careful study and debate. In its report on that legislation, the Senate Public Works Committee stated "waters move in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source. Therefore, reference to the control requirements must be made to the navigable waters, portions thereof, and their tributaries."

It is the objective of the 1972 Act to protect the physical, chemical and biological integrity of the Nation's waters. Extension of jurisdiction narrowly to waters used or susceptible to use for navigation would not accomplish this purpose. Discharges of dredge or fill material into tributaries of these waters, toxic pollutants for example, which would disrupt the chemical biological integrity of the waters will directly and adversely affect their quality. To so limit the jurisdiction of the Federal Water Pollution Control Act with reference to discharges of the pollutants dredged or fill material would not achieve the Act's objectives.

The Committee amendment rejects the redefinition of navigable waters. It limits only the jurisdiction of the Corps of Engineers for control of those pollutants to waters regulated under the Corps' authority through Section 10 of the Rivers and Harbors Act of 1899 (and all contiguous and adjacent wetlands). Under the Committee amendment, the Corps retains this jurisdiction over the permit program until the approval of a State program.

The Committee also rejected the mean high water mark boundary for Phase I waters. Such a division is neither environmentally or administrataively sound.

This mean high water line is an artificial boundary from an ecological standpoint since aquatic areas above and below the line are inextricably interrelated and interdependent.

From the administrative standpoint, the line is not ascertainable from the biological or physical character of the waters but must be determined by engineering surveys which have proved to be unreliable and expensive.

SCOPE OF REVIEW

Implementation of the Section 404 authority of the Corps of Engineers is complicated by application of the National Environmental Policy Act which requires a detailed review in addition to that contemplated by P.L. 92-500. This requirement expands the scope of review for issuance of permits to environmental considerations beyond the intent of the authority. Under Section 404, the Corps of Engineers must include a permit review in addition to water quality concerns, potential secondary impacts upon land, air and economic factors extraneous to the purpose of P.L. 92-500.

The Committee believes that administratively the breadth of review of the current program imposes an impossible burden on the permitting authority. The transfer of authority for permit control of discharges of dredged and fill material to Section 402 initially for Phase II and III waters but upon approval of State permit programs for all waters will streamline permit review and expedite issuances.

The Environmental Protection Agency and State permit programs under the Committee amendment would apply the criteria and guidelines of Section 404(b) (1). However, the scope of review would be water quality focused, since permit issuances under Section 402 authority are not subjected to NEPA review. For example, under Section 402 permit requirement, the 403(c) (1) (C) economic test applicable under the present program and included in EPA guidelines under the Committee amendment would be focused specifically on these economic impacts associated with fishing and other water-related commercial activities deriving directly from the effects of disposal of the controlled pollutants. For permits issued under Section 404 authority, these economic considerations may include the effects of future development due to permitted activities on the local tax base, labor markets, etc.

STATE PROGRAMS

The Committee amendment is in accord with the stated policy of P.L. 92-500 of "preserving and protecting the primary responsibilities and rights of States to prevent, reduce and eliminate pollution." It provides for assumption of the permit authority by States with approved programs for control of discharges of dredged and fill material in accord with the criteria and with guidelines comparable to those contained in 402(b), 404(b) (1) and 404(c).

By using the established mechanism in Section 402 of P.L. 92-500, the Committee anticipates that authorization of State management of the permit program will be substantially expedited. At least twenty-eight State entities which have already obtained approval of the National Pollutant Discharge Elimination System under that section should be able to assume the program immediately.

The use of this mechanism will also expedite State authorization because the Administrator only has to amend guidelines under Section 304(h) (2) of the Act to establish the exact procedures and other requirements that a State must meet to achieve approval of its program.

Under the amendment, a State may elect to seek approval of a dredge and fill permit program independent of any application for approval of a National Pollutant Discharge Elimination System program. This will prevent any delay in processing applications for the National Pollutant Discharge Elimination System.

The amendment also provides that a State may elect to administer its dredge and fill permit program independent of the National Pollutant Discharge Elimination System program. Several States have already established separate State agencies to control discharges of dredge and fill materials. These agencies need not be the same as the National Pollutant Discharge Elimination System agency. The Committee expects the Administrator to insist that any designation of a non-National Pollutant Discharge Elimination System agency be accompanied by a demonstration of full capability to adequately administer this program.

Although discretion is granted to establish separate administration for a State permit program, the authority of the Administrator to assure compliance with guidelines in the issuance and enforcement of permits and in the specification of disposal sites which is provided in sections 402 (c) through (k) and 404(c) is in no way diminished or compromised.

The authority for control of discharges of dredged and fill material granted to a State through the approval of a program pertains solely to the environmental concerns reflected in the specific guidelines set forth in the amendment, and the responsibility of the Corps of Engineers under the Rivers and Harbors Act of 1899 to protect navigation is not affected or altered by this amendment.

EXEMPT ACTIVITIES

The Committee amendment utilizes the point-source and non-point source distinction in the Act to clarify the control requirements for farming, silviculture and ranching.

While these non-point source activities are specifically exempted from the permit requirements relating to dredge and fill discharges, existing authorities in the Act for control of these activities are not abridged.

In addition to normal farming and silvicultural activities, the construction of farm and forest roads is exempted. The Committee feels that permit issuances for such activities would delay and interfere with timely construction of access for cultivation and harvesting of crops and trees with no countervailing environmental benefit. The guidelines for construction of exempt roads require that the construction, use, and maintenance of the roads not significantly alter the biological character or the flow and circulation of affected waters.

During the Committee's consideration of the existing Corps' program, the Department of Agriculture compiled an inventory of anticipated permit applications for farming activities. This exemption will allow a farmer or rancher to rotate lands in intensive agricultural use from one crop to another. For example, the "normal farming" exemption would preserve the opportunity to convert a field in alfalfa into a row crop without applying for a dredge or fill permit. Another example of "normal farming" activity would be the placement of fill for erection of farm buildings or tile lining a field in intensive agricultural use to enhance drainage.

Sediment retention reservoirs and other such structures installed as a part of a Section 208 program to prevent the release of silt or other pollutants into navigable waters would not require a permit under this legislation. This would assure that important erosion control practices will continue to be applied by the farmer or rancher to conserve his soil and water resources, without the duplication of regulation which would otherwise occur if both Section 208 and this section were applicable.

During the Committee's consideration of the existing Corps program, the Department of Agriculture provided a list of anticipated permit applications for farming activities. Over 80% of the permits needed according to that survey are for construction or maintenance of farm ponds. The Committee amendment specifically exempts these activities as well as construction and maintenance of agricultural irrigation ditches and the maintenance of agricultural drainage ditches. This exception does not in any way affect the Section 301 requirements regarding discharges from irrigation return flows.

During the Committee oversight of the Corps program testimony was received regarding potential disruption of mining operations due to delays resulting from permit review of routine filling activities. The Committee amendment excludes the construction of temporary mining roads for the movement of equipment from regulation. These roads must not only be designed and constructed in accord with the requirements for protection of the navigable waters applicable to roads, they must be removed in a manner consistent with those requirements.

This type of activity should have only a minor impact on water quality if performed in a manner that will not impair the flow and circulation patterns and the chemical and biological characteristics of the affected waterbody, and that will not reduce the reach of the affected waterbody.

The construction or maintenance of silt or sediment control impoundments associated with mining operations is also exempt since these structures are designed to protect water quality through management practices that get to pollution at its source. Construction and maintenance of these impoundments are best treated under section 208 as are those other activities that have been excluded from permit requirements by this amendment. The discharge of pollutants from these impoundments continues to be regulated as a point source under Sections 301 and 402.

The amendment codifies the permit exemption in the Corps of Engineers regulations for the maintenance and emergency reconstruction such as highways, bridge approaches, dikes, dams, and levees of currently serviceable structures. This exemption from a permit requirement is not intended to include maintenance activities that change the character, scope or size of the original structure. Emergency reconstruction must occur within a reasonable period of time after destruction of the previously serviceable structures to be eligible for this exemption.

The Committee amendment exempts discharges of dredge spoil resulting from maintenance dredging in Federal navigation channels and non-Federal access channels which directly intersect such channels when that dredged material is discharged into confined disposal areas specified under an approved State program. Disposal sites must be located landward of the mean high water mark.

An exemption does not become available until approval of a State program. The exemption under the State law may apply only to dredge spoil resulting from maintenance dredging and not from alteration, improvement or repair of channels. The Administrator is authorized to restrict or deny the designation of a disposal site, as under the existing program.

The disposal site must be confined and must be constructed and operated to prevent migration of pollutants that could cause water pollution or other environmental damage. Thus, if pollutants deposited in the confined area would be carried beyond the site by physical, chemical or biological means, the State would be prevented from designating the area eligible for the exemption.

All exempt activities will be required to have permits if the activity results in the induction of toxic materials into the navigable waters. For this purpose, toxic materials shall include those substances for which, because of their harmful properties, EPA is developing effluent limitation standards or guidelines pursuant to Section 301, 304 or 307, and those substances which are listed, also because of their harmful properties, in the current Section 403(c), guidelines, and other substances which the Administrator determines may be appropriate.

The Committee amendment specifically requires a permit for any placement or discharge of dredged or fill material for the purpose of modifying the use of an area of the navigable waters if the flow, circulation or reach of the waters will be significantly affected. A permit would be required for instance for the conversion of a hardwood swamp to full scale timber production through construction of dikes or drainage. However, where an area of the navigable waters has been placed in intensive agricultural use, prior to enactment of this provision, improvements to drainage to enhance the productivity of that use would not be covered by this specific requirement and would be exempt under subsection (3)(A) of the amendment.

GENERAL PERMITS

The Committee amendment authorizes the issuance of general permits by EPA, the Corps and States with approved programs for classes or categories of activities which cause, individually or cumulatively, only minimal environment impact.

The general permits mechanism is derived from the Corps of Engineers regulations. The Corps during the first year of administering the Section 404 program has issued general permits for approximately 100 classes of activity involving the discharge or disposal of dredged or fill material. These include streambank protection, stream alterations, backfill for bridges, erosion control, and, in at least one instance, a general permit for road fill and culverting on a statewide basis. For general construction activities, general permits issued on a statewide or regionwide basis will greatly reduce administrative paperwork and delay.

Under the authority of Section 404, the Corps of Engineers, in consultation with the Environmental Protection Agency, has sought to eliminate many farming and silvicultural activities from the program and to establish a mechanism for removing activities with minimal environmental impacts from the individual permit requirement. Where these activities are not exempt, they should be subject to general permits.

EXHIBIT 2

PROVISIONS OF HOUSE AMENDMENT NOT ADOPTED BY COMMITTEE

(Sections refer to House-passed version of S. 2710)

Sewage Collection Systems Grants (Section 4):

In the case of a grant which exceeds the contract price of a facility, this provision would permit the use of any excess money for construction of sewage collection systems which are associated with that facility and which are already under construction. Such a transfer grant may not exceed $2.8 million.

Plans, Specifications, Estimates and Payments (Section 5):

This section combines step 2 (submittal of plans, specifications and estimates) and steps 3 (construction) into a single step in cases where the grant is less than $1 million. EPA estimates that 45% of all projects nationwide would fall within the $1 million ceiling.

User Charges (Section 6):

This section amends section 204(b) of the Act to permit the use of ad valorem taxes as a method for collecting the costs of operating and maintaining municipal waste treatment works. It would permit any municipality which is using an ad valorem tax system for any purpose to be eligible for this exception.

Reimbursement (Section 8):

This section extends from July 1, 1972, to July 1, 1973, the date by which the initiation of construction on projects must have occurred in order for such projects to be eligible for reimbursement grants, and increases the authorization for reimbursement grants from $2.6 billion to $2.95 billion.

State Certification (Section 12):

This section would permit a State to be certified by the Administrator of the Environmental Protection Agency for the management of the construction grant program and provides that up to 2% of a State's construction grant allotment be utilized for management of the program.

Priority of Categories of Projects (Section 12):

Under this section, the States are given exclusive control over the priority for projects for construction of publicly-owned treatment works within each State.

Non-Federal Waiver (Section 12):

This section provides that if a grantee can demonstrate to the Administrator that it is unable to obtain financing for the non-Federal share, either privately or through the Federal Financing Bank, the Administrator could approve a project to be built with the 75% Federal share only, which means that the revised project will be built solely with Federal funds. It further provides that the grantee must scale down the size of the treatment works or stage the construction of the treatment works.

State Reports (Section 14):

This changes the requirements for submission of State reports from annually to every two years.

Toxic and Pretreatment Standards (Section 15):

This provision authorizes the Administrator to allow three years for compliance with toxic effluent standards (rather than existing law's one year) where he determines that it would be "technologically infeasible" for a category of sources to comply within a one year period.

Emergency Fund (Section 17):

This section establishes a contingency fund of $5,000,000 "to provide assistance for emergencies, including, but not limited to, those which present an imminent and substantive endangerment to the public health and welfare. . . ."

Judicial Review (Section 18):

This section proposes to state explicitly that the appropriate jurisdiction for the review of promulgation of regulations of nationwide applicability is the U.S. Court of Appeals, for the District of Columbia.

Rule and Regulation Review (Section 19):

This section provides that either the House or Senate may, by resolution within 60 days of promulgation, disapprove any regulations issued by EPA pursuant to P.L. 92-500.

Sunshine in Government (Section 20):

This section requires each employee of EPA to file a public financial statement if that employee has any interest in any "person" regulated by the Act.

Mr. MUSKIE. Mr. President, to place this matter before the Senate, I move that the Senate concur in the House amendment to S. 2710, with an amendment (No. 2231) in the nature of a substitute.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

ADDITIONAL AUTHORIZATIONS FOR THE U.S. RAILWAY ASSOCIATION

Mr. MUSKIE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1128, H.R. 13325.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 13325) to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the United States Railway Association, reported with an amendment.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill (H.R. 13325) which had been reported from the Committee on Commerce with an amendment on page 2, beginning with line 3, insert the following:

Sec. 2. Section 206(d)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(5)) is amended by adding at the end thereof the following new sentence: "The Corporation, its Board of Directors, and its individual directors shall not be liable to any party, for money damages or in any other manner, solely by reason of the fact that the Corporation transferred property pursuant to section 303 of this Act to meet the needs of commuter or intercity rail passenger service, except as otherwise provided with respect to the Corporation pursuant to section 303(c)(2) of this Act.".

Sec. 3. The first sentence of section 303(c)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)(5)) is amended to read as follows: "Whenever the special court, pursuant to section 303(b)(1) of this title, orders the transfer or conveyance of rail properties—

"(A) designated under section 206(c)(1)(C) or (D) of this Act, to the Corporation or any subsidiary thereof, the United States shall indemnify the Corporation against any costs imposed on the Corporation as the result of any judgment entered against the Corporation, with respect to such properties, under paragraph (2) of this subsection; and

"(B) to the National Railroad Passenger Corporation, a profitable railroad operating in the region, a State, or any other responsible person (including a governmental entity), the United States shall indemnify such Corporation, railroad, State, or person against any costs imposed thereon as the result of any judgment entered against such Corporation, railroad, State, or person under paragraph (3) of this subsection;

plus interest on the amount of such judgment at such rate as is constitutionally required.".

Sec. 4. Section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)) is amended by adding at the end thereof the following new paragraph:

"(7) Notwithstanding any contrary provision in the options conveyed to the Corporation by railroads in reorganization, or railroads leased, operated, or controlled by a railroad in reorganization, with respect to the acquisition, on behalf of a State (or a local or regional transportation authority) of rail properties designated under section 206(c)(1)(D) of this title, such options shall not be deemed to have expired prior to 7 days after the date of enactment of this paragraph. The exercise by the Corporation of any such option shall be effective if it is made, prior to the expiration of such 7-day period, in the manner prescribed in such options.".

Sec. 5. Section 303(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(e)) is amended by adding "or which are made at any time to carry out the purposes of title VII of the Railroad Revitalization and Regulatory Act of 1976 or of section 601(d) of this Act" at the end of the second parenthetical expression between "title" and the closing parenthesis.

Mr. MUSKIE. Mr. President, I understand that this legislation has been cleared on both sides of the aisle. I move its adoption.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 13325) was read the third time and passed.

The title was amended so as to read:

An Act to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the United States Railway Association, and for other purposes.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENT OF 1976

The Senate continued with the consideration of the message from the House of Representatives announcing its action on the bill (S. 2710) to extend certain authorizations under the Federal Water Pollution Control Act, as amended.

The ACTING PRESIDENT pro tempore. Did the Senator from Maine wish to agree to the amendment in the nature of a substitute that he just called up?

Mr. MUSKIE. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. We just agreed to an amendment completing action on the bill. If the Senator did not agree to do that, by unanimous consent, of course, he could rescind the action.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I move that the Senate rescind the action previously taken in agreeing to the amendment in the nature of a substitute.

The ACTING PRESIDENT pro tempore. The Senator has asked unanimous consent, is there objection?

Without objection, it is so ordered.

The ACTING PRESIDENT pro tempore. The clerk will state, for the benefit of the Senate, the pending amendment in the nature of a substitute.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. Muskie) proposes an amendment numbered 2231.

The amendment is as follows:

Amendment No. 2231

Strike all the amendment of the House after the enacting clause, and insert:

Section 1. (a) Section 207 of the Federal Water Pollution Control Act, as amended (86 Stat. 839), is amended by striking the period at the end of the sentence and adding ", and for the fiscal year ending September 30, 1977, subject to such amounts as are provided in appropriation Acts, not to exceed $5,000,000,000.".

(b) Section 104(u)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended by striking out "1975" and inserting in lieu thereof "1975, $7,500,000 for fiscal year 1977,".

(c) Section 104(u)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended by striking out "1975" and inserting in lieu thereof "1975, $2,500,000 for fiscal year 1977,".

(d) Section 106(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1256) is amended by striking out "and the fiscal year ending June 30, 1975;" and inserting in lieu thereof "and the fiscal year ending June 30, 1975, and $75,000,000 for the fiscal year ending September 30, 1977,".

(e) Section 112(c) of the Federal Water Pollution Control Act (33 U.S.C. 1262) is amended by inserting "$25,000,000 for the fiscal year ending September 30, 1977," immediately after "June 30, 1975,".

(f) Section 208(f)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1288) is amended by striking out "and not to exceed $150,000,000 for the fiscal year ending June 30, 1975." and inserting in lieu thereof "and not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, and September 30, 1977.".

(g) Section 314(c)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1324) is amended by striking out "and $150,000,000 for the fiscal year 1975" and inserting in lieu thereof ", $150,000,000 for the fiscal year 1975; and $150,000,000 for fiscal year 1977.".

(h) Section 517 of the Federal Water Pollution Control Act (33 U.S.C. 1376) is amended by striking out "and $350,000,000 for the fiscal year ending June 30, 1975," and inserting in lieu thereof ", $350,000,000 for the fiscal year ending June 30, 1975, and $350,000,000 for the fiscal year ending September 3, 1977.".

Sec. 2. Section 109(b)(3) of the Federal Water Pollution Control Act, as amended (86 Stat. 830), is amended by striking "$250,000" and inserting in lieu thereof "$500,000".

Sec. 3. Subsection (b)(1) of section 205 of the Federal Water Pollution Control Act, as amended (86 Stat. 837), is amended by striking "one-year" and by inserting after the second sentence the following: "The sums first made available for obligation during fiscal year 1976 shall continue to be available for obligation until September 30, 1978.".

Sec. 4. Section 205 of the Federal Water Pollution Control Act, as amended (86 Stat. 837), is amended by adding the following new subsection:

"(c) Sums authorized to be appropriated pursuant to section 207 for each fiscal year beginning after September 30, 1976, shall be allotted by the Administrator on October 1 of the fiscal year for which authorized. Sums authorized for the fiscal year ending September 30, 1977, shall be allotted in accordance with the following table:

"State	Proportional share
Alabama	0.0110
Alaska	.0048
Arizona	.0064
Arkansas	.0109
California	.0831
Colorado	.0081
Connecticut	.0123
Delaware	.0040
District of Columbia	.0040
Florida	.0361
Georgia	.0201
Hawaii	.0070
Idaho	.0041
Illinois	.0526
Indiana	.0219
Iowa	.0111
Kansas	.0123
Kentucky	.0151
Louisiana	.0126
Maine	.0055
Maryland	.0382
Massachusetts	.0279
Michigan	.0473
Minnesota	.0152
Mississippi	.0076
Missouri	.0200
Montana	.0020
Nebraska	.0062
Nevada	.0030
New Hampshire	.0068
New Jersey	.0480
New Mexico	.0026
New York	.1062
North Carolina	.0209
North Dakota	.0019
Ohio	.0560
Oklahoma	.0136
Oregon	.0084
Pennsylvania	.0471
Rhode Island	.0040
South Carolina	.0132
South Dakota	.0016
Tennessee	.0150
Texas	.0434
Utah	.0051
Vermont	.0022
Virginia	.0222
Washington	.0155
West Virginia	.0218
Wisconsin	.0201
Wyoming	.0012
Virgin Islands	.0005
Puerto Rico	.0090
American Samoa	.0003
Trust Territories	.0020
Guam	.0010

If the sums allotted to the States for a fiscal year are made subject to a limitation on obligation by an appropriation Act, such limitation shall apply to each State in proportion to its allotment.".

SEC. 5. (a) Section 208(b)(1) of the Federal Water Pollution Control Act, as amended (86 Stat. 840), is amended by inserting "(A)" after "(b)(1)" and by adding the following new subparagraph:

"(B) For any agency designated during 1976 under subsection (a) of this section and for all portions of a State for which the State is required to act as the planning agency in accordance with subsection (a)(6), the initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than three years after the receipt of the initial grant award as authorized under subsection (f) of this section.".

(b) Section 208(f)(2) of the Federal Water Pollution Control Act (33 U.S.C. 2188) is amended to read as follows:

"(2) For the two-year period beginning on the date the first grant is made under paragraph (1) of this subsection to an agency, if such first grant is made before October 1, 1977, the amount of each such grant to such agency shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section, and thereafter the amount granted to such agency shall not exceed 75 per centum of such costs in such succeeding one-year period. In the case of any other grant made to an agency under such paragraph (1) of this subsection, the amount of such grant shall not exceed 75 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process in any year.".

(c) The second sentence of section 208(f)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1288) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "subject to such amounts as are provided in appropriation Acts.".

SEC. 6. Title II of the Federal Water Pollution Control Act, as amended, is amended by adding the following new section:

"LOAN GUARANTEES FOR CONSTRUCTION OF TREATMENT WORKS

"SEC. 213. (a) Subject to the conditions of this section and to such terms and conditions as the Administrator determines to be necessary to carry out the purposes of this title, the Administrator is authorized to guarantee, and to make commitments to guarantee, the principal and interest (including interest accruing between the date of default and the date of the payment in full of the guarantee) of any loan, obligation, or participation therein of any State, municipality, or intermunicipal or interstate agency issued directly and exclusively to the Federal Financing Bank to finance that part of the cost of any grant-eligible project for the construction of publicly owned treatment works not paid for with Federal financial assistance under this title (other than this section), which project the Administrator has determined to be eligible for such financial assistance under this title, including, but not limited to, projects eligible for reimbursement under section 206 of this title.

"(b) No guarantee, or commitment to make a guarantee, may be made pursuant to this section—

"(1) unless the Administrator certifies that the issuing body is unable to obtain on reasonable terms sufficient credit to finance its actual needs without such guarantee; and

"(2) unless the Administrator determines that there is a reasonable assurance of repayment of the loan, obligation, or participation therein.

A determination of whether financing is available at reasonable rates shall be made with relationship to the current average yield on outstanding marketable obligations of municipalities of comparable maturity.

"(c) The Administrator is authorized to charge reasonable fees for the investigation of an application for a guarantee and for the issuance of a commitment to make a guarantee.

"(d) The Administrator, in determining whether there is a reasonable assurance of repayment, may require a commitment to apply to such repayment (1) all or any portion of the funds retained by such grantee under section 204(b)(3) of this Act, and (2) any funds received by such grantee from the amounts appropriated under section 206 of this Act.".

SEC. 7. Section 301 of the Federal Water Pollution Control Act, as amended (86 Stat. 844), is amended by adding the following new subsection:

"(g)(1) Upon application by a State on a case-by-case basis, the Administrator may extend the time for achieving the requirements of subsections (b)(1)(B) and (b)(1)(C) of this section beyond the date specified in such subsection for any publicly owned treatment works: *Provided*, That (A) the Administrator determines that the construction of such treatment works necessary for the achievement of such requirements cannot be completed by the date specified because Federal assistance under title II of this Act has not been available, or has not been available for a sufficient time, or because funds to pay the non-Federal portion of the costs of construction of such treatment works have become unavailable subsequent to a commitment by the Administrator to provide Federal assistance under title II; and (B) the State demonstrates that the priority for Federal funding of treatment works which the State accords to the treatment works for which such extension is sought and to all treatment works within the State will assure compliance with this section, and is designed to maximize compliance with subsection (b)(1)(B) and (b)(1)(C) by the date specified in such subsections and with the objective of this Act.

"(2) No time extension granted under this subsection shall extend beyond July 1, 1980.

"(3) Upon application on a case-by-case basis, the permitting authority under section 402 of this Act may, in the case of a publicly owned treatment works which has been granted an extension under paragraph (1) of this subsection, extend the time for achieving the requirements of subsection (b) of this section for the period of the extension granted under paragraph (1) of this subsection, for any point source which on or before January 1, 1975, had a permit under section 402 of this Act or a contract (enforceable against such point source) to discharge its effluent into a publicly owned treatment works which is granted an extension under paragraph (1) of this subsection and which in that manner intends to comply with the requirements of subsection (b) of this section: *Provided*, That such point source complies during the period of such extension with all applicable pretreatment requirements under section 307(b) of this Act or otherwise required under a permit issued by the Administrator or a State.

"(4) For the purpose of paragraph (1) of this subsection, the term 'publicly owned treatment works' shall not include a federally owned treatment works.".

SEC. 8. (a) Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880) is amended by adding the following new subsection:

"(l)(1)(A) Except as provided in section 404 of this Act, any discharge of dredged or fill material into the navigable waters shall be required to be in compliance with a permit issued under this section.

"(B) Any permit for the discharge of dredged or fill material issued under this section shall be considered in accordance with, and shall comply with, the guidelines published under section 404(b)(1) of this Act, and the authority of section 404(c) of this Act shall apply to the consideration of any such permit and the specification of any disposal site.

"(2) At any time after the enactment of this subsection, the Governor of each State desiring to administer its own permit program for discharges of dredged or fill material into the navigable waters within its jurisdiction (under this section and section 404(a) of this Act) may seek approval of its program in accordance with subsection (b) of this section. The Administrator shall approve each such program unless he determines, after consultation with the Secretary of the Army, that (A) it does not have adequate authority in accordance with subsection (b) of this section with respect to discharge of dredged or fill material, or (B) it does not contain adequate guidelines for the consideration of permits comparable to those under section 404(b)(1) of this Act or adequate authority comparable to that under section 404(c) of this Act. Any State program approved under this paragraph shall be subject to the provisions of subsections (c) through (k) of this section, and any permit under a program approved under this paragraph shall be subject to the jurisdiction of the Secretary of the Army under subsection (b)(6) of this section and section 511(a) of this Act and the Administrator under section 404(c). Approval of a program otherwise submitted under subsection (b) of this section shall not be delayed by submittal of a program under this paragraph, and a program submitted under this paragraph may be distinct from, or administered by a different State agency than, any program otherwise submitted or approved under subsection (b) of this section.

"(3)(A) The placement of dredged or fill material into the navigable waters shall not constitute a point source discharge of pollutants required to have a permit under this subsection or section 404 of this Act, where such placement—

'(i) results from normal farming, silviculture, and ranching activities, such as plowing, cultivating, seeding, and harvesting for the production of food, fiber, and forest products;

"(ii) is for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;

"(iii) is for the purpose of the construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches;

"(iv) is for the purpose of the construction or maintenance of silt or sediment control impoundments associated with mining operations, except to the extent such impoundments are required to comply with effluent limitations and guidelines pursuant to sections 301, 304(b) and (c), and 307(a) of this Act;

"(v) is for the purpose of the construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained in accordance with guidelines promulgated by the Administrator which assure that flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired, that the reach of the navigable waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized; or

"(vi) is for the disposal of dredged material removed in maintaining a federally authorized navigation channel or non-Federal access channels contiguous to the authorized project, in specified confined disposal areas where such disposal areas are landward of the mean high water mark, where the State in which such disposal areas are located has a program approved under paragraph (2) of this subsection for the control of dredged or fill material disposal or the protection of wetlands and such disposal areas are specified under and in compliance with such program, and where pollutants in such confined disposal areas will not migrate to cause water or other environmental pollution.

"(B) Any placement of dredged or fill material specified in subparagraph (A) of this paragraph shall only be considered a non-point source subject to regulation under this Act under sections 208 and 303 (d) and (e) of this Act.

"(C) Any placement or discharge of dredged or fill material into the navigable waters incidental to the construction of a dike or other activity for the purpose of bringing an area of the navigable waters into a farming, silviculture, or ranching use to which it was not previously subject, where the flow or circulation of the navigable waters may be impaired or the reach of such waters be reduced, shall be required to have a permit under this subsection or section 404 of this Act. Any placement or discharge of dredged or fill material containing toxic pollutants into the navigable waters shall be required to have a permit under this subsection or section 404 of this Act, and to be in compliance with sections 301, 307(a), and 404 (b)(1) and (c) of this Act.

"(4)(A) Consistent with the requirements of this section, the Administrator, the Secretary of the Army under section 404 of this Act, or a State with a permit program approved under paragraph (2) of this subsection may, after notice and opportunity for public hearing, issue general permits for classes or categories of discharges of dredged or fill material subject to this section or section 404, where the discharges authorized by any such general permit are similar in nature, cause only minimal adverse environmental impact when performed separately, and will have only minimal cumulative adverse effect on the environment.

"(B) Any such general permit issued under this paragraph shall be in lieu of individual permits required under this subsection (or section 404). Such general permits shall be conditioned on compliance with (i) specific requirements or standards, including State standards or management practices for the activity authorized by such general permit, and (ii) the guidelines under section 404(b)(1). Any general permit shall be for a maximum period of five years and shall be subject to being revoked or modified after opportunity for public hearing, if the requirements of this paragraph are not being complied with, or if the activities authorized by such general permit may have an effect which is more appropriate for consideration in individual permits.

"(5) The Secretary of the Army, acting through the Chief of Engineers, is authorized to make available to the Administrator such personnel or facilities under the jurisdiction of the Chief of Engineers as may be necessary for the implementation of this subsection.".

(b) Section 404 of the Federal Water Pollution Control Act, as amended (86 Stat. 884), is amended by adding the following new subsection:

"(d) For the purposes of this section, the jurisdiction of the Secretary of the Army shall be limited to those portions of the navigable waters (1) that are subject to the ebb and flow of the tide shoreward to their mean high water mark (mean higher high water mark on the Pacific coast), and (2) that have been used, are now used, or are susceptible to use as a means to transport interstate commerce, up to the head of their navigation, and (3) that are contiguous or adjacent wetlands, marshes, shallows, swamps, mudflats, and similar areas.".

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. MUSKIE. As I understand it, Mr. President, the committee amendment is now the pending business and subject to amendment?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. MUSKIE. I thank the Chair and the Parliamentarian.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. DOMENICI. Under the previous order, this is amendable and there is a time agreement with reference to amendments; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DOMENICI. And what is such agreement with reference to time?

The ACTING PRESIDENT pro tempore. Debate on the bill is limited to 2 hours to be equally divided and controlled between the majority and minority leaders or their designees. There is 1 hour on any amendment in the first degree, 20 minutes on any amendment in the second degree, debatable motion, appeal, or point of order.

Mr. DOMENICI. I thank the Chair.

Mr. MUSKIE. I yield to the distinguished chairman of the Public Works Committee (Mr. Randolph).

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the able chairman of the Subcommittee on Environmental Pollution (Mr. Muskie) has correctly stated to the Members of the Senate that this measure addresses a period of 1 year—fiscal year 1977. Senator Muskie has referred to actions taken in the past and the proposals that will be considered in the coming 95th Congress. This background spells out the fact that the bill, now before us in the form of an amendment, actually is an interim measure.

It is very important to underscore for the record that as we proceed next year, early in the 95th Congress, the Public Works Committee will address the problems of the water pollution control.

As Senator Muskie stressed, much of the time of the committee during this year has been given by the subcommittee and by the parent committee, to amendments to the Clean Air Act. Members in the Senate are conversant with what has been done on that important subject.

Mr. President, since enactment of the Federal Water Pollution Control Act Amendments of 1972 we have constantly monitored the progress and the processes by which that act has been implemented since the signature of the President that brought the law into being.

I think it is also noteworthy that five members of our Committee on Public Works—Senators Muskie, Bentsen, Baker, Buckley, and myself—participated as members of the National Commission on Water Quality. That Commission was created as a part of the 1972 act. I had the responsibility and the privilege to sponsor that effort.

It was a desire on the part of the Congress to work with the executive branch to assess the progress toward achievement of the statutory goals as set forth in the 1972 amendments and also to determine if there were any modifications in the law that it would be desirable to give our attention to in the coming Congress.

The final report of the Commission came to the Congress on March 18, 1976.

We raised certain issues in the Commission. There also are other affected parties that we know will want to have their so-called say as we review next year in the Subcommittee on Environmental Pollution some of the recommendations and the findings, brought out in the Commission's work.

I want to reemphasize that Senator MUSKIE and the members of the Subcommittee on Environmental Pollution gave a very high priority during this past year to the initiatives we felt were important in the fields of air pollution control and solid waste management.

S. 2710, as reported from our committee, and approved in the Senate on December 1, 1975, provided the general authorization for Federal water pollution control programs for the fiscal year 1976 and for what we call the transitional quarter.

Then on May 13, 1976, the committee reported S. 3037, providing the general authorization for fiscal year 1977 as well as the necessary construction grants for municipal waste water treatment.

We need funds for these plants that are being constructed.

When the House of Representatives approved its version of S. 2710 on June 31, 1976—and this is not in criticism of the House action—the House included many features which the Senate, very frankly, has not had the time nor the opportunity to examine in detail. We will go into these matters thoroughly next year.

There are, however, four major areas which the committee felt should be addressed this year. These areas are reflected in amendment No. 2231 to S. 2710.

First, an authorization needs to be provided for general water pollution control programs as well as construction grants for the fiscal year 1977. A construction grant authorization of $5 billion is contained in S. 3037, and that is now pending on the Senate Calendar.

Second, Mr. President, a formula needs to be provided for the apportionment or distribution of these construction grant funds that go to the States. I reemphasize States and municipalities need this money for waste treatment plants.

Third, an extension of the deadline is needed for municipalities which at the present time, due to a lack of Federal funding, are unable to meet the 1977 statutory deadline for secondary treatment.

Fourth, several issues surrounding the Corps of Engineers permit program regarding the disposal of dredged and fill material need to be resolved.

These are four subjects that we have addressed in amendment No. 2231 to S. 2710. The committee therefore recommends that Senate consideration of the other items in the House passed version of this bill be deferred until next year when we and our colleagues in the Senate can address these problems. These issues will be considered in detail in the general review of the water pollution control program.

Amendment No. 2231 to S. 2710 offered by the committee contains the $5 billion authorization from S. 3037 for construction grants in fiscal year 1977. I want to clarify that the language amending section 207 of the act, making the authorization subject to such amounts as are provided in appropriation acts, has the effect of negating the allotment and obligation provisions of section 205 of the act in the absence of a specific appropriation. Therefore, under section 205(c) as added by the committee amendment, allotment takes place on October 1, the first day of the fiscal year, and the allotment to States, of course, would be subject to any limitation in the appropriations act.

Fiscal year 1975 funds were allocated to the States 50 percent on the basis of all needs as shown in the 1973 Needs Survey and 50 percent on the basis of partial needs. In addition, a minimum allocation was provided each State based on the 1972 allocation of funds. When the $9 billion of impounded funds were released for fiscal year 1976 they were allocated on the basis of the formulas for each of the fiscal years in which impounded.

Several new formulas have been suggested for the apportionment of the fiscal year 1977 funds to the States as alternatives to the current formula, using more recent survey of needs.

The committee amendment provides a formula for the allocation of fiscal year 1977 moneys of 50 percent on the basis of partial needs—categories I, II, and IVB from the latest needs survey; 25 percent on the basis of all needs; and 25 percent on the basis of 1975 population figures from the census. This formula is similar to the House-passed measure. The difference is that actual 1975 population figures would be employed rather than estimates of the 1990 population. This new formula would apply only to fiscal year 1977 construction grant funds. The share of appropriated funds received by each State under the new formula are set forth in section 4(c) of the committee amendment 2231 to S. 2710. Next year the committee will review this formula as well as other issues associated with allocation, including the question of whether allocation on the basis of surveys of needs still is appropriate. The formula proposed in this amendment would give West Virginia $109 million in fiscal year 1977 to use in providing sewage treatment facilities.

The third area of concern to the committee was maintenance of full Federal funding of the construction grants program. This is essential to attainment of the objectives established by the 1972 amendments. Approximately 40 to 50 percent of the municipalities—and many industries which are now committed to the use of these municipal systems—will not meet the 1977 statutory requirement for secondary treatment. In many instances such noncompliance is due to delays because of the lack of availability of Federal financial assistance provided for in the 1972 amendments. This situation is partially the result of the earlier impoundment of Federal funds.

Section 7 of the amendment offered by the committee authorizes the Environmental Protection Agency Administrator, on a case-by-case basis, to grant extensions to such municipalities—and industries so committed. These extensions could extend until July 1, 1980. This date was recommended by the National Commission on Water Quality. The House measure authorizes similar extensions until 1982.

Similar extensions would be available to those industrial installations which are scheduled to discharge into the municipal systems receiving an extension under this provision. However, such compliance date extensions for industry would not apply to any requirements for the pretreatment of industry waste waters prior to their discharge into the municipal system.

The fourth and perhaps most controversial provision of S. 2710 as passed by the House concerns the Army Corps of Engineers permit program under section 404 of the 1972 amendments for the disposal of dredged and fill material. Confusion regarding congressional intent surrounds the scope and administration of permit and license programs under title IV of Public Law 92-500.

Section 404 requires the Army Corps of Engineers to issue permits for the disposal of dredged and fill material in navigable waters. At the time the Act was written, we were concerned with controlling the activities and the way in which dredged and fill materials are disposed of. These materials often are highly contaminated and we addressed the situation in the terms of water pollution control.

The committee did not anticipate that the corps in reacting to judicial decisions would subsequently broaden the impact of section 404. As a result of court action the Corps of Engineers subsequently promulgated regulations covering an extensive range of activities. These regulations are proposed to be implemented in three phases. The first phase has already gone into effect. The regulations covering phase II were to have been implemented on July 1, but were ordered postponed by the President pending action by the Congress.

Section 8 of the Committee amendment, amending sections 402 and 404, clarifies the original intent of the Congress regarding permits under these sections of the Federal Water Pollution Control Act Amendments of 1972.

The basic permit program for discharges of pollutants into the navigable waters is provided in section 402. The responsibility for this program rests with the Environmental Protection Agency and the States, except for the limited role of the Corps of Engineers as set forth in section 404.

This provision of the 1972 amendments is essentially the measure approved by the Senate in 1971 and revised by the House in 1972. Under the basic program provided for in section 402, the Administrator of the Environmental Protection Agency is authorized to issue permits for the discharge of pollutants into the navigable waters, the waters of the contiguous zone and the oceans.

As stated in the conference report, the 1972 amendments in effect transferred the 1899 Refuge Act permit program from Corps of Engineers to the Environmental Protection Agency. A limited exception was approved in section 404 which authorized the Corps of Engineers to issue permits for the discharge of dredged or fill material into the navigable waters at specified disposal sites. The Environmental Protection Agency also was given responsibility for oversight of this limited regulatory activity by the Corps of Engineers—the disposal of dredged or fill material.

It was the intent of the conferees on the 1972 amendments that the basic regulatory program be that provided for in section 402. This was emphasized in the conference report which states—

> The integration of the Refuse Act permit program into the Federal Water Pollution Control Act has been difficult but there can be no doubt that the most effective control mechanism for point sources of discharge is one which will provide for the establishment of conditions of effluent control for each source of discharge. A permit or equivalent program, properly implemented and fully utilizing the resources of the State and Federal Government, should provide for the most expeditious water pollution elimination program.

Amendment No. 2231 under consideration today clarifies the intent of the committee that the basic permit program for the control of discharges into the navigable waters is in section 402. The other programs provided for in statute must be considered as exemptions from section 402 for certain practices or classes of activities.

The disposal of dredged and fill material is such an activity. This was recognized by the Congress in 1972 in section 404. The particular characteristics of the pollutants involved required that a special program be created in section 404 to cope with these materials. Neither technological nor water quality criteria approaches to regulation would facilitate adequate protection of the resources involved.

The committee amendment restricts the jurisdiction of the Corps of Engineers to permits for the disposal of dredged or fill material in traditionally navigable waters. In effect this would be the present jurisdiction of the Corps of Engineers over navigation under section 10 of the Rivers and Harbors Act of 1899, and those waters covered by phase I of the current regulations governing the permit program under section 404.

The jurisdiction of the Corps of Engineers thus would apply to three areas: first, navigable waters subject to the ebb and flow of the tide; second, navigable waters now used or used in the past or susceptible to future use to transport interstate commerce up to the head of navigation—but not beyond; and third, wetlands, swamps, shallows, and similar areas which are contiguous or adjacent to such waters, as the corps defines them in its 1975 regulations.

To the extent that the disposal of dredged and fill material is not regulated by the Corps of Engineers under section 404, the committee intends that such activities be regulated by the Environmental Protection Agency and the States under section 402.

Under the combined scope of sections 402 and 404 permit programs, no further definition of navigable waters or wetlands is necessary. Section 404 deals with the activities associated with the disposal of dredged and fill material in a portion of the navigable waters, as an exception from section 402. To the extent that concerns for wetlands included in the navigable waters are not adequately provided for under section 404 as modified, the committee intends that such concerns be reflected in section 402.

The committee amendment also would exempt certain other limited activities from section 402 or section 404, such as the disposal of dredged material removed in maintaining a federally authorized navigation channel or non-Federal access channels contiguous to the authorized project, including docks, piers, and wharfs. Such materials, however, would have to be disposed of in specified confined disposal areas which are landward of the mean high water mark, and only where a State has its own program for protecting wetlands or controlling dredge spoil disposal.

Consistent with the intent of the 1972 amendments the committee expects that disposal activities of private dredge operators and the Corps of Engineers will be treated similarly.

Consistent with that exemption provided for the disposal of dredged spoil, the committee amendment also provides exemptions from the permit requirement for certain specified farming and forestry activities. The committee did not envision in 1972 that such practices would be covered by the section 404 permit programs of the Corps of Engineers. These activities were recognized in section 208.

Experience has shown that a permit requirement on these activities as point source discharges is not appropriate; however, regulation as areawide—or nonpoint—sources under section 208 is necessary to achieve the objectives of the Federal Water Pollution Control Act.

The committee amendment clarifies the use of the term "normal farming, silviculture, and ranching activities" as now contained in proposed Corps of Engineers regulations. Such activities would be exempt under the committee amendment from permit requirements under both section 402 or 404. This exemption would also extend to the construction and maintenance of farm and stock ponds and irrigation ditches.

Also exempted would be the maintenance of drainage ditches. The committee intends that a distinction be made between existing and new or expanded ditches.

In those instances where drainage ditches could be used to drain extensive wetland areas, such activities still would be required under the committee amendment to obtain a permit under either section 402 or 404.

Also exempted from the permit requirements of sections 402 or 404 would be emergency activities associated with the reconstruction of the damaged part of such serviceable structures as dikes, dams, breakwaters, causeways, and bridge abutments and approaches, as well as other transportation structures. In addition, the construction and maintenance of farm and forest roads and temporary roads associated with the moving of mining equipment would be exempted from these permit requirements, where such roads are constructed in accordance with guidelines provided for in the committee amendment.

To the extent that silt and sediment control impoundments associated with mine operations are not required to comply with point source effluent limitations, such impoundments are not required to obtain permits under section 402 or 404. This exemption does not remove or modify any requirements for effluent limitations imposed on mining operations under other provisions of the act.

In the judgment of the committee these exemptions provided for certain limited activities should ease the administrative burden associated with the present permit programs under sections 402 and 404. The integrity of the basic permit program under section 402 is preserved; no exception from that requirement would be authorized.

The jurisdiction of the Corps of Engineers with regards to dredged and fill activities operations would be restricted to traditionally navigable waters. Dredge or fill disposal activities not covered by section 404 would be covered by the Environmental Protection Agency permit program under section 402.

The committee amendments to sections 402 and 404 preserve the basic permit program with the Environmental Protection Agency and the States. The States would be authorized to assume the administration for this program. The States would also be authorized to issue general permits for large classes of minor activities.

Mr. President, the Baker-Randolph provisions within this amendment concerned with dredged and fill permits, represent a balanced and workable approach to what is a very difficult problem.

The validity of the action taken in the committee is recognized in an editorial in the Washington Post of August 30, 1976.

I ask unanimous consent that this commentary, which is well reasoned, and which I think is helpful to an understanding of the situation, be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Dredging and Ducks

To a casual observer, the fight over wetlands protection may seem like an obscure boundary dispute in which environmentalists and developers are battling for control of a swamp. At issue is how extensive federal regulation of the nation's waterways, marshes and bogs should be. The high-water mark of regulation, if you will, was reached in 1975 with a court ruling that was widely read as giving the Corps of Engineers authority over nearly every puddle in the land. This spring, the anti-Corps forces regained a lot of territory when the House Public Works Committee voted to curtail the federal power substantially. The full House then approved a "compromise" by Rep. Jim Wright (D-Tex.) that left considerable authority to the states. Last week the Senate Public Works Committee rejected that, 7–6, and endorsed a plan sponsored by Sens. Howard H. Baker Jr. (R-Tenn.) and Jennings Randolph (D-

W. Va.) that environmental groups greatly prefer.

The fight, which will come to the Senate floor shortly, is not just a dispute between anti-Washington and pro-Washington forces—or between the interests of developers and ducks. Through all the arguing, some issues have been eliminated and others clarified. There seems to be general agreement that farmers should not have to get federal permits to maintain ponds or drainage ditches—and so that spectre of over-regulation, raised by the Corps and fed by its opponents, should be put to rest. The real questions outstanding include how much to regulate dredging and filling along small streams; whether the federal role should be greater where discharges of toxic materials are involved; and how much responsibility should be left—or delegated—to the states.

These may seem to be dry issues, but vital and dwinding resources are at stake. Wetlands are not only the nation's most productive natural habitats. They also cleanse polluted water and serve as buffers for flood control. Moreover, wetlands damage and shoreline development are fluid problems in the strictest sense; water pollution tends to spread, and damage in one area can hurt resources many miles away. These are not arguments for exclusive federal control over every damp spot on the continent. They do illustrate, however, the importance of insuring that projects affecting wetlands and waterways will be looked at carefully by some competent public agency.

The Baker-Randolph proposal would focus federal review on the dredging, filling and other projects that are likely to have a real effect on the environment. Special attention would be given, as it should be, to dredging and dumping that involve toxic substances. The plan would also encourage the states to exercise their own responsibilities, but would not leave a vacuum if they fail to respond. Overall, this proposal would preserve many refuges for ducks, without barring development that is not damaging. It is a "compromise" worthy of strong support.

Mr. RANDOLPH. Mr. President, amendment No. 2231 clarifies the provision of the 1972 amendment which has to do with permits for disposal of dredged or fill material and preserves the environmental integrity of the statute.

We recommend that this amendment be approved.

Our committee, as always, attempts to be a committee of progress, a committee which understands the problems associated with providing a balance between environmental quality, and all the other matters that the Congress must address to be responsible to its constituency.

Mr. McGOVERN. Will the Senator yield?

Mr. RANDOLPH. Yes, I am pleased to yield to the able Senator from South Dakota.

Do I have the time, Mr. President?

Mr. MUSKIE. I yield the time.

Mr. McGOVERN. Will the Senator yield for a question?

Mr. RANDOLPH. I yield.

Mr. McGOVERN. Mr. President, I want to ask a question just for reassurance on a point I think the Senator will be able to reassure me about.

The amendment to S. 2710, sponsored by Senator Randolph and Senator Baker, seems to eliminate from the Federal Water Pollution Control Act some of the ambiguity which caused administrative difficulties and which tended to involve some of the Federal agencies in questions with little relationship to water quality and to environmental protection.

As I interpret amendments to section 404, the responsibility of the Secretary of the Army will be limited to those waters that are navigable, that have been navigable in the past, or can be made so in the future, together with adjacent wetlands and marshes.

The Secretary of the Army will not be required to establish regulations, conduct hearings, grant or deny permits to South Dakota farmers and other citizens planning to conduct normal and almost routine improvements on unnavigable rivers, intermittent streams, and dry runs in South Dakota or other inland States.

The responsibilities of the Administrator of the EPA under section 402 will be enlarged over the responsibilites assigned to the agency under the act as it is now written. His responsibilities, however, will be limited to matters of legitimate water quality and environmental concern, and they will not include any responsibilities for reviewing the plans of farmers or landowners as they relate to normal operations on the land that they own.

As an example, and this is important to upstream States like South Dakota, the Administrator will not be asked to determine where waters of interstate stream systems may be put to beneficial use. His responsibilities under section 402 are limited to water quality and environmental issues. This is completely consistent with section 510 of the basic 1972 act (33 U.S.C. 1370) which expressly preserves State jurisdiction over the use of waters.

I wonder if the Senator would comment on those concerns.

Mr. RANDOLPH. Mr. President, the knowledgeable Senator from South Dakota (Mr. McGovern) calls attention to the committee amendment. The Senator is entirely correct in the general observations that he has made. The effect of the committee amendments on the control of dredge and fill disposal activities is, as both he and I and the other members of the committee understand, a clarification. There is a balance.

Within the minds of the committee, the Senator's thinking was a major concern which we had, and that was the agricultural community. At this point I remember some lines that go like this:

> The doctor heals and the lawyer pleads
> And the miner follows precious leads,
> But this or that, what e'er befall,
> The farmer, he feeds them all.

The Senator from South Dakota (Mr. McGovern), as is the committee, is concerned that the farmers not be subjected to unwarranted and burdensome regulation by either the Corps of Engineers or the Environmental Protection Agency. We think that we have hit a balance which recognizes the validity of the observations made by the Senator, and hopefully the Senate will concur.

Mr. McGOVERN. I thank the Senator for that reassurance. That was what I understood the case to be, but it is most helpful to have the Senator's assurance on that point.

Mr. RANDOLPH. I thank the Senator.

Mr. DOMENICI. Mr. President, I yield myself 5 minutes on the bill.

First, I ask unanimous consent that Lee Rawls of my staff be granted the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, our ranking Republican member, the junior Senator from New York (Mr. Buckley) is not able to be here this morning. I commend him for his diligent effort, not only on this particular aspect of our jurisdiction, but on th clean air bill as well, and I ask unanimous consent that a statement that will be prepared by the Senator be printed in the Record at the earliest possible place in our discussion this morning.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Senator Buckley

I wish to express my strong support for the provisions of the Committee Amendments to S. 2710. As other members of the Committee have stated, we are under a sharp time constraint in any attempt to resolve the many difficult issues involving water pollution that must be resolved during this Congress. While I am not entirely happy with the provisions of the proposed amendments, I believe they strike a balance, one that should be acceptable to the Senate.

I would like to focus my comments on four provisions in these amendments in order to give my thoughts to my colleagues in the Senate.

One of the most significant aspects of these amendments to the people of New York State involved the language of Section 6, which involves a system of loan guarantees. This is language which I offered in Committee, and which I believe will assist many communities now unable to go forward with new projects that are outside their financial ability, due to factors outside their control.

The Federal government currently owes the citizens of New York several hundreds of millions of dollars in reimbursements on water pollution construction programs that were initiated in past years. Because of the fact that the citizens of New York, in effect, advanced these millions in anticipation of Federal funds, which have not been received many of these same communities are now short of funds to provide their share on new projects.

Section 6 provides a system of loan guarantees through EPA and the Federal Financing Bank for the non-federal share of construction cost, when the grantee is unable to finance its share at a reasonable rate. This should cost the federal government nothing. But it will assist local communities in raising the necessary share to make their commitment to clean waters. I approve this approach and I think it is a reasonable one.

I would add that the local communities are required to provide some assurance of repayment of the money committed. What would constitute such an assurance? One example might be a system of user charges, but this need not do so. Another such assurance could be a commitment to utilize future reimbursable funds, if and when they are available. EPA and the Federal Financing Bank should grant broad latitude to local communities in meeting this requirement.

The problem of lack of federal reimbursable funds leads naturally to a discussion of

Section 3 of these amendments, involving re-allotment. Because of a lack of local funds, brought on in part by a lack of reimbursable funds, many projects have not been able to go forward in a timely manner. This has resulted in many states building up large sums of non-obligated construction funds. Section 3 extends for one year the period for re-allotment, giving sufficient time, together with the loan guarantees I have just discussed, to allow local communities to utilize their full and fair share of authorized construction funds.

Section 4 of this bill allocates new funds among the states on a formula not used heretofore. The new proposal involves an allocation emphasizing such factors as population and partial pollution-control needs. This is not a true projection of the actual need for sewage treatment facilities in this nation. In Committee, I urged that we continue the existing allocation formula for another year, pending a most complete analysis next year of the program under the direction of EPA. While the new formula is reasonably acceptable, I would note that it is chosen more for the number of states it benefits, than to meet the clean waters goals of the Federal Water Pollution Control Act. I would urge that the Congress, when we meet again next year, consider strongly returning to a formula based on need.

Finally, I want to make a few comments about Section 404 of the Federal Water Pollution Control Act and the amendment that is sponsored by Senators Randolph and Baker. As others have stated on this floor, the Army Corps of Engineers and others misinterpreted the intent of Congress in writing its regulations to implement Section 404. I would have had no objections to eliminating Section 404 entirely, and bringing the program under the provisions of Section 402. That was the position of the Senate in 1972, and this is a reasonable position.

However, this did not appear practical this year. As a result, I supported the Baker-Randolph alternative, which carries out to a great extent the intent of the original Section 404 and its incorporation in Section 402. There is no intent in Section 404 to control agricultural practices. The Baker-Randolph language makes that clear, exempting agricultural practices from such control.

As important, the proposed new Section 404 would allow delegation of this authority in certain areas to each state when the state has a compatible program. I feel strongly that such delegation is important, for it takes the federal bureaucrats out of the control of activities that are not necessarily in the Federal interest.

The Committee on Public Works has, to a great extent in various types of legislation, moved toward giving new responsibilities to the states. I strongly support this approach. We did it under the recent amendments to the Clean Air Act. We did it under the existing water pollution permit program operated under EPA. I shall continue to support such delegations to the states. This is particularly appropriate in waters where there is no basic federal navigable interest. But at the same time, we must maintain a national policy over such activities as the disposal of dredge and fill material under guidelines to assure similar treatment in each state.

In closing, Mr. President, I want to say a word of commendation to my colleagues on the Committee on Public Works for their diligent work on this bill. As always, this Committee has shown great dedication to resolving the problems and working toward a responsible solution, one that is in the public interest. I particularly want to state my thanks to Chairman Randolph, Senator Muskie, and Senator Baker for their fine leadership in these matters.

Mr. DOMENICI. Mr. President, for many months the Senator from Tennessee (Mr. Baker) was our ranking Republican Member, leaving that post when he took another ranking position. He is unable to be here at this time, and I ask unanimous consent that the statement he has prepared, together with explanations, be printed in the Record at this point.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Senator Baker

The Committee bill which is before the Senate today amends only those provisions of the Federal Water Pollution Control Act which are in need of immediate change. I would like to explain to my Senate colleagues why our committee has chosen to make only these minimal changes in the Federal Water Pollution Act at this time.

As I'm sure most Senators know, the Subcommittee on Environmental Pollution of the Public Works Committee has original jurisdiction over a number of our most important environmental subject areas—the Clean Air Act, the Solid-Waste Management Act, and the Federal Water Pollution Control Act. The Clean Air Act and Water Pollution Act are particularly far-reaching and complex laws. During the current session of Congress, our Subcommittee has undertaken and successfully completed major overhauls of both the Clean Air and Solid-Waste Legislation. The amendatory process for Clean Air is particularly illustrative of the time consuming nature of these procedures. It has involved 14 subcommittee hearings, 48 committee mark-ups, and 7 days on the Senate floor during 1975 and 1976.

At the present time, the House has not completed action on companion legislation to either our Clean Air bill or the Solid Waste Management Act but is planning to do so in the near future. Thus, the Committee is looking forward to what all of us feel are going to be two long and complex conferences during the few days the Senate has remaining in this session.

Given this scenario, I think my colleagues can easily understand why the Public Works Committee has elected to take only minimal action with regard to the Water Act during this year. Not only would major legislative action at this time be infeasible because of the crowded schedule remaining for the session, but also legislative actions taken would not be based upon the type of study and review needed to produce high quality legislative changes.

One other factor which dictates against completing the amendatory process for the Water Act in the short time remaining, is that the Committee has been unable to host needed hearings on the complex subject matter in this bill. I think all my colleagues understand the great importance that informative hearings play in the process of creating effective legislation.

Finally, the Committee has not had time to fully review the Report to Congress from the National Commission on Water Quality. We are privileged to have this recently published report from the National Commission to help guide us in our legislative efforts. It is a voluminous work which comprehensively covers many of those areas of the water law where amendments are potentially needed. This report to Congress has been available only a few months—certainly not long enough for either the Committee or individual members of Congress to fully analyze its content. It would be a shame to deny Congress to utilize the excellent work of this group by demanding hasty legislation.

In the bill now before us, the Committee has chosen to deal with eight absolutely essential items concerning the water law in these amendments. First the bill addresses the important questions of continued funding for the water pollution construction grant program and the allocation formula by which these funds are to be allocated to the states.

The bill also provides a one year extension for the allotment date of funds previously allocated to the states. This is important to keep a number of states from misspending funds in order to avoid losing them on September 30, 1977.

The bill includes a proposal offered by Senator Buckley which hopefully will ameliorate the problems which some communities are having in raising their matching funds as is required by the construction grants program in this law. This is accomplished by setting up a loan guarantee program through the Federal Financing Bank.

The bill extends until 1980 the deadline by which municipalities must achieve secondary treatment. Hopefully this amendment will insure that only those municipalities and the industries who have expressed wishes to join in treatment programs with these municipalities who have made good faith efforts to meet the requirements of the water law but have been unable to do so because of reasons beyond their control will be given such an extension.

The bill contains some minor amendments concerning job training grants and the funding of Section 208 planning programs. These minor adjustments are of a non-controversial nature and will aid tremendously efforts made concerning the requirements of the Water Pollution Control Act.

The bill also contains a controversial amendment regarding Section 404 of the Federal Water Pollution Control Act which I will be discussing in detail later.

Before closing I would like to commend our distinguished Chairman, Senator Randolph, and ranking minority member, Senator Buckley, on the superlative job they have done in guiding this most difficult legislative effort thus far. Without their knowledge and persistence certainly there would have been little or no possibility for us to have addressed the difficult issues contained in this bill. I believe that efforts of this sort are key to the effective management of our Committees' efforts and the Senate's legislative efforts.

Mr. President I would also like consent to include along with my statement a more in-depth analysis of some of the issues involved in this bill.

Section 2 will allow grants of up to $500,000 to be awarded to training facilities for programs designed to eliminate the manpower shortages which exist in the water pollution field. The new $500,000 grant limitation being placed on grants in this section is an increase of $250,000 over the old limit in the 1972 law. The increase in costs of providing programs of this sort have made such an increase in the grant ceiling necessary. The Committee feels strongly, however, that this program's importance to the overall water pollution effort is so great that the country will more than get an adequate return for any increased spending which might occur pursuant to this section.

In the future, more and better qualified professionals will be urgently needed to adequately man the various programs concerning water pollution control which have been mandated in our new water pollution laws. This increased need is also reflective of the intensified awareness and commitment that most states and communities are now showing toward water pollution problems.

Specifically, more engineers and scientists are needed to design and run municipal and industrial waste treatment plants. Shortages within these professions could cause delayed, defective or inefficient sewage treatment plants, a result which will undermine our entire pollution control effort. A recent study done by the Bureau of Labor Statistics found there would be a tremendous increase in the need for professionals of this type as the spending programs related to the Federal Water Pollution Control Act are accelerated. As I am sure each Senator knows, spending in this area is slated to be increased in the future.

The municipal sewage treatment program as envisioned in P.L. 92–500 has also created a need for more and better qualified personnel to operate sewage treatment facilities once they are completed. If the plants aren't operated correctly once built, our whole effort is in vain. Having an adequate number of personnel to operate these facilities is dependent on three factors: the number of new operators needed to operate the new complex treatment equipment, the overturn of present personnel and most importantly, the number of new operators being trained. The provision contained in Section 2 will directly address and hopefully eliminate the last factor as a problem.

Section 4 of the Committee bill amends section 205 of the Act to provide a new formula to be used after September 30, 1976 for the allocation of funds authorized in the bill to the States. The allotment formula agreed to by the committee is similar to that adopted by the House in H.R. 9560. The allotment formula is as follows: ¼ on the basis of 1975 population; ½ on the basis of partial needs which are secondary treatment needs, more stringent treatments to meet water quality standards, and needs for interceptor sewers and appurtenances; and ¼ on the basis of total needs which are comprised of all of the partial needs plus collector sewers, confined sewers, and infiltration in-flow.

The one difference between the Senate and House formulae is in the population estimates used. The House uses 1990 population estimates, while the Senate selected to use 1975 population figures. During consideration of this matter by the Committee, concern was expressed that the use of the 1990 figure will allow funding of too much of the treatment costs due to the projected future growth in municipal systems. Members of the Committee believed the whole question on the Federal funding of future growth is one which should be handled in the context of the overall review of the construction grants program scheduled by our committee for next year. It was felt that action dealing with this question in this legislation might very well preempt or influence options the Congress might wish to explore regarding this issue next year.

It is hoped that the formula chosen is one which makes sense politically and which implements the goals of the Clean Water Act. There has been much discussion in the past on how best to allocate Federal funds under the waste water treatment program. If the Federal government could devise a formula that would be able to fund all needs as they arise, the construction grants program could, of course, move toward completion in short order. However, the measurement of needs, particularly on a state by state basis, has, in fact, proved very difficult, and there is considerable skepticism about the data generated by the survey.

EPA has taken the position before the Committee that certain categories were assessed reliably and that the other categories have only limited usefulness as an indicator of the true national needs. By increasing the affect of partial needs in the allocation formula—basing one half of the allotment on this factor—the equity between states will be increased.

In addition, to minimize the problems of inaccuracy of the needs assessments, the formula recommended in this bill introduces population as a third factor.

Section 7 allows an extension of the 1977 secondary treatment deadline contained in the Federal Water Pollution Act for publicly owned sewage treatment facilities. No such extension may extend beyond July 1, 1980. The Committee feels that this increase in time available to meet the requirement will be sufficient to allow most communities to meet the requirements for treatment of their wastes.

There are a number of reasons why a delay of this requirement for municipalities who are behind schedule in meeting this requirement should be granted. Many communities have met with difficulties in raising their matching share of funding for the project which they need. Enforcement of this deadline in such communities will not serve any purpose in these instances. This problem of matching funds is also addressed more completely in Sec. 213 of the Committee' bill.

Other reasons for delays in meeting the 1977 requirement seem to be due to both the states' and EPA's rigid interpretation of the statutory directive in P.L. 92–500 defining secondary treatment. Many municipalities have not agreed with the interpretations of requirement on this subject and have moved forward slowly while awaiting Congressional clarification on this subject. This interpretive problem is one that the committee plans to address early in its deliberations concerning needed changes in the Water Pollution Control Act. After getting the needed clarification I am sure that these communities will move rapidly to meet the requirements within the 1980 time frame.

In addressing the issue of extending municipal deadlines, another inevitable question must also be addressed at the same time. What is to be done in the case of an extension about the regulations affecting those industries which have in good faith made commitments and are counting on joining with a municipal treatment system. The committee approach would provide an equal time extension for those industries which have previous to passage of this bill committed to joining a municipal system. The committee is faced with a dilemma regarding this particular issue. It would like to continue the policy of encouraging industrial participation in municipal facilities while at the same time not opening a loophole through which many industries who have made no attempts to comply with the Act's requirements may obtain an easy compliance extension. It is sincerely hoped that the framework in which the municipal extensions in this section are granted will at the same time be fair to industries that are planning or have made plans to join a municipal system.

Finally, it might be noted in defense of the Committee's approach, that after long and careful analysis of the problems which are caused by the municipal deadlines, the National Commission on Water Quality suggested an approach similar to that now being taken by the Committee.

It is my belief that the amount of additional time granted in the Committee bill recognizes and adequately compensates for the aforementioned problems and at the same time does not grant such a long delay from compliance that many of the benefits which might accrue from reaching the secondary treatment level are lost forever.

Section 8, one of the most important issues which the Committee has addressed in its amendment to S. 2710 is a modification of the Corps of Engineers permit program for dredged and fill material under Section 404 of the Act. In the year since the Corps of Engineers has promulgated regulation for control of these pollutants, substantial controversy has arisen regarding the program.

That controversy has created pressure for legislative action and resulted in the passage of a provision by the House which would substantially curtail federal jurisdiction over pollution in the nation's water, even though the House had held no hearings on the program.

This atmosphere of confusion and political pressure is hardly optimum for consideration of an issue as complex and far-reaching as the 404 regulations. I am pleased that the Senate Public Works in the limited time available to it for consideration of this issue has carefully and characteristically studied and reviewed the program and endeavored to identify the specific issues and problems worthy of response.

The so-called Baker-Randolph amendment which is a part of the committee provision is the result of that study and effort.

With all of the controversy that the Section 404 issue has engendered this year, it is ironic that basically all of the amendments advanced on the issue agree as to the nature of the problems that must be corrected in the program.

The most important disagreement between the proposals relates not to their stated goals and purposes but to the technique they employ to effect their remedies.

The Wright Amendment would correct the specific and identifiable problems of 404 by extinguishing all federal jurisdiction to regulate discharge of dredge spoil and fill material into the bulk of the nation's waters, not only under section 404, but under all other sections of the Federal Water Pollution Control Act and under the Corps authorities for the protection of navigation.

The Committee amendment addresses these same problems within the structure of the existing program. By placing authority for the so-called Phase II and III waters under Section 402 of the Act—it affirms Congressional intention not to require permits for those agricultural, silvicultural and other activities which are not point sources and it provides for assumption by the States of the authority to control these activities in all the waters. 27 States have already taken over control of the permit program for other pollutants through this mechanism.

I would like to take this opportunity to explain this amendment and to compare it to the Wright amendment adopted by the House and the Tower amendment which will be offered during Senate debate on this issue.

Section 404 was added to the Federal Water Pollution Control Act as an exception to the Environmental Protection Agency's general jurisdiction to control discharges of pollutants into the nation's waters. The measure was rejected in the Senate and was added to the legislation as a result of conference with the House of Representatives. Since it was the gravamen of Sec. 404 to remove the EPA jurisdiction for control of dredged and fill material the sponsors of the amendment overlooked many of the implications of establishing a separate authority for pollution control in the Corps of Engineers. This has led to several problems.

The problems divide into four main categories:

1. intrusion of the Corps into regulation of waters far beyond the scope of its navigation authorities;
2. coverage of activities which conceptually and administratively are inappropriate, such as non-point source discharges resulting from farming, ranching and silviculture;
3. regulation of routine activities of minimal environmental significance, and
4. the overbroad scope of review to which permit applications must be subjected by the administering agency.

The House by adopting the Wright Amendment, has sought to address the specific problems by disestablishing federal jurisdiction to control the discharge of dredge and fill material into the bulk of the nation's waters. In my opinion this federal jurisdiction problem is the most fundamental and important issue raised by debate over modification of Section 404 during this session of Congress.

In 1972, the Congress overwhelmingly adopted Public Law 92-500. That law established a comprehensive federal jurisdiction over the nation's waters. In its report on that legislation, the Senate Public Works Committee stated, "Waters move in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source. Therefore, reference to the control requirements must be made to the navigable waters, portions thereof, and tributaries."

A limitation upon the jurisdiction to control the discharges of pollutants into the waters which was limited to the head of navigation would be totally unworkable for any pollutant. Discharges into the waters above the head of navigation which would disrupt or impair the physical chemical or biological integrity of those waters would quickly as a result of water flow or biological impacts disrupt and impair the integrity of the waters below the head of navigation.

Such a limitation would encourage uncontrolled pollution in uncontrolled waters.

The Wright Amendment is thus more appropriately characterized not as a turning over of some waters to state control, but as an abdication of federal responsibility for pollution control with regard to the pollutants dredged spoil and fill material in the bulk of the nation's waters, without regard to their use for navigation.

The Baker-Randolph Amendment does not abridge federal jurisdiction for pollution control. It rather limits the jurisdiction of the Corps of Engineers essentially to those waters which the Corps has traditionally regulated under its navigation authorities. Control of discharges of dredged and fill material into the balance of the nation's waters would be handled in the manner established by the Federal Water Pollution Control Act of 1972 for all discharges of pollution.

SCOPE OF REVIEW

Implementation of the Section 404 authority of the Corps of Engineers is complicated by application of the National Environmental Policy Act to require a broad scope of review. This requirement expands the scope of review for issuance of permits to environmental considerations beyond the intent of the authority. The Corps of Engineers under Section 404 must include in permit review in addition water quality concerns, potential secondary impacts upon land, air and economic factors extraneous to the purpose of P.L. 92-500.

The Wright amendment fails to address this problem and even potentially extends it to State programs which obtain a delegation of the limited waters eligible under the Wright delegation scheme.

The EPA and State permit programs under the Committee amendment would apply the criteria and guidelines of Section 404(b)(1). However, the scope of review would be water quality focused, since permit issuances under Section 402 authority are not subjected to NEPA review. For example, the 403(c)(1)(C) economic test applicable under the present program and included in EPA guidelines under our amendment would under Section 402 permit requirement be focused specifically on those economic impacts associated with fishing and other water-related commercial activities and deriving directly from the effects of disposal of the controlled pollutants. For permits issued under the present Section 404 authority by the Corps of Engineers these economic considerations may include the effects of future development due to permitted activities on the local tax base, labor market, and such.

The Committee feels that administratively such broad review imposes an impossible burden on the permitting authority. The transfer of authority for permit control of discharges of dredged and fill material to Section 402 initially for Phase II and III waters but upon approval of State permit programs for all waters will streamline permit review and expedite issuances.

STATE PROGRAMS

The Committee amendment in accord with the stated policy of "preserving and protecting the primary responsibilities and rights of States to prevent, reduce and eliminate pollution" provides for assumption of the permit authority by States which establish approved programs for control of discharges of dredged and fill material in accord with the criteria and with guidelines comparable to those contained in 402(b), 404(b)(1) and 404(c).

By using the established mechanism in Section 402 of P.L. 92-500, the Committee anticipates that delegation of the permit program will be substantially expedited, at least to the twenty-eight state entities which have already obtained approval of the National Pollutant Discharge Elimination System under that section. The use of this mechanism will also expedite the Administrator's promulgation of amended guidelines under Section 304(h)(2) of the Act to establish the exact procedures and other requirements that a State must meet to achieve approval of its program.

Under the amendment a State may elect to seek approval of the permit program separately from an application for approval of an NPDES program. This will prevent any delay in processing of NPDES applications.

The amendment also provides that a State may elect to administer its program separately from the NPDES program. Several States have already established separate state agencies to control discharges of dredged and fill materials. These agencies need not be disestablished or melded into an NPDES agency.

Although discretion is granted the State to establish separate administration for the permit program for discharges of dredged and fill material the authorities of the Administrator to assure compliance with guidelines in the issuance and enforcement of permits and in the specification of disposal sites which is provided in sections 402 (c) through (k) and 404(c) and the authorities of the Secretary of the Army for protection of navigation in Section 402(b)(6) and the Rivers and Harbors Act of 1899 apply to all such State programs.

The authority for control of discharges of dredged and fill material granted to a State through the approval of a program pertains solely to the environmental concerns reflected in the specific guidelines set forth in the amendment. The authority of the Corps of Engineers under the Rivers and Harbors Act of 1899 is not affected or altered by this amendment.

EXEMPTION FOR NONPOINT SOURCES

All of the amendments offered to Section 404 except for the Breaux amendment have sought to specifically exempt agricultural and silvicultural activities from the permit requirements of the program.

The Wright amendment essentially uses the definition of such activities which is found in the present Corps regulations. The Committee amendment utilizes the point-source and non-point-source distinction in the Act which exempts such activities from coverage under the Section 402 permit program.

The Committee amendment, however, goes even further to clarify the agriculture exemption by specifying activities including those in the Wright amendment and several additional activities brought to the Committee's attention in its hearings.

The normal farming silviculture and ranching exemptions in the Committee amendment would include the situation where a farmer or rancher rotates lands in intensive agricultural use from one crop to another. For example, the exemption would preserve the opportunity to convert a field in alfalfa into a row crop without applying for a dredge or fill permit. Additionally, the exemption would encompass the placement of fill required for the erection of farm buildings or tile lining a field in intensive agricultural use.

The amendment also provides that a State may elect to administer its program separately from the NPDES program. Several States have already established separate state agencies to control discharges of dredged and fill materials. These agencies need not be disestablished or melded into an NPDES agency.

Although discretion is granted the State to establish separate administration for the permit program for discharges of dredged and fill material the authorities of the Administrator to assure compliance with guidelines in the issuance and enforcement of permits and in the specification of disposal sites which is provided in sections 402 (c) through (k) and 404(c) and the authorities of the Secretary of the Army for protection of navigation in Section 402(b)(6) and the Rivers and Harbors Act of 1899 apply to all such State programs.

The authority for control of discharges of dredged and fill material granted to a State through the approval of a program pertains solely to the environmental concerns reflected in the specific guidelines set forth in the amendment. The authority of the Corps of Engineers under the Rivers and Harbors Act of 1899 is not affected or altered by this amendment.

While these activities are specifically exempted from the permit requirements of Section 402 and 404, existing authorities in the Act for control of non-point source activities are not abridged.

In addition to normal farming and silvicultural activities, the construction of farm and forest roads is exempted. The Committee feels that permit issuances for such activities would potentially delay and interfere with timely construction of access for cultivation and harvesting of crops and trees, which could result in a loss of production. The guidelines for construction of exempt roads require that the construction, use, and maintenance of the roads not impair the biological character or the flow and circulation of affected waters.

During the Committee's consideration of the existing Corps program, the Department of Agriculture provided a list of anticipated permit applications for farming activities. Over 80% of the permits needed according to that survey are for construction or maintenance of farm ponds. The Committee amendment specifically exempts these activities as well as construction and maintenance of agricultural irrigation ditches and the maintenance of agricultural drainage ditches.

Mining: During the Committee's oversight of the Corps program, testimony was received regarding potential disruption of mining operations due to delays resulting from permit review for routine activities. The Committee amendment includes the construction of temporary mining roads for the movement of equipment among exempt roads. These roads must not only be designed and constructed in accord with the requirements for protection of the navigable waters applicable to roads, they must be removed in a manner consistent with those requirements.

The construction or maintenance of silt or sediment control impoundments associated with mining operations has also been exempted since these structures are designed to protect water quality through management practices that get to pollution at its source. For purposes of the Water Act, they are best treated under section 208 plans as are those other activities that have been excluded from permit requirements by this amendment. Of course, discharge of pollutants from these impoundments must continue to be handled under the NPDES program in order to maintain the effectiveness of effluent limitations imposed on such discharges.

The construction or maintenance of temporary roads to move mining equipment has also been excluded if performed in accordance with guidelines promulgated by the Administrator. Again, this type of activity will have only a minor impact on water quality if performed in a manner that will not impair the flow and circulation patterns and the chemical and biological characteristics of the affected waterbody, and that will not reduce the reach of the affected waterbody.

Levees and Transportation Structures: The amendment also adopts the permit exemption in the Corps of Engineers regulations for the maintenance and emergency reconstruction such as highways, bridge approaches, dikes, dams, and levees of currently serviceable structures. This exemption from a permit requirement is not intended to include maintenance activities that change the character, scope or size of the original structure. Emergency reconstruction must occur within a reasonable period of time after destruction of the previously serviceable structures to fall within this permit exemption.

Dredging: The Committee amendment exempts discharges of dredge spoil resulting from maintenance dredging in Federal navigation channels and non-federal access channels which directly intersect such channels when that dredged material is discharged into confined disposal areas specified under an approved State program. Disposal sites must be located landward of the mean high water mark.

Since the disposal must be in compliance with a State program the exemption process does not become applicable until approval of a State program. The exemption under the State law may apply only to dredge spoil resulting from maintenance dredging and not to spoil from construction, alteration, improvement or repair of channels. The Administration is given the authority to restrict or deny the designation of a disposal site, as he is under the existing program.

The disposal site must be confined and shall be constructed and operated to prevent migration of pollutants that could cause environmental damage. Thus, if pollutants deposited in the confined area would be carried beyond the site by physical, chemical or biological means, the State would be prevented from designating the area eligible for the exemption.

An Exception to the Farming and Silvicultural Exemption: The Committee amendment specifically requires a permit for any placement or discharge of dredged or fill material for the purpose of modifying the use of an area of the navigable waters if the flow, circulation or reach of the waters will be impaired. A permit would be required for instance, for the conversion of a hardwood swamp to full scale timber production through construction of dikes or drainage. However, where an area of the navigable waters has been placed in intensive agricultural use, prior to enactment of this provision, improvements to drainage to enhance the productivity of that use would not be covered by this specific requirement and would be exempt under subsection (3)(A) of the amendment. Rotation of crops in intensive production would not be a modification of use requiring a permit except where those crops or the characteristics of their cultivation are substantially distinct and different. For example, a placement or discharge of dredged or fill material to effect a conversion from rice to dry land crops, where the rice is grown in an area of the navigable waters, would require a permit.

TOXICS

Serious and substantial concern has focused recently on the problem of toxic pollution in our rivers and streams as the result of news stories regarding such incidents as the dumping of kepone in the James River. Dredge spoil from many of the nation's rivers will contain toxic elements the disposal of which could cause substantial harm to the environment.

For this reason the Committee amendment would require the issuance of a permit for any discharge or placement of dredge spoil or fill material containing toxic materials. The full scope of permit review and protection would minimize and protect against harm to water quality, municipal water supply, marine habitat and other values which would otherwise result from disposal of such materials.

GENERAL PERMITS

The Committee amendment authorizes the issuance of general permits by EPA, the Corps and States with approved programs for classes or categories of activities which cause, individually or cumulatively, only minimal environmental impact.

The general permits mechanism is derived from the Corps of Engineers regulations. The Corps during the first year of administering the Section 404 program has issued general permits for approximately 100 classes of activity involving the discharge or disposal of dredged or fill material. These include streambank protection, stream alterations, backfill for bridges, erosion control, and, in at least one instance, a general permit for road fill and culverting on a statewide basis. For general construction activities, general permits issued on a statewide or regionwide basis will greatly reduce administrative paperwork and delay.

The Committee amendment and the Wright Amendment, which was offered in Committee and rejected, have essentially undertaken to address the same objectives—to eliminate burdensome regulation of farming and forestry activities under section 404, to limit Corps of Engineers jurisdiction to their traditional scope under the 1899 Act, to provide for State control of the permit program. The Committee Amendment goes further to focus the scope of permit review to water quality objectives.

I think that it is essential that the Congress reject the notion that we can address the specific problems of our pollution control effort by abridging federal jurisdiction. Complex problems do not lend themselves to such simplistic solution.

THE ISSUE OF STATE CERTIFICATION

The House bill has given to the states the ability to certify certain actions concerning the construction of municipal sewage treatment facilities. This provision should speed up the construction of such facilities by elimination in large part of the duplication of effort between states and EPA which has kept this important program moving at a snail's pace from its inception. I would like to explain that I support the certification concept wholeheartedly and feel an explanation is due as to why such a provision is absent from our bill.

The provision is absent from the bill for a very good reason. The approval at this time of certification procedures might unduly influence or even preempt a number of alternative legislative approaches to reforming the construction grants program when it comes up for review next year. Such a result might occur if states, after reviewing certification were to approve long range projects and water pollution programs which the Congress after next year's intensive review decided not to fund as part of the Federally assisted municipal sewage treatment program. Such a result might indeed be disastrous for future Congressional attempts to design a feasible municipal sewage treatment program.

It is for this reason only that I approved a Senate bill without a certification provision. I also feel strongly that when Congress has made its final decisions regarding needed changes in the focus of the construction grants program, it should also include as part of these changes a provision which will allow the states to carry out many, if not all of the needed certifications in their construction grants program with only minimal Federal involvement. I am positive that such a procedure will insure that any new program which might be mandated by Congress after next year's review is completed as quickly and effectively as possible. I know I will certainly support such a procedure as part of my newly designed program in the construction grants area.

Mr. DOMENICI. Mr. President, both Senator Muskie and Senator Randolph have more than adequately explained the nature of the bill that is before us, what we have done during the year in terms of the Clean Air Act and the Clean Water Act. Indeed, it has been a different year in terms of the Subcommittee on Public Works, which has jurisdiction over both clean air and clean water.

We certainly do not intend that what we submit today be understood by anyone as the major result of an oversight hearing on the Clean Water and Clean Air Acts, but rather that this bill contains those things we think are absolutely paramount and necessary this year. I shall comment on only three of those.

First, we have a continuing discussion in the Senate with reference to the allotment or allocation formulas for the distribution of the funds under this legislation, and I think we have today submitted to the Senate a rather good compromise. It has been adequately explained by the other Senators and by Senator Baker in his remarks which I have just put in the Record. I just wish to comment, so that no one will misunderstand our side of the aisle on this: We do not think this formula is anything like a permanent formula, but we need one now. We have had two or three different formulas in the past, and this one is the best we can do for the time being.

If we look at the Clean Water Act next year, and we will, we will have to take a good, hard look at a permanent formula for the distribution of these funds, which takes into consideration the needs of changing populations and many other things that we were not able to take a look at when we adopted the act, or obviously changes in the field as they occur.

The second thing I want to discuss rather briefly is the authorization in this bill. Obviously many States are very hard pressed to meet their goals, the goals that are more or less demanded of them under the Clean Water Act. Today we present an authorization of $5 billion, which we assume will keep the program in place and will keep our States and thus their cities funding programs that they have on the boards, and that are so desperately needed, during the ensuing year.

Third, Mr. President, there can be no doubt, as I am sure the Senator from Maine will agree, that section 404, the section which is amended by the committee in what we are going to be calling the Baker-Randolph amendment, there can be no doubt that that is one of the most controversial sections in the Clean Water Act, and there can be no doubt that it must be amended. The committee follows an approach to amending it that is adequately explained, and certainly an amendment will be presented by the distinguished Senator from Texas (Mr. TOWER) which will focus in on that issue more specifically, and will, I am sure, focus in on not only what was wrong with the original section 404 and the interpretations of it by the courts, but will draw on distinctions between the Baker-Randolph amendment and his amendment.

There can be no doubt, nonetheless, that we must amend that section. There can be no doubt that it must not apply, when we are through here today and when we come out of conference, to the normal operations of our farmers and ranchers; and I think whatever we do we will at least see to that.

Mr. President, I commend the staff and the committee for putting together a good bill in terms of the limitations of this year, and the pressures, and it seems to me the Senate ought to welcome this. After long conference, we will bring back, before the year is out, a bill to resolve these basic issues before we leave for our recess this year.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. STAFFORD. Mr. President, I have an amendment at the desk which I call up and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Until the time on the amendment in the first degree has either been used or yielded back, amendments in the second degree will not be in order.

Mr. MUSKIE. Mr. President, yielding back the time on the first amendment does not affect the time on the bill, does it?

The ACTING PRESIDENT pro tempore. It does not.

Mr. MUSKIE. Mr. President, a further parliamental inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. MUSKIE. If time is yielded back on the committee amendment and the committee amendment at that point is acted upon by the Senate, is it subject to amendment?

The ACTING PRESIDENT pro tempore. If it is agreed to, it is not subject to amendment, but yielding back the time does not require it to be acted upon immediately before other amendments are offered.

Mr. MUSKIE. Then under those circumstances, Mr. President, I yield back the remainder of my time on the committee amendment.

The ACTING PRESIDENT pro tempore. Does the Senator from New Mexico yield back the remainder of his time?

Mr. DOMENICI. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The amendment of the Senator from Vermont is in order.

UP AMENDMENT 415

Mr. STAFFORD. Mr. President, I renew my request for consideration of the amendment that is pending at the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment is in order.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD) for himself and Mr. Leahy proposes unprinted amendment No. 415.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 22, insert after "(c)" the following: "(1)".

On page 4 after the list following line 2, insert the following new paragraph:

"(c) (2) For the fiscal year 1977, no State shall receive less than one-third of one percentum of the total allotment under the first paragraph of this subsection, except that in the case of Guam, Virgin Islands, American Samoa and the Trust Territories, not more than forty one-hundreths of one per centum in the aggregate shall be allotted to all four of these jurisdictions. For the purpose of carrying out this paragraph there are authorized to be appropriated, subject to such amounts as are provided in appropriation Acts, not to exceed $50,000,000 for the fiscal year ending September 30, 1977.

The ACTING PRESIDENT pro tempore. There are 20 minutes of debate on the amendment in the second degree with time equally divided under the usual fashion.

Mr. STAFFORD. Mr. President, the amendment I am proposing is a simple one. It provides that no State will receive less than one-third of 1 percent of funds allocated for fiscal year 1977 for construction of water treatment works. My amendment authorizes an additional $50 million for this purpose.

The amendment would go in on page 4 of the bill immediately following the listing of the 50 States and some trust territories, Puerto Rico, the Virgin Islands, American Samoa, and Guam.

Members of the Committee on Public Works are in agreement that the formula provided in the committee amendment is applicable only to fiscal year 1977. The committee did not have adequate time this session to conduct a complete review of allocation formulas. It is committed to such a thorough review next year. Thus, the 1977 formula is a stopgap, the committee's best effort to be evenhanded, given its time limitations. It is a one-shot formula, Mr. President.

In order to insure that during this year of review, that is, fiscal 1977, which starts October 1, no State is deprived of adequate funds to carry on its construction program, I am proposing the one-third percent floor.

There are precedents for actions of this nature. In the distribution of highway construction and safety funds, minimum apportionments of one-half percent apply to several programs. The Senate has also provided a one-half percent floor in recently passed air pollution and solid waste control legislation.

In all cases these floors guarantee that States which might otherwise be harmed by biases in allocation formulas receive their fair share.

My own State of Vermont under the 1975 distribution formula received approximately one-third of a percent of the total water construction funds distributed. Under the committee amendment, Vermont would receive only twenty-two one-hundredths of 1 percent. This is a reduction of more than $5 million, assuming a total authorization of $5 billion.

Six other States—Montana, Nevada, New Mexico, North Dakota, South Dakota, and Wyoming—also receive less than one-third of 1 percent under the committee formula. My amendment provides that each of these States will receive the minimum amount of approximately $16 million.

An additional authorization is included to cover the cost of guaranteeing this minimum. None of the remaining 41 States and I emphasize that will suffer a loss of its share of $5 billion as a result of my amendment. The additional authorization of contract authority, as well as the original authorization in the committee amendment, is subject to action by the Committee on Appropriations.

Mr. President, this is a reasonable amendment. It applies only to the upcoming fiscal year 1977. It is an equitable means of seeing that such State receives adequate support for construction programs while Congress reviews the whole basis for allocating funds. It will not diminish funds going to any State under the Committee provision.

I ask for the support of my colleagues for this amendment.

Mr. MUSKIE. Mr. President, it is with considerable regret that I find myself unable to support the amendment offered by the distinguished Senator from Vermont.

As he knows, in committee I supported a different amendment offered by him to adopt the formula used in fiscal year 1975. I thought that formula provided greater equity for his State of Vermont and my State of Maine. We were defeated, I think rather overwhelmingly, and the formula that is in the committee amendment was based upon the formula already adopted by the House of Representatives with one change. Instead of using a 1990 population projection as in the House bill, we changed it to include an actual 1975 population factor, so that formula, which was not all I wanted and not all the Senator from Vermont wanted, is the formula adopted by the overwhelming majority of the Committee on Public Works as the best 1-year answer to this very volatile political problem.

So I am concerned that we not trigger a rash of formulas geared to perceived notions of how Senators' States might profit more than under the committee amendment by adopting this particular formula for this particular purpose.

I promise the Senator from Vermont that when we get involved in consideration of a permanent formula next year he and I will find ourselves, I think, working side by side to protect the interests of small States like Maine and Vermont. Incidentally, I might point out that I think my own State suffers a reduction of about $6 million a year as against the formula that was in effect in 1975. So I myself would like to offer an amendment that would restore that balance—an amendment which would provide more funds to the State of Maine which by the way would not result from Senator STAFFORD's amendment—but I think the formula adopted by the committee is the committee's good faith best judgment as to how to bridge this 1-year gap between the formula of the past and whatever we may develop next year.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. STAFFORD. Mr. President, unless there are other Senators who wish to speak, I am prepared to yield back the remainder of my time.

Mr. MUSKIE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HUDDLESTON). The question then is on agreeing to the amendment of the Senator from Vermont (putting the question).

The Chair is in doubt, and I ask for a division.

Those in favor will stand and be counted.

Those opposed will stand and be counted.

Mr. MUSKIE. Mr. President, in light of the parliamentary situation, rather than to prolong debate——

The PRESIDING OFFICER. If the Senator will withhold, we will announce the result of the vote.

Mr. MUSKIE. All right.

The PRESIDING OFFICER. According to the result of the division, the "noes" have it.

Mr. MUSKIE. I thank the Chair.

The amendment was rejected.

UP AMENDMENT NO. 416

Mr. TOWER. Mr. President, I call up my amendment which is at the desk and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes unprinted amendment No. 416 to the pending amendment No. 2231.

The amendment is as follows:

On page 9, beginning on line 24, strike all of section 8 and insert in lieu thereof the following:

PERMITS FOR DREDGED OR FILL MATERIAL

SEC. 8. (a) Subsection (a) of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended by adding immediately after "navigable waters" the following: "and adjacent wetlands".

(b) Such section 404 is further amended by adding at the end thereof the following new subsections:

"(d) (1) The term 'navigable waters' as used in this section shall mean all waters which are presently used, or are susceptible to use in this natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high mark (mean higher high water mark on the west coast).

"(2) The term 'adjacent wetlands' as used in this section shall mean (A) those coastal wetlands, mudflats, swamps, marshes, shallows, and those areas periodically inundated by saline or brackish waters that are normally characterized by the prevalence of salt or brackish water vegetation capable of growth and reproduction, which are contiguous or adjacent to navigable waters subject to the ebb and flow of the tide, and (B) those freshwater wetlands including marshes, shallows, swamps, and similar areas that are contiguous or adjacent to other navigable waters, that support fresh water vegetation and that are periodically inundated and are normally characterized by the prevalence of vegetation that requires saturated soil conditions for growth and reproduction.

"(e) Except as provided in subsection (f) of this section, the discharge of dredged or fill material in waters other than navigable waters or adjacent wetlands is not prohibited by or otherwise subject to regulation under this Act (except for effluent standards or prohibition under section 307), or section 9, section 10, or section 13 of the Act of March 3, 1899.

"(f) If the Secretary of the Army, acting through the Chief of Engineers, and the Governor of a State enter into a joint agreement that the discharge of dredged or fill material in waters other than navigable waters or adjacent wetlands of such State should be regulated because of the ecological and environmental importance of such waters, the Secretary, acting through the Chief of Engineers, may regulate such discharge pursuant to the provisions of this section. Any joint agreement entered into pursuant to this subsection may be revoked, in whole or in part, by the Governor of the State who entered into such joint agreement or, by the Secretary of the Army, acting through the Chief of Engineers.

"(g) In carrying out his functions relating to the discharge of dredged or fill material under this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized to issue those general permits which he determines to be in the public interest.

"(h) The discharge of dredged or fill material—

"(1) from normal farming, silviculture, and ranching activities, including, but not limited to, plowing, terracing, cultivating, seeding, and harvesting for the production of food, fiber, and forest products;

"(2) for the purpose of maintenance of currently serviceable structures, including, but not limited to, dikes, dams, levees, groins riprap, breakwaters, causeways, and bridge abutments and approaches, and other transportation structures (including emergency reconstruction); or

"(3) for the purpose of construction or maintenance of farm or stock ponds and irrigation ditches, is not prohibited by or otherwise subject to regulation under this Act.

"(i) The discharge of dredged or fill material as part of the construction, alteration, or repair of a Federal or federally assisted project authorized by Congress is not prohibited by or otherwise subject to regulation under this Act if the effects of such discharge have been included in an environmental impact statement or environmental assessment for such project pursuant to the provisions of the National Environmental Policy Act of 1969 and such environmental impact statement or environmental assessment has been submitted to Congress in connection with the authorization or funding of such project.

"(j) The Secretary of the Army, acting through the Chief of Engineers, is authorized to delegate to a State upon its request all or any part of those functions vested in him by this section relating to the adjacent wetlands in that State if he determines (A) that such State has the authority, responsibility, and capability to carry out such functions, and (B) that such delegation is in the public interest. Any such delegation shall be subject to such terms and conditions as the Secretary deems necessary, including, but not limited to, suspension and revocation for cause of such a delegation."

Mr. TOWER. Mr. President, there are many problems with the current Corps of Engineers program.

It involves unwarranted intrusion into the lives and activities of private citizens in various areas of the country that have a minimal effect on the real problems of water pollution.

Further, it is an unwarranted growth in the Federal permit-writing business.

I might further note that less than genuine importance is accomplished because available manpower is spread too thin while too much of relative unimportance is attempted.

I think the current program has precipitated a further erosion of public confidence and support for the very real and legitimate objectives of the water cleanup effort.

In offering this amendment, which was originally offered by Congressman WRIGHT in the House of Representatives, which I might refer to as the Wright amendment, we would restrict the expansion of Federal authority over navigable waters.

It would provide protection to wetlands, swamps, marshes, and so forth, which are adjacent to navigable waters. It would allow States to request the Corps to assume permanent authority in wetlands other than those adjacent to navigable waters, which adds an additional protection for wetlands resources. It authorizes the issuance of general permits for activities which either individually or collectively have minor environmental impact. It exempts from Corps permit requirements activities related to normal farming, forestry, and ranching activities, activities required for maintaining currently serviceable structures such as dikes, dams, and levees, and requirements for construction or maintenance of farm or stock ponds and irrigation ditches.

It eliminates a great deal of double paperwork by eliminating the need for a permit for those Federal or federally assisted projects for which an environmental impact statement has been submitted to Congress.

It provides for delegation by the Corps of its wetlands protection responsibilities to those States with adequate authority.

Unfortunately, Mr. President, the Baker-Randolph amendment did not meet the complaints against the current Corps program and did not really redress its shortcomings. They can only be redressed by the Wright amendment, because Baker-Randolph does not curtail the jurisdiction of the Federal Government. It really transfers the Federal involvement from the Corps to the Environmental Protection Agency. It increases the authority of the EPA at a time when EPA does not have the resources to do their missions well.

In addition, with EPA involvement, there would be a resulting interference with ongoing State efforts to protect wetlands, because it would require a single national standard; and for that you can read "National Land Use." I think there are many people here who are opposed to that. I hope they will not endorse this back-door approach to land use. I believe that the Wright amendment does solve the bureaucracy problem and at the same time allows a mechanism for the protection of vital wetland resources by the States and the Corps, a sharing of responsibility.

Mr. President, this amendment is sponsored by many organizations. I submitted a list of them for the Record of August 25. Some 80 prominent and national local organizations support this measure and oppose the Baker-Randolph approach. I mention some of them: American Farm Bureau Federation, National Association of Home Builders, National Association of Realtors, National Farmers Union, National Forest Products Association, National Grange, Pacific Northwest Waterways Association, Chamber of Commerce, the AFL–CIO Building and Construction Trades Department, National Association of State Foresters, and the National Governors Conference.

There are some 80 of them, and I refer my colleagues to the Record of August 25 if they wish to see a complete list of them.

In addition, there is a letter from the Secretary of Agriculture to Senator Randolph, which, with his leave, I should like to read portions of. I assume that it was not too private, since it has been reproduced and circulated.

Mr. RANDOLPH. It just arrived within the last 5 minutes.

Mr. TOWER. With the Senator's permission, may I read a portion of it into the Record?

Mr. RANDOLPH. Yes.

Mr. TOWER. He says:

> We commend your efforts to resolve the "404" issue. However, in our review of the language of this amendment we find that an exemption for all lands in agriculture, silviculture, and ranching is not provided in your amendment. I again call your attention to the administration proposal. It has a provision spelled out in subsection (p) of the proposal which provides assurances to farmers and ranchers that they will not be subject to burdensome regulation with threat of penalties under the Federal Water Pollution Control Act while using their lands to produce food and fiber for this nation, as well as the world. I strongly urge you to consider the impact of whatever language is finally used so that the nation's farmers and ranchers will not be unduly restricted in their efforts to raise food, fiber and forest products.

The bottom line is, Mr. President, that we should not inhibit our farmers and ranchers at a time when the production of food and fiber is so important not only to our welfare, from the standpoint of what we consume and from the standpoint of balance of payments, but also from the standpoint of the vast needs in the world for additional food production.

I yield to my distinguished colleague from Texas whatever time he may need.

Mr. BENTSEN. I thank my colleague.

Mr. President, what we really are concerned with here is the question of jurisdiction. If we look at the Randolph-Baker amendment, we see that it does not limit the jurisdiction. What they have really resolved is whether that jurisdiction is to be exercised by the Corps of Engineers or by the Environmental Protection Agency and hopefully, ultimately, the States. They do not cut back on the number of waters and wetlands where you will have to have applications for these permits. That means that permits would still be required for the traditional navigable streams and surrounding wetlands and also for the primary and secondary streams and then to the farm, to the 5-acre pond.

In the third phase, it includes any stream that has 5 cubic feet flow per second. How many farmers can tell you whether they have 5 cubic feet flow per second in their streams? The next question they are going to ask is, "Does that mean in the winter or in the summer? Does that mean an ever flowing stream or a seasonal stream? Does that mean that a 5-acre pond is supposed to have 5 acres after heavy rains or when there has been a drought?"

Those are the kinds of problems that are brought about and not resolved.

I support the Wright-Tower amendment, it is the amendment I sponsored in the committee.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. BENTSEN. I have limited time, and I would normally yield to the distinguished chairman. I have limited time on a controversial and tough issue.

What we are trying to cut back on is overregulation. We have heard a great deal of rhetoric about too much redtape and paperwork in this country, too many Government forms to fill out.

The last report of the Paperwork Commission said that we are spending $18 billion a year on filling out Government forms—enough to fill a football stadium several times per year. Are we going to continue with the rhetoric, or are we going to take the opportunity to cut back on it?

Talk to the farmers and ranchers in this country. Go to the small towns and see how they react to this increase in red tape and Government forms.

This proposal, the amendment we offer today, says that you limit it to the traditional concept of navigable streams and the surrounding wetlands. I am concerned about the navigable streams and the wetlands. If we want to protect the wetlands of this country, let us not do it on a case-by-case basis. Let us have an overall piece of legislation to study this problem and approach it properly. That is not the way it is done under the committee amendment.

Supposedly, farming and ranching operations are excluded, but how does a farmer determine what a "normal" farming operation is? Will he not be subject to a law suit if his interpretation differs from the Agency's? Can we be certain what the court will decide? Those questions will still have to be resolved.

If we will cut this back and limit it to the traditional concept of navigable streams and surrounding wetlands, we will do a favor for the wetlands of this country, because we will sharpen and improve the quality of the regulatory effort.

We have had an incredible increase in applications under section 404. In 1974, we had 2,900 permits requested from the Corps of Engineers on section 404. In 1976 there were not 2,900 but 9,200 permits requested. The corps estimated at one time that if you went to phase 3, between 30,000 and 50,000 applications for permits around this country would be submitted.

We would have all kinds of farmers, ranchers, small business people having places out in the country who would not know that they were violating the law, would not know that they had to have a Federal permit or something from EPA to get this thing done—or would be uncertain as to whether they needed one.

The response given is that the program is going to go to the States. Yes, ultimately, I hope it does. Nevertheless, it still means that those applications covering the expanded jurisdiction, are going to have to be filed.

What happens when you file one of these applications? It is circulated through the Federal agencies, and everyone gets into the act.

The PRESIDING OFFICER. All of the time of the proponents of the amendment has expired.

Mr. DOMENICI. I yield an additional 5 minutes of my time on the bill to the Senator from Texas.

Mr. BENTSEN. I thank the distinguished Senator from New Mexico, because I think this is a matter of great concern. Obviously, it is a highly controversial issue. To try to limit this to 10 minutes on a side really does not get the problem covered adequately, as we all want to do.

We are talking about protecting these wetlands. Yet we absolutely deluge the agency involved with these applications for permits. We will find they are going to get so far behind in trying to come up with decisions that serious delays in the kind of work that has to be done around this country will occur. But if we hold it to the traditional navigable streams and their wetlands, we will protect those. Then the time ought to come that we will have a comprehensive piece of legislation to take care of the other areas.

My distinguished colleague, the senior Senator from Texas, has cited the Building and Construction Trades Department of the AFL–CIO. They strongly support the Wright amendment. They say it is critical to the orderly development of our waterways; it fixes a regultaory structure for the workable and responsible administration of the wetlands, scrupulously establishes the purisdiction of the Corps, and prevents costly bureaucratic delays.

We should not leave this interpretation on 404 to the courts, and we should not leave it to the corps as to what Congress meant by this. The definition, the scope of this regulatory effort, is what is clarified by the Wright amendment, or the Tower amendment, that we have before us now. I strongly support it. I believe that it will address itself to the problem. I urge my colleagues to support it.

I return the remainder of my time to the distinguished senior Senator from Texas.

Mr. DOMENICI. Mr. President, may I ask the senior Senator from Texas a question with reference to this amendment?

Is this the identical amendment offered in the Committee on Public Works by the Senator from Texas?

Mr. BENTSEN. May I address myself to that?

Mr. TOWER. I yield to my colleague to answer that.

Mr. BENTSEN. It carries out the purposes of the amendment I addressed in protecting against the dumping of toxic substances. That was one of my concerns with the Wright amendment. Our revised paragraph (e) preserves the authority for the Department of Justice to move in where there is a dumping of toxic substances. We want that. We want to protect against such dumping.

Mr. DOMENICI. This would be the amendment that the committee voted 7 to 6 on.

Mr. BENTSEN. Seven to six on that amendment. If it were not for the persuasiveness of our great chairman and the ranking minority member and those forces at work, with all of their eloquence, we would have prevailed.

Mr. TOWER. I think the point made by my distinguished colleague is that this differs somewhat from the Wright amendment in the House because it does afford that protection spoken of by my distinguished colleague.

Mr. BENTSEN. I yield to my colleague from North Carolina.

Mr. MORGAN. Mr. President, I supported the amendment in the committee very strongly. I feel we should support it now. Quite frankly, if the amendment should fail, I support the position of the subcommittee chairman, that we should adopt no amendment.

I wonder if the chairman would answer a couple of questions for me that my people in North Carolina would like with regard to the Tower amendment.

Section 404(2)(i) of the Tower-Wright amendment says in essence that the discharge of dredged or fill material as part of the construction, alteration, or repair of a Federal or federally assisted project authorized by Congress is not prohibited. The question I would like to propose is, does this mean that the Federal Government would be exempt from all of the activities considered in the Tower-Wright amendment?

Mr. BENTSEN. Before a Federal project is approved, the question of the disposal of dredged spoil and fill would have to be adequately addressed and adressed to the satisfaction of the Congress.

Mr. MORGAN. In other words, the reason for exempting them is that it requires that the problem be addressed in the environmental impact statement?

Mr. BENTSEN. That is correct.

The PRESIDING OFFICER (Mr. GLENN). The initial 5 minutes has expired. Who yields time?

Mr. DOMENICI. Does the senior Senator from Texas desire some time on the bill?

Mr. TOWER. May I have 5 minutes on the bill for my colleague from Texas?

Mr. DOMENICI. I yield 5 minutes.

Mr. BENTSEN. I thank my colleague.

Let me give an example of some of the problems we are running into as applications are filed under the extreme interpretations of the courts as to what 404 constitutes. We have the Lake Limestone project in Texas, which amounts to about 15,000 acres. That is a project paid for with State funds. It does not have any Federal funds involved in it. This is necessary for the municipal water supply, domestic water supply, and industrial water supply in that surrounding area. It is absolutely crucial, and has strong support in that area. The project is now being blocked because the people building the project sought a phase II permit, and it was circulated among a number of Federal agencies. So in comes the Fish and Wildlife Bureau who says, "What you are going to have to do now"—remember, this has nothing to do with the dredging or the fill, but it says, "What you are going to have to do now is buy an extra 15,800 acres of land, approximately, to mitigate for whatever has happened to wildlife in that other 15,000 acres."

Think about the economic drain on that small county, on the taxpayers in that area, in trying to accomplish that kind of objective. Think of the additional land that will be lost from that tax base. That is the kind of Government interference we are getting, Federal Government interference, in this kind of interpretation.

Mr. DOMENICI. Does the distinguished senior Senator from Texas require additional time?

Mr. TOWER. If I may have 2 minutes.

Mr. DOMENICI. I yield 2 minutes to the senior Senator from Texas.

Mr. TOWER. Mr. President, I shall not prolong consideration of this matter any further. I shall simply say that if this amendment does not pass, it means an unwarranted Federal intrusion in jurisdiction over every brook, creek, cattle tank, mud puddle, slough, or what have you, in every farmer's back yard in this country. I think, as the junior Senator from Texas pointed out, we have had too much government interference, too much redtape. There is an anti-Washington syndrome abroad in this land. What we do here, if we fail to adopt this amendment, is simply perpetrate more big government on the people of this country, who are sick of it. I urge the adoption of this amendment.

Mr. BENTSEN. If I have any time left, I yield it to my distinguished chairman, to whom I referred earlier.

Mr. RANDOLPH. I shall later speak on my own time, but I shall be glad to use the Senator's time to correct an error which the Senator from Texas inadvertently made during the strong remarks which he made with fervor and with feeling.

The Senator mentioned ponds, and I must say that the language in the committee amendment specifically exempts farm or stock ponds, no matter what the size of the ponds, whether 5 acres or more or less. The Senator from Texas has even added some extra words about what is in this measure affecting these waters.

Does my colleague agree that farm and stock ponds or irrigation ditches are in no way affected by the permit program in the Baker-Randolph amendment?

Mr. BENTSEN. I am not talking about irrigation ditches. I am talking about construction of a new lake, for example.

Mr. RANDOLPH. What about the farm or stock ponds if we drop the irrigation ditches?

Mr. BENTSEN. I say to my distinguished chairman, if you are going to build a new six-acre pond on a farm and were that to be incidental to the bringing of new lands under cultivation, under the interpretation of the committee language, that farmer would have to go out and make an application to get a permit to build it.

I also have some doubts about how the courts will interpret "normal" farming activities.

Mr. RANDOLPH. Well, there is an exemption for that, and we will spell it out during the debate; I referred to the language, in section 8 of the amendment which grants exemptions for certain activities. One of these is the placement of material "for the purpose of the construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches."

This exemption is in the amendment to S. 2710 as presented, referring to the Baker-Randolph language.

I do not want to be too earnest or vehement about it.

Mr. BENTSEN. We are very much in earnest.

Mr. RANDOLPH. I reply because I think that my colleague has perhaps inadvertently taken the position he has taken.

Mr. BENTSEN. No; it is not inadvertent. It is my concern that we be explicit about the building of new ponds.

Mr. HUDDLESTON. Mr. President will the Senator yield to me for a unanimous-consent request while he is looking up his answer?

Mr. BENTSEN. My chairman has the time. We are on his time now.

Mr. RANDOLPH. Yes; I am delighted to yield.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that Tim Dudgeon of my staff and Jim Giltmier of the Agriculture Committee staff be granted the privileges of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. I thank the Senator.

Mr. RANDOLPH. Mr. President, where are we as to time?

The PRESIDING OFFICER. Four minutes remaining to the opponents of the amendment controlled by the Senator from Maine.

Mr. RANDOLPH. Of course, we can take time from the bill.

Mr. MUSKIE. Mr. President, will the Chair repeat that?

The PRESIDING OFFICER. Four minutes remaining to the opponents of the amendment controlled by the Senator from Maine.

Mr. MUSKIE. May I inquire who is using the time against the Tower amendment? I do not recall any debate having been undertaken on behalf of the opponents.

The PRESIDING OFFICER. The Senator from West Virginia used the majority of the time, the 6 minutes.

Mr. MUSKIE. How much time do we have?

The PRESIDING OFFICER. Ten minutes to a side.

Mr. RANDOLPH. I respectfully ask the Chair if we can go off the time of the amendment. I will take my time on the bill in general debate.

Mr. MUSKIE. I will yield such time as the Senator may wish. How much time do we have?

The PRESIDING OFFICER. Forty minutes are left to the Senator from Maine on the bill. There is a 10-minute limitation on amendments.

Mr. MUSKIE. Whatever time the Senator from West Virginia wishes.

Mr. RANDOLPH. Mr. President, I have said on other occasions that the issues relating to section 404 of the Water Pollution Control Act Amendments of 1972 are the most controversial we have had to face in developing this legislation. In the amendment before the Senate is language that the Committee on Public Works believes is responsive to the problems raised by judicial and administrative interpretations of section 404. This language, in section 8 of the pending amendment, is designed to eliminate much of the confusion and uncertainty that exists with respect to section 404. It permits activities that cause little or no harm to the environment, but it also provides for controls over functions that are damaging to sensitive areas.

The Senators from Texas are asking the Senate to substitute their proposal for dealing with the problems of section 404. I remind the Senate that language almost identical to that offered by Senator TOWER was rejected by the committee during its consideration of this amendment. We felt that this approach was inadequate and that the proposal offered by Senator BAKER, and myself more fully addressed the problems associated with section 404.

Mr. President, we are often reminded that the proposal of the Senators from Texas is identical to that contained in the House-passed version of this legislation and that it was adopted by a vote of 234 to 121. While I have the greatest respect for our colleagues in the House of Representatives, I do not believe that we should follow their lead unquestionly. The Senate must address the problems before us and we must develop solutions that we feel are most responsive. The conference procedure exists to provide the mechanism for melding the thinking of the two bodies.

In considering this amendment, it is important to remember that the House language relating to section 404 was adopted on the floor without consideration of the appropriate committee and with little debate.

I share the concerns of the Senators from Texas about the impact of regulations proposed by the Army Corps of Engineers to implement the provisions of section 404 as interpreted by the courts. They have expressed reservations about the impact on agriculture. This was a matter of prime consideration by the Committee on Public Works.

The committee amendment, provides a specific exemption for normal agricultural activities. A discussion of what is meant by "normal" activities is contained in a discussion of the committee amendment which appears in the CONGRESSIONAL RECORD today. In no way is this language intended to restrict the ability of farmers to carry out activities concerned with the normal growing and harvesting of food and fiber.

Similar exemptions are provided for normal silviculture and ranching practices so that they are not hampered by regulation when none is needed. The committee carefully examined many activities to determine which ones should not be subjected to the full impact of the permit process which is authorized by sections 402 and 404 of the Water Pollution Control Act.

Mr. President, I think we need to again underscore the fact that the language of the amendment which I referred to incorporates an exemption for the construction of farm or stock ponds or irrigation ditches or, as the able Senator from Texas (Mr. TOWER) has said, sloughs. We were even going to exempt those in the lands that he represents in Texas.

I must continue to call attention to the discrepancy in the words spoken by the two Senators regarding the language of the bill. We address the matter of construction and we address the matter of maintenance for such categories as farm and stock ponds regardless of their size. Both construction and maintenance are exempted for these categories.

Mr. President, as we talk about agriculture and farming and ranch country we should note that 80 percent of the permits now required under the Corps of Engineers' program would not be needed under the Baker-Randolph provision incorporated in the bill.

As I said to the able Senator from South Dakota (Mr. McGOVERN), all members of our committee share the concern of the Senators from Texas. This is not a pleasantry. I value highly the service of the Senator from Texas (Mr. BENTSEN) as a member of the Committee on Public Works. I am only continuing to focus on this subject as it concerns agriculture because I share your concern, and the other members share your concern for the impact of regulations proposed by the Army Corps of Engineers to implement the provisions of section 404 as interpreted by the courts.

Sometimes, however, as we think we are having more and more regulations, we should read these words:

> If all the seas were ink and all the reeds were pens and all the skies were parchment, and if all men could write, they could not match the red tape of this government.

I am sure that most persons would think that this statement applies to the present day. But that statement was made about the government of Rome about 2,000 years ago.

So the matter of regulation, of implementation of law, is a matter that carries with it the necessity for the following guidelines and meeting goals.

We have had an expression of reservations about the impact on agriculture, and that is proper to be injected into this debate. It is important that we have it for this matter was, and I emphasize, a matter of prime consideration to the members of the Committee on Public Works. The committee members, in adopting the amendment offered by Senator BAKER and myself, were not unmindful of the arguments made within the committee by the diligent Senator from Texas (Mr. BENTSEN). The committee amendment, as well as the Bentsen-Wright amendment which is strongly supported by Senator TOWER, both provide a specific exemption for normal agricultural activities.

What is a normal activity is contained in the discussion of the committee amendment as set forth in the debate. In no way is the language in the amendment intended to restrict the ability of farmers or ranchers to carry out activities concerned with the normal growing and harvesting of food and fiber.

The PRESIDING OFFICER. All the Senator's time has expired.

Mr. RANDOLPH. May I have another 5 minutes?

Mr. MUSKIE. Yes, I yield another 5 minutes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Now, similar exemptions are provided for what we call normal silviculture and ranching practices so they are not hampered by regulation.

The committee members—and I am very frank to say the vote was close—have carefully examined many activities to determine which ones should not be subjected to the full impact of the permit process which is authorized by section 402 as well as 404 of the Water Pollution Control Act.

As contained in the committee amendment, section 8 gives the Corps of Engineers authority to regulate the disposal of dredge spoil and fill material in navigable waters as they have been traditionally defined. Such control in other waters is retained by the Environmental Protection Agency under its existing authority in section 402. Section 402 is the basic control program of the Agency.

The committee also recognized the need to give some authority for permit programs to the States. This is another concern of the Senator from Texas. I, too, believe that the States in many instances can implement these regulatory programs, relieving Federal agencies of the burden and hopefully eliminating many of the administrative and bureaucratic delays that contribute to today's frustration. Provision is made in the committee amendment for the delegation of this permit program to the States when they have the ability to successfully carry out such a program.

Mr. President, the Committee on Public Works developed its own approach to the section 404 problem because we felt there were deficiencies in the language adopted by the House. The most glaring of these is the failure to provide any regulation of the disposal of dredge and fill materials in water other than those that are navigable in fact and under control of the Corps of Engineers. This area is left to the discretion of the States and would be unprotected if the States chose not to exercise their authority. Such a situation could leave many important wetland and other areas open to unrestricted contamination. The language proposed to the Senate corrects this deficiency. The States, as I have stated, can assume the responsibility for control in these upstream areas. Until they do, however, the Federal Government—through the Environmental Protection Agency—can regulate disposal in these areas.

Mr. President, the aims of the Senator from Texas and the members of the Committee on Public Works are identical. We both seek to establish a regulatory program over disposal of dredge and fill material. We both seek to reach this objective in a manner that does not hamper the conduct of certain activities. The only difference is one of approach and I believe the committee language to be more complete and workable.

Mr. President, in the interests of a balanced response to an admittedly difficult problem, I urge the Senate to reject the amendment of the Senator from Texas.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. MUSKIE. Mr. President, I yield myself 3 minutes on the bill for the purpose of commenting briefly on this amendment, if I may.

The Senator from North Carolina has already indicated that in committee I was opposed to the Bentsen amendment which is now before us as the Tower amendment as modified.

I was opposed to the Baker-Randolph amendment because I prefer to completely strike section 404. However, I preferred the Baker-Randolph proposal to the Tower amendment.

Section 404 was designed to do two things. It was designed to control the dumping of dredged spoil into navigable waters. Second, it was designed to give EPA veto power over dredged spoil disposal sites selected by the Army.

Neither of those purposes, which were the only explicit purposes of section 404 in the 1972 law, has been implemented, nor are they covered by the regulations issued by the Army Engineers.

So I would have preferred striking section 404, thus leaving the disposition of dredged soil, which is a point source of pollution, under the general provisions of the 1972 law and leaving the control of nonpoint source pollution, subject to section 208 of this act.

That was my preference.

Mr. TOWER. Will the Senator yield for the yeas and nays?

Mr. MUSKIE. Yes.

Mr. TOWER. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MUSKIE. Mr. President, I yield myself another 2 minutes.

I appreciate the statement of the Senator from North Carolina that if the Tower amendment is defeated, he would support mine.

Unfortunately, I did not have any support in committee and I doubt I would have any support in the Senate.

May I say to my colleagues from Texas, if the Tower amendment is adopted, I would be very reluctant to support any provisions dealing with section 404 except on striking section 404.

The adoption of the Tower amendment on the floor would effectively remove the issue from conference except for the slight change dealing with toxic substances that Senator BENTSEN has mentioned.

May I point out with respect to that, Senator BENTSEN's amendment, would rely on section 307 of the Water Pollution Act as a way to deal with toxic substances.

But, Mr. President, section 307 of the act has never been implemented. There are no regulations dealing with it. Use of section 307 is irrelevant.

So using section 307 for the answer to the toxic substances problem that may be created by the Tower amendment is no answer at all.

The more tinkering is done with section 404, Mr. President, the more I am convinced that the answer is to repeal it. It may be that if I continue to make this point, I may gradually begin to accumulate some support.

But one problem I have with the Bentsen amendment and the Wright amendment which preceded it in the House——

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. MUSKIE. Two more minutes.

It seeks to deal with this problem which Senator BAKER, Senator RANDOLPH, and Senator TOWER sought to deal with primarily, and that is, the overregulation by the Army Engineers of activities that they were never intended to be given any authority over by section 404.

The third objection I have to the Wright amendment is that it undertakes to jeopardize about three-quarters of all U.S. wetlands by removing them from the jurisdiction of the Clean Water Act.

In other words, it undertakes to redefine navigable waters, thus tinkering with the hydrologic system—tinkering with the hydrologic system and removing about three-quarters of it from any control whatsoever.

What we are concerned about is overregulation of activities. I do not think we ought to express that concern, Mr. President, by pretending that the hydrologic system can be arbitrarily divided in two, leaving three-quarters of it beyond protection of the Clean Water Act in order to do this limited job that is of concern to the Senators from Texas, and, I gather, most Senators on the floor in the Senate.

It is for that reason I object to the approach of the Tower amendment, the Wright amendment.

May I point out, too, Mr. President, that the Wright amendment was written on the House side about an hour before the House acted on it. There were no hearings on it. It was offered as a substitute for a provision that resulted from a House Public Works Committee markup.

The only recent hearings that have been conducted are 2 days conducted by the Senate Public Works Committee, and it was on the basis of those hearings that the Baker-Randolph amendment was produced. There is a basis in the hearing record for this answer.

So I support this, not because I prefer it, but because I prefer it to the Tower amendment, and I made that very clear to the Senator from West Virginia, to Senator BAKER, and all others.

Mr. JACKSON. The State of Washington has an effective shorelines and wetlands management program.

Would you expect the State of Washington to qualify to administer the program?

Mr. MUSKIE. Yes. My staff has had conversations with officials of the State of Washington, and I am advised that Washington's program could quickly be approved.

Mr. JACKSON. Mr. President, could the chairman also clarify the question of whether forest and farm road construction and road drainage facilities are considered normal elements in agriculture and forestry and are therefore excluded under the Baker-Randolph amendment from the permit requirements? Are these "normal" farming and forestry activities resulting from dredging and filling under sections 402 and 404 as amended by the Baker-Randolph provision?

Mr. MUSKIE. The purpose of the committee in the amendment is to make this exemption specific. Forest and farm road construction, which meet basic environmental criteria are definitely exempted from permit requirements by the Randolph-Baker amendment.

Mr. JACKSON. I wonder if the Chairman could clarify section 404(3)(A)(ii) which exempts maintenance and emergency reconstruction of certain structures on lands covered by the act. Is it the intention of the committee to permit the reconstruction or maintenance of structures necessitated by wear? Would the maintenance of a structure so that its approximate function and capacity is preserved or restored be exempted from the permit requirement under the Baker-Randolph amendment?

Mr. MUSKIE. Yes.

Mr. JACKSON. Would the Senator explain what is intended by section 402 (l)(3)(A)(v) which gives the EPA authority to issue "guidelines" for the construction of farm and forest roads? Specifically, is it intended that these "guidelines" would rely on and reflect existing state forest practices acts which regulate forest road location and design?

Mr. MUSKIE. Yes. It is also an intention that the Forest Service road construction guidelines and the 404(b)(1) guidelines be used.

Mr. JACKSON. Do you envision any significant inconsistency between these guidelines and the existing state laws in this area?

Mr. MUSKIE. No.

Mr. JACKSON. I am somewhat troubled by the apparent ambiguity of section 402(l)(4)(B) of the Baker-Randolph amendment pertaining to the issuance of "general permits." This language allows general permits to be revoked where the authorized activity "may have an effect which is more appropriate for consideration in individual permits." The term "appropriate" is vague and I wonder if it could be clarified in conference as to what circumstances and by what criterion could a general permit be revoked?

Mr. MUSKIE. That is a legitimate question and we will try to deal with it in conference.

Mr. JACKSON. Could a general permit be revoked for an activity which has already begun or does it only affect new activities?

Mr. MUSKIE. Only new activities.

Mr. JACKSON. Mr. Chairman, does section 404(d)(3) of the Baker-Randolph amendment refer to only those wetlands, marshes and other covered lands which are contiguous or adjacent to lands covered in items (1) and (2) of 404(d)?

Mr. MUSKIE. Yes.

Mr. ROTH. I would like to describe a situation which exists in Delaware and ask the Senator whether a permit would be required for the activity in question.

The western part of Delaware has a great deal of low-lying farmland. There are drainage ditches which run off major rivers and their tributaries. Most of these ditches are silted and overgrown, with little or no capacity to carry runoff. The land around these ditches is farmland, already in agriculture. In some summers the land can be successfully planted and harvested. In others it cannot.

The ditches are old WPA ditches, built about 40 years ago. There are projects currently underway to clear these ditches out, rehabilitating them. Usually, a bulldozer clears the land on either side of the ditch, then a drag line is run through it. The actual work is based on designs drawn by hydrological engineers.

Mr. BAKER. The situation the Senator describes is maintenance of existing agricultural drainage and is specifically exempted as a nonpoint source activity by section 3(A)(iii) of the Baker-Randolph amendment. It, thus, would not require a permit.

Mr. ROTH. Many of the farmers are constructing lateral ditches in their same fields, which run into the major ones. Would these laterals require a permit?

Mr. BAKER. If the drainage is being constructed in fields already in agricultural use for crops such as soybeans or corn the construction would not be covered under the program as amended by our provision. No permit would be required.

Mr. BARTLETT. Mr. President, I am pleased to be a cosponsor of Senator Tower's amendment to specify the intention of Congress under section 404 of the Water Pollution Control Act.

The House has acted on this matter, and it is now the Senate's responsibility to expedite this clarification.

It is imperative that Congress clearly express its intent so that the Corps of Engineers and other Federal agencies will have clear and specific guidelines within which to operate. Also it is necessary that Congress define the parameters of the Water Pollution Control Act for Federal courts, thereby precluding any opportunity for the court to misinterpret the intention of Congress.

My concern is the implication of this section if the court's interpretation is allowed to stand. The decision provides that the corps should regulate all bodies of water, even if there is no evidence that the particular body would ever be navigable.

Not only is this a staggering expansion of Federal authority, not to mention the staffing that would be required, but it is another major extension of Federal interference into private lives, private business, and local control.

The corps has published its "interim final" regulations requiring a "general permit." This seems to lead to the acceptance of the premise that all agricultural activities are "point sources" of pollution. Under Public Law 92-500, the Water Pollution Control Act, Congress clearly stated that only certain activities would be considered "point sources" requiring treatment. The cost of this permit is $100, but this expense is misleading because it does not reflect the cost to the farmer in time, effort, and delay to secure the permit.

An analysis by several farm organizations shows that the following steps would be necessary to meet the requirements being established under section 404:

1. Permit Application.—The application will include a complete description of proposed activities; location; purpose; use; schedules; names and addresses of adjoining property owners; all other Federal, State and local agency approvals required; the type, source, composition, quality and transportation method of materials involved; and other information requested by the District Engineer.

2. Public Notice, Comments and Hearing.—Notice must be given by the District Engineer of the application allowing opportunities for and consideration of public comments to include public hearings.

3. Section 401 Certification.—The applicant must obtain certification from the State when an activity would discharge into a navigable water that the discharge will comply with the acceptable effluent limitations and standards for that particular watershed.

4. Coastal Zone Management Certification.—An applicant in a coastal zone area must obtain a certification from his respective state where the activity would affect land or water in the coastal zone.

5. Environmental Impact Statement.—The District Engineer must determine whether an EIS is necessary for the particular permit application, and if necessary, must complete prior to the hearing on the application.

6. Corps Decision Making.—The Corps must apply a complex and lengthy series of general and specific policies including factors and criteria mentioned in their own regulations, those of the Environmental Protection Agency and policies under numerous other statutes. The Corps must also engage in substantial interagency consultation.

7. EPA Review.—The EPA must consult with the Corps of Engineers and has final veto power if it determines the discharge will have an unacceptable adverse effect.

These requirements are in addition to applicable State and local requirements, which include compliance with State environmental policy acts, State forest acts, and State and local land use laws. Also, there are other Federal requirements from specific agencies such as the Department of Agriculture which already must be complied with. It has been estimated by certain agricultural organizations that section 404 permit requirements would take between 6 and 24 months for completion, depending on the specific project undertaken by the farmer.

This type of delay can be ill afforded by the agricultural community or any other type of business. A decision is made on the basis of a number of tangible and intangible considerations but particularly depends on immediate need, anticipated need, availability of capital, and present costs. Lengthy delays can do nothing but detrimentally affect the business planning that has become increasingly imperative in complex agribusiness.

The U.S. Department of Agriculture has estimated that 60,000 additional permits per year would be required if the normal conservation practices now being carried on by USDA and farmers are continued. Each of these conservation practices would be delayed, thus perpetuating the environmental problem that the "practice" is seeking to solve.

If the court decision to expand the jurisdiction of the corps to all bodies of water, both public and private, is an accurate reflection of the legislative intent, then it should stand; however, I do not believe this is true. Therefore, Congress should demonstrate that it was not their intention to extend such jurisdiction and immediately act to correct this error by adopting the present amendment introduced by the Honorable Senator from Texas.

The problem is apparent. I urge the Members of this Senate to consider the statements made in support of this amendment, and consider their commitment to the elimination of unnecessary paperwork, redtape, and bureaucratic interference. This is an excellent opportunity to demonstrate this commitment, and I congratulate Senator Tower for introducing this amendment, and I urge its immediate adoption.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. Is this on the bill?

Mr. DOMENICI. On the bill.

Mr. President, I have been asked by Senator Baker to see if we could reach an agreement here and not vote on this amendment prior to 1 o'clock this afternoon.

As we all know, he worked very hard on this amendment in the committee, and he supports it very strongly.

He was called over to speak to the President and could not be here until 1 o'clock.

With that background, Mr. President, I ask unanimous consent that the vote on this amendment, the Tower amendment, not take place prior to 1 p.m. this afternoon.

Mr. TOWER. Reserving the right to object.

Mr. HUDDLESTON. Reserving the right to object.

Mr. TOWER. There are other Senators who have to leave before that time, so, reserving the right to object, one Senator may be denying rights to others.

Mr. RANDOLPH. Could we just delay it for a little while? There are other amendments to be offered.

Mr. TOWER. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time being charged to either side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I object to the request of the Senator from New Mexico.

The PRESIDING OFFICER. Objection is heard. Who yields time?

Mr. MUSKIE. Mr. President, what is the situation on time on the amendment?

The PRESIDING OFFICER. The Senator from Maine has 4 minutes remaining and the Senator from Texas has no time remaining.

Mr. MUSKIE. Mr. President, I am prepared to yield back the remainder of my time unless someone wants any portion of it.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. Nunn). Will Senators please clear the well and take their seats? The well is not cleared. The clerk will suspend until the well has been cleared.

The second assistant legislative clerk resumed the call of the roll.

Mr. BENTSEN. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order has been called for.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. GRIFFIN (when his name was called). Mr. President, on this vote I have a live pair with the distinguished Senator from Tennessee (Mr. Baker). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "aye." I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from Colorado (Mr. Gary Hart), the Senator from Colorado (Mr. Haskell), the Senator from Washington (Mr. Magnuson), the Senator from Wyoming (Mr. McGee), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pastore), the Senator from Connecticut (Mr. Ribicoff), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. Cannon), and the Senator from Wyoming (Mr. McGee) would each vote "yea."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore), the Senator from Connecticut (Mr. Ribicoff), the Senator from California (Mr. Tunney), the Senator from Iowa (Mr. Culver), and the Senator from Colorado (Mr. Gary Hart) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), the Senator from Idaho (Mr. McClure), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. Goldwater) would vote "yea."

The result was announced—yeas 39, nays 38, as follows:

[Rollcall Vote No. 560 Leg.]

YEAS—39

Allen
Bartlett
Bellmon
Bentsen
Brock
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Ford
Garn
Gravel
Hansen
Hartke
Helms
Hruska
Huddleston
Johnston
Long
McClellan
Morgan
Moss
Nunn
Pearson
Scott,
William L.
Sparkman
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Young

NAYS—38

Abourezk
Bayh
Biden
Brooke
Bumpers
Case
Clark
Cranston
Durkin
Eagleton
Glenn
Hart, Philip A.
Hatfield
Hathaway
Hollings
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Mansfield
McGovern
Metcalf
Muskie
Nelson
Packwood
Pell
Percy
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Stafford
Stevenson
Symington
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Griffin, for.

NOT VOTING—22

Baker
Beall
Buckley
Cannon
Church
Culver
Fong
Goldwater
Hart, Gary
Haskell
Laxalt
Magnuson
Mathias
McClure
McGee
McIntyre
Mondale
Montoya
Pastore
Ribicoff
Tunney
Weicker

So Mr. Tower's amendment was agreed to.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HANSEN. I move to lay that motion on the table.

Mr. TOWER. Mr. President, a point of order. The Senator from Maine was not on the prevailing side and cannot, therefore, move to reconsider the vote.

Mr. RANDOLPH. Let us have someone on the other side do it.

Mr. HANSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator is correct.

The Senator from Maine did not vote with the prevailing side; therefore, the point of order is sustained.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. CRANSTON. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk continued with the call of the roll.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DOMENICI. Mr. President, reserving the right to object, is the Senator from Texas in the Chamber?

Mr. WILLIAM L. SCOTT. I object, Mr. President.

Mr. DOMENICI. I object, Mr. President.

The second assistant legislative clerk continued with the call of the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I move that the vote by which the previous amendment was adopted be reconsidered.

Mr. TOWER. I move to lay that motion on the table.

Mr. BAKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Gary Hart), the Senator from Colorado (Mr. Haskell), the Senator from Washington (Mr. Magnuson), the Senator from Wyoming (Mr. McGee), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Connecticut (Mr. Ribicoff), the Senator from Missouri (Mr. Symington), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. Cannon) and the Senator from Wyoming (Mr. McGee) would each vote "yea."

I further announce that, if present and voting, the Senator from New Hampshire (Mr. McIntyre), the Senator from Connecticut (Mr. Ribicoff), and the Senator from California (Mr. Tunney) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from New Jersey (Mr. Case), the Senator from Kansas (Mr. Dole), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Hatfield), the Senator from New York (Mr. Javits), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), the Senator from Idaho (Mr. McClure), the Senator from Illinois (Mr. Percy), the Senator from Pennsylvania (Mr. Schweiker), the Senator from Vermont (Mr. Stafford), the Senator from Alaska (Mr. Stevens), the Senator from Ohio (Mr. Taft), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. Goldwater) would vote "yea."

The result was announced—yeas 34, nays 35—as follows:

[Rollcall Vote No. 561 Leg.]

YEAS—34

Allen
Bartlett
Bellmon
Bentsen
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Curtis
Domenici
Eastland
Fannin
Ford
Garn
Hansen
Hartke
Helms
Hruska
Huddleston
Johnston
Long
McClellan
Morgan
Moss
Nunn
Pearson
Scott, William L.
Sparkman
Stennis
Stone
Talmadge
Thurmond
Tower
Young

NAYS—35

Abourezk
Baker
Bayh
Biden
Brock
Brooke
Bumpers
Clark
Cranston
Durkin
Eagleton
Glenn
Griffin
Hart, Philip A.
Hathaway
Hollings
Humphrey
Inouye
Jackson
Kennedy
Leahy
Mansfield
McGovern
Metcalf
Muskie
Nelson
Packwood
Pastore
Pell
Proxmire
Randolph
Roth
Scott, Hugh
Stevenson
Williams

NOT VOTING—31

Beall
Buckley
Cannon
Case
Church
Culver
Dole
Fong
Goldwater
Gravel
Hart, Gary
Haskell
Hatfield
Javits
Laxalt
Magnuson
Mathias
McClure
McGee
McIntyre
Mondale
Montoya
Percy
Ribicoff
Schweiker
Stafford
Stevens
Symington
Taft
Tunney
Weicker

So the motion to lay on the table was rejected.

Mr. BAKER. Mr. President, I ask for the yeas and nays on the motion to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the amendment was agreed to.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. MANSFIELD (when his name was called). Mr. President, on this vote I have a pair with the Senator from New Hampshire (Mr. McIntyre). If he were present and voting he would vote "aye." If I were permitted to vote I would vote "nay." Therefore I withhold my vote.

Mr. HATFIELD. Regular order.

(At this point Mr. Stone assumed the Chair.)

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from Colorado (Mr. Gary Hart), the Senator from Colorado (Mr. Haskell), the Senator from Washington (Mr. Magnuson), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Connecticut (Mr. Ribicoff), the Senator from California (Mr. Tunney), and the Senator from New Hampshire (Mr. McIntyre) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. Cannon) and the Senator from Wyoming (Mr. McGee) would each vote "nay."

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff) and the Senator from California (Mr. Tunney) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), the Senator from Idaho (Mr. McClure), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. Goldwater) would vote "nay."

The result was announced—yeas 41, nays 38, as follows:

[Rollcall Vote No. 562 Leg.]

YEAS—41

Abourezk
Baker
Bayh
Biden
Brock
Brooke
Bumpers
Case
Clark
Cranston
Durkin
Eagleton
Glenn
Griffin
Hart, Philip A.
Hatfield
Hathaway
Hollings
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
McGovern
Metcalf
Muskie
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Stafford
Stevenson
Symington
Williams

NAYS—38

Allen
Bartlett
Bellmon
Bentsen
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Ford
Garn
Gravel
Hansen
Hartke
Helms
Hruska
Huddleston
Johnston
Long
McClellan
Morgan
Moss
Nunn
Pearson
Scott, William L.
Sparkman
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—20

Beall
Buckley
Cannon
Church
Culver
Fong
Goldwater
Hart, Gary
Haskell
Laxalt
Magnuson
Mathias
McClure
McGee
McIntyre
Mondale
Montoya
Ribicoff
Tunney
Weicker

So the motion to reconsider was agreed to.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. Stone). The yeas and nays are already ordered on the amendment.

The question is on agreeing to the amendment of the Senator from Texas. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from New Hampshire (Mr. McIntyre). If he were present and voting, he would vote, "nay." If I were allowed to vote, I would vote, "aye." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from Colorado (Mr. Gary Hart), the Senator from Colorado (Mr. Haskell), the Senator from Washington (Mr. Magnuson), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Connecticut (Mr. Ribicoff), the Senator from California (Mr. Tunney), and the Senator from New Hampshire (Mr. McIntyre) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr.

Cannon) and the Senator from Wyoming (Mr. McGee) would each vote "yea."

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff), the Senator from California (Mr. Tunney), the Senator from Iowa (Mr. Culver), and the Senator from Colorado (Mr. Gary Hart) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), the Senator from Idaho (Mr. McClure), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. Goldwater) would vote "yea."

The result was announced—yeas 39, nays 40, as follows:

[Rollcall Vote No. 563 Leg.]

YEAS—39

Allen
Bartlett
Beall
Bellmon
Bentsen
Brock
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Curtis
Domenici
Eastland
Fannin
Ford
Garn
Gravel
Griffin
Hansen
Hartke
Helms
Hruska
Huddleston
Johnston
Long
McClellan
Morgan
Nunn
Pearson
Scott,
  William L.
Sparkman
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Young

NAYS—40

Abourezk
Baker
Bayh
Biden
Brooke
Bumpers
Case
Clark
Cranston
Durkin
Eagleton
Glenn
Hart, Philip A.
Hatfield
Hathaway
Hollings
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
McGovern
Metcalf
Moss
Muskie
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Stafford
Stevenson
Symington
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for.

NOT VOTING—20

Buckley
Cannon
Church
Culver
Dole
Fong
Goldwater
Hart, Gary
Haskell
Laxalt
Magnuson
Mathias
McClure
McGee
McIntyre
Mondale
Montoya
Ribicoff
Tunney
Weicker

So Mr. Tower's amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

UP AMENDMENT NO. 417

Mr. HUDDLESTON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. Huddleston) offers an unprinted amendment numbered 417:

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. STEVENS. Mr. President, would the Senator mind if I object, so we could hear the amendment? Some of us are leaving.

Mr. HUDDLESTON. I will not object to the Senator's objection.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk read as follows:

On page 14, between lines 5 and 6 insert the following:

"(D) For the purposes of subparagraph (C) of this paragraph, the phrase "previously subject" shall mean all lands used for agricultural, silvicultural or ranching at the time of enactment of this subsection, provided: (i) that the discharge is limited to activities directly related to the production of food fiber and forest products; and

(ii) that the discharge within such lands does not preclude the developments of new lands for production of food, fiber or forest products.

Mr. BAKER. Mr. President, will the Senator yield briefly?

Mr. HUDDLESTON. I yield.

Mr. BAKER. Mr. President, as far as I am concerned, as one of the authors of the Randolph-Baker amendment, I am willing to state that I have no objection to this proposal, and indeed I would support it.

Mr. RANDOLPH. Mr. President, I would like to endorse the statement made by the able Senator from Tennessee (Mr. Baker). As a cosponsor of the Baker-Randolph amendment, we are ready to accept the proposal of the Senator from Kentucky (Mr. Huddleston).

The PRESIDING OFFICER. Is all time yielded back?

Mr. HUDDLESTON. Mr. President, I believe when you have the order it is time to stop talking. Therefore, I yield back my time and call for a vote.

The PRESIDNG OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

Mr. BELLMON. Mr. President, there is language on pages 6 and 7 of the committee amendment which bothers me, particularly section 6 of the committee amendment——

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. I yield the distinguished Senator from Oklahoma 5 minutes.

Mr. BELLMON. I would like to engage the floor manager of the bill in the colloquy for a moment, and then perhaps offer an amendment if it is in order.

The problem I have is with the loan guarantees to the less credit-worthy communities, to be used in the construction of publicly owned waste treatment facilities. This could be, and the question I want to ask is whether or not it is, a form of back door spending that could keep significant amounts of potential Federal spending outside of the budget.

As the floor manager of the bill, who also serves as chairman of the Budget Committee, knows, we have been trying very hard to avoid back door spending and close as many loopholes as we can, so as to get the budget under control.

As I understand, the process might work in this way: A State or local government——

Mr. MUSKIE. Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will kindly take their seats. Staff members will kindly take seats. Senators will kindly cease their conversations on the floor.

The Senator from Oklahoma.

Mr. BELLMON. As I was saying, Mr. President, as I understand it, the process works as follows: If the State or local government which needs a treatment facility applies to EPA for Federal assistance and if it is approved, the Federal Government would finance 75 percent of the cost and the State and local government must find the other 25 percent.

Under section 6, apparently, the State or local government would be allowed to get an EPA guarantee for the 25 percent and with that guarantee the State and local government would go to the Federal Finance Bank for that part of the money.

So the FFB then would turn around and borrow from the Treasury and, of course, the Treasury gets its money from the capital markets. If there is a default by the State and local government then EPA, which is certainly a branch of the Federal Government, is forced to reimburse the Federal Finance Bank, which is another branch of the Federal Government.

So the way it would work out is that, in effect, the Federal Government would be providing 100 percent of assistance to those less credit worthy State and local governments. Other State and local governments that maintain sound financial practices are not eligible for this program and, therefore, they are penalized in that they must come up with 25 percent of the cost of these facilities.

Mr. President, to me that is wrong for two reasons. In the first place, it penalizes those governments that do a good job of managing their own affairs, and in the second place it amounts to a way of spending a very substantial amount of Federal funds that there is no way to control under our normal budget processes. I am curious to know whether or not that is the intent of this language; if it is, I wish to see if we cannot amend it to avoid that danger.

Mr. DOMENICI and Mr. MUSKIE addressed the Chair.

Mr. DOMENICI. I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, may I say, first of all, the points made by the distinguished Senator from Oklahoma with respect to the budget process are points with which I am entirely in agreement.

We are concerned about backdoor spending not only in those forms that have been traditional but in any new forms, including loan guarantees, that develop, because if they develop they are a temptation to all committees and all program constituencies to seek the new form of backdoor spending to escape the discipline of the appropriation process.

With respect to this one, it was intended to be very narrowly focused upon a particular situation. I think I could cover that by making these observations. First, there are clearly instances in which communities have planned projects and taken them to the construction stage, or the financing stage, only to find that their ability to finance the project has been undermined either by reason of the fact that the impoundment of Federal funds has delayed funding of the project; or second, with the passage of time, inflation has eaten into their ability to raise local funds; or third, the failure of the Federal Government to reimburse communities that advanced their own funds to cover the Federal share of previous years that have not been funded.

So for these very special reasons, which are hopefully nonrecurring reasons, Senator Buckley offered this amendment to provide some relief. It is my impression that primarily he was concerned with those instances in which there had been failure to reimburse communities for funds advanced under the 1966 law to cover the Federal share of the cost of projects. In all candor, the Federal Government has been very remiss in not completing that reimbursement program. It is no longer available to communities and has not been since 1972.

So the Federal Government is several years in arrears in reimbursing communities that advanced the Federal share of the cost.

For that reason, Senator Buckley, I think, persuaded the majority of the committee that there was some justice in this approach; if the Federal Government still is not in a position to reimburse in cash, the Federal Government ought to make available limited credit to cover the amount of the funds tied up in nonreimbursement.

I think that is an accurate description of the committee attitude about this amendment, and it is not the kind of open-ended new back-door spending that the Senator from Oklahoma is justifiably concerned about, and I hope that with that explanation we can put the amendment in the proper perspective.

I yield to my good friend from New Mexico.

Mr. DOMENICI. I simply wish to say to the Senator from Oklahoma that Senator Buckley is not here but we conferred with him, and obviously the committee listened to him when he presented it. I think he had some very specific communities in his State in mind and I think they were basically of the type Senator Muskie has described.

I do not think we are talking about the lack of credit based upon poor management in the general sense or lack of credit based upon them not wanting to pay what they ought to be paying for municipal services. I think he intended that it be the kind of situation where they could not get financing, because they had relied rather heavily upon the previous policies of our country that encouraged them to go on and build expecting rather rapid reimbursement for that share which was the Federal Government's. I think we can give the Senator assurance that when we go to conference we will see that we make every effort to limit it to that kind of situation not only in the State of New York, but also obviously if it exists anywhere in the country.

Mr. BELLMON. Mr. President, could I have 2 more minutes?

Mr. MUSKIE. Yes, I yield 2 more minutes.

Mr. BELLMON. I am very much reassured by the statements of the floor manager and assistant floor manager of the bill. It appears that this language is intended to deal with a specific problem. It is not a general open door for local governments that are in trouble to escape paying their part of the cost of these facilities.

It also appears that the language is needed, because if the Federal Government has not kept faith with these local units of government obviously we ought not to make it impossible for them to continue with the kind of treatment facilities that they need.

The only thing I suggest to the floor manager and other members of the committee who may be on the conference is that perhaps we could have some fairly explicit report language that lays this out so at least the legislative history will be extremely clear.

Mr. MUSKIE. I will assure the Senator of my commitment to try to do that. I do think the language needs some refinement and I think the Senate conferees, the distinguished Sneator from West Virginia, the chairman of the Public Works Committee, would concur in that objective.

Mr. RANDOLPH. I concur. I understand the concern expressed by the able Senator from Oklahoma (Mr. Bellmon) and the assurance that has been given by Senator Muskie, Senator Domenici, and now agreed to by me. As we go to conference, I hope we will assuage any problem that he would have at the moment.

Mr. BELLMON. I thank the distinguished floor manager.

The PRESIDING OFFICER. Are there further amendments to be proposed?

Mr. MUSKIE. I yield to the distinguished Senator from Delaware.

Mr. ROTH. Mr. President, I believe that I am as aware of the concerns underlying the section 404 controversy as any Member of the Senate. On the one hand, my State of Delaware has extensive wetlands bordering the Delaware Bay, which is the Nation's second largest estuary; it is the site for two fine wildlife refugees, Prime Hook and Bombay Hook; and it is the home of some of the earliest wetlands protection legislation in the country.

Delaware is also blessed with some of the finest farmland in the country, but the use of drainage ditches is compelled; our rivers have channels which must be dredged in order to maintain proper channel depths; and some of the most intensive dredge disposal activity in the country occurs off our shores.

Because the stakes in this controversy are so high for Delaware. I have studied this issue very carefully. After a great deal of study and thought, I have concluded that I cannot support either the proposal offered by Senator Tower or the proposal offered by Senators Baker and Randolph. In my view, the proper course of action would be to legislatively mandate a moratorium on section 404 under the same terms as that imposed by the President. I believe that the Congress of the United States is about to embark on major Federal programs without adequate attention to or reflection on their implications.

I am gravely concerned that because we have not thought these things through, we could find ourselves saddled with a massive Federal program which would fail to protect Delaware wetlands while blocking the productive use of Delaware's farmlands. I am gravely concerned that Delaware's farmers—who are already hard pressed to make a living—will find themselves confronted by a tangle of Federal paperwork standing between them and the productive use of their lands. I am gravely concerned that Delaware's wetlands, rivers, and streams could suddenly become the victims of thoughtless destruction. I am not saying these things will happen, but I am saying those are the risks we are running, because we are unwilling to spend the weeks and months required to study this issue carefully. Mr. President, I cannot hazard those risks on behalf of Delaware and her citizens.

The issue is whether we are going to put a massive new Federal program into place affecting nearly every part of the country in some degree or another without looking at the issues carefully and at length. I urgently hope that when this issue is taken to conference, other Senators and Representatives will be persuaded to my views.

I ask the distinguished Senator from Maine his views as to whether or not it might not be the best approach to delay action for another year, which would give further time for study, and then try to come up with legislation that would be an answer to the conflicting needs.

Mr. MUSKIE. I say to the Senator that that proposal is one that I find very attractive. It is a proposal I made in the Committee on Public Works.

I also proposed that we might solve the problem by simply striking section 404 from the law. But it was quite clear that I had very little support in the committee for either position, and the Baker-Randolph amendment was adopted by a close margin in committee. The Senator has observed the close vote in the Senate.

My answer to the Senator is that we now go to conference with the issue open. The Baker-Randolph amendment having been adopted, the Wright amendment is in the House version. So the issue is open.

If, after defending the Senate position, as it is our duty to do, we find ourselves in a stalemate, I assure the Senator that his idea will not lie fallow.

Mr. ROTH. I express my appreciation to the Senator for those remarks. As I said, I think this is a matter of greatest concern, both to the farmers and to the wetlands. For that reason, I think we are far better off to move with care, rather than to rush into a program that could cause serious problems in the future.

Mr. MUSKIE. The reason I resisted these various proposals, all of which have been developed on good faith and with considerable ingenuity, is that they are simply patchwork answers built upon an original mistake, and I do not like that kind of legislation, wholly apart from the substance of the issue involved. I would like to see us start anew and build a policy that fits within the basic structure of the Water Pollution Act. I suspect that that is what the Senator's attitude is.

Mr. ROTH. That is correct.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. DOMENICI. I think the Senator from Maine will agree with me that, as we proceeded through the hearings, it was quite obvious, regardless of what we do in this bill, that there seemed to be a genuine concern that we approach the wetlands problem of this country in a very deliberate manner. I do not believe there is any intention on the part of the committee in any of its activities to just say there is not a problem in the preservation of the wetlands of this country. The evidence we have to this point is that there is a serious problem. It is just that by the interpretation of section 404, we have gotten ourselves into a hodge-podge, and we do not know quite where we are. I do not think we intend in any way to jeopardize the wetlands so far as the committee's activities are concerned.

Mr. ROTH. I appreciate those remarks. I want to make clear that I was not personally suggesting that we strike section 404 entirely. However, as Senator DOMENICI has said, what concerns me is that I do not think we have adequately determined how to strike the right balance, and I hope we move with care.

ADDITIONAL STATEMENTS

Mr. TALMADGE. Mr. President, I support S. 2710 and I commend the efforts of the chairman and members of the Committee on Public Works to restore the proper direction of the 1972 Federal Water Pollution Control Act amendments.

Perhaps the one section of the 1972 act which needs revision to assure the proper attention to the Nation's water quality objectives is section 404. That section, as the result of a 1975 court decision involving the Army Corps of Engineers, is being interpreted by the courts and the administration to require a tremendous enlargement of the corps' permit-granting authority concerning the Nation's waterways. Under the court's mandate the corps has expanded its regulatory activities throughout the Nation to embrace many farm and forest lands which are adjacent to navigable waters.

This new jurisdiction of the corps would embrace over 3.5 million miles of rivers and tributary streams as opposed to the 50,000 miles now within the corps' jurisdiction. Corps jurisdiction over lakeshores would jump from 50,000 miles to over 4.7 million miles. There is no accurate estimate of the acreage of wetlands adjacent to these streams and lakes that would be embraced within this new responsibility since there is considerable uncertainty over the definition of wetlands. However, the Fish and Wildlife Service in the Department of the Interior estimates that there are 5.9 million acres of wetlands in the State of Georgia. The Forest Service of the Department of Agriculture estimates that 4.5 million acres of Georgia's highly productive forestlands are within this wetlands classification.

The corps' new definition of wetlands will cause confusion and uncertainty to farm and forest managers as to when permits are required. This situation could result in administrative delays and costly litigation.

This confusion will be further compounded because of overlap with the coastal zone management planning efforts of the States. In many instances the corps' 404 program duplicates the coverage under the Coastal Zone Management Act. Under the 404 regulations, Georgia's coastal zone management agency must review each 404 permit.

These problems were recognized by the members of the Public Works Committee in its consideration of proposed amendments to section 404.

It is my opinion that the amendment offered by Senator TOWER (amendment No. 2218) is superior to the language in section 8 of the bill reported by the committee. The amendment offered by the Senator from Texas is similar to the provision previously adopted by the other body and provides for the Corps of Engineers dredge or fill permit program under section 404 of Public Law 92-500 to be carried out in a commonsense, workable manner. Corps efforts should be focused on keeping the Nation's navigable waterways open for waterborne commerce; a job which the corps has performed well throughout its history.

The proposed revision of section 404 adopted by the committee, following rejection of the language of amendment No. 2218 by the narrow margin of 7 to 6, would greatly expand the responsibility of the Environmental Protection Agency. Rather than reducing the Federal Government's authority, it is merely being shifted from one Federal agency to another. More confusion will result from new EPA regulations, with authority divided between two Federal agencies both of which will overlap with existing State laws and planning efforts.

I recognize and applaud the committee's intention to exempt most of the normal farming, forestry, and ranching activities from the scope of the new EPA authority. However, that exemption does not go far enough. EPA will have an expanded role in the construction of drainage ditches and other water control structures on lands already in production of food, fiber, and forest products. This is not to be confused with construction of ditches for land draining to accomplish a change in natural conditions.

While subparagraph (3)(A)(v) exempts farm and forest road building from the permit program, it unnecessarily expands EPA's regulatory authority to establish national construction guidelines for these roads. These national guidelines would most certainly be unresponsive to local needs and compound the problems of cooperation with State agencies and Federal land management agencies already charged with similar responsibilities.

I believe that EPA's water quality authority should not include regulating the day-to-day activities necessary for food, fiber, and forest products production. Education and technical assistance programs at the State and local level, such as those of the conservation districts, have shown they are effective.

The corps' expanded program resulted from litigation involving uncertainty in the language of the 1972 act. I can see nothing but increased litigation resulting from the vague language in the committee bill. This is especially so in the bill's use of the word "appropriate" in the so-called "recapture clause" which authorizes revocation or modification of the proposed general permits where the authorized activity "is more appropriate for consideration in individual permits." How is any land manager to know when he can operate under Federal guidelines published for his activity or when he must get a special permit? It places an unreasonable and extremely expensive burden on these landowners to resolve these questions in the courts.

Mr. President, the Congress is aware of the need to correct the terms of section 404, but we are not facing up to our responsibility in the committee language. I will support adoption of amendment No. 2218.

Mr. CULVER. Mr. President, I would like to discuss a particular matter involving section 109(b) of the Federal Water Pollution Control Act with the distinguished chairman of the Environmental Pollution Subcommittee.

Before the Public Works Committee began its consideration of amendments to S. 2710, I had two concerns about section 109(b) of Public Law 92-500 which are of great interest to the State of Iowa. As you know, this section authorizes grants to institutes of higher education for the establishment of wastewater treatment training facilities, and Kirkwood Community College in Cedar Rapids, Iowa, has the first approved center in the Nation under this provision.

The committee addressed the first matter by amending section 109(b) to increase the authorization for these grants from $250,000 to $500,000 for each center, which will help to make them more effective in training needed personnel. I greatly appreciate the interest of the chairman of the full committe and the chairman of the Environmental Pollution Subcommittee in resolving this problem. The second concern did not require specific legislative language, and I would like to raise it at this time to clarify congressional intent.

I do not think the committee ever intended that grant applications under section 109(b) for training plants be put through the same rigorous and time-consuming process as grants for municipal treatment facilities, especially with respect to the State priority listings as required by section 204. It is my understanding that funds for these training centers would be over and above the regular State allocations for construction grants. Since they were never intended for "on line" use of the treatment and discharge of municipal waste, these facilities should not be subjected to the conditions of section 204, but rather be a part of a State plan which includes operation and maintenance training.

As a result of EPA's interpretation of this section, our experience in Iowa was a long and drawn out process which was unnecessary for the objective of section 109(b) to be achieved: preparing qualified personnel for operating sewage treatment plants. I simply wanted to be sure that the legislative history reflects that my understanding is consistent with the intent of the Congress.

Mr. MUSKIE. It does. I appreciate the Senator pointing out this problem to the Senate and I hope this exchange will be helpful.

Mr. CULVER. I thank the Senator.

Mr. President, I want to commend the distinguished chairman of the Public Works Committee, Mr. RANDOLPH, and the chairman of the Environmental Pollution Subcommittee, Mr. MUSKIE, for deciding to address only the most pressing elements of the Federal water pollution control program this year. This will enable the Senate to devote complete attention early next year to the full range of water pollution issues after thorough hearings on Public Law 92–500 and the findings of the National Commission on Water Quality.

Of particular interest to Iowa, the amendments reported by the committee to S. 2710 include an increase in the authorization section 109(B) from $250,000 to $500,000. Section 109(B) was included in Public Law 92–500 to provide financial assistance to the States for establishing a State training center for waste treatment plant operation and maintenance personnel. These training facilities are to assure communities that their operators will be effectively trained to operate and maintain sewage treatment plants efficiently. The adequate training of such personnel helps to protect the sizable public investment in sewage treatment facilities made by all levels of government.

Kirkwood Community College in Cedar Rapids, Iowa, and the State of Iowa have constructed the first training center approved in the Nation under this program. The center opened in April 1976, and the experience at Kirkwood Community College has demonstrated that the $250,000 authorized under this section in 1972 for each facility is insufficient to construct a desirable facility. For instance, Kirkwood Community College had to subsidize the construction of its present center in the amount of $100,000, and bids on the facility exceeded the $250,000 authorization by at least 50 percent. It is my understanding that several other States, including Colorado, New Mexico, Oklahoma, and Missouri, have experienced similar problems. The additional funds will be used to install digesters, sludge drying beds, and other analytical equipment to complete the facility at Kirkwood.

During the consideration of this section of Public Law 92–500 in 1972, $1 million was initially included for each training facility, but that amount was ultimately reduced to $250,000. Taking into account the inflationary effects of the 1972–75 period, it would seem that a higher authorization of $500,000 per training plant would be more reasonable and effective. The public investment in municipal wastewater treatment plants is increasing as the Environmental Protection Agency accelerates the rate at which applications for construction grants are being processed. Operators will need to know the latest developments in the biological and chemical aspects of treatment and each successive level of treatment demands complex equipment that is very expensive. This change will let Iowa and other States have personnel trained in the latest treatment processes.

I believe the Public Works Committee has properly corrected existing deficiencies in section 109(B) relating to the funding of these vital training centers, and I am hopeful that the full Senate will act favorably on the changes proposed by the committee to this and other programs of the Federal Water Pollution Control Act.

THE "DREDGE AND FILL" PERMIT PROGRAM ON NAVIGABLE WATERS

Mr. DOLE. Mr. President, I want to take this opportunity to once again express the continuing concern of farmers, cattlemen, highway and housing contractors, and others regarding the "dredge and fill" permit program administered by the Army Corps of Engineers. While it is particularly reassuring that the Senate Public Works Committee has finally confronted this nagging issue, it is clear that the so-called Baker-Randolph proposal does not completely resolve the troublesome aspects of section 404 and of the corps regulations. The Tower-Wright amendment, on balance, seems to better address the full range of problems, while preserving essential environmental protections. It has already passed the House of Representatives. I support it and urge its acceptance by this body.

Section 404 of the 1972 Federal Water Pollution Control Act gave the Army Corps of Engineers primary authority to regulate dredge and fill operations in "navigable waters" of the United States. Historically, the corps' duties have related to preventing nagivational obstructions and facilitating interstate commerce. The corps' expanded powers under section 404, however, resulted from a broader concern for environmental protection. The matter of "protection," per se, is not at issue. Instead, it is the mechanism, and the extent of jurisdiction reflected in the administration of section 404 that is justifiably challenged today. And until congressional intent is clarified, there will be challenges and counter-challenges to the corps' regulatory authority.

UNANSWERED QUESTIONS

Congressional intent as reflected in the language of section 404 was admittedly vague and unspecific with respect to the issues of Federal wetlands protection, tributary protection, and of defining "dredging" and "filling" activities. Confusion and uncertainty about the scope of section 404 in the wake of the corps' regulations of last July, result from the haziness of guidelines for distinguishing between legal and illegal conduct. Just as the farmer needs clearcut guidelines addressed to his specific daily activities, so does the Corps of Engineers require an easily definable scope of authority to facilitate permit processing.

For these reasons, Congress needs to take positive steps now to clarify the proper scope of the section 404 permit program and to resolve jurisdictional questions. In my opinion, House approval of the Wright amendment to H.R. 9560—now S. 2710—last month was an appropriate step in the right direction. It is now up to the Senate to act, and to act expeditiously.

In June of this year, Senator TOWER and myself initiated a letter to the President—with 30 Senate signatures—asking that the forthcoming "phase II" of the corps regulations be delayed until the Senate could act on this issue. The President responded with an appropriate 60-day delay to give us time to act decisively. That action gave us the opportunity to discuss the issue on the Senate floor today.

There are at least two very basic issues that must be resolved at this time by Congress. What specific types of normal and routine activities—as practiced by farming, forestry, mining, and construction industries—are to be considered "dredging" or "filling" for the purposes of the permit program? To what extent is Federal regulation of small waters desirable or necessary to achieve the purposes of the 1972 Water Pollution Control Act? These two questions strike at the very heart of the controversy that has engulfed the section 404 provision since its enactment. The Tower amendment resolves both of these questions in what I believe is a fair and equitable manner for dealing with both environmental and agricultural concerns.

REGULATING ACTIVITIES

Following the district court decision in NRDC against Calloway (1975), opposition to the section 404 permit program arouse from agricultural and forestry interests who feared an expanded program would interfere with normal daily activities near inland waters and on wetland areas, such as plowing, digging irrigation ditches, et cetera. There is certainly no obvious language in the 1972 act to arouse such concern, but the imprecise definitions of "dredging" and "filling," and the court's order covering lakes, ponds, tributaries, headwaters, and adjacent wetlands, made such regulation of normal farming acts a very real possibility.

The anticipated delay, expense, and general burden of imposing such permit requirements on farming, forestry, and construction industries is mind boggling. From a logistical standpoint, the Corps of Engineers is certainly not presently capable—in terms of manpower or money—of administering a comprehensive oversight over routine agricultural discharges or forestry functions. Furthermore, it is doubtful that the corps possesses the technical and scientific competence necessary for such a regulatory permit program.

In view of these considerations, I believe the Corps of Engineers made a wise gesture when it included exemption provisions for "normal farming, silviculture, and ranching activities" in its July 1975 regulations. But those provisions did not eliminate concern, because they are inherently weak. In the first place, agency regulations do not carry the definitive character of public law; the corps exemptions do not foreclose the possibility of later court challenges based on the 1972 law. In the second place, the exemption provisions do not completely eliminate all routine agricultural activities. A sample list of exclusions contained in the regulations do not refer to such practices as dredging for irrigation supply or filling in farm roads, fords, and bridges; and language concerning erosion prevention devices such as "ripraps" and "groins" is ambiguous. These common agricultural practices might or might not be judged "normal" by the corps at the time of permit application.

Similarly, I understand that the beef cattle industry is concerned about potential permit requirements for terracing, digging irrigation canals and livestock ponds, and for cleaning out lagoons. "Normal" forestry activities including construction of culverts, drainage ditches, and temporary roadways could be subject to 404 regulation. The Kansas Department of Transportation advises me that routine cleaning of culverts, repair and replacement of bridge abutments and piers, and even debris clearance could possibly require a permit under current corps regulations.

I do not believe that Congress intended for such activities to be regulated by the Federal Government. For these reasons, permit exemptions for "normal" activities of private business need the full force of congressional clarification and public law.

IS FEDERAL CONTROL NECESSARY?

A second issue that arose from the 1972 law is the question of whether or not expanded oversight jurisdiction should be vested in a Federal agency such as the Corps of Engineers. I submit that in most cases, State government can more readily adapt, and more specifically direct, wetlands regulation to meet the particular geographic needs of the State. Furthermore, because water and wetlands use has been traditionally reserved to State government, the entire structure of water rights and land use administration would be seriously jeopardized, if not destroyed, throughout the Nation by expanded Federal oversight. State control of wetlands located in tidal areas is firmly rooted both in common law and statutory bases. Even though the expanded 404 corps regulations allow for an "advisory" role for the States, all decisionmaking powers for issuance of a permit are retained by the corps.

Clearly, this involves a duplication of State and Federal resources where the State has already devised an adequate water and wetlands regulation system. Previous environmental legislation, such as the Coastal Zone Management Protection Act and Solid Waste Control Act, has given the States primary responsibility for carrying out the purposes of the protective legislation. Indeed, such Federal environment regulation should be in cooperation with, and not in substitution for, State regulation. There is no reason why State permit programs which meet uniform Federal standards cannot effectively achieve the purposes of section 404. Delegation of the authority to grant permits to States which have federally sanctioned permit programs would be a big "plus" in terms of practical and expeditious implementation of this program. The Tower amendment provides for such delegation in a responsible manner.

A very fundamental question lingers about the proper definition of "navigable waters." The courts have interpreted the term to encompass most waters in the United States and this has spread the scope of this Federal program far beyond traditional boundaries. We all understand the importance of regulating genuine polluting activities on tributaries that feed into larger waters. But Federal encroachment under the provisions of section 404 was neither intended nor desired by this Congress. The Tower amendment would statutorily define "navigable waters" in its more restricted, traditional sense, thus limiting corps authority to large waters. Yet, the environmental integrity of smaller, nonnavigable waters could be preserved through State oversight, with Federal cooperation if requested.

If we legislate in a thoughtful and practical frame of mind, I have no doubt that environmental protection efforts can proceed without undue encumbrance, while private business can proceed without undue regulation. I believe the Tower amendment embodies these principles and would resolve the broad range of concerns, without endangering the environmental goals to which this Congress is committed.

Mr. President, I support the Tower-Wright proposal and urge its speedy enactment.

Mr. MUSKIE. Mr. President, at this point I would like to comment briefly on the budgetary impact of the fiscal year 1977 funding levels for the Environmental Protection Agency's water pollution control program that are authorized in the pending amendment.

For fiscal year 1977 the amendment authorizes $5 billion in grants for constructing wastewater treatment facilities. The amendment also authorizes $760 million to administer the Federal water pollution control program. The regular HUD-independent agencies appropriation bill which has already been enacted provides budget authority of $160 million and outlays of $92 million for the administration of the Federal water pollution control program. The bill did not include any new funds for the construction grant program pending completion of action on this authorization bill.

Mr. President, since the Budget Committee has just completed its markup of the second budget resolution, I would like to place this authorization bill in the context of the decisions reached in those deliberations. The committee's full report on the second budget resolution will be issued shortly.

Let me begin by saying that the Budget Committee will be recommending to the Senate total budget authority of $447.5 billion and total outlays of $412.8 billion for fiscal year 1977. These amounts are, respectively, $6.7 billion and $0.5 billion below the first budget resolution targets. Within these broad totals, we are recommending shifts among several functional budget categories from the first budget resolution targets to take account of congressional action to date and likely future action.

Built into our assumptions for the second budget resolution are $5.020 billion in budget authority and $70 million in outlays for programs authorized in this bill that have not yet been funded. The recommended totals also assume the $160 million in budget authority and $92 million in outlays for these programs that have already been appropriated. We believe these amounts are sufficient to cover likely further appropriations action for these programs.

Thus, Mr. President, assuming the Senate adopts the Budget Committee's second budget resolution recommended levels—levels which are below those adopted last spring—this bill can be accommodated within the congressional budget.

The PRESIDING OFFICER. Are there further amendments? If not, the question is on agreeing to the motion to concur in the amendment of the House with an amendment.

The motion was agreed to.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the motion to concur with the amendment was agreed to.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider two nominations that were reported unanimously earlier today by the Committee on the Judiciary.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, on behalf of my distinguished senior colleague (Mr. RANDOLPH) and myself, I send the two nominations to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The nominations will be stated.

THE JUDICIARY

The assistant legislative clerk read the nomination of Kenneth K. Hall, of West Virginia, to be U.S. circuit judge for the fourth circuit.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of John T. Copenhaver, Jr., of West Virginia, to be U.S. district judge for the southern district of West Virginia.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator for yielding.

I also thank Senator HRUSKA, Senator McCLELLAN, and Senator EASTLAND, the members of the Subcommittee on Judicial Appointments, for the hearings that were held, for their fairness, and I also express appreciation to the members of the Committee on the Judiciary.

I thank the distinguished Republican whip for his cooperation.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. RANDOLPH. Mr. President, I commend Senator ROBERT C. BYRD for bringing these Judiciary Committee approved nominations to the Senate this afternoon.

There is no attempt to rush action on these two nominations. Both positions need to be filled, however, that our courts can serve more effectively.

Judge Kenneth K. Hall and Judge John T. Copenhaver, Jr., of West Virginia are supported by Senator ROBERT C. BYRD and myself during the hearings on their nominations this morning by the Judiciary Committee. I have known both of them for many years. They are able and conscientious jurists of outstanding ability. Each of them, I am confident, will serve with distinction and perform their duties in the best traditions of equal justice. The stature of the Federal bench will be enhanced by their presence.

I join my colleague, Senator ROBERT C. BYRD, in endorsing their confirmations by the Senate.

Mr. ROBERT C. BYRD. I thank my colleague.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

MEDICAL CARE FOR CERTAIN MEMBERS OF ALLIED WARTIME FORCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent on behalf of Senator HARTKE that the Senate proceed to the consideration of Calendar Order No. 662.

The PRESIDING OFFICER (Mr. HATFIELD). The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 71) to amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II, reported with an amendment.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill (H.R. 71) which had been reported from the Committee on Veterans' Affairs with an amendment to strike out all after the enacting clause and insert the following:

That section 109 of title 38, United States Code, is amended by adding at the end thereof the following:

"(c) (1) Any person who served during World War I or World War II as a member of any armed force of the Governments of Czechoslovakia, Poland, or of any other government allied or associated with the United States, and who subsequently honorably served in or with the armed forces of France or Great Britain during the period of World War I or World War II, and who participated while so serving in armed conflict with an enemy of the United States and has been a citizen of the United States for at least ten years shall, by virtue of such service, and upon satisfactory evidence thereof, be entitled to hospital and domiciliary care and medical services within the United States under chapter 17 of this title on the same basis as an eligible veteran of the United States Armed Forces suffering from a non-service-connected disability, unless such person is entitled to, or would, upon application thereof, be entitled to, payment for equivalent care and services under a program established by the foreign government concerned for persons who served in its armed forces in World War I or World War II.

"(2) In order to assist the Administrator in making a determination of proper service eligibility under this subsection, each applicant for the benefits thereof shall furnish an authenticated certification from the French Ministry of Defense or the British War Office as to records in either such office which clearly indicate military service of the applicant in the armed forces of one of the foreign governments referred to in paragraph (1) of this subsection, and subsequent honorable service in or with the armed forces of France or Great Britain during the period of World War I or World War II."

SEC. 2. The Administrator, in consultation with the Secretary of State, shall to the maximum extent practicable encourage the government of any nation allied or associated with the United States in World War I or World War II having a significant number of former members of the armed forces of such government residing in the United States, to enter into a reciprocal agreement with the United States for furnishing services in the United States to discharged members of the armed forces of such government, as provided for in section 109 of title 38, United States Code.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate temporarily lay aside H.R. 71 after the Senator from Indiana makes a statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. In my judgment, H.R. 71 as originally passed by the House will be acceptable to the administration and is acceptable to the committee, and to the Veterans Committee, and is acceptable to the ranking member of the Veterans Committee.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HARTKE. Yes.

Mr. MANSFIELD. The Senator has been very active in endeavoring to get this bill on the floor. We have tentatively agreed to take it up sometime after the recess, but unfortunately, there are just too many holds on both sides on it.

So that at the present time, despite the pleas and the urgent requests of the distinguished Senator from Indiana, the chairman of the Committee on Veterans' Affairs, I would plead with them to comply with the leadership.

Mr. HARTKE. Yes. I want to say to the majority leader, all I am trying to do, while the Senator from Wyoming is on the floor, I wanted to get his consent to the fact that if we can remove other objections to the bill, that the Senator from Wyoming, who is the ranking minority member, is in full agreement to accepting the House-passed version of this bill which, in turn, is also acceptable to the administration.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, the distinguished chairman of the Veterans' Affairs Committee does indeed report accurately the feelings of the ranking minority member on the Senate Veterans' Affairs Committee.

I have agreed, and it is my understanding the administration agrees, with the proposal which we were prepared to make to call up and to take final action on H.R. 71, substituting for the language contained therein the language that was developed by the House and passed by the House.

I understand, as the distinguished majority leader has pointed out, that there are other objections that have been raised and holds on the bill.

So I gather we cannot proceed with the course of action that we had agreed upon earlier.

But I do want my good friend from Indiana to know that I am agreeable, and it is my understanding that there is no objection from the administration to enactment by the Senate of the language contained in the House-passed version of the bill, H.R. 71.

Mr. HARTKE. Mr. President, I ask unanimous consent that H.R. 71 be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

RAIL PASSENGER SERVICE ACT AUTHORIZATIONS

Mr. MANSFIELD. Mr. President, ask unanimous consent, in accordance with the promise made to the Senate on yesterday, that the Senate now proceed to the consideration of Calendar No. 895, H.R. 13601, and that it be made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 13601) to amend the Rail Passenger Service Act to authorize additional appropriations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. MANSFIELD. The time not to be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I ask unanimous consent that the following staff members be permitted the privilege of the floor during consideration of S. 3131: Geoff Baker, Tom Allison, Mal Sterrett, Paul Cunningham, Joe Carter, and Lynn Sutcliffe.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FANNIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3131.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 3131) to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corp., and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Amtrak Improvement Act of 1976".

SEC. 2. Section 403(b) (1) of the Rail Passenger Service Act (45 U.S.C. 563(b) (1)) is amended (1) by adding at the end thereof the following new sentence: "Any decisions which are likely to have a significant effect on the scheduling, marketing, or operations of the service provided pursuant to this section shall be made by contract or other agreement between the Corporation and the State or agency which is obligated to reimburse the Corporation for all or part of the operating loss, and associated capital costs, of such service,"; (2) by striking "total" in the second sentence thereof and inserting in lieu thereof "incremental"; and (3) by striking "total" in paragraph (3) thereof and inserting in lieu thereof "incremental".

SEC. 3. Section 601(a) of the Rail Passenger Service Act (45 U.S.C. 601(a)) is amended—

(1) by striking out the second and third sentences thereof and inserting in lieu thereof the following: "There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

"(1) for the payment of operating expenses for the basic system, except for the additional expenses that are to be paid from funds authorized by clause (3) of this sentence and for operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act, not to exceed $350,000,000 for the fiscal year ending June 30, 1976, not to exceed $105,000,000 for the transitional fiscal period ending September 30, 1976, not to exceed $430,000,000 for the fiscal year ending September 30, 1977, and not to exceed $470,000,000 for the fiscal year ending September 30, 1978;

"(2) for the payment of the costs of capital acquisitions or improvements of the basic system, not to exceed $110,000,000 for the fiscal year ending June 30, 1976, not to exceed $25,000,000 for the transitional fiscal period ending September 3, 1976, not to exceed $120,000,000 for the fiscal year ending September 30, 1977, and not to exceed $120,000,000 for the fiscal year ending September 30, 1978;

"(3) for the payment of the additional operating expenses of the Corporation which result from the operation, maintenance, and ownership or control of the Northeast Corridor, pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.), not to exceed a total amount of $68,000,000 for the transitional fiscal period ending September 30, 1976, and the fiscal year ending September 30, 1977, and not to exceed $75,000,000 for the fiscal year ending September 30, 1978; and

"(4) for the payment of the principal amount of obligations (other than leases) of the Corporation which are guaranteed by the Secretary pursuant to section 602 of this Act, not to exceed $25,000,000 for the fiscal year ending September 30, 1978.

Not more than $25,000,000 of the amounts authorized by clause (1) of the preceding sentence for the fiscal year ending June 30, 1976; not more than $8,000,000 of the amounts so authorized for the transitional fiscal period ending September 30, 1976, not more than $35,000,000 of the amounts so authorized for the fiscal year ending September 30, 1977, and not more than $40,000,000 of the amounts so authorized for the fiscal year ending September 30, 1978 shall be available for payment of rail passenger service operating and capital expenses, pursuant to section 403(b) of this Act.";

(2) by striking out "spending plans" in the fifth sentence thereof and inserting in lieu thereof "total funding levels"; and

(3) (A) by inserting "(1)" immediately before the first sentence thereof and (B) by adding at the end thereof the following new paragraph:

"(2) Capital grants appropriated pursuant to this section may be used by the Corporation for temporary reduction of outstanding loan balances, including loans guaranteed by the Secretary pursuant to section 602 of the Act, and the Secretary shall make such appropriated funds available for this purpose.".

SEC. 4. Section 602(i) of the Rail Passenger Service Act (45 U.S.C. 602(i)) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this section, the Secretary shall guarantee any loan approved by the Board of Directors of the Corporation if the proceeds of such loan are needed for the purchase of properties designated, pursuant to section 206(c) (1) (C) or (D) of the Regional Rail Reorganization Act of 1973 45 U.S.C. 716(c) (1) (C) or (D)), for acquisition by the Corporation, in accordance with agreements entered into between the Corporation and the Consolidated Rail Corporation.".

SEC. 5. Section 306(i) of the Rail Passenger Service Act (45 U.S.C. 546(i)) is amended (1) by inserting "waste disposal from" immediately after "shall not apply to"; and (2) by inserting "freight service or" immediately after "operated in".

SEC. 6. Section 303(a) (1) of the Rail Passenger Service Act (45 U.S.C. 543(a) (1)) is amended (1) by striking out the period at the end of subparagraph (A) thereof and inserting in lieu thereof ", and the President of the Corporation, ex officio."; and (2) by striking out "Nine" in subpagraph (B) thereof and inserting in lieu thereof "Eight".

SEC. 7. The second sentence of section 301 of the Rail Passenger Service Act (45 U.S.C. 541) is amended to read as follows: "The purpose of the Corporation shall be to operate high-quality intercity rail passenger service in a manner that will maximize the estimated annual value of the benefits associated with or provided by rail passenger service, which arise from sources other than passenger revenues (including benefits derived from effects on the environment, energy conservation, safety, and the public convenience and necessity) when compared to the annual requirements for operating subsidies and the opportunity costs of capital grants funds provided to the Corporation.

SEC. 8. Section 505(a) (2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(a) (2)) is amended by striking out ", except that the Secretary shall not act finally on any such application until the date of publication of the final standards and designations under section 503(e) of this title".

SEC. 9. (a) (1) Section 206(d) (5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d) (5)) is amended by adding at the end thereof the following new sentence: "The Corporation, its Board of Directors, and its individual directors shall not be liable to any party, for money damages or in any other manner, solely by reason of the fact that the Corporation transferred property pursuant to section 303 of this Act to meet the needs of commuter or intercity rail passenger service, except as otherwise provided with respect to the Corporation pursuant to section 303(c) (2) of this Act.".

(b) The first sentence of section 303(c) (5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c) (5)) is amended to read as follows: "Whenever the special court, pursuant to section 303(b) (1) of this title, orders the transfer or conveyance of rail properties—

"(A) designated under section 206(c) (1) (C) or (D) of this Act, to the Corporation or any subsidiary thereof, the United States shall indemnify the Corporation against any costs imposed on the Corporation as the result of any judgment entered against the Corporation, with respect to such properties, under paragraph (2) of this subsection; and

"(B) to the National Railroad Passenger Corporation, a profitable railroad operating in the region, a State, or any other responsible person (including a governmental entity), the United States shall indemnify such Corporation, railroad, State, or person against any costs imposed thereon as the result of any judgment entered against such Corporation, railroad, State, or person under paragraph (3) of this subsection;

plus interest on the amount of such judgment at such rate as is constitutionally required.".

(c) Section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716 (d)) is amended by adding at the end thereof the following new paragraph:

"(7) Notwithstanding any contrary provision in the options conveyed to the Corporation by railroads in reorganization, or railroads leased, operated, or controlled by a railroad in reorganization, with respect to the acquisition, on behalf of a State (or a local or regional transportation authority) of rail properties designed under section 206 (c) (1) (D) of this title, such options shall not be deemed to have expired prior to 7 days after the date of enactment of this paragraph. The exercise by the Corporation of any such option shall be effective if it is made, prior to the expiration of such 7-day period, in the manner prescribed in such options.".

Sec. 10. (a) Section 303(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(e)) is amended by adding "or which are made at any time to carry out the purposes of title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 or of section 601(d) of this Act" at the end of the second parenthetical expression between "title" and the closing parenthesis.

Sec. 11. Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following two new subsections:

"(j)(1) The establishment of through routes and joint fares, between the National Railroad Passenger Corporation and other intercity common carriers of passengers by rail and motor carriers of passengers, is consistent with the public interest and the national transportation policy. The Congress encourages the making of such arrangements.

"(2) The Corporation may establish through routes and joint fares with any motor carrier.

"(k) The Commission shall, by September 30, 1977, conduct and transmit to the Congress a study of through routes and joint fares between the Corporation and other intercity common carriers by rail and motor carriers of passengers. Such study shall include, but not be limited to—

"(1) a history of through route and joint fare arrangements between motor carriers of passengers and carriers of passengers by rail;

"(2) laws and regulations presently applicable or related to such through route and joint fare arrangements;

"(3) analysis of the need for intermodal terminals, through ticketing and baggage handling arrangements, and the means by which such needs should be met;

"(4) the extent to which any existing arrangements have improved or lessened, or might improve or lessen, the adequacy of service and passenger convenience;

"(5) methods of formulating joint fares and divisions thereof;

"(6) views of the Corporation, other intercity common carriers by rail and of organizations representing intercity bus operators; and

"(7) recommendations relative to the establishment of through routes and joint fares between railroads and motor carriers of passengers, including any recommendations for legislation.".

Sec. 12. (a) Section 4(i)(9) of the Department of Transportation Act (49 U.S.C. 1653) is amended by—

(1) striking out "$5,000,000" in clauses (ii) and (iii) of subparagraph (A) thereof and inserting in lieu thereof "$2,500,000";

(2) striking out subparagraph (B) thereof and redesignating subparagraph (C) thereof as subparagraph (B) thereof.

(b) Section 11(a)((1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)) is amended by adding after subparagraph (B) thereof the following new subparagraph:

"(C) There are authorized to be appropriated to the National Endowment for the Arts for the fiscal year ending September 30, 1977, not to exceed—

"(i) $2,500,000 for planning pursuant to paragraph (1)(D) of section 4(i) of the Department of Transportation Act (49 U.S.C. 1652(i)),

"(ii) $2,500,000 for interim maintenance pursuant to paragraph (1)(B) of such section 4(i); and

"(iii) $250,000 for administrative expenses. Sums appropriated for the purposes of this subparagraph shall remain available until expended.".

Sec. 13. Section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) Association.—There are authorized to be appropriated to the Association, for purposes of its administrative expenses under this Act, not to exceed $20,000,000 for the period beginning May 1, 1976 and ending September 30, 1977. Sums appropriated under this subsection are authorized to remain available until expended.".

Sec. 14 (a) Section 211(h)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(1)) is amended—

(1) in the first sentence thereof, by inserting immediately after "to enter into loan agreements" the following: "at any time";

(2) in the first sentence thereof, by striking out "$230,000,000" and inserting in lieu thereof "$450,000,000";

(3) in the second sentence thereof, by striking out "claims of employees arising" and all that follows through "Railway Labor Act," and inserting in lieu thereof the following: "claims of employees (whether or not arising under the collective bargaining agreements of the railroads in reorganization in the region) for accrued wages, wages, vacation pay, and other such benefits arising out of or in connection with labor and services performed under an employment relationship,"; and

(4) in the second sentence thereof, by inserting immediately after "(45 U.S.C. 51–60)," the following: "amounts required to provide funding adequate to assure the payment, when due, of claims resulting from membership in an employee voluntary relief plan which provides benefits for its members and their beneficiaries in the event of sickness, accident, disability, or death and which has received contributions both from a railroad in reorganization and from such employee members,".

(b) Section 210(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(b)) is amended, in the first sentence thereof, by striking out "$275,000,000" and inserting in lieu thereof "$495,000,000".

(c) Section 211(h)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(2)) is amended (1) by striking out the period at the end of the first sentence thereof and inserting in lieu thereof the following: "for the payment only of such accounts payable as relate to obligations of the estates identified in paragraph (1) of this subsection."; and (2) by inserting at the end thereof the following two new sentences: "Nothing contained in this subsection shall be deemed to permit an order by any reorganization court enjoining, restraining, or limiting the Corporation, the National Railroad Passenger Corporation, or a profitable railroad from applying, to payment of the obligations of the estates identified in paragraph (1) of this subsection, amounts collected as (A) accounts receivable pursuant to this paragraph; (B) cash or other current assets identified pursuant to paragraph (3) of this subsection; or (C) proceeds of loan agreements entered into under paragraph (1) of this subsection. Any agency agreement which is executed, and any order which is entered, prior to the date of enactment of this sentence shall be deemed amended to the extent necessary to conform such agreement or order to the provisions of this paragraph.".

(d) Section 211(h)(5)(B) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(5)(B)) is amended by adding at the end thereof the following two new sentences: "Any direct claim authorized under paragraph (4) of this subsection shall be registered from time to time by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, whichever is appropriate, by filing a proof of administration expense claim with the trustees of each railroad in reorganization. Each such administrative expense claim shall set forth, by category and amount, the obligations of such railroad in reorganization which were paid pursuant to such paragraph (4).".

Sec. 15. (a) Section 506(a)(2)(i) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826(a)(2)(i)) is amended by adding immediately after "whenever issued," the following: "except that the Secretary may make any such redeemable preference share junior in right to any common stock which was issued as a result of an exchange for securities which previously ranked ahead of common stock if such exchange took place pursuant to a court-approved reorganization plan under section 77 of the Bankruptcy Act (11 U.S.C. 205),".

(b) Section 506(a)(2)(iii) of such Act (45 U.S.C. 826(a)(2)(iii)) is amended by inserting immediately after "other than common stock" the following: "(except in those cases where the Secretary has provided for subordination pursuant to claue (i) of this paragraph) which is".

Sec. 16. (a) Section 511(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831 (c)) is amended to read as follows:

"(c) Full Faith and Credit.—All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the United States of America.".

(b) Section 511 of such Act (45 U.S.C. 831) is amended (1) by striking out subsection (g) thereof and redesignating subsections (h) through (n) thereof as subsections (g) through (m) thereof, respectively; and

(2) By inserting immediately after "acquired" in subsection (g)(5) thereof, as redesignated by this subsection, the following: "together with any other security offered by the applicant".

Sec. 17. Section 205(d)(7) of the Regional Rail Reorganization Act (45 U.S.C. 715(d)(7)) is amended to read as follows:

"(7) employ and utilize, until such time as the Director of the Office of Rail Public Counsel has been appointed, been qualified, and taken office, the services of attorneys and such other personnel as may be required in order—

"(A) to protect properly the interests of those communities and users of rail service which, for whatever reason (such as size or location), might not otherwise be adequately represented in the course of the reorganization process under this Act, and

"(B) to perform the functions and duties of the Office of Rail Public Counsel, pursuant to section 27 of the Interstate Commerce Act (49 U.S.C. 27).".

Sec. 18. The first sentence of section 17(9)(e) of the Interstate Commerce Act (49 U.S.C. 17(9)(e)) is amended by striking out "section" and inserting in lieu thereof "paragraph (9)".

Sec. 19. (a) Section 504(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(e)) is amended (1) by striking out "and payment of those which were sustained or settled on or subsequent to the date of conveyance, under section 303(b)(1) of this Act,"; (2) by striking out "direct reimbursement" and inserting in lieu thereof "a loan"; and (3) by striking out the period at the end of the first sentence thereof and inserting in lieu thereof the following: "for payment of those claims which relate to events which occurred prior to the date of conveyance, under such section 303(b)(1), but which are sustained or settled on and after such date regardless of the date on which such claims are first asserted.".

(b) Section 504(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(g)) is amended (1) by striking out "assumed" in the first sentence thereof and inserting in lieu thereof "processed on behalf of the railroad in reorganization"; and (2) by striking out the second sentence thereof and inserting in lieu thereof the following: "The Corporation or the acquiring railroad shall be entitled to a loan from the Association, pursuant to section 211(h) of this Act, for payment of those claims which relate to events which occurred prior to the date of conveyance, under section 303(b)(1) of this Act, but which are sustained or settled on or after such date regardless of the date on which such claims are first asserted. It shall be the obligation of the claimants, in cases in which claims were sustained or settled prior to such date of conveyance, to seek satisfaction against the estates of the railroads in reorganization which were the former employers of the employees as to whom the claims relate.".

Sec. 20. (a) Section 505(i)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(i)(2)), is amended (1) by inserting "mandatory" immediately after "shall establish a"; and (2) by inserting "and binding" immediately after "with arbitration as the final".

(b) Section 505(i) of such Act (45 U.S.C. 775(i)) is amended by adding at the end thereof the following new paragraph:

"(3) A protected employee, whose employment is not governed by the terms of a collective-bargaining agreement and who has been deprived of employment, shall not (except as explicitly provided in this title) be placed in a worse position during the period in which he is entitled to protection, with respect to any voluntary relief plan benefits provided under any life or medical insurance plans; except that the benefit levels which such an employee is entitled to receive under this paragraph shall not exceed the benefit levels which are then being provided for active noncontract employees.".

(c) Section 505(b)(4) of such Act (45 U.S.C. 775(b)(4)) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to a noncontract employee whose noncontract position was abolished.".

Sec. 21. (a) Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended by adding immediately before the words "employee pension benefit plans" in clause (A) thereof the following: "employee health or life insurance plans and".

(b) Section 505(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 755(a)) is amended—

(1) in the first sentence thereof, by inserting immediately after "including benefits under" the following: "any employee health or life insurance plan and";

(2) in the second sentence thereof, by adding "health and life insurance and" immediately after "employee"; and

(3) in the second sentence thereof, by adding "pension benefit" immediately after "such".

(c) Section 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779) is amended by adding "health and life insurance and" immediately before the word "pension" in the second sentence thereof.

Sec. 22. Section 20(3) of the Interstate Commerce Act (49 U.S.C. 20(3)) is amended (1) by redesignating subdivisions (d) and (e) thereof as subdivisions (e) and (f) thereof, respectively; and (2) by inserting immediately after subdivision (c) thereof the following new subdivision:

"(d) In revising those aspects of the cost and revenue accounting and reporting system that pertain to rail passenger service, the Commission shall consult with the Secretary of Transportation and the National Railroad Passenger Corporation to insure that the revised regulations and procedures provide for an accurate, detailed, and thorough description of the cost and revenues associated with such service. If, in the opinion of the Secretary, the regulations and procedures promulgated pursuant to this section fail to provide for a cost and revenue accounting and reporting system that is adequate to enable the Secretary to carry out his responsibilities for oversight of the National Railroad Passenger Corporation, the Secretary shall, within 30 days after the date on which such regulations are promulgated, report to the Congress, setting forth in detail the deficiencies of such regulations and procedures and providing specific recommendations for change.".

Sec. 23. Section 901(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1654(8)) is amended to read as follows:

"(8) a survey and analysis of the railroad industry in the United States to determine its financial condition and the physical condition of its facilities, rolling stock, and equipment.".

Sec. 24. (a) Section 508(a)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 778(a)(1)) is amended by inserting before the last sentence thereof the following two new sentences: "With regard to any supplemental transaction pursuant to section 305 of this Act, if such agreements are not reached within 60 days after the Commission's determination under subsection (c) of section 305, or after the expiration of the 90-day period referred to in such subsection (c), the Commission shall prescribe such offers of employment, rules and working conditions, and employment protection, not inconsistent with section 505 of this title, that have not been agreed to, which shall govern any such transaction. The Commission may prescribe such regulations as may be necessary for the administration of its responsibilities under this section.".

(b) Section 305(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(b)) is amended by inserting in the last sentence thereof, following "acceptable to it,", the following: "or if any such proposed transferee retracts its notification within 30 days after the filing of a petition under section 305(d)(1) of this Act,".

The PRESIDING OFFICER. Does the Senator ask that the staff members for whom he asked unanimous consent for admission to the Chamber be applied to the consideration of this bill that the Senator just called up?

Mr. HARTKE. That was the one I requested permission. I requested that they be admitted for the purpose of the consideration of S. 3131.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARTKE. I ask unanimous consent that they be given the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I am pleased to bring to the floor today a piece of legislation——

Mr. MANSFIELD. Mr. President, will the Senator yield without losing his right to the floor?

Mr. HARTKE. Yes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum with no time being taken out of either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, as I said, I am pleased to bring to the floor today a piece of legislation designed to assist in this Nation's effort to restore a measure of health to our rail transportation system. The legislation that is before the Senate today is a combination of amendments to the Rail Passenger Service Act, the Regional Rail Reorganization Act, and the Railroad Revitalization and Regulatory Reform Act. While several of the provisions of this bill are new, far too many of them do not constitute new subject matter. Indeed, many of these provisions are in fact modifications of existing laws that are unfortunately necessary because of the fact that the administration has failed to properly administer the various transportation statutes it is charged with.

A good example of the kinds of problems I am talking about is the way in which the Department of Transportation has maladministered the nationwide railroad assistance provisions of title V of the Railroad Revitalization and Regulatory Reform Act of 1976.

I perhaps would not be so disturbed if such a major effort had not been made by Congress to reach an accommodation on this legislation with the administration. Before the Christmas recess both the House and the Senate passed the Rail Omnibus Conference Report of December 18 by overwhelming margins. At the time, we thought that conference report represented a good compromise with the administration position.

However, we were notified by Secretary Coleman that he would recommend the bill be vetoed. Since this bill contained the start-up program for ConRail, it became readily apparent that a legislative stalemate between Congress and the administration could actually result in the shutdown of most of the Northeast rail system. The leaders of the House and Senate and the Members of the Commerce Committee, both Republican and Democrat, were well aware of the catastrophic consequences a game is "legislative chicken" could have on the Nation's economy. We decided not to send the bill to the President but to negotiate a new conference report.

These informal meetings between the administration and Commerce Committee members and staff were intense and lasted nearly a month. By the end we felt we had worked out a good faith agreement and a new conference report was adopted. It was passed and signed into law by President Ford on February 5, 1976, amidst great White House fanfare and hoopla.

This then is why I am so disappointed in what appears to be a concerted campaign from within the administration to sabotage some of the most critical provisions of the act. I am not prepared to assign responsibility to President Ford for efforts to destroy significant provisions, but clearly there has been a breach of faith by key policymakers within his administration. I am now taking this opportunity to point the problem out on the floor of the U.S. Senate. I am doing this because so far I have been unable to get the attention of the administration over the dangers of continuous circumvention of the act.

The title V provisions for rehabilitation and improvement financing of the national system represented an honest compromise. We accepted the basic administration proposal for loan guarantees and authorized the Secretary to guarantee up to $1 billion in obligations. To make money available to railroads on more flexible terms we created the "redeemable preference share" mechanism which in essence creates a direct Government loan program which gives the Secretary of Transportation wide discretion in setting terms on interest rates, periods of payback, and so forth.

We were anxious that the Secretary be able to immediately address the most serious problems of deferred maintenance and deteriorating plant which is leading to the rapid decline of clearly essential service on some of the major carriers in the country which are today outside of ConRail. Upon enactment of the law we felt it would be vital that the Secretary move quickly to provide working capital and meet other financial needs of a hard-pressed industry. On the other hand we wanted to give the Secretary the chance to develop a comprehensive national rehabilitation and improvement program that will address the total problem in a rational way.

To meet the twin needs of quick action, but a comprehensive program, we broke the redeemable preference share program into two parts. The first is 505 (a)(1). This simply makes "such financial assistance as may be approved by the Secretary" available for an interim period between enactment and September 30, 1978. Six hundred million dollars is authorized. We intended that the Secretary would use the money for any high priority purposes that he might approve. We intended that the money not be restricted in any way, and thought the language made that clear.

To meet the long-range goal we developed section 505(a)(2) which is the trigger for the comprehensive national rehabilitation and improvement program. The authorization for section 505 (a)(2) will be based on the Congress' response to the Secretary's recommendations about the industry's rehabilitation and improvement needs projected through December 31, 1985. In the words of the conference report:

> Should Congress, in the light of the Secretary's study, decide to implement the long-term public sector funding by means of the Fund the Secretary may issue Fund bonds in the amount authorized by Congress.

In no way did we intend the language of section 505(a)(1) to be modified by section 505(a)(2). There is, however, legal ambiguity in the way the statute is drafted. Recognizing this, during the January negotiations with the administration, we sought and received the personal assurances of the administration's top negotiator that if Congress adopted the language in question the Department of Transportation would not interpret the statute in such a way as to bar assistance for facilities rehabilitation and improvement until completion of the 2-year capital needs study. We were assured that the $600 million would be used for whatever interim assistance was required during the 2-year period during which the Secretary would more fully assesses the capital needs of the industry. Because of these assurances we took the matter no further in the conference report.

Mr. President, the Department has recently issued a set of proposed guidelines for the title V financial assistance programs that are both cumbersome and incredibly restrictive. Aid for facilities rehabilitation and improvement under section 505(a)(1) is flatly prohibited. Then the proposed rules helpfully list those items blacklisted for Federal assistance under 505(a)(1). A railroad is prohibited from seeking funds to end deferred maintenance or make capital improvements. A railroad may not seek these funds to improve "a railroad's fixed plant—its track, communication and power transmission systems and machinery, signals terminal, yard facilities, shop and repair facilities, and related structures—and the property used to move rolling stock over water."

The regulations governing applications get down to a finer level of detail. What may these flexible loan funds be used for? It appears, to finance rolling stock, routine maintenance as opposed to deferred maintenance, and some new facilities that have nothing to do with rehabilitation or improvement. As a practical matter, rolling stock will probably be best financed through loan guarantees. Any railroad that has need to only undertake routine maintenance or to build new facilities that have nothing to do with upgrading of existing plant is obviously in good enough shape that it will not likely require redeemable preference shares to finance its program.

Thus the proposed regulations governing the 505(a)(1) program are so restrictive that it appears they render the entire program appropriate for nothing. Should a railroad actually decide to file an application anyway the requirements for exhibits, preapplications, applications, records, audits examinations, and requests for information are so ominous it will probably take a boxcar to bring an application to Washington.

In my view all of this adds up to a ruinous policy aimed at the destruction of the rehabilitation finance program. It is a program that was agreed to by President Ford and Secretary Coleman as the result of lengthy and arduous negotiation with their spokesmen. The funding level was agreed to, the mechanisms were agreed to, even the interpretation of section 505(a)(1) was agreed to. This is why I must report to the U.S. Senate, Mr. President, that there has been a breach of faith.

Mr. President, in order to correct the way in which the Department of Transportation is attempting to subvert the intent of Congress, several amendments to title V are needed to remove the doctrinal underpinning of their maladministration of the statute. Those amendments are provided for in this bill.

Mr. President, I could recount in detail the difficulty that has been experienced with the actions of the Department of Transportation in areas other than title V. The Northeast corridor project—required by title VII of the legislation—has not been implemented. In fact, I am informed by staff that it was only last week that DOT finally agreed to a contract with Amtrak that is supposed to begin to implement the massive upgrading that Congress required last February.

Rather than working to implement these improvements, the DOT has been impounding Amtrak's operating funds that have been appropriated by the Congress. The Department has even failed to properly implement the rail bank that was required by section 810 of the act. It is these sorts of failures that has led to a number of amendments that you see before you today in S. 3131.

I am hopeful that the Senate can approve this bill today so that we can meet with the House as soon as possible in order to work out any differences between these two bills. Enactment of this measure is vital prior to the time that Congress adjourns sine die. I urge my colleagues here in the Senate to approve it.

UP AMENDMENT NO. 418

Mr. **HARTKE**. Mr. President, I send to the desk several amendments. I ask that they be considered en bloc. They have been reviewed by the minority and I am advised they have no objections to these amendments.

The **PRESIDING OFFICER**. The amendments will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Indiana (Mr. HARTKE) proposes unprinted amendment No. 418.

Mr. **HARTKE**. I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

> On page 19, line 24, strike out all through page 21, line 5.
>
> On page 19, line 4, insert immediately after "Act" the following: "of 1973".
>
> On page 15, line 21, strike out "and".
>
> On page 16, line 7, strike out the period at the end thereof and insert in lieu thereof "; and".
>
> On page 16, between lines 7 and 8, insert the following:
>
> (5) in the second sentence thereof, by inserting immediately after "accrued pension benefits" the following: "(including any increases in the amount of such benefits which are attributable either to increases in compensation prior to the normal age of retirement or to changes in or relating to the Railroad Retirement Act)".
>
> On page 8, line 6, insert immediately after "4." the following: "(a)".
>
> On page 8, between lines 17 and 18, insert the following new subsection:
>
> (b) Section 602 of such Act (45 U.S.C. 602) is amended by adding at the end thereof the following new subsection:
>
> "(j) Any request made by the Corporation for a guarantee, pursuant to this section,

which is related to a lease transaction, which has been determined by the Board of Directors of the Corporation to be in the economic interest of the Corporation, shall be approved by the Secretary and the Secretary of the Treasury. As used in this subsection, the term 'lease transaction' includes any leverage lease transaction pursuant to which the lessor obtains a Federal tax benefit as the result of the lease of railroad equipment to the Corporation.

On page 18, between lines 10 and 11, insert the following:

(c) Section 506(a)(3) of such Act (45 U.S.C. 826(a)(3)) is amended by striking out "not less than".

(d) Section 506(a)(4) of such Act (45 U.S.C. 826(a)(4)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; except that the number of such annual redemption payments shall in no event be less than 15.".

On page 19, immediately after line 23, insert the following:

Sec. 19. Section 511(j) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 828(j)) is amended to read as follows:

"(j) Conditions and Guarantees.—The Secretary shall not guarantee, or make a commitment to guarantee, an obligation under this section unless the obligor first agrees to, and provides adequate assurances to the Secretary that it will comply with, such terms, conditions, and requirements as the Secretary in his discretion determines are necessary to assure that, so long as any principal or interest is due and payable on such obligation, such obligor—

"(1) will not make any unreasonable discretionary dividend payment; and

"(2) will not use any funds or revenues derived from or related to railroad operations in nonrailroad enterprises or for nonrailroad purposes,

if such payment or use is likely to impair such obligor's ability to provide rail services in an efficient and economic manner or if such payment or use is likely to adversely affect such obligor's ability to make any payments due under an obligation guaranteed under this section. Discretion dividend payments by an obligor for any fiscal year are not unreasonable, for purposes of paragraph (1), if such payments do not exceed—

"(A) when compared with the net income of such obligor for such year, the ratio which aggregate dividends paid by such obligor bore to the aggregate net income of such obligor during the 5 fiscal years immediately preceding year in which an outstanding obligation of such obligor was first guaranteed by the Secretary under this section; or

"(B) 50 percent of the additions (computed on a cumulative basis and taking into account dividends paid) to the total retained income of such obligor during the period which commences with the fiscal year immediately preceding the year in which an outstanding obligation of such obligor was first guaranteed by the Secretary under this section;

whichever is greater. Restrictions on dividend payments imposed under this subsection shall not apply with respect to any obligation governed by section 513 of this title.

On page 24, immediately after line 23, insert the following:

Sec. 25. (a) Section 102(16) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702(16)) is amended by striking out "the duly authorized representatives of either of them" and inserting in lieu thereof ", in his absence, the Deputy Secretary of Transportation."

(b) Section 201(d)(2) of such Act (45 U.S.C. 711) is amended by striking out "their duly authorized representatives" and inserting in lieu thereof "the Deputy Secretary of Transportation, the Vice Chairman of the Commission, or the Secretary of the Treasury," as appropriate.

(c) Section 201(h) of such Act (45 U.S.C. 711(h)) is amended by striking out the second sentence thereof.

(d) Section 201(i) of such Act (45 U.S.C. 711(i)) is amended, in the first sentence thereof, by striking out "duly authorized representatives" and inserting in lieu thereof "respective Deputy Secretaries."

(e) Section 201(j)(4) of such Act (45 U.S.C. 711(j)(4)) is amended to read as follows:

"Any reference in this Act to the Secretary of the Treasury is to the Secretary of the Treasury or the person at the time performing the duties of the Office of the Secretary of the Treasury in accordance with law or, in his absence, the Deputy Secretary of the Treasury. Any reference in this Act to the Chairman of the Commission is to the Chairman of the Commission or the person at the time performing the duties of the Chairman of the Commission in accordance with law.".

Sec. 26. (a) Section 704(a)(3)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(3)(B)) is amended by striking "$85,182,956", and substituting therefor "$120,000,000".

(b) Section 704(a)(3) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(3)) is amended by adding at the end of paragraph (3) thereof the following:

"Amounts appropriated pursuant to subparagraphs (B) and (D) of paragraph (3) shall be used first for the repayment with interest of that portion of the obligations issued by the National Railroad Passenger Corporation and guaranteed pursuant to section 602 of the Rail Passenger Service Act (45 U.S.C. 602), the proceeds of which have been used for the payment of expenses resulting from the acquisition of the properties referred to in such subparagraphs."

(c) Section 704 of such Act (45 U.S.C. 854) is amended by adding at the end thereof the following two new subsections:

"(e) In addition to any other terms and conditions which the Secretary may require as a prerequisite to the payment of funds under this section, the Secretary may enter into such agreements as are necessary to protect and secure the expenditure of funds by the United States on account of the acquisition and improvement of properties designated under section 206(c)(1) and (D) and the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1) and (D)).

"(f) Any agreement, security, or obligation obtained by the Secretary pursuant to subsection (e) of this section and any transaction in connection with any such agreement, security or obligation, shall be exempt from the provisions of the Interstate Commerce Act (49 U.S.C. 1 et seq.), the Security Act of 1933 (15 U.S.C. 77(a) et seq.), and any other Federal, State, or local laws or regulations which regulate securities or the issuance thereof. Any such agreement, security, obligation, or transaction shall enjoy all of the immunities from other laws which section 601 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791) accords to transactions which are in compliance with or implement the final system plan. The conveyance or transfer of rail properties resulting from any such agreement, security, obligation, or transaction shall enjoy the same exemptions, privileges, and immunities which the Regional Rail Reorganization Act of 1973 (including section 303(e) thereof) accords to conveyance ordered or approved by the special court under section 303(b) of such Act (45 U.S.C. 743)."

Sec. 27. Section 303 of the Rail Passenger Service Act (45 U.S.C. 543) is amended by adding at the end thereof the following new subsection:

"(e) The Corporation, its Board of Directors, and its individual directors shall not be liable to any party for any damages or in any other manner, by reason of the fact that the Corporation has given or issued a security or obligation to the United States pursuant to the provisions of section 704(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(e)). The immunity granted by this subsection shall also extend to all agreements entered into by the Corporation pursuant to such subsection (e) and to any transaction in connection therewith. The United States shall indemnify the Corporation, its Board of Directors, and its individual directors against all costs and expenses (including fees of accountants, experts, and attorneys) actually and reasonably incurred in defending any litigation testing the legal validity of any security, obligation, agreement, or transaction, given, issued, or entered into pursuant to such subsection (e)."

On page 19, strike lines 3 through 19 and renumber the subsequent sections accordingly.

Mr. HARTKE. Mr. President, the first amendment simply deletes section 19 of S. 3131. This section would have amended section 504 of the Regional Rail Reorganization Act and was requested by ConRail. Since the time that it was reported, ConRail has withdrawn its request for the amendment.

The second amendment is purely technical in nature—it corrects the citation to the short title of the Regional Rail Act.

The third amendment provides clarification as to the proper method for valuation of pension plans that have been transferred in the context of the reorganization. There are three potential methods for valuation of these pension plans: liquidation liability, going concern liability, and actuarial liability. The amendment would clarify that the middle concept of going concern liability is to be used—this means that the estates will be responsible for that portion of the pension liability that relates to the employment of people that worked for them prior to the conveyance, including the expected level of pension benefits that relates to wage increases. In other words, this covers future pay increases that are covered in pension benefits, but not any future work for an employer other than the estate of the particular railroad in reorganization.

The fourth amendment is designed to merely clarify existing law and resolve a dispute between the Department of Transportation and Amtrak. At the same time, it will save the taxpayers money. The amendment clarifies Amtrak's existing power to use the technique of leveraged leasing, a common financial technique in the railroad industry that has the effect of giving the lessor a tax advantage that is passed on to the railroad in the form of a saving in lease costs on new equipment, typically rolling stock. In the case of Amtrak, this would have the effect of saving the need for tax support of the Corporation. It is estimated that Amtrak would save approximately $45 million for the term of the equipment leases already in existence. Over the next 15 years, it could save approximately $180 million. Furthermore, the particular type of financial arrangement has already been approved by Congress in the Amtrak Improvement Act of 1975 and approved by the General Accounting Office in an opinion issued on April 22, 1975.

The fifth amendment is designed to correct the regulations that have been issued by the Department of Transportation under title V of the Railroad Revitalization and Regulatory Reform Act of 1976. As I mentioned in my introductory remarks, these regulations are completely at variance with the intent of Congress in enacting this program. In effect, the DOT has said that it will not provide any funds for either the purposes that Congress contemplated in enacting the program nor on the terms that Congress provided for in the law. The entire redeemable preference share program would be rendered useless by these regulations, which would have better fit the bill that the DOT originally proposed than the law that Congress enacted. The amendment would have the effect of assuring that the redeemable preference share program was available to provide funds to an approved project at less than the costs of money to the Government. The loan guarantee program is available to provide funds to approved projects at the cost of money to the Government.

The sixth amendment is designed to modify section 511(j) of the Railroad Revitalization and Regulatory Reform Act of 1976 in order to better serve the interests of the United States in assuring adequate protection from a borrower when guaranteeing a loan while at the same time assuring that the loan guarantee program will work. It provides that the borrower cannot make any unreasonable dividend payment or divert funds or revenues to nonrailroad purposes so long as money is owed on the loan. A specific definition of what is unreasonable is provided for in order to assure that the Government is adequately protected while at the same time giving assurance to the investment community what will be expected when a carrier uses the program.

The seventh amendment is designed to insure that the participation of the Government in the affairs of the United States Railway Association will be carried out by those officers in the two departments represented on the Board of USRA and the Finance Committee who have overall responsibility for policy decisions in their respective agencies, and in the independent agency represented on the Board.

Now that the role of the USRA has shifted from planning the largest industrial reorganization ever to a monitoring and financing role, I am concerned that the representatives of the Government on the Board will be lesser officials in their respective agencies. Just because the activities of the Association are less than they were when the reorganization was being planned does not mean that they are of any less importance to the success of the reorganization. For instance, the Railroad Revitalization and Regulatory Reform Act of 1976 provided for the creation of a three-person Finance Committee which is able, upon making certain findings, to completely cut off the Federal investment in ConRail unless it is reversed by either House of Congress.

It obviously is critical that the three statutorily provided for Government members on the Finance Committee—the Chairman of USRA, the Secretary of Transportation, and the Secretary of the Treasury—be either those individuals themselves or at least a designee that has a sufficiently wide responsibility in their respective departments to adequately represent the Government's interest.

Mr. President, I am not concerned about this matter as merely a matter of academic interest. Since the resignation of the former Under Secretary of the Treasury from the USRA Board less than 1 year ago, the Secretary of the Treasury has been represented on the USRA Board by no less than five separate individuals. Even now the individual representing the Treasury on this Board is not the official in the Department responsible for debt management—which is the reason that Congress provided for Treasury Department representation on the Board in the first place.

It is important that the Congress assure adequate Government participation on this important Board to adequately protect the public interest. At the same time, it is unrealistic to require that Cabinet members actually sit themselves at Board meetings in every instance. This amendment allows a designee from each of the three Government agencies, but assures that the representative will be one that will still fulfill the purpose of providing for the representation in the first place.

AMENDMENT NO. 8—DOT CORRIDOR IMPLEMENTATION AMENDMENT

Mr. President, this amendment was requested jointly by the Department of Transportation and Amtrak only yesterday. It is designed to implement an agreement that has been negotiated by Amtrak and the DOT which spells out the way in which the two parties will work together to implement the improvements to the Northeast Corridor that Congress required in title VII of the Railroad Revitalization and Regulatory Reform Act of 1976. Since February 5 when these new requirements were signed into law, the two parties responsible for implementing the improvement program—DOT and Amtrak—have not been able to agree to how the program should be implemented. Unfortunately, this has cost us time in beginning these needed improvements, but I am confident now that agreement has finally been reached that we will begin to see some movement on this project. While I am not sure of some of the details of this amendment, I am confident that we can work any problems out in the context of a conference on this legislation, and accordingly will support its inclusion in the bill.

Amendment No. 9 will permit the conference to determine how to best fill the Office of Public Counsel until the President sends a nomination to the Senate.

Mr. President, I ask for the immediate consideration of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BAYH. Mr. President, I want to compliment the chairman of the subcommittee for his work on this bill. In my capacity as chairman of the Appropriations Subcommittee on Transportation, I have had the pleasure and the good fortune of working closely with Senator HARTKE and the other members of the Surface Transportation Subcommittee in many matters relating to the railroads. ConRail has now taken over the operation of the railroads covered by the RRRR Act and, so far, the operating results are slightly better than predicted in the final system plan. So, I think there is reason for cautious optimism regarding ConRail's chances of becoming a viable railroad.

I want to again take this opportunity to thank the chairman for the unparalleled effort that he and the other members of the subcommittee put forth over a period of several years in order to prepare the very complex legislation that was necessary to handle the tremendous problems that we faced in the bankruptcy of the Penn Central and other railroads in the Northeast.

Regarding Amtrak, as the chairman is aware, it appears that DOT and Amtrak have now reached agreements that will allow ownership of the corridor to go to Amtrak with a lien on the property that will protect the taxpayers' investment. Also, the parties have agreed on the procedures that will be followed in carrying out the $1.75 billion northeast corridor improvement program. I am hopeful that this program will now proceed on schedule and that the ultimate goals of improved passenger service in the corridor will result. I am confident that both Amtrak and DOT now intend to work together toward that end.

In discussions with the president of Amtrak, Mr. Paul Reistrup, and the Federal Railroad Administrator, Mr. Asaph Hall, after the agreements were reached, I detected an eagerness to get going with the program. Appropriations of around $200 million are now on the books for the improvement program and it looks as though construction will begin soon. I understood, in those discussions with the parties, that several minor technical changes in Amtrak's enabling legislation would be required as a last step in finalizing the agreements. I also understood that OMB had given their blessing to such amendments.

I thank the Chairman for the expeditious manner in which he has handled these amendments by including them in his bill. I look forward to working with him and the other members of the Surface Transportation Subcommittee in the future on the very difficult problems that still lie ahead for the Nation's railroads.

UP AMENDMENT NO. 419

Mr. BEALL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. BEALL) proposes an unprinted amendment No. 418.

The amendment is as follows:

On page 24, strike lines 3 through 23 and insert in lieu thereof the following:

SEC. 24. (a) Section 508(a)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 778(a)(1)) is amended by inserting before the last sentence thereof the following new sentence: "With regard to any supplemental transaction pursuant to Section 305 of this Act, if such agreements are not reached within 60 days after the Commission's determination under subsection (c) of Section 305, or after the expiration of the 90-day period referred to in subsection (c), the transferor and transferee railroads may carry out such supplemental transaction, subject to the condition that all employees described in this paragraph shall be accorded employee protection as provided by Section 505 of this title and to the further condition that wages, hours, rules and all other working conditions of such employees shall be governed by the collective bargaining agreements covering such employees immediately prior to such transaction until modified or revised in accordance with the provisions of the Railway Labor Act."

Mr. BEALL. Mr. President, this amendment would remove the present veto which representatives of labor have under the so-called supplementary transaction provision of the Regional Rail Reorganization Act, and instead the employees would come to the reorganized railroad subject to their current bargaining agreement with their previous employer.

The necessity for congressional action is illustrated by the failure of the Southern acquisition of the railroad lines on the Delmarva peninsula. As Senators will recall, the U.S. Railroad Association, the planning and financing agency created by Congress to reorganize and restructure the railroad system in the Northeast following the bankruptcy of Penn Central, recommended that Southern purchase the Delmarva lines and Southern agreed to such purchase.

Mr. President, the taxpayers spent millions of dollars in the planning process. The Congress provided the most generous labor protection provision—a provision which assured that no railroad worker during his working years would be adversely affected by the reorganization process; $250 million was provided by the Congress for this purpose. Incidentally, this labor protection provision was negotiated by labor and management, and the Congress and the country had every right to believe that the best plan proposed by USRA would in fact be implemented. It was not; and this has been and remains a national tragedy and disgrace.

Southern—if the acquisition had been consummated—would have invested between $25 and $30 million in bringing to the Delmarva peninsula a first-class railroad with first-class service. As it is, the line is now being operated by ConRail and the line is in the same sorry condition. Since obviously this Delmarva line was not included in the system of ConRail, the line does not have a priority with ConRail, and at best it is a decade away before significant rehabilitation would be forthcoming.

The line is only continuing because of the subsidy provision provided by Congress. However, a letter I received just yesterday from Governor Godwin of the State of Virginia indicates that "if a responsible firm does not acquire the Delmarva line from Wilmington to Norfolk, there is a strong likelihood that large operating deficits will force the discontinuation of the Virginia portion of the Delmarva line by April 1, 1977." I ask unanimous consent that the complete text of the Governor's letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BEALL. Mr. President, three-quarters of a million people live on the Delmarva peninsula. A successful resolution of this controversy is imperative for their economic health and future. At a time when unemployment is foremost in everyone's mind, it seems unconscionable to me that the Southern acquisition—which is clearly in the public interest and which would clearly create additional employment—has not materialized. In addition, Mr. President, if the worst would occur, and the Governor's letter makes it clear that this, indeed, may occur, then thousands of jobs will be lost on the Delmarva peninsula. All, Mr. President, because 1 union out of some 20 unions vetoed an agreement.

As my colleagues know, this Delmarva controversy has received national attention and national focus. Secretaries Coleman and Usery spent countless hours trying to resolve the matter. Congress passed my resolution expressing the sense of the Congress that "the clear and overwhelming public interest requires" that the parties resolve their differences and assure the Southern acquisition.

Although the parties went back into negotiations, no agreement was forthcoming, and on April 1, the property owned by Penn Central was conveyed to ConRail, passed, thus ending those negotiations. There remains a hope, and that involves the supplementary transaction provisions of the existing act.

During consideration of S. 3131 in committee, I offered an amendment which would have assured that negotiations of labor agreements would not unduly delay needed restructuring under the supplementary transaction provisions. Essentially, we follow the precedent under the Interstate Commerce Commission Act wherein the ICC under railroad mergers is authorized to assure that provisions are made for the protection of railroad employees. My amendment would have permitted the ICC—if the parties themselves could not have worked out their employment agreements—to establish such arrangements.

Railroad labor was deeply concerned with this matter because they felt it represented or was akin to compulsory arbitration. My response has always been that I am not committed to a particular provision, but only committed to clearing away obstacles to the securing of first-class rail service for the citizens of Delmarva.

What we have today represents a compromise. I recognize that if someone moved here in the Chamber to strike the amendment that I had offered in the committee, which was adopted by the committee, the votes are here to strike it. Being a practical person we have come up with a compromise that I think is acceptable and represents a step forward. The compromise, which I am now offering, essentially says that it would eliminate these ICC arbitration provisions and instead provide that the agreements governing work on the acquired properties would remain in place until a new agreement could be worked out between the acquiring railroad and the employees working on the acquired properties. This amendment would enable the acquisitions to be made. Collective bargaining would determine the final arrangements; however, labor would no longer be able to veto transfers of properties.

Mr. President, once again I publicly appeal to the parties involved in the Delmarva peninsula dispute and hope that the overriding public interest will somehow and in some way produce the necessary agreement that will allow the Southern Railroad to take over this railroad property. I certainly will not be satisfied, and will continue to do everything I can, until a first class railroad providing first-class service is secured for the Delmarva peninsula.

EXHIBIT 1

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
August 26, 1976.

Hon. J. GLENN BEALL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: As Chief Executive of the Commonwealth of Virginia, I am writing in support of your amendment to S. 3131 that will enable a responsible and solvent railroad to again consider acquiring the entire Delmarva Railroad Line.

If a responsible firm does not acquire the Delmarva Line from Wilmington to Norfolk there is a strong likelihood that large operating deficits will force the Virginia portion of the Delmarva Line to be shut down by April 1, 1977. Elimination of rail service would cause the loss of hundreds of jobs on Virginia's eastern shore; create annual economic losses in the millions; and forever weaken the economic attractiveness of two counties that already are among Virginia's poorest.

The Federal monies available to fund one hundred percent of the deficit of the Virginia segment of the Delmarva Line in its first of operation now total $2.9 million. A deficit in excess of that amount would have to be funded by non-federal sources. In subsequent years, non-federal sources would have to meet an increasing portion of the deficit. There is no Federal commitment of funds beyond 1981.

The Constitution of Virginia bars the use of state funds to subsidize any such deficits. The two counties served by the Delmarva Line do not have the resources to subsidize indefinitely a deficit of such magnitude. The shippers will balk at having to pay surcharges in excess of $1,000 per car in order to keep the Virginia segment of the line in operation.

Because of the very high per ton mile cost of moving freight on the car float between Cape Charles and Norfolk, Virginia's segment of the Delmarva Line can never hope to stand on its own financially. It must be part of a larger railroad system.

Thus, with no ready source of non-federal subsidy funds, and with scant hope of its being able to stand on its own financially, there appears to be no alternative to an eventual discontinuation of rail service on Virginia's portion of the Delmarva Line.

This strong likelihood of a shutdown of the Virginia portion should be of concern to Delaware and Maryland, and to the United States because of its possible domino effect. The suspension of the car float will eliminate all bridge traffic over the entire Delmarva Line: traffic which contributes vitally needed revenues to the overall economic viability of the line.

The loss of the bridge and Virginia traffic will undermine the operating rationale of the already marginal portion of the Delmarva Line from Pocomoke City north to Wilmington that was included in ConRail. While ConRail is obligated, initially, to provide rail service from Pocomoke north, there is no bar to its petitioning the Interstate Commerce Commission to abandon service in Maryland and Delaware. Therefore, shutdown of the Virginia segment of the Line imperils rail service for the entire three state Delmarva peninsula.

Analyses indicate that the Delmarva Line will be viable in the long run only if it is part of a larger railroad operation that can provide millions in capital needed to rehabilitate the line, and the marketing resources necessary to generate the freight traffic required to make Delmarva the financially viable line that it has the potential to be.

The Southern Railway is the only operating railroad that has indicated an interest in acquiring the Delmarva Line. Moreover, the United States Railway Association originally planned for the Southern to acquire the Line. It is my understanding that it is still interested in doing so only if the labor matters attendant to the Line can be resolved. The amendment you propose offers at least the prospect of a fair resolution of the issue. While I do not wish to close the door on a new company being formed to operate the line under the existing labor agreements, only the Southern has the demonstrated financial resources to upgrade the Delmarva Line and operate it successfully.

On my behalf I hope you will urge your fellow Congressmen to pass your amendment to the 3 R Act so that the Southern can once again consider acquiring the Line. Without the passage of this amendment, I fear for the future of the Delmarva Line and the long-range economic interests of the people and region it serves.

Sincerely,

MILLS E. GODWIN, Jr.

Mr. **HARTKE**. Mr. President, I think the Senator from Maryland has made his case very strong and has been very persistent. My judgment is that the compromise suggested is acceptable. I have no objection to it. I am willing to accept it.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 420

Mr. **BEALL**. Mr. President, on behalf of the Senator from Michigan (Mr. GRIFFIN) I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Maryland (Mr. BEALL), for the Senator from Michigan (Mr. GRIFFIN) proposes an unprinted amendment No. 420.

The amendment is as follows:

On page 24, following line 23, insert the following:

SEC. 25. (a) Section 501(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771(1)) is amended by inserting after "profitable railroad," the following language:

"and shall also mean a State which has acquired all or part of such rail properties pursuant to section 208(d) (2) of this Act and any Class I railroad designated by such a State to operate such rail properties acquired by that State,"

(b) Section 504(f) (3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774 (f) (3)) is amended by inserting after "this Act" and before "shall upon transfer," the following language:

"or as a result of the designation by a State of a Class I railroad to replace the Corporation or any other person as operator of rail properties acquired by the State pursuant to sec. 206(d) (2) of this Act."

Mr. **BEALL**. Mr. President, these amendments would insure that States have the necessary flexibility to select whichever railroads they desire to operate rail properties they have acquired under section 208(d) (2) of the Regional Rail Reorganization Act of 1973—RRRA. Under the present provisions of title V of the RRRA, former employees of railroads in reorganization who are needed to operate rail lines acquired by States may receive the protections of title V only if they are employed by ConRail. This effectively limits a State's choice of its designated operator to one—ConRail. However, operation by ConRail may not be in the State's interest.

An example of the need for these amendments is the Ann Arbor Railroad, part of which is now owned by Michigan as a result of a final system plan conveyance pursuant to section 208(d) (2). Most of the rest of the Ann Arbor is leased from the Ann Arbor trustee by Michigan. The Ann Arbor is being operated by ConRail under a contract with Michigan. Since the Ann Arbor employees could receive title V protection only if employed by ConRail, Michigan had no practical alternative than to select ConRail to operate the Ann Arbor, even though the Ann Arbor provides a route that competes with ConRail's route to and from Chicago, and ConRail is not the logical choice to operate the Ann Arbor. However, as title V is now written, no other operator could provide the necessary protections to Ann Arbor employees.

The above amendments would enable Michigan—and other States that may have acquired rail properties under section 208(d) (2) of the RRRA—to choose whichever class I railroad they wish to operate those properties. First, section 501(1) would be amended to include within the phrase "acquiring railroad" any State that acquires rail properties under section 208(d) (2) or any class I railroad designated by such a State to operate those properties. As a result, the State or its designated operator would be able to offer employment to the pertinent employees under section 508, to extend them the protection specified in section 505, and to receive reimbursement for such protection from the Railroad Retirement Board under section 509. Second, section 504(f) (3) would be amended to make clear that protected ConRail employees will retain such protection if they are transferred to a newly desginated operator as a result of the State's decision to replace ConRail as operator of rail properties it has acquired under section 208(d) (2).

These amendments would cost no additional money because, in their absence, the employees involved would in any event be employed by ConRail or an acquiring profitable railroad, either of which would already be eligible to obtain reimbursement under section 509 for payment of allowances to the same employees. In fact, the amendments could save the U.S. Government money by helping States to maintain in existence projects that will increase the number of railroad workers who are kept actively employed, thereby reducing claims against the fund administered by the Railroad Retirement Board. Moreover, if the States are free to select the most efficient and effective operators for the lines whose operation they are subsidizing, their subsidy payments will likely be reduced due to higher revenues and lower costs, resulting in further savings to the United States.

This matter has been cleared on both sides.

Mr. **HARTKE**. Mr. President, we are prepared to accept the amendment.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment was agreed to.

The **PRESIDING OFFICER**. Who yields time?

Mr. **TAFT**. Mr. President, I rise in support of this bill. I think it is a good and a needed piece of legislation, and I would like to commend the distinguished chairman and the members of the committee for their excellent work.

Mr. President, there has been increasing talk about the deficits of Amtrak. I think that we need to be concerned, in relation to this and to all other Government expenditures, that the taxpayer's money is used effectively. And I believe that, under the excellent leadership provided to Amtrak by Mr. Paul Reistrup, this money is used effectively. The progress Amtrak has made under Mr. Reistrup's leadership has been remarkable, and I am convinced that the future holds promise of even more progress toward the modern, fast, safe, and comfortable intercity rail passenger service that this country needs.

There are many arguments that can be made to show that Amtrak's expenditure of Government money is justifiable. One can point out that Amtrak's subsidies are small compared to the subsidies given to the automobile and the airplane. One can point out that Amtrak began with a rolling museum of worn-out railway cars, which have necessitated major investments in new equipment. One can point out that Amtrak has reversed the long-term decline in passenger train ridership, and that more people are now riding trains.

But I would like to mention two arguments for Amtrak which I believe are important, and that are often neglected.

Both relate to an issue which must and inevitably will be of even greater concern to us: the need to reduce our consumption of petroleum.

The modern passenger train is one of the most fuel-efficient ways to move people. On a comparable seating-density basis, the train is the most fuel-efficient mode of passenger transport. Furthermore, the train is the only transportation mode for either freight or passengers which we can today run without petroleum fuel, through electrification.

If we have another fuel crisis, we will need at least a basic passenger train network throughout the Nation. As the fuel crisis in 1973 demonstrated, many people will turn to the train for transportation when gasoline is either unavailable or high priced. And this is correct, for, as I noted, the train is the most fuel-efficient way to go. However, we cannot expect to create such a passenger train network overnight, when an emergency occurs. It takes years to build passenger cars, to develop routes, and to establish the service and maintenance organization a passenger rail system requires. Only if we fund Amtrak adequately today, can we expect to have the rail system we will need in tomorrow's fuel crisis.

Thus, in a very important sense, Amtrak is an investment in our national security. It is a sound investment in a transportation system we will need if we are faced with another petroleum shortage.

Even if we do not face an actual fuel crisis in the future, we will face and, indeed we, face now, the need to reduce our petroluem consumption. There is only so much oil in the ground, and future generations will not thank us for wasting it. Our balance of payments suffers severely from the need to import large quantities of foreign oil. The air pollution effects of burning petroleum in our automobiles degrade the quality of life in our cities and force us to invest hundreds of millions of dollars in air quality control measures.

Not only is the pasenger train an important answer to this problem in the theoretical sense, from the standpoint that trains are far more fuel efficient than automobiles, but more importantly trains can actually entice people out of their automobiles. Trains provide more space per passenger than any other mode of transportation. They provide sleeping cars, dining cars, and lounge cars, which people enjoy. They provide greater comfort and convenience than an automobile.

The train, unlike the bus, can provide a level of service high enough so that people will leave their automobile at home and take public transportation. Again, only the train can do this. Thus, it is really only the train that offers us a chance of reducing automobile travel, and thus reducing our dependence on petroleum.

For these reasons, I think Amtrak is a good investment. I also think Amtrak has a bright future, if we are willing to provide an adequate level of support. I was very impressed with Mr. Reistrup's outline of the future of Amtrak, as he presented in a speech in Atlanta, Ga., on July 12. I think my colleagues should be interested in Mr. Reistrup's view, and while I will not take time to read the speech here, I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the speech was ordered to be printed in the Record, as follows:

TRAINS IN YOUR FUTURE

REMARKS OF AMTRAK PRESIDENT PAUL H. REISTRUP BEFORE THE ROTARY CLUB OF ATLANTA, JULY 12

Because Amtrak is an unusual organization and because its role in the transportation industry is growing, I would like to present Amtrak to you today in terms of its relationship with that industry. Transportation is such a massive endeavor that few really understand it. But we all pay a lot for it. Each year we spend about three times as much on transportation, across the board, as we do on defense. Few things touch our lives more totally than transportation. Yet we are inclined to take it all for granted. We are inclined to go along with things as they are, seldom thinking about the direction they are going or of the pitfalls along the way.

But this is changing. There are forces at work today which will have more impact upon transportation than the invention of the steam engine. These forces will change the "American Way of Life" more than anything has since the introduction of the automobile. They will do this because they will impact directly upon our ability to continue the use of the automobile in the way we have been accustomed to using it. Because of this, these things will have a significant impact upon our daily lives and our pocketbooks.

The dominant modes of transportation today in terms of the number of people moved and of the number of passenger miles traveled are the automobile and the airplane. Both are heavily dependent upon petroleum-based fuel and there is a shadow on the petroleum horizon. Related to this, there is a growing concern over what I might call the "true cost of travel." The American public—although very slowly—is becoming more and more aware of the fact that automobile travel costs are not simply those of gas, oil and the car, and that the cost of air travel involves a lot more than the cost of the ticket. These are two of those "forces" I mentioned. A third is one of various components, but which might be summed up with the word "congestion." There are often too many cars on the road, too many planes in the airways, too much real estate committed to parking garages all over our cities and towns and too many planes crowding the airports. And from this, pollution and environmental problems arise. These are not minor issues and they are not going to go away. They are very definitely mushrooming and whether we like it or not, they are going to bring about quantum changes in how we move from place to place and how we live our daily lives.

With the end of WW II, this country burst out of the bonds of a wartime rationed economy into the "Age of the Automobile". During the war, the national system of interstate and defense highways had been authorized. Although only modest funding was provided in the act of 1944, things began to change drastically with the Federal-Aid Highway Act of 1956. A brand new 42,000 mile interstate highway program was begun and hundreds of billions of dollars were made available for its construction, maintenance and operation.

During this period, the railroads were losing money at the rate of $500 million per year. They had no alternative than to discontinue ordering new passenger equipment and to cut costly services wherever possible. Rail passenger service was going to disappear if left in that condition.

Despite all of this, there was a small spark still burning among the ashes of this once great industry. Some people looked around sizing up the situation and the alternatives and asked, "What would it be like to live in a country as big as the United States if all rail passenger service ceased to exist?" Or they asked themselves the directly related question, "What will it be like, in years to come, if all we have are automobiles, buses and airplanes—no rail passenger system—when the oil barrel runs dry?" What will the alternative be then?

It has been estimated that it would cost no less than $100 billion to rebuild the rail passenger system. As a result Congress became concerned over the impending demise of the rail passenger system and concerned about congestion on the highways and on the airways and airports and they were appalled at the loss of life on the highways—50,000 plus per year. Something had to be done to save the trains and something had to be done to bring about a more sensible balance between the various modes of transportation. Someone had to take the initiative. Nothing happens by itself.

After a decade of studies, argument and discussion, Congress passed the Rail Passenger Service Act of 1970 and created the National Rail Passenger Corporation, otherwise known as Amtrak. One alterantive would have been to nationalize the railroads. To most Americans this is totally unacceptable. Another was to create a new kind of corporation. Amtrak is a private corporation and is not an agency of the Federal Government. Amtrak generates an income from its rail passenger service business and has access to government funds to meet expenses which the system is unable to cover from its own revenues. It may very well be that the Amtrak formula for the solution of this complex national problem represents a new level of the maturity of the American method of doing business. Amtrak, though publicly sponsored, operates almost entirely on the private rights-of-way of various railroad companies. On the other hand, the other private passenger transportation companies are totally dependent upon the government for services and for their essential rights of way, whether they are airways, highways or waterways. They do not ask the government for funds directly except for certain subsidies, but they demand those things which money can buy . . . the benefits of public right of way. There may not be as much difference between Amtrak and other passenger travel modes as some think.

Amtrak came into existence on May 1, 1971. The Secretary of Transportation had designated the "end point" cities which outlined the structure of the basic system which Amtrak would operate, and the incorporators of Amtrak had selected the routes between those cities over the actual railroads which would be used. Thus, the initial basic system of Amtrak had been selected before the corporation came into being. This system was to be served initially by the operation of 186 trains . . . all that remained from the 400 trains which had been running the day before Amtrak started.

Amtrak's equipment came from that which was in use. At that time, no companies in the United States were manufacturing the kind of cars required for intercity passenger service, so our engineers scoured the country for the best of those already in existence. They came up with about 2,000 cars. On the other hand, it was possible to purchase locomotives. One of the boldest strokes made by the company during its early days was to order 150 new locomotives. They did that in such a way that there was no risk. They purchased a type which is convertible to freight and would be acceptable to the railroads if Amtrak went out of business. At that time Amtrak was not sure it was here to stay. I cite that example because much that was done during those fragile first years was done that way. It was a precarious beginning, funded by the government on a year-to-year basis.

As in the case of the MARTA system here in Atlanta and its purchase of rolling stock from France, Amtrak has purchased a very functional Turboliner from the French and we expect delivery of a French locomotive in the near future. Unfortunately, American industry has fallen behind or ignored developments in rolling stock for passenger service.

Now we have hundreds of new locomotives; we have nearly 800 new cars either on hand, being delivered or on order and we are gradually converting that "Antique Museum" which we have been operating into a modern passenger service. We are refurbishing and remodeling stations. We have built some new ones. We have taken over commissaries for food storage and preparation. We now have more than 14,000 people and we serve nearly 500 communities large and small.

But all of this does not make a railroad. We are not yet an actual railroad. We are creating a railroad system. We are building the first nationwide rail passenger service and this will be an unique achievement. Many people have not understood this . . . the fact that all of this is in transition. I'd like to say a few words about that.

First of all, we have fewer than 2,000 cars. Except for the brand new cars which have been coming almost daily since last August (we have about 250 of them now), our equipment is very old and averages more than 25 years of use in hard service. These old cars have old air conditioners, old heaters, old wiring and are just not the kind of equipment with which a new company would ordinarily be expected to go out into a tough market to beat the competition. For the most part, our new cars have replaced old cars on a one-for-one basis. Our inventory remains almost the same.

Therefore, as a first step in the creation of a new rail passenger system we must get new equipment and we must get a lot more of it. Years ago there had been more than 20,000 daily trains with 42,000 cars in the equipment pool. I'm sure those figures include a lot of commuter service, which we are not involved in, but even so the figures give you some idea of what the true needs of a nationwide system can be. They have to be much higher than 2,000.

We need new equipment, not just for the obvious reasons but we need to be able to get rid of the terrible expense of trying to keep antiques in service. With a 26,000 mile system to operate and with so little serviceable equipment, we find that most of Amtrak's route mileage is served by trains traveling only once-a-day each way. This is hardly adequate. We do our best to schedule arrival and departure times at the major end point cities to meet the needs of most people. Wherever possible, we schedule connecting times between trains so that they are convenient. However, it is not possible to do this in all cases and most of all, it is not possible to provide optimum times for many en route or intermediate stations. Thus, a great number of the places we serve are subject to arrival and departure times which are in the dead of the night or at other inconvenient hours.

Nowhere does this "frequency" problem show up worse than in the round trip market. For many would-be travelers, it is just about impossible to schedule a round trip between two points on the same day. They have to wait an extra 24 hours for the next day's train in the opposite direction. Because of our once-a-day service we are just about out of the short or intermediate round trip business. This creates another marketing handicap on top of the old equipment handicap.

The solution lies again in more equipment. When we have enough to add more trains, every stop in the Amtrak system should be served not less than twice a day each way on the long distance routes, not less than three times a day each way on the shorter routes, or not at all. The reasonable yardstick must be determined by proper market studies taking into consideration such things as the population density of all points served. Thus, equipment and frequency are two of the most important essential characteristics of a worthwhile nationwide rail passenger service.

The third is even more important. This is speed. The whole essence of transportation is movement and the basic characteristic of movement is speed. It is vitally important in all modes of transportation to move at an optimum rate. The world of the automobile moves at 55 mph and that is where our market is. Therefore, if Amtrak is going to be able to compete with the automobile, it is going to have to do better than 55 mph. I believe that a viable rail passenger service should travel at a speed which will produce an elapsed time between any two points in the system which is no greater than two-thirds of the normal elapsed time for the automobile traveler between those same points. This would be about 85 mph and up to 125 mph in corridors.

The system-wide rate of speed of Amtrak trains today is under 50 mph. This is governed by track conditions and by other restrictions such as those placed on our trains by local governments for the protection of the lives of automobile travelers at grade crossings. We are working on both problems but to date we have made very little gain in this most difficult area. Amtrak trains run slower or as slow today than they ran in 1971 when we started. This is Amtrak's biggest hurdle and we are going to overcome it only with the cooperation of the railroads involved, the government and the American public. In short, a national policy decision has to be made to commit the funding necessary.

I have discussed with you now the basic concept of Amtrak and what it takes to create a viable rail passenger service. I have told you that Amtrak was created from the ashes of a crisis situation. I believe we now face the next step in that major task. We have got to do much more than just establish a basic rail passenger system. We must get prepared to provide a larger share of the intercity passenger market, now traveling by automobile, as a public necessity.

In this country 87 percent of the people who travel from city to city travel by automobile, 10 percent more travel by plane, 2 percent travel by bus and only 1 percent travel by train. The imbalance of this proportion: 87–10–2–1 presents a critical situation. If automobile travel dropped only one percent and those passengers came over to trains, Amtrak's passenger load would be doubled. If automobile travel dropped by 3 percent and that group was divided between buses and trains, both of us would find our passenger loads doubled.

Now if the reason auto travel had dropped that tiny three percent was a result of a gas shortage or a serious price change or anything else to do with petroleum supplies, it would certainly affect air travel. What if air travel dropped three percent also? This would mean that all intercity bus travel and all Amtrak travel everywhere would have to increase 200%. Could the motorbus industry and could Amtrak, with its 2,000 aged cars, handle such an increase? I doubt it.

The leverage is so great in that ominous "87–10–2–1" proportion that any small change in the availability of petroleum supplies would drastically alter the imbalance of the transportation set up. During the "fuel crisis" winter of 1973–74, we had a chance to see this leverage at work. On many days, on many trains, Amtrak was flooded with passengers many of whom had never been on a train before. This could happen again at any time. It is certain to happen again!

Natural processes have produced the petroleum of this world and that job is done as far as mankind is concerned. Whatever the volume and content of the "World Oil Barrel" is, it is less today than it was yesterday and it will be less tomorrow than it is today. When it reaches that point at which it can no longer supply the demand, either through natural depletion or by manmade causes, we are going to find that automobile and airplane travel . . . those which are most dependent upon and least efficient in the use of petroleum . . . are going to be the first modes which have to cut back. Then: what will it be like in this country if we have not prepared in advance for that certain eventuality?

I have said above that a simple reduction of 3 percent in auto travel and 3 percent in airlift would create a 200% increase in bus and train passenger loads. Just think what this will be when the cutback is 30 or even 50 percent. This is a most important matter for consideration by all of us. Transportation has done much to make this country as great as it is. Our intricate economic system is dependent upon transportation. A lack of transportation will do much to tear this complex infrastructure down. What a farmer harvests in his fields is turned into a useful commodity by plentiful and low cost transportation. The resources required by industry and the very products manufactured from those resources have no value until they are placed on the right door step. The wheels of commerce are the wheels of transportation. And in a world faced with the fact of petroleum depletion, we are going to have to turn to those modes of transportation which are most energy effective. Nothing is as effective as rolling a steel wheel on a steel rail. There is a railroad in your future and the oil crisis proves that.

I have recounted for you the origin and the initial build up of Amtrak. We are not yet at the "square one" level. We started too far behind the mark. But we are not standing still and most importantly . . . we are no longer falling back. We have turned the corner and we are moving forward on all fronts. Let me tell you some of the things which are happening.

First, we are well on the way to converting our "Antique Museum" of old cars into a fine fleet of new cars. About 500 Budd-built cars are on hand or on order and 250 of them are out on the tracks pleasing more and more passengers each day. On top of this, 235 Amtrak designed bi-level cars are being manufactured by the Pullman-Standard Company and they will begin to see service on our western long-distance routes next year. These will make up the finest trains in service anywhere in the world. And we expect hundreds of new cars to come along after these first orders are completed.

Secondly, with new cars and more equipment we have increased the frequency of service on some routes and, as in the case of our Chicago to Detroit route, we have seen spectacular ridership and revenue increases immediately following the introduction of new equipment and additional service. This will be repeated elsewhere as fast as equipment becomes available.

Thirdly, and this is most important, we have been working with the railroads to cut down on trip time and this fall when our October timetable comes out, there are going to be some very important speed increases on some of our longest routes. This is a most important achievement. Rail passenger service will only become competitive when it begins to travel faster than the automobile.

These are significant milestones. We have turned around the generation-long decline in passenger ridership and in revenue production and we are just about to turn around the long decline in train speeds. These have been our greatest handicaps and they are being overcome. It takes a quantum improvement in all three of these very basic factors to get Amtrak up to the status of a first class passenger railroad. I can assure you, today, that we are on the way.

This presents a continuing challenge. We have an opportunity by acting now to go beyond the rebuilding of rail passenger service to prepare the backbone of our total passenger transportation system and to have it in being for the inevitable time when we are going to need it the most. We have this opportunity at a time when the heavy construction business needs all the help it can get. We have this opportunity at a time when employment, especially in the construction business, is at a low ebb. We know that the once great rail passenger equipment industry has all but vanished. We have been forced to send our engineers all over the world just as you have had to do here in Atlanta to meet MARTA requirements, to look for cars, locomotives and supporting equipment in order to keep our trains running.

We have this magnificent opportunity to put all of this together, to create tens of thousands of jobs and to rebuild several major industries. Already Congress has signalled the way to go. Amtrak has been given enough money to keep the present system running and to build upon it slowly. On top of this Amtrak has been given the green light to go ahead with the Northeast Corridor project. This points the way of the future.

During April, this year, we acquired the Northeast Corridor property from Washington to Boston. Right now work is going on from one end of that corridor to the other upgrading that roadbed, improving the track, rebuilding bridges . . . there are 857 bridges in the 456 miles and 150 of them were built before 1895. They need to be rebuilt! We are going to prepare it for a new generation of trains which will provide for trip times between Washington and New York of 2:40 minutes and between New York and Boston of 3:40. This will be only a beginning. Before long, we hope to have trains running at 125 mph in the corridor with elapsed city-center times which will equal or beat any train in the world.

The Northeast Corridor will be our showcase. There are any number of emerging corridors throughout the country which need to be upgraded just as we are doing in the Northeast. Following that, market studies will demand that we lengthen corridors to take full advantage of the demographics of these megalopolises. For example: the corridor to Washington must stretch southward to pick up the heavily populated area to Richmond. Corridors will be lengthened and, in some cases, they may meet. In other cases, they will join with long-distance trains completing the network of modern, first class rail passenger service throughout the whole country.

In each metropolitan area, Amtrak would like to begin a program to join its services with those of the local mass transit systems at intermodal stations. This has been started in the Washington area, in Boston, San Francisco and other places. Why shouldn't it be possible for millions of people to step out of their homes, take a bus or subway to an intermodal station, continue via train to almost any point in the country, get off at another intermodal station and continue to their desination via motorbus or mass transit?

This is the reason for Amtrak. This is Amtrak's game plan. But this is a much bigger program than Amtrak is going to be able to handle by itself. First, to avoid the disappearance of rail passenger service Congress established Amtrak. Now the challenge is even greater. We know the "World Oil Barrel" is running ont and we know the imbalance in this country's transportation system is dangerous. So now Amtrak must be moved to more realistic levels of equipment and service and this must be done on an accelerated basis.

The timing for this is right and we must take advantage of it. During an election year it is customary to take a look at important issues and to assure that the most important of these issues appear in the national platform of each major party. I can think of no domestic issue presently being put forth by either party which impacts more directly upon each one of us and upon the "American Way of Life" than this one of the provision of basic transportation essentials for the whole country. I hope you agree with me.

Mr. TAFT. Mr. President, I hope my colleagues will join me in supporting this bill. I believe it is a good piece of legislation, designed to invest our tax dollars wisely in a needed passenger transport system.

UP AMENDMENT NO. 421

I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. TAFT) proposes an unprinted amendment numbered 421.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, line , insert the following new section:

"SEC. The Federal Railroad Administrator shall conduct a study and report to the Congress within 270 days after the date of enactment of this section on the relative costs of parlor, sleeping, slumbercoach and coach services provided by the National Railroad Pasenger Corporation. Such study and report shall include an evaluation of the fares charged for sleeping, slumbercoach, and parlor services in terms of the additional costs incurred in adding such services to all-coach trains not operating at capacity, the additional costs incurred in operating overnight services with berths for all passengers, and the regularity of patronage and load factors experienced in each service. In addition, such study and report shall include a detailed accounting of the differences in capital and maintenance costs for the equipment necessary to provide each type of service.".

Mr. TAFT. Mr. President, the purpose of this amendment is to provide to the Congress and the public new and comprehensive information on a vital aspect of rail passenger service: The cost of first-class service.

First-class service includes both parlor and sleeping car service. First-class service is an important subject for our attention because it plays a vital role in attracting people out of their private automobiles and onto more fuel-efficient trains.

We must at all times remember that the purpose of Amtrak is primarily to compete with the private automobile. Amtrak's most important job is to convince people to ride the train between cities, rather than driving their cars.

If Amtrak is to do this, it must offer the traveling public those qualities which that public seeks: Comfort, convenience, personal service, amenities which cannot be supplied by the automobile.

Trains are well-equipped by their basic nature to surpass the automobile in terms of comforts and services. You cannot have a berth in your private automobile, in which you can sleep while you travel. Your automobile cannot have a dining area, where you can enjoy a full-course dinner while traversing the countryside at over 60 miles per hour. The train allots more space per passenger than any other form of transportation.

However, in order to appeal to the more affluent part of the market, we must have not only high-quality coach-class service, but first-class service as well. Particularly those traveling on business, an important potential market for Amtrak, usually demand parlor or sleeping car service.

In addition, we must move toward providing a berth for anyone, coach or first-class, who is traveling overnight. Thus, my amendment includes sleepercoach in the study.

If we are to get a clear picture of where first-class service will be cost/effective, we must first have a clear picture of the costs involved. This amendment directs the FRA to perform a study of those costs. The amendment involves no additional funding, since it is projected that this would be an in-house study by FRA, performed with existing resources.

Mr. President, first-class and sleeping car services are needed, if Amtrak is to do a better job in attracting the normal automobile user. But we do need a clear picture of the costs involved. This amendment would provide us with a study of those costs. I hope the committee and the Senate will accept the amendment.

I do not feel that the studies and information as to Amtrak to date have been sufficient. I understand a study of this kind can be done without any additional expense to Amtrak, using personnel already on board, and I think it is a worthwhile project for them to undertake.

I understand that the amendment has been reviewed by the committee staff, and I believe it is agreeable to the committee. I reserve the remainder of my time, if any.

Mr. HARTKE. Mr. President, the amendment is acceptable to the committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

UP AMENDMENT NO. 422

Mr. TAFT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. TAFT) proposes an unprinted amendment numbered 422.

Mr. **TAFT.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 7, following line 7, add the following new clause:

"(5) "for the relocation of the Corporation's rail passenger operations in the city of Cleveland, Ohio, into the Cleveland Union Terminal, not to exceed $10,000,000 for the Fiscal Year ending September 30, 1977."

Mr. **TAFT.** Mr. President, this amendment would authorize $10 million for Amtrak to relocate its passenger operations in Cleveland, Ohio, into Cleveland Union Terminal.

Cleveland Union Terminal was built in the late 1920's to provide the best possible location and facilities for rail passenger operations in Cleveland, Ohio. It is located right in the heart of downtown Cleveland, on Public Square. It is part of the famous Terminal Tower, which is the worldwide symbol of the city of Cleveland.

Until Amtrak service was discontinued in Cleveland in late 1971, Amtrak operated out of Cleveland Union Terminal. However, when Amtrak again began service to Cleveland with the Lake Shore Limited last year, it found itself forced to operate out of a station on the Cleveland lakefront. This was necessary because, despite the many and obvious advantages of Cleveland Union Terminal, the track and other facilities at CUT had deteriorated greatly. It has been estimated that it will cost $10 million to do the work required to make Cleveland Union Terminal again usable by Amtrak.

This amendment will provide the funding necessary to do that work, and to get Amtrak into Cleveland Union Terminal. Anyone familiar with the city of Cleveland will immediately understand why it is justifiable to obligate $10 million for this purpose, because they will understand how central Cleveland Union Terminal is to the city of Cleveland.

However, for those not familiar with the immediate situation, two points should be made clear:

First. By moving Amtrak back into Cleveland Union Terminal, we will have created the first full multimodal terminal in the United States. At present, all of the rapid transit lines in Cleveland are centered on Cleveland Union Terminal, as are most of the RTS bus operations. One of the rapid transit lines provides the only direct connection in the country between the downtown and the city's International Airport. The intercity bus companies have indicated their willingness to move into the old Pullman staging area in the terminal. The ConRail commuter train between Cleveland and Youngstown, which I am working to extend on to Pittsburgh, Pa., uses Cleveland Union Terminal.

The only transportation entity in Cleveland which is not connected into CUT, or is not immediately prepared to move into Union Terminal, is Amtrak. This is not because Amtrak does not want to do so, but because they do not have the funds.

Thus, this $10 million will enable us to make major progress in our national, as well as our local, transportation effort, because it will enable us to create the Nation's first fully multimodal urban transportation center.

Second. The second point which should be understood is that Amtrak's rail service to Cleveland will require a move back into Cleveland Union Terminal in the near future in any event. The Lake Shore Limited, the Boston/New York-Chicago train now serving Cleveland, is the third most heavily traveled long-distance train in the country, and Cleveland is the busiest station on the route between Chicago and Albany. Many of my colleagues are familiar with this train, since they joined with me in the drive to create it. Within the first month of operation, this train proved itself an outstanding success, and it continues to establish new records in ridership.

In addition, more Cleveland Amtrak service is on the horizon. I have been working for addition Cleveland-New York service, with the extension of the Empire State Express on to Cleveland, and for an additional train between Cleveland and Chicago. Recently, I sponsored a move by the Ohio Rail Transportation Authority to extend an existing Cleveland-Youngstown train on to Pittsburgh. Cleveland-Pittsburgh and Cleveland-Columbus-Dayton-Cincinnati service will unquestionably be operating within a few years.

All of this service both require and will be strengthened by moving Amtrak back into Cleveland Union Terminal. There is no question that Amtrak's ridership will go up if the much more convenient Cleveland Union Terminal location is used.

If we do not act now to move Amtrak back into CUT, we will just have to do so in several years at greater cost. Amtrak yesterday broke ground for an all-new station on the Cleveland lakefront. It will cost hundreds of thousands of dollars to build this station, which Amtrak will have to abandon in only a few years in any case. If we act now, we can save this money.

Mr. President, we have here an opportunity to take a major step forward in our Nation's transportation program, by creating the country's first multimodal transportation facility. We can save the taxpayer's money at the same time, because we can avoid the unnecessary construction of a new Amtrak station in Cleveland.

I hope the distinguished chairman of the committee will support the amendment.

This proposal is backed, I might say, by the entire community of Cleveland. There has been a change of thinking on the subject by the Cleveland City Council and the mayor of Cleveland, and it has broad community support in addition. I know of no substantial opposition to it.

It would, I think, be extremely important also from the point of view of the national Amtrak system, because with the Cleveland Union Terminal, which is connected to and into which run the rapid transit lines from both the east side and the west side, which go all the way out to the Cleveland Airport, I think the availability of Amtrak service to a great many more passengers would become very obvious, and they would materialize.

Moreover, local and intercity bus transportation lines have expressed great interest in moving into a certain part of the terminal, formerly a purveying area, and this would, I think, provide us, in the Amtrak system, with the first truly multimodal terminal in the entire system.

So I believe this is a worthwhile expenditure which, while it represents a certain outlay in the beginning, probably through increased usage would more than pay for itself for Amtrak over a period of a few years. I think it is an excellent idea, and I am glad to sponsor it here on the floor today.

Mr. **HARTKE.** Mr. President, the committee is prepared to accept the amendment.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. **KENNEDY.** Mr. President, I rise to express my strong support for S. 3131—the Amtrak authorization bill. This important legislation will permit Amtrak to continue operating vital rail passenger service in the Northeast and across the country, and reject the Ford administration's proposed cutback on Amtrak service.

I testified against the proposed cutback earlier this year and I am pleased to see Senate adoption of this new measure which insures continuing improvement in rail passenger service in Massachusetts and New England.

The bill authorizes $211 million for operating expenses in the Northeast corridor over the next 3 years along with additional subsidies for Amtrak service throughout the Nation. Hopefully as lines are rehabilitated and service improved, this subsidy can be substantially reduced.

In a measure I originally introduced, the Congress already authorized the full costs for construction and modernization of the high speed rail passenger service in the Northeast. An initial amount of $200 million is now appropriated to begin that work. The bill we have passed today includes recognition of the agreement reached during the weekend between the Secretary of Transportation and Amtrak which should permit those funds to be spent immediately to provide jobs and modernize rail passenger service in the Northeast.

The bill also voids existing DOT regulations which would set a far-too-high-interest rate on a low-interest loan arrangement to aid non-ConRail railroads. This provision should aid railroads such as the Boston and Maine in the acquisition of capital to improve their service.

Improved and modern rail freight and passenger services are vital to the economy of Massachusetts, New England, and the Nation. They are critical as well to the achievement of a balanced and consumer-oriented national transportation system. This bill is a step to achieve these goals.

Mr. HARTKE. Mr. President, there are no further amendments that I know of.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 3131) was passed, as follows:

S. 3131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Amtrak Improvement Act of 1976".

SEC. 2. Section 403(b)(1) of the Rail Passenger Service Act (45 U.S.C. 563(b)(1)) is amended (1) by adding at the end thereof the following new sentence: "Any decisions which are likely to have a significant effect on the scheduling, marketing, or operations of the service provided pursuant to this section shall be made by contract or other agreement between the Corporation and the State or agency which is obligated to reimburse the Corporation for all or part of the operating loss, and associated capital costs, of such service."; (2) by striking "total" in the second sentence thereof and inserting in lieu thereof "incremental"; and (3) by striking "total" in paragraph (3) thereof and inserting in lieu thereof "incremental".

SEC. 3. Section 601(a) of the Rail Passenger Service Act (45 U.S.C. 601(a)) is amended—

(1) by striking out the second and third sentences thereof and inserting in lieu thereof the following: "There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

"(1) for the payment of operating expenses for the basic system, except for the additional expenses that are to be paid from funds authorized by clause (3) of this sentence, and for operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act, not to exceed $350,000,000 for the fiscal year ending June 30, 1976, not to exceed $105,000,000 for the transitional fiscal period ending September 30, 1976, not to exceed $480,000,000 for the fiscal year ending September 30, 1977, and not to exceed $470,000,000 for the fiscal year ending September 30, 1978;

"(2) for the payment of the costs of capital acquisitions or improvements of the basic system, not to exceed $110,000,000 for the fiscal year ending June 30, 1976, not to exceed $25,000,000 for the transitional fiscal period ending September 3, 1976, not to exceed $120,000,000 for the fiscal year ending September 30, 1977, and not to exceed $120,000,000 for the fiscal year ending September 30, 1978;

"(3) for the payment of the additional operating expenses of the Corporation which result from the operation, maintenance, and ownership or control of the Northeast Corridor, pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.), not to exceed a total amount of $68,000,000 for the transitional fiscal period ending September 30, 1976, and the fiscal year ending September 30, 1977, and not to exceed $75,000,000 for the fiscal year ending September 30, 1978;

"(4) for the payment of the principal amount of obligations (other than leases) of the Corporation which are guaranteed by the Secretary pursuant to section 602 of this Act, not to exceed $25,000,000 for the fiscal year ending September 30, 1978; and

"(5) for the relocation of the Corporation's rail passenger operations in the city of Cleveland, Ohio, into the Cleveland Union Terminal, not to exceed $10,000,000 for the fiscal year ending September 30, 1977.

Not more than $25,000,000 of the amounts authorized by clause (1) of the preceding sentence for the fiscal year ending June 30, 1976; not more than $8,000,000 of the amounts so authorized for the transitional fiscal period ending September 30, 1976, not more than $35,000,000 of the amounts so authorized for the fiscal year ending September 30, 1977, and not more than $40,000,000 of the amounts so authorized for the fiscal year ending September 30, 1978, shall be available for payment of rail passenger service operating and capital expenses, pursuant to section 403(b) of this Act.";

(2) by striking out "spending plans" in the fifth sentence thereof and inserting in lieu thereof "total funding levels"; and

(3) (A) by inserting "(1)" immediately before the first sentence thereof and (B) by adding at the end thereof the following new paragraph:

"(2) Capital grants appropriated pursuant to this section may be used by the Corporation for temporary reduction of outstanding loan balances, including loans guaranteed by the Secretary pursuant to section 602 of the Act, and the Secretary shall make such appropriated funds available for this purpose.".

SEC. 4. (a) Section 602(i) of the Rail Passenger Service Act (45 U.S.C. 602(i)) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this section, the Secretary shall guarantee any loan approved by the Board of Directors of the Corporation if the proceeds of such loan are needed for the purchase of properties designated pursuant to section 206(c)(1) (C) or (D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1) (C) or (D)), for acquisition by the Corporation, in accordance with agreements entered into between the Corporation and the Consolidated Rail Corporation.".

(b) Section 602 of such Act (45 U.S.C. 602) is amended by adding at the end thereof the following new subsection:

"(j) Any request made by the Corporation for a guarantee, pursuant to this section, which is related to a lease transaction, which has been determined by the Board of Directors of the Corporation to be in the economic interest of the Corporation, shall be approved by the Secretary and the Secretary of the Treasury. As used in this subsection, the term 'lease transaction' includes any leverage lease transaction pursuant to which the lessor obtain a Federal tax benefit as the result of the lease of railroad equipment to the Corporation.".

SEC. 5. Section 306(i) of the Rail Passenger Service Act (45 U.S.C. 546(i)) is amended (1) by inserting "waste disposal from" immediately after "shall not apply to" and (2) by inserting "freight service or" immediately after "operated in."

SEC. 6. Section 303(a)(1) of the Rail Passenger Service Act (45 U.S.C. 543(a)(1)) is amended (1) by striking out the period at the end of subparagraph (A) thereof and inserting in lieu thereof ", and the President of the Corporation, ex officio."; and (2) by striking out "Nine" in subparagraph (B) thereof and inserting in lieu thereof "Eight".

SEC. 7. The second sentence of section 301 of the Rail Passenger Service Act (45 U.S.C. 541) is amended to read as follows: "The purpose of the Corporation shall be to operate high-quality intercity rail passenger service in a manner that will maximize the estimated annual value of the benefits associated with or provided by rail passenger service, which arise from sources other than passenger revenues (including benefits derived from effects on the environment, energy conservation, safety, and the public convenience and necessity) when compared to the annual requirements for operating subsidies and the opportunity costs of capital grants funds provided to the Corporation.

SEC. 8. Section 505(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(a)(2)) is amended by striking out ", except that the Secretary shall not act finally on any such application until the date of publication of the final standards and designations under section 503(e) of this title".

SEC. 9. (a)(1) Section 206(d)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(5)) is amended by adding at the end thereof the following new sentence: "The Corporation, its Board of Directors, and its individual directors shall not be liable to any party, for money damages or in any other manner, solely by reason of the fact that the Corporation transferred property pursuant to section 303 of this Act to meet the needs of commuter or intercity rail passenger service, except as otherwise provided with respect to the Corporation pursuant to section 303(c)(2) of this Act.".

(b) The first sentence of section 303(c)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)(5)) is amended to read as follows: "Whenever the special court, pursuant to section 303(b)(1) of this title, orders the transfer or conveyance of rail properties—

"(A) designated under section 206(c)(1) (C) or (D) of this Act, to the Corporation or any subsidiary thereof, the United States shall indemnify the Corporation against any costs imposed on the Corporation as the result of any judgment entered against the Corporation, with respect to such properties, under paragraph (2) of this subsection; and

"(B) to the National Railroad Passenger Corporation, a profitable railroad operating in the region, a State, or any other responsible person (including a governmental entity), the United States shall indemnify such Corporation, railroad, State, or person against any costs imposed thereon as the result of any judgment entered against such Corporation, railroad, State, or person under paragraph (3) of this subsection;

plus interest on the amount of such judgment at such rate as is constitutionally required.".

(c) Section 206(d) of the Railroad Rail Reorganization Act of 1973 (45 U.S.C. 716(d)) is amended by adding at the end thereof the following new paragraph:

"(7) Notwithstanding any contrary provision in the options conveyed to the Corporation by railroads in reorganization, or railroads leased, operated, or controlled by a railroad in reorganization, with respect to the acquisition, on behalf of a State (or a local or regional transportation authority) of rail properties designed under section 206(c)(1)(D) of this title, such options shall not be deemed to have expired prior to 7 days after the date of enactment of this paragraph. The exercise by the Corporation of any such option shall be effective if it is made, prior to the expiration of such 7-day period, in the manner prescribed in such options.".

SEC. 10. (a) Section 303(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(e)) is amended by adding "or which are made at any time to carry out the purposes of title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 or of section 601(d) of this Act" at the end of the second parenthetical expression between "title" and the closing parenthesis.

Sec. 11. Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following two new subsections:

"(j)(1) The establishment of through routes and joint fares, between the National Railroad Passenger Corporation and other intercity common carriers of passengers by rail and motor carriers of passengers, is consistent with the public interest and the national transportation policy. The Congress encourages the making of such arrangements.

"(2) The Corporation may establish through routes and joint fares with any motor carrier.

"(k) The Commission shall, by September 30, 1977, conduct and transmit to the Congress a study of through routes and joint fares between the Corporation and other intercity common carriers by rail and motor carriers of passengers. Such study shall include, but not be limited to—

"(1) a history of through route and joint fare arrangements between motor carriers of passengers and carriers of passengers by rail;

"(2) laws and regulations presently applicable or related to such through route and joint fare arrangements;

"(3) analysis of the need for intermodal terminals, through ticketing and baggage handling arrangements, and the means by which such needs should be met;

"(4) the extent to which any existing arrangements have improved or lessened, or might improve or lessen, the adequacy of service and passenger convenience;

"(5) methods of formulating joint fares and divisions thereof;

"(6) views of the Corporation, other intercity common carriers by rail and of organizations representing intercity bus operators; and

"(7) recommendations relative to the establishment of through routes and joint fares between railroads and motor carriers of passengers, including any recommendations for legislation.".

Sec. 12. (a) Section 4(i)(9) of the Department of Transportation Act (49 U.S.C. 1653) is amended by—

(1) striking out "$5,000,000" in clauses (ii) and (iii) of subparagraph (A) thereof and inserting in lieu thereof "$2,500,000";

(2) striking out subparagraph (B) thereof and redesignating subparagraph (C) thereof as subparagraph (B) thereof.

(b) Section 11(a)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)) is amended by adding after subparagraph (B) thereof the following new subparagraph:

"(C) There are authorized to be appropriated to the National Endowment for the Arts for the fiscal year ending September 30, 1977, not to exceed—

"(i) $2,500,000 for planning pursuant to paragraph (1)(D) of section 4(i) of the Department of Transportation Act (49 U.S.C. 1652(i)).

"(ii) $2,500,000 for interim maintenance pursuant to paragraph (1)(B) of such 4(i); and

"(iii) $250,000 for administrative expenses. Sums appropriated for the purposes of this subparagraph shall remain available until expended.".

Sec. 13. Section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) Association.—There are authorized to be appropriated to the Association, for purposes of its administrative expenses under this Act, not to exceed $20,000,000 for the period beginning May 1, 1976, and ending September 30, 1977. Sums appropriated under this subsection are authorized to remain available until expended.".

Sec. 14. (a) Section 211(h)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(1)) is amended—

(1) in the first sentence thereof, by inserting immediately after "to enter into loan agreements" the following: "at any time";

(2) in the first sentence thereof, by striking out "$230,000,000" and inserting in lieu thereof "$450,000,000";

(3) in the second sentence thereof, by striking out "claims of employees arising" and all that follows through "Railway Labor Act," and inserting in lieu thereof the following: "claims of employees (whether or not arising under the collective bargaining agreements of the railroads in reorganization in the region) for accrued wages, wages, vacation pay, and other such benefits arising out of or in connection with labor and services performed under an employment relationship,";

(4) in the second sentence thereof, by inserting immediately after "(45 U.S.C. 51–60)," the following "amounts required to provide funding adequate to assure the payment, when due, of claims resulting from membership in an employee voluntary relief plan which provides benefits for its members and their beneficiaries in the event of sickness, accident, disability, or death and which has received contributions both from a railroad in reorganization and from such employee members,"; and

(5) in the second sentence thereof, by inserting immediately after "accrued pension benefits" the following: "(including any increases in the amount of such benefits which are attributable either to increases in compensation prior to the normal age of retirement or to changes in or relating to the Railroad Retirement Act)".

(b) Section 210(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(b)) is amended, in the first sentence thereof, by striking out "$275,000,000" and inserting in lieu thereof "$495,000,000".

(c) Section 211(h)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721 (h)(2) is amended (1) by striking out the period at the end of the first sentence thereof and inserting in lieu thereof the following: "for the payment only of such accounts payable as relate to obligations of the estates identified in paragraph (1) of this subsection."; and (2) by inserting at the end thereof the following two new sentences: "Nothing contained in this subsection shall be deemed to permit an order by any reorganization court enjoining, restraining, or limiting the Corporation, the National Railroad Passenger Corporation, or a profitable railroad from applying, to payment of the obligations of the estates identified in paragraph (1) of this subsection, amounts collected as (A) accounts receivable pursuant to this paragraph; (B) cash or other current assets identified pursuant to paragraph (3) of this subsection; or (C) proceeds of loan agreements entered into under paragraph (1) of this subsection. Any agency agreement which is executed, and any order which is entered, prior to the date of enactment of this sentence shall be deemed amended to the extent necessary to conform such agreement or order to the provisions of this paragraph.".

(d) Section 211(h)(5)(B) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(5)(B)) is amended by adding at the end thereof the following two new sentences: "Any direct claim authorized under paragraph (4) of this subsection shall be registered from time to time by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, whichever is appropriate, by filing a proof of administration expense claim with the trustees of each railroad in reorganization. Each such administrative expense claim shall set forth, by category and amount, the obligations of such railroad in reorganization which were paid pursuant to such paragraph (4).".

Sec. 15. (a) Section 506(a)(2)(i) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826(a)(2)(i)) is amended by adding immediately after "whenever issued," the following: "except that the Secretary may make any such redeemable preference share junior in right to any common stock which was issued as a result of an exchange for securities which previously ranked ahead of common stock if such exchange took place pursuant to a court-approved reorganization plan under section 77 of the Bankruptcy Act (11 U.S.C. 205),".

(b) Section 506(a)(2)(iii) of such Act (45 U.S.C. 826(a)(2)(iii)) is amended by inserting immediately after "other than common stock" the following: "(except in those cases where the Secretary has provided for subordination pursuant to clause (i) of this paragraph) which is".

(c) Section 506(a)(3) of such Act (45 U.S.C. 826(a)(3)) is amended by striking out "not less than".

(d) Section 506(a)(4) of such Act (45 U.S.C. 826(a)(4)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; except that the number of such annual redemption payments shall in no event be less than 15.".

Sec. 16. (a) Section 511(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(c)) is amended to read as follows:

"(c) Full Faith and Credit.—All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the United States of America.".

(b) Section 511 of such Act (45 U.S.C. 831) is amended (1) by striking out subsection (g) thereof and redesignating subsections (h) through (n) thereof as subsections (g) through (m) thereof, respectively; and

(2) By inserting immediately after "acquired" in subsection (g)(5) thereof, as redesignated by this subsection, the following: "together with any other security offered by the applicant".

Sec. 17. The first sentence of section 17(9)(e) of the Interstate Commerce Act (49 U.S.C. 17(9)(e)) is amended by striking out "section" and inserting in lieu thereof "paragraph (9)".

Sec. 18. Section 511(j) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 828(j)) is amended to read as follows:

"(j) Conditions of Guarantees.—The Secretary shall not guarantee, or make a commitment to guarantee, an obligation under this section unless the obligor first agrees to, and provides adequate assurances to the Secretary that it will comply with, such terms, conditions, and requirements as the Secretary in his discretion determines are necessary to assure that, so long as any principal or interest is due and payable on such obligation, such obligor—

"(1) will not make any unreasonable discretionary divided payment; and

"(2) will not use any funds or revenues derived from or related to railroad operations in nonrailroad enterprises or for nonrailroad purposes,

if such payment or use is likely to impair such obligor's ability to provide rail services in an efficient and economic manner or if such payment or use is likely to adversely affect such obligor's ability to make any payments due under an obligation guaranteed under this section. Discretion dividend payments by an obligor for any fiscal year are not unreasonable, for purposes of paragraph (1), if such payments do not exceed—

"(A) when compared with the net income of such obligor for such year, the ratio which aggregate dividends paid by such obligor bore to the aggregate net income of such obligor during the 5 fiscal years immediately preceding year in which an outstanding obligation of such obligor was first guaranteed by the Secretary under this section; or

"(B) 50 percent of the additions (computed on a cumulative basis and taking into account dividends paid) to the total retained income of such obligor during the period which commences with the fiscal year immediately preceding the year in which an outstanding obligation of such obligor was first guaranteed by the Secretary under this section;

whichever is greater. Restrictions on dividend payments imposed under this subsection shall not apply with respect to any obligation governed by section 513 of this title.".

Sec. 19. (a) Section 505(i)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(i)(2)), is amended (1) by inserting "mandatory" immediately after "shall establish a"; and (2) by inserting "and binding" immediately after "with arbitration as the final".

(b) Section 505(i) of such Act (45 U.S.C. 775(i)) is amended by adding at the end thereof the following new paragraph:

"(3) A protected employee, whose employment is not governed by the terms of a collective-bargaining agreement and who has been deprived of employment, shall not (except as explicitly provided in this title) be placed in a worse position during the period in which he is entitled to protection, with respect to any voluntary relief plan benefits provided under any life or medical insurance plans; except that the benefit levels which such an employee is entitled to receive under this paragraph shall not exceed the benefit levels which are then being provided for active noncontract employees.".

(c) Section 505(b)(4) of such Act (45 U.S.C. 775(b)(4)) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to a noncontract employee whose noncontract position was abolished.".

Sec. 20. (a) Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended by adding immediately before the words "employee pension benefit plans" in clause (A) thereof the following: "employee health or life insurance plans and".

(b) Section 505(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 755(a)) is amended—

(1) in the first sentence thereof, by inserting immediately after "including benefits under" the following: "any employee health or life insurance plan and";

(2) in the second sentence thereof, by adding "health and life insurance and" immediately after "employee"; and

(3) in the second sentence thereof, by adding "pension benefit" immediately after "such".

(c) Section 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779) is amended by adding "health and life insurance and" immediately before the word "pension" in the second sentence thereof.

Sec. 21. Section 20(3) of the Interstate Commerce Act (49 U.S.C. 20(3)) is amended (1) by redesignating subdivisions (d) and (e) thereof as subdivisions (e) and (f) thereof, respectively; and (2) by inserting immediately after subdivision (c) thereof the following new subdivision:

"(d) In revising those aspects of the cost and revenue accounting and reporting system that pertain to rail passenger service, the Commission shall consult with the Secretary of Transportation and the National Railroad Passenger Corporation to insure that the revised regulations and procedures provide for an accurate, detailed and thorough description of the cost and revenues associated with such service. If, in the opinion of the Secretary, the regulations and procedures promulgated pursuant to this section fail to provide for a cost and revenue accounting and reporting system that is adequate to enable the Secretary to carry out his responsibilities for oversight of the National Railroad Passenger Corporation, the Secretary shall, within 30 days after the date on which such regulations are promulgated, report to the Congress, setting forth in detail the deficiencies of such regulations and procedures and providing specific recommendations for change.".

Sec. 22. Section 901(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1654(8)) is amended to read as follows:

"(8) a survey and analysis of the railroad industry in the United States to determine its financial condition and the physical condition of its facilities, rolling stock, and equipment.".

Sec. 23. Section 508(a)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 778(a)(1)) is amended by inserting before the last sentence thereof the following new sentence: "With regard to any supplemental transaction pursuant to section 305 of this Act, if such agreements are not reached within 60 days after the Commission's determination under subsection (c) of section 305, or after the expiration of the 90-day period referred to in subsection (c), the transferor and transferee railroads may carry out such supplemental transaction, subject to the condition that all employees described in this paragraph shall be accorded employee protection as provided by section 505 of this title and to the further condition that wages, hours, rules, and all other working conditions of such employees shall be governed by the collective bargaining agreements covering such employees immediately prior to such transaction until modified or revised in accordance with the provisions of the Railway Labor Act.".

Sec. 24. (a) Section 501(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771(1)) is amended by inserting after "profitable railroad," the following language: "and shall also mean a State which has acquired all or part of such rail properties pursuant to section 208(d)(2) of this Act and any class I railroad designated by such a State to operate such rail properties acquired by that State,".

(b) Section 504(f)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(f)(3)) is amended by inserting after "this Act" and before "shall upon transfer," the following language: "or as a result of the designation by a State of a class I railroad to replace the Corporation or any other person as operator of rail properties acquired by the State pursuant to section 208(d)(2) of this Act.".

Sec. 25. (a) Section 102(16) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702(16)) is amended by striking out "the duly authorized representatives of either of them" and inserting in lieu thereof ", in his absence, the Deputy Secretary of Transportation".

(b) Section 201(d)(2) of such Act (45 U.S.C. 711) is amended by striking out "their duly authorized representatives" and inserting in lieu thereof "the Deputy Secretary of Transportation, the Vice Chairman of the Commission, or the Secretary of the Treasury," as appropriate.

(c) Section 201(h) of such Act (45 U.S.C. 711(h)) is amended by striking out the second sentence thereof.

(d) Section 201(i) of such Act (45 U.S.C. 711(i)) is amended, in the first sentence thereof, by striking out "duly authorized representatives" and inserting in lieu thereof "respective Deputy Secretaries".

(e) Section 201(j)(4) of such Act (45 U.S.C. 711(j)(4)) is amended to read as follows: "Any reference in this Act to the Secretary of the Treasury is to the Secretary of the Treasury or the person at the time performing the duties of the Office of the Secretary of the Treasury in accordance with law or, in his absence, the Deputy Secretary of the Treasury. Any reference in this Act to the Chairman of the Commission is to the Chairman of the Commission or the person at the time performing the duties of the Chairman of the Commission in accordance with law.".

Sec. 26. (a) Section 704(a)(3)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(3)(B)) is amended by striking "$85,182,956," and substituting therefor "$120,000,000".

(b) Section 704(a)(3) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(3)) is amended by adding at the end of paragraph (3) thereof the following: "Amounts appropriated pursuant to subparagraphs (B) and (D) of paragraph (3) shall be used first for the repayment with interest of that portion of the obligations issued by the National Railroad Passenger Corporation and guaranteed pursuant to section 602 of the Rail Passenger Service Act (45 U.S.C. 602), the proceeds of which have been used for the payment of expenses resulting from the acquisition of the properties referred to in such subparagraphs.".

(c) Section 704 of such Act (45 U.S.C. 854) is amended by adding at the end thereof the following two new subsections:

"(e) In addition to any other terms and conditions which the Secretary may require as a prerequisite to the payment of funds under this section, the Secretary may enter into such agreements as are necessary to protect and secure the expenditure of funds by the United States on account of the acquisition and improvement of properties designated under section 206(c)(1) and (D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1) and (D)).

"(f) Any agreement, security, or obligation obtained by the Secretary pursuant to subsection (e) of this section and any transaction in connection with any such agreement, security or obligation, shall be exempt from the provisions of the Interstate Commerce Act (49 U.S.C. 1 et seq.), the Security Act of 1933 (15 U.S.C. 77(a) et seq.), and any other Federal, State, or local laws or regulations which regulate securities or the issuance thereof. Any such agreement, security, obligation, or transaction shall enjoy all of the immunities from other laws which section 601 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791) accords to transactions which are in compliance with or implement the final system plan. The conveyance or transfer of rail properties resulting from any such agreement, security, obligation, or transaction shall enjoy the same exemptions, privileges, and immunities which the Regional Rail Reorganization Act of 1973 (including section 303(e) thereof) accords to conveyance ordered or approved by the special court under section 303(b) of such Act (45 U.S.C. 743).".

Sec. 27. Section 303 of the Rail Passenger Service Act (45 U.S.C. 543) is amended by adding at the end thereof the following new subsection:

"(e) The Corporation, its Board of Directors, and its individual directors shall not be liable to any party for any damages or in any other manner, by reason of the fact that the Corporation has given or issued a security or obligation to the United States pursuant to the provisions of section 704(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(e)). The immunity granted by this subsection shall also extend to all agreements entered into by the Corporation pursuant to such subsection (e) and to any transaction in connection therewith. The United States shall indemnify the Corporation, its Board of Directors, and its individual directors against all costs and expenses (including fees of accountants, experts, and attorneys) actually and reasonably incurred in defending any litigation testing the legal validity of any security, obligation, agreement, or transaction, given, issued, or entered into pursuant to such subsection (e).".

Sec. 28. The Federal Railroad Administrator shall conduct a study and report to the Congress within 270 days after the date of enactment of this section on the relative costs of parlor, sleeping, slumbercoach and coach services provided by the National Railroad Passenger Corporation. Such study and report shall include an evaluation of the fares charged for sleeping, slumbercoach, and parlor services in terms of the additional costs incurred in adding such services to all-coach trains not operating at capacity, the additional costs incurred in operating overnight services with berths for all passengers, and the regularity of patronage and load factors experienced in each service. In addition, such study and report shall include a detailed accounting of the differences in capital and maintenance costs for the equipment necessary to provide each type of service.".

The title was amended so as to read:

A bill to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes.

Mr. BEALL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HARTKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARTKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I ask that Calendar Order No. 895, H.R. 13601, an act to amend the Rail Passenger Service Act to authorize additional appropriations, and for other purposes be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Commerce be authorized to meet on Wednesday, September 8, 1976, to consider nominations to the FCC and on Thursday, September 9, 1976, to hold a hearing on the implementation of the Consumer Products Safety Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO FILE REPORTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to have until midnight Saturday, September 4, 1976, to file a report on S. 2908.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to file reports during the recess of the Senate between the hours of 10 a.m. and 3 p.m. on Friday, September 3, 1976.

The PRESIDING OFFICER. Without objection, it is so ordered.

LANDS FOR KLUKWAN, ALASKA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1103.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 3651) to amend the Alaska Native Claims Settlement Act to provide for the withdrawal of lands for the Village of Klukwan, Alaska.

The Senate proceeded to consider the bill.

Mr. ABOUREZK. Mr. President, this bill has been cleared by the minority side as well as the Budget Committee. Senator Gravel and Senator Stevens have an amendment they wish to offer, and I yield to Senator Gravel at this time.

AMENDMENT NO. 2273 (AS MODIFIED)

Mr. GRAVEL. I call up my amendment 2273. I have a modified version, and I send it to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. Gravel), for himself and Mr. Stevens, proposes amendment No. 2273, as modified.

The amendment is as follows:

Beginning on page 1, line 3, strike everything down through and including "the" on page 2, line 3, and insert in lieu thereof the following:

"Sec. 1. (a) Section 16(a) of the Alaska Native Claims Settlement Act (85 Stat. 688, 705, as amended; 43 U.S.C. 1604, 1615) is further amended by striking 'Klukwan, Southeast.'.

"(b) Section 16(d) of such Act is amended to read as follows: "'(d) (1) The'".

On page 2, line 14, immediately after the colon insert the following new language: "*Provided further*, That no such lands shall be withdrawn from an area previously withdrawn as a forest reserve without prior consultation with the Secretary of Agriculture:".

On page 3, lines 6 through 8, strike "the date of enactment of this Act and prior to the date of enactment of this subsection" and insert in lieu thereof "December 18, 1971, and prior to January 2, 1976".

On page 3, line 12, after the word "value" insert a comma and add "to the extent possible,".

On page 3, line 15, strike "subsection" and insert in lieu thereof "paragraph".

On page 3, after line 23, insert the following new sections:

"Sec. 2. Notwithstanding any other provision of law, the Secretary is hereby authorized and directed to convey immediately to the State of Alaska, subject to valid existing rights, the following described lands for park, recreation, airport, or other public purposes:

Seward Meridian, Alaska:

T, 13N., R 4W.

Section 28, E½ W ½, E ½ W ½ NW ¼, W ½ NW ¼ NW ¼, E ½ NW ¼ SW ¼, E ½ W ½ SW ¼ NW ¼, NE ¼ SW ¼ SW ¼, E ½ SE ¼ SW ¼ SW ¼. Containing 265 acres, more or less.

"Sec. 3. The first sentence of subsection 12 (b) of the Act of January 2, 1976 (89 Stat. 1145, 1151), is amended by changing the matter preceding the first colon to read as follows:

"(b) The Secretary shall make the following conveyances to the Region, in accordance with the specific terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled 'Terms and Conditions for Land Consolidation and Management in Cook Inlet Area', which was submitted to the House Committee on Interior and Insular Affairs on December 10, 1975, and clarified on August 31, 1976, the terms of which, as clarified, are hereby incorporated herein and ratified as to the duties and obligations of the United States and the Region, as a matter of Federal law".

"Sec. 4. (a) The Secretary is authorized to convey lands under application for selection by Village Corporations within Cook Inlet Region to the Cook Inlet Region, Incorporated, for reconveyance by the Region to such Village Corporations. Such lands shall be conveyed as partial satisfaction of the statutory entitlement of such Village Corporations from lands withdrawn pursuant to section 11(a) (3) of the Alaska Native Claims Settlement Act (hereinafter, "The Settlement Act"), and with the consent of the Region affected, as provided in section 12 of the Act of January 2, 1976 (89 Stat. 1145, 1150), from lands outside the boundaries of Cook Inlet Region. This authority shall not be employed to increase or decrease the statutory entitlement of any Village Corporation or Cook Inlet Region, Incorporated. For the purposes of counting acres received in computing statutory entitlement, the Secretary shall count the number of acres or acre selections surrendered by Village Corporations in any exchange for any other lands or selections.

"(b) The Secretary shall not be required to survey any land conveyed pursuant to subsection 4(a) until the Village Corporation entitlement for all eligible Village Corporations has been conveyed. With respect to the conveyances made by the Secretary in the manner authorized by subsection 4(a), the Secretary shall survey the exterior boundaries of each entire area conveyed to Cook Inlet Region, Incorporated, pursuant to subsection 4(a) and monument to boundary lines at angle points and intervals of approximately two miles on straight lines. The Secretary shall not be required to provide ground survey or monumentation along meanderable water boundaries. Each township corner located within the exterior boundary of land conveyed shall be located and monumented. Any areas within such tracts that are to be reconveyed pursuant to section 14(C) (1) and (2) of the Settlement Act shall also be surveyed pursuant to 43 C.F.R. 2650.

"(c) Conveyances made under the authority of subsection (a) of this section shall be considered conveyances under the Settlement Act and subject to the provisions of that Act, except as provided by this Act.

"SEC. 5(a). The Secretary shall, within 60 days after the effective date of this Act, tender conveyance of the land described in subsection (b), subject to valid existing rights, to Cook Inlet Region, Incorporated. If the conveyance is accepted by the Region, such lands shall be considered 1,687.2 acre equivalents within the meaning of Paragraph I(C)(2)(e)(iii) of the Terms and Conditions as clarified August 31, 1976, and the Secretary's obligations under Paragraph I(C) of those Terms and Conditions will be reduced accordingly. If, however, said Section 12 of the Act of January 2, 1976, does not take effect then the entitlement of Cook Inlet Region, Incorporated, under Section 12(c) shall be reduced by 8346 acres.

"(b) The land referred to in subsection (a) is described as a parcel of land located in Section 7 of Township 13 North, Range 2 West of the Seward Meridian, Third Judicial District, State of Alaska; said parcel being all of Government Lots 5 and 7 and that portion of the SE1/4 NW1/4 lying north of the north right-of-way line of the Glenn Highway, State of Alaska, Department of Highways Project No. F–042–1(2), and more particularly described as follows:

"Commencing at the North ¼ corner of said Section 7;

"Thence South 00° 12′ East, a distance of 1,320.0 feet, more or less, to the NE corner of said SE¼ NW¼;

"Thence West along the north line of SE¼ NW¼ a distance of 94.0 feet, more or less, to the north right-of-way line of the Glenn Highway and the true Point of Beginning:

"Thence South 53° 16′ 15″ West along said north right-of-way line, a distance of 1,415.0 feet, more or less, to a point of curve being at right angles to centerline Station 216 + 51.35;

"Thence continuing along said north right-of-way line along a curve to the right with a central angle of 12° 51′ 34″, having a radius of 5,595.58 feet for an arc distance of 105.0 feet, more or less, to a point of intersection of said north right-of-way line with the west line of said SE¼ NW¼;

"Thence North 00° 12′ West along said west line, being common with the east line of Government Lot 5, a distance of 910.0 feet, more or less, to the NW corner of said SE¼ NW¼;

"Thence East along the north line of said SE¼ NW¼, a distance of 1,225.0 feet, more or less, to the Point of Beginning; containing 56.24 acres, more or less."

Amend the title so as to read: A bill to amend the Alaska Native Claims Settlement Act to provide for the withdrawal of lands for the village of Klukwan, Alaska, and for other purposes.

Mr. ABOUREZK. Mr. President, representing the Interior Committee, I am authorized to accept the amendment, but we have to establish some legislative history, and I want to ask Senator GRAVEL, do we have his assurance that all parties are agreed to the amendment, all parties to the conference?

Mr. GRAVEL. Yes, all parties have agreed. I have a letter from the Secretary of the Interior indicating this, and documents signed by all parties which are being submitted for the RECORD right now. I ask unanimous consent that they be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C. September 1, 1976.
Hon. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Section 12 of the Act of January 2, 1976 (P.L. 94–204), ratified the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area of Alaska. The Terms and Conditions represented agreement on behalf of this Department, the State of Alaska, and Cook Inlet Region Incorporated with respect to the settlement of conflicting land claims in the Cook Inlet Area.

Enclosed for the information of your Committee is a revised version of the Terms and Conditions, which has been agreed upon by the parties. In brief, this Department, the State of Alaska, and Cook Inlet Region, Incorporated, believe that the revised version clarifies ambiguities which existed in the earlier document. The revised version also corrects typographical and printing errors existing in the document filed with the Committee and printed in House Report 94–729, 94th Congress, 1st Session. We believe that the clarifications are necessary to insure prompt and efficient administration of the Cook Inlet Settlement. The consideration going to the Department of the Interior, the State of Alaska, and Cook Inlet Region, Incorporated, as a result of the agreement, has not been altered by the revisions in the document.

The provision of the Terms and Conditions most in need of clarification to reflect the intent of the parties is section I.C.(2)(f) of the document. The enclosed revision will insure that the State of Alaska will receive certain important tracts of land in the Anchorage area once those tracts are declared excess to the needs of the present Federal holding agency. The interests of the Federal Aviation Administration in one of the tracts are also more clearly protected. The earlier document provided only that these tracts of land would be reserved for early conveyance to the State for park and recreation purposes, without reference to Federal property disposition procedures.

In connection with the ability of this Department to implement the provisions of the Terms and Conditions and in discussions among the three parties, a question has arisen as to the authority of this Department to convey certain lands on Point Woronzof to the State for possible use as a proposed north-south runway of the Anchorage International Airport. We support an immediate conveyance of a portion of this tract to the State; however, specific Congressional authorization for such a conveyance may be the most efficient method of making the transfer.

In addition, a question has also arisen with respect to the validity of certain village selections within the Cook Inlet Region in accordance with section 12(a) of the Claims Act. These selections affect the implementation of the Terms and Conditions for the Cook Inlet agreement. We have reached an agreement with the Cook Inlet Region that would insure that the Village Corporations receive their full statutory entitlement of land. Implementation of this new agreement will require the enactment of legislation to provide this Department with new authority. We stand ready to work with your Committee in developing the necessary legislation in regard to this point. This new agreement concerning village selections is completely consistent with the overall Cook Inlet agreement.

The State of Alaska, Cook Inlet Region, Incorporated, and this Department fully support the revised provisions of this agreement, and we will be pleased to work with the Committee to develop any necessary amendatory implementing legislation.

Sincerely yours,
THOMAS S. KLEPPE,
Secretary of the Interior.

TERMS AND CONDITIONS FOR LAND CONSOLIDATION AND MANAGEMENT IN THE COOK INLET AREA; DECEMBER 10, 1975, AS CLARIFIED AUGUST 31, 1976

MEMORANDUM OF UNDERSTANDING

The attached Document, titled Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, December 10, 1975, as clarified August 31, 1976, represents the obligations of the parties signatory hereto if the provisions of Section 12(a) of Public Law 94–204 take effect.

THOMAS S. KLEPPE,
Secretary of the Interior.
MICHAEL C. T. SMITH,
Director, Alaska Division of Lands.
ROY HUHNDORF,
President, Cook Inlet Region, Inc.

TERMS AND CONDITIONS FOR LAND CONSOLIDATION AND MANAGEMENT IN THE COOK INLET AREA

I. The United States shall convey to Cook Inlet Region, Inc. (CIRI), the following lands:

A. Sixteen (16) sections of land, as described in Appendix A, presently within the boundaries of the Kenai National Moose Range, but to be removed from the boundaries of the Range. The conveyance of these lands shall be subject to the following conditions:

(1) Included in the lands described in this paragraph shall be a restricted zone of lake front and river front lands, not to exceed an average of 160 acres per linear mile, to be measured from the ordinary high water mark, the exact boundaries to be determined by mutual agreement between CIRI and the Secretary of the Interior (Secretary) no later than September 1, 1976. The conveyance of the lands within this zone shall contain the following restrictions so long as Lake Tustumena remains a part of the Range:

(a) A restrictive convenant running with the land which provides that no development shall take place or facilities be constructed within the zone, except those which are directly necessary to support water dependent activities, such as a boat dock, airplane tie-up and marina. It is contemplated that a lodge may also be located within the restricted zone, provided however, that the lodge shall be of such a design, size and location agreed upon by the United States Fish and Wildlife Service. Reasonable public access to these facilities will be permitted by the United States. CIRI must submit a request in writing to the Fish and Wildlife Service for approval of any construction or development within the zone, which approval will not be unreasonably withheld.

The Fish and Wildlife Service will notify CIRI of its decision, on any such request within 120 days of receipt of such request, and failure of any response will be considered as approval.

(b) a provision that CIRI will not sell the lands to any third party for a period of 25 years from the date of the conveyance, without the consent of the Secretary.

(c) a provision that CIRI and its assigns will offer the United States the right of first refusal to purchase the lands if the lands are ever sold. The right of first refusal shall be for a period of 120 days from the date of notice in writing to the United States that the owner of the land has received a bonafide offer of purchase. The United States shall not be deemed to have exercised its right of first refusual if the owner does not consummate this sale in accordance with notice to the United States.

(d) the conveyance of the lands comprising this restricted zone shall not include the bed of Lake Tustumena and shall only convey the surface estate to CIRI. The United States shall retain the rights in oil and gas and all minerals, including but not limited to common varieties of minerals.

(e) The United States reserves the right of re-entry on these lands to be exercised upon occrrence of the following conditions:

(i) The United States obtains a final judgment in a proceeding in law or equity to enforce in whole or in part the restrictive covenants contained in the conveyance of the lands described in this section; and

(ii) subsequent to such final judgment, the United States institutes proceedings in law or equity to enforce the provisions of the restrictive covenants which were the subject of the final judgment obtained in subparagrah (i) of this paragraph. The right of re-entry shall be asserted in such subsequent action but may not be actually exercised except upon and in accordance with the final judgment in favor of the United States in such subsequent action.

(iii) such right of re-entry shall be limited, in any case, to the lands which were the subject of the final judgment referred to in subparagraph (i) hereof.

(2) The remainder of the lands described in Appendix A shall be conveyed to CIRI without restriction, other than the reservation of those easements authorized by 17(b) of the Alaska Native Claims Settlement Act (ANCSA) or other applicable federal statutes. The conveyance of such remainder shall include both the surface and the subsurface estates to such lands.

B. (1) Three and fifty-eight one hundredths (3.58) townships of the subsurface estate to oil and gas and coal as identified in Appendix B–1; provided that the United States shall retain all other minerals including but not limited to common varieties of minerals; and provided that the right to extract coal shall be conditioned upon the opening by the Secretary for the extraction of coal of that portion of the Range in which these lands are located, and provided further, that coal shall only be extracted in a liquid or gaseous state. All activities related to the extraction of oil and gas and coal which affect the surface of the Kenai National Moose Range shall be conducted in accordance with a surface use plan approved by the Secretary. Such extraction shall be undertaken in accordance with the most advanced technology commercially available at that time and causing the least practicable temporary and permanent harm to the fish and wildlife habitats of the Range. Any surface damage caused by the exercise of the rights herein must be repaired or reclaimed by CIRI, its successors and assigns, as rapidly as practicable without unreasonable interference with the rights of extraction. The United States shall make available to CIRI, its successors and assigns, sand and gravel as is reasonably necessary for the construction of facilities and rights-of-way appurtenant to the exercise of the rights conveyed under this section, pursuant to the provisions of 30 U.S.C. 601 *et seq.*, and the regulations implementing that statute which are then in effect. By mutual consent of CIRI and the Secretary, CIRI may exchange, as authorized by Section 22(f) of ANCSA, any interest described in this paragraph for other interests outside the boundaries of the Kenai National Moose Range.

(2) To the extent that CIRI is or becomes entitled to subsurface rights as a result of valid Section 12(a) of ANCSA selections by Village Corporations within the Kenai National Moose Range, or as a result of any valid Section 14(h)(1), (2) or (5) of ANSCA selections within the Kenai National Moose Range or within the Secretary's 1973 Lake Clark Proposal and lands described in VI.A., and to the extent that CIRI's Section 12(a) of ANSCA subsurface rights are reduced by virtue of exchanges resulting in the relinquishment of village selections in the Secretary's 1973 Lake Clark Proposal or lands in paragraph VI, CIRI shall take, in lieu thereof an equal acreage from the following:

(a) the subsurface estate to oil and gas and coal in those lands described in Appendices B–1 and B–2 to the extent that such interests are not transferred under paragraph I.B.(1) of this Document, and are subject to the restrictions therein described; and

(b) up to 46,080 acres of subsurface estate within Section 11(a)(3) of ANCSA withdrawals in the Talkeetna Mountains;

(c) if sufficient acreage to satisfy any such selections does not exist in those areas described in subparagraphs (a) and (b) of this paragraph, the Secretary shall make available lands outside the Cook Inlet Region, in areas to be designated in his discretion, for selection by CIRI.

C. (1) Twenty-nine and sixty-six one-hundredths (29.66) townships from any Federal public lands withdrawn under sections 11(a)(1), 11(a)(3), or 17(d)(1) without the exterior boundaries of Cook Inlet Region, to be identified in the manner herein provided; provided that if CIRI's total entitlement under Section 12(c) of ANCSA is determined to be greater or less than 54 townships, the number of townships to be conveyed under this paragraph (hereinafter out-of-region entitlement) shall be increased or decreased one for one and then the out-of-region total shall be reduced where required by other provisions of this Document and provisions of the Act incorporating this Document.

(a) Lands to be nominated and conveyed under this paragraph C.(1) shall be limited as follows: The entitlement shall be satisfied from lands within Ahtna Region, Bristol Bay Region, Calista Region, Chugach Region, and Doyon Region. With the concurrence of the Secretary and the State of Alaska (State), and any affected Regional Corporation other than those described above, selections may be made from within one or more of the other Regions, on the basis hereinafter described or on such other basis as the Secretary, CIRI the State and the affected Region shall contemporaneously agree. CIRI shall not nominate any of the following:

(i) lands located west of the 161 degree west longitude of the Greenwich Meridian.

(ii) lands within Areas of Environmental Concern as described in the Secretary's 1973 Four Systems Proposals to Congress.

(iii) lands within the Secretary's 1973 Four Systems Proposals to Congress.

(iv) lands made available to the State for selection pursuant to Sections 2 and 5 of the State-Federal Agreement of September 1, 1972.

(b) By May 1, 1976, the Secretary shall, after consultation with the State, submit to CIRI a list of areas where approval of out-of-region selections is unlikely. CIRI may thereafter nominate to the Secretary, with simultaneous notice to the State, a township or townships for selection in the manner provided by I.C.(1)(f). Within 120 days after such nomination, the Secretary after consultation with the State shall, in his discretion, approve or disapprove it for withdrawal for placement in the selection pool as described herein. If the Secretary fails to disapprove a nominated township within 120 days, the nominated township shall be considered approved. If a nominated township is disapproved by the Secretary he shall, at the time of such disapproval, advise CIRI and the State in writing of the reason for such disapproval. By October 18, 1978, CIRI must nominate at least 6 times its remaining out-of-region entitlement. If the Secretary fails to approve a pool of three times that remaining out-of-region entitlement from said nominations, then he and CIRI, by mutual consultation and study, shall agree by January 18, 1979 on sufficient additional townships to compose that number. The Secretary must, on that date, report to Congress as to the operation of this selection mechanism, and the need for remedial legislation, if required. Upon completion of the pool, the State and CIRI shall commence a striking and selecting process. The State may strike ten percent (rounded to the nearest whole township) of the pool and the Region may select a number of townships equal to ten percent (rounded to the nearest whole township) of the original pool. Alternate strikes and selections of five percent (rounded to the nearest whole township) of the original pool shall continue until CIRI's out-of-region entitlement is, as defined in this paragraph, satisfied. The State and CIRI must complete this process within four months of completion of the pool. Notwithstanding the foregoing, with the consent of the United States, the State, and CIRI, lands may be conveyed without regard to the pool and striking mechanism herein provided, or in the manner described in subparagraph (2) of this paragraph I.C., in which case the number of townships to be nominated, pooled, struck and selected, shall be reduced proportionately.

(c) The State may continue to select lands under the Alaska Statehood Act which may be affected by this paragraph I.C., provided however, that any CIRI nomination made hereunder shall be superior to and take precedence over any such State selection made after July 18, 1975. None of those lands selected by the State under the Alaska Statehood Act after July 18, 1975, and also nominated by CIRI pursuant to this paragraph I.C., shall be tentatively approved or patented to the State by the Department of the Interior for so long as these lands are potentially available to CIRI under this subparagraph unless CIRI has consented to such tentative approval or patent.

(d) Lands approved by the Secretary for the out-of-region pool shall, as of the date of such approval, be withdrawn from all forms of entry and location under the Public Land Laws including the mining and mineral leasing laws, but not from selection by the State, for so long as the said lands shall be included in the said pool. When any land is nominated by CIRI, the land shall be segregated to the same extent as though the land were withdrawn pursuant to this subparagraph (d). The public land records shall be noted and the segregation shall continue with the nomination is disapproved or the land is conveyed or the segregation is expressly revoked.

(e) Prior to nomination of any townships for Secretarial approval, CIRI shall obtain the consent of other Native Corporations where applicable, and a copy of such consent shall be attached to such nomination.

(f) CIRI shall nominate and select its out-of-region entitlement in blocks no less than 36 sections in size, along section lines, with no segment of an exterior line less than six miles in length unless the Secretary specifically authorizes another manner of selection.

(g) CIRI may, with the consent of the Secretary and the State, select that portion of the mineral estate reserved by the United States in any lands, if the remainder of the estate may not be legally or readily available for selection, in which case, however, such substitute selection shall be treated as full satisfaction of the entitlement represented by the acreage involved and no additional selection rights shall arise by reason of the lack of conveyance of the entire estate.

(h) It is the intent of the Secretary and the State that all out-of-region selections shall be as compact as is practicable, and that wherever possible, CIRI shall select lands which are contiguous to privately-owned lands.

(i) Nothing in this paragraph shall be construed as limiting any Congressional review and approval of the Secretary's 1973 Four Systems Proposals to Congress.

(2) (a) The Secretary, in conjunction with the General Services Administrator, shall promptly identify and take the necessary steps by January 15, 1978, to create a selection pool which shall consist of all the following lands, within the exterior boundaries of the Cook Inlet Region, now in existence or hereafter coming into existence by January 13, 1978:

(i) abandoned or unperfected public land entries, provided however, that the United States shall not be obligated to initiate any adversary proceedings other than an adjudication by the Bureau of Land Management (BLM), to determine if such entries are abandoned or unperfected, and the burden of identifying such lands shall be on CIRI. The duties and procedures of such adjudication process shall be determined by mutual agreement between CIRI and the Secretary;

(ii) Federal surplus property;

(iii) revoked Federal reserves;

(iv) cancelled or revoked power site reserves, with the exception of the Bradley Lake Reserve, reserves in the Secretary's 1973 Lake Clark Proposal and the lands described in VI.A., and the Chakachamna Lake Reserve, if any are ever cancelled or revoked;

(v) Public lands created by the reduction of Federal installations as defined in Section 3(e) of ANCSA and not validly selected by any Village Corporation prior to December 18, 1975; and

(vi) any other Federal lands as agreed by the State, CIRI and the Secretary, including but not limited to lands withdrawn under Section 17(d) (1) of ANCSA and not withdrawn for any other purpose.

(b) The Secretary shall notify CIRI after any above-described lands have been placed in the pool. With the concurrence of CIRI, the State and any other concurrence that may be required under paragraph I.C.(1) (e) of this Document, the Secretary may, in his discretion, contribute to such pool properties of one or more of the foregoing categories from without the boundaries of the Cook Inlet Region. Properties described in subparagraphs (2) (a) (ii) and (2) (a) (iii) of this paragraph, within or without the boundaries of Cook Inlet Region, shall be removed from the pool if not selected by CIRI within 90 days after the Secretary notifies CIRI that such properties have been placed in the pool or valued by the Secretary in accordance with subparagraph I.C. (2) (d) of this Document, whichever date is later; provided that the 90 day period may be extended by mutual agreement of the Secretary, the State, CIRI and the Administrator of the GSA.

(c) The State shall be advised of all properties located within the exterior boundaries of Cook Inlet Region to be placed in the pool described in subparagraph I.C.(2) (a) and may require Secretarial consultation with the Joint Federal-State Land Use Planning Commission (JFSLUPC) with respect to any specific piece of property so included, except those in subparagraph I.C.(2) (a) (i) hereof, to determine whether private ownership of such property would be incompatible with reasonable land management principles; provided, that the Secretary shall not be bound by any recommendation of the JFSLUPC. The Secretary shall notify the State, CIRI and the JFSLUPC of his decision in writing. The State may conclusively object to the inclusion in the pool of up to 1,500 of the acres described in paragraph I.C.(2) (a) (i) and I.C. 2(a) (iv), and additional lands within these two categories may be excluded from the pool upon replacement by the State with lands of equal value as determined by an appraisal system mutually agreeable to all three parties. Lands not included in the pool as a result of the State's conclusive objection or which have been replaced by the State under this subparagraph shall, immediately upon their exclusion or replacement from the pool thereby, be made available by the Secretary to the State for selection under the Alaska Statehood Act for a period of 90 days to the exclusion of all competing claims or parties.

(d) Unless specifically excepted by the Secretary, all tracts of land and improvements thereto in said pool shall be appraised under an appraisal system mutually agreeable to CIRI and the Secretary.

(e) CIRI shall be entitled to select any tract of land from said pool in exchange for its out-of-region selection rights, in part or in whole and pro tanto, in satisfaction thereof, in the following manner:

(i) any tract of land and improvements thereto specifically expected from appraisal by the Secretary as described in subparagraph (d) of this paragraph may be exchanged acre for acre;

(ii) any tract of land and improvement thereto valued by CIRI and the Secretary, after review of the appraisal, at less than $500 per acre at fair market value may be exchanged acre for acre;

(iii) any tract of land and improvements thereto valued by CIRI and the Secretary, after review of the appraisal, at $500 per acre or more at fair market value shall be exchanged as follows;

(A) for each acre of land in said tract, each valued increment of $500 or proportion thereof shall be considered an acre of land or proportion thereof, in the same proportion, hereinafter called an "acre/equivalent"; and

(B) any acre/equivalents may be exchanged for any acres of CIRI's out-of-region entitlement.

(f) Anything in the foregoing provisions notwithstanding, the selection pool created hereunder shall not include or affect lands within the Point Woronzof, Point Campbell, Goose Lake and Campbell Tracts, to which CIRI waives any claim which it may have had. The Point Campbell and Goose Lake Tracts, and that portion of the Point Woronzof Tract not conveyed under the act ratifying this document, shall be conveyed immediately to the State for park, recreation, or other public purposes at such times as these tracts, or portions thereof, are reported by the head of the present holding federal agency to the Secretary as being excess to the needs of the holding agency. In that event, the Secretary shall convey to the State all right, title and interest of the United States in these tracts, subject to all valid existing rights in effect on the date of conveyance; provided that the Secretary shall be required to reserve for an air navigation facility site, a single compact unit of land on the Point Campbell Tract selected by the Administrator of the Federal Aviation Administration of the Department of Transportation, not to exceed 290 acres in size, which shall be excluded from conveyance to the State. The remainder of the tract shall be immediately conveyed to the State. The Administrator of the Federal Aviation Administration shall permit park, recreation, or other public uses on the site, or portions thereof, to the extent that he determines the uses are compatible with the operation of the air navigation facility. At such time as the Administrator of the Federal Aviation Administration advises the Secretary that the site is no longer needed for an air navigation facility, the Secretary shall convey the site to the State for park, recreation, or other public purposes.

(g) The Secretary shall utilize his best efforts to maximize the pool through the use of all available properties within the described categories in order to enhance the opportunity for the alternate selections as described in I.C.(2), and for the reduction of out-of-region selections. If, by January 15, 1978, the Secretary and the General Services Administrator have not identified for the pool at least 138,240 acres, or acre/equivalents of lands within the exterior boundaries of Cook Inlet Region, or without the Region's boundaries with CIRI's consent, the Secretary shall add to the pool an amount equal to the difference between 138,240 acres, or acre/equivalents, and the number of acres so identified from the following;

(i) with the consent of the State, lands located within the boundaries of the Cook Inlet Region, withdrawn for the purposes of Section 17(d) (1) of ANCSA, and valued by the Secretary and CIRI at an average of $200 per acre) or more;

(ii) with the consent of the State and CIRI, lands described in subparagraph I.C. (2) (a) of this Document from without the exterior boundaries of Cook Inlet Region.

(h) CIRI must select all lands in the pool located within the Cook Inlet Region which are valued by the Secretary and CIRI at an average of $200 per acre, or more, until CIRI has selected 138,240 acres, or acre/equivalents as described in subparagraph I.C.(2) (e) (iii) (A) of this paragraph.

(i) No later than 90 days following the conclusion of the period for creation of the pool as specified in subparagraph I.C.(2) (a) hereof, the Secretary shall, with the assistance of the General Services Administrator, report to Congress on the status of the conveyances under this subparagraph I.C.(2) and the need for remedial legislation, if required.

(j) Conveyances under this subparagraph I.C.(2) shall not be subject to the provisions of Section 22(1) of ANCSA.

(k) By mutual consent of the Secretary and CIRI, Village and Group Corporations within the Cook Inlet Region may take, in lieu of selections or selection rights under Sections 12 and 14 of ANCSA, acres or acre/equivalents contained in the pool established in subparagraph I.C.(2).

D. (1) All Federal lands and interests in lands within the following:

(a) T. 10 S., R. 9 W., Fairbanks Meridian, Alaska (Healy); and

(b) T. 20 N., R. 9 E., Seward Meridian, Alaska (Glenn Highway).

(2) Seward Meridian, Alaska

T. 1 N., R. 21 W., Secs. 13–15, all; Secs. 22–28, all; Secs. 32–36, all.

The Secretary shall only convey the rights to metalliferous minerals in the land herein described. All activities related to the extraction of such minerals shall be subject to a surface use plan submitted by CIRI and approved by the Secretary. Surface use for the purposes of exploration, extraction, access and beneficiation shall be conducted in accordance with the most advanced technology commercially available at the time, consistent with the exercise of the rights conveyed under this subparagraph. CIRI, its successors and assigns, shall be required to repair and reclaim any surface damage as rapidly as practicable consistent with the reasonable exercise of such mineral rights.

(3) Seward Meridian, Alaska

T. 1 S., R. 21 W., Secs. 3–10, all; Secs. 15–22, all; Secs. 29–30, all.

The Secretary shall transfer to CIRI the above-described lands in fee simple. Such conveyance shall be subject to a restrictive covenant, running with the land, providing that the surface shall only be used for purposes reasonably incident to mining and mineral extraction, including processing and transportation. The Secretary shall also convey to CIRI an easement for a port which shall reasonably provide for receiving, shipping, storage and incidental handling, and incidential facilities thereto, of the minerals extracted from the lands conveyed under subparagraphs I.D.(2) and I.D.(3). The Secretary shall also convey to CIRI a transportation easement to provide for transportation by road, rail or pipeline, of the minerals from the above-described lands to the port easement. The Secretary and CIRI shall mutually agree upon the location of these two easements.

II. Upon consent by the State to be bound by the terms and conditions of this Document, which consent must be given, if at all, within 60 days of the commencement of the 1976 Session of the Alaska State Legislature, the State shall convey to the United States for reconveyance to CIRI the lands described in Appendix C of this Document. Said lands shall be considered State lands until the United States accepts the State's Deed of Title. Upon acceptance of the State's Deed of Title, the Secretary shall withdraw the lands conveyed thereby, subject to valid existing rights, from all forms of appropriation under the Public Land Laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, as amended; such withdrawal to expire upon reconveyance of said lands to CIRI.

III.A. The Secretary shall convey to the State all right, title and interest of the United States in and to all of the following lands:

(1) At least 22.8 townships and no more than 27.0 townships of land from those presently withdrawn under Section 17(d)(2) of ANCSA in the Lake Iliamna area and within the Nushagak River and Koksetna River drainages near lands heretofore selected by the State, the amount and identities of which shall be determined pursuant to Appendix D hereof; and

(2) Twenty-six (26) townships of land in the Talkeetna Mountains, Kamishak Bay, and Tutna Lake areas, the identities of such areas are set forth in Appendix E thereof.

B. All lands granted to the State pursuant to this subsection shall be regarded for all purposes as if conveyed to the State under and pursuant to Section 6 of the Alaska Statehood Act: *Provided, however*, That this grant of land shall not constitute a charge against the total acreage to which the State is entitled under Section 6 of the Alaska Statehood Act.

C. The Secretary shall convey to the State, without consideration, all right, title and interest of the United States in and to all of that tract generally known as the Campbell Tract and more particularly identified in Appendix F hereof, except for one compact unit of land which he determines, after consultation with the State, is actually needed by BLM for its present operations; provided, that in no event shall the unit of land so excepted exceed 1,000 acres in size. The land authorized to be conveyed pursuant to this paragraph shall be used for public parks and recreational purposes and other compatible public purposes in conformance with the generalized land use plan outlined in the Far North Bicentennial Park Master Development Plan of September, 1974. Except as provided otherwise in this paragraph, the Secretary shall utilize the procedures of the Recreation and Public Purposes Act (44 Stat. 741), as amended, and regulations developed pursuant to that Act; provided, however, that the acreage limitation provided by Section 1(b) of that Act, as amended by the Act of June 4, 1954 (68 Stat. 173), shall not apply to this conveyance, nor shall the lands conveyed pursuant to this paragraph be counted against that acreage limitation with respect to the State or any subdivision thereof.

D. The State, in its discretion, may identify up to 12.4 townships of lands within the Talkeetna Mountains and Koksetna River areas as described in Appendix G. The Secretary shall make those identified lands available for selection under Section 6 of the Alaska Statehood Act.

IV. The lands and interests conveyed to CIRI under paragraphs I and II of this Document shall constitute CIRI's full entitlement under Section 12(c) of ANCSA, except that the mineral estate conveyed pursuant to subparagraph I.B.(1) of this Document shall constitute full entitlement of CIRI's surface and subsurface entitlement under Section 14 (h)(8) of ANCSA. The lands which would comprise the difference in acreage between the lands actually conveyed under paragraphs I and II of this Document, and any final determination of what CIRI's acreage rights under Section 12(c) and 14(h)(8) of ANCSA would have been notwithstanding the provisions of this Document, shall be retained by the United States, and this Document shall create no right or interest in any other Regional Corporation or Village Corporation notwithstanding any provisions of ANCSA to the contrary.

V. The Secretary, CIRI, and the State shall seek legislation authorizing the Secretary to convey title to those selections by Native Corporations within the exterior boundaries of Power Site Classification 443, February 13, 1958, provided however, that the patents conveying the above described lands shall contain the reservations required by Section 24 of the Federal Power Act, 16 U.S.C. 818.

VI. A. The State shall not select any of the following lands, so that such lands may be added to a management unit in the Lake Clark Area, and such lands shall be withdrawn by the Secretary, subject to valid existing rights, as if those lands were withdrawn under Section 17(d)(2) of ANCSA:

SEWARD MERIDIAN, ALASKA

T. 1 N., Rs. 24 to 29 W.;
T. 2 N., Rs. 24 to 30 W.;
T. 3 N., Rs. 28 to 30 W.;
T. 3 N., R. 31 W., E 1/2;
T. 4 N., R. 30 W.;
T. 4 N., R. 31 W., E 1/2;
T. 1 S., Rs. 24 to 26 W.;
T. 1 S., R. 27 W., Secs. 1–6, all; Secs. 8–15, all; Secs. 23–25, all.
T. 1 S., R. 28 W., Secs. 1–6, all.
T. 1 S., R. 29 W., Secs. 1–6, all.
T. 2 S., Rs. 24 and 25 W.;
T. 3 S., Rs. 20 to 24 W.;
T. 4 S., R. 22 W., Sec. 6 all.
T. 4 S., R. 23 W., N 1/2.

B. The Secretary, CIRI and the State recognize that there are nationally significant resources in the Lake Clark area. Management of this area should be flexible and recognize the scenic, recreational and inspirational resources that should be preserved as well as State and local interests including subsistence and sport hunting.

VII.A. In fulfillment of its obligation to equitably reallocate acreage among villages pursuant to Section 12(b) of ANCSA, CIRI shall allocate Section 12(b) selections to the following areas:

(1) Four and one-half townships in the Talkeetna Mountain withdrawal, provided that such selections shall be compact and contiguous to 12(a) selections in said withdrawals and 12(a) overselections shall be selected first;

(2) All lands that will not otherwise be conveyed to the villages under 12(a) from withdrawals on the Iniskin Peninsula;

(3) To the extent necessary to fulfill any remaining 12(b) entitlement, lands within the following:

SEWARD MERIDIAN, ALASKA

T. 2 N., Rs. 18 to 20 W.;
T. 2 N., R. 21 W., lying north and east of the Tuxedni River and Bay.
T. 3 N., Rs. 17 to 20 W.;
T. 3 N., R. 21 W., Secs. 25–30 in Tuxedni watershed; Secs. 31–36 all.
T. 4 N., R. 18 W., W 1/2;
T. 4 N., R. 19 W.;
T. 4 N., R. 20 W., E 1/2;
T. 4 S., R. 24 W., S½;
T. 5 S., R. 25 W., Secs. 1–17, all; Secs. 20–29, all; Secs. 31–36, all.
T. 6 S., R. 26 W., E½;
T. 6 S., R. 25 W.;
T. 7 S., R. 25 W.;
T. 7 S., R. 26 W.. Secs. 1–28, all; Secs. 32–36, all.

B. (1) Up to two townships without the exterior boundaries of the Cook Inlet Region, to be mutually agreed upon by the Secretary, CIRI and the State, shall be made available by the Secretary to Village Corporations on an acre-for-acre basis, in section units, in lieu of the valid ANCSA section 12(a) village selections in the following described area:

SEWARD MERIDIAN, ALASKA

T. 1 N., R. 20 W.;
T. 1 S., Rs. 19 to 21 W.;
T. 2 S., Rs. 19 to 21 W.;
T. 3 S., Rs. 20, 21, and 23 W.;
T. 4 S., R. 23 W., N½.

(2) If a Village Corporation does not have any valid Section 12(a) of ANCSA village selections in the lands described in VII.B.(1), that Village Corporation may take lands in the two out-of-region townships in lieu of valid Section 12(a) of ANCSA village selections in the following area:

SEWARD MERIDIAN, ALASKA

T. 2 N., Rs. 18 to 21 W.;
T. 3 N., Rs. 18 to 20 W.;
T. 4 N., Rs. 19 to 21 W.;
T. 5 N., Rs. 19 to 20 W.

(3) For each valid Section 12(a) selection relinquished by a Village Corporation in the lands described in VII.B.(1) or VII.B.(2), and taken in lieu in the two out-of-region townships, an equal amount of acreage in the two out-of-region townships shall be reallocated to said Village Corporation as part of its Section 12(b) of ANCSA Village entitlement.

VIII.A. CIRI and the Secretary shall publicly support the establishment of a unit of the National Park System in the Lake Clark area including those lands withdrawn under Section 17(d)(2) of ANCSA and those lands described in paragraph VI.A. of this agreement. The Secretary and CIRI shall also agee to seek a provision in said legislation that would provide that before entering into any contract arrangement to provide new revenue producing services within the proposed Lake Clark Unit of the National Park System within the boundaries of the Cook Inlet Region, the Secretary shall offer to CIRI in cooperation with Village Corporations within the Cook Inlet Region when appropriate, the right of first refusal to provide such services, that right to remain open for a period of ninety days. CIRI and the Secretary shall seek legislation that provides that the United States may acquire lands selected by Village Corporations within the boundaries of the Lake Clark Unit established by that legislation, but only with the consent of the appropriate Village Corporation.

B. CIRI and the Secretary shall publicly support the establishment of the Caribou Hills, Swanson River, Mystery Creek, and Andy Simons Wilderness Areas within the Kenai National Moose Range. CIRI and the Secretary shall seek a provision in such legislation that would provide that before entering into any contract or agreement to provide new revenue producing services within the Kenai National Moose Range, the Secretary shall offer to CIRI in cooperation with Village Corporations within the Cook

Inlet Region when appropriate, the right of first refusal to provide such services, that right to remain open for a period of ninety days.

IX. Lands conveyed to CIRI and/or its Village and Group Corporations in accordance with this Document, notwithstanding their source (whether Federal or State), shall be considered and treated as conveyances under and pursuant to ANCSA, except as may be expressly provided otherwise in this Document.

X. As soon as practicable after any estate or interest in Federal lands to be patented to CIRI in accordance with this Document is identified, CIRI and the Secretary shall review all leases, contracts, permits, rights-of-way and easements covering or concerning such estate or interest to determine whether the administration thereof may be waived by the Secretary, in his discretion, in accordance with the provisions of Section 14(g) of ANCSA.

XI. Effective the date that State lands to be conveyed to the United States for CIRI are designated by CIRI pursuant to paragraph II of this Document, the State, if so authorized, shall place all revenues received from such lands in escrow to be transferred to CIRI when appropriate. The administration of all leases, contracts, permits, rights-of-way and easements prior to the conveyance of such lands to the United States shall be by the State, except that all decisions concerning modification, conversion, renewal or appraisal of such interest will be with the concurrence of CIRI. Effective the date of conveyance of such lands from the State to the Secretary, the State shall waive in favor of CIRI administration of all leases, contracts, permits, rights-of-way and easements totally embraced by such lands. The State shall give timely written notice of the change of ownership and administration to the holders of rights on such lands.

XII. The responsibilities of and benefits accruing to the Secretary, the State and CIRI under this Document shall become binding only when such legislation as is necessary has been enacted. Upon passage of such legislation, CIRI and all plaintiffs/appellants shall, with the consent of the Secretary, dismiss their pending appeal in *Cook Inlet Region* vs. *Kleppe*, No. 75-2232, (9th Cir.), by executing and filing pursuant to Rule 42(h) of the Federal Rules of Appellate Procedure an agreement that the proceeding may be dismissed.

XIII.A. For the purposes of this Document, a township shall be considered 23,040 acres.

B. The words "land" and "lands" as used in this Document shall not include properties owned by the State under Section 6(m) of the Alaska Statehood Act and the Submerged Lands Act.

C. The rule of approximation shall be used in the determination of acreages to be conveyed under this Document (62 I.D. 417, 421).

D. All presently federally owned lands withdrawn or identified for selection by or conveyance to CIRI under the authority of this Document shall be subject to such administration by the Secretary prior to patent or interim conveyance, as if these lands were withdrawn for Native selection under ANCSA.

E. The Secretary's 1973 Four Systems Proposals refers to those 28 proposals recommended to the Congress by the administration in December of 1973 as the "Alaska Conservation Act of 1974."

F. All references to the Secretary in this Document include the authorized delegate of the Secretary.

G. In determining whether Village Corporation Section 12(a) selections are valid for the limited purpose of qualifying conveyances in Appendices C and D, the compactness and contiguousness of individual Village Corporation selections and whether such individual selections were less than 1,280 acres in size shall not be considered.

Appendix A

(Reference: Paragraph I.A. this Document)

SEWARD MERIDIAN, ALASKA

T. 1 N., R. 11 W., Secs. 1-4, all; Secs. 9-12, all; Sec. 15, W ½; Sec. 16; (Comprising approximately 6, 080 acres)

T. 2 N., R. 11 W., Sec. 9 SW ¼ south and west of the mean high water line of the south west bank of the Kasilof River; (approximately 70 acres)

Sec. 16 those lands within the Kenai National Moose Range south and west of the mean high water line of the south and west bank of the Kasilof River; (approximately 430 acres)

Sec. 21 all; (approximately 640 acres)

Sec. 22 those lands within the Kenai National Moose Range south and west of the mean high water line of the south and west bank of the Kasilof River; (approximately 130 acres)

Sec. 27 those lands within the Kenai National Moose Range west of the mean high water line of the west bank of the Kasilof River and those lands south and west of the mean high water line of the south and west shore of Tustumena Lake; (approximately 330 acres)

Sec. 28 all; (approximately 640 acres)

Sec. 33 all; (approximately 640 acres)

Sec. 34 those lands within the Kenai National Moose Range south and west of the mean high water line of the south and west shore of Tustumena Lake; (approximately 600 acres)

Sec. 35 those lands within the Kenai National Moose Range south of the mean high water line of the south and west shore of Tustumena Lake; (approximately 290 acres)

Sec. 36 those lands within the Kenai National Moose Range south of the mean high water line of the south shore of Tustumena Lake; (approximately 360 acres) Comprising approximately 4,160 acres.

Appendix B-1

(Reference: Paragraph I.B.(1) this Document)

82,483.2 acres (3.58 townships) of the specified mineral estate to be selected from the following described lands.*

SEWARD MERIDIAN, ALASKA

(Selection priority 2)

T. 6 N., R. 10 W., Sec. 1 all; Sec. 2 E ½, E ½ NW ¼, SW ¼; Sec. 4 W ½ SW ¼; Secs. 5-8 all; Sec. 9 S ½ NE ¼, NW ¼, S ½; Sec. 12 all; Secs. 16-17 all; Secs. 20-21 all.

(Selection priority 3)

T. 6 N., R. 11 W., Secs. 1-2 all; Secs. 11-14 all.

(Selection priority 1)

T. 7 N., R. 9 W., Sec. 3 E ½; Sec. 5 NW ¼; Secs. 6-7, all; Sec. 8 SW ¼ NW ¼, W ½ SW ¼; Sec. 10 E ½, SE ¼ NW ¼, E ½ SW ¼; Sec. 14 NW ¼, S ½; Sec. 15 all; Sec. 16 SE ¼ NE ¼, S ½; Sec. 17 NW ¼ NE ¼, S ½ NE ¼, NW ¼, S ½; Secs. 18-36, all.

(Selection priority 1)

T. 7 N., R. 10 W., Secs. 1-5 all; Secs. 7-25 all; Sec. 26 E ½, NW ¼, E ½ SW ¼; Sec. 27 N ½ N ½; Sec. 28 N ½ NE ¼, NW ¼, W ½ SW ¼; Secs. 29-32 all; Sec. 35 E ½; Sec. 36 all.

(Selection priority 4)

T. 7 N., R. 11 W., Secs. 23-26 all; Secs. 35-36 all.

(Selection priority 1)

T. 8 N., R. 9 W., Secs. 1-8 all; Sec. 9 N ½ NE ¼, SW ¼ NE ¼, W ½, SW ¼ SE ¼; Sec. 10 NE ¼, NE ¼ SE ¼; Secs. 11-14 all; Sec. 16 W ½; Secs. 17-20 all; Sec. 21 W ½ W ½, SE ¼ SW ¼, SW ¼ SE ¼; Secs. 23-26 all; Sec. 27 E ½ SE ¼; Sec. 28 NW ¼ NE ¼, NW ¼, W ½ SW ¼; Secs. 29-31 all; Sec. 32 N ½, SW ¼, NW ¼ SE ¼; Sec. 33 NW ¼ NW ¼; Sec. 34 E ½ NE ¼, SE ¼; Secs. 35-36 all.

(Selection priority 2)

T. 8 N., R. 10 W., Sec. 1 all; Secs. 12-14 all; Secs. 23-26 all; Secs. 32-36 all.

(Selection priority 3)

T. 10 N., R. 7 W., Secs. 19-21 all; Sec. 28 N ½; Secs. 29-32 all.

Appendix B-2

(Reference: Paragraph I.B.(2) this Document)

Up to 138,240 acres (6.0 townships) of specified mineral in lieu estate to be selected from the following described lands by priority ranking:

SEWARD MERIDIAN, ALASKA

(Selection priority 3)

T. 1 N., R. 11 W., Secs. 13-14 all; Sec. 15 E ½; Secs. 21-28 all; Secs. 33-36 all.

(Selection priority 4)

T. 3 N., R. 9 W., Secs. 3-10 all; Sec. 11 S ½; Secs. 14-23 all; Secs. 26-30 all.

(Selection priority 3)

T. 3 N., R. 10 W., Secs. 1-30 all.

(Selection priority 3)

T. 3 N., R. 11 W., Sec. 1 all; Secs. 12-15 all; Secs. 22-27 all; Secs. 34-35 all.

(Selection priority 3)

T. 4 N., R. 9 W., Sec. 2 W ½; Secs. 3-10 all; Sec. 11 W ½; Sec. 14 W ½; Secs. 15-20 all; Sec. 21 N ½, SW ¼; Secs. 29-34 all.

(Selection priority 2)

T. 4 N., R. 10 W., Secs. 13-36 all.

(Selection priority 1)

T. 4 N., R. 11 W., Sec. 25 E ½, E ½ W ½.

(Selection priority 2)

T. 6 N., R. 9 W., Secs. 1-17 all; Sec. 20 all; Secs. 22-29 all; Secs. 34-36 all.

(Selection priority 3)

T. 8 N., R. 8 W., Secs. 1-36 all.

(Selection priority 3)

T. 9 N., R. 7 W., Sec. 5 all; Secs. 6-7 all; Sec. 8 W ½; Sec. 17 W ½; Secs. 18-19 all; Sec. 20 W ½; Sec. 29 W ½; Secs. 30-31 all.

(Selection priority 3)

T. 9 N., R. 8 W., Secs. 1-5 all; Secs. 7-36 all.

(Selection priority 2)

T. 9 N., R. 9 W., Sec. 13 all; Sec. 23 N ½, SW ¼, N ½ SE ¼, SW ¼ SE ¼; Sec. 24 N ½, E ½ SE ¼; Sec. 25 E ½ E ½; Sec. 26 W ½ E ½, W½; Sec. 27 all; Sec. 31 E ½; Sec. 32-35 all; Sec. 36 E ½ NE ¼, S ½ SW ¼, SE ¼.

(Appendix B2 totaling approximately 137,640 acres).

Appendix C

(Reference: Paragraph II this Document.)

I. If CIRI has on or before January 12, 1976, presented evidence satisfactory to the State that the villages of Knik, Chickaloon, Alexander Creek, Tyonek, Ninilchik and Salamatof have withdrawn selection applications for and relinquished all claims to land in the Lake Clark, Lake Kontrashibuna and Mulchatna River areas, the State shall convey:

A. (1) Point McKenzie Pool—3,200 acres from State lands within the following areas:

SEWARD MERIDIAN, ALASKA

(North of Knik Arm only.)

T. 15 N., Rs. 3-5 W.;
T. 14 N., Rs. 4-5 W.;
T. 13 N., R. 4 W.

(2) Knik-Willow Pool—4,480 acres from State lands within the following areas:

SEWARD MERIDIAN, ALASKA

Ts. 16-18 N., Rs. 2-5 W.

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*These lands total approximately 82,680 acres. Any unselected portions shall be added to Appendix B2 as first priority selections.

(3) Kashwitna Pool—88,040 acres from State lands within the following areas:

SEWARD MERIDIAN, ALASKA

Ts. 21–25 N., 3–4 W., (or other nearby lands).

(4) Chickaloon Pool—4,480 acres from State lands within the following areas:

SEWARD MERIDIAN, ALASKA

T. 19 N., Rs. 3–5 E.;
T. 20 N., Rs. 4–7 E.

(5) Kenai Pool—115,200 acres from State lands on the Kenai Peninsula.

(6) Out of each such pool, A.1. through A.5., the identity of the required acreage shall be determined to the extent possible by mutual agreement between the State and CIRI. For so many of the required acres as have not been so determined by agreement in each pool within eighteen months following implementation of this Document, those remaining required acres shall be identified by CIRI from an array of 1.5 times that remaining amount, said array to be identified to CIRI by the State from within that land pool.

(7) The State may with CIRI's concurrence supplant acreage otherwise to be identified for conveyance from the Kenai Pool in subparagraph A.5. on an acre-for-acre basis with lands near Alexander Creek, Ninilchik or Salamatof. Supplanting lands near any one of these villages may not exceed in acreage that number of acres to which the State is obligated under paragraph C of this Appendix, to provide in respect to each of those three villages.

(B) (1) Thirteen and one-half townships of surface and subsurface estate from the Beluga Area Townships listed in these subparagraphs B.1. and B.2. The identity of those lands shall be determined by CIRI within eighteen months following the implementation of this document by nomination of compact units no less than ¼ township in size lying along township lines, provided that where constrained by selection pool boundaries or water bodies they may be smaller; provided, however, that if Tyonek Corporation desires to trade the surface estate it holds in the Kenai National Moose Range for State surface lands within the vicinity of its village lands but within CIRI's selection pool, it may obtain up to one township of such lands. If Tyonek Corporation does trade for CIRI's selection pool lands, CIRI shall select an equivalent acreage of other lands from within this selection pool:

SEWARD MERIDIAN, ALASKA

T. 16 N., R. 14 W.;
T. 16 N., R. 13 W.;
T. 16 N., N. 12.; Sec. 7 all; Secs. 16–22 all; Secs. 25–36 all.
T. 16 N., R. 11 W.. Secs. 20–21 all; Secs. 25–36 all.
T. 15 N., R. 14 W.;
T. 15 N., R. 13 W.;
T. 15 N., R. 12 W.;
T. 15 N., R. 11 W.;
T. 15 N., R. 10 W., Secs. 5–9 all; Secs. 16–21 all; Secs. 28–33 all.
T. 14 N., R. 15 W.;
T. 14 N., R. 14 W.;
T. 14 N., R. 13 W., Secs. 4–9 all; Secs. 16–21 all; Secs. 28–33 all.
T. 14 N., R. 11 W.;
T. 14 N., R. 10 W., Secs. 4–9 all; Secs. 16–21 all; Secs. 28–33 all.
T. 13 N., R. 15 W.;
T. 13 N., R. 14 W.;
T. 13 N. R. 10 W., Secs. 1–3 all; Secs. 10–11 all; Secs. 12–13 excluding land east of the ordinary high water mark on the right bank of the Beluga River; Secs. 14–15 all; Secs. 22–27 all; Secs. 34–36 all.
T. 12 N., R. 15 W.
T. 12 N., R. 14 W., Secs. 1–22 all; Secs. 27–28 all; Sec. 30 all; Secs. 34–35 all.
T. 12 N., R. 10 W.
T. 11 N., R. 13 W., Sec. 12 all; Sec. 13 E ½, NW ¼, E ½ SW ¼; Sec. 24 NE ¼ NE ¼.
T. 11 N., R. 12 W., Sec. 18 all; Sec. 19 N ½, N ½ SE ¼; Sec. 20 all.

(2) Provided, however, that the following described lands shall not be available for CIRI's selection of subsurface estate:

SEWARD MERIDIAN, ALASKA

(Beluga Gas Field)

T. 13 N., R. 10 W., Sec. 11 E ½; Secs. 12–14 all; Secs. 22–27 all; Sec. 33 E ½; Secs. 34–36 all.
T. 12 N., R. 10 W., Secs. 2–5 all; Secs. 8–10 all.

(Nicolai Creek Gas Field)

T. 11 N., R. 12 W., Sec. 16 SW ¼; Sec. 17 S ½; Sec. 18 SE ¼; Sec. 19 E ½, E ½ W ½; Sec. 20 all; Sec. 21 W ½; Sec. 28 W ½; Secs. 29–32 all.

(3) The State shall provide a floating, public, 300 foot wide transportation easement from T. 13 N., R. 14 W., Seward Meridian, Alaska, to the shore of Cook Inlet in T. 11 N., R. 12 W., Seward Meridian, Alaska, said easement to be determined upon the ground at such future time as a need exists and there are adequate field data available upon which the State may finally plan and locate the corridor.

C. Lands, as herein set forth, for the benefit of Village Corporations withdrawing and relinquishing valid selections under paragraph I of this Appendix C in the Lake Clark, Lake Kontrashibuna and Mulchatna River areas as on file with the BLM as of July 18, 1975. The State shall convey for each such Village Corporation acreage equal to one-quarter of the valid acreage selections so relinquished. The land conveyed for each such Village Corporation by the State must be within or near the Section 11(a)(1) withdrawal of that Village Corporation.

II. All Conveyances of lands made in accord with this Appendix C shall pass all of the State's right, title and interest in the lands, including the minerals therein, as if those conveyances were made pursuant to Section 22(f) of ANCSA, except that dedicated or platted section line easements and highway or other rights-of-way may be reserved to the State. Conveyances of surface estate pursuant to this Appendix C shall include sand and gravel as a matter of agreement.

Appendix D—Lands in the Lake Iliamna Area and in the Nushagak River and Koksetna River Drainages

(Reference: Paragraph III.A(1). this Document)

I. The Secretary shall convey to the State at least 22.8 townships and no more than 27.0 townships of land from those presently withdrawn under Section 17(d)(2) of ANCSA in the Lake Iliamna area and within the Nushagak River or Koksetna River drainages near lands heretofore selected by the State.

II. The following townships shall be conveyed to the State as part of the minimum of 22.8 townships to be conveyed to the State from lands identified in paragraph I.

SEWARD MERIDIAN, ALASKA

T. 1. N., R. 36 W.;
T. 2 N., R. 36 W.;
T. 3 N., R. 36 W.;
T. 4 N., R. 36 W.;
T. 1 S., Rs. 37 and 38 W.;
T. 2 S., Rs. 37 and 38 W.;
T. 3 S., Rs. 37 and 38 W.;
T. 4 S., Rs. 37 to 39 W.;
T. 5 S., Rs. 40 to 42 W.;
T. 6 S., R. 40 W., Secs. 1–20 all; Secs. 29–32 all.
T. 6 S., Rs. 41 and 42 W.;
T. 7 S., R. 42 W., Secs. 3–10 all; Secs. 15–18 all.

III. For each acre of valid village 12(a) selections relinquished in the Lake Clark, Lake Kontrashibuna and Mulchatna River areas pursuant to paragraph C of Appendix C of this Document, the Secretary shall convey to the State, on an acre-for-acre basis, lands from within the 17(d)(2) area described in paragraph I up to a total of 4.2 townships.

IV. To the extent that lands to be conveyed to the State pursuant to paragraphs II and III above are not specifically identified in this Appendix, they shall be identified by mutual consent of the State and the Secretary from lands described in paragraph I within 60 days of the date the State becomes bound to this Document, or within 60 days of the date that any entitlement vests in the State pursuant to paragraph III of this Appendix, whichever shall come first.

V. All lands granted to the State pursuant to this Appendix D shall be regarded for all purposes as if conveyed to the State under and pursuant to Section 6 of the Alaska Statehood Act; provided, however, that this grant of lands shall not constitute a charge against the total acreage to which the State is entitled under Section 6(b) of the Alaska Statehood Act.

Appendix E—Lands in the Talkeetna Mountains, Kamishak Bay and Tutna Lakes Area

(Reference: Paragraph III.A.(2) this Document)

The Secretary shall convey to the State the equivalent of 26.0 townships of land (599,040 acres) from the following described lands, subject to valid village selections under Section 12(a), but not 12(b), of ANCSA:

SEWARD MEDIDIAN, ALASKA

T. 22 N., R. 2 W.;
T. 23 N., R. 2 W.;
T. 24 N., Rs. 1 and 2 W.;
T. 26 N., Rs. 1 and 2 W.;
T. 27 N., R. 2 W.;
T. 29 N., R. 2 W.;
T. 7 S., R. 26 W., Secs. 29–32 all.
T. 7 S., Rs. 27 to 29 W.;
T. 8 S., Rs. 26 to 29 W.;
T. 9 S., Rs. 26 to 30 W.;
T. 10 S., Rs. 28 to 30 W.;
T. 11 S., Rs. 28 to 30 W.;
T. 4 N., Rs. 33 to 35 W.;
T. 3 N., Rs. 34 and 35 W.;
T. 2 N., Rs. 34 and 35 W.

Appendix F—Far North Bicentennial Park

(Reference: Paragraph III.C. this Document)

SEWARD MERIDIAN, ALASKA

T. 12 N., R. 3 W.; Secs. 1 and 2 all; Sec. 3 N ½, SE ⅛; Sec. 10 N½; Sec. 11 N ½; Sec. 12 all.
T. 13 N., R. 3 W., Sec. 34 W ½, SE ¼, W ½, NE ¼, SE ¼ NE ¼, S ½ NE ¼ NE ¼; Sec. 35 E ½ NE ¼ NE ¼, NW ¼ NE ¼ NE ¼, S ½ SW ¼ NE ¼ NE ¼, NW ¼ NE ¼, S ½ NE ¼, E ½ NW ¼, SW ¼ NW ¼, S ½; Sec. 36 all.

Appendix G—Talkeetna Mountains-Koksetna River Lands

(Reference: paragraph III.D. this Document)

The State, in its discretion, may identify up to 12.4 townships of lands within the Talkeetna Mountains and Koksetna River areas as described in this Appendix. The Secretary shall make these identified lands available for selection under Section 6 of the Alaska Statehood Act as described below:

SEWARD MERIDIAN, ALASKA

T. 4 N., R. 31 W., W ½;
T. 4 N., R. 32 W.;
T. 3 N., R. 31 W., W ½;
T. 3 N., Rs. 32 and 33 W.;
T. 2 N., Rs. 31 to 33 W.

Subject to valid Village 12(a) and 12(b) selections under ANCSA, the following lands located south of the Susitna River;

SEWARD MERIDIAN, ALASKA

T. 29 N., Rs. 1 to 11 E.;
T. 30 N., Rs. 1 to 11 E.;

T. 31 N., Rs. 1 to 9 E.;
T. 29 N., R. 1 W.;
T. 30 N., Rs. 1 and 2 W.;
T. 31 N., R. 1 W.

Agreement

This Agreement is made this 31st day of August, 1976, between Cook Inlet Region, Inc. (CIRI) and Thomas S. Kleppe, Secretary of the Interior (hereafter "the Secretary").

A. The Secretary shall, subject to valid existing rights, convey, as soon as reasonably possible, the surface and subsurface estate in all public lands described in Appendix A to CIRI.

B. CIRI shall reconvey the surface estate of such lands to the Village Corporations within the Region pursuant to an agreement between CIRI and the affected Village Corporations, which agreement is attached as Appendix B to this agreement and which agreement may be modified by the parties thereto.

C. To the extent the lands conveyed pursuant to paragraph A when added to lands otherwise heretofore received or to be received by such Village Corporations are insufficient to satisfy their statutory entitlement, the Secretary shall, for the purpose stated in paragraph B, convey subject to valid existing rights to Cook Inlet Region, Inc., such additional lands from Appendix C as are necessary to fulfill such entitlement, except to the extent conveyances of such land are inconsistent with the requirements of Section 12 of P.L. 94–204 (unless the provisions of that section do not take effect) and this paragraph C. Conveyances by the Secretary under this paragraph C shall be made from the lands therein listed in Appendix C and in the order therein listed until the requirements of this subsection are met. Whenever only a part of a listed township is needed to meet the requirements of this paragraph C, then a part of a listed township shall be conveyed from lands adjacent to lands already conveyed.

D. For the purposes of counting acres received in computing statutory entitlement under paragraphs B and C the Secretary shall count the number of acres surrendered by Village Corporations in any exchange for any other lands or selection rights, not the number of acres received in such exchange.

E. In the event it is finally determined that the Secretary has conveyed more land to CIRI pursuant to this Agreement than the Village Corporations are actually entitled to receive under Section 12 of the Alaska Native Claims Settlement Act (ANCSA), when added to lands otherwise received by such Village Corporations, the excess acreage shall be retained by CIRI and shall be charged against CIRI's entitlement under Section 12(c) of the Settlement Act; however, if the provisions of Section 12 of P.L. 94-204 take effect, such excess acres shall be regarded as conveyances of land outside the boundaries of Cook Inlet Region pursuant to Paragraph I(C) (1) of the Terms and Conditions incorporated in that Act and out-of-region entitlements will be adjusted accordingly.

F. Only the following lands shall be conveyed to Village Corporations within Cook Inlet Region:

1) Valid selections made by any Village Corporation within an area withdrawn by Section 11(a) (1) and (2) of the Settlement Act;

2) Valid selections made by Eklutna, Inc., from lands withdrawn by Public Land Order (PLO) 5174, as amended by PLO 5425;

3) Lands conveyed by CIRI pursuant to this section; and pursuant to the Terms and Conditions as clarified August 31, 1976.

G. CIRI shall have the power to administer the lands conveyed pursuant to this Agreement in accordance with the Region-Village agreement attached as Appendix B.

H. Lands authorized to be conveyed pursuant to this Agreement shall be subject to the administration of the Secretary and his authority to make contracts and to grant leases, permits, right-of-way or easements shall not be impaired prior to conveyance to CIRI pursuant to this Agreement. Any proceeds derived from such administration shall be held and disbursed in the same manner as proceeds under Section 2 of P.L. 94–204.

I. Title to lands and interests in lands conveyed within the exterior boundaries of Power Site Classification 443, February 13, 1958, will be subject to the reservations required by Section 24 of the Federal Power Act (16 U.S.C. 818).

J. As soon as is reasonably possible after all lands to be conveyed in any of the separate geographical areas have been conveyed under this authority by the Secretary, the Secretary shall survey those lands in accordance with Section 13 of ANCSA, except that for the purposes of this Section, he shall survey only the exterior boundaries of each entire area conveyed to CIRI and monument the boundary lines at angle points and at intervals of approximately two miles on straight lines. Each township corner located within the exterior boundaries of the land conveyed shall be located and monumented.

K. Except as provided herein, conveyances to CIRI and reconveyances from CIRI to its Village Corporations under this Agreement shall be considered conveyances under ANCSA.

L. If the provisions of Section 12 of P.L. 94–204 take effect, the following lands, which are also described in Appendix C to this Agreement, shall only be conveyed to CIRI where there are Section 12(a) selections on file with the Bureau of Land Management, December 18, 1974, within such lands or where the provisions of Section 12 of P.L. 94–204 permit conveyance:

(i) lands within withdrawals in the Talkeetna Mountains; and

(ii) lands from within Village and Region withdrawals on the West Coast of the Cook Inlet Region which lands lie between Township 4 South and Township 2 North, Seward Meridian, generally known as the Chinitna Peninsula; and

(iii) lands South of Township 8 South in areas withdrawn on the West Coast of the Cook Inlet; and

(iv) lands within the Lake Clark, Lake Kontrashibuna and Mulchatna River withdrawals.

M. (1) This Agreement shall become effective at such time as the Secretary has statutory authority to convey lands to Cook Inlet Region, Inc., in the manner prescribed in this Agreement.

(2) The draft legislation attached as Appendix D provides sufficient statutory authority to convey lands to Cook Inlet Region, Inc., in the manner prescribed in this Agreement.

Thomas S. Kleppe,
Secretary of the Interior.
Roy M. Huhndorf,
President Cook Inlet Region, Inc.

Appendix A

A. Talkeetna Mountains

SEWARD MERIDIAN, ALASKA

T. 33 N., R. 1 E., Secs. 25, 26, 34 and 35.
T. 33 N., R. 2 E., Sec. 30, all.
T. 32 N., R. 1 W., Secs. 5–10, all, Secs. 13–36 all.
T. 32 N., R. 1 E., Secs. 3, 4, 7–9, all; Secs. 18, 19, 30–34, all.
T. 32 N., R. 2 E., Secs. 22, 27, 32–36, all.
T. 32 N., R. 4 E., Secs. 25, 34–36, all.
T. 32 N., R. 5 E., Secs. 25–28, 30–36, all.
T. 32 N., 26 E., Secs. 25–29, 31–32, 36, all.
T. 32 N., R. 7 E., Secs. 30–31, all.
T. 31 N., R. 1 W., Secs. 1–3 all.
T. 31 N., R. 1 E., Secs. 1–6 all.
T. 31N., R. 2 E., Secs. 1, 4–6, 12–13, 24, all.
T. 31 N., R. 3 E., Secs. 13–27, 35–36, all.
T. 31 N., R. 4 E., Secs. 2–3, 9–10, 15–16, 19–21, 31, all.
T. 31 N., R. 5 E., Secs. 3–4, 9–11, 13–16, all.
T. 30 N., R. 2 E., Secs. 23–25, 34–36, all.
T. 30 N., R. 3 E., Secs. 1–3, 9–12, 15–17, 19–21, Secs. 30–31, all.
T. 29 N., R. 1 E., Secs. 25, 36, all.
T. 29 N., R. 2 E., Secs. 1–2, 10–11, 15–16, 20–21, 29–30, all.

B. Talkeetna Mountains. Up to 103,680 acres to be conveyed from lands in this subsection B.

SEWARD MERIDIAN, ALASKA

T. 32 N., R. 6 E., Secs. 33–35 all.
T. 32 N., R. 7 E., Sec. 32 (south of Susitna River).
T. 31 N., R. 1 W., Secs. 4–12 all.
T. 31 N., R. 1 E., Secs. 7–12 all.
T. 31 N., R. 2 E., Secs. 2–3, 7–11, 14–15, 22–23, all, Secs. 25–6, 35–36, all.
T. 31 N., R. 3 E., Secs. 8–34, all.
T. 31 N., R. 4 E., Secs. 1, 11–14, 22–30, 32–36, all.
T. 31 N., R. 5 E., Secs. 1–2, 5–8, 12, 17–24, 26–34, all.
T. 31 N., R. 6 E., Secs. 1–8, 17–18, all.
T. 31 N., R. 7 E., Secs. 2–6, 11–12, all (south of the Susitna River).
T. 30 N., R. 2 E., Secs. 1–2, 11–14, 26, all;
T. 30 N., R. 3 E., Secs. 4–8, 13–14, 18, 22, 28–29, 32, all.
T. 30 N., R. 4 E., Secs. 1–9, all.
T. 30 N., R. 5 E., Secs. 5–6, all.
T. 29 N., R. 1 E., Secs. 13, 23–24, 26–29, 33, 35, all.
T. 29 N., R. 2 E., Secs. 3–4, 8–9, 12–14, 17–19, all Secs. 22–28, 31–33, 36, all.
T. 29 N., R. 3 E., Secs. 5–8, all.

C. North Tuxedni

SEWARD MERIDIAN, ALASKA

T. 4 N., R. 21 W., Secs. 14–15, 23–25, all.
T. 4 N., R. 20 W., Secs. 30–33, all.
T. 4 N., R. 19 W., Secs. 21–22, 25–27, all
T. 4 N., R. 18 W., Secs. 4, 9, 16–17, 20–21, 28–33, all.
T. 3 N., R. 20 W., Secs. 2–11, 13–15, 22–25, 36, all.
T. 3 N., R. 19 F., Secs. 19, 25–36, all.
T. 3 N., R. 18 W., Secs. 1–6, 8–12, 14–17, 21–22, 27–34, all.
T. 3 N., R. 17 W., Secs. 5–7, all.
T. 2 N., R. 21 W., Secs. 2–3, 11, 13–15, 23–26, all.
T. 2 N., R. 20 W., Secs. 13–30, 32–35, all.
T. 2 N., R. 19 W., Secs. 1–23, 27–34, all.
T. 2 N., R. 18 W., Secs. 3–8, all.

D. Iniskin.

SEWARD MERIDIAN, ALASKA

T. 3 S., R. 23 W., Secs. 4–8, 13, 16–17, 20–21, 24–29, all, Secs. 31–36, all.
T. 4 S., R. 24 W., Secs. 12–14, 23–24, all.
T. 4 S., R. 23 W., Secs. 1–4, 7–9, 14–35, all.
T. 4 S., R. 22 W., Secs. 14–36, all.
T. 5 S., R. 26 W., Secs. 29–30, 32–35, all.
T. 5 S., R. 25 W., Secs. 1–2, 10–15, 23–24, all.
T. 5 S., R. 24 W., Secs. 1–2, 6–7, 10–15, 22–28, 33–35, all.
T. 5 S., R. 23 W., Secs. 1–15, 17–35, all.
T. 5 S., R. 22 W., Secs. 3–10, 16–21, 28–33, all.
T. 6 S., R. 26 W., Secs. 1–2, 12–13, 20–29, all.
T. 6 S., R. 25 W., Sec. 6, all.
T. 6 S., R. 24 W., Secs. 1–5, 8–23, 26–28, all.
T. 6 S., R. 23 W., Secs. 1–12, 14–22, 29–30, all.
T. 6 S., R. 22 W., Secs. 5–6, all.
T. 7 S., R. 26 W., Secs. 12–13, 20–24, 29, all.

E. Iniskin

SEWARD MERIDIAN, ALASKA

T. 4 S., R. 24 W., Secs. 19–22, 25–36, all.
T. 5 S., R. 24 W., Secs. 3–5, 8–9, 16–18, 21, all.
T. 5 S., R. 25 W., Secs. 3–9, 16–17, 20–22, 25–29, 31–36, all.
T. 6 S., R. 26 W., Secs. 3, 10–11, 14–15, 34–36, all.
T. 6 S., R. 25 W., Secs. 1–5, 7–23, 27–32, all.
T. 7 S., R. 25 W., Secs. 4–9, 17–20, all.
T. 7 S., R. 26 W., Secs. 1–11, 14–19, all.

APPENDIX B—ANCSA SECTION 12(A) CONVEYANCE AGREEMENT BETWEEN COOK INLET REGION, INC., AND THE VILLAGE CORPORATIONS OF NINILCHIK, KNIKATNU, ALEXANDER CREEK SALAMATOFF, TYONEK, CHICKALOON AND SELDOVIA

Whereas

1. There have arisen certain questions about the validity of selections of the Village Corporations in Cook Inlet Region in areas withdrawn by the Secretary under Section 11(a)(3) of ANCSA; and

2. Both the Cook Inlet Region and the Village Corporations desire a legislative resolution that shall insure that the Village Corporations receive their statutory entitlement under ANCSA; and

3. A legislative resolution has been proposed that would assure rapid conveyance to the Region and the Village Corporation of many lands within such deficiency areas; and

4. Such a resolution can be accompanied by fair administration of such lands by Cook Inlet Region and reconveyance to the Village Corporation as rapidly as possible:

It is therefore agreed that:

1. Cook Inlet Region, and the undersigned (hereinafter referred to as Village Corporations) support the legislation attached as Appendix A to this agreement or a version substantially conforming thereto;

2. There shall be formed a Board with one representative from each of the Village Corporations that has selected lands under Section 12(a) within the areas to be conveyed to Cook Inlet Region under the legislation described in Appendix A. It shall be the function of this Board exclusively to exercise the consent powers described in Paragraph 3(C) of this Agreement. Each Village Corporation shall designate its own representative to the Board. The term of the Board shall expire at the time total 11(a)(3) conveyance as required by ANCSA has been received by all of the affected Village Corporations party to this agreement. The operation of the Board shall be governed by bylaws established within one year hereof. In the event of disagreement, the matter shall be arbitrated under the rules of the American Arbitration Association.

3. Upon receipt of a conveyance of such deficiency land from the Secretary of the Interior pursuant to the legislation attached as Appendix A, Cook Inlet Region will reconvey the surface estate to such land to the Village Corporation entitled thereto under their Section 12(a) selections as rapidly as possible, guided by the following standards:

A. Unless the affected Village Corporations otherwise agree, their Section 12(a) selections, including the specific tract selected and the priorities listed in those selections, shall govern.

B. Where there is no conflict among the Village Corporations arising from the alternate methods of filing (Methods A, B, C and D), see Appendix B, and where it is clear that a Village Corporation will be eligible for the land and will reach the parcel in its priorities, the Region shall immediately reconvey the land, such reconveyance to be made within 10 working days of receipt of such conveyance to the Region from the Secretary.

C. Where, as a result of conflict in the above-stated Section 12(a) filings or where, as a result of outstanding litigation concerning Village Corporation eligibility, status of Mental Health lands, or other similar conflicts, the right of a Village Corporation to immediate reconveyance is not certain, Cook Inlet Region shall hold and administer the lands to which the Village Corporation will ultimately be entitled in trust for the benefit of such Village Corporations, with the following limitations:

(i) Cook Inlet Region shall not develop or cause to be developed any portion of the surface or subsurface estate of any such lands held in trust by the Region without the consent of the Board described in Paragraph 2.

(ii) Such provisions shall apply until the Section 12(a) entitlement of the Village Corporations is satisfied.

D. Cook Inlet Region shall reconvey such lands as soon as the uncertainties are resolved.

4. Conveyance of lands under any of the formulas (A, B, C and D) will result in isolated islands of land without access to such lands. In order to guarantee access for each of the affected villages, the Board, as described in Paragraph 2 shall within one year adopt an intervillage access easement agreement satisfactory to all villages party to this agreement. In the event the parties cannot reach such an agreement in the time allowed them, they shall arbitrate in accordance with the rules of the American Arbitration Association.

5. Except as specifically provided in this agreement, the provisions of ANCSA are fully applicable to this agreement, such provisions to be insured by the legislation attached.

APPENDIX C

A. Tuxedni, South (Priority One lands)

SEWARD MERIDIAN, ALASKA

T. 2 N., R. 21 W., Secs. 10, 16, 20–21, 27–28, 33–34, all.

T. 1 N., R. 20 W., Secs. 6–10, 15–16, 22–26, 35–36, all.

T. 1 S., R. 21 W., Secs. 13–14, 23–25, all.

T. 1 S., R. 20 W., Secs. 1–4, 9, 12, 21, 27–34, all.

T. 1 ., R. 19 W., Secs. 7–8, 17–18, 20, 29, 32, all.

T. 2 S., R. 21 W., Sec. 36, all.

T. 2 S., R. 20 W., Secs. 1–3, 10–15, 22–24, 26–28, 31–34, all.

T. 2 ., R. 19 W., Secs. 5–7, 18, all.

T. 3 S., R. 21 W., Secs. 12–16, 19–36, all.

T. 3 S., R. 20 W., Secs. 3–10, 15–21, 30, all.

B. Kakhonak Lake and Bruin Bay (Priority Two elections)

SEWARD MERIDIAN, ALASKA

T. 7 S., R. 29 W., Secs. 1, 11–12, 14–16, 21–23, all.

T. 7 S., R. 28 W., Secs. 1–2, 4–7, 10–11, 14–15, 21–22, all, Secs. 28–29, 31–33, all.

T. 8 S., R. 29 W., Secs. 1, 3–5, 8–20, all.

T. 8 S., R. 28 W., Secs. 5–7, all.

T. 9 S., R. 28 W., Secs. 1, 12, all.

T. 9 S., R. 27 W., Secs. 6, 7, all.

C. Lake Clark (Priority Three Section lands)

SEWARD MERIDIAN, ALASKA

T. 11 N., R. 28 W., Secs. 16–27, all.

T. 3 N., R. 29 W., Secs. 1, 25–27, 33–36, all.

T. 3 N., R. 28 W., Secs. 5–8, 13–14, 17–18, 20–23, 25–26, all, Secs. 28–32, all.

T. 2 N., R. 30 W., Secs. 2–3, 11–14, 23–27, 33–36, all.

T. 2 N., R. 29 W., Secs. 1–5, 7–12, 16–21, 24–25, all, Secs. 29–30, 35–36, all.

T. 2 N., R. 28 W., Secs. 1, 6, 11–15, 19–23, 26–32, all.

T. 2 N., R. 27 W., Secs. 2–8, 10–14, all.

T. 2 N., R. 26 W., Sec. 18, all.

T. 1 N., R. 29 W., Secs. 1–4, 8–23, 29–30, all.

T. 1 N., R. 28 W., Secs. 1–2, 7–12, 16–18, all.

T. 1 N., R. 27 W., Secs. 7–8, 16–18, 20–23, 25–26, 36, all.

T. 1 N., R. 26 W., Sec. 31, all.

T. 1 S., R. 29 W., Secs. 25–27, 33–36, all.

T. 1 S., R. 28 W., Secs. 30–36, all.

T. 1 S., R. 27 W., Secs. 31–32, all.

D. South Tuxedni (Priority Six lands)

SEWARD MERIDIAN, ALASKA

T. 1 N., R. 20 W., Secs. 17–21, 27–34, all.

T. 1 S., R. 20 W., Secs. 5–8, 16–20, 35, 36, all.

T. 1 S., R. 19 W., Secs. 19, 30, 31, all.

T. 1 S., R. 21 W., Secs. 1, 2, 11, 12, 26 27, 34, 35, 36, all.

T. 2 S., R. 20 W. Secs. 4–6, 8, 9, 16, 17, 20, 21, 29, all.

T. 2 S., R. 21 W., Secs. 1–3, 10–12, 14, 29–32, all.

T. 3 S., R. 21 W., Secs. 1, 2, 5–11, 17, 18, all.

E. North Tuxedni (Priority Four lands)

SEWARD MERIDIAN, ALASKA

T. 4 N., R. 18 W., Secs. 5–8, 18, 19, all.

T. 4 N., R. 19 W., Secs. 1–2, 10–14, 17–20, 23–24, all, Secs. 28–29, 33–36, all.

T. 4 N., R. 20 W., Secs. 28 and 34, all.

T. 3 N., R. 18 W., Secs. 7, 18–20, all.

T. 3 N., R. 19 W., Secs. 1–2, 12–13, 15, 17–18, 20–24, all.

T. 3 N., R. 20 W., Secs. 12, 26, 27, 35, all.

T. 3 N., R. 21 W., Secs. 31–35, all.

T. 2 N., R. 20 W., Secs. 1, 7–12, all.

T. 2 N., R. 21 W., Sec. 12, all.

F. Iniskin (Priority Five lands)

SEWARD MERIDIAN, ALASKA

T. 3 S., R. 23 W., Secs. 18, 22–23, all.

T. 4 S., R. 24 W., Secs. 1–2, 11, all.

T. 4 S., R. 23 W., Secs. 5–6, all.

T. 5 S., R. 26 W., Secs. 25–28, 31, 36, all.

T. 5 S., R. 25 W., Sec. 30, all.

T. 6 S., R. 26 W., Secs. 19, 30–33, all.

T. 7 S., R. 26 W., Secs. 30–31, all.

G. Kakhonak Lake and Bruin Bay (Priority Seven lands)

SEWARD MERIDIAN, ALASKA

T. 7 S., R. 29 W., Secs. 2–10, 13, 17–20, 24–36, all.

T. 7 S., R. 28 W., Secs. 3, 8–9, 12–13, 16–20, 23–27, all, Secs. 30, 34–36 all.

T. 7 S., R. 27 W., Secs. 1–2, 11–12, 13–14, 23–32, 36, all.

T. 8 S., R. 29 W., Secs. 2, 6–7, 21–32, all.

T. 8 S., R. 28 W., Secs. 1–4, 8–30, 34–36, all.

T. 8 S., R. 27 W., Secs. 1, 5–8, 12–13, 17–20, 24–24, all, Secs. 29–32, 34–36, all.

T. 8 S., R. 26 W., Secs. 5–9, 16–21, 28–32, all.

T. 9 S., R. 30 W., Secs. 1–36, all.

T. 9 S., R. 29 W., Secs. 7, 18–36, all.

T. 9 S., R. 28 W., Secs. 2–5, 8–11, 13–23, 26–35, all.

T. 9 S., R. 27 W., Secs. 1–5, all.

T. 10 S., R. 30 W., Secs. 1–36, all.

T. 10 S., R. 29 W., Secs. 1–23, 26–34, all.

T. 10 S., R. 28 W., Secs. 4–8, all.

T. 11 S., R. 30 W., Secs. 3, 10, 15, 22, 25–27, 34–36, all.

T. 11 S., R. 29 W., Secs. 3, 10, 15–16, 20–23, 26–33, all.

H. Lake Clark (Priority Eight lands)

SEWARD MERIDIAN, ALASKA

T. 3 N., R. 29 W., Secs. 2, 10–12, 14–15, 22–23, 28, all.

T. 3 N., R. 28 W., Secs. 9, 12, 15–16, 19, all.

T. 2 N., R. 30 W., Secs. 15–17, 19–22 28–32, all.

T. 2 N., R. 28 W., Secs. 25, 34–36, all.

T. 2 N., R. 27 W., Secs. 9, 24, all.

T, 2 N., R. 26 W., Secs. 1, 2, 8–11, 16–17, 19–20, all, Secs. 28–30, 33–36 all.

T. 1 N., R. 29 W., Secs. 24, 26, 35, all.

T. 1 N., R. 28 W., Secs. 3, 13, 15, 19–20, all.

APPENDIX D

SEC. 4. (a) The Secretary is authorized to convey lands selected by Village Corporations within Cook Inlet Region to the Cook Inlet Region, Incorporated, for reconveyance by the Region to such Village Corporations. Such lands shall be conveyed as partial satisfaction of the statutory entitlement of such Village Corporations under section 12 of the Alaska Native Claim Settlement Act (ANCSA) from lands withdrawn pursuant to section 11(a)(3) and, with the consent of the Region affected, as provided in section 12 of P.L. 94–204, from lands outside the boundaries of Cook Inlet Region. This authority shall not be employed to increase or decrease the statutory entitlement of any Village Corporation or Cook Inlet Region, Incorporated, under ANCSA or to alter the obligations of the Secretary pursuant to section 12 of P.L. 94–204. For the purposes of counting acres received in computing statutory entitlement, the Secretary shall count the number of acres or acre selections surrendered by Village Corporations in any exchange for any other lands or selections.

(b) After lands have been conveyed by the Secretary under subsection (a), the Secretary shall survey those lands in accordance with section 13 of ANCSA, except that for the purposes of this section he shall survey only the exterior boundaries of each entire area conveyed to Cook Inlet Region, Incorporated, and monument the boundary lines at angle points and at intervals of approximately two miles on straight lines. Each township corner located within the exterior boundaries of the land conveyed shall be located and monumented.

(c) Conveyances made under the authority of subsection (a) of this section shall be considered conveyances under ANCSA and subject to the provisions of that Act, except as provided by this Act.

Mr. ABOUREZK. Mr. President, I note the lands to be withdrawn are to be of "comparable value." This is a new term in the context of the Alaskan Native Claims Settlement Act. What are the Senator's views on the meaning of this term?

Mr. GRAVEL. By this phrase, Senator Stevens and I mean surface values only. We have added the phrase "to the extent possible" so as to make the provision more workable.

Mr. President, the first four items contained in my amendment to the bill I introduced in July to insure the right of the village of Klukwan, Alaska to select adequate and suitable lands under the terms of the Alaska Native Claims Settlement Act of 1971 have been requested by the committee to improve the form of the bill reported by the committee on August 26.

The next two items are more substantive in nature. The first amendment, modifies the bill at line 14 on page 2 to add a provision that the Secretary of Interior will consult with the Secretary of Agriculture in the process of withdrawing lands for selection by the village of Klukwan. This is designed to respond to the concerns of the U.S. Forest Service since lands ultimately conveyed to the Klukwan people will be from the Tongass National Forest. It must be understood however that the Secretary of Interior retains absolute and ultimate authority for the withdrawal for selection and conveyance of the lands due to the Klukwan Natives.

The last amendment to the Klukwan portion of the bill is in response to a suggestion by the Department of the Interior. The bill is modified at line 12, page 3 to add the terms "to the extent possible" in defining the value characteristics of the lands to be selected by the Klukwan Corp. It is recognized that lands of absolutely comparable value to those of the Chilkat Valley surrounding the village may not be found. The intent is for lands to be withdrawn for selection which are as close in value as is possible.

In the process of reviewing the legislation before us the State of Alaska expressed concern over the possibility of conflicts developing over the selection plans of the Klukwan people and the State of Alaska—as the State finalizes its land selections under the Statehood Act for public and community expansion lands from the Tongass National Forest. Rather than amend the bill further the Klukwan Village Corp., and the State of Alaska Department of Natural Resources have entered into an agreement providing for close consultation and mutual agreement on lands to be selected. To support the record of consideration of the bill I ask that the agreement be printed in the Record.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

Memorandum of Understanding and Agreement Between the State of Alaska and Klukwan, Inc.

The State of Alaska and Klukwan, Inc., recite their joint understanding of facts and agreement as follows:

1. There is presently pending before Congress a bill, S. 3651, which authorizes the Secretary of the Interior to withdraw 70,000 acres of public lands located in the Tongass National Forest and further authorizes Klukwan, Inc. to select from the lands withdrawn by the Secretary, 23,040 acres as its entitlement under the Alaska Native Claims Settlement Act.

2. On or about August 4, 1976 this bill was reported out of the Senate Interior Committee and will now be placed on the consent calendar for approval by the full Senate.

Both Klukwan, Inc. and the State of Alaska desire that this bill should be approved by Congress during this session and therefore do not wish to take any action, including amendment of the bill on the Senate floor, which might delay or jeopardize its passage.

4. The bill does not prevent the withdrawal by the Secretary of the Interior and selection by Klukwan, Inc. of areas in the Tongass National Forest which have been selected by the State of Alaska, or which may in the future be selected by the State of Alaska, in fufillment of Alaska's entitlement to land under the Alaska Statehood Act.

5. The State of Alaska has expressed its concern to Klukwan, Inc. that the bill does not adequately protect the State's interest to present and possible future land selections of the State of Alaska. Accordingly, representatives of Klukwan, Inc. and the State of Alaska have met to discuss an agreement satisfactory to both parties, and do hereby agree as follows:

A. The State of Alaska agrees it will not seek to have the bill amended, or take any other action which may jeopardize passage of the bill.

B. Klukwan, Inc. agrees that it will nominate for withdrawal by the Secretary of the Interior lands in three areas, namely the Endicott River area, the Port Houghton area and the South Prince of Wales Island area (which are depicted on the maps accompanying this agreement and hereby made a part of this agreement). If Klukwan is unable to nominate one or more of the three areas, Klukwan and the Governor of the State of Alaska or his designee shall consider and thereafter mutually consent in writing to other areas of comparable size.

C. Klukwan, Inc. further agrees that if the Secretary of Interior withdraws lands other than those described in paragraph B of this agreement, Klukwan, Inc. will not make any selection from such withdrawal without the written consent of the Governor of the State of Alaska or his designee. Such written consent shall not be unnecessarily withheld.

6. The Parties to this agreement represent to each other that they have the full power and legal authority to enter into this agreement.

7. Any amendments to this agreement shall be made only in writing and signed by both parties hereto.

Mr. GRAVEL. Mr. President, I would like to defer to my colleague from Alaska, for an explanation of the remaining portions of our amendment. These sections of the amendment pertain to the very important negotiated land exchange worked out between the State of Alaska, the Department of Interior and the Cook Inlet Regional Corp. last December. The amendments are necessary to make technical corrections and clarifications in the Federal law implementing that agreement.

Mr. STEVENS. Mr. President, I wish to thank Senator Gravel. We have worked together on this bill and these important amendments and I want to assure the Senate we in Alaska strongly support this effort.

The last four sections of the amendment proposed by Senator Gravel were suggested by the Department of the Interior with the concurrence of the State of Alaska and the Cook Inlet Region Inc. They arose out of the enactment by the Congress last year of the land exchange among these three parties which corrected certain inequities in the original Claims Act.

The first of these four amendments would authorize the transfer of land near Anchorage to the State to build a north-south runway at Anchorage International Airport. This runway is vitally needed since this airport has been declared inadequate by the Air Line Pilots Association. I have communications from the State and airline pilots on the problem which I would ask be placed in the Record following my statement. Yet, construction cannot proceed until the Congress makes this minor change.

After the House passed the legislation last year which authorized the land exchange among Cook Inlet Region, the State and the Federal Government, several errors occurred in printing the agreement. The second of these four items ratifies and clarifies that agreement so the meaning is clear.

I believe this material has already been made a part of the Record.

The third of the Interior Department proposed amendments deals with a complicated village selection problem which confronted the Cook Inlet region and its villages. It allows the Secretary to make an agreement with Cook Inlet to convey all village land to the region which would reconvey it to the villages. This eliminates some concern by the Bureau of Land Management about this process which is necessary for these villages to obtain their land.

The final section of the amendment provides for the immediate conveyance to Cook Inlet region of a small tract of surplus Federal land near Anchorage. This land is the land the region would have gotten under the normal course of the land exchange. This amendment only provides Cook Inlet with some of its land more quickly.

I urge the Senate to adopt these amendments and the bill. They are needed now.

I ask unanimous consent that the agreements be printed in the Record.

There being no objection, the communications were ordered to be printed in the RECORD, as follows:

[Telegram]

ANCHORAGE, ALASKA.

HON. TED STEVENS,
Capitol Hill, D.C.

We wish to urge the strongest possible support for the amendment to P.L. 94–204 which would result in the conveyance of lands on Pt. Woronzof to the State to accommodate construction of a new north/south runway at Anchorage International Airport.

This runway project has been subjected to exhaustive environmental studies, consideration of alternatives, public hearings, etc. The State and Federal planning professionals and the Air Line Pilots Association are in agreement that the optimum alternative has been selected. The need is well documented. In recent years there have been several accidents involving jet transports at other airports that encountered severe wind shear near the runway, such as is known to occur here. The new runway would make it possible to avoid this exposure. Lack of the runway has resulted in the Air Line Pilots Association giving Anchorage International Airport a black star rating, a designation applied to those airports judged to be the most seriously deficient from a safety standpoint. Your continued support will be greatly appreciated.

PATRICK P. RYAN,
Director, Division of Aviation.

AIR LINE PILOTS ASSOCIATION,
Washington, D.C., September 1, 1976.

HON. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: The Air Line Pilots Association, which represents over 37,000 U.S. commercial pilots, is in strong support of your amendment to S. 3651, which will facilitate the construction of a new north-south runway at Anchorage International Airport. Enactment of this amendment should clear the way for the start of construction of this runway which is so desperately needed to bring the safety standards of Anchorage International up to an acceptable level.

For a number of years, pilots from U.S. and foreign airlines have spoken out publicly concerning the hazardous conditions associated with landings and take-offs on Runway 6/24, which is the only runway at Anchorage adequate to handle large, high-performance jet aircraft. Use of Runway 6/24 often exposes these aircraft to dangerous wind shear and crosswind situations.

In letters to you and the governor of Alaska on September 15, 1975, I outlined in some detail the catastrophic potential of the conditions existing at Anchorage International. I pointed out in my letter that the wind shears at Anchorage are particularly complex, and that there is considerable air turbulence throughout the entire terminal area. The dangers posed by these two atmospheric factors are exacerbated by the necessity for large jet aircraft to use Runway 6/24 which is often subject to severe crosswinds.

These hazardous conditions can only be alleviated by the construction of the proposed north-south runway (14/32), which pilots of all nations whose carriers serve Anchorage have long advocated. This new runway will be best suited for the prevailing wind conditions at Anchorage International. Your amendment is absolutely necessary to permit the State of Alaska to proceed with this construction project, and we strongly urge its adoption by the Senate.

Sincerely,

J. J. O'DONNELL,
President.

SEPTEMBER 15, 1975.

HON. TED STEVENS,
U.S. Senate,
Russell Building,
Washington, D.C.

DEAR SENATOR STEVENS: I am writing to you as President of the Air Line Pilots Association regarding our views on the Environmental Impact Statement associated with the construction of a new runway and a related safety hazard at Anchorage International Airport.

The safety hazard is the result of runway requirements and prevailing wind conditions at Anchorage. Since Runway 13/31 is not adequate for large high performance jet aircraft, these aircraft are forced to use runway 6/24. Use of Runway 6/24 exposes these aircraft to dangerous wind shear and crosswind situations.

Pilots from many U.S. and foreign air carriers gave testimony during the hearings on the Environmental Impact Statement for Anchorage Airport. These pilots recounted their experiences and offered expert opinions concerning construction of a new runway at this airport. They did this at their own expense because they are so deeply concerned about the serious safety hazard which now exists at Anchorage International.

During this hearing, the term wind shear appeared frequently in the testimony given by the airline pilots. These pilots described many incidents and problems associated with the strong wind and turbulence, which exist on the approach path to Runway 6/24.

To illustrate the catastrophic potential of the conditions existing at Anchorage Airport, I am enclosing an NTSB Accident Report which lists wind shear as a probable cause. For your convenience, and in an effort to make reading of this report easier, we have marked the areas of the NTSB report which have particular importance. Also enclosed is a list of additional wind shear related accidents.

As you read this report, certain aspects of the comparison we wish to make must be given due consideration. The airport at which this accident occurred has very little turbulence in the final approach area, whereas Anchorage International is infamous for the turbulence which is present throughout the entire terminal area. The aircraft described in this report had no crosswind or icy runway conditions with which to contend; however, these conditions are quite prevalent at Anchorage. The wind shear described in this report is of a horizontal nature; wind shears at Anchorage are of a complex nature. Often, pilots find two or three horizontal shears associated with numerous severe vertical shears and wind gusts which increase in intensity as an aircraft approaches Runway 6/24 at Anchorage.

It is for these reasons that we are appealing to you, as a representative of the people, to do all in your power to bring Anchorage International Airport up to the safety standards that our passengers expect and deserve. This can only be accomplished through the construction of a new runway. This new runway (14/32) will be best suited for the prevailing wind conditions at Anchorage.

The responsibility for the safety of our passengers is not ours alone, but must be shared by you as an elected representative. By providing a safe airport, you are upholding the public trust placed in you as a representative of the people.

The Air Line Pilots Association stands ready to support your efforts in working toward a solution of this problem.

Sincerely,

J. J. O'DONNELL,
President.

Enclosures.

LIST OF PROBABLE WIND SHEAR ACCIDENTS—UNDERSHOOTS ONLY

TXI DC–9, Austin, December 26, 1968.
FTL DC–8, Naha, July 27, 1970.
NAL B–727, New Orleans, July 26, 1972.
TWA B–707, JFK Airport, December 12, 1972.
Airlift DC–8, Chicago, June 15, 1973.
OZA FH–227, St. Louis, July 23, 1973.
DAL DC–9, Chattanooga, July 31, 1973.
Iberia DC–10, Boston, December 17, 1973.
FAA DC–3, La Guardia Airport, January 4, 1974.
PAA B–707, Pago-Pago, January 30, 1974.
CAL B–727, El Paso, June 29, 1974.
EAL B–727, JFK Airport, June 24, 1975.

Mr. ABOUREZK. Mr. President, each member of the Interior and Insular Affairs Committee today received a letter from the Chief of the Forest Service, John R. McGuire, in which he took issue with S. 3651. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., September 1, 1976.

HON. HENRY S. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate

DEAR MR. CHAIRMAN: On August 26, the Committee on Interior and Insular Affairs filed its report on S. 3651, a bill "To amend the Alaska Native Claims Settlement Act to provide for the withdrawal of lands for the village of Klukwan, Alaska."

Under the bill, the lands to be withdrawn must be located in southeastern Alaska and be of similar character and comparable value to traditional lands of Klukwan village. S. 3651 would require the withdrawal of 70,000 acres from which Klukwan village would select and receive 23,040 acres within one year from the date of enactment. It is more likely that the lands would be selected from the Tongass National Forest.

The Committee's report on S. 3651 indicates that agency views were not received. We would like to point out that the Committee did not request this agency's views and considered the legislation in such a short time frame that we could not volunteer our views prior to full Committee consideration. Although the Committee has filed a favorable report on the bill, we would like to make the Committee aware of our concerns about this legislation. These concerns involve three basic principles and the potential for establishing undesirable precedents.

First, in contrast to the Settlement Act, S. 3651 would permit a Village Corporation to select lands outside its traditional village area. Secondly, the bill would establish the concept that a Village Corporation is entitled to lands of similar character and comparable value to traditional lands—criteria that do not now exist in the Act. Furthermore, the bill does not define "similar character and comparable value" and thus would enhance the possibility of additional litigation. Third, S. 3651 would permit an exception to the procedures of the Act, providing possible further encouragement to other villages to change their settlements to more desirable terms. This could lead to endless adjustments.

This latest proposal by Klukwan Village Corporation is an excellent illustration of the unnecessary difficulties created by premature adjustments in the terms of the settlement and of the need to adhere to the procedures and terms of the settlement as provided in the Alaska Native Claims Settlement

Act, as amended. It was just one year ago that Klukwan proposed, and the Congress enacted, an amendment to the Act which Klukwan stated would resolve its difficulties. The Department of Agriculture had no objection to the proposal because it did not impact the responsibilities of the Forest Service nor appear to involve any of the principles of potential precedents which now concern us. Now Klukwan contends that the recent action by the Congress is not sufficient.

The recurring, piecemeal attempts to make adjustments in the settlement has created one administrative and litigative crisis after another, resulting in repeated delays in implementing the Act. We continue to believe that the best course is to proceed as quickly and deliberately as possible to complete the settlement as provided for in the Act and that a thorough analysis of any difficulties or inequities then be made and administrative and legislative remedies undertaken at that time.

We are sending copies of this letter to all other members of the Committee in order to advise them of our concerns.

Sincerely,

JOHN R. MCGUIRE,
Chief.

Mr. ABOUREZK. The Chief expressed three concerns:

First, the Chief noted that the legislation had been reported by the committee without agency views and in a short time frame. The Chief is correct that the measure was reported without agency views. This was an oversight and we regret its occurrence. However, it was not considered in haste. In the June 14, 1976, oversight hearing on the implementation of the Alaska Native Claims Settlement Act the committee took extensive testimony on the land selection problems of the village of Klukwan. At that time, the specific language on S. 3651 was presented to the committee by the representatives of Klukwan, Inc., and incorporated in the hearing report. During the hearing the two Alaska Senators who sponsored S. 3651 announced their intention to introduce it. The committee hearing was monitored by a representative of the Forest Service.

Second, the Chief takes issue with the criteria for land selection in S. 3651. He states that the criteria—"lands of similar character and comparable value"—do not exist in the Alaska Native Claims Settlement Act and may be subject to extensive litigation. The Chief is only partially correct. The "similar character" criterion is found in section 11(a)(3)(A) of the Settlement Act. It is the criterion for withdrawing deficiency lands—the very act required of the Secretary in S. 3651. I agree that the criterion "comparable value" is not found in the bill and, without change, could be subject to litigation. It is my understanding, however, that the Senators from Alaska have offered amendments to S. 3651 and among them is an amendment which will add "to the extent possible" after "comparable value". I believe this addition will reduce substantially the possibilities of litigation.

Finally, the Chief suggests that "recurring, piecemeal" amendments to the Settlement Act to permit additional land selections by various Native corporations may go on unended. His judgment on this matter is incorrect. First the committee's efforts to assist Native corporations to obtain land under the Settlement Act can hardly be described as piecemeal. It is somewhat amazing to me that a law as complicated and as far-reaching as the Settlement Act has required ony two further amendatory acts. On January 2, 1976, the first set of amendments was enacted into law. Today, almost 5 years after the Settlement Act's passage, we are considering only the second amending measure.

Even more important, however, the Chief's concern about additional efforts by other Native corporations to open up land selections is misguided, if for no other reason than the fact that Klukwan is the only Village Corporation whose land selection deadline has not been passed. The act of January 2, 1976 specifically extended the land selection deadline for Klukwan, Inc., and this act further extends that deadline to permit the Village Corporation to finally make its land selection. The Settlement Act deadlines for all other Native village corporations and regional corporations to make land selections has already passed.

It is my firm belief that the Chief's primary concern is that this measure would permit the selection of some 23,040 acres within the Tongass National Forest. It is my own judgment that the Chief should not begrudge this land selection for upon enactment of the President's own proposal, S. 1687, the Alaska Conservation Act—which has received much press in the last several days—the Forest Service would receive 18.8 million acres of new national forest land in Alaska. This should more than offset the loss of land occasioned by this bill.

Mr. GRAVEL. Mr. President, I recognize that the time we have available for final consideration of this measure is quite limited, therefore, I will keep my final remarks brief.

I am extremely pleased with the action of the Senate in considering this measure. My efforts to seek a legislative remedy for the people of Klukwan have met with absolute and generous cooperation from both the Committee on Interior and Insular Affairs and the Department of Interior. This legislation insures that this group of Alaska Natives will be dealt a fair and equitable settlement under the Native Claims Act. Their problem in trying to achieve a decent land selection has been a complicated one and most certainly one requiring a legislative solution. I am confident that with expeditious action by the House the expectation of a proper land settlement for this group of Alaskans will be met.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 3651

SECTION 1. (a) Section 16(a) of the Alaska Native Claims Settlement Act (85 Stat. 688, 705, as amended; 43 U.S.C. 1604, 1615) is further amended by striking "Klukwan, Southeast.".

(b) Section 16(d) of such Act is amended to read as follows: "(d)(1) The Secretary is authorized and directed to withdraw seventy thousand acres of public lands, as defined in section 3 of this Act, in order that the Village Corporation for the village of Klukwan may select twenty-three thousand and forty acres of land. Such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this Act to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 19(b) of this Act: *Provided*, That nothing in this subjection shall affect the existing entitlement of any Regional Corporation to lands pursuant to section 14(h)(8) of this Act: *Provided further*, That no such lands shall be withdrawn from an area previously withdrawn as a forest reserve without prior consultation with the Secretary of Agriculture: *Provided further*, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confined to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: *Provided further*, That the United States and the Village Corporation for the village of Klukwan shall also quitclaim to said Chilkat Indian Village any right or interest they may have in and to income derived from the reservation lands defined in and vested by the act of September 2, 1957 (71 Stat. 597), after December 18, 1971, and prior to January 2, 1976.

"(2) The lands withdrawn by the Secretary pursuant to paragraph (1) of this subsection shall be located in the southeastern Alaska region and shall be of similar character and comparable value, to the extent possible, to those of the Chilkat Valley surrounding the village of Klukwan. Such withdrawal shall be made within six months of the date of enactment of this paragraph and the Village Corporation for the village of Klukwan shall select, within one year from the time that the withdrawal is made, and be conveyed, twenty-three thousand and forty acres. None of the lands withdrawn by the Secretary for selection by the Village Corporation for the village of Klukwan shall have been selected by, or be subject to an outstanding nomination for selection by, any other Native Corportion organized pursuant to this Act, or located on Admirality Island.".

SEC. 2. Notwithstanding any other provision of law, the Secretary is hereby authorized and directed to convey immediately to the State of Alaska, subject to valid existing rights, the following described lands for park, recreation, airport, or other public purposes:

Seward Meridian, Alaska

T, 13 N., R. 4 W.

Secton 28, E½W½, E½ W½NW¼, W½ NW¼NW¼, E½NW¼SW¼, E½W½SW¼ NW¼, NE¼SW¼SW¼, E½SE¼SW¼SW¼.

Containing 265 acres, more or less.

SEC. 3. The first sentence of subsection 12(b) of the Act of January 2, 1976 (89 Stat. 1145, 1151), is amended by changing the matter preceding the first colon to read as follows:

"(b) The Secretary shall make the following conveyances to the Region, in accordance with the specific terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled 'Terms and Conditions for Land Consolidation and Management in Cook Inlet Area', which was submitted to the House Committees on Interior and Insular Affairs on December 10, 1975, and clarified on August 31, 1976, the terms of which, as clarified, are hereby incorporated herein and ratified as to the duties and obligations of the United States and the Region, as a matter of Federal law.".

SEC. 4. (a) The Secretary is authorized to convey lands under application for selection by Village Corporations within Cook Inlet Region to the Cook Inlet Region, Incorporated, for reconveyance by the Region to such Village Corporations. Such lands shall be conveyed as partial satisfaction of the statutory entitlement of such Village Corporations from lands withdrawn pursuant to section 11(a)(3) of the Alaska Native Claims Settlement Act (hereinafter, "The Settlement Act"), and with the consent of the Region affected, as provided in section 12 of the Act of January 2, 1976 (89 Stat. 1145, 1150), from lands outside the boundaries of Cook Inlet Region. This authority shall not be employed to increase or decrease the statutory entitlement of any Village Corporation of Cook Inlet Region, Incorporated. For the purposes of counting acres received in computing statutory entitlement, the Secretary shall count the number of acres or acre selections surrendered by Village Corporations in any exchange for any other lands or selections.

(b) The Secretary shall not be required to survey any land conveyed pursuant to subsection 4(a) until the Village Corporation entitlement for all eligible Village Corporations has been conveyed. With respect to the conveyances made by the Secretary in the manner authorized by subsection 4(a), the Secretary shall survey the exterior boundaries of each entire area conveyed to Cook Inlet Region, incorporated, pursuant to subsection 4(a) and monument to boundary lines at angle points and intervals of approximately two miles on straight lines. The Secretary shall not be required to provide ground survey or monumentation along meanderable water boundaries. Each township corner located within the exterior boundary of land conveyed shall be located and monumented. Any areas within such tracts that are to be reconveyed pursuant to section 14(C) (1) and (2) of the Settlement Act shall also be surveyed pursuant to 43 C.F.R. 2650.

(c) Conveyances made under the authority of subsection (a) of this section shall be considered conveyances under the Settlement Act and subject to the provisions of that Act, except as provided by this Act.

SEC. 5. (a). The Secretary shall, within sixty days after the effective date of this Act, tender conveyance of the land described in subsection (b), subject to valid existing rights, to Cook Inlet Region, Incorporated. If the conveyance is accepted by the Region, such lands shall be considered 1,687.2 acre-equivalents within the meaning of paragraph I(C)(2)(e)(iii) of the Terms and Conditions as clarified August 31, 1976, and the Secretary's obligations under paragraph I(C) of those Terms and Conditions will be reduced accordingly. If, however, said section 12 of the Act of January 2, 1976, does not take effect then the entitlement of Cook Inlet Region, Incorporated, under section 12(c) shall be reduced by 8,346 acres.

(b) The land referred to in subsection (a) is described as a parcel of land located in section 7 of township 13 north, range 2 west of the Seward Meridian, Third Judicial District, State of Alaska; said parcel being all of Government lots 5 and 7 and that portion of the southeast quarter northwest quarter lying north of the north right-of-way line of the Glenn Highway, State of Alaska, Department of Highways Project Numbered F-042-1 (2), and more particularly described as follows:

"Commencing at the north quarter corner of said section 7;

"thence south 00 degrees 12 minutes east, a distance of 1,320.0 feet, more or less, to the northeast corner of said southeast quarter northwest quarter;

"thence west along the north line of southeast quarter northwest quarter a distance of 94.0 feet, more or less, to the north right-of-way line of the Glenn Highway and the true point of beginning;

"thence south 53 degrees 16 minutes 15 seconds west along said north right-of-way line, a distance of 1,415.0 feet, more or less, to a point of curve being at right angles to centerline Station 216 plus 51.35;

"thence continuing along said north right-of-way line along a curve to the right with a central angle of 12 degrees 51 minutes 34 seconds, having a radius of 5,595.58 feet for an arc distance of 105.0 feet, more or less, to a point of intersection of said north right-of-way line with the west line of said southeast quarter northwest quarter;

"thence north 00 degrees 12 minutes west along said west line, being common with the east line of Government lot 5, a distance of 910.0 feet, more or less, to the northwest corner of said southeast quarter northwest quarter;

"thence east along the north line of said southeast quarter northwest quarter, a distance of 1,225.0 feet, more or less, to the point of beginning; containing 56.24 acres, more or less.".

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR CONSIDERATION ON TUESDAY NEXT OF H.R. 14238, LEGISLATIVE APPROPRIATIONS BILL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on Tuesday next, after the recognition under the special orders and the joint leadership, the morning business included, the Senate proceed to the consideration of H.R. 14238, the legislative appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT AMENDMENTS OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2228.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2228) to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a 3-year period.

(The amendment of the House is printed in the RECORD of August 30, 1976, beginning at page 28297.)

Mr. RANDOLPH. Mr. President, I move that the Senate disagree to the amendment of the House on S. 2228, agree to the request of the House for a conference on disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. MONTOYA, Mr. RANDOLPH, Mr. MUSKIE, Mr. MCCLURE, and Mr. BAKER conferees on the part of the Senate.

INDOCHINA REFUGEE CHILDREN ASSISTANCE ACT OF 1976—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on S. 2145 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2145) to provide Federal financial assistance to States in order to assist local educational agencies to provide public education to Vietnamese and Cambodia refugee children, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of July 1, 1976, beginning at page 21840.)

Mr. CRANSTON. Mr. President, the Senate is about to consider a conference report on a matter of extraordinary importance to schools throughout the country: S. 2145, the Indochina Refugee Children Assistance Act, which I sponsored in the Senate with Senator TUNNEY. The agreement before us is the result of over a year of diligent work not only in the Senate, where the measure passed last fall by unanimous vote, but in the House, where Congressmen ED ROYBAL and AL BELL pressed for similar legislation.

Throughout this lengthy process, congressional sponsors were encouraged by the consistent support of Senator CLAIBORNE PELL, chairman of the Senate Education Subcommittee, and by Congressman CARL PERKINS, chairman of the House Education and Labor Committee, and their respective staffs. I am personally grateful to California's Superintendent of Public Instruction, Dr. Wilson Riles, who brought us not only his consumate knowledge of how schools work, but who gave us constant encouragement and whose Washington representative, Donald White, worked tirelessly on behalf of this legislation.

Mr. President, I want to comment briefly on the history of this bill. In April and May of 1975, when the refugee relocation program was announced, educators across the country knew that a large number of the refugees would be school-age children, that these children would need basic as well as special services, and that such services would be costly.

In May of 1975, in Senate debate on the refugee assistance program, I engaged in a colloquy with Senator SPARKMAN in which we agreed that the education of refugees after relocation was a serious concern. I said at that time that if the Department of Health, Education, and Welfare failed, in my judgment, to adequately address those concerns, I would introduce appropriate legislation to help schools meet education costs.

In early June, former Secretary of HEW Caspar Weinberger told reporters that there were few Federal dollars available to reimburse local government for the costs of educating refugee children. He also said that no more funds would be sought from Congress because the administration believed that this education expense was a local responsibility. This basic assumption on the part of the administration characterized the debate on this education assistance bill over the next months, up to the point we achieved the present agreement with the help of the distinguished Representative from Minnesota, Mr. QUIE.

S. 2145, as originally passed by the Senate, would have provided funds to the States, based on the State average per-pupil expenditure. The States would have then allocated those moneys to local school districts based on the district's average per-pupil expenditure. In addition the bill provided a basic grant, per child, for special services such as language programs.

In hearings in the Senate on S. 2145, the administration announced a payment formula that exceeded the original proposal of just $300 per child in areas of high refugee impact. Under the revised program the administration made available a one-time payment of $300 per refugee child for schools enrolling 1 to 99 refugee children and $600 per child for student refugee populations over 100.

The final conference agreement, which we consider today, continues the administration's payment formula for a second year, adds coverage of nonpublic schoolchildren, and provides special programs for adult refugee education. I urge my Senate colleagues to approve the conference agreement and speed the bill along to the President.

Throughout this lengthy debate, Mr. President, I have been guided by the firm belief that the presence of Indochina refugees in large numbers in our Nation's schools was due to a Federal decision and the additional costs to schools for the education of those refugee children should be paid, initially, from Federal funds.

Both Senate and House reports on the original legislation include documents that support my view, and I believe those documents illustrate a clear commitment on the part of the administration to pay those initial costs. While the conference agreement presently before us does not provide all the moneys that would have been authorized in my original bill, I believe it is a timely and realistic answer to the continuing financial impact of refugee children upon our schools.

With this highly desirable result in mind, I urge Senators to approve the report of the conferees on S. 2145, the Indochina Refugee Childrens Assistance Act of 1976.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

TIME-LIMITATION AGREEMENT—S. 522

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 522, the Indian Health Care Improvement Act, is considered by the Senate, there be a 30-minute time limit for debate thereon, to be equally divided between the Senator from Washington (Mr. JACKSON) and the Senator from Arizona (Mr. FANNIN).

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 137—INSERTION OF LANGUAGE IN ENGROSSMENT OF SENATE AMENDMENTS TO H.R. 10612, TO REFORM TAX LAWS OF THE UNITED STATES

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a concurrent resolution which has been cleared on both sides, and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The assistant legislative clerk read as follows:

S. CON. RES. 137

Resolved by the Senate (the House of Representatives concurring), That the following language be inserted in the engrossment of the Senate amendments to H.R. 10612 and be considered as being in conference:

"SEC. 1510. TREATMENT OF CERTAIN LIFE INSURANCE CONTRACTS GUARANTEED RENEWABLE.

(a) IN GENERAL.—Paragraph (d) (5) of section 809 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following sentence: "For purposes of this paragraph, the period for which any contract is issued or renewed includes the period for which any contract is issued or renewed includes the period for which such contract is guaranteed renewable.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1957."

The PRESIDING OFFICER. Without objection, the concurrent resolution is considered and agreed to.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE HOUSE OF REPRESENTATIVES AND/OR THE PRESIDENT DURING THE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess, the Secretary of the Senate be authorized to receive messages from the House of Representatives and/or the President of the United States, and that they be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess of the Senate, the Vice President of the United States, the President pro tempore of the Senate, and the Acting President pro tempore be authorized to sign all duly enrolled resolutions and bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has there been an order entered for the transaction of routine morning business on Tuesday next?

The PRESIDING OFFICER. The Chair informs the Senator in the negative.

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on Tuesday next?

The PRESIDING OFFICER. There are none.

SPECIAL ORDERS FOR TUESDAY, SEPTEMBER 7, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday, September 7, 1976, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 5 minutes each, at the conclusion of which the Senate will proceed to consider the legislative appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, after the two leaders or their designees have been recognized under the standing order, I be recognized for not to exceed 15 minutes prior to the consideration of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate at 3:03 p.m., recessed until 3:04 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HATFIELD).

RETIREMENT BENEFITS FOR CERTAIN EMPLOYEES OF THE BUREAU OF INDIAN AFFAIRS—CONFERENCE REPORT

Mr. BURDICK. Mr. President, I submit a report of the committee of conference on H.R. 5465, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The Assistant Legislative Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R.

5465) to allow Federal Employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of today.)

Mr. BURDICK. Mr. President, the committee on conferences on the bill H.R. 5465 is presenting a substitute which is essentially the same as the Senate amendment, the House having receded from its position.

The bill as agreed upon authorizes, as did the Senate amendment, the payment of an immediate annuity to employees not entitled to the benefits of Indian preference who retire before December 31, 1985, if they meet the stipulated criteria for eligibility.

To be eligible, an affected employee, must at the time of retirement: First, have completed 20 years of service and be at least 50 years of age or have completed 25 years of service regardless of age; second, have been continuously employed in the Bureau of Indian Affairs or the Indian Health Service since June 17, 1974; third, have been twice passed over for promotion or transfer because of the Indian preference laws; and fourth, not otherwise be entitled to full retirement benefits.

An employee who fulfills all those conditions is, under the provisions of the conference substitute, entitled to the same benefits as were given in the Senate amendment. The annuity of such an employee would thus be computed at 2.5 percent of his average pay for the first 20 years of service and 2 percent of his average pay for service in excess of 20 years.

The conference substitute, then, conforms entirely to the position of the Senate on H.R. 5465.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAMILLA A. HESTER—S. 3790

Mr. ALLEN. Mr. President, I ask unanimous consent for the immediate consideration of a bill which I send to the desk. This is a private relief bill for Mrs. Camilla A. Hester.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (S. 3790) for the relief of Mrs. Camilla A. Hester.

Mr. ALLEN. Mr. President, Mrs. Hester has been denied a civil service survivor's annuity as a result of a highly technical application of 5 U.S.C. 8341 which defines a widow for purposes of qualification for a survivor's annuity as a person who is the surviving wife of a civil service employee who "(a) was married to the employee for at least 2 years immediately preceeding his death; or (b) was the mother of issue by that marriage."

Mr. President, Camilla Hester married John Hester, a civil service employee, on May 20, 1961. She had two children by that marriage who were born in 1961 and 1963. However in 1972 Mrs. Hester discovered that her original marriage to Mr. Hester in 1961 was void because she had not been finally divorced from a previous husband, even though she in good faith believed that a final decree divorcing her from her previous husband had been issued prior to her marriage to Mr. Hester.

Mr. President, immediately upon learning that her marriage in 1961 to Mr. Hester was void, Mrs. Hester took necessary steps to secure a final decree in her divorce from her previous husband and again married Mr. Hester, thereby giving full legal validity to her status as a wife. Mr. President, several months later Mr. Hester died. Mrs. Hester, his wife for 11 years, with his two minor children to raise, made application to the Civil Service Commission for a widow's pension. Incredibly, she was denied survivor's benefits on the theory that she was not a widow of 2 years' standing and that her two children were not the issue of her marriage.

Now, Mr. President, I find that decision not only harsh but totally devoid of any proper exercise of good judgment. The Commission could have easily determined that the two children involved were the issue of the marriage since the mother was Mrs. Hester and the father was Mr. Hester and Mr. and Mrs. Hester were married. Yet, Mr. President, the Commission in its wisdom somehow determined that the two children—although the offspring of Mr. and Mrs. Hester—were not the issue of the marriage of Mr. and Mrs. Hester.

Mr. President, Mrs. Hester appealed the Commission's decision to the U.S. District Court for the Southern District of Alabama, and I regret to say that the court also denied relief.

In its decision, the court stated as follows:

> Whatever reason employed by Congress in fashioning this law, it is apparent that the legislature has considered problems such as ours before for it has been the subject of other and further relief in other aspects of compensation law. It is not, therefore, the province of this Court to act as some super legislature and change the expressed provisions of the law in order to afford an equitable relief where it might seem to be otherwise due. *See 62 Cases of Jam* v. *United States*, 340 U.S. 593 at 596; *United States* v. *Great Northern Railroad*, 343 U.S. 562 at 575; *Story* v. *Snyder*, 184 F. 2d 454. cert. den. 340 U.S. 866; *Crooks* v. *Harrelson*, 282 U.S. 55 at 60.

Mr. President, the court went on to give the following recommendation to Mrs. Hester:

> The issue of this union are to be distinguished from the claimant for recovery purposes. The plantiff is not without her remedies in the matter for she may petition Congress for relief. Though this approach may appear harsh in its requirement, it is the appropriate relief within the present scheme of things and this Court will not, even if it could, substitute its approach to logic for that of the collective wisdom of the Congress.

So, Mr. President, I am today introducing legislation which would afford appropriate relief in this case.

I believe a serious injustice has been done Mrs. Hester, and I regret very much the difficulty—indeed the indignities—she has been required to face in seeking the survivor's annuity to which she is entitled.

Mr. President, Mrs. Hester has been seeking the money justly due her for almost a full 4 years. She has met an obdurate and unfeeling bureaucracy and has been turned away by a judiciary applying the letter of the law with great and unusual deference to the mandate for Congress. In these circumstances I ask unanimous consent that the bill be placed on the calendar in order that it may have some chance of passing before our anticipated adjournment on October 2.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I shall not object, in view of the fact that the distinguished Senator from Alabama, under rule XIV, can set in motion the action which will eventuate in the placing of the bill on the calendar rather than go through that extended procedure, and in consideration of the fact that this is a relief bill which has been explained by the distinguished Senator for the record, I shall not interpose any objection.

The PRESIDING OFFICER. Without objection, the request of the Senator from Alabama is granted, and the bill will be placed on the calendar.

LEGISLATIVE ACTIVITY OF THE SENATE

Mr. MANSFIELD. I ask that the 5-year comparison of legislative activity and a supplemental listing to the August 10, 1976, report on Senate legislative activity be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

5-YR COMPARISON OF SENATE ACTIVITY

[As of Sept. 1 or Labor Day recess]

	1972	1973	1974	1975	1976
Days in session	128	117	118	116	123
Hours in session	811:10	665:15	727:38	739:49	868:59
Total measures passed	503	412	491	425	624
Rollcall votes	532	362	360	376	564
Public laws	165	82	134	93	188
Treaties	12	9	3	1	12
Senate average attendance (percent)	82.60	87.29	88.48	89.14	84.89
Early sessions (before 10 a.m.)	30	17	19	26	50
Late sessions (after 8 p.m.)	18	5	3	17	21
Saturday sessions		5		4	1

SUPPLEMENTAL LISTING FROM AUGUST 23 THROUGH SEPTEMBER 1, 1976, TO THE AUGUST 10TH REPORT ON LEGISLATIVE ACTIVITY OF THE SENATE

(Inserted in the Congressional Record of August 10, 1976, at pages 26662–26704).

In conference:

D.C. Appropriations, H.R. 15193.

Education Amendments, S. 2657.

Farm Products, H.R. 10339.
Farmer-to-Consumer Direct Marketing, H.R. 10339.
Indian Claims Commission, S. 2981.
Labor-HEW Appropriations, 1977, H.R. 14232—returned to conference.
Natural Gas Pipeline, H.R. 12168.
Postal Service Reorganization, H.R. 8603. Senate agreed to Conf. Rpt. Aug. 31.
Public Service Jobs, S. 2228.
Tax Reform, H.R. 10612.
Toxic Substances, H.R. 14032.

Other measures passed:

Afro-American History, S. 3419—P/S August 25.
Amtrak Improvement, H.R. 13601—P/S amended September 1.
Bureau of Indian Affairs Employees, H.R. 5465—S. agreed to conf. rept. September 1.
Energy Policy Conference, S.J. Res. 206—P/S August 27.
Export Administration, S. 3084—P/S August 27.
Federal Loan and Guarantee Program, S. 1437—P/S August 31.
Frederick Law Olmstead Home, S. 400—P/S August 25.
Hazel R. Garn, Death Of, S. Res. 519—S. agreed to August 23.
Klukwan Indian Village, Alaska, S. 3651—P/S September 1.
Leadville Mine Drainage Tunnel, S. 3394—P/S August 25.
Middletown Veterans Hospital—Swine Flu Immunization, H.R. 9811—P/S amended August 31.
Montana Wilderness, S. 393—P/S August 23.
National Forest Management, S. 3091—P/S August 25.
National Gallery of Art Trust Funds, S. 3669—P/S August 25.
Bartram Trail, S. 2112—P/S August 24.
Daniel Boone Trail, S. 2112—P/S August 24.
Desert Trail, S. 3528—P/S August 24.
Florida Trail, S. 2486—P/S August 24.
Nee-Me-Poo Trail, S. 3273—P/S August 24.
Navel Vessels Transfer to Foreign Governments, S. 3734—P/S August 25.
New River, H.R. 13372—P/S amended August 30.
Philip A. Hart Office Building, S. Res. 530—S. agreed to August 30.
Philippines Earthquake, S. Res. 518—S. agreed to August 23.
Rail Reorganization, H.R. 13325—P/S amended September 1.
Saint Paul's Church Historic Site, S.J. Res. 139—P/S August 24.
Valentyn Moroz, S. Res. 67—S. agreed to August 25.
Veteran's Care at State Homes, H.R. 10394—P/S amended August 30.
Washington-Rochambeau Historic Route, H.Con.Res. 67—S. agreed to August 25.
Water Pollution Control, S. 2710—S. agreed to H amendment with an amendment September 1.

Cleared for White House:

Canaveral National Seashore, H.R. 10370.
Child Day Care Staffing Standards, H.R. 12455.
*Coast Guard Authorization, H.R. 11670.
D.C. Criminal Law Revision, H.R. 12261.
D.C. Government Audit, H.R. 11009.
Electric and Hybrid Vehicles, H.R. 8800.
*Fire Prevention and Control, S. 2862.
Government in Sunshine, S. 5.
Guam Power Authority, H.R. 13679.
*Indochina Refugee Assistance, S. 2145.
*Livestock Producers and Packers, H.R. 8410.
*Maritime Authorization, H.R. 11481.
*National Emergency Statutes, Termination of, H.R. 3884.
Privacy Protection Study Commission, S. 3435.
*Reemployed Civil Service Annuitants, H.R. 3650.
*Tax Withholding Extension, H.R. 3052.
Teton Dam Disaster, S. 2548.
Treaties approved:
International Coffee Agreement, Ex. H, 94th-2d.
International Wheat Agreement, Ex. I, 94th-2d.

PROGRAM

Mr. MANSFIELD. Mr. President, under the agreement made last night, the Senate, at 2 p.m. on Tuesday next, will proceed for 2 hours to the consideration of the antitrust legislation. At the end of that time, it will be the intention of the leadership to return to the legislative appropriations bill.

I ask unanimous consent that it be in order for the joint leadership to call up the revenue sharing bill at any time next week when it becomes possible and available, beginning with Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, it is also hoped—and this is in juxtaposition, so the leadership should not be held too closely to it—that it would be possible to take up Calendar No. 1055, S. 3730, the military construction bill; certainly, to reiterate, revenue sharing; the Budget Committee's reconciliation resolution; and any other matters which might fit in during the course of consideration of legislation.

Mr. President, I submit for the RECORD a legislative schedule for the remainder of the session so that all Members will be on notice of the intentions of the leadership. I should emphasize, however, that this schedule is subject to change.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

LEGISLATIVE SCHEDULE FOR THE REMAINDER OF THE SESSION

TUESDAY, SEPTEMBER 7—			
	12:00 noon		Senate convenes.
		H.R. 4238	Legislative appropriations.
	2:00 p.m.	H.R. 8532	Antitrust amendments.
	4:00 p.m.	H.R. 4238	Legislative appropriations.

(By unanimous consent the leadership has authority to call up the revenue sharing bill any time beginning Tuesday, September 7, during the week.)

WEDNESDAY, SEPTEMBER 8—			
	No. 1055	S. 3730	Military construction authorization.
			Revenue sharing.
	2:00 p.m.	H.R. 8532	Antitrust amendments.
	3:00 p.m.		Votes on antitrust amendments.
	4:00 p.m.		Resume revenue sharing.
THURSDAY, SEPTEMBER 9—			
			Complete revenue sharing.
			Budget Committee reconciliation resolution.
FRIDAY, SEPTEMBER 10—			
			Complete Budget Committee reconciliation resolution.
	No. 1118	H.R. 15194	Public works appropriation.
MONDAY, SEPTEMBER 13—			
	No. 953	H.R. 14260	Foreign operations appropriations.
TUESDAY, SEPTEMBER 14—			
	No. 953	H.R. 14260	Foreign operations appropriations.
			Omnibus rivers and harbors.
WEDNESDAY, SEPTEMBER 15—			
			Complete omnibus rivers and harbors.
	No. 1094	S. 3197	Electronic surveillance of foreign intelligence.
THURSDAY, SEPTEMBER 16—			
	No. 1127	S. 1489	Export reorganization.
	No. 662	H.R. 71	Benefits for veterans of allied countries in World War I and World War II.
	No. 866	S. 2849	Investment Advisers Act.
	No. 800	S. 2304	Supervision financial initiatives.
FRIDAY, SEPTEMBER 17—			
	No. 973	S. 3664	Amend SEC to require accurate records, to prohibit bribes.
	No. 955	S. 2278	Attorney's fees in civil rights cases.
MONDAY, SEPTEMBER 20–FRIDAY, SEPTEMBER 24—			
	No. 970	S. 2715	Sunset legislation.
			Revenue bills reported by the Finance Committee and other items on the calendar.
MONDAY, SEPTEMBER 27–SATURDAY, OCTOBER 2—			
			Conference reports and other unfinished business.

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*House cleared.

Mr. MANSFIELD. By and large, the Senate, much to my astonishment, over the past day or so has kept up with its schedule. Hopefully, if things remain in order, we might still adjourn on October 2 on a sine die basis.

RECESS UNTIL TUESDAY, SEPTEMBER 7, 1976

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the provisions of Senate Concurrent Resolution 136, that the Senate stand in recess until the hour of 12 o'clock noon on Tuesday, September 7, 1976.

The motion was agreed to; and at 3:15 p.m., the Senate recessed until Tuesday, September 7, 1976, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate September 1, 1976:

DEPARTMENT OF STATE

T. Frank Crigler, of Arizona, a Foreign Service Officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

IN THE ARMY

The following-named officer, Army National Guard of the United States, for appointment to the grade of brigadier general as a reserve commissioned officer of the Army and to the grade of brigadier general, Army of the United States, under the provision of title 10, United States Code, sections 593a, 3385, 3442, and 3447:

To be brigadier general

Col. Emmett Hudson Walker, Jr., 427-28-9186.

IN THE AIR FORCE

The following-named officers for promotion in the Regular Air Force, under the appropriate provisions of chapter 835, Title 10, United States Code, as amended. All officers are subject to physical examination required by law:

LINE OF THE AIR FORCE

Second lieutenant to first lieutenant

Albert, John G. [redacted].
Berardino, Joseph J., [redacted].
Cox, Roger L., [redacted].
George, William L., [redacted].
Harrison, Herbert A., [redacted].
Houk, Linda D., [redacted].
Imler, Thomas A., [redacted].
Kaufman, Michael D., [redacted].
Kirkpatrick, William L., [redacted].
Liles, Edward A III, [redacted].
Miller, Gary E., [redacted].
Miller, Robert C., [redacted].
Odgers, Everett G., [redacted].
Redfield, Gary L., [redacted].
Sloan, Robert G., [redacted].
Woodham, Bruce, [redacted].
Youel, Roger H., [redacted].
Young, Bradley C., [redacted].
Young, Carlton E., [redacted].
Young, Christopher R., [redacted].
Young, James E., [redacted].
Young, Michael M., [redacted].
Zbylut, James J., [redacted].
Ziegler, Bloise A., [redacted].
Zielinski, John J., [redacted].
Zimmerman, Lee W., [redacted].
Zwiebel, John M., [redacted].
Zwirko, Edward J., Jr., [redacted].

MEDICAL SERVICE CORPS

Anderson, Michael C., [redacted].
Farmer, Joseph E., [redacted].
Gunderson, Eugene G., [redacted].
Janes, Lawrence G., [redacted].
White, Thomas J., [redacted].

BIOMEDICAL SCIENCES CORPS

Bonner, John O., Jr., [redacted].
Gossman, Gregory W., [redacted].
Hayashi, Maurice M., [redacted].

The following officers for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, Title 10, United States Code, with a view to designation under the provisions of section 8067, Title 10, United States Code, to perform the duties indicated, and with date of rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

To be first lieutenant

Brank, Hence F., Jr., [redacted].
Chevalier, Jimmy E., [redacted].
Delagarza, Carlos A., [redacted].
Greer, Willis A., [redacted].
Perkins, Edward W., [redacted].
Twedt, Gordon H., [redacted].

DENTAL CORPS

To be first lieutenant

Stilley, John F., [redacted].

The following-named officers for promotion in the Regular Air Force, under the appropriate provisions of chapter 835, Title 10, United States Code, as amended. All officers are subject to physical examination required by law:

LINE OF THE AIR FORCE

First lieutenant to captain

Abbey, Thomas G., [redacted].
Abbott, Byron A., [redacted].
Abene, Peter V., [redacted].
Abshier, Stephen E., [redacted].
Acker, Loren K., [redacted].
Ackerson, Mark I., [redacted].
Acosta, Hector M., [redacted].
Acurso, Jeffrey L., [redacted].
Adams, Dennis W., [redacted].
Adams, Kenneth W., [redacted].
Adams, Lloyd S., III, [redacted].
Adams, Randolph K., [redacted].
Adams, Richard J., [redacted].
Adams, Robert W., [redacted].
Adams, Ronald M., [redacted].
Adkisson, Gary D., [redacted].
Aimone, Michael A., [redacted].
Ainsworth, Loren C., [redacted].
Airaghi, Robert F., [redacted].
Aldrich, Roger L., [redacted].
Aldridge, Lee F., [redacted].
Alekna, Louis, [redacted].
Alexander, Albert J., [redacted].
Alexander, Ben L., [redacted].
Alexander, Marvin D., [redacted].
Alexander, Stephen D., [redacted].
Alexander, William S., [redacted].
Alexandrow, Nick, [redacted].
Allain, Richard S., Jr., [redacted].
Allan, John P., [redacted].
Allen, Douglas M., [redacted].
Allen, Kirby E., [redacted].
Allen, Ronald R., [redacted].
Allen, Russell L., [redacted].
Allen, Stephen D., [redacted].
Allen, William A., [redacted].
Alley, Kenneth M., [redacted].
Allison, Clinton D., [redacted].
Alman, Paul A., [redacted].
Almeida, Roy J., [redacted].
Almond, Cheryl M., [redacted].
Almquist, Kenneth C., [redacted].
Alston, James A., [redacted].
Aly, Stewart F., [redacted].
Andersen, Leslie C., [redacted].
Anderson, David R., [redacted].
Anderson, Peter F., [redacted].
Andrews, Edward, Jr., [redacted].
Andrews, James E., [redacted].
Andrews, Thomas H., II, [redacted].
Anthony, Richard W., [redacted].
Arbogust, Harold O., Jr., [redacted].
Arnetz, Eric G., [redacted].
Armstrong, Ernie R., [redacted].
Armstrong, Michael S., [redacted].
Armstrong, Reese R., [redacted].
Arnemann, Frank B., Jr., [redacted].
Arneson, Robert L., [redacted].
Arnold, Harry, [redacted].
Arnold, Jack S., [redacted].
Arnold, Jerry H., [redacted].
Arnold, Phillip B., [redacted].
Arthur, David A., [redacted].
Ascher, Clifford D., [redacted].
Asher, Alan D., [redacted].
Ashey, Robert A., [redacted].
Ashford, James F., [redacted].
Ashton, Kent J., [redacted].
Askins, Edward A., [redacted].
Atkins, Edward J., [redacted].
Atkinson, Randall L., [redacted].
Aufderhaar, Grant C., [redacted].
Aufderheide, Edward H., [redacted].
Austin, Charles L., [redacted].
Autrey, Daniel L., [redacted].
Auyer, David H., [redacted].
Avery, Jimmie S., [redacted].
Baber, Thomas D., [redacted].
Babin, Jeremiah S., [redacted].
Bachmann, James L., [redacted].
Backman, Charles A., III, [redacted].
Bader, William G., [redacted].
Baehr, Kenneth M., [redacted].
Baehre, Franklin G., Jr., [redacted].
Baer, Howard S., [redacted].
Bagley, Hollis R., [redacted].
Bahnson, Francis H., III, [redacted].
Bailey, James W., III, [redacted].
Bailey, John L., [redacted].
Baker, Donald L., [redacted].
Baker, Gerald A., [redacted].
Baker, James M., [redacted].
Baker, Larry M., [redacted].
Baker, Raymond G., [redacted].
Baker, Richard A., [redacted].
Baker, Robert F., [redacted].
Baker, Steven T., [redacted].
Bakko, Dennis G., [redacted].
Balbin, Bruce C., [redacted].
Baldwin, Charles G., [redacted].
Baldwin, Gary A., [redacted].
Baldwin, Miles A., [redacted].
Ball, John R., [redacted].
Ballard, John A., [redacted].
Balph, Robert D., II, [redacted].
Balsillie, David C., [redacted].
Balthazor, Leo R., [redacted].
Bang, Carl J., Jr., [redacted].
Banks, Charles L., [redacted].
Barager, James V., [redacted].
Barchfeld, Carl F., Jr., [redacted].
Barfield, James S., [redacted].
Barker, Scott S., [redacted].
Barlow, Larry S., [redacted].
Barnard, Rocky E., [redacted].
Barnes, Bradley A., [redacted].
Barnes, Duane L., [redacted].
Barnes, Joseph W., [redacted].
Barnes, Stephen R., [redacted].
Barnes, William J., [redacted].
Barngrover, Keith W., [redacted].
Barnhart, James B., [redacted].
Barnick, Roland J., Jr., [redacted].
Baron, Douglas E., [redacted].
Barosky, Frank D., [redacted].
Barrall, James F., [redacted].
Barrett, Douglas E., [redacted].
Barringer, Richard J., [redacted].
Barron, Richard F., [redacted].
Bary, Marvin J., [redacted].
Bartel, Harvey D., [redacted].
Barter, Stephen W., [redacted].
Bartlett, Ronald S., [redacted].
Barton, Kenneth A., [redacted].
Basile, James M., [redacted].
Baskett, Robert E., [redacted].
Baskett, Robert H., [redacted].
Baskett, Roger D., [redacted].
Bates, Richard L., [redacted].
Bateson, Robert B., [redacted].

Batura, Thomas J., [redacted].
Batuski, David J., [redacted].
Bauer, David L., [redacted].
Bauer, Paul A., [redacted].
Baukus, William J., Jr., [redacted].
Baum, Peter J., [redacted].
Bauman, Robert F., Jr., [redacted].
Baxter, Gary L., [redacted].
Baxter, Leroy D., [redacted].
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Prokop, Jerome Jr., [redacted].
Provins, James, W. L., [redacted].
Pryze, Edward M., [redacted].
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Quibell, Paul D., [redacted].
Quinn, Patrick F., [redacted].
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Quirk, Jeffery A., [redacted].
Quist, Gene R., [redacted].
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Ramsey, Nedom, Jr., [redacted].
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Roddy, Dawn Valarie, [redacted].
Roddy, Mark B., [redacted].
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Smith, Gregory L., [redacted]
Smith, Jackie C., [redacted]
Smith, James F., [redacted]
Smith, James M., [redacted]
Smith, Kent G., [redacted]
Smith, Lamar C., [redacted]
Smith, Lance L., [redacted]
Smith, Larell K., [redacted]
Smith, Larry F., [redacted]
Smith, Larry J., [redacted]
Smith, Martin F., [redacted]
Smith, Stanton T., III, [redacted]
Smith, William B., [redacted]
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Smith, William C., [redacted]
Smithwick, Richard N., [redacted]
Snapp, Frank H., [redacted]
Snider, Thomas C., [redacted]
Snipes, Earl R., [redacted]
Snook, Joseph E., Jr., [redacted]
Snyder, Cecil O., III, [redacted]
Snyder, Thomas C., [redacted]
Sober, Charles T., Jr., [redacted]
Sobol, Anthony J., III, [redacted]
Soderquist, Larry L., [redacted]
Soltis, John J., [redacted]
Somers, Daniel J., [redacted]
Sommervold, Myron A., [redacted]
Sonnenberg, James M., [redacted]
Sonnenberg, Scott B., [redacted]
Sonobe, Blake J., [redacted]
Sontag, Joseph, [redacted]
Sorenson, Houston S., [redacted]
Sorenson, Marius G., [redacted]
Sovich, James G., [redacted]
Sparks, Charles M., Jr., [redacted]
Sparks, George W., Jr., [redacted]
Spear, Thomas H., [redacted]
Speer, David M., [redacted]
Speir, Ronald N., [redacted]
Spencer, Mark L., [redacted]
Spiker, John B., [redacted]
Spink, Bradley R., Jr., [redacted]
Spinner, Richard L., [redacted]
Spitzer, Brian J., [redacted]
Spiva, James W., [redacted]
Sprague, Earl J., Jr., [redacted]
Sprague, Michael W., [redacted]
Sprenger, Michael R., [redacted]
Springer, Bruce D., [redacted]
Springer, William C., Jr., [redacted]
Sprinkel, David M., [redacted]
Spurgeon, James D., III, [redacted]
Staber, James E., II, [redacted]
Stadjuhar, James L., [redacted]
Staley, Anthony T., [redacted]
Staley, Charles W., [redacted]
Stamm, Leon A., [redacted]
Stancil, John M., [redacted]
Stanland, William E., [redacted]
Stanley, William H., [redacted]
Staples, George M., [redacted]
Stark, Richard H., [redacted]
Starr, Ronald B., [redacted]
St. Clair, James C., [redacted]
Stealey, John W., [redacted]
Steck, Harold D., Jr., [redacted]
Steele, Don M., [redacted]
Steenrod, Russell C., [redacted]
Steffey, Raymond E., Jr., [redacted]
Stegemiller, Kenneth L., [redacted]
Stein, Joseph C., [redacted]
Stein, Thomas A., [redacted]
Steincamp, Erwin, [redacted]
Steinriede, Martin B., III, [redacted]
Stephens, April J., [redacted]
Stephens, Dwain E., [redacted]
Stephens, John D., [redacted]
Stephens, John T., [redacted]
Sterling, David E., [redacted]
Stertz, Joseph K., [redacted]
Stevens, David Y., [redacted]
Stevens, William E., [redacted]
Stevenson, Robert L., [redacted]
Stever, Richard D., [redacted]
Stewart, James T., III, [redacted]
Stewart, Lewis E., [redacted]
Stewart, Robert E., Jr., [redacted]
St. Germain, Robert A., [redacted]
Stice, Eric R., [redacted]
Stieber, James E., [redacted]
Stilwell, George H., [redacted]
Stinebaugh, William G., [redacted]
Stinson, Thomas V., Jr., [redacted]
Stockett, Romeo P., Jr., [redacted]
Stokes, James D., [redacted]
Stokka, Terrance L., [redacted]
Stoneman, Rolland R., [redacted]
Story, Harvey S., [redacted]
Stottlemyer, Victor R., [redacted]
Straley, Philip B., [redacted]
Stratton, Vincent V., [redacted]
Straw, Charles A., [redacted]
Strickland, William J., [redacted]
Strittmatter, Harold T., [redacted]
Stroup, Thomas E., [redacted]
Stuart, Thomas P., III, [redacted]
Stuck, Wayne A., [redacted]
Stumb, Charles E., [redacted]
Stump, Kern V., [redacted]
Stymans, Richard P., [redacted]
Suggs, Jack R., [redacted]
Sugi, Patricia A., [redacted]
Sullivan, James M., [redacted]
Sullivan, John G., [redacted]
Sullivan, Kenneth C., [redacted]
Sullivan, Patrick C., [redacted]
Sullivan, Paul J., [redacted]
Sullivan, Thomas G., [redacted]
Sultemeier, George S., [redacted]
Sumner, James M., [redacted]
Superak, Richard J., [redacted]
Sutter, Edward T., [redacted]
Sutton, Ernest B., [redacted]
Sutton, John E., [redacted]
Sutton, John E., [redacted]
Swaim, Allan L., Jr., [redacted]
Swan, Terence J., [redacted]
Swanson, Dustin H., Jr., [redacted]
Swanson, Richard E., [redacted]
Swantner, Lawrence J., [redacted]
Swedenburg, Robert L., [redacted]
Swift, Susan R., [redacted]
Swindle, Thomas O., [redacted]
Swink, Gordon, [redacted]
Swofford, John C., [redacted]
Sydla, Michael J., [redacted]
Symons, Stanley M., [redacted]
Szczepanik, Russell L., [redacted]
Szuch, Leslie J., [redacted]
Tabor, Terrence R., [redacted]
Takahashi, Gilbert T., [redacted]
Talley, Autry L., [redacted]
Tanzola, John C., [redacted]
Taraba, Thomas S., [redacted]
Tarbell, William W., [redacted]
Tarrant, George S., [redacted]
Tate, Jerome A., [redacted]
Tatum, Harry G., [redacted]
Taylor, Francis X., [redacted]
Taylor, Gary C., [redacted]
Taylor, Henry A., Jr., [redacted]
Taylor, James E., [redacted]
Taylor, James R., [redacted]
Taylor, John A., Jr., [redacted]
Taylor, Louis S., [redacted]
Taylor, Richard E., Jr., [redacted]
Taylor, Richmond L., [redacted]
Taylor, Terry J., [redacted]
Taylor, Wayne H., [redacted]
Teasdale, Donald M., [redacted]
Tefteller, William R., [redacted]
Tegtmeier, John R., [redacted]
Temkow, Robert S., [redacted]
Tench, William A., [redacted]
Tenney, Richard E., Jr., [redacted]
Thacker, William K., III, [redacted]
Thibodeau, David A., [redacted]
Thiesse, Judith R., [redacted]
Thigpen, Norman B., [redacted]
Thomas, Kenneth L., [redacted]
Thomas, Richard W., [redacted]
Thomas, Vernon E., Jr., [redacted]
Thompson, Barry R., [redacted]
Thompson, Dan H., [redacted]
Thompson, Joseph E., Jr., [redacted]
Thompson, Kenneth H., [redacted]
Thompson, Michael M., [redacted]
Thompson, Richard C., [redacted]
Thompson, Thomas W., [redacted]
Thomson, Michael L., [redacted]
Thorne, Gary L., [redacted]
Thorpe, William G., [redacted]
Thrasher, Dennis L., [redacted]
Thrower, Todd W., [redacted]
Thurston, Roger D., [redacted]
Thykeson, Clinton A., [redacted]
Tieman, Larry R., [redacted]
Tilton, Frank W., [redacted]
Timmerman, Larry A., [redacted]
Tinder, Alan J., [redacted]
Tippit, Jimmy W., [redacted]
Tipton, Robert L., Jr., [redacted]
Titus, George W., [redacted]
Tobin, Jay G., [redacted]
Tobler, Merlin D., [redacted]
Tohlen, David R., [redacted]
Tolson, James D., [redacted]
Tomlinson, Cecil J., [redacted]
Toombs, William R., [redacted]
Toops, Emory E., [redacted]
Topel, Robert W., [redacted]
Torkelson, Otis B., Jr., [redacted]
Torreano, Michael J., [redacted]
Totty, Michael N., [redacted]
Toussaint, Paul J., [redacted]
Townsend, Francis W., [redacted]
Travis, William J., [redacted]
Trent, Stephen E., [redacted]
Trenton, Jefferson E., [redacted]
Trilling, Ronald H., [redacted]
Trimble, Jack R., [redacted]
Triska, Charles S., [redacted]
Troffo, Judith A., [redacted]
Trudell, Gerald L., [redacted]
Tuck, James M., [redacted]
Tullier, John D., [redacted]
Tullius, Paul A., [redacted]
Turner, Donald W., [redacted]
Tuseth, Richard C., [redacted]
Tuttle, Ronald F., [redacted]
Tuttle, William T., [redacted]
Twaddell, James W., III, [redacted]
Twining, Lawrence E., [redacted]
Uecker, Carolyn O., [redacted]
Uhlik, Felix T., III, [redacted]
Underwood, Dennis D., [redacted]
Upson, Carl M., [redacted]
Uptmor, Clemens E., [redacted]
Ussery, James M., Jr., [redacted]
Valdez, James J., [redacted]
Valentine, Russell P., [redacted]
Valenzi, Richard R., [redacted]
Valusek, John R., [redacted]
Vanaken, Harry W., III, [redacted]
Vanalstine, Terry E., [redacted]
Vanecek, Fred J., [redacted]
Vanhorn, Kirby A., [redacted]
Vankirk, Rodney W., [redacted]
Vanliere, Dennis A., [redacted]
Vanmeter, Kenneth D., [redacted]
Vann, Orville C., Jr., [redacted]
Vansweringen, Thomas C., [redacted]
Varnes, Larrie F., [redacted]
Vaughan, Samuel R., [redacted]
Vaughn, John W., [redacted]
Vaughn, Robert L., [redacted]
Veatch, Henry L., [redacted]
Velander, David A., [redacted]
Velle, Victor L., [redacted]
Verrochi, Lawrence R., [redacted]
Vesel, Fred H., [redacted]
Vickery, Glenn L., [redacted]

Vigil, Carlos M., [redacted].
Vilbert, Michael J., [redacted].
Villarreal, Xavier G., [redacted].
Vincent, Robert W., [redacted].
Vise, Donald G., [redacted].
Vittatoe, Penrose, [redacted].
Viviano, Charles J., Jr., [redacted].
Volkmar, Ronald L., [redacted].
Vonberge, Gerald C., [redacted].
Voreadis, Lazaros, [redacted].
Voss, Dennis L., [redacted].
Wade, Thomas L., [redacted].
Wagner, Okey B., [redacted].
Walcher, James H., [redacted].
Wald, Victor J., [redacted].
Waldeck, Ralph S., [redacted].
Walker, Dale A., [redacted].
Walker, James W., [redacted].
Walker, Murray L., [redacted].
Walker, Richard R., [redacted].
Walker, Robert, [redacted].
Walker, Steven B., [redacted].
Wall, Steven E., [redacted].
Wallace, John M., [redacted].
Waller, Alton S., [redacted].
Walschlager, Thomas A., [redacted].
Walsh, James J., [redacted].
Walters, Tome H., Jr., [redacted].
Walton, James C., [redacted].
Walton, Richard E., [redacted].
Wangsvick, Carl L., [redacted].
Ward, Brian H., [redacted].
Ward, Charles A., [redacted].
Ward, Joseph P., [redacted].
Ward, Malcolm R., [redacted].
Ward, Richard C., II., [redacted].
Ward, Roger A., [redacted].
Ware, Worn E., [redacted].
Warner, Jack D., Jr., [redacted].
Warren, Wayne W., [redacted].
Wartburg, Ronald J., [redacted].
Waskow, Thomas C., [redacted].
Watkins, James C., [redacted].
Watley, James M., [redacted].
Watson, Douglas M., [redacted].
Watson, George D., [redacted].
Watson, Stephen G., [redacted].
Watson, Stephen H., [redacted].
Watson, William L., [redacted].
Watt, James S. B., [redacted].
Watters, Chalton J., Jr., [redacted].
Webb, Dayton B., [redacted].
Webb, Gregory R., [redacted].
Webb, James T., [redacted].
Webb, Sankey E., III., [redacted].
Webb, Stephen R., [redacted].
Weber, David A., [redacted].
Weber, Verne A., Jr., [redacted].
Webster, Russell J., [redacted].
Weeks, Donald, [redacted].
Weeks, Larry A., [redacted].
Weeks, Richard P., [redacted].
Wehrle, Joseph H., Jr., [redacted].
Weiland, Lewis S., [redacted].
Weiler, Richard E., [redacted].
Weiner, Bruce G., [redacted].
Weir, William C., [redacted].
Weisz, John L., Jr., [redacted].
Weitman, Michael, [redacted].
Weitzel, Michael P., [redacted].
Welbaum, Robert G., [redacted].
Welch, David L., [redacted].
Welch, Frederick R., [redacted].
Welch, Joseph C., [redacted].
Welde, Stephen W., [redacted].
Welford, William D., [redacted].
Welken, Lloyd C., [redacted].
Weller, Richard K., [redacted].
Wenska, Stefan G., [redacted].
West, Dayle A., [redacted].
West, James A., [redacted].
West, Roger A. [redacted].
Westbrook, Donald R., [redacted].
Westgate, David L., [redacted].
Westmoreland, Thomas M., [redacted].
Weyand, Gerald L., [redacted].
Weyer, Douglas C., [redacted].
Weyer, Wayne E., [redacted].
Weyman, James C., [redacted].
Whalen, Phillip F., Jr., [redacted].
Wheeler, Larry E., [redacted].
White, Charles M., [redacted].
White, Douglas S., [redacted].
White, Jay R., [redacted].
White, Johnnie M., [redacted].
White, Michael G., [redacted].
White, Paul R., [redacted].
Whitechurch, Charles J., [redacted].
Whitehead, Phillip M., [redacted].
Whiting, Larry L., [redacted].
Whitney, Frederick C., II, [redacted].
Whitney, Robert H., [redacted].
Whittenberg, Charles D., [redacted].
Whyte, Lynn K., [redacted].
Wibbeler, Richard M., [redacted].
Wieland, George A., Jr., [redacted].
Wieland, Jane Frances, [redacted].
Wieman, Kenny L., [redacted].
Wiisanen, Russell L., [redacted].
Wilderman, Michael B., [redacted].
Wildman, Steven M., [redacted].
Wilk, William G., [redacted].
Wilkins, Thomas E., [redacted].
Wilkinson, Thomas N., [redacted].
Willcox, Raymond C., [redacted].
Wille, Frank B., [redacted].
Williams, Charles E., [redacted].
Williams, Dennis E., [redacted].
Williams, Dennis R., [redacted].
Williams, Eddie L., [redacted].
Williams, Gary B., [redacted].
Williams, George N., [redacted].
Williams, James C., [redacted].
Williams, Jimmie L., [redacted].
Williams, Jimmy R., [redacted].
Williams, John B., III, [redacted].
Williams, Michael L., [redacted].
Williams, Paul E., [redacted].
Williams, Richard B., [redacted].
Williams, Richard L., [redacted].
Williams, Robert O., [redacted].
Williams, Scott K., [redacted].
Williams, William G., III, [redacted].
Williamson, Gary C., [redacted].
Williford, Randolph J., [redacted].
Willis, Larry D., [redacted].
Williston, Edward B., [redacted].
Willson, Robert J., [redacted].
Wilson, Dugald E., III, [redacted].
Wilson, Kenneth E., [redacted].
Wilson, Robert P., [redacted].
Wilson, Steven G., [redacted].
Wilt, Nelson R., [redacted].
Wimberly, Gary V., [redacted].
Windler, John E., [redacted].
Wineteer, Larry D., [redacted].
Winkler, William J., Jr., [redacted].
Winter, Ronald A., [redacted].
Wintner, Kim M., [redacted].
Witherell, Thomas J., [redacted].
Witt, Leonard E., III, [redacted].
Witt, Thomas P., [redacted].
Witt, William P., [redacted].
Wittnebert, David A., [redacted].
Womack, Oscar, Jr., [redacted].
Wood, Chester A., [redacted].
Wood, Samuel H., IV, [redacted].
Woods, Ransom B., III, [redacted].
Workman, Joseph F., [redacted].
Workman, Richard C., [redacted].
Worsham, Richard E., [redacted].
Wortham, James O., Jr., [redacted].
Wozny, John E., [redacted].
Wright, Frank B., [redacted].
Wright, Robert G., [redacted].
Wright, Ted D., Jr., [redacted].
Wright, Wesley D., [redacted].
Wucher, Stanley F., Jr., [redacted].
Wursten, Douglas J., [redacted].
Wyatt, Susan J., [redacted].
Yager, William L., [redacted].
Yanek, Joseph R., [redacted].
Yasenovsky, Andrew, Jr., [redacted].
Yates, Gerald A., [redacted].
Yeager, Harley M., [redacted].
Yonemura, Rodney K., [redacted].
Yoshimoto, Ernie M., [redacted].
Young, Dennis P., [redacted].
Young, Dick H., Jr., [redacted].
Young, John R., [redacted].
Young, Robert E., [redacted].
Young, Thomas W., Jr., [redacted].
Younghanse, John M., [redacted].
Yundt, Robert W., Jr., [redacted].
Zahrt, Marcus L., [redacted].
Zambeck, Arthur K., [redacted].
Zank, Gary D., [redacted].
Zellmer, Richard B., [redacted].
Zeluff, Robert M., [redacted].
Zerull, Lynn J., [redacted].
Zettler, Michael E., [redacted].
Ziener, Robert A., [redacted].
Zietlow, John E., [redacted].
Zimmerman, Wesley G., [redacted].
Zink, John W., [redacted].
Zollars, Gerald J., [redacted].
Zubel, John S., [redacted].
Zulfer, Charles F., [redacted].
Zurawka, Russell E., [redacted].

CHAPLAIN CORPS

Chumley, Theodore R., Jr., [redacted].
Jemerson, Robert L., [redacted].
Knowles, Richard K., [redacted].
Koah, Timothy A., [redacted].
Mosier, Leslie H., [redacted].
Zirzow, Wayne H., [redacted].

DENTAL CORPS

Baker, Gerald E., [redacted].
Byers, Stephen W., [redacted].
Combs, Charles H., [redacted].
Crout, Danny K., [redacted].
Emmert, Joseph H., Jr., [redacted].
Gallagher, Steven J., [redacted].
Hansen, Steven C., [redacted].
Herber, Hobert E., [redacted].
Jacobs, Thomas L., [redacted].
Justice, Owen W., Jr., [redacted].
Kopp, William M., [redacted].
Lee, David A., [redacted].
Mann, Joseph G., [redacted].
Mansfield, Michael J., [redacted].
Murray, Gary H., [redacted].
Musselwhite, James M., [redacted].
Occhialino, Richard D., [redacted].
Ortiz, Ramon F., [redacted].
Rapley, John W., [redacted].
Seaman, Frank E., [redacted].
Stein, Lester D., [redacted].
Sykes, Norman J., Jr., [redacted].
Trebilcock, Charles E., Jr., [redacted].
Wayman, Blake E., [redacted].
Weiand, Ronald W., [redacted].
Wisdom, Sidney C., [redacted].
Withers, James A., [redacted].
Woolum, James A., [redacted].
Zion, Harvey S., [redacted].

JUDGE ADVOCATE

Bagliebter, Gary M., [redacted].
Bartley, Harry M., [redacted].
Bateman, David A., [redacted].
Carparelli, Russell, [redacted].
Dunn, Richard L., [redacted].
Edgin, Gordon R., [redacted].
Forkner, Larry E., [redacted].
Franck, Derrick R., [redacted].
Freedman, James D., [redacted].
Fuller, Rex L., III, [redacted].
Fuscher, Steven R., [redacted].
Harshman, Randy L., [redacted].
James, Richard R., [redacted].
Kessler, Brian L., [redacted].
Krchma, Stephen P., [redacted].
Lynch, Joseph G., [redacted].
Meador, Paul M., [redacted].
Parry, Alan J., [redacted].
Reed, Robert E., [redacted].
Rowland, Jay A., [redacted].
Shelkofsky, Morris E., [redacted].
Thompson, Thomas J., [redacted].
Walluk, Anthony W., Jr., [redacted].
Wilder, Harlan G., [redacted].

MEDICAL CORPS

Airhart, Richard A., [redacted].
Angstadt, Terry L., [redacted].
Arnold, Frederick S., [redacted].
Blew, Richard M., [redacted].
Clardy, William F., [redacted].
Cox, Rex A., [redacted].

Crow, Ronald M., [redacted].
Dapremont, Edgar M., Jr., [redacted].
Dillaplain, Robert P., [redacted].
Echols, Paul G., [redacted].
Eibling, David E., [redacted].
England, Douglas M., [redacted].
Farrow, James G., [redacted].
Frenger, Fred P., Jr., [redacted].
Gehling, Gerald F., [redacted].
Gillespie, Ritchie P., [redacted].
Gillham, Robert A., Jr., [redacted].
Grande, Donald J., [redacted].
Green, Rufus, Jr., [redacted].
Herbert, Timothy G., [redacted].
Jacobson, James M., [redacted].
Jernigan, John G., [redacted].
King, Clarence G., Jr., [redacted].
Kinnison, Michael G., [redacted].
Kupko, John J., II [redacted].
Leach, Christopher L., [redacted].
Lehman, Kent W., [redacted].
Lenihan, John P., Jr., [redacted].
Letard, Francis X., Jr., [redacted].
Lewis, Ramon L., [redacted].
Lockett, John S., [redacted].
Luff, Ronald D., [redacted].
Marsh, Byron P., [redacted].
Maso, Eugent C., [redacted].
McClain, George E., Jr., [redacted].
Moulton, John P., [redacted].
Naversen, Douglas N., [redacted].
Rashid, Edward R., [redacted].
Shelton, David K., Jr., [redacted].
Stadelnikas, Joseph R., [redacted].
Stanley, Michael D., [redacted].
Stratton, Robert F., Jr., [redacted].
Thomas, Joseph R., Jr., [redacted].
Weiland, Frederick L. [redacted].
Welling, David R., [redacted].
Wesbrook, Clyde W., [redacted].
Wible, Jerry C., [redacted].
Williams, Michael H., [redacted].

NURSE CORPS

Andrews, Miron A., [redacted].
Baniak, Thomas G., [redacted].
Baumann, William E., [redacted].
Beadle, Claudia S., [redacted].
Brayton, Jean M., [redacted].
Chalmers, Kathleen A. [redacted].
Chandler, Merry J., [redacted].
Chizmas, Steven J., [redacted].
Cookson, Grace E., [redacted].
Cosby, Benjamin T., [redacted].
Daugavietis, Nancy A., [redacted].
Devries, Elwayne L., [redacted].
Elliott, Denis S., [redacted].
Ellison, Barbara L., [redacted].
Fester, Joyce M., [redacted].
Fielding, Barbara J., [redacted].
Frain, Patricia E., [redacted].
Hahn, Gary E., [redacted].
Hartmann, Lois E., [redacted].
Hernandez, Gloria A., [redacted].
Hower, Ellen K., [redacted].
Hoyt, Judith M., [redacted].
Jacob, Carolyn G., [redacted].
Ladd, Walter A., Jr., [redacted].
Lamoureux, Gloria K., [redacted].
Mack, Patricia A., [redacted].
Mantel, Mikelene L., [redacted].
Martens, Susan M., [redacted].
Mayer, Patricia A., [redacted].
McClarin, Sheila R., [redacted].
McKibban, Janice M., [redacted].
Meischen, Judith L., [redacted].
Minterfering, Jeri M., [redacted].
Moynihan, Sharon C., [redacted].
Newman, John J., [redacted].
O'Reilly, Patricia M., [redacted].
Perry, Virgil J., [redacted].
Pickett, Shirley A., [redacted].
Ramsey, Joe Ella W., [redacted].
Ramsey, Marjorine O., [redacted].
Scherm, Margaret E., [redacted].
Shattles, Brenda A., [redacted].
Shioli, Angeles J., [redacted].
Slader, Suzanne L., [redacted].
Smith, Suanne, [redacted].
Stierle, Linda J., [redacted].
Terrill, Marilynn J., [redacted].
Timer, Roseann D., [redacted].
Walos, Carol A., [redacted].
Wickland, Doralee, [redacted].
Williams, Joyce, [redacted].

MEDICAL SERVICE CORPS

Aenchbacher, Arthur E., Jr., [redacted].
Biron, Laurent J., [redacted].
Brandler, Sidney, [redacted].
Brown, Robert P., [redacted].
Brumlow, James W., Jr., [redacted].
Call, Scott J., [redacted].
Campbell, James C., [redacted].
Cater, Robert M., [redacted].
Deorio, James K., [redacted].
Febuary, Richard J., Jr., [redacted].
Friestman, Gerald R., [redacted].
Gilliard, Ronald M., [redacted].
Hatton, Estil L., Jr., [redacted].
Hayden, Eric M., [redacted].
Hayes, Garry D., [redacted].
Henderson, Wayne F., [redacted].
Jones, Lynn M., [redacted].
Kalosis, John J., Jr., [redacted].
Krause, William E., Jr., [redacted].
Love, Tommy L., [redacted].
Magee, Joe H., [redacted].
Marler, Phillip L., [redacted].
Marrs, Larry P., [redacted].
Modliszewski, Charles S., [redacted].
Oleson, John N., [redacted].
Owens, Robert H., [redacted].
Poppell, Samuel E., [redacted].
Reed, Earl W., [redacted].
Seek, Brian J., [redacted].
Statzer, Fred C., [redacted].
Stovall, William M., [redacted].
Sutherland, Edward, [redacted].
Temple, Thomas R., [redacted].
Williams, Theodore H., [redacted].

VETERINARY CORPS

Andersen, Gary L., [redacted].
Bradley, Michael J., [redacted].
Griffin, Martin D., [redacted].
Howell, James F., [redacted].
McGehee, James A., [redacted].
Peterson, Michael R., [redacted].
Sweet, Dennis E., [redacted].

BIOMEDICAL SCIENCE

Bolerjack, Thomas G., [redacted].
Borchert, Ronald D., [redacted].
Carmichael, Richard C., [redacted].
Cerha, Henry T., [redacted].
Cleary, Thomas J., [redacted].
Colgrove, Merry K., [redacted].
Cox, John D., [redacted].
Cross, Thomas E., [redacted].
Eyl, Arland W., Jr., [redacted].
Flory, William A., [redacted].
Freeman, James E., [redacted].
George, Larry C., [redacted].
Gorman, Ricahrd W., [redacted].
Hibler, Russell J., [redacted].
James, Donald K., [redacted].
Lang, Jerry T., [redacted].
Lefon, Carter C., [redacted].
Lynn, James R., [redacted].
Martone, Joseph A., [redacted].
McLaughlin, William H., [redacted].
Morford, Jerry M., [redacted].
Palagi, Peter A., [redacted].
Parker, Kermit E., Jr., [redacted].
Peck, Gregory W., [redacted].
Peterson, Lamont R., [redacted].
Pinkovsky, Dennis D., [redacted].
Russell, Melba E., [redacted].
Selle, Robert I., Jr., [redacted].
Shadowens, Melvin R., [redacted].
Tanner, Merle R., Jr., [redacted].

The following Air Force officer for reappointment to the active list of the Regular Air Force in the grade indicated, under the provisions of sections 1210 and 1211, Title 10, United States Code:

DENTAL CORPS

To be lieutenant colonel

Hendon, Gene E., [redacted].

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under the provisions of title 10, United States Code, Section 3447:

ARMY PROMOTION LIST

To be colonel

Abraham, Albert, III., [redacted].
Abramowitz, Benjamin, [redacted].
Adams, Harvey L., [redacted].
Akin, George H., [redacted].
Allen, Carl J., [redacted].
Allen, Eugene W., [redacted].
Allen, James B., [redacted].
Allred, Raymond S., [redacted].
Alton, Carlly L., [redacted].
Ameel, Joseph B., [redacted].
Andre, Peter C., [redacted].
Andy, Charles W., [redacted].
Anglin, Richard C., [redacted].
Archer, Caleb J., [redacted].
Arnzen, Chester L., [redacted].
Ayotte, Ronald J., [redacted].
Backus, Richard J., [redacted].
Baker, A. J., [redacted].
Barker, Rex N., [redacted].
Barrett, Reid A., [redacted].
Barron, James B., [redacted].
Batts, John H., [redacted].
Bay, Charles H., [redacted].
Bayruns, Paul C., [redacted].
Bazilwich, Paul Jr., [redacted].
Beach, Ernest E., [redacted].
Beaty, William E., [redacted].
Beauchamp, Edward W., [redacted].
Beck, Edmund S., [redacted].
Bell, James C., [redacted].
Bell, Lawrence A., [redacted].
Bell, Leroy C., [redacted].
Bell, Walter C., [redacted].
Benacquista, John J., [redacted].
Bening, Robert G., [redacted].
Bennett, Lester E., [redacted].
Bethke, Gerald H., [redacted].
Betke, Herman R., [redacted].
Binney, Charles W., [redacted].
Birt, Charles J., [redacted].
Bizzelle, Joanalys, [redacted].
Black, Clinton H., [redacted].
Blackburn, Paul L., [redacted].
Blewster, James C., [redacted].
Bligh, Thomas F., [redacted].
Boerner, Dennis H., [redacted].
Bolin, James P., [redacted].
Boll, Albert F., [redacted].
Bonnett, William B., [redacted].
Bonta, Stanley G., [redacted].
Boone, Howard, [redacted].
Boose, Howard R., [redacted].
Borgman, John D., [redacted].
Borneman, Frederick, [redacted].
Botts, Robert H., [redacted].
Boyle, James A., [redacted].
Bradley, William C., [redacted].
Bradshaw, Harold D., [redacted].
Bramlet, James W., [redacted].
Breen, James H., [redacted].
Brier, James R., [redacted].
Briggs, Richard S., [redacted].
Brofer, Duane R., [redacted].
Brooks, Herman L., [redacted].
Broome, James R., [redacted].
Brown, Bernard B., [redacted].
Brown, Clyde O., [redacted].
Brown, Lee D., [redacted].
Brown, Raymond V., [redacted].
Brown, William W., [redacted].
Bryant, Lloyd D., [redacted].
Bryant, Richard L., [redacted].
Buchanan, Paul J., [redacted].
Buel, Charles J., [redacted].
Bunevich, Peter C., [redacted].
Burba, Edwin H., [redacted].
Burbules, John G., [redacted].
Burgoon, Kenneth L., [redacted].
Burke, Richard A., [redacted].
Burkett, Seth W., [redacted].
Burns, Charles W., [redacted].
Burns, Thorton A., [redacted].
Burton, Donald L., [redacted].

Bush, Robert C., [redacted].
Butler, Douthard R., [redacted].
Bynell, Harlan B., [redacted].
Byrnes, Graham F., [redacted].
Calvert, Jack F., [redacted].
Cambell, Chester F., [redacted].
Cameron, Thomas F., [redacted].
Campbell, Frank D., [redacted].
Campbell, Jack P., [redacted].
Canfield, James D., [redacted].
Capps, Jack C., [redacted].
Carney, James H., [redacted].
Carver, Charles A., [redacted].
Casipit, Felix L., [redacted].
Catudal, Joseph U., [redacted].
Caudill, James E., [redacted].
Cawley, John H., [redacted].
Cei, Peter G., Jr., [redacted].
Chernault, James A., [redacted].
Chillcott, Dewey A., [redacted].
Christensen, George, [redacted].
Christensen, Neal R., [redacted].
Christopher, Harry, [redacted].
Cianciolo, August M., [redacted].
Clark, Claude L., [redacted].
Clarke, Charles C., [redacted].
Coffman, Richard L., [redacted].
Coffman, Ronald L., [redacted].
Colello, Joseph, Jr., [redacted].
Collison, John M., [redacted].
Colson, Keith Q., [redacted].
Conley, Samuel G., [redacted].
Connolly, John J., [redacted].
Conroy, Robert E., [redacted].
Cook, John H., [redacted].
Cook, Kenneth E., [redacted].
Cooksey, David O., [redacted].
Covert, James L., [redacted].
Coyne, Robert A., [redacted].
Craver, Douglas M., [redacted].
Crawford, Charles W., [redacted].
Crawford, Theodore, [redacted].
Cremer, Robert D., [redacted].
Crittenden, Robert, [redacted].
Cromartie, Eugene R., [redacted].
Crosby, James C., [redacted].
Cross, Ernest E., [redacted].
Crutchfield, June L., [redacted].
Cullen, James F., [redacted].
Culver, James V., [redacted].
Cunningham, Clarence, [redacted].
Dacey, Robert J., [redacted].
Daly, Frederick R., [redacted].
Danno, Ronald M., [redacted].
Dantos, Evangelos, [redacted].
Daub, Alfred V., [redacted].
Day, Edward H., [redacted].
Deleuil, Wood R., [redacted].
Delisle, Frederick, [redacted].
Demers, Gerald Z., [redacted].
Demick, Harold B., [redacted].
Diez, Everett S., [redacted].
Dillon, William F., [redacted].
Dixon, Bryan D., [redacted].
Dodge, Rodney E., [redacted].
Doiron, Nicholas H., [redacted].
Doneski, Bernard J., [redacted].
Dorris, Albert F., [redacted].
Dougherty, James E., [redacted].
Dubois, Ronald W., [redacted].
Duggan, Daniel E., [redacted].
Dull, Harry L., [redacted].
Duncan, William A., [redacted].
Eastburn, Charles E., [redacted].
Easton, Robert H., [redacted].
Eastwood, Clifford, [redacted].
Ebert, Vernon E., [redacted].
Ecoppi, Joseph L., [redacted].
Edmondson, James P., [redacted].
Edwards, Charles A., [redacted].
Eichelberger, Charles, [redacted].
Einseln, Aleksander, [redacted].
Eitel, James W., [redacted].
Ellis, Donald R., [redacted].
Ely, Arch H., Jr., [redacted].
Erickson, Eric A., [redacted].
Fairchild, Robert L., [redacted].
Fargason, Leroy H., [redacted].
Farmer, Harold D., [redacted].
Farmer, William P., [redacted].
Farris, Robert I., [redacted].
Ferguson, Charles H., [redacted].
Fernandez, Claude E., [redacted].
Fickett, Richard K., [redacted].
Fiorentino, William, [redacted].
Fiske, John R., [redacted].
Fitzgerald, Thomas, [redacted].
Fitzmorris, Lawrence, [redacted].
Fletcher, Edward N., [redacted].
Forburger, Thomas V., [redacted].
Foster, John A., [redacted].
Fountain, Ernest H., [redacted].
Fox, Eugene A., [redacted].
Fraley, Harold J., [redacted].
Frank, Winfield C., [redacted].
Frye, Ray E., Jr., [redacted].
Fuller, Thomas W., [redacted].
Garvey, Charles J., [redacted].
Gasper, John M., [redacted].
Geczy, George, Jr., [redacted].
Gentry, Paul E., [redacted].
Geraci, John F., [redacted].
Gibbons, Gerald G., [redacted].
Gibbons, James H., [redacted].
Giese, William, [redacted].
Gleason, Joseph E., [redacted].
Glen, George W., [redacted].
Glenn, Charles A., [redacted].
Goodman, Roland A., [redacted].
Goodwin, Willard C., [redacted].
Gordon, Dudley J., [redacted].
Gourley, William H., [redacted].
Govatos, John N., [redacted].
Grant, Theodore, [redacted].
Graves, Gary P., [redacted].
Green, George O., [redacted].
Grene, Dennis S., [redacted].
Greenway, John R., [redacted].
Griffin, Thomas N., [redacted].
Griffith, James E., [redacted].
Grinstead, John B., [redacted].
Gross, Woolf P., [redacted].
Grossheim, Paul W., [redacted].
Gullen, John P., [redacted].
Gunter, Arlie L., [redacted].
Gunter, Gurnie C., [redacted].
Haley, John P., [redacted].
Hall, Francis W., [redacted].
Hall, James B., [redacted].
Hammond, Verle B., [redacted].
Hampton, Emery W., [redacted].
Hancock, James H., [redacted].
Hannon, James D., [redacted].
Hansen, Charles M., [redacted].
Hargis, Glenn F., [redacted].
Harris, Bruce R., [redacted].
Hart, Rufus R., [redacted].
Harvey, Richard W., [redacted].
Hatch, John F., [redacted].
Hatcher, Walter L., [redacted].
Hatchett, Monte J., [redacted].
Hattersley, James G., [redacted].
Hay, James R., [redacted].
Hedberg, Mildred E., [redacted].
Hedges, Oliver W., [redacted].
Helela, David H., [redacted].
Helmlinger, Robert, [redacted].
Henrionnet, James F., [redacted].
Hensley, William R., [redacted].
Herb, Charles D., [redacted].
Herlik, Querin E., [redacted].
Herring, Bernard M., [redacted].
Hickerson, Arville, [redacted].
Hicks, David A., [redacted].
Hightower, Loyal G., [redacted].
Higman, James H., [redacted].
Hilbert, Donald E., [redacted].
Hill, James R., [redacted].
Hodgson, William E., [redacted].
Hoffman, John F., [redacted].
Hoglan, Curtis F., [redacted].
Holland, Billy C., [redacted].
Holland, Harold B., [redacted].
Holland, Leland J., [redacted].
Holmes, Justin A., [redacted].
Holt, Robert B., [redacted].
Hooker, Richard D., [redacted].
Horn, Will H., [redacted].
Horner, Roger H., [redacted].
Hosmer, Calvin, III, [redacted].
Hottel, David T., [redacted].
Houben, Emil P., [redacted].
Howell, Thomas R., [redacted].
Hunt, Byron W., [redacted].
Hunt, James W., [redacted].
Hunter, Joseph L., [redacted].
Hunter, Robert E., [redacted].
Hurley, Paul C., [redacted].
Hutton, John D., [redacted].
Infante, Donald R., [redacted].
Ingram, Duane C., [redacted].
Ippolito, Charles P., [redacted].
Isbell, James C., [redacted].
Ivey, George N., [redacted].
Jasper, Theodore C., [redacted].
Jensen, Kenneth G., [redacted].
Jentz, Edward M., [redacted].
Jerrett, Lyle E., [redacted].
Jewett, Richard E., [redacted].
Jezior, Anthony M., [redacted].
Jhung, Bryson, [redacted].
Johnson, David S., [redacted].
Johnson, Harold L., [redacted].
Johnson, Harry W., [redacted].
Johnson, Jackie F., [redacted].
Johnson, William M., [redacted].
Johnson, William V., [redacted].
Jones, Clifford, Jr., [redacted].
Jones, Ed E., Jr., [redacted].
Jones, Herbert L., [redacted].
Jones, Maury L., [redacted].
Jones, Thomas J., [redacted].
Kammerdiener, James, [redacted].
Keating, Richard J., [redacted].
Keener, Eugent F., [redacted].
Kehoe, Thomas P., [redacted].
Keliher, John G., [redacted].
Kelley, James F., [redacted].
Kellogg, Kenneth, E., [redacted].
Kelly, Thomas L., [redacted].
Kennedy, Billie J., [redacted].
Kennedy, Ralph P., [redacted].
Kenyon, Robert B., [redacted].
Ketchum, Raymond E., [redacted].
Keutmann, John A., [redacted].
Kilpe, Gunars, [redacted].
Kincheloe, Carl E., [redacted].
Kirk, John M., [redacted].
Kirk, K. Leslie, [redacted].
Kleypas, Kenneth A., [redacted].
Klingensmith, James, [redacted].
Kottich, Charles R., [redacted].
Kovel, Maxim I., [redacted].
Kramer, Bryce R., [redacted].
Krausz, George M., [redacted].
Krawciw, Nicholas S., [redacted].
Kuehn, Frederick G., [redacted].
Lamons, Robert E., [redacted].
Lane, Robert L., [redacted].
Lang, Marlin C., [redacted].
Langer, Joseph A., [redacted].
Lanzillo, Eugene R., [redacted].
Lash, Peter W., [redacted].
Lawley, Fred W., [redacted].
Leakey, Robert J., [redacted].
Lehardy, Ward M., [redacted].
Lightner, Thomas G., [redacted].
Lillis, Francis X., [redacted].
Lilly, Richard A., [redacted].
Lindquist, Gary E., [redacted].
Loffert, John W., [redacted].
Logerquist, Benjamin, [redacted].
Longino, Robert B., [redacted].
Looney, Robert C., [redacted].
Lorix, Richard E., [redacted].
Love, Harold M., [redacted].
Lowrey, Austin, III, [redacted].
Lueders, Dirk H., [redacted].
Luther, Ralph A., [redacted].
Maccini, Francis L., [redacted].
Mackin, Richard E., [redacted].
Manhan, Robert D., [redacted].
Manzo, John M., [redacted].
Marrella, Leonard S., [redacted].
Martin, Richard C., [redacted].
Martin, Thurman O., [redacted].
Mathis, Milton H., [redacted].
Matthews, Francis W., [redacted].
Maupin, Joe S., [redacted].
May, Elmer C., [redacted].
Maynes, George E., [redacted].
Mayson, Elford M., [redacted].
McCarty, Douglas W., [redacted].

McCleave, Robert E., [redacted].
McCollum, Richard J., [redacted].
McCoy, George V., [redacted].
McCue, Robert B., [redacted].
McCurdy, Neal B., [redacted].
McDaniel, Cecil D., [redacted].
McDonald, John M., [redacted].
McDonald, Vincent P., [redacted].
McElrath, William T., [redacted].
McGee, Lester E., [redacted].
McGinn, John J., [redacted].
McGowan, Paul A., [redacted].
McGrath, William B., [redacted].
McGruder, Beverly L., [redacted].
McHugh, Thomas P., [redacted].
McKalip, Homer D., [redacted].
McNerney, David A., [redacted].
McNulty, James W., [redacted].
McPheeters, Leander, [redacted].
Mead, Warne D., [redacted].
Meadows, Kenneth D., [redacted].
Meara, John J., [redacted].
Mears, Charles D., [redacted].
Medina, Efrain, [redacted].
Meininger, Herbert, [redacted].
Mericle, Russell A., [redacted].
Merrick, Robert L., [redacted].
Merritt, William D., [redacted].
Meyer, Clyde E., [redacted].
Meyer, Raleigh R., [redacted].
Mikuta, Joel J., [redacted].
Miller, Duane D., [redacted].
Milliron, Joseph F., [redacted].
Minor, Thomas F., [redacted].
Missildine, William, [redacted].
Mitchell, Gregory W., [redacted].
Mixan, Edgar J., [redacted].
Modica, Giac P., [redacted].
Moses, Charles C., [redacted].
Moses, Laurence G., [redacted].
Moss, Franklin A., [redacted].
Munsey, Jack T., [redacted].
Murphy, John J., [redacted].
Murray, Gary B., [redacted].
Myers, John T., [redacted].
Nagel, Theodora H., [redacted].
Nelson, William J, [redacted].
Newbill, James P., [redacted].
Nock, Carleton C., [redacted].
Oakes, John H., [redacted].
Oaks, Clarence B., [redacted].
Oberg, Robert E., [redacted].
Oberst, Guenter G., [redacted].
O'Brien, Robert A., [redacted].
O'Bryan, William P., [redacted].
O'Connell, William C., [redacted].
Odgen, George C., [redacted].
Offield, Nathan A., [redacted].
Oliver, Mahatha M., [redacted].
Oram, Charles J., [redacted].
Ostrowidzki, Joseph, [redacted].
Otsuka, Yukio, [redacted].
Painter, Brookman E., [redacted].
Painter, Keith, [redacted].
Palladino, Donald J., [redacted].
Parker, Franklin S., [redacted].
Parrish, Glenwood N., [redacted].
Partin, David W., [redacted].
Pataro, Rudolph N., [redacted].
Patrick, Burton D., [redacted].
Patrick, Farrell G., [redacted].
Patterson, Kenneth, [redacted].
Pawlik, Stephen R., [redacted].
Pearson, Stanley R., [redacted].
Peck, James W., [redacted].
Perry, Earl E., [redacted].
Petersen, Donald F., [redacted].
Petracca, John M., [redacted].
Phillips, Calvin F., [redacted].
Phillips, Robert A., [redacted].
Phillips, Walton A., [redacted].
Piland, William U., [redacted].
Piner, James, Jr., [redacted].
Pitre, George L., [redacted].
Plant, Robert A., [redacted].
Pohly, Glenn W., [redacted].
Pokorny, Anthony G., [redacted].
Porter, Jon E., [redacted].
Potts, William E., [redacted].
Powell, Frank M., [redacted].
Powell, Ralph J., [redacted].
Pulliam, Nathan M., [redacted].
Putnam, Earl L., [redacted].
Quackenbush, Robert, [redacted].
Qualtrough, Norman, [redacted].
Quest, Joseph W., [redacted].
Quinn, Joseph G., [redacted].
Ragains, Robert L., [redacted].
Raines, Fred B., [redacted].
Ramey, Hubert D., [redacted].
Ramsden, John J., [redacted].
Ramsey, John D., [redacted].
Raudebaugh, James D., [redacted].
Reagan, Jerry E., [redacted].
Redmond, Robert S., [redacted].
Reed, Paul R., [redacted].
Rice, Richard C., [redacted].
Rich, Arthur L., [redacted].
Richards, Edward T., [redacted].
Roberts, Charles W., [redacted].
Robinson, Bobby C., [redacted].
Robinson, Willard L., [redacted].
Rockey, James D., [redacted].
Rodgers, Thurman D., [redacted].
Roll, William C., [redacted].
Romig, Danny L., [redacted].
Roop, John R., [redacted].
Ropp, Richard F., [redacted].
Rosenberg, Theodore, [redacted].
Rosing, Willis S. Jr., [redacted].
Ruane, Douglas A., [redacted].
Rubin, George R., [redacted].
Rundgren, Ivar W., [redacted].
Rupp, James E., [redacted].
Salimbene, Frank G., [redacted].
Sallee, John W., [redacted].
Sanders, Burnett R., [redacted].
Sanders, Mac D., [redacted].
Sanders, William C., [redacted].
Sands, Thomas A., [redacted].
Sanford, David G., [redacted].
Sauer, Jack L., [redacted].
Savard, Ronald S., [redacted].
Scanlon, Charles F., [redacted].
Scherer, Franklin J., [redacted].
Schick, Robert L., [redacted].
Schlossberg, Arnold, [redacted].
Schmidt, Guy L., [redacted].
Schmidt, Herbert R., [redacted].
Schulz, Otto R., [redacted].
Schumacher, Henry J., [redacted].
Schvaneveldt, Noel, [redacted].
Schwab, Don A., [redacted].
Scott, Charles W., [redacted].
Scott, Richard L., [redacted].
Seago, Pierce T., [redacted].
Seely, William B., [redacted].
Serrin, Phillip A., [redacted].
Settle, Thomas A., [redacted].
Sharp, Richard H., [redacted].
Shelton, Huntly E., [redacted].
Shelton, James E., [redacted].
Shockley, Henry A., [redacted].
Shufelt, James W., [redacted].
Sidler, Garrett V., [redacted].
Simmons, Bobby B., [redacted].
Simmons, James W., [redacted].
Simpson, John A., [redacted].
Simpson, Robert B., [redacted].
Sinclair, Allen B., [redacted].
Sirkis, Michael S., [redacted].
Sisk, Isaac R., [redacted].
Skidmore, Wilbur M., [redacted].
Slingo, James F., [redacted].
Smalls, Moses D., [redacted].
Smith, Ann B., [redacted].
Smith, Carl D., [redacted].
Smith, Carl G., [redacted].
Smith, Donald B., [redacted].
Smith, Edward P., [redacted].
Smith, Eldon L., [redacted].
Smith, James A., [redacted].
Smith, Jimmy W., [redacted].
Smith, John D., [redacted].
Smyth, Rome D., [redacted].
Snowden, Edgar, IV, [redacted].
Sones, Vernon B., [redacted].
Soukup, John P., [redacted].
Sparks, Donald E., [redacted].
Spence, John D., [redacted].
Spence, Ray L., [redacted].
Spires, James W., [redacted].
Springstead, Bertin, [redacted].
Stapleton, George J., [redacted].
Steckly, Kenneth D., [redacted].
Steimle, Carl R., [redacted].
Stein, Edward J., [redacted].
Stenehjem, George N., [redacted].
Stern, Allan R., [redacted].
Stevens, Lynn H., [redacted].
Stevens, Phillip J., [redacted].
Stevenson, Carl B., [redacted].
Stewart, Jessie E., [redacted].
Stice, John E., [redacted].
Stokes, Theodore K., [redacted].
Stone, Joseph L., [redacted].
Stoutamire, David F., [redacted].
Stratton, Jerry R., [redacted].
Strozier, James K., [redacted].
Stubbs, Harold E., [redacted].
Sutton, James L., [redacted].
Swartz, Calvin, [redacted].
Szvetecz, Edward, [redacted].
Tapp, Richard L., [redacted].
Tapscott, Eugene D., [redacted].
Taylor, Joseph W., [redacted].
Taylor, Wesley L., [redacted].
Teague, Gwynn A., [redacted].
Tedeschi, Joseph R., [redacted].
Teeter, Charles E., [redacted].
Tener, Robert K., [redacted].
Thompson, Jackson D., [redacted].
Thorne, Phillip D., [redacted].
Todd, George K., [redacted].
Tollefson, Robert G., [redacted].
Toolson, John M., [redacted].
Tuszynski, Andrew J., [redacted].
Tutwiler, James D., [redacted].
Twichell, Heath, Jr., [redacted].
Valence, Edward, Jr., [redacted].
Vandervort, Edmund, [redacted].
Vanlobensels, James, [redacted].
Vanwert, John F., [redacted].
Vavra, Luke A., [redacted].
Villa, Joseph A., [redacted].
Vines, Ronald C., [redacted].
Vogentanz, Peter G., [redacted].
Volpe, Michael, [redacted].
Voorhees, Theodore, [redacted].
Vydra, Anthony L., [redacted].
Waggener, Robert N., [redacted].
Wagner, Robert E., [redacted].
Walker, Wiley W., [redacted].
Wallace, George C., [redacted].
Wallace, James W., [redacted].
Walsh, Gordon P., [redacted].
Walton, John C., Jr., [redacted].
Watke, Frederic W., [redacted].
Watson, Dwane C., [redacted].
Webster, William L., [redacted].
Weihl, William L., [redacted].
Weiler, Harold E., [redacted].
Weinstein, Sidney T., [redacted].
Werner, Gary L., [redacted].
White, Jack A., [redacted].
White, Robert L., [redacted].
Wilkins, Aaron E., [redacted].
Williams, Edward H., [redacted].
Williams, Gary C., [redacted].
Williams, Graybill, [redacted].
Williams, Richard L., [redacted].
Williford, Donald E., [redacted].
Willis, Raymond E., [redacted].
Wing, Thomas, [redacted].
Wingate, Charles S., [redacted].
Wise, Robert J., [redacted].
Wishart, Leonard P., [redacted].
Wolfe, Robert A., [redacted].
Woliver, Clarence H., [redacted].
Woods, George J., [redacted].
Woolley, John E., [redacted].
Wright, Billy J., [redacted].
Wright, William J., [redacted].
Wurman, James W., [redacted].
Yawberg, Harold D., [redacted].
Young, Ray A., [redacted].
Yuhas, Robert J., [redacted].
Zeltman, Ronald W., [redacted].

JUDGE ADVOCATE CORPS

To be colonel

Bright, Fred Jr., [redacted].
Deford, Maurice H., [redacted].

Dudzik, Joseph A. Jr., [redacted].
Hansen, Donald W., [redacted].
Holdaway, Ronald M., [redacted].
Mullins, William R., [redacted].
Mundt, James A., [redacted].
Murdock, Thomas E., [redacted].
Tocher, Patrick A., [redacted].
Trail, Sebert L., [redacted].
Wagner, Keith A., [redacted].

CHAPLAIN CORPS

To be colonel

Cabrera, Marcos M., [redacted].
Easley, Paul H., [redacted].
Fernlund, Calvin E., [redacted].
Marks, Ivin N., [redacted].
Moskowitz, Seymour, [redacted].
Oshea, Edward L., [redacted].
Peterson, Wilbur G., [redacted].
Piskura, Joseph H., [redacted].
Robinson, James C., [redacted].
Urey, John H., [redacted].
Wilk, Max W., [redacted].

MEDICAL SERVICE CORPS

To be colonel

Bass, Bobbie R., [redacted].
Bradford, Charles E., [redacted].
Brannock, Joseph E., [redacted].
Burdick, Robert L., [redacted].
Darnauer, Paul F., [redacted].
Demaree, Gale E., [redacted].
Dettor, Charles M., [redacted].
Dobson, Benjamin F., [redacted].
Dowery, Gordon K., [redacted].
Durr, Walter L., [redacted].
Garrett, McLain G., [redacted].
Giroux, Arthur R., [redacted].
Harris, Davis P., [redacted].
Harris, Jon N., [redacted].
Huff, James C., [redacted].
Inge, Bobby M., [redacted].
Kelly, John B., [redacted].
Kisel, John G., [redacted].
Levy, Louis B., [redacted].
Lynch, George R., [redacted].
McBride, Dan J., [redacted].
McGinnis, John W., [redacted].
McKeever, Francis L., [redacted].
Pla, Luis L., [redacted].
Salmon, Ray W., [redacted].
Simon, Thomas J., [redacted].
Stubblefield, James, [redacted].
Trudeau, Thomas L., [redacted].
Washington, Charles, [redacted].
Yim, Herbert K., [redacted].
Ziebell, Earl L., [redacted].

ARMY MEDICAL SPECIALISTS CORPS

To be colonel

Choren, Bernadine G., [redacted].
Davis, Barbara A., [redacted].
Deleeuw, Carolina F., [redacted].
Gray, Barbara D., [redacted].
Pfeiffer, Violet R., [redacted].
Schmechel, Marilyn, [redacted].
Strand, Eloise B., [redacted].
Thompson, Beatrice, [redacted].

VETERINARY CORPS

To be colonel

Dean, Richard F., [redacted].
Kinnamon, Kenneth E., [redacted].
Strandberg, Harold, [redacted].

ARMY NURSE CORPS

To be colonel

Berg, Ellen M., [redacted].
Cotter, Joan K., [redacted].
Diggs, Gloria M., [redacted].
Dullum, Marlys E., [redacted].
Faubion, Merle L., [redacted].
Gallant, May I., [redacted].
Gately, Miriam A., [redacted].
Gorman, Eily P., [redacted].
Grace, Mary C., [redacted].
Hiers, Frances A., [redacted].
Jackson, Helen, [redacted].
Jagiello, Helen D., [redacted].
Karwoski, John H., [redacted].
Matthews, Charles D., [redacted].
McLeod, Darlene K., [redacted].
McLoughlin, Audre J., [redacted].
Narbuth, Benjamin L., [redacted].
Nolfe, Vera A., [redacted].
Randall, Dolores H., [redacted].
Robinson, John W., [redacted].
Silvestre, Patricia, [redacted].
Simon, Dorothy A., [redacted].
Stone, Lyndsey, [redacted].
Sullivan, Elenore F., [redacted].
Supplee, Jeanne L., [redacted].
Tauroney, Teresa J., [redacted].
Thomas, Nevaida, [redacted].
Zalabak, Dorothy E., [redacted].

The following named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3298:

To be first lieutenant

Beard, Walter S., [redacted].
Beck, Ronald G., [redacted].
Bucha, Peter J., [redacted].
Button, Patrick W., [redacted].
Chambers, Larry L., [redacted].
Cummings, Edward R., [redacted].
Cunningham, Russell R., [redacted].
Davis, Leon D., II, [redacted].
Easterbrook, Ronald L., [redacted].
Fones, Ronald E., [redacted].
Graham, Alexander D., [redacted].
Harris, Randall C., [redacted].
Huston, Michael L., [redacted].
Jones, Randy L., [redacted].
Karpinsky, Ronald J., [redacted].
Kisco, David S., [redacted].
LaBonte, Paul E., [redacted].
Marks, Stephen M., [redacted].
McClure, Allan H., [redacted].
Miller, Wesley C., [redacted].
Mortensen, William F., III, [redacted].
Muskus, Thomas J., [redacted].
Sticco, Nicholas F., [redacted].
Wyman, Robert D., [redacted].

ARMY NURSE CORPS

To be first lieutenant

Anderson, Timothy D., [redacted].
Andresen, James A., [redacted].
Baehr, Randall C., [redacted].
Boyle, Kim A., [redacted].
Burgess, Molly C., [redacted].
Clayton, Mary B., [redacted].
Corbin, Kathleen C., [redacted].
Droegemueller, Mary, [redacted].
Edgecomb, Barbara L., [redacted].
Eitel, Martin O., [redacted].
Elsesser, Susan, [redacted].
Farnell, Jill E., [redacted].
Gilbert, Derl H., [redacted].
Gray, Ollie B., [redacted].
Gurney, Cynthia A., [redacted].
Hoge, Linda J., [redacted].
Houser, Susan M., [redacted].
Kochansky, Samuel W., [redacted].
Lawver, John A., [redacted].
Meis, Harold J., [redacted].
Mitchell, Paula R., [redacted].
Porch, Alan G., [redacted].
Prucha, James F., [redacted].
Rixon, Susanne P., [redacted].
Rucki, Carol A., [redacted].
Sadler, Freida J., [redacted].
Schwiesow, Joel D., [redacted].
Scrogham, Jefferson, [redacted].
Sparks, Glenn E., [redacted].
Splichal, Clifford, [redacted].
Srsic, Kathleen M., [redacted].
Steenbock, Mark G., [redacted].
Suiter, Robert L., [redacted].
Sullivan, Candice E., [redacted].
Taddiken, Patricia, [redacted].
Taylor, Daniel B., [redacted].
Taylor, Dianne M., [redacted].
Varner, Willie H., [redacted].
Walsh, Darleen F., [redacted].
Whitehead, David E., [redacted].
Whitehurst, Cynthia, [redacted].
Wojtecki, Karen M., [redacted].
Wolstencroft, Margaret, [redacted].
Zimmerman, Katherine, [redacted].

MEDICAL SERVICE CORPS

To be first lieutenant

Anders, Michael T., [redacted].
Astriab, Steven M., [redacted].
Austin, Mark W., [redacted].
Bailey, Paul T., [redacted].
Bosse, David A., [redacted].
Bradshaw, Thomas A., [redacted].
Brown, Richard E., [redacted].
Buchmeier, Robert P., [redacted].
Campbell, Larry E., [redacted].
Carpenter, James L., [redacted].
Casso, Felipe, [redacted].
Dunnavant, John L., [redacted].
Fairbanks, James W., [redacted].
Ferguson, Francis G., [redacted].
Fitzgerald, Robert, [redacted].
Fletcher, Thomas E., [redacted].
Fuller, Thomas G., [redacted].
Glazier, Calvin J., [redacted].
Goad, Jaan R., [redacted].
Gonzalez, Jose M., [redacted].
Gorman, Lewis E., [redacted].
Graham, Howard J., [redacted].
Grant, Raymond L., [redacted].
Haas, Scott T., [redacted].
Hanselman, Samuel J., [redacted].
Harris, John T., [redacted].
Helseth, David C., [redacted].
Hightower, John P., [redacted].
Hoch, Alfred L., [redacted].
Houk, Lonny D., [redacted].
Jordi, Howard C., [redacted].
Jungwirth, Barry F., [redacted].
Justice, Robert A., [redacted].
Kiehl, Paul V., [redacted].
Knowles, Thomas J., [redacted].
Knutson, Michael, [redacted].
Kupchinsky, Gary L., [redacted].
Laberge, David W., [redacted].
Ledford, Ronald E., [redacted].
Lees, Michael A., [redacted].
Lenneville, Mark W., [redacted].
Libby, Frank A., [redacted].
Lindsey, Carl R., [redacted].
Litrio, John P., [redacted].
Little, James S., [redacted].
Lovallo, Dominick A., [redacted].
Lundry, Edward E., [redacted].
Martig, Robert J., [redacted].
McFadden, Steven R., [redacted].
McFarling, Leslie H., [redacted].
McMurphy, William C., [redacted].
Meier, Robert W., [redacted].
Meis, Emil F., [redacted].
Miller, David A., [redacted].
Mizell, James T., [redacted].
Moller, John R., [redacted].
Montelongo, Dario, [redacted].
Moran, Errol L., [redacted].
Mourtos, Constantine, [redacted].
Muramoto, Gary N., [redacted].
Nelsen, Lenn F., [redacted].
Nelson, Richard F., [redacted].
Newsome, Earl S., [redacted].
Owens, Terry L., [redacted].
Principe, Richard D., [redacted].
Ramos, Edwin T., [redacted].
Rawls, Edward T., [redacted].
Redd, Paul C., [redacted].
Richardson, Allie J., [redacted].
Roden, Dan G., [redacted].
Rogers, Alfred W., [redacted].
Rosander, David J., [redacted].
Ryczak, Robert S., [redacted].
Schowengerdt, Daniel, [redacted].
Schroeder, David L., [redacted].
Sihelnik, Stephen A., [redacted].
Silkey, Larry K., [redacted].
Smith, Bryan E., [redacted].
Smith, Larry A., [redacted].
Staus, Ronald G., [redacted].
Stewart, Robert S., [redacted].
Sullivan, Harold H., [redacted].
Sullivan, Ronald W., [redacted].
Sur, Stanford K., [redacted].
Thompson, Nathaniel, [redacted].
Toothman, Edward J., [redacted].
Treiber, Randal L., [redacted].
VanDyke, Melvin R., [redacted].

Walker, Michael E., [redacted].
Webber, Paul M., [redacted].
Wesley, Olan L., [redacted].
White, Christopher, [redacted].
Williams, David E., [redacted].
Williams, Edward H., [redacted].
Wright, Charles T., [redacted].
Zieske, Larry A., [redacted].

IN THE NAVY

The following-named officers of the U.S. Navy and Naval Reserve for temporary promotion to the grade indicated in the line subject to qualification therefor as provided by law:

LINE

Captain

Ailes, Robert H.
Alexander, Sherman G.
Allen, John E.
Allison, William Rush, Jr.
Anderson, Edwin K.
Anderson, James B.
Andrews, Bobie
Androski, Frank N.
Apple, John D., Jr.
Armstrong, Clarence E., Jr.
Ausley, Joe H., Jr.
Baker, Robert C.
Barnes, James A.
Barnes, James H.
Barrish, Paul D.
Bauman, John M.
Beach, Milton D.
Beard, Percy M., Jr.
Beasley, Charles J.
Betts, Roger S.
Beving, Duane U.
Bigler, William W.
Bilicki, Daniel R.
Box, Roger E.
Brisbois, Marshall B.
Bronson, Hiram S., III
Brown, Donald D.
Bruyere, Thomas E.
Burdick, Howard F., Jr.
Burkel, John F.
Burrows, Donn T.
Bush, Vernon R.
Byng, Weston H.
Caccivio, John D.
Camacho, Richard G.
Campbell, Thomas G.
Canada, Donald E.
Carre, David M., Jr.
Carswell, Michael S.
Casey, Richard F.
Chang, Ming E.
Charneco, Carlos M., Jr.
Chase, Henri B., III
Chester, Scott A.
Christenson, William C.
Christopher, Richard V.
Chumley, Sylvester
Clay, Jack D.
Cole, Charles W., Jr.
Coleman, Douglas C.
Coll, William A.
Connelly, James H., Jr.
Cooke, Vincent E.
Cooley, David L.
Cooper, David S.
Cooper, Estill A., Jr.
Corey, Stuart M.
Cornell, Gordon C.
Covey, Edward J.
Cramer, Dean E.
Crater, George H., Jr.
Cullen, Charles W.
Curry, Thomas H.
Cyr, Byron A.
Dahl, Lowell D.
Darling, David D.
Darnell, Jack
Davis, Harry L.
Dean, Robert V.
Dearie, Cyril G.
Dennison, Daniel C.
Dennison, William E.
Deshler, William A.
Deweese, Everette D.
Dickerson, Kenneth A.
Diloreto, Lucio
Doerr, Peter J.
Doremus, Robert B.
Dorsey, James F., Jr.
Duncan, John G.
Dungan, David A.
Dunleavy, Richard M.
Dunmire, Rance D.
Eaves, James S.
Eckert, John D.
Egerton, James W.
Ehret, James D.
Erie, Carl R.
Estes, Edward D.
Eyler, Armand T., Jr.
Eytchison, Ronald M.
Felkins, Charles G.
Fellowes, John H.
Fenzl, George J., Jr.
Ferrarini, Richard L.
Fink, George E.
Fitzgerald, Maurice D.
Fitzwilliam, Peter K.
Flanary, Thomas N., II
Flannery, Gerald J., Jr.
Flather, Charles R.
Fox, Robert F.
Frey, Robert D.
Fries, Charles L.
Friichtenicht, Richard D.
Fullerton, Frank E.
Gallotta, Richard A.
Gauthey, Jules R.
Gesling, Marion L.
Giacchino, Louis F.
Gibson, James C., Jr.
Giuliani, Leonard E.
Gluse, Michael R.
Gonzalez, Alfred H.
Gore, James R.
Grant, Richard L.
Graves, William S.
Green, Gerald E.
Green, Richard F.
Green, William H.
Greer, Robert E.
Hacker, Benjamin T.
Hahne, Dayton R.
Hamilton, Edward A.
Hamlin, George A., Jr.
Hammon, Colin P.
Hanson, Morton H.
Harbrecht, Raymond J.
Harmon, Jack E.
Harscheid, David G.
Hatch, Ross R.
Hayman, Douglass F., Jr.
Heisinger, Duane L.
Hesse, Gerald H.
Hickerson, James M.
Hodge, William R.
Hoffman, Chauncey F.
Hoffner, Conrad C.
Hohenstein, Clyde G.
Hollandsworth, Paul F., Jr.
Holm, John P.
Honsinger, Vernon C.
Hood, Joseph W., Jr.
Horne, Roger B., Jr.
Hoyes, Donald J.
Hueber, Fred P.
Huhn, Samuel P.
Hullander, Robert A.
Husted, Murl E., Jr.
Hutton, James L.
Jarratt, Guy C., III
Jauss, Charles W.
Jeremiah, David E.
Johns, Clifford M.
Johnson, Jerome L.
Johnson, Wendell N.
Johnston, Donald H., Jr.
Johnston, Donald W.
Jones, Jerry E.
Karn, Alvin R., Jr.
Keegan, Arthur E.
Kerslake, Ronald W.
Ketchum, William H.
Kinert, John H.
Kinney, Charles H.
Kirkpatrick, John H.
Klein, Harry L.
Komisarcik, Adam
Kralik, Simon C.
Kramer, Theodore R., Jr.
Krekel, Lyman E.
Kruger, Allen L.
Kuykendall, Herbert B.
Lacy, William A.
Lambert, Russell G.
Lamotte, Francis J.
Langelier, Wilfred E., Jr.
Lanning, Richard J.
Larison, John D., Jr.
Laurance, James D.
Lawson, Ramsay
Leblanc, James B.
Leeds, Rene V.
Lees, Forrest A., Jr.
Lenhardt, Harry F., Jr.
Lewin, Theodore E.
Lewis, Harold S.
Loos, Donald G.
Lown, Paul C.
Lund, John R.
Lynch, Robert B., Jr.
Maccabe, Van Lorin
Majors, William T.
Maloney, John J.
Maston, Joseph H., III
May, James L.
McBride, Michael A.
McClenahan, Tom P.
McCracken, David J.
McEachen, Angus D. III
McGarry, John G.
McGrath, James J.
McHugh, John T.
McKenzie, John H., Jr.
McLellan, Charles A.
McMorris, John A., II
McQuestn, John T. Jr.
Mecaughey, Robert W.
Melvin, Edmund W.
Meyer, J. D.
Miller, Forrest R.
Miller, John A.
Miller, Robert H.
Minton, David C., III
Monk, Samuel W.
Montgomery, George C., Jr.
Mook, Joseph
Moore, Paul M.
Morrison, Orrin L.
Mortimer, Edmund C.
Mozier, Richard A.
Murray, Paul A.
Nelson, Carl A.
Newman, Alvin S.
Nicholson Harry E.
Nofziger, Larry B.
Norrington, Charles G.
Notargiacomo, Joseph M.
O'Connell, Jerome A.
O'Connor, William J. M.
O'Donnell, Daniel T.
Onhaizer, Jerry E.
Orrik, David N.
Owens, Ramon R.
Owens, Robert S.
Palmer, Philip M.
Pasquinelli, Francis C.
Pate, Zachariah T., Jr.
Patton, James M.
Peek, Robert F.
Pendleton, Benjamin L.
Periolat, John J.
Perry, Albert J.
Perry, Leonard G.
Peters, Vernon W.
Peterson, Karl L.
Peterson, Peter C., Jr.
Petree, Noel H., Jr.
Phillips, Ronald M.
Phillips, Richard W.
Pitzen, John R.
Polfer, Clarence R.
Powell, Wendell W.
Powell, William C.
Presley, Jack C.
Purdy, Dale C.
Rabuck, Leo V.
Ransom, James P., II
Reese, Franklin W., III
Rentschler, Richard L.
Rettig, Godfrey A.
Rice, Robert P.
Rich, Willis S.
Richardson, Fred D., Jr.
Riefler, George B.
Roberts, Charles R.
Roberts, Ned C.
Robertson, Hollis E.
Rodgers, Robert D.
Rogers, Roland D.
Rowsey, James M., Jr.
Russell, Kay
Ryan, Gerald F.
Sage, Robert A.
Salo, Lennart R.
Sayers, Samuel L.
Schaffert, Richard W.
Scheyder, Ernest J.
Schilling, George F.
Schulze, John M., Jr.
Scott, Philip J.
Scruggs, Richard M.
Sechrest, Edward A.
Seesholtz, John R.
Shannon, Philip M.
Shapero, Allen L.
Sharp, Gail J.
Shearer, Oliver V., Jr.
Shinn, Robert A.
Short, Benjamin F.
Shulick, John, Jr.
Shultz, Theodore, B.
Simpson, George T. K.
Skelly, Arthur R.
Smetheram, Herbert E.
Smith, John P.
Soriano, Joseph R.
Spencer, Barry W.
Spink, Peter J.
Spoto, Victor S.
Stephenson, Paul D.
Stevens, William
Stocking, Sigurd I
Stone, Lowell P,
Strong, Henry H., Jr.
Sullivan, William K.
Sumner, Donald M.
Swan, Robert S.
Swan, William R.
Swinnerton, Ronald H.
Talbert, Joseph T., Jr.
Tarbuck, Richard R.
Tatro, Peter R.
Taylor, Lawrence H., Jr.
Taylor, Robert C., Jr.
Teachout, David S.
Terrell, Jerry L.
Tettelbach, Fredrick M.
Thomas, James G.
Thorpe, Gordon L.
Thurber, John D.
Tibbitts, Barrick F.
Timberlake, David W.
Tinker, Charles L.
Titus, Edward D., Jr.
Tracy, William K.
Treiber, Maurice L.
Ulmer, Donald M.
Wales, George E.
Ward, Compton E.
Watson, John
Way, Edward R.
Weir, Richard W.
Wetzel, James F.
Wheeler, James R.
White, Richard F.
Whittaker, Robert L.
Wilbern, Jack M.
Winter, Richard A.
Wise, Stephen A.
Wolfe, Robert E.
Woolam, John E.
Wright, Harry W.
Wright, Joseph M. P. Jr.
Zipperer, William R.
Zirbel, William D.

The following-named women officers of the U.S. Navy, for permanent promotion to the grade of captain in the line, subject to qualification therefor as provided by law:

Dilorenzo, Julia J.
Watkins, Joann E.

IN THE NAVY

The following-named officers of the U.S. Navy for temporary promotion to the grade of lieutenant commander in the line and staff corps of the U.S. Navy, as indicated, subject to qualification therefor as provided by law:

LINE

Nisbet, Robert E.
Piwowar, Thomas M.

MEDICAL CORPS

Scanlon, Thomas

DENTAL CORPS

Woofter, Dennis D.

The following-named officers of the U.S. Navy for temporary promotion to the grade of lieutenant in the line and staff corps of the U.S. Navy, as indicated, subject to qualification therefor as provided by law:

LINE

Bates, Edgar A., III
Cook, Louis J., III
Dills, Kenneth H.
Harrison, John J.
Hoos, Roger M.
Jauernig, Robert R.
Kerschner, Harrison F., III
Kieszek, Joseph R.
Landers, Coleman A.
Lichtenberg, Robert D., Jr.
Pelc, Matthew T.
Roundcount, Gervese J.
Wells, Michael J.

SUPPLY CORPS

Dennis, David A.
Friedel, John M.
Grimes, Gary C.
Leclair, Daniel V.

CIVIL ENGINEER CORPS

Collins, William W.
Doo, Harry Y. C. K.
Kolster, William G.
Walker, James L., III

JUDGE ADVOCATE GENERAL'S CORPS

Benton, William D.
Cattanach, Robert E., Jr.
Fayle, Patrick A.
Jacobsen, Walter L.

NURSE CORPS

Powell, Robert L., Jr.

Commander Jonathan O. Lee, temporary promotion to the grade of commander in the Medical Corps of the Reserve of the U.S. Navy, subject to qualification therefor as provided by law.

The following-named officers of the U.S. Navy for permanent promotion to the grade of lieutenant (junior grade) in the line and staff corps of the U.S. Navy, as indicated, subject to qualification therefor as provided by law:

LINE

Beal, Stephen D.
Branch, Mary E. J.
Conatser, Rosemary B.
Gatlin, Eleen H.
Odea, Janice G.
Rable, William J.
Thomas, Judith A.

SUPPLY CORPS

Bell, Douglas A.
Benson, Eugene T.
Keckley, William A.
McClellan, Lex L.
Richards, James C.
Wells, Robert B.

In the Navy

The following-named officers of the U.S. Navy for permanent promotion to the grade of lieutenant (junior grade) in the line and staff corps, as indicated, subject to qualification therefor as provided by law:

LINE

Avant, Roger L.
Banford, Robert L.
Batog, John S.
Beach, Edwin F.
Bryant, Kenneth R.
Chalfant, Richard A.
Currier, Thomas D.
Covin, Huby K.
Cox, Paul S.
Dahmen, David A.
Eutermoser, Jeffrey L.
Finch, Marnee L.
Finegan, Barton S.
Fisher, Richard J.
Gato, David T.
Gibson, Deane K.
Harger, Tommy C.
Heckrodt, Gregory L.
Heimgartner, Kenneth F.
Hinson, Steven R.
Johnston, John, Jr.
Julian, James S.
Kellar, Gerald R.
Kissling, Phillip A.
Kyle, Alan G.
Luczak, Michael A.
Lytton, Lewis B.
McCarthy, John F.
McNally, William J.
Miller, Lewis F., Jr.
Moore, Paul A., Jr.
Myette, Kevin M.
Nelson, David J.
Odea, Jane M.
Petersen, Leland R.
Ploeger, David C.
Sullivan, William D.
Twiss, John M.
Watson, Joseph A.
Zander, Warren E.

SUPPLY CORPS

Acton, David H.
Amiel, Paul H.
Anderson, Peter K.
Armstrong, Dennis J.
Banford, Thomas C.
Barkerding, Theodore F.
Barnes, Thomas W., Jr.
Barnett, Michael S.
Bauman, Daniel J., Jr.
Baumgartner, Max F.
Bayly, Maitland D.
Bernacki, William J., Jr.
Blicher, Alfred E.
Blindheim, Steven L.
Bond, Albert S., II
Brandl, John R.
Braniff, Gregory J.
Bricken, Reese H., Jr.
Bridges, Russell T.
Bristow, James S.
Bull, Barbara T.
Canterna, Don L.
Captor, Richard A.
Carr, Washington S., Jr.
Chalker, Brad A.
Chamberlain, William J.
Combs, Michael H.
Comly, Wiliam F.
Cornely, Edward P.
Cosby, Robert W.
Daggett, John W.
Dawson, Craig B.
Davidson, Mary E.
Debenedetto, Thomas J.
Dillenburg, Michael J.
Easton, Mark E.
Eberling, Glenn D.
Eberly, David A.
Edelman, Bradley T.
Figliola, Arthur L.
Filippelli, Frank P., II
Finley, Michael E.
Fleck, Donald E.
Frietze, Michael J.
Gabel, Glenn P.
Garvey, Hugh M., Jr.
Gaudet, Lawrence H.
Gibbes, William R.
Goins, William E., Jr.
Gordon, Walter J.
Greiner, Robert A.
Grotts, Tim D.
Hart, Stephen R.
Harvey, Philip M.
Heule, Frank M.
Huddy, John K.
Hudock, Michael D.
Jacobs, Danny M.
James, Don E.
Kalas, Michael R.
Kent, Robert F.
Kertz, Lorenz J.
Killey, John M.
Koch, Dennis W.
Konka, Paul V.
Kroon, George D.
Kubacki, Dale M.
Lancaster, Donald D., Jr.
Lancaster, Robert L.
Levy, Richard M.
Liles, Roger D.
Lipscomb, Jack S.
Luzynski, Anthony J., III
Maas, Steven W.
MacArthur, John J.
Maddon, David M.
Maples, Richard A.
Marcucci, Mark O.
Marshall, Douglas B.
Martin, James M.
Martin, Robert J.
Mason, Norman A.
Masukawa, Glenn K.
Matherne, Louis K., Jr.
Maurer, Stephen C.
Maynard, John D., III
McCann, Steven M.
McFarland, William C.
McMahon, Arthur G.
McMullin, Dwight D.
Mitchelson, Andrew M., Jr.
Moreland, John A.
Murray, Alexander H.
Murray, Thomas W., Jr.
Neilsson, Gary L.
Nelson, Stewart A.
Noble, Geoffrey T.
Nowitsch, John W.
Nyce, John W.
Oakes, John M.
Odio, Fernando
Oikle, James F.
Ortega, Pete R.
Oubre, Don P.
Overturf, Charles E.
Pate, Ronald M.
Patterson, John R.
Perry, Henry V., II
Popp, Ronnald G.
Pratt, Christopher T.
Price, Edward L.
Rannenberg, John E.
Rushing, Melvern R.
Rutledge, Larry E.
Saiku, Jimmy M.
Sandy, Kathleen A.
Schaefer, James H.
Schaible, Thomas E.
Shafer, David W.
Shary, Robert B., II
Shea, Michael B.
Soan, David A.
Steele, Kip R.
Stephens, Darvin R.
Sternfels, William J.
Stoorza, James R.
Storch, Thomas M.
Thompson, Charles B., II
Wade, Paul B.
Wagner, Jeffrey Q.
Waits, Clifford H., Jr.
Walton, David W.
Watson, Gary J.
Weiss, Kenneth C.
Wenzel, Kenneth E.
White, William L.
Weiger, Patrick S.
Wilkes, Stephen G.
Williams, James M.
Williams, Mark P.
Wilson, John H., III
Wiskoski, Scott W.
Wong, Raymond J. M.
Wong, Wayne D. S.
Woodard, Howard J.
Woodard, John A.
Worley, Randy A.
Young, Joseph B.
Zajicek, Roger A.
Zimermann, Alfred E.

CIVIL ENGINEER CORPS

Bernhard, Franklin V. J.
Cleveland, Scott
Davis, David M.
Elliott, Richard A.
Evans, Robert L.
Evans, William A.
Hambrock, Daniel L.
Hess, Robert J.
Johnson, Ralph F.
Lotz, Lloyd R., Jr.
Morton, Timothy R.
Rigoulot, Jeri M.
Rodriguez, James T.
Rula, Paul D.
Saunders, Peter D.
Simms, Kendrick A., III
Stasiewicz, Paul H.
Vanbladeren, John A.

MEDICAL SERVICE CORPS

Arrison, Ronald B.
Auth, Bernard J.
Banta, Guy R.
Bolster, Hugh T.
Brown, William G.
Browne, Thomas P.
Brozowski, Dennis R.
Caldwell, Craig R.
Clark, Lewis E.
Connors, Charles V.
Dickerson, Martha J.
Doe, Wilfred I.
Dulude, Edward P.
Eyre, Jay M.
Gesh, Albert S., Jr.
Gibbons, Gregory M.
Glowacki, David A.
Howard, Roger H., Jr.
Hynes, Samuel M.
Kahler, Ronald D.
Kallal, Richard C. J.
Knight, Michael G.
Knox, Frederick M.
Lorenzen, William F.
Mattox, Paul
McClerklin, Aaron
Mitchell, James T., Jr.
Mitts, Estill D., Jr.
Otis, Edward J.
Randle, Kenneth R.
Rodell, Robert W., Jr.
Rodman, Merrill D.
Rose, Donald C.
Scheurer, Jeanne C.
Shafer, Thomas A.
Skaggs, Ronald G., Sr.
Spencer, Charles A.
Stonebreaker, Alan F.
Thayer, Thea J.
Thomas, Donald L.
Todd, Hamilton S., Jr.
Tolan, Steven C.
Vanlandingham, Joseph P.
Waterman, Cheryl M.
Williams, Robert J.
Wright, Laban J.

NURSE CORPS

Allen, John W.
Atkinson, Linda F.
Bodnar, Joseph A.
Butcher, Ronald E.
Byrnes, George T.
Chambers, Mindy L.
Clanton, Jo A.
Condon, Edward G., III
Conlin, Thomas H.
Cormier, Don A.
Davis, William M.
Ebersold, Barbara E.
Elliott, Gary P.
Harris, Betty L.
Hollick, Joyce A.
Hutchins, John W., Jr.
Jevsevar, Mary A.
Johnson, Judith M.
Kupchinsky, Stanley J.
Lopez, John D.
Manzitto, Arthur S.
McConnaughey, Randall A.
Neville, Patricia A.
Rocha, Elizabeth D.
Rock, Marion L.
Samoylicz, Tania
Schroeder, George H.
Strawn, Linda K.
Suarez, Lucille A.
Weakland, Barbara L.

CONFIRMATIONS

Executive nominations confirmed by the Senate, September 1, 1976:

Department of State

William G. Bradford, of Illinois, a Foreign Service Officer of Class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chad.

Robert J. McCloskey, of Maryland, a Foreign Service Officer of the Class of Career Minister, to be Ambasseador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

Foreign Claims Settlement Commission

Wilfred J. Smith, of Virginia, to be a member of the Foreign Claims Settlement Commission of the United States for a term of 3 years from October 22, 1976.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

The Judiciary

Kenneth K. Hall, of West Virginia, to be U.S. circuit judge for the fourth circuit.

John T. Copenhaver, Jr., of West Viriginia, to be U.S. district judge for the southern district of West Virginia.

HOUSE OF REPRESENTATIVES—*Wednesday, September 1, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Make me to know Thy ways, O Lord; and teach me Thy paths.—Psalms 25: 4.

O God Almighty, before whom we bow in prayer day after day and from whom we receive an uplift of spirit which enables us to fight the good fight and to endure in so doing until the very end, we lift our hearts unto Thee praying for insight to see more clearly the way we should take and for courage to be faithful in the performance of our duties that we may carry our responsibilities with honor to ourselves, to our Nation, and to Thee.

Bless Thou our country and make her a channel through which freedom, justice, and peace may flow into our world.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Roddy, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5) entitled "An act to provide that meetings of Government agencies shall be open to the public, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8603) entitled "An act to amend title 39, United States Code, with respect to the organizational and financial matters of the United States Postal Service and the Postal Rate Commission, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3052. An act to amend section 512(b) (5) of the Internal Revenue Code of 1954 with respect to the tax treatment of the gain on the lapse of options to buy or sell securities; and

H.R. 9811. An act to designate the Veterans' Administration hospital in Madison, Wis., as the "William S. Middleton Memorial Veterans' Hospital," and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2981) entitled "An act to authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Jackson, Mr. Metcalf, Mr. Johnston, Mr. Abourezk, Mr. Fannin, and Mr. Bartlett to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3149) entitled "An act to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Magnuson, Mr. Hartke, Mr. Philip A. Hart, Mr. Durkin, Mr. Tunney, Mr. Baker, and Mr. Stevens to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1437. An act to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes; and

S. Con. Res. 136. Concurrent resolution providing for a conditional recess of the Senate from September 1 until September 7, 1976, and a conditional adjournment of the House from September 2 until September 8, 1976.

WHO RULES, THE PEOPLE OR THE RULES COMMITTEE?

(Mr. KETCHUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KETCHUM. Mr. Speaker, one of our greatest American patriots, Thomas Jefferson, once made the comment, "Here, sir, the people govern." Yet a very few moments from now this body will be asked to approve a closed rule on appropriations for this body.

Perhaps we should amend Thomas Jefferson's words and say, "Here, sir, the people do not govern; the Rules Committee does."

ANNOUNCEMENT OF DEATH OF C. H. EMERSON

(Mr. McFALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McFALL. Mr. Speaker, I take this time to notify the Members that a former employee of this House, who worked for the House for 50 years and 5 months, C. H. Emerson, affectionately known around here as "Colonel," died this morning at 9 o'clock in Florida. I am sure that all the Members join me in expressing our sympathy to "Colonel" Emerson's family and in commending this capable servant of the House and the people who worked so long for the House of Representatives.

AMENDING INTERNAL REVENUE CODE OF 1954 WITH RESPECT TO CERTAIN TAX TREATMENTS

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3052) to amend section 512(b) (5) of the Internal Revenue Code of 1954 with respect to the tax treatment of the gain on the lapse of options to buy or sell securities, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Page 2, after line 3, insert:

Sec. 2. (a) The following provisions of the Internal Revenue Code of 1954 are amended by striking out "September 1, 1976" and inserting in lieu thereof "September 15, 1976":

(1) section 3402(a) (relating to income collected at source);

(2) section 6153(g) (relating to installment payments of estimated income tax by individuals); and

(3) section 6154(h) (relating to installment payments of estimated income tax by corporations).

(b) Section 209(c) of the Tax Reduction Act of 1975 is amended by striking out "September 1, 1976" and inserting in lieu thereof "September 15, 1976".

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. SCHNEEBELI. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I shall not object, but I do take this time to ask the chairman of our committee if he would explain the purpose of this legislation.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. SCHNEEBELI. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, H.R. 3052 passed the House on June 8, 1976, under suspension of the rules, and the provisions of that bill were changed in no way.

The Senate did add one amendment, and that amendment has to do with the extension of the existing withholding schedules. It extends those schedules from September 1, when they expire, to September 15 of this year.

The purpose of the extension is to allow the conferees time in which to complete action on the tax reform bill and to have a conference report agreed to and sent to the President.

Mr. SCHNEEBELI. Mr. Speaker, I thank the gentleman for his explanation.

I support this action as necessary action.

Mr. Speaker, last night the Senate took necessary action to continue for a 15-day period the existing withholding tax rate on income collected at the source and installment payments on estimated income tax by individuals and corporations. This assures that for the next 2 weeks, withholding will continue at the rate it has been in effect since the Tax Reduction Act of 1975 which was passed last year. The amendment was added to a bill passed by the House on June 8 which relates to the tax treatment of certain option income of exempt organizations.

As Members of the House are aware, early in the summer a continuation of the withholding rates was adopted through September 1 in order to give the House and Senate conferees on tax reform legislation the opportunity to conclude their business and take final action extending the tax cuts for a longer period of time. Unfortunately, despite every effort on the part of all concerned, the conference is not yet concluded and thus it is necessary to have an additional extension of the withholding rates. We expect that the conference will be concluded prior to September 15 and, therefore, the 15-day extension should be sufficient.

It should be noted that the conferees have already agreed to extend the existing individual tax reduction through 1977 and have made permanent the increase in the standard deduction. Also, the corporate tax cuts will be effective through 1977.

The bill to which this 15-day extension amendment was attached is H.R. 3052. This measure deals with the tax treatment of gains on the lapse of termination of options to buy or sell securities written by tax-exempt organizations. Under the bill, these gains generally will not be subject to the tax on unrelated business income. The bill has negligible revenue impact, is not objected to by the Treasury Department, and was unanimously passed by the House on June 8.

It is necessary that we agree to this bill and the accompanying Senate amendment immediately in order to avoid an increase in taxes on individuals and corporations. In the absence of action to accomplish this, withholding rates will automatically increase and, in view of the anticipated action of the conference within the next 2 weeks, such result would be unfortunate and unnecessary.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to

the request of the gentleman from Oregon?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker. I have no objection to the temporary extension of the tax cut. The other day the House of Representatives, by a wide majority, worked its will on a rule which would allow the consideration of another equally important piece of tax legislation, the estate tax reform bill. That bill has been the subject of 2 years of hearings before the gentleman's committee.

Mr. Speaker, the estate tax bill was scheduled on the floor this week. It is of great importance to millions of farmers and small businessmen and their heirs. I think, in fact, that it is of equal importance to this pending legislation. Yet the majority leadership have refused to call the bill up for consideration.

Mr. Speaker, before the Members of the House agree to permit this tax cut extension, would the gentleman from Oregon (Mr. ULLMAN) give us some assurance as to when, hopefully tomorrow, the estate tax bill could be considered?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, I will state to my friend, the gentleman from Maryland (Mr. BAUMAN), that no one in the House is more anxious to getting the gift and estate tax bill passed this year than I. I have led the effort for the past year. Certainly, I will say to the gentleman that the chairman of the Committee on Ways and Means, operating under considerable handicap, is doing everything in his power in view of the problems involved to get this bill brought to the floor for a vote.

We are analyzing the amendments at the present time, but I have not had a chance to analyze them yet. However, I intend today to meet with my staff and analyze the amendments that were printed in the RECORD in the last 2 days, and then I will be in a better position to inform the gentleman as to the procedures we can follow once we analyze the amendments.

Mr. SCHNEEBELI. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Pennsylvania.

Mr. SCHNEEBELI. Mr. Speaker, we discussed this matter with the chairman of our committee. As of 3 o'clock yesterday afternoon, I think there were over 30 amendments sent in. They will take time for analysis.

Mr. Speaker, the chairman has assured me and the members of the committee that this will be taken up immediately following the recess and as quickly as possible. We all recognize the urgency of the matter.

Mr. BAUMAN. Mr. Speaker, is the statement of the gentleman from Pennsylvania (Mr. SCHNEEBELI) correct that the estate tax bill will be called up immediately after the recess?

Mr. ULLMAN. If the gentleman will yield, Mr. Speaker, it is our purpose to see if it is possible to develop a procedure whereby it will be called up. If there are too many amendments, we are going to try to get some agreement so that we can hold it within bounds.

We are in the closing days of the Congress, and we have to get a procedure worked out; but it is my hope that the Committee on Ways and Means can bring the bill up as expeditiously as we possibly can following the recess.

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, the rule has already been passed. The bill could be called up today if the gentleman would just call it up; there is a procedure whereby the majority of the House could consider the bill today.

Mr. ULLMAN. Mr. Speaker, the problem is that if there are 60 amendments—there were 30 at noon, but I understand there were 60 as of last night—if there are 60 amendments, we are going to have to analyze the schedule and arrange with the leadership a time frame within which to bring it up.

Mr. Speaker, all I can say to the gentleman from Maryland is that I am committed to getting this bill passed if it is humanly possible. We are going to do everything we can to work out the procedure so that we can try to get it passed in an orderly way as early as possible following the recess.

Mr. Speaker, I hope that the bill can be passed this year. That is my commitment; it always has been.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I hope that that is the case with the estate tax bill and that it will be brought up; but I have not received, I think, total assurances, from what the gentleman has said.

Mr. Speaker, I withdraw my reservation of objection.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 685]

Abzug
Anderson, Ill.
Andrews, N.C.
Archer
Bergland
Cederberg
Conlan
Conyers
de la Garza
Dellums
Diggs
Downey, N.Y.
Drinan
Esch
Fary
Fascell
Foley
Forsythe
Fuqua
Green
Harrington
Harsha
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Hinshaw
Horton
Jarman
Jones, Ala.
Karth
Lehman
McHugh
Mathis
Matsunaga
Melcher
Mikva
Mills
Nedzi
O'Brien
Ottinger
Peyser
Price
Railsback
Rangel
Rees
Reuss
Riegle
Rodino
St Germain
Sarbanes
Satterfield
Scheuer
Sisk
Steelman
Steiger, Ariz.
Stephens
Stuckey
Teague
Thompson
Weaver
Wolff
Young, Alaska
Young, Ga.

The SPEAKER. On this rollcall 366 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

AMENDING INTERNAL REVENUE CODE OF 1954 WITH RESPECT TO CERTAIN TAX TREATMENTS

The SPEAKER. Prior to the calling of the quorum, there was pending before the House the unanimous-consent request by the gentleman from Oregon (Mr. ULLMAN) to take up the bill H.R. 3052, with a Senate amendment thereto, and concur in the Senate amendment.

Is there objection to the request of the gentleman from Oregon?

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, now that we do have a few more Members here, is my understanding correct that we do have a guarantee from the distinguished chairman of the Ways and Means Committee that the tax bill will be brought up next week?

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman.

Mr. ULLMAN. It is not within the authority of the chairman of the Ways and Means Committee to even contemplate scheduling the matters that come before this body. It is my understanding that the week we come back, there will be the concurrent budget resolution, which will take up a great deal of time.

What the chairman of the Ways and Means Committee did say was that under very adverse circumstances we are trying to get the bill to the floor just as expeditiously as we possibly can. There were more than 60 amendments printed in the RECORD. I am trying to analyze, to determine the time frame that it is going to take to get the matter to the floor. As soon as I get that analysis, I am going to the leadership and try to program a procedure for getting it to the floor, but I have made a commitment that I will try and work as hard as possible to get the bill to the floor just as expeditiously as it is possible. I am fully committed to trying to get it passed this year in the Congress.

Mr. BAUMAN. The gentleman is saying that there will be action by this House before this House adjourns sine die this year?

Mr. ULLMAN. I will do everything within my power to accomplish that.

Mr. BAUMAN. Does that reflect the leadership's position as well, on the gentleman's side?

Mr. ULLMAN. Well, that is certainly my position, and I know that the leadership is very desirous of getting this measure enacted in this Congress also. I think we all are, and I think we are working to the same purpose and to the same end. However, I want to say that we are trying under very adverse circumstances, but I hope we can get it done.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman yielding to me.

The chairman knows that he has now an open rule to bring this bill to the floor. Is there some assurance that it might be brought under those conditions? The gentleman has the rule.

Mr. ULLMAN. If the gentleman will yield, as I indicated to the gentleman from Maryland (Mr. BAUMAN), we are in the process—I have not had time because we are in tax conference—we are trying to get the time to do the analysis, but I am going to meet with staff as soon as I get through here and analyze the amendments that were printed in the RECORD. I need that analysis to determine what kind of a time frame we are talking about in these closing, waning hours of the Congress so that we can work out some intelligent procedure for getting it into focus.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, can the gentleman assure us if, for some reason, the tax bill on which the gentleman is now in conference somehow gets bogged down, that we will have an extension requested for this tax cut that we are now considering for the rest of the year, if an fact this particular bill somehow gets clogged up in conference?

Mr. ULLMAN. If the gentleman will yield further, of course, pending now is this request for September 15. Let me say to my friend that the conference is proceeding very expeditiously. There were a lot of people who said we could not do it in a month. We worked until late last night, 9 o'clock last night. We will probably work later than that tonight. Our goal is to make the decisions about the conference report by tomorrow night. It is a very difficult challenge, but I am hopeful that we can do it. Then during the recess the staff will have to draft the precise language, and as soon as we come back we will file the conference report and get it printed. Then within the time frame under the orderly Rules of the House we will get it to the floor just as rapidly as we can.

Mr. SCHNEEBELI. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Pennsylvania (Mr. SCHNEEBELI).

Mr. SCHNEEBELI. I thank the gentleman for yielding.

Mr. Speaker, I would like to assure the gentleman on both scores, both relative to the estate tax bill, as well as the conference on the tax reform legislation, we are moving a lot faster than I had anticipated, and there is a very strong likelihood that we can finish about 90 percent of it by the time we leave here tomorrow night. We are moving very rapidly, and I think with responsibility, as well.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I am really seeking a stronger assurance that, if for some reason we did not get a conference report, it is the intention of the chairman and ranking minority member that we would extend the tax cut for the rest of the year, if for some unforeseen reason the conference report was not successful in being brought to the floor.

Mr. ULLMAN. If the gentleman will yield, that is an issue we would obviously have to face if the occasion arose. All I am saying is that with the conference that is well on its way to a conclusion—and I think very satisfactorily, from the point of view of the House—we have no intention whatsoever of exceeding this time frame. One of the reasons we made it only until September 15 was so that we would have to pass a tax bill by that time. I am wholly satisfied at this time that we will pass a major conference report prior to September 15.

Mr. BAUMAN. Mr. Speaker, I would like to thank the gentleman from Oregon (Mr. ULLMAN) for the courtesy of his reply.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

PROTECTION FOR THE ENDANGERED CALIFORNIA CONDOR

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, I was pleased to read in the morning papers that among the Ford administration proposals for national parks and wildlife refuges is the acquisition of the habitat of the California condor.

Mr. Ford's so-called Bicentennial land heritage program is a welcome addition. We in Congress were tired of fighting the administration, while trying to solve the problems of our deteriorating parks and wildlife refuges.

For example, our legislation seeks to protect an already endangered species, the California condor. The legislation would halt all proposed mining in the 2,434-acre area of the Los Padres National Forest, the home of the 50 remaining birds.

Congress recognized this problem. I am glad the Ford administration is now with us.

PRESIDENT'S NATIONAL PARKS PROPOSAL

(Mr. TAYLOR of North Carolina asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. TAYLOR of North Carolina. Mr. Speaker, President Ford, in his proposals at Yellowstone National Park Sunday, recommended certain actions by Congress to improve conditions in national parks.

I would like to point out that the House Interior Committee is an authorizing committee and, through its leadership and the leadership of the companion Senate committee, Congress has already authorized much more national park spending at all levels than the President proposed, so that additional authorizing legislation is not needed to carry out any of the recommendations made by the President, except that the addition of new national park areas will have to be studied and approved individually by Congress just as we have done in the past.

In fact, the Congress has been much more generous this year in trying to meet the growing national park needs than has been the President, and Congress recently appropriated $107 million more for national park acquisition and operations, including personnel increases, than the President in his budget requested.

Both Houses of Congress have approved legislation nearly tripling the land and water conservation fund, and agreements have been reached in conference. This is the source of funds for national park acquisition. We took this action despite threats of veto by some administration spokesmen.

The first thing that needs to be done in order to promote a go-forward national park acquisition program is for the President to sign the land and water conservation fund amendments which will be on his desk soon.

In spite of many negative reports from the administration, Congress is carrying out this year an aggressive park expansion and park development program. Many bills have been enacted into law. There are at present more than 30 bills pending before either the House, the House Interior Committee or the National Parks and Recreation Subcommittee on which hearings have been held and on which we are working frantically to get final action before the end of the congressional year.

CONFERENCE REPORT ON H.R. 5465, RETIREMENT BENEFITS FOR CERTAIN EMPLOYEES OF THE BUREAU OF INDIAN AFFAIRS AND THE INDIAN HEALTH SERVICE

Mr. HENDERSON submitted the following conference report and statement on the bill (H.R. 5465) to allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–1456)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5465) to allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That section 8336 of title 5, United States Code, is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and inserting immediately after subsection (f) the following new subsection:

"(g) An employee is entitled to an annuity if he—

"(1) is separated from the service before December 31, 1985, after completing 25 years of service or after becoming 50 years of age and completing 20 years of service,

"(2) was employed in the Bureau of Indian Affairs or the Indian Health Service continuously from June 17, 1974, to the date of his separation,

"(3) is not entitled to an annuity under subsection (a), (b), (c), or (e) of this section or under section 8337 of this title.

"(4) is not entitled to a preference under section 12 of the Act of June 18, 1934 (48 Stat. 986) or any other provision of law granting a preference to Indians in promotions or other personnel actions, and

"(5) demonstrates to the satisfaction of the Commission that he has been passed over on at least two occasions for promotion, transfer, or reassignment to a position representing career advancement because of section 12 of the Act of June 18, 1934 (48 Stat. 986) or any other provision of law granting a preference to Indians in promotions or other personnel actions."

SEC. 2. (a) Section 8339(d) of title 5, United States Code, is amended by striking out "8336(c)" and inserting in lieu thereof "8336 (c) or (g)".

(b) Section 8339(h) of title 5, United States Code, is amended by striking out "section 8336(g)" and inserting in lieu thereof "8336(h)".

SEC. 3. The amendments made by this Act shall take effect on October 1, 1976, or on the date of the enactment of this Act, whichever date is later, and shall only apply with respect to employees separated from the service after June 17, 1974.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the House bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the title of the House bill, insert the following: "An Act to provide additional retirement benefits for certain employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to Indian preference, to provide greater opportunity for advancement and employment of Indians, and for other purposes."

And the Senate agree to the same.

David N. Henderson,
Mo Udall,
Dominick V. Daniels,
Richard C. White,
William D. Ford,
Managers on the Part of the House.

Gale McGee,
Quentin Burdick,
Ted Stevens,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5465) to allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

APPOINTMENT PREFERENCE

House bill

The House bill provides assistance to employees of the Bureau of Indian Affairs of the Department of the Interior and employees of the Indian Health Service of the Department of Health, Education, and Welfare, whose career opportunities have been adversely affected by Indian preference laws by requiring that they be given priority consideration for appointment to vacant positions within their Department. If an employee eligible for such assistance is considered and passed over twice for such a vacancy, he would be entitled to be appointed to the next vacancy for which he applies, unless the appointing authority determines that compelling reasons exist for again passing over the employee. In such a case, the appointing authority would have to file with the Civil Service Commission written reasons supporting the action under procedures comparable to the procedures applicable in cases where individuals who have veterans preference are passed over.

Senate amendment

The Senate amendment does not contain any provision providing appointment preference for individuals who are adversely affected by Indian preference laws.

Conference substitute

The conference substitute does not provide for appointment assistance for individuals adversely affected by Indian preference laws.

RETIREMENT BENEFITS

House bill

Section 4 of the House bill authorizes an employee who availed himself of appointment assistance provided by the bill and who was considered and passed over 3 times to apply for retirement and an annuity under section 8336(d) of title 5, United States Code, if he completed 25 years of service or has attained 50 years of age and completed 20 years of service.

Senate amendment

The Senate amendment authorizes payment of an immediate annuity to employees not entitled to the benefits of Indian preference laws who retire before December 31, 1985, and at the time of retirement—

(1) have completed 20 years of service and are at least 50 years of age or have completed 25 years of service regardless of age;

(2) have been continuously employed in the Bureau of Indian Affairs or the Indian Health Service since June 17, 1974;

(3) have been twice passed over for promotion or transfer because of the Indian preference laws; and

(4) are not otherwise entitled to full retirement benefits.

An employee who meets the above requirements is entitled to an annuity computed at—

(1) 2½ percent of his average pay for the first 20 years of service, plus

(2) 2 percent of his average pay for all service in excess of 20 years.

No provision is made for reducing the annuity of an employee if such employee is under age 55 at the time of retirement.

Conference substitute

The conference substitute is essentially the same as the Senate amendment.

EFFECTIVE DATE

House bill

The House bill would take effect on October 1, 1976, or, if later, on the date of the enactment of the bill.

Senate amendment

The effective date in the Senate amendment is essentially the same as the provisions of the House bill, except that the amendments made by the Senate amendment would also apply to any eligible employee who separated after June 17, 1974 (the date of *Morton v. Mancari*, 417 U.S. 535) and before the effective date in the House bill. The annuity of any such employee is to be determined as if such amendments were in effect on the date on which he separated. However, no amount of annuity accruing by reason of such amendments would be payable for any period before October 1, 1976 (or the date of enactment, if later than such date).

Conference substitute

The conference substitute is essentially the same as the Senate amendment.

David N. Henderson,
Mo Udall,
Dominick V. Daniels,
Richard C. White,
William D. Ford,
Managers on the Part of the House.

Gale McGee,
Quentin Burdick,
Ted Stevens,
Managers on the Part of the Senate.

PROVIDING FOR CONSIDERATION OF H.R. 14238, LEGISLATIVE BRANCH APPROPRIATION BILL, 1977

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1507 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1507

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be considered as having been read for amendment. All points of order against title I of said bill for failure to comply with the provisions of clause 2, rule XXI, are hereby waived. No amendments to said bill shall be in order except amendments recommended by the Committee on Appropriations and the amendments printed in the Congressional Record of August 31, 1976, by Representative Shipley, and said amendments shall be in order, clause 2 of rule XXI to the contrary notwithstanding, but shall not be subject to amendment except amendments recommended by the Committee on Appropriations and pro forma amendments. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Missouri (Mr. Bolling) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. Lott), and pending that, I yield myself 10 minutes.

Mr. Speaker, this is a very unusual rule. So far as I know this is the first time there has been a closed rule or a modified closed rule on a general appropriation bill in a very long time.

I am responsible for the rule; I made the motion in the Committee on Rules, and a number of other Members had discussed it over the period of the last 2 months.

From my point of view, the only reason for having this rule is this, and it is a very simple one: This is the only way we can put into effect some very important reforms bearing on our method of dealing with our accounts.

Mr. Speaker, I would first like to explain what is in the rule, and, second, I would like then to explain why I think the rule should be adopted. The rule is closed. It does provide for only those amendments that were printed in the Record yesterday and put in the Record yesterday by the gentleman from Illinois (Mr. Shipley). The rule also provides for a motion to recommit with or without instructions.

These amendments are quite simple. They provide for the usual payment to the survivors of a deceased Member, the late Member from Missouri (Mr. Litton). They provide for putting into law the resolutions that we had a floor fight over on July 1. I managed those resolutions, and they passed by very considerable margin, the resolutions that dealt with the establishment of a commission, the Obey commission, and which dealt with the so-called stripper resolution, which stripped the Committee on House Administration of a great deal of its independent power.

In addition, one of the amendments that will be offered, that can be offered by the gentleman from Illinois (Mr. Shipley)—and I assume it will be offered by the gentleman from Illinois (Mr. Shipley)—is an amendment that would prevent for the duration of this legislation the automatic cost-of-living increase in the salaries of Members of the House.

In a sense, except for the Litton survivors amendment, and the one that I have just mentioned, all of this is a rerun of the battles that we had on the first of July.

Mr. Speaker, some of my friends in the House may remember that I made the point over and over again that what we were doing in those actions was taking a series of actions to reform management of the accounts of the committees and the Members of the House. Those reforms included short-range actions, medium-range actions, and through the Commission, long-range actions.

Yesterday a number of Members came before the Committee on Rules and attacked this rule. I am sure that at least some of them were utterly sincere in their attack and that they really have a principled conviction that there should not be closed rules.

Mr. Speaker, I have spent a great deal of time in my years on the Committee on Rules in trying to reduce the number of times on which legislation would come before the House with a completely closed rule. For a long time we handled many matters under completely closed rules. We have moved to modified closed rules. We have moved to a great many more open rules than was the custom before.

Mr. Speaker, the only reason for a closed rule on this bill is that this is the only way, in my judgment, by which we can get this reform package into law.

Why is that? There are a number of people in both parties who have a principled opposition to any closed rule, ever. That number is not terribly large, but there are people who feel that way. There are a number of people in the Republican Party who actually think sincerely that they are being given no opportunity to vote so as to express their views. But there are a very large number of Members on the Republican side of the aisle who, for reasons that are absolutely understandable, are seeking to make this issue of the sad case of the charges of irregularity in the accounts of an older, sick, and sad Member into some kind of Watergate case. That is absolutely, totally, patently ridiculous.

Mr. Speaker, we are talking about a situation where the Democratic Party recognized that it had a responsibility to deal with some misfeasance and perhaps malfeasance in office.

That was dealt with promptly. I will not go into that aspect of it further. You all know how sad that situation is today.

The other element of this problem was the problem of seeing to it that the accounts of Members and committees were handled honestly and in the public interest. The use of public money must be in the public weal. That is precisely what the package of recommendations from the Obey committee provided for: New orders, new regulations, new methods of dealing with accounts.

The House acted on that and acted overwhelmingly on final passage of both the Commission and the stripper resolution.

The reason that we must deal with this in a closed rule is that there are also a few Members on both sides of the aisle who do not think that there should be changes in their accounts or who do not feel that there should be any changes in the accounts. And, given the political atmosphere on the part of those few who would make this a partisan issue, there is a possibility and a very good possibility, in my opinion a probability, that this matter would bog down in chaos. So the only way in my judgment that we can effectively pass reform is to reaccept this package that we have already ratified by overwhelming margins on final passage on the first of July. One vote was 380 to 30 and the other 311 to 92, to go ahead with this, and, at the same time, if Members feel violently opposed to a cost-of-living increase they have the opportunity to knock out the cost-of-living increase for the duration of this bill.

I think this is the only way we can achieve reform of the accounts in this Congress. I think this is why a closed rule is justified. I thought we were going to have a closed rule when we acted on this matter on the first of July, a modified closed rule like this one, and I think we must have it now, if we want to go before the American people with a record of reform of our own accounts. I think Members on both sides, if they will be a little bit objective about this, will recognize the enormous importance of passing these resolutions into a law which will prevail until the Commission reports with long-range improvements which must be made.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me attempt to try to sum up where we are on this rule and: Where did it come from?

As the gentleman from Missouri (Mr. Bolling) has explained, this rule would make in order consideration of the legislative branch appropriation bill for 1977. It provides for 2 hours of general debate and waives all points of order against title I of the bill, relating to appropriations for the House of Representatives, for failure to comply with the provisions of clause 2, rule XXI, which prohibits unauthorized appropriations. No amendments are in order except amendments at the direction of the Committee on Appropriations and amendments printed in the Congressional Record of August 31, 1976 by the gentleman from Illinois (Mr. Shipley) and these amendments are also made in order notwithstanding violation of clause 2 of rule XXI but shall not be subject to amendments except amendments offered by the committee.

This is a closed rule making in order only three amendments by the gentleman from Illinois (Mr. Shipley). A closed rule on a general legislative appropriation bill, as the gentleman from Missouri (Mr. Bolling) so ably stated, is very unusual, if not absolutely unprecedented on a general appropriations bill.

It is a closed rule not allowing amendments by Members on either side, except one gentleman; not the gentlewoman from Colorado, nor the gentleman from New York (Mr. Kemp), nor the gentleman from Colorado (Mr. Armstrong).

It is a modified closed rule but really a closed rule on this general appropriations bill.

How did the rule get here? It was not requested by the Appropriations Committee. In fact not a single member of the Appropriations Committee came before the Rules Committee and asked for this rule. All the testimony before the Rules Committee was against this rule. Democrats opposed the rule and a number of Republican members on the Appropriations Committee opposed the rule.

It is not a rule even that was requested by the Democratic Caucus.

In fact there is some question in the Rules Committee as to whether this was properly brought before the Rules Committee.

The rule was proposed by the Democratic steering and policy committee only. That is how it got before the Rules Committee. That is how it got here. That is certainly an unusual procedure.

The argument was made that we should leave the reform part of the legislation to the Commission that was set up last year. It was pointed out in the Rules Committee that this Administrative Review Commission which was set up by an overwhelming vote in the House of Representatives has not met a single time and has not done anything.

But this is not a question of whether we should have reform in this bill or not. We are coming forth with a closed rule on an Appropriations Committee bill. One more time are we going to tie our hands like a bunch of kids? I do not think we should. We talked about legislating in the sunshine. It is time we put up or shut up. Do we have enough confidence in ourselves to face the issues in these amendments? Some of the amendments I am not going to be for. Some of them do go to the point of being ridiculous. But do we in this body have enough gumption to face the issues and vote as we should?

This is probably even a worse rule than the rule on the Estate and Gift Tax Reform Act, on which a strong expression was made by the House that this is not the way to go. This rule really is worse. We are setting a precedent and it is a dangerous one.

This is not a partisan issue, I want to emphasize. We have people on both sides who feel strongly that this rule is wrong and we should have an opportunity to vote for some of these reforms if the need be right now, and it is obvious the Commission is not going to act this year, if ever, and that some of these things need to be addressed now.

This may be our last clear chance for some modicum of reform by the 94th Congress.

We have talked a lot. Are we going to do anything? I doubt it.

I wonder if this body has lost all respect for itself. When I came to Washington 8½ years ago there was a lot more respect for each other among the Members. Now we applaud and holler when we win. We chastise each other publicly on the floor. We hiss and boo when our leadership stands up and votes occasionally. We hardly even pause when a Member of Congress passes away.

Now we come along and say we do not have enough respect for ourselves to stand up and vote on these issues? Are we going to tie our hands with this closed rule? I hope not.

I ask that we defeat this rule and allow the gentleman from Texas, Chairman MAHON, to bring this bill to the floor so we can vote on it. If we defeat this rule, the gentleman from Texas, Chairman MAHON, can bring the bill up right now and we can consider it.

Mr. Speaker, I yield 3 minutes to our minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, the gentleman who preceded me, the gentleman from Mississippi (Mr. LOTT) has pointed out an important fact which I think we need to consider: that this is a completely unprecedented action.

Mr. Speaker, I have been here for 24 years and I do not remember ever having brought an appropriation bill up under a gag rule. There has to be some reason why the Democratic Steering Committee wants to do it. I wish I understood it a little better. Perhaps there are some amendments that might be offered that the Democrat leadership are afraid might be passed and that they really do not want to have passed.

Mr. Speaker, I do not intend, as the gentleman from Missouri (Mr. BOLLING) said, to make any kind of a Watergate out of this; but I should point out that the people of this country have lost confidence in this body. Only 9 percent of the people in one poll say that the Congress is doing a good job. Maybe the reason they feel that way is that we have been so reluctant to investigate wrongdoing in the Congress. I do not think the people expect us to adopt a double standard. I do not want to go on any witch hunt; but I do feel we should reconstruct the confidence that the people have had in this body and must have again. In order to do that it is necessary to reassure them that we have done everything we can to detect wrongdoing, just as we did back in 1974 when the executive department was involved. If there has been wrongdong, we should find out about it.

The Commission recently created by the House is a fine idea. I have no objection to it. I think it is good; but it is prospective. It will try to set up some mechanism so we can do a better job of looking after the public money we spend on public operations; but it does not go into what happened before. I think the people of this conutry want to know what has happened before. Perhaps the things which have surfaced might be the peak of an iceberg. We do not know that. Let us find out if it is.

Mr. Speaker, I am in agreement with the gentleman from Missouri, because the gentleman from Missouri and I have been shoulder to shoulder in trying to get reform for many, many years. Here the gentleman has left me and the gentleman is saying the only way to get reform is by a gag rule.

The first time we ever decided to reform anything one of the knee-jerk reactions was the gag rule. They said, do away with the gag rule, and here my good friend is coming back and saying in order to make these reforms we have got to have a gag rule.

Mr. Speaker, I just have to admit, I am shocked. I feel so badly that I am speechless.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, for literally months now the legislative appropriation bill, containing the funding for the operation of this House and for the payment of our salaries and our allowances, has been scheduled for consideration and then pulled from the schedule. All of this really has to be a pretty transparent attempt to prevent Members of this House on both sides of the aisle from attempting even a modicum of reform.

Now, finally, when the bill is brought to the floor, it comes to us under a closed rule permitting only three amendments decreed by the Democratic Steering Committee.

Mr. Speaker, this is an unprecedented outrage and a clear violation of the rules of the House. This is an appropriation bill, privileged under rule XVI, clause 9 of our rules, to come directly to the floor. I can find no precedent for such a closed rule on this kind of bill. The Committee on Appropriations did not ask for such a rule. In fact, as the distinguished Member from Mississippi pointed out, no majority member of the Committee on Appropriations even appeared in defense of the rule.

It is well known that Members on both sides of the aisle have amendments that are significant. The distinguished minority leader has joined in cosponsoring amendments which would do such things as impose perjury sanctions on those falsifying expense vouchers, open expense records to public examination and revoke recent increases in allowances.

Mr. Speaker, this is our bill. This is the legislative appropriation bill. It is the funding for our own work.

It is the funding for our own committees, the funding of this Congress. To do this under a closed rule, or this kind of modified closed rule, is simply a high-handed coverup, to stonewall, and it is certainly not the kind of image that we want to project as a Congress.

It is ironic that just yesterday we passed in this House what we called a sunshine bill, and then today we come before the House with a gag rule on an appropriation bill that is both unprecedented and against the rules of the House.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Speaker, notwithstanding the unusual arguments used in support of this unusual rule by my friend from Missouri, it seems to me that it is totally inconsistent with and contradictory to the legislation that this House passed yesterday so overwhelmingly, by a vote of 380 to 0—the sunshine bill. Apparently some are for sunshine on the agencies but not on their own legislative appropriations.

Mr. Speaker, I am in opposition to the proposed rule because this rule would require us to consider legislative appropriations for the next year—the money which is spent by the Congress on itself—without any opportunity for amendment, in terms of either cost savings or reform. We need both reform and cost savings, for the only way to hold down the cost of living is to hold down the cost of government.

We all know what is the truth here. This gag rule would make it out of order for amendments seeking savings to the taxpayers and the real congressional reforms to be offered by those of us who believe in accountability. Every single abuse of power which has been brought to the attention of the American voter over the past year is protected against being arighted by this closed rule.

I abhor this type of gag rule. It is exactly the kind of conduct which brings disrepute upon the Congress. It is not in the interest of either the Congress or the American people. It is the same type of resistance to reform which brings about distrust of our institutions and frustration with government. This cannot continue. We simply have to make Congress more accountable to the people in whose interest we should be carrying out duties.

Despite everything that has been brought to the attention of the American people over recent months, this rule, if adopted, would prohibit us from considering these urgently needed reforms:

An amendment to make expenditure records of the Clerk of the House open to the public—both by inspection at the Office of the Clerk and through twice-annual publication available from the Government Printing Office. This information would include both committee and Members' staff names, salaries, job descriptions, location of employment, and family relationship to any Member of Congress, as well as other expenditures by the Clerk on behalf of the committees or Members. Although the information is presently compiled, any public access is very difficult—a situation which we should seek to rectify. It would also provide for a GAO audit of all accounts.

An amendment to prohibit a person from being on both a committee payroll and a Member's payroll at the same time, a practice perfectly permissible now and widespread, but which could raise problems in certain circumstances. This would not prohibit groups of Members from sharing the cost of staff members.

An amendment that would provide that all vouchers for Member or committee expenditures certify that the expenditures were for official business and be signed under penalty of perjury.

An amendment that would require the stationery room, the House recording studio, the beauty and barber shops, and all House cafeterias and dining rooms to be operated on a self-sustaining basis. At the present time, these facilities are susceptible to the charge that they are hidden perquisites subsidized by the taxpayers.

An amendment to eliminate automatic cost-of-living increases in individual Member's salaries.

An amendment to prohibit any increase in individual Member's total allowances as a result of the consolidation of accounts under House Joint Resolution 1372, passed on July 1, 1976. One of the major complaints about the so-called reform proposals was that they actually increased Members' perquisites.

An amendment to terminate completely the authority of the Committee on House Administration to adjust allowances without bringing the question to the floor. The so-called reform proposal passed on July 1, 1976, had loopholes which permitted the House Administration Committee to adjst allowances for "changes in price" and "technological changes."

An amendment to limit the appropriation for the Committee on House Administration to last year's level. The appropriation and staffing of this committee has grown at a startling rate over the past few years.

An amendment to prohibit the expenditure of congressional money for first-class air travel by House Members or employees. First-class air travel is a luxury for personal convenience, not for Government business.

An amendment to prohibit the expenditure of congressional money for foreign travel by lameduck—going out of office because of retirement or defeat, whichever should come first. Official business foreign travel should have a legislative purpose.

I strongly support and cosponsor these amendments. I believe they must become law. They are congressional reforms long overdue, and I am proud to have introduced and cosponsored most of them. I support all of them, and even to the extent that I refused to take the last pay raise, and each month return that increase to the Treasury. Small though it may be, it is symbolic of the effort we must make to hold down the high cost of government.

Whether these reforms pass or not has, unfortunately, become a partisan issue in recent weeks, with the Republicans pushing strongly for the reforms and with far too many Democrats pushing just as strongly against them. This is wrong. Putting Congress house in order should be the joint responsibility of both parties. Voting against these reforms is not going to make the American people forget that the recent rash of congressional abuses came under Democratic control of the Congress, any more than they will forget that Watergate came under a Republican President. The facts are the facts, and the American people are not about to be fooled on this. To the extent that the leadership of the other party sabotages the enactment of these congressional reforms, it will make matters even worse.

I am deeply concerned about the stress this kind of conduct puts on our social fabric. We are a strong people, but like any society, the threads which hold us together cannot be too often severed without the cloth coming apart. You cannot get through today at the expense of tomorrow forever, and it is time Congress realizes that point.

Why undercut faith in the American system, especially in the eyes of young people and the disadvantaged, when we can just as easily build that faith?

Why make ourselves look devious in the eyes of the world community, when we can just as easily be an honest and clean government?

Why give ammunition to the forces of anti-Americanism, either here at home or abroad, when we can give ourselves the moral advantage by setting examples?

It is time to shape up this Congress.

It is time to open the doors around here.

It is time to vote down this closed rule.

It is time to enact these reform amendments.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. ARMSTRONG), a member of the committee and a member of the Commission.

Mr. ARMSTRONG. Mr. Speaker, I appreciate the gentleman yielding to me.

Mr. Speaker, this may be the most clearcut, straight-up-or-down vote on reform of the House procedures and the abuses that have come to light in recent weeks that we will have this year, or perhaps for a long time to come. I join those who have risen to ask for the defeat of this rule in order to permit the House to consider this bill in the usual manner, in the manner by which we consider all general appropriations, under a procedure which will permit my colleagues and me to offer basic reform amendments.

To do otherwise, to adopt the rule brought to us today, would be flagrantly violative of the customs and traditions of the House. The gentleman from Missouri has made a great point of saying that we must not offer reform amendments on this bill, that it would be a mistake to adopt such amendments because it would, in some way, preempt the work to be done by the so-called reform commission. As one who has been appointed to that commission, I am disappointed to report that thus far, after 6 weeks existence, it has not yet had its first meeting.

I do not intend to prejudge its performance. Perhaps it will bring forth a package of important reforms, but I recall the reforms brought forth by previous commissions, including the commission the gentleman from Missouri chaired. Those reforms were sabotaged by the Democratic Caucus. I also recall how the House voted to outlaw proxy voting only to have this reform overturned by the Democratic Caucus.

It is easy to stall on reform; it is easy to study it to death. It is so easy to bury problems in reams of statistical reports and hearings and testimony. But the reforms which are urgently needed are well known to the Members of the House, and have been considered not only on the floor of this House but in committee previously. So, I hope that we will turn down this rule and proceed to the responsible consideration of the bill and the badly needed reforms which my colleagues and I wish to offer.

Mr. LOTT. Mr. Speaker, we would like to have balanced debate on this nonpartisan issue. I wonder if the gentleman from Missouri would like to use some time?

Mr. BOLLING. Mr. Speaker, we intend to close debate, and I have no other requests. I suggest the gentleman use his time.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I have always opposed closed rules. I am one of those to which the gentleman from Missouri (Mr. BOLLING) referred. I think it is a matter of principle. But I think it is even more important to have total openness on an appropriation bill. Therefore, I disagree with my colleague from Missouri. This is not a rerun of the July House debate. This is an appropriation bill. The circumstances are definitely different.

Many of my colleagues on the Democratic side of the aisle during the great debates that took place on the Vietnam war insisted that we have total and full debate on appropriations bills. And now where are these voices for openness? They are running for cover because they are afraid of an open rule to vote on their own salary. That is playing chicken by hiding behind a closed rule on an appropriation.

I believe several Members were willing to talk about cutting money from the Vietnam war appropriations and I was, and I think we did the right thing by facing those appropriations openly. If the Members vote for this closed rule, they are playing chicken on the issue of how money is appropriated for their salary, for their own congressional office accounts. I voted for some of those accounts and I am wililng to stand here today and vote for them. But let us allow each Member the chance to offer amendments and not shut off honest attempts of our colleagues to trim this appropriation in a normal manner.

The Constitution says that this body is supposed to be responsible for the purse strings. By voting for this rule, the Members are voting against their responsibility to be fully accountable for the "purse strings" of the U.S. Treausry.

I am disappointed that the Democratic Steering Committee ordered or strongly suggested that the Committee on Rules bring this appropriation up under a modified closed rule. This is our responsibility under the Constitution to vote openly for appropriations. A closed rule is a vote for government in the dark, for spending the taxpayers money in the back room. Mr. Speaker, I urge the Members to reject this closed rule.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. Mr. Speaker, I want to compliment the distinguished gentleman from Missouri for his remarks. They were eloquent, as always. When I was out at the Kansas City convention, I saw his beautiful billboards. They said, "Dick Bolling; he works for you." And he does work for you on the majority side. He is working very hard for you today. I compliment him for that.

But I want us to work for all of the American people here today. How ironic it is that we should be considering this rather cynical gag rule on the very day news stories are suggesting the possible resignation of one of our colleagues because of the scandals involving the use of the very funds that are appropriated annually under this appropriation bill.

A year ago, in May 1975, the gentleman from Maryland, the gentleman from Colorado (Mr. Armstrong) and others, offered amendments which, had they been passed, might well have had the effect of preventing some of the scandals and disrepute into which this House has fallen. They were voted down by the majority without a pause and with no apologies.

By design of the majority, we have yet to be allowed to consider the House reform in a free and unfettered procedure with full debate and amendment. We will not have the chance to do that today because reform in this Congress has come to mean the tyranny of the majority. They decide what we can and cannot vote upon. And make no mistake about it, if the Members vote in favor of this closed gag rule, that vote can and should be interpreted as being against reform, against open consideration of issues, against stopping needless congressional junkets, against auditing Members' accounts, against full accounting of the way the Members spend the money the taxpayers entrust to them, and against openness in Government. This, from the House of Representatives which a few weeks ago overwhelmingly voted to censure one of our colleagues because he failed, he said, by mistake, to disclose some of his stockholdings.

Now the majority seeks to conceal how it stands or how it will vote on issues that are much more important than that. And this comes from a House that will spend hundreds of thousands of dollars to find out who gave Dan Schorr the CIA report but will not permit its Members to go on record on issues which have cast scandal and doubt on the integrity of this institution.

Mr. Speaker, we are told almost daily that the lessons of Watergate must not be forgotten. I argee. But here on this floor today you are perpetrating a collective Watergate that is far worse because it includes the entire House of Representatives. When President Nixon refused to answer, the Supreme Court ordered him to do so. But by adopting this closed rule you would have a coverup of past scandals and a denial of future reforms.

I urge you to keep faith with the people you represent and to oppose this gag rule. Let us clean up the people's House.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. Grassley).

Mr. GRASSLEY. Mr. Speaker, I rise in opposition to the rule now under consideration and would urge my colleagues, both Republicans and enlightened Democrats, to vote "no."

We have before us, courtesy of the Democratic Steering Committee, what is called a modified closed rule but should properly be labeled a gag rule. Adoption of the rule would preclude Members from both sides of the aisle from offering constructive reform amendments which would allow the House to put itself in order.

We can, with an open rule, accomplish meaningful reform out front and in the open and not behind closed doors. I suppose since the subject matter of an amendment I favor is in order I should be happy but I am not because this is so unfair to so many other Members who have good ideas, too.

The subject matter of an amendment that I intended to offer regarding congressional pay is one that will be in order under the proposed rule. It should receive overwhelming approval on a rollcall vote. That certainly is gratifying to me, personally. What I find disturbing, however, is that according to the rule the only person who can offer this amendment will be the chairman of the Legislative Appropriations Subcommittee. This is very interesting. My amendment was printed in the Record on August 24, 1976, and Mr. Shipley did not evidence a concern with congressional pay until his package of so-called reform amendments was printed in the Record just 2 days ago.

Furthermore, this congressional pay amendment is required because the gentleman from Illinois and his Democratic colleagues provided approximately 86 percent of the vote which put the automatic cost-of-living congressional pay increase into effect last year.

This amendment should be approved for it is a good one. It would not be necessary to have such an amendment if the gentleman from Illinois and the rest of the membership of this body would take the time today and sign discharge petition No. 7 which would allow the full House to consider my bill to repeal the automatic cost-of-living salary increases for Congressmen. That would show true concern with the whole issue of congressional pay reform.

Not just because it is unfair to Republicans, but for another reason I am disturbed by this modified closed rule, in that it will prohibit Members from both sides of the aisle from offering what appear to be some very good reform amendments. The gentlewoman from Colorado (Mrs. Schroeder) has an amendment which concerns air travel and junkets by lameduck Congresspersons, and she appeared before the Rules Committee with me and other Members to argue for an open rule. There was no testimony offered by anyone in favor of this closed rule. Nonetheless, we have one before us. Therefore, I would implore my colleagues, both Democrats and Republicans, to join together and vote down the proposed rule. It will benefit us all and show that we are truly a legislative body interested in sound and meaningful reform.

All we ask the Democratic Party—the party of the New Deal, the party of the Fair Deal—all we ask of you is to give this little band of Republicans and the American people a square deal rather than a raw deal.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the majority leader, the gentleman from Massachusetts (Mr. O'Neill).

Mr. O'NEILL. Mr. Speaker, this bill is finally before the House. It took some time to bring it before the House.

I recall that when it was in committee, one day one of the Republican Members offered an amendment in committee to order an audit of all accounts extending back, I think, to the time of Job. The Republicans thought they saw a political issue and they seized on it and have been using it as a political issue ever since.

I know there has been great concern over this, and many of the Members have spoken about the fact that we included the provision in the general law that Members of Congress should get the cost-of-living increment as a result of the inflation that has come along the line. That bill won by 1 vote, and great concern and terrific criticism has been expressed. Many Members have wished they could have their vote back because now they are campaigning for reelection.

Under the law, it is expected that the President will recommend an increment that will include employees and for the Members of the House. It is expected to be about 5 percent. I thank the majority of the Members feel right now that 5-percent increase should not be granted now nor for the life of this bill. Most Members also feel that the Members of this Congress, many of whom are lame ducks, should not vote pay increases for themselves.

So there is an amendment to be offered by the gentleman from Illinois (Mr. SHIPLEY) that none of the funds contained in this act shall be used to increase the salaries of Members of the House of Representatives pursuant to section 204 of the public law. That would strike the provision allowing Members to have a pay increase effective October 1 and continuing next year. Mr. Speaker, I think that is extremely fair. Now, Mr. Speaker I know that we do not legislate on appropriation bills. But there is always a manner by which we can cut, we can cut, and we can cut some more. And now others are raising all sorts of amendments. One is to cut the fund on air travel and say that Members or employees should not ride first class in airplanes.

I do not ride first class in airplanes myself, but we can bring that up at the proper time, not in a bill at a time like this. However, to say that we should cut back from the 26 trips that we have to 18, cut back all the funds we have added along the line because of the increase in business, cut back here, cut back there, makes a good political issue.

Mr. Speaker, I think we would be doing wrong. I think it is wrong to cut back the newsletters. I think it is wrong to cut back the various increments that we have given to ourselves. It has taken years to build these up.

Mr. Speaker, there is not a Member of the House who says that a Member of Congress is receiving enough salary when we consider the fact that inflation has been—what?—over 40 percent since we last had a substantial raise.

Mr. Speaker, right at this particular moment, on the eve of an election, there are a very few Members who have the courage to stand up and say, "Yes, I am entitled to a pay raise." We are responding to the public and responding to the public on pay raises, so I think the committee has done the right thing in adding the Shipley amendment and adding the second amendment and adding a motion to recommit so as to allow the minority side to have a vote. I think that is the fair thing to do. I think it is the decent thing to do.

However, Mr. Speaker, I think we would be acting rashly if we are saying to ourselves, "We can go home and say we have voted for reform" if we vote to cut allowances. However, Mr. Speaker, I do not know how many people actually care about that kind of reform, when we are talking about reducing the number of airplane trips, reducing the number of newsletters, reducing the stationery account, and all the things we use to service our constituents.

Mr. Speaker, I think this would be demagoguery at a time like this, and I hope that the Members on my side will summon the courage to stand up and vote against this when the time comes.

Mr. UDALL. Mr. Speaker, I have listened to the debate so far with great interest.

I just hope that the Members understand what they are doing and that they are satisfied with the Shipley amendment. I would hope it would satisfy almost anybody who is opposed to changing congressional salaries.

What it says is that the Members of the House do not get the 5-percent adjustment, but the Members of the Senate get it. We are going to be getting $3,000 less than our brothers on the other side of the Capitol.

It also says that Federal judges will get a 5-percent increase. We are then going to be making less than district court judges, maybe about as much as Federal referees in bankruptcy, and the Assistant Secretary of Labor or Interior is going to be making more than a chairman of a great House committee.

Mr. Speaker, I am going to vote for the Shipley amendment because I realize the realities of the public mood.

Some of the Members may go beyond that and try to roll our salaries back or diminish them, thereby putting ourselves down. However, Mr. Speaker, the House of Representatives is a very important place, and we should not diminish or demean it.

The SPEAKER. The time of the gentleman from Massachusetts (Mr. O'NEILL) has expired.

Mr. BOLLING. Mr. Speaker, I yield 2 additional minutes to the gentleman from Massachusetts.

Mr. O'NEILL. Mr. Speaker, may I say that I concur in the gentleman's remarks.

I have never voted against a pay raise as far as the employees of the Federal Government are concerned. I have always looked at them as being underpaid.

I look at the Congress of the United States now as not getting the true emoluments that they should be getting, but in this bill which we have here, we are taking a 5-percent increase away from ourselves.

Mr. Speaker, I am going to vote for the Shipley amendment. This is the first time I have ever voted along this line. However, this does not affect the judges; this does not affect the Supreme Court; this does not affect the Cabinet members because the judges and the others are not in this bill. The judges are in the Justice Department appropriation bill which is already law.

In this instance, Mr. Speaker, we are only voting with respect to ourselves. I do not know anything about the question of whether the Senate will be getting it or not.

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Speaker, is the distinguished majority leader saying that we are going to vote to cut out the pay raise for the Congressmen purely for political reasons?

Mr. O'NEILL. The gentleman can say it is for political reasons. It is the will, it is the temper, it is the feeling of the American people at this particular time that we should not have a pay raise. However, if the gentleman wants to call it "political," he may do so.

Mr. Speaker, I do not yield further to the gentleman.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Briefly, in answer to the gentleman from Arizona (Mr. UDALL), the Shipley amendment may not go far enough, and under this rule we cannot go further.

Second, there was an amendment to the Shipley amendment offered by the gentleman from Alabama (Mr. EDWARDS) in the Committee on Rules to the effect that it would not apply to Members of the House unless it applied to Members of the Senate. We tried to do something about a different rule.

Mr. Speaker, this is not the way to do it at all.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Speaker, and Members, I rise in opposition to this rule.

Mr. Speaker, there is probably no single individual in this House for whom I have greater respect than the gentleman from Missouri (Mr. BOLLING). As far as reform is concerned I do not think he has to take a back seat to anyone. But I am really surprised that he would come to the floor and ask us to adopt what amounts to a closed rule.

Just 2 days ago on the estate and gift tax rule this House made me very proud when they insisted that the rule be opened—and that took Democrats and Republicans, no one party did it. Maybe pretty soon we will see that bill come down where we can debate it and all 435 Members of the House be able to add their bit.

Mr. Speaker, if that rule was bad, then this rule is outrageous. This is our appropriation bill. It is the right of every Member to offer amendments to this bill. The majority leader, the gentleman from Massachusetts (Mr. O'NEILL), just mentioned an amendment that I saw in a "Dear Colleague" letter this morning, I think from the gentlewoman from Colorado (Mrs. SCHROEDER). She feels strongly about the issue of aircraft travel and she has every right to offer that amendment and each of us have every right to vote it up or down. It has nothing to do with whether you are going to vote a pay raise up or down. I have some questions that I want to ask during the period of general debate and I may wish, depending upon the answers, to offer some amendments.

If the Members want to talk about a pay raise, I might vote for a pay raise that takes effect after the election so that the Members have to run for it. There is not a single Member in this House, not one, that did not know what their salary was when they ran for this job, and if that is not enough, then they should quit.

Mr. LOTT. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. Don H. Clausen).

Mr. DON H. CLAUSEN. Mr. Speaker, we have the opportunity today to clean up some of the abuses which have been uncovered recently in the legislative branch and I urge my colleagues to support this effort.

In particular, I support two amendments being offered which are similar in purpose to legislation which I have sponsored.

First, an amendment will be offered to forego the scheduled October automatic pay raise for Members of the House of Representatives.

I am unalterably opposed to a pay raise of any kind. In my judgment, it would be the height of audacity to raise our own salaries at a time when we are fighting inflation and asking the private sector to make such tremendous sacrifices in this effort.

To truly be in touch with our constituents and to be fully aware of the real impact inflation is having on their wages and cost of living, we must not isolate ourselves from inflationary pressures.

Adoption of the amendment and opposition to the pay raise will let the people of this country know that it will not be they alone who will shoulder the entire burden of controlling inflation and reducing excessive spending.

The automatic raise for Congressmen and Senators should be repealed. The method by which this pay raise was originally passed, by an amendment which had absolutely no relevance to the legislation in question, is a back door type of lawmaking to which I am totally opposed.

Second, I support the amendment to be offered to prohibit the expenditure of moneys appropriated by this legislation for foreign travel by lameduck Members after the adjournment sine die of the last session of each Congress.

Foreign travel must be for official business and must have some legislative purpose. Once a Member has been defeated or chooses not to seek reelection I find it impossible to rationalize such travel. It is, in fact, a blatant misuse of the taxpayer's dollar.

I have sponsored legislation to prevent foreign travel by lameduck Members and I strongly support this amendment which is similar in language to my bill.

The voting public is demanding that we clean up our own shop. Mark Twain wrote that—

> To my mind, Judas Iscariot was nothing but a low-down, mean, premature Congressman.

Fortunately, Mark Twain was only being funny. Unfortunately, many people today believe that the men and women they choose to represent them at the various levels of government are neither responsive or responsible.

We have the opportunity today to demonstrate to these people that we are ready to open the Congress to public scrutiny and accountability and that we are prepared to take the steps necessary to restore the fundamental integrity and credibility of the Congress.

Mr. LOTT. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Speaker, today the House will consider the legislative appropriations bill under a modified closed rule with a waiver of points of order. As far as I know, this is the first time in history and certainly the first time in recent history that this bill has been handled under a closed rule.

The use of a closed rule for this kind of bill simply reinforces the lack of confidence that people have in the Congress as an institution. The closed rule gives testimony to weak leadership and lack of self-confidence by the majority group.

We on the Republican side intended to offer a reform package of eight amendments, all of which have been put into the Record. Many of these amendments are intended to make changes to prevent the reoccurence of alleged abuses brought to light in the Hays-Ray incident.

For some reason the majority and its leadership does not want to discuss those issues nor to attempt to correct apparent deficiencies. The whole process, including the presentation of the closed rule, smacks of a coverup and gives the people the worst possible picture of Congress.

The only way to open up our procedures to responsible debate, amendment and sunlight is to defeat the closed rule today.

I wonder, Mr. Speaker, what the Members who vote for this rule will tell their constituents. Will they tell the folks who sent them here—to the people's House—that the people's elected representatives are not capable of making decisions about their own accountability? Will they tell their constituents the Democratic leadership is saving us from our own weaknesses?

I am not going to tell my constituents that I have willingly given up my right and theirs, to debate and amend the most important issue of congressional accountability. I am not going to hide behind a gag rule. Let those who do know it is done at their own peril.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. Anderson).

Mr. ANDERSON of Illinois. Mr. Speaker, as many of the Members know, my voice sometimes rises in this Chamber when I address the House; however, today, I shall speak to the House in hushed tones as befits the fact that we are dealing with a mystery. Yes; we have before us a mystery rule. It is a mystery how it got here and it is a mystery why we need it. Like so many mysteries, the plot was hatched in secret and executed in the dead of night.

So today here we are gathered together around this rule—and, if I may pursue my analogy further, around the murder weapon, examing the various fingerprints thereon, trying to figure out the motive and unravel it and solve this mystery.

All of a sudden it occurs to me, and I am sure it must occur to many of you, that the victim of this offense, the corpus delicti, if you will, is this very body, the U.S. House of Representatives. Yes; the dagger, in the form of this rule, has been thrust into the heart of this body and today we are expected to give it a final twist and roll over and play dead.

Mr. Speaker, a few years back I was upset when the President of my own party said that the American people were like children and that they had to be treated as such.

I think we all know today where that paternalistic attitude led. And yet the authors of this rule are no different in the way that they regard the Members of this body. We are considered as children. We are considered as too immature, we are considered as too irresponsible and we are considered as too frivolous to be entrusted with the responsibility of doing our own thinking and making our own decisions here today on the floor.

Mr. Speaker, this rule not only disenfranchises this body. It also performs a total lobotomy on the collective brain of this body.

The only argument that I have heard is that we cannot allow any amendments because the so-called accountability and commission reform that we adopted in July are such a carefully contrived and delicately balanced package that it cannot be tampered with in any way or it is going to fall apart. Mr. Speaker, I think that is a diversionary ploy and ought to be recognized as such, because to suggest that this comprehensive legislative appropriation bill deals only with that subject is not so. It covers a whole range of items that were not touched on in those reforms, and yet none of those matters, those other matters can be modified in any way by amendment under this rule if we adopt it.

But even if we were to concede that many of the same issues as were covered in the so-called reform package are raised in this bill, who would suggest that those reforms are perfect and that they should not be the subject of further scrutiny by this body? I thought that reform was a dynamic process. Make it so today by defeating this rule.

Mr. LOTT. Mr. Speaker, I reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, I have one more speaker, if the gentleman will yield back his time.

Mr. LOTT. Mr. Speaker, I have no further request for time and I yield back the balance of my time.

Mr. REGULA. Mr. Speaker, I rise in opposition to this closed rule. This is an affront to the legislative process and to the American people. To appropriate and spend $780 million of their money on congressional activities without open debate on all issues is a violation of the spirit of responsible and open government. This proposed rule shows that open government receives much more support with words than votes.

The impact of King Caucus on decisions of the Rules Committee was very apparent when my request to them to make an amendment in order providing for open public access to all congressional employment records at all times was rejected along with many others. The text of my amendment was:

> The expenditure of any appropriation under this Act, available for disbursement by the Clerk of the House of Representatives, shall be limited to those expenditures where all records and documents pertaining thereto are available for public inspection during normal working hours each day, excepting only Sundays, Saturdays, and legal holidays.

Rejection of this amendment clearly illustrates the continuing double standard practiced by the majority party; that is, that of demanding that the executive branch of Government be totally open and forthcoming, while refusing to require the same standard for its own activities.

I regret that while recently passing a sunshine bill for others the majority party plans to keep the shutters closed on its own house.

Mrs. SCHROEDER. Mr. Speaker, the rule on H.R. 14238 should be open for these reasons:

First, it is rare, if not unprecedented, to bring an appropriation bill up under a closed—or in this case modified closed—rule. And I see no overriding reason for such a rule.

Second, since there is no legislative authorization bill, the legislative appropriation is one of the few opportunities we have to propose amendments relating to the administration of the House of Representatives. We seem to be able to legislate quite freely on every subject except the very body we belong to.

Third, I have two amendments to H.R. 14238 that have been, in one form or another, awaiting consideration for some time. Both amendments are excluded under the modified closed rule.

The first is an amendment to prohibit the expenditure of H.R. 14238 moneys for first-class air travel by Members and staff which was originally introduced on June 20, 1975, as House Resolution 560. The resolution had wide, bipartisan support—67 cosponsors, 54 Democrats and 13 Republicans. Recent newspaper articles on Members' spending habits demonstrate quite adequately that when it comes to going first-class at the taxpayer's expense neither party affiliation nor ideology are any bar. See the splendid series August 1976 in the Cox newspapers as well as a November 8, 1975, article in the Fresno Bee. Many noted fiscal conservatives are nothing but wastrels in skinflint's clothing.

The second is amendment to prohibit the expenditure of H.R. 14238 moneys for foreign travel by lameduck Members which was first introduced in the 94th Congress as H.R. 1621 on January 25, 1975.

Both measures were subsequently rewritten as amendments to H.R. 14238 and published in the RECORD (page 19036) on June 17, 1976.

Fourth, I realize the argument is being made that we need a closed rule because the distinguished opposition is up to nothing but election year mischief.

One example will suffice. A number of our Republican colleagues have proposed an amendment to H.R. 14238 directing the General Accounting Office to review procedures relating to the expenditure of legislative branch moneys. They are touting this amendment as the greatest thing since flapjacks.

Well, as any Member here knows all it takes to get a GAO review is a request in writing from any Member or committee. You do not need a law passed to have the GAO watchdogs come out. The agency works for, reports to, Congress.

The proposal can be further faulted because it is too mild. Congress does not need a GAO review—it needs a thorough keelhauling. I am sure if the Speaker had proposed a GAO review the minority leader would have run to the press shouting "Whitewash!" "Coverup!"

Unfortunately, if we were to support a closed rule on the grounds that the opposition is engaging in political mischief, embarrassment for embarrassment sake, we would have closed rules on every piece of legislation that came ambling onto the floor.

I will vote "no," therefore, on the modified closed rule on H.R. 14238.

Mrs. HOLT. Mr. Speaker, our constituents, yours and mine, are watching us closely today. They demand true reform of the congressional system. The image of this body has been tarnished by press reports, admissions, and grand jury investigations of our operations and some of our Members.

Recently, I was privileged to chair a subcommittee of the platform committee at the Republican National Convention. Our committee reported, and the convention approved, a tough congressional reform section which was endorsed by nonpartisan groups seeking open government by allowing this body to be scrutinized by the public and putting to an end the practice of extending special privileges to some at the expense of all American taxpayers and voters.

Before us today is a modified closed rule. That means that the powers in this body have determined that secrecy, smoke-filled rooms, and special privileges should be preserved. Reform, if the closed rule is approved, means little more than safe changes which will leave our constituents largely in the dark.

Two days ago, this body considered and prudently rejected another modified closed rule on vitally needed estate and gift tax reform. I supported openness at that time and I will continue to be among those Members who, hearing the demand for openness and equal justice from all of our constituents, will reject a narrow and partisan argument to keep the system closed and this body from public scrutiny.

Mr. PRESSLER. Mr. Speaker, I shall vote to delay this pay raise and it will probably pass, but it does not rescind pay raise legislation that will probably go into effect in January. This delay motion is well orchestrated before the November elections, but under present law, you can be assured that salaries will escalate in early 1977. In January 1977 the Commission on Executive, Legislative, and Judicial Salaries will recommend a major quadrennial pay increase—it is expected to be as much as $10,000. This early 1977 raise would be automatic unless voted down and my understanding is that the action today does not apply to this board's recommendation.

I have a lawsuit against the various automatic pay increase legislation. The fact that Congress can charade just before an election is new evidence that my lawsuit needs to prevail. I am not against Congress being well paid—but I want us to clearly and simply vote on pay raises.

It is a cruel hoax on the American people to pass a pay raise delay 60 days before an election when it might be wiped out in January without a vote. Maybe time will prove me wrong, but I predict a major automatic pay increase for Congress in early 1977.

GENERAL LEAVE

Mr. LOTT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this rule, House Resolution 1507.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. BOLLING. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I hope not to take even the 5 minutes but there have been enough misstatements so that I have to reply.

I would like to say that I am really sort of impressed with the fact that this matter has had on the Republican side one Member, the minority leader, who has become speechless and another Member who has come to tell us late midnight murder bedtime stories not really based on any reality but based on myth.

I am the author of the rule. I made the move in the Rules Committee right up there in public. We are standing down here with people in the room looking at us. There is no lack of light.

What we are doing here today—and we are doing it because we know why we need to do it—is we are going to vote this rule through because this is the way we are going to get reform and the debate we have heard proves it. We have already had an amazing amount—which is just a taste of what we will get later—of misrepresentation.

The idea that the Commission on Administrative Review has not met and to leave with the Members the notion that the Commission has done nothing is ridiculous. It has had four working weeks. It has done a great deal of work. It has appointed a staff director approved by the minority. In the process it has been obstructed with some energy in private, it will have to be admitted, by the Republican Members.

No, that is just exactly what I believe has been going on, and that is just exactly what I believe is the purpose of all this business of opening up the rule and having the amendments so that this reform can be killed, so that there can be a campaign issue.

I like to be polite when I can but when I get driven too far I think I ought to say exactly what the truth is.

We have heard something about the members of the Committee on Appropriations. Well, the chairman of the subcommittee that deals with this matter happens to be the person who is authorized to offer the amendments which he put in the RECORD.

It is pretty obvious that the chairman of the Subcommittee on Appropriations approves of this approach. Someone has said this rule is against the rules of the House. I cannot believe that anybody would seriously come up with that old saw. The rules of the House provide for the process in which we are now involved. When a majority passes this rule, as I am confident it will, the rules of the House have been complied with.

There is nothing unusual about this, except the unusual circumstance that requires this kind of rule to get the reform package through in law on an appropriation bill.

Mr. Speaker, there are other things that I could talk about. There are the audits. There has been a monumental amount of work done by the GAO under the direction of the Committee on House Administration. It is an ongoing job. We have been told that nothing has happened since we passed this thing on the 1st of July. That is baloney. There has been an effective reform instituted. It has been effective in terms of change in the committee chairman. It has been effective in terms of accountability. It has been effective in terms of audit and we ought to ratify those reforms by an overwhelming vote in support of this rule. That is the way to get reform.

Mr. Speaker, I yield back the balance of my time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 208, nays 193, not voting 30, as follows:

[Roll No. 686]

YEAS—208

Adams
Addabbo
Alexander
Allen
Andrews, N.C.
Annunzio
Ashley
Aspin
Badillo
Baucus
Beard, R.I.
Bedell
Bergland
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Chappell
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Cornell
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Dingell
Downing, Va.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Calif.
Eilberg
English
Evins, Tenn.
Fary
Fascell
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Gaydos
Gibbons
Ginn
Gonzalez
Hall, Ill.
Hall, Tex.
Hanley
Harkin
Hayes, Ind.
Hefner
Henderson
Hicks
Holland
Holtzman
Howard
Howe
Hungate
Ichord
Jarman
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Koch
Krebs
Krueger
LaFalce
Leggett
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McCormack
McFall
McHugh
McKay
Madden
Mann
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Neal
Nedzi
Nichols
Nix
Nolan
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pike
Preyer
Price
Randall
Rangel
Reuss
Richmond
Risenhoover
Roberts
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ryan
Scheuer
Seiberling
Shipley
Sikes
Simon
Slack
Smith, Iowa
Solarz
Staggers
Stanton, James V.
Stark
Steed
Stokes
Stratton
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Thornton
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Waxman
Weaver
White
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—193

Abdnor
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
AuCoin
Bafalis
Baldus
Bauman
Beard, Tenn.
Bell
Bennett
Bevill
Biester
Breaux
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Butler
Carr
Carter
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Dodd
Downey, N.Y.
Duncan, Tenn.
du Pont
Edgar
Edwards, Ala.
Emery
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Fenwick
Findley
Fish
Fisher
Fithian
Flynt
Frenzel
Frey
Giaimo
Gilman
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hamilton
Hammerschmidt
Hannaford
Hansen
Harrington
Harris
Harsha
Hechler, W. Va.
Heckler, Mass.
Hightower
Hillis
Holt
Hubbard
Hughes
Hutchinson
Hyde
Jacobs
Jeffords
Johnson, Colo.
Johnson, Pa.
Kasten
Kelly
Kemp
Ketchum
Keys
Kindness
Lagomarsino
Landrum
Latta
Lent
Levitas
Lloyd, Calif.
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McDonald
McEwen
McKinney
Madigan
Maguire
Mahon
Martin
Mathis
Michel
Miller, Ohio
Mills
Mitchell, N.Y.
Moffett
Montgomery
Moore
Moorhead, Calif.
Mosher
Mottl
Myers, Ind.
Myers, Pa.
Natcher
Nowak
O'Brien
Paul
Pettis
Pickle
Poage
Pressler
Pritchard
Quillen
Regula
Rinaldo
Robinson
Rogers
Roush
Rousselot
Runnels
Ruppe
Russo
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Sharp
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Spellman
Spence
Stanton, J. William
Steiger, Wis.
Stuckey
Studds
Symms
Talcott
Taylor, Mo.
Thone
Traxler
Treen
Vander Jagt
Walsh
Wampler
Whalen
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Young, Fla.

NOT VOTING—30

Abzug
Conlan
de la Garza
Diggs
Forsythe
Fuqua
Green
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Hinshaw
Horton
Jones, Ala.
Lehman
Matsunaga
Peyser
Quie
Railsback
Rees
Rhodes
Riegle
St Germain
Sarbanes
Sisk
Steelman
Steiger, Ariz.
Stephens
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Hawkins for, with Mr. Rhodes against.

Ms. Abzug for, with Mr. Conlan against.

Mr. Diggs for, with Mr. Forsythe against.

Mr. Helstoski for, with Mr. Heinz against.

Mr. Lehman for, with Mr. Peyser against.

Mr. Matsunaga for, with Mr. Railsback against.

Mr. St Germain for, with Mr. Steelman against.

Mr. Sarbanes for, with Mr. Quie against.

Mr. Sisk for, with Mr. Steiger of Arizona against.

Mr. Riegle for, with Mr. Young of Alaska against.

Mr. Rees for, with Mr. Horton against.

Until further notice:

Mr. de la Garza with Mr. Fuqua.

Mr. Green with Mr. Hays of Ohio.

Mr. Hébert with Mr. Jones of Alabama.

Mr. PICKLE, Mrs. SPELLMAN, Mr. HANNAFORD, and Mr. FITHIAN changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REVISING THE CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEAR 1977

Mr. ADAMS, from the Committee on the Budget, submitted a report (Rept. No. 94-1457) to accompany the concurrent resolution (H. Con. Res. 728) revising the congressional budget for the U.S. Government for the fiscal year 1977, which was referred to the Union Calendar and ordered to be printed.

BICENTENNIAL LAND HERITAGE ACT OF 1976—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee of the Whole House on the State of the Union:

To the Congress of the United States:

I am today submitting to the Congress the Bicentennial Land Heritage Act. This proposal establishes a 10-year national commitment to double America's heritage of national parks, recreation areas, wildlife refuges, urban parks, and historic sites. The Bicentennial Land Heritage Act would authorize and appropriate funds for the acquisition, improvement, rehabilitation, and maintenance of the National Parks System and National Wildlife Refuge System and increase grants to communities to improve park and recreation facilities.

Enactment of my proposal would establish a $1.5 billion program to:

—provide *$141 million* to be used to acquire lands for parks, wildlife refuges, and recreation areas, and historic sites.

—provide *$700 million* to develop new and existing parklands and refuges into recreation and conservation resources ready to serve the public.

—provide *$459 million* for upgrading and increased staffing for the national parks and wildlife refuges systems.

—provide *$200 million* for grants to cities to upgrade present park areas in disrepair.

This bill also contains a supplemental budget request for appropriations totaling $1.32 billion for fiscal year 1977, $1.30 billion to remain available for obligation until 1986.

The Bicentennial Land Heritage Program will significantly influence the future of the 31-million acre National Park System. The system, with its 287 areas, contains outstanding natural features and historical sites. These areas often suffer from overuse or deficient maintenance, and areas with high recreation potential often lack adequate access roads and visitor facilities. Many of the nationally significant historical and archeological sites are deteriorating from lack of proper protection and suitable resource management planning and execution. The addition of lands to the System, coupled with effective resource management, will increase opportunities for outdoor recreation, as well as insure the protection and perpetuation of these resources for future generations. Their inclusion would also help to alleviate overcrowding problems at areas currently in the system, where sharply accelerated visitation during recent years has seriously impacted park resources.

The Bicentennial Land Heritage Program will also be important to the National Wildlife Refuge System. The 378 National Wildlife Refuges, which encompass 32 million acres, provide habitat for a wide variety of the Nation's fish and wildlife. The Refuge System, like the National Park System, has deteriorated seriously. In the last two decades, the System has doubled in size, and public visitation has quadrupled to 30 million visitors a year. Yet, staffing has not been increased in the last 10 years. Many facilities such as roads, buildings, and water management structures have deteriorated for lack of maintenance. Of even more concern is the daily destruction of the Nation's essential wildlife habitat which is being bought, developed, polluted, or otherwise altered.

To assist in improving community parks and recreation facilities the Program would also authorize funds, pursuant to the Housing and Community Development Act of 1974, in the amount of $200 million to be available for communities to use in their recreation programs.

As part of the Bicentennial Land Heritage Program, I again urge the Congress to act expeditiously and to enact the proposed Alaska Conservation Act which was first proposed in December 1973 and resubmitted in March 1975. I am disappointed that the 94th Congress has failed to take action on this initiative. My hope is that the Congress will take positive action on this important conservation measure, which would add more than 64 million acres of land to the National Park System and the National Wildlife Refuge System and thus double the size of both of these systems.

The program I now present to the Congress will reaffirm our Nation's commitment to preserve the best of our vast and beautiful country and the wildlife inhabiting it. It will be a sound investment in America which will pay off handsomely by permanently insuring and enriching the natural treasures to be inherited by future generations. All Americans must stand committed to conserve and cherish our incomparable natural heritage—our wildlife, our air, our water resources and our land itself. As our Nation begins its third century, we must renew our commitment to save this great natural heritage for the enjoyment of future generations of Americans.

Accordingly, I strongly urge the Congress to enact the proposed "Bicentennial Land Heritage Act of 1976", which establishes a program designed to insure the fulfillment of this national commitment.

GERALD R. FORD.

THE WHITE HOUSE, *August 31, 1976.*

1975 ANNUAL REPORT OF FEDERAL PREVAILING RATE ADVISORY COMMITTEE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

In accordance with section 5347(e) of title 5 of the United States Code, I hereby transmit to you the 1975 Annual Report of the Federal Prevailing Rate Advisory Committee.

In March of this year, I sent to the Congress a legislative proposal to reform procedures for setting pay under the prevailing rate system. In my July 22, 1976 legislative program message, I urged action on the proposal before adjournment of the 94th Congress. I am convinced that the bill will help correct inconsistencies in the prevailing rate system and I wish to reiterate my concern for its passage.

GERALD R. FORD.

THE WHITE HOUSE, *September 1, 1976.*

PERMISSION FOR COMMITTEE ON AGRICULTURE TO SIT TODAY AND BALANCE OF THIS WEEK DURING 5-MINUTE RULE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be permitted to sit today and the balance of this week during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could the gentleman tell us whether the committee is planning to mark up legislation?

Mr. FOLEY. Mr. Speaker, if the gentleman will yield, the purpose of this request is to continue with the consideration of the markup on amendments to the Organic Act of the National Forest Service, which is the pending business of the committee.

This request is not made for any other purpose.

Mr. ROUSSELOT. Therefore, Mr. Speaker, the gentleman assures us that that will be the only legislation with respect to which markup will be considered; is that correct?

Mr. FOLEY. Mr. Speaker, I am happy to give that assurance to the gentleman.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman from Washington (Mr. FOLEY), and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PROVIDING FOR ADJOURNMENT OF CONGRESS FROM SEPTEMBER 1, 1976, TO SEPTEMBER 8, 1976

The SPEAKER laid before the House the Senate concurrent resolution (S. Con. Res. 136) providing for a conditional recess of the Senate from September 1, until September 7, 1976, and a conditional adjournment of the House from September 2 until September 8, 1976.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 136

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses on Wednesday, September 1, 1976, it stand in recess until 12 o'clock noon on Tuesday, September 7, 1976, and that when the House adjourns on Thursday, September 2, 1976, it stand adjourned until 12 o'clock noon on Wedesday, September 8, 1976, or in the case of each House until 12 o'clock noon on the second day after its Members are notified to reassemble in accordance with section 2 of this resolution, whichever event first occurs.

SEC. 2. The President pro tempore of the Senate and the Speaker of the House of Representatives shall notify the Members of the Senate and House, respectively, to reassemble whenever in their opinion the public interest shall warrant it or whenever the majority leader of the Senate and the majority leader of the House, acting jointly, or the majority leader of the Senate and the minority leader of the House, acting jointly, file a written request with the Secretary of the Senate and the Clerk of the House that the Congress reassemble for the consideration of legislation.

SEC. 3. During the recess of the Senate and the adjournment of the House as provided in section 1, the Secretary of the Senate and the Clerk of the House, respectively, be, and they hereby are, authorized to receive messages, including veto messages, from the President of the United States.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

LEGISLATIVE BRANCH APPROPRIATION BILL, 1977

Mr. SHIPLEY. Mr. Speaker, pursuant to House Resolution 1507, just agreed to, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. Shipley).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 14238, with Mr. Pike in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Illinois (Mr. Shipley) will be recognized for 1 hour, and the gentleman from Pennsylvania (Mr. Coughlin) will be recognized for 1 hour.

The Chair recognizes the gentleman from Illinois (Mr. Shipley).

Mr. SHIPLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is the first time that I have had the privilege to present the annual appropriations bill for the legislative branch. While I am presenting this bill on behalf of the Committee on Appropriations, it represents the combined efforts of all the members of the Legislative Branch Subcommittee—Mr. Giaimo; Mr. Addabbo; Mr. McFall; Mr. Yates; Mr. Evans of Colorado; Mr. Roybal; Mr. Roush; Mr. Coughlin; the ranking minority member, Mr. Cederberg; Mr. Armstrong; and Mr. Regula.

The bill contains funds for the operation of the House of Representatives, joint House and Senate committees and activities, the Office of Technology Assessment, the Congressional Budget Office, the Architect of the Capitol, the Botanic Garden, the Library of Congress, the Government Printing Office, the General Accounting Office, and the Cost-Accounting Standards Board; and conforming to long practice, funds exclusively for operation and activities of the Senate are left for decision and insertion by that body.

APPROPRIATIONS RECOMMENDED

Appropriations totaling $780,266,350 are recommended for fiscal year 1977. This allowance is $13,917,650 less than requested primarily due to cutbacks in the additional staffing requested by the Office of Technology Assessment, the Library of Congress, and the General Accounting Office.

The recommended amount is $17,330,108 below 1976 appropriations due to a number of nonrecurring items appropriated for 1976 and not required in 1977. The major projects and programs in this category are the construction funds for the Library of Congress James Madison Memorial Building, money provided for prior-year deficits for congressional printing and binding, and a supplemental to cover 1975 obligations for "official mail costs." Decreases below the 1976 level total $98,813,249 which are offset by increases in the amount of $81,483,141 of which $24,456,774 is for pay increases and other salary adjustments, $15,143,506 for increased costs primarily due to inflation and $11,633,790 to meet the costs of new legislation enacted by the Congress.

There are no major construction projects in this bill. The Public Printer requested that action be deferred on the request relating to a new plant for the Government Printing Office.

HOUSE OF REPRESENTATIVES

A total of $241,728,950 is recommended for the operation of the House of Representatives during the next fiscal year which is $12,747,465 more than appropriations for 1976 and $347,850 less than requested. The increase over the current year level is composed of $4,654,530 for pay costs, $566,050 for other increased costs, $3,776,150 related to new legislation—House resolutions—and $3,750,735 for increased workload.

The Committee on Appropriations in reality has very little control over the level of appropriations. Almost without exception we are merely called upon to provide funds to pay the bills for salaries, expenses, or allowances already established by statute. At the appropriate time, I will offer amendments to: First, provide a gratuity to the parents of the late Honorable Jerry L. Litton; second, prohibit funds in this bill from being used to provide a further automatic cost-of-living pay increase as authorized by the Executive Salary Cost-of-Living Adjustment Act, and third, make permanent law House resolutions 1368 and 1372.

JOINT ITEMS

Under "Joint items" the bill provides a total of $55,268,800 for the six joint committees and other activities of the Congress. The largest item is in the amount of $46,904,000 to reimburse the U.S. Postal Service for the cost of official mail sent out under the frank by the entire Congress. Other activities include the American Indian Policy Review Commission, the Office of the Attending Physician, general expenses of the Capitol Police Force, and reimbursement to the District of Columbia Metropolitan Police Department for personnel detailed to the Hill, and the Capitol Guide Service.

OFFICE OF TECHNOLOGY ASSESSMENT

The committee bill provides for $6,624,000 to enable the Office of Technology Assessment to continue operations at the current level during fiscal year 1977. The Technology Assessment Board had requested a total of $8,500,000. In addition to the appropriation recommended for 1977 a provision in the Second Supplemental Appropriations Act of 1976 allows the carryover of unobligated 1976 funds into fiscal year 1977. It is estimated that approximately $500,000 will be carried forward.

CONGRESSIONAL BUDGET OFFICE

The bill contains $9,319,200 for the operation of the Congressional Budget Office during fiscal year 1977 along with a limitation of 208 positions. The committee approved the revised request of the Director in this amount. Fifteen new positions are recommended for work in the budget, fiscal analysis and tax analysis divisions. The 1977 budget for the Congressional Budget Office, which is the first 12-month budget for the agency, was reviewed by the House and Senate Committees on the Budget prior to the Director's presentation to our committee.

ARCHITECT OF THE CAPITOL

For the Architect of the Capitol, we have recommended a total of $37,638,000 for the operation, care, maintenance and repair of the various buildings and the grounds in the Capitol complex during the next fiscal year. The committee has allowed $800,000 for the installation of a security system at the Capitol Power Plant which will be a part of the surveillance system already in operation in other congressional buildings. The request for authorization and funding for a shuttle service between the various buildings, primarily to service House Annex No. 2—the old FBI Building—has been approved.

BOTANIC GARDEN

The sum of $1,164,900 is recommended for the various activities of the Botanic Garden during the next fiscal year.

LIBRARY OF CONGRESS

For the Library of Congress, the committee is recommending appropriations totaling $135,415,100 for the various programs and agencies under the jurisdiction of the Library of Congress during 1977. This allowance is $7,568,100 less than requested. The budget proposed an increase of 389 new positions in 1977. The bill contains 145. Space is at a premium and the committee is of the opinion that it is not possible to recruit competent personnel at the rate requested. The bill provides for 805 positions for the Congressional Research Service, an increase of 27 over the number available during the current fiscal year. The sum of $552,000 has been allowed for copyright revision activities contingent on the passage of authorizing legislation. A total of $20,800,800 is in the bill for the books for the blind and physically handicapped program which will permit the expansion of these popular services during the coming year.

GOVERNMENT PRINTING OFFICE

A total of $140,827,400 is recommended for the operation of the Government Printing Office during the next fiscal year. Of this amount, $93,639,000 is for the cost of congressional printing and binding. However, this amount covers more than just work for the Congress. Almost $14,000,000 is for the Federal Register, the U.S. Government Manual, Public Papers of the President, and the Weekly Compilation of Presidential Documents. Over $3,000,000 is for the publication of the Code of Federal Regulations. The overall printing laws are contained mainly in title 44 of the United States Code and provide not only that the costs of these publications be charged to this appropriation, but also specify the automatic distribution of many documents. The committee has, in recent years, written restrictions into the appropriations acts limiting the automatic distribution of certain documents. Funds were provided in the Second Supplemental Appropriations Act, 1976 for a comprehensive management survey of the operations of the Government Printing Office which should be of assistance to the appropriate committees of the Congress in updating the printing laws, many of which are more than 80 years old.

The bill also includes $47,188,400 for the sales and distribution functions performed by the Office of the Superintendent of Documents.

GENERAL ACCOUNTING OFFICE

Appropriations totaling $150,580,000 are recommended for fiscal year 1977 for the General Accounting Office. This allowance is $9,039,000 above the current year level primarily to take care of the additional workload resulting from new legislation enacted by the Congress.

COST-ACCOUNTING STANDARDS BOARD

With regard to the Cost-Accounting Standards Board, the committee has approved the request of $1,700,000 for this Board which relates to the establishment of accounting standards for defense contractors.

CONCLUSION

In conclusion, Mr. Chairman, these are the highlights of the bill. The committee has little discretion as far as the amounts for the House and the joint items of the Congress are concerned. Salaries, allowances, and expenses are authorized by the House under resolutions and laws in conformance with the House rules.

I would also point out that this bill provides funds for more than the Congress itself. Of the overall total of $780,266,350, only $241,728,950 is for the House. If we include the joint items the Office of Technology Assessment, the Congressional Budget Office, the Architect of the Capital and the Botanic Garden, the total is $351,743,850. The Library of Congress is a national library. The Government Printing Office, the General Accounting Office, and the Cost-Accounting Standards Board are concerned with the entire Federal Government and are for the benefit of the whole country.

Mr. Chairman, I recommend that the bill be approved.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. SHIPLEY. I yield to the gentleman from Maryland.

Mr. BAUMAN. The gentleman has mentioned that he will offer the three amendments provided for under the rule. I assume the gentleman has consulted with other Members on his side before drafting these amendments. Why is the gentleman going to offer an amendment which restricts the pay increases only in the case of Members of the House of Representatives when the gentleman from Iowa (Mr. Grassley) almost a year ago offered legislation which would restrict the pay increases of all Members of both bodies of the Congress? Is there some particular reason for that?

Mr. SHIPLEY. No, to be very honest with the gentleman from Maryland, there is not. I felt, as many do, that we should have the opportunity to vote on an increase. The gentleman from Maryland knows very well that I have supported every pay raise we have had since I have been a Member of Congress which extends over the last 18 years. Since the last vote we had on the pay raise, there has been a great deal of concern, frustration and perhaps regret on the part of some Members, both Democrats and Republicans.

I have had Members from both sides come to me and say, "Look, we have to have a vote on the automatic cost-of-living increase." This is my purpose for offering that amendment. However, as far as the Senate goes, that is their business.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SHIPLEY. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I think another answer to the distinguished gentleman's question is in the Constitution itself possibly which, if my memory serves me correctly, says that we shall be paid the same; but, more importantly, historically what the Senate does on the Senate side, whether it is decorating the Senate side or having some office buildings built or what have you, has been left, through comity, to the Senators to decide.

Mr. BAUMAN. If the gentleman would yield further, I appreciate the gentleman's response, and I agree with his amendment, but I do not feel that it goes far enough. I am aware, as the gentleman from Colorado says, that comity has dictated that we not in any way change the figures of the other body, but, when the indexing of our salaries passed here last year, it was for both bodies of Congress. I wonder if the gentleman would entertain a unanimous-consent request at the appropriate time to include the Members of both bodies of the Congress in his amendment? I honestly believe that is what the American people wish.

Mr. SHIPLEY. In response to the gentleman, I am not sure this House should be doing that. I feel this is again something that the Senate should do.

Mr. BAUMAN. One other question: Does the provision of the gentleman's amendment regarding House salaries also go to the additional salaries which are paid to the leadership on both sides of the aisle? I personally feel that, if we are not to have increases, the leadership should share in that also.

Mr. SHIPLEY. It is my understanding that it does.

Mr. BAUMAN. They would not receive any?

Mr. SHIPLEY. My amendment is very simple. No Member, including the leadership, will receive any increase in salary with regard to the cost-of-living increase.

Mr. BAUMAN. I thank the gentleman.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. Coughlin).

Mr. COUGHLIN. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, the Legislative Subcommittee, under the leadership of Chairman Shipley, probably spent more time and effort on this bill this year than ever before, certainly more than we ever have since I have been on the subcommittee.

I must say that the Chairman, the gentleman from Illinois (Mr. Shipley), has done an outstanding job in examining the legislative branch appropriations. I certainly commend him. He has been eminently fair in all of his dealings with the minority as we went through this, and he has given us all of the time that we needed.

The Chairman has very ably set forth some of the things that developed in the Legislative Subcommittee. I might just highlight a few of them. We really did make a strong attempt to cut back on money and requests for increases in personnel in all of the areas of the legislative branch.

The number of employees of the House, for example, has increased from 1,485 by only 3 employees, to 1,488.

The number of committee employees goes from 634 to only 650. That is the Standing Committees.

But we did call attention—and I think attention is deserved—to the very great increase in the number of employees on our Select and special committees. These are growing at an extremely rapid rate, having gone from 360 employees in 1967 to 1,000 employees in 1977, more than tripled in the course of 10 years.

We also called attention, and we do so in our committee report, to the great growth in the Capitol Police Force. We have a very able Capitol Police Force, and I count myself as one of the champions of the Capitol Police. But it is important to note that that Police Force has grown from 434 in 1967 to 1,190 in 1977. Part of that growth was accounted for by the demonstrations which occurred in Washington in the late 1960's and early 1970's, and part of that growth, they say, is attributable to the Bicentennial. So we would hope that as the Bicentennial passes and as Washington becomes again a more peaceable place, that this kind of growth would not continue.

The Office of Technology Assessment requested 131 employees. We kept them at their present level of 93.

The Congressional Budget Office reduced its original request of 259 employees and upon examination found that it could live with 208 employees, and we let them increase from their present 193 to 208.

The number of employees to maintain the House Office Buildings increased from 696 to 817, primarily because of the acquisition of the old FBI Building as a new House Office Building.

The Library of Congress requested 177 additional employees. We cut them back to 79.

The Copyright Office asked for 122 additional employees to cover their adaptation of the new copyright law. We cut them back to 41.

The Congressional Research Service asked for 88 additional employees. We cut them back to 27.

So that there was a sincere effort made here to keep the growth of the legislative branch under control, and I think that is praiseworthy.

We also comment in the committee report, and I think it is worthy of note, that the reports that we get on the operations of the Government Printing Office are, to say the least, not encouraging. There seems to be no good reason why it should cost the Government almost twice as much to print a page as it would cost a regular business organization. And so one of the things that we have provided funding for in here is for an outside management study by people with expertise in the printing area to look at our Government printing operations and hopefully to recommend improvements.

While these aspects of the legislative bill are matters that I agree with, I deeply regret the fact that this bill was brought here under a closed rule, and that many Members on both sides of the aisle will thereby be precluded from offering amendments that they desire to offer.

As a consequence of the action the House has just taken in adopting that closed rule, I do intend to offer in a motion to recommit a number of amendments to the bill that were outlined to my colleagues in a letter dated August 27, 1976, and signed by the minority leader, the gentleman from Arizona, John Rhodes; the chairman of the Republican Policy Committee, the gentleman from New York, Barber Conable; the chairman of the Republican Task Force on Reform, the gentleman from Minnesota, Bill Frenzel; a member of the Commission on Administrative Review, the gentleman from Maryland, Bob Bauman; the gentleman from Colorado, Bill Armstrong, the gentleman from Ohio, Ralph Regula; and the gentleman from Michigan, Mr. Cederberg; all members of the Subcommittee on Legislative Appropriations.

Mr. ROUSH. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. Certainly, I yield to the gentleman from Indiana.

Mr. ROUSH. Mr. Chairman, may I ask the gentleman this: In his motion to recommit will there be included amendments other than those which were printed in the Record or caused to be printed in the Record by the gentleman in the well?

Mr. COUGHLIN. All the amendments that will be included in that motion will have been printed in the Record. There will not be amendments included other than those printed in the Record and outlined in the letter of August 27, 1976. Some of the amendments that were printed in the Record were not printed under my name but under the names of the gentleman from Maryland (Mr. Bauman), the gentleman from Minnesota (Mr. Frenzel), the gentleman from Iowa (Mr. Grassley), and the gentleman from Ohio (Mr. Regula). They have all been printed in the Record.

Mr. ROUSH. Is a copy of the proposed motion to recommit available?

Mr. COUGHLIN. A copy of the proposed motion to recommit has, I believe, been made available to the majority. I believe it is at the desk of the majority now.

Mr. ROUSH. Mr. Chairman, will the gentleman yield further?

Mr. COUGHLIN. Certainly.

Mr. ROUSH. Mr. Chairman, I would like to join the gentleman in the well in complimenting the gentleman from Illinois (Mr. Shipley).

Chairing this particular subcommittee is, I am sure, no great joy. It is a very difficult subcommittee to chair. The gentleman from Illinois came into this position at a time when it was probably most difficult, and he has, I think, performed admirably.

I also wish to compliment the gentleman in the well. I voted against the closed rule or the modified closed rule, and I did so because I agree with much of what is contemplated, not all but much of what is contemplated by the gentleman in the well.

As the gentleman knows, we have discussed these various matters many, many times in committee, and that which we have been able to do has been limited until this time.

Mr. Chairman, I would hope that the motion to recommit would be a reasonable motion to recommit. I would not want to see it include things which demean this House. I would not want it to include things which would prevent this House from functioning effectively and efficiently as a legislative body. On the other hand, I think we should maintain the honor and the integrity of the House by removing from this some of the so-called "goodies" that really should not have been given in the first place.

Mr. Chairman, I thank the gentleman for yielding.

Mr. COUGHLIN. Mr. Chairman, I thank the gentleman from Indiana.

Let me now outline the provisions of the motion to recommit which were communicated to each of my colleagues in the "Dear Colleague" letter of August 27 of this year.

First, there would be an amendment to make the expenditure records of the Clerk of the House open to inspection by the public at the Office of the Clerk, as well as through the twice annual publication which he now provides, but which is not generally available for distribution. As the Members know, the Clerk does currently publish expenditure records for Members, for staff, for committee staff, and for other expenditures of Members. This amendment would simply insure that, first, these records would be more easily available from the Government Printing Office than at this time, and, second, that these records could also, on a daily basis, be inspected by people at the Office of the Clerk.

The second amendment which is part of the motion to recommit would prohibit a person from being on both a committee payroll and a Member's payroll at the same time. This would not prohibit groups of Members from sharing the cost of a staff member, but it would prohibit a person's serving on both a committee staff and a Member's staff.

The third amendment that would be part of the motion to recommit would be an amendment to provide that all vouchers of Members for any expenditures should certify that those expenditures were of official business and that certification should be under the penalties of perjury.

Mr. Chairman, we have heard in recent months of instances where vouchers were apparently fraudulently submitted. It seems to me and it seems to those who are authors of this proposal that this would have a good effect in causing Members to take more care of their vouchers and how their vouchers were treated.

The fourth amendment would require the House stationery room, the House recording studio, the beauty and the barber shops, and all House cafeterias and dining rooms to be operated on a self-sustaining basis.

At the present time, for example, although the House stationery room pays for the cost of goods that are sold there, the cost of the employees to operate the stationery room is not covered out of the receipts of the stationery room. Our amendment intends to rectify that. The same situation is true with respect to the House recording studio.

However, Mr. Chairman, we do not in this amendment require an allocation of rent or of heat or of light or anything like that, in the belief that similar to the other facilities, such as the ticket offices and so forth, that should not be necessary. It would be too complicated. However, the amendment would require the cost of those employees necessary to operate these facilities to be covered out of the receipts of the facilities.

The fifth amendment that will be part of the motion to recommit would prohibit any increase in individual Members' total allowances as a result of the consolidation of accounts under House Resolution 1372 passed on July 1, 1976.

Mr. Chairman, the Members will recall, I am sure, that one of the complaints about these so-called reform proposals was that they could actually result in an increase in perquisites for some Members. This would prohibit that.

The sixth amendment that would be part of the motion to recommit, if it is not passed otherwise by this body, would be an amendment terminating the automatic cost-of-living increases in Members' salaries for this October.

The seventh amendment would be an amendment to terminate completely the authority of the Committee on House Administration to adjust allowances without bringing the question to the floor of the House. The Members will recall that the so-called reform amendments that were passed back in July had three fairly gaping loopholes in them, as a result of which the Committee on House Administration still had the power to adjust Members' allowances. These were loopholes that would allow adjustments to be made for increases in the cost of living, for increases in the cost of goods, and for changes in technology, whatever that might mean, so that really the Committee on House Administration, under those so-called reform proposals, has a great deal of leeway still to adjust Members' allowances.

The eighth and final amendment that we would propose in the motion to recommit would be an amendment to limit the appropriation for the Committee on House Administration to last year's level.

Mr. Chairman, this committe has grown at a very, very rapid rate over these past few years. In fact, it has increased in size in the past 10 years, if I recall correctly, almost 25-fold in that period of time.

Certainly, Mr. Chairman, in this motion to recommit there is no real ability on our part to be able to go into and analyze each and every job performed by the staff of the Committee on House Administration; but it certainly seems reasonable to assume that they can still perform the job at the same level of staffing and at the same level of funding as they had last year.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I am pleased to go along with the gentleman from Pennsylvania (Mr. COUGHLIN) in supporting his motion to recommit. But I am somewhat disappointed that the gentleman has not seen fit to include in this motion to recommit a cutback on expenditures for the Capitol Police Force. I have long been concerned over what sometimes appears to be an excessive number of Capitol policemen. While I recognize and appreciate the vital work done by this force, I do want to make sure that we get our money's worth. Again, I want to commend the gentleman from Pennsylvania for his motion to recommit.

Mr. COUGHLIN. Mr. Chairman, let me say to the gentleman from Massachusetts (Mr. CONTE) that I do share the gentleman's concern about the rapid growth in the Capitol's Police Force.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I have nothing but praise for the effort the gentleman from Pennsylvania (Mr. COUGHLIN) is making here today. I believe this is an enormous step forward. I also believe it would do more to restore the confidence of the people of this country in the integrity of our Congress than any action we have taken in a long, long time.

This is the kind of thing that is wholehearted reform. This is making us get rid of some of the practices that we have allowed, maybe absentmindedly, to grow up without paying enough attention to them.

This is really a solid step forward and I would like to congratulate the gentleman from Pennsylvania most earnestly.

Mr. COUGHLIN. I thank the gentlewoman from New Jersey.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I appreciate the gentleman from Pennsylvania yielding to me. Let me say that I have inquired of the Parliamentarian for a copy of the motion to recommit with instructions, and was informed that there are, I believe, 6 or 8 versions of the motion to recommit. Would the gentleman from Pennsylvania (Mr. COUGHLIN) advise us which one of these motions to recommit he is speaking of and how many separate provisions there are in the motion to recommit?

Mr. COUGHLIN. There are eight overall provisions that I have just outlined and I will be offering the first version of the motion to recommit, certainly initially.

Mr. EVANS of Colorado. I thank the gentleman.

Mr. COUGHLIN. Mr. Chairman, I would like to say that I urge my colleagues to support the motion to recommit when the time comes as a step toward real reform.

Mr. SHIPLEY. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Chairman, the legislative appropriations bill—H.R. 14238—provides $780 million in budget authority. This amount is fully consistent with the first budget resolution. I want to compliment the chairman of the subcommittee for his work.

As usual, the bill recommended by the Appropriations Committee does not include those items for which the Senate is responsible. These amounts will be added before the bill comes back to the House for final adoption. Adequate amounts remain to cover anticipated Senate action within the allocation of $981 million made by the Appropriations Committee under the Budget Act.

Mr. Chairman, this is the final regular appropriations bill for fiscal year 1977. When this bill is enacted, Congress will have completed action on appropriations for the fiscal year in good time—well before the beginning of the fiscal year. This is the first time since 1948 that action on all appropriations bills will have been completed before the fiscal year starts.

The Appropriations Committee is to be complimented on their performance this year, and all Members of the House can take pride in the way we have conducted our business this year.

Mr. COUGHLIN. Mr. Chairman, I yield 5 minutes to the gentleman from Colorado (Mr. ARMSTRONG).

Mr. ARMSTRONG. Mr. Chairman, I appreciate the gentleman yielding to me.

Mr. Chairman, if anybody has any doubt about why the Congress is held in such low esteem, the answer is not distant. Anyone who has been following the proceedings this afternoon, and all that has led up to what we are doing here today, can understand why a recent Harris survey shows that only 9 percent of the American public has great confidence in the Congress of the United States. I find it hard, indeed, to account for the 9 percent, except to say there is always somebody who does not get the word.

The plain fact of the matter is that most of our constituents believe that this body is filled with people who cheat on ethical standards, ones who cut corners, who break the law, and that we operate under a sort of a buddy system, a system where slightly shady practices are the norm.

Frankly I think this public impression is exaggerated. I do not think the situation is as bad as the public believes, but I am convinced nonetheless the concerns of the public are valid, though exaggerated. This very proceeding today and the attempt to sweep under the rug reforms which we all know are needed is a perfect example of why the public has lost confidence in us.

We are seeing a classic example of how a parliamentary maneuver can be used to obscure the true situation. We have been told by the gentleman from Missouri, during the debate on the rule and at a moment when it was impossible for anyone to reply, that if we were to adopt or even consider the amendments which were to be offered by the gentleman from Pennsylvania (Mr. COUGHLIN) and the gentleman from Maryland (Mr. BAUMAN) and others which have been suggested, somehow it would preempt the work of the great Reform Commission which has been appointed, and that if we were to consider the reforms or even if they were to be presented it would make it impossible for the Commission to do its work.

I reiterate what I said earlier and I regret the gentleman from Missouri is not on the floor at the moment, but as I pointed out in the debate on the rule, that Reform Commission has yet to hold its first meeting.

I do not want to be overly critical of the Commission. I think it should have begun to meet long ago, but let us not prejudge the final outcome. When it brings in its report, that will be time enough to decide whether it is offering an attractive package of reform.

What I am suggesting is that we have an obligation today to adopt reform amendments which we all know are needed and long overdue and which have been presented to this body on many previous occasions, and which, if they had been adopted at that time when they were first presented would undoubtedly have alleviated or prevented some of the scandals disclosed in recent weeks.

I refer to the amendments offered by the gentleman from Maryland (Mr. BAUMAN) and me on May 21, 1975.

I now would like to say a few words about the basic legislation we have before us. I am concerned, as I am sure many other Members of the House are, by the tremendous growth of the congressional bureaucracy which is reflected in this bill. During the last few years, the number of people employed on Capitol Hill has risen from about 5,500 in 1955 to nearly 16,000 in the current year. I, for one would not object to this increase in staff nor the enormous increase in the dollar cost of running the Congress, up from some $70 million in 1965 to approximately $1 billion in the current year, I would not object to that if it had been accompanied by corresponding improvement in the ability of Congress to do its work or an increase in the quality of work or in efficiency with which we do our work. But, realistically, the increase in staff has been accompanied by none of these.

In fact, the opposite seems to be the case. Congress seems to be gradually less and less able to come to grips with the issues. What ails Congress is lack of stomach for hard decisions. What ails

Congress is a failure of nerve rather than the lack of staff or facilities.

Under these circumstances, I think it is unfortunate that we have an increase more than twentyfold, more than 2,000 percent, in the funding for Congress itself accompanied over the last two decades by a deteriorating public respect and a decline in the ability of the body to do its work.

Finally let me comment on the salary issue.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

Mr. ARMSTRONG. Mr. Chairman, I wonder if the gentleman from Pennsylvania would find it convenient to allow me 2 additional minutes.

Mr. COUGHLIN. I yield the gentleman 2 additional minutes.

Mr. ARMSTRONG. Mr. Chairman, I am grateful to the gentleman from Pennsylvania for yielding me the additional time.

Mr. Chairman, on the salary question it is my understanding that the rule will permit consideration of a narrow amendment to preclude a cost-of-living increase for Members during the current fiscal year and will have nothing to do with any recommendations which may be submitted by the Presidential Pay Commission.

I think that is most unfortunate. Under an open rule, I believe we could offer a better amendment which would clearly allow the freeze of the salaries of Members of this body, if that is our desire, as it is mine, or at least not leave the issue in doubt. I think it really is unfortunate that this bill is brought to us in such a murky state.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. ARMSTRONG. In just a moment, I will be very pleased to yield to my friend, the gentleman from Illinois.

Mr. Chairman, all in all, I am going to support the Shipley amendment when it is offered, not because I think it is good, but because I think it is the best of the options that are now open to us; but I very much regret we are not able to have a more definitive vote on the salary question and I hope we clear that up in conference.

Mr. Chairman, I now yield to the gentleman from Illinois (Mr. Yates).

Mr. YATES. Mr. Chairman, the gentleman said he wants to freeze the salaries of Members of Congress. May I ask, at what date, as of October 1 a year ago?

Mr. ARMSTRONG. Mr. Chairman, I voted against putting Members of Congress on a cost-of-living escalator for a very simple reason. It is my belief that the Members of Congress are largely responsible for putting the Nation on the inflationary spiral it is in.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. Armstrong) has expired.

Mr. COUGHLIN. Mr. Chairman, I yield 1 additional minute to the gentleman from Colorado.

Mr. ARMSTRONG. Mr. Chairman, it seems to me a travesty for Members of Congress who are, in my view, responsible for the inflation rampant in this country today to insulate themselves from the ravages of inflation which so severely affect our constituents.

Mr. Chairman, I wanted the freeze a year ago.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. ARMSTRONG. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, the opportunity is—or was—presented to us in this House of Representatives today—to correct many of the deficiencies in our practices and operations which have brought the Congress into public disfavor.

Mr. Chairman, we could reform the operations of this House by adopting amendments to the legislation before us, and thus restore confidence in and respect for this great deliberative body. The reforms embodied in the letter circulated by the gentleman from Pennsylvania (Mr. Coughlin) are constructive and responsible. If supported and adopted, those amendments will help to overcome some of the serious criticism that has been leveled at us.

Mr. Chairman, I hope we are capable of meaningful reforms and that we will be courageous enough to face up to these reforms. I intend to vote for the motion to recommit. This will effectively eliminate the present cost-of-living increases which apply to our congressional salaries and effect other essential reforms.

Mr. SHIPLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado (Mr. Wirth).

Mr. WIRTH. Mr. Chairman, as we debate this legislative appropriations bill here this afternoon, following a vote on the rule, I think it is wise to stop and consider a few of the basic issues underlying the debate.

Among these issues are the following: First, the temptation to legislate by appropriation, a temptation we should avoid; second, the authority and integrity of the House Committee on Administration; third, the problems the Congress faces in trying to accomplish anything of controversial substance this late in the session; fourth, the obfuscation of the issues involved; and fifth, the need to maintain our momentum toward reform.

Let me expand on each of these themes, but first a note on the pay raise. When the pay raise was acted upon last July, I voted against it. And I oppose it again today. My record on congressional pay raises is clear and always has been.

Turning now to the points listed above, let me take them one at a time.

First. Today we are debating an appropriations bill, not authorizing legislation, and this distinction should be borne in mind. The Appropriations Committee recommends the level of funds to be spent on policies, it does not define those policies. That is the job of the authorizing committees. The rule that we just adopted deals with issues of money—the level of congressional salaries, funds for the Reform Study Commission. For an appropriation bill to go beyond these basic funding decisions and to get into the substantive character of the issues is a step beyond its proper scope.

Second. While we operate today under the shadow of the scandals of the last couple of months, we should not lose sight of the fact that we have an invigorated, redirected Committee on House Administration. Chairman Frank Thompson has a long and distinguished reform record in the House. I know that we can depend upon him to initiate appropriate legislation in the 95th Congress, taking into account the welter of recommendations that we can expect from such groups as the Obey Commission, the DSG, the New Member Caucus, the group led by my distinguished fellow Coloradan Mr. Armstrong, the League of Women Voters, and Common Cause.

Third. Today we can see all too clearly the mischief that can be done as Congress tries to come to grips with complicated and controversial issues, without appropriate hearings, at the height of the political season. This is a time for "Christmas tree" legislation, whose ornaments are more often political rhetoric than carefully crafted illuminations of public policy.

Fourth. I would also suggest that the issues here are being hidden by the political opportunism of many of today's speakers, who seem to be smelling some short-term political gain. We hear a great deal of pious rhetoric from many of the same people who have lain in the road of most efforts to change the way in which we fund our political system.

Fifth. Finally we must remind ourselves of the major reforms already accomplished during the 94th Congress. Committee chairmen—some are gone, all are more accountable. The Rules Committee—a significantly more democratic institution. Accounts—now fully in the public view. And so on.

Of course the job is not finished, and maybe it never will be. Evolution and change should always characterize this institution. For example, we desperately need campaign finance reform. Our information systems must be modernized. We should allow all floor sessions to be broadcast. Space, staff, and committee support groups need study and modernization. Floor and committee scheduling stands out as an inefficiency in need of correction. The committee structure must be rationalized.

But for heaven's sake, let us not try to do all of these things at one time, at the height of the unreasoning political season, attached to an inappropriate bill. We have made a great deal of progress; let us not open the floodgates and drown it in a wave of political opportunism.

Mr. SHIPLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. Obey).

Mr. OBEY. Mr. Chairman, frankly, I am getting a little tired of the pontificating going on about the action of the Obey Commission.

I would like to recite to the House exactly what the record has been since that Commission was created or appointed on July 21.

On July 21, the Commission was appointed.

On July 22, I held my first meeting with the gentleman from Minnesota (Mr. FRENZEL), the ranking Republican member of the Commission.

The next day I asked every congressional member of that Commission to prepare for me a list of suggestions as to how best that Commission ought to proceed mechanically, so that we could study the items given to us for study by this House.

On the same day, we began a search for a staff director. We talked to over 53 people. I personally interviewed 23 of them, some of them 2 or 3 times, to make certain we had the most qualified man in the country to serve as staff director of that Commission.

On July 22, because I had not received any letters from the Commission members indicating what process we ought to follow, I sent another letter to all congressional members of the Commission. That was on July 29.

I received the response from the gentleman from Colorado (Mr. ARMSTRONG) on August 5. That response consisted of a number of suggestions, a number of solutions to the problems we have around here, with the urging, and I quote:

> I hope the Commission will meet and endorse these changes prior to the House consideration of the Legislative Appropriation bill.

In other words, the gentleman from Colorado was suggesting the answers before the questions were even asked, before we had an opportunity to pull the Commission together to even consider any of the problems and before we had a chance even to hire a staff director who could lay out for us in a nonpartisan fashion what the problems were. I am going to try to do a bipartisan job on that Commission. I hope the other members of the Commission will do likewise; but to suggest that this Commission has been doing nothing is pure tommyrot or pure baloney.

The fact is that at least the chairman of the Commission has been working his butt off, and I intend to continue.

Mr. Chairman, I would just like to ask the gentleman from Colorado (Mr. ARMSTRONG) a question. Will the gentleman from Colorado respond to a question?

Mr. ARMSTRONG. Mr. Chairman, I would be pleased to respond to any question.

Mr. OBEY. Mr. Chairman, would the gentleman from Colorado tell me whether or not the gentleman lives solely on his congressional income or not?

Would the gentleman from Colorado tell me what his outside income is each year? I will tell him what that has to do with it, since the gentleman has not responded.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. SHIPLEY. Mr. Chairman, I yield 3 additional minutes to the gentleman from Wisconsin.

Mr. OBEY. I do not say this because the gentleman is a Republican. I said the same thing about a U.S. Senator who has been a Democrat. I was asked about the pay raise last year on a talk show. I was asked why I had voted for the cost-of-living increase. I tried to tell the person who called in why I had. As I tried to explain that person said, "Well, I don't understand how you can say that because I have got a letter here from Senator Blank," and then proceeded to read the letter from the good Senator.

When she finished, I simply said this:

> I, very frankly, am not much interested in the opinions of Members of Congress about the level of congressional salary if they do not live on that congressional salary alone. I am not much interested in the opinion of Members of Congress who have access to vast outside income when they are trying to tell me what level of salary I can live on, given the responsibilities I have. I would be very interested in their suggestions as to what that level ought to be if they were also living on the same level of income as I am.

I simply want to get it out on the record that any time any Member of Congress, be he Democrat or Republican, pontificates to the voters or the press or anybody else about how he is against pay raises, we ought to ask him whether he lives solely on the salary or whether he is hitting the lecture circuit to raise money, whether he has an outside law firm, whether he has income from television or anything else. When we get the answer to that question, then we can determine whether someone is really talking for himself, how he is intending to live, or is just giving lectures to other people.

Mr. ARMSTRONG. It seems to me the gentleman's question is wide of the mark for a number of reasons.

Mr. OBEY. I doubt that.

Mr. ARMSTRONG. I have not even discussed the question of greatest import on salaries. That is the question of whether or not they should be voted straight up or down on an open vote on this floor.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield for a brief comment?

Mr. OBEY. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I applaud the comments of the gentleman from Wisconsin. I am one who is blessed with outside income, and I am delighted that I have outside income. Unlike the gentleman from Wisconsin, I do not have to live on my congressional salary, and I concur in his observations.

I am going to vote against any limitation or reduction of congressional salaries. I think the $2,000 or $3,000 or $4,000 per Member increase that is involved is ludicrously small, and I am sorry that this body feels compelled, in its feeling of inferiority or indefensibility, that it has to vote against such a small salary increase. I am glad the gentleman has made those comments.

Mr. ARMSTRONG. Mr. Chairman, will the gentleman now yield to me to respond to the inquiry he has made?

Mr. OBEY. I yield to the gentleman from Colorado.

Mr. ARMSTRONG. I have outside income, as my colleague from Colorado does, although I find that it is easy to live on the salary of a Congressman. If the gentleman suggests that he can go home to Wisconsin, I certainly cannot go home to Colorado and whine about trying to live on $42,500 per year.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

Mr. SHIPLEY. Mr. Chairman, I yield to the gentleman from Wisconsin such time as he may consume.

Mr. OBEY. I would like to lay out exactly what my position is so that the public, at least, can understand what the financial position of one Member of Congress is. When I came to Congress in 1969, on April 1, it was the same day that the $42,500 salary was set.

I was sworn in on April 3. I came here, and the salary at that time was $42,000. I had $1,500 in the bank in savings. I never had a salary higher than $9,000 in my life. I was elected to the State legislature directly out of college and elected to the Congress right from the State legislature. I felt that this salary was a princely sum. It was very adequate in those days. But when we deduct from that salary the approximately $12,000 that I pay in State and Federal income taxes, when we deduct the approximately $8,000 a year in official expenses for which I cannot be reimbursed, when we deduct the cost of traveling around an 18,000 square mile district, and when we then reflect upon the fact that the purchasing power of that salary in real dollar terms in 1969 dollars equates approximately $27,000 today, then I think we can understand that there are some tensions which are created in this House about the adequacy of salary levels.

I have in the bank $387. I have two cars, a 1971 Buick with 47,000 miles, and a 1966 Pontiac with 110,000 miles. The 1966 Pontiac is a great car, and the 1971 Buick is not worth a damn. The fact is that there are a great many Members in this House who have children in school. I have never made any money, so I am living as well as I ever have in my life; but there are many other people in this House who, prior to coming to the House, made a great deal more money than they do now.

I recall a Member who was an accountant and an attorney, who made a sacrifice of approximately $30,000 a year to serve in this House.

I know this is not popular to say this in an election year, but I have never made it known that I was trying to be especially popular anyway. But my point in making this statement is this: If we want to understand what has happened in the accounting system in this House, we will also look at the pay question. It is no accident that this House has been in trouble, and it is no accident that there have been suggestions that some Members of Congress have abused the office accounts over which they have stewardship. The reason for that, or at least one of the reasons for that is that as the purchasing power of salaries has declined and the Members of Congress did not have the guts to do openly what was necessary on pay, the pressure increased to chisel by increasing office allowances to compensate.

And so we have seen the few stories which were in the paper over the last 2 or 3 months. I do not defend any of that. But I think if we really want this House to operate in an aboveboard fashion, we will look at that pay question, we will not demagog it, we will try to explain to people what the principles are under which we ought to operate, and there ought to be two. Those principles ought to be these: No. 1, there should not be one dime of public money to which any Member of Congress has access for his own private needs; and, conversely, there should be no requirement for any Member of Congress to take one dime out of his own personal salary to meet official needs.

What we ought to be doing is looking at the salary question and looking at the emoluments question in terms of what would accomplish those ends and not in terms of how many people we can impress at election time, whether we live on outside income or on our congressional salary, or whatever our station in life happens to be.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. I thank the gentleman for yielding.

Mr. Chairman, I have to agree with what the gentleman has said. He has enumerated many reasons why it is difficult for Members of Congress and other Federal officials to live on $42,000 or $44,000. There is one other factor, I think, and that is that it becomes increasingly evident that many highly capable and qualified people who should be attracted to the judicial branch of Government and the executive branch and who should also be attracted to running for offices in the House and the Senate will absolutely not do so when they have to sacrifice executive level salaries to work for $42,000 or $44,000 a year.

It is outrageous to ask people who earn much more than that and who could do great service to this country to sacrifice high incomes and to come to work for the Federal Government at $42,000 or $44,000. That may sound like a lot of money to some people, but we all know it is not high reimbursement and high remuneration for executive level people in the United States today.

Mr. SHIPLEY. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Chairman, I believe this Congress ought to have every Member, everyone who is a Member of this Congress and duly elected, sitting in their seats now. I think this is a fundamental problem, and it is one that has never been resolved by a majority of the House speaking in debate on both sides.

For many years I served as a floor leader in legislative sessions. I served in that capacity for almost 19 years. In those days the responsibility for salaries and emoluments of any kind, including fringe benefits or whatever we might want to call them, was the responsibility of the floor leaders on both sides, so no one else ever received any kind of condemnation or praise—and there is very little praise, as we well know—but the leaders. However, it never seemed to affect party elections.

Some very bitter truths have been spoken by Members who have preceded me at this particular station. The old saying is: "If you don't like the salary and you can't get along, then don't run." That would be the ideal situation for this country if we want to have the worst kind of a Congress that we could possibly ever elect.

When I look around after 43 years as a legislator and when I think back over the many years that I have served in legislative bodies, and when I see the type of representation that has been exemplified individually and collectively as the years have gone by, I just wonder if we would have accomplished what we did in years gone by considering what I seem to believe this House now represents, if we had had this kind of a legislative body in 1776. It would be my opinion at this moment that probably there never would have been a Declaration of Independence or a Constitution. Because who amongst us today would dare fight the power of the king, who could take your property, take your liberty away? Who would fight the power of the Tories who had the money for elections?

It was not the rich who won this independence; it was the courageous and the principled. Of course, some of them were rich, but they were principled persons. They put their property, their freedom, their very lives on the line.

There are rich men in this House today, and there ought to be. So ought there to be the poor. So ought there to be the middle class.

Fortunately, I have reached that stage in life and the Lord has provided me up to this point where it does not matter personally, we need less now. It does not matter much how much money I earn any more. Having gone to work when I was a very young man, although I never had the opportunity to grace the colleges or the high schools of this country, I have been able to put away a few dollars, and my wife and I can live pretty well. My grandchildren are pretty well grown, so I am not disturbed about my own situation.

However, I am disturbed about the ordinary citizen who comes here. Let us take a look at this situation.

Your take-home pay, if you only have one dependent, is $26,667. That is gross take-home pay. Without any other outside income I want you to tell me how yoo can keep one or two kids in college. And there are Members who have that responsibility. I want you to tell me how you can make the extra trips you should make.

Many make 44 to 48 trips a year. A Member on the eastern seaboard or in the Middle West makes more trips than paid for by the Government.

I want you to tell me how you can answer all the letters you get from every conceivable type of propaganda outfit. Also many charitable groups in many instances are worthy groups.

Mr. Chairman, it is advertised every day that the Members of this Congress are paid $44,000 or $45,000, with all kinds of fringe benefits.

I do not know of any fringe benefits that we keep in our pockets. Furthermore, I understand that this bill takes our stamps away from us.

Mr. Chairman, there are those in this House who would bring the salary down to what it was 25 years ago. I know Members who served for 40 years in this House or in the Congress for 32, 34, or 36 years, and never voted for a pay raise, but took it when it came.

My amendment in this House a few years ago was the spark to make people stand up and be counted.

Mr. Chairman, I reported out of my committee a $500 increase for stationery, and the same persons got up on the floor screaming about the great big raid on the Treasury and said we ought to be satisfied with getting a salary.

Mr. Chairman, what is the matter with Members who do not need any salary, and yet they take the increases when the family Members with obligations that require the same consideration as all other Federal employees get by a cost-of-living increase, vote for the increase.

I believe every Member should make his decision and refuse or accept according to his own needs.

The CHAIRMAN pro tempore (Mr. LONG of Louisiana). The time of the gentleman from Pennsylvania (Mr. DENT) has expired.

Mr. SHIPLEY. Mr. Chairman, I yield 1 additional minute to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, I thank the gentleman for yielding me this additional time.

I just want to finish this thought by saying to the Members that after it was all over, I had listened and I knew what I was facing. Therefore, I offered an amendment, and after the word "Member" and before the word "shall," I said, "upon the Member's request, he shall have $500 added."

Mr. Chairman, some 40 Members did not go down to request it.

Come the first of the year, they put a sneaker, which some Members knew about, into the appropriations bill so that they not only collected for the future, but they collected for the past months.

Mr. Chairman, let us make the raise available to those who think they need it, upon request. If a person wants to request it, he ought to receive it. Let his constituents decide whether he is worth his hire. In fairness to Members who really want to be counted on in a real economy move, all covered persons in Government should be under this vote.

Mr. COUGHLIN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, I just want to comment very briefly on another aspect of this bill and, in so doing, support the motion to recommit.

Yesterday, by an overwhelming vote of 384 to 0, we adopted the conference report on the sunshine in Government bill.

One of the things that we propose in the motion to recommit is also to bring sunshine to all aspects of congressional employment. Provided in this motion will be language that would require that all of the records concerning employment relationship, salary and a brief description of the job that each person is doing will be available to the public at all reasonable times.

Mr. Chairman, part of our responsibility to our constituents is to let them know what is happening as we administer the funds that they trust to us through their tax dollars. In my judgment, providing for completely open access to the employment records of the committees as well as of the Members of this body will give the public an opportunity to pass judgment on whether we are properly discharging our stewardship and our responsibility as their elected representatives in the Congress.

Mr. Chairman, I recognize that this amendment is not provided in the rule that has been adopted, and that it is highly unlikely that this language will be made part of the bill. However, I would urge the Members of the majority party to adopt a program that will regardless of the language ultimately in the bill, and that this be done simply by adopting a policy in the Clerk's office that will make all records open to the public at all times so that the press and the public can find out how much is being paid to any employee of the Congress, what they are doing for this work, where they are employed, and what their relationship to any Member of this body is.

Mr. Chairman, I think that this would go a long way toward bringing sunshine into the activities of the Congress as well as requiring sunshine in the activities of the executive branch of Government.

Mr. COUGHLIN. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. Mr. Chairman, I wanted to respond, in some degree, to the comments made by the gentleman from Wisconsin (Mr. Obey), who is the chairman of the Commission on Administrative Review on which I serve.

I quite honestly do not believe that the gentleman from Colorado (Mr. Armstrong) needs any defense on my part. I think he is well capable of defending himself.

I tend to disagree, however, that outside income is one of the criteria we should use in judging whether or not we should increase our salaries. But I will address that issue momentarily.

I do think that it is unfortunate that the work of the Commission on Administrative Review has been made the subject of rather heated debate today. I voted for its creation and supported it on a rollcall vote, although I was not entirely satisfied with its provisions.

I still have hopes that the Commission will eventually report back to the House with some very substantial changes in our procedures that will right the many wrongs that have occurred. I regret however, that the Commission's findings will not be forthcoming for a year and a half. I think that delay points up the fact that the Commission is not making a serious effort to bring about immediate reform. But in the long haul it may do so.

I want to state to the Members that the gentleman from Wisconsin (Mr. Obey) has been most cooperative with the minority Members and majority. At least on three separate occasions he has talked with me and asked my views. But it is still a fact that we have never had a meeting with the full Commission which the minority Members have requested, so that all members of the Commission, both inside and out of the Congress could meet together and draw up an agenda for action.

That is the prerogative of the Chairman. We had one informal meeting at which the House Members held a general discussion. There was a second interview session for prospective staff which the gentleman from Minnesota (Mr. Frenzel) was able to attend.

But, Mr. Chairman, there really has not been a definite effort toward hastening the deliberations of the Commission. I hope that any personal differences which may have surfaced today will not be allowed to interfere with the work of the Commission and its results. I know the gentleman from Wisconsin wants it to succeed just as much as I want it to succeed.

Mr. OBEY. Mr. Chairman, if the gentleman will yield, I agree with everything the gentleman has said but, Mr. Chairman, let me also ask the gentleman from Maryland if it is not the truth that every member of the Commission was invited, both public and congressional members, to meet, and participate in the interviewing process before we hired the staff director and that two public members did participate?

Mr. BAUMAN. I do not quarrel with what the gentleman has stated with reference to the invitations that were issued.

Mr. OBEY. Is it not also true that we expect that all members of the Commission to be present at our first full meeting, scheduled for the middle of September, in order to meet with our new staff, review their proposed work plan, and to submit possible alternatives to a suggested work plan? Is it not also true that I have indicated to the minority that the Commission will be given full opportunity to discuss the work plan, and to participate fully in the discussion and to send in written recommendations about the work plan before the final plan is drafted?

Mr. BAUMAN. Mr. Chairman, actually I cannot comment on whether that is true, but I accept the gentleman's statement, because I have no way of knowing anything different.

Mr. OBEY. The point that I would like to make is simply this. If the impression is trying to be left that this Commission has not met, when, in fact, a great deal of work has been done, so that the meeting can be productive, and not merely window dressing, then I fear that the Commission is not going to get very far. I think it is better to get this out on the table right now so that the people understand the true facts. It is the intention of the Chairman to do everything possible to try to do that which should be done.

Mr. BAUMAN. Let me say that the minority Members—and I cannot speak for the other two Members, but I have discussed it with them—have felt all along that the Commission should meet early and develop a definite agenda for immediate action. That is the problem facing the House today and the reason we are dealing with a complicated motion to recommit with instructions, so that we can get these reforms started now, not next year.

Mr. OBEY. Will the gentleman yield further?

Mr. BAUMAN. No, I cannot yield further at this time.

We face a situation today in which, by implication, the honor and integrity of every Member of this House has been called into question repeatedly on the editorial pages and front pages of every major paper in this country. Yet the majority tells us in the House today that we cannot act, that we can only consider what they permit us to, that they will clean up only so much as they want to clean up, and they will tell the people back home only what they want to tell them.

That is what the minority is complaining about. It seems to me the American people have a right to have these changes made in Congress. If our Commission had met and brought out a list of interim proposals, they could have been acted upon and there would have been no complaints. The pending bill would not have been used as a vehicle for the amendments the gentleman from Pennsylvania (Mr. Coughlin) is offering in his motion to recommit.

We are just burying our heads in the sand if we do not face this issue of corruption in Congress and do it now.

You have been talking about congressional salaries. We can talk all we want to about economic hardship of some Members and we can list the millionaires that serve in this body. I live on my salary and last year I had about $3,500 additional in speaking fees. But the fact is Congressmen make more money than 99 percent of the people who live in our districts. This Nation has suffered unemployment and inflation that you in this Congress have caused by your policies. We ought to set an example for everybody in America by saying that we are going to deny ourselves as they have to deny themselves because of taxes and inflation.

That is the issue. It is not whether the gentleman from Colorado (Mr. Armstrong) earns money on the outside or whether the gentleman from Wisconsin has two Pontiacs. That is not the issue.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, since the gentleman indicated the Commission ought to in fact have a meeting to discuss what the work plan ought to be, would the gentleman *tell me this:* In the some 21 days since I asked the Members of Congress to give me memos on what they think the work plan ought to be and what the work method ought to be, would the gentleman tell me whether or not in fact he has ever sent me any such memo?

Mr. BAUMAN. The gentleman from Maryland has not, but the gentleman from Minnesota (Mr. Frenzel) has replied for all minority Members. I told the gentleman I had drawn up a list of recommendations and I would be glad to discuss them at a meeting but the gentleman has yet to call a meeting.

Mr. OBEY. But the gentleman has not responded to my request?

Mr. BAUMAN. No, I have not, but Mr. FRENZEL has, and neither has the gentleman responded to our request to call a meeting. If the gentleman persists in the attitude he has displayed today I would predict the Commission will not be able to produce anything worthwhile. It will fall into political squabbles, as most of these attempts have in the past. I regret that.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I would point out to the gentleman from Wisconsin that we have had a useful discussion and that we are not criticizing the operation of the gentleman's Commission. The gentleman from Maryland responded to the gentleman from Wisconsin through my letter. I was clearly speaking for the other minority members of the Commission as well as myself. The gentleman from Wisconsin and I have discussed the matter at great length. All of us have confidence that the Commission will do something.

The gentleman must remember many of us on this side of the aisle voted for the gentleman's Commission. There are those of us on this side of the House who voted for this Commission as early as 1974, when the gentleman's side was rejecting the Bolling report. We voted for it again this year.

We think we are going to make good progress, but the point the gentleman from Maryland was making and the gentleman from Colorado was making is that this is a leisurely approach to reforms that are needed immediately. The gentleman's Commission can work and it will work, but in the meantime people are a little bit upset. They want reform right now.

That is what the gentleman from Maryland is trying to do. We are in no way trying to prevent this Commission from doing a good job. I am sure it will.

I would like to further state that the description of the gentleman from Missouri that the Commission has made great progress is a slight exercise in hyperbole. We have in fact hired one general counsel and one office manager at the sole discretion of the gentleman from Wisconsin, and, in consultation with others, he has hired a staff director. That is some progress. I do not think it can be called great progress.

It is true that we wanted to hold a general meeting of the Commission before the gentleman did, but that is his decision to make. But I do not think the gentleman should be sensitive about this discussion because we are getting at another point. That point is immediate reform. Unfortunately, the majority group is intent on stifling reform through the use of these three straight gag rules.

I thank the gentleman for yielding.

Mr. SHIPLEY. Mr. Chairman, I have no further requests for time.

Mr. COUGHLIN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman, I have listened to this discussion today with great interest. I listened to my friend, the gentleman from Pennsylvania (Mr. DENT). A great deal of what the gentleman says is true. I listened to my friend, the gentleman from Wisconsin (Mr. OBEY) and a great deal of what that gentleman says is true.

The fact remains, as I mentioned earlier, there is not an individual in this body that was elected 2 years ago who did not know what the salary was when he or she ran for the office.

Now, I do not think there is anything wrong with bringing a salary request to the floor and voting for it; but I do think that there is something intrinsically wrong about voting for a pay increase while a Member is in that term of office. In other words, vote for a pay increase that we all have to go out and run for.

Now, during that debate, and I remember it very well when this pay raise bill went through in rather a hurried fashion, my good friend, the gentleman from Ohio (Mr. HAYS) in a very truculent manner took the floor and said, "If you don't want the pay raise, if you are going to vote against the pay raise, have the courage not to take it."

Well, I accepted that gauntlet on a matter of principle and not on a matter of demagoguery. I very strongly believe that one should run for a pay increase or wages. So I have given mine back. Now, I do not expect anybody else to do it and I do not really care whether they do. It is a matter of principle. After the November election, if I am successful, I will accept it, just like everyone else in this House, but not until then.

While we talk about how difficult it is to survive on the $44,000 a year we have and how difficult it is to get candidates to run for office because of that so-called niggardly salary, I do not think that I have to point out to this body, all one has to do is look at the election reports to see that there are no shortages of candidates for the offices we hold. Practically every one of us is opposed. There are a few fortunate ones that are not, so there is really no shortage of candidates and I would not worry too much about trying to find someone to run for a $44,000 job.

The point is that we are supposed to be leaders. We are looked upon by our constituents as leaders and, therefore, should set an example. That is perhaps why this body is in such low esteem at the present moment.

Mr. Chairman, I did not intend to take the floor to talk about the salary issue. I would like to ask a series of questions of either the ranking minority Member or the chairman of the subcommittee. The questions do not deal with salaries; at least, they do not deal with our salaries.

The question that I have has to do with the printing clerks. Now, the House of Representatives appropriates out of the Treasury on an annual basis approximately $30,000 to be equally divided between two printing clerks; one for the majority and one for the minority.

May I ask either of these gentlemen, what is the procedure for hiring these two printing clerks? Are these positions open to competitive bids or how do we hire them? Would either gentleman give a response?

Mr. SHIPLEY. Mr. Chairman, if the gentleman will yield, I do not have that information at the moment.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield to me?

Mr. KETCHUM. Certainly.

Mr. THOMPSON. Mr. Chairman, I am not certain which printing clerks the gentleman refers to. If they are the clerks of the Joint Committee on Printing, if that is who the gentleman is talking about, then they are hired by the other body and paid by the other body.

Mr. KETCHUM. I am referring to the printing shops that all of us have access to, to do our newsletters and Christmas cards, et cetera, those printing clerks.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield further, I am afraid I cannot enlighten the gentleman on that.

Mr. SHIPLEY. Mr. Chairman, if the gentleman will yield further, if I may attempt to respond to the gentleman's question, on page 3, lines 18 through 21, of the bill you will note there is $30,000 for two printing clerks, one for the majority, appointed by the majority leader, and one for the minority, appointed by the minority leader. Are those the two positions the gentleman refers to?

Mr. KETCHUM. Yes; that answers my question and they are appointed. It is not a competitive process. They are not elected. They are just appointed.

Mr. SHIPLEY. If the gentleman would yield, let me quote the authorizing legislation for the printing clerks. It is contained in House Resolution 295, 78th Congress as follows:

> (T)here shall be paid out of the contingent fund of the House of Representatives compensation . . . for the employment of a clerk in charge of printing for the majority . . . and for the employment of a clerk in charge of printing for the minority.

Mr. KETCHUM. I appreciate that.

The CHAIRMAN pro tempore. The time of the gentleman from California has expired.

Mr. COUGHLIN. Mr. Chairman, I yield 5 additional minutes to the gentleman from California.

Mr. KETCHUM. Having determined how they are hired, can either the ranking minority member or the chairman of the subcommittee tell me how much office space those clerks are allotted?

Mr. SHIPLEY. This chairman could not tell the gentleman. This is in the confines of the space to be worked out by the majority leader and the minority leader.

Mr. KETCHUM. Could the gentleman answer this question: Are they afforded that space free of charge?

Mr. SHIPLEY. Would the gentleman repeat his question?

Mr. KETCHUM. Are they afforded their space free of charge?

Mr. SHIPLEY. I would assume so. The assignment of space is by the House Office Building Commission. Yes; it would be free of charge.

Mr. KETCHUM. My next question would be as to equipment. Are they permitted machinery? Do we supply that also, printing machinery, that sort of thing?

Mr. SHIPLEY. Without knowing, I would have to say yes. Supposedly they would get all those different things they would need to perform their duties, which are assigned to them by the minority leadership. I am advised they furnish their own equipment.

Mr. KETCHUM. Bearing in mind, of course, that all Members—or I assume all Members—pay for the services provided by the printing clerks such as Christmas cards and that sort of thing, do they have to provide their own paper, maintenance and supplies, or is that supplied by us?

Mr. SHIPLEY. I assume it would be furnished by those Members placing orders.

Mr. KETCHUM. Could the gentleman tell me how they determine what their fees are to be?

Mr. SHIPLEY. No; I could not answer that. I do not know whether any Member on the responsible authorizing committee could. I could not answer that, no.

Mr. KETCHUM. In response to that, along with their fees I am just wondering about the people who work for them. Are they paid union wages, or is that up to the printing clerk as to whom he hires, how are they hired and what the clerk pays them?

Mr. SHIPLEY. It is my understanding that it would be up to the printing clerk.

Mr. KETCHUM. Does anyone have any idea of how large a staff either of them has?

Mr. SHIPLEY. I understand there are only two Federal employees.

Mr. KETCHUM. Those would be the two printing clerks, I assume?

Mr. SHIPLEY. Yes.

Mr. KETCHUM. I just want to get a couple more answers here. I am just wondering if these two individuals are appointed by the majority and minority leaders, I just wonder if there is any sort of review or evaluation of the clerks' performances.

Mr. SHIPLEY. That question should be directed to the majority and minority leaders in this case.

Mr. KETCHUM. They, then, would be the oversight?

Mr. SHIPLEY. I would think so.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, as to the question asked as to who paid for the machinery, it is my understanding—and I may be wrong, I do not want to give the wrong impression—but when the former Democratic printer left, it is my understanding that his machinery was sold to the new printers, so evidently they must own it.

Mr. KETCHUM. I appreciate that answer.

I have just two more questions relative to the printing operation. Do either the chairman of the subcommittee or the ranking minority member know whether or not these printing clerks engage in any kind of outside activity, outside business consisting of printing outside the confines of the Capitol?

Mr. SHIPLEY. I would have to say that this gentleman does not know whether or not they are involved in outside interests. I do not believe it is the responsibility of this subcommittee to follow up on the employment of the clerks that the gentleman is talking about. This is a responsibility of the majority and the minority leaders.

Mr. KETCHUM. I thank the chairman of the subcommittee. The thing that disturbs me, of course, is that this subcommittee is charged with the responsibility of appropriating the money to operate, or at least to pay the salaries of those individuals, and the answers I have received indicate that Congress supplies the office space, and certainly easy access to them. I really do not know why. I am wondering if this could not be construed by the general public, or at least the printing shops around Capitol Hill, as being antifree enterprise. Why do we have them at all?

Mr. SHIPLEY. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Illinois (Mr. SHIPLEY).

Mr. SHIPLEY. I thank the gentleman for yielding.

I will say again to the gentleman that I think these inquiries should be directed to the majority leader and the minority leader.

Mr. KETCHUM. I thank the gentleman.

Mr. Chairman, I think the question should be directed to the people of the United States. I think that if these questions cannot be answered by this body—and I certainly am not criticizing in any way this subcommittee—and if we do indeed pay the individuals and they charge us for their services, it seems to me they are getting a little double shot, they are getting free space, when a competitor downtown who does printing has to charge a little more because he has a lot of additional expenses. I am wondering whether this body can justify that kind of operation.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. COUGHLIN. Mr. Chairman, I yield 1 additional minute to the gentleman from California (Mr. KETCHUM).

Mr. PATTEN. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from New Jersey (Mr. PATTEN).

Mr. PATTEN. Mr. Chairman, I have good news for the gentleman. I will give the gentleman the name of one Member who does not go to the printer. One can get it done cheaper in his own district.

Mr. KETCHUM. I thank the gentleman for that comment. I would be inclined to agree with him.

This is one of the reasons I objected to the closed rule. I wanted to have the opportunity to ask the questions and perhaps to offer some amendments. We ought to examine the answers I have received. When we talk about free enterprise, are we being ourselves antifree enterprise? Should we give the printing jobs out of the Capitol? We are always talking that we need more space for staff. Let us make the Printing Office competitive. Let us move it out of the Capitol.

Mr. SHIPLEY. Mr. Chairman, I have no further requests for time.

Mr. COUGHLIN. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I just want to comment on a totally unrelated matter. Earlier today, one of the Members remarked about his chagrin concerning the number of police we have serving on Capitol Hill. I myself have some concern about the system we have here, and I hope the Members will pay close attention to the hearings regarding both the assignment of Metropolitan Policemen and U.S. Capitol Policemen on Capitol Hill.

But I did want to say a word in defense of our policemen. The gentleman from Maryland was here in March 1954, when five Members were shot down in this very Chamber; and as a result of that, and other disruptive activities subsequently, including bombings, it was felt by the Congress that there was a need to build up the force here, both using the Metropolitan and Capitol Police.

It has been my experience that these men and women do a great deal of good not only in protecting us, but protecting and assisting our constituents, not the least of which duties is the excruciating pain of having to sit in the House gallery and listen to what we say day after day.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Colorado (Mr. EVANS).

Mr. EVANS of Colorado. I thank the gentleman for yielding.

Mr. Chairman, I am pleased that the gentleman from Maryland has called that to the attention of the committee.

I would like to also say that it is not true, as I think was alluded to earlier this afternoon, that these are patronage employees. There may be a few patronage policemen left, but it has been a long, long time since the patronage policy was changed. These are professional people who are hired, and there are very few people who are now in service as patronage employees at the present time.

Mr. BAUMAN. I thank the gentleman for his comments.

Mr. DERWINSKI. Mr. Chairman, I take this time to advise my colleagues of recent developments that relate indirectly with the amendment freezing congressional pay at its current level.

The White House has announced there will be no alternative pay plan and therefore it seems safe to assume the President will agree to the recommended 4.8 percent average comparability pay adjustment—or something very close to it. This is a position I have supported since early spring.

Since under the pay comparability law, the President's decision will become law on October 1, that pay adjustment will not be adversely affected by the action taken in the House today.

I support the amendment as modified by the gentlemen from Arizona as being a more appropriate manner with which to deal with the issue before us.

By our action today we maintain the balance and linkage between the judicial, legislative, and executive level positions.

Upcoming next January will be the recommendations of the President for these positions based on the advice of the Quadrennial Pay Commission.

It must be remembered that the action we took last year in bringing judges and executive level positions under the annual comparability process was done so in response to pressure brought to bear primarily by the judges and to a lesser degree by the top level executives.

The pay compression that existed then has been somewhat relieved and it is logical that the quadrennial pay process be given an opportunity to work. I am sure all the eminent members of the judiciary will agree to this principle of equal treatment under the law.

Mr. MILLER of Ohio. Mr. Chairman, I am appalled that the Democrat leadership utilized its majority position to force this legislation through the House with a closed rule which prevented proper debate and which ultimately prevented reformers from tacking on amendments which would put a stop to misuse of funds, extravagance at the taxpayers expense, and outright scandals. This is the Congress, dominated by so-called liberal reformers, who expound on the virtues of open government, government in the sunshine, and no coverups. But in reality, when you strip away all of the verbal veneer, this is a Congress which does not want substantive reform. The liberal majority wants their plush expense accounts at the taxpayers expense. They want to collect their full salaries even when they are absent from congressional business. They want to let a committee adjust and fix their expense accounts without the public scrutiny of a public vote on the floor of the House of Representatives. They want to continue to spend thousands of dollars for foreign travel by lameduck Members after the adjournment of the last session of Congress. They want to fool the American people by claiming to be against an appropriation for an automatic pay raise for themselves. But they do not want to tell the people that they previously passed a bill providing for a pay raise for themselves and when the criticism of this automatic pay raise became intense, they switched positions and now they seek to take credit for stopping the pay raise by forbidding those of us who right from the first, and always, opposed the automatic increase, from speaking out on this appropriation. This is unmitigated duplicity.

Mr. Chairman, the majority leadership wants a $780,266,350 expenditure for this legislative appropriations bill that contains a great deal of waste even though they know the average taxpayer is laden down with taxes and is having trouble balancing his household budget.

Mr. Chairman, if I were not blocked by the closed rule I would have offered two amendments to this bill which would have:

First. Cut this appropriation by 5 percent and thereby saved the taxpayers of this Nation $39 million. The text of my amendment is as follows:

AMENDMENT OFFERED BY MR. MILLER OF OHIO TO H.R. 14238, AS REPORTED

Page 35, immediately after line 11, insert the following new section:

SEC. 1105. Of the total budget authority provided in this Act for payments not required by law, five per centum shall be withheld from obligations and expenditures, except with respect to payments to widows and heirs of deceased Members of Congress under title I of this Act.

Second. Required that the Sergeant at Arms fully comply with and enforce the law respecting Member absenteeism. The text of my amendment is as follows:

AMENDMENT OFFERED BY MR. MILLER OF OHIO TO H.R. 14238, AS REPORTED

Page 2, line 15, immediately before the period insert the following: ", minus the aggregate amount of deductions from the monthly payments of Members made by the Sergeant at Arms pursuant to section 40 of the Revised Statutes (2 U.S.C. 39) "during the fiscal year ending September 30, 1977"."

Mr. Chairman, because the law requires that Members are not to be paid when they are absent from the House, the full amount provided by the committee for Member compensation under title I would not be needed if the above amendment was approved. Revised 2 U.S.C. 39 reads as follows:

§ 39. Deductions for absence. The Secretary of the Senate and Sergeant at Arms of the House, respectively, shall deduct from the monthly payments of each Member or Delegate the amount of his salary for each day that he has been absent from the Senate or House, respectively, unless such Member or Delegate assigns as the reason for such absence the sickness of himself or of some member of his family. (R.S. § 40.)

Absenteeism is a thorn in the side of Congress that often impedes its effectiveness and impugns its integrity. Now that we are exposing what is wrong with Congress and trying to eliminate the abuses that have been swept under the rug for so long, it is also time to talk about and do something about congressional absenteeism.

Like any organization the Congress functions best when there is a high level of membership participation in its activities. The Nation is best served when legislation is debated and voted upon by the entire Congress, not just a simple majority. Congressional absenteeism has often impeded the scheduling of legislative business and has eroded public confidence in the legislative branch's ability and commitment to help lead this Nation.

Quite frankly, Congress could get more done in less time and do a better job in its work if its Members would stay in town while there is legislative business to be conducted. The place to start reasserting congressional responsibilities is by doing the job we are elected and paid to do. When the Congress is in session the job is here. The Constitution guarantees every State and district representation in Congress and therefore it is the duty of each Member to provide that representation in the legislative process.

Other jobholders in this country are hired with the understanding that they will perform certain duties, they will be punctual, and they will report to work regularly. When an employee is absent without cause he is either sanctioned or discharged. The same should hold true for a Member of the Congress. The law already requires that a Member who does not show for work will have his pay docked. I think it is about time that law be enforced around here to crack down on absenteeism. There can be no better way to demonstrate to the American people that the Congress is serious about putting its house in order than enforcing the law against itself and disciplining its own Members who are absent from its proceedings.

Mr. JEFFORDS. Mr. Chairman, at a time when the Harris poll tells us that only 9 percent of the American public has a great deal of confidence in Congress, I think it would be well for all of us to reflect upon the action taken by this House regarding the automatic pay raise for Members of Congress and other high level Federal officials.

I think most of us in this Chamber are aware that our decision to temporarily postpone our automatic "cost-of-living" pay raise until after the election is nothing more than a political charade, and a demagogic sham.

I think most of us also are aware that in defeating the reform package of amendments, which included an amendment to eliminate entirely the automatic pay increase, this House refused to address in a meaningful way the issue of congressional pay.

Mr. Chairman, I think it should be clear that in delaying the cost-of-living increase, each of us has sacrificed a few hundred dollars—a small amount considering our present salary level—for political gain. We have done this with full knowledge that come January, the Quadrennial Review Board is likely to recommend a much larger pay increase, perhaps as much as $10,000 a year.

In other words, Mr. Chairman, what we have done is to sacrifice a few hundred dollars now, in order to increase our chances of returning in January, when the big money will be available, and when the political heat will be off.

And, since the mechanism for the automatic cost-of-living increase remains in place, we will be in line for yet another pay raise in October of next year, when the elections will still be far off.

Mr. Chairman, I cannot believe that the voters will be fooled by this charade.

I also believe that the automatic cost-of-living pay increase will ultimately be eliminated. Toward that end, I have joined in a lawsuit filed by the distinguished Member from South Dakota (Mr. PRESSLER), seeking to have the automatic pay increase declared unconstitutional.

If the House had acted to make this lawsuit moot, by acting on its own to eliminate the automatic pay raise, the next Harris poll might well have shown some improvement in the public's perception of Congress.

Unfortunately, Mr. Chairman, we blew it.

Mr. COUGHLIN. Mr. Chairman, I have no further requests for time.

Mr. SHIPLEY. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment. No amendments are in order except amendments recommended by the Committee on Appropriations and the amendments printed in the CONGRESSIONAL RECORD of August 31, 1976, by Representative SHIPLEY, but said amendments shall not be subject to amendment except amendments recommended by the Committee on Appropriations and pro forma amendments.

Are there any points of order?

If not, the Chair recognizes the gentleman from Illinois (Mr. SHIPLEY).

AMENDMENT OFFERED BY MR. SHIPLEY

Mr. SHIPLEY. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

COMPENSATION AND MILEAGE FOR THE MEMBERS

COMPENSATION FOR THE MEMBERS

For compensation of Members, as authorized by law (wherever used herein the term "Member" shall include Members of the House of Representatives, the Resident Commissioner from Puerto Rico, the Delegate from the District of Columbia, the Delegate from Guam, and the Delegate from the Virgin Islands), $21,543,800.

The Clerk read as follows:

Amendment offered by Mr. SHIPLEY: page 2, line 7, insert: For payment to Charles and Mildred Litton, father and mother of Jerry L. Litton, late a Representative from the State of Missouri, $44,600.

Mr. SHIPLEY. Mr. Chairman, this amendment provides for payment of $44,600 to the parents of the late Honorable Jerry L. Litton. This is the customary gratuity payment to the survivors of a deceased Member of Congress.

Mr. Chairman, I will not take any further time. I urge the adoption of the amendment, and I yield back the balance of my time.

Mr. COUGHLIN. Mr. Chairman, I move to strike the last word.

The minority has no objection to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. SHIPLEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SHIPLEY

Mr. SHIPLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHIPLEY: Page 2, line 15, strike the period and insert in lieu thereof: "*Provided*, That none of the funds contained in this Act shall be used for increases in salaries of Members of the House of Representatives pursuant to section 204a of Public Law 94–82."

Mr. SHIPLEY. Mr. Chairman, my amendment is straightforward. It has been discussed over and over again before today.

My amendment prevents the automatic cost-of-living pay increase for Members of Congress during the fiscal year ending September 30, 1977. However, to make it clear, this amendment would only bar any future cost-of-living increases to Members of the House under Public Law 94–82. It would in no way affect the cost-of-living increase received last year under section 204a of Public Law 94–82 which was adopted by the House on July 30, 1975.

Many Members objected to those automatic provisions. Both Democratic and Republican Members feel we should go on public record when we increase our salary. My amendment affords that opportunity. It is just that simple.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SHIPLEY. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I am troubled by the language of the gentleman's amendment. I consulted with our staff director on the Committee on Post Office and Civil Service who helped to write Public Law 94–82 that is referred to in the amendment.

The amendment is very broad. I have heard it read, and it says:

None of the funds contained in this Act shall be used for increases in salaries of Members of the House of Representatives pursuant to section 204a.

Under section 204a there was an adjustment last year, in 1975, that was made pursuant to that section, and as I read the gentleman's amendment—and my counsel confirms my impression—it would not only bar the cost-of-living increase that is due in October this year but it would roll back the increase provided last year and would have the effect of leaving the Members of the House $2,000 below the salary of Members of the Senate.

It would leave us below the level of an Assistant Secretary. It would insure that Henry Kissinger gets a raise this year, that the Director of OSHA gets a raise this year, and that all the Federal judges get a raise this year, but that the Members of the House not only do not get a raise this year but are rolled back.

Does the gentleman intend that?

Mr. SHIPLEY. Mr. Chairman, if I may respond to the gentleman, certainly not. I gathered the counsel of the staff and of the Parliamentarian, and they assured me, as did the leadership, including everyone who participated in taking a look at it, that it was not retroactive and did not pertain to any further increases at a later time after the life of this bill. Again I say this is the reason why I put that language in.

I wish to make it clear that this amendment would only bar further cost-of-living increases for Members of the House under Public Law 94–82. It would in no way affect the increases received last year under section 204a of Public Law 94–82.

The intent of the amendment is to do that. I have been advised by the Parliamentarian and the leadership that this amendment does accomplish that.

Mr. UDALL. Mr. Chairman, I know what the gentleman's intent is, and I share that intent. With some reluctance, I was going to vote for the amendment.

However, it is as plain as one can make the English language that not a dime of the funds appropriated in this act "shall be used for increases in salaries of Members of the House of Representatives pursuant to section 204a," and one of the increases under that section was put into effect last year. If we cannot raise the money, the salaries of the Members of the House go down a month after this bill is passed.

Mr. SHIPLEY. I think one would have to say that the language is prospective and it looks to the future rather than to the past.

This is the intent of the amendment. It is my understanding that that is what the amendment does do.

Mr. UDALL. Mr. Chairman, if the gentleman will yield further, I have a modification here which I think we might put together to make that intent very clear, because my staff director, in whom I have a great deal of confidence, said that the result is so plain that no amount of legislative history can change it.

Mr. SHIPLEY. I would say to the gentleman that I do not think it is possible under the rule except by unanimous consent.

Mr. ARMSTRONG. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I am pleasantly surprised by the line of discussion conducted by the gentleman from Arizona (Mr. UDALL).

I had previously indicated that I would support this amendment simply as the best of a choice of poor options.

Of course, I wanted an open rule and a more definitive vote on the salary question. However, it seemed to me that to at least freeze the salary for the time being was worthwhile.

For that reason, Mr. Chairman, I intend to support the Shipley amendment.

I am pleased by the prospect, if the interpretation suggested by the gentleman from Arizona (Mr. UDALL) is, in fact, valid, of seeing a rollback because I opposed the salary increase in the first place. Therefore, I think that is a very desirable outcome.

I would like to add a word, Mr. Chairman, since my name has been freely invoked by previous speakers. I would like to associate myself with the remarks of the gentleman from Maryland (Mr. BAUMAN) and of the gentleman from California (Mr. KETCHUM) on the subject of whether or not our present salary is high enough. It seems to me that there are really only two questions: First, is the salary fair? Second, is it just?

Mr. Chairman, that is a subjective judgment that each of us must make. However, since our salary is approximately three times as high as that enjoyed by our average constituents, that is, 300 percent as much as the people we work for are getting, it seems to me it is plenty high enough without being increased.

The other question is whether or not we would attract more high quality candidates for the Congress at higher salary levels.

Where I come from there is no shortage of well-qualified candidates. I cannot recall a single instance in which someone who is well qualified to serve in this body declined to do so because the salary was too low.

The overriding consideration is to avoid self-indulgence of the Members, and to set an example of prudence and of self-restraint, as the gentleman from Maryland (Mr. BAUMAN) has previously suggested.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. ARMSTRONG. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I agree with the gentleman from Colorado (Mr. ARMSTRONG) that what we should or should not be paid is a matter of subjective judgment about which there can be great disagreements.

I wonder whether the gentleman would advise the members of the committee what he thinks a Member of Congress ought to be paid.

Mr. ARMSTRONG. Mr. Chairman, I will say to my friend, the gentleman from Colorado (Mr. EVANS), that I think I am on record as supporting $42,500 per year. That is the salary of Members when I joined this body; and since being here I have voted against increases.

Let me say, however, to my friend from Colorado, that I am not suggesting that Members of Congress should be forever frozen in their salaries at any particular level.

What I object to today and which I have objected to over and over again is the idea that Members' salaries should be tied to an automatic cost-of-living escalator because I believe that, as Members, we are largely responsible for the inflationary spiral in this country. So we ought to suffer along with our constituents and not insulate ourselves through an automatic salary increase process.

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield further, as I understand it, the gentleman has suggested his approval of a salary which is itself about three times what the average person gets.

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, this is essentially the amendment that would be contained in the motion to recommit.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, earlier in the discussion with the gentleman from Illinois (Mr. SHIPLEY) I raised the question of the scope of the coverage of this amendment.

The amendment, as it is presented to us and as it was printed in the RECORD of August 31, limits the restrictions to increases in salaries of Members of the House of Representatives. A question was raised by other Members about the constitutionality of different salaries for the Members of the two bodies.

Article I, Section 6 of the Constitution says that—

> The Senate and the House of Representatives shall receive compensation for their services to be ascertained by law and paid out of the Treasury of the United States.

There is no constitutional bar to different salaries as I read that provision. But I suggest, Mr. Chairman, that the need, regardless of comity with the other body, is to limit the salaries of both bodies, just as the salaries of both bodies of the Congress were indexed under the provisions of the law to which this refers.

Mr. Chairman, I know that the rule does not permit an amendment but by asking unanimous consent the House of Representatives can work its will. I would, therefore, ask unanimous consent, Mr. Chairman, at this point, that the phrase "House of Representatives" be stricken and the word "Congress" be inserted.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

Mr. EVANS of Colorado. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman from Colorado (Mr. EVANS) for his objection.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the gentleman from Colorado (Mr. ARMSTRONG) or the gentleman from Pennsylvania (Mr. COUGHLIN), if they agree with the interpretation stated by the gentleman from Illinois (Mr. SHIPLEY), that the language of this amendment is intended to apply only to future increases and is not intended to roll back the 1975 cost-of-living increase for Members of the House of Representatives?

Mr. ARMSTRONG. Mr. Chairman, if the gentleman will yield, the intention of the amendment that will be included in the motion to recommit would apply to only future increases, not past increases.

Mr. UDALL. Mr. Chairman, I must say that as I read the plain language, I read it in another way.

Mr. Chairman, I would ask unanimous consent that the amendment be changed, after the word "increase" there be added "on or after September 1," today's date.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. UDALL. Mr. Chairman, I would like to add, I think, that we are doing something here today that demeans the House of Representatives. We all serve here. We all talk about the history and the glories of the House of Representatives, yet when the time comes to stand up for this institution against the Senate, or against the executive branch, we give way to those who want to grandstand and make points with a few people back home.

The plain fact is this, that, even under the interpretation of the gentleman from Illinois (Mr. SHIPLEY), we are saying that it is lovely for the members of the Supreme Court to receive a $4,000 or $5,000 increase next month, and it is lovely for the members of the appellate courts and the district courts, judges that some of my friends do not like because of their busing orders, it is great to give them a pay increase and it is great to pay some third assistant to the President who is dealing with the chairman of the Committee on Appropriations and the leaders of the House of Representatives, so that they will perhaps make more money than the Members of the House of Representatives, that this is all very good.

But, Mr. Chairman, I for one want to make sure that we do not roll back the Members of the House of Representatives.

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield, the gentleman is making the point that a few of us have tried to make, but the problem is the closed gag rule the majority voted a short time ago. You indicate a problem in the amendment. I agree but that illustrates the futility of the closed rule you in the majority voted. That is the disgrace. The gag rule demeans the House, not the objection of any Member here to your motion to change any amendment.

Mr. UDALL. I had originally intended to offer an amendment that there would be no increases for the Federal executives, and others, until such time as the House of Representatives is included. But I regret that things are going the way they are.

Mr. BURLISON of Missouri. Mr. Chairman, would the gentleman from Arizona agree if we adopt the amendment and it becomes law, that this will set a precedent for a permanent salary differential between the Senate and House sides?

Mr. UDALL. Yes; that is correct. I think it will do something worse. We have heard for a long time, and I was in the middle of it, that we should at least be to the point where we were at least equal to the second person in the executive departments, the under secretary level, where we were really equated with the court of appeals in the U.S. court system, not with the members of the district courts or below. Now we are taking a giant step backwards, we are saying that the Members of the House of Representatives are not important any more, and that some third assistant secretary in a department is worth more than everyone, the great chairmen of the committees of the House of Representatives.

Mr. GRASSLEY. Mr. Chairman, I rise in support of the amendment and I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment. I am glad that the opposition party saw the wisdom of what some of us have been trying to do for a long time, to bring the increases in salaries to a vote each time they come up for discussion instead of letting them come about automatically.

But I would say that what is wrong is the system, the system being that which we passed last year, provisions for an automatic cost-of-living pay increase, and if we want to do something about that system we have to repeal it. There are bills in to do it, and those bills are not going to be reported out of the Post Office and Civil Service Committee. There is a discharge petition No. 7 that I would urge all Members to sign if they do not want to go through this year after year after year.

But the question before us today is not how much the Members of Congress should be paid. The public will always expect more out of any public servant than they are ever willing to pay us, and at any level of Government as well. We had better accept that as a fact or we should not be running for public office in the first place.

But in fact there is a question whether

at this time of economic hardship and as a point of moral leadership, not that there is a lot of money involved with congressional salaries and their increases when compared to a $413 billion budget we are enacting this year, but how can we expect the blue-collar workers or social security recipients to bite the bullet—and we have said they should—if we are not ourselves willing to set an example? In times like these of the big budget deficit and the high inflation, we had better say "no."

We have set the fires of inflation and then we insulate ourselves against the rigors of the cost of living and reward ourselves with the cost-of-living increases.

At the very least if Congress is going to receive a pay raise we ought to have the fortitude to vote on it each time.

Further, all of the Members have been saying today that Members of Congress do not get paid enough. How much is enough? Annually or at least maybe once every 2 years Gallup puts out a poll asking people what they ought to make in order to have the standard of living they feel they should have. Invariably year after year that poll shows that everybody, including the blue-collar workers and the social security recipients and the college professors and the Members of Congress feel they ought to make a third more than what they are getting paid. Congress at that rate would be making $57,000.

Regardless of what we make, I think the Gallup poll shows we all think we ought to be making more because everybody else does, too.

So I think we need to remember that when it comes to how much we ought to make, we are not going to take it with us when we die and it is not how much we make while we are living that makes the difference but it is how much we spend. Most of us make three or four times what the average taxpayer does who lives in our districts. This has been brought out before. That ought to be enough to encourage people of high caliber to run for this high office.

A cost-of-living raise, yes, but we are talking about a percentage cost-of-living raise and we are talking about us getting a raise equal to what some people in this country have for an entire yearly income.

So what we ought to be talking about if we want a cost-of-living raise is about the cost of bread and the cost of gas, and when that goes up it goes up the same whether one is a Member of Congress or a social security recipient. If we are talking about a cost-of-living raise we ought to talk about it in terms of dollars and not percentages. What we receive is not an increase in cost of living but an increase in the high cost of high living. What it really boils down to is probably we are all living too high on the hog anyway.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. GRASSLEY) has expired.

(At the request of Mr. BAUMAN, and by unanimous consent, Mr. GRASSLEY was allowed to proceed for 1 additional minute.)

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I just wanted to say to the gentleman from Iowa that I compliment him highly on having led the fight against this indexed, cost-of-living salary increase for Congress. The gentleman from Iowa was the first Member of Congress to file a bill to reverse this last year. Throughout the months since, others have joined the gentleman. We have signed his discharge petition, but we were unable to get the legislation out of committee.

I only regret today that when the amendment is being offered, an amendment the gentleman from Iowa authored from the beginning, the gentleman was not able to offer it, but it was arrogated by rule to the committee chairman.

The gentleman has shown his great interest in saving the taxpayers' money and is to be commended.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I want to join in the remarks of the gentleman from Maryland. There has never been any doubt in my mind that the gentleman in the well is very sincere. There is great insincerity in politics. It is one of the reasons that those in public life are held in such low repute. We do not have enough men like CHARLEY GRASSLEY in public life and I commend him for his sincere, dedicated efforts for all of us.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. GRASSLEY) has again expired.

(On request of Mr. YOUNG of Florida, and by unanimous consent, Mr. GRASSLEY was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding.

I would like to associate myself with the gentleman's remarks and the remarks of the gentleman from Maryland.

Mr. GIAIMO. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to this amendment.

Mr. Chairman, let me say at the outset to my colleagues on this side of the aisle that I, too, voted for an open rule today, because I think these matters should be thoroughly aired and discussed.

Let me also say that I am one of those who is fortunate enough to live, not just on what I make from my congressional salary, but from outside income, and thank goodness I have that outside income. Also, let me say as one who has served in this House for many years that I thoroughly oppose this amendment. I oppose it not because of the approximately $2,000 gross additional income that we Members of the House of Representatives will get from this amendment. I oppose it not because it will benefit us in some additional way, and perhaps help some of my colleagues who do not have outside income and who I know are suffering and hurting, especially those with young children to send to school and those who face the necessity of maintaining two homes—one here and one back home in the district. I oppose it for a greater reason—for what it does to the House of Representatives. It demeans us. It shames us. It puts us in an inferior position when people who object and who do not hold us in high regard want us to act nobly in their interest, and yet we are not brave enough to say that we are equal to everyone else in this country.

I have heard demagoguery before in my 18 years here, but I cannot recall a day when I have heard as much as I have heard today on this matter of a pay raise and increases. Our people want us to get about the Nation's business. They want us to address ourselves to the ills in our society and, if we will, to remedy some of the ills which exist in this very body itself. We will do that; but what do we think we are suggesting to our people by running home to them in an election year and saying, "Ha, ha, I voted against a $2,000-increase for myself."

Do we want a merit badge for that? If our people have any sense, they will say, "I would give you $2,000, I would give you $5,000, I would give you $10,000—even $200,000—if you made this Government a better place and stopped demagoging that you want to be reelected because you were courageous enough to turn down a $2,000-increase."

It is a $2,000-increase which we are going to vote and have voted for every member of the executive branch, Cabinet members, assistant secretaries, supergrades; a $2,000-increase which we have voted and are going to vote sometime soon for members of the judiciary.

Every member of the judiciary who will be entitled the cost-of-living adjustment will get it, as will the executive branch. I am sure that the Members of the other body will demonstrate more courage and intelligence than we will here today; they will vote themselves the increase. What we are going to do is say to the American people, "But, we in the House of Representatives are second-class people, not worthy of your confidence and trust."

And, to make ourselves a little better, to purify ourselves, if you will, we are going to forego $2,000.

Mr. BOLLING. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Missouri.

Mr. BOLLING. Mr. Chairman, I would like to associate myself with the gentleman's remarks. I agree with him 100 percent.

Mr. GIAIMO. I thank the gentleman.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I also would commend the gentleman on the statement he has made, and would call to the attention of the committee one more factor.

Since 1966, the salaries of Members of Congress have depreciated from inflation about 36 to 37 percent, which is a substantial cut, and a real cut. This cost-of-living increase we are talking about is perhaps $2,000 or $2,400, and is small compared to what we have already had eroded away from our salaries through inflation.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

(On request of Mr. MEEDS and by unanimous consent Mr. GIAIMO was allowed to proceed for 1 additional minute.)

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, I want to commend the gentleman in the well for his courage and for the truth of the words he speaks. I wish to associate myself with his remarks.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I was very interested in the remarks of the gentleman from Iowa when he said, "How can we ask blue collar workers and people on social security to bite the bullet when we give ourselves a cost-of-living increase?"

That is a key to this whole maneuver, because that side of the aisle would like the blue collar workers and the social security recipients to forego cost-of-living increases. We just had a strike of 12,000 people in my home town who were on strike for over four months. Thank God, it is finally about over. The prime issue was whether the Rubber Workers of America would get a cost-of-living allowance like the auto workers and people on social security and millions of other Americans. I am happy to say the rubber workers were successful in that effort. It is interesting that at the start of this Congress, President Ford was talking about putting a "cap" on the cost-of-living allowance for the millions of Americans on social security, an allowance, incidentally, which was put in the law by the Democratic majority over the opposition of the Republican administration and Republican leadership in the House.

If the many Members who have outside incomes think their income is too high, let them give it away to the poor or some worthwhile public cause. But do not force other Members not so well off and who are attempting to devote their entire time to public service to suffer a continuing erosion of their salary.

Considering the skill and effort and endless hours required to do the job right, not to mention the expense of maintaining two homes, congressional pay even in 1971 was not exorbitant. Since then the dollar has fallen 46 percent in value, while Congress has had one 5-percent pay raise.

If a Member of Congress is doing his job, he is worth every penny of his salary. If he is not doing his job, the proper solution is not to cut his pay but to vote him out of office.

Mr. Speaker, I have always talked straight to my constituents. I am not going to start "playing games" now. I will oppose this demagogic amendment. I will continue to fight for the taxpayers where it really counts—to cut the wasteful billions the Pentagon squanders every year, all voted for by many of the same persons who would deny Members a modest $2,000 cost-of-living increase.

The CHAIRMAN. The time of the gentleman from Connecticut has again expired.

(By unanimous consent Mr. GIAIMO was allowed to proceed for 2 additional minutes.)

Mr. GIAIMO. The gentleman from Ohio brings up an interesting point, one that has been mentioned by Members on this side of the aisle; that is, if we want to do things, if we want to give ourselves a pay raise, do it directly and not via the cost-of-living route. I say that if my colleagues on the Republican side would join with us in voting for a direct pay raise we would get one through this House. The trouble is that, in the past, we could not hope to have the support of that side of the aisle, and it was only through the indirect cost-of-living means that we were able to get some equity in Federal pay for Federal employees, judges, Congressmen, and others. So, that is why we have done this indirectly.

But, my friends and fellow Members of Congress, let me just say again that it is not the Members who are important in this issue—it is the House of Representatives itself. I do not care what you do to me as a Member, believe me. I will survive. However, I resent what we are doing to this House of Representatives.

We are saying, "There is something in the House of Representatives which makes the Members inferior, which makes them not equal to other worthy people who work for the Federal Government, either as judges or as supergrade employees or as assistant secretaries and the like.

We have been crippled enough in this House in going about the peoples' business. We must enable ourselves to go about the peoples' business, and not attempt to do it by demeaning this institution and bringing discredit to this institution. So, we are not voting for a pay raise here; we are voting for a vote of confidence in the House of Representatives, the peoples' branch.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think the gentleman from Connecticut made some remarks in the House which were very important. I do not think that what any particular Member of this institution earns in the way of salary is of great importance, except insofar as those earnings affect the ability of the Members to serve honorably well and with integrity and dignity worthy of the institution.

This institution must not be demeaned in the eyes of its Members or in the eyes of the public or in the eyes of the other officers and agencies of the Government. That is extremely important to the well-being of the Nation. If any Member here is going to be saved or lose his seat by whether or not he votes for or against or whether he accepts or rejects the cost-of-living increases here is not really important. As a matter of fact, if a Member is going to stand or fall on that narrow a margin he does not belong here, in the first place, and the public interest is better served by his sudden and vigorous removal from this body.

But I think my colleagues ought to see this amendment for precisely what it is. It demeans the House of Representatives, it demeans the Members of the House, it demeans the House as an institution, it demeans the House in relationship to the other branches and individuals and officers in Government.

Let us take a look at who is going to get cost-of-living increase pay raises, as opposed to who is not.

These will receive pay increases: Cabinet officers; the Postmaster General, probably one of the most worthless offices or one of the most worthless agencies in Government, is going to get a significant cost-of-living increase. All of the Federal judges, Supreme Court justices, all of the executive level I through executive level V and similar personnel in Government, are going to get this raise. In fact, every one down through level GS-16.

Let us go to level II. That is the level at which the salary of Members of the House is fixed and which previously has been the yardstick for all other levels of Government salaries. The Senators are going to get their pay raise. The Members of the House are not.

If we love the House and we serve here with pride, we can only know that demeans this body in relation to the other body, and it probably sets up a basis where the people and the Senate and the press are going to call the Senate—and, I suspect, properly—the Upper Chamber. I would suspect that if we really want to demean the House, that is a pretty good place to begin, by saying that the Members of the Senate will get a pay raise and the Members of the House do not.

But let us look at some of the others who will qualify for this cost-of-living increase.

The President's Press Secretary; Counsel to the President; 2 Counsellors to the President; 5 Assistants to the President; the Comptroller General; judges of the Court of Claims; judges of the Court of Customs and Patent Appeals; 24 other persons, including the Deputy Secretaries of Defense, the Deputy Secretary of State, the Administrator of the Agency for International Development, the Administrator of the National Aeronautic and Space Administration, the Administrator of Veterans' Affairs, the Deputy Secretary of the Treasury, the Deputy Secretary of Transportation, the Chairman of the Nuclear Regulatory Commission, the Chairman of the Council of Economic Advisers, the Chairman of the Board of Governors of the Federal Reserve System, the Director of the Bureau of the Budget, the Director of the Office of Science and Technology, the Director of the U.S. Arms Control and Disarmament Agency, the Director of the U.S. Information Agency, the Director of Central Intelligence, the Secretary of the Air Force, the Secretary of the Army, the Secretary of the Navy, the Administrator of the Federal Aviation Administration, the Director of the National Science Foundation, the Deputy Attorney General, the Director of the Special Action Office for Drug Abuse Prevention, and the Administrator of the Energy Research and Development Administration.

These are all officers who will be raised to salaries in excess of those fixed for Members of the House of Representatives.

Mr. Chairman, I include the following additional data:

NOTE: Salary increases projected for October 1, 1976, are fixed at 4.83% and are based on recommendations of the President's agents (Director of OMB and Chairman, Civil Service Commission).

POSITION NOT EQUATED WITH EXECUTIVE LEVELS

Persons Covered: Speaker of the House and Chief Justice, Supreme Court.

Current Salary—$65,600.

Salary as of 10/1/76—$68,800.

Persons Covered: President pro tempore of the Senate and Majority and Minority Leaders of the Senate and House of Representatives.

Current Salary—$52,000.

Salary as of 10/1/76—$54,500.

EXECUTIVE LEVEL I

Persons Covered: Cabinet Members (13); Postmaster General (1); and Associate Justice of Supreme Court (8).

Current Salary—$63,000.

Salary as of 10/1/76—$66,200.

EXECUTIVE LEVEL II

Current Salary—$44,600.

Salary as of 10/1/76—$46,800.

Persons Covered: President's Press Secretary (1); Members of the Senate; Counsel to President (1); Counselors to President (2); Assistants to President (5); Comptroller General; Judges, Court of Claims; Judges, Court of Customs and Patent Appeals; plus 24 other persons as follows:

Deputy Secretaries of Defense (2).

Deputy Secretary of State.

Administrator, Agency for International Development.

Administrator of the National Aeronautics and Space Administration.

Administrator of Veterans' Affairs.

Deputy Secretary of the Treasury.

Deputy Secretary of Transportation.

Chairman, Nuclear Regulatory Commission.

Chairman, Council of Economic Advisers.

Chairman, Board of Governors of the Federal Reserve System.

Director of the Bureau of the Budget.

Director of the Office of Science and Technology.

Director of the United States Arms Control and Disarmament Agency.

Director of the United States Information Agency.

Director of Central Intelligence.

Secretary of the Air Force.

Secretary of the Army.

Secretary of the Navy.

Administrator, Federal Aviation Administration.

Director of the National Science Foundation.

Deputy Attorney General.

Director of the Special Action Office for Drug Abuse Prevention.

Administrator of Energy Research and Development Administration.

EXECUTIVE LEVEL III

Current Salary—$42,000.

Salary as of 10/1/76—$44,000.

NOTE.—$600 less than Members of the House would receive if pay is frozen.

Persons Covered: Deputy Press Secretary to President (2) plus approximately 60 other positions as follows:

Under Secretary of Housing and Urban Development.

Urban Mass Transportation Administrator.

President, Overseas Private Investment Corporation.

Chairman, Postal Rate Commission.

Administrator of Law Enforcement Assistance.

Chairman, Occupational Safety and Health Review Commission.

Governor of the Farm Credit Administration.

Chairman, Equal Employment Opportunity Commission.

Chairman, Consumer Product Safety Commission.

Deputy Administrator, Energy Research and Development Administration.

Chairman, Commodity Futures Trading Commission.

Deputy Special Representative for Trade Negotiations (2).

Chairman, United States International Trade Commission.

Solicitor General of the United States.

Under Secretary of Agriculture.

Under Secretary of Commerce.

Under Secretary of Health, Education, and Welfare.

Under Secretary of the Interior.

Under Secretary of Labor.

Under Secretary of State for Political Affairs and Under Secretary of State for Economic Affairs and an Under Secretary of State for Coordinating Security Assistance Programs.

Under Secretary of the Treasury (or Counselor).

Under Secretary of the Treasury for Monetary Affairs.

Administrator of General Services.

Administrator of the Small Business Administration.

Deputy Administrator of Veterans' Affairs.

Deputy Administrator, Agency for International Development.

Chairman, Civil Aeronautics Board.

Chairman of the United States Civil Service Commission.

Chairman, Federal Communications Commission.

Chairman, Board of Directors, Federal Deposit Insurance Corporation.

Chairman of the Federal Home Loan Bank Board.

Chairman, Federal Power Commission.

Chairman, Federal Trade Commission.

Chairman, Interstate Commerce Commission.

Chairman, National Labor Relations Board.

Chairman, Securities and Exchange Commission.

Chairman, Board of Directors of the Tennessee Valley Authority.

Chairman, National Mediation Board.

Chairman, Railroad Retirement Board.

Chairman, Federal Maritime Commission.

Comptroller of the Currency.

Commissioner of Internal Revenue.

Director of Defense Research and Engineering, Department of Defense.

Deputy Administrator of the National Aeronautics and Space Administration.

Deputy Director of the Bureau of the Budget.

Deputy Director of Central Intelligence.

Director of the Office of Emergency Planning.

Director of the Peace Corps.

Chief Medical Director in the Department of Medicine and Surgery, Veterans' Administration.

Deputy Director, National Science Foundation.

President of the Export-Import Bank of Washington.

Members, Nuclear Regulatory Commission.

Members, Board of Governors of the Federal Reserve System.

Director of the Federal Bureau of Investigation, Department of Justice.

Administrator, Federal Highway Administration.

Administrator, Federal Railroad Administration.

Chairman, National Transportation Safety Board.

Chairman of the National Endowment for the Arts the incumbent of which also serves as Chairman of the National Council on the Arts.

Chairman of the National Endowment for the Humanities.

Director of the Federal Mediation and Conciliation Service.

EXECUTIVE LEVEL IV

Current Salary—$39,900.

Salary as of 10/1/76—$41,800.

NOTE.—$2800 less than Members of the House would receive if pay is frozen.

Positions covered: Approximately 340 persons, such as:

Regional Assistant Administrators, AID (4):

Director of Civil Defense;

Deputy Director of the Peace Corps;

Deputy Inspector General, Foreign Assistance;

Director of the Selective Service;

Chief of Protocol, Department of State;

Director of Public Roads;

Administrator of the St. Lawrence Seaway Development Corporation;

Members, Occupational Safety and Health Review Commission;

Commission of Interama (whatever that is!);

Director, Community Relations Service;

Members, Railroad Retirement Board;

Members, U.S. Civil Service Commission (3); and

Members, Postal Rate Commission (4).

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Yes, I yield to my friend, the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, there is one other increase made in order here, I will say to my good friend, the gentleman from Maryland (Mr. BAUMAN), and to some of the other economizers around here. We are going to give a big increase to the Director of OSHA.

Mr. DINGELL. Yes, the gentleman is correct. As I pointed out earlier, there are some 60 other positions in level III, among whom is the Director of the Office of OSHA.

Mr. UDALL. Mr. Chairman, I have a lovely little amendment I would like to offer if the gentleman would not object to it. We could strike a real blow for economy in Government if the gentleman from Maryland (Mr. BAUMAN) would not object to my unanimous-consent request or if the gentleman from Illinois (Mr. SHIPLEY) would consent to offer this lovely little amendment. It says, sure, we are going to freeze the House in 1976, but it also says there is not going to be a cost-of-living increase for either Members of the House or for anyone else at this level eligible for a cost-of-living increase.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 3 additional minutes.)

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I would

like to have the gentleman from Michigan yield to the gentleman from Maryland (Mr. Bauman) and ask him if he will join me right now in striking a blow for economy in Government. We can save several millions of dollars and hold down these increases.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Yes, I will be glad to yield to the gentleman from Maryland, and I hope he will join the gentleman from Arizona and me in this amendment, because this is a meaningful amendment in amount, and it is a meaningful amendment in terms of evident fairness and concern for the dignity of the House of Representatives.

Mr. BAUMAN. Mr. Chairman, I will say that I would support the gentleman's amendment if he will include in it a provision docking a Member's salary for those days that Members have not been present during this session. I think that would save a lot of money.

Mr. DINGELL. Mr. Chairman, that does not answer the question.

Mr. UDALL. Mr. Chairman, I ask unanimous consent to modify the Shipley amendment by adding at the end thereof a sentence which I will ask that the Clerk report.

The CHAIRMAN. The Clerk will report the modification to the amendment.

The Clerk read as follows:

At the end of the Shipley amendment add a further sentence as follows: No part of the funds appropriated in this Act or any other Act shall be used to pay the salary of an individual in a position or office referred to in section 225(f) of the Federal Salary Act of 1967, as amended (2 U.S.C. 356), including a Delegate to the House of Representatives, at a rate which exceeds the salary rate in effect on September 30, 1976, for such position or office.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, the amendment of the gentleman from Arizona applies limitations to those who are not covered in the appropriations now before us. However, that is a niggling point, and we have had too many of those today.

The second point is that the gentleman seems to have excluded the Members of the Senate. I wonder if the gentleman would include in his unanimous consent after the phrase, "House of Representatives," "including Members of the Senate."

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the language says, "No part of the funds appropriated in this act or any other act shall be used to pay the salary of an individual" who is covered by section so-and-so, and Senators are covered, House Members are covered. Cabinet members are covered, and judges are covered. This is just a blanket amendment over everybody.

Mr. BAUMAN. Does the gentleman's amendment change the retroactive effect of the language of the Shipley amendment which would roll back the 1975 salary increases for House Members?

Mr. UDALL. No, it would not cover the point of retroactivity. It is just a modification to the amendment for future cost-of-living increases, and it would be an umbrella over everybody.

Mr. BAUMAN. In other words, it would have the effect of prohibiting salary increases of everybody, including those of Members of both Houses of Congress?

Mr. UDALL. The gentleman is correct.

Mr. BAUMAN. Mr. Chairman, I would not object to that.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. Dingell) has expired.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and Members of the House, I do not know whether or not if Members of the House are paid more or less means we are doing a better or a worse job.

I know that when I ran for this office and I gave up a job, I went to the bank and borrowed money, I went out for a year and tried to meet people. I was very proud that I had the nomination of my party. I was very proud that I was one of the few people in the country to have a chance to go to a forum where my voice could be heard, where I could cast my vote, and where I could follow my convictions. Not many people get that opportunity.

Mr. Chairman, I never thought about the pay. I voted for the pay raise last year. I have given it back and continue to do so because I agree with the gentleman from California (Mr. Ketchum) that one ought not to raise his pay in his own term.

I always kind of thought, Mr. Chairman, that if a person did a good job, that if he did his work, if he serviced the people in the district, and if he cast some reasonable votes here, the people would decide every other November whether he was worth it, whether they thought they wanted him as their Representative, and they would either return him or they would not. That is the way it ought to be.

Mr. Chairman, a lot of people wrote to me and said, "How could you dare raise your own pay?" I wanted to know who else was going to vote us one.

Then some people said a Presidential commission would do it. I understand that there is an effort to do away with that.

With the cost of living, it sounded like a decent idea, one that had some relevance to what is going on in the rest of the world.

Instead of raising the pay based upon the pent-up frustrations of people here, all of a sudden, some are saying, "Let us raise it by 10 or 20 or 30 percent"—that is the wrong way to do it.

Mr. Chairman, I really do not understand what is going on here today. I really do not understand why we are fooling with the pay of the Congress, and now we have succeeded in hurting a lot of other people who work for the Government and are trying to do a decent job in this country.

Mr. Chairman, if that is what we want to do, so be it. I really do not care because I am here, and I am privileged to be here, and I hope to remain. However, I do not understand what we are doing with all the political rhetoric or political points that are being made.

I do not know, Mr. Chairman. I am ambivalent. That is why I am speaking, because I really do not understand what is going on and why we are fooling with one another's ability to do a job, why we are fooling around with one another's good-faith effort to try to represent the people who elected us, and why we are trying to create another issue here.

Mr. Chairman, are we really all to be punished because of the recent scandals in the House of Representatives

Mr. Chairman, I am really tired of paying for the sins of other people; but I do not understand why in an election year we have to drag this out.

Mr. Chairman, if a Member is so insecure about his seat, maybe he does not belong here. I do not know.

If someone else is insecure, why do I have to pay for his insecurity?

We really do not have to stick it to some people down in the administration who are working and trying to do something for the Government in the name of public service.

Mr. Chairman, I do not think we ought to be rewarded overwhelmingly for coming here. I would do the job for less. It is a privilege.

There are only 435 of us. There are many people who would be glad to walk in that door over there or in this door over here. However, we demean that privilege through the discussions that we have had here and when we attack one another about how poor one Member is or how rich the other Member is.

Mr. Chairman, a group of people in a particular district made a determination that a particular person should come and represent them. They knew what the salary was, and maybe this November they will make a determination that they are paying the Representative too much and they ought to retire him. I do not know. That is the electoral process.

However, what I see here, Mr. Chairman, is really destructive of that process. We are fooling with it, and I think it is a very dangerous thing.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been very much interested in this whole idea of pay raises. In fact, I have spoken on television in behalf of the House and have spoken on the radio in behalf of the House on this matter. I have tried to point out the fact that we do have one of the most important jobs in this world where everything that we do or say affects millions of people in this country and all over the world. For this stand I have gotten a lot of flack from my people back home.

And when I appeared on TV with Novak he had the gall to say, "Do you think you are worth more money?" And his income last year was probably about $600,000, and while apparently making an attempt to tear down this great institution and this country so we should be worth more who are working and fighting to build up this institution and country. I do not think we should legislate anything for a sitting Congress, but, in fact, should have the courage to determine what a Congressman is worth and then have the courage to pass this kind of legislation for the next Congress.

Then let the people back home determine whether we are right or wrong, let them determine whether we are worth it or whether we are not. I happen to think it is a very important job and it should be paid according to its importance.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I was very much impressed with the statement made by the gentleman from California. When he was down here in the well, I was thinking that if this were at any time between the years 1900 and 1930, he would not have been here. This place was run by company lawyers for 30 solid years. The big oil companies, the big steel companies, railroads, and others had their law firms all over the United States run a Member for Congress and someone out of those law firms in each of the districts would run for Congress, and they ran the Congress.

Oh, yes, they had very low salaries, but real cost to the people of the United States was the highest cost they have ever paid for a legislative branch of Government. Do the Members want to go back to that? Sure we could wipe out all of the salaries. Then General Motors would be glad to furnish 435 Members of the House. Exxon would be glad to furnish a company lawyer for each seat here. Or they would be glad to divide the seats. But the real cost to the taxpayers would be high indeed.

Except for vacancies caused by deaths and resignations, we have 435 Members here. It is only natural that with 435 Members in any institution there would be some who are not worth the salary they are getting. No matter what salary is paid, that would be the case. Perhaps one-quarter of the Members in this body are not worth what they are being paid. Perhaps one-fourth of the Members make little or no contribution to the legislative process. But what about those who do? And the consciences of some of those who are overpaid are hurting them so much that they are turning back part of their salaries. The only difficulty is that some are not turning back enough. When they turn back $175 per month, they are saying they are worth $42,500 before nonreimbursable expenses but not worth $44,600. Some who are drawing $42,500 overvalue their services.

But that is no sign that others who do the work ought to be turning any money back. Or that someone who might seek the office should be discouraged. These candidates filed with the assumption their purchasing power would be somewhat protected.

Also we have some wealthy people in this body who have spent perhaps a quarter of a million dollars of their personal and family funds to get into the House of Representatives. This is a social club for them. They do not care what they spend. They would be glad to serve here for nothing and would like to discourage competition in the next election. They would like not to have someone like the gentleman from California running against them. That would make it easier for them.

Then we have the husband and wife situation. I remember the first pay raise bill came up after I came here several years ago. Almost every Member who had a wife on the payroll and most of them did not work was in the well telling us how bad it was that others would get a pay raise. I authored the nepotism bill and I make no apology. I think this is a husband and wife job. Some of the women do a good job helping their husbands serve in this job and some of the female members have husbands who are helping perform this husband and wife job. But some of them have other public or private jobs. When they double dip they naturally do not need a competitive salary.

But that is no sign that others who do this as a husband and wife job do not need the money. I think it is a husband and wife job.

This ought not to be a private club around here. That is what we will be doing if we do what is proposed here today. I am glad some Members have had the guts to stand up and say what they did. I think it should not become a private club for the company lawyers, the wealthy and those who double dip, and I think those who are not worth what they are getting ought to be replaced by someone who is because the people need Representatives in Congress, in the judiciary, and higher executive jobs who are worth that much and are not beholden to special interests.

Mr. MYERS of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, last year when we made this decision I made a decision to vote for the cost of living raise, not just for myself but because of the fact that I agree wholeheartedly that we want to attract Members to this body who will be suitable. We are not going to be able to do that if we signal that they will have to be able to live on less and less and less.

I wholeheartedly support the gentleman who preceded me and his idea about the possibility of our moving toward a club, a situation in which certain people who can afford to be here will be here. I do not think in that way the people of the country will be well represented.

I am a new Member. I certainly do not characterize myself as the most hardworking Member of this House, but I average 80 hours a week, and probably that is low in comparison to Members from California and the west coast who fly back and forth almost weekly to meet their commitments to their people and to the House. I respect them for that and I respect their attention to the job.

But if we just look at what we are paid, and I wonder how many of us have actually broken it down into terms which we can relate to our constituents, if we work an average of 80 hours a week and given ourselves credit for time and a half for anything over 40 hours, we will find we are working for about $9 an hour. I submit to the Members there are very few things one can have repaired in one's home by a craftsman or a tradesman for $9 an hour.

Mr. Chairman, I think what has been said here about the importance to the public has to start sinking in. We deal with the most serious and most far-reaching issues, from economic, social, moral issues for our country and the world. Certainly we should have the most qualified people here to represent the districts. There are so many disincentives discouraging those people who are best qualified in their districts from seeking the seats.

I think, if we vote down the cost-of-living-pay adjustments, we are actually voting for incumbency, strengthening incumbency, because it is a tremendous disincentive to send a signal out to people who have budding careers that we want them to interrupt those careers and come and represent the district here, but we will guarantee they will never have any adjustment of pay until they get back home.

We have to realize that, when people step out of the private sector and come to the District of Columbia as a Representative, they are stepping out of a stream of highly competitive individuals who are going after positions in the private sector. Many of them surrender advancements which they will never recapture. To bring them here and make them face a salary eroded each year by inflation, to make a political issue out of this adjustment in pay for the cost of living, seems senseless. We have senior Members who know what the economics are of trying to maintain two houses as well as costs related to the job.

I hope, when the vote comes down, we can take a look at this and find out, Do the Members who serve here deserve to be able to keep up with inflation? Are they spending an adequate number of hours on the job and are they doing a good job?

I suspect the main criteria in evaluating whether we are doing a good job is not what we are paid, but what our constituents perceive we are doing.

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in support of the amendment to freeze pay for Members of Congress at the present level. The plain truth of the matter is that we do not deserve a pay raise, and certainly should not follow through with earlier plans to make our pay increases automatic.

We, as Members of Congress, cannot escape responsibility for the inflationary spiral the Nation has been put through. By consistently voting for programs requiring more and more borrowing, this body has done far more to stimulate inflation than even the quadrupling of the price of oil by the Arab producers.

A freeze on congressional pay will help bring home to those Members who believe the public purse has no bottom the hardships forced on our constituents by continued overspending of revenues. If by the actions of this body, we ask the rest of the country to tolerate prices which outstrip earnings, we should—at the very least—be prepared to do the same.

Let us not forget that the majority of wage earners in this Nation do not enjoy the convenience of pay increases which automatically keep pace with inflation. There is no reason for the Congress to make itself an exception; on the contrary, I believe we have an obligation to our constituents not to do so.

Further, at a time when we are asking many of the beneficiaries of Federal programs to tighten their belts to reduce inflationary pressures, I strongly believe we have the added responsibility to set an example by practicing what we preach.

All of us are acutely aware that the elections are but a few weeks away. We are also aware that the public feels that we have not earned a pay raise, that we do not need a pay raise, and that they do not want to give us a pay raise. Under our system of government that is all the reason we need to oppose another pay increase for ourselves.

Mr. MILFORD. Mr. Chairman, I rise to support the amendment, and I commend the gentleman from Illinois, Mr. Shipley, for bringing the issue of a congressional pay raise to a separate vote.

The last time this issue came before us, it was welded to a cost-of-living pay increase for 4 million dedicated men and women on the Federal payroll, and under a parliamentary procedure wherein there was no way to separate the two issues.

So we had two choices, neither of them good.

We could cast a politically "safe" vote against giving ourselves a raise. That would have penalized every Federal employee, because those employees were, in effect, being held hostage.

Our other choice was to do the right thing for these Federal workers and give them a cost-of-living increase which no one denied was justified. That vote gave us a raise without meeting our public obligation to discuss and explain the pros and cons clearly and fully.

One of my greatest complaints about this body is that, all too often, we are required to vote on a conglomeration without any opportunity to debate its various parts the way they ought to be debated.

When the final roll is called, the only choice we have is to vote the conglomeration up or down, the bad along with the good.

That is how we got our raise last time, and it goes against my grain.

Today, thanks to the gentleman from Illinois, we can set this issue aside for another day, when it can be addressed responsibly and directly.

Mr. HARRIS. Mr. Chairman, I support the amendment before us today to prohibit Members of Congress from receiving an increase in their salaries. While many view today's action as a political maneuver—an effort to "get Congressmen off the hook" on the pay raise issue—I see the question before us as a question of principle, of reform.

Members of Congress should not be part of the comparability process. I introduced H.R. 10042 on October 6, 1975, to take Members out of comparability and eliminate an annual, automatic raise. On February 18, I introduced H.R. 11944 which reforms the Federal and military employee pay process and takes politics out of Federal pay. The Post Office and Civil Service Committee has refused to take action on these bills, despite the widespread support for it in the House.

The issue of salaries of elected officials is always a "hot potato." We cannot go on ducking it forever. I believe this amendment is only a first step: it merely withholds an increase for the coming year. It does not reform the basic process as I have proposed.

It is wrong to tie elected Federal officials' salaries to those of Federal and military workers. The comparability system was established in 1970 to keep Federal and military employees' pay "comparable" to salaries in private industry. The theory behind that law is as sound today as it was then—to enable the Federal Government to attract and retain the best qualified personnel; Federal and military salaries must be competitive with those of private industry. Since the law authorizes the President to propose an annual raise that deviates from true comparability and gives the Congress a mechanism for overturning the President's recommendation, politics enters the question, especially during the last 5 years, when the Nixon-Ford administrations have declared "national emergencies" without substantiation and violated the spirit of the comparability law. The result, all too often, is that Members of Congress must vote on their own pay raise at the same time they vote on an increase for Federal and military employees. Thus Federal and military salaries languish and Federal and military workers become the victims of political cowardice. This is wrong.

Last year, when the Senate legislation, to include Members in the comparability system, came before the House, I voted for it. I said at the time on the House floor that I would vote for the legislation because I wanted to give some small relief to those Federal and judicial executives whose salaries had been frozen for 6 years. It was unfortunate that Members of Congress were also included in that scheme; they should not have been. They should not have been included, as I said, because the question of pay for Federal workers should not be politicized. Members' salaries should not be part of the comparability process for another reason as well. The theory of comparability seeks to keep Federal salaries "comparable" with similar occupations in private enterprise. In other words, the Federal Government should pay, for example its mechanics, its doctors and its secretaries, salaries "comparable" to those in the private sector. Members of Congress have no comparable counterpart in private enterprise. What are we comparable to? Including Members in this procedure violates the basis of the comparability law.

The salaries of Members of Congress should be voted on separately from those of Federal and military employees and any salary adjustment should apply to the next, succeeding Congress, so Members would not vote on their own pay.

I will vote for the amendment today to prohibit a pay raise for myself and my colleagues. However, I want to go on record as saying that this is a half-way measure. It only points us in the right direction. What we need is real reform, like the legislation I introduced last year. I will continue toward that goal.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of the amendment offered by the distinguished chairman of the Legislative Subcommittee, Mr. SHIPLEY, as amended by my colleague from Arizona (Mr. UDALL).

On July 30 of last year I voted "no" on this cost-of-living pay increase for Congressmen, because I felt that we in Congress can squeak by on $44,600 a year.

As I understand it, Mr. UDALL's amendment to Mr. SHIPLEY's amendment would block a cost-of-living pay increase for the Congress, Senators, super grades in the executive branch, and Federal judges. This I support.

A responsible Congress cannot in good conscience vote cost-of-living pay increases for themselves, while also voting an increase in the national debt.

At this time, I cannot believe a cost-of-living expenditure of the taxpayers money deserves priority over other programs of much more social importance, which we criticize as too costly for consideration.

Until we are better able to insulate the taxpayer from the effects of inflation, we should not insulate the super grades in Government, by cost-of-living pay raises.

Mr. VANDER VEEN. Mr. Chairman, I strongly support this effort to exclude congressional salaries from the automatic cost-of-living escalator. Late last summer, I cosponsored a bill to eliminate cost-of-living increases for Congressmen. I very much regret that the bill was not reported out of committee. I would have preferred that we act directly on this bill. Because the entire House has not been able to act on that bill, I am supporting this effort to achieve the same end by providing that no legislative appropriation be used to fund congressional cost-of-living increases. I think this matter is important enough for us to act on it in any way possible.

Last year, I voted in favor of H.R. 2559, which included cost-of-living increases for Congressmen. The main purpose of that legislation was to provide pay increases for over 15,000 top employees of Federal Government, including over 1,000 judges. I felt that a pay raise for these individuals based on the cost of living was well justified, because this group had not received a raise since 1969 despite a 47.5 percent increase in the cost of living.

Because of this decline in real wages, the President reported last year, it is becoming increasingly difficult to recruit highly qualified individuals to fill top-level positions in the executive branch and judgeships. Many capable persons are reluctant to take important positions with the Federal Government, because they must often accept sizable reductions in salary. We need the best qualified individuals possible in high Government positions, and it is the responsibility of Congress to insure that such people can be attracted to the Government. That was my primary consideration in voting for the pay raise bill last year.

In addition, I think a one-time 5-percent raise for Congressmen was justified, since salaries had not changed for 6 years despite a high rate of inflation. In effect, Congressmen have taken a pay cut of almost 50 percent since 1969.

But I cannot support the automatic pay escalator which that legislation provided for Congressmen. Even though prices have risen rapidly in the past few years, I do not think Congress should insulate itself from the damaging effects of inflation. Many people we represent have to cope with incomes that are shrinking because of inflation. There is no reason we should not have to deal with the same problems.

Besides this, units of governments at all levels are facing serious financial crises because of budget deficits. Public employees are being asked to show restraint in wage demands, and many groups are being forced to forego pay increases or accept increases lower than those originally planned. Two cases of this in my own congressional district serve as good examples. Employees of the city of Grand Rapids are facing possible layoffs or salary reductions because of a large deficit, while teachers in East Grand Rapids have agreed to accept a 2-year pay freeze. And, at the same time, unemployment figures are still hovering at record high levels.

Mr. Chairman, I think we can show our sensitivity to these problems by voting not to receive automatic pay increases every year. Through this concrete action we can show that we are serious about doing all we can to end our current economic problems. I think this is a real opportunity for us to lead by our own example.

Finally, Mr. Chairman, I believe this action will have a great symbolic value. Public opinion polls show that the credibility of this body is at an all-time low. We can take a strong, positive step toward restoring our stature with the American public by rejecting these automatic salary increases. We have already brought about badly needed reforms of House allowances and travel reimbursements. We should continue in that spirit of reform and eliminate these backdoor increases in our own salaries. I urge my colleagues to support this amendment.

Mrs. SPELLMAN. Mr. Chairman, I regret that we were unable to get unanimous consent to substitute the Spellman amendment, and that we are now faced with cutting back the salaries of so many other persons in order to cut back those of the Members of Congress. Frankly, it pains me to have to go to such lengths, and were it not for the fact that the time has come for some sort of showdown. I would now be voting "no." Are we going to continue to fight this battle ad infinitum? Will the day ever come when we can accept the concept that no Congress should raise its own salaries—that any raises voted should accrue to the following Congresses? In order to do that in my opinion, it is important to separate the salaries of the Congress from those of the Federal employees.

I suppose all that has been said about the Members knowing the salaries connected with the offices they were running for might also be said of the supergrade personnel who will now be affected by this amendment. But I am very concerned about the many excellent people who are being lost to the Federal service year after year, because they can earn so much more in private industry than they can in their top-level positions in their departments. Some very graphic illustrations of the exodus were presented to the Post Office and Civil Service Committee, and I truly do not believe this Nation can continue to lose its top-level administration personnel and still function well.

The administration pleaded for the salary increases, and I agreed with the administration that they were needed. When our efforts to separate congressional salaries failed last time, and you know how hard I worked on that concept then, I voted for the whole package.

I am so tempted to do that again at this point. However, there are a group of us who feel that without the pressures which will be exerted by the administration and by the employees affected by their friends, we will never get out of this rut.

So, although I personally would like to vote against this amendment, I am going to follow the dictates of my head and not my heart. I am going to vote in favor, cutting back the salaries for all, and then I am going to work like blazes to attempt to bring about some order out of the chaos which results every time the question of salary increases comes up. I am going to work mighty diligently to try to end the lockstep that our civil servants have labored under for so many years.

I only regret that my Republican colleagues did not permit us to make the clean separation right now that my amendment would have provided.

Mr. DUNCAN of Oregon. Mr. Chairman, without having read the specific language of the second Shipley amendment and relying upon ordinarily reliable analysts as to its meaning and intent to "delay the automatic cost-of-living increase in House Members salaries," I support the rule.

Thereafter I had occasion to read the second Shipley amendment as reported in the CONGRESSIONAL RECORD of August 31, 1976. Alarmed by what I read I pursued the matter further and located and examined a copy of section 204a of Public Law 94–82. I was appalled to find that the language of the amendment did not simply defer the balance of the 94th Congress pay increase, but in fact, rolled it back in precisely the fashion subsequently described on the floor of this House by the gentleman from Arizona (Mr. UDALL). I was further appalled to discover that none of the skilled lawyers, either on the staff or in the House, had read it.

I am one that believes that legislative salaries have, for too long, been inadequate. At the same time I never wanted to profit from being in public service. I have had as a goal—just breaking even. Accordingly I have not only supported, but have introduced measures in the Oregon State Legislature to accomplish that end.

I have believed that one should be satisfied with the salary of the office for which he ran. The salary should not be increased except beyond the next election so that each Member would have to return to his electorate for approval before drawing the additional salary.

Because of the speed with which the cost-of-living increase issue arose last year, I supported it without thinking of the caveat mentioned above.

Accordingly, I believe that this pay raise question should be solved with the passage of provision that would simply defer any further increases to Members during the 94th Congress. This was what I thought the Shipley amendment would have accomplished, and this is what I believe its sponsors believed it did accomplish.

I did not object to the unanimous-consent request of the gentleman from Arizona, because I believe in the justice and practicality of everything he said. I was one of the few, however, that voted against the Shipley amendment, as amended. I believe that a rollback of pay for the executive and judicial branches of Government will create chaos. Subordinates are already exceeding their superiors in pay levels. I am also aware of the reluctance of attorneys to accept appointment to the bench due to inadequate salaries. There is a startling increase in the number of resignations of Federal judges unable, or unwilling, to continue to make the sacrifice required for public service. I so voted even when I knew my vote would be futile. I was likewise voting against a rollback on congressional salaries. There are times when one is presented with two disastrous alternatives and this was such a situation.

One's only consolation from this massive parliamentary foulup is the hope that the Senate will not follow suit. Prayerfully, the conference committee on this bill will be faced with disagreeing views and will come out with a provision acceptable to both Houses. The conference bill should leave intact the cost-of-living increases received by senfor civil servants and judges and Members of Congress last year. Any further cost-of-living increase for Members should be deferred until the start of the 95th Congress.

I believe Members of both Houses of Congress should be compensated equally and that the comparability with certain executive and judicial salaries, hard won over the years, should be maintained.

I will vote for the bill on final passage because of the imperatives of the time schedule under which we operate, and my hopes for a satisfactory product from the conference committee.

Mr. MIKVA. Mr. Chairman, I rise in support of the amendment to the legislative appropriations bill to deny funding for cost-of-living increases in the salaries of Members of Congress.

Last July, Congress passed an annual cost-of-living increase for the Federal judiciary, Cabinet and other high level executive department officials and Members of Congress.

While I opposed the secretive and speedy process by which it was done and the cost-of-living escalator which was included, I believed then, as I believe now, that these Federal employees, whose salaries have not been raised since 1969, deserved the modest raise. I do not know of many people either in public or private life that have not had a pay increase in 6 years.

The amendment before the House would remove the most objectionable feature from last July's bill—the cost-of-living escalator. The amendment would convert last year's pay raise into a one-time, nonautomatic, 5-percent pay increase. I support this change.

But the problem of determining a fair rate of compensation for public officials remains. In 1968, a Federal comparability pay commission composed of distinguished citizens from all walks of life recommended to President Johnson that congressional salaries be increased to $60,000. The President reduced that amount to $50,000 and Congress lowered it even further to $42,500. Since that time, the cost-of-living has increased 47.5 percent. The net effect has been a salary reduction during the 7-year period of almost half for Members of Congress and other high level Government officials.

When I served in the Illinois State Legislature, the infamous Paul Powell was speaker of the house. For those of my colleagues who may not know of the late Mr. Powell, he was a trusted and dedicated public servant whose unexpected death resulted in the discovery in his hotel room of a shoe box overflowing with money of dubious origin.

Mr. Powell never voted for a pay increase for members of the legislature. At one point during the debate on such a measure, he said:

> If you keep raising the salary, somebody good is going to run against you.

I have always remembered that statement. While money ought not be used as an inducement to public service, it also ought not serve as an obstacle. Members of Congress, Federal judges and other public servants are called upon to make decisions that directly affect the lives of millions of people and billions of dollars of public funds. Their salaries ought to be kept at a level commensurate with the responsibilities they assume. If they are performing well, they are well worth their hire. If they are not performing well, underpayment is not the cure for malfeasance in office. Indeed, it only compounds the problem.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Shipley), as modified.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Chairman, we are voting on the Shipley amendment, as modified by the Udall amendment?

The CHAIRMAN. The gentleman is correct.

RECORDED VOTE

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 325, noes 75, not voting 31, as follows:

[Roll No. 687]

AYES—325

Abdnor
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Biester
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burton, John
Butler
Byron
Carr
Carter
Cederberg
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
du Pont
Early
Edgar
Edwards, Ala.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Evans, Ind.
Evins, Tenn.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Fountain
Frenzel
Frey
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hayes, Ind.
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Hightower
Hillis
Holland
Holt
Holtzman
Howard
Howe
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Mink
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
Obey
O'Brien
O'Neill
Passman
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Roush
Rousselot
Runnels
Ruppe
Russo
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Nebr.
Snyder
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Walsh
Wampler
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Zablocki
Zeferetti

NOES—75

Addabbo
Annunzio
Badillo
Bergland
Biaggi
Bingham
Bolling
Brooks
Brown, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Carney
Clay
Conyers
Corman
Daniels, N.J.
Danielson
Dellums
Diggs
Dingell
Downing, Va.
Duncan, Oreg.
Eckhardt
Edwards, Calif.
Evans, Colo.
Fary
Ford, Mich.
Fraser
Giaimo
Harrington
Henderson
Hicks
Hungate
Johnson, Calif.
Jordan
Karth
Kastenmeier
Koch
Leggett
Long, La.
Long, Md.
McFall
Melcher
Mills
Minish
Mitchell, Md.
Mosher
Moss
Murphy, N.Y.
Myers, Pa.
Nolan
Oberstar
O'Hara
Ottinger
Patten, N.J.
Pike
Price
Rangel
Rodino
Rosenthal
Rostenkowski
Roybal
Scheuer
Seiberling
Smith, Iowa
Solarz
Stokes
Thompson
Vanik
Waggonner
Waxman
Wilson, C. H.
Young, Ga.
Young, Tex.

NOT VOTING—31

Abzug
Bell
Bevill
Chappell
Conlan
de la Garza
Forsythe
Fuqua
Green
Hawkins
Hays, Ohio
Heinz
Helstoski
Hinshaw
Horton
Jones, Ala.
Kindness
Lehman
Matsunaga
Peyser
Rees
Riegle
Ryan
St Germain
Sarbanes
Sisk
Steelman
Steiger, Ariz.
Stephens
Wirth
Young, Alaska

Mr. RANGEL changed his vote from "aye" to "no."

Mr. GOLDWATER changed his vote from "no" to "aye."

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SHIPLEY

Mr. SHIPLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Shipley: Page 7, line 18, strike the word "and" and on page 7, line 23, after "Representatives" insert the following: "; House Resolution 1368, Ninety-fourth Congress, establishing a Commission on Administrative Review in the House of Representatives; and House Resolution 1372, 94th Congress, limiting the authority of the Committee on House Administration to fix and adjust allowances".

Mr. SHIPLEY. Mr. Chairman, this amendment makes permanent law the provisions included in House Resolution 1368, 94th Congress, which established a Commission on Administrative Review in the House of Representatives. It also makes permanent law the provisions of House Resolution 1372, 94th Congress—the so-called stripper resolution—which limits the authority of the Committee on House Administration to fix and adjust allowances.

If this amendment fails, the Obey Commission will expire with the end of the 94th Congress and the authority of the Committee on House Administration to provide increases in allowances without specific approval of the House will be restored.

This is the traditional mechanism utilized by the House over the years to make permanent those provisions established by House resolution which are felt desirable to carry over to subsequent Congresses.

Mr. Chairman, I recommend adoption of the amendment and yield back the balance of my time.

Mr. COUGHLIN. Mr. Chairman, I rise in opposition to the amendment, because it does enact into permanent law the so-called stripper amendment, which, as I pointed out when I was describing the recommittal motion that we will offer, has at least a large loophole in it. The Committee on House Administration is still permitted under the so-called stripper amendment to change Members' allowances without a vote on the floor of the House, because of increases in prices, because of increases in costs, or because of technological changes, which really gives it a very large loophole to permit changes in allowances without a vote of the House.

Mr. Chairman, I wish at this time also to again call attention to the motion to recommit, which will be offered at the appropriate time. It will contain the eight amendments described in the "Dear Colleague" letter sent to each and every one of the Members on August 27 under the signatures of MESSRS. RHODES, CONABLE, FRENZEL, BAUMAN, ARMSTRONG, CEDERBERG, REGULA, and myself. We have copies of that "Dear Colleague" letter available at the desk in case any Member wishes to see it.

Mr. Chairman, there is only one differentiation between that letter and what will be offered. Since the amendment of the gentleman from Illinois (Mr. SHIPLEY) has been adopted, we would not need to offer our amendment to eliminate the automatic cost-of-living increases. We have, however, modified his amendment in the recommittal motion to insure that that just applies prospectively.

The recommittal motion, I might add, does not affect in any way the Udall amendment to the Shipley amendment which has been adopted. That remains in the bill.

Mr. Chairman, I would urge support of the recommittal motion at the appropriate time.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this amendment is purported to be one which extends the life of the Commission on Administrative Review and indeed it does. But, unfortunately, it does a good deal more than that and because of what it does in addition to extending the life of the Commission it should be rejected.

The Members will recall when we passed the first resolution creating the Commission on Administrative Review. It was part of the stripper resolution that took from the Committee on House Administration its ability to raise the allowances of the Members. But, unfortunately, when we did that we left two glaring loopholes.

The first, of course, was the fact that we allowed the Committee on House Administration to consolidate our accounts. The second, is more important. It left ongoing power to the Committee on House Administration to make increases in our accounts as long as they are deemed by the committee to be cost-of-living increases.

That means, under the stripper resolution, which is in effect until the end of this year, and under this amendment, if we pass this amendment, the Committee on House Administration can increase our travel allowances if it deems that the cost of travel has gone up, and it can increase our stationery allowances if it deems the cost of responding to constituents through correspondence has gone up. And it can make increases in any other expense account, as well.

Many of these costs and accounts are very difficult to precisely gage in terms of their increase. My judgment is that this amendment to the pending resolution gives too much discretion to the Committee on House Administration.

I think it was the intention of this House and I think it is the intention of most of the Members of this House that we vote on each and every increase in our own expense account. It is my best judgment that this is what the people of the United States want. That is, that each time we increase our own accounts we stand accountable and have to vote yes or no on that question. I believe that the people of this country want us to stand up and be counted whenever we vote on increases in our accounts.

If we adopt the Shipley amendment we are putting into permanent law that loophole through which the Committee on House Administration can increase our accounts without a vote of the whole House on this question. In my judgment that is a mistake.

Also I would like to speak in favor of the motion to recommit which would include eight reforms, many of which were brought to our attention, because of the event we now call the Hays-Ray incident.

These reforms are undone. They were not taken care of on July 1. They are not taken care of today. They are immediate reforms. If we pass a motion to recommit we will be giving the people of the United States some indication that we really mean business when we are talking about reform.

I hope the motion to recommit will be passed by a large majority.

Mr. THOMPSON. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I very strongly support the Shipley amendment which would make permanent the bipartisan Obey Commission and would make permanent the so-called stripper resolution.

I disagree very strongly with the statement of my friend, the gentleman from Pennsylvania, and my friend, the gentleman from Minnesota, to the effect that the Committee on House Administration has been left with an enormous loophole through which to drive.

I disagree further with the gentleman from Minnesota when he says that these cost-of-living increases or the increases in costs are difficult to ascertain. It is perfectly simple. When the General Motors Corp. announced that because of a prospective steel price increase its line of automobiles was going to be increased by 5.8 percent, the increase is a perfectly understandable—albeit rip-off—action by the General Motors Corp. The fact is that we have all sorts of indexes to indicate the increased costs.

The language of the regulations is to be written in such a way that only supportable costs can be automatically increased by the committee without coming to the floor. Everything else can, will, and must come to the floor.

Mr. Chairman, it is a perfectly easy thing to understand that if the air fare from Washington to Colorado or to Minnesota or to California is increased, the precise amount and percentage of that increase can be ascertained immediately, as can the cost of paper or printing or the other items. There is no difficulty in establishing the rate of increase.

We have had a postage stamp increase recently. Now we have done away with the postage allowance, as of the end of this session. But were we still to have a postage allowance and the cost of a stamp went from 10 to 13 cents, it does not take any mathematical genius to determine the percentage of the increase and to implement it.

With respect to the Obey Commission I think it is one of the most constructive reform actions taken by this House. It is my considered judgment that the 1971 act is indeed a justifiable and a workable reform. It may have been overdone by unilateral actions, but those actions in the future will be impossible if we adopt this amendment.

Mr. Chairman, I look forward to the recommendations of the Obey Commission as I am sure do all the Members of this body. I think if we want to talk about meaningful reform and bipartisan input and outside assistance, really, to constructively reform, that the Shipley amendment should be agreed to.

(Mr. THOMPSON asked and was given permission to revise and extend his remarks.)

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. SHIPLEY).

The amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. PIKE, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee having had under consideration the bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes, pursuant to House Resolution 1507, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. COUGHLIN. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. COUGHLIN moves to recommit the bill, H.R. 14238, to the Committee on Appropriations, with instructions to that Committee to report the bill back to the House forthwith, with the following amendments: On page 7, after line 24, insert the following new section:
>
> "Expenditure of any appropriation under this Act, available for disbursement by the Clerk of the House of Representatives, shall be limited to those expenditures included in the statement of expenditures, authorized by 2 U.S.C. 104a, which statement is updated daily, and will be available for sale at the United States Government Printing Office, in the amount of at least 5,000 copies, prepared in accordance with 2 U.S.C. 104a, and includes a job description of each employee, the location where services are rendered, blood or marriage relationship of each employee to any Member of the House of Representatives, and is available for public inspection during normal working hours each day, excepting only Saturdays, Sundays, and legal holidays."
>
> On page 5, line 12, strike the period, and insert in lieu thereof: ": *Provided*, That appropriations under this paragraph shall not be available for the salary of any person who at the same time receives a salary under any other paragraph of this Act."
>
> On page 7, after line 24, insert the following new section:
>
> "Expenditure of any appropriation contained in this Act, disbursed on behalf of any Member or Committee of the House of Representatives, shall be limited to those funds paid against a voucher, signed and approved by a Member of the House of Representatives, stating under penalty of perjury, that the voucher is for official expenses as authorized by law: *Provided further*, That any Member of the House of Representatives who willfully makes and subscribes to any such voucher which contains a written declaration that it is made under the penalties of perjury and which he does not believe at the time to be true and correct in every material matter, shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $2,000 or imprisoned for not more than five years, or both."
>
> On page 7, after line 24, insert the following new section:
>
> "Funds in this Act shall be limited to services provided by the Stationery Room, the House Recording Studio, the House Barber shops, the House beauty salon, and each food service facility, that are operated on an annually self-sustaining basis including costs of personnel employed in those entities."
>
> On page 7, line 2, strike the period, and insert in lieu thereof: ": *Provided*, That none of the funds contained in this Act shall be used to implement the House Committee on Administration Order No. 30 of June 25, 1976, to increase the total allowances for any Member of the House of Representatives above the total allowances for which he would have been eligible pr[illegible] to the issuance of that order."
>
> In the first sentence of the proviso beginning on line 15, page 2, after the word "Representatives" add "implemented after September 30, 1976".
>
> On page 7, after line 24, insert the following new section:
>
> "None of the funds contained in this Act shall be made available for the purposes authorized by House Resolution 457, approved July 21, 1971 (Public Law 92–184) or authorized by House Resolution 1372, approved July 1, 1976, as a result of any order to be issued by the Committee on House Administration pursuant to the provisions of House Resolution 456, 92nd Congress, or House Resolution 1372, 94th Congress, for official expenses and allowances for Members, officers, and standing committees of the House of Representatives."
>
> On page 7, after line 24, insert the following new section:
>
> "None of the funds in this Act shall be used to provide or administer staff or consultant services for the Committee on House Administration in excess of the level in fiscal year 1976."

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. LONG of Maryland. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Clerk concluded the reading of the motion to recommit.

POINT OF ORDER

Mr. DINGELL. Mr. Speaker, I make a point of order against the motion to recommit.

The SPEAKER. The gentleman will state it.

Mr. DINGELL. Mr. Speaker, the motion to recommit falls in violation of the rules against legislation in an appropriation bill. Under the rules of the House, Mr. Speaker, a motion to recommit is subject to the same germaneness tests as any other amendment to a piece of legislation.

Mr. Speaker, I therefore make a point of order against the motion on the grounds that it constitutes an attempt to legislate in an appropriation bill.

Mr. Speaker, to refer now specifically to the intents to legislate which are involved in the motion to recommit, if the Chair will direct his attention to the first page, there is a requirement for publication of a large number of documents, to be available for sale at the U.S. Government Printing Office, in the amount of at least 5,000 copies, including rate, job description of employees, location where services are rendered, blood or marriage relationship of each employee to any Member of the House of Representatives; requiring that this document shall be available for public inspection.

On page 3, there is a requirement that any Member who makes a false statement subscribing any voucher shall be guilty of the penalties of perjury.

This adds essentially a new amendment to the Criminal Code, which most properly can be found in title 18 of the United States Code, and it imposes further, Mr. Speaker, a requirement that such act shall constitute a felony which will be punishable by not more than $2,000 or subject to imprisonment of not more than 5 years.

Furthermore, Mr. Speaker, there is a requirement that none of the funds shall be available for purposes authorized in the House resolution relating to official expenses and allowances of Members of the House and Standing Committees of the House of Representatives which would be available for consideration of the House in other legislation in connection with the contingent fund.

Therefore, Mr. Speaker, I urge the Chair to sustain the point of order and strike down the motion to recommit as violative of the Rules of the House of Representatives.

The SPEAKER. Does the gentleman from Pennsylvania desire to be heard on the point of order?

Mr. COUGHLIN. Mr. Speaker, I rise in opposition to the point of order that has been raised.

Mr. Speaker, first of all, as to that portion of the motion to recommit that the Clerk of the House is required to compile a list of expenditures, that is presently compiled under current statutory authority. I respectfully direct the attention of the Chair to section 104a of title 2 of the United States Code, which provides in part:

> For each semiannual period . . . the Secretary of the Senate and the Clerk of the House of Representatives shall compile . . . and make available to the public . . . a report containing a detailed statement, by items, of the manner in which appropriations and other funds available for disbursement by the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, have been expended during the semiannual period covered by the report, including (1) the name of every person to whom any part of such appropriation has been paid, (2) if for anything furnished, the quantity and price thereof, (3) if for services rendered, the nature of the services, the time employed, and the name, title, and specific amount paid to each person, and (4) a complete statement of all amounts appropriated, received, or expended, and any unexpended balances. . . .

The motion does not require any significant additional duties on the part of any official, except that certain information, compiled under existing law, be made available to the public. On the question of additional duties, I respectfully direct the attention of the Chair to Deschler's Procedure, chapter 25, section 10–4.

On the question of requiring public availability of information, I respectfully direct the attention of the Chair to the ruling of April 10, 1964:

> The expenditure of any appropriation under this act by any committee of the Congress or by the Architect of the Capitol shall be limited to those committees and those funds and contracts supervised by the Architect of the Capitol where such expenditures are a matter of public record and available for public inspection.

Mr. Speaker, with respect to the point of order addressed to the execution of vouchers under penalties of perjury, that does not impose a significant additional duty in compliance with the facts that those vouchers must already be executed by the Members certifying that they are for official expenses. This motion says they would be executed under penalty of perjury.

The additional amendment would concede the point of order as it applies to the second paragraph on page 3 of the motion, but I think it would be beneficial to the Members to have that explanation there; and I would hope that the point of order would be withdrawn as to that point.

Mr. DINGELL. Mr. Speaker, in response to the gentleman from Pennsylvania, I do not retract my point of order. My point of order is directed entirely to the motion to recommit.

The SPEAKER. The Chair is prepared to rule. The Chair is going to sustain the point of order. The gentleman from Pennsylvania has conceded one portion of the point of order, and with that the entire motion to recommit is subject to a point of order.

MOTION TO RECOMMIT OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Mr. Speaker, I offer a motion to recommit.

The Clerk read as follows:

Mr. Coughlin moves to recommit H.R. 14238 to the Committee on Appropriations, with instructions to that Committee to report the bill back to the House forthwith, with the following amendments: On page 7, after line 24, insert the following new section:

"Expenditure of any appropriation under this Act, available for disbursement by the Clerk of the House of Representatives, shall be limited to those expenditures included in the statement of expenditures, authorized by 2 U.S.C. 104a, which statement is updated daily, and will be available for sale at the United States Government Printing Office, in the amount of at least 5,000 copies, prepared in accordance with 2 U.S.C. 104a, and includes a job description of each employee, the location where services are rendered, blood or marriage relationship of each employee to any Member of the House of Representative, and is available for public inspection during normal working hours each day, excepting only Saturdays, Sundays, and legal holidays."

On page 5, line 12, strike the period, and insert in lieu thereof: ": *Provided*, That appropriations under this paragraph shall not be available for the salary of any person who at the same time receives a salary under any other paragraph of this Act."

On page 7, after line 24, insert the following new section:

"Expenditure of any appropriation contained in this Act, disbursed on behalf of any Member or Committee of the House of Representatives, shall be limited to those funds paid against a voucher, signed and approved by a Member of the House of Representatives, stating under penalty of perjury, that the voucher is for official expenses as authorized by law."

On page 7, after line 24, insert the following new section:

"Funds in this Act shall be limited to services provided by the Stationery Room, the House Recording Studio, the House Barber shops, the House beauty salon, and each food service facility, that are operated on an annually self-sustaining basis including costs of personnel employed in those entities."

On page 7, line 2, strike the period, and insert in lieu thereof: ": *Provided*, That none of the funds contained in this Act shall be used to implement the House Committee on Administration Order No. 30 of June 25, 1976, to increase the total allowances for any Member of the House of Representatives above the total allowances for which he would have been eligible prior to the issuance of that order."

In the first sentence of the proviso beginning on line 15, page 2, after the word "Representatives" add "implemented after September 30, 1976".

On page 7, after line 24, insert the following new section:

"None of the funds contained in this Act shall be made available for the purposes authorized by House Resolution 457, approved July 21, 1971 (Public Law 92-184) or authorized by House Resolution 1372, approved July 1, 1976, as a result of any order to be issued by the Committee on House Administration pursuant to the provisions of House Resolution 456, 92nd Congress, or House Resolution 1372, 94th Congress, for official expenses and allowances for Members, officers, and standing commitees of the House of Representatives."

On page 7, after line 24, insert the following new section:

"None of the funds in this Act shall be used to provide or administer staff or consultant services for the Commitee on House Administration in excess of the level in fiscal year 1976."

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. LONG of Maryland. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

(The Clerk concluded the reading of the motion to recommit.)

POINTS OF ORDER

Mr. DINGELL. Mr. Speaker, I have two points of order against the motion to recommit.

The SPEAKER. The gentleman from Michigan (Mr. Dingell) will state his points of order.

Mr. DINGELL. Mr. Speaker, the first one is that the rules of the House prescribe that there shall be one motion to recommit.

Mr. Speaker, I point out to the Chair that the gentleman from Pennsylvania (Mr. Coughlin) has made one motion to recommit which has failed by reason of its noncompliance with the germaneness rules of the House.

Mr. Speaker, the second point of order also made against the entirety of the motion to recommit is as follows: Although the language of the motion to recommit appears to be cast as a limitation on expenditures, in point of fact, it requires a number of acts which are not ministerial in character and which impose additional burdens, duties, and responsibilities—and I wish to stress additional burdens, duties, and responsibilities—upon officers of the Government.

Mr. Speaker, I will enumerate some of those and where they appear. The first is at page 1 of the motion to recommit, denominated as (A), submitted by the gentleman from Pennsylvania (Mr. Coughlin), in which it says:

Expenditure of any appropriation under this Act, available for disbursement by the Clerk of the House of Representatives, shall be limited to those expenditures included in the statement of expenditures, authorized by 2 U.S.C. 104a.

Mr. Speaker, this requires an action in which the Clerk must consult entirely different statutes and in which he is required to make a series of judgments which are not ministerial in character.

In addition to this, he is required again, under the language of the second paragraph, which reads as follows: "available for sale at the United States Government Printing Office, in the amount of at least 5,000 copies, prepared in accordance with 2 U.S.C. 104a" to prepare 5,000 copies of a lengthy and voluminous list. This lengthy and voluminous list which he must prepare goes well beyond the bounds of ministerial functions including a description, including a job description of each employee, the location where the services are rendered, blood or marriage relationship of each employee to any Member of the House of Representatives, which mean that he has to engage in lengthy consultations with at least 435 Members of the House.

Then, Mr. Speaker, it requires that this document be available for public inspection during normal working hours each day, excepting Saturdays, Sundays, and legal holidays.

Furthermore, Mr. Speaker, the burden is placed upon certain ministerial officials to see to it that appropriations under the paragraph will not be available to pay the salary of any person who at the same time receives a salary under any paragraph of this act.

Mr. Speaker, whether that is cast as a limitation or not is entirely immaterial because it so happens that it requires, again, broad actions which go well beyond the simple bounds of ministerial functions on the part of those who are commanded to take this action under the purported limitation, which is, in fact, a legislative instruction and direction.

In addition to this, Mr. Speaker, it is quite clear from a reading of the motion that not only is this not a limitation, but that the intention of the author of the motion to recommit, although it may be desirable from his point of view, is not to limit expenditures and does not constitute a limitation of expenditures within the language of the rules of the House; but, rather, is to impose a whole series of broad burdens and responsibilities, including consultations, including publication of lists in the amount of some 5,000 copies which will be available for public view and inspection during certain hours which are fixed and which may or may not be the same as the hours of the agency involved.

In addition to this, Mr. Speaker, I would urge that not only is the language violative, but so also is the intent.

The SPEAKER. The Chair is going to sustain the point of order; but if the gentleman from Pennsylvania (Mr. Coughlin) wishes to be heard, the Chair will recognize him before the Chair rules.

The Chair will first state that the fact that the first point of order was sustained on a previous motion to recommit, does not affect the right of the minority to offer a proper motion to recommit.

However, the Chair would state to the gentleman from Pennsylvania that if the gentleman wishes to discuss further the present motion to recommit, the gentleman may do so. But the Chair would also state that there are a number of duties placed upon the Clerk which are affirmative and which are not just passively descriptive of an existing requirement for publication, and therefore the Chair will be constrained to sustain the point of order.

MOTION TO RECOMMIT OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Mr. Speaker, in that case, I offer a motion to recommit, with instructions, which is marked "E."

The CHAIRMAN. The Clerk will read the motion to recommit.

The Clerk read as follows:

Mr. COUGHLIN moves to recommit H.R. 14238 to the Committee on Appropriations, with instructions to that Committee to report the bill back to the House forthwith, with the following amendments: On page 7, after line 24, insert the following new section:

"Expenditure of any appropriation under this Act, available for disbursement by the Clerk of the House of Representatives, shall be limited to those expenditures included in the statement of expenditures, authorized by 2 U.S.C. 104a, which statement is available for public inspection during normal working hours each day, excepting only Saturdays, Sundays, and legal holidays."

On page 5, line 12, strike the period, and insert in lieu thereof: ": *Provided,* That appropriations under this paragraph shall not be available for the salary of any person who at the same time receives a salary under any other paragraph of this Act."

On page 7, after line 24, insert the following new section:

"Expenditure of any appropriation contained in this Act, disbursed on behalf of any Member or Committee of the House of Representatives, shall be limited to those funds paid against a voucher, signed and approved by a Member of the House of Representatives, stating under penalty of perjury, that the voucher is for official expenses as authorized by law."

On page 7, after line 24, insert the following new section: "Funds in this Act shall be limited to services provided by the Stationery Room, the House Recording Studio, the House Barber shops, the House beauty salon, and each food service facility, that are operated on an annually self-sustaining basis including costs of personnel employed in those entities."

On page 7, line 2, strike the period, and insert in lieu thereof: ": *Provided,* That none of the funds contained in this Act shall be used to implement the House Committee on Administration Order No. 30 of June 25, 1976, to increase the total allowances for any Member of the House of Representatives above the total allowances for which he would have been eligible prior to the issuance of that order."

In the first sentence of the proviso beginning on line 15, page 2, after the word "Representatives" add "implemented after September 30, 1976".

On page 7, after line 24, insert the following new section:

"None of the funds contained in this Act shall be made available for the purposes authorized by House Resolution 457, approved July 21, 1971 (Public Law 92–184) or authorized by House Resolution 1372, approved July 1, 1976, as a result of any order to be issued by the Committee on House Administration pursuant to the provisions of House Resolution 456, 92nd Congress, or House Resolution 1372, 94th Congress, for official expenses and allowances for Members, officers, and standing committees of the House of Representatives."

On page 7, after line 24, insert the following new section:

"None of the funds in this Act shall be used to provide or administer staff or consultant services for the Committee on House Administration in excess of the level in fiscal year 1976."

Mr. DINGELL. Mr. Speaker, I make a point of order against the motion to recommit No. E and hopefully the minority had better go back and move a simple motion at this time.

The SPEAKER. The gentleman will state the point of order.

Mr. DINGELL. Mr. Speaker, I make the same point of order as before against the entirety of the motion to recommit on the ground that it constitutes an attempt to legislate in an appropriation bill.

I point out that the requirements of the rules are quite clear, that a motion to recommit may not any more legislate in an appropriation bill than may an amendment to an appropriation bill.

I point out also page 1 of the motion to recommit No. E—I think we have lost No. B—says that the expenditure of appropriations is limited to those expenditures included in the statement of expenditures authorized by 2 U.S.C. 104a, which statement is available for public inspection during normal working hours each day, excepting only Saturdays, Sundays, and legal holidays.

This imposes again broad administrative responsibilities that go beyond a simple ministerial action and beyond the simple withholding of expenditures by the officer of Government involved, and they require further the affirmative duty of ascertaining that each expenditure is within the bounds authorized by 2 U.S.C. 104a.

And also requiring that a statement shall be published and shall be available for public viewing and inspection during normal working hours of each day is going again beyond the simple ministerial function.

In addition to this the second page requires that appropriations shall not be available to pay the salary of any person who at the same time receives a salary under any other paragraph of this act, again requiring broad administrative actions apart from the simple ministerial functions or judgments requiring a simple paying or withholding of funds, as such being violative of the rules of the House.

In addition to this page 3 constitutes legislation in that it requires every chairman or every person making out or filing a voucher to sign under penalty of perjury, and this is an additional function going beyond the ministerial function of a limitation on an appropriation and what that would tolerate.

It requires the voucher to be signed and approved by a Member of the House of Representatives stating under penalty of perjury that the voucher is for official expenses as authorized by law.

In addition to this the purported motion to recommit at page 4 requires that funds shall be limited to services provided by the stationery room, the House beauty salon, and each food service facility, that are operated on an annually self-sustaining basis including costs of personnel employed in those entities.

Again this requires a broad determination, a thoroughgoing review and audit by the administering officer which may go well beyond and which indeed goes well beyond the simple disbursing of funds or withholding of funds as is the normal tradition in connection with the limitation on expenditure of funds as required by the rules of the House.

Therefore, Mr. Speaker, I insist on my point of order.

Mr. COUGHLIN. Mr. Speaker, with respect to the point of order made to page 1 of the amendment, we do have a precedent that I stated earlier on this, and I would direct the Chair's attention to what happened on April 10, 1964, when the Chair held a similar amendment to be a valid limitation.

With respect to the other amendments and in particular the amendment requiring vouchers to be executed under penalty of perjury, these vouchers already are executed and are required already and that would not be requiring any additional duty in any way.

Finally, with respect to the objections made to amendment No. 7 on page 7, a very similar amendment, in fact, almost identical amendment, was offered by the gentleman from Maryland (Mr. BAUMAN) last year and was held to be in order.

The SPEAKER. The Chair is ready to rule.

The Chair has read the motion to recommit and has endeavored to follow the arguments of the gentleman from Michigan and the gentleman from Pennsylvania.

As to the argument on the first amendment in the motion, it comes within the parameters of a valid limitation as expressed in the 1964 ruling. There is no question about that; but the Chair does rule that by requiring that something must be done "under penalty of perjury" changes existing law and affirmatively creates a new provision of criminal law.

The Chair sustains the point of order.

MOTION TO RECOMMIT OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Mr. Speaker, I offer a motion to recommit in which it conforms to the Chair's ruling, eliminating the words "under penalty of perjury."

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. COUGHLIN moves to recommit H.R. 14238 to the Committee on Appropriations, with instructions to that Committee to report the bill back to the House forthwith, with the following amendments: On page 7, after line 24, insert the following new section:

"Expenditure of any appropriation under this Act, available for disbursement by the Clerk of the House of Representatives, shall be limited to those expenditures included in the statement of expenditures, authorized by 2 U.S.C. 104a, which statement is available for public inspection during normal working hours each day, excepting only Saturdays, Sundays, and legal holidays."

On page 5, line 12, strike the period, and insert in lieu thereof: "*Provided,* That appropriations under this paragraph shall not be available for the salary of any person who at the same time receives a salary under any other paragraph of this Act."

On page 7, after line 24, insert the following new section:

"Expenditure of any appropriation contained in this Act, disbursed on behalf of any Member or Committee of the House of Representatives, shall be limited to those funds paid against a voucher, signed and approved by a Member of the House of Representatives, stating that the voucher is for official expenses as authorized by law."

On page 7, after line 24, insert the following new section:

"Funds in this Act shall be limited to services provided by the Stationery Room, the House Recording Studio, the House Barber shops, the House beauty salon, and each food service facility, that are operated on an annually self-sustaining basis including costs of personnel employed in those entities."

On page 7, line 2, strike the period, and insert in lieu thereof: ": *Provided*, That none of the funds contained in this Act shall be used to implement the House Committee on Administration Order No. 30 of June 25, 1976, to increase the total allowances for any Member of the House of Representatives above the total allowances for which he would have been eligible prior to the issuance of that order."

In the first sentence of the proviso beginning on line 15, page 2, after the word "Representatives" add "implemented after September 30, 1976".

On page 7, after line 24, insert the following new section:

"None of the funds contained in this Act shall be made available for the purposes authorized by House Resolution 457, approved July 21, 1971 (Public Law 92–184) or authorized by House Resolution 1372, approved July 1, 1976, as a result of any order to be issued by the Committee on House Administration pursuant to the provisions of House Resolution 456, 92nd Congress, or House Resolution 1372, 94th Congress, for official expenses and allowances for Members, officers, and standing committees of the House of Representatives."

On page 7, after line 24, insert the following new section:

"None of the funds in this Act shall be used to provide or administer staff or consultant services for the Committee on House Administration in excess of the level in fiscal year 1976."

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. DINGELL. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

Mr. DINGELL. Mr. Speaker, I would like to hear it all read. We have had four of these now.

The Clerk concluded the reading of the motion to recommit.

The SPEAKER. The gentleman from Pennsylvania (Mr. COUGHLIN) is recognized for 5 minutes in support of this motion to recommit.

Mr. COUGHLIN. Mr. Speaker, after all of this, the motion to recommit is still essentially what was in the "Dear Colleague" letter of August 27, 1976, mailed to each Member, copies of which are available at the desk here. It now has the following differences from the proposals in that letter:

It would still require that expenditure records maintained by the Clerk of the House of Representatives be available for public inspection. It seems to me that opening this to the public so that the records may be available would have a cleansing and beneficial effect on this House. Certainly, knowledge, information, and public access is the most important thing. The only difference is that originally the amendment had provided that this would also be published, as it now is, and the publication would be available through the Government Printing Office. That has been deleted, but the records would still be open to the public.

Amendment No. 2 in that "Dear Colleague" letter would prohibit a person from serving on both a committee payroll and a Member's payroll. It would be continued and is in the motion to recommit.

Amendment 3, which would require that all vouchers for Members' committee expenditures would have to certify that the expenditures were for official business, but would not be executed under the penalties of perjury, which was eliminated by the ruling of the Chair.

Amendment 4, which would require the Stationery Room, House Recording Studio, Beauty and Barber Shops and all House cafeterias to operate on a self-sustaining basis, would be included in the motion to recommit.

Amendment 5, which would prohibit an increase of any individual Member's total allowances as a result of consolidation of accounts under House Resolution 1372, would remain.

Amendment 6 eliminates automatic cost-of-living increases, as was adopted earlier. We would modify that to say that it would only apply prospectively and not retroactively.

Amendments 7 and 8, both applying to restricting the authority of the Committee on House Administration to modify allowances by virtue of increases in costs, changes in technology, and so forth, would continue in the motion, as would holding the level of appropriations for the Committee on House Administration to last year's level.

This is a good, realizable package of amendments which can be adopted by this House now, here, today. We can demonstrate to the people that we can have responsible reform, that we can move on reform. These are questions that have been discussed and debated for months and months and years. We do not have to wait for commissions or committees to report on this. We have held hearings in various committees, including my own legislative subcommittee of the Appropriations Committee, and we are not going to be accused of simply arrogantly stonewalling and ignoring the desire of the public to have access to information and to have reform in Congress.

Here is the way to do it. I would urge the Members to vote for the motion to recommit.

Mr. SHIPLEY. Mr. Speaker, I think the proposals contained in the motion to recommit have been fully discussed. In fact, we have heard them earlier four or five times.

Mr. Speaker, I urge defeat of the motion.

Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. COUGHLIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 195, nays 199, not voting 37, as follows:

[Roll No. 688]

YEAS—195

Abdnor
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
AuCoin
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Biester
Blanchard
Boland
Breaux
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Butler
Byron
Carr
Carter
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
Derrick
Derwinski
Devine
Dickinson
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
Edgar
Edwards, Ala.
Emery
English
Erlenborn
Esch
Eshleman
Evans, Ind.
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Flynt
Fountain
Frenzel
Frey
Gibbons
Gilman
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hamilton
Hammerschmidt
Hansen
Harris
Harsha
Hechler, W. Va.
Heckler, Mass.
Hightower
Hillis
Holland
Holt
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Kasten
Kelly
Kemp
Ketchum
Keys
Lagomarsino
Latta
Lent
Levitas
Lloyd, Tenn.
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McDonald
McEwen
McKinney
Madigan
Mahon
Mann
Martin
Mathis
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mosher
Mottl
Myers, Ind.
Myers, Pa.
Nichols
O'Brien
Ottinger
Paul
Pettis
Pickle
Pike
Poage
Pressler
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Robinson
Rogers
Roush
Rousselot
Runnels
Russo
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Sharp
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steiger, Wis.
Studds
Symms
Talcott
Taylor, Mo.
Thone
Traxler
Treen
Tsongas
Vander Jagt
Walsh
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Whalen
White
Whitehurst
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Yates
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Addabbo
Alexander
Allen
Anderson, Calif.
Annunzio
Ashley
Aspin
Baldus
Baucus
Beard, R.I.
Bedell
Bergland
Biaggi
Bingham
Blouin
Boggs
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Cornell
D'Amours
Daniels, N.J.
Danielson
Delaney
Dellums
Dent
Diggs
Dingell
Dodd
Duncan, Oreg.
Early
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Gaydos
Giaimo
Ginn
Gonzalez
Hall, Ill.
Hall, Tex.
Hanley
Hannaford
Harkin

Harrington
Hayes, Ind.
Hébert
Hefner
Henderson
Hicks
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Jarman
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Koch
Krebs
Krueger
LaFalce
Landrum
Leggett
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McCormack
McFall
McHugh
McKay
Madden
Maguire
Mazzoli
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
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Murphy, Ill.
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Natcher
Neal
Nedzi
Nix
Nolan
Nowak
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Obey
O'Hara
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Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Preyer
Price
Randall
Reuss
Richmond
Risenhoover
Roberts
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Santini
Scheuer
Seiberling
Shipley
Sikes
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Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steed
Stokes
Stratton
Stuckey
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Thornton
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Waxman
Weaver
Whitten
Wilson, C. H.
Wilson, Tex.
Wolff
Wright
Young, Ga.
Young, Tex.
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Zeferetti

NOT VOTING—37

Abzug
Badillo
Bell
Chappell
Conlan
de la Garza
du Pont
Forsythe
Fuqua
Green
Hawkins
Hays, Ohio
Heinz
Helstoski
Hinshaw
Horton
Jones, Ala.
Karth
Kindness
Lehman
Matsunaga
Meeds
Murtha
Peyser
Rangel
Rees
Riegle
Ruppe
Ryan
St Germain
Sarbanes
Sisk
Steelman
Steiger, Ariz.
Stephens
Wirth
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Bell for, with Mr. Wirth against.
Mr. Conlan for, with Ms. Abzug against.
Mr. Young of Alaska for, with Mr. Hawkins against.
Mr. Steiger of Arizona for, with Mr. Rangel against.
Mr. Kindness for, with Mr. Matsunaga against.
Mr. Horton for, with Mr. Sarbanes against.
Mr. Forsythe for, with Mr. Chappell against.
Mr. Steelman for, with Mr. St Germain against.
Mr. Ruppe for, with Mr. Badillo against.

Until further notice:

Mr. Sisk with Mr. Stephens.
Mr. Helstoski with Mr. du Pont.
Mr. de la Garza with Mr. Green.
Mr. Fuqua with Mr. Ryan.
Mr. Jones of Florida with Mr. Riegle.
Mr. Heinz with Mr. Hays of Ohio.
Mr. Karth with Mr. Lehman.
Mr. Reese with Mr. Murtha.
Mr. Karth with Mr. Peyser.

Messrs. MAGUIRE, STUCKEY, and RANDALL changed their vote from "yea" to "nay."

Messrs. BROWN of Michigan and FISHER changed their votes from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHIPLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Shipley amendment on the limitation on pay and that all Members may have 5 legislative days in which to revise and extend their remarks and to include pertinent extraneous matter on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5465) entitled "An act to allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2145) entitled "An act to provide Federal financial assistance to States in order to assist local educational agencies to provide public education to Vietnamese and Cambodian refugee children, and for other purposes."

The message also announced that the Senate had passed a Concurrent Resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 137. Concurrent resolution to correct the engrossment of the Senate amendments to H.R. 10612.

RESIGNATION AS MEMBER OF HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following communication:

SEPTEMBER 1, 1976.

HON. CARL L. ALBERT,
Speaker, House of Representatives,
Washington, D.C.

DEAR SIR: I hereby resign my office as Representative in the Congress of the United States from the 18th district of Ohio, effective immediately.

With great respect,

WAYNE L. HAYS.

The SPEAKER. Without objection, the Speaker will notify the Governor of the State of Ohio of the resignation of the gentleman from Ohio.

There was no objection.

LEGISLATIVE PROGRAM

Mr. O'NEILL. Mr. Speaker, I rise in order that I may announce the program for the remainder of the day.

We will take up forthwith the bill H.R. 14886, the Presidential Transition Act amendments under an open rule with 1 hour of debate, but I understand from the committee that it will take only a brief time.

Concluding that, we will adjourn.

REQUEST TO CHANGE HOUR OF MEETING ON SEPTEMBER 2, 1976

Mr. O'NEILL. Mr. Speaker, I would ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock tomorrow morning.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, will the gentleman from Massachusetts tell us what the program will be.

Mr. O'NEILL. Mr. Speaker, if the gentleman will yield, we will consider first H.R. 13636, Law Enforcement Assistance Administration, and conclude consideration, and following that we will continue consideration of H.R. 10498, Clean Air Act amendments.

It is expected that we would adjourn tomorrow night before 6 o'clock.

Mr. BAUMAN. Is it the intention of the majority not to bring up the Estate and Gift Tax Reform Act tomorrow at all?

Mr. O'NEILL. I have not talked with the chairman of the committee but I would have to say the Estate and Gift Tax Reform Act will not be brought up tomorrow but will be brought up at a later date. I can assure the gentleman I have talked with the chairman of the Ways and Means Committee and he is aware of the problems that confront the small businesses and the farmers of America and in no way does he intend to let the legislation go down the drain.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I am pleased to have that assurance but I think we would feel better if we could consider the legislation before we go home for the Labor Day weekend.

Mr. O'NEILL. I can assure the gentleman, if he will yield, it is not going to be considered before that, and if we can go on with the LEAA and the clean air bills, I think that would be in the best interest of our people to expedite the business of the Congress.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, I object.

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourn today it adjourn to meet at 11 o'clock tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PERMISSION FOR MANAGERS TO HAVE UNTIL MIDNIGHT, SEPTEMBER 3, TO FILE CONFERENCE REPORT ON H.R. 14262, DEPARTMENT OF DEFENSE APPROPRIATIONS

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, September 3, to file a conference report on H.R. 14262, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PRESIDENTIAL TRANSITION ACT AMENDMENTS

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 1512 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1512

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14886) to revise the appropriation authorization for the Presidential Transition Act of 1963. After general debate, which shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Texas (Mr. Young) is recognized for 1 hour.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. Del Clawson), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1512 is an open rule providing 1 hour of general debate on the bill H.R. 14886, a bill to revise the appropriation authorization for the Presidential Transition Act of 1963. The rule provides a waiver of section 402(a) of the Congressional Budget Act to permit consideration of this measure. That section of the Budget Act prohibits consideration of bills authorizing new budget authority for a fiscal year unless they have been reported by May 15 preceding that fiscal year. The waiver, in the opinion of the Committee on Rules, was justified in this instance since the Federal Election Commission recently issued regulations which would prohibit campaign funds from being used for transition purposes. These new circumstances, unforeseen prior to the May 15 deadline, necessitate the authorization of additional funds to provide for a Presidential transition.

Mr. Speaker, H.R. 14886 would authorize a total of $3 million for such a transition, $2 million for providing services and facilities to the President and Vice President-Elect and not more than $1 million to provide services and facilities to the outgoing President and Vice President.

Mr. Speaker, I urge the adoption of House Resolution 1512 to permit the consideration of this measure.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as my colleague, the gentleman from Texas has explained, House Resolution 1512 provides for the consideration of H.R. 14886, a bill to revise the appropriation authorization for the Presidential Transition Act of 1963. The resolution grants a 1-hour open rule and waives the provision of section 402(a) of the Budget Act which requires all legislation providing new budget authority for the upcoming fiscal year to be reported in the House on or before May 15.

Under existing law, a maximum of $900,000 is authorized for any one Presidential transition. The first transition to occur under the act was in 1968, following the election of President Nixon. At that time, the Administrator of General Services decided that the $900,000 should be divided equally between the incoming and the outgoing administration. In a report submitted to Congress dated November 16, 1970, the GAO noted that President Nixon actually incurred costs of $1.5 million, yet only $450,000 was available to him to meet his portion of the costs in the transition.

Mr. Speaker, H.R. 14886 increases the authorization for any one Presidential transition from $900,000 to $3 million. Of this $3 million, up to $2 million would be available for the purposes of providing services and facilities to the President and Vice President-elect, and a maximum of $1 million would be available to the outgoing President and Vice President.

This bill sets forth no new policy. It merely makes it possible for the current policy to be carried out by absorbing the enormous inflation that has crippled the country as a result of free spending irresponsibility of the Congress.

Mr. Speaker, H.R. 14886 was reported by the Committee on Government Operations by a vote of 31 to 0, and there is no opposition to the rule to the best of my knowledge. Therefore, I ask that the resolution be adopted.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I call up the bill (H.R. 14886) to revise the appropriation authorization for the Presidential Transition Act of 1963, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended to read as follows:

"Sec. 5. There are hereby authorized to be appropriated to the Administrator such funds as may be necessary for carrying out the purposes of this Act, except that with respect to any one Presidential transition—

"(1) not more than $2,000,000 may be appropriated for the purposes of providing services and facilities to the President-elect and Vice President-elect under section 3, and

"(2) not more than $1,000,000 may be appriated for the purposes of providing services and facilities to the former President and former Vice President under section 4.

The President shall include in the budget transmitted to Congress, for each fiscal year in which his regular term of office will expire, a proposed appropriation for carrying out the purposes of this Act."

Sec. 2. The amendment made by the first section of this Act shall take effect on—

(1) the date of the enactment of this Act, or

(2) October 1, 1976,

whichever is later.

With the following committee amendments:

Page 1, line 3, insert "(a)" immediately after "That".

Page 2, immediately after line 10, insert the following:

(b) Section 3(a)(3) of the Presidential Transition Act of 1963 is amended by striking out "at rates not to exceed $100 per diem for individuals".

The SPEAKER. The question is on the committee amendments.

The committee amendments were agreed to.

Mr. BROOKS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, H.R. 14886 has been reported by the Committee on Government Operations by a vote of 31 to 0 to meet a special need that may confront the Nation as a result of the Presidential election coming in November. There is a possibility that a new President will be elected to be inaugurated on January 20. There is also a certainty that a new Vice President will be elected, also to be inaugurated on January 20.

Thirteen years ago Congress recognized the necessity of providing for an orderly transition from one administration to the next by enacting the Presidential Transition Act of 1963. This law provides funding for the payment of expenses which normally must be incurred by an incoming President and Vice President in preparation for assuming office. It also provides funding for expenses that outgoing Presidents and Vice Presidents inevitably incur in winding up their official duties and separating and removing personal effects.

Prior to the enactment of the Presidential Transition Act, those expenses were borne by the incoming or outgoing officeholders and were paid either out of their own pockets or by contributions from others. Now that we are financing Presidential campaigns with public funds, a Presidential candidate—who has accepted public financing—is prohibited from raising private funds for purposes of governmental transition. The policy has already been established by the 1963 act that the Government will pay these expenses. The question before us today is simply to assure that there are sufficient funds to meet that obligation.

The original law authorized a maximum appropriation of $900,000. When President Nixon assumed office, his expenditures for assuming the Presidency were $1.5 million. Only $450,000 was available under the Transition Act—less than one-third of the amount actually spent. It is clear that the passage of time and the inflation of recent years has rendered the figure in the law outdated. The legislation before us today will increase the maximum amount for any one transition to $3 million which is, in our opinion, much more relevant to the expected needs. The committee decided that a proper division based on the experience of the past would be $2 million for the incoming administration and $1 million for the outgoing.

Representatives of the General Accounting Office, the Office of Management and Budget and the General Services Administration all agreed that the $800,000 figure should be increased. We have been advised that the Administration would not object if the Congress wished to change the level of appropriation at this time. The committee also adopted a technical amendment at the suggestion of the OMB which would enable experts and consultants employed under the act to be paid up to the rates permitted by the Administrative Expenses Act—a maximum of $145 per day.

Anyone voting on this measure is not taking a position on how this year's election may go. But the Congress should make the necessary preparations for a Presidential transition in case such an eventuality occurs. We should act promptly so the necessary appropriations can be made before Congress adjourns.

Mr. RHODES. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the bill we are considering today, H.R. 14886, Presidential Transition Act amendments, is largely an exercise in wishful thinking on the part of the majority.

It is obvious that the heady wine of public opinion polls taken 2 months prior to the election has been the genesis of this measure. It is peculiar that this Congress has been able to legislate with due haste on a matter that is largely conjecture, but is unable to scrape itself together to meet the serious challenges that face our Nation.

I would remind my friends across the aisle of the words in the 19th chapter of St. Matthew, verse 30:

> And many that are first shall be last; and the last shall be first.

A portion of this bill has merit. It provides funds for the transition of the Vice Presidency. I am certain that Senator DOLE will not need all of the liberal amount provided in the bill, so the taxpayers will be saved more than two-thirds of this $3 million speculative appropriation.

On that basis, I will support passage of this measure, knowing full well that the majority is counting its peanuts before the vine is grown. My party fully intends to see to it that there is a crop failure.

In fact, I think the best way that the American people could save $3 million is to overwhelmingly reelect Gerald Ford to the Presidency of the United States.

Mr. ERLENBORN. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I join with my colleague, the gentleman from Texas, in support of H.R. 14886, the Presidential Transition Act amendments.

The bill would increase the authorization of funds to be appropriated to carry out the purposes of the Presidential Transition Act of 1963. The bill increases the authorization for any one Presidential transition to $3 million to be divided as follows: No more than $2 million may be appropriated for the purposes of providing services and facilities to the President-elect and Vice President-elect; and no more than $1 million to provide services and facilities to the outgoing President and outgoing Vice President. These amounts are adequate and reasonable given the tremendous increase in costs since the Transition Act was originally adopted in 1963.

I believe it is important that we consider the significance of an orderly transition. The United States is unique in the way in which power is shifted from one incumbent President to the next. Providing the necessary funds for a smooth transition is a sound investment for the American people.

Each new President faces a hurricane of demands and decisions immediately after an election. The services, facilities, and means to meet these responsibilities should be made available.

The importance of this requirement is underscored by the fact that this legislation cleared the Government Operations Committee by a unanimous vote of 31 to 0.

I urge my colleagues to support H.R. 14886.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. HARRIS: Page 2, immediately after line 13, insert the following new section:
>
> SEC. 2. Section 3(a)(2) of the Presidential Transition Act of 1963 is amended by striking out "or nonreimbursable".
>
> Page 2, line 14, strike out "SEC. 2." and insert in lieu thereof "SEC. 3.".

Mr. HARRIS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HARRIS. Mr. Speaker, I am offering an amendment today to H.R. 14886, the Presidential Transition Act amendments, which I believe will close a major loophole in existing law and will make this Congress face up to its legislative responsibilities.

The Presidential Transition Act of 1963 authorizes funds for both the incoming and outgoing President and Vice President during the transition period between the November election and the January inauguration. These funds are to be used for staff, office space, office supplies, postage, and travel, essentially. Existing law also authorizes the detailing of employees from the various Federal agencies to the "Presidential transition staff" with certain protections against loss of pay and other rights and privileges of employment.

However, in this area of detailing there is a provision in existing law which I believe is highly undesirable. The act reads that—

> Any employee of any agency of any branch of the Government may be detailed to such staff on a reimbursable or nonreimbursable basis with the consent of the head of the agency.

My amendment deletes the phrase "or nonreimbursable." The effect of the amendment would be, thus, to require the President who is in transition, whether incoming or outgoing, to pay agencies for any employees detailed to the President from an agency.

A RESPONSIBILITY OF LEGISLATORS TO SET PARAMETERS

I am offering this amendment because I think it is irresponsible for this Congress or any Congress to create gray areas in authorizing legislation which allows the shifting of employees for whatever purpose all around the Government. Authorizing legislation should set finite amounts for specific purposes; this is our responsibility in writing laws. Additonally, when we appropriate funds, we should specify for what purposes they can be used. In essence, what we are saying by allowing a President, one coming in or one going out, to borrow employees from agencies without reimbursing those agencies for Presidential transition funds is that we are not willing to set parameters on Government. I am not objecting to the practice of detailing. There is no question that an incoming President particularly needs the expertise of Government officials who have had experience in various issues and Government policies. This is a very necessary responsibility of our Federal agencies in assisting a new President. My point is this: If, for example, a new President borrows the State Department's top expert on South America or if the outgoing President borrows Defense Department military personnel to fly him across the country, the funds to pay those employees should reimburse the agency that provided the personnel.

A PART OF WHITE HOUSE REFORM

Last year, when H.R. 6706, the White House staffing bill, came before the House Post Office and Civil Service Committee and then again before the House on July 9, I tried to include a similar provision in that bill. My amendment today is a continuation of that effort. No President should be able to swell his or her ranks and increase his power by calling over additional personnel. If additional personnel are needed, Congress should authorize them and the public should know about them. This Congress does and should authorize the detailing of employees. But it is also our responsibility to know how much it costs, to provide those funds, and to be able to account for them. This is good government.

UNFAIR TO FEDERAL AGENCIES

One final point: It is also our responsibility to our Federal agencies to make sure that their staffs are not depleted and that if they are the agency will be provided funds to substitute for employees who are detailed elsewhere. We cannot expect, for example, the Department of Commerce to send over to the new President all its experts on trade to help the new President develop trade policy without assisting the agency in carrying on its own business. This loophole in the law is not fair to the agency.

As a legislator I am not willing to write blank checks with the people's money. I am not willing to let the lines of Government get mushy. This amendment, while it may seem like a small step, is a reform and represents a significant responsibility of our Federal legislature.

Mr. **BROOKS**. Mr. Speaker, will the gentleman yield?

Mr. **HARRIS**. I yield to the gentleman from Texas (Mr. BROOKS).

Mr. **BROOKS**. I thank the gentleman for yielding.

Mr. Speaker, I have read the amendment, and I think it means concisely that if a new President is elected and the members of an agency are assigned to his staff, they must be paid out of the transitional fund.

I do not see any objection to it at all. I would hope that my colleague on the other side of the aisle, the gentleman from Illinois (Mr. ERLENBORN) would have the same feeling.

Mr. **ERLENBORN**. Mr. Speaker, will the gentleman yield?

Mr. **HARRIS**. I yield to the gentleman from Illinois (Mr. ERLENBORN).

Mr. **ERLENBORN**. I thank the gentleman for yielding.

Mr. Speaker, unfortunately I did not have a copy of the amendment which the gentleman has offered until just now.

It seems to me, as I read it, that it is quite simple. It strikes the words "or nonreimbursable."

Mr. **HARRIS**. That is right.

Mr. **ERLENBORN**. Other than that, it makes no change except changes in sectional numbers and it does nothing other than exactly as the gentleman has described. I think it is a good amendment, and I would support it.

The **SPEAKER**. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The amendment was agreed to.

The **SPEAKER**. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The **SPEAKER**. The question is on passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **ASHBROOK**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 325, nays 58, not voting 48, as follows:

[Roll No. 689]

YEAS—325

Abdnor
Adams
Addabbo
Alexander
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, John
Burton, Phillip
Carney
Carr
Carter
Cederberg
Chisholm
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Derrick
Derwinski
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frey
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gradison
Gude
Hagedorn
Haley
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hillis
Holland
Holt
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Jarman
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mink
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quillen
Railsback
Randall
Rangel
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Russo
Santini
Sarasin
Satterfield
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Shriver
Simon
Slack
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stokes
Stratton
Stuckey
Studds
Symington
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—58

Ambro
Archer
Ashbrook
Bauman
Bevill
Brown, Mich.
Brown, Ohio
Burlison, Mo.
Butler
Clancy
Clawson, Del
Cochran
Collins, Tex.
Coughlin
Crane
Devine
Duncan, Tenn.
Findley
Frenzel
Goodling
Grassley
Guyer
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Hightower
Hyde
Ichord
Jacobs
Jeffords
Johnson, Colo.
Jones, Tenn.
Kelly
Kemp
Ketchum
Lloyd, Tenn.
Lujan
McCollister
McDonald
Miller, Ohio
Mottl
Paul
Quie
Regula
Roberts
Rousselot
Schneebeli
Schulze
Sebelius
Shuster
Skubitz
Smith, Nebr.
Snyder
Steiger, Wis.
Symms
Taylor, Mo.
Winn

NOT VOTING—48

Abzug
Badillo
Bell
Byron
Chappell
Conlan
de la Garza
Dent
Diggs
du Pont
Early
Esch
Forsythe
Fuqua
Green
Hawkins
Hays, Ohio
Heinz
Helstoski
Hinshaw
Horton
Jones, Ala.
Karth
Kindness
Lehman
Matsunaga
Meeds
Mills
Mitchell, Md.
Passman
Peyser
Rees
Riegle
Ruppe
Ryan
St Germain
Sarbanes
Sikes
Sisk
Steelman
Steiger, Ariz.
Stephens
Sullivan
Talcott
Ullman
Wilson, C. H.
Wirth
Young, Alaska

The Clerk announced the following pairs:

Mr. Wirth with Mr. Karth.
Ms. Abzug with Mr. Heinz.
Mr. Hawkins with Mr. du Pont.
Mr. Helstoski with Mr. Riegle.
Mr. Ullman with Mr. Hays of Ohio.
Mr. Matsunaga with Mr. Bell.
Mr. Sarbanes with Mr. Peyser.
Mr. Chappell with Mr. Conlan.
Mr. Badillo with Mr. Young of Alaska.
Mr. Sisk with Mr. Steiger of Arizona.
Mr. de la Garza with Mr. Horton.
Mr. Fuqua with Mr. Forsythe.
Mr. Jones of Alabama with Mr. Steelman.
Mr. Lehman with Mr. Ruppe.
Mr. St Germain with Mr. Byron.
Mr. Dent with Mr. Diggs.
Mr. Early with Mr. Esch.
Mr. Kindness with Mr. Green.
Mr. Meeds with Mr. Mills.
Mr. Rees with Mr. Mitchell of Maryland.
Mr. Ryan with Mr. Passman.
Mr. Stephens with Mr. Sikes.
Mr. Charles H. Wilson of California with Mrs. Sullivan.

Mr. **SKUBITZ** changed his vote from "yea" to "nay."

So the bill was passed.

The title was amended so as to read: "A bill to revise the appropriation authorization for the Presidential Transition Act of 1963, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 14886 just passed by the House.

The SPEAKER pro tempore (Mr. MCFALL). Is there objection to the request of the gentleman from Texas?

There was no objection.

IMPLEMENTING PRESIDENT'S PROPOSAL FOR BICENTENNIAL LAND HERITAGE PROGRAM

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, today I have introduced a bill which will implement the President's proposal for a "Bicentennial Land Heritage Program." This is the program announced late last week at Yellowstone National Park establishing a 10-year program to double America's heritage of national parks, recreation areas, wildlife refuges, urban parks and historic sites.

Briefly, the proposal would establish a $1.5 billion program to—

First, provide $141 million to be used to acquire lands for parks, wildlife refuges, and recreation areas, and historic sites;

Second, provide $700 million to develop new and existing parklands and refuges into recreation and conservation resources ready to serve the public;

Third, provide $459 million for upgrading and increased staffing for the national parks and wildlife refuges systems; and

Fourth, provide $200 million for grants to cities to upgrade present park areas in disrepair.

This bill also contains a supplemental budget request for appropriations totaling $1.32 billion for fiscal year 1977, $1.30 billion to remain available for obligation until 1986.

In announcing the program, the President called it "the soundest investment I can envision in the future of America. We must act now to prevent the loss of treasures that can never be replaced for ourselves, our children and for future generations of Americans." He added that it was necessary in order to "Conserve and cherish our incomparable natural heritage."

I endorse the objectives of the President's program. It is a far-reaching program. It will take years to complete. But I consider it one of the most important pieces of legislation this Congress will consider.

Mr. Speaker, I introduce this bill in hopes that we can act on it expeditiously.

FARM POLITICS AND EARL BUTZ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SEBELIUS) is recognized for 10 minutes.

Mr. SEBELIUS. Mr. Speaker, I find it most interesting that once every 4 years various candidates for public office become pioneers and homesteaders and set out to plow ground in farm country. It is interesting to those of us who have the privilege of representing rural areas and agriculture to watch the fireworks and witness the various candidates discover and try to understand "parity," "farm exports," and the "middleman."

It appears to me that 1976 is no exception and, as usual, the Secretary of Agriculture is caught in the middle of the crossfire. And, since Earl Butz has been Secretary of Agriculture longer than any of his predecessors, he has been the target of some strong criticism and partisan attack.

Mr. Speaker, I have the privilege of representing the district that grows more wheat than any State in the Nation. Our feed grains and cattle credentials are in order as well. I think it is time to put the farm issue into proper perspective and look at the record.

Secretary Butz needs no apologist and I certainly have not agreed on every farm policy decision that has come down the road since December of 1971 when he put on the Secretary's cap. I recall the appointment of Earl Butz became an issue back during the campaign of 1972. Let us look at the record since that time. He responded to his critics with free-market policies that have produced record farm income for 4 straight years. In 1973, farm income exceeded $20 billion for the first time. In the last 3 years, realized net farm income has averaged almost $27 billion annually. These long-overdue gains have been dramatic and have prompted an unprecedented rise in property value for landowners.

For years, the same critics who so loudly proclaim Secretary Butz' policies a failure today, complained over and over again about a farm policy that "subsidized farmers for not growing crops." Yet the same folks who are being blamed for today's farm policies are the very ones who achieved the millennium in agriculture program policy—they got the Government out of farming and gave the farmer an opportunity to receive a fair price from the marketplace. Then came the "embargo."

Since this is an election year, we find many candidates who have suddenly discovered the "grain embargo" issue. This is most ironic since a majority of these folks were most critical of the Soviet grain sale and were courting the consumer vote a year ago by pushing price controls on farm products. What a difference a year makes.

Let me stress that I have been very critical of the administration's policy in regard to the embargo. As a matter of fact, I considered the action to be a breach of faith and economic discrimination that has been counterproductive to both farmers and consumers. Again, however, if we can get past the compaign rhetoric, let us look at the facts. In spite of the temporary interruption in shipments, an interruption that was in response to labor, consumer and congressional pressures, the U.S. farmer exported an alltime record of 84.2 billion metric tons of grain in the 1975–76 marketing year. Total farm exports were a record $22.1 billion. Recent purchases by the Soviet Union are a direct result of the long-term minimum-purchase agreement between this country and the Soviets.

Today, the administration and those of different political persuasion have reassessed the embargo question. Political considerations have no doubt played an important role in this reassessment as politicians court the farmer's vote. But there is another reason. We are already into another surplus grain situation similar to the period we experienced in the 1960's. I am amused by the comments by my urban colleagues who still find consumer votes can be won by saying we should embargo grain shipments to foreign countries until we know what our domestic supplies will be. We know. The truth is the farmer's projected wheat surplus could provide every Member of Congress and every one of Earl Butz' critics and every citizen of this Nation 318 loaves of bread. Even if we mess up the rolls at the dinner table, we have a market glut.

Now that we have outproduced consumer demand, I welcome this new assessment of the grain embargo question. It is interesting to note that during the last Democrat administration, there was a full-time embargo on certain grain exports. The Democrat platform adopted in July, supports grain embargoes and price-depressing grain reserves. Apparently word of our wheat harvest did not reach New York City.

Naturally, the farmer is frustrated to the point of exasperation over Government intervention that has put the price of his product on a one-way rollercoaster while everything he must buy to stay in business has been going the other direction—without so much as a passing glance from Government.

However, the question facing farmers today is not the embargo of last year, but the future of American farm policy and the new farm bill we will write in the spring. In this regard, Earl Butz is on record for free markets and freedom for the farmer and American agriculture. The record shows he has been the guiding hand during an era in which this country embarked upon a free market agriculture policy—a policy that can enable the farmer to receive a fair price and continue to provide the consumer the best quality food at the relative lowest cost in the world today. It is a policy that will enable the farmer to feed our Nation and help feed a troubled and hungry world.

Despite the controversy, the record shows Earl Butz has been a friend of the farmer and the consumer. Regardless of the outcome of this coming election, history will show Secretary of Agriculture Earl Butz has made a great contribution to America's farm and food policy and the economic welfare of the family farmer.

Check the record, not the campaign rhetoric.

COMMEMORATION OF THE ANNIVERSARY OF THE INVASION OF POLAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the month of September marks the 37th anniversary of the invasion of Poland and the beginning of the most tragic and destructive war in the history of the world—World War II. On September 1, 1939, the forces of Nazism invaded Poland from the west and on September 17, the forces of communism invaded Poland from the east.

Throughout history, Poland has served as a bulwark of Christian civilization in Europe, restraining the Tartars and the Turks as they plundered and pillaged across the continent.

In the fall of 1939, there was no one able to protect Poland or to preserve her civilization, and this long-suffering land became a nation without a state, a tyrannized and persecuted country, deprived of half its territory and millions of its people.

Alone and unaided, the 830,000 soldiers and officers of the Polish Army fought heroically against the overwhelming odds and inhuman terror unleashed by the invaders.

Thousands of Polish infantry, Navy, and Air Force troops, forced to flee the military might of the invaders, joined the Allies and took up arms once more in France, Norway, North Africa, Italy, and Sicily. As the regular army slowly disintegrated with the country, an underground movement developed, directed by the Polish Government-in-exile. Stray divisions of the Polish Army together with civilian men, women, and children, intrepidly destroyed enemy planes, ammunition dumps, bridges, and other military installations.

Often forced to survive for months, or even years in forests and mountains, members of the resistance and the Polish populace at large reacted consistently with spirit and conviction. Refusing to betray their national honor and collaborate with the enemy, 6 million Poles preferred self-respect and death to capitulation and a cringing life. The nation lost close to one-quarter of her population, and the romantically beautiful city of Warsaw, the Polish capital, was leveled to the ground.

Millions of Poles suffered deportation and imprisonment in labor camps in Siberia and Asiatic Russia, as the Communists systematically attempted to destroy Polish cultural and religious life. Even in 1945 there was no peace for Poland. Absorbed by Soviet imperialism, the Poles have continued to fight for personal liberty and national integrity.

Those who have emigrated to the United States have brought with them their love of liberty and their respect for law and order. They have contributed much, socially, economically, politically, and culturally, to the advancement of our Nation, and have helped make the United States one of the greatest countries in the world.

I take this opportunity, Mr. Speaker, to give recognition to the great number of Polish Americans who reside in the 11th District of Illinois whom I am proud to represent in the Congress. They form a substantial part of the group of solid hard-working American citizens who are the backbone of our country. As we again observe this anniversary in the House of Representatives, I am honored to join Americans of Polish descent in Chicago and all over the Nation in their hopes and prayers for the reentry of Poland into the community of free nations. The long-suffering Polish people still look to a strong America for moral support in their continuing struggle to achieve their just aspirations to national liberty.

CAPTIVE NATIONS WEEK '76

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, the '76 Captive Nations Week was successful in many ways. Among other things, it perpetuated the critical inquiry into the détente policy that reached massive proportions during the preceding '75 Week. One need only peruse the July issues of of the RECORD last year to witness the breadth and depth of this criticism. This year's week, highlighted by the exceptional rally at the Statue of Liberty, deepened this criticism of détente and its grave shortcomings. More, in a thoroughly constructive manner, participants pointed to an alternative to the type of détente pursued by emphasizing great possibilities of action in the fields of human rights, Helsinki obligations, and Moscow's imperial-colonialism over the captive non-Russian nations in the Soviet Union. The opportunities are there for practical and realistic action. What is required are sufficient knowledgeability, vision, conviction, and courage to seize these opportunities and develop them methodically.

As further examples in my continuing report of the '76 Week, I direct the attention of my colleagues to the following proclamations by Gov. Dan Walker of Illinois, Gov. Meldrim Thomson, Jr., of New Hampshire, Acting Gov. March Fong Eu of California, Mayor Joseph S. Daddona of Allentown, Mayor Harvey I. Sloane of Louisville, Mayor John S. Ballard of Akron, Mayor Abe L. Drasin of Grand Rapids, and an article regarding the Statute of Liberty event by columnist Lee Edwards and opinions in the July 26 China Post:

PROCLAMATION

The desire for freedom and independence that united our forefathers two hundred years ago stirs today in the hearts of subjagated liberty-longing peoples throughout the world.

In the intervening years we have welcomed hundreds of thousands to these shores and, through the democratic process, we have striven for harmonious national unity.

Because of their different racial, religious and ethnic backgrounds life in these United States has been exciting and interesting and progressive. Although the people share their love of freedom and respect for independence they are encouraged to preserve their cultural differences and traditions.

Aware that in many countries the people are denied self-expression and must submit to the dominance of others, I, Dan Walker, Governor of the State of Illinois, proclaim July 12–17, 1976, Captive Nations Week. The Illinois observance will be culminated by the eighteenth annual Captive Nations Parade July 17 on State Street in Chicago followed by a reception and I suggest that all who can participate in the celebration.

A PROCLAMATION: CAPTIVE NATIONS WEEK, JULY 1976

Whereas, the greatness of the United States is in large part attributable to its having been able, through the democratic process, to achieve a harmonious national unity of its people, even though they stem from diverse racial, religious, and ethnic backgrounds; and

Whereas, since 1918 the imperialistic and aggressive policies of Russian communism have resulted in the brutal subjugation of free people in a vast and growing area of the world which poses a dire threat to the security of the United States and all of the remaining free peoples of the world; and

Whereas, these policies of the Communist world have led, through direct and indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam, South Vietnam, Cambodia, Laos and others; and

Whereas, it is fitting that we make clear to such peoples through appropriate and official means that the people of New Hampshire share with them our aspirations for the recovery of their freedom and independence; and

Whereas, the United States of America has and will continue to strive toward the day when all people of the world may live in freedom, and will continue to work to reverse the trend whereby freedom loving individuals and nations are losing their independence to aggressive communist nations at an ever-increasing pace; and

Whereas, President Dwight D. Eisenhower, on July 17, 1959, signed into law, a joint resolution authorizing and requesting the President of the United States to proclaim annually, the third week in July as Captive Nations Week until such time as the freedom and independence shall have been achieved for all the captive nations of the world; and

Whereas, the Presidential Proclamation issued by President Ford in 1975 failed to emphasize the true spirit of the congressional resolution which was to give support and encouragement to the enslaved people of captive nations to carry on their struggle for freedom from communist domination until liberty again reigned triumphant in their oppressed lands; and

Whereas, the policy of the Ford administration as developed by Secretary of State Henry Kissinger providing detente for Communist Russia and Red China will only freeze into position the losses of the former free people and independent nations;

Now, therefore, I, Meldrim Thomson, Jr., Governor of the State of New Hampshire, do hereby proclaim the third week of July, 1976 as Captive Nations Week, and urge our citizens to observe this week with appropriate ceremonies and activities including strong opposition to the continuation of detente with Communist Russia and Red China.

STATE OF CALIFORNIA,
GOVERNOR'S OFFICE,
Sacramento, Calif., July 14, 1976.

To the National Captive Nations Committee, Inc.:

I am pleased to join in observing July 18–24 as Captive Nations Week.

As we celebrate the 200th anniversary of our independence, it is especially appropriate to unite Americans in remembrance of the people of those countries in which freedom is only a desire.

Sincerely,

MARCH FONG EU,
Acting Governor.

PROCLAMATION

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities, expressing their sympathy with and support for the just aspirations of captive peoples.

Now, therefore, I, Joseph S. Daddona, Mayor of the All-America City of Allentown, do hereby proclaim the week of July 18-24, 1976 as "Captive Nations Week" and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

PROCLAMATION

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples:

Now therefore, I, Harvey I. Sloan, Mayor of the City of Louisville, do hereby proclaim the week of July 18-24, 1976 as Captive Nations Week in Louisville, and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

PROCLAMATION TO THE PEOPLE OF AKRON

Whereas: The imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, S. Vietnam, Laos and others; and

Whereas: The desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas: The freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas: The Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples.

Now, Therefore: I, John S. Ballard, Mayor of the City of Akron, proclaim the week of July 18-24, 1976 as "Captive Nations Week" in Akron, Ohio and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

PROCLAMATION

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and the ensalvement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy and support for the just aspirations of captive peoples:

Now, therefore, I, Abe L. Drasin, Mayor of the City of Grand Rapids, do hereby proclaim the week of July 18-24, 1976 as Captive Nations Week in Grand Rapids, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

[From Rising Tide, Aug. 2, 1976]

WHAT DO YOU HAVE TO DO TO GET A HEADLINE?

(By Lee Edwards)

On Sunday, July 11, 1976, between the hours of 1:00 and 4:45 p.m., at the Statue of Liberty in New York Harbor, an enthusiastic but well-mannered gathering of over 1,000 people were addressed by the following dignitaries:

The mayors of our two largest cities, Abe Beame of New York and Richard Daley of Chicago.

The lieutenant governor of New York, Miss Mary Anne Krupsak.

The junior U.S. Senator from New York, James L. Buckley.

Two prominent Democratic Congressmen, Ed Koch of Manhattan, a liberal, and Mario Biaggi of Brooklyn, a conservative.

The president of one of the most important unions in New York City, Sol "Chick" Chaikin of the International Ladies Garment Workers Union.

Three distinguished foreign visitors—Tran Van Don, the last vice premier of South Vietnam; Dr. Ku Cheng-kang of the Republic of China (who flew 10,000 miles to be present), and Avraham Shifrin, presently of Israel, who spent 10 years in the Gulag Archipelago.

The day was not all speeches. There was colorful entertainment by eight different ethnic groups, including a dramatic Chinese dragon dance, a sinuous Turkish dancing ensemble, fiery Cherkissian and Ukrainian athletes and ribald Bavarian dancers who slapped their and each others' thighs.

The Staten Island Musicians Society Military and Concert Band, 55 men and women strong, played throughout the warm afternoon, drawing especially hearty applause with their stirring rendition of the Overture of 1812 by Tchaikovsky.

The orderly event was called "The Bicentennial Salute to the Captive Nations" and was sponsored by an ad hoc committee of about 50 organizations in the New York area, including the New York City Central Labor Council, the Catholic War Veterans, the Military Order of the Purple Heart, the A. Philip Randolph Institute, and almost every ethnic group imaginable.

The occasion was Captive Nations Week, commemorating those nations and people who live, not by their choice, under communism. There were appropriate proclamations. Mayor Beame read one, Mayor Daley read one, Lt. Gov. Krupsak read one.

Dr. Lev Dobrinansky, chairman of the National Captive Nations Committee, read President Ford's proclamation, which although not strong enough for some in attendance nevertheless stated that the U.S. supports "the aspirations for freedom, independence and national self-determination for all peoples. We do not accept foreign domination over any nation."

So, the Salute was a success, right? Wrong. It was a non-event in the opinion of almost all of the New York news media, with two exceptions.

The *New York Times* printed a 3½ inch summary of the rally on page 6 of its July 12th edition while WNBC-TV, Channel 4, presented an excellent 3-minute wrap-up on its 11 o'clock news program Sunday evening.

What about the *New York Daily News*—the voice of the middle class and the ethnics, which loves to quote Senator Buckley? Nothing.

The *New York Post?* Nothing. AP, UPI, ABC, CBS, and all the other radio and TV stations in the most mediaized city in America? Nothing.

The Salute's sponsors took some satisfaction in that the Voice of America and Radio Liberty, which beams into the Soviet Union, recorded and will transmit segments of the speeches and entertainment through the detente curtain into Eastern Europe and beyond.

Of course there were extenuating circumstances. There always are. July 11th was the day before the opening of the Democratic National Convention. There was an awful lot going on—a brunch at "21", an afternoon block party in lower Manhattan, a Jimmy Carter party at Pier 88 that evening, a march down Broadway by more than 10,000 right to lifers, and a demonstration by several hundred Gay Libbers proclaiming that "Sodomy Is Good."

But, I was informed by the organizers, they called the news media three days running prior to the rally and were led to believe that the *Daily News* and Associated Press would be present.

"Damn it," said one ethnic leader, "we *deserve* to be covered. We had the mayors of the two largest cities in America, those other speakers, music, dancers, flags, and our message was *important*—certainly as important as those fairies." His voice was shaking with frustration and anger.

The reaction of these bitterly disappointed middle Americans, it seems to me, is likely to be one of two extremes:

(1) They will become so discouraged that they will stop having rallies and parades. They will become once again a Silent (and Brooding) Majority.

(2) They will adopt the mediawise tactics of those who do get coverage and become disruptive, angry, threatening, demanding.

Either way, they and the nation will lose.

They asked me, over and over again, "What do you have to do to get a headline?"

I didn't have any answer.

[From the China Post, July 26, 1976]

Freedom and Dignity

In addition to the deprivation of freedom of the Chinese people on the China mainland by the Chinese Communists, the dignity of the Chinese people has also been destroyed.

The Chinese Communists deal with people as if they were lifeless objects. If they are of some value, they begin to use them. On the other hand, if and when there is no more use for them they immediately destroy them without any scruples. Evidence of this can be found in the purge of senior Communist cadres.

In this Captive Nations Week, it is altogether fitting and proper to point out that if the Chinese Communists are not destroyed, they will continue to pose a threat to mankind. Hence the importance of the delivery of the captive peoples.—Hsiu Chen Chun Chiu, Taiwan Daily News.

U.S. Support for Captive Nations

Since the U.S. is the initiating country of the movement to support the captive nations and since the U.S. is the only country which has the strength, it must not only pay lip service, but should make sure its ideals and pledges are realized.

The U.S. should distinguish friend from foe and should not make any further appeasement or concessions to the Chinese Communists—the world's biggest enslavers.—Shen Lun, Central Daily News.

LEGISLATION TO AMEND SERVICE CONTRACT ACT OF 1965 TO PROTECT PROFESSIONAL EMPLOYEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Corman) is recognized for 5 minutes.

Mr. CORMAN. Mr. Speaker, I am pleased to announce that the distinguished chairman of the House Education and Labor Subcommittee on Labor-Management Relations, Mr. Thompson, and I have introduced legislation to amend the Service Contract Act of 1965 to extend protection to professional employees.

The impetus for this legislation originated during hearings conducted by the Education and Labor Committee into the tragic "wage busting" situation at Cape Canaveral, Fla. The original focus of those hearings was the treatment of nonprofessional white-collar workers whose wages had been driven down by competitive bidding on Government service contracts. But in the course of those hearings, witnesses on behalf of the Institute of Electrical and Electronics Engineers, as well as other highly respected groups, made the strong case that the wage busting bidding practices which had previously wiped out the standard of living of blue-collar workers, and had more recently driven down the incomes of white-collar workers because of a Florida court decision excluding white-collar workers from service contract coverage, presented the identical problem with respect to professionals. One witness explained that "engineers with 10 to 12 years experience and a master degree are making less money than unionized nonprofessionals". This deplorable situation needs to be remedied.

My colleague, Mr. Thompson, has made substantive progress to restore Service Contract Act protection to white-collar workers. This effort is a logical first step in bringing the Service Contract Act in line with its original legislative intent. Now, in light of the overwhelming evidence presented at recent hearings we need to give the professional a fair shake and extend coverage under the umbrella of the Service Contract Act.

The bill Congressman Thompson and I have introduced would extend the protections of the Service Contract Act to professionals, but in a very special way. First, it would define a "professional employee" for purposes of the act's coverage, to include any professional covered by the most recent U.S. Department of Labor national survey of professional, administrative, technical, and clerical pay, employed in a civilian job at a rate not less than that received by Federal Government employees in grade 15 of the general schedule. Second, the bill would provide that professionals whose services are comparable to those described in the national survey of professional, administrative, technical, and clerical pay receive not less than the prevailing rate described in the survey. Third, the measure would establish a successorship standard, so that a bidder succeeding to a previous contractor's agreement with the Government could not pay professional employees less than they earned under the predecessor's contract—the fundamental protection needed to prevent the wage busting practice which the Government itself has fostered through competitive bidding practices. And fourth, to the extent that salaries and fringe benefits for various classes of professional employees are not adequately described in the survey, the Department of Labor shall make the necessary determinations.

Mr. Speaker, this bill would in no way convert professionals into "clock punchers." It would set some floor, some decent standard of wage for professional engineers, artists, et cetera, regardless of locality. It would prevent skilled professionals from being financially undercut due to the Government's competitive bidding process. It would insure the dignity and integrity of the professional during these difficult economic times.

Within the next several days, we will circulate a "Dear Colleague" to enlist Members' support for this measure. I am optimistic that my colleagues will endorse this bill which I include for their consideration.

H.R. 15228

A bill to amend the Service Contract Act of 1965 to extend its coverage to professional employees

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2(a) of the Service Contract Act of 1965 (41 U.S.C. 351(a)) (hereinafter called the "Act") is amended by striking out ", as defined herein,";

(b) Section 2(b) of the Act is amended by striking out "as defined herein".

Sec. 2. Section 2(a)(1) of the Act is amended by inserting immediately after "arm's-length negotiations" the following: "*Provided,* That with regard to professionals whose services are substantially the same as those described in the National Survey of Professional, Administrative, Technical and Clerical Pay, issued pursuant to section 5305 of title 5, United States Code, the prevailing rates for such employees in any locality shall not be less than the rate described in the National Survey of Professional, Administrative, Technical and Clerical Pay.".

Sec. 3. Section 2(a)(2) of the Act is amended by inserting immediately after "arm's-length negotiations," the following: "*Provided,* That with regard to professionals whose services are substantially the same as those described in the National Survey of Professional, Administrative, Technical and Clerical Pay, issued pursuant to section 5305 of title 5, United States Code, the prevailing rates for such employees in any locality shall not be less than the rate described in the National Survey of Professional Administrative, Technical and Clerical Pay.".

Sec. 4. Section 2(a)(5) of the act is amended by inserting immediately after "section 5341" the following: "or section 5332".

Sec. 5. Section 4(c) of the Act is amended by inserting immediately after "Sec. 4. (c)" the following: "(i)", and at the end of subsection 4(c) by adding the following new subparagraph.

"(ii) No contractor or subcontractor under a contract, which succeeds a contract subject to this Act and under which substantially the same services are furnished, shall pay any service employee under such contract less than the salaries and fringe benefits, including accrued salaries and fringe benefits, to which such service employee would have been entitled if he were employed under the predecessor contract.".

SEC. 6. Section 8(b) of the Act is amended to read as follows:

"(b) The term service employee means any person engaged in the performance of a contract entered into by the United States and not exempt under section 7, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons, other than—

"(1) any person employed in a bona fide executive or administrative capacity (as defined in part 541 of title 29, Code of Federal Regulations, and any subsequent revision of those regulations; and

"(2) any person employed in a professional capacity (as defined in part 541 of title 29, Code of Federal Regulations, and any subsequent revision of those regulations) provided that such person is compensated at a rate not less than that received by Federal Government employees in grade 15, of the General Schedule as provided in section 5332 (a) of title 5, United States Code.".

SEC. 7. Section 10 of the Act is amended by adding at the end thereof the following new section 11:

"SEC. 11. It is the intent of Congress that the determinations of minimum salaries and fringe benefits for the various classes of professional employees under the provisions of paragraphs (1) and (2) of section 2(a) shall conform with the most recent National Survey of Professional, Administrative, Technical and Clerical Pay issued by the United States Department of Labor and prepared by its Bureau of Labor Statistics. To the extent that such survey does not cover fringe benefits or does not cover average salaries in the United States for any class of professional employees, such determination should be made with respect to all contracts subject to this Act as soon as it is administratively feasible to do so. In any event, the Secretary shall make such determinations with respect to the contracts subject to this Act which are entered into during the applicable fiscal year described in section 10 hereof, no later than June 30, 1977.".

OREGON SEA GRANT ADVISORY SERVICE: A MODEL FOR THE NATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 5 minutes.

Mr. AuCOIN. Mr. Speaker, one of the most successful Federal programs ever established in my State of Oregon is the national sea grant program. Through its marine research, training, and community advisory services it has in just a few years become an important part of life along the Oregon coast.

Of the many things it does well perhaps none stands out like the success of its marine advisory service—a program of helping local residents, businessmen, and officials solve problems involving the State's spectacular coastal and marine resources.

Because of the concern which the Merchant Marine and Fisheries Committee has expressed over the progress of similar programs around the country, I would like to insert an article in the RECORD which documents the kind of practical assistance which sea grant can provide to communities if it so chooses. I believe the Oregon State University advisory program stands as a model for the Nation in this regard and I am pleased to bring its record to the attention of this House:

SEA GRANT PROGRAMS IN OREGON

(By Charles Jackson)

Perhaps it was Will Rogers who quipped, "Predicting is hard, especially the future." Educators in Sea Grant programs around the country might be quick to rejoin that sizing up the past can be taxing, too, especially when determining the value of marine advisory services.

Advisory services are a principal arm of the National Sea Grant Program. Their objective is to encourage wise use of the nation's finite marine resources—to speed knowledge developed through Sea Grant teaching and research into practical application. Measuring the benefits of advisory services can be a challenge.

Consider the effects of a Sea Grant marine economist dissuading an ill-equipped citizen from risking his life savings in a marine business venture that would be a certain failure. How does the director of the advisory service express the value of such assistance?

Fortunately, not all accomplishments of Sea Grant advisory services are so difficult to gauge. A four-year advisory project by Oregon State University's Sea Grant program has concluded this year with results that can be interpreted in economic as well as humanistic terms.

As a result of marine advisory service involvement, at least two factions of the Pacific Northwest marine community are profiting. In the process they are applying methods learned from Sea Grant advisory personnel to resolve conflict over rights to ocean resources.

Commercial crab and black cod fleets fish off the northern California, Oregon and Washington coast seasonally. Like the familiar New England lobstermen, these Pacific fisheries use baited traps, called "pots."

They leave the pots unattended on the sea floor for intervals, relying on surface floats tethered to the pots to enable them to retrieve and empty them. This West Coast fleet pursues the savory Dungeness crab into waters of 100 fathoms or so, while the black cod fleet ventures farther seaward to greater depths.

In recent years a territorial dispute grew to significant proportions because the Pacific is not the exclusive territory of these commercial fishermen—it is at the same time the highway for a robust coastwise commerce. Petroleum products from California refineries go north by sea. Wood products from the temperate rain forests of the Northwest ultimately journey south to fuel a seemingly insatiable demand for construction materials in southern California.

Most of this traffic is transported by tug and barge. For safety as well as economy, coastal towboats run relatively near shore, frequently crossing the 100-fathom mark.

Towing a string of barges through pot fishing grounds has much the same effect on fishing floats that running a rotary mower over a lawn has on dandelion blooms. Brightly painted floats and severed lines foul propellers and damage hulls. Unmarked pots, worth $80 or more apiece, become impossible to locate. Worse yet, they go on fishing. Crabs and fish trapped inside die, become bait, and a senseless killing goes on for protracted periods until the traps become silted over or until chemical action and rust open escape routes. All sides lose.

By the 1970's claims and counterclaims by towboaters and fishermen were adding to the press of already overburdened court calendars in the Northwest. By 1971, Kenneth Ayers, executive secretary of the Northwest Towboat Association in Seattle, recalls, "My office was receiving at least one telephone call a week and up to three letters per week from fishermen. They were demanding damages for gear lost when towboats allegedly ran through their fishing grounds."

Ayers canvassed several agencies for assistance in resolving the conflict, including the U.S. Coast Guard, the U.S. Army Corps of Engineers and the National Marine Fisheries Service. A spokesman at one agency recommended that he ask his Congressional representation to write new Federal legislation to clear up the disputes. Ayers had in mind more immediate relief.

Eventually, he spoke with someone in the greater Portland, Oregon, area (Ayers no longer remembers his name), who made the suggestion he contact the marine advisory service of Oregon State University's Sea Grant Program. He admits it was the first time he had paid any attention to the name Sea Grant. He followed through on the advice, telephoning Extension oceanographer Ed Condon, on the Oregon State Universtiy campus in Corvallis.

Condon had only recently heard that Paul Heikkila, marine Extension agent at Coquille, on Oregon's south coast, was concerned about the same problem—from the fishermen's side. He called Heikkila, and they perceived the situation described by Ayers as exactly the sort of people-centered problem that Sea Grant advisory services have been created to serve.

Heikkila set about identifying fishermen affected by towboat traffic; aided by Robert W. Jacobson and Alan T. Otness, Oregon's two other marine Extension agents, he established contacts all along the coast. Condon tried to locate representatives from every towboat firm operating along the Oregon coast.

Having recruited the players, Heikkila and Condon set the stage for what they hoped could be a shirt-sleeve work session with the two factions talking directly to each other. A meeting was called in Newport, Oregon, in November 1972. Fishermen drawn from Astoria, Oregon, south to California's Bodega Bay were in attendance, along with towboaters from Puget Sound to the San Francisco Bay area. Most of the latter were members of the Pacific Northwest Towboat Association.

That first encounter lasted four hours, not all of them altogether comfortable. Heikkila recalls that at the start the atmosphere was electric:

"It all looked a little tentative at first. And it was pretty obvious that neither party understood the other's operation or problems." Bill Wick, presently director of the Sea Grant College Program at OSU, was then the head of the Marine Advisory Program. He paints a more colorful picture:

"It was like tossing tomcats into a small room and closing the door on them."

At Newport, the groups sat down face to face for the first time, with Sea Grant advisory service personnel moderating. By the time the workshop adjourned, the attendees had in hand an agreement on who would and would not go where. With some steering from the marine advisory service, they managed to reach a pragmatic truce.

Papering the walls with navigation charts for the entire California-to-Washington coast, the fishermen pencilled in the outlines of pot fishing grounds. The tow-boaters worked in their wake, lining off tow lanes, and saying what they could and could not live with. Where claims overlapped, the two factions managed to iron out compromises.

The Oregon State University marine advisory staff arranged to reproduce marked charts, and thus began a four-year pilot project with Sea Grant printing and distributing annotated navigation charts to all Pacific Northwest fishermen and towboaters who could be found.

After that first effort, Condon piloted the annual proceedings. Since the second meeting, only minor modifications to the original terms have been required. Under Condon's and Ayers' hand, more and more diversified representation was convened annually, meeting at Coos Bay in 1974 and in Portland last fall, before the opening of the 1975–1976 crab season. Following each of these meetings, the OSU Sea Grant Marine Advisory Program has printed and distributed the latest versions of the marked charts.

Comparing the situation before 1972 to the present, Ayers sees unequivocal payoffs to Condon's and Heikkila's work. He reports that for the 1972–1973 season complaints and losses of offshore gear were all but nonexistent, for the waters covered by the accord. Following the second workshop, he received only one call from a fisherman during the entire 1973–1974 season. That call was from a black cod fisherman in California seeking information on the location of towing lanes in his vicinity.

For 1974–1975 negotiations were extended to cover the coast from Destruction Island, Washington, to Half Moon Bay, California. Condon relates that the association informed him it received no complaints in 1974–1975. It did have one call from a fisherman alerting towboaters to the relocation of a heavy concentration of pots off Humboldt Bay. The only unsettlement troubling Ayers was frustration over not having a similar understanding between fishermen and towboaters using Puget Sound.

In contrast to the tense atmosphere at the beginning of the first workshop, the 1975 meeting saw the fishermen voice appreciation for the cooperation towboaters have extended when notified by radio of fishing gear on or near their track. Those in attendance at Portland explored ways to continue strengthening relations between the two communities.

Taking a cue from the tone of the meeting, Condon arranged for the towboaters and the fishermen to take responsibility for future meetings without the active involvement of Sea Grant.

Having shaped the climate for constructive change and having demonstrated how to effect change, the Marine Advisory Program has worked itself out of a job. In Condon's eye this is indication that the advisory service has scored a success. Another indication of success at the most recent session—the last that Condon expects to host—was representation of the Puget Sound fisheries. After observing the Portland proceedings, this group has announced its intent to meet and employ a similar process to seek a working understanding for the waters of the sound.

And there are signs the king crab fishery of the Gulf of Alaska may soon be covered by a similar agreement with towboaters. Condon has discussed Oregon's effort with Alaska's Sea Grant marine advisory staff and received word recently that they and the Pacific Northwest Towboat Association have begun negotiations.

Ken Hilderbrand, who succeeded Wick as head of the OSU Sea Grant Marine Advisory Program, also hails the efforts by Condon and Heikkila as successful.

"Even restricting ourselves to simple measurements of payoff, this project has cut two industries' annual costs in claims from multiple-thousands of dollars to a few long-distance phone charges," he summarizes. "Better yet, we are no longer dealing in claims to recover losses after the principals—including seafood stocks—have suffered. Now we are averting losses and making better use of sealanes and fishing grounds. The dividends are describable in economic as well as humanistic terms. Best of all, members of our advisory staff are free to move on to new challenges."

CRIME AND EMPIRE BUILDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. SLACK) is recognized for 5 minutes.

Mr. SLACK. Mr. Speaker, as we are still engaged in consideration of the LEAA authorization bill, I believe the editorial statement entitled "Crime and Empire Building," published in the September 1 Wall Street Journal would be of interest to the Members.

I am inserting the editorial for that purpose:

[From the Wall Street Journal, Sept. 1, 1976]

CRIME AND EMPIRE BUILDING

The Los Angeles City Council recently informed the Justice Department that it will not accept a $3.5 million grant it was scheduled to receive from the Law Enforcement Assistance Administration. The reason? LEAA was pressuring the Los Angeles Police Department to amend its hiring practices. According to the council and to police chief Edward Davis, LEAA wanted the LAPD to impose minority quotas, end testing for applicants and for promotions, eliminate physical agility tests and abolish its 5′ 7″ minimum height requirement.

This example of bureaucratic ukase abounds in ironies, especially since LEAA previously commended the LAPD's minority recruitment program as a model for others. The 7,400-member police force includes 411 black men and 16 black women, 631 Hispanic men and five Hispanic women, 50 Oriental men and one Oriental woman, plus 10 Indians, and 132 Caucasian females. A number of minority policemen hold high ranks.

The makeup of the LAPD does not mirror the precise racial or ethnic makeup of the City of Los Angeles, to be sure. But there are perfectly valid reasons why—everything from language barriers to the reluctance until very recently of blacks to seek careers in a profession many looked upon with some suspicion if not enmity. This attitude is changing, but it will take time before that change is reflected in big city police membership rolls, especially so in view of hiring freezes and cutbacks resulting from recent budget squeezes in most big cities.

Yet the above is mostly beside the point. The point is, what is LEAA doing meddling in local police policies? By stretching matters to the breaking point it can perhaps be argued that law enforcement has some relationship to minority attitudes about crime, which in turn are related to minority representation on police forces. But there is no lack of federal, state and city agencies to deal with such concerns. LEAA, on the other hand, was created as a direct federal response to public concern about crime—not about minority recruitment and similar sociological matters.

Yet increasingly LEAA seems to have lost sight of its origins and its mission. Several months ago two independent studies of the agency, including one commissioned by the agency itself, concluded that it has accomplished little in the fight against crime despite the expenditure of about $4.5 billion since 1968. They agreed that its most notable accomplishment has been to generate mountains of red tape and bureaucracy.

Rarely a day goes by that LEAA press releases don't trumpet another advisory panel, project or study that is only tangentially related to crime but very reminiscent of the empire building that took place during the federal "war on poverty." Meanwhile, LEAA's budget has grown from $63 million in 1969 to $753 million for fiscal year 1977. And crime continues to skyrocket.

Law enforcement officials we speak to generally approve of LEAA's efforts in keeping them posted about the latest technology for fighting crime. But they also feel that in an effort to construct a bureaucratic empire, LEAA has gone off in a thousand different and largely useless directions. Yet because the agency has the money to dangle in front of cooperative local police departments, few have had the courage to resist it. Chief Davis claims that LEAA director Richard Velde said that Los Angeles and its police department could expect retaliation from other federal agencies for turning down the grant. Mr. Velde denies this, but it would hardly be unprecedented for a rebuffed bureaucracy to threaten retaliation.

What we appear to be witnessing is a repeat of the federal role in education—a role that prompted Yale President Kingman Brewster to lament that accepting federal support for physics, for example, means "we must conform to federal policies in the admission of women to the Art School, in women's athletic facilities. . . ." So far federal "crime control" is only a miniature version of that effort, but it is advancing rapidly in that direction and with a similar lack of concrete results.

THE PLIGHT OF THE SLEPAK FAMILY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'NEILL) is recognized for 5 minutes.

Mr. O'NEILL. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history of these families entitled "Orphans of the Exodus" dramatically details this tragic problem. At this time I would like to bring to the Members' attention the situation of the Slepak family. Their problems are described in a letter from Mrs. Berta Rashkovsky:

I am asking you and the Americans you represent to help those who seek freedom. I am from Russia. In 1970, I together with my daughter, her husband and their two sons applied to the Soviet Government for permission to leave Russia to be repatriated to Israel our ancestral homeland. Shortly thereafter I was allowed to leave. I was then 68 years old and an invalid in need of medical care. My son-in-law Vladimir Slepak, who is a radio engineer, and my daughter Maria Slepak, who is a physician, and my grandchildren were refused permission to leave. Let me explain what has happened since.

My son-in-law was fired from his job in March, 1970—the date that he had applied for a "character reference" which was a prerequisite for his application to go to Israel. Vladimir was born in Moscow in 1927. He completed his studies as a radio engineer in 1950, worked in a factory producing television equipment until 1957 and afterwards (1957–1969) at the Scientific Institute for TV Research where he became chief of the laboratory for development of TV and impulse apparatus. During this period he wrote technical articles that appeared in "closed"

Soviet journals and completed course-work for a Master's Degree. In 1969 he had become active in the struggle for the rights of Jews to leave for Israel. After he was fired from his job in 1970, he found other work as an engineer, but in September, 1971, he was forced also to resign this position. He was told that his applications to go to Israel were refused because the work he had done had been classified as secret. His employment since 1969 involved no secret work. Soviet law states that a five-year period after secret work is sufficient, but still today he is denied permission to leave. Instead, the KGB—the Soviet secret police—have interrogated him repeatedly. In 1970 he was summoned by the KGB as a witness in the second Leningrad trial. On one of his interrogations in 1970 he was held confined for a day and a half in a special chamber with temperature below freezing and floor space 1½x3 feet. He was detained for participating in a demonstration and declared a 12-day hunger strike. The interrogations and surveillance continue, and in fact affects the whole family. Their apartment has been forcibly entered. The KGB uses equipment to monitor continuously conversations in every part of the apartment. During one of their forced entries, KGB agents knocked my daughter unconscious. Their older son, Alexander, who was 17—almost 18 years old—at the time the family applied to go to Israel, had started work in a laboratory but was forced to resign. He found other work, but in September, 1971, he was again forced to resign his position. Although forced from employment by KGB agents, at the same time he was arrested and detained by them for not working. The younger son, Leonid, was born in 1959. He was just eleven years old when the KGB arrested him as he was returning home from school and forcibly interrogated.

All this harassment and the family's efforts, including hunger strikes, have affected their health. The KGB has even interfered with their medical treatment. The Slepak family has tried every avenue they can, and even I, in Jerusalem, joined my children and grandchildren when they were on a hunger strike by also fasting. In 1972 when my grandson was 13 and had his Bar Mitzvah, proxy ceremonies were held in synagogues throughout the United Kingdom on that day. But we need more help to make their case known. It is only in this way that the Soviets will release them. I am now 73 and I very much want my children and grandchildren to be freed to join me in Israel.

I pray that you will help us.

Yours truly,

Mrs. Berta Rashovsky.

WE SHOULD REACTIVATE THE U.S.S. "SANCTUARY" TO PROVIDE MEDICAL ASSISTANCE TO THE INNOCENTS IN LEBANON

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. Koch) is recognized for 5 minutes.

Mr. KOCH. Mr. Speaker, I do not think that my colleagues are aware that the United States is about to mothball its last active duty hospital ship. The U.S.S. *Sanctuary* is languishing in Philadelphia in the initial phase of deactivation, while the need for its immediate use becomes more obvious every day. The civil war in Lebanon rages on. Upward to 40,000 people have been killed since April 1975, and many thousands more have been wounded. One can only understand the enormity of these casualties if one extrapolates them to the United States: In the United States a civil war of this scale would mean nearly 3 million dead, and millions more wounded. Obviously, the need for medical attention is great.

There are doctors in Pennsylvania who have volunteered to man this ship in its mission to Lebanon. What is needed is an appropriation of up to $10 million to recondition, activate, and operate the ship. Furthermore, I believe the hospital ship is needed beyond the present situation in Lebanon. We should make the U.S.S. *Sanctuary* an ongoing component of the U.S. program of worldwide humanitarian assistance. Unfortunately, the need for immediate, on the spot medical assistance will always exist.

Along with 19 Members of the House, I am introducing a resolution calling for an appropriation to reactivate the U.S.S. *Sanctuary*. Senator Abourezk is sponsoring this effort in the Senate and will be attempting to include moneys for this ship in the foreign assistance bill. All of us, whatever our political perceptions or involvements, in or outside of the Middle East, must join together in this humanitarian mission. Those innocent civilians injured in the war—whether they be Christian, Moslem, or Jew—need our assistance, and we must do what we can for them.

The list of the cosponsors of this resolution follows:

Mr. Koch, Ms. Abzug, Mr. Bedell, Mr. Phillip Burton, Mr. Edgar, Mr. Eilberg, Mr. Flood, Mr. Harrington, Mr. Hughes, Mr. McHugh, Mr. Metcalfe, Mr. Oberstar, Mr. Richmond, Mr. Roe, Mr. Rosenthal, Mr. Ryan, Mr. Simon, Mr. Solarz, Mrs. Spellman, Mr. Charles Wilson of Texas.

STATEMENT OF CONGRESSMAN GLENN ENGLISH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. English) is recognized for 5 minutes.

Mr. ENGLISH. Mr. Speaker, in recent years the people of Oklahoma's Sixth District have become increasingly concerned with the problems which court-ordered busing are causing in communities throughout America, and there have been numerous congressional efforts to pass special legislation ending the authority of the courts to order such busing.

Unfortunately, Mr. Speaker, the principal measures which are under consideration are legislative in nature, and as such they are subject to review and repeal by the Federal courts themselves.

I have long believed that the job of insuring quality education for our Nation's children can best be done on the State and local level, and I have been deeply concerned by the increasing role which the Federal Government and the Federal courts have played in our Nation's classrooms.

After thoroughly reviewing the various proposals which have been made in this area, I have concluded that it is time to let the people speak on this issue through a constitutional amendment. I am convinced that only such an amendment has a serious chance of actually ending court-ordered busing.

I am today introducing a joint resolution to amend the Constitution and return to the States sole authority over the administration of all schooling in America.

This amendment would give State courts the responsibility for supervising the operations of State schools, and would prevent Federal courts and officials from interfering in the operation of any school system.

Mr. Speaker, I believe that it is time to end the threat of court-ordered busing, and I urge my colleagues to join me in working for the enactment of this constitutional amendment.

I ask unanimous consent that a copy of this joint resolution be printed in the Congressional Record at the conclusion of my remarks.

Thank you very much.

The joint resolution follows:

H.J. Res. 1082

Joint resolution proposing an amendment to the Constitution of the United States relating to powers reserved to the several States

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurred therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress.

"ARTICLE —

"Each State shall have sole and exclusive jurisdiction of the organization and administration of all public schools and public school systems within the State. The courts of each State shall have exclusive jurisdiction to determine all rights, privileges, and immunities of citizens of the State with respect to public schools and public school systems within the State. No officer or court of the United States shall have power to impair or infringe any right so reserved to the States.".

MIAMI: AMERICA'S AIR GATEWAY

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I have been deeply concerned over the failure of the Civil Aeronautics Board to recognize the importance of Miami as a major air gateway for America in making its recommendations in the current transatlantic route proceeding.

That concern is shared by all of the people of metropolitan Dade County which is the site of the largest port of entry in the United States. The mayor of our county, the Honorable Stephen P. Clark, has called upon the President to grant us a personal hearing in this matter and I have spoken to the White

House to urge most strongly that this request be granted.

I believe something of the strong feeling of our area is reflected in Mayor Clark's telegram to the President which I would like to include in the Record at this point. I also am including the text of a letter I wrote earlier to the President on this same subject:

Message Was Sent to President Ford

Mr. President: Your decision on CAB's Transatlantic route proceeding (docket 25908) is vital to the future of Metropolitan Dade County and all of south Florida. As mayor of a county larger than many States and a county which is now the site of the largest port of entry in the United States I urge you to reverse the CAB decision and award a Transatlantic route to Miami. I respectfully request a meeting with you at the White House or anyplace you designate to personally acquaint you with the great need we have in this area and to request your favorable action.

Should you agree to the meeting I would propose to bring with me Senators Lawton Chiles and Richard B. Stone, Congressmen Dante Fascell, Claude Pepper, and William Lehman, Dade County Commissioner Sidney Levin, Port Department Director Richard Judy and a representative of the Greater Miami Chamber of Commerce. Believing that Miami was the logical and natural choice for the new Transatlantic route our taxpayers have extended 30 million dollars for construction of a new international satellite terminal facility at Miami International Airport which will open in October. Our present role in aviation proves that our Transatlantic service is economically feasible and second to none in this country. We are the second busiest cargo facility in the Nation.

Again I respectfully request a personal meeting with you as soon as your schedule permits so that you can fully understand the importance your decision will have on the economic well being of south Florida.

Sincerely,

Stephen P. Clark,
Mayor,
Metropolitan Dade County, Florida.

U.S. House of Representatives,
Washington, D.C. August 11, 1976.

Hon. Gerald R. Ford,
President, The White House,
Washington, D.C.

Dear Mr. President: You know, I am sure, that I am deeply distressed by the failure of the Civil Aeronautics Board to recommend to you additional routes from Miami to Europe in the current Transatlantic Route Proceeding.

First, I want to compliment you for establishing under your Executive Order 11920 a procedure whereby the recommendations of the CAB have been made public and Members of Congress and the public, as well as the appropriate Executive Departments, have been given an opportunity to comment for the record on these recommendations. I am encouraged by your innovative decision in this respect to hope that you also will avail yourself fully of the authority afforded you under Section 801 of the Federal Aviation Act to consider the Transatlantic Route Proceeding as an opportunity to promote the development of an overall transatlantic route system which will better serve the interests of the United States. The CAB recommendations would not do this.

I regret that the Civil Aeronautics Board's recommendations seem to reflect a process of "horsetrading"—taking a little from a carrier here to give to a carrier there, and then taking from a third carrier to compensate the first carrier, and so on. The result, in any event, does not meet, I firmly believe, the simplest tests of the public and national interests.

It is both astonishing and very discouraging to have the CAB ignore the enormous national asset we have in Miami's worldwide reputation and strategic geographic location. As we face the problems of very difficult negotiations with other countries on international air routes, we should not throw away such a valuable bargaining point. Travelers throughout the world want to come to Miami and any country interested in serving the needs of its people must want to provide them with an opportunity to fly to Miami as directly and conveniently as possible. It will avail us very little, I think, to offer these countries direct flights to a dozen other U.S. points, when what their people really want is the opportunity to visit Miami and South Florida, either as a specific tourist or business destination or as a convenient stop on a longer trip to other U.S. points or on trips between Latin America and Europe.

I will not belabor the attractiveness of Miami as a tourist destination, since it is so well known to you and to our U.S. Travel Service people. You know that tourism, according to the Travel Service, generates $24 billion a year in wages, $340 million in tax revenues, and some $4.7 billion in foreign exchange.

Miami, as the most popular tourist destination in the United States, provides a unique opportunity for increasing the contribution of foreign tourist dollars to our international accounts. Although we no longer calculate a single balance of payments with other countries, the need to continue to maximize our earnings of foreign currency remains.

To the extent that Miami is made conveniently available to European travelers, Miami can help our country strengthen its financial condition in a way which no other "gateway" can match. It is not simply the climate or the many world-famous natural and commercial attractions, such as the Everglades, the Space Center at Cape Canaveral and Disney World, that make South Florida an enormous national economic asset. It is especially the vast complex of accommodations, the long experience in tourist promotion by our public authorities, private tourist agencies, and our Miami-based airlines, and the community commitment to tourism as a major industry, that no other gateway can match. Additional routes for Miami can certainly be turned into economic assets for the United States, while international routes for other cities will as certainly be problematical for their economic viability and, I predict, very likely economic liabilities for our aviation industry.

Some of the potential of Miami and Southeast Florida will be realized through the service of foreign airlines between Miami and Central European cities. But the national economic benefit will be diminished if U.S. airlines are not allowed to share in and to take the lead in developing this traffic. We can realize the fullest national benefit only by granting the pending applications for nonstop U.S. carrier service between Miami and Paris, Miami and Amsterdam, Miami and Frankfurt, Miami and Madrid, Miami and Luxembourg, and Miami and Rome.

I believe Miami has made a case which is in the national interest as well as in the interest of the greater Miami area and Southeast Florida, and I earnestly urge you to approve these applications.

Warmest personal regards, and
Believe me,
Always sincerely,

Claude Pepper,
Member of Congress.

DR. THOMAS N. CHASE'S ADDRESS TO THE 1976 BOB HOPE DINNER FOR THE NATIONAL PARKINSON FOUNDATION

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, for 17 years there has been a Bob Hope dinner on behalf of the National Parkinson Foundation, the cofounder and head of which, for those and many years before, has been Mrs. Jeanne Levey. Most of those years my wife, Mildred, has been chairman of the Bob Hope dinner.

On each of these occasions, usually in February, Bob Hope, that extraordinary man in ability and compassion for the needs of others, has been the honored guest, not only lending his great prestige to the occasion, but assembling and presenting as master of ceremonies the outstanding entertainers of the Greater Miami area at that time. These occasions have been times of delight for the great audiences which have attended these dinners, enjoying Bob Hope and the exceptional entertainment that he provided.

They have also been an occasion for raising substantial funds to aid the National Parkinson Foundation to carry on its great program of research into the cause of Parkinson's disease and the treatment of patients afflicted with it. The National Parkinson Foundation in Miami treats more Parkinson's patients than any other institution of its kind in the world. These stimulating dinners have also been the occasion to honor Mrs. Jeanne Levey for the notable and noble leadership that she has given the great cause aspired for the National Parkinson Foundation. She has been in fact the alter ego of this distinguished institution.

The Bob Hope dinners have also always been an occasion for recital of the progress which has been made at the national and local level in discovering the cause of, and providing treatment for, Parkinson's disease. We have had several Secretaries of the Department of Health, Education, and Welfare, and always outstanding authorities in the neurological field, who have honored these dinners with their presence and have made outstanding addresses.

The last annual Bob Hope dinner on behalf of the Parkinson Foundation was on February 14. That dinner, like all those preceding it, was an outstanding success because it was honored by the presence of President Ford who expressed his special and continued interest in the work of the Parkinson Foundation in discovering the cause of and providing treatment for Parkinson's disease.

It was also the occasion for an outstanding address on the whole subject of Parkinson's disease and research and treatment relating thereto by one of the Nation's eminent authorities in that field, Dr. Thomas N. Chase, Director, Intramural Research, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health. Dr. Chase is peculiarly qualified to deliver the learned address which he delivered on this occasion. I know what this eminent authority had to say upon this critical subject will be of interest to my colleagues and all those who read this RECORD. Hence, Mr. Speaker, I include Dr. Chase's able remarks in the RECORD following these remarks from me:

REMARKS OF DR. THOMAS N. CHASE

(Remarks for 17th Annual Bob Hope Dinner Saturday, February 14, 1976, Fontainbleau Hotel, Miami)

I am delighted to be here at this 17th Annual Bob Hope dinner for the National Parkinson Foundation. I now see why my predecessors from the Department, Bob Finch, Merlin DuVal, and Caspar Weinberger, as well as those from my Institute, including Ted MacNichol, Eldon Eagles, Don Tower, and others, have all found the occasion so enjoyable. I have been a fan of Bob's for many, many years, and have always admired his desire to help so many great causes. And I can understand why Bob is a fan of Jeanne Levy's. I am one too. We both must share an appreciation of what a living legend she is.

During my professional life as a research scientist, I have developed a great regard for the work of the private health agencies, and the often heroic efforts of determined people to get these organizations started and make them work. The Federal medical research effort in this country was literally launched by dedicated persons like Jeanne and without them there might not have been a Federal program of research in Parkinson's disease, or any of the other urgent health problems facing us. Indeed, all of the research institutes at NIH, including my own, really began as "grass roots" efforts by private groups to interest Congress in funding research to solve these problems. Almost without exception, a voluntary group of citizens, with a gifted and energetic leader, began the first organized efforts to combat disease, and later petitioned the Government, through Congress, to start a Federally sponsored program.

Since then, the Federally supported groups and privately supported volunteer groups have grown up together, supplementing the work of the other, each doing what the other could not do. No Government program, based in Washington, could ever reach patients in the direct, simple, and meaningful way yours has. The National Institutes of Neurological and Communicative Disorders and Stroke, on the other hand, can provide an effective mechanism for channeling Federal support to research programs in the neurosciences, including those of direct relevance to Parkinson's disease.

There are few other countries in the world where anything even remotely like this has happened, and I think we can be forgiven in this, our bicentennial year, for looking back on what we have done with a large measure of pride.

The 200th year of our republic also happens to be a banner year for the National Parkinson Foundation. Until now, the energies and resources here have been devoted almost entirely to the care and treatment of some 3,000 patients who have been seen in the 14 years since your founding. But this year, your potential for helping people will be multiplied a hundredfold by the opening of the new Bob Hope Parkinson Research Center. This is a superb facility, of which you can all be very proud. And I am also particularly pleased to learn you are about to announce the appointment of the Foundation's first Scientific Director.

The research opportunities here are unparalleled. In the usual clinic, we see patients with many kinds of neurological problems such as epilepsy, multiple sclerosis, or neuromuscular disorders, so obtaining good statistics on large numbers of people with the same disorder can take decades. As nowhere else I know of, here it will be possible to concentrate on numerous patients with just one problem, Parkinson's disease. The time needed to do epidemiological studies can thus be markedly reduced. And your records, which we at NIH have made good use of in the past, can be built into one of the world's richest sources of data on patients' backgrounds, their dietary histories, inheritance patterns, and other illnesses they have had; as well as their possible exposure to poisons, chemicals, viruses, and other hazards. From all this, clues could well emerge to put us on the trail of what ultimately causes Parkinson's disease and that could put us more than halfway home.

Another research area in which the National Parkinson Foundation could be one of the world's leaders—again because of the large number of patients who as much as any of us want to help find effective treatment and hopefully a cure—is clinical pharmacology or drug research. Except for the early basic work which showed how messages are transmitted from one nerve cell to its neighbor all of our progress in treating Parkinson's comes from this field. The Parkinson Foundation has had an active program of clinical pharmacology in a practical if not academic sense ever since it was founded, and particularly since L-dopa first became available as an experimental drug.

With this background, with the extensive records you have, and now with a well-housed, and I hope soon to be fully-staffed clinical research unit, there are many studies of major importance which can be done here, such as determining: the direct effects of new antiparkinson drugs on various kinds of patients and on their various symptoms; the effects of drugs working in tandem; what happens to drugs in the body—and a host of other questions which can all be studied while simultaneously maintaining the excellent treatment and rehabilitation program that you already have. Drug trials sometimes involve a little personal discomfort, while adjustments in dose are made, and of course, in some cases, drugs have to be discontinued. But in my experience I have found that the great majority of patients are eager to help, when you explain that by trying a new, experimental drug they may be helping all who come after, as well as themselves, here and now.

Epidemiology and pharmacology: these are just two very obvious research areas in which the Foundation can make a great contribution. There are many others, such as basic biochemistry and neuropathology, for example, where a tie-in with an academic institution or large hospitals is desirable. The Foundation has wisely planned space in its new building for collaborative research studies with nearby universities and hospitals, and we can look forward to a great deal of scientifically profitable work in the years ahead.

At this point, I would like to talk a little about my own Institute, the NINCDS and some of the work we are doing there. Currently we are not following as many Parkinson patients at the National Institutes of Health as you have here in Miami, for the reason that we are essentially a research center, not a hospital. Although we are small, in terms of numbers of patients compared to your Foundation we are pursuing a highly exciting program of drug research.

As many of you are aware, L-dopa was the culmination of more than 20 years of study, by hundreds of scientists, in at least six countries, of the actions of natural brain substances called neurotransmitters. And as many of you know first hand, it is in no way the final answer. It does not cure Parkinson's disease. And in a distressing number of instances, there are still side effects that can make life difficult. Although scientists regard it as a vitally important way-station in treatment, it is also a research tool which should help us learn more about brain function and malfunction. At NIH, and in neuropharmacology laboratories generally, we have passed into what we feel is a post-L-dopa phase, which revolves around the study of a new class of drugs with the rather unwieldy name of dopamine receptor agonists. These are drugs that seem to act directly on the parts of nerve cells that need prodding in Parkinson's disease, in contrast to L-dopa, which has to be converted by the brain into another substance, dopamine, before it can go to work.

One major problem with L-dopa has been that the brain's ability to convert it is often impaired; another is that it lasts too briefly in the central nervous system; finally unwanted products are sometimes formed along with the one we want, and these may be the culprits which cause side effects. Therefore if we can bypass this whole conversion process, we think we can avoid most of these unwanted reactions.

We are working at NINCDS with a new drug—new at least in this application—called bromocriptine. Although we have only tried it with a limited number of patients, so far the results look quite good. We are trying it in various ways, both with and without L-dopa, and have measured about a 10 to 20 percent improvement over previous L-dopa therapy. We are also experimenting with one or two slightly altered forms of the drug, and with other dopamine receptor agonists. Descriptions of the work are necessarily complex, but excellent progress is being made, both at NIH and at several other research centers, and drugs far better than L-dopa are on the horizon.

I want to mention just one other NINCDS program of great potential importance to Parkinson sufferers. This is centered in a laboratory operated on the island of Guam in the western Pacific. A rare form of parkinsonism, called parkinsonism-dementia, occurs amongst natives of the Mariana Islands at about 100 times the rate of parkinsonism elsewhere in the world. It accounts for 10 percent of all adult deaths among these people, and leads to death in four to five years. The purpose of having a laboratory there is to try to find out why Parkinsonism-dementia is so devastating within this small, isolated population. Is it some toxic substance in the environment, or the diet? We know that Parkinsonism, or something closely resembling it, can be caused by trace quantities of some metallic poisons.

Therefore, we have to ask whether it could be inherited. A number of studies in the U.S. have suggested the possibility that Parkinsonism-dementia may run in families. Could it then be caused by a slow virus or various kinds of viruses? For many years, some cases of parkinsonism have been thought to be a long delayed aftereffect of infection with encephalitis virus. A small bit of evidence from the Guam program last year has led us to suspect that other viruses may also be involved. The Guam laboratory is an extremely important resource for studies attempting to throw light on some of these questions.

I have focused on two specific NINCDS programs that I think are particularly interesting, and promising; but I must hasten to add that a much larger effort, both in dollars and people, is encompassed within our grant program, with projects at some 26 institutions across the United States. We are supporting, for example, the work of Dr. George Cotzias, who, as you know, was the first to find a way to effectively use L-dopa to treat Parkinson's disease. He is continuing his genetic studies, and is also now working with the new class of drugs I just mentioned. Dr. Melvin Yahr, who heads what is probably the oldest and largest research group concentrating on parkinsonism, has had our support for some 13 years. Many other excellent scientists are also producing an exciting flow of new information, and I believe that we can honestly look forward to substantially improved control of Parkinson's disease within the next few years.

Will it come in time to help those of you who are patients, and are here this evening? I believe it can. We are living in an exciting time. Things are being achieved in days and weeks that once took years, or decades. Science today has reached a level of understanding that humbles even those of us who have been research workers for many years. And along with the truly brilliant work of our scientists in the past quarter century, we have in this country what is historically an almost unique spirit—a will to get things done—backed with the immense power that comes from the willingness of a whole national population to help. That help is in the form of public support — expressed through the political system—and private support—directly.

With this determination, and this help, the destroyers of health and life like Parkinsonism have a tough opponent, bent on winning, and we will go on working and supporting the effort until we do win.

KEY ERDA PLANT-SIZE STUDY ON SYNFUELS NOT SUBMITTED

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, on Monday the House Committee on Interstate and Foreign Commerce held hearings on the August 24, 1976, GAO report which recommends against loan guarantees to build commercial size synthetic fuel plants now. During those hearings, the GAO testified that two key ERDA funded studies which were supposed to be completed on June 15 and August 1, 1976, respectively, have been delayed and will not be completed until October or November. The two related studies which will cost over $100,000 are entitled:

First. "Information as a Function of Plant Size."

Second. "Strategy and Criteria Appropriate for Optimum Plant Mix for a Synthetic Fuel Information Program."

Incredible as it may seem, ERDA testified on Monday that Congress does not need these studies in order to make a decision on H.R. 12112, although ERDA admits that they will be needed for the program.

I find it difficult to understand why Congress, which is being asked to approve legislation committing the Government to backing highly risky, capital intensive plants costing over a billion dollars each, should not have these reports before Congress acts on H.R. 12112. The plant "mix" and "size" will determine the cost of these plants to the taxpayers and how much money would have to be authorized in the legislation. Furthermore, if the studies should conclude that small plants are adequate to ascertain the environmental and socioeconomic effects of commercial scale synfuel plants, which is all ERDA says this program is needed for, then the studies could well confirm testimony received that all this information can be obtained from the second generation plants being funded by ERDA on a 50–50 basis with industry and which will come on line before the old technology plants sought to be funded in H.R. 12112.

Should Congress be kept in the dark about such important decisions? I think not.

ERDA's description of these key studies follows:

Project Title: Information as a Function of Plant Size.

Background: Prior to a determination of the optimum technology/plant size for the synthetic fuels program, further examination is required of the relationship between plant size and information gained for each technology. It is expected that some economies of scale will prevail for these projects, but that other factors, such as site requirements, project cost and risk, infrastructure, and environmental/socio-economic impacts may result in a maximum information/cost ratio from smaller plants (i.e., two module plants versus five module plants). The results of this study will be used in conjunction with the study entitled "Strategy and Criteria Appropriate for Optimum Plant Mix" in order to structure subsequent procurements.

Scope of Work: The Contractor will provide an assessment of the information gained from various plant sizes for each of the major synthetic fuel technologies (oil shale, hi and low Btu coal gasification, and biomass energy). Types of information which should be taken into account in this assessment include:

Economies and plant costs.
Potential infrastructure restrictions.
Socio-Economic and environmental data.
Technological reliability.
Regulatory factors.
Transportation requirements.
Mining requirements.

The Contractor should determine the key categories of information. Each category of information will then be examined for varying plant sizes.

Timing of Report: Final Report 15 June 1976 with interim reports as necessary to meet Congressional inquiries.

Level of Effort: The required level of effort is estimated at 6 man months, or $35,000.

Project Title: Strategy and Criteria Appropriate for Optimum Plant Mix for a Synthetic Fuel Information Program.

Background: There is need to determine the optimum technology and plant mix for the proposed first phase of the Synthetic Fuels Commercialization Program. This program would result in a production level equivalent to 350,000 barrels of oil by 1985 from shale oil, high and low-Btu gas from coal and biomass energy. There are a number of different synthetic fuels plant mixes which could be used to achieve the desired output level. However, the information obtained from different plant mixes in the first phase will not yield the same degree of information (learning effect). Within a specific synthetic fuel category, the problem is further complicated by choices between different technological approaches. These and other related problems need to be resolved and criteria established to define the appropriate strategy prior to the issuance of RFP's for specific plant projects.

Scope of Work: The Contractor, in conjunction with the Office of Commercialization, will determine appropriate criteria and strategy for optimum technology/plant mix, identify at least three (3) plant mix scenarios differentiated among the various synthetic fuels, and determine optimum location for each plant. In preparing the scenarios the Contractor shall take into account and determine the appropriate weight for each of the following goals:

Maximize program information for appraisal of the future of synthetic fuels commercialization including the role of synthetic fuels in the next several decades.

Minimize socio-economic and environmental impacts (analysis should account for externalities where possible).

Minimize cost of the program to the country.

Satisfying critical specific energy resource shortfalls.

For each scenario detail should be provided on the required infrastructure (pipelines, railroads, roads, input energy, etc.), expected major environmental and socio-economic impacts, and estimated program costs.

Timing of Reports: Interim report delivered June 1, 1976 and final report on August 1, 1976.

Level of Effort: The required level of effort is estimated to be 12 man months, or $72,000.

The contractor will develop the information under this task in such a manner that it can be used in conjunction with the data developed under the "Information as a Function of Plant Size" Task.

AIR BAGS ARE ESSENTIAL TO STOP AUTO MAYHEM

Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, proposals to mandate the installation of air bags in automobiles have generated a great deal of controversy.

We have often heard from those who oppose them. Today, I would like to share with my colleagues the persuasive arguments in favor of such passive restraints. In the following letter which appeared in the New York Times on August 28, noted consumer advocate Ralph Nader explains why air bags are the most effective safety devices available. Their installation would help to curtail the savage numbers of injuries and fatalities which occur on American roads each year.

AUTOMOBILE SAFETY FEATURES ASSESSED

To the Editor:

Mark Payne's letter (Aug. 17) contains factual errors on air bags, seat belts and my position on these matters.

First, air bags for the entire front seat of cars cost the manufacurers in mass production not more than $50 per. Mr. Payne mentioned "several hundred dollars extra" to the consumer; he must be allowing the car companies an immodest profit.

Second, air bags are more effective than seat belt-shoulder harnesses in most crashes, even in the rare instances when the latter are used and work properly. Air bags with just the seat belt and not the shoulder harness are even superior. As they have shown in actual highway crashes, air bags not only protects drivers and innocent passengers in their cars but also reduce the risk of chain or secondary crashes by keeping the driver safe, conscious and in control of the vehicle.

Third, the interlock system was not my idea but that of Ford Motor Company. In 1971 Ford went to the White House to compel the Department of Transportation to delay the air bag standard in favor of a mandatory interlock system. I have long supported passive restraints over interlocks.

Now auto companies in Michigan are advocating mandatory seat belt usage in order to avoid the responsibility of building such safety into their cars through passive restraints like air bags.

Fourth, if Mr. Payne is concerned with price more than the 10,000 lives and nearly one million injuries yearly which air bags could prevent, let him object to the many hundreds of dollars per car of mandatory style and gew-gaws or to other hundreds of dollars due to the administered pricing power of this concentrated industry, or to the "mandatory options," to use an auto dealer's phrase, such as vinyl roofs.

Lawfully arrived at safety standards include fire standards for homes, required usage of seat belts on airplanes and hundreds of other safety standards that protect people from their own or others' negligence. Such group concern for human life reflects sound democracy at work. Does Mr. Payne object to a ban on dangerous drugs or a requirement that workers wear safety equipment to protect themselves? I doubt it. Then why does he object to crash-safety standards on automobiles whose collisions are the nation's fourth leading cause of death in addition to four million injuries annually.

Would he prefer that the victim's family, the taxpayer, the consumer's insurance premium and funeral parlors pick up the consequences instead? Is that his definition of freedom?

Ralph Nader.

Washington, *August 21, 1976.*

ADM. NOEL GAYLER

(Mr. WOLFF asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. WOLFF. Mr. Speaker, today in Hawaii a distinguished American citizen and naval officer completes over 41 years of patriotic and dedicated service to the United States of America.

Adm. Noel Gayler, the commander in chief, Pacific, is retiring. His career in the service of our Nation exemplifies the moral courage, self-sacrifice and high sense of patriotism that we have come to expect of our military leaders.

For the last 4 years Admiral Gayler has been the senior U.S. military commander in the Pacific and Indian Ocean areas. He directed Army, Navy, Marine, and Air Force operations across the more than 100 million square miles of the Pacific Command, an area that extends from the Arctic to the Antarctic and from the west coast of the Americas to the east coast of Africa.

Admiral Gayler has commanded our reduced military resources in the Pacific during a time of soul-searching and self-doubt at home and intense tests of our will in his area of responsibility.

Upon becoming the ninth naval officer to serve as commander in chief, Pacific, he was immediately plunged into the thick of the crises in Southeast Asia. His actions helped bring Hanoi to the bargaining table and led directly to the release of our prisoners of war the following year. In the spring of 1975, he commanded the delicate extraction of American citizens from besieged Phnom Penh in Cambodia. He also commanded the airlift of orphans, refugees, and American citizens from Vietnam. He was responsible for the planning and execution of the successful rescue of the U.S.S. *Mayaguez* and its crew from the hands of the Khmer Rouge.

But the tragedies and heartbreak of Southeast Asia were not his only concerns. He continued to bolster the United States and allied position in the strategic North Asian area. He has continually reassured the leaders and people of Asia of the continuing will of the United States to meet its commitments in that area.

A forthright and articulate spokesman of America's interests in the Pacific area, he has continually warned the American people and its executive and congressional leadership of the growing menace of the Soviet Union's naval buildup in the Pacific and Indian Oceans.

Mr. Speaker, it is truly fitting and proper that we honor this dedicated, intelligent, great American. Certainly in these troubled times our country can ill afford to lose men of such outstanding capabilities.

We can hope that our country will continue to benefit from the advice and talents of this patriotic American. As a highly deserved tribute, I now insert in the Record Admiral Gayler's article "The Pacific Command" for the consideration of my colleagues:

The Pacific Command

(By Adm. Noel Gayler)

This is a time of great change. The entire Pacific and Asia are in a state of flux seeking new directions, finding new leaders. I think the historic future lies in the great Pacific basin where most of mankind lives.

The Pacific and the Indian Oceans are a vast and complex area. There are problems and there are opportunities. I hope to be accurate in describing things as they are; useful, in describing things as they might be, to the betterment of the United States and the region.

I have not forgotten that I am a military officer with a chain of responsibility which extends from the President to the Secretary of Defense, to the Chairman of the Joint Chiefs of Staff, and the Chiefs of Staff as a body to me; and from me to the Navy and Air Force component commanders, the U.S. Army CINCPAC Support Group, the commanders of established subordinate unified commands, representatives, and Military Assistance and Advisory Groups.

I do, however, want to address the political and economic and even sociological matters, as well as the military. They are indivisible. The Communists have learned this lesson well.

The military theater I am talking about now extends from the West Coast of the Americas to the east coast of Africa and includes all American forces of all services. It's helpful to me to think about it as six great regions: America, Pacific Ocean, with our State of Hawaii in the middle of it and a bridge both to the ocean cultures and to the cultures of the Far East, Australia (Australia and New Zealand), Maritime Soviet Russia, for the USSR has two ends, and the Pacific end also is very important in the military sense as well as in many other ways; Asia (Northeast Asia, China, Southeast Asia, South Asia), the Indian Ocean (South Asia again, the Middle East and East Africa).

Now it is very natural to look principally at Europe, at NATO, and at the Middle East with all of their enormous importance. But I think we should also look to the West, and note particularly that in this vast area and Asia the change, and the rate of change, are probably the greatest in the world. A revolutionary area—revolutionary in so many ways. The impact of communications. Small villages, which for millenia have never known anything going on more than 20 miles away are now tied into the world through television, transistor radios, jet travel. They see the rest of the world and they want some of what the other fellow has.

The growth of industrial technology. Not only fully developed countries like Japan, but many other countries are having what I think you could call their third industrial revolution and will not only increase their capability to compete in world markets and their standard of living, but will have profound social changes as a result.

We see in Asia population growth at an unprecedented rate, and as one consequence, enormous migration to the cities. With the exception of the city of Phnom Penh, which was kind of abolished by the Communists when they took over, all of the great cities of Asia are swollen from in-migration as well as population growth; and they are suffering the social consequences of overcrowding.

The gap between the rich and the poor, both people and countries is, I'm afraid, increasing, if anything.

In all of the countries in this region political consciousness—almost unprecedented political consciousness—is increasing. And nationalism is strong. The consequence of rivalries, the consequence of the gap between what they are likely to have and what they would hope to have, this renewed ethnic and national consciousness, and the impact of the new Communist technologies of control—all of this means that we can expect strife in this part of the world unless we and others can effectively dampen it.

So from the standpoint of importance, from the standpoint of change, from the standpoint of danger, from the standpoint of opportunity, this is an enormously important part of the world. Quite simply, it is where two-thirds of the human race lives.

Now let me discuss briefly some of the most important aspects of our relationships with the countries in this vast part of the world.

First, Maritime Soviet Russia. The military power of the Soviet state is still increasing at an open-ended rate. I'm not one of those who sees Russia, or even Communists, under every bed. And I do not ascribe any motivation or intentions to Soviet Russia. But I must observe, and ask you to observe, the quite extraordinary current military buildup. No fewer than four Intercontinental Ballistic Missile systems, with all of the enormous development expenses involved, are under current deployment. A very long-range submarine-launch ballistic missile is already in Fleet service with at least two kinds of large nuclear submarines to carry them. Guided missile systems abound as if they are going out of style; two supersonic bombers operational and at least three new kinds of high-performance fighter deployed; and the continuous reequipping of their enormous armies with all of the latest material under development. Hardly a week goes by that I don't see some new Soviet fighting vehicle being introduced. And you know, of course, the Navy story—a story that is largely the story of one gifted and extremely effective naval officer, Admiral Sergei Gorshkov, who has been head of the Soviet Navy for 19 years and has brought it from a second-class coastal defense force to a first-class, seven-ocean Navy operationally capable, technically capable, well-drilled, and designed specifically to interrupt control of the sea. Admiral Gorshkov is not only a leader, but a thinker; and his writings on naval subjects mark him as a naval thinker comparable to our own

Admiral Mahan, as well as a most effective leader and administrator. He understands sea power, the political, as well as the military use for it. He wants it for the fatherland and he's well on his way. He has a blueprint; he's effective in carrying it out; and he isn't finished yet. Previously they have specialized in submarines and guided missile ships.

Now, the Soviet Navy, in addition to all else, is challenging air control with the construction of new aircraft carriers to operate high-performance VSTOL (Vertical Short Take-off and Landing) aircraft and helicopters. With forty-odd division organizations opposite China, with their powerful fleet based in the Vladivostok area, and her strong integral air forces, the Soviet navy is a major factor in the Pacific.

Turning to the countries of Northeast Asia, Japan is, of course, our most important ally. Important because of its economic weight, its growing political clout, and its key strategic position, as well as the excellent understanding which exists between the Japanese and ourselves. I welcome the continuation and maturing of our security relationship with Japan which I think is developing along lines which are very much in the Japanese interest as well as in the United States interest. This is a complementary security relationship in which each partner contributes that which it best can to the common security of Northeast Asia, the Pacific Ocean areas and the United States. For our part, of course, it is the nuclear umbrella and the capability to deal with long-range threats. On the part of the Japanese and, in my order of importance, first, the bases which they make available to us which are absolutely essential to our being able to carry out our mission. Second, the access to the great Japanese industrial economy. And third, the defensive contributions of the small, but technically competent, Japanese Self-Defense Forces. These forces, by Japanese decision, will concentrate on air defense of the Japanese homeland and anti-submarine defense and sea surveillance of the waters in the Japanese region. Thus, it is a mission which is clearly defensive, consistent with the Japanese constitution, and yet potentially very useful as a component of our joint effort. One paradoxical consequence of the fall of Indochina is that the Japanese people, as well as government, have become more conscious of and more engaged in security affairs with us, and this is an excellent development.

We turn to two Koreas—North and South. A bitter and uneasy truce, a military stalemate, but no contest economically. South Korea is winning that one hands down, in spite of the temporary setbacks due to the energy crisis. The Korean talent for hard work and good planning is paying off, unfettered by Communist economic control. As for the military situation, the threat remains and will remain while Kim Il Sung in the North maintains a posture ready to reunify the peninsula by military force whenever he thinks he can do it. I believe that the South Korean forces are in quite good shape to withstand an attack and the deficiencies that they have, they are moving out to correct—almost entirely with their own money. American forces there are an added and needed deterrence against aggression and I believe that they should stay there until they are no longer needed.

The Peoples Republic of China is very much in the news these days. I have little to add to what you know, except an appraisal of the thrust of the military capability. Numerically, they have the world's greatest land army which is disposed both to trade space for time in the event of a Soviet attack, and for internal security in that vast country. The Chinese Air Force is not small, is concentrated on tactical types, particularly fighters and attack airplanes, and is becoming more competent with every year. Their Navy is not small either; runs mostly to patrol types and submarines although they have a few larger ships including guided missile ships. And in the strategic nuclear field, I think they have made clear their intent to get a secure nuclear strike force of intercontinental range. When they achieve this, and I know of no reason why they will not, they will then have a secure nuclear deterrent. And it is, of course, true that a rocket which could fly from China to Moscow could also fly to the United States. The Chinese attitude toward the United States is reasonably encouraging, and it is seen to be that by its neighboring countries. I do not see Chinese military aggression on a major scale as being in the cards, but I have no doubt that she will continue through party mechanisms to support the insurgencies and their allies which plague so many countries of Asia.

In Southeast Asia we see mostly what we expected to see with the fall of Saigon: Vietnam integrated under strict Communist rule. Laos, with a fully Communist government under Vietnamese domination. Thailand, plagued with insurgencies and threatened by her Communist neighbors. Communist Cambodia, however, has interests and ideas of its own, and bitter fighting has more than once broken out between the Cambodian Communists and the Vietnamese over border territories. In the general sense, Hanoi can be seen to be facing toward Soviet Russia, and Cambodia toward China.

Indonesia, enormous in population and in resources and determined to evolve with a national resilience against troubles, still maintains a neutral, but friendly relationship with the United States.

Our classic allies, Australia and New Zealand, whatever their political situation will, in my judgment, maintain their full and traditional friendship and alliance with the United States.

The Indian Ocean, too, is enormous in area. Sometimes I illustrate this by superimposing a map of the United States on the middle of that ocean. It touches no significant land anywhere. Along the boundaries of the Indian Ocean are some of the largest and most populous states in the world: South Asia, the Middle East, and East Africa. The complexities there defy thumbnail description. One thing is clear and that is that the sea routes which traverse the Indian Ocean both from the Red Sea, the exit to the Suez Canal and from the Persian Gulf where more than 80 percent of Middle East oil is shipped are vital to most of the countries of the world. The trade routes extending around South Africa to Europe, the trade routes running through the Indonesian Straits to Japan, East Asia and the United States. It is important that the Indian Ocean remain what it is now—an ocean available for the peaceful trade and the commerce, and the interconnection of all nations. And it is important that no one perceive that in a military sense the Indian Ocean has become a Soviet lake. We have no desire to dominate it but we cannot see it fall under the domination of any single power. Our strategy, therefore, is not to maintain a large force in the Indian Ocean area at all, but occasionally—once in a while go in there with a sizable naval force in order to demonstrate that the Indian Ocean is no one's lake. And here is where the tiny atoll of Diego Garcia comes in. It's right in the middle, an ideal place for communications and for observation; potentially a fleet anchorage, a storage place for oil, a few spare parts and a runway to support heavy logistic and patrol aircraft—nothing more. It's a big convenience and a cost avoidance, and it makes sense but it can in no way be considered to be a major operating base.

You're all familiar with the controversy that attended the discovery of the military missile, naval and air base at Berbera in Somaliland built by the Soviet Union on the southern edge of the Guf of Aden. The facts are now well established and it is, indeed, not the only base under development in that country by the Soviets. From there they are in a position to dominate the approaches to the Suez Canal and to the Persian Gulf.

In Pacific Oceania, in the Trust Territory of the Pacific Islands, the strategic importance of those places to us as bases, in my view, primarily is that it gives us a capability to prevent hostile powers from establishing bases athwart our lines of communication and that we could establish in the area a fallback for our forward strategy if we have to have a fallback.

Pacific Oceania has great diversity. The U.S. has, I believe, a special responsibility for many of these islands and island groups with whose people we have had close and friendly relations for a long time. I am thinking particularly of Guam, the Trust Territory of the Pacific Island, which includes the 2,000 islands of Micronesia and of our responsibilities to share with other responsible countries (like New Zealand and Australia and to a certain extent, France and Great Britain) to protect our interests.

Now let me discuss our military forces in the command, and that discussion will be broad. As I said earlier, political, economic, military and sociological considerations are inseparable. In the Pacific Command that is institutionalized in our excellent working relationship with our American ambassadors in the region, with the State Department, and the other portions of government concerned with foreign affairs.

In fact, since World War II, there have been no purely military considerations. That is just as well considering the capabilities of modern weapons. Everything that we have had to do has had a political component, and usually political constraints. Sometimes dominant constraints. Nonetheless, we have major and indispensable functions. The protection of the United States, the maintenance of a free and secure systems for the commerce, and politics of the region, the advancement of American policy.

And in the Pacific, of particular importance, is keeping open the lines of communication—sea and air—the life blood of so many of the countries and the peoples of this area, not the least the United States. Now among other ways, how we do this is with an American presence. Again, economic, political, cultural, as well as military. But the military is an indispensable component. And I think that presence is a good and necessary thing because it biases toward peaceful evolution, rather than warlike change. Because it provides an umbrella under which developing nations can get on with their nation building and with their regional associations which we very much support. Without our forward presence it would be extremely difficult if not impossible to provide for advancement of American policy, or even for the basic security of the United States.

The basic idea of the military component is the perception of power. I don't for a minute suggest that any of the countries in the region are necessarily going to start torpedoing each others tankers or major aggressive incursion across the borders or amphibious attacks. What I do believe is that the perception of who has the power is a vital political fact. If it is perceived that a major military power is dominant in a critical area than that is a fact of which all of the nations in the area must accommodate. The best use of military power takes place when its presence is so clear, the inference so obvious, that no one tests it. Deterrence is accomplished. As an example, for many years the Republic of China on Taiwan has not been threatened in a military way, and the reason, of course, has been the presence of the American SEVENTH Fleet and 7th Air Force. No patrols needed, no shots fired, no threats exchanged, just the fact of the power. It would be profoundly destabilizing in all of this vast area if that perception of American power should change.

Now for our military forces in the Pacific themselves. We have 125 thousand Navy, 49 thousand Air Force, 51 thousand Army and 61 thousand Marines—a total of a little over 286 thousand in this whole vast area. It's not really very much. They are based principally in Hawaii, 38 thousand; Guam, 6 thousand; Japan, including Okinawa, 51 thousand; the Philippines, 14 thousand; and in Korea 40 thousand. The remainder are principally Navy forces afloat and Navy and Marine units on the West Coast. In Taiwan and Thailand, we are in the process of drawing down almost to zero. Our other forces in the theater are very small. Our principal military concerns are to be able to: maintain open the sea and the air lines of communication, and our sea and air presence; achieve, if we must, local air superiority and presence; deter against war at every level.

So far as the nuclear war is concerned, Pacific forces, of course, are a small part of our national global force. And I believe that those forces, and our tactical nuclear forces are adequate in this area.

From the conventional level, and in this area that is by far the most important, we must be able to secure against interference with the contact between nations and against ground action and adventurism such as is possible, but I think unlikely, so long as we are there in Korea.

As for logistics, that fancy word which means beans, bullets, people, supplies, everything, I am concerned with the adequacy of our airlift and sealift available. I have already noted the great importance of Japan. One other note, and that is that there are really two supply routes to the Middle East. One is the classic route through the Atlantic and the Mediterranean which is far shorter but maybe less secure in both a political and military sense, and the other the longer route from the West Coast of America through the Pacific and Indian Oceans to the same destinations. In some circumstances, the long way around may be the shortest way home.

The Navy is at full strain and has been for some years. The many areas to patrol, the tempo of operations, the necessity for continuous drill, training and tactical work means that men, ships and aircraft have been worked pretty hard, and are still being worked pretty hard.

Our capability for antisubmarine warfare, for ocean surveillance, to provide tactical air and sea control, and sealift are my greatest concerns.

For the Air Force, two major elements: tactical air and air transport. I really only have one major problem with the Air Force in the Pacific: there isn't enough of it. And I am deeply concerned that we are deploying so much back to the United States.

For the Army and the Marines, if I can lump them together for one moment, my concerns are that they continue to be properly based with a considerable component forward and that they be supported in such a way that they can be ready in both the strategic and the tactical sense. And as for the size of the forces, I observe only that in the theater where middle-size countries like Korea dispose of twenty divisions on each side, the total of our ground forces in the Pacific is two and two thirds divisions. Not very much.

The men and women in the Pacific forces are as good as any we have ever had in character, in capability, in determination to make a contribution. It's an all-volunteer force now and that's paying off in great benefits in morale, in capability, and in long-term cost avoidance, although admittedly, the front-end costs are high. I am often asked about morale and I think I can tell you that morale depends more than anything else on their perceived support by their country—America, and by the Congress. It would be particularly handy to avoid what can be seen as continuous sniping, or anything which can be construed as a breach of contract—particularly with our younger people.

Finally, I wish to mention the importance of our bases, particularly in Japan and in the Philippines. Each, needed for strategic reasons; and for both physical and monetary reasons—and I can tell you that at our present force levels or anything that we are conceivably likely to get, we would be severely handicapped without these bases.

Our major military concern is in fact the same concern that we see so much elsewhere—that of cost. We are making determined efforts at cost avoidance through efficiency, through cross servicing and by improving the teeth to tail ratio of our forces. But there is a limit to that. There are military specialists who are required and there are staff officers who are required, there are support facilities that are required, and there is research and development, as well as a requirement for training and advanced operations if we're not to become obsolete. In any case, the cost squeeze is hurting badly. The military suffers from three distinct inflations: the normal inflation, which is a problem for the entire country but which drives our base costs up, as indeed it does for everybody else. On top of that the temporary, recoverable, but with us now, first costs of the all-volunteer forces and the personnel costs elsewhere. Let me say again that it is not fair to take that problem out of the hide of our enlisted men and officers. And, of course, the costs of military hardware itself, in its increasing, but usually necessary, complexity. The result is that we're hard put to find the resources to do our job. There are adverse effects on our force levels, on our force capability, on our modernization and, I'm very sorry to say, on our people.

If the capability I have been talking about as so necessary is to be effective, it must be real. They say that in old pre-war China, in old imperial China, the strength of gunboats was judged by the number of stacks. And when somebody showed up with a seven-stacker, he was king of all he surveyed. Well, those days are gone for better or for worse. There are shrewd and competent military appraisers everywhere. And if our capacity is to be effective, it has got to be actual. There are also very important tangibles. I think we Americans can no longer expect, in case of trouble, that we will have the most of everything. We are quite likely to be the smaller force. That means we've got to be the smarter one—smarter in technology, smarter in savvy, in doctrine and in tactics. In point of fact, almost the most important single aspect of our military capability will be how smart our generals and admirals and commanders are. And the kind of smarts that I'm talking about can be developed and identified only through exercises. I have to tell you that I envy the scope and the sophistication of the Soviet military exercises that I see in this theater. And I'm particularly distressed at any prespective cut in our own exercise capability. And there's another problem of cost and that is that it generates in apparent withdrawal from the world. I see a great many of the policy makers in many of the countries of the East, and privately or publicly they are all concerned by what they perceive as the American withdrawal from the Pacific and from Asia. And I can wave my hands all I want to and tell them about squadrons and ships earmarked back home in case of necessity, but it makes no impression at all in their view; and I have to tell you I don't think they're wrong. The presence that's there, where they can see it, is what counts to them.

The United States has before it many considerations. Let me put some before you. The importance of the perception of power, the importance that deterrence be adequate across the board:

The question of the freedom of our action versus our perceived reliability as an ally.

The potential stress, not only between East and West, the Warsaw Pact and the West, but between North and South. Most non-Communist Asians are very conscious of their Asianness and of their nationalism, but they are not anti-American. And the Communists in China are far more reasonable than the new ones in Vietnam.

The importance of consultation and of participation by our friends, particularly in Japan.

American vulnerability, is a fact in a tough world, where major countries talk openly of going to war as a means of attaining their political objectives, and where the slaughter of the innocents is almost accepted as a legitimate means of political expression. In this world I think it will be very handy to keep our American powder dry.

You have to consider morality—what is right in foreign affairs. It's not a complete guide to what we ought to do but it's a very good beginning.

And, finally, I think we have to pay attention for the sake of us all, to reestablishment of American unity, ending the adversary relationship which sometimes exists for example between the Congress and the executive; between the military and the press; between patriotic Americans and patriotic Americans. I think Congress and the news media can contribute greatly to public education.

So we have our vulnerabilities and we need to pull ourselves together. But I do not for a minute believe that America is on the skids. We have reserves of strength, and of will that have yet to be tapped; and we have a place, a key place, a unique place in the development of the world toward what it ought to be.

Of the things I advocate as the way to go, I would put long-term planning at the top of the list—planning for a little bit more than tomorrow's horizon. Long-term planning can be sophisticated, but it can also be simple.

I think our objectives can be quite clear: To maintain our forward presence. To maintain the bilateral understandings with many a friend, which collectively mean peace and stability. To maintain a no-nonsense stance toward the major military powers, a supportive stance toward the lesser nonaligned nations; and a reliable stance toward our allies. To keep up our military strength and work to the best of our ability toward peace and the rule of law in the world.

ADMIRAL GAYLER'S RETIREMENT

(Mr. GILMAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GILMAN. Mr. Speaker, I wish to associate myself with the remarks of my distinguished colleague, the gentleman from New York (Mr. Wolff) in lauding the accomplishments of Adm. Noel A. M. Gayler, commander in chief of the U.S. Armed Forces in the Pacific, who retired, yesterday, August 30, from the Navy, after devoting over 40 years of active and distinguished service to his Nation.

A 1935 graduate of the Naval Academy, Admiral Gayler served as a carrier-based fighter pilot in the Pacific during World War II. After World War II, he became the third American naval officer to fly jet aircraft, and he holds the record for the longest jet flight made from an aircraft carrier. In July of 1969, he was appointed Director of the National Security Agency.

I came to know Admiral Gayler's dedication to his duties during a recent visit to his headquarters in the Pacific and on the several occasions of his testimony before the Committee on International Relations.

I know that my colleagues join me in extending Admiral Gayler, on his retirement our sincere best wishes for many happy and healthy years.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. MATSUNAGA (at the request of Mr. O'NEILL), for this week, on account of official business.

Mr. HELSTOSKI (at the request of Mr. O'NEILL), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SYMMS) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 15 minutes, today.

Mrs. HECKLER of Massachusetts, for 15 minutes, today.

Mr. SEBELIUS, for 10 minutes, today.

(The following Members (at the request of Mr. LEVITAS) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. CORMAN, for 5 minutes, today.

Mr. AUCOIN, for 5 minutes, today.

Mr. SLACK, for 5 minutes, today.

Mr. O'NEILL, for 5 minutes, today.

Mr. KOCH, for 5 minutes, today.

Mr. ENGLISH, for 5 minutes, today.

Mr. CHARLES H. WILSON of California, for 60 minutes, September 2.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MADDEN.

Mr. WOLFF to include extraneous material notwithstanding the fact it exceeds 2¾ pages of the RECORD and is estimated by the Public Printer to cost $786.50.

Mr. GILMAN to revise and extend his remarks and include extraneous material following the remarks of Mr. WOLFF on "Gayler Tribute."

Mr. YOUNG of Florida to revise and extend his remarks immediately following the remarks of Mr. GRASSLEY.

(The following Members (at the request of Mr. SYMMS) and to include extraneous matter:)

Mr. FINDLEY.

Mr. SHUSTER.

Mr. FRENZEL in three instances.

Mr. CLANCY.

Mr. ROBINSON.

Mr. HEINZ.

Mr. PAUL in two instances.

Mr. ASHBROOK in two instances.

Mr. ROUSSELOT in two instances.

Mr. BROWN of Ohio in two instances.

Mr. BROWN of Michigan.

Mr. GILMAN in two instances.

(The following Members (at the request of Mr. LEVITAS) and to include extraneous matter:)

Mr. SISK.

Mrs. LLOYD of Tennessee in five instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Ms. HOLTZMAN in 10 instances.

Mr. REUSS.

Mr. EILBERG in 10 instances.

Mr. HOLLAND in three instances.

Mr. WAXMAN.

Mr. GAYDOS.

Mr. LEGGETT.

Mrs. SCHROEDER.

Mr. DRINAN.

Mr. UDALL.

Mr. MOORHEAD of Pennsylvania.

Mr. FORD of Tennessee.

Mr. MCHUGH.

Mr. VANIK.

Mr. MCDONALD in two instances.

Mr. RYAN.

Mr. ZABLOCKI in two instances.

Mr. JOHN L. BURTON.

Mr. MITCHELL of Maryland in two instances.

Mr. MADDEN.

Mr. O'NEILL.

Mr. BEDELL.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1437. An act to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes; to the Committee on Government Operations.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3052. An act to amend section 512(b) (5) of the Internal Revenue Code of 1954 with respect to the tax treatment of the gain on the lapse of options to buy or sell securities;

H.R. 3884. An act to terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies; and

H.R. 8800. An act to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles.

S. 5. An act to provide that meetings of Government agencies shall be open to the public, and for other purposes;

S. 2145. An act to provide Federal financial assistance to States in order to assist local educational agencies to provide education to Vietnamese and Cambodian refugee children, and for other purposes; and

S. 2862. An act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974.

ADJOURNMENT

Mr. LEVITAS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 42 minutes p.m.), the House adjourned until tomorrow, Thursday, September 2, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3907. A letter from the Director, Office of Regulatory Review, Department of Health, Education, and Welfare, transmitting proposed regulations governing the school library resources, textbooks, and other instructional materials program authorized by title II of the Elementary and Secondary Education Act, pursuant to section 431(d) (1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

3908. A letter from the Acting Secretary of Agriculture, transmitting notice of a proposed new system of records for the Department of Agriculture, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3909. A letter from the Administrator, Federal Energy Administration, transmitting structural and parametric documentation for the Project Independence evaluation system, pursuant to section 31 (1) of the Federal Energy Administration Act of 1974, as amended (90 Stat. 1132); to the Committee on Interstate and Foreign Commerce.

3910. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the month of July 1976 on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a) (2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

RECEIVED FROM THE COMPTROLLER GENERAL

3911. A letter from the Comptroller General of the United States, transmitting a report on opportunities for the Department of Defense to improve its efforts to use work measurement; jointly, to the Committees on Government Operations, and Armed Services.

3912. A letter from the Acting Comptroller General of the United States, transmitting a report on possible implications of the United States joining the Fifth International Tin Agreement; jointly, to the Committees on Government Operations, International Relations, and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HENDERSON: Committee of conference. Conference report on H.R. 5465 (Rept. No. 94–1456). Ordered to be printed.

Mr. ADAMS: Committee on the Budget. H. Con. Res. 728. Concurrent resolution revising the congressional budget for the U.S. Government for the fiscal year 1977 (Rept. No. 94–1457). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 9067. A bill to provide additional funds to the States for carrying out restoration projects and programs, and for other purposes; with an amendment (Rept. No. 94–1459). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 13613. A bill to assure low-income households the opportunity to attain adequate levels of nutrition by increasing their purchasing power, to strengthen the food sector of the economy, and for other purposes; with an amendment (Rept. No. 94–1460). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE: Committee on Science and Technology. H.R. 14965. A bill to amend the Solid Waste Disposal Act to provide certain authorities respecting research, development, and demonstration; with amendments (Rept. No. 94–1461). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of X rule bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. STRATTON: Committee on Armed Services. H.R. 14773. A bill to amend title 10, United States Code, to authorize cost-of-living adjustments of annuities under the retired serviceman's family protection plan, to suspend retired-pay deductions under the survivor benefit plan when there is no eligible spouse beneficiary, to reduce the duration-of-marriage requirement under the survivor benefit plan from 2 years to 1 year, and for other purpose; with amendments; referred to the Committee on Appropriations for a period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93–344.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MORGAN (for himself, Mr. Zablocki, Mr. Fascell, Mr. Nix, Mr. Fraser, Mr. Rosenthal, Mr. Hamilton, Mr. Yatron, Mr. Bingham, Mr. Ryan, Mrs. Collins of Illinois, Mr. Solarz, Mrs. Meyner, Mr. Broomfield, Mr. Burke of Florida, Mr. Whalen, Mr. Biester, Mr. Winn, Mr. Gilman, and Mr. Guyer):

H.R. 15377. A bill to amend the Export Administration Act of 1969; to the Committee on International Relations.

By Mr. BENNETT (for himself and Mr. Bob Wilson):

H.R. 15378. A bill to authorize additional appropriations during the fiscal year 1977 for procurement of naval vessels for the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. GAYDOS:

H.R. 15379. A bill to impose quantitative limitations on the importation of mushrooms into the United States; to the Committee on Ways and Means.

By Mr. HANSEN:

H.R. 15380. A bill to establish a commission and task force to review all Federal Government programs, determine what economies and efficiencies can be achieved through program consolidation, review the functions carried out by each level of government, and make recommendations for more clearly defining the respective responsibilities of such levels, and for other purposes; to the Committee on Government Operations.

By Mr. HEINZ (for himself, Mr. Bevill, Mr. Boland, Mr. Broyhill, Mr. Dan Daniel, Mr. Emery, Mr. Fithian, Mr. Hefner, Mr. Howard, Mr. Lehman, Mrs. Lloyd of Tennessee, Mr. Lundine, Mr. Miller of California, Mr. Richmond, Mr. Wirth, Mr. Young of Florida, and Mr. Koch):

H.R. 15381. A bill to establish a national commission on regulatory reform; to the Committee on Interstate and Foreign Commerce.

By Mr. HOLLAND:

H.R. 15382. A bill to encourage the utilization of sound management practices in dredged material disposal areas of the Nation, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. JONES of Oklahoma:

H.R. 15383. A bill to amend the Internal Revenue Code of 1954 to change the method used to determine the rate of interest on tax deficiencies and overpayments; to the Committee on Ways and Means.

By Mr. KETCHUM (for himself, Mr. Lagomarsino, Mr. Winn, Mr. Derwinski, Mr. Burgener, and Mr. Bob Wilson):

H.R. 15384. A bill to amend sections 206 and 208 of the Labor Management Relations Act, 1947 to provide that the national emergency procedures thereunder may be applied to strikes or lockouts which will cause losses of agricultural crops; to the Committee on Education and Labor.

By Mr. McKINNEY (for himself, Mr. Conte, Mr. Hughes, and Mr. Edwards of California):

H.R. 15385. A bill to amend the Mineral Leasing Act of 1920 and the Trans-Alaska Pipeline Authorization Act to require the development of a plan to assure the equitable allocation of available crude oil and petroleum products, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and International Relations.

By Mr. TRAXLER:

H.R. 15386. A bill to amend the Equal Educational Opportunities Act of 1974 with respect to the transportation of students, and for other purposes; jointly, to the Committees on Education and Labor, and the Judiciary.

By Mr. UDALL:

H.R. 15387. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BROWN of Michigan:

H.R. 15388. A bill to establish a national commission on neighborhoods; to the Committee on Banking, Currency and Housing.

By Ms. BURKE of California (for herself, Mr. Reuss, Ms. Boggs, Mr. Rees, Mr. Tsongas, Ms. Fenwick, Mr. St Germain, Mr. McKinney, Mr. Hannaford, and Mr. Mitchell of Maryland):

H.R. 15389. A bill to establish a national commission on neighborhoods; to the Committee on Banking, Currency and Housing.

By Mr. FOUNTAIN (for himself, Mr. Brooks, Mr. Rosenthal, Mr. Fuqua, Mr. Mezvinsky, Ms. Jordan, Mr. John L. Burton, Mr. Drinan, Mr. English, Mr. Levitas, Mr. Horton, Mr. Wydler, and Mr. Brown of Ohio):

H.R. 15390. A bill to establish an office of inspector general within the Department of Health, Education, and Welfare, and for other purposes; to the Committee on Government Operations.

By Mr. KREBS (for himself and Mr. Bedell):

H.R. 15391. A bill to amend the meat import law in order to limit the quantity of certain prepared or preserved beef and veal which may be imported into the United States after 1976; to the Committee on Ways and Means.

By Mr. LaFALCE:

H.R. 15392. A bill to amend the Emergency Jobs and Unemployment Assistance Act of 1974 to provide for payment of assistance under such act to an individual who is entitled to regular unemployment compensation in an amount smaller than his weekly benefit amount determined under such act; to the Committee on Ways and Means.

By Mr. LAGOMARSINO:

H.R. 15393. A bill to amend the Internal Revenue Code of 1954 to increase the limitation applicable in the case of the sale of personal residences by the elderly from $20,000 to $60,000; to the Committee on Ways and Means.

By Mr. LEGGETT:

H.R. 15394. A bill to save the gray whale; jointly, to the Committees on Merchant Marine and Fisheries, and International Relations.

By Mr. MILLER of Ohio (for himself, Mr. Edgar, Mr. Andrews of North Dakota, Mr. Fountain, Mr. Lott, Mr. Myers of Indiana, Mr. Kemp, and Mr. Florio):

H.R. 15395. A bill to amend section 901(a) (relating to prohibition of sex discrimination) of the Education Amendments of 1972 to exempt from the prohibition of such section musical programs or activities, and social programs or activities designed for parents and students; to the Committee on Education and Labor.

By Mr. MYERS of Pennsylvania:

H.R. 15396. A bill to amend the Atomic Energy Act of 1954 to provide criminal penalties for offenses committed under the act with the intent to convert nuclear material or facilities; to the Joint Committee on Atomic Energy.

By Mrs. PETTIS:

H.R. 15397. A bill to amend section 403(b) of the Federal Aviation Act of 1958 to permit the continuation of family fares; to authorize reduced rate transportation for handicapped persons and their attendants; and to authorize reduced-rate transportation for elderly people and young people on a space-available basis; to the Committee on Public Works and Transportation.

By Mr. ROGERS (by request):

H.R. 15398. A bill to provide minimum national standards for disclosure and consumer protection in condominium sales and condominium conversions; and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. SKUBITZ:

H.R. 15399. A bill to authorize and appropriate funds for the acquisition, improvement, rehabilitation, and maintenance of the national park system and the national wildlife refuge system areas and to increase grants to communities to improve park and recreation facilities; jointly, to the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, Banking, Currency and Housing, and Appropriations.

By Mr. WEAVER (for himself and Mr. Ullman):

H.R. 15400. A bill to direct the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, and the Secretary of the Army, acting through the Chief of Engineers, to assess the potential for development of hydroelectric power at water resources projects under their respective jurisdictions; jointly, to the Committees on Interior and Insular Affairs and Public Works and Transportation.

By Mr. ENGLISH:

H.J. Res. 1082. A resolution proposing an amendment to the Constitution of the United States relating to powers reserved to the several States; to the Committee on the Judiciary.

By Mr. ADAMS:

H. Con. Res. 728. A resolution revising the congressional budget for the U.S. Government for the fiscal year 1977.

By Mr. BUCHANAN (for himself, Mr. Bevill, Mr. Blanchard, Mr. Dan Daniel, Mr. du Pont, Mr. Fithian, Mr. Hagedorn, Mr. Ketchum, Mr. Krebs, Mr. Long of Maryland, Mr. Mikva, Mr. O'Hara, Mr. Peyser, Mr. Pressler, Mr. Preyer, Mr. Quie, Mr. Rosenthal, Mr. Schulze, Mr. Shriver, Mr. Thone, Mr. Waxman, Mr. Whitehurst, Mr. Charles Wilson of Texas, Mr. Wydler, and Mr. Yates):

H. Con. Res. 729. A resolution to urge the Soviet Union to release Georgi Vins and permit religious believers within its borders to worship God according to their own consciences; to the Committee on International Relations.

By Mr. BUCHANAN (for himself Mr. Addabbo, Mr. Conlan, Mr. Conte, Mr. D'Amours, Mr. Dodd, Mr. Downey of New York, Mr. Drinan, Mr. Eilberg, Mr. Erlenborn, Mrs. Fenwick, Mr. Gilman, Mr. Harkin, Mr. Horton, Mr. Kemp, Mr. Koch, Mr. Lagomarsino, Mr. LaFalce, Mr. Lehman, Mr. McDonald of Georgia, Mr. Miller of Ohio, Mr. Moakley, Mr. Ottinger, Mr. Paul, and Mr. Pepper):

H. Con. Res. 730. A resolution to urge the Soviet Union to release Georgi Vins and permit religious believers within its borders to worship God according to their own consciences; to the Committee on International Relations.

By Mr. MURPHY of New York (for himself, Mr. Charles H. Wilson of California, Mr. Gradison, Mr. Fraser, Mr. Cotter, Mr. Robert W. Daniel, Jr., Mr. Flowers, Mr. Ford of Michigan, Mr. Krebs, Mr. Myers of Pennsylvania, Mr. Wolff, Mr. McClory, Mr. Martin, Mr. Derrick, and Mr. Mitchell of New York):

H. Con. Res. 731. A resolution expressing the sense of Congress that the President take steps to place on the agenda of the United Nations Organization the threat to the peace created by the murder of two American Army officers by members of the North Korean Armed Forces; to the Committee on International Relations.

By Mr. PRESSLER:

H. Con. Res. 732. A resolution to declare the preservation of our soil, water, and wildlife water resources of the highest national priority; to the Committee on Agriculture.

By Mr. DENT:

H. Res. 1513. A resolution that there be printed as a House document a concise and selected nationwide record of the Bicentennial Captive Nations Week proclamations, statements, and relevant matters; to the Committee on House Administration.

By Mr. HUGHES:

H. Res. 1514. A resolution to amend the Rules of the House of Representatives to require committee approval of certain travel proposals, and for other purposes; to the Committee on Rules.

By Mr. KOCH (for himself, Ms. Abzug, Mr. Bedell, Mr. Phillip Burton, Mr. Edgar, Mr. Eilberg, Mr. Flood, Mr. Harrington, Mr. Hughes, Mr. McHugh, Mr. Metcalfe, Mr. Oberstar, Mr. Richmond, Mr. Roe, Mr. Ryan, Mr. Rosenthal, Mr. Simon, Mr. Solarz, Mrs. Spellman, and Mr. Charles Wilson of Texas):

H. Res. 1515. A resolution calling for the appropriation of $10,000,000 to recondition, activate, and operate the hospital ship U.S.S. *Sanctuary* provide medical assistance to the wounded in Lebanon and to other areas of of the world that will need similar emergency medical assistance; to the Committee on Armed Services.

By Mr. MURPHY of New York (for himself, Mr. Charles H. Wilson of California, Mr. Gradison, Mr. Fraser, Mr. Montgomery, Mr. Cotter, Mr. Robert W. Daniel, Jr., Mr. Flowers, Mr. Ford of Michigan, Mr. Krebs, Mr. Myers of Pennsylvania, Mr. Martin, Mr. McClory, Mr. Derrick, and Mr. Mitchell of New York):

H. Res. 1516. A resolution condemning the treacherous acts of North Korea; to the Committee on International Relations.

By Mr. MURPHY of New York (for himself, Mr. Charles H. Wilson of California, Mr. Gradison, Mr. Fraser, Mr. Montgomery, Mr. Cotter, Mr. Robert W. Daniel, Jr., Mr. Flowers, Mr. Ford of Michigan, Mr. Krebs, Mr. Ottinger, Mr. Martin, Mr. Wolff, Mr. Derrick, and Mr. Mitchell of New York):

H. Res. 1517. A resolution instructing the Committee on Armed Services to study and report on the murder of two American Army officers by North Korean armed services; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HELSTOSKI:

H.R. 15401. A bill for the relief of Miss Ana Kwaszko-Grebin; to the Committee on the Judiciary.

By Mr. LLOYD of California:

H.R. 15402. A bill for the relief of Dolores Hernandez Macapinlac; to the Committee on the Judiciary.

By Mr. QUIE:

H.R. 15403. A bill for the relief of Soo Jin Lee; to the Committee on the Judiciary.

By Mr. PATTEN:

H. Res. 1518. A resolution to refer the bill (H.R. 15376) for the relief of the Zena Co. to the Chief Commissioner of the Court of Claims; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 12112

By Mr. OTTINGER:

On page 32 (which is part of the Science and Technology Committee amendment) after the period on line 19 insert the following: "Before providing assistance under this subsection, the Administrator must review the applicant's proposed plan for construction and operation of a facility aided under this section and give approval of such plan. The Administrator shall consult with the Environmental Protection Agency in making this review and giving such approval."

On page 32 (which is part of the Science and Technology Committee Amendment), line 13, strike all after the colon to the end of line 16 and insert the following: *Provided,* That paragraphs (2) through (4) of this subsection, and subsections (c)(1), (4), (8) and (9), (d), (g)(2) through (4), (m), and (n) through (y) of this section shall also apply to such guarantees:".

On page 33 (which is part of the Science and Technology Committee Amendment), strike all on line 12 through the period on line 21 of page 34, and insert therein the following:

"(5)(A) The Administrator shall not enter into any guarantee or commitment to guarantee with respect to any obligation for any facility for the demonstration of conversion of oil shale into synthetic fuels unless such facility is a modular facility, the production of which is not less than 6,000 and not more than 10,000 barrels per day. No such modular facility may receive both loan guarantees under this section and any direct or indirect financial assistance under any other section of this Act.

"(B) The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v) (w), (x), (y), and (z) shall apply to any facility—

"(i) which is designed to convert oil shale into synthetic fuels,

"(ii) which has a capacity of more than 6,000 barrels per day, and

"(iii) which receives, or seeks to receive, assistance (other than loan guarantees) under this Act,

in the same manner as such subsections would apply to a facility with respect to which a loan guarantee is issued, or sought to be issued, under this section."

On page 44 (which is a part of the Science and Technology Committee amendment), line 3, strike "shall not exceed" and insert therein "shall not be less than".

On page 53 (which is part of the Science and Technology Committee amendment), strike the proviso beginning on line 16 and ending on line 22 and insert therein the following: "*Provided,* That, where the cost of such facility exceeds $200,000,000, such guarantee or commitment to guarantee or cooperative agreement shall not be made except as specifically authorized by legislation hereafter enacted by Congress."

On page 54 (which is part of the Science and Technology Committee amendment) strike all on line 11 through the period on line 19, and insert therein the following: "(2) There are authorized to be appropriated in fiscal year 1977 $2,000,000 for administrative expenses."

On page 70 (which is part of the Banking, Currency and Housing Committee amendment), after the period on line 21 insert the following: "Before providing assistance under this subsection, the Administrator must review the applicant's proposed plan for construction and operation of a facility aided under this section and give approval of such plan. The Administrator shall consult with the Environmental Protection Agency in making this review and giving such approval."

On page 70 (which is part of the Banking, Currency and Housing Committee amendment), line 15, strike all after the colon to the end of line 17 and insert the following: "*Provided,* That paragraphs (2) through (4) of this subsection, and subsections (c) (1), (4), (8), and (9), (d), (g) (2) through (4), (m), and (n) through (z) of this section shall also apply to such guarantees:"

On page 94 (which is part of the Banking, Currency and Housing Committee amendment), strike the proviso beginning on line 18 and ending on line 24 and insert therein the following: "*Provided*, That, where the cost of such facility exceeds $200,000,000, such guarantee or commitment to guarantee or cooperative agreement shall not be made except as specifically authorized by legislation hereafter enacted by Congress."

On page 71 (which is part of the Banking, Currency and Housing Committee amendment) strike all on line 14 through the period on line 24 of page 72 and insert therein the following:

"(5) (A) The Administrator shall not enter into any guarantee or commitment to guarantee with respect to any obligation for any facility for the demonstration of conversion of oil shale into synthetic fuels unless such facility is a modular facility, the production of which is not less than 6,000 and not more than 10,000 barrels per day. No such modular facility may receive both loan guarantees under this section and any direct or indirect financial assistance under any other section of this Act.

"(B) The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), (x), (y), and (z) shall apply to any facility—

"(i) which is designed to convert oil shale into synthetic fuels,

"(ii) which has a capacity of more than 6,000 barrels per day, and

"(iii) which receives, or seeks to receive, assistance (other than loan guarantees) under this Act,

in the same manner as such subsections would apply to a facility with respect to which a loan guarantee is issued, or sought to be issued, under this section."

On page 95 (which is part of the Banking, Currency and Housing Committee Amendment) strike all on line 13 through the period on line 21, and insert therein the following:

"(2) There are authorized to be appropriated in fiscal year 1977 $2,000,000 for administrative expenses."

On page 108 (which is part of the Interstate and Foreign Commerce Committee amendment), after the period on line 22 insert the following: "Before providing assistance under this subsection, the Administrator must review the applicant's proposed plan for construction and operation of a facility aided under this section and give approval of such plan. The Administrator shall consult with the Environmental Protection Agency in making this review and giving such approval."

By Mr. HARKIN:

On page 31 (which is part of the Science and Technology Committee Amendment), line 4, strike all after the period through the colon on line 7 and insert therein the following: "The amount of obligations authorized for any guarantee or commitment to guarantee under this subsection is $2,000,000,000:".

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of August 31, 1976, page 28551:

HOUSE CONCURRENT RESOLUTIONS

H. Con. Res. 680. July 20, 1976. International Relations. Expresses approval of the Israel rescue mission at Entebbe Airport. Condemns efforts being undertaken by certain nations to condemn Israel for the mission.

H. Con. Res. 681. July 20, 1976. Judiciary. States that the Attorney General should parole into the United States those Lebanese aliens not participating in the fighting in the civil war in that country who are in danger of losing their lives as a result of such war.

H. Con. Res. 682. July 22, 1976. House Administration. Directs that there be printed copies of a booklet entitled "Black Americans in Congress" for the use of the Joint Committee on Arrangements for the Commemoration of the Bicentennial.

H. Con. Res. 683. July 22, 1976. Veterans' Affairs. Expresses the sense of the Congress that no individual whose social security or railroad retirement benefits are increased should suffer a loss of or reduction in any pension such annuitant is entitled to receive under laws administered by the Veterans' Administration.

Stipulates that the House and Senate Committees on Veterans' Affairs should without delay consider and report legislation eliminating the possibility of any loss of or reduction in such pensions on account of increases in social security or railroad retirement benefits.

H. Con. Res. 684. July 22, 1976. Veterans' Affairs. Expresses the sense of the Congress that no individual whose social security or railroad retirement benefits are increased should suffer a loss of or reduction in any pension such annuitant is entitled to receive under laws administered by the Veterans' Administration.

Stipulates that the House and Senate Committees on Veterans' Affairs should without delay consider and report legislation eliminating the possibility of any loss of or reduction in such pensions on account of increases in social security or railroad retirement benefits.

H. Con. Res. 685. July 22, 1976. Veterans' Affairs. Expresses the sense of the Congress that no individual whose social security or railroad retirement benefits are increased should suffer a loss of or reduction in any pension such annuitant is entitled to receive under laws administered by the Veterans' Administration.

Stipulates that the House and Senate Committees on Veterans' Affairs should without delay consider and report legislation eliminating the possibility of any loss of or reduction in such pensions on account of increases in social security or railroad retirement benefits.

H. Con. Res. 686. July 22, 1976. Veterans' Affairs. Expresses the sense of the Congress that no individual whose social security or railroad retirement benefits are increased should suffer a loss of or reduction in any pension such annuitant is entitled to receive under laws administered by the Veterans' Administration.

Stipulates that the House and Senate Committees on Veterans' Affairs should without delay consider and report legislation eliminating the possibility of any loss of or reduction in such pensions on account of increases in social security or railroad retirement benefits.

H. Con. Res. 687. July 22, 1976. International Relations. Authorizes a certain member of the Board of Foreign Scholarships to accept appointment as Honorary Vice Consul of Luxembourg for the State of Ohio.

H. Con. Res. 688. July 26, 1976. House Administration. Provides that there shall be revised and reprinted as a House Document a visitors' information folder entitled "The United States Capitol".

H. Con. Res. 689. July 28, 1976. Agriculture; International Relations. Declares it the sense of Congress that every person has the right to a nutritionally adequate diet, and that the United States increase its assistance for self-help development among the worlds poorest people.

H. Con. Res. 690. July 28, 1976. Judiciary. Expresses the sense of the Congress that the U.S. Constitution does not grant any immunity from arrest or prosecution on a charge of violation of any criminal statute of any jurisdiction to a Member of either House of the Congress.

H. Con. Res. 691. July 29, 1976. International Relations. Expresses the objection of the Congress to the proposed sale to Kenya of F–5E/F aircraft and related equipment and training.

H. Con. Res. 692. July 29, 1976. Judiciary. Expresses the sense of Congress that the Attorney General parole into the United States those South American aliens having fled to Argentina and those Uruguayans within Uruguay who are in danger of losing their lives because of their political beliefs.

H. Con. Res. 693. July 29, 1976. Interstate and Foreign Commerce. Calls upon the Consumer Product Safety Commission to undertake a study of the sealing capabilities of container lids used in the canning of food in homes.

H. Con. Res. 694. July 30, 1976. District of Columbia. States that the House of Representatives disapproves of the Firearms Control Regulations Act of 1975 passed by the Council of the District of Columbia.

H. Con. Res. 695. July 30, 1976. Veterans' Affairs. Expresses the sense of the Congress that no individual whose social security or railroad retirement benefits are increased should suffer a loss of or reduction in any pension such annuitant is entitled to receive under laws administered by the Veterans' Administration.

Stipulates that the House and Senate Committees on Veterans' Affairs should without delay consider and report legislation eliminating the possibility of any loss of or reduction in such pensions on account of increases in social security or railroad retirement benefits.

H. Con. Res. 696. August 2, 1976. International Relations. Calls upon the President to furnish assistance to the Peoples Republic of China for relief of the damage and injuries suffered in that country as a result of the earthquakes occurring on July 27 and 28, 1976.

H. Con. Res. 697. August 2, 1976. International Relations; Public Works and Transportation. Expresses the sense of Congress that the President should take specified action against countries which aid terrorists. Calls for a renewal of efforts to establish an international convention providing aviation sanctions against countries refusing to punish or extradite terrorists.

H. Con. Res. 698. August 3, 1976. House Administration. Directs that there be reprinted as a House document "Art in the United States Capitol."

H. Con. Res. 699. August 3, 1976. House Administration. Provides for the printing as a House document of the transcript of the proceedings in the Committee on Interstate and Foreign Commerce of April 6, 1976.

HOUSE RESOLUTIONS

H. Res. 1416. July 21, 1976. Sets forth the rule for consideration of H.R. 14514.

H. Res. 1417. July 22, 1976. Agriculture. Calls for an assessment of the whey supply and for a research program to utilize whey more efficiently.

H. Res. 1418. July 22, 1976. Interstate and Foreign Commerce. Calls for hearings by the committee with appropriate jurisdiction to consider and determine the Nation's future telecommunications policy.

H. Res. 1419. July 22, 1976. Banking, Currency and Housing; International Relations. Calls for restraints upon the growth of palm oil imports into the United States. Calls for an analysis of the impact of support of production in developing countries of specified agricultural commodities for export in other nations.

H. Res. 1420. July 22, 1976. House Administration. Authorizes participation by counsel on behalf of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce in any judicial proceeding concerning specified subpenas issued to the president of the American Telephone and Telegraph Company.

H. Res. 1421. July 26, 1976. Directs the House of Representatives to adopt the report of the Committee on Standards of Official Conduct, dated July 23, 1976, on the investigation of a complaint against Representative Robert L. F. Sikes.

H. Res. 1422. July 26, 1976. Rules. Amends Rules XXII of the Rules of the House of Representatives to remove the limitation on the number of Members who may introduce jointly any bill, memorial, or resolution.

H. Res. 1423. July 27, 1976. International Relations. Expresses the sense of the House of Representatives that Israel be commended for its rescue operation in Uganda.

H. Res. 1424, July 27, 1976. Rules. Amends Rule XXII of the Rules of the House of Representatives to remove the limitation on the number of Members who may introduce jointly any bill, memorial, or resolution. Allows Members to add or delete their names as sponsors anytime prior to enactment or adoption.

H. Res. 1425. July 27, 1976. Rules. Amends Rule XXII of the Rules of the House of Representatives to remove the limitations on the number of Members who may introduce jointly any bill, memorial, or resolution. Allows Members to add or delete their names as sponsors anytime prior to enactment or adoption.

H. Res. 1426. July 27, 1976. Rules. Amends Rule X of the Rules of the House of Representatives to replace the Committee on the District of Columbia with the Committee on Urban and District of Columbia Affairs. Provides that the Committee's responsiblities shall include a study of problems confronting urban areas.

H. Res. 1427. July 27, 1976. International Relations. Directs the President to furnish the House of Representatives information concerning the involvement of the U.S. Government and multinational corporations in the Italian political crisis.

H. Res. 1428. July 27, 1976. Appropriations. Disapproves the proposed deferral of budget authority for mines and minerals. Bureau of Mines, to design a metallurgy research center to be established on the Fort Douglas Military Reservation, Utah (deferral number D76-110).

H. Res. 1429. July 27, 1976. Authorizes the Clerk of the House of Representatives to appear before a certain grand jury and to deliver to such grand jury certain papers and documents in response to a subpoena duces tecum.

H. Res. 1430. July 27, 1976. Sets forth the rules for consideration of H.R. 10498.

H. Res. 1431. July 27, 1976. Sets forth the rule for consideration of H.R. 12664.

H. Res. 1432. July 27, 1976. Sets forth the rule for consideration of H.R. 13958.

H. Res. 1433. July 27, 1976. Sets forth the rule for consideration of H.R. 14070.

H. Res. 1434. July 28, 1976. Public Works and Transportation. Requests the Comptroller General to investigate and evaluate the operations of the Tennessee Valley Authority.

H. Res. 1435. July 28, 1976. Rules. Amends Rule XXXII of the Rules of the House of Representatives to allow specified present and former employees and Members of the House to enter th Hall of the House.

H. Res. 1436. July 28, 1976. Rules. Amends Rule XXXII of the Rules of the House of Representatives to allow specified present and former employees and Members of the House to enter the Hall of the House.

H. Res. 1437. July 28, 1976. Rules. Amends Rule XXXII of the Rules of the House of Representatives to allow specified present and former employees and Members of the House to enter the Hall of the House.

H. Res. 1438. July 28, 1976. Rules. Amends Rule XXXII of the Rules of the House of Representatives to allow specified present and former employees and Members of the House to enter the Hall of the House.

H. Res. 1439. July 28, 1976. Rules. Amends Rule XXXII of the Rules of the House of Representatives to allow specified present and former employees and Members of the House to enter the Hall of the House.

H. Res. 1440. July 28, 1976. Rules. Creates a House Select Committee on the Fiscal Problems of Cities which shall identify the nature and cause of problems afflicting large cities which face severe fiscal imbalance.

H. Res. 1441. July 28, 1976. Rules. Establishes the House Committee on Health which shall have the responsibility for investigating health measures generally, health facilities, health care programs, national health insurance, public health and quarantine, and biomedical research and development.

H. Res. 1442. July 28, 1976. Rules. Creates a Select House Committee on Population to conduct an investigation and study of world population growth, its effects, and methods to reduce such growth.

H. Res. 1443. July 28, 1976. Interstate and Foreign Commerce. Calls for measures by Federal agencies to insure that the quality and quantity of free broadcasting service is not impaired by the development of pay television.

H. Res. 1444. July 29, 1976. Sets forth the rule for consideration of H.R. 11522.

H. Res. 1445. July 29, 1976. Banking, Currency and Housing. Directs the Secretary of Agriculture to study the impact of the development of the foreign palm oil industry on the domestic vegetable oil industry.

H. Res. 1446. July 29, 1976. Ways and Means. Urges the President to deny to any country granting sanctuary or aid to international terrorists the benefits of designation as a beneficiary developing country as relates to the Generalized System of Preferences and duty-free treatment for eligible articles.

H. Res. 1447. July 29, 1976. District of Columbia. States that the House of Represenatives disapproves of the Firearms Control Regulations Act of 1975 passed by the Council of the District of Columbia.

H. Res. 1448. July 29, 1976. International Relations. Expresses the sense of the House of Representatives that Israel be commended for its rescue operation in Uganda.

H. Res. 1449. July 29, 1976. International Relations. Expresses the sense of the House of Representatives that Israel be commended for its rescue operation in Uganda.

H. Res. 1450. July 29, 1976, International Relations. Expresses the sense of the House of Representatives that Israel be commended for its rescue operation in Uganda.

H. Res. 1451. July 30, 1976. Agriculture; Banking, Currency and Housing. Directs the Secretary of Agriculture to study the impact of the development of the foreign palm oil industry on the domestic vegetable oil industry.

H. Res. 1452. July 30, 1976. Agriculture; International Relations. Expresses the sense of the House of Representatives that the Secretary of Agriculture study the impact of the development of foreign palm oil industry on the domestic vegetable oil industry.

H. Res. 1453. July 30, 1976. Rules. Amends Rule XXII of the Rules of the House of Representatives to remove the limitation on the number of Members who may introduce jointly any bill, memorial, or resolution.

H. Res. 1454. August 2, 1976. Directs the Select Committee on Missing Persons in Southeast Asia to transmit its report to the House with respect to the results of its investigation.

H. Res. 1455. August 2, 1976. Judiciary. Refers H.R. 14988 to the Chief Commissioner of the United States Court of Claims.

H. Res. 1456. August 3, 1976. Rules. Amends Rule XI of the Rules of the House of Representatives to provide that committee funds shall not be used for travel unless its official nature is established by resolution approved by majority vote of the committee involved.

H. Res. 1457. August 3, 1976. Sets forth the rule for consideration of H.R. 13615.

H. Res. 1458. August 3, 1976. Sets forth the rule for consideration of H.R. 14032.

H. Res. 1459. August 4, 1976. Interstate and Foreign Commerce. Calls for hearings by the committee with appropriate jurisdiction to consider and determine what should be the Nation's future telecommunications policy.

H. Res. 1460. August 4, 1976. Appropriations. Disapproves the deferral of budget authority for operating grants to the National Railroad Passenger Corporation.

EXTENSIONS OF REMARKS

McKEESPORT HOSPITAL, A MONUMENT TO COMMITMENT

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. GAYDOS. Mr. Speaker, atop a hill overlooking the city of McKeesport in southwestern Pennsylvania rises a monument to more than 80 years of commitment to residents of the Mon-Yough Valley.

Since August 19, 1894, McKeesport Hospital has served as a beacon for those in the area seeking relief and care from physical suffering. Of course the hospital building itself has undergone great changes over the past eight decades but not the desire and pursuit of the officials and staff to provide patients with the very best in available medical skills, treatment, and technology.

This commitment to the community again will be demonstrated in a few weeks when McKeesport Hospital formally dedicates two new facilities that will greatly enlarge and expand the care and services now furnished. Appropriate ceremonies have been planned for the opening of a new $11 million hospital wing and a $1.2 million radiation therapy center.

The hospital wing will bear the name of a man closely identified with the progress of McKeesport Hospital in recent years—the late W. D. Mansfield, Jr. Mr. Mansfield, formely the publisher of the Daily News in McKeesport, served 14 years as a member of the McKeesport Hospital board of trustees and prior to his death in 1966 he had been chairman of the hospital's executive committee. His contributions to the growth and development of the hospital will never be forgotten.

The dedication of the new radiation therapy facility honors the memory of Thomas A. Wilson, a McKeesport area businessman, and his mother, the late Mrs. Isabel Wilson. Mr. Wilson was the vice president of the National Carbide Dye Co. and devoted much of his time and talents to community projects.

Groundbreaking ceremonies for the Mansfield Memorial Wing were held December 5, 1974, and completion of the building increases the hospital's usable space by some 40 percent. The seven-story structure will house a 40-bed medical/surgical nursing unit, a 35-bed rehabilitation nursing unit, a physical therapy department, a radiology unit, and an emergency medicine department, as well as other services.

Construction of the Wilson Wing for Radiation Therapy began October 8, 1975, and its opening identifies it as a major center in the field of cancer research and treatment. It contains one of the latest pieces of equipment utilized in the fight against cancer, a linear accelerator. The accelerator is a deeply penetrating, versatile piece of equipment which provides megavoltage radiation therapy for malignant growths and it is enclosed by concrete walls 7 feet thick.

Mr. Speaker, I am confident the citizens of the Mon-Yough area will realize great benefits from these two new facilities. Therefore, I deem it proper this Congress formally recognize the efforts of those who are responsible for their construction. On behalf of my colleagues I would like to extend our congratulations to the following individuals:

William J. Cox, president of McKeesport Hospitals Board of Trustees; J. P. Ely, vice president; Harry J. Alverson, Jr., treasurer; Mrs. Thomas J. Lewis, secretary; Thomas D. Mansfield, chairman of the executive committee; Robert J. Baxter, Hugh Coughanour, Charles F. Doty, Dr. Matthew R. Hadley, Mrs. J. M. Johnston, Jr., Frank J. Kelley, Philip W. Latterman, John M. F. MacDonald, Dr. Richard M. Mann, Robert F. Marth, Frank E. Neish, Joseph Odorcich, Edward T. Phillips, Dayne Shaw, Mrs. John P. Vaughn, Jr., Harold Wintner and Robert J. Bigge, executive director of the hospital.

INDIANA CALUMET RIVER DEVELOPMENT

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. MADDEN. Mr. Speaker, this morning, Chairman ROBERTS' Subcommittee on Water Resource of the Public Works and Transportation Committee held hearings on the long delayed development of the Little Calumet River in northwest Indiana. Congressman FLOYD FITHIAN, Mr. Don Newman representing the Governor of Indiana, Mr. Norman Tufford representing the Northwest Indiana Regional Planning Commission, Ms. Edith Root, Mr. Daniel Gardner, Mr. Charles Agnew, and myself testified.

I hereby submit excerpts of my testimony before the committee on this highly necessary public works project.

STATEMENT OF CONGRESSMAN RAY J. MADDEN

Mr. Chairman: I am indeed grateful to Chairman Roberts and Minority Leader Clausen and the Members of this Committee for setting aside your valuable time to hold hearings on a long delayed combined anti-flooding recreation project, in northwest Indiana.

The Little Calumet River is located about 5 miles from the southern city limits of Chicago, Illinois and also within 1 hour's distance of approximately 10 million people in eastern Illinois, northern Indiana and southern Michigan.

The Little Calumet River and its tributaries has been a source of major and minor floods over the years. Testimony has been submitted at Army Corps of Engineers' hearings that there have been 81 floods caused by the local and Federal Governments postponing and neglect of necessary anti-flooding legislation in the past. We have had 6 catastrophic floods in this area since 1947 bringing about damages in the millions of dollars to industry, highways, homes and so forth throughout this area. The Little Calumet River Basin covers over 600 square miles and it drains an area of wherein the immediate and adjoining population is well over 6 million.

If the Federal Government would cooperate and aid local authorities to develop this River and prevent further flooding and establish it as a national recreation center, it would eventually bring millions of tax dollars into the Federal Treasury besides preventing untold damages caused by flooding conditions and in many cases loss of life.

The Army Corps of Engineers have already declared that the River and surrounding vegetation, trees and adjacent land could be made into a national recreation area for millions of people in northern Indiana and adjacent areas.

During the last 70 years, the Calumet Region of northwest Indiana has been declared the fastest growing area in the nation. There are 4 major steel mills and many oil refineries owned by major and independent companies and about another 100 major industries have been constructed on the southwest shore of Lake Michigan adjacent to the area in which the Calumet River flows.

The Little Calumet River is subject to floods as a result of heavy runoffs from its tributaries, principally Hart Ditch and Thorn Creek. Snow melt over the basin in the spring causes the stream to rise, and the flat low-lying portions of the Little Calumet River valley are flooded several days or, in some instances, even weeks. Prolonged flood duration is also caused by inadequate channel capacity which forces a large part of the floodwater into temporary storage. Major floods occurred in March 1908, March 1944, October 1954 and July 1957.

In addition, a health hazard exists during floods in areas where contamination of wells is possible from flooded individual household sewage disposal systems, treatment plant bypasses, or sanitary sewer backup or overflow. Past floods indicate the hazard to life, due to flooding in the basin, is not great since flood waters do not rise rapidly. However, some of the spoil banks along the river give a false sense of security, due to inadequate cross-section and side slopes. A large spoil bank failure could catch many people off guard and prove disastrous.

The greatest flood damages are suffered in areas of residential and industrial development. The increase in urban development discussed above has in many instances expanded into areas which are subject to flooding and, unfortunately, further urban development can be expected to continue in the vacant area of the flood plain in the next 10–25 years. Improper development in this area, could further reduce the available temporary storage in the flood plain, accelerate the storm runoff, and increase river stages during flood periods. Great reductions in flood damages could be obtained by proper flood plain management.

It is concluded that floods in the Little Calumet River basin causing serious damage have occurred in the past and will occur in the future. Considerable areas within the flood plains are still undeveloped. Continued development in the flood plains without regard to proper management will lead to more severe flood damage. A flood equivalent to that of the estimated greater probable flood would result in very great damages, endanger health and human life, increased suffering, depress property values, and loss of earnings and business.

Mr. Chairman, millions of people throughout northern Indiana and eastern Illinois and the City of Chicago are looking forward to the Federal Government to cooperate along with local authorities on the Little Calumet River Development project as one of the most urgent in the Nation.

Immediate action on the part of our Government would also afford employment to thousands of unemployed during the next few years in this great anti-flood and recreational undertaking in the Mid-West.

PUBLIC WORKS EMPLOYMENT APPROPRIATIONS FOR FISCAL YEAR 1977

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. MITCHELL of Maryland. Mr. Speaker, on August 25, 1976, the House passed the public works employment appropriations for fiscal year 1977. I am heartened by the action of this body.

In the "twilight stages" of the longest, most pervasive economic trough this country has experienced, it is particularly gratifying to endorse the distinguished chairman of the Appropriations Committee for his diligence in reporting H.R. 15194 to the House. This epoch of high rates of structural unemployment must be attached with aggressive fiscal policy. Fiscal policy, as amplified by public works projects, stimulate not only the highly vunerable construction and trade industry, but also triggers mammoth increases in the demand for the materials and supplies of the construction industry. The secondary and tertiary economic stimulus derived from the public works appropriations bill will serve as foundation to the highly skilled laborers in the construction industry.

The problems we are facing in the field of unemployment are grim, and are becoming increasingly so, at both the local and national level. Our cities and States continue to cry out for the need of jobs and it is the responsibility of this Congress to answer the calls of those we are here to represent.

One of the priorities of this Congress before we adjourn to go home to be re-elected is to show our constituents, which we are hopeful will reelect us, that we are aware, we are concerned, and that we care about the fiscal plight of our cities and States.

The Nation has a continuous need for public capital improvement, but many projects have to be postponed, because of the lack of Federal assistance. Hence, it seems sensible to concentrate on public works in slack times, and especially, to undertake public works projects when, as at present, unemployment is running rampant throughout this Nation. A successful public works program, used to counteract a severe economic downturn, carries with it a general economic benefit in terms of long-termed capital investment. Public facilities decay despite cyclical variation in the national economy. State and local governments, because of declining tax bases, frequently must defer capital investment. The effect of H.R. 15194 will contribute to a more systematic and effective capital replacement effort by these governments.

I realize that this legislation will not solve our total problems of unemployment, but it will get us on that road to recovery. The sooner the United States start a public works program, the better off the country will be.

Historically, the United States has had long experience with the use of public works for countercyclical purposes. During the Depression, public works were used on a national scale to offset unemployment rates.

Between August 1935 and 1941, the Works Progress Administration employed 8 million persons, or one-fifth of all workers in the country. WPA workers built 11,000 public buildings and repaired 30,000 others. They laid over 43,000 miles of roads and repaired 146,000 miles. They built thousands of bridges, culverts, sidewalks, athletic fields, playgrounds, swimming pools, dams, and sewers. We should follow the footsteps of our predecessors and allow this Nation to go back to work.

It should be noted that public works programs are used as a general stimulus and at times of long-term trough a countercyclical tool. In my praise for public works programs, however, I must issue a caveat. Public works programs are not targeted employment programs. They are not designed to employ the hard core structurally unemployed members of the labor force. They should not be confused with the targeted CETA-title VI programs that are designed to attack the problems of the structurally unemployed. Traditionally, skilled workers are the first to find employment with stimulative fiscal policy. Therefore, it is imperative that we also consider the efforts of CETA in tandem with public works programs in order to maximize the labor resources of the economy.

The present administration is against works projects, which leads me to believe that they prefer welfare while waiting for the prosperity they hope is coming.

I cannot and will not wait for the hope of prosperity to come and rescue us. This Nation cannot wait, our economy cannot wait, and the people refuse to wait. This Congress has now shown that it will refuse to stand by and deny the people the right to work.

OUR CITIES ARE IN TROUBLE BECAUSE OUR NEIGHBORHOODS HAVE PROBLEMS

HON. GARRY BROWN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. BROWN of Michigan. Mr. Speaker, I have today introduced legislation very similar to that which has been introduced in the other body by the gentlemen from Wisconsin and Utah and in this body by Mr. Ashley of Ohio which is aimed at finding out in a more analytical and particular way what are the problems of our city neighborhoods, the causes of such problems, and how Government at each level can help to provide remedies so that even our problem neighborhoods can be returned to the fine neighborhoods of the past.

Cities are in trouble because their neighborhoods have problems, and our cities will continue to have troubles until we remedy the problems of their neighborhoods.

Many studies have been conducted, many authorities have studied the problems and have espoused remedies, and very commendably the President has appointed an Executive Branch Task Force in an attempt to find good, sound, and permanent solutions. Nevertheless, most of these efforts have either been disjointed or have looked at the issues from the top down, rather than from the neighborhood up.

The legislation I have introduced takes the latter approach and contemplates a thorough analysis, study, and review of the problems inherent in neighborhoods, from which can be developed legislative recommendations so that 5 or 10 years from now the situation in which our cities find themselves can be turned around and municipal governments can look forward optimistically to the future.

In addition to the legislation I am introducing today, I am in the process of drafting specific legislation which will help to retard what has been an almost inevitable deterioration of certain neighborhoods by the providing of an investment-tax credit for investments in improvements of residential properties located in older or deteriorating neighborhoods. By providing a tax incentive for improvements of residential properties in these areas, the anomaly of that which presently exists, that is, property owners are penalized by increased property taxes when improvements are made, will be corrected. The problems of our cities are primarily problems of city residents and city officials, but they are also problems for all of us and require the best thinking that we can give them. The National Commission on Neighborhoods and the tax legislation I will be introducing are not answers in and of themselves but are certainly steps in the right direction.

THE 1 PERCENT PENSION KICKER

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. EILBERG. Mr. Speaker, the question of the so-called "pension kicker" for retired Federal employees is now being considered by the Congress. At this time I enter into the Record a letter on this very important subject, sent to the Philadelphia Inquirer by Royal L. Sims, national vice president of the American Federation of Government Employees.

FEDERAL RETIREES NEED A PENSION HIKE

To the Editor:

I note with dismay that your Aug. 10 editorial "Repeal the pension kicker," seems to add The Inquirers voice to that strident chorus which condemns federal employees in order to express the current frustration with "Washington."

I am even more disheartened that The Inquirer has chosen to attack the group which is perhaps the least powerful of any among federal employes—retirees.

The 1 percent "kicker" which is added onto the cost-of-living increases received by federal annuitants, serves two functions.

It compensates for the delay, which is at least six months, between the time an increase in the cost-of-living actually occurs and the time that increase is reflected in the pension check.

It also preserves the buying power, and thus the standard of living, of the federal retiree vis-a-vis that of still-employed public and private sector workers.

While it is extremely unfortunate that Congress and the American people should be invited to "economize" at the expense of federal pensioners' well-earned benefits, it is simply outrageous to advocate such a position by the use of misleading argument.

The clear implication of your editorial is that elimination of the "kick" would reduce the burden borne by the taxpayer. This is false.

Taxpayers do not pay a cent for the supplemental income furnished by the "kicker"—the whole cost is paid from the earnings of the Federal Employes Retirement Fund.

Not only is this fund fully solvent, but the same omnibus legislation which enacted the "kicker" required federal employes to contribute more into the fund than is necessary to cover its future liabilities.

Thus federal employes themselves pay for the "kicker."

The editorial speaks of turning inflation into a "bonanza" for federal retirees.

Yet the vast majority of those retirees—over 70 percent—after a life-time of service receive pensions smaller than $6,000 a year, even taking into account the effects of the "kicker." I would be astonished to learn that your readers considered such an income a bonanza.

This country has for too long expected its retirees to be content with genteel poverty. Repeal of the 1 percent federal pension "kicker" would merely write another chapter in this sad history.

The "kicker" must be retained.

ROYAL L. SIMS,
National Vice President, American Federation of Government Employees, Philadelphia.

AMENDMENT TO 1964 MEAT IMPORT LAWS

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. BEDELL. Mr. Chairman, I am introducing legislation today with Congressman JOHN KREBS which I believe will relieve a significant pressure on the troubled American cattle industry by closing a glaring loophole in the 1964 meat import law.

The need for this legislation arises from the purposeful circumvention of the 1964 statute occurring in the foreign trade zone at Mayaguez, Puerto Rico. As of August 20, 29 million pounds of foreign meat had entered the United States through Mayaguez since January 1976. Three days earlier, on August 17, the U.S. Department of Agriculture announced a regulation which would immediately begin to count any such imports after August 17, against the voluntary quota level authorized by the 1964 meat import law if the regulation is placed in effect after a 30-day comment period. Secretary Butz issued this regulation for the 1976 importing year under section 2(e) of the act which allows him to take such an action if he determines it is necessary to prevent circumvention of the law.

And circumvention has most certainly been the case at Mayaguez. For over 8 months this year, the meat which passed through the foreign trade zone plant at Mayaguez was not counted against quota levels, because after the beef and veal which the plant prepared and preserved was processed, it no longer fit into one of the categories specified in the statute.

While I certainly applaud the action taken by the Secretary of Agriculture to include these particular meats in the negotiated quota levels for this year, I am concerned that this loophole may again reopen with the end of 1976. The bill which Congressman KREBS and I are offering today permanently adds these prepared and preserved meats which have evaded the list of specified, importable quantities.

I believe that this is a just piece of legislation, because while it allows our markets to remain open to the trade of meat producing countries, it also states with unmistakable clarity that this Government will not tolerate evasions of our laws.

It is also a just measure, because the American cattleman has a right to full confidence in the promise that his Government made to him 12 years ago when it passed the meat import law and thus assured him that foreign countries would not be allowed to dump their livestock products in American markets to the detriment of the American livestock industry.

The pressures on the livestock producer are great and they continue to grow. With few direct controls over his costs or profits, he is left to wonder when his market, which has always left him at the seeming mercy of bad times unpredictably mingled with better fortune, will finally become stabilized.

We, in the Congress, would be remiss if we failed to permanently close this loophole which is so great a source of concern for the already overburdened cattle producer.

SORRY VERDICT IN SOUTH KOREA

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. DRINAN. Mr. Speaker, it is sad indeed to note that 18 of South Korea's foremost Christian intellectuals have been sentenced to 2 to 8 years in prison. Their only offense was to speak out in a critical way against the repressive government of President Park Chung Hee.

Should the United States that gives massive economic and military assistance to South Korea confess that it has no sanction for this type of indefensible conduct?

I attach herewith a pointed editorial from the Christian Science Monitor of August 30, 1976:

Eighteen of South Korea's foremost Christian intellectuals now will spend two to eight years behind bars, pending appeals of their sentences. Their only crime, in essence, was to dare criticize the repressive government of President Park Chung Hee, who does not tolerate adverse comments from his opponents.

This is a sad commentary on the status of liberty and political freedom in South Korea, a nation long supported militarily and politically by the United States. Opposition from students and intellectuals gradually has been stamped out by Mr. Park while Washington, for the most part, has remained officially silent.

The situation was summed up by one of the convicted men, Hahm Suk Hon, an elderly Quaker leader who has been imprisoned previously by the Japanese, the North Koreans, and the late President Syngman Rhee for his views. "These were the best of our people," he said. "They have nothing to be ashamed of. It was a matter of conscience."

This is indeed a matter of conscience—and not just for the 18 dissidents. Their showcase trial and harsh sentences testify to the basic cleavage in South Korea. On one side are Western-educated, modern-thinking men and women willing to risk their own liberty to restore democracy in their country. On the other are supporters of Mr. Park who justify crackdowns because of the continuing threat from the Communist North and cite the grim example of what happened in South Vietnam.

Successive Saigon governments hounded and imprisoned critics and the intelligentsia too—and the lesson ought not to be lost on Washington or the rulers on Seoul.

GROVER CLEVELAND—A DEMOCRAT FOR ALL SEASONS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. PAUL. Mr. Speaker, President Grover Cleveland is not much remembered any more, yet he was a man of principle who simply never deviated from his commitment to strict constitutionalism. He held tenaciously to the principle that the Federal Government is not permitted to engage in program of wealth redistribution. He defended the gold standard, balanced the Federal budget, lowered tariffs to permit a free market in international trade, and vetoed bill after bill. He believed in limited government, personal responsibility, and individual liberty. Sadly, we have not seen a President like him in the last nine decades, a Democrat for all seasons.

One of the most eloquent defenses of the concept of constitutional government that I have ever read is Cleveland's veto of House bill No. 10203 (1887), coincidentally a program which would have used Federal revenues to subsidize farmers in my own State of Texas. If we had been blessed with nine decades of Presidents like Grover Cleveland, we would not be facing an expected Federal deficit of $6 trillion over the life of existing Federal programs. This veto message appears in volume XI of "A Compilation of the Messages and Papers of the Presidents," pages 5142–43, published by the Bureau of National Literature.

GROVER CLEVELAND

To the House of Representatives:

I return without my approval House bill No. 10203, entitled "An act to enable the Commission of Agriculture to make a special distribution of seeds in the drought-stricken counties of Texas, and making an appropriation therefor."

It is represented that a long-continued and extensive drought has existed in certain portions of the State of Texas, resulting in a failure of crops and consequent distress and destitution.

Though there has been some difference in statements concerning the extent of the people's needs in the localities thus affected, there seems to be no doubt that there has existed a condition calling for relief; and I am willing to believe that, notwithstanding the aid already furnished, a donation of seed grain to the farmers located in this region, to enable them to put in new crops, would serve to avert a continuance or return of an unfortunate blight.

And yet, I feel obliged to withhold my approval of the plan, as proposed by this bill, to indulge a benevolent and charitable sentiment through the appropriation of public funds for that purpose.

I can find no warrant for such an appropriation in the Constitution, and I do not believe that the power and duty of the General Government ought to be extended to the relief of individual suffering which is in no manner properly related to the public service or benefit. A prevalent tendency to disregard the limited mission of this power and duty should, I think, be steadfastly resisted, to the end that the lesson should be constantly enforced that though the people support the Government the Government should not support the people.

The friendliness and charity of our countrymen can always be relied upon to relieve their fellow-citizens in misfortune. This has been repeatedly and quite lately demonstrated. Federal aid in such cases encourages the expectation of paternal care on the part of the Government and weakens the sturdiness of our natural character, while it prevents the indulgence among our people of that kindly sentiment and conduct which strengthens the bonds of a common brotherhood.

It is within my personal knowledge that individual aid has to some extent already been extended to the sufferers mentioned in this bill. The failure of the proposed appropriation of $10,000 additional to meet their remaining wants will not necessarily result in continued distress if the emergency is fully made known to the people of the country.

It is here suggested that the Commissioner of Agriculture is annually directed to expend a large sum of money for the purchase, propagation, and distribution of seeds and other things of this description, two-thirds of which are, upon the request of Senators, Representatives, and Delegates in Congress, supplied to them for distribution among their constituents.

The appropriation of the current year for this purpose is $100,000, and it will probably be no less in the appropriation for the ensuing year. I understand that a large quantity of grain is furnished for such distribution, and it is supposed that this free apportionment among their neighbors is a privilege which may be waived by our Senators and Representatives.

If sufficient of them should request the Commissioner of Agriculture to send their shares of the grain thus allowed them to the suffering farmers of Texas, they might be enabled to sow their crops, the constituents for whom in theory this grain is intended could well bear the temporary deprivation, and the donors would experience the satisfaction attending deeds of charity.

GROVER CLEVELAND.

EXECUTIVE MANSION, *February 19, 1887.*

RHODESIAN TERRORISTS HAVE U.S. BRANCH

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. McDONALD. Mr. Speaker, for the past year, members of the Zimbabwe African National Union (ZANU), a Marxist-Leninist terrorist organization active in Rhodesia, have been building a support apparatus, ZANU Support Committees, among Communist groups and their sympathizers in this country. With renewed pressure being applied to the Government of Rhodesia for a rapid abdication of power to an extremist minority of the country's black population, the activities of ZANU and its supporters in the United States become a matter of considerable concern.

Ten years ago, after more than 40 years of effective self-government, the political leadership of Rhodesia severed its ties with the British and established a republic with a multiparty, democratic parliamentary system of government. Rhodesia's right to an independent existance has been disputed by the United Nations organization; economic sanctions have been applied by that organization and neighbouring black African countries have provided the bases for terrorist attacks against the civilian population of Rhodesia—with 90 percent of the casualties being black Rhodesian civilians.

The major Communist powers, which have powerful strategic interests in displacing white, western alined influences in southern Africa, have subsidized the demands of black Marxists seeking the establishment of a Communist government as soon as possible.

Apparently in a bid to steal a march over the Soviets and their Cuban storm troopers by preempting their objectives, Secretary of State Kissinger recently, at Lusaka, declared American support for a program that would attain the same results. Soon after, our Ambassador to the U.N. William Scranton, said that we stand ready to give medical and other aid to anti-Rhodesian guerrillas.

Doubtless encouraged by these invitations to commit aggression against Rhodesia, and ignoring the progressively increasing black participation in Rhodesia's political system, terrorist gangs have increased their attacks. Approximately a quarter of the casualties on both sides of the 3½-year conflict, occurred during the 3-month period following the Lusaka statement. Within this country, the ZANU group has escalated its propaganda smear attacks against those who oppose its Marxist aims or who seek a moderate solution to the problems of a plural society.

ZANU, formed in 1963, has always rejected achieving African majority rule in Rhodesia by political process. ZANU states its goal is "the armed self-liberation of Zimbabwe."

ZANU was organized by former members of the Zimbabwe African People's Union—ZAPU—led by Rev. Ndabaningi Sithole who at that time opposed ZAPU's international lobbying techniques and favored starting a Chinese-style "war of liberation." ZANU guerrillas have received training in Algeria, China, Czechoslovakia, and Ghana, but no systematic guerrilla action occurred until 1966 when bases in Zambia were opened. Since the nod of American approval was given in the Lusaka statement terrorist groups have openly operated from Rhodesia's neighbors, Mozambique and Zambia.

When political theory is required, ZANU leaders rely heavily on the People's Republic of China for guidance; according to ZANU's executive secretary:

> We believe that by using Marxism-Leninism-Mao Tse Tung Thought applied to the concrete conditions of Zimbabwe, Liberation is certain. As a socialist Zimbabwe we will be able to fulfill our international duty to support the workers and other exploited people around the world. Our enemy is a common one. To weaken the enemy in one area weakens the enemy in another area as well. (Mukudzei Mudzi, interviewed January 1974, The Guardian, in New York attending the U.N.)

ZANU claims to be a representative organization of native Rhodesians. But according to one of its former leaders, Reverend Sithole:

> ZANU has been constantly subjected to a process of tribalisation or regionalisation . . . so that it has lost its national character with the result that unprecedented kidnappings and killings took place and culminated in the assassination of Herbert Chitepo.

It should be noted that Herbert Chitepo, a member of the Manyika tribe, was, according to the Free Zimbabwe Students Union, murdered by members of the Karengas tribe in March 1975. In the ZANU "high command" the proportion of Karengas advances steadily at the expense of the Manyikas and Zezurus.

As individual acts of terrorism in Rhodesia have escalated into guerrilla warfare against the government, ZANU members in the United States have been active in seeking support among Maoist, Cuban-oriented, and Trotskyite groups in the United States to offset and neutralize those who favor anything less than a war of national liberation called "chimurenga" in the Karenga language.

ZANU's North American District is located at 89–09 162d Street, Jamaica, N.Y. 11432, 212–291–8039, and is headed by ZANU Chief Representative Tapson Anason Mawere, a member of the Karenga tribe and at one time an employee of a New York insurance company.

Under Mawere's direction, ZANU Support Committees—ZSC—have been formed by Americans in Baltimore, Chicago, Los Angeles, New York, and San Francisco. They are active in the solicitation of funds for ZANU which are either sent to Mawere, to Comrade Anne Ruvimbo Tekere, Coixa Postal 279, Quelimane, Provincia de Zambesia, Mozambique, or to the Zimbabwe News, Box 150, Glen Ellyn, Ill. 60137.

According to the Zimbabwe Bulletin of June, 1976, the ZSC's have been formed "to support the political aims of ZANU, both by carrying out education among Americans and raising material support for the Zimbabwe movement."

In this context it is significant to note that ZANU's Zimbabwe News, January–May 1976, states the organization's ideology in the following terms:

> ZANU is guided by the principles of Marxism-Leninism. It aims at achieving a socialist revolution. . . . The main political objectives of ZANU are to create a free democratic independent and socialist Zimbabwe and to remove the political domination of the foreign element in our society and its imperialistic and capitalistic tentacles. Our goal is true national independence and socialist reconstruction of the motherland.

This ideology, according to Austin Chakaodza, ZANU's representative in London, means:

> In the new Zimbabwe there will be no parliamentary democracy, no voting and no canvassing . . . The far aim is to establish a socialist society . . . it will mean a protracted struggle. (Argus News Bureau, London, June 1976)

The decision to form a ZSC network followed a December 1975, election of a new North American District Council consisting of Synos Mangazva, chairman; Manqmano Mukungurutse, vice chairman; Tirivafi John Kangai, secretary; Leonard Mudavanhu, treasurer; Eddison J. Zvobgo, publicity secretary; and Chimedza Thomas Nhambure, organizing secretary.

Other ZANU comrades attending the New York gathering were A. M. Chidida, M. A. Mawema, Oswald T. Ndanga, Francis Matupano, Daniel Mhlanga, Takawira Mafukidze, Mafiosi Dauramanzi, Itayi Chivi, July Moyo, Mufaro Moyo, Musevenzo Dauramanzi, Sylvester K. Chegodora, Alfred Makobo, Titus Nyatsanga, Gradwell Maweserve, Davis Mgabe, L. Mugabe, N. Mgabe, T. Moyo, M. Dandato, Zifambi Mudamburi, Prosper Takawira, Tendai Chiteza, N. C. Mbawa, Dingi Sithole, and E. M. Mambo. Also attending was the convenor of the meeting, Comrade Representative Tapson Mawere—the Zimbabwe News, January-May 1976, page 3.

In addition to making decisions on the ZNC apparat, the District Council resumed publication of Zimbabwe News and its distribution in the United States and Canada. According to Mawere:

> We in North America have been ordered (and honored) by the ZANLA (ZILA)—Zimbabwe African Liberation Army—and the entire ZANU party to resume publication of our party's mouth organ (sic). We commend the paper to you all.

The Zimbabwe News, Box 150 Glen Ellyn, Ill. 60137—$1.50 an issue—has as its editor ZANU's Publicity Secretary, Eddison Jonas Mudadirwa Zvobgo, an instructor in criminal and contract law at Lewis College's School of Law, Lockport, Ill. Zvobgo is also Deputy Secretary General of ZANU, making him ZANU's highest official resident outside Africa.

Despite his position as an instructor in law, Professor Zvobgo apparently does not wish to comply with the Foreign Agents Registration Act as my staff have been unable to find any record of his being registered as such. Yet such registration would appear to be mandatory in view of the statement contained in Zimbabwe News, which in part reads:

> The Editorial Policy Board (USA) is subject to Directors, Orders and Commands of the Military Committee of the Zimbabwe African Liberation Army (ZILA) . . . and the Central Committee of ZANU.

The ZANU terrorists have announced their solidarity with other terrorist groups operating throughout the world. The Zimbabwe News, January-May, 1976, published in large letters the following statement:

> ZANU and the People of Zimbabwe are in total solidarity eith (sic, should read with) SWAPO and the Namibian People; ANC, PAC and the South African People: IRA and the Irish People; PLO and the Palestinian People; PSP and the Puerto Rican People and all other revolutionary Parties and Peoples in their just struggles against colonialism, imperialism and capitalism.

It is clear that ZANU is a Marxist-Leninist terrorist group organized against the interest of the United States. The fact that it has cadres operating in this country should be a matter of concern to our law enforcement officials. I have reason to believe that ZANU has neglected to file the necessary reports under the Foreign Agents Registration Act with the U.S. Justice Department. This should not be tolerated.

A non-Communist Rhodesia is essential to the defense of the United States. If chrome is unavailable to us from Rhodesian sources, we will be compelled to obtain it from the Soviet Union. Our major enemy in the world, the Soviet Union, will be in a position to deny us chrome, or to charge an outrageous economic or political price.

Kissinger, as usual, would have us choose either the Chinese-oriented or Soviet-oriented Communists. I believe there is a third alternative in Rhodesia. That is the people of Rhodesia themselves, both white and black. The Government of Rhodesia has done much to lead the black majority into participation in the life and politics of the country. It should be given sufficient time to carry out its program of creating a free, multiracial society.

FUNDING FOR THE OLYMPICS

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. McHUGH. Mr. Speaker, just prior to the August recess I received a letter from my constituent, Mrs. Betty Bagliebter, of Ellenville, N.Y., regarding this country's Olympic athletes. The idea of some sort of Federal funding for our Olympic competitors has been around for some time, and usually there is a flurry of interest every 4 years as we realize that it is almost time for the games to begin again. Mrs. Bagliebter urges that funding be provided in the same manner as it is for election campaigns through the tax checkoff. She has asked me to insert her letter in the RECORD so that it may be shared with my colleagues.

Mr. Speaker, I insert Mrs. Bagliebter's letter to be included in the CONGRESSIONAL RECORD at the conclusion of my remarks:

ELLENVILLE, N.Y.,
August 6, 1976.

DEAR CONGRESSMAN McHUGH: Having raised 3 sons, I have naturally become a great sports enthusiast. While watching the Olympics in Montreal the past few weeks, a thought occurred! Why can't we, as taxpayers, finance this activity, as other countries are doing, in the same manner as we are now financing election campaigns? That is, by noting on our Income Tax returns that we want so much and so much deducted for this very important athletic endeavor.

Certainly, the honor and prestige of the U.S.A. should be given serious consideration in that our athletes have proper training facilities.

Just a thought—now it's up to you.

Sincerely,

BETTY BAGLIEBTER.

BUREAUCRATS AND THE LAW

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. ROUSSELOT. Mr. Speaker, clearly most Americans believe that ours is a country that is governed "by the people." Through their Representatives in Congress who consider and pass legislation, the needs and desires of the "people" are reflected. Indeed, this was the intent of our founding fathers as expressed in the Constitution. Over the years, however, this process has slowly but undeniably changed with the advent of the regulatory agencies. Through administrative rule and regulation, they not only control our individual lives, but also the economic fate of small businesses and large corporations—while wielding power which challenges even that of Congress.

In an informative and thoughtful article, entitled "Bureaucrats and the Law," author William Barton, Esquire, explores the problem of bureaucratic power in our country and cites many examples where regulatory agencies, through interpreting the intent of laws passed by Congress, have become legislators and judges unto themselves.

The article appeared in the September 1976 issue of Merit Shop Contractor and I commend it to the reading and thoughtful consideration of all of my colleagues.

The article follows:

BUREAUCRATS AND THE LAW

(By William Barton, Esquire)

There was a day when United States citizens lived under laws that were enacted by their duly elected representatives, but all this changed in recent years through the proliferation of administrative agencies. They have brought with them the tremendous increase in government employees at the federal, state, and local levels.

A by-product is that these bureaucrats now "enact many of the laws" under which we live.

The Occupational Safety and Health Act of 1970, which vitally affects every construction contractor, is just one example. It was a complicated piece of legislation even as enacted by Congress.

What makes it even more complicated are the pages upon pages of small type regulations, some of them with mathematical formulas and engineering diagrams, as issued by the Department of Labor. These regulations, none of which were enacted by Congress, have the force of law and are, more than the Act itself, the thing that has driven many construction contractors and other business entrepreneurs to distraction.

A similar observation applies to the Pension Reform Law enacted in 1974. The enactment of this law by Congress was revolutionary in itself, but the majority of problems were caused by the administrative agencies that have responsibility for this law, and they (the Treasury Department and the Labor Department) have spawned a multitude of regulations. These very complicated regulations have the force of law and have caused confusion and turmoil for businessmen who have to comply.

The Federal Trade Commission causes similar problems. For example, if a manufacturer of concrete brick wants to advertise his product, he is required by a Federal Trade Commission regulation to use certain language in his advertising merely because the product is not made from fire clay.

In the labor law field the situation is similarly complicated by bureaucratic edicts. Such agencies as the National Mediation Board and the National Labor Relations Board operate under comprehensive rules and regulations. The NLRB carries on most of its work through regional and subregional offices. What these offices do and how they operate was never spelled out by Congress but is dictated by the rules and regulations promulgated by the Board.

In the area of prevailing wages, which come under the Department of Labor, the problem becomes especially serious. All Congress did when it enacted the Davis-Bacon Act was to require that, through wage determinations by the Secretary of Labor, prevailing wages should be paid on projects subject to the Act. Prevailing wages are those paid corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work.

In determining the prevailing wage the inexcusable 30 percent rule is used. This rule was never written into law by Congress but was conceived in the fertile minds of the bureaucrats who wrote the Davis-Bacon Act regulations for the Department of Labor. It is no surprise that the rule so written is weighted to favor organized labor. The damage this law does lies in the rule, which states what rate is to be paid in the absence of a majority rate: In the event that there is not a majority paid at the same rate, then the rate paid to the greater number: Provided, such greater number constitutes 30 percent of those employed.

Thus, even though 70 percent of the wage rates surveyed are far lower than those that converge at the 30 percent figure, the latter becomes the prevailing rate and has the effect of law. All the unions have to do is to get 30 percent of the employers affected by the Davis-Bacon ruling under the union rate, and, to the detriment of the taxpayer, they have won their point.

In our complicated society it is probably inevitable that there will be regulations by administrative agencies. Businessmen could render a service to their country if when one of these regulations appears to be exceedingly unfair they would obtain the best legal advice possible and contest it in the courts. It does seem, moreover, that if businessmen in good faith want to contest a regulation the government ought to pay at least part of the expenses of the litigation. But probably this is too much to expect as long as labor unions are the great power they are today.

CANDIDATE CARTER'S PLAIN TALK

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. MADDEN. Mr. Speaker, speaking as a World War I veteran and a delegate to the original caucus of the American Legion in St. Louis in 1919, I highly commend former Governor Carter and now the nominee for the Presidency of the United States for his frank and honest statement to the American Legion convention on his position concerning Vietnam amnesty and so forth.

Some of the news media were overenthusiastic in their statement as to the objection of a few delegates at the convention when candidate Carter expostulated without double talk on feelings of the vast majority of the American people pertaining to the recent unfortunate mess in which we were involved in Southeast Asia.

I also want to commend the Republican Indiana Gary Post Tribune for its editorial of August 27, 1976, in commending the Governor for his "speaking plain" to the Legion convention delegates.

I include with my remarks the abovementioned editorial:

COURAGE ON CLEMENCY

We have to credit Democratic presidential nominee Jimmy Carter with courage for selecting the American Legion National Convention as a forum for spelling out his Vietnam war amnesty intentions in somewhat more detail.

For many organized veterans—particularly veterans of war prior to Vietnam—any discussion of general amnesty is a red flag. Yet Carter is a veteran, a graduate of the U.S. Naval Academy and a man who has seen active Navy duty—and he detailed his views before such an assemblage.

In a sense Carter's elaboration on views earlier spelled out in the Democratic platform was a matter of semantics:

"To me there is a difference. Amnesty means that what you did is right. A pardon means that what you did—right or wrong—is forgiven. So, pardon—yes, amnesty—no."

We assumed from the published excerpts of the Carter remarks that he is speaking primarily of pardons for those who violated the selective service laws. We assume further that he still intends to handle instances of desertion on a case-by-case basis and to deny pardons to those whose desertion may have endangered their fellow servicemen.

Both for common sense in wanting to get Vietnam's sores farther behind us and for courage in his choice of podium from which to make the announcement we rate Carter right on this one.

CONSUMER COMMUNICATIONS REFORM ACT OF 1976

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. UDALL. Mr. Speaker, today I would like to introduce the Consumer Communications Reform Act of 1976, a bill which would protect small, independent telecommunications companies and maintain high-quality service at a reasonable cost for rural and residential users. During the past several years, a series of independent decisions by the Federal Communications Commission and various courts have significantly altered the way telecommunications services in this country are delivered, by permitting competition in the most profitable sectors of the industry.

The Communications Act of 1934 established that our national policy should be to make available, to the greatest extent possible, to all persons residing in the United States adequate and rapid communications service at a reasonable rate. The effect of the recent FCC decisions, as Senator HARTKE noted when he introduced this bill in the Senate, is to decrease the costs borne by a few large businesses and to increase the cost to the general public. Currently the Bell System averages rates so that calls of equal distance cost the same whether they are over heavily used routes or lightly used ones, and it subsidizes the costs to the small, residential, or rural consumer, and to the independent companies by charging extra for long distance calls and for certain pieces of optional equipment.

The revenues from the long distance operations which the Bell System splits with the independent companies are known as "contributions". Systems Applications, Inc., an independent California consulting firm, has spent 3 years engaged in researching the effects that the Specialized Common Carriers decision of 1971, which allows intercity private line competition, will have on the contributions. More than 40 percent of the revenues of the independent companies will disappear by 1985 as Bell System losses amount to $2.4 billion in 1974 dollars by that time. The cost increase for residential consumers is estimated at 60 percent. The cost increases in rural areas may make telephones unaffordable.

Mr. Speaker, the question which Congress must decide is whether the departure from the concept of regulated natural monopoly is consistent with the purpose of the Communications Act of 1934. I submit that it is not in the interest of the overwhelming majority of our Nation's 144 million phone users.

In my own home state of Arizona, the independent companies provide service for three-fifths of the land area of the State. Across the Nation, the 1,600 non-Bell companies serve more than half of the land area. The Arizona Telephone Co., for instance, serves 600 customers at an average cost of $3,000 per customer. If the anticipated impact on the Bell System occurs, it stands to reason that Bell's native sense of survival will result in its cutting its substantial contributions to the independents.

This bill would insure that low-cost, high-quality service remains available to all Americans. This bill would also prevent the duplication of lines and equipment which would constitute a further drain on our capital markets.

To be sure, there are certain problems inherent in this bill, but I certainly believe that this bill is a good starting place for frank and open discussion of what can be done to protect the small or rural consumer and the independent companies.

I have some reservations concerning two aspects of this bill. We Americans pride ourselves on having a free enterprise system in which producers compete freely for the consumer's dollar and we believe that through vigorous competition this kind of system stimulates innovation and discovery, promotes efficiency and savings, and best distributes resources to serve consumer desires. We know that concentration usually means high prices and is a burden we can ill afford at a time when inflation threatens both progress and prosperity. I am worried that this bill might have an undesirable effect on the ratemaking authority of the FCC for long distance calls, and that in stripping the FCC of its regulatory power over terminal equipment, we might actually be stifling innovation and causing problems for interstate users of specialized terminal equipment.

Many of the cost factors entering into the computation of total cost for a particular type of service are attributable to other types of service as well. This means that Bell has considerable discretion in determining the cost of a particular service. This discretion could be used to engage in predatory pricing in the terminal equipment and private line markets by associating very low costs to these services. This would not be in the best interests of the consumer or of the independent companies.

Transferring regulatory power over terminal devices to the States will allow the telephone company to reclaim its lost monopoly in those States with sympathetic utility commissions. Such a transfer of authority over interstate matters could harm the consumer in those States. Furthermore, consumers in States which abide by the Carterfone line of decisions will be harmed because they will be deprived of the use of their specialized terminal equipment, like data processing devices, with telephone users in the monopoly States.

I have spoken out on the lack of competition in American economic life and I shall continue to do so. However, we must make sure that the rural telephone users, the poor, and the 94 percent of American families with telephones do not have to pay greatly higher rates in order to benefit large business users and those affluent enough to make intensive use of optional services. There are excellent independent companies in my State and in our Nation which are meeting rural needs; I am hoping we in Congress will find a way to insure that those needs are met. This bill is not the final solution to these problems, but with this bill we can begin to grapple with the challenge.

FORTY-ONE CONGRESSMEN CALL FOR BURIAL OF VIETNAM UNKNOWN

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. FINDLEY. Mr. Speaker, today I am introducing a resolution cosponsored by 41 of my colleagues calling upon the Secretary of the Army to bury an unknown soldier from the Vietnam war in the Tomb of the Unknown Soldier.

On June 18, 1973, Congress authorized the construction of a crypt for a Vietnam unknown soldier in Arlington National Cemetery under Public Law 93–43. There are currently several unidentified remains from the Vietnam war at the Army Central Identification Laboratory. Yet, burial has not occurred despite the fact that the facility has been ready to receive the remains for over 1 year.

The significance of this is not lost on the thousands of veterans and others who visit Arlington each day. Recently, a Vietnam veteran telephoned me distraught that not only was there no unknown soldier there from Vietnam, there was also no display of medals, ribbons, and tributes to honor the Vietnam veterans as there is for other wars, The administrator of the cemetery has informed me that the medals, ribbons, and tributes are displayed only after an unknown is buried there.

It is time to give the men who answered their country's call in Vietnam the same recognition we have accorded those who served in other wars. The courage and conviction, determination and devotion that these men displayed in a strange, distant war must place them in the very front ranks of all heroes in our history.

Also, as hope for further word on the 795 missing in action dims, this is an especially appropriate way to honor these men and their families, and to call attention to their still unsettled situation.

My resolution will provide for the honoring of these men by the interment of a Vietnam unknown soldier in Arlington National Cemetery, as well as the placement of representative medals, ribbons, and tributes of the Vietnam war in the Arlington Memorial Amphitheater.

The text of the resolution follows:

H. Con. Res.—

A resolution directing interment of an Unknown Soldier from the Vietnam War in Arlington National Cemetery

Whereas P.L. 93–43 provided for the interment of an Unknown Soldier from the Vietnam War in Arlington National Cemetery's Tomb of the Unknown Soldier; and

Whereas a crypt in the Tomb has been prepared for the remains of a Vietnam Unknown Soldier; and

Whereas the remains of several unknown soldiers from Vietnam are at the Army Identification Laboratory in Hawaii; and

Whereas the men who answered their country's call to serve in Vietnam deserve the same honor and recognition as soldiers from all other wars: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the Secretary of Defense shall at the earliest opportunity inter an Unknown Soldier in Arlington National Cemetery with all appropriate honor and ceremony, and make permanent display of representative medals, ribbons and tributes of the Vietnam War in the Arlington Memorial Amphitheater.

List of Cosponsors

Max Baucus of Montana.
Robin Beard of Tennessee.
Tom Bevill of Alabama.
Edward Boland of Massachusetts.
James Cleveland of New Hampshire
Robert Cornell of Wisconsin.
Dan Daniel of Virginia.
Dominick Daniels of New Jersey.
Ed Derwinski of Illinois.
Robert Duncan of Oregon.
Joshua Eilberg of Pennsylvania.
Glenn English of Oklahoma.
Edwin Eshleman of Pennsylvania.
Dante Fascell of Florida.
Daniel Flood of Pennsylvania.
L. H. Fountain of North Carolina.
Donald Fraser of Minnesota.
Willis Gradison of Ohio.
Allan Howe of Utah.
Henry Hyde of Illinois.
William Ketchum of California.
Thomas Kindness of Ohio.
Edward Koch of New York.
Marilyn Lloyd of Tennessee.
Romano Mazzoli of Kentucky.
Helen Meyner of New Jersey.
Clarence Miller of Ohio.
Morgan Murphy of Illinois.
Bill Nichols of Alabama.
Shirley Pettis of California.
Ken Robinson of Virginia.
Peter Rodino of New Jersey.
Robert Roe of New Jersey.
Paul Simon of Illinois.
Joe Skubitz of Kansas.
Charles Thone of Nebraska.
David Treen of Louisiana.
Joe Waggonner of Louisiana.
G. William Whitehurst of Virginia.
Bill Young of Florida.

REGULATORY EXTREMISM

HON. J. KENNETH ROBINSON

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. ROBINSON. Mr. Speaker, we hear a great deal about regulatory reform—in the Congress and from our constituents. I believe there is rather general agreement that it is an urgent need. What small business and the small governments of our towns and counties are waiting to see, however, is whether the reform, if and when it comes, proves to be merely a cosmetic realinement of regulatory functions or a major reduction in Federal regulation and its attendant proliferation of complex reporting and other paperwork procedures.

In this connection, I include at this time, for the information of the House, a sardonic commentary on the regulatory maze made by the city of Midland, Tex., as noted in an editorial which appeared in the Culpeper, Va., Star-Exponent on August 20, 1976, as follows:

TEXAS CITY GIVES UNITED STATES TASTE OF OWN MEDICINE

What's sauce for the goose (the ordinary citizen) ought to be sauce for the gander (the federal government). It doesn't seem to work that way, though.

The city of Midland, Texas, like many others, knows what it's like to wade through the maze of red tape that ensnarls federal agencies. When the Dallas office of the Department of Health, Education and Welfare (HUD) asked the city for a reserved parking space at its airport, Mayor Ernest Angelo, Jr. saw an opportunity to serve the bureaucrats some of their own medicine.

In a lengthy letter to HUD, his honor replied that he would be happy to process a proper application, "but a simple request by telephone or letter just won't do at all. In order to justify as many public employees as possible and to make things as difficult as possible for anyone trying to do business with the City of Midland, we have adopted a few regulations and guidelines with which you must comply:"

"1. You must submit three executed and 14 confirmed copies of this application, which we will then distribute to our Department of Aviation, Fire and Police Departments, the Public Works Department, the City Attorney's office and anyone else we can think of.

"2. Submit the make and model of the proposed vehicle, together with certified assurances that everyone connected with the manufacture, servicing and operation of same were paid according to a wage scale that complies with the requirements of the Davis-Bacon Act.

"3. Submit a genealogical table for everyone who will operate said vehicle so that we can ascertain that there will be a precisely equal percentage of white, blacks and other minorities, as well as women and the elderly.

"4. Submit certified assurances that this plan has been discussed at length with the EEOC (Equal Employment Opportunity Commission) and submit that commission's certification that requirement 3 above has been complied with.

"5. Submit certified assurances that all operators of said vehicle and any filling station personnel that service same will be equipped with steel-toed shoes, safety goggles and crash helmets and that the vehicle will be equipped with at least safety belts and an air bag to show compliance with the Occupational Safety and Health Act.

"6. Submit an Environmental Impact Statement (showing) the number of times the vehicle will be operated, times of day, the name of the operator of the vehicle, the number of other vehicles that might be coming into or leaving the parking lot at the same time, as well as the number and type of aircraft that might be landing or taking off at the airport at the same time and an exact conclusion as to the effect this will have on the atmosphere in West Texas."

There was more, but by this time it should have been obvious that the mayor was just giving his funnybone (and his frustrations) a good workout. To make sure, however, he added in a postscript that the city would, of course, be delighted to authorize a place for a HUD vehicle in its airport parking lot.

That was last October. So far, nothing further has been heard from HUD on the matter.

"I was a little disappointed," said Mayor Angelo, "at their lack of a sense of humor."

Could be, however, that the reason for HUD's failure to respond is because its legion of paperpushers has been going bananas trying to assemble the documentation the mayor requested?

One hopes so. It would mean they have that much less time to bother the rest of us.

ENRICO CAPPUCCI PASSES

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. O'NEILL. Mr. Speaker, I am deeply grieved to learn of the death of my dear friend, Enrico Cappucci. Rico and I served together in the Massachusetts Legislature. But our friendship extended well beyond. I deeply valued his good humor and wise counsel. His death is a great loss to Massachusetts.

My wife Millie joins me in offering our most sincere condolences to Rico's wife and five children.

I include a copy of the obituary that appeared in the Boston Globe:

ENRICO CAPPUCCI, 66; CLERK OF APPELLATE COURT

Enrico Cappucci, 66, of 176 Orient av., East Boston, clerk of the Boston Appellate Court, died yesterday in Winthrop Community Hospital.

Mr. Cappucci was state representative from East Boston for 12 years (1936–48) and was past president of the Massachusetts Legislative Assn.

He graduated from East Boston High school and Thayer Academy, where he was an outstanding athlete in swimming and track, and graduated from Suffolk Law School.

He was a member of the Massachusetts Bar Assn., National Appellate Clerks Conference, University Club of Boston, Fitton Council, No. 84 of the the Knights of Columbus, and L Street Brownies. He was a director of East Boston Savings Bank and a five-star member of American Airline's Admirals Club since 1945.

He leaves his wife, Virginia (Meaney); three sons, Enrico Cappucci Jr. of Stoneham and Robert and John Cappucci of East Boston; two daughters, Maryann Cappucci of East Boston and Mrs. Patricia Ripa of Stoneham, and four brothers, Constantine Cappucci of Winchester, Robert Cappucci of Brighton, Louis Cappucci of California and Rocco Cappucci of Saugus.

NEW ELDERLY HOUSING FOR PITTSBURGH'S LAWRENCEVILLE SECTION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, come next July, Pittsburgh will have one of the Nation's first elderly housing projects built under the section 8 rental assistance program.

While section 8 has never come near aiding the number of people in need of housing or building all of the units President Ford has called for in his budget, Pittsburgh's new St. Augustine's Plaza certainly is a bright spot in this otherwise dull administration cloth.

St. Augustine's represents all of the best in community-government cooperation. The dioceses of Pittsburgh, aided by a loan from Pittsburgh's Equibank, and a great push by officials at all levels of government, broke ground on the 88-unit building 3 months ago.

I am pleased to have played a small role in helping the Reverend Paul Kuppe, of the St. Augustine Church and dozens of other local church and lay people make this idea a reality.

I want to include in the RECORD at this time an article from the Squirrel Hill News concerning the new structure.

LAWRENCEVILLE HIGH-RISE TO OFFER LOW-COST HOUSING FOR THE ELDERLY

PITTSBURGH.—A $2.3 million Equibank loan to a nonprofit housing corporation supported by the Catholic Diocese of Pittsburgh is making possible construction of a new high-rise apartment building for senior citizens with low incomes.

Called St. Augustine Plaza, the seven-story, 88-unit building in Pittsburgh's Lawrenceville section is one of the first projects in the country to be constructed under a U.S. Housing and Urban Development program which provides rental assistance payments to senior citizens.

The project, which takes its name from St. Augustine Church in Lawrenceville, is part of a larger effort by the Capuchin Province of St. Augustine, whose headquarters are at the church, and the Catholic Diocese of Pittsburgh to use inner-city church property to aid urban housing problems.

The Rev. Paul Kuppe, OFM Cap., assistant pastor at St. Augustine Church who also serves as executive director of the project, described St. Augustine Plaza as an overall community effort. "This project can go a long way to revitalizing the Lawrenceville area," Fr. Kuppe said. "We hope that we can get young people to move into the homes that the elderly can no longer maintain or fix up. If we are successful, and we have no reason to believe otherwise, we will preserve the strength of the community."

St. Augustine Plaza, which will be managed by Franciscan nuns from St. Augustine Parish, is being designed especially for the elderly. In addition to such standard conveniences as elevators, air conditioning, all electric appliances, outdoor seating areas, a community room and laundry facilities throughout the building, the entire project will be associated with the Lawrenceville American Association of Retired People and Golden Agers Club from St. Augustine Parish, and will have service as needed from the parish's Meals-on-Wheels program. Meals-on-Wheels is a national volunteer organization which takes hot meals to convalescents or persons confined to their homes.

The new high-rise is located on two main bus lines for easy shopping access. In addition, plans are being completed to use space on the building's ground floor for a community store or a geriatrics center run by a nearby hospital.

"There has been excellent community support for the project," said Sister Coleman Conroy, O.S.F., 45, of St. Augustine Parish, who along with Sister Veronica Marie Phillips, O.S.F., 52, will be resident managers of the project for Christian Housing Inc., the owner.

City statistics indicate that Lawrenceville has the second highest concentration of elderly citizens in the city of Pittsburgh. Sister Coleman said, "we have thousands of requests for residency at St. Augustine." While the church has played a supportive role in the project, occupancy is open to all area residents and applications are being based on HUD regulations.

Ground was broken for the project June 23 of this year. The project's completion, scheduled for July of next year, will culminate five years of planning by St. Augustine Church that involved the cooperative efforts of the Pittsburgh Diocese and different levels of business and industry and various agencies of city, state and federal governments.

The project is one of 25 similar senior citizen projects planned for the greater Pittsburgh metropolitan area in connection with the federal government's rental assistance program. Nine of the proposed projects are in the city, an additional nine are located throughout Allegheny County and the remainder are in Butler and Armstrong through Westmoreland and Washington Counties.

According to Fr. Kuppe, a parish-wide survey in 1973 uncovered an acute need for housing care services for the elderly, particularly in the Lawrenceville section.

"Lawrenceville is an older neighborhood with distinct ethnic characteristics," said Fr. Kuppe, 31, who holds a M.A. degree in Urban Planning from Loyola University in Chicago. "We felt it was not only important to provide senior citizens with decent housing, but we also felt that it was important to make it possible for elderly people to remain in the same neighborhood where they have lived all their lives and where the surroundings are familiar to them."

Determined to make housing available for elderly residents, Fr. Kuppe said Christian Housing, Inc., a nonprofit corporation, was formed with the support of the Pittsburgh Diocese for the purpose of constructing an apartment building for senior citizens. Land for the building was sold to the corporation by the Pittsburgh Diocese and St. Augustine Church, the Capuchin Province of St. Augustine and the Pittsburgh Urban Redevelopment Authority. Frank Schneider, a prominent local businessman and Pittsburgh Catholic layman, serves as president of Christian Housing.

In addition to the $2.3 million loan by Equibank, additional funds totaling $99,000 in the form of a loan and a grant were provided by the Pennsylvania Department of Community Affairs for initial architectural and site studies.

Under the federal assistance program, residents of St. Augustine Plaza are eligible to receive rental assistance payments from the U.S. Department of Housing and Urban Development.

SECRETARY RICHARDSON ADDRESSES OIC CONVOCATION IN PHILADELPHIA

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. HEINZ. Mr. Speaker, earlier this morning Secretary of Commerce Elliot L. Richardson addressed the 12th Annual Convocation of the Opportunities Industrialization Centers of America. In his speech, delivered at Philadelphia's Civic Center, Secretary Richardson touched briefly on the long and fruitful relationship that has developed between the Federal Government and OIC, a relationship that has benefited many thousands of Americans who have sought to take their rightful place in our system of equal economic opportunity. Mr. Richardson, looking to the future of our Nation, also spoke eloquently about the need for urban rebirth and an abiding, effective commitment to providing Americans with jobs.

This speech, with its recognition of the need to pioneer a new America in which all people know the dignity of self-sufficiency, deserves the attention of all those who care about forging greater progress and social justice in the years ahead. For the benefit of my colleagues, I include the text of Mr. Richardson's speech in the Record:

Address by Secretary of Commerce Elliot L. Richardson

I am especially pleased to be with you today—it is a bit like visiting old friends. I have known the Rev. Dr. Sullivan and admired his work for a long time, and, currently, I appreciate his contributions as a member of the Secretary's Advisory Council in the Department of Commerce.

The relationship between the Department and OIC—which has become a legend in our time—is also a long one. As some of you may know, the OIC-Commerce partnership dates back to 1964 when the Department's Area Redevelopment Administration was searching for new ideas to match industry with skilled labor in areas of high unemployment. It was about this same time that Dr. Sullivan was strengthening his job development program for unemployed urban workers. The "self-help" theme which has always been the foundation of his program meshed perfectly with the goal that still guides the Commerce Department's efforts to stimulate economic development—"to help communities help themselves."

ARA was succeeded by the Economic Development Administration in 1965 and EDA's association with Dr. Sullivan and the Opportunities Industrialization Centers has flourished through the years.

ARA and EDA assistance to OIC of America and its local centers has exceeded $6 million, not a substantial sum in comparison to the cost of some Government-sponsored programs, but an investment that has helped produce substantial results.

We are proud to have assisted in your success. Twenty new centers have been established in areas of sore need. Some 200,000 men and women—young and old, black and white, Indian and Latino—have been trained. Most of these trainees are now working, but even those affected by the recent upheaval in our economy are equipped now to find and hold jobs.

Over the years, I have heard so much about IOC and its training programs that when I first received Dr. Sullivan's invitation to address you today, I assumed he wanted me to come because, having held five different jobs since 1972, I could speak knowledgeably about on-the-job training.

I mentioned this to Horace Webb, my Director of Communications, and he suggested another possibility—that having experienced a well-publicized career interruption in 1973, I am regarded as an authority on unemployment.

Actually, I think that the late William Faulkner may have known more about that subject than I do. He said once: "You can't eat for eight hours a day, nor drink for eight hours a day, nor make love for eight hours a day; all you can do for eight hours is work."

Fortunately—or unfortunately, depending on your view—I started writing a book during the unemployed phase of my life, and I spent so much time working on it that I never had an opportunity to verify the first part of Faulkner's observation.

Regardless of the reason for your kind invitation, I am here because this is an important occasion and because we share an important cause—to accelerate the human advance of blacks and all minorities and secure their right to a place in the economic sun.

In many respects, the nature of our endeavor is both political and economic. That is because real progress toward humanistic objectives is achievable only on the bedrock of political and economic gains.

John Adams, our second President, once expressed that idea to his wife Abigail in these words: "I must study politics and war, that my sons may have liberty to study mathematics and philosophy, geography, natural history and naval architecture, navigation, commerce and agriculture, in order to give their children a right to study painting, poetry, music, architecture, statuary, tapestry, and porcelain."

Our concerns have been, and continue to be, rights; the right to vote, the right to equal educational opportunity, the right to equal employment opportunity, and more recently, the right to entrepreneurship.

We have made great strides in each of these areas. In the last 15 years, the percent of the black population with four years of high school or more has doubled. So has the percent of minority white collar-workers—while the percent of the minority population employed as domestic and private household workers has dropped more than 60 percent.

In the last ten years, black college enrollment has more than tripled.

Since 1969, the number of black elected officials has increased nearly three-fold. Median weekly earnings of minority citizens have risen. And impressive gains have been achieved in minority business ownership.

The number of minority firms has risen more than 40 percent—to an estimated 454,000. Economists tell us that both the number of minority businesses and the gross receipts of minority firms are multiplying at rates proportionately faster than those for all firms.

The number of minority-owned banks in the Nation has tripled in the last five years alone.

Minority business receipts have jumped more than 200 percent since 1969.

But, despite these advances, the task we have begun is far from finished.

Black participation in national elections is still less than it should be. In 1974, only 34 percent of eligible black voters went to the polls—compared with more than 46 percent for eligible whites. And 46 percent isn't so good either.

The labor force participation rate for minority males continues to lag behind that for white males.

The unemployment rate for minority teenagers is high and still growing, while the same rate for white teenagers has remained stable.

Disparities continue in the unemployment rates for adult minority and adult white workers.

Although the weekly earnings median for minority workers has risen over the years, it is below that for white workers, and, in terms of 1967 dollars, is still $25 lower than the white median.

Now, I think it is important that we understand one thing—that these figures are the product of economic forces and population patterns as much as social injustice. That is a key point I wish to make this morning.

Profound and fundamental changes have occurred in this country over the last quarter century—changes which have slowly shifted the geographical balance of power, wealth and opportunity.

The North and the Northeast aren't growing as fast as they once were. They are suffering from stagnating or structurally altered economies, reduced private investment, inadequate employment opportunities and declining tax revenues.

Concern over future availability of fuel has precipitated the migration of some companies—and jobs—to the gas-producing states.

Locational incentives, not to mention climate and labor costs, have evoked an exodus of manufacturing industries—and jobs—to the South and the Southwest.

Economic base erosion in the North and Northeast has tended to result in higher tax rates for those who remain behind, and has led to inevitable reductions in essential public services. All of this has affected our cities.

Rising city property taxes and land costs have inspired an out-migration of plants—and jobs—to suburban areas where costs and taxes are cheaper.

At the same time, industrialization, the mechanization of agriculture, and racial integration, have brought massive population shifts.

The rural poor, then the southern poor, and finally, the black poor, have converged on northern cities, bringing special needs for education and services, and imposing special burdens on urban government.

In the last 30 years, alone, millions of black Americans have moved North. Census figures tell the story: in 1940, 77 percent of the black population lived in the South. By 1973, 40 percent of all black Americans were living in the North, only 52 percent remained in the South.

Virtually all of this migration has involved moves from rural to urban areas: by 1973, 76 percent of black Americans were living in metropolitan areas and of those, 60 percent resided in central cities.

What these simple statistics do not tell us is that the resettling of blacks in northern cities has coincided with the relocation of northern industries in the South . . . and the flight of central city plants and businesses to the suburbs.

Any attempt to improve the status of blacks and other minorities must take these facts into account. We aren't dealing with a transient economic phenomenon, but with the consequences of deep-rooted structural change.

To create permanent, satisfying jobs which will lift minority citizens to a better life, we have to cope with this change.

We have to locate new firms and factories where there is tax base erosion, underemployment, unemployment and economic disadvantage;

We have to encourage and assist small and minority businesses which can contribute to the economic base;

We have to assure that jobs created in distressed areas are made accessible to the economically disadvantaged.

How do we do this?

Not, as some argue, by centralizing economic planning in the Federal Government and creating a few temporary "make work" public service jobs. For as I have tried to suggest, the problem is much more than a temporary downswing of the economy. We aren't going to create real opportunity for the disadvantaged, we aren't going to sweep away the effects of decades of change by instituting a few thousand public service jobs, a larger Federal budget, higher taxes and a bigger bureaucracy.

Rather, the answer is that Government must motivate the private sector to invest. For it is the might of the free enterprise economy, when properly stimulated, that creates permanent jobs. Since the bottom of the recent recession in the spring of last year, our economy has created 3.4 million new jobs, compared to which the proposed Government programs are a drop in the bucket.

President Ford has shown the courage to reject proposals that are high on promise and low on potential, long on rhetoric and short on results. He has kept his pledge to promise no more than he can deliver, and deliver all that he promises. He knows that compassion for the jobless today means creating the incentive to investment which produces jobs, that the right solution is also the most humane solution.

That is why he has placed long-term, broad-based economic development and job creation at the top of his legislative agenda for the next four years, pledging to ". . . create a climate in which our economy will provide a meaningful job for everyone who wants to work and a decent standard of life for all Americans . . ."

Already, the President has proposed:

A Jobs Creation Incentive Act which would encourage business investment by providing more rapid amortization for plant and equipment in high unemployment areas;

An increase in the total amount of loans, guarantees and other obligations which the Small Business Administration may have outstanding at any one time—ceilings which would permit the SBA to lend to small businesses which, otherwise, would be unable to obtain credit in the private sector; and

A five and three-quarter year extension of the general revenue sharing program, an extension which, among other things, would provide states and cities with resources necessary to leverage local private investment.

Let me interject the observation at this point that the President urged the Congress to enact these and 69 other proposals before the summer recess. While the Senate has passed small business loan legislation, and the House has passed a watered-down revenue sharing bill, so far, not one of the President's proposals has become law.

Urban economic development must become a priority objective of more than President Ford, alone. It must become a Congressional priority.

At the same time, and perhaps more important, urban economic development must become a local priority; and objective of: city government, civic groups, local business leadership, and organizations such as OIC.

Common sense tells us that objectives are achieved only through resource concentration—through applying funds and energies and people with sufficient weight and force to make an impact.

Now, if resources were unlimited, then it would be possible to pursue an unlimited number of objectives. Priorities would be unnecessary. Unfortunately, resources are not unlimited. Our supply of public funds, private capital and personnel is finite; therefore, hard choices must be made. Priorities must be established, and then resources must be concentrated on those priorities.

The implications for development are obvious: only if urban rebirth and jobs receive our full commitment—only if we dedicate ourselves to the task of pioneering a newer America—will it be possible to achieve the "critical mass" necessary to reverse the relentless process of urban decay and sustain forward progress.

People must be brought together effectively at the local level to coordinate the application of Federal development funds and private investment that produces jobs—and this is not happening now to the degree that it should be.

One indication of this is that less than 10 percent of all community development bloc grant funds is now being applied by cities in support of economic development objectives.

In some cases, the proper mechanisms for local economic development planning do not exist; in others, there is the problem of programmatic fragmentation and specialization. Programs are slicing people up into pieces instead of approaching them as whole individuals. Some of you will recall that, in the past, I have pressed for action to correct this situation.

One of the remedial measures I have advocated is the Allied Services Act, a bill now pending in the Congress—and opposed, I might add, by a coalition of sponsors of narrowly drawn categorical legislation. This Act would help overcome fragmentation in three ways:

First, it would encourage the creation of a regional council drawn from all the service-providers in the area;

Second, it would authorize the council to develop a cohesive plan drawing on all available resources, whether voluntary, state, local or federal;

Finally, it would create the power to carry out the plan with defined responsibility among each of the participants.

To facilitate flexibility, it would permit the transfer of funds from among, and between, Federal programs and authority, in some instances to override narrow statutory restrictions.

It seems to me that comparable legislation is necessary in the area of urban economic development. There needs to be a coordinating mechanism at the local level to help cities identify opportunities to achieve the "critical mass" I mentioned a few moments ago.

Until such a mechanism is in place, until we begin setting priorities and making economic development our singular cause, we can dump billions into our cities every year and still not create genuine career opportunities and the prospect of a better life for minority Americans.

I ask you:

Do we want to put minority teenagers to work?

Do we want to provide satisfying career opportunities for adult minority citizens?

Do we want to put the weekly earnings median for minority workers on a par with the white median?

Do we?

Then we must join with the President in making urban economic development our number one domestic priority.

First. Let's get the President's program enacted and unleash the might of our economic system to create jobs for all Americans who want them.

Second. Let's get urban economic development designated a local priority wherever there is underemployment, unemployment and economic disadvantage. If we are to succeed, organizations such as OIC will need to continue to speak out and assume a leadership role. In this regard, let me say that I am very interested in the Rev. Dr. Sullivan's ideas for community investment cooperatives. The concept represents the type of initiative and self-help this country could use more of.

Third. Let's see that local communities have the tools to bring all the potential resources to bear upon the problem so that the whole will be greater—not less than—the sum of its parts.

Finally. Let us never lose sight of the fact that ours is more than an economic endeavors; it is a social revolution. We are opening doors that have been shut. We are creating opportunities thet have been denied. We are helping to develop lives to the fullest limit of human potential.

And this is what America is really all about—building not only for today, but for tomorrow, for posterity. That was the mission set by the Founding Fathers. It is the mission entrusted to us into the Third Century of the Republic.

UNSAFE BRIDGES HIGHLIGHTED

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. SHUSTER. Mr. Speaker, all too often when discussing highway safety we focus our attention on such factors as vehicles and the driving habits of the motoring public while ignoring such critical, yet ignominious, points as highway markings and bridges.

In the August 31, 1976, edition of the Washington Star, reporter Thomas Love discusses the danger associated with unsafe highway bridges and I am taking this opportunity to insert the article in the CONGRESSIONAL RECORD and encourage my colleagues to read it carefully.

The article follows:

AND NOW ANOTHER HIGHWAY HAZARD: UNSAFE BRIDGES

THERE ARE 32,000 ON U.S.-AIDED ROADS ALONE

About 9:25 p.m., the white Thunderbird bore through the darkness, its headlights cutting the fog and rain. As the vehicle sped onto the wet bridge, the driver lost control and the car careened from one guardrail to the other.

The force of the crash into the right rail broke through the timber, the tire jumped the curb and the bumper snagged and tore one of the inch-thick steel rods coming from the top of the truss some 40 feet above to support the floor beams.

Almost through the bridge, the car started to spin. The left front fender slammed into the main bridge support on the right side, which held a quarter of the bridge's dead weight.

The cross section of the I-beam post began to collapse and then bend. With so much of its support destroyed, the 226-foot span slowly rotated to the right with a screech of tortured metal and collapsed into the river below.

As the bridge settled onto the river bed, another car came along behind the Thunderbird and vaulted into space, landing on the collapsed structure. Then two cars traveling in the opposite direction sailed off the end of the bridge approach, rolled over and landed upside down on the river bed.

Another car, this one traveling the same direction as the Thunderbird, vaulted from the roadway and landed upside down on the collapsed truss. The driver of the car behind it was the first to sense something wrong, and although he tried to stop he skidded off the end of the approach.

One more car careened into space to land on one of the previous wrecks before a survivor and a nearby resident managed to stop traffic.

The toll in just 17 minutes: 4 dead, 16 injured, 7 cars in the river and a major bridge destroyed.

The National Transportation Safety Board blamed the accident on "penetration of the timber railing by the vehicle and its subsequent impact with and crushing of a vital structural member of the bridge truss." The safety rails were "not adequate to sustain impact at posted speeds," the board found.

In other words, if the rails had been strong enough for today's cars and traffic, the Thunderbird—which was traveling below the posted speed limit—could never have struck supporting bridge posts that collapsed.

This accident took place in February 1975 near Siloam, N.C., and it could have happened anytime, anyplace. The nation's bridges are just not safe, according to reports from several sources.

In its study of the Siloam accident, the safety board reported that there are some 125 vehicle bridge collapses each year in this country. Of course, a great many of these are small, privately owned structures, but some are on major highways and the collapses turn into tragedies.

The Federal Highway Administration (FHWA) reports that there are some 32,000 unsafe bridges in the federally aided highway system alone—7,600 structurally deficient and 25,000 "functionally obsolete." Only 198 have been closed to traffic, according to FHWA's latest report to Congress.

A structurally deficient bridge is one which cannot, for one reason or another, carry the maximum allowable weight of vehicles traveling on the connecting highway. A functionally obsolete bridge is one whose design does not meet present standards in such areas as guardrails, clearances or curves on approach.

This reflects only a part of the picture, however.

The Road Information Program (TRIP), a Washington-based research group sponsored by the highway construction industry, concludes that nearly 80,000 of the nation's total of 564,000 vehicular bridges are structurally deficient or obsolete. This means that 13 percent of our country's bridges are unsafe by modern standards.

State officials responsible for their highway systems, however, tend to downplay the safety problems involved with bridges. In general, they insist that the term "unsafe" used in the federal and TRIP reports is misleading.

For instance, James Gately of Maryland said "we are not concerned that there are any major hazards (in the state) such as a danger of major bridges falling. We have an ongoing inspection program of bridges and we close those which are in need of repair."

Fred Sutherland of Virginia agreed. "To say that all these bridges are unsafe shows the wrong perspective" he said. "In some cases we must reduce capacity of the structures, but at reduced capacity they are all safe. As long as people observe the posted weight limits, there is no safety problem. They can be used indefinitely.

"The Federal Highway Administration has a safety program for such things as widening bridges, changing guardrails and so forth," Sutherland continued. "We are trying to pick the worst first."

FHWA's latest accounting, which is now almost two years old, reported that there were no structurally deficient bridges in the District of Columbia but there were four which are structurally obsolete. In Maryland, there are 47 listed as structurally deficient and another 187 obsolete. Virginia reported 74 structurally deficient and 1,106 obsolete.

State officials say that they can't tell which bridges are on the FHWA danger list without extensive and costly review of computer records. Gately explained, "It's difficult to determine just what they're referring to. Some are county structures. Most are older type bridges which are not capable of carrying heavy loads."

However, all agree that the worst ones are those which have been submitted to FHWA for replacement.

In D.C. there is only one on the list of approved projects—the 9th Street NE railroad overpass.

Construction of the bridge over the railroad tracks and New York Avenue has been finished. It will reopen to traffic tonight, the District Transportation Department has announced.

The span had been closed for about 10 months. It has served the market area south of New York Avenue and an industrial area to the north. Officials said the reopening would relieve traffic on Bladensburg Road, North Capitol Street, and New York, West Virginia and Montana Avenues, which have been used as alternate routes during the bridge work.

Maryland has four structures on the list, none in this immediate area. They are bridges over Loch Raven Reservoir north of Baltimore, Honga River in Dorchester County, Big Pipe Creek in Carroll County and the Hanover Street Bridge over the Patapsco in Baltimore.

Virginia has 11 approved projects, with the closest the Route 802 bridge over the Rappahannock River at the Culpeper-Fauquier County line.

The others include the Marshall Street Bridge over Shockoe Valley in Richmond, Route 669 over Henry and Barnes Creek in Northumberland County, Route 636 over Little River in Russell County, Route 680 over Big Otter Creek in Bedford County and Route 630 over Sturgeon Creek in Brunswick County.

There are also Route 785 over the North Fork of the Roanoke River in Montgomery County, Route 653 over South Mayo River in Patrick County, along with Route 601 over the Little River, Route 156 over the Chickahominy River and Route 611 over South Anna River, all in Hanover County.

Donald Knight, TRIP executive director, calls the bridge situation "a severe problem. The real problem," he said, "is that most of these bridges were built before 1935. And some of them date from the last century.

"And now we have a new age in vehicle transportation with bigger cars and bigger trucks," he continued. "They are heavier, and the size as well as the number is growing. There are 125 million trucks and cars on the roads now and there is expected to be 160 million in 15 years. So the problem with bridges will get worse, not better, unless we do something about it. Things are going downhill in terms of bridge replacement.

"We hear almost on a weekly basis about bridges going down. It is a major crisis. Anytime you take a structure 40 years or more in age, you have a problem. Highway departments explain about posted weight limits, but we know some of the bridges go down because of excess weight. This is almost like saying that if everybody obeys the law, we won't have any crime," Knight said.

"Bridges are the stepchild of highway reconstruction programs because of cost," he continued. "Money goes a lot further when it's used to straighten or widen a highway than it does in building a new bridge. We wouldn't have 90,000 bridges in some stage of deficiency unless there were some imbalance.

"We've devoted a great deal of time, money and attention to the interstate highway system, with the result that there are some 90,000 bridges on the primary and secondary systems which are going neglected.

"Now, bridge repair and replacement ought to be first order of business," Knight said.

In 1970, Congress adopted a federal Special Bridge Replacement Program to help the states finance—on a matching 75–25 percent federal-state basis—the replacement of unsafe and outmoded bridges.

Part of the program calls for an inventory of the nation's bridges, a project that is now 91 percent completed with a listing of 232,000 bridges.

Since the program began, states have applied for funds to replace 15,887 bridges, a massive undertaking that would cost $4.67 billion, according to the FHWA, a part of the Department of Transportation. Thus far, $464 million has been allocated to the states.

According to the latest FHWA report to Congress at the end of 1975, it would cost some $2.3 billion to replace the 7,629 structurally deficient bridges that have been identified and another $8.1 billion to replace the 27,067 obsolete structures.

Of 697 bridges replaced or in the process of being replaced through the Special Bridge Replacement Program, 115 have been reopened to traffic.

FHWA is also providing some assistance to the states from regular highway funds and the states are replacing some from local funds. Ten bridges are being built with emergency federal funds, 200 with other federal aid and 280 by the states themselves.

The Ford administration has proposed establishment of a "single, adequately financed highway safety fund" with 30 percent of the money to be made available to the states for replacement of inadequate bridges.

This new consolidated program would "provide increased flexibility and should enable states to determine to a greater degree their own priorities for safety projects," according to the report to Congress.

After investigating the Siloam collapse, the safety board recommended that the secretary of Transportation:

Develop and publish, as part of the Federal Highway Administration research program, a new series of guidelines for the structural retrofit of railings on existing bridges to protect vital structural members from impact by vehicles.

Require that bridge inspection reports be analyzed and evaluated within a specified time period and that any required changes in load limits be posted on the structures promptly.

Publish a requirement that all bridges on public roads be inspected for safety under the same criteria as those on federally aided highways.

Establish a program of joint federal-state investigation of all bridge collapses on public roads and accidents involving damage to structural members vital to a bridge's stability.

In cooperation with the states, examine whether timber roadway surfaces on bridges meet federal anti-skid requirements.

TRIBUTE TO HOWARD B. WOODS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. CLAY. Mr. Speaker, St. Louis has lost another great leader, a pioneer of black progress of local and national renown. I submit the following article from the St. Louis Post-Dispatch, published on Tuesday, August 3, 1976:

Howard B. Woods Dies; Publisher, Black Leader

Howard B. Woods, editor and publisher of the St. Louis Sentinel and president of the St. Louis Urban League, died yesterday in a Boston hotel room, apparently of a heart attack.

Mr. Woods, 59 years old, was in Boston for a National Urban League Conference. He left a meeting about 2 p.m., telling associates he felt faint. An Urban League officer discovered him dead about 4 p.m.

St. Louis civic leaders mourned the loss of Mr. Woods, who was a leading and powerful spokesman for the black community here.

"His advice and counsel was always valuable and sound to those who looked to him for leadership," said St. Louis Mayor John H. Poelker.

Mr. Woods was born Jan. 9, 1917, in Perry, Okla., the son of Frank and Mary Woods. His father, a chef, moved the family to St. Louis and Mr. Woods enrolled at Sumner High School.

In 1936, Mr. Woods became involved in public service when he undertook a canvass of voters in his precinct, which ended with 222 names being stricken from the rolls.

In the 1960's as executive editor of the St. Louis Argus, he interviewed President Lyndon B. Johnson.

Irving Williamson, former executive editor and general manager of Mr. Woods' St. Louis Sentinel, said, "He was ever laboring to enhance the welfare of his people. He created bridges of understanding to all segments of the community."

Mr. Woods was appointed in 1965 by President Johnson as associate director of the United States Information Agency. He held the Washington Post for two years.

Four years earlier, Mr. Woods accompanied then Vice President Johnson on his trip to the Far East. Mr. Woods had also served on President John F. Kennedy's committee on Equal Employment Opportunity from its inception in 1961 until its abolition in 1965.

From Washington, Mr. Woods moved to Chicago where he became editor-in-chief of the Sengstacke newspapers, made up of the Chicago Defender and 13 other black papers across the nation.

In 1968, he returned to St. Louis to found the Sentinel, a paper he hoped would "be independent and work actively toward the establishment of the effective two-party system."

Mr. Woods was vice president of the National Newspaper Publishers Association, a curator of the University of Missouri, past chairman of the St. Louis Housing Authority, a district adviser for the Small Business Administration and a former trustee of Webster College and St. Louis University.

Mr. Woods was active also in broadcasting, having worked formerly as a news commentator for KMOX radio. He conducted a weekly discussion show, "The Black Experience," on KSD–TV.

He is survived by his wife, Jane; four daughters, Mrs. JoAnn Austin, Mrs. Judy Williams, Mrs. Patricia Hodges and Gail Margery Woods; a brother, James; two sisters, Mrs. Alpha Green and Mrs. Regina Lane; an aunt, Mrs. Bessie Buckner, and two grandchildren, all of St. Louis.

Mr. Woods' body was expected to be returned to St. Louis today. Funeral arrangements were pending at the Concordia Lutheran Church, 505 South Kirkwood Road, Kirkwood.

OLD FAITHFUL PRESIDENTIAL POLITICS

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. RYAN. Mr. Speaker, during the last several days the sad condition of our national parks system has become an issue of great controversy in the Presidential campaign. In a belated attempt to attract some of the support of the conservation-minded voters away from Jimmy Carter, President Ford has performed what is aptly characterized as a "flip-flop." Suddenly the President has endorsed and sent to the Congress a major program to rehabilitate and enlarge our national park system.

The Conservation, Energy and Natural Resources Subcommittee, of which I am chairman, recently prepared a report approved and released by the Government Operations Committee which describes the deteriorating conditions in our national parks. According to the report:

> The Park Service's resources are now, and have for the last several years been, inadequate to carry out the tasks which the NPS is mandated to perform.

The following Washington Post editorial correctly points out that—

> The major barrier has been the Office of Management and Budget, which has insisted on pinching pennies for several years while allowing a billion-dollar backing of park problems to build up.

Mr. Speaker, is it necessary to point out the OMB is Mr. Ford? It reminds me of the little boy who murdered his parents in a fit of rage, and then threw himself on the mercy of the court because he was an orphan. Such an action is called chutzpah in Yiddish. In this country, whatever we call it, the action is the same.

[From the Washington Post, Sept. 1, 1976]

Old Faithful Presidential Politics

Out at Yellowstone National Park, Old Faithful erupted on schedule on Sunday—right in the middle of President Ford's speech proposing a 10-year, $1.5-billion "Bicentennial land heritage program." Mr. Ford no doubt viewed the geyser as a perfect prop, epitomizing all the natural treasures that he seeks to save. And that is certainly one image that could reasonably be evoked by Old Faithful on this occasion. It is, after all, a splendid spectacle, beauteous to behold and well worth preserving in its natural state. But it is also vaporous and transitory, a spasmodic, passing thing of no great substance. And now that we have carefully studied the ingredients of the President's grand-sounding plan for the national parks, Old Faithful seems to us to have been the perfect prop for this occasion in a way quite different from that intended by the President's advance-men. For what, when you think about it, is older and more faithful than the time-honored tradition that impels candidates for President (and above all incumbent candidates) to spout campaign promises that dance in the sunlight and delight the multitudes—and then, predictably, evaporate into thin air? As it is with Old Faithful, so, alas, it is with the President's "new" aid program for the national parks; there may have been quite a lot of steam behind it for a brief moment or two, but the suggestion of substance is largely illusory. There is really not much there that hasn't been there all along, or that Mr. Ford couldn't have put there long before now.

So we think that in this case, at least, Jimmy Carter was entitled to let off a little steam of his own. Jody Powell, Mr. Carter's press secretary, interrupted a softball game in Plains to accuse the President of "a calculated election-year flip-flop" intended "to cover up eight years of Republican mismanagement of our nation's park system." There is considerable basis for this charge. The national parks and wildlife refuges have been sadly neglected for much of the past decade. Budgets have not kept pace with rising costs and great increases in public use. Established parks have been allowed to deteriorate for want of proper maintenance and care. New areas have been authorized but not fully acquired or adequately staffed. Although Congress must bear part of the responsibility for this, the major barrier has been the Office of Management and Budget, which has insisted on pinching pennies for several years—while allowing a billion-dollar backlog of park problems to build up.

Mr. Ford has indeed flip-flopped. His new attitude was first evident some months ago when, under growing pressure from Congress, he overrode OMB and insisted that the National Park Service's personnel ceilings be raised. His new proposals go much farther along the same constructive line; he wants more funds to carry out commitments that the federal government has already made. The $1.5 billion in supplemental funds would be spent over the next decade primarily to develop and rehabilitate existing parks and wildlife refuges, to provide more adequate staffing, and to buy some of the nearly half-million acres already designated for inclusion in various parks and refuges. The plan amounts to a declaration that the penny-pinching has to stop, and that a much larger, continuing investment must be made to protect these priceless resources against decay.

In theory, then, Mr. Ford's proposal is very sound. But in practice, it is suspect in two ways. The first is timing: the plan comes very late for legislative purposes, however useful its proferring may be for the fall campaign. The second problem is the packaging. Besides attaching a superfluous and irrelevant "Bicentennial" label to the plan, the White House declared that it would "double America's heritage" of parks, refuges and historic sites. That suggests a vast expansion of acreage, a claim that is supported by the numbers only if you include almost 64 million acres in Alaska, which the administration proposed to set aside for parks and refuges almost three years ago. Such dubious arithmetic only detracts from the real merits of the new spending requests—and gives Mr. Carter another target. It also perpetuates the notion that expanding the store of parklands is more important than enhancing what we have. Doubling the acreage may sound more appealing. But the greater need is for a redoubling of efforts to safeguard and improve existing national preserves. Mr. Ford has now recognized that need, which is good news. It would have been much better news—and more persuasive, as well—if it had come to us in a proposal to Congress at the beginning of his two years in office, rather than in a stagey ceremony at the beginning of his presidential campaign.

A POST OFFICE THAT MAKES MONEY

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. LEGGETT. Mr. Speaker, with our memories freshened by the latest debate on the postal reorganization bill, I would like to remind my colleagues of a simple fact. It is not a writ of natural or canon law that all postal services must lose lots of money. That fact was brought to my attention by a recent article on the West German Post Office.

We all know that the Federal Republic of Germany has what is probably the most efficient free enterprise economic system in Europe. It is interesting to note that the FRG also has an efficient Federal Post Office.

One of the major differences between theirs and ours is that West Germany's postal service not only delivers the mail, it also operates the phone and telegraph system as well as handling radio, TV, and data transmission. The other difference is that the German systems makes a profit—$120 million in 1975 and a projected $155 million this year.

There as here, however, the mail service itself is not a moneymaker. Newspaper delivery is subsidized to the tune of over 70 percent of its cost. And mailing a letter is expensive, 20 cents within the Federal Republic and 30 cents inside Europe. Mail delivery in Germany is time efficient however. You can mail a letter at 6 p.m. in Hamburg, and get it hundreds of miles away in Munich the next morning.

It is the telephone service, not the mails, which makes money and gives the system a profit. Perhaps the moral for us is that we should have the Bell System deliver mail, or let USPS run the telephones. I will not speculate about the former, but I doubt that we would want to do the latter. Because then they would be back for another billion to buy machines to pulverize telephone poles, to go along with their billion dollars' worth of machianes that shreds packages.

In any event, I would like to include the Washington Post article in the RECORD at this point so my colleagues can have the pleasure of reading about a postal service that allegedly pays its way.

A POST OFFICE THAT MAKES MONEY

(By David Mutch)

DARMSTADT, West Germany.—Six a.m. . . . the telephone rings. . . . But Karl Schmidt, a Munich businessman, isn't chagrined. He placed the call himself the night before, so that he wouldn't oversleep, by dialing the phone company's computer. He also instructed the computer to hold any calls placed to him during the night so that he wouldn't be disturbed.

—Later that morning, at his office, Herr Schmidt makes a business call. Instead of dialing a seven-digit number he simply pushes two of the buttons on his phone, and a computer rings the desired number.

—Among the letters on his desk is one mailed at 6 p.m. the night before in Hamburg, far north. It was not sent Luftpost (airmail) but was delivered speedily anyway via an air relay system.

All of these services were provided by the West German Federal Post Office, which not only delivers mail but operates this country's phone system, Telex, telegraph, data transmission, and radio and TV transmission, among other things.

It is the biggest public employer in Europe. The system's 450,000 employees number as many as the West German Army. The post office's army of civil servants even delivers over half the daily newspapers read in West Germany.

It also operates a bus service and a banking service for savings and checking, as well as collecting numerous kinds of payments for organizations and local governments, and it makes social service payments to unemployed and retired persons.

And the West German Post Office makes a profit. In 1975 it earned $120 million, and this year it expects to earn $155 million. It is the telephone part of the operation that earns money. As in the United States, handling packages and letters is such a labor-intensive work that it is a money-loser.

For 1974, for example, the German post office collected only 28 per cent of the cost it incurred for delivering newspapers—the 72 per cent not collected is in effect a credit to publishers and readers.

Much of the post's administrative apparatus and research staff is located here in Darmstadt, just south of Frankfurt-am-Main. Officials explain that by law the post must pay its own way. In fact, since 1945, the post office has paid nearly $5 billion to the federal government in profits.

It is not all done in the style of that cliche of the well-oiled German Machine. There is constant political thunder about the post—especially costs. It costs 20 cents to mail a letter within West Germany, 30 cents to another European destination.

Telephones are also expensive—$80 to put one in, and a hefty charge for calling out of the local district. Next year local calls, which cost 11 cents, will be limited to eight minutes. The post office wanted four minutes, but the public outcry, led by the press, was too much, and the move was at least temporarily blocked.

There are 23 million households in West Germany and 13.4 million telephones. Thirty-five per cent of these are business phones. Home use of telephones has increased rapidly here, and post officials expect the increase to continue. They advertise extensively.

The use of a computer, available to subscribers such as Karl Schmidt, to block telephone calls and to shorten dialing time is just starting. It is part of the new "stored-program control-switching" that will be implemented area by area over the next 30 years. Right now only 1,000 subscribers in Stuttgart and an equal number in Munich are involved in test programs.

Next year in Wiesbaden a new machine will be installed that reads the delivery codes of letters and mechanically codes them for later sorting steps in other machines.

Development of this machine began in 1973. It reads only printed or typed letters, but 75 per cent of all mail is so prepared. Handwritten letters are sorted on another new machine which allows the operator to view the mail on a TV screen.

THE HOLOCAUST

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. GILMAN. Mr. Speaker, today, September 1, once again marks the anniversary of one of the most tragic periods in world history, the outbreak of World War II. It is especially appropriate that on this day we reflect on the events that allowed Hitler's Nazi war machine to rise to power and not only devour its neighbors in a worldwide conquest, but much more horrifying, to execute his planned extermination of an entire people, the European Jews.

This abomination which led to the murder of some 6 million Jews, 3 million Slavs, hundreds of thousands of opposing Protestants and Catholics, and almost the entire Gypsy community of Europe was the subject of a recent hearing before the Future Foreign Policy Research and Development Subcommittee of the House International Relations Committee of which I am a member. The purpose of this hearing was to reflect on this "holocaust" to determine how nations can prevent future such acts of genocide. Among the witnesses who testified was Mr. Morris B. Abram, who was a member of the American Prosecution Staff of the International Military Tribunal at Nuremberg, Germany in 1946 and was a former U.S. representative to the United Nations Commission on Human Rights and Senior Adviser to the U.S. Mission to the United Nations.

In his eloquent, emotion-filled testimony, Mr. Abram charged that the restrictive and inflexible American immigration policies sealed the fate of European Jews and urged that the President be given discretion to vary those policies to avoid a similar disaster in the future.

He urged the Congress to ratify the U.N. Genocide Convention, to maintain "absolutely firm and unmistakable commitments to the security of Israel," and adopt legislation aimed at preventing discrimination against American citizens and firms resulting from the Arab boycott.

The conditions in the world today, Mr. Abram noted, are not unlike those of the 1930's and 1940's:

> As Hitler was the hammer and the West the anvil in the former time, the Arabs and the U.S.S.R. are the hammer and the West (excluding fortunately the United States) is the anvil of the 1970's.

In order to share the remarks of Mr. Abram with my colleagues, I request that the full text of his statement be set forth at this point in the RECORD:

TESTIMONY BEFORE THE SUBCOMMITTEE OF THE FOREIGN POLICY RESEARCH AND DEVELOPMENT OF THE COMMITTEE ON INTERNATIONAL RELATIONS OF THE HOUSE OF REPRESENTATIVES BY MORRIS B. ABRAM

I have a painful, pathetic and, unfortunately, an all too prophetic tale to tell. It is a tale of human murder on a scale so grand as to defy the masters of fiction, of callousness so impenetrable as to be inhuman, of bureaucracies so blundering as to produce the exact counter-effects of their stated purpose, of statesmen, religious leaders, Presidents and Popes, so consumed with their own institutional lives as to forget that they were human.

I do not intend to dwell exclusively with the Nazi period. As centuries may be characterized by descriptive words, the whole 20th century, on its present history, deserves to be known not as the Age of Enlightenment, not as the Age of Discovery, but unfortunately as the Age of Space/Genocide. I think it is hard to decide which in human terms is the more significant. Man's exploration of the atom and of the universe or man's almost universal cruelties to man in Europe, in Cyprus, in Indonesia, in Armenia, in Bangladesh, or now in Uganda and Lebanon.

Certainly the Nazi era was a calamity without parallel. It ought never to have occurred in any century and none of equal magnitude ever did. It is even more of a disgrace that it occurred in the 20th century.

It is essential that we recall from time to time what the Nazi crimes were and who was responsible for them. They were, first, crimes against Germans and Jews, Catholics and intellectuals, democrats and non-conformists of all stripes within the Reich. Then the range of criminality and bestiality expanded to include most of Europe and millions of people of whom the Jews furnished perhaps half—no one will ever know the outer limits of the dead, maimed and tortured.

Who was responsible? The perpetrators, first of course, and then all those who knew what was going on and consented, or remained silent, or worked very hard not to be informed.

Let us include too those who narcotized their consciences by reminding themselves of a duty to a superior official while they denied their duty to nature, nature's God or to mankind. Nor should we forget those who well understood that the whole Nazi state was a criminal conspiracy to rape and ravish the world, but who nevertheless furnished that state with a skilled and loyal service on the basis that they were mere technicians. Such was the architect who built the gas ovens but never stoked it with a body, the engineer who ran the train to Auschwitz but never raided a single home to gather in the human cargo.

There was a lot of guilt, but let none of us gloat for there is plenty to be shared. The Nazi state did not rise on Mars or in isolation. It grew in Europe, the old civilized continent, main source of western culture and the mother of the Americas.

The criminal Nazi state did not emerge full, powerful, suddenly or in one day. It grew slowly, heralding explicitly and loudly its intentions which were fully reported by the press and radio to the world. It matured only a few miles from Geneva in which a wrecked League of Nations no longer had the power and will to contain it. The opportunities developed to chain this criminal state after its course was clear and its crimes against its own people well established, but the world failed to consider human rights problems within Germany as of any concern outside. So, the beast was able to devour its own and eventually it stalked abroad and devoured Europe.

Members of this Committee may be interested to know that some of the words in the preceding six paragraphs were written by me as the U.S. representative to the United Nations Commission on Human Rights, to be delivered at a Commission meeting in Geneva in 1967. Because of our friendship with West Germany and the hard strictures contained in that speech, I was not permitted to deliver it as I wished, which would indicate to some of you that as early as a decade ago, the lessons of the holocaust have become a little dim in the State Department, sections of which were very slow to absorb them while they were happening or subsequently.

I should like for my remarks to be quite practical and for a few moments I would like to reflect on the role of the West in permitting the holocaust to reach the dimensions that it did. Without taking any steps to their disadvantage I submit that it was possible for the West to have saved the Jewish populations of France, Belgium, The Netherlands, Italy and perhaps of Germany, had these states the time and will to do so. Immigration quotas, bureaucratic lassitude or indifference, administrative runaround and in many cases blatant prejudice resulted in the liquidation in these countries of unnecessary thousands of men, women and children, who could have been rescued by foresight and forceful policies undertaken at the right time.

I recognize that while it may not be fair to judge the whole West against the model of a single national example, the miraculous saving fortitude of Denmark must add a thousand laurel crowns to that nation's history. Eight thousand Jews lived in Denmark when it was occupied by the Germans. Denmark was contiguous to and under the immediate military control of Germany. It had no border with any other state. Yet, as Prof. Dawidowicz has reminded us, "Nearly all Danish Jews were hidden and then ferried across to Sweden, where they remained in safety until the end of the war. The Germans managed to round up some 400 Jews whom they sent to Theresienstadt."

However, "The internment of the Danish Jews in Theresienstadt agitated the Danish government, which repeatedly requested permission to inspect the group. In June 1944 such permission was granted, and the visit was made by delegates of the Danish Red Cross. As a consequence of persistent Danish interest in the deported Jews, none was sent to Auschwitz. At the end of the war, 51 had died at Theresienstadt of natural causes." What a record this is compared to that of our own country which was then led by none other than Franklin Delano Roosevelt.

As early as 1942, the State Department had received reliable information of Hitler's plans for the extermination of the Jewish population of Europe in all countries occupied or controlled by Germany. Documentation was sent directly to the White House which described the fate of the Jews in Central Europe in August 1942, as follows: "There is no precedent for such organized wholesale dying in all Jewish history nor, indeed, in the whole history of mankind."

Arthur D. Morse, who wrote a definitive work on the subject entitled "While Six Million Died," asked the question: "Could many Jews have been saved from the Nazis during the war without diverting men, money or materials from the Allied effort? Unpublished State Department papers of 1943 revealed that many Jews could have been saved. And far from lessening the Allied effort, the efforts might have strengthened their cause.

"There were many avenues of rescue. Three of the most promising were escape from Nazi occupied Europe to a neutral nation; concealment within an area controlled but not occupied by the Germans; protection by German allies fearful of later punishment for war crimes."

During the year of the Bermuda Conference in the Spring of 1943, and of the uprising in a Warsaw ghetto, the United States and Britain were asked for specific cooperation in these rescue efforts. Each request was finally rejected. Pleas, even on behalf of children, from such neutral, knowledgable and trustworthy sources such as Switzerland went unheeded. This conduct and attitude should not have been surprising. The famous voyage of the *St. Louis* from Hamburg on May 13, 1939, carrying 936 passengers, 930 of them Jewish refugees, telegraphed not only to the world, but equally to Hitler, that the United States was not willing to vary its immigration policies one jot nor tittle in the name of humanity, conscience or even common sense.

As Morse puts it: "The United States' rejection of the *St. Louis* passengers was not lost on Hitler or his propagandists. It was only one of many indications that his treatment of the Jews would not expose him to the wrath of the United States." Indeed, the German newspaper published in 1939 commented on this instance, stating candidly: "We are saying openly that we do not want the Jews while the democracies keep on claiming that they are willing to receive them—and then leave the guests out in cold! Aren't we savages better men after all?" And the people we turned down and on whom we shut the door:—A 33-year old German physician and his 31-year old wife, possessing $1600 and three affidavits of support from a sister, cousin and friend in the United States, and with a second sister owning $70,000 worth of property and $12,000 in additional resources. These are denied on the grounds that the physician and his wife were likely to become public charges.

A 21-year-old German electrician, uncle in the United States, provides affidavit claiming a net worth of almost $50,000 substantiated by bank letter—These are turned down on the grounds that the applicant is likely to become a public charge. And so it went. It makes one sick in this day of purported immigration violations running into the hundreds of thousands of people, some of whom are, indeed, public charges. But the rule was enforced strictly in those times and against primarily Jewish people.

Yes, Hitler was the hammer who destroyed European Jews. But the anvil on which that hammer beat in the case of many who might have escaped Western European countries were the policies of these indifferent countries, and especially those of the United States.

We had every reason to receive these people on grounds of human compassion and our own national self-interest. We had no reason not to receive them. Our receiving them would have been a credit and unmistakeable signal as to how we viewed the impending Nazi crimes, and who knows how an aroused conscience in this country as early as in 1939 might have affected the course of history, to say nothing of the fate of hundreds of thousands of innocents.

My first suggestion, then, is that the United States must maintain a flexible and compassionate immigration policy with respect to victims of genocide, and second, it must maintain an inflexible, obstinate and unyielding position against genocide on behalf of human rights. I regret to say that we have practiced neither policy.

In the mid-1960s, when perhaps one-half to three-quarter million Indonesians were slain in that archipelago, mine was the only voice raised in the UN against the extermination of these so-called communists. I did so without the authority of my government. Neither Red China nor the Soviet Bloc said a word about these politically-motivated murders of or by their respective adherents. Similarly, in the case of murder of the Ibos, the great conscience at Turtle Bay was very quiet, the delegates dutifully turned their attention to the inequities (as, indeed, they are) in South Africa. But if we have learned nothing from the past, we are, as the sages tell us, bound to repeat it.

Now, I wish to move to a distinctly Jewish component but insisting that we are all one human race and what can and did happen to the Jews in the 1940s undoubtedly contributed to the atmosphere that has produced the other outrages since that time, as, indeed, what happened to the Armenians no doubt was noted and assimilated by Hitler before he began his murderous rampage. Genocide, as opposed to lesser but related crimes, occurs only after a people have been knocked down and depressed in the public consciousness so as to make them a subhuman species. Before man can learn to kill on a mass scale, he must learn to hate, and before he can learn to hate, he must learn to despise, and before he can learn to despise, he must believe in the superiority of his personality and being and the inferiority of the despised group.

History has had one such group dispersed throughout the world since the beginning of the Christian era, and this group has furnished proportionately far more than its share of victims of pogroms, arsons, terror, murder, mayhem, looting, rape and genocide. The group is the Jew. I happen to be a member of that group and live in the country in which a Jew feels more secure than anywhere else or at any other time in history, but I don't feel secure, and neither should anyone else who reads history. The story I have related up to now is enough to send chills up one's back, but developments subsequent to the 1940s do very little to abate them. The Genocide Convention has never been ratified by this country. The grounds for the delay have been devious and spurious and in my humble judgment tortured and malevolent. Nevertheless, the treaty is still unratified though it has been sent to the Senate by four Presidents.

Next, I see the largest body of Jews in the world outside the United States, in Israel, being subjected to constant threat of annihilation. This would not be as worrisome as it is, given the courageous performance of the Israeli army, were it not for the fact that the United States is the one sole supplier of weapons to the State of Israel and its one supporter in the Security Council. It is clear that most of the world, as counted in the United Nations, is prepared to get Israel even on such a trumped-up, ridiculous charge as that "Zionism is Racism."

Now I happen to have been one of the authors of the International Convention for the elimination of all forms of racial discrimination, which was ratified by a sufficient number of states to become international law and binding domestically on the states which have ratified it. Racism is a crime under that Convention and the dirty dealers who decide to equate Zionism to racism knew what they were doing: They were out to make nationalism in the Jewish state, i.e., Americanism in the United States, a crime international in scope and applicable within the domestic jurisdictions of the states which had ratified the treaty. Thus, Russia and its satellites which had ratified the treaty could punish Zionists as racists. Indeed, it seems to me that under the current state of these professed Soviet convictions, they have a right and, indeed, duty under international law to put every Zionist in the Soviet Union in jail or as the law provides for the punishment of racists.

Why African states would have been misled to such a posture, I do not know. When we were working on the International Convention against all forms of racial discrimination, we thought we were building a pure body of international law which would define a discrete and recognizable crime and take steps for its elimination by all means, including criminal sanctions. To the purity of this effort, the African states, their Arab allies and their sometimes Soviet manipulators, have added only confusion, the result of which must impede the struggle against racism.

But, the U.N. majority against Israel stands. To it is joined the mighty power of what must be the most heavily armed nation in the world, the Soviet Union, a distinctly profoundly, historically, traditionally unyielding, inflexible anti-semitic state. If Nazi Germany was able to shake the world with its puny (as compared to the Soviet) power, the Soviet Union must be capable of infinitely greater terror when it suits its purpose. Combined in this mix are the billions of free-wheeling and politically-purposed Arab oil dollars, which may be spent for any mischievous purpose these Arab sheiks and dictators desire. Their people at home cannot consume these revenues if they know they exist, the infra-structures of those countries cannot support the economies which the capital-producing revenues of the oil flow can generate; therefore, the money can be used on harems, arms, propaganda, influence, boycott, blackmail and extortion.

I have come not only to speak of the past, but to resound the gong which I hope will reverberate throughout the future. There is still almost a quarter of a century left to the century which I have called that of Space/Genocide. Let us hope that it expands more into the areas of space and less into the dark recesses of genocide, but it may go in both directions at the same time and to a large extent, the Congress of the United States has a part in the direction of this country, which must affect to some degree the direction of the world.

I advocate now:

1. Immediate ratification of the Genocide Treaty;

2. Generous discretion to the President to vary immigration policies in the case of potential victims of genocide;

3. Absolutely firm and unmistakable commitments to the security of Israel;

4. Resistance, incorporated into law, to every effort by Arab states or others to import anti-semitism into our domestic life or foreign policy by the process of boycott or discrimination against American citizens and firms.

These are important steps which need to be taken without delay because the conditions of today are not unlike those of the 1930s and 1940s. As Hitler was the hammer and the West the anvil in the former time, the Arabs and the USSR are the hammer and the West (excluding fortunately the United States) is the anvil of the 1970s.

PRODUCTIVITY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. HAMILTON. Mr. Speaker, productivity, which simply means the output per worker, had doubled in this country since the end of World War II, but in recent years it has grown much less rapidly. During the 1950's and the 1960's productivity increased about 2½ to 3 percent each year. For the first half of the 1970's the growth in productivity has been only about 1 percent. Since rising productivity is the chief source of improvement in our standard of living, the marked slowdown in the growth of productivity is cause for concern. If productivity is low, industry is prevented from creating more jobs urgently needed for a growing population, inflationary pressures are generated, and the standard of living is undermined. Productivity increases are perhaps the single most potent weapon against inflation. By increasing production of a product, the greater supply of the product will bring down prices. Furthermore, wage increases that match increased rates of productivity are not inflationary.

During the present recovery from the recession, productivity has improved significantly, following the normal pattern in the early stages of a recovery from a recession. But this gain in productivity will slow as the recovery progresses. So for the short run, the outlook for an increase in productivity is favorable, but the concern about the fundamental trend of a slowdown in productivity remains.

Americans are accustomed to believing they are more productive at their jobs than anyone else. But that is no longer as true as it used to be, as productivity rises everywhere, especially in Europe and Japan. Most Americans do not realize how fast the rest of the world is drawing even with us in the accumulation of economic power. A major reason for the increasingly stiff economic competition from abroad is the comparatively poor showing of the United States in productivity gains.

Few problems stump the economic experts more than identifying and quantifying the major causes of a slowdown in productivity. The contributing factors, however, are reasonably clear, as set forth in a study by the Congressional Budget Office—CBO.

One major factor in the decline in productivity is the rapid increase in the number of working-age people as a result of the postwar baby boom and the increasing number of women who are working. Even though businessmen are investing as much as they always have, the amount of investment for each worker has declined with the growing work force. Toward the end of this decade the size of this work force will not grow as rapidly and some improvement in output for each worker should occur.

Increased investment in pollution control equipment to meet health and environmental standards has had an impact on productivity, too. Because of this investment for clean air and water, and similar investments for industrial safety, less resources are available for investments to increase productivity.

The rising cost of plant and equipment, lower profits, reduced expenditures for research and development, a lower growth in educational, attainment, and the shifting composition of the work force toward teenagers, women, and other groups with less work experience have probably all been factors in decreased productivity, according to the CBO study.

One intangible reason for the decline in productivity, however, could be the most important of all. The attitude of workers is a crucial factor in productivity, and if, as some social critics suggest, there has been a weakening of the work ethic and an increasing pursuit of leisure, productivity may continue to suffer.

My guess is that we will and should hear much more in the near future about the need to increase productivity in this country. It is time for the country to push for further gains in productivity and economic growth. Only this growth will make possible fulfillment of the American promise of social justice and economic opportunity. Without it, persons can only move up the economic ladder by pushing others down.

The factors that have caused the decline in productivity suggest the wide range of approaches needed to increase it. These approaches include policies to promote more investment in plant and equipment with tax incentives, policies to encourage more spending on research and development with broader patent rights and more favorable tax treatment, and policies to improve education. These remedies for increasing productivity are neither simple nor certain. For example, tax advantages would help some at a time when it is popular to advocate the closing of any tax break.

The long-range outlook for increased productivity depends in large measure on the policies of government, labor, and management. The Government already has at work a National Commission on Productivity and Work Quality. The Commission has performed some useful work, but it should become a much more aggressive advocate of ways and means to increase productivity, making recommendations, for example, on the impact of productivity of various legislative proposals. The Commission should also work at bringing labor and management together, getting them to focus much more sharply in their bargaining on the impediments to increased efficiency and productivity.

THE CYPRUS ISSUE

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. JOHN L. BURTON. Mr. Speaker and Members, this session of Congress as well as the 93d session of Congress has spent many hours in debate concerning the Cyprus issue. Congress time and time again has urged the Ford administration to deal openly and honestly with this situation. All that the Congress asks and that simple justice requires is fairness for the Greek Cypriots.

President Ford, relying as he always does on Dr. Kissinger, has refused to address himself to a meaningful solution of this situation. He could end the agony for the Greek Cypriots by merely adhering to the principles of our great Nation.

I am enclosing a memorandum on this issue written by the Honorable George Christopher, former mayor of the city of San Francisco and a distinguished American citizen of Greek ancestry.

I would hope that the Members would take time to read Mr. Christopher's views on this issue and fully understand the necessity for Congress to again urge support for the rule of law upon the Ford administration. Then, we may once and for all solve this problem and provide justice for the Greek Cypriots.

The memorandum follows:

MEMORANDUM: TO THE HONORABLE JOHN BURTON, RE: CYPRUS

The entire Greek-Turkish impasse over Cyprus can be traced to one man—Kissinger, who has misled an unknowing and subservient President Ford in the entire tragedy. Kissinger had been tutor to Mr. Ecevit in Harvard before he became Prime Minister of Turkey. When the Cyprus invasion took place, Kissinger knew of the invasion, but did not use his influence to stop it as did President Johnson on two prior occasions.

Kissinger emphatically stated he had no prior knowledge that the invasion was to take place, but our Ambassador, Henry Tasca, later confirmed that Kissinger did know of the invasion. At Kissinger's prodding, President Ford pressed for aid to Turkey, stating that in this way they could bring negotiations to bear for a settlement. But the fact is that before and after the Turkish military aid, no effort was made by Kissinger for any settlement, and the Turks consider the invasion of Cyprus, and the dislocation of the majority of Greeks on Cyprus, as a fait accompli.

All Cyprus asks is that the rule of law be applied. Our 1961 Foreign Assistance Act prohibits aid to aggressors, but Kissinger stated that he would ignore that law. The United Nations Security Council voted 107–0 asking removal of all troops from Cyprus, and Kissinger and President Ford disregard this action also. Thus, Kissinger, for purposes best known to him, has disregarded Greece—Cyprus, America's traditional ally in every conflict, and has sided with Turkey, a country always against the U.S.

The maintenance of NATO is now threatened;

The "word" and integrity of the U.S. in the Eastern Mediterranean are at stake;

Supplying arms to an aggressor nation, being used to decimate an ally, causes serious questions as to our intentions;

Turkey is an outlaw nation, breaking international laws at will by coercion and blackmail, aided by Henry Kissinger.

Following are some of Turkey's violations:

1. U.S. Foreign Assistance Act
2. U.S. Foreign Military Sales Act
3. U.S.-Turkey bilateral agreements under the U.S. Foreign Assistance and Military Sales Acts in illegally using U.S. supplied military equipment for aggression against Cyprus
4. U.S.-Turkey Opium Poppy Ban Agreement
5. Illegal termination in July 1975 of the 1969 U.S.-Turkey bases agreement.
6. The NATO Charter
7. The U.N. Charter
8. The London-Zurich Agreements
9. The Montreaux Convention of 1936
10. 1958 Geneva Convention on the Continental Shelf
11. Geneva Convention IV, Article 49, which prohibits the occupying power from transferring parts of its own civilian population into the territory it occupies.

Turkey is of minor importance in this area, and in any event, cannot be relied upon to support the U.S. Experts such as General Van Fleet, and others, have testified to this fact. The question is—if this Turkish aid is for protection, say from the Soviet Union, why is it all deployed primarily against Greece? The suspicion is that Kissinger has an historical enmity towards Greece and is influenced by personal motives.

Besides the historical alliance between Greece and the United States for over 150 years, we should also remember that Greece is the strategic key to the Eastern Mediterranean and is essential for the peacekeeping operations of the U.S. Sixth Fleet in the Mediterranean. The Sixth Fleet depends upon bases in Greece, particularly Crete. The rapid and alarming rise of the Soviet Fleet in the Mediterranean underlines the increasing importance of Greece to the Western Alliance. We should do everything possible to expand our security partnership with Greece.

THE ROLE OF CONGRESS

The Congress must once again be called upon to support the Rule of Law in the face of the Administration's failure to condemn Turkey's illegal action.

Standing for principle is the most practical position for U.S. foreign policy. When we act decisively in upholding the Rule of Law and oppose aggressive actions of countries, we aid the peaceful settlement of disputes. If, on the other hand, as a world power with many global responsibilities and interests, we condone aggressive actions such as Turkey's in the Aegean and on Cyprus, we contribute to an international atmosphere of "might makes right". The implications of such a policy will directly and adversely affect America's interests in other parts of the world.—GEORGE CHRISTOPHER.

LEAA TAKES GIANT STEP BACKWARD

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. ANDERSON of California. Mr. Speaker, on August 31, an amendment that would have authorized local planning regions to develop comprehensive plans and, upon State approval, receive block grants, failed to pass this House on a division of ayes 42, noes 50. These grants would have enabled local governments to implement these plans without further State action on specific project applications.

There are several good reasons why I supported this amendment by the distinguished subcommittee chairman from Michigan. One, it would have made the LEAA program more efficient. A single grant to a local planning region to implement a local comprehensive plan would cut redtape and speed up the funding process. The State Planning Agency would have one plan to review for a local region, rather than 20 or 30 projects. Much of the duplication in project review could be eliminated.

For another reason, I believe that the responsibility for allocating LEAA block grants should be brought closer to those that pay the bulk of the costs for the Nation's criminal justice agencies. Of all the criminal justice expenditures—Federal, State, and local—counties and municipalities pay over 60 percent from their own resources. It is only reasonable that local governments should have a major share in determining how LEAA funds are allocated when, in the end, they are expected to pick up the total costs of these projects.

My Los Angeles district, like other metropolitan districts, spends a goodly amount for criminal justice. Out of $600 million total expenditure, only $10 million, or less than 5 percent, is provided by LEAA. The county pays about half of the total expenditure and the 77 cities, including Los Angeles, pay the other half. Most of the municipal expenditure is for police, while the county pays for correction, courts, prosecution and public defender services.

The county is a region encompassing a complete criminal justice system and most of the projects funded by LEAA have regional impact. We are developing countywide information systems that link the sheriff's office with police departments. Multijurisdictional burglary and robbery projects are operating to thwart these crimes and countywide juvenile diversion programs have been started. These systemwide programs are made possible through regional planning.

Finally, I submit that the Congress can gain a better view of how LEAA funds are spent in our own districts, if the local planning regions are held responsible. Now, we do not know who is responsible. If bad projects are funded, LEAA blames the States, the States then blame the local officials, who in turn end up blaming the States.

Mr. Speaker, I believe that the LEAA program would be more accountable if we could look at our local comprehensive plans and know that these are the priorities selected by our local elected officials, criminal justice professionals, and private citizens. Since we have agreed that crime is a local problem, then we must agree that local people must be supported in their responsibility to deal with this major problem.

I remind my colleagues that this amendment has already passed the Senate. The Representative from Michigan proposed an amendment that would give the States a strong role in approving local plans for consistency with State plans. But the innovative aspect of this amendment was that the details of project operation would be left up to local governments that must deal directly, on a daily basis, with the criminal offender.

Mr. Speaker, I supported this amendment offered by Mr. Conyers. All Members who are interested in cutting redtape, in providing for more efficient Government, and dedicated to criminal justice reform should have joined by passing this worthwhile amendment.

FAILURE OF ADMINISTRATION'S CONSUMER PROTECTION POLICY: APPOINTMENT AT TREASURY OF IBM PUBLIC AFFAIRS OFFICER AS CONSUMER ADVOCATE

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. VANIK. Mr. Speaker, today Dr. John Webster takes office as the Treasury Department's Special Assistant to the Secretary for Consumer Affairs. According to Treasury, Dr. Webster was selected because he is an "able, energetic, motivated citizen with a high interest in consumer affairs." I am certain that Dr. Webster is an exceedingly competent individual, who is sincere in his approach to his new job. I fear, however, that a citizen with an "interest in consumer affairs" is not the same thing as the zealous advocate for consumer rights that the American people need to represent them in the Treasury Department.

The position of Special Assistant to the Secretary for Consumer Affairs was developed last year as part of President Ford's "consumer representation plans." As an alternative to establishing the independent agency for consumer protection that both Houses of Congress had approved last year, the President proposed that each of 17 executive departments and agencies develop a program that would make each department "more responsive to the needs of the American consumer."

Mr. Speaker, the appointment of Dr. Webster to carry out the Treasury Department's plan demonstrates this administration's lack of understanding of the problems of the American consumer. Dr. Webster comes to the department on a 1-year "personnel interchange" program from the public affairs department at IBM. There his function was not to argue for the rights of IBM's consumers, but to evaluate and monitor social issues and to develop IBM responses to particular public affairs questions. While an informal part of his role at IBM was to make the corporation aware of the consumer viewpoint, he was not an ombudsman for consumer complaints or an advocate for consumer interests.

Mr. Speaker, IBM is not the American consumer who needs representation in government. I seriously question whether an individual with no background in consumer advocacy, who comes from and will return to what is essentially a PR position at an immense and powerful corporation, can fulfill President Ford's stated goal of making the Treasury Department responsive to consumer concerns. Apparently, the Treasury Department has selected Dr. Webster for the consumer affairs position because he has some academic training in consumer affairs—a Ph. D. thesis in "Environmental Influences on Business," with a dissertation on "Corporate Social Policy." I applaud these interests of Dr. Webster, but I firmly believe that American consumers need a representative at Treasury who will offer vigorous support for their rights.

The Treasury Department believes, however, that it is not possible to find such an experienced advocate. A ranking Treasury official told a member of my staff that—

> There are very few people with any significant background in the realm of representing the consumer interest. It's not a profession, as, for example, financial management.

Mr. Speaker, a glance in the Washington phone book reveals a dozen consumer advocacy organizations. I am certain that my colleagues are aware of many consumer advocates, both in private companies and in public service organizations. The Treasury Department's disregard of these professionals is indicative of this administration's lack of real concern for the American consumer.

Mr. Speaker, I hope that Dr. Webster will prove me wrong. I hope that his academic interest in the affairs of the consumer will develop into ardent and effective representation of the consumer in the decisionmaking process at Treasury. Until Dr. Webster has demonstrated this concern, however, I think that we in Congress must remain skeptical of the administration's interest in protecting the American consumer.

Rather than relying on an ad hoc system of appointments for protecting the consumer, the Congress should continue to work on the development of adequate Consumer Protection Agency legislation. The appointment of persons such as Dr. Webster from the world of giant corporate PR offices is one further argument for the enactment of true consumer protection legislation.

COMMITTEE RECORD OF HON. HAROLD FORD

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. FORD of Tennessee. Mr. Speaker, as you will recall, nearly 11 months ago, on September 30, 1975, the distinguished Members of this body unanimously elected me to serve on the Committee on Ways and Means. At that time, I promised them as well as the good people of Memphis, Tenn., that I would work long and hard as a member of the committee, proving to them that their confidence in me was well placed.

It is, therefore, a matter of great personal pleasure for me to share with my colleagues in this House and the citizens of the Eighth Congressional District of Tennessee a report I recently received from the clerk of the Committee on Ways and Means regarding my record as a member of the committee:

Committee on Ways and Means,
Washington, D.C., August 30, 1976.

Hon. Harold E. Ford,
Longworth House Office Building,
Washington, D.C.

Dear Mr. Ford: The following information is taken from the roll call voting record of the Committee on Ways and Means. The Committee has assigned me the responsibility for maintaining this record. It is open to inspection by the public at the offices of the Committee, 1102 Longworth House Office Building, Washington, D.C.

The record shows that since you were named to membership on the Committee on September 30, 1975, you are recorded 100 percent of the time on the roll call votes of the Committee taken on Mondays. There have been seven (7) such Monday votes. You voted personally on four (4) of them and left your

> specific written instructions for voting by proxy on each of the other three (3) votes.
>
> With respect to voting by proxy, Rule XI (2)(f) of the Rules of the House of Representatives requires that such proxies be in writing and specifically state the measure or matter to which the proxy authorization shall apply. The Committee on Ways and Means follows this rule in the administration of proxy voting.
>
> The records of the Committee also show that, during the time you have been a member of the Committee, a total of 155 roll call votes have been taken. You voted in person on 102 of these roll calls and by specific proxy on 43 others. You are thus recorded on 93.5 percent of the Committee's roll call votes.
>
> Sincerely,
>
> J. P. BAKER,
> *Assistant Chief Counsel.*

In addition to this information, I have been advised that during my tenure on the committee, a total of 71 votes occurred on the omnibus Tax Reform Act. Of these 71 votes, I voted in person on 53 rollcalls and by specific proxy on 13 others. I am, therefore, recorded on 93 percent of the committee's votes on this major tax reform bill.

I am especially pleased that my weekly trips home to meet and talk with my constituents about issues pending before the committee and before the House have had no adverse effect on my voting or attendance records. Mr. Speaker, I have returned to Memphis at least once every week, sometimes more often, since I have been a Member of Congress to have dialogs with those whom I represent. These trips have been invaluable to me in determining the will of the people of Memphis on critical issues considered by the Congress.

I am proud of this record of accomplishment and of my association with the dedicated and hard-working members of this great committee. Under the wise leadership of my dear friend, Chairman AL ULLMAN, the Committee on Ways and Means has reported a number of reform measures such as the Tax Reform Act of 1976, and the Estate and Gift Tax Reform Act of 1976. This committee and its members have responded in a cautious yet meaningful way to the needs and desires of the people of this Nation. In the darkest days of the recession, it responded with antirecessionary tax reductions and rebates designed to stimulate our ailing economy. Later on, despite Presidential vetoes, this committee recommended, and the House approved, an extension of these tax cuts so vital to continued economic recovery. The committee has been active in every area of its jurisdiction during the 94th Congress—health care, unemployment compensation, social security, foreign trade, energy conservation and oil policy, and tax reform.

It has been a privilege for me to serve on the Committee on Ways and Means for the past 11 months. This assignment has provided me a unique opportunity to represent the people of the Eighth Congressional District of Tennessee in one of the most influential forums in this Congress. It is a public trust for which I have the highest respect and I thank the Members of this body for their faith in me. I promise you and the citizens of Memphis that I will meet the challenges of membership on the committee with continued hard work and dedication.

TWO OPPOSING LEGISLATIVE AGENDAS: LESS GOVERNMENT OR MORE?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. ASHBROOK. Mr. Speaker, the platforms of the Republican and Democrat Parties are interesting documents. They should be read with care because they not only tell the voter where the respective party stands but also the legislative agendas of each. The party platform shows where the political party wants to head legislatively.

Let us take a look at how some of the major issues facing this country are handled in each of the two platforms.

FORCED BUSING

In the question of forced busing to achieve racial balances the two platforms are directly opposed. The Republican platform states:

> We oppose forced busing to achieve racial balance in our schools.

The Democrat platform states:

> Mandatory transportation of students beyond their neighborhoods for the purpose of desegregation remains a judicial tool of last resort for the purpose of school desegregation.

The difference is clear. The Republican platform opposes forced busing; the Democrat platform advocates it.

WELFARE

One issue that concerns millions of American taxpayers is the growth of the welfare system. Too often it seems that the Federal Government is favoring the nonproductive at the expense of those who must work for a living and pay the bills which keep this country going.

Both party platforms criticize the present welfare mess but there the similarity stops. The Democrat platform calls for "replacement of our existing inadequate and wasteful system with a simplified system of income maintenance, substantially financed by the Federal Government." Basically, what is being proposed is the old idea of a guaranteed annual income which would cost over $20 billion. Later, the platform admits that there may be needed "an initial additional investment"—in other words more tax dollars. Your tax dollars, I might add.

In contrast to further increasing the costs of welfare the Republican platform calls for controls being put on welfare. The words of the platform show the difference:

> The following goals should govern the reform of the welfare system: (1) Provide adequate living standards for the truly needy; (2) End welfare fraud and prevent it in the future with emphasis on removing ineligible recipients from the welfare rolls, tightening food stamp eligibility requirements, and ending aid to illegal aliens and the voluntarily unemployed; (3) Strengthen work requirements, particularly directed at the productive involvement of able-bodied persons in useful community work projects; (4) Provide educational and vocational incentives to allow recipients to become self-supporting; (5) Better coordinate federal efforts with local and state social welfare agencies and strengthen local and state administrative functions. We oppose federalizing the welfare system; local levels of government are most aware of the needs of their communities. Consideration should be given to a range of options in financing the programs to assure that state and local responsibilities are met. We also oppose the guaranteed annual income concept or any programs that reduce the incentive to work.

THE ECONOMY

The economy is one other area where the legislative agenda of the two parties travel two different paths.

The Democrat platform seems to call for only one thing: more Government involvement in the economy, more regulations, and more redtape. The free enterprise system is to give way to the government-controlled economy.

The platform of the Democrats would involve the Federal Government in greater control of the economy. It states:

> Of special importance is the need for national economic planning capability. This planning capability should provide roles for Congress and the Executive as equal partners in the process and provide for full participation by the private sector, and state and local government.

The Democrat platform supports wage and price controls. It states:

> Direct government involvement in wage and price decisions may be required to ensure price stability.

The Republican platform rejects the view that Federal bureaucrats can do a better job of running the economy. It states:

> No government has yet designed a more productive economic system or one which benefits as many people.

Wage and price controls are rejected. The platform points out:

> Wage and price controls are not the solution to inflation. They attempt to treat only the symptom—rising prices—not the cause.

The Republican platform recognizes that it is not government that produces goods and a better living. Rather, the platform explains:

> No government can ever add real wealth (purchasing power) to an economy by simply turning on the printing presses or by creating credit out of thin air. All government can do is confiscate and redistribute wealth. No nation can spend its own way into prosperity; a nation can only spend its way into bankruptcy.

DEFENSE

On the issue of our Nation's security there is also a great difference between the two platforms. While the Democrat platform calls for an "adequate national defense," the Republican platform supports "a superior national defense" as "the fundamental condition for a secure America and for peace and freedom for the world."

At the same time the Democrats attempt to be all things to all people. On one hand they attack the Ford administration's defense policy as being stagnant and vulnerable. On the other hand they promise cuts of $5 to $7 billion in defense spending and a holdup on production of the B-1 bomber.

The Democrat platform takes a very liberal, disappointing position on amnesty for the draft dodgers and deserters. It states:

> We pledge a full and complete pardon for those who are in legal or financial jeopardy because of their peaceful opposition to the Vietnam War, with deserters to be considered on a case-by-case basis.

The above are only some of the many differences between the two views of the Republican and Democrat platforms. Many other issues also point out the two opposing agendas for America. The Democrat platform supports common situs picketing; the Republican platform opposes it. The Republican platform pledges continuing support to the free people in the Republic of China, the Democrat platform contains vague language on a "peaceful resolution of the future of Taiwan," an open invitation to the Communist Chinese to gobble up one more people.

The differences in the legislative agendas of the two parties are clear. Each American has the responsibility to look at the two platforms to decide which way he wants America to go.

THE OPTOMETRIC ASSOCIATION WOMAN'S AUXILIARY AWARDS

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. FRENZEL. Mr. Speaker, in 1974 an "Appreciation Award" was first bestowed by the auxiliary to the American Optometric Association to recognize an individual member who had made outstanding contributions beyond customary expectations toward advancing the objectives of the auxiliary on a national level. The criteria for selecting a recipient were determined by: First, service on behalf of the visual welfare of the public; second, service to the community at large; and third, service to the optometric profession—auxiliary.

The first award of this kind was bestowed on Mrs. Harold L. Sabre—Lorraine, of Minneapolis, Minn., at the National Convention in Washington, D.C., in 1974. Again this year the award was bestowed on a member of the organization from my congressional district in St. Louis Park, Minn.: Mrs. Richard F. Kindy—Deedee. With so many members throughout the United States giving so much of their time and effort toward the health and welfare of the public it is a great honor to have two participants from the State of Minnesota to be chosen for this award. I congratulate these two women on their accomplishments and donating their time and efforts for the betterment of the visual health and welfare of our society.

ARMS TO THE PERSIAN GULF

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. WAXMAN. Mr. Speaker, within the next few days the administration is expected to submit to Congress two letters of offer outlining $4.6 billion in arms sales agreements between the United States, Saudi Arabia, and Iran. The administration will propose to sell 160 F-16s, for a staggering $3.4 billion, to Iran, along with $600 million worth of Sparrow, Sidewinder, and Phoenix missiles. The administration also intends to sell 1,000 Sidewinder and 1,500 Maverick missiles, for $575 million, to Saudi Arabia.

I believe these sales are excessive, unjustified, and dangerous. Rather than take into account the legitimate criticisms which have been leveled against our arms sales program, these sales would only exacerbate the dangerous trends which have emerged. Rather than promote strategic stability in the Persian Gulf, these sales would only continue to fuel the outrageous arms race in the area, inviting an armed confrontation among the states involved. Rather than assuring the security of any of the recipient countries, these sales would only invite the transfer of these sophisticated weapons to the confrontation states which ring Israel. Finally, these sales leave unanswered the disturbing questions about how deeply American citizens are involved in running the armed forces of Iran and Saudi Arabia. How large is our commitment; and who is controlling the nature and scope of our involvement?

No satisfactory answers to these questions are evident. No acceptable rationale for these new arms sales has been forwarded. This being the case, I do not see how the Congress can responsibly allow these transactions to proceed any further.

Accordingly, I have written the Chairman of the International Relations Committee, Representative Morgan of Pennsylvania, asking him to introduce resolutions of disapproval for both these agreements, and urging him to promptly hold hearings on all the issues raised by these proposals.

I very much hope the Congress will move swiftly and reject these proposed arms sales. I believe the case against these sales is a compelling one.

I. SAUDI ARABIA

The sale of Sidewinders to Saudi Arabia remains fraught with all the doubts which were raised when the administration first proposed the sale of 2,000 missiles in mid-June. The Sidewinder is a heat-seeking missile which is fired by an F-5 fighter. The Saudis already have 400 Sidewinders. By 1978, the Saudis will have 110 F-5's, each of which can only carry two missiles at a time. The conventional missile-to-plane ratio for the Sidewinder—which is maintained by the United States and Israel—is 4 to 1. The sale of 1,000 Sidewinders would give the Saudis a 14 to 1 ratio—more than three times the deterrent level considered sufficient by the Pentagon. It was this consideration which forced the Arms Control and Disarmament Agency to label the original 2,000-missile sale "excessive." It is not at all evident that this scaled-down version of the sale meets the reservations ACDA has expressed.

Such a disturbing surplus arms imbalance forces one to conclude that the Saudis are seeking so many missiles in order to transfer them to the confrontation states. The Saudis have been unmistakably clear in this regard. Prince Fahd and King Khalid have repeatedly stated that Saudi Arabia is obliged to support Egypt's military preparedness for war with Israel. The Saudis have made good on their commitment, delivering 38 Mirage fighters to Sadat, and negotiating for 200 Jaguar warplanes from Britain on Egypt's behalf. The Sidewinder is easily adaptable to the Mig, the mainstay of the Egyptian Air Force, clearing the way for a transfer of the missiles or, as would be more likely, the F-5's with the Sidewinders as well. The Saudis have also aided Syria and Jordan, maintaining a 6,000-man brigade in Syria and underwriting Jordan's purchase of the Hawk antiaircraft system.

The administration is also proposing the sale of 1,500 television-guided Maverick air-to-surface missiles as well. Only last year, the sale of 1,000 Mavericks was consummated. Reports from Saudi Arabia and inside the administration indicate that the Saudis are having difficulties absorbing the Mavericks—that they do not have the capability to effectively operate these systems. Why then are we selling even more of these missiles to the Saudis this year? Again, there is no satisfactory answer from the administration.

The question of the absorption of these weapons raises the issue of the role of American citizens in these sales. There are no accurate figures available of the numbers of Americans currently under contract with the Saudis to train them in the use of the weapons they have—or how many more will eventually be required to assist in this new arms deal. Moreover, there are indications that the Americans are not simply in Saudi Arabia in a training or advisory role, but are actually manning and operating their sophisticated air defense system. What, then is precisely the nature and scope of our involvement? Are there any controls on the role the Americans are playing? What would occur should hostilities erupt? Again, the administration has provided no answers—much less a systematic analysis—to these questions.

II. IRAN

With respect to Iran, these issues are even more ominous. Last month, Senator HUMPHREY's Foreign Assistance Subcommittee issued a devastating report on U.S. arms policies with that country. The Senate report concluded that our arms sales policies are chaotic and out of control, that overly sophisticated equipment had been sold to the Iranians, that thousands of Americans will be needed in Iran for the next several years to operate this equipment, and that, indeed, Iran could not wage a war without U.S. support on a day-to-day basis.

Even though none of these damning findings have been rebutted by the administration, it is now proposed that we sell Iran 160 F-16 warplanes—the most sophisticated supersonic fighter in the Air Force, and the plane we are selling to our NATO allies. Moreover, the announcement of this sale comes only a short time after only a fraction of the F-14s sold to Iran have been delivered. Why the rush?

Iran's previous experience with American weapons is instructive. The Senate report documented that Iran has been unable to effectively absorb the billions in arms sold over the past five years. There are reports of a severe shortage of pilots for the planes already on hand, of new equipment being mothballed because there are not enough trained people to operate it, of scarce personnel being transferred from more conventional hardware to the F-14 because it is such a difficult plane to master. Why, then, should we further overload the Iranian armed forces' ability to absorb these weapons with the sale of the F-16?

It is increasingly clear that the lack of Iranian personnel is being filled by American personnel. There are currently 27,000 Americans in Iran, training their armed forces and operating their equipment. It is estimated that this number will rise to 50,000 by the end of this decade. They are essential to the strategic viability of the country. Should war erupt, there is every indication that they would become directly, and heavily, involved.

Such a civilian presence in a foreign country poses the gravest of dilemnas for the United States. The tragic murder of three American technicians last week by Irani radicals only underscores the precarious position these Americans are in. Before any more of our citizens are committed to service in that country, I believe it imperative that we carefully reevaluate the entire situation.

III. THE POINT OF NO RETURN

In 1972, President Nixon made a secret decision—which has never been reviewed by the Congress, because it was unaware of it, and which bypassed both the Pentagon and the State Department—to sell Iran any conventional weapon, in any amount, that it wanted. This decision is responsible for the tragic arms race which has engulfed the area since the Arab oil embargo. It is this decision which has placed our arms sales program to Iran out of control.

Since 1972, Iran has purchased $10 billion in weapons, and last month Secretary Kissinger announced in Tehran that we will sell Iran $10 billion more in the next 5 years—not including the $4 billion which is being proposed today.

The proposed sale of F-16s to Iran means that President Ford and Secretary Kissinger continue to adhere to Nixon's secret policy of appeasing the Shah at any price—despite the fact that the most serious questions have been raised regarding Iran's legitimate defense needs and its ability to absorb these weapons.

Our relationship with Saudi Arabia has followed similar lines. We have sold over $6 billion in armaments to the Saudis in the past 2 years—and $4.7 billion in 1976 alone. The Saudis have not only been unable to effectively operate these weapons, but have undertaken a vast arms transfer of the surplus to the states which are at war with Israel.

For too long it has been plainly evident that our answer to the energy crisis, and the unchecked flow of petrodollars and the power they wield to the OPEC nations, has been to curry their favor through the sale of American weapons—with utter disregard for the strategic implications of such a policy.

The result has been that we have jeopardized our own security and that of our allies.

The result has been that we have created two huge arsenal states—regional superpowers in their own right—whose presence and proclivities increase, rather than decrease, the risk of war, not only in the Persian Gulf, but throughout the Middle East.

The result has been that instead of being in a position to exercise leverage over these countries, the force of our weapons in combination with their oil has effectively made us hostage to their demands.

The Shah said as much earlier this year, when he stated:

> If you try to take an unfriendly attitude toward my country, we can hurt you as badly, if not more so, than you can hurt us.

And again, with Secretary Kissinger by his side this summer:

> Can the United States or the non-Communist world afford to lose Iran? What will you do if one day Iran will be in danger of collapsing? Do you have any choice?

Do we truly have any choice? The Shah has made it clear that these are no longer friendly agreements among allies, but extortion, and that we are nearing, if we have not already passed, the point of no return in this ill-conceived endeavor.

I therefore believe it imperative that the Congress disapprove these sales, and begin a comprehensive reexamination and reformulation of our arms sales policies in the Persian Gulf.

I urge my colleagues to join me in supporting a resolution disapproving these arms sales.

VOTING RECORD

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. BROWN of Ohio. Mr. Speaker, in a continuing attempt to provide my voting record for the 1st session of the 94th Congress for the benefit of anyone who would like to examine that record, I would like to have printed here my votes on bills ranging from environmental research appropriations to military commissaries. The material follows:

VOTING RECORD

H.R. 7108. APPROPRIATIONS AUTHORIZATION FOR ENVIRONMENTAL RESEARCH DEVELOPMENT AND DEMONSTRATION FOR 1976/197T

Final passage, a bill authorizing $356 million for research and development programs of the Environmental Protection Agency for FY 1976 and the budgetary transition period (July 1–Sept. 30), passed 383–15, Yea; 7–10–75.

H.R. 9915. TECHNICAL AMENDMENTS TO THE FEDERAL RULES OF EVIDENCE AND CRIMINAL PROCEDURE

Motion to suspend the rules and pass the bill to make technical amendments to the Federal Rules of Evidence and certain other technical changes to conform with language of the Federal Rules of Criminal Procedure, agreed to 360–0, Yea; 11–3–75.

H.R. 12. INCREASE IN THE SIZE OF EXECUTIVE PROTECTIVE SERVICE FOR FOREIGN DIPLOMATIC MISSIONS

Motion to suspend the rules and pass the bill to provide for the protection of foreign diplomatic missions and to increase the size of the Executive Protection Service, passed 279–123, Nay; 5–19–75.

H.R. 10561. CREDIT CARD SURCHARGES

Motion to suspend the rules and pass the bill to prohibit retailers from imposing surcharges on purchases made with credit cards, passed 398–3, Not voting, 11–17–75.

H.R. 10339. FARMER TO CONSUMER DIRECT MARKETING

Motion to suspend the rules and pass the bill to authorize a program, to be administered by the Agriculture Department, to encourage the direct marketing of agriculture commodities from farmers to consumers, passed 299–95, Nay, 11–4–75.

H.R. 8617. FEDERAL EMPLOYEES POLITICAL ACTIVITIES

Amendment to prohibit Federal employees from running for any full-time or Federal elective office or from participating in campaigns for Federal office, rejected 147–260, Aye; motion to recommit to the House Post Office and Civil Service Committee (and thus kill) the bill to give Federal employees the right to participate in partisan political campaigns and to run for office, rejected 81–327, Yea.

Final passage of the bill to give Federal employees the right to participate in partisan political campaigns, and to run for local, state or Federal office, passed 288–119, Nay, 10–21–75.

H.R. 7222. FEDERAL EMPLOYEES LIFE INSURANCE

Final passage of the bill to increase the contribution of the Federal Government to the costs of group employee life insurance to one-half the premium, from one-third, rejected 245–145, Nay, 6–16–75.

Final passage of the bill to increase to 50% from 33⅓% the contribution of the Federal Government the costs of Government employees' life insurance programs, rejected 172–225, Yea, 10–21–75.

S. 584. NATIONAL GUARD RETIREMENT BENEFITS

Motion to recommit to the Post Office and Civil Service Committee (and thus kill) the bill to grant full credit to National Guard technicians' service from January 1, 1969, for retirement annuity computation purposes, rejected 117–261, Nay, 10–20–75.

H. RES. 688. FEDERAL PAY RAISE

Motion to table the Harris motion to discharge from the House Post Office and Civil Service Committee the resolution to disapprove President Ford's proposed 5% pay increase for Members of Congress, military personnel and Federal Government top officials, and white collar employees effective October 1, 1975, passed 278–123, Yea, 10–1–75.

H.R. 6227. FEDERAL EMPLOYEES RIGHT TO REPRESENTATION

Final passage of the bill to provide Federal employees under investigation for misconduct the right to representation during questioning about the alleged misconduct, passed 217–163, Not voting, 10–28–75.

H.R. 6209. VARIABLE RATE MORTGAGES

Amendment in the form of a substitute bill to allow Federal savings and loan associations to offer mortgage loans for two years at variable interest rates in states where state-chartered associations were offering such loans as of date of enactment, rejected 167–232, Aye; amendment to set an expiration date of 6–30–77 for terminating use of variable rate mortgages by Federal savings and loan associations, rejected 164–231, Aye.

Final passage, for Variable Rate Mortgages, passed 291–104, No, 5–8–75.

H.R. 7001. NUCLEAR REGULATORY COMMISSION AUTHORIZATION

Amendment to prevent the export of nuclear fuel and technology to nations that are not members of the nuclear non-proliferation treaty, rejected 117–139, Nay; amendment to prohibit the air transportation of plutonium fuel until the Commission certifies to the Congress that a safe container, which will not rupture under crash, has been developed, passed 165–79, Nay.

Final passage of the bill to authorize appropriations to the Nuclear Regulatory Commission, passed 233–2, Yea; 6–20–75.

H.R. 4115. NURSE TRAINING PROGRAMS

Final passage of the bill to authorize $558 million in FY 1976–1978 for Federal programs to assist nursing schools and nursing students, passed 115–16, Yea; 5–7–75.

H. RES. 605. OIL PRICE CONTROLS

Adoption of the resolution disapproving, and thereby blocking, the proposed plan by President Ford to gradually lift price controls on domestic oil, passed 262–167, Nay; 7–22–75.

H. RES. 461. OIL PRICE DECONTROL

Adoption of the resolution to disapprove President Ford's plan for the gradual decontrol of the price of domestic oil over a 39-month period, passed 228–189, Nay; 7–30–75.

H.R. 1767. PRESIDENTIAL AUTHORITY TO IMPOSE AND SUSPEND FEES AND QUOTAS ON OIL IMPORTS

Final passage of the bill with reference to the 90 day suspension of Presidential authority to adjust imports of petroleum and petroleum products; negated such action by the President after 1–15–75, passed 309–114, No; 2–5–75.

Adoption of motion to refer veto message on bill prohibiting 90 days Presidential action to raise oil import fees, passed 364–57, Yea; 3–10–75.

H.R. 3922. OLDER AMERICANS ACT

Motion to suspend the rules and authorize $2.6 billion in FY 1976–1979 for programs to assist the elderly and for senior volunteer programs run by ACTION, passed 377–119, Yea; 4–8–75.

Conference report on the bill to authorize $1.7 billion in FY 1976–1978 for programs under the Older Americans Act assisting the elderly and for senior volunteer programs run by ACTION, passed 404–6, Yea; 11–19–75.

S. 95. OVERSEAS CITIZENS' VOTING RIGHTS

Final passage of the bill to assure American Citizens who live outside the United States the right to vote in Federal elections, passed 374–43, Nay; 12–10–75.

S. 326. TRUST TERRITORY

Motion to suspend the rules and pass the bill to increase FY 1976 authorization for U.S. Pacific Trust Territory to $75 million from $60 million and to authorize $1.5 million for the Mariana Islands for transition costs to a commonwealth status, passed 334–27, Yea; 5–5–75.

H.R. 5727. PAROLE REORGANIZATION ACT

Final passage of the bill to establish a regional U.S. Parole Commission as an independent agency within the Justice Department and to make changes in the parole procedures aimed at increasing the protections for parolees, passed 260–137, Nay; 5–21–75.

S. 24. PATENT COOPERATION TREATY

Motion to suspend the rules and pass the bill to implement certain provisions of the Patent Cooperation Treaty providing for new international procedures in applying for patent protection, passed 349–5, Yea; 11–3–75.

H.R. 6334. PEACE CORPS AUTHORIZATION

Final passage of the bill to authorize $88,468,000 for activities of the Peace Corps for FY 1976 and $27,887,000 for the transition period from July 1, 1976, through September 30, 1976, passed 303–70, Yea; 6–23–75.

S. 1849. EMERGENCY PETROLEUM ALLOCATION EXTENSION

Final passage of the bill to extend until March 1, 1976, from August 31, 1975, the price control and allocation authorities of the Emergency Petroleum Act of 1973, passed 303–117, Nay; 7–31–75.

H.R. 9524. OIL PRICE CONTROLS

Adoption of the Senate-passed amendment to the bill, which extended oil price controls from August 31, 1975, until November 15, 1975, and limited the President's authority to propose any major change in oil price controls until November 1, passed 342–16, Yea; 9–26–75.

H.R. 4035. OIL PRICE REVIEW

Amendment to delete from the bill language which would extend the Emergency Petroleum Allocation Act of 1973 from August 31, 1975, to December 31, 1975, rejected 163–222, Aye.

Final passage of the bill to extend to 15 days from 5 days the period of Congressional review and the opportunity to disapprove Presidential actions to exempt certain petroleum products from the allocation and price regulations of the Emergency Petroleum Allocation Act of 1973, passed 230–151, Nay; 6–5–75.

Conference report on the bill to extend authority for oil price controls to December 31, 1975, and to extend to 20 days the period for Congressional review and the opportunity to veto any change in oil price controls, passed 239–172, Nay; 7–17–75.

S.J. RES. 121. MILK PRICE SUPPORTS

Final passage of the joint resolution to provide quarterly adjustments in the support price of milk until March 31, 1978, and increase the support price to a minimum of 85% of parity, passed 307–111, Yea; 12–12–75.

H.R. 5620. NEW MINT BUILDING

Fina passage of the bill to increase to $105 million from $45 million the amount of funds authorized to be appropriated for the construction of new mint facilities in Denver, Colorado, passed 236–111, Yea; 9–19–75.

H.R. 4700. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION

Final passage of $3.5 billion authorization for FY 1976, passed 318–72, Yea; 4–9–75.

S. 1295. NATIONAL PRODUCTIVITY CENTER

Final passage of a bill to establish a permanent National Center for Productivity and Quality of Working Life to expand productivity in both the private and public sectors of the economy, passed 288–108, Not voting; 10–28–75.

H.R. 3884. NATIONAL EMERGENCIES

Final passage of a bill to terminate certain authorities of the President and Federal agencies with respect to national emergencies still in effect, and to establish a procedure for declaring and terminating future national emergencies, passed 388–5, Yea; 9–4–75.

S. 584. NATIONAL GUARD RETIREMENT BENEFITS

Motion to recommit to the Post Office and Civil Service Committee the bill to grant full credit for National Guard technician's service from January 1, 1969, for retirement annuity compensation purposes, rejected 117–261, Nay; 10–20–75.

H.R. 4723. NATIONAL SCIENCE FOUNDATION AUTHORIZATION

Amendment to require Congress specifically approve funding for marketing of any foundation curriculum programs, rejected 196–215, aye; Amendment to require local school boards to hold public hearings on adoption for use of foundation-funded educational courses and to make the contents of those courses available for parent's inspection, rejected 68–341, Aye; Amendment to require proposed funding grants to be submitted to Congress every 30 days and to allow either Chamber 30 days in which to disapprove the awarding of foundation grants, adopted 212–199, Aye; Appropriations of $755.4 million in FY 1976, passed 390–22, Yea; Motion that House conferees insist on a House passed amendment to require the National Science Foundation to submit proposed research awards to Congress for review when they met with Senate conferees on the bill, rejected, 127–284, Yea.

Conference report on the bill to authorize $791 million in FY 1976 for the National Science Foundation, passed 321–79, Nay; 8–1–75.

H.R. 10481. AID TO NEW YORK CITY

Final passage of the bill to authorize Federal loans of up to $2.3 billion a year to help New York City meet seasonal cash flow needs, passed 213–203, Yea; 12–2–75.

H.R. 5272. NOISE CONTROL AUTHORIZATION

Motion to suspend the rules and pass the bill authorizing $5.2 million in FY 1976–1977 for EPA's Noise Control program authorized by 1972 Noise Control Act, passed 222–132, Nay; 5–5–75.

Final passage of the bill to authorize $26,061,500 for the Environmental Protection Agency noise control programs in FY 1976–1977, passed 390–35, Yea; 7–29–75.

S. 2114. NUCLEAR-QUALIFIED OFFICERS

Motion to suspend the rules and pass the bill to extend until June 30, 1976, the authority to pay bonuses to officers who are exposed to nuclear hazards in their jobs in the Navy and to extend the entitlement to special pay of $100 per month to optometrists and veterinarians in the uniformed services who entered active duty after July 1, 1975, passed 373–34, Not voting; 11–17–75.

H.R. 8631. NUCLEAR INSURANCE

Amendment to eliminate $560 million limit on the liability of the nuclear power industry for damages resulting from a nuclear accident, rejected 176–217, No; amendments to allow citizens, within 90 days of the effective date of the bill, to go to court to challenge the Constitutionality of the $560 million liability limit, rejected 161–225, No.

Final passage of the bill to extend for 10 years the Federal program insuring the public against damages up to $560 million resulting from a nuclear accident and limiting the liability of the nuclear power industry, in such event, to that amount passed 329–61, Yea; 12–8–75.

S.J. RES. 23. ROBERT E. LEE CITIZENSHIP

Motion to suspend the rules and pass the joint resolution to restore posthumously the full rights of citizenship to General Robert E. Lee of Virginia, motion agreed to under suspension 407–10, Yea; 7–22–75.

H.R. 6950. LEGISLATIVE APPROPRIATIONS FOR FISCAL YEAR 1976

Amendment to prohibit the use of any funds in the bill to pay for salaries or expenses approved by the House Administration Committee when it: increased the staff allowance for each member; expanded each member's number of free trips to his district;

changed the in-district telephone allowance and; allowed for the printing for each member of two newsletters, rejected 148–262, Aye; Amendment to prohibit the use of funds in the bill to pay for increases in member's staff allowances or staff expenses which have been adopted by the House Administration Committee unless approved by a vote of the House, rejected 152–259, Aye; 5–21–75.

Conference report on the bill to appropriate for FY '76 $827,546,570, plus $207,391,365 for the three month transition period, for operation of the legislative branch, the Library of Congress and related agencies controlled by the Congress, adopted 374–45, Yea; 7–22–76.

S. 1236. EMERGENCY LIVESTOCK CREDIT ACT

Passage of a bill to extend Emergency Livestock Credit Act of '74 through 12–31–76 and to amend the act to increase the level of government loan guarantees to 90% from 80%, increase the period of time for loan repayment to 7 years from 5 years and to replace the total loan limit with a line of credit program not to exceed $250,000, passed 363–42, Yea; 5–6–75.

H.R. 1607. ANTI-LOTTERY RULES

Motion to suspend the rules and pass the bill to amend the Federal anti-lottery rules to permit newspapers in states with state-conducted lotteries to publish information on state-conducted lotteries in adjacent states, as allowed under existing statutes for radio and television broadcasters, agreed to, 250–125, Nay; 6–16–75.

H.J. RES. 148

Motion to suspend the rules and designate 4–24–75 as a National Day of Remembrance of Man's Inhumanity to Man, agreed to 332–55, Yea; 4–8–75.

H.R. 200. 200-MILE FISHING LIMIT

Amendment to allow the President to suspend the enforcement provisions of the bill if he deemed it in the national interest, rejected 128–196; No.

Final passage of the bill to extend the U.S. fishing limit to 200 miles from the 12 miles under current law, and to establish a Federal management program for certain species of fish, passed 208–101, Yea; 10–9–75.

H.R. 5710. MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT

Passed, 377–17, Nay.

H.R. 3902. MARITIME AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1976–FISCAL YEAR 1977

Maritime programs of Commerce Department $589.7 million, passed 328–59, Yea; 5–12–75.

H.R. 10824. MEDICARE AMENDMENTS

Motion to suspend the rules and adopt the resolution (H. Res. 943) providing that the House concur, with further amendments, to the Senate amendments to the bill to make changes in the Medicare program for the aged and to modify medical peer review requirements under the Medicare program and the Medicaid program for the poor, passed 371–16, Yea; 12–19–75.

H.R. 8674. METRIC CONVERSION

Final passage of a bill to establish a 25-member national board to plan and coordinate voluntary conversion to the metric system of measurement in the U.S., passed 300–63, Yea; 9–5–75.

H. CON. RES. 198. MILITARY COMMISSARIES

Adoption of the resolution expressing opposition of the Congress to the termination of appropriations for military commissary payroll expenses, passed 364–53, Yea; 7–31–75.

A PASSING IN CINCINNATI

HON. DONALD D. CLANCY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. CLANCY. Mr. Speaker, Wednesday, September 1, marks the anniversary of a memorable, but tragic, event in American history.

It was on that date in 1914, a short time after World War I began, the last passenger pigeon on earth died at the Cincinnati Zoo. Her name was "Martha," and people around the Nation mourned her passing.

To commemorate the occasion in this Bicentennial Year the Department of the Interior—America's guardian of natural resources—has published a vignette titled "A Passing in Cincinnati." This is a most interesting, readable story of the passenger pigeon species in the United States and especially Martha, the last of a species whose numbers only 60 years before her death were in the billions.

On September 2, 1914, the Cincinnati Enquirer stated:

> Martha is dead. In one great respect she resembled Chincatgook, the "Last of the Mohicans," for she was the last of the Passenger Pigeons. No other inhabitant of the Zoo could claim greater distinction than she, for during the past 15 years there had been a standing offer of $1,000 for a mate to Martha, but none could be found. Passenger or wild pigeons were once most numerous in North America, but, like the buffalo, they became fewer, until now, with the death of Martha, they are extinct.

Mr. Speaker, through this publication the Interior Department is calling our attention in this Bicentennial Year to the many species of birds and animals threatened or endangered that may also become extinct if their existence is not protected.

"A Passing in Cincinnati" is a publication I commend to you. It is for sale by the Government Printing Office and was written by Charles E. Wallace of the Department's public affairs staff. For additional information of the Congress, I would like to include following my remarks a news release prepared by the Department giving details of the publication.

The news release follows:

STORY OF PASSENGER PIGEON TOLD IN BICENTENNIAL HISTORICAL VIGNETTE

Soaring from Nova Scotia to Florida and the Great Plains, Passenger Pigeons in the 1850s were counted in the billions. Sixty years later only a single captive bird of the once great species survived in the Cincinnati Zoo.

The story of the species and the final survivor, Martha, is told in the last of three Bicentennial historical vignettes published by the Department of the Interior. The 24-page booklet is titled A Passing In Cincinnati and is for sale for 65 cents by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The stock number is 024–000–00824–0.

A. W. Schorger said in a 1955 book published by the University of Wisconsin Press "the Passenger Pigeon was the most impressive species of bird that man has known." Its mile-a-minute speed, grace, and maneuverability earned it the title of "The Blue Meteor."

Schorger concluded its extinction came because of "the thoughtlessness and insatiable greed of man." The gentle bird was slaughtered by the millions each year for decades. Finally, only Martha remained. Upon her death, she was sent to the Smithsonian Institution, where her lifeless form is still on display with the notation:

MARTHA

Last of her Species
Died at 1 p.m., 1 September 1914,
Age 29, in the Cincinnati Zoological Gardens—EXTINCT

In the Nation's Centennial Year—1876—millions of Passenger Pigeons could be seen, but only two large flocks were reported during all of 1886—one in Pennsylvania and one in Oklahoma. Few were seen anywhere between 1890 and 1900.

Schorger concluded that it was not possible to determine the threshold of survival of the Passenger Pigeon because such a condition cannot be statistically defined. In support of his conclusion, he pointed out that another extinct species—the heath hen—rose from an estimated population of 120 to 200 birds in 1890 to a maximum estimate of 2,000 in 1916, dropped to 400 in 1921, to 50 in 1926, and disappeared completely in 1932.

Constant persecution and lack of protection hastened the end of the Passenger Pigeon. Excessive trapping and shooting were especially devastating to its existence. Barrels of pigeons frequently were shipped from nesting areas to market places, with dealers paying around 50 cents a dozen for killed birds. Efforts were made to save the species in the 1890s and early 1900s, but those attempts came too late.

Some 33 years after Martha's death, Wisconsin wildlife supporters in 1947 dedicated a monument to the last Passenger Pigeon killed in Wisconsin.

At that dedication, Aldo Leopold, one of the world's outstanding wildlife authorities, said:

"The pigeon was no mere bird, he was a biological storm. He was the lightning that played between two biotic poles of intolerable intensity: the fat of the land and his zest for living. Yearly the feathered tempest roared up, down, and across the continent, sucking up the laden fruits of forest and prairies, buring them in a travelling blast of life. Like any other chain-reaction, the pigeon could survive no diminution of his own furious intensity. Once the pigeoners had subtracted from his numbers, and once the settler had chopped gaps in the continuity of his fuel, his flame guttered out with hardly a sputter or even a wisp of smoke."

Since coming to the Smithsonian Institution 62 years ago, Martha has left her perch and case only twice, and officials say she will not be removed again. In 1966, she was taken to the West Coast, where she was a mute partcipant in the San Diego Zoological Society's Golden Jubilee Conservation Conference.

Martha's last flight occurred in 1974, when she was flown to Cincinnati for a weekend at the Zoo that had purchased her in 1902. Cincinnati honored her return by launching the Passenger Pigeon Memorial Fund to raise money for restoration work on the old birdhouse where Martha died and to sponsor an education program for protecting endangered species.

MINORITY ENTERPRISE ADVANCES

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. MITCHELL of Maryland. Mr. Speaker, as you and my colleagues know, I am totally committed to the goal of economic parity for minority enterprise in our country. In that quest for economic parity, the Congress must play a primary role, particularly through our legislative and oversight functions.

We must attack with the full force of the law those recalcitrant agencies, institutions, organizations, companies, and the like that would see minority enterprise held at a position of less than parity.

However, in a like manner, the Congress must recognize in a favorable fashion those agencies and companies which are making a meaningful effort to include minority enterprise in the economic mainstream of this Nation.

The Avon Products Co. is one such organization that is moving in the right direction with regard to inclusion of minority business in its daily operations and overall growth. Therefore, I would like to commend to my colleagues an article found in the June 1976 issue of "Race Relations and Industry," which details the Avon Co.'s efforts. Further, I would hope that other such companies and industries would use the Avon experience as an example of what can be done "if the spirit is willing." The article follows:

AVON'S OUTREACH: THEMES TUNE IN TO MINORITY ECONOMIC PROGRESS

One of the more encouraging developments in the minority enterprise "movement" of recent years has been the "extra effort" put forth by a growing number of American corporations to facilitate the entrance of minority businesses into the economic mainstream of American life.

AVON PROGRAM: DRAMATIC RESULTS

A unique program developed by Avon Products, Inc., is showing dramatic results—both in terms of dollars spent by the Company with minority suppliers, and the ripple effect the program is generating in the market place.

At the end of 1975, for instance, Avon reported that goods and services purchased by minority companies totaled more than $3½-million, an increase of ten times the dollar value of contracts awarded in 1972.

SUPPLIERS INCREASED

Equally noteworthy is the number of minority businesses that the cosmetics firm has under contract. Beginning with a nucleus of 30 companies in 1972, when the program was formally set in motion, Avon now calls on more than 300 minority-owned suppliers and advertising media to help satisfy its needs in services or supplies.

BROAD RANGE OF SERVICES

Avon's needs encompass a broad variety of outside goods and services, which range from plastic parts and product ingredients, to such services as cleaning supplies and maintenance, as well as the utilization of advertising and sales promotion services.

Avon has effectively explored opportunities to contribute to minority economic development. As part of its minority vendor program, the Company offers the technical assistance of its skilled personnel to enable small minority establishments to meet Avon's particular standards. Banks and other sources of financial aid are also encouraged to assist new Avon suppliers in obtaining adequate capital.

CORPORATE INVESTMENT

Corporate investment relationships also exist with minority-owned banks, insurance companies and brokers. More than $10-million of Avon's tax deposits, for instance, have been placed in minority financial institutions in nine states.

The Company has also purchased $1-million in Certificates of Deposit from some 25 minority banks in 15 states. Additionally, $25-million in life insurance coverage has been reinsured through three black-owned insurance companies and a black-owned insurance brokerage firm now places and administers group insurance for Avon's new mail order subsidiary, Family Fashions.

Further, banks handling Avon's corporate pension trust fund have been encouraged to use the services of minority investment brokers.

"OUTREACH" OPERATION

Avon's Minority Purchasing Program embraces an "outreach" operation, with a resultant ripple effect set in motion in the economic arena. The Company encourages other corporations, for example, to set up similar programs of minority economic development.

In charting the course of the program, Avon President David W. Mitchell sent letters to some 29 high corporate executives, telling of Avon's unique program and offering to share their expertise. To date 11 companies have responded, with Avon giving referrals to minority vendors to nine of the 11. Significantly, requests for information and assistance were followed up with visits by members of Avon's staff.

"WE'VE TRIED IT . . . WHY DON'T YOU?"

Since many corporations are reluctant to be the first to sample an idea of this kind, Avon has cut down the time factor in the decision to use such groups as the Development Council in seeking out and using minority vendors.

One of the advantages Avon has in communicating its program to other corporation executives is that of a peer corporation saying, "we have tried this out and it has worked for us . . . why don't you try it?"

IMPACT OF THE APPROACH

The "outreach" approach has made a significant impact on efforts to bring minority businesses into the economic mainstream.

One corporation, in responding to Mr. David Mitchell's letter, pointed out that Avon's leadership role here has been "extremely helpful."

Additional inquiries have come from corporations not contacted by Avon's president, but which had heard of the Company's program from other sources.

Several corporations have started programs based on Avon's experiences, as a result of Mr. Mitchell's efforts and personal visits made by Avon's Glenn Clarke, Purchasing Manager, Minority Business Development; and Margaret Richardson, Executive Director of the Development Council.

OFFERS OTHER SERVICES

In addition to using a broad range of products and services from minority vendors, Avon also offers:

1) Assessment of a minority vendor's bid, particularly indicating to those suppliers whose bids are not competitive;

2) Suggested sources for acquiring materials needed to fulfill contracts;

3) Advanced capital and facilitating the obtaining of supplies needed for contract completion; and

4) Evaluation of the minority business on a regular basis to assist in quality control management and other areas to aid in building expertise and productivity.

PHONE CALL AIDS PRINTER

In easing the problems minority vendors experience in dealing with major suppliers, Avon, for example, placed a phone call to its paper supplier and arranged for a minority printer (unable to get paper in the quantity needed) to make his order a part of Avon's.

"You have to have insight into a minority businessman's problems and be able to find a way to help him solve these problems, which in actuality are no different from those of majority suppliers," said Avon's Glenn Clarke. "All business problems have a solution and Avon is in a unique position to do something for the minority businessman by virtue of the quantity of business we do. . . ."

MUTUALLY BENEFICIAL

Clarke added that all business placed with Avon by a minority vendor is done on the philosophy of being "mutually beneficial to both Avon and the minority entrepreneur." The program, he said, "is based on the same criteria used for all suppliers—quality service at a fair price. Standards are not lowered. The same high standards prevail for minority vendors as for others." Clarke continued, "If vendors can do business with Avon, they can do business with anyone."

Clarke noted that minority business at Avon did not suffer from the economic crunch, "because minority vendors have given quality service and quality work."

With this in mind, Avon has put vendors in contact with groups such as the Development Council, Volunteer Urban Consultants group and made referrals to other corporations.

ACTIVE PARTICIPATION

Avon takes part in several organizations and activities that promote minority entrepreneurship, including the Minority Purchasing Council, which has placed more than $100-million with minority vendors. Clarke is Vice Chairman of the 125-member Council, comprised of N.Y. and N.J. headquartered corporations.

Last month in New York City, representatives of 110 corporations spent an entire day at the Council's Annual Opportunity Fair, where minority vendors were invited to discuss their products and services directly with purchasing department personnel and go on record with participating companies as potential suppliers.

MAKING IT WORK

Much of the success in Avon's Minority Purchasing Program can be linked to the volunteer approach the Company takes and a willingness to put forth the "extra effort" to achieve mutual goals.

"Volunteerism," in fact, has been a household practice at Avon in recent years, contributing greatly toward the implementation of corporate commitment goals, while opening avenues of opportunity for minority business pursuits.

CONSULTING GROUP PROGRAM

A most productive effort has come in cooperation with the Volunteer Urban Consulting Group, in which Avon Task Forces, ranging from two to six persons, respond to calls for help from minority-businesses and nonprofit agencies.

Drawn from representative departments in the Company, the technical and management assistance teams bring expertise into areas of accounting, marketing, personnel procedures, and other problems. Challenges, noted Avon spokesman, "have been as varied as the 'clients.'"

Significantly, in some cases, Task Force members have made viable businesses that were facing bankruptcy. In one instance a "team" successfully aided a group in obtaining a $100,000 grant from the U.S. Department of Health, Education and Welfare (H.E.W.)

HOW THEY WORK

Avon's technical assistance teams work with businesses or other agencies usually referred by such organizations as the Greater New York Fund or the Volunteer Urban Consulting Group. The problem is identified and the Task Force is tailored to meet the problem. Work with client organizations may occur during regular business hours, on the employees' time, or a combination of both. Assignments are usually for an indefinite period, depending upon the needs of the particular organization.

RACIAL MIXTURE

A unique feature of the Program is the racially integrated composition of the Task Forces, with at least one minority employee participating on each. The visible involvement of minorities from the corporate sector is reassuring to the client and aids in establishing confidence and trust, vital elements toward reaching profitable solutions.

"BANKING" ON VOLUNTEERS

The assistance teams have operated from a "bank" resource, built up by Avon volunteers from management and technical levels who are committed to promote minority entrepreneurship. The bank has grown to impressive figures with the program extending beyond New York City, particularly in those areas where Avon has installations. The teams are managed by members of Avon's Corporate Responsibility Committee, which includes some 13 representatives of the various departments.

The Committee is charged with developing, implementing, and monitoring the various programs designed to fulfill Company social commitment goals.

OTHER PROJECTS PURSUED

Avon has undertaken several other projects geared to establish long-range advantages for minorities in the economic mainstream.

In the Living Witness Program, for instance, black Avon employees go into predominantly black junior and senior high schools as, literally, "living witness." Their tasks are to instill hope, confidence and a sense of self-worth into the discouraged students of inner-city schools.

"A key word here is 'credibility,'" explains an Avon executive. "Youngsters want to believe, but the role models to whom they have been exposed do not fit the mold of witnesses. The Witnesses must successfully bridge the gap between community and corporation. . . ."

ACCENT ON YOUTH

In 1972, Avon became a part of the Project LIVE (—Learning Through Industry and Volunteer Educators—) tutoring program for junior high school students. While the emphasis in the Living Witness Program is on motivation, emphasis in the Project LIVE is on learning.

Avon volunteers spend two hours per week with students in a one-to-one exchange, concentrating on math and reading skills, relating that proficiency in such subjects can help lead to future careers in industry.

RESPONSIBILITY AT HOME

The Company's commitment to social responsibility begins within its corporate structure, as an equal opportunity employer in hiring and promotion. Avon's 1975 level of more than 15 per cent minority employees was comparable to that of other large socially-conscious companies with the objective of achieving equitable representation of minorities and women at all job levels. The Company has over 10 per cent minority management personnel and 60 per cent women in management, including district Sales Managers. Avon has undertaken several projects in the affirmative hiring of minorities, women, the handicapped and ex-offenders.

Avon's Job Opportunity Program, originated in 1970, provides a way for employees to request higher level job openings as they occur. Its Tuition Refund Program offers reimbursement to employees undertaking courses relating to present assignments or helping to prepare for advancement.

WOMEN AT AVON

Currently, women fill 10 top-level positions at Avon: two are vice presidents, one is general manager, and seven are directors of various Avon departments.

The Company is constantly involved in efforts to seek out more female management talent.

TUNING IN TO PROGRESS

Avon and other corporations with similar commitments have found effective opportunity themes tune in to minority economic progress, both within the company structure and the community at large. . .

The "outreach" concept for minority business and demonstrated commitment to equal employment opportunity strike impressive notes of promise for all segments of the population.

THE DENT AMENDMENT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. PAUL. Mr. Speaker, last week the House and the Senate both passed the so-called Dent amendment to the bill H.R. 12261, extending the prohibition on the D.C. City Council against tampering with the criminal laws of the District for another 2 years. At the time it was passed, nearly everyone believed that its legal effect would be to prevent the Firearms Control Regulations Act of 1975, passed by the D.C. City Council in July, from going into effect. The intent of the Congress was to clarify the prohibition found in the Home Rule Act and reaffirm its intention that the District government does not have the authority to enact laws such as the Firearms Control Regulations Act. The problem is that what Congress obviously intended to do last week was not achieved by the so-called Dent amendment, since the act was passed by the City Council prior to the passage of the so-called Dent amendment.

The Library of Congress has recently issued an opinion on the legal significance of the Dent amendment, and its conclusion is as follows:

> As will be seen, the weight of the arguments which follow favor the conclusions that the Firearms Control Regulations Act exceeds the City Council's legislative authority but that H.R. 12261 does not affect the validity of the Act.

The intent of the Congress in passing the Dent amendment swiftly and overwhelmingly last week is perfectly clear. What the Congress must do now is to pass a resolution disapproving the action of the city council. In doing this, Congress will be making the legal significance of its actions conform with its intentions, something I am sure that everyone desires, regardless of his views on the Firearms Control Regulations Act itself.

The Library of Congress opinion follows:

EFFECT OF H.R. 12261 ON THE DISTRICT OF COLUMBIA FIREARMS CONTROL REGULATIONS ACT

INTRODUCTION

The purpose of this report is to examine (1) whether the Firearms Control Regulations Act of 1975, D.C. Act No. 1–142, is the type of legislation which falls within the limitations of section 602(a)(9) of the District of Columbia Self-Government and Governmental Reorganization Act, D.C. Code § 1–147(a)(9), and (2) the effect of enactment of H.R. 12261 on the validity of the Firearms Act. As will be seen, the weight of the arguments which follow favor the conclusions that the Firearms Control Regulations Act exceeds the City Council's legislative authority but that H.R. 12261 does not affect the validity of the Act.

BACKGROUND

Section 602(a)(9) of the District of Columbia Self-Government and Governmental Reorganization Act, D.C. Code § 1–147(a)(9) provides:

"The Council shall have no authority . . . to—

* * * * *

"(9) enact any act, resolution, or rule with respect to any provision of title 23 (relating to criminal procedure), or with respect to any provision of any law codified in title 22 or 24 (relating to crimes and treatment of prisoners) during the twenty-four full calendar months immediately following the day on which the members of the Council first elected pursuant to this Act take office."

The Conference Report summarizes the scant legislative history available as to the meaning of the limitation of section 602 (a)(9):

"The Conference Committee also agreed to transfer authority to the Council to make changes in Titles 22, 23 and 24 of the District of Columbia Code, effective January 2, 1977. After that date, changes in Titles 22, 23 and 24 by the Council shall be subject to a Congressional veto by either House of Congress within 30 legislative days. The expedited procedure provided in section 604 shall apply to changes in Titles 22, 23 and 24.

"It is the intention of the Conferees that their respective legislative committees will seek to revise the District of Columbia Criminal Code prior to the effective date of the transfer of authority referred to. H.R. Rep. No. 93–703, 93d Cong., 2d Sess. 74–75 (1973)."

On July 23, the Mayor approved the Firearms Control Regulations Act of 1975, previously passed by the City Council. The City Council derives its legislative authority as a delegation of the power vested in Congress by the Constitution, U.S. Const. Art. I, § 8, cl. 17. There are several delegations upon which the Firearms Act might have relied. Under sections 1–224, 1–226 and 1–227 of the D.C. Code the Council is given legislative authority to enact police regulations governing health and safety, certain businesses and firearms within the District of Columbia. Under the D.C. Self-Government and Governmental Reorganization Act the Council was also given general legislative authority. While by its enactment the Firearms Act is presumed valid, the attached memorandum discusses the reasons why the Firearms Act could not be enacted pursuant to any of these grants of authority.

H.R. 12261 as introduced would have extended the January 2, 1977 dateline contained in section 602(a)(9) of the D.C. Home Rule Act to January 2, 1979 in order to "give the Law Revision Commission adequate time to analyze the District's Criminal Code and to make specific recommendations to the Congress for comprehensive revision thereof, in order to turn over to the District of Columbia Government updated and modern Criminal Code provisions." H.R. Rep. No. 94–1418, 94th Cong., 2d Sess. 1 (1976). After being reported out, H.R. 12251 was amended by the so-called Dent Amendment. As amended H.R. 12261 would alter section 602 (a)(9) to read:

"The Council shall have no authority . . . to—

* * * * *

"(9) enact any act, resolution, or rule with respect to any provision of title 23 (relating to criminal procedure), or with respect to any provision of any law codified in title 22 or 24 (relating to crimes and treatment of prisoners), or with respect to any criminal offenses pertaining to articles subject to regulation under Chapter 32 of Title 22 of the District of Columbia Code during the forty-eight full calendar months immediately following the day on which the members of the Council first elected pursuant to this Act take office."

The amended version of H.R. 12261 passed both the House and Senate, 122 Cong. Rec. pp. 27157, 27436, Aug. 23, 24, 1976.

ISSUES

These developments have raised new questions as to the validity of the Firearms Act both with respect to whether the Firearms Act was within the limitation imposed by section 602(a)(9) when passed and whether H.R. 12261's restriction of the Council's legislative authority applies to the Firearms Act. Throughout the discussion which follows it is important to remember that the arguments offered are those in favor of certain interpretations which might be acceptable but for the fact Congress made its intent clear. With respect to the original enactment of section 602(a)(9) it intended to freeze criminal law in the District of Columbia as of the date of the D.C. Home Rule Act and at that time D.C. criminal law included criminal provisions and regulations of firearms and other weapons; with respect to H.R. 12261 the House debate makes it clear the Congress did not intend that bill to affect the validity of the Firearms Act.

The Dent Amendment provides some support for the proposition that the Firearms Act was not intended to be covered by section 602(a)(9) otherwise there would be no reason to amend it to bring legislation like the Firearms Act within its reach. The difficulty with this argument is that the amendment could be classified as a clarification rather than a modification of section 602(a)(9), that the interpretation of a subsequent Congress as to the meaning of 602(a)(9) is not binding, and that the intent of the Congress which enacted the section has already been established.

It has also been suggested that the Firearms Act would be valid if the Council acted within 30 legislative days of January 2, 1977 and H.R. 12261 were not passed. This contention ignores the basic approach of 602(a)(9) which limits Council action not the effectiveness of Council action; which prohibits the Council's exercise of the power delegated to it not the administration of legislation enacted and promulgated in exercise of that power. To conclude that section 602(a)(9) is only operative 30 days after the Council has enacted legislation is to suggest that the Council has been delegated the legislative authority to pass any of the bills whose enactment is prohibited by any of the subsections of section 602(a), something Congress could hardly have intended in view of the wording of that section.

In spite of all this, assuming the Firearms Act were within the authority delegated to the City Council, H.R. 12261 does not affect its validity because its language, read alone, does not permit such an interpretation and because the House debate indicates a contrary intent. H.R. 12261 contains no language justifying application of its provisions to legislation such as the Firearms Act which was enacted prior to its passage. The House debate, the only legislative history available, reveals an intent to leave the Firearms Act uneffected:

"Mr. PAUL. . . . I would like to know whether or not this would negate the District of Columbia bill passed recently by the City Council. Recently, I have introduced a resolution to disallow this law, and I want to know whether, if we agree to this amendment, or not this will make that particular law which was passed by the District Council a non-functioning law which thus not go in effect [sic].

Mr. DIGGS. Mr. Speaker, the gentleman asked for the gentleman from Pennsylvania, but I would say that it would not. That measure does not become effective, and therefore would not be applicable to this.

Mr. PAUL. I wanted to make that clear. That law will not go into effect if this amendment is agreed to?

Mr. DIGGS. It will go into effect regardless of this amendment, unless there is a disapproval resolution passed.

* * * * *

Mr. DENT. I would answer by saying that the proposal of the gentleman from Michigan, the chairman of the committee, does not in any way take away the right of the Council, except upon passage of this act, to amend the criminal code, so that anything previous to the amendment to the act today would be in effect, if they put it in effect. 122 Cong. Rec. p. 27155, Aug. 23, 1976."

Here again it could be argued that the process of enactment includes the 30 day layover period, so that any D.C. provision which has not gone into effect by the time of the passage of H.R. 12261 is subject to its provisions. The difficulty with this position has already been touched on. Section 602(a)(9) both before and after amendment by H.R. 12261 refers to Council action, not the effectiveness of legislation.

A final interesting corollary to these issues is whether the disapproval resolution requires passage in both or only one House of Congress. The answer to this question turns on one's determination of whether or not the Firearms Act is an act with respect to title 22 of the D.C. Code.

CHARLES DOYLE,
Legislative Attorney, American Law Division.

TROTSKYISM AND TERRORISM: PART IV—LATIN AMERICAN TERRORISM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 1, 1976

Mr. McDONALD. Mr. Speaker, my examination of the Trotskyite international terrorist apparatus continues with a survey of Latin American terrorist activities.

CHILE

The Chilean Trotskyites played a major role in the founding of the MIR—Movimiento de la Izquierda Revolucionaria—in August 1965. The MIR was formed as a proterrorism, proguerrila warfare coalition of Trotskyites and Castroites from the Chilean Socialist and Communist Parties. Under Salvador Allende's government, the MIR served as Allende's brownshirts and shock troops. The Chilean President's nephew, Andres Pascal Allende, the son of his sister, Laura, is a member of the MIR Central Committee.

When the Allende regime was deposed in September 1973, many MIRistas fled to Cuba and Argentina where they became part of the JCR—Revolutionary Coordinating Council—with the ERP, the Bolivian ELN, and the remnants of the Tupamaros.

At the opening of the 10th World Congress in February 1974, Ernest Mandel moved to make Trotskyite MIR leader Luis Vitale, under arrest by the Chilean military government, honorary chairman of the Congress.[1] The motion carried.

The overt publications of the Fourth International have devoted considerable space to promoting the MIR. The November 19, 1973, edition of Intercontinental Press carried an interview with a Chilean Trotskyite who pointed out that the MIR had been founded "by some of our comrades." The May 6, 1974, issue of that magazine carried an interview with MIR Central Committee member Miguel Enriquez who had been interviewed in France for Rouge, the newspaper of the Ligue Communiste Revolutionnaire—LCR, the French Fourth International section. Miguel Enriquez was killed in a shootout with Chilean police on October 31, 1974. His "companion," Carmen Castillo, was wounded, arrested, and shortly afterwards deported. She commutes now between Cuba and Europe and is a member of the top MIR leadership. The brother of Miguel Enriquez was reported in 1975 to have become a top commander of the ERP in Argentina, leading a JCR-terrorist unit. The JCR's Paris apparatus has claimed Enriquez has disappeared and speculates that he may have been arrested or killed.

PERU

Trotskyite revolutionary armed struggle began in Peru in 1962 by the Frente Izquierdista Revolutionaria—FIR—led by Hugo Blanco-Galdos. Blanco sought to utilize land seizures by Peruvian Indian peasant unions as a preliminary to the "necessary" armed struggle. Blanco's FIR was assisted by Argentinian Trotskyite cadres sent to Peru by Nahuel Moreno.[2]

During an arms raid on a police post in 1962 led by Blanco, two police officers were shot to death. Hunted by the authorities, Blanco was apprehended in 1963. At his trial Blanco admitted to having killed a total of three police officers.[3] He received a 25-year sentence. Blanco was released in a general political amnesty in December 1969; he resumed revolutionary organizing activities and was deported to Argentina which soon did the same for identical reasons. Blanco was then given refuge by the Allende government in Chile, which was deposed in September 1973. Blanco then lived in Europe and acted as an important figure in the Fourth International IEC.

Blanco returned to Peru in December 1975, to resume work with the Peruvian section of the Fourth International, the Partido Socialista de los Trabajadores. Blanco was again deported from Peru in July 1976.[4]

In an analysis of the failure of his terrorist movement which appeared in Intercontinental Press, September 30, 1968, Blanco said he had not developed a party

Footnotes at end of article.

organization "rooted in the masses on a national scale." Blanco criticized rival Peruvian Castroite terrorist groups, the MIR and ELN, which were based among radicalized students, as having the "very prevalent attitude of underrating the workers' and peasants' mass movements. * * * In Peru this struggle offers the shortest and surest road to armed insurrection."

Blanco is now allied with the minority Leninist-Trotskyist Faction on the International Executive Committee. The Socialist Workers Party and its front, the U.S. Committee for Justice to Latin American Political Prisoners—USLA—attempted during 1975 and 1976 to bring Blanco into the United States for a speaking tour and to bolster its positions. Blanco's application for a visa was turned down.

In a press release dated March 22, 1976, the USLA characterized Blanco's crime—which was murdering police—as "a political one, the crime of organizing landless peasants in a long overdue land-reform movement that defended itself against repression * * *." USLA termed the visa denial "a brazen pretext used by Washington to justify its undemocratic exclusion of a former political prisoner whom organizations representing tens of thousands of Americans have demanded the right to hear."[5]

FOOTNOTES

[1] *International Internal Discussion Bulletin*, Vol. XI, No. 5, April, 1974, p. 3.

[2] *International Internal Discussion Bulletin*, Vol. XI, No. 5, April, 1974, p. 16.

[3] Letter from U.S. Department of State to Congressman Edward Koch dated January 29, 1976, Cong. Rec., vol. 122, part 4, page 4814.

[4] *Intercontinental Press*, July 19, 1976, p. 1092.

[5] *Intercontinental Press*, March 29, 1976, pp. 484–485.